IDAHO ADMINISTRATIVE BULLETIN

November 20, 2019 – Vol. 19-11SE

Office of the Governor
Division of Financial Management
Office of the Administrative Rules Coordinator



The Idaho Administrative Bulletin is published monthly by the Office of the Administrative Rules Coordinator, Division of Financial Management, Statehouse Mail, Boise, Idaho 83720-0306, pursuant to Title 67, Chapter 52, Idaho Code.

Brad Little, Governor
Alex J. Adams, Administrator, Division of Financial Management
Dennis Stevenson, Administrative Rules Coordinator
Bradley A. Hunt, Administrative Rules Specialist
Jason Shaw, Publishing Specialist

All Rights Reserved / Printed in the United States of America

BRAD LITTLE
Governor

ALEX J. ADAMS
Administrator

State of Idaho
DIVISION OF FINANCIAL MANAGEMENT
Executive Office of the Governor

November 20, 2019

M E M O R A N D U M

TO: **Members of the Public**

FROM: **Alex J. Adams, Administrator**

Dennis R. Stevenson, Rules Coordinator

SUBJECT: **Overview of November 20th Special Edition of Idaho Administrative Bulletin**

Background. An edition of the Idaho Administrative Bulletin was published on June 19, 2019, re-issuing the state's administrative rules as temporary and proposed rules concurrently, with a temporary effective date of June 30, 2019. This approach ensured the state's administrative rules continued to have the full force and effect of law.

Adoption of Pending Rules. This November 20th special edition of the Idaho Administrative Bulletin finalizes previously published proposed rules as pending rules in accordance with Section §67-5224. The Idaho Legislature has the authority to review any existing rule pursuant to §67-5291; the pending rules that are finalized in this edition, inclusive of any agency edits, will be subject to review for final approval during the 2020 Legislative session.

Changes Between Proposed and Pending Rules. Agencies held more than ninety (90) public hearings across the state on the proposed rules. Further, each agency accepted written public comment for at least twenty-one (21) days. We are grateful for the active participation of the public in this process. Per §67-5224, public comments shall be considered prior to the adoption of a written rule and many agencies made changes consistent with §67-5227. Many agencies vacated proposed rule chapters altogether or combined chapters of similar content. Others made in-line edits pursuant to public comment or the direction provided by the Governor and legislative leadership at a July 2019 press conference asking agencies to keep identifying and eliminating obsolete and outdated provisions or pursue edits consistent with the Licensing Freedom Act.

Legislative Format. Amendments to existing rules are traditionally denoted by a strike through for deletions while new text is underlined. Given the Legislature's decision to allow all rules to expire, there is no existing rule available to amend. Only edits between the proposed and pending rule are denoted. Additions are noted in *red italics*; deletions are not shown, as there is no codified final rule to amend. In order to preserve the rich history of effective dates, these dates were not updated if a minor change was made that did not alter the sense or meaning of the rule, as provided in §67-5202. Each agency was asked to detail the nature of their changes on the notice of adoption of the pending rule to transparently apprise the public of changes.

For more information on this special bulletin, please contact:
Alex Adams (Alex.Adams@dfm.idaho.gov; 208-334-3900); or
Dennis Stevenson (Dennis.Stevenson@dfm.idaho.gov; 208-854-3095).

IDAHO ADMINISTRATIVE BULLETIN

Table of Contents

November 20, 2019 – Vol. 19-11SE

PREFACE 22

IDAPA 01 – BOARD OF ACCOUNTANCY

Docket No. ***01-0101-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 29

01.01.01 – Idaho Accountancy Rules

IDAPA 02 – DEPARTMENT OF AGRICULTURE

Docket No. ***02-0000-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 45

02.04.24 – Rules Governing Tuberculosis
02.05.01 – Rules Governing Produce Safety

Docket No. ***02-0000-1900A***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 57

02.01.03 – Airborne Control of Unprotected or Predatory Animals Rules
02.04.04 – Rules for Artificial Dairy Products
02.04.13 – Rules Governing Raw Milk
02.04.20 – Rules Governing Brucellosis
02.04.21 – Rules Governing the Importation of Animals
02.04.25 – Rules Governing Private Feeding of Big Game Animals
02.04.27 – Rules Governing Deleterious Exotic Animals
02.04.29 – Rules Governing Trichomoniasis

Docket No. ***02-0000-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 124

02.01.04 – Rules Governing the Idaho Preferred® Promotion Program
02.01.05 – Rules Governing Certificates of Free Sale
02.06.33 – Organic Food Products Rules

Docket No. ***02-0000-1900FA***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 140

02.02.11 – Rules Governing Eggs and Egg Products
02.02.12 – Bonded Warehouse Rules
02.02.13 – Commodity Dealers' Rules
02.02.15 – Rules Governing the Seed Indemnity Fund
02.04.19 – Rules Governing Domestic Cervidae
02.06.06 – Rules Governing the Planting of Beans

IDAPA 02.06 – IDAHO HONEY COMMISSION

Docket No. ***02-0616-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 205

02.06.16 – Rules Governing Honey Standards

IDAPA 02.07 – IDAHO HOP GROWERS' COMMISSION

Docket No. **02-0701-1900F**

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 210

02.07.01 – Rules of the Idaho Hop Growers' Commission

IDAPA 02.08 – IDAHO SHEEP AND GOAT HEALTH BOARD

Docket No. **02-0801-1900F**

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 213

02.08.01 – Sheep and Goat Rules of the Idaho Sheep and Goat Health Board

IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL

Docket No. **04-0000-1900**

Notice of Omnibus Rulemaking – Adoption of Pending Rule 224

04.02.01 – Idaho Rules of Consumer Protection, Office of the Attorney General
04.11.01 – Idaho Rules of Administrative Procedure of the Attorney General
04.12.01 – Rules of Administrative Procedure for Consideration of Cooperative Agreements Filed by Health Care Providers
04.20.01 – Rules Implementing the Idaho Tobacco Master Settlement Agreement Complementary Act

Docket No. **04-0000-1900F**

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 312

04.02.02 – Idaho Rules of Telephone Solicitations and Pay-Per-Telephone-Call Services, Office of the Attorney General

IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

Docket No. **05-0000-1900**

Notice of Omnibus Rulemaking – Adoption of Pending Rule 325

05.01.02 – Rules and Standards for Secure Juvenile Detention Centers
05.01.03 – Rules of the Custody Review Board
05.01.04 – Uniform Standards for Juvenile Probation Services
05.02.01 – Rules for Residential Treatment Providers

IDAPA 07 – DIVISION OF BUILDING SAFETY

Docket No. **07-0000-1900**

Notice of Omnibus Rulemaking – Adoption of Pending Rule 413

07.03.09 – Rules Governing Manufactured Homes – Consumer Complaints – Dispute Resolution
07.03.13 – Rules Governing Mobile Home Rehabilitation
07.06.01 – Rules Governing Uniform School Building Safety
07.08.01 – Idaho Minimum Safety Standards and Practices for Logging

Docket No. **07-0000-1900F**

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 501

07.02.02 – Rules Governing Plumbing
07.03.01 – Rules of Building Safety (Building Code Rules)
07.03.03 – Rules for Modular Buildings
07.03.11 – Rules Governing Manufactured/Mobile Home Industry Licensing
07.03.12 – Rules Governing Manufactured or Mobile Home Installations
07.04.02 – Safety Rules for Elevators, Escalators, and Moving Walks

07.05.01 – Rules of the Public Works Contractors License Board
07.07.01 – Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety
07.10.01 – Rules Governing the Damage Prevention Board

IDAPA 09 – IDAHO DEPARTMENT OF LABOR
Docket No. ***09-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 592
09.01.01 – Rules of Administrative Procedure of the Department of Labor
09.01.08 – Rules on Disclosure of Employment Security Information
09.01.30 – Unemployment Insurance Benefits Administration Rules
09.01.35 – Unemployment Insurance Tax Administration Rules
09.01.60 – Complaint Procedures Under the Workforce Innovation and Opportunity Act (WIOA)
09.02.01 – Rules of the Disability Determinations Service
09.05.03 – Rules For Determining Bargaining Representatives

IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS
Docket No. ***10-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 647
10.01.01 – Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

IDAPA 11 – IDAHO STATE POLICE
Docket No. ***11-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 666
11.03.01 – Rules Governing Alcohol Testing
11.06.01 – Rules Governing Civil Asset Forfeiture Reporting
11.07.01 – Rules Governing Motor Vehicles – General Rules
11.07.02 – Rules Governing Safety Glazing Material
11.07.03 – Rules Governing Emergency Vehicles/Authorized Emergency Vehicles
11.10.03 – Rules Governing the Sex Offender Registry
11.13.01 – The Motor Carrier Rules
Docket No. ***11-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 692
11.05.01 – Rules Governing Alcohol Beverage Control
11.10.02 – Rules Governing State Criminal History Records and Crime Information

IDAPA 11 – IDAHO STATE POLICE, STATE BRAND BOARD
Docket No. ***11-0200-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 702
11.02.01 – Rules of the Idaho State Brand Board

IDAPA 11 – IDAHO STATE POLICE, RACING COMMISSION
Docket No. 11-0400-1900
Notice of Omnibus Rulemaking – Adoption of Pending Rule 715
11.04.04 – Rules Governing Disciplinary Hearings and Appeals
11.04.06 – Rules Governing Racing Officials
11.04.08 – Rules Governing Pari-Mutuel Wagering

11.04.09 – Rules Governing Claiming Races
11.04.10 – Rules Governing Live Horse Races
11.04.13 – Rules Governing the Idaho State Racing Commission
11.04.14 – Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents

Docket No. ***11-0400-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 818

11.04.02 – Rules Governing Simulcasting
11.04.03 – Rules Governing Licensing and Fees
11.04.05 – Rules Governing Advanced Deposit Wagering
11.04.07 – Rules Governing Racing Associations
11.04.11 – Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses
11.04.15 – Rules Governing Controlled Substance and Alcohol Testing of Licensees and Applicants

IDAPA 11 – IDAHO STATE POLICE, PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM
Docket No. ***11-1001-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 874

11.10.01 – Rules Governing Idaho Public Safety and Security Information System

IDAPA 11 – IDAHO STATE POLICE, PEACE OFFICER STANDARDS AND TRAINING COUNCIL
Docket No. ***11-1101-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 885

11.11.01 – Rules of the Idaho Peace Officer Standards and Training Council

IDAPA 12 – IDAHO DEPARTMENT OF FINANCE
Docket No. ***12-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 921

12.01.04 – Rules Pursuant to the Idaho Credit Union Act
12.01.09 – Rules Pursuant to the Idaho Credit Code
12.01.10 – Rules Pursuant to the Idaho Residential Mortgage Practices Act
12.01.11 – Rules Pursuant to the Idaho Collection Agency Act

Docket No. ***12-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 933

12.01.08 – Rules Pursuant to the Uniform Securities Act (2004)

IDAPA 13 – DEPARTMENT OF FISH AND GAME
Docket No. ***13-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 968

13.01.01 – Rules of Practice and Procedure of the Idaho Fish and Game Commission
13.01.02 – Rules Governing Mandatory Education and Mentored Hunting
13.01.03 – Public Use of Lands Owned or Controlled by the Department of Fish and Game
13.01.04 – Rules Governing Licensing
13.01.06 – Rules Governing Classification and Protection of Wildlife
13.01.07 – Rules Governing the Taking of Upland Game Animals
13.01.08 – Rules Governing the Taking of Big Game Animals
13.01.09 – Rules Governing the Taking of Game Birds

13.01.10 – Rules Governing the Importation, Possession,Release, Sale, or Salvage of Wildlife
13.01.11 – Rules Governing Fish
13.01.12 – Rules Governing Commercial Fishing
13.01.14 – Rules Governing Falconry
13.01.15 – Rules Governing the Use of Dogs
13.01.16 – The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals
13.01.17 – Rules Governing the Use of Bait and Trapping for Taking Big Game Animals
13.01.18 – Rules Governing Feeding of Pronghorn, Elk, and Deer
13.01.19 – Rules for Selecting, Operating, Discontinuing, and Suspending Vendors

Docket No. ***13-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 1087

13.01.02 – Rules Governing Mandatory Education and Mentored Hunting
13.01.04 – Rules Governing Licensing
13.01.08 – Rules Governing the Taking of Big Game Animals in the State of Idaho
13.01.10 – Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife
13.01.19 – Rules for Selecting, Operating, Discontinuing, and Suspending Vendors

IDAPA 15 – OFFICE OF THE GOVERNOR, IDAHO COMMISSION ON AGING
Docket No. ***15-0100-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 1094

15.01.01 – Rules Governing Senior Services and Older Americans Act Programs
15.01.02 – Rules Governing Adult Protective Services Programs
15.01.03 – Rules Governing the Ombudsman for the Elderly Program
15.01.20 – Rules Governing Area Agency on Aging (AAA) Operations

IDAPA 15 – OFFICE OF THE GOVERNOR, COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED
Docket No. ***15-0200-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 1111

15.02.02 – Vocational Rehabilitation Services
15.02.03 – Rules Governing the Independent Living Program
15.02.04 – Rules Governing the Prevention of Blindness and Sight Restoration Program
15.02.30 – Business Enterprise Program

IDAPA 15 – OFFICE OF THE GOVERNOR, IDAHO FOREST PRODUCTS COMMISSION
Docket No. ***15-0300-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 1132

15.03.01 – Rules of Administrative Procedure of the Idaho Forest Products Commission

IDAPA 15 – OFFICE OF THE GOVERNOR, DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION
Docket No. ***15-0400-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 1135

15.04.01 – Rules of the Division of Human Resources and Idaho Personnel Commission

IDAPA 15 – OFFICE OF THE GOVERNOR, IDAHO MILITARY DIVISION
Docket No. ***15-0600-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 1173

15.06.01 – Rules Governing the Idaho Public Safety Communications Commission
15.06.04 – Rules Governing the Idaho Youth Challenge Program
15.06.05 – Hazardous Substance Response Rules

Docket No. ***15-0600-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 1191

15.06.03 – Public Safety Communications Systems Installation and Maintenance Fee Rules

IDAPA 15 – OFFICE OF THE GOVERNOR, IDAHO STATE LIQUOR DIVISION
Docket No. ***15-1000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 1193

15.10.01 – Rules of the Idaho State Liquor Division

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE
Docket No. ***16-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule.....1203

16.01.02 – Emergency Medical Services (EMS) – Rule Definitions
16.01.03 – Emergency Medical Services (EMS) – Agency Licensing Requirements
16.01.05 – Emergency Medical Services (EMS) – Education, Instructor, and Examination Requirements
16.01.06 – Emergency Medical Services (EMS) – Data Collection and Submission Requirements
16.01.12 – Emergency Medical Services (EMS) – Complaints, Investigations, And Disciplinary Actions
16.02.02 – Idaho Emergency Medical Services (EMS) Physician Commission
16.02.06 – Quality Assurance for Idaho Clinical Laboratories
16.02.10 – Idaho Reportable Diseases
16.02.11 – Immunization Requirements for Licensed Daycare Facility Attendees
16.02.12 – Newborn Screening
16.02.15 – Immunization Requirements for Idaho School Children
16.02.19 – Idaho Food Code
16.02.23 – Indoor Smoking
16.02.24 – Clandestine Drug Laboratory Cleanup
16.03.01 – Eligibility for Health Care Assistance for Families and Children
16.03.02 – Skilled Nursing Facilities
16.03.04 – Idaho Food Stamp Program
16.03.05 – Eligibility for Aid to the Aged, Blind, and Disabled (AABD)
16.03.06 – Refugee Medical Assistance
16.03.07 – Home Health Agencies
16.03.08 – Temporary Assistance for Families in Idaho (TAFI) Program
16.03.09 – Medicaid Basic Plan Benefits
16.03.10 – Medicaid Enhanced Plan Benefits
16.03.11 – Intermediate Care Facilities for People with Intellectual Disabilities (ICFs/IID)
16.03.13 – Consumer-Directed Services
16.03.14 – Hospitals
16.03.17 – Medicare/Medicaid Coordinated Plan Benefits
16.03.21 – Developmental Disabilities Agencies (DDA)
16.03.23 – Uniform Assessments for State-Funded Clients
16.03.24 – The Medically Indigent Program
16.03.25 – Idaho Medicaid Promoting Interoperability (PI) Program
16.04.14 – Low-Income Home Energy Assistance Program

16.04.17 – Residential Habilitation Agencies
16.05.01 – Use and Disclosure of Department Records
16.05.03 – Contested Case Proceedings and Declaratory Rulings
16.05.04 – Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding
16.05.07 – The Investigation and Enforcement of Fraud, Abuse, and Misconduct
16.06.05 – Alleged Medical Neglect of Disabled Infants
16.06.12 – Idaho Child Care Program (ICCP)
16.06.13 – Emergency Assistance for Families and Children
16.07.17 – Substance Use Disorders Services
16.07.19 – Certification of Peer Support Specialists and Family Support Partners
16.07.25 – Prevention of Minors' Access to Tobacco Products
16.07.33 – Adult Mental Health Services
16.07.37 – Children's Mental Health Services
16.07.39 – Designated Examiners and Dispositioners

Docket No. ***16-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 2274

16.01.07 – Emergency Medical Services (EMS) – Personnel Licensing Requirements
16.02.01 – Rules of the Idaho Time Sensitive Emergency System Council
16.02.08 – Vital Statistics Rules
16.02.13 – State of Idaho Drinking Water Laboratory Certification Program
16.02.14 – Rules Governing Construction and Operation of Public Swimming Pools in Idaho
16.02.25 – Fees Charged by the State Laboratory
16.02.26 – The Idaho Children's Special Health Program
16.02.27 – Idaho Radiation Control Rules
16.03.03 – Rules Governing Child Support Services
16.03.18 – Medicaid Cost-Sharing
16.03.19 – Certified Family Homes
16.03.22 – Residential Care or Assisted Living Facilities in Idaho
16.04.07 – Rules Governing Fees for State Hospital North
16.05.06 – Criminal History and Background Checks
16.06.01 – Child and Family Services
16.06.02 – Rules Governing Standards for Child Care Licensing
16.07.01 – Behavioral Health Sliding Fee Schedules

IDAPA 17 – INDUSTRIAL COMMISSION

Docket No. ***17-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 2675

17.10.01 – Administrative Rules Under the Crime Victims Compensation Act
17.11.01 – Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act

Docket No. ***17-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 2683

17.01.01 – Administrative Rules Under the Worker's Compensation Law

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

Docket No. ***18-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 2713

18.01.01 – Rule to Implement the Privacy of Consumer Financial Information
18.02.01 – Insurance Rates and Credit Rating
18.02.02 – Automobile Insurance Policies
18.02.03 – Certificate of Liability Insurance for Motor Vehicles
18.03.01 – Suitability In Annuity Transactions
18.03.02 – Life Settlements
18.03.03 – Variable Contracts
18.03.04 – Replacement of Life Insurance and Annuities
18.03.05 – Credit Life and Credit Disability Insurance
18.04.01 – Health Carrier External Review
18.04.02 – Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children
18.04.03 – Advertisement of Disability (Accident and Sickness) Insurance
18.04.04 – the Managed Care Reform Act rule
18.04.05 – Self-Funded Health Care Plans Rule
18.04.06 – Governmental Self-Funded Employee Health Care Plans Rule
18.04.07 – Restrictions on Discretionary Clauses in Health Insurance Contracts
18.04.09 – Complications of Pregnancy
18.04.10 – the Medicare Supplement Insurance Minimum Standards Model Act
18.04.11 – Long-Term Care Insurance Minimum Standards
18.04.12 – The Small Employer Health Insurance and Availability Act
18.04.13 – the Individual Health Insurance Availability Act
18.04.14 – Coordination of Benefits
18.05.01 – Rules For Title Insurance Regulation
18.06.01 – Rules Pertaining to Bail Agents
18.06.02 – Producers Handling of Fiduciary Funds
18.06.03 – Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees
18.06.04 – Continuing Education
18.06.05 – Managing General Agents
18.07.01 – Rules Pertaining to Acquisitions of Control, Insurance Holding Company Systems and Mutual Insurance Holding Companies
18.07.02 – Reserve Liabilities and Minimum Valuations for Annuities and Pure Endowment Contracts
18.07.03 – Valuation of Life Insurance Policies Including the Use of Select Mortality Factors
18.07.04 – Annual Financial Reporting
18.07.05 – Director's Authority for Companies Deemed to be in Hazardous Financial Condition
18.07.06 – Rules Governing Life and Health Reinsurance Agreements
18.07.07 – Credit for Reinsurance Rules
18.07.08 – Property and Casualty Actuarial Opinion Rule
18.07.09 – Life and Health Actuarial Opinion and Memorandum Rule
18.07.10 – Corporate Governance Annual Disclosure
18.08.01 – Adoption of the International Fire Code

Docket No. ***18-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3002

18.01.02 – Schedule of Fees, Licenses, and Miscellaneous Charges
18.08.02 – Fire Protection Sprinkler Contractors

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY

Docket No. ***19-0101-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3013

19.01.01 – Rules of the Idaho State Board of Dentistry

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

Docket No. ***20-0000-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 3031

20.01.01 – Rules of Practice and Procedure Before the State Board of Land Commissioners
20.02.01 – Rules Pertaining to the Idaho Forest Practices Act
20.04.01 – Rules Pertaining to Forest Fire Protection

Docket No. ***20-0000-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3089

20.02.14 – Rules for Selling Forest Products on State-Owned Endowment Lands
20.03.01 – Rules Governing Dredge and Placer Mining Operations in Idaho
20.03.02 – Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities
20.03.03 – Rules Governing Administration of the Reclamation Fund
20.03.04 – Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho
20.03.05 – Riverbed Mineral Leasing in Idaho
20.03.08 – Easements on State-Owned Lands
20.03.09 – Easements on State-Owned Submerged Lands and Formerly Submerged Lands
20.03.13 – Administration of Cottage Site Leases on State Lands
20.03.14 – Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases
20.03.15 – Rules Governing Geothermal Leasing on Idaho State Lands
20.03.16 – Rules Governing Oil and Gas Leasing on Idaho State Lands
20.03.17 – Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands
20.04.02 – Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws
20.06.01 – Rules of the Idaho Board of Scaling Practices
20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho

IDAPA 21 – IDAHO DIVISION OF VETERANS SERVICES

Docket No. ***21-0000-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 3292

21.01.06 – Rules for the Enforcement of the Veteran's Preference in Public Employment

Docket No. ***21-0000-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3298

21.01.01 – Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure
21.01.04 – Rules Governing the Idaho State Veterans Cemetery

IDAPA 22 – BOARD OF MEDICINE

Docket No. ***22-0000-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 3325

22.01.05 – General Provisions of the Board of Medicine

Docket No. ***22-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3332

22.01.01 – Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho
22.01.03 – Rules for the Licensure of Physician Assistants
22.01.10 – Rules for the Licensure of Athletic Trainers to Practice in Idaho
22.01.11 – Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho
22.01.13 – Rules for the Licensure of Dietitians

IDAPA 23 – BOARD OF NURSING

Docket No. ***23-0101-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3354

23.01.01 – Rules of the Idaho Board of Nursing

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

Docket No. ***24-0101-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3404

24.01.01 – Rules of the Board of Architectural Examiners

Docket No. ***24-0201-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3412

24.02.01 – Rules of the State Athletic Commission

Docket No. ***24-0301-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3457

24.03.01 – Rules of the State Board of Chiropractic Physicians

Docket No. ***24-0401-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3473

24.04.01 – Rules of the Board of Registration for Professional Geologists

Docket No. ***24-0501-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3481

24.05.01 – Rules of the Board of Drinking Water and Wastewater Professionals

Docket No. ***24-0601-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3498

24.06.01 – Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants

Docket No. ***24-0701-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3509

24.07.01 – Rules of the Idaho State Board of Landscape Architects

Docket No. ***24-0801-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3514

24.08.01 – Rules of the State Board of Morticians

Docket No. ***24-0901-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3525

24.09.01 – Rules of the Board of Examiners of Nursing Home Administrators

Docket No. ***24-1001-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3531

24.10.01 – Rules of the State Board of Optometry

Docket No. ***24-1101-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3542

24.11.01 – Rules of the State Board of Podiatry

Docket No. ***24-1201-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3548

24.12.01 – Rules of the Idaho State Board of Psychologist Examiners

Docket No. ***24-1301-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3570

24.13.01 – Rules Governing the Physical Therapy Licensure Board

Docket No. ***24-1401-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3583

24.14.01 – Rules of the State Board of Social Work Examiners

Docket No. ***24-1501-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3596

24.15.01 – Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists

Docket No. ***24-1601-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3609

24.16.01 – Rules of the State Board of Denturitry

Docket No. ***24-1701-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3619

24.17.01 – Rules of the State Board of Acupuncture

Docket No. ***24-1801-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3627

24.18.01 – Rules of the Real Estate Appraiser Board

Docket No. ***24-1901-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3642

24.19.01 – Rules of the Board of Examiners of Residential Care Facility Administrators

Docket No. ***24-2001-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 3647

24.20.01 – Rules of the Bureau of Occupational Licenses

Docket No. ***24-2101-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3651

24.21.01 – Rules of the Idaho State Contractors Board

Docket No. ***24-2201-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3655

24.22.01 – Rules of the Idaho State Liquefied Petroleum Gas Safety Board

Docket No. ***24-2301-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3660

24.23.01 – Rules of the Speech, Hearing, and Communication Services Licensure Board

Docket No. ***24-2401-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3674

24.24.01 – Rules of the Genetic Counselors Licensing Board

Docket No. ***24-2501-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3679

24.25.01 – Rules of the Idaho Driving Businesses Licensure Board

Docket No. ***24-2601-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3693

24.26.01 – Rules of the Idaho Board of Midwifery

Docket No. ***24-2701-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3706

24.27.01 – Rules of the Idaho State Board of Massage Therapy

Docket No. ***24-2801-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3719

24.28.01 – Rules of the Barber and Cosmetology Services Licensing Board

Docket No. ***24-2901-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3746

24.29.01 – Rules of Procedure of the Idaho Certified Shorthand Reporters Board

IDAPA 25 – IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

Docket No. ***25-0101-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3752

25.01.01 – Rules of the Idaho Outfitters and Guides Licensing Board

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

Docket No. ***26-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 3786

26.01.03 – Rules Governing Recreational Registration Program Vendors
26.01.21 – Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park
26.01.22 – Rules Governing Cooperating Associations
26.01.24 – Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds
26.01.30 – Idaho Safe Boating Rules
26.01.31 – Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds
26.01.34 – Idaho Protection Against Invasive Species Sticker Rules
26.01.37 – Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles

Docket No. ***26-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3825

26.01.10 – Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation
26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities
26.01.33 – Rules Governing the Administration of the Land and Water Conservation Fund Program
26.01.36 – Rules Governing the Winter Recreational Parking Permit Program

IDAPA 27 – IDAHO BOARD OF PHARMACY
Docket No. ***27-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 3862

27.01.01 – Rules of the Idaho State Board of Pharmacy

IDAPA 28 – DEPARTMENT OF COMMERCE
Docket No. ***28-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 3888

28.02.03 – Department of Commerce Grant Program Rules
28.04.01 – Rules Governing the Idaho Reimbursement Incentive Act

IDAPA 29 – IDAHO POTATO COMMISSION
Docket No. ***29-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 3903

29.01.01 – Rules of the Idaho Potato Commission

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES
Docket No. ***30-0101-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 3916

30.01.01 – Rules of the Idaho Commission for Libraries Governing the Use of Commission Services

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION
Docket No. ***31-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 3922

31.01.01 – Rules of Procedure of the Idaho Public Utilities Commission
31.11.01 – Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission
31.12.01 – Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission
31.21.01 – Customer Relations Rules for Gas, Electric, and Water Public Utilities (The Utility Customer Relations Rules)
31.26.01 – Master-Metering Rules for Electric Utilities
31.31.01 – Gas Service Rules
31.36.01 – Policies and Presumptions for Small Water Companies
31.41.01 – Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to Customer Service Regulation by the Idaho Public Utilities Commission (The Telephone Customer Relations Rules)
31.46.01 – Universal Service Fund Rules
31.46.02 – Rules for Telecommunications Relay Services (TRS)
31.61.01 – Rules for the Measurement of Stray Current or Voltage (The Stray Voltage Rules)
31.71.01 – Railroad Safety Rules
31.81.01 – Energy Consumption Reporting Rules

IDAPA 32 – ENDOWMENT FUND INVESTMENT BOARD

Docket No. ***32-0101-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 4077

32.01.01 – Rules Governing the Credit Enhancement Program for School Districts

IDAPA 33 – REAL ESTATE COMMISSION

Docket No. ***33-0000-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 4081

33.01.01 – Rules of the Idaho Real Estate Commission

IDAPA 34 – OFFICE OF THE SECRETARY OF STATE

Docket No. ***34-0000-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 4087

34.02.02 – Rules Governing Complaint Process Under the Help America Vote Act
34.03.01 – Rules Implementing the Sunshine Law
34.04.02 – Rules Governing Business Entity Names
34.05.05 – List of Federal Liens in Agricultural Crops
34.06.01 – Rules Governing the Electronic Recording of Real Property

Docket No. ***34-0000-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 4104

34.05.01 – Rules Governing Farm Products Central Filing System
34.05.02 – Rules Governing Liens in Crops for Seed or Liens in Crops for Farm Labor
34.05.03 – Requests for Information – Form UCC-4 – Fees
34.05.06 – Rules Governing Lien Filings Under the UCC

IDAPA 35 – IDAHO STATE TAX COMMISSION

Docket No. ***35-0000-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 4141

35.01.01 – Income Tax Administrative Rules
35.01.02 – Idaho Sales and Use Tax Administrative Rules
35.01.03 – Property Tax Administrative Rules
35.01.05 – Idaho Motor Fuels Tax Administrative Rules
35.01.06 – Hotel/Motel Room and Campground Sales Tax Administrative Rules
35.01.07 – Kilowatt Hour Tax Administrative Rules
35.01.08 – Mine License Tax Administrative Rules
35.01.09 – Idaho Beer and Wine Taxes Administrative Rules
35.01.10 – Idaho Cigarette and Tobacco Products Taxes Administrative Rules
35.02.01 – Tax Commission Administration and Enforcement Rules

IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS

Docket No. ***36-0101-1900F***

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 4608

36.01.01 – Idaho Board of Tax Appeals Rules

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES, IDAHO WATER RESOURCE BOARD

Docket No. ***37-0000-1900***

Notice of Omnibus Rulemaking – Adoption of Pending Rule 4624

37.02.01 – Comprehensive State Water Plan Rules
37.02.04 – Shoshone-Bannock Tribal Water Supply Bank Rules
37.03.11 – Rules for Conjunctive Management of Surface and Ground Water Resources
37.03.12 – Idaho Department of Water Resources Water Distribution Rules – Water District 34

Docket No. ***37-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 4653

37.01.01 – Rules of Procedure of the Idaho Department of Water Resources
37.02.03 – Water Supply Bank Rules
37.03.01 – Adjudication Rules
37.03.02 – Beneficial Use Examination Rules
37.03.03 – Rules and Minimum Standards for the Construction and Use of Injection Wells
37.03.04 – Drilling for Geothermal Resources Rules
37.03.05 – Mine Tailings Impoundment Structures Rules
37.03.06 – Safety of Dams Rules
37.03.07 – Stream Channel Alteration Rules
37.03.08 – Water Appropriation Rules
37.03.09 – Well Construction Standards Rules
37.03.10 – Well Driller Licensing Rules

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

Docket No. ***38-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 4859

38.04.06 – Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities
38.04.07 – Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities
38.04.08 – Rules Governing Use of Idaho State Capitol Exterior
38.04.09 – Rules Governing Use of the Chinden Office Complex
38.05.01 – Rules of the Division of Purchasing

Docket No. ***38-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 4907

38.04.04 – Rules Governing Capitol Mall Parking

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

Docket No. ***39-0000-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule 4917

39.02.01 – Rules Governing Vehicle Manufacturer and Distributor Franchise Requirements
39.02.02 – Rules Governing Vehicle and Vessel Dealer License Requirements – Motor Vehicles
39.02.03 – Rules Governing Vehicle Dealer's Principal Place of Business
39.02.27 – Rules Governing Titling and Registration of Non-Resident Commercial Vehicles and Transient Farm Labor Vehicles
39.02.42 – Temporary Vehicle Registration When Proof of Ownership Is Insufficient
39.02.43 – Rules Governing Registration and Title Fee Refunds
39.02.45 – Rules Governing Fees for Lapsed Registration Periods
39.02.70 – Rules Governing Restricted Driving Permits
39.02.71 – Rules Governing Driver's License Violation Point System
39.02.72 – Rules Governing Administrative License Suspensions
39.02.73 – Rules Governing Accident Prevention Course
39.02.75 – Rules Governing Names on Drivers' Licenses and Identification Cards

39.02.76 – Rules Governing Driver's License Renewal-By-Mail and Electronic Renewal Process
39.02.80 – Rules Governing Motor Carrier Financial Responsibility
39.03.01 – Rules Governing Definitions Regarding Special Permits
39.03.02 – Rules Governing Movement of Disabled Vehicles
39.03.04 – Rules Governing Special Permits – Overweight Non-reducible
39.03.05 – Rules Governing Special Permits – Oversize Non-Reducible
39.03.06 – Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations
39.03.07 – Rules Governing Special Permits for Reducible Loads
39.03.08 – Rules Governing Self-Propelled Snowplows
39.03.40 – Rules Governing Junkyards and Dumps
39.03.41 – Rules Governing Traffic Control Devices
39.03.42 – Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way
39.03.43 – Rules Governing Utilities on State Highway Right-of-Way
39.03.44 – Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs
39.03.47 – Rules Governing Certification of Local Improved Road Mileage
39.03.48 – Rules Governing Routes Exempt From Local Plans and Ordinances
39.03.49 – Rules Governing Ignition Interlock Breath Alcohol Devices
39.03.50 – Rules Governing Safety Rest Areas
39.03.60 – Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs
39.03.65 – Rules Governing Traffic Minute Entries
39.03.80 – Rules Governing Legalization of Overloaded Vehicles
39.03.81 – Rules Governing Issuance of Temporary Permits in Lieu of Full Registration
39.04.01 – Rules Governing Aeronautics And Aviation

Docket No. ***39-0000-1900F***
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5069

39.02.04 – Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees
39.02.05 – Rules Governing Issuance of Certificates of Title
39.02.22 – Rules Governing Registration and Permit Fee Administration
39.02.26 – Rules Governing Temporary Vehicle Clearance for Carriers
39.02.41 – Rules Governing Special Provisions Applicable to Fees for Services
39.02.60 – Rules Governing License Plate Provisions
39.03.03 – Rules Governing Special Permits – General Conditions and Requirements

IDAPA 40 – COMMISSION ON THE ARTS
Docket No. ***40-0101-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule.....5115

40.01.01 – Rules of the Idaho Commission on the Arts

IDAPA 41 – IDAHO PUBLIC HEALTH DISTRICTS
Docket No. ***41-0101-1900***
Notice of Omnibus Rulemaking – Adoption of Pending Rule.....5120

41.01.01 – Rules of Idaho Public Health District #1

IDAPA 42 – IDAHO WHEAT COMMISSION
Docket No. **42-0101-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5150
42.01.01 – Rules of the Idaho Wheat Commission

IDAPA 43 – IDAHO OILSEED COMMISSION
Docket No. **43-0101-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5153
43.01.01 – Rules Governing the Idaho Oilseed Commission

IDAPA 45 – IDAHO HUMAN RIGHTS COMMISSION
Docket No. **45-0101-1900**
Notice of Omnibus Rulemaking – Adoption of Pending Rule 5156
45.01.01 – Rules of the Idaho Human Rights Commission

IDAPA 46 – IDAHO BOARD OF VETERINARY MEDICINE
Docket No. **46-0101-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5161
46.01.01 – Rules of the State of Idaho Board of Veterinary Medicine

IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION
Docket No. **48-0101-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5186
48.01.01 – Rules of the Idaho Grape Growers and Wine Producers Commission

IDAPA 50 – COMMISSION OF PARDONS AND PAROLE
Docket No. **50-0101-1900**
Notice of Omnibus Rulemaking – Adoption of Pending Rule 5188
50.01.01 – Rules of the Commission of Pardons and Parole

IDAPA 51 – IDAHO BEEF COUNCIL
Docket No. **51-0101-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5211
51.01.01 – Idaho Beef Council Rules

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION
Docket No. **52-0000-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5214
52.01.03 – Rules Governing Operations of the Idaho State Lottery

IDAPA 53 – IDAHO BARLEY COMMISSION
Docket No. **53-0101-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5264
53.01.01 – Rules of the Idaho Barley Commission

IDAPA 54 – OFFICE OF THE STATE TREASURER

Docket No. **54-0000-1900**

Notice of Omnibus Rulemaking – Adoption of Pending Rule 5268

54.02.01 – Rules Governing the College Savings Program
54.03.01 – Idaho Unclaimed Property Administrative Rules

IDAPA 56 – IDAHO RANGELAND RESOURCES COMMISSION

Docket No. **56-0101-1900F**

Notice of Rulemaking – Vacation of Omnibus Proposed Rulemaking 5276

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD

Docket No. **57-0101-1900F**

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5277

57.01.01 – Rules of the Sexual Offender Management Board

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

Docket No. **58-0000-1900**

Notice of Omnibus Rulemaking – Adoption of Pending Rule 5295

58.01.02 – Water Quality Standards
58.01.04 – Rules for Administration of Wastewater Treatment Facility Grants
58.01.10 – Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended
58.01.16 – Wastewater Rules
58.01.21 – Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality
58.01.22 – Rules for Administration of Planning Grants for Drinking Water Facilities
58.01.23 – Rules of Administrative Procedure Before the Board of Environmental Quality
58.01.24 – Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites

Docket No. **58-0000-1900F**

Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 5611

58.01.05 – Rules and Standards for Hazardous Waste
58.01.06 – Solid Waste Management Rules
58.01.07 – Rules Regulating Underground Storage Tank Systems
58.01.08 – Idaho Rules for Public Drinking Water Systems
58.01.12 – Rules for Administration of Water Pollution Control Loans
58.01.13 – Rules for Ore Processing by Cyanidation
58.01.14 – Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services
58.01.18 – Idaho Land Remediation Rules
58.01.20 – Rules for Administration of Drinking Water Loan Program
58.01.25 – Rules Regulating the Idaho Pollutant Discharge Elimination System Program

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

Docket No. **59-0000-1900**

Notice of Omnibus Rulemaking – Adoption of Pending Rule 5992

59.01.01 – Rules For The Public Employee Retirement System Of Idaho (PERSI)
59.02.01 – Rules for the Judges' Retirement Fund

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION
Docket No. **60-0000-1900**
Notice of Rulemaking – Vacation of Omnibus Proposed Rulemaking 6050
Docket No. **60-0000-1900F**
Notice of Omnibus Rulemaking – Adoption of Pending Fee Rule 6051
60.05.01 – Rules of the Idaho State Soil And Water Conservation Commission

IDAPA 61 – PUBLIC DEFENSE COMMISSION
Docket No. **61-0000-1900**
Notice of Omnibus Rulemaking – Adoption of Pending Rule 6062
61.01.01 – Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds
61.01.02 – Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports
61.01.03 – Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services
61.01.04 – Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense financial assistance
61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards
61.01.07 – Rules Governing Standards for Defending Attorneys that Utilize Idaho's Principles of an Indigent Defense Delivery System
61.01.08 – Rules Governing the Administration of Idaho's Indigent Defense Delivery System – Rule Definitions

SECTIONS AFFECTED INDEX 6091

LEGAL NOTICE – SUMMARY OF PROPOSED RULEMAKINGS 6423

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES 6424

SUBJECT INDEX 6456

PREFACE

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

State agencies are required to provide public notice of all rulemaking actions and must invite public input. This is done through negotiated rulemaking procedures or after proposed rulemaking has been initiated. The public receives notice that an agency has initiated proposed rulemaking procedures through the Idaho Administrative Bulletin and a legal notice (Public Notice of Intent) that publishes in authorized newspapers throughout the state. The legal notice provides reasonable opportunity for the public to participate when a proposed rule publishes in the Bulletin. Interested parties may submit written comments to the agency or request public hearings of the agency, if none have been scheduled. Such submissions or requests must be presented to the agency within the time and manner specified in the individual "Notice of Rulemaking - Proposed Rule" for each proposed rule that is published in the Bulletin.

Once the comment period closes, the agency considers fully all comments and information submitted regarding the proposed rule. Changes may be made to the proposed rule at this stage of the rulemaking, but changes must be based on comments received and must be a "logical outgrowth" of the proposed rule. The agency may now adopt and publish the pending rule. A pending rule is "pending" legislative review for final approval. The pending rule is the agency's final version of the rulemaking that will be forwarded to the legislature for review and final approval. Comment periods and public hearings are not provided for when the agency adopts a temporary or pending rule.

CITATION TO THE IDAHO ADMINISTRATIVE BULLETIN

The Bulletin is identified by the calendar year and issue number. For example, Bulletin **18-1** refers to the first Bulletin issued in calendar year **2018**; Bulletin **19-1** refers to the first Bulletin issued in calendar year **2019**. Volume numbers, which proceed from 1 to 12 in a given year, correspond to the months of publication, i.e.; Volume No. **19-1** refers to January 2019; Volume No. **19-2** refers to February 2019; and so forth. Example: The Bulletin published in January 2019 is cited as Volume **19-1**. The December 2019 Bulletin is cited as Volume **19-12**.

RELATIONSHIP TO THE IDAHO ADMINISTRATIVE CODE

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

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

THE DIFFERENT RULES PUBLISHED IN THE ADMINISTRATIVE BULLETIN

Idaho's administrative rulemaking process, governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, comprises distinct rulemaking actions: negotiated, proposed, temporary, pending and final rulemaking. Not all rulemakings incorporate or require all of these actions. At a minimum, a rulemaking includes proposed, pending and final rulemaking. Many rules are adopted as temporary rules when they meet the required statutory criteria and agencies must, when feasible, engage in negotiated rulemaking at the beginning of the process to facilitate consensus building. In the majority of cases, the process begins with proposed rulemaking and ends with the final rulemaking. The following is a brief explanation of the rulemaking process and each type of rule.

1. NEGOTIATED RULEMAKING

Negotiated rulemaking is a process in which all interested persons and the agency seek consensus on the content of a rule through dialogue. Agencies are required to conduct negotiated rulemaking whenever it is feasible to do so. The agency files a "Notice of Intent to Promulgate a Rule - Negotiated Rulemaking" for publication in the Administrative Bulletin inviting interested persons to contact the agency if interested in discussing the agency's intentions regarding the rule changes. This process is intended to result in the formulation of a proposed rule and the initiation of regular rulemaking procedures. One result, however, may also be that regular (proposed) rulemaking is not initiated and no further action is taken by the agency.

2. PROPOSED RULEMAKING

A proposed rulemaking is an action by an agency wherein the agency is proposing to amend or repeal an existing rule or to adopt a new rule. Prior to the adoption, amendment, or repeal of a rule, the agency must publish a "Notice of Rulemaking - Proposed Rule" in the Bulletin. This notice must include very specific information regarding the rulemaking including all relevant state or federal statutory authority occasioning the rulemaking, a non-technical description of the changes being made, any associated costs, guidance on how to participate through submission of written comments and requests for public hearings, and the text of the proposed rule in legislative format.

3. TEMPORARY RULEMAKING

Temporary rules may be adopted only when the governor finds that it is necessary for:

a) protection of the public health, safety, or welfare; or
b) compliance with deadlines in amendments to governing law or federal programs; or
c) conferring a benefit.

If a rulemaking meets one or more of these criteria, and with the Governor's approval, the agency may adopt and make a temporary rule effective prior to receiving legislative authorization and without allowing for any public input. The law allows an agency to make a temporary rule immediately effective upon adoption. A temporary rule may not be made retroactively effective upon adoption but it may be made effective on a date other than the adoption date. The agency must specify what the effective date is in the rulemaking notice that publishes in the Bulletin. A temporary rule expires at the conclusion of the next succeeding regular legislative session unless the rule is extended by concurrent resolution, is replaced by a final rule, or expires under its own terms. Once adopted, a temporary rule must be published in the next available Bulletin.

4. PENDING RULEMAKING

A pending rule is a rule that has been adopted by an agency under regular rulemaking procedures and remains subject to legislative review before it becomes a final, enforceable rule. When a pending rule is published in the Bulletin, the agency is required to include certain information in the "Notice of Rulemaking - Pending Rule." This includes a statement giving the reasons for adopting the rule, a statement regarding when the rule becomes effective, a description of how it differs from the proposed rule, and identification of any fees being imposed or changed.

Agencies are required to republish the text of the pending rule when substantive changes have been made to the proposed rule. An agency may adopt a pending rule that varies in content from that which was originally proposed if the subject matter of the rule remains the same, the pending rule change is a logical outgrowth of the proposed rule, and the original notice was written so as to assure that members of the public were reasonably notified of the subject. It is not always necessary to republish all the text of the pending rule.

5. FINAL RULEMAKING

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

HOW TO USE THE IDAHO ADMINISTRATIVE BULLETIN

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

IDAPA 38.05.01.200.02.c.ii.

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

1. **"38."** refers to the Idaho Department of Administration

"05." refers to Title **05**, which is the Department of Administration's Division of Purchasing

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

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

"02." refers to Subsection 200.**02**.

"**c.**" refers to Subsection 200.02.**c**.

"ii." refers to Subsection 200.02.c.**ii**.

DOCKET NUMBERING SYSTEM

Internally, the Bulletin is organized sequentially using a rule docketing system. Each rulemaking that is filed with the Coordinator is assigned a "DOCKET NUMBER." The docket number is a series of numbers separated by a hyphen "-", (**38-0501-1401**). Rulemaking dockets are published sequentially by IDAPA number (the two-digit agency code) in the Bulletin. The following example is a breakdown of a typical rule docket number:

"DOCKET NO. 38-0501-1401"

"38-" denotes the agency's **IDAPA** number; in this case the Department of Administration.

"0501-" refers to the **TITLE AND CHAPTER** numbers of the agency rule being promulgated; in this case the Division of Purchasing (TITLE **05**), Rules of the Division of Purchasing (Chapter **01**).

"1401" denotes the year and sequential order of the docket being published; in this case the numbers refer to the first rulemaking action published in **calendar year 2014**. A subsequent rulemaking on this same rule chapter in calendar year 2014 would be designated as "**1402**". The docket number in this scenario would be 38-0501-**1402**.

Within each Docket, only the affected sections of chapters are printed. (See **Sections Affected Index** in each Bulletin for a listing of these.) The individual sections affected are printed in the Bulletin sequentially (e.g. Section "200" appears before Section "345" and so on). Whenever the sequence of the numbering is broken the following statement will appear:

(BREAK IN CONTINUITY OF SECTIONS)

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2019

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Bulletin Publication Date	21-day Comment Period End Date
19-1	January 2019		***November 30, 2018**	January 2, 2019	January 23, 2019
19-2	February 2019		January 4, 2019	February 6, 2019	February 27, 2019
19-3	March 2019		February 8, 2019	March 6, 2019	March 27, 2019
19-4	April 2019		March 8, 2019	April 3, 2019	April 24, 2019
19-5	May 2019	March 22, 2019	April 5, 2019	May 1, 2019	May 22, 2019
19-6	June 2019	April 19, 2019	May 3, 2019	June 5, 2019	June 26, 2019
19-7	July 2019	May 24, 2019	June 7, 2019	July 3, 2019	July 24, 2019
19-8	August 2019	June 21, 2019	July 5, 2019	August 7, 2019	August 28, 2019
19-9	September 2019	July 19, 2019	August 2, 2019	September 4, 2019	September 25, 2019
19-10	October 2019	August 16, 2019	****August 30, 2019**	October 2, 2019	October 23, 2019
19-11	November 2019	September 20, 2019	October 4, 2019	November 6, 2019	November 27, 2019
19-12	December 2019	October 18, 2019	November 1, 2019	December 4, 2019	December 25, 2019

BULLETIN PUBLICATION SCHEDULE FOR CALENDAR YEAR 2020

Vol. No.	Monthly Issue of Bulletin	ARRF Due to DFM	Closing Date for Agency Filing	Publication Date	21-day Comment Period End Date
20-1	January 2020	November 15, 2019	***November 29, 2019**	January 1, 2020	January 22, 2020
20-2	February 2020	December 20, 2019	January 3, 2020	February 5, 2020	February 26, 2020
20-3	March 2020	January 22, 2020	February 7, 2020	March 4, 2020	March 25, 2020
20-4	April 2020	February 21, 2020	March 6, 2020	April 1, 2020	April 22, 2020
20-5	May 2020	March 20, 2020	April 3, 2020	May 6, 2020	May 27, 2020
20-6	June 2020	April 24, 2020	May 1, 2020	June 3, 2020	June 24, 2020
20-7	July 2020	May 22, 2020	June 5, 2020	July 1, 2020	July 22, 2020
20-8	August 2020	June 19, 2020	July 3, 2020	August 5, 2020	August 26, 2020
20-9	September 2020	July 24, 2020	August 7, 2020	September 2, 2020	September 23, 2020
20-10	October 2020	August 21, 2020	****August 28, 2020**	October 7, 2020	October 28, 2020
20-11	November 2020	September 18, 2020	October 2, 2020	November 4, 2020	November 25, 2020
20-12	December 2020	October 23, 2020	November 6, 2020	December 2, 2020	December 23, 2020

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

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

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

IDAPA 01	**Accountancy**, Board of
IDAPA 38	**Administration**, Department of
IDAPA 02	**Agriculture**, Idaho Department of
IDAPA 40	**Arts**, Idaho Commission on the
IDAPA 04	**Attorney General,** Office of the
IDAPA 53	**Barley Commission**, Idaho
IDAPA 51	**Beef Council**, Idaho
IDAPA 07	**Building Safety**, Division of Electrical Board (07.01) Plumbing Board (07.02) Building Codes & Manufactured Homes (07.03) Building Code Advisory Board (07.03.01) Public Works Contractors License Board (07.05) Uniform School Building Safety (07.06) HVAC Board (07.07)
IDAPA 55	**Career Technical Education**, Division of
IDAPA 28	**Commerce**, Idaho Department of
IDAPA 06	**Correction**, Board of
IDAPA 19	**Dentistry**, Board of
IDAPA 08	**Education**, State Board of and State Department of
IDAPA 10	**Engineers and Land Surveyors**, Board of Professional
IDAPA 58	**Environmental Quality**, Department of
IDAPA 12	**Finance**, Department of
IDAPA 13	**Fish and Game**, Department of
IDAPA 15	**Governor**, Office of the Idaho Commission on Aging (15.01) Idaho Commission for the Blind and Visually Impaired (15.02) Idaho Forest Products Commission (15.03) Division of Human Resources and Personnel Commission 15.04) Idaho Liquor Division (15.10) Idaho Military Division (Division of Homeland Security) (15.06)
IDAPA 48	**Grape Growers and Wine Producers Commission,** Idaho
IDAPA 16	**Health and Welfare**, Department of

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

IDAPA 41	**Health Districts,** Public
IDAPA 45	**Human Rights Commission**
IDAPA 17	**Industrial Commission**
IDAPA 18	**Insurance**, Department of
IDAPA 05	**Juvenile Corrections**, Department of
IDAPA 09	**Labor**, Idaho Department of
IDAPA 20	**Lands**, Department of
IDAPA 30	**Libraries,** Commission for
IDAPA 52	**Lottery Commission**, Idaho State
IDAPA 22	**Medicine**, Board of
IDAPA 23	**Nursing**, Board of
IDAPA 43	**Oilseed Commission**, Idaho
IDAPA 24	**Occupational Licenses**, Board of (24.20) Acupuncture, Board of (24.17) Athletic Commission (24.02) Architectural Examiners, Board of (24.01) Barber and Cosmetology Services Licensing Board (24.28) Chiropractic Physicians, Board of (24.03) Contractors Board, Idaho State (24.21) Counselors and Marriage and Family Therapists, Licensing Board of Professional (24.15) Denturity, Board of (24.16) Drinking Water and Wastewater Professionals, Board of (24.05) Driving Businesses Licensure Board, Idaho (24.25) Genetic Counselors Licensing Board (24.24) Geologist, Board of Registration (24.04) Landscape Architects, Board of (24.07) Liquefied Petroleum Gas Safety Board (24.22) Massage Therapy, Board of (24.27) Midwifery, Board of (24.26) Morticians, Board of (24.08) Nursing Home Administrators, Board of Examiners of (24.09) Occupational Therapy Licensure Board (24.06) Optometry, Board of (24.10) Physical Therapy Licensure Board (24.13) Podiatry, Board of (24.11) Psychologist Examiners, Board of (24.12) Real Estate Appraiser Board (24.18) Residential Care Facility Administrators, Board of Examiners of (24.19) Shorthand Reporters, Board of Certified (24.29) Social Work Examiners, Board of (24.14) Speech, Hearing and Communication Services Licensure Board (24.23)
IDAPA 25	**Outfitters and Guides Licensing Board**

ALPHABETICAL INDEX OF STATE AGENCIES AND CORRESPONDING IDAPA NUMBERS

IDAPA 50	**Pardons and Parole**, Commission for
IDAPA 26	**Parks and Recreation**, Department of
IDAPA 27	**Pharmacy**, Board of
IDAPA 11	**Police,** Idaho State
IDAPA 29	**Potato Commission**, Idaho
IDAPA 61	**Public Defense Commission**, State
IDAPA 59	**Public Employee Retirement System of Idaho (PERSI)**
IDAPA 31	**Public Utilities Commission**
IDAPA 56	**Rangeland Resources Commission**, Idaho
IDAPA 33	**Real Estate Commission**, Idaho
IDAPA 34	**Secretary of State**, Office of the
IDAPA 57	**Sexual Offender Management Board**
IDAPA 60	**Soil and Water Conservation Commission**, Idaho State
IDAPA 36	**Tax Appeals**, Board of
IDAPA 35	**Tax Commission**, State
IDAPA 39	**Transportation Department,** Idaho
IDAPA 54	**Treasurer**, Office of the State
IDAPA 21	**Veterans Services**, Division of
IDAPA 46	**Veterinary Medical Examiners**, Board of
IDAPA 47	**Vocational Rehabilitation**, Division of
IDAPA 37	**Water Resources**, Department of
IDAPA 42	**Wheat Commission**

IDAPA 01 – BOARD OF ACCOUNTANCY

DOCKET NO. 01-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-204(1), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 01, rules of the Idaho State Board of Accountancy:

IDAPA 01

- 01.01.01, *Idaho Accountancy Rules* (Chapter 2, Title 54, Idaho Code).

These pending fee rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those rules. Third parties rely on the accuracy of the financial information issued by a certified public or licensed public accountant. Not having these rules would endanger third parties who need reliable information on transactions such as a buy-sell agreement, business valuations which can include stock prices for publicly traded companies and loan from financial institutions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 33 – 55**.

Amendments to these rules since the June 19, 2019 Idaho Administrative Bulletin include the renumbering of rules, the elimination or reduction of, and/or clarification to the following rules: 010 Definitions, reduced, and 011, Filing of Documents, was removed as it is in Idaho Code. Rules 100 – 107 which cover the CPA Exam were made more streamlined as duplicate information found in the Accountancy Act was removed as were duties of the testing center. Rules 200 – 203 will now cover licensure with reductions to eliminate duplicate information. Rules 300 – 305 relate to a licensee's Professional Conduct with simplification to the sections covering Contingent Fees and Commissions, Records, and Firm Names. Repetitive information that is found in other parts of the Accountancy Rules, Discreditable Acts and Acting Through Others were moved. Rules 400 – 408 now pertain to Continuous Professional Education, CPE. These rules were simplified by removing repetitive language found in statute, combining information on reinstatement and/or reentry applications and general housekeeping to make the section flow more efficiently. Rules 500 – 511 cover Firm Registration and Peer Review. Simplification was made to remove duplicate language and rules on accepting applications for an organization to be administering organizations were eliminated due obsolescence. The rules concerning the Peer Review Oversight Committee were also consolidated. Minor changes were made to Rule 600, Fees, to clarify the information and make it easier for stakeholders to identify.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. These fees cover Exam, Licensure and Firm Registration; Administrative Services such as the Interstate Exchange of Information to other jurisdictions and wall certificates for licensees; and Late Fees regarding licensing, CPE filing and firm registration. These fees or charges are being imposed pursuant to Section 54-212, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Kent A. Absec, Executive Director at (208) 334-2490.

Dated this 14th day of October, 2019.

Kent A. Absec
Executive Director
Idaho State Board of Accountancy
3101 W. Main St., Suite 210
P.O. Box 83720
Boise, Idaho 83720-0002
Phone: (208) 334-2490
Email: **kent.absec@isba.idaho.gov**

000. LEGAL AUTHORITY (RULE 000).
This chapter is adopted under the legal authority of Title 54, Chapter 2, Idaho Code. (4-2-03)

001. TITLE AND SCOPE (RULE 001).

01. Title. These rules are titled IDAPA 01.01.01, "Idaho Accountancy Rules." (4-2-03)

02. Scope. These rules govern the administration of the certified public accountant examination, the issuance and renewal of licenses to practice as certified or licensed public accountants, the registration of firms, the regulation of individuals granted practice privileges, and the limitation of non-licensees. (4-2-03)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE (RULE 004).
The following documents are hereby incorporated by reference into IDAPA 01.01.01 and can be obtained at the Board office. Licensees are required to comply with the following standards when applicable. (3-1-05)

01. AICPA Standards. The AICPA Professional Standards as applicable under the circumstances and at the time of the services, except as superseded by Section 54-206(8), Idaho Code. (3-29-10)

02. CPE Standards. 2016 Statements on Standards for Continuing Professional Education Programs jointly approved by NASBA and AICPA. (3-28-18)

03. PCAOB Standards. The Standards issued by the Public Company Accountability Oversight Board, as applicable under the circumstances and at the time of the services. (3-29-10)

***005*. -- 009. (RESERVED)**

010. DEFINITIONS (RULE 010).
The Idaho State Board of Accountancy adopts the definitions set forth in Section 54-206, Idaho Code. In addition, as used in this chapter: (4-2-03)

01. Administering Organization. An entity that has met, and at all relevant times continues to meet, the standards specified by the Board for administering peer reviews. (4-2-03)

02. Board. The Board or its designated representative. (4-2-03)

03. Candidate. Applicants approved to sit for the CPA Examination. (4-2-03)

04. CPA Examination. Uniform Certified Public Accountant Examination. (4-2-03)

05. CPE. Continuing Professional Education. (4-2-03)

06. Ethics CPE. Programs in ethics include topics such as ethical reasoning, state-specific statutes and rules, and standards of professional conduct, including those of other applicable regulatory bodies. (5-8-09)

07. NASBA. The National Association of State Boards of Accountancy. (3-16-04)

08. National Candidate Database. The National Association of State Boards of Accountancy database of all CPA Examination candidates. *( )*

09. State-Specific Ethics for Idaho. A *minimum* two-hour (2) CPE course on Idaho Accountancy Act and Rules, which is exempt from the Statements on Standards for CPE. *( )*

10. Year of Review. The calendar year during which a peer review is conducted. (4-2-03)

11. Year Under Review. The twelve-month (12) period that is reviewed. *( )*

011. -- 017. (RESERVED)

018. COMPLIANCE WITH THESE RULES (RULE 018).

A licensee of the Board or an individual granted practice privileges is subject to the rules of the Board when rendering professional services. (4-2-03)

019. COMPUTATION OF TIME (RULE 019).
The time in which any act provided by law, rule, order, or notice is to be done is computed by excluding the first day; and including the last day unless the last day is a Saturday, Sunday, or legal holiday and then it is also excluded. (4-2-03)

020. GOOD MORAL CHARACTER (RULE 020).

01. Demonstrating Good Moral Character. Applicants have the burden of demonstrating good moral character as defined by Section 54-206(11), Idaho Code, in the manner specified by the Board in its application forms. (5-8-09)

02. Evidence. Prima facie evidence of a lack of good moral character includes, but is not limited to: (5-8-09)

a. Any deferred prosecution agreement involving an admission of wrongdoing, or any criminal conviction, including conviction following a guilty plea or plea of nolo contendere, for any felony or any crime, an essential element of which is fraud, dishonesty, or deceit, or any other crime that evidences an unfitness of the applicant to provide professional services in a competent manner and consistent with the public safety; (5-8-09)

b. Revocation, suspension or the lapsing in lieu of discipline of any license or other authority to practice by or before any state, federal, foreign or other licensing or regulatory authority; or (3-28-18)

c. Any act that would be grounds for revocation or suspension of a license if committed by a licensee of the Board. (5-8-09)

03. Rehabilitation. The applicant may offer, and the Board may consider the following factors in determining whether the applicant's moral character has been rehabilitated as of the date the applicant is seeking licensure. These factors include, but are not limited to: (3-28-18)

a. The applicant's completion of criminal probation, restitution, community service, military or other public service; (3-28-18)

b. The passage of time without the applicant's commission of further crime or act demonstrating a lack of good moral character; and (3-28-18)

c. The entry of an order by any state or federal court expunging any conviction, reducing a conviction from a felony to misdemeanor, or commuting, suspending, or withholding any judgment as provided by law. *( )*

021. NOTIFICATION OF CHANGE OF ADDRESS, FELONY CHARGES, OR ACTIONS TAKEN (RULE 021).
Per Section 54-211(3), Idaho Code, within thirty (30) days after its occurrence, a licensee or candidate will notify the Board, in writing, of: ( )

***01. Address Change**. A change in the business address, residence address, or business connection, employer, or principal place of business; ( )*

***02. Felony Charge**. Any felony charges, or; ( )*

***03. Actions Taken**. The issuance, denial, disciplinary action, restriction, revocation, or suspension of a certificate, license, or permit by another state or by any federal agency. ( )*

022. -- 099. (RESERVED)

100. CPA EXAMINATION (RULE 100).

An applicant must pass the CPA Examination before applying for a CPA license. The CPA Examination is graded by the American Institute of Certified Public Accountants and subject to review and acceptance by the Board. ( )

101. *EXAM* APPLICATIONS (RULE 101).
Applications to take the CPA Examination are to be made *as* prescribed *in accordance with Section 54-208, Idaho Code*. ( )

102. AUTHORIZATION TO TEST AND NOTIFICATION TO SCHEDULE (RULE 102).
The Board will forward notification of eligibility in the form of an Authorization to Test (ATT) to NASBA. The ATT is issued for the test section(s) *for which* the candidate applied. Candidates must pay the fees charged by the AICPA, *NASBA*, and the test delivery service provider directly to NASBA. *The ATT will expire ninety (90) days after it is issued if the candidate has not paid the appropriate fees.* Eligible candidates will receive a Notice to Schedule (NTS) for the CPA Examination. The NTS is valid for six (6) months from the date issued. A candidate's ATT lasts as long as the NTS is valid, or until the candidate tests, whichever occurs first. ( )

103. FAILURE TO APPEAR (RULE 103).
A candidate who fails to appear for the CPA Examination forfeits all fees paid. (3-16-04)

104. *CPA EXAM* EDUCATIONAL QUALIFICATIONS (RULE 104).
A candidate for the CPA examination provides evidence of successful completion of a baccalaureate degree or its equivalent *to include* thirty (30) or more semester hours (or forty-five (45) or more quarter hours) in business administration subjects of which at least twenty (20) semester hours (or at least thirty (30) quarter hours) are in accounting subjects. ( )

105. *TESTING PERIOD AND* CREDIT (RULE 105).

01. CPA Examination *Credit*. Candidates *are to* pass all four (4) test sections of the CPA Examination *with a grade of seventy-five (75) or higher* within an eighteen-month period which begins on the date that the first test section *is* passed. Candidates who do not pass all four (4) sections of the CPA Examination within the eighteen-month period lose credit for any test section(s) passed outside the eighteen-month period and that test section(s) is to be retaken. ( )

02. Extending the Term of Credit. The Board may extend the term of credit validity upon demonstration by the candidate that the credit was lost by reason of circumstances beyond the candidate's control. ( )

03. Transfer of Credit. An applicant may submit the results of any test section of the CPA Examination taken by the applicant in any other state having standards at least equivalent to those of this state, and these results may be adopted by the Board in lieu of examination in this state on the same test section and in accordance with the provisions of Section 54-210, Idaho Code, and these rules. ( )

106. CHEATING (RULE 106).

01. Actions. Cheating by an applicant in applying for the CPA Examination or by a candidate in taking the CPA Examination will cause any grade otherwise earned on any part of the CPA Examination to be invalidated. Cheating may warrant summary expulsion from the examination room and disqualification from taking the CPA Examination for a specified period of time. (3-16-04)

02. Hearings. If the Board believes that it has evidence that a candidate has cheated on the examination or a candidate has been expelled from the examination, the candidate will be provided notice and opportunity for hearing. In such hearings, the Board decides: ( )

a. Whether or not there was cheating, and if so what remedy should be applied; (4-2-03)

b. Whether the candidate will be given credit for any portion of the examination completed in that session; and (4-2-03)

c. Whether the candidate will be barred from taking the examination in future sittings, and if so, for how many sittings. (4-2-03)

03. Notice. If a candidate is refused credit for any test section of an examination taken, disqualified from taking any test section, or barred from taking the examination in the future, the Board will provide information about findings and actions taken to the national candidate database and the board of any other state to which the candidate may apply for the examination. (3-16-04)

107. SECURITY AND IRREGULARITIES (RULE 107).
Notwithstanding any other provisions under these rules, the board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of security, unauthorized acquisition or disclosure of the contents of an examination, suspected or actual negligence, errors, omissions, or irregularities in conducting an examination, or for any other reasonable cause or unforeseen circumstance. *( )*

01. Board Action.
Notwithstanding any other provisions under these rules, the board may postpone scheduled examinations, the release of grades, or the issuance of certificates due to a breach of security

b. Unauthorized acquisition or disclosure of the contents of an examination; (3-16-04)

c. Suspected or actual negligence, errors, omissions, or irregularities in conducting an examination; or (3-16-04)

d. For any other reasonable cause or unforeseen circumstance. (3-16-04)

108. -- 199. (RESERVED)

200. INITIAL CERTIFIED PUBLIC ACCOUNTANT LICENSURE (RULE 200).
Applications for initial licensure are to be made *as prescribed in Section 54-207, Idaho Code, and are to* comply with the following: *( )*

01. Education. (4-2-03)

a. Applicants for licensure *are to meet the provisions of Section 54-207(2), Idaho Code*. An applicant for licensure who was accepted for the May 2000 CPA Examination or prior examination *is exempt from* additional educational requirements. *( )*

b. The Board will recognize: *( )*

i. Any college or university accredited by the Northwest Commission on Colleges or Universities or any other regional accrediting association having the equivalent standards; (3-30-07)

ii. Any independent senior college in Idaho certified by the State Department of Education for teacher training; and (4-2-03)

iii. Accounting and business programs accredited by the Association to Advance Collegiate Schools of Business (AACSB) or any other accrediting agency having equivalent standards. (4-2-03)

c. An applicant is deemed to have met the education requirement if, as part of the one hundred fifty (150) semester hours of education, the applicant has met any one (1) of the following conditions: *( )*

i. Earned a graduate degree with a concentration in accounting from a program that is accredited in accounting by an accrediting agency approved by the Board; (4-2-03)

ii. Earned a graduate degree from a program that is accredited in business by an accrediting agency approved by the Board. *Completion of* at least twenty-four (24) semester hours in accounting at the undergraduate or fifteen (15) semester hours at the graduate level, or an equivalent combination thereof, including coverage of, but not

necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting; *( )*

iii. Earned a baccalaureate degree *at an institution approved by the Board or* from a program that is accredited in business by an accrediting agency approved by the Board. Completion *of at least twenty-four (24) semester hours in business (other than accounting courses) and twenty-four (24) semester hours* in accounting at the undergraduate or graduate level including coverage of, but not necessarily separate courses in, the subjects of financial accounting, auditing, taxation, and management accounting. *( )*

02. Experience. *( )*

a. *An applicant is to provide evidence of one (1) year of experience as prescribed in Section 54-209, Idaho Code, and these rules. Experience consists of full or part time employment that extends over a period of no less than twelve (12) months and no more than thirty-six (36) months with no fewer than two thousand (2,000) hours earned within the ten (10) year period immediately preceding the latest application for licensure. ( )*

b. *An applicant completes and submits the Verification of Employment and Experience Evaluation form(s). An applicant may be called to appear before the Board to supplement or verify evidence of experience. ( )*

c. *A licensee verifying experience will maintain supporting documentation of the applicant's experience until thirty (30) days after the applicant is granted a license. The licensee will permit the Board to inspect the supporting documentation prior to issuing a license to the applicant. Any licensee who has been requested by an applicant to submit to the Board evidence of the applicant's experience and has refused to do so will, upon request by the Board, explain in writing or in person the basis for such refusal. ( )*

d. *A licensee who is responsible for supervising attest services, and signs or authorizes someone to sign the accountant's report on the financial statement on behalf of the firm, is to meet the experience requirement set out in the AICPA statements on quality control standards. ( )*

03. Examination on Code of Professional Conduct. *Prior to licensure,* applicant*s* successfully complete a course in professional ethics that is acceptable to the Board. *( )*

04. Initial License Application Fee. As prescribed in Rule 600. *( )*

201. ANNUAL LICENSE RENEWAL AND LATE FEE (RULE 201).

01. Renewal. Licenses expire on June 30 of each year. *( )*

02. Non-Renewal. Individuals choosing not to renew their license are to notify the Board, on the renewal form by the expiration date. Individuals with lapsed licenses may not publicly display their wall certificates, use the title CPA or LPA, or provide services that are reserved to licensees. *( )*

03. Late Fee. Licenses renewed after July 1, but before August 1, are subject to the late renewal fee as prescribed in Rule 600. After August 1, any license not renewed is deemed lapsed and is subject to reinstatement pursuant to Section 54-211, Idaho Code. *( )*

202. PRACTICE PRIVILEGES (RULE 202).

01. Substantially Equivalent. *As prescribed in Section 54-227, Idaho Code, and these rules. ( )*

02. Internet Disclosures. An individual entering into an engagement to provide professional services via a web site, pursuant to Idaho practice privileges, *is to* disclose *on* their web site: *( )*

a. Their principal state of licensure, license number, and address. *( )*

b. A means for regulators and the public to contact a responsible licensee in charge at the firm

regarding complaints, questions, or regulatory compliance. ( )

203. RECIPROCAL LICENSURE (RULE 203).
If the practice privilege standard set out in Section 54-227, Idaho Code, is not applicable, the Board will issue a license to an applicant provided that the applicant pays the application and licensure fees prescribed in Rule 600 and meets one of the following: (6-30-19)T

01. Interstate Reciprocity. The requirements for a reciprocal license under Section 54-210(2), Idaho Code. Notwithstanding anything to the contrary, an individual whose principal place of business is not in this state and who holds a valid license or permit with unrestricted practice privileges as a Certified Public Accountant from any state that the NASBA National Qualification Appraisal Service has verified to be in substantial equivalence with the CPA licensure requirements of the AICPA/NASBA Uniform Accountancy Act is presumed to have the qualifications substantially equivalent to this state's requirements. (4-11-19)

02. International Reciprocity. The requirements for foreign reciprocal licensure under Section 54-210(5), Idaho Code, provided that the Board relies on the International Qualifications Appraisal Board for evaluation of foreign credential equivalency. Such licensees are to report any investigations undertaken, or sanctions imposed, by a foreign credentialing body against the licensee's foreign credential. The Board will participate in joint investigations with foreign credentialing bodies and rely on evidence supplied by such bodies in disciplinary hearings. ( )

204. -- 299. (RESERVED)

300. APPLICABILITY OF RULES (RULE 300).

01. Reliance. A certified public accountant or licensed public accountant is to hold the affairs of his clients in strict confidence, observe the standards incorporated by reference, promote sound and informative financial reporting, and maintain high standards of personal conduct. ( )

02. Acceptance of Licensure. Acceptance of practice privileges or licensure as a certified public accountant or licensed public accountant establishes an affirmative obligation by said individual to be diligent in the performance of professional services, and to be fair and honest in relations with clients, fellow practitioners and the public. (4-2-03)

03. Rules. These rules do not comprise all acts that may be considered incompatible with the obligations and responsibilities imposed by professional status or discreditable or harmful even though not specifically mentioned or described in the rules. The Board may revoke, suspend, refuse to renew, administratively penalize, reprimand, restrict, or place on probation a licensee, individual granted practice privileges or other individual. The action will not be taken until the individual has been given notice and opportunity for hearing. (4-2-03)

04. Applicability. These rules apply to all professional services offered or performed by licensees or individuals granted practice privileges, including tax and management advisory services. ( )

05. Responsibility. A licensee *is responsible for ensuring all persons associated with the licensee* in the rendering of professional services, who are either under the licensee's supervision or who are the licensee's partners or shareholders in the practice comply with these rules. *A licensee may not permit others to carry out, on his behalf, either with or without compensation, acts that, if carried out by the licensee, would place the licensee in violation of any laws.* ( )

06. Interpretation of Rules. In the interpretation and enforcement of these rules, the Board gives consideration, but not necessarily dispositive weight, to relevant interpretations, rulings and opinions issued by other states, and by appropriately authorized standard setting bodies. ( )

07. Investigative Committee. The Board may appoint an investigative committee of not less than three (3) members consisting of active licensees in good standing. The committee duties are to direct the review and investigation of complaints of violations of the Idaho Accountancy Act and Rules, and to provide reports to the

Board. (4-2-03)

301. COMMISSIONS AND CONTINGENT FEES (RULE 301).

01. ***Acceptance***. Licensees may accept commissions or contingent fees subject to Section 54-218, Idaho Code*, the AICPA Code of Professional Conduct, and these rules*. *( )*

02. Disclosures. Any licensee who directly or indirectly accepts or agrees to accept such form of compensation is to disclose the terms of such compensation to the client. The disclosure is to be: (4-2-03)

a. In writing, clear, and conspicuous; *and* state the amount of the compensation or basis on which it will be computed; *( )*

b. Made at or prior to the time of the recommendation or referral of the product or service for which the commission is paid, prior to the client retaining the licensee to whom the client has been referred for which a referral fee is paid, and prior to the time the licensee undertakes representation of or performance of the service upon which a contingent fee will be charged. (4-2-03)

302. CONFIDENTIAL CLIENT INFORMATION (RULE 302).

01. Confidentiality. A licensee *is to protect and not* disclose confidential client information obtained in the course of performing professional services, unless the licensee has obtained the specific consent of the client, or of such client's heirs, successors or personal representatives, or others legally authorized to give such consent on behalf of the client. (4-2-03)

02. Exemptions. Nothing in these rules is construed as prohibiting the disclosure of information that is required to be disclosed: (5-8-09)

a. In reporting on the examination of financial statements; (4-2-03)

b. In investigations by the Board or other accounting regulatory agency; (5-8-09)

c. In ethical investigations conducted in private professional organizations; (4-2-03)

d. In the course of peer reviews; (4-2-03)

e. To other persons active in the organization performing services for that client on a need to know basis; (4-2-03)

f. To persons in the entity who need this information for the sole purpose of assuring quality control; or (4-2-03)

g. By any act of law. (4-2-03)

03. Disciplinary Proceedings. Members of the Board and investigative officers may not disclose any confidential client information that comes to their attention from licensees in disciplinary proceedings or otherwise, except that they may furnish such information to an investigative or disciplinary body. (4-2-03)

303. RECORDS (RULE 303).

A licensee *is to* furnish to his client or former client, upon request made within a reasonable time after original issuance of the document in question *all client records, as that term is defined in the AICPA Code of Professional Conduct belonging to, or obtained from or on behalf of, the client that the licensee removed from the client's premises or received for the client's account. The licensee may make and retain copies of such documents when they form the basis for work performed by him. Client records are to be returned upon request by the client, whether the engagement has been terminated or the licensee has been paid for services rendered*. *( )*

01. Tax Return, *Other Reports, Working Papers Including Audit Documentation Made Part of Client's Records*. A licensee *who* has been paid for the services rendered *is to furnish to his client or former client,*

upon request, within a reasonable time after original issuance of the document in question the following records: *( )*

a. A copy of a tax return of a client. *( )*

b. A copy of any report, or other document, issued by the licensee to or for the client; and (4-2-03)

c. A *copy of the licensee's working papers, to the extent that such working papers include records that would ordinarily constitute part of* the client's *books and records and are not otherwise available to the* client. *This would include adjusting, closing, combining, or consolidating journal entries; information normally contained in books of original entry and general ledgers or subsidiary ledgers; and tax and depreciation carry forward information. The information should be provided in the medium in which it is requested, provided it exists in that medium. The licensee does not have to convert information that is not in electronic format to an electronic format.* *( )*

02. Working Papers Including Audit Documentation *Not a Part of the Client's Records*. A licensee's working papers that do not become part of a client's records, which may include analyses and schedules prepared by the client at the request of the licensee, are the licensee's property, not client records, and need not be made available under any circumstances. *( )*

03. Charges. A licensee does not have to furnish records to a client or a former client more than once. A licensee may charge the client or former client actual costs for time and photocopying charges on subsequent requests. *( )*

304. FIRM NAMES (RULE 304).

01. General. A licensee may *only* provide professional services under a firm name that is *not* misleading as to the description of the legal form of the firm, or as to the person or persons who are owner(s), partners, officers, shareholders or members of the firm. Names of one (1) or more past owners, partners, shareholders or members who were licensed may be included in the firm name. A partner surviving the death or withdrawal of all other partners may continue to practice under a partnership name for up to two (2) years after becoming a sole practitioner. *( )*

02. *Title*. A firm may designate itself as "Certified Public Accountant*(s),*" *"Licensed Public Accountant(s)"* or "Public Accountant*(*s*)*" *when* a majority of its partners, shareholders, or members are actively licensed certified public accountants *or licensed public accountants* under the provisions of the Idaho Accountancy Act *and Rules*. The firm name may not include the name of a non-licensee owner, except as allowed in Subsection *304.01* if the title "CPA*(*s*)*" *or "LPA(s)"* is included in the firm name. The firm name may not include the name of a person who is not a CPA or LPA if the title "Public Accountant(s)" is included in the firm name. *( )*

305. COMMUNICATIONS (RULE 305).

01. Response. *Unless otherwise specified,* a licensee *is to* respond within thirty (30) calendar days of the mailing *to any communication in which* the Board requests *a response*. *( )*

02. Complaints. Upon the receipt or filing of a complaint against an individual over whom the Board has regulatory authority, the Board may transmit a copy of such complaint to the individual. Upon receipt of a transmitted complaint, the individual is to file a written answer to the complaint within twenty (20) calendar days of receipt, unless otherwise granted an extension of time by the Board. (4-2-03)

306. -- 399. (RESERVED)

400. *CPE* BASIC REQUIREMENTS (RULE 400).
Demonstrate participation in a program of learning that meets the requirements as set forth in the Statement of Standards as referenced in Rule 004. CPE courses approved on NASBA's National Registry of CPE Sponsors, the AICPA, and state societies are deemed to meet the CPE requirements of this state. Responsibility for documenting the acceptability of the program and the validity of the credits rests with the licensee. *( )*

01. ***Renewal***. Licensees seeking active license renewal are to *demonstrate* that *during the two (2) calendar years immediately preceding the date the reporting form is due that* no less than eighty (80) hours of CPE *are recorded*, of which at least four (4) hours are ethics with a minimum of thirty (30) hours in any one (1) calendar year, and a maximum of fifty (50) hours recorded in any one (1) calendar year. *( )*

02. **New *and* Reciprocal**. Completion *of at least a* two-hour (2) course on *Idaho* state-specific ethics during the calendar year that the license is issued. *During the second calendar year of licensure, a minimum of thirty (30) hours is to be completed which may include an ethics component based on the prior year submission. ( )*

401. CPE REPORTING, CONTROLS, AND LATE FEES (RULE 405).

01. ***Reporting***. *No later than January 31 of each year, individuals renewing their licenses are to provide a signed reporting form either: ( )*

a. *Disclosing the information pertaining to the educational programs submitted for qualification as prescribed in the CPE Standards; or ( )*

b. *Applying for exception, extension, or exemption. ( )*

02. ***CPE Late Fees***. *A License will not be issued until the licensee files the reporting form with supporting documentation, pays the late filing as prescribed in Rule 600, license renewal fee and any other penalty the Board may impose. ( )*

402. *CPE* EXCEPTIONS, EXTENSIONS, AND EXEMPTIONS (RULE 402).

01. **Exceptions and Extensions**. The Board may make exceptions to the CPE requirements, or grant extensions of time for completion of the CPE requirements, where reasons of health as certified by a medical doctor prevent compliance by the licensee, or other good cause exists. (4-2-03)

a. Licensees asking for exceptions or extensions under these conditions apply on the reporting form for the year in which the extension or exemption is sought, and within the time period set for CPE reporting, stating the reasons for asking for such exception or extension. Any *request not filed* timely is subject to the late fee prescribed in Rule 600, in addition to any *administrative action*. *( )*

b. A penalty of no more than fifty percent (50%) of the hours a licensee is short in meeting the calendar year CPE requirement may be assessed for extensions. In such cases, the licensee will be required to complete the CPE hours and any assessed penalty no later than April 30. The penalty for non-compliance with ethics CPE is to obtain the mandatory hours of ethics CPE plus fifty percent (50%) penalty hours in ethics CPE prior to April 30. The penalty for non-compliance with state-specific ethics for Idaho is to complete the course plus fifty percent (50%) penalty hours in ethics CPE prior to April 30. (4-11-15)

02. **Inactive or Retired**. Licensees who elect inactive or retired status are exempt from any CPE requirements *as prescribed by Sections 54-211(c) and (d), Idaho Code*. *A* licensee who has elected inactive or retired status *may* provide the following volunteer, uncompensated services: tax preparation services, participating in a government-sponsored business mentoring program, serving on the board of directors for a nonprofit or governmental organization, or serving on a government-appointed advisory board. If the CPA provides the foregoing volunteer, uncompensated services, the CPA has a duty to ensure that they hold the professional competencies necessary to offer these services. *( )*

403. REVIEW AND AUDIT OF CPE REPORTS (RULE 403).
All signed CPE reports *are subject to formal verification to determine qualification and* sufficiency of hours reported. A formal audit of CPE reported may be performed to determine whether hours reported qualify for credit. *If a reporting form is not approved, the licensee will be notified*. *( )*

404. NOTIFICATION (RULE 404).
A licensee is served a notice of noncompliance *when it is determined* the CPE requirement *has not been fulfilled*. The notice advises and provides opportunity for the deficiencies *to be addressed. If the deficiencies remain,*

administrative action may be taken. *( )*

405. ACTION (RULE 405).
Following notice and hearing, the Board may suspend the license or take other action pursuant to Section 54-219, Idaho Code. (4-2-03)

406. REINSTATEMENT AND RE-ENTRY (RULE 406).
An individual whose license has lapsed *or is in a non-active status per Section 54-211, Idaho Code,* is to complete no less than eighty (80) hours of CPE, of which at least four (4) hours are in ethics CPE *with a minimum of two (2) hours to be in state specific ethics for Idaho,* during the twelve (12) months immediately prior to applying for reinstatement *or re-entry to* an active license. The applicant is required to identify and complete a program of learning designed to demonstrate the currency of the applicant's competencies directly related to his area of service. *Completion of the* CPE *will* otherwise exempt *the licensee* from obtaining CPE hours during the *calendar* year of *returning to an active license. If a licensee applies for re-entry during a license period and has already paid the fee for an inactive or retired license, the licensee is to pay the difference between the cost of an inactive or retired license and the annual license renewal fee.* An individual who *is* applying for reinstatement *to* an inactive or retired license is not required to meet a CPE requirement. *( )*

407. FORMERLY LICENSED (RULE 407).
Any person who was licensed by the Board and who chose to let their license lapse, or had their license lapsed by the Board, may place the word "former" adjacent to their CPA or LPA title on any business card, letterhead, or any other document or device so long as at the time the license lapsed, the person was in good standing with the Board. (3-29-17)

408. CONTINUING PROFESSIONAL EDUCATION COMMITTEE (RULE 408).

***01. Appointment**. The Board may appoint a continuing professional education committee. The committee consists of not less than five (5) members who are active licensees of this state, in good standing, and who need not be members of this Board. The committee performs the following duties and is authorized to take all actions necessary to perform these duties: ( )*

***a.** To evaluate reported CPE to determine qualification. ( )*

***b.** To consider applications for exceptions, extensions, and exemptions, and to assess penalties. ( )*

***c.** To audit CPE reports and to consider other matters that may be assigned by the Board. ( )*

***02. Powers and Duties**. Any decision or ruling of this committee, in performance of these duties, will have the full power and effect of a ruling of the Board, but is subject to the Board's review and approval. ( )*

409. -- 499. (RESERVED)

500. PURPOSE OF FIRM REGISTRATION AND PEER REVIEW (RULE 500).
The purpose of the program is to monitor compliance with applicable accounting and auditing standards adopted by generally recognized standard setting bodies. The program emphasizes appropriate education programs or remedial procedures that may be recommended or required where the firm does not comply with appropriate professional standards. In the event a firm is unwilling or unable to comply with professional standards, or a firm's failure to comply with professional standards is so egregious as to warrant continuing action, the Board will take appropriate action to protect the public interest as authorized by Section 54-219, Idaho Code. (5-8-09)

501. ISSUANCE OF REPORTS AND FORM OF PRACTICE (RULE 501).
A licensee can provide or offer to provide attest services or issue reports on compilations only in a firm as defined by Section 54-206(10), Idaho Code, except as provided under Section 54-221(4), Idaho Code. (4-2-03)

502. PEER REVIEW PROGRAM PARTICIPATION (RULE 502).

01. Participation. Any firm that issues reports on accounting and auditing engagements, including audits, reviews, compilations, prospective financial information, engagements performed in accordance with the PCAOB, and any examination, review or agreed-upon procedures engagement performed in accordance with the

statement on standards for attestation engagements. A licensee who issues compilation reports through any form of business other than a firm is to participate in the peer review program. Such licensees are to meet the requirements for registration and peer review. ( )

02. Practice Privileges. Individuals with practice privileges in Idaho are to comply with the peer review requirements in the state of their principal place of business. (5-8-09)

503. EXEMPTION FROM PARTICIPATION (RULE 503).

01. Firms. A firm that does not perform any of the services in Rule 502 is exempt from peer review. The firm is to notify the Board of such exemption in writing at the time of renewal of its registration. A firm that begins providing these services is to commence a peer review within eighteen (18) months of the date of the issuance of its initial report. ( )

02. Licensees Not in Public Practice. A licensee who does not perform any of the services in Rule 502 is exempt from firm registration and peer review. The licensee is to notify the Board of such exemption in writing at the time of initial CPA licensure and annually thereafter at the time of CPA or LPA license renewal. ( )

03. Licensees Not Issuing Reports. A licensee who issues financial statements pursuant to Section 54-221(5), Idaho Code, is exempt from peer review. ( )

504. SCHEDULING OF THE PEER REVIEW (RULE 504).

01. Frequency. A firm performing any of the services in Rule 502 undergoes, at its own expense, a peer review commensurate in scope with its practice, not less than once in each three (3) years. ( )

02. Currently Enrolled. A firm currently enrolled in a program of an approved administering organization will use the year of review assigned by the administering organization. The firm will notify the Board of the deadlines set by the administering organization. (4-2-03)

03. Review Year. Each firm is to enroll with one (1) of the approved administering organizations. Each firm adopts the review date assigned by the appropriate administering organization and notifies the Board of such date. ( )

04. New Firms. Within one (1) year of registration with the Board, new firms are to enroll with an approved administering organization. The firm adopts the review date assigned and notifies the Board of such date. ( )

05. Mergers or Combinations. In the event that two (2) or more firms are merged or combined, the resulting firm retains the peer review year of the firm with the largest number of accounting and auditing hours. ( )

06. Dissolutions or Separations. In the event that a firm is divided, the new firm(s) retains the review year of the former firm. In the event that the year under review is less than twelve (12) months, a review year will be assigned so that the review occurs within eighteen (18) months of the commencement of the new firm(s). ( )

07. Multi-State Practices. With respect to a multi-state firm, the Peer Review Oversight Committee may accept a peer review based solely upon work conducted outside of this state if the peer review is performed in accordance with requirements equivalent to those of this state. ( )

08. Report Issuance. It is the responsibility of the firm to anticipate its need for peer review services in sufficient time to enable the reviewer to issue the report within six (6) months after the review date. (4-2-03)

09. Extensions. The Board may accept an extension recommended by the administering organization for the conduct of a review, provided the Board is notified by the firm within thirty (30) days of the date of receipt of recommendation for such an extension. (4-2-03)

10. Just Cause. The Board may change a firm's peer review year for just cause. (4-2-03)

505. MINIMUM STANDARDS (RULE 505).

The minimum standards for peer review are contained in the Standards for Performing and Reporting on Peer Reviews section of the AICPA Standards. Peer reviews intended to meet the requirements of the AICPA peer review program are to be carried out in conformity with these standards under the supervision of an administering organization approved by the Board to administer peer reviews. Reviewed firms arrange and schedule their reviews in compliance with the procedures established by the administering organization and cooperate with the administering organization and with the Board in all matters related to the review. (4-2-03)

506. REPORTING TO THE BOARD (RULE 506).

01. Firm Registration Form. All firms performing any of the *peer reviewable* services in Rule 502 annually file*s* a firm registration no later than September 30. The registration *is* on *a* form prescribed by the Board. Firm registrations filed after September 30 are subject to penalty for non-compliance pursuant to Rule 600. *( )*

02. Peer Review Documentation. A firm that has undergone peer review will file a copy of the peer review report, letter of comments if any, letter of response if any, and letter accepting the review report issued by the administering organization. The letter will be filed within thirty (30) days after receipt. Additionally, firm*s are to* notify the Board within thirty (30) days of the date the peer reviewer or a team captain advises the firm that a grade of fail will be recommended. The Board reserves the right to obtain all other information relating to the peer review. *The Board also has the authority to exempt for good cause firms who would otherwise have to file peer review documentation.* *( )*

507. RETENTION OF DOCUMENTS RELATING TO PEER REVIEWS (RULE 507).
Documents relating to peer reviews are to be retained as follows: *( )*

***01. Documents**. All documentation necessary to establish that each peer review was performed in conformity with peer review standards adopted by the Board. These documents may include the peer review working papers, the peer review report, comment letters and related correspondence indicating the firm's concurrence or non-concurrence, and any proposed remedial actions and related implementation.* *( )*

***02. Retention Period**. Document retention is for a period of time corresponding to the designated retention period of the relevant administering organization and, upon request of the Committee, to be made available to it. In no event may the retention period be less than ninety (90) days from the date of acceptance of the review by the administering organization.* *( )*

508. CONFIDENTIALITY (RULE 508).
The letter and any documentation submitted to the Board pursuant to Rule 506.02 is confidential as authorized by Title 74, Chapter 1, Idaho Code, unless an Order is issued by the Board pursuant to Section 54-219, Idaho Code.
( )

509. REMEDIES FOR FAILURE TO COMPLY (RULE 509).

***01. Corrective Actions**. The Board will take appropriate action to protect the public interest if the Board determines, through the peer review process or otherwise, that a firm's performance or reporting practices, or both, are not, or may not be, in accordance with applicable professional standards, or that the firm does not comply with peer review program requirements or with all or some of the reporting, remedial action, or fee penalty requirements of this section. The Board's actions may include, but are not limited to:* *( )*

***a.** The annual license of the principal(s) of a non-compliant firm will not be issued until the firm complies with all requirements of these rules, provided the licensee has met all licensing requirements;* *( )*

***b.** Requiring the firm to develop quality control procedures to provide a reasonable assurance that similar occurrences will not occur in the future;* *( )*

***c.** Requiring any individual licensee who had responsibility for, or who substantially participated in, the engagement(s) to successfully complete specific courses or types of continuing education as specified by the Board;* *( )*

***d.** Requiring the reviewed firm to engage a Board-approved licensee to conduct a Board-prescribed on-site field review of the firm's work product and practices or perform other investigative procedures to assess the*

degree or pervasiveness of nonconforming work product. The Board-approved licensee engaged by the firm will submit a report of the findings to the Board within thirty (30) days of the completion of the services. The cost of the Board-prescribed on-site review or other Board-prescribed procedures will be at the firm's expense; ( )

e. *Requiring the reviewed firm responsible for engagement(s) to submit all or specified categories of its compilation or attest working papers and reports to a preissuance evaluation performed by a Board-approved licensee in a manner and for a duration prescribed by the Board. Prior to the firm issuing the reports on the engagements reviewed, the Board-approved licensee submits to a designee of the Board for the purpose of recommending that the Board accept a report of the findings, including the nature and frequency of recommended actions for the firm. The cost of the Board-approved preissuance evaluation will be at the firm's expense; ( )*

f. *Initiating an investigation to determine if additional discipline pursuant to Section 54-219, Idaho Code, is warranted. Notwithstanding the foregoing, absent an investigation the specific rating of a single peer review report is not a sufficient basis to warrant disciplinary action. ( )*

02. Solicitation and Review of Other Sources*. The Board may solicit, and review licensee reports and other information covered by the reports from clients, public agencies, banks, and other users of such information. ( )*

510. ADMINISTERING ORGANIZATIONS (RULE 510).
Qualified administering organizations that register with, and are approved by the Board based on their adherence to the AICPA Peer Review minimum standards, include the peer review program of the American Institute of Certified Public Accountants (AICPA) and state CPA societies fully involved in the administration of the AICPA Peer Review Program and their successor organizations that meet the minimum standards. *( )*

511. *PEER REVIEW* OVERSIGHT *COMMITTEE* (RULE 511).

01. Appointment*.* The Board appoints an Oversight Committee consisting of no more than seven (7) members who *are* active licens*e*es and possess extensive current experience in accounting and auditing services. No committee *member may be a current member of* the Board. *( )*

02. Responsibilities*. The committee acts in an advisory capacity to the Board with the following duties: ( )*

a. *Monitoring administrating organizations to provide reasonable assurance that peer reviews are being conducted and reported in accordance with the peer review minimum standards. ( )*

i. Visit annually the administering organizations to examine their procedures for administering the peer review program and meet with the organization's peer review committee during the consideration of peer review documents. ( )

ii. Review, on the basis of random selection, a number of reviews performed by the administering organization which include, at a minimum, a review of the peer review report, the letter of comments (if any), the firm's response to the matters discussed in the letter of comments, the organization's acceptance letter outlining any additional corrective or monitoring procedures, and working papers on the selected review. The review of documents may be expanded if significant deficiencies, problems, or inconsistencies are discovered. ( )

b. *Reports to the Board on conclusions reached and makes recommendations to the adherence to Peer Review Standards. Alternatively, for those organizations participating in the AICPA oversight program in connection with involved state societies, the committee may obtain and review the oversight program report to ensure that reviews are being conducted and reported on in accordance with the standards. Reports submitted may not contain information concerning specific firms or reviewers. ( )*

c. *Based on the result of the foregoing procedures, the committee will make recommendation to the Board as to the continuing qualifications of the approved administering organizations. ( )*

512. -- 599. (RESERVED)

600. FEES (RULE 600).

01. Examination and License.

Exam/License	Initial Fee
Initial Exam	$100
Re-Exam	$50
Active License	$120
Inactive or Retired License	*$100*
Reciprocity	$175 + Initial license fee
International Reciprocity	$175 *+ license fee*
Transfer of Grades	$175 *+ license fee*
Reinstatement License	Sum of *unpaid* license fees for the preceding 3 license renewal cycles
Re-entry License	$*2*0
Firm Registration	$20 firm plus $5 per licensee up to $200 maximum

( )

02. Administrative Services.

Category	Fee
Interstate Exchange of Information	$10
Wall Certificate	$20

(4-2-03)

03. Late Fees.

Category	Fee
Late License Renewal	$100
Non-compliance with CPE Filing*:*	
February	$100
March	$150
April	$200
May	$250
June	$300
Non-compliance with Firm Registration	$100 per license*e*

( )

701. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

DOCKET NO. 02-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2020 Idaho State Legislature for final approval. The pending rules become final and effective upon the conclusion of the legislative session, unless the rules are approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved or rejected in part by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted these pending rules. This action is authorized pursuant to Sections 22-5404, 25-203, and 25-305, Idaho Code.

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

These pending rules adopt and re-publish the following existing and previously approved and codified chapter(s) under IDAPA 02, rules of the Idaho State Department of Agriculture.

IDAPA 02
02.04.24, *Rules Governing Tuberculosis*
02.05.01, *Rules Governing Produce Safety*

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 02, rules of the Idaho State Department of Agriculture.

IDAPA 02
- **(VACATED)** 02.02.04, *Idaho Standards for Grades of Apples*
- **(VACATED)** 02.02.05, *Prune Standards*
- **(VACATED)** 02.02.06, *Idaho Standards for Grades of Sweet Cherries*
- **(VACATED)** 02.02.10, *Idaho Standards for Apricots*
- **(VACATED)** 02.04.05, *Rules Governing Manufacture Grade Milk*
- **(VACATED)** 02.04.06, *Rules Governing Licensed Dairy Plants*
- **(VACATED)** 02.04.22, *Rules Governing Animal Health Emergencies*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 56-113**.

Additionally, all changes between the text of the proposed rules and these pending rules are consistent with the guidance and direction provided in the Red Tape Reduction Act. These rules were reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy:

IDAPA 02.04.24, Rules Governing Tuberculosis: This rule has been amended in accordance with Section 67-5227, Idaho Code.

IDAPA 02.05.01, Rules Governing Produce Safety: This rule is adopted to establish standards for growing, harvesting, packing, and holding safe, unadulterated produce for human consumption. This rule is being adopted as proposed with no changes.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal

government. These rules do not require such statement because they are neither broader in scope, nor more stringent than federal laws or regulations. These rules also do not regulate areas not already regulated by the federal government.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, in anticipation of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Brian Oakey at (208) 332-8550.

Dated this 16th day of October, 2019.

Brian Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2170

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 25-203 *and* 25-305, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Tuberculosis." (3-20-04)

02. Scope. These rules govern procedures for the prevention, surveillance, control, management, and eradication of tuberculosis in the state of Idaho. (3-20-04)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

01. The January 1, 2005, Edition of "Bovine Tuberculosis Eradication Uniform Methods and Rules." (4-11-06)

02. The Code of Federal Regulations, Title 9, Parts 71, 77, and 161, January 1, 2005. This document can be viewed online at https://www.govinfo.gov/app/details/CFR-2011-title9-vol1/CFR-2011-title9-vol1-part71. (4-11-06)

005. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions found in Section 25-239, Idaho Code, these terms *apply in the interpretation and enforcement of this Rule*: *( )*

01. Accredited Herd. A herd that meets the standards of the UMR for bovine tuberculosis. (3-20-04)

02. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with the provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (3-20-04)

03. Affected Herd. A herd in which there is strong and substantial evidence that *Mycobacterium bovis* may exist. (3-20-04)

04. Approved Laboratory. A state or federal veterinary diagnostic laboratory. The primary laboratory for tuberculosis histopathology and bacteriology culture will be the National Veterinary Services Laboratories, Ames, Iowa. (3-20-04)

05. Approved Feedlot. A feedlot approved by the Administrator to feed cattle and domestic bison of unknown Tuberculosis test status. (4-11-15)

06. Area-Veterinarian-in-Charge. The veterinary official of USDA/APHIS/VS, who is assigned by the deputy administrator of APHIS to supervise and perform official APHIS animal health work. (3-20-04)

07. Bovine Tuberculosis. A disease caused by *Mycobacterium bovis*. (3-20-04)

08. Cattle. All domestic bovidae, including domestic bison. (3-20-04)

09. Domestic Bison. All animals of the genus *Bison,* which are owned by a person. (3-20-04)

10. Domestic Cervidae. Elk, fallow deer, and reindeer owned by a person. (3-20-04)

11. Eradication. The complete elimination of bovine tuberculosis from cattle, domestic cervidae, bison and goats in a state so that the disease does not appear unless introduced from another species or from outside the state. (3-20-04)

12. Exposed. Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by *Mycobacterium bovis*. (3-20-04)

13. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (3-20-04)

14. Free Area. The counties, areas or districts not quarantined by the Division of Animal Industries for tuberculosis. (3-20-04)

15. Herd. Any group of cattle, bison, goats, and domestic cervidae maintained on common ground, or two (2) or more groups of cattle, bison, goats, and domestic cervidae under common ownership or supervision that are geographically separated from other groups but can have an interchange or movement without regard to health status. (3-20-04)

16. Herd Depopulation. The destruction of all cattle, bison, goats, and domestic cervidae exposed to bovine tuberculosis in a herd. (3-20-04)

17. Interstate Movement. Movements of cattle, bison, goats, and domestic cervidae from Idaho into any other state, territory or the District of Columbia or from any other state, territory or the District of Columbia into Idaho. (3-20-04)

18. Intrastate Movement. Movement of cattle, bison, goats, and domestic cervidae within Idaho. (3-20-04)

19. Negative. Any cattle, bison, domestic cervidae, or goats that show no response to the tuberculin test, or are classified by the testing laboratory as negative for tuberculosis. (3-20-04)

20. Official Tuberculin Test. A test for bovine tuberculosis, approved by APHIS, applied and reported by approved personnel in accordance with the UMR. (3-20-04)

21. Public Stockyards. Premises where trading in cattle, bison, goats, and domestic cervidae is carried on, where yarding, feeding and watering places are provided by the stockyards or transportation companies, or where cattle, bison, goats, and domestic cervidae associations or similar companies maintain corrals for feeding, shearing, dipping and separating animals. (3-20-04)

22. Quarantined Area. The counties, areas, or portions thereof, quarantined by the Division of Animal Industries for tuberculosis. (3-20-04)

23. Quarantined. Isolation of all animals diseased or exposed thereto, from contact with healthy animals and exclusion of such healthy animals from enclosures or grounds where said diseased or exposed animals are, or have been kept. (3-20-04)

24. Reactor. Any cattle, domestic cervidae, bison or goat that shows a response to an official tuberculosis test and is classified a reactor by the testing veterinarian or DTE; or any animal that is classified a reactor upon slaughter inspection or necropsy. (3-20-04)

25. Restrain. The confinement of cattle, bison, goats, or domestic cervidae in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (3-20-04)

26. State Animal Health Official. The Administrator, or his designee, responsible for animal disease control and eradication activities. (3-20-04)

27. Suspect. Any cattle, bison, domestic cervidae, or goat that shows a response to a tuberculin test as stated in the UMR for bovine tuberculosis, and is not classified a reactor. (3-20-04)

28. Tuberculin. A product that is approved by, and produced under, USDA license for injection into cattle, bison, goats, and domestic cervidae for the purpose of detecting bovine tuberculosis. (3-20-04)

011. ABBREVIATIONS.

01. **APHIS**. Animal Plant Health Inspection Service. (3-20-04)

02. **AVIC**. Area Veterinarian in Charge. (3-20-04)

03. **CCT**. Comparative Cervical Tuberculin Test. (3-20-04)

04. **CFR**. Code of Federal Regulations. (3-20-04)

05. **CFT**. Caudal-Fold Tuberculin Test. (3-20-04)

06. **DTE**. Designated Tuberculosis Epidemiologist. (3-20-04)

07. **NGL**. No Gross Lesion(s). (3-20-04)

08. **NVSL**. National Veterinary Services Laboratories in Ames, Iowa. (3-20-04)

09. **UMR**. Uniform Methods and Rules. (3-20-04)

10. **USDA**. United States Department of Agriculture. (3-20-04)

11. **VS**. Veterinary Services. (3-20-04)

012. -- 019. (RESERVED)

020. APPLICABILITY.
These rules apply to all cattle, bison, domestic cervidae, and goats located within, imported into, or exported from the state of Idaho, and other tuberculosis-susceptible animals. (3-20-04)

021. SUPERVISION.
The official tuberculosis eradication program will be supervised by full-time state or federal veterinarians. (3-20-04)

022. INSPECTIONS.
In order to ascertain compliance with this chapter, state and federal animal health officials are authorized to inspect animals, records, premises and other areas where cattle, bison, goats, domestic cervidae and other animals are held or kept. (3-20-04)

01. **Entering Premises**. In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter premises, other areas, or conveyances in the state where cattle, bison, goats, domestic cervidae or other tuberculosis susceptible animals are held or kept. State or federal animal health officials will attempt to notify the owner or operator of the premises or conveyance prior to conducting an inspection. (3-20-04)

02. **Emergencies**. In the event of an emergency, as determined by the Administrator, the notification requirements of Section 022 may be waived. (3-20-04)

023. TUBERCULOSIS TESTS.
Official tests for tuberculosis will be conducted only by persons authorized by the Administrator, and USDA/APHIS/VS. (3-20-04)

01. **Authorized Person**. The Administrator may authorize state or federal animal health officials, or accredited veterinarians to perform official tuberculin tests. (3-20-04)

02. **Tuberculin Test Interpretation**. The injection site on each animal shall be palpated by the authorized person that administered the tuberculin injection. The Administrator may grant variances from Subsection 023.02 on a case by case basis. (3-20-04)

024. REPORTING.

01. Test Results. Results of all official tuberculin tests shall be submitted to the Division of Animal Industries on a form, approved by the Administrator, within seven (7) days of initiation of the test. (3-20-04)

02. Disease. All owners of animals, and veterinarians, shall report evidence of tuberculosis infection to the Administrator, by telephone or facsimile, within twenty-four (24) hours of the discovery of the disease. (3-20-04)

025. QUARANTINES.
All cattle, bison, goats, and domestic cervidae animals or herds that are exposed to, or infected with tuberculosis shall be quarantined. (3-20-04)

01. Infected Herds. Infected herds or animals remain under quarantine until such time as the herd has been completely depopulated or the provisions for release of quarantine provided in the UMR for bovine tuberculosis have been met. (3-20-04)

02. Exposed Herds. The quarantine for exposed herds or animals may take the form of a Hold-Order, which remains in effect until the exposed animals have been tested negative or the provisions for release of quarantine provided in the UMR for bovine tuberculosis are met. (3-20-04)

03. Validity of Quarantine. The quarantine is valid whether or not it is acknowledged by signature of the owner. (3-20-04)

026. CLEANING AND DISINFECTING.
The Administrator is authorized to order the owner or operator of stockyards, pens, trucks, trailers, cars, vessels, chutes, and other conveyances and premises to clean and disinfect the same, at the owner's expense, whenever necessary for the eradication of tuberculosis. Cleaning and disinfecting shall be done under the supervision of state or federal animal health officials. (3-20-04)

01. Infected Premises. Premises, conveyances, or other areas where infected animals have been held or kept shall be cleaned and disinfected within fifteen (15) days following the removal of reactors or the entire herd. (3-20-04)

02. Exemptions. The Administrator may authorize an exemption from cleaning and disinfection requirements on a case-by-case basis. (3-20-04)

03. Extension of Time. The Administrator may authorize an extension of time for cleaning and disinfection under extenuating circumstances. (3-20-04)

027. (RESERVED)

028. TUBERCULOSIS TESTING.
The Administrator may require tuberculosis testing of cattle, bison, goats, domestic cervidae, or other animals. (3-20-04)

01. Duty to Restrain. It is the duty of each person who owns cattle, bison, goats, domestic cervidae, or other animals to pen the animals in suitable pens and restrain them for the test when directed to do so in writing by the Administrator. (3-20-04)

02. Records of Tests. When any cattle, bison, goats, domestic cervidae, or other animals are tested for tuberculosis a complete test record shall be made and the record shown on an official tuberculosis test form provided by the Administrator*, which* include*s all of* the following information: *( )*

a. The name and address of the owner and the location of the animals at the time of the test. (3-20-04)

b. The name and signature of the person conducting the test. (3-20-04)

c. Individual identification number of each animal and the registration name and number of each purebred animal. (3-20-04)

d. Age of each animal. (3-20-04)

e. Sex of each animal. (3-20-04)

f. Breed of each animal. (3-20-04)

g. Species of animals tested. (3-20-04)

h. Test results for each animal. (3-20-04)

029. TUBERCULOSIS EMERGENCY.
In order to prevent the re-establishment of tuberculosis infection in cattle, bison, goats or domestic cervidae in the state, the Director may declare an animal health emergency. (3-20-04)

01. Tuberculosis in Idaho. The Director may declare a tuberculosis emergency in the event that tuberculosis is diagnosed in any cattle, bison, goats or domestic cervidae in Idaho. (3-20-04)

02. Tuberculosis in Adjacent Area. The Director may declare a tuberculosis emergency in the event that tuberculosis is discovered in areas outside the state that could result in transmission of tuberculosis to Idaho cattle, bison, goats, or domestic cervidae. (3-20-04)

030. TUBERCULOSIS INDEMNITY.
Owners of animals that are condemned and depopulated because of tuberculosis shall be indemnified for such animals, and for reasonable costs of disposal and cleaning and disinfection in accordance with the provisions of this chapter, except as provided in Section 031. (3-20-04)

01. Indemnity Payments. Payments are based upon the appraised value, less federal indemnity and salvage value for the animals. (3-20-04)

02. Time Limit for Slaughter. Payment of indemnity is made under Section 030 for animals destroyed because of tuberculosis, only if the animals are shipped to slaughter or die otherwise within fifteen (15) days after the date of individual identification and tagging. The Administrator may extend the period for thirty (30) days. (3-20-04)

03. Verification of Reactors That Die. Indemnity may be paid on tuberculosis reactors that die before being sent to slaughter provided: (3-20-04)

a. The reactors have been appraised and identified and die within fifteen (15) days from the date of appraisal; and (3-20-04)

b. The state or federal animal health officials directing the disease control work are furnished with a signed statement by a veterinarian attesting that he observed the carcass of the dead animal, the reactor tag number found in the left ear of the animal, and date of death. (3-20-04)

04. Other Costs. Reimbursement for disposal costs and cleaning and disinfection costs will not exceed the actual cost. (3-20-04)

031. TUBERCULOSIS INDEMNITY -- CLAIMS NOT ALLOWED.
Claims for compensation for animals destroyed because of tuberculosis are not allowed if any of the following circumstances exist: (3-20-04)

01. Failure to Comply. The owner has failed to comply with any of these rules. (3-20-04)

02. Illegal Imports. The animals were illegally imported into the state. (3-20-04)

03. Animals Sold for Slaughter. At the time of the test or condemnation, the animals belonged to or were upon the premises of any person to whom the animals had been sold, shipped, or delivered for slaughter. (3-20-04)

04. Unapproved Test. The animals were subject to a test not approved by the Administrator. (3-20-04)

05. Untested Animals. All animals in the owner's herd have not been tested for tuberculosis under state or federal supervision. (3-20-04)

06. Premises Not Cleaned. The premises occupied by the tuberculosis infected animals were not cleaned and disinfected as directed, under state or federal supervision. (3-20-04)

07. Attempt to Improperly Obtain Funds. There is substantial evidence that the owner or his agent has in any way been responsible for any attempt unlawfully or improperly to obtain indemnity funds for such animals. (3-20-04)

08. Unidentified Cattle and Bison. Cattle or bison destroyed because of tuberculosis, unless they were marked for identification by branding the letter "T" on the left hip near the tailhead, not less than two (2) inches high, and unless a metal tag bearing a serial number and inscription "US REACTOR" or similar US Reactor tag, was suitably attached to the left ear of each animal. (3-20-04)

09. Calves. If the entire herd is not depopulated and the cattle or bison were calves under one hundred eighty (180) days of age. (3-20-04)

032. -- 099. (RESERVED)

100. OFFICIAL IDENTIFICATION.
All cattle, bison, domestic cervidae, and goats tested for tuberculosis shall be individually identified by official eartag, individual tattoo, or individual brand, as provided in the UMR for bovine tuberculosis, at the time of injection. (3-20-04)

101. CATTLE, BISON, GOATS, AND DOMESTIC CERVIDAE MARKET RELEASE.
The accredited veterinarian authorized to provide veterinary services at a specifically approved livestock market shall perform a clinical inspection of all cattle, bison, goats, and domestic cervidae and accurately complete a "Saleyard Release" form, certificate of veterinary inspection, or other market release mechanism certifying that the animals meet the health requirements for movement to the point of destination prior to any animals being released from the livestock market. (3-20-04)

102. -- 119. (RESERVED)

120. CLASSIFICATION OF CATTLE, BISON, AND DOMESTIC CERVIDAE.
Classification of cattle, bison, and domestic cervidae tested for tuberculosis is determined pursuant to the UMR for bovine tuberculosis. (3-20-04)

121. -- 199. (RESERVED)

200. PROCEDURES FOR INFECTED HERDS.
Disclosure of tuberculosis in any herd shall be followed by a complete epidemiological investigation and testing as provided in the UMR for bovine tuberculosis. (3-20-04)

201. -- 209. (RESERVED)

210. PROCEDURES FOR TUBERCULOSIS - INFECTED FEEDLOTS.
A tuberculosis-infected feedlot is handled in the same manner as an affected herd in regard to epidemiological investigation and the development of epidemiological tracings for animal movements into and out of the feedlot. (3-20-04)

211. -- 219. (RESERVED)

220. DISPOSITION OF TUBERCULIN-RESPONDING CATTLE, BISON, AND DOMESTIC CERVIDAE.
Cattle, bison, and domestic cervidae that respond to the tuberculin test shall be handled according to the UMR for bovine tuberculosis. (3-20-04)

221. -- 249. (RESERVED)

250. IDENTIFICATION OF REACTOR CATTLE AND BISON.

01. "T" Branding and Tagging. Reactor cattle and bison shall be identified by branding the letter "T" on the left hip near the tailhead, not less than two (2) inches and not more than three (3) inches high, and by tagging with an approved metal eartag bearing a serial number and inscription "U.S. Reactor" or a similar State reactor tag suitably attached to the left ear of each animal. (3-20-04)

02. Shipping Without Branding. In lieu of branding, the reactor(s) may be shipped to slaughter in an officially sealed vehicle or accompanied to slaughter by a state or federal animal health official provided such reactor(s) have the letters "TB" sprayed on the left hip with yellow paint. (4-11-06)

251. -- 259. (RESERVED)

260. IDENTIFICATION OF EXPOSED CATTLE AND BISON.
Cattle and bison exposed to bovine tuberculosis are to be identified in the following manner: (3-20-04)

01. "S" Branding and Tagging. To be eligible for federal indemnity, exposed cattle and bison shall be identified by branding the letter "S" on the left hip near the tailhead, not less than two (2) inches nor more than three (3) inches high, and by tagging with an approved metal eartag bearing a serial number attached to either ear of each animal. (3-20-04)

02. Shipping Without Branding. In lieu of branding, such animals may be accompanied to slaughter by a state or federal animal health official or be shipped in vehicles sealed with official seals. (3-20-04)

261. -- 299. (RESERVED)

300. RETESTING OF HIGH-RISK HERDS.
Retesting schedules for high-risk herds of cattle and bison are determined pursuant to the UMR for bovine tuberculosis. (3-20-04)

301. -- 399. (RESERVED)

401. APPROVED FEEDLOT.
Cattle and domestic bison of unknown Tuberculosis test status may be fed for slaughter only in an Approved Feedlot, with no provisions for pasturing, grazing, or removal from the feedlot other than to slaughter. (4-11-15)

402. APPLICATION FOR DESIGNATION AS AN APPROVED FEEDLOT
Application*s* for Approved Feedlot status *are* made on forms available from the Administrator. *( )*

403. ADMINISTRATOR APPROVAL.
The Administrator may approve feedlot applications after the feedlot has been inspected by state or federal animal health officials and: (4-11-15)

01. Cattle Secured. The feedlot management has demonstrated that cattle of unknown Tuberculosis test status can be secured in the feedlot; and (4-11-15)

02. Adequate Records. Feedlot records are adequate to show the origin and disposition of the cattle in the feedlot; and (4-11-15)

03. Adequate Resources. The Administrator determines that the Division of Animal Industries has adequate human and fiscal resources to assure that the feedlot abides by the provisions of this chapter; and (4-11-15)

04. Past History. The Administrator may take any past enforcement or violation history into consideration when making the final determination of whether or not to approve a feedlot. (4-11-15)

404. APPROVED FEEDLOT NUMBER.
Feedlots approved by the Administrator will receive an Idaho Approved Feedlot Number. (4-11-15)

405. EXPIRATION OF APPROVED STATUS.
Approved Feedlot status expires on September 1 of each year. It is the responsibility of feedlot management to apply each year for renewal of approved status. (4-11-15)

406. -- 499. (RESERVED)

500. MOVEMENT OF INFECTED AND EXPOSED CATTLE, DOMESTIC CERVIDAE, OR BISON.
All movement of infected or exposed cattle, domestic cervidae, or bison is on a restricted movement permit in accordance with the UMR for bovine tuberculosis. (3-20-04)

501. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-5404, Idaho Code. (4-11-19)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Produce Safety." (4-11-19)

02. Scope. The purpose of these rules is to establish standards for growing, harvesting, packing, and holding of safe and unadulterated produce for human consumption. (4-11-19)

002. INCORPORATION BY REFERENCE.
The following document is incorporated by reference pursuant to Idaho Code Section 67-5229. Copies of this document may be obtained from the Idaho State Department of Agriculture central office. (4-11-19)

01. Code of Federal Regulations, Title 21, Part 112, January 1, 2018. Standards for the Growing, Harvesting, Packing, and Holding of Produce for Human Consumption. This document can be viewed online at https://www.ecfr.gov/cgi-bin/text-idx?SID=7f8ab876ff3e20c6cdd06c9de9141296&mc=true&node=pt21.2.112&rgn=div5. (4-11-19)

003. – 009. (RESERVED)

010. DEFINITIONS.
The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5403, Idaho Code. In addition as used in this chapter: (4-11-19)

01. Petition. A petition for submission to the U.S. Food and Drug Administration requesting a variance from the requirements of 21 CFR Part 112. (4-11-19)

02. Petitioner. An individual, business, group, association, or entity who submits a petition to the Department for submission to the U.S. Food and Drug Administration requesting a variance from the requirements of 21 CFR Part 112. (4-11-19)

011. ABBREVIATIONS.

01. FDA. The U.S. Food and Drug Administration. (4-11-19)

012. VARIANCE.

01. Procedure for Seeking a Variance. Under the Produce Safety Rule, only a State, tribe, or a foreign country may request a variance from the Produce Safety Rule's requirements by submitting a petition to the FDA in accordance with Subpart P of the Produce Safety Rule and with 21 CFR 10.30. Pursuant to 22-5404, Idaho Code, the Idaho Legislature designated the Department to administer the Produce Safety Rule, which includes the authority to decide whether to submit petitions to the FDA. The Department will submit a petition to the FDA if the following procedures are followed: (4-11-19)

a. The petitioner must prepare the petition in accordance with the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. Additionally, the petitioner must attach all required documentation and any other supporting documentation. The petitioner must submit the petition and all attached documents to the Department via the Department's food safety email at fsma@isda.idaho.gov or mailed to the Department at the mailing address above or hand delivered to the Department at the physical address above. (4-11-19)

b. Within thirty (30) days of receiving a petition, the Department will complete a review of a petition to determine whether it meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. (4-11-19)

i. If, after reviewing the petition, the Department determines that the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will submit the petition to the FDA within ten (10) days of that determination. (4-11-19)

ii. If, after reviewing the petition, the Department determines that the petition does not meet the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will notify the petitioner and return the petition for correction. After correcting the deficiencies, the petitioner must resubmit the petition to the Department. Within thirty (30) days, the Department will complete an additional review of the petition to determine if the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30. (4-11-19)

iii. If, after reviewing the petition, the Department determines that the petition meets the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will submit the petition to the FDA within ten (10) days of that determination. If, after reviewing the petition, the Department determines that the petition still does not meet the requirements of Subpart P of the Produce Safety Rule and 21 CFR 10.30, the Department will follow the procedure in Subparagraph 012.01.b.ii. (4-11-19)

02. Support and Withdrawal of Petitions. (4-11-19)

a. When the Department submits a petition to the FDA, the petitioner who prepared the petition, or an individual, business, group, association, or entity that supports the petition, shall assist the Department in responding to inquiries or directions from the FDA regarding the petition. If neither the petitioner nor an individual, business, group, association, or entity that supports the petition provides this assistance to the Department within thirty (30) days, the Department may withdraw the petition. (4-11-19)

b. If the FDA takes action to modify or revoke a variance previously granted to the Department, the Department may waive the opportunity for a hearing unless a petitioner or an interested person adequately supports the Department in defending the variance in whole or in part from modification or revocation by FDA. (4-11-19)

013. – 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

DOCKET NO. 02-0000-1900A

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2020 Idaho State Legislature for final approval. The pending rules become final and effective upon the conclusion of the legislative session, unless the rules are approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved or rejected in part by concurrent resolution, the rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted the following pending rules. This action is authorized pursuant to Sections 22-102A, 22-108(2), 22-505, 22-702, 22-802, 22-803, 22-901, 22-911, 22-1907, 22- 2004, 22-2006, 22-2013, 22-2403, 25-203, 25-207A(1), 25-305, 25-401, 25-601, 25-3704, 25-3902, 25-3903, 37- 303, 37-405, 37-515, 37-516, 37-1101(5), Idaho Code.

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

These pending rules adopt and re-publish the following existing and previously approved and codified chapters under IDAPA 02, rules of the Department of Agriculture:

- 02.01.03, *Airborne Control of Unprotected and Predatory Animals Rules*
- 02.04.04, *Rules for Artificial Dairy Products*
- 02.04.13, *Rules Governing Raw Milk*
- 02.04.20, *Rules Governing Brucellosis*
- 02.04.21, *Rules Governing the Importation of Animals*
- 02.04.25, *Rules Governing Private Feeding of Big Game Animals*
- 02.04.27, *Rules Governing Deleterious Exotic Animals*
- 02.04.29, *Rules Governing Trichomoniasis*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 132-288**.

Additionally, all changes between the text of the proposed rules and these pending rules are consistent with the guidance and direction provided in the Red Tape Reduction Act. These rules were reviewed to update authorities, and eliminate unnecessarily restrictive language and redundancy:

CONSOLIDATION OF RULES: This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 02, rules of the Department of Agriculture. These rules have been consolidated into rules with similar subject matter:

- ***(VACATED)*** *02.02.02, Controlled Atmosphere Storage* (Consolidated into new chapter 02.02.02, "Rules Governing Grading and Controlled Atmosphere Storage of Apples")

- ***(VACATED)*** *02.04.08, Rules Governing Grade A Milk and Milk Products* (Consolidated into new chapter 02.04.05, "Rules Governing Grade A and Manufacture Grade Milk")

- ***(VACATED)*** *02.02.09, Rules Requiring Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets* (Consolidated into new chapter 02.02.07, "Rules Governing Bulk Permits and Retail Sale of Potatoes")

- ***(VACATED)*** *02.04.18, Rules Governing CAFO Site Advisory Team* (Consolidated into new chapter 02.04.30. "Rules Governing Environmental and Nutrient Management")

- ***(VACATED)*** *02.04.28, Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots*
  (Consolidated into new chapter 02.04.26, "Rules Governing the Public Exchange of Livestock")

The following chapters have been consolidated into new chapter 02.06.05, "Rules Governing Plant Disease and Quarantines"

- ***(VACATED)*** *02.06.07, Rules Governing White Rot Disease of Onion;*
- ***(VACATED)*** *02.06.08, Quarantine Rules Pertaining to Apples and Cherries;*
- ***(VACATED)*** *02.06.11, Rules Governing European Corn Borer;*
- ***(VACATED)*** *02.06.15, Rules Governing Peach Tree Diseases;*
- ***(VACATED)*** *02.06.32, Rules Concerning the Anthracnose Disease of Lentil;*
- ***(VACATED)*** *02.06.38, Rules Governing Plum Curculio;*
- ***(VACATED)*** *02.06.24, Rules Governing the Japanese Beetle;*
- ***(VACATED)*** *02.06.20, Rules Governing Grape Planting Stock*

The following chapters have been consolidated into new chapter 02.06.09, "Rules Governing Invasive Species and Noxious Weeds"

- ***(VACATED)*** *02.06.09, Rules Governing Invasive Species;*
- ***(VACATED)*** *02.06.22, Noxious Weeds Rules;*

The following chapters have been consolidated into new chapter 02.06.10, "Rules Governing the Growing of Potatoes"

- ***(VACATED)*** *02.06.10, Rules Governing the Potato Cyst Nematode;*
- ***(VACATED)*** *02.06.26, Rules Concerning Seed Potato Crop Management Areas; and,*
- ***(VACATED)*** *02.06.39, Rules Governing Minimum Standards for Planting Uncertified Seed Potatoes*

- ***(VACATED)*** *02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts*
  (Consolidated into new chapter 02.06.01, "Rules Governing the Production and Distribution of Seed")

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following table delineates rules which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

IDAPA	Rule Title	Identified portions
02.01.03	Idaho Department of Agriculture Control of Unprotected or Predatory Animals Rules	Entire rule is more stringent than federal law or regulations.
02.04.04	Rules Governing Artificial Dairy Products	Entire rule regulates an activity not regulated by the federal government.
02.04.13	Rules Governing Raw Milk	Entire rule regulates an activity not regulated by the federal government.
02.04.20	Rules Governing Brucellosis	02.04.20.027; 02.04.028.03-04; 02.04.100-102; 02.04.20.200-204; and 02.04.20.250-256 all regulate activity not regulated by federal government. 02.04.20.029; 02.04.20.105; 02.04.20.120-123; 02.04.20.321**;** and 02.04.20.421 are broader in scope than federal laws or regulations.

IDAPA	Rule Title	Identified portions
02.04.21	Rules Governing the Importation of Animals	02.04.21.100.03, 02.04.21.108, 02.04.21.111, 02.04.21.201-202, 02.04.21.210, 02.04.21.300-302, 02.04.21.600-605, 02.04.21.650, 02.04.21.660-670, 02.04.21.705-707. 02.04.21.710, 02.04.21.720 are all more stringent than federal laws or regulations. 02.04.21.104-105, 02.04.21.109, 02.04.21.260, 02.04.21.500 all regulate activity not regulated by federal government.
02.04.25	Rules Governing Private Feeding of Big Game Animals	Entire rule regulates activity not regulated by the federal government.
02.04.27	Rules Governing Deleterious Exotic Animals	Entire rule regulates activity not regulated by the federal government.
02.04.29	Rules Governing Trichomoniasis	Entire rule regulates activity not regulated by the federal government.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, in anticipation of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, contact Brian Oakey at (208) 332-8550.

Dated this 16th day of October, 2019.

Brian Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2170

02.01.03 – AIRBORNE CONTROL OF UNPROTECTED OR PREDATORY ANIMALS RULES

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-102A, Idaho Code. (5-24-95)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Airborne Control of Unprotected or Predatory Animals Rules," IDAPA 02.01.03. (5-24-95)

02. Scope. These rules govern the issuance of permits for the airborne control of unprotected or predatory animals and establish the duties of permittees. ( )

002. – 009. (RESERVED)

010. DEFINITIONS.

01. Airborne Control. While airborne in any aircraft, to shoot or attempt to shoot, drive off, or kill unprotected or predatory animals. (5-24-95)

02. Aircraft. Any contrivance used for flight in the air. (5-24-95)

03. Predatory Animal. For the purpose of administering Section 22-102A, Idaho Code, and these rules, the following animals are designated as predatory animals: (1) coyotes; and (2) red fox. Red fox may be controlled in the areas where the Idaho Department of Fish and Game has established a year-round hunting season for red fox, and, in consultation with the Idaho Department of Fish and Game, in specific areas, outside the areas where a year-round hunting season has been established, where red fox are causing predation problems. ( )

04. Unprotected Animal. An animal which is not designated as protected, threatened, or endangered under federal or state law. (5-24-95)

011. -- 099. (RESERVED)

100. APPLICATION TO OBTAIN A PERMIT.

01. Airborne Control Permit Required. Any person who engages in the airborne control of unprotected or predatory animals must obtain a permit from the Department. (5-24-95)

02. Required Application Form. An application for an airborne control permit shall be on a form provided by the Department. (5-24-95)

03. Required Information on Application. The applicant shall provide all information requested on the application form, including: (5-24-95)

a. Name and address of the applicant; (5-24-95)

b. The purpose for the permit, specifically identifying whether the resource to be protected is land, water, wildlife, livestock, domestic animals, crops, or human life; (5-24-95)

c. A statement regarding the threat, danger, or menace to the resource requiring protection; (5-24-95)

d. Common name of animal to be controlled; (5-24-95)

e. The geographic location of the property where the applicant intends to conduct airborne control; (5-24-95)

f. Description of the aircraft to be used, including make, model, aircraft number, owner, pilot, and location where the aircraft is based; and (5-24-95)

g. The period of time for which the permit is requested. (5-24-95)

04. Written Consent from Private Landowner Required. The applicant must submit a written document from each owner of private land on whose property the applicant plans to conduct airborne control operations indicating that the applicant has the permission of the owner to engage in such activities on that property. The applicant must also provide the name, address, and telephone number of the owner of the property from whom such permission was obtained. (5-24-95)

05. Incomplete Application. Failure to provide any of the required information for the application is cause for denial of a permit. (5-24-95)

101. -- 149. (RESERVED)

150. ISSUANCE OF AIRBORNE CONTROL PERMITS.
In determining whether the permit application should be granted or denied, the Director may give reasonable consideration to the following factors: (5-24-95)

01. Threat to Resource. The threat, danger, or menace to the resource requiring protection. (5-24-95)

02. Type of Control. Whether the animals are to be driven off or killed. (5-24-95)

03. Number of Permits Issued. The number of permits issued for the same type of animal in the same geographic location. (5-24-95)

151. NOTIFICATION TO FEDERAL LAND MANAGEMENT AGENCIES.
Information concerning airborne control activities authorized to be conducted under these rules will be provided to those federal land management agencies on whose land the activities are to be conducted. This provision will not be interpreted to require a permit applicant to obtain permission from the federal land management agency to conduct airborne control activities as a condition of receiving the permit from the Department. (5-24-95)

152. -- 199. (RESERVED)

200. LIMITATIONS ON USE AND VALIDITY OF AIRBORNE CONTROL PERMITS.

01. Possession of Permits by Permittee. Permits must be in the possession of the permittee when exercising any privileges thereunder. (5-24-95)

02. Expiration of Permits. Permits will be valid from the date of issuance and will expire on June 30 of each year. (5-24-95)

03. Exclusive to Permittee. Permits are not transferable. (5-24-95)

04. Geographic Limitation. Permits are valid only for the geographic area specified. (5-24-95)

05. Changes in Application Information. Any person who has been issued a permit under the provisions of these rules shall immediately notify the Department of any changes in the information supplied in the application or any changes in the conditions under which the permit was issued. (5-24-95)

201. -- 299. (RESERVED)

300. RECORDKEEPING REQUIREMENTS.

01. Recordkeeping by Permittee. Any person who has been issued a permit under the provisions of these rules shall maintain records of airborne control activities including the following information: (5-24-95)

a. The resource protected; (5-24-95)

b. The common name of animal and number of animals controlled; (5-24-95)

c. The geographic location of the property where airborne control was conducted; and (5-24-95)

d. The specific dates on which the person was engaged in airborne control activity. (5-24-95)

02. Summary of Control Activities. A summary of all control activities, including the information specified in Subsection 300.01, shall be submitted to the Director within thirty (30) working days after the end of each calendar quarter. (5-24-95)

301. -- 399. (RESERVED)

400. PROHIBITED ACTS.

01. Prohibited Acts Defined. No person may: (5-24-95)

a. Engage in airborne control activities without a valid airborne control permit. (5-24-95)

b. Use an airborne control permit to hunt for sport. (5-24-95)

c. Kill any type of animal different from the type of animal specified on the permit. (5-24-95)

d. Transfer an airborne control permit to another person. (5-24-95)

e. Engage in airborne control activities in a geographic area different from the area specified on the permit. (5-24-95)

f. Engage in airborne control activities after the time limit on the permit expires. (5-24-95)

401. – 999. (RESERVED)

02.04.04 – RULES FOR ARTIFICIAL DAIRY PRODUCTS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 37-303, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.04, **"**Rules for Artificial Dairy Products." ( )

02. Scope. These rules govern the process, sale, and distribution of artificial dairy products. ( )

002. – 011. (RESERVED)

100. GENERAL.
The Director of the Idaho Department of Agriculture or the Director's authorized representative will issue and enforce a written stop sale order to the owner or custodian of any quantity of artificial dairy products that has been determined by the Department of Agriculture to be in violation of Sections 37-315 through 37-318, Idaho Code. The order shall prohibit further sale, processing, or movement of such artificial dairy products, until the Department has evidence that the law has been complied with. ( )

101. – 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 37-1101(5), Idaho Code. (4-7-11)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Raw Milk." (3-29-10)

02. Scope. These rules govern the production, processing, distribution, and sale of raw milk for human consumption, but not intended for pasteurization. (4-7-11)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The following document is incorporated by reference: The Grade A Pasteurized Milk Ordinance 2017 Revision, U.S. Department of Health and Human Services Public Health Service Food and Drug Administration ("2017 Pasteurized Milk Ordinance"), except those provisions establishing raw milk standards for raw milk for pasteurization. This document is available online at https://www.fda.gov/downloads/Food/GuidanceRegulation/GuidanceDocumentsRegulatoryInformation/Milk/UCM612027.pdf. ( )

005. -- 009. (RESERVED)

010. DEFINITIONS.
The following definitions apply in the interpretation and the enforcement of this chapter: (3-29-10)

01. Adulterated. The meaning of adulterated includes the following: (4-7-11)

a. The addition or inclusion of unclean, unwholesome, inferior, impure or foreign material into a food product; or (4-7-11)

b. The production, distribution, or sale of raw milk or raw milk products from a facility that does not possess a valid permit from the Department or is not registered with the Department as a Herd Share program; or (4-7-11)

c. Any raw milk product or facility that fails to meet any of the requirements of these rules. (4-7-11)

02. Dairy Farm. Any place or premises where one (1) or more cows, goats or sheep are milked and where a part or all of the raw milk or raw milk products are produced that are not intended for pasteurization, or are intended for human consumption without pasteurization, and are distributed, sold or offered for sale to persons other than members of the dairy farm's immediate household. (4-7-11)

03. Denatured. To change the usual or normal nature of a material or substance by either chemical or physical means. (3-29-10)

04. Herd Share. The undivided ownership interest in no more than seven (7) cows, fifteen (15) goats, or fifteen (15) sheep resulting from an investment of monetary value through a written contractual agreement between an owner and a farmer in exchange for raw milk or raw milk products. (4-7-11)

05. Official Laboratory. A biological, chemical, or physical laboratory that is approved by the Department. (4-7-11)

06. Owner. A person who has made an investment of monetary value in the ownership or care of cows, goats, or sheep and participates in a Herd Share program pursuant to a written contractual agreement. (4-7-11)

07. Raw Milk. The lacteal secretion, practically free from colostrum, obtained by the complete milking of one (1) or more healthy cows, goats, or sheep, and that has not been pasteurized and is intended for human consumption. (4-7-11)

08. Raw Milk Permit. Authorization from the Department allowing raw milk and raw milk products to be sold for human consumption by a dairy farm or raw milk plant that complies with the requirements of these rules. (4-7-11)

09. Raw Milk Plant. Any place, premises, or establishment where raw milk is collected, handled, stored, bottled, or processed into raw milk or raw milk products for sale or offered for sale for human consumption. (4-7-11)

10. Raw Milk Products. Raw milk products include any milk product processed from raw milk that has not been pasteurized and is intended for human consumption by persons other than members of the dairy farm's immediate household. Cheese made from raw milk that has been processed and aged for a minimum of sixty (60) days at a temperature greater than thirty-five degrees Fahrenheit (35ºF) in a licensed dairy processing plant is exempt from these rules. (4-7-11)

11. Registration. A requirement by the Department for the authorization of a Herd Share to provide raw milk and raw milk products for human consumption to owners of that Herd Share as provided in Section 040 of these rules. (4-7-11)

12. Sanitization. The application of any effective method or substance to a clean surface for the destruction of pathogens, and of other organisms as far as is practicable. Such treatment may not adversely affect the equipment, the raw milk or raw milk products or the health of consumers, and be acceptable to the Department. (3-29-10)

13. Small Herd. The production of raw milk or raw milk products for human consumption, for use by people other than members of their immediate household or non-paying guests, in a facility with no more than three (3) lactating cows, seven (7) lactating goats, or seven (7) lactating sheep. The dairy farm herd may include other cows, goats, or sheep that are dry or are producing milk for purposes other than human consumption. (4-7-11)

14. Small Herd Raw Milk Permit. Written authorization from the Department to a small herd dairy farm allowing raw milk and raw milk products to be sold for human consumption as provided in Section 030 of these rules. (4-7-11)

15. Sterilized. The condition achieved by application of heat, chemical sterilant or other appropriate treatment that renders the piping, equipment and containers used for raw milk and raw milk products free of viable microorganisms. (3-29-10)

011. (RESERVED)

012. ADULTERATED OR MISBRANDED RAW MILK OR RAW MILK PRODUCTS.

01. Prohibited Acts. No person shall produce, provide, sell, offer, or expose for sale, or possess with intent to sell, within the State or its jurisdiction, any adulterated or misbranded raw milk or raw milk products for human consumption. (4-7-11)

02. Restriction on Sale. Raw milk or raw milk products may not be sold or offered for sale through restaurants or other food service establishments. Grocery stores and similar establishments where raw milk or raw milk products are sold at retail, but not processed there, are exempt from the requirements of these rules, provided those stores and establishments receive raw milk or raw milk products from Department-authorized facilities. (4-7-11)

03. Disposition of Adulterated or Misbranded Product. Any adulterated or misbranded raw milk or raw milk product may be impounded and disposed of as directed by the Department. The Department may issue a hold order when it is deemed necessary to protect human health. (4-7-11)

013. STANDARDS FOR RAW MILK AND RAW MILK PRODUCTS.

01. Requirements. All raw milk and raw milk products shall be produced and processed to conform with the standards listed in Subsection 013.02 of this rule. Permitted dairy farms and raw milk plants must meet the sanitation requirements of the 2017 Pasteurized Milk Ordinance, unless the dairy farm has a Small Herd Raw Milk Permit or has registered a herd share arrangement with the Department. (4-11-19)

02. Chemical, Bacteriological, and Temperature Standards.

RAW MILK	
Temperature	Cooled to forty degrees Fahrenheit (40F or 5C) or less within two (2) hour after milking provided that the blend temperature after the first and subsequent milking does not exceed forty-five degrees Fahrenheit (45F or 7C).
Bacterial Limits	Raw milk and raw milk products except cultured raw milk products shall not exceed fifteen thousand (15,000) per ml.
Coliform Limits	Raw milk and raw milk products may not exceed twenty-five (25) per ml.
Drugs	Raw milk must test negative by a test method approved by the Department.
Somatic Cell Counts	Raw milk must not exceed five hundred thousand (500,000) per ml. Goat or sheep raw milk must not exceed seven hundred and fifty thousand (750,000) per ml.
Brucellosis Test	Raw milk obtained from sheep or goats must be from animals that have tested negative on an annual brucellosis test performed by an official laboratory. Raw milk obtained from bovines must be from animals that have tested negative on the Brucellosis Ring Test performed by an official laboratory.
Tuberculosis Test	All raw milk must be from animals that have been accredited as tuberculosis free or must have passed an annual tuberculosis test.

(4-7-11)

03. Commingled Milk. Milk from commingled species must meet the somatic cell count of the most restrictive species. (4-7-11)

014. LABELING.

01. Applicability. Section 014 applies to holders of Raw Milk Permits and holders of Small Herd Raw Milk Permits. (4-7-11)

02. Requirements. All raw milk and raw milk products must have Department-approved labeling. All bottles, containers, and packages enclosing raw milk or raw milk products must be conspicuously marked with the following: (4-7-11)

a. The words “not pasteurized,” or “unpasteurized” in addition to “raw” must precede the name of the product; (4-7-11)

b. The quantity of contents; (4-7-11)

c. The name and address or permit number of the permit holder; and (4-7-11)

d. When applicable, the word “goat” or “sheep” must precede the name of the raw milk or raw milk products. (4-7-11)

03. Commingled Milk Label. The label of raw milk or raw milk products containing milk from commingled species must identify the species from which the raw milk was obtained. (4-7-11)

04. Small Herds. Department-approved labels are not required for the holders of Small Herd Raw Milk Permits if the raw milk or raw milk products are sold at the point of production. (4-7-11)

05. Misleading Labels. It is a violation of these rules to use any misleading marks, words, or

endorsements on the label. Registered trade designs or similar terms on the bottle cap or label may be used if the Department determines that the designs or terms are not misleading and do not obscure the labeling required by these rules. Any misleading labeling on the final container will cause the product to be considered misbranded. (3-29-10)

015. -- 019. (RESERVED)

020. RAW MILK PERMITS.

01. Requirements. It is unlawful for any person who does not possess a Raw Milk Permit from the Department to produce, process, sell or offer for sale raw milk or raw milk products for human consumption to persons other than members of the dairy farm's immediate household. (4-7-11)

02. Obtaining a Raw Milk Permit. Only a person who complies with these rules may receive and retain a Raw Milk Permit. Raw Milk Permits are not transferable with respect to persons or locations. Prior to the issuance of a permit each dairy farm whose raw milk or raw milk products are intended for human consumption within the state of Idaho must comply with the following requirements: (4-7-11)

a. Submit to and pass a qualifying inspection conducted by the Department; (4-7-11)

b. Meet the applicable sanitation, construction, and procedural requirements of the 2017 Pasteurized Milk Ordinance; (4-11-19)

c. Meet the raw milk and raw milk products quality standards in Section 013 of these rules; (4-7-11)

d. Meet the tuberculosis and brucellosis standards in Section 013 of these rules; and (4-7-11)

e. Produce and process all raw milk and raw milk products on the same premises. (4-7-11)

03. Inspection Frequency. Following the issuance of a permit, the Department will inspect each Raw Milk Permit holder operation at least once every three (3) months. (4-7-11)

04. Sanitation Requirements. All raw milk dairy farms and raw milk plants that process raw milk or raw milk products into final containers for human consumption must meet the requirements of the 2017 Pasteurized Milk Ordinance and Section 013 of these rules if the raw milk or raw milk products are for use by persons other than the dairy farm's immediate household. (4-11-19)

021. -- 029. (RESERVED)

030. SMALL HERD RAW MILK PERMITS.
It is unlawful for any person with a small herd to sell raw milk and raw milk products for human consumption without a Small Herd Raw Milk Permit issued by the Department. The Small Herd Raw Milk Permit applies to raw milk and raw milk products intended for human consumption for persons other than members of the dairy farm's immediate household. (4-7-11)

01. Obtaining a Small Herd Raw Milk Permit. Only a person who complies with these rules may receive and retain a Small Herd Raw Milk Permit. The Small Herd Raw Milk Permit will indicate the physical location of the small herd and the mailing address of the owner or operator in charge of the herd's care and milk quality. Small Herd Raw Milk Permits are not transferable to another person or location. Applications for a Small Herd Raw Milk Permit may be upon a form provided by the Department. All holders of Small Herd Raw Milk Permits issued by the Department must meet the following conditions: (4-7-11)

a. Meet the raw milk and raw milk products quality standards as set forth in Section 013 of these rules; (4-7-11)

b. Meet the tuberculosis and brucellosis standards as set forth in Section 013 of these rules; (4-7-11)

c. Meet the applicable drug testing requirements as determined by the Department based on dairy

farm drug therapy and milk quality history; and (4-7-11)

d. All raw milk and raw milk products must be produced and processed on the same premises. (4-7-11)

02. Testing Frequency. Raw milk or raw milk products must be tested at a frequency of at least four (4) times in separate months during any consecutive six-month period. (4-7-11)

03. Product Quality. Whenever three (3) out of five (5) consecutive bacteria, coliform, or somatic cell counts exceed milk quality standards, the milk may not be offered for human consumption until subsequent product testing shows that the raw milk or raw milk products comply with Section 013 of these rules. (4-7-11)

04. Test Results Made Available. A Small Herd Raw Milk Permit holder must provide raw milk and raw milk product quality tests results if requested by individuals who purchase raw milk and raw milk products. (4-7-11)

05. Exemption from Pasteurized Milk Ordinance. A small herd operation that is in compliance with a Small Herd Raw Milk Permit requirements is exempt from the sanitary, construction, inspection, and operation requirements of the 2017 Pasteurized Milk Ordinance. (4-11-19)

031. -- 039. (RESERVED)

040. HERD SHARE PROGRAMS.

01. Registration. The dairy farm or farmer responsible for a herd participating in a herd share program must register the farm or dairy with the Department. Registration may be upon a form provided by the Department or may be a written statement containing, at a minimum, the following information: (4-7-11)

a. The name of the farmer, farm, or dairy; (4-7-11)

b. A valid, current address for the farmer, farm, or dairy; and (4-7-11)

c. A statement that raw milk or raw milk products are being produced at the farm or dairy. (4-7-11)

02. Proof of Ownership Interest. The farmer and each owner of the herd share must enter into a written contract evidencing the herd share arrangement. The contractual documents must include, at a minimum, the following: (4-7-11)

a. A bill of sale, stock certificate, or other written evidence satisfactory to the Department; (4-7-11)

b. A boarding and care plan for the livestock; (4-7-11)

c. A conspicuous notice that the milk or milk products received under the contract will be raw; and (4-7-11)

d. Proof that written information regarding the herd health and production standards used by the dairy or farm have been provided to each herd share owner. (4-7-11)

03. Testing and Results. The farm or dairy must comply with the testing frequency and standards set forth in Section 37-1101, Idaho Code. A copy of all test results, the name of the tests performed, and an explanation of the tests and test results must be provided to each owner. Proof that the information has been provided to the owners must be sent to the Department. (4-7-11)

04. Product Quality. Whenever three (3) out of five (5) consecutive bacteria, coliform, or somatic cell counts exceed milk quality standards, the milk may not be offered for human consumption until subsequent product testing shows that the raw milk or raw milk products comply with Section 013 of these rules. (4-7-11)

05. Restriction on Sale. No person who obtains raw milk or raw milk products under a herd share arrangement may sell, offer for sale, advertise for sale, or distribute such raw milk or raw milk products to any person, restaurant, food establishment, grocery store, or farmers' market. (4-7-11)

06. Procurement of Raw Milk or Raw Milk Products. Raw milk or raw milk products may only be received directly from the dairy farm by the owners of a herd share or by an owner on behalf of another herd share owner participating in the same herd share program. (4-7-11)

041. -- 049. (RESERVED)

050. PERMIT ENFORCEMENT.
Section 050 applies to the enforcement of Raw Milk Permits and Small Herd Raw Milk Permits. (4-7-11)

01. Permit Suspension. The Department may suspend a permit whenever it has reason to believe that a public health hazard exists, whenever the permit holder has violated any of the requirements of these rules, or whenever the permit holder has interfered with the Department in the performance of its duties. (4-7-11)

a. Prior to suspending a permit, the Department will serve a written notice of intent to suspend permit on the permit holder. The notice will specify the alleged violation(s) and afford the permit holder a reasonable opportunity to correct such violation(s) in a manner agreed to by the parties. In the absence of such agreement, the corrective actions may be designated by the Department. The reasonable opportunity to comply will be given before the permit suspension order becomes effective. A permit suspension will remain in effect until the violation has been corrected to the satisfaction of the Department. (4-7-11)

b. Whenever the raw milk or raw milk products create or appear to create an imminent hazard to the public health, or in the event of a willful refusal to permit an authorized inspection, the Department may immediately suspend the permit without the prior notice procedure set forth in these rules. The Department will provide notice and opportunity for hearing after the suspension, in accordance with Title 67, Chapter 52, Idaho Code. (4-7-11)

c. Upon written request by any person whose permit has been suspended, or by any person who has been served with a notice of intent to suspend, the Department will proceed to a hearing and, upon evidence presented at such hearing, may affirm, modify, or rescind the suspension or intention to suspend. (4-7-11)

d. The Department may forego permit suspension provided the raw milk or raw milk products in violation are not sold, offered for sale, or distributed for human consumption. (4-7-11)

02. Permit Revocation. If repeated violations occur, the Department may revoke a permit after reasonable notice and an opportunity for a hearing have been given to the permit holder. This section is not intended to preclude the institution of court action. (4-7-11)

03. Permit Reinstatement. Any raw milk producer whose permit has been suspended or revoked may make written application for the reinstatement of the permit. (4-7-11)

a. When the permit has been suspended due to a violation of any of the bacterial, somatic cell, coliform, drug, or cooling-temperature standards, the Department may issue a temporary permit after raw milk samples show that the conditions responsible for the violation have been corrected. (4-7-11)

b. Whenever the permit has been suspended due to a violation of a requirement other than bacteriological, coliform, somatic cell count, or cooling-temperature standards, the application for reinstatement must show that the violation has been corrected. Within one (1) week of the receipt of such application, the Department will make an inspection of the applicant's establishment and may make additional subsequent inspections as deemed necessary. If the inspection shows that the raw milk or raw milk products meet the applicable standards and are in compliance with these rules, the permit will be reinstated. (4-7-11)

051. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 25-203, 25-601, and 25-3520, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Brucellosis." (5-3-03)

02. Scope. These rules govern prevention, surveillance, diagnosis, control, management and eradication of brucellosis in the state of Idaho. (5-3-03)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference and copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office and the State Law Library: (5-3-03)

01. The October 1, 2003 Edition of the Brucellosis Eradication Uniform Methods and Rules. (4-11-06)

02. The September 30, 2003 Edition of the Brucellosis in Cervidae: Uniform Methods and Rules. (4-11-06)

03. The April 1998 Edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules. (5-3-03)

04. The Code of Federal Regulations Title 9, Parts 71, 78, and 161, January 1, 2005. This document can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_00/9cfrv1_00.html. (4-11-06)

005. -- 009. (RESERVED)

010. DEFINITIONS.
The following definitions apply in the interpretation and enforcement of this chapter. (5-3-03)

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (5-3-03)

02. Approved Brucella Vaccine. A vaccine product that is approved by and produced under license of the USDA for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to *brucellosis*. (5-3-03)

03. Approved Feedlot. A feedlot approved by the Administrator to feed female cattle and domestic bison, which have not been officially vaccinated against *brucellosis*. (5-3-03)

04. *Brucellosis*. An infectious disease of animals and humans caused by bacteria of the genus Brucella. (5-3-03)

05. *Brucellosis* Emergency. The declaration of an animal health emergency by the director as the result of the diagnosis of *brucellosis* in cattle, domestic bison, swine or domestic cervidae in the state of Idaho or in areas outside the state that could result in transmission of *brucellosis* to Idaho cattle, domestic bison, swine, or domestic cervidae. (5-3-03)

06. *Brucellosis* Herd Management Plan. A written document outlining management practices a livestock producer will take to minimize the exposure of cattle or domestic bison to brucellosis. The herd management plan shall be valid when signed by the owner and the State Veterinarian or his designee. (3-29-12)

07. Cattle. All bovidae. (5-3-03)

08. Commuter Herd. A herd of cattle or domestic bison that moves from Idaho to another state

pursuant to the provisions of IDAPA 02.04.21, "Rules Governing the Importation of Animals," Section 220. (3-30-07)

09. Designated Surveillance Area. An area of Idaho, as ordered by the director or his designee, where brucellosis positive wildlife are known or believed to exist and where comingling of wildlife and livestock may lead to transmission of brucellosis from wildlife to livestock. (3-29-12)

10. Domestic Bison. All animals in the genus Bison that are owned by a person. (5-3-03)

11. Domestic Cervidae. Elk, fallow deer and reindeer that are owned by a person. (5-3-03)

12. Exposed. Animals that have had contact with other animals, herds, or materials that have been determined to be infected with or affected by Brucella. (5-3-03)

13. Federal Animal Health Official. An employee of USDA, APHIS, VS who is authorized to perform animal health activities. (5-3-03)

14. Infected Animals or Herds. Animals that are classified as reactors by the designated *brucellosis* epidemiologist or herds that contain one or more reactor animals. (5-3-03)

15. Negative. Cattle, domestic bison, swine or domestic cervidae are classified negative: (5-3-03)

a. When their blood serum has been subjected to official serological tests and the test results fail to disclose evidence of Brucella infection; and (5-3-03)

b. If blood, milk or tissues are subjected to bacteriological methods for cultivating field-strain Brucella and none are recovered. An animal is classified as negative when all tests that are performed fail to disclose evidence of *brucellosis*. (5-3-03)

16. Official Identification. The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with these rules. (5-3-03)

17. Official Vaccinate. A bovine or domestic bison female that was inoculated, in accordance with these rules and the *brucellosis* Eradication UM&R, with an approved Brucella vaccine. (5-3-03)

18. Operator. The person who has authority to manage or direct a cattle, domestic bison, swine, or domestic cervidae premises, or conveyance and the animals thereon. (3-30-07)

19. Parturient. Visibly prepared to give birth or within two (2) weeks before giving birth. (3-30-07)

20. Postparturient. Having already given birth. (3-30-07)

21. Premises. The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. (3-30-07)

22. Quarantine. A written order, executed by the Administrator, to confine or hold animals on a premise or any other location, and to prevent movement of animals from a premise or any other location when the administrator has determined that the animals have been found to be or are suspected to be exposed to or infected with *Brucella*, or the animals are not in compliance with the provisions of this chapter. (3-30-07)

23. Reactor. Cattle, domestic bison, swine or domestic cervidae are classified as reactors when their blood serum has been subjected to official serological tests and the test results indicate that the animal has been exposed to and infected with Brucella. Cattle, domestic bison, swine or domestic cervidae are also classified as reactors in the absence of significant serologic test results when other diagnostic methods, such as bacteriologic methods, result in the recovery of field-strain Brucella organisms, or a significant rise in the serologic titer occurs, or when other epidemiologic evidence of *Brucella* infection is demonstrated. (5-3-03)

24. Re-Identification of Official Vaccinates. The identification of female cattle or other animals which have been officially vaccinated and identified, as provided in this chapter, and which have lost the official identification device or the tattoo has faded to the extent that it cannot be discerned. (5-3-03)

25. Restrain. The confinement of cattle, domestic bison, swine, or domestic cervidae in a chute, or other device, for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (5-3-03)

26. Restricted Movement Permit. A VS Form 1-27, or other document approved by the Administrator for movement of reactor or exposed animals in commerce. (5-3-03)

27. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication programs. (5-3-03)

28. State/Federal Animal Health Laboratory. The official laboratory in Idaho that is approved by the Administrator and USDA/APHIS/VS, to conduct serologic and bacteriologic tests to detect Brucella. (5-3-03)

29. Suspect. Cattle, domestic bison, swine, or domestic cervidae are classified as suspects when their blood serum has been subjected to official serologic tests and the results suggest infection but are inconclusive. If bacteriologic methods to culture Brucella from blood, milk or tissues were used, they did not yield field-strain Brucella. (5-3-03)

30. Swine. All animals in the family suidae. (5-3-03)

31. Test Eligible. Unless otherwise specifically provided in these rules, all sexually intact cattle and domestic bison *twelve* (*12*) months of age and over, and all parturient, and postparturient cattle and domestic bison regardless of age. *( )*

32. Wild Bison. All animals in the genus Bison that are not owned by a person. (5-3-03)

33. Wild Elk. All elk that are not owned by a person. (5-3-03)

011. ABBREVIATIONS.

01. APHIS. Animal Plant Health Inspection Service. (5-3-03)

02. AVIC. Area Veterinarian in Charge. (5-3-03)

03. CFR. Code of Federal Regulations. (5-3-03)

04. DSA. Designated Surveillance Area. (3-29-12)

05. MCI. Market Cattle Identification. (5-3-03)

06. UM&R. Uniform Methods and Rules. (5-3-03)

07. USDA. United States Department of Agriculture. (5-3-03)

08. VS. Veterinary Services. (5-3-03)

012. -- 019. (RESERVED)

020. APPLICABILITY.
These rules apply to all cattle, domestic bison, swine, and domestic cervidae located within, imported into, transported through or exported from the state of Idaho. (5-3-03)

021. SUPERVISION.

The official brucellosis eradication program will be supervised by full-time state or federal veterinarians. (5-3-03)

022. INSPECTIONS.
In order to ascertain compliance with this chapter, state and federal animal health officials are authorized to inspect animals, records, premises and other areas where cattle, domestic bison, swine, domestic cervidae and other animals are held or kept. (5-3-03)

01. Entering Premises. In order to conduct activities authorized by this chapter, state or federal animal health officials are authorized to enter premises, other areas, or conveyances in the state where cattle, domestic bison, swine, domestic cervidae or other brucellosis susceptible animals are held or kept. State or federal animal health officials will attempt to notify the owner or operator of the premises or conveyance prior to conducting an inspection. (5-3-03)

02. Inspecting Records. To ensure compliance with the provisions of this chapter, state or federal animal health officials are authorized to have access to, inspect, review, and copy any records deemed necessary during normal business hours. State or federal animal health officials will attempt to notify the owner or operator of the premises where the records are located prior to inspecting records. (5-3-03)

03. Emergencies. In the event of an emergency, as determined by the Administrator, the notification requirements of this section may be waived. (5-3-03)

023. LABORATORIES.
Biological samples tested for brucellosis shall be tested only by official state-federal animal health laboratories or by persons authorized by the Administrator, and USDA/VS. (5-3-03)

01. Blood, Milk, Tissue, or Other Samples. All biologic samples shall be collected and tested in accordance with the UM&R for that species. (5-3-03)

02. Authorized Persons. The Administrator may authorize qualified persons to conduct serologic tests for brucellosis. All samples initially tested at other than official state-federal animal health laboratories shall be promptly submitted to the official state-federal animal health laboratory for confirmation of test results. (5-3-03)

03. Retest of Reactors. Within three days (3) days after being notified of the results of an initial herd blood test, the owner may request an additional blood test on reactors, such test shall be made at owner's expense. The request shall be based on sound epidemiologic evidence, and all animals shall remain under herd quarantine. The request shall be made to the Administrator, who will approve or deny the request. (5-3-03)

04. Reclassification of Reactors. Any reclassification of reactor animals shall be in accordance with the UM&R for that species. (5-3-03)

024. REPORTING.
Brucellosis activities conducted privately or as part of the official brucellosis eradication program shall be reported to the Administrator. (5-3-03)

01. Test Results. All test results shall be reported immediately. (5-3-03)

02. Vaccinations. All vaccination reports shall be submitted on a form approved by the Administrator within fifteen (15) days of date of vaccination. (5-3-03)

03. Disease. All owners of animals and veterinarians shall report evidence of brucellosis infection to the Administrator immediately. (5-3-03)

025. QUARANTINES.
All cattle, domestic bison, swine and domestic cervidae animals or herds determined to be exposed to or infected with brucellosis shall be quarantined. (5-3-03)

01. Infected Herds. Infected herds or animals shall remain under quarantine until such time that the

herd has been completely depopulated and the premise has been cleaned and disinfected as provided by the administrator or the provisions for release of quarantine established in these rules have been met. (5-3-03)

02. Exposed Herds. The quarantine for exposed herds or animals may take the form of a hold-order which shall remain in effect until the exposed animals have been tested and the provisions for release of a quarantine as established in these rules have been met. (5-3-03)

03. Validity of Quarantine. The quarantine shall be valid whether or not it is acknowledged by signature of the owner. (5-3-03)

026. CLEANING AND DISINFECTING.
The Administrator is authorized to order the owner or operator of stockyards, pens, trucks, trailers, cars, vessels, chutes, and other conveyances and premises to clean and disinfect the same, at the owner's expense, whenever necessary for the eradication of brucellosis. Cleaning and disinfecting shall be done under the supervision of state or federal animal health officials. (5-3-03)

01. Infected Animals. Premises, conveyances, or other areas where infected animals have been held or kept shall be cleaned and disinfected under regulatory supervision within fifteen (15) days following the removal of reactors or the entire herd for slaughter. (5-3-03)

02. Exemptions. The Administrator may authorize an exemption from cleaning and disinfection requirements on a case by case basis. (5-3-03)

03. Extension of Time. The Administrator may authorize an extension of time for cleaning and disinfection under extenuating circumstances. (5-3-03)

027. WILD BISON AND WILD ELK.

01. Wild Bison. When wild bison enter into or are otherwise present within the state of Idaho, one (1) of the following actions shall be taken by the department: (5-3-03)

a. If feasible, the wild bison shall be physically removed by the safest and most expeditious means from within the state boundaries or delivered to a slaughterhouse approved by the department. (5-3-03)

b. If wild bison cannot safely or by reasonable and permanent means be removed from the state, the wild bison may be destroyed where they stand by the use of firearms. If firearms cannot be used with due regard for human safety and public and private property, the wild bison shall be relocated to a danger free area and destroyed by any practicable means of euthanasia, including the use of firearms. (5-3-03)

c. When wild bison are killed, the carcass remains will be disposed of in accordance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement and Disposal," or field dressed for delivery to a slaughterhouse or slaughter destination approved by the Administrator. (5-3-03)

02. Exposure of Livestock to Wild Bison. All cattle, domestic bison, and domestic cervidae animals and herds that come into contact with brucellosis affected wild bison, such that transmission of brucellosis could occur, shall be considered exposed to brucellosis. (5-3-03)

03. Exposure of Livestock to Wild Elk. All cattle, domestic bison, and domestic cervidae animals and herds that have feed-line or other contact, during winter months, with wild elk that have been determined to be affected with brucellosis, such that transmission of brucellosis could occur, shall be considered exposed to brucellosis. (5-3-03)

028. BRUCELLOSIS TESTING.
The Administrator may require *brucellosis* testing of cattle, domestic bison, swine, domestic cervidae, or other animals. (5-3-03)

01. Duty to Restrain. It is the duty of each person who has control of such animals to pen the animals

in suitable pens and restrain them for the test when directed to do so in writing by the Administrator. (5-3-03)

02. Records of Tests. When any cattle, domestic bison, swine, or domestic cervidae are tested for *brucellosis* a complete test record shall be made and the record shall be shown on an official *brucellosis* test form provided by the Administrator. The test form shall be completely filled out, including the following information: (5-3-03)

a. The name and address of the owner and the location of the animals at the time of test. (5-3-03)

b. The name and signature of the person conducting the test. (5-3-03)

c. Individual identification number of each animal and the registration name and number of each purebred animal. (5-3-03)

d. Age of each animal. (5-3-03)

e. Sex of each animal. (5-3-03)

f. Breed of each animal. (5-3-03)

g. Species of animals tested. (5-3-03)

h. Vaccination status, including the vaccination tattoo for each vaccinated animal. (5-3-03)

i. Test results, if a *brucellosis* test has been performed, for each animal. (5-3-03)

j. Date sample was collected for testing. (3-30-07)

03. Interstate Movement. All test eligible cattle and domestic bison exported from Idaho shall be tested negative for *brucellosis* within thirty (30) days prior to the interstate movement if required by the state of destination, or if the cattle or domestic bison are being moved from a DSA. (3-29-12)

04. Dairy Herds. *Brucellosis* ring tests shall be conducted on all dairy herds at least once every six (6) months. (4-2-08)

029. BRUCELLOSIS EMERGENCY.
In order to prevent the re-establishment of brucellosis infection in cattle, domestic bison, swine or domestic cervidae in the state, the Director may declare an animal health emergency. (5-3-03)

01. *Brucellosis* in Idaho. The Director may declare a *brucellosis* emergency in the event brucellosis is diagnosed in any cattle, domestic bison, swine or domestic cervidae in Idaho. (5-3-03)

02. *Brucellosis* in Adjacent Area. The Director may declare a *brucellosis* emergency in the event that brucellosis is discovered in areas in or outside the state that could result in transmission of *brucellosis* to Idaho cattle, domestic bison, swine, or domestic cervidae. (5-3-03)

03. Infected Herd(s) to Be Condemned and Depopulated. Pursuant to the provisions of Section 25-212, Idaho Code, animals and herds found to be infected with *brucellosis* shall be condemned and completely depopulated or slaughtered. (5-3-03)

030. BRUCELLOSIS INDEMNITY.
Owners of animals that are condemned and depopulated because of brucellosis shall be indemnified for such animals, and for reasonable costs of disposal and cleaning and disinfection in accordance with the provisions of this chapter, except as provided in Section 031. (5-3-03)

01. Indemnity Payments. Payments shall be based upon the appraised value, less federal indemnity and salvage value for the animals. (5-3-03)

02. Time Limit for Slaughter. Payment of indemnity shall be made under Section 030 for animals destroyed because of brucellosis, only if the animals are shipped to slaughter or die otherwise within fifteen (15) days after the date of individual identification and tagging, except that the appropriate veterinarian in charge, for reasons satisfactory to him, may extend the period to thirty (30) days and the Deputy Administrator, Veterinary Services, for reasons satisfactory to him may extend it beyond thirty (30) days. (5-3-03)

03. Reactors That Die. Indemnity may be paid on brucellosis reactors that die before being sent to slaughter provided: (5-3-03)

a. The reactors have been appraised and identified and die within fifteen (15) days from date of appraisal; and (5-3-03)

b. The state or federal animal health officials directing the disease control work are furnished with a signed statement by a veterinarian attesting that he observed the carcass of the dead animal and providing the reactor tag number found in the left ear of the animal and date of death. (5-3-03)

04. Other Costs. Reimbursement for disposal costs and cleaning and disinfection costs shall not exceed the actual cost. (5-3-03)

031. BRUCELLOSIS INDEMNITY: CLAIMS NOT ALLOWED.
Claims for compensation for animals destroyed because of *brucellosis* shall not be allowed if any of the following circumstances exist: (5-3-03)

01. Failure to Comply. The owner has failed to comply with any of the rules governing the handling of *brucellosis* reactors. (5-3-03)

02. Illegal Imports. The animals were illegally imported into the state. (5-3-03)

03. Animals Sold for Slaughter. At the time of the test or condemnation, the animals belonged to or were upon the premises of any person to whom the animals had been sold, shipped, or delivered for slaughter. (5-3-03)

04. Unapproved Test. The animals were subject to a test not approved by the Administrator. (5-3-03)

05. Untested Animals. All animals in the owner's herd have not been tested for *brucellosis* under state or federal supervision. (5-3-03)

06. Premises Not Cleaned. The premises occupied by the *brucellosis* infected animals were not cleaned and disinfected as directed, under state or federal supervision. (5-3-03)

07. Neutered Animals. The animals were neutered. (5-3-03)

08. Attempt to Improperly Obtain Funds. There is substantial evidence that the owner or his agent has in any way been responsible for any attempt unlawfully or improperly to obtain indemnity funds for such animals. (5-3-03)

09. Unidentified Cattle and Domestic Bison. Cattle or domestic bison destroyed because of *brucellosis*, unless they were marked for identification in accordance with the October 1, 2003, Edition of the *brucellosis* Eradication Uniform Methods and Rules. (3-30-07)

10. Calves. If the entire herd is not depopulated and the cattle or domestic bison were calves under one-hundred eighty (180) days of age. (5-3-03)

032. -- 099. (RESERVED)

100. OFFICIAL VACCINATION REQUIRED FOR CATTLE AND DOMESTIC BISON.

All female cattle and domestic bison utilized for breeding, dairy, or grazing purposes shall be officially vaccinated for brucellosis. Utilization of female cattle or domestic bison, which are not officially vaccinated, for breeding, dairy or grazing purposes is a violation of this chapter. (5-3-03)

101. OFFICIAL VACCINATION.
Female cattle and domestic bison may be officially vaccinated through one (1) of the following methods: (5-3-03)

01. Calfhood Vaccination. Female cattle and domestic bison native to the state of Idaho or imported into the state of Idaho shall be calfhood vaccinated while not less than one hundred twenty (120) days of age or more than three-hundred sixty-five (365) days of age or be consigned to an approved feedlot, for finish feeding for slaughter only, prior to becoming three hundred sixty-five (365) days of age. (5-3-03)

02. Adult Vaccination. *F*emale cattle or domestic bison may be vaccinated as adults with the approval of the Administrator. *( )*

a. Female cattle or bison which are three hundred sixty-five (365) days of age or older shall be negative to an official brucellosis test within ten (10) days prior to being vaccinated. *( )*

b. The Administrator may make exceptions to the provisions of Section 101 of this rule on a case-by-case basis. (4-11-06)

03. Approval for Adult Vaccination. Accredited veterinarians representing owners, or accredited veterinarians authorized to perform services for specifically approved livestock markets who desire to have female cattle or domestic bison, which are over three hundred sixty-five (365) days of age vaccinated shall request approval from the Administrator. The Administrator may grant or deny the request to adult vaccinate the cattle based upon origin, history, age, pregnancy status and the potential of the cattle or domestic bison to spread other diseases of concern, such as tuberculosis or trichomoniasis. Approval or denial of the request to adult vaccinate the cattle shall be made within seven (7) working days of the date of the request. (4-11-06)

04. Adult Vaccinations Required. The Administrator may require animals at risk of becoming infected with brucellosis to be adult vaccinated. The animals shall be vaccinated at intervals and with the vaccinal dose determined by the designated brucellosis epidemiologist. Such vaccination shall be accomplished whether or not the animals have been previously vaccinated. (5-3-03)

102. SALE OF FEMALE CATTLE OR DOMESTIC BISON THAT ARE NOT OFFICIALLY VACCINATED.
Female cattle and domestic bison that are not officially vaccinated, and are sold or otherwise transferred to another person by private treaty or through a specifically approved livestock market shall meet the following requirements: (5-3-03)

01. Less Than Three Hundred Sixty Five Days of Age. Female cattle and domestic bison that are more than one hundred twenty (120) days of age and not more than three hundred sixty five (365) days of age at the time of sale or transfer to another person, may be sold to approved feedlots, directly to slaughter, to out of state destinations, or be consigned for sale at specifically approved livestock markets without being officially vaccinated. Such female cattle or domestic bison sold for breeding, grazing, or dairy purposes within Idaho shall be officially vaccinated prior to or immediately upon consummation of the sale. (5-3-03)

02. Over Three Hundred Sixty Five Days of Age. Female cattle and domestic bison over three hundred sixty five (365) days of age at the time of sale or transfer to another person may be consigned directly to an approved feedlot, out of state destination, slaughter, or specifically approved livestock market for sale to an approved feedlot, out of state destination, or slaughter. (4-11-06)

103. OFFICIAL IDENTIFICATION OF CATTLE AND DOMESTIC BISON.

01. Official Calfhood Vaccinates. Official calfhood vaccinates shall be permanently identified as vaccinates by tattoo and official vaccination eartag. (5-3-03)

a. Vaccination tattoos shall be applied to the right ear. The tattoo shall start with the letter "R," followed by the U.S. registered "shield and V," followed by a number corresponding to the last digit of the year in which the vaccination was done. (5-3-03)

b. Official vaccination (orange) eartags shall be applied to the right ear. (5-3-03)

c. Individual animal registration tattoos or individual animal registration brands may be used for identifying animals in place of official eartags if the cattle or domestic bison are registered by a breed association. (5-3-03)

02. Official Adult Vaccinates. Official adult vaccinates shall be permanently identified as vaccinates by tattoo and by official identification eartag. Animals that have previously been officially identified as vaccinates shall have the prior official identification recorded on a vaccination certificate or test chart in lieu of the identification provided for in this subsection. (5-3-03)

a. Adult vaccinated cattle or bison must be identified with a vaccination tattoo applied to the right ear that begins with the letter "R," followed by "AV," followed by the last digit of the year in which the vaccination is performed. (4-11-06)

b. Official identification (silver) eartags shall be applied to the right ear. (5-3-03)

c. Individual animal registration tattoos or individual animal registration brands may be used for identifying animals in place of official eartags if the cattle or domestic bison are registered by a breed association. (5-3-03)

03. Reactor Animals. All animals designated as reactors by the designated *brucellosis* epidemiologist shall be marked in accordance with the October 1, 2003, Edition of the *brucellosis* Eradication Uniform Methods and Rules. (3-30-07)

04. Suspect Animals. All suspect animals shall be marked in accordance with the October 1, 2003 Edition of the *brucellosis* Eradication Uniform Methods and Rules. (3-30-07)

05. Spayed Heifers. Spayed heifers may be officially identified by applying a hot iron brand high on the tailhead on either or both sides using an open spade symbol as used in playing cards, of not less than three (3) inches high, or as provided by the administrator. (5-3-03)

104. RE-IDENTIFICATION OF OFFICIAL VACCINATES.
No female cattle or domestic bison that were officially vaccinated against brucellosis shall be re-tattooed for the purpose of re-establishing their status as official brucellosis vaccinates nor shall any officially vaccinated animals be re-ear-tagged with the official vaccination eartag at any time subsequent to the original vaccination, except that re-tattooing for the purpose of re-establishing the status as official *brucellosis* vaccinates shall be allowed under the following conditions: (5-3-03)

01. Administrator Grants Permission. Animals may be re-tattooed only by accredited veterinarians who have obtained permission from Administrator prior to the time the animals are re-tattooed. (5-3-03)

02. Permanent Identification. Animals that are presented for re-tattooing shall have some permanent identification which will identify the animals as those originally tattooed, such as the *brucellosis* vaccination tag, individual animal registration tattoo, or other approved permanent identification, provided that such identification was submitted on the original official vaccination record. (5-3-03)

03. Reproduction of Original Tattoo. Re-tattooing shall reproduce the original tattoo, which was placed in the animal's ear at the time of vaccination. (5-3-03)

04. Records. The veterinarian who performs the re-tattooing shall record the eartag or other identification numbers, the tattoo symbols and the owner's name and address on a new vaccination record form and submit the re-tattooing record to the Division of Animal Industries within ten (10) days of the date of re-tattooing. (5-3-03)

105. LIVESTOCK MARKET RELEASE.
The accredited veterinarian authorized to provide veterinary services at a specifically approved livestock market shall perform a clinical inspection of all livestock and accurately complete a "Saleyard Release" form, certificate of veterinary inspection, or other market release mechanism certifying that the animals meet the health requirements for movement to the point of destination prior to any animals being released from the livestock market. (5-3-03)

106. -- 119. (RESERVED)

120. BRUCELLOSIS ERADICATION AREAS.
The Director is authorized to declare the entire state, a portion of the state, entire county or part of a county an eradication area, pursuant to Idaho Code, Section 25-604, in order to contain an outbreak of brucellosis and prevent spread of brucellosis to herds in other counties and areas of the state. (5-3-03)

01. Circumstances Under Which Testing Is Required. Test eligible cattle, domestic bison, or other brucellosis susceptible species: (5-3-03)

a. Shall be subjected to an official brucellosis test within the thirty (30) days immediately preceding sale or movement out of an eradication area. (5-3-03)

b. For cattle or domestic bison consigned on a permit to a specifically approved stockyard, the brucellosis test requirement may be fulfilled at the stockyard by testing the cattle or domestic bison prior to sale. (5-3-03)

02. Test Exemptions. Test eligible cattle and domestic bison from eradication areas, consigned on a permit directly from a farm or ranch of origin to an approved slaughter establishment, or to a specifically approved stockyard for sale directly to an approved slaughter establishment, shall be exempt from pre-movement testing. (5-3-03)

03. Discontinuance of Eradication Area. The eradication area designation shall exist only for the period of time necessary for the elimination of brucellosis infection from cattle and domestic bison in the area. After infection has been eliminated and Idaho has retained or regained brucellosis free status, the Director shall remove the eradication status from the area and the testing requirements shall be discontinued. (5-3-03)

121. TEST ELIGIBLE CATTLE AND DOMESTIC BISON IN AN ERADICATION AREA.
Test eligible cattle and domestic bison in an eradication area are: (3-30-07)

01. Unvaccinated or Vaccinated with Brucella Abortus Strain RB 51 Vaccine. Intact male and female cattle and domestic bison six (6) months of age or older. *( )*

122. MOVEMENT INTO OR OUT OF ERADICATION AREAS.
Cattle or domestic bison shall not be moved into or out of an eradication area except by the authorization of the Administrator. (5-3-03)

01. Permits Authorizing Movement. Movement of cattle or domestic bison into or out of an eradication area shall require a permit issued by the Administrator. (5-3-03)

02. Contents of Permits. Permits for movement into or out of an eradication area shall be of the form and content prescribed by the Administrator. (5-3-03)

123. DESIGNATED SURVEILLANCE AREA (DSA).
All intact cattle and domestic bison within a DSA are subject to additional rule requirements for the prevention or eradication of brucellosis. (3-29-12)

01. Individual Identification Requirements. All intact cattle and domestic bison, regardless of age, that leave the DSA must be identified with official individual identification. (3-29-12)

02. Testing Requirements Within The DSA. The following official brucellosis test requirements apply to all test eligible cattle and domestic bison that are or have been located within the DSA at any time between January 1 and June 15 of any calendar year. (3-29-12)

a. All test eligible cattle and domestic bison must have a negative brucellosis test within thirty (30) days prior to a change of ownership, interstate movement or prior to leaving the DSA, except cattle or domestic bison moving directly to an approved Idaho livestock market or a federally-inspected slaughter plant that will test the animals for brucellosis on arrival. (3-29-12)

b. Variances or exceptions to the brucellosis testing requirements may be considered on an individual basis by the administrator, based upon a brucellosis herd management plan. (3-29-12)

03. Permit Required for Movement Out of the DSA. In addition to the above testing requirements and prior to movement, all persons transporting Test Eligible cattle or domestic bison from within the DSA to a location outside the DSA, shall be required to obtain a movement permit via telephone from the Division of Animal Industries at least twenty-four (24) hours in advance. (3-20-14)

a. Telephone Requests. DSA movement permits may be requested by telephone at (208) 332-8540 or facsimile at (208) 334-4062. (3-20-14)

b. Contents of a Permit Request. The request for a movement permit shall include the following information: (3-20-14)

i. Name and address of the consignor and consignee; (3-20-14)

ii. Number and kind of animals; (3-20-14)

iii. Origin of shipment; (3-20-14)

iv. Final destination; and (3-20-14)

v. Date of required brucellosis test. (3-20-14)

c. Period of Validity. Permits shall be valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. (3-20-14)

d. Penalties. Any person that fails to obtain a permit prior to movement of cattle out of the DSA may be assessed penalties pursuant to Section 990 of this rule. (3-20-14)

124. -- 129. (RESERVED).

130. MOVEMENT OF INFECTED AND EXPOSED CATTLE OR DOMESTIC BISON.
All movement of infected or exposed cattle or domestic bison shall be on a restricted movement permit in accordance with the October 1, 2003, edition of the *brucellosis* Eradication Uniform Methods and Rules. (3-30-07)

01. Restricted Movement Permit. The permit shall be completed in full and signed by the shipper of the animals. (5-3-03)

02. Original Copy of Permit. The original copy of the permit shall accompany the animal being moved. (5-3-03)

131. -- 199. (RESERVED)

200. IDAHO APPROVED FEEDLOT.
Female cattle and domestic bison that have not been officially vaccinated for brucellosis shall not be fed for slaughter except in Idaho approved feedlots, with no provisions for pasturing or grazing. ( )

201. APPLICATION FOR DESIGNATION AS AN IDAHO APPROVED FEEDLOT.
Application for Idaho Approved Feedlot status shall be made on application forms available from the Administrator. (5-3-03)

202. ADMINISTRATOR APPROVAL.
The Administrator may approve feedlot applications after the feedlot has been inspected by state or federal animal health officials and: (5-3-03)

01. Cattle Secured. The feedlot management has demonstrated that cattle which have not been officially vaccinated can be secured in the feedlot; and (5-3-03)

02. Adequate Records. Feedlot records are adequate to show the origin and disposition of the cattle in the feedlot; and (5-3-03)

03. Adequate Resources. The Administrator determines that the Division of Animal Industries has adequate human and fiscal resources to assure that the feedlot abides by the provisions of this chapter; and (5-3-03)

04. Past History. The Administrator may take any past enforcement or violation history into consideration when making the final determination of whether or not to approve a feedlot. (5-3-03)

203. APPROVED FEEDLOT NUMBER.
Feedlots approved by the Administrator shall receive an Idaho Approved Feedlot Number. (5-3-03)

204. EXPIRATION OF APPROVED STATUS.
Approved feedlot status shall expire on September 1 of each year. It shall be the responsibility of feedlot management to apply each year for renewal of approved status. (5-3-03)

205. -- 249. (RESERVED)

250. CONTENT OF RECORDS FOR APPROVED FEEDLOTS.
All approved feedlots shall keep accurate and complete records of all cattle and domestic bison that enter the approved feedlot. These records shall readily show: (5-3-03)

01. Animals Received. The number, species, age, sex, brand, origin, date of entry, individual identification when required, and final disposition of all cattle and domestic bison received at the feedlot; and (5-3-03)

02. Animals Removed from Feedlot. The date of removal or sale, and destination of any animals removed; and (5-3-03)

03. Death Loss. Cattle and domestic bison losses by accident, disease or death shall be accurately recorded; and (5-3-03)

04. Requirements. That all applicable permit, test, examination, identification, and vaccination requirements have been met. (5-3-03)

251. RECORDS RETENTION.
Feedlot records shall be retained by the feedlot for a period of not less than one (1) year following removal of the cattle or domestic bison from the feedlot. (5-3-03)

252. ENTRY REQUIREMENTS.
Idaho Approved Feedlots are allowed to feed all classes of cattle and domestic bison, except brucellosis-exposed, suspect, or reactor cattle and domestic bison. Test eligible cattle and domestic bison from Class A, and B states or areas, as defined in Title 9, Part 78, CFR, shall be tested negative prior to entry. (5-3-03)

253. REMOVAL REQUIREMENTS.
All cattle and domestic bison, except steers and spayed heifers, leaving Idaho Approved Feedlots shall conform to the

following provisions: (5-3-03)

01. Direct to Slaughter. Shall be identified on a weigh bill or other certificate and moved directly to slaughter at an approved slaughter establishment; or (5-3-03)

02. Direct to Another Idaho Approved Feedlot. Shall be identified on a Certificate of Veterinary Inspection and moved directly to another Idaho Approved Feedlot; or (5-3-03)

03. Direct to Livestock Market. Shall be consigned directly to a specifically approved livestock market for sale to slaughter, or other qualified destination; or (5-3-03)

04. Direct Out of State. Shall be consigned directly to a qualified out of state destination. (5-3-03)

05. Official Calfhood Vaccinates. Officially calfhood vaccinated female cattle or domestic bison may be removed from an Idaho Approved Feedlot for breeding, dairy, or grazing purposes provided that the female cattle or domestic bison have been isolated in pens separate and apart from all other feedlot cattle since arrival at the feedlot, and the isolation is maintained until the vaccinated cattle or domestic bison are removed from the feedlot. (5-3-03)

06. Official Adult Vaccinates. Officially adult vaccinated female cattle or domestic bison may be removed from an Idaho Approved Feedlot for breeding, dairy, or grazing purposes provided that the following conditions are met: (5-3-03)

a. Female cattle or domestic bison that are three-hundred sixty-five (365) days of age or older at the time of vaccination have tested negative to an official brucellosis test within ten (10) days prior to vaccination; and (5-3-03)

b. The female cattle or domestic bison are vaccinated with Strain RB 51 Brucella abortus vaccine, with a dose approved by the Administrator, within ten days of the negative brucellosis test; and (5-3-03)

c. The female cattle or domestic bison have been isolated in pens separate and apart from all other feedlot cattle since arrival at the feedlot and the isolation is maintained until the vaccinated cattle or domestic bison are removed from the feedlot; and (5-3-03)

d. All female cattle or domestic bison in the isolation pen are negative on an official brucellosis test prior to the vaccination and removal of any cattle from the isolation pen; and (5-3-03)

e. The female cattle or domestic bison are identified on a Certificate of Veterinary Inspection at the time of removal. (5-3-03)

07. Intact Males. Intact male cattle and domestic bison may be removed from an Idaho Approved Feedlot for breeding, dairy, or grazing purposes provided that the following conditions are met: (5-3-03)

a. The intact male cattle or domestic bison have been tested negative to trichomoniasis tests as provided in the trichomoniasis rules, IDAPA 02.04.03, "Rules of the Department of Agriculture Governing Animal Industry," Section 220. (5-3-03)

b. The intact male cattle or domestic bison have been isolated in pens separate and apart from other feedlot cattle since arrival at the feedlot. (5-3-03)

c. The intact male cattle or domestic bison are examined, tested for brucellosis, and identified on a Certificate of Veterinary Inspection at the time of removal. (5-3-03)

08. Interstate Commerce. Animal(s) moved in interstate commerce shall meet all applicable state and federal requirements. (5-3-03)

09. Approval of the Administrator. Vaccinated female cattle and intact male cattle being removed

from the feedlot for breeding, dairy or grazing purposes shall not be removed without notification, and if required, approval of and under the conditions determined by the administrator. (5-3-03)

254. TESTING.
Under the Brucellosis UM&R, Idaho Approved Feedlots are considered herds, not Quarantined Feedlots. (5-3-03)

01. MCI. In the event that MCI slaughter testing discloses reactor(s) that came from the approved feedlot, the test-eligible animals remaining in the feedlot will be subjected to a herd test for brucellosis, unless feedlot records are adequate to identify the herd from which the reactor(s) originated and an epidemiological investigation demonstrates that the cattle remaining in the feedlot are not exposed. (5-3-03)

02. Exposed Cattle. Cattle in an approved feedlot may be subject to testing for brucellosis if a brucellosis test conducted in the feedlot or an epidemiological investigation reveals that brucellosis exposed cattle have entered the feedlot. (5-3-03)

255. INSPECTION.
The feedlot premises, the cattle or domestic bison therein, and the feedlot records shall be presented for inspection to the Administrator at any reasonable time. (5-3-03)

256. REVOCATION OF APPROVED FEEDLOT STATUS.
The Administrator may revoke approved feedlot status by notifying the owner in writing. (5-3-03)

01. Failure to Comply. In addition to any other department administrative or civil action, failure on the part of the feedlot operator to comply with the requirements of this chapter shall result in revocation of the Idaho Approved Feedlot status. (5-3-03)

02. Operator Request. Operators may have the approved status revoked by emptying the feedlot and requesting in writing that the status be revoked. (5-3-03)

03. Regulation Changes. Idaho Approved Feedlot status may be revoked at such time as revocation is required by changes in state or federal rules or regulations. (5-3-03)

04. Disposition of Cattle and Domestic Bison. Should the Idaho Approved Feedlot status be revoked, cattle and domestic bison still in the feedlot shall be removed from the feedlot as provided in Section 252 of this rules. The Administrator shall have the authority to impose time limits for removal of cattle and bison. (5-3-03)

257. -- 299. (RESERVED)

300. OFFICIAL IDENTIFICATION OF DOMESTIC CERVIDAE.

01. Identification at Time of Brucellosis Testing. Domestic cervidae shall be individually identified with an official identification device and the individual identification recorded on an official test form, or any existing official identification on the animal shall be recorded on an official test form at the time of brucellosis testing. (5-3-03)

02. Identification of Reactors. Animals classified as reactors to an approved brucellosis test shall be identified by hot branding the letter "B" (at least two by two (2 x 2) inches) on the left hip and by placing an official reactor tag in the left ear before movement of the animal from the premises where tested. (5-3-03)

03. Identification of Suspect and Exposed Animals. Suspect and exposed animals shall be identified by hot branding the letter "S" (at least two by two (2 x 2) inches) on the left hip and the official eartag number shall be recorded on movement documents before movement of the animal from the premises where found or tested. (5-3-03)

04. Exception to Identification of Reactor, Suspect, and Exposed Animals. In lieu of tagging and branding reactor, suspect, or exposed animals, the Administrator may approve movement of these animals directly to slaughter in a sealed vehicle or accompanied by a state or federal animal health official. (5-3-03)

301. -- 319. (RESERVED)

320. TESTING REQUIREMENTS.

01. Issuance of Order for Testing, Quarantine, or Disposal of Domestic Cervidae. The Administrator shall determine when testing, quarantine, or disposal of domestic cervidae infected with or exposed to brucellosis is required, pursuant to Title 25, Chapters 2, 6, and [37] 35, Idaho Code. If the Administrator determines that testing or disposal of domestic cervidae or disinfection or sterilization of facilities is required, a written order shall be issued to the owner describing the procedure to be followed and the time period for carrying out such actions. (5-3-03)

02. Brucellosis-Free Certification of Domestic Cervid Herds. Domestic cervidae shall be tested in accordance with the UM&R for Brucellosis in Cervidae to obtain certification of a herd as brucellosis-free. All sexually intact animals six (6) months of age or older must have three consecutive negative tests nine (9) to fifteen (15) months apart for initial herd certification. (5-3-03)

321. DOMESTIC CERVIDAE BRUCELLOSIS ERADICATION AREA.
The Director is authorized to declare the entire state, a portion of the state, entire county or part of a county a domestic cervidae brucellosis eradication area, pursuant to Section 25-604, Idaho Code, in order to contain an outbreak of brucellosis and prevent spread of brucellosis to herds in other counties and areas of the state. (5-3-03)

322. TESTING AND MOVEMENT.
Testing and movement requirements related to cervidae brucellosis eradication areas shall be in accordance with the UM&R for Brucellosis in Cervidae. (5-3-03)

323. -- 399. (RESERVED)

400. OFFICIAL IDENTIFICATION OF SWINE.

01. Swine Tested at Farm. All swine bled on the farm as part of a complete herd test for swine brucellosis shall be individually identified by official VS-approved eartags, visible tattoos, or ear notches, provided the ear notch has been recorded in the book of record of a purebred registry association. (5-3-03)

02. Swine Tested at Market or Slaughter. Sows and boars six (6) months of age and older shall be identified by an official VS-approved paper or plastic backtag applied to the head or poll region and/or an official VS-approved eartag when tested for swine brucellosis at markets or slaughter establishments. (5-3-03)

03. Reactor Swine. Swine reacting to the swine brucellosis test shall be identified by placing an official VS-approved reactor tag in the left ear. (5-3-03)

401. -- 419. (RESERVED)

420. TESTING REQUIREMENTS.

01. Test Eligible Swine. Brucellosis testing of swine at markets, at slaughter establishments and farms when required by the UM&R for Control/Eradication of Swine Brucellosis shall be performed on sexually intact animals 6 months of age and older. (5-3-03)

02. Imported Domestic Swine. Test eligible swine shall be negative to a swine brucellosis test thirty (30) days prior to importation into Idaho unless, the swine are from a validated swine brucellosis-free herd or state. (5-3-03)

03. Semen Sold for Artificial Insemination. All herds that market swine semen shall be subjected to a complete herd test annually and be validated swine brucellosis free. (5-3-03)

421. SWINE BRUCELLOSIS ERADICATION AREA.

The Director is authorized to declare the entire state, a portion of the state, entire county or part of a county a swine brucellosis eradication area, pursuant to Section 25-604, Idaho Code, in order to contain an outbreak of brucellosis and prevent spread of brucellosis to herds in other counties and areas of the state. (5-3-03)

422. TESTING AND MOVEMENT.
Testing and movement requirements related to swine brucellosis eradication areas shall be in accordance with the UM&R for control/eradication of swine brucellosis. (5-3-03)

423. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adapted under the legal authority of Sections 25-203, 25-305, 25-401, 25-601, 25-3704, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing the Importation of Animals." (5-3-03)

02. Scope. These rules govern procedures, requirements, and qualifications for the importation of animals into the state of Idaho. (5-3-03)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
Copies of these documents may be obtained from the Idaho State Department of Agriculture Central Office. IDAPA 02.04.21 incorporates by reference: (4-11-06)

01. The October 1, 2003 Edition of the Brucellosis Eradication Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/umr_bovine_bruc.pdf. (3-29-17)

02. The September 30, 2003 Edition of the Brucellosis in Cervidae: Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/brucellosis/downloads/bcervumr.pdf. (3-29-17)

03. The April 1998 Edition of the Swine Brucellosis Control/Eradication: State-Federal-Industry Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_dis_spec/swine/downloads/sbruumr.pdf. (3-29-17)

04. The Code of Federal Regulations Title 9, Parts 71, 75, 77, 78, 85, 145, 147, and 161, January 1, 2016. This document can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?SID=9e3e2eff1a42367841dc92eee8d5324d&mc=true&tpl=/ecfrbrowse/Title09/9cfrv1_02.tpl#0. (3-29-17)

05. The January 1, 2005 Edition of the Bovine Tuberculosis Eradication Uniform Methods and Rules. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf. (3-29-17)

06. The November 1, 2003 Edition of the Pseudorabies Eradication, State-Federal-Industry Program Standards. This document can be viewed online at http://www.aphis.usda.gov/animal_health/animal_diseases/pseudorabies/downloads/program_stds.pdf. (4-11-06)

***07*. The January 10, 2007 Edition of the Equine Infectious Anemia: Uniform Methods and Rules**. This document can be viewed online at https://www.aphis.usda.gov/vs/nahss/equine/eia/eia_umr_jan_10_2007.pdf. (3-29-17)

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (5-3-03)

02. Animals. All vertebrates, except humans. (5-3-03)

03. Approved Brucella Vaccine. A vaccine product that is approved by and produced under license of the United States Department of Agriculture for administration to cattle, domestic bison, swine or domestic cervidae for the purpose of enhancing the resistance to brucellosis. (5-3-03)

04. Approved Equine Feedlot. A feedlot approved by the Administrator to feed equids intended to be shipped directly to slaughter within sixty (60) days of arrival to the feedlot and have not been officially tested for Equine Infectious Anemia (EIA) prior to importation into Idaho. (3-20-14)

05. Approved Feedlot. A feedlot approved by the Administrator to feed female cattle and domestic bison which have not been officially vaccinated against brucellosis or other bovidae not in compliance with Idaho's rules. (5-3-03)

06. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (5-3-03)

07. Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus Brucella. (5-3-03)

08. Brucellosis Surveillance Area or High Risk Areas. Any area of a state that has been identified by USDA/APHIS/VS or state animal health officials as an area that poses a greater risk for transmission of brucellosis than would be expected based upon the official classification of the state. (5-3-03)

09. Camelids. Llamas, alpacas, vicunas, camels. (5-3-03)

10. Cattle. All bovidae including domestic bison. (5-3-03)

11. Certificate. An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official or other approved official at the point of origin of the shipment of animal(s) being imported. (5-3-03)

12. Domesticated. Propagated and maintained under the control of a person. (5-3-03)

13. Domestic Bison. All animals in the family Bison that are owned by a person. (5-3-03)

14. Domestic Cervidae. Elk, fallow deer, and reindeer that are owned by a person. (5-3-03)

15. Equidae. Horses, ponies, asses, mules, zebras. (5-8-09)

16. Exposed. Animals that have had direct contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (5-3-03)

17. Federal Animal Health Official. An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (5-3-03)

18. Feeder Animals. Animals to be fed for slaughter only. (5-3-03)

19. Game Birds. Domesticated gallinaceous fowl such as pheasants, partridge, quail, grouse and guineas. (5-3-03)

20. Hatching Eggs. Fertilized eggs. (5-3-03)

21. Livestock. Means cattle, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. (5-3-03)

22. National CWD Herd Certification Program. A federal-state-industry cooperative program, as provided for in the Code of Federal Regulations, Title 9, Part 55, January 1, 2013. The program, administered by APHIS and implemented by participating states, establishes CWD surveillance and testing standards cervidae owners must achieve before interstate transport will be permitted. (3-20-14)

23. Negative. Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (5-3-03)

24. Official Identification. The unique individual identification of cattle, domestic bison, swine, or domestic cervidae in accordance with the rules governing each species. (5-3-03)

25. Official Vaccinate. Cattle or domestic bison female that was inoculated, in accordance with IDAPA 02.04.20 "Rules Governing Brucellosis" or the Brucellosis Eradication UM&R, with an approved Brucella vaccine. (5-3-03)

26. Poultry. The term means chickens, turkeys, ducks, geese, guinea fowl, pigeons, pheasants, domestic fowl, waterfowl and gamebirds. (5-3-03)

27. Quarantine. A written order executed by the Administrator to confine or hold animals on a premise, or any other location where found, and prevent movement of animals from a premise or any other location when the administrator has determined that the animals are infected with or exposed to a disease, or are not in compliance with the provisions of this chapter. (5-3-03)

28. Ratites. Ostrich, emu, rhea and cassowaries. (5-3-03)

29. Slaughter Animals. Animals of any kind for immediate slaughter, or those consigned for slaughter within fourteen (14) days of date of shipment. (5-3-03)

30. State Animal Health Official. The Administrator or his designee responsible for disease control and eradication programs. (5-3-03)

31. VHSV Positive Area. Any area or region that has been identified by USDA as affected by VHSV. (4-2-08)

32. Waterfowl. Domestic fowl that normally swim, such as ducks and geese. (5-3-03)

33. Wildlife. Any animal generally living in a state of nature except, domestic bison, domestic cervidae, domestic fur bearing animals, and fish. (4-2-08)

011. ABBREVIATIONS.

01. APHIS. Animal and Plant Health Inspection Service. (4-2-08)

02. AVIC. Area Veterinarian in Charge. (5-3-03)

03. AZA. Association of Zoos and Aquariums. (4-4-13)

04. BAPA. Buffered Acidified Plate Assay. (3-29-17)

05. BPAT. Buffered Antigen Plate-Agglutination Test. (3-29-17)

06. CF. Complement Fixation Test. (3-30-07)

07. CFR. Code of Federal Regulations. (5-3-03)

08. CWD. Chronic Wasting Disease. (5-3-03)

09. EIA. Equine Infectious Anemia. (5-3-03)

10. EVA. Equine Viral Arteritis. (5-8-09)

11. FPA. Fluorescence Polarization Assay. (3-29-17)

12. NAEBA. North American Elk Breeders Association. (5-3-03)

13. **NPIP**. National Poultry Improvement Plan. (5-3-03)

14. ***P. tenuis***. *Paralephastrongylus tenuis* (meningeal worm of deer). (4-11-15)

15. **PCR**. Polymerase Chain Reaction. (4-2-08)

16. **RDGF**. Red Deer Genetic Factor. (4-4-13)

17. **TB**. Tuberculosis. (5-3-03)

18. **UM&R**. Uniform Methods and Rules. (5-3-03)

19. **USDA**. United States Department of Agriculture. (5-3-03)

20. **VHSV**. Viral Hemorrhagic Septicemia Virus. (4-2-08)

21. **VS**. Veterinary Services. (5-3-03)

012. APPLICABILITY.
These rules apply to all animals imported into the state of Idaho. (5-3-03)

013. -- 049. (RESERVED)

050. REQUIREMENTS OF TITLE 9, PARTS 71, 75, 77, 78, 85, 145, 146, 147, AND 161, CFR.
In addition to meeting the requirements of this chapter for entry, animals imported into Idaho shall meet all applicable requirements set forth in the Title 9, Parts 71, 75, 77, 78, 85, 145, 146, 147, and 161, CFR, January 1, 2006. (5-8-09)

051. POST ENTRY INSPECTIONS.
All animals entering Idaho may be subject to a post-entry inspection by state or federal animal health officials. (5-3-03)

052. -- 099. (RESERVED)

100. CERTIFICATES OR PERMIT REQUIRED.
Unless otherwise specifically provided in this chapter, all animals transported or moved into the state of Idaho shall be accompanied by: (5-3-03)

01. **Certificate of Veterinary Inspection**. An official certificate of veterinary inspection; or (5-3-03)

02. **Other Approved Certificates**. Other certificate approved by the Administrator; and (5-3-03)

03. **Permit**. A permit issued by the Administrator, if required. (5-3-03)

04. **Possession**. The certificate, and permit if required, shall be attached to the waybill or be in the possession of the driver of the vehicle at the time of importation. (5-3-03)

101. CONTENTS OF CERTIFICATES.
All certificates shall provide a written, legible record attesting the animal(s) meet the importation requirements of the state of Idaho. The certificate shall be on an official form of the state of origin, if applicable, be approved by its livestock sanitary official and be issued by an accredited veterinarian. All certificates shall contain the following information: ( )

01. **Name and Address**. Name and address of the consignor and consignee; and (5-3-03)

02. **Origin of Shipment**. Including city and state; and (5-3-03)

03. Final Destination of Shipment. Including city and state; and (5-3-03)

04. Description of Animals. An accurate description and identification of each animal if required; and (5-3-03)

05. Purpose of Shipment. The purposes for which the animals were shipped, and method of transportation; and (5-3-03)

06. Health Status. The certificate shall indicate the health status of the animals involved including dates and results of inspection and of tests and vaccinations, if any, required by the state of Idaho; and (5-3-03)

07. Signature. The signature of the accredited veterinarian, or state or federal animal health official, conducting the veterinary inspection. (5-3-03)

08. Mailing Certificate to Idaho. The required copies of certificates of veterinary inspection or other approved certificates shall be mailed, within *seven* (*7*) days of inspection, to the Division of Animal Industries, P.O. Box 7249, Boise, ID 83707. *( )*

09. Period of Certificate Validity. Certificates of veterinary inspection shall be valid for no longer than thirty (30) days after the date *issued*. *( )*

102. EXTENDED VALIDITY EQUINE CERTIFICATES.
Equidae from other states may enter the state of Idaho for shows, rides or other equine events and return to the state of origin on an extended validity equine certificate provided there is a written agreement between the Administrator and the chief livestock official of the state of origin *or the provider of an approved electronic extended validity equine certificate system*. *( )*

01. Valid for One Animal. An extended validity equine certificate shall be valid for only one (1) animal. Each animal shall have a separate certificate. (5-3-03)

02. Contents. Extended validity equine certificates shall contain the following information: name and address of the owner, location at which the animal is stabled, housed, pastured or kept, if different from that of the owner, an accurate description and identification of the animal, date of veterinary inspection, dates and results of EIA or other required tests or vaccinations, if applicable, and signature of inspecting veterinarian. *( )*

03. Period of Validity. Extended validity equine certificates are valid for no longer than six (6) months from date of veterinary inspection for the certificate. (3-30-07)

04. Travel Itinerary. Recipients of extended validity equine certificates shall submit travel itinerary *information* to the Division of Animal Industries *or electronic certificate provider prior to movement into Idaho or to a new destination within Idaho*. The travel itinerary shall provide a listing of all travel into the state of Idaho, including travel dates, purpose for travel and destinations, during the period of validity of the certificate. *( )*

05. Cancellation. Extended validity equine certificates may be canceled at any time by the Administrator in the event of serious or emergency disease situations or for non-compliance with the provisions of these rules. (5-3-03)

103. NPIP CERTIFICATE.
Poultry imported from NPIP certified flocks may be moved with VS Form 9-3 in lieu of a certificate of veterinary inspection. (5-3-03)

104. IMPORT PERMITS.
Request for permits to import animals, *when applicable*, into the state of Idaho shall be directed to the Division of Animal Industries *online Import Permit System at https://www.isda.idaho.gov/AnimalImport/ or by* telephone (208) 332-8540. *( )*

01. Telephone Requests. Import permits may be requested by telephone during office hours as stated in Section 005. *( )*

02. Contents of a Permit Request. The request for an import permit shall include the following information: (5-3-03)

a. Name*, physical* address*, and phone number* of the consignor and consignee; *( )*

b. Number and kind of animals; (5-3-03)

c. Origin of shipments; (5-3-03)

d. Final destination; (5-3-03)

e. Purpose of shipment; (5-3-03)

f. *Date* of shipment; (5-3-03)

g. Results of any required tests, inspections or vaccinations*; and* (5-3-03)

h. *Issuing veterinarian contact information.* *( )*

03. Timeframe for Requesting a Permit. Permits may be requested no more than seventy-two (72) hours in advance of the shipment of the animals. (5-3-03)

04. Period of Validity. Permits are valid for no longer than fifteen (15) days from the date of issuance unless otherwise specified. (5-3-03)

105. TO WHOM MAY ANIMALS BE CONSIGNED.
Animals transported or moved into the state shall be consigned to a person residing in Idaho or to a person authorized by law to do business in the state of Idaho. (5-3-03)

106. DIVERSION OF ANIMALS AFTER SHIPMENT.
No person consigning, transporting or receiving animals in the state of Idaho shall authorize, order or carry out diversion of such animals to a destination or consignee other than set forth on the certificate of veterinary inspection or permit without notifying the Division of Animal Industries within seventy-two (72) hours of the diversion. (5-3-03)

107. ANIMALS EXPOSED TO DISEASE OR ORIGINATING IN A QUARANTINED AREA.
No animals affected with or which have been exposed to any infectious, contagious, or communicable disease, or which originate in a quarantined area shall be transported or moved into the state of Idaho unless a permit for such entry is first obtained from the Division of Animal Industries, except such animals in classifications allowed interstate shipment under specified requirements of the USDA may move without permit if in compliance with Title 9, Parts 71, 77, 78, 85, 145, and 147 CFR requirements. (5-3-03)

108. QUARANTINE IMPOSED IF NO CERTIFICATE OR PERMIT ISSUED.
Animals entering the state of Idaho without a valid certificate of veterinary inspection or other approved certificate, and a permit, if required, shall be held in quarantine at the risk and expense of the owner. (5-3-03)

01. Duration of Quarantine. Such animals shall remain under quarantine until the quarantine is released by a state or federal animal health official. (5-3-03)

02. Animals Without a Certificate. The Administrator may order animals that are not in compliance with certificate of veterinary inspection requirements to be slaughtered, removed from the state, or confined to an approved feedlot. (5-3-03)

03. Hold Order. Quarantines may take the form of a hold order. (5-3-03)

109. VESICULAR STOMATITIS.
No livestock may enter Idaho from another state if Vesicular Stomatitis has been diagnosed on the premises of origin of the shipment within the last thirty (30) days. (4-11-15)

01. Certificate of Inspection. Any livestock entering Idaho from a state where Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a certificate of veterinary inspection with the following statement written by the accredited veterinarian on the certificate: "All animals identified on this certificate of veterinary inspection have neither been exposed to Vesicular Stomatitis nor located within an area where Vesicular Stomatitis has been diagnosed." ( )

02. Permit for Entry. Livestock from states in which Vesicular Stomatitis has been diagnosed within the last thirty (30) days shall be accompanied by a permit for entry into Idaho. The permit number shall be written on the certificate of veterinary inspection. (5-3-03)

110. GENERAL DUTIES OF CARRIER.
All owners and operators of railroads, trucks, airplanes, or other conveyances shall conform to all rules and statutes of the state of Idaho in transporting or moving any animals into, within or through the state of Idaho. (5-3-03)

01. Duties of Carrier Regarding Certificates of Veterinary Inspection or Permits. All owners and operators of conveyances used in the transportation of animals into or within the state of Idaho shall assure each consignment or shipment is in conformity with the applicable statutes and rules of the state of Idaho, and is accompanied by an official certificate of veterinary inspection or by a permit, or by both, where so required. Such certificate of veterinary inspection or permit shall be in the possession of the attendant in charge of the animals. ( )

02. Sanitary Condition of Cars, Trucks and Airplanes. All railroad cars, trucks, airplanes, or other conveyances used in the transportation of animals shall be maintained in a clean and sanitary condition. (5-3-03)

03. Disinfection of *Conveyances*. All owners and operators of conveyances that have been used for movement of animals infected with or exposed to any infectious disease shall have such conveyances thoroughly cleaned and disinfected under official supervision by any accredited veterinarian or state or federal animal health official, at the point of destination or by permit from the sanitary officials, may be moved to some other point for cleaning and disinfecting. ( )

111. ADDITIONAL IMPORT REQUIREMENTS.
The Administrator may impose additional or more restrictive import requirements than the requirements in this chapter by issuing a written order stating the additional requirements and the reasons for the requirements. (5-3-03)

112. -- 199. (RESERVED)

200. IMPORTATION OF CATTLE INTO IDAHO.
All cattle that enter the state of Idaho shall possess appropriate official individual identification, if required, and be accompanied by a certificate of veterinary inspection attesting they are free from evidence of any infectious disease, or exposure thereto, and by a permit if required, except: ( )

01. Approved Slaughter Establishments. Cattle consigned directly to approved slaughter establishments shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

02. Specifically Approved Livestock Market. Cattle consigned directly to specifically approved livestock markets shall be accompanied by a statement of ownership such as a brand certificate or waybill, and a permit, if required; or (5-3-03)

03. Feedlots Approved by the Administrator. Cattle consigned directly to feedlots approved by the Administrator for conducting veterinary inspections upon the arrival of the cattle. (5-3-03)

04. Post-Entry Inspection. All cattle entering Idaho may be subject to a post-entry inspection by state or federal animal health officials. (5-3-03)

201. CATTLE AND BISON IMPORTED FROM CANADA.
All cattle and bison imported into Idaho from Canada, except those imported directly to slaughter, must: (5-8-09)

01. Idaho Requirements. Meet all Idaho import requirements. (5-8-09)

02. USDA Requirements. Meet all USDA import requirements. (5-8-09)

03. Individually Identified. Be individually identified on a certificate of veterinary inspection. (5-8-09)

04. Import Permit. Be accompanied by an import permit issued by the Division. (5-8-09)

202. WHEN PERMITS ARE REQUIRED FOR CATTLE.

01. Dairy. For all intact male and female cattle of dairy breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market. All dairy cattle shall be officially identified as provided in Section 203 of these rules. (3-29-17)

02. Beef Bulls. All bulls of beef breeds not consigned directly to an approved slaughter establishment, or to a specifically approved livestock market, except intact male calves accompanying their dams. (5-3-03)

03. Female Beef Cattle. All intact female cattle of beef breeds not consigned directly to an approved slaughter establishment or to a specifically approved livestock market that are: (5-3-03)

a. From states or areas that are not Brucellosis Class Free; or (5-3-03)

b. Not officially vaccinated pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis," except calves over one hundred twenty (120) days of age accompanying their dam; or (4-11-06)

c. Under one hundred twenty (120) days of age, except calves accompanying their dam. (5-3-03)

04. Restricted Areas. All cattle from areas or states on which Idaho or USDA has imposed restrictions. (5-3-03)

05. Domestic Bison. *D*omestic bison imported into Idaho shall be in compliance with the same requirements as cattle. *( )*

06. Canadian Cattle and Canadian Domestic Bison. All cattle and Canadian domestic bison imported into Idaho from Canada, except those imported directly to slaughter, must have an import permit prior to importation. (4-4-13)

07. Other. Cattle of any classification that do not meet other entry requirements. (5-3-03)

203. OFFICIAL IDENTIFICATION OF IMPORTED CATTLE.

01. Beef Cattle. All sexually intact beef breed cattle, eighteen (18) months of age or older, shall possess official individual identification. (3-29-17)

02. Dairy Cattle. All dairy breed cattle, regardless of age, shall possess official individual identification. (3-29-17)

204. -- 209. (RESERVED)

210. BRUCELLOSIS VACCINATION REQUIREMENTS.

All intact female cattle entering Idaho shall have been officially vaccinated for brucellosis except: (5-3-03)

01. Cattle Consigned to Slaughter. Female cattle consigned directly to an approved slaughter establishment; or (5-3-03)

02. Cattle Consigned to Specifically Approved Livestock Markets. Female cattle consigned directly to a specifically approved livestock market; or (5-3-03)

03. Approved Feedlot. Female cattle consigned directly to an Idaho approved feedlot, by permit; or (5-3-03)

04. Calves. Female calves less than one hundred twenty (120) days of age by permit; or (5-3-03)

05. Vaccination on Arrival. Non-vaccinated females may, by permit, be consigned to a qualified destination approved by the Administrator to be officially vaccinated on arrival pursuant to IDAPA 02.04.20, "Rules Governing Brucellosis"; or *( )*

06. Show Cattle. Female cattle may enter Idaho for the purpose of participating in shows or exhibitions, by permit. (5-3-03)

211. BRUCELLOSIS TEST REQUIREMENTS.

01. Class A States or Areas. All test eligible cattle from Class A states or areas shall have been tested negative within thirty (30) days of importation unless consigned to slaughter. (5-3-03)

02. Brucellosis Surveillance or High Risk Areas. Test eligible cattle from brucellosis surveillance areas or brucellosis high risk areas shall be tested negative to an official brucellosis test within thirty (30) days before importation into Idaho except those cattle consigned directly to an approved slaughter establishment, or a specifically approved livestock market where they shall be tested prior to sale. Such cattle sold to a destination other than an approved slaughter establishment may be held under quarantine for forty-five (45) to one hundred twenty (120) days to allow for additional brucellosis tests. (5-3-03)

212. TEST ELIGIBLE CATTLE.
Test eligible cattle are: (5-3-03)

01. Unvaccinated or Vaccinated with Brucella Abortus Strain RB 51 Vaccine. All intact male and female cattle, *twelve* (*12*) months of age or older. *( )*

02. **All Test Eligible Cattle Entering Idaho**. All test eligible cattle entering Idaho shall be officially identified on the certificate of veterinary inspection. (5-3-03)

213. -- 219. (RESERVED)

220. GRAZING CATTLE.
Cattle herds moved into Idaho or from Idaho to other states for seasonal grazing periods shall be moved only under special grazing permits issued jointly by the Division of Animal Industries and the chief livestock sanitary official in a state which reciprocates with Idaho in honoring grazing permits. (3-30-07)

01. Grazing Permits. Grazing permits shall be for one (1) specified season only and be issued *prior to movement* on a case-by-case basis. *( )*

02. Tests. The Administrator, in cooperation with the appropriate agency of the reciprocating state, shall have the authority to impose tuberculosis, brucellosis, trichomoniasis, or other tests on cattle entering for grazing purposes. This test requirement shall be evaluated on an annual basis by the Administrator and the chief livestock sanitary official of the reciprocating state. (4-2-08)

03. Herd Ownership. Cattle herds permitted to move under the provisions of Section 220 shall be

established herds. Change of ownership of the herd shall not be allowed while the herd is under the requirements of the grazing permit, and the cattle shall be moved interstate with such certification, identification and testing requirements as the Administrator may require. (3-20-04)

221. -- 229. (RESERVED)

230. EMERGENCY SITUATIONS.
Cattle may be imported into the state of Idaho in emergency situations under special permit from the Administrator. (5-3-03)

01. Cattle Held Separate. Cattle allowed entrance under this provision shall be held separate and apart from Idaho cattle and quarantined for a specific time period to a specific area for grazing or feeding purposes. (5-3-03)

02. Cattle Returned to State of Origin. At the end of the quarantine time period the cattle will be returned to the state of origin, but shall meet the state of origin's import requirements prior to departure from Idaho. (5-3-03)

03. Cattle That Remain in Idaho. If an owner desires to leave such cattle in Idaho after the time period has expired, then such cattle shall meet the same health and test requirements as would normally be required of any imported cattle and this shall be done at the owner's expense. (5-3-03)

231. -- 239. (RESERVED)

240. TUBERCULOSIS TEST REQUIREMENTS.
Cattle and domestic bison may enter the state of Idaho provided: (5-3-03)

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

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

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

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

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

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

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

b. All other cattle and bison, except those moving on grazing permits issued by the Administrator under the provisions of Section 220 and those consigned directly to slaughter at an approved slaughter establishment, shall be tested for tuberculosis with negative results within sixty (60) days prior to entry into Idaho. (3-29-17)

c. Tuberculosis testing requirements in Subsection 240.03 may be waived, with administrator-approval, for feeder animals of beef breeds and bison originating from a modified accredited advanced state or zone previously classified as accredited free if the state of origin has had no laboratory confirmed case or other epidemiological evidence of tuberculosis in the previous twelve (12) months and the herd of origin is not under hold order, quarantine, or epidemiological investigation for tuberculosis. (4-7-11)

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

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

b. The cattle and bison are consigned directly to slaughter at an approved slaughter establishment; or (3-29-17)

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

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

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

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

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

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

07. Rodeo Stock. All cattle six (6) months of age or older imported into Idaho for rodeo or timed events must have been tested negative for bovine tuberculosis within twelve (12) months prior to importation into Idaho. (4-7-11)

241. -- 259. (RESERVED)

260. TRICHOMONIASIS.
The Certificate of Veterinary Inspection for bulls imported into Idaho shall contain a statement certifying that trichomoniasis is not known to exist in the herd of origin, and: (5-3-03)

01. Virgin Bulls Less Than Eighteen Months of Age. The virgin bull(s) are less than eighteen (18) months of age and have not serviced a cow; or (3-25-16)

02. Tested Bulls. The bull(s) have been tested by culture or PCR for trichomoniasis within sixty (60) days of shipment, were negative to the test, and have not been exposed to female cattle since the test sample was collected. (3-25-16)

03. Exceptions. Exceptions to certification and testing: (5-3-03)

a. Bulls consigned directly to slaughter at an approved slaughter establishment; or (5-3-03)

b. Bulls consigned directly to an approved feedlot; or (5-3-03)

c. Bulls consigned directly to a specifically approved livestock market; or (5-3-03)

d. Rodeo bulls imported by an Idaho based rodeo producer, with an approved rodeo bull lot as described in IDAPA 02.04.29, "Rules Governing Trichomoniasis," Section 400 or rodeo bulls imported to perform at specific rodeos in Idaho. (4-7-11)

e. Bulls imported for exhibition at livestock shows, provided the bull will be returned to its state of origin, will not be exposed to female cattle, and will not be offered for sale. (4-7-11)

261. -- 299. (RESERVED)

300. EQUIDAE.
All horses, mules, asses and other equidae that are to be transported or moved into the state of Idaho shall be accompanied by an official certificate of veterinary inspection or extended validity equine certificate, from the state of origin, stating that the equidae are free from evidence of any communicable disease and have completed EIA test requirements, except as provided in this section. (4-4-13)

01. EIA Test Requirements. An official EIA test is a blood test conducted by a USDA approved laboratory, within twelve (12) months prior of entry of the equidae into Idaho. (3-30-07)

a. Entry of equidae into Idaho shall not be allowed until the EIA test has been completed and reported negative. Equidae which test positive to the EIA test shall not be permitted entry into Idaho, except by special written permission from the Administrator. (5-3-03)

b. A nursing foal less than six (6) months of age accompanied by its EIA negative dam is exempt from the test requirements. (5-3-03)

02. Working Horses Included on Grazing Permits. "Working horses" used for seasonal ranching purposes may be exempt from the requirements of this section if the horses have been included on a current grazing permit which has received prior approval from the Administrator and the chief livestock official in a state which reciprocates with Idaho in honoring grazing permits. *( )*

03. Approved Equine Feedlot. Equids imported to be fed for slaughter in an equine feedlot approved by the Administrator may be exempt from EIA test requirements provided: (3-29-17)

a. Horses qualified into the approved facility must be sent directly to slaughter within sixty (60) days; (3-29-17)

b. A distance of no less than two hundred (200) yards is maintained at all times between designated slaughter horses and all other equids; (3-29-17)

c. Feedlot owners maintain complete and accurate records of the disposition of all equids qualified into the approved equine feedlot; and (3-29-17)

d. Feedlot owners annually apply for renewal of approved feedlot status prior to expiration on December 31st of each calendar year. (3-29-17)

04. Reciprocal Agreements. The Administrator may enter into cooperative reciprocal agreements with neighboring states which exempt EIA testing requirements for movement of equidae between the cooperating states. (5-3-03)

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

400. IMPORTATION OF SWINE.
Swine may enter the state of Idaho provided, they are individually identified by official ear tags or other approved techniques indicating the state and herd of origin, a permit has been issued for their entry by the Division of Animal Industries, and they are accompanied by a certificate of veterinary inspection attesting to the following: (3-30-07)

01. Animals Inspected. All swine have been inspected within thirty (30) days prior to the date of shipment, and that they are free from evidence of all infectious diseases, or known exposure thereto during the preceding sixty (60) days; and *( )*

02. Vaccination. The swine have not been vaccinated with any pseudorabies vaccine; and (5-3-03)

03. Garbage. The swine have not been fed raw garbage. (5-3-03)

04. Slaughter Swine Exceptions. Swine directly to slaughter that are apparently healthy may enter the state of Idaho without a certificate of veterinary inspection, provided the applicable permit requirements are met and the swine are consigned directly to an approved slaughter establishment, or to a specifically approved livestock market for sale to an approved slaughter establishment. (3-29-17)

401. BRUCELLOSIS REQUIREMENTS.
Breeding swine shall be tested negative for brucellosis at a dilution of one to twenty-five (1:25) on the standard tube test within thirty (30) days prior to entry or negative to Official Card Test, within thirty (30) days prior to entry, or originate from a validated brucellosis free herd or validated brucellosis free state. (5-3-03)

402. PSEUDORABIES REQUIREMENTS.

01. Breeding Swine. Breeding swine may be shipped directly from: (5-3-03)

a. A farm of origin or a specifically approved livestock market in a Stage IV or V state/area without Pseudorabies testing; or (5-3-03)

b. A qualified Pseudorabies-negative herd with a negative official Pseudorabies test within thirty (30) days prior to entry into Idaho; or (5-3-03)

c. A farm of origin or a specifically approved livestock market in any other state or area with a negative official Pseudorabies test within thirty (30) days prior to entry and such swine must be quarantined in isolation at destination and retested thirty (30) to sixty (60) days following importation. (5-3-03)

02. Feeder Pigs. Feeder pigs may be shipped directly from: (5-3-03)

a. A farm of origin or a specifically approved livestock market in a Stage IV or V state/area, or be shipped directly from a qualified Pseudorabies-negative herd without a Pseudorabies test; or (5-3-03)

b. A farm of origin or a specifically approved livestock market in any other state or area with a negative official Pseudorabies test within thirty (30) days prior to entry. Such swine must be quarantined in isolation at destination and retested thirty (30) to sixty (60) days following importation. (5-3-03)

03. Slaughter Swine. Slaughter swine that are known to be exposed to Pseudorabies may be shipped

directly to an approved slaughter establishment by permit. Slaughter swine, which are not known to be infected or exposed, may be imported from a state/area with a program status up to and including Stage III, for movement directly to an approved slaughter establishment, with a permit. Slaughter swine from Stage IV or V state/area, which are not known to be infected or exposed, may be imported directly to approved slaughter establishments or to specifically approved livestock markets for sale to approved slaughter establishments, without a permit. (5-3-03)

403. -- 499. (RESERVED)

500. DOGS AND CATS.

01. Dogs. All dogs imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such dogs are apparently free from any infectious. *Dogs three (3) moths of age or older shall have been vaccinated for rabies.* Dogs three (3) months of age or older originating from a rabies quarantined area must have a permit from the Division of Animal Industries prior to importation. *( )*

02. Cats. All cats imported into the state of Idaho shall be accompanied by an official certificate of veterinary inspection attesting that such cats are apparently free from any infectious disease. Cats three (3) months of age or older shall have been vaccinated for rabies. *( )*

03. Permits Required. The Administrator may require any dog or cat, from an area that has been determined to pose a significant threat of disease, to have an import permit prior to movement into Idaho. (5-3-03)

501. -- 599. (RESERVED)

600. IMPORTATION OF DOMESTIC CERVIDAE.
Domestic cervidae may enter the state of Idaho, by permit, provided: (5-3-03)

01. Certificate of Veterinary Inspection. The cervidae are accompanied by a certificate of veterinary inspection certifying that they have been inspected within thirty (30) days prior to the date of shipment, that they are free from evidence of infectious diseases, or known exposure thereto during the preceding sixty (60) days; and*( )*

02. Meet Testing Requirements. The cervidae shall meet the testing requirements of Section 601. (5-3-03)

03. National CWD Herd Certification Program Participation. All cervidae must originate from a herd that is in good standing and actively participating in the National CWD Herd Certification Program. (3-20-14)

04. Deworming Requirement. All cervidae, except those consigned directly to slaughter at an approved slaughter establishment, are required to receive anthelminthic, approved for treatment of *P. tenuis*, within thirty (30) days prior to import into Idaho. Treatment must be documented on the certificate of veterinary inspection. (3-29-17)

05. *P. tenuis* Statement. The certificate of veterinary inspection accompanying the cervidae shipment must contain the following written statement from the accredited veterinarian on the certificate: "No cervids identified on this certificate of veterinary inspection have displayed symptoms consistent with *P. tenuis* infection. These cervids have neither been exposed to *P. tenuis* or originated from a premises where *P. tenuis* has been identified." (4-11-15)

601. TESTING REQUIREMENTS.
All cervidae imported into Idaho shall meet the following test requirements: (3-29-17)

01. Brucellosis. Animals six (6) months of age and older *originating from a brucellosis surveillance area or brucellosis high risk area* shall be negative to at least two (2) different official brucellosis tests from a single blood sample, one (1) of which shall be the BAPA/BPAT and the other shall be the FPA, within *sixty* (*60*) days prior to entry, or the animals shall originate directly from a Brucellosis certified free herd or a brucellosis class free state for cervidae. *( )*

02. Red Deer Genetic Factor. Elk shall have either tested negative for red deer genetic factor (RDGF) by a laboratory approved by the Division of Animal Industries, or shall have been registered with NAEBA or the Canadian Food Inspection Agency, or a state with an ISDA approved RDGF prevention program. (4-4-13)

03. Tuberculosis. Cervid imports shall comply with all provisions of the "Uniform Methods and Rules – Bovine Tuberculosis Eradication" and Title 9, Part 77 CFR, which is incorporated by reference in Subsection 004.05 of this Chapter. (3-29-17)

04. Exceptions. Domestic cervids consigned directly to slaughter at an approved slaughter establishment. (3-29-17)

602. INDIVIDUAL IDENTIFICATION.
Each cervid animal imported shall be individually identified in accordance with the National CWD Herd Certification Program requirements, with two (2) forms of official identification for each animal according to IDAPA 02.04.19, "Rules Governing Domestic Cervidae.". (3-20-14)

603. DESTINATION.
Imported domestic cervidae shall be delivered only to approved slaughter establishments, or domestic cervidae ranches, which are in compliance with the domestic cervidae rules. (4-2-08)

604. IMPORT PERMIT.
Domestic cervidae imported into Idaho shall require a permit issued by the Division of Animal Industries. (5-3-03)

605. MENINGEAL WORM.
Importation of domestic cervidae known to be infected with *P. tenuis* is prohibited. (4-11-15)

606. MOVEMENT OF CERVIDAE BETWEEN AZA AND USDA FACILITIES.
Movement of cervidae between facilities that are either AZA accredited or hold a USDA exhibitor permit are exempt from the tuberculosis testing requirements of this rule. All other movement to or from facilities that are not AZA-accredited or hold a USDA exhibitor permit shall comply with the tuberculosis testing requirements. (4-4-13)

607. FROM CERTIFIED CWD FREE HERD.
All elk imported into Idaho shall originate from a herd that has been enrolled in a CWD monitoring program for at least sixty (60) months and which has been determined to have certified CWD free cervid herd status by the animal health official of the state of origin. (5-3-03)

01. Records. In order to qualify for CWD free status, the records and causes of death for the past five (5) years in the herd shall be made available to the state animal health official of the state of origin, and the Division of Animal Industries upon request. (5-3-03)

02. Exceptions. The Administrator, after conducting an evaluation, may grant exceptions to the provisions of this Section on a case-by-case basis. (5-3-03)

608. -- 649. (RESERVED)

650. FISH.
No person shall import, transport, receive or otherwise bring into the State of Idaho any live fish or viable hatching eggs that are listed as Deleterious Exotic Animals in IDAPA 02.04.27 "Rules Governing Deleterious Exotic Animals," or Invasive Species as listed in IDAPA 02.06.09, "Rules Governing Invasive Species." (4-4-13)

651. -- 659. (RESERVED)

660. CERTIFICATE AND PERMIT.
In addition to any permits or certifications required by the Idaho Department of Fish and Game, all live fish and viable hatching eggs imported into Idaho must be accompanied by an import permit issued by the Administrator; and (5-8-09)

01. A Certificate of Veterinary Inspection Issued in the State of Origin; or (5-8-09)

02. Title 50 Certification; or (5-8-09)

03. American Fisheries Society Certified Fish Health Inspector's Certification. (5-8-09)

661. ORIGIN OF FISH.
All shipments of live fish and viable hatching eggs imported into Idaho must be accompanied by an invoice or bill of lading that clearly describes the origin(s), species, inventory, lot number, and destination of all fish in the shipment. (4-2-08)

662. -- 669. (RESERVED)

670. VHSV POSITIVE AREAS.
No fish or viable hatching eggs from any VHSV positive area shall be imported into Idaho unless the shipment has been authorized and is accompanied by a permit issued by the director of the Idaho Department of Fish and Game. (4-2-08)

671. -- 699. (RESERVED)

700. AVIAN SPECIES.
All birds imported into Idaho shall have either a certificate of veterinary inspection or other approved certificate. (5-3-03)

701. POULTRY.
All poultry imported into the state of Idaho shall either: (5-3-03)

01. Originate from NPIP Flock. Originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment; or (5-3-03)

02. Salmonella Test. Every bird in the shipment shall be tested negative for *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, *Mycoplasma synoviae*, and *Mycoplasma gallisepticum* within the past thirty (30) days and have a valid certificate of veterinary inspection accompany the shipment. Test results shall be recorded on the certificate of veterinary inspection. (5-3-03)

702. POULTRY HATCHING EGGS.
All poultry hatching eggs being imported into Idaho shall: (5-3-03)

01. NPIP Flock. Originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment; or (5-3-03)

02. Negative Birds. Come from birds that have been tested negative to *Salmonella pullorum-typhoid*, *Salmonella enteritidis*, *Mycoplasma synoviae, and Mycoplasma gallisepticum* within the past thirty (30) days prior to shipment and the test results for the parent birds shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the egg shipment. *( )*

703. RATITES.
Ratites imported in the state of Idaho shall: (5-3-03)

01. Originate from NPIP Flock. Originate from a certified NPIP flock and have a valid VS Form 9-3 accompanying the shipment, and an accompanying statement signed by the owner that contains one (1) of the following statement(s): (5-3-03)

a. "These birds have been inspected and are visibly free of external parasites"; or (5-3-03)

b. "These birds have been treated for external parasites prior to shipment." (5-3-03)

02. Not Originating From a NPIP Flock. Ratites originating from a non-NPIP flock shall be tested negative for *Salmonella pullorum-typhoid* and *Salmonella enteritidis* within the past thirty (30) days prior to shipment, and the test results shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the shipment. The certificate of veterinary inspection shall contain one (1) of the following statement(s): (5-3-03)

a. "These birds have been inspected and are visibly free of external parasites"; or (5-3-03)

b. "These birds have been treated for external parasites prior to shipment"; and (5-3-03)

704. RATITE HATCHING EGGS.
All ratite hatching eggs imported into the state of Idaho shall: (5-3-03)

01. NPIP Flock. Originate from a certified NPIP ratite flock and have a valid VS Form 9-3 accompanying the shipment; or (5-3-03)

02. Negative Birds. Come from birds that have been tested negative to *Salmonella pullorum-typhoid* and *Salmonella enteritidis* within the past thirty (30) days prior to shipment and the test results for the parent birds shall be recorded on a valid certificate of veterinary inspection issued within the last thirty (30) days, which shall accompany the egg shipment. (5-3-03)

***705*. PSITTACINE BIRDS.**
Parakeets and other psittacine birds that will not be commercially exchanged in any manner may enter the state of Idaho with a certificate of veterinary inspection. Parakeets and other psittacine birds that are being imported for the purposes of commercial sale or exchange shall have both a permit and a certificate of veterinary inspection. (5-3-03)

***706*. -- 709. (RESERVED)**

710. DOMESTIC FUR-BEARING ANIMALS.
All domestic fur bearing animals which are transported or moved into the state of Idaho are required to have a certificate of veterinary inspection from the state of origin and an import permit from the Division of Animal Industries. (3-30-07)

01. Certificate and Permit. The certificate and permit shall accompany the shipment of the animals. (3-30-07)

02. Mink. All mink imported into the state of Idaho shall be tested negative for Aleutian Disease using the counterelectrophoresis (CEP) test, within thirty (30) days prior to import. Negative test results shall be recorded on the certificate of veterinary inspection. (3-30-07)

03. Other Tests. The Administrator may approve tests other than CEP for Aleutian Disease testing. (4-2-08)

711. -- 719. (RESERVED)

720. WILDLIFE AND EXOTIC ANIMALS.
All native and non-native wildlife, and all exotic animals imported into Idaho: (5-3-03)

01. Deleterious Exotic Animals. No person shall import deleterious exotic animals into the state of Idaho except as provided in IDAPA 02.04.27, "Rules Governing Deleterious Exotic Animals." (3-20-04)

02. Wildlife and Exotic Animals, Except Deleterious Exotic Animals. Wildlife and exotic animals, except deleterious exotic animals, and all matters pertaining to any restrictions governing their movement into the state of Idaho, are under the authority of the Idaho Department of Fish and Game. (3-20-04)

03. Certificate and Permit. In addition to any requirements of the Idaho Department of Fish and Game, wildlife and exotic animals are required to have a certificate of veterinary inspection from the state of origin

and an import permit from the Division of Animal Industries. (3-20-04)

04. Additional Requirements. The Administrator may impose test and certification requirements, for diseases of concern, on any native or non-native wildlife, or exotic animals imported into Idaho. (5-3-03)

721. -- 799. (RESERVED)

800. BIOLOGICS.

01. USDA License. Serum, vaccines, bacterins and biological remedies of all kinds used as diagnostic agents or used in the treatment of diseases of animals shall not be sold, distributed or used within the state of Idaho or imported into the state for sale, distribution or use unless such serum, vaccines, bacterins and biological remedies have been produced under a license issued by USDA/AHPIS/VS. (5-8-09)

02. Shipping Virulent Blood or Living Virus. All manufacturers, dealers and distributors of biological products are hereby prohibited from shipping any virulent blood or living virus or bacteria (*Brucella abortus* vaccine) of any disease affecting animals into the state of Idaho except with the written permission of the Administrator, and no living virus for use in animals or poultry shall be distributed or used within the state of Idaho unless approved by the Administrator in writing. (5-3-03)

03. Labels. No permit under Subsections 800.01 and 800.02 of this rule shall be issued unless the product is contained in vessels bearing labels approved by the Division of Animal Industries, properly identifying the product by proper name and description, bearing adequate directions for the use of the product, and bearing no statement, design, or device that may deceive the purchaser, or that is false or misleading in any particular. (5-3-03)

801. -- 899. (RESERVED)

900. VIOLATION OF RULES.
In addition to any other civil, criminal, or administrative action, the Administrator may require any animals imported into Idaho in violation of these rules to be placed under strict quarantine and consigned to immediate slaughter, removed from the state or to an approved feedlot within fifteen (15) days, or such shipment shall be returned to the point of origin by the importer. (5-3-03)

901. -- 999. (RESERVED)

02.04.25 – RULES GOVERNING PRIVATE FEEDING OF BIG GAME ANIMALS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 25-207A, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.25, "Rules Governing Private Feeding of Big Game Animals." (4-6-05)

02. Scope. These rules govern the private feeding of big game animals in areas of the state of Idaho that have been designated for regulation. (4-6-05)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The following definitions apply in the interpretation and enforcement of this chapter. (4-6-05)

01. Big Game Animals. All wild cervidae. (4-6-05)

02. Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (4-6-05)

03. Cattle. All bovidae, including domestic bison. (4-6-05)

04. Domestic Bison. All animals in the genus *Bison* that are owned by a person. (4-6-05)

05. Domestic Cervidae. Elk, fallow deer and reindeer that are owned by a person. (4-6-05)

06. Emergency Feeding. Feeding of big game animals authorized by IDFG pursuant to IDAPA 13.01.18 "Rules Governing Emergency Feeding of Antelope, Elk, and Deer of the Idaho Fish and Game Commission," and IDFG written policies. (4-6-05)

07. Federal Animal Health Official. An employee of the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services who is authorized to perform animal health activities. (4-6-05)

08. Livestock. Cattle, domestic cervidae, domestic bison, sheep, goats, camelids, and horses. (4-6-05)

09. Operator. The person who has authority to manage or direct a premises or other area where livestock are fed, feed is stored, or the private feeding of big game animals may occur. (4-6-05)

10. Owner. The person who owns or has financial control of livestock, premises or other areas where livestock are fed, where feed is stored, or where the private feeding of big game animals may occur. (4-6-05)

11. Premises. The ground, area, buildings, corrals, and equipment utilized to keep, hold, or maintain animals. (4-6-05)

12. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. (4-6-05)

13. Supplemental Feed. Harvested hay, grain, baled straw, or pellet rations. (4-6-05)

14. Wild Cervidae. All cervidae that are not owned by a person. (4-6-05)

011. ABBREVIATIONS.

01. IDFG. Idaho Department of Fish and Game. (4-6-05)

02. ISDA. Idaho State Department of Agriculture. (4-6-05)

012. -- 019. (RESERVED)

020. APPLICABILITY.
In order to prevent the spread of brucellosis and other diseases between big game animals and from big game animals to livestock, these rules apply to all persons who purposely or knowingly provide supplemental feed to big game animals within the area designated in Section 100 of these rules, except supplemental feeding activities conducted by, or emergency feeding activities authorized by IDFG. (4-6-05)

021. -- 099. (RESERVED)

100. EASTERN IDAHO BIG GAME PRIVATE FEEDING PROHIBITION ZONE.
In order to prevent the spread of brucellosis and other diseases between big game animals and from big game animals to livestock, the following portion of Idaho is designated as the eastern Idaho big game private feeding prohibition zone: (4-6-05)

01. **Clark County**. All of Clark County east of Interstate Highway 15. (4-6-05)

02. **Fremont County**. All of Fremont County. (4-6-05)

03. **Teton County**. All of Teton County. (4-6-05)

04. **Madison County**. All of Madison County. (4-6-05)

05. **Jefferson County**. All of Jefferson County east of Interstate Highway 15. (4-6-05)

06. **Bonneville County**. All of Bonneville County east of Interstate Highway 15. (4-6-05)

07. **Caribou County**. All of Caribou County. (4-6-05)

08. **Bear Lake County**. All of Bear Lake County. (4-6-05)

101. PRIVATE FEEDING OF BIG GAME ANIMALS PROHIBITED.
No person shall purposely or knowingly provide supplemental feed to big game animals within the eastern Idaho big game private feeding prohibition zone, except supplemental feeding activities conducted by, or emergency feeding activities authorized by IDFG. (4-6-05)

102. INCIDENTAL GRAZING.
Incidental grazing by big game animals on private rangeland forage, standing agricultural crops, or agricultural crop residue left on the ground following typical harvest practices is not considered providing supplemental feed. (4-6-05)

103. -- 119. (RESERVED)

120. INCIDENTAL FEEDING.
Incidental feeding of big game animals during the normal practice of providing feed to livestock in the winter is not a violation of this chapter, provided the owner and operator of the premises where the livestock are being fed cooperate with the ISDA, as determined by the Administrator, to facilitate conducting big game management activities that will eliminate the feeding of big game animals. (4-6-05)

121. SPATIAL SEPARATION.
When requested by the Administrator, IDFG will cooperate with ISDA in maintaining spatial separation of livestock and big game animals. (4-6-05)

122. -- 149. (RESERVED)

150. MANAGEMENT ACTIVITIES.
*T*he Administrator *may request that* IDFG assist in conducting big game management activities, which include but are not limited to: *( )*

01. **Trapping**. Trapping big game animals. (4-6-05)

02. **Testing**. Testing big game animals for diseases. (4-6-05)

03. **Moving Animals**. Transferring big game animals to areas where there is suitable winter habitat. (4-6-05)

04. **Hazing**. Hazing or dispersing big game animals. (4-6-05)

05. **Supplemental Feed**. Making supplemental feed unavailable or unpalatable to big game animals. (4-6-05)

06. **Fencing**. Providing fencing materials to facilitate the separation of cattle and big game animals. (4-6-05)

151. ENTERING PREMISES.
State and federal animal health officials are authorized to enter premises during normal business hours, within the eastern Idaho big game private feeding prohibition zone where big game animals are being provided with supplemental feed or there is feedline contact between livestock and big game animals, to conduct big game management activities. (4-6-05)

01. **Notification**. ISDA will make reasonable efforts to notify the owner or operator of any premises prior to entry for the purpose of conducting big game management activities. (4-6-05)

02. **Cooperation**. The owner or operator of a premises shall cooperate with ISDA in developing plans for conducting big game management activities. (4-6-05)

152. -- 999. (RESERVED)

02.04.27 – RULES GOVERNING DELETERIOUS EXOTIC ANIMALS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 25-3903 and 25-3904, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.04.27, "Rules Governing Deleterious Exotic Animals." (3-20-04)

02. Scope. These rules govern the designation, importation, and possession of deleterious exotic animals. (3-20-04)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

01. Code of Federal Regulations. Title 9, Parts 1, 2, 3, 4, and 161, CFR, January 1, 2005, which can be viewed online at http://www.access.gpo.gov/nara/cfr/waisidx_05/9cfrv1_05.html. (5-8-09)

02. Association of Zoos and Aquariums Minimum Husbandry Guidelines for Mammals. Issued November 14, 1997, which can be accessed online at http://www.aza.org/. (5-8-09)

005. -- 009. (RESERVED)

010. DEFINITIONS.
The following definitions apply to the interpretation and enforcement of this chapter. (5-8-09)

01. Accredited Veterinarian. A veterinarian approved by the Administrator and the USDA/APHIS/VS, in accordance with provisions of Title 9, Part 161, Code of Federal Regulations, to perform functions of State-Federal animal disease control programs. (3-20-04)

02. Animal. Any member of the animal kingdom, except man. (3-20-04)

03. Deleterious Exotic Animal. Any live animal, or hybrid thereof, that is not native to the state of Idaho and is determined by the Administrator to be dangerous to the environment, livestock, agriculture, or wildlife of the state. (4-11-06)

04. Facility. A location, including buildings, cages, corrals, pens, ponds, raceways, tanks, adjacent land, or other areas, where deleterious exotic animals are possessed. (5-8-09)

05. Federal Animal Health Official. An employee of the United States Department of Agriculture, Animal Plant Health Inspection Service, Veterinary Services who is authorized to perform animal health activities. (3-20-04)

06. Livestock. Cattle, domestic bison, swine, horses, mules, asses, domestic cervidae, sheep, goats, camelids, and ratites. (3-20-04)

07. Operator. The person who has authority to manage or direct a facility or other area where animals are kept. (5-8-09)

08. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-04)

09. Possess. To confine, control, keep, have, hold, house, or own for any period of time. (5-8-09)

10. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication activities. (3-20-04)

11. Traveling Exhibition. A temporary exhibition, including, but not limited to, circus, carnival, group, show, or zoo, not permanently located in the state, that possesses deleterious exotic animals. (5-8-09)

011. ABBREVIATIONS.

01. AZA. Association of Zoos and Aquariums. (5-8-09)

02. CFR. Code of Federal Regulations. (3-20-04)

03. IDFG. Idaho Department of Fish and Game. (3-20-04)

04. ISIS. International Species Information System. (5-8-09)

05. PMP. Population Management Plan. (5-8-09)

06. SSP. Species Survival Plan. (5-8-09)

07. TAG. Taxon Advisory Group. (5-8-09)

08. USDA. United States Department of Agriculture. (3-20-04)

012. -- 019. (RESERVED)

020. APPLICABILITY.
These rules apply to the importation and possession of all deleterious exotic animals in Idaho. (3-20-04)

021. DELEGATION OF AUTHORITY.
The Administrator may designate IDFG to conduct permitting activities for deleterious exotic animals. (3-20-04)

022. INSPECTIONS.
2In order to ascertain compliance with this chapter, the Administrator is authorized to enter and inspect premises and other areas where animals are held or kept. (3-20-04)

01. Entering Premises. State or federal animal health officials will attempt to notify the owner or operator of the premises or other area prior to conducting an inspection. (3-20-04)

02. Emergencies. In the event of an emergency, as determined by the Administrator, the notification requirements of Section 022 of this rule may be waived. (3-20-04)

023. -- 099. (RESERVED)

100. POSSESSION AND PROPAGATION OF DELETERIOUS EXOTIC ANIMALS.

01. Possession. No person may possess a deleterious exotic animal in the state, unless such person obtains a possession permit issued by the Administrator. (5-8-09)

02. Propagation. No person may propagate a deleterious exotic animal in the state without the approval of the Administrator. If the Administrator grants approval to propagate deleterious exotic animals, such approval will be noted on the applicable possession permit. Persons seeking permission to propagate a deleterious exotic animal must meet the following requirements: (5-8-09)

a. Obtain, and be in full compliance with, a possession permit issued by the Administrator; (5-8-09)

b. Obtain, and be in full compliance with, a USDA exhibitor's license for the facility where deleterious exotic animals will be possessed; (5-8-09)

c. Be a member in good standing of ISIS; and (5-8-09)

d. Participate in a PMP or SSP administered by an AZA TAG. (5-8-09)

e. In the event a PMP or SSP does not exist for the deleterious exotic animal(s) a person seeks to propagate, the Administrator will determine if the propagation of such deleterious exotic animal(s) carries a significant risk of injury to the agricultural industry, wildlife or environment of the state. The person must provide the following information to the Administrator to assist the Administrator in making that determination: (5-8-09)

i. The facility's capacity to hold deleterious exotic animals and any anticipated offspring; (5-8-09)

ii. The frequency of the proposed propagation; (5-8-09)

iii. The purpose(s) of the proposed propagation; and (5-8-09)

iv. The destination or use of the anticipated offspring. (5-8-09)

101. POSSESSION PERMITS.

01. Application for Possession Permits. Persons seeking a possession permit must make application on a form prescribed by the Administrator. *S*eparate application*s are to* be submitted for each facility where deleterious exotic animals will be possessed. A person who receives a possession permit for deleterious exotic animals must submit a new application for each additional deleterious exotic animal that person seeks to possess. The application must include: *( )*

a. The applicant's name, address (residence and mailing), and Employer Identification Number or Social Security Number. (5-8-09)

b. Description of the proposed facility, including: (5-8-09)

i. A map identifying the location of the proposed facility; (5-8-09)

ii. The geographic location (township, range, and quarter quarter section) of the proposed facility; (5-8-09)

iii. The legal description of the real property for the proposed facility; (5-8-09)

iv. The approximate total area of the proposed facility; (5-8-09)

v. A detailed diagram of proposed facility, identifying fences, gates, confinement areas; and (5-8-09)

vi. The specifications of the confinement areas for all deleterious exotic animals listed on the application, identifying exterior fencing, interior fencing, fence height, fencing materials, size of confinement areas, etc. (5-8-09)

c. Name and address of the owner(s) of the proposed facility, if not the applicant. If the proposed facility will be leased, include a written and notarized statement by the owner of the property authorizing the use of the proposed facility to house deleterious exotic animals. (5-8-09)

d. Name and address of the operator(s) of the proposed facility, if not the applicant. (5-8-09)

e. Copy of approval by the local zoning authority, if approval is required by the local zoning authority. (5-8-09)

f. Description of each deleterious exotic animal to be possessed at the facility, including genus, species, sex, age, identification, and purpose for possessing each deleterious exotic animal. (5-8-09)

g. Name and address of the owner of each deleterious exotic animal listed on the application. (5-8-09)

h. Name and address of the licensed Idaho veterinarian who will provide care for the deleterious exotic animal(s) listed on the application. (5-8-09)

i. Written statement detailing the applicant's training and experience with the species listed on the application. (5-8-09)

j. Written statement detailing the procedure in the event a deleterious exotic animal escapes from the facility. (5-8-09)

k. Documentation of licenses issued by the USDA, if applicable. (5-8-09)

l. Documentation of licenses issued by the U.S. Fish and Wildlife Service, if applicable. (5-8-09)

m. Documentation of accreditation by the AZA, if applicable. (5-8-09)

n. Documentation of membership in ISIS, if applicable. (5-8-09)

o. Documentation of approved participation in a PMP or SSP administered by an AZA TAG, if applicable. (5-8-09)

p. The required information set forth Paragraph 100.02.e., of these rules, if applicable. (5-8-09)

q. For each deleterious exotic animal listed on the application, proof of sterilization or use of a method of birth control administered by a licensed veterinarian and approved by the Administrator, unless the applicant intends to propagate the deleterious exotic animal and fully satisfies the requirements of Subsection 100.02, of these rules. (5-8-09)

r. The date upon which the proposed facility will be available for inspection by the Department, which must be not less than seven (7) days prior to the time the exotic animals are possessed at the proposed facility. (5-8-09)

02. Application Process. The Administrator will consider all information in the application for a possession permit and issue a written decision granting or denying the application. (5-8-09)

03. Application Review. The Administrator will review the possession permit application and, in determining whether to issue the possession permit, consider factors relating to protection of the state's agriculture industry, the wildlife of the state, and the environment. Such factors include, but are not limited to: (5-8-09)

a. Proximity of the facility to farms, ranches, wildlife migration routes, and other areas in which native Idaho wildlife may commonly be found. (5-8-09)

b. Potential for unintended or accidental access to the facility. (5-8-09)

c. Potential for vandalism that compromises the security of the facility. (5-8-09)

d. Potential for escape from the facility. (5-8-09)

e. The size of the facility relative to the number of animals proposed to be kept at the facility. (5-8-09)

f. Whether, based on the applicant's certification and any other evidence received by the Administrator in connection with the proposed facility, all federal, state, county and city laws applicable to the facility have been met. (5-8-09)

g. Whether the applicant has adequate knowledge, experience and training to maintain the health, welfare and safety of the deleterious exotic animal(s), to handle the deleterious exotic animal(s) with safety and competence, and to ensure that the deleterious exotic animal(s) will not harm the state's agriculture, wildlife or the environment. Such experience may be documented by a log book, employment records, education records or other means by which experience may be authenticated. (5-8-09)

h. Whether the facility is adequately designed, constructed, and managed to protect agriculture, wildlife and the environment from escape of the confined animal(s), including those instances when the applicant is not present at the facility. (5-8-09)

i. Prior to issuing a possession permit, the Administrator or designee may perform an inspection of the facility to determine if its design, construction and proposed operation is consistent with the applicable provisions of Idaho law. (5-8-09)

04. Grant or Denial of the Permit. Following review of the application and any other relevant information, the Administrator will either issue the possession permit or deny the application and notify the applicant. If the Department issues the permit, it may include any conditions intended to ensure the health, welfare and safety of the animal(s) covered by the permit and, where the Department finds it necessary, conditions intended to assure the security of the facility so as to avoid undue risk to the state's agriculture, wildlife and the environment. (5-8-09)

05. Duration of Possession Permit. A possession permit *is* valid for the life of the deleterious exotic animal listed on a possession permit, until the permitted person no longer possess the deleterious exotic animal, or until the deleterious exotic animal leaves the state. *( )*

102. TEMPORARY EXHIBITOR PERMITS.
A traveling exhibition may not possess any deleterious exotic animal in the state unless the traveling exhibition obtains a temporary exhibitor permit issued by the Administrator. (5-8-09)

01. Application for Temporary Exhibitor Permits. Persons seeking a temporary exhibitor permit must make application on a form prescribed by the Administrator *and* include *the following information*: *( )*

a. The applicant's name, address (business and mailing) and Employer Identification Number or Social Security Number. (5-8-09)

b. The name and address of the owner(s) and operator(s) of the temporary exhibition, if not the applicant. (5-8-09)

c. Description of the cages or other housing in which the deleterious exotic animal(s) will be kept in the state. (5-8-09)

d. The physical address of each location(s) at which the deleterious exotic animal(s) will remain while in the state. (5-8-09)

e. A map identifying the location(s) at which the deleterious exotic animal(s) will be kept. (5-8-09)

f. Name and address of the owner(s) of the location(s) at which the deleterious exotic animal(s) will be kept. (5-8-09)

g. Written statement detailing the procedure(s) in the event a deleterious exotic animal escapes from the temporary exhibit. (5-8-09)

h. Documentation of licenses issued by the USDA, if applicable. (5-8-09)

02. Period of Validity. Temporary exhibitor permits are valid for no more than thirty (30) days after the date of issuance of the permit. (5-8-09)

03. Removal. All deleterious exotic animals subject to a temporary exhibitor permit must be removed

from Idaho prior to the expiration of the import permit. (5-8-09)

103. -- 109. (RESERVED)

110. IMPORTATION OF DELETERIOUS EXOTIC ANIMALS.
No person may import any deleterious exotic animal into the state unless the deleterious exotic animal is accompanied in transit by an import permit issued by the Administrator, any permits required by the Idaho Department of Fish and Game, and an official certificate of veterinary inspection. (5-8-09)

111. IMPORT PERMITS.
The Administrator will issue import permits in accordance with IDAPA 02.04.21, "Rules Governing the Importation of Animals." (5-8-09)

01. Application for Import Permits. In addition to the requirements set forth in IDAPA 02.04.21.104, persons seeking import permits must submit the following: (5-8-09)

a. An application on a form prescribed by the Administrator; (5-8-09)

b. A valid possession permit or temporary exhibitor permit issued by the Administrator; and (5-8-09)

c. A certificate of veterinary inspection that meets the requirements in Section 112, of these rules. (5-8-09)

02. Period of Validity. Import permits are valid for fifteen (15) days from the date of issuance of the permit, unless stated otherwise on the permit. (5-8-09)

112. CERTIFICATES OF VETERINARY INSPECTION.
All deleterious exotic animals imported into the state must be accompanied in transit by an official certificate of veterinary inspection. All certificates must be written, legible, and attest that the animal(s) meet the importation requirements of the state, set forth in IDAPA 02.04.21, "Rules Governing the Importation of Animals." The certificate must be on an official form of the state of origin, be approved by its livestock sanitary official, and be issued by an accredited veterinarian. An equivalent form of the USDA issued by a federal animal health official is acceptable in lieu of a certificate of veterinary inspection. (5-8-09)

01. Required Information. All certificates of veterinary inspection must contain the following information: (5-8-09)

a. Name and address of the consignor and consignee; and (5-8-09)

b. Origin of shipment, including city and state; (5-8-09)

c. Final destination of shipment in Idaho, including city; (5-8-09)

d. An accurate description and identification of each animal; (5-8-09)

e. Purposes for which the animals were shipped; (5-8-09)

f. Method of transportation; (5-8-09)

g. Health status of the animals involved including dates and results of inspection and of tests and vaccinations, if any, required by the state; and (5-8-09)

h. The signature of the accredited veterinarian, or state or federal animal health official, conducting the veterinary inspection. (5-8-09)

02. Submission of Certificate. The required copies of certificates of veterinary inspection or other

approved certificates must be submitted, within thirty (30) days of inspection, to the Division. (5-8-09)

03. Period of Certificate Validity. Certificates of veterinary inspection are valid for no more than thirty (30) days after the date of inspection. (5-8-09)

113. -- 119. (RESERVED)

120. DISPOSITION OF NON-PERMITTED DELETERIOUS EXOTIC ANIMALS.
The Administrator may order non-permitted or illegally possessed or imported deleterious exotic animals to be removed from the state, moved to facilities that are in compliance with this chapter, or destroyed. (5-8-09)

121. TRANSFER OF DELETERIOUS EXOTIC ANIMALS.
No person may transfer, sell, barter, trade, change ownership, or change possession of any deleterious exotic animal, unless the person receiving the deleterious exotic animal has obtained a possession permit, issued by the Administrator, for the animal being transferred. (5-8-09)

122. RELEASE OF DELETERIOUS EXOTIC ANIMALS.
No person may release any deleterious exotic animal within the state. (5-8-09)

123. REVOCATION OF PERMITS.
Permits issued pursuant to this chapter may be revoked at any time if the Administrator finds violations of any of the provisions of this chapter. (4-11-06)

124. -- 199. (RESERVED)

200. CONFINEMENT OF DELETERIOUS EXOTIC ANIMALS.
All deleterious exotic animals must be confined in appropriate facilities, as determined by the Administrator, *which are* constructed and maintained to: *( )*

01. Prevent Escape. Prevent the escape of deleterious exotic animals for any length of time. (5-8-09)

02. Prevent Ingress of Wildlife. Prevent the ingress of free ranging wildlife that could be negatively impacted by the confined deleterious exotic animals. (3-20-04)

03. Assure Animal Care. Assure the appropriate level of animal care, including maintaining the facilities in a sanitary condition. (4-11-06)

201. CONSTRUCTION STANDARDS FOR CONFINEMENT AREAS.
Confinement areas for deleterious exotic must be constructed according to the following construction standards, depending on the species of the deleterious exotic animal: (5-8-09)

01. Birds. Confinement areas for birds on the list of deleterious exotic animal set forth in Section 401 of these Rules must be constructed to prevent egress and provide adequate space for the birds. Confinement areas must include a cover sufficient to prevent egress or escape of the species of birds contained therein. (5-8-09)

02. Mammals. Confinement areas for mammals on the list of deleterious exotic animal in Sections 402 through 413 of these Rules must comply with the construction standards in the AZA Minimum Husbandry Guidelines for Mammals. (5-8-09)

202. ESCAPE OF DELETERIOUS EXOTIC ANIMALS.
Persons possessing deleterious exotic animals must report the escape of any deleterious exotic animal to the Administrator within twenty-four (24) hours of the discovery of the escape. (5-8-09)

203. IDENTIFICATION OF DELETERIOUS EXOTIC ANIMALS.
All deleterious exotic animals must be identified with a unique identification according to the following standards, depending on the species of the deleterious exotic animal: (5-8-09)

01. Birds. Birds are to be identified with a microchip and a leg band. (5-8-09)

02. Mammals. Mammals are to be identified with a microchip and a tattoo. (5-8-09)

204. -- 299. (RESERVED)

300. RECORDKEEPING.

01. Annual Inventory. Any person that possesses deleterious exotic animals must submit a complete and accurate annual inventory of such animals to the Administrator on or before the first day of July each year. The annual inventory includes the following information: (5-8-09)

a. Identify each deleterious exotic animal by genus, species, sex, and identification. (5-8-09)

b. Identify each deleterious exotic animal born during the last reporting year, including the genus, species, sex, identification, and date of birth. (5-8-09)

c. Identify each deleterious exotic animal that was transferred to another person, including the genus, species, sex, identification, date of transfer, and name and address of the person to whom the deleterious exotic animals was transferred. (5-8-09)

d. Identify each deleterious exotic animal that died during the last reporting year, including the genus, species, sex, identification, date of death, and cause of death. (5-8-09)

02. Records of Transfers. All persons who transfer, sell, barter, trade, change ownership, or change possession of deleterious exotic animals must keep complete and accurate records of the disposition of any deleterious exotic animals, including the new contact information for persons in possession of the deleterious exotic animal and date of disposition. Such records must be maintained for a minimum of three (3) years and presented to the Administrator upon request. (5-8-09)

301. -- 309. (RESERVED)

310. DEAD ANIMAL MOVEMENT AND DISPOSAL.
All deleterious exotic animals that die, or are euthanized, must be disposed of in accordance with IDAPA 02.04.17 "Rules Governing Dead Animal Movement and Disposal" and the death *of such animal* reported to the Administrator within five (5) business days of the discovery of the death. *( )*

311. -- 399. (RESERVED)

400. LIST OF DELETERIOUS EXOTIC ANIMALS.
The Administrator may add or remove animal species to the list of deleterious exotic animals in this chapter by issuing a written order listing animals and the reasons for adding them to or removing them from the list deleterious exotic animals. (5-8-09)

401. DELETERIOUS EXOTIC ANIMALS - BIRDS.

01. Mute Swan, (*Cygnus olor*). Mute swans except those that have been pinioned. (3-20-04)

402. DELETERIOUS EXOTIC ANIMALS - MAMMALS: CANIDAE.
All non-native canidae species. (4-11-06)

403. DELETERIOUS EXOTIC ANIMALS - MAMMALS: CERVIDAE.

01. Red Deer (*Cervus elaphus elaphus*). (3-20-04)

02. Sika Deer (*Cervus nippon*). (3-20-04)

404. DELETERIOUS EXOTIC ANIMALS -- MAMMALS: FELIDAE.

01. Caracal (*Felis caracal*). (4-11-06)

02. Cheetah (*Acinonyx jubatus*). (4-11-06)

03. Geoffroy's Cat (*Felis geoffroyi*). (4-11-06)

04. Jaguar (*Panthera onca*). (4-11-06)

05. Leopard (*Panthera pardus*). All leopards. (4-11-06)

06. Lion (*Panthera leo*). (4-11-06)

07. Margay (*Felis wiedii*). (4-11-06)

08. Ocelot (*Felis pardalis*). (4-11-06)

09. Serval (*Felis serval*). (4-11-06)

10. Tiger (*Panthera tigris*). All tigers. (4-11-06)

405. DELETERIOUS EXOTIC ANIMALS - MAMMALS: INSECTIVORES.

01. European Hedgehog (*Erinaceus europeaus*). (4-11-06)

406. DELETERIOUS EXOTIC ANIMALS - MAMMALS: MARSUPIALS.

01. Brush Tailed Possum (*Trichsurus vulpecula*). (4-11-06)

407. DELETERIOUS EXOTIC ANIMALS - MAMMALS: NON-HUMAN PRIMATES.
All non-human primates. (4-11-06)

408. DELETERIOUS EXOTIC ANIMALS - MAMMALS: OVIDAE.

01. Barbary Sheep (*Ammotragus lervia*). (4-11-06)

02. Mouflon Sheep (*Ovis musimon*). (4-11-06)

409. DELETERIOUS EXOTIC ANIMALS - MAMMALS: PROCYONIDAE.

01. Coatimundi. (4-11-06)

02. Kinkajou. (4-11-06)

410. DELETERIOUS EXOTIC ANIMALS - MAMMALS: RODENTIA.

01. African Dormice (*Graphiurus*). (4-11-06)

02. African Rope Squirrels (*Funisciurus*). (4-11-06)

03. African Striped Mice (*Hybomys*). (4-11-06)

04. African Tree Squirrels (*Heliosciurus*). (4-11-06)

05. Brush-Tailed Porcupines (*Atherurus*). (4-11-06)

06. **Capybara (*Hydrochoerus hydrochaeris*)**. (4-11-06)

07. **Gambian Giant Pouched Rats (*Cricetomys*)**. (4-11-06)

08. **Prairie Dogs (*Cynomys*)**. (4-11-06)

09. **South American Rodents**. All South American rodents except guinea pigs and chinchillas. (4-11-06)

411. DELETERIOUS EXOTIC ANIMALS - MAMMALS: SUIDAE.

01. **European or Russian Wild Boar (*Sus scrofa*)**. (4-11-06)

412. DELETERIOUS EXOTIC ANIMALS - MAMMALS: TAYASSUIDAE.

01. **Peccary (*Dicotyles tajacu*)**. (4-11-06)

413. -- 999. (RESERVED)

02.04.29 – RULES GOVERNING TRICHOMONIASIS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 25-203, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Trichomoniasis." (3-30-07)

02. Scope. These rules govern procedures for the prevention, control and eradication of Trichomoniasis, a venereal disease of cattle caused by the organism *Tritrichomonas foetus*. *( )*

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
IDAPA 02.04.29 incorporates by reference the official 2018 Edition of Idaho "Protocol for *Trichomonas foetus* Diagnosis in Cattle" which can be viewed online at https://agri.idaho.gov/main/laboratories/animal-health-laboratories/protocol-for-trichomonas-diagnosis-in-cattle/. (4-11-19)

005. -- 009. (RESERVED)

010. DEFINITIONS.
The following *definitions apply to the interpretations and enforcement of this chapter*: *( )*

01. Cattle. All bovidae. (3-30-07)

02. Exposed Cattle. Any cattle that have been in contact with cattle infected with or affected by Trichomoniasis. (3-30-07)

03. Federal Animal Health Official. An employee of the United States Department of Agriculture, Animal and Plant Health Inspection Service, Veterinary Services who is authorized to perform animal health activities. (3-30-07)

04. Herd. A herd is any group of cattle maintained on common ground for any purpose, or two (2) or more groups of cattle under common ownership or supervision, geographically separated, but which have an interchange or movement of cattle without regard to whether they are infected with or exposed to Trichomoniasis. (3-30-07)

05. Hold Order. A hold order is a form of quarantine that may be used to restrict the movement of cattle while the Trichomoniasis status is being investigated. (3-30-07)

06. Infected Cattle. Any cattle determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as infected. (3-30-07)

07. Infected Herd. Any herd in which any cattle have been determined by an official test or diagnostic procedure to be infected with Trichomoniasis or diagnosed by a veterinarian as being infected. (3-30-07)

08. Negative. Cattle that have been tested with official test procedures and found to be free from infection with Trichomoniasis. (3-30-07)

09. PCR. Polymerase Chain Reaction. (3-25-16)

10. Positive. Cattle that have been tested with official test procedures and found to be infected with Trichomoniasis. (3-30-07)

11. Quarantine. A written order, or a verbal order followed by a written order, executed by the Administrator, to confine or hold cattle on a premises or any other location, and to prevent movement of cattle from a premises or any other location when the Administrator has determined that the cattle have been found or are suspected to be exposed to or infected with Trichomoniasis or the owner is not in compliance with the provisions of this chapter. (3-30-07)

12. Quarantined. Isolation of all cattle diseased or exposed thereto, from contact with healthy cattle and exclusion of such healthy cattle from enclosures or grounds where said diseased or exposed cattle are, or have been kept. (3-30-07)

13. Registered Veterinarians. Veterinarians registered with, and approved by the Division of Animal Industries to collect Trichomoniasis samples for official Trichomoniasis culture testing. (3-30-07)

14. Restrain. The confinement of cattle in a chute, or other device, for the purpose of efficient, effective, and safe testing approved by the Administrator. (3-30-07)

15. State Animal Health Official. The Administrator, or *Administrator's* designee, responsible for disease control and eradication activities. *( )*

16. T Brand. A two inch by three inch (2" x 3") single-character hot iron T brand, applied to the left of the tail-head of a bull, signifying that the bull is infected with trichomoniasis. (4-7-11)

17. Trichomoniasis. A venereal disease caused by the organism *Tritrichomonas foetus*. (4-2-08)

011. – 099. (RESERVED)

100. TRICHOMONIASIS CONTROL AND ERADICATION PROGRAM.
The Trichomoniasis testing season begins on September 1 of each year and continues until August 31 of the succeeding year. All bulls within the state of Idaho shall be tested negative for Trichomoniasis before being allowed to come into contact with female cattle or by April 15 of each Trichomoniasis testing season, whichever occurs first, except: (3-30-07)

01. Bulls in Public Grazing Allotments. Bulls that are to be turned out on public grazing allotments shall be tested for Trichomoniasis by April 15 of each Trichomoniasis testing season or forty-five (45) days prior to turnout on a public grazing allotment, which ever occurs first. (3-30-07)

02. Virgin Bulls. All bulls native to Idaho that are less than twenty-four (24) months of age and have never serviced a cow are exempt from the Trichomoniasis testing requirements. (4-7-11)

a. Such bulls shall be identified by a registered veterinarian with an official Trichomoniasis bangle tag of the correct color for the current testing season and the identification recorded on a Trichomoniasis Test and Report Form. (3-30-07)

b. If sold, such bulls shall accompanied by a certificate signed by the owner or his representative attesting that they are virgin bulls. (3-30-07)

03. Dairy Bulls. All dairy bulls in dry lot operations are exempt from the Trichomoniasis testing requirements. Dairy bulls that are pastured or grazed must meet the Trichomoniasis testing requirements. (3-30-07)

04. Bulls Consigned to Slaughter or to an Approved Feedlot. Bulls consigned directly to slaughter at an approved slaughter establishment or to an approved feedlot for finish feeding for slaughter are exempt from testing requirements. (3-30-07)

05. Extension of Testing Deadline. The Administrator may grant an extension of time beyond April 15 to accomplish Trichomoniasis testing after the owner submits a written request for extension of time to the Division of Animal Industries. (3-30-07)

a. The written request shall outline the reasons for the extension request and the length of extended time being requested. (3-30-07)

b. The herd of bulls shall be put under Hold Order until the owner furnishes documentation that the bulls have been tested. (3-30-07)

101. – 109. (RESERVED)

110. TRICHOMONIASIS TESTING IDENTIFICATION.
The Division of Animal Industries will determine the color of the official Trichomoniasis bangle tags to be used for each Trichomoniasis testing season. All bulls tested for Trichomoniasis shall be identified by an official Trichomoniasis bangle tag of the correct color for the current testing season and the identification recorded on a Trichomoniasis Test and Report Form. (3-30-07)

111. -- 199. (RESERVED)

200. BULLS FOR SALE.
Bulls presented for sale at specifically approved livestock markets, shows, special sales, or by private contract in Idaho shall be accompanied by a certificate of negative test and a statement signed by the owner certifying "Trichomoniasis has not been diagnosed in the herd of origin;" or (3-30-07)

01. Returned to Home Premises. Such bulls shall be returned to home premises for official testing; or (4-2-08)

02. Sold Directly to Slaughter. Such bulls shall be sold directly to slaughter at an approved slaughter establishment, an Idaho approved feedlot, as defined in IDAPA 02.04.20, "Rules Governing Brucellosis"; or (4-7-11)

03. Placed Under a Hold Order. Such bulls will be placed under Hold Order by the livestock market veterinarian or a private veterinarian and have three (3) consecutive negative Trichomoniasis or PCR culture tests. The samples for each test shall be collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test; or (3-25-16)

04. Virgin Bulls. Virgin bulls native to Idaho that are less than twenty-four (24) months of age and have never serviced a cow shall be identified with an official Trichomoniasis bangle tag of the correct color for the current testing season. (4-7-11)

05. Period of Validity. For resident breeding bulls sold in Idaho, the negative test is valid for up to ninety (90) days provided the bull(s) has had no contact with female cattle from the time of test to the time of sale. (3-30-07)

06. Contact with Female Cattle. Bulls that have had contact with female cattle subsequent to testing must be retested prior to sale. (3-30-07)

201. -- 209. (RESERVED)

210. IMPORTED BULLS.

01. Non-Virgin Bulls. Non-virgin breeding bulls may be imported into the state of Idaho provided they meet the following requirements: (3-30-07)

a. If the bull originates from a herd of bulls wherein all bulls have tested negative for Trichomoniasis since being removed from cows, the bull shall have been tested negative to a Trichomoniasis culture test within sixty (60) days prior to import and have had no contact with female cattle from the time of test to the time of import; or (3-25-16)

b. If the bull originates from a herd where one (1) or more bulls or cows have been found infected with Trichomoniasis, the bull shall have three (3) consecutive negative Trichomoniasis culture or PCR tests. The samples for each test shall be collected at least seven (7) days apart and tested for Trichomoniasis, the last test being within sixty (60) days prior to import into Idaho; or (3-25-16)

c. If the bull is a single bull with no prior herd test history or originates from a herd of bulls that is still with cows or that has not been tested for Trichomoniasis since being removed from cows, the bull shall have three (3) consecutive negative Trichomoniasis culture or PCR tests. The samples for each test are to be collected at least seven

(7) days apart and tested for Trichomoniasis, the last test being within sixty (60) days prior to import into Idaho. (3-25-16)

d. Upon arrival at their destination in Idaho, all imported bulls shall be identified with an official Trichomoniasis bangle tag of the correct color for the current testing season, except imported dairy bulls that will be in a dry lot operation are not required to be identified with an official Trichomoniasis tag upon arrival at their destination. (3-30-07)

02. Virgin Bulls. Bulls imported into Idaho that are less than eighteen (18) months of age and have never serviced a cow are not required to be Trichomoniasis tested prior to import into Idaho, provided that: (3-25-16)

a. Such bulls are accompanied by a certificate signed by the owner or the owner's representative attesting that the animals are virgin bulls and have never serviced a cow; and (3-30-07)

b. Upon arrival at their destination in Idaho, such bulls are identified by an Idaho accredited veterinarian with an official Trichomoniasis bangle tag of the correct color for the current testing season. (3-30-07)

03. Bulls for Grazing. Bulls that are entering Idaho for grazing purposes shall meet the Trichomoniasis test requirements of Section 100 of this rule. A copy of the certificate of negative Trichomoniasis test shall accompany the grazing permit application. (4-2-08)

211. - 299. (RESERVED)

300. PUBLIC GRAZING.
All bulls that are turned out on public grazing allotments shall be certified and identified as virgin bulls, or tested negative for Trichomoniasis at least forty-five (45) days prior to the turnout date, or before April 15 of each testing season, which ever occurs first. (4-2-08)

01. Grazing Associations. All bulls that are in a public grazing association or run in common on an allotment will be considered part of one (1) herd. (3-30-07)

02. Positive Tests. If any bull owned by any of the producers in a grazing association or allotment tests positive on a Trichomoniasis test, the rest of the producers in the association or allotment are considered part of an infected bull herd and handled in accordance with Section 310 of this rule. (4-2-08)

301. -- 309. (RESERVED)

310. INFECTED BULLS AND HERDS.
Any bull or cow that is positive to a Trichomoniasis culture or PCR test is considered infected. A herd in which one (1) or more bulls or cows are found infected with Trichomoniasis is considered infected. (3-25-16)

01. Confirmatory Testing of Culture Positive Bulls. Any culture positive bull must be confirmed positive for Trichomonas foetus by Polymerase Chain Reaction (PCR) test unless the animal is destined directly to slaughter. The positive culture specimen must be submitted to a qualified laboratory, approved by the Administrator, in accordance with the qualified laboratories submission requirements. (3-25-16)

a. If polymerase chain reaction (PCR) determines the bull is positive or inconclusive for *Trichomonas foetus*, the bull will be considered positive for trichomoniasis. (4-7-11)

b. If polymerase chain reaction (PCR) determines the bull is negative for *Trichomonas foetus*, the bull will be considered negative for trichomoniasis. (4-7-11)

02. Quarantine of Infected Herds. Any veterinarian that discovers an infected herd shall immediately place the herd under a Hold Order, and notify the Division of Animal Industries within forty-eight (48) hours that the test was positive. Upon notification of an infected Trichomoniasis herd, a state or federal animal health official will conduct an epidemiological investigation of the infected herd and issue a quarantine. The quarantine may include a provision requiring all breeding age female cattle in the infected herd to be held in isolation from all bulls for a period

of up to one hundred twenty (120) days as determined by the Administrator. (3-30-07)

03. Exposed Herds. Herds identified as exposed through an epidemiological investigation will be placed under a Hold Order. (3-30-07)

a. Bulls in exposed herds will be tested as determined by the Trichomoniasis epidemiologist. (3-30-07)

b. All bulls tested in exposed herds and all purchased and home raised additions to the bull herd, including virgin bulls, shall be individually identified with an official Trichomoniasis bangle tag of the correct color for the current testing season and the tag number and status of the bull recorded on an official Trichomoniasis test and report form. (3-30-07)

04. Testing of Infected Herds. Bulls in infected herds shall be tested negative for Trichomoniasis three (3) consecutive times before the quarantine can be released. Each of the tests shall be at least seven (7) days apart *with* samples for each test collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test. *( )*

a. All bulls tested in the infected herd and all purchased and home raised additions to the bull herd, including virgin bulls, shall be individually identified with an official Trichomoniasis bangle tag of the correct color for the current testing season and the tag number and status of the bull recorded on an official Trichomoniasis test and report form. (3-30-07)

b. Bulls that have three (3) consecutive negative Trichomoniasis culture or PCR tests conducted at least seven (7) days apart shall be considered negative to Trichomoniasis and can be so certified. (3-25-16)

05. Identifying Infected Bulls. All bulls testing positive for trichomoniasis shall, within seven (7) days of diagnosis, be identified with a hot iron T brand applied to the left of the tail-head indicating that the bull is positive for trichomoniasis. (4-7-11)

311. -- 319. (RESERVED)

320. MOVEMENT OF INFECTED CATTLE.
All infected cattle shall be consigned to slaughter at an approved slaughter establishment or consigned to a specifically approved livestock market for sale to an approved slaughter establishment and shall remain under quarantine until moved to slaughter. All infected cattle being moved from the premise of origin to a specifically approved livestock market for sale to slaughter, or directly to an approved slaughter establishment for slaughter, shall move on a VS 1-27 form issued by an accredited veterinarian or a state or federal animal health official. (4-2-08)

01. Slaughter Within Thirty Days. All infected cattle shall be moved to slaughter within thirty (30) days of the issuance of the quarantine. All infected cattle are to be kept separate and apart from cattle or domestic bison of the opposite sex. The infected cattle will remain under quarantine until moved to slaughter. (4-2-08)

02. Exceptions. The Division of Animal Industries may grant an extension of time after the owner submits a written request for extension of time for movement to slaughter to the Division of Animal Industries. (3-30-07)

03. Contents of Request for Extension of Time. The written request shall outline the reasons for the extension request and the length of extended time being requested. The total length of time an individual infected bull may remain under quarantine before being required to move to slaughter, including any and all requested extensions, shall not exceed ninety (90) days. (3-30-07)

321. TREATMENT OF INFECTED BULLS.
There are no treatments for Trichomoniasis approved for use in Idaho. (3-30-07)

322. -- 329. (RESERVED)

330. OFFICIAL LABORATORIES.
Only laboratories approved by the Division of Animal Industries as official laboratories may test official Trichomoniasis samples. (3-30-07)

01. Protocols. Official laboratories will operate in accordance with the official Idaho "Protocol for *Trichomonas foetus* Diagnosis in Cattle." (4-7-11)

02. Check Test. Official laboratories personnel responsible for conducting trichomoniasis testing must be trained and certified by ISDA in the detection of trichomonad organisms and must pass a certifying check test administered by the Division of Animal Industries. (4-7-11)

331. OFFICIAL TRICHOMONIASIS TESTS.

01. Official Culture Tests. An official test is one in which the sample is received in the official laboratory, in good condition, and such sample is tested according to the official Idaho "Protocol for *Trichomonas foetus* Diagnosis in Cattle." Samples which have been frozen or exposed to high temperatures shall be discarded. (3-25-16)

02. Polymerase Chain Reaction. Polymerase Chain Reaction is accepted as an official test when completed by a qualified laboratory, approved by the Administrator. (3-25-16)

03. Other Official Tests. Other tests for Trichomoniasis may be approved by the Division of Animal Industries, as official tests, after the tests have been proven effective by research, have been evaluated sufficiently to determine efficacy, and a protocol for use of the test has been established. (3-30-07)

332. REGISTERED VETERINARIANS.
Only veterinarians registered with the Division of Animal Industries may collect samples for official tests for Trichomoniasis within the state of Idaho. (3-30-07)

01. Use of Official Laboratories. Registered veterinarians are to utilize only official laboratories for testing of Trichomoniasis samples. (3-25-16)

02. Education Requirements. All veterinarians shall attend an educational seminar on Trichomoniasis and proper sample collection techniques, conducted by the Division of animal Industries, prior to being granted registered status. (3-30-07)

333. REPORTING OF TEST RESULTS AND OFFICIAL IDENTIFICATION.
Registered veterinarians must submit results of all Trichomoniasis tests and all official identification on official Trichomoniasis test and report forms to the Division of Animal Industries within five (5) business days of: (3-30-07)

01. Receiving Results. Receiving Trichomoniasis results from an official laboratory; or (3-30-07)

02. Identifying Virgin Bulls. Identifying virgin bulls with official Trichomoniasis bangle tags. (3-30-07)

334. -- 399. (RESERVED)

400. RODEO BULLS.
Bulls currently in a rodeo string, bulls purchased under the feedlot exemption at a specifically approved livestock market, bulls purchased by private treaty, and bulls purchased in other states and imported into Idaho for rodeo purposes are exempt from Trichomoniasis testing under the following conditions: (3-30-07)

01. Division Approval. The owner of the rodeo bulls has completed and submitted an application to the Division of Animal Industries, which the Division has approved; and (3-30-07)

02. Not Mixed with Cows. The rodeo bulls are confined to a dry lot and not mixed with cows or used for breeding purposes; and (3-30-07)

03. Permanently Identified. All bulls in the rodeo string are permanently identified with official ear tags or unique numbers hot iron branded on the animal; and (3-30-07)

04. Records Maintained. The identification numbers are maintained in a permanent record file at the owner's premises and a copy of the record will be provided to the Division of Animal Industries upon request; and (3-30-07)

05. Bulls Purchased. Bulls purchased for addition to the rodeo string shall meet all other health requirements. Purchased bulls shall be immediately identified as specified in Subsection 400.03 of this rule. Official back tag and ear tag numbers on the bull at time of purchase shall be correlated to the permanent identification in the permanent record; and (4-2-08)

06. Bulls Removed for Slaughter. Removal of bulls to slaughter is documented in the permanent record file; and (3-30-07)

07. Bulls Removed for Breeding Purposes. Bulls that are removed from the rodeo string for breeding purposes shall undergo three (3) consecutive negative PCR tests or cultures for Trichomoniasis. The samples for each test are to be collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test. (3-25-16)

401. -- 409. (RESERVED)

410. FEEDING BULLS OF UNKNOWN TRICHOMONIASIS STATUS.
Bulls of unknown Trichomoniasis status may be fed for slaughter in an Idaho approved feedlot where the bulls are isolated from all female cattle. (3-30-07)

01. Removal of Untested Bulls. Untested bulls shall be sold directly to slaughter at an approved slaughter establishment. (3-30-07)

02. Removal of Bulls for Breeding Purposes. Bulls that are removed for breeding purposes shall undergo three (3) consecutive negative PCR tests or cultures for Trichomoniasis. The samples for each test are to be collected at least seven (7) days apart and tested for Trichomoniasis to be eligible to receive a certificate of negative test. (3-25-16)

411. -- 499. (RESERVED)

500. INFECTIONS WITH OTHER TYPES OF TRICHOMONADS.
Bulls that have had a positive culture result for Trichomoniasis testing may be further evaluated to determine if the organism is *Tritrichomonas foetus* or another species of Trichomonad. Bulls having positive Trichomoniasis culture results on the initial test will not be considered positive for Trichomoniasis under the provisions of this rule if they meet the following criteria: (3-30-07)

01. Trichomonad Organisms Identified. The culture media containing the organisms that have been collected from the bull is forwarded to a laboratory, approved by the Administrator, that has the ability to identify Trichomonad organisms through Polymerase Chain Reaction; and (4-2-08)

02. Tritrichomonas foetus Not Present. None of the Trichomonad organisms in the submitted culture are identified as *Tritrichomonas foetus*. (3-30-07)

03. Inconclusive Test Results. The Administrator may approve retesting of bulls with inconclusive Trichomoniasis test results. If the bulls are found to be Trichomoniasis negative on three (3) consecutive tests that are separated by at least seven (7) days, the bulls may be considered Trichomoniasis negative and released from quarantine. (4-2-08)

501. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

DOCKET NO. 02-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, these pending fee rules will not become final and effective until they have been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 22-103, 22-112 and 22-1103, Idaho Code.

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

These pending fee rules adopt and re-publish the following existing and previously approved and codified chapter(s) under IDAPA 02, rules of the Idaho State Department of Agriculture.

- IDAPA 02.01.04, *Rules Governing the Idaho Preferred® Promotion Program*
- IDAPA 02.01.05, *Rules Governing Certificates of Free Sale*
- IDAPA 02.06.33, *Organic Food Products Rules*

This pending rule vacates the following proposed rule previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 02, rules of the Idaho State Department of Agriculture.

- IDAPA 02.01.02, *Interest Charge Rules*

All changes between the text of these proposed rules and these pending rules are consistent with the guidance and direction provided in the Red Tape Reduction Act. These rules were reviewed to update authorities and to eliminate unnecessarily restrictive language and redundancy:

Any amendments to the text of the pending rules have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 116 – 131**.

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. These rules do not require such statement because they are neither broader in scope, nor more stringent than federal laws or regulations. These rules also do not regulate areas not already regulated by the federal government.

FEE SUMMARY: The table provides a specific description of fees or charges imposed by specific rules. This rulemaking does not impose fees or charges, or increase fees or charges, beyond what was previously approved and codified in the prior rules. Fees or charges are imposed pursuant to the Idaho Code Sections listed.

IDAPA	Specific Findings	Fee Summary
02.01.04	The fee outlined in this rule funds the required activities. Voluntary participation in the Idaho Preferred program provides eligible program participants with marketing and promotion services.	Directs ISDA to set fees annually not to exceed $1,000; Authorized by Section 22-112(1), Idaho Code
02.01.05	The fee outlined in this rule funds the required activities. Certificates of Free Sale are often required by export markets in order to ship Idaho commodities to them. Certificates of Free Sale provide producers with necessary documentation to show buyers that commodities were grown and harvested in compliance with applicable Idaho laws and rules.	Directs ISDA to set fee annually not to exceed $50; Authorized by Section 22-112(1), Idaho Code
02.06.33	The fee outlined in this rule funds required activities. The program provides for certifying inspection of organic producers in Idaho. There is no general fund support for this program.	Graduated fee structure; Authorized by Section 22-1106, Idaho Code

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, in anticipation of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Brian Oakey at (208) 332-8550.

Dated this 16th day of October.

Brian Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2170

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-112, Idaho Code. (3-16-04)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.01.04, "Rules Governing the Idaho Preferred® Promotion Program." (3-30-07)

02. Scope. These rules govern the participation in, and product selection criteria for the Idaho Preferred® program. The program was developed by the Idaho State Department of Agriculture to identify and promote food and agricultural products from the state of Idaho, elevate consumer awareness of such products, and assist in developing opportunities for sale of such products. These rules establish the requirements for the use of the Idaho Preferred® logo and will define eligible products, application procedures, and participation fees. (3-30-07)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.
The following definitions apply in the interpretation and enforcement of this chapter. (3-16-04)

01. Agricultural Product. Any fresh or processed apicultural, aquacultural, avicultural, beverage, cervidae, dairy, horticultural, livestock, forestry, viticultural, or other farm or garden product. (3-16-04)

02. Apicultural Product. Products produced from or related to honey bees or honey. (3-16-04)

03. Aquacultural Product. Products produced from or related to fish, reptiles, or other aquatic animals. (3-16-04)

04. Avicultural Product. Products produced from or related to birds, including but not limited to, ratites or poultry. (3-16-04)

05. Beverage. Drinks including but not limited to wine, beer, distilled spirits, bottled water, or flavored drinks. (3-16-04)

06. Broker. A sales and marketing agent employed to make bargains and contracts for compensation. (3-16-04)

07. Cervidae Product. Products produced from or related to fallow deer, elk, or reindeer owned by a person. (3-16-04)

08. Dairy Product. Products produced from or related to milk from cattle, goats, or sheep. (3-16-04)

09. Florist Stock. All cut flowers, foliage and ferns, all potted plants or cuttings or bedding plants, and all flowering bulbs and rooted herbaceous plants used for ornamental or decorative purposes and all corms, whether grown in boxes, benches, pots, under glass or other artificial covering, or in the field or open ground or cuttings therefrom. (3-16-04)

10. Foodservice. A person engaged in or related to the practice of commercial food preparation and service. (3-16-04)

11. Forest Products. All products made of wood fiber such as timber, wood chips, sawdust or shavings, including but not limited to lumber, paper, particleboard, fence or corral posts or rails, shingles, shakes, firewood or pellets, logs used in the construction of log homes or any other product sold commercially. (3-29-12)

12. Fresh Produce, Commodities, and Fresh Meat. Bulk or packaged agricultural products that have been cleaned, sorted, or otherwise prepared and are sold or distributed in an unprocessed or minimally processed condition. (3-16-04)

13. Horticultural Products. Plants, including but not limited to, fruits, vegetables, flowers, seeds, or ornamental plants. (3-16-04)

14. **Livestock**. Domestic animals including but not limited to cattle, sheep, pigs, goats, domestic cervidae, domestic bison, camelids, or horses. (3-16-04)

15. **Livestock Product**. Products produced from or related to livestock. (3-16-04)

16. **Non-Food Agricultural Products**. Products not intended for human consumption, including but not limited to, animal feed, compost, hides, or skins. (3-16-04)

17. **Supporting Organization**. Any commission, association, or incorporated group supporting the efforts of the Idaho Preferred® program. (3-30-07)

18. **Nursery Stock**. All botanically classified plants or any part thereof, such as aquatic or herbaceous plants, bulbs, sod, buds, corms, culms, roots, scions, grafts, cuttings, fruit pits, seeds of fruits, forest and ornamental trees, and shrubs, berry plants, and all trees, shrubs, vines, and plants collected in the wild that are grown or kept for propagation or sale. Nursery stock does not include field and forage crops, seeds of grasses, cereal grains, vegetable crops and flowers, bulbs and tubers of vegetable crops, vegetables or fruit used for food or feed, cut trees or cut flowers unless stems or other portions thereof are intended for propagation. (3-16-04)

19. **Packer/Shipper**. A person who packages and ships food or agricultural products to wholesalers, retailers, and other outlets. (3-16-04)

20. **Participant**. A person who has applied to the Department and been approved for participation in the Idaho Preferred® program. (3-30-07)

21. **Processed Food**. Any food product which has been transformed from its natural state by methods including but not limited to freezing, cutting, heating, drying, treating, or adding ingredients. (3-16-04)

22. **Processor**. A person engaged in the manufacturing of processed food. (3-16-04)

23. **Producer**. A person engaged in the business of growing or raising food, fiber, feed, or other agricultural products. (3-16-04)

24. **Retailer**. A person engaged in making sales directly to consumers. (3-16-04)

25. **Viticultural Products**. Products produced from or related to grapes and wine. (3-16-04)

26. **Wholesaler**. A person who buys in comparatively large quantities and then resells, usually in smaller quantities, but never directly to the consumer. (3-16-04)

011. -- 014. (RESERVED)

015. VOLUNTARY PROGRAM.
The Idaho Preferred® program is a voluntary promotion program. (3-30-07)

016. -- 099. (RESERVED)

100. APPLICATION FOR PARTICIPATION.

01. **Application Requirement**. Persons interested in becoming a participant in the Idaho Preferred® program shall do so by making application to the Department on forms established by the Director. New applications may be submitted at any time throughout the year. (3-30-07)

02. **Application Review and Compliance Verification**. The Director, upon receipt of an application, will verify the applicant's compliance with this chapter and approve or deny the application. The Director will notify the applicant in writing of the approval or denial. (3-16-04)

101. PARTICIPATION DURATION AND RENEWAL.

01. Duration. Participation is on an annual basis, coinciding with the fiscal year beginning July 1 and ending June 30, unless otherwise provided for in this chapter. (3-16-04)

02. Renewing Participation. Renewals shall be submitted on forms established by the Director and will be due August 1. (3-29-10)

03. Reporting on Use of Logo. Participants renewing with the Department will report their use of the Idaho Preferred® logo from the concluding program year. The report will include, but may not be limited to, information regarding how the Idaho Preferred® logo was used. (3-29-10)

102. -- 109. (RESERVED)

110. PARTICIPATION FEES.

01. Annual Fee. Participation fees will be listed in the participation application and will not exceed one thousand dollars ($1,000). ( )

02. Participation Categories: (3-16-04)

a. Producer. (3-16-04)

b. Packer/Shipper/Processor. (3-16-04)

c. Supporting Organization. (3-16-04)

d. Retail/Foodservice. (3-16-04)

e. Broker/Distributor. (3-16-04)

03. Pro-Rated Fees. New participation agreements issued during the program year will be assessed one hundred percent (100%) of the annual fee if applying between July 1 and December 31 and fifty percent (50%) of the fee if applying between January 1 and June 30. (3-29-10)

04. Participation in Multiple Categories. Persons qualifying in multiple participation categories shall be assessed the greater of participation fees. (3-16-04)

111. PARTICIPATION PRIVILEGES.
Participants will benefit from privileges including: (3-16-04)

01. Use of the Idaho Preferred® Logo. Use of the Idaho Preferred® Logo on product labels, advertising, signage, or other promotional materials as allowed by the department. (3-30-07)

02. Listing. Listing In Idaho Preferred® Product Directories. (3-30-07)

03. Promotion. Promotion through advertising, retail and foodservice promotions, consumer and education events, and the Idaho Preferred® website. (3-29-10)

04. Visibility. Visibility from the department's promotion activities. (3-16-04)

112. -- 199. (RESERVED)

200. PRODUCT QUALIFICATION.

01. Authority of Determination. The Director shall have the sole authority in determining the eligibility of a product for participation in the program. (3-16-04)

02. General Product Qualifications. Except as specified in this chapter, or by written order of the Director, products must meet or exceed the following criteria: (3-16-04)

a. Fresh produce and commodities bearing the Idaho Preferred® logo shall be one hundred percent (100%) Idaho grown or raised. (4-2-08)

b. Processed foods and beverages shall contain a minimum of twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho and shall be processed in the state of Idaho. (4-2-08)

c. Non-food agricultural products must be at least twenty percent (20%) agricultural content by weight that has been grown or raised in Idaho and processing must occur in Idaho. (4-7-11)

03. Potatoes. Only certification marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. Any person or participant applying to the Idaho Preferred® program, with the intention to promote Idaho-grown potatoes or products made from Idaho-grown potatoes, shall provide proof of such permission prior to making application with the Department. (3-30-07)

04. Wine. Wines shall contain a minimum of ninety-five percent (95%) Idaho grapes. (4-6-05)

***05. Beer**. Beer shall:* ( )

***a.** Be brewed in Idaho; and* ( )

***b.** Contain at least one (1) Idaho agricultural product such as Idaho malt, Idaho wheat or Idaho hops, or soluble remnant thereof, but excluding water.* ( )

***06. Water**. Water must be extracted from an Idaho water source.* ( )

***07*. Nursery Stock**. Nursery stock shall have been grown in Idaho a minimum of one (1) growing season or growing cycle. (4-6-05)

***08*. Beef and Beef Products**. Beef and beef products shall come from cattle that: (4-6-05)

a. Were born, raised and harvested in the United States. No cattle that originate from outside the United States may qualify for the Idaho Preferred® logo. (3-30-07)

b. *Are raised, fed, or processed in Idaho.* ( )

c. Are processed in federally inspected plants. ( )

***09*. Lamb and Lamb Products**. Lamb and lamb products shall come from sheep that: (5-8-09)

a. Are born, raised and harvested in the United States. No lambs that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. (5-8-09)

b. Have grazed or been fed in Idaho at least three (3) months prior to harvest. The three (3) months need not be contiguous, but must be verifiable. (5-8-09)

c. Are processed at approximately one (1) year of age or less and qualify as lamb or carcasses from older animals, identified as mutton by USDA inspectors, may qualify if they have met requirements in Subsection 200.07.b. (5-8-09)

***10*. Pork and Pork Products**. Pork and pork products shall come from hogs that: (5-8-09)

a. Are born, raised and harvested in the United States. No hogs that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. (5-8-09)

b. Are raised in or processed in Idaho. (5-8-09)

c. Are processed at less than one (1) year of age unless used exclusively for ground pork or sausage products, and are processed in a federally inspected plant. (4-7-11)

11. **Poultry and Poultry Products**. Poultry and poultry products shall come from fowl that: (5-8-09)

a. Are hatched, raised and harvested in the United States. No fowl that originate from, or reside for any portion of their life outside the United States may qualify for the Idaho Preferred® logo. (5-8-09)

b. Are raised and processed in Idaho. Fertile eggs, also known as hatching eggs, or chicks less than three (3) days of age that originate outside of Idaho, but are raised and processed in Idaho, may qualify for Idaho Preferred®. (5-8-09)

c. Are processed in a facility that is approved through a District Health Department for retail sales, or in a federally inspected plant. (5-8-09)

12. **Game Meat**. Game meat shall: (5-8-09)

a. Come from domestic *Cervidae* that are born, raised and processed in Idaho and originate from a facility *regulated* by the Idaho State Department of Agriculture. *( )*

b. Come from domestic buffalo that are born, raised and processed in Idaho. (5-8-09)

c. Be processed in a federally inspected plant. (5-8-09)

13. **Apicultural Products**. Products produced by honey bees including raw honey, wax, pollen, and propolis shall be one hundred percent (100%) Idaho origin. Processed honey shall be eighty percent (80%) Idaho origin. (4-6-05)

14. **Forest Products**. Forest products shall contain a minimum of eighty percent (80%) of their wood fiber content from trees grown in Idaho and shall be manufactured in Idaho. (3-29-12)

15. **Exceptions**. The Director has the authority to establish product qualification requirements specific to individual products and commodities by written order. (3-16-04)

201. -- 299. (RESERVED)

300. LOGO.
The Idaho Preferred® logo has been registered by the Department with the United States Library of Congress (Copyright registration), the United States Patent and Trademark Office (Certification Mark registration), the Idaho Secretary of State (Certificate of Trademark) and is afforded all protections provided for by law. The logo shall be used only by those participants in compliance with this chapter. The Director will establish by written order a logo style manual specifying approved colors, treatments, and fonts for the Idaho Preferred® logo. (5-8-09)

01. Description of the Idaho Preferred® Logo. The Idaho Preferred® logo is an oval background containing a snow-capped mountain range topped with a sunburst. The word "IDAHO" appears in Brand Idaho logotype, and a banner emblazoned with the word "PREFERRED" scrolls across the bottom of the logo. (3-30-07)

02. Graphic Depiction of the Idaho Preferred® Logo:



(3-30-07)

03. Approval for Use of Logo. Participants who wish to use the Idaho Preferred® logo on packaging, labels, flyers, promotional materials, or any other materials that will be viewed by the public must submit a proof of text and design to the Department for approval. Requests for approval must be submitted to the Idaho State Department of Agriculture, Marketing Division not less than five (5) working days prior to the proposed date of use. Written approval from the Department for logo use must be issued prior to use of the logo. (5-8-09)

301. SPECIAL PROMOTIONAL ACTIVITIES.

01. Activities. The Department may engage in special promotional activities including, but not limited to, advertising, product demonstrations, events, publicity, and cooperative activities. The Department may invite participants in the Idaho Preferred® program to participate in any activities. (3-30-07)

02. Fees. The Department may assess a separate fee for any special promotional activity. This fee will not exceed the actual cost of conducting the activity. (3-16-04)

302. OTHER IDAHO PROMOTION PROGRAMS.

01. Commodity-Specific Promotion Programs. Commissions, boards, associations, or other organizations authorized by statute to promote or regulate agricultural products grown, packed, or processed in the state of Idaho shall be the primary and principal promotion and certification mark and trademark organizations for the particular commodity they are authorized to promote or regulate. (3-16-04)

02. Ownership of Marks. Any trademarks, certification marks, brands, seals, logos or other identification marks, that are established, owned or used by such commissions, boards, associations or organizations shall remain their sole property. Any use or infringement of their ownership right is prohibited unless written permission is obtained from an authorized representative of the commission, board, association or organization.
. (3-16-04)

303. DISTRIBUTION OF PROMOTIONAL MATERIAL.

01. Authorized Use. The Idaho Preferred® program has the authority to provide retail and food service outlets, farmers' markets, schools, media, fairs, and other such businesses, organizations, and venues the opportunity to promote Idaho food and agricultural products using the program logo and promotional materials. Open distribution of any and all point-of-sale materials, signage, advertising, identification placards, and other such promotional material, in accordance with this chapter and other applicable laws and precedent, is acceptable use and not considered an infringement on the ownership rights of any mark or seal of a supporting organization as defined in this chapter. (3-29-10)

02. Fees. The Department may assess a fee for promotional materials such as, but not limited to, banners, stickers, signs, aprons, shopping bags, etc. (3-29-10)

304. -- 309. (RESERVED)

310. SELF-CERTIFICATION.
All participants shall self-certify that all products marked with the Idaho Preferred® logo meet the qualification criteria as set forth in this chapter. Self-certification is subject to verification through the application and compliance process. (3-30-07)

311. COMPLIANCE.

01. Authority of Director. The Director has the authority to enter upon the premises of any participant to examine and copy any of the following items: (3-16-04)

a. Books, papers, records, ledgers, journals, electronically or magnetically recorded data: (3-16-04)

b. Computers and computer records or memoranda bearing on the usage of the Idaho Preferred® logo; and (3-30-07)

c. To secure all other information concerned in the enforcement of these rules. (3-16-04)

02. Random Compliance Inspection. The Director shall annually perform random compliance inspections. (3-16-04)

03. Samples. The participant shall, upon the request of the Director, provide samples of the participant's labels, packaging, merchandising, and promotional materials featuring the Idaho Preferred® logo. (3-30-07)

312. -- 314. (RESERVED)

315. VIOLATION.
Any person found in violation of these rules is subject to termination of participation privileges. (3-16-04)

316. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-112, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.01.05, "Rules Governing Certificates of Free Sale." (3-29-10)

02. Scope. These rules govern the issuing of certificates of free sale and establish applicant procedures for obtaining Certificates of Free Sale. (3-29-10)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.

01. Applicant. Any person applying for certification under these rules. (3-29-10)

02. Certificate of Free Sale. A certificate issued by the Department for products grown or processed in Idaho to certify that the products are distributed generally throughout the state of Idaho and the United States and are in accordance with Idaho health laws and sanitary regulations. (3-29-10)

011. -- 099. (RESERVED)

100. APPLICATION FOR CERTIFICATION - PROCEDURES.

01. Application. Application must be made in writing (which includes electronic mail) and include, but will not be limited to, the following information: (3-29-10)

a. Company name; (3-29-10)

b. Physical address of packing or processing facility; and (3-29-10)

c. List of products to be certified. (3-29-10)

02. Application Forms. No application form(s) are necessary. (3-29-10)

03. Multiple Certificates. Multiple certificates may be requested at one time. (3-29-10)

101. -- 109. (RESERVED)

110. APPLICANT REQUIREMENTS.

01. Applicant Health Inspection. The Department may request a copy of an applicants' most recent state, federal or third-party health inspection, if applicable. Such inspection records will be kept on file for one (1) year. (3-29-10)

02. Applicant Licenses or Registrations. If the applicant is regulated by the Department, the applicant must meet all state laws and Department regulations. (3-29-10)

111. -- 119. (RESERVED)

120. SPECIAL REQUESTS.

01. Customized Certificates. The applicant may request customized text for the certificate of free sale in order to meet the import requirements of a specific country. The Department will make every effort to comply with the request. (3-29-10)

02. Additional Charges. There will be no additional charges for special requests. (3-29-10)

121. -- 299. (RESERVED)

300. FEES AND CHARGES.

01. Certification Fees. The Director will establish certification fees annually under this chapter. Fees will not exceed fifty dollars ($50) each. Fees will be set by July 1 of each year. (3-29-10)

02. Notary Charges. Notary certification will be provided for each certificate at no additional charge. (3-29-10)

03. Shipping and Delivery Charges. There will be no fees for mailing costs unless the applicant requests express mailing. (3-29-10)

04. Express Mailing. The applicant will be responsible for express mailing charges. The applicant may provide an account number for the carrier, pre-paid air bill or be invoiced for the actual costs. (3-29-10)

05. Payment. The applicant will be sent an invoice for fees and charges and will be responsible for payment. (4-11-15)

301. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-1103, Idaho Code. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.33, "Organic Food Products Rules." (4-2-03)

02. Scope. These rules *govern definitions, requirements for production, handling, and labeling of organic plant and animal products. These rules further govern the general requirements for certification of producers and handlers of plant and animal products, as well as program fee structures.* *( )*

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The Code of Federal Regulations, Title 7, Part 205, National Organic Program Regulations (July 7, 2010), except sections 205.620 through 205.622, is incorporated by reference and can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?c=ecfr&SID=b885492294d6e01d334ae6076da2c3c2&rgn=div5&view=text&node=7:3.1.1.9.32&idno=7. Copies of this document may be obtained from the Idaho State Department of Agriculture (ISDA), 2270 Old Penitentiary Road, Boise, Idaho 83712. (4-7-11)

***005*. -- 009. (RESERVED)**

010. DEFINITIONS.
In addition to the definitions found in Section 22-1102, Idaho Code, the following definitions apply to the interpretation and enforcement of these rules: *( )*

01. Agent. Any entity accredited by the Secretary of the United States Department of Agriculture as a certifying agent for the purpose of certifying a production or handling operation. (3-19-07)

02. Certification. A document issued by the Department to a producer/handler who is in compliance with this rule who has more than five thousand dollars ($5,000) annual gross organic sales. (3-19-07)

03. Educational Activity. Seminar, conference, farm tour, class, or research. (3-19-07)

04. Food Products. Includes all agricultural, horticultural, viticultural and vegetable products of the soil, apiary and apiary products, poultry and poultry products, livestock and livestock products, milk and dairy products and aquaculture products. (4-2-03)

05. Materials. Any substance or mixture of substances that is intended to be used in agricultural production, processing, or handling. (3-27-13)

011. -- 199. (RESERVED)

200. IDAHO ORGANIC CERTIFICATION SEAL.

01. Description of Seal. Certified operations that become certified for the first time prior to July 1, 2013 may continue to use the seal depicted in Figure 1. Certified operations that become certified for the first time July 1, 2013 and later may only use the seal in Figure 2.

FIGURE 1



FIGURE 2



(3-27-13)

02. Utilization of Seal. The Idaho organic certification seal as approved by the director and as shown in Figure 1 and Figure 2, may be imprinted or affixed on labels, packages or products, or used in advertising in any manner *and* signifies that the standards and rules developed in accordance with the provisions of this rule and all other conditions of the provisions of this chapter have been met. *( )*

a. Any container manufacturer may apply for authorization to imprint facsimiles of the ISDA organic certification seal on containers of organic products. (4-2-03)

b. Authorization granted to imprint facsimile seals is subject to review by the director on an annual basis, or more frequently if necessary. (4-2-03)

201. REGISTRATION OF APPROVED MATERIALS.
The director may establish a list of registered branded materials for use in organic production, processing, or handling. (3-27-13)

01. Registration. Registration is voluntary. (3-27-13)

a. All applicants applying for registration of materials must submit the application to the Department on forms prescribed by the Department. (3-27-13)

b. An applicant for materials registration must demonstrate that the material meets the requirements and standards of the National Organic Program. Specifically, the material may not be a material prohibited for use in the production, processing, or handling of organic products by 7 C.F.R. Section 205.105, and may not be otherwise prohibited for use in organic production, processing, or handling by the National Organic Program. (3-27-13)

02. Effect of Registration. The fact that a material is registered is not a guarantee that the registered material will be acceptable for use by certified organic producers, processors, or handlers or other organic certifying agencies other than ISDA. (3-27-13)

03. Department Not Liable. The Department is not liable for any losses or damages that occur as a

result of any person's use of any registered branded material. The Department is not liable for any losses or damages that result from delays that occur in the registration process due to lack of resources or expertise. (3-27-13)

04. Registration Fees. The Director may charge the following fees, which are nonrefundable and are not to exceed the stated amounts. (3-27-13)

a. Operations that hold a current approval from a reputable third party accredited material evaluation program such as the Environmental Protection Agency, an NOP Accredited Certifying Agent, or ISO Guide 65 for the material(s) which it is seeking to register in Idaho must pay two hundred dollars ($200) for an initial registration application fee, and two hundred dollars ($200) each year thereafter for renewal of the registration. (3-27-13)

b. All operations must pay initial and annual inspection fees to keep their product registered. (3-27-13)

05. Initial and Annual Inspection Fees. (3-27-13)

a. The hourly rate for inspections is fifty dollars ($50), including travel time. (3-27-13)

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. (3-27-13)

c. There will be a minimum charge of fifty dollars ($50) plus mileage for any inspection. (3-27-13)

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (3-27-13)

e. A per diem, lodging, and travel as allowed by state and ISDA rules, and any other out of pocket costs incurred by ISDA in conducting annual or initial certification inspections will be charged to the operation. (3-27-13)

f. Upon approval by ISDA, private inspectors may be utilized. The applicant or operator will bear the total cost of the private inspection. (3-27-13)

06. Seal for Registered Branded Materials. When a material is registered and added to the list of registered branded materials, the Director will approve the use of the seal in Figure 3 on the packaging and in the promotions for the sale of the registered material subject to the National Organic Program and Idaho state rules:

FIGURE 3



(3-27-13)

07. Revocation of Registration. If at any time the registered material is determined to be not suitable for organic use, the Director may revoke the registration of the branded material, remove the material from the list of registered branded materials, and revoke authorization to use the seal shown in Subsection 201.06. (3-27-13)

202. -- 299. (RESERVED)

300. CERTIFICATION REQUIREMENTS AND FEES.

01. Certification Requirements. All applicants applying for certification with the Department, must submit the application to the Department on forms prescribed or approved by the Department. (3-29-12)

a. All organic food producers/handlers in Idaho with annual gross organic sales of more than five thousand dollars ($5,000) must be certified with the Department, unless certified by agents other than the Department accredited under the National Organic Program. (3-19-07)

b. Producers/handlers with annual gross organic sales of five thousand dollars ($5,000) or less may select certification. (4-11-15)

c. All organic food producers and organic handlers certifying with the Department are subject to an annual on-site inspection. (3-19-07)

d. Livestock producer and handler applications will be accepted throughout the year. (3-19-07)

02. Certification Fees. (3-29-10)

a. Organic producers/handlers with annual gross organic sales of more than five thousand dollars ($5,000) up to fifteen thousand dollars ($15,000) or producers with annual gross income of five thousand dollars ($5,000) or less requesting certification - One hundred twenty-five dollars ($125). (4-7-11)

b. Organic producer/handler with annual gross organic sales of more than fifteen thousand dollars ($15,000) – Two hundred dollars ($200). (4-7-11)

c. A person who produces and handles their own organic food products pays only one (1) annual certification fee based on gross annual organic sales. (3-19-07)

03. Certification Inspection Fees. (3-19-07)

a. The hourly rate is thirty-five dollars ($35) including travel time. (3-19-07)

b. Travel time from an inspector's normal duty station to the inspection site and return to normal duty station will be compensable time charged to the applicant. (3-19-07)

c. There will be a minimum charge of thirty-five dollars ($35) plus mileage for any inspection. (3-19-07)

d. A mileage rate as approved by the Board of Examiners will be included in the inspection fees. (3-19-07)

e. Inspections conducted on weekends, holidays, or after normal office hours will be charged at an hourly rate of forty-seven dollars and fifty cents ($47.50) including travel time with a minimum charge of one (1) hour plus mileage. (3-19-07)

f. Upon approval by the Department, private inspectors may be utilized. The applicant bears the total cost of the private inspection. (3-29-10)

301. GRADUATED GROSS SALES FEE SCHEDULE.

01. Graduated Gross Sales Fee Table. In addition to the fees prescribed above, all producers and handlers certified by the Department must remit with their certification application an amount based on their annual gross organic sales during the last calendar year, or in the case of a first-time applicant, a projected gross dollar amount for the upcoming calendar year, with a minimum fee of ten dollars ($10). The graduated gross organic sales fee structure is as follows:

0 - 2,000	$10
2,001 - 5,000	$25
5,001 - 10,000	$50
10,001 - 15,000	$75
15,001 - 20,000	$100
20,001 - 25,000	$125
25,001 - 30,000	$150
30,001 - 35,000	$175
35,001 - 50,000	$250
50,001 - 75,000	$375
75,001 - 100,000	$500
100,001 - 150,000	$750
150,001 - 200,000	$1,000
200,001 - 280,000	$1,400
280,001 - 375,000	$1,875
375,001 - 500,000	$2,500
500,001 and up	0.5% of gross organic sales up to $5,000

(4-11-15)

02. **Non-Refundable**. Certification application fees are non-refundable. (4-11-15)

302. -- 999. (RESERVED)

IDAPA 02 – DEPARTMENT OF AGRICULTURE

DOCKET NO. 02-0000-1900FA

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, these pending fee rules will not become final and effective until they have been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rules are rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted these pending fee rules. This action is authorized pursuant to Sections 22-103, 22-107, 22-108, 22-112, 22-418, 22-505, 22-604, 22-901, 22-911, 22-1907, 22-2004, 22-2006, 22-2013, 22-2204, 22-2303, 22-2403, 22-2412, 22-2503, 22-2511, 22-2710, 22-5129, 25-203, 25-207, 25-207B, 25-212, 25-305, 25-601, 25-804, 25-3704, 25-1723(b), 25-3520, 37-303, 37-402, 37-405, 37-516, 37-1521, 69-231, 69-524, Idaho Code.

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

These pending fee rules adopt and re-publish the following existing and previously approved and codified chapter(s) under IDAPA 02, rules of the Idaho State Department of Agriculture.

- IDAPA 02.02.11, *Rules Governing Eggs and Egg Products*
- IDAPA 02.02.12, *Bonded Warehouse Rules*
- IDAPA 02.02.13, *Commodity Dealers' Rules*
- IDAPA 02.02.15, *Rules Governing the Seed Indemnity Fund*
- IDAPA 02.04.19, *Rules Governing Domestic Cervidae*
- IDAPA 02.06.06, *Rules Governing the Planting of Beans*

All changes between the text of the proposed rules and the pending rules are consistent with the guidance and direction provided in the Red Tape Reduction Act. These rules were reviewed to update authorities, eliminate unnecessarily restrictive language and redundancy:

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 291- 522**.

IDAPA 02.06.06, *Rules Governing the Planting of Beans* was amended to add Section 200.05 which was inadvertently omitted when the bean rules were combined prior to publication in the June 19, 2019 Bulletin.

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 02, rules of the Department of Agriculture. They have been consolidated into rule chapters with similar subject matter:

- **(VACATED)** 02.02.07, *Bulk Permit Procedure (Potatoes)* (Consolidated into new chapter 02.02.07, "Rules Governing Bulk Permits and Retail Sale of Potatoes")
- **(VACATED)** 02.04.03, *Rules Governing Animal Industry* (Consolidated into new chapter 02.04.03, "Rules Governing Animal Industry" which combines the Rules Governing Animal Industry and Rules Governing Animal Health Emergencies)
- **(VACATED)** 02.04.09, *Rules Governing Milk and Cream Procurement and Testing* (Consolidated into new chapter 02.04.05, "Rules Governing Grade A and Manufacture Grade Milk")

- **(VACATED)** 02.04.26, *Rules Governing Livestock Marketing* (Consolidated into new chapter 02.04.26, "Rules Governing the Public Exchange of Livestock")
- **(VACATED)** 02.06.01, *Rules Governing the Pure Seed Law* (Consolidated into new chapter 02.06.01, "Rules Governing the Production and Distribution of Seed")
- **(VACATED)** 02.06.02, *Rules Pertaining to the Idaho Commercial Feed Law* (Consolidated into new chapter 02.06.02, Rules Governing Registration and Licenses)
- **(VACATED)** 02.06.03, *Rules Pertaining to Idaho Nurseries and Florists Law* (Consolidated into new chapter 02.06.02, "Rules Governing Registration and Licenses")
- **(VACATED)** 02.06.04, *Phytosanitary and Post-Entry Seed Certification Rules* (Consolidated into new chapter 02.06.04, "Rules Governing Plant Exports")
- **(VACATED)** 02.06.05, *Rules Governing Diseases of Hops* (Consolidated into new chapter 02.06.05, "Rules Governing Plant Disease and Quarantines")
- **(VACATED)** 02.06.12, *Rules Pertaining to the Idaho Fertilizer Law* (Consolidated into new chapter 02.06.02, "Rules Governing Registration and Licenses")
- **(VACATED)** 02.06.14, *Rules Governing Annual Bluegrass* (Consolidated into new chapter 02.06.01, "Rules Governing the Production and Distribution of Seed")
- **(VACATED)** 02.06.18, *Rules Governing Mint Rootstock and Clone Production* (Consolidated into new chapter 02.06.05, "Rules Governing Plant Disease and Quarantines")
- **(VACATED)** 02.06.27, *Rules Governing Bacterial Ring Rot* (Consolidated into new chapter 02.06.05, "Rules Governing Plant Disease and Quarantines")
- **(VACATED)** 02.06.30, *Rules Under the Idaho Bee Inspection Law* (Consolidated into new chapter 02.06.02, "Rules Governing Registration and Licenses")
- **(VACATED)** 02.06.31, *Noxious Weed Free Forage and Straw Certification Rules* (Consolidated into new chapter 02.06.09, "Rules Governing Invasive Species and Noxious Weeds")
- **(VACATED)** 02.06.34, *Rules Concerning Virus-Free Certification of Nursery Stock* (Consolidated into new chapter 02.06.04, "Rules Governing Plant Exports")
-
- **(VACATED)** 02.06.40, *Rules Governing Ginseng Export* (Consolidated into new chapter 02.06.04, "Rules Governing Plant Exports")
- **(VACATED)** 02.06.41, *Rules Pertaining to the Soil and Plant Amendment* (Consolidated into new chapter 02.06.02, "Rules Governing Registration and Licenses")

IDAHO CODE SECTION 22-101A STATEMENT: Pursuant to 22-101A(5), for any rule promulgated or adopted by the director which is broader in scope or more stringent than federal law or regulations, or which regulates an activity not regulated by the federal government, the director shall identify the portions of the adopted rule that are broader in scope or more stringent than federal law or rules, or which regulate an activity not regulated by the federal government. The following table delineates rules which are broader in scope, more stringent than federal law or regulations, or regulate an activity not regulated by the federal government:

IDAPA	Specific Findings	Fee Summary	22-101A
02.02.11	The fee outlined in this rule funds the required activities and required inspections. The program establishes standards for sanitation, grading, handling, labelling and marketing of eggs sold in Idaho.	Assessment in lieu of seal @ rate of 0.4 cent per dozen each month; Authorized by Section 37-1523, Idaho Code	Entire rule regulates an activity not regulated by the federal government.
02.02.12	The fee outlined in this rule funds the required activities. Assessments are used to pay valid claims in case of a warehouse failure. The program provides warehouse inspections and financial analysis consistent with program requirements. There is no general fund support of this program.	0.2% of total value @ time of sale; Authorized by Section 69-211, Idaho Code	02.02.12.480; 02.02.12.482; 02.02.12.483; 02.02.12.484; 02.02.12.485; and 02.02.12.486 are broader in scope than federal laws or regulations
02.02.13	The fee outlined in this rule funds the required activities. Assessments are used to pay valid claims in case of a commodity dealer failure. The program provides commodity dealer inspections and financial analysis consistent with program requirements. There is no general fund support of this program.	0.2% gross dollar amount; Authorized by Section 69-508, Idaho Code	Entire rule regulates an activity not regulated by the federal government.
02.02.15	The fee outlined in this rule funds the required activities. Assessments are used to pay valid claims in case of a licensed seed buyer failure. The program provides seed buyer inspections consistent with program requirements. There is no general fund support of this program.	Buyers collect assessment based on certain categories of seed crops; Authorized by Section 22-5107, Idaho Code	Entire rule regulates an activity not regulated by the federal government.
02.04.19	The fees outlined in this rule fund the required activities. The program provides annual facility inspections, entry permits and disease surveillance. There is no general fund support of this program.	$10/ head on elk, $3/ head on fallow deer; Authorized by Section 25-3708, Idaho Code	02.04.19.013, 02.04.19.020, 02.04.19.021, 02.04.19.022, 02.04.19.030, 02.04.19.031-040, 02.04.19.070, and 02.04.19.080-400 are more stringent than federal laws or regulations. 02.04.19.031-040 and 02.04.19.080-400 are broader in scope than federal laws or regulations
02.06.06	The fees outlined in this rule are necessary to fund the required activities. Compliance with seed certification and export requirements are necessary to ensure commodities are export eligible. There is no general fund support for this program.	$0.18 for tags; application fee for inspection $3.50/acre/ inspection; lab sample fee; Authorized by Section 22-2006, Idaho Code	Entire rule regulates an activity not regulated by the federal government.

FEE SUMMARY: The table above provides a specific description of fees or charges imposed by specific rules. This rulemaking does not impose fees or charges, or increase fees or charges, beyond what was previously approved and codified in the prior rules. Fees or charges are imposed pursuant to the Idaho Code Sections detailed above.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, in anticipation of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Brian Oakey at (208) 332-8550.

Dated this 16th day of October, 2019.

Brian Oakey
Deputy Director
Idaho State Department of Agriculture
2270 Old Penitentiary Road
P.O. Box 7249
Boise, Idaho 83707
Phone: (208) 332-8552
Fax: (208) 334-2170

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 37-1521, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.11, **"**Rules Governing Eggs and Egg Products." ( )

02. Scope. These rules govern the grades and standards for Idaho eggs and egg products, including tolerances, consumer grades, sanitation, storage, egg seals, tax, and cartons. ( )

002. -- 011. (RESERVED)

012. GRADES AND STANDARDS.

01. Classifications. The following standards, grades and weight classifications are hereby established and adopted. (7-1-93)

a. Except as otherwise provided in this subsection, all shell eggs sold for human consumption in the Idaho must be designated as one (1) of the following grades: "Idaho Consumer Grade AA," "Idaho Consumer Grade A," "Idaho Consumer Grade B." (7-1-93)

b. An Idaho producer of shell eggs may sell shell eggs produced on his premises in Idaho directly to consumers at the place of production of the eggs, without grade designations. (7-1-93)

c. Idaho shell egg producers having three hundred (300) or less hens may sell ungraded shell eggs produced upon their premises to retailers, provided that each carton or other container of ungraded shell eggs sold must be clearly marked "Ungraded" and bear the name and address of the Idaho producer. (7-1-93)

02. Standards. The following standards for individual shell eggs are used in determining the Idaho consumer grade designation applicable thereto. (7-1-93)

03. Application. The Idaho standards for quality of individual shell eggs contained in this section are applicable only to eggs that are the product of the domesticated chicken hen and are in the shell. (7-1-93)

04. Interior Egg Quality Specifications. Interior egg quality specifications for these standards are based on the apparent condition of the interior contents of the egg as it is twirled before the candling light. Any type or make of candling light may be used that will enable the particular grader to make consistently accurate determinations of the interior quality of shell eggs. It is desirable to break out an occasional egg and by determining the Haugh unit value of the broken-out egg, compare the broken-out and candled appearance, thereby aiding in correlating candled and broken-out appearance. (7-1-93)

05. AA Quality. The shell must be clean, unbroken and practically normal. The air cell must not exceed one-eighth (1/8) inch in depth, may show unlimited movement and may be free or bubbly. The white must be clear and firm so that the yolk is only slightly defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects. (7-1-93)

06. A Quality. The shell must be clean, unbroken and practically normal. The air cell must not exceed three-sixteenths (3/16) inch in depth, may show unlimited movement and may be free or bubbly. The white must be clear and at least reasonably firm so that the yolk outline is only fairly well defined when the egg is twirled before the candling light. The yolk must be practically free from apparent defects. (7-1-93)

07. B Quality. The shell must be unbroken, may be abnormal, and may have slightly stained areas. Moderately stained areas are permitted if they do not cover more than one thirty-second (1/32) of the shell surface if localized, or one-sixteenth (1/16) of the shell surface if scattered. Eggs having shells with prominent stains or adhering dirt are not permitted. The air cell may be over three-sixteenths (3/16) inch in depth, may show unlimited movement, and may be free or bubbly. The white may be weak and watery so that the yolk outline is plainly visible when the egg is twirled before the candling light. The yolk may appear dark, enlarged and flattened and may show clearly visible germ development but no blood due to such development. It may show other serious defects that do

not render the egg inedible. Small blood spots or meat spots (aggregating not more than one-eighth (1/8) inch in diameter) may be present. (7-1-93)

08. Dirty. An individual egg that has an unbroken shell with adhering dirt or foreign material, prominent stains or moderate stains covering more than one thirty-second (1/32) of the shell surface if localized, or one-sixteenth (1/16) of the shell surface if scattered. (7-1-93)

09. Check. An individual egg that has a broken shell or crack in the shell but with its shell membranes intact and its contents do not leak. A "check" is considered to be lower in quality than a "dirty." (7-1-93)

013. -- 049. (RESERVED)

050. TERMS DESCRIPTIVE OF SHELL.

01. Clean. A shell that is free from foreign material and from stains or discolorations that are readily visible. An egg may be considered clean if it has only very small specks, stains or cage marks if such specks, stains or cage marks are not of sufficient number or intensity to detract from the generally clean appearance of the egg. Eggs that show traces of processing oil on the shell are considered clean unless otherwise soiled. (7-1-93)

02. Dirty. A shell that is unbroken and that has dirt or foreign material adhering to its surface, that has prominent stains, or moderate stains covering more than one thirty-second (1/32) of the shell surface if localized or one-sixteenth (1/16) of the shell surface if scattered. (7-1-93)

03. Practically Normal (AA or A Quality). A shell that approximates the usual shape and that is sound and is free from thin spots. Ridges and rough areas that do not materially affect the shape and strength of the shell are permitted. (7-1-93)

04. Abnormal (B Quality). A shell that may be somewhat unusual or decidedly *misshapen* or that may show pronounced ridges or thin spots. *( )*

051. -- 099. (RESERVED)

100. TERMS DESCRIPTIVE OF THE AIR CELL.

01. Depth of Air Cell. The depth of the air cell (air space between shell membranes, normally in the large end of the egg) is the distance from its top to its bottom when the egg is held air cell upward. (7-1-93)

02. Free Air Cell. An air cell that moves freely toward the uppermost point in the egg as the egg is rotated slowly. (7-1-93)

03. Bubbly Air Cell. A ruptured air cell resulting in one (1) or more small separate air bubbles usually floating beneath the main air cell. (7-1-93)

101. -- 149. (RESERVED)

150. TERMS DESCRIPTIVE OF THE WHITE.

01. Clear. A white that is free from discolorations or from any foreign bodies floating in it. (Prominent chalazas should not be confused with foreign bodies such as spots or blood clots). (7-1-93)

02. Firm (AA Quality). A white that is sufficiently thick or viscous to prevent the yolk outline from being more than slightly defined or indistinctly indicated when the egg is twirled. With respect to a broken-out egg, a firm white has a Haugh unit value of seventy-two (72) or higher when measured at a temperature between forty-five (45) Degrees F and sixty (60) Degrees F. (7-1-93)

03. Reasonably Firm (A Quality). A white that is somewhat less thick or viscous than a firm white. A reasonably firm white permits the yolk to approach the shell more closely that results in a fairly well defined yolk

outline when the egg is twirled. With respect to a broken-out egg, a reasonably firm white has a Haugh unit value of sixty (60) to seventy-two (72) when measured at a temperature between forty-five (45) Degrees F and sixty (60) Degrees F. (7-1-93)

04. Weak and Watery (B Quality). A white that is weak, thin and generally lacking in viscosity. A weak and watery white permits the yolk to approach the shell closely, thus causing the yolk outline to appear plainly visible and dark when the egg is twirled. With respect to a broken-out egg, a weak and watery white has a Haugh unit value lower than sixty (60) when measured at a temperature between forty-five (45) Degrees F and sixty (60) Degrees F. (7-1-93)

05. Blood Spots or Meat Spots. Small blood spots or meat spots (aggregating not more than one-eighth (1/8) inch in diameter), may be classified as "B" quality. If larger, or showing diffusion of blood into the white surrounding a blood spot, the egg must be classified as Loss. Blood spots must not be due to germ development. They may be on the yolk or in the white. Meat spots may be blood spots that have lost their characteristic red color or tissue from the reproductive organs. (7-1-93)

06. Bloody White. An egg that has blood diffused through the white. Eggs with bloody whites are classed as Loss. Eggs with blood spots that show a slight diffusion into the white around the localized spot are not to be classified as bloody whites. (7-1-93)

151. -- 199. (RESERVED)

200. TERMS DESCRIPTIVE OF THE YOLK.

01. Outline Slightly Defined (AA Quality). A yolk outline that is indistinctly indicated and appears to blend into the surrounding white as the egg is twirled (7-1-93)

02. Outline Fairly Well Defined (A Quality). A yolk outline that is discernible but not clearly outlined as the egg is twirled. (7-1-93)

03. Outline Plainly Visible (B Quality). A yolk outline that is clearly visible as a dark shadow when the egg is twirled. (7-1-93)

04. Enlarged and Flattened (B Quality). A yolk in which the yolk membranes and tissues have weakened and moisture has been absorbed from the white to such an extent that it appears definitely enlarged and flat. (7-1-93)

05. Practically Free From Defects (AA or A Quality). A yolk that shows no germ development but may show other very slight defects on its surface. (7-1-93)

06. Serious Defects (B Quality). A yolk that shows well developed spots or areas and other serious defects, such as olive yolks, that do not render the egg inedible. (7-1-93)

07. Clearly Visible Germ Development (B Quality). A development of the germ spot on the yolk of a fertile egg that has progressed to a point where it is plainly visible as a definite circular area or spot with no blood in evidence. (7-1-93)

08. Blood Due to Germ Development. Blood caused by development of the germ in a fertile egg to the point where it is visible as definite lines or as a blood ring. Such an egg is classified as inedible. (7-1-93)

201. -- 249. (RESERVED)

250. GENERAL TERMS.

01. Loss. An egg that is inedible, cooked, frozen, contaminated, or containing bloody whites, large blood spots, large unsightly meat spots, or other foreign material. (7-1-93)

02. Inedible Eggs. Eggs of the following description are classed as inedible: black rots, yellow rots, white rots, mixed rots (addled eggs), sour eggs, eggs with green whites, eggs with stuck yolks, moldy eggs, musty eggs, eggs showing blood rings, eggs containing embryo chicks (at or beyond the blood ring state), and any eggs that are adulterated as such term is defined pursuant to the Federal Food, Drug and Cosmetic Act. (7-1-93)

03. Leaker. An individual egg that has a crack or break in the shell and shell membranes to the extent that the egg contents are exuding or free to exude through the shell. (7-1-93)

251. -- 299. (RESERVED)

300. CONSUMER GRADES FOR SHELL EGGS - GENERAL.

01. Applicability. The consumer grade designations established by this act are applicable to edible shell eggs in "lot" quantities rather than on an "individual" egg basis. these standards to the term "case" means thirty (30) dozen egg cases as used in commercial practices in the United States. (7-1-93)

02. Substitution. Substitution of higher qualities for the lower qualities specified is permitted.(7-1-93)

03. No Grade. "No Grade" means eggs of possible edible quality that fail to meet the requirements of an Idaho Consumer Grade or that have been contaminated by smoke, chemicals or other foreign material that has seriously affected the character, appearance or flavor of the eggs. (7-1-93)

301. -- 349. (RESERVED)

350. GRADE STANDARDS - TOLERANCES.

01. Grade AA (At Origin). Idaho Consumer Grade AA (at origin) consists of eggs that are at least eighty-seven percent (87%) AA quality. The maximum tolerance of thirteen percent (13%) that may be below AA quality may consist of A or B quality in any combination, except that within the tolerance of B quality not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter), or serious yolk defects. Not more than five percent (5%) (seven percent (7%) for Jumbo size) Checks are permitted and not more than five-tenths of one percent (0.5%) Leakers, Dirties or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

02. Grade AA (At Destination). Idaho Consumer Grade AA (destination) consists of eggs that are seventy-two percent (72%) AA quality. The remaining tolerance of twenty-eight percent (28%) must consist of at least ten percent (10%) A quality, and the remainder must be B quality, except that within the tolerance for B quality not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. Not more than seven percent (7%) (nine percent (9%) for Jumbo size) Checks are permitted and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination except that such Loss may not exceed three tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

03. Grade A (At Origin). Idaho Consumer Grade A (at origin) consists of eggs that are eighty-seven percent (87%) A quality or better. Within the maximum tolerance of thirteen percent (13%) that may be below A quality, not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. Not more than five percent (5%) (seven percent (7%) for Jumbo size) Checks are permitted and not more than five-tenths of one percent (0.5%) Leakers, Dirties or Loss (due to meat or blood spots) in any combination except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

04. Grade A (At Destination). Idaho Consumer Grade A (at destination) consists of eggs that are eighty-two percent (82%) A quality or better. Within the maximum tolerance of eighteen percent (18%) that may be below A quality, not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. Not more than seven percent (7%) (nine percent (9%) for Jumbo size) Checks are permitted and not more than one percent (1%) Leakers,

Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

05. Grade B (At Origin). Idaho Consumer Grade B (at origin) consists of eggs that are ninety percent (90%) B quality or better, not more than ten percent (10%) may be Checks and not more than five-tenths of one percent (0.5%) Leakers, Dirties or Loss (due to meat or blood spots) except that such Loss may not exceed three-tenths of one percent (0.30%) in any combination. Other types of Loss are not permitted. (7-1-93)

06. Grade B (at Destination). Idaho Consumer Grade B (at destination) consists of eggs that are ninety percent (90%) B quality or better, not more than ten percent (10%) may be Checks and not more than one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (7-1-93)

351. -- 399. (RESERVED)

400. ADDITIONAL TOLERANCES -- IN LOTS OF TWO OR MORE CASES.

01. Grade AA. No individual case may exceed ten percent (10%) less AA quality eggs than the minimum permitted for the lot average. (7-1-93)

02. Grade A. No individual case may exceed ten percent (10%) less A quality eggs than the minimum permitted for the lot average. (7-1-93)

03. Grade B. No individual case may exceed ten percent (10%) less B quality eggs than the minimum permitted for the lot average. (7-1-93)

04. Single Egg Exemption. For Grades AA, A, and B, no lot may be rejected or downgraded due to the quality of a single egg except for loss other than blood or meat spots. (7-1-93)

05. Lots of Two or More Cartons. In lots of two (2) or more cartons, no individual carton may contain less than eight (8) eggs of the specified quality and no individual carton may contain less than ten (10) eggs of the specified quality and the next lower quality. The remaining two (2) eggs may consist of a combination of qualities below the next lower quality (i.e., in lots of grade A, not more than two (2) eggs of the qualities in individual cartons within the sample may be B or checks). (7-1-93)

401. -- 449. (RESERVED)

450. SUMMARY OF IDAHO CONSUMER GRADES FOR SHELL EGGS.

01. Grades for Shell Eggs -- Table 1.

		TOLERANCE PERMITTED	
	QUALITY REQUIRED	Percent	Quality
IDAHO CONSUMER GRADE (origin)			
Grade AA	87 percent AA	Up to 13 Not over 5	A or B Checks
Grade A	87 percent A or Better	Up to 13 Not over 5	B Checks
Grade B	90 percent B or Better	Not over 10	Checks
IDAHO CONSUMER GRADE (destination)			
Grade AA	72 percent AA	Up to 28 Not over 7	A or B Checks

		TOLERANCE PERMITTED	
	QUALITY REQUIRED	Percent	Quality
Grade A	82 percent A or Better	Up to 18 Not Over 7	B Checks
Grade B	90 percent B or Better	Not over 10	Checks

(5-25-93)

a. In lots of two (2) or more cases or cartons, see Table 2 of Section 450 for tolerances for an individual case or carton within a lot. (5-25-93)

b. For Idaho Consumer Grades (at origin) a tolerance of five-tenths of one percent (0.5%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (5-25-93)

c. For Idaho Consumer Grades (destination) a tolerance of one percent (1%) Leakers, Dirties, or Loss (due to meat or blood spots) in any combination is permitted, except that such Loss may not exceed three-tenths of one percent (0.3%). Other types of Loss are not permitted. (5-25-93)

d. For Idaho Consumer Grade AA at destination, at least ten percent (10%) must be A quality or better. (5-25-93)

e. For Idaho Consumer grade AA and A at origin and destination within the tolerances permitted for B quality, not more than one percent (1%) may be B quality due to air cells over three-eighths (3/8) inch, blood spots (aggregating not more than one-eighth (1/8) inch in diameter) or serious yolk defects. (5-25-93)

f. For Idaho Consumer Grades AA and A Jumbo size eggs, the tolerance for checks at origin and destination is seven percent (7%) and nine percent (9%) respectively. (5-25-93)

02. Tolerance for Individual Case or Carton Within a Lot -- Table 2.

Idaho Consumer Grade	Case Minimum Quality	Origin Percent	Destination Percent	Carton Minimum Quality, No. of Eggs (Origin & Destination)
Grade AA	AA (Min)	77	62	8 eggs AA
	A or B	13	28	2 eggs A
	Check (Max)	10	10	2 eggs B, or Check
Grade A	A (Min)	77	72	8 eggs A
	B	13	18	2 eggs B
	Check (Max)	10	10	2 eggs Check
Grade B	B (Min)	80	80	10 eggs B
	Check	20	20	2 eggs Check

(5-25-93)

03. Summary of Standards for Quality of Individual Shell Eggs. The Specifications for Each Quality Factor:

Quality Factor	AA Quality	A Quality	B Quality
Shell	**Clean**	**Clean**	**Clean to Slightly Stained**
	Unbroken Practically Normal	Unbroken Practically Normal	Unbroken Abnormal
Air Cell	1/8" or less in Depth. Unlimited movement and free or bubbly	3/16" or less in Depth. Unlimited movement and free and bubbly	Over 3/16" in Depth. Unlimited movement and free or bubbly
White	Clear Firm	Clear Reasonably Firm	Weak and Watery. Small Blood and Meat spots present
Yolk	Outline slightly defined. Practically free from defects	Outline fairly well defined. Practically free from defects.	Outline plainly visible. Enlarged and flattened. Clearly visible germ development but no blood. Other serious defects

(5-25-93)

a. Moderately stained areas permitted (one thirty-second (1/32) of surface if localized or one-sixteenth (1/16) if scattered). (7-1-93)

b. Blood and meat spots are allowed if they are small (aggregating not more than one-eighth (1/8) inch in diameter). (5-25-93)

04. Quality of Dirty or Broken Shell Eggs -- Table 5. For eggs with dirty or broken shells, the standards of quality provide three additional qualities. These are:

Dirty	Check	Leaker
Unbroken Adhering dirt or foreign material, moderate stained areas in excess of B quality	Broken or cracked shell but membranes intact, not leaking	Broken or cracked shell and membranes and contents leaking or free to leak

(5-25-93)

05. Weight Classes. The weight class for Idaho Consumer Grades for shell eggs is as indicated in the following table:

Size Or Weight Class	Minimum Net Weight Per Dozen	Minimum Net Weight Per 30 Dozen (Pounds)	Minimum Weight For Individual Eggs At Rate Per Dozen (Ounces)
Jumbo	30	56	29
Extra Large	27	50.5	26
Large	24	45	23
Medium	21	39.5	20
Small	18	34	17
Peewee	15	28	--

(5-25-93)

06. Lot Average Tolerance. A lot average tolerance of three and three-tenths percent (3.3%) for individual eggs in the next lower weight class is permitted as long as no individual case within the lot exceeds five percent (5%). (7-1-93)

451. -- 499. (RESERVED)

500. EGG PRODUCTS AND BREAKING OPERATIONS.
Anyone engaged in a breaking operation for the production of egg products may obtain a copy of the Federal "Regulations Governing Voluntary Inspection of Egg Products and Grading" (7 CFR Part 55) from the United States Department of Agriculture, AMS, Poultry Division, Washington, DC 20250, Revised May 1, 1991. This is a federally mandated program. The Department of Agriculture has entered into a cooperative agreement with the United States Department of Agriculture (USDA) to provide constant monitoring of these operations. Egg product plants in Idaho are monitored with state staff implementing federal regulations as contained in (7 CFR Part 55) including but not limited to: breaking, pasteurization, packaging, labeling, storage and plant sanitation. Copies of these federal regulations are on file at the Idaho Department of Agriculture located at 2270 Old Penitentiary Road, Boise, Idaho 83712. ( )

501. -- 549. (RESERVED)

550. SANITATION AND STORAGE.

01. Grading Room. Animals, pets, livestock, etc., are not allowed in the grading and packing rooms, or any areas where eggs, cases, flats, and cartons are stored. (7-1-93)

02. Wash Water. Wash water must be clean, potable and free of foreign material. Water must be changed as often as necessary so as to comply. (5-25-93)

03. Wash Water Temperature. The minimum temperature of the wash water must be ninety (90) degrees F or higher, and must be at least twenty (20) degrees F warmer than the temperature of the eggs to be washed. These temperatures must be maintained through the cleaning cycle. (5-25-93)

04. Pre-Wetting or Soaking. Pre-wetting or soaking of stained eggs may not exceed five (5) minutes. Water temperature must meet requirements of Subsection 550.03. (5-25-93)

05. Rest Period. During any rest period, eggs must be removed from the washing and rinsing area of the egg washer and from the scanning area whenever there is a buildup of heat. (5-25-93)

06. Washing and Rinsing Compound. Where washing and rinsing compounds are used, they must be approved by the United States Department of Agriculture or the State Department of Agriculture. (5-25-93)

07. Grading and Packing Rooms. Grading and packing rooms must be kept reasonably clean during grading and packing operations and must be thoroughly cleaned at the end of each operating day. (5-25-93)

08. Weighing and Grading Equipment. Weighing and grading equipment, whether manual or automatic, must be kept clean and be capable of ready adjustment. (5-22-93)

09. Adequate Lavatory and Toilet Accommodations Must Be Provided. Toilet and locker rooms must be maintained in a clean and sanitary condition. Hot and cold running water must be provided. Signs must be posted in the rest rooms instructing employees to wash their hands before returning to work. (7-1-93)

10. Trash. Trash accumulations must be removed from the grading room after each day of operation and removed from the premises on a regular basis. (5-25-93)

11. Thermometers. Accurate thermometers must be provided in egg coolers. (5-25-93)

12. Sanitary Conditions. Cooler rooms must be free from objectable odors and from mold, and

maintained in a sanitary condition. ( )

13. Egg Handling and Transport. (5-25-93)

a. All eggs handled, stored or offered for sale by egg distributors, egg dealers and retailers must be held under refrigeration at a temperature of forty-five (45) degrees F or below. (5-25-93)

b. Eggs must be transported from one facility to another facility in *clean and sanitary* vehicles that are refrigerated or capable of maintaining the ambient temperature of the eggs at forty-five (45) degrees F or below. ( )

14. Distributors or Dealers. All sales areas where eggs are offered for sale by egg distributors or dealers must be maintained in a clean and sanitary condition. (5-25-93)

15. Case and Carton Storage. Egg case and carton storage must be clean and dry, free from poultry house dust or any odorous material that could be absorbed by cases or cartons. (5-25-93)

16. Pesticides, Insecticides and Rodenticides. Pesticides, insecticides and rodenticides must be handled in accordance with the manufacturers' instructions. Storage of these products must be away from the egg grading and packing area. These products must not be allowed to come in contact with the shell eggs being processed, stored, or with egg cases and cartons. (5-25-93)

17. Clean Clothing. Personnel handling, packing and grading eggs must wear clean clothing. (5-25-93)

18. Cases and Packing Materials. Egg cases and packing materials must be clean, free of mold, mustiness and any odors. (5-25-93)

551. -- 599. (RESERVED)

600. EGG SEALS, TAX AND CARTONS.

01. Cartons. Each egg carton must display the following: (7-1-93)

a. An official egg seal one and one-fourth (1 1/4") inches in diameter, black in color with white printing, containing the statement: "State of Idaho, Department of Agriculture - One Dozen Graded Eggs." These official gummed egg seals are available only through the Department and sold at the assessment rate established in this rule; or ( )

b. A legible facsimile egg seal, as defined in Subsection 600.02 of these rules. (In lieu of the official or facsimile egg seal application for exemption from use of seals may be made to the Director under the provisions of Subsection 600.07 of these rules.) (7-1-93)

c. Grade of the eggs contained in the carton. (7-1-93)

d. Size of the eggs contained in the carton. (7-1-93)

e. The name and address of the distributor, together with any desired business or corporation name. (e.g. John Doe, Boise, Idaho; or Produced for, Packed for, Distributed for X-Y-Z Stores, by John Doe, Boise, Idaho.) (7-1-93)

f. The statement "Keep Refrigerated" or with a statement of similar meaning. (7-1-93)

g. The items set forth in Subsections 600.01.a. or 600.01.b., and 600.01.c. and 600.01.d. must be contained on the top panel; items set forth in Subsections 600.01.e. and 600.01.f. may be contained anywhere on the lid portion of each egg carton to be used by any dealer or distributor. The items must be clearly and legibly displayed in contrast to the color of the carton and surrounding colors so that they can be easily distinguished and read. Other

coloring or printing that may appear on the top panel of each egg carton must not dominate the above listed items. No printed matter or design must separate or interfere with the clear legibility of the necessary items. (7-1-93)

02. Facsimile Idaho Egg Seal. The Idaho facsimile egg seal must be one and one-fourth (1 1/4") inches in diameter, contain the wording "State of Idaho Department of Agriculture - One Dozen Graded Eggs." If there is to be any deviation in wording or size, written permission must be obtained from the Director prior to use of any such deviating seal. The color does not have to be black. The color of the facsimile Idaho Egg Seal must be in contrast to the color of the egg carton so that it can be easily distinguishable and read in either a good or a poor light and must not be smeared or smothered out or predominated over by other printing or coloring that may appear on the top panel of the carton. *( )*

03. Distributor. Distributor means the person whose name and address appear on the lid portion of the carton assuming responsibility for the size and grade of such eggs as any carton may be so labeled. (7-1-93)

04. Top Panel. That portion of the egg carton that is the horizontal plane forming the top of the lid of the carton. (7-1-93)

05. Proofs. Proofs of all cartons desired to be used may be submitted to the Director for approval prior to their use. (7-1-93)

06. Imprinting. Procedure for the imprinting of the facsimile Idaho Egg Seal on cartons of eggs: (7-1-93)

a. Instructions for Dealer or Distributor: (7-1-93)

i. A person grading, candling or packing eggs for retail in Idaho must request authorization from the *State* Department of Agriculture prior to the printing of the facsimile Idaho Egg Seal on the egg cartons. *( )*

ii. The request must be accompanied by payment of four (4) mills per facsimile Idaho Egg Seal along with the name and address of the printer or supplier. (7-1-93)

iii. It is unlawful to cause to be printed or to receive cartons printed with the facsimile Idaho Egg Seal other than as requested and paid for by the authorization request and/or allowed under the authorization permit. Section 37-1526, Idaho Code, provides a penalty for such act. (7-1-93)

iv. There will be no refund of tax if the printer or supplier delivers short of the amount of the authorizing permit. (7-1-93)

b. Instructions for Printer or Supplier: (7-1-93)

i. The printer or supplier must be registered with the Department of Agriculture. (7-1-93)

ii. To register, the printer or supplier must post a one thousand dollar ($1,000) surety bond to the effect that only that amount of facsimile Idaho Egg Seals will be delivered for which the authorization permit has been granted. If overage is printed, then an additional authorization permit for the overage must be secured and the tax paid before the overage can be delivered. (7-1-93)

iii. A copy of the printer's or supplier's delivery invoice must be submitted to the Department of Agriculture immediately upon completion and delivery of the order. (7-1-93)

iv. It is unlawful for a printer or supplier to reproduce a facsimile Idaho Egg Seal without authorization of the Department of Agriculture. Section 37-1526, Idaho Code, provides a penalty for such act. (7-1-93)

07. Assessments in Lieu of Egg Seals. Applications for exemption of egg seals must be made to the Director of Agriculture. This application will require the following information and facts. Upon application and approval by the Director, the assessment at the rate of four (4) mills or four-tenths (4/10) of a cent per dozen must be paid on a monthly basis in lieu of egg seals. Such assessment is applicable to all eggs entering intrastate commerce. (7-1-93)

a. Application must be made by person or firm that is billing or invoicing eggs sold within Idaho. (7-1-93)

b. Applicant must hold a current shell egg distributor license. (7-1-93)

c. Applicant must show a sound and accurate accounting procedure from which to prepare monthly reports. Accounting procedure subject to approval by the Director. (7-1-93)

d. Reports must be made on a monthly basis on or before the twenty-fifth (25th) day following the month such eggs enter intrastate commerce. (7-1-93)

e. Applicant who pays assessments in lieu of egg seals are subject to audit by the Director or person appointed by him on an annual basis or more frequently, if in the opinion of the Director, such audit is necessary. (7-1-93)

08. Divided Cartons Design. Egg cartons designed to permit the division of such carton by the retail customer into two (2) portions of one-half (1/2) dozen eggs are permissible if the carton, when undivided, conforms to law and these rules. (7-1-93)

09. Reporting Form. A reporting form will be made available to each dealer or distributor that must be completed by them accounting for all eggs entering intrastate commerce and mailed to the Department of Agriculture by the twenty-fifth (25th) day following the month such eggs entered intrastate commerce. (7-1-93)

a. The reporting form must be signed by the owner, manager or authorized person of the business or corporation. stating the report is correct and accurate. (7-1-93)

b. A check or money order covering the quantity of eggs sold in Idaho, reported at the rate of four (4) mills per dozen must accompany the report. (7-1-93)

c. All records and invoices must be maintained for two (2) years and made available to authorized representatives of the Director for the purpose of auditing and to determine the correctness of monthly report forms as set forth in Section 37-1525, Idaho Code. (7-1-93)

601. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 69-231, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.12, "Bonded Warehouse Rules." (5-3-03)

02. Scope. These rules clarify the procedure for licensing, collection and remittance of assessment, determining claim value, maintaining electronic records use of electronic scales and remedies of the Department for non-compliance. (5-3-03)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.
The definitions set forth in Section 69-202, Idaho Code *and* the following definitions apply: *( )*

01. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

02. Commodity Indemnity Fund *(CIF)*. Commodity Indemnity Fund is a trust fund. *( )*

03. Credit-Sale Contract. An agreement in writing containing the provisions of Section 69-249, Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

04. Dealer. Is limited to dealers licensed by the state of Idaho. (3-15-02)

05. Deposit for Service. Deposit of a commodity by a person for cleaning, processing, reconditioning or the rendering of other similar services by a warehouse, but does not include either a cash sale, credit-sale, or open storage. (3-15-02)

06. NPE. (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (3-16-04)

07. Open Storage. The deposit of commodity by the producer for a period of time with the subsequent disposition of the same commodity or a fungible commodity as agreed to by the parties. (3-15-02)

08. Warehouse. Is limited to warehouses licensed by the state of Idaho. (3-15-02)

011. (RESERVED)

01*2*. LICENSING.

01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 2, Idaho Code, the licensed warehouseman shall post the license conspicuously in each place of business or in any other place as the Director may determine. The Department will issue a duplicate license for each additional facility as needed. (5-3-03)

02. Return of Suspended or Terminated License. If a license issued to a warehouseman has lapsed or is suspended, revoked or canceled by the Director, the license shall be returned to the Department. *( )*

03. Suspension Due to Neglect. If, through inspection or other information, it is revealed or indicated that the commodities in storage are deteriorating due to the warehouseman's or operator's neglect, the license may be suspended until the matter has been corrected to the satisfaction of the Director. *( )*

04. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a warehouseman, a duplicate may be issued under the same number or a new number at the discretion of the Director. (9-1-92)

05. Sign to Be Posted. Each licensed warehouseman shall maintain suitable signs on the licensed property in such manner as will give ample public notice of his tenancy. These signs shall be painted on the warehouse or elevator in letters not less than six (6) inches in height and contain the following words: "State No. ___." The number of each warehouse will be assigned by the Director. (9-1-92)

06. Bins Labeled. All storage areas licensed for the storage of agricultural commodities shall be numbered and *have* a diagram of the storage areas kept in the office *showing* the exact dimensions and the maximum capacity of the storage area. *( )*

07. Insurance Calculations. The director may approve a request to reduce the insurance calculation for a facility provided the request is in writing and evidence is supplied that all agricultural commodities that are stored at any given point in time are insured pursuant to Title 69, Chapter 2, Idaho Code. *( )*

013. -- 049. (RESERVED)

050. RECEIPTING.

01. Every Warehouseman. Every warehouseman shall issue a negotiable warehouse receipt when requested to do so by the depositor. All storage and handling charges are due and payable on or before July 1 following the date of the issuance of the receipt, or as agreed upon by the parties. (9-1-92)

02. Form of Nonnegotiable Warehouse Receipts. Nonnegotiable warehouse receipts that contain the essential terms for warehouse receipts as set forth in Section 28-7-202, Idaho Code, and Section 69-223, Idaho Code, *are* deemed sufficient for all purposes. Copies of all nonnegotiable warehouse receipts shall be kept as permanent records by the warehouseman issuing them. *( )*

03. Lost Negotiable Warehouse Receipt. *To cancel an outstanding warehouse receipt or* issue a new warehouse receipt supplementing one that has been lost or destroyed, the licensed warehouseman shall require the depositor or other applicant to submit to the warehouseman: *( )*

a. An affidavit showing that he is lawfully entitled to the possession of the original receipt, that he has not negotiated or assigned it and how the original receipt was lost or destroyed; and (9-1-92)

b. A bond in the amount double the market value of the agricultural commodity represented by the lost or destroyed receipt. The market value shall be determined at the time this bond is submitted for the lost receipt. A duplicate warehouse receipt shall clearly state that it is a duplicate receipt, the number of the receipt the duplicate is replacing, and the license number under which the original receipt was issued. *( )*

***04. Electronic Warehouse Receipts**. An electronic version of a warehouse receipt generated by a provider licensed and approved by the United States Department of Agriculture (USDA) that contains the same information as the paper version of a warehouse receipt may be issued instead of a paper document. The electronic version of a warehouse receipt carries the same rights and obligations as the paper version. At no time may a paper receipt and an electronic receipt represent the same lot of commodity. Electronic warehouse receipts shall be numbered and issued consecutively starting with the number specified to the provider by the department. ( )*

***05. Agreements**. Prior to entering into an agreement with an electronic warehouse receipt provider to issue such receipts, a warehouse licensee must provide a copy of the proposed agreement to the department for review and approval. A warehouse operator shall not issue electronic negotiable warehouse receipts until and unless the department approves its agreement with an electronic warehouse receipt provider and notifies the licensee of such approval. A provider shall be independent of any outside influence or bias in action or appearance. In order to be approved by the department, an electronic warehouse receipt provider agreement shall: ( )*

***a.** Only be with a provider that is first approved as an electronic warehouse receipt provider by the USDA pursuant to the provisions of 7 CFR Part 735. Upon department request, a provider shall provide a copy of the provider's executed USDA Form WA-460 and any addenda, and any other documentation requested by the department to confirm that the provider is a USDA-approved provider in good standing. ( )*

***b.** Provide for the department to become a joint holder on all open electronic negotiable warehouse*

receipts if the issuing warehouse operator's license is relinquished or revoked. ( )

c. *Require the provider to provide security as required by its provider agreement with the USDA regarding on-site security, data authorization, security plans, and facility vulnerability. ( )*

d. *Prohibit the provider from deleting or altering any electronic negotiable warehouse receipts in the centralized filing system unless such actions are authorized by the department. ( )*

e. *Allow the department unrestricted access to the central filing system for electronic warehouse receipts issued on behalf of warehouse operators licensed by the department. The electronic warehouse receipt data shall be maintained for six (6) years after cancellation of the receipts. Access shall be free of charge and made available in a manner that allows interaction with department warehouse examinations. ( )*

f. *Require the provider, when a warehouse operator changes provider, to supply the new provider and the warehouse operator with a complete list of all the current holders of open electronic negotiable commodity warehouse receipts prior to the intended transfer date. ( )*

06. Change in Provider*. A warehouse operator shall issue electronic warehouse receipts through only one (1) approved provider at a time. ( )*

a. *A warehouse operator may change providers only once a year unless otherwise approved by the department. ( )*

b. *A warehouse operator shall notify the department of the exact date of the proposed transfer thirty (30) calendar days prior to the intended date of any transfer to a new provider. The operator must also, thirty (30) days prior to the intended transfer date, send notices of the change to the holders of all open electronic negotiable warehouse receipts specifying the date and time period during which access to receipts will not be available. ( )*

051. -- 079. (RESERVED)

080. FORWARDING AGRICULTURAL COMMODITIES.
Warehouses licensed under Title 69, Chapter 2, Idaho Code, receiving agricultural commodities for shipment to terminals or to other warehouses for storage or processing within the state or outside the state shall have in their possession a statement authorizing the shipment of agricultural commodities to another location for storage or processing *that is* signed by the owner or producer of the agricultural commodity. The receiving warehouse shall be a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. When requested to do so by an Idaho Warehouse Examiner, the shipping warehouse shall promptly procure from the terminal or storage warehouse a statement or negotiable warehouse receipt *on a form approved by the director* describing the quantity, class and grade of all agricultural commodities so shipped and in storage. The shipping warehouse shall have such forms promptly forwarded and returned to the Idaho Department of Agriculture, Bureau of Warehouse Control, within fifteen (15) days of issuance. *( )*

081. -- 099. (RESERVED)

100. OFFICE RECORDS.
A warehouseman shall maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this state *that are subject to Department inspection during normal business hours*. Office records as set forth in Title 69, Chapter 2, Idaho Code, include, but not limited to, the following: *( )*

01. Daily Position Record. This *shows* the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day, and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. *( )*

02. Storage Ledger. This *shows* the name and address of the depositor, the date purchased, the terms of the sale, and the quality and quantity of the agricultural commodity purchased by the warehouseman. When applicable, the storage ledger shall also show the tare, grade, size, net weight, and unsold amount of agricultural

commodities. ( )

03. Scale Weight Tickets. Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered *with* one (1) copy of each ticket maintained in numerical order. All scale weight tickets shall show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities, and the condition of the commodities upon delivery. ( )

04. Receipts and Tickets. Receipts and tickets in the warehouseman's possession that have not been issued. (5-3-03)

05. Receipts and Tickets Issued by the Warehouseman. Receipts and tickets issued by the warehouseman. (5-3-03)

06. Receipts and Tickets Returned and Canceled. Receipts and tickets returned to and canceled by the warehouseman. (5-3-03)

07. Insurance Documentation. (9-1-92)

08. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department *is entitled* to examine them at any reasonable time and place as determined by the Department. ( )

101. -- 129. (RESERVED)

130. LICENSE APPLICATION AND CONDITIONS OF ISSUANCE.

01. License Application. Application for a license to operate a warehouse under the provisions of Title 69, Chapter 2, Idaho Code, shall be on a form prescribed by the Department and include: (9-1-92)

a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (9-1-92)

b. The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. (5-3-03)

c. The address of the principal place of business. (5-3-03)

d. Information relating to any judgments against the applicants. (9-1-92)

e. The location of each warehouse the applicant intends to operate and the commodities expected to be stored. (9-1-92)

f. A current financial statement as specified by Section 69-206, Idaho Code. (9-1-92)

g. A sketch or drawing as specified in Section 69-206, Idaho Code. (9-1-92)

h. A bond as required by Section 69-208, Idaho Code. (9-1-92)

i. Proof of insurance as required by Section 69-206, Idaho Code. (9-1-92)

j. The license fee as prescribed by Section 69-211, Idaho Code. (9-1-92)

k. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 2, Idaho Code. (9-1-92)

02. **Modification**. If a licensee wishes to add additional capacity to an existing license, the Director may modify the license if all requirements of Section 69-206, Idaho Code, are met. (9-1-92)

131. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.

01. Bonding Requirement. The amount of bond to be furnished shall be fixed at a rate pursuant to Section 69-208A, Idaho Code. (3-16-04)

02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a warehouseman pursuant to Title 69, Chapter 2, Idaho Code and a seed buyer pursuant to Title 22, Chapter 51, Idaho Code a single bond, irrevocable letter of credit or certificate of deposit shall be fixed at whichever of the following amounts is greater: (3-16-04)

a. Combined total indebtedness paid and owed to producers for agricultural commodity and seed crop, without any deductions, for the previous license year; or (3-16-04)

b. The indebtedness owed and estimated to be owed to producers for agricultural commodity and seed crop, without any deductions, for the current license year. (3-16-04)

132. -- 149. (RESERVED)

150. WAREHOUSES TO BE KEPT CLEAN.
Each warehouseman *is* required to use such precautions and surveillance as is necessary to provide for the safe and adequate storage of all commodities stored in his warehouse and to prevent these commodities from being contaminated in any way from chemicals, pesticides, fertilizers, adulterated seeds, animals, birds or any such thing as may contaminate or reduce the quality of stored goods. *( )*

151. -- 179. (RESERVED)

180. WAREHOUSEMAN RESPONSIBILITIES.

01. Warehouse Receipts -- Quality. A warehouseman licensed under Title 69, Chapter 2, Idaho Code, shall maintain in the facility of issuance of any negotiable warehouse receipt, for as long as the receipt is outstanding and has not been canceled, like variety, quantity, and quality of the agricultural commodity stated on the receipt. No warehouseman shall remove, deliver, direct or permit any person to remove or deliver any agricultural commodity from any warehouse for which warehouse receipts have been issued and are outstanding, without receiving and canceling the warehouse receipt that was issued for the commodity, except if the Director determines an emergency storage situation exists. A warehouseman may then forward agricultural commodities to other licensed warehouses for storage without canceling the outstanding warehouse receipt, provided the following conditions are met: (9-1-92)

a. The warehouseman obtains written approval from the Department prior to forwarding agricultural commodities. (9-1-92)

b. The warehouseman *provides* written guidelines to the Department establishing how he will be back in position within the time limits set and granted by the Department. *( )*

c. The warehouseman *maintains* and *makes* available to the Department records of positions concerning the forwarding of agricultural commodities. *( )*

d. The receiving warehouse *is* a state or federally licensed and bonded warehouse or have a Commodity Credit Corporation storage agreement. *( )*

e. The shipping warehouse *has* in *its* possession a statement signed by the bearer of the warehouse receipt authorizing the shipment of agricultural commodities represented by such receipt to another location for storage. *( )*

f. When requested to do so by the Department, the shipping warehouseman shall promptly procure from the receiving warehouseman a statement describing the quantity, class and grade of all agricultural commodities so shipped and in storage on a form approved by the Director. The shipping warehouseman shall have such forms

promptly forwarded to the receiving warehouseman for verification of quantity, class and grade of agricultural commodities forwarded *and return the verification* to the Department within fifteen (15) days of issuance. Failure to provide this statement to the Department in the above specified time, will result in a short position for the warehouseman with penalties as prescribed by law. *( )*

02. Rights and Duties of Licensees -- Unlawful Practices. It *is* unlawful for a warehouseman to: *( )*

a. Issue a warehouse receipt in excess of the amount of the agricultural commodity held in the licensee's warehouse to cover such receipt. (9-1-92)

b. Sell, encumber, ship, transfer, remove or permit to be sold encumbered, shipped, transferred or removed from a warehouse any agricultural commodity received by him for deposit, shipment or handling for which scale weight tickets have been issued without the written approval of the holder of the scale weight ticket and such transfer shall be shown on the individual depositor's account and the inventory records of the warehouseman. (9-1-92)

c. Remove or permit any person to remove any agricultural commodity from a warehouse when the amount of any fairly representative grade or class of an agricultural commodity in the warehouses of such licensee is reduced below the amount for which a warehouse receipt or scale weight ticket for the particular agricultural commodity is outstanding, except as provided for in Section 69-223(2), Idaho Code, and Rule 180.01. (9-1-92)

d. Issue a warehouse receipt or scale weight ticket that exceeds the amount of agricultural commodities delivered for storage. (9-1-92)

e. Issue a warehouse receipt showing a grade or description different from the grade or description of the agricultural commodities delivered and for which such warehouse receipt is issued. (9-1-92)

f. Fail to deliver agricultural commodities as required by Section 28-7-402, Idaho Code. (9-1-92)

g. Knowingly accept for storage any agricultural commodity destined for human consumption that has been contaminated, if such agricultural commodities are commingled with any uncontaminated agricultural commodity. (9-1-92)

h. Terminate storage of an agricultural commodity in the warehouse without giving reasonable notice to the depositor as provided in Section 28-7-206, Idaho Code. (9-1-92)

i. Alter, falsify, or withhold records from the warehouse examiner. (9-1-92)

181. -- 199. (RESERVED)

200. INSURANCE SETTLEMENT.
When the commodities within a licensed warehouse have been damaged or destroyed, the warehouseman shall make complete settlement to all depositors having agricultural commodities stored in the warehouse within ten (10) days after a settlement with the insurance company. Failure of the warehouseman to make such settlement *is* grounds for revocation of the license. However, such settlement need not be made within the ten (10) days period if the warehouseman and the depositor agree to other terms. In the case of commingled agricultural commodities where only a portion is damaged, settlement may be made on a pro rata basis to the owners of all agricultural commodities stored within the warehouse. *( )*

201. -- 229. (RESERVED)

230. AGRICULTURAL COMMODITIES -- WAREHOUSE OBLIGATIONS.
Any agricultural commodity deposited for storage that is not sold by contract or otherwise, as shown by documentation, is open storage and shall be considered a warehouse obligation. (9-1-92)

231. -- *299*. (RESERVED)

300. FINANCIAL STATEMENTS.
In order to obtain a bonded warehouse license, the applicant shall submit a current financial statement *that has* been prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 2, Idaho Code, as to annual financial statements. *( )*

01. Statement Compliance. Each licensed warehouseman shall submit to the Department an annual financial statement that *has* been audited or reviewed by an independent certified public accountant or independent licensed public accountant *and* be submitted to the Department no later than ninety (90) days after the end of the warehouseman's fiscal year. The warehouse license may be suspended or revoked for failure to comply with licensing requirements stated in Bonded Warehouse Rule Section 300 and Section(s) 69-206(6) and (7), Idaho Code. *( )*

a. The Department may grant an extension of no more than sixty (60) days, provided *sufficient* cause of an exceptional nature is provided, in writing, to the Department by a certified public accountant or a licensed public accountant *and* made prior to the date the financial statement is due. *( )*

b. The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the State. (5-3-03)

02. Statement Content. The *acceptable* statement *includes*: *( )*

a. A balance sheet. (9-1-92)

b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (9-1-92)

c. A statement of cash flows. (9-1-92)

d. All accompanying notes to the financial statement. (9-1-92)

301. -- 329. (RESERVED)

330. AMENDING TARIFF.
Tariffs may be amended by the licensed warehouseman by filing a new tariff with the Department. The previous tariff *continues* to apply on all commodities received prior to the effective date of the amended tariff until the anniversary date of deposit. The amended tariff *applies* to any commodities received after the effective date of the amendment and on any commodities stored under the previous tariff commencing on the anniversary date of the storage period. *( )*

331. -- 379. (RESERVED)

380. LICENSE -- DURATION.
Licenses issued under the provisions of Title 69, Chapter 2, Idaho Code, expire *annually* on April 30th. *( )*

381. -- 399. (RESERVED)

400. INSURANCE DEDUCTIBLE.
The maximum deductible allowed for insurance required by Section 69-206(1), Idaho Code, shall be five thousand dollars ($5,000). However, a larger deductible may be allowed at the discretion of the Director. (9-1-92)

401. -- 429. (RESERVED)

430. ADDITIONAL BONDING REQUIREMENTS.
If it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the Department may require the licensee to post a bond or other additional acceptable security in the amount of two thousand dollars ($2,000) for

each one thousand dollars ($1,000) or fraction thereof of deficiency. (5-3-03)

431. -- 479. (RESERVED)

480. COMMODITY INDEMNITY FUND.
The Commodity Indemnity Fund *applies* to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. *( )*

01. Rate of Assessment. The rate of assessment *is* two-tenths of one percent (.2%) of the total value at the time of sale of the commodities pursuant to Section 69-257(2), Idaho Code. The maximum rate of assessment shall not exceed two-tenths of one percent (.2%) of the total gross dollar amount, without deductions, due the producer. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. *( )*

a. The rate of assessment on commodity withdrawn by its producer from open storage *is* one cent ($.01) per hundredweight (CWT) of commodity at the time of withdrawal. *( )*

b. If the amount of the assessment for a producer on all deposits made in a calendar year is calculated to be less than fifty cents ($.50), no assessment will be collected. If deposits exceed the fifty cent ($.50) limit, all assessments will be collected. (3-15-02)

02. Exemptions to Assessments. Producers are not eligible to participate in CIF and no assessments *can* be collected in the following cases. *( )*

a. If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (5-3-03)

b. If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (5-3-03)

c. If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (5-3-03)

d. Non-producers or producers delivering commodity that was grown on land not situated within the boarders of the state of Idaho are exempt from paying assessments. (5-3-03)

481. HOW ASSESSMENTS ARE TO BE CALCULATED.
Assessments shall be collected by all warehouses from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (5-3-03)

01. Cash Sale or Credit Sale Contract. In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-02)

02. Open Storage or Deposit for Service. When commodity is withdrawn from storage by the producer, the assessment will be one cent ($.01) per hundred weight (CWT) at the time of withdrawal. (5-3-03)

03. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-02)

04. Incidental Costs and Expenses. All incidental costs and expenses including, but not limited to transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-02)

482. RECORDKEEPING AND PAYMENT SCHEDULE.

01. Permanent Record. Each warehouse and dealer shall maintain a permanent record showing

producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-02)

02. Payment Due Dates. On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Chapters 2 and 5 of Title 69, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter (1/4) will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-16-04)

03. Notice. The notice and rate of assessment or a copy of the official notice of suspension of assessment *are to* be posted in a conspicuous place in the warehouse or dealer facility. *( )*

483. TRUST FUNDS.
All assessments collected by warehouses and dealers in compliance with Chapters 2 and 5, Title 69, Idaho Code, shall, immediately upon payment to and collection by the warehouse or dealer, be trust fund money and held for payment to the Department for the CIF. Such money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account of any debt owed by the warehouse or dealer to any of their creditors. (3-15-02)

484. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS.
Failure to collect, account for, or remit assessments, or violations of the statutory requirements of Chapters 2 and 5, Title 69, Idaho Code, as it relates to the CIF are grounds for the immediate demand on the warehouse, dealer bond, letter of credit, or certificate of deposit, and the undertaking by the Director of any other remedy provided by law. (5-3-03)

485. RETURN OF COMMODITY DUE TO FAILURE.
In the event of failure the Department may: (3-15-02)

01. Identifiable Commodity. Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (3-15-02)

02. Fungible Commodity. If the commodity is fungible, an amount equal to the producer's original deposit or if insufficient fungible commodity is available, a pro-rata share to all producers of the commodity; and (3-15-02)

03. Shortfall in Commodity Distribution. Any shortfall in commodity distribution may be submitted as a claim against the CIF. (3-15-02)

486. -- 500. (RESERVED)

501. NPE CONTRACT CLAIMS ON THE FUND.
NPE contracts shall be executed in writing, dated, and signed by all parties to the contract. (3-16-04)

01. NPE Clause. An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." (3-16-04)

02. NPE Contract List. A warehouseman shall maintain a list of all NPE contracts written in a calendar year and *that reflects* the producers name, contract number, agricultural commodity and date of the contract. *( )*

03. NPE Contract Renewal Period. A producer may renew an NPE contract; but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty-five (365) days from the date the original NPE contract was executed. (3-16-04)

502. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 69-524, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.13, "Commodity Dealers' Rules." (5-3-03)

02. Scope. These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the Department for non-compliance. (5-3-03)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The Idaho State Department of Agriculture adopts the definitions set forth in Section 69-502, Idaho Code. In addition the following definitions apply to *the interpretation and enforcement of this chapter*. *( )*

01. Cash Sale. Payment to the producer by the warehouse or dealer contemporaneously with the transfer of commodity to the warehouse or dealer. (3-15-02)

02. Commodity Indemnity Fund. Commodity Indemnity Fund is a trust fund. (3-16-04)

03. Credit-Sale Contract. An agreement in writing containing the provisions of Section 69-514, Idaho Code, and where the producer transfers a specific quantity of commodity to a warehouse or dealer with a price or payment to the producer by the warehouse or dealer to be made at a later date or on the occurrence of a specific event expressed in the agreement. (3-15-02)

04. Dealer. Is limited to dealers licensed by the state of Idaho. (3-15-02)

05. Seed Crops. Means any seed crop regulated by Title 22, Chapter 4, Idaho Code. (3-16-04)

06. NPE. (No price established contract) A contract containing no readily calculable sale value of the commodity for the producer. (3-16-04)

07. Warehouse. Is limited to warehouses licensed by the state of Idaho. (3-15-02)

011. ABBREVIATIONS.

01. CIF. Commodity Indemnity Fund. (3-16-04)

02. NPE. No price established contract. (3-16-04)

03. SIF. Seed Indemnity Fund. (3-16-04)

012. LICENSING.

01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 69, Chapter 5, Idaho Code, the licensed commodity dealer shall post the license in a conspicuous place in each place of business or in any other place as the director may determine. The Department will issue a duplicate license for each additional facility as needed. (5-3-03)

02. Return of Suspended or Terminated License. If a license issued to a commodity dealer has lapsed or is suspended, revoked or cancelled by the Director, the license shall be returned to the Department. At the expiration of any period of suspension, revocation or cancellation the license will be returned to the commodity dealer to whom it was originally issued and be posted as prescribed by these rules. *( )*

03. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a commodity dealer, a duplicate may be issued under the same number or a new number at the discretion of the Director. (7-1-93)

013. -- 099. (RESERVED)

100. OFFICE RECORDS.
A commodity dealer shall maintain complete and sufficient records to show all purchases and sales, including all contracts relating to these transactions. A warehouse licensed as a commodity dealer under Title 69, Chapter 5, Idaho Code, must maintain complete and sufficient records to show all deposits, purchases, sales contracts, storage obligations and loadouts of the warehouse in this State. Office records as set forth in Title 69, Chapter 5, Idaho Code, include, but not be limited to, the following: (5-3-03)

01. Daily Position Record. *Record which* shows the total quantity of each kind and class of agricultural commodity received and loaded out, the amount remaining in storage at the close of each business day and the warehouseman's total storage obligation for each kind and class of agricultural commodity at the close of each business day. *( )*

02. Settlement Sheets/Storage Ledgers. Every commodity dealer shall use settlement sheets showing the dealer's name and location in making settlement with the seller, unless otherwise approved by the Director. All settlement sheets/storage ledgers include, but *are* not limited to, the following *information*: *( )*

a. The seller's name and address. (7-1-93)

b. The date of deliveries. (7-1-93)

c. The scale ticket numbers. (7-1-93)

d. The amount, kind and grade of commodity delivered. (7-1-93)

e. The price per bushel or unit. (7-1-93)

f. The date and amount of payment. (7-1-93)

g. The contract number if a deferred payment, deferred pricing or other sale contract is used. A copy of each settlement sheet shall be maintained in alphabetical order by the commodity dealer as part of the pay records. (7-1-93)

h. Electronic Records. If any electronic records are maintained outside of the state of Idaho, the Department must be allowed to examine them at any reasonable time and place as determined by the Department. (5-3-03)

03. Scale Weight Tickets. Scale weight tickets, except tickets for electronic scales that are recorded and maintained electronically, shall be pre-numbered *with* one (1) copy of each ticket maintained in numerical order. All scale weight tickets shall show the time when the commodities were delivered, the quantities delivered, who delivered the commodities, the ownership of the commodities and the condition of the commodities upon delivery. *( )*

a. Tickets in the commodity dealer's possession that have not been issued. (5-3-03)

b. Tickets issued by the commodity dealer. (5-3-03)

c. Tickets returned to and cancelled by the commodity dealer. (5-3-03)

101. -- 149. (RESERVED)

150. INSPECTION.
For the purpose of inspection the hours of 8 a.m. to 5 p.m., Monday through Friday, except holidays, are considered as ordinary business hours. All financial records, commodity records and payment records shall be available for inspection by the Department during ordinary business hours and any other reasonable time specified by the

Department in writing. All records shall be made available within the state of Idaho upon request. (7-1-93)

151. -- 199. (RESERVED)

200. LICENSING APPLICATION FORMAT.

01. License -- Application. Application for a license to operate as a commodity dealer under the provisions of Title 69, Chapter 5, Idaho Code, shall be on a form prescribed by the Department and include: (7-1-93)

a. The full name of the person applying for the license and whether the applicant is an individual, partnership, association, corporation or other entity. (7-1-93)

b. The full name of each member of the firm or partnership, or the names of the officers and directors of the company or limited liability company, association, or corporation. (5-3-03)

c. The address of the principal place of business. (7-1-93)

d. The names of any businesses previously owned or operated by the applicant or any members, officers or directors if the applicant is a corporation, partnership or association. (7-1-93)

e. Information relating to any prior adjudication of bankruptcy relating to the business or any members, officers or directors thereof. (7-1-93)

f. Information relating to any judgments against the applicants. (7-1-93)

g. The location of each office the applicant intends to operate. (7-1-93)

h. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)

02. License Conditions of Issuance. An application for license under Title 69, Chapter 5, Idaho Code, shall include: (7-1-93)

a. Application on a form prescribed by the Director. (7-1-93)

b. A current financial statement as specified by Section 69-503 and 69-521, Idaho Code. (5-3-03)

c. A bond or bonds as required by Section 69-506, Idaho Code. (5-3-03)

d. The license fee as prescribed by Section 69-508, Idaho Code. (7-1-93)

e. Compliance with all rules adopted pursuant to Title 69, Chapter 5, Idaho Code. (5-3-03)

f. Any other reasonable information the Department finds necessary to carry out the purpose and provisions of Title 69, Chapter 5, Idaho Code. (7-1-93)

03. License Modification. At the request of the license holder a license may be modified to change existing license classification, providing all requirements of Section 69-508, Idaho Code, are met. (7-1-93)

201. -- 249. (RESERVED)

250. RECORDS -- SEPARATE.
All records and accounts required under Title 69, Chapter 5, Idaho Code, shall be kept separate and distinct from all records and accounts of any other business and are subject to inspection by the Director at any reasonable time. (7-1-93)

251. -- 299. (RESERVED)

300. FINANCIAL STATEMENT.

01. Financial Statements. In order to obtain a commodity dealer's license, the applicant shall submit a current financial statement prepared not more than ninety (90) days prior to the date of application and conform to the applicable requirements of Title 69, Chapter 5, Idaho Code, as to annual financial statements. *( )*

02. Statement Compliance. Each licensed commodity dealer shall submit to the Department an annual financial statement that has been audited or reviewed by an independent certified public accountant or independent licensed public accountant. The statement shall be submitted to the Department no later than ninety (90) days after the end of the commodity dealer's fiscal year. The commodity dealer license may be suspended or revoked for failure to comply with licensing requirements stated in Subsection 300.01 of these rules and Section(s) 69-503(6) and 69-521, Idaho Code. (5-3-03)

a. The Department may grant an extension of no more than sixty (60) days, provided cause of an exceptional nature is provided, in writing, to the Department. (5-3-03)

b. The request must be made by a certified public accountant or a licensed public accountant. (5-3-03)

c. The request is made prior to the date the financial statement is due. (5-3-03)

d. The director may make exceptions to the financial statement requirements provided sufficient cause is provided and to do so would be in the best interest of the state. (5-3-03)

03. Statement Content. The statement shall include: (7-1-93)

a. A balance sheet. (7-1-93)

b. An income statement that includes annual gross sales of commodities purchased from producers covered under the act. (7-1-93)

c. A statement of cash flows. (7-1-93)

d. All accompanying notes to the financial statement. (7-1-93)

301. -- 349. (RESERVED)

350. SHIPPING RECORDS.
Every dealer who ships by truck shall maintain a truck shipping record and every dealer who ships by rail must maintain a rail or car shipping record. Each shipping record include*s*, but *is* not limited to, the following: *( )*

01. Name and Address. The name and address of the seller or shipper. (7-1-93)

02. Buyer and Destination. The buyer and destination of the commodity shipped. (7-1-93)

03. Date. The date the agricultural commodities were shipped. (7-1-93)

04. Amount and Type. The amount and type of agricultural commodities shipped. (7-1-93)

05. Identification Number. The truck identification or car number. (7-1-93)

351. -- 399. (RESERVED)

400. SCALE TICKETS.
If a dealer has access to a scale that can be used for weighing commodity, *that dealer* shall use pre-numbered scale tickets showing the dealer's name and location. A copy of each ticket shall be maintained in numerical order as part of the commodity records. If a dealer does not have access to a scale and purchases commodity by having it custom weighed at various locations or at destination, the dealer shall maintain a copy of the scale ticket in chronological

order as part of the commodity records. If agricultural commodities are settled on destination weights, copies of the destination weights are to be kept as part of the records. ( )

401. -- 450. (RESERVED)

451. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.

01. Bonding Requirement. The amount of bond to be furnished for each class 1 dealer and each class 2 dealer is fixed at a rate pursuant to Section 69-506, Idaho Code. (3-16-04)

02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a commodity dealer pursuant to Title 69, Chapter 5, Idaho Code, and a seed buyer pursuant to Title 22, Chapter 51, Idaho Code, a single bond, irrevocable letter of credit or certificate of deposit shall be fixed at whichever of the following amounts is greater: (3-16-04)

a. Combined total indebtedness paid and owed to producers for agricultural commodity and seed crop, without any deductions, for the previous license year; or (3-16-04)

b. The indebtedness owed and estimated to be owed to producers for agricultural commodity and seed crop, without any deductions, for the current license year. (3-16-04)

03. Additional Bonding Requirements. If it appears the licensee does not have the ability to pay producers for commodities purchased, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the licensee may be required to post a bond or other additional acceptable security in the amount of two thousand dollars ($2,000) for each one thousand dollars ($1,000) or fraction thereof of deficiency. (3-15-02)

452. -- 499. (RESERVED)

500. COMMODITY INDEMNITY FUND.
The Commodity Indemnity Fund applies to entities governed by Chapter 2, Title 69, Idaho Code, and Chapter 5, Title 69, Idaho Code, warehouses and dealers, respectively, unless otherwise specified. (3-16-04)

01. Rate of Assessment. The rate of assessment is two-tenths of one percent (.2%) gross dollar amount, without deductions, due the producer pursuant to Section 69-257(2), Idaho Code. The Director may establish a lower rate of assessment whenever he deems it advisable or as recommended by the advisory committee established by Section 69-261, Idaho Code. (5-3-03)

02. Exemptions to Assessment. Producers are not eligible to participate in CIF and no assessments will be collected in the following cases. (5-3-03)

a. If a producer has a financial or management interest in a licensed warehouse or licensed commodity dealer, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (5-3-03)

b. If a producer sells to another producer, none of which are a licensed warehouseman or a licensed commodity dealer. (5-3-03)

c. If a producer deposits or delivers commodity to an unlicensed entity pursuant to Title 69, Chapters 2 or 5, Idaho Code. (5-3-03)

d. Non-producers or producers delivering commodity that was grown on land not situated within the borders of the state of Idaho are exempt from paying assessments. (5-3-03)

501. NPE CONTRACT CLAIMS ON THE FUND.
NPE contracts shall be executed in writing, dated, and signed by all parties to the contract. (3-16-04)

01. NPE Clause. An NPE contract shall have the following statement: "No claim shall be paid from the CIF pursuant to Section 69-263, Idaho Code, if a producer files his claim more than one hundred eighty (180) days from the date the contract is executed." (3-16-04)

02. NPE Contract List. A commodity dealer shall maintain a list of all NPE contracts written in a calendar year that reflects the producers name, contract number, agricultural commodity and date of the contract. (3-16-04)

03. NPE Contract Renewal Period. A producer may renew an NPE contract; but no claim shall be paid from the CIF if a producer files his claim more than three hundred sixty-five (365) days from the date the original NPE contract was executed. (3-16-04)

502. HOW ASSESSMENTS ARE TO BE CALCULATED.
Assessments shall be collected by all warehouses licensed as commodity dealers from all producers who deposit commodities for storage or sale. Assessments are calculated as follows: (5-3-03)

01. Cash Sale or Credit Sale Contract. In a cash sale or credit sale contract on the contract price of the commodity at the time of sale. (3-15-02)

02. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any CIF recovery paid to the producer. (3-15-02)

03. Incidental Costs and Expenses. All incidental costs and expenses including, but not limited to, transportation, cleaning, in and out charges, insurance, taxes or additional services or charges are not included in the calculation to determine the assessment. (3-15-02)

503. RECORDKEEPING AND PAYMENT SCHEDULE.

01. Permanent Record. Each warehouse and dealer shall maintain a permanent record showing producer's name and address, lot or identification number, date assessment collected, amount of assessment, commodity assessed, quantity of commodity, gross dollars of settlement and check number issued to producer. (3-15-02)

02. Payment Due Dates. On or before the twentieth day of the month following the close of the quarter, on a form prescribed by the Department, the assessments imposed by Title 69, Chapters 2 and 5, Idaho Code, collected by warehouses and dealers, are due and payable to the Department. A quarter will consist of three (3) months beginning on the first day of January, April, July, and October. If assessment is paid by mail the payment must be postmarked not later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-16-04)

03. Notice. The notice and rate of assessment or a copy of the official notice of suspension of assessment shall be posted in a conspicuous place in the warehouse or dealer facility. (3-15-02)

504. TRUST FUNDS.
All assessments collected by warehouses and dealers in compliance with Title 69, Chapters 2 and 5, Idaho Code, immediately upon payment to and collection by the warehouse or dealer, are trust fund money held for payment to the Department for the CIF. Such money shall not, for any purpose, be considered to be a part of the proceeds of any transaction between a depositor and warehouse or dealer for which the collection and payment of the assessment was related and shall not be subject to an encumbrance, security interest, execution or seizure on account of any debt owed by the warehouse or dealer to any of their creditors. (5-3-03)

505. PENALTIES FOR FAILURE TO COLLECT, ACCOUNT FOR, OR REMIT ASSESSMENTS -- OTHER VIOLATIONS.
Failure to collect, account for, or remit assessments, or violations of the statutory requirements of Title 69, Chapters 2 and 5, Idaho Code, as it relates to the CIF are grounds for the immediate demand on the warehouse, dealer bond, or certificate of deposit, and the undertaking by the Director of any other remedy provided by law. (5-3-03)

506. RETURN OF COMMODITY DUE TO FAILURE.
In the event of failure the Department may: (3-15-02)

01. Identifiable Commodity. Return specifically identifiable commodity or as much as is available to its producer in full or partial satisfaction of indebtedness; or (3-15-02)

02. Fungible Commodity. If the commodity is fungible, an amount equal to the producer's original deposit or if insufficient fungible commodity is available, a pro-rata share to all producers of the commodity; and (3-15-02)

03. Shortfall in Commodity Distribution. Any shortfall in commodity distribution may be submitted as a claim against the CIF. (3-15-02)

507. -- 599. (RESERVED)

600. UNLAWFUL PRACTICES.
It is unlawful for a commodity dealer to alter, falsify or withhold records from the warehouse examiner. (7-1-93)

601. -- 999. (RESERVED)

02.02.15 – RULES GOVERNING THE SEED INDEMNITY FUND

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-5129, Idaho Code. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.02.15, "Rules Governing the Seed Indemnity Fund." (4-2-03)

02. Scope. These rules clarify the procedure for licensing, collection and remittance of assessments, determining claim value, maintaining electronic records, use of electronic scales and remedies of the ISDA for non-compliance. (4-2-03)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The Idaho State Department of Agriculture adopts the definitions set forth in Section 22-5102, Idaho Code. In addition, as used in this chapter, "type" means the class of seed (i.e. foundation, certified, registered, noncertified). (4-2-03)

011. ABBREVIATIONS.

01. GAAP. Generally Accepted Accounting Principles. (4-2-03)

02. ISDA. Idaho State Department of Agriculture. (4-2-03)

03. SIF. The Idaho Seed Indemnity Fund. (4-2-03)

04. USPS. United States Postal Service. (4-2-03)

012. DELIVERY VOUCHER.
If there are no receipts or scale weight tickets issued at the time of seed crop delivery, a delivery voucher may be issued. A delivery voucher is a document that may be used as written evidence of transfer in accordance with Section 22-5102(16), Idaho Code, evidencing delivery of producer's seed crop to seed buyer and includes, but is not limited to: (4-2-03)

01. Producer. The full name, address and phone number of the producer. (4-2-03)

02. Seed Buyer. The full name, address and phone number of the seed buyer. (4-2-03)

03. Ship To. The full name, address and phone number of the seed facility that the seed crop is to be transferred. (4-2-03)

04. Transportation Company. The name, address and phone number of the transportation company delivering the seed crop to the seed facility. The truck, trailer and seal number, if applicable, driver name (printed), signature and date of transfer. (4-2-03)

05. Seed Crop Shipped. For each seed crop delivery, the type, kind, variety, estimated volume or weight and date of shipment and container identification markings. (4-2-03)

013. WAREHOUSE RECEIPTS.
*The following information is required on each w*arehouse receipt: *( )*

01. Name of Producer. (4-2-03)

02. Name and Address of Seed Buyer. (4-2-03)

03. Kind of Seed Crop. (4-2-03)

04. Date of Delivery. (4-2-03)

05. Weight of Seed Crop Delivered. (4-2-03)

06. Lot Identification. (4-2-03)

014. SCALE WEIGHT TICKETS.

Scale weight tickets for electronic scales that are recorded and maintained electronically are exempt from the sequentially numbered and in triplicate requirement. (4-2-03)

01. Pre-Numbered Scale Tickets. If a seed buyer has access to a scale that can be used for weighing seed, *the seed buyer* is to use pre-numbered scale tickets. *( )*

02. Numerical Order Requirement. A copy of each ticket must be maintained in numerical order. (3-16-04)

03. Custom Scale Requirement. If a seed buyer does not have access to a scale and has seed crop custom weighed at various locations, the seed buyer must maintain a copy of the scale ticket in chronological order as part of the seed crop records. (3-16-04)

015. -- 025. (RESERVED)

026. LICENSE.

01. Posting of License. Immediately upon receipt of the license or any renewal, extension or modification thereof under Title 22, Chapter 51, Idaho Code, the licensed seed buyer must post the license in a conspicuous place in each place of business or in any other place as the director may determine. The ISDA will issue a duplicate license for each additional seed facility. (4-2-03)

02. License Fee. If an applicant is not licensed pursuant to the "Pure Seed Law," Title 22, Chapter 4, Idaho Code, the license fee is equal to the out-of-state license fees, pursuant to Title 22, Chapter 4, and will be deposited to the state treasury and credited to the SIF. (4-2-03)

03. Return of Suspended or Terminated License. If a license issued to a seed buyer has lapsed or is suspended, revoked or canceled by the director, the license and all duplicates shall be returned to the ISDA. At the expiration of any period of suspension, revocation or cancellation, the license will be returned to the seed buyer to whom it was originally issued and be posted as prescribed by these rules. (4-2-03)

04. Loss of License. Upon satisfactory proof of the loss or destruction of a license issued to a seed buyer, a duplicate may be issued under the same number or a new number at the discretion of the director. (4-2-03)

05. License Reinstatement Fee. If license renewal material is received by the ISDA after the current license has expired, but no later than thirty (30) days past due, a reinstatement fee of one hundred dollars ($100) will be assessed. If license renewal material is received after the thirty (30) day late period it will be considered an original license application and will be assessed a license fee equal to the requirements of Section 026. The exemption for license fees in Section 22-5103(3)(a), Idaho Code, will not apply to license renewals that have been received by the ISDA later than thirty (30) days. Fees collected by this subsection will be deposited in the state treasury and credited to the SIF account. (4-2-03)

06. Additional License Application Information. The ISDA may request additional license information including, but not limited to: (4-2-03)

a. Names of officers of corporations or limited liability companies. (4-2-03)

b. Company information as required in the application form. (4-2-03)

c. Outstanding producer financial obligations. (4-2-03)

d. Name and address of banks that handle business accounts. (4-2-03)

07. License Duration. Licenses issued under the provisions of Title 22, Chapter 51, Idaho Code, expire on the 30th day of June of each year. (4-2-03)

027. -- 035. (RESERVED)

036. AMOUNT OF BOND FOR SEED STORED FOR WITHDRAWAL.
For the purpose of calculating the bond required pursuant to Section 22-5105, Idaho Code, the value for seed stored for withdrawal is calculated by either using the commonly accepted market price of similar seed crops within the same geographic location or equal to the average value of the same kind of seed crop owned by the seed buyer, whichever is greater, as determined by ISDA. (4-2-03)

037. AMOUNT OF BOND, IRREVOCABLE LETTER OF CREDIT, CERTIFICATE OF DEPOSIT, OR SINGLE BOND.

01. Bonding Requirement. The amount of bond to be furnished will be fixed at a rate pursuant to Section 22-5105, Idaho Code. (3-16-04)

02. Single Bond, Irrevocable Letter of Credit or Certificate of Deposit. For the purposes of licensing as a seed buyer pursuant to Title 22, Chapter 51, Idaho Code, and as a warehouseman pursuant to Title 69, Chapter 2, Idaho Code, or as a commodity dealer pursuant to Title 69, Chapter 5, Idaho Code, a single bond, irrevocable letter of credit or certificate of deposit will be fixed at whichever of the following amounts is greater: (3-16-04)

a. Combined total indebtedness paid and owed to producers for seed crop and agricultural commodity, without any deductions, for the previous license year; or (3-16-04)

b. The indebtedness owed and estimated to be owed to producers for seed crop and agricultural commodity, without any deductions, for the current license year. (3-16-04)

038. -- 046. (RESERVED)

047. MAINTENANCE OF RECORDS.
All records and accounts required under Title 22, Chapter 51, Idaho Code, are kept separate and distinct from all records and accounts of any other business of the seed buyer and be subject to inspection by the Director at any reasonable time. Electronic records may be maintained outside of Idaho provided they are available for examination by the ISDA within the state at any reasonable time. (4-2-03)

048. -- 049. (RESERVED)

050. INSURANCE REQUIREMENTS.

01. Insurance Coverage. Pursuant to Section 22-5114, Idaho Code, the seed buyer must maintain a commercial property policy for loss against, but not limited to: (4-2-03)

a. Loss from fire; (4-2-03)

b. Loss from internal explosion; (4-2-03)

c. Loss from lightning; (4-2-03)

d. Loss from tornado. (4-2-03)

02. Insurance Deductible. The maximum deductible allowed for insurance required by Section 22-5114, Idaho Code, is fifty thousand dollars ($50,000). However, a larger deductible may be allowed at the discretion of the director. The request must be submitted in writing and kept on file. (4-2-03)

03. Seed Stored for Withdrawal. The amount of insurance coverage must be sufficient to cover the full replacement value of similar or better kind and quality of seed crop. (4-2-03)

04. Self-Insurance. A request for self-insurance must be submitted to the ISDA in writing and signed by the seed buyer or his representative. Supporting evidence of ability to pay seed crop obligations, in the event of a loss due to fire, internal explosions, lightning, or tornadoes, must be attached to the self-insurance request. (4-2-03)

a. The director may accept or reject the self-insurance request. The director's findings will be in writing and kept on file. (4-2-03)

b. If a seed buyer is self-insured and the seed crop within the licensed seed buyer's facility has been damaged or destroyed, the seed buyer must make complete settlement to all producers within thirty (30) days of the loss. Failure of the seed buyer to make such settlement is *cause to revoke* the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the thirty (30) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. *( )*

05. Insurance Settlement. When the seed crop within a licensed seed buyer's facility has been damaged or destroyed, the seed buyer must make complete settlement to all producers having seed crops transferred to the seed buyer or stored for withdrawal within ten (10) days after settlement with the insurance company. Failure of the seed buyer to make such settlement is *cause to revoke* the seed buyer's license. If the seed buyer and producer agree to other terms, set out in writing, the settlement does not need to be made within the ten (10) day time period. If only a portion of the seed crop is damaged, settlement may be made on a pro-rata basis to the producer. *( )*

051. -- 059. (RESERVED)

060. NONCOMPLIANCE -- REQUIREMENTS.
If a seed buyer is not meeting its obligations to producers, does not have the ability to pay producers, or refuses to submit records and papers for lawful inspection, the ISDA will give written notice to the seed buyer and direct the seed buyer to comply with all of the following requirements within ten (10) working days or as agreed to by the ISDA. (4-2-03)

01. Additional Security Requirements. If it appears the licensee does not have the ability to pay producers for seed crops transferred, or when it appears the licensee does not have a sufficient net worth to outstanding financial obligations ratio, the ISDA may require the licensee to post a bond or other additional acceptable security in the amount of two thousand dollars ($2,000) for each one thousand dollars ($1,000) or fraction thereof of deficiency. (4-2-03)

02. Provide an Audited or Reviewed Financial Statement. The ISDA may require the licensee to submit an audited or reviewed financial statement prepared for the current financial accounting year by an independent certified public accountant or licensed public accountant. The audited or reviewed financial statement is to be prepared in accordance with GAAP. The ISDA may request a follow-up review of the submitted financial statement. (4-2-03)

061. -- 069. (RESERVED)

070. HOW ASSESSMENTS ARE TO BE CALCULATED.
Pursuant to Section 22-5121, Idaho Code, all seed buyers must collect assessments from producers who transfer seed crop or store for withdrawal. Assessments are calculated as follows: (4-2-03)

01. Contract. Assessments are collected on the gross dollar amount, without any deduction, owed to, or paid, or to be paid, on behalf of the producer of the seed crop. (4-2-03)

02. Seed Stored for Withdrawal. On the clean or estimated clean weight at the time the seed crop is withdrawn from the seed facility: (4-2-03)

a. The initial rate of assessment for cereal grain, lentil, pea, and dry edible bean and oil seed stored for withdrawal is not to exceed one hundredth (1/100) cent per pound. (4-2-03)

b. The initial rate of assessment for all seed crops stored for withdrawal other than seed crops pursuant to Section 070, is not to exceed one half (1/2) cent per pound. (4-2-03)

c. The SIF advisory board will review the assessment rate annually and make recommendations for change, as necessary, to the director. (4-2-03)

d. If the amount of assessment for a producer on all seed stored for withdrawal made in a calendar year is calculated to be less than fifty cents ($.50), no assessment will be collected. (4-2-03)

03. Incidental Costs and Expenses. All incidental costs and expenses including, but not limited to, transportation, cleaning, in and out charges, insurance, taxes and additional services or charges are not be included in the calculation to determine the assessment. (4-2-03)

04. Unpaid Assessments. If any assessment is unpaid and a failure occurs, the amount of the unpaid assessment will be deducted from any SIF recovery paid to the producer. (4-2-03)

071. -- 079. (RESERVED)

080. COLLECTION AND REMITTANCE OF SIF ASSESSMENTS.
SIF assessments are collected from obligations owed to the producer or at the time of withdrawal by the seed buyer and remitted to the ISDA. If assessment is paid by mail the payment must be postmarked no later than the twentieth day of the month following the close of the quarter to avoid interest and penalty charges. (3-16-04)

081. -- 089. (RESERVED)

090. CLAIM FORMS AND PAYMENT FROM THE FUND.

01. Claim Forms. Claim forms will be provided either via the USPS, by electronic transfer by the ISDA, or other commercial means. (4-2-03)

02. Contract. If the seed crop is contracted, the value of the contract price of the seed crop, at the time of payment, may be used to determine payment from the SIF. (4-2-03)

03. Not Contracted or Stored for Withdrawal. If the seed crop is not contracted or stored for withdrawal, the value for payment from the SIF will be determined by a survey of prices, for similar seed crops and similar seed facilities, within the same geographic location as the failed seed buyer. (4-2-03)

091. -- 099. (RESERVED)

100. EXEMPTIONS.
Producers are not eligible to participate in SIF and no assessments will be collected from: (4-2-03)

01. Producers With a Financial or Management Interest. Producers that have a financial or management interest in a seed facility, except members of a cooperative marketing association qualified under Title 22, Chapter 26, Idaho Code. (4-2-03)

02. Producers That Sell or Transfer to Another Producer. Producers that sell to another producer, none of which are seed buyers. (4-2-03)

03. Deliveries or Transfers to Unlicensed Seed Facilities. Producers that deliver or transfer seed crops to an unlicensed facility. (4-2-03)

101. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 25-203, 25-305, 25-601, *and 25-3704,* Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Rules Governing Domestic Cervidae." (4-2-03)

02. Scope. These rules govern procedures for the detection, prevention, control and eradication of diseases among domestic cervidae, and facilities, record keeping, and reporting requirements of domestic cervidae ranches. (4-2-03)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference. *( )*

01. Bovine Tuberculosis Eradication, Uniform Methods and Rules, Effective January 1, 2005. This document can be viewed online at https://www.aphis.usda.gov/animal_health/animal_diseases/tuberculosis/downloads/tb-umr.pdf. (3-29-17)

02. Code of Federal Regulations, Title 9, Part 161, January 1, 2016. This document can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&node=pt9.1.161&rgn=div5. (3-29-17)

03. Code of Federal Regulations, Title 9, Part 55, January 1, 2016.This document can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&node=pt9.1.55&rgn=div5. (3-29-17)

04. Code of Federal Regulations, Title 9, Subchapter A, Part 1 and 2, January 1, 2016.This document can be viewed online at http://www.ecfr.gov/cgi-bin/text-idx?SID=aded48cc1dcc4e565ec54ad6aefd2f27&mc=true&tpl=/ecfrbrowse/Title09/9CIsubchapA.tpl. (3-29-17)

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS, in accordance with Title 9, Part 161, CFR, January 1, 2004, to perform functions required by cooperative state-federal animal disease control and eradication programs. (4-6-05)

02. Approved Laboratory. NVSL, an AAVLD accredited laboratory that is qualified to perform CWD diagnostic procedures, or a laboratory designated by the Administrator to perform CWD diagnostic procedures. (4-2-03)

03. Approved Slaughter Establishment. A USDA inspected slaughter establishment at which ante-mortem and post-mortem inspection is conducted by USDA inspectors. (4-2-03)

04. Area Veterinarian in Charge. The USDA/APHIS/VS veterinary official who is assigned to supervise and perform official animal health activities in Idaho. (4-2-03)

05. Breed Associations and Registries. Organizations maintaining permanent records of ancestry or pedigrees of animals, individual animal identification records and records of ownership. (4-2-03)

06. Certificate. An official document issued by a state or federal animal health official or an accredited veterinarian at the point of origin of a shipment of cervidae that contains information documenting the age, sex, species, individual identification of the animals, the number of animals, the purpose of the movement, the points of origin and destination, the consignor, the consignee, the status of the animals relative to official diseases, test results and any other information required by the state animal health official for importation or translocation. (4-2-03)

07. Cervid Herd. One (1) or more domestic cervidae or groups of domestic cervidae maintained on common ground or under common ownership or supervision that may be geographically separated but can have interchange or movement. (4-2-03)

08. Cervidae. Deer, elk, moose, caribou, reindeer, and related species and hybrids including all members of the cervidae family and hybrids. (4-2-03)

09. Chronic Wasting Disease. A transmissible spongiform encephalopathy of cervids that is a nonfebrile, transmissible, insidious, and degenerative disease affecting the central nervous system of cervidae. (4-2-03)

10. Commingling. Within the last five (5) years, the animals have had direct contact with each other, had less than thirty (30) feet of physical separation, or shared management equipment, pasture, or surface water sources, except for periods of less than forty-eight (48) hours at sales or auctions when a state or federal animal health official has determined such contact presents minimal risk of CWD transmission. (4-2-03)

11. Custom Exempt Slaughter Establishment. A slaughter establishment that is subject to facility inspection by USDA, but that does not have ante-mortem and post-mortem inspection of animals by USDA inspectors. (4-2-03)

12. CWD-Adjacent Herd. A herd of domestic cervidae occupying premises that border a premises occupied by a CWD positive herd, including herds separated by roads or streams. (4-6-05)

13. CWD-Exposed Animal. A cervid animal that is not exhibiting any signs of CWD, but has had contact within the last five (5) years with cervids from a CWD-positive herd or the animal is a member of a CWD-exposed herd. (4-2-03)

14. CWD-Exposed Herd. A herd of cervidae in which no animals are exhibiting signs of CWD, but: (4-2-03)

a. An epidemiological investigation indicates that contact with CWD positive animals or contact with animals from a CWD positive herd has occurred in the previous five (5) years; or (4-2-03)

b. A herd of cervidae occupying premises that were previously occupied by a CWD positive herd within the past five (5) years as determined by the designated epidemiologist; or (4-2-03)

c. Two (2) herds that are maintained on a single premises even if they are managed separately, have no commingling, and have separate herd records. (4-6-05)

15. CWD-Positive Cervid. A domestic cervid on which a diagnosis of CWD has been confirmed through positive test results on any official cervid CWD test by an approved laboratory. (4-2-03)

16. CWD-Positive Herd. A domestic cervidae herd in which any animal(s) has been diagnosed with CWD, based on positive laboratory results, from an approved laboratory. (4-2-03)

17. CWD-Suspect Cervid. A domestic cervid for which laboratory evidence or clinical signs suggests a diagnosis of CWD. (4-2-03)

18. CWD-Suspect Herd. A domestic cervidae herd in which any animal(s) has been determined to be a CWD-suspect. (4-2-03)

19. Death Certificate. A form, approved by the administrator, provided by the Division for the reporting of cervidae deaths and for reporting sample submission for CWD testing. (4-6-05)

20. Designated Epidemiologist. A state or federal veterinarian who has demonstrated the knowledge and ability to perform the functions required under these rules and who has been selected by the Administrator to fulfill the epidemiology duties relative to the state domestic cervidae disease control program. (4-2-03)

21. Disposal. Final disposition of dead cervidae. (4-2-03)

22. Domestic Cervidae. Fallow deer (*Dama dama*), elk (*Cervus elaphus*) or reindeer (*Rangifer tarandus*) owned by a person. (4-2-03)

23. Domestic Cervidae Ranch. A premises where domestic cervidae are held or kept, including multiple premises under common ownership. (4-6-05)

24. Electronic Identification. A form of unique, permanent individual animal identification such as radio frequency identification tag, radio frequency identification implant, or other forms approved by the Administrator. (4-6-05)

25. Escape. Any domestic cervidae located outside the perimeter fence of a domestic cervidae ranch and not under the immediate control of the owner or operator of the domestic cervidae ranch. (4-2-03)

26. Federal Animal Health Official. An employee of USDA/APHIS/VS who is authorized to perform animal health activities. (4-6-05)

27. Harvest. Any healthy domestic cervid that is intentionally and lethally removed from a domestic cervidae facility, by an owner, designated employee or customer of the facility, strictly for the purposes of either shooting or meat production. (4-6-15)

28. Herd of Origin. A cervid herd, on any domestic cervidae ranch or other premise, where the animals were born, or where they were kept for at least one (1) year prior to date of shipment. (4-2-03)

29. Herd Status. Classification of a cervidae herd with regard to CWD. (4-2-03)

30. Intrastate Movement Certificate. A form approved by the Administrator, and available from the Division, to document the movement of domestic cervidae between premises within Idaho. (4-2-03)

31. Individual CWD Herd Plan. A written herd management agreement and testing plan developed by the herd owner and approved by the Administrator to identify and eradicate CWD from a positive, source, suspect, exposed, or adjacent herd. (4-7-11)

32. Limited Contact. Incidental contact between animals of different herds in separate pens off of the herd's premises at fairs, shows, exhibitions and sales. (4-2-03)

33. National CWD Herd Certification Program. A federal-state-industry cooperative program administered by APHIS and implemented by participating states that establishes CWD surveillance and testing standards that owners must achieve before interstate transport of cervids will be permitted. (3-20-14)

34. Official CWD Test. A test approved by the Administrator and conducted at an approved laboratory to diagnose CWD. (4-2-03)

35. Official Identification. Identification, approved by the Administrator, that individually, uniquely, and permanently identifies each cervid. (4-2-03)

36. Operator. A person who has authority to manage or direct a domestic cervidae ranch. (4-2-03)

37. Premises. The ground, area, buildings, and equipment utilized to raise, propagate, control, or harvest domestic cervidae. (4-2-03)

38. Quarantine. An order issued on authority of the Administrator, by a state or federal animal health official or accredited veterinarian, prohibiting movement of cervids from any location without a written restricted movement permit. (4-2-03)

39. Quarantine Facility. A confined area where selected domestic cervidae can be secured and isolated from all other cervidae and livestock. (4-2-03)

40. Ranch Management Plan. A written plan for a domestic cervidae ranch that sets forth best management practices that mitigates the introduction or dissemination of disease among domestic cervidae. (4-7-11)

41. Reidentification. The identification of a domestic cervid which had been officially identified, as provided by this chapter, but which has lost the official identification device, or the tattoo or official identification device has become illegible. (4-2-03)

42. Restrain. The immobilization of domestic cervidae in a chute, other device, or by other means for the purpose of efficiently, effectively, and safely inspecting, treating, vaccinating, or testing. (4-2-03)

43. Restricted Movement Permit. An official document that is issued by the Administrator, AVIC, or an accredited veterinarian for movement of animals from positive, suspect, or exposed herds. (4-2-03)

44. Source Herd. A herd from which at least one (1) cervid has originated within the previous five (5) years and that cervid has been diagnosed CWD positive. (4-2-03)

45. State Animal Health Official. The Administrator, or *Administrator's* designee. *( )*

46. Status Date. The date on which the Administrator approves in writing a herd status change with regard to CWD. (4-2-03)

47. Trace Back Herd. An exposed herd in which at least one (1) CWD positive animal resided within any of the previous sixty (60) months prior to diagnosis with CWD. (4-2-03)

48. Trace Forward Herd. A herd that has received exposed animals from a positive herd within sixty (60) months prior to the diagnosis of CWD in the positive herd or from the identified point of entry of CWD into the positive herd. (4-2-03)

49. Traceback. The process of identifying the movements and the herd of origin of CWD positive, or exposed animals, including herds that were sold for slaughter. (4-2-03)

50. Wild Cervidae. Any cervid animal not owned by a person. (4-2-03)

51. Wild Ungulate. Any four (4) legged, hoofed herbivore, including cervids and other ruminants, not owned by a person. (4-6-05)

52. Wild Ungulate Cooperative Herd Plan. A plan, developed cooperatively by the owner of the domestic cervidae ranch, the ISDA, and the Idaho Department of Fish and Game to determine the disposition of any wild ungulates that are found to be located on a domestic cervidae ranch. (4-6-05)

011. ABBREVIATIONS.

01. AAVLD. American Association of Veterinary Laboratory Diagnosticians. (4-2-03)

02. APHIS. Animal and Plant Health Inspection Service. (4-2-03)

03. AVIC. Area Veterinarian in Charge. (4-2-03)

04. AZA. Association of Zoos and Aquariums. (4-4-13)

05. CFR. Code of Federal Regulations. (4-2-03)

06. CWD. Chronic Wasting Disease. (4-2-03)

07. **CWDP**. Chronic Wasting Disease Program. (4-2-03)

08. **ISDA**. Idaho State Department of Agriculture. (4-2-03)

09. **NAEBA**. North American Elk Breeders Association. (4-2-03)

10. **NVSL**. National Veterinary Services Laboratory. (4-2-03)

11. **TB**. Tuberculosis. (4-2-03)

12. **UM&R**. Uniform Methods and Rules. (4-2-03)

13. **USDA**. United States Department of Agriculture. (4-2-03)

14. **VS**. Veterinary Services. (4-2-03)

012. APPLICABILITY.
These rules apply to all domestic cervidae located in, imported into, exported from, or transported through the state of Idaho. (4-2-03)

013. AZA ACCREDITED FACILITIES AND USDA LICENSED FACILITIES.
AZA accredited facilities and facilities licensed by USDA under 9CFR Subchapter A Parts 1 and 2 as licensees, dealers, exhibitors, research facilities and zoos are exempt from the provisions of this chapter provided that: (4-2-03)

01. **Movement Between AZA and USDA Facilities**. AZA accredited and USDA licensed facilities may not sell, give, or in any way transfer cervidae to persons or domestic cervidae ranches within Idaho, except other to AZA accredited or USDA licensed facilities. (4-2-03)

02. **Transfer of Cervidae**. Any AZA accredited or USDA licensed facility that in any way transfers cervidae, or title to cervidae, to any person in Idaho, except to other AZA accredited or USDA licensed facilities, must comply with all of the provisions of this chapter. (4-2-03)

014. IMPORTATION OF DOMESTIC CERVIDAE.
All domestic cervidae imported into the state of Idaho must comply with the requirements of the APHIS National CWD Herd Certification Program and IDAPA 02.04.21 "Rules Governing the Importation of Animals," which apply to domestic cervidae. (3-20-14)

015. -- 019. (RESERVED)

020. LOCATION OF DOMESTIC CERVIDAE.
Any person who owns or has control of domestic cervidae in Idaho that are not located on a domestic cervidae ranch that is in compliance with the applicable provisions of this chapter, or on an AZA accredited or USDA licensed facility in compliance with this chapter, is in violation of these rules. (4-2-03)

01. **Department Action**. In addition to any other administrative or civil action, the department may seize, require removal from the state, require removal to a domestic cervidae ranch that is in compliance with the provisions of this chapter, or require disposal of any domestic cervidae that are not located on a domestic cervidae ranch, an AZA accredited facility, or a USDA licensed facility which is in compliance with the provisions of this chapter. (4-2-03)

02. **Reindeer**. Reindeer may not be owned, possessed, propagated or held in Idaho north of the Salmon River in order to protect the wild caribou herd in northern Idaho. (4-2-03)

03. **Exceptions**. The Administrator may grant exceptions from the provisions of Section 020 on a case specific basis. (4-2-03)

04. **Natural Disasters**. Damage caused to domestic cervidae ranch facilities by natural disasters does

not constitute a violation of this chapter, provided that the owner or operator begins any necessary repairs immediately upon discovering the damage, acts expeditiously, as determined by the Administrator, to complete any necessary repairs and reports the extent and cause of any damage to the Division within twenty-four (24) hours of the discovery of the damage. (4-6-05)

021. OFFICIAL IDENTIFICATION.
All domestic cervidae must be individually, permanently, and uniquely identified, with two (2) types of official identification approved by the Administrator. (4-2-03)

01. Reporting of Identification. The unique individual identification number, type of identification, and the name, address, and telephone number of the owner of each animal identified must be reported to the Administrator, in writing, by the owner or operator. (4-2-03)

02. Identification Assigned. Official identification, once assigned to an individual animal, may not be changed or transferred to another animal. Animals that lose identification devices must be re-identified in accordance with Section 031. (4-7-11)

03. Progeny. All progeny of domestic cervidae must be officially identified by December thirty-first of the year of birth, upon sale or transfer of ownership, or upon leaving the domestic cervidae ranch, whichever is earlier. (4-2-03)

04. Visible Identification. At least one (1) of the official types of identification used must be visible from one hundred and fifty (150) feet. (4-6-05)

022. TYPES OF OFFICIAL IDENTIFICATION.
All domestic cervidae must be individually identified by two (2) of the following types of official identification, at least one (1) of the types of official identification must be a bangle or lamb tag that is visible from one hundred fifty (150) feet. (4-2-08)

01. Official USDA Ear Tag. (4-2-03)

02. Tattoo. Legible skin tattoo using an alphanumeric tattoo sequence that has been recorded with the Division of Animal Industries and applied to either the ear or escutcheon. *( )*

03. Electronic Identification. A form of electronic identification, approved by the Administrator. (4-6-05)

04. Official NAEBA Eartag. (4-2-03)

05. Official ISDA Cervidae Program Ear Tag. A tamper resistant, unique number sequenced, individual identification tag approved by the Administrator. (4-2-03)

06. Official HASCO Brass Lamb Tag. *A* brass lamb tag engraved with farm name and individual animal identification number. *( )*

07. Freeze Brands. Legible, freeze brands that uniquely identify the individual domestic cervid. (4-6-05)

08. Ranch Specific Unique Bangle or Lamb Tags. The Administrator may grant written approval for the use of bangle or lamb tags that are: ranch specific; tamper resistant; uniquely numbered; and correlated with another type of official identification on the annual inventory report. (4-2-08)

09. Other Identification. Other forms of unique individual identification approved by the Administrator. (4-6-05)

023. NATIONAL CWD HERD CERTIFICATION PROGRAM OFFICIAL IDENTIFICATION.
All domestic cervidae enrolled in the National CWD Herd Certification Program are required to be identified with

two (2) forms of identification for each animal. One (1) form of identification must be a nationally unique official animal identification that uses an APHIS-approved numbering system that is linked to the CWD National Database or equivalent ISDA database. The second form of identification must be unique to the individual animal within the herd and also be linked to the CWD National Database or equivalent ISDA database. (3-20-14)

01. APHIS-Approved Identification Devices. (3-20-14)

a. Electronic Identification; (3-20-14)

b. Official USDA Tamper-Resistant Ear Tag; (3-20-14)

c. Legible Ear or Flank Tattoo; and (3-20-14)

d. Other forms of Identification as approved by APHIS Administrator. (3-20-14)

024. -- 029. (RESERVED)

030. OFFICIAL VISIBLE IDENTIFICATION.

01. Ear Tags. All domestic cervidae must be identified with a bangle or lamb tag that is visible from one hundred fifty (150) feet. (4-2-08)

02. Size. The large portion of the bangle or lamb tag must be at least two (2) square inches. (4-2-08)

03. Color. No visible identification may have a primary color of brown, black, pink, tan, or silver. (4-2-08)

04. Camouflage Patterns. No visible identification may utilize camouflage patterns. (4-2-08)

031. REIDENTIFICATION OF DOMESTIC CERVIDAE.
No domestic cervidae that were marked with official identification may be re-tattooed for the purpose of reestablishing their identification nor re-ear-tagged with an official identification ear tag at any time subsequent to the original identification, except that re-tattooing or re-ear-tagging for the purpose of reestablishing the official identification is allowed *only* under the following conditions: *( )*

01. Supervision. Reidentification is accomplished under the supervision of an accredited veterinarian, or state or federal animal health officials. (4-2-03)

02. Permanent Identification. Animals that are presented for reidentification have some permanent identification that identifies the animals as those originally officially identified such as an individual animal registration tattoo, or other approved permanent identification, provided that such identification was submitted on the annual inventory report or other official record. (4-2-03)

03. Inventory Evaluation. In absence of permanent identification, the Administrator may conduct an investigation or inventory evaluation to determine identity of the animal that is being presented for reidentification. (4-2-03)

04. Reproduction of Original Tattoo. Re-tattooing must reproduce the original tattoo that was placed in the animal's ear at the time of official identification. (4-2-03)

05. Records. The accredited veterinarian or state or federal animal health official who supervises the reidentification must correlate the new identification with previous identification and record the ear tag or other identification numbers, the tattoo symbols and the owner's name and address and submit the reidentification record to the Division within ten (10) days of the date of reidentification. (4-2-03)

032. -- 039. (RESERVED)

040. INSPECTIONS.
To prevent the introduction and dissemination, or to control and eradicate diseases, state and federal animal health officials are authorized to inspect cervidae records, premises, facilities, and domestic cervidae to ensure compliance with the provisions of this chapter and other state or federal laws or rules applicable to domestic cervidae. State and federal animal health officials must comply with the operation's biosecurity protocol so long as the protocol does not inhibit reasonable access to: (4-2-08)

01. Entry. Enter and inspect, at reasonable times, the premises of domestic cervidae ranches and inspect domestic cervidae. (4-2-08)

02. Access to Records. Review or copy, at reasonable times, any records that must be kept in accordance with these rules. (4-2-08)

041. -- 049. (RESERVED)

050. GENETICS.
Domestic cervidae that have red deer genetic influence may not be imported into Idaho. Additionally, any domestic cervidae located in Idaho that are identified as having red deer genetic influence will be destroyed, removed from the state, or neutered. (4-2-03)

051. -- 059. (RESERVED)

060. WILD CERVIDAE.
Wild cervidae may not be confined, kept or held on a domestic cervidae ranch. (4-2-03)

01. Duty of Ranch Owner. It is the duty of owners of all domestic cervidae ranches to take precautions, and to conduct periodic inspections, to ensure that wild cervidae are not located within the perimeter fence of any domestic cervidae ranch. (4-2-03)

02. Notification of Administrator. All owners or operators of domestic cervidae ranches must notify the Administrator within twenty-four (24) hours of gaining knowledge of the presence of wild cervidae inside the perimeter fence of the domestic cervidae ranch. (4-2-03)

03. Failure to Notify the Administrator. The failure of any owner or operator of a domestic cervidae ranch to notify the Administrator of the presence of wild cervidae within the perimeter fence of a domestic cervidae ranch is a violation of this chapter. (4-2-03)

04. Idaho Department of Fish and Game. Upon receiving notification that wild cervidae are on a domestic cervidae ranch, the Administrator will notify the Idaho Department of Fish and Game. (4-2-03)

05. Wild Ungulate Cooperative Herd Plan. The Idaho Department of Fish and Game will cooperate with ISDA and the owners or operators of domestic cervidae ranches where any wild cervidae or wild ungulates are present within the external perimeter fence of the domestic cervidae ranch to develop and implement a site specific written herd plan to address the disposition of the wild cervidae or wild ungulates. (4-6-05)

061. -- 069. (RESERVED)

070. SUPERVISION OF DOMESTIC CERVIDAE PROGRAM.
A department veterinary medical officer will provide routine supervision of the domestic cervidae program. (4-2-03)

071. -- 079. (RESERVED)

080. DISPOSAL OF DOMESTIC CERVIDAE.
All domestic cervidae carcasses and parts of carcasses not utilized for human consumption, except parts of carcasses utilized for taxidermy purposes, must be disposed of in compliance with IDAPA 02.04.17, "Rules Governing Dead Animal Movement And Disposal." (4-2-03)

081. -- 089. (RESERVED)

090. FEES.

01. Annual Assessment Fee. A fee, not to exceed ten dollars ($10) per head per year on elk or three dollars ($3) per head per year on fallow deer and reindeer, is hereby assessed on all domestic cervidae in the state to cover the cost of administering the program covered in these rules. The fee includes all domestic cervidae present at the ranch as of December 31 and all domestic cervidae that die during the same calendar year. This fee is due January first of each year. The annual assessment fee may be reduced if program revenue accumulates to a balance of at least one hundred thousand dollars ($100,000) in excess of the projected annual cost of operating the program, as determined by the Department on July 1 of each year. (4-6-15)

02. Import, Export, and Movement Fees. The fees imposed in Section 25-3708(2) through (4), Idaho Code, are due no later than December 31 of each year, but the Department requests all movement fees be submitted within five (5) business days of the movement of the domestic cervids. (4-6-15)

091. -- 099. (RESERVED)

100. DOMESTIC CERVIDAE RANCHES.
In order to prevent the introduction or dissemination of diseases, and to control or eradicate diseases, all domestic cervidae ranches must comply with the disease control, facility, and record keeping requirements and all other provisions of this chapter. (4-2-03)

01. Each Premises. Each separate premises where domestic cervidae are kept or held must comply with all of the provisions of this chapter. (4-6-05)

02. Vehicle Access. Domestic cervidae ranches must have motorized vehicle access to the restraining system on each premises, during the portion of the year that cervidae are held or kept on the premises, adequate to facilitate disease prevention and control as determined by the Administrator. (4-6-05)

03. Premises Registration. Each premises where domestic cervidae are kept or held must be registered with the Division and assigned a unique, individual number approved by the Administrator. (4-6-05)

101. DOMESTIC CERVIDAE RANCH FACILITY REQUIREMENTS.
All domestic cervidae ranches are required to have facilities that include, but are not limited to, perimeter fence, restraining system, gathering system, water system, and if required, a quarantine facility. (4-2-03)

01. Maintenance. All facilities must be maintained, at all times that domestic cervidae are present, to prevent the escape of domestic cervidae or ingress of wild cervidae. (4-2-03)

02. Inspections. To ensure compliance with this chapter, state or federal animal health officials will inspect all premises where domestic cervidae are, or will be, possessed, controlled, harvested, propagated, held, or kept. (4-2-03)

a. Each domestic cervidae ranch will be inspected no less than once every five (5) years. Domestic cervidae ranches may be inspected more frequently if requested by the owner or if specified in a ranch management plan. The Administrator may require additional facility inspections as necessary to aid in the prevention, control, or eradication of disease or to ensure compliance with the provisions of this chapter or other state or federal rules applicable to domestic cervidae. (4-6-15)

b. All facilities relating to the handling or raising of domestic cervidae will be inspected. (4-2-03)

102. PERIMETER FENCE REQUIREMENTS.
A perimeter fence, completely enclosing the domestic cervidae ranch to be constructed of high-tensile, non-slip woven wire or other fencing material approved by the Administrator. (4-2-03)

01. Elk and Fallow Deer. For elk and fallow deer, the fence must be a minimum of eight (8) feet in

height for its entire length at all times. (4-2-03)

02. Reindeer. For reindeer, the fence must be at least six (6) feet in height for its entire length at all times. (4-2-03)

03. Wire. The top two (2) feet of each fence may be smooth, barbed or woven wire (at least twelve and one-half (12-1/2) gauge) with horizontal strands spaced not more than six (6) inches apart. (4-2-03)

a. Wire must be placed on the animal side of the fence to prevent pushing the wire away from the posts. (4-2-03)

b. Wire must be attached to all posts at the top, bottom, and not more than eighteen (18) inches apart between the top and bottom of the wire. (4-2-08)

04. Posts. Wooden posts used in the perimeter fence must be at least butt-end treated with a commercially available preservative and have a minimum of four (4) inch top for line posts and a minimum of five (5) inch top for corner posts. Metal pipe posts must be a minimum of two and one-eighth (2-1/8) inches outside diameter with a three-sixteenths (3/16) inch wall thickness for line posts and two and seven-eighths (2-7/8) inches outside diameter with a seven thirty-seconds (7/32) inch wall thickness for corner posts. Posts must be spaced no more than twenty-four (24) feet apart, with stays, supports or braces as needed, and be placed in the ground a minimum of three (3) feet. (4-2-08)

05. Gates. Each domestic cervidae ranch must have gates that prohibit the escape of domestic cervidae or the ingress of wild cervidae. (4-2-03)

06. Fence Maintenance. Fences must be maintained, at all times that domestic cervidae are present, to prevent domestic cervidae from escaping or native wild cervidae from entering the enclosure. (4-2-03)

07. Exceptions. The Administrator may grant exceptions to the specifications in Section 102 on a case specific basis. (4-2-03)

103. GATHERING AND RESTRAINING SYSTEM.
Each domestic cervidae ranch must have a system for humanely and effectively gathering and restraining domestic cervidae for the purpose of inspecting, identifying, treating, or testing of animals by state or federal animal health officials. (4-2-03)

01. Gathering System. Each domestic cervidae ranch must have a system that facilitates the gathering of domestic cervidae so as to be able to move the domestic cervidae through the restraining system, at any time of the year that domestic cervidae are present. (4-2-03)

02. Restraining System. A system approved by the Administrator, to immobilize domestic cervidae for the purpose of efficient, effective, and safe handling for inspecting, treating, vaccinating, or testing. (4-2-03)

03. Exceptions. The Administrator may grant exceptions to the provisions of this section on a case specific basis. (4-2-03)

104. WATER SYSTEM.
Each domestic cervidae ranch must have a water system adequate to supply the need of the cervidae herd. (4-2-03)

105. QUARANTINE FACILITY.
If animals are to be imported onto the domestic cervidae ranch, a quarantine facility, approved by the Administrator, must be provided for holding animals until any disease retesting is accomplished or other requirements are met. (4-2-03)

106. -- 199. (RESERVED)

200. RECORDS AND REPORTING.

01. Reports. Owners of domestic cervidae ranches must submit complete and accurate reports to the Administrator. Failure to submit complete and accurate reports within the designated time frames is a violation of this chapter. (4-2-03)

02. Records. All owners of domestic cervidae ranches, during normal business hours, must present to state or federal animal health officials, for inspection, review, or copying, any cervidae records deemed necessary to ensure compliance with the provisions of this chapter. (4-2-03)

03. Notification. State or federal animal health officials will attempt to notify the owners or operators of domestic cervidae ranches, and premises where records are kept prior to any inspections. (4-2-03)

04. Emergencies. In the event of an emergency, as determined by the Administrator, the notification requirements of Section 200 may be waived. (4-2-03)

201. ANNUAL INVENTORY REPORT.

01. Inventory Report. All owners of domestic cervidae ranches must submit annually, to the Administrator, a complete and accurate inventory of all animals held no later than December 31st of each year containing the following minimum information: ( )

a. Name and address of the domestic cervidae ranch. (4-2-03)

b. Name and address of the owner of the domestic cervidae ranch. (4-2-03)

c. Date the inventory was completed. (4-2-03)

02. Individual Domestic Cervidae. For each individual domestic cervidae that was located on the domestic cervidae ranch during the year for which the report is being made, the following information must be provided: (4-2-03)

a. All types of official and unofficial identification; (4-2-03)

b. Species; (4-2-03)

c. Sex; and (3-29-17)

d. Age or year born. (4-2-03)

202. INVENTORY VERIFICATION.

State or federal animal health officials will verify all domestic cervidae ranch inventories of animals held and individual animal identification annually. (4-2-03)

01. Visible Identification. Individual animal identification verification may be accomplished by visually noting the unique official visible identification number or visually noting an unofficial visible identification number if the number is correlated with two (2) forms of official identification on the inventory submitted by the cervidae producer. The Administrator may, on a case by case basis, grant written permission for ranch specific unique bangle tags to be used for official identification. (4-2-08)

02. Duty to Gather and Restrain. It is the duty of the owner of each domestic cervidae ranch to gather and restrain any domestic cervidae that state or federal animal health officials determine are not readily identifiable for inventory verification purposes. The Administrator determines the suitability of the restraint system. (4-2-03)

203. CHANGE OF ADDRESS.

Owners of domestic cervidae ranches must notify the Division in writing within thirty (30) days of any change in the address of the owners of domestic cervidae, the owner of the domestic cervidae ranch, or the domestic cervidae ranch. (4-6-05)

204. ESCAPE OF DOMESTIC CERVIDAE.
It is the duty of each owner or operator of a domestic cervidae ranch to take all reasonable actions to prevent the escape of domestic cervidae from a domestic cervidae ranch. (4-6-05)

01. Notification of Escape. When any domestic cervidae escape from a domestic cervidae ranch, the owner or operator of the domestic cervidae ranch must notify the Administrator by phone, facsimile, or other means approved by the administrator within twenty-four (24) hours of the discovery of the escape. (4-6-05)

02. Duty to Retrieve Escaped Cervidae. It is the duty of each owner or operator of a domestic cervidae ranch to retrieve or otherwise bring under control all domestic cervidae that escape from a domestic cervidae ranch. (4-2-03)

03. Fish and Game. The Administrator will notify the Idaho Department of Fish and Game of each escape. (4-2-03)

04. Sheriff and State Brand Inspector. When domestic cervidae escape from a domestic cervidae ranch and the owner or operator is unable to retrieve the animals within twenty-four (24) hours, the Administrator may notify the county sheriff or the state brand inspector of the escape pursuant to Title 25, Chapter 23, Idaho Code. (4-2-03)

05. Capture. In the event that the owner or operator of a domestic cervidae ranch is unable to retrieve escaped domestic cervidae in a timely manner, as determined by the Administrator, the Administrator may effectuate the capture of the escaped domestic cervidae to ensure the health of Idaho's livestock and wild cervidae populations. (4-2-03)

06. Failure to Notify. Failure of any owner or operator of a domestic cervidae ranch to notify the Administrator within twenty-four (24) hours of the discovery of an escape of domestic cervidae is a violation of this chapter. (4-6-05)

07. Taking of Escaped Domestic Cervidae. A licensed hunter may legally take domestic cervidae that have escaped from a domestic cervidae ranch only under the following conditions: (4-6-05)

a. The domestic cervidae has escaped and has not been in the control of the owner or operator of the domestic cervidae ranch for more than seven (7) days; and (4-6-05)

b. The hunter is licensed and in compliance with all the provisions of the Idaho Department of Fish and Game rules and code. (4-6-05)

205. NOTICE OF DEATH OF DOMESTIC CERVIDAE.
Notice of death of domestic cervidae twelve (12) months or older and all domestic cervidae officially identified and inventoried that died on a ranch or at an approved slaughter or custom exempt slaughter establishment must be submitted by the owner or operator to the division on a report approved by the Administrator: (3-29-17)

01. Submission of Death Certificates. A complete and accurate copy of all CWD sample submission forms/death certificates must be submitted to the division by regular mail, facsimile, electronic mail, or by other means as approved by the Administrator within ten (10) business days of when the owner or operator knew or reasonably should have known of the death. The CWD sample submission form/death certificate must contain the following minimum information: (3-29-17)

a. Name and address of the domestic cervidae ranch; and (3-29-17)

b. Name and address of the owner of the domestic cervidae ranch. (3-29-17)

02. Individual Domestic Cervidae. For each individual domestic cervidae death, the following minimum information must be provided: (3-29-17)

a. All individual identification numbers; (3-29-17)

b. Sex; (3-29-17)

c. Age or year born; (3-29-17)

d. Date and time of death; (3-29-17)

e. Cause of death; (3-29-17)

f. Specify animals submitted for CWD testing; and (3-29-17)

g. Dated signature. (3-29-17)

206. (RESERVED)

207. NOTIFICATION OF EXPOSURE TO DISEASE.
Any owner, operator, veterinarian practicing in Idaho, laboratory conducting cervidae testing, or any other person who has reason to believe that domestic cervidae are exposed to or infected with a dangerous or reportable disease or parasite must notify the Division immediately. (4-2-03)

208. INTRASTATE MOVEMENT CERTIFICATE.
All owners of domestic cervidae ranches who move cervidae, from one premises to another, including movement from one (1) premises to another premises owned, operated, leased, or controlled by the owner, within the state of Idaho must submit, to the Administrator, a complete and accurate intrastate movement certificate signed by the owner, within ten (10) business days of the movement. The Administrator will provide blank intrastate movement certificates to the owners of domestic cervidae ranches upon request. (3-29-17)

209. RANCH MANAGEMENT PLAN.

01. Voluntary Ranch Management Plan. A domestic cervidae ranch may apply, on a form prescribed by the Administrator, to enter into a voluntary ranch management plan. The ranch management plan will be developed cooperatively by the owner or authorized agent and the Administrator. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. A voluntary ranch management plan may, notwithstanding other rule requirements to the contrary, establish inventory verification requirements and CWD sampling requirements specific for a domestic cervidae ranch. Failure to adhere to an approved voluntary ranch management plan is a violation of these rules. (4-7-11)

02. Mandatory Ranch Management Plan. Domestic cervidae ranches are required to develop and implement an approved ranch management plan if the ranch is found in violation of Sections 060, 204 or 500 of these rules. The ranch management plan must be completed and implemented within six (6) months of the disposition of the violation. For the ranch management plan, the Administrator will conduct a risk assessment considering the factors in Subsection 209.03. Failure to comply with the mandatory ranch management plan is a violation of these rules. *( )*

03. Risk Assessment for Ranch Management Plans. The Administrator will conduct a risk assessment for each ranch management plan. A ranch management plan will not include a double fencing requirement but may require that double gates be installed. The Administrator will consider the following factors when conducting a risk assessment at a domestic cervidae ranch: (4-7-11)

a. Risk of egress. The risk of egress may be evaluated based on, but not limited to, history of domestic cervidae escape during the previous five (5) years, recovery rate of escaped domestic cervidae, length of time domestic cervidae were outside of the perimeter fence, annual average precipitation, topography, altitude and tree density. (4-7-11)

b. Risk of ingress. The risk of ingress may be evaluated on, but not limited to, history of ingress during the previous five (5) years, annual average precipitation, topography, altitude, tree density and proximity to

wildlife migration corridors. (4-7-11)

c. Compliance with CWD sample submission. The Administrator may, based on a risk assessment of the facility, adjust the number of tissue sample submissions required under this rule. The adjustment will be based on, but not limited to, the following: (4-6-15)

i. Whether the domestic cervidae on the ranch have commingled with any domestic cervids of unknown CWD status. (4-6-15)

ii. Whether the domestic cervidae ranch has been in compliance with all requirements of Title 25, Chapter 35, Idaho Code, and these rules. (4-6-15)

iii. Whether the domestic cervidae ranch has had documented cases of ingress of wild cervids or egress of domestic cervidae within the eighteen (18) months prior to the risk assessment. (4-6-15)

210. -- 249. (RESERVED)

250. INTRASTATE MOVEMENT OF DOMESTIC CERVIDAE.
All live domestic cervidae moving from one premises to another premises within the state of Idaho must be officially identified, except calves during the year of birth accompanying their dam, and accompanied by: (4-6-05)

01. TB Test. An official negative test for tuberculosis of all cervidae over twelve (12) months of age, conducted within the last ninety (90) days, or written permission from the Administrator, except: (4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules," effective January 1, 2005, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (3-29-17)

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot; or (4-2-03)

c. Those domestic cervidae moving from one premises to another premises owned, operated, leased, or controlled by the same person. (4-6-05)

02. Intrastate Movement Certificate. All intrastate movements of live domestic cervidae, including movement from one premises to another premises owned, operated, leased, or controlled by the same person, must be accompanied by a complete and accurate intrastate movement certificate, which has been signed by the owner or operator of the domestic cervidae ranch where the movement originates and includes a statement of the CWD and TB status of the cervidae. (4-6-05)

03. Movement of Cervidae Between Accredited AZA or USDA Licensed Facilities. Movement of cervidae between accredited AZA and USDA licensed facilities is exempt from the requirements of this chapter. All other movement from AZA accredited or USDA licensed facilities must comply fully with all of the provisions of this chapter. (4-2-03)

251. -- 299. (RESERVED)

300. DISEASE CONTROL.
The Administrator may require domestic cervidae in the state to be tested for brucellosis (Brucella abortus or Brucella suis), tuberculosis (Mycobacterium bovis), meningeal worm (Parelaphostrongylus tenuis), muscle worm (Elaphostrongylus cervus), CWD or for other diseases or parasites determined to pose a risk to other domestic cervidae, livestock, or wildlife. (4-2-03)

301. DUTY TO RESTRAIN.
It *is* the duty of the owner of each domestic cervidae ranch to gather and restrain domestic cervidae for testing when directed to do so in writing by the Administrator. The Administrator determine*s* the suitability of the restraint system. *( )*

302. TESTING METHODS.
The Administrator determines appropriate testing procedures and methods. ( )

303. TESTING, TREATMENT, QUARANTINE, OR DISPOSAL REQUIRED.
The Administrator determines when testing, treatment, quarantine, or disposal of domestic cervidae is required at any domestic cervidae ranch pursuant to Title 25, Chapters 2, 3, 4, 6, and 37, Idaho Code. If the Administrator determines that testing, treatment, quarantine, disposal of domestic cervidae, or cleaning or disinfection of premises is required, a written order will be issued to the owner describing the procedure to be followed and the time period for carrying out such actions. ( )

304. QUARANTINES.
All domestic cervidae animals or herds that are determined to be exposed to, or infected with, any disease that constitutes an emergency, as provided in Title 25, Chapter 2, Idaho Code, will be quarantined. (4-2-03)

01. Infected Herds. Infected herds or animals must remain under quarantine until such time that the herd has been completely depopulated and the premises has been cleaned and disinfected as provided by the Administrator, or the provisions for release of a quarantine established in these rules have been met. (4-6-05)

02. Exposed Herds. The quarantine for exposed herds or animals may take the form of a hold-order which remains in effect until the exposed animals have been tested and the provisions for release of a quarantine as established in these rules have been met. (4-2-03)

03. Validity of Quarantine. The quarantine is valid whether or not acknowledged by signature of the owner. (4-2-03)

305. DECLARATION OF ANIMAL HEALTH EMERGENCY.
The Director is authorized to declare an animal health emergency. (4-2-03)

01. Condemnation of Animals. In the event that the Director determines that an emergency exists, animals that are found to be infected, or affected with, or exposed to an animal health emergency disease may be condemned and destroyed. (4-2-03)

02. Indemnity. Any indemnity is paid in accordance with Sections 25-212 and 25-213, Idaho Code. (4-2-03)

03. Notification to Administrator. Every owner of cervidae, every breeder or dealer in cervidae, every veterinarian, and anyone bringing cervidae into this state who observes the appearance of, or signs of any disease or diseases, or who has knowledge of exposure of the cervidae to diseases that constitute an emergency must give immediate notice to the Administrator by telephone, facsimile, or other means as approved by the Administrator. (4-6-05)

04. Failure to Notify. Any owner of cervidae who fails to report as herein provided forfeits all claims for indemnity for animals condemned and slaughtered or destroyed on account of the animal health emergency. (4-2-03)

306. -- 399. (RESERVED)

400. BRUCELLOSIS.
Owners of domestic cervidae ranches must comply with the provisions of IDAPA 02.04.20, "Rules Governing Brucellosis," that apply to domestic cervidae. ( )

401. -- 449. (RESERVED)

450. TUBERCULOSIS.

01. Change of Ownership. All domestic cervidae that are sold, or are in any way transferred from one

person to another person in Idaho are required to be tested negative for TB within ninety (90) days prior to the change of ownership or transfer, except: (4-2-03)

a. Animals originating from an accredited, qualified or monitored herd, as described in "Bovine Tuberculosis Eradication, Uniform Methods and Rules," effective January 1, 2005, if they are accompanied by a certificate signed by an accredited veterinarian or the Administrator stating such domestic cervidae have originated directly from such herd; or (3-29-17)

b. Those domestic cervidae consigned directly to an approved slaughter establishment or domestic cervidae approved feedlot. (4-2-03)

c. The Administrator, following an evaluation, may grant exceptions to the provisions of this Section on a case-by-case basis. (4-4-13)

02. Rules and UM&R. Owners of domestic cervidae ranches must comply with *the provisions of* IDAPA 02.04.03, "Rules Governing Animal Industry," that apply to domestic cervidae, and the Bovine Tuberculosis Eradication, UM&R, Effective January 1, 2005. *( )*

451. -- 499. (RESERVED)

500. SURVEILLANCE FOR CWD.

01. Slaughter Surveillance. Brain tissue from no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that are slaughtered at approved slaughter establishments or custom exempt slaughter establishments must be submitted annually by the owner of the slaughtered cervidae to official laboratories to be tested or examined for CWD as provided for in these rules. If ten (10) or less cervids on a domestic cervidae ranch are slaughtered in a calendar year, at least one (1) testable brain sample must be submitted to meet the annual CWD surveillance requirement. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result do not count towards the tissue submission requirement. (3-29-17)

02. Domestic Cervidae Ranch Surveillance. Brain tissue from no less than ten percent (10%) of all domestic cervidae sixteen (16) months of age or older that are harvested on domestic cervidae ranches must be submitted for CWD testing annually. If ten (10) or less cervids on a domestic cervidae ranch are harvested in a calendar year, at least one (1) testable brain sample must be submitted to meet the annual CWD surveillance requirement. In addition to the tissue samples from the harvested domestic cervidae, brain tissue from one hundred percent (100%) of all domestic cervidae sixteen (16) months of age or older that die for any reason other than being harvested must also be submitted for CWD testing annually. Reindeer and fallow deer are exempt from CWD testing unless the reindeer and fallow deer are part of a CWD positive, exposed, trace, source, or suspect herd or part of an elk herd. The owner or operator of the domestic cervidae ranch must submit all tissue samples to an official laboratory to be tested for CWD, as provided for in these rules. Tissues samples submitted to an official laboratory that are untestable or are given an indeterminate test result do not count towards the tissue submission requirement. In the event a domestic cervidae ranch cannot submit a testable brain sample, the domestic cervidae ranch must submit a CWD Sample Submission Waiver Request within ten (10) business days of determining that a testable brain sample cannot be submitted. (3-29-17)

501. COLLECTION OF SAMPLES FOR CWD TESTING.
Only accredited veterinarians, state and federal animal health officials, and other persons, approved by the Administrator, may collect brain or other tissue samples for CWD testing. Samples must be collected immediately upon discovery of the death of a domestic cervid. (4-2-03)

01. Brain Samples. Only persons trained by state or federal animal health officials, and approved by the Administrator, may remove the obex portion of the brainstem for submission as the sample for CWD testing. (3-29-17)

02. Submission of Head. Only persons trained by state or federal animal health officials, and approved by the Administrator, may submit a head with the official identification attached to the head as the sample for CWD testing. (4-6-05)

03. Handling of Samples. All CWD samples must be handled in a manner that prevents degradation of the sample. (4-2-03)

04. Sample Submission Time. Fresh samples for CWD testing must be submitted, to an approved laboratory, within seventy-two (72) hours of the date of collection. Formalin preserved samples must be submitted, to an approved laboratory, within ten (10) business days of the date of collection. (3-29-17)

05. Non-Testable or Samples That Do not Contain Appropriate Tissues. The Administrator may conduct an investigation to determine if a domestic cervidae ranch is complying with the provisions of Section 500 if: (4-2-03)

a. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which are non-testable; or (4-2-03)

b. The owner or operator of a domestic cervidae ranch submits samples for CWD testing that do not contain the obex portion of the brainstem or other appropriate tissues, if available, for CWD testing. (3-29-17)

c. The owner or operator of a domestic cervidae ranch submits samples for CWD testing which cannot be identified to the animal of origin. (4-6-05)

06. Failure to Meet Annual CWD Tissue Submission Requirement. An owner or operator of a domestic cervidae ranch who fails to submit samples for CWD testing or who fails to meet the annual tissue submission requirements of this chapter, or both, is in violation of these rules, except the Administrator may approve, in writing, a variance from sample submission requirements on a case specific basis. (3-29-17)

502. OFFICIAL CWD TESTS.

01. Official Tests. Official tests for CWD, approved by the Administrator, include: (4-2-03)

a. Histopathology; (4-2-03)

b. Immunohistochemistry; (4-2-03)

c. Western Blot; (4-2-03)

d. Negative Stain Electron Microscopy; (4-2-03)

e. Bioassay; and (4-2-03)

02. Other Scientifically Validated Test. The Administrator may approve other scientifically validated laboratory or diagnostic tests to confirm a diagnosis of CWD. (4-2-03)

503. CWD STATUS.

CWD status is based on the number of years that a herd of domestic cervidae has been determined to be in compliance with the provisions of this chapter, during which there is no evidence of CWD in the herd. (4-2-03)

01. Status Review. The Administrator will review the CWD status of each domestic cervidae herd located in Idaho on at least an annual basis. (4-2-03)

02. Status Date. The status date is the date that the Administrator approves a change in the CWD status of a domestic cervidae herd in Idaho. (4-2-03)

03. Cervidae of Lesser Status. If a herd of domestic cervidae has contact with cervidae of a lesser status, the status of the herd with the higher status will be lowered to the status of the cervidae with the lesser status. (4-2-03)

04. Change of Ownership. A herd's status may remain with the herd when a change of ownership, management or premises occurs, if there is no contact with cervidae of lesser status, and no previous history of CWD on the premises. (4-2-03)

05. Contact with CWD Positive Animals. Any herd of domestic cervidae that has contact with CWD positive or exposed animals may have its status reduced or removed. (4-2-03)

504. INVESTIGATION OF CWD.
An epidemiological investigation will be conducted on all CWD positive, suspect, and exposed animals and herds, herds of origin, source herds, all adjacent herds, and all trace herds as determined by the Administrator. (4-2-03)

01. Quarantine. All positive, suspect, and exposed herds or animals, herds of origin, adjacent herds, and herds having contact with positive or exposed animals must be quarantined; and (4-2-03)

02. Identification. CWD suspect and exposed animals must be identified and remain on the premises where they are found until they have met the provisions for release of quarantine established in this chapter, are destroyed and disposed of as directed by the Administrator, or are moved at the Administrator's direction on a restricted movement permit. (4-2-03)

505. DURATION OF CWD QUARANTINE.
Quarantines imposed because of CWD in accordance with this chapter remain in effect until one (1) of the following criteria are met: (4-2-03)

01. CWD Positive Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after five (5) years of compliance with an individual herd CWD plan and all provisions of these rules, during which there was no evidence of CWD. (4-7-11)

02. CWD Suspect Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-7-11)

03. Source Herds and Herds of Origin. The quarantine may be released after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd and that the herd is not the source of infection as determined by the Administrator. (4-7-11)

04. Exposed Herds. The quarantine may be released after the herd is completely depopulated as provided in Subsection 505.07, or after a minimum of five (5) years of compliance with an individual CWD herd plan and all provisions of these rules and during which there was no evidence of CWD, or an epidemiologic investigation determines that there is no evidence CWD exists in the herd as determined by the Administrator. (4-7-11)

05. Adjacent Herds. The quarantine may be released when directed by the Administrator based upon an epidemiological investigation and in consultation with the designated epidemiologist. (4-6-05)

06. Fencing Requirements. Any owner of a domestic cervidae ranch who chooses to remain under quarantine for five (5) years must construct a second perimeter fence that meets the requirements for perimeter fence, as provided in Section 102, such that no domestic cervidae on the domestic cervidae ranch can get within ten (10) feet of the original exterior perimeter fence or as approved by the Administrator. (4-2-03)

07. Complete Depopulation. The quarantine may be released after: (4-2-03)

a. Complete depopulation of all cervidae on the premises as directed by the Administrator; and (4-2-03)

b. The premises have been free of all livestock as specified in an individual CWD herd plan approved by the Administrator; and (4-7-11)

c. The soil and facilities have been cleaned, treated, decontaminated, or disinfected as directed by the Administrator. (4-2-03)

08. Disposal of Positive or Exposed Cervidae. All CWD positive or exposed domestic cervidae must be disposed of as directed by the Administrator. (4-2-03)

506. CLEANING, TREATING, DECONTAMINATING, OR DISINFECTING.
Premises must be cleaned, treated, decontaminated, or disinfected under state or federal supervision as directed by the Administrator within fifteen (15) days after CWD positive or suspect animals have been removed. (4-2-03)

01. Exemptions. The Administrator may authorize, in writing, an exemption from cleaning, treating, decontaminating, or disinfection requirements on a case-by-case basis. (4-2-03)

02. Extension of Time. The Administrator may authorize, in writing, an extension of time for cleaning and disinfection under extenuating circumstances. (4-2-03)

03. Requests for Extensions or Exemptions. The owner of the contaminated facility must submit requests for extensions or exemptions to the Administrator in writing. (4-2-03)

507. -- 999. (RESERVED)

02.06.06 – RULES GOVERNING THE PLANTING OF BEANS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 22-1907, 22-2004, and 22-2006, Idaho Code. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.06, "Rules Governing the Planting of Beans." ( )

02. Scope. These rules govern the planting of beans in Idaho. ( )

002. -- 009. (RESERVED)

010. DEFINITIONS.
The Department adopts the definitions set forth in Section 22-2005, Idaho Code. In addition, as used in this chapter: (4-2-03)

01. Department Approved Tag (Yellow Tag) (Phaseolus). A tag issued by the Department to seed lots produced west of the Continental Divide in the contiguous United States. The seed lot must be accompanied by a phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases the crop was inspected for, that must include the regulated pests as defined in Section 012 of these rules and be based on growing season and windrow or pre-harvest inspections. Seed lots must pass laboratory testing done by the Department on samples drawn in Idaho by the Department and found free from regulated pest(s) as listed in Section 012 of this rule. ( )

02. Department Approved Tag (Yellow Tag) (Non-Phaseolus). A tag issued by the Department to seed lots produced outside of Idaho and imported into Idaho for planting. The seed lot must be certified by the seed certification agency of the state of origin and be accompanied by a phytosanitary certificate or official field inspection report issued by the regulatory agency of the state of origin. Seed lots must pass laboratory testing performed by the Department, or Department approved laboratories, on samples drawn in Idaho by the Department and found free from regulated pest(s) and soil as listed in Sections 012 and 013 of this rule. ( )

03. Department In-State Planting Tag (Green Tag). A tag issued by the Department to seed lots in compliance with growing season and windrow inspections in Idaho. (4-2-03)

04. Detailed Varietal Planting Plan. A plan that shows the variety name, seed lot number, In-state planting tag number (State Number) if applicable, pounds planted, acres planted, origin of seed, and the results of laboratory testing. (4-2-03)

05. Edible Harvest. Seed planted in Idaho intended for edible purposes (fresh green pod or dried edible seed). ( )

06. Experimental Plots. Subdivisions of trial grounds used for the introduction of seed otherwise ineligible for planting in Idaho. (4-2-03)

07. Farmstead. All land farmed in common with the land upon which the trial ground is located. (4-2-03)

08. Home Garden. Personal use home gardens wherein Phaseolus or Non-Phaseolus species are planted for consumption and will not be utilized for replanting outside the same home garden where they were produced or offered for sale or sold for further propagation in Idaho. ( )

09. ICIA Tag. A tag issued by ICIA provided that the lot was field and windrow inspected by ICIA in accordance with these rules. (4-2-03)

10. In-State Planting Tag Number (State Number). A number assigned by the Department to each lot which has successfully passed the Department's field and windrow inspection requirements in which no regulated pests were found. (4-2-03)

11. Introduction Plots. Subdivisions of trial grounds used for the introduction or increase of bean seed. (4-2-03)

12. Oregon Department of Agriculture Inspection Tag. A tag issued to seed lots produced in Malheur County, Oregon which were inspected in the growing season and in the windrow by the Oregon Department of Agriculture for the regulated pests as defined in Section 012 and Subsections 013.01 and 013.02 of these rules . ( )

13. Pre-Harvest Inspection. Inspection done prior to harvest, where harvest methods or crop condition do not allow for windrow inspection. ( )

14. Rill Irrigation. A method of applying non-pressurized irrigation water to crops in a free flow manner by using a series of drip, ditches, canals, siphon tubes, and gated pipe utilizing gravity as means of conveyance within the field. ( )

15. Seed Borne. Pest(s) that can be found on the seed or within the seed coat but do not necessarily result in the transfer of the pest to the resulting plant. ( )

16. Seed Lot. A definite quantity of seed identified by a lot number, every portion or bag of which is uniform, within permitted tolerances, for factors that appear in the labeling. (4-2-03)

17. Seed Transmitted. Pest(s) that can be transferred from the seed into the resulting plant. ( )

18. Sprinkler Irrigation. An overhead water delivery system used to disperse irrigation water to crops in a designated pattern utilizing a pump, a network series of pipes and delivering water under a controlled pressure in a predetermined quantity. (4-2-03)

19. Trial Grounds. Parcels of land located on one (1) farmstead set aside for the purpose of research testing or introduction of bean seed. (4-2-03)

20. True Identity of Seed Lot. True identity of seed lot is recorded using information provided by the applicant on the application for field inspection or on the detailed varietal planting plan and harvest records. The true identity of the seed lot is maintained by the Department after the applicant has finalized the harvest information and provided such to the Department. (4-2-03)

21. Windrow Inspection. An inspection procedure performed on a seed crop prior to harvest but after the crop has been cut and allowed for curing or drying out. (4-2-03)

011. ABBREVIATIONS.

01. ICIA. Idaho Crop Improvement Association. (4-2-03)

02. ISDA. Idaho State Department of Agriculture. (4-2-03)

012. REGULATED PESTS (PHASEOLUS AND NON-PHASEOLUS).

01. Anthracnose. Caused by (*Colletotrichum lindemuthianum*), (*Glomerella lindemuthiana*). (4-2-03)

02. Bacterial Wilt. Caused by (*Curtobacterium flaccumfaciens pv. flaccumfaciens*), (*Corynebacterium flaccumfaciens*). (4-2-03)

03. Brown Spot. Caused by (*Pseudomonas syringae pv. syringae*), (*P. syringae*). (4-2-03)

04. Common Blight. Caused by (*Xanthomonas axonopodis pv. phaseoli*), (*X. phaseoli*), (*X. phaseoli var. fuscans*). (4-2-03)

05. Halo Blight. Caused by (*Pseudomonas savastanoi pv. phaseolicola*), (*P. phaseolicola*). (4-2-03)

013. REGULATED PESTS (NON-PHASEOLUS ONLY).

01. **Soybean Cyst Nematode**. (*Heterodera glycines*). ( )

02. **Asian Soybean Rust**. Caused by (*Phakopsora pachyrhizi*). ( )

03. **Soil**. There is a zero (0) tolerance, as defined by the soil tolerance standards of the Association of Official Seed Analysts (AOSA), for soil in any lot of a regulated article imported into Idaho and destined for planting in Idaho. This prohibition does not apply to seed of Idaho or Malheur County, Oregon origin. ( )

014. -- 049. (RESERVED)

050. REGULATED ARTICLES.
All seed and growing plants of (*Phaseolus*) species, from any source, being grown or planted for the production of seed or planted for edible harvest within the state of Idaho. All seed of soybean (*Glycine max*), mung bean (*Vigna radiata*), and azuki bean (*Vigna angularis*) and any other plant species capable of spreading a regulated pest as a contaminant or in a seed borne or seed transmitted manner, from any source and being planted within the state of Idaho, unless otherwise exempted in this rule. ( )

051. EDIBLE HARVEST EXEMPTION.
Seeds planted for edible harvest must bear an approved tag as defined in Section 200.08 or 201.06 of this rule. Seeds planted for edible harvest are not required to undergo inspection requirements defined in Section 150 and 151, and are not covered by the irrigation restrictions defined in Section 200.09. ( )

052. HOME GARDEN EXEMPTION.
Seeds planted for home garden use and consumption that will not be sold for replanting outside the original home garden space are allowed to utilize small package, non-tagged seed and are exempt from inspection requirements defined in Section 150 and 151 of this rule and from irrigation restrictions defined in Section 200.09. All seed intended for production of seed for replanting outside the home garden where they were produced are defined as Regulated Articles in Section 050. ( )

053. -- 149. (RESERVED)

150. INSPECTION (PHASEOLUS).
All seeds harvested from bean fields in Idaho intended for replanting in Idaho shall be submitted to the Department or ICIA for growing season and windrow inspections. (4-2-03)

01. **Application for Inspection**. (4-2-03)

a. Deadline for Submission. Received by the Department on or before July 1 of each year. (4-2-03)

b. Application Forms. Forms will be provided by the Department or may be company generated. Company generated application forms must be approved by the Department prior to submission. (4-2-03)

c. Additional or Substitute Acreage. Applications for additional or substitute acreage may be submitted until September 1 and will be accepted on a case by case basis and the cost of inspection to be determined by the Director. (4-2-03)

02. **Active Growth Inspection**. Unless the Director, in his sole discretion, deems additional inspections are necessary, the bean seed for replanting will be inspected as follows: (4-2-03)

a. Fields under rill irrigation -- at least once. (4-2-03)

b. Fields under sprinkler irrigation -- at least twice. (4-2-03)

03. **Windrow or Pre-Harvest Inspection**. (4-2-03)

a. Number of inspections -- at least once. (4-2-03)

b. The Director may authorize qualified personnel to perform windrow inspections under the supervision of the Department. (4-2-03)

c. The Director may upon written request of the seed company agent perform standing crop pre-harvest inspection. ( )

151. INSPECTION (NON-PHASEOLUS)
All imported or Idaho origin seeds intended for planting or replanting in Idaho shall be submitted to the Department for growing season and pre-harvest/windrow inspections. ( )

01. Application for Inspection. ( )

a. Deadline for Submission. Received by the Department on or before July 1 of each year. ( )

b. Application Forms. Forms will be provided by the Department or may be company generated. Company generated application forms must be approved by the Department prior to submission. ( )

c. Additional or Substitute Acreage. Applications for additional or substitute acreage may be submitted until September 1 and will be accepted on a case by case basis and the cost of inspection to be determined by the Director. ( )

02. Inspections. Unless the Director, at his sole discretion, deems additional inspections are necessary, the bean seed for planting will be inspected as follows: ( )

a. Fields under rill or sprinkler irrigation -- at least once; ( )

b. Pre-Harvest or Windrow Inspection -- at least once. ( )

152. -- 199. (RESERVED)

200. REQUIREMENTS FOR PLANTING BEAN SEED IN IDAHO (PHASEOLUS).
In order to be eligible for planting bean seed in Idaho: (4-2-03)

01. Idaho Grown Seed. Seeds planted must be from a lot that has an in-state planting tag number (state number) assigned by the Department based on growing season and windrow inspections and be tagged by the Department with a Department In-State Planting Tag (Green tag) or be tagged by the ICIA in accordance with these rules. (4-2-03)

02. Malheur County, Oregon Grown Seed. Bean seed produced in Malheur County, Oregon must be from a lot inspected in the growing season and in the windrow for the regulated pests as defined in Section 012 of these rules and tagged by the Oregon Department of Agriculture. The ICIA may inspect and issue tags for bean seed grown in Malheur County, Oregon provided that each field is inspected according to these rules and the Malheur County Bean Disease Control Area order. (3-29-10)

03. Imported Seed Grown West of the Continental Divide in the Contiguous United States. Imported bean seed grown west of the Continental Divide in the contiguous United States must: (4-2-03)

a. Be accompanied by a phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases for which the crop was inspected, that must include the regulated pests as defined in Section 012 of these rules, and stating that the crop was field and windrow or pre-harvest inspected; ( )

b. Seed lot shall successfully pass laboratory tests conducted by the Department from samples officially drawn in the state of Idaho by the Department; (4-2-03)

c. Bear a Department approved tag (yellow); ( )

d. Not be planted under sprinkler irrigation; and ( )

e. Each field planted in Idaho must be submitted for field and windrow or pre-harvest inspections. (4-2-03)

04. Imported Seed Grown East of the Continental Divide in the Contiguous United States or of Foreign Origin. Imported bean seed grown east of the Continental Divide in the Contiguous United States or of foreign origin to be planted in Idaho shall be planted only on an approved trial ground as outlined in Section 250. (4-2-03)

***05. Idaho Grown Seeds Shipped East of the Continental Divide in the Contiguous United States or to a Foreign Country and Returned**. Bean seeds shipped east of the Continental Divide in the contiguous United States or to a foreign country may be returned to Idaho but, upon return, be planted on an approved trial ground as outlined in Section 250.* ( )

06. Idaho Grown Seeds Shipped West of the Continental Divide in the Contiguous United States, Except Malheur County, Oregon, or to a Foreign Country and Returned. Bean seeds shipped outside Idaho or Malheur County, Oregon, west of the Continental Divide in the contiguous United States, or to a foreign country, which were tagged prior to leaving the state and at the Director's discretion were segregated in such a way to ensure freedom from regulated pests, may be returned to Idaho for planting under the following conditions: ( )

a. Seed tags and packaging are intact with the segregation of the seed deemed satisfactory by the Director, ( )

b. Bean seed not tagged prior to leaving the state, returned to Idaho without seed tags and packaging intact, or not segregated to the satisfaction of the Director, may be returned to Idaho but, upon return, will fall under Section 200.03 or 201.03 of these rules or may be planted on an approved trial ground as outlined in Section 250. ( )

07. Contaminated Seeds. The seeds from any bean field found or known to be contaminated with a regulated pest, as defined in Section 012 of these rules, cannot be planted in Idaho. (4-2-03)

08. True Identity of Seed Lots. Failure to maintain the true identity of any seed lot intended for seed purposes will automatically disqualify that lot for future planting in Idaho. (4-2-03)

09. Tags. Bean seeds planted in Idaho shall be from an approved lot bearing an approved tag on each bag or container, stating the kind, variety, and lot number. The following is a list of approved planting tags in Idaho: (4-2-03)

a. Department in-state planting tag (green tag); (4-2-03)

b. Department approved tag (yellow tag); (4-2-03)

c. ICIA tag, provided the lot was field and windrow inspected by ICIA in accordance to these rules; or (4-2-03)

d. Oregon Department of Agriculture inspection tag. (4-2-03)

10. Irrigation. (4-2-03)

a. Pintos, Reds, Pinks, Great Northerns, Small Whites, Navy Beans, Blacks, Kidneys, Yellows, Cranberries, and Lima beans: ( )

i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)

ii. Thereafter, the seed may be grown and inspected for two (2) consecutive generations in Idaho under sprinkler irrigation. (4-2-03)

iii. Seed grown under sprinkler irrigation for two (2) consecutive generations shall then be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

b. All other beans: (3-29-10)

i. First generation of seed grown in Idaho must be grown and inspected under rill irrigation. (4-2-03)

ii. Thereafter, the seed may be grown and inspected for one (1) generation in Idaho under sprinkler irrigation. (4-2-03)

iii. Any time seed has been grown and inspected for one (1) generation in Idaho under sprinkler irrigation and prior to planting the seed under sprinkler irrigation or rill irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. (3-29-10)

iv. Following a second consecutive planting of the seed under sprinkler irrigation in Idaho, the seed must be sampled and laboratory tested by the Department in Idaho and found negative for the regulated pests. (3-29-10)

v. After meeting the requirements of Subsections 200.09.b.i. through 200.09.b.iv., the seed must be grown and inspected for one (1) generation in Idaho under rill irrigation. (4-2-03)

201. REQUIREMENTS FOR PLANTING BEAN SEED IN IDAHO (NON-PHASEOLUS).
In order to be eligible for planting seed in Idaho: ( )

01. Idaho Origin Seed to Be Replanted. Seeds planted must be from a lot that was produced in accordance with these rules and has an in-state planting tag number (state number) assigned by the Department based on growing season and pre-harvest or windrow inspections and be tagged by the Department with a Department In-State Planting Tag (Green tag). ( )

02. Malheur County, Oregon Grown Seed. Seed produced in Malheur County, Oregon must be from a lot inspected in the growing season and pre-harvest or windrow for the regulated pests as defined in Section 012, 013.01, and 013.02 of these rules and tagged by the Oregon Department of Agriculture. ( )

03. Imported Seed From Other Than Malheur County, Oregon. Imported seed must: ( )

a. Be certified by the seed certification agency of the state of origin and be accompanied by a state phytosanitary certificate issued by the regulatory agency of the state of origin, listing the diseases for which the crop was inspected, that must include the regulated pests and soil as defined in Sections 012 and 013 of these rules, as identified from official field inspection, official samples and official laboratory testing; or ( )

b. Each seed lot shall successfully pass laboratory tests on untreated seed for regulated pests and soil conducted by the Department (in the case of nematodes and soil by a Department approved lab) from samples officially drawn in the state of Idaho by the Department; and ( )

c. Bear a Department Approved Tag (Yellow Tag) at the time of planting; and ( )

d. Be submitted for a growing season inspection in compliance with Section 151 of this rule; and ( )

e. If intended for seed production, not be planted under sprinkler irrigation for the first growing season. ( )

04. Contaminated Seeds. The seeds from any field found or known to be contaminated with a regulated pest or soil, as defined in Section 012 and 013 of these rules, cannot be planted in Idaho. ( )

05. True Identity of Seed Lots. Failure to maintain the true identity of any seed lot intended for seed

purposes will automatically disqualify that lot for future planting in Idaho. ( )

06. Tags. Seeds planted in Idaho shall be from an approved lot bearing an approved tag on each bag or container, stating the kind, variety, and lot number. The following is a list of approved planting tags in Idaho: ( )

a. Department in-state planting tag (green tag); ( )

b. Department approved tag (yellow tag); ( )

c. Oregon Department of Agriculture inspection tag. ( )

202. -- 249. (RESERVED)

250. TRIAL GROUNDS.

01. General Trial Ground Requirements. (4-2-03)

a. A written request for trial ground must be submitted to the Director for approval prior to May 20 of the year the bean seed will be planted and must contain: (4-2-03)

i. Name of person in charge. (4-2-03)

ii. Geographic location and size of trial ground. (4-2-03)

iii. Detailed varietal planting plan. If the original planting plan is changed, the person in charge of the trial ground must notify the Director. (4-2-03)

b. Must be jointly supervised by the Department and personnel approved by the Director. (4-2-03)

c. The land must be owned or leased by the applicant. If leased, a copy of the lease must accompany the application. (4-2-03)

d. More than one (1) trial ground may be approved provided that a separate application is submitted and each trial ground meets the requirements of Section 250. (4-2-03)

02. Trial Ground Subdivisions. (4-2-03)

a. Experimental Plots. A maximum of one (1) pound of bean seed per variety may be planted in an experimental plot without laboratory testing. (4-2-03)

b. Introduction Plots. Introduction plots are limited to a maximum of two (2) acres per variety per company or designated agent for any given year and each seed lot to be planted in an introduction plot must successfully pass laboratory tests conducted by the Department from samples officially drawn in the state of Idaho by the Department. ( )

03. Trial Ground Restrictions and Inspection Procedures. (4-2-03)

a. Any machinery used in production of bean seed on trial grounds must be disinfected, to the satisfaction of the Director, prior to movement to other bean fields. (4-2-03)

b. Approved trial grounds shall not be planted under sprinkler irrigation. (4-2-03)

c. During each growing season there will be a minimum of four (4) active growth inspections and one (1) windrow or pre-harvest inspection. ( )

04. Detection of Regulated Pest. If a regulated pest is found by field inspection, windrow or pre-harvest inspection or subsequent laboratory seed testing, the infested seed must be destroyed. None of the remaining

bean seed produced on that farmstead may be released for general planting in Idaho. The remaining seeds must be sampled and laboratory tested by the Department. If the laboratory test is negative for the regulated pests, then the seeds must be planted on an approved trial ground for one (1) additional year and are limited to a maximum of two (2) acres. ( )

251. -- 299. (RESERVED)

300. SPECIAL SITUATIONS.
The Director may grant specific exemptions for research purposes for the planting of beans that do not meet the requirements of Sections 200, 201, or 250. Seed not meeting the requirements of Sections 200, 201, or 250 must be planted only in counties where commercial beans or bean seed is not produced, as determined by the Director. ( )

301. -- 349. (RESERVED)

350. DETECTION, IDENTIFICATION, AND REPORTING OF REGULATED PESTS.

01. Reporting. Any person may report to the Department the detection of any of the regulated pests. (4-2-03)

02. Observation. Detection of regulated pests will be based on the observance of symptoms in the field. (4-2-03)

03. Disagreement. In case of disagreement concerning the identity of the regulated pest or the virulence of the pathogen to Phaseolus or non-Phaseolus, the Department will submit cultures of the suspected pathogen to a plant pathologist appointed by the Dean of the College of Agriculture, University of Idaho. The results and findings obtained by the approved pathologist are final. ( )

04. Release of Information. When the presence of a regulated pest is confirmed, information regarding the location and acres involved will be released upon request. (4-2-03)

351. -- 399. (RESERVED)

400. DISPOSITION OF DISEASED SEED AND INFECTED FIELDS.

01. Quarantine. Any field in which there is a disagreement concerning the identity of the regulated pest or the virulence of the pathogen to its host will be placed under quarantine. Entry to the quarantined area will be restricted to the grower or his agents, Department officials, University of Idaho plant pathologists, and persons authorized in writing by the Director. Persons granted entry to the quarantined area will be required to take all necessary sanitary precautions prescribed by the Director. ( )

02. Destruction. Upon the confirmation of a regulated pest, any bean fields within the boundaries of the state will be destroyed in part or in total, as required by the Director, to eliminate the pest at the expense of the grower and his landlord. The Director will notify the grower or his landlord of the method and extent of the destruction and safeguards against pest spread in order for the parties to comply. (4-2-03)

03. Threshing and Segregating. When the symptoms of a regulated pest are first detected during windrow inspection and laboratory confirmation is necessary, the Director may allow the beans to be threshed and segregated until laboratory results are obtained. (4-2-03)

401. -- 449. (RESERVED)

450. EXEMPTIONS FROM DESTRUCTION (PHASEOLUS).

01. Brown Spot. Fields contaminated with brown spot, (Pseudomonas syringae pv. syringae), are exempt from destruction. The Department will review this exemption as necessary. (4-2-03)

02. Beans for Processing or Fresh Consumption. Snap beans or lima beans for processing or fresh

consumption are exempt from destruction if the diseased portion of the field is destroyed or harvested within five (5) days after first detection or verification as per Section 350 and Subsection 400.01 and the crop residue is promptly and completely destroyed after harvest, as required by the Director. (4-2-03)

451. EXEMPTIONS FROM DESTRUCTION (NON-PHASEOLUS).
Those non-Phaseolus crops for forage production are exempt from destruction if the diseased portion of the field is destroyed or harvested within five (5) days after first detection or verification as per Section 350 and Subsection 400.01, as required by the Director. ( )

452. -- 549. (RESERVED)

550. FEES AND CHARGES.
The fees and charges for tags and inspections under these rules are: (4-2-03)

01. Tags. Green tags or Yellow tags for In-State Planting Purposes -- Eighteen cents ($0.18) per hundred-weight. (3-16-04)

02. Applications. (4-2-03)

a. Application for Field Inspection -- Five dollars ($5) each. (3-16-04)

b. Late Application for Field Inspection -- Ten dollars ($10) each. (4-2-03)

03. Field Inspections. (4-2-03)

a. Inspection Fees. (4-2-03)

i. Active Growth Fees -- Three dollars and fifty cents ($3.50) per acre, per inspection, fifty dollar ($50) minimum. ( )

ii. Windrow or Pre-harvest Fees -- Three dollars and fifty cents ($3.50) per acre, fifty dollars ($50) minimum. ( )

iii. Department Approved Trial Grounds - origin east of the Continental Divide -- Ten dollars ($10) per acre, per inspection, fifty dollars ($50) minimum. ( )

iv. Department Approved Trial Grounds - origin West of the Continental Divide -- Three dollars and fifty cents ($3.50) per acre, per inspection, fifty dollars ($50) minimum. ( )

v. Requests for pre-harvest or windrow inspections after office hours, on weekends or holidays will be charged at cost plus mileage. ( )

04. Laboratory Seed Sampling. Official Sample -- twenty dollars ($20) per sample. Sample size requirements for imported seed:

Lot size	Sample Size
<10 pounds	Negotiable
10 - 14 pounds	0.5 pounds
15 - 25 pounds	1.0 pounds
26 - 50 pounds	1.5 pounds
51 - 200 pounds	2.0 pounds
201 - 1,000 pounds	3.0 pounds
>1,000 pounds	5.0 pounds for every 10,000 pounds or portion thereof

(3-16-04)

05. Plant Pathological Laboratory Services. Fees will be charged at current laboratory rates and are available upon request. (4-2-03)

06. Confirmation Fees. The party disputing the Department's determination of the presence of a regulated pest per Subsection 350.03 will be responsible for the payment of fees charged by the University of Idaho. (3-16-04)

07. Soil Analysis. Testing for the presence of soil will be performed by the Idaho State Seed Laboratory or other seed laboratory approved by the Department. The cost of soil analysis will be at the normal rates as is charged by those approved laboratories. *( )*

08. Nematode Analysis. Nematodes testing will be performed by the University of Idaho Nematology Laboratory or other laboratory approved by the Department. The cost of analysis for nematodes will be at the normal rates for testing as is charged by those approved laboratories. *( )*

09. Special Project Fee. Special projects not covered by existing fee schedule may be billed at twenty-five dollars ($25) per hour with a minimum twenty-five dollar ($25) fee. Special projects, include but are not limited to, research, lot history verification, data entry, sales and purchases, transfer of lots into ISDA database, ISDA training of private company personnel or any other circumstance approved by the Director. (3-16-04)

551. -- 999. (RESERVED)

IDAPA 02.06 – IDAHO HONEY COMMISSION

DOCKET NO. 02-0616-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 22-2808, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 02, rules of the Idaho Honey Commission:

IDAPA 02.06
- 02.06.16, *Rules Governing Honey Standards*

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 525 to 528**. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended simplify existing language, and reduce or eliminate unnecessary restrictions.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rick Waitley, (208) 888-0988.

Dated this 1st day of November, 2019.

Rick Waitley, Administrator
Idaho Honey Commission
55 SW 5th Ave, Suite 100
Meridian, Idaho 83642
(208) 888-0988

02.06.16 – RULES GOVERNING HONEY STANDARDS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-2808, Idaho Code. (4-4-13)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.06.16, "Rules Governing Honey Standards. (4-4-13)

02. Scope. These rules apply to all honey produced by honey bees from nectar and covers all styles of honey presentation that are processed and ultimately intended for direct consumption, and to all honey packed, processed or intended for sale in bulk containers as honey that may be repacked for retail sale or for sale or use as an ingredient in other foods. (4-4-13)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

01. United States Standards for Grades of Extracted Honey, Effective Date May 23, 1985. The United States Standards for Grades of Extracted Honey adopted by the Agriculture Marketing Service, United States Department of Agriculture effective May 23, 1985 are hereby adopted for the purposes of this rule for extracted honey grades. See Section 016 of this rule. A copy of such federal standards is available at the following USDA Website http://www.ams.usda.gov/AMSv1.0/getfile?dDocName=STELDEV3011895. (4-4-13)

005. -- 009. (RESERVED)

010. DEFINITIONS.
The Department adopts the definitions set forth in Section 22-2803, Idaho Code. In addition, as used in this chapter, the following definitions apply: (4-4-13)

01. Air Bubble. The small visible pockets of air in suspension that may be numerous in the honey and contribute to the lack of clarity in filtered style. (4-4-13)

02. Bees. Honey-producing insects of the genus *Apis* and includes the adults, eggs, larvae, pupae or other immature stages thereof. (4-4-13)

03. Comb. The wax-like cellular structure that bees use for retaining their brood or as storage for pollen and honey. (4-4-13)

04. Crystallize. The spontaneous solidification of the natural glucose content from solution as the monohydrate. (4-4-13)

05. Floral Source. The flower from which the bees gather nectar to make honey. (4-4-13)

06. Food. (4-4-13)

a. Articles used for food or drink, including ice, for human consumption or food for dogs and cats; (4-4-13)

b. Chewing gum; and (4-4-13)

c. Articles used for components of any such article. (4-4-13)

07. Food Additive. Any substance the intended use of which results or may reasonably be expected to result, directly or indirectly, in its becoming a component of or otherwise affecting the characteristics of any food, including any substance intended for use in producing, manufacturing, packing, processing, preparing, treating, packaging, transporting, or holding food. It also includes any source of radiation intended for any such use, if such substance is not generally recognized, among experts qualified by scientific training and experience to evaluate its safety, as having been adequately shown through scientific procedures or experience based on common use in food to be safe under the conditions of its intended use. 'Food additive' does not include: (4-4-13)

a. A pesticide chemical in or on a raw agricultural commodity; (4-4-13)

b. A pesticide chemical to the extent that it is intended for use, or is used in the production, storage or transportation of any raw agricultural commodity; or (4-4-13)

c. A color additive. (4-4-13)

08. Granulate. The initial formation of crystals in honey. (4-4-13)

09. Honey. The natural sweet substance produced by bees resulting from the harvest of plant nectar or plant secretions that has been collected and transformed by the deposition, dehydration, and storage in comb to ripen and mature. (4-4-13)

10. Pollen Grain. The granular, dust-like microspores that bees gather from flowers. Pollen grains in suspension contribute to the lack of clarity in filtered style. (4-4-13)

011. COMPLAINT PROCESS.

01. Complaint Contents. Complaints shall be directed to the department, in writing, and contain the following information: (4-4-13)

a. The name, address and contact information of the complainants; and (4-4-13)

b. The location and brand name of the product which is the subject of complaint. (4-4-13)

02. Initial Review. The department will forward written complaints to the commission for initial review. (4-4-13)

03. Sampling and Analysis. Upon review, the commission may request the department to acquire an official sample of the product, in accordance with Title 22, Chapter 28, Idaho Code, and send it to an analytical laboratory that possesses the ability to analyze honey for adulteration, or other testing deemed appropriate in accordance with the nature of the complaint. The laboratory analysis will be reviewed by the commission and the department for compliance with Title 22, Chapter 28, Idaho Code, and these rules. (4-4-13)

04. Violations. If, after investigation, the commission and the department find that a violation of title 22, Chapter 28, Idaho Code and/or these rules has occurred the commission and the department shall confer and agree on an appropriate course of action as authorized by Section(s) 22-2811 or 22-2812, Idaho Code. (4-4-13)

012. -- 014. (RESERVED)

015. STANDARDS OF IDENTITY - HONEY.

Honey sold as such shall not have added to it any food additives, nor any other additions be made other than honey. It shall not have begun to ferment or effervesce and no pollen or constituent unique to honey may be removed except where unavoidable in the removal of foreign matter. (4-4-13)

01. Treatments. Chemical or biochemical treatments shall not be used to influence honey crystallization. (4-4-13)

02. Moisture Content. Honey shall not have a moisture content exceeding twenty-three percent (23%). (4-4-13)

03. Sugars Content. (4-4-13)

a. The ratio of fructose to glucose shall be greater than zero point nine (0.9). (4-4-13)

b. Fructose and glucose (Sum of Both) shall not be less than 60g/100g. (4-4-13)

c. Sucrose content for honey not listed below shall not be more than 5g/100g. (4-4-13)

i. Honey from Alfalfa (*Medicago sativa*), Citrus spp., False Acacia (*Robinia pseudoacacia*), French Honeysuckle (*Hedysarum*), Menzies Banksia (*Banksia menziesii*), Red Gum (*Eucalyptus camaldulensis*), Leatherwood (*Eucryphia lucida*), and Eucryphia milligani shall have sucrose levels not to exceed 10g/100g. (4-4-13)

ii. Honey from Lavender (*Lavandula* spp.) and Borage (*Borago officinalis*) shall have sucrose levels not to exceed 15g/100g. (4-4-13)

04. Name of the Food. Products conforming to the standard of identity as adopted in this rule are designated "honey". Foods containing honey and any flavoring, spice, or other added ingredient or honey that is processed in such a way that materially changes the flavor, color, viscosity or other material characteristics of pure honey, shall be distinguished from honey in the food name by declaration of the food additive or modification. (4-4-13)

a. Honey may be designated according to floral or plant source if it comes predominately from that particular source and has the organoleptic and physicochemical properties corresponding with that origin. (4-4-13)

b. Where honey has been designated according to floral or plant source, as stated in Paragraph 015.04.a., then the common name or the botanical name of the floral source is used in conjunction with or joined with the word "honey". (4-4-13)

c. Honey may be designated according to the following styles, which style shall be declared on packaging: (4-4-13)

i. "Honey" - this is honey in liquid or crystalline state or a mixture of the two (2); (4-4-13)

ii. "Comb Honey" - this is honey stored by bees in the cells of freshly built brood-less combs and which is sold in sealed whole combs or sections of such combs. (4-4-13)

iii. "Cut Comb in Honey," "Honey with Comb," or "Chunk Honey" - this is honey containing one (1) or more pieces of comb honey. (4-4-13)

016. TYPES AND STYLES OF HONEY.

01. Extracted Honey. Honey that has been separated from the comb by centrifugal force, gravity, straining, or other means. It is identified in the following types: (4-4-13)

a. Liquid Honey. Honey that is free of visible crystals; (4-4-13)

b. Crystallized Honey. Honey that is solidly granulated or crystallized, irrespective of whether candied, fondant, creamed or spread types of crystallized honey; and (4-4-13)

c. Partially Crystallized Honey. Honey that is a mixture of liquid honey and crystallized honey. (4-4-13)

02. Styles. Extracted honey styles are: (4-4-13)

a. Filtered Honey. Honey of any type defined in these standards that has been filtered to the extent that all or most of the fine particles, pollen grains, air bubbles, or other materials normally found in suspension, have been removed. Honey shall not be filtered to less than one point zero (1.0) micron. (4-4-13)

b. Strained Honey. Honey of any type defined in these standards that has been strained to the extent that most of the particles, including comb, propolis, or other defects normally found in honey, have been removed. Pollen grains, small air bubbles, and very fine particles are not normally removed from strained honey. (4-4-13)

c. Unfiltered/Unstrained - Unfiltered/Unstrained Honey. Honey that has not been filtered or strained

by United States Standards for Grades of Extracted honey and may include extracted or non-extracted honey. (4-4-13)

d. Raw Honey. Honey that has not been pasteurized. (4-4-13)

017. -- 022. (RESERVED)

023. MISBRANDING.
Food labeled as a honey product, but not meeting the provisions of this rule may be subject to a stop sale order as authorized under Section 22-2812, Idaho Code. (4-4-13)

024. -- 999. (RESERVED)

IDAPA 02.07 – IDAHO HOP GROWERS' COMMISSION

DOCKET NO. 02-0701-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Title 22, Chapter 31, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 02.07.01, rules of the Idaho Hop Growers Commission.

- 02.07.01, *Rules of the Idaho Hop Growers' Commission*

The rule making was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to make the rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 529-530**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fee rule specifies the collection and remittance of the assessment contained in Section 22-3107, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Candi Fitch, (208) 722-5111.

Dated this 13th day of October, 2019.

Candi Fitch
Executive Director
Idaho Hop Growers Commission
P.O. Box 909
Parma, ID 83660
(208) 722-5111

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 22-3105(12), Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 02.07.01, "Rules of the Idaho Hop Growers' Commission." (6-24-94)

02. Scope. These rules govern markings required on hop bales, substituting hops grown out of state as Idaho hops, payment of hop assessments, computation and establishing assessment rate, collection and remittance of assessment to the Idaho Hop Growers' Commission, and dealer assessment returns, and grower assessment returns. *( )*

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.
The Idaho Hop Growers' Commission adopts the definitions set forth in Section 22-3103, Idaho Code. (6-24-94)

011. -- 099. (RESERVED)

100. MARKINGS REQUIRED.
Each bale of hops grown within the state of Idaho are to be labeled on the head of the bale by an authorized representative of the Idaho Department of Agriculture at the time of Federal/State inspection. The grower of the hops are to have stenciled on each bale, their grower number and lot number or letter, prior to the Idaho Department of Agriculture representative stenciling the Federal/State inspection seal. (6-24-94)

101. REMOVAL OR DEFACING OF STENCILS.
It is unlawful for any grower, shipper, dealer, or any person other than the final consumer to remove, stencil over, substitute, mutilate, or in any other way deface the distinctive stencils the Idaho Hop Growers' Commission has ordered affixed. However, in cases wherein definite proof of necessity is presented by a shipper and/or dealer to the Idaho Hop Growers' Commission, the Commission may, in its discretion, permit the shipment of hops without the distinctive stencils affixed thereto. ("Proof of necessity" will be a certificate under oath that the shipment of hops in question is intended for export from the continental limits of the United States and that such shipment cannot be made without removal of all identifying marks. In addition to the above oath, the dealer and/or shipper is to furnish all such other information as may have a bearing on the Commission's decision to allow or disallow removal of the stencil.) (6-24-94)

102. MISREPRESENTATION.
It is unlawful to substitute or in any manner represent any other hops as Idaho hops in any channel of trade and at any and all times. (6-24-94)

103. TIME OF PAYMENT OF HOP ASSESSMENT LEVY.
The hop assessment levy as imposed by Chapter 31, Title 22, Idaho Code, is to be paid not later than the last day of the month next succeeding the month in which such hops were first handled in the primary channels of trade. (6-24-94)

104. COMPUTATION OF ASSESSMENT.
The initial hop assessment levy is computed and paid on the basis of twenty cents ($0.20) per net two hundred (200) pound bale of hops handled in the primary channels of trade. In addition to such initial assessment there may be levied an assessment not exceeding four dollars and eighty cents ($4.80) per net two hundred (200) pound bale on each bale of hops handled in the primary channels of trade. The amount of such additional assessment is determined annually by the Commission. Licensed hop dealers of the state of Idaho will be notified of the determined assessment amount by registered mail prior to the harvest period. (6-24-94)

105. COLLECTION OF HOP ASSESSMENT LEVY.
All assessments levied and imposed under and pursuant to the provisions of Chapter 31, Title 22, Idaho Code, are deducted from the grower's account by the person or dealer by whom the hops are first handled in the primary channels of trade. All such assessments will be made payable to the Idaho Hop Growers' Commission, P.O. Box 909, Parma, Idaho 83660 together with a properly prepared assessment return as prescribed by Section 106. *( )*

106. ASSESSMENT RETURN.

01. Dealer Assessment Return. Every dealer or other person buying hops in primary channels of trade is to file an assessment return on forms available from the Commission each time assessments become due under and pursuant to the provisions of Chapter 31, Title 22, Idaho Code. Assessment returns and assessment payments will be mailed together to the Idaho Hop Growers' Commission, P.O. Box 909, Parma, Idaho 83660. (6-24-94)

02. Grower Assessment Return. Every grower of hops in the state of Idaho, upon the delivery of hops to a dealer or brewer, *is to* file *a Commission assessment return form* not later than the last day of the month next succeeding the month in which such hops were first handled in the primary channels of trade. Assessment returns *are to* state the number of bales of hops handled during the period prescribed and mailed by the grower to the Idaho Hop Growers' Commission, P.O. Box 909, Parma, Idaho 83660. *( )*

107. -- 999. (RESERVED)

IDAPA 02.08 – IDAHO SHEEP AND GOAT HEALTH BOARD

DOCKET NO. 02-0801-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 25-129(1), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 02.08.01, rules of the Idaho Sheep and Goat Health Board:

- 02.08.01, *Sheep and Goat Rules of the Idaho Sheep and Goat Health Board*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 533-545**.

The pending fee rule changes are all in regards to updating verbiage for ease of understanding. There are no major rule changes.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This includes the wool assessment fee of $.08 per pound found in Section 700.01 and the $.80 per goat found in Section 701.01. This fee or charge is being imposed pursuant to Section 700 and 701, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Naomi Gordon, Executive Secretary of the Idaho Sheep and Goat Health Board.

Dated this 15th of October, 2019.

Naomi LeGere-Gordon, Executive Secretary
Idaho Sheep and Goat Health Board
Department of Agriculture
2118 West Airport Way
Boise, ID 83705
(208) 803-5084

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 25-129(1) *and 25-147*, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Sheep and Goat Rules of the Idaho Sheep and Goat Health Board." (3-20-04)

02. Scope. These rules govern procedures for the prevention, control and eradication of diseases among sheep and goats, the interstate and intrastate movement of sheep and goats and the assessment of fees on sheep and goats to provide resources to carry out these functions. (3-20-04)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
Copies of the following documents may be obtained from the Idaho State Department of Agriculture Division of Animal Industries. IDAPA 02.08.01 incorporates by reference: *( )*

01. The Code of Federal Regulations Title 9, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, 2015. (3-28-18)

02. The Voluntary Scrapie Flock Certification Program Standards, USDA, June 2013. (3-28-18)

03. The Code of Federal Regulations, Title 9, Part 161, January 1, 2009. (3-28-18)

***005*. -- 009. (RESERVED)**

010. DEFINITIONS.

01. Accredited Veterinarian. A veterinarian approved by the Administrator and USDA/APHIS/VS in accordance with provisions of Title 9, Part 161, Code of Federal Regulations to perform functions of State-Federal animal disease control programs. (3-20-04)

02. Animals. All vertebrates, except humans. (3-20-04)

03. Authorized Federal Inspector. An employee of USDA authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. (3-20-04)

04. Authorized State Inspector. An employee of the state of Idaho authorized by the Board to perform the functions of the Idaho Sheep and Goat Health Board. (3-20-04)

05. Board. The Idaho Sheep and Goat Health Board or its designee. (4-6-15)

06. Breeding Stock. Intact male or female sheep or goats of any age. (3-20-04)

07. Brucellosis. An infectious disease of animals and humans caused by bacteria of the genus *Brucella*. (3-20-04)

08. *Brucella Ovis* Test Positive. An animal that tests in the positive range on an approved *Brucella Ovis* ELISA test. (3-20-04)

09. *Brucella Ovis* Test Suspect. An animal that tests in the suspect range on an approved *Brucella Ovis* ELISA test. (3-20-04)

10. *Brucella Ovis* Test Negative. An animal that tests in the negative range on an approved *Brucella Ovis* ELISA test. (3-20-04)

11. Certificate. An official certificate of veterinary inspection or other approved certificate issued by an accredited veterinarian, state or federal animal health official, or other approved official at the point of origin of the shipment of animal(s) being imported. (3-20-04)

12. Commercial Low-Risk Goats. Intact or castrated goats, raised for fiber or meat, that are not registered or exhibited, that are not scrapie positive, suspect, high risk, or exposed animals and that have not been exposed to sheep or are not from a state that has scrapie in goats. (3-20-04)

13. Contemporary Lambing Group. The time from the first birth to sixty (60) days post birthing of the entire group in a given lambing season. (3-20-04)

14. Exposed. Animals that have had direct contact with other animals, herds, or materials that have been determined to be infected with or affected by any infectious, contagious, or communicable disease. (3-20-04)

15. Federal Animal Health Official. An employee of USDA/APHIS/VS who has been authorized to perform animal health activities. (3-20-04)

16. Flock. Flock or flocks are interchangeable with the terms herd or herds and denote a group of one (1) or more animals that are fed, housed and birthed together on the same premises, or animals maintained in separate geographic areas that have interchange at or around the time of birth. Changes in ownership of a flock do not change the identity of the flock or the regulatory requirements applicable to the flock. (3-20-04)

17. Flock Plan. A written flock management agreement signed by the owner, his accredited veterinarian if there is one, a representative of the Division of Animal Industries, and an APHIS representative in which each signatory agrees to undertake action specified in the Flock Plan to eradicate or control scrapie as defined in 9 CFR Part 54.8 a-f. Goats exposed to scrapie will be subjected to the same rules as sheep. (3-20-04)

18. Goats Requiring Premises/Flock Identification Number. Sexually intact goats or goats that have resided on the same premises as sheep or any other goats not defined in Subsection 010.13. (3-20-04)

19. Idaho Premises/Flock Identification Number. A unique identification number or alphanumeric designation approved by APHIS, and assigned by the Board to each premises/flock of breeding sheep or goats, as defined in Subsection 010.21, in the state of Idaho. (3-20-04)

20. Low Risk Commercial Sheep. Commercial whiteface, white-faced cross, or commercial hair sheep from a flock with no known risk factors for scrapie, including any exposure to female black-faced sheep, that are identified with a permanent brand or ear notch pattern registered with an official brand registry and that are not scrapie-positive, suspect, high-risk, or exposed animals and are not animals from an infected, source, or exposed flock. (3-20-04)

21. Negative. Animals are classified as negative when they have been subjected to official tests for a disease, and the tests performed have failed to disclose evidence of the disease. (3-20-04)

22. Official Individual Identification. The unique identification of individual animals with an alpha numeric number applied as a tag, a legible tattoo, electronic device, or any other device approved by APHIS. The Idaho Premises/Flock Identification number can serve as the official individual identification number if it contains a unique individual animal number in addition to the Idaho premises/flock identification number. (3-20-04)

23. Post Exposure Monitoring and Management Plan. A monitoring plan which includes a written agreement signed by the owner of the flock and a representative of the Division of Animal Industries and an APHIS representative in which each participant agrees to undertake actions specified in the agreement to monitor for the occurrence of scrapie in the flock for at least five (5) years after an approved Flock Plan has been completed. The PEMMP requires at least once a year flock inspections and prompt reporting of any animal over fourteen (14) months of age which dies in the flock so that some of these animals can be selected and submitted for scrapie testing. The Plan also includes the requirements outlined in 9 CFR Part 54.8. Owners may request to join the Scrapie Flock Certification Program after two (2) years of participation in the PEMMP. (3-20-04)

24. Premises. The ground, area, buildings and equipment utilized to raise, propagate or control sheep and goats. (3-20-04)

25. Quarantine. A written order, executed by the Board or the Administrator *of Animal Industries*, to confine or hold animals on a premises or any other location, where found, and prevent movement of animals from a premises or any other location. *( )*

26. Scrapie. A transmissible spongiform encephalopathy that is a nonfebrile, transmissible, insidious, degenerative disease affecting the central nervous system of sheep and goats. (3-19-99)

27. Scrapie Exposed Animal. Any animal which has been in the same flock at the same time within the previous seventy-two (72) months as a scrapie positive female animal excluding limited contacts. Limited contacts are contacts between animals that occur off the premises of the flock and do not occur during or within sixty (60) days after parturition for any of the animals involved. (3-20-04)

28. Scrapie Flock Certification Program. A cooperative Federal-State-Industry voluntary program for reducing the incidence and controlling the spread of scrapie through flock certification. (3-20-04)

29. Scrapie High Risk Animal. An animal determined by epidemiologic investigation to face a high risk of developing clinical scrapie because the animal was: (3-20-04)

a. Progeny of a scrapie-positive dam; (3-20-04)

b. Born in the same contemporary lambing group as a scrapie-positive animal, or (3-20-04)

c. During any subsequent lambing season if born before the flock completes the requirements of a flock plan; or (3-20-04)

d. Born in the same contemporary lambing group as progeny of a scrapie-positive dam or any QQ, at codon 171, sheep present in the lambing facility/area where a scrapie-positive animal was born during the contemporary birth of a scrapie-positive animal. (3-20-04)

e. Animals that fit the criteria for high risk animals which are determined by genetic testing to be QR or RR at the 171 codon, or are determined by other recognized testing procedures to pose no risk, may be exempted as high risk animals by the Board, upon the recommendation of the State Scrapie Certification Board, based upon evidence from the latest research information available. (3-20-04)

30. Scrapie Infected Flock. Any flock in which a scrapie-positive animal has been born, birthed or aborted. A flock will no longer be considered infected after an approved Flock Plan has been completed. (3-20-04)

31. Scrapie-Positive Animal. An animal for which a diagnosis of scrapie has been made by the National Veterinary Services Laboratories, or another laboratory authorized by state or federal officials to conduct scrapie tests approved for scrapie diagnosis by APHIS or the Administrator. (3-20-04)

32. Scrapie Source Flock. A flock in which an animal was born and subsequently diagnosed as scrapie-positive at less than seventy-two (72) months of age. The flock will no longer be considered a source flock after the requirements of an approved Flock Plan have been completed. A trace to a flock must meet the following criteria to designate the flock as a source flock: The scrapie-positive animal must: (3-20-04)

a. Be identified with a Premises/Flock Identification Number, or on an official ear tag, electronic device, ear tattoo, or flank tattoo which is correlated to the Premises/Flock Identification number on flock records; or (3-20-04)

b. Be identified with a genetic heredity test or nose print; or (3-20-04)

c. Possess the original registry ear tag or individual identification ear tag along with the movement, production, or registry records indicating birth in the source flock; or (3-20-04)

d. Be traced to the flock by a veterinary epidemiologist through a thorough epidemiological investigation of records and all other available evidence. (3-19-99)

33. State Animal Health Official. The Administrator, or his designee, responsible for disease control and eradication programs. (3-20-04)

34. State Scrapie Certification Board. The State Scrapie Certification Board will consist of APHIS-AVIC, the State animal health official, animal producers and accredited veterinarians. Animal producers and accredited veterinarians will be appointed by the AVIC and the State animal health official. (3-20-04)

35. Terminal Feedlot. As defined in Title 9 CFR, Parts 54 and 79. (3-20-04)

36. Trace. All actions required to identify the flock of origin or destination of an animal. (3-20-04)

011. ABBREVIATIONS.

01. APHIS. Animal Plant Health Inspection Service. (3-20-04)

02. AVIC. Area Veterinarian in Charge. (3-20-04)

03. CFR. Code of Federal Regulations. (3-20-04)

04. PEMMP. Post Exposure Monitoring and Management Plan. (3-20-04)

05. USDA. United States Department of Agriculture. (3-20-04)

06. VS. Veterinary Services. (3-20-04)

012. APPLICABILITY.
These rules apply to all domestic sheep and goats located in, imported into, exported from, or transported through the state of Idaho. (3-20-04)

013. ADDITIONAL IMPORT REQUIREMENTS.
The Board may impose additional or more restrictive import requirements than the requirements in this chapter by issuing a written order stating the additional requirements and the reasons for the requirements. (3-20-04)

014. -- 099. (RESERVED)

100. SHEEP AND GOAT STATE ENTRANCE REQUIREMENTS.

01. Entrance Requirements. All breeding sheep and goat stock entering the state of Idaho except as provided in Sections 103, 105, and 107 of these rules will be accompanied by a permit issued by the Board together with a certificate of veterinary inspection certifying that such sheep or goats are free from scrapie, scabies, foot rot, brucella or symptoms of any communicable disease and are not known to have been exposed to scrapie for at least seventy-two (72) months prior to the date of inspection, scabies for a period of at least six (6) months immediately prior to date of inspection and are not known to have been exposed to any communicable disease for at least thirty (30) days immediately prior to date of inspection. All breeding sheep and goats with the exception of low-risk commercial goats imported into the state of Idaho must be individually identified with an official premises/flock identification number, or legible tattoo or other form of individual identification approved by the Board. The premises/flock identification number must be listed on the certificate of veterinary inspection. The original or true copy of the permit and certificate of veterinary inspection required by this rule must be attached to the waybill covering such shipments. No sheep must be shipped, trailed, or in any manner moved into the state of Idaho for any purpose if they originate in a state or area where sheep scabies is known to exist until the Board has been notified by the APHIS that such state or area where sheep scabies is known to exist has been classified by the APHIS as a sheep scabies eradication area. (3-28-18)

02. Brucella Ovis. Intact male sheep six (6) months of age or older must test negative for Brucella Ovis within thirty (30) days prior to entry. Rams entering for exhibition only and returning to the state of origin are exempt from testing. Rams imported from a state certified *Brucella Ovis* free flock are also exempt. (3-28-18)

101. PERMITS.

01. Request for Permits. Request for the permits required under Section 100 must be in writing, by telephone or facsimile and set forth the name and address of the owner of the animals offered for movement into the state of Idaho, the number and class of sheep and goats to be brought in, the destination, the name and address of the consignee, and the approximate date and place of entry. A copy of the permit, or permit number written on the face of the waybill or certificate of veterinary inspection accompanying movement, will be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request. (3-20-04)

02. Certificates of Veterinary Inspection to Be Furnished. Copies of the certificates of veterinary inspection from the point of origin must accompany the shipment and include a copy of the permit or the permit number written on the face of the certificate of veterinary inspection and will be shown to a representative of the Board or any law enforcement officer of the state, county, or municipality of the state of Idaho upon request, and a copy forwarded to the Idaho Department of Agriculture, Division of Animal Industries, c/o Idaho Sheep and Goat Health Board, P.O. Box 7249, Boise, Idaho 83707, immediately after issuance for sheep and goats entering the state of Idaho. (4-6-15)

03. Inspection Fees. An inspection fee of one hundred dollars ($100) per incidence, plus mileage, will be paid on all sheep and goats exported from or imported into Idaho in violation of these rules. Such incidences require an inspection of animals, certificates of veterinary inspection and permit. (3-20-04)

04. Examination and Treatment Fees. The Board may assess a fee on sheep and goat producers who receive services from the Board or its representatives, such as examination and treatment of animals for diseases or parasites. The fees assessed are not to exceed the actual costs for the services rendered. (3-19-99)

102. SCABIES.
All sheep and goats, including rams and bucks, entering Idaho and which have originated in an area or areas in which scabies is known to exist within the past six (6) months must be treated with a product approved by the APHIS under the supervision of an authorized state or federal inspector or accredited veterinarian. At the time of shipment, such sheep or goats must be accompanied by a permit from the Board and a certificate of veterinary inspection from the state of origin and also a treatment certificate showing that such sheep or goats have been treated at point of origin as herein required. Any and all shipments of sheep and goats entering Idaho, and which have originated in states where scabies is known to exist, must be subject to a thirty (30) to sixty (60) day quarantine and inspection at the time of arrival at destination, and a second inspection at the time of quarantine release, or as often as it may be deemed necessary by the Board. (3-20-04)

103. ANIMALS IN TRANSIT.
Sheep and goats in course of transit through the state of Idaho, in trucks, or other vehicles from a point outside the state of Idaho to another state or country, are not to be unloaded in Idaho except in pens designated by APHIS for purpose of feed, water and rest for a period of time not to exceed ten (10) days, need not comply with Section 100, provided waybills or other documents accompanying the sheep or goats show origin and destination of such sheep and goats. Failure to have such waybills or other documents with the sheep or goats constitutes a violation of these rules. The Board, however, may prohibit the transportation of any sheep or goats through the state it feels represents a threat to the general health and welfare of the Idaho sheep industry. (3-20-04)

104. DAIRY GOATS.
All dairy type goats, including bucks, entering the state of Idaho must be accompanied by a permit issued by the Board, together with a certificate of veterinary inspection issued at point of origin by an authorized veterinarian. All dairy type goats, including bucks, aged six (6) months or older must have been tested negative for *Brucella Melitensis* within thirty (30) days of the date of entry into the state of Idaho *accompanied by t*he negative test chart signed by the person in charge of the laboratory where the test was made and approved by the state animal health official of the state of origin and attached to the certificate of veterinary inspection. Goats entering Idaho on a short-term temporary basis for show or other temporary purposes may be exempted from having a negative test for *Brucella Melitensis* completed, with permission from the Board. *( )*

105. IMPORTATION OF SCRAPIE EXPOSED, SUSPECT AND HIGH RISK ANIMALS.
Sheep and goats that are scrapie suspect, exposed, or high risk animals or from scrapie infected, source, or exposed

flocks, as defined Title 9, Parts 54.1 and 79.1, Code of Federal Regulations, are not allowed entry into Idaho except as follows: (3-20-04)

01. Valid Permit. Scrapie suspect, exposed or high-risk animals and animals from infected, source or exposed flocks may be imported directly to scrapie research facilities, or to approved slaughter establishments for immediate slaughter, or other destinations approved by the Administrator, if accompanied by a permit issued by the Board or its representative; and (3-20-04)

02. Officially Identified. The animals are individually identified by official identification tattoos, tags, or devices on a VS 1-27 or other approved movement document. (3-20-04)

106. IDAHO ORIGIN SHEEP INTERSTATE GRAZING PERMIT.
Idaho origin, low-risk commercial sheep breeding stock with no history of scrapie exposure returning to Idaho from seasonal grazing in other states may return to Idaho without a certificate of veterinary inspection if they are accompanied by an Idaho Origin Sheep Interstate Grazing Permit and a waybill. The Idaho Origin Sheep Interstate Grazing Permit is to be obtained from the Board. (3-20-04)

107. INTERSTATE SHIPMENTS.

01. Waybill Requirement. All sheep and goats leaving the state of Idaho by any common carrier, by private conveyance, or any kind of transportation must be accompanied by a waybill, stating the owner's name and indicating destination of sheep or goats, or be accompanied by a certificate of veterinary inspection issued by an inspector appointed by the Board or a representative of the APHIS or accredited veterinarian; said certificates of veterinary inspection to be dated not more than thirty (30) days prior to date of movement, and comply with the rules for the state of destination. ( )

02. Waybill Violation. Failure to have such waybills or other documents accompanying the sheep or goats constitutes a violation of these rules and is punishable as provided in Section 900. (3-20-04)

03. Carriers. No common or contract carrier or owner or caretaker will unload any breeding sheep, breeding goats, or dairy goats within the state of Idaho from other states or country, other than as provided in Sections 103, 105, 106, and 107, of these rules, unless such shipments be accompanied by an Idaho Origin Sheep Interstate Grazing Permit issued by the Board or other permit issued by the Board, and the official certificate as provided herein. The original or true copy of each certificate with permit must be attached to the waybill covering such shipments or be in possession of the owner or caretaker of shipment. (4-6-15)

04. Who May Inspect. Authorized state or federal inspectors and accredited veterinarians may inspect sheep and goats. (3-20-04)

108. -- 199. (RESERVED)

200. SCRAPIE PROGRAM STANDARDS, SCRAPIE FLOCK CERTIFICATION, SCRAPIE CONTROL AND ERADICATION.
The Board adopts the provisions of the Voluntary Scrapie Flock Certification Program Standards, which were effective June 2013, and 9 CFR, Parts 54.1, 54.2, 54.8, 54.9, 54.10, 54.11, 54.20, 54.21, 54.22 and 79, January 1, 2015, as the minimum standards for the scrapie certification program in Idaho. (3-28-18)

201. IDENTIFICATION OF BREEDING SHEEP.

01. Assignment of APHIS Approved Idaho Premises/Flock Identification Numbers. The Board or its designee will assign APHIS-approved Idaho premises/flock identification numbers with unique individual animal identification numbers to Idaho sheep and goat flocks/herds. (3-20-04)

02. Responsibility for Identification. Owners and possessors of breeding sheep and goats bear the cost and responsibility of obtaining the identification devices and placing the device in or on the animal. (3-20-04)

03. Time of Identification. All owners or possessors of breeding sheep and goats in Idaho will identify all breeding stock in the flock of any age with a premises/flock identification number before transfer of ownership or

possession, show, sale, or other movement unless the animals are under eighteen (18) months of age and are in slaughter channels. (3-20-04)

04. Importation Identification. Breeding sheep or goats imported into the state must be identified with a premises/flock identification number before entry into the state. (3-20-04)

05. Loss of Identification. Breeding sheep or goats sold within the state retain the original premises/flock identification number. In the event an animal loses a premises/flock identification device, the owner of the animal will re-identify the animal with his or her flock identification number and maintain records to document the original and new flock identification numbers. (3-20-04)

06. Acceptable Identification. Acceptable devices for application of the premises/flock identification number to breeding sheep and goats include: APHIS-approved ear tags bearing the premises/flock identification number, legible tattoos bearing the premises/flock identification number, approved Scrapie Flock Certification Program identification devices, except electronic identification, and other identification devices approved by APHIS except electronic identification. (3-20-04)

07. Identification Exemption. Animals exempt from the requirement for identification with a premises/flock identification number include: (3-20-04)

a. Neutered animals under eighteen (18) months of age. (3-20-04)

b. Sexually intact market lambs under eighteen (18) months of age shipped directly to an approved slaughter establishment or shipped directly to a feedlot for finish feeding for slaughter only. (3-20-04)

c. Animals which have not been removed from their premises of origin and/or transferred ownership with the exception of white-face low-risk range sheep as defined in the 9 CFR Part 79 which are moved for grazing or other management purposes and do not change ownership. (3-20-04)

d. Castrated or low-risk commercial goats. (3-20-04)

e. Registered sheep and goats accompanied by registration papers or a certificate of veterinary inspection with legible unique registration tattoos. (3-20-04)

f. Goats registered with a National Goat Registry that allows for electronic implant identification, as recorded on a registration certificate, may be identified with an electronic implant. (3-20-04)

202. QUARANTINE.
Infected and source flocks or flocks that have received high-risk animals will be placed and held under quarantine until the infected or high-risk animals have been slaughtered or depopulated, an approved Flock Plan has been completed and the flock is participating in a Post Exposure Monitoring Program. Flocks that do not participate in a Post Exposure Monitoring Program remain under quarantine until the entire flock has been depopulated. Flocks which are removed from the Post Exposure Monitoring Program before the agreed time will be requarantined. (3-20-04)

203. RESTRICTION OF HIGH-RISK ANIMALS.
High-risk animals will be placed under a quarantine when the flock or animals are determined to be exposed. An epidemiological investigation will be conducted on the flock or animals to determine the risk of infection with scrapie. The flock or animals will be maintained under quarantine until the flock is in compliance with the Scrapie Uniform Methods and Rules in effect or until the scrapie epidemiologist has determined that the flock or animals do not pose a substantial risk to other flocks. (3-20-04)

204. MOVEMENT OF RESTRICTED ANIMALS.
Animals from infected and source flocks and high-risk animals may be moved from quarantined premises only under the following conditions: (3-19-99)

01. Individually Identified on Approved Document. The animals are individually identified on a VS 1-27 form or other approved document, by official ear tags, tattoos or devices; or (3-20-04)

02. Indelibly Marked. The animals are indelibly marked with an "S" at least one (1) inch high on the left jaw; and (3-20-04)

03. Consigned Directly to Approved Destination. The animals are consigned directly to an approved slaughter facility for immediate slaughter or to a terminal feedlot for finish feeding for slaughter only; or (3-20-04)

a. The animals are consigned directly to an approved livestock market for sale directly to an approved slaughter facility for immediate slaughter or to a feedlot for finish feeding for slaughter only. The animals must be individually identified on a VS 1-27 form or other approved document for movement from the approved livestock market to final destination; or (3-20-04)

b. The Board or its representative may, by written permission, allow the animals to be moved, under quarantine, to other pre-approved locations. The animals may be moved in sealed vehicles or be accompanied in transit by representatives of the Board in lieu of individual identification. Animals so moved will be retained under quarantine at the new location. (3-19-99)

205. -- 299. (RESERVED)

300. CERTIFIED BRUCELLA OVIS FREE FLOCK.

301. BRUCELLA OVIS FREE FLOCK PROGRAM STANDARDS.
Flocks may be certified as *Brucella Ovis* free by the Board under the following circumstances: (3-20-04)

01. Flocks from Which Rams Are Not Leased, Rented or Loaned. (3-20-04)

a. One (1) negative *Brucella Ovis* ELISA test annually for two (2) years on all rams over six (6) months of age. (3-20-04)

b. Any new ram over six (6) months of age entering the flock for breeding purposes must be tested after sixty (60) days of purchase and test negative. (3-20-04)

02. Flocks from Which Rams Are Leased, Rented or Loaned. (3-20-04)

a. One (1) negative *Brucella Ovis* ELISA test annually for two (2) years on all rams over six (6) months of age. (3-20-04)

b. All sexually active rams which leave the owners premises and return must be tested after sixty (60) days of sexual rest and test negative on a *Brucella Ovis* test. (3-20-04)

03. *Brucella Ovis* ELISA Positive Test Results. A positive test result cancels *Brucella Ovis* Free certification status. The certification process may be restarted after the following conditions have been met: (3-20-04)

a. The individual ram that has a positive test result is held in isolation; and (3-20-04)

b. Is retested at least thirty (30) days after, but not more than sixty (60) days after the initial positive test; and (3-20-04)

c. All rams that have a second positive test result are either castrated, slaughtered, or sold for slaughter only. (3-20-04)

04. Approved *Brucella Ovis* Tests: (3-20-04)

a. Tests must be performed by a laboratory approved by the board; and (3-20-04)

b. Blood samples must be taken and sent to the approved laboratory by a licensed, accredited veterinarian; and (3-20-04)

c. Tests must be an approved ELISA test for *Brucella Ovis*. (3-20-04)

302. -- 399. (RESERVED)

400. CONDEMNATION AND DESTRUCTION OF DISEASED ANIMALS OR FLOCKS.

01. Animals or Flocks Infected. Animals or flocks determined by representatives of the Board or APHIS to be infected with scrapie or other contagious, infectious, or communicable diseases which have been identified by the Board to be diseases of concern to human health or the livestock industry of the state may be condemned by order of the Board. (3-20-04)

02. Animals or Flocks Condemned. Animals or flocks condemned by order of the Board will be destroyed or otherwise disposed of as directed by order of the Board and under the conditions set by the Board. (3-19-99)

401. -- 499. (RESERVED)

500. INDEMNIFICATION.

01. Owners, Individuals, Partnerships, Corporations or Other Legal Entities. Owners, individuals, partnerships, corporations or other legal entities whose animals or flocks have been destroyed or otherwise disposed of by order of the Board may be eligible for indemnification in the form of cash payment from the Sheep and Goat Disease Indemnity Fund for all or part of the value of the animals destroyed or otherwise disposed of and for the actual cost for burial or disposal of animal carcasses. (3-19-99)

02. Indemnity Payments Paid. Indemnity payments are paid only to an owner of sheep or goats that were born in the state of Idaho or were imported into the state in compliance with existing Idaho statutes and rules promulgated thereunder. (3-19-99)

03. Amount of Indemnity to Be Paid for Each Animal. The amount of indemnity to be paid for each animal is determined by the Board and does not exceed the difference between the appraised price, less federal indemnity, and the salvage value of the animal. In the event federal indemnity is not available the amount of indemnity will not exceed the difference between the appraised price and salvage value. (3-19-99)

04. Appraisals. Appraisals are to be performed by a team comprised of an Animal Health representative, the owner, and a person with experience in sheep or goat marketing. (3-20-04)

05. Maximum Amount of Indemnity. The maximum amount of indemnity for each animal will not exceed: (3-19-99)

a. Ewes or does one (1) year of age or older - two hundred dollars ($200) per head. (3-19-99)

b. Rams or bucks one (1) year of age or older - four hundred dollars ($400) per head. (3-20-04)

c. Lambs or kids under one (1) year of age - current market price per pound with a maximum of one hundred dollars ($100) per head. (3-19-99)

06. Indemnity Payment upon Approval of Appraisal. Upon approval of the appraisal by the Board, one-half (1/2) of the indemnity payment will be paid at that time. The other one-half (1/2) of the indemnity payment, or the prorated portion thereof, will be paid at the end of the fiscal year. Indemnity payments are paid in their entirety in a single fiscal year and do not exceed the amount in the fund. (3-20-04)

501. -- 599. (RESERVED)

600. CLEANING AND DISINFECTION.
Barns, sheds, stockyards, trucks, aircraft, ferryboats and other vehicles, feed yards, stables, pens, corrals, lanes and premises that have been used in confining, trailing, or transporting any sheep or goats affected or infected with any

contagious, infectious or communicable diseases, will be cleaned and disinfected under state or federal supervision as directed by the Board, or an authorized representative of the Board, and the owner of such premises, conveyances, or carrier are responsible for such cleaning and disinfecting. (3-19-99)

601. -- 699. (RESERVED)

700. SHEEP ASSESSMENTS.
The following rules apply to all sheep. (3-20-04)

01. Payment of Assessment. The owner of sheep on July 1st of the assessment year is responsible for the payment of the assessment levied by the Boards as provided for in Section 25-130 and 25-131, Idaho Code. The rate of assessment is eight cents ($.08) per pound on all wool, in the grease basis, except tags, crutchings, and dead wool. (4-6-15)

02. Assessment as Resident Sheep. The assessment is levied and assessed to the producer at the time of the first sale of wool and is deducted by the first purchaser from the price paid to the producer at the time of such sale. (5-5-80)

03. Migratory Sheep. In the event that a sheep, which produces wool subject to this assessment, is located outside the state of Idaho during a part of the assessment year, the amount of the assessment is reduced on a *prorated* basis. A grower will be required to request a *prorated* adjustment in writing to the Board. *( )*

04. Costs of Collection. All costs of collection of delinquent assessments are borne as an additional charge against the delinquent assessee first purchaser. (7-1-93)

701. GOAT ASSESSMENTS.
The following rules apply to all goats. (4-6-15)

01. Payment of Assessment. The owner of goat(s) is responsible for the payment of the assessment levied by the Board as provided for in Sections 25-130 and 25-131, Idaho Code. The rate of assessment is eighty cents ($.80) per head. (4-6-15)

02. Assessment as Resident Goats. The assessment is levied and assessed to the producer at the time of the sale of said goat(s). (4-11-19)

a. Auction Yards: Auction yards will deduct the assessment from the price paid to the producer at the time of sale. All goat assessments will be sent to the Idaho Sheep and Goat Health Board (ISGHB) from the auction yards after each sale, but no later than thirty (30) days after the sale. Assessments will be accompanied by a board approved form that includes a list of the producers (sellers) name, address, and number of head sold. (4-11-19)

b. Private Sales: The producer will handle assessment on private sales. The producer will send at minimum an annual assessment to the ISGHB on all private sales no later than the end of December of the current year. (4-11-19)

03. Costs of Collection. All costs of collection of delinquent assessments are borne as an additional charge against the delinquent assessee. (4-11-19)

702. -- 899. (RESERVED)

900. VIOLATIONS.
Any person, company, corporation or association, or any agent, servant or employee of such, who violates or disregard any of these sheep and goat rules or any other sanitary or quarantine rule, order of the Board or inspector thereof, is deemed guilty of a misdemeanor and upon conviction be fined not less than one hundred dollars ($100) nor more than five thousand dollars ($5,000) for each offense. (3-19-99)

901. -- 999. (RESERVED)

IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL

DOCKET NO. 04-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 39-4903(11), 39-8405(5), 48-604(2), 67-5206(2), 67-5206(3), and 67-5206(4), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 04, rules of the Office of the Attorney General:

IDAPA 04

- 04.02.01, *Idaho Rules of Consumer Protection*
- 04.11.01, *Idaho Rules of Administrative Procedure of the Attorney General*
- 04.12.01, *Rules of Administrative Procedure for Consideration of Cooperative Agreements Filed By Health Care Providers*
- 04.20.01, *Rules Implementing the Idaho Tobacco Master Settlement Agreement Complementary Act*

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 546-637**. The Office of the Attorney General has adopted these rules as pending rules. The changes made to these pending rules from the proposed rules text consist of non-substantive changes to limit redundancies, remove outdated language, and otherwise streamline these rules.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brett DeLange, Chief, Consumer Protection Division, Office of the Attorney General. Mr. DeLange can be reached at (208) 334-4114 or at **brett.delange@ag.idaho.gov**.

Dated this 31st day of October, 2019.

Brett T. DeLange, Division Chief
Consumer Protection Division
Office of the Attorney General
954 W. Jefferson St., 2nd Floor
P. O. Box 83720
Boise, ID 83720-0010
Phone: (208) 334-4114
Fax: (208) 334-4151
brett.delange@ag.idaho.gov

IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL

04.02.01 – IDAHO RULES OF CONSUMER PROTECTION, OFFICE OF THE ATTORNEY GENERAL

Subchapter A -- General Provisions
(Rules 0 - 19)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Title 67, Chapter 52, Idaho Code, and pursuant to Section 48-604(2), Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled "Idaho Rules of Consumer Protection, Office of the Attorney General," IDAPA 04, Title 02, Chapter 01. (7-1-93)

02. Scope. These rules are intended to protect persons in the state of Idaho against unfair, false, deceptive, misleading or unconscionable acts or practices by defining with reasonable specificity some of the acts and practices that violate the Act. Further, they are intended to provide reasonable guidance to persons doing business in the State of Idaho. (7-1-93)

002. WRITTEN INTERPRETATIONS--AGENCY GUIDELINES (RULE 2).
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements that pertain to the interpretation of the rules of this chapter, or to the compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Office of the Attorney General, Consumer Protection Unit. (7-1-93)

003. RULES OF CONSTRUCTION (RULE 3).
Without limiting the scope of any section of the Act, or any other rule or law, these rules shall be liberally construed and applied to promote the general purposes and policies of the Act. (7-1-93)

004. NON-INCLUSIVE (RULE 4).
These rules are not intended to cover all trade practices that violate the provisions of the Act. Many areas of illegal practice in trade and commerce are not specifically encompassed by these rules, but are still actionable under the Act. (7-1-93)

005. CUMULATIVE (RULE 5).
These rules are intended to be cumulative in effect and supplementary to each other. If acts or practices are governed by more than one (1) rule, compliance with one (1) rule does not excuse violations of another applicable rule. (7-1-93)

006. NON-EXCLUSIVE (RULE 6).
These rules are in addition to, and do not affect, any other rights or obligations that may exist by statute or judicial decision. (7-1-93)

007. EXCEPTIONS TO THESE RULES (RULE 7).
These rules are subject to the same exceptions as set forth in Section 48-605, Idaho Code. (7-1-93)

008. REGULATED PERSONS (RULE 8).
Enforcement activities taken pursuant to these rules shall not be commenced against persons licensed and regulated by any state regulatory board within the Department of Self-Governing Agencies or the United States Government when the actions or transactions are regulated by such regulatory board unless the Attorney General has first referred the matter in writing to the appropriate regulatory board. If at any time following the expiration of thirty (30) days from the time of forwarding the matter to the regulatory board the Attorney General is not satisfied with the progress or decision of the regulatory board, he may proceed to the extent of his jurisdiction under the Act. The 30-day provision will be abated to the extent that the regulatory board was given an express opportunity to review the matter prior to the time when the Attorney General began to consider the matter. The thirty (30) day provision may be waived in whole or in part if the Attorney General deems that the public interest requires prompt attention by the Attorney General. (7-1-93)

009. KNOWLEDGE (RULE 9).

These rules are not violated unless a person knows, or in exercise of due care should know, that he has in the past engaged in or is engaging in conduct specified or prohibited by the Act, or these rules. (7-1-93)

010. -- 019. (RESERVED)

Subchapter B -- Definitions
(Rules 20 - 29)

020. DEFINITIONS (RULE 20).
The definitions set forth in Section 48-602, Idaho Code, apply with full force and effect to all provisions and sections of these rules, including rules hereafter amended or supplemented. Terms not defined in these rules or in Section 48-602, Idaho Code, shall be construed in accordance with definitions promulgated by the Federal Trade Commission. Terms not so defined shall be construed in accordance with general principles of Idaho law. As used in this chapter: (7-1-93)

01. **Act**. The Idaho Consumer Protection Act, Title 48, Chapter 6, Idaho Code. (7-1-93)

02. **Actions or Transactions Permitted Under Laws Administered by a Regulatory Body or Officer**. Specific acts, practices, or transactions authorized by a regulatory body or officer pursuant to a contract, rule, or regulation, or other properly issued order, directive, or resolution. (1-21-92)

03. **Advertisement** (including words of similar meaning or import). Any oral, written, graphic, or pictorial representation, statement, or public notice, however made or utilized, including, without limitation, by publication, dissemination, solicitation or circulation, in the course of trade and commerce. A person's name under which trade or commerce is conducted shall be construed as advertising if an assumed name is used, and if the name has the capacity, tendency, or effect of misleading or deceiving consumers acting reasonably under the circumstances. (1-21-92)

04. **Appropriate Trade Premises**. Premises at which either the owner or seller normally carries on a business, or where goods are normally offered or exposed for sale in the course of a business carried on at those premises. (1-21-92)

05. **Ascertainable Loss**. Any deprivation, detriment, or injury, or any decrease in amount, magnitude, or degree that is capable of being discovered, observed, or established. It is not necessary for a private plaintiff to prove actual damages of a specific dollar amount to prove ascertainable loss, but only that the item was different from that for which the private plaintiff bargained, or that the private plaintiff suffered some like loss. (7-1-93)

06. **Bait and Switch**. Advertising goods or services with the intent not to sell them but to lure the consumer to the seller's place of business and then switch the consumer from buying the advertised goods or services to other or different goods or services on a basis more advantageous to the seller. (1-21-92)

07. **Bona Fide Gift**. Any goods or services in which a statement is provided to the gift recipient at or prior to the time of delivery or performance, which clearly and conspicuously informs the recipient that the goods or services may be retained, used, discarded, rejected, or otherwise disposed of without any obligation to the person providing, sending, or performing the goods or services. (1-21-92)

08. **Business Arrangement**. Any understanding, procedure, course of dealing, or arrangement, formal or informal, between a consumer and a seller or a creditor and a seller, in connection with the sale of goods or services to consumers or the financing thereof. (1-21-92)

09. **Business Day**. Any calendar day, except Saturday, Sunday, or the following legal holidays: New Year's Day, Martin Luther King, Jr. Day, Presidents' Day, Memorial Day, Independence Day, Labor Day, Columbus Day, Veterans' Day, Thanksgiving Day, and Christmas Day. (7-1-93)

10. **Buy-Down Rate**. A financing rate which, as a result of a seller's advance payment of finance charges to a third party, is below the prevailing market financing rate. (1-21-92)

11. Clear and Conspicuous Disclosure. A statement, representation, or term which is disclosed in a manner that is: (1-21-92)

a. Reasonably close to any statement, representation or term it clarifies, modifies, explains, or to which it otherwise relates; (1-21-92)

b. Reasonably noticeable; (1-21-92)

c. Reasonably understandable by the persons to whom it is directed; and (1-21-92)

d. Not contradictory to any terms it purports to clarify, modify, or explain. (1-21-92)

12. Consideration. A right, interest, profit, or benefit accruing to a party, or some forbearance, detriment, loss, or responsibility given, suffered, or undertaken by the other. (1-21-92)

13. Consumer. A person who purchases, leases, or rents, or is solicited to purchase, lease, rent or otherwise give consideration for any goods or services. (1-21-92)

14. Consumer Credit Contract. Any instrument which evidences or embodies a debt arising from a purchase money loan transaction or a financed sale. (1-21-92)

15. Credit Card Issuer. A person who extends to card holders the right to use a credit card in connection with purchases of goods or services. (1-21-92)

16. Creditor. A person who, in the ordinary course of business, lends purchase money or finances the sale of goods or services to consumers on a deferred payment basis; provided, such person is not acting, for the purposes of a particular transaction, in the capacity of a credit card issuer. (1-21-92)

17. Dealer. A seller of motor vehicles. (1-21-92)

18. Dealer Documentation Service Fee (including words of similar meaning or import, such as, but without limitation, "dealer's doc" fee, "administration" fee, "documentation and handling" fee and "D and H" fee). A fee charged by the dealer for services actually rendered to, for, or on behalf of the consumer in preparing, handling and processing documents pertaining to the motor vehicle and the closing of the transaction. (1-21-92)

19. Demonstrator Vehicle. A motor vehicle of the current or previous two (2) model years which has not been rented, leased, sold, titled or registered to a member of the public prior to the appearance of the advertisement, and which has been used by the dealer or dealership personnel for demonstration purposes. (1-21-92)

20. Disseminate. To publish, advertise, broadcast, deliver, circulate, mail, display, post, or otherwise distribute to a consumer. "Dissemination date" means the first date an advertisement is disseminated. (1-21-92)

21. Documentary Material. The original or a copy of any book, record, report, memorandum, paper, communication, tabulation, map, chart, photograph, audio and/or visual recording, mechanical, photographic, or electronic transcription, or other tangible document or recording. (1-21-92)

22. Door-to-Door Sale. A sale, lease, or rental of goods or services primarily for personal, family, or household purposes, with a purchase price of twenty-five dollars ($25) or more, whether under single or multiple contracts, in which the seller or his representative personally solicits the sale, including solicitations made in response to or following an invitation by the consumer, and the consumer's agreement or offer to purchase is made at a place other than the appropriate trade premises of the seller. The term "door-to-door sale" does not include a transaction: (7-1-93)

a. Made pursuant to prior negotiations in the course of a visit by the consumer to the seller's retail business establishment, such establishment having a fixed permanent location where the goods or services being purchased are offered for sale on a continuing basis; (1-21-92)

b. In which the consumer has initiated the contact and the goods or services are needed to meet a bona fide immediate personal emergency of the consumer, and the consumer furnishes the seller with a separate dated and signed personal statement in the consumer's handwriting describing the situation requiring immediate remedy and expressly acknowledging and waiving the right to cancel the sale within three (3) business days; (1-21-92)

c. Conducted and consummated entirely by mail or telephone, in compliance with all provisions of the Act, and any other federal or state of Idaho statute, regulation, or rule governing mail or telephone solicitations, and without any other contact between the consumer and the seller prior to delivery of the goods or performance of the services; or (7-1-93)

d. In which the consumer has initiated the contact and specifically requested the seller to visit his home for the purpose of repairing or performing maintenance upon the consumer's personal property; provided, however, that if in the course of such a visit, the seller sells the consumer the right to receive additional services or goods other than replacement parts necessarily used in performing the maintenance or in making the repairs, the sale of those additional goods or services does not fall within this exclusion; or (1-21-92)

e. Pertaining to the sale or rental of real property, to the sale of insurance or to the sale of securities or commodities by a broker registered with the Idaho Department of Finance. (1-21-92)

23. Examination. Examination of documentary material includes the inspection, study, or copying of any such material, and the taking of testimony under oath or acknowledgment with respect to any such documentary material or copy thereof. (1-21-92)

24. Executive or Official Vehicle. A motor vehicle which has been driven exclusively by executives of the motor vehicle's manufacturer or by an executive of any authorized dealership selling the same make of motor vehicle. (1-21-92)

25. Exempt Loan Broker. Any person: (7-1-93)

a. Doing business under any law of the State of Idaho or of the United States relating to banks, credit unions, trust companies, savings and loan associations, insurers, pension trusts, real estate investment trust and other financial institutions, or under the uniform consumer credit code; (7-1-93)

b. Engaged exclusively in the business of marketing agricultural, horticultural, viticultural, dairy, livestock, poultry, or bee products on a cooperative nonprofit basis in loaning or advancing money to the members thereof or in connection with any such business; (7-1-93)

c. Securing money or credit from any federal intermediate credit bank organized and existing pursuant to the provisions of any act of Congress entitled "Agricultural Credits Act of 1923," in loaning or advancing money or credit so secured; (7-1-93)

d. Who is a Federal Housing Administration approved mortgagee; or (7-1-93)

e. Who is licensed under the Idaho Securities Act if the loan is made in accordance with applicable provisions of the Idaho Securities Act, the Securities Act of 1933, the Securities Exchange Act of 1934, and Regulation T promulgated by the Federal Reserve Board (12 C.F.R. Section 220). (7-1-93)

26. Financed Sale (Including Financing a Sale). Extending credit to a consumer in connection with a consumer credit sale within the meaning of the Idaho Credit Code. (1-21-92)

27. Free (Including Words of Similar Meaning or Import). Without charge or cost, monetary or otherwise, to the recipient, and includes terms of essentially identical import, such as "give away" or "complimentary." (1-21-92)

28. Going-Out-of-Business Sale. A sale advertised in such a manner as to reasonably cause a consumer to believe that the seller is in the process of concluding its affairs and discontinuing operation. Any sale using any of the following words or words of similar import are deemed to be a going-out-of-business sale unless

each advertisement discloses it is not a going-out-of-business sale in a clear and conspicuous manner: "adjuster's," "adjustment," "assignee's," "bankrupt," "benefit of administrators," "benefit of creditors," "benefit of trustees," "building coming down," "closing," "creditor's," "insolvent," "end," "executor's," "final days," "forced out of business," "last days," "lease expires," "liquidation," "loss of lease," "mortgage sale," "receiver's," "quitting business," "selling to the bare walls," or "trustee's." (1-21-92)

29. Goods. Any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value wherever situate, including certificates or coupons exchangeable for such goods. (1-21-92)

30. Information Provider. Any person that controls the content of a pay-per-telephone-call service. Any telephone corporation that provides basic local exchange service or message telecommunication service, as defined by Section 62-603, Idaho Code, which transmits pay-per-telephone-call service but does not control the content of the information transmitted is not within this definition. (7-1-93)

31. Leased Vehicle (including words of similar meaning or import). A motor vehicle that has been driven for a specific period of time pursuant to a lessor-lessee agreement. (7-1-93)

32. Loan Broker. Any person, except an exempt loan broker, who offers for compensation to arrange for a loan or other extension of credit. (7-1-93)

33. Motor Vehicle (including words of similar meaning or import). A motor vehicle as defined in the Idaho Motor Vehicles Act (Idaho Code Section 49-101 et seq.) (1-21-92)

34. Negative Option Notice Requirements. Negative option notice requirements means: (7-1-93)

a. A notice received by a consumer, at least thirty (30) but not more than forty-five (45) days, in advance of the effective date of the delivery or provision of goods or services, clearly and conspicuously: (1-21-92)

i. Describing the specific goods or services to be delivered or provided; (1-21-92)

ii. Stating the price of the goods or services delivered or provided; (1-21-92)

iii. Informing the consumer that the goods or services will be delivered or provided unless the consumer informs the seller that the goods or services are not wanted; and (7-1-93)

iv. Informing the consumer of at least two (2) methods, at least one (1) of which is expense-free to the consumer, by which the consumer can inform the seller of his desire not to receive the goods or services; (1-21-92)

b. A statement on the first bill containing a charge for the goods or services, or a separate notice enclosed with the bill, which clearly and conspicuously advises the consumer of the inclusion of the new charge on the bill for the new goods or services, of the consumer's right to cancel those goods or services within ten (10) days of the receipt of the bill at no cost to the consumer for the period during which those goods or services were provided prior to effective cancellation, and the process by which the consumer may cancel the goods or services; and (1-21-92)

c. In no event shall the consumer be required to cancel the new goods or services governed by this definition to avoid a charge prior to ten (10) days after the consumer's receipt of the first bill containing the charge for the new goods or services. For purposes of cancellation by mail, a cancellation shall be effective upon the date of mailing the cancellation notice. (1-21-92)

35. New Motor Vehicle (including words of similar meaning or import). A motor vehicle that has not had its equitable or legal title transferred by a manufacturer, distributor, or dealer to a consumer (except a franchised distributor or franchised new motor vehicle dealer) or which has not been previously rented or leased to a person for any period of time. (7-1-93)

36. Offer. Any solicitation, invitation, or proposal by a seller to a consumer through which a seller,

either directly or indirectly, attempts or intends to sell, rent, or lease goods or services or to induce a consumer to purchase, rent, or lease goods or services. This definition is not intended to create a contract, where none would otherwise exist under Idaho law, though it is noted that the Act and these rules impose duties and provide for remedies for violations thereof even in the absence of a binding contract. (7-1-93)

37. Pay-per-Telephone-Call Services. Any telecommunications service which permits simultaneous calling by a number of callers to a single telephone number and for which the calling party is assessed, by virtue of completing the call, a charge that is not dependent on the existence of a presubscription relationship and for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call. (7-1-93)

38. Person. Natural persons, corporations, both foreign and domestic, companies, business entities, trusts, partnerships, both limited and general, associations, both incorporated and unincorporated, and any other legal entity or any group associated in fact although not a legal entity, or any agent, assign, heir, employee, representative, or servant thereof. (1-21-92)

39. Purchase Money Loan. A cash advance that is received by a consumer in return for a credit service charge within the meaning of the Idaho Credit Code, which is applied, in whole or substantial part, to a purchase of goods or services from a seller who refers consumers to the creditor or is affiliated with the creditor by common control, contract, or business arrangement. (7-1-93)

40. Purchase Price. The total price paid or to be paid for the goods or services, including all interest and service charges. (1-21-92)

41. Pyramid or Chain Distribution Scheme. Any plan or operation whereby a person gives consideration for the opportunity to receive consideration to be derived primarily from any person's introduction of other persons into participation in the plan or operation rather than from the sale of goods or services by the person or other persons introduced into the plan or operation. For the purposes of this definition, the term "consideration" does not include: (1-21-92)

a. The not-for-profit sale of demonstration equipment and materials for use in making sales and which are not for resale; and (1-21-92)

b. Time or effort spent in selling or recruiting activities. (1-21-92)

42. **Regulatory Body or Officer**. Any person or governmental entity with authority to act pursuant to State of Idaho or federal statute. (1-21-92)

43. **Seller**. Any person engaged in trade and commerce, the agent, representative, or employee of such person, or any person acting in concert with such person. (1-21-92)

44. **Send**. To deliver, mail, provide, or cause to be mailed, delivered, or provided. (1-21-92)

45. **Services**. Work, labor, or any other act or practice provided or performed by a seller to or on behalf of a consumer. (1-21-92)

46. **Subject to Financing Contract**. An agreement whereby a consumer's obligation to purchase goods or services from a seller is contingent upon the obtaining of financing by, or on behalf of, a consumer. (1-21-92)

47. **Trade and Commerce**. Advertising, offering for sale, selling, leasing, renting, collecting debts arising out of the sale or lease of goods or services, or distributing goods or services, at any point in the marketing chain, either to or from locations within the State of Idaho, directly or indirectly affecting the people of this State. (7-1-93)

48. **Trade Area**. The geographic area where a seller is located and where the seller's advertisements are disseminated. (1-21-92)

49. **Unordered Goods or Services**. Goods or services which are sent or provided without the prior expressed request or consent from the person receiving the goods or services. Unordered goods or services do not include: (7-1-93)

a. Goods sent or services performed by mistake; (1-21-92)

b. Bona fide gifts; (1-21-92)

c. Additions to existing goods or services or levels of goods or services, already provided to consumers for which there is no separate and specific charge for such additions; (1-21-92)

d. The restructuring of existing goods or services or levels of goods or services already provided, pursuant to negative option notice requirements, where the restructuring does not result in a substantial change in goods or services; or (1-21-92)

e. Goods or services sent pursuant to an agreement which is in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425). (1-21-92)

50. **Used Motor Vehicle** (including words of similar meaning or import). Previously rented motor vehicles, executive or official motor vehicles, leased motor vehicles, and all other motor vehicles that are not new motor vehicles. (7-1-93)

51. **Verifiable Retail Value**. A price at which a seller can demonstrate that a substantial number of goods or services have been sold at retail by a person other than the seller. If substantiation described in this section is not available to a seller, the verifiable retail value shall be no more than one and one-half (1.5) times the amount the seller paid for the goods or services. (7-1-93)

021. -- 029. (RESERVED)

Subchapter C -- False, Misleading Conduct in General (Rules 30 - 39)

030. GENERAL RULE (RULE 30).

It is an unfair and deceptive act or practice for a seller to make any claim or representation concerning goods or services which directly, or by implication, has the capacity, tendency, or effect of deceiving or misleading a consumer acting reasonably under the circumstances. An omission of a material or relevant fact shall be treated with the same effect as a false, misleading, or deceptive claim or representation, when such omission, on the basis of what has been stated or implied, would have the capacity, tendency, or effect of deceiving or misleading a consumer acting reasonably under the circumstances. With reference to goods or services, this prohibition includes, but is not limited to, factors relating to the cost, construction, durability, reliability, manner or time of performance, safety, strength, condition, life expectancy, ease of operation, problems associated with repair or maintenance, availability, or the benefit to be derived from the use of the goods or services. (1-21-92)

031. SUBSTANTIATION (RULE 31).

The responsibility for truthful advertising which does not have the capacity, tendency, or effect of deceiving or misleading consumers acting reasonably under the circumstances rests with the seller. Sellers must be able to substantiate all claims or offers made before such claims or offers are advertised. Sellers must maintain sufficient records to substantiate all representations made in their advertisements. (1-21-92)

032. CONTRADICTORY REPRESENTATIONS (RULE 32).

It is an unfair and deceptive act or practice for a seller to make any claim or representation that is inconsistent with or contradictory to any written claim, representation, or provision which is contained in any contract, document, or instrument evidencing a transaction. (1-21-92)

033. VIOLATIONS OF OTHER LAWS AND COURT ORDERS (RULE 33).

It is an unfair and deceptive act or practice for any seller to engage in trade or commerce if in so doing the seller or

the seller's goods or services fail to comply with: (1-21-92)

01. Federal and State Laws. Any Federal Trade Commission rule or regulation, the disclosure requirements of either the federal Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. Section 226) or the federal Truth in Lending Act (15 U.S.C. Section 1667 et seq.) and Regulation M promulgated by the Board of Governors of the Federal Reserve Board (12 C.F.R. Section 213), or any State of Idaho statute or rule that identifies conduct in trade and commerce as unfair or deceptive or a violation of the Act. (7-1-93)

02. Federal Trade Commission Consent Decree. Any Federal Trade Commission Consent Decree in which the seller is a party to the decree. (1-21-92)

03. Judicial Order. Any judgment, injunction, order, or other relief obtained by the Federal Trade Commission in any action brought in a United States District Court in which the seller is a party or otherwise subject to the court's decrees and orders. (1-21-92)

034. OFFICIAL, GOVERNMENTAL, OR OTHER MISLEADING ENVELOPES OR OFFERS (RULE 34).
It is an unfair and deceptive act or practice for any seller to use any printing styles, graphics, layouts, text, colors, or formats on envelopes or on the offer which implies, creates an appearance, or would lead a reasonable person to believe that the offer originates from or is issued by or on behalf of a government or public agency, public utility, public organization, insurance company, credit reporting agency, bill collecting company or a law firm, unless the same is true. (1-21-92)

035. INVOICES AND BILLS (RULE 35).
It is an unfair and deceptive act or practice for a seller to advertise by use of any written or documentary material that has the tendency, capacity, or effect of misleading a consumer, acting reasonably under the circumstances, that the advertisement is an invoice or bill. (7-1-93)

036. MAILBOX ADDRESSES (RULE 36).
It is an unfair and deceptive act or practice for a seller to refer to a U.S. Post Office box number or a private mail service box number in trade and commerce as a "suite," "department," "office," "apartment," or any other term or abbreviation that has the tendency, capacity, or effect of misleading a consumer, acting reasonably under the circumstances, to believe that the reference pertains to anything other than a box number at a U.S. Post Office or at a private mailbox service. (7-1-93)

037. -- 039. (RESERVED)

Subchapter D -- Disclosure of Conditions in Offer (Rules 40 - 49)

040. GENERAL RULE (RULE 40).
It is an unfair and deceptive act or practice for a seller to offer goods or services with material contingencies, conditions, or qualifications attendant to the offer unless such contingencies, conditions, or qualifications are clearly and conspicuously disclosed in connection with the initial offer. (1-21-92)

041. SUBSEQUENT DISCLOSURE (RULE 41).
Subsequent disclosure to the consumer of such material contingencies, conditions, or qualifications attendant to an initial offer, even if prior to consummation of the transaction relating to the offer, is not a defense to the requirements of CPR 40. (1-21-92)

042. -- 049. (RESERVED)

Subchapter E -- Bait and Switch Sales (Rules 50 -- 59)

050. GENERAL RULE (RULE 50).
It is an unfair and deceptive act or practice for a seller to engage in bait-and-switch sales tactics. (1-21-92)

051. INITIAL OFFER (RULE 51).
It is an unfair and deceptive act or practice for a seller to create a false impression of the grade, quality, quantity, make, value, age, size, color, usability, availability, or origin of the goods or services offered, or which may otherwise misrepresent the goods or services in such a manner that later, on disclosure of the true facts, there is a likelihood that the consumer may be switched from the advertised goods or services to other goods or services. Even though the true facts are subsequently made known to the consumer, subchapter E is violated if the first contact or interview is secured by a bait-and-switch offer. (7-1-93)

052. DISCOURAGEMENT OF PURCHASE OF ADVERTISED MERCHANDISE (RULE 52).
It is an unfair and deceptive act or practice for a seller to discourage the purchase of the advertised goods or services as part of a bait-and-switch scheme to sell other goods or services. For example, among acts or practices which will be considered in determining if an advertisement is a bona fide offer are: (1-21-92)

01. Refusal to Show. The refusal to reasonably show, demonstrate, or sell the goods or services advertised or otherwise offered in accordance with the terms of the initial offer. (1-21-92)

02. Disparagement. The disparagement by acts or words of the advertised goods or services or disparagement with respect to the guarantee, credit terms, availability of service, repairs, or parts, or in any other respect, in connection with the advertised goods or services. (1-21-92)

03. Availability. The failure to have available at all outlets listed in the advertisement a sufficient quantity of the advertised goods or services to meet reasonably expected public demand, as defined in CPR 103, unless the advertisement clearly and conspicuously discloses that the supply of a particular good is limited and/or the goods or services are available only at designated outlets, or unless the advertisement discloses that a particular good is to be closed out or offered for a limited time. Issuing of "rain checks" of goods or offering comparable or better goods at the sale price will be considered a mitigating circumstance, unless there is a pattern of inadequate inventory or the inadequate inventory was intentional. (7-1-93)

04. Refusal to Take Orders. The refusal to take orders for the advertised goods or services to be delivered within a reasonable period of time. (1-21-92)

05. Showing Impractical Goods or Services. The showing or demonstrating of goods or services which are defective, unusable, or impractical for the purpose represented or implied in the advertisement. (1-21-92)

06. Compensation Plans. The use of a sales plan or method of compensation for salesmen which is designed to prevent or discourage them from selling the advertised goods or services. This does not prohibit compensating salesmen by use of a commission. (1-21-92)

053. SWITCH AFTER SALE (RULE 53).
In the event of a sale of the advertised goods or services, it is an unfair and deceptive act or practice for a seller to attempt to "unsell" the advertised goods or services with the intent and purpose of selling other goods or services in their stead, except when the parties are bargaining for a bona fide trade-in. (1-21-92)

054. PATTERN OF CONDUCT (RULE 54).
The fact that a seller occasionally sells the advertised goods or services at the advertised price shall not constitute a defense to a charge that the seller has engaged in bait-and-switch tactics. (1-21-92)

055. LEADER ITEMS (RULE 55).
Nothing in subchapter E shall prevent a seller from advertising goods and services with the hope that consumers will buy goods or services in addition to those advertised. (7-1-93)

056. -- 059. (RESERVED)

Subchapter F -- Deceptive, Comparative, Reference, and Wholesale Pricing

(Rules 60 -- 69)

060. DECEPTIVE PRICING -- GENERAL RULE (RULE 60).
It is an unfair and deceptive act or practice for a seller to represent or imply that: (1-21-92)

01. Misrepresentations. Goods or services may be purchased for a specified price, if such is not the case. (1-1-79)

02. Reduced Price. Goods or services are being offered for sale at a reduced price, if such is not the case. For example, a firm publishes a catalog or brochure entitled "pre-Christmas sale." Some of the items in the catalog are being offered at a reduced price, but others are not. On the non-sale (discounted) items, the advertisement should disclose that the item is being offered at the everyday price or the sales items should be clearly identified as such. If none of the advertised items are being offered at a reduced price, then it is inappropriate to use a term such as "sale." (1-1-79)

03. Hidden Costs. A stated price is for complete or functional goods or services, if, in fact, there are additional hidden costs which must be expended in order to make the goods or services complete or functional. (1-1-79)

04. Services. A stated price of goods or services includes certain services, such as delivery, installation, service or adjustments, or includes parts or accessories, if such is not the case. (1-1-79)

05. Specific Goods or Services. A stated price applies to all sizes or types of goods or services, if the stated price is in fact applicable only to certain sizes or types of goods or services. (1-21-92)

06. Inventory. A stated price reduction applies to an entire inventory or grouping of goods when it only applies to isolated items within the inventory or grouping. (1-1-79)

061. COMPARATIVE PRICING -- GENERAL RULE (RULE 61).
It is an unfair and deceptive act or practice for a seller to represent by any means which has the capacity, tendency, or effect of deceiving or misleading a consumer acting reasonably under the circumstances as to the value of the past, present, common, or usual price of goods or services, or as to any reduction in the price of goods or services, or any savings relating to the cost or price of the goods or services. (1-21-92)

01. Savings or Value Claims. Savings or value claims utilized in connection with terms such as "originally," "formerly," "regularly," "usually," "list price," "compare at," or other like terms, expressions or representations must be based on facts provable by the seller: (1-1-79)

a. By the seller's own records; or (1-21-92)

b. By reasonably substantial competitive sales in the trade area where such claims or representations are made, under circumstances and conditions represented or implied by the claims or representations. (1-21-92)

02. Comparison Claims. The use of such terms as "reduced," "sale," "special price," "originally," "formerly," "slashed," etc. are deemed to be comparisons between the seller's present prices and his bona fide, regular prices. Terms such as "list price," "compare at," "comparable value," "suggested price," etc. are deemed to be comparisons between the seller's present prices and the prevailing competitors' prices. Terms such as "discount," "usually," "regularly," etc., which have a vague meaning are presumed to be a comparison between the seller's present prices and his bona fide, regular prices, unless the seller states otherwise in his advertising or sales promotion. (1-21-92)

062. COMPARISONS OF SELLER'S PRESENT PRICES TO SELLER'S FORMER PRICES (RULE 62).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Fictitious Prices. Offer goods or services by representations comparing present prices to former prices of the seller, if the seller establishes a fictitious or inflated former price for a short period of time and for the purpose of subsequently offering a reduction. For example, a seller usually sells a certain pen for a regular price of

seven dollars and fifty cents ($7.50), but he raises the price of the pen to an inflated price of ten dollars ($10) for a short period of time. He then "cuts" the price to its usual level of seven dollars and fifty cents ($7.50), and advertises: "Terrific Bargain: Were $10.00, Now Only $7.50"; or (1-1-79)

02. Bona Fide Regular Price. Offer goods or services by representations comparing present prices to former prices of the seller, if the former price was merely an asking price and was not the bona fide, regular price at which such goods or services were openly, actively, and actually offered for sale or sold. (7-1-93)

063. COMPETITOR RETAIL PRICE COMPARISONS (RULE 63).
It is an unfair and deceptive act or practice for a seller to offer goods or services by representations comparing the prices of the seller's goods or services to the prices of identical goods or services of competitors, unless the seller can substantiate that the represented prices of the competitor's goods or services are in fact the actual prices charged by the competitor in the same trade area, at the same point in time or on the date(s) clearly and conspicuously disclosed in the advertisement. If a price is stated without clear and conspicuous disclosure of a date on which it was in effect, it shall be presumed to be the current price. (7-1-93)

064. COMPARABLE PRICE COMPARISONS (RULE 64).
It is an unfair and deceptive act or practice for a seller to offer goods or services by representations comparing the prices of the seller's goods or services to the prices of comparable, but not identical, goods or services of a competitor's, unless the seller can substantiate that the goods or services compared are substantially similar in grade and quality and the represented prices of the competitor's goods or services are in fact the actual prices charged by the competitor in the same trade area, at the same point in time or on the date(s) clearly and conspicuously disclosed in the advertisement. If a price is stated without clear and conspicuous disclosure of a date on which it was in effect, it shall be presumed to be the current price. (7-1-93)

065. REFERENCE RETAIL PRICING PRACTICES (RULE 65).
It is an unfair and deceptive act or practice for a seller to offer goods or services by representations comparing present prices to "manufacturer's suggested prices," or similar language establishing or implying base reference price comparisons, unless such reference price represents, in fact, a good faith, honest estimate of the regular price at which a substantial number of sales of the goods or services are made by comparable sellers in the same trade area or unless federal or state law permits or requires the disclosure of the price suggested by the manufacturer. CPR 65 applies with the same force and effect regardless of whether the advertiser is a national or regional manufacturer or supplier, a mail-order or catalog seller, or a local retailer, and regardless of whether the prices, establishing a basis for comparison, are advertised or pre-ticketed. (7-1-93)

066. WHOLESALE, FACTORY DIRECT, OR SIMILAR CLAIMS (RULE 66).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Factory. Describe itself or its goods by using the terms "factory direct," "factory to you," "direct from maker," "factory outlet," or words of similar meaning in its advertisements unless the seller's goods are actually manufactured by the seller or in factories owned or controlled by the seller. (1-21-92)

02. Wholesaler. Describe itself by using the terms "wholesaler," "wholesale outlet," "distributor," or words of similar meaning in its advertisements unless the seller actually owns and operates or directly and absolutely controls a wholesale or distribution facility which primarily sells goods to retailers for resale. A seller to which this provision applies may in addition be subject to CPR 66.03 and CPR 66.04 below. (1-21-92)

03. Cost. Use in connection with the advertising or sale of any goods or services, the terms "cost," "invoice price," "factory invoice," "factory billing," or terms of similar meaning or import or other representations that a good or service will be sold at, above, or below the seller's actual cost unless such is true. (7-1-93)

04. Wholesale Prices. State or imply that any goods or services are being offered at "wholesale" prices or to use a term of similar meaning unless the prices are in fact at or below the current prices which most retailers in the trade area usually and customarily pay when they buy such goods or services for resale. (1-21-92)

067. LIMITED OFFERS (RULE 67).
It is an unfair and deceptive act or practice to offer goods or services by representations that the offer is "limited"

unless the offer is in fact limited in duration or scope, or that the offer is an advance sale or introductory offer, and the seller in good faith expects to increase the price at a later date. (7-1-93)

068. SUBSTANTIATION (RULE 68).
A seller shall keep records or other documentary proof for a period of two (2) years which establish and substantiate the price claims and comparisons made. Failure to do so shall create a rebuttable presumption that the seller lacked a reasonable basis for the claims and comparisons made. (1-21-92)

069. (RESERVED)

Subchapter G -- Use of the Word "Free" and Similar Representations (Rules 70 -- 79)

070. GENERAL RULE (RULE 70).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Free No Cost Offers. Offer any goods or services as free, by use of the word "free" or other term of similar import, unless receipt of the free goods or services by a consumer is without added cost to the consumer; provided, however, that the consumer may be required to pay necessary delivery charges to the United States Post Office or a regulated public carrier if such fact is clearly and conspicuously disclosed in the offer and provided that the consumer may be required to purchase goods at their regular price as a precondition of entitlement to the free goods if such fact is readily apparent to a consumer acting reasonably under the circumstances or is clearly and conspicuously disclosed in the offer. (1-21-92)

02. Free With Cost Offers. Offer any goods or services as "free," "2 for 1," "1-cent Sale," or other term of similar import, if the seller increases the price of the base goods or services above their regular price or if the seller reduces the quality, quantity or size of the base goods or services. (1-1-79)

071. TIE-IN SALES (RULE 71).
It is an unfair and deceptive act or practice for a seller to offer any goods or services as free, by use of the word "free" or other term of similar import, if the seller fails to clearly and conspicuously disclose at the outset all terms, conditions, and obligations upon which receipt and retention of the free items are contingent. (1-21-92)

072. CONDITIONAL OFFERS (RULE 72).
It is an unfair and deceptive act or practice for a seller to offer any goods or services as free, by use of the word "free" or other term of similar import, when the consumer is obligated to perform conditions which are not readily apparent to a consumer acting reasonably under the circumstances or are not clearly and conspicuously disclosed. (1-21-92)

073. USE OF SIMILAR TERMS (RULE 73).
It is an unfair and deceptive act or practice for a seller to meet the provisions of subchapter G by substitution of such similar words and terms as "gift," "given without charge," "at no cost," "complimentary," "bonus," or other words or terms which tend to convey the impression to the consuming public that goods or services are free. (7-1-93)

074. ASTERISKS (RULE 74).
For purposes of this rule, disclosure of the terms of the offer set forth in a footnote of an advertisement to which reference is made by an asterisk or other symbol placed next to the offer, does not constitute a clear and conspicuous disclosure at the outset. (1-21-92)

075. DELIVERY CHARGES (RULE 75).
In all instances in which delivery charges, which include all shipping and handling charges, exceed ten dollars, pursuant to an offer subject to subchapter G, the total amount of such charges shall be clearly and conspicuously disclosed in the offer. Negative option membership plans operated in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425) are exempt from the provisions of CPR 75. (7-1-93)

076. -- 079. (RESERVED)

Subchapter H -- Promotional Games and Advertising and Deceptive Use of Gifts (Rules 80 -- 89)

080. NO PURCHASE REQUIRED FOR CHANCE PROMOTIONS (RULE 80).

It is an unfair and deceptive act or practice for a seller to offer, initiate, promote, or solicit participation in any kind of game of chance, contest, sweepstakes, or promotion in which goods or services are distributed by random or chance selection that requires any kind of entry fee, service charge, purchase, payments to information providers, or other obligation in order to enter or participate in the promotion or receive any of the offered awards, prizes, or gifts. Those persons authorized by Title 67, Chapter 77, Idaho Code, to conduct bingo and raffle games for charitable purposes, if conducted in conformity with Title 67, Chapter 77, Idaho Code, and negative option membership plans operated in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425) are exempt from CPR 80. (7-1-93)

081. DISCLOSURE REQUIREMENTS IN GIFT PROMOTIONS (RULE 81).

It is an unfair and deceptive act or practice for a seller to offer, in writing, any goods or services, without obligation, as an inducement to a consumer to attend an in-person sales presentation or contact the seller by telephone or by mail, but only if the seller follows up the consumer's mail contact with a telephone contact, unless the offer clearly and conspicuously discloses in writing all of the following: (7-1-93)

01. Name and Address. The name and street address of the seller of the goods or services which are the subject of the sales presentation or contact with the seller. If the offer is made by an independent contractor of the seller, or is made under a name other than the true name of the seller, the name of the seller shall be more prominently and conspicuously displayed than the name of the independent contractor or other name. (1-21-92)

02. Purpose of Contact. The purpose of the requested sales presentation or contact with the seller, which shall include a general description of the goods or services that are the subject of the sales presentation and a clear statement, if applicable, that there will be a sales presentation and the approximate duration of the sales presentation. (7-1-93)

03. Odds. If the consumer is not assured of receiving any particular good or service, a statement of the odds of receiving each good or service offered. The odds "100,000" or "1:100,000." The odds shall be printed in a type size that is at least equal to that used for the standard text on the front (or first) page of the offer. (7-1-93)

04. Conditions. All restrictions, qualifications, and other conditions that must be satisfied before the consumer is entitled to receive the good or service, including but not limited to: (7-1-93)

a. Any deadline by which the consumer must attend the sales presentation or contact the seller in order to receive the good or service; and (7-1-93)

b. Any other conditions, such as a minimum age qualification, a financial qualification, or a requirement that if the consumer is married both husband and wife must be present in order to receive the good or service. Any financial qualifications shall be stated with specificity sufficient to enable the person to reasonably determine his or her eligibility; (7-1-93)

05. Verifiable Retail Value. The verifiable retail value of each good or service the consumer has been offered, awarded, or may be awarded. (7-1-93)

06. No Purchase Necessary. That no purchase is necessary in order to receive the goods or services that have been offered to the consumer as an inducement to attend the in-person sales presentation or contact the seller by telephone or by mail, but only if the seller follows up the consumer's mail contact with a telephone contact. (7-1-93)

07. Other Requirements. All other rules, terms and conditions of the offer, plan, or program. (1-21-92)

082. MISLEADING OFFERS (RULE 82).

It is an unfair and deceptive act or practice for any seller making an offer subject to Subchapter H to: (7-1-93)

01. Misrepresent Goods or Services. Misrepresent the size, availability, quantity, identity, value, or qualities of any good or service. (7-1-93)

02. Misrepresent Odds. Misrepresent in any manner the odds of receiving any particular good or service. (7-1-93)

03. Specially Selected. Represent directly or by implication that the number of participants has been significantly limited or that any consumer has been specially selected to receive a particular good or service unless that is the fact. (7-1-93)

04. Labeling Offers. Label any offer a notice of termination or notice of cancellation. (7-1-93)

05. Misrepresent Offer. Misrepresent, in any manner, the offer, plan, program, or the affiliation, connection, association, or contractual relationship between the person making the offer and the owner, if they are not the same. (1-21-92)

06. Tendency to Mislead. Use publications, literature, or any written or verbal promotion that has the capacity, tendency, or effect of misleading or deceiving a consumer acting reasonably under the circumstances. (7-1-93)

07. Fail to Deliver. Fail to deliver the good or service to the consumer, at no expense to him or her, within ten (10) business days of the date of the initial contact by the seller to the consumer. Negative option membership plans operated in compliance with the Federal Trade Commission Rule on Use of Negative Option Plans by Sellers in Commerce (16 C.F.R. Section 425) are exempt from CPR 82.07. (7-1-93)

083. -- 089. (RESERVED)

Subchapter I -- Going-Out-Of-Business Sales
(Rules 90 -- 99)

090. GENERAL RULE (RULE 90).
It is an unfair and deceptive act or practice for a seller to advertise a going-out-of-business sale, unless the circumstances are in fact true and the going-out-of-business sale prices for goods or services are in fact lower than the regular prices of such goods or services. (1-21-92)

091. INFLATING INVENTORY (RULE 91).
No goods may be ordered for, or in anticipation of, a going-out-of-business sale, except in accordance with sound commercial practices. For example, it would be considered commercially sound to order a dryer that matches an existing washing machine. For purposes of subchapter I, all goods ordered within thirty (30) days prior to the beginning of a going-out-of-business sale shall create a rebuttable presumption that such goods were ordered in anticipation of a going-out-of-business sale. (7-1-93)

092. -- 099. (RESERVED)

Subchapter J -- Insufficient Supply/Limitation on Quantity
(Rules 100 - 109)

100. GENERAL RULE (RULE 100).
It is an unfair and deceptive act or practice for a seller to advertise goods or services with intent not to have sufficient quantity of the goods, or sufficient facilities to render the services, to satisfy reasonably expected public demand unless the quantity is clearly and conspicuously advertised as limited. (1-21-92)

101. RAIN CHECKS (RULE 101).
If the seller issues rain checks for goods for which the advertisement does not clearly and conspicuously disclose that quantities are limited, such “rain checks” will be considered a mitigating circumstance, unless there is a pattern of

inadequate inventory, or the inadequate inventory was intentional. (1-21-92)

102. SUBSTITUTE GOODS (RULE 102).
If the seller offers comparable or better goods at the sale price, such practice will be considered a mitigating circumstance, unless there is a pattern of inadequate inventory, or the inadequate inventory was intentional. (1-21-92)

103. DETERMINATION OF REASONABLY EXPECTED PUBLIC DEMAND (RULE 103).
Reasonably expected public demand shall be construed with respect to the following factors: (1-21-92)

01. Records of Past Sales. The record of past sales by a seller. (1-21-92)

02. Price Reduction. The amount of price reduction, if any, and quality of goods or services offered. (1-21-92)

03. Advertising Scope. The extent of advertising engaged in regarding the sale of goods or services and duration of the sale as advertised. (1-21-92)

10*4*. -- 109. (RESERVED)

Subchapter K -- Disclosure of Prior Use
(Rules 110 - 119)

110. GENERAL RULE (RULE 110).
It is an unfair and deceptive act or practice for a seller to represent, directly or indirectly, that goods are new or unused, or that any part of a good is new or unused, if such is not in fact true, or to misrepresent the extent of previous use of goods. (1-21-92)

111. DISCLOSURE REQUIRED (RULE 111).
It is an unfair and deceptive act or practice for a seller to advertise, offer for sale, or sell any goods, as new goods, which are used, or contain used parts, are rebuilt, remanufactured, reconditioned, or contain rebuilt, remanufactured, or reconditioned parts, if such is not in fact true, unless clear and conspicuous disclosure of such characteristics or attributes is made to the consumer prior to the sale. There is a rebuttable presumption that a seller offers or advertises goods as new goods, unless clear and conspicuous disclosure to the contrary is provided. (1-21-92)

112. ACCEPTABLE DISCLOSURES (RULE 112).
The disclosure that goods have been used or contains used parts as required by CPR 111, may be made by use of a word or words such as, but not limited to, “used,” “second hand,” “demonstrator,” “repossessed,” “repaired,” “remanufactured,” “reconditioned,” or “rebuilt,” etc., whichever is applicable to the product involved. (7-1-93)

113. RETURNED GOODS (RULE 113).
Goods are not considered used if a prior consumer was given a full refund or exchange for the goods, in the normal course of business, and if the goods are not known to presently or formerly have defects. (1-1-79)

114. -- 119. (RESERVED)

Subchapter L -- Estimates
(Rules 120 - 129)

120. GENERAL RULE (RULE 120).
It is an unfair and deceptive act or practice in connection with the furnishing of any repairs or improvements to goods, and in any rendering of services, for a seller to unreasonably understate or misstate the estimated price, whether such estimate be oral or written, or whether such estimate be formal or indirect; provided, however, that nothing herein shall be construed to require that an estimate actually be furnished. (1-21-92)

121. UNFORESEEABLE CONDITIONS (RULE 121).
If an estimate is given, it is an unfair and deceptive act or practice for a seller to fail to obtain oral or written

authorization in advance of performing additional and related, unforeseen, but necessary, repairs or improvements or services if such repairs, improvements, or services would unreasonably increase the originally estimated price. (1-21-92)

122. EXPRESS LIMITED AUTHORIZATION (RULE 122).
When a person expressly limits the authorized price of any repairs, improvements, or services, it is an unfair and deceptive act or practice for a seller to exceed such authorization without first obtaining the express oral or written consent of such person. (1-21-92)

123. -- 129. (RESERVED)

Subchapter M -- Repairs and Improvements (Rules 130 - 139)

130. GENERAL RULE (RULE 130).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Necessity of Repairs. Represent that repairs or improvements are necessary when such is not the fact or perform and charge for unnecessary repairs. (1-21-92)

02. Completion of Repairs. Represent that repairs or improvements have been made when such is not the fact. (1-1-79)

03. Misrepresent Danger. Represent that the goods being inspected or diagnosed are in a dangerous condition or that the person's continued use of the goods may be harmful when such is not the fact. (1-1-79)

04. Liens. Wrongfully permit, by action or inaction, any mechanic's or materialmen's lien, or any other lien, to be filed or perfected against goods being repaired or improved, or wrongfully retain possession of the subject goods, when the owner or consumer has tendered payment in full or has tendered payment in accordance with the contract authorizing the repair or improvement. (1-21-92)

05. Model Jobs. In the case of any improvement to real property, represent falsely that the improvement is to serve as a "model" or "advertising job" or similarly mislead the consumer that a price reduction or other compensation will be received by reason of such real property improvement. (1-21-92)

131. ITEMIZED BILLING (RULE 131).
Unless there is an express contract setting forth a lump-sum basis for compensation, it is an unfair and deceptive act or practice for a seller to fail to provide, upon specific request, one itemized billing, statement, or copy of a work order, which includes: (1-21-92)

01. Labor Charges. Labor charges, designating the number of hours and the rate per hour; or designating the flat rate labor charge or job rate if such repairs or improvements are customarily done and billed on a flat rate labor charge or job rate price basis; or, when a minimum charge is imposed, designating that fact. (1-21-92)

02. Parts and Materials. Parts and materials, designating each item that is separately included in calculating the total billing, and designating whether such parts or materials are used or rebuilt. (1-21-92)

03. Other Charges. Miscellaneous charges, designating the reason for the charge and the basis for calculation of the charge. (1-1-79)

04. Unit Pricing. Alternatively, where the agreement sets forth a price per unit, then the number of units being billed at that price. For example, a contract provides for carpeting and installation at ten dollars ($10) per yard. The itemized billing would state "92 yards carpeting at $10 per yard equals $920." (1-1-79)

132. OLD OR REPLACED PARTS (RULE 132).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Inspection. Fail, upon request, to return or allow inspection of old or replaced parts upon completion of repairs or improvements. (1-1-79)

02. Retaining Old Parts. Retain old or replaced parts for reuse or resale, after request has been made for their return, unless such retention is made known to the consumer prior to performing any repairs or improvements, or unless the seller is able to demonstrate that he had made a bona fide price reduction for the newly installed parts in consideration for keeping the old or replaced parts, or unless the replacement was made under a warranty. (1-1-79)

133. -- 139. (RESERVED)

Subchapter N -- Time of Delivery or Performance Including Mail Order Sales (Rules 140 -- 149)

140. GENERAL RULE (RULE 140).
In connection with any sale, except mail order sales, it is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Promising Delivery. Offer or promise prompt delivery or performance unless, at the time of the offer or promise, the seller has taken reasonable action to ensure such prompt delivery or performance. (1-1-79)

02. Failure to Deliver. Fail to deliver goods or perform services, which have been ordered in person or otherwise, within a reasonable time following a specified delivery or performance date or within a reasonable time following the receipt of payment, unless the seller can show circumstances beyond his control and not within his knowledge at the time the order was accepted which prevented the seller from meeting the specified delivery date, and unless the seller can further show that he has given timely notice to the consumer of any such delay. (1-21-92)

141. MAIL ORDER SALES (RULE 141).
In connection with any mail order sale, pursuant to CPR 33, it is an unfair and deceptive act or practice for a seller to fail to comply with the provisions of the Federal Trade Commission Rule on Mail Order Merchandise (16 C.F.R. 435). (7-1-93)

142. -- 149. (RESERVED)

Subchapter O -- Lay-Away Plans (Rules 150 - 159)

150. GENERAL RULE (RULE 150).
It is an unfair and deceptive act or practice for a seller, in conjunction with a lay-away transaction, to: (1-21-92)

01. Misrepresent Lay-Away Policies. Misrepresent, in any way, the seller's policy with reference to a lay-away plan. (1-21-92)

02. Failure to Lay Aside Goods. Fail to actually lay aside the specific goods chosen by the consumer or exact duplicates, unless a clear and conspicuous disclosure to the contrary is made to the consumer. (1-21-92)

03. Lay-Away Time Periods. Fail to clearly and conspicuously disclose to the consumer that the specified goods or exact duplicates will be set aside only for a certain period of time, if such is the case. (1-21-92)

04. Duplicates. Deliver to the consumer after payments are completed, goods that are not identical or exact duplicates to those specified, unless informed, mutual consent has been obtained. (7-1-93)

05. Increase Price. Increase the price of the goods laid away after the original agreement has been made. (1-21-92)

06. Failure to Deliver. Fail to deliver to the consumer, upon request, at any time payment is made, a

receipt showing the amount of that payment and the date thereof and, upon request, an itemized statement showing the amount previously paid and the amount still owing. (1-21-92)

151. REFUNDS OF LAY-AWAY PAYMENTS (RULE 151).
It is an unfair and deceptive act or practice for a seller to fail to clearly and conspicuously disclose, or to misrepresent in any manner: (1-21-92)

01. Possible Default or Cancellation. The seller's policy with reference to the consumer's possible default or cancellation. (1-21-92)

02. Refund Policy. The seller's policy with respect to refund of payments made prior to the consumer's default or cancellation. (1-21-92)

152. FORFEITURE AND DEFAULT (RULE 152).
If there is a penalty, charge or forfeiture for cancellation or default, written disclosure must be clearly and conspicuously furnished on the initial lay-away receipt and clearly and conspicuously posted at the lay-away desk. (1-21-92)

153. -- 159. (RESERVED)

Subchapter P -- Unfair Solicitation Practices at Other Than Trade Premises (Rules 160 - 169)

160. DISCLOSURE REQUIREMENTS (RULE 160).
It is an unfair and deceptive act or practice for a seller to solicit a sale or order for sale of goods or services at other than appropriate trade premises, in person or by means of telephone, without clearly, affirmatively, and expressly revealing at the time the seller initially contacts the consumer, and before making any other statement, except a greeting, or asking the consumer any other questions, that the purpose of the contact is to effect a sale, by doing all of the following: (1-21-92)

01. Solicitor's Identity. Stating the identity of the person making the solicitation. (1-1-79)

02. Trade Name of Seller. Stating the trade name of the seller represented by the person making the solicitation. (1-21-92)

03. Types of Goods or Services Offered. Stating the kind of goods or services being offered for sale. (1-21-92)

04. In-Person Contact. In the case of an "in person" contact, the seller making the solicitation shall, in addition to orally revealing the above information, show or display identification which states: (1-21-92)

a. The identity of the person making the solicitation; (1-1-79)

b. The trade name of the seller represented by the person making the solicitation; and (1-21-92)

c. The address of the place of business of one of such persons so identified. (1-1-79)

161. GENERAL RULE (RULE 161).
It is an unfair and deceptive act or practice for a seller, in soliciting a sale or order for the sale of goods or services, either in person or by telephone, at other than appropriate trade premises, to: (1-21-92)

01. Misleading Plan. Use any plan, scheme, or ruse which misrepresents his true identity or purpose. (1-21-92)

02. Representations with Capacity to Mislead. Use any representations which have the capacity, tendency, or effect of misleading or deceiving a consumer acting reasonably under the circumstances in order to induce a sale, rental, lease, or order for the sale, rental, or lease of goods or services. (1-21-92)

03. Leaving Premises. Fail to promptly leave the premises at which a sales solicitation or presentation is made when the consumer has indicated he does not wish to buy, lease, rent, or order the offered goods or services, or has requested that the person leave the premises. (1-21-92)

162. PROHIBITED PRACTICES (RULE 162).
It is an unfair and deceptive act or practice for a seller: (7-1-93)

01. Misrepresentations About How or Why Consumer Selected. In soliciting a sale or order for the sale of goods or services, either in person or by telephone, at other than appropriate trade premises, to: (7-1-93)

a. Represent that the seller making the solicitation is making an offer to specially selected persons or that the consumer has been specifically selected, unless the selection process is designed to reach a particular type or types of persons; or (7-1-93)

b. Represent that the seller making the solicitation is conducting a survey, test, or research project, or is engaged in a contest or other venture to win a cash award, scholarship, vacation, or similar prize, if in fact the principal purpose or objective is to make a sale of goods or services or to obtain information to help identify sales prospects. (1-21-92)

02. Misleading Practices. In soliciting a sale or order for the sale of goods or services, either in person or by telephone, at other than appropriate trade premises, to misrepresent, directly or by implication: (7-1-93)

a. The identity of the seller, the person on whose behalf the seller is making solicitations, the seller's affiliation or association with other firms, businesses, or governmental entities, or the identity of the goods or services he offers to sell. For example, the X City Fire Department is putting on a fireman's ball. It hires a professional solicitor who is getting a percentage of the proceeds. The solicitor and his employees and agents should identify themselves on the telephone as follows: "I am Pat Telemarketer of XYZ Productions and I am calling for the X City Fire Department." (1-21-92)

b. The reasons for, existence of, or amounts of price reductions; (1-1-79)

c. The length of any sales presentation; (1-21-92)

d. The delivery or performance date; or (1-21-92)

e. The nature or purpose of any documents the consumer is requested or required to execute in connection with the purchase or lease of any goods or services. (1-21-92)

163. MAIL ORDER AND CATALOG SALES (RULE 163).
It is an unfair and deceptive act or practice for a seller engaged in trade and commerce at other than appropriate trade premises, to fail to disclose the legal name under which business is done and the complete street address from which business is actually conducted in all advertising and promotional materials, including order blanks and forms. (1-21-92)

164. APPLICATION OF OTHER RULES (RULE 164).
Pursuant to CPR 5, subchapter P is not intended to contain the only rules governing solicitations or transactions occurring at other than appropriate trade premises. (7-1-93)

165. -- 169. (RESERVED)

Subchapter Q -- Cooling-Off Period for Door-to-Door Sales (Rules 170 -- 179)

170. GENERAL RULE (RULE 170).
In connection with any door-to-door sale, it is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Written Disclosures. Fail to furnish the consumer with a fully completed receipt or copy of any contract pertaining to such sale at the time of its execution, which is in the same language, e.g., Spanish, as that principally used in the oral sales presentation and which shows the date of the transaction and contains the name and street address of the seller, and the following statement in ten (10) point type in immediate proximity to the space reserved in the contract for the signature of the consumer or on the front page of the receipt if a contract is not used: YOU, THE BUYER, MAY CANCEL THIS TRANSACTION AT ANY TIME PRIOR TO MIDNIGHT OF THE THIRD BUSINESS DAY AFTER THE DATE OF THIS TRANSACTION. SEE THE ATTACHED NOTICE OF CANCELLATION FORM FOR AN EXPLANATION OF THIS RIGHT. (1-21-92)

02. Notice of Cancellation. Fail to furnish each consumer, at the time he signs the door-to-door sales contract or otherwise agrees to buy goods or services from the seller, a completed form in duplicate, captioned "NOTICE OF CANCELLATION," which shall be attached to the contract or receipt and easily detachable, and contain in ten (10) point bold face type the following statement in the same language, e.g., Spanish, as that used in the contract:

NOTICE OF CANCELLATION
enter date of transaction

Date

YOU MAY CANCEL THIS TRANSACTION, WITHOUT ANY PENALTY OR OBLIGATION, WITHIN THREE BUSINESS DAYS FROM THE ABOVE DATE.

IF YOU CANCEL, ANY PROPERTY TRADED IN, ANY PAYMENTS MADE BY YOU UNDER THE CONTRACT OR SALE, AND ANY NEGOTIABLE INSTRUMENT EXECUTED BY YOU WILL BE RETURNED WITHIN 10 BUSINESS DAYS FOLLOWING RECEIPT BY THE SELLER OF YOUR CANCELLATION NOTICE, AND ANY SECURITY INTEREST ARISING OUT OF THE TRANSACTION WILL BE CANCELLED.

IF YOU CANCEL, YOU MUST MAKE AVAILABLE TO THE SELLER AT YOUR RESIDENCE, IN SUBSTANTIALLY AS GOOD CONDITION AS WHEN RECEIVED, ANY GOOD DELIVERED TO YOU UNDER THIS CONTRACT OR SALE; OR YOU MAY IF YOU WISH, COMPLY WITH THE INSTRUCTIONS OF THE SELLER REGARDING THE RETURN SHIPMENT OF THE GOODS AT THE SELLER'S EXPENSE AND RISK.

IF YOU DO MAKE THE GOODS AVAILABLE TO THE SELLER AND THE SELLER DOES NOT PICK THEM UP WITHIN 20 DAYS OF THE DATE OF YOUR NOTICE OF CANCELLATION, YOU MAY RETAIN OR DISPOSE OF THE GOODS WITHOUT ANY FURTHER OBLIGATION. IF YOU FAIL TO MAKE THE GOODS AVAILABLE TO THE SELLER, OR IF YOU AGREE TO RETURN THE GOODS TO THE SELLER AND FAIL TO DO SO, THEN YOU REMAIN LIABLE FOR PERFORMANCE OF ALL OBLIGATIONS UNDER THE CONTRACT.

TO CANCEL THIS TRANSACTION, MAIL OR DELIVER A SIGNED AND DATED COPY OF THIS CANCELLATION NOTICE OR ANY OTHER WRITTEN NOTICE, OR SEND A TELEGRAM, TO (address of seller's place of business) NOT LATER THAN MIDNIGHT OF (Date). (1-21-92)

03. Completed Notice of Cancellation. Fail, before furnishing copies of the "Notice of Cancellation" to the consumer, to complete both copies by entering the name of the seller, the address of the seller's place of business, the date of the transaction, and the date, not earlier than the third business day following the date of the transaction, by which the consumer may give notice of cancellation. (1-21-92)

04. Purported Waivers. Include in any door-to-door contract or receipt any confession of judgment or any waiver of any of the rights to which the consumer is entitled under subchapter Q, including, specifically, his right to cancel the sale in accordance with the provisions of subchapter Q. (7-1-93)

05. Oral Notice of Cancellation. Fail to inform each consumer orally, at the time he signs the contract or purchases the goods or services, of his right to cancel. (1-21-92)

06. Misrepresent Right to Cancel. Misrepresent in any manner the consumer's right to cancel. (1-21-92)

07. Failure to Honor Notice of Cancellation. Fail or refuse to honor any valid notice of cancellation by a consumer and within ten (10) business days after the receipt of such notice, to: (1-21-92)

a. Refund all payments made under the contract or sale; (1-1-79)

b. Return any goods or property traded in, in substantially as good condition as when received by the seller; and (1-21-92)

c. Cancel and return any negotiable instrument executed by the consumer in connection with the contract or sale and take any action necessary or appropriate to promptly terminate any security interest created in the transaction. (1-21-92)

08. Transferring Evidences of Indebtedness. Negotiate, transfer, sell, or assign any note or other evidence of indebtedness to a finance company or other third party prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased. (1-21-92)

09. Transferring Traded Goods. Transfer, sell, or assign any goods traded in prior to midnight of the fifth business day following the day the contract was signed or the goods or services were purchased. (1-21-92)

10. Failure to Notify Concerning Return of Goods. Fail, within ten (10) business days of receipt of the consumer's notice of cancellation, to notify the consumer whether the seller intends to take possession of or abandon any goods previously shipped or delivered to the consumer under the cancelled contract. (1-21-92)

171. -- 189. (RESERVED)

Subchapter S -- Pyramid and Chain Distribution Schemes (Rules 190 - 199)

190. GENERAL RULE (RULE 190).
It is an unfair and deceptive act or practice for a seller to promote, offer, advertise, or grant participation in a pyramid or chain distribution scheme. (1-21-92)

191. PURPORTED LIMITATIONS (RULE 191).
A limitation as to the number of persons who may participate, or the presence of additional conditions affecting eligibility, or the fact that, in addition to the right to receive consideration for participation in the marketing plan, a person introduced into the plan actually receives something of value, does not, in and of itself, change the character of the marketing plan as a chain or pyramid distribution scheme. (1-21-92)

192. FACTORS (RULE 192).
In determining whether a promotion is a pyramid or chain distribution scheme, the following factors, among others, may be considered: (1-21-92)

01. Amount of Fees. Whether a substantial fee is required for entry and continued participation in the promotion. Requirement of a substantial fee suggests that the promotion is an unlawful pyramid or chain distribution scheme. (1-21-92)

02. Refund Policies. Whether the purchase of nonrefundable goods is required for entry and continued participation in the promotion or whether a consumer's right to a refund is subject to significant restrictions. Requirement of such purchase or purchases or significant restrictions placed on a consumer's right to obtain a refund suggests that the promotion is an unlawful pyramid or chain distribution scheme. (7-1-93)

03. Plan's Primary Focus. Whether the primary focus of the promotion is the opportunity for financial gain through the recruitment of more participants, not the sale of goods or services. Marketing programs based

primarily upon the recruitment of other participants suggest that the promotion is an unlawful pyramid or chain distribution scheme. (1-21-92)

04. Price of Goods. Whether the goods, if any, for which the promotion allegedly exists to distribute, are inflated in price. An inflated price for the goods suggests that the promotion is an unlawful pyramid or chain distribution scheme. (1-21-92)

193. -- 199. (RESERVED)

Subchapter T -- Loan Broker Fees
(Rules 200 - 209)

200. GENERAL RULE (RULE 200).
It is an unfair and deceptive act or practice for a loan broker to: (7-1-93)

01. Prohibited Practices. Directly or indirectly receive any fee, interest, or other charge of any nature, including, but not limited to, payments to information providers, from a consumer until a loan or extension of credit is made to the consumer or a written commitment to loan or extend credit is delivered to the consumer by an exempt loan broker. (7-1-93)

02. Qualifying for a Loan. Advertise that all or most consumers or that consumers with bad credit or no credit histories will qualify for a loan. (7-1-93)

03. Conditions of Loan. Advertise loan brokering services without clearly and conspicuously disclosing any material restrictions regarding obtaining a loan, the cost of the service, and the maximum period of time the loan broker will take to arrange or make the loan to the consumer. (7-1-93)

04. Written Disclosure. Fail to provide the consumer a written contract with the following information contained therein: (7-1-93)

a. The name, street address, and telephone number of the loan broker; (7-1-93)

b. The maximum period of time the loan broker will take to arrange or make the loan to the consumer; and (7-1-93)

c. The following statement in at least ten point, bold face type in immediate proximity to the space reserved in the contract for the signature of the consumer:

YOU THE CONSUMER ARE UNDER NO OBLIGATION TO PAY ANY FEE OR CHARGE OF ANY NATURE UNLESS AND UNTIL YOU RECEIVE THE MONEY FROM THE LOAN APPLIED FOR OR A WRITTEN COMMITMENT TO LOAN OR EXTEND CREDIT FROM A QUALIFIED LENDING INSTITUTION AS DEFINED BY IDAHO CONSUMER PROTECTION RULE 20.25, CODIFIED AT IDAPA 04.02.01.020.25. (7-1-93)

201. EXCEPTIONS (RULE 201).
CPR 200 does not apply to fees and charges authorized by the laws of the state of Idaho or the laws of the United States if the maximum charge and the manner of collecting the charge are set out in the law or in the rule or regulation adopted under law. (7-1-93)

202. -- 209. (RESERVED)

Subchapter U -- Preservation of Consumers' Claims and Defenses (Holder in Due Course)
(Rules 210 - 219)

210. GENERAL RULE (RULE 210).
It is an unfair and deceptive act or practice for a seller, directly or indirectly, to: (1-21-92)

01. Accept Contract Without Written Notice. Take or receive a consumer credit contract which fails to contain the following statement in at least ten (10) point, bold face type:

NOTICE

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED PURSUANT HERETO OR WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. (1-21-92)

02. Accept Monies Without Written Notice. Accept, as full or partial payment for such sale or lease, the proceeds of any purchase money loan, unless any consumer credit contract made in connection with such purchase money loan contains the following statement in at least ten point, bold face type:

ANY HOLDER OF THIS CONSUMER CREDIT CONTRACT IS SUBJECT TO ALL CLAIMS AND DEFENSES WHICH THE DEBTOR COULD ASSERT AGAINST THE SELLER OF GOODS OR SERVICES OBTAINED WITH THE PROCEEDS HEREOF. RECOVERY HEREUNDER BY THE DEBTOR SHALL NOT EXCEED AMOUNTS PAID BY THE DEBTOR HEREUNDER. (1-21-92)

211. -- 219. (RESERVED)

Subchapter V -- Unordered Goods or Services
(Rules 220 - 229)

220. GENERAL RULE (RULE 220).
It is an unfair and deceptive act or practice for a seller to: (1-21-92)

01. Send or Provide Unordered Goods or Services. Send or provide to a consumer unordered goods or services. (7-1-93)

02. Bills. Send any bill to a consumer for unordered goods or services. (1-21-92)

03. Delay or Disrupt Goods or Services. Interrupt, delay, terminate, cancel, or deny delivery of or other provision of goods or services to a consumer because the consumer has not paid for or returned the unordered goods or services. (1-21-92)

04. Requiring Consumer Consent. Require a consumer to consent or authorize the receipt of or provision for unordered goods or services as a condition of doing business with the person. (1-21-92)

221. -- 229. (RESERVED)

Subchapter W -- Automobile Advertising and Sales
(Rules 230 - 239)

230. OBJECTIVE (RULE 230).
It is the objective of subchapter W to implement the intent of the legislature as declared in Section 48-601, Idaho Code, by furthering truthful and accurate advertising and sales practices for the benefit of the citizens and motor vehicle dealers of this state by providing for motor vehicle advertising and sales rules applicable to motor vehicle dealers. (7-1-93)

231. APPLICATION OF OTHER RULES (RULE 231).
Pursuant to CPR 5, subchapter W is not intended to contain the only rules governing automobile advertising and sales practices. (7-1-93)

232. GENERAL ADVERTISING PRACTICES (RULE 232).
The following are unfair and deceptive advertising practices: (7-1-93)

01. Clear and Conspicuous Disclosure of Material Terms. The advertising of any motor vehicle for sale, lease, rent without clearly and conspicuously disclosing all material terms and conditions relating to the offer. Material terms include those without which the advertisement would have the capacity, tendency, or effect of misleading or deceiving consumers acting reasonably under the circumstances. (7-1-93)

02. Footnotes and Asterisks. Use of one (1) or more disclosures by footnote or asterisk which alone or in combination confuse, contradict, materially modify, or unreasonably limit a principal message of the advertisement. (1-21-92)

03. Print Size. Use of any print in type size so small as to be not readily noticeable. An advertisement is misleading if important disclosures made therein are relegated to small print and inconspicuously buried at the bottom of the page. (1-21-92)

04. Photographs and Illustrations. Use of inaccurate photographs or illustrations when describing specific automobiles. For example, advertising a fully-loaded car when the ad actually refers to a minimally-equipped automobile in text. (1-21-92)

05. Color Contrasts. Use of color contrasts which render the text confusing or difficult to read. (1-21-92)

06. Abbreviations. Advertising with abbreviations which are not commonly understood by the general public (e.g., abbreviations commonly understood--AC, AM/FM, AUTO, AIR, 2DR, CYL Dealer's Doc Fee, MSRP, and OAC) unless approved by federal or state law (e.g., terms allowed by the federal Truth in Lending Act, 15 U.S.C. Section 1601 et seq., such as "APR"). (7-1-93)

233. PRICE ADVERTISING (RULE 233).
It is an unfair and deceptive act or practice for a dealer to: (7-1-93)

01. Advertised Price. Advertise the price of a motor vehicle without including in the advertised price all costs to the consumer at the time of sale, or which are necessary or usual prior to delivery of such vehicle to the consumer, including without limitation, any costs of freight, delivery, dealer preparation, and any other charges of any nature; provided, however, the following may be excluded from the advertised price of the motor vehicle: (7-1-93)

a. Taxes, license, and title fees; and (1-21-92)

b. A dealer documentation service fee, as defined herein, so long as the advertisement clearly and conspicuously discloses, in close proximity to the advertised price, the amount of such fee and that the fee is a dealer imposed fee; i.e. PRICE DOES NOT INCLUDE $_____ (insert actual amount charged for dealer documentation service fee) DEALER DOC FEE. (1-21-92)

02. Advertising Limitations. Fail to clearly and conspicuously disclose in an advertisement any material limitations including, but not limited to: (7-1-93)

a. The number of motor vehicles in stock subject to the offer if the number is not likely to meet reasonably expected public demand; (1-21-92)

b. The period of time during which the offer is in effect, if the offer is subject to a time limitation of fourteen (14) days or less or when an offer is within fourteen (14) days of its close; and (7-1-93)

c. Any other applicable restrictions to which the advertised price may be subject. (1-21-92)

03. Low Prices. Use the term "low prices" or words of similar meaning or import in the advertisement, unless the prices offered are lower than those usually offered by the dealer or other dealers in the same trade area.

(7-1-93)

04. Lowest Prices, Guaranteed Lowest Prices. Advertise that motor vehicles cost less in a particular community or geographic area or use the terms "lowest prices," "guaranteed lowest prices," "prices lower than anyone else," "nobody can beat our prices," or words of similar meaning or import in the advertisement, unless the dealer, or dealer association in the case of cooperative dealer advertising, systematically monitors and continues to monitor competitive prices in the trade area and can substantiate such claims. (7-1-93)

05. Price Matching. Use terms "meet your best offer," or "we won't be undersold," or terms of similar meaning or import which suggest that a dealer will beat or match a competitor's price unless: (7-1-93)

a. The advertisement clearly and conspicuously discloses the dealer's price matching policy and any limitations; and (1-21-92)

b. Such policy does not require the presentation of any evidence which places an unreasonable burden on the consumer. (1-21-92)

06. Dealer's Cost. Except as required in CPR 233.07.a., advertise a motor vehicle using any reference to the term "dealer's cost," or that a motor vehicle is available for purchase at, above or below "cost." (7-1-93)

07. Invoice Pricing. Advertise that a motor vehicle is available for purchase at an amount below, at, or above "factory invoice," "factory billing," "manufacturer's invoice," or terms of similar meaning or import, unless: (7-1-93)

a. The advertisement uses the terms "factory invoice," "manufacturer's invoice," or other terms that clearly convey that the invoice referred to is the factory or manufacturer's invoice; (1-21-92)

b. The advertised reference to factory or manufacturer's invoice price shall be the final price listed on the factory or manufacturer's invoice; (1-21-92)

c. The following disclosure is clearly and conspicuously disclosed in the advertisement: "FACTORY INVOICE MAY NOT REFLECT DEALER'S ACTUAL COST"; and (1-21-92)

d. The original factory or manufacturer's invoice, or a true and correct copy thereof, shall be readily available at the place of business for inspection by prospective customers. (1-21-92)

08. Vehicle Availability. Subject to CPR 233.01 and CPR 233.02, fail to allow consumers to purchase all motor vehicles described by the advertisement at the advertised price. If some motor vehicles in stock may not be purchased at the advertised prices, the advertisement shall clearly and conspicuously disclose that the advertised price applies only to a specified number of motor vehicles. Vehicle identification numbers for any motor vehicle advertised for sale by a dealer shall be readily available at the dealer's place of business for inspection by customers. (7-1-93)

09. Buy-Down Rate. Advertise the sale of any motor vehicle at a "buy-down" rate, as that term is defined herein, without clearly and conspicuously disclosing in the advertisement the following: "BELOW MARKET RATE MAY AFFECT PURCHASE PRICE OF CAR." (7-1-93)

10. Hidden Finance Charges. Fail to include hidden finance charges (i.e. the difference, if any, between the cash and credit price of a "buy-down" motor vehicle) in the Truth in Lending calculation and disclosure requirements. (7-1-93)

234. OTHER ADVERTISING PRACTICES (RULE 234).
It is an unfair and deceptive act or practice for a dealer to: (7-1-93)

01. Demonstrator Vehicles. Advertise any demonstrator vehicle without clearly and conspicuously disclosing: (7-1-93)

a. The year, make, and model of the motor vehicle; and (1-21-92)

b. That the motor vehicle is a "demonstrator" or has been previously driven. (1-21-92)

02. Executive or Official Vehicles. Advertise any executive or official vehicle: (7-1-93)

a. Without clearly and conspicuously disclosing the year, make, and model of the motor vehicle; (1-21-92)

b. Without clearly and conspicuously disclosing that the motor vehicle is an executive or official vehicle and has been previously driven, using the words "Pre-Driven," or "Previously Driven," or words of similar meaning; (1-21-92)

c. Without displaying the Used Car Buyers Guide on the motor vehicle as required by the Federal Trade Commission Rule on Used Motor Vehicles (16 C.F.R. 455); or (1-21-92)

d. By using any word or phrase which would lead a reasonable consumer to believe that the advertised motor vehicle is a new motor vehicle. (1-21-92)

03. Leased Vehicles. Advertise any leased vehicle: (7-1-93)

a. Without clearly and conspicuously disclosing the year, make, and model of the motor vehicle; (1-21-92)

b. Without clearly and conspicuously disclosing that the motor vehicle is a leased vehicle; (1-21-92)

c. Without displaying the Used Car Buyers Guide on the motor vehicle as required by the Federal Trade Commission Rule on Used Motor Vehicles (16 C.F.R. 455); or (1-21-92)

d. By using any word or phrase which would lead a reasonable consumer to believe that the advertised motor vehicle is a new motor vehicle. (1-21-92)

04. Other Used Motor Vehicles. Advertise any other used motor vehicle: (7-1-93)

a. Without clearly and conspicuously disclosing the year, make, and model of the motor vehicle; (1-21-92)

b. Without displaying the Used Car Buyers Guide on the motor vehicle as required by the Federal Trade Commission Rule on Used Motor Vehicles (16 C.F.R. 455); or (1-21-92)

c. By using any word or phrase which would lead a reasonable consumer to believe that the advertised motor vehicle is a new motor vehicle. (1-21-92)

05. Dealer Rebates. Advertise that a consumer will receive a payment of money, or that a payment will be made to a third person on the consumer's behalf, in conjunction with the purchase or lease of a motor vehicle, unless the payment is being offered by the manufacturer of the motor vehicle. A dealer may also advertise any manufacturer's rebate for which the manufacturer requires any financial participation by the dealer so long as the dealer clearly and conspicuously discloses in the advertisement the following disclosure: "DEALER PARTICIPATION IN THE REBATE PROGRAM MAY INCREASE VEHICLE PRICE BEFORE REBATE." (7-1-93)

06. Trade-In Allowances. Advertise or offer a specific trade-in allowance (i.e., "$2500 minimum trade-in"), including, without limitation, that the trade-in will be valued at a specific amount or guaranteed minimum amount if: (7-1-93)

a. The price of the motor vehicle offered for sale is increased because of the amount of the allowance; or (1-21-92)

b. The offer fails to disclose that it is conditioned upon the purchase of additional options or services, if such is the case. (1-21-92)

07. Trade-In Policies. Advertise or offer a range of amounts for trade-ins (e.g., "up to $1,000" or "as much as $1,000"), unless the advertisement clearly and conspicuously discloses the criteria the dealer will use to determine the amount to be paid for a particular trade-in. Such criteria might include age, condition, or mileage of the motor vehicle. (7-1-93)

08. No Money Down. Advertise using the phrase "no down payment," "no money down," or words of similar meaning, unless, subject to the consumer's credit approval, the dealer is willing to sell the advertised motor vehicle to a consumer without the requirement of a trade-in or prior payment of any kind. (7-1-93)

09. Dealer's Size. Use statements as to the dealer's size, inventory, or sales volume to represent or imply that the dealer can and does sell automobiles at a lower price, as a result of such size, inventory, or volume, than do other dealers, unless such is the fact. (7-1-93)

10. Factory Outlet. Advertise using the terms "Factory Outlet," "Authorized Distribution Center," or similar special affiliation, connection or relationship with the manufacturer that is greater or more direct than that of any other dealer, when, in fact, no such affiliation, connection, or relationship exists. (7-1-93)

11. Contract Add-Ons. Negotiate the terms of a sale and thereafter add the cost of items to the contract, including, without limitation, extended warranties, credit life, dealer preparation, or undercoating, to the contract without previously disclosing this to the consumer and without first obtaining the consumer's consent. (7-1-93)

235. CREDIT SALES ADVERTISING (RULE 235).

It is an unfair and deceptive act or practice for a dealer to: (7-1-93)

01. Disclosure Requirements. Fail to clearly and conspicuously disclose in connection therewith that the advertised credit terms are available "On Approved Credit," or the abbreviation, "OAC." In advertising credit terms, a dealer shall also comply with either CPR 235.01.a. or CPR 235.01.b. below: (7-1-93)

a. Credit terms advertised by a dealer shall be calculated on the basis of the total retail price of the advertised motor vehicle (which, for purposes of calculating credit terms must include any applicable dealer documentation service fee, as defined herein) plus taxes, license, and title fees, from which may be subtracted out only the amount of the advertised down payment; or (1-21-92)

b. The credit terms advertised by a dealer may be calculated exclusive of taxes, license, and title fees and the dealer's documentation service fee so long as the following statement (or a statement of similar meaning) is clearly and conspicuously disclosed in connection with the credit sale advertisement: "DOES NOT INCLUDE TAXES, TITLE, LICENSE FEES OR $_____ DEALER DOC FEE" (insert actual amount charged for dealer documentation service fee). (1-21-92)

02. Advertised Terms Unavailable. Advertise credit terms that are not actually available. (7-1-93)

03. Advertised Finance Rates. Advertise a finance rate (A.P.R.) without disclosing, if such is the fact, the following: (7-1-93)

a. That such rate is limited to certain models; (1-21-92)

b. That to take advantage of such a reduced rate, a consumer must purchase additional options or services; (1-21-92)

c. That taking advantage of the rate will increase the final price of the vehicle or options or services purchased; (1-21-92)

d. That the offer expires after a limited time period; or (1-21-92)

e. Any other conditions, qualifications, or limitations which materially affect the availability of such rate. (1-21-92)

04. Truth in Lending Disclosures. Fail to comply with the disclosure requirements of the federal Truth in Lending Act (15 U.S.C. Section 1601 et seq.) and Regulation Z promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. Section 226). Truth in Lending disclosures must be clear and conspicuous. (7-1-93)

236. TRUTH IN LEASING ADVERTISING (RULE 236).
It is an unfair and deceptive act or practice for a dealer to fail to comply with the disclosure requirements of the consumer leasing portions of the federal Truth in Lending Act (15 U.S.C. Section 1667 et seq.) and Regulation M promulgated by the Board of Governors of the Federal Reserve System (12 C.F.R. Section 213). Truth in Leasing disclosures must be clear and conspicuous. (7-1-93)

237. MOTOR VEHICLE SUBJECT-TO-FINANCING CONTRACTS (RULE 237).

01. Required Contract Disclosure. Unless specifically exempted in CPR 237.06, every subject-to-financing contract for the purchase of a motor vehicle in Idaho shall include the following disclosure in ten (10) point bold face type or a size at least three (3) points larger than the smallest type appearing in the contract or form:

YOU AND THE DEALER HAVE AGREED THAT THE MOTOR VEHICLE WILL BE DELIVERED TO YOU PRIOR TO THE PURCHASE. IF FINANCING CANNOT BE ARRANGED ON THE TERMS AND WITHIN THE TIME PERIOD AGREED UPON IN THE MOTOR VEHICLE PURCHASE CONTRACT, THE CONTRACT IS NULL AND VOID. (7-1-93)

02. Other Contractual Provisions. Nothing in CPR 237 is intended to prevent language from being included in a motor vehicle purchase contract specifying the responsibilities of the parties thereto in the event the contract becomes null and void pursuant to CPR 237. (7-1-93)

03. Trade-In Motor Vehicles. If a motor vehicle purchase contract has become null and void pursuant to CPR 237, the dealer must return the consumer's trade-in vehicle, if any, together with its title, if previously provided to the dealer, upon the consumer's return of the motor vehicle to the dealer. If the trade-in vehicle is not available, the dealer shall give the consumer the trade-in allowance within one business day. (7-1-93)

04. Subsequent Agreement. Nothing in CPR 237 is intended to prevent the parties to a motor vehicle purchase agreement from entering into a subsequent agreement for the purchase of the motor vehicle on different terms and conditions. (7-1-93)

05. Consumer's Copy. A copy of the disclosure specified in CPR 237.01 must be given to the consumer at the time the contract is signed. (7-1-93)

06. Exceptions. CPR 237 does not apply to sales transactions in which a dealer purchases a motor vehicle for resale. (7-1-93)

238. -- 999. (RESERVED)

Subchapter A -- General Provisions
(Rules 0 through 99)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Sections 67-5206(2), 67-5206(3) and 67-5206(4), Idaho Code. (3-24-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. This chapter is titled "Idaho Rules of Administrative Procedure of the Attorney General." (3-24-93)

02. Scope. Every state agency that conducts rulemaking or hears contested cases must adopt individual rules of procedure as required by this chapter. Further every state agency will be considered to have adopted the procedural rules of this chapter unless the state agency by rule affirmatively declines to adopt this chapter, in whole or in part. (3-24-93)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking in the adoption of these rules are available from the Office of the Attorney General, Statehouse, Boise, Idaho 83720. (3-24-93)

003. ADMINISTRATIVE APPEAL (RULE 3).
There is no provision for administrative appeals before the Attorney General under this chapter. This chapter governs administrative appeals before and within agencies that do not by rule opt out of some or all of this chapter. (3-24-93)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).
All rules required to be adopted by this chapter are public records. (3-24-93)

005. DEFINITIONS (RULE 5).
As used in this chapter: (3-24-93)

01. Administrative Code. The Idaho Administrative Code established in Chapter 52, Title 67, Idaho Code. (3-24-93)

02. Agency. Each state board, commission, department or officer authorized by law to make rules or to determine contested cases, but does not include the legislative or judicial branches, executive officers listed in Section 1, article IV, of the constitution of the state of Idaho in the exercise of powers derived directly and exclusively from the constitution, the state militia or the state board of correction. (3-24-93)

03. Agency Action. Agency action means: (3-24-93)

a. The whole or part of a rule or order; (3-24-93)

b. The failure to issue a rule or order; or (3-24-93)

c. An agency's performance of, or failure to perform, any duty placed on it by law. (3-24-93)

04. Agency Head. An individual or body of individuals in whom the ultimate legal authority of the agency is vested by any provision of law. (3-24-93)

05. Bulletin. The Idaho Administrative Bulletin established in Chapter 52, Title 67, Idaho Code. (3-24-93)

06. Contested Case. A proceeding which results in the issuance of an order. (3-24-93)

07. Coordinator. The administrative rules coordinator prescribed in Section 67-5202, Idaho Code. (3-24-93)

08. **Document**. Any proclamation, executive order, notice, rule or statement of policy of an agency. (3-24-93)

09. **Final Rule**. A rule that has been adopted by an agency under the regular rulemaking process and that is in effect. (7-1-97)

10. **License**. The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (3-24-93)

11. **Official Text**. The text of a document issued, prescribed, or promulgated by an agency in accordance with this chapter, and which is the only legally enforceable text of such document. (4-7-11)

12. **Order**. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (3-24-93)

13. **Party**. Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (3-24-93)

14. **Pending Rule**. A rule that has been adopted by an agency under the regular rulemaking process (i.e., proposal of rule in Bulletin, opportunity for written comment or oral presentation, and adoption of rule in Bulletin) and remains subject to legislative review. (7-1-97)

15. **Person**. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (3-24-93)

16. **Provision of Law**. The whole or a part of the state or federal constitution, or of any state or federal: (3-24-93)

a. Statute; or (3-24-93)

b. Rule or decision of the court. (3-24-93)

17. **Proposed Rule**. A rule published in the bulletin as provided in Section 67-5221, Idaho Code. (7-1-97)

18. **Publish**. To bring before the public by publication in the bulletin or administrative code, or as otherwise specifically provided by law. (3-24-93)

19. **Rule**. The whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of Chapter 52, Title 67, Idaho Code, and that implements, interprets, or prescribes: (3-24-93)

a. Law or policy, or (3-24-93)

b. The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include: (3-24-93)

i. Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; (3-24-93)

ii. Declaratory rulings issued pursuant to Section 67-5232, Idaho Code; (3-24-93)

iii. Intra-agency memoranda; or (3-24-93)

iv. Any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with a rule. (3-24-93)

20. Rulemaking. The process for formulation, adoption, amendment or repeal of a rule. (3-24-93)

21. Service or Serving. The agency's or a party's delivery or distribution of official documents in a legally sufficient manner in a contested case proceeding to the parties to that proceeding and, if applicable, to any other persons required by statute, rule, order or notice to receive official documents. (4-7-11)

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

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

006. FILING OF DOCUMENTS -- NUMBER OF COPIES (RULE *6*).
Each agency must individually adopt a rule of procedure that lists the officer or officers with whom all documents in rulemakings or contested cases must be filed. This rule may require all filings to be made with one (1) officer, for example the agency director or the agency secretary, or may generally provide that all documents in a given rulemaking or contested case will be filed with an officer designated for the specific rulemaking or contested case. The rule must state whether copies in addition to the original must be filed with the agency. (3-24-93)

007. -- 049. (RESERVED)

050. PROCEEDINGS GOVERNED (RULE 50).
Rules 100 through 799 govern procedure before agencies in contested cases, unless otherwise provided by rule, notice or order of the agency. Rules 800 through 860 govern procedure before agencies in rulemaking, unless otherwise provided by rule or notice of the agency. Every state agency that hears contested cases (except the Industrial Commission and the Public Utilities Commission) must use the procedures for contested cases adopted in these rules unless the state agency by rule affirmatively declines to adopt this chapter, in whole or in part. Every state agency that conducts rulemaking must use the procedures for rulemaking adopted in this chapter unless the state agency by rule affirmatively declines to adopt this chapter, in whole or in part. (3-24-93)

051. REFERENCE TO AGENCY (RULE 51).
Reference to the agency in these rules includes the agency director, board or commission, agency secretary, hearing officer appointed by the agency, or presiding officer, as context requires. Reference to the agency head means to the agency director, board or commission, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders. (3-24-93)

052. LIBERAL CONSTRUCTION (RULE 52).
The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. Unless required by statute, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (3-24-93)

053. COMMUNICATIONS WITH AGENCY (RULE 53).
All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the officer designated by the agency. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed or otherwise transmitted. (3-24-93)

054. IDENTIFICATION OF COMMUNICATIONS (RULE 54).
Parties' communications addressing or pertaining to a given proceeding should be written under that proceeding's case caption and case number. General communications by other persons should refer to case captions, case numbers, permit or license numbers, or the like, if this information is known. (3-24-93)

055. SERVICE BY AGENCY (RULE 55).

01. Personal Service and Service by Mail. Unless otherwise provided by statute or these rules or the agency's rules, the officer designated by the agency to serve rules, notices, summonses, complaints, or orders issued by the agency may serve these documents by regular mail, or by certified mail, return receipt requested, to a party's last known mailing address or by personal service. (4-7-11)

02. Electronic Service. If a party has appeared in a contested case or has not yet appeared but has consented or agreed in writing to service by facsimile transmission (FAX) or e-mail as an alternative to personal service or service by mail, and if authorized by statute, agency rule, notice or order, the officer designated to serve notices and orders in a contested case may serve those notices and orders by FAX or by e-mail in lieu of service by mail or personal service. (4-7-11)

03. When Service Complete. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a State employee or State agency, or when there is an electronic verification that a facsimile transmission or an e-mail has been sent. (4-7-11)

04. Persons Served. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (4-7-11)

05. Proof of Service. Every notice and order that the agency serves in a contested case must be accompanied by a proof of service stating the service date, each party or other person who was served, and the method of service. The agency may use a proof of service similar to those used by parties. See Rule 303. (4-7-11)

056. COMPUTATION OF TIME (RULE 56).
Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count, but the last day of the period so computed is included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not a Saturday, Sunday or a legal holiday. (3-24-93)

057. FEES AND REMITTANCES (RULE 57).
Fees and remittances to the agency must be paid by money order, bank draft or check payable to agency. Remittances in currency or coin are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. (3-24-93)

058. -- 099. (RESERVED)

SUBCHAPTER B -- CONTESTED CASES
Rules 100 through 800 -- Contested Cases
Rules 101 through 400 -- Definitions and General Provisions
Rules 101 through 150 -- Informal and Formal Proceedings

100. INFORMAL PROCEEDINGS DEFINED (RULE 100).
Informal proceedings are proceedings in contested cases authorized by statute, rule or order of the agency to be conducted using informal procedures, i.e., procedures without a record to be preserved for later agency or judicial review, without the necessity of representation according to Rule 202, without formal designation of parties, without the necessity of hearing examiners or other presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, an agency may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a contested case. (3-24-93)

101. INFORMAL PROCEDURE (RULE 101).
Statute authorizes and these rules encourage the use informal proceedings to settle or determine contested cases. Unless prohibited by statute, the agency may provide for the use of informal procedure at any stage of a contested case. Informal procedure may include individual contacts by or with the agency staff asking for information, advice or assistance from the agency staff, or proposing informal resolution of formal disputes under the law administered

by the agency. Informal procedures may be conducted in writing, by telephone or television, or in person. (3-24-93)

102. FURTHER PROCEEDINGS (RULE 102).
If statute provides that informal procedures shall be followed with no opportunity for further formal administrative review, then no opportunity for later formal administrative proceedings must be offered following informal proceedings. Otherwise, except as provided in Rule 103, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the agency, at which time the parties may fully develop the record before the agency. (3-24-93)

103. INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES (RULE 103).
Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceeding are conducted without prejudice to the right of the parties to present the matter formally to the agency. Settlement offers made in the course of informal proceedings are confidential and shall not be included in the agency record of a later formal proceeding. (3-24-93)

104. FORMAL PROCEEDINGS (RULE 104).
Formal proceedings, which are governed by rules of procedure other than Rules 100 through 103, must be initiated by a document (generally a notice, order or complaint if initiated by the agency) or another pleading listed in Rules 210 through 280 if initiated by another person. Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Rules 210 through 280. Formal proceedings can be initiated by the same document that initiates informal proceedings. (3-24-93)

105. -- 149. (RESERVED)

150. PARTIES TO CONTESTED CASES LISTED (RULE 150).
Parties to contested cases before the agency are called applicants or claimants or appellants, petitioners, complainants, respondents, protestants, or intervenors. On reconsideration or appeal within the agency parties are called by their original titles listed in the previous sentence. (3-24-93)

151. APPLICANTS/CLAIMANTS/APPELLANTS (RULE 151).
Persons who seek any right, license, award or authority from the agency are called "applicants" or "claimants" or "appellants." (3-24-93)

152. PETITIONERS (RULE 152).
Persons not applicants who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case (other than an application or complaint), or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners." (3-24-93)

153. COMPLAINANTS (RULE 153).
Persons who charge other person(s) with any act or omission are called "complainants." In any proceeding in which the agency itself charges a person with an act or omission, the agency is called "complainant." (3-24-93)

154. RESPONDENTS (RULE 154).
Persons against whom complaints are filed or about whom investigations are initiated are called "respondents." (3-24-93)

155. PROTESTANTS (RULE 155).
Persons who oppose an application or claim or appeal and who have a statutory right to contest the right, license, award or authority sought by an applicant or claimant or appellant are called "protestants." (3-24-93)

156. INTERVENORS (RULE 156).
Persons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354 are called "intervenors." (3-24-93)

157. RIGHTS OF PARTIES AND OF AGENCY STAFF (RULE 157).
Subject to Rules 558, 560, and 600, all parties and agency staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (3-24-93)

158. PERSONS DEFINED -- PERSONS NOT PARTIES -- INTERESTED PERSONS (RULE 158).
The term "person" includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in the administrative proceeding. Persons other than the persons named in Rules 151 through 156 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In kinds of proceedings in which persons other than the applicant or claimant or appellant, petitioner, complainant, or respondent would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called "Interested Persons." Interested persons may become protestants, intervenors or public witnesses. The agency must serve notice of such proceedings on all interested persons. (3-24-93)

159. -- 199. (RESERVED)

Rules 200 through 209
Representatives of Parties

200. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES (RULE 200).
The initial pleading of each party at the formal stage of a contested case (be it an application or claim or appeal, petition, complaint, protest, motion, or answer) must name the party's representative(s) for service and state the representative's(s') address(es) for purposes of receipt of all official documents. Unless authorized by order of the agency, no more than two (2) representatives for service of documents may be listed in an initial pleading. Service of documents on the named representative(s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the first person signing the pleading will be considered the party's representative. (3-24-93)

201. TAKING OF APPEARANCES -- PARTICIPATION BY AGENCY STAFF (RULE 201).
The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff (other than a recommended order or preliminary order prepared by a hearing officer) will be considered or used in reaching a decision, at the timely request of any party the agency staff must appear at any hearing and be available for cross-examination and participate in the hearing in the same manner as a party. (3-24-93)

202. REPRESENTATION OF PARTIES AT HEARING (RULE 202).

01. Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (3-24-93)

a. Natural Person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, family member or next friend. (3-24-93)

b. A partnership may be represented by a partner, duly authorized employee, or attorney. (3-24-93)

c. A corporation may be represented by an officer, duly authorized employee, or attorney. (3-24-93)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (3-24-93)

e. A state, federal or tribal governmental entity or agency may be represented by an officer, duly authorized employee, or attorney. (3-24-93)

02. Representatives. The representatives of parties at hearing, and no other persons or parties

appearing before the agency, are entitled to examine witnesses and make or argue motions. (3-24-93)

203. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS (RULE 203).
From the time a party files its initial pleading in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties' representatives designated pursuant to Rule 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the agency. (3-24-93)

204. WITHDRAWAL OF PARTIES (RULE 204).
Any party may withdraw from a proceeding in writing or at hearing. (3-24-93)

205. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE (RULE 205).
A party's representative may be changed and a new representative may be substituted by notice to the agency and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the agency must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties. (3-24-93)

206. CONDUCT REQUIRED (RULE 206).
Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (3-24-93)

207. -- 209. (RESERVED)

Rules 210 through 299
Pleadings -- In General

210. PLEADINGS LISTED -- MISCELLANEOUS (RULE 210).
Pleadings in contested cases are called applications or claims or appeals, petitions, complaints, protests, motions, answers, and consent agreements. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Rule 200, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with Rules 300 through 303. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (3-24-93)

211. -- 219. (RESERVED)

220. APPLICATIONS/CLAIMS/APPEALS -- DEFINED -- FORM AND CONTENTS (RULE 220).

01. Applications/Claims/Appeals Defined. All pleadings requesting a right, license, award or authority from the agency are called "applications" or "claims" or "appeals." (3-24-93)

02. Form and Content. Applications or claims or appeals should: (3-24-93)

a. Fully state the facts upon which they are based; (3-24-93)

b. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based; and (3-24-93)

c. State the right, license, award, or authority sought. (3-24-93)

221. -- 229. (RESERVED)

230. PETITIONS -- DEFINED -- FORM AND CONTENTS (RULE 230).

01. Petitions Defined. All pleadings requesting the following are called "petitions." (3-24-93)

a. Modification, amendment or stay of existing orders or rules; (3-24-93)

b. Clarification, declaration or construction of the law administered by the agency or of a party's rights or obligations under law administered by the agency; (3-24-93)

c. The initiation of a contested case not an application, claim or complaint or otherwise taking action that will lead to the issuance of an order or a rule; (3-24-93)

d. Reconsideration; or (3-24-93)

e. Intervention. (3-24-93)

02. Form and Contents. Petitions should: (3-24-93)

a. Fully state the facts upon which they are based; (3-24-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; (3-24-93)

c. State the relief desired; and (3-24-93)

d. State the name of the person petitioned against (the respondent), if any. (3-24-93)

231. -- 239. (RESERVED)

240. COMPLAINTS -- DEFINED -- FORM AND CONTENTS (RULE 240).

01. Complaints Defined. All pleadings charging other person(s) with acts or omissions under law administered by the agency are called "complaints." (3-24-93)

02. Form and Contents. Complaints must: (3-24-93)

a. Be in writing; (3-24-93)

b. Fully state the acts or things done or omitted to be done by the persons complained against by reciting the facts constituting the acts or omissions and the dates when they occurred; (3-24-93)

c. Refer to statutes, rules, orders or other controlling law involved; (3-24-93)

d. State the relief desired; (3-24-93)

e. State the name of the person complained against (the respondent). (3-24-93)

241. -- 249. (RESERVED)

250. PROTESTS -- DEFINED -- FORM AND CONTENTS (RULE 250).

01. Protests Defined. All pleadings opposing an application or claim or appeal as a matter of right are called "protests." (3-24-93)

02. Form and Contents. Protests should: (3-24-93)

a. Fully state the facts upon which they are based, including the protestant's claim of right to oppose the application or claim; (3-24-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; and (3-24-93)

c. State any proposed limitation (or the denial) of any right, license, award or authority sought in the application. (3-24-93)

251. -- 259. (RESERVED)

260. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING (RULE 260).

01. Motions Defined. All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called "motions." (3-24-93)

02. Form and Contents. Motions should: (3-24-93)

a. Fully state the facts upon they are based; (3-24-93)

b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and (3-24-93)

c. State the relief sought. (3-24-93)

03. Oral Argument -- Time for Filing. If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit an application or claim or appeal, complaint, petition, or protest must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be filed at any time upon compliance with Rule 565. (3-24-93)

261. -- 269. (RESERVED)

270. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING (RULE 270).
All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, protests, or motions are called "answers." (3-24-93)

01. Answers to Pleadings Other Than Motions. Answers to applications, claims, or appeals, complaints, petitions, or protests must be filed and served on all parties of record within twenty-one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty-one (21) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent pursuant to Rule 700. Answers to applications or claims or appeals, complaints, petitions, or protests must admit or deny each material allegation of the application or claim or appeal, complaint, petition or protest. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (3-24-93)

02. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The presiding officer may act upon a prehearing motion under Rule 565. (3-24-93)

271. -- 279. (RESERVED)

280. CONSENT AGREEMENTS -- DEFINED: FORM AND CONTENTS (RULE 280).

01. Consent Agreements Defined. Agreements between the agency or agency staff and another person(s) in which one (1) or more person(s) agree to engage in certain conduct mandated by statute, rule, order, case decision, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, case decision, or other provision of law, are called "consent agreements." Consent agreements are intended to require compliance with existing law. (3-24-93)

02. Requirements. Consent agreements must: (3-24-93)

a. Recite the parties to the agreement; and (3-24-93)

b. Fully state the conduct proscribed or prescribed by the consent agreement. (3-24-93)

03. Additional. In addition, consent agreements may: (3-24-93)

a. Recite the consequences of failure to abide by the consent agreement; (3-24-93)

b. Provide for payment of civil or administrative penalties authorized by law; (3-24-93)

c. Provide for loss of rights, licenses, awards or authority; (3-24-93)

d. Provide for other consequences as agreed to by the parties; and (3-24-93)

e. Provide that the parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. (3-24-93)

281. -- 299. (RESERVED)

300. FILING DOCUMENTS WITH THE AGENCY -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX) (RULE 300).
An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX) if the agency's individual rule of practice lists a FAX number for that agency. Whenever any document is filed by FAX, if possible, originals must be delivered by overnight mail the next working day. (3-24-93)

301. FORM OF PLEADINGS (RULE 301).

01. Form. All pleadings, except those filed on agency forms, submitted by a party and intended to be part of an agency record must: (3-24-93)

a. Be submitted on white eight and one-half inch (8 1/2") by eleven inch (11") paper copied on one (1) side only; (3-24-93)

b. State the case caption, case number and title of the document; (3-24-93)

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (3-24-93)

d. Have at least one inch (1") left and top margins. (3-24-93)

02. Example. Documents complying with this rule will be in the following form:

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative for (Name of Party)

BEFORE THE AGENCY

(Title of Proceeding) CASE NO.

(TITLE OF DOCUMENT)

(3-24-93)

302. SERVICE ON PARTIES AND OTHER PERSONS (RULE 302).
All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with the original filing with the officer designated by the agency to receive filings in the case. When a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. (3-24-93)

303. PROOF OF SERVICE (RULE 303).
Every document that a party or interested persons files with and intends to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

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

(Signature)

(4-7-11)

304. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS (RULE 304).
Defective, insufficient or late pleadings may be returned or dismissed. (3-24-93)

305. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS (RULE 305).
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. (3-24-93)

306. -- 349. (RESERVED)

Rules 350 through 399
Intervention -- Public Witnesses

350. ORDER GRANTING INTERVENTION NECESSARY (RULE 350).

Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. (3-24-93)

351. FORM AND CONTENTS OF PETITIONS TO INTERVENE (RULE 351).
Petitions to intervene must comply with Rules 200, 300, and 301. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (3-24-93)

352. TIMELY FILING OF PETITIONS TO INTERVENE (RULE 352).
Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (3-24-93)

353. GRANTING PETITIONS TO INTERVENE (RULE 353).
If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding. (3-24-93)

354. ORDERS GRANTING INTERVENTION -- OPPOSITION (RULE 354).
No order granting a petition to intervene will be acted upon fewer than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. (3-24-93)

355. PUBLIC WITNESSES (RULE 355).
Persons not parties and not called by a party who testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to Rules 558 and 560, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analyses or detailed exhibits must comply with Rule 530 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. (3-24-93)

356. -- 399. (RESERVED)

Rules 400 through 499
Declaratory Rulings and Orders --
Hearing Officers -- Presiding Officers

Rules 400 through 409
Declaratory Rulings

400. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS (RULE 400).
Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule. (3-24-93)

01. Form. The petition shall: (3-24-93)

a. Identify the petitioner and state the petitioner's interest in the matter; (3-24-93)

b. State the declaratory ruling that the petitioner seeks; and (3-24-93)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (3-24-93)

02. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-24-93)

401. NOTICE OF PETITION FOR DECLARATORY RULING (RULE 401).
Notice of petition for declaratory ruling may be issued in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. (3-24-93)

402. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER (RULE 402).

01. Final Agency Action. The agency's decision on a petition for declaratory ruling on the applicability of any statute, rule or order administered by the agency is a final agency action decided by order. (3-24-93)

02. Content. The order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-24-93)

a. This is a final agency action issuing a declaratory ruling. (3-24-93)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this declaratory ruling may appeal to district court by filing a petition in the District Court in the county in which: (3-24-93)

i. A hearing was held; (3-24-93)

ii. The declaratory ruling was issued; (3-24-93)

iii. The party appealing resides, or operates its principal place of business in Idaho; or (7-1-97)

iv. The real property or personal property that was the subject of the declaratory ruling is located. (3-24-93)

c. This appeal must be filed within twenty-eight (28) days of the service date of this declaratory ruling. See Section 67-5273, Idaho Code. (3-24-93)

403. -- 409. (RESERVED)

Rules 410 through 499
Hearing Officers -- Presiding Officers

410. APPOINTMENT OF HEARING OFFICERS (RULE 410).
A hearing officer is a person other than the agency head appointed to hear contested cases on behalf of the agency. Unless otherwise provided by statute or rule, hearing officers may be employees of the agency or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. The appointment of a hearing officer is a public record available for inspection, examination and copying. (3-24-93)

411. HEARING OFFICERS CONTRASTED WITH AGENCY HEAD (RULE 411).
Agency heads are not hearing officers, even if they are presiding at contested cases. The term “hearing officer” as used in these rules refers only to officers subordinate to the agency head. (3-24-93)

412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES (RULE 412).
Pursuant to Section 67-5252, Idaho Code, any party shall have a right to one (1) disqualification without cause of any person serving or designated to serve as a presiding officer and any party shall have a right to move to disqualify a

hearing officer for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency hearing the contested case, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may, within fourteen (14) days, petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or promptly upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation by a presiding officer. A hearing officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer's determination. Disqualification of agency heads, if allowed, will be pursuant to Sections 59-704 and 67-5252(4), Idaho Code. (3-24-93)

413. SCOPE OF AUTHORITY OF HEARING OFFICERS (RULE 413).
The scope of hearing officers' authority may be restricted in the appointment by the agency. (3-24-93)

01. Scope of Authority. Unless the agency otherwise provides hearing, officers have the standard scope of authority, which is: (3-24-93)

a. Authority to schedule cases assigned to the hearing officer, including authority to issue notices of prehearing conference and of hearing, as appropriate; (3-24-93)

b. Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency; (3-24-93)

c. Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and (3-24-93)

d. Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer. (3-24-93)

02. Limitation. The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope Rule 413.01.c. (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers may be given authority with regard to the agency's rules as provided in Rule 416. (3-24-93)

414. PRESIDING OFFICER(S) (RULE 414).
One (1) or more members of the agency board, the agency director, or duly appointed hearing officers may preside at hearing as authorized by statute or rule. When more than one officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer. (3-24-93)

415. CHALLENGES TO STATUTES (RULE 415).
A hearing officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority has preempted a state statute or rule, and the hearing officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the hearing officer, then the hearing officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the hearing officer and decide the proceeding before the hearing officer in accordance with the precedent of the court or the preemptive action of the federal authority. (3-24-93)

416. REVIEW OF RULES (RULE 416).
When an order is issued by the agency head in a contested case, the order may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. The agency head may delegate to a hearing officer the authority to recommend a decision on issues of whether a rule is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (3-24-93)

417. EX PARTE COMMUNICATIONS (RULE 417).
Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. However, when a presiding officer becomes aware of a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (3-24-93)

418. -- 419. (RESERVED)

420. CONTRAST BETWEEN AGENCY'S PROSECUTORIAL/INVESTIGATIVE AND ADJUDICATORY FUNCTIONS (RULE 420).
When statute assigns to an agency both (1) the authority to initiate complaints or to investigate complaints made by the public, and (2) the authority to decide the merits of complaints, the agency is required to perform two distinct functions: prosecutorial/investigative and adjudicatory. In light of these dual functions, Rules 420 through 429 set forth procedures to be followed by the agency head, agency attorneys, agency staff and hearing officers in processing these complaints or responding to citizen inquiries. As used in Rules 420 through 429, the term agency head means the officer or officers who exercise the agency's ultimate adjudicatory authority and includes individual members of a multimember board or commission comprising the agency head when a multimember board of commission exercises ultimate adjudicatory authority. These rules do not apply to elected constitutional officers in the exercise of their constitutional duties, either individually or in constitutional boards or commissions. (1-1-95)

01. Prosecutorial/Investigative Function. The prosecutorial/investigative function (including issuing a complaint) can be performed exclusively by agency attorneys and agency staff. When required or allowed by statute, the agency head may participate in or supervise investigations preceding the issuance of a complaint and may supervise the agency attorneys and agency staff conducting the prosecution of the complaint issued by the agency head, but the agency head (or members of the agency head) shall not participate in the prosecution of a formal contested case hearing for a complaint issued by the agency unless the agency head or that member does not participate in the adjudicatory function. The investigative function includes gathering of evidence outside of formal contested case proceedings. The prosecutorial function includes presentation of allegations or evidence to the agency head for determination whether a complaint will be issued, the issuance of a complaint when complaints are issued without the involvement of an agency adjudicator, and presentation of evidence or argument and briefing on the record in a formal contested case proceeding. (1-1-95)

02. Adjudicatory Function. The adjudicatory function is performed by the agency head or the agency head's designee and/or hearing officers. The adjudicatory function includes: deciding whether to issue a complaint upon the basis of allegations before the agency when the decision to issue the complaint is made by an agency head acting in an adjudicatory capacity, i.e., when presented by agency staff in a formal setting with the question whether a complaint shall be issued; deciding whether to accept a consent order or other settlement of a complaint when the decision to accept a consent order or other settlement is made by an agency head acting in an adjudicatory capacity; and deciding the merits of a complaint following presentation of evidence in formal contested case proceedings. The adjudicatory function also includes agency attorneys' advice to the agency head or hearing officer in the performance of any adjudicatory functions. (1-1-95)

421. PUBLIC INQUIRIES ABOUT OR RECOMMENDATIONS FOR AGENCY ISSUANCE OF A COMPLAINT (RULE 421).
This rule sets forth procedures to be followed by the agency head, agency attorneys, agency staff and hearing officers upon receipt of a public inquiry whether, or public recommendation that, the agency issue a complaint. (1-1-95)

01. The Agency Head. When the public contacts the agency head to inquire whether a complaint should be issued by the agency or to recommend that a complaint be issued, the agency head may: explain the agency's procedures; explain the agency's jurisdiction or authority (including the statutes or rules administered by the

agency); and direct the public to appropriate staff personnel who can provide investigatory assistance or who can advise them how to pursue a complaint before the agency. When the agency head issues complaints, the agency head may discuss whether given allegations would, in the agency head's opinion, warrant the issuance of a complaint or warrant direction to staff to pursue further investigation. No statement of the agency head in response to a public inquiry constitutes a finding of fact or other decision on the underlying matter. (1-1-95)

02. The Agency Attorney. When the public contacts an agency attorney to inquire whether a complaint should be issued by the agency or to recommend that a complaint be issued, the agency attorney may: explain the agency's procedures; explain the agency's jurisdiction or authority (including an explanation of the statutes or rules administered by the agency); and direct the public to appropriate staff personnel who can provide investigatory assistance or who can advise them how to pursue a complaint before the agency. An agency attorney assigned to a prosecutorial/investigative role may discuss whether given allegations would, in the attorney's opinion, warrant the issuance of a complaint or warrant direction to staff to pursue further investigation. The agency is not bound by the attorney's advice or recommendations, and the attorney should notify the public that the agency is not obligated to follow the attorney's advice or recommendations. (1-1-95)

03. The Agency Staff. When the public contacts the agency staff to inquire whether a complaint should be issued or to recommend that a complaint be issued, a member of the agency staff authorized to respond to public inquiries about complaints may: explain the agency's procedures; explain the agency's jurisdiction or authority (including an explanation of the statutes or rules administered by the agency); direct the public to appropriate staff personnel who can provide investigatory assistance or who can advise them how to pursue a complaint before the agency; and express an opinion whether given allegations would, in the agency staff's opinion, warrant the issuance of a complaint or warrant agency staff's further investigation. The agency is not bound by the agency staff's advice or recommendations, and the agency staff should notify the public that the agency is not obligated to follow the agency staff's advice or recommendations. (1-1-95)

04. Hearing Officers. When the public contacts a hearing officer to inquire whether a complaint should be issued by the agency or to recommend that a complaint be issued, the hearing officer should not discuss the matter, but should refer the member of the public to other agency personnel. (1-1-95)

422. CONSIDERATION OF CONSENT AGREEMENT OR OTHER SETTLEMENTS BEFORE COMPLAINT ISSUED (RULE 422).

This rule sets forth procedures to be followed when a consent agreement, stipulated settlement, or other settlement is negotiated before a complaint is filed. (1-1-95)

01. Negotiations. As authorized by the agency, an attorney assigned to a prosecutorial/investigative role or members of the agency staff may negotiate consent agreements or other settlements with any person who might later be the subject of a complaint. When the agency head issues complaints, the agency head may participate in the negotiations. Otherwise, no member of the agency head, no attorney assigned to advise or assist the agency head in its adjudicatory function, and no hearing officer may participate in these negotiations, but the agency head may have rules or guidelines for issuance of consent agreements or other general policy statements available to guide individual negotiations. (1-1-95)

02. Presentation of Consent Agreement to Agency Head. When the consent agreement provides, or the persons signing the consent agreement contemplate, that the consent agreement must be presented to the agency head for approval, the consent agreement may be presented to the agency head by representatives of any party, unless the agreement provides to the contrary. Any consent agreement presented to the agency head must be served on all parties and on the agency staff. (1-1-95)

03. Agency Head Consideration of Consent Agreement. A consent agreement that is presented to the agency head for approval, disapproval or modification must be reviewed under this rule. The agency head may accept or reject the consent agreement, indicate how the consent agreement must be modified to be acceptable, or inform the parties what further information is required for the agency head's consideration of the consent agreement. When a consent agreement is rejected, no matter recited in the rejected consent agreement may be used as an admission against a party in any later proceeding before the agency, and any such matter must be proven by evidence independent of the consent agreement. (1-1-95)

423. PROCEDURES AFTER ISSUANCE OF A COMPLAINT AND BEFORE THE AGENCY HEAD'S CONSIDERATION OF THE COMPLAINT (RULE 423).

This rule sets forth procedures to be followed by the agency head, agency attorneys, agency staff and hearing officers after a complaint is issued, while investigation or discovery is underway, while a hearing is conducted, and before the recommended order or preliminary order of the hearing officer is submitted to the agency head (if a hearing officer hears the complaint and issues a recommended or preliminary order). (1-1-95)

01. The Agency Head. (1-1-95)

a. Prohibited Contacts--allowable Managerial Reporting. Unless authorized or required by statute, the agency head shall not discuss the substance of the complaint ex parte with any representative of any party or with agency attorneys or agency staff involved in the prosecution or investigation of the complaint. The agency head may request periodic progress reporting on staff preparation from an executive director or other staff member in charge. For example, the agency head may ask whether the agency staff will be prepared to present its case by a given date. As required to perform statutory supervisory duties, the agency head may approve or disapprove expenditures associated with the prosecution, authorize retention of experts or outside counsel for the prosecution, address policy issues that may affect the prosecution, and otherwise discharge the agency head's statutory management and supervisory duties. (1-1-95)

b. Allowed Contacts. The agency head may discuss the substance of the complaint with agency attorneys and agency staff who are not involved in the prosecution or investigation of the complaint. When one or more members of the agency head sits with a hearing officer to hear the contested case, any member of the agency head not participating in the prosecution and not supervising prosecutorial/investigative personnel may discuss the substance of the complaint with the hearing officer. (1-1-95)

02. The Agency Attorney. (1-1-95)

a. Prosecutorial/Investigative Attorneys. Except as authorized by Subsection 423.01.a. of this rule, no agency attorney involved in the investigation or prosecution of a complaint shall discuss the substance of the complaint ex parte with the agency head, a hearing officer assigned to hear the complaint, or with any agency attorney assigned to advise or assist the agency head or to advise or assist a hearing officer assigned to hear the complaint; provided, that when a hearing officer has made a bench ruling and has on the record directed the agency attorney to prepare findings of fact and other reasoning supporting the decision in conformance with the bench ruling, or when a hearing officer has by written document served on all parties ordered the agency attorney to prepare findings of fact and other reasoning supporting the decision in conformance with the written document, the agency attorney may contact the hearing officer in connection with the preparation of the written document to be submitted to the hearing officer. (1-1-95)

b. Advisory Attorneys. Except as authorized by Subsection 423.01.a. of this rule, no agency attorney assigned to advise or assist the agency head or hearing officer shall discuss the substance of the complaint ex parte with any representative of any party or with agency attorneys or agency staff involved in the prosecution or investigation of the complaint. An agency attorney assigned to advise or assist the agency head or hearing officer may discuss the substance of the complaint with the hearing officer or agency head. (1-1-95)

03. The Agency Staff. (1-1-95)

a. Prosecutorial/Investigative Staff. Except as authorized by Subsection 423.01.a. of this rule, no member of the agency staff involved in the investigation or prosecution of the complaint shall discuss the substance of the complaint ex parte with the agency head, a hearing officer assigned to hear the complaint, or with any agency attorney assigned to advise or assist the agency head or to advise or assist a hearing officer assigned to hear the complaint, except as provided in Subsection 423.04.b. of this rule and in Subsections 425.01 and 425.03. (1-1-95)

b. Advisory Staff. Except as authorized by Subsection 423.01.a. of this rule, no agency staff assigned to advise or assist the agency head or hearing officer shall discuss the substance of the complaint ex parte with any representative of any party or with agency attorneys or agency staff involved in the prosecution or investigation of the complaint. Agency staff assigned to advise or assist the agency head or hearing officer may discuss the substance of the complaint with the hearing officer or agency head. (1-1-95)

04. Hearing Officers. Hearing officers may discuss the substance of the complaint with attorneys of the agency assigned to advise or assist the hearing officer and with other hearing officers. Hearing officers may discuss the substance of the complaint with the agency head as authorized by Subsection 423.01.b of this rule. No hearing officer shall discuss the substance of the complaint ex parte with any representative of any party or with agency attorneys or agency staff involved in the prosecution or investigation of the complaint; except: (1-1-95)

a. Bench Rulings, etc. When a hearing officer has made a bench ruling and has on the record directed the attorney for a party or the agency attorney to prepare findings of fact and other reasoning supporting the decision in conformance with the bench ruling, or when a hearing officer has by written document served on all parties directed the attorney for a party or the agency attorney to prepare findings of fact and other reasoning supporting the decision in conformance with the written document, the hearing officer may contact the attorney for the party or the agency attorney in connection with the preparation of the written document to be submitted to the hearing officer. (1-1-95)

b. Technical Calculations. If the consideration of the complaint requires technical calculations, etc., that can most efficiently be performed by a person who participated in the investigation or hearing, the hearing officer may direct that person to perform the calculations, etc., for the hearing officer's use in the recommended order or preliminary order. (1-1-95)

424. HEARING OFFICERS (RULE 424).
No hearing officer may discuss the substance of a complaint ex parte with any agency attorney or agency staff involved in the investigation or prosecution of the complaint, with any representative of any party, or with any member of the public at large at any stage of the agency's consideration of the complaint or pending judicial review of the agency's decision in the complaint, except as allowed in Subsections 423.02.a. and 423.04. A hearing officer may consult with any other hearing officer. A hearing officer may consult with the agency head as authorized by Subsections 423.01.b. and 425.01. A hearing officer may consult with an agency attorney assigned to advise or assist the hearing officer. The agency may appoint as a hearing officer the agency attorney who will advise or assist the agency head in consideration of the complaint, but this agency attorney cannot participate in the prosecution of the complaint or have ex parte contact with any party to the complaint or the agency's prosecutorial/investigative staff. (1-1-95)

425. AGENCY HEAD'S CONSIDERATION OF RECOMMENDED OR PRELIMINARY ORDER (RULE 425).
This rule sets forth procedures to be followed by the agency head, agency attorneys, agency staff, and hearing officers after the hearing officer's recommended order or preliminary order has been placed before the agency head for review. (1-1-95)

01. The Agency Head. In considering the hearing officer's recommended order or preliminary order, the agency head may consult with an agency attorney assigned to advise or assist the agency head and with agency staff who did not participate in the investigation or prosecution of the complaint. As allowed in Subsection 423.01.b. when one (1) or more members of the agency head and the hearing officer hear the complaint, the agency head may consult with the hearing officer who heard the complaint and prepared the recommended order or preliminary order or with other hearing officers. The agency head shall not discuss the substance of the complaint ex parte with any representative of any party or with agency attorneys or agency staff involved in the prosecution or investigation of the complaint; except: (1-1-95)

a. Bench Rulings, etc. When the agency head has made a bench ruling and has on the record directed the attorney for a party or the agency attorney to prepare findings of fact and other reasoning supporting the decision in conformance with the bench ruling, or when the agency head has by written document served on all parties directed the attorney for a party or the agency attorney to prepare findings of fact and other reasoning supporting the decision in conformance with the written document, the agency head may contact the attorney for the party or the agency attorney in connection with the preparation of the written document to be submitted to the agency head. (1-1-95)

b. Technical Calculations. If the consideration of the complaint requires technical calculations, etc., that can most efficiently be performed by a person who participated in the investigation or hearing, the agency head

may direct that person to perform the calculations, etc., for the agency head's use in the final order. (1-1-95)

02. The Agency Attorney. (1-1-95)

a. Prosecutorial/Investigative Attorneys. No agency attorney involved in the investigation or prosecution of a complaint shall consult with the agency head considering the hearing officer's recommended order or preliminary order, except as provided in Subsections 423.01 and 423.02.a. An agency attorney who was involved in the investigation or prosecution of the complaint may attend public meetings of the agency head that consider complaints and may respond to questions from the agency head so long as the meetings have been noticed to all parties and all parties have the same opportunity to respond to questions from the agency head as the agency's prosecutorial/investigative attorneys. (1-1-95)

b. Advisory Attorneys. An agency attorney assigned to advise or assist the agency head in consideration of the complaint may consult with the agency head in preparation for or while the agency head is considering the hearing officer's recommended order or preliminary order or draft final order when one or more members of the agency head heard the case with the hearing officer. (1-1-95)

03. The Agency Staff. (1-1-95)

a. Prosecutorial/Investigative Staff. No member of the agency staff involved in the investigation or prosecution of the complaint shall consult with the agency head in its consideration of the recommended order or preliminary order, but a member of the agency staff who participated in the investigation or prosecution of the complaint may provide technical computations, etc., at the direction of the agency head as provided in Subsection 425.01 of this rule. (1-1-95)

b. Advisory Staff. Any member of the agency staff assigned to advise or assist the agency head may consult with the agency head at the agency head's direction. (1-1-95)

04. Hearing Officers. No hearing officer shall consult with any person other than the agency head or attorneys assigned to advise or assist the agency head during the agency head's consideration of the hearing officer's recommended order or preliminary order. A hearing officer may consult with a member of the agency head or the entire agency head or attorneys assigned to advise or assist the agency head only as allowed by Subsections 423.01.b. and 423.04 and Subsection 425.01.a. of this rule when one (1) or more members of the agency head and the hearing officer heard the complaint. (1-1-95)

426. -- 499. (RESERVED)

Rules 500 through 699
Post-Pleading Procedure

Rules 500 through 509
Alternative Dispute Resolution (ADR)

500. ALTERNATIVE RESOLUTION OF CONTESTED CASES (RULE 500).
The Idaho Legislature encourages informal means of alternative dispute resolution (ADR). For contested cases, the means of ADR include, but are not limited to, settlement negotiations, mediation, factfinding, minitrials, and arbitration, or any combination of them. These alternatives can frequently lead to more creative, efficient and sensible outcomes than may be attained under formal contested case procedures. An agency may use ADR for the resolution of issues in controversy in a contested case if the agency finds that such a proceeding is appropriate. An agency may find that using ADR is not appropriate if it determines that an authoritative resolution of the matter is needed for precedential value, that formal resolution of the matter is of special importance to avoid variation in individual decisions, that the matter significantly affects persons who are not parties to the proceeding, or that a formal proceeding is in the public interest. (3-24-93)

501. NEUTRALS (RULE 501).

When ADR is used for all or a portion of a contested case, the agency may provide a neutral to assist the parties in resolving their disputed issues. The neutral may be an employee of the agency or of another state agency or any other individual who is acceptable to the parties to the proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. (3-24-93)

502. CONFIDENTIALITY RULE 502).
Communications in an ADR proceeding shall not be disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or the communication is required by court order, statute or agency rule to be make public. (3-24-93)

503. -- 509. (RESERVED)

Rules 510 through 519
Prehearing Conferences

510. PURPOSES OF PREHEARING CONFERENCES (RULE 510).
The presiding officer may by order or notice issued to all parties and to all interested persons as defined in Section 158 convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery when discovery is authorized before the agency, arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. (7-1-97)

511. NOTICE OF PREHEARING CONFERENCE (RULE 511).
Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the prehearing conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference must contain the same information as notices of hearing with regard to an agency's obligations under the American with Disabilities Act (See Rule 551). (3-24-93)

512. RECORD OF CONFERENCE (RULE 512).
Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a presiding officer, according to order or notice. Agreements by the parties to the conference may be put on the record during formal conferences or may be reduced to writing and filed with the agency after formal or informal conferences. (3-24-93)

513. ORDERS RESULTING FROM PREHEARING CONFERENCE (RULE 513).
The presiding officer may issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. (3-24-93)

514. FACTS DISCLOSED NOT PART OF THE RECORD (RULE 514).
Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record. (3-24-93)

515. -- 519. (RESERVED)

Rules 520 through 549
Discovery-Related Prehearing Procedures

520. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 520).

01. Kinds of Discovery. The kinds of discovery recognized by these rules in contested cases are:

(7-1-97)

a. Depositions; (3-24-93)

b. Production requests or written interrogatories; (3-24-93)

c. Requests for admission; (3-24-93)

d. Subpoenas; and (3-24-93)

e. Statutory inspection, examination (including physical or mental examination), investigation, etc. (3-24-93)

02. Rules of Civil Procedure. Unless otherwise provided by statute, rule, order or notice, when discovery is authorized before the agency, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b)). (7-1-97)

521. WHEN DISCOVERY AUTHORIZED (RULE 521).
Parties may agree between or among themselves to provide for discovery without reference to an agency's statutes, rules of procedure, or orders. Otherwise no party before the agency is entitled to engage in discovery unless discovery is authorized before the agency, the party moves to compel discovery, and the agency issues an order directing that the discovery be answered. The presiding officer shall provide a schedule for discovery in the order compelling discovery, but the order compelling and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to compel discovery. (7-1-97)

522. RIGHTS TO DISCOVERY RECIPROCAL (RULE 522).
All parties to a proceeding have a right of discovery of all other parties to a proceeding as allowed by Rule 521 and the agency's authorizing statutes and rules. Rules 523 through 525, 527 and 528 set forth the scope of various forms of discovery when those forms of discovery are authorized before the agency, but do not create an independent right of discovery. The presiding officer may by order authorize or compel necessary discovery authorized by statute or rule. (7-1-97)

523. DEPOSITIONS (RULE 523).
Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (3-24-93)

524. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION (RULE 524).
Production requests or written interrogatories and requests for admission may be submitted in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (3-24-93)

525. SUBPOENAS (RULE 525).
The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. (3-24-93)

526. STATUTORY INSPECTION, EXAMINATION, INVESTIGATION, ETC. -- CONTRASTED WITH OTHER DISCOVERY (RULE 526).
This rule recognizes, but does not enlarge or restrict, an agency's statutory right of inspection, examination (including mental or physical examination), investigation, etc. This statutory right of an agency is independent of and cumulative to any right of discovery in formal proceedings and may be exercised by the agency whether or not a person is party to a formal proceeding before the agency. Information obtained from statutory inspection, examination, investigation, etc., may be used in formal proceedings or for any other purpose, except as restricted by statute or rule. The rights of deposition, production request or written interrogatory, request for admission, and

subpoena, can be used by parties only in connection with formal proceedings before the agency. (3-24-93)

527. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION (RULE 527).
Answers to production requests or written interrogatories and to requests for admission shall be filed or served as provided by the order compelling discovery. Answers must conform to the requirements of the Idaho Rules of Civil Procedure. The order compelling discovery may provide that voluminous answers to requests need not be served so long as they are made available for inspection and copying under reasonable terms. (3-24-93)

528. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS (RULE 528).
Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection under Rule 527, and objections to discovery must be filed and served as provided in the order compelling discovery. (3-24-93)

529. EXHIBIT NUMBERS (RULE 529).
The agency assigns exhibit numbers to each party. (3-24-93)

530. PREPARED TESTIMONY AND EXHIBITS (RULE 530).
Order, notice or rule may require a party or parties to file before hearing and to serve on all other parties prepared expert testimony and exhibits to be presented at hearing. Assigned exhibits numbers should be used in all prepared testimony. (3-24-93)

531. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (RULE 531).
The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. (3-24-93)

532. PROTECTIVE ORDERS (RULE 532).
As authorized by statute or rule, the agency may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. (3-24-93)

533. -- 549. (RESERVED)

Rules 550 through 599
Hearings -- Miscellaneous Procedure

550. NOTICE OF HEARING (RULE 550).
Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the agency finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Rule 551. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officers who will hear the case, the name, address and telephone number of the person to whom inquires about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy of the rules of procedure. (3-24-93)

551. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS (RULE 551).
All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the request must be

made. (3-24-93)

552. HOW HEARINGS HELD (RULE 552).
Hearings may be held in person or by telephone or television or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. (3-24-93)

553. CONDUCT AT HEARINGS (RULE 553).
All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearings. (3-24-93)

554. CONFERENCE AT HEARING (RULE 554).
In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (3-24-93)

555. PRELIMINARY PROCEDURE AT HEARING (RULE 555).
Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (3-24-93)

556. CONSOLIDATION OF PROCEEDINGS (RULE 556).
The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding. (3-24-93)

557. STIPULATIONS (RULE 557).
Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The agency is not bound to adopt a stipulation of the parties, but may do so. If the agency rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (3-24-93)

558. ORDER OF PROCEDURE (RULE 558).
The presiding officer may determine the order of presentation of witnesses and examination of witnesses. (3-24-93)

559. TESTIMONY UNDER OATH (RULE 559).
All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the agency is the truth, the whole truth, and nothing but the truth. (3-24-93)

560. PARTIES AND PERSONS WITH SIMILAR INTERESTS (RULE 560).
If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (3-24-93)

561. CONTINUANCE OF HEARING (RULE 561).
The presiding officer may continue proceedings for further hearing. (3-24-93)

562. RULINGS AT HEARINGS (RULE 562).
The presiding officer rules on motions and objections presented at hearing. When the presiding officer is a hearing officer, the presiding officer's rulings may be reviewed by the agency head in determining the matter on its merits and the presiding officer may refer or defer rulings to the agency head for determination. (3-24-93)

563. ORAL ARGUMENT (RULE 563).

The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (3-24-93)

564. BRIEFS -- MEMORANDA -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION -- PROPOSED ORDER OF THE PRESIDING OFFICER (RULE 564).
In any contested case, any party may ask to file briefs, memoranda, proposed orders of the parties, or statements of position, and the presiding officer may request briefs, proposed orders of the parties, or statements of position. The presiding officer may issue a proposed order of the officer and ask the parties for comment upon the officer's proposed order. (3-24-93)

565. PROCEDURE ON PREHEARING MOTIONS (RULE 565).
The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond. (3-24-93)

566. JOINT HEARINGS (RULE 566).
The agency may hold joint hearings with federal agencies, with agencies of other states, and with other agencies of the state of Idaho. When joint hearings are held, the agencies may agree among themselves which agency's rules of practice and procedure will govern. (3-24-93)

567. -- 599. (RESERVED)

Rules 600 through 609
Evidence in Contested Cases

600. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE (RULE 600).
Evidence should be taken by the agency to assist the parties' development of the record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. The agency's experience, technical competence and specialized knowledge may be used in evaluation of evidence. (3-24-93)

601. DOCUMENTARY EVIDENCE (RULE 601).
Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. (3-24-93)

602. OFFICIAL NOTICE -- AGENCY STAFF MEMORANDA (RULE 602).
Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed. When the presiding officer proposes to notice agency staff memoranda or agency staff reports, responsible staff employees or agents shall be made available for cross-examination if any party timely requests their availability. (3-24-93)

603. DEPOSITIONS (RULE 603).
Depositions may be offered into evidence. (3-24-93)

604. OBJECTIONS -- OFFERS OF PROOF (RULE 604).
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection, or, if the presiding officer is a hearing officer, the presiding officer may receive the evidence subject to later ruling by the agency head or refer the matter to the agency head. (3-24-93)

605. PREPARED TESTIMONY (RULE 605).
The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Rule 600. (3-24-93)

606. EXHIBITS (RULE 606).
Exhibit numbers may be assigned to the parties before hearing. Exhibits prepared for hearing should ordinarily be typed or printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. Neither motion pictures, slides, opaque projections, videotapes, audiotapes nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without advance approval of the presiding officer. (3-24-93)

607. -- 609. (RESERVED)

Rules 610 through 649
Settlements

610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS (RULE 610).
Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations in a contested case are not part of the record. (3-24-93)

611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS (RULE 611).
Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (3-24-93)

612. CONSIDERATION OF SETTLEMENTS (RULE 612).
Settlements must be reviewed under this rule. When a settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the presiding officer may summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties. On the other hand, when one or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the agency's charge under the law. (3-24-93)

613. BURDENS OF PROOF (RULE 613).
Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (3-24-93)

614. SETTLEMENT NOT BINDING (RULE 614).
The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that

have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (3-24-93)

615. -- 649. (RESERVED)

Rules 650 through 699
Records for Decisions

650. RECORD FOR DECISION (RULE 650).

01. Requirement. The agency shall maintain an official record for each contested case and (unless statute provides otherwise) base its decision in a contested case on the official record for the case. (3-24-93)

02. Contents. The record for a contested case shall include: (3-24-93)

a. All notices of proceedings; (3-24-93)

b. All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; (3-24-93)

c. All intermediate or interlocutory rulings of hearing officers or the agency head; (3-24-93)

d. All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (3-24-93)

e. All offers of proof, however made; (3-24-93)

f. All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; (3-24-93)

g. All evidentiary rulings on testimony, exhibits, or offers of proof; (3-24-93)

h. All staff memoranda or data submitted in connection with the consideration of the proceeding; (3-24-93)

i. A statement of matters officially noticed; and (3-24-93)

j. All recommended orders, preliminary orders, final orders, and orders on reconsideration. (3-24-93)

651. RECORDING OR REPORTING OF HEARINGS (RULE 651).
All hearings shall be recorded on audiotape or videotape or may be taken by a qualified court reporter at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Any party may have a transcript prepared at its own expense. (7-1-97)

652. -- 699. (RESERVED)

Rules 700 through 799
Agency Orders and Review of Agency Orders

Rules 700 through 710
Defaults

700. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR (RULE 700).

If an applicant or claimant or appellant, petitioner, complainant, or moving party fails to appear at the time and place set for hearing on an application or claim or appeal, petition, complaint, or motion, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (3-24-93)

701. SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER (RULE 701).
Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered. (3-24-93)

702. ISSUANCE OF DEFAULT ORDER (RULE 702).
The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the defaulting party. If authorized by statute or rule, costs may be assessed against a defaulting party. (3-24-93)

703. -- 709. (RESERVED)

Rules 710 through 789
Interlocutory, Recommended, Preliminary and Final Orders -- Review or Stay of Orders

710. INTERLOCUTORY ORDERS (RULE 710).
Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the agency may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains or is accompanied by a document containing one of the paragraphs set forth in Rules 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the officer issuing the order pursuant to Rules 711, 760, and 770. (3-24-93)

711. REVIEW OF INTERLOCUTORY ORDERS (RULE 711).
Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (3-24-93)

712. -- 719. (RESERVED)

720. RECOMMENDED ORDERS (RULE 720).

01. Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (3-24-93)

02. Content. Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-24-93)

a. This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (3-24-93)

b. Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding. (3-24-93)

c. Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty-one (21) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee of the agency head) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (3-24-93)

721. -- 729. (RESERVED)

730. PRELIMINARY ORDERS (RULE 730).

01. Definition. Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. (3-24-93)

02. Content. Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-24-93)

a. This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a motion for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (3-24-93)

b. Within fourteen (14) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. (3-24-93)

c. If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. (3-24-93)

d. If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (3-24-93)

e. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (3-24-93)

i. A hearing was held, (3-24-93)

ii. The final agency action was taken, (3-24-93)

iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or (7-1-97)

iv. The real property or personal property that was the subject of the agency action is located. (3-24-93)

f. This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (3-24-93)

731. -- 739. (RESERVED)

740. FINAL ORDERS (RULE 740).

01. Definition. Final orders are preliminary orders that have become final under Rule 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code. Emergency orders issued under Section 67-5247, Idaho Code, shall be designated as final orders if the agency will not issue further orders or conduct further proceedings in the matter. (3-24-93)

02. Content. Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (3-24-93)

a. This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. (3-24-93)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (3-24-93)

i. A hearing was held, (3-24-93)

ii. The final agency action was taken, (3-24-93)

iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or (7-1-97)

iv. The real property or personal property that was the subject of the agency action is located. (3-24-93)

c. An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (3-24-93)

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

01. Scope of Rule. This rule provides procedures for considering requests for costs and/or fees (including attorneys' fees) when an agency has authority to award costs and/or fees under other provisions of law. This rule is not a source of authority for awarding costs and/or fees. (4-7-11)

02. Time for Filing for Costs and/or Fees Awarded in Final Order or Preliminary Order. Unless otherwise provided by statute or rule of the agency: (4-7-11)

a. Minimum time for filing. When a final order or a preliminary order of the agency awards costs and/or fees to a party or to the agency itself, the agency must allow no fewer than fourteen (14) days from the service date of the final order or the preliminary order for the party to whom costs and/or fees were awarded or for the agency to file necessary papers (e.g., a memorandum of costs, affidavits, exhibits, etc.) quantifying and otherwise supporting costs or fees, or both, that will be claimed or a motion to extend the time to file for costs and fees. (4-7-11)

b. Longer time allowed. The final order or preliminary order of the agency may extend the time to file papers for costs and/or fees beyond fourteen (14) days after the service date of the final order or preliminary order. (4-7-11)

c. When time not set forth. If statute, rules of the agency, and the final order or preliminary order of the agency are silent on the time for filing for costs and/or fees the deadline for filing for costs and/or fees and/or for moving for an extension of the time to file for costs and fees is fourteen (14) days from the service date of the final order or preliminary order. (4-7-11)

d. Untimely filing. The agency may exercise its discretion to consider and grant an untimely filing for costs and/or fees for good cause shown. (4-7-11)

e. Contents of filing. No particular form for filing for costs and fees is required, but in the absence of a statute or rule providing for standard costs and/or fees the papers supporting a claim for costs and/or fees should ordinarily contain an affidavit or declaration under oath detailing the costs and/or fees claimed. (4-7-11)

f. Supplemental filings. Paragraphs 741.02.a. through 741.02.e. of this rule do not prohibit a party or the agency from supplementing a filing for costs and/or fees. (4-7-11)

03. Time for Petitioning for Costs and/or Fees When Costs and/or Fees Not Awarded in Final Order or Preliminary Order. Unless otherwise provided by statute: (4-7-11)

a. Petition for reconsideration. When a final order or preliminary order of the agency does not award costs or fees to a party, and a party contends that the party is entitled to an award of costs and/or fees the party must file a petition for reconsideration addressing costs and/or fees within fourteen (14) days of the service date of the final order or preliminary order if the party wishes the agency to award costs and/or fees. (4-7-11)

b. Combination with other issues. The petition for reconsideration on costs and/or fees may be combined with a petition for reconsideration on other issues. (4-7-11)

c. Quantification not necessary. The petition for reconsideration can confine itself to the legal issue of entitlement to costs and/or fees and need not quantity the party's claimed costs and/or fees. However, the petition can be accompanied by papers quantifying the claimed costs and/or fees. (4-7-11)

d. Legal authority. Every petition for reconsideration filed under Subsection 741.03 should cite the source of the agency's legal authority to award costs and/or fees. The agency may (but need not) deny a petition that omits a citation to legal authority to award costs and/or fees. (4-7-11)

04. Oppositions. Unless otherwise provided by statute or rule of the agency, or extended by notice or order or the agency, oppositions to requests for costs and/or fees filed under Subsections 741.02 or 741.03 of this rule or motions to extend the time to oppose requests for costs and/or fees filed under Subsections 741.02 or 741.03 of this rule must be filed and served within fourteen (14) days of the service date of the petition to be timely. The agency may exercise its discretion to consider and grant an untimely opposition for good cause shown. (4-7-11)

05. Orders Granting or Denying Costs and/or Fees. Every agency order granting or denying a request for costs and/or fees must cite the statutes or rules under which it is deciding the request for costs and/or fees. (4-7-11)

742. -- 749. (RESERVED)

750. ORDER NOT DESIGNATED (RULE 750).
If an order is not designated as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. (3-24-93)

751. -- 759. (RESERVED)

760. MODIFICATION OF ORDER ON PRESIDING OFFICER'S OWN MOTION (RULE 760).
A hearing officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the hearing officer's own motion within fourteen (14) days after issuance of the recommended or preliminary order by withdrawing the recommended or preliminary order and issuing a substitute recommended or preliminary order. The agency head may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the agency head itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it. (3-24-93)

761. -- 769. (RESERVED)

770. CLARIFICATION OF ORDERS (RULE 770).
Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal the order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. (3-24-93)

771. -- 779. (RESERVED)

780. STAY OF ORDERS (RULE 780).
Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion. (3-24-93)

781. -- 789. (RESERVED)

Rules 790 through 799
Appeal to District Court

790. PERSONS WHO MAY APPEAL (RULE 790).
Pursuant to Section 67-5270, Idaho Code, any party aggrieved by a final order of an agency in a contested case may appeal to district court. Pursuant to Section 67-5271, Idaho Code, a person is not entitled to judicial review of an agency action in district court until that person has exhausted all administrative remedies available with the agency, but a preliminary, procedural, or intermediate agency action or ruling is immediately reviewable in district court if review of the final agency action would not provide an adequate remedy. (3-24-93)

791. NOTICE OF APPEAL (RULE 791).
The notice of appeal must be filed with the agency and with the district court and served on all parties. (3-24-93)

01. Filing. Pursuant to Section 67-5272, Idaho Code, appeals may be filed in the District Court of the county in which: (3-24-93)

a. The hearing was held, (3-24-93)

b. The final agency action was taken, (3-24-93)

c. The party seeking review of the agency action resides, or operates its principal place of business in Idaho, or (7-1-97)

d. The real property or personal property that was the subject of the agency is located. (3-24-93)

02. Time. Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final order in a contested case must be filed within twenty-eight (28) days: (3-24-93)

a. Of the service date of the final order, (3-24-93)

b. Of the denial of the petition for reconsideration, or (3-24-93)

c. The failure within twenty-one (21) days to grant or deny the petition for reconsideration. (3-24-93)

792. -- 799. (RESERVED)

SUBCHAPTER C -- RULEMAKING
Rules 800 through 860
Rulemaking

Rules 800 through 809
Introduction

800. FORMAL AND INFORMAL RULEMAKING (RULE 800).
Formal rulemaking refers only to rulemaking procedures associated with formal notice of proposed rulemaking, receipt of and consideration of written or oral comment on the record in response to notice of proposed rulemaking, and adoption of rules. Informal rulemaking refers to informal procedures for development of, comment upon, or review of rules for later formal consideration. No rule may come into effect solely as a result of informal rulemaking. Agreements coming from informal rulemaking must be finalized by formal rulemaking. (3-24-93)

801. -- 809. (RESERVED)

Rules 810 through 819
Informal, Negotiated Rulemaking

810. LEGISLATIVE PREFERENCE FOR NEGOTIATED RULEMAKING PROCEDURES (RULE 810).
This rule addresses informal, negotiated rulemaking as described by Section 67-5220, Idaho Code. The agency, when feasible, shall proceed by informal, negotiated rulemaking in order to improve the substance of proposed rules by drawing upon shared information, expertise and technical abilities possessed by the affected persons; to arrive at a consensus on the content of the rule; to expedite formal rulemaking; and to lessen the likelihood that affected persons will resist enforcement or challenge the rules in court. (3-24-93)

811. PUBLICATION IN IDAHO ADMINISTRATIVE BULLETIN (RULE 811).
If the agency determines that informal, negotiated rulemaking is feasible, it shall publish in the Idaho Administrative Bulletin a notice of intent to promulgate a rule. If the agency determines that informal, negotiated rulemaking is not feasible, it shall explain in its notice of intent to promulgate rules why informal rulemaking is not feasible and shall proceed to formal rulemaking as provided in this chapter. Reasons why the agency may find that informal, negotiated

rulemaking is not feasible include, but are not limited to, the need for temporary rulemaking, the simple nature of the proposed rule change, the lack of identifiable representatives of affected interests, or determination that affected interests are not likely to reach a consensus on a proposed rule. The determination of the agency whether to use informal, negotiated rulemaking is not reviewable. (3-24-93)

812. CONTENTS OF NOTICE OF INTENT TO PROMULGATE RULES (RULE 812).
The notice of intent to promulgate rules shall announce that the agency intends to proceed by way of informal, negotiated rulemaking to develop a proposed rule and shall include: (3-24-93)

01. Subject Matter. A brief, nontechnical statement of the subject matter to be addressed in the proposed rulemaking. (3-24-93)

02. Authority. The statutory authority for the rulemaking. (3-24-93)

03. Obtain Copy. An explanation how to obtain a preliminary draft of the proposed rules, if one is available. (3-24-93)

04. Issues. The principal issues involved and the interests which are likely to be significantly affected by the rule. (3-24-93)

05. Agency Contacts. The person(s) designated to represent the agency. (3-24-93)

06. Method of Participation. An explanation how a person may participate in the informal, negotiated rulemaking. (3-24-93)

07. Schedule. A proposed schedule for written comments or for a public meeting of interested persons, and a target date, if one exists, to complete negotiation and to publish a proposed rule for notice and comment. (3-24-93)

813. PUBLIC MEETINGS (RULE 813).
The agency may convene public meetings of interested persons to consider the matter proposed by the agency and to attempt to reach a consensus concerning a proposed rule with respect to the matter and any other matter the parties determine is relevant to the proposed rule. Person(s) representing the agency may participate in the deliberations. (3-24-93)

814. REPORTS TO THE AGENCY (RULE 814).
If the parties reach a consensus on a proposed rule, they shall transmit to the agency a report stating their consensus and, if appropriate, a draft of a proposed rule incorporating that consensus. If the parties are unable to reach a consensus on particular issues, they may transmit to the agency a report specifying those areas on which they reached consensus and those on which they did not, together with arguments for and against positions advocated by various participants. The participants or any individual participant may also include in a report any information, recommendations, or materials considered appropriate. (3-24-93)

815. AGENCY CONSIDERATION OF REPORT (RULE 815).
The agency may accept in whole or in part or reject the consensus reached by the parties in publishing a proposed rule for notice and comment. (3-24-93)

816. -- 819. (RESERVED)

Rules 820 through 829
Petition to Initiate Rulemaking

820. FORM AND CONTENTS OF PETITION TO INITIATE RULEMAKING (RULE 820).
This rule addresses petitions to initiate rulemaking as described by Section 67-5230, Idaho Code. (3-24-93)

01. Requirement. Any person petitioning for initiation of rulemaking must substantially comply with

this rule. (3-24-93)

02. Form and Contents. The petition must be filed with the agency and shall: (3-24-93)

a. Identify the petitioner and state the petitioner's interest(s) in the matter; (3-24-93)

b. Describe the nature of the rule or amendment to the rule urged to be promulgated and the petitioner's suggested rule or amendment; and (3-24-93)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the proposed rulemaking. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-24-93)

821. AGENCY RESPONSE TO PETITION (RULE 821).

01. Action of Agency. Within twenty-eight (28) days after the agency has received a petition to initiate rulemaking, the agency shall initiate rulemaking proceedings in accordance with Sections 67-5220 through 67-5225, Idaho Code, or deny the petition in writing, stating its reasons for the denial, unless the rulemaking authority is in a multi-member agency board or commission whose members are not full-time officers or employees of the state, in which case the multi-member board or commission shall have until the first regularly scheduled meeting of the multi-member board or commission that takes place seven (7) or more days after submission of the petition to initiate rulemaking proceedings in accordance with Sections 67-5220 through 67-5225, Idaho Code, or deny the petition in writing, stating its reasons for the denial. (7-1-97)

02. Denial. If the petition is denied, the written denial shall state: (3-24-93)

a. The agency has denied your petition to initiate rulemaking. This denial is a final agency action within the meaning of Section 67-5230, Idaho Code. (3-24-93)

b. Pursuant to Section 67-5270, Idaho Code, any person aggrieved by this final agency action may seek review of the denial to initiate rulemaking by filing a petition in the District Court of the county in which: (3-24-93)

i. The hearing was held, (3-24-93)

ii. This final agency action was taken, (3-24-93)

iii. The party seeking review resides, or operates its principal place of business in Idaho, or (7-1-97)

iv. The real property or personal property that was the subject of the denial of the petition for rulemaking is located. (3-24-93)

c. This appeal must be filed within twenty-eight (28) days of the service date of this denial of the petition to initiate rulemaking. See Section 67-5273, Idaho Code. (3-24-93)

822. NOTICE OF INTENT TO INITIATE RULEMAKING CONSTITUTES ACTION ON PETITION (RULE 822).

The agency may initiate rulemaking proceedings in response to a petition to initiate rulemaking by issuing a notice of intent to promulgate rules in the Idaho Administrative Bulletin on the subject matter of the petition if it wishes to obtain further comment whether a rule should be proposed or what rule should be proposed. Issuance of a notice of intent to promulgate rules satisfies an agency's obligations to take action on the petition and is not a denial of a petition to initiate rulemaking. (3-24-93)

823. -- 829. (RESERVED)

Rules 830 through 839
Procedure on Rulemaking for Proposed and Pending Rules

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

01. Content of Notice of Proposed Rulemaking. Every notice of proposed rulemaking filed with the Coordinator for publication in the Bulletin shall include: (4-7-11)

a. A statement of the specific statutory authority authorizing the rulemaking, including a citation to the specific section of Idaho Code that has occasioned the rulemaking or the federal statute or regulation if that is the basis of authority or requirement for the rulemaking; (4-7-11)

b. A statement in nontechnical language of the substance of the proposed rules, including a specific description of any fee or charge being imposed or increased; (4-7-11)

c. A statement whether the agency intends to conduct oral presentations concerning the proposed rules, and, if not, what persons must do in order to request an oral presentation. If the agency intends to take oral testimony on the proposed rule, the location, date and time of any public hearing must be included; (4-7-11)

d. A specific description, if applicable, of any negative fiscal effect on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year in which the pending rule will become effective; (4-7-11)

e. The mailing address to which written comments and requests for public hearings concerning the proposed rules must be mailed. If the agency accepts comments and requests by facsimile transmission (FAX) or by e-mail, the FAX number or e-mail address, or both, at which comments may be delivered must be provided; (4-7-11)

f. The name and telephone number of an agency contact to whom technical questions about the proposed rules may be referred; (4-7-11)

g. The deadline date for the submission of written comment on the proposed rules and for submitting requests for an opportunity for an oral presentation concerning the proposed rules; (4-7-11)

h. A statement whether negotiated rulemaking has been conducted, and if not, why not; and (4-7-11)

i. The text of the proposed rules in legislative format. (4-7-11)

02. Filing a Proposed Rulemaking for Publication in the Bulletin. (4-7-11)

a. In all cases. The agency must file the information required in Subsection 830.01 of this rule with the Coordinator for publication in the Bulletin. The Coordinator is responsible for transmitting all required rulemaking documents to the Director of Legislative Services for analysis. (4-7-11)

b. When fees are imposed or increased. In addition, if a fee or charge is imposed or increased through the proposed rulemaking, the agency must prepare and file with the Coordinator a statement of economic impact. This cost/benefit analysis must reasonably estimate the agency's costs to implement the rule and reasonably estimate the costs that would be borne by citizens, the private sector, or both, if the fees or charges being proposed are imposed by the rule. The cost/benefit analysis is not part of the proposed rulemaking notice and is not published in the Bulletin; it is a separate document that is submitted as part of the proposed rulemaking filing. (4-7-11)

03. Incorporation by Reference. If an agency proposes to incorporate by reference into its rules any codes, standards or rules authorized by subsection 67-5229(1), Idaho Code, for incorporation by reference, the agency's notice of proposed rulemaking must also include the following information required by subsection 67-5229(2), Idaho Code: (4-7-11)

a. Required information. A brief synopsis explaining why the incorporation is needed. (4-7-11)

b. Electronic link or other access. A statement that notes where an electronic copy can be obtained or

that provides an electronic link to the incorporated materials. If an electronic link is provided, at a minimum the link must be posted on the agency's website or included in the rule that is published in the Administrative Code on the Coordinator's website. If the incorporated material is copyrighted or otherwise unavailable, the rule must note where a copy of the incorporated materials may be viewed or purchased. (4-7-11)

c. Identification of version or edition incorporated. The agency must provide all of the information required by Subsection 67-5229(2), Idaho Code, regarding identifying with specificity the version or edition of the code, standard or rule that is incorporated by reference, including, but not limited to, the date the document was published, approved or adopted, or became effective. (4-7-11)

d. Example incorporations. The following are examples of the kind of specificity required by this Section and by Subsection 67-5229(2), Idaho Code: (4-7-11)

i. 2009 Edition of the International Building Code, published by the International Code Council, available online at http://www.constructionbook.com/2009-international-building-code/; (4-7-11)

ii 2009 International Fire Code, published by International Code Council. Copies of the 2009 edition of the International Fire Code are available for public inspection at the office of the State Fire Marshal. Copies of the 2009 International Fire Code are available for purchase from the International Code Council, Northwest Resource Center, PO Box 8004, Bellevue, WA 98004. (4-7-11)

iii. Code of Federal Regulations, Title 40, Part 35 Environmental Protection Agency's Regulations for State and Local Assistance under the Clean Water Act, Subpart A (July 1, 2009), available online at http://frwebgate.access.gpo.gov/cgi-bin/get-cfr.cgi?TITLE=40&PART=35&SUBPART=A&TYPE=PDF&YEAR=2009; and (4-7-11)

iv. Federal Regulations adopted by the Drug Enforcement Agency, Department of Justice, published in the Federal Register; Amendments to Code of Federal Regulations, 21 CFR Part 1300, section 1300.01, Definitions of Schedule III Controlled Substances, 74 Federal Register No. 232, page 63609 (December 4, 2009), available online at http://www.nigc.gov/LinkClick.aspx?fileticket=_YB0eC63Jh4%3D&tabid=57&mid=345. (4-7-11)

831. INFORMAL PHASES OF FORMAL RULEMAKING (RULE 831).
In addition to the formal phases of rulemaking proceedings, the agency may schedule meetings after the formal proposal of rules to explain the operation of the rules proposed. (3-24-93)

832. COMMENTS ON PROPOSED RULES (RULE 832).
Deadlines for comment upon proposed rules or amendments to proposed rules will be set forth in the Idaho Administrative Bulletin. Comments should be made to the officers listed in the notices of proposed rulemaking published in the Idaho Administrative Bulletin. Further information concerning individual rulemaking should be directed to the contact person listed for that rulemaking in the Idaho Administrative Bulletin. (3-24-93)

833. PETITIONS FOR ORAL PRESENTATION (RULE 833).

01. Requirement. Any person petitioning for an opportunity for an oral presentation in a substantive rulemaking must substantially comply with this rule. (3-24-93)

02. Content. The petition shall: (3-24-93)

a. Identify the petitioner and state the petitioner's interests in the matter, (3-24-93)

b. Describe the nature of the opposition to or support of the rule or amendment to the rule proposed to be promulgated by the agency, and (3-24-93)

c. Indicate alternative proposals of the petitioner and any statute, order, rule or other controlling law or factual allegations upon which the petitioner relies to support the request for the opportunity to provide an oral presentation. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-24-93)

03. Oral Presentation. Within fourteen (14) days after receiving a petition for an oral presentation, the agency shall schedule the oral presentation or deny it. The agency shall provide an opportunity for oral presentation if requested by twenty-five (25) persons, a political subdivision, or another agency, but no oral presentation need be provided when the agency has no discretion as the substantive content of a proposed rule because the proposed rule is intended solely to comply with a controlling judicial decision or court order, or with the provisions of a statute or federal rule that has been amended since the adoption of the agency rule. If oral presentation is granted, notice of the oral presentation shall be published in the Idaho Administrative Bulletin. If oral presentation is denied, the denial shall state the grounds for denial. (3-24-93)

834. THE RULEMAKING RECORD (RULE 834).

The agency shall maintain a record of each rulemaking proceeding. (3-24-93)

01. Contents. The record for a rulemaking proceeding shall include: (3-24-93)

a. Copies of all publications in the Idaho Administrative Bulletin relating to that rulemaking proceeding; (3-24-93)

b. All written petitions, submissions, and comments received by the agency, and the agency's responses to those petitions, submissions and comments; (3-24-93)

c. All written materials considered by the agency in connection with formulating the proposal or adoption of the rule; (3-24-93)

d. A record of any oral presentations, any transcriptions of oral presentations, and any memoranda summarizing the contents of such presentations; and (3-24-93)

e. Any other materials or documents prepared in conjunction with the rulemaking, including any summaries prepared for the agency in considering the rulemaking. (3-24-93)

02. Recording or Reporting. All oral presentations shall be recorded on audiotape or videotape or may be taken by a qualified court reporter at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Persons may have a transcript of an oral presentation prepared at their own expense. (7-1-97)

835. ADOPTION AND PUBLICATION OF PENDING RULES FOLLOWING COMMENT OR ORAL PRESENTATION (RULE 835).

01. Adoption. After the expiration of the written comment period for rulemaking and following any oral presentation on the rulemaking, but no sooner than seven (7) days after the expiration of the comment period, the agency shall consider fully all issues presented by the written and oral submissions respecting the proposed rule before adopting a pending rule. (7-1-97)

02. Publication. Upon the agency's adoption of a pending rule, the agency shall publish the text of the pending rule in the bulletin, except that with the permission of the coordinator, the agency need not publish the full text of the pending rule if no significant changes have been made from the text of the proposed rule as published in the bulletin, but the notice of adoption of the pending rule must cite the volume of the bulletin where the text is available and must note all changes that have been made. In addition, the agency must publish in the bulletin a concise explanatory statement containing: (7-1-97)

a. The reasons for adopting the pending rule; (7-1-97)

b. A statement of any change between the text of the proposed rule and the text of the pending rule with an explanation of the reasons for any changes; (7-1-97)

c. The date on which the pending rule will become final and effective pursuant to Section 67-5224(5), Idaho Code; (7-1-97)

d. A statement that the pending rule may be rejected, amended or modified by concurrent resolution of the Legislature; (7-1-97)

e. An identification of any portion of the pending rule imposing or increasing a fee or charge and stating that this portion of the pending rule shall not become final and effective unless affirmatively approved by concurrent resolution of the Legislature; and (7-1-97)

f. A statement how to obtain a copy of the agency's written review of and written responses to the written and oral submissions respecting the proposed rule. (7-1-97)

03. Rule Imposing or Increasing Fees. When any pending rule imposes a new fee or charge or increases an existing fee or charge, the agency shall provide the coordinator with a description of that portion of the rule imposing a new fee or charge or increasing an existing fee or charge, along with a citation of the specific statute authorizing the imposition or increase of the fee or charge. (7-1-97)

836. FINAL RULES (RULE 836).
Pending rules may become final rules, or may be rejected, amended or modified by concurrent resolution of the Legislature, as provided in Section 67-5224, Idaho Code. (7-1-97)

837. -- 839. (RESERVED)

840. PROCEDURE FOR ADOPTION OF TEMPORARY RULES (RULE 840).

01. Gubernatorial Finding. The agency may adopt temporary rules upon the Governor's finding that protection of the public health, safety, or welfare, compliance with deadlines in amendments to governing law or federal programs, or conferring a benefit requires a rule to become effective before it has been submitted to the Legislature for review. No temporary rule imposing a fee or charge may become effective before it has been approved, amended or modified by concurrent resolution of the Legislature unless the Governor finds that the fee or charge is necessary to avoid immediate danger that justifies the imposition of the fee or charge. (7-1-97)

02. Effective Date. Temporary rules take effect according to the effective date specified in the rules. Temporary rules may be immediately effective. (7-1-97)

03. Expiration. In no case may a temporary rule remain in effect beyond the conclusion of the next succeeding regular session of the Legislature unless the rule is approved, amended or modified by concurrent resolution, in which case the rule may remain in effect until the time specified in the resolution or until the rule has been replaced by a final rule that has become effective pursuant to Section 67-5224(5), Idaho Code. (7-1-97)

04. Notice and Publication. Agencies shall give such notice as is practicable in connection with adoption of a temporary rule. Temporary rules will be published in the first available issue of the Idaho Administrative Bulletin. (7-1-97)

05. Associated Proposed Rule. Concurrently with promulgation of a temporary rule, or as soon as reasonably possible thereafter, an agency must begin rulemaking procedures by issuing a proposed rule on the same subject matter as the temporary rule, unless the temporary rule will expire by its own terms or by operation of law before a proposed rule could become final. (7-1-97)

841. -- 849. (RESERVED)

850. CORRECTION OF TYPOGRAPHICAL, TRANSCRIPTION OR CLERICAL ERRORS IN PENDING RULES (RULE 850).
The agency may amend pending rules to correct typographical errors, transcription errors, or clerical errors, in the manner approved by the Administrative Rules Coordinator. These amendments will be incorporated into the pending rule upon their publication in the Idaho Administrative Bulletin. (7-1-97)

851. -- 859. (RESERVED)

860. PERSONS WHO MAY SEEK JUDICIAL REVIEW (RULE 860).
Pursuant to Section 67-5270, Idaho Code, any person aggrieved by an agency rule (either temporary or final) may seek judicial review in district court. (3-24-93)

01. Filing. The petition for judicial review must be filed with the agency and with the district court and served on all parties. Pursuant to Section 67-5272, Idaho Code, petitions for review may be filed in the District Court of the county in which: (3-24-93)

a. The hearing was held; (3-24-93)

b. The final agency action was taken; (3-24-93)

c. The party seeking review of the agency action resides, or operates its principal place of business in Idaho; or (7-1-97)

d. The real property or personal property that was the subject of the agency is located. (3-24-93)

02. Time. Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final rule (except for a challenge to procedures used in promulgating the rule) may be filed at any time. (3-24-93)

861. -- 999. (RESERVED)

04.12.01 – RULES OF ADMINISTRATIVE PROCEDURE FOR CONSIDERATION OF COOPERATIVE AGREEMENTS FILED BY HEALTH CARE PROVIDERS

Subchapter A -- General Provisions
(Rules 0 through 99)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Chapter 49, Title 39, Idaho Code. (1-1-95)

001. TITLE AND SCOPE (RULE 1).

01. Title. This chapter is titled "Rules of Administrative Procedure for Consideration of Cooperative Agreements Filed by Health Care Providers." (1-1-95)

02. Scope. Every application for a certificate of public advantage for a cooperative agreement by or among health care providers and any petition for review of or complaint for revocation of an existing certificate of public advantage must follow the procedures in these rules. (1-1-95)

002. WRITTEN INTERPRETATIONS -- ATTORNEY GENERAL GUIDELINES (RULE 2).
Written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rule-making that originally proposed the rules and review of comments submitted in the rule-making in the adoption of these rules are published in the Idaho Administrative Bulletin. Any memorandum of understanding or letters explaining the Attorney Generals policies concerning administration of certificates of public advantage for the approval of cooperative agreements of health care providers will be maintained for public inspection. (1-1-95)

003. ADMINISTRATIVE REVIEW (RULE 3).
Petitions for the Attorney General's discretionary administrative review of hearing officer's preliminary orders under this chapter may be taken as set forth in rule 730. (1-1-95)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).
All filings submitted according to the procedures of this chapter are public records. Any memorandum of understanding or letter explaining the Attorney General's policies concerning administration of certificates of public advantage for the approval of cooperative agreements of health care providers are public records be available for inspection. (1-1-95)

005. DEFINITIONS (RULE 5).
As used in this chapter: (1-1-95)

01. Cooperative Agreement. Cooperative agreement means a written agreement between two (2) or more health care providers for the sharing, allocation or referral of patients, or the sharing or allocation of personnel, instructional programs, support services and facilities, medical, diagnostic, therapeutic or procedures or other services customarily offered by health care providers. (1-1-95)

02. Certificate of Public Advantage. Certificate of public advantage means a document issued by the Attorney General to parties to a cooperative agreement, verifying that the Attorney General declares that the purposes and objectives of the cooperative agreement meet the standards for such agreements set forth by statute. (1-1-95)

03. Health Care Provider. Health care provider means any person or health care facility licensed, registered, certified, permitted or otherwise officially recognized by the state to provide health care services in Idaho; or in the case of a freestanding outpatient facility, one for which a facility fee is charged for health care services performed within. (1-1-95)

04. Health Care Services. Health care services include, but are not limited to, services provided by: (1-1-95)

a. Acute, subacute and intermediate care facilities; (1-1-95)

b. Dentists, denturists, orthodontists and their assistants; (1-1-95)

c. Doctors, physicians, surgeons and their assistants; (1-1-95)

d. Hospitals and medical centers; (1-1-95)

e. Home health services and outpatient clinics; (1-1-95)

f. Laboratories and laboratory technicians; (1-1-95)

g. Nurses; (1-1-95)

h. Nursing homes; (1-1-95)

i. Oculists, opticians, optometrists, ophthalmologists and their assistants; (1-1-95)

j. Podiatrists and their assistants; (1-1-95)

k. Psychiatrists, psychologists, and psychotherapists and their assistants; (1-1-95)

l. Pharmacies and pharmacists; and (1-1-95)

m. Rehabilitation services (including chiropractic, physical and occupational therapies). (1-1-95)

006. FILING OF DOCUMENTS -- NUMBER OF COPIES (RULE *6*).
Except as otherwise provided by this rule, notification of intent to file an initial application under this chapter or initial applications themselves must be filed with the receptionist in the Attorney General's office in Room 210 of the Statehouse. However, once a hearing officer has been appointed by the Attorney General to hear a contested case proceeding in an application under this chapter, the hearing officer may provide by notice or order for filings to made at a different address. (1-1-95)

007. ATTORNEY GENERAL'S RULES OF ADMINISTRATIVE PROCEDURE SUPERSEDED FOR CONTESTED CASES (RULE *7*).
Except as otherwise provided, these rules supersede the Attorney General's Rules of Administrative Procedure for contested cases, IDAPA 04.11.01.100 through 04.11.01.799, for the administration of Chapter 49, Title 39, Idaho Code, because the Attorney General finds that consideration of cooperative agreements of health care providers under Chapter 49, Title 39, Idaho Code, requires specialized rules of procedure with requirements in addition to those found in the Attorney General Rules of Administrative Procedure. These rules adopt the Attorney Generals Rules of Administrative Procedure IDAPA 04.11.01.800 through 04.11.01.860 for rulemaking under Chapter 49, Title 39, Idaho Code. (1-1-95)

***008*. -- 049. (RESERVED)**

050. PROCEEDINGS GOVERNED (RULE 50).
Rules 100 through 799 govern procedure before the Attorney General in contested cases on applications for the issuance of a certificate of public advantage for a cooperative agreement among or between health care providers and on petitions for review of or for complaints in revocation of an existing certificate of public advantage. (1-1-95)

051. (RESERVED)

052. ADOPTION BY REFERENCE OF RULES ADDRESSING CONSTRUCTION OF THESE RULES, COMMUNICATIONS TO THE OFFICE, SERVICE BY THE OFFICE AND COMPUTATION OF TIME (RULE 52).
Rules 552 through 566 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.552 through 04.11.01.556, addressing construction of these rules, communications to the office, service by the office, and computation of time, are hereby adopted by reference. (1-1-95)

053. -- 099. (RESERVED)

Subchapter B -- Contested Cases

Rules 100 through 999

Part 1 -- Rules 100 through 399 -- Definitions and General Provisions

a. Rules 100 through 149 -- Informal and Formal Proceedings

100. ADOPTION BY REFERENCE OF RULES ADDRESSING INFORMAL PROCEEDINGS (RULE 100).
Rules 100 and 102 through 104 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.100 and 04.11.01.102 through 04.11.01.104, addressing informal proceedings, are hereby adopted by reference. (1-1-95)

101. INFORMAL PROCEDURE (RULE 101).
Statute authorizes and these rules encourage the use informal proceedings to expedite or simplify formal contested cases. Informal procedure may include individual contacts by or with the Attorney General's investigative/prosecutorial staff asking for information, advice or assistance from the investigative/prosecutorial staff, or proposing a resolution of the application to the investigative/prosecutorial staff. Informal procedures may be conducted in writing, by telephone or television, or in person. All informal proceedings involving the Attorney General's investigative/prosecutorial staff shall be open to the public. (1-1-95)

102. -- 109. (RESERVED)

110. NOTICE OF INTENT TO FILE APPLICATION (RULE 110).
The Attorney General encourages all applicants for a certificate of public advantage to initiate an informal proceeding before the beginning of a formal proceeding by filing a notice of intent to file application four (4) to eight (8) weeks before the formal filing of an application for a certificate of public advantage. The notice of the intent to file application is a public document that will be the subject of press releases or other attempts to inform the public of the proposed application. The notice of intent must list the parties that will file an application for a certificate of public advantage and generally describe the nature of the cooperative agreement that will be the subject of the application to follow. (1-1-95)

111. PROCEDURE UPON RECEIPT OF NOTICE OF INTENT TO FILE APPLICATION (RULE 111).
Within one (1) week of the receipt of a notice of intent to file application, the Office of the Attorney General will appoint a hearing officer for the formal proceeding to follow and will assign staff to an investigative role for informal discussion with the prospective applicants concerning the application and the investigative/prosecutorial staff's position on the application. The purposes of these discussions between investigative/prosecutorial staff and the potential applicant, which will be open to interested members of the public, will be to gain understanding of the application to follow, to simplify or clarify issues that will be the subject of the application to follow, and to generally improve the presentations of all parties in the contested case hearing that will follow. Neither the prosecutorial investigative staff nor the applicant shall have any ex parte conduct with the hearing officer on any matter of substance concerning the pending application. (1-1-95)

112. -- 149. (RESERVED)

b. Rules 150 through 199 - Parties -- Other Persons

150. PARTIES TO CONTESTED CASES LISTED (RULE 150).
Parties to contested cases under Title 39, Chapter 49, are called applicants, petitioners, complainants, respondents, or intervenors. On reconsideration or discretionary review by the Attorney General parties are called by their original titles listed in the previous sentence. (1-1-95)

151. APPLICANTS (RULE 151).
Persons who seek a certificate of public advantage from the Attorney General are called "applicants." (1-1-95)

152. PETITIONERS (RULE 152).
Persons not applicants who seek to modify, amend or stay existing certificates of public advantage, to clarify their rights or obligations under existing certificates of public advantage, or to otherwise take action that will result in the

issuance of an order or rule, are called "petitioners." (1-1-95)

153. COMPLAINANTS (RULE 153).
Persons who charge other person(s) with any act or omission with regard to certificates of public advantage are called "complainants." In any proceeding in which the Attorney General's investigative/prosecutorial staff itself charges a person with an act or omission or seeks revocation of a certification, the Attorney General's investigative/prosecutorial staff is called "complainant." (1-1-95)

154. RESPONDENTS (RULE 154).
Persons against whom complaints are filed or about whom investigations are initiated are called "respondents." (1-1-95)

155. INTERVENORS (RULE 155).
Persons, not applicants, complainants, or respondents to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354, are called "intervenors." (1-1-95)

156. INVESTIGATIVE/PROSECUTORIAL STAFF (RULE 156).
The Attorney General may designate an investigative/prosecutorial staff that may appear, without intervention, in all proceedings under these rules. The investigative/prosecutorial staff has all rights to participate as a party in proceedings under these rules. (1-1-95)

157. RIGHTS OF PARTIES AND OF ATTORNEY GENERAL INVESTIGATIVE/PROSECUTORIAL STAFF (RULE 157).
Subject to Rules 558, 560, and 600, all parties and the Attorney General's investigative/prosecutorial staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (1-1-95)

158. PERSONS DEFINED -- PERSONS NOT PARTIES -- INTERESTED PERSONS (RULE 158).
The term "person" includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in an administrative proceeding. Persons other than the persons named in Rules 151 through 155 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. Persons may request the Attorney General in writing that they be notified when proceedings of a given kind are initiated. These persons are called "Interested Persons." Interested persons may become intervenors or public witnesses. The Attorney General will serve notice of such proceedings on all interested persons. (1-1-95)

159. -- 199. (RESERVED)

c. Rules 200 through 209 - Representatives of Parties

200. ADOPTION BY REFERENCE OF RULES ADDRESSING REPRESENTATIVES OF PARTIES (RULE 200).
Rules 200 through 207 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.200 through 04.11.01.207, addressing representation of parties, are hereby adopted by reference. (1-1-95)

201. -- 209. (RESERVED)

d. Rules 210 through 299 - Pleadings -- In General

210. PLEADINGS LISTED -- MISCELLANEOUS (RULE 210).
Pleadings in contested cases are called applications, petitions, complaints, motions, answers, and consent agreements. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Rule 200. All pleadings filed during the formal stage of a proceeding must be filed in accordance with Rules 300 through 301. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1)

pleading. (1-1-95)

211. -- 219. (RESERVED)

220. APPLICATIONS -- DEFINED -- FORM AND CONTENTS (RULE 220).

01. Applications Defined. All pleadings requesting a certificate of public advantage are called "applications." (1-1-95)

02. Form and Contents. Applications for a certificate of public advantage must contain the information required in Subsections 220.03 through 220.08. (1-1-95)

03. Listing of Parties. The application must list by name, business address, and business telephone all health care providers party to the cooperative agreement. (1-1-95)

a. If the health care provider is a corporation, the application must list the corporation's principal executive officer or such other officer as the corporation may designate as contact for the corporation, the primary business address of the corporation, the primary Idaho business address if the primary business address is not in Idaho, the primary business telephone number for the corporation, and the primary Idaho business telephone if the primary business telephone is not in Idaho. (1-1-95)

b. If the health care provider is a partnership, the application must list the partnership name and each partner's name, the primary business address of the partnership, the primary Idaho business address if the primary business address is not in Idaho, the primary business telephone number for the partnership, and the primary Idaho business telephone if the primary business telephone is not in Idaho. (1-1-95)

c. If the health care provider is an individual or an association of individuals, the application must list the association's name (if there is one) and each individual's name, the primary business address of the association and each individual, the primary Idaho business address if the primary business address is not in Idaho, the primary business telephone number for the association and each individual, and the primary Idaho business telephone if the primary business telephone is not in Idaho or give a specific description of the individuals involved, e.g., all doctors in (__) County referring patients to (___) Hospital under the terms of the agreement attached as exhibit 1 to the application. (1-1-95)

04. Description of Agreement. The application must include an executed written copy of the cooperative agreement and describe the nature and scope of the cooperation in the agreement and any consideration passing to any party under the agreement. (1-1-95)

05. Listing of Benefits. The application shall state whether one (1) or more of the following benefits will result from the issuance of a certificate of public advantage for the cooperative agreement and shall list any other additional benefits that the applicants wish to be taken into account in the consideration of the application. (1-1-95)

a. The quality of health care provided to consumers will be enhanced; (1-1-95)

b. A hospital, if any, and other health care facilities that customarily serve the communities in the area likely to be affected by the cooperative agreement will be preserved; (1-1-95)

c. Services provided by the parties to cooperative agreement will gain cost efficiency; (1-1-95)

d. The utilization of health care resources and equipment in the area likely affected by the cooperative agreement will improve; or (1-1-95)

e. Duplication of health care resources in the area likely affected by the cooperative agreement will be avoided. (1-1-95)

06. Supporting Analyses. The application shall be accompanied by the prepared testimony of witnesses to be called at hearing by the applicants and additional reports, studies, etc., that the witnesses would

introduce at hearing as exhibits supporting the application. The prepared testimony and exhibits shall address each of the potential benefits listed in Subsection 220.05 that are claimed by the applicants and any additional benefits that the applicants wish to be taken into consideration. (1-1-95)

07. Statement Concerning Discovery. The application shall state whether the applicant consents to discovery under these rules. (1-1-95)

08. Statement Concerning Fund for Expert Witnesses. The application shall state whether the applicant consents to provide a fund for the investigative/prosecutorial staff of the Office of the Attorney General to hire experts to evaluate the application. If the applicant so consents, it shall specify the amount of the fund available or that the applicant would propose to negotiate the amount with the investigative/prosecutorial staff of the Office of the Attorney General. (1-1-95)

09. Defective or Insufficient Applications. If an application does not contain all of the information required by this rule, it is defective or insufficient. (1-1-95)

221. -- 229. (RESERVED)

230. ADOPTION BY REFERENCE OF RULES ADDRESSING PETITIONS, COMPLAINTS, MOTIONS, ANSWERS AND CONSENT AGREEMENTS (RULE 230).
Rules 230, 240, 260, 270 AND 280 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.230, 04.11.01.240, 04.11.01.260, 04.11.01.270, and 04.11.01.280, addressing petitions, complaints, motions, answers, and consent agreements are hereby adopted by reference. (1-1-95)

231. -- 299. (RESERVED)

e. Rules 300 through 349 -- Filing, Service, Amendment and Withdrawal of Documents

300. FILING DOCUMENTS -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX) (RULE 300).
An original and two (2) copies of all documents intended to be part of the record of a contested case must be filed with the Office of the Attorney General or such other person as designated by the hearing officer. The original shall be for the hearing officer and the two copies for the Attorney General's investigative/prosecutorial staff. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX). Whenever any document is filed by FAX, if possible, originals must be delivered by overnight mail the next working day. (1-1-95)

301. ADOPTION BY REFERENCE OF RULES ADDRESSING SERVICE OF PLEADINGS AND OTHER RULES ON PLEADINGS (RULE 301).
Rules 301 through 305 of the Attorney General's Idaho Rules of Administrative Procedure, IDAPA 04.11.01.301 through 04.11.01.305, addressing pleadings, hereby adopted by reference. (1-1-95)

302. -- 349. (RESERVED)

f. Rules 350 through 399 - Intervention -- Public Witnesses

350. ADOPTION BY REFERENCE OF RULES ADDRESSING INTERVENTION AND PUBLIC WITNESSES (RULE 350).
Rules 350 through 355 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.350 through 04.11.01.355, addressing intervention and public witnesses, are hereby adopted by reference. (1-1-95)

351. -- 399. (RESERVED)

Part 2. Rules 400 through 499 -- Declaratory Rulings and Orders -- Hearing Officers --

Presiding Officers -- Dual Investigatory and Adjudicatory Functions

a. Rules 400 through 409 -- Declaratory Rulings

400. ADOPTION BY REFERENCE OF RULES ADDRESSING DECLARATORY RULINGS (RULE 400).
Rules 400 through 402 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.400 through 04.11.01.402, addressing declaratory orders, are hereby adopted by reference. (1-1-95)

401. -- 409. (RESERVED)

b. Rules 410 through 419 -- Hearing Officers -- Presiding Officers

410. APPOINTMENT OF HEARING OFFICERS (RULE 410).
A hearing officer is a person other than the Attorney General appointed to hear contested cases on behalf of the Attorney General. Hearing officers may be deputy attorneys general, other employees of the Attorney General or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues of health care providers' cooperative agreements. The appointment of a hearing officer is a public record available for inspection, examination and copying. (1-1-95)

411. HEARING OFFICERS CONTRASTED WITH ATTORNEY GENERAL (RULE 411).
The Attorney General is not a hearing officer, even if the Attorney General presides at a contested case. The term "hearing officer" as used in these rules refers only to presiding officers other than the Attorney General. (1-1-95)

412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES (RULE 412).
Pursuant to Section 67-5252, Idaho Code, there are two (2) rules for disqualification of hearing officers. (1-1-95)

01. Disqualification in Applications for Certificate. Section 39-4303(3) requires applications for a certificate of public advantage to be heard within sixty (60) days. Accordingly, under Section 67-5252, Idaho Code, no party to the contested case can disqualify a hearing officer except for cause. (1-1-95)

02. Disqualification in Other Contested Cases. In other contested cases, any party shall have a right to one (1) disqualification without cause of any person serving or designated to serve as a hearing officer. Any party shall have a right to move to disqualify a hearing officer for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the Attorney General, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. (1-1-95)

03. Motion for Disqualification. Any party may, within fourteen (14) days, petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or promptly upon discovering facts establishing grounds for disqualification, whichever is later. A hearing officer whose disqualification is requested shall determine in writing whether to grant the motion for disqualification, stating facts and reasons for the hearing officer's determination. Disqualification of the Attorney General is not allowed. See Sections 59-704 and 67-5252(4), Idaho Code. (1-1-95)

413. ADOPTION BY REFERENCE OF RULES ADDRESSING HEARING OFFICERS AND PRESIDING OFFICERS (RULE 413).
Rules 413 through 417 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.413 through 04.11.01.417.17, addressing hearing officers and presiding officers, are hereby adopted by reference. (1-1-95)

414.-- 419. (RESERVED)

c. Rules 420 through 429 -- Responsibility for Investigative/Prosecutorial and Adjudicatory

Functions upon Consideration of Contested Cases

420. CONTRAST BETWEEN OFFICE OF ATTORNEY GENERAL'S INVESTIGATIVE/ PROSECUTORIAL AND ADJUDICATORY FUNCTIONS (RULE 420).
Rules 420 through 429 set forth procedures to be followed by the Office of the Attorney General in processing applications for a certificate of public advantage and in conducting proceedings to revoke certificates of public advantage. (1-1-95)

01. Investigative/Prosecutorial Function. The investigative/prosecutorial function is performed by deputy attorneys general and other personnel or consultants assigned to review applications for a certificate of public advantage or to prosecute proposed revocations of certificates of public ad vantage. The investigative/prosecutorial function includes gathering of evidence concerning an application or potential revocation outside of formal contested case proceedings, presentation of allegations or evidence for determination whether a complaint to revoke a certificate will be issued, and presentation of evidence in a formal contested case proceeding. (1-1-95)

02. Adjudicatory Function. The adjudicatory function is performed by a hearing officer appointed by the Attorney General or by the Attorney General upon review of the hearing officer's preliminary order. The adjudicatory function includes deciding whether to issue a complaint for revocation of a certificate upon the basis of allegations before the Office of the Attorney General, deciding whether to accept a consent order or other settlement of a complaint, and deciding the merits of an application or a complaint following presentation of evidence in formal contested case proceedings. A deputy attorney general may be assigned to be a hearing officer. (1-1-95)

421. PUBLIC INQUIRIES ABOUT OR RECOMMENDATIONS FOR COMPLAINT (RULE 421).
This rule sets forth procedures to be followed by the Office of the Attorney General upon receipt of an inquiry whether or how an application for a certificate should be made or whether a complaint to revoke a certificate should be issued. (1-1-95)

01. The Attorney General. When the public contacts the Attorney General, the Attorney General may: explain the office's procedures; explain the office's jurisdiction or authority (including the statutes or rules administered by the Attorney General); and direct the public to appropriate staff personnel who can provide assistance or who can advise them how to pursue a formal proceeding before the Attorney General. No statement of the Attorney General in response to a public inquiry constitutes a finding of fact, conclusion of law or other decision on the underlying matter. (1-1-95)

02. Deputy Attorneys General. When the public contacts a deputy attorney general (other than a deputy attorney general assigned to be a hearing officer) to inquire whether or how an application for a certificate should be made or a complaint to revoke a certificate should be issued, the deputy attorney general may: explain the procedures to be followed; explain the Attorney General's jurisdiction or authority (including an explanation of the statutes or rules administered by the Attorney General); and direct the public to appropriate staff personnel who can provide investigatory assistance or who can advise them how to pursue a formal proceeding before the Attorney General. A deputy attorney general assigned to an investigative/prosecutorial role may discuss whether given allegations would, in the deputy's opinion, warrant the issuance of a certificate or a complaint to revoke a certificate or warrant direction to staff to pursue further investigation. Neither a hearing officer nor the Attorney General is bound by the deputy's advice or recommendations, and the deputy should notify the public that neither a hearing officer nor the Attorney General is obligated to follow the deputy's advice or recommendations. (1-1-95)

03. Other Staff. When the public contacts other staff in the Office of the Attorney General to inquire whether or how an application for a certificate should be made or a complaint to revoke a certificate should be issued, a staff member authorized to respond may: explain the Attorney General's procedures; explain the Attorney General's jurisdiction or authority (including an explanation of the statutes or rules administered by the Attorney General); direct the public to appropriate staff personnel who can provide investigatory assistance or who can advise them how to pursue a complaint before the Attorney General; and express an opinion whether given allegations would, in the staff's opinion, warrant the issuance of a complaint or warrant staff's further investigation. Neither the hearing officer nor the Attorney General is bound by the staff's advice or recommendations, and the staff should notify the public that neither the hearing officer nor the Attorney General is obligated to follow the staff's advice or recommendations. (1-1-95)

04. Hearing Officers. When the public contacts a hearing officer to inquire whether or how an application for a certificate should be made or a complaint to revoke a certificate should be issued, the hearing officer should not discuss the matter, but should refer the member of the public to other personnel. (1-1-95)

422. CONSIDERATION OF CONSENT AGREEMENT OR OTHER SETTLEMENTS (RULE 422).
This rule sets forth procedures to be followed by the Office of the Attorney General when a consent agreement, stipulated settlement, or other settlement is negotiated before an application for a certificate of public advantage or an complaint for revocation of a certificate is filed. (1-1-95)

01. Negotiations. A deputy attorney general assigned to an investigative/prosecutorial role and other staff may negotiate consent agreements or other settlements. Neither the Attorney General nor a hearing officer may participate in these negotiations, but the Attorney General may have rules or guidelines for issuance of consent agreements or other general policy statements available to guide individual negotiations. (1-1-95)

02. Presentation of Consent Agreement. Consent agreements must be presented to the Office of the Attorney General for approval. The consent agreement may be presented to the Office of the Attorney General by representatives of any party, unless the agreement provides to the contrary. (1-1-95)

03. Consideration of Consent Agreement. A consent agreement that is presented to the Office of the Attorney General must be reviewed under this rule. A hearing officer will be assigned to review the consent agreement. The hearing officer may accept or reject the consent agreement, indicate how the consent agreement must be modified to be acceptable, or inform the parties what further information is required for consideration of the consent agreement. When a consent agreement is rejected, no matter recited in the rejected consent agreement may be used as an admission against a party in any later proceeding before the Attorney General, and any such matter must be proven by evidence independent of the consent agreement. Any acceptance or rejection of the consent agreement shall be done by preliminary order, which may be reviewed by the Attorney General as any other preliminary order. (1-1-95)

423. PROCEDURES AFTER INITIATION OF FORMAL CASE (RULE 423).
This rule sets forth procedures to be followed by the Office of the Attorney General after a formal case is initiated, while investigation or discovery is underway, while a hearing is conducted, and before the preliminary order of the hearing officer is reviewed by the Attorney General (if a hearing officer's preliminary order is reviewed). (1-1-95)

01. The Attorney General. (1-1-95)

a. Prohibited Contacts--Allowable Managerial Reporting. The Attorney General shall not discuss the substance of the contested case ex parte with any representative of any party or with deputy attorneys general or other staff involved in the investigation or prosecution of the case. The Attorney General may request periodic progress reporting on staff preparation. For example, the Attorney General may ask whether the staff will be prepared to present its case by a given date, but cannot inquire about the substance of the staff's case. (1-1-95)

b. Allowed Discussions. The Attorney General may discuss the substance of the contested case with deputy attorneys general and staff who are not involved in the investigation or prosecution of the contested case. The Attorney General may discuss the substance of the contested case with the hearing officer assigned to the case. (1-1-95)

02. Deputy Attorneys General. (1-1-95)

a. Investigative/Prosecutorial Attorneys. No deputy attorney general involved in the investigation or prosecution of a contested case shall discuss the substance of the contested case ex parte with the Attorney General, a hearing officer assigned to hear the contested case, or with any deputy attorney general assigned to advise or assist the Attorney General or hearing officer assigned to hear the contested case. (1-1-95)

b. Advisory Attorneys. No deputy attorney general assigned to advise or assist the Attorney General or hearing officer shall discuss the substance of the contested case ex parte with any representative of any party or with deputy attorneys general or staff involved in the investigation or prosecution of the contested case. A deputy

attorney general assigned to advise or assist the Attorney General or hearing officer may discuss the substance of the contested case with the hearing officer or Attorney General. (1-1-95)

03. Other Staff. (1-1-95)

a. Investigative/Prosecutorial Staff. No staff involved in the investigation or prosecution of the contested case shall discuss the substance of the contested case ex parte with the Attorney General, a hearing officer assigned to hear the contested case, or with any deputy attorney general assigned to advise or assist the Attorney General or hearing officer assigned to hear the contested case. (1-1-95)

b. Advisory Staff. No staff assigned to advise or assist the Attorney General or hearing officer shall discuss the substance of the contested case ex parte with any representative of any party or with deputy attorneys general or staff involved in the investigation or prosecution of the contested case. Staff assigned to advise or assist the Attorney General or hearing officer may discuss the substance of the contested case with the hearing officer or Attorney General. (1-1-95)

04. Hearing Officers. No hearing officer shall discuss the substance of the contested case ex parte with any representative of any party or with deputy attorneys general or staff involved in the investigation or prosecution of the contested case. Hearing officers may discuss the substance of the contested case with deputy attorneys general assigned to advise or assist the hearing officer. Hearing officers may discuss the substance of the contested case with the Attorney General. (1-1-95)

424. HEARING OFFICERS (RULE 424).
No hearing officer may discuss the substance of a contested case ex parte with any deputy attorney general or staff involved in the investigation or prosecution of the contested case at any stage of the consideration of the contested case or pending judicial review of the decision in the contested case. A hearing officer may consult with any other hearing officer and with the Attorney General. A hearing officer may consult with a deputy attorney general assigned to advise or assist the hearing officer. The Attorney General may appoint as a hearing officer a deputy attorney general who will advise or assist the Attorney General in consideration of the contested case. (1-1-95)

425. ATTORNEY GENERAL'S CONSIDERATION OF PRELIMINARY ORDER (RULE 425).
This rule sets forth procedures to be followed by the Attorney General, deputy attorneys general, staff, and hearing officers if the Attorney General has accepted the hearing officer's preliminary order for discretionary review. (1-1-95)

01. The Attorney General. In considering the hearing officer's preliminary order, the Attorney General may consult with deputy attorneys general assigned to advise or assist the Attorney General and with staff that did not participate in the investigation or prosecution of the contested case. The Attorney General may consult with the hearing officer that heard the contested case and prepared the preliminary order or other hearing officers. (1-1-95)

02. Deputy Attorneys General. (1-1-95)

a. Investigative/Prosecutorial Attorneys. No deputy attorney general involved in the investigation or prosecution of a contested case shall consult with the Attorney General considering the hearing officer's preliminary order. (1-1-95)

b. Advisory Attorneys. A deputy attorney general assigned to advise or assist the Attorney General in consideration of the contested case may consult with the Attorney General in preparation for or while the Attorney General is considering the hearing officer's preliminary order. (1-1-95)

03. Other Staff. (1-1-95)

a. Investigative/Prosecutorial Staff. No staff involved in the investigation or prosecution of the contested case shall consult with the Attorney General in the Attorney's General consideration of the preliminary order. (1-1-95)

b. Advisory Staff. Any staff assigned to advise or assist the Attorney General may consult with the Attorney General at the Attorney General's direction. (1-1-95)

04. Hearing Officers. No hearing officer shall consult with any person other than the Attorney General or another deputy assigned to advise the Attorney General during the Attorney General's consideration of the hearing officer's preliminary order. (1-1-95)

426. -- 499. (RESERVED)

Part 3. Rules 500 through 699 -- Post-Pleading Procedure

a. Rules 500 through 509 -- Alternative Dispute Resolution (ADR)

500. ADOPTION BY REFERENCE OF RULES ADDRESSING ALTERNATIVE DISPUTE RESOLUTION (ADR) (RULE 500).
Rules 500 through 502 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.500 through 04.11.01.502, addressing alternative dispute resolution (ADR), are hereby adopted by reference. (1-1-95)

501. -- 509. (RESERVED)

b. Rules 510 through 519 -- Prehearing Conferences

510. ADOPTION OF REFERENCE OF RULES ADDRESSING PREHEARING CONFERENCES (RULE 510).
Rules 510 through 514 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.510 through 04.11.01.514, addressing prehearing conferences, are hereby adopted by reference. (1-1-95)

511. -- 519. (RESERVED)

c. Rules 520 through 539 -- Discovery -- Related Prehearing Procedures

520. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 520).

01. Kinds of Discovery. The kinds of discovery recognized by these rules in contested cases are: (1-1-95)

a. Depositions; (1-1-95)

b. Production requests or written interrogatories; and (1-1-95)

c. Requests for admission. (1-1-95)

02. Scope of Discovery. Unless otherwise provided by statute, rule, order or notice, the scope of discovery is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b)). (1-1-95)

521. WHEN DISCOVERY AUTHORIZED (RULE 521).
Parties may agree between or among themselves to provide for discovery. If the applicant for a certificate of public advantage consents to being subject to discovery, the hearing officer may issue an order scheduling discovery based upon that consent. Any party that propounds discovery to the applicant has by operation of this rule also consented to discovery of its case according to the terms of the hearing officer's order compelling discovery or subsequent orders addressing discovery. (1-1-95)

522. RIGHTS TO DISCOVERY RECIPROCAL (RULE 522).
All parties have a right of discovery of all other parties according to Rule 521. (1-1-95)

523. DEPOSITIONS (RULE 523).
Whenever the parties involved have agreed to or have consented to discovery according to these rules, depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, rule or order. (1-1-95)

524. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION (RULE 524).
Whenever the parties involved have agreed to or consented to discovery according to these rules, production requests or written interrogatories and requests for admission may be submitted in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, rule or order. (1-1-95)

525. ANSWERS TO DISCOVERY IN PUBLIC FILES (RULE 525).
Answers to discovery in the possession of the Office of the Attorney General are in the public domain. Answers are subject to inspection, examination and copying under the public records law, Sections 9-337 through 9-348, Idaho Code. (1-1-95)

526. (RESERVED)

527. ADOPTION BY REFERENCE OF RULES RELATING TO ANSWERS TO PRODUCTION REQUESTS, FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS, EXHIBIT NUMBERS, AND PREPARED TESTIMONY AND EXHIBITS (RULE 527).
Rules 527 through 530 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.527 through 04.11.01.530, addressing answers to production requests, filing and service of discovery-related documents, exhibit numbers, and prepared testimony and exhibits, are hereby adopted by reference. (1-1-95)

528. -- 530. (RESERVED)

531. SANCTIONS FOR FAILURE TO OBEY ORDER SCHEDULING DISCOVERY (RULE 531).
The hearing officer may impose all sanctions recognized by statute or rule for failure to comply with an order scheduling discovery. In particular, whether or not the applicant has consented to discovery, the hearing officer may find that the applicant has not met its burden of persuasion of the benefits of the cooperative agreement if the applicant will not comply with reasonable requests for discovery on material relevant to its application. (1-1-95)

532. -- 539. (RESERVED)

d. Rules 540 Through 549 -- Particular Rules for Issuance or Revocation of a Certificate of Public Advantage

540. TIMETABLE FOR PROCESSING APPLICATION FOR CERTIFICATE OF PUBLIC ADVANTAGE (RULE 540).
Section 39-4903(3), Idaho Code, provides that the Attorney General must grant or deny an application for a certificate of public advantage within sixty (60) days of the date of the filing of the application. The Attorney General interprets this timetable as establishing an applicant's right to receive a decision on the merits within sixty (60) days, not as divesting the Attorney General of jurisdiction to make a decision more than sixty (60) days after filing the application. Furthermore, the Attorney General interprets the applicant's right to a decision in sixty (60) days as a right that an applicant may waive in writing. (1-1-95)

541. APPLICANTS' BURDENS OF PROOF (RULE 541).

01. Burden of Introduction of Evidence on Benefits. Applicants for a certificate of public advantage bear the burden of introduction of evidence that their cooperative agreement provides one (1) or more of the following benefits: (1-1-95)

a. The quality of health care provided to consumers in the state will be enhanced. (1-1-95)

b. A hospital, if any, and other health care facilities that customarily serve the communities in the area

likely affected by the cooperative agreement will be preserved. (1-1-95)

c. Services provided by the parties to the cooperative agreement will gain cost efficiency. (1-1-95)

d. The utilization of health care resources and equipment in the area likely affected by the cooperative agreement will improve. (1-1-95)

e. Duplication of health care resources in the area likely affected by the cooperative agreement will be avoided. (1-1-95)

02. Burden of Persuasion That Benefits Outweigh Disadvantages. Applicants for a certificate of public advantage bear the burden of persuasion by clear and convincing evidence that their agreement produces one (1) or more of the benefits listed in Subsection 541.01 and that these benefits outweigh any disadvantages attributable to a reduction in competition that may result from the agreement, including, but not limited to the following: (1-1-95)

a. The likely adverse impact, if any, on the ability of health maintenance organizations, preferred provider plans, hospital provider organizations, persons performing utilization review, or other health care payers to negotiate optimal payment and service arrangements with hospitals and other health care providers. (1-1-95)

b. Whether any reduction in competition among physicians, allied health professionals or other health care providers is likely to result directly or indirectly from the cooperative agreement. (1-1-95)

c. Whether any arrangements that are less restrictive to competition could likely achieve substantially the same benefits or a more favorable balance of benefits over disadvantages than that likely to be achieved from reducing competition. (1-1-95)

03. Relevance of Providing Supporting Information. In assessing whether the applicant has met its burden of persuasion by clear and convincing evidence that benefits of the cooperative agreement outweigh the disadvantages, the finder of fact may take into account whether the applicant supplied at hearing relevant information available to the applicant. (1-1-95)

542. APPOINTMENT OF HEARING OFFICER (RULE 542).
The demands on the time of the Attorney General will not ordinarily allow the Attorney General to hear an application. Accordingly, within seven days after the Office of the Attorney General receives either a notice of intent to file an application for a certificate of public advantage or receives an application for a certificate of public advantage, whichever comes first, the Attorney General will appoint a hearing officer to hear the case. The hearing officer will be authorized to issue a preliminary order (i.e., an order that will become final in the absence of review by the Attorney General). The hearing officer will issue a preliminary order rather than a recommended order (an order that becomes final only after review by the Attorney General) because there is not time for a hearing officer to hear a case and issue a recommended order and for the Attorney General to review a recommended order in sixty (60) days. (1-1-95)

543. ATTORNEY GENERAL'S REVIEW OF PRELIMINARY ORDER DISCRETIONARY (RULE 543).
The Attorney General’s review of a preliminary order is discretionary. The Attorney General will not review a preliminary order without the applicant’s written waiver of the sixty (60) day limit for deciding an application. (1-1-95)

544. ORDER GRANTING AN APPLICATION FOR A CERTIFICATE -- ISSUANCE OF CERTIFICATE (RULE 544).

01. Contents of Order. An order granting an application for a certificate of public advantage must recite the parties to the cooperative agreement, attach the cooperative agreement approved by order the as an exhibit, find that the benefits of the cooperative agreement outweigh any disadvantages attributable to a reduction in competition that may result from the cooperative agreement, and state whether periodic written updates of the progress of the approved cooperative agreement will be required. (1-1-95)

02. Frequency of Periodic Updates. If the order requires periodic written updates, the order may require periodic reports at intervals no more frequently than ninety (90) days. (1-1-95)

03. Issuance of Certificate. The Attorney General will issue a certificate of public advantage when a preliminary order of the hearing officer granting an application for a certificate becomes final, if the preliminary order is not reviewed, or concurrently with a final order of the Attorney General granting a certificate, if the Attorney General reviews a preliminary order of the hearing officer and issues a final order granting a certificate. (1-1-95)

545. EFFECT OF ISSUANCE OF CERTIFICATE (RULE 545).
If a certificate of public advantage is issued, participants in the approved cooperative agreement are immune from civil enforcement and criminal prosecution for actions that might otherwise violate antitrust law of the state of Idaho taken in furtherance of the cooperative agreement. Nothing in the approval limits the authority of the Attorney General to initiate civil enforcement or criminal prosecution if health care providers have exceeded the scope of the cooperative agreement approved. (1-1-95)

546. RECOMMENDATION FOR REVOCATION OF CERTIFICATE -- REVIEW BY ATTORNEY GENERAL (RULE 546).

01. Staff and Other Recommendations. If the investigative/prosecutorial staff of the Attorney General recommends to the Attorney General in writing that a certificate of public advantage be revoked, revoked in part or otherwise modified because the benefits resulting from or likely to result from a cooperative agreement under a certificate of public advantage no longer outweigh any disadvantage attributable to any actual or potential reduction in competition resulting from the cooperative agreement, the staff shall serve a copy of the recommendation upon the parties to the agreement and upon their counsel of record for the application, if there was one. If the Office of the Attorney General receives such a recommendation in writing from the public, the Office of the Attorney General shall serve a copy of the recommendation upon the parties to the agreement and upon their counsel of record, if there was one. (1-1-95)

02. The Attorney General's Response. The Attorney General shall consider the recommendation to revoke, revoke in part or modify the certificate of public advantage and find whether the recommendation is substantial enough to warrant the initiation of a complaint to formally investigate. The Attorney General's finding that the recommendations warrant further investigation by the initiation of a complaint does not constitute a finding or conclusion on any underlying matter. (1-1-95)

547. PROCEDURE WHEN COMPLAINT ISSUED (RULE 547).
If the Attorney General accepts a recommendation to initiate a formal investigation by complaint, pursuant to Section 39-4903(12), Idaho Code, the order initiating the complaint shall revoke, revoke in part or modify the certificate of public advantage and inform the parties to the cooperative agreement that they have ten (10) days to contest the revocation, revocation in part or modification of the certificate. An order of revocation, revocation in part or modification of the certificate shall not become effective until ten (10) days have elapsed and the parties to the certificate have not contested the order. If the parties contest the order of revocation, revocation in part or modification, that order shall then be ineffective. (1-1-95)

548. PROCEDURE WHEN REVOCATION CONTESTED (RULE 548).
If a proposed revocation, revocation in part or modification of a certificate of public advantage is contested, the Attorney General shall appoint a hearing officer to hear the complaint as a contested case. The hearing officer shall issue a preliminary order deciding all issues raised by the complaint following a hearing on the merits or a settlement. (1-1-95)

549. TERMINATION OF COOPERATIVE AGREEMENT (RULE 549).
If a party to a cooperative agreement terminates its participation in the cooperative agreement, the party shall file a notice of termination with the Office of the Attorney General within thirty (30) days after the termination takes effect. If all parties to the cooperative agreement terminate their participation in the agreement, the Attorney General shall revoke the certificate of public advantage for the agreement. (1-1-95)

e. Rules 550 through 599 -- Hearings -- Miscellaneous Procedure

550. ADOPTION BY REFERENCE OF RULES ADDRESSING HEARINGS AND MISCELLANEOUS PROCEDURE (RULE 550).
Rules 550 through 566 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.550 through 04.11.01.566, addressing hearings and miscellaneous procedure, are hereby adopted by reference. (1-1-95)

551. -- 599. (RESERVED)

f. Rules 600 Through 609 -- Evidence in Contested Cases

600. ADOPTION BY REFERENCE OF RULES ADDRESSING EVIDENCE (RULE 600).
Rules 600 through 606 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.600 through 04.11.01.606, addressing evidence, are hereby adopted by reference. (1-1-95)

601. -- 609. (RESERVED)

g. Rules 610 through 649 -- Settlements

610. ADOPTION BY REFERENCE OF RULES ADDRESSING SETTLEMENTS (RULE 610).
Rules 610 through 614 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.610 through 04.11.01.614, addressing settlements, are hereby adopted by reference. (1-1-95)

611. -- 649. (RESERVED)

h. Rules 650 through 699 -- Records for Decisions

650. ADOPTION BY REFERENCE OF RULES ADDRESSING RECORDS FOR DECISION (RULE 650).
Rules 650 and 651 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.650 through 04.11.01.651, addressing records for decision, are hereby adopted by reference. (1-1-95)

651. -- 699. (RESERVED)

Part 4. -- Rules 700 through 999 -- Preliminary Orders and Review of Preliminary Orders

a. Rules 700 through 709 -- Defaults

700. ADOPTION BY REFERENCE OF RULES ADDRESSING DEFAULTS (RULE 700).
Rules 700 through 702 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.700 through 04.11.01.702, addressing defaults, are hereby adopted by reference. (1-1-95)

701. -- 709. (RESERVED)

b. Rules 710 through 780
Interlocutory, Preliminary and Final Orders -- Review or Stay of Orders

710. ADOPTION BY REFERENCE OF RULES ADDRESSING INTERLOCUTORY, PRELIMINARY AND FINAL ORDERS AND REVIEW OR STAY OF ORDERS (RULE 710).
Rules 710, 711, 730, 740, 750, 760, 770, and 780 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.710, 04.11.01.711, 04.11.01.730, 04.11.01.740, 04.11.01.750, 04.11.01.760, 04.11.01.770 and

04.11.017.880, addressing interlocutory, preliminary and final orders and review or stay of orders, are hereby adopted by reference. (1-1-95)

711. -- 789. (RESERVED)

c. Rules 790 through 999 -- Appeal to District Court

790. ADOPTION BY REFERENCE OF RULES ADDRESSING APPEAL TO DISTRICT COURT (RULE 790).
Rules 790 and 791 of the Attorney General's Rules of Administrative Procedure, IDAPA 04.11.01.790 and 04.11.01.791, addressing appeal to district court, are hereby adopted by reference. (1-1-95)

791. -- 999. (RESERVED)

04.20.01 – RULES IMPLEMENTING THE IDAHO TOBACCO MASTER SETTLEMENT AGREEMENT COMPLEMENTARY ACT

Subchapter A -- General Provisions and Definitions (Rules 0 through 99)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Title 39, Chapter 84, Idaho Code. (3-20-04)

001. TITLE AND SCOPE (RULE 1).

01. Title. This chapter is titled "Rules Implementing the Idaho Tobacco Master Settlement Agreement Complementary Act." (3-20-04)

02. Scope. These rules govern compliance with, and seek to implement, Idaho's Tobacco Master Settlement Agreement Complementary Act and also pertain to the sale, stamping and reporting of cigarettes in Idaho. (3-20-04)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking in the adoption of these rules are published in the Idaho Administrative Bulletin. Any memorandum of understanding or letters explaining the Attorney General's policies concerning administration of these rules will be maintained for public inspection. (3-20-04)

003. PUBLIC RECORDS ACT COMPLIANCE (RULE 3).
All filings submitted according to the procedures of this chapter are public records. Any memorandum of understanding or letter explaining the Attorney General's policies concerning administration of these rules are public records available for inspection. (3-20-04)

004. ADMINISTRATIVE APPEALS (RULE 4).
Except as provided by CAR 200 and Section 39-8407(1), Idaho Code, there is no provision for administrative appeals. (3-20-04)

005. DEFINITIONS (RULE *5*).
*In addition to those terms set forth in Section 39-7802, Idaho Code, which apply with full force and effect to all provisions and sections of these rules, including rules hereafter amended or supplemented, a*s used in this chapter:
( )

01. Brand Family. Brand family means all styles of cigarettes sold under the same trademark and differentiated from one another by means of additional modifiers or descriptors including, but not limited to, "menthol," "lights," "kings," and "100s," and includes any brand name (alone or in conjunction with any other word) trademark, logo, symbol, motto, selling message, recognizable pattern of colors, or any other indicia of product identification identical or similar to, or identifiable with, a previously known brand of cigarettes. (3-20-04)

02. **Directory**. Directory means the Directory of Compliant Tobacco Product Manufacturers and Brands, as provided for by Section 39-8403(2), Idaho Code. (3-20-04)

03. **Nonparticipating Manufacturer**. Nonparticipating manufacturer means any tobacco product manufacturer that is not a participating manufacturer. (3-20-04)

04. **Participating Manufacturer**. Participating manufacturer has the same meaning as that term is defined in section II(jj) of the master settlement agreement and all amendments thereto. (3-20-04)

05. **Qualified Escrow Fund**. Qualified escrow fund has the same meaning as that term is defined in Section 39-7802(f), Idaho Code. (3-20-04)

06. **Stamping Agent**. Stamping agent means a person that is authorized or required to affix tax stamps to packages or other containers of cigarettes under Title 63, Chapter 25, Idaho Code. (3-20-04)

006. -- 099. (RESERVED)

**Subchapter B -- Quarterly Certifications and Escrow Deposits
(Rules 100 through 199)**

100. QUARTERLY CERTIFICATIONS AND ESCROW DEPOSITS (RULE 100).
To promote compliance with Section 39-7803(b), Idaho Code, the Attorney General may require nonparticipating manufacturers quarterly to certify their compliance with the Idaho tobacco master settlement agreement act. The Attorney General may also require nonparticipating manufacturers to make the escrow payments required by Section 39-7803(b), Idaho Code, in quarterly installments during the year in which the sales covered by such payments are made. This rule applies to nonparticipating manufacturers who meet any of the following criteria: (3-20-04)

01. No Previous Escrow Deposit. Nonparticipating manufacturers that have not previously established and funded a qualified escrow fund in Idaho; (3-20-04)

02. No Escrow Deposit for More Than One Year. Nonparticipating manufacturers that have not made any escrow deposits for more than one (1) year; (3-20-04)

03. Untimely or Incomplete Deposits. Nonparticipating manufacturers that have failed to make a timely and complete escrow deposit for any prior calendar year; (3-20-04)

04. Outstanding Judgments. Nonparticipating manufacturers that have failed to pay any judgment, including any civil penalty; (3-20-04)

05. Large Sales Volume. Nonparticipating manufacturers that have more than one million six hundred thousand (1,600,000) of their cigarettes sold during a quarter; and (3-20-04)

06. Other Reasonable Cause. In addition to the reasons specified above, the Attorney General may require quarterly escrow deposits from a nonparticipating manufacturer if the Attorney General has reasonable cause to believe the nonparticipating manufacturer may not make its full required escrow deposit by April 15 of the year following the year in which the cigarettes sales were made. (3-20-04)

101. DEADLINE FOR QUARTERLY ESCROW DEPOSITS (RULE 101).
Nonparticipating manufacturers who are required to make quarterly escrow deposits must do so no later than thirty (30) days after the end of the quarter in which the sales are made. For example, the deadline for making a quarterly escrow deposit for cigarette sales occurring in February is April 30 of the same year. (3-20-04)

102. DEADLINE FOR SUBMITTING QUARTERLY CERTIFICATION AND NOTIFYING ATTORNEY GENERAL OF QUARTERLY ESCROW DEPOSIT (RULE 102).
Nonparticipating manufacturers who are required to make quarterly escrow deposits, must provide the Attorney General with official notification of the quarterly escrow deposit no later than ten (10) days after the deadline for which an escrow deposit is required. Nonparticipating manufacturers must also provide their quarterly certifications within the same deadline. For example, the deadline for certifying and officially notifying the Attorney General of a quarterly escrow deposit for sales of cigarettes that occurred in February is May 10 of the same year. (3-20-04)

103. QUARTERLY PERIODS DEFINED (RULE 103).
For purposes of this subchapter, the calendar year shall be divided into the following quarters: January 1 through March 31; April 1 through June 30; July 1 through September 30; and October 1 through December 31. (3-20-04)

104. UNTIMELY OR INCOMPLETE QUARTERLY CERTIFICATION OR QUARTERLY ESCROW DEPOSIT (RULE 104).
If the required quarterly escrow deposit is not timely made in full, or the required quarterly certification is not provided to the Attorney General, or the Attorney General does not receive timely official notice of the quarterly escrow deposit, the delinquent nonparticipating manufacturer and its brand families may be removed from the directory. (3-20-04)

105. -- 199. (RESERVED)

Subchapter C -- Review of Decisions to Exclude or Remove from the Directory (Rules 200 through 299)

200. REVIEW OF ATTORNEY GENERAL DECISIONS RELATED TO EXCLUDING OR REMOVING FROM THE DIRECTORY (RULE 200).
A determination of the Attorney General to exclude or remove from the directory a brand family or tobacco product manufacturer shall be subject to review in the manner prescribed by Idaho's administrative procedure act, Title 67, Chapter 52, Idaho Code. (3-20-04)

201. -- 299. (RESERVED)

Subchapter D -- Directory (Rules 300 through 399)

300. DIRECTORY (RULE 300).
The Attorney General shall develop, maintain and publish the directory, which shall list all tobacco product manufacturers that have provided current and accurate certifications conforming to the requirements of Section 39-8403(1), Idaho Code, and all brand families that are listed in such certifications; provided, however, (3-20-04)

01. Missing or Noncompliant Certification. The Attorney General shall not include or retain in such directory the name or brand families of any nonparticipating manufacturer that fails to provide the required certification or whose certification the Attorney General determines is not in compliance with Section 39-8403(1)(b) and (c), Idaho Code, unless the Attorney General has determined that such violation has been cured to the satisfaction of the Attorney General. (3-20-04)

02. Inadequate Escrow Deposit and Outstanding Judgments. Neither a tobacco product manufacturer nor a brand family shall be included or retained in the directory if the Attorney General concludes in the case of a nonparticipating manufacturer that: (3-20-04)

a. Any escrow payment required pursuant to Section 39-7803(b), Idaho Code, for any period and for any brand family, whether or not listed by such nonparticipating manufacturer, has not been fully paid into a qualified escrow fund governed by a qualified escrow agreement that has been approved by the Attorney General; or (3-20-04)

b. Any outstanding final judgment, including interest thereon, for a violation of Idaho's tobacco master settlement agreement act has not been fully satisfied for such brand family and such manufacturer. (3-20-04)

301. PUBLICATION OF DIRECTORY (RULE 301).
The directory will be developed and published by September 1, 2003. The directory will be available on the Internet at the Attorney General's website. *( )*

***302*. DIRECTORY UPDATES (RULE 302).**
The Attorney General shall update the directory as necessary in order to correct mistakes and to add or remove a tobacco product manufacturer or brand families to keep the directory in conformity with the requirements of this chapter and Section 39-8403, Idaho Code. (3-20-04)

***303*. DIRECTORY UPDATE NOTICES -- STAMPING AGENTS (RULE 303).**
The Attorney General shall transmit by electronic mail, if possible, or by other means as are reasonable to each stamping agent, notice of the addition to, or removal from, the directory of any tobacco product manufacturer or brand family. With respect to notices of removal from the directory, such notice shall be provided ten (10) calendar days prior to the Attorney General removing the tobacco product manufacturer or its brand family or both from the directory. (3-20-04)

304. DIRECTORY UPDATE NOTICES -- TOBACCO PRODUCT MANUFACTURER -- ADDITION (RULE 304).
The first time a tobacco product manufacturer complies with Section 39-8403(1), Idaho Code, the Attorney General shall notify by mail the tobacco product manufacturer of such compliance and that it will be added to the directory. The notice shall also indicate each brand family of the tobacco product manufacturer that the Attorney General has determined will be added to the directory. (3-20-04)

305. DIRECTORY UPDATE NOTICES -- TOBACCO PRODUCT MANUFACTURER -- NONINCLUSION OR REMOVAL (RULE 305).
The Attorney General shall notify by certified mail to the tobacco product manufacturer's agent for service of process of any decision not to include in or to remove from the directory the tobacco product manufacturer, a brand family of the tobacco product manufacturer, or both. With respect to notices of removal from the directory, such notice shall be provided ten (10) calendar days prior to the Attorney General taking action as provided in the notice. (3-20-04)

306. BURDEN OF ESTABLISHING ENTITLEMENT TO BE LISTED IN THE DIRECTORY (RULE 306).
The burden of proof shall be on the tobacco product manufacturer to establish that it or a particular brand family is entitled to be listed in the directory. (3-20-04)

308. -- 999. (RESERVED)

IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL

DOCKET NO. 04-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 48-1006(1) and 48-1106, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 04, rules of the Office of the Attorney General:

IDAPA 04

- 04.02.02, *Idaho Rules of Telephone Solicitations and Pay-Per-Telephone-Call Services*

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 638-651**. The Office of the Attorney General has adopted these rules as pending fee rules. The changes made to these pending fee rules form the proposed rule text consist of non-substantive changes to limit redundancies, remove out dated language, and otherwise streamline these rules.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fees set forth in these rules impose a fifty-dollar ($50) registration fee upon telephone solicitors required to register with the Attorney General. For those solicitors renewing their registration, the fee is twenty-five dollars ($25). This fee or charge is being imposed pursuant to Section 48-1006(3), Idaho Code.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Brett DeLange, Chief, Consumer Protection Division, Office of the Attorney General. Mr. DeLange can be reached at (208) 334-4114 or at **brett.delange@ag.idaho.gov**.

Dated this 31st day of October, 2019.

Brett T. DeLange, Division Chief
Consumer Protection Division
Office of the Attorney General
954 W. Jefferson St., 2nd Floor
P. O. Box 83720
Boise, ID 83720-0010
Phone: (208) 334-4114
Fax: (208) 334-4151
brett.delange@ag.idaho.gov

04.02.02 – IDAHO RULES OF TELEPHONE SOLICITATIONS AND PAY-PER-TELEPHONE-CALL SERVICES, OFFICE OF THE ATTORNEY GENERAL

Subchapter A -- General Provisions
(Rules 0 - 19)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Title 67, Chapter 52, Idaho Code, and pursuant to Sections 48-1006(1), 48-1106, and 48-604, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled "Idaho Rules of Telephone Solicitations and Pay-Per-Telephone-Call Services, Office of the Attorney General," IDAPA 04, Title 02, Chapter 02. (7-1-93)

02. Scope. These rules are intended to safeguard persons against deceit and financial hardship, to insure, foster, and encourage competition and fair dealings among telephone solicitors by requiring adequate disclosure, and to prohibit representations that have the capacity, tendency, or effect of misleading a purchaser acting reasonably under the circumstances. Further, these rules are intended to provide reasonable guidance to persons doing telephone solicitations and providing pay-per-telephone-call services either from or to locations in the state of Idaho. (7-1-93)

002. WRITTEN INTERPRETATIONS -- AGENCY GUIDELINES (RULE 2).
In accordance with Section 67-5201(19)(b)(iv), Idaho Code, this agency has written statements that pertain to the interpretation of the rules of this chapter, or to the compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Office of the Attorney General, Consumer Protection Unit. (7-1-93)

003. RULES OF CONSTRUCTION (RULE 3).
Without limiting the scope of any section of the ITSA or the IPTCA, or any other rule or law, these rules shall be liberally construed and applied to promote the general purposes and policies of these Acts. (7-1-93)

004. NON-INCLUSIVE (RULE 4).
These rules are not intended to cover all trade practices that violate the provisions of the ITSA or the IPTCA. Other areas of illegal telephone solicitations or pay-per-telephone-call services not specifically encompassed by these rules are still actionable under the ITSA, the IPTCA, or the Idaho Consumer Protection Act, codified at Title 48, Chapter 6, Idaho Code. (7-1-93)

005. CUMULATIVE (RULE 5).
These rules are intended to be cumulative in effect and supplementary to each other as well as to the Idaho Consumer Protection Rules, codified at IDAPA 04.02.01. If acts or practices are governed by more than one rule under either these rules or the Idaho Consumer Protection Rules, compliance with all applicable rules is required. (7-1-93)

006. NON-EXCLUSIVE (RULE 6).
These rules are in addition to, and do not affect, any other rights or obligations that may exist by statute or judicial decision. (7-1-93)

007. EXCEPTIONS TO THESE RULES (RULE 7).
Exempted telephone solicitors are exempt from subchapters C, D, and H, and TSR 056 and TSR 057. Exempted information providers are exempt from subchapter F. (7-1-93)

008. -- 019. (RESERVED)

Subchapter B -- Definitions
(Rules 20 -- 29)

020. DEFINITIONS (RULE 20).
The definitions set forth in Sections 48-1002 and 48-1102, Idaho Code, apply with full force and effect to all provisions and sections of these rules. Terms not defined in these rules, the Idaho Consumer Protection Rules, codified at IDAPA 04.02.01.000, or Sections 48-1002, 48-1102, or 48-602, Idaho Code, shall be construed in accordance with general principles of Idaho law. As used in this chapter: (7-1-93)

01. Advertisement (Including Words of Similar Meaning or Import). Any oral, written, graphic, or pictorial representation, statement, or public notice, however made or utilized, including, without limitation, by publication, dissemination, solicitation or circulation, in the course of trade and commerce. (7-1-92)

02. Business Days. All days of the week except Saturdays and Sundays and all other legal holidays as defined by Section 73-108, Idaho Code. (7-1-92)

03. Clear and Conspicuous Disclosure. A statement, representation, or term which is disclosed in a manner that is: (7-1-92)

a. Reasonably close to any statement, representation or term it clarifies, modifies, explains, or to which it otherwise relates; (7-1-92)

b. Reasonably noticeable; (7-1-92)

c. Reasonably understandable by the persons to whom it is directed; and (7-1-92)

d. Not contradictory to any terms it purports to clarify, modify, or explain. (7-1-92)

04. Conducting Business. Making telephone solicitations either to or from locations within the State of Idaho. (7-1-92)

05. Exempted Information Providers. Any telephone corporation that provides basic local exchange service or message telecommunication service, as defined by Section 62-603, Idaho Code, which transmits pay-per-telephone-call services but does not control the content of the information transmitted. (7-1-93)

06. Exempted Telephone Solicitors. A person: (7-1-93)

a. Engaging in telephone solicitations where: (7-1-93)

i. The solicitation is an isolated transaction and not done in the course of a pattern of repeated transactions of like nature; or (7-1-92)

ii. Less than sixty percent (60%) of such person's prior year's sales were made as a result of telephone solicitations. (7-1-92)

b. Making a telephone solicitation where the purchaser contacted has previously purchased goods or services from the person or the business entity for which the person is calling. (7-1-93)

c. Making a telephone solicitation: (7-1-93)

i. Without the intent to make or obtain provisional acceptance of a purchase during the telephone solicitation; and (7-1-92)

ii. Who only makes the major sales presentation or arranges for the major sales presentation to be made at a later face-to-face meeting between the person and the purchaser, and the later face-to-face meeting is not for the purpose of collecting the payment or delivering any item purchased. (7-1-92)

d. Whose business is licensed by any federal or state of Idaho governmental agency, except the secretary of state office, which has the power to revoke any license issued by the agency. (7-1-93)

e. Making a telephone solicitation solely for purposes of selling a subscription to or advertising in a newspaper or telephone directory of general circulation. (7-1-93)

f. Making a telephone solicitation solely for purposes of selling a magazine, periodical, book or musical or video recordings: (7-1-93)

i. Under which the telephone solicitor provides the purchaser with a form which the purchaser may use to instruct the telephone solicitor not to ship the merchandise; and (7-1-92)

ii. Which complies with the Federal Trade Commission's "Use of Negative Option Plans by Sellers in Commerce Rule," 16 C.F.R. 425, or a continuity plan, subscription arrangement, series arrangement or single purchase unless the telephone solicitor ships goods to a purchaser who has consented in advance to receive such goods and the purchaser is given the opportunity to review the goods for at least seven (7) days and to receive a full refund for return of the undamaged goods. (7-1-93)

g. Who has at least one (1) business location in the state of Idaho under the same name as that used in connection with telephone solicitations and ninety percent (90%) of the person's business involves the purchaser's obtaining services and products at the person's business location. (7-1-93)

h. Who is an issuer or subsidiary of an issuer that has a class of securities which is subject to Section 12 of the Securities Exchange Act of 1934, 15 U.S.C. Section 781, and which is either registered or exempt from registration under paragraphs (A), (B), (C), (E), (F), (G), or (H) of Subsection (g)(2) of that section. (7-1-93)

i. Who solicits sales by periodically publishing and delivering a catalog of the person's merchandise to purchasers if the catalog: (7-1-93)

i. Contains a written description or illustration of each item offered for sale; (7-1-93)

ii. Includes the business address or home office address of the telephone solicitor; (7-1-92)

iii. Includes at least twenty-four (24) pages of written material and illustration and is distributed in more than one (1) state; and (7-1-93)

iv. Has an annual circulation by mailing of not less than two hundred fifty thousand (250,000). (7-1-92)

07. Free (Including Words of Similar Meaning or Import). Without charge or cost, monetary or otherwise, to the recipient, and includes terms of essentially identical import, such as "give away" or "complimentary." (7-1-92)

08. Goods. Any property, tangible or intangible, real, personal or mixed, and any other article, commodity, or thing of value. (7-1-92)

09. Information Provider. Any person that controls the content of a pay-per-telephone-call service. (7-1-92)

10. ITSA. Idaho Telephone Solicitation Act, codified at Title 48, Chapter 10, Idaho Code. (7-1-93)

11. IPTCA. Idaho Pay-Per-Telephone-Call Act, codified at Title 48, Chapter 11, Idaho Code. (7-1-93)

12. Newspaper of General Circulation. A newspaper which holds a second class mailing permit from the United States Postal Service, has at least two hundred (200) subscribers, is made up of at least four (4) pages of at least five (5) columns, is not produced through any type of mimeographic process, and has been published or distributed within the State of Idaho on a weekly basis for at least seventy-eight (78) consecutive weeks, or on a daily basis, which is defined to be no less than five (5) days of any one (1) week, for at least twelve (12) months immediately preceding any telephone solicitation done by or on behalf of such newspaper. (7-1-92)

13. Offer. Any solicitation, invitation, or proposal by a telephone solicitor to a purchaser through which a telephone solicitor, either directly or indirectly, attempts or intends to sell, rent, or lease goods or services or to induce a purchaser to purchase, rent, or lease goods or services. (7-1-92)

14. Pay-per-Telephone-Call Service. Any telecommunications service which permits simultaneous

calling by a number of callers to a single telephone number and for which the calling party is assessed, by virtue of completing the call, a charge that is not dependent on the existence of a presubscription relationship and for which the caller pays a per-call or per-time-interval charge that is greater than, or in addition to, the charge for transmission of the call. (7-1-92)

15. Person. Natural persons, partnerships, both limited and general, corporations, both foreign and domestic, companies, trusts, business entities, associations, both incorporated and unincorporated, and any other legal entity or any group associated in fact although not a legal entity, or any agent, assign, heir, servant, employee or representative thereof. (7-1-92)

16. Preamble Message. A statement communicated to a person at the beginning of any pay-per-telephone-call service that contains the following: (7-1-92)

a. All per-call charges. If the call is billed on a usage sensitive basis, all rates, by minute or other unit of time, any minimum charges and the total cost for calls to that service must be disclosed if the duration of the pay-per-telephone-call service can be determined; (7-1-92)

b. The name of the information provider; (7-1-92)

c. An accurate description of the information, goods, or services that the person will receive for the charge; and (7-1-92)

d. A statement that billing will begin only after a specific identified event following the disclosure message, such as a signal tone. (7-1-92)

17. Purchaser. A person who is solicited to become or does become obligated to a telephone solicitor or information provider. (7-1-92)

18. Services. Any work, labor, help, assistance, or instruction wherever provided or performed. (7-1-92)

19. Telephone Directory of General Circulation. A directory containing telephone numbers of individual residents and/or businesses which is published on a community-wide or regional basis and which is widely available to persons residing in such community or region through free distribution or direct purchase of said directory without the requirement of other purchases or affiliations. (7-1-92)

20. Telephone Solicitation. A telephone solicitation is: (7-1-92)

a. Any unsolicited telephone call or facsimile transmission to a purchaser for the purpose of asking, inducing, inviting, requesting, or encouraging the purchaser to purchase or invest in goods or services; or (7-1-92)

b. Any communication in which: (7-1-92)

i. A free gift, award, or prize is offered, or in which it is advertised or implied that goods or services are offered below the regular price of the goods or services; (7-1-92)

ii. A return telephone call is invited or the communication is followed up by a call to the purchaser by the telephone solicitor; and (7-1-92)

iii. It is intended during the course of the return or follow-up call with the purchaser that a purchase or an agreement to purchase is made. (7-1-92)

iv. For purposes of TSR 020.20.b., “any communication” means a written or oral statement or notification or advertisement transmitted to the purchaser through any means. (7-1-93)

21. Telephone Solicitor. Any person who, on his own behalf or through other persons or through use of an automatic dialing-announcing device, engages in a telephone solicitation. (7-1-92)

22. Verifiable Retail Value. A price at which a telephone solicitor can demonstrate that a substantial number of goods or services have been sold at retail by a person other than the telephone solicitor. If such substantiation described herein is not available to a telephone solicitor, verifiable retail value shall be no more than one and one-half (1.5) times the amount the telephone solicitor paid for the goods or services. (7-1-93)

23. Written Confirmation. A writing that includes the following information: the date of purchase, the telephone solicitor's complete address and registration number, a listing of all goods and/or services purchased, a listing of the price of each good and service purchased, the total obligation incurred by the purchaser, and the notice of cancellation as set forth in Section 48-1004, Idaho Code, and TSR 057. (7-1-93)

021. -- 029. (RESERVED)

Subchapter C -- Registration
(Rules 30 -- 39)

030. REGISTRATION (RULE 30).
Telephone solicitors shall register with the Consumer Protection Unit of the Office of the Attorney General at least ten (10) days prior to conducting business in Idaho by filing the information required by subchapter D and a nonrefundable filing fee of fifty ($50) dollars. The information shall be submitted on a form and pursuant to instructions provided by the Consumer Protection Unit of the Office of the Attorney General. (7-1-93)

031. VERIFICATION (RULE 31).
The information required by subchapter D shall be verified by a declaration signed by each principal of the telephone solicitor under penalty of perjury. The declaration shall specify the date and location of signing. Information submitted pursuant to TSR 040.10 and/or TSR 040.11 shall be clearly identified and appended to the filing. (7-1-93)

032. RENEWAL (RULE 32).
Registration of a telephone solicitor shall be valid for one (1) year from the effective date thereof and may be annually renewed by filing a new registration form provided by the Consumer Protection Unit of the Office of the Attorney General and paying a nonrefundable renewal fee of twenty-five ($25) dollars to the Consumer Protection Unit of the Office of the Attorney General. (7-1-93)

033. AMENDED INFORM (RULE 33).
Whenever, prior to expiration of a telephone solicitor's annual registration, there is a material change in the information required by subchapter D, the telephone solicitor shall, within ten (10) business days of the material change, file an addendum updating the information with the Consumer Protection Unit of the Office of the Attorney General. (7-1-93)

034. REGISTRATION (RULE 34).
Upon receipt of a properly filed registration application or registration renewal application and the filing fee pursuant to TSR 030 or TSR 032, the Consumer Protection Unit of the Office of the Attorney General shall register the telephone solicitor. If the telephone solicitor has more than one (1) business location, the registration shall be sent to the principal business location identified by the telephone solicitor in his or her registration application in sufficient number so that the telephone solicitor has one (1) for each location. (7-1-93)

035. POSTING OF REGISTRATION (RULE 35).
Upon receipt of the registration, the telephone solicitor shall post it in a conspicuous place at each of the telephone solicitor's business locations and shall have available for inspection by any governmental agency at each location a copy of the entire registration application which had been filed with the Consumer Protection Unit of the Office of the Attorney General. (7-1-93)

036. DEFECTIVE REGISTRATION (RULE 36).
Any registration form which is not properly signed under penalty of perjury and completed properly with all necessary forms attached shall be rejected and returned to the telephone solicitor, and the telephone solicitor shall be deemed not to have filed a registration form with the Consumer Protection Unit of the Office of the Attorney General. (7-1-93)

037. REGISTRATION TIME PERIOD (RULE 37).
Within twenty (20) days of the date of receipt of the registration form, the Consumer Protection Unit of the Office of the Attorney General will either register the telephone solicitor, request additional information, or deny the registration. (7-1-93)

038. -- 039. (RESERVED)

Subchapter D -- Telephone Solicitor Disclosure -- Office of the Attorney General
(Rules 40 -- 49)

040. INFORMATION DISCLOSURE (RULE 40).
Each filing pursuant to subchapter C shall contain the following information, to be provided on forms prepared by the Consumer Protection Unit of the Office of the Attorney General: (7-1-93)

01. Name. The name or names of the telephone solicitor, including the name under which the telephone solicitor is doing or intends to do business, and the name of any parent or affiliated organization that will engage in business transactions with purchasers relating to offers by the telephone solicitor or that accepts responsibility for statements made by, or acts of, the telephone solicitor relating to offers of the telephone solicitor. (7-1-92)

02. Business Status. The telephone solicitor's place of organization and, if the telephone solicitor is a corporation, a copy of its articles of incorporation and bylaws and amendments thereto; or, if a partnership, a copy of the partnership agreement; or, if operating under a fictitious business name, the location where the fictitious name has been registered. All the same information shall be included for any parent or affiliated organization disclosed pursuant to TSR 040.01. (7-1-93)

03. Location. The complete street address or addresses of all locations, designating the principal location from which the telephone solicitor will be conducting business. (7-1-92)

04. Telephone Numbers. A listing of all telephone numbers to be used by the telephone solicitor and the address where each telephone using each of these telephone numbers is located. (7-1-92)

05. Owners and Officers. The name of, and the office held by, the telephone solicitor's officers, directors, trustees, general and limited partners, sole proprietor, and owners, as the case may be, and the names of those persons who have management responsibilities in connection with the telephone solicitor's business activities. (7-1-92)

06. Owners and Officers Identification. The complete address of the principal residence, the date of birth and the driver's license number and state of issuance of each of the persons whose names are disclosed pursuant to TSR 040.05. (7-1-93)

07. Designated Responsible Persons. The name and principal residence address of each person the telephone solicitor leaves in charge at each location from which the telephone solicitor conducts business, and the business location that each of these persons is or will be in charge of. (7-1-92)

08. Background. A statement, as to both the telephone solicitor, whether a corporation, partnership, firm, association, joint venture, or any other type of business entity (and whether identified pursuant to TSR 040.05 or TSR 040.07), and as to any person identified pursuant to TSR 040.05 or TSR 040.07 who: (7-1-93)

a. Has been convicted of a felony or misdemeanor involving fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property. For purposes of this paragraph, a plea of nolo contendere is a conviction; (7-1-92)

b. Has had entered against him or her a final judgment or order in a civil or administrative action, including a stipulated judgment or order, if the complaint or petition in the civil or administrative action alleged acts constituting a violation of the federal Trade Commission Act, or a state's consumer protection or unfair and deceptive

practices act, fraud, theft, embezzlement, fraudulent conversion, or misappropriation of property, the use of untrue or misleading representations in an attempt to sell or dispose of real or personal property, or the use of unfair, unlawful or deceptive business practices; (7-1-92)

c. Is subject to any currently effective injunction or restrictive court order relating to business activity as the result of an action brought by a federal, state, or local public agency or unit thereof; or (7-1-92)

d. Has at any time during the previous seven (7) tax years filed for bankruptcy, been adjudged a bankrupt, been reorganized due to insolvency, or been a principal, director, officer, trustee, general or limited partner, or had management responsibilities of any other corporation, partnership, joint venture, or business entity, that has so filed or was so adjudicated or reorganized, during or within one (1) year after the period that the person held that position; (7-1-92)

e. For purposes of TSR 040.08.a., TSR 040.08.b., and TSR 040.08.c., the statement required by TSR 040.08 shall identify the telephone solicitor or person, the court or administrative agency rendering the judgment or order, the docket number of the matter, the date of the judgment or order, and the name of the governmental agency, if any, that brought the action resulting in the judgment or order. For purposes of TSR 040.08.d., the statement required by this rule shall include the name and location of the telephone solicitor or person filing in bankruptcy, adjudged a bankrupt, or reorganized due to insolvency, and shall include the date thereof, the court which exercised jurisdiction, and the docket number of the matter; (7-1-93)

09. Financial Information. The name of the financial institution and account number for each of the telephone solicitor's demand accounts, checking accounts, and merchant accounts used for the deposit of any credit card charge slips, including but not limited to, credit cards issued by VISA, MasterCard, Discover, American Express, Diners Club or Carte Blanche; (7-1-92)

10. Items for Sale. A description of the items the telephone solicitor is offering for sale and a copy of all sales scripts the telephone solicitor requires salespersons to use when soliciting prospective purchasers, or if no sales script is required to be used, a statement to that effect. (7-1-92)

11. Sales Literature. A copy of all sales information and literature (including but not limited to scripts, outlines, instructions, and information regarding how to conduct sales, sample introductions, sample closings, product information, and contest or premium-award information) provided by the telephone solicitor to salespersons or of which the telephone solicitor informs salespersons, and a copy of all written materials the telephone solicitor sends to any prospective or actual purchaser. (7-1-92)

12. Incentive Promotions. If the telephone solicitor represents or implies, or directs salespersons to represent or imply, to purchasers that the purchaser will receive certain specific items (including a certificate of any type which the purchaser must redeem to obtain the item described in the certificate) or one or more items from among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or by other terms of similar meaning, the filing shall include the following: (7-1-92)

a. A list of the items offered; (7-1-92)

b. If the purchaser is not guaranteed of receiving any particular item: (7-1-92)

i. The odds a single purchaser has of receiving each item offered; (7-1-92)

ii. The manner in which the telephone solicitor decides which item or items a particular purchaser is to receive; and (7-1-92)

iii. The name and address of each recipient who has, during the preceding twelve (12) months (or if the telephone solicitor has not been in business that long, during the period the telephone solicitor has been in business), received the item having the greatest value and the item with the smallest odds of being received; (7-1-92)

c. The verifiable retail value of each item the purchaser has been offered, awarded or may be awarded, and the basis for the valuation; (7-1-92)

d. All rules, regulations, terms, and conditions a purchaser must meet in order to receive the item; and, (7-1-93)

e. The price paid by the telephone solicitor to its supplier for each of these items and the name, address, and telephone number of each item's supplier. (7-1-92)

041. -- 049. (RESERVED)

Subchapter E -- Telephone Solicitor Disclosure -- Purchaser
(Rules 50 -- 59)

050. MATERIAL DISCLOSURES (RULE 50).
At the time the telephone solicitation is made and prior to consummation of any sales transaction, the telephone solicitor shall disclose material terms of the transaction to each purchaser. Subchapter E identifies information that is material for various types of telephone solicitation promotions. (7-1-93)

051. INCENTIVE PROMOTIONS (RULE 51).
If the telephone solicitor represents or implies that a purchaser will receive, without charge therefor, certain specific items or one (1) item from among designated items, whether the items are denominated as gifts, premiums, bonuses, prizes, or by other terms of similar meaning, the telephone solicitor shall provide the following: (7-1-92)

01. Odds. The information required to be filed by TSR 040.12.b.i., TSR 040.12.b.ii., TSR 040.12.c., and 040.12.d. (7-1-93)

02. Address. The complete street address of the location from which the salesperson is calling the purchaser and, if different, the complete street address of the telephone solicitor's principal location. (7-1-92)

03. Prize Winners. The total number of individuals who have actually received from the telephone solicitor, during the preceding twelve (12) months (or if the telephone solicitor has not been in business that long, during the period the telephone solicitor has been in business), the item having the greatest verified retail value, and the item with the smallest odds of being received. (7-1-92)

04. No Purchase Necessary. That no purchase is necessary in order to receive the goods or services that have been offered to the consumer as an inducement to attend the in-person sales presentation or contact the seller by telephone or by mail, but only if the seller follows up the consumer's mail contact with a telephone contact. (7-1-93)

052. PRECIOUS STONES AND MINERAL PROMOTIONS (RULE 52).
If the telephone solicitor is offering to sell any metal, stone, or mineral, the telephone solicitor shall provide the following information: (7-1-92)

01. Telephone Solicitor Address. The complete street address of the location from which the salesperson is calling the purchaser and, if different, the complete street address of the telephone solicitor's principal location. (7-1-92)

02. Precious Ore Location. The address of each location where the metal, stone, or material will be kept. If the metal, stone, or material is not kept on premises owned by the telephone solicitor or at an address or addresses set forth in compliance with TSR 040.03, the name of the owner of the business at which the metal, stone, or mineral will be kept. (7-1-93)

03. Earning Claims. If the telephone solicitor makes any representations as to the earning or profit potential of purchases of any metal, stone, or mineral, all data which substantiates the claims made. If the representation relates to previous sales made by the telephone solicitor or a related entity, substantiating data shall be based on the experiences of at least fifty percent (50%) of the persons who have purchased the particular metal, stone, or mineral from the telephone solicitor or related entity during the preceding six (6) months (or if the telephone solicitor or related entity has not been in business that long, during the period the telephone solicitor or related entity

has been in business) and shall include the raw data upon which the representation is based, including, but not limited to, all of the following: (7-1-92)

a. The length of time the telephone solicitor or related entity has been selling the particular metal, stone, or mineral being offered; (7-1-92)

b. The number of purchasers thereof from the telephone solicitor or related entity known to the telephone solicitor or related entity to have made at least the same earnings or profit as those represented; and (7-1-92)

c. The percentage that the number disclosed pursuant to TSR 052.03.b., represents of the total number of purchasers from the telephone solicitor or related entity of the particular metal, stone, or mineral. (7-1-93)

053. OIL, GAS, AND MINERAL FIELD PROMOTIONS (RULE 53).
If the telephone solicitor is offering to sell an interest in oil, gas, mineral fields, wells, or exploration sites the telephone solicitor shall provide the following information: (7-1-92)

01. Telephone Solicitor Address. The complete street address of the location from which the salesperson is calling the purchaser and, if different, the complete street address of the telephone solicitor's principal location. (7-1-92)

02. Telephone Solicitor's Ownership Interest. The telephone solicitor's ownership interest, if any, in each field, well, or site being offered for sale. (7-1-92)

03. Number of Interests. The total number of interests to be sold in each field, well, or site being offered for sale. (7-1-92)

04. Earning Claims. If the telephone solicitor makes any representation as to the earning or profit potential of purchases of any interest in these fields, wells, or sites, the filing shall include data to substantiate the claims made. If the representation relates to previous sales made by the telephone solicitor or a related entity, the substantiating data shall be based on the experiences of at least fifty percent (50%) of the purchasers of the particular interests from the telephone solicitor or the related entity during the preceding six (6) months (or if the telephone solicitor has not been in business that long, during the period the telephone solicitor or related entity has been in business) and shall include the raw data upon which the representation is based, including, but not limited to, all of the following: (7-1-92)

a. The length of time the telephone solicitor or related entity has been selling the particular interests in the fields, wells, or sites being offered; (7-1-92)

b. The number of purchasers of the particular interests from the telephone solicitor or related entity known to the telephone solicitor to have made at least the same earnings as those represented; and (7-1-92)

c. The percentage which the number disclosed pursuant to TSR 053.04.b., represents of the total number of purchasers of the particular interests from the telephone solicitor or related entity. (7-1-93)

054. OFFICE SUPPLIES AND EQUIPMENT PROMOTIONS (RULE 54).
If the telephone solicitor represents that office equipment or supplies are being offered at prices below those usually charged for these items, the telephone solicitor shall provide the following information: (7-1-92)

01. Telephone Solicitor Address. The complete street address of the location from which the salesperson is calling the purchaser and, if different, the complete street address of the telephone solicitor's principal location. (7-1-92)

02. Manufacturer. The name of the manufacturer of each of the items the telephone solicitor has represented for sale and in which the purchaser expresses interest. (7-1-92)

055. COMPLIANCE WITH SECTION 48-603A, IDAHO CODE (RULE 55).

A telephone solicitor shall comply with the provisions of Section 48-603A, Idaho Code. (7-1-93)

056. ORAL NOTICE OF CANCELLATION AND TELEPHONE SOLICITOR IDENTIFICATION (RULE 56).
If a sale or purchase is completed, the telephone solicitor must orally inform the purchaser of his or her cancellation rights as provided by Section 48-1004(2), Idaho Code, state the telephone solicitor's registration number issued by the attorney general, and give the full street address, including the telephone number, of the telephone solicitor. (7-1-93)

057. NOTICE OF CANCELLATION (RULE 57).
Unless the purchaser has an unqualified right to return the goods or cancel the services and receive a full refund, the telephone solicitor shall send a written confirmation to the purchaser, which shall contain the following statement in ten (10) point bold face type, which sets forth a purchaser's right to cancel any agreement made pursuant to a telephone solicitation:

NOTICE OF CANCELLATION

You may cancel this transaction, without any penalty or obligation whatsoever, within three (3) business days of the date on which you receive this written confirmation.

If you cancel, all payments or other consideration which have already been made by you will be returned within ten (10) business days following receipt by the telephone solicitor of your cancellation notice.

If you cancel, you must return the goods to the telephone solicitor at the address listed below and at the telephone solicitor's risk and expense within twenty-one (21) days of the date you receive back from the telephone solicitor the payments or consideration you have already made.

To cancel this transaction, deposit in the mail or deliver a signed and dated copy of this cancellation notice or any other written notice to (name of telephone solicitor), at (address of seller's place of business) not later than midnight of the third business day after which you received this notice.

I hereby cancel this transaction.

(Date) (Buyer's signature) (7-1-92)

058. -- 059. (RESERVED)

Subchapter F -- Information Provider Disclosures (Rules 60 -- 69)

060. PREAMBLE MESSAGE (RULE 60).
An information provider that offers pay-per-telephone-call services to persons in this state shall include at the beginning of its service a preamble message. The preamble message shall be clearly understandable and audible. No preamble message shall be required if the total charge for the pay-per-telephone-call service is less than two dollars ($2). (7-1-92)

061. PAY-PER-TELEPHONE-CALL SERVICES AIMED AT CHILDREN (RULE 61).
Any pay-per-telephone-call service that is aimed at or of likely interest to children under the age of eighteen (18), must contain a statement that the caller should hang up unless he or she has parental permission. (7-1-92)

062. BYPASS (RULE 62).
A telephone caller may be provided the means to bypass the preamble message after the first call, provided that the caller has sole control of that capability, except that any bypass device or mechanism shall be disabled for a period of thirty (30) days following the effective date of a price increase for the pay-per-telephone-call service. Instructions on how to bypass the preamble message shall either be at the end of the preamble message or at the end of the pay-per-telephone-call service. (7-1-92)

063. PREAMBLE MESSAGE MODIFICATION (RULE 63).
If the pay-per-telephone-call service originates and terminates within local exchange areas served by the same telephone company within the state of Idaho, the information provider may apply to the Attorney General for permission to modify the preamble message. The Attorney General may grant such permission if he is satisfied that the modified message will adequately disclose sufficient material facts which will safeguard the public against deceit and financial hardship and does not have the capacity, tendency, or effect of misleading a person acting reasonably under the circumstances. The Attorney General's decision is final and nonreviewable. (7-1-92)

064. ADVERTISEMENT DISCLOSURES (RULE 64).
If the total charge for the pay-per-telephone-call service is more than two dollars ($2), advertisements for pay-per-telephone-call services must clearly and conspicuously disclose in the advertisement all per-call charges, and contain the information required to be set forth in TSR 020.16.a. For purposes of TSR 064, a listing in any section of a telephone directory of general circulation or any other directory in which businesses or professions are listed alphabetically and which are not published more than twice in a consecutive twelve (12) month period of time does not constitute an advertisement. Information providers who advertise pay-per-telephone-call service in such a directory shall clearly and conspicuously disclose that the service is a pay-per-telephone-call service, but need not disclose the price or cost of the service. (7-1-93)

065. -- 069. (RESERVED)

Subchapter G -- Unlawful Acts
(Rules 70 -- 79)

070. INTIMIDATION (RULE 70).
It is an unlawful act for a telephone solicitor to intimidate or torment any person of normal and reasonable sensitivities in connection with a telephone solicitation. For purposes of TSR 070, intimidate or torment includes, but is not limited to, contacting a purchaser after the purchaser has requested that the telephone solicitor not call the purchaser again or contacting the purchaser within ninety (90) days after the purchaser has twice declined a telephone solicitation. (7-1-93)

071. REFUSAL TO HANG UP (RULE 71).
It is an unlawful act for a telephone solicitor to refuse to hang up and free a purchaser's line immediately once requested to do so by the purchaser. (7-1-92)

072. MISREPRESENTATIONS (RULE 72).
It is an unlawful act for a telephone solicitor to: (7-1-92)

01. Price, Quality, or Availability Misrepresentations. Misrepresent the price, quality, or availability of the goods or services being offered to the purchaser. (7-1-92)

02. Material Disclosures. Fail to disclose all material matters relating directly or indirectly to the goods or services. (7-1-92)

03. Idaho Registration. Advertise or imply that the telephone solicitor has a valid Idaho registration number when the solicitor does not. (7-1-92)

04. Attorney General Approval. Represent or imply that the fact that the telephone solicitor has registered with the Consumer Protection Unit of the Office of the Attorney General constitutes endorsement or approval of the telephone solicitor, the telephone solicitor's goods or services, or the promotion the telephone solicitor is offering. (7-1-92)

073. COMPLIANCE WITH RULES (RULE 73).
It is an unlawful act for a telephone solicitor or an information provider to violate any applicable provisions or requirements of the ITSA, the IPTCA, or these rules. (7-1-93)

074. -- 079. (RESERVED)

Subchapter H -- Service of Process
(Rules 80 -- 89)

080. APPOINTMENT OF ATTORNEY GENERAL AS AGENT FOR SERVICE OF PROCESS (RULE 80).
Every telephone solicitor shall, in conjunction with subchapters C and D, file with the Consumer Protection Unit of the Office of the Attorney General an irrevocable consent appointing the Attorney General as an agent to receive civil process in any action, suit, or proceeding brought under the ITSA, or these rules. The consent shall be on a form provided by the Consumer Protection Unit of the Office of the Attorney General. (7-1-93)

081. SERVICE OF PROCESS (RULE 81).
Service of process may be effected on any telephone solicitor for any action, suit, or proceeding brought under the ITSA, or these rules, by leaving a copy of the summons and complaint in the Consumer Protection Unit of the Office of the Attorney General. Service is not effective and complete, however, until five (5) days after the plaintiff, who may be the Attorney General: (7-1-93)

01. Notice. Sends notice of the summons and complaint by registered mail to the telephone solicitor at its last address on file with the Consumer Protection Unit of the Office of the Attorney General. (7-1-92)

02. Affidavit. Files an affidavit of compliance with the provisions of Section 48-1006(2)(d), Idaho Code. (7-1-93)

082. -- 999. (RESERVED)

IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

DOCKET NO. 05-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 20-504(10), 20-504(12), 20-504(15), 20-520(1)(s), 20-532, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 05, rules of the Idaho Department of Juvenile Corrections:

IDAPA 05
- 05.01.02, *Rules and Standards for Secure Juvenile Detention Centers*
- 05.01.03, *Rules of the Custody Review Board*
- 05.01.04, *Uniform Standards for Juvenile Probation Services*
- 05.02.01, *Rules for Residential Treatment Providers*

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 05, rules of the Idaho Department of Juvenile Corrections:

- ***(VACATED)*** *05.02.02, Rules for Staff Secure Providers*
- ***(VACATED)*** *05.02.03, Rules for Reintegration Providers*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 652-756**.

These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The pending rules were revised to make housekeeping changes that simplify language for clarity, to reduce restrictions, eliminate outdated rules, and in some cases, update rules to current practice. Relevant parts of rules 05.02.02 and 05.02.03 were incorporated into 05.02.01 to eliminate redundant rules.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Estela Cabrera at (208) 577-5451.

Dated this 16th day of October, 2019.

Monty Prow
Director
Phone: (208) 334-5100
Fax: (208) 334-5120

Idaho Department of Juvenile Corrections
954 W. Jefferson Street
P.O. Box 83720
Boise, ID 83720-0285

IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

05.01.02 – RULES AND STANDARDS FOR SECURE JUVENILE DETENTION CENTERS

000. LEGAL AUTHORITY.
These rules are adopted pursuant to Section 20-504, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 05.01.02, "Rules and Standards for Secure Juvenile Detention Centers," IDAPA 05, Title 01, Chapter 02. (3-30-07)

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. (4-5-00)

002. ADMINISTRATIVE APPEALS.
This chapter does not provide for appeal of the administrative requirements for agencies. (4-5-00)

003. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference into these rules. (3-30-07)

004. PUBLIC RECORDS ACT COMPLIANCE.
The records associated with the compliance monitoring and certification process of detention centers are subject to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-30-07)

005. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply: *( )*

01. Body Cavity Search. The manual internal examination into the rectal or vaginal cavities to detect contraband, performed only by a medical authority. (3-21-18)

02. Chemical Agent. An active substance, such as oleoresin capsicum, used to deter disturbances that might cause personal injury or property damage. (4-5-00)

03. Classification. A process for determining the needs and requirements of those for whom confinement has been ordered and for assigning them to housing units and/or programs according to their needs and existing resources, while addressing the safety and security of all detained juveniles. (3-20-14)

04. Contact Visiting. A program that permits juvenile offenders to visit with designated person(s). The area is free of obstacles or barriers that prohibit physical contact. (3-30-07)

05. Contraband. Any item not issued or authorized by the detention center. (3-30-07)

06. Corporal Punishment. Any act of inflicting punishment directly on the body, causing pain or injury. (4-5-00)

07. Day Room/Multi-Purpose Room. That portion of the housing unit used for varied juvenile offender activities which is separate and distinct from the sleeping rooms. (3-30-07)

08. Detention Center. A facility established pursuant to Title 20, Chapter 5, Sections 20-517 and 20-518, Idaho Code, for the temporary placement of juvenile offenders who require secure confinement. (3-30-07)

09. Detention Records. Information regarding the maintenance and operation of the detention center including but not limited to correspondence, memorandums, complaints regarding the detention center, daily activity logs, security and fire safety checks, head counts, health inspection records, and safety inspection records, use of physical force records and use of restraints records, incident reports, employee training and certification for use of security equipment. (3-30-07)

10. **Direct Care Staff**. Any care staff member charged with day-to-day supervision of juvenile offenders housed in a juvenile detention center. (3-30-07)

11. **Electroshock Device**. A device which delivers an electric shock designed to temporarily disrupt muscle function. (3-21-18)

12. **Emergency Care**. Care for an acute illness or unexpected health care need that cannot be deferred until the next scheduled sick call. Emergency care shall be provided to the juvenile offender population by the medical staff, physician, other appropriately trained staff, local ambulance services or outside hospital emergency rooms. (3-30-07)

13. **Emergency Plans**. Written documents that address specific actions to be taken in an institutional emergency or catastrophe such as a medical emergency, fire, flood, riot or other major disruption. (4-5-00)

14. **Health Appraisal**. An evaluation of a patient's current physical and mental condition and medical histories conducted by the health authority or medical employee. (3-30-07)

15. **Health Authority**. The physician, health administrator, or agency responsible for the provision of health care services at the detention center. (3-30-07)

16. **Health-Trained Employee**. A person who operates within the limits of any license or certification to provide assistance to a physician, nurse, physician's assistant, or other professional medical staff. Duties may include preparing and reviewing screening forms for needed follow-up; preparing juvenile offenders and their records for sick call; and assisting in the implementation of medical orders regarding diets, housing, and work assignments. (3-29-12)

17. **Housing Unit**. The total living area available to a group or classification of juvenile offenders in a detention center. This area may consist of a dormitory or a combination of the space in each sleeping room and day room/ multi-purpose room. (3-30-07)

18. **Incident Report**. A written document reporting any occurrence or event, or an incident which threatens the safety and security of direct care staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. (3-21-18)

19. **Juvenile Detention Records**. Information maintained in hard copy or electronic format concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in detention. (3-30-07)

20. **Mechanical Restraints**. Devices used to restrict physical activity. (3-30-07)

21. **Medical Employee**. A certified or licensed person such as a physician, nurse, physician's assistant, or emergency medical technician who works under the supervision and authority of the health authority consistent with their respective levels of licensure, certification, training, education and experience. (3-29-12)

22. **Medical Records**. Records maintained by the health authority, to include medical examinations, diagnoses, and any medical care provided. (3-21-18)

23. **Medical Screening**. A system of structured observation *and* initial health assessment of newly arrived juvenile offenders. Medical screenings may be performed by a medical employee or health-trained employee, or by a juvenile detention officer using a checklist approved by the Health Authority. *( )*

24. **Pat Search**. The touching or feeling of a subject's clothed body to detect contraband. (4-5-00)

25. **Perimeter Security**. A system that controls ingress and egress to the interior of a detention center or institution. The system may include electronic devices, walls, fence, patrols or towers. (3-30-07)

26. **Perimeter Security Check**. Physical inspection of the perimeter of the detention center performed for the purpose of discovering or preventing security breach. May include the inspection of the perimeter of the detention center and adjacent containment fence or areas, as designated by detention center policy and procedures. (3-30-07)

27. **Petition for Exemption**. A formal written document addressed to the Director of the Idaho Department of Juvenile Corrections requesting exception from a detention center standard. (3-21-18)

28. **Physical Intervention**. Physical contact to guide, restrict, or prevent movement in order to take immediate control of a situation. (3-21-18)

29. **Policy and Procedures**. Standard operating strategies and processes developed by the administrative authority governing detention center operations. (3-30-07)

a. Policy is a course of action that guides and determines present and future decisions and actions. Policies indicate the general course or direction of an organization within which the activities of the direct care staff must operate. (3-30-07)

b. Procedure is the detailed and sequential action which must be executed to ensure that policy is implemented. It is the method of performing an operation or a manner of proceeding on a course of action. It differs from a policy in that it directs actions required to perform a specific task within the guidelines of the policy. (4-5-00)

30. **Prison Rape Elimination Act *of 2003* (PREA)**. *Public Law No. 108-79, including all subsequent amendments thereto as codified in 34 U.S.C. §§ 30301-30309, and all federal rules and standards promulgated thereunder, which promote zero (0) tolerance of sexual abuse of juvenile offenders by staff or by other juvenile offenders.* *( )*

31. **Rated Capacity**. The maximum number of juvenile offenders which may be housed in a particular room, housing unit, or detention center based upon available square footage, sanitation fixtures, and other physical plant features specified in these rules. (3-30-07)

32. **Renovation**. The alteration of the structure of any existing juvenile detention center, or portion thereof, for the purposes of changing or improving its function. This may include, but not be limited to, altering the physical layout of essential areas within the detention center or reconstruction of the existing structure, areas, or interior features. (3-30-07)

33. **Rule Infraction**. A violation of detention center rules of conduct or policy and procedures as governed by detention center policy and procedures. (3-30-07)

34. **Safety Equipment**. Devices primarily used for safety purposes such as but not limited to firefighting equipment, for example, chemical extinguishers, hoses, nozzles, water supplies, alarm systems, sprinkler systems, portable breathing devices, gas masks, fans, first aid kits, stretchers, and emergency alarms. (4-5-00)

35. **Secure Perimeter**. The outer portions of a detention center that provide for secure confinement of juvenile offenders. (3-30-07)

36. **Security Devices**. Equipment used primarily to confine and control detained persons and may include but is not limited to locks, gates, doors, bars, fences, screens, ceilings, floors, walls, and barriers, electronic monitoring equipment, security alarm systems, security light units, auxiliary power supplies, and other equipment used to maintain detention center security. (3-30-07)

37. **Staffing Plan**. A documented schedule which includes staffing of direct care staff, staffing ratios, resident activities, and the certification level of staff. (3-30-07)

38. **Standards**. Rules for Secure Juvenile Detention Centers, IDAPA 05, Title 01, Chapter 02. (3-30-07)

39. **Strip Search**. A visual examination of a juvenile offender's naked body for weapons, contraband, injuries, or a medical condition that may require further attention. This also includes a thorough search of the juvenile offender's clothing while such is not being worn. (3-21-18)

40. **Volunteer**. A person who freely chooses to provide services to juvenile offenders or staff at a juvenile detention center, and is not compensated for the services or time. Volunteers are supervised by direct care staff. Volunteers shall not be unsupervised with juvenile offenders and will be supervised by direct care staff at the detention center. (3-29-12)

011. -- 199. (RESERVED)

200. INSPECTION PROVISIONS.
The Department or its designee has the authority to visit and inspect all juvenile detention facilities to assess such facilities' compliance with these rules and any other standards outlined in Title 20, Chapter 5, Section 20-518, Idaho Code. (3-29-12)

01. Annual Visits. Each juvenile detention center shall be subject to announced or unannounced visits by Department representatives on at least an annual basis. (3-30-07)

02. Review of Logs, Records, Policy and Procedure Manuals, Memorandums and Reports. All logs, records, policy and procedures manuals, memorandums, training records, and incident and other reports shall be available for review excluding medical records, personnel records and personnel action reports. Department representatives shall be allowed to observe and privately interview juvenile offenders and staff concerning any matter pertaining to these rules. Department representatives will have access to all parts of the detention center for the purpose of inspecting the physical plant. (3-21-18)

201. DEPARTMENT PREPARED WRITTEN REPORT OR THEIR AGENTS.
Department representatives shall prepare a written report of each inspection within ninety (90) days following such inspection and provide copies to the appropriate detention center administrator with copies to the governing body and the county attorney. The report will additionally be submitted to the Director for consideration and review of the issuance or renewal of a certificate. (3-29-12)

202. COMPLIANCE WITH STANDARDS ENFORCED.
Upon completion of an inspection, the Department will send notice of such compliance or noncompliance to the detention center administrator, governing body responsible for the detention center, and Idaho County Risk Management Program where applicable. (3-30-07)

01. Development of a Plan of Corrective Action. Upon receipt of a notice of noncompliance from the Department, the detention center administrator and governing body shall develop a plan of corrective action to correct the deficiencies cited in the report. The plan shall include a description of the nature of noncompliance for each standard cited, the steps to be taken to correct the deficiency, and a projected completion date. Inspection representatives shall be available to advise and consult concerning an appropriate corrective action. The plan shall be submitted no later than sixty (60) days from receipt of notice to the Department for approval. (3-30-07)

02. Demonstration of Meaningful Progress Toward Achieving Compliance. Meaningful progress toward achieving compliance according to the submitted plan must be demonstrated during the time frame approved by the Department in the corrective action plan. (3-30-07)

203. CONFORMITY WITH APPLICABLE LAWS AND REGULATIONS.
Juvenile detention centers shall conform to laws, rules, and regulations adopted by the federal government, state of Idaho, the county, and the municipality in which such detention center is located including, but not limited to, all applicable public health, safety, fire codes, building regulations, and interstate compact regulations. (3-30-07)

204. STANDARDS COMMITTEE.
A standing committee shall be created for the purpose of reviewing the standards, petitions for exemption from standards and requests for modification of standards. The committee will be made up of three committee members: one (1) representative and one (1) alternate from the detention center administrators, one (1) representative and one

(1) alternate county commissioner, and one (1) representative from the Department. Final appointment of all Standards Committee members and alternates are made by the Director. The detention center representative of detention center administrators and county commissioner representative should not be from the same judicial district. Alternates should not be from the same judicial district as their corresponding representative. Committee members' terms will run two (2) years starting on October 1 of the year in which the member is nominated and approved. If the petition for exemption or request for modification is initiated from the same district as a committee representative, that committee representative will abstain and the alternate will serve in place of said representative. (3-30-07)

01. Standards Committee Meetings. The Standards Committee will meet at least biennially to review the Juvenile Detention Center Standards, requests for modification of standards, or petitions for exemptions. The Standards Committee will also meet when the Director determines that a special meeting is necessary to review the juvenile detention center standards, requests for modification of standards, or petitions for exemptions. (3-21-18)

02. Requests for Modification of Standards. In the event a standard becomes obsolete or unworkable, a request for modification may be filed with the Director. The request letter must represent the views of at least three detention center administrators and contain their signatures. The Director will then make determinations as to the necessity, scheduling and convening of a special meeting of the Standards Committee. If convened, the Standards Committee will review the request, prepare and submit its written recommendations to the Director. The Director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. (3-30-07)

03. Modification of Standards by the Standards Committee. In the event that the Standards Committee determines that a standard is obsolete, unworkable, unclear, or otherwise unreasonable, the committee may submit written recommendations to the Director for changes to the standards, along with explanations regarding the reasons for the requested changes. The Director retains the authority to make the final decision to promulgate rules or allow the standards to remain unmodified. Any modification of the standards must be promulgated as rules in accordance with the Idaho Administrative Procedures Act. (3-30-07)

205. -- 209. (RESERVED)

210. DETENTION CENTER ADMINISTRATION.

01. Legal Entity. The public or private agency operating a detention center is a legal entity, part of a legal entity, or a political subdivision. (3-30-07)

02. Governing Body. Governing body means any public or private entity established or delegated as a source of legislative or administrative authority to provide the fiscal needs of the detention center administrator so that he may carry out the provisions of these rules. (3-30-07)

03. Detention Center Administrator. The detention center shall have a designated administrator who is responsible for all detention center operations. (3-30-07)

04. Mission Statement. The detention center shall have a written mission statement which describes its philosophy and goals. (3-30-07)

05. Policy and Procedures. The detention center administrator shall develop and maintain written policy and procedures which safeguard the basic rights of juvenile offenders and safeguard the juvenile offenders' freedom from discrimination based upon sex, race, creed, religion, national origin, disability, or political belief and establish practices that are consistent with fundamental legal principles, sound correctional practices, and humane treatment. These written policy and procedures shall be reviewed on a regular basis, updated as needed and made available to all detention center employees. The policy and procedures manual shall submitted to the prosecuting attorney or other legal authority for review and approved by county commissioners or other governing authority. After such approval, a copy of the policy and procedures manual shall be submitted to the Department. (3-21-18)

211. (RESERVED)

212. STAFF REQUIREMENTS AND STAFF DEVELOPMENT.

01. Twenty-Four Hour Supervision. The detention center shall be staffed by detention center employees on a twenty-four (24) hour basis when juvenile offenders are being housed. (3-30-07)

02. Staffing. The detention center shall have staff to perform all functions relating to security, supervision, services and programs as needed to operate the detention center. The detention center shall have policy and procedures in place governing staffing and submit a staffing plan to the Department as requested. It is recommended that each secure juvenile facility shall maintain staff ratios of a minimum of one to eight (1:8) plus one (1) during resident waking hours and one to sixteen (1:16) during resident sleeping hours, except during limited and discrete exigent circumstances, which *need* full document*ation*. *( )*

a. If the detention center houses eight (8) or fewer juvenile offenders, there should be at least one (1) direct care staff and one (1) other staff awake at all times. (3-30-07)

b. If the detention center houses more than eight (8) juvenile offenders, there should be one (1) direct care staff for each eight (8) juvenile offenders plus one (1) additional staff awake at all times. Example: if the detention center houses thirty-two (32) juvenile offenders, four (4) direct care staff would be recommended (one (1) staff to eight (8) juvenile offenders), plus one (1) additional staff for a total of five (5) staff. (3-29-12)

03. Gender of Employees. At least one (1) of the detention center employees on duty should be female when females are housed in the detention center and at least one (1) should be male when males are housed in the detention center. During the admission process, an employee of the same gender as the juvenile offender should be present. (3-21-18)

04. Minimum Qualifications. (3-30-07)

a. Direct care staff, at the time of employment, shall meet the minimum criminal history background and certification requirements as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council." (3-30-07)

b. Direct care volunteers, before starting volunteer services, shall meet the minimum criminal history background requirements as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council." (3-30-07)

c. The agency shall conduct criminal background records checks at least every five (5) years of current employees, contractors, and volunteers who may have contact with residents as outlined in PREA Standard Section 115.317. (3-20-14)

05. Training and Staff Development Plan. Each juvenile detention center shall develop a staff training and development plan based on the policy and procedures of the detention center. The plan shall also ensure that all juvenile detention officers earn the juvenile detention officer certificate as mandated in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council." (3-30-07)

a. All new direct care staff shall be provided orientation training that addresses areas including, but not limited to: (3-21-18)

i. First aid/CPR; (3-30-07)

ii. Security procedures; (3-30-07)

iii. Supervision of juvenile offenders; (3-30-07)

iv. Suicide prevention; (3-20-14)

v. Fire and emergency procedures; (3-30-07)

vi. Safety procedures; (3-30-07)

vii. Appropriate use of physical intervention, and demonstrate an adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; (3-25-16)

viii. Report writing; (3-30-07)

ix. Juvenile offender rules of conduct; (3-30-07)

x. Rights and responsibilities of juvenile offenders; (3-30-07)

xi. Key control; (3-30-07)

xii. Interpersonal relations; (3-30-07)

xiii. Social/cultural life styles of the juvenile population; (3-30-07)

xiv. Communication skills; (3-29-12)

xv. Mandatory reporting laws and procedures; (3-20-14)

xvi. Professional boundaries; and (3-20-14)

xvii. All training as outlined in section 115.331 of the PREA Standards. (3-20-14)

b. All direct care staff who are considered part-time, on-call, or working fewer than forty (40) hours per week and any direct care staff who works in a facility classified as Rural Exception, must obtain a part-time juvenile detention officer certification as mandated by IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council." (3-25-16)

c. Ongoing training shall be provided at the minimum rate of twenty-eight (28) hours for each subsequent year of employment, which include, but are not limited to: (3-20-14)

i. A total of eight (8) hours of appropriate use of force, and demonstrate an adequate level of proficiency as determined by a P.O.S.T. certified appropriate use of force instructor using a P.O.S.T. approved grading matrix; and (3-25-16)

ii. All ongoing training as outlined in section 115.331 of the PREA Standards; and (3-25-16)

iii. All other trainings that require recertification. (3-20-14)

d. Volunteers and contractors shall be trained commensurate to their level of contact with juvenile offenders. (3-29-12)

e. Each facility shall maintain accurate training documentation. (3-20-14)

213. -- 214. (RESERVED)

215. DETENTION CENTER INFORMATION SYSTEMS.

01. Records. The detention center shall have written policy and procedures to govern the collection, management, and retention of information pertaining to juvenile offenders and the operation of the detention center. Written policy and procedures *will* address, at a minimum, the following: *( )*

a. Accuracy of information, including procedures for verification; (4-5-00)

b. Security of information, including access and protection from unauthorized disclosure; (4-5-00)

c. Content of records; (4-5-00)

d. Maintenance of records; (4-5-00)

e. Length of retention; and (4-5-00)

f. Method of storage or disposal of inactive records. (4-5-00)

02. Release of Information. Prior to release of information to agencies other than criminal justice authorities or other agencies with court orders for access, a written release of information shall be obtained from the juvenile offender's parent, legal guardian or through a court order with a copy of that release placed in the juvenile offender's file folder. (3-30-07)

03. Access to Records. Parents, legal guardians, legal representatives, and staff shall be permitted access to information in the juvenile offender's files and records as authorized by law. Absent a court order to the contrary, the detention center administrator may restrict access to certain information, or provide a summary of the information when its disclosure presents a threat to the safety and security of the detention center or may be detrimental to the best interests of the juvenile offender. If access to records is denied or restricted, documentation that states the reason for the denial or restriction shall be maintained by the detention center administrator. (3-29-12)

216. DOCUMENTATION.

01. Shift Log. The detention center shall maintain documentation including time notations on each shift which includes the following information, at a minimum: (3-30-07)

a. Direct care staff on duty; (3-30-07)

b. Time and results of security or well-being checks and head counts; (4-5-00)

c. Names of juvenile offenders received or discharged with times recorded; (3-30-07)

d. Names of juvenile offenders temporarily released or returned for such purposes as court appearances, work/education releases, furloughs, or other authorized absences from the detention center with times recorded; (3-30-07)

e. Time of meals served; (4-5-00)

f. Times and shift activities, including any action taken on the handling of any routine incidents; (3-29-12)

g. Notation and times of entry and exit of all visitors, including physicians, attorneys, volunteers, and others; (4-5-00)

h. Notations and times of unusual incidents, problems, disturbances, escapes; (3-29-12)

i. Notations and times of any use of emergency or restraint equipment; and (4-5-00)

j. Notation and times of perimeter security checks. (4-5-00)

02. Housing Assignment Roster. The detention center shall maintain a master file or roster board indicating the current housing assignment and status of all juvenile offenders detained. (3-30-07)

03. Visitor's Register. The detention center shall maintain a visitor's register in which the following will be recorded: (3-30-07)

a. Name of each visitor; (4-5-00)

b. Time and date of visit; (4-5-00)

c. Juvenile offender to be visited; and (3-30-07)

d. Relationship of visitor to juvenile offender and other pertinent information. (3-30-07)

04. Juvenile Detention Records. The detention center shall classify, retain and maintain an accurate and current record for each juvenile offender detained in accordance with the provisions of Title 31, Chapter 8, Section 31-871, Idaho Code. The record *will* contain, at a minimum, the following: *( )*

a. Booking and intake records; (4-5-00)

b. Record of court appearances; (4-5-00)

c. Documentation of authority to hold; (4-5-00)

d. Probation officer or caseworker, if assigned; (4-5-00)

e. Itemized inventory forms for all clothing, property, money, and valuables taken from the juvenile offender; (3-30-07)

f. Classification records and information about a resident's personal history and behavior to reduce the risk of sexual abuse by or upon a resident; (3-20-14)

g. Documentation of education as outlined in PREA Standard Section 115.333; (3-20-14)

h. Rule infraction reports; (4-5-00)

i. Records of disciplinary actions; (4-5-00)

j. Grievances filed and their dispositions; (4-5-00)

k. Release records; (4-5-00)

l. Personal information and emergency contact information; (4-5-00)

m. Documentation of a completed intake medical screening; (3-29-12)

n. Visitor records; (4-5-00)

o. Incident reports; (4-5-00)

p. Photographs. (4-5-00)

05. Incident Reports. Any person involved in or witness to an incident shall write an individual incident report. The incident report shall include, at a minimum, who, what, when, where, why, how, and action taken. Incidents reports shall be written for situations including but not limited to the following: (3-21-18)

a. Any criminal act; (3-21-18)

b. Use of force; (3-21-18)

c. Use of restraints, except for transfer; (3-21-18)

d. Suicide or attempted suicide; (3-21-18)

e. Escape or attempted escape; (3-21-18)

f. Emergencies; (3-21-18)

g. Serious rule violations; (3-21-18)

h. Cross-gender searches; (3-21-18)

i. Body cavity searches; (3-21-18)

j. Seizure and disposition of contraband; and (3-21-18)

k. Any incident deemed serious enough to disrupt or disturb the security, safety, and orderly operations or well-being of the center, staff, juveniles, or public. (3-21-18)

06. Incident Report Review. All incident reports shall be reviewed by the detention center administrator, or designee, and be maintained as part of the detention center records. (3-21-18)

217. MEDICAL INFORMATION.

01. Medical Files. The health authority shall maintain medical records for each juvenile offender which are kept separate from other records. (3-30-07)

02. Access to Medical Files. The detention center administrator, in conjunction with the health authority, shall establish procedures to determine access to medical files in accordance with privacy laws. (3-30-07)

218. -- 219. (RESERVED)

220. PROHIBITED CONTACT AND PRISON RAPE ELIMINATION ACT (PREA) COMPLIANCE.

01. Sexual Abuse of Juvenile Offenders. The detention center shall have written policy and procedures mandating zero (0) tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. The policy and procedures shall contain, at a minimum, the following provisions: (3-20-14)

a. The prohibition of any sexual abuse or sexual harassment as defined by PREA Standards or as defined in Title 18, Chapter 61, Section 18-6110, Idaho Code; (3-20-14)

b. The appointment of a PREA Coordinator, as outlined by PREA Standard Section 115.311(c), to be determined by the detention center administrator; (3-20-14)

c. Procedures that enable residents to shower, perform bodily functions, and change clothing without nonmedical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine cell checks as outlined by PREA Standard Section 115.315(d); (3-20-14)

d. The requirement of staff of the opposite gender to announce their presence when entering a resident housing unit or any area where residents are likely to be showering, performing bodily functions, or changing clothing as outlined by PREA Standard Section 115.315(d); (3-20-14)

e. The process that will be in place to provide age appropriate education to juvenile offenders as outlined by PREA Standard Section 115.333; (3-20-14)

f. The provision of multiple avenues for a juvenile offender or a third party to report sexual abuse and sexual harassment, at least one of which must be external to the agency as outlined by PREA Standard Section 115.351; (3-20-14)

g. The process for gathering information to make classification and housing decisions to reduce the risk of sexual victimization as outlined by PREA Standard Section 115.342; (3-20-14)

h. The handling of all information regarding sexual abuse or sexual harassment with confidentiality as outlined by PREA Standard Section 115.361(c); (3-20-14)

i. The process to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior as outlined by PREA Standard Section 115.322; (3-20-14)

j. Policies to protect all residents and staff who report sexual abuse or sexual harassment from acts of retaliation as outlined by PREA Standard Section 115.367; (3-20-14)

k. The provision of timely and unimpeded access to crisis intervention services, medical, and mental health care to victims as outlined by PREA Standard Section 115.382(a); (3-20-14)

l. The provision and documentation of training for staff as outlined by PREA Standard Section 115.331; (3-20-14)

m. Within thirty (30) days of the conclusion of every sexual abuse investigation, the facility shall conduct a sexual abuse incident review as outlined in PREA Standard 115.386. (3-20-14)

221. -- 222. (RESERVED)

223. SAFETY AND EMERGENCY PROCEDURES.

01. Emergency Plan. The detention center shall have written policy and procedures that address safety plans for responding to emergency situations. (3-21-18)

02. Compliance with Fire Code. The detention center shall comply with local and state fire codes. A request for an annual inspection shall be made to the local fire marshal or authorized agency. The detention center needs to maintain documentation of this inspection. (3-30-07)

224. DETENTION CENTER SECURITY.

01. Security and Control Policy. The detention center's policy and procedures manual shall contain all procedures for detention center security and control, with detailed instructions for implementing these procedures, and are reviewed at least annually and updated as needed. The manual shall be made available to all staff. (3-30-07)

02. Personal Observation. The detention center shall have written policy and procedures that govern the observation of all juvenile offenders and shall, at a minimum, require direct care staff to personally observe all juvenile offenders every thirty (30) minutes on an irregular schedule and the time of such checks shall be logged. More frequent checks should be made of juvenile offenders who are violent, suicidal, mentally ill, or who have other special problems or needs warranting closer observation. (3-25-16)

03. Cross Gender Supervision. The detention center shall have written policy and procedures governing supervision of female juvenile offenders by male employees and male juvenile offenders by female employees which shall be based on privacy needs and legal standards. Except in emergencies, detention center employees shall not observe juvenile offenders of the opposite sex in shower areas. Reasonable accommodation of privacy needs shall be observed. (4-2-08)

04. Head Counts. The detention center shall have written policy and procedures which shall outline a system to physically count or account for all juvenile offenders, including juvenile offenders on work release, educational release, or other temporary leave status who may be absent from the detention center for certain periods of the day. At least three (3) documented counts shall be conducted every twenty-four (24) hours. At least one (1) count shall be conducted each shift with at least four (4) hours between each count. (3-30-07)

05. Camera Surveillance. Camera surveillance equipment shall not be used in place of the personal observation of juvenile offenders. (3-29-12)

225. PHYSICAL INTERVENTION.

01. Appropriate Use of Physical Intervention. The detention center shall have written policy and procedures which govern the use of physical intervention. (3-21-18)

a. The use of physical intervention shall be restricted to the following situations, and then only to the degree necessary to restore order: (3-21-18)

i. Instances of justifiable self-protection; (3-21-18)

ii. The protection of others; (3-21-18)

iii. The protection of property; (3-21-18)

iv. The prevention of escapes; and (3-21-18)

v. The suppression of disorder. (3-21-18)

b. Physical intervention shall not be used as punishment. (3-30-07)

02. Use of Chemical Agents. The detention center shall have written policy and procedures which govern the use of chemical agents, if approved for use in the detention center. (3-21-18)

a. The use of chemical agents shall be restricted to the following situations, and then only to the degree necessary to restore order: (3-21-18)

i. Instances of justifiable self-protection; (3-21-18)

ii. The protection of others; (3-21-18)

iii. The prevention of escapes; and (3-21-18)

iv. The suppression of disorder. (3-21-18)

b. Chemical agents shall only be administered by an individual who has been certified in its use by a qualified instructor. (3-21-18)

c. Oleoresin Capsicum shall be the only chemical agent approved for use in juvenile detention centers. (3-29-12)

03. Use of Electroshock Devices. The use of electroshock devices is prohibited in juvenile detention centers unless used by law enforcement officers responding to a call for assistance initiated by detention staff. (3-21-18)

04. Use of Mechanical Restraints. The detention center shall have written policy and procedures which govern the use of mechanical restraints, including notification of medical or mental health professionals. (3-21-18)

a. The use of restraints shall be restricted to: (3-21-18)

i. Instances of transfer; (3-21-18)

ii. Instances of justifiable self-protection; (3-21-18)

iii. The protection of others; (3-21-18)

iv. The protection of property; (3-21-18)

v. Medical reasons under the direction of medical staff; (3-21-18)

vi. The prevention of escapes; and (3-21-18)

vii. The suppression of disorder. (3-21-18)

b. Restraints shall not be used as punishment or for the convenience of staff. (4-5-00)

c. Juvenile offenders in mechanical restraints shall not be left unattended except in documented exigent circumstances. (3-21-18)

226. PERIMETER SECURITY CHECKS AND SECURITY INSPECTIONS.

01. Perimeter Security Checks. The detention center shall have written policy and procedures which govern the frequency and performing of perimeter security checks. (3-30-07)

02. Security Inspections. The detention center shall have written policy and procedures that require timely notification to the detention center administrator or designee of any structural or security deficiencies. The detention center administrator shall promptly correct any identified problems. The facility shall maintain documentation of any corrective action. (3-25-16)

227. SEARCH AND SEIZURE.

01. Detention Center Search Plan. The detention center shall have written policy and procedures which outline a detention center search plan for the control of contraband and weapons and provides for unannounced and irregularly timed searches of juvenile offenders' rooms, day rooms, and activity, work or other areas accessible to juvenile offenders and searches of all materials and supplies coming into the detention center. (3-30-07)

02. Personal Searches. The detention center shall have written policy and procedures governing the personal searches of juvenile offenders, to include pat, strip, visual body cavity, and body cavity searches for the control of contraband and weapons and provides for unannounced and irregularly timed searches of juvenile offenders. Said policies and procedures shall include, at a minimum, requirements that: (3-21-18)

a. All searches be performed under sanitary conditions in a manner which protects the dignity of the juvenile to the greatest extent possible; (3-21-18)

b. All pat searches be performed by direct care personnel of the same sex as the juvenile, except under exigent circumstances; (3-21-18)

c. All strip or visual body cavity searches be performed by direct care personnel of the same sex as the juvenile with the exception of the health authority or medical personnel; (3-21-18)

d. No person of the opposite sex of the juvenile shall be allowed to observe any unclothed search of the juvenile, including strip, visual body cavity, or body cavity searches with the exception of the health authority or medical personnel; (3-21-18)

e. All body cavity searches shall be conducted only by the health authority or by medical personnel; (3-21-18)

f. An initial pat search must be performed at the intake process prior to the removal of any mechanical restraints; and (3-21-18)

g. Any search or physical examination of transgender or intersex residents for the sole purpose of determining genital status is prohibited. (3-21-18)

03. Documentation of Certain Searches. The detention center shall have policies and procedures which govern the documentation of certain searches. Documentation shall be maintained in detention center records and in the juvenile offender's record, and shall include justification and any exigent circumstances surrounding the search. Searches which must be documented include, but are not limited to; (3-21-18)

a. Any search performed by direct care personnel of the opposite sex as the juvenile; (3-21-18)

b. Any strip or visual body cavity search performed or observed by direct care personnel of the opposite sex of the juvenile; (3-21-18)

c. Any body cavity search observed by direct care personnel of the opposite sex of the juvenile; or (3-21-18)

d. Any strip, visual body cavity or body cavity search performed. (3-21-18)

04. Seizure and Disposition of Contraband. The detention center shall have written policy and procedures which explains the chain of custody to govern the handling and/or disposal of contraband. All contraband found during detention center or juvenile offender searches shall be seized and processed according to detention center policy, including involvement of law enforcement, if appropriate. The seizure and disposition of the contraband shall be documented. When a crime is suspected to have been committed within the detention center, all evidence shall be maintained and made available to the proper authorities. (3-21-18)

228. SECURITY DEVICES.

01. Key Control. The detention center shall have policy and procedures in place to govern key and tool control. (3-30-07)

02. Security Devices. The detention center shall have written policy and procedures that govern the use of security devices. Detention center employees shall use only security equipment on which they have been properly trained and is issued through, or authorized by, the detention center administrator. The facility shall maintain documentation of proper training. (3-25-16)

03. Weapons Locker. The detention center shall provide a weapons locker or similar arrangement at security perimeter entrances for the temporary storage of weapons belonging to law enforcement officers who must enter the detention center. (3-30-07)

229. (RESERVED)

230. FOOD SERVICES.

The detention center shall have written policy and procedures which govern food service. If food is not obtained through a food service contract from an outside source, the detention center's food service operation shall be supervised by a designated employee who has experience and/or training in meal preparation, menu planning, staff supervision, ordering procedures, health and safety policies, theft precautions, and inventory control. If food is obtained through a food service contract from an outside source, provisions shall be made to assure that the contractor complies with the applicable section of these rules. (3-30-07)

231. (RESERVED)

232. SPECIAL DIETS.

The detention center shall have written policy and procedures which govern special diets. (3-30-07)

01. Special Diets, Medical. Special diets prescribed by a physician shall be followed according to the orders of the treating physician or dentist. (4-5-00)

02. Special Diets, Religious. Provisions should be made for special diets when a juvenile offender's religious beliefs require adherence to particular dietary practices. (4-5-00)

233. DIETARY RECORDS.

01. Food Service Records. The detention center shall maintain an accurate record of all meals served to juvenile offenders, including special diets. All menus shall be planned, dated, and available for review at least one (1) week in advance. Notations shall be made of any changes in the menu. Menus shall be kept at least one (1) year after use. (3-30-07)

02. Review of Menus. Menus and records of meals served shall be reviewed on a regular basis at least annually by a licensed dietician, physician or nutritionist to verify nutritional adequacy or shall meet the current guidelines of the National School Lunch Program. The detention center shall maintain documentation of the dietician's, physician's or nutritionist's review and verification. Subsequent menus shall be promptly revised to eliminate any deficiencies noted. (3-30-07)

234. MEALS.

01. Providing Meals. The detention center shall have written policy and procedures which govern the providing of meals. Three (3) meals, at least two (2) of which includes a hot entree, shall be served daily. (3-29-12)

a. Meals must be served at approximately the same time every day. No more than fourteen (14) hours shall elapse between the evening meal and breakfast the next day unless an evening snack is served. If snacks are provided, up to sixteen (16) hours may elapse between the evening meal and breakfast. (4-5-00)

b. Juvenile offenders out of the detention center attending court hearings or other approved functions when meals are served shall have a meal provided upon their return if they have not already eaten. (3-30-07)

c. If meals are provided to staff, the menu should be the same as provided to juvenile offenders. (3-30-07)

d. The health authority or a medical employee shall be notified when a juvenile offender does not eat three (3) consecutive meals. (3-30-07)

02. Withholding of Meals as Disciplinary Sanction Prohibited. The detention center shall have written policy and procedures which dictate that meals shall not be withheld from juvenile offenders, nor the menu varied as a disciplinary sanction. (3-25-16)

03. Control of Utensils. The detention center shall have a control system for the issuance and return of all food preparation and eating utensils. (3-30-07)

235. FOOD SERVICE SANITATION.

01. Written Policy and Procedures. The detention center shall have written policy and procedures to govern food service sanitation. Food service and related sanitation practices shall comply with the requirements of the state health department or other appropriate regulatory body. The detention center's food service operation shall be inspected in the manner and frequency mandated by local health authorities. The detention center administrator shall solicit at least an annual sanitation inspection by a qualified entity. The results of such inspections shall be documented and the detention center administrator shall take prompt action to correct any identified problems; (3-21-18)

236. -- 239. (RESERVED)

240. SANITATION AND HYGIENE.

01. Sanitation Inspections. Written policy and procedures shall provide that the detention center be maintained in a clean and healthful condition and that the detention center administrator or designee shall conduct

monthly sanitation and maintenance inspections of all areas of the detention center. (3-30-07)

02. Vermin Control. The detention center shall have a plan for the control of vermin and pests which includes inspections and fumigations, as necessary, by a licensed pest control professional. (3-30-07)

03. Housekeeping Plan. The detention center shall have a written housekeeping plan for all areas of the physical plant which provides for daily housekeeping and maintenance by assigning specific duties to juvenile offenders and staff. All work shall be assigned and supervised by detention center employees. No juvenile offender shall be allowed to assign work to other juvenile offenders. (3-30-07)

04. Maintenance and Repair. The detention center shall have written policy and procedures to provide that all plumbing, lighting, heating and ventilation equipment, furnishings, and security hardware in juvenile offender living areas shall be kept in good working order. Any broken fixture, equipment, furnishings, or hardware shall be promptly repaired or replaced. Painted surfaces shall not be allowed to become scaled or deteriorated. (3-30-07)

05. Water Quality. The water shall meet all current standards set by the applicable state and local authority as to bacteriological, chemical, and physical tests for purity. (3-30-07)

241. -- 244. (RESERVED)

245. PERSONAL HYGIENE.

01. Personal Hygiene Items. The detention center shall have written policy and procedures which govern the provision of, without charge, the following articles necessary for maintaining proper personal hygiene: (3-30-07)

a. Soap; (4-5-00)

b. Toothbrush; (4-5-00)

c. Toothpaste; (4-5-00)

d. Comb or brush; (3-30-07)

e. Shaving equipment; (3-21-18)

f. Products for female hygiene needs; and (3-30-07)

g. Toilet paper. (3-30-07)

02. Removal of Personal Hygiene Items. The detention center shall have written policy and procedures that govern the removal of personal hygiene items from juvenile offenders' sleeping areas. Removal must be based upon sufficient reason to believe that the juvenile offender's access to the items poses a risk to the safety of juvenile offenders, staff or others, or poses a security risk to the detention center. (3-30-07)

03. Clothing and Linens. The detention center shall provide for the issue of clean clothing, bedding, linens, and towels to new juvenile offenders held overnight. At a minimum, the following shall be provided: (3-30-07)

a. A set of standard detention center clothing or uniform; (3-30-07)

b. A set of standard detention center bedding and linens; (3-25-16)

c. Fire-retardant mattress; (4-5-00)

d. Sufficient blankets to provide comfort under existing temperature conditions; and (4-5-00)

e. One (1) clean towel. (4-5-00)

04. Laundry Services. Laundry services shall be sufficient to allow required clothing, bedding, and towel exchanges for juvenile offenders. (3-30-07)

a. Clothing and towels used by the juvenile offender while in the detention center shall be laundered or exchanged at least twice each week. (3-30-07)

b. Linen shall be changed and laundered or exchanged at least once weekly or more often, as necessary. (4-5-00)

c. Blankets in use shall be laundered or exchanged at least monthly, or before re-issue to another juvenile offender. (3-30-07)

05. Clothing and Linen Supplies. The detention center inventory of clothing, bedding, linen, and towels shall exceed the maximum population to ensure that a reserve is always available. (3-30-07)

246. -- 249. (RESERVED)

250. HEALTH SERVICES.

01. Health Care. The detention center shall have written policy and procedures to govern the delivery of reasonable medical, dental, and mental health services. These written policy and procedures must at a minimum address, but are not limited to the following: (3-21-18)

a. Intake medical screening must be documented and performed on all juvenile offenders upon admission to the detention center. (3-29-12)

i. The medical screening should include inquiry of current illness and health problems, dental problems, sexually transmitted and other infectious diseases, medication taken and special health requirements, if any, the use of alcohol or drugs, mental illness and/or suicidal behavior. (3-29-12)

ii. The screening should also include observations of the physical condition, mental condition, and/or behavior. (3-21-18)

b. Handling of juvenile offenders' requests for medical treatment; (3-30-07)

c. Non-emergency medical services; (4-5-00)

d. Emergency medical and dental services; (4-5-00)

e. Use of a vehicle for emergency transport; (3-25-16)

f. Emergency on-call physician and dental services when the emergency health care facility is not located nearby; (4-5-00)

g. The availability of first-aid supplies; (3-21-18)

h. Screening, referral, and care of juvenile offenders who may be suicide-prone, or experience physical, mental or emotional disabilities; (3-30-07)

i. Arrangements for providing close medical supervision of juvenile offenders with special medical or psychiatric problems; (3-30-07)

j. Delousing; (3-29-12)

k. Medical isolation, and proper examination of juvenile offenders suspected of having contagious or infectious diseases; (3-21-18)

l. Management of pharmaceuticals, including storage in a secure location; and (3-30-07)

m. Notification of next of kin or appropriate authorities in case of serious illness, injury or death. (3-30-07)

02. Medical Judgments. Except for regulations necessary to ensure the safety and order of the detention center, all matters of medical, mental health, and dental judgment shall be the sole province of the health authority, who shall have final responsibility for decisions related to medical judgments. (3-30-07)

03. Informed Consent. Permission to perform medical, surgical, dental or other remedial treatment shall be obtained from parents, spouse, guardian, court or other competent person as stated in Title 16, Chapter 16, Section 16-1627, Idaho Code. (3-30-07)

04. Health Appraisal. A health appraisal for each juvenile offender shall be provided by the health authority or medical employee within fourteen (14) days of admission. (3-30-07)

251. -- 254. (RESERVED)

255. RULES AND DISCIPLINE.

01. Behavioral Management. The detention center shall have written policy and procedures for maintaining discipline and regulating juvenile offenders' conduct. The following general principle shall apply: (3-21-18)

a. The conduct of juvenile offenders shall be regulated in a manner which encourages and supports appropriate behavior, with penalties for negative behavior; (3-30-07)

b. The detention center shall have written rules of conduct which specify prohibited acts, the penalties that may be imposed for various degrees of violation, and the disciplinary procedures to be followed; (3-30-07)

c. Disciplinary action shall be of a nature to regulate juvenile offenders' behavior within acceptable limits and shall be taken at such times and in such degrees as necessary to accomplish this objective; (3-30-07)

d. The behavior of juvenile offenders shall be controlled in an impartial and consistent manner; (3-30-07)

e. Disciplinary action shall not be arbitrary, capricious, retaliatory, or vengeful; (4-5-00)

f. Corporal or unusual punishment is prohibited, and care shall be taken to insure juvenile offenders' freedom from personal abuse, humiliation, mental abuse, personal injury, disease, property damage, harassment, or punitive interference with daily functions of living, such as eating or sleeping; (3-30-07)

g. Juvenile offenders shall not be subject to any situation in which juvenile offenders impose discipline on each other. (3-30-07)

02. Resolution of Rule Infractions. The detention center shall have written policy and procedures to define and govern the resolution of rule infractions. (3-30-07)

03. Grievance Procedures. The detention center shall have written policy and procedures for juvenile offenders which will identify grievable issues and define the grievance process. (3-30-07)

04. Criminal Law Violations. The detention center shall have written policy and procedures to govern the handling of incidents that involve the violation of federal, state, or local criminal law, including prompt referral to the appropriate authority for possible investigation and prosecution. (3-30-07)

256. COMMUNICATION AND CORRESPONDENCE.

01. Mail, Visiting, Telephone. The detention center shall have written policy and procedures which shall govern the practices of handling mail, visitation, use of the telephone, and any limitations or restriction on these privileges. Juvenile offenders shall have the opportunity to receive visits and to communicate and correspond with persons, representatives of the media or organizations, subject to the limitations necessary to maintain detention center security and order. (3-21-18)

02. Resident Access to Outside Support Services. The facility shall provide residents with access to outside victim advocates for emotional support services related to sexual abuse as outlined by PREA Standard Section 115.353. (3-20-14)

03. Mail Service. Mail, other than sent to or received from public officials, judges, attorneys, courts, government officials and officials of the confining authority, may be opened and inspected for contraband. (4-5-00)

04. Telephone Service. All juvenile offenders, except those restricted as a result of disciplinary action, shall be provided the opportunity to complete at least two (2) telephone calls weekly to maintain family and community ties. (3-30-07)

a. Telephone calls may be monitored and notification shall be provided to the juvenile. (3-21-18)

b. The detention center may require that any costs for telephone calls be borne by the juvenile offender or the party called. (3-30-07)

c. Written policy and procedures shall grant all juvenile offenders the right to make at least one (1) local or collect long distance telephone call to family members, attorneys, or other approved individuals during the admissions process. (3-30-07)

d. Juvenile offenders shall be allowed to make a reasonable number of telephone calls to their attorneys *that:* *( )*

i. *Are* of reasonable duration*;* *( )*

ii. *Are* not monitored*; and* *( )*

iii. *Are* not revoked as a disciplinary measure. *( )*

05. Visitation Restrictions. The parents or legal guardians, probation officer, parole officer, detention center administrator or the court of jurisdiction may impose restrictions on who may visit a juvenile offender. (3-30-07)

06. Search of Visitors. Written policy and procedures shall specify that visitors register upon entry into the detention center and the circumstances under which visitors are searched and supervised during the visit. (3-30-07)

07. Confidential Visits. The detention center shall provide juvenile offenders adequate opportunities for confidential access to courts, attorneys, and their authorized representatives, probation and parole officers, law enforcement, counselors, caseworkers, and the clergy. (3-21-18)

08. Visitation. Attorneys, probation and parole officers, law enforcement, counselors, caseworkers, and clergy shall be permitted to visit juvenile offenders at reasonable hours other than during regularly scheduled visiting hours. (3-21-18)

a. Visits with attorneys, probation and parole officers, law enforcement, counselors, caseworkers, and clergy shall not be monitored, except that detention center employees may visually observe the visitation as necessary to maintain appropriate levels of security. (3-21-18)

b. Visits with attorneys, probation and parole officers, law enforcement, counselors, caseworkers, or clergy should be of the contact type unless otherwise indicated by the juvenile offender or visitor, or the detention center administrator determines there is a substantial security justification to restrict the visit to a non-contact type. (3-21-18)

257. -- 260. (RESERVED)

261. ADMISSION.

01. Orientation Materials. Written policy and procedures shall provide that new juvenile offenders receive orientation materials, including conduct rules. If, at any time, a literacy or language barrier is recognized, the detention center shall make good faith efforts to assure that the juvenile offender understands the material. (3-30-07)

02. Procedures for Admission. The detention center shall have written policy and procedures for admission of juvenile offenders which shall address, but are not limited to, the following: (3-21-18)

a. Determination that the juvenile offender is lawfully detained in the detention center; (3-29-12)

b. The classification of juvenile offenders in regard to sleeping, housing arrangements, and programming; (3-30-07)

c. Any juvenile offender showing signs of impairment should not be admitted to the detention center without documentation from medical personnel or a physician of examination, treatment, and fitness for confinement; (3-21-18)

d. A complete search of the juvenile offender and possessions; (3-30-07)

e. Pat searches shall be performed before mechanical restraints are removed at the admissions process; (3-21-18)

f. The care and disposition of personal property; (3-25-16)

g. Provision of shower and the issuance of detention clothing and personal hygiene articles; (3-30-07)

h. The provision of medical, dental and mental health screening; (3-30-07)

i. Male and female juvenile offenders shall not occupy the same sleeping room; (3-30-07)

j. The recording of basic personal data and information; (3-30-07)

k. Providing assistance to juvenile offenders in notifying their families of their admission and the discussion of procedures for mailing and visiting; (3-29-12)

l. The fingerprinting and photographing in accordance with Title 20, Chapter 5, Section 20-516(8), Idaho Code; and (3-29-12)

m. The administration of the MAYSI or other approved *assessment* tool. *( )*

03. Court Appearance Within Twenty-Four Hours. According to Title 20, Chapter 5, Section 20-516(4), Idaho Code, written policy and procedures shall ensure that any juvenile offender placed in detention or shelter care be brought to court within twenty-four (24) hours, excluding Saturdays, Sundays and holidays for a detention hearing to determine where the juvenile offender will be placed until the next hearing. (3-21-18)

04. Limitations of Detention. Written policy and procedures shall limit the use of detention in accordance with Title 20, Chapter 5, Section 20-516, Idaho Code. (3-30-07)

262. RELEASE.

01. Release of Offender. Written policy and procedures shall govern the release of any juvenile offender and the release process including, but not limited to: (3-21-18)

a. Verification of juvenile offender's identity; (3-20-14)

b. Verification of release papers; (3-20-14)

c. Completion of release arrangements, including the person or agency to whom the juvenile offender is being released: (3-20-14)

d. Return of personal effects; and (3-20-14)

e. Completion of any pending action. (3-20-14)

02. Temporary Release. Written policy and procedures shall govern escorted and unsecured day leaves into the community. (3-21-18)

03. Personal Property Complaints. Written policy and procedures shall govern a procedure for handling complaints about personal property. (4-5-00)

04. Disposal of Property. Property not claimed within four (4) months of a juvenile offender's discharge may be disposed of by the detention center in accordance with Title 55, Chapter 14, Section 55-1402, Idaho Code. (3-29-12)

263. -- 264. (RESERVED)

265. PROGRAMS AND SERVICES AVAILABLE.

01. Programs and Services. The detention center shall have written policy and procedures which govern what programs and services will be available to juvenile offenders. These programs and services shall include, at a minimum, the following: (3-21-18)

a. Access or referral to counseling; (3-29-12)

b. Religious services on a voluntary basis; (3-29-12)

c. One (1) hour per day, five (5) days per week of large muscle exercise; (3-29-12)

d. Passive recreational activities: (3-29-12)

e. Regular and systematic access to reading material: (3-29-12)

f. Work assignments; and (3-29-12)

g. Educational programs according to the promulgated rules of the Idaho State Department of Education. (3-29-12)

02. Records of Participation in Programs and Services. Records of participation in programs and services must be recorded in daily shift log or juvenile offender's file or program records. (3-20-14)

03. Limitations and Denial of Services. Access to services and programs will be afforded to all juvenile offenders, subject to the limitations necessary to maintain detention center security and order. Any denial of services must be documented. (3-29-12)

266. -- 274. (RESERVED)

275. DETENTION CENTER DESIGN, RENOVATION, AND CONSTRUCTION.

01. Applicability. All standards in this section, except where exceptions are stated, shall apply to new juvenile detention centers, renovation of existing juvenile detention centers, and renovation of any existing building for use as a juvenile detention center. In the case of a partial renovation of an existing detention center, it is intended that these rules should apply only to the part of the detention center being added or renovated. (3-29-12)

02. Code Compliance. In addition to these rules, all new construction and renovation shall comply with the applicable ADA, building, safety, and health codes of the local authority and the applicable requirements of the State Fire Marshal, and state law. Standards herein which exceed those of the local authority shall take precedence. (4-5-00)

03. Site Selection. Juvenile detention centers should be located to facilitate access to community resources and juvenile justice agencies. If the detention center is located on the grounds or in a building with any other correctional facility, it shall be constructed as a separate, self-contained unit in compliance with Title 20, Chapter 5, Section 20-518, Idaho Code. (3-30-07)

04. General Conditions. All newly constructed or renovated juvenile detention centers shall conform to the following general conditions: (3-30-07)

a. Light levels in all housing areas shall be appropriate for the use and type of activities which occur. Night lighting shall permit adequate illumination for supervision; (3-30-07)

b. All living areas shall provide visual access to natural light; (3-30-07)

c. HVAC systems shall be designed to provide that temperatures in indoor living and work areas are appropriate to the summer and winter comfort zones, and healthful and comfortable living and working conditions exist in the detention center; (3-30-07)

d. All locks, detention hardware, fixtures, furnishings, and equipment shall have the proper security value for the areas in which they are used. The use of padlocks in place of security locks on sleeping room or housing unit doors is prohibited; (3-30-07)

e. Juvenile offenders' rights to privacy from unauthorized or degrading observation shall be protected without compromising the security and control of the detention center. Privacy screening for all toilet and shower areas which still allows adequate supervision of those areas should be incorporated into the design; (3-30-07)

f. The detention center shall have a perimeter which is secured in such a way that juvenile offenders remain within the perimeter and that access by the general public is denied without proper authorization; (3-30-07)

g. The security area of the detention center shall have an audio communication system equipped with monitors in each sleeping room and temporary holding room designed to allow monitoring of activities and to allow juvenile offenders to communicate emergency needs to detention center employees. Closed circuit television should primarily be used to verify the identity of persons where direct vision is not possible. Closed circuit television shall not be used to routinely monitor the interior of sleeping rooms; and (3-30-07)

h. All newly constructed or renovated detention centers shall provide an emergency source of power to supply electricity for entrance lighting, exit signs, circulation corridors, fire alarm, electrically operated locks and the heating and ventilation system. (3-30-07)

i. When designing or acquiring any new facility and in planning any substantial expansion or modification of existing facilities, the agency shall consider the effect of the design, acquisition, expansion, or modification upon the agency's ability to protect residents from any harm including sexual abuse as outlined by PREA Standard Section 115.318. (3-20-14)

05. Admission and Release Area. The detention center shall have an intake and release area which

should be located within the security perimeter, but apart from other living and activity areas. (3-30-07)

a. Adequate space shall be allocated for, at least but not limited to; (3-30-07)

i. Reception; (3-30-07)

ii. Booking; (3-30-07)

iii. Search; (3-30-07)

iv. Shower and clothing exchange; (3-30-07)

v. Medical screening; (3-30-07)

vi. Storage of juvenile offender's personal property and detention center clothing; (3-30-07)

vii. Telephone calls; (3-30-07)

viii. Interviews; and (3-30-07)

ix. Release screening and processing. (3-30-07)

b. If a detention center has temporary holding rooms, the rooms may be designed to detain juvenile offenders for up to eight (8) hours pending booking, court appearance, housing assignment, transfer, or release. Temporary holding rooms may be designed for multiple occupancy and shall provide thirty-five (35) square feet of unencumbered floor space for each juvenile offender at capacity (3-30-07)

c. Temporary holding rooms shall have access to a toilet and wash basin with hot and cold water. (3-30-07)

06. Single Occupancy Rooms. Single occupancy sleeping rooms or cells shall have a minimum of thirty-five (35) square feet of unencumbered space and shall be equipped with at least a bed above the floor. (4-5-00)

07. Multiple Occupancy Rooms. Multiple occupancy sleeping rooms or cells shall have at least thirty-five (35) square feet of unencumbered floor space per juvenile offender at the room's rated capacity and shall be equipped with at least a bed off the floor for each juvenile offender. (3-30-07)

08. Sanitation and Seating. All single or multiple occupancy sleeping rooms shall be equipped with, or have twenty-four (24) hours per day access without detention center staff assistance to toilets, wash basins with hot and cold running water, and drinking water at the following ratios: (3-30-07)

a. One (1) shower and one (1) toilet for every eight (8) juvenile offenders or fraction thereof; (3-30-07)

b. One (1) wash basin with hot and cold water for every twelve (12) juvenile offenders or a fraction thereof; and (3-30-07)

c. Tables and seating sufficient for the maximum number expected to use the room at one (1) time. (3-30-07)

09. Day Room and Multi-Purpose Room. The detention center shall have at least one (1) day room and multi-purpose room which provides a minimum of thirty-five (35) square feet of floor space per juvenile offender for the maximum number expected to use the room at one (1) time. (3-30-07)

10. Program Space. Adequate space shall be allocated for, but not limited to: (3-30-07)

a. Educational programs; (3-30-07)

b. Individual and group activities; (3-30-07)

c. Exercise and recreation, indoor and outdoor; (3-30-07)

d. Visitation; (3-30-07)

e. Confidential attorney and clergy interviews; and (3-30-07)

f. Counseling. (3-30-07)

11. Interview Space. A sufficient number of confidential interview areas to accommodate the projected demand of visits by attorneys, counselors, clergy, or other officials shall be provided. At least one (1) confidential interview area is required. (4-5-00)

12. Medical Service Space. Space shall be provided for routine medical examinations, emergency first-aid, emergency equipment storage, and secure medicine storage. (4-5-00)

13. Food Service. The kitchen or food service area shall have sufficient space for food preparation, serving, disposal, and clean-up to serve the detention center at its projected capacity. The kitchen or food service area shall be properly equipped and have adequate storage space for the quantity of food prepared and served. (3-30-07)

14. Laundry. Where laundry services are provided in-house, there shall be sufficient space available for heavy duty or commercial type washers, dryers, soiled laundry storage, clean laundry storage, and laundry supply storage. (4-5-00)

15. Janitor's Closet. At least one (1) secure janitor's closet containing a mop sink and sufficient space for storage of cleaning supplies and equipment shall be provided within the security perimeter of the detention center. (3-30-07)

16. Security Equipment Storage. A secure storage area shall be provided for all chemical agents, weapons, and security equipment. (4-5-00)

17. Administration Space. Adequate space shall be provided which includes but is not limited to, administrative, security, professional and clerical staff, offices, conference rooms, storage rooms, a public lobby, and toilet facilities. (4-5-00)

18. Public Lobby. A public lobby or waiting area shall be provided which includes sufficient seating and toilets. Public access to security and administrative work areas shall be restricted. All parts of the detention center that are accessible to the public shall be accessible to, and usable by, persons with disabilities in compliance with ADA standards. (3-30-07)

276. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are adopted pursuant to Title 20, Chapter 5, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. *These rules are titled IDAPA 05.01.03,* "Rules of the Custody Review Board." *( )*

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho and the Custody Review Board *are* consistently based on the principles *of* accountability, community protection, and competency development. *( )*

002. ADMINISTRATIVE APPEALS.
This chapter does not provide for appeal of the determination of the Custody Review Board. (3-5-08)

003. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference into these rules. (5-3-03)

004. PUBLIC RECORDS ACT COMPLIANCE.
The records associated with the Custody Review Board are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (5-3-03)

005. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply: *( )*

01. Board. The Custody Review Board of the Idaho Department of Juvenile Corrections. (5-3-03)

02. Case Management Team. A team consisting of juvenile services coordinator (JSC), case manager, and juvenile probation officer (JPO) who provide input in setting and following through with treatment goals. (5-3-03)

03. Case Manager. Department staff assigned to directly manage a juvenile's case, such as a group leader at a state institution; or, if a juvenile is placed at a contract program, the contract provider's employee assigned to directly manage a juvenile's case. (5-3-03)

04. Classification. A process for determining the *treatment* needs and requirements of juveniles *committed to the Department* and for assigning them to housing units or programs according to their needs and existing resources. *( )*

0*5*. Extended Time in Custody. Any period a juvenile remains in custody after age nineteen (19) and not to exceed age twenty-one (21). *( )*

***06*. Juvenile Records**. Information concerning the individual's delinquent or criminal, personal, and medical history and behavior and activities while in custody, including but not limited to commitment papers, court orders, personal property receipts, visitors' lists, type of custody, disciplinary infractions and actions taken, grievance reports, work assignments, program participation, and miscellaneous correspondence. (5-3-03)

***07*. Juvenile Services Coordinator (JSC)**. An employee of the Department assigned to a particular juvenile as the case worker, licensed in social work. (3-5-08)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Hearings. All matters and testimony concerning juveniles, before the Board, are confidential and are conducted in accordance with Title 74, Chapters 1 and 2, Idaho Code; and Title 20, Chapter 5, Idaho Code, regarding juvenile records and proceedings. (3-29-17)

02. Written Record. A written record of the vote by the Board shall be kept confidential and privileged from disclosure, to the extent allowed by law, and provided that the record, or portions thereof, is made

available upon request for all lawful purposes or as required by the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-29-17)

03. Confidentiality. Distribution of the record by the Board or an employee of the Department to any person not specifically allowed by law to receive or read it may result in disciplinary action. (5-3-03)

04. Records of Hearings and Meetings. Summary minutes of individual hearings and case reviews will be signed by the Board and maintained in the Department office. *( )*

101. POWERS AND DUTIES.

01. Review. The Board is empowered by Sections 20-520(1)(r) and 20-532, Idaho Code, to review the cases of juveniles in the custody of the Department whose cases have been referred to the Board according to Section 201 of these rules. (3-5-08)

02. Board Determinations. After conducting its review, the Board will advise the Director whether it has determined that the juvenile before it needs an extended time in custody to address accountability, community protection, and competency. (3-5-08)

03. Placement. The Board cannot direct the placement or treatment of a juvenile in the Department's custody. (3-29-17)

04. Release Date for Juveniles. If a juvenile appears before the Board and the Board *determines* that he not be retained in custody, the Director shall set a release date for the juvenile, as follows: *( )*

a. If a juvenile appears before the Board prior to his nineteenth birthday, but before a reasonable and appropriate release plan has been finalized, the Department may retain the juvenile long enough to finalize those plans, not to exceed forty-five (45) days after the juvenile's nineteenth birthday. (4-6-05)

b. In all other cases, the Department may retain the juvenile long enough to finalize a reasonable and appropriate release plan, not to exceed forty-five (45) days after the Director signs *the Board's determination*. *( )*

102. STRUCTURE AND COMPOSITION OF THE CUSTODY REVIEW BOARD.

01. Board Members. The Board is composed of four (4) members appointed by the Director who represent a variety of juvenile justice experiences and victim perspectives, or who are otherwise qualified. *( )*

02. Terms of Appointment. The Director shall fill each succeeding vacancy for terms of four (4) years. Board *vacancies* for unexpired terms *are* appoint*ed* by the Director for the remainder of the term. All appointees may be reappointed. *Appointees serve at the pleasure of the Director.* *( )*

03. Compensation of Board Members. Members will be compensated as provided by Section 59-509(b), Idaho Code. They serve without honorarium or compensation but are reimbursed for actual and necessary expenses, subject to the limits provided in Section 67-2008, Idaho Code. (5-3-03)

103. -- 199. (RESERVED)

200. REVIEW PROCESS.
A juvenile in the custody of the Department does not have the legal right or ability to request or demand a case review by the Board. A review by the Board does not create a liberty interest for the juvenile, and cannot be appealed. All cases come before the Board *as outlined* in Section 201 of these rules *( )*

201. REFERRAL OF CASES TO THE BOARD.
The Board shall review cases referred to it and will advise the Director whether it has determined that extended time in custody is necessary for a juvenile to address competency, accountability and community protection. (3-5-08)

01. Cases Eligible for Referral. A juvenile's case is eligible for referral to the Board *if*: *( )*

a. The juvenile is no more than six (6) months from his nineteenth birthday and one (1) or more members of the juvenile's case management team believes that the juvenile needs extended time in custody beyond that juvenile's nineteenth birthday; or (4-6-05)

b. The juvenile, at the time of commitment to the Department, is past age nineteen (19) or will reach age nineteen (19) prior to the next scheduled meeting of the Board. (3-29-17)

02. Juvenile Has Not Appeared Before the Board. Any juvenile who has not appeared before the Board in person or by video conference prior to the date of his nineteenth birthday, excepting those juveniles described in Paragraph 201.01.b. above, shall be released from custody on that date or as soon thereafter as a reasonable release plan can be determined and finalized. The final release date will not exceed forty-five (45) days after the juvenile's nineteenth birthday. (3-29-17)

03. Hearing Schedules. Once a case is referred, the Board will set a date for the review hearing. (3-29-17)

04. Written Submissions. All written documents and letters to be considered at a particular hearing *need to* be submitted fourteen (14) calendar days in advance of the scheduled hearing in order to ensure that they will be considered. Other documents may be allowed after this deadline by unanimous consent of the Board members present. Documents may include: *( )*

a. Progress reports to the courts pursuant to Sections 20-532 and 20-540, Idaho Code; (5-3-03)

b. Report on original offenses leading to commitment plus order for commitment and orders of judgment; (5-3-03)

c. Written recommendations from each member of the *case management* team; *( )*

d. Polygraph results and written conclusions and recommendations from the professionals administering these tests; (5-3-03)

e. Psychosocial or psychosexual evaluations; (5-3-03)

f. Victim's written statement; (5-3-03)

g. Juvenile's written statement; (5-3-03)

h. Initial classification; (5-3-03)

i. Custody level assessment at case review; and (5-3-03)

j. Any other pertinent information. (5-3-03)

202. PERSONS TO ATTEND OR COMMENT.

01. Juvenile. The juvenile who is the subject of a custody review proceeding is required to appear either in person or by videoconference. (5-3-03)

02. Witnesses. The Board allows for the participation of victims, attorneys, members of the case management team, and approved family members or others who have a direct relationship to the specific hearing or subject of the hearing. (5-3-03)

03. Participation. Persons who want to participate in hearings shall notify the Board staff fourteen (14) calendar days in advance of the scheduled hearing. Children, including victims, under the age of fourteen (14),

may not be allowed to attend the hearings without prior approval of the Director or Board. Parents or guardians of child victims in a case may appear and comment. (5-3-03)

04. Time Limited. At its discretion, the Board may limit the time allotted to each participant during the proceeding. (3-29-17)

05. Exclusion. At its discretion, the Board may exclude witnesses or participants for inappropriate or disruptive behavior, or other good cause. (3-29-17)

203. CONFLICT OF INTEREST.
A member of the Board who has personal knowledge of a case, shall notify all other Board members of this fact prior to the meeting where that case is to be considered. The remaining members of the Board will determine whether that member should be disqualified from participating in the review of that case and determination. (5-3-03)

204. -- 299. (RESERVED)

300. BOARD DETERMINATIONS.
All determinations by the Board regarding a juvenile are prepared in writing and given to the Director. (3-5-08)

01. Confidentiality. All determinations, including any written documents from any source regarding the juvenile's case, will be held by the Department in the juvenile's case management file. (3-5-08)

02. Board's Determination to the Director. The Board's written determination concerning the juvenile's need *for* extended time in custody *will* be given to the Director no later than thirty (30) calendar days after the date the Board receives the last documents or interviews the last witness pertaining to the case. *( )*

03. Reconsideration. The Board may reconsider its determination in any case only if the vote based on the reconsideration is made before the written determination is given to the Director. Only the members who heard the case may discuss or vote on any reconsideration of the determination. (3-5-08)

a. Any member of the Board who was present for and heard the juvenile's case may call for a vote to reconsider the Board's determination by making a request through the Board chair. (3-5-08)

b. Any reconsideration may occur by teleconference, in person, by videoconference, or any combination thereof. (3-5-08)

c. The chair will call for a motion to reconsider, and a vote. (3-5-08)

d. The determination *is* given to the Director in the same manner as is specified in Subsection 300.02, of these rules. *( )*

04. Indeterminate Sentence Remains. If the Board determines that a juvenile needs to stay for an extended time in custody of the Department, that determination does not create a determinate sentence of any kind, and the Director *retains* the authority to release the juvenile at any later time deemed appropriate. *( )*

05. Official Record of Hearing/Review. The *signed summary minutes are the* official record of a hearing or case review and the original record will be maintained with records of the Department. *( )*

06. Evaluation of Juvenile Cases. Juvenile cases are evaluated on the individual merits of each case. The Board's evaluation of a case and a juvenile's need for extended time in custody are not based upon any predetermined hearing standard, criteria, or precedent. Factors that may be taken into account by the Board include, but are not limited to: (5-3-03)

a. Seriousness of the crime; (5-3-03)

b. Prior criminal history of the juvenile, as well as prior commitments to the Department; (5-3-03)

c. Progress or completion of program, treatment plan, accountability; (5-3-03)

d. Institutional history to include conformance to established rules, involvement in programs and overall behavior; (5-3-03)

e. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen; and (5-3-03)

f. Information or reports regarding physical, psychological, or other conditions. (5-3-03)

301. -- 399. (RESERVED)

400. VICTIMS.
*T*he Department and the Board *will* respect the rights of victims of crime in Idaho, pursuant to the Idaho Constitution and statute. When a juvenile's case *is* referred for review, the Department *will provide* the Board with a list of crime victims who were officially identified by the adjudicating court or prosecuting attorney. *( )*

01. Notice to Victims. The Board will notify identified victims of a juvenile's crime that a custody review hearing *is* scheduled. These victims will also be notified of their right to submit written statements or information and their right to provide testimony. After the review proceeding, *the Department shall notify* victims of the Board's determination regarding the custody of the juvenile. *( )*

a. Notices of rights, hearings, the Board's final determinations, and any anticipated release documents will be sent to the victim of record at the last known address. *T*he victim *is responsible for* provid*ing* any change of address. *( )*

b. Victims may request that they not be notified or contacted. (5-3-03)

02. Victim Testimony. A victim may attend all custody review hearings pertinent to their case and provide testimony. The victim may be allowed to testify before the Board members during a hearing session outside the juvenile's presence. *( )*

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are adopted pursuant to Title 20, Chapter 5, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 05.01.04, "Uniform Standards for Juvenile Probation Services." (4-6-05)

02. Scope. These rules are established to ensure that all county juvenile probation services operate under consistent standards based on the principles of accountability, community protection, and competency development. (4-6-05)

002. ADMINISTRATIVE APPEALS.
This chapter does not provide for appeal of the administrative requirements for agencies. (4-6-05)

003. INCORPORATION BY REFERENCE.
There are no documents incorporated by reference into these rules. (4-6-05)

004. PUBLIC RECORDS ACT COMPLIANCE.
The records associated with the Idaho Department of Juvenile Corrections are subject to these rules and the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-6-05)

005. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Section 20-502, Idaho Code, the following definitions apply: *( )*

***01. Balanced Approach**. An approach to juvenile justice that gives balanced attention to holding offenders accountable, developing competencies, and protecting the community.* *( )*

***02. Case Management Plan**. A plan developed in collaboration with those directly involved in a juvenile's case to address criminogenic risk factors and identified needs.* *( )*

***03. Evidence-Based Practices**. Practices that are demonstrated to be effective through empirical research.* *( )*

***04. Graduated Sanctions**. An evidence-based model for juvenile offenders that combines accountability and sanctions with increasingly intensive treatment and rehabilitation services.* *( )*

***05. Juvenile Probation Department**. Any public or private agency, made up of one (1) or more staff, administered by or contracted with the court or county to provide juvenile probation services to a county at the expense and concurrence of the county commissioners. Services may include intake, diversion, supervision, restitution, and community service work.* *( )*

***06. Juvenile Probation Officer**. An employee of a juvenile probation department who is responsible for supervision of juvenile offenders' compliance with court orders.* *( )*

***07. Probation**. A legal status created by a court order that permits a juvenile offender to remain in the community with conditions and restrictions imposed by the court.* *( )*

***08. Recidivism**. A measure that counts the number of juvenile offenders who are adjudicated of a new misdemeanor or felony offense within a specified time period.* *( )*

***09. Validated Risk/Needs Assessment**. A validated instrument that measures a juvenile's criminal risk factors and specific needs that, if addressed, should reduce the juvenile's likelihood to reoffend.* *( )*

011. – 099. (RESERVED)

100. REVIEW PROVISIONS.
The Idaho Department of Juvenile Corrections will collaborate with the courts and the counties to visit and review all juvenile probation departments to assess compliance with these rules. A written report of each review will be

prepared by the Department and provided to the appropriate juvenile probation administrator with copies to the county commissioners and the administrative judge. ( )

101. – 199. (RESERVED)

200. ADMINISTRATION.

***01. Department Mission Statement**. Juvenile probation departments should have a department mission statement that incorporates the principles of the balanced approach and guides the operations of the department.* ( )

***02. Policies and Procedures**. Juvenile probation departments shall have policies and procedures for the operation of the department that are consistent with existing laws, local rules, and evidence-based practices. All written policies, procedures, rules and regulations should be dated, reviewed at least annually, and made available to department employees. Policies will include administrative procedures for the following:* ( )

***a.** Roles of employees and organizational authority within the department;* ( )

***b.** Communication and dissemination of pertinent information to staff;* ( )

***c.** Records management in accordance with Idaho Court Administrative Rule 32; and* ( )

***d.** Internal case review to ensure the quality of supervision and compliance with standards.* ( )

***03. Fidelity**. Juvenile probation departments should demonstrate that practices adhere to department protocols and program models.* ( )

***04. Data**. Juvenile probation departments should have policies and procedures to collect and analyze data on at least an annual basis that allows for an analysis of local trends in juvenile justice, measures recidivism, and evaluates any other identified department objectives.* ( )

201. – 299. (RESERVED)

300. STAFF QUALIFICATIONS AND STAFF DEVELOPMENT.
All juvenile probation departments will have written policy and procedures governing staffing, to include: ( )

***01. Minimum Qualifications**:* ( )

***a.** Juvenile probation officers should meet and maintain the minimum standards of employment as provided in IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council."* ( )

***b.** Juvenile probation officers should adhere to the Idaho Juvenile Probation Officer Code of Ethics and the Code of Ethics/Standards of Conduct as provided in IDAPA 11.11.01.* ( )

***02. Training and Staff Development**:* ( )

***a.** Juvenile probation departments should ensure staff training based on their written policy and procedures. The training should meet staff needs, be reviewed regularly, and address current trends. The training should also ensure that all juvenile probation officers earn the juvenile probation officer certificate as mandated in IDAPA 11.11.01.* ( )

***b.** Juvenile probation officers should obtain at least twenty (20) hours of continuing education each year after certification as a juvenile probation officer. At least six (6) hours of annual continuing education should be on evidence-based/best practices in juvenile justice.* ( )

***c.** Each juvenile probation department will maintain accurate documentation of continued training hours for each juvenile probation officer.* ( )

301. – 399. (RESERVED)

400. JUVENILE PROBATION SERVICES.
All juvenile probation departments shall operate in accordance with IDAPA 05.01.04 and have policies and procedures regarding the following: ( )

***01. Balanced Approach Model**. Supervision of juvenile offenders and services provided to juvenile offenders and their families should be based on the Balanced Approach Model. ( )*

***02. Engaging and Involving Families**. Juvenile probation officers should document efforts to engage and involve a juvenile offender's family and/or other supportive individuals. ( )*

***03. Validated Risk Assessment**. A validated risk assessment should be utilized to determine the criminogenic risk factors and needs of the juvenile offender. ( )*

***04. Assessments**. Assessments should be utilized when applicable to assist in making recommendations to the Court and in developing individualized case plans. ( )*

***05. Risk and Need Classification**. Risk assessment and supplemental assessment results should be used to recommend length of probation and to determine level and type of supervision, frequency of contact, and intensity of services. ( )*

***06. Case Management Plans**. Individualized case management plans should focus on the most significant criminogenic risks as identified by the risk assessment and supplemental assessments. The plan should prioritize and address criminogenic risks, needs, and responsivity factors, rated moderate or higher, with special emphasis on addressing anti-social attitudes, values, and beliefs. Case management plans should be reviewed with the juvenile and/or their parent/guardian and updated, as needed, per department policy. ( )*

***07. Collateral Contacts**. Juvenile probation officers should conduct collateral contacts and verify information about juvenile offenders that is important to the supervision process. ( )*

***08. Documentation**. Juvenile probation officers should maintain timely and accurate records of each juvenile offender under supervision, consistent with the juvenile probation department policies. ( )*

***09. Evidence Based/Best Practices and Programs**. Evidence-based/best practices and programs should be utilized to promote a greater likelihood of positive outcomes. ( )*

***10. Collaboration with Community Partners**. Juvenile probation officers should collaborate with public and private agencies to assist juveniles and their families to obtain services and utilize community resources. These partners may include treatment providers, employment agencies, law enforcement, school systems, and other government and non-profit organizations. ( )*

***11. Court Reports**. Reports should provide the Court pertinent information as well as sufficient detail regarding the risks and needs of the juvenile. ( )*

***a.** Any recommendations contained in the report should address the needs of the juvenile including supervision, treatment, and other special conditions applicable based on the juvenile's risk. ( )*

***b.** Information in reports should be verified to ensure accuracy and credibility of the information. ( )*

***c.** Juvenile probation departments should have procedures to review and approve reports to ensure quality control and consistency. ( )*

***d.** All reports should be filed in a timely manner as determined by the Court and department policies. ( )*

*12. **Use of Detention**. Policies should reflect the risk/needs principle and the use of graduated sanctions. Alternatives to detention should be sought out for low-risk offenders. ( )*

*13. **Physical Intervention**. In the event a juvenile probation department authorizes the use of chemical agents or other weapons, juvenile probation officers must be certified for their use by a certified instructor. Physical force used in instances of justifiable protection of the juvenile or others must be documented. ( )*

*14. **Reporting of Abuse/Neglect**. Physical and sexual abuse and neglect must be reported and documented in accordance with Section 16-1605, Idaho Code. ( )*

*15. **Transfer of Cases**. Transfer of cases should occur in accordance with chapter 5, Title 20, Idaho Code, and Idaho Juvenile Rule 10. ( )*

a. Juvenile probation officers should communicate with the county where a juvenile will reside regardless of whether or not supervision will be requested. Such communication should occur as soon as a change in residence is determined. ( )

b. The juvenile probation department in the sending county should communicate, in writing, to the juvenile probation department in the receiving county regarding the supervision request. Information provided should include juvenile and guardian name, address, phone, school (if known), criminal history, disposition and terms, and conditions of supervision. ( )

c. In the event a juvenile is relocating to or from another state, the juvenile probation officer should comply with the provisions of the Interstate Compact for Juveniles, Chapter 19, Title 16, Idaho Code. ( )

*16. **Absconders**. Reasonable steps should be taken to locate juvenile offenders who fail to report for probation supervision and whose whereabouts are unknown. ( )*

*17. **Transportation of Juveniles**. All juvenile probation officers who transport a juvenile will have a valid driver's license in good standing and valid proof of insurance. ( )*

*18. **Release of Information**. Information contained in probation files is confidential and may only be released in accordance with state and federal laws. Written policy and procedures should include what information can be provided, who should provide the information, and how it should be provided. ( )*

*19. **Additional Policy and Procedures**. Juvenile probation departments will establish written policy and procedures in accordance with their county policies regarding the following (if applicable): ( )*

a. Diversions; ( )

b. Victim and community restoration; ( )

c. Search and seizure; ( )

d. Drug testing; ( )

e. Probation violations; ( )

f. Medical emergencies; and ( )

g. Termination of cases. ( )

***401*. -- 999. (RESERVED)**

000. LEGAL AUTHORITY.
These rules are adopted pursuant to Title 20, Chapter 5, and Title 16, Chapter 19, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 05.02.01, "Rules for Residential Treatment Providers." (4-11-15)

02. Scope. These rules are established to ensure that the juvenile corrections system in Idaho will be consistently based on the following principles: accountability; community protection; and competency development. These rules apply to residential treatment providers *(Provider)* that coordinate needed treatment services identified in individual service implementation plans. *( )*

002. – 003. (RESERVED)

004. PUBLIC RECORDS ACT COMPLIANCE.
The records associated with the *P*roviders are juvenile records of the Idaho Department of Juvenile Corrections, and are subject to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. *( )*

005. -- 009. (RESERVED)

010. DEFINITIONS.
The definitions in Section 20-502, Idaho Code and the following terms apply: *( )*

0*1*. Assessment. The process of gathering information to determine risk and program needs for the purpose of guiding placement decisions and to develop the individualized treatment/service plan. (4-11-15)

0*2*. Body Cavity Search. The examination and possible intrusion into the rectal or vaginal cavities to detect contraband. It is performed only by the medical health professional. (3-25-16)

0*3*. Body Search, Clothed. Also referred to as a Pat Search. A search during which a juvenile offender is not required to remove their clothing, with the exception of such items as a jacket, hat, socks and shoes. (4-11-15)

0*4*. Body Search, Unclothed. Also referred to as a Strip Search. A search *conducted by a medical health professional* during which a juvenile offender is required to remove all clothing. *( )*

0*5*. Clinical Supervisor. Person who supervises juvenile services coordinators and clinicians in assigned regions and reviews and approves case management documentation. This responsibility also includes oversight of the regional observation and assessment process and assisting in the maintenance and development of programs. (4-11-15)

0*6*. Community Service Hours. Hours of community service performed by a juvenile offender in response to a court order or which may be imposed following a formal disciplinary process within a *P*rovider program for damages to the facility or program. *( )*

0*7*. Community Treatment Team. A team including the juvenile services coordinator, *P*rovider case manager, juvenile probation officer, family, and others, as necessary, who work together to provide input into each juvenile offender's service implementation plan, implement their respective sections of that plan, and monitor and report progress on treatment goals. *( )*

0*8*. Contraband. Any item not issued or authorized by the *P*rovider. *( )*

***09*. Confidential Information**. Information that may only be used or disclosed as provided by state or federal law, federal regulations, or state rule. (4-11-15)

1*0*. Criminogenic Risks and Needs. Assessed juvenile offender risk factors or attributes of juvenile offenders that are directly linked to criminal behavior and, when changed, influence the probability of recidivism. (4-11-15)

***11*. Education Plan**. *A written plan for general education students outlining the coursework they will complete each year towards meeting the Idaho Content Standards recommended coursework for their grade level based on assessed academic, emotional, developmental and behavioral needs, and competencies. Students qualifying*

for Individuals with Disabilities Education Act (IDEA) services will have an Individual Education Plan (IEP) in lieu of an education plan. *( )*

12. **Escape/Attempted Escape**. Attempting to leave or leaving a facility without permission, or attempting to leave or leaving the lawful custody of any officer or other person responsible for juvenile's supervision without permission. (4-11-15)

13. **Facility**. The physical plant associated with the operation of residential or nonresidential programs. (4-11-15)

14. **Facility Treatment Team**. The group of staff employed by the Department or by the *P*rovider who have input into developing the juvenile offender's service implementation plan, who provide direct services to juvenile offenders, and who monitor and report on the progress on meeting the goals in that plan. The facility treatment team is responsible for working with the community treatment team to develop and implement the service implementation plan. *( )*

*15. **General Education Student**. A student who does not qualify for special education services under the IDEA.* *( )*

*16. **Health Services**. Including, but not limited to, routine and emergency medical, dental, optical, obstetrics, mental health, or other related health service.* *( )*

17. **Incident Report**. A written document reporting any occurrence or event, or any other incident, which threatens the safety and security of staff, juvenile offenders or others, or which threatens the security of the program and which requires a staff response. (4-11-15)

*18. **Independent Living Services**. Services that increase a juvenile offender's ability to achieve independence in the community.* *( )*

*19. **Individual Community Pass**. Any instance in which a juvenile offender leaves the Provider's facility for a planned activity, without direct supervision by at least one (1) Provider or Department staff. Regular school or work attendance, regular participation in off-site treatment sessions or groups and other regular off-site activities specifically included in the service implementation plan or written reintegration plan and approved by the juvenile services coordinator are not included in this definition. Individual community passes include, but are not limited to:* *( )*

a. Day passes with family or other approved individuals; *( )*

b. Day or overnight home visits; *( )*

c. Recreational activities not otherwise approved as a part of a group activity; and *( )*

d. Funeral leave. *( )*

*20. **Individual Education Plan (IEP)**. A written document (developed collaboratively by parents and school personnel) which outlines the special education program for a student with a disability and is based on assessed academic, emotional, developmental, and behavioral needs and competencies. This document is developed, reviewed, and revised at an IEP meeting at least annually.* *( )*

21. **Interns**. A paraprofessional staff who is pursuing a degree and who, as a part of documented coursework with a college or university, may provide counseling or other services to juvenile offenders in the Department's custody or their families, under direct supervision of qualified staff. (4-11-15)

22. **Juvenile Records**. Information concerning the juvenile offender's delinquent or criminal, personal, and medical history, behavior and activities. (4-11-15)

23. **Juvenile Services Coordinator**. An *employee of the Department assigned to a particular juvenile as the case worker, licensed in social work*. *( )*

24. **Mechanical Restraints**. Mechanical devices used to prevent an uncontrollable juvenile offender from injuring themselves or others. (4-11-15)

***25. Medical Health Assessment**. A thorough review to determine a juvenile offender's comprehensive health needs. This information is used to develop the medical terms of a juvenile offender's service plan. ( )*

26. **Medical Health Professional**. An individual who meets the applicable state's criteria as a licensed LPN, RN, nurse practitioner, physician assistant, physician or the equivalent. (4-11-15)

***27. Medical Health Screening**. A process used to quickly identify a juvenile offender's immediate health needs and to determine if there are any immediate needs related to a chronic health condition. ( )*

***28. Mental Health Assessment**. A thorough review to determine a juvenile offender's comprehensive mental health needs. This information is used to develop the mental health terms of a juvenile offender's service plan. ( )*

29. **Mental Health Professional**. An individual who possesses a master's degree and meets the applicable state's criteria as a licensed LPC, LMFT, LCPC, LCSW, LMSW, psychologist or the equivalent. (4-11-15)

***30. Mental Health Screening**. A process used to quickly identify a juvenile offender's immediate mental health needs and to determine if there are any immediate needs related to a chronic mental health condition. ( )*

31. **Observation and Assessment Evaluation**. Written documentation of assessment tool results, observations, interviews, risks, and any special considerations resulting in the creation of the service plan, which includes the initial reintegration plan. (4-11-15)

32. **Physical Restraint**. Any method of physical control of a juvenile offender that involves staff touching or holding a juvenile offender to limit or control the juvenile offender's actions. (4-11-15)

33. ***Prison Rape Elimination Act of 2003 (*****PREA*****)**. *Public Law No. 108-79, including all subsequent amendments thereto as codified in 34 U.S.C. §§ 30301-30309, and all federal rules and standards promulgated thereunder, which promote zero (0) tolerance of sexual abuse of juvenile offenders by staff or by other juvenile offenders*. *( )*

***34. Privileged Mail**. Mail between the juvenile offender and their attorneys, legal aid services, other agencies providing legal services to juvenile, or paraprofessionals having legitimate association with such agencies; judges and clerks of federal, state and county courts; public officials and their authorized representatives acting in their official capacities; and the communications with clergy of the juvenile's faith. ( )*

35. **Program Director**. The administrator of the residential treatment provider for juvenile offenders. (4-11-15)

36. **Progress Report**. A written report summarizing progress toward the goals and objectives set in the service implementation plan. (4-11-15)

38. **Quality Improvement Services Bureau**. Department employees responsible for overseeing *P*rovider's compliance with contract terms and these rules. *( )*

38. **Referral Packet**. The information necessary for a potential residential treatment provider to determine whether the program can appropriately meet the identified criminogenic risks and needs of the juvenile being referred. (4-11-15)

39. **Region**. Subunits of the Department organized by geographical areas and including all services and programs offered by the Department in that area. (4-11-15)

4*0*. **Regional Facility**. Department-operated juvenile correctional centers located in each region of the state. (4-11-15)

41. ***Reintegration Placement****. The placement of a juvenile offender receiving independent living and reintegration skills services from the Provider. This placement may be with a host family, in a group setting, or in an apartment.* *( )*

42. **Reintegration Plan**. That part of the juvenile offender's service plan which specifically addresses the terms, conditions, and services to be provided as the juvenile offender moves to a lower level of care or leaves the custody of the Department. (4-11-15)

43. **Relapse Prevention Plan**. A document completed by the juvenile, used to identify interventions for problem behavior, positive supports, and high-risk people and places. (4-11-15)

44. **Release from Department Custody**. Termination of the Department's legal custody of a juvenile. (4-11-15)

45. **Residential Treatment Provider**. Also known as Provider. A residential program under contract with the Department to supervise juvenile offenders and provide accountability and competency development in the least restrictive setting, consistent with public safety. (4-11-15)

46. **Restitution**. Financial payment intended to reimburse victims for loss, damage, or harm caused by a juvenile offender. Restitution must be court ordered. Providers may not impose restitution against a juvenile offender without a court order. (4-11-15)

47. **Restricted Clinical Information**. Any record, document, or other information legally protected from dissemination to the general public by statute or rule, such as psychological evaluations, therapy notes, therapy journals, sex histories, polygraph results, psychological testing, or other legally confidential information. (4-11-15)

48. **Room Confinement**. Instances in which juvenile offenders are confined in the room in which they usually sleep, rather than being confined in an isolation room. (4-11-15)

49. **Separation or Isolation**. Any instance when juvenile offenders are confined alone for over fifteen (15) minutes in a room other than the room in which they usually sleep. (4-11-15)

50. **Service Implementation Plan**. A written document produced and regularly updated by a *P*rovider with input from the community treatment team. This plan describes interventions and objectives to address the service plan goals including the areas of community protection, accountability, and competency development. *( )*

51. **Service Plan**. A written document produced during the observation and assessment period following commitment to the Department that defines the juvenile offender's criminogenic needs and risks, strengths, goals, and recommendations for family and reintegration services. The service plan addresses the relevant needs and services for each juvenile offender in areas such as mental health, medical, education, substance abuse, and social skills. (4-11-15)

52. **Sexual Abuse**. Includes any type of contact, that is sexual in nature and directed toward a juvenile offender by staff or by juvenile offenders as well as sexual harassment, which includes repeated and unwelcomed sexual advances, comments, gestures, voyeurism, implied threats, and coercion. (4-11-15)

53. **Staffings**. Regularly scheduled meetings of the community and facility treatment team members to review progress on treatment goals and objectives identified in each juvenile offender's service implementation plan. (4-11-15)

54. **Subcontractor**. A person or business which has contracted with the *P*rovider for provision of some portion of work or services. *( )*

55. **Suicide Risk Assessment**. An evaluation performed by a mental health professional to determine

the level of immediate risk of a juvenile offender attempting suicide, and to apply this information in developing a safety plan for the juvenile offender. (4-11-15)

56. Suicide Risk Screening. An evaluation used to quickly determine, based upon known history and current behavior, whether a juvenile offender presents any identifiable risk of immediate suicidal behavior, and to call in a mental health professional to complete a suicide risk assessment. (4-11-15)

57. Superintendent. The person who has responsibility and oversight of a regional facility and over the region of the state where the regional facility is located. (4-11-15)

58. Transfer. Any movement of a juvenile offender in the custody of the Department from one (1) *P*rovider to another without a release from Department custody. *( )*

59. Treatment. Any program of planned services developed to meet risks and needs of juvenile offenders and their families, as identified in an assessment, and as related to activities designed to teach alternate behaviors and to support change in the beliefs that drive those behaviors. Treatment as referenced in this context also includes the maintenance of conditions that keep juvenile offenders, staff, and the community safe. (4-11-15)

60. Variance. The means of complying with the intent and purpose of a *P*rovider rule in a manner other than that specifically prescribed in the rule. *( )*

61. Vocational Services. Any service provided related to assessment, education, guidance, or training in the area of work or basic living skills. (4-11-15)

62. Volunteer. A person from the community who freely chooses to do or provide both direct *and* indirect services to juvenile offenders or staff at a facility or juvenile correctional center. This person is not compelled to do so and is not compensated for the services. *( )*

63. Waiver. The non-application of one (1) or more of these rules based upon a request by the *P*rovider and a written decision issued by the Department. *( )*

011. -- 099. (RESERVED)

SUBCHAPTER A – RULES FOR ALL RESIDENTIAL TREATMENT PROVIDERS

100. INITIATION OF SERVICES.
Juveniles are committed to the Department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-547, Idaho Code). (4-11-15)

101. WAIVER AND VARIANCE.
Minimum program standards established herein apply to all services provided by the *P*rovider. A waiver and variance from the standards stated in these rules must receive prior written approval from the Department and must be attached as a formal amendment to the contract. *( )*

102. APPLICABILITY.
This chapter applies to all *P*roviders that coordinate needed treatment services identified in individual service implementation plans. *P*roviders must also abide by *Subchapter B*, "Rules for Staff Secure Providers" *and Subchapter C*, "Rules for Reintegration Providers," *as applicable*. *( )*

103. -- 1*0*9. (RESERVED)

***110*. AUTHORITY TO INSPECT.**

01. Inspections. The Department has the authority to conduct reviews of programs, program operations, and facilities to ensure the *P*rovider's compliance with these rules. The *P*rovider shall cooperate with the Department's review and provide access to the program or facility and all juvenile records for juveniles in

Department custody, as deemed necessary by the Department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available*, upon request*. ( )

02. **Notification of Program Changes**. *P*roviders must notify the Department as soon as possible, but no later than thirty (30) calendar days, before there is a change in the name of the organization, type of service, characteristics of juveniles being served, changes in the licensed capacity of the program, closure of the program, changes in ownership or in the organizational structure. ( )

03. **Emergency Closure of Program**. In the event of a natural disaster, fire, flood, or other emergency in which the *P*rovider may be closed temporarily, the *P*rovider will immediately notify the regional juvenile correctional center in its respective region. ( )

04. **Notification of Death of a Juvenile Offender**. In the event of the death of a juvenile who is in the Department's custody, the *P*rovider must immediately notify the regional facility, juvenile offender's parent or guardian, and law enforcement. Other notifications will be coordinated between the *P*rovider and the Department. ( )

05. **Additional Incident Reporting**. The *P*rovider must report to the Department all incidents of the type normally requiring immediate notice to the Department, as identified in Subsection *156*.01, that occur in their program or facility regardless of whether or not the juveniles involved are in the Department's custody. Any such reports regarding juveniles not in Department custody must include the type and scope of the incident without any information identifying the juvenile, and be made available to the Department's Quality Improvement Services Bureau. ( )

a. The *P*rovider must report to the Department all incidents of staff misconduct relating to juvenile care and that result in any type of suspension or termination of employment, revocation or suspension of a professional license, or revocation or suspension of driver's license of any staff who transports juveniles. ( )

b. All instances of battery committed on staff must be documented and, whenever appropriate, charges filed with the appropriate authorities. Each such incident must be reported to the juvenile offender's juvenile services coordinator as an incident report according to Subsection *156*.01 of these rules. (4-11-15)

06. **Additional Reporting Requirements**. *The Provider shall maintain the overall safety, security, and order of a program for the protection and well-being of the juvenile offenders at all times. Therefore* in situations where the Department has determined *necessary to ensure compliance*, more frequent and more detailed reporting *may* be required by the Quality Improvement Services Bureau. ( )

111. COMPREHENSIVE AND CURRENT PROGRAM DESCRIPTION.

01. **Program Description**. *P*roviders must provide, and keep current with the Department, a program description detailing the range of services to be provided and the methods for providing these services. ( )

02. **Minimum Requirements**. At a minimum, the program description must include: (4-11-15)

a. Target population and specific admission criteria; (4-11-15)

b. Primary and secondary treatment modalities; (4-11-15)

c. Outline of daily schedules for juvenile offenders and staff; (4-11-15)

d. *D*escription of educational services provided; ( )

e. Description of emergency and routine medical and mental health services, including psychotropic medication monitoring, unless this population is specifically excluded from admission to the program; (4-11-15)

f. Description of religious services, recreation services, and other specialized services provided, as indicated by the needs of the identified target population; (4-11-15)

g. Written criteria for successful completion of the program and written criteria for termination from the program prior to completion; (4-11-15)

h. A thorough description of all services offered as a part of the program, including a description of the frequency of service delivery; (4-11-15)

i. A detailed description of each individual treatment intervention, such as treatment group, psycho-educational group, cognitive restructuring group, and peer group including: (4-11-15)

i. The overall goals of the treatment intervention or service area; (4-11-15)

ii. The average length, total length, and number of sessions in the treatment intervention or service area; (4-11-15)

iii. The facilitator education and training requirements; and (4-11-15)

iv. The specific curriculum used in the treatment intervention or service area. (4-11-15)

j. A detailed description of the behavior management component of the program. (4-11-15)

112. DISPOSITION OF REFERRALS FROM THE DEPARTMENT.

A juvenile offender's admission into the program shall be based on an assessment of the juvenile offender's strengths, risks, needs, and on the anticipated ability of the program to reasonably address those issues. *P*roviders must ensure that the juvenile offender and parent or guardian are provided an opportunity to participate in the admission process and related decisions. *( )*

01. Accepting Referral. Upon receipt of a complete referral packet from the Department, the *P*rovider has four (4) business days in which to decide whether to accept or decline the referral. Upon acceptance, the Referral Acceptance/Denial Form must be completed, signed, *and returned to the regional referral coordinator*. By accepting the referral, the *P*rovider agrees to address the identified treatment goals and the anticipated length of stay. Once the acceptance has occurred, the juvenile offender's transportation will be made. *( )*

02. Declining Referral. If a *P*rovider denies a referral, the specific reason for denial must be documented on the Department's Referral Acceptance/Denial Form and the form returned to the regional referral coordinator. The *P*rovider must then destroy the referral packet. *( )*

03. Change in Admission Criteria. Any change in the *P*rovider's admission criteria must be reflected in the *P*rovider's admission policy and requires a written amendment to the contract with the Department. Temporary exceptions are covered under Section 101 of these rules. *( )*

04. Reservation of Program Slots. When a program slot is to be reserved, the Department *will* contact the *P*rovider and request that the slot be reserved. Unless the Department gives specific approval, the maximum time for which a program slot may be reserved, and the *P*rovider continue to receive payment, is forty-eight (48) consecutive hours. *( )*

*11*3. SAFETY AND MAINTENANCE OF BUILDINGS AND GROUNDS.

01. Compliance with State and Local Codes and Ordinances. The *P*rovider must maintain compliance with all state and local building, life safety, and zoning requirements *and make d*ocumentation of compliance available to the Department. *( )*

02. Accessibility. The program buildings, parking lots, and other structures must provide access as required by the Americans with Disabilities Act, as amended, and other applicable federal and state laws and regulations. (4-11-15)

03. Maintenance. The *P*rovider must ensure that all structures are maintained, are in good repair, and

are free from hazards to health and safety. The grounds must also be maintained and be free from any hazard to health and safety. The *P*rovider must have a written plan for preventive and ongoing maintenance of its building and grounds. *( )*

04. Construction Considerations. When designing or acquiring any new program or facility and in planning any substantial expansion or modification of existing facilities, the *P*rovider shall consider the effect of the design, acquisition, expansion, or modification upon the *P*rovider's ability to protect residents from any harm, including sexual abuse. *( )*

05. Program Safety. Each *P*rovider must have a designated staff member who is responsible for the safety of the program. This individual must conduct monthly inspections of the program, with copies of the inspections kept on file for review by the Department, to identify: *( )*

a. Fire safety; (4-11-15)

b. Existing hazards; (4-11-15)

c. Potential hazards; and (4-11-15)

d. The corrective action that should be taken to address these hazards. (4-11-15)

06. Emergency Procedures. The *P*rovider will utilize and maintain a current emergency procedure manual, which include*s*, at a minimum, procedures pertaining to: *( )*

a. Fire safety and escape; (4-11-15)

b. Emergency medical care; (4-11-15)

c. Notification and filing charges on escape; (4-11-15)

d. Incidents of violence within the program; (4-11-15)

e. Suicide prevention; (4-11-15)

f. Child abuse reporting; and (4-11-15)

g. Sexual abuse disclosures. (4-11-15)

***11*4. VEHICLES.**

01. Condition. Vehicles used to transport juveniles must be mechanically sound, in good repair, and meet the Department's requirements for insurance coverage. (4-11-15)

02. Compliance with Applicable Laws. All vehicles must possess current state licenses and comply with all applicable state laws. When in use, all vehicles must carry a standard first aid kit and a fire extinguisher. (4-11-15)

03. Maintenance and Equipment Checklist. The *P*rovider must have a vehicle maintenance and equipment checklist, which include*s* a listing of all critical operating systems and equipment inspections, the date of the last inspection, and the type of service or action taken. All repairs required to critical operating systems, such as brakes and headlights, must be made immediately. All worn or missing critical equipment *such as tires, jacks, and seat belts* must be replaced immediately. *( )*

***115*. TRANSPORTATION.**

01. Transportation for Service Plan. *T*he *P*rovider *will* provide all transportation associated with the juvenile offender's service implementation plan. The family may be relied upon to provide transportation for passes

and some other community contacts as long as this does not present any undue risk or burden to the juvenile offender, family, or community. ( )

02. Transportation for Court Proceedings. *The Provider and the juvenile services coordinator will make timely a*rrangements for transportation related to court appearances, *and for* transfer or release of juvenile offenders from Department custody. ( )

116. DRIVERS.

01. Juvenile Transport. All drivers of vehicles transporting a juvenile offender must possess a valid driver's license from the applicable state and the proper licenses required by state law for the type of motor vehicle operated. All such operators' driving records must be checked through the Department of Motor Vehicles for the preceding three (3) years and annually after date of hire. During that time, the operator must not have had any felony traffic convictions or withheld judgments. Any incidents of suspended licenses during that time must be specifically reviewed by the *P*rovider. Personnel files must contain evidence of training to transport a juvenile offender as well as other appropriate documentation. ( )

02. Parent or Guardian Transport. When parents or guardians are allowed to transport a juvenile offender for any reason, the *P*rovider *will* ensure that the individual possesses a current and valid driver's license and insurance coverage. ( )

117. -- 119. (RESERVED)

120. ADMINISTRATIVE RECORDS.

01. Documentation Retention. The *P*rovider must document and retain documentation of all information related to the following items: ( )

a. Program consultation provided, such as technical assistance on program design and implementation; (4-11-15)

b. Training provided to staff; (4-11-15)

c. All alleged instances of child abuse; (4-11-15)

d. Program audits or reviews, including corrective actions required and taken; (4-11-15)

e. Reports of sexual abuse disclosures to the applicable state licensing authority or law enforcement; (4-11-15)

f. Juvenile offender and staff grievances; (4-11-15)

g. Copies of all completed incident reports; and (4-11-15)

h. Copies of background checks for all current employees, contractors, volunteers and interns who may have contact with residents. (4-11-15)

02. Employee Files. Employee personnel files must contain the following: (4-11-15)

a. Minimum qualifications for the job held; (4-11-15)

b. Hiring information; (4-11-15)

c. Copies of all required licenses or certificates related to the job function; (4-11-15)

d. Copies of academic credentials, driving record, and background checks, as required by state law; ( )

e. Current training records; and (4-11-15)

f. Performance evaluations and copies of personnel actions, such as disciplinary action taken and acknowledgments of outstanding performance. (4-11-15)

*12*1. STAFF QUALIFICATIONS.

01. Licenses. All individuals providing services to juveniles in the custody of the Department must possess all licenses or certifications for their particular position as required by statute, rule, or by the applicable state licensing authority. (4-11-15)

02. Education or Experience. All individuals providing services must be qualified to do so, *based on* knowledge, skills, and abilities. In addition, certain program and professional caregivers must meet specific minimum standards for education or experience. These standards constitute, in part, the basis for determining the adequacy of program and professional services delivered under contractual agreement with the Department. *( )*

03. Position Descriptions. *P*roviders must maintain written position descriptions for every job class established in the organization. In all cases, the particular job titles used by the *P*rovider to provide counseling, therapy, direct care, and supervision of juvenile offenders, as well as staff supervision and management, must be specifically cross-referenced with the job titles in these rules. *( )*

*12*2. POSITION DESCRIPTIONS AND QUALIFICATION CRITERIA.

01. Clinician, Counselor, or Therapist. An individual who conducts a comprehensive assessment of the psychological, behavioral, social, or familial deficits or dysfunctions presented by the juvenile offender, then establishes and implements a plan for therapeutic services. The plan must specify diagnosis and treatment of problems to be addressed, an estimate of the time needed, and a schedule of the frequency and intensity of the services to be provided. The individual may also provide individual, group, or family counseling. At a minimum, the individual must have a master's degree and be currently licensed by the applicable state as a Licensed Professional Counselor (LPC), Licensed Marriage and Family Counselor (LMFT), Licensed Master Social Worker (LMSW), or certified school psychologist. (4-11-15)

02. Juvenile Services Coordinator or Social Worker. An individual who is responsible for the assessment of treatment progress, and the provision and monitoring of therapeutic or rehabilitative treatment services to juvenile offenders participating in a treatment program. Individuals providing this function must possess, at a minimum, a bachelor's degree from a fully accredited college or university in social work, psychology, or counseling and must be licensed as a social worker in the applicable state. (4-11-15)

03. Recreational Specialist. An individual who develops and implements an individualized and goal-directed recreational plan for a juvenile offender in connection with the overall service implementation plan. The individual providing this function must possess a bachelor's degree in recreational therapy, health and physical education, or a related field, or have a high school diploma and two (2) years related experience in providing recreational services to juvenile offenders. (4-11-15)

04. Rehabilitation Specialist or Facility Case Manager. An individual, under direct supervision, who assists the juvenile offender in implementing the service implementation plan, evaluates the juvenile offender, and maintains the case record with respect to all nonclinical matters. The rehabilitation specialist or facility case manager also assists in presenting the case in staffings, communicates with appropriate individuals, including community interests, regarding the juvenile offender, and prepares written communications, under supervision, including final progress reports. The rehabilitation specialist or facility case manager may also serve as the social worker if properly licensed in the applicable state. Individuals providing this function must possess a bachelor's degree from a fully accredited college or university in the social sciences or a related field, or have a high school diploma and four (4) years related experience in providing services to juvenile offenders. (4-11-15)

05. Rehabilitation Technician or Direct Care Worker. An individual who is responsible for providing individual or group rehabilitative therapeutic services, supervising juvenile offender's day-to-day living

activities and performing such duties as preparing nutritious meals, supervising and training juvenile offenders in basic living skills, and providing some community transportation. Such individual must have a high school diploma or its equivalent. (4-11-15)

06. Special Education Teacher. An individual who provides a modified curriculum for those students who are eligible for services under the IDEA. This individual must hold a valid standard exceptional child certificate with an endorsement as a generalist. (4-11-15)

07. Teacher. An individual who provides basic educational services as required by state and federal statutes. This individual must hold a valid teaching credential in the appropriate instructional field. (4-11-15)

*12*3. PROGRAM STAFFING REQUIREMENTS.

01. General Staffing Ratios. The *P*rovider must ensure that an adequate number of qualified staff are present at all times to provide rehabilitation and treatment services, supervise juvenile offenders, and provide for their health, safety, and treatment needs. Staffing patterns must ensure that professional staff is available to juvenile offenders at all times when they are in the program. The *P*rovider staff should provide consistency and stability so that the juvenile offenders know the roles of each staff member. Specific staffing ratios shall be determined in each contract and must be based *o*n the level of intervention of the program and the risk level of the juvenile offender population. *( )*

02. Emergency Staffing Ratios. At all times, at least one (1) staff member on duty per twenty (20) juvenile offenders in the program must be currently certified to administer first aid and cardiopulmonary resuscitation (CPR). (4-11-15)

*12*4. GENERAL REQUIREMENTS FOR TRAINING.

01. Training Plan. Training for staff must be conducted in accordance with a written plan approved by management and coordinated by a designated staff member *that* include*s*: *( )*

a. Annual in-service training for all staff to include, but not be limited to: (4-11-15)

i. Identifying and responding to suicide risk; (4-11-15)

ii. Infectious diseases, blood borne pathogens, and universal precautions; ( )

ii*i* All training as outlined in section 115.331 of the PREA standards; (4-11-15)

iv. Prohibition of abuse and mandatory reporting of abuse; (4-11-15)

v. De-escalation of juvenile behavior and appropriate physical restraint techniques; and (4-11-15)

v*i*. Incident reporting. (4-11-15)

b. Those areas of practice and operations requiring a current certification; (4-11-15)

c. Prior to being assigned sole responsibility for supervision of juvenile offenders, rehabilitation technicians or direct care staff must have training in the following areas: (4-11-15)

i. Principles and practices of juvenile care and supervision; (4-11-15)

ii. Program goals and objectives; (4-11-15)

iii. Juvenile offender rights and grievance procedures; (4-11-15)

iv. Procedures and legal requirements concerning the reporting of abuse and critical incidents and compliance with the PREA as outlined in these rules; (4-11-15)

v. Infectious diseases, blood borne pathogens, and universal precautions; *( )*

vi. Handling of violent juvenile offenders (use of force or crisis intervention); (4-11-15)

vii. Security procedures (key control, searches, contraband); (4-11-15)

viii. Medical emergency procedures, first aid, and CPR; (4-11-15)

ix. Incident reporting; (4-11-15)

x. How to recognize and respond to suicidal behavior; (4-11-15)

xi. How to access emergency *medical* and mental health care; *( )*

xii. Proper storage and dispensing of medications, as well as general signs and symptoms of adverse reactions, including identification of the individual who will dispense medications in the facility; (4-11-15)

xiii. Appropriate response to health-related emergencies; (4-11-15)

xiv. Ethics and professional boundaries; and (4-11-15)

xv. Appropriate and safe transportation of all juvenile offenders. (4-11-15)

d. In-service training for all first-year staff must include: (4-11-15)

i. Program policies and procedures; (4-11-15)

ii. Job responsibilities; (4-11-15)

iii. Juvenile offender supervision; (4-11-15)

iv. Safety and security emergency procedures (fire, disaster, etc.); (4-11-15)

v. Confidentiality issues including the Health Insurance Portability and Accountability Act of 1996 (HIPAA); (4-11-15)

vi. Behavioral observation, adolescent psychology, and child growth and development; (4-11-15)

vii. Effective interventions with juvenile offenders including criminogenic risk and need factors; (4-11-15)

viii. Juvenile Corrections Act, balanced and restorative justice and this chapter, *as* applicable; *( )*

*i*x. Basic security procedures; (4-11-15)

x. Signs and symptoms of chemical use or dependency; (4-11-15)

xi. Drug-free workplace; (4-11-15)

xii. Diversity training to include cultural awareness; and (4-11-15)

xiii. Juvenile offender searches for contraband. (4-11-15)

02. Trainer Qualifications. (4-11-15)

a. Individuals who provide instruction in areas of life, health, and safety, including but not limited to

first aid, CPR, and physical intervention techniques, will have appropriate certification, which must be documented in their personnel or training file. (4-11-15)

b. Individuals who provide instruction in treatment must have appropriate training, education, and experience documented in their personnel or training file. *( )*

03. Documentation of Training. Staff *and volunteer* training records must be *maintained* by a designated staff member and include: *( )*

a. Name; (4-11-15)

b. Job title; (4-11-15)

c. Employment beginning date; (4-11-15)

d. Annual training hours required; and (4-11-15)

e. A current chronological listing of all training completed. (4-11-15)

04. Training Records. Training records may be kept separately within each individual personnel file or in a separate training file. Access to curriculum materials must be made available. (4-11-15)

***12*5. SUBCONTRACTORS, VOLUNTEERS, AND INTERNS.**
*The P*rovider *will* identify the intended use of the subcontractor, volunteer, or intern. If the subcontractor, volunteer, or intern is providing direct services to juveniles, the *P*rovider must adhere to the rules in this Section. The *P*rovider must notify the Department's Quality Improvement Services Bureau promptly, in writing, of any proposed changes in the use of subcontractors, volunteers, or interns providing direct services to juveniles. *( )*

01. Subcontractors. *T*he *P*rovider *will* ensure that any subcontractor providing direct services to juveniles meets at least the minimum staff qualifications and terms of the original contract and these rules. The *P*rovider must maintain a list of all subcontracted service providers and their qualifications. Documentation of services provided by subcontractors must include the scope and frequency of services. *( )*

02. Volunteers and Interns. Programs should consider soliciting the involvement of volunteers and interns to enhance and expand their services. However, volunteers and interns recruited to supplement and enrich a program may not be substituted for the activities and functions of program staff. Volunteers and interns must not be assigned sole supervision of juvenile offenders. (4-11-15)

a. Programs that utilize volunteers and interns regularly must have a written plan that includes stipulations for their use and training, and training of program staff on the role of volunteers and interns. Training provided must include all of the information necessary for the volunteers and interns to successfully perform their roles within the program. (4-11-15)

b. Recruiting of volunteers is conducted by the program director or designee. Recruitment is encouraged from all cultural and socio-economic segments of the community. (4-11-15)

c. Volunteers and interns must complete an application for the position and be suited for the position to which they are assigned. (4-11-15)

d. Written job descriptions must be provided for each volunteer and intern position. (4-11-15)

e. Interns must be documented to be enrolled in an accredited school or program for the profession. (4-11-15)

f. Interns must have a fully developed internship or practicum agreement that details their activities for the period, and relates these to learning objectives developed with the academic institution and program in which they are enrolled. The internship agreement must include the signatures of the intern, supervising residential

treatment provider staff, and a representative of the academic institution in which the intern is enrolled. (4-11-15)

g. Interns must agree in writing to abide by all policies and standards of conduct, and agree to meet the ethical standards for the profession for which they are training. (4-11-15)

h. Volunteers and interns must be at least twenty-one (21) years of age, of good character, and sufficiently mature to handle the responsibilities involved in the position. (4-11-15)

i. Volunteers and interns must agree in writing to abide by all program policies. (4-11-15)

03. Subcontractor, Volunteer, and Intern Requirements. Subcontractors, volunteers, and interns who perform professional services must be licensed or certified as required by state law or rule, or be documented to be supervised directly by staff meeting those credentials. (4-11-15)

a. Subcontractors, volunteers, and interns must have background and record checks as prescribed by state law. *( )*

b. Minimum training for subcontractors, volunteers, and interns must include: (4-11-15)

i. Program goals and objectives; (4-11-15)

ii. The role of the subcontractor, volunteer, or intern and job duties or duties related to the learning plan; (4-11-15)

iii. Subcontractor, volunteer, or intern's role in reporting incidents of sexual abuse under PREA, as outlined in these rules; (4-11-15)

iv. Basic security procedures; (4-11-15)

v. Recognizing suicidal behaviors; (4-11-15)

vi. Confidentiality issues including the HIPAA; and *( )*

vii. Ethics and mandatory reporting of juvenile abuse. (4-11-15)

04. Volunteers of Minimal Use. Volunteers who meet all of the following criteria may be excluded from Subsection 125.03.a. and Subsection 125.03.b.: (4-11-15)

i. Use of the volunteer by the *P*rovider does not exceed four visits per year; *( )*

ii. Use of the volunteer by the *P*rovider does not exceed four hours per visit; and *( )*

iii. The volunteer is under constant personal supervision of at least one staff member of the *P*rovider during their visit. *( )*

05. Documentation. The *P*rovider must maintain individual personnel files for each volunteer and intern working in the program. The files must contain all documentation *of meeting requirements,* as described in Subsection 125.03 of these rules. *( )*

06. Supervision of Volunteers. Volunteers will be supervised at all times by a staff member of the *P*rovider *who* coordinate*s* and direct*s* the activities of the volunteer *and* evaluate*s their performance* periodically. *( )*

07. Supervision of Interns. An intern will be supervised by a paid employee of the *P*rovider who has the licenses and credentials required by state law and who has been accepted by the intern's school as an appropriate supervisor for the discipline of instruction. This individual shall coordinate and direct the activities of the intern *and* evaluate *their performance* periodically. *( )*

08. Termination. The *P*rovider must establish a procedure for the termination of volunteers and interns. Termination of interns shall be in collaboration with the academic institution and program in which they are enrolled. *( )*

12*6*. BACKGROUND CHECKS.
The *P*rovider must ensure that all employees, subcontractors, interns, and volunteers, with the exception of those listed in Subsection 125.04 of these rules, have undergone a criminal background check every five (5) years in the manner and form required by IDAPA 16.05.06, "Criminal History and Background Checks." In addition to the crimes listed resulting in unconditional denial, any crime not specified there that requires registration on the sex offender registry in Idaho, or any other state, will also result in an unconditional denial of employment for direct care or services, or *assignment* where the employee would have any opportunity to have contact with a juvenile offender in the *P*rovider's care, including as a volunteer or intern. Documentation of *background checks* must be kept in confidential employee personnel files. *( )*

12*7*. -- 12*9*. (RESERVED)

13*0*. JUVENILE RECORDS.

01. Case Management Documents. The *P*rovider must maintain individual files on all juvenile offenders, which include: *( )*

a. Observation and assessment evaluation provided by the Department; (4-11-15)

b. Additional assessments; (4-11-15)

c. Service implementation plans; (4-11-15)

d. Progress reports; (4-11-15)

e. Incident reports; (4-11-15)

f. Court documents and dispositions; (4-11-15)

g. Professional correspondence; (4-11-15)

h. Restricted clinical information, kept separate*ly*; *( )*

i. Medical records, kept separate*ly*; *( )*

j. Educational records and school history, kept separate*ly*; *( )*

k. Relapse prevention plan; (4-11-15)

l. Identifying information and physical descriptions; (4-11-15)

m. Last known parent or guardian address and telephone number; (4-11-15)

n. Date of admittance and projected release from the *P*rovider; *and* *( )*

o. Records of juvenile offender's earnings, restitution payments, and community service hours earned. (4-11-15)

02. Confidentiality. (4-11-15)

a. Sections 20-525 and 9-340(2)(b), Idaho Code, and Idaho Court Administrative Rule 32 provide for confidentiality, under certain conditions, of records that contain information about juvenile offenders. (4-11-15)

b. All matters relating to confidentiality of juvenile offender files must also comply with the federal HIPAA and 42 CFR Chapter 1, Sub-Chapter A, Part 2, "Confidentiality of Alcohol and Drug Abuse Patient Records." (4-11-15)

c. Restricted clinical information, as defined, and education and medical records must each be filed separately and stored in a secured area. (4-11-15)

d. For *P*roviders that serve sex offenders, individual treatment assignments, such as journals and detailed sexual histories, must be destroyed at the time the juvenile offender is transferred or released from the program. *( )*

e. The *P*rovider must have written policies and procedures to address the confidentiality of juvenile offender records. In compliance with HIPAA's privacy regulations, written procedures shall designate a privacy officer who will: *( )*

i. Supervise the maintenance of identifiable personal health care information; (4-11-15)

ii. Serve as custodian of all confidential juvenile offender records; and (4-11-15)

iii. Determine to whom records may be released. (4-11-15)

03. Automated Records. Automated records must include a procedure to ensure confidentiality and be in compliance with any state or federal privacy laws pertaining to those records includ*ing* provisions for backing up automated records. *( )*

04. Restrictions to Records Access. (4-11-15)

a. Access to personal health information must be limited to: (4-11-15)

i. Employees of the Department and the *P*rovider to the extent necessary to perform normal business functions including health treatment and other functions designed to maintain the good order, safety, and security of the juvenile offenders or the program; *( )*

ii. Individuals participating in a staffing for a juvenile offender, who have a direct need to know the information, and who are obligated to or promise to maintain the confidentiality of information disclosed. These individuals may include employees or representatives of law enforcement, the Department, the *P*rovider, probation officer, medical or mental health professionals, and other appropriate individuals; and *( )*

iii. Law enforcement members, emergency medical personnel, the Idaho Department of Health and Welfare or the applicable state licensing authority, and similar court or government officials, as necessary to perform their duties, and only if not otherwise prohibited by state or federal law or rule. (4-11-15)

b. Access to all other confidential juvenile offender records must be limited to the following authorized persons: (4-11-15)

i. Staff authorized by the *P*rovider and members of the administrative staff of the *P*rovider's parent agency; *( )*

ii. A parent or guardian or the juvenile offender, to the extent that disclosure is not privileged and is clinically appropriate; (4-11-15)

iii. Appropriate staff of the Department; (4-11-15)

iv. Counsel for the juvenile offender with signed consent form; (4-11-15)

v. Judges, prosecutors, juvenile probation officers, and law enforcement officers, when essential for official business; (4-11-15)

vi. Other individuals and agencies approved by the Department; and (4-11-15)

vii. Schools, as appropriate. (4-11-15)

05. Withholding of Information. If the Department or the *P*rovider believes that information contained in the record would be damaging to the juvenile offender's treatment or rehabilitation, that information may be withheld from the juvenile offender, parent or guardian, or others, except under court order. *( )*

06. Retention of Juvenile Records. At the time of transfer or release from Department custody, *any* records *not previously submitted are provided to the Department within two (2) business days*. *( )*

07. Requests for Information. Requests for information of any kind about juvenile offenders in Department custody, following their release or transfer from a *P*rovider's program must be directed to the *Department*. *( )*

08. Document Reproduction. The *P*rovider agrees that documents provided by the Department *will* not be distributed without written permission from the Department. *( )*

*13*1. RELEASE FORMS.

01. Release of Non-medical Information. The juvenile offender, parent or guardian, and Department representative must sign a release of information and consent form before information about the juvenile offender is released to any non-juvenile justice entity. A copy of the consent form must be maintained in the juvenile offender's file at the program and in the case management file maintained by the Department. (4-11-15)

02. Release of Medical Information. Release of medical information requires more specific authorization. The *P*rovider must abide by *Subchapters B and C of these rules,* as applicable. *( )*

03. Minimum Information. The release of information and consent form must, at a minimum, include the following: (4-11-15)

a. Name of person, agency, or organization requesting information; (4-11-15)

b. Name of person, agency, or organization releasing information; (4-11-15)

c. The specific information to be disclosed; (4-11-15)

d. The date consent form is signed; (4-11-15)

e. Signature of the juvenile offender and the parent or guardian, if the juvenile offender is under the age of 18; (4-11-15)

f. The signature of the person witnessing the juvenile offender's signature; and (4-11-15)

g. Effective and expiration dates. (4-11-15)

*13*2. JUVENILE OFFENDER PHOTOGRAPHS.

01. Limitations. No juvenile offender in the custody of the Department may be used in person or by photograph or any other visual image for the express purpose of any fund raising efforts. (4-11-15)

02. Department Authorization. Permission to release or use the photographs and any other visual image of juvenile offenders in the custody of the Department must require written authorization from the Department Director or designee. (4-11-15)

*13*3. RESEARCH PROJECTS.

01. Written Policy. The *P*rovider must have a written policy regarding the participation of juvenile offenders in research projects *that* prohibit*s* participation in medical or pharmaceutical testing for experimental or research purposes. *( )*

02. Voluntary Participation. Policies must govern voluntary participation in non-medical and non-pharmaceutical research programs. However, juvenile offenders *may* not participate in any research program without prior written approval from the Director or designee. *( )*

134. PROHIBITED CONTACT AND PREA COMPLIANCE.

01. Sexual Abuse of Juvenile Offenders. The *P*rovider must have written policies and procedures mandating zero tolerance toward all forms of sexual abuse and sexual harassment and outlining the agency's approach to preventing, detecting, and responding to such conduct. These policies and procedures must contain, at a minimum, the following: *( )*

a. The prohibition of any sexual abuse or sexual harassment as defined in PREA Standards or as defined in Section 18-6110, Idaho Code; *( )*

b. The appointment of a PREA Coordinator, as outlined in PREA Standards 28 C.F.R. 115.311(c), to be determined by the program director; (4-11-15)

c. Procedures that enable juvenile offenders to shower, perform bodily functions, and change clothing without non-medical staff of the opposite gender viewing their breasts, buttocks, or genitalia, except in exigent circumstances or when such viewing is incidental to routine well-being checks, as outlined in PREA Standards 28 C.F.R. 115.315(d); (4-11-15)

d. The requirement of staff of the opposite gender to announce their presence when entering a housing unit or any area where juvenile offenders are likely to be showering, performing bodily functions, or changing clothing, as outlined in PREA Standards 28 C.F.R. 115.315(d); (4-11-15)

e. The provision of multiple avenues for a juvenile offender or a third party to report sexual abuse and sexual harassment, at least one of which must be external to the agency, as outlined in PREA Standards 28 C.F.R. 115.351; (4-11-15)

f. The process for gathering information to make classification and housing decisions to reduce the risk of sexual victimization, as outlined in PREA Standards 28 C.F.R. 115.342; (4-11-15)

g. The handling of all information regarding sexual abuse or sexual harassment with confidentiality, as outlined in PREA Standards 28 C.F.R. 115.361(c); (4-11-15)

h. The process to ensure that allegations of sexual abuse or sexual harassment are referred for investigation to an agency with legal authority to conduct criminal investigations, unless the allegation does not involve potentially criminal behavior, as outlined in PREA Standards 28 C.F.R. 115.322; (4-11-15)

i. Policies to protect all residents and staff who report sexual abuse or sexual harassment from acts of retaliation as outlined in PREA Standards 28 C.F.R. 115.367; (4-11-15)

j. The provision of timely and unimpeded access to crisis intervention services, medical, and mental health care to victims, as outlined in PREA Standards 28 C.F.R. 115.382(a); (4-11-15)

k. The provision for and documentation of training to staff, as outlined in PREA Standards 28 C.F.R. 115.331; (4-11-15)

l. The provision for and documentation of age-appropriate education to juvenile offenders, as outlined in PREA Standards 28 C.F.R. 115.333; (4-11-15)

m. Within 30 days of the conclusion of every sexual abuse investigation the *P*rovider must conduct a sexual abuse incident review, as outlined in PREA Standards 28 C.F.R. 115.386; *( )*

n. A process that requires reporting and documentation of any instance of sexual abuse among juvenile offenders or between juvenile offenders and staff or volunteers, according to Subsection 156.01 and Subsection 156.05 of these rules. These must be reported on a form provided by the Department; (4-11-15)

o. A process for an initial internal investigation when sexual abuse is reported; (4-11-15)

p. An expected first response practice of separating the alleged perpetrator from the alleged victim until the investigation is complete; (4-11-15)

q. In addition to completing the form supplied by the Department, the *P*rovider must document all steps taken to ensure the juvenile offender's safety; and *( )*

r. The *P*rovider must report all sexual abuse to appropriate licensing authority or law enforcement when sexual abuse is suspected. *( )*

02. Resident Access to Outside Support Services. The facility must provide residents with access to outside victim advocates for emotional support services related to sexual abuse, as outlined in PREA Standards 28 C.F.R. 115.353. (4-11-15)

03. Sexual Victimization Survey. *P*roviders *must* participate in all state and federal surveys, and complete and submit the survey and supply the Department with copies. *( )*

*13*5. SUICIDE PRECAUTIONS.

01. Policy Requirements. All *P*roviders must have a written policy for responding to juvenile offenders who present a risk of suicide *requiring*, at a minimum, that: *( )*

a. Staff are regularly trained to identify, document, and appropriately respond to behavior that may indicate a risk of suicide; (4-11-15)

b. The *P*rovider utilizes medical or other staff trained by a mental health professional to review history, interview, and observe juvenile offenders new to the program in order to complete a suicide risk screening within two (2) hours of admission. The screening is done to identify any immediate threat of suicide or self-harm and the need for a suicide risk assessment; *( )*

c. The Provider utilizes a mental health professional to complete a suicide risk assessment on a juvenile offender who has been identified by staff as presenting a risk of suicide. A suicide risk assessment is a system of structured and documented observation, interview, and review of behavioral and mental health information. It comprises a thorough review of recent behavioral and mental health information and interviews of staff and the juvenile offender concerning the behavior that seems to present the threat of self-harm or suicide. A suicide risk assessment typically involves an assessment of the juvenile offender's determination to act on intentions of self-harm, a determination of the depth of planning for making the attempt, the availability of the items or situations necessary for the juvenile to act on that plan, and the lethality of the plan, as expressed; (4-11-15)

d. The Provider utilizes a mental health professional to develop and disseminate a safety plan for each juvenile offender identified as presenting a risk for suicide. The safety plan includes a detailed supervision plan for the juvenile offender; (4-11-15)

e. Reassessment of suicide risk and whether it is reduced enough to reduce or terminate suicide precautions is made at a time determined by the mental health professional completing the assessment and is ideally completed by that same mental health professional; and (4-11-15)

f. The Provider prohibits the use of separation and isolation of juvenile offenders identified as presenting a suicide risk, unless constant one-on-one (1 on 1) staff supervision is provided. (4-11-15)

02. Separation or Isolation. All juvenile offenders in separation or isolation are closely monitored to reduce the risk of suicidal behaviors. (4-11-15)

03. Reporting to the Department. All incidents of suicide, attempted suicide, or threat of suicide must be reported to the Department in the manner described in Subsection 156.01 of these rules. (4-11-15)

136. -- 139. (RESERVED)

140. JUVENILE OFFENDER RIGHTS AND RESPONSIBILITIES.

01. Residential Treatment Provider Obligations. The Provider must respect, and not infringe upon, the rights of each juvenile offender in its program. The Provider must also be responsible for understanding the rights and responsibilities of juveniles in custody, and knowing which rights have been forfeited as a result of being placed in custody. (4-11-15)

02. Juvenile Offender Program Responsibilities. The Provider must inform each juvenile offender, upon admission to its program, of each juvenile offender's responsibilities during the program. Additionally, each juvenile offender must have an understanding of the following program expectations: (4-11-15)

a. Requirements needed to complete program; (4-11-15)

b. How to access medical services; (4-11-15)

c. How to file a grievance; (4-11-15)

d. How to report incidents of sexual abuse between juvenile offenders or between staff and juvenile offenders; and (4-11-15)

e. How to contact the juvenile services coordinator and juvenile probation officer. (4-11-15)

141. DISCIPLINE OF JUVENILE OFFENDERS.

01. Written Policies and Procedures. All providers offering treatment services must have comprehensive written discipline policies and procedures, which are explained to all juvenile offenders, families, and staff. These policies must include positive responses for appropriate behavior. They must include a provision for written notice to the juvenile offender being disciplined, a mechanism for a fair and impartial hearing to include at least one staff member not involved in the disciplinary action, and a process for appeal. (4-11-15)

02. Administration of Discipline. Discipline will be administered in a way to create a learning experience for the juvenile offender, and never in a way that degrades or humiliates the juvenile offender. Staff will make every effort to maintain control of juvenile offenders through positive methods. No juvenile offender will supervise nor carry out disciplinary actions over another juvenile offender. (4-11-15)

a. Prior to and upon initiating a disciplinary action, careful attention should be given to ensure the disciplinary sanctions are proportionate with the nature and circumstances of the behavior and the program rules to determine the seriousness of the misbehavior and the appropriate type of discipline. (4-11-15)

b. Disciplinary actions are not the same as the consequences that are spelled out as a part of a service implementation plan for the juvenile offender. A Provider must make every effort to resolve problems with the least amount of formal disciplinary activity possible. Efforts should be made first to instruct and counsel the juvenile offender. (4-11-15)

c. Any restriction of a juvenile offender's participation in a program resulting from a formal disciplinary action must be reported in an incident report. (4-11-15)

03. Prohibited Actions. The Provider is prohibited from using certain actions as disciplinary responses, as listed in the child care licensing rules of the Idaho Department of Health and Welfare. (4-11-15)

04. Denial of Services. Denial of the following are prohibited as disciplinary responses: (4-11-15)

a. Educational and vocational services; (4-11-15)

b. Employment; (4-11-15)

c. Medical or mental health services; (4-11-15)

d. Food; (4-11-15)

e. Access to family, juvenile services coordinator, juvenile probation officer, and legal counsel; and (4-11-15)

f. Religious services. (4-11-15)

05. Appeal of Formal Disciplinary Penalties. Each Provider must have a formal written process through which a juvenile offender can appeal a disciplinary action and receive a review of the case. The Provider shall explain to the juvenile offender how to use the appeal process. The juvenile offender must be informed that the juvenile services coordinator may be included in the disciplinary process at the juvenile's choice. (4-11-15)

*14*2. GRIEVANCE PROCEDURES.

01. Written Procedures. The *P*rovider must have a written grievance procedure for juvenile offenders, which include*s* the right to appeal disciplinary actions against them if a separate disciplinary grievance procedure is not available. It must be written in a clear and simple manner and allow juvenile offenders to make complaints without fear of retaliation. *The grievance procedure must be explained to the juvenile offender by a staff member and such documented in the juvenile's file.* *( )*

02. Grievance *Process*. *( )*

a. Grievance forms must be in a location accessible to juvenile offenders without having to request such a form from staff. Completed forms should be placed in a secure area and collected daily. *( )*

b. The provider must complete a review and discuss findings with the juvenile offender within three (3) *business* days of receipt of the grievance form. *( )*

c. If the juvenile offender lives independently, the Provider must have a process for the juvenile to submit grievance forms to the program director without having to request such a form from staff. *( )*

*14*3. JUVENILE OFFENDER SAFETY.

Every juvenile offender has the fundamental right to feel safe. Residential treatment providers have the responsibility to ensure that a juvenile offender is safe while in their care. Every juvenile offender must be informed of procedures whereby a professional staff person can be contacted on a twenty-four (24) hour basis if the juvenile offender does not feel safe. The Provider's administration must make periodic contact with juvenile offenders in the program to determine if they feel safe and are comfortable when interacting with peers and staff. (4-11-15)

144. SEARCHES FOR CONTRABAND.

***01. Searches of Personal Items**. Routine searches of personal items being introduced into the program or residence may be conducted by staff prior to the juvenile offender taking possession of their property, or when the juvenile offender is returning to the program or residence from an individual community pass. Search of a juvenile offender's belongings or residence may be done at any time and must be minimally intrusive.* *( )*

***02. Policies and Procedures Governing Consequences**. The Provider must have written policies and procedures establishing the consequences for juvenile offenders found with contraband.* *( )*

*03. **Clothed Body Searches**. ( )*

a. Clothed body searches of juvenile offenders may be conducted whenever the Provider believes it is necessary to discourage the introduction of contraband into the program, or to promote the safety of staff, juvenile offenders, and visitors. A clothed body search may be used when a juvenile offender is returning from a visit, outside appointment, or activity. ( )

b. Clothed body searches must be conducted in the manner required in the rules of the Idaho Department of Health and Welfare under IDAPA 16.06.02, "Standards for Child Care Licensing." Clothed body searches of juvenile offenders will be conducted by staff of the same gender as the juvenile offender. Clothed body searches will be conducted using a pat down search outside the juvenile's clothing. The staff member must have had appropriate training in conducting clothed body searches. ( )

*04. **Unclothed Body Searches**. Unclothed body searches of juvenile offenders may only be conducted by a medical health professional and with prior written authorization from the program director or designee. Unclothed body searches must be conducted with an adult in the room, in addition to the medical health professional, who is of the same gender as the juvenile offender being searched. Unclothed body searches must be based upon a reasonable belief that the juvenile is concealing contraband or signs of abuse. Immediately after conducting an unclothed body search the provider must notify the department's regional superintendent and the Quality Improvement Services Bureau. The Provider must complete an incident report according to the requirements of Section 156. ( )*

*05. **Body Cavity Searches**. Body cavity searches of juvenile offenders may only be conducted in a medical facility outside of the Provider, by a medical health professional and with prior written authorization from the program director or designee. Body cavity searches of juveniles will not be performed by staff, interns, or volunteers under any circumstances. Looking into a juvenile's mouth, ears, or nose does not constitute a body cavity search. Body cavity searches must be based upon a reasonable belief that the juvenile is concealing contraband. Immediately after conducting a body cavity search, the Provider must notify the department's regional superintendent and the Quality Improvement Services Bureau. The Provider must complete an incident report according to the requirements of Section 156. ( )*

*06. **Documentation of Searches**. All searches must be documented in terms of reason for the search, who conducted the search, what areas were searched, and what type of contraband was found, if any. If a search yields contraband, the juvenile services coordinator must be notified and the incident reported according to Section 156. If necessary, the appropriate law enforcement agency should be notified. ( )*

*07. **Contraband Disposal**. All contraband found in the possession of juvenile offenders, visitors, or staff must be confiscated by staff and secured under lock and key in an area inaccessible to juvenile offenders. Local law enforcement must be notified in the event illegal drugs, paraphernalia, or weapons are found. It is the responsibility of the program director, in consultation with the Department, to dispose of all contraband not confiscated by police. ( )*

145. RELIGIOUS SERVICES.

The Provider must ensure that attendance at religious services is voluntary. No juvenile offender is required to attend religious services, and no juvenile offender may be penalized for not attending nor given privileges for certain attendance. The Provider's staff schedule must not encourage or discourage participation in general or specific religious services or activities. ( )

*01. **Voluntary Practice**. All juvenile offenders must be provided the opportunity to voluntarily practice their respective religions in a manner and to the extent that will not compromise the safety, security, emotional, or physical well-being of the juvenile offenders in the program. ( )*

*02. **Attendance**. Juvenile offenders may be permitted to attend religious services of their choice in the community, as long as community safety is ensured. ( )*

*03. **Transportation**. Programs must, when reasonably possible, arrange transportation for those juvenile offenders who desire to take part in religious activities of their choice in the community. ( )*

*04. **Risk to Community**. If the juvenile offender cannot attend religious services in the community because staff has determined that the juvenile is an escape risk, or otherwise presents a risk to the safety of the community, the Provider must make reasonable efforts to ensure that the juvenile offender has the opportunity to participate in religious services of the juvenile's choice at the program. ( )*

*05. **Visits**. Juvenile offenders must be permitted to receive visits from representatives of their respective faiths. ( )*

146. DRUG SCREENS OF JUVENILE OFFENDERS.

Drug screens may be done randomly or on an as needed basis, at the Provider's expense, with the approval of the Provider's program director. A record must be kept of all drug screens and results with positive drug screenings immediately reported to the juvenile services coordinator. ( )

147. – 149. (RESERVED)

150. EMPLOYMENT OF JUVENILE OFFENDERS.

*01. **Employment**. If juvenile employment away from the program site is a part of the program, written policy and procedure must provide that program resources and staff time are devoted to helping employable juvenile offenders locate employment. Programs must ensure that each employment opportunity meets all legal and regulatory requirements for juvenile employment. The juvenile offender's employer must be consulted at least twice monthly by the Provider concerning the juvenile offender's work abilities and performance on the job site. Additionally, the Provider must perform checks on the job-site at least monthly to ensure the juvenile offender is working under acceptable conditions. Under no circumstances should staff or the families of staff benefit financially, or otherwise, from work done by juvenile offenders in the program. ( )*

*02. **Employment Opportunities**. Every reasonable effort must be made to select employment opportunities that are consistent with the individual interests of the juvenile offender to be employed. Preference will be given to jobs that are related to prior training, work experience, or institutional training, and may be suitable for continuing post-release employment. ( )*

151. COMMUNITY SERVICES AND RESTITUTION.

*01. **Community Service**. Juvenile offenders may have court-ordered community service hours. The Provider must obtain prior approval from the juvenile probation officer to complete any court-ordered community service hours while at the Provider. The Provider will document approved community service hours and report the accumulation of completed hours in the juvenile offender's progress report. ( )*

*02. **Court Ordered Restitution**. The Provider must work with the juvenile probation officer and juvenile services coordinator to determine the amount of restitution owed. The Provider must create a plan for the juvenile offender to submit a portion of a juvenile offender's personal funds or earned income for the payment. When juvenile personal funds are available, the Provider will submit payment to the county until the restitution amount is satisfied. Documentation of the payment is provided to the juvenile services coordinator. ( )*

*03. **Restitution for Program Damages**. Monetary restitution may only be sought through a court order when a juvenile offender has damaged or destroyed property, or has caused or attempted to cause injury to other juvenile offenders or staff. The Provider must not access the juvenile offender's personal funds for program damages. Restitution for damages must begin with a plan for repair by the juvenile offender. ( )*

152. PROGRAMMING.

*01. **Basic Program Requirements**. Providers must provide opportunities and services for juvenile offenders to improve their educational and vocational competence, to effectively address underlying behavior problems, and to prepare them for responsible lives in the community. Programs provided must be gender equitable, gender specific, and culturally competent. The ultimate treatment goal for juvenile offenders involved in these programs is the successful return of juvenile offenders to the community without committing further crimes. ( )*

02. General Requirements. *( )*

a. *Providers must provide a range of program services specifically designed to address the characteristics of the target population identified in the comprehensive program description and in the admission policy.* *( )*

b. *Programs that serve a special needs population, such as developmentally delayed or seriously emotionally disturbed juvenile offenders, and those programs serving sexually abusive juvenile offenders, must be able to demonstrate that the program services offered are supported by research.* *( )*

c. *Programs providing reintegration services for individual juvenile offenders must target behaviors, needs, or circumstances stated in their final progress report from the sending facility or program. These services must be clearly identified and described within the program description.* *( )*

d. *Programs serving female juvenile offenders must be able to demonstrate that the services provided include elements of a program specifically designed to address the unique situations and circumstances facing female juvenile offenders. These elements must be clearly identified and described within the program description.* *( )*

e. *Programs designed to serve juvenile offenders with gang involvement must be able to demonstrate that the services provided include elements of a program specifically designed to address gang involvement. These elements must be clearly identified and described within the program description.* *( )*

f. *Program services for individual juvenile offenders must be designed based upon the juvenile's service plan, and must target those behaviors or circumstances which have contributed to the juvenile's delinquency and which can reasonably be changed (criminogenic needs). These services must be clearly identified and described within the program description.* *( )*

g. *Juvenile offenders must always be aware of the status of their progress within the program and what remains to be done to complete the program. Providers must assure that the basic norms and expectations of the program, including any points, levels, or phases that are a fundamental part of a program, are clearly presented to the juvenile offender and that they are understood.* *( )*

h. *Programs that contract with the Department to serve juvenile offenders and their families must:* *( )*

i. Provide humane, disciplined care and supervision; *( )*

ii. Provide opportunities for juvenile offenders' development of competency and life skills; *( )*

iii. Hold juvenile offenders accountable for their delinquent behavior through means such as victim-offender mediation, restorative conferencing, restitution, and community service; *( )*

iv. Seek to involve juvenile offenders' families in treatment, unless otherwise indicated for the safety and benefit of the juvenile offenders or other family members; *( )*

v. Address the principles of accountability to victims and to the community, competency development, and community protection in case planning and reporting; *( )*

vi. To the fullest extent possible, provide balance in addressing the interests of the victim, community, and the juvenile offender. *( )*

vii. Participate fully with the Department and the community treatment team in developing and implementing service plans for juvenile offenders they serve; and *( )*

viii. Provide juvenile offenders with educational services based upon their documented needs and abilities. *( )*

i. *Reintegration services include all aspects of case planning and service delivery designed to facilitate successful return of the juvenile offender to the community.* *( )*

153. JUVENILE OFFENDER AND PARENT OR GUARDIAN HANDBOOK.
The *P*rovider must provide each juvenile offender and their parent or guardian with program handbooks that are written in an age-appropriate manner. *( )*

01. Required Content. Handbooks must address, at a minimum, the following: (4-11-15)

a. Requirements needed to complete program; (4-11-15)

b. Juvenile offender rights and responsibilities; (4-11-15)

c. The means available to safely report sexual abuse and harassment; (4-11-15)

d. Grievance procedures; (4-11-15)

e. Religious services; (4-11-15)

f. *Search procedures, including a* list of what constitutes as contraband and the consequences for its possession; *( )*

g. The *P*rovider's disciplinary process; *( )*

h. Visitation, mail, and phone correspondence; (4-11-15)

i. The Provider's obligation to make reasonable accommodations for any disabilities, language barriers, or other special needs; (4-11-15)

j. The daily schedule for juvenile offenders; and (4-11-15)

k. A description of services or items for which a juvenile offender may be charged by the Provider. (4-11-15)

02. Receipt of Handbook. The juvenile offender and their parent or guardian acknowledge in writing their receipt of the juvenile offender and parent or guardian handbook. (4-11-15)

154. PROGRAM OPERATIONAL REQUIREMENTS.

01. General Requirements. (4-11-15)

a. *P*roviders shall provide vigorous programming that minimizes periods of idle time, addresses behavioral problems of juvenile offenders, and teaches and promotes healthy life choices. Programs should specifically address those factors in juvenile offender's lives that contribute to delinquency and that can be realistically changed. *( )*

b. Providers shall encourage appropriate telephone contact, mail contact, and visitation between juvenile offenders and their families. (4-11-15)

c. *P*roviders must structure and document services offered in the program so that continuity in case planning is obvious. Medical health, mental health, substance abuse, social skills, educational, vocational, independent living, and other special needs identified in the assessment must be clearly addressed in the service implementation plan. Services provided to address those needs must be documented regularly. *( )*

d. Service needs remaining at the time of release from Department custody or transfer must be accounted for in the reintegration plan for each juvenile offender. (4-11-15)

e. The *P*rovider *will* not admit more juveniles into care than the number specified on the Provider's license. *P*roviders wishing to increase capacity are responsible for contacting the applicable licensing agency. A copy of the written confirmation to the *P*rovider from the applicable licensing agency for verbal approval to exceed the licensed capacity must be forwarded to the Department's Quality Improvement Services Bureau. *( )*

f. The *P*rovider must have and strictly follow a comprehensive policy covering the supervision of juvenile offenders, including a plan for monitoring all movement of those juvenile offenders both in the facility and, as appropriate, within the community. Staff at the facility must be aware of the location of every juvenile offender assigned to that program at all times. *( )*

g. Programs may not, under any circumstances, involve juvenile offenders in plethysmographic assessments. (4-11-15)

02. Use of Polygraphs. (4-11-15)

a. The use of polygraphs for juvenile offenders adjudicated for or documented to have demonstrated sexually abusive behavior, must only be undertaken by court order or under the following circumstances: (4-11-15)

i. With the specific written authorization of the Department's regional clinical supervisor; (4-11-15)

ii. Only with the full, informed consent of the juvenile offender; and (4-11-15)

iii. If the juvenile offender is a minor, only with the full, informed consent of the parent or guardian. (4-11-15)

b. Polygraphers used in this process must be able to provide documentation of certification by the Sexual Offender Management Board in the use of polygraphy with juvenile offenders. (4-11-15)

c. *P*roviders must not make treatment decisions solely on the results of a polygraph. *( )*

d. Polygraph reports must be sent to the juvenile services coordinator by the *P*rovider. *( )*

155. PLANNING FOR RELEASE OR TRANSFER.

***01. Aftercare Planning**. Programs must promote continuity in programming and services for juvenile offenders after they leave the program by assuring that essential information is forwarded to those agencies that may be providing services to the juvenile offenders, and working closely with Department staff throughout placement to plan for reintegration. ( )*

***02. Approval**. Reintegration, by release from Department custody or transfer, must not take place without the involvement of the Department's assigned juvenile services coordinator, and the written approval of the regional clinical supervisor and regional superintendent. ( )*

***03. Department Concurrence**. Preparation for reintegration of a juvenile offender begins with the initial development of a service plan and is an ongoing process throughout the juvenile offender's program. Criteria for the juvenile offender's release from Department custody or transfer must be explained to the juvenile as soon as possible after admission to a program. ( )*

***04. Reintegration Staffing**. The juvenile services coordinator shall convene a reintegration staffing, which will include the juvenile offender's probation officer, the Provider, the juvenile offender's parent or guardian, an education representative, and the juvenile offender. At a minimum, a review of the plans to address any ongoing medical or mental health, substance abuse, social skills, education, vocation, independent living, and other special needs will be conducted. The juvenile offender's relapse prevention plan will be reviewed by the juvenile probation officer, the juvenile's parent or guardian, the education representative, and juvenile services coordinator. Based upon the results of that staffing and pending juvenile services coordinator approval of the relapse prevention plan, the Department will make the final decision regarding transfer or release from Department custody. ( )*

*05. **Check-Out Procedures**. Prior to the release from Department custody or transfer, the Provider must have completed a Provider Juvenile Check-Out Form (DJC-180) supplied by the Department. The form must be dated, signed by the juvenile offender, and forwarded to the juvenile services coordinator and any designees on the actual date that the juvenile offender leaves the program. ( )*

a. The Provider must provide the juvenile's Medicaid card and a thirty (30) day supply of all medications or a thirty (30) day prescription signed by the physician to the individual or agency authorized to transport the juvenile offender. ( )

*06. **Termination Prior to Completion**. ( )*

a. When a Provider believes a juvenile offender is at risk for transfer prior to program completion, the juvenile services coordinator must be notified as far in advance as possible so that a staffing may be held. The purpose of this staffing is to consider the circumstances which may require the transfer, and to make every effort to address the concerns with the Provider to avoid the necessity of making another placement. The Provider must document these efforts at problem solving. The Department will make a decision about transfer based upon the results of this staffing and any subsequent work agreed upon with the Provider. The Provider can request transfer of a juvenile offender in the following circumstances: ( )

i. A pattern of documented behavior clearly indicating a lack of progress; or ( )

ii. Commission of one (1) or more serious or violent incidents that jeopardize the safety and security of individuals or the program. ( )

b. In matters involving life, health, and safety of any juvenile in Department custody, the Department shall remove the juvenile offender immediately. ( )

c. A final progress report must include, at a minimum, a report on progress or lack of progress on all service implementation plan areas and recommendations for follow-up. The report must be forwarded to the juvenile services coordinator within twenty-four (24) hours of transfer prior to program completion. ( )

156. INCIDENT REPORTING REQUIREMENTS.

01. Incidents Requiring Immediate Notice to Parent or Guardian and Department. All notifications under this section must be made to the regional facility in the region where the *P*rovider is located. Out-of-state *P*roviders must notify the juvenile correctional center in Nampa. *P*roviders must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. If any of the following events occur, the *P*rovider must immediately notify the juvenile offender's parent or guardian, juvenile services coordinator, juvenile probation officer, and the Department's regional facility by telephone (not by facsimile or electronically). The Department's regional R.N. must also be notified immediately in the event of all medical and mental health incidents. *( )*

a. Medical and mental health emergencies including, but not limited to: (4-11-15)

i. Every instance of emergency room access; (4-11-15)

ii. Refusal of medications, treatment recommended by a physician, or food for three (3) *consecutive* days; *( )*

b. Major incidents such as: (4-11-15)

i. Death of a juvenile offender; (4-11-15)

ii. Suicide, attempted suicide, or threat of suicide; (4-11-15)

iii. Attempted escape; (4-11-15)

iv. Sexual abuse among juvenile offenders or by staff including, but not limited to, incidents reportable under PREA; (4-11-15)

v. Criminal activity resulting in arrest, detention, or filing a report with local law enforcement; (4-11-15)

vi. Any other relevant report made to the Idaho Department of Health and Welfare or applicable state agency; (4-11-15)

c. Any incident of restraint that involves the use of medications, chemicals, or mechanical devices of any kind; (4-11-15)

d. Incidents of alleged or suspected abuse or neglect of juvenile offenders; (4-11-15)

e. Incidents involving major disasters affecting location or well-being of the juveniles; and (4-11-15)

f. Any restriction of a juvenile offender's family visitation due to the juvenile's behavior. (4-11-15)

g. A written incident report must also be transmitted within twenty-four (24) hours to the juvenile services coordinator and the juvenile probation officer. *Written notification is sent within twenty-four (24) hours* to the juvenile offender's parent or guardian *unless notification* would endanger the juvenile. Transmission of all written incident reports may be electronic or by facsimile. *( )*

02. Escapes Also Require Immediate Notice to Parent or Guardian and Department. In all instances of escape, the *P*rovider must immediately notify the juvenile correctional center in Nampa first, followed by the regional facility, juvenile offender's parent or guardian, juvenile services coordinator, and juvenile probation officer by telephone (not by facsimile or electronically). A written incident report must also be transmitted within twenty-four (24) hours to the juvenile services coordinator and the juvenile probation officer. *Written notification is sent within twenty-four (24) hours* to the juvenile offender's parent or guardian *unless notification* would endanger the juvenile offender. Transmission of all written incident reports may be electronic or by facsimile. Upon apprehension, all of the same parties must be notified immediately. *( )*

a. Clothing and other personal belongings must be secured immediately and maintained in a secure place until returned to the Department. (4-11-15)

b. The juvenile offender shall continue to be assigned to the program, although not physically present, for up to forty-eight (48) hours. The program will be reimbursed for the days the juvenile offender was on escape status up to forty-eight (48) hours. Should the program, in consultation with the juvenile offender's treatment team, choose to transfer the juvenile offender after returning, *the relevant procedures outlined in Subchapters B and C of these rules* apply. *( )*

03. Incidents Requiring Immediate Notice to Department and Three Day Notice to Parent or Guardian. The following incidents require immediate notice to the juvenile services coordinator in the manner described in Subsection 156.01, and require notice within three (3) business days to parent or guardian of the juveniles involved. (4-11-15)

a. Any use of separation or isolation for more than two (2) hours; (4-11-15)

b. Incidents involving the disclosure of criminal behavior by juvenile offenders; (4-11-15)

c. Instances of physical assault or fighting; (4-11-15)

d. Major misconduct by one (1) or more staff against a juvenile offender; (4-11-15)

e. Discovery of contraband that represents an immediate threat to safety and security such as weapons or drugs; (4-11-15)

f. Any instance of an unclothed body search or a body cavity search of a juvenile offender; (4-11-15)

g. Other than incidents described in Paragraph 156.01.e., significant property damage resulting from misconduct, negligence, or from incidents such as explosions, fires, floods, or other natural disasters; and (4-11-15)

h. Any pattern of restraint of a juvenile, which is defined as three (3) or more restraints within a twenty-four (24) hour period. (4-11-15)

04. Incidents Requiring Notice Within Three Days to the Department. (4-11-15)

a. *P*roviders must ensure that a detailed, written incident report is completed and signed by involved staff before the end of the shift during which the incident took place. A copy of the completed incident report must be submitted to the juvenile services coordinator no later than three (3) business days after the incident. *( )*

b. A detailed incident report is also required for each incident of juvenile offender misconduct that is not reportable under Subsection 156.03 and results in any type of: (4-11-15)

i. Instances of lost keys, equipment, or tools; (4-11-15)

ii. Discovery of contraband not posing an immediate risk; or (4-11-15)

iii. A pattern of refusal of program participation that rises to the point of raising questions about the appropriateness of the placement. (4-11-15)

c. A detailed incident report is also required for each incident of staff misconduct relating to juvenile care that is not reportable under Subsection 156.03 and results in: *( )*

i. Any physical restraint that does not involve the use of medications, chemicals, or mechanical devices of any kind; or (4-11-15)

ii. Separation, isolation, or room confinement for more than fifteen (15) minutes but less than two (2) hours. (4-11-15)

05. Incident Report Content. *P*roviders may elect to use the Department's standard incident report form or may use another form *that includes* the following information: *( )*

a. Juvenile offender's assigned unit or location; (4-11-15)

b. Date, location, and time of the incident; (4-11-15)

c. Witnesses and other staff and juvenile offenders involved; (4-11-15)

d. Persons notified with date and time of notice; (4-11-15)

g. Brief narrative description of the incident; (4-11-15)

e. Type of incident by category, such as assault against staff or juvenile offender, behavioral and psychiatric emergency, contraband, escape, injury or illness, self-harm or suicidal behavior, or sexual abuse; (4-11-15)

f. Action taken by category, such as restraint, separation, isolation, or room confinement with times in and out, visitation restrictions due to juvenile offender behavior, suicide precautions initiated, or escape precautions initiated; (4-11-15)

h. Signature of staff and reviewing supervisor, which may be affixed electronically; (4-11-15)

i. Documentation of injury and medical attention provided; and (4-11-15)

j. If the incident involves sexual abuse, the incident report must include a description of action taken to: (4-11-15)

i. Keep the alleged victim(s) safe from intimidation of further abuse and maintain confidentiality; (4-11-15)

ii. Address any immediate trauma, either physical or emotional; (4-11-15)

iii. Address long-term medical or mental health needs related to the alleged abuse; (4-11-15)

iv. Notify responsible licensing, regulatory, and law enforcement agencies and preserve evidence; (4-11-15)

v. Conduct an initial internal investigation of the incident and as necessary request that an external investigation be completed; and (4-11-15)

vi. Prevent repetition of the abusive situation. (4-11-15)

157. OUT-OF-STATE TRAVEL.

When a Provider is planning an out-of-state trip for any of its juvenile offenders, the facility administrator must obtain prior written authorization from the regional clinical supervisor or designee. The necessary sequence of action and approval is as follows: ( )

***01. Notification**. The Provider must notify the juvenile services coordinator in writing fourteen (14) business days in advance of the scheduled trip with the following: ( )*

***a.** Dates of the scheduled trip; ( )*

***b.** Location of the trip; ( )*

***c.** Purpose of the trip; ( )*

***d.** Transportation arrangements; ( )*

***e.** Where the juvenile offender will be staying if overnight accommodations are required (address and phone number); and ( )*

***f.** Who is going, such as juvenile offender, and name and position of staff. ( )*

***02. Prior Approval**. The program director must obtain all necessary approvals prior to authorizing travel. ( )*

***03. Interstate Compact for Juveniles**. Any out-of-state travel for more than twenty-four (24) hours requires a travel permit and compliance with the Interstate Compact for Juveniles. ( )*

***158*. ADDITIONAL PROGRAM POLICY REQUIREMENTS.**

01. Written Policies. In addition to other policy requirements listed in these rules, *P*roviders must have, at a minimum, the following written policies concerning program operations available at the program site: *( )*

a. Program elements and implementation; (4-11-15)

b. Admission policy describing the target population and criteria for admission, and identifying sources of referrals to the program; (4-11-15)

c. Criteria for assigning juvenile offenders to different units within the program, if applicable; (4-11-15)

d. The provision of (or referral for) emergency and routine medical and mental health services for the population; (4-11-15)

e. Behavior management within the program, including use of points and levels, restraints, separation, detention, and other types of special management; (4-11-15)

f. Supervision of juvenile offenders policy that includes managing juvenile offender movement within the program, including the timely transfer of behavioral information about juvenile offenders from staff during shift changes; (4-11-15)

g. Juvenile offender's access to the community policy that includes use of community schools or job sites, and individual or group activities away from the program site. This also includes individual community passes; (4-11-15)

h. Administrative coverage in emergency situations *arising* after regular work hours; *( )*

i. Documentation and reporting of critical incidents to program administrators, the Department and others on the community treatment team; (4-11-15)

j. Treatment planning and progress reporting to the Department, juvenile offender, family, and others on the community treatment team; (4-11-15)

k. Reintegration policy that describes criteria for successful completion of program, termination from program prior to completion, and the involvement of the Department and community treatment team; and (4-11-15)

l. Emergency procedures in the event of a natural disaster. (4-11-15)

02. Documented Staff Training. Documented staff training on these policies must also be available for review by the Department. (4-11-15)

159. FIRST AID KITS.
Each Provider must maintain first aid kits. Basic first aid kits that do not include medications or sharp tools may be kept unlocked. Any complete first aid kit with medications, wound rinses, scissors, tweezers, or other such objects must be kept locked and placed in areas of the program or facility readily accessible to staff. ( )

160. – 199. (RESERVED)

SUBCHAPTER B – Rules for Staff Secure Providers

200. INITIATION OF SERVICES.
Juveniles are committed to the Department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-547, Idaho Code). ( )

201. WAIVER AND VARIANCE.
Minimum program standards established herein apply to all services provided by the Provider. Any waiver and variance from the standards stated in these rules must receive prior written approval from the Department and be attached as a formal amendment to the contract. ( )

202. APPLICABILITY.
This subchapter applies to Providers of treatment services identified in individual service implementation plans. Staff secure Provider must also abide by Subchapter A of these rules. ( )

203. AUTHORITY TO INSPECT.

The Department has the authority to conduct reviews of programs, program operations, juvenile offender placements, and facilities to ensure the Provider's compliance with these rules. The Provider shall cooperate with the Department's review, and must provide access to the facility and all juvenile records for juveniles in Department custody, as deemed necessary by the Department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available, upon request. ( )

204. COMPLIANCE WITH RULES REQUIREMENTS.

The Provider must comply with all relevant child care licensing rules of the Idaho Department of Health and Welfare, IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing," as well as the rules of the Idaho Department of Juvenile Corrections. Providers located outside of the state of Idaho must comply with their state's relevant child care licensing rules as well as the rules of the Idaho Department of Juvenile Corrections. If a conflict exists between Department rules, the more restrictive rule applies. Subcontractors and consultants of the Provider are also subject to these rules. ( )

205. MINIMUM MANDATORY STAFF TRAINING REQUIREMENTS.

Good professional practice in the area of juvenile offender treatment requires staff to be competently trained. The Provider will ensure all training requirements are met according to Subchapter A of these rules, regardless of the number of training hours required. ( )

***01. Staff Working More Than 24 Hours a Week**. Staff who works more than twenty-four (24) hours per week are required to complete: ( )*

***a.** Eighty (80) hours of training during first year of employment. Up to twenty-five percent (25%) of the eighty (80) hours may be fulfilled by working with an experienced staff mentor, who must verify and document basic competencies for new staff; and ( )*

***b.** Forty (40) hours of training per year following the first year of employment. ( )*

***02. Staff Working 24 Hours or Less a Week**. Staff who works fewer than or equal to twenty-four (24) hours per week are required to complete: ( )*

***a.** Forty (40) hours of training during the first year of employment, and ( )*

***b.** Twenty (20) hours of training per year following the first year of employment. ( )*

206. CLOTHING AND PERSONAL ITEMS.

***01. Clothing Management**. Juvenile offenders must have sufficient and appropriate clothing to participate in activities included in their service implementation plan. Juvenile offenders may arrive at the facility with their own clothing and personal items, which shall be inventoried. If the juvenile offender does not have sufficient or appropriate clothing, the Provider must provide or purchase adequate and appropriate clothing for the juvenile offender. The Provider will ensure the proper care and cleaning of clothing in the juvenile offender's possession. Providers shall not request nor require that the juvenile offender, parent, or guardian pay for or purchase clothing. ( )*

***02. Release from Facility**. All clothing and incidentals become the property of the juvenile offender upon release from the facility. ( )*

***03. Replacement Clothing**. Clothing provided or purchased as replacement will be at the expense of the Provider. Unique items of clothing not required for program participation may be purchased at the expense of the juvenile offender. ( )*

207. FOOD SERVICE.

Juvenile offenders must be served a varied and nutritional diet with menus approved or developed by a qualified nutritionist or dietitian and which meet the recommended dietary allowances of the National Research Council or its equivalent. Juvenile offenders must be provided three (3) meals daily in accordance with the child care licensing

rules of the Idaho Department of Health and Welfare, or the applicable state's licensing authority. ( )

208. PERSONAL FUNDS.

***01. Funds Handled by a Provider**. The Provider will follow generally accepted accounting practices in managing personal funds of juvenile offenders. ( )*

***a.** The Provider may deposit personal funds collected for the juvenile offender in a public banking institution in an account specifically designated "Juvenile Personal Funds." The Provider must maintain a reconciled ledger showing each juvenile offender's deposits and withdrawals within the "Juvenile Personal Funds" account. If the funds are collected in an interest bearing account, the interest accrued must be credited to the juvenile offender for whom the funds are collected. ( )*

***b.** If the amount of personal funds maintained for the juvenile offender does not exceed fifty (50) dollars, the Provider may secure the funds locally if the following conditions are met: ( )*

i. The juvenile offender's personal funds are kept in a fire-resistant, combination or digital lock-style safe that is permanently affixed to the floor or wall, or weighs at least 200 (two-hundred) pounds. ( )

ii. The Provider has a process to clearly separate each juvenile offender's personal funds from one another. ( )

iii. Access to juvenile offender personal funds is limited to the Program Director or designee. ( )

***c.** All withdrawals by a juvenile offender, or expenditures made on behalf of a juvenile offender by the Provider, must be documented, signed, and dated by the juvenile offender and reconciled to the juvenile offender's ledger monthly. ( )*

***d.** The Provider must develop written procedures governing any limits to the amount of funds a juvenile offender may withdraw from their personal funds. ( )*

***e.** The Provider shall not require juvenile offenders, parents, or guardians to pay for services and supplies that, by contract, are to be provided by the Provider. ( )*

***02. Reporting Requirements**. A personal funds report must be submitted every other month to the juvenile services coordinator. The report must show a list of all juvenile offender account balances. The personal fund account is subject to review and audit by the Department or its representatives at any time. Any discrepancies in juvenile offender accounts must be resolved by the Provider within five (5) business days of completion of review. ( )*

***03. Juvenile Offenders with Earned Income**. The provider is responsible for maintaining and accounting for any money earned by a juvenile offender. There must be a plan for the priority use of the juvenile offender's earned income to pay court ordered restitution and a specific allocation for daily incidental expenses. The Provider must establish a written plan for the juvenile offender to save the funds necessary to be used upon program completion, for purposes such as paying deposits on utilities and housing or the purchasing of resources necessary for employment. ( )*

***04. Transfer of Personal Funds**. If a juvenile offender is transferred to another program, the balance of the juvenile offender's funds must be given or mailed to the Department's fiscal services within ten (10) business days and documented on the Provider Juvenile Check-Out Form (DJC-180) supplied by the Department, and on the final progress report. ( )*

209. JUVENILE OFFENDER MAIL.

***01. Restrictions**. Juvenile offenders shall be allowed to send and receive letters from approved persons, which may include persons in other programs or institutions, unless specifically prohibited by the Department or by court order. All other restrictions of mail must be discussed with the community treatment team and approved in*

writing by the juvenile services coordinator. There must be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. Juvenile offenders will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence, and for at least two (2) personal letters each week. ( )

***02. Inspection of Outgoing Letters**. ( )*

***a.** Outgoing letters are to be posted unsealed and inspected for contraband. ( )*

***b.** Exception: Outgoing "privileged" mail may be posted, sealed, and may not be opened, except with a search warrant, as long as it can be confirmed to be to an identifiable source. For purposes of this rule, "an identifiable source" means that the official or legal capacity of the addressee is listed on the envelope and that the name, official or legal capacity, and address of the addressee have been verified. ( )*

***c.** Upon the determination that the mail is not identifiable as privileged mail, said mail will be opened and inspected for contraband. ( )*

***03. Inspection of Incoming Letters**. All incoming letters must be opened by the juvenile offender to whom it is addressed and may be inspected for contraband by staff and only in the juvenile offender's presence. ( )*

***04. Reading of Letters**. Routine reading of letters by staff is prohibited. The Department or court may determine that reading of a juvenile offender's mail is in the best interest of the juvenile offender, and is necessary to maintain security, order, or program integrity. However, such reading of mail must be documented and, unless court ordered, be specifically justified and approved by the juvenile services coordinator. ( )*

***05. Privileged Mail**. Under no circumstances shall a juvenile offender's privileged mail be read. ( )*

***06. Packages**. All packages must be inspected for contraband. ( )*

***07. Publications**. Books, magazines, newspapers, and printed matter, which may be legally sent to juvenile offenders through the postal system, may be approved, unless deemed to constitute a threat to the security, integrity, or order of the programs. Juvenile offenders shall not be allowed to enter into subscription agreements while in Department custody. ( )*

***08. Distribution of Mail**. The collection and distribution of mail must never be delegated to a juvenile offender. Staff must deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile offender to whom it is addressed. ( )*

210. VISITATION.

***01. Visitor Approval**. The Provider must develop a written policy governing visitation, which protects the safety of visitors, staff, and juvenile offenders. This policy may restrict visitors below an established age to the program or facility. The Provider must provide a copy of the visitation policy to each juvenile offender, his parent or guardian, and the juvenile services coordinator. If there is reason to believe a visitor is under the influence of alcohol or drugs or possesses illegal contraband, admission into the residence shall be denied. In all cases, the Provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors. ( )*

***02. Visitor Searches**. ( )*

***a.** Prior to visitors being allowed in the program, they must be given rules established by the Provider that govern their visit and advised that they may be subject to a search by trained staff. They must sign a statement of receipt of these rules and the statement placed in the Provider's file. ( )*

***b.** Visitors may be required to submit personal items for inspection. If there is reason to believe that*

additional searches are necessary, admission to the facility shall be denied. Visitors, who bring in items that are unauthorized, but not illegal, will have these items taken and locked in an area inaccessible to the juvenile offenders during the visit. These items will be returned to the visitors upon their exit from the facility. ( )

c. *All visitor searches must be documented. When contraband is found, a written report must be completed and submitted to the juvenile services coordinator. If necessary, the appropriate law enforcement agency will be notified. ( )*

211. SMOKING AND SALE OF CIGARETTES.

Juvenile offenders, regardless of age, are strictly prohibited from purchasing or using tobacco and nicotine products. Staff secure Providers must establish written policies and procedures banning the use of cigarettes and other tobacco and nicotine products by juvenile offenders at the facility. ( )

212. ROOM RESTRICTIONS.

01. Policy and Procedure*. The Provider must have written policies and procedures regulating the use of the juvenile offender's room for room restriction. The Provider's room restriction policy must, at a minimum, address the following: ( )*

a. *Procedures for recording each incident involving the use of restriction; ( )*

b. *The reason for the room restriction must be explained to the juvenile offender and allow the juvenile offender to have an opportunity to explain their behavior; ( )*

c. *Other less restrictive measures must have been applied prior to the room restriction; ( )*

d. *A juvenile offender on room restriction must have access to the bathroom; and ( )*

e. *Room restriction must not exceed a total of eight (8) hours within a twenty-four (24) hour period. ( )*

02. Monitoring During Room Restriction*. Staff must check on a juvenile offender in room restriction a minimum of once every fifteen (15) minutes. Providers must ensure that a juvenile offender with a history of depression or suicidal ideation and those who have exhibited these behaviors while in care, are checked at least every five (5) minutes in order to ensure safety. Even more frequent or constant observation must be maintained if any level of suicide risk is determined to be present at any time during room restriction. All items in the area that might be used to attempt self-harm should be restricted or removed. ( )*

213. USE OF FORCE OR PHYSICAL RESTRAINTS.

Providers licensed by the Idaho Department of Health and Welfare or the applicable state licensing authority, must ensure that all terms of the licensing rules are strictly followed and additionally ensure that: ( )

01. Minimal Use of Force*. Only the minimum level of force necessary to control a juvenile offender's destructive behavior shall be used. ( )*

02. Physical Force*. Physical force, at any level, may only be used to prevent injury to the juvenile offender or to others and to prevent serious damage to property or escape. Physical force must never be used as punishment. ( )*

03. Reporting Requirement*. All instances of use of force must be documented in an incident report and submitted according to the terms of Section 156. Incidents of inappropriate use of force must be reported to the state's applicable licensing authority or law enforcement, as required by law. ( )*

214. – 219. (RESERVED)

220. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling Services. *( )*

a. *All counseling services provided to juvenile offenders, whether individual, group, or family must be performed by a clinician, counselor, or therapist, as defined in these rules.* *( )*

b. *Counseling should be planned and goal directed.* *( )*

c. *Notes must be written for each service provided and include documentation of who provided the service. The notes must be dated and clearly labeled either individual, group, or family counseling.* *( )*

d. *The methods and techniques applied in counseling and the frequency and intensity of the sessions should be determined by assessment.* *( )*

e. *Counseling should be reality-oriented and directed toward helping juvenile offenders understand and solve specific problems; discontinue inappropriate, damaging, destructive, or dangerous behaviors; and fulfill individual needs.* *( )*

f. *The minimum standard for the frequency of counseling services must be specified in the comprehensive program description attached to the contract with the Department.* *( )*

g. *There should be a mechanism developed to monitor and record incremental progress toward the desired outcome of counseling services.* *( )*

h. *Programs should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program.* *( )*

i. *Programs must provide crisis intervention counseling, if warranted by the assessment and circumstances.* *( )*

j. *The Provider must furnish adequate space for conducting private interviews and counseling sessions at the facility.* *( )*

k. *Family counseling services must be available as a part of the juvenile offender's service implementation plan, to the extent that this is supported by the assessment. If the assessment indicates a need for these services, family counseling should specifically address issues that, directly or indirectly, resulted in the juvenile offender's removal from the home and the issue of eventual reintegration back into the family unit. A statement of goals to be achieved or worked toward by the juvenile offender and the family should be part of the service implementation plan.* *( )*

02. Substance Abuse Services. *As a minimum standard, programs must provide substance abuse services, as determined by assessment and indicated in the service implementation plan. Substance abuse services must have direct oversight by a certified alcohol and drug counselor, or master's level clinician with three (3) years' experience in the substance abuse field. Substance abuse services must be fully described in the detailed program description and have a written curriculum containing a description of each session offered. Juvenile offenders receiving substance abuse services must have an introduction to a community intervention program. Relapse prevention plans must be a component of the substance abuse services provided and be specifically based on the individual needs of the juvenile offender. Notes documenting the service provided must be dated, clearly labeled "substance abuse services," with each entry signed by the counselor performing the service.* *( )*

03. Social Skills Training Including Relapse Prevention Skills. *Programs must assess each juvenile offender's social skills and document specific services provided to improve functioning in this area. Additionally, every juvenile offender must have developed a written relapse prevention plan prior to successfully completing the program.* *( )*

04. Life Skills and Independent Living. *Programs must be able to demonstrate that juvenile offenders are taught basic life skills and that age-appropriate juvenile offenders are involved in independent living skills*

consistent with their age and needs. This program should include, at a minimum, instruction in: ( )

a. *Hygiene and grooming skills; ( )*

b. *Laundry and maintenance of clothing; ( )*

c. *Appropriate social skills; ( )*

d. *Housekeeping; ( )*

e. *Use of recreation and leisure time; ( )*

f. *Use of community resources; ( )*

g. *Money management; ( )*

h. *Use of public transportation, where available; ( )*

i. *Budgeting and shopping; ( )*

j. *Cooking; ( )*

k. *Punctuality, attendance, and other employment-related matters; ( )*

l. *Vocational planning and job finding skills; and ( )*

m. *Basic health education. ( )*

05. Recreational Services*. Programs should have a written plan for providing recreational services based on individual needs, interests, and functional levels of the population served. ( )*

a. *The recreational program should include indoor and outdoor activities. Activities should minimize television and make use of a full array of activities that encourage both individual entertainment and small group interaction. An appropriately furnished area should be designated inside the facility for leisure activities. ( )*

b. *Programs should have staff educated and experienced in recreational programs to ensure good planning, organizing, supervision, use of facility, and community activities. Recreational activities considered part of the service implementation plan must be funded by the Provider. The use of community recreational resources should be maximized, as long as community safety is assured. The Provider must arrange for the transportation and provide the supervision required for any usage of community recreational resources. No juvenile offender may be required to pay to participate in recreational activities made available through the program. ( )*

06. Transportation Services*. In all transport situations there must be at least one (1) assigned staff of the same gender, or two (2) assigned staff of the opposite gender, as the juvenile offender being transported. ( )*

07. Transport in Personal Vehicles*. Juveniles in the custody of the Department will not be transported in Provider employee personal vehicles unless an emergency exists and is substantiated by documentation. ( )*

221. CASE MANAGEMENT REPORTING REQUIREMENTS.
Each juvenile offender's progress, or lack of progress, must be clearly documented and be related to documented behavior. Recommendations for release from Department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident which threatens the safety of others or the stability of the overall program. ( )

01. Service Implementation Plan*. Within thirty (30) calendar days of the juvenile offender's admission into the program, a written service implementation plan must be developed. The service implementation plan must*

address the specific goals identified in the service plan from the observation and assessment report. The service implementation plan should, at a minimum, address the following areas as indicated by need: ( )

a. *Education and employment; ( )*

b. *Personality and behavior; ( )*

c. *Substance abuse; ( )*

d. *Attitudes, values, and delinquent orientation; ( )*

e. *Family circumstances and parenting; ( )*

f. *Peer relations; ( )*

g. *Leisure and recreation; ( )*

h. *Sexual misconduct; and ( )*

i. *Specialized needs. ( )*

02. Juvenile Offender and Family Involvement. *Each juvenile offender and, to the fullest extent possible, the family, should be involved in developing the service implementation plan and in adjusting that plan throughout the course of commitment. ( )*

03. Service Implementation Plan Adjustments. *The service implementation plan should be adjusted throughout placement with the concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. ( )*

04. Department Assessments. *Assessments provided by the Department shall not be repeated by the Provider at the time of admission into the program without specific justification provided to the regional clinical supervisor. ( )*

05. Participation in Staffings. *The Provider must participate in staffings with Department staff to discuss the juvenile offender's service implementation plan development and progress in treatment. ( )*

06. Participation in the Progress Assessment/Reclassification. *The Provider may be asked by the juvenile services coordinator to provide input necessary for periodic reassessments of the juvenile offender's progress and current risk level. In all cases, the Provider must participate to the fullest extent possible. ( )*

07. Progress Report. *A written progress report must be submitted to the juvenile services coordinator and any designees at least every two (2) months. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Areas of need that were included in the service implementation plan and identified in Subsection 221.01 of these rules should also be referenced in the progress report. Each progress report should also detail the level of involvement of the parent or guardian in the juvenile's treatment. ( )*

08. Relapse Prevention Plan. *Prior to completing the program, the Provider shall supply the juvenile with the relapse prevention plan form (DJC-271) provided by the Department. The plan must address areas of risk identified in the juvenile's service implementation plan, as well as interventions the juvenile will use to prevent future problems. While in treatment, the Provider will solicit feedback from the juvenile services coordinator every thirty (30) calendar days regarding the development of the juvenile's relapse prevention plan. The final relapse prevention plan is due to the juvenile services coordinator, or designee, no earlier than the date of the juvenile offender's reintegration staffing. ( )*

*09. **Final Progress Report**. A final progress report must be submitted to the juvenile services coordinator and any designees no earlier than fourteen (14) calendar days and no later than ten (10) calendar days prior to the juvenile offender's anticipated completion of the program. This report must include: ( )*

a. A current summary of the juvenile offender's progress; ( )

b. A summary of the efforts to reach the juvenile offender's goals and objectives, including education; ( )

c. Any unresolved goals or objectives; ( )

d. Recommendation for continuing services, including education, in the home community; and ( )

e. The current address of the juvenile. ( )

*10. **Report Distribution**. Copies of the service implementation plan, progress reports, relapse prevention plan, and final progress report must be distributed by the Provider to the juvenile offender and the juvenile services coordinator and any designees. The juvenile services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile offender's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for a well-documented reason. ( )*

222. INDIVIDUAL COMMUNITY PASSES.

Prior to granting any individual community pass to a juvenile offender, the Provider must contact the juvenile probation officer and the juvenile services coordinator, to ensure that neither the court nor the Department has placed restrictions on the juvenile offender's pass privileges. All requests for passes must be approved by the juvenile services coordinator. Any pass involving an overnight stay away from the facility, or involving special circumstances such as a sexual abuse victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. Each time a juvenile offender leaves on and returns from an individual community pass, the Provider must notify the juvenile correctional center in Nampa of this movement, promptly at the time that the juvenile offender leaves and returns. ( )

*01. **Potential Risk to Public Safety**. Individual passes for juvenile offenders assigned to residential facilities should be considered as an integral part of the service implementation plan. However, in all cases, the potential risk to public safety and adequacy of home supervision must be considered prior to allowing a juvenile offender to return home. It is also important that passes not interfere with the ongoing treatment and supervision needed by juvenile offenders. Providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The Department's pass form may be used for this purpose. If the Department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision must contain at least the following information: ( )*

a. The juvenile offender's name and date of birth; ( )

b. The name, address, and telephone number of the individual assuming responsibility; ( )

c. Authorized days, dates. and times for the pass, including the specific date and time of departure and of return; ( )

d. A complete listing of the anticipated locations and activities in which the juvenile offender is expected to be involved; ( )

e. Specific plans for supervision and telephone checks to verify compliance with the pass conditions; ( )

f. A complete listing of the activities required during the pass; ( )

g. Specific stipulations prohibiting: ( )

i. The use of alcohol, tobacco, and drugs; ( )

ii. Involvement in any illegal activity or association with others who may be or have been involved in illegal behavior; ( )

iii. Participation in sexual relations of any kind; ( )

iv. Possession of any kind of firearm or weapon; and ( )

v. Any violation of the terms of probation. ( )

h. Specific stipulations about search and drug testing upon return, and the possible consequences for violation of any of the terms of the pass agreement. ( )

*02. **Eligibility**. A juvenile offender must be in placement a minimum of thirty (30) calendar days to be eligible for any pass. Any exceptions due to extenuating circumstances must be approved by the juvenile services coordinator. ( )*

*03. **Frequency**. Frequency of passes must be consistent with the terms of the juvenile offender's service implementation plan and Provider's contract with the Department. ( )*

*04. **Documentation**. Documentation of the exact date and time of the juvenile offender's departure from the program for a pass, and return, must be maintained along with complete information about the individual assuming physical custody, transportation, and supervision during the pass. ( )*

223. GROUP ACTIVITIES OFF FACILITY GROUNDS.

An activity plan and itinerary covering activities to be engaged in, when and where the group is going, how they will travel, how long they will stay, and why the activity is being planned must be submitted to the juvenile services coordinator at least five (5) business days prior to the activity. The activity plan must identify the specific risk elements associated with the activity and provide a safety plan for each of those risk elements. Routine, low risk activities within the local community adjacent to the facility do not require prior notice, and are to be conducted at the discretion of and under the responsibility of the Provider. ( )

*01. **Recreational Activities**. A pass authorizing the participation of juvenile offenders in outdoor recreational or work activities with an increased risk, such as overnight trips, must be signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves horseback riding, boating, rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the Department's regional superintendent. ( )*

*02. **Staff Requirements**. ( )*

a. A basic first aid kit will be taken with the group. At least one (1) person certified in first aid and CPR must accompany the group. ( )

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in rescue and water safety, or if a lifeguard is on duty. All juvenile offenders involved in boating or rafting activities must wear an approved personal flotation device. ( )

c. A staff to juvenile offender ratio of one to six (1:6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, mental deficiencies, or inclusion of groups of juvenile offenders under age twelve (12), are some reasons to consider additional staff. ( )

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan. ( )

e. There will be no consumption of alcoholic beverages or illicit drugs by staff or juvenile offenders, interns, or volunteers while engaged in any agency-sponsored trip or activity. ( )

*03. **Consent Forms**. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Subsection 223.01 of these rules. Each juvenile offender must have prior written consent from a parent or guardian, if available, and the Department's regional superintendent, including: ( )*

a. Permission for the juvenile offender's participation; ( )

b. Acknowledgment of planned activities; and ( )

c. Permission for the Provider to seek or administer necessary medical attention in an emergency. ( )

*04. **Activity Reports**. At the conclusion of each overnight or high risk recreational activity pass, the Provider must document in the juvenile offender's file and include in the progress report, any significant positive or negative events that transpired while the juvenile offender was on pass. Any unusual occurrences must be reported to the juvenile services coordinator and documented on an incident report as identified in Subchapter A. A drug screening urinalysis may be conducted on each returning juvenile offender, at the expense of the Provider, and the results of that exam reported to the juvenile services coordinator. ( )*

224. EDUCATION SERVICES.

*01. **Appropriate Services**. The Provider must ensure that each juvenile offender is given appropriate educational and vocational services that are consistent with the juvenile offender's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juvenile offenders to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the Elementary Secondary Education Act (ESEA), the IDEA, the Family Educational Rights and Privacy Act (FERPA), and the Rehabilitation Act of 1973 (Section 504). ( )*

*02. **Mandatory Enrollment**. Providers must ensure that all juvenile offenders involved in their programs who are of mandatory school age in the applicable state, or who have not yet obtained a General Educational Development (GED) or high school diploma, are enrolled in a school system or in a program approved and certified by the applicable state's Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service must be provided in accordance with the service implementation plan. ( )*

*03. **Cooperative Relationships**. Providers may provide educational services through a cooperative agreement with the local education agency or through an in-house educational program administered by the Provider. If a local education agency provides the services, it is expected that the Provider will have a written agreement with a local education agency that clearly defines the services that will be provided in the contract facility. The written agreement must include, at a minimum, all of the following: ( )*

a. Level of participation in reintegration planning for each juvenile offender; ( )

b. That grades will be submitted to the Department within two (2) business days of transfer or release from Department custody; ( )

c. Curriculum for special education services, if appropriate; ( )

d. A plan for the provision of state required testing; and ( )

e. Types of services that will be provided beyond the established limits of the regular school year for that school district. ( )

*04. **Costs of Educational Services**. If a local education agency agreement is developed, the Idaho Department of Education will flow education funds to the local education agency in a manner consistent with current legislative funding mandates. A copy of the memorandum of understanding between the Provider and the local education agency must be provided to the Department, and the source of funds to cover the costs for educational services clearly accounted for in the budget. If the Provider elects to provide the services in-house, the cost of educational services will be included in the daily contract rate. The Provider will not be eligible to receive educational funding through both of these sources. ( )*

*05. **Accreditation Requirements**. Each Provider serving juvenile offenders, who have been committed to the Department, will have, or contract with, an education program that will meet the accreditation standards of a Department-approved accreditation agency or the applicable state's Department of Education. ( )*

*06. **Educational Assessment**. Federal and state laws mandate that juvenile offenders be provided with an appropriate education. Providers are responsible for providing an educational track that will best serve the needs of each juvenile offender, as determined by the assessment provided by the Department through the observation and assessment process, or as determined by an assessment completed by a local school district. A copy of the relevant assessment and related current and valid education plan, as well as all supporting documentation for each juvenile offender, must be maintained in a separate file and be available to the Department and to the Idaho Department of Education. A copy of the IEP and all supporting documentation must be sent to the Department within ten (10) business days or less of its completion for inclusion in the juvenile offender's permanent school records that are maintained by the Department. ( )*

a. Providers are responsible for ongoing, yearly reassessment of each juvenile offender's progress within the education program as well as documenting and reporting that progress. This responsibility extends to completing a reassessment just prior to release from Department custody or transfer, and reporting academic gain both for individual juvenile offenders as well as composite data for the education program overall. ( )

b. Consistent with statewide educational standards, Providers are responsible for assuring that each juvenile offender is tested in accordance with the applicable state's assessment schedule and all required measures. Any fees associated with the testing services are paid by the Provider. Results of testing must be submitted to the Department within ten (10) business days after the Provider's receipt of the scores. ( )

*07. **GED Eligibility**. Providers must assure that GED tests are administered to juvenile offenders meeting the criteria established in the administrative rules of the applicable state's Board of Education for school districts. All GED testing application fees will be paid by the Provider. Test results must be submitted to the Department within ten (10) business days after the receipt of the scores. ( )*

*08. **Special Education Services**. ( )*

a. The Provider must ensure that the special educational needs of juvenile offenders are addressed. The Provider's in-house program or cooperating local education agency program must comply with Section 504 and the IDEA, as well as any other applicable state or federal laws. Under no circumstances will the Provider or its teaching staff make modifications in the juvenile offender's Section 504 or the IDEA educational program without conducting a Child Study Team meeting in consultation with the Department's educational coordinator, or designee. ( )

b. Providers must make every reasonable effort and thoroughly document all efforts to contact parents or guardians of juvenile offenders identified as eligible for special education. If it is not possible to involve the natural parents or guardians, a surrogate parent must be appointed by the agency providing special educational services. This surrogate cannot be the director or other employee of an agency, institution, or community-based residential facility who is involved in providing care or education to a juvenile offender, or an employee of a state agency or agency volunteer, such as caseworker, social worker, or court-appointed special advocate who has been appointed by the state to provide for the welfare of the student. A surrogate parent is used only for special educational

requirements and has no other legal authority. *(4-11-15)*

***09. Standards for Instructional Time**. Providers must assure that the school day is consistent with at least the minimum standard established for high schools by a Department-approved accreditation agency. The length of the school day will further meet all requirements established by state and federal laws, regulations, and accreditation standards. Providers must provide an appropriate educational or vocational program for each juvenile offender for twelve (12) months of the year. At a minimum, this involves four (4) hours per day, five (5) days per week throughout the full calendar year. Juvenile offenders involved in any disciplinary process must not be denied their right to education and other related services. If security or other related concerns are present that may prohibit a juvenile offender's participation in educational programming, an education plan review will be completed and documented in an incident report. If the juvenile offender is eligible for services under the IDEA or Section 504, a Child Study Team will meet to make a determination as to whether or not the behavior is a result of the juvenile offender's handicap. All due process procedures will be followed according to the administrative rules for special education.* *( )*

***10. Educational Records and Confidentiality**.* *( )*

***a.** Educational records must be maintained by the Provider at all times in accordance with FERPA with, at a minimum, the following information included in the record:* *( )*

i. Subjects taken; *( )*

ii. Grades by subject and explanation of the grading system; *( )*

iii. Units of credit with explanation; *( )*

iv. Attendance records; and *( )*

v. Any standardized test scores. *( )*

***b.** Reports of the juvenile offender's educational progress (report cards) must be provided to the Department within ten (10) business days after the end of the school's grading periods (midterm, semester, trimester, etc.).* *( )*

***c.** Providers must ensure that juvenile offender educational files are consistently maintained to ensure compliance with FERPA.* *( )*

***d.** The Provider will provide final withdrawal grades and credits within twenty-four (24) hours or next business day after the juvenile offender is released from Department custody or transferred. The Provider must notify the Department that the final grades have been entered into the software program. Working educational files must be returned to the Department within ten (10) business days of the juvenile offender's release from Department custody or transfer.* *( )*

225. PROVISION OF MEDICAL SERVICES.

***01. Medical Care**. Each juvenile offender must be provided with medical, dental, optical, mental health, emergency or any other related health services while in the Provider's care. Each Provider must have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juvenile offenders with professional and qualified physical or mental health services, including medications. Medical and mental health screenings must be provided within two (2) hours of a juvenile offender's admission to a program. Comprehensive and professional medical and mental health assessments must be provided by the Provider within thirty (30) calendar days of admission, unless these are provided by the Department. A copy of these assessments must be forwarded to the Department's regional R.N.* *( )*

***02. Medical Consent**. As part of the admission process, the Provider must have a copy of the Department's Release of Information and Consent form signed by a juvenile offender's parent, guardian, or committing authority. The consent form must be filed in the juvenile offender's medical file maintained by the Provider.* *( )*

*03. **Emergency Medical Treatment**. In cases of emergency medical treatment requiring signed authorization for juveniles in the custody of the Department, reasonable efforts must be made to obtain the consent of the parent or guardian. The signature of only one (1) parent or guardian is sufficient to form consent or authorization. Should the parent or guardian not be available or refuse to sign, the authorization may be signed by the Department's regional R.N., or designee. This does not restrict the Provider from taking action in life and death situations. ( )*

*04. **Reimbursement Sources**. The Provider must utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile offender. The Provider cannot seek reimbursement from private insurance or Medicaid for health services that are the fiscal responsibility of the Provider pursuant to its contract with the Department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the Department's regional R.N., or designee, will be at the expense of the Provider. ( )*

226. ADMISSION AND ANNUAL HEALTH SERVICES AND TREATMENT RECORDS.

*01. **Compliance with Child Care Licensing Rules**. Admission and annual health services must be provided to juvenile offenders in accordance with the child-care licensing rules of the Idaho Department of Health and Welfare, unless otherwise provided in these rules. ( )*

*02. **Prior Approval**. No prior approval or review from the Department's regional R.N. is required for admission and annual health services. Examples of admission and annual health services for which no prior approval or review is required are: ( )*

a. Admission physical exams, including STD exams and treatment; ( )

b. Admission dental exams, including x-rays and cleanings (no panoramic x-rays or sealants); ( )

c. Admission eye exams and glasses, if needed; ( )

d. Annual physical exams, including STD exams and treatment; ( )

e. Annual dental exams with x-rays and cleanings (no panoramic x-rays or sealants); and ( )

f. Annual eye exams, if needed, and new glasses, only if needed. ( )

*03. **Medical Records**. Any time a juvenile offender receives treatment under this section or for any similar service, the Provider must retain the original medical record regarding treatment and immediately send a copy to the Department's regional R.N. ( )*

227. PRIVACY OF MEDICAL RECORDS AND INFORMATION.

*01. **Confidentiality**. Confidentiality of personal health information of each juvenile offender must be maintained in accordance with the Privacy Regulations promulgated under HIPAA or, if more stringent, the laws of the applicable state. Compliance with these regulations is the responsibility of the Provider. Staff may be provided information about a juvenile offender's medical condition only when that knowledge is necessary for the performance of their job duties. ( )*

*02. **Privacy Officer**. The Provider must appoint a privacy officer to oversee that the control and maintenance of all juvenile offender health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164. ( )*

*03. **Separate Records**. All juvenile offender medical and health records must be kept in files that are physically separated from other juvenile offender files and information, and under a system of security against unauthorized access. ( )*

228. NOTIFICATION OF CRITICAL HEALTH INCIDENTS.
The Provider must immediately report critical medical and mental health incidents according to Subchapter A of these rules. ( )

229. INFECTIOUS DISEASES.

***01. Policies**. ( )*

***a.** The Provider must establish policies and procedures for serving juvenile offenders with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of infectious diseases, provide an orientation for new staff and juvenile offenders concerning the diseases, and ongoing education for staff and juvenile offenders regarding these diseases. Policies and procedures should be updated as new information becomes available. Individual health information or counseling will be made available by a medical health professional for juvenile offenders diagnosed with an infectious disease. ( )*

***b.** The Provider must comply with the child-care licensing rules of the Idaho Department of Health and Welfare, or applicable state's licensing authority, regarding universal precautions. ( )*

***02. HIV Testing**. In accordance with law, a juvenile offender over age fourteen (14) may request to be tested for the presence of HIV. Any such juvenile offender requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. ( )*

***03. Examinations**. Examinations must be performed by medical professionals on any juvenile offender for all symptomatic cases of infectious diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juvenile offenders will be tested and, if indicated, treated. ( )*

***04. Notifications**. The Provider must notify the Department's regional R.N. within three (3) business days of any positive test results, treatment recommendations, and follow up care. ( )*

230. PREGNANCY.

***01. Individual Medical Plan**. Within the individual medical plan, specific goals and objectives will be developed when a pregnancy has been diagnosed. The plan must be based on the orders of the juvenile offender's licensed healthcare provider and include special care, location for delivery, a plan for infant care after delivery, regular medical check-ups, and special dietary and recreational needs. At no time may the infant remain in the Provider's facility. A copy of the individual medical plan will be sent to the Department's regional R.N. ( )*

***02. Parenting Classes**. Parenting classes must be an integral part of the individual medical plan for all pregnant female juvenile offenders. This service should also be offered as a priority to male juvenile offenders in Department custody who are already fathers or whose spouse or girlfriend is expecting a child. ( )*

***03. Medicaid Reimbursement**. Medical services relating to pregnancy must be provided by a licensed healthcare provider and facility accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile offender's family. ( )*

231. REFUSAL OF TREATMENT.
Refusal of medications or treatment recommended by a physician for three (3) consecutive days requires immediate notification to the Department's regional R.N. according to Subchapter A of these rules. ( )

***01. Refusal of Recommended Treatment by Physician**. If a juvenile offender chooses to refuse treatment or medication recommended by a physician, the juvenile offender must sign a detailed statement refusing this care. A Provider staff member must witness the juvenile offender's signature. This refusal form will be filed in the juvenile offender's medical record and a copy sent to the Department's regional R.N. within twenty-four (24) hours. ( )*

***02. Where Refusal Poses Significant Risk**. If a juvenile offender refuses a treatment or medication for a condition that poses a significant risk of death or permanent physical impairment, the Provider must ensure the juvenile receives immediate medical attention. The Provider will notify the Department's regional R.N. by phone as soon as possible. ( )*

232. USE OF MEDICATIONS.

***01. Written Policy**. The Provider must have written policies and procedures governing the use and administration of medication to juvenile offenders that conform to all applicable laws and regulations including, but not limited to, those of the Idaho Department of Health and Welfare or the applicable state's licensing authority.* ( )

***02. Notification**. If initiating or modifying any medication, the Department's regional R.N. must be notified of the following:* ( )

***a.** The name of the prescribed medication;* ( )

***b.** The name and phone number of the prescribing doctor, nurse practitioner, or physician's assistant; and* ( )

***c.** The reason the medication is being prescribed.* ( )

233. – 299. (RESERVED)

SUBCHAPTER C – Rules for Reintegration Providers

300. INITIATION OF SERVICES.
Juveniles are committed to the Department under the provisions of the Juvenile Corrections Act (Sections 20-501 through 20-549, Idaho Code). ( )

301. WAIVER OR VARIANCE.
Minimum program standards established herein apply to all services provided by the Provider. Any waiver or variance from the standards stated in these rules must receive prior written approval from the Department and be attached as a formal amendment to the contract. ( )

302. APPLICABILITY.
This subchapter applies to Providers of reintegration and independent living skills that coordinate needed treatment services identified in individual service implementation plans. Reintegration Providers must also abide by Subchapter A of these rules. ( )

303. AUTHORITY TO INSPECT.

***01. Inspections**. The Department has the authority to conduct reviews of programs, program operations, juvenile offender placements, and facilities to ensure the Provider's compliance with these rules. The Provider shall cooperate with the Department's review, and provide access to the facility and all juvenile records for juveniles in Department custody, as deemed necessary by the Department. However, in order to more fully assess the operation of the program, aggregate data and information for all juveniles must be made available, upon request.* ( )

***02. Site Visit**. If the juvenile offender is living independently, the juvenile services coordinator, or designee, shall conduct site visits of the residence prior to occupancy.* ( )

304. CLOTHING AND PERSONAL ITEMS.
The Provider must ensure that the juvenile offender has sufficient clothing. The Provider shall not require the juvenile offender to purchase clothing with the juvenile's personal funds unless the purchase is above and beyond the basic requirements of the Provider. Any clothing purchased with the juvenile offender's personal funds must be documented. The Provider will ensure the juvenile is provided education and resources needed for proper care and cleaning of clothing in the juvenile offender's possession. All clothing and incidentals become the property of the juvenile offender upon release. ( )

305. FOOD SERVICE.

The Provider must ensure that the juvenile has sufficient food at all times. The Provider may not require the juvenile offender to purchase food with the juvenile's personal funds unless the purchase is above and beyond the basic requirements of the Provider. Shopping, meal preparation, planning, and proper nutrition must be part of the independent living skills. ( )

306. PERSONAL FUNDS.

01. Funds Handled by a Provider. The Provider will follow generally accepted accounting practices in managing personal funds of juvenile offenders and must be able to demonstrate appropriate measures of internal fiscal controls related to the juvenile's personal funds. ( )

a. The Provider must establish a written budget for a juvenile, as part of the service implementation plan, for the use of the juvenile offender's personal funds. There must be a specific allocation for daily incidental expenses. ( )

b. If the amount of personal funds maintained for the juvenile offender does not exceed one hundred (100) dollars, the Provider may secure the funds locally, if the following conditions are met: ( )

i. The juvenile offender's personal funds are kept in a fire resistant combination or digital lock-style safe that is permanently affixed to the floor or wall, or weighs at least 200 (two-hundred) pounds. ( )

ii. The Provider has a process to clearly separate each juvenile offender's personal funds from one another. ( )

iii. Access to juvenile offender personal funds is limited to the Program Director, or designee. ( )

c. Upon the juvenile offender's personal funds exceeding one hundred (100) dollars, the reintegration Provider will assist the juvenile offender in opening an account in the juvenile's name at a public banking institution. Supported living Providers are required to deposit all personal funds collected for the juvenile offender in a public banking institution in an account in the juvenile's name. ( )

d. The Provider must ensure that the juvenile offender saves at least thirty percent (30%) of income to be used at program completion for purchasing the resources for independent living and employment. ( )

e. All withdrawals by a juvenile offender, or expenditures made on behalf of a juvenile offender by the Provider, must be documented, signed, and dated by the juvenile offender and reconciled to the juvenile offender's ledger monthly. ( )

f. The Provider must develop written procedures governing any limits to the amount of funds a juvenile offender may withdraw from their personal funds. ( )

g. The Provider may not require juvenile offenders, parents, or guardians to pay for services and supplies that, by contract, are to be provided by the Provider. ( )

h. There must be no commingling of juvenile personal funds with Provider funds. Borrowing or moving funds between juvenile personal accounts is prohibited. ( )

02. Reporting Requirements. A personal funds report that shows a list of all juvenile offender account balances must be submitted monthly to the juvenile services coordinator. The personal fund account is subject to review and audit by the Department or its representatives at any time. Any discrepancies in juvenile offender accounts must be resolved by the Provider within five (5) business days of completion of the review. ( )

03. Transfer of Personal Funds. If a juvenile offender is transferred to another program, the balance of the juvenile offender's locally secured funds must be given or mailed to the Department's fiscal services within ten (10) business days and documented on the Provider Juvenile Check-Out Form (DJC-180) supplied by the Department, and on the final progress report. ( )

307. JUVENILE OFFENDER MAIL.

01. Restrictions. Juvenile offenders must be allowed to send and receive letters from approved persons, which may include persons in other programs or institutions, unless specifically prohibited by the Department or by court order. All other restrictions of mail must be discussed with the community treatment team, approved in writing by the juvenile services coordinator, and documented in the juvenile offender's service implementation plan. There must be no general restrictions on the number of letters written, the length of any letter, or the language in which a letter may be written. Juvenile offenders will be provided with sufficient stationery, envelopes, and postage for all legal and official correspondence. ( )

02. Reading of Letters. Routine reading of letters by staff is prohibited. The Department or court may determine that reading of a juvenile offender's mail is in the best interest of the juvenile offender, and is necessary to maintain security, order, or program integrity. However, such reading of mail must be documented and, unless court ordered, must be specifically justified and approved by the juvenile services coordinator. ( )

03. Privileged Mail. Under no circumstances shall a juvenile offender's privileged mail be read. ( )

04. Packages. Packages may be inspected for contraband but only in the presence of the juvenile offender. ( )

05. Publications. Books, magazines, newspapers, and printed matter which may be legally sent to juvenile offenders through the postal system may be approved by the Provider, unless deemed to constitute a threat to the security, integrity, or order of the programs. ( )

06. Distribution of Mail. The collection and distribution of mail must never be delegated to a juvenile offender. Staff must deliver mail within twenty-four (24) hours, excluding weekends and holidays, to the juvenile offender to whom it is addressed, unless the juvenile is living independently. ( )

308. VISITATION.

01. Visitation Policy. The Provider must develop a written policy governing visitation, which protects the safety of visitors, staff, and juvenile offenders. This policy may restrict visitation to the residence of visitors below an established age or provide for higher levels of supervision in circumstances where safety of visitors, staff, and juvenile offenders may be at risk. The Provider must provide a copy of the visitation policy to each juvenile offender, his parent or guardian, and the juvenile services coordinator. In all cases, the Provider will work with the juvenile services coordinator and juvenile probation officer to identify and approve potential visitors in accordance with the Provider's criteria. ( )

02. Visitor Admission. If there is reason to believe a visitor is under the influence of alcohol or drugs or possesses illegal contraband, admission into the residence must be denied. Visitors who bring in items that are unauthorized, but not illegal, must either be denied admission into the program or residence or have these items taken and locked in an area inaccessible to the juvenile offenders during the visit. These items will be returned to the visitors upon their exit from the program or residence. All visitors denied access to the program or residence, and the reason for their denial, must be documented. ( )

309. GUIDELINES FOR SPECIFIC SERVICES.

01. Counseling and Other Outpatient Services. The Provider must schedule all initial outpatient appointments, such as drug and alcohol counseling, for the juvenile offender within five (5) business days of arrival into the program. The Provider should be able to demonstrate that counseling interventions are shared in general with other program service providers, and there is broad mutual support for the goals of counseling in all service areas of the program. ( )

02. Behavior Assessment. Supported living Providers must use a current assessment of independent behavior capacity to determine the levels of service needed. ( )

*03. **Life Skills and Independent Living**. Programs must be able to demonstrate that juvenile offenders are taught basic life skills. This program should include, at a minimum, instruction in: ( )*

a. Hygiene and grooming skills; ( )

b. Laundry and maintenance of clothing; ( )

c. Appropriate social skills; ( )

d. Housekeeping; ( )

e. Use of recreation and leisure time; ( )

f. Use of community resources, such as identifying medical and mental health providers; ( )

g. Handling personal finances and issues such as leases, contracts, cell phone usage and agreements, insurance, banking, and credit management with some support and intervention; ( )

h. Use of public transportation, where available; ( )

i. Budgeting and shopping; ( )

j. Cooking; ( )

k. Punctuality, attendance, and other employment-related matters; ( )

l. Vocational planning and job finding skills; ( )

m. Wears clothing appropriate for the weather and activity; ( )

n. Takes own medication, as prescribed; ( )

o. Obtains and produces identification, as needed; and ( )

p. Travels to and from necessary destinations. ( )

310. CASE MANAGEMENT REPORTING REQUIREMENTS.

Each juvenile offender's progress or lack of progress must be clearly documented and be related to documented behavior. Recommendations for release from Department custody or transfer should be substantiated by a documented pattern of behavioral change over a period of time. Recommendations for transfer to a higher level of custody must be substantiated by a documented lack of progress over time, or by a serious or violent incident, which threatens the safety of others or the stability of the overall program. ( )

*01. **Service Implementation Plan**. Within ten (10) business days of the juvenile offender's admission into the program, a written service implementation plan must be developed. The service implementation plan must address the specific goals identified in the most recent progress report and reintegration plan from the sending facility or program. The service implementation plan must address the needs and areas in the reintegration plan. ( )*

*02. **Juvenile Offender and Family Involvement**. Each juvenile offender and, to the fullest extent possible, the family, should be involved in developing the service implementation plan and in adjusting that plan throughout the course of commitment. ( )*

*03. **Service Implementation Plan Adjustments**. The service implementation plan should be adjusted throughout placement with the concurrence of the juvenile services coordinator following communication with the community treatment team. Specifically, the service implementation plan should be adjusted as new needs are identified, as goals are achieved, and as plans for reintegration are finalized. ( )*

*04. **Participation in Staffings**. The Provider must participate in staffings with Department staff to discuss the juvenile offender's service implementation plan development and progress in treatment. ( )*

*05. **Participation in the Progress Assessment/Reclassification**. The Provider may be asked by the juvenile services coordinator to provide input necessary for periodic reassessments of the juvenile offender's progress and current risk level. In all cases, the Provider must participate to the fullest extent possible. ( )*

*06. **Progress Report**. A written progress report must be submitted to the juvenile services coordinator and any designees at least every month, and include current bank statements and reconciled monthly budget. The progress report should focus on areas of positive change in behavior and attitudes, as well as on the factors required for a successful program completion (progress in community protection, competency development, and accountability). Each progress report should also note any changes or further development of the service implementation plan and should detail the level of involvement of the parent or guardian in the juvenile's treatment. ( )*

*07. **Relapse Prevention Plan**. The Provider will receive a working copy of the juvenile offender's relapse prevention plan from the Department. The Provider must work with the juvenile to continue developing the relapse prevention plan provided, as the juvenile experiences increased exposure to the community. The Provider must send the final relapse prevention plan to the juvenile services coordinator and any designees prior to the juvenile offender's release from Department custody. ( )*

*08. **Final Progress Report**. A final progress report must be submitted to the juvenile services coordinator and any designees no earlier than fourteen (14) calendar days and no later than ten (10) calendar days prior to the juvenile offender's anticipated completion of the program. This report must include: ( )*

a. A current summary of the juvenile offender's progress; ( )

b. A summary of the efforts to reach the juvenile offender's goals and objectives, including education; ( )

c. Any unresolved goals or objectives; ( )

d. Recommendation for continuing services, including education, in the home community; and ( )

e. The current address of the juvenile. ( )

*09. **Report Distribution**. Copies of the service implementation plan, progress reports, relapse prevention plan, and final progress report must be distributed by the Provider to the juvenile offender and the juvenile services coordinator and any designees. The juvenile services coordinator will review and forward the progress report to the juvenile probation officer, appropriate court, and parent or guardian, unless the juvenile offender's family has been excluded from treatment by the juvenile services coordinator and the respective clinical supervisor for a well-documented reason. ( )*

311. OVERNIGHT COMMUNITY PASSES.

Any pass involving an overnight stay away from the program or residence, or involving special circumstances such as a sexual abuse victim in the home, requires a written plan detailing supervision and safety measures to be taken, an itinerary for the visit, transportation plan, and must be approved in writing five (5) business days in advance by the juvenile services coordinator. Each time a juvenile offender leaves on and returns from an overnight community pass, the Provider must notify the juvenile correctional center in Nampa of this movement, promptly at the time that the juvenile offender leaves and at the time he returns. ( )

*01. **Potential Risk to Public Safety**. If the pass is to the home of a parent or guardian, reintegration Providers must provide parents or guardians with clearly written guidelines for approved passes, which must be signed by parents or guardians indicating their understanding and willingness to comply with those guidelines. The Department's pass form may be used for this purpose. If the Department's form is not used, the form signed and agreed to by the individual assuming responsibility for supervision must contain at least the following information: ( )*

a. The juvenile offender's name and date of birth; ( )

b. The name, address, and telephone number of the individual assuming responsibility; ( )

c. Authorized days, dates, and times for the pass, including the specific date and time of departure and of return; ( )

d. A complete listing of the anticipated locations and activities in which the juvenile offender is expected to be involved; ( )

e. Specific plans for supervision and telephone checks to verify compliance with the pass conditions; ( )

f. A complete listing of the activities required during the pass; ( )

g. Specific stipulations prohibiting: ( )

i. The use of alcohol and drugs; ( )

ii. Involvement in any illegal activity, or association with others who may be or have been involved in illegal behavior; ( )

iii. Participation in sexual relations of any kind; ( )

iv. Possession of any kind of firearm or weapon; ( )

v. Any violation of the terms of probation; and ( )

h. Specific stipulations about search and drug testing upon return, and the possible consequences for violation of any of the terms of the pass agreement. ( )

02. Frequency. Frequency of passes must be consistent with the terms of the juvenile offender's reintegration plan and reintegration Provider's contract with the Department. ( )

03. Documentation. Documentation of the exact date and time of the juvenile offender's departure from the program for a pass, and his return, must be maintained along with complete information about the individual assuming physical custody, transportation, and supervision during the pass. ( )

312. ACTIVITIES.

01. Recreational Activities. A pass authorizing the participation of juvenile offenders in outdoor recreational or work activities with an increased risk or overnight trips must be signed by the juvenile services coordinator and juvenile probation officer prior to the activity. Any proposed activity that involves boating, rappelling, rock climbing, or higher risk activity must also have the prior approval, in writing, of the Department's regional superintendent. ( )

02. Staff Requirements for Group Activities. ( )

a. A basic first aid kit will be taken with the group. At least one (1) person certified in first aid and CPR must accompany the group. ( )

b. Swimming, boating, or rafting will only be allowed when a staff in attendance has certification in rescue and water safety or if a lifeguard is on duty. All juvenile offenders involved in boating or rafting activities must wear an approved personal flotation device. ( )

c. A staff to juvenile offender ratio of one to six (1:6) will be adhered to as a minimum unless there is a reason to require more staff. The risk level of the activity, as well as any physical disabilities, high client irresponsibility, or mental deficiencies are some reasons to consider additional staff. ( )

d. All participants will be recorded in the activity plan and identified as program clients, staff, or volunteers. The individual staff or volunteer satisfying the above first aid and CPR requirements must be identified in the plan. ( )

e. There will be no consumption of alcoholic beverages or illicit drugs by juvenile offenders, staff, volunteers, or interns. ( )

*03. **Consent Forms**. Recreational activities identified as presenting a higher risk require prior written approval in accordance with Subchapter A of these rules. Each juvenile offender must have prior written consent from the Department's regional superintendent including: ( )*

a. Permission for the juvenile offender's participation; ( )

b. Acknowledgment of planned activities; and ( )

c. Permission for the provider to seek or administer necessary medical attention in an emergency. ( )

*04. **Activity Reports**. At the conclusion of each overnight or high-risk recreational activity pass, the Provider must document in the juvenile offender's file and include in the progress report, any significant positive or negative events that transpired while the juvenile offender was on pass. Any unusual occurrences must be reported to the juvenile services coordinator and documented on an incident report as identified in Subchapter A of these rules. A drug screening urinalysis may be conducted on each returning juvenile offender, at the expense of the Provider, and the results of that exam reported to the juvenile services coordinator. ( )*

313. EDUCATION SERVICES.

*01. **Appropriate Services**. The Provider must ensure that each juvenile offender is given appropriate educational and vocational services that are consistent with the juvenile offender's abilities and needs, taking into consideration age, level of functioning, and any educational requirements specified by state or federal law. Providers must assure that educational services provided as a part of an overall program play an integral part in the process of reclaiming juvenile offenders to responsible roles in society. Educational services must strive to facilitate positive behavior change by helping juvenile offenders to develop abilities in academic, workplace, and technological areas; to restructure harmful or limiting cognitive patterns; and, to adopt appropriate social interactions skills. Educational services provided must use whatever combination of approaches and motivations that will best facilitate the learning process in conjunction with the service implementation plan. All educational services provided must meet all mandates of the Elementary Secondary Education Act (ESEA), the IDEA, the Family Educational Rights and Privacy Act (FERPA), and the Rehabilitation Act of 1973 (Section 504). ( )*

*02. **Mandatory Enrollment**. Providers must ensure that all juvenile offenders involved in their programs who are of mandatory school age in the applicable state, or who have not yet obtained a General Educational Development (GED) or high school diploma, are enrolled in a school system or in a program approved and certified by the applicable state's Department of Education to provide both special education and other services. For those who have obtained a GED or high school diploma, an appropriate educational and vocational service must be provided in accordance with the service implementation plan. ( )*

314. PROVISION OF MEDICAL SERVICES.

*01. **Medical Care**. Each juvenile offender must be provided with medical, dental, optical, mental health, emergency or any other related health services while in the Provider's care. Each Provider must have access, on a twenty-four (24) hour basis, to a licensed general hospital, clinic or physician, psychiatrist, and dentist to provide juvenile offenders with professional and qualified medical or mental health services, including medications. The Provider must coordinate services and assist juvenile offenders in interpreting and complying with any follow up care as requested by healthcare provider. Any time a juvenile offender receives treatment under this section or for any health related service, a copy of any medical or dental assessments, treatments, test results, and follow up care must be forwarded to the Department's regional R.N. ( )*

*02. **Medical Consent**. As part of the admission process, the Provider must have a copy of the Department's Release of Information and Consent form signed by a juvenile offender over eighteen (18) years of age. The consent form must be filed in the juvenile offender's case file maintained by the Provider. ( )*

*03. **Emergency Medical Treatment**. In cases of emergency medical treatment requiring signed*

authorization for juveniles in the custody of the Department, the authorization may be signed by the Department's regional R.N., or designee. This does not restrict the Provider from taking action in life and death situations. ( )

***04. Reimbursement Sources**. The Provider must utilize private insurance or Medicaid, if available, for funding medical, dental, optical, mental health, or related services, and pharmaceutical products for any juvenile offender. The Provider may not seek reimbursement from private insurance or Medicaid for health services that are the fiscal responsibility of the Provider pursuant to its contract with the Department. Any health services not listed in these rules, other than emergency treatment, which was not approved in advance by the Department's regional R.N., or designee, will be at the expense of the Provider. ( )*

315. ADMISSION HEALTH SERVICES AND TREATMENT RECORDS.

***01. Prior Approval**. Prior approval or review from the Department's regional R.N. is required for all non-routine health services, other than emergency services. Prior approval may be given for up to five (5) routine, pre-scheduled medical appointments. ( )*

***02. Medical Records**. The Provider must assist the juvenile offender in organizing medical information, instructions, prescriptions, and any necessary follow up papers in a designated medical folder. Any time a juvenile offender receives treatment under this section or for any health related service, the Provider must retain the original medical record and immediately send a copy to the Department's regional R.N. ( )*

***03. Medical Billing**. For uninsured juveniles, the Provider will notify the health care provider to submit medical bills directly to the Department's regional R.N. that approved the provision of services. ( )*

316. PRIVACY OF MEDICAL RECORDS AND INFORMATION.
To the extent the Provider has medical information, confidentiality of personal health information of each juvenile offender must be maintained in accordance with the Privacy Regulations promulgated under HIPAA or, if more stringent, the laws of the applicable state. Compliance with these regulations is the responsibility of the Provider. Staff may be provided information about a juvenile offender's medical condition only when that knowledge is necessary for the performance of their job duties. ( )

***01. Privacy Officer**. The Provider must appoint a privacy officer to oversee that the control and maintenance of all juvenile offender health and medical records is in compliance with the federal Privacy Regulations, 45 Code of Federal Regulations Sections 160 and 164. ( )*

***02. Separate Records**. All juvenile offender medical and health records must be kept in files that are physically separated from other juvenile offender files and information, and under a system of security against unauthorized access. ( )*

317. NOTIFICATION OF CRITICAL HEALTH INCIDENTS.
The Provider must immediately report critical medical and mental health incidents according to Subchapter A of these rules. ( )

318. INFECTIOUS DISEASES.

***01. Policies**. The Provider must establish policies and procedures for serving juvenile offenders with infectious diseases such as tuberculosis, hepatitis, and HIV or AIDS. These policies and procedures should address the management of infectious diseases, provide an orientation for new staff and juvenile offenders concerning the diseases, and ongoing education for staff and juvenile offenders regarding these diseases. Policies and procedures should be updated as new information becomes available. Individual health information or counseling will be made available by a medical health professional for juvenile offenders diagnosed with an infectious disease. ( )*

***02. HIV Testing**. In accordance with law, a juvenile offender over age fourteen (14) may request that he be tested for the presence of HIV. Any such juvenile offender requesting to be tested should be taken to a public health facility or, if available, a facility which accepts Medicaid reimbursement for administration of the test. ( )*

***03. Examinations**. Examinations must be performed by medical professionals on any juvenile offender*

for all symptomatic cases of communicable diseases such as tuberculosis, ova and parasites, infectious hepatitis, and sexually transmitted diseases. Juvenile offenders will be tested and, if indicated, treated. ( )

***04. Notifications**. The Provider must notify the Department's regional R.N. within three (3) business days of any positive test results, treatment recommendations, and follow up care. ( )*

319. PREGNANCY.

***01. Individual Medical Plan**. Within the individual medical plan, specific goals and objectives will be developed when a pregnancy has been diagnosed. The plan must be based on the orders of the juvenile offender's licensed healthcare provider and include special care, location for delivery, a plan for infant care upon delivery, regular medical check-ups, and special dietary and recreational needs. At no time may the infant remain in the Provider's facility. A copy of the individual medical plan will be sent to the Department's regional R.N. ( )*

***02. Parenting Classes**. Parenting classes must be an integral part of the individual medical plan for all pregnant female juvenile offenders. This service should also be offered as a priority to male juvenile offenders in Department custody who are already fathers or whose spouse or girlfriend is expecting a child. ( )*

***03. Medicaid Reimbursement**. Medical services relating to pregnancy must be provided by a licensed healthcare provider and facility accepting Medicaid reimbursement, unless medical expenses are paid by the juvenile offender's family. ( )*

320. REFUSAL OF TREATMENT.
Refusal of medications or treatment recommended by a physician for three (3) consecutive days requires immediate notification to the Department's regional R.N. according to Subchapter A of these rules. ( )

***01. Refusal of Recommended Treatment by Physician**. If a juvenile offender chooses to refuse treatment or medication recommended by a physician, the juvenile offender must sign a detailed statement refusing this care. A Provider staff member must witness the juvenile offender's signature. This refusal form will be filed in the juvenile offender's medical record and a copy sent to the Department's regional R.N. within twenty-four (24) hours. ( )*

***02. Where Refusal Poses Significant Risk**. If a juvenile offender refuses a treatment or medication for a condition that poses a significant risk of death or permanent physical impairment, the Provider must ensure the juvenile receives immediate medical attention. The Provider will notify the Department's regional R.N. by phone as soon as possible. ( )*

321. USE OF MEDICATIONS.
The Provider must have written policies and procedures governing the use and administration of medication to juvenile offenders that conform to all applicable laws and regulations including, but not limited to, those of the Idaho Department of Health and Welfare or the applicable state's licensing authority. ( )

***01. Medication Management Upon Arrival**. If the juvenile offender is taking medication, the Provider must schedule an initial medication management appointment for the juvenile offender within five (5) business days of arrival into the program. ( )*

***02. Notification**. If initiating or modifying any medication, the Department's regional R.N. must be notified of the following: ( )*

***a.** The name of the prescribed medication; ( )*

***b.** The name and phone number of the prescribing doctor, nurse practitioner, or physician's assistant; and ( )*

***c.** The reason the medication is being prescribed. ( )*

322. – 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to following sections of Idaho Code:

I.C. § 39-4107	I.C. § 39-8605	I.C. § 54-1006	I.C. § 54-5004
I.C. § 39-4109	I.C. § 44-2102	I.C. § 54-2601	I.C. § 54-5005
I.C. § 39-4112	I.C. § 44-2104	I.C. § 54-2605	I.C. § 55-2203
I.C. § 39-4302	I.C. § 44-2201	I.C. § 54-2606	I.C. § 55-2211
I.C. § 39-4303	I.C. § 44-2504	I.C. § 54-1907	I.C. § 67-2601A
I.C. § 39-8007	I.C. § 54-1005	I.C. § 54-4510	

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 07, rules of the Division of Building Safety:

- 07.03.09, *Rules Governing Manufactured Homes - Consumer Complaints - Dispute Resolution*;
- 07.03.13, *Rules Governing Mobile Home Rehabilitation*;
- 07.06.01, *Rules Governing Uniform School Building Safety*; and
- 07.08.01, *Idaho Minimum Safety Standards and Practices for Logging*.

This pending rule vacates the following proposed rules previously promulgated as part of the omnibus proposed rulemaking under IDAPA 07, rules of the Division of Building Safety:

- ***(VACATED)*** 07.01.01, *Rules Governing Electrical Permits and Inspections*
- ***(VACATED)*** 07.01.04, *Rules Governing Limited Electrical Licensing and Registration*
- ***(VACATED)*** 07.01.05, *Rules Governing Examinations*
- ***(VACATED)*** 07.01.06, *Rules Governing the Use of National Electrical Code*
- ***(VACATED)*** 07.01.07, *Rules Governing Continuing Education Requirements*
- ***(VACATED)*** 07.01.08, *Rules Governing Electrical Inspection Appeals*
- ***(VACATED)*** 07.01.10, *Rules Governing Certification and Approval of Electrical Products and Materials*
- ***(VACATED)*** 07.02.04, *Rules Governing Plumbing Safety Inspections*
- ***(VACATED)*** 07.02.05, *Rules Governing Plumbing Safety Licensing*
- ***(VACATED)*** 07.02.06, *Rules Concerning the Idaho State Plumbing Code*
- ***(VACATED)*** 07.04.01, *Rules Governing Safety Inspections – General*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 793–922**. Amendments to the chapters identified in this notice were made consistent with Executive Orders **2019-01** and **2019-02** related to the Licensing Freedom Act and the Red Tape Reduction Act. Amendments made to the rulemakings included revision to eliminate unnecessary, outdated, or duplicative rule provisions, or to simplify or reformat (consolidate) rules.

Specifically, this pending rule vacates the proposed rules for the following chapters: IDAPA 07.01.01, “Rules

Governing Electrical Permits and Inspections"; 07.01.04, "Rules Governing Limited Electrical Licensing and Registration"; 07.01.05, "Rules Governing Examinations"; 07.01.06, "Rules Governing the Use of National Electrical Code"; 07.01.07, "Rules Governing Continuing Education Requirements"; 07.01.08, "Rules Governing Electrical Inspection Appeals"; and 07.01.10, "Rules Governing Certification and Approval of Electrical Products and Materials." These chapters are being consolidated into a new, renamed Chapter 07.01.01, "Rules of the Idaho Electrical Board." The proposed rules for that rulemaking are contained in docket number 07-0101-1901, published in the Idaho Administrative Bulletin, September 4, 2019 – **Vol. 19-9, pages 132–154**.

Further, this pending rule vacates the proposed rules for IDAPA chapters 07.02.04, "Rules Governing Plumbing Safety Inspections," 07.02.05, "Rules Governing Plumbing Safety Licensing," and 07.02.06, "Rules Concerning the Idaho State Plumbing Code." These chapters are being consolidated into a renamed chapter 07.02.02, "Rules Governing Plumbing." The pending rules for that rulemaking are contained in Docket Number 07-0000-1900F. Additionally, this pending rule vacates the proposed rule for 07.04.01, "Rules Governing Safety Inspections – General."

The Division of Building Safety rules are necessary to ensure that properly qualified persons continue to practice in the professions over which the Division exercises regulatory authority, and that the installations made in the various trades and professions related thereto, and other applicable construction work, is performed safely and in accordance with laws, codes, standards, and processes that protect the safety and welfare of the public.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patrick Grace, Regional Manager at (208) 332-7120.

Dated this 8th day of October, 2019.

Chris Jensen
Administrator
Division of Building Safety
1090 E. Watertower St., Ste 150
Meridian, ID 83642
(208) 332-7100

07.03.09 – RULES GOVERNING MANUFACTURED HOMES – CONSUMER COMPLAINTS – DISPUTE RESOLUTION

000. LEGAL AUTHORITY.
The *Factory Built Structures* Advisory Board of the Division of Building Safety is authorized under Section 44-2102(4), Idaho Code, to promulgate rules concerning establishment of dispute resolution programs. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.03.09, "Rules Governing Manufactured Homes – Consumer Complaints – Dispute Resolution." (4-6-05)

02. Scope. These rules establish a program for the timely resolution of disputes between manufacturers, retailers and installers of manufactured homes in order to comply with Federal Housing and Urban Development regulations within 42 U.S.C. Section 5422(c)(12). (4-6-05)

002. -- 011. (RESERVED)

012 COMPLAINTS.

01. Inquiry. Complaints may be initiated by the consumer and directed to the Division of Building Safety in writing. *( )*

02. Statute of Limitations. Complaints *are to* be reported *on forms provided by the Division* within one (1) year following the date of initial home installation *in order to be* eligible for this dispute resolution process. *( )*

013. INVESTIGATION.

01. Site Inspection. *Upon review of t*he completed complaint form, the Division *may perform a site inspection,* based on the nature of the complaint or upon request of the *complainant*. *( )*

02. Inspectors. The site inspection may have only the Division inspector and consumer present, at the consumer's request, or, if there is a dispute between the manufacturer, installer, or dealer, the inspection will be coordinated to include all involved parties. (4-6-05)

03. Costs. (4-6-05)

a. A site inspection made upon a consumer's request that involves issues concerning a defect as defined by HUD is conducted at no cost to the consumer. (4-6-05)

b. A charge for mileage to and from the inspection site, plus an hourly charge for the time spent conducting the inspection, is assessed the manufacturer, installer, or dealer if a site inspection is made upon a request by the manufacturer, installer, or dealer, and does not involve a serious defect or imminent safety hazard. (4-6-05)

04. Inspection Report. Following a site inspection, the inspector will prepare a final report and include photographs. *( )*

05. Complaint Determination. *Following an* investigation, a determination is made *regarding* the complaint *along with any* follow-up *required by* HUD guidelines. *( )*

014. ACTION.
A notification letter and copies of the complaint form and investigation findings may be provided to all involved parties and HUD. *( )*

01. Division Action. *Any* Division action, notification and follow-up are completed according to HUD guidelines. *( )*

02. License File. If the nature of the complaint pertains to *retailer* contractual issues or installation problems, a copy of the complaint is to be consolidated with the appropriate *Division* license files. *( )*

03. Correction or Repair. A Division building inspector must issue a report concerning correction or

repair of defects that are a matter of dispute between the homeowner, *retailer*, installer, or manufacturer. The report will include the likely cause of the defect and identify the party responsible for creating the defect that is in need of correction or repair. *( )*

015. DECISIONS - APPEALS - INFORMAL DISPOSITION.

01. Decisions. The Administrator will review the inspector's report and set forth the required corrective action and identify the party responsible for such action. The Administrator may initiate a contested case proceeding if, in his sole discretion, *he* determines that such a proceeding or further investigation would be of assistance in reaching a decision. The decision must direct the responsible party to complete the required corrective action within specified timelines and consider the needs of the involved parties including, but not limited to, safety, anticipated expense and availability of funds, time of year, and convenience to the parties. *( )*

02. Appeals. Decisions of the administrator are final orders for purposes of appeal. (4-6-05)

03. Informal Disposition -- Arbitration -- Mediation. Unless otherwise prohibited by other provisions of law, informal disposition may be made of any complaint by negotiation, stipulation, agreed settlement, and consent order. The parties may agree to enter into binding arbitration or mediation. Informal settlement of matters is to be encouraged. (4-6-05)

016. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Section 44-2504, Idaho Code, the administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapter 25, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.03.13, "Rules Governing Mobile Home Rehabilitation." ( )

02. Scope. These rules apply to the rehabilitation of mobile homes constructed prior to June 15, 1976, intended for relocation in Idaho requiring an installation permit pursuant to Section 44-2202, Idaho Code. ( )

a. Before a permit for the installation of the mobile home may be issued, the home must meet the rehabilitation requirements specified in this chapter and receive a certificate of compliance from the administrator of the Division. (7-1-99)

b. Upon submission of the rehabilitation form required pursuant to Section 44-2504, Idaho Code, and any other information required by the administrator to establish compliance with this chapter, the administrator issues a certificate of compliance to the homeowner. The certificate must be presented to the local jurisdiction before a permit for the installation of the home may be issued. ( )

c. Upon receipt of the certificate, the local jurisdiction issues the installation. No zoning, ordinance or policy of the local jurisdiction may prohibit the relocation or installation of a mobile home for which a certificate of compliance has been issued in accordance with this rule. ( )

002. -- 003. (RESERVED)

004. DEFINITIONS.

01. Administrator. The administrator of the Division of Building Safety for the state of Idaho. (7-1-99)

02. Division. The Division of Building Safety for the state of Idaho. (7-1-99)

03. Local *Jusrisdiction*. A city or county within Idaho that has enacted ordinances that regulate the siting or installation of mobile homes.

04. Mobile Home. A structure similar to a manufactured home, but built to a mobile home code prior to June 15, 1976, the date of enactment of the federal Manufactured Housing and Safety Standards Act (H.U.D. code). (7-1-99)

005. -- 010. (RESERVED)

011. REHABILITATION REQUIREMENTS.
The mobile home must meet the following rehabilitation requirements: (7-1-99)

01. Smoke Detectors. A smoke detector (which may be a single station alarm device) must be installed on any wall in a hallway or space communicating with each bedroom area and the living area on the living area side and, when located in a hallway, the detector must be between the return air intake and the living area. Each smoke detector must be installed in accordance with its listing and the top of the detector must be located on a wall four (4) inches to twelve (12) inches below the ceiling. The detector may be battery powered or may be connected to an electrical outlet box by a permanent wiring method into a general electrical branch circuit, without any switch between the over current protection device protecting the branch circuit and the detector. (7-1-99)

02. Gas Furnace and Water Heater Compartment Protection. The walls, ceilings and doors of each compartment containing a gas-fired furnace or water heater must, as a minimum, be lined with five-sixteenth (5/16) inch gypsum board, unless the compartment access door opens to the exterior of the home, in which case, the door may be all metal construction. All exterior compartments must seal to the interior of the mobile home. (7-1-99)

03. Egress From Sleeping Areas. Each room designated expressly for sleeping purposes must have an

exterior exit door or at least one (1) outside egress window or other approved exit device with a minimum clear dimension of twenty-two (22) inches and a minimum clear opening of five (5) square feet. The bottom of the exit must not be more than thirty-six (36) inches above the floor. (7-1-99)

04. Electrical System Testing. All electrical systems must be tested for continuity to assure that metallic parts are properly bonded, tested for operation to demonstrate that all equipment is connected and in working order, and given a polarity check to determine that connections are proper. The electrical system must be properly protected for the required amperage load. If the unit wiring is of aluminum conductors, all receptacles and switches rated twenty (20) amperes or less directly connected to the aluminum conductors must be marked CO/ALR. Exterior receptacles other than heat tape receptacles must be of the ground fault circuit interrupter (GFI) type. Conductors of dissimilar metals (copper/aluminum or copper clad aluminum) must be connected in accordance with Section 110-14 of the National Electrical Code. (7-1-99)

05. Gas System Testing. The mobile home's gas piping must be tested with the appliance valves removed from the piping system and piping capped at those areas. The piping system must withstand a pressure of at least six (6) inch mercury or three (3) psi gauge for a period of not less than ten (10) minutes without showing any drop in pressure. Pressure must be measured with a mercury manometer or a slope gauge calibrated so as to read in increments of not greater than one-tenth (1/10) pound or an equivalent device. The source of normal operating pressure must be isolated before the pressure test is made. After the appliance connections are reinstalled, the piping system and connections must be tested with line pressure of not less than ten (10) inches nor more than fourteen (14) inches water column air pressure. The appliance connections must be tested for leakage with soapy water or a bubble solution. All gas furnaces and water heaters must be vented to the exterior in accordance with the latest state adopted mechanical code. (7-1-99)

06. Water System Testing. A full water or air pressure test will be performed on the mobile home's water and sewer system. (7-1-99)

a. Water piping must be tested and proven tight under a water pressure not less than the working pressure under which it is to be used. The water used for tests must be obtained from a potable source of supply. A fifty (50) pound per square inch (344.5kPa) air pressure may be substituted for the water test. In either method of test, the piping must withstand a test without leaking for a period of not less than fifteen (15) minutes. (7-1-99)

b. A water test must be applied to the drainage and vent system either in its entirety or in sections. If applied to the entire system, all openings in the piping must be tightly closed, except at the highest opening, and the system filled with water to the point of overflow. If the system is tested in sections, each opening must be tightly plugged except the highest opening of the section under the test and each section must be filled with water, but no section must be tested with less than a ten (10) foot head of water. In testing successive sections, at least the upper ten (10) feet of the next preceding section must be tested, so that no joint or pipe in the structure, except the uppermost ten (10) feet of the system, must have been submitted to a test of less than a ten (10) foot head of water. The water must be kept in the system or in the portion under testing for at least fifteen (15) minutes before inspection starts. The system must be tight at all points. (7-1-99)

07. Requirements for Obtaining Certificates of Compliance. All repairs or other work necessary to bring the mobile home into compliance with requirements of this section must be completed before a certificate of compliance may be issued by the Division. (7-1-99)

012. REHABILITATION FORM AND CHECKLIST -- COMPLIANCE CERTIFICATE.

01. Rehabilitation Checklist. The rehabilitation form will be completed and signed by an authorized representative of an Idaho licensed manufactured home installer or *retailer* holding an installer's license. Electrical, gas, water and sewer inspections and any necessary repairs must be performed by a person or company properly licensed and authorized to perform the work *in* Idaho *and identified* on the rehabilitation form. Inspections means testing of the various electrical, gas, water and sewer systems. A properly completed rehabilitation form must be presented to the Division before a certificate of compliance may be issued. *( )*

02. Rehabilitation Checklist and Compliance Certification Form. The following is the official rehabilitation checklist and compliance certificate: (7-1-99)

DIVISION OF BUILDING SAFETY
Manufactured Housing Section
1090 E Watertower St Ste 120
Meridian, ID 83642
FAX : 208-855-9399

FOR DIVISION USE ONLY
Compliance Certificate Issued
By: _____
Title: _____
Date: _____

MOBILE HOME REHABILITATION CHECKLIST -- COMPLIANCE CERTIFICATE (TITLE 44 CHAPTER 25 IDAHO CODE)

These rehabilitation/testing requirements are applicable only to non-HUD mobile homes manufactured prior to June 15, 1976. Separate permits and inspections may be required for any repairs made to plumbing or electrical systems. Additional permits may be required by the local authority having jurisdiction in order to do any work or make any repairs on the mobile home not involving plumbing or electrical systems. Check with your local building department to determine the need for permits and inspections before initiating any repair work or before installing your mobile home at a new site.

The undersigned installer/service company representatives, electrical or plumbing contractors attest and verify that rehabilitative repairs and testing have been completed in accordance with Title 44 - Chapter 25 Idaho Code:

1. Smoke Detection
   _____ DBS Licensed Installer/Service Co. Rep. | _____ Installer/Service Co. License # | _____ Date

2. Egress Windows/Exterior Exit Doors From All Sleeping Areas
   _____ DBS Licensed Installer/Service Co. Rep. | _____ Installer/Service Co. License # | _____ Date

3. Fire Protection of Gas Water Heater/ Furnace Compartments
   Home is equipped with gas water heater or furnace. _____ Yes _____ No

   Verified or Repaired By
   _____ DBS Licensed Installer/Service Co. Rep. | _____ Installer/Service Co. License # | _____ Date

4. Gas System Testing/Repairs
   Home has gas appliances _____ Yes _____ No

   If Yes, Testing Performed By
   _____ DBS Licensed Installer/Srvc Co. Or HVAC Contractor | _____ License # | _____ Date | _____ Gas Utility | _____ Date

   Repairs (If Required) Made By
   _____ DBS Licensed Installer/Service Co. Rep. Or Licensed HVAC Contractor | _____ License # | _____ Date

5. Electrical System Testing Performed By
   _____ DBS Licensed Electrical Contractor | _____ License # | _____ Date

   Repairs (If Required) Made By
   _____ DBS Licensed Electrical Contractor | _____ License # | _____ Permit # | _____ Date

6. Water/DWV System Test Performed By
   _____ DBS Licensed Plumbing Contractor | _____ License # | _____ Date

   Repairs (If Required) Made By
   _____ DBS Licensed Plumbing Contractor | _____ License # | _____ Permit # | _____ Date

NAME ON TITLE: _____ HOME VIN #: _____
HOMEOWNER NAME: _____ TELEPHONE: _____
HOMEOWNER MAILING ADDRESS: _____
LOCATION OF HOME AT TIME OF REHABILITATION/TESTING: _____

MAIL OR FAX COMPLETED FORM TO THE DIVISION ADDRESS LISTED AT THE TOP OF THIS FORM

MHRF-1
12/07R

013. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Administrator of the Division of Building Safety is authorized under Section 39-8007, Idaho Code, to promulgate rules concerning the enforcement and administration of the Idaho Uniform School Building Safety Act. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.06.01, "Rules Governing Uniform School Building Safety." (3-15-02)

02. Scope. These rules prescribe the Idaho Uniform School Building Safety Code and provide for enforcement and administration of the Idaho Uniform School Building Safety Act by the Administrator of the Division. (3-15-02)

002. INCORPORATION BY REFERENCE.

01. Uniform Codes. The following uniform codes are hereby incorporated by reference into these rules as, and insofar as, the most recent editions have been adopted by the appropriate governing authority for the state of Idaho pursuant to *applicable* Idaho Code: *( )*

a. International Building Code; (3-29-10)

b. International Mechanical Code; (3-29-10)

c. International Fuel Gas Code; (3-29-10)

d. Safety Code for Elevators and Escalators (ASME/ANSI A17.1); (3-29-10)

e. International Energy Conservation Code; (3-29-10)

f. Accessible and Usable Buildings and Facilities (ICC/ANSI A117.1); (3-29-10)

g. *Idaho* Fire Code (IFC); *( )*

h. National Electrical Code (NEC); (3-29-10)

i. *Idaho State* Plumbing Code (UPC); *( )*

j. Pacific NW AWWA Manual for Backflow Prevention and Cross Connection Control; and (3-29-10)

k. Idaho Safety and *Occupational* Health Standards. *( )*

02. Idaho Uniform School Building Safety Code. The codes set forth in Subsection 004.01 of this rule, together with the definitions contained therein and the written interpretations thereof, insofar as they are applicable to school facilities, constitute the Idaho Uniform School Building Safety Code. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. The Idaho Uniform School Building Safety Act, Section 39-8001, et seq., Idaho Code. (3-15-02)

02. Administrator. The Administrator of the Division of Building Safety for the state of Idaho. (3-15-02)

03. Building Code. The Building Code specified in Paragraph 004.01.a. of these rules. (4-6-05)

04. Code. The Idaho Uniform School Building Safety Code. (3-15-02)

05. Division. The Idaho Division of Building Safety. (3-15-02)

06. Imminent Safety Hazard. A condition that presents an unreasonable risk of death or serious bodily injury to occupants of a building. (3-15-02)

07. School Building or Building. Any school building, including its structures and appurtenances necessary for the operation of the school building, and subject to the provisions of the Act. (3-15-02)

08. Serious Safety Hazard. A condition that presents an unreasonable health risk or risk of injury to occupants of a building. (4-6-05)

011. -- 049. (RESERVED)

050. VIOLATION OF CODE.

01. Duty to Act. The Administrator must immediately undertake the steps set forth in the Act whenever he finds a violation of the Code. (3-15-02)

02. Imminent Safety Hazard. Code violations that constitute an imminent safety hazard, include, but are not limited to, *whenever* the following *are observed*: *( )*

a. Any door, aisle, passageway, stairway or other means of exit is not of sufficient width or size or is not so arranged as to provide safe and adequate means of exit in case of fire or panic; (3-15-02)

b. The walking surface of any aisle, passageway, stairway or other means of exit is so warped, worn, loose, torn or otherwise unsafe as to not provide safe and adequate means of exit in case of fire or panic; (3-15-02)

c. The stress in any materials, member or portion thereof, due to all dead and life loads, is more than one and one half (1-1/2) times the working stress or stresses allowed in the Building Code for new buildings of similar structure, purpose or location; (3-15-02)

d. Any portion thereof has been damaged by fire, earthquake, wind, flood or by any other cause, to such an extent that the structural strength or stability thereof is materially less than it was before such catastrophe and is less than the minimum requirements of the Building Code for new buildings of similar structure, purpose or location; (3-15-02)

e. Any portion or member or appurtenance thereof is likely to fail, or to become detached or dislodged, or to collapse and thereby injure persons or damage property; (3-15-02)

f. Any portion of a building, or any member, appurtenance or ornamentation on the exterior thereof is not of sufficient strength or stability, or is not so anchored, attached or fastened in place so as to be capable of resisting a wind pressure of one-half (1/2) of that specified in the Building Code for new buildings of similar structure, purpose or location without exceeding the working stresses permitted in the Building Code for such buildings; (3-15-02)

g. Any portion thereof has wracked, warped, buckled or settled to such an extent that walls or other structural portions have materially less resistance to winds or earthquakes than is required in the case of similar new construction; (3-15-02)

h. The building or structure, or any portion thereof, because of: (3-15-02)

i. Dilapidation, deterioration or decay; (3-15-02)

ii. Faulty construction; (3-15-02)

iii. The removal, movement or instability of any portion of the ground necessary for the purpose of supporting such building; (3-15-02)

iv. The deterioration, decay or inadequacy of its foundation; or (3-15-02)

v. Any other cause, is likely to partially or completely collapse; (3-15-02)

i. Any building or structure has been constructed, exists or is maintained in violation of any specific requirement or prohibition applicable to such building or structure provided by the building regulations of this jurisdiction, as specified in the Building Code, or of any law or ordinance of this state or jurisdiction relating to the condition, location or structure of buildings; (4-6-05)

j. Any building or structure which, whether or not erected in accordance with all applicable laws and ordinances, has in any nonsupporting part, member or portion less than fifty percent (50%), or in any supporting part, member or portion less than sixty-six percent (66%) of the: (3-15-02)

i. Strength; (3-15-02)

ii. Fire-resisting qualities or characteristics; or (3-15-02)

iii. Weather-resisting qualities or characteristics required by law in the case of a newly constructed building of like area, height and occupancy in the same location; (3-15-02)

k. Any building or structure, because of obsolescence; dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections or heating apparatus; or other cause, is determined by the state fire marshal to be a fire hazard; (3-15-02)

l. A building or structure, because of inadequate maintenance; dilapidation; decay; damage; faulty construction or arrangement; inadequate light, air or sanitation facilities; or otherwise, is determined to be unsanitary, unfit for human occupancy or habitation, or in such a condition that is likely to cause accidents, sickness, or disease; (3-15-02)

m. Any building or structure, because of dilapidated condition; deterioration; damage; inadequate exits; lack of sufficient fire-resistive construction; faulty electric wiring, gas connections, or heating apparatus; or other cause, is determined by the state fire marshal to be a fire or life safety hazard; and (3-15-02)

n. There is, within the building, the presence of vapors, fumes, smoke, dusts, chemicals, or materials in any form (natural or man made) in quantities that have been established by national health organizations to be a threat to the health or safety of the building occupants. This does not include materials stored, used, and processed in accordance with nationally recognized safety standards for the materials in question. (3-15-02)

051. -- 999. (RESERVED)

Subchapter A – General Provisions
(Rules 000 - 050)

000. LEGAL AUTHORITY.
Pursuant to the provisions of Section 67-2601A, Idaho Code, the Division of Building Safety has the authority to promulgate and adopt rules for affecting the purposes therein. ( )

001. TITLE AND SCOPE.
These rules are titled IDAPA 07.08.01, "Idaho Minimum Safety Standards and Practices for Logging," and are applicable to the logging industry in the state of Idaho. ( )

002. -- 006. (RESERVED)

007. DEFINITIONS A THROUGH C.
Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. ( )

01. **Administrator**. The Administrator of the Division of Building Safety. ( )

02. **A-Frame**. A structure made of the independent columns (of wood or steel) fastened together at the top and separated a reasonable width at the bottom to stabilize the unit from tipping sideways. ( )

03. **Approved**. The term approved means approved by the Division of Building Safety. ( )

04. **Arch**. A piece of equipment attached to the rear of a vehicle, used for raising one end of logs to facilitate skidding. ( )

05. **Division**. The Division of Building Safety. ( )

06. **Back Cut**. The final falling cut. ( )

07. **Barber Chair**. Slab portion of tree remaining on the stump above the back cut due to improper falling. ( )

08. **Bell or Cup Hook with Spike**. A hook consisting of a cylindrical cup from whose center there projects a spike. ( )

09. **Bight**. The loop of a line, the ends being "gast" elsewhere, or the angle formed by a line running through a block. ( )

10. **Binder**. Chain, cable, or steel strap used for binding loads of logs. ( )

11. **Blasting Cap**. A metal shell containing a detonating compound. ( )

12. **Brailling**. One (1) section of flat log raft enclosed by boom sticks. To place logs end to end in a long flat raft or boom. ( )

13. **Brow Log**. A log placed parallel to any roadway at a landing or dump to protect vehicles while loading or unloading. ( )

14. **Bullbuck**. The supervisor over cutting crew. ( )

15. **Buckle Guy Line**. Line used to stiffen or support a tree, pole, or structure between the top guys and the base. ( )

16. **Bunk**. The cross support for logs on a logging car or truck. ( )

17. **Butt Hook**. Hook at the end of a haul-in line for attaching chokers to line. ( )

18. **Butt Rigging**. Arrangement at the end of main line for attaching chokers. ( )

19. **Cable-Assisted Logging Systems**. Logging systems, including, but not limited to, winch-assisted, cable-assisted, tethered, and traction-assisted systems that enable ground-based timber harvesting machines, including, but not limited to, feller bunchers, harvesters, loaders and shovels, to be operated on slopes. ( )

20. **Capped Fuse**. A piece of fuse to which a blasting cap has been crimped. ( )

21. **Carriage Logging**. A type of high lead logging using gravity, haul back, or remote control carriages to yard logs. (Bullet carriage is one type). ( )

22. **Cat Road**. A tractor road. ( )

23. **Chaser**. The member of the yarding crew who unhooks the logs at the landing or fights hang-ups on skid road. ( )

24. **Chipper**. A machine that cuts materials into chips. ( )

25. **Chock (Bunk Block-Cheese Block)**. A wedge that prevents logs from rolling off the bunks. ( )

26. **Cheater**. An extension to bunk stakes. ( )

27. **Choker**. A wire rope with special attachments put around the log near the end for hauling or lifting. ( )

28. **Cold Deck**. Any pile of logs that is yarded and left for future removal. ( )

29. **Cold Shut**. A link for joining two (2) chains, the link being closed cold with a hammer, not a weld. ( )

30. **Competent Person**. An individual who is capable of identifying existing and predictable hazards in the work site surroundings or working conditions that are unsanitary, hazardous or dangerous to employees, and who has authorization to take prompt corrective measures to eliminate such. ( )

31. **Connecting Wires**. Those wires that connect the leg wire of one (1) electric blasting cap or with the leading wires, when blasting in series. ( )

32. **Crotch Line**. Two (2) short lines attached to a hoisting line by means of a ring or shackle, the lower ends being attached to loading hooks and used for loading or unloading. ( )

33. **Cutter**. A term used to designate faller or bucker. ( )

008. DEFINITIONS D THROUGH I.

Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. ( )

01. **D or Strap Socket**. A socket with a closed loop and arranged to be attached to the end of a line. It is used in place of a spliced eye. ( )

02. **Dead Man**. A buried log or other object used as an anchor. ( )

03. **Detonator**. A blasting cap, electric blasting cap, or delay electric blasting cap. ( )

04. **Dog Line**. Any line used to tie logs together. ( )

05. **Donkey (Short for "Donkey Engine")**. Power equipment equipped with drum and cable for moving or transporting logs as in loading or yarding. ( )

06. **Drag-Turn**. Any log or group of logs attached by some means of power and moved from a point of rest. ( )

07. **Equipment**. The term, as used, means and include all machines, machinery, tools, devices, safeguard, and protective facilities used in connection with logging operations, regardless of ownership. ( )

08. **Explosive**. Any chemical compound or mechanical mixture commonly used that contains any oxidizing and combustible units, or other ingredients, in such proportions, quantities or packing that an ignition by fire, friction concussion, percussion, or detonator of any part of the compound or mixture may cause such a sudden generation of highly heated gases that the resultant gaseous pressures are capable of producing destructive effects on contiguous objects or destroying life or limb. . ( )

09. **Exposed to Contact**. Means the location of a hazardous object is so accessible that a workman may, in the course of his employment, come into contact with the object. ( )

10. **Fair Lead**. A combination of a pair of sheaves or roller set transversely or vertically in a unit in front of another pair of sheaves to guide a line coming from any direction and leading it properly to a drum. ( )

11. **Gin Pole**. A raised pole properly guyed and used to support lines and blocks. ( )

12. **Grapple**. A device attached to a hoisting line for mechanically handling logs. ( )

13. **Guarded**. Guarded means covered, shielded, or railed so as to remove the possibility of dangerous contact or approach by employees or objects. It further means construction of guards to ensure protection from flying objects where applicable. ( )

14. **Gut Wrapper**. An intermediate binder for an individual tier of logs. ( )

15. **Guy Lines**. The lines used to stay or support spar trees, booms, etc. ( )

16. **Haul Back**. A small wire line traveling between the power skidder and a pulley set near the logs. Used to return the main cable with tongs, chokers, or hooks to the next log. ( )

17. **Hazard**. Hazard, as used in these standards, means any condition or circumstance that may cause accident or injury to an employee. ( )

18. **Heel Block**. The block heel of boom. ( )

19. **Heel Boom**. A type of loading boom where one end of the log is pulled up against the boom. ( )

20. **Hook Tender, Hooker**. The worker who supervises the method of moving the logs from the woods to the place of loading. ( )

21. **It is Recommended, or Should**. When these terms are used they indicate provisions that are not mandatory. ( )

009. DEFINITIONS J THROUGH R.

Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. ( )

01. **Jaggers**. Any projecting broken strand of cable. ( )

02. **Jammer**. A machine used for handling logs. ( )

03. **Jill Poke**. A projecting object out of its normal position. ( )

04. **Knob**. A metal ferrule arranged to be attached to the end of a line, used in place of a spliced eye. ( )

05. **Landing, Rollway**. Any place where logs are placed, after being yarded, awaiting loading or unloading. ( )

06. **Lang Lay Rope**. A wire rope, in which the wires in the strands of the rope are laid in the same direction. ( )

07. **Leading Wires**. Those wires between the "connecting wires" or "leg wires" and a portable generating devise or an approved type blasting battery in series blasting. ( )

08. **Leaners**. A live or dead leaning tree. ( )

09. **Loading Boom**. Any structure projecting from a pivot point to guide a log when lifted. ( )

10. **Log or Logs**. When the word log or logs is used, it includes poles, piling, pulpwood, skids, etc. ( )

11. **Log Stacker**. A machine with lift forks used to handle logs. ( )

12. **Magazine**. Any building or other structure used exclusively for the storage of explosives. ( )

13. **Operation (Show Woods Layout)**. Any place where logging is being done. ( )

14. **Mainline**. A cable which pulls logs or trees to loading. ( )

15. **Pan (Skidding Pan)**. A solid piece of metal placed behind a tractor on which one end of logs rest. ( )

16. **Peeling Bar or Spud**. A tool for removing bark from trees or logs. ( )

17. **Pike, Pole**. A long pole whose end is shod with a sharp pointed steel spike, point, or hook. ( )

18. **Portable Spar or Tower**. An engineered structure designed to be used in a manner similar to which a wooden spar tree would be used. ( )

19. **Powder**. Any explosive other than the detonating agent. ( )

20. **Primer**. A cartridge of explosive with a detonator inserted there in. ( )

21. **Qualified Person**. An individual who, by possession of a recognized degree, certificate or professional standing, or who by extensive knowledge, training and experience, has successfully demonstrated the ability to solve or resolve problems relating to the subject matter, the work, or the project. ( )

22. **Reach**. An adjustable beam between a trailer and a motorized logging vehicle. ( )

23. **Receding Line**. The line on a skidder or slack-line comparable to the haul back line on a yarder. ( )

24. **Reload**. Any area where logs are dumped and reloaded. ( )

25. **Running Line**. Any line that moves. ( )

010. DEFINITIONS S THROUGH Z.
Terms used in these standards shall be interpreted in the most commonly accepted sense, excepting only those specifically defined. ( )

01. Safety Factor or Factor of Safety. This term as used is the ratio of the ultimate breaking strength of a member or piece of material to the actual working stress or to the maximum permissible (safe load) stress. For example: When a safety factor of six (6) is required, the structure, lines, hoists, or other equipment referred to shall be such as to provide a strength sufficient to support a load equal to six (6) times the total weight or stress to be imposed on it. ( )

02. Sail Guy. A guy which holds the outer end of a boom. ( )

03. Sail Block. A block hung inverted on the sail guy to hold the tong block in proper position. ( )

04. Schoolmarm. A crotched tree consisting chiefly of two (2) trunks. ( )

05. Shall, Will. Is compulsory or mandatory. ( )

06. Skids. Any group of timbers spaced a short distance apart on which the logs are placed. ( )

07. Side, Show, Chance. That unit of a logging operation, including men and equipment that is sufficient to fall, buck, and load a given area ready for transportation of the logs to the mill. ( )

08. Side Winders. A piece of log, brush, or limb thrown up or sideways during skidding operation, or a tree knocked down by another tree in falling. ( )

09. Signalman, Whistle Punk. The authorized worker who transfers signals from a given location to the operator. ( )

10. Skidding. Movement of logs on the ground. ( )

11. Skyline. The supporting line on various types of logging systems on which carriage, block, or bullet travels. ( )

12. Slack Line. A form of skyline where skyline is spooled on drum and can be raised or lowered. ( )

13. Slack Puller. Any device used to increase the movement of a line when its own weight is inadequate. ( )

14. Snags. Any dead standing trees. ( )

15. Snubbing. A method of retarding or controlling the movement of logs or machine by means of looping the line around a stationary object. ( )

16. Spring Board. A board with an iron tip used by fallers to stand on when they must stand above the ground level. ( )

17. Standard Safeguard. Means a device designed and constructed with the object of removing the hazard of an accident incidental to the machine, appliance, tool, building or equipment to which it is attached. ( )

18. Strap. Any short piece of line with an eye or "D" in each end. ( )

19. Strawline. A small line used for miscellaneous purposes. ( )

20. Strip. A definite location of timber allocated to a cutting crew. ( )

21. Substantial. Means constructed of such strength, of such material, and of such workmanship, that the object referred to will withstand normal wear, shock and usage. ( )

22. **Sweeper**. Unexpected and controlled lateral movement of a log, tree, etc., during skidding operations. ( )

23. **Swamp**. The falling or clearing of limbs and brush around or along a specific place. ( )

24. **Tag Line**. A line used to control movement during loading, unloading, or skidding operations. ( )

25. **Tail Hold**. Any anchor used for making fast any line. ( )

26. **Tell Tale**. A devise used to serve as a warning for overhead hazards. ( )

27. **Tight Line**. When power is exerted on both mainline and haul back at the same time. ( )

28. **Tongs**. A hooking device used to lift or skid logs. ( )

29. **Transfer**. Changing of a load of logs in a unit from one means of transportation to another. ( )

30. **Tree Plates**. Steel protectors spiked around a tree to prevent the lines from cutting into the trees. ( )

31. **Undercut**. A notch cut in the tree to guide and control the tree in falling. ( )

32. **Windfall**. A tree felled by the wind or other natural causes. ( )

33. **Widow Maker**. A loose limb, top, or piece of bark which may fall on a logger working beneath it. ( )

34. **Yarding**. Movement of logs or trees from the place they are felled (bucked) to a central loading or shipping point. ( )

011. INTERPRETATION AND APPLICATION OF THESE RULES.

01. **Scope**. These rules are part of the state of Idaho industrial accident prevention program and have the full force and effect of law. ( )

02. **Jurisdiction**. In accordance with the laws of the state of Idaho, every employer and every employee working in the state of Idaho shall comply with the rules contained herein. ( )

03. **Enforcement**. The enforcement of all rules of this chapter and the right of inspection and examination, at any time, shall rest with the Division. ( )

04. **Issues Not Covered**. Where specific standards in these rules fail to provide a rule or standard applicable to the operation in question, and other state of Idaho codes or standards are applicable, those codes or standards shall apply. ( )

05. **Interpretations**. Should any controversy develop as to the intent or application of any standard or rule as set forth in these rules, or the interpretation of any standard or rule set forth in these rules, such controversy shall be called to the direct attention of the Division, which shall render a decision as the applicability of such rule or standard. Any appeal from this decision shall be directed to the Administrator. ( )

06. **Additional Standards**. It is recognized that a definite, positive safety standard cannot anticipate all contingencies. The Division, after due notice and opportunity to be heard, may require additional standards and practices to insure adequate safety at any place of any employment, and, on its own motion or upon application of any employer, employee, group, or organization, may modify any provision of this rule. ( )

07. **Exceptions**. In exceptional cases where the rigid application or compliance with a requirement can

only be accomplished to the detriment and serious disadvantage of an operation, method, or process, exception to the requirement will be considered upon written application to the Division. After thorough investigation, the Division may grant an exception if human life and physical well being will not be endangered by such exception. ( )

08. Existing Buildings, Structures, and Equipment. Nothing contained in this rule for logging safety shall prevent the use of existing buildings, structures, and equipment during their lifetime when maintained in good safe condition, and properly safeguarded, or require conformance with the applicable safety standards required by Idaho Safety Codes effective prior to the effective date of this rule, provided that replacements and alterations shall conform with all provisions of these rules. ( )

012. EMPLOYER'S RESPONSIBILITY.

01. General Requirements. ( )

a. Every employer subject to these rules shall furnish employment and maintain places of employment that are safe according to the standards as set forth herein. ( )

b. Every employer shall adopt and use practices, means, methods, operations and processes that are adequate to render such employment and place of employment safe. ( )

i. Employers shall place highly visible “LOGGING AHEAD” or similar-type warning signs at the entrances of active logging jobs. Employers shall also place “TRUCKS AHEAD,” “TRUCKS ENTERING,” “TREE FALLING,” and “CABLES OVERHEAD,” whenever applicable ( )

ii. Every employer shall furnish to its crew a Company Emergency Rescue Plan. ( )

c. Every employer should insure that Safety Data Sheets (SDS) are reasonably accessible for every hazardous material. ( )

d. Every employer shall post and maintain in a conspicuous place or places in and about his place or places of business a written notice stating the fact that he has complied with the worker’s compensation law as to securing the payment of compensation to his employees and their dependents in accordance with the provisions of Idaho law. Such notice shall contain the name and address of the surety, as applicable, with which the employer has secured payment of compensation. Such notice shall also be readily available on the site where logging operations are occurring, and available for inspection by Division officials upon request. ( )

e. Every employer shall do all other things as required by these rules to protect the life and safety of employees. ( )

f. No employer shall require any employee to go or be in any place of employment that does not meet the minimum safety requirement of these rules, except for the purpose of meeting such requirements. ( )

g. No employer shall fail or neglect: ( )

i. To make available and use safety devices and safeguards as are indicated. ( )

ii. To adopt and use methods and processes adequate to render the employment and place of employment safe. ( )

iii. To do all other things as required by these rules to protect the life and safety of employees. ( )

h. No employer, owner or lessee of any real property shall construct or cause to be constructed any place of employment that does not meet the minimum safety requirements of these rules. ( )

i. No person, employer, employee, other than an authorized person, shall do any of the following: ( )

i. Remove, displace, damage, destroy or carry off any safeguard, first aid material, notice or warning, furnished for use in any employment or place of employment, or interfere in any way with the use thereof by any other person. ( )

ii. Interfere with the use of any method or process adopted for the protection of any employee, including himself, in such employment or place of employment. ( )

iii. No person shall fail or neglect to do all other things as required by these rules to protect the life and safety of employees. ( )

iv. The use of intoxicants or drugs while on duty is prohibited. Persons reporting for duty while under the influence of or impaired by liquor or other legal or illegal drugs or substances shall not work until completely recovered. ( )

j. A procedure for checking the welfare of all workers during working hours shall be instituted and all workmen so advised. The employer shall assume responsibility of work assignments so that no worker shall be required to work in a position or location so isolated or hazardous that he is not within visual or audible signal contact with another person who can render assistance in case of emergency. In any operation where cutting, yarding, loading, or a combination of these activities are carried on there shall be a minimum crew of two (2) persons who shall work as a team, and shall be in visual or audible signal contact with one another. This does not apply to operators of motorized equipment, watchmen, or certain other jobs which, by their nature are singular workmen assignments. There shall be some method of checking-in *crew members* at the end of the shift. Each immediate supervisor shall be responsible for his crew being accounted for. This standard also includes operators of movable equipment. ( )

k. Every employer shall keep a record of all cases of injuries his employees receive at their work. This record shall be kept in such manner as to enable representatives of the Division to determine by examining the record, the injury rate of the employee force for the period covered by the report. ( )

l. Every employer shall investigate every accident resulting in a disabling injury that his employees suffer in connection with their employment. Employers shall promptly take any required action to correct the situation. Employees shall assist in the investigation by giving any information and facts they have concerning the accident. ( )

02. Management Responsibility. ( )

a. Management shall take an active and interested part in the development and guidance of the operation's safety program, including fire safety. ( )

b. Management shall apply a basic workable safety plan on the same priority as it does to any other work facet of the operation where elimination of all injuries is to be achieved in all phases of the operation. It is the duty of management to assume full and definite responsibility. To attain these safety objectives, management shall have the full cooperation of employers and the Division. ( )

c. Every employer shall furnish employment which shall be safe for the employees therein and shall furnish such devices and safeguards and shall adopt and use such practices, means, methods, operation and processes as are adequate to render such employment and places of employment safe to protect the life and safety of employees. The employer shall make available necessary personal protective safety equipment. ( )

d. Regular safety inspection of all rigging, logging, machinery, rolling stock, bridges, and other equipment shall be made as often as the character of the equipment requires. Defective equipment or unsafe conditions found shall be replaced, repaired or remedied. ( )

e. All places of employment shall be inspected by a qualified person or persons as often as the type of operation or the character of the equipment requires. Defective equipment or unsafe conditions found by these inspections shall be replaced or repaired or remedied promptly. ( )

013. EMPLOYEE'S RESPONSIBILITY.

01. General Requirements. ( )

a. Employees shall not indulge in horseplay, scuffling, practical jokes or any activity that creates or constitutes a hazard while on the employer's property or at any time when being transported from or to work in facilities furnished by the employer. ( )

b. Employees who are assigned to, or engaged in the operation of any machinery or equipment, shall ensure that all guards, hoods, safety devices, etc., that are provided by the employer are in proper place and properly adjusted. ( )

02. Employee Accidents. Each employee shall make it his individual responsibility to keep himself, his coworkers, and his machine or equipment free from accidents to the best of his ability. ( )

03. Study Requirements. So that each worker may be better qualified to cooperate with his fellow workmen in preventing accidents, he shall study and observe these and any other safety standards governing his work. ( )

04. Employee Responsibilities. Additional responsibilities of an employee insofar as industrial safety is concerned shall be as follows: ( )

a. The employee shall report immediately, preferably in writing, to his foreman or safety *coordinator for* the *logging operation*, all known unsafe conditions and practices. ( )

b. The employee shall ascertain from the foreman where medical help may be obtained if it is needed. ( )

c. The employee shall not participate in practical jokes or horseplay. ( )

d. The employee shall make a prompt report of every accident regardless of severity to the foreman, first aid attendant, or person in charge. Such reports are required and are necessary in order that there may be a record of his injuries. ( )

e. The employee shall at all times apply the principles of accident prevention in his daily work and shall use proper safety devices and protective equipment. No employee shall remove, displace, damage, destroy, or carry off any safety device or safeguard furnished and provided for use in any employment, or interfere in any way with the use thereof by any other person, or interfere with the use of any method or process adopted for the protection of any employee in such employment, or fail or neglect to do every other thing reasonably necessary to protect the life and safety of himself and fellow employees, and by observing safe practice rules shall set a good example for his fellow workmen. ( )

f. The employee shall not report to the job impaired by intoxicants or legal or illegal drugs and shall not use intoxicants or such drugs while on the job. The employer shall prohibit any employee from working on or being in the vicinity of any job while under the influence of or impaired by intoxicants or drugs. Employers shall be responsible for the actions of any employee known to be in an intoxicated or impaired condition while on the job. ( )

g. The employee shall wear, use and properly care for personal protective safety equipment issued to him. These items shall be returned to the employer upon termination of employment. ( )

h. Workers exposed to head hazards shall wear approved head protection. ( )

i. Proper eye protection shall be worn while performing work where a known eye hazard exists. ( )

j. The employee should consider the benefits of accident prevention to himself and to his job. ( )

k. The employee should make an effort to understand his job. ( )

l. The employee should anticipate every way in which a person might be injured on the job, and conduct the work to avoid accidents. ( )

m. The employee should be on the alert constantly for any unsafe condition or practice. ( )

n. The employee shall learn first aid. ( )

o. The employee should keep physically fit, and obtain sufficient rest. ( )

p. The employee should be certain that all instructions received are understood completely before starting the work. ( )

q. The employee should actively participate in safety programs. ( )

r. The employee should study the safety educational material posted on the bulletin boards and distributed by the employer or safety committee. ( )

s. The employee should advise inexperienced fellow-employees of safe ways to perform their work and warn them of dangers to be guarded against. ( )

t. It is the employer's responsibility to ensure compliance with the foregoing provisions. ( )

014. --050. (RESERVED)

Subchapter B - Health, Safety, and Sanitation (Rules 051 -- 100)

051. FIRST AID.

01. Transportation. ( )

a. Suitable means of transportation shall be established and maintained at the site of all operations to be used in the event any employee is seriously injured. ( )

b. Transportation shall be of a nature to render reasonable comfort to an injured employee. ( )

c. Each crew bus, or similar vehicle, shall be equipped with at least one (1) first aid kit with the required contents as indicated in Subsection 010.06 of these rules. ( )

02. Communication. ( )

a. Every employer shall arrange suitable telephone or radio communication at the nearest reasonable point, and shall establish an emergency action plan to be taken in the event of serious injury to any employee. ( )

b. Instructions covering the emergency action plan shall be made available to all work crews. ( )

c. When practicable, a poster shall be displayed on, or near the cover of each first aid cabinet or phone. The poster shall display the phone numbers of applicable emergency services. The use of the Idaho State EMS Communication Center is recommended. The number is 1-800-632-8000 or 208-846-7610. ( )

d. Every employer shall obtain their specific job location (longitude and latitude preferred) and furnish such to crew for emergency evacuation. ( )

03. Attendance for Seriously Injured. ( )

a. Seriously injured employees shall, at all times, be attended by the most qualified available person

to care for the injured employees. ( )

b. Seriously injured employees shall be carefully handled and removed to a hospital, or given medical attention as soon as possible. ( )

c. Caution shall be used in removing a helpless or unconscious person from the scene of an accident to prevent further injury. ( )

04. First Aid Training. *Any person performing work associated with a logging operation* shall be required to complete an approved course in first-aid and have a current card. ( )

05. Stretcher or Spine Board. A spine board (designed for or adaptable to the work location and terrain) and two blankets maintained in sanitary and serviceable condition shall be available where such conditions require the use of such to provide for the proper transportation and first aid to an injured workman. ( )

06. First Aid Kits. ( )

a. The employer shall provide first aid kits at each work site where trees are being felled, at each active landing, and in each employee transport vehicle. ( )

b. The following list sets forth the minimally acceptable number and type of first-aid supplies for required first-aid kits. The contents of the first-aid kits shall be adequate for small work sites, consisting of approximately two (2) to three (3) employees. When larger operations or multiple operations are being conducted at the same location, additional first-aid kits shall be provided at the work site or additional quantities of supplies shall be included in the first-aid kits:

TABLE 010.06 REQUIRED CONTENTS	
1.	Gauze pads (at least 4 x 4 inches)
2.	Two (2) large gauze pads (at least 8 x 10 inches)
3.	Box adhesive bandages (band-aids)
4.	One (1) package gauze roller bandage (at least two (2) inches wide)
5.	Two (2) triangular bandages
6.	Wound cleaning agent such as sealed moistened towelettes
7.	Scissors
8.	At least one (1) blanket
9.	Tweezers
10.	Adhesive tape
11.	Latex gloves
12.	Resuscitation equipment such as resuscitation bag, airway, or pocket mask
13.	Two (2) elastic wraps
14.	Splint
15.	Directions for requesting emergency assistance

( )

c. Special kits, or the equivalent, shall be provided and approved for special hazards peculiar to any given work location. ( )

d. All kits, as applicable, shall be readily available and kept supplied. ( )

e. First aid kits shall be in metal, or other sanitary containers. Such containers shall be designed and constructed so as to be impervious to conditions of weather, dust, dirt, or other foreign matter. ( )

052. SAFETY EQUIPMENT AND PERSONAL PROTECTIVE EQUIPMENT.

01. General Requirements. ( )

a. Special protective equipment or apparel required for safe employment, other than clothing or equipment customarily supplied by employees, shall be furnished by the employer where necessary for the safety of employees. ( )

b. Employees are required to utilize all prescribed safety equipment and special protective equipment or apparel, and they shall exercise due care in maintaining it in safe, efficient and sanitary conditions. ( )

c. *Employers are required to provide, at no cost to employees, appropriate eye, face, head, hand, and leg protection.* ( )

d. Defective safety equipment shall not be used. Where the need for their use is indicated, protective covering, ointments, gloves or other effective protection shall be provided for and used by persons exposed to materials that are irritating to the skin. ( )

02. Inspection, Maintenance and Sanitizing. ( )

a. Each employer shall maintain a regular system of inspection and maintenance of personal protective equipment furnished to workers. ( )

b. Air line equipment shall have a necessary regulator and shall be inspected before each use. ( )

c. Workers shall check their equipment at the beginning of each shift. ( )

03. Eye Protection. ( )

a. Where workers are subject to eye hazards (flying particles, dusts, hazardous liquids, gases, mists or vapors, or injurious light rays) they shall be furnished with and shall wear eye protection suitable for the hazards involved. Such eye protection shall conform to the American National Standard Institute standards for Head, Eyes and Respiratory protection. ( )

b. Face shields may be used in lieu of other forms of eye protection where the nature of the operation is such that they will furnish equivalent protection. ( )

c. Clean water in ample quantities shall be immediately available where materials are handled that are caustic or corrosive to the eyes. ( )

04. Foot and Leg Protection. ( )

a. Employees shall wear footwear suitable for the work conditions. ( )

b. Employees shall wear sharp caulk-soled boots or other footwear which will afford maximum protection from slipping. ( )

c. Special types or designs of shoes, or foot guards, shall be required to be worn where conditions exist that make their use necessary for the safety of the workers. ( )

d. Leggings or high boots of leather, rubber or other suitable material shall be worn by climbers,

persons exposed to hot substances, or caustic solutions, etc., or where poisonous snakes may be encountered. ( )

e. *Each e*mployee who operate*s* a chain saw shall wear *leg* protection*, which meets the requirements of ASTM F 1897 and* cover*s the full length of the* thigh to *the* top *of the boot on each leg*, except when working as a climber. ( )

05. Hand Protection. ( )

a. Hand protection suitable for the required usage shall be worn wherever the nature of the work requires extra protection for the hands. ( )

b. Gloves shall not be worn where their use would create a hazard. ( )

06. Head Protection. ( )

a. Persons required to work where falling or flying objects, overhead structures, exposed electrical conductors, equipment or material create a hazard shall wear approved safety hard hats or caps at all times while exposed to such hazards. ( )

b. Employees working in locations which present a catching or fire hazard to hair shall wear caps or other head protection that completely covers the hair. ( )

07. Life Jackets, Vests and Life Rings. Where personal buoyancy equipment is provided, it shall be of a design and shall be worn in a manner that will maintain the wearer's face above water. It shall be capable of floating a sixteen (16) pound weight for three (3) hours in fresh water. Such equipment shall not be dependent upon manual or mechanical manipulation or chemical action to secure the buoyant effect. ( )

a. Employees shall be provided with, and shall wear, approved buoyant protective equipment at all times while working on or over water, as follows: ( )

i. On floating pontoons, rafts and floating stages. ( )

ii. On open decks of floating plants (such as dredges, pile-drivers, cranes, pond saws, and similar types of equipment) which are not equipped with bulwarks, guardrails or life lines. ( )

iii. During the construction, alteration or repair of structures extending over or adjacent to water, except when guardrails, safety nets, or safety belts and life lines are provided and used. ( )

iv. Working alone at night where there are potential drowning hazards regardless of other safeguards provided. ( )

v. On floating logs, boom sticks or unguarded walkways. ( )

b. Life rings with sufficient line attached to meet conditions shall be located at convenient points along exposed sides of work areas adjacent to water. Such rings, if used at night where a person might be beyond illuminated areas, shall be provided with a means of rendering them visible.

NOTE: Consult U.S. Coast Guard requirements for operations in navigable waters. ( )

08. Life Lines -- Safety Belts. ( )

a. Each life line and safety belt shall be of sufficient strength to support, without breaking, a weight of two thousand five hundred (2,500) pounds. ( )

b. All life lines and safety belts shall be periodically inspected by the supervisor in charge. Employees shall inspect their belts and lines daily. Any defective belts or life lines shall be discarded or repaired before use. ( )

c. Life lines shall be safely secured to strong stable supports and maintained with minimum slack. ( )

09. Work Clothing. ( )

a. Clothing shall be worn which is appropriate to work performed and conditions encountered. ( )

b. Loose sleeves, cuffs or other loose or ragged clothing shall not be worn near moving machinery. ( )

c. Clothing saturated or impregnated with flammable liquids, corrosive substances, irritants or oxidizing agents shall be removed immediately and not worn again until properly cleaned. ( )

d. When it is necessary for workers to wear aprons or similar clothing near moving machines or hazardous materials, such clothing shall be so arranged that it can be instantly removed. ( )

e. Clothing with exposed metal buttons, metal visors or other conductive materials shall not be worn around exposed electrical conductors. ( )

10. Respiratory Equipment. ( )

a. When filter or cartridge-type respirators are required to be used regularly, each employee shall have one such respirator for his own exclusive use. ( )

b. Employers and employees shall familiarize themselves with the use, sanitary care and limitations of such respiratory equipment as they may have occasion to use. ( )

c. Whenever practical, harmful dusts, fumes, mists, vapors and gases shall be suppressed by water, oil or other means which will minimize harmful exposure and permit employees to work without the use of respiratory equipment. ( )

d. Whenever compressed air from an oil-lubricated compressor is used to supply respiratory equipment, a filter shall be inserted in the supply line to remove any oil, sediment or condensation that it may contain. Such filter shall be maintained in efficient working condition. ( )

e. When self-contained respiratory equipment is used in hazardous locations, a standby unit shall be maintained for rescue purposes. ( )

11. Hearing Protection. Where workers are subject to hazardous noise levels, they shall be furnished with and shall wear hearing protection suitable for the level of hazard involved. ( )

12. Additional Information and Requirements. Additional information and requirements for the use of safety equipment and personal protective equipment may be found in the Safety and Health Standards established in IDAPA 07.09.01, "Safety and Health Rules for Places of Public Employment." ( )

053. FIRE PREVENTION, PROTECTION AND SUPPRESSION.

01. General Requirements. ( )

a. Additional Standards pertinent to the storage, distribution, and use of liquefied petroleum gases and other flammables or combustibles may be obtained by reference to regulations of the Idaho State Fire Marshal and the National Fire Protective Association pamphlets. ( )

b. Fire fighting equipment, suitable for the hazards involved, shall be provided for the protection of workmen. Such equipment shall be readily accessible, and shall be plainly labeled as to its character and method of operation. Locations of such equipment shall be conspicuously posted. ( )

c. All equipment and apparatus for fire protection and fire fighting shall be regularly inspected and be maintained in good and serviceable condition at all times. A record of the date of the latest inspection shall be kept with each portable fire extinguisher. This includes all automatic sprinkler systems and hose lines. ( )

d. Fire extinguishers, whether portable or automatic, shall comply with appropriate current standards as published by the National Fire Protection Association. Portable fire extinguishers shall also be subject to an annual maintenance inspection by the Division. They must also be visually inspected by the employer each month, and such inspections documented. ( )

e. Electrical lights, apparatus, and wiring used in locations where flammable or explosive gases, vapors, mists, or dusts are present shall be of the type accepted by the adopted Electrical Code for the State of Idaho. ( )

f. Smoking while refueling equipment is prohibited. ( )

g. All fuel storage tanks, service tanks, etc., shall be bonded for ground for fueling purposes. ( )

h. When lights are used in enclosed rooms, vaults, manholes, tanks or other containers which may contain flammable or explosive vapors, mists, gases, or dusts, such lights shall be of the approved vapor proof types. ( )

i. No torch, flame, arc, spark, or other source of ignition shall be applied to any tank or container that has contained or does contain flammable or explosive vapors or materials until such container has been made to be inert or otherwise purged of flammable or explosive vapors or materials, except that "hot tapping" on tanks may be done provided that: ( )

i. There shall be at least four (4) feet of liquid above the point of the "hot tap"; and ( )

ii. The work shall be carried out under the direction of a supervisor experienced in this type of work.

NOTE: A test for flammability or explosiveness of the interior of such vessels shall be made using a device which will determine the concentration of flammable vapors for this purpose. Unless the percentage of flammable vapors is found to be less than twenty percent (20%) of its lower explosive limit, no source of ignition shall be permitted. ( )

j. Frequent testing for determining the concentration of flammable and explosive vapors shall be made, and if the concentration is found to exceed twenty percent (20%) of its lower explosive limit, sources of ignition shall be extinguished or removed immediately. Fire extinguishing equipment adequate to cope with possible hazards shall be maintained close at hand. ( )

k. Smoking, the use of open flames, tools which are not approved for such areas, and other sources of ignition are prohibited in locations where flammable or explosive gases, vapors, mists, or dusts are present. Warning signs shall be conspicuously posted in such areas. ( )

l. Where salamanders and other fuel-burning heating devices are used, they shall be provided with adequate means for preventing the emission of sparks or other sources of ignition. Such devices shall be insulated or placed a sufficient distance from combustible structures and materials to prevent causing fires. Adequate ventilation shall be provided. ( )

m. When welding or cutting is done special precautionary measures shall be exercised before, during and after the job is finished to eliminate any possibility of immediate or delayed fires. ( )

02. Flammable Liquids. ( )

a. For the purpose of this section, "Flammable Liquids" shall mean any liquid having a flash point below one hundred forty (140) degrees Fahrenheit and having a vapor pressure not exceeding forty (40) pounds per square inch (absolute) at one hundred (100) degrees Fahrenheit. ( )

b. All flammable liquids shall be stored in approved containers suitable for their particular contents,

and such approved containers shall be stored in areas removed from any direct source of ignition. ( )

c. Flammable liquids shall be kept in approved covered containers when not in actual use. ( )

d. The name of the flammable liquid contained therein shall be placed on all stock containers, and whenever such liquids are taken from the stock containers and put into other approved containers for use, it shall be the responsibility of the employer to ensure that these containers (except small containers of flammable liquids which are scheduled for immediate use and disposal) also bear the name of the flammable liquid contained therein. ( )

e. Flammable liquids shall not be used indoors to clean or wash floors, walls, any part of a building structure, furniture, equipment, machines or machine parts, unless sufficient ventilation is provided to bring and maintain the concentration of explosive vapors in the atmosphere below twenty percent (20%) of its lower explosive limit.

NOTE: The use of flammable liquids may create toxic contaminants in the atmosphere above permissible threshold limit values. ( )

03. Transferring Flammable Liquids and Powdered Materials. In transferring flammable liquids or finely divided flammable or explosive materials from one metal container to another, the containers shall be in firm contact with each other or be continuously bonded throughout the transfer so as to prevent the accumulation of static charges. Where portable tanks, mixers, or processing vessels are used for flammable liquids or flammable or explosive compounds, they shall be bonded and grounded while being filled or emptied. ( )

04. Transportation of Flammable Liquids. ( )

a. When transporting gasoline or other flammable liquids, approved containers shall be used. ( )

b. If tank truck service is not available or used, gasoline and other flammable liquids shall be transported in approved containers. Bungs shall be tight and containers shall be secured to prevent movement. ( )

c. It may be permissible to transport gasoline or other flammable liquids on passenger vehicles if in approved, closed safety containers of not more than six and one-half (6 1/2) gallon capacity, provided such containers are carried in a suitable and safe location outside the passenger compartment. ( )

054. DESIGNATED LOGGING CAMPS.

A camp used in a logging operation shall comply with the following requirements: ( )

01. Trees and Snags. Trees and snags that may constitute a hazard to persons in the camp area shall be felled. ( )

02. Sanitation. The Idaho Department of Environmental Quality rules for sanitation must be observed as to water, toilets, washrooms, refuse, etc. ( )

055. -- 100. (RESERVED)

Subchapter C - Garages, Machine Shops, and Related Work Areas (Rules 101 -- 150)

101. GARAGES AND MACHINE SHOPS AND RELATED AREAS.

01. General Requirements. ( )

a. Machine shops and other structures where workers are employed shall be constructed, ventilated, lighted and maintained in a safe working condition. ( )

b. Engines, pulleys, belts, gears, sprockets, collars and other moving parts of machinery shall be properly guarded. ( )

c. Grinding wheels shall have proper and adequate eye guards or hoods. Face shields shall be worn by

employees while grinding. ( )

d. Machines shall be in good repair and good housekeeping shall be maintained. ( )

e. Proper goggles or hoods shall be made available and used in grinding and cutting, acetylene welding, electric arc and other types of welding. ( )

f. Tools shall be kept in good condition and care shall be taken in the handling and storing of all tools and materials so as to minimize chances for injury. ( )

g. An approved screen shall be provided, and used, to protect other workers from welding flashes. ( )

102. -- 150. (RESERVED)

Subchapter D - Signals and Signal Systems (Rules 151 -- 200)

151. GENERAL REQUIREMENTS.

01. Rigging.

a. Rigging shall be moved by established signals and procedures only. ( )

b. Signals shall be thoroughly understood by the crew. ( )

02. Daily Test Required. Each electric or radio signal system shall be tested daily before operations begin. ( )

03. Personnel in Clear Before Moving Logs or Turns. ( )

a. Operators of yarding equipment shall not move logs or turns until all personnel are in the clear and a signal has been given. ( )

b. Operators of yarding equipment shall be alert to signals at all times. ( )

152. SIGNALING.

01. One Worker to Give Signals. ( )

a. The Worker sending drag shall be the only one to give signals. ( )

b. Any person is authorized to give a stop signal when a worker is in danger or other emergency conditions are apparent. ( )

02. Signal Must Be Clear and Distinct. ( )

a. Machine operators shall not move any line unless the signal received is clear and distinct. ( )

b. If in doubt the operator shall repeat the signal as understood and wait for confirmation. ( )

03. Hand Signal Use Restricted. ( )

a. Hand signals are permitted only when in plain sight of the operator. ( )

b. Hand signals may be used at any time as an emergency stop signal. ( )

04. Persons in Clear Before Signal Given. All persons shall be in the clear before a signal is given to

move logs or turns. ( )

05. Throwing Material Prohibited. Throwing of any type of material as a signal is prohibited. ( )

***06*. Audible Signaling to Be Installed and Used**. A whistle, horn or other audible signaling device, clearly audible to all persons in the affected area, shall be installed and used on all machines operating as yarders. ( )

***07*. Audible Signaling Device at the Machine to Be Activated**. When radio or other means of signal transmission is used, an audible signal must be activated at the machine. ( )

153. ELECTRIC SIGNAL SYSTEMS.

01. Weatherproof Wire and Attachments to Be Used. Where an electrical signal system is used, all wire and attachments shall be of the weather proof type. ( )

02. Electric Signal Systems to Be Properly Installed and Adjusted. Electric signal systems shall be properly installed and adjusted as necessary. They shall be protected against accidental signaling, and shall be maintained in good operating condition at all times. ( )

03. All Connections to Be Weatherproof. All connections in insulated signal wire shall be weatherproof. ( )

154. RADIO SIGNALING SYSTEMS.

01. Use of Conventional Space Transmission of Radio Signals. When conventional space transmission of radio signals is used under and in accordance with an authorization granted by the Federal Communications Commissions to initiate any whistle, horn, bell or other audible signaling device, or such transmission of radio signals is used to activate or control any equipment, the following specific rules contained in this section will apply.

NOTE: This rule shall apply only to devices operating on radio frequencies authorized pursuant to the rules and regulations of the Federal Communications Commission. ( )

02. Description on Outside of Case. ( )

a. Each radio transmitter and receiver shall have its tone frequency(s) in hertz (CPS), the manufacturer's serial number, and the assigned radio frequency clearly and permanently indicated on the outside of the case. ( )

b. When the duration of a tone frequency performs a function, the pulse-tone duration shall also be permanently indicated on the outside of the case. ( )

c. On the FCC restricted frequencies one hundred fifty-four point fifty-seven (154.57) MHZ and one hundred fifty-four point sixty (154.60) MHZ, a maximum of two (2) watts of power will be allowed. ( )

03. Activating Pulse-Tone Limitations. The activating pulse-tone of any multi-tone transmitter shall be of not more than forty (40) milliseconds duration. ( )

04. Adjustment, Repair or Alteration. All adjustments, repairs or alterations of radio-signaling devices shall be done only by or under the immediate supervision and responsibility of a person holding a first or second class commercial radio operator's license, either radio-telephone or radio-telegraph, issued by the Federal Communications Commission. ( )

05. Testing of Tone-Signal Controlled Devices. ( )

a. Tone-signal controlled devices shall be tested each day before work begins. If any part of the equipment fails to function properly, the system shall not be used until the source of trouble is detected and corrected.

( )

b. Audible signals used for test purposes shall not include signals used for movement of lines or material.

NOTE: Equipment or machines controlled by radio-signaling devices shall be designed and built to "fail safe" or stop, in case of failure of the radio-signaling device. ( )

06. Interference, Overlap, Fade-Out or Blackout. When interference, overlap, fade-out or blackout of radio signals is encountered, the use of the tone-signal controlled device shall be immediately discontinued. The use of such tone-signal controlled device shall not be resumed until the source of trouble has been detected and corrected. ( )

07. Number of Transmitters Required. ( )

a. Two (2) radio transmitters shall be in the vicinity of the rigging crew at all times when transmitters are being used by persons who are around the live rigging. ( )

b. Only one (1) radio transmitter shall be required, if in possession of a signalman who has no other duties and remains in an area where he is not subjected to hazards created by moving logs or rigging. ( )

08. Voice Communication. ( )

a. Voice Communication shall be used for explanation purposes only. ( )

b. Actual activation of equipment shall be done by audible horn, bell or whistle and not by voice. ( )

c. The signal must be audible throughout the entire yarding and machine area. ( )

155. -- 200. (RESERVED)

Subchapter E - Truck Road Standards
(Rules 201 -- 250)

201. TRUCK ROAD STANDARDS.

01. Building Roads. ( )

a. When building roads, all construction shall be carried on in accordance with good logging engineering practices and shall be constructed and maintained in a manner to insure reasonably safe operation. ( )

b. The due consideration shall be given to the following factors: ( )

i. The type of material used for roadbed and surfacing. ( )

ii. The type of hauling equipment which will travel road. ( )

iii. The size of loads to be hauled. ( )

iv. The pitch and length of grades. ( )

v. The degree of curvature and visibility on turns. ( )

vi. The volume of traffic. ( )

c. Truck roads shall not be too steep for safe operation of logging, or work trucks which operate over them, and should not exceed twenty percent (20%) grade unless an auxiliary means of truck lowering is provided.

( )

d. Sufficient turnouts shall be provided and a safe side clearance maintained along all truck roads. ( )

e. Brush and other materials that obstruct the view at intersections or on sharp curves shall be eliminated and all possible precautions taken. ( )

f. Culverts and bridge structures shall be adequate to support the maximum imposed loads without exceeding the maximum safe working unit stresses. Such structures shall be maintained in good condition and shall be inspected annually by a qualified individual. ( )

g. Dangerous trees, snags and brush, which may create a hazard shall be cleared a safe distance on both sides of the right-of-way. ( )

02. Main Truck Roads. ( )

a. Main truck roads shall be of sufficient width and evenness to insure the safe operation of equipment. ( )

b. Truck roads with blind curves where visibility is less than three hundred (300) feet shall be of sufficient width for two (2) trucks to pass, controlled by some type of signal system, or speed shall be limited to fifteen (15) miles per hour. ( )

c. Conditions such as broken planking, deep holes, large rocks, logs, etc., which prevent the safe operation of equipment shall be immediately corrected. ( )

d. Wheel guard rails on bridges shall be not less than eight (8) inches above deck and shall be substantially fastened to withstand impact of shearing wheels. Such guard rails shall extend the full length of the bridge. ( )

03. Operation of Equipment. Excavators, tractors, bulldozers, and other equipment shall be operated in a safe and careful manner. All precautions shall be taken to insure the safety of all employees. ( )

202. -- 250. (RESERVED)

Subchapter F - Transportation of Employees
(Rules 251 -- 300)

251. TRANSPORTATION OF EMPLOYEES.

01. General Requirements. ( )

a. Anchored seats and seat belts shall be provided for each person riding in any vehicle. ( )

b. Vehicles used for the transportation of employees shall be constructed or accommodated for that purpose, and shall be equipped with adequate seats with back rests properly secured in place. Vehicles shall be protected on their sides and ends to prevent falling from the vehicle. ( )

c. Vehicles, as described above, shall be equipped with adequate steps, stirrups, or other similar devices, so placed and arranged that the employees can safely mount or dismount the vehicle. ( )

d. Vehicles designed to transport nine (9) or more passengers, shall be equipped with an emergency exit not less than six and one-half (6 1/2) feet in area, with the smaller dimension being not less than eighteen (18) inches. Such exit shall be placed at or near the back of the vehicle on the side opposite the regular entrance. The route to and egress from the exit must be unobstructed. ( )

e. Every emergency exit shall be conspicuously marked "Emergency Exit," and be so fastened that it can be readily opened by a passenger in the case of emergency. ( )

f. Emergency doors shall be not less than twenty-four (24) inches in width. ( )

g. Every vehicle used for the transportation of employees shall be equipped with an Underwriters Laboratories, Inc. approved fire extinguisher, or its equivalent, with at least a four (4) BC rating. ( )

h. All drivers of vehicles used for the transportation of employees shall have an appropriate operator's license for the state of Idaho. ( )

i. Drivers shall inspect vehicles before operating them. If a vehicle is found to be unsafe, it shall be reported to a proper authority and shall not be operated until it has been made safe. ( )

j. Brakes, steering mechanism and lights shall be tested immediately before starting any trip. ( )

k. No flammable materials, or toxic substances shall be transported in passenger compartments of vehicles while carrying personnel. ( )

l. Transporting more individuals than the seating capacity of the vehicle is permitted only under emergency conditions. Should it become necessary in an emergency, all employees not having seats must ride within the vehicle. ( )

m. Under no circumstances shall employees ride on fenders or running boards. ( )

n. An employee must never ride in, or on, any vehicle with his legs hanging over the end or sides. ( )

o. If tools are transported at the same time that employees are being transported, the tools shall be enclosed in boxes or racks and properly secured to the vehicle. ( )

p. No one shall board, or leave, moving equipment except in the case of an emergency (except trainmen or others whose duties require such). ( )

q. Equipment shall be operated in a safe manner and in compliance with traffic regulations. Safe speeds shall be maintained at all times. ( )

r. No explosives shall be transported on, or in, vehicles used primarily for carrying personnel while such vehicles are being used for carrying personnel. ( )

s. The driver shall do everything reasonably possible to keep vehicles under control at all times, and shall not operate vehicles at excessive speeds. The driver shall take into consideration the condition of the roadway, weather factors, curves, grades and grade crossings, the mechanical condition of the vehicle and equipment and other pertinent items. The driver shall clear rocks from between dual tires before driving on multi-lane roads. A daily inspection shall be made of trucks and trailers with particular attention to steering apparatus, brakes, boosters, brake hoses and connections, reaches and couplings. Any defects found shall be corrected before the equipment is used. ( )

252. --300. (RESERVED)

Subchapter G -Falling and Bucking
(Rules 301 -- 350)

301. FALLING AND BUCKING.

01. General Requirements. ( )

a. There shall be an established method of checking-in workers from the woods. Each supervisor shall be responsible for their crew being accounted for at the end of each shift. ( )

b. Cutters not in sight of another employee shall have radio communications with crew members on that job site. ( )

c. Common sense and good judgment must govern the safety of cutters as effected by weather conditions. At no time shall they work if wind is strong enough to prevent the falling of trees in the desired direction, or when vision is impaired by weather conditions or darkness. ( )

d. All cutters shall have a current first aid certification. Employers shall provide an opportunity for cutters to take a standard first aid course. ( )

e. Tools of cutters such as axes, sledges, wedges, saws, etc., must be maintained in safe condition. Battered sledges, and wedges shall not be used. When power saws are used, wedges shall be made of soft material, such as wood or plastic. ( )

f. Cutters shall not be placed on hillsides immediately below each other or below other operations where there is possible danger. ( )

g. Trees shall not be felled if a falling tree endangers any worker, line, or any unit in operation. ( )

h. Before starting to fall or buck any tree or snag, the cutter must survey the area for possible hazards and proceed according to safe practices. Snags, which are unsafe to cut, shall be blown down with explosives, or felled by other methods. ( )

i. Dangerous or hazardous snags shall be felled prior to or in the course of cutting a strip. No danger tree shall be felled by one (1) cutter where and when the assistance of a fellow employee is necessary to minimize the danger or hazards involved. In the case that any danger tree or snag cannot be safely felled and must remain standing or unattended, such tree or snag shall be clearly identified and suitably marked, including all surrounding impact area, and the employee's supervisor shall be notified as soon as possible. ( )

j. In falling timber, adjacent brush and snow shall be cleared away from and around the tree to be felled to provide sufficient room to use saws and axes and provide an adequate escape path. ( )

k. Cutters shall not fall into another strip; leaners on the line shall be traded. Trees shall be felled into the open whenever conditions permit. ( )

l. Undercuts and side cuts shall be large enough to safely guide the trees and eliminate the possibility of splitting and barber chairing. Particular care shall be taken to hold enough wood to prevent the tree from prematurely slipping or twisting from the stump. Undercuts shall be cleaned out to the full depth of the saw cut. Especially large undercuts are necessary in heavy leaners. When required to safely fell a tree, mechanical or other means shall be employed to accomplish this objective. Pre-cutting of trees for the purpose of production logging is prohibited.

NOTE: Trees with no perceptible lean having an undercut to a depth of one quarter (1/4) of the diameter of the tree with an undercut height equal to one fifth (1/5) of the diameter of the tree will be assumed to be in reasonable compliance with this rule. ( )

m. Back-cuts shall be above the level of the upper horizontal cut of the undercut. ( )

n. While wedging, fallers shall watch for limbs or other material which might be jarred loose. Cutting of holding wood in lieu of using wedges is prohibited. ( )

o. When falling or bucking a tree is completed the power saw motor should be stopped. The power saw motor shall be stopped while the operator is traveling to the next tree. ( )

p. Cutters shall not work on the downhill side of the log being bucked unless absolutely unavoidable

and only when the log is blocked or otherwise secured to prevent rolling when cut is completed. ( )

q. Cutters must give timely warning to all persons within range of any log which may have a tendency to roll or slide after being cut off. ( )

r. Logs shall be completely bucked-through whenever possible. If it becomes hazardous to complete a cut, then the log shall be marked and identified by a predetermined method. Rigging crews shall be instructed to recognize such marks and when possible cutters shall warn rigging crew of locations where such unfinished cuts remain. ( )

s. A competent person properly experienced in this type of work shall be placed in charge of falling and bucking operations. Inexperienced workers shall not be allowed to fall timber or buck logs unless under the direction of experienced workers. ( )

t. Power saws shall be kept in good repair at all times. All exhaust parts on power chain saws shall be constructed and maintained so the operator is exposed to a minimum amount of fumes and noise. ( )

u. Combustion engine driven power saws shall be equipped with an automatic throttle which will return the motor to idling speed upon release of the throttle. ( )

v. Power saw motors shall be stopped while being fueled. ( )

w. All personnel shall wear approved head protection, proper clothing and footwear. ( )

x. *Each e*mployee who operate*s* a chain saw shall wear *leg* protection*, which meets the requirements of ASTM F 1897 and* cover*s the full length of the* thigh to *the* top *of the boot on each leg*, except when working as a climber. ( )

302. ILLUSTRATION OF UNDERCUTS.

01. Illustration of Undercuts. ( )

FIGURE 011.01-A - CONVENTIONAL UNDERCUT

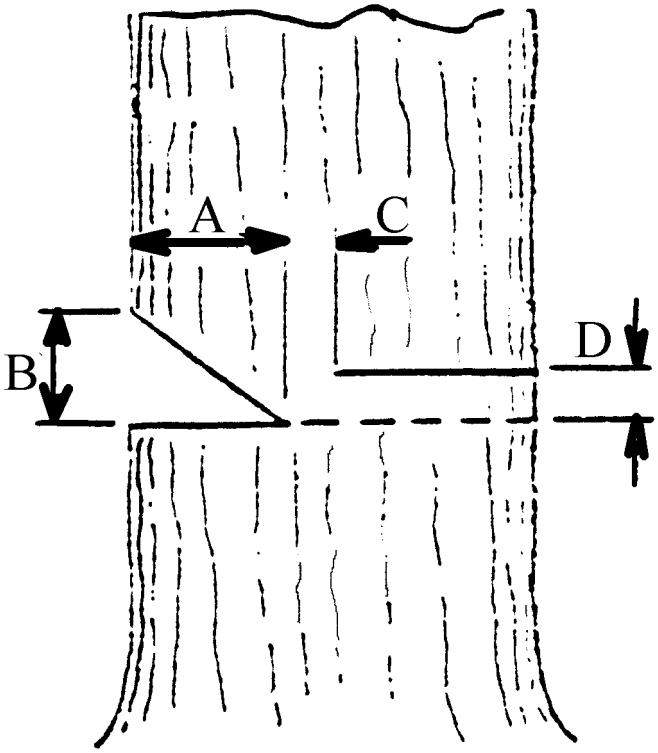

a. Conventional Undercut. May be made with parallel saw cut and a diagonal cut. Backcut (D) shall be above undercut. ( )

FIGURE 011.01-B - HUMBOLT UNDERCUT

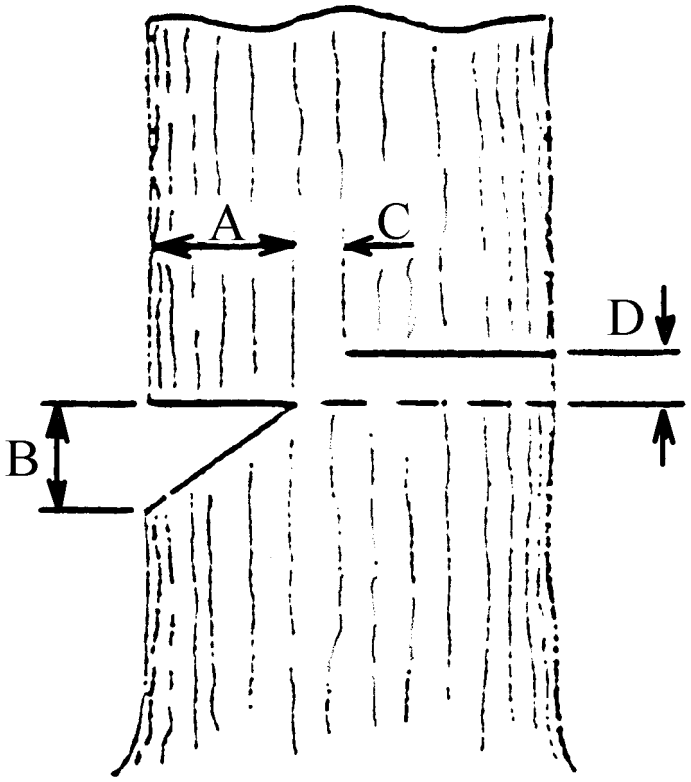

b. Humbolt Undercut. A cut in which both cuts made with the saw leaves a square end log (See Figure 011.01-B). The cut is the same as a conventional cut (See Figure 011.01-A) except that waste is on the stump. Backcut (D) shall be above undercut. *( )*

FIGURE 011.01-C - OPEN FACE UNDERCUT

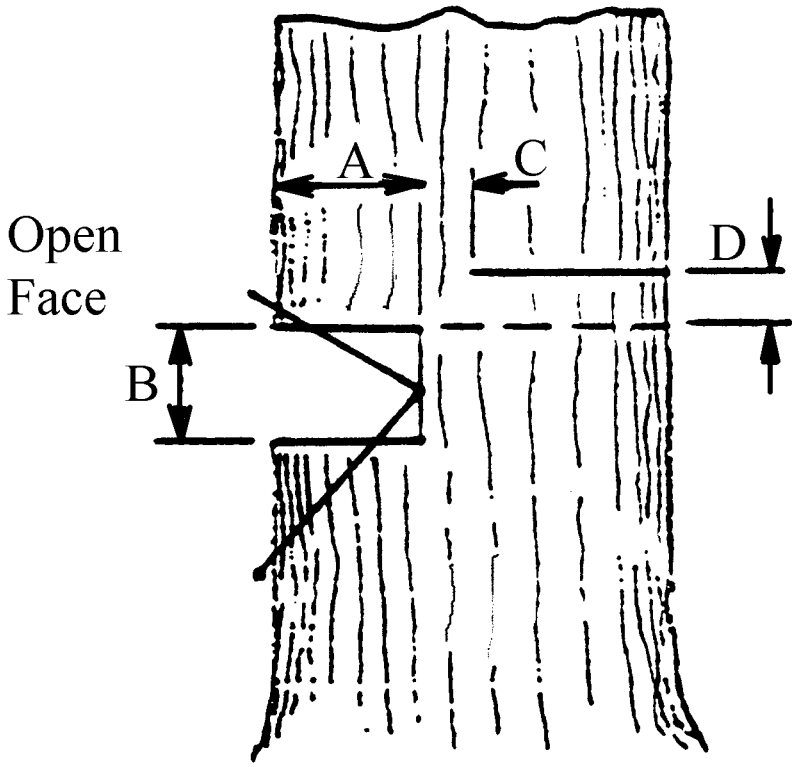

c. Open Face Undercut. A cut in which two (2) angle cuts are made with the saw (See Figure 011.01-C) -- It is used when it is necessary that the face does not close until the tree is near the ground. ( )

303. MECHANICAL DELIMBERS AND FELLER BUNCHERS.

01. General Requirements. ( )

a. Before start-up or moving equipment, check the surrounding area for fellow employees or equipment. ( )

b. If any protective device is missing, it is to be replaced as soon as possible. If it affects a safe operation, the machine is to be shut down. ( )

c. When a machine is working, extreme caution shall be used when approaching. The operator shall be notified by radio or visual contact. ( )

d. All raised equipment shall be lowered to the ground or to a safe position and the park brake set before leaving the machine. ( )

304. -- 350. (RESERVED)

Subchapter H -Rigging, Lines, Blocks, and Shackles
(Rules 351 -- 400)

351. RIGGING.

01. General. The determining factor in rigging-up shall be the amount of rated stump pull which a machine can deliver on each line. *( )*

02. Equipment Classification. *( )*

a. Equipment shall be classed according to the manufacturer's rating. *( )*

b. Where lower gear ratios or other devices are installed to increase the power of equipment, the size of the rigging shall be increased proportionately so that it will safely withstand the increased strains to conform to Subsection 010.04 of these rules. *( )*

03. Safe Loading. Rigging, and all parts thereof, shall be of a design and application to safely withstand all expected or potential loading to which it will be subjected. *( )*

04. Allowable Loading or Stress. *( )*

a. In no case shall the allowable loading or stress be imposed on one half (1/2) of the rated breaking strength of any parts of the rigging. *( )*

b. This shall not be construed as applying to chokers. *( )*

05. Chokers. Chokers shall be at least one eighth (1/8) inch smaller than the mainline. *( )*

06. Placing, Condition, and Operation of Rigging. The placing, condition and operation of rigging shall be such as to ensure safety to those who will be working in the vicinity. *( )*

07. Arrangement and Operation. Rigging shall be arranged and operated so that rigging or loads will not pound, rub, or saw against lines, straps, blocks, or other equipment. *( )*

08. Line Hazards. *( )*

a. Running lines and changed settings shall be made in a way to avoid bight of line hazards. *( )*

b. Signals to operator shall be made before moving lines. *( )*

09. Reefing. Reefing or similar practices to increase line pull shall be prohibited. *( )*

10. Inspection of Rigging. *( )*

a. A thorough inspection, by the operator or qualified person, of all blocks, straps, guylines, and other rigging shall be made before *the rigging is* placed in position for use *and subsequently repeated every thirty (30) days for as long as the rigging is in position for use. Each rigging inspection shall be documented and kept onsite for review*. *( )*

b. This inspection shall include an examination for damaged, cracked or worn parts, loose nuts and bolts, lubrication, condition of straps and guylines. *( )*

c. The repairs or replacements necessary for safe operation shall be made before rigging is used. *( )*

352. GUYLINES.

01. General Requirements. ( )

a. Guylines shall be of plow steel or equivalent, and in good condition. ( )

b. Guylines shall be provided in sufficient number, condition and location to develop stability and strength equivalent to the breaking strength of any component part of the rigging or equipment. ( )

c. Guylines shall be fastened by means of shackles or hooks and slides. The use of loops or molles for attaching guylines is prohibited. The use of wedge buttons on guylines is prohibited. ( )

d. The "U" part of a shackle shall be around the guyline and the pin passed through the eye of the guyline. Pins shall be secured with molles, cotter-keys, or the equivalent. ( )

e. Guylines shall be kept tightened while equipment or rigging they support is in use. ( )

02. Anchoring Guylines. ( )

a. Stumps used for fastening guylines and skylines shall be carefully chosen as to position, height and strength. They shall be tied back if necessary. See Figures 011.02-A and 011.02-B.

FIGURE 011.02-A

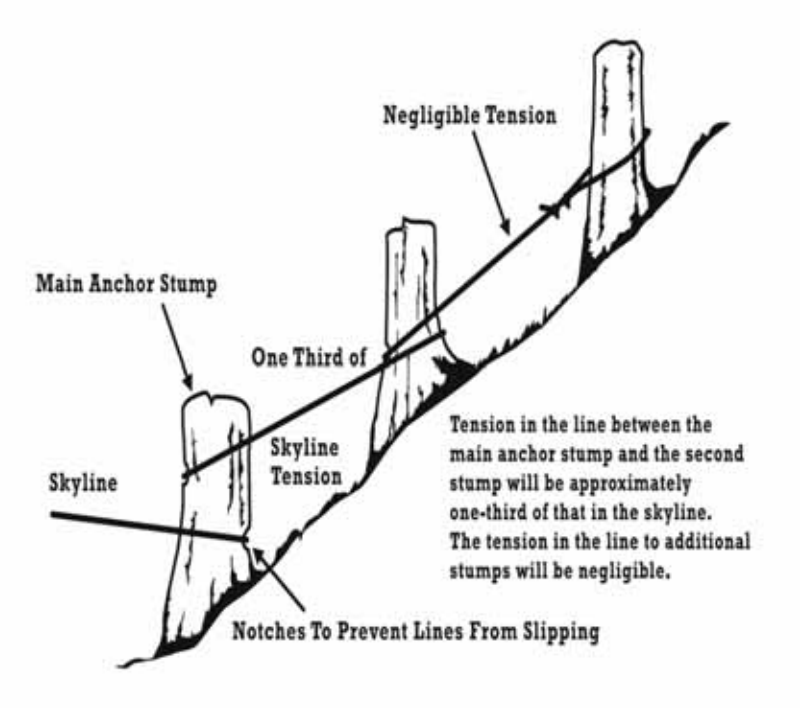

FIGURE 011.02-B

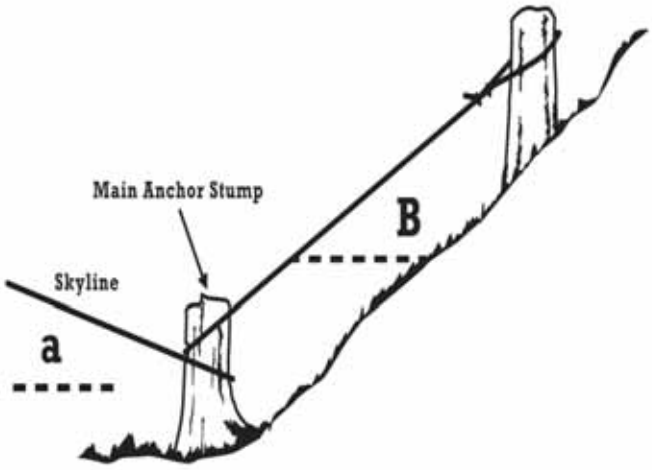

Profile of a common two-stump anchor.

( )

b. Properly installed deadman anchors are permitted. Guylines shall not be directly attached to deadman anchors. Suitable straps or equally effective means shall be used. ( )

c. Stumps, trees and guyline anchors shall be inspected from time to time while an operation is in progress and hazardous conditions immediately corrected. ( )

d. Standing trees which will reach landing or work areas shall not be used for guyline anchors. ( )

e. Any guyline anchor tree that can reach the landing or work area shall be felled before using as an anchor. ( )

03. Effectiveness of Guys. ( )

a. Guys making an angle with the horizontal greater than sixty (60) degrees will be considered less than fifty percent (50%) effective. For the effectiveness of other angles see Table 011.03-A.

TABLE 011.03-A

Degree	Effectiveness
60 to 45	50% to 75%
45 to 30	75% to 85%
30 to 10	85% to 95%

( )

b. For the effectiveness of guys according to the number of guys and their spacing, see Table 011.03-B.

TABLE 011.03-B		
No. of Guys Equally	**Guys Most Effective When Pull Is:**	**Guys Will Support Strain Equal To The Following:**
3	Opposite 1 guy	100% of strength of 1 guy
4	Halfway between 2 guys	140% of strength of 1 guy
5	Opposite 1 guy or halfway between 2 guys	160% of strength of 1 guy
6	Opposite 1 guy or halfway between 2 guys	200% of strength of 1 guy
7	Opposite 1 guy or halfway between 2 guys	225% of strength of 1 guy
8	Halfway between 2 guys	260% of strength of 1 guy
9	Opposite 1 guy or halfway between 2 guys	290% of strength of 1 guy
10	Opposite 1 guy or halfway between 2 guys	325% of strength of 1 guy

( )

04. Minimum Guyline Requirements. A minimum of four (4) top guys are required on any portable spar tree used for yarding, swinging, loading or cold-decking. ( )

353. LINES, SHACKLES AND BLOCKS.

01. General Requirements. ( )

a. All lines, shackles, blocks, etc., should be maintained in good condition and shall be of sufficient size, diameter and material to withstand one and one half (1 1/2) times the maximum stress imposed. ( )

b. Wire rope or other rigging equipment which shows a fifteen percent (15%) reduction in strength shall be replaced. ( )

02. Splices. ( )

a. Two (2) lines may be connected by a long splice, or by shackles of patent links of the next size larger than the line where practical. ( )

b. A safe margin of line must be used for making long splices. See Table 012.02-A.

TABLE 012.02-A		
Rope Diameter	**Unraveled**	**Total Length**
3/8"	**8'**	**16'**
5/8"	**13'**	**20'**
3/4"	**15'**	**30'**
7/8"	**18'**	**36'**

TABLE 012.02-A		
Rope Diameter	**Unraveled**	**Total Length**
1"	**20'**	**40'**

( )

03. ***Wire Rope*** **Clips** ***or Clamps.*** ( )

a. Clips should be spaced at least six (6) rope diameters apart to achieve maximum holding power. See Table 012.03-A

TABLE 012.03-A		
Diameter of Rope	**Number of Clips**	**Required Space Between Clips**
1-1/2-inch	8	10 inches
1-3/8-inch	7	9 inches
1-1/4-inch	6	8 inches
1-1/8-inch	5	7 inches
1- inch	5	6 inches
7/8-inch	5	5-1/4 inches
3/4-inch	5	5-1/2 inches
3/8 to 5/8-inch	4	3 inches

( )

b. Clips should always be attached with the base or saddle of the clip against the longer or "live" end of the rope. See Figure 012.03-A. This is the only approved method.

FIGURE 012.03-A



( )

c. Do not reverse the clips or stager them. See Figure 012.03-B. Otherwise the "U" bolt will cut into the live rope when the load is applied.

FIGURE 012.03-B

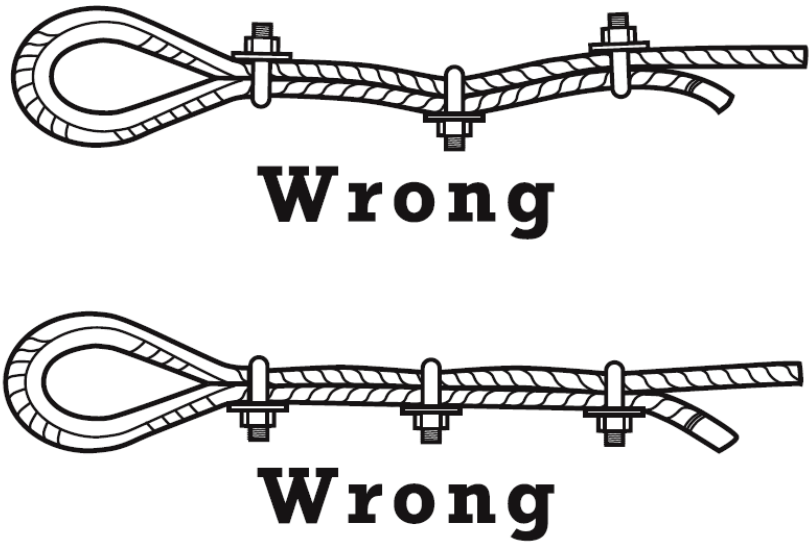

( )

d. After the rope has been used and is under tension, the clips should again be tightened to take up any looseness caused by the tension reducing the rope diameter. Remember that even when properly applied a clip fastening has only about ninety percent (90%) of the strength of the rope and far less than that when rigged improperly. *( )*

e. *U-bolt wire rope clamps must not be used to form eyes on running lines, skylines, machine guylines, or straps.* *( )*

04. Blocks. All blocks must be of steel construction or of material of equal or greater strength and so hung that they will not strike or interfere with other blocks or rigging. *( )*

05. Pins. All pins in blocks shall be properly secured by keys of the largest size the pin hole will accommodate *( )*

06. Shackles. *( )*

a. Spread in jaws of shackles shall not exceed by more than one (1) inch the size of yoke or swivel of the block to which it is connected. *( )*

b. All shackles must be made of forged steel or material of equivalent strength and one (1) size larger than the line it connects. *( )*

07. Cable Cutting. Cable cutters, soft hammers, or a cutting torch shall be available and shall be used for cutting cables. *Eye protection must be used when cutting cable.* *( )*

08. Damaged or Worn Wire Rope. Worn or damaged wire rope creating a safety hazard shall be taken out of service or properly repaired before further use. *( )*

354. -- 400. (RESERVED)

**Subchapter I -Canopy and Canopy Construction for Logging Equipment
(Rules 401 -- 450)**

401. GENERAL REQUIREMENTS.

01. Driver Protection Guard. ( )

a. A substantial metal guard for the protection of the driver shall be installed on every piece of equipment, where exposed to overhead hazards. ( )

b. This guard shall be strongly constructed to afford adequate protection for the driver against overhead hazards. ( )

c. This guard shall be of sufficient width and height so that it will not impair the movements of the driver or prevent his immediate escape from the equipment in emergencies. ( )

d. This guard shall be of open construction to allow the driver all the visibility possible. ( )

02. Canopy Framework. ( )

a. The canopy framework shall consist of at least two (2) arches, either transverse or longitudinal. ( )

b. If transverse, one (1) arch shall be installed at the rear of the equipment and the other at the center of the equipment. They shall be joined together by three (3) longitudinal braces, one (1) at the top and one (1) at each side of the arches. ( )

c. There shall be a shear or deflecting guard extending from the leading edge of the forward arch to the front part of the frame of the tractor or similar equipment. ( )

d. If longitudinal arches are used, they shall be extended from the rear of the tractor or equipment to the front frame of the tractor or equipment and each arch shall have an intermediate support located approximately at the dash so that ingress or egress will not be impeded. ( )

e. Regardless of the type of construction used, the fabrication and method of connecting to the tractor or equipment shall be of such design as to develop a strength equivalent to that of the upright members. ( )

03. Canopy Structure. The canopy structural framework shall be fabricated of pipe of the following size, or materials of equivalent strength, depending upon the gross weight of the tractor or similar equipment as equipped. Under twenty-eight thousand (28,000) lbs., two (2) inch double extra strong pipe (XXS); twenty-eight thousand (28,000) to fifty-eight thousand (58,000) lbs., three (3) inch double extra strong pipe (XXS); over fifty-eight thousand (58,000) lbs., four (4) inch double extra strong pipe (XXS). ( )

04. Gusset Plates or Braces. Gusset plates or braces shall be installed on the canopy framework so that the framework will withstand a horizontal pressure equal to twenty-five percent (25%) of the gross weight of the tractor or similar equipment, as equipped, when such pressure is applied to any vertical member at a point not more than six (6) inches below the roof of the canopy. ( )

05. Clearance Above the Deck. The clearance above the deck of the tractor or similar equipment at points of egress shall be not less than fifty-two (52) inches and the clearance above the driver's seat shall be of such height as will allow sufficient clearance above the driver's head. ( )

06. Overhead Covering. The overhead covering on the canopy structure shall be of not less than three-sixteenth (3/16) inch steel plate except that the forward eighteen (18) inches may be made of one quarter (1/4) inch woven wire having not more than one (1) inch mesh. ( )

07. Rear Covering. ( )

a. The opening in the rear of the structure shall be covered with one quarter (1/4) inch woven wire

having not less than one and one half (1 1/2) inch or more than two (2) inch wire mesh. This covering shall be affixed to the structural members so that ample clearance will be provided between the screen and the back of the operator. ( )

b. Structural members shall present smooth, rounded edges and the covering shall be free from projections which would tend to puncture or tear flesh or clothing. ( )

08. Pin Connections. ( )

a. Pin connections are recommended for joints in the structural frame and especially at connections to the tractor frame or similar equipment frame. ( )

b. Gusset plates shall be installed at each place where individual pieces of pipe are joined. ( )

09. Sideguards. When practical, sideguards shall be installed to protect the operator from hazards. ( )

402. TRACTORS AND SIMILAR LOGGING EQUIPMENT.

01. Operating Condition. ( )

a. The general operating condition of a tractor or equipment shall be sufficient to ensure the safety of the driver and other workmen. ( )

b. *An operating manual shall be readily available in either print or electronic format for each piece of machinery.* ( )

02. Guards. All guards shall be kept in place and in good repair at all times when the tractor or similar equipment is used. ( )

03. Repairs or Adjustments. Repairs or adjustments to clutches, frictions, or other parts of equipment which may cause hazardous movement of equipment shall not be done while engines are running. ( )

04. Blades or Similar Equipment. ( )

a. Blades or similar equipment shall be blocked or otherwise securely supported when making repairs or performing other work around such equipment when they are elevated from the ground. ( )

b. Equipment under repair or adjustment should be tagged out. ( )

05. Brakes and Steering. ( )

a. All equipment shall be equipped with a braking system capable of stopping and holding the maximum load on all grades at all times. ( )

b. Any defect found in the braking system or steering devices of any equipment used in skidding or yarding operations shall not be used until repaired or replaced. ( )

06. Starting of Equipment. Equipment shall be started (cranked) only by the operator or other experienced persons. ( )

07. Seatbelts. ( )

a. Seatbelts shall be installed on all tractors and mobile equipment having roll-over protection or in accordance with a design by a professional engineer which offers equivalent employee protection. ( )

b. Seatbelts shall be used when operating any machine equipped with Roll Over Protection Structure

(ROPS), Falling Object Protection Structure (FOPS), or overhead guards. ( )

08. Pin Connections. ( )

a. Pin connections are recommended for joints in the structural frame and especially at connections to the tractor frame or similar equipment frame. ( )

b. Gusset plates shall be installed at each place where individual pieces of pipe are joined. ( )

09. Sideguards. When practical, sideguards shall be installed to protect the operator from hazards. ( )

403. -- 450. (RESERVED)

.

Subchapter J -Skidding and Yarding
(Rules 451 -- 500)

451. SKIDDING AND YARDING.

01. General Requirements. ( )

a. All personnel shall wear approved head protection and proper clothing at all times in skidding and yarding. ( )

b. Getting on or off moving equipment is strictly prohibited. ( )

c. Equipment operators shall move rigging only upon the signal of an authorized person. ( )

d. Workers shall at all times watch for and protect themselves and their fellow workers from side-winders, rolling logs, up ending logs, snags, and other hazards caused by the movement of equipment, logs and/or lines. ( )

e. Chokers should be placed near, but not closer than two (2) feet, from the ends of logs if possible. ( )

f. Choker holes shall be dug from the uphill side of a log if there is any danger of its rolling. ( )

g. Knots shall not be used to connect separate lengths of chain or cable. ( )

h. Chaser (hooker) shall not unhook logs (trees) until rigging has stopped and the equipment operator is aware of his location. ( )

i. Riding on drag or logs or any part of equipment used in skidding and yarding except in the area of the driver's seat is prohibited. ( )

j. A tool handle, stick, iron bar, or similar object shall be used in guiding lines onto drums. Guiding lines with hands is prohibited. ( )

k. Make sure all personnel are in the clear before skidding turn, drag, log, or tree into landing. ( )

l. All personnel shall keep out of the bight of line and clear of running lines. ( )

m. Logs shall not be swung over personnel. ( )

n. Knot bumping should be done before a log is loaded. ( )

452. CABLE YARDING.

01. **Safety A**. Personnel shall not ride hooks, lines, rigging, or logs suspended in the air or being moved. ( )

02. **Safety B**, Personnel shall not hold on to haywire, running lines, drop lines, or chokers as an assist when walking uphill. ( )

03. **Safety C**. Personnel shall not work in the bight of lines under tension. ( )

04. **Safety D**. Personnel shall be "in the clear" before any signal to move any lines is given. ( )

05. ***Safety E****. The outer swing radius of each swing yarder shall be marked with hi-vis tape or cones while the swing yarder is in operation. Tools or supplies shall not be kept inside the swing radius outside the machine cabin unless in a lockable box. No employee shall enter the swing radius without first notifying the operator.* ( )

453. YARDING MACHINERY.

01. **Equipment Assessment**. When personnel arrive at a job site with a set of machinery on hand to perform yarding operations, evaluation of the conditions at the landing shall be made, and reassessment of the capacity of the available equipment shall be performed to determine if it meets the task. The principal options and features for yarders, log loaders, and processors are described in this section. ( )

02. **Manufacturer's Manual**. Yarders of various types are used in logging operations, including ground-based and rigged trees to lift the lines, and mobile steel towers. The manufacturer's manual shall always be consulted for essential features and inspection points on each particular machine. ( )

03. **Types of Yarding Equipment**. Yarding operations may include the use of, but is not limited to the following yarding equipment: ( )

a. Straight Tube Telescoping Tower. This equipment uses a hydraulic ram or multiple-sheave cable system to raise the tower. Some telescoping towers allow use at the telescoped height. The tower may be used partially retracted if guyline anchors need to be placed closer to the landing or on steep slopes. ( )

i. This equipment may travel by self-propulsion, or be either trailer or track-mounted. It has long reach capacity with a typical height of ninety (90) to one hundred ten (110) feet. ( )

ii. The advantages of this equipment include the ability to operate heavy payloads, the tower height allows for more line deflection, and some yarders allow yarding one hundred eighty (180) degrees without moving yarder or guylines. ( )

iii. The disadvantages of this equipment are that it is heavy and difficult to move, it requires appropriate roads and it may have to be disassembled to move on public roads, it requires large landing areas, and it needs large guyline anchor capacity.

FIGURE 012.03-C

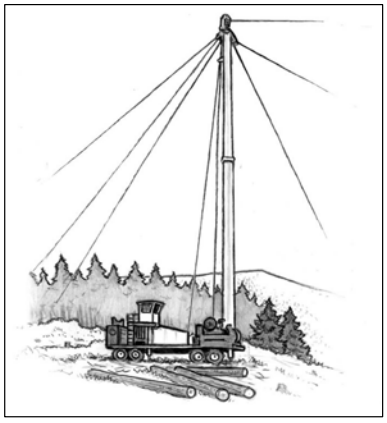

STRAIGHT TUBE TELESCOPING TOWER

( )

b. Fixed Leaning Tower. This equipment is a one (1)-piece tower that may be front-mounted vertical, or leaning. The height of the tower varies with make and model. ( )

i. This equipment may travel by self-propulsion, or be either trailer or track-mounted. It has medium reach capacity with a typical height of forty (40) to eighty (80) feet. ( )

ii. The advantages of this equipment include faster line setup, smaller landing area requirements, it is lighter and easier to move, and has lower guyline anchor requirements. ( )

iii. The disadvantages include a smaller yarding window which necessitates moving the tower and guylines more frequently, and smaller payloads than straight tube towers.

FIGURE 012.03-C

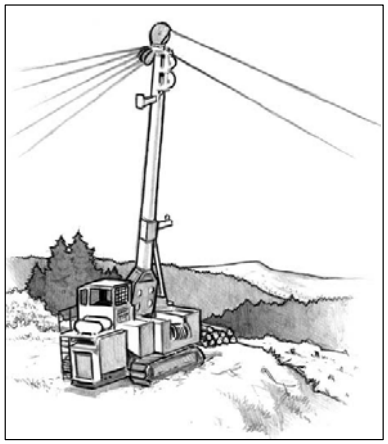

FIXED LEANING TOWER

( )

c. Swing Yarder. This equipment is similar to the fixed leaning tower in nearly all respects; however, the swing yarder is also capable of swinging logs onto the road or landing, and capable of using a running skyline.

Track mounts are more stable when moving. ( )

d. Grapple Yarder. This equipment uses a swing yarder or yoader system. The grapple is controlled by signals from the rigging slinger, or by the yarder engineer using a video link on the carriage. Swing capability is necessary to allow a wider logging corridor. A grapple system is typically used in conjunction with a machine anchor and elevated support on the back end of the unit, making for quick road changes. ( )

i. This equipment may travel by track-mount or rubber-tire mount. It has medium to short reach capacity. ( )

ii. The advantages of this equipment include the need for a smaller crew size, typically only a yarder engineer, landing worker, and a hooktender, and it is easier to rig up which is ideal for smaller logging areas. ( )

iii. The disadvantages of this equipment are that it requires extensive planning to achieve full production, it must have moderate to good deflection, access to the back of unit is generally necessary, and it possesses limited yarding width.

FIGURE 012.03-D

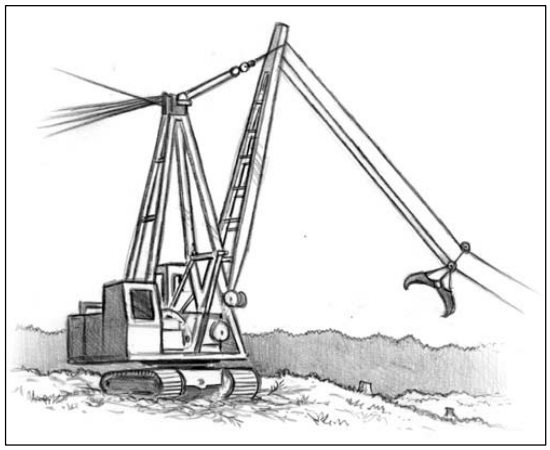

GRAPPLE YARDER

( )

e. Yoader. This yarder is typically a log loader with two (2) drums mounted at the base of the boom. Both lines run through sheaves mounted on the boom or heel rack. The lines can be set up in a standing, live, or running skyline configuration, or a high-lead configuration. ( )

i. This equipment may travel by track-mount or rubber-tire mount. It has medium reach capacity. ( )

ii. The advantages of this equipment are that guylines are not necessary, it is easier to move, easy road changes, it is easier to rig up which is ideal for smaller logging areas, and it may be used as a loader. ( )

iii. The disadvantages of this equipment are that it requires/results in slower line speeds, it requires blocking up front of the tracks to create stability, and rigging height is limited.

FIGURE 012.03-E

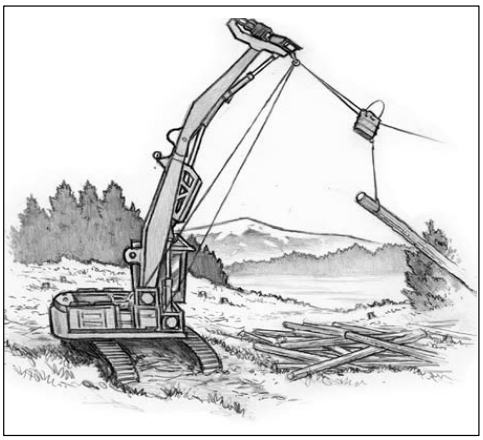

YOADER

( )

f. Tong-tosser/Jammer System. These are two (2) systems which basically use the same machine as the yoader, with either tongs or chokers on the end of the line to secure the logs. This version typically uses one (1) drum on the machine with a spitter wheel at the end of the boom to pull the line from the drum and push it out to the brush. The yarder engineer usually gets the tongs or chokers swinging and then tosses them to the waiting choker setters. ( )

i. This equipment travels by track-mount. It has short reach capacity. ( )

ii. The advantages of this equipment are that guylines are not necessary, it is easier to move, it is easier to rig up which is ideal for smaller logging areas, and it may be used as a loader. Additionally, it does not require line layouts or anchors. ( )

iii. The disadvantages of this equipment are that it results in slower line speeds, it requires blocking up front of the tracks to create stability, rigging height is limited, and there is a greater potential risk to the rigging crew.

FIGURE 012.03-F

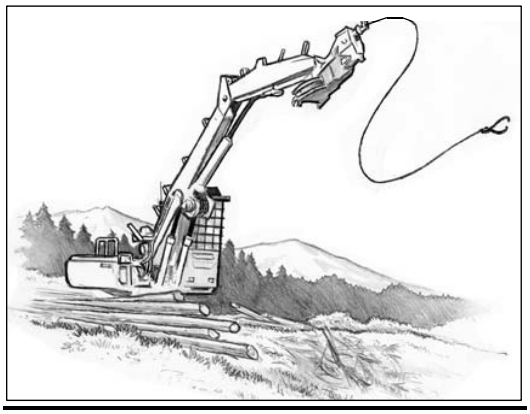

TONG-TOSSER WITH GRAPPLE

FIGURE 012.03-G

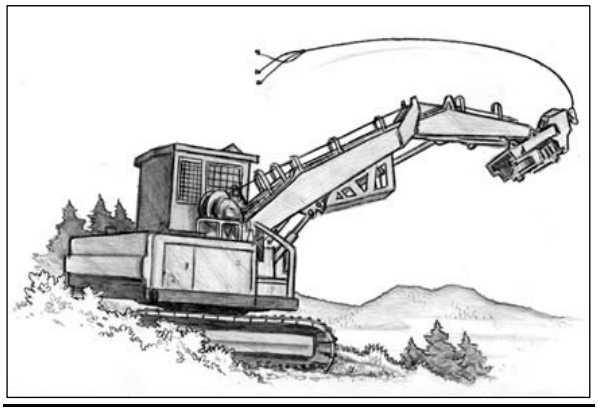

JAMMER-SYSTEM WITH CHOKERS

( )

g. Stiff-leg Spar Yarder. One of various configurations for this yarder uses an excavator or log loader fitted with a third boom between the main and jib boom, which is elevated to provide lift. The elevated boom is typically rigged with two (2) or three (3) lines. Works with high lead, standing, running, or slackline configurations.

( )

i. This equipment travels by track-mount. It has medium reach capacity. ( )

ii. The advantages of this equipment are that guylines may not be necessary, it is easier to move, it is easier to rig up which is ideal for smaller logging areas, and it may be used as a loader or excavator. Additionally, it does not require line layouts or anchors. Additionally, jib boom offers greater stability, and the rigging height is greater than yoader or tong-tosser/jammer system. ( )

iii. The disadvantages of this equipment are that it results in slower line speeds, the attached tower boom may need to be removed for other operations, and it generates heavy stress on boom and components. ( )

FIGURE 012.03-H

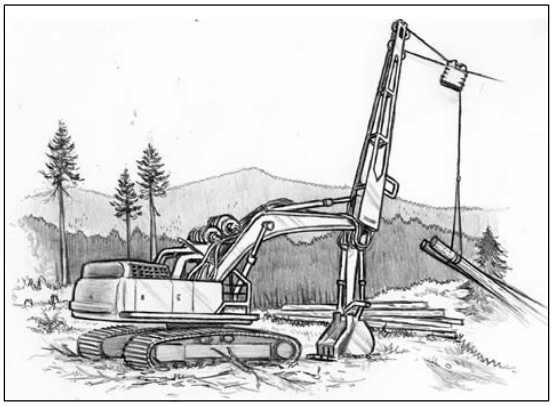

STIFF-LEG SPAR YARDER

( )

454. WIRE ROPE.

01. General Characteristics. Wire rope comes in many grades and dimensions, and every rope has its own characteristics with regard to strength and resistance to crushing and fatigue. A larger rope will outlast a smaller rope of the same materials and construction, used in the same conditions, because wear occurs over a larger surface. Similarly, a stronger rope will outlast a weaker rope, because it performs at a lower percentage of its breaking strength, with reduced stress. ( )

02. Wire Rope Terms. Common grades of wire rope include extra improved plow steel (EIPS) and swaged powerflex, among others. The following terms are commonly used for wire rope: ( )

a. Abrasion Resistance. Ability of outer wires to resist wear. Abrasion resistance is greater with larger wires. ( )

b. Core. The foundation of a wire rope which is made of materials that will provide support for the strands under normal bending and loading conditions. A fiber core (FC) can be natural or synthetic. If the core is

steel, it can be a wire strand core (WSC) or an independent wire rope core (IWRC). ( )

c. Crushing Resistance. Ability of the rope to resist being deformed. A rope with an independent wire core is more resistant to crushing than one with a fiber core. ( )

d. Die-form Line. Made from strands that are first compacted by drawing them through a drawing die to reduce their diameter. The finished rope is then swaged or further compressed. ( )

e. Fatigue Resistance. Ability of the rope to withstand repeated bending without failure (the ease of bending a rope in an arc is called its "bendability"). Fatigue resistance is greater with more wires. ( )

f. Strength. Referred to as breaking strength, usually measured as a force in pounds or tons. The breaking strength is not the same as the load limit, which is calculated as a fraction of the breaking strength to ensure safety. ( )

g. Swaged Line. Manufactured by running a nominal-sized line through a drawing die to flatten the outer crown and thus reduce the rope diameter. This compacted rope allows for increased drum capacity and increased line strength. ( )

03. Typical Wire Rope Specifications. The table below lists a few examples of wire-rope breaking strengths. ( )

TABLE 012.09-A -- Typical Wire Rope Specifications

6x26 Improved Plow Steel			6x26 Swaged		Swaged Compact-Strand	
Diameter (inches)	Weight (lbs/ft)	Breaking Strength (tons)	Weight (lbs/ft)	Breaking Strength (tons)	Weight (lbs/ft)	Breaking Strength (tons)
1/2	0.46	11.5	0.6	15.2	0.63	18.6
9/16	0.59	14.5	0.75	19	0.78	23.7
5/8	0.72	17.9	0.93	23.6	1.01	28.5
11/16			1.10	28.8	1.18	35.3
3/4	1.04	25.6	1.37	34.6	1.41	42.2
13/16			1.56	39.6	1.63	49.3
7/8	1.42	34.6	1.83	46.5	1.91	56.0
15/16			1.95	53.3	2.20	66.1
1	1.85	44.9	2.42	60.6	2.53	73.7
1-1/8	2.34	56.5	2.93	75.1	2.97	92.9
1-1/4	2.89	69.3	3.52	92.8	3.83	112.1
1-3/8	3.5	83.5	4.28	108.2	4.62	128.6

TABLE 013.03-A						
6x26 Improved Plow Steel			6x26 Swaged		Swaged Compact-Strand	
Diameter (inches)	Weight (lbs/ft)	Breaking Strength (tons)	Weight (lbs/ft)	Breaking Strength (tons)	Weight (lbs/ft)	Breaking Strength (tons)
½	0.46	11.5	0.6	15.2	0.63	18.6
9/16	0.59	14.5	0.75	19	0.78	23.7
5/8	0.72	17.9	0.93	23.6	1.01	28.5
11/16			1.10	28.8	1.18	35.3
¾	1.04	25.6	1.37	34.6	1.41	42.2
13/16			1.56	39.6	1.63	49.3
7/8	1.42	34.6	1.83	46.5	1.91	56.0
15/16			1.95	53.3	2.20	66.1
1	1.85	44.9	2.42	60.6	2.53	73.7
1-1/8	2.34	56.5	2.93	75.1	2.97	92.9
1-1/4	2.89	69.3	3.52	92.8	3.83	112.1
1-3/8	3.5	83.5	4.28	108.2	4.62	128.6

Source: Cable Yarding Systems Handbook. 2006. Worksafe BC. Table lists typical breaking strengths. See manufacturer's specifications for specific lines. ( )

04. Synthetic Rope. High-tensile strength synthetic lines are considerably lighter than standard wire rope; however, some lines are dimensionally as strong as standard wire rope. Accordingly, high-tensile strength synthetic lines are permitted to be used in appropriate logging applications, including as substitutes for brush straps, tree straps, tail and intermediate support guylines, guyline extensions, skyline extensions, and haywire. Manufacturers' standards and recommendations for determining usable life or criteria for retirement of such lines shall be followed. Personnel shall examine the lines for broken or abraded strands, discoloration, inconsistent diameter, glossy or glazed areas caused by compression and heat, and other inconsistencies. Rope life is affected by load history, bending, abrasion, and chemical exposure. Most petroleum products do not affect synthetic ropes. ( )

05. Inspection and Care. ( )

a. Wire rope shall be inspected daily by a qualified individual and repaired or taken out of service when there is evidence of any of the following conditions: ( )

i. Twelve and five tenths percent (12.5%) of the wires are broken within a distance of one (1) lay. ( )

ii. Evidence of chafing, sawing, crushing, kinking, crystallization, bird-caging, corrosion, heat damage, or other damage that has weakened the rope structure. ( )

b. Qualified personnel shall closely inspect those points subject to the most wear, including the knob ends of lines, eye splices, and those sections of line that most often run through blocks or carriages. If there is doubt about the integrity of the line, it is far safer to replace a suspect line, or cut out and resplice a defective area, than risk a failure during operation. Evaluation of the load-bearing yarder lines shall be stringent. A qualified person shall also inspect all other lines used on site and remove any that are unsafe. ( )

06. Additional Precautions. The following precautions shall also be observed: ( )

a. Ensure the working load limit for any line is adequate for the intended use. ( )

b. The manufacturer's specifications with regard to assigned breaking strength shall be followed. Such specifications as determined by engineering test results should factor the grade of the wire, number of strands, number of wires per strand, filler wire construction, lay pattern of the wires, and the diameter of the line. ( )

07. Safety Factor. Operators shall follow the manufacturer's specifications in determining load limits. The working load limit is a fraction of a line's breaking strength – a factor of three (3), or one-third (1/3) the breaking strength, is commonly used as a safety factor for running and standing lines, when workers are not exposed to breaking lines or loads passing overhead. A safety factor of three (3) is commonly used to determine the working load limit for a standing or running line. A standard six (6) x twenty-six (26) IWRC wire rope with a diameter of one (1) inch has a breaking strength of approximately forty-five (45) tons – divide by three (3) – equals fifteen (15) tons working load limit. ( )

08. Wire Labeling. ( )

a. The elements of a typical wire rope are labeled, for example, six (6) x twenty-five (25) FW PRF RL EIPS IWRC. The label indicates a six (6)-strand rope with twenty-five (25) wires per strand (six (6) x twenty-five (25)), filler-wire construction (FW), strands pre-formed in a helical pattern (PRF), laid in a right-hand lay pattern (RL), using an extra-improved plow steel (EIPS) grade of wire, and strands laid around an independent wire rope core (IWRC). See figure 013.08-A for proper labeling of wire rope. ( )

FIGURE 013.08-A

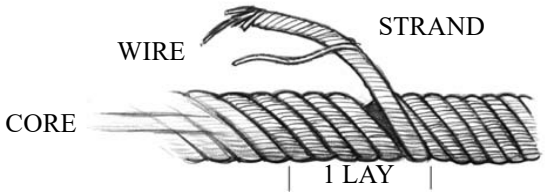

( )

b. Out of Service Standard Example. A six (6) x twenty-five (25) IWRC wire rope = six (6) strands in one (1) lay with twenty-five (25) wires per strand = one hundred fifty (150) wires. The rope must be taken out of service when twelve and five tenths percent (12.5%), or one-eighth (1/8), of the wires are broken within the distance of one (1) lay = one hundred fifty (150) divided by eight (8) = eighteen and seventy-five one hundredths (18.75), or nineteen (19) broken wires. ( )

09. Wire Line Life. Table 013.08-A provides the allowable life of a line in million board feet in accordance with line size and use. Figure 013.09-A illustrates both the correct and incorrect manner in which to measure line size (diameter). ( )

TABLE 013.08-A
LINE LIFE BY WOOD HAULED

System	Use	Line Size (inches)	Line Life (million board feet)
Standing Skyline	Skyline	1-3/4	20-25
		1-1/2	15-25
		1-3/8	8-15
	Mainline	1 to 1-1/8	15-20
		1	10-15
	Haulback	3/4 to 7/8	8-12
Live Skyline	Skyline	1-1/2	10-20
		1-3/8	8-15
		1	6-10
	Mainline	1	10-15
		3/4	8-12
		5/8	8
	Haulback	3/4 to 7/8	8-12
		1/2	6-10
	Dropline	7/16	5-8
High Lead	Mainline	1-3/8	8-15
		1-1/8	6-12

Source: Willamette Logging Specialist's Reference by Keith L McGonagill. 1976. Portland, OR: Willamette National Forest. Calculations of line life refer to EIPS 6x21 wire rope for the skyline, and EIPS 6x26 for other lines. Figures will be different for other classes of wire rope. ( )

FIGURE 013.09-A

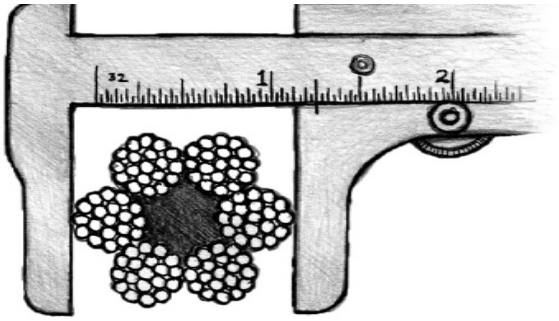

Correct way to measure line diameter

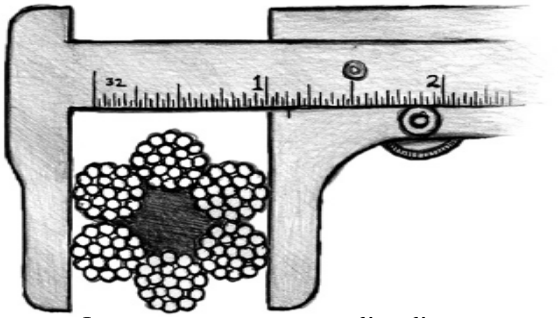

Incorrect way to measure line diameter

( )

10. Dynamic Loads. Operators shall consider high dynamic loads when calculating safe working limits of wire ropes. Wire ropes are often subjected to high dynamic loads, which greatly multiply the force on a line and may exceed the safe working limit. Even a split second of time over the limit can lead to premature failure of a line. Typical dynamic loads occur when a turn hits a stump, a turn comes down off of the back hillside to full suspension, or when excessive force is applied to pulling a turnout of its bed. A high dynamic load or a sudden shock load that exceeds the working limit may not result in immediate failure, but rope strands may stretch and weaken, and may fail at a later time. ( )

11. Other Common Wire Rope Considerations. ( )

a. Wire Rope Stretching and Line Diameter. A stretched wire rope has a reduced diameter. Operators shall check for stretched lines by measuring the diameter, particularly on older lines and any line used in stressful situations. ( )

b. Older Wire Rope. Standing lines and guylines are often kept in service for multiple years (four (4) to five (5), and as long as ten (10) years in some instances) without exhibiting any obvious signs of excessive wear other than rust. Operators shall check date stamps of wire rope and evaluate line life. Operators shall also inspect the core of older lines periodically for a fractured or dry core, which could indicate other deficiencies such as broken wires, excessive wear, or line deformation. ( )

c. Hard Use. The life of a wire rope is also affected by hard use. Line life can be measured by the volume of wood hauled (see Table 013.08-A). Line life is reduced when a line exceeds its elastic limits, is heavily shocked, or rubbed against rocks or other lines. As a line wears, the safe working load limit shall be lower and the payload adjusted appropriately. ( )

d. Wire Rope endurance and elastic limits. Working within the endurance and elastic limits of lines

can help preserve line life. The following principles shall be observed when evaluating the integrity and safe use of wire rope: ( )

i. The "endurance limit" for all lines is fifty percent (50%) of the breaking strength. If wire rope tensioning regularly exceeds the endurance limit, the life of the line is reduced through fatigue. ( )

ii. The "elastic limit" for all lines is sixty to sixty-five percent (60-65%) of the breaking strength. When a wire rope is loaded to its normal safe working limit, the line stretches, but then returns to its original size when the load is released. If a load increases past the elastic limit through prolonged exertion or repeated stress, the line will stretch and stay stretched, resulting in a permanent reduction in the breaking strength. ( )

e. Lubrication and Abrasion. Wire rope is lubricated in the factory to reduce internal friction and corrosion, and prolong the life of the rope. Heat from friction causes the internal lubricant to deteriorate. Friction occurs when the rope stretches under load, particularly in places where it bends around sheaves or other objects. An improperly lubricated line can pick up particles of dirt and sand that will increase abrasion. Accordingly, operators shall: ( )

i. Check for and ensure the proper lubrication of all lines and wire rope, following the manufacturer's instructions. Commercial wire rope lubricants are available. ( )

ii. Carefully inspect lines for faults in areas where dust and sand may collect. ( )

iii. Store all wire rope and lines off the ground. ( )

12. Line Connections. ( )

a. Inspection. Operators shall regularly inspect shackles, hooks, splices, and other connecting equipment for damage and wear, as well as ensure the connectors are the correct type and size for the line and intended use. ( )

b. Wire Splicing. Splices are used to form an eye at the end of a line, extend the length of a line, or repair a broken or damaged line. The splicing of wire rope requires special skill and shall only be performed under the supervision of a competent person with using the proper tools. Reference materials are available with detailed instructions for numerous types of splices. Individuals splicing wire shall always wear appropriate eye protection while splicing or assisting with a splicing procedure. ( )

c. The logger's eye splice and three (3)-pressed eye are the most common methods to form an eye for use as a skyline terminal. See Figure 013.12-A. The spliced eye is approximately eighty percent (80%) efficient. A three (3)-pressed eye can reach ninety percent (90%) line strength. The pressed eye is typically performed at the rigging shop. Spliced eyes may be placed in the field, but may require additional time to install. ( )

FIGURE 013.12-A

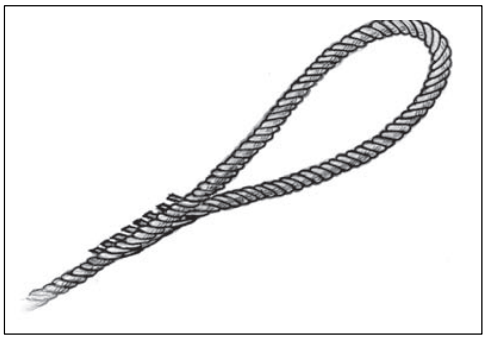

THE LOGGER'S EYE SPLICE

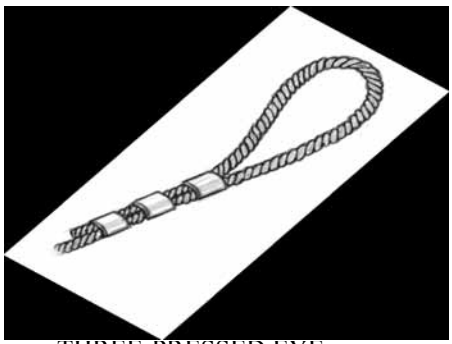

THREE-PRESSED EYE

( )

D. When Flemish (Farmes, Rolled) eye splices are used on load-bearing lines, the strand ends must be secured by: ( )

i. Hand tucking each strand three (3) times; or ( )

ii. Applying a compression (pressed-eye) fitting. ( )

e. Guyline Care. Guylines are a vital link in holding up a tower. Guyline extensions shall not be excessively moved around by dragging on the ground, or left on the ground for long periods of time as they will deteriorate faster. *( )*

f. Guyline extensions must be connected by: ( )

i. A bell shackle using a safety pin to connect spliced eyes or pressed eyes; or ( )

ii. Poured nubbins (buttons) and a double-ended hook. ( )

g. Line Deformity. A line may deform where it loops around a shackle or pin, producing weakness that may result in line failure. A thimble in the loop protects the line. Thimbles may be used on standing lines, but not on running lines. Examples of the appearance of deformed lines and the use of thimbles in shackles are illustrated in Figure 013.12-B.

FIGURE 013.12-B



DEFORMED EYE



EYE WITH THIMBLE *( )*

13. Shackles and Hooks. *( )*

a. Hooks. Hooks shall be inspected to ensure that they have not sprung open. Ensure that shackles are positioned correctly to bear the load. Haywire swivels shall be inspected frequently, due to their susceptibility to wear rapidly. *( )*

b. Shackle Safety. Proper bells or shackles shall be used to connect the guylines to the stumps, and the guyline lead blocks to the ring at the top of the tower. Connections shall have at least one and a half (1-1/2) times the strength of the guyline. The pins of the shackles must be secured to protect against dislodgement, and a nut and cotter key, or a nut and molly may be used for that purpose. The use of loops or mollies to attach guylines is prohibited. Examples of the appearance of some shackle equipment is illustrated in Figure 013.13-A.

FIGURE 013.13-A

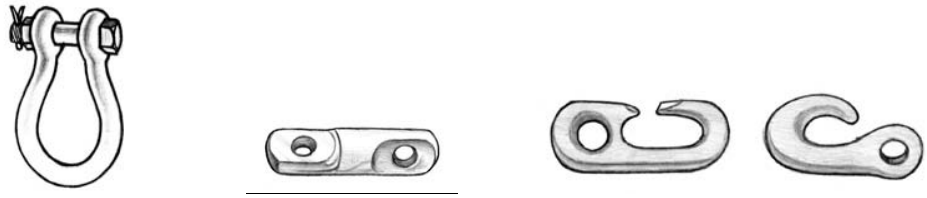

SHACKLE WITH SAFETY PIN | HAYWIRE SWIVEL | HAYWIRE HOOKS

( )

c. The following practices shall be observed in order to ensure the safe use of shackles: ( )

i. A shackle must have a rated breaking strength greater than the rated breaking strength of the lines attached to it, and the manufacturer's rated strengths to determine oversized requirements shall be used. Accepted industry standards shall be utilized and adhered to when determining the correct shackle size based on the type and nature of the logging operation being performed. Examples of the appearance of some shackle equipment for the purposes of proper selection is illustrated in Figure 013.13-B. ( )

ii. Shackles with pins, and securing nuts with mollies or a cotter key shall be used on standing or overhead rigging. ( )

iii. Screw shackle pins shall not be used in any standing or overhead rigging. ( )

iv. Screw shackle pins, where allowed to be used, shall be tightened securely. ( )

v. Shackle pin mollies shall be rolled sufficiently and fit the pin hole fully. Mollies shall be tucked a minimum of three (3) times. ( )

vi. The shackle shall always be placed with the pin nearest to the yarder, so that in the event the shackle fails the least amount of hardware may be thrown at the yarder. ( )

vii. Replace shackles that are bent, broken, or show excess wear on the inner surfaces. Examples of the appearance of some damaged or non-conforming shackles are illustrated in Figure 013.13-A.

FIGURE 013.13-A



REPLACE SHACKLES THAT ARE BENT, BROKEN, OR SHOW EXCESS WEAR ON THE INNER SURFACES.

FIGURE 013.13-B



SLEEVE WITH KNOCKOUT PIN



BELL WITH KNOCKOUT PIN



SLEEVE WITH SAFETY PIN



FLUSH PIN STRAIGHT SIDE

( )

14. Knobs, Ferrules, and Eyes. ( )

a. Poured nubbins and a double-end hook are acceptable connectors in place of shackles in some instances. The use of quick nubbins (wedge buttons) as guylines and skyline end fittings is prohibited unless attaching guylines to guyline drums. Operators shall follow the manufacturer's recommendations when attaching sockets and similar end fastenings. ( )

b. Poured nubbins achieve ninety-nine percent (99%) of line strength and may be used. Quick nubbins only achieve a maximum of sixty-five percent (65%) under ideal conditions, and accordingly operators shall consider whether they are appropriate for safe use in any given application. Pressed ferrule are not certifiable for strength, and shall not be used. Examples of the appearance of some knob, ferrule, and nubbin equipment are illustrated in Figure 013.14-A. ( )

c. Operators shall inspect knobs, ferrules, and eyes at cable ends for loose or broken wires, and corroded, damaged, or improperly applied end connections. Poured nubbins shall be date stamped.

FIGURE 013.14-B

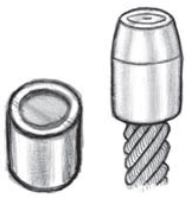

BABBITED KNOB & PRESSED FERRULE

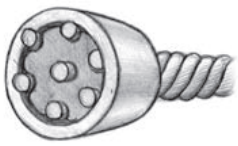

QUICK NUBBIN (WEDGE BUTTON)

( )

15. Brush Blocks. Brush blocks shall be thoroughly inspected for cracks, wear, or deterioration.

Operators shall closely examine the areas subject to the most wear, including bearings, sheave, frame, yoke, and pins. Defective parts shall be replaced immediately. Blocks shall be greased every time before each use.

FIGURE 013.15-A

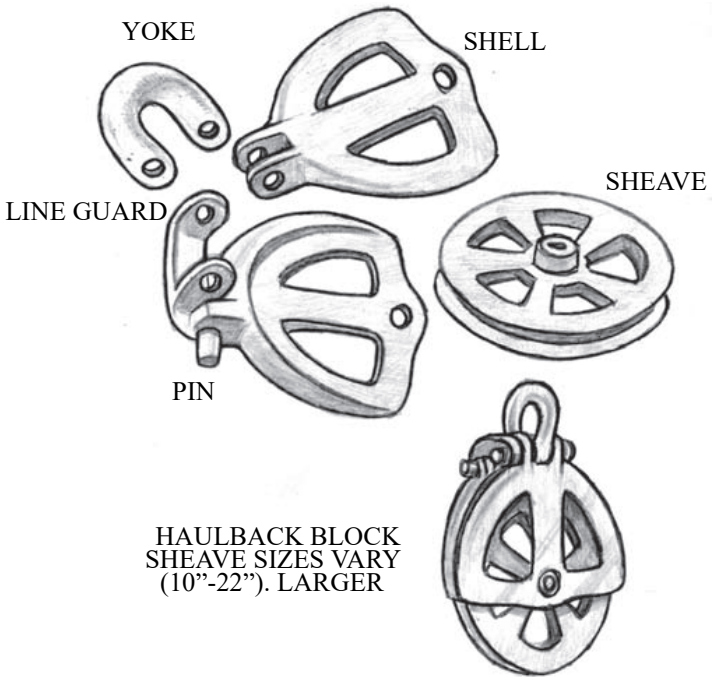

( )

16. Chains and Straps. Chains or straps shall always be sized and used correctly for the intended purpose. Determining which size to use may depend on various factors. Oversized trailer lift straps, for example, shall have a breaking strength equal to five (5) times the load to be lifted. Towing chains shall have a tensile strength equivalent to the gross weight of the towed vehicle. The manufacturer’s specifications or other appropriate reference materials shall always be consulted to ensure the right chain or strap is used for a task. ( )

a. Operators shall periodically inspect chains for damaged, worn, or stretched links. Chains with more than ten percent (10%) wear at the bearing surface shall be replaced. Operators shall periodically inspect straps, and examine them for broken wires or wear. Examples of the appearance of damaged and safe chains are illustrated in Figure 013.16-A. ( )

FIGURE 013.16-A



GOOD CHAIN



STRETCHED CHAIN



WORN CHAIN (INSIDE LINKS)

( )

455. TREE CLIMBING.
Loggers are often required to climb considerable heights to top trees or hang rigging on lift trees. All workers who may be exposed to fall hazards shall be specifically trained and equipped with fall protection. ( )

01. Rescue Plan. Before rigging any tree, the employer must develop rescue procedures, which includes identifying appropriate equipment, personnel, and training to perform a rescue in case a climber is injured or incapacitated in the tree. A second set of climbing gear and a person with climbing experience shall be readily available. Equipment and procedures that will support an injured climber's chest and pelvis in an upright position during a rescue shall be used. When an injured climber is wearing only a climbing belt, provisions must be made to prevent the climber from slipping through it; this may include using a rope to create an upper-body support system. Consideration should be made to replacing climbing belts with a climbing harness. ( )

02. Before Leaving the Ground. Employers shall check climbing equipment and immediately remove defective equipment from service. Personnel shall ensure that hardware and safety equipment is securely fastened before placing weight on the lanyard or life-support rope. All climbing knots shall be tied, dressed, and set prior to ascending. All personnel shall follow the recommendations of the manufacturer of the cordage with respect to the use of splices. ( )

03. Climbing Equipment. ( )

a. A climbing harness provides both pelvic and upper-body support, and may be a one (1)-piece, full-body harness, or any two (2)-piece design that meets industry standards. ( )

b. Climbing and life-support lines shall be conspicuous and easily identifiable. ( )

c. All lines and webbing used for life support shall have a minimum breaking strength of five thousand four hundred (5,400) pounds and may only be used for climbing. ( )

d. When a cutting tool is used in a tree, the climbing rope (lanyard) shall be a high-quality steel safety chain of three-sixteenths (3/16) inch size or larger, or a wire-core rope. ( )

e. A life-support rope evidencing excessive wear or damage or that has been subjected to a shock load shall be removed from climbing service. ( )

04. Climbing Operations. ( )

a. Ensure climbers are appropriately well-trained in climbing and in the use of all equipment to carry out assigned tasks. ( )

b. While climbing operations are underway, co-workers and others on the ground shall stay clear of potential falling objects. If co-workers must work directly below a climber, the climber shall stop any activity in which objects could be dropped or dislodged until the area below is cleared. Climbers shall provide warning whenever any material may be likely to fall or is dropped deliberately. Unsecured equipment, rigging, or material shall not be left in the tree. ( )

c. Yarding activity must cease within reach of a tree or guylines of a tree where a climber is working. Machinery may operate in reach of the climber to hoist rigging into the tree. In such circumstance the following shall apply: ( )

i. A spotter shall be utilized and yarding operations shall be performed with extra caution; ( )

ii. The machine operator and the spotter shall give the task their undivided attention; ( )

iii. Equipment that is nearby and which may be noisy, such as power saws, tractors, or logging machines shall be shut down if the noise interferes with signal communications with the climber; and ( )

iv. Lines attached to a tree in which a climber is working shall not be moved except on a signal from the climber. ( )

d. Tree climbers shall use a three (3)-point climbing system whereby three (3) points of contact must be firmly in place on a secure surface before moving to another point. Along with hands and feet, other points on the body, such as a hooked knee, can be considered a point of contact if it can support the full body weight. Additionally, the places of support must be secure, and climbers should use care to void unsound branches or stubs as a contact point. A lanyard around the tree secured to the safety harness or climbing belt on both ends constitute two (2) points of contact. ( )

e. Climbing without being secured to the tree is prohibited, except in conifers, when in the judgment of a qualified climber, the density of branches growing from the stem make attaching the lanyard more hazardous than simply climbing the tree. In such instances, the climber shall evaluate the tree farther up, and use attachments when it is safe to do so. ( )

05. Topping Trees. Only an experienced climber with experience felling trees shall top a tree. Cutters shall not cut when wind or other conditions make doing so hazardous. Standard safe felling procedures shall apply, with the additional following requirements: ( )

a. A chainsaw with a bar short enough to make both the face-cut and backcut easily from one side shall be used. ( )

b. Cutters shall determine the felling direction and ensure there are no obstructions. Consideration shall be given to the fact that an impact could cause violent movement in the tree being topped where the climber is perched. ( )

c. A safety chain shall be wrapped around the tree just below the cut to prevent the tree from splitting or slabbing down inside the climbing rope. ( )

d. The cutter shall ensure he is comfortable, and avoid any awkward cutting position. ( )

e. Exact cuts should be made. There is no escape route for the climber to get away from the stem to avoid kickback or a splintered hinge. When making horizontal side cuts, extra care shall be used to stay on the line of the backcut to avoid wood breaking away with the saw as the top falls. ( )

456. TYPICAL RIGGING SYSTEMS.

01. See Figures 015.16-A through 015.16-H.

FIGURE 015.16-A

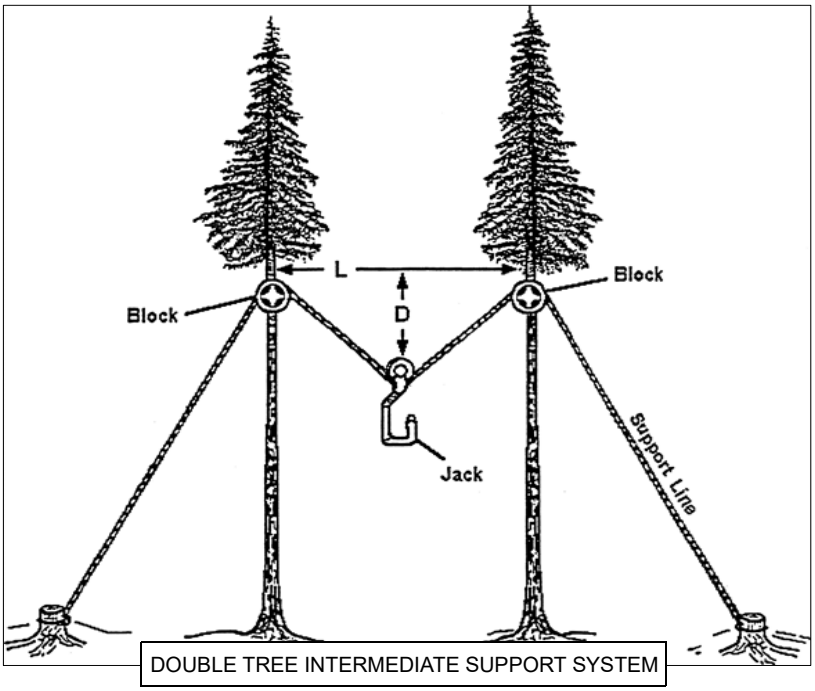

DOUBLE TREE INTERMEDIATE SUPPORT SYSTEM

FIGURE 015.16-B

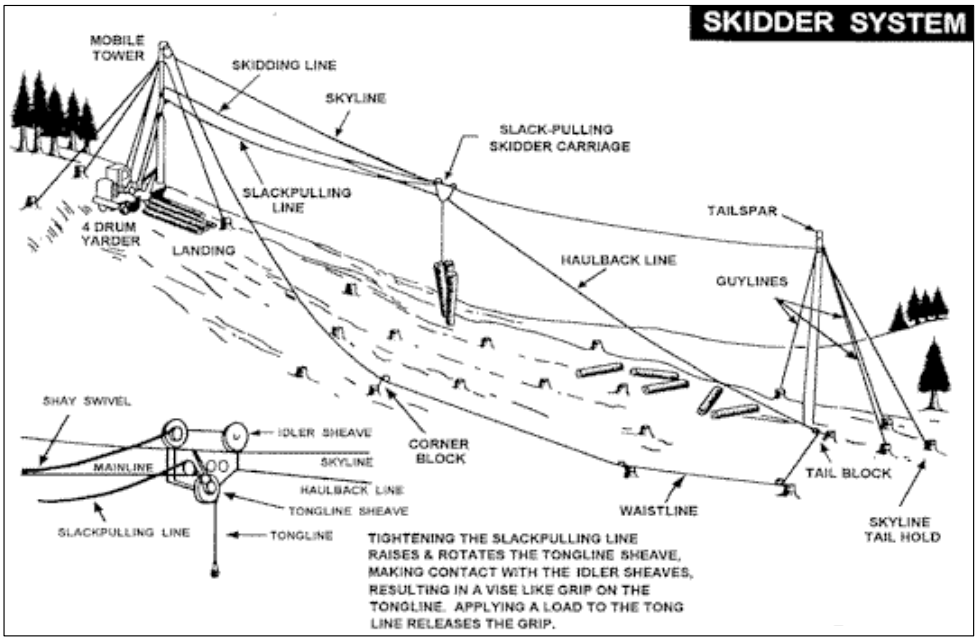

FIGURE 015.16-C

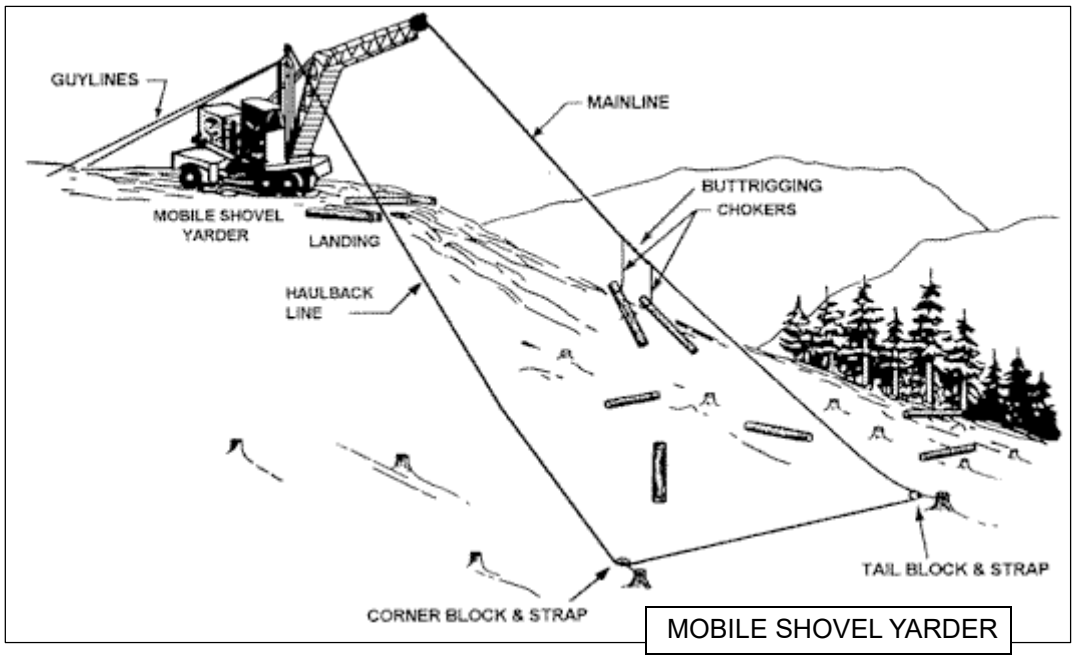

FIGURE 015.16-D

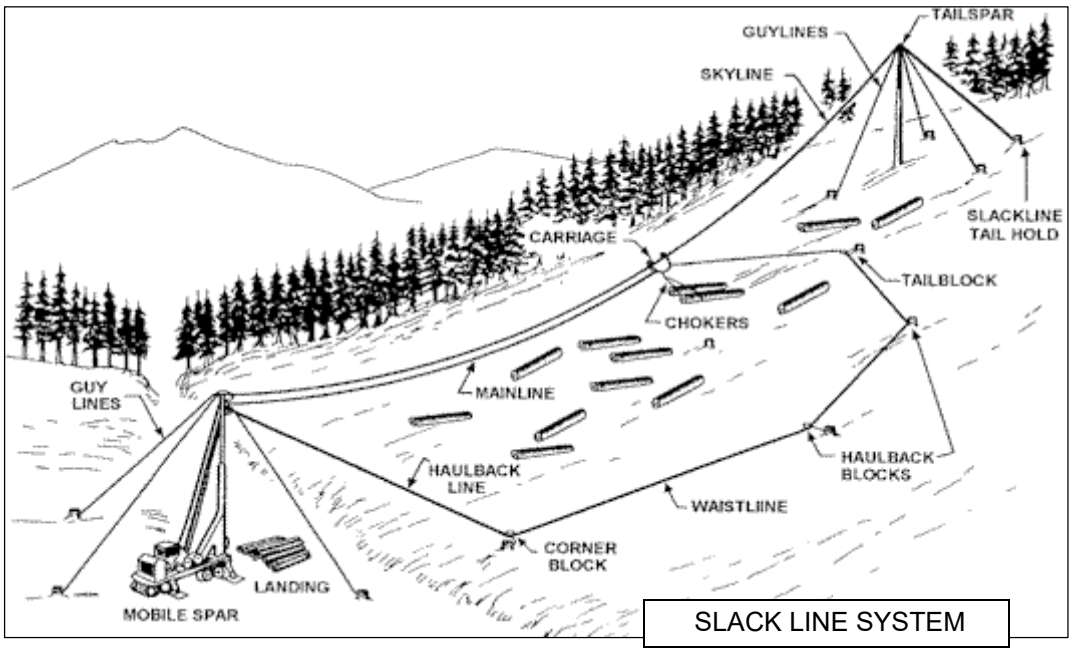

FIGURE 015.16-E

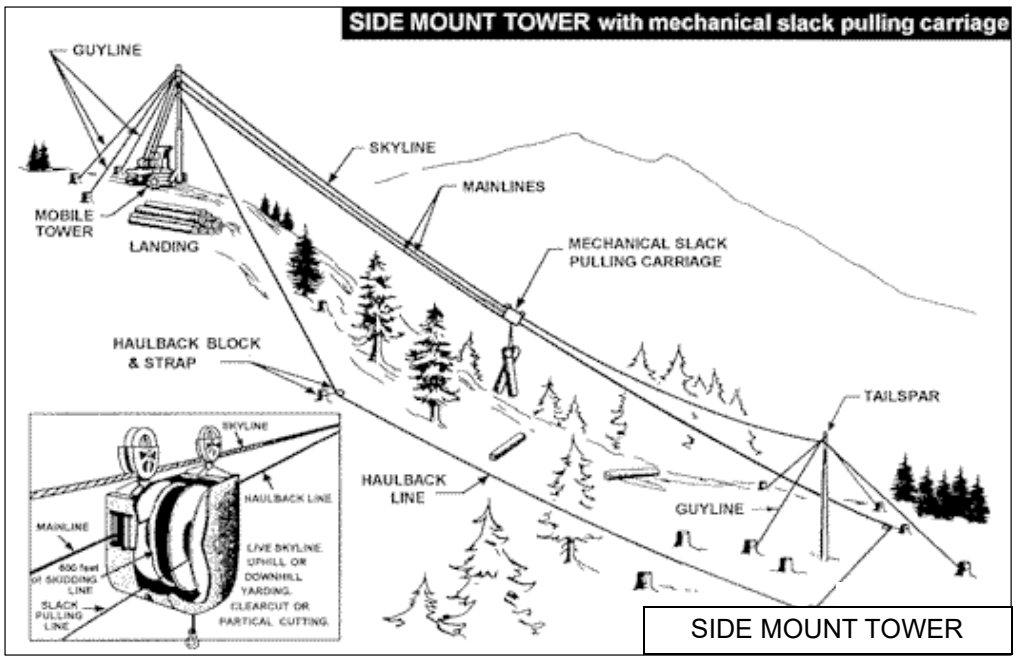

FIGURE 015.16-F

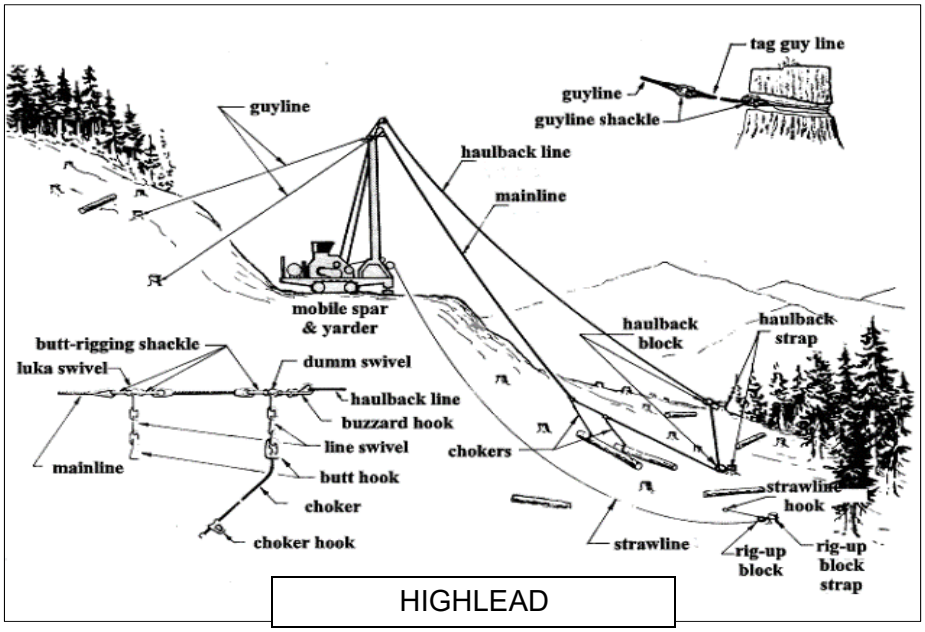

FIGURE 015.16-G

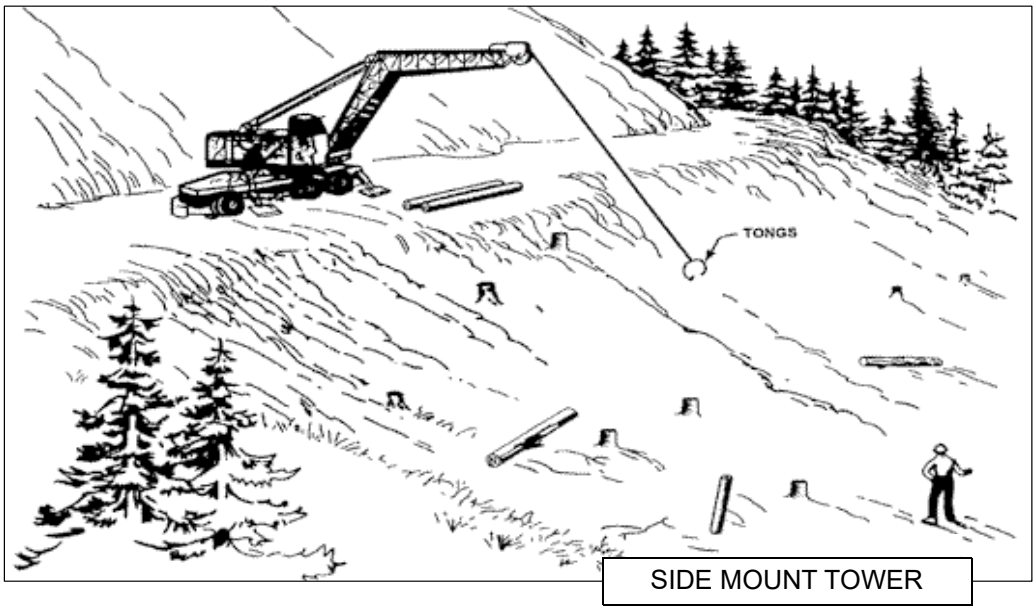

FIGURE 015.16-H

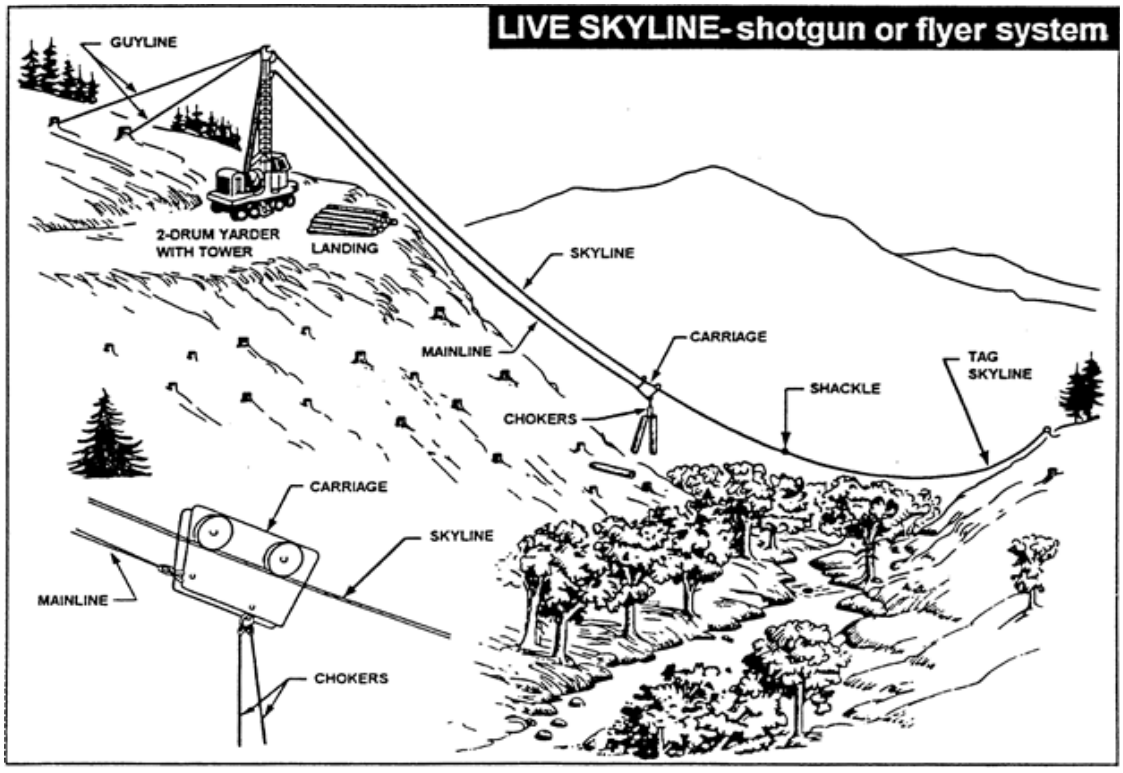

( )

457. -- 500. (RESERVED)

Subchapter K -Road Transportation
(Rules 501 -- 550)

501. LOG TRUCK TRANSPORTATION.

01. General. The following requirements are supplemental to any Idaho law governing automobiles, trucks, tractors, trailers, and any combination of these units. If there are any discrepancies in the codes between this section and any federal or Idaho motor vehicle regulations pursuant to title 49, Idaho Code, applicable in the state of Idaho, such federal of other governmental regulations will govern. ( )

02. Stopping and Holding Devices for Log Trucks. ( )

a. Motor logging trucks and trailers must be equipped with brakes or other control methods which will safely stop and hold the maximum load on the maximum grade. Air or vacuum brake lines shall be of the type intended for such use and shall have fittings which will not be interchangeable with water or other lines. ( )

b. Brake Test - A brake test shall be made before and immediately after moving a vehicle. Any defects shall be eliminated before proceeding. ( )

03. Lighting Equipment Required. ( )

a. Motor vehicles used on roads not under the control of the Idaho Transportation Board, counties or cities, shall have equipment necessary for safe operation, such as head, tail, and stop lights. ( )

b. Such lights shall be used during clearance periods of reduced visibility. ( )

04. Safe Operating Requirements. ( )

a. The driver shall do everything reasonably possible to keep his truck under control at all times and shall not operate in excess of a speed at which he can stop the truck in one-half (1/2) the distance between him and the range of unobstructed vision. ( )

b. The driver shall take into consideration the condition of the roadway, weather factors, curves, grades and grade crossings, the mechanical condition of his equipment, and other relevant factors. ( )

c. The driver shall clear rocks from between dual tires before driving on multi-lane roads. ( )

d. A daily inspection shall be made of trucks and trailers with particular attention to steering apparatus, brakes, boosters, brake hoses and connections, reaches, and couplings. Any defects found shall be corrected before equipment is used. ( )

05. Stakes, Bunks, or Chock Blocks. All stakes and bunks, installed on log trucks and trailers, together with the means provided for securing and locking the stakes in a hauling position, shall be designed and constructed of materials of such size and dimensions that will withstand a pressure of fifteen thousand (15,000) pounds applied outward against the tops of the stakes, and, or extensions when used, without yield or permanent set resulting in the stakes, bunks or the means provided for securing and locking the stakes.

NOTE: Test Procedure - A test pressure of fifteen thousand (15,000) pounds is applied to the top of one (1) stake, using the top of the stake opposite as a base for applying pressure. Bunk is not to be secured to floor or other base except in a manner similar to that used to mount it to truck or trailer. Stakes must return to normal upright position at end of test and stakes and all component parts examined and checked with original specifications. If no yield results in any part, the design and construction may be considered as meeting code requirements. ( )

06. Stake Extensions. ( )

a. Stake extensions shall not be used unless all component parts of the bunking system are of sufficient size and strength to support the added stresses involved. ( )

b. Truck drivers shall report missing or broken stake extensions to the proper authority. ( )

07. Stake and Chock Tripping Mechanisms. Stakes and chocks that trip shall be constructed in such a manner that the tripping mechanism, which releases the stake or chocks, is activated at the opposite side of the load from the stake being tripped. ( )

08. Linkage for Stakes or Chocks. ( )

a. The linkage used to support the stakes or chock must be of adequate size and strength to withstand the maximum imposed impact lead. ( )

b. "Molly Hogans" or cold shuts are prohibited in chains or cable used for linkage. ( )

09. Notify Engineer When Around Truck. ( )

a. Persons shall not walk along side of or be underneath any truck being loaded. ( )

b. Prior to performing any duties, such as releasing bunk locks, placing or removing compensating pin, scaling logs, reading scale, chopping limbs or making connections, persons shall notify the loading engineer of their intentions and be acknowledged. ( )

10. Number of Wrappers Required. ( )

a. Each unit used for hauling logs longer than twenty six (26) feet, shall have the load secured by a minimum of three (3) wrappers. *Wrappers shall be placed in positions that effectively secure the load. O*ne *(1) wrapper shall be placed* within *ten* (*10*) feet of each bunk. See Figure 010.10-A.

FIGURE 010.10-A

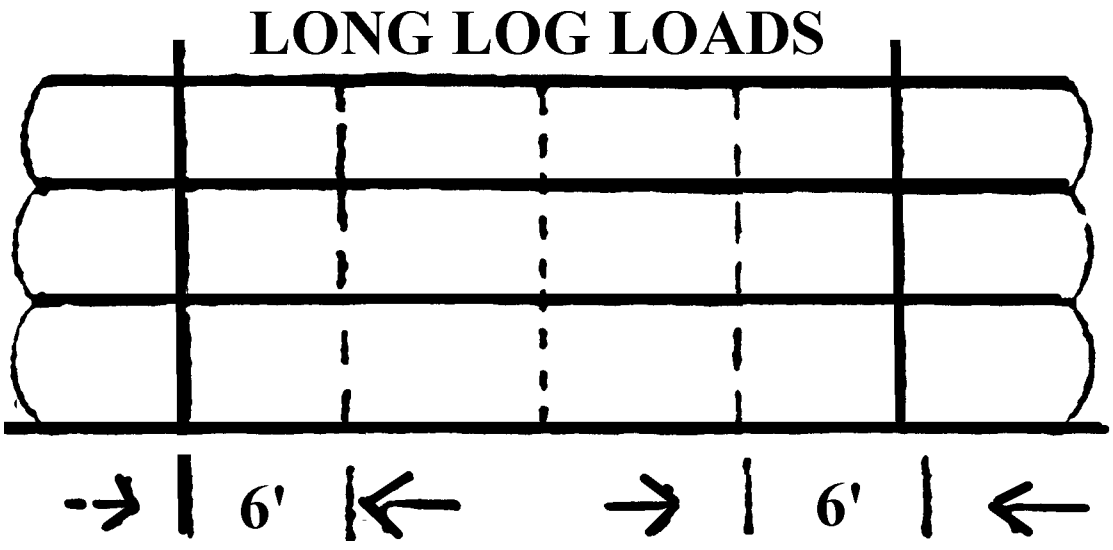

( )

b. All exposed outside logs shall be secured by one (1) wrapper passing near each end of the log. See Figure 010.10-A.

FIGURE 010.10-B

SHORT LOG LOADS

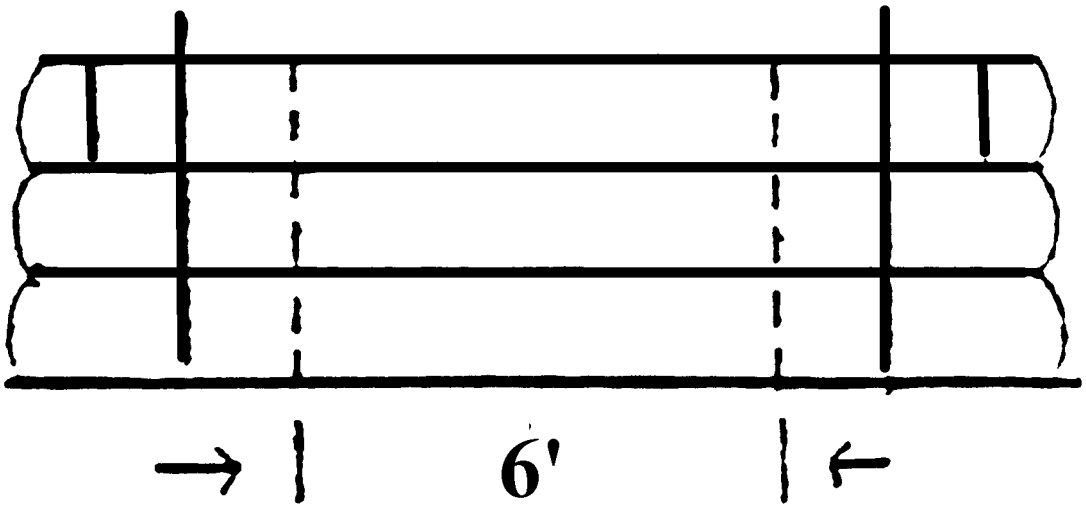

LONG LOG LOAD WITH SHORT LOGS IN REAR OR IN FRONT

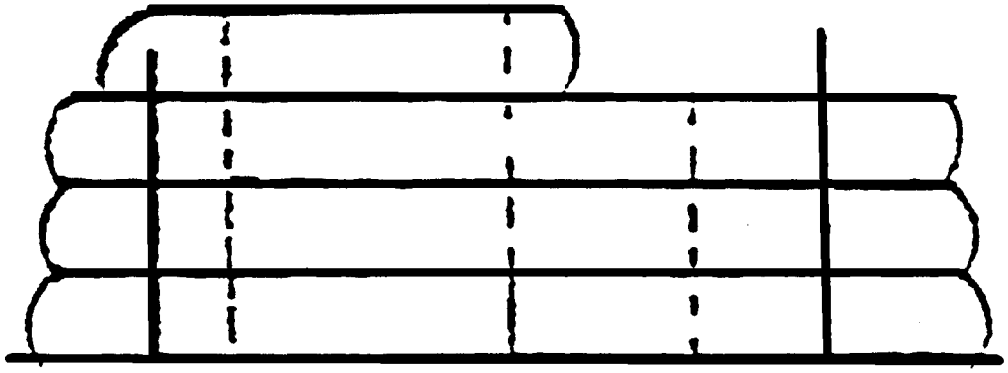

LONG LOG LOAD WITH SHORT LOGS IN CENTER

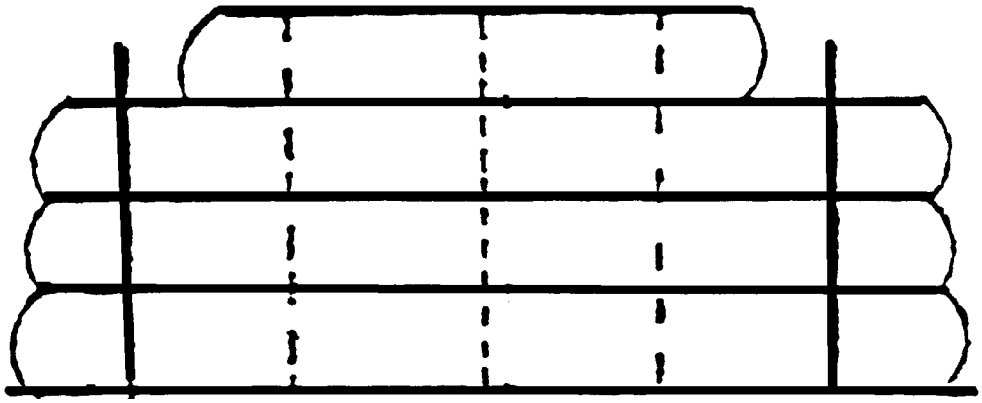

LONG LOG LOAD WITH SHORT LOGS BUTTED

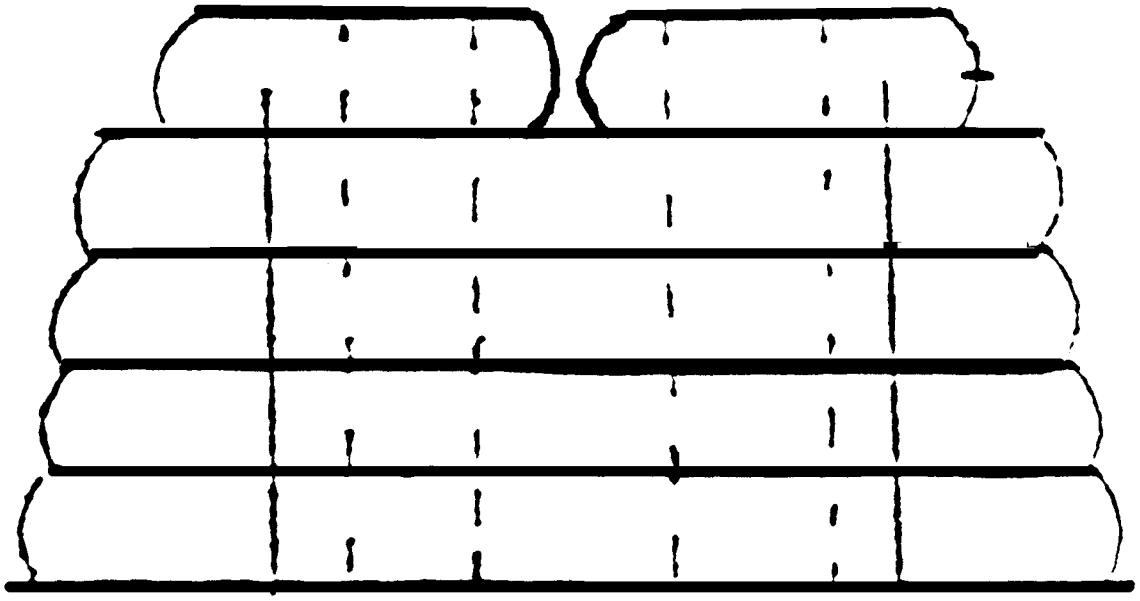

( )

c. On one (1) log load where trailer bunk is equipped with cheese blocks, one (1) wrapper securing log to the trailer bunk will be sufficient. Outside wrappers on short logs shall have a minimum of six (6) feet spread. (See Figure 010.10-C.)

NOTE: High loads are defined as logs loaded above bunk stakes.

FIGURE 010.10-C

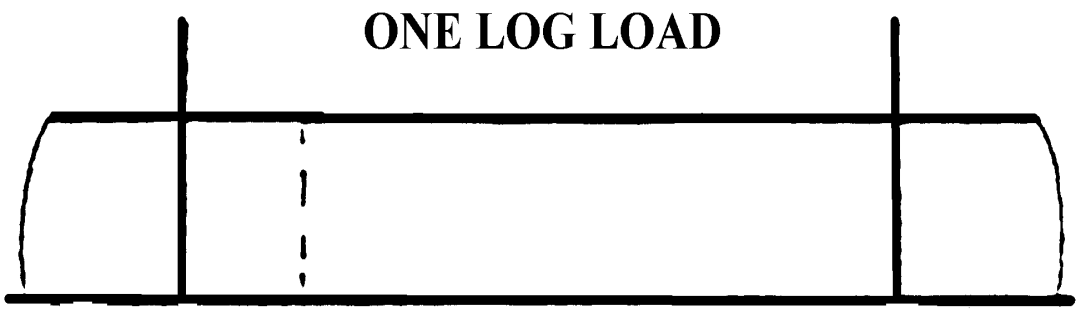

( )

11. Requirements for Crosswise Loaded Trucks. ( )

a. When loads of short logs are loaded crosswise, the logs shall be properly contained by use of stake or chock blocks and shall be secured by a minimum of two (2) wrappers. (See Figure 010.11-A.)

FIGURE 010.11-A

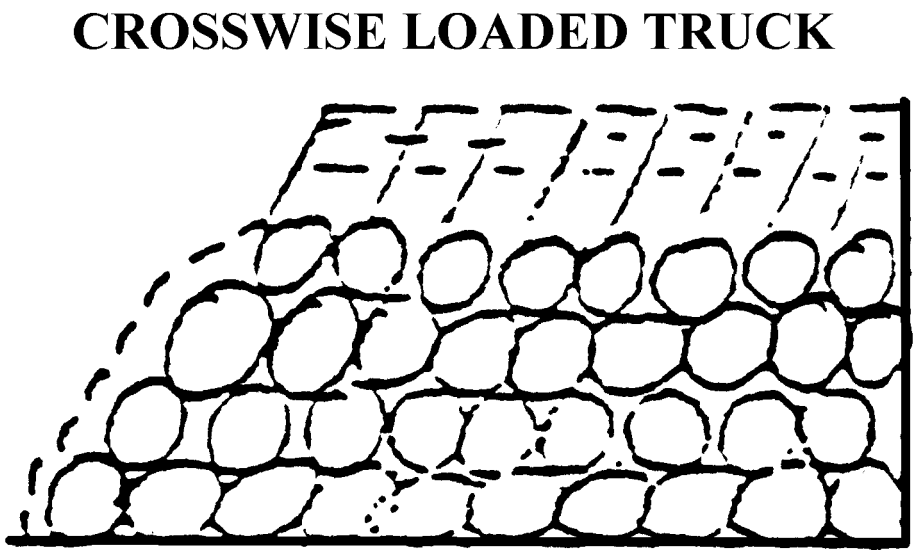

( )

b. Binders shall be securely fastened to the vehicle. ( )

12. Construction of Wrappers *and Binders*. ( )

a. Cables shall have a spliced eye or swaged fittings. ( )

b. "Molly Hogans" or cold shuts are prohibited to make splices or connections. *( )*

c. *Each w*rapper shall have a minimum breaking strength of not less than *fifteen* thousand (*15,000*) pounds. *( )*

d. *Binders must be stamped with a working load limit of four thousand (4,000) pounds or greater.* *( )*

13. Binder Placement Requirements. *( )*

a. Binders shall be placed in a manner whereby they will be released on the side opposite the brow log, or on the side where the unloading equipment operator can see the binders. *( )*

b. Truck drivers shall be required to stop vehicles, dismount, check and tighten loose load binders, either just before or immediately after leaving a private road to enter the first public road they encounter. *( )*

14. Precautions When Placing or Removing Binders and Wrappers. *( )*

a. Binders and wrappers shall remain on the load until an approved safeguard has been provided to prevent logs from rolling off the side of truck where binders are being released. *( )*

b. At least one (1) wrapper shall remain secured while relocating or tightening other binders. *( )*

15. Binders and Wrappers to Be Placed Before Leaving Landing Area. Binders and wrappers shall be placed and tightened around the completed load before shifting the load for proper balance. *Each load must have all required* wrappers placed and secured *at* the *loader* before the truck is moved. *If it is unsafe to do so, the truck may be moved to the nearest safe place in* sight of the *loader* of sight of the landing crew. *( )*

16. Adequate Reaches Required. *( )*

a. Log trailers must be connected to tractors by reaches of a size and strength to withstand all imposed stresses. *( )*

b. Spliced reaches shall not be used. *( )*

c. Documented reach inspections shall be performed annually. *( )*

17. Proper Lay of Logs in Stakes or Bunks. *( )*

a. The method of loading shall be such that the logs in any tier or layer unsecured by stakes or cheese blocks shall have their centers inside of the centers of the outer logs of the next lower tier or layer so that the load is stable without the aid of binders. *( )*

b. Logs shall be well saddled without crowding so that there will be no excessive strain on the wrappers or stakes. *( )*

c. No more than one half (1/2) of any log shall extend above the stakes unless properly and securely saddled. *( )*

d. Bunk logs shall extend not less than twelve (12) inches beyond the bunk, with the exception of non-oscillating bunks. *( )*

18. Traffic Travel on Right Side of Road Except Where Posted. All trucks shall keep to the right side of the road, except where road is plainly and adequately posted for left side traveling. *( )*

19. Towing of Trucks. When trucks must be towed on any road, the person guiding the vehicle being

towed shall, by prearranged signals, govern the speed of travel. ( )

20. Scaling and Branding. When at the dump or reload and where logs are scaled or branded on the truck, the logs shall be scaled or branded before the wrappers are released. ( )

21. Metal Parts Between Bunk and Cab to Be Covered. Suitable material shall be used on treading surfaces between the bunk and cab to prevent persons from slipping on the metal parts. ( )

22. Bunks to Be Kept in Good Condition and Repair. ( )

a. Log bunks or any part of bunk assembly bent enough to cause bunks to bind shall be straightened. ( )

b. Bunks shall be sufficiently sharp to prevent logs from slipping. ( )

23. Following Other Vehicles. ( )

a. A vehicle not intending to pass shall not follow another vehicle closer than one hundred fifty (150) feet. ( )

b. Passing shall be done only when it can be done safely. The passing vehicle shall consider all factors which may be essential, such as condition of the roadway, width of the road, and distance of clear visibility ahead. ( )

24. Reaches to Be Clamped When Towing Unloaded Trailer. A positive means, in addition to the clamp, shall be installed on the reach of log truck trailers when the trailers are being towed without a load. ( )

25. Inserting of Compensating Pin. ( )

a. Persons shall never enter the area below suspended logs or trailers. ( )

b. At dumps where the load must remain suspended above the bunks until the truck is moved away and when the trailer is the type with a compensating pin in the reach, a device shall be installed that will allow the trailer to be towed away from the danger area. ( )

26. Safety Chains. ( )

a. All trailers shall be secured with a safety chain, or chains, which connect the frame of the truck assembly to the trailer unit. ( )

b. The chains shall be capable of holding the trailer in line in case of failure of the hitch assembly. ( )

502. STEERED TRAILERS.

01. Steered Trailers. Steered trailers not controlled from the truck cab shall be designed, constructed, and operated in accordance with this section. ( )

a. Secure seat. A secure seat with substantial foot rests shall be provided for the steerer at the rear of the bunk. Any arrangement that permits the steerer to ride in front of the bunk is prohibited. ( )

b. Unobstructed exit. The seat for the steerer shall be so arranged that the steerer has an unobstructed exit from both sides and the rear. ( )

c. Bunk support. The bunk support shall be so constructed that the steerer has a clear view ahead at all times. ( )

d. Adequate means of communication. Adequate means of communication shall be provided between the steerer and the truck driver. ( )

e. Eye protection and respirator. Eye protection and respirator shall be provided for the steerer. ( )

f. Fenders and splash plates. The trailer shall be equipped with fenders or splash plates to protect the steerer from mud and dust so far as possible. ( )

g. Lights. If used during a period of reduced visibility on roads not under the control of the Idaho Transportation Board, counties or cities, the trailer shall be equipped with head, tail and stop lights. ( )

503. COMMON CARRIERS.

01. Responsibility. It shall be the responsibility of the common carrier, and particularly the operator of the common carrier, upon entering the premises of any sawmill, woodworking or allied industry, to exercise all possible caution and to use all necessary safety devices and precautions to their fullest extent. ( )

02. Audible and Visual Warning Devices. ( )

a. All common carriers equipped with audible and visual warning devices shall activate such warning devices before entering a danger zone, and they shall remain activated as long as the carrier is moving in that zone. ( )

b. A danger zone shall be defined as an area where men or vehicles are working or normally work. ( )

03. Train Operations. When a train is operating on a plant railway system, the safety rules shall apply as outlined by the Association of American Railroads governing train, engine and transportation of employees. ( )

504. SELF-LOADING LOG TRUCKS.

01. Self-Loading Log Trucks. Self-loading log trucks manufactured after January 1, 1981, shall be equipped with: ( )

a. A load check valve (velocity fuse) or similar device installed on the main boom. ( )

b. A seat that is offset from the point of attachment of the boom. The seat and boom structure shall rotate concurrently. ( )

02. Operator. The operator of a self-loading log truck shall not: ( )

a. Heel the log over his head; or ( )

b. Heel the log on the operator side of the boom of the seat if offset from the point of attachment of the boom. ( )

03. Safe and Adequate Access. A safe and adequate means of access to and from the loading work station on self-loading log trucks shall be provided. ( )

04. Overhead Hazards. A self-loading log truck shall not load itself or another truck when the loading process is under or within a guyline circle or similar overhead hazard. ( )

05. Trailers Secured. Self-loading truck trailers shall be secured to the truck when the trailer is being hauled on the truck. ( )

505. -- 550. (RESERVED)

Subchapter L - Log Dumps, Landing, Log Handling Equipment, Loading and Unloading Booms, Log Ponds, Rafting, Towing, Stiff Booms, Boom Sticks and Foot Logs, Pond Boats and Tow Boats and Trailer Loading Hoists (Rules 551 -- 600)

551. SPECIFIC REQUIREMENTS.

01. Log Dumps, Landings, Log Handling Equipment, Loading, and Unloading. ( )

a. Only authorized persons shall operate log handling equipment. Machine operators shall be capable and experienced personnel. No persons other than the operator may be in the operator's compartment while machinery is operating, except for purposes of operating instructions. Unnecessary talking to the operator of log handling equipment while the machine is in operation is prohibited. ( )

b. Machine operators shall make necessary inspection of machines each day before starting work. All repairs or adjustments shall be made before any strain or load is placed upon the equipment. ( )

c. Substantial barriers or bulkheads protecting the operator shall be provided for all log handling machines where the design, location, or use of such machines exposes the operator to material or loads being handled. Such barriers or bulkheads shall be of adequate area and capable of withstanding impact of materials handled. ( )

d. A safe and adequate means of access to, and egress from, the operator's station shall be provided. Necessary ladders, steps, step plates, foot plates, running boards, walkways, grab irons, handrails, etc., shall be provided and maintained. ( )

e. All moving parts shall be guarded in an approved manner to afford complete protection to the operator and other workers. ( )

f. Throttles and all power controls shall be maintained in good operating condition. ( )

g. Landings shall be prepared and arranged to provide maximum safety for all employees and shall provide ample space for the safe movement of equipment and storage and handling of logs. ( )

h. Adequate means shall be used to prevent logs from rolling into the road or against trucks. Workers shall be sure that logs are securely landed before approaching them. While unhooking chokers, workers shall choose the safest approach. This is usually from the upper side of the log. ( )

i. Logs shall not be landed at loading areas until all workers, tractors, trucks, or equipment are in the clear. All persons shall stay in the clear of running lines, moving rigging, and loads until rigging or loads have stopped. ( )

j. The loading machine shall be set so that the operator shall have an unobstructed view of the loading area, or a signalman shall be properly placed and his signal shall be followed. Signaling the operator shall be done by standard hand signals, whistles, or other positive means of communication. ( )

k. Machines, sleds, or bases shall be of sufficient strength to safely withstand moving, and machines shall be securely anchored to their bases. ( )

l. Mufflers shall be installed on all internal combustion engines of log handling equipment and located or guarded in such a manner as to prevent accidental contact with the muffler or exhaust pipes and afford protection from fumes. ( )

m. Brakes shall be installed on all machine drums and maintained in effective working condition. ( )

n. Brake levers shall be provided with a ratchet or other equally effective means for securely holding

the drum. ( )

o. Brake bands shall have a safety factor of five (5) times the stress to be imposed and they shall be of a design which will render them impervious to exposure. Operators shall test brakes before lifting any load at the start of each shift. ( )

p. In no case shall stresses in excess of the manufacturer's recommendation be permitted. Equipment not carrying a manufacturer's recommendation shall not exceed stresses of more than one half of the yield strength of the material used. Conversion of cranes, shovels, etc., into yarders shall be in conformity with these rules. Necessary guylines or outriggers shall be provided and used to effectively prevent mast, A-frames, etc., from tipping or overturning. ( )

q. The manufacturer's recommendations for line sizes, if in compliance with these rules, shall be followed and such line sizes shall not exceed the rated capacity of the machine using it. ( )

r. Fork lifts or arms, tongs, clams or grapples shall be lowered to their lowest position and all equipment brakes set before the operator leaves the machine. ( )

s. Log unloaders shall not be moved about the premises for distances greater than absolutely necessary with the lift extended or with the loads higher than necessary for clear vision. ( )

t. All log handling machines which have lift arms that create a shear point with the driver's cab or position shall be provided sheer guards that will eliminate the operator's exposure to such hazard. Grapple arms or other positive means of keeping logs on the forks shall be required on fork lift-type loading machines. ( )

u. All workers shall be in the clear and in view of the machine operator before a lift is made. ( )

v. All mobile log handling machines shall be equipped with rearview mirrors, a horn or other audible warning device, and lights front and rear so as to illuminate the entire length of the load being lifted or carried. An automatic warning device that will activate when the vehicle is moved is preferable in areas where other workers are employed. ( )

w. Logs or loads shall not be swung over occupied equipment or workers and no person shall ride the load or rigging. ( )

x. While logs are being loaded, no person shall remain on the chain deck or behind the truck cab protector where they could be pinned between the end of a log and cab, tank, or cab protector. Cab protectors shall be cleaned of all loose gear before trucks are moved from the landing. ( )

y. An unimpaired clearance of not less than three (3) feet shall be maintained from swinging or moving parts of machines, where such swinging or moving parts create a hazard to personnel. If this clearance cannot be maintained, suitable barricades or safeguards shall be installed to isolate the hazardous area. ( )

z. A-frames, towers, masts, etc., shall be designed and constructed to provide adequate structural strength and height for positive control of materials or loads lifted. When in use, they shall be guyed or braced to provide stability and prevent tipping. Their bases shall be secured against possible displacement. ( )

aa. All log handling equipment shall be equipped with brakes capable of holding and controlling the vehicle with capacity load. ( )

bb. A limit stop which will prevent the lift arms from over-traveling shall be installed on all electric powered log unloaders. ( )

cc. Gas powered vehicles shall not be refueled while motor is running nor in the vicinity of smoking or open flames. ( )

dd. All log handling equipment shall be equipped with approved fire extinguisher of at least five (5)

B.C. rating easily accessible to operator. ( )

ee. Methods of unloading logs shall be properly arranged and used in a manner to provide protection to all employees. ( )

ff. After cars or trucks are spotted at such dump or landing, no person will be permitted to pass between a brow log and a truck or rail car. ( )

gg. Where there is danger of tongs or hooks pulling out of the logs, straps shall be used. ( )

hh. All equipment should be so positioned, equipped, or protected so that no part shall be capable of coming within ten (10) feet of any power line. ( )

ii. Bunk logs shall extend not less than twelve (12) inches beyond the bunks, with the exception of non-oscillating bunks. ( )

jj. The method of loading shall be such that the logs in any tier or layer unsecured by stakes or cheese blocks shall have their centers inside of the centers of the outer logs of the next lower tier or layer so that the load is stable without the aid of binders. Logs shall be well saddled without crowding so that there will be no excessive strain on the binders, bunk chains, or stakes. No more than one half (1/2) of any log shall extend above the stakes unless properly and securely saddled. ( )

kk. Binders shall be so placed that they will not be fouled by the unloading machine and that they may be released from the side on which the unloader operates. Proper protection shall be provided for workers while removing wrappers. ( )

ll. Truck drivers shall be in the clear and in view of the log unloader operator before forks are moved into the load or against it, before a lift is made. All persons are prohibited from standing under, or near, the ends of logs being lifted or moved. ( )

mm. Loads or logs shall not be moved or shifted while binders are being applied or adjusted.
NOTE: For logs in transit see "Log Truck Transportation" (IDAPA 07.08.12, Section 010). ( )

nn. All log dumps, trailer loading areas, and landings shall be kept reasonably free from bark and other debris. ( )

oo. Logs in storage decks shall be so arranged as to prevent logs from rolling off the face of the deck. ( )

pp. All log load wrappers shall be arranged so that they must be released in view of the unloader operator or signal person. When binders are released by remote control devices and when the person releasing the binders is in a safe location, and when in view of the unloading operators, or signal person, the binders may be released from either side. After the unloading machine is in position to hold the load, the binders shall be removed and the person removing them shall be in a safe location in view of the operator. The operator will be given a signal by the person releasing the binders before the machine or load is moved. ( )

02. Trailer Loading Hoist/Sawmill Log Dump. ( )

a. The hoist shall be designed and constructed in accordance with the National Electrical Code, so as to provide safe loading or unloading of the trailer. ( )

b. The hoist shall be equipped with a limiting device to maintain safe take-up limits of line on the hoisting drum. ( )

c. Regular service and inspection of the hoist and hoisting equipment shall be made to assure reliable serviceability of the facility. ( )

552. -- 600. (RESERVED)

Subchapter M - Helicopter Logging
(Rules 601 -- 650)

601. GENERAL REQUIREMENTS.
Safety requirements are as follows: ( )

01. Briefings. Prior to each day's operation, a briefing shall be conducted. This briefing shall set forth the daily plan of operation for the pilot and ground personnel. ( )

02. Personal Protective Equipment. Personal protective equipment for employees receiving the load shall, as a minimum, consist of complete eye protection and hard hats secured by chinstraps. ( )

03. Loose-Fitting Clothing. Loose-fitting clothing likely to flap in the downwash, and perhaps be snagged on the hoist line, shall not be worn. ( )

04. Reduced Visibility. When visibility is reduced by dust or other conditions, ground personnel shall keep clear of main and stabilizing rotors. ( )

05. Unauthorized Personnel. No unauthorized person shall be allowed to approach within fifty (50) feet of the helicopter when the rotor blades are turning. ( )

06. Approaching or Leaving Helicopter. All employees approaching or leaving a helicopter with blades rotating shall remain in full view of the pilot and remain in a crouched position. ( )

07 Areas to Avoid in Helicopter. Employees shall avoid the area from the cockpit or cabin rearward unless authorized to be there by the helicopter operator. ( )

08. Approach and Departure Zones. Helicopter approach and departure zones shall be designated and no equipment or personnel will occupy these areas during helicopter arrival or departure. ( )

09. External Loads. Helicopters with an external load shall not pass over areas where fallers are working. ( )

10. Open Fires. Open fires shall not be permitted in an area that could result in such fires being spread by rotor downwash. ( )

11. Compliance with FAA Regulations. Helicopter operations shall comply with any applicable regulation of the Federal Aviation Administration. ( )

12. Protective Precautions. Every practical precaution shall be taken to provide for the protection of employees from flying objects in the rotor downwash. ( )

602. SPECIFIC REQUIREMENTS.

01. Signal Systems. ( )

a. Signal systems between air crew and ground personnel shall be understood and checked before hoisting the load. This applies to either radio or hand signal systems. ( )

b. There shall be constant reliable communication between the pilot and a designated signalman during the period of loading and unloading. ( )

c. The helicopter shall be equipped with a siren to warn workers of hazardous situations. ( )

02. Loading Logs. ( )

a. It shall be the responsibility of the firm, supervisor, or person who is in charge of the actual loading operation to comply with the provisions of these rules applicable to log loading. ( )

b. The helicopter operator shall be responsible for the size, weight and manner in which loads are attached to the helicopter. If, for any reason, the helicopter operator believes the lift cannot be made safely, the lift shall not be made. ( )

c. When employees are required to perform work under hovering aircraft, a safe means of access shall be provided for employees to reach the hoist line hook and engage or disengage cargo slings. ( )

d. Employees shall not work under hovering aircraft except while hooking or unhooking loads. ( )

e. The weight of an external load shall not exceed the manufacturer's rating. ( )

f. The hook-up crew shall not work on slopes below felled and bucked timber when an unsafe situation exists. Culls left, which have a potential of rolling, should be moved to a safe position. ( )

03. Loading and Landing Areas. ( )

a. The minimum dimensions of a drop zone shall be determined by the length of the logs being hauled. All zones shall be at least one and one-half (1 1/2) times as long, and as wide as the length of the average log being harvested. ( )

b. Landing or loading machinery shall be a reasonable distance away from where logs are to be landed. ( )

c. Landing crew shall be in the clear before logs are landed. ( )

d. The approach to the landing shall be clear and long enough to prevent tree tops from being pulled onto the landing. ( )

e. Separate areas shall be designated for landing logs and fueling helicopters. ( )

f. Sufficient ground personnel shall be provided for safe helicopter loading and unloading operations. ( )

g. A clear area shall be maintained in all helicopter loading and unloading areas. ( )

h. Emergency landing areas for injured workers shall be located within a reasonable distance from all working areas. ( )

04. Hooks and Chokers. ( )

a. The electrical activating device of all electrically operated cargo hooks shall be designed and installed to prevent inadvertent operation. In addition, these cargo hooks shall be equipped with an emergency mechanical control for releasing the load. ( )

b. Logs will be laid on the ground and the helicopter completely free of the chokers before workers approach the logs. ( )

c. One (1) end of all the logs in the turn shall be touching the ground and at an angle no greater than forty-five degrees (45°) before the chokers are released. ( )

d. If the load must be lightened, the hook shall be placed on the ground on the uphill side of the turn before the hooker approaches to release the excess logs. ( )

603. -- 650. (RESERVED)

Subchapter N - Recommended Safety Program
(Rules 651 -- 700)

651. INTRODUCTION.

01. Scope. ( )

a. These rules are part of the accident prevention program of the state of Idaho. This program is dedicated to the safety and well-being of all workers in Idaho's logging industry. It has been established according to the processes prescribed by law. ( )

b. These rules contain the primary safety rules for the logging industry. However, other Idaho Safety Standards promulgated and adopted by the Industrial Commission shall be applicable to this industry where not inconsistent with the provisions herein, or where any particular activity which is being carried on is not specifically covered or regulated herein. ( )

02. Enforcement. The enforcement of these rules is the responsibility of the Division of Building Safety. These rules will not serve their purpose if their requirements are considered anything but a minimum for safe operation. So much variation exists in the logging industry that each operation should be judged, not by its compliance to the letter of this Standard, but according to a higher standard -- that of absolute safety under all conditions. ( )

03. Accident Prevention. Accident prevention is often a problem of organization and education. It does not succeed solely on detailed safety codes but consists largely of the desire to institute a common sense safety program and determination to carry out the program effectively. Effective accident prevention embodies the following five (5) principles: management leadership; employee cooperation; effective organization; thorough training; and good supervision. ( )

652. FIRE AND SAFETY POLICY.

01. Elements. The basic elements or management responsibility for fire and safety policy are enumerated in this section. ( )

02. Management Leadership. The establishment of the safety policy should be made clear to all levels of supervision, purchasing, engineering, industrial and construction; and communicated to all employees that top management has approved the operation's safety program. ( )

03. Planning. The program should be based on the following: accounting record of safety cost, accident recording system, accident investigation recommendations, operation inspection recommended corrections, employee suggestions, and job analysis to determine the work hazards. The hazard appraisal can be summarized as follows: mechanical and physical hazards; environmental hazards; and work procedure and practices. ( )

04. Management Discharge of Duty. ( )

a. If management is to discharge its duty in proper directing of the fire and safety program, it must organized a definite planned program of continuous supervision and leadership by all facets of the management organization. The very fact that safety must be woven into all operations and activities should not require extra managerial time beyond the ordinary to operate a business successfully, i.e., if the entire management team will assume their safety responsibility. ( )

b. The first task of management is to determine the operational hazards. Once these are ascertained and appraised, suitable corrective action can be initiated. If the working unit is operating, the following specific activities should be carried out to find the hazards. These are: job inspection; job analysis; accident investigation (near accident, non-disabling injuries) to determine necessary remedial action to prevent reoccurrence of the accident. ( )

05. Hazard Appraisal. The partial list of terms covered by appraisals are summarized briefly as follows: mechanical and physical hazards; adequacy of mechanical guarding of machines and equipment; preventing the use of inferior manufactured and unsafe supplies, equipment, chain, cables, sheaves, tires, power saws, tractor canopy guards, approved head protection, fire extinguishers, solvents, mill saws, etc.; and physical exhaustion such as may be caused by excessive work hours by truck drivers and mill maintenance employees. ( )

06. Environmental Hazards Inherent to the Operation. ( )

a. Personal protection devices (approved head protection, ear plugs, knee pads, proper eye protection, respirators, etc.) ( )

b. Storage and use of flammable liquids and gases (gasoline, diesel, acetone, acetylene, acids, etc.) ( )

c. All employees should be familiar with proper work signals (falling, blasting, high lead signals, loading, mill signals, operation fire signal, etc.) ( )

d. Noise and fatigue hazards that are inherent to the industry (planers, cutoff saws, jack hammers, etc.). ( )

07. Work Procedures and Practices. ( )

a. Hazards directly related to work practices should be carefully observed and evaluated. ( )

b. Work practices that should be investigated include, but are not necessarily limited to: use, care and maintenance of hand and portable power tools; degree of supervision given the worker; the extent of job training provided; the safety indoctrination and training of new or transferred employees; the proper use of fire extinguishers; the use of personal protective devices (approved head protection, shoes, etc.); and the repair and maintenance of equipment with respect to machines, mechanical handling equipment, log loaders, yarding equipment, tractors, fork lifts, overhead cranes, headrigs, etc.; ( )

08. Reporting of Injuries. ( )

a. The employer shall instruct all employees to report all job injuries to the supervisor at the time injuries occur. The employer shall check specifications for new machines, processes and equipment for compliance with existing safety standards, laws and safety requirements, and shall have such equipment fully inspected before it is placed in use. ( )

b. The employer is responsible for reporting all industrial lost time injuries to the Industrial Commission within forty-eight (48) hours. ( )

c. The employer is responsible for reporting all in-patient hospitalization, amputation, or the loss of an eye for any employee to the Occupational Safety and Health Administration (OSHA) and the Division of Building Safety Logging Safety Program within twenty-four (24) hours. ( )

09. Fatalities. All work fatalities should be immediately reported to the County Sheriff or Coroner, the Division of Building Safety Logging Safety Program, and OSHA in accordance with the Code of Federal Regulations, 29 CFR 1904.39. ( )

10. Management of Personnel. ( )

a. The recruiting and placing of a new worker on the job is a major responsibility of the management organization. Every effort should be made to match the qualifications of the worker with the demands of the job. ( )

b. The furnishing of first aid services, treatment of injuries, and inspection of working conditions is the employer's responsibility. ( )

11. Assignment of Responsibilities. ( )

a. Supervisors, purchasing agents, engineering personnel, safety directors, personnel directors, and employees have responsibilities to ensure conformance with the organization's fire and safety objectives in every operation. ( )

b. Management must accept the normal obligation for preventing accidents. In many operations it is a practice to delegate the actual administration of the safety program to a person who can devote full-time to it. In smaller operations, safety administration may be a collateral duty carried on in conjunction with some other duties. The safety director should function in a staff capacity. Because the safety director operates in a consultant capacity, ultimate responsibility for accident prevention rests with the workers' supervisor, the foreman and line production organization. There is no doubt that the foreman is the key person in every safety program. Safety is not something separate and apart from production. If the job is done right, it is done safely. ( )

c. Safety is an integral and important part of production, just as is quality and quantity, or meeting production schedules. ( )

d. All these duties are foreman or project superintendent duties, and the most important part of the line production organization. This obligation cannot be delegated. As the person in charge of production, the foreman is responsible for the safety of his people. This fact must be made clear and should be included in the statement of policy. ( )

12. Safety Director (Part-Time or Full-Time): ( )

a. Makes periodic inspections of the operations and suggests corrective measures to eliminate hazards. ( )

b. Should assist in investigation of all types of accidents to determine the cause, so as to prevent like accidents in the future. ( )

c. Aids foremen in developing safe work procedures and practices and assists foremen in training their workers. ( )

d. Keeps accident records and makes periodic reports to the proper official on the progress being made. Reports and records; report of accidents; accident investigation report; performance report (injury frequency and severity); accident cost report; safety committee reports; report on degree of corrective action taken on different recommendations. ( )

e. Conducts or initiates safety training courses including first aid and fire fighting, where appropriate, and any other course inherent to the job (truck driver courses, power saw courses, welding, grinder usage, fork lift truck operator, etc.). ( )

f. Establishes safety committee. ( )

g. Ensures that recommendations are promptly and properly implemented. ( )

h. Checks specifications for new machines, processes and equipment for compliance with existing safety standards, laws and safety requirements, and shall have such equipment fully inspected before it is placed in use. ( )

i. He shall assist the safety committee in developing agendas for their meetings. ( )

13. Foreman Responsibilities. It is widely accepted that the foreman is the key man in attaining proper work habits in any operation. It is the obligation of management to give the most careful attention to the selection, education, and training of foremen and train them in the proper way to train employees in correct and safe work methods to attain the best production in the safest way. ( )

14. First Aid Training. It shall be the responsibility of management to arrange to have all employees take a full course in first aid training. It is required that supervisory personnel shall take an approved first aid course, and have a current first aid card. ( )

15. Injury Record and Reporting System. ( )

a. If an employer had ten (10) or fewer employees at all times during the last calendar year, it does not need to keep OSHA injury and illness records unless OSHA or the Bureau of Labor Statistics (BLS) informs the employer in writing that it must keep records under OSHA regulations. However, as required by such regulations, all employers covered by the OSH Act must report to OSHA and the Division of Building Safety Logging Safety Program any workplace incident that results in a fatality or the hospitalization, the amputation of a limb, or the loss of an eye for any employee. ( )

b. For those employers subject to the injury and illness recording requirements under OSHA, the employer shall establish in its main Idaho office an injury record and reporting system which is consistent with reporting, record, and statistical requirements of the Occupational Safety and Health Administration (OSHA). ( )

c. Injury frequency rates shall be calculated annually commencing the first of January each year. These rates shall be kept on file in the office of the employer for at least four (4) years after the date of entry thereof, and shall be made available to the Division of Building Safety, upon request. ( )

d. The injury frequency rate shall be the number of lost time injuries to all employees per one million (1,000,000) man hours of exposure. The frequency rate is computed by multiplying the number of lost time injuries by one million (1,000,000) (the standard of measurement) and dividing the product by the total number of man hours worked during the period. The formula is expressed as follows: Frequency equals the number of lost time injuries times one million (1,000,000) total man hours of exposure. ( )

e. A lost time injury shall be the term applied to any injury, arising out of, and in the course of employment which makes it impossible for the injured person to return to an established regular job at the beginning of the next regular shift following the shift during which the injury occurred, or some future shift. ( )

f. Man hours of exposure shall be the total number of man hours actually worked by all personnel in the industrial unit during the period for which the rate is being computed. ( )

16. Training and Education. ( )

a. Training and education includes: ( )

i. Establishment of effective job training methods and safety education. ( )

ii. First aid courses, proper work signals and job hazard warnings. ( )

iii. Pamphlets, bulletin boards, safety meetings, posters, etc. ( )

b. The employer shall establish an adequate job training and safety education program. The relationship of safety to job quality and modern quantity production methods should be clearly understood. Good work production is governed by careful planning and accurate control of all phases of the operation. Accidents are the result of inadequate planning of faulty operation. ( )

c. Safety must be made an essential and integral part of every operation and integrated into the activity if the most successful quantity production is to be attained. The soundness of this statement has been proven many times by comparing the accident cost with the day by day curve of production. ( )

d. It is the responsibility of management to train employees in all phases of the work they are assigned. The worker training should begin at the time of employment with a careful presentation of the general safety information the employee must have to work on and in logging and lumbering or wood working operations.

When the worker is placed on the job, the worker must be given detailed training on proper work methods for accomplishment of the job. The correct way is the safe way. Telling is not training. ( )

e. People learn to do things primarily through action. The employee's job training should be given using the five (5) step job training method: ( )

i. Tell the employee; ( )

ii. Show the employee; ( )

iii. Have the employee do it; ( )

iv. Correct until the employee does it right; and ( )

v. Supervise to see that the employee keeps doing it right. ( )

f. Education and promotion are a supplemental means of reducing injuries. This device employs any number of methods to accomplish results. A good program may use but will not overemphasize emotional appeal to the workers using such devices as scholarships, stamps, posters, safety meetings, contests, and awards. It is management's responsibility to integrate education and training program and balance its effectiveness to employee training. Unsafe acts or unsafe work practices are the result of failure to train workers in safe work procedures. In establishing or operating a safe and quality work program, an appraisal of unsafe work procedures and poor quality of work is called for, and job training methods initiated to correct these practices. ( )

17. Employer, Employee, and Labor Representative Cooperation. ( )

a. The workers have a responsibility to obey the units safety rules, smoking rules, report unsafe conditions, to serve on the different safety committees, perform their work in a safe way, and to help fellow workers by showing them how to do their job safely. ( )

b. Many safety programs fail because the worker has not been made to feel that it is their program; or that they can contribute as well as benefit from the program. It often fails because it lacks employee participation and interest. The fact that employees are given the opportunity to participate and to contribute to the program not only opens a reservoir of valuable information on practical experience in accident prevention, it also gives the employee a feeling of being a part of the organization. ( )

c. The committee on safety should be made up of personnel selected from management and workers. Management members are supervisors and worker members may be selected by the union or by the employees. ( )

d. The labor unions should help develop a safe behavior among the workers. ( )

18. Maintenance of Safe Working Conditions. ( )

a. The employer shall provide a safe and healthy work area in which to work, including purchasing of safe equipment and tools and provide proper maintenance of such equipment. ( )

b. Since a safe and healthy place to work is the very foundation of the safety program, the mechanical, physical, and environmental conditions should be given first consideration. ( )

c. For almost every accident there are typically two (2) contributing causes - an unsafe condition and an unsafe act. A safe and healthy place to work will diminish or eliminate the first cause, the unsafe condition; but unless the unsafe act is corrected, accidents will continue to occur. Unsafe acts may stem from a number of factors, such as improper selection of the worker for the job, lack of job training, physical or mental limitations or inadequate supervision. When a safety program is first established or a new project with a new crew is started, this may necessitate a thorough periodic survey of the entire operation to determine hazards. ( )

19. Remedial Measures of Corrective Action. ( )

a. The employees shall support and correct the findings of job analysis, inspections, accident investigations, employee suggestions, etc. ( )

b. The assumption of responsibility for fire and accident prevention by management carries with it the continuing responsibility to assess the progress being made on the program, and where progress is unsatisfactory to take necessary steps to bring about improvement. Inspection alone is primarily a means of finding and eliminating fire and physical hazards, particularly in connection with enforcement. All educational and promotional activities should be integrated with inspection activities, and should be based on the specific needs of the establishment or operation. Inspection and educational and promotional programs are sometimes looked upon as entirely unrelated activities rather than a single integrated program. ( )

c. None of the foregoing activities are of value unless followed by effective corrective action. The responsible executive within top management must establish specific procedures to effect proper and complete corrective action in each area for problems that occur. In well-managed organizations the areas of responsibility are clearly defined. The activities are well coordinated, supervision is adequate and proactive, employees' safety behavior is excellent, and policies are well-defined to permit smooth organization. This is not difficult; the corrective measures are applied as part of the day to day operating procedure. ( )

20. Safety Order By the Administrator. In accordance with the provisions of section 67-2601A (3), Idaho Code, the administrator may issue a safety order requiring an owner, operator or other party responsible for ensuring safe logging operations to immediately stop work or close any work site, or portion thereof where an inspection has revealed evidence of a condition that poses an immediate threat of bodily harm or loss of life to any person. The process governing the issuance of a safety order is contained herein this section. ( )

a. Upon receiving information evidencing an unsafe condition or unsafe practices at any logging workplace or place of employment, the administrator shall inspect or cause to be inspected such place of employment unless such information was obtained by previous inspection of the Division. If upon such inspection the administrator determines that an unsafe condition or unsafe practice exists which may pose an immediate threat of bodily harm or loss of life, the administrator may issue a safety order requiring the employer to immediately stop work or close any work site, or portion thereof. Any safety order issued by the administrator shall specifically identify the unsafe condition or practice, as well as the safety risks associated therewith. Written notice of such order shall immediately be provided by the administrator to the owner or operator of the business, or any other appropriate party responsible for abating the unsafe condition or practice. ( )

b. Upon receiving such notice from the administrator, such owner, operator or responsible party shall immediately comply with such, and may notify the administrator in writing of their objection to the notice and request to contest such at a hearing. The owner, operator or responsible party shall provide the administrator with information, documentation, or other evidence supporting their objection. ( )

c. Upon receipt and review of such information from the owner, operator, or responsible party, the administrator may reconsider the matter and issue appropriate findings to the owner, operator, or party responsible for abating the unsafe condition or practice, including rescission of the order. ( )

d. If after review it is the determination of the administrator to keep the safety order in place, he shall so notify the owner, operator or responsible party and designate a time and place for hearing, and may assign the matter for hearing by a hearing officer. The hearing shall be afforded at such time not to exceed five (5) business days from the date the administrator received the notice of objection unless additional time is requested by the owner, operator, or responsible party. The hearing proceedings shall be governed by the provisions of Title 67, Chapter 52, Idaho Code. The hearing officer shall issue an order in accordance with Section 67-5243, Idaho Code. The hearing may be held at such location or by such means as the administrator determines most convenient for the parties. ( )

e. The safety order shall remain in effect, and shall not be rescinded until the administrator has determined that the safety threat has been corrected or removed from the workplace. Upon verification by the administrator that the safety threat has been corrected or otherwise removed from the worksite, the administrator shall

immediately notify the owner, operator or responsible party of the rescission of the safety order. Any party aggrieved by the final order of the administrator shall be entitled to judicial review thereof in accordance with the provisions of Title 67, Chapter 52, Idaho Code. ( )

f. Any person who knowingly fails or refuses to comply with the provisions of a safety order issued by the administrator shall be guilty of a misdemeanor, and the administrator may seek criminal prosecution of any such violations. ( )

653. -- 700. (RESERVED)

Subchapter O - Cable-Assisted Logging Systems (Rules 701 -- 999)

701. MACHINE SAFETY REQUIREMENTS.

01. Harvesting Machines. Harvesting machines for cable-assisted logging operations shall comply with each of the following: ( )

a. Meet the protective structure requirements set forth in IDAPA 07.08.10.010; ( )

b. Be equipped with a certified roll-over protective structure (ROPS); and ( )

c. Be equipped with at least a four (4)-point restraint system approved by the machine's manufacturer or a qualified person. ( )

02. System Approval. The cable-assisted logging system shall be designed and constructed for cable-assisted logging applications by the original equipment manufacturer, or approved for cable-assisted logging applications in writing by the original equipment manufacturer or a registered professional engineer. ( )

03. Operation of System. The cable-assisted logging system shall be operated, inspected and maintained in accordance with the manufacturer's recommendations, specifications and limitations, or if no manufacturer's recommendations exist, then by the recommendations of a registered professional engineer. Cable-assisted logging systems not in safe operating condition shall be removed from service until repaired by a qualified person. ( )

702. TETHERED LINE SAFETY REQUIREMENTS.

01. Inspection of Tethered Lines. Tether lines shall be new wire rope and have a rated breaking load according to the cable-assisted logging system manufacturer's recommendations and specifications. At a minimum, a competent person shall inspect the entire length of each tether line and drum connection prior to the startup of each cable-assisted logging operation, and thereafter on a monthly basis. A competent person shall also inspect the first fifty (50) feet of each tether line daily prior to use. These inspections shall be documented in writing. Tether lines must not be spliced and shall be replaced if there is evidence of chafing, sawing, crushing, kinking, crystallization, bird-caging, significant corrosion, heat damage, other damage that has weakened the tether line, or if the tether line reaches two thousand (2,000) hours of use. ( )

02. Line Tension. The tether line tension and machine travel shall be synchronized to ensure tether line tension is continuously provided and does not exceed thirty-three percent (33%) of the rope's rated breaking load. The operator shall have an immediate and self-reliant or automated method to identify tether line tension, winch rotation and speed, amount of line on and off the drum, and anchor movement. ( )

03. Tether Line Components. All tether line assembly components shall be rated with a greater safe working load than the wire rope. Tether line attachment points and hitches shall be engineered and certified to maintain a safety factor equal to or greater than the recommendations and specifications of the cable-assisted logging system manufacturer. Inspections of tether line assembly components (except drum connection as specified in Subsection 011.01 of these rules), hitches, winches, machines, and anchors shall be performed daily by a competent person prior to use. ( )

703. OPERATION AND SAFETY REQUIREMENTS.

01. General. Cable-assisted logging systems shall be operated, inspected and maintained in accordance with the manufacturer's recommendations and specifications. Inspections shall be documented in writing. ( )

02. Planning. All cable-assisted logging operations shall be planned by the operator and a competent person who has the knowledge, training or experience to identify existing and predictable hazards in the work site surroundings or working conditions, which could be hazardous to employees, and has been authorized by the employer or employer representative to eliminate the hazard or take corrective action therefrom. Items to consider during site-specific planning must include, but are not limited to, the following: ( )

a. Experience of the operator; ( )

b. Limitations of the equipment; ( )

c. Soil and terrain conditions; ( )

d. Environmental conditions; ( )

e. Poor visibility and lighting conditions; ( )

f. Weather conditions; ( )

g. Direction of travel; ( )

h. Requirements for turning the machine on slopes; ( )

i. Load sizes; ( )

j. Method and adequacy of anchorage; and ( )

k. Any other condition that may adversely affect operations. ( )

03. Operator Qualifications. Cable-assisted logging operators shall have documented training or adequate experience to safely operate the equipment on slopes. ( )

04. Operating Plans. A cable-assisted logging system operator shall have a written operating plan on site detailing the following: ( )

a. Tether line replacement criteria; ( )

b. Cable size, type and breaking strength, and method of assurance that tensions do not exceed one-third (1/3) of breaking strength to maintain a 3:1 safety factor or greater; ( )

c. Inspection and maintenance to be performed on tether lines, end connectors, machines and winches; ( )

d. How the operator will use tension limiting controls to maintain desired tension; ( )

e. How the winch cable tension and machine travel are synchronized; ( )

f. How the operator will monitor machine slope, anchor movement, winch tension, amount of line on and off drum, and winch function; ( )

g. How the tether line attachment points to the harvesting machine are engineered to withstand

potential loads; ( )

h. All harvesting machine modifications that allow it to operate on steep slopes, including operator harness or restraint system; ( )

i. How pre-operations planning and daily assessments will identify hazards for soil and terrain conditions; ( )

j. How the operator will determine if soil and terrain conditions are unsafe during operations; ( )

k. How operators will report new hazards identified during operations; ( )

l. Operating guidance given to the operator; and ( )

m. How emergencies are handled by the system, including line failure, machine failure, winch failure, anchor failure, winch machine movement or anchor movement, and whether there is an emergency stop for the operator or at the anchor. ( )

05. Unsafe Conditions. The employer shall establish and use procedures for operators to report unsafe conditions to a supervisor or qualified person. Such conditions must be corrected prior to resuming cable-assisted logging operations. Procedures shall also include steps to take in the event of equipment breakdown and for upset conditions. ( )

06. Warning Signs. Effective signage shall be affixed to all remotely operated equipment warning employees and others that lines and machines may start, stop, or move without warning. All employees working in close proximity of cable-assisted logging operations must receive training that enables them to recognize the potential hazards involved and to maintain safe distances. ( )

705. -- 999. (RESERVED)

IDAPA 07 – DIVISION OF BUILDING SAFETY

DOCKET NO. 07-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the Legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to the following sections of Idaho Code:

I.C. § 39-4112	I.C. § 44-2107	I.C. § 54-2607	I.C. § 55-2203
I.C. § 39-4113	I.C. § 54-1005	I.C. § 54-1907	I.C. § 55-2211
I.C. § 39-4303	I.C. § 54-1006	I.C. § 54-4510	I.C. § 67-2601A
I.C. § 39-8605	I.C. § 54-2605	I.C. § 54-5017	
I.C. § 44-2103	I.C. § 54-2606	I.C. § 54-5022	

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 07, rules of the Division of Building Safety:

- 07.02.02, *Rules Governing Plumbing Permits (renamed Rules Governing Plumbing)*
- 07.03.01, *Rules of Building Safety*
- 07.03.03, *Rules for Modular Buildings*
- 07.03.11, *Rules Governing Manufactured/Mobile Home Industry Licensing*
- 07.03.12, *Rules Governing Manufactured or Mobile Home Installations*
- 07.04.02, *Safety Rules for Elevators, Escalators, and Moving Walks*
- 07.05.01, *Rules of the Public Works Contractors License Board*
- 07.07.01, *Rules Governing Installation of Heating, Ventilation and Air Conditioning Systems*
- 07.10.01, *Rules Governing the Damage Prevention Board*

This pending rule vacates the following proposed rules previously promulgated as part of the omnibus proposed rulemaking under IDAPA 07, rules of the Division of Building Safety:

- ***(VACATED)*** 07.01.02, *Rules Governing Fees for Electrical Permits and Inspections*
- ***(VACATED)*** 07.01.03, *Rules of Electrical Licensing and Registration – General*
- ***(VACATED)*** 07.01.11, *Rules Governing Civil Penalties*
- ***(VACATED)*** 07.02.03, *Rules Governing Permit Fee Schedule*
- ***(VACATED)*** 07.02.07, *Rules Governing Civil Penalties*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 923–1025**. Amendments to the chapters identified in this notice were made consistent with Executive Orders **2019**-01 and **2019-02** related to the Licensing Freedom Act and the Red Tape Reduction Act. Amendments made to the rulemakings included revision to eliminate unnecessary, outdated, or duplicative rule provisions, or to simplify or reformat (consolidate) rules.

Specifically, this pending rule vacates the proposed rules for the following chapters: IDAPA 07.01.02, "Rules Governing Fees for Electrical Permits and Inspections"; 07.01.03, "Rules of Electrical Licensing and Registration – General"; and 07.01.11, "Rules Governing Civil Penalties." These chapters are being consolidated into a new, renamed chapter 07.01.01, "Rules of the Idaho Electrical Board." The proposed rules for that rulemaking are contained in Docket Number 07-0101-1901, published in the Idaho Administrative Bulletin, September 4, 2019 – **Vol. 19-9, pages 132-154.**

Further, this pending rule vacates the proposed rules for IDAPA 07.02.03, "Rules Governing Permit Fee Schedule," and 07.02.07, "Rules Governing Civil Penalties." This pending rulemaking consolidates these chapters into a renamed chapter 07.02.02, "Rules Governing Plumbing." Additionally, this pending rulemaking amends former IDAPA 07.02.05 at Subsection 016.03 to align it with I.C. Section 54-2617(3), and 07.02.03 at Subsection 011.02 to identify a fee for modular and manufactured home inspections pursuant to I.C. Section 54-2622. Those changes can be found in the renamed 07.02.02, "Rules Governing Plumbing," at Subsections 207.03 and 102.02, respectively.

The Division of Building Safety rules are necessary to ensure that properly qualified persons continue to practice in the professions over which the Division exercises regulatory authority, and that the installations made in the various trades and professions related thereto, and other applicable construction work, is performed safely and in accordance with laws, codes, standards, and processes that protect the safety and welfare of the public.

The fee or charge imposed by the rule(s) is necessary to avoid immediate danger. The fee(s) or charge(s) reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. All Division programs that are covered by this notice operate from statutorily created dedicated funds that provide for the licensing of persons within the respective professions, as well as the inspection of such installations and/or administration of such programs by the Division. All of these operations require the collection of certain fees to ensure compliance with applicable standards and to protect the health and safety of the public.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules, with the exception noted above. All fees contained in rule chapters covered by this notice relate to licensing and related administrative fees, fees to perform inspections on various types of construction installations, or the assessment of civil penalties for non-compliance with applicable statutes. This fee or charge is being imposed pursuant to the following sections of Idaho Code:

I.C. § 39-4004	I.C. § 39-4107	I.C. § 39-4112	I.C. § 39-4113
I.C. § 39-4303	I.C. § 39-8605	I.C. § 39-8616	I.C. § 44-2103
I.C. § 44-2107	I.C. § 44-2202	I.C. § 54-1005	I.C. § 54-1006
I.C. § 54-1013	I.C. § 54-2606	I.C. § 54-2607	I.C. § 54-2623
I.C. § 54-1907	I.C. § 54-1910	I.C. § 54-1912	I.C. § 54-4510
I.C. § 54-5005	I.C. § 54-5006	I.C. § 54-5017	I.C. § 54-5022
I.C. § 55-2203	I.C. § 55-2211	I.C. § 67-2601A	

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patrick Grace, Regional Manager at (208) 332-7120.

Dated this 8th day of October, 2019.

Chris Jensen, Administrator
Division of Building Safety
1090 E. Watertower St., Ste 150
Meridian, ID 83642
(208) 332-7100

000. LEGAL AUTHORITY.
In accordance with Sections 54-2605(1) *and 54-2606(3)*, Idaho Code, the Idaho Plumbing Board is authorized to make, promulgate, and publish such rules as may be necessary for carrying out the provisions of this act in order to effectuate the purposes thereof and for the orderly and efficient administration thereof, and except as may be limited or prohibited by law and the provisions of this act, such rules so made and promulgated have the force of statute. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 07.02.02, "Rules Governing Plumbing." *( )*

02. Scope. These rules prescribe criteria for plumbing permits*, fee schedules for plumbing permits, inspections of plumbing installations, the issuance of licenses for plumbing installation, adoption and amendment of the Idaho State Plumbing Code, and civil penalties*. *( )*

002. ADMINISTRATIVE APPEALS.
Within ten (10) days of receiving notice of a civil penalty, the notified party shall comply with the penalty or file a written request for an administrative appeal before the Board and pay a bond in the amount of the penalty. Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," shall govern administrative appeals and judicial review thereof. *( )*

003. INCORPORATION BY REFERENCE.
The Idaho State Plumbing Code, 2017 Edition, is incorporated by reference into these rules as further specified in Rule 301. *( )*

004. -- 008. (RESERVED)

007. DEFINITIONS.

***01. Administrator**. The Division of Building Safety Administrator.* *( )*

***02. Board**. The Idaho State Plumbing Board, created under the provisions of Section 54-2605, Idaho Code.* *( )*

03. **Division**. The Division of Building Safety of the state of Idaho. (1-22-82)

04. Fixture. Any water using or waste producing unit attached to the plumbing system, and includes sewers, water treatment equipment, solar systems, sprinkler systems, hot tubs and spas. (1-22-82)

008. -- 100. (RESERVED)

SUBCHAPTER A - Plumbing Permits, Fee Schedule, and Safety Inspections (Rule 101 through 199)

101. PERMITS.

01. Serial Number. Each permit must bear a serial number. (6-4-76)

02. Plumbing Contractors. Permits will be furnished by the Division to licensed plumbing contractors upon request. *Permit* serial numbers must be registered in the name of the plumbing contractor and are transferable only as provided herein these rules. *( )*

03. Home Owners. Home owners making plumbing installations on their own premises under the provisions of Section 54-2602, Idaho Code, must secure a plumbing permit by making application to the Division as provided by Section 54-2620, Idaho Code. *( )*

04. Commercial, Industrial and Others. The application form must be properly completed, *and returned* to the Division together with a verified copy of bid acceptance and the proper permit fee as hereinafter provided. Persons, companies, firms, associations, or corporations making plumbing installations, other than on their own property, must be licensed as a contractor by the state of Idaho as provided by Section 54-2610, Idaho Code. *( )*

05. **Expiration of Permit**. Every permit expires and becomes null and void if the work authorized by such permit is not commenced within one hundred twenty (120) days from the date *of permit* issuance, or if work authorized by such permit is suspended or abandoned at any time after work is commenced for a period of one hundred twenty (120) days. Before such work can be recommenced, a new permit must first be obtained, and the fee is one-half (1/2) the amount *of* a new permit for such work; provided, no changes have been made, or will be made in the original plans and specifications for such work; and provided further, that such suspension or abandonment has not exceeded one (1) year. All plumbing fixtures must be listed on the application for permit. *( )*

06. **Transferring a Permit**. A plumbing permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself, as well as assignment of all responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the plumbing work is to be performed and for which the permit was issued, or such owner's designated legal agent in cases where the property owner has terminated their legal relationship with the plumbing contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars ($45) for the transfer of a permit will be assessed by the Division. (3-24-17)

07. **Refunds of Permits**. *( )*

a. The Administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installation of plumbing work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division; and (3-24-17)

b. The Administrator will not authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner's representative not less than one hundred eighty (180) days after the date the permit was issued. (3-24-17)

102. PERMIT FEE SCHEDULE.

01. ***New Residential****. Includes all buildings with plumbing systems being constructed on each property. The following fees shall apply to new residential construction:*

One-Family Dwelling		
Square Feet		***Fee***
Up to 1,500	-	*$130*
1,501 to 2,500	-	*$195*
2,501 to 3,500	-	*$260*
3,501 to 4,500	-	*$325*
Over 4,500	-	*$325 plus $65 for each additional 1,000 square feet or portion thereof*
Two- or Multi-Family Dwelling		
Dwelling		***Fee***
Two-family dwelling	-	*$260*
Multi-family dwelling	-	*130 per Building plus $65 per Unit*

( )

02. Miscellaneous. The following fees shall apply for the types of permits listed:

Type	Fee
Existing residential	$65 per inspection plus $10 for each additional fixture
Requested inspection	$65 per hour or portion thereof plus costs of out-of-state travel
Technical service	$65 per hour or portion thereof
Plan check	
Mobile home, manufactured home, or recreational vehicle park	Calculated under Subsection 102.03 of these rules
Sewer or water service line - nonresidential (new construction, installations, and replacements)	
Reclaimed water system	
Lawn sprinkler system - nonresidential	
Lawn sprinkler system - residential	$65 per inspection
Sewer or water service line - residential (new construction, installations, and replacements)	
Mobile or manufactured home	
Modular building	
Multipurpose residential fire sprinkler	$65 or $4 per fire sprinkler head, whichever is greater
Gray water system	$130 per inspection

( )

03. Other Installations Including Industrial and Commercial. The fees listed in this Subsection shall apply to plumbing installations in this schedule that refer to this Subsection and installations not specifically mentioned elsewhere in this schedule. The plumbing system cost shall be the cost to the owner of labor charges and other costs incurred to complete the installation of plumbing equipment and materials installed as part of the plumbing system. All fees calculated under this Subsection must be based on the total plumbing system cost, which must be listed on the permit.

Plumbing System Cost		Fee
Up to $10,000	-	$60 plus 2% of plumbing system cost
$10,000 to $100,000	-	$260 plus 1% of plumbing system cost exceeding $10,000
Over $100,000	-	$1,160 plus .5% of plumbing system cost exceeding $100,000

( )

04. Additional Fees. A fee of sixty-five dollars ($65) per hour or portion thereof shall apply to trips to inspect when the permit holder has given notice to the Division of Building Safety that the work is ready for inspection and it is not; ( )

a. If the permit holder has not accurately identified the work location; ( )

b. If the inspector cannot gain access to make the inspection; ( )

c. *Corrections required by the inspector as a result of the permit holder improperly responding to a corrective notice.* *( )*

d. *When corrections have not been made in the prescribed time, unless an extension has been requested and granted.* *( )*

05. No Permit*. Failure to purchase a permit before commencing work may result in the assessment of a double fee.* *( )*

103. REQUIRED INSPECTIONS.

01. Ground Work Inspection Tags*. For ground work to be covered, with acceptance by the inspector. A tag will be attached in a prominent location, preferably to a vertical riser.* *( )*

02. Rough-In Inspection Tags*. For rough-in, prior to covering or concealing, with acceptance by the inspector. A tag will be placed in a prominent location.* *( )*

03. Final Inspection Tags*. For final, attached when the plumbing as specified on the permit is complete and conforms to the requirements of the code.* *( )*

04. Inspection Tags for Unacceptable Plumbing*. Correction Notice - when attached to the plumbing system means that the plumbing is not acceptable and that corrections are required. A reinspection and reinspection fee for such installations shall be required in accordance with this chapter.* *( )*

104. -- 199. (RESERVED)

SUBCHAPTER B - Plumbing Safety Licensing (Rule 201 through 299)

201. LICENSURE HISTORY.
An applicant for any plumbing registration or certificate of competency who has been previously licensed as a journeyman or master plumber in any recognized jurisdiction is required upon application to the Division of Building Safety to disclose such licensure history and provide sufficient proof thereof. An applicant for any plumbing registration or certificate of competency who has been previously licensed as a journeyman or master plumber in any recognized jurisdiction will not be issued a plumbing apprentice registration. *( )*

202. APPRENTICE REGISTRATION.
A person wishing to become a plumbing apprentice must register with the Division prior to going to work. All apprentices must pay the registration fee as prescribed by Section 54-2614, Idaho Code. The minimum age for any apprentice must be sixteen (16) years. No examination is required for such registration. In order to maintain registration, the apprentice must renew his registration in accordance with Sections 54-2614 and 54-2614A, Idaho Code. *( )*

01. Work Requirements*. A plumbing apprentice must work at the trade under the constant on-the-job supervision of a journeyman and in the employ of a contractor for a total of four (4) years, defined as a minimum of eight thousand (8,000) hours work experience in order to be eligible for a journeyman certificate of competency.* *( )*

02. Schooling Requirements*. A plumbing apprentice must complete a Board-approved related course of instruction for four (4) years in order to be eligible for a journeyman certificate of competency. Unless prior approval has been granted by the Division the apprentice must complete the required course work sequentially: year one (1) must be completed prior to beginning year two (2); year two (2) must be completed prior to beginning year three (3); and year three (3) must be completed prior to beginning year four (4). A minimum of one hundred forty-four (144) hours of classroom or other Idaho Plumbing Board-approved instruction time per school year is required. A grade average of seventy percent (70%) must be attained in these courses. Upon completion of apprenticeship*

schooling, the apprentice must obtain a certificate of completion, or a letter signed by the chairman of his apprenticeship committee, and attach the certificate or letter to his application for a journeyman license. ( )

***03. Journeyman Examination**. ( )*

***a.** Any plumbing apprentice who desires to take the written portion of the journeyman examination must complete an Idaho Plumbing Board approved related course of instruction for four (4) years as described in Subsection 202.02 of these rules prior to the date of the exam and provide a certificate of completion with the application for examination. There is no minimum work requirement in order to be eligible to take the written portion of the plumbing journeyman examination. ( )*

***b.** Successful completion of the journeyman written examination does not eliminate the requirement to complete four (4) years of work experience, defined as eight thousand (8,000) hours, under the constant on-the-job supervision of a journeyman plumber or the practical portion of the examination in order to be issued a journeyman certificate of competency. Successful completion of the written plumbing journeyman examination notwithstanding, no journeyman certificate of competency will be issued until an apprentice successfully completes the practical portion for the examination and furnishes to the Division proof of satisfaction of the work requirements contained in Subsection 011.01 of these rules. Satisfaction of the work requirements contained in Subsection 202.01 of these rules is required before any individual is eligible to take the practical portion of the journeyman examination. ( )*

***203. JOURNEYMAN**.*

***01. Qualifications for Journeyman Plumber**. An applicant for a journeyman plumber's certificate of competency must have at least four (4) years' experience as an apprentice making plumbing installations under the constant on-the-job supervision of a qualified journeyman plumber, as provided by Section 54-2611, Idaho Code. Pipe fitting will not be accepted as qualifications for a journeyman plumber's certificate of competency. In order to obtain a journeyman certificate of competency, an individual must submit an application for examination and license. The application must be accompanied by proof the applicant has completed an approved course of instruction for four (4) years as provided in Subsection 202.02 of these rules. The journeyman examination may be taken by an individual who has successfully completed a Board-approved course of instruction for four (4) years as described in Subsection 202.03 of these rules. The examination fee is as prescribed by Section 54-2614, Idaho Code, and must accompany the application. ( )*

***02. Examination**. The journeyman examination grade is based on answers to written questions and practical work performed on plumbing installations as determined by the Division after successful completion of the written examination. Time allowed for the written examination is four (4) hours. A passing grade is required on the written examination. The practical portion of the exam may be performed on a job in-progress or in a laboratory setting and must consist of work performed in either a residential or commercial application. The practical portion of the exam must pass with no violations. ( )*

***03. Out-of-State Journeyman Applications**. ( )*

***a.** Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 203.01 and 203.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho Plumbing Board must include satisfactory proof of licensure in such jurisdiction. The applicant must pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ( )*

***b.** An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Board must include evidence that demonstrates that the applicant has four (4) years of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho, as well as four (4) years of schooling equivalent to that which a plumbing apprentice must complete in Idaho. Alternatively, such an applicant may submit proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of plumbing work experience of a nature at least equivalent to that which a plumbing apprentice must perform in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant must also pay all applicable application and*

examination fees to the Division, and successfully complete the journeyman examination administered by the Division. ( )

204. PLUMBING CONTRACTOR.

***01. Qualifications for Plumbing Contractor**. A plumbing contractor must be certified as competent by the Idaho Plumbing Board and the administrator of the Division before he offers his service to the public. To obtain the certificate, he must first submit an acceptable application. The applicant must possess an active journeyman plumbing certificate of competency issued by the Division, a provable minimum of two and one-half (2 1/2) years' experience as a licensed journeyman plumber in the state of Idaho, as well as provide payment to the Division for all applicable application and examination fees, and successfully complete the contractor examination administered by the Division. The compliance bond required by Section 54-2606, Idaho Code, is be required to be on file with the Division upon successful completion of the examination. The examination fee is as prescribed by Section 54-2614, Idaho Code. ( )*

***02. Out-of-State Contractor Applications**. ( )*

***a.** An applicant for a contractor certificate of competency who has previously been licensed as a journeyman in another jurisdiction recognized by the Idaho Plumbing Board must first obtain an Idaho journeyman certificate of competency in accordance with Section 203 of these rules. Such applicants may provide proof of two and one half (2 1/2) years of experience as a plumbing journeyman by providing satisfactory evidence to the Division of such work history in another recognized jurisdiction. Such applicants must also pay all applicable application and examination fees to the Division, and successfully complete the contractor examination administered by the Division. The compliance bond required by Section 54-2606, Idaho Code, is required to be on file with the Division upon successful completion of the examination. ( )*

***b.** An applicant for a contractor certificate of competency who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho Plumbing Board must first obtain an Idaho journeyman certificate of competency in accordance with Section 203 of these rules. Such applicants must also provide proof of four (4) years of experience performing plumbing work of a nature equivalent to what a journeyman in Idaho must demonstrate to qualify for a contractor certificate of competency. Proof of such work experience may be provided by the submission of three (3) sworn affidavits from individuals attesting to the fact that the applicant has had at least four (4) years' experience performing such work. Alternatively, such an applicant must provide proof of two and one half (2 1/2) years of experience as a journeyman plumber in the state of Idaho. Such applicants must also pay all applicable application and examination fees to the Division, and successfully complete the contractor examination administered by the Division. The compliance bond required by Section 54-2606, Idaho Code, is required to be on file with the Division upon successful completion of the examination. Applications that are incomplete in any detail will be returned as unacceptable, or denied. ( )*

***03. Restrictive Use of Contractor Certificate**. Any individual holding a contractor certificate and designated by a firm to represent that firm for licensing purposes represents one (1) firm only, and must immediately notify the Division in writing when his working arrangement with that firm has been terminated for purposes of becoming self-employed or affiliation with another firm, or for any other reason. A license holder cannot represent any other person or firm, self-employed or otherwise, than originally stated on his application for license. When a change is made, he is required to so inform the Division. Otherwise, he is guilty of transferring his license in violation of Section 54-2610, Idaho Code, and is subject to license suspension, revocation, or refusal to renew under Section 54-2608, Idaho Code, or to prosecution under the provisions of Section 54-2628, Idaho Code. ( )*

***04. Previous Revocation**. Any applicant for a plumbing contractor's license who has previously had his plumbing contractor's license revoked for cause, as provided by Section 54-2608, Idaho Code, is considered as unfit and unqualified to receive a new plumbing contractor's license so long as such cause for revocation is continuing, and of such a nature that correction can be made by the applicant. ( )*

***05. Reviving an Expired License**. Any applicant for a plumbing contractor's license who has allowed his license to expire and seeks to revive it under the provisions of Section 54-2617, Idaho Code, may be denied a license as unfit and unqualified if, while operating under the license prior to expiration, he violated any of the laws, rules or regulations applicable to plumbing contractors, and such violation is continuing, and of such a nature that*

corrections can be made by the applicant. ( )

***06. Effective Dates**. The effective dates of the compliance bond referred to in Subsection 204.01 of these rules coincide with the effective dates of the contractor's license. Proof of renewal of the compliance bond must be on file with the Division before the contractor can renew or revive his license. ( )*

***07. Plumbing Contractor's Responsibility**. It is the responsibility of the plumbing contractor to ensure that all his employees working at the plumbing trade are licensed as provided by Idaho Code and these rules. ( )*

***08. Advertising**. Any person or entity advertising to engage in the business, trade, practice, or work of a plumbing contractor as defined in Section 54-2611, Idaho Code, who does not possess a current and valid plumbing contractor certificate of competency issued by the Division of Building Safety, is in violation of the licensing provisions of Title 54, Chapter 26, Idaho Code. Such conduct is punishable as a misdemeanor as prescribed by Section 54-2628, Idaho Code, and subject to civil penalties in accordance with these rules. ( )*

***a.** For the purposes of this Section, advertising includes, but is not limited to: newspaper, telephone directory, community flier ads or notices; telephone, television, radio, internet, or door-to-door solicitations. ( )*

b. Any advertising, as defined in Subsection 204.08 of these rules, conducted by those persons or entities with a valid certificate of competency must include the contractor certificate of competency number. ( )

205. APPLICATIONS.

All applications for licenses must be properly completed giving all pertinent information, and signatures must be notarized. Applications for plumbing contractor's license must be accompanied by a license fee in the amount prescribed by Section 54-2616, Idaho Code. An application for a journeyman license must be accompanied by a license fee in the amount prescribed by Section 54-2616, Idaho Code, and an examination fee as provided by Section 54-2614, Idaho Code. An application for a license must be submitted to the administrator of the Division and must be approved by an authorized representative of the Division before any examination is given and before any license is issued. The provisions of this section do not apply to renewal of licenses. ( )

206. EXAMINATIONS.

***01. Examinations for Journeyman Plumber**. Written examinations for any journeyman plumber's license are formulated and approved by the Idaho Plumbing Board. Examination questions are based on the practical application of the Uniform Plumbing Code. No certificate of competency will be issued unless the applicant receives a final grade of seventy-five percent (75%) or higher on the written examination and passes the practical portion with no violations, as well as completes the work requirements described in Paragraph 202.03.a. of these rules. An applicant receiving a grade of less than seventy-five percent (75%) may apply for reexamination upon payment of the examination fee. An applicant has six (6) months to achieve a passing score. If an applicant does not achieve a passing score in six (6) months, the applicant must enroll in year four (4) in a, Idaho Plumbing Board-approved related training course, complete year four (4), be registered with the Division as an apprentice, and maintain registration as per Section 202 of these rules before the applicant will be eligible to apply for examination. A completion certificate for year four (4) and the proper application fee must accompany a new application for a journeyman examination. ( )*

***02. Frequency of Conducting of Examinations**. Examinations for all classifications under the Plumbing Laws and rules will be given a minimum of four (4) times each year in the Division's three office three (3) locations. ( )*

***03. Professional Testing Services**. In lieu of the administration by the Idaho Plumbing Board of the examination for licenses pursuant to this rule, the Idaho Plumbing Board may contract with a professional testing service to administer the examination, and require license applicants to pay to the testing service the fee that they have set for the examination and to take such examination at the time set by such service. If the examination is conducted in this fashion, the Idaho Plumbing Board may charge and retain the application fee provided for by Section 54-2616, Idaho Code, to cover the cost of reviewing the applicant's application. ( )*

207. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION, REVIVAL -- FEES.

***01. Issuance**. Certificates of competency will be issued in such a manner as to create a renewal date that coincides with the birthdate of the individual to whom the certificate is issued and allows for renewals every three (3) years. ( )*

***a.** Certificates of competency will be issued for a period of no less than one (1) year and no more than three (3) years. For example: a qualified applicant who applies for a certificate of competency in August of year one (1) but whose birthday will not occur until March of year two (2) will be issued a certificate of competency renewable on the anniversary of the applicant's birthdate. ( )*

***b.** The fee for issuance of certificates of competency will be prorated based on the number of months for which it is issued. ( )*

***02. Renewal**. Certificates of competency will be renewed in such a manner as will achieve a staggered system of certificate renewal using the birthdate of the individual to whom the certificate is issued as the expiration date. ( )*

***a.** Certificates of competency will be renewed for a period of no less than one (1) year and no more than three (3) years. ( )*

***b.** The fee for renewal of certificates of competency will be prorated based on the number of months for which it is issued. ( )*

***c.** Continuing Education. The Idaho Plumbing Board will establish criteria for approval of instruction and instructors and courses and instructors will be approved by the Division of Building Safety. Proof of completion of the following continuing education requirements must be submitted to the Division prior to, or with the application for, licensure renewal by any licensee in order to renew a journeyman or contractors plumbing license. ( )*

i. Journeymen must complete eight (8) hours of continuing education for every three-year license cycle, or complete an exam administered by the Division. Of the required eight (8) hours, four (4) hours must be plumbing code update related and the other four (4) hours may be industry related training. ( )

ii. Contractors must complete sixteen (16) hours of continuing education for every three-year license cycle. Hours accrued obtaining journeyman education may be applied toward this requirement whenever applicable. ( )

***03. Expiration - Revival**. ( )*

***a.** A certificate that has expired may be revived in accordance with Section 54-2617, Idaho Code by submitting a completed application and meeting all other certification requirements. ( )*

***b.** Revived certificates will be issued in such a manner as to create a renewal date that coincides with the birthdate of the applicant to achieve a staggered system of renewal. ( )*

208. SPECIALTY PLUMBING LICENSES.

The purpose of this section is to set out the special types of plumbing installations for which a specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ( )

***01. Qualified Journeyman Plumbers**. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )*

***02. Minimum Experience Requirements**. ( )*

***a.** Experience gained by an individual while engaged in the practice of mobile home hook-ups is not*

considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ( )

b. All installers must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ( )

03. Mobile Home Set-Up or Installers. ( )

a. Any person qualifying for and having in his possession a current license in this category may make the proper connections of sewer and water to existing facilities on site. All material and workmanship must comply with the requirements of the Uniform Plumbing Code. ( )

b. All installers must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. This specialty license does not permit any extension, alteration, or addition to the plumbing system within the mobile home or the installation of any underground plumbing outside the mobile home. ( )

04. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Division of Building Safety. The forms must be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required two (2) years' experience in the field of this specialty. ( )

05. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses are formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ( )

06. Fees. Fees for certificates are required in accordance with Section 54-2616, Idaho Code. ( )

209. APPLIANCE PLUMBING SPECIALTY LICENSE.

The purpose of this section is to set out the special types of plumbing installations for which an appliance plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ( )

01. Qualified Journeyman Plumbers. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )

02. Qualified Apprentice Plumbers. Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )

03. Minimum Experience Requirements. ( )

a. Experience gained by an individual while engaged in the practice of appliance plumbing specialty is not considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ( )

b. All qualified appliance plumbing specialty journeymen must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ( )

c. Appliance plumbing specialty contractors must have a two thousand dollar ($2,000) surety bond, thirty (30) months minimum journeyman experience, and successful completion of appliance plumbing specialty contractor's test. ( )

d. Appliance plumbing specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of seventy-two (72) hours of Idaho Plumbing Board-approved, related training classes and successful completion of the appliance plumbing specialty journeyman's test. ( )

e. Appliance plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed Idaho Plumbing Board-approved related training classes and maintain state registration. ( )

04. Special Grandfathering Provision. ( )

a. Contractor: In lieu of the thirty (30) months minimum journeyman experience requirement, an individual may use five (5) years' experience of owning and operating a business where this specialty applies and satisfactory completion of seventy-two (72) hours of Idaho Plumbing Board-approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least five (5) years. ( )

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use five (5) years' experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least five (5) years. ( )

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Division of Building Safety. The forms must be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. ( )

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses are formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ( )

07. Fees. Fees for certificates are required in accordance with Section 54-2616, Idaho Code. ( )

08. Scope of Work Permitted. Permitted to disconnect, cap, remove, and reinstall within sixty (60) inches of original location: water heating appliance, water treating or filtering devices; air or space temperature modifying equipment which involves potable water; humidifier; temperature and pressure relief valves; condensate drains and indirect drains in one-family and two-family residences only. Does not include installation, testing, or certifying of backflow prevention devices. Does NOT include any modification to the drain, waste or vent systems. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform Plumbing Code. ( )

210. WATER PUMP PLUMBING SPECIALTY LICENSE.

The purpose of this section is to set out the special types of plumbing installations for which a water pump plumbing specialty license is required; to set out the minimum experience requirements for such licenses; and to describe the procedure for securing such licenses. ( )

***01. Qualified Journeyman Plumbers**. Qualified journeyman plumbers as defined in Section 54-2611(b), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )*

***02. Qualified Apprentice Plumbers**. Qualified apprentice plumbers as defined in Section 54-2611(c), Idaho Code, are permitted to make installations as subsequently described herein without securing an additional license for said installation. ( )*

***03. Minimum Experience Requirements**. ( )*

***a.** Experience gained by an individual while engaged in the practice of water pump plumbing specialty is not considered towards the satisfaction of the minimum experience requirements for licensing as a journeyman plumber. ( )*

***b.** All qualified water pump plumbing specialty journeymen must be licensed and be in the employ of a licensed plumbing contractor or specialty contractor limited to this category. ( )*

***c.** Water pump plumbing specialty contractors must have a two thousand dollars ($2,000) surety*

bond, thirty (30) months minimum journeyman experience, and successful completion of water pump plumbing specialty contractor's test. ( )

d. Water pump specialty journeymen must have eighteen (18) months apprentice on-the-job experience, satisfactory completion of twelve (12) hours of Idaho Plumbing Board-approved, related training classes and successful completion of the water pump plumbing specialty journeyman's test. ( )

e. Water pump plumbing specialty apprentices must be employed by a licensed contractor, under the supervision of a journeyman, be enrolled in or have completed Idaho Plumbing Board-approved related training classes and maintain state registration. ( )

04. Special Grandfathering Provision. ( )

a. Contractor: In lieu of the thirty (30) month minimum journeyman experience requirement, an individual may use three (3) years' experience of owning and operating a business where this specialty applies and satisfactory completion of twenty-four (24) hours of Idaho Plumbing Board-approved related training classes. For this purpose, a business is defined as an activity in which tax returns were required to be and have been filed for at least three (3) years. ( )

b. Journeyman: In lieu of the eighteen (18) months apprentice on-the-job experience requirement, an individual may use three (3) years' experience working for a business where this specialty applies. For this purpose, working for a business is defined as being issued a W-2 earning form from a related business or businesses for at least three (3) years. ( )

05. Applications for Specialty Licenses. Applications for the above specialty licenses may be obtained from the Division of Building Safety. The forms must be returned with the examination fee provided by Section 54-2614, Idaho Code, with proof of the required experience in the field of this specialty. ( )

06. Examinations for Specialty Licenses. Written examinations for specialty plumbing licenses are formulated from the practical application of the sections of the Uniform Plumbing Code as adopted by the Idaho Plumbing Board under Section 54-2601, Idaho Code. ( )

07. Fees. Fees for certificates are required in accordance with Section 54-2616, Idaho Code. ( )

08. Scope of Work Permitted. Permitted to install and connect water service piping from pump to storage expansion pressure tank in one (1) and two (2) family residences only. Does not include installation, testing or certifying of backflow prevention devices. Must comply with all Idaho plumbing laws and rules and the requirements of the Uniform Plumbing Code. ( )

211. -- 300. (RESERVED)

SUBCHAPTER C - Idaho State Plumbing Code (Rule 301)

301. ADOPTION AND INCORPORATION BY REFERENCE OF THE IDAHO STATE PLUMBING CODE.

The Idaho State Plumbing Code published in 2017, including Appendices "A, B, C, D, E, G, I, J, K and L," (herein ISPC) is adopted and incorporated by reference with amendments as prescribed by the Idaho Plumbing Board and contained in this Section. The Idaho State Plumbing Code is modeled after the 2015 Uniform Plumbing Code (UPC). ( )

01. Section 105.3 Testing of Systems. ( )

a. Delete and replace the following: Plumbing systems must be tested and approved in accordance with this code or the Authority Having Jurisdiction. Tests may be conducted in the presence of the Authority Having Jurisdiction or the Authority Having Jurisdiction's duly appointed representative. ( )

b. No test or inspection is required where a plumbing system, or part thereof, is set up for exhibition purposes and has no connection with a water or drainage system. In cases where it would be impractical to provide the required water or air tests, or the presences of the Authority Having Jurisdiction, or for minor installations and repairs, the Authority Having Jurisdiction, in accordance with procedures established thereby, is permitted to make such inspection as deemed advisable in accordance with the intent of this code. Joints and connections in the plumbing system must be gastight and watertight for the pressures required by the test. ( )

02. Section 218 Definitions. Delete definition of "Plumbing System." Incorporate definition of "Plumbing System" as set forth in Section 54-2604, Idaho Code. ( )

03. Section 314.4 Excavations. Add: Where unsuitable or soft material is encountered, excavate to a depth not less than two (2) pipe diameters below the pipe and replace with select backfill. Such backfill must be sand, fine gravel, or stone and must provide lateral support for the pipe. Where rock is encountered, the trench must be excavated to a minimum depth of six (6) inches (152 mm) below the bottom of the pipe. Sand must be added to provide uniform bedding and support for the pipe. The pipe may not rest on any rock at any point, including joints. ( )

04. Section 401.2 Qualities of Fixtures. Replace with the following: Plumbing fixtures must be constructed of dense, durable, non-absorbent materials and must have smooth, impervious surfaces, free from unnecessary concealed fouling surfaces. ( )

05. Section 403.3 Exposed Pipes and Surfaces. Delete. ( )

06. Section 407.4 Transient Public Lavatories. Self-closing or self-closing metering faucets may be installed on lavatories intended to serve the transient public, such as those in, but not limited to, service stations, train stations, airports, restaurants, convention halls, and rest stops. Installed metered faucets must deliver a maximum of zero point two six (0.26) gallons (one point zero (1.0) liter) of water per use. ( )

07. Section 408.5 Finished Curb or Threshold. Delete the last sentences of the first paragraph and replace with the following: The finished floor of the receptor must slope uniformly from the sides toward the drain not less than one-eighth (1/8) inch per foot (20.8 mm/m), nor more than one-half (1/2) inch per foot (41.8 mm/m). ( )

08. Section 408.7.5 Tests for Shower Receptors. Delete. ( )

09. Section 409.4 Limitation of Hot Water in Bathtubs and Whirlpool Bathtubs. Delete. ( )

10. Table 501.1(1) First Hour Rating. Delete Table 501.1(1) and replace with the following:

TABLE 501.1(1) FIRST HOUR RATING1

Number of Bathrooms	1 to 1.5			2 to 2.5				3 to 3.5			
Number of Bedrooms	1	2	3	2	3	4	5	3	4	5	6
First Hour Rating,2 Gallons	38	49	49	49	62	62	74	62	74	74	74

For SI units: one (1) gallon = 3.785 L
Notes:
1 The first hour rating is found on the "Energy Guide" label.
2 Solar water heaters must be sized to meet the appropriate first hour rating as shown in the table. ( )

11. Section 503.1 Inspection of Chimneys or Vents. Add the following to the end of section 503.1: Water heating appliances using Category 3 or 4 exhaust venting must be tested in its entirety with five (5) pounds of air for fifteen (15) minutes. Plastic vents must be constructed using manufacturer's instructions. ( )

***12. Section 507.2 Seismic Provisions**. Delete. ( )*

***13. Section 507.13 Installation in Garages**. Replace 507.13 with the following: Any plumbing appliance or appurtenance in residential garages and in adjacent spaces that open to the garage and are not part of the living space of a dwelling unit must be installed so that burners, burner-ignition devices or other sources of ignition are located not less than eighteen (18) inches (450 mm) above the floor unless listed as flammable vapor ignition resistant. ( )*

***14. Table 603.2 Backflow Prevention Devices, Assemblies and Methods**. ( )*

***a.** Delete from the table the entire row related to freeze resistant sanitary yard hydrant devices.( )*

***b.** Delete the backflow preventer for Carbonated Beverage Dispensers text from the first column of the table and replace with the following: Backflow preventer for Carbonated Beverage Dispensers (Reduced Pressure Principle Backflow Prevention Assembly). ( )*

***15. Section 603.5.7 Outlets with Hose Attachments**. Delete and replace with the following: Potable water outlets with hose attachments, other than water heater drains, boiler drains, freeze resistant yard hydrants and clothes washer connections, must be protected by a nonremovable hose bibb-type backflow preventer, a nonremovable hose bibb-type vacuum breaker, or by an atmospheric vacuum breaker installed not less than six (6) inches (one hundred fifty-two (152) mm) above the highest point of usage located on the discharge side of the last valve. In climates where freezing temperatures occur, a listed self-draining frost-proof hose bibb with an integral backflow preventer or vacuum breaker must be used. ( )*

***16. Section 603.5.12 Beverage Dispensers**. Delete and replace with the following: Potable water supply to, carbonated beverage dispensers must be protected by an air gap or a Reduced Pressure Principle Backflow Prevention Assembly in accordance with ASSE 1013. For carbonated beverage dispensers, piping material installed downstream of the backflow preventer must not be affected by carbon dioxide gas. Potable water supply to beverage dispensers and coffee machines must be protected by an air gap or a vented backflow preventer in accordance with ASSE 1022. ( )*

***17. Section 603.5.17 Potable Water Outlets and Valves**. Delete. ( )*

***18. Section 603.5.21 Chemical Dispensers**. Add the following new section 603.5.21: The water supply to chemical dispensers must be protected against backflow. The chemical dispenser must comply with ASSE 1055 or the water supply must be protected by one of the following methods: ( )*

***a.** Air gap; ( )*

***b.** Atmospheric vacuum breaker (AVB); ( )*

***c.** Pressure vacuum breaker backflow prevention assembly (PVB); ( )*

***d.** Spill-resistant pressure vacuum breaker (SVB); or ( )*

***e.** Reduced-pressure principle backflow prevention assembly (RP). ( )*

***19. Section 604.10.1 Tracer Wire**. Add the following exception: Where the electrical wiring for the pump is installed in the same trench as the water line, from the point of origin to the structure, a tracer wire is not required. ( )*

***20. Section 605.6.2 Mechanical Joints**. Add to the end of the section the following: Listed PE (polyethylene), one hundred sixty (160) psi minimum, water service and yard piping may be installed within a building (above ground and below ground) with one (1) joint, provided that only listed and approved metallic transition fittings must be used. Polyethylene (PE) plastic pipe or tubing and fitting joining methods must be installed in accordance with the manufacturer's installation instructions. ( )*

***21. Section 609.1 Installation**. Delete the following sentence: Building supply yard piping must be not less than twelve (12) inches (305 mm) below the average local frost depth; and replace it with the following: The cover must be not less than forty-two (42) inches (1068mm) below grade. ( )*

***22. Section 609.4 Testing**. Deleting the phrase "Except for plastic piping," at the beginning of the third sentence and add the following sentence at the end of the section: Plastic piping is to be tested in accordance with manufacturer's installation standards. ( )*

***23. Section 609.10 Water Hammer**. Does not apply to residential construction. ( )*

***24. Section 609.11 Pipe Insulation**. Delete. ( )*

***25. Table 610.3 and Appendix Table A 103.1**. Change fixture unit loading value for both public and private for bathtub or combination bath/shower, and clothes washers to two (2) fixture units. ( )*

***26. Section 610.2 Pressure Loss**. Add the following: All new one (1) and two (2) family residences built slab on grade or that will have a finished basement at the time of final inspection must have a pre-plumbed water softener loop. The kitchen sink must have one (1) hot soft line and one (1) cold soft line and one (1) cold hard line. Exterior cold hose bibbs intended for irrigation purposes must be piped with hard water. ( )*

***27. Table 611.4 Sizing of Residential Softeners**. Amend Footnote 3 to read: Over four (4) bathroom groups, softeners must be sized according to the manufacturer's standards. ( )*

***28. Section 612.0 Residential Sprinkler System**. Add the following to the end of the first sentence in section 612.1: and the requirements of the Authority Having Jurisdiction (AHJ). ( )*

***29. Table 702.1 Drainage Fixture Unit Valves (DFU)**. Change fixture unit loading value for clothes washers, domestic for private to two (2) fixture units. ( )*

***30. Section 703.1 Minimum Size**. Add the following at the end of section 703.1: No portion of the drainage or vent system installed underground, underground under concrete or below a basement or cellar must be less than two (2) inches in diameter. ( )*

***31. Section 704.2 Single Vertical Drainage Pipe**. Two inch (2") and smaller double sanitary tees may be used for back to back or side by side fixture trap arms without increasing the barrel size. ( )*

***32. Section 704.3 Commercial Sinks**. Delete. ( )*

***33. Table 703.2 Maximum Unit Loading and Maximum Length of Drainage and Vent Piping**. Change fixture unit loading value for one and a half (1 1/2) inch horizontal drainage to two (2) fixture units. ( )*

***34. Section 705.5.2 Solvent Cement Joints**. Add to the end of the section the following: PVC DWV may be joined by the use of one-step solvent cement listed or labeled per U.P.C. Section 301.1.1. ( )*

***35. Section 707.4 Locations**. Add the following: A clean out must be installed for double sanitary tees two (2) inches (50 mm) or less in diameter that receive the discharge from fixture connections. Exception in Section 707.4 does not apply. A full-sized accessible cleanout must be installed in the vertical immediately above the floor or at the base of each waste or soil stack. A full-size cleanout extending to or above finished grade line must be installed at the junction of the building drain and the building sewer. Cleanouts must be installed at fifty (50) foot intervals in horizontal drain lines two (2) inches or smaller. ( )*

***36. Section 710.3(4) Sewage Ejectors and Pumps**. Add: Exception (4): One (1) pump is permitted for "public use" occupancies provided that such tank receives the discharge of not more than one (1) water closet and ten (10) fixture units (See Section 710.9 Alarms). ( )*

***37. Section 710.5 Size Building Drains and Sewers**. Add the following exception: In single family dwellings, one (1) fixture unit may be allowed for each gallon per minute of flow from a pump or a sump ejector. ( )*

38. ***Section 712.1 Media***. *In the first sentence, delete the phrase "except that plastic pipe must not be tested with air."* *( )*

39. ***Section 717.0 Size of Building Sewers***. *Add the following to the end of section 717.1: Exception: The building drain and building sewer is not less than four (4) inches extending from its connection with the city or private sewer system and must run full size to inside the foundation or building lines.* *( )*

40. ***Section 723.0 General***. *Delete the following sentence: "Plastic DWV piping systems must not be tested by the air test method."* *( )*

41. ***Section 801.3.3 Food Handling Fixtures***. *Add: Food preparation sinks, pot sinks, scullery sinks, dishwashing sinks, silverware sinks, commercial dishwashing machines, silverware-washing machines, steam kettles, potato peelers, ice cream dipper wells, and other similar equipment and fixtures must be indirectly connected to the drainage system by means of an air gap. The piping from the equipment to the receptor must not be smaller than the drain on the unit, but it must not be smaller than one (1) inch (twenty-five and four tenths (25.4) mm).* *( )*

42. ***Section 805.41 General***. *Add to the end of the first paragraph the following: Provisions must be made for the discharge of the water softener to terminate in an approved location. The drain line for a water softener must be three-fourths (3/4) inch minimum. A washer box with a dual outlet is an approved location as long as it is on the same floor or one (1) floor below the softener unit and the water softener drain line is a minimum three-fourths (3/4) inch.* *( )*

43. ***Section 807.3 Domestic Dishwashing Machines***. *A domestic dishwashing machine may be installed without the use of an airgap if the drain hose is looped to the bottom side of the counter top and secured properly.* *( )*

44. ***Section 906.1 Roof Termination***. *Delete the existing provision and replace with the following:* *( )*

a. *Roof venting. When conventional roof venting is utilized, each vent pipe or stack must extend through its flashing and terminate vertically not less than six (6) inches (one hundred fifty-two (152) mm) above the roof nor less than one (1) foot (three hundred five (305) mm) from any vertical surface.* *( )*

b. *Sidewall venting. When sidewall venting is utilized, the vent must extend flush with the eaves/gable end, turn down using a ninety (90) degree ell, and terminate as close to the roof peak as possible. The vent end must be properly screened. Sidewall venting is acceptable on new or remodel construction on cabins, log homes, and residential or commercial buildings.* *( )*

c. *Sidewall venting must meet the intent of Section 906.2 of the ISPC.* *( )*

45. ***Section 908.1 Vertical Wet Venting***. *Add to the end of the section the following: A horizontal wet vent may be created provided it is created in a vertical position and all other requirements of Section 908 of the ISPC are met.* *( )*

46. ***Section 909.0 Special Venting for Island Fixtures***. *Add: Parameters for the limited use of Air Admittance Valves (A.A.V.).* *( )*

a. *An A.A.V. may be used only in residential buildings.* *( )*

b. *In remodels, an A.A.V. may be used with island fixtures or remotely located sinks such as in bar, kitchen, or laundry tray locations. An A.A.V. may not be used in bathroom groups.* *( )*

c. *In new construction, an A.A.V. may be used on island fixture sinks.* *( )*

d. *Each A.A.V. may be used to vent only one (1) floor.* *( )*

e. Each A.A.V. must be readily accessible. ( )

f. The cross-sectional area of venting must remain the same and must meet the largest required building drain. ( )

g. An A.A.V. may only be installed in accordance with the manufacturer's installation standards as per ASSE 1051. ( )

h. An A.A.V. may not be used in an attic, crawl space, outside installation, or in connection with chemical or acid waste systems. ( )

47. Section 1002.3 Change of Direction. Trap arms may not exceed one hundred eighty (180) degrees of horizontal turn without the use of a cleanout. ( )

48. Section 1007.0 Trap Seal Protection. Delete section 1007.1 and replace with the following: Floor drains or similar traps directly connected to the drainage system and subject to infrequent use must be protected with a trap seal primer or other approved trap seal protection device, except where not deemed necessary for safety or sanitation by the Authority Having Jurisdiction. Trap seal primers must be accessible for maintenance. ( )

49. Section 1016.1 Discharge. Add the following to the end of section 1016.1: Floor drains installed in residential garages must be permitted to use the interceptor as the fixture trap. ( )

50. Section 1502.1 General. Add to this section the following paragraph: Plumbing for a gray water system from any fixture up to, but not to include the exterior irrigation system tank must be inspected by the Authority Having Jurisdiction. The Idaho Department of Environmental Quality (IDEQ) has jurisdiction to inspect and approve the installation of the exterior irrigation system tank and all piping therefrom to the point of disposal in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." Gray water system location and design criteria requirements related to irrigation and leaching is determined in accordance with the requirements as established by the IDEQ. ( )

SUBCHAPTER D - Civil Penalties
(Rule 401 through 499)

401. CIVIL PENALTIES.

Except for the acts described in Subsections 401.01 and 401.07 of this rule, the acts described in this section shall subject the violator to a civil penalty of not more than two hundred dollars ($200) for the first offense and not more than one thousand dollars ($1,000) for each offense that occurs thereafter. ( )

01. Plumbing Contractor. Except as provided by Section 54-2602, Idaho Code, any person who acts, or purports to act as a plumbing contractor, as defined by Section 54-2611(a), Idaho Code, without a valid Idaho certificate of competency authorizing him to do so shall be subject to a civil penalty of not more than five hundred dollars ($500) for the first offense and not more than one thousand dollars ($1,000) for each offense that occurs thereafter. ( )

02. Certification or Registration. Except as provided by Section 54-2602, Idaho Code, performing plumbing as defined in Section 54-2603, Idaho Code, without an appropriate certificate of competency or registration. ( )

03. Failure to Disclose. Failure to disclose upon request any required information on an application for a plumbing registration or certificate of competency, including complete licensure history or previous licensure as a journeyman or master plumber in another jurisdiction. ( )

04. Performance Outside Scope of Specialty Certificate. Performance of any plumbing installation, alteration, or maintenance by a plumbing specialty contractor or specialty journeyman outside the scope of the specialty certificate of competency. ( )

***05. Fees, Permits, and Inspections**. Failure to obtain a required permit, pay applicable fees, properly post a plumbing permit, or request an inspection of all pipes, fittings, valves, vents, fixtures, appliances, appurtenances, and water treatment installations or repairs. ( )*

***06. Corrections**. Failure to make corrections in the time allotted in the notice on any plumbing installation as set forth in Section 54-2625, Idaho Code. ( )*

***07. Gross Violation**. In the case of continued, repeated or gross violation of Title 54, Chapter 26, Idaho Code, or this chapter, disciplinary action shall be initiated against certificate holders under this chapter or the matter shall be referred for prosecution. ( )*

402. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Building Code Board of the Division of Building Safety is authorized under Section 39-4107, Idaho Code, to promulgate rules concerning the enforcement and administration of the Idaho Building Code Act. (3-30-06)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.03.01, "Rules of Building Safety (Building Code Rules)." (3-30-06)

02. Scope. These rules prescribe the criteria for enforcement and administration of the Idaho Building Code Act by the Idaho Building Code Board and the Division of Building Safety. (3-30-06)

002. -- 003. (RESERVED)

004. ADOPTION AND INCORPORATION BY REFERENCE.
Under the provisions of Section 39-4109, Idaho Code, the codes enumerated in this Section are hereby adopted and incorporated by reference into IDAPA 07.03.01, "Rules of Building Safety (Building Code Rules)." Pursuant to Section 39-4109, Idaho Code, the effective date of any edition of the codes adopted in this Section, or any amendments identified thereto, shall be January 1 of the succeeding year following legislative approval of the rulemaking establishing the edition or amendment. Copies of these documents may be reviewed at the office of the Division of Building Safety. The referenced codes may be obtained from International Code Council, 5360 Workman Mill Road, Whittier, California 90601-2298 or the International Code Council at http://www.iccsafe.org. (3-20-14)

01. International Building Code. 2015 Edition with the following amendments: (3-29-17)

a. Delete section 305.2.3 and replace with the following: Twelve (12) or fewer children in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving such day care shall be classified as a Group R-3 occupancy or comply with the International Residential Code. (3-20-14)

b. Delete section 308.6.4 and replace with the following: Persons receiving care in a dwelling unit. A facility such as the above within a dwelling unit and having twelve (12) or fewer children receiving day care or having five (5) or fewer persons receiving custodial care shall be classified as a Group R-3 occupancy or comply with the International Residential Code. (3-20-14)

c. Delete section 310.5 and replace with the following: Residential Group R-3. Residential Group R-3 occupancies where the occupants are primarily permanent in nature and not classified as Group R-1, R-2, R-4, E or I, including: (3-29-17)

i. Buildings that do not contain more than two (2) dwelling units; (3-20-14)

ii. Boarding houses (nontransient) with sixteen (16) or fewer occupants; (3-20-14)

iii. Boarding houses (transient) with ten (10) or fewer occupants; (3-20-14)

iv. Care facilities that provide accommodations for five (5) or fewer persons receiving care; (3-20-14)

v. Congregate living facilities (nontransient) with sixteen (16) or fewer occupants; (3-20-14)

vi. Congregate living facilities (transient) with ten (10) or fewer occupants; or (3-20-14)

vii. Dwelling units providing day care for twelve (12) or fewer children. (3-20-14)

viii. Lodging houses with five (5) or fewer guest rooms. (3-29-17)

d. Delete section 310.5.1 and replace with the following: Care facilities within a dwelling. Care facilities for twelve (12) or fewer children receiving day care or for five (5) or fewer persons receiving care that are within a single-family dwelling are permitted to comply with the International Residential Code. (3-20-14)

e. Delete the last paragraph of section 2107.2.1 Lap Splices, and replace with the following: In

regions of moment where the design tensile stresses in the reinforcement are greater than eighty percent (80%) of the allowable steel tension stress, FS, the lap length of splices shall be increased not less than fifty percent (50%) of the minimum required length, but need not be greater than 72 db. Other equivalent means of stress transfer to accomplish the same fifty percent (50%) increase are permitted. Where epoxy coated bars are used, lap length shall be increased by fifty percent (50%). (3-28-18)

f. Add footnote (f) in the header row of the table column labeled "Drinking Fountains" of Table 2902.1 Minimum Number of Required Plumbing Fixtures, and add footnote (f) under Table 2902.1 to state the following: Drinking fountains are not required for an occupant load of thirty (30) or fewer. (3-29-17)

g. Delete footnote (e) contained under Table 2902.1 Minimum Number of Required Plumbing Fixtures and replace with the following: For business occupancies, excluding restaurants, and mercantile occupancies with an occupant load of thirty (30) or fewer, service sinks are not required. (3-29-17)

02. International Residential Code. 2012 Edition with the following amendments: (3-20-14)

a. Delete exception No. 1 contained under IRC section R101.2 - Scope. (3-20-14)

b. Delete exception No. 2 contained under IRC section R101.2 - Scope, and replace with the following: Owner-occupied lodging houses with five (5) or fewer guestrooms shall be permitted to be constructed in accordance with the International Residential Code for One- and Two-family Dwellings. (4-11-15)

c. Delete item No. 7 contained under the "Building" subsection of IRC section R105.2 - Work exempt from permit, and replace with the following: Prefabricated swimming pools that are not greater than four (4) feet (one thousand, two hundred nineteen (1219) mm) deep. (4-7-11)

d. Add the following item No. 11 at the end of the "Building" subsection of IRC section R105.2 - Work exempt from permit: Flag poles. (3-20-14)

e. Delete IRC section R109.1.3 and replace with the following: Floodplain inspections. For construction in areas prone to flooding as established by Table R301.2(1), upon placement of the lowest floor, including basement, the building official is authorized to require submission of documentation of the elevation of the lowest floor, including basement, required in section R322. (3-29-10)

f. IRC Table R302.1(1) Exterior Walls -- delete Table R302.1(1) and replace with the following:

TABLE R302.1(1)
EXTERIOR WALLS

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Walls	Fire-resistance rated	1 hour-tested in accordance with ASTM E 119 or UL263 with exposure from both sides	< 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Projections	Fire-resistance rated	1 hour on the underside	≥ 2 feet to < 3 feet
	Not fire-resistance rated	0 hours	≥ 3 feet
Openings in Walls	Not allowed	N/A	< 3 feet
	25% maximum of wall area	0 hours	≥ 3 feet to < 5 feet
	Unlimited	0 hours	5 feet

EXTERIOR WALL ELEMENT		MINIMUM FIRE-RESISTANCE RATING	MINIMUM FIRE SEPARATION DISTANCE
Penetrations	All	Comply with Section R302.4	< 3 feet
		None required	≥ 3 feet

For SI: 1 foot = 304.8 mm.
N/A = Not Applicable (4-11-15)

g. Delete the exception contained under IRC section R302.2 -- Townhouses, and replace with the following two (2) exceptions: (3-25-16)

i. When provided with an automatic fire sprinkler system per section R313.1, a common one (1)-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 is permitted for townhouses if such walls do not contain plumbing or mechanical equipment, ducts, or vents in the cavity of the common wall. The wall shall be rated for fire exposure from both sides, and extend to and be tight against exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. (3-25-16)

ii. Two (2) one (1)-hour fire-resistance-rated wall assemblies (as specified in Section R302.1) or a common two (2)-hour fire-resistance-rated wall assembly tested in accordance with ASTM E 119 or UL 263 are permitted for townhouses. If two (2) one (1)-hour fire-resistance-rated walls are used, plumbing and electrical installations within the wall cavity shall conform to fire-resistance penetration requirements in accordance with section R302.4 through R302.4.2 for each of the two (2) one (1)-hour rated walls penetrated. The two (2)-hour fire-resistance-rated common wall shall not contain plumbing or mechanical equipment, ducts or vents within its wall cavity. The wall shall be rated for fire exposure from both sides, and shall extend to and be tight against the exterior walls and the underside of the roof sheathing. Penetrations of electrical outlet boxes shall be in accordance with Section R302.4. (3-25-16)

h. Delete IRC section R303.4 and replace with the following: R303.4 Mechanical Ventilation. Dwelling units shall be provided with whole-house mechanical ventilation in accordance with Section M1507.3

Exception: Where the air infiltration rate of a dwelling unit is equal to 5 air changes per hour or greater when tested with a blower door at a pressure of 0.2 inch w.c. (50 pa) in accordance with Section N1102.4.1.2. (4-11-15)

i. Delete the exception contained under IRC section R313.1 -- Townhouse automatic fire sprinkler systems, and replace with the following: Exception: Automatic residential fire sprinkler systems are not required in townhouses where either two (2) one (1)-hour fire-resistance-rated walls or a common two (2)-hour fire-resistance rated wall, as specified in exception 2 of section R302.2 is installed between dwelling units or when additions or alterations are made to existing townhouses that do not have an automatic residential fire sprinkler system installed. (3-25-16)

j. Delete IRC section R313.2. (3-29-10)

k. Add the following to IRC section R315.3 - Where required in existing dwellings: Exceptions: 1. Work involving the exterior surfaces of dwellings, such as, but not limited to, replacement of roofing or siding, or the addition or replacement of windows or doors, or the addition of a porch or deck or electrical permits, are exempt from the requirements of this section; and 2. Installation, alteration or repairs of noncombustion plumbing or mechanical systems are exempt from the requirements of this section. (3-20-14)

l. Delete IRC section R322.1.10. (3-29-10)

m. Delete IRC section R322.2.2 subparagraph 2.2, and replace with the following: The total net area of all openings shall be at least one (1) square inch (645 mm2) for each square foot (0.093 m2) of enclosed area, or the opening shall be designed and the construction documents shall include a statement that the design and installation of

the openings will provide for equalization of hydrostatic flood forces on exterior walls by allowing the automatic entry and exit of floodwaters. (3-20-14)

n. Delete IRC section R501.3 and its exceptions. (3-20-14)

o. Delete IRC section R602.10 and replace with the following: Wall bracing. Buildings shall be braced in accordance with this section or, when applicable section R602.12, or the most current edition of APA System Report SR-102 as an alternate method. Where a building, or portion thereof, does not comply with one (1) or more of the bracing requirements in this section, those portions shall be designated and constructed in accordance with section R301.1. (3-20-14)

p. Add an Appendix R, titled Tiny Homes to include the following provisions: (3-28-18)

i. Section AR101 Scope. This appendix is applicable to tiny houses used as single dwelling units. Tiny houses shall comply with this code except as otherwise stated in this appendix. (3-28-18)

ii. Section AR102 Definitions. The following words and terms, for the purposes of this appendix, have the meanings shown herein. Refer to Chapter 2 of this code for general definitions. (3-28-18)

(1) Tiny House. A dwelling that is four hundred (400) square feet (thirty-seven (37) m) or less in floor area excluding lofts. (3-28-18)

(2) Escape and Rescue Roof Access Window. A skylight or roof window designed and installed to satisfy the emergency escape and rescue opening requirements in Section R310. (3-28-18)

(3) Landing Platform. A landing provided as the top step of a stairway accessing a loft. (3-28-18)

(4) Loft. A floor level located more than thirty (30) inches (762 mm) above the main floor and open to it on at least one (1) side with a ceiling height of less than six (6) feet eight (8) inches (2032 mm), used as a living or sleeping space. (3-28-18)

(iii) Section AR103 Minimum Ceiling Height. Habitable space and hallways in tiny houses shall have a ceiling height of not less than six (6) feet eight (8) inches (2032 mm). Bathrooms, toilet rooms, and kitchens shall have a ceiling height of not less than six (6) feet four (4) inches (1930 mm). Obstructions shall not extend below these minimum ceiling heights including beams, girders, ducts, lighting and other obstructions. Exception: Ceiling heights in lofts are permitted to be less than six (6) feet eight (8) inches (2032 mm) (3-28-18)

iv. Section AR104 Lofts. (3-28-18)

(1) AR104.1 Minimum loft area and dimensions. Lofts used as a sleeping or living space shall meet the minimum area and dimension requirements of Sections AR104.1.1 through AR104.1.3. (3-28-18)

(a) AR104.1.1 Minimum area. Lofts shall have a floor area of not less than thirty-five (35) square feet (3.25 m). (3-28-18)

(b) AR104.1.2 Minimum dimensions. Lofts shall be not less than five (5) feet (1524 mm) in any horizontal dimension. (3-28-18)

(c) AR104.1.3 Height effect on loft area. Portions of a loft with a sloping ceiling measuring less than three (3) feet (914 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. Exception: Under gable roofs with a minimum slope of 6:12, portions of a loft with a sloping ceiling measuring less than 16 inches (406 mm) from the finished floor to the finished ceiling shall not be considered as contributing to the minimum required area for the loft. (3-28-18)

(2) AR104.2 Loft Access. The access to and primary egress from lofts shall be any type described in Sections AR104.3 through AR104.6. (3-28-18)

(3) AR104.3. Stairways. Stairways accessing lofts shall comply with this code or with Sections AR104.3.1 through AR104.3.5. (3-28-18)

(a) AR104.3.1 Width. Stairways accessing a loft shall not be less than seventeen (17) inches (432 mm) in clear width at or above the handrail. The minimum width below the handrail shall be not less than twenty (20) inches (508 mm). (3-28-18)

(b) AR104.3.2 Headroom. The headroom in stairways accessing a loft shall be not less than six (6) feet two (2) inches (1880 mm), as measured vertically, from a sloped line connecting the tread or landing platform nosings in the middle of their width. Exception: The headroom for a landing platform, where stairways access lofts, shall be not less than four (4) feet six (6) inches (1372 mm). (3-28-18)

(c) AR104.3.3 Treads and Risers. Risers for stairs accessing a loft shall be not less than seven (7) inches (178 mm) and not more than twelve (12) inches (305 mm) in height. Tread depth and riser height shall be calculated in accordance with one of the following formulas: (3-28-18)

(i) The tread depth shall be twenty (20) inches (508 mm) minus 4/3 of the riser height, or (3-28-18)

(ii) The riser height shall be fifteen (15) inches (381 mm) minus 3/4 of the tread depth. (3-28-18)

(d) AR104.3.4 Landing Platforms. The top tread and riser of stairways accessing lofts shall be constructed as a landing platform where the loft ceiling height is less than six (6) feet two (2) inches (1880 mm) where the stairway meets the loft. The landing platform shall be eighteen (18) inches to twenty-two (22) inches (457 to 559 mm) in depth measured from the nosing of the landing platform to the edge of the loft, and sixteen (16) to eighteen (18) inches (406 to 457 mm) in height measured from the landing platform to the loft floor. (3-28-18)

(e) AR104.3.5 Stairway Handrails. Handrails shall comply with Section R311.7.8. (3-28-18)

(f) AR104.3.6 Stairway Guards. Guards at open sides of stairways shall comply with Section R312.1. (3-28-18)

(4) AR104.4 Ladders. Ladders accessing lofts shall comply with Sections AR104.4.1 and AR104.4.2. (3-28-18)

(a) AR104.4.1 Ladder Size and Capacity. Ladders accessing lofts shall have a rung width of not less than twelve (12) inches (305 mm) and ten (10) inches (254 mm) to fourteen (14) inches (356 mm) spacing between rungs. Ladders shall be capable of supporting a two hundred (200) pound (75 kg) load on any rung. Rung spacing shall be uniform within 3/8-inch (9.5 mm). (3-28-18)

(b) AR104.4.2 Ladder Incline. Ladders shall be installed at seventy (70) to eighty (80) degrees from horizontal. (3-28-18)

(5) AR104.5 Alternating Tread Devices. Alternating tread devices accessing lofts, and handrails of alternating tread devices shall comply with sections 1011.14.1 and 1011.14.2 of the International Building Code, excluding the exception. The clear width at and below the handrails shall be not less than twenty (20) inches (508 mm). (3-28-18)

(6) AR104.6. Ships Ladders. Ships ladders accessing lofts, and treads and handrails of ships ladders shall comply with sections 1011.15.1 and 1011.15.2 of the International Building Code. The clear width at and below handrails shall be not less than twenty (20) inches (508 mm). (3-28-18)

(7) AR104.7 Loft Guards. Loft guards shall be located along the open side of lofts. Loft guards shall not be less than thirty-six (36) inches (914 mm) in height or one (1)-half of the clear height to the ceiling, whichever is less. (3-28-18)

v. SECTION AR105. Emergency Escape and Rescue Openings. Tiny houses shall meet the requirements of Section R310 for emergency escape and rescue openings. Exception: Escape and rescue roof access

windows in lofts used as sleeping rooms shall be deemed to meet three (3) requirements of Section R310 where installed such that the bottom of the opening is not more than forty-four (44) inches (1118 mm) above the loft floor, provided the escape and rescue roof access window complies with the minimum opening area requirements of Section R310. (3-28-18)

03. International Existing Building Code. 2015 Edition. (3-29-17)

04. International Energy Conservation Code. 2015 Edition with the following amendments: (3-29-17)

a. Delete the Residential Provisions of the 2015 International Energy Conservation Code (IECC) set forth in chapters 1 [RE] through 6 [RE], including Appendix RA (pages R-1 through R-57), and replace with the Residential Provisions of the 2012 IECC set forth therein in chapters 1 [RE] through 5 [RE] (pages R-1 through R-47) and as such provisions may be further amended herein these rules. (3-29-17)

b. Add the following as new subsection C101.5.3: Industrial, electronic, and manufacturing equipment. Buildings or portions thereof that are heated or cooled exclusively to maintain the required operating temperature of industrial, electronic, or manufacturing equipment shall be exempt from the provisions of this code. Such buildings or portions thereof shall be separated from connected conditioned space by building thermal envelope assemblies complying with this code. (3-25-16)

c. Add the following exception No. (10) under section C403.3 Economizers (Prescriptive): Unusual outdoor air contaminate conditions – Systems where special outside air filtration and treatment for the reduction and treatment of unusual outdoor contaminants, makes an air economizer infeasible. (3-29-17)

d. Delete Table C404.5.1 and replace with the following:

TABLE C404.5.1
PIPING VOLUME AND MAXIMUM PIPING LENGTHS

NOMINAL PIPE SIZE (inches)	VOLUME (liquid ounces per foot length)	MAXIMUM PIPING LENGTH (feet)	
		Public lavatory faucets	Other fixtures and appliances
1/4	0.33	31	50
5/16	0.5	N/A - non-standard size	50
3/8	0.75	17	50
1/2	1.5	10	43
5/8	2	7	32
3/4	3	5	21
7/8	4	N/A - non-standard size	16

TABLE C404.5.1 PIPING VOLUME AND MAXIMUM PIPING LENGTHS			
NOMINAL PIPE SIZE (inches)	VOLUME (liquid ounces per foot length)	MAXIMUM PIPING LENGTH (feet)	
		Public lavatory faucets	Other fixtures and appliances
1	5	3	13
1 1/4	8	2	8
1 1/2	11	1	6
2 or larger	18	1	4

For SI: 1 inch = 25.4 mm; 1 foot = 304.8 mm; 1 liquid ounce = 0.030 L; 1 gallon = 128 ounces. (4-11-19)

e. Delete the values contained in Table R402.1.1 for climate zone "5 and Marine 4" and climate zone "6" and replace with the following:

TABLE R402.1.1 INSULATION AND FENESTRATION REQUIREMENTS BY COMPONENT										
Climate Zone	Fenestration U- Factor	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-Value	Wood Frame Wall R-Value	Mass Wall R-Value	Floor R-Value	Basement Wall R-Value	Slab R-Value	Crawlspace Wall R-Value
5 and Marine 4	0.35	0.60	NR	38	20 or 13+5[h]	13/17	30[g]	10/13	10, 2 ft	10/13
6	0.35	0.60	NR	49	20 or 13+5[h]	15/19	30[g]	15/19	10, 4 ft	10/13

(4-11-19)

f. Add the following footnote to the title of Table R402.1.1 - Insulation and Fenestration Requirements by Component: [k.] For residential log home building thermal envelope construction requirements see section R402.6. (3-25-16)

g. Delete the values contained in Table R402.1.3 for climate zone "5 and Marine 4" and climate zone "6" and replace with the following:

TABLE R402.1.3 EQUIVALENT U-FACTORS								
Climate Zone	**Fenestration U-factor**	**Skylight U-factor**	**Ceiling R-Value**	**Wood Frame Wall R-Value**	**Mass Wall R-Value**	**Floor R-Value**	**Basement Wall R-Value**	**Crawlspace Wall R-Value**
5 and Marine 4	0.35	0.60	0.030	0.057	0.082	0.033	0.059	0.065
6	0.35	0.60	0.026	0.057	0.060	0.033	0.050	0.065

(4-11-19)

h. Delete Table R402.2.6 and replace with the following:

TABLE R402.2.6 STEEL-FRAME CEILING, WALL AND FLOOR INSULATION (R-VALUE)	
Wood Frame R-value Requirement	**Cold-formed Steel Equivalent R-value[a]**
Steel Truss Ceilings[b]	
R-30	R-38 or R-30 + 3 or R-26 + 5
R-38	R-49 or R-38 +3
R-49	R-38 + 5
Steel Joist Ceilings[b]	
R-30	R-38 in 2 x 4 or 2 x 6 or 2 x 8 R-49 in any framing
R-38	R-49 in 2 x 4 or 2 x 6 or 2 x 8 or 2 x 10
Steel-Framed Wall	
R-13	R-13 + 5 or R-15 + 4 or R-21 + 3 or R-0 + 10
R-19	R-13 + 9 or R-19 + 8 or R-25 + 7
R-21	R-13 + 10 or R-19 + 9 or R-25 + 8
Steel Joist Floor	
R-13	R-19 in 2 x 6 R-19 + 6 in 2 x 8 or 2 x 10
R-19	R-19 + 6 in 2 x 6 R-19 + 12 in 2 x 8 or 2 x 10
a. Cavity insulation R-value is listed first, followed by continuous insulation R-value. b. Insulation exceeding the height of the framing shall cover the framing.	

(4-11-19)

i. Delete section R402.4.1 and replace with the following: Building thermal envelope. The building thermal envelope shall comply with sections R402.1.1 and either section R402.4.1.2 or R402.4.1.3. The sealing methods between dissimilar materials shall allow for differential expansion and contraction. (4-11-19)

j. Delete section R402.4.1.1 and replace with the following: Installation. The components of the building thermal envelope as listed in Table R402.4.1.1 shall be installed in accordance with the manufacturer's instructions and the criteria listed in Table R402.4.1.1, as applicable to the method of construction. (4-11-19)

k. Delete the criteria requirement for the "Fireplace" component of Table R402.4.1.1 - Air Barrier and Insulation Installation, and replace with the following: An air barrier shall be installed on fireplace walls. (4-11-19)

l. Delete section R402.4.1.2 and replace with the following: Testing option, Building envelope tightness and insulation installation shall be considered acceptable when tested air leakage is less than seven (7) air changes per hour (ACH) when tested with a blower door at a pressure of 33.5 psf (50 Pa). Testing shall occur after rough in and after installation of penetrations of the building envelope, including penetrations for utilities, plumbing, electrical, ventilation and combustion appliances. During testing: (4-11-19)

i. Exterior windows and doors, fireplace and stove doors shall be closed, but not sealed; (3-20-14)

ii. Dampers shall be closed, but not sealed, including exhaust, intake, makeup air, backdraft and flue dampers; (3-20-14)

iii. Interior doors shall be open; (3-20-14)

iv. Exterior openings for continuous ventilation systems and heat recovery ventilators shall be closed and sealed; (3-20-14)

v. Heating and cooling system(s) shall be turned off; (3-20-14)

vi. HVAC ducts shall not be sealed; and (3-20-14)

vii. Supply and return registers shall not be sealed. (3-20-14)

m. Add the following as section R402.4.1.3: Visual inspection option, Building envelope tightness and insulation installation shall be considered acceptable when the items listed in Table R402.4.1.1, applicable to the method of construction, are field verified. Where required by code official an approved party independent from the installer of the insulation shall inspect the air barrier and insulation. (4-11-19)

n. Add the following section: R402.6 Residential Log Home Thermal Envelope. Residential log home construction shall comply with sections R401 (General), R402.4 (Air Leakage), R402.5 (Maximum Fenestration U-Factor and SHGC), R403.1 (Controls), R403.2.2 (Sealing), R403.2.3 (Building Cavities), sections R403.3 through R403.9 (referred to as the mandatory provisions), Section R404 (Electrical Power and Lighting Systems), and either i., ii., or iii. as follows: (4-11-19)

i. Sections R402.2 through R402.3, R403.2.1, R404.1 and Table R402.6; (3-25-16)

ii. Section R405 Simulated Performance Alternative (Performance); or (3-25-16)

iii. REScheck (U.S. Department of Energy Building Codes Program). (4-7-11)

o. Add Table R402.6 Log Home Prescriptive Thermal Envelope Requirements By Component to be used only in accordance with item i. of section R402.6 above to appear as follows:

TABLE R402.6
LOG HOME PRESCRIPTIVE THERMAL ENVELOPE REQUIREMENTS BY COMPONENT

For SI: 1 foot = 304.8 mm.

Climate Zone	Fenestration U-factor[a]	Skylight U-factor	Glazed Fenestration SHGC	Ceiling R-value	Min. Average Log Size In Inches	Floor R-value	Basement Wall R-value[d]	Slab R-value & Depth[b]	Crawl Space Wall R-value[d]
5, 6 - High efficiency equipment path[c]	0.32	0.60	NR	49	5	30	15/19	10, 4 ft.	10/13
5	0.32	0.60	NR	49	8	30	10/13	10, 2 ft.	10/13
6	0.30	0.60	NR	49	8	30	15/19	10, 4 ft.	10/13

a. The fenestration U-factor column excludes skylights. The SHGC column applies to all glazed fenestration.

b. R-5 shall be added to the required slab edge R-values for heated slabs.

c. 90% AFUE natural gas or propane, 84% AFUE oil, or 15 SEER heat pump heating equipment (zonal electric resistance heating equipment such as electric base board electric resistance heating equipment as the sole source for heating is considered compliant with the high efficiency equipment path).

d. "15/19" means R-15 continuous insulated sheathing on the interior or exterior of the home or R-19 cavity insulation at the interior of the basement wall. "15/19" shall be permitted to be met with R-13 cavity insulation on the interior of the basement wall plus R-5 continuous insulated sheathing on the interior or exterior of the home. "10/13" means R-10 continuous insulated sheathing on the interior or exterior of the home or R-13 cavity insulation at the interior of the basement wall.

(4-11-19)

p. Delete section R404.1 and replace with the following: Lighting equipment (Mandatory). A minimum of fifty percent (50%) of the lamps in permanently installed lighting fixtures shall be high-efficacy lamps or a minimum of fifty percent (50%) of the permanently installed lighting fixtures shall contain only high efficacy lamps. (4-11-19)

05. References to Other Codes. Where any provisions of the codes that are adopted in this Section make reference to other construction and safety-related model codes or standards which have not been adopted by the involved authority having jurisdiction, to the extent possible, such reference should be construed as pertaining to the equivalent code or standard that has been duly adopted by such jurisdiction. (3-29-10)

005. -- 025. (RESERVED)

026. DEFINITIONS.
The terms defined in this section have the following meaning for all parts of this chapter, unless the context clearly indicates another meaning: (3-30-06)

01. Act. The Idaho Building Code Act, Title 39, Chapter 41, Idaho Code. (3-30-06)

02. Administrator. The administrator of the Division of Building Safety for the state of Idaho. (3-30-06)

03. Alterations or Conversions of Modular Buildings *and Commercial Coaches*. Any change from the approved plans or installation instructions which would affect the structural, mechanical, electrical or plumbing systems of modular buildings *or commercial coaches* bearing a Division insignia of approval and includes the replacement, addition, modification or removal of any structural member, plumbing, heat-producing or electrical equipment, or installation which may affect such systems prior to first occupancy. Any such alteration or conversion shall first be approved by testing and inspection in the same manner as original systems or component parts. The following *do* not constitute alteration or conversion: *( )*

a. Repairs with approved replacement parts; (3-30-06)

b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;(3-30-06)

c. Replacement of equipment and appliances in kind; (3-30-06)

d. Adjustment and maintenance of equipment. (3-30-06)

04. Alterations to Manufactured Homes. The replacement, addition, and modification, or removal of any equipment or installation after sale by a manufacturer to a dealer but prior to sale by a dealer to a purchaser which may affect the construction, fire safety, occupancy, plumbing, heat-producing or electrical system. It includes any modification made in a manufactured home which may affect the compliance of the home with the standards, but it does not include the repair or replacement of a component or appliance "plug-in" to an electrical receptacle where the replaced item is of the same configuration and rating as the one being replaced. It also does not include the addition of an appliance requiring "plug-in" to an electrical receptacle, which appliance was not provided with the manufactured home by the manufacturer, if the rating of the appliance does not exceed the rating of the receptacle to which it is connected. (3-30-06)

05. Board. The Idaho Building Code Board created under the provisions of Title 39, Chapter 41, Idaho Code. (3-30-06)

06. Commercial Coach. In order to further clarify the definition of "commercial coach" as cited in Section 39-4105(5), Idaho Code, the phrase "made so as to be readily movable as a unit on its own running gear" means that the running gear shall be a permanent part of the unit and not intended to be removed or replaced, and such modular structure is used for commercial purposes. (3-30-06)

07. Division. The Division of Building Safety of the state of Idaho. (3-30-06)

08. Equipment. All equipment, materials, appliances, devices, fixtures, fittings or accessories installed in the manufacture and assembly of modular buildings. (3-30-06)

09. Field Technical Service. Interpretation and clarification of the technical data relating to the application of these rules, but not including inspection. (3-30-06)

10. First Purchaser. The first purchaser of a commercial coach for other than resale. (3-30-06)

11. Insignia. A label, tab or tag issued by the Division to indicate compliance with the codes, standards, rules and regulations established for manufactured building systems, subsystems, or building elements, modular buildings, and commercial coaches. (3-30-06)

12. Labeled. Equipment or other building components bearing a label or other approved marking authorized or issued for use by a recognized testing/listing or evaluation agency. (3-30-06)

13. Listed. Equipment or other building components included within a current list published by a recognized testing/listing agency that maintains periodic inspection on current production of listed equipment or other building components and whose listing states either that the equipment or component complies with recognized standards or has been tested and determined to be suitable for the use intended. (3-30-06)

14. Listing Agency. A person, firm, association, partnership or corporation which is in the business of

listing or labeling and which maintains a periodic inspection program on current production of listed materials, and which makes available, not less frequently than annually, a published report of such listing in which specific information is included that the product has been tested to nationally approved standards and found safe for use in a specified manner. (3-30-06)

15. Minor Alteration. The following definition is used for the purpose of administering annual permits. (3-24-16)

a. Minor alterations shall include, but are not limited to, the following: partition walls constructed within a defined room; relocation of or existing openings or installation of new doors and windows in non-load bearing walls and not in construction meant to compartmentalize fire; window replacement in unaltered existing openings; roof repairs involving installation of less than one hundred (100) square feet of new roof covering; and new suspended ceilings that are not part of a required fire resistive assembly. (3-24-16)

b. Minor alterations shall not include: work that alters the fire resistive characteristics of the building or fire suppression systems; work that creates new openings in construction meant to compartmentalize fire such as fire walls, fire barriers, fore partitions, smoke barriers, smoke partitions, horizontal assemblies, shaft enclosures, stair enclosures; work that increases the floor area or height of the building; work that changes the structural load path of the building for gravity or horizontal loads; work that reduces the thermal resistant capacity of the building envelop; changes in the occupancy classification of the building or space; increases in the floor loads. (3-24-16)

16. Model. As referred to in Section 39-4113(3), Idaho Code, for modular buildings and commercial coaches shall mean a specific outside dimension and floor plan with specific structural, plumbing, electrical, and mechanical systems as designated by the manufacturer to be the standard for imitation reproduction. (3-30-06)

17. Testing/Listing Agency. A person, firm, association, partnership or corporation that is: (3-30-06)

a. In the business of testing equipment or other building components; and (3-30-06)

b. Recognized by the Division as being qualified and equipped to conduct experimental testing in accordance with recognized standards; and (3-30-06)

c. Not under the jurisdiction or control of any single manufacturer or supplier for an affected industry; and (3-30-06)

d. Making available, not less frequently than annually, a published report in which specific information is included stating that the equipment and systems have been tested and found safe for use in a specified manner. (3-30-06)

18. Transit Damage. Application to manufactured home means that damage encountered en route from the place of manufacture to the dealer or first owner involving structural integrity or any repair that does not result in return to the same construction or assembly as specified in the manufacturer's design approval without additional reinforcement or change. (3-30-06)

19. State Buildings. All buildings to be constructed, altered, or repaired by or for any state of Idaho agency or entity, without regard to purpose, occupancy, or the source of funding for such construction, alteration, or repair. (3-30-06)

20. Running Gear. Springs, spring hangers, axles, bearings, wheels, brakes, rims and tires and their related hardware. (3-30-06)

21. Substantially Prefabricated or Assembled. The module or major portion of modular buildings *or commercial coaches* assembled in such manner that all portions may not be inspected without disassembly or destruction of the part. *( )*

22. Systems Plan. A design plan concept that allows the interchanging of various approved construction systems to include structural, electrical, plumbing, and mechanical aspects of the system. (3-30-06)

23. Technical Service. Conducting research, evaluation, consultation, model and systems plan reviews, interpretation and clarification by the Division of technical data relating to the application of these rules, and also includes special field inspections that are not covered in other portions of these rules. (3-30-06)

027. PERMITS.

01. Building Permits. Building permits shall be obtained from the Division prior to the construction of structures governed by the act or rules promulgated by the Board. (3-24-16)

02. Annual Permit. In lieu of an individual permit for each minor alteration to an already approved building, the Division may issue an annual permit upon application therefor to any state agency or state governmental organization regularly employing one (1) or more qualified trade persons in the building, structure or on the premises or campus owned or operated by the applicant for the permit. The agency to whom an annual permit is issued shall keep a detailed record of alterations made under such annual permit. The Division shall be allowed access to such records at all times or such records shall be filed with the Division as designated. The permit holder shall request inspections and make the work accessible for inspection as required by the adopted codes and this rule. (3-24-16)

028. PLAN REVIEW.

01. Jurisdiction. The Division shall have exclusive jurisdiction and authority to conduct plan reviews of the construction, additions, repairs, and occupancy of all state buildings *of any agency of government at the state level for any purposes or occupancy* regardless of the source of funding for such construction, addition, repair, or occupancy. *( )*

02. Plans Specifications. Construction documents shall be dimensioned and drawn upon suitable material. Plans may be submitted electronically or in digital format as approved by the Division. Drawing format shall be equivalent to the paper format. Construction documents shall be of sufficient clarity to indicate the location, nature, and extent of the work proposed and show in detail that the installations will conform to the provisions of the building code and applicable laws, rules, and policies of the Division. (4-7-11)

03. Plans Not Required. Plans *are* not required for group U occupancies of Type V conventional light-frame wood construction. *( )*

04. Addenda and Change Orders. (3-30-06)

a. Documents enforcing changes or modifications. Addenda, contract change orders, changes-in-work requests, and other similar written documents enforcing changes or modifications to plans or specifications, already approved by the Division, which addenda, change orders, or change-in-work requests deal with structural or fire resistance changes, or such other changes affecting code conformance, shall be submitted to the *Division* for approval. The use of the terms "addenda," "change orders," and "changes-in-work requests" *are* not be limited exclusively to such phraseology, but *may include* such other language used in the professions which essentially have the same meaning. *( )*

b. Application provisions. The provisions of this Section *apply* to that work which will be accomplished. *( )*

029. FEES.
The following fee*s* appl*y to* the functions cited: *( )*

01. Document Fees. (3-30-06)

a. *R*easonable and suitable fees necessary for copies of any record, plan approval, permit, map, sketch, drawing or other instrument. *( )*

b. Charges for copies of separate published documents will be actual cost to the Division plus postage. (3-30-06)

02. **Technical Service Fee**. One hundred dollars ($100) per hour. (4-7-11)

03. **Modular Building *and Commercial Coaches* Fees**. Other than as herein specified in this Section, the fee schedule for modular buildings *and commercial coaches are* as provided herein in Table 1-A, and such fees are based on the Freight On Board (FOB) cost to the dealer at the point of manufacture. *( )*

04. **Insignia Tag Fee**. In instances where building permit fees are not charged for modular buildings, a one hundred dollar ($100) fee will be charged for an insignia. (3-30-06)

05. **Building Permit Fees**. The building permit fee for each permit *are established* in the following table. The determination of value or valuation will be made by the administrator and *includes* the total value of all construction work for which a permit is issued.

TABLE 1-A - BUILDING PERMIT FEES

Total Valuation		Fee
$1 to $500	=	$23.50
$501 to $2,000	=	$23.50 for the first $500 plus $3.05 for each additional $100, or fraction thereof, to and including $2,000
$2,001 to $25,000	=	$69.25 for the first $2,000 plus $14 for each additional $1,000, or fraction thereof, to and including $25,000
$25,001 to $50,000	=	$391.75 for the first $25,000 plus $10.10 for each additional $1,000, or fraction thereof, to and including $50,000
$50,001 to $100,000	=	$643.75 for the first $50,000 plus $7 for each additional $1,000, or fraction thereof, to and including $100,000
$100,001 to $500,000	=	$993.75 for the first $100,000 plus $5.60 for each additional $1,000, or fraction thereof, to and including $500,000
$500,001 to $1,000,000	=	$3,233.75 for the first $500,000 plus $4.75 for each additional $1,000, or fraction thereof, to and including $1,000,000
$1,000,001 to $5,000,000	=	$5,608.75 for the first $1,000,000 plus $3.65 for each additional $1,000, or fraction thereof, to and including $5,000,000
$5,000,001 to $10,000,000	=	$20,208.75 for the first $5,000,000 plus $2.75 for each additional $1,000, or fraction thereof, to and including $10,000,000
$10,000,001 and up	=	$33,958.75 for the first $10,000,000 plus $2 for each additional $1,000, or fraction thereof

( )

06. **Fees for Annual Permits**. A fee for inspections performed on annual permits shall be charged at the rate of one hundred dollars ($100) per hour. The Division shall bill the applicant for annual permits and failure of the applicant to pay the fee within sixty (60) days may result in cancellation of the annual permit. (3-24-16)

07. **Plan Review Fees**. Plan review fees shall be charged at an hourly rate of one hundred dollars ($100) per hour up to a maximum of sixty-five percent (65%) of the calculated building permit fee with a minimum required fee of forty percent (40%) of the calculated building permit fee. All requests for plan review services shall at such time be accompanied by a payment in the amount of at least forty percent (40%) of the calculated building permit fee. Upon completion of the plan review, any additional fees, above the minimum required, are due to the Division by the requesting party. (4-7-11)

08. Refund of Plan Review Fees. *P*lan review fees *are non-refundable*. *( )*

09. Refund of Permit Fees. The Administrator may authorize a refund of any permit fee paid which was erroneously paid or collected. The Administrator may authorize a refund of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with these rules. The Administrator *may* not authorize a refund of any permit fee paid except upon written application filed by the original applicant not later than one hundred eighty (180) days after the date of permit issuance. *( )*

030. RIGHT OF ENTRY.
Whenever necessary to make an inspection to enforce any of the provisions of Title 39, Chapters 40 and 41, Idaho Code, or whenever the administrator or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition which makes such building or premises unsafe, the administrator or his authorized representative shall enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Division by Title 39, Chapters 40 and 41, Idaho Code; provided that if such building or premises is occupied, he shall first present proper credentials and demand entry; and if such building or premises be unoccupied, he shall first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the administrator shall have recourse to every remedy provided by law to secure entry. (3-30-06)

031. WORK PROCEEDING WITHOUT PERMIT OR APPROVAL.
Where any work for which a permit or approval, to include plan or system approval, is required by these rules, or by the codes enumerated in Title 39, Chapter 41, Idaho Code, is started or proceeded prior to obtaining said approval or permit, and after notice to such person doing or causing such work to be done, and such person continues or causes to continue such work, the fees specified in these rules shall be doubled, but the payment of such double fee shall not relieve any persons from fully complying with the requirements of Title 39, Chapters 40 or 41, or both, Idaho Code, or these rules in the execution of the work nor from any other penalties prescribed by law. (3-30-06)

032. STOP WORK ORDERS.
Whenever any work is being done contrary to any provisions of the codes enumerated in Title 39, Chapters 40 or 41, or both, Idaho Code, or contrary to these rules, the administrator or his authorized representative may order the work stopped by notice in writing *to* any persons engaged in such work, and any such persons shall forthwith stop such work until authorized by the administrator or his representative to proceed with the work. Stop work orders shall be accompanied by a notice of violation that states the specific violation and code reference. *( )*

033. PROHIBITED SALE OR OCCUPANCY NOTICE.
Whenever any mobile/manufactured home, commercial coach or other modular building is in violation of any of the provisions of Title 39, Chapter 40 or 41, or both, Idaho Code, or these rules, the administrator may prohibit the sale or occupancy of such building. Prohibited sale or occupancy notices shall be removed only on authority of the administrator or his authorized representative. *( )*

034. REMOVAL OF ORDERS AND NOTICES; SALE, RENT, LEASE OR OCCUPANCY OF A UNIT BEARING SUCH ORDER OR NOTICE.
Removal of stop work orders, prohibited sale or occupancy notices, or the sale, rent, lease or occupancy of a building or structure, bearing such order or notice by any person not authorized by the administrator or his authorized representative, constitutes a violation under the provisions of Section 39-4126, Idaho Code, and falls under the provisions of Section 18-317, Idaho Code. (3-30-06)

035. MODULAR BUILDINGS.

01. Alternates and Equivalents. (3-30-06)

a. Alternatives Acceptable. The provisions of these rules are not intended to prevent the use of alternate designs, materials, appliances, systems, devices, arrangements, or methods of construction not specifically prescribed by Title 39, Chapter 41, Idaho Code, or of these rules; provided, any such alternate has first been recognized by the Division. (3-30-06)

b. Satisfactory Alternatives. The Division shall recognize any such alternate if it finds that the

proposed design is satisfactory and that the material, appliance, device, arrangement, method, system or method of construction is at least the equivalent in performance in quality, strength, effectiveness, fire resistance, durability and adequate for the protection of the health, safety and general welfare of the people of the state of Idaho. (3-30-06)

c. Unsatisfactory Alternatives. Recognition by the Division shall not be given if there is substantial evidence that any design, material, appliance, device, arrangement, system or method of construction does not conform to the provisions or requirements of prescribed standards or these rules; provided, however, the Division may, in order to substantiate claims for alternates, upon written request cause tests or proof of compliance to be made at the expense of the manufacturer, his agent, or the seller. (3-30-06)

d. Test Methods. Test methods shall be as specified in the standards of the codes listed in Title 39, Chapter 41, Idaho Code, or by other nationally recognized standards recognized by the Division. If there are no appropriate test methods specified in the standards listed above, the Division shall determine the test procedure. (3-30-06)

02. Permits. Prior to construction of modular buildings, appropriate building permits shall first be obtained from the Division. (3-30-06)

03. Plans. (3-30-06)

a. Specifications for Submittal. Plans shall be submitted in accordance with Subsection 028.03 of these rules. (3-30-06)

b. Nonconformance. Should the plan submittal not conform to the requirements of these rules, the applicant shall be notified in writing within fifteen (15) work days of the date they are received by the Division. Should the applicant fail to submit a completely corrected plan submittal in accordance with the information supplied by the Division within ninety (90) days of such notice, the plan submittal will be deemed abandoned and all fees submitted shall be forfeited to the Division. Subsequent submission thereafter shall be processed as a new plan submittal. (3-30-06)

c. Distribution of Approved Copies. An approved copy of the plan submittal shall be returned to the manufacturer. An approved copy shall be retained at each place of manufacture, and a copy shall be retained by the Division. (3-30-06)

d. Proprietary Information. All material submitted by the manufacturer in the form of design plans, engineering data, test results, and other design information relating to their application will be considered proprietary information and will not be released for public scrutiny except when so ordered by a court of competent jurisdiction. (3-30-06)

e. Changes to Approved Modular Building Plans. Where the manufacturer proposes to change his submitted designs or the Division rule is amended to necessitate such a change, the manufacturer shall submit changed plans for examination and approval. (3-30-06)

04. Inspections. (3-30-06)

a. Inspections at Manufacturing Plants. The Division shall conduct inspections at the manufacturing plant to determine compliance with the provisions of these rules and with Title 39, Chapter 41, Idaho Code. (3-30-06)

b. Field Inspection for Alterations and Conversions. Any alteration or conversion of Division approved modular buildings after leaving the manufacturing facility shall be field inspected in accordance with this section by the local unit of government having jurisdiction. (3-30-06)

c. In-Plant Inspection in Sister States. Where there is evidence that the in-plant inspectional controls in out-of-state plants in states having reciprocal agreements with the state of Idaho are not being maintained for units to be sold or placed in Idaho, the Division reserves the right to make out-of-state inspections, and fees for such inspection as set forth in these rules shall be paid by the manufacturer. (3-30-06)

05. Insignia. (3-30-06)

a. Insignia Location. Single units shall have the insignia permanently attached below the electrical service entrance. Multiple section units shall have the insignia permanently attached on all perimeter sections to the outside wall next to the major access opening. For interior units and second story units the insignia shall be permanently attached on the interior wall next to the major access opening. (3-30-06)

b. Application for Insignia. The manufacturer shall make application for an insignia for each unit to be manufactured as required by Subsection 035.03 of this rule. The permit/insignia application shall be submitted to the Division in accordance with this section and include the appropriate fees. Applications shall include the serial number of each unit for which an insignia is requested. (3-30-06)

c. Alteration or Conversion. Factory alterations or conversions of an approved modular building prior to first occupancy shall NOT take place until a permit under the provisions of this section has been obtained. The jurisdiction for non-factory produced additions, repairs or alterations to modular buildings and commercial coaches built in conformance with and as prescribed in the Idaho Building Code Act, Section 39-4109, Idaho Code, once such unit has left the manufacturing facility or a dealer's lot, and bears an appropriate insignia of compliance, rests with the local unit of government having the jurisdiction for the administration and enforcement of locally adopted codes prescribed within the Idaho Building Code Act. (3-30-06)

d. Denial of Insignia. Should inspection reveal that a manufacturer is not manufacturing units according to the codes specified in Title 39, Chapter 41, Idaho Code, and these rules, and such manufacturer after having been served with a notice setting forth in what respect the provisions of the codes or rules have been violated continues to manufacture units in violation of the codes or rules, applications for new insignia shall be denied and insignia issued for units in noncompliance such manufacturer may resubmit an application for insignia. (3-30-06)

e. Removal of Insignia. In the event any unit bearing an insignia is found to be in violation of the codes enumerated in Title 39, Chapter 41, Idaho Code, or these rules, the Division may remove the insignia and shall furnish the owner or his agent with a written statement of violations. The owner or his agent shall request an inspection after making corrections to bring the unit into compliance before the Division will issue a replacement insignia. (3-30-06)

f. Serial Number. Each commercial coach rented, leased or sold, or offered for rent, lease or sale in Idaho shall bear a legible identifying serial number in accordance with the provisions of this section and include the state of manufacture. Each section of a multiple modular building shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (3-30-06)

g. Stamp of Serial Number and State of Manufacture. The unit serial number and the state of manufacture shall be stamped into the foremost cross member of all commercial coaches. Letters and numbers shall be three-eighths (3/8) inch minimum height. Numbers shall not be stamped into a hitch assembly or draw bar. The insignia shall be made of etched brass, stainless steel, anodized or alclad aluminum, or other approved material, not less than two hundredths (0.02) inches thick, and three (3) inches by one and three-fourths (1 3/4) inches minimum size, with lettering not less than one-eighth (1/8) inch high. (3-30-06)

h. Multiple Commercial Coaches. Each section of multiple commercial coaches shall have the same identifying serial number followed by a numerical sequence identifier and letter suffix. (3-30-06)

i. Data on Insignia. The date of manufacture, showing month, week and year will be shown on the insignia. Such data will be provided by the manufacturer on the application for insignia. (3-30-06)

036. MANUFACTURED HOMES.

01. Construction and Safety Standards. Effective June 15, 1976, the latest published edition of the Federal Manufactured Home Construction and Safety Standards and Manufactured Home Procedural and Enforcement Regulations shall be in effect for all manufactured homes manufactured within the state of Idaho, and for all new manufactured homes for sale within the state of Idaho. All new manufactured homes offered for sale

within Idaho after the effective date of this section shall bear the Housing and Urban Development (H.U.D.) label as authorized in the Federal Manufactured Home procedural and enforcement regulations. Mobile homes manufactured between March 8, 1971 and June 15, 1976 offered for rent, lease, or sale within Idaho shall bear an Idaho insignia of approval. (3-30-06)

02. Inspections. (3-30-06)

a. Special Inspection. Whenever there is a transit damage or any alteration made to a certified manufactured home, or both, a special inspection shall be required of any person offering for rent, lease, or sale said manufactured home. The purpose of the inspection is to insure that the repairs or alteration, or both, do not result in the failure of the manufactured home to comply with the standards. (3-30-06)

b. Installation Inspection. Installation inspections shall be conducted by local jurisdictions in accordance with Title 44, Chapter 22, Idaho Code and the state adopted Idaho Manufactured Home Installation Standard as incorporated by reference in IDAPA 07.03.12, "Rules Governing Manufactured Home Installations," Section 004. (3-30-06)

03. Fees. (3-30-06)

a. Payment of Fees. Fees shall be paid to and collected by the Division. (3-30-06)

b. In-Plant Inspections. The charge for routine in-plant inspections shall be equal to the latest fees approved by the Department of Housing and Urban Development-Office of Manufactured Home Standards: Forty-five dollars ($45) per floor. (4-9-09)

c. Other Inspections. For all inspections other than routine whether they be in-plant or in the field (for models produced after June 15, 1976): Seventy dollars ($70) per hour minimum for inspection and travel time, pro-rated to the nearest quarter hour, per diem and lodging where applicable, plus the current state rate for mileage, as approved by the State Board of Examiners and listed in the Idaho State Travel Policies and Procedures, Appendix "A," based on the round-trip distance from point of inspection and the inspector's office location. (4-9-09)

037. (RESERVED)

038. INTEGRATED DESIGN AND FUNDAMENTAL COMMISSIONING OF PUBLIC SCHOOL FACILITIES.

01. Definitions. The following definitions are intended to supplement, and should be read in conjunction with the definitions contained in Section 33-356, Idaho Code. (3-29-10)

a. Fundamental Commissioning. A quality-focused process for enhancing the delivery of a project. It makes use of a qualified third party employed directly by the building owner. (3-29-10)

b. Integrated Design. Integrated design refers to a collaborative design effort in which each of the individual architectural or engineering professionals focuses on the whole building approach, with an emphasis on optimizing the building's performance, environmental sustainability, and cost-savings, to include climate, use, loads and systems resulting in a more comfortable and productive environment, and a building that is more energy-efficient than would be realized using current best practices. (3-29-10)

02. Technical and Educational Information. Technical and educational information related to integrated design and fundamental commissioning in the form of the American Institute of Architects Integrated Project Delivery Guide; Portland Energy Conservation, Inc. (PECI) Commissioning Guides; ASHRAE Guideline 0-2005-The Commissioning Process; and the Northwest Energy Efficiency Alliance Integrated Design Special Focus on Energy Performance Guide is available at the Division office locations including 1090 E. Watertower St., Meridian, Idaho 83642, and 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814. A building commissioned under the prescriptive approaches defined by any of the above-named national organizations is deemed to have completed the Fundamental Commissioning process. (3-29-10)

03. Commissioning Agents. The Division has compiled and made available for public examination a list of all known third party building commissioning agents in Idaho and its contiguous states. The Division has ensured that all such commissioning agents appearing on this list have been certified by the Building Commissioning Association (BCA) or other similar certifying entity. (3-29-10)

04. Annual Optimization Review. (3-29-10)

a. A public school building that qualifies for the school building replacement value calculation pursuant to Section 33-356(5)(a), Idaho Code, shall undergo an annual optimization review each year following the first year of operations that the involved school district seeks to qualify such building for the building replacement value calculation. (3-29-10)

b. The systems within a building required to undergo annual optimization review, as well as any relevant measuring criteria for such systems, shall be formulated by the third party commissioning agent that performs the initial fundamental commissioning. The school district shall be provided with a written report from the commissioning agent identifying the systems which will be subject to the annual optimization review along with any other requirements. (3-29-10)

c. The report required above in Paragraph 038.04.b. of these rules shall include, but is not limited to, at least the following: (3-29-10)

i. Verification that the heating, ventilation, and air conditioning (HVAC) controls, dampers, valves, sensors and other equipment used to control the system are functioning as they were at the commissioning of the building. (3-29-10)

ii. Verification that the lighting controls are functioning as they were at the commissioning of the building. (3-29-10)

iii. The requirement that any changes made to any of the controls contained on the agent's list after the initial commissioning be re-set back to the commissioned settings unless it can be demonstrated that the new settings result in greater energy efficiency. (3-29-10)

d. The annual optimization review shall be performed by persons qualified to make the required determinations and adjustments. (3-29-10)

e. The school district shall submit to the Division written verification indicating that the systems identified by the commissioning agent, including those identified in this Section are functioning as they were at the initial commissioning. Such written verification shall also identify the persons performing the optimization and their qualifications. (3-29-10)

05. Commissioning Anniversary Date. The date upon which the commissioning agent provides the school district with the required written report described in Paragraph 038.04.b. of these rules shall be the commissioning anniversary date for purposes of this Section. If a school district seeks to qualify a building for the building replacement value calculation, the annual optimization review shall be performed within thirty (30) days of the annual commissioning anniversary date following the first year the building is in operation. The written verification required by Paragraph 038.03.e. of these rules is due to the Division not later than sixty (60) days after the annual commissioning anniversary date. (3-29-10)

06. Fundamental Building Commissioning Requirements. (3-29-10)

a. School districts seeking to qualify a building for the building replacement value calculation shall engage a building commissioning agent. (3-29-10)

b. The commissioning agent must document the owner's requirements for each commissioned system in the facility. All HVAC and controls systems, duct work and piping, renewable and alternative technologies, lighting controls and day lighting, waste heat recovery, and any other advanced technologies incorporated in the building must be commissioned. Building envelope systems must also be verified. The owner's requirements for

these systems may include efficiency targets and other performance criteria such as temperature and lighting levels that will define the performance criteria for the functional performance testing that occurs prior to acceptance. (3-29-10)

c. The commissioning agent shall include commissioning requirements in the project construction documents. This includes the scope of commissioning for the project, the systems to be commissioned, and the various requirements related to schedule, submittal reviews, testing, training, O & M manuals, and warranty reviews. (3-29-10)

d. The commissioning agent shall develop and utilize a commissioning plan. This plan must include an overview of the commissioning process for the project, a list of commissioned systems, primary commissioning participants and their roles, a communication and management plan, an outline of the scope of commissioning tasks, a list of work products, a schedule, and a description of any commissioning testing activities. (3-29-10)

e. The commissioning agent must submit a report to the owner once the commissioning plan has been executed. (3-29-10)

039. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The *Factory Built Structures* Advisory Board of the Division of Building Safety is authorized under Section 39-4302, Idaho Code, to promulgate rules concerning the enforcement and administration of Title 39, Chapter 43, Idaho Code, for Modular Buildings. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.03.03, "Rules for Modular Buildings." (3-26-08)

02. Scope. These rules prescribe the criteria for enforcement and administration of the Idaho Modular Buildings Act by the *Factory Built Structures* Advisory Board and the Division of Building Safety. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
The terms defined in this section have the following meaning, unless the context clearly indicates another meaning. *( )*

01. Administrator. The Administrator of the Division of Building Safety for the state of Idaho. (3-26-08)

02. Alterations or Conversions of Modular Buildings. Any change from the approved plans or installation instructions that would affect the structural, mechanical, electrical or plumbing systems of Modular Buildings bearing a Division Insignia of approval, including the replacement, addition, modification, or removal of any structural member; plumbing, heat-producing or electrical equipment, or installation that may effect such systems prior to first occupancy. Any such alteration or conversion must first be approved by testing and inspection in the same manner as original systems or component parts. The following do not constitute alteration or conversion: (3-26-08)

a. Repairs with approved replacement parts; (3-26-08)

b. Conversion of listed fuel-burning appliances in accordance with the terms of their listing;(3-26-08)

c. Replacement of equipment and appliances in kind; (3-26-08)

d. Adjustment and maintenance of equipment. (3-26-08)

03. Commercial Coach. A Modular Building with permanent running gear and a hitch assembly that is designed and constructed for nonresidential occupancy classifications only. Permanent running gear includes springs, spring hangers, axles, bearings, wheels, brakes, rims and tires and their related hardware. (3-26-08)

04. Insignia. A label or tag issued by the Division to indicate compliance with the codes, standards, rules, and regulations established for manufactured building systems, subsystems, or building elements, Modular Buildings, and Commercial Coaches. (3-26-08)

05. Technical Service. Conducting research, evaluation, consultation, interpretation, and clarification by the Division of technical data relating to the application of these rules, and also include special field inspections that are not covered in other portions of these rules. (3-26-08)

011. -- 026. (RESERVED)

027. PERMITS.
Building permits must be obtained from the Division prior to the construction of structures governed by Title 39, Chapter 43, Idaho Code, or *Board* rules. *( )*

028. PLAN REVIEW.

01. Jurisdiction. The Division has exclusive jurisdiction and authority to conduct plan reviews of the in-plant construction of Modular Buildings. (3-26-08)

02. Plans Not Required. Plans are not required for group U occupancies of Type V conventional light-frame wood construction. (3-26-08)

03. Non-conformance. Should the plan submittal not conform to the requirements of these rules, the applicant will be notified in writing within fifteen (15) work days of the date they are received by the Division. Should the applicant fail to submit a completely corrected plan submittal in accordance with the information supplied by the Division within ninety (90) days of such notice, the plan submittal will be deemed abandoned. Subsequent submission thereafter will be processed as a new plan submittal. (3-26-08)

04. Distribution of Approved Copies. An approved copy of the plan submittal will be returned to and retained by the manufacturer and a copy will be retained by the Division. When necessary, an additional copy may be distributed for use by third party or contract inspectors. (3-26-08)

05. Proprietary Information. All material submitted by the manufacturer in the form of design plans, engineering data, test results, and other design information relating to their application will be considered proprietary information and will not be released for public scrutiny except when so ordered by a court of competent jurisdiction. (3-26-08)

06. Revisions to Approved Modular Building Plans. Where the manufacturer proposes to revise his submitted designs, or Division adopted rules or codes are amended to necessitate such a change, the manufacturer must submit revised plans for examination and approval. (3-26-08)

07. Application Provisions. The provisions of this section applies only to plans for work that will be accomplished at the place of manufacture. (3-26-08)

029. FEES.

*Fees are paid to the Division, and t*he following fee schedule is applicable for the functions cited: *( )*

01. Modular Building Permit Fees. Other than as herein specified in this section, the permit fee schedule for Modular Buildings is as provided herein in Table 1-A plus ninety dollars ($90) and two and one-half percent (2.5%) of the plumbing, electrical, and HVAC installation costs. The determination of value or valuation is based on the total value of all construction work for which a permit is issued.

TABLE 1-A – MODULAR BUILDING PERMIT FEES

TOTAL VALUATION		FEE
$1 to $500	=	$23.50
$501 to $2,000	=	$23.50 for the first $500 plus $3.05 for each additional $100, or fraction thereof, to and including $2,000
$2,001 to $25,000	=	$69.25 for the first $2,000 plus $14 for each additional $1,000, or fraction thereof, to and including $25,000
$25,001 to $50,000	=	$391.75 for the first $25,000 plus $10.10 for each additional $1,000, or fraction thereof, to and including $50,000
$50,001 to $100,000	=	$643.75 for the first $50,000 plus $7 for each additional $1,000, or fraction thereof, to and including $100,000
$100,001 to $500,000	=	$993.75 for the first $100,000 plus $5.60 for each additional $1,000, or fraction thereof, to and including $500,000

$500,001 to $1,000,000	=	$3,233.75 for the first $500,000 plus $4.75 for each additional $1,000, or fraction thereof, to and including $1,000,000
$1,000,001and up	=	$5,608.75 for the first $1,000,000 plus $3.65 for each additional $1,000, or fraction thereof

( )

02. Other Inspections and Fees. (3-26-08)

a. Inspections outside of normal business hours: sixty-five dollars ($65) per hour (minimum charge - *one* (*1*) hour). ( )

b. Re-inspection fees: sixty-five dollars ($65) per hour. (3-26-08)

c. Inspections for which no fee is specifically indicated: sixty-five dollars ($65) per hour (minimum charge - one half (1/2) hour). (3-26-08)

d. Additional plan review required by changes, additions, or revisions to plans: sixty-five dollars ($65) per hour (minimum charge - one-half (1/2) hour). (3-26-08)

e. For use of outside consultants for plan checking and inspections or both: actual costs. (3-26-08)

03. Insignia Tag Fee. In instances where building permit fees are not charged for Modular Buildings, a one hundred dollar ($100) fee will be charged for an Insignia. (3-26-08)

04. Investigation Fee. Whenever any work for which a permit is required by these rules has been commenced without first obtaining said permit, a special investigation must be made before a permit may be issued for such work. An investigation fee, in addition to the permit fee, must be collected whether or not a permit is then or subsequently issued. The investigation fee is equal to the amount of the permit fee required by these rules. The minimum investigation fee is the same as the minimum fee set forth in Table 1-A. The payment of such investigation fee does not exempt any person from compliance with all other provisions of these rules nor from any penalty prescribed by law. (3-26-08)

05. Plan Review. Where the Modular Building plans have not been previously approved, the Modular Building fee includes an additional amount equal to sixty-five percent (65%) of the permit fee calculated in accordance with Table 1-A. (3-26-08)

06. Refund of Permit Fees. The Administrator may authorize refunding of any permit fee paid that was erroneously paid or collected. The Administrator may authorize refunding of not more than eighty percent (80%) of the permit fee paid when no work has been done under a permit issued in accordance with these rules. The Administrator will not authorize refunding of any permit fee paid except on written application filed by the original applicant not later than one hundred eighty (180) days after the date of fee payment. (3-26-08)

07. Refund of Plan Review Fees. There is no refund of plan review fees. (3-26-08)

030. RIGHT OF ENTRY.

Whenever necessary to make an inspection to enforce any of the provisions of Title 39, Chapter 43, Idaho Code, or whenever the Administrator or his authorized representative has reasonable cause to believe that there exists in any building or upon any premises, any condition that makes such building or premises unsafe, the Administrator or his authorized representative may enter such building or premises at all reasonable times to inspect the same or to perform any duty imposed upon the Division by Title 39, Chapter 43, Idaho Code; provided that if such building or premises is occupied, he must first present proper credentials and demand entry; and if such building or premises be unoccupied, he must first make a reasonable effort to locate the owner or other persons having charge or control of the building or premises and demand entry. If such entry is refused, the Administrator has recourse to every remedy provided by law to secure entry. (3-26-08)

031. REMOVAL OF ORDERS AND NOTICES PROHIBITED.
Removal of stop work or prohibited occupancy orders or notices from a building or structure, bearing such order or notice by any person or persons not authorized by the Administrator or his authorized representative, constitute a violation under the provisions of Section 39-4126, Idaho Code, and falls under the provisions of Section 18-317, Idaho Code. (3-26-08)

032. MODULAR BUILDINGS.

01. Enforcement and Administration. The Administrator administers and enforces all the provisions of these rules. Any officer, agent, or employee of the Division is authorized to enter any premises during any normal or operational hours where Modular Buildings are manufactured for the purpose of examining any records pertaining to quality control and inspection and may inspect any such units, equipment, or installations to insure compliance with the provisions of these rules and codes enumerated in Title 39, Chapters 41 and 43, Idaho Code. When it becomes necessary, he may require that a portion or portions of such Modular Building units be removed in order that an inspection may be made to determine compliance. Every manufacturer of Modular Buildings must obtain prior approval and an Insignia for each Modular Building unit to be installed in the state of Idaho. (3-26-08)

02. Inspections. (3-26-08)

a. Inspections at Manufacturing Plants. The Division conducts inspections at the manufacturing plant to determine compliance with the provisions of these rules and with codes adopted by Title 39, Chapter 41, Idaho Code, and Title 54, Chapters 10, 26, and 50, Idaho Code. (3-26-08)

b. In-Plant Inspections. Due to the repetitive nature of the manufacturing process, the required inspections outlined in the International Building Code or *Idaho* Residential Code may not be required if, in the opinion of the Division, compliance can be obtained by periodic inspections. The Division conducts periodic unannounced inspections at any manufacturing site to review any or all aspects of a manufacturer's production and inspectional control procedures. Each unit, however, must be inspected at least once during the course of production for compliance with the adopted standards. No unit manufactured to be installed in the state of Idaho will be shipped from the point of manufacture without inspection and attached Insignia. *( )*

c. Field Inspections. All existing Modular Buildings to be installed in the state of Idaho not bearing the Division's Insignia may not be used or occupied until required Idaho Insignia has been issued by the Division and properly affixed in accordance with these rules. Applicants for Insignia must obtain permits, plan approvals, and inspections as required by these rules. (3-26-08)

d. Qualifications of Inspectors. All inspectors performing inspections of modular buildings must be properly certified for the type of inspection being conducted. The *Factory Built Structures* Board recognizes certifications granted through the National Certification Program Construction Code Inspector program (NCPCCI), the National Inspection Testing Certification program (NITC), the International Association of Electrical Inspectors (IAEI), and the International Code Council (ICC). Certifications must be current and of the proper classification for the structure or subsystem being inspected. *( )*

03. Installation Inspection. In order to complete the installation of the Modular Building, approval and inspection of said installation by the enforcement agency having jurisdiction over the site location is required. (3-26-08)

04. Field Technical Service. Any person may request field Technical Service and requests for such service must be submitted to the Division in writing. (3-26-08)

05. Local Enforcement Agencies. (3-26-08)

a. Rights of Local Enforcement Agency. A local enforcement agency has the right to require a complete set of plans and specifications approved by the Division for each Modular Building to be installed within its jurisdiction, to require that all permits be obtained before delivery of any unit to a Building Site. After leaving the manufacturing facility, future alterations or conversions of Division approved Modular Buildings must be field inspected by the local unit of government having jurisdiction. (3-26-08)

b. Limitations of Rights of Local Enforcement Agency. A local enforcement agency does not have the right to: open for inspection any Modular Building or component bearing an Insignia to determine compliance with any codes or ordinances; require by ordinance or otherwise that Modular Buildings meet any requirements not equally applicable to on-site construction; or to charge permit or plan review fees for any portion of the structure prefabricated or assembled at a place other than the Building Site. (3-26-08)

06. Insignia. (3-26-08)

a. Required Insignia. Each Modular Building section must bear a Division Insignia *on the front, left-hand side of the building* prior to leaving the manufacturing facility. Assigned Insignia are not transferable and are void when not affixed as assigned. All such voided Insignia must be returned to, or may be confiscated by, the Division. Insignia remain the property of the Division and may be confiscated in the event of violation of conditions of approval. Assigned Insignia affixed in the field must be under the direction of the Division's authorized agent. *( )*

b. Serial Number. Each Modular Building must bear a legible identifying serial number and include the state of manufacture. Each section of a multiple Modular Building must have the same identifying serial number followed by a numerical sequence identifier or a letter suffix, or both. Characters for serial numbers must be three-eighths (3/8) inch minimum height. Numbers may not be stamped into a hitch assembly or draw bar. *The date of manufacture, showing month and year will be shown on the Insignia. Such data will be provided by the manufacturer on the application for Insignia.* *( )*

07. Reciprocal Agreements. The provisions for Insignia of compliance as specified in a written and signed reciprocal agreement between the Division and any other state takes precedence over the provisions of these rules. Where there is evidence that the in-plant inspection controls in out-of-state plants within states having reciprocal agreements with the state of Idaho are not being maintained for units to be placed in Idaho, the Division reserves the right to make out-of-state inspections, and fees for such inspection as set forth in these rules must be paid by the manufacturer. (3-26-08)

033. CIVIL PENALTIES.
The following acts subject the violator to penalties *of not more than two hundred dollars ($200) for the first offense and not more than one thousand dollars ($1,000) for each offense thereafter* based on the following schedule. *( )*

01. Installation. Any person who transports a modular building to or installs a modular building on a building site in this state without first receiving approval and securing to the structure insignia evidencing such approval from the Division. *( )*

02. Modification. Any person who in any way modifies or alters a modular building prior to its initial occupancy which has previously been approved by the Division without first having received approval to do so from the Division. *( )*

03. Removal of Orders. Any person who removes a stop work or prohibited occupancy order or notice from a building or structure bearing such order or notice. *( )*

04. Lawful Orders. Any person who fails, neglects, or refuses to obey any lawful order issued by the Administrator or his representative, or who refuses to perform any duty lawfully enjoined upon him by the Administrator or his representative. *( )*

034. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The administrator of the Idaho Division of Building Safety and the Factory Built Structures *Advisory* Board are authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Industry Licensing." (3-24-05)

02. Scope. These rules apply to persons engaged in the business of manufacturing, selling, or installing manufactured or mobile homes for purposes of human habitation in Idaho. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of these rules, the following terms will be used, as defined below: (5-25-94)

01. Administrator. The administrator of the Division of Building Safety of the state of Idaho. (3-24-05)

02. Board. The Factory Built Structures *Advisory* Board. *( )*

03. Bond. The performance bond required by Section 44-2103, Idaho Code. (5-25-94)

04. Branch Office. An enclosed structure accessible and open to the public, at which the business of the manufactured/mobile home retailer is conducted simultaneously with and physically separated from his principal place of business. There must be displayed on the exterior a sign permanently affixed to the land or building with letters clearly visible to the major avenue of traffic. The sign must provide the business name of the retailer. (3-29-10)

05. Business. Occupation, profession, or trade. (5-25-94)

06. Deceptive Practice. Intentionally publishing or circulating any advertising concerning mobile or manufactured homes which: (5-25-94)

a. Is misleading or inaccurate in any material respect; (3-29-10)

b. Misrepresents any of the products or services sold or provided by a manufacturer, manufactured/mobile home retailer, salesman, or installation company. (3-20-14)

07. Division. The Division of Building Safety. *( )*

08. Installer. A person who owns a business which installs manufactured/mobile homes at the sites where they are to be occupied by the consumer. The term does not include the purchaser of a manufactured/mobile home or a manufactured/mobile home retailer who does not install manufactured/mobile homes. A retailer who does install manufactured/mobile homes is an installer. The term also does not include concrete contractors or their employees. (3-29-10)

09. Installation. The term includes "setup" and is the complete operation of fixing in place a manufactured/mobile home for occupancy. (5-25-94)

10. Manufactured Home. A structure, constructed after June 15, 1976, in accordance with the HUD manufactured home construction and safety standards, and is transportable in one (1) or more sections, which, in the traveling mode, is eight (8) body feet or more in width or is forty (40) body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and which is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term must include any structure which meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of Housing and Urban Development and

complies with the standards established under 42 U.S.C. Section 5401, et seq. (3-20-14)

11. Manufactured Home Retailer. Except as otherwise provided in these rules: (3-29-10)

a. Any person engaged in the business of selling or exchanging new and used units; or (5-25-94)

b. Any person or who buys, sells, lists, or exchanges three (3) or more new and used units in any one (1) calendar year. (5-25-94)

12. Manufactured/Mobile Home Salesman. Any person employed by a manufactured/mobile home retailer or resale broker for a salary, commission, or compensation of any kind to sell, list, purchase, or exchange or to negotiate for the sale, listing, purchase, or exchange of new, used, brokered, or third-party owned units, except as otherwise provided in Title 44, Chapter 21, Idaho Code. (3-20-14)

13. Manufacturer. Any person engaged in the business of manufacturing manufactured homes that are offered for sale, lease, or exchange in the state of Idaho. (3-20-14)

14. Mobile Home. A factory-assembled structure or structures generally constructed prior to June 15, 1976, the date of enactment of the Federal Manufactured Housing and Safety Standards Act (HUD Code), and equipped with the necessary service connections and made so as to be readily movable as a unit or units on their own running gear and designed to be used as a dwelling unit or units with or without a permanent foundation. (3-20-14)

15. Person. A natural person, corporation, partnership, trust, society, club, association, or other organization. (5-25-94)

16. Principal Place of Business. The primary physical location at which the business of a manufactured home retailer or resale broker is lawfully conducted. Each of the following requirements must be met to qualify as the principal place of business: (3-20-14)

a. The business of the manufactured or mobile home retailer or resale broker is lawfully conducted here; (3-20-14)

b. The office or offices of the retailer or resale broker is or are located here; (3-20-14)

c. The public may contact the retailer, resale broker, or salesman here; (3-20-14)

d. The offices are accessible and open to the public; and (3-20-14)

e. The greatest portion of the retailer's business is conducted here. The books and other records of a retailer must be kept and maintained at the retailer's principal place of business and be open to inspection during normal business hours by any authorized agent of the Division. Moreover, there must be displayed on the exterior a sign permanently affixed to the land or building with letters *providing the business name of the retailer* clearly visible to the major avenue of traffic. *( )*

17. Responsible Managing Employee (RME). The person designated by the employer to supervise other employees. *( )*

18. Used Manufactured Home or Mobile Home. A manufactured home or mobile home, respectively, which has been: (5-25-94)

a. Sold, rented, or leased and occupied prior to or after the sale, rental, or lease; or (5-25-94)

b. Registered with or been the subject of a certificate of title issued by the Idaho Department of Transportation or the appropriate authority of any state, the District of Columbia, or foreign state or country. (5-25-94)

011. (RESERVED)

012. LICENSE REQUIRED.

It is unlawful to engage in business as a manufacturer, manufactured/mobile home retailer, resale broker, manufactured/mobile home salesman, responsible managing employee, or installer without being duly licensed by the Division pursuant to Title 44, Chapter 21, Idaho Code, and these rules. No issued licenses are transferable. (3-20-14)

01. Minimum Age Requirement. No license will be issued to a person under eighteen (18) years of age at the time of license application. (5-25-94)

02. Designated License Holder. Any applicant for a license under these rules who is not a natural person must designate a natural person to be license holder and represent the corporation, partnership, trust, society, club, association, or other organization for all licensing purposes under these rules including, but not limited to, testing and education. (3-24-05)

a. The authorization to act as designated license holder must be in writing, signed by the applicant and the person designated, and filed with the Division along with the application. (5-25-94)

b. Any person designated under Subsection 012.02 of these rules represents one (1) applicant only, and must immediately notify the Division in writing if his working relationship with the applicant has been terminated. The license will be issued in the name of the designated license holder with the name of the organization he represents also noted on the license. The license holder is considered by the Division to be the licensee, even if the license holder is the designated representative of an organization. (5-25-94)

c. The applicant and the person designated under Subsection 012.02 of these rules agree by acceptance of the designation that the designated person acts as agent of the applicant for all purposes under Title 44, Chapters 21 and 22, Idaho Code, and all rules promulgated thereunder. (5-25-94)

03. Proof of License. Proof of the existence of any license issued pursuant to these rules is carried upon the person of the responsible managing employee or supervisor of any installation at all times during the performance of the installation work. Such proof must be furnished upon demand of any person. Moreover, any license issued to a manufactured/mobile home retailer, resale broker, responsible managing employee, or salesman must be posted in a conspicuous place on the business premises of the employer for whom the holder of the license is licensed. The license of a manufacturing facility or branch office must also be posted in a conspicuous place at the location licensed. (3-20-14)

04. Real Estate Brokers. Licensed real estate brokers or real estate salesmen representing licensed real estate brokers are not required to obtain a license under these rules in order to sell or lease a used unit that is currently carried on the tax rolls as personal property and that otherwise falls within the exemption contained in Section 44-2102(2), Idaho Code. (3-24-05)

05. License for Manufacturers. In order to engage in business in the state of Idaho or to be entitled to any other license or permit required by these rules each manufacturer must be licensed by the Division. (3-24-05)

06. License for Branch Office of Manufactured/Mobile Home Retailer or Resale Broker. (3-29-10)

a. The Division requires as a condition of licensing and bonding any information it deems necessary for each location where a manufactured/mobile home retailer or resale broker maintains a branch office. The mere listing of manufactured/mobile homes for sale does not constitute a branch office, but the use of a mobile home park or a state sales office by a licensee for the sale or offering for sale of manufactured/mobile homes does constitute the maintenance of a branch office. A branch office manager may not manage more than one (1) branch office. (3-29-10)

b. To open a branch office, a retailer or resale broker must: obtain a license from the Division to operate the branch office; and provide for direct supervision of the branch office, either by himself or by employing a branch office manager. (3-29-10)

c. If the branch office is closed, the retailer or resale broker must immediately deliver the license to the Division. (3-29-10)

07. License to Engage in Business as Manufactured/Mobile Home Retailer, Resale Broker, Manufacturer, or Installer; Application; Bond; Issuance, Expiration, and Renewal. (3-20-14)

a. *Applicants* for a manufacturer's, retailers, resale brokers, or installer's license must furnish: *( )*

i. Any proof the Division may deem necessary that the applicant is a manufacturer, retailer, resale broker, or installer; (3-20-14)

ii. Any proof the Division may require that the applicant has a principal place of business; (5-25-94)

iii. Any proof the Division may require of the applicant's good character and reputation and of his fitness to engage in the activities for which the license is sought; (5-25-94)

iv. In the case of a retailer in new manufactured homes, an instrument in the form prescribed by the Division executed by or on behalf of the manufacturer certifying that the applicant is an authorized franchise dealer for the make concerned; (3-29-10)

v. *The* fee and proof of bond fixed by rule; and *( )*

vi. Proof of passing the examination required by these rules*, as applicable*. *( )*

b. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. If any installer's working relationship with his employer is terminated, the employer must immediately deliver the license of the terminated installer to the Division. (3-20-14)

08. License for Manufactured/Mobile Home Salesman. (5-25-94)

a. A person may not act as a salesman in this state for a person who sells or leases any manufactured/mobile home subject to the provisions of Title 44, Chapters 21 or 22, Idaho Code, without having first received a license from the Division. Before issuing such a license, the Division requires: (1) an application, signed by the applicant and verified by his employer, providing his residential address and the name and address of his employer; (2) a statement as to whether any previous application of the applicant has been denied or license revoked; (3) payment of the license fee established by rule; and (4) any other relevant information the Division deems necessary. *( )*

b. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. A person licensed pursuant to Subsection 012.08 of these rules may not engage in sales activity other than for the account of, or for and on behalf of, a single employer who is a licensed retailer or resale broker. (3-29-10)

e. If a salesman ceases to be employed by a licensed retailer or resale broker, his license to act as a salesman is automatically suspended and his right to act in that capacity immediately ceases. He may not engage in such activity until reemployed by a licensed retailer or resale broker. If the salesman's working relationship with his employer is terminated, the employer must immediately deliver his license to the Division. (3-29-10)

09. License for Responsible Managing Employee. (5-25-94)

a. A person may not act as a responsible managing employee for an installer without first having been issued a license by the Division. Before issuing such a license the Division requires: (3-20-14)

i. An application, signed by the applicant and verified by his employer, providing his residential address and the name and address of his employer; ( )

ii. A statement as to whether any previous application of the applicant has been denied or license revoked; (5-25-94)

iii. Payment of the license fee established by rule; and (5-25-94)

iv. Any other relevant information the Division deems necessary. (5-25-94)

b. Within thirty (30) days after receipt of a completed application, the Division will issue or deny the license. (5-25-94)

c. Each license is valid for a period of one (1) year from the date of issuance and may be renewed for like consecutive period upon application to and approval by the Division. (5-25-94)

d. A person licensed pursuant to these rules may not engage in such activity other than for the account of, or for and on behalf of, a single employer who is a licensed installer. ( )

e. If a responsible managing employee ceases to be employed by an installer, his license to act as a responsible managing employee is automatically suspended and his right to act in that capacity immediately ceases. He may not engage in such activity until reemployed by a licensed installer. (3-20-14)

f. If the responsible managing employee's working relationship with his employer is terminated, the employer must immediately deliver his license to the Division. (5-25-94)

013. THE DIVISION'S MAILING ADDRESS.

Any correspondence or notices required by these rules or Title 44, Chapters 21 or 22, Idaho Code, may be addressed to the Division of Building Safety, 1090 E. Watertower Street, Suite 150 Meridian, Idaho 83642. (3-20-14)

014. PROOF OF EDUCATION REQUIRED.

01. Satisfactory Proof for Initial Application Submission. An application for a license as a manufactured/mobile home installer must include proof satisfactory to the Division that the applicant has completed the following number of hours of initial education in order to be approved: (4-7-11)

a. Installers and retailers who are installers: eight (8) hours. (3-20-14)

b. The course of initial education must be approved by the Division and must include information relating to the provisions of these rules, Title 44, Chapters 21 and 22, Idaho Code, and the Manufactured Housing Construction Safety Standards Act of 1974. (4-7-11)

02. Satisfactory Proof for License Renewal. The Division will not renew any installer license, or retailer license of any *retailer* who is also an installer, issued pursuant to Title 44, Chapters 21 or 22, Idaho Code, or these rules until the licensee has submitted proof satisfactory to the Division that he has, during the three (3) years immediately preceding the renewal of the license, completed at least eight (8) hours of continuing education. ( )

03. Continuing Education Course. The course of continuing education must be approved by the Division and include information relating to the following: (4-7-11)

a. Manufactured housing or mobile home parks; ( )

b. The construction, including components and accessories, rebuilding, servicing, installation, or sale of manufactured/mobile homes; (4-7-11)

c. Legislative issues concerning manufactured/mobile home housing and manufactured/mobile home parks, including pending and recently enacted state or federal legislation; and (4-7-11)

d. These rules, Title 44, Chapters 21 or 22, Idaho Code, and the Manufactured Housing Safety Standards Act of 1974. (4-7-11)

015. EXAMINATION OF APPLICANT FOR LICENSE.

01. Required Examinations. The Division requires a written examination of each applicant for a*n initial* license as a manufactured/mobile home retailer, resale broker, or installer. To avoid the requirement of an examination and be considered a renewal, any licensee must renew his license within six (6) months of its expiration date. ( )

02. Approval of Examination and Grade. Examinations for all classifications under these rules must be approved by the Division and the Board. No license will be issued unless the applicant receives a final grade of seventy percent (70%) or higher. (5-25-94)

016. DISCIPLINARY ACTION AGAINST LICENSEES.
The Division may deny, suspend, refuse to renew, or revoke any license issued under Title 44, Chapter 21, Idaho Code, or these rules or reissue the license subject to reasonable conditions upon any of the following grounds: (3-24-05)

01. Violation of Rules and Statutes. For any willful or repeated violation of these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or Title 44, Chapters 21 or 22, Idaho Code. (3-29-10)

02. Failure to Have Principal Place of Business. With regards only to a manufactured/mobile home retailer or resale broker, failure of the applicant or licensee to have a principal place of business. (3-29-10)

03. Revocation of License. The revocation of the license of the employer of a responsible managing employee or salesman is grounds for the revocation of the license of the installer, responsible managing employee or salesman. (3-29-10)

04. False Information. Material misstatement in the application or otherwise furnishing false information to the Division. (5-25-94)

05. Proof of Employment. Failure of a salesman or applicant for licensing as a salesman to establish by proof satisfactory to the Division that he is employed by a licensed retailer or resale broker. (3-29-10)

06. Disclosing Contents of Examination. Obtaining or disclosing the contents of an examination given by the Division. (5-25-94)

07. Deceptive Practice. The intentional publication, circulation, or display of any advertising which constitutes a deceptive practice as that term is defined in Subsection 010.06 of these rules. (3-24-05)

08. Failure to Provide Business Name. Failure to include in any advertising the name of the licensed retailer, resale broker, or installer, or the name under which he is doing business. (3-20-14)

09. Encouraging Falsification. Intentionally inducing an applicant or licensee to falsify *an* application. ( )

10. Poor Workmanship. Performing workmanship which is grossly incompetent or repeatedly below

the standards adopted by Title 44, Chapters 21 and 22, these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," the Federal Manufactured Housing and Safety Standards Act of 1974, or the latest Idaho adopted editions of the International Building Code, the National Electrical Code, the *Idaho State* Plumbing Code, and the International Mechanical Code, then in effect. *( )*

11. Installation Supervisor Required. Failure to have a licensed responsible managing employee personally supervise any installation of a manufactured/mobile home. (3-20-14)

12. Failure of Organizations to License its Employees. Failure of an organization to have its employees maintain any license as required by these rules. (3-24-05)

13. Failure to Honor Warranties. Failure to honor any warranty or other guarantee given by a licensee for construction, workmanship, or material as a condition of securing a contract, or of selling, leasing, reconstructing, improving, repairing, or installing any manufactured/mobile home, or accessory structure. (3-29-10)

14. Revocation or Denial of License. Revocation or denial of a license issued pursuant to these rules or an equivalent license by any other state or U.S. territory. (3-29-10)

15. Failure to Maintain Any Required License. Failure of the licensee to maintain any other license required by any city or county of this state. (5-25-94)

16. Failure to Respond to Notice. Failure to respond to a notice served by the Division as provided by law within the time specified in the notice. (5-25-94)

17. Failure to Permit Access to Documentary Materials. Failure or refusing to permit access by the Division to relevant documentary materials after being requested to do so by the Division. (5-25-94)

18. Conviction of Misdemeanor. Conviction of a misdemeanor for violation of any of the provisions of Title 44, Chapters 21 or 22, Idaho Code. (5-25-94)

19. Conviction of Felony. Conviction or withheld judgment for a felony in this state, any U.S. territory, or country. (3-29-10)

20. Dealing with Stolen Manufactured or Mobile Homes. To knowingly purchase, sell, or otherwise acquire or dispose of a stolen manufactured or mobile home. (5-25-94)

21. Violation of Permit or Inspection Requirements. To knowingly violate any permit or inspection requirements of any city or county of this state. (5-25-94)

017. PROCEDURES FOR LICENSING SUSPENSION, REVOCATION OR NONRENEWAL.
Any proceeding to suspend, revoke, or not renew any license will be conducted as a contested case in accordance with the provisions of Title 67, Chapter 52, Idaho Code, and the "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01.000, et seq. *( )*

018. APPLICATION FOR NEW LICENSE.
Any person whose license has been revoked may not apply for a new license until the expiration of one (1) year from the date of such revocation. (5-25-94)

019. FEES.

01. Fees for Issuance and Renewal of License. The following fees for the issuance and renewal of a license will be charged, and no application for licensing pursuant to these rules will be accepted by the Division unless it is accompanied by the appropriate fee: (5-25-94)

a. Manufactured/mobile home retailer or resale broker's license: four hundred forty dollars ($440). Retailers who are also installers will not have to pay an installer's license fee in order to hold both licenses. (3-29-10)

b. Manufacturer license: four hundred forty dollars ($440); (3-24-05)

c. Manufactured/mobile home installer license: two hundred twenty dollars ($220); (3-20-14)

d. Manufactured/mobile home salesman's license: forty-five dollars ($45). (3-24-05)

e. Responsible managing employee license: forty-five dollars ($45). (3-29-10)

02. Performance Bonding Requirements. No application for licensing pursuant to these rules will be accepted unless it is accompanied by evidence of the following performance bond: (3-24-05)

a. Manufacturer: twenty thousand dollar ($20,000) bond; (5-25-94)

b. Manufactured/mobile home retailer: twenty thousand dollar ($20,000) bond; (3-29-10)

c. Manufactured/mobile home resale broker: thirty thousand dollar ($30,000) bond; (3-29-10)

d. Manufactured/mobile home installer: five thousand dollar ($5,000) bond. Retailers who are also installers will not be required to post an installer's bond in order to hold both licenses. (3-20-14)

e. Responsible managing employee. No bond. (3-29-10)

03. Money or Securities Deposit in Lieu of Performance Bond. A money or securities deposit will be accepted by the Division in lieu of the performance bonding requirement as set forth at Title 44, Chapter 21, Idaho Code, and Subsection 019.02 of these rules, under the following circumstances: (3-29-10)

a. Any such money or securities deposit is in a principal sum equal to the face amount of the performance bond required for the applicable licensing category; (3-29-10)

b. Any such money deposit is deposited in a time certificate of deposit that provides on its face that the principal amount of such certificate of deposit is payable to the Division upon presentment and surrender of the instrument; (7-1-96)

c. Any such time certificate of deposit has a maturity date of one (1) year from the effective date of licensure and has an automatic renewal provision for subsequent years; (7-1-96)

d. Any such time certificate of deposit must be provided to the Division at the time of application for licensure and be retained by the Division during the effective period of licensure unless otherwise expended by the Division to insure completion of the licensee's performance; (7-1-96)

e. Any such time certificate of deposit will be returned to an unsuccessful applicant for licensure; (7-1-96)

f. The principal amount of any such time certificate of deposit, to the extent not otherwise expended to insure completion of the licensee's performance, will be returned to the depositor by the Division on or before ninety (90) days subsequent to the occurrence of any of the following events: voluntary surrender or return of a license; expiration of a license; lapse of a license; or revocation or suspension of a license; and (7-1-96)

g. Any interest income earned by reason of the principal amount of the time certificate of deposit is the property of the licensee. (7-1-96)

020. LICENSING COMPLAINTS.
Persons who wish to submit *complaints* to the Division for its consideration regarding the fitness to hold a license of anyone currently licensed or applying for a license under these rules must do so in writing and signed, dated, provide the name of the license*e* or applicant, specific details giving rise to the *complaint*, and contain *the complainant's* valid address and telephone number. *( )*

021. CIVIL PENALTIES.
The following acts subject the violator to penalties based on the following schedule: (3-29-10)

01. Industry Licensing. Except as provided for by Section 44-2106, Idaho Code, any person who engages in the business of a manufacturer, retailer, resale broker, salesman, installer, or responsible managing employee (RME) as defined in Section 44-2101A, Idaho Code, without being duly licensed by the Division is subject to a civil penalty of not more than five hundred dollars ($500) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-20-14)

02. Deceptive Practice. In accordance with Section 44-2106(2), Idaho Code, any retailer, resale broker, installer, salesman, or RME who intentionally publishes or circulates any advertising that is misleading or inaccurate in any material respect or that misrepresents any of the products or service sold or provided by a manufacturer, retailer, resale broker, installer, or RME, is subject to a civil penalty of not more than five hundred dollars ($500) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-20-14)

03. Dealing with Stolen Manufactured or Mobile Homes. In accordance with Section 44-2106(2), Idaho Code, any person who knowingly purchases, sells, or otherwise acquires or disposes of a stolen manufactured or mobile home is subject to a civil penalty of not more than one thousand dollars ($1,000). (3-29-10)

04. Failure to Maintain a Principal Place of Business. In accordance with Section 44-2106(2), Idaho Code, any person who is a retailer or resale broker duly licensed by the Division and who fails to maintain a principal place of business within Idaho, is subject to a civil penalty of not more than five hundred dollars ($500) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-29-10)

05. Violation of Rules and Statutes. Any person who knowingly violates any of the provisions of these rules, IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," or the provisions of Title 44, Chapters 21 or 22, Idaho Code, is subject to a civil penalty of five hundred dollars ($500) for the first offense and one thousand dollars ($1,000) for each offense thereafter. (3-29-10)

06. Gross Violation. In case of continued, repeated, or gross violations of these rules or IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations," a license revocation may be initiated for licensed individuals under Title 44, Chapter 21, Idaho Code. Non-licensed individuals are subject to prosecution by the appropriate jurisdiction under Idaho law. (3-29-10)

022. MANUFACTURED HOME BUYER'S INFORMATION AND DISCLOSURE FORM.
The Manufactured Home Buyer's Information and Disclosure Form must be presented by manufactured home retailers to each purchaser of a new manufactured home, and must be executed by the retailer and purchaser at the time the initial purchase order is signed for the sale of a new manufactured home. The form is available at the Division office. (3-29-10)

023. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Section 44-2201, Idaho Code, the administrator of the Idaho Division of Building Safety is authorized to promulgate rules necessary to implement the provisions of Title 44, Chapters 21 and 22, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are IDAPA 07.03.12, "Rules Governing Manufactured or Mobile Home Installations." (5-3-03)

02. Scope. These rules apply to the installation of manufactured or mobile homes used for purposes of human habitation in Idaho. *( )*

002. -- 003. (RESERVED)

004. ADOPTION AND INCORPORATION BY REFERENCE.
The Idaho Manufactured Home Installation Standard (January 1, 2018 edition), as adopted by the administrator, is hereby adopted and incorporated by reference into these rules. A current copy is available for review or copying at the office of the Division of Building Safety offices. *( )*

005. APPLICATION -- COMPLIANCE.

01. Application -- State Preemption. The standards referred to in this chapter are a comprehensive statement of all applicable standards which apply to the installation, alteration or repair of manufactured or mobile homes in Idaho. Cities and counties may not adopt or enforce more or less stringent standards, except as permitted by Section 67-6509(a), Idaho Code, as it pertains to the siting of manufactured homes in residential areas. *( )*

02. Compliance -- Disciplinary Action Against Licensees. Failure to comply with these standards constitutes grounds for discipline as provided in Title 44, Chapters 21 and 22, Idaho Code, and IDAPA 07.03.11, "Rules Governing Manufactured/Mobile Home Licensing," and these rules. *( )*

006. -- 011. (RESERVED)

012. USE OF MANUFACTURERS' INSTALLATION INSTRUCTIONS.
All new HUD manufactured homes must be installed in accordance with the manufacturer's Design Approval Primary Inspection Agency (DAPIA) approved installation instructions. *All used mobile and manufactured homes must be installed in accordance with the Idaho Manufactured Home Installation Standard.* In any instance in which there is a conflict between the DAPIA installation instructions and the Idaho Manufactured Home Installation Standards, the DAPIA installation instructions supersede and serve as the controlling authority. All manufactured or mobile homes must be installed in accordance with all other applicable state laws pertaining to utility connection requirements. *( )*

013. INSTALLATION PERMITS AND INSPECTIONS REQUIRED.
The owner or the installer of a manufactured or mobile home must obtain an installation permit in accordance with the requirements of Section 44-2202, Idaho Code. Installation permits must be obtained from the Division for installations in areas where there is no approved local program, or from a city or county that has by ordinance adopted building codes pursuant to Section 39-4116, Idaho Code, and whose installation program has been approved by the Division. Installation permits will only be issued to the owner of the manufactured home or to a licensed installer. The installer must have a current and valid license in effect at the time of the application for the installation permit. All installations must be inspected and approved by the authority having jurisdiction before the manufactured home is occupied. (3-27-13)

014. INSTALLATION PERMIT FEES.
A city or county whose installation inspection program has been approved by the Division establishes their own fee schedule for installation permits within their jurisdiction. Permits obtained from the Division must be accompanied by a fee in accordance with the following schedule: (3-27-13)

01. Single Section Unit. The permit fee is one hundred fifty dollars ($150). *( )*

02. Double Section Unit. The permit fee is two hundred dollars ($200). *( )*

03. More Than Two Sections. The permit fee for a home consisting of more than two (2) sections is two hundred fifty dollars ($250). (3-27-13)

04. Electrical and Plumbing Permits. Electrical and plumbing permits are administered separately from installation permits, and fees for such are separate from the fees identified in Section 014. Such fees are paid to the Division or other jurisdiction in accordance with the rules promulgated by the governing boards or local ordinance. (3-27-13)

015. INSTALLATION TAGS REQUIRED.

The owner or installer of a new manufactured home must purchase an installation tag for *fifty dollars ($50)* from the Division prior to commencing the installation of a manufactured home in Idaho. Such tag is required regardless of which jurisdiction has authority to perform the installation inspection. *( )*

016. APPROVAL OF LOCAL MANUFACTURED HOME INSTALLATION INSPECTION PROGRAMS.

01. Division Approval. A city or county that has by ordinance adopted a building code pursuant to Section 39-4116, Idaho Code, is eligible to participate in the inspection of manufactured and mobile homes. Such local installation inspection program must be approved by the Division to provide inspection services if the following minimum criteria is met: (3-27-13)

a. Inspections are conducted by the city or county employing inspectors holding a valid certification as residential building inspector from the International Code Council; (3-27-13)

b. Inspectors have attended annual training sessions provided or approved by the Division and received a certificate evidencing successful completion thereof; and (3-27-13)

c. Approval of a city or county's inspection program has not been withdrawn by the Administrator of the Division. (3-27-13)

02. Voluntary Withdrawal. A city or county may voluntarily withdraw from participation in the program to inspect manufactured homes upon providing to the Administrator of the Division ninety (90) days written notice of its intention to do so. (3-27-13)

017. WITHDRAWAL OF APPROVAL OF PROGRAMS.

01. Division Withdrawal. Approval of city or county manufactured home installation program may be withdrawn by the Division if it determines that the city or county's program has failed, upon notification of the program deficiencies, to adequately remedy such deficiencies within a period of time specified by the Administrator. (3-27-13)

02. Re-Approval. Re-approval of a program may be made by the Division when it determines that the reasons for the withdrawal have been remedied. (3-27-13)

018. MINIMUM TRAINING REQUIREMENTS FOR INSPECTORS.

01. Annual Training or Instruction. All installation inspectors employed by the Division or a city or county must complete eight (8) hours of training or instruction *approved by the Division* every three (3) years dedicated to the installation and inspection of manufactured and mobile homes. *( )*

02. Revocation of Approval. Training or instruction approval is subject to revocation by the Division if in its discretion it determines that for any reason the training or instruction fails to meet the intent of furthering the education of manufactured home installation inspectors including, but not limited to, inadequacies in course content or methods of delivery. (3-27-13)

019. QUALITY ASSURANCE.

01. Inspected Installations. Any inspected installation is subject to quality assurance reviews by Division of Building Safety at its discretion. Findings made by the Division pursuant to such reviews will be forwarded to the inspection authority having jurisdiction. (3-27-13)

02. Inspectors and Programs. All inspectors and approved programs, including the Division, are subject to review. (3-27-13)

03. Reviews by Division Personnel. Quality assurance reviews must be performed by Division supervisory personnel who are experienced in and knowledgeable about the installation requirements for manufactured homes. (3-27-13)

04. Division Personnel Training and Certification. Supervisory personnel as identified in Section 019 of these rules, must meet minimum training and certification requirements for inspectors of manufactured home installations. (3-27-13)

020. MINIMUM SCOPE OF INSTALLATION INSPECTION.

01. Scope. At a minimum, the inspection of the installation of a manufactured home by an installer includes the following: (3-27-13)

a. Completion of an inspection record document as required by Section 44-2202(5), Idaho Code. The inspection record document must verify that the installer has visually inspected the installation and certify that the exterior and interior close-up processes, including the marriage line and other covered-up components, have been completed; (3-27-13)

b. Delivery of a copy of the completed inspection record document to the homeowner and the authority having jurisdiction; (3-27-13)

c. Verification that all installed ductwork, plumbing, electrical and fuel supply systems are operating properly; and (3-27-13)

d. If applicable, verification that skirting has been installed correctly. (3-27-13)

02. Inspection Minimum Requirements. At a minimum, the inspection of the installation of a manufactured home must include the following by an inspector: (3-27-13)

a. Verification that site location is suitable for home design and construction, and inspection of site-specific conditions, including preparation and grading for drainage; (3-27-13)

b. Inspection of the foundation construction; (3-27-13)

c. Verification that installed anchorage meets minimum requirements; and (3-27-13)

d. Verification of receipt of a completed inspection record document from the installer. (3-27-13)

021. SUPERVISION BY RESPONSIBLE MANAGING EMPLOYEE.
A responsible managing employee, as defined in IDAPA 07.03.11, "Rules Governing Manufactured/ Mobile Home Licensing," must personally supervise any installation of a manufactured or mobile home at its place of occupancy unless the *licensed* installer personally supervises such installation. *( )*

022. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted by the administrator of the Division of Building Safety in accordance with Section 39-8605, Idaho Code. (4-6-05)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.04.02, "Safety Rules for Elevators, Escalators, and Moving Walks." (4-6-05)

02. Scope. These rules govern the design, construction, installation, operation, inspection, testing, maintenance, alteration, or repair of elevators, escalators, moving walks, platform lifts, material lifts, and dumbwaiters. (4-6-05)

002. ADOPTION AND INCORPORATION BY REFERENCE.

01. Documents. The following codes, amendments, and updates are hereby adopted and incorporated by reference into these rules for all conveyances subject to this chapter. (4-2-08)

a. ANSI/ASME A17.1 2016, Safety Code for Elevators and Escalators with the following exceptions: (3-28-18)

i. Compliance with section 2.8.3.3.2 requires that the means for disconnecting the main power, as required by this section, to be within sight of controller for all conveyances with an elevator machine room or control room. (3-28-18)

ii. Compliance with section 8.11.2.1.5(c) Car and Counterweight Buffer testing must be conducted at slow speed in accordance with Item 5.9.2.1(a) in ANSI/ASME A17.2 2014. (3-28-18)

iii. Compliance with Section 2.2.2.5, which requires a sump pump or drain in the elevator pit, is optional. If a sump pump or drain is installed, it must meet the requirements of this section. A sump with a cover must be provided in each elevator pit. (3-29-12)

b. ANSI/ASME A17.2 2014 Guide for Inspection of Elevators, Escalators, and Moving Walks. (3-28-18)

c. ANSI/ASME A17.3 2015 Safety Code for Existing Elevators and Escalators. (3-28-18)

d. ANSI/ASME A17.4 1999 Guide for Emergency Personnel. (4-2-08)

e. ANSI/ASME A17.5 2014 Elevator and Escalator Electrical Equipment. (3-28-18)

f. ANSI/ASME A17.6 2010 Standard for Elevator Suspension, and Governor Systems. (3-29-12)

g. ANSI/ASME A17.7 2012 Performance-based Safety Code for Elevators and Escalators. (3-28-18)

h. ICC/ANSI A117.1 2009 Accessible and Usable Buildings and Facilities. (3-28-18)

i. ANSI/ASME A18.1 2014 Safety Standards for Platform Lifts and Chairlifts. (3-28-18)

j. ASME QE-1 2013 Standard for the Qualification of Elevator Inspectors. (3-28-18)

02. Copies. Copies of the codes, amendments, and updates listed in Subsection 004.01 of these rules are available for review at the Division of Building Safety offices. ( )

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Administrator. The administrator of the Division of Building Safety. (4-6-05)

02. Division. The Idaho Division of Building Safety. (4-6-05)

011. INSPECTION REQUIREMENTS.

For an inspection may *to* take place: *( )*

01. Access. All machine rooms and spaces must be free of dirt and debris and have any obstacles to access removed. (4-6-05)

02. Technician on Site. An elevator technician and fire alarm technician must be present on site to restore elevator and fire alarm systems. (4-6-05)

03. Installation. The elevator installation must be complete and safe for inspection. Equipment, components, or systems installed on the conveyance must function in accordance with design and code requirements. If equipment, components, or systems are installed that are not required by the currently adopted code, they must function properly or be removed. (4-7-11)

04. Inspection Fees. Inspection fees for elevators are assessed and collected according to the schedule listed in Section 39-8616, Idaho Code, except that reinspection fees for all types of conveyances is one hundred dollars ($100) for the first hour of inspection, or portion thereof, and one hundred dollars ($100) for each hour of inspection thereafter. (4-9-09)

012. APPROVAL OF NEW OR ALTERNATIVE TECHNOLOGY.

01. Administrator Approval Required. If, due to construction or technological impediments, an elevator or conveyance cannot comply with applicable code requirements, approval of new or alternative construction or technology may be requested from the administrator. *Approval must be obtained before commencement of construction.* *( )*

02. Submission Deadline. Details of the proposed construction or technology, including design, material specifications and calculations, and such other information as may be requested, must be submitted to the administrator at least thirty (30) days in advance of the anticipated construction start date. (4-6-05)

a. The manufacturer of the new product or system must provide the administrator with an Accredited Elevator/Escalator Certification Organization (AECO) approval and certification in accordance with ANSI/ASME A17.7 Performance-based Safety Code for Elevators and Escalators or engineering and test data demonstrating that the proposed technology is safe for the intended purpose. (3-29-12)

b. The owner of the new product or system must provide the administrator with a document in which the owner acknowledges that the proposed technology is not governed by the applicable safety code and assures the administrator that, at such time as the code is revised to include the product or system, the owner will modify the product or system to bring it into compliance. The owner must assure the administrator that if the product or system cannot be modified or altered to bring it into compliance with the applicable code it will be removed and replaced with code-compliant equipment. (4-6-05)

c. The manufacturer of the new product or system must provide training to Division personnel on the proposed technology and any related products or systems at no cost to the Division. (4-6-05)

03. Engineer Approval. The information provided in compliance with the foregoing requirements must be approved by an Accredited Elevator/Escalator Certification Organization (AECO) or a registered professional engineer experienced in elevator or conveyance design prior to submission to the administrator. (3-29-12)

013. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to Section 54-1907, Idaho Code, as amended. (3-20-04)

001. TITLE.
These rules are titled IDAPA 07.05.01, "Rules of the Public Works Contractors License Board." (3-20-04)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in these rules. (7-1-93)

01. **Administrator**. The administrator of the Division of Building Safety. ( )

02. **Applicant**. Any person who has filed an application with the administrator. ( )

03. **Board**. The Public Works Contractors License Board. ( )

04. **Compiled**. A type of financial statement in which the information presented is based solely upon representations by an organization's management. ( )

05. **Estimated Cost**. For the purposes of the application of Section 54-1903(i), Idaho Code, the term "estimated cost" refers to the total aggregate amount of the value of all the separate or individual jobs, parts, components, or undertakings involved in the construction of a single project when combined and considered as a whole, regardless of the types of trades, sub-contracts, work, or other individual aspects involved, and without regard to the number of trades or crafts that are involved. (3-29-10)

06. **Financial Statement**. A balance sheet and income statement prepared in accordance with generally accepted accounting principles. (3-20-04)

07. **Incidental Work**. Work, the nature of which does not require any additional trade licenses and which may be carried out in conjunction with an activity for which the licensee is licensed, but is not intended to produce an amount of income over ten percent (10%) of the total bid amount. ( )

08. **Independent Audit Report**. A report prepared by an independent certified public accountant presenting such auditor's opinion on the fairness of the organization's financial statements and prepared in accordance with generally accepted auditing standards. (3-20-04)

09. **Licensee**. Includes any individual proprietor, partnership, limited liability partnership, limited liability company, corporation, joint venture, or other business organization holding a current, unrevoked public works contractor license. (3-20-04)

10. **Qualified Individual**. The person qualifying by examination as to the experience and knowledge required by Section 54-1910(a), Idaho Code. (4-11-19)

11. **Reviewed**. Refers to a financial statement that is accompanied by the opinion of a certified public accountant stating that, based upon representations by the organization's management, the reviewer has a reasonable basis for expressing limited assurance that there are no material modifications that should be made to the financial statements in order for the statements to be in accordance with generally accepted accounting principles. (3-20-04)

011. -- 101. (RESERVED)

102. COMMUNICATION.
All communications are deemed officially received only when delivered to the office of the administrator. ( )

103. PETITIONS.
An applicant or licensee seeking an order or decision of the administrator or the Board on any matter, or disciplinary proceeding, must file a written petition. ( )

104. FORM AND CONTENT OF PETITION.

01. Form. The petition, including the heading, the name of the petitioner or person making the request, and the purpose of the petition must *contain* the following: *( )*

a. The petitioner's name, address, and license number. *( )*

b. The petitioner's request in brief, precise and specific terms, including references to any pertinent statutes or rules, and a detailed explanation of the purpose for the request. *( )*

c. Statements of fact to support the request. Briefs and supporting documents may accompany petitions. *( )*

02. *Service*. The petition must be dated and signed by the petitioner*, and filed as set forth in Section 102 of these rules*. *( )*

105. LICENSE RENEWAL -- FILING DEADLINES; PETITIONS FOR EXTENSION OF TIME TO FILE; LAPSED LICENSES.

01. Filing Deadline. Applications for renewal of a license must be filed by the last working day of the month in which the license expires. (3-20-04)

02. Extension of Time. A petition for an extension of time in which to renew must be filed by the last working day of the month in which the license expires. The petition must be accompanied by a fee in the amount of the prorated portion of the annual license fee for the class of license applied for, with a minimum fee of at least fifty dollars ($50). The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and paid to the Division at the time of application for licensure. Petitions not accompanied by the required fees or filed after the license has expired will not be honored. (3-21-12)

a. The petition must specify the number of days for which the extension is being requested*; however under no circumstances may an extension exceed sixty (60) days*. *( )*

03. Approval of Petition. Approval of a petition for an extension of time authorizes operation as a contractor until the administrator completes action on the renewal application, provided the application for renewal is filed with the *Administrator* within the extended time specified. *( )*

04. Failure to File. If the licensee fails to file a timely application for renewal or petition for extension, the license lapses and expires on the last day of the license period. Licenses not renewed in a timely manner are considered delinquent for a period of one (1) year from the last day of the license period and may be renewed at any time during that year. Licenses delinquent for more than a period of one (1) year must be reinstated and the applicant for reinstatement must apply as if for a new license. (3-20-04)

05. Expedited Licensure. Upon an applicant's request and payment of a fee of one hundred dollars ($100), the Division will expedite its review and determination of a license application. The fee for this service is required in addition to the licensing and renewal fees provided for in Section 201 of these rules and must be paid to the Division at the time of application for licensure. (3-21-12)

106. SPECIAL PROVISIONS COVERED IN A PETITION TO CHANGE OR ADD TYPES OF CONSTRUCTION.

A petition to change or add types of construction must be supported by evidence, satisfactory to the administrator, of work history, job performance, experience, equipment, financial responsibility, and a minimum of three (3) letters of reference. The evidence of work history, job performance, experience, and financial responsibility must comply with the requirements of Subsections 110.01 and 110.02 of these rules. All of the evidence must specifically pertain to work that is similar in scope and value to that for which the change or addition is being requested. (3-20-04)

107. -- 108. (RESERVED)

109. NOTICE.

In any contested case or other matter of Board business, written notification, mailed to the licensee or the applicant at the most current address on record with the Board, constitutes sufficient notification for all purposes within Title 54, Chapter 19, Idaho Code, and these rules. (3-20-04)

110. APPLICATION FOR LICENSURE -- DOCUMENTATION; APPRAISALS; REFERENCES; BONDING; AND FINANCIAL STATEMENTS.

01. Application Documentation. To obtain a license, the applicant must submit to the administrator, on such forms and in a format as the administrator prescribes, including electronically, accompanied by the required fee for the class of license applied for, a complete written application for such license. All of the information submitted by the applicant must specifically pertain to work that is similar in scope and value to that for which licensure is being requested or that is being requested in a petition to change or add types of construction. The information contained in such application forms must include: (3-20-14)

a. A complete statement of the general nature of applicant's contracting business, including a concise description of the applicant's experience and qualifications as a contractor and a list of clients for whom work has been performed; (3-20-04)

b. A description of the value and character of contract work completed and for whom performed during the three (3) year period prior to filing the application; (3-20-04)

c. A general description of applicant's machinery and equipment; and (3-30-07)

d. An annual financial statement, as herein defined, that covers a period of time ending no more than twelve (12) months prior to the date of submission of the application, indicating compliance with such financial requirements as the Board may prescribe by rule. The applicant's financial statement may be supplemented with: (4-4-13)

i. Bonding. As authorized by Section 54-1910(e), Idaho Code, a letter from applicant's bonding company, not an insurance agent, stating the amount of the applicant's bonding capability per project and in the aggregate, including supporting documentation; (3-30-07)

ii. Guaranty. Documentation, satisfactory to the administrator, of the existence of a written guaranty agreement between the applicant and a third-party in which the third-party guarantor agrees to assume financial responsibility for payment of any obligations of the applicant for any particular project as may be determined by a court of competent jurisdiction. The guaranty agreement, along with financial statements meeting the requirements of Paragraph 110.01.e. of this rule, must be submitted with the license application. (3-30-07)

e. For Class A, AA, AAA, and Unlimited license applications, financial statements must be accompanied by an independent auditor's report or be reviewed. For Class B and CC license applications, financial statements must be accompanied by an independent audit report or be reviewed or compiled by a certified public accountant. For Class C and Class D license applications, financial statements must be accompanied by an independent audit report or be reviewed, compiled, or on the form provided by the administrator, and include such additional information as may be required by the administrator to determine the applicant's fitness for a license. (3-27-13)

f. The name, social security number, and business address of an individual applicant or, if the applicant is a partnership, its tax identification number, business address, and the names and addresses of all general partners; and if the applicant is a corporation, association, limited liability company, limited liability partnership, or other organization, its tax identification number, business address, and the names and addresses of the president, vice president, secretary, treasurer, and chief construction managing officers, or responsible managing employee. (3-20-04)

g. Applicants requesting a licensing class higher than that for which the applicant is currently licensed must provide documentation, satisfactory to the administrator, of having performed projects, similar in scope and character to those for which license is requested. The monetary value of those jobs must fall within a range not less than thirty percent (30%) below that for which the applicant is currently licensed. (3-20-14)

02. Application for Change in Licensing Class. Requests for a licensing class higher than that for which the applicant is currently licensed must be accompanied by the information in Subsection 110.01 of these rules, and the applicable fee. Licenses granted under Subsection 110.02 of these rules are valid for a period of twelve (12) months from the date of issuance. (4-11-06)

03. Extension of Time to File Financial Statement. The administrator may grant an extension of time to file the annual financial statement if the licensee provides an interim compiled balance sheet and income statement for the applicant's fiscal year-to-date, duly certified as true by the applicant, and if a partnership, limited liability company, or limited liability partnership by a member thereof, and if a corporation, by its executive or financial officer. Such renewal application must be filed prior to the first day of such renewal licensing period. In the event an extension is granted, the renewal license is valid for a period of twelve (12) months from the date of the issuance of the renewal license. (3-20-04)

04. Appraisals. The administrator may require submission of an independent appraisal of any real or chattel property reported by an applicant or licensee. Such appraisals must be conducted by a disinterested person or firm established and qualified to perform such services. (3-20-04)

05. References. The administrator may require an applicant for an original or renewal license to furnish such personal, business, character, financial, or other written references as deemed necessary and advisable in determining the applicant's qualifications. (3-20-04)

111. FINANCIAL REQUIREMENTS.

The financial requirements for obtaining and maintaining a heavy, highway, building, and specialty construction license under this act must be as described in this section for each respective class. An applicant requesting a license for each class identified in this section must have a minimum net worth and possess an amount of working capital as provided in Table 111.01:

TABLE 111.01 – FINANCIAL REQUIREMENTS

LICENSE CLASS	NET WORTH	WORKING CAPITAL
Unlimited	$1,000,000	$600,000
AAA	$600,000	$200,000
AA	$450,000	$150,000
A	$300,000	$100,000
B	$150,000	$50,000
CC	$75,000	$25,000
C	$25,000	$7,500
D	$10,000	$3,000

(6-30-19)T

112. EXAMINATION.

The Board approves all subject areas and topics to be included in the public works contractor *license examination*. *( )*

01. Frequency of Conducting of Examinations. (4-9-09)

a. Examinations for all classes of licenses under the Public Contractors laws and rules will be given a minimum of four (4) times each year in *the Division's* three (3) *office* locations. *( )*

b. The applicant will be notified in writing of the date, time, and location at which the examinations

will be given, following approval of the application. (4-9-09)

02. Professional Testing Services. In lieu of the administration by the administrator of the examination for licenses, the administrator may contract with a professional testing service to administer the examination, and require *all* license applicants*, with the exception of Class D applicants,* to pay to the testing service the fee that they have set for the examination, to take such examination at the time set by such service*, and provide the Division acceptable verification of the test score in such instances,* the Division may charge and retain the application fee provided for by Section 54-1911, Idaho Code, to cover the cost of reviewing the applicant's application. *( )*

a. Class D applicants will utilize the existing in-house, open-book examination. (4-9-09)

b. Class D licensees pursuing an upgrade must reapply and pass the examination administered by the professional testing service. (4-9-09)

03. Required Score. The applicant must receive a final grade of seventy percent (70%) or higher prior to issuance of the appropriate license. (4-9-09)

04. Failed Examinations. (4-9-09)

a. An applicant receiving less than a passing score on a first or second examination may be reexamined without reapplication. (4-9-09)

b. Before being reexamined after failing an examination the third time, an applicant must resubmit the application and fee. (4-9-09)

c. Before being reexamined after any further failures, an applicant for reexamination must wait until the expiration of sixty (60) days from the date of the failed examination and resubmit the application and fee for each subsequent examination. (4-9-09)

113. INDIVIDUAL QUALIFIED BY EXAMINATION.

01. Written Notice. Written notice, required by Section 54-1910(a), Idaho Code, that the Qualified Individual of a public works contractor has ceased to be connected with the contractor must be provided to the Administrator on forms prescribed by the Administrator indicat*ing* the date the Qualified Individual ceased to be connected with the contractor. *( )*

02. Reasonable Length of Time. If a public works contractor notifies the Administrator that the contractor's Qualified Individual has ceased to be connected with the contractor, the contractor's license will remain in force for ninety (90) days from the date of the notice. (4-11-19)

114. -- 198. (RESERVED)

199. LIMITATIONS.

01. One License. A licensee will be permitted to hold only one (1) class of license at any given time. (3-20-04)

02. Previous License Null and Void. When a licensee of one class has been issued a license of another class, the previous license is null and void. (3-20-04)

03. Total Bid Cost. The total of any single bid on a given public works project, or the aggregate total of any split bids, or the aggregate total of any base bid and any alternate bid items, or the aggregate total of any separate bid by a licensee of any class, except Class Unlimited, may not exceed the estimated cost or bid limit of the class of license held by the licensee. The aggregate total of bids must include all bids of the subcontractors. Subcontractor bids are not considered a separate bid for the purposes of computing the bid on a given public works project. (5-8-09)

04. Two or More Licensees. Two (2) or more licensees of the same class or of different classes are not permitted to combine the estimated cost or bid limit of their licenses to submit a bid in excess of the license held by either licensee. (3-20-04)

05. Type 4 License Holder. The holder of a license for Type 4, Specialty Construction, are entitled to bid a public works project as a prime contractor or as a subcontractor, if more than fifty percent (50%) of the work to be performed by him on such project is covered by a category or categories listed on the license held by the licensee. (3-20-04)

200. TYPE 4-SPECIALTY CONSTRUCTION CATEGORIES.
A license for Type 4-Specialty Construction must list one (1) or more specialty construction categories to which the license is restricted. Categories and their definitions are: (4-6-05)

01. 01107 Engineering. A specialty contractor whose primary business includes providing engineering and design services such as civil, electrical, mechanical, and structural. (4-6-05)

02. 01541 Scaffolding and Shoring. A specialty contractor whose primary business is the installation of any temporary elevated platform and its supporting structure used for supporting workmen or materials or both, and props or posts of timber or other material in compression used for the temporary support of excavations, formwork or unsafe structures; the process of erecting shoring. (4-6-05)

03. 01542 Craning and Erection. A specialty contractor whose primary business includes the art, ability and skill to safely control the workings of a crane in such a manner that building materials, supplies, equipment and structural work can be raised and set in a final position. (4-6-05)

04. 01550 Construction Zone Traffic Control. A specialty contractor whose primary business is the installation or removal of temporary lane closures, flagging or traffic diversions, utilizing pilot cars, portable devices such as cones, delineators, barricades, sign stands, flashing beacons, flashing arrow trailers, and changeable message signs on roadways, public streets and highways or public conveyances. (4-6-05)

05. 01570 Temporary Erosion and Sediment Controls. A specialty contractor whose primary business includes the ability and expertise to install silt fencing or other similar devices to prevent erosion and contain silt. (4-6-05)

06. 02110 Excavation, Removal and Handling of Hazardous Material. A specialty contractor whose primary business includes the excavation and removal of toxic and hazardous site materials. Contractors must be properly licensed and certified if required. (4-6-05)

07. 02115 Removal of Underground Storage Tanks. A specialty contractor whose primary business includes, but is not limited to, the excavation, removal, cleanup, and disposal of underground storage tanks that have contained petrochemical type fuels. This work should include the sampling and testing of surrounding materials and filing of closure documents. (4-6-05)

08. 02195 Environmental Remediation, Restoration and Soil Stabilization. A specialty contractor whose primary business is the remediation and restoration of contaminated environmental sites. (4-6-05)

09. 02210 Drilling. A specialty contractor whose primary business includes practical elementary knowledge of geology and hydrology; the art, ability, knowledge, science and expertise to bore, drill, excavate, case, pack or cement by use of standard practices, including the use of diamond bits, cable tools, percussion, air percussion, rotary, air rotary, reverse circulation rotary methods or jetting. (4-6-05)

10. 02220 Demolition. A specialty contractor whose primary business includes the ability and expertise to demolish all types of buildings or structures and to remove all of such buildings or structures from the premises, and maintain the premises surrounding demolition site safely for passing public. (4-6-05)

11. 02230 Site Clearing. A specialty contractor whose primary business includes the ability and

expertise to remove and dispose of all trees, brush, shrubs, logs, windfalls, stumps, roots, debris and other obstacles in preparation for excavation of a construction site or other uses. (4-6-05)

12. 02231 Logging. A specialty contractor whose primary business and expertise includes the clearing, cutting, removal and transportation of logs and trees and the construction of temporary roads and structures for such operations along with any reclamation work associated with such operations. (4-6-05)

13. 02232 Tree Removal and Trimming. A specialty contractor whose primary business includes pruning, removal, or guying of trees, limbs, stumps, and bushes including grinding and removal of such items. (4-6-05)

14. 02240 Dewatering and Subsurface Drainage. A specialty contractor whose primary business is to control the level and flow of subsurface water. (4-6-05)

15. 02260 Earth Retention Systems, Mechanical Stabilized Earth Walls and Retaining Walls. A specialty contractor whose primary business includes the building of earth retention systems, mechanical stabilized earth walls and retaining walls. (4-6-05)

16. 02265 Slurry Walls. A specialty contractor whose primary business is the construction of below ground structural diaphragm walls or containment walls through the combined use of trench excavation, mud slurry and tremie concrete. (4-6-05)

17. 02270 Rockfall Mitigation and High Scaling. A specialty contractor whose primary business is rockfall mitigation and high scaling. (4-6-05)

18 02310 Excavation and Grading. A specialty contractor whose primary business includes such work as digging, moving and placing material forming the surface of the earth in such manner that a cut, fill, excavation and any similar excavating operation can be done with the use of hand and power tools and machines that are used to dig, move and place that material forming the earth's surface. (4-6-05)

19. 02312 Dust Control, Dust Abatement and Dust Oiling. A specialty contractor whose primary business is dust control, dust abatement and dust oiling. (4-6-05)

20. 02317 Rock Trenching. A specialty contractor whose primary business is rock trenching. (4-6-05)

21. 02318 Hauling. A specialty contractor whose primary business includes the ability and expertise to obtain or move specified materials by transportation in a vehicle. (4-6-05)

22. 02319 Blasting. A specialty contractor whose primary business includes the use of conventional and high explosives for pre-splitting, surface, underground and underwater blasting, drill, trench, or excavate for use of explosives; priming and loading drilled, trenched or excavated areas by pipe tamping, pneumatic loading, injector loading, mud capping, slurry loading, combination of pneumatic and injector loading or hand loading; use of volt, ohms and milliampere meter (VOM) in testing blasting machine output voltage, power line voltage, measuring electric blasting cap or blasting circuit resistance, testing for current leakage, testing for AC-DC stray current and voltage, leading wires for open or short circuits, rack bar blasting machine for running short or galvanometer output voltage; use of blasting caps, electric blasting caps, delay electric blasting caps, primacord and all other detonating devices. (4-6-05)

23. 02325 Dredging. A specialty contractor whose primary business includes the excavation or removal of earth, rock, silt, or sediment from bodies of water including but not limited to streams, lakes, rivers or bays by means of specialized equipment. (4-6-05)

24. 02404 Horizontal and Directional Earth Boring, Trenching and Tunneling. A specialty contractor whose primary business and expertise includes boring, trenching or tunneling. (4-6-05)

25. 02450 Drilled Piers, Pile Driving, Caisson Drilling, Geopier and Helical Piers. A specialty contractor whose primary business includes drilling piers, pile driving, caisson drilling, Geopier and helical piers.

(4-6-05)

26. 02500 Utilities. A specialty contractor whose primary business includes the construction and installation of pipe lines for the transmission of sewage, gas and water, including minor facilities incidental thereto; installation of electrical poles, towers, arms, transformers, fixtures, conduits, conductors, switch gear, grounding devices, panels, appliances and apparatus installed outside of buildings; including excavating, trenching, grading, back fill, asphalt patching as well as all necessary work and installation of appurtenances in connection therewith. (4-6-05)

27. 02520 Well Drilling. A specialty contractor whose primary business includes the practical elementary knowledge of geology, hydrology, the occurrence of water in the ground, water levels in wells, the prevention of surface and sub-surface contamination and pollution of the ground water supply; and the art, ability, experience, knowledge, science, and expertise to bore, drill, excavate, case, screen, cement, clean and repair water wells; or to do any or any combination of any or all such boring, drilling, excavating, casing, cementing, cleaning and repairing with hand or power tools or rigs, including the installation and repair of pumps. (4-6-05)

28. 02580 Installation of Communication Towers. A specialty contractor whose primary business and expertise is the installation of communication towers. (4-6-05)

29. 02660 Membrane Liners for Ponds and Reservoirs. A specialty contractor whose primary business includes the installation of liners for the purpose of containment of liquids. (4-6-05)

30. 02720 Crushing. A specialty contractor whose primary business includes the ability and expertise to reduce rocks and aggregates to a smaller and uniform size and gradation to meet an agreed specification. (4-6-05)

31. 02740 Asphalt Paving. A specialty contractor whose primary business includes the installation of aggregate base course, cement treated base, bitumen treated base, asphalt concrete and the application of asphalt surfacing and surface repairs of streets, intersections, driveways, parking lots, tennis courts, running tracks, play areas; including the application or installation of primer coat, asphalt binder course, tack coating, seal coating and chips, slurry seal and chips, flush or flog coats, asphalt curbs, concrete bumper curbs, redwood headers, asphalt surface binder emulsion, asbestos and sand and acrylic color systems. (Synthetic and athletic surfacing are category 02790 Athletic and Recreational Surfaces.) Also includes crack sealing, asphalt maintenance repair and soil pulverization. (4-6-05)

32. 02761 Traffic Marking and Striping. A specialty contractor whose primary business includes the art, ability and expertise to apply markings to streets, roadways, or parking surfaces pre-designed for the use of parking or passage of vehicles by the application of directional lines, buttons, markers, and signs made of but not limited to plastic, paint, epoxies and rubber, in such manner as to provide for the channeling and controlling of the traffic flow. Also includes temporary striping. (4-6-05)

33. 02785 Asphalt Maintenance and Repair, Seal Coating, Crack Sealing and Chip Sealing. A specialty contractor whose primary business is asphalt maintenance and repair, seal coating, crack sealing and chip sealing. (4-6-05)

34. 02790 Athletic and Recreational Surfaces. A specialty contractor whose primary business is the installation of specialty surfaces including but not limited to non-wood athletic floors, tennis courts, running tracks and artificial turf. This would include any subsurface preparation such as leveling, excavation, fill and compaction or grading. The application of surfacing, mixing, spreading or placing of emulsions, binders, sand and acrylic color systems is also included along with the installation of modular, plastic athletic floors such as "Sport Court" type floors. This category does not include any type of structure required for the installation of these surfaces. (4-6-05)

35. 02810 Sprinkler and Irrigation Systems. A specialty contractor whose primary business includes the installation of types and kinds of water distribution systems for complete artificial water or irrigation of gardens, lawns, shrubs, vines, bushes, trees and other vegetation, including the trenching, excavating and backfilling in connection therewith. (Low voltage only.) (4-6-05)

36. 02820 Fencing. A specialty contractor whose primary business includes the installation and repair

of any type of fencing. (4-6-05)

37. 02840 Guardrails and Safety Barriers. A specialty contractor whose primary business includes the installation of guardrails and safety barriers (including cattle guards). (4-6-05)

38. 02850 Bridges and Structures. A specialty contractor whose primary business includes the installation, alteration and repair of bridges and related structures, including culverts. (4-6-05)

39. 02855 Bridge Crossings and Box Culverts. A specialty contractor whose primary business is the installation or construction, or both, of any bridge or crossing structure shorter than twenty (20) feet measured on the centerline of the roadway or trail. (4-6-05)

40. 02880 Installation of School Playground Equipment. A specialty contractor whose primary business is the installation of school playground equipment. (4-6-05)

41. 02890 Traffic Signs and Signals. A specialty contractor whose primary business includes the art, ability, knowledge, experience, science and expertise to fabricate, install and erect signs, including electrical signs and including the wiring of such signs. A licensed electrician must perform all the electrical work. (4-6-05)

42. 02900 Landscaping, Seeding and Mulching. A specialty contractor whose primary business includes the preparation of plots of land for architectural, horticulture and provisions of decorative treatment and arrangement of gardens, lawns, shrubs, vines, bushes, trees and other decorative vegetation; construction of conservatories, hot and green houses, drainage and sprinkler systems, and ornamental pools, tanks, fountains, walls, fences and walks, arrange, fabricate and place garden furniture, statuary and monuments in connection therewith. (4-6-05)

43. 02910 Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control. A specialty contractor whose primary business is slope stabilization, including necessary tillage and plant bed preparation using hydroseeding, hydromulching and native plant revegetation for erosion control. (4-6-05)

44. 02935 Landscape Maintenance. A specialty contractor whose primary business and expertise includes the maintenance of existing lawns, gardens, and sprinkler systems. This would include mowing, weeding, fertilization, pest control and minor repair or relocation of sprinkler systems. (4-6-05)

45. 02937 Pest Control, Sterilization and Herbicide Applications. A specialty contractor whose primary business includes the mixing, transportation and application of fertilizers, pesticides, herbicides, and sterilization chemicals for the control of insects, pests and weeds. (4-6-05)

46. 02955 Pipeline Cleaning, Sealing, Lining and Bursting. A specialty contractor whose primary business and expertise includes cleaning, sealing, lining and bursting pipelines. (4-6-05)

47. 02965 Cold Milling, Rumble Strip Milling, Asphalt Reclaiming and Pavement Surface Grinding. A specialty contractor whose primary business includes cold milling, rumble strip milling, asphalt reclaiming and pavement surface grinding. (4-6-05)

48. 02990 Structural Moving. A specialty contractor whose primary business includes but is not limited to raising, lowering, cribbing, underpinning and moving of buildings or structures. This does not include the alterations, additions, repairs or rehabilitation of the retained portion of the structure. (4-6-05)

49. 03200 Concrete Reinforcing Rebar Installation. A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel mesh or steel reinforcing bars or rods of any profile, perimeter or cross-section that are or may be used to reinforce concrete. (4-6-05)

50. 03300 Concrete. A specialty contractor whose primary business includes the ability and expertise to process, proportion, batch and mix aggregates consisting of sand, gravel, crushed rock or other inert materials having clean uncoated grains of strong and durable minerals, cement and water or to do any part or any combination

of any thereof, in such a manner that acceptable mass, pavement, flat and other cement and concrete work can be poured, placed, finished and installed, including the placing, forming and setting of screeds for pavement or flat work. Also includes concrete sidewalks, driveways, curbs and gutters. (4-6-05)

51. 03370 Specially Placed Concrete, Concrete Pumping and Shotcreting. A specialty contractor whose primary business includes the ability and equipment necessary to deliver and install concrete, and similar materials to their final destination in buildings and structures. (4-6-05)

52. 03380 Post-Tensioned Concrete Structures or Structural Members. A specialty contractor whose primary business is the post-tensioning of structural elements using sleeved tendons of high-strength prestressing steel. (4-6-05)

53. 03500 Gypcrete. A specialty contractor whose primary business includes the ability and expertise to mix and apply gypsum concrete. (4-6-05)

54. 03600 Concrete Grouting. A specialty contractor whose primary business includes the ability and the equipment necessary to place concrete grouts. Concrete grouts are thin, fluid, shrink resistant, mortar-like materials used for filling joints and cavities and setting and anchoring items in masonry and concrete. (4-6-05)

55. 03650 Pressure Grouting and Slab Jacking. A specialty contractor whose primary business includes pressure foundation grouting and jacking and the injection of concrete or mortar into foundations for stabilization. (4-6-05)

56. 03900 Concrete Demolition, Concrete Sawing and Cutting, Core Drilling, Joint Sealing and Hydrocutting. A specialty contractor whose primary business includes concrete cutting, drilling, sawing, cracking, breaking, chipping or removal of concrete. This category also includes the caulking or sealing of joints or cracks caused by such operations. (4-6-05)

57. 04000 Masonry. A specialty contractor whose primary business includes the installation with or without the use of mortar or adhesives of brick, concrete block, adobe units, gypsum partition tile, pumice block or other lightweight and facsimile units and products common to the masonry industry. (4-6-05)

58. 04900 Chemical Cleaning and Masonry Restoration. A specialty contractor whose primary business includes the cleaning or restoration of masonry through the use of chemicals, pressure washing, sand blasting or other methods. (4-6-05)

59. 05090 Welding. A specialty contractor whose primary business causes metal to become permanently attached, joined and fabricated by the use of gases or electrical energy, developing sufficient heat to create molten metal, fusing the elements together. (4-6-05)

60. 05100 Steel Fabrication, Erection and Installation. A specialty contractor whose primary business includes the ability and expertise to fabricate, place and tie steel reinforcing bars, erect structural steel shapes and plates, of any profile, perimeter or cross-section, that are or may be used to reinforce concrete or as structural members for buildings and structures, including riveting, welding and rigging only in connection therewith, in such a manner that steel reinforcing and structural work can be fabricated and erected. (4-6-05)

61. 05700 Ornamental Metals. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to assemble, case, cut, shape, stamp, forage, fabricate and install sheet, rolled and cast, brass, bronze, copper, cast iron, wrought iron, monel metal, stainless steel, and any other metal or any combination thereof, as have been or are now used in the building and construction industry for the architectural treatment and ornamental decoration of buildings and structures, in such a manner that, under an agreed specification, acceptable ornamental metal work can be executed, fabricated and installed; but does not include the work of a sheet metal contractor. (4-6-05)

62. 05830 Bridge Expansion Joints and Repair. A specialty contractor whose primary business and expertise is the repair of bridge expansion joints. (4-6-05)

63. 06100 Carpentry, Framing and Remodeling. A specialty contractor whose primary business includes the placing and erection of floor systems, walls, sheeting, siding, trusses, roof decking of either wood or light gauge metal framing. This contractor also installs finish items such as running trim, sashes, doors, casing, cabinets, cases and other pre-manufactured finished items. (4-6-05)

64. 06130 Log and Heavy Timber Construction. A specialty contractor whose primary business includes the ability and expertise to build and erect log or heavy timber structures. (4-6-05)

65. 06139 Docks - Log and Wood Structures. A specialty contractor whose primary business includes the ability and expertise to construct log and wood structured docks. (4-6-05)

66. 06200 Finish Carpentry and Millwork. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to cut, surface, join, stick, glue and frame wood and wood products, in such a manner that, under an agreed specification, acceptable cabinet, case, sash, door, trim, nonbearing partition, and such other mill products as are by custom and usage accepted in the building and construction industry as millwork and fixtures, can be executed; including the placing, erecting, fabricating and finishing in buildings, structures and elsewhere of such millwork and fixtures or to do any part or any combination of any thereof. (4-6-05)

67. 07100 Waterproofing and Dampproofing. A specialty contractor whose primary business includes the ability and expertise to apply waterproofing membranes, coatings of rubber, latex, asphaltum, pitch, tar or other materials or any combination of these materials, to surfaces to prevent, hold, keep and stop water, air or steam from penetrating and passing such materials, thereby keeping moisture from gaining access to material or space beyond such waterproofing. (4-6-05)

68. 07200 Thermal Insulation. A specialty contractor whose primary business includes the installation of any insulating media in buildings and structures for the purpose of temperature control. (4-6-05)

69. 07240 Stucco and Exterior Insulation Finish Systems (EIFS). A specialty contractor whose primary business includes the ability and expertise to install Stucco and EIFS. (4-6-05)

70. 07400 Roofing and Siding. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and to bring such surfaces to a condition where asphaltum, pitch, tar, felt, flax, shakes, shingles, roof tile, slate and any other material or materials or any combination thereof, that use and custom has established as usable for, or which material or materials are now used as, such waterproof, weatherproof or watertight seal for such membranes, roof and surfaces; but does not include a contractor whose sole contracting business is the installation of devices or stripping for the internal control of external weather conditions. (4-6-05)

71. 07450 Siding and Decking. A specialty contractor whose primary business includes the application or installation of exterior siding, decking or gutters including wood, wood products, vinyl, aluminum and metal to new or existing buildings and includes wooden decks and related handrails. (This category does not include the construction or installation of covers or enclosures of any kind.) (4-6-05)

72. 07700 Sheet Metal Flashings, Roof Specialties and Accessories. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to select, cut, shape, fabricate and install sheet metal such as cornices, flashings, gutters, leaders, rainwater down spouts, pans, etc., or to do any part or any combination thereof, in such a manner that sheet metal work can be executed, fabricated and installed. (4-6-05)

73. 07800 Sprayed on Fireproofing. A specialty contractor whose primary business includes the mixing, transportation, and installation of fire proofing materials for buildings and structures. (4-6-05)

74. 07920 Caulking and Joint Sealants. A specialty contractor whose primary business includes the ability and expertise for installation of elastomeric and rigid joint sealants, caulking compounds, and related accessories. (4-6-05)

75. 08100 Doors, Gates, Specialty Doors and Activating Devices. A specialty contractor whose

primary business is the installation, modification or repair of residential, commercial or industrial doors and door hardware. This includes but is not necessarily limited to wood, metal clad or hollow metal, glass, automatic, revolving, folding and sliding doors, power activated gates, or movable sun shades/shutters. Card activated equipment and other access control devices and any low voltage electronic or manually operated door hardware devices are also a part of this category. (4-6-05)

76. 08500 Windows, Glass and Glazing. A specialty contractor whose primary business includes the art, ability, experience, knowledge and expertise to select, cut, assemble and install all makes and kinds of glass and glass work, and execute the glazing of frames, panels, sash and doors, in such a manner that under an agreed specification, acceptable glass work and glazing can be executed, fabricated and installed, and may include the fabrication or installation in any building or structure of frames, glazed-in panels, sash or doors, upon or within which such frames, glazed-in panels, sash or doors, such glass work or glazing has been or can be executed or installed. (4-6-05)

77. 09110 Steel Stud Framing. A specialty contractor whose primary business includes the ability and expertise to build or assemble steel stud framing systems. (4-6-05)

78. 09200 Lath and Plaster. A specialty contractor whose primary business includes the ability and expertise to prepare mixtures of sand, gypsum, plaster, quick-lime or hydrated lime and water or sand and cement and water or a combination of such other materials as create a permanent surface coating; including coloring for same and to apply such mixtures by use of a plaster's trowel, brush or spray gun to any surface which offers a mechanical key for the support of such mixture or to which such mixture will adhere by suction; and to apply wood or metal lath or any other materials which provide a key or suction base for the support of plaster coatings; including the light gauge metal shapes for the support of metal or other fire proof lath. Includes metal stud framing. (4-6-05)

79. 09250 Drywall. A specialty contractor whose primary business includes the ability and expertise to install unfinished and prefinished gypsum board on wood and metal framing and on solid substates; gypsum and cementitious backing board for other finishes; accessories and trim; and joint taping and finishing. (4-6-05)

80. 09300 Tile and Terrazzo. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and bring such surfaces to a condition where acceptable work can be executed and fabricated thereon by the setting of chips or marble, stone, tile or other material in a pattern with the use of cement, and to grind or polish the same. (4-6-05)

81. 09500 Acoustical Treatment. A specialty contractor whose primary business includes the installation, application, alteration and repair of all types of acoustical systems, to include acoustical ceilings, wall panels, sound control blocks and curtains, hangers, clips, inserts, nails, staples, related hardware and adhesive, lightweight framing systems and related accessories (electrical excluded), installation and repair of gypsum wall board, painting, accessories, taping and texturing. (4-6-05)

82. 09600 Flooring. A specialty contractor whose primary business includes the ability and expertise to examine surfaces, specify and execute the preliminary and preparatory work necessary for the installation of flooring, wherever installed, including wood floors and flooring (including the selection, cutting, laying, finishing, repairing, scraping, sanding, filling, staining, shellacking and waxing) and all flooring of any nature either developed as or established through custom and usage as flooring. (4-6-05)

83. 09680 Floor Covering and Carpeting. A specialty contractor whose primary business includes the installation, replacement and repair of floor covering materials, including laminates and including preparation of surface to be covered, using tools and accessories and industry accepted procedures of the craft. (4-6-05)

84. 09900 Painting and Decorating. A specialty contractor whose primary business includes the ability and expertise to examine surfaces and execute the preliminary and preparatory work necessary to bring such surfaces to a condition where acceptable work can be executed thereon with the use of paints, varnishes, shellacs, stains, waxes, paper, oilcloth, fabrics, plastics and any other vehicles, mediums and materials that may be mixed, used and applied to the surface of buildings, and the appurtenances thereto, of every description in their natural condition or constructed of any material or materials whatsoever that can be painted or hung as are by custom and usage accepted in the building and construction industry as painting and decorating. (4-6-05)

85. 09950 Sand Blasting. A specialty contractor whose primary business includes the ability and expertise to sand blast surfaces through the use of equipment designed to clean, grind, cut or decorate surfaces with a blast of sand or other abrasive applied to such surfaces with steam or compressed air. (4-6-05)

86. 09960 Specialty Coatings. A specialty contractor whose primary business includes the surface preparation and installation of specialty coatings. (4-6-05)

87. 10150 Institutional Equipment. A specialty contractor whose primary business includes the installation, maintenance and repair of booths, shelves, laboratory equipment, food service equipment, toilet partitions, and such other equipment and materials as are by custom and usage accepted in the construction industry as institutional equipment. (4-6-05)

88. 10270 Raised Access Flooring. A specialty contractor whose primary business includes the installation of wood or metal-framed elevated computer-flooring systems. This does not include the structural floor on which the computer floor is supported or mezzanines. (4-6-05)

89. 10445 Non-Electrical Signs. A specialty contractor whose primary business includes the installation of all types of non-electrical signs, including but not limited to traffic delineators, mile post markers, post or pole supported signs, signs attached to structures, painted wall signs, and modifications to existing signs. (4-6-05)

90. 11001 Specialty Machinery and Equipment Installation and Servicing. A specialty contractor whose primary business is the installation, removal, modification or repair of pumps, water and waste water equipment, conveyors, cranes, dock levelers, various hoisting and material handling equipment, trash compactors and weighing scales installation and servicing. This does not include the construction of buildings or roof structures for this equipment. (4-6-05)

91. 11140 Petroleum and Vehicle Service Equipment, Installation and Repair. A specialty contractor whose primary business includes the installation and repair of underground fuel storage tanks used for dispensing gasoline, diesel, oil or kerosene fuels. This includes installation of all incidental tank-related piping, leak line detectors, vapor recovery lines, vapor probes, low voltage electrical work, associated calibration, testing and adjustment of leak detection and vapor recovery equipment, and in-station diagnostics. This contractor may also install auto hoisting equipment, grease racks, compressors, air hoses and other equipment related to service stations. (4-6-05)

92. 11200 Water/Wastewater and Chemical Treatment. A specialty contractor whose primary business is the supply, installation and operational startup of equipment and chemicals for chemical treatment of water, wastewater or other liquid systems. (4-6-05)

93. 11485 Climbing Wall Structures and Products. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and install climbing wall structures and equipment. This does not include concrete foundations or buildings in which the climbing walls may be supported or housed. (4-6-05)

94. 12011 Prefabricated Equipment and Furnishings. A specialty contractor whose primary business includes the installation of prefabricated products or equipment including but not limited to the following: theater stage equipment, school classroom equipment, bleachers or seats, store fixtures, display cases, toilet or shower room partitions or accessories, closet systems, dust collecting systems, appliances, bus stop shelters, telephone booths, sound or clean rooms, refrigerated boxes, office furniture, all types of pre-finished, pre-wired components, detention equipment and other such equipment and materials as are by custom and usage accepted in the construction industry as prefabricated equipment. (4-6-05)

95. 12490 Window, Wall Coverings, Drapes and Blinds. A specialty contractor whose primary business includes the installation of decorative, architectural or functional window glass treatments or covering products or treatments for temperature control or as a screening device. (4-6-05)

96. 13110 Cathodic Protection. A specialty contractor whose primary business is the prevention of corrosion by using special cathodes and anodes to circumvent corrosive damage by electric current. (4-6-05)

97. 13121 Pre-Manufactured Components and Modular Structures. A specialty contractor whose primary business includes the moving, setup, alteration or repair of pre-manufactured components, houses or similar modular structures. (4-6-05)

98. 13125 Pre-Engineered Building Kits. A specialty contractor whose primary business includes the assembly of pre-engineered building kits or structures obtained from a single source. This category is limited to assembly only of pre-engineered metal buildings, pole buildings, sunrooms, geodesic structures, aluminum domes, air supported structures, manufactured built greenhouses or similar structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating or cooling, or electrical work. (4-6-05)

99. 13150 Swimming Pools and Spas. A specialty contractor whose primary business includes the ability to construct swimming pools, spas or hot tubs including excavation and backfill of material, installation of concrete, Gunite, tile, pavers or other special materials used in pool construction. This category also includes the installation of heating and filtration equipment, using those trades or skills necessary for installing the equipment, which may require other licenses including electrical and plumbing. (4-6-05)

100. 13165 Aquatic Recreational Equipment. A specialty contractor whose primary business includes the ability and expertise to design, fabricate and erect water slides and water park equipment and structures. This does not include any other categories such as concrete foundations, carpentry, plumbing, heating, cooling or electrical work. (4-6-05)

101. 13201 Circular Prestressed Concrete Storage Tanks (Liquid and Bulk). A specialty contractor whose primary business is the construction of circular prestressed concrete structures post-tensioned with circumferential tendons or wrapped circular prestressing. (4-6-05)

102. 13280 Hazardous Material Remediation. A specialty contractor whose primary business includes the ability and expertise to safely encapsulate, remove, handle or dispose of hazardous materials within buildings, including but not limited to asbestos, lead and chemicals. Contractors must be properly licensed and certified. (4-6-05)

103. 13290 Radon Mitigation. A specialty contractor whose primary business and expertise includes the detection and mitigation of Radon gas. (4-6-05)

104. 13800 Instrumentation and Controls. A specialty contractor whose primary business includes the installation, alteration or repair of instrumentation and control systems used to integrate equipment, sensors, monitors' controls and mechanical operators for industrial processes, building equipment, mechanical devices and related equipment. (4-6-05)

105. 13850 Alarm Systems. A specialty contractor whose primary business includes the installation, alteration and repair of communication and alarm systems, including the mechanical apparatus, devices, piping and equipment appurtenant thereto (except electrical). (4-6-05)

106. 13930 Fire Suppression Systems (Wet and Dry-Pipe Sprinklers). A specialty contractor whose primary business includes the ability and expertise to lay out, fabricate and install approved types of Wet-Pipe and Dry-Pipe fire suppression systems, charged with water, including all mechanical apparatus, devices, piping and equipment appurtenant thereto. Licensure with State Fire Marshal is required. (4-6-05)

107. 13970 Fire Extinguisher and Fire Suppression Systems. A specialty contractor whose primary business is the installation of pre-engineered or pre-manufactured fixed chemical extinguishing systems primarily used for protecting kitchen-cooking equipment and electrical devices. Contractor also furnishes, installs and maintains portable fire extinguishers. (4-6-05)

108. 14200 Elevators, Lifts and Hoists. A specialty contractor whose primary business includes the ability to safely and efficiently install, service and repair all elevators, lifts, hoists, including the fabrication, erection and installation of sheave beams, sheave motors, cable and wire rope, guides, cabs, counterweights, doors, sidewalk elevators, automatic and manual controls, signal systems and other devices, apparatus and equipment appurtenant to

the installation. (4-6-05)

109. 15100 Pipe Fitter and Process Piping. A specialty contractor whose primary business is the installation of piping for fluids and gases or materials. This category does not include domestic water, sewage, fire protection and utilities as they are covered under other categories. (4-6-05)

110. 15400 Plumbing. A specialty contractor whose primary business includes the ability to create and maintain sanitary conditions in buildings, by providing a permanent means for a supply of safe, pure and wholesome water, ample in volume and of suitable temperatures for drinking, cooking, bathing, washing, cleaning, and to cleanse all waste receptacles and like means for the reception, speedy and complete removal from the premises of all fluid and semi-fluid organic wastes and other impurities incidental to life and the occupation of such premises, including a safe and adequate supply of gases for lighting, heating, and industrial purposes. (Licensure with State Plumbing Bureau is required). (4-6-05)

111. 15510 Boiler and Steam Fitting. A specialty contractor who installs, services and repairs boilers and associated steam distribution systems. This category is limited to work not requiring a heating, ventilating, and air conditioning (HVAC) license issued by the Division of Building Safety. (4-2-08)

112. 15550 Chimney Repair. A specialty contractor whose primary business includes the cleaning or repair of multi-type chimneys, flues or emission control devices used to conduct smoke and gases of combustion from above a fire to the outside area. (4-6-05)

113. 15600 Refrigeration. A specialty contractor whose primary business includes the art, ability, experience, knowledge, science and expertise to construct, erect, install, maintain, service and repair devices, machinery and units for the control of air temperatures below fifty (50) degrees Fahrenheit in refrigerators, refrigerator rooms, and insulated refrigerated spaces and the construction, erection, fabrication and installation of such refrigerators, refrigerator rooms, and insulated refrigerator spaces, temperature insulation, air conditioning units, ducts, blowers, registers, humidity and thermostatic controls of any part or any combination thereof, in such a manner that, under an agreed specification acceptable refrigeration plants and units can be executed, fabricated, installed, maintained, serviced and repaired, but does not include those contractors who install gas fuel or electric power services for such refrigerator plants or other units. (4-6-05)

114. 15700 Heating, Ventilation, and Air Conditioning (HVAC). A specialty contractor whose primary business includes the installation, alteration and repair of heating, ventilating, and air conditioning (HVAC) systems. Licensure by the Division of Building Safety as an HVAC contractor is required. (4-2-08)

115. 15950 Testing and Balancing of Systems. A specialty contractor whose primary business includes the installation of devices and performs any work related to providing for a specified flow of air or water in all types of heating, cooling or piping systems. (4-6-05)

116. 16000 Electrical. A contractor engaging in, conducting, or carrying on the business of installing wires or equipment to carry electric current or installing electrical apparatus to be operated by such current. A contractor licensed in this category may perform all work covered in categories defined in Subsection 200.118 of these rules. A contractor in this category must be an electrical contractor, licensed pursuant to Section 54-1007(1), Idaho Code. (3-30-07)

117. 16700 Communication. A specialty contractor whose primary business includes the installation, alteration or repair of communication systems (voice, data, television, microwave, and other communication systems). (4-6-05)

118. 16800 *Limited* Electrical Contractor. A contractor engaging in, conducting, or carrying on the business of installing, altering, or repairing special classes of electrical wiring, apparatus, or equipment. A contractor in this category must be an electrical specialty contractor, licensed pursuant to Section 54-1007(1), Idaho Code, and may perform only that work included within the specialty license. Electrical specialty categories include, but are not limited to: *( )*

a. Elevator, Dumbwaiter, Escalator or Moving-walk Electrical; (3-30-07)

b. Sign Electrical; (3-30-07)

c. Manufacturing or Assembling Equipment; (3-30-07)

d. Limited Energy Electrical License (low voltage); (3-30-07)

e. Irrigation Sprinkler Electrical; (3-30-07)

f. Well Driller and Water Pump Installer Electrical; and (3-30-07)

g. Refrigeration, Heating and Air Conditioning Electrical Installer. (3-30-07)

119. 18100 Golf Course Construction. A specialty contractor whose primary business includes the construction, modification, and maintenance of golf courses. This includes clearing, excavation, grading, landscaping, sprinkler systems and associated work. This does not include the construction of buildings or structures such as clubhouses, maintenance or storage sheds. (4-6-05)

120. 18200 Underwater Installation and Diving. A specialty contractor whose primary business is marine construction under and above water. (4-6-05)

121. 18300 Develop Gas and Oil Wells. A specialty contractor whose primary business includes the ability and expertise to perform oil well drilling and other oil field related specialty work. This does not include water well drilling. (4-6-05)

122. 18400 Nonstructural Restoration After Fire or Flood. A specialty contractor whose primary business includes cleaning and nonstructural restoration after fire, flood or natural disasters. (4-6-05)

123. 18600 Building Cleaning and Maintenance. A specialty contractor whose primary business includes the cleaning and maintenance of a structure designed for the shelter, enclosure and support of persons, chattels, personal and moveable property of any kind. (4-6-05)

124. 18700 Snow Removal. A specialty contractor whose primary business includes the plowing, removal or disposal of snow from roads, streets, parking lots and other areas of the public rights-of-way. (4-6-05)

125. 18800 Roadway Cleaning, Sweeping and Mowing. A specialty contractor whose primary business includes the clearing of trash and debris by manual or automated means from public thoroughfares. This category also includes cutting or mowing of grasses, plants, or weeds from public rights-of-way. (4-6-05)

201. FEES.

01. Public Works Contractor Licensing Fees. In accordance with Section 54-1904, Idaho Code, initial licensing and renewal fees for each class of public works contractor licenses are as provided in Table 201.01, Initial and Renewal Licensing Fees.

TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES

License Class	Initial Fee	Renewal Fee
Unlimited	$550	$550
AAA	$450	$450
AA	$350	$350
A	$250	$250
B	$150	$150

TABLE 201.01 – INITIAL AND RENEWAL LICENSING FEES		
License Class	**Initial Fee**	**Renewal Fee**
CC	$125	$125
C	$100	$100
D	$50	$50

(6-30-19)T

02. Construction Manager Licensing Fees. Initial licensing and renewal fees for construction manager licenses are, in accordance with Section 54-4510, Idaho Code, as follows:

TABLE 201.02 – CONSTRUCTION MANAGER LICENSING FEES	
License Activity	***Fee***
Initial Licensing	*$200*
License Renewal	*$200*
Inactive License	*$50*
License Reinstatement	*$200*
Exam Administration	*Fee established by testing agency*
Certificate of Authority	*$100*

( )

03. Application Filed With Fees. Required fees must accompany all applications. An application filed without the required fees is deemed incomplete and returned to the applicant. (3-20-04)

202. COMPLAINTS.
Complaints alleging a violation of Title 54, Chapter 19, Idaho Code, or these rules must be in writing and filed with the administrator. All complaints must be verified and submitted on forms provided by the Board. *( )*

203. -- 299. (RESERVED)

300. BUSINESS ORGANIZATION -- CHANGES IN ORGANIZATION OR STRUCTURE -- MEMBERS OF JOINT VENTURES - CHANGES FOR REASONS OTHER THAN DEATH.
A licensed public works contractor or construction manager who undergoes a change in business organization or structure (such as a change from an individual proprietor to a partnership, corporation, limited liability partnership, limited liability company, joint venture, or other combination thereof), or where there is a change in ownership, must file an application for a new license on behalf of such successor organization or new owners within sixty (60) days after such change occurs. The administrator may authorize the continuous operation of the licensee as a contractor during the interim period until the application of the successor organization is reviewed; provided written notice of such change is filed within thirty (30) days after such change occurs. Each participant in a joint venture must be licensed at the time of bidding. Where there is a change in the surviving members of a licensed partnership, limited liability company, or limited liability partnership, due to a reason other than the death of one (1) of the partners, the remaining or succeeding member or members are required to file an application for an original license. (3-20-04)

301. -- 399. (RESERVED)

400. CERTIFICATES -- DISPLAY AND POSSESSION.
Licensee must sign and display the license certificate issued to him in his main office or chief place of business and

must furnish satisfactory evidence of the possession of a *current* license upon the administrator's demand. *( )*

401. LICENSE NUMBER ON BIDS.
Licensee must place his license number on any and all bids submitted or contracts entered into, for any public works projects in the state of Idaho. (7-1-93)

402. CHANGES IN LICENSE CERTIFICATE.
When any change in the license certificate has been approved by the Board, a new license certificate will be issued. (3-19-99)

403. -- 501. (RESERVED)

502. TECHNICALITIES OF FORM.
The administrator may, during any hearing or proceeding waive any technicalities of form not deemed necessary in the circumstances. (3-20-04)

503. HEARINGS.
The general procedure for hearings before the administrator and the Board is as prescribed in these rules and Title 67, Chapter 52, Idaho Code. (3-20-04)

01. Notes. Any interested persons may request, in writing, five (5) days before any scheduled hearing in a contested case that the oral proceedings thereof be taken in the form of stenographic notes to be transcribed at his own expense. (7-1-93)

02. Procedure. The Board reserves the right to amend, modify or repeal all or any part of the above procedure or to dispense with any part thereof, at any hearing before the Board, as it may deem necessary in the circumstances. (7-1-93)

504. -- 599. (RESERVED)

600. CONSTRUCTION MANAGER EXAMINATIONS.
If the applicant fails an examination, the applicant may take the examination a second time. A grade of at least seventy-five percent (75%) is required to pass each section of the examination. If the applicant fails to score a passing grade, the applicant must pass all failed sections within one (1) year of the initial test date. If the applicant fails to achieve a passing grade in each individual section on the second examination, the applicant must wait one (1) full year before taking the examination again. The applicant must then take and pass all sections of the examination (receiving no credit for sections successfully completed during the previous year). (3-20-04)

601. -- 999. (RESERVED)

07.07.01 – RULES GOVERNING INSTALLATION OF HEATING, VENTILATION, AND AIR CONDITIONING SYSTEMS, DIVISION OF BUILDING SAFETY

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Sections 54-5001 and 54-5005(2), Idaho Code. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.07.01, "Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems" (HVAC Rules). (3-16-04)

02. Scope. These rules establish the minimum standards for heating, ventilation, and air conditioning (HVAC) installation practice, certification, registration, and educational programs. (3-16-04)

002. – 003. (RESERVED)

004. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL MECHANICAL CODE, 2012 EDITION.

01. International Mechanical Code. The 2012 Edition, including appendix "A," (herein IMC) is adopted and incorporated by reference with the following amendments: (3-20-14)

a. Where differences occur between the IMC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)

d. Section 109. Delete. (7-1-10)

e. Section 202 Definitions. Delete the definitions provided in the code for the terms identified herein this paragraph and replace with the following: (3-29-17)

i. Light-Duty Cooking Appliance. Light-duty cooking appliances include gas and electric ovens (including standard, bake, roasting, revolving, retherm, convection, combination convection/steamer, countertop conveyorized baking/finishing, deck, pastry, and electric and gas conveyor pizza ovens), electric and gas steam jacketed kettles, electric and gas pasta cookers, electric and gas compartment steamers (both pressure and atmospheric) and electric and gas cheesemelters. (3-29-17)

ii. Medium-Duty Cooking Appliance. Medium-duty cooking appliances include electric discrete element ranges (with or without oven), electric and gas hot-top ranges, electric and gas griddles, electric and gas double sided griddles, electric and gas fryers (including open deep fat fryers, donut fryers, kettle fryers and pressure fryers), electric and gas tilting skillets (braising pans) and electric and gas rotisseries. (3-29-17)

f. Section 401.1 Scope. Add the following: Exception: The principles specified in ASHREA 62-2010 may be used as an alternative to this chapter to demonstrate compliance with required ventilation air for occupants. (4-7-11)

g. Section 504.6.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

h. Table 603.4 Duct Construction Minimum Sheet Metal Thickness for Single Dwelling Units. Add the following exception to the Table: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

02. Availability of the International Mechanical Code. The 2012 Edition is available at the Division of Building Safety offices located at 1090 E. Watertower St., Suite 150, Meridian, Idaho 83642, 1250 Ironwood Dr.,

Ste. 220, Coeur d'Alene, Idaho 83814, and 2055 Garrett Way, Building 1, Suite 4, Pocatello, Idaho 83201. (3-20-14)

005. ADOPTION AND INCORPORATION BY REFERENCE OF THE INTERNATIONAL FUEL GAS CODE, 2012 EDITION.

01. International Fuel Gas Code. The 2012 Edition, including appendixes "A, B, C, and D," (herein IFGC) is adopted and incorporated by reference with the following amendments: (3-20-14)

a. Where differences occur between the IFGC and Title 54, Chapter 50, Idaho Code and IDAPA 07, Title 07, the provisions in Idaho Code and IDAPA rules apply. (4-11-06)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-11-06)

d. Section 109. Delete. (7-1-10)

e. Section 406.4. Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-11-06)

f. Section 406.4.1. Test Pressure. Not less than twenty (20) psig (140kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (70kPa gauge); not less than sixty (60) psig (420kPa gauge) test pressure is required. For systems over ten (10) psig (70kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-11-06)

g. Section 406.4.2. The test duration may not be less than twenty (20) minutes. (4-11-06)

h. Section 408.4. Sediment Trap. Delete the last sentence and replace it with the following: Illuminating appliances, ranges, clothes dryers, outdoor grills, decorative vented appliances for installation in vented fireplaces, and gas fireplaces need not be so equipped. (4-7-11)

i. Add a new section 503.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

j. Section 505.1.1. Addition. An interlock between the cooking appliance and the exhaust hood system is not be required for appliances that are of the manually operated type and are factory equipped with standing pilot burner ignition systems. (4-11-06)

02. Availability of the International Fuel Gas Code. The 2012 Edition is available at the Division of Building Safety offices. *( )*

006. ADOPTION AND INCORPORATION BY REFERENCE OF PART V (MECHANICAL) AND PART VI (FUEL GAS) OF THE INTERNATIONAL RESIDENTIAL CODE FOR ONE (1)- AND TWO (2)-FAMILY DWELLINGS, 2012 EDITION.

01. Part V (Mechanical) and Part VI (Fuel Gas) of the International Residential Code for One (1)- and Two (2)-Family Dwellings. The 2012 Edition, including appendixes "A, B, C, and D," (herein IRC) is adopted and incorporated by reference with the following amendments: (3-20-14)

a. Where differences occur between the IRC and Title 54, Chapter 50, Idaho Code, and IDAPA 07, Title 07, Chapter 01, the provisions in Idaho Code and IDAPA rules apply. (4-7-11)

b. All references to the International Plumbing Code (IPC) are construed as referring to the Idaho State Plumbing Code (ISPC) as adopted and amended by the Idaho State Plumbing Board. (3-20-14)

c. All references to the International Code Council Electrical Code (ICC EC) are construed as referring to the National Electrical Code (NEC) as adopted and amended by the Idaho State Electrical Board. (4-7-11)

d. Add the following as section M1201.3 and section G2402.4 (201.4): Alternative materials, design and methods of construction equipment. The provisions of this part of the code are not intended to prevent the installation of any material or to prohibit any design or method of construction not specifically prescribed by this code, provided that any such alternative has been approved. An alternative material, design or method of construction must be approved where the authority having jurisdiction finds that the proposed design is satisfactory and complies with the intent of the provisions of this code, and that the material, method or work offered is, for the purpose intended, at least the equivalent of that prescribed in this code. Compliance with the specific performance-based provisions of this part of the code in lieu of specific requirements of this code will also be permitted as an alternate. (4-4-13)

e. Add the following as section M1201.3.1 and section G2402.4.1 (201.4.1): Tests. Whenever there is insufficient evidence of compliance with the provisions of this part of the code, or evidence that a material or method does not conform to the requirements of this part of the code, or in order to substantiate claims for alternative materials or methods, the authority having jurisdiction has the authority to require tests as evidence of compliance to be made at no expense to the jurisdiction. Test methods are as specified in this code or by other recognized test standards. In the absence of recognized and accepted test methods, the authority having jurisdiction approves the testing procedures. Tests must be performed by an approved agency. Reports of such tests must be retained by the authority having jurisdiction for the period required for retention of public records. (4-4-13)

f. Add the following as section M1203.1: Carbon monoxide alarms. For new construction, an approved carbon monoxide alarm must be installed outside of each separate sleeping area in the immediate vicinity of the bedrooms in dwelling units within which fuel-fired appliances are installed and in dwelling units that have attached garages. (4-4-13)

g. Add the following as section M1203.2: Where required in existing dwellings. Where work requiring a permit occurs in existing dwellings that have attached garages or in existing dwellings within which fuel-fired appliances exist, carbon monoxide alarms must be provided in accordance with Subsection 006.01.f. of these rules. (4-4-13)

h. Add the following as section M1203.3: Alarm requirements. Single station carbon monoxide alarms must be listed as complying with UL 2034 and be installed in accordance with this code and the manufacturer's installation instructions. (4-4-13)

i. Section M1502.4.1 Material and size. Add the following exception: Dryer duct may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

j. Delete Section M1502.4.2 Duct Installation and replace with the following: Exhaust ducts must be supported at four (4) foot (1,219 mm) intervals and secured in place. The insert end of the duct must extend into the adjoining duct or fitting in the direction of airflow. Ducts must not be joined with screws or similar fasteners that protrude into the inside of the duct. (3-20-14)

k. Table M1601.1.1 (2) Gauges of Metal Ducts and Plenums Used for Heating or Cooling. Add the following exception: Round duct, enclosed rectangular ducts and fittings less than fourteen (14) inches may be constructed of 0.013 (30 gauge) or equivalent if prefabricated 0.016 (28 gauge) ducts and fittings are not available. (3-20-14)

l. Section G2417.4 (406.4). Change the last sentence to: Mechanical gauges used to measure test pressure must have a range such that the highest end of the scale is not greater than two (2) times the test pressure nor lower than one and one-half (1.5) times the test pressure. (4-7-11)

m. Section G2417.4.1 (406.4.1). Test Pressure. Not less than twenty (20) psig (one hundred forty (140) kPa gauge) test pressure is required for systems with a maximum working pressure up to ten (10) inches water column. For systems with a maximum working pressure between ten (10) inches water column and ten (10) psig (seventy (70) kPa gauge), not less than sixty (60) psig (four hundred twenty (420) kPa gauge) test pressure is required. For systems over ten (10) psig (seventy (70) kPa gauge) working pressure, minimum test pressure may be no less than six (6) times working pressure. (4-7-11)

n. Section G2417.4.2 (406.4.2). The test duration may not be less than twenty (20) minutes. (4-7-11)

o. Add a new section G2427.4.1.2 as follows: Testing. All plastic pipe within a dwelling used for venting flue gases must be tested at five (5) psi for fifteen (15) minutes. (4-4-13)

02. Availability of the International Residential Code for One (1)- and Two (2)-Family Dwellings. The 2012 Edition is available at the Division of Building Safety offices. *( )*

007. FILING OF DOCUMENTS.
All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case, must be filed with the administrator of the Division. Communications and documents must be filed by mail, hand-delivery, or by facsimile transmission. One (1) original must be filed with the administrator, and one (1) copy must be submitted to the opposing parties. Whenever documents are filed by facsimile transmission, originals must be deposited in the mail the same day or hand-delivered the following business day to the administrator and opposing parties. (3-16-04)

008. -- 009. (RESERVED)

010. CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of name occurs for a certified contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the Board must be notified immediately, in writing, of the change *with appropriate documentation of* the change provided to the Board *upon* request. *( )*

02. Change of Address. Whenever a change of mailing address occurs for a certificated contractor, journeyman, specialty journeyman, specialty contractor, registered apprentice, or specialty apprentice, the HVAC board must be notified immediately, in writing, of the change. (4-11-06)

03. Address for Notification Purposes. The most recent mailing address on record with the HVAC board will be utilized for purposes of all written communication with certified contractors, journeymen, specialty journeymen, specialty contractors, registered apprentices, and specialty apprentices, including, but not limited to, notification of renewal and notices related to inspections. (4-11-06)

011. MEETINGS.
Board meetings are subject to the provisions of the Idaho Open Meeting Law, Title 67, Chapter 23, Idaho Code. (3-16-04)

012. DEFINITIONS.

01. Administrator. The administrator of the Idaho Division of Building Safety. (3-16-04)

02. Board. The Idaho Heating, Ventilation, and Air Conditioning (HVAC) Board. (3-16-04)

03. Division. The Idaho Division of Building Safety. (3-16-04)

04. Additional Definitions. Terms defined in Section 54-5003, Idaho Code, will have the same meaning when utilized in these rules. (3-16-04)

013. CERTIFICATES OF COMPETENCY -- ISSUANCE, RENEWAL, EXPIRATION -- REVIVAL.

01. Issuance. Certificates of competency will be issued in such a manner as to create a renewal date that coincides with the birth month of the individual to whom the certificate is issued and allows for renewals every three (3) years. *Certificates of competency are issued for a period of no less than one (1) year and no more than (3) three years. The fee for issuance of certificates of competency will be prorated based on the number of months for which the certificate is issued.* *( )*

02. Renewal. Certificates of competency will be renewed using the birth month of the individual to whom the certificate is issued as the expiration date. *Certificates of competency are renewed for a period of no less than one (1) year and no more than three (3) years. The fee for renewal of certificates of competency will be prorated based on the number of months for which the certificate is issued.* *( )*

03. Expiration-Revival. (4-6-05)

a. Certificates that are not timely renewed will expire on the last day of the month in which the renewal is due. (4-6-05)

b. Revived certificates will be issued in such a manner as to create a renewal date that coincides with the birth month of the applicant so as to create a staggered system of renewal. (4-6-05)

014. -- 019. (RESERVED)

020. HVAC CONTRACTOR AND HVAC JOURNEYMAN APPLICATIONS FOR EXAMINATION AND CERTIFICATES OF COMPETENCY, AND REGISTRATION OF APPRENTICES.

01. Application Forms. All applications for certificates and all applications for registration must be submitted on forms provided by the administrator and be properly completed, giving all pertinent information *with notarized* signatures. *( )*

02. Application, Renewal, and Registration Fees. Fees for applications for examination, certificates of competency, renewal of certificates, and fees for apprentice registration are as set forth in Section 54-5012, Idaho Code. (3-16-04)

03. Application Submission. All applications must be submitted to the board and be approved by an administrator before any examination may be taken and before any certificate of competency is issued. (3-16-04)

021. HVAC CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.

01. Bond. Provide a compliance bond in the amount of two thousand dollars ($2,000). Any such bond is required to be effective for the duration of the contractor licensing period. (3-29-12)

02. Qualification. Provide proof, satisfactory to the board, of having legally acted as an HVAC journeyman for a period of not less than twenty-four (24) months. (3-16-04)

03. Examination. Successfully complete the examination designated by the board. (3-16-04)

022. HVAC SPECIALTY CONTRACTOR CERTIFICATE OF COMPETENCY - REQUIREMENTS.
Applicants for certification as HVAC specialty contractors must: *( )*

01. Bond. Provide a compliance bond in the amount of two thousand dollars ($2,000). Any such bond is required to be effective for the duration of the contractor licensing period. (3-29-12)

02. Qualification. Provide proof, satisfactory to the board, of having legally acted as an HVAC specialty journeyman for a period of not less than twenty four (24) months. (3-16-04)

03. Examination. Successfully complete the examination designated by the board. (3-16-04)

023. HVAC JOURNEYMAN CERTIFICATES OF COMPETENCY: REQUIREMENTS.

01. Experience. Demonstrate, to the satisfaction of the board, a minimum of four (4) years' experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman. Notwithstanding the requirement that an HVAC apprentice demonstrate four (4) years of on-the-job work experience under the supervision of a qualified HVAC journeyman, any HVAC apprentice who successfully completes a Board-approved, full-time, one (1)-academic-year HVAC training course may receive credit for up to one (1) year of on-the-job work experience. (4-11-19)

02. Education. Successfully complete any required apprenticeship training courses. (3-16-04)

03. Examination. Applicants for certification as HVAC journeymen must successfully complete the examination designated by the board. (3-16-04)

a. Each HVAC apprentice who desires to take the HVAC journeyman examination must complete a Board-approved training course as described in Subsection 025.02 of these rules prior to the date of the examination and provide a certificate of completion with the apprentice's application for examination. There is no minimum work experience requirement to be eligible to take the HVAC journeyman examination. (4-11-19)

b. The Division will not issue a certificate of competency to an HVAC apprentice until the apprentice furnishes to the Division proof of satisfaction of the requirements contained in Subsection 023.01 of these rules and successful completion of the journeyman examination. (4-11-19)

04. Out of State Journeyman Applications. (3-24-17)

a. Exhibition of a license issued by another recognized jurisdiction may be accepted as proof of meeting the experience and schooling requirements listed in Subsections 023.01 and 023.02 of these rules. An application for a journeyman certificate of competency from an individual previously licensed as a journeyman in another jurisdiction recognized by the Idaho HVAC Board must include satisfactory proof of licensure in such jurisdiction. The applicant must pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)

b. An application for a journeyman certificate of competency from an individual who has never been previously licensed as a journeyman in a jurisdiction recognized by the Idaho HVAC Board must include evidence that demonstrates that the applicant has four (4) years, defined as eight thousand (8,000) hours of HVAC work experience or a nature at least equivalent to that which a HVAC apprentice performs in Idaho, as well as four (4) years of schooling equivalent to that which a HVAC apprentice must complete in Idaho. Alternatively, such an applicant may submit sufficient proof verifying eight (8) years, defined as a minimum of sixteen thousand (16,000) hours of HVAC work experience of a nature at least equivalent to that which a HVAC apprentice performs in Idaho. Upon submission of sufficient proof of having completed such experience and schooling requirements, such applicant must also pay all applicable application and examination fees to the Division, and successfully complete the journeyman examination administered by the Division. (3-24-17)

024. HVAC HEARTH SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS: REQUIREMENTS.

Certification as a hearth specialty journeyman entitles the holder to install hearth appliances and the associated gas lines. Hearth Specialty Journeymen are required to meet the experience requirement and either the education or examination requirement to receive a certificate of competency. (4-2-08)

01. Experience. Demonstrate, to the satisfaction of the board, a minimum of one (1) year experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. (4-11-06)

02. Education. Successfully complete a board approved training course(s), such as the National Fireplace Institute program and a minimum of sixty (60) hours of education in fuel gas code and piping installation

methods. (4-2-08)

03. Examination. Successfully complete an examination designated by the board. (4-2-08)

025. HVAC APPRENTICE REQUIREMENTS FOR REGISTRATION.
Requirements for HVAC Apprentice. (4-11-06)

01. Age. Minimum of eighteen (18) years of age unless registered in a Bureau of Apprenticeship Training (BAT) certified HVAC training program. (4-11-06)

02. Training. Maintain enrollment in or successfully complete a training program approved by the board. (4-11-06)

03. Supervision. Work under the supervision of a certified HVAC journeyman. (4-11-06)

026. HVAC SPECIALTY APPRENTICE REQUIREMENTS FOR REGISTRATION.
Requirements for HVAC Specialty Apprentice. (4-11-06)

01. Age. Minimum of eighteen (18) years of age unless registered in a Bureau of Apprenticeship Training (BAT) certified HVAC training program. (4-11-06)

02. Training. Maintain enrollment in or successfully complete a training program approved by the board. (4-11-06)

03. Supervision. Work under the supervision of a certificated HVAC journeyman or certificated HVAC specialty journeyman. (4-11-06)

027. HVAC WASTE OIL HEATING SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS: REQUIREMENTS.
Certification as a waste oil heating specialty journeyman entitles the holder to install non-duct connected waste oil heaters. Waste oil heating specialty journeymen are limited to the maintenance, installation, and repair of the equipment, controls, and piping directly associated with the waste oil heater, tank, and burner only. Any plumbing, electrical, ducting, venting, or associated equipment beyond the waste oil heater, tank, and burner must be installed by others. Applicants for the waste oil heating specialty journeyman certificate of competency *must:* *( )*

01. Experience. Demonstrate to the satisfaction of the board, a minimum of one (1) year experience making waste oil heating installations under the supervision of a qualified HVAC journeyman or HVAC Waste Oil Heating specialty journeyman. (4-2-08)

02. Examination. Successfully complete a waste oil burner manufacturers certification or examination as approved by the board. *( )*

028. HVAC FUEL GAS PIPING SPECIALTY JOURNEYMAN CERTIFICATES OF COMPETENCY LIMITATIONS: REQUIREMENTS.
Certification as fuel gas piping specialty journeyman entitles the holder to install fuel gas piping only and does not make the final termination. Appliances and the associated gas piping, chimney, and vents must be installed by others. Fuel gas specialty journeymen are required to meet the experience requirement and either the education or examination requirement to receive a certificate of competency. (4-2-08)

01. Experience. Demonstrate, to the satisfaction of the board, a minimum of one (1) year experience working in the trade, in compliance with the requirements of the state in which the applicant received his supervision, or as a registered HVAC apprentice or registered HVAC specialty apprentice making HVAC installations on the job under the supervision of a qualified HVAC journeyman or qualified HVAC specialty journeyman. (4-2-08)

02. Education. Successfully complete a board approved training course(s), of a minimum of sixty (60) hours of education in fuel gas code and piping installation methods. (4-2-08)

03. Examination. Successfully complete an examination designated by the board. (4-2-08)

029. -- 049. (RESERVED)

050. HVAC PERMITS.

01. Serial Number. Each permit must bear a serial number. (3-16-04)

02. HVAC Contractors and HVAC Specialty Contractors. The Division will furnish permits to certified HVAC contractors and HVAC specialty contractors upon request. The serial numbers of such permits must be registered in the name of the HVAC contractor or HVAC specialty contractor to whom they are issued. Permits are not transferable. (3-16-04)

03. Home Owners. Home owners or a contract purchaser of residential property, making HVAC installations on their own residences, coming under the provisions of Section 54-5002, Idaho Code, must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

04. HVAC Contractors and HVAC Specialty Contractors. HVAC contractors and HVAC specialty contractors must secure an HVAC permit by making application to the Division as provided in Section 54-5016, Idaho Code. (3-16-04)

05. Transferring a Permit. A HVAC permit may be transferred to another eligible party if such party provides to the Division written authorization signed and notarized by the original permit holder consenting to the transfer itself as well as assignment of all the responsibilities and conditions incorporated into the original permit issuance. A permit may be transferred to the owner of the property on which the HVAC work is to be performed and for which the permit was issued for such owners' designated legal agent, in cases where the property owner has terminated their legal relationship with the HVAC contractor who originally obtained the permit. An administrative fee in the amount of forty-five dollars ($45) for the transfer of a permit will be assessed by the Division. (3-24-17)

06. Refunds of Permits. The Administrator may authorize a refund for any permit fee paid on the following bases: The Administrator may authorize a refund of the entire permit fee paid when no work has been performed related to the installations or HVAC work covered by a permit issued by the Division. A lesser amount up to fifty percent (50%) of the permit fee amount may be refunded if work has commenced and the project is less than fifty percent (50%) complete as determined by the Division. The Administrator will not authorize a refund of any permit fee paid except upon written application for such filed by the original permit holder or the property owner's representative not less than one hundred eighty (180) days after the date the permit was issued. ( )

051. FEES FOR HVAC INSPECTIONS.

HVAC inspection fees are to cover the cost of HVAC inspections as provided by Section 54-5017, Idaho Code; any person, partnership, company, firm, association, or corporation making an HVAC installation must pay to the Division of Building Safety an inspection fee as provided in the following schedule: (3-26-08)

01. New Residential - Single-Family Dwelling. Includes all buildings with HVAC systems being constructed on each property.

New Residential - Single-Family Dwelling		
Up to 1,500 Square feet of living space	-	$130
1,501 to 2,500 Square feet of living space	-	$195
2,501 to 3,500 Square feet of living space	-	$260
3,501 to 4,500 Square feet of living space	-	$325
Over 4,500 Square feet of living space	-	$325 plus $65 for each additional 1,000 square feet or portion thereof

(4-9-09)

02. New Residential - Multi-Family Dwellings.

New Residential - Multi-Family Dwellings		
Duplex Apartment	-	$260
Three (3) or more multi-family units	-	$130 per Building plus $65 per Unit

(3-26-08)

03. Existing Residential. Sixty-five dollars ($65) plus ten dollars ($10) for each additional piece of HVAC equipment being installed up to a maximum of the corresponding square footage of the residential building. (3-26-08)

04. Other Installations Including Industrial and Commercial. The inspection fees listed in this Section apply to any and all HVAC installations not specifically mentioned elsewhere in this schedule. The HVAC cost is the cost to the owner of all labor charges and all other costs that are incurred in order to complete the installation of any and all HVAC equipment and materials installed as part of the HVAC system. (3-26-08)

a. HVAC system cost not exceeding ten thousand dollars ($10,000): sixty dollars ($60) plus two percent (2%) of the total HVAC system cost. (3-26-08)

b. HVAC system cost over ten thousand dollars ($10,000) but not exceeding one hundred thousand dollars ($100,000): two hundred sixty dollars ($260) plus one percent (1%) of the HVAC system cost exceeding ten thousand dollars ($10,000). (3-26-08)

c. HVAC system cost over one hundred thousand dollars ($100,000): one thousand one hundred sixty dollars ($1,160) plus one half of one percent (.5%) of the HVAC system cost exceeding one hundred thousand dollars ($100,000). (3-26-08)

d. All fees calculated under this schedule must be calculated on the total HVAC cost of the job, and this figure must be shown on the permit. (3-26-08)

05. Requested Inspections A fee of sixty-five dollars ($65) per hour or portion of an hour applies, with the requesting party responsible for all costs incurred in out-of-state travel. (3-26-08)

06. Additional Fees and Re-Inspection Fees. A fee of sixty-five dollars ($65) per hour or portion of an hour applies to: (3-26-08)

a. Trips to inspect when the submitter of the permit had given notice to the Division of Building Safety that the work is ready for inspection and it is not, if the submitter has not accurately identified the work location, or if the inspector cannot gain access to make the inspection. (3-26-08)

b. Trips to inspect corrections required by the inspector as a result of the submitter improperly responding to a corrective notice. (3-26-08)

c. Each trip necessary to remove a red tag from the jobsite. (3-26-08)

d. When corrections have not been made in the prescribed time, unless an extension has been requested and granted. (3-26-08)

e. No permit - failure to post or send permit and required fee in the prescribed time will, at the discretion of the Division, result in the assessment of a double fee. (3-26-08)

07. Plan Check Fee. Sixty-five dollars ($65) per hour or portion thereof. (3-26-08)

052. -- 059. (RESERVED)

060. REQUIRED INSPECTIONS.

01. Request for Division of Building Safety Inspection. (3-16-04)

a. Inspection. Each permit holder must notify the Division at least one (1) day prior to the desired inspection, Sundays and holidays excluded, that the project is ready for inspection. (3-16-04)

b. Reinspection. If a reinspection is required after the final inspection, due to a failure to meet requirements of Title 54, Chapter 50, Idaho Code, and/or these rules, the permit holder will be charged a fee not to exceed the actual cost of each reinspection. (3-16-04)

02. Inspection Tags. Inspectors certify to the permit holder that an inspection has been done by securely attaching the inspection tag in a prominent location. (5-8-09)

a. Final Inspection Tags. An inspection tag indicating that a final inspection has been performed is attached when the HVAC installation as specified on the permit is complete and conforms to the requirements of the code and rules. (5-8-09)

b. Inspection Tags for Unacceptable HVAC Installations. "Notice of Correction" inspection tags are attached to indicate that the HVAC installation is not acceptable and that corrections are required. (3-29-12)

c. Work-in-Progress Tag. An inspection tag indicating that a work-in-progress inspection has been performed is attached following inspection of ground work, rough-in work, or any portion of the installation that is to be covered or otherwise concealed before completion of the entire HVAC installation as specified on the permit. (5-8-09)

061. INSPECTOR QUALIFICATIONS.
In accordance with Section 54-5021, Idaho Code, all mechanical inspectors in Idaho employed by the state or a local government must hold an inspector certification as a commercial or residential mechanical inspector, as *appropriate* depending on the type of mechanical work being inspected. Mechanical inspectors must obtain the requisite certification from either the International Association of Plumbing and Mechanical Officials (IAPMO), the International Code Council (ICC), or other professional certifying body as approved by the board. *( )*

062. -- 069. (RESERVED)

070. CIVIL PENALTIES.
The following acts subject the violator to penalties based on the following schedule. (3-30-07)

01. Heating, Ventilation, and Air Conditioning Contractor or Specialty Contractor. Except as provided by Section 54-5001, Idaho Code, any person who acts, or purports to act, as an HVAC contractor or specialty contractor as defined by Section 54-5003(3) and 54-5003(6), Idaho Code, without a valid Idaho state HVAC contractor or specialty contractor certification is subject to a civil penalty of not more than five hundred dollars ($500) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-30-07)

02. Employees. Any person, who knowingly employs a person who does not hold a valid Idaho state HVAC certification or apprentice registration, as required by Section 54-5008, Idaho Code, to perform HVAC installations, is subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-30-07)

03. Certification or Registration. Except as provided by Section 54-5001, Idaho Code, any person performing HVAC work as an HVAC journeyman as defined by Section 54-5003(4), Idaho Code, specialty journeyman as defined by Section 54-5003(7), Idaho Code, apprentice as defined by Section 54-5003(2), Idaho Code, or a specialty apprentice as defined by Section 54-5003(5), Idaho Code, without a valid certification or registration is

subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-30-07)

04. Supervision. Any HVAC apprentice or specialty apprentice working without the required journeyman supervision or any HVAC contractor or industrial account employing apprentices without providing the required HVAC journeyman supervision is subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-30-07)

05. Performance Outside Scope of License. Any HVAC specialty contractor or specialty journeyman performing HVAC installations, alterations, or maintenance outside the scope of the specialty certification is subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-30-07)

06. Fees and Permits. Any person failing to pay applicable fees or properly post an HVAC permit for, or to request an inspection of, any installation, alteration, improvement, or extension of any piping, venting, ductwork, appliances and appurtenances in connection with any heating, ventilation, or air conditioning system or subsystems of such is subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-29-10)

07. Corrections. Any person who fails to make corrections in the time allotted in the notice on any HVAC installation as set forth in Section 54-5019, Idaho Code, is subject to a civil penalty of not more than two hundred dollars ($200) for the first offense and a civil penalty of not more than one thousand dollars ($1,000) for each offense thereafter. (3-30-07)

08. Gross Violation. In the case of continued, repeated, or gross violation of Title 54, Chapter 50, Idaho Code, *or these rules,* a certification revocation will be initiated for certificated individuals under this chapter and non-certificated individuals is subject to prosecution by the appropriate jurisdiction under Idaho law. *( )*

071. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Damage Prevention Board of the Division of Building Safety is authorized under Section 55-2203, Idaho Code, to promulgate rules for the administration of Title 55, Chapter 22, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 07.10.01, "Rules Governing the Damage Prevention Board." (3-24-17)

02. Scope. These rules are applicable to underground facilities, and facility owners as established in Title 55, Chapter 22, Idaho Code. (3-24-17)

002. ADMINISTRATIVE APPEALS.

01. Governing Procedural Requirements. IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Section 100, et seq., applies to contested cases, in addition to the provisions of Title 55, Chapter 22, Idaho Code. (4-11-19)

02. Appeal Bond. Upon notice of the imposition of training or a civil penalty, the notified party may contest the imposition of such before the Damage Prevention Board in accordance with Section 018 of these rules. An appeal bond in the amount of two hundred dollars ($200) must accompany the request for hearing to contest the matter. In the case of training, the Division of Building Safety will refund the bond if the contesting party appears at the hearing. In the case of a civil penalty, the Division will refund any portion of the bond not used to satisfy the penalty imposed by the Board or the entire bond if the contesting party prevails at the hearing. (4-11-19)

004. -- 006. (RESERVED)

007. FUNDING OF BOARD ACTIVITIES.
Each owner of an underground facility must pay a fee of ten cents ($.10) each time such owner receives notice from a one-number notification service as prescribed by Section 55-2205, Idaho Code. The fee assessed upon the underground facility owner is collected by the one-number notification service, and is payable to the board in accordance with the following schedule: (3-24-17)

01. Fee Assessed. The fee will be assessed on an underground facility owner for each notification issued by the one-number notification service to the underground facility owner, with the one-number notification service required to submit a summary of the number of notices issued in a given month to the board no later than fifteen (15) days following the end of the month in which the notices were issued. (3-24-17)

02. Payment Submission. The one-number notification service must submit payment to the board for all payments received from underground facility owners no later than seventy (70) days following the end of the month in which the notices were issued to the facility owners. In those cases where the payment from the underground facility owner is received after the seventy-day (70) period, the one-number service must include late payments in its next payment to the board. (4-11-19)

03. Notices Issued. The one-number notification service must also submit a detailed list of notices issued, including the facility owner's contact information, for which payment has not been received within the seventy (70) day period following the end of the month in which the notices were issued. Such list must be updated on a monthly basis to reflect the status of all past-due payments due from underground facility owners that have not been received. (4-11-19)

008. AUDIT OF ONE-NUMBER SERVICE RECORDS.
The Board has the right to review and audit the payment records of any one-number notification service relating to the collection of the fee imposed on underground facility owners. In the event the board wishes to conduct a review and/or audit of a one-number notification service, the board will provide no less than a five (5) business day advance notice of the intended action. The board may delegate any responsibilities contained herein this chapter to the Division of Building Safety. ( )

009. -- 014. (RESERVED)

015. EDUCATIONAL AND TRAINING MATERIALS.

01. Approval of Training and Educational Programs. The Board approves acceptable training courses or programs and educational materials on relevant underground facility damage prevention topics pertaining to safe excavation, locating and marking of facilities, determining facility damage, emergency procedures, excavator downtime, pre-marking of intended excavation areas, and appropriate procedures when encountering unmarked facilities. *( )*

02. Scope of Training and Educational Programs. Such training programs and educational materials must relate to various aspects of underground facility damage prevention, and contain practices, information, and standards generally accepted and recognized among stakeholders in Idaho. (3-28-18)

03. Accessibility of Training and Educational Programs. The Division maintain*s and periodically updates* a database of approved educational materials and training programs. *( )*

04. Purposes of Training and Educational Programs. Such programs may be used for general educational use by stakeholders or for remedial training that may be ordered by the board or the administrator pursuant to Section 55-2211, Idaho Code. *( )*

016. ADEQUACY OF FACILITY OWNERS LOCATING UNDERGROUND FACILITIES.
The board reviews all stakeholder complaints of violations related to underground facility line locating, as well as generally accepted practices and procedures related to locating. Stakeholders must take remedial actions to improve line-locating performance and monitor and report performance improvements to the board. (3-28-18)

017. IMPROVEMENT OF TECHNOLOGY AND COMMUNICATIONS BY STAKEHOLDERS.

01. Adoption of Technology and Communications Materials. On an annual basis the board reviews and adopts any available technology and communications materials which promote effective underground facility locating. The board will make available any such appropriate technology and communications materials as it may determine to all stakeholders on the Division website. (3-28-18)

02. Availability of Technology and Communications Materials. The board may request that stakeholders provide it with information or data related to procedures, methods, or technologies utilized by such stakeholders to enhance communications among other stakeholders, or that enhances underground facility locating capabilities, or enhances the stakeholder's ability to gather and analyze data related to underground facility damage. The board will review such technologies, methods, or materials adopted by stakeholders to ensure that such use is adequate, as well as to provide stakeholders with best practices. The Division of Building Safety must maintain an approved database of such referenced stakeholder data for public viewing and analysis on its website. (3-28-18)

018. DAMAGE PREVENTION COMPLAINTS.

01. Complaint Forms. Persons may submit written complaints to the administrator regarding an alleged violation of Title 55, Chapter 22, Idaho Code, on such forms as required by the Division of Building Safety. Forms are available at the Division of Building Safety offices *and* electronically on the Division's website. Notice of the complaint may be served concurrently on the alleged violator by the person submitting the complaint. Verifiable proof of such notification of a complaint provided to the alleged violator must also be provided to the administrator. *( )*

02. Contents. Complaints must include the name and address of the complainant and the alleged violator, the date and location of the alleged violation, as well as a complete description of the nature of the violation alleged, including whether it resulted in damage to an underground facility or an excavator downtime event. Complainants may also provide additional documentation in support of a complaint. Complaints must be accompanied by a sworn declaration from the complainant declaring that the information contained therein is true and accurate. The administrator may request additional information or documents in support of the complaint. *( )*

03. Complaint Procedures and Timelines. The following timelines and procedure govern the process of filing and administering complaints related to violations of Title 55, Chapter 22, Idaho Code, and the rules of the

Board. (3-28-18)

a. Initial Filing. Complaints must be filed with the administrator not later than thirty (30) days from the date of the alleged violation giving rise to the complaint or from the date the violation should have reasonably been discovered by the complainant, whichever is later. (3-28-18)

b. Response. The administrator must notify the alleged violator of the complaint and request a response and any additional information from the alleged violator as may be necessary. The alleged violator may provide a response to the administrator within thirty (30) days from the date they are notified of the complaint by the administrator. (3-28-18)

c. Recommendation. Within thirty (30) days of receipt of the response, or if no response is received, within fifteen (15) days from the deadline for filing a response, the administrator must notify the complainant and the alleged violator of his recommended course of action. The administrator may extend the period of time in which to determine a recommended course of action, and so notify the parties, if he determines it is necessary to further review or investigate the complaint. (3-28-18)

d. Contest. The alleged violator has the right to contest the imposition of a civil penalty before the damage prevention board. Notice of such contest must be provided by the alleged violator not more than thirty (30) days after receipt of the administrator's recommended course of action. Recommendations of the administrator regarding complaints may be reviewed by the board at its next regularly scheduled meeting. *( )*

019. CLAIMS AND REPORTS OF DAMAGE OR EXCAVATOR DOWNTIME.

01. Claims. Claims for the cost of repairs for damaged underground facilities are enforced by the affected underground facility owner in accordance with procedures as may be established by the facility owner, and in accordance with applicable law. Underground facility owners must provide notice to excavator contractors of such procedures, along with sufficient information supporting the basis for the amount of a claim within six (6) months from the date of the event giving rise to the claim or from the date the event should have reasonably been discovered by the underground facility owner, whichever is later. (3-28-18)

02. Reports. Underground facility owners and excavators who observe, suffer or cause damage to an underground facility or observe, suffer or cause excavator downtime related to a failure of one (1) or more stakeholders to comply with applicable damage prevention statutes or regulations must report such information to the board on forms or by such method adopted for such by the board. Forms are available at the Division offices *and* electronically on the Division's website. *( )*

020. CIVIL PENALTIES.

The Idaho Damage Prevention Board is authorized under Section 55-2203(17), Idaho Code, to establish by administrative rule the fines to be paid for civil penalties issued for violations of Title 55, Chapter 22, Idaho Code. To the extent authorized by Section 55-2211, Idaho Code, the acts described in this section subject the violator to a civil penalty of not more than one thousand dollars ($1,000) for a second offense and a civil penalty of not more than five thousand dollars ($5,000) for each offense that occurs thereafter within eighteen (18) months from an earlier violation, and where facility damage has occurred. (3-28-18)

01. Violations of Title 55, Chapter 22, Idaho Code. The following acts subject a person to civil penalties: (3-28-18)

a. Pre-marking Excavation Site. Any person who fails to adequately pre-mark onsite the path of proposed excavation as reasonably required under the circumstances in accordance with Section 55-2205(1)(b), Idaho Code, is subject to a civil penalty. (3-28-18)

b. Notice of Excavation. Any person who fails to provide notice of the scheduled commencement of excavation to any underground facility owner through a one-number notification service, or directly to a facility owner, as applicable within the prescribed time as required by Section 55-2205(1)(c), Idaho Code, is subject to a civil penalty. (3-28-18)

c. One-Number Notification to Facility Owner. A one-number notification service that fails to provide notice of a scheduled excavation upon notification from an excavator is subject to a civil penalty. (3-28-18)

d. Failure to Locate or Mark. An underground facility owner, owner's agent, or locator who fails to locate or mark underground facilities when responsible to do so in accordance with Section 55-2205(2), Idaho Code, or within the prescribed time provided therein, is subject to a civil penalty. (4-11-19)

e. Failure to Wait for Locate or Maintain Markings. An excavator who commences excavation prior to waiting the time prescribed by Section 55-2205(2), Idaho Code, for all known facilities to be located and marked, or an excavator who fails to maintain the markings of underground facilities previously so marked subsequent to the commencement of excavation in accordance with Section 55-2205(2), Idaho Code, is subject to a civil penalty. (3-28-18)

f. Failure to Cease Excavation or Report Unidentified Facilities. An excavator who does not cease excavation in the immediate vicinity upon the discovery of underground facilities therein, whether such facilities be active or abandoned, which were not previously identified or located with reasonable accuracy, or does not notify the owner or operator of the facilities, or a one-number notification service in accordance with Section 55-2205(4), Idaho Code, is subject to a civil penalty. (3-28-18)

g. Failure to Identify Facilities in Contract Documents. Project owners who fail to indicate in bid or contract documents the existence of underground facilities known by the owner to be located within the proposed area of excavation in accordance with Section 55-2207, Idaho Code, is subject to a civil penalty. (3-28-18)

h. Precautions to Avoid Damage. An excavator who does not engage in any of the activities required by Section 55-2207(2), Idaho Code, or use reasonable care to avoid damage to underground facilities is subject to a civil penalty. (3-28-18)

i. Reporting of Damage to Facility. An excavator who fails to report to a facility owner and a one-number notification service any contact or damage to an underground facility caused by such excavator in the course of excavation, or fails to alert an appropriate authority upon an actual breach of a facility which causes the release of gas or hazardous liquids as required by Section 55-2208(1), Idaho Code, is subject to a civil penalty. (3-28-18)

j. Reporting to the Board. An excavator or underground facility owner who observes, suffers or causes damage to an underground facility or excavator downtime related to the failure of one (1) or more stakeholders to comply with the damage prevention regulations and fails to report such information to the board as required by Section 55-2208(5), Idaho Code, is subject to a civil penalty. (3-28-18)

k. Failure to Participate. Any person who fails to participate or cooperate with a one-number notification service as prescribed by Section 55-2206, Idaho Code, is subject to a civil penalty. (3-28-18)

02. Second Offense. For the purpose of this section, a second offense is deemed to be any violation of Title 55, Chapter 22, Idaho Code, for which a civil penalty may be imposed in accordance with this section which occurs within eighteen (18) months of a previous violation of any provision. (3-28-18)

03. Multiple Violations. Each day that a violation of Title 55, Chapter 22, Idaho Code, occurs for which a civil penalty may be imposed as provided herein constitutes a separate offense. (3-28-18)

021. -- 999. (RESERVED)

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

DOCKET NO. 09-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2020 Idaho State Legislature for final approval. The pending rules become final and effective upon the conclusion of the legislative session, unless the rules are approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved or rejected in part by concurrent resolution, the rules becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. This action is authorized pursuant to Sections 45-616 and 72-1333(2), Idaho Code.

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

This following pending rules adopt and re-publish the following existing and previously approved and codified chapter(s) under IDAPA 09, rules of the Idaho Department of Labor:

IDAPA 09
- 09.01.01, *Rules of the Administrative Procedures of the Idaho Department of Labor*
- 09.01.08, *Rules on the Disclosure of Employment Security Information*
- 09.01.30, *Unemployment Insurance Benefit Administration Rules*
- 09.01.35, *Unemployment Insurance Tax Administration*
- 09.01.60, *Complaint Procedures Under the Workforce Innovation and Opportunity Act*
- 09.02.01, *Rules of the Disability Determinations Service*
- 09.05.03, *Rules Determining Bargaining Representatives*

The text of the pending rules is amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 1,184-1,247**.

1. Outside of edits that delete excess and unnecessary verbiage or clarify the rule language so it is easier to read and understand, no significant changes or edits were made to the following proposed rules published in the June 19,2019 Idaho Administrative Bulletin:

   - 09.01.01 – Rules of the Administrative Procedures of the Idaho Department of Labor
   - 09.01.08 – Rules on the Disclosure of Employment Security Information
   - 09.01.35 – Unemployment Insurance Tax Administration
   - 09.02.01 – Rules of the Disability Determinations Service
   - 09.05.03 – Rules Determining Bargaining Representatives

2. Of the proposed rules published in the June 19, 2019 Idaho Administrative Bulletin, the following pending rules contain additional changes summarized as follows:

A. 09.01.30 - *Unemployment Insurance Benefits Administration Rules*

1. Section 575.04.c. Code C is a section of this chapter that defines a code used to identify a claimant looking for work. The code in question – Code C – is being deleted because it has not been used for more than 20 years, and is considered obsolete and irrelevant:

   - 575.04.c. Code C. A claimant who has no marketable skills or whose skills have become obsolete and who is unable to return to his former occupation, or who has a special need for employment-related services.

2. Sections 425.05, 425.06, 575.09 refer to the work registration requirement that is currently duplicated in statute, 72-1366(2),.making the rule duplicative and redundant. The Department's Unemployment Insurance Benefits

Bureau works closely with the Workforce Services Bureau to encourage claimants to register for work and assist individuals in finding new work.

B. 09.01.60 - *Complaint Procedures Under the Workforce Innovation and Opportunity Act*

1. This chapter describes the procedures for processing complaints in accordance with federal regulations under the Workforce Innovation and Opportunity Act (WIOA). According to the department's Deputy Attorney General, the deletions for this chapter involve details of the internal complaint processing procedures that - because said details are included in the Idaho State WIOA nondiscrimination plan – do not need to be in Rule and include sections:

- 012.01- 02 and 08 -11, Discrimination Complaints
- 013.01- 07, Program Complaints Against Local WIOA Programs and Policies - Initial Review
- 014.01 – 06, Program Complaints Against Statewide WIOA Programs and Policies - Initial Review

FISCAL IMPACT: It is not expected this rulemaking will have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact:

- Georgia Smith, Deputy Director (x2102) – IDAPA 09.01.01; IDAPA 09.01.08; IDAPA 09.05.03
- Amy Hohnstein, Administrator (x3330) – IDAPA 09.01.60
- Joshua McKenna – Bureau Chief (x3919) – IDAPA 09.01.30
- Larry Ingram – Bureau Chief (x3543) – IDAPA 09.01.35
- Laura Croft (x2343) – IDAPA 09.02.01

Dated this 23rd day of October, 2019.

Jani Revier, Director
Idaho Department of Labor
317 W. Main Street
Boise, ID 83735
Phone: (208) 332-3570 ext. 3110
Fax: (208) 334-6430

000. LEGAL AUTHORITY.
These rules are promulgated under Sections 45-616 and 72-1333(2), Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 09.01.01, "Rules of Administrative Procedure of the Department of Labor." *( )*

02. Scope. These rules govern all procedures for rulemaking, petitions for declaratory rulings, and determinations and appeals pursuant to the Employment Security Law, Title 72, Chapter 13, Idaho Code, and the Claims for Wages Act, Title 45, Chapter 6, Idaho Code, and for other programs administered by the Department unless otherwise specified by law. *( )*

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
Administrative appeals from determinations under the Employment Security Law and the Claims for Wages Act may be taken as provided in these rules and applicable provisions of the Employment Security Law and the Claims for Wages Act. *( )*

004. PAYMENTS TO THE DEPARTMENT.
Any payment tendered to the Department will be for collection only and will not constitute payment of any amount due until the payment clears the appropriate financial institution. Should the Department incur any additional expense in the payment collection, the expense will be paid by the person who tenders said payment to the Department. *( )*

005. – 009. (RESERVED)

010. DEFINITIONS.

01. Appeals Examiner. A *Department* hearing officer designated to hear administrative appeals pursuant to the Employment Security Law and the Claims for Wages Act. *( )*

02. Claims for Wages Act. The Claims for Wages Act codified at Title 45, Chapter 6, Idaho Code. *( )*

03. Department. The Idaho Department of Labor. *( )*

04. Determination. Unless the context clearly suggests otherwise, reference to a determination in these rules includes a determination, redetermination, *or a* revised determination. *( )*

05. Employment Security Law. The Employment Security Law codified at Title 72, Chapter 13, Idaho Code. *( )*

011. – 014. (RESERVED)

015. EXEMPTION FROM ATTORNEY GENERAL ADMINISTRATIVE PROCEDURE RULES FOR CONTESTED CASES.
Pursuant to Section 67-5206(5), Idaho Code, the procedures contained in Subchapter B, "Contested Cases," of the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01.100 through 04.11.01.799, do not apply to appeals within the Department. All appeals within the Department are governed solely by the provisions of the Employment Security Law, the Claims for Wages Act, these rules, and by the applicable federal law governing programs administered by the Department. *( )*

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

01. Unemployment Insurance Benefits and Tax Contribution Proceedings. Sections 72-1361 and 72-1368, Idaho Code, provide that all proceedings to determine the rights to unemployment insurance benefits and

tax contribution coverage are exempt from the contested case and judicial review provisions of the Idaho Administrative Procedure Act. Appeals of complaint determinations and other decisions arising within the complaint system or other programs administered by the Department must be determined by the requirements of applicable federal law. Procedures for administrative proceedings and appeals are provided for in the Employment Security Law and these rules. All procedures affecting the rights to benefits and unemployment insurance coverage must be determined solely by the requirements of the Employment Security Law. Such proceedings must be speedy and simple as required by the Federal Unemployment Tax Act and the Social Security Act. The Department determines that it can more adequately meet these requirements through promulgating its own rules rather than relying upon the rules applicable to other state agencies. ( )

02. Claims for Wages Proceedings. All proceedings to determine claims for wages are exempt from the contested case provisions of the Idaho Administrative Procedure Act pursuant to Section 45-617(2), Idaho Code. Procedures for administrative proceedings and appeals are provided for in the Claims for Wages Act and these rules. ( )

017. (RESERVED)

018. DECLARATORY RULING PROCEDURES.
Form and Contents of Petitions for Declaratory Rulings on Applicability of Statutes or Rules. Any person petitioning for a declaratory ruling on the applicability of a statute or *Department* rule must comply with this rule. ( )

01. Form of Petition. The petition must: identify the petitioner and state the petitioner's interest in the matter; state the declaratory ruling that the petitioner seeks; and indicate the statute, or rule, and the factual allegations upon which the petitioner relies to support the petition. ( )

02. Legal Assertions. Citations of cases and/or statutory provisions may accompany the legal assertions in a petition for a declaratory ruling. ( )

03. Filing Petition. A petition for a declaratory ruling on applicability of statutes or rules must be filed with the Director of the Department at 317 Main Street, Boise, Idaho 83735. ( )

04. Disposition of Petitions for Declaratory Rulings. When a petition is received in the form and content required by these rules, the Director or the Director's designee will review the *petition* contents and request additional information from the petitioner, if necessary, and thereafter *rule on the petition* and notify the petitioner and any other interested parties in writing of the ruling. ( )

019. – 024. (RESERVED)

025. WAGE CLAIMS PROCEDURES.
Administrative procedures for wage claims filed with the Department pursuant to the Claims for Wages Act are governed by these rules and Section 45-617, Idaho Code. ( )

026. DISMISSAL OF WAGE CLAIMS FOR LACK OF PROSECUTION.
Wage claimants have *a responsibility* to seek prompt adjudication of their claims. The Department may dismiss, without prejudice, wage claims *when* claimants fail to respond within thirty (30) days to written notice from the Department that additional action is required on their part to prosecute their claim. The thirty (30) day period for a response begins the date the notice is mailed to the wage claimant's last known address. Mailed responses are deemed received the date they are postmarked. A wage claim dismissed for lack of prosecution may be refiled with the Department subject to limitations of Sections 45-614 and 45-617(1), Idaho Code. ( )

027. WAGE CLAIM AND EMPLOYMENT SECURITY LAW DETERMINATIONS.

01. Determinations and Time for Filing Appeals. Department determinations under the Claims for Wages Act and Employment Security Law must be in writing and contain provisions *advising* the interested parties of their right to appeal the determination within fourteen (14) days from the date of mailing, or the date of electronic transmission to an electronic-mail address approved by the Department, in accordance with Sections 45-617(5), 72-1361 and 72-1368(5), Idaho Code. Every such determination must contain and clearly identify the mailing address,

fax number and electronic address for filing an appeal. A determination *is* final unless, within fourteen (14) days after notice, as provided in Sections 45-617(5) and 72-1368(5), Idaho Code, an appeal is filed by an interested party with the Department in accordance with these rules. If an appeal from a wage claim determination is not timely filed, the amount awarded by a final determination will *be* immediately due and payable to the Department. *( )*

02. Appeals Heard By Appeals Examiners. Appeals from wage claim and Employment Security Law determinations will be heard by an appeals examiner in accordance with the Claims for Wages Act, the Employment Security Law, and these rules. *( )*

03. Computation of Time. In computing any *time* period prescribed or allowed by the Employment Security Law or the Claims for Wages Act, the day of the act, event, or default is not to be included. Saturdays, Sundays, and holidays will be counted during the period*, except, if* the last day of the period is a Saturday, Sunday, or legal holiday, the period *extends to* the next business day following the Saturday, Sunday, or legal holiday. *( )*

028. – 034. (RESERVED)

035. APPEALS TO APPEALS EXAMINER – FORM AND MANNER OF FILING OF NOTICES OF APPEAL.

01. Form of Notices of Appeal. Any appeal taken to an appeals examiner pursuant to the Employment Security Law and the Claims for Wages Act must be in writing, signed by an interested party, the appellant or representative, and contain words that, by fair interpretation, request the appeal process for a specific determination or other decision of the Department. *( )*

02. Filing of Notices of Appeal. To appeal a determination or other decision of the Department, interested parties must follow the instructions on *these rules and the* document being appealed. If an appeal is *delivered* personally, the personal delivery date will be noted on the appeal and deemed the date of filing. A faxed or electronically transmitted appeal received *after* 5 p.m.*, mountain time zone,* on a business day will be deemed filed on *the next business day*. A faxed or electronically transmitted appeal received on a weekend or holiday will be deemed filed the next business day. If mailed, the appeal will be deemed filed on the date of mailing as determined by the postmark on the envelope containing the appeal, unless a party establishes by a preponderance of the evidence that but for error by the U.S. Postal Service, the envelope would have been postmarked within the period for timely appeal. If such a postal error is established, the appeal will be deemed to be timely filed. Ref. Section 72-1368(6), and Section 45-617, Idaho Code. *( )*

036. DATE OF MAILING OF DETERMINATIONS.

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

037. EFFECT OF DELAY OR ERROR OF POSTAL SERVICE OR DEPARTMENT.

01. Department Determinations. If a party establishes by a preponderance of the evidence that because of delay or error by the U.S. Postal Service or error on the part of the Department, notice of a Department determination was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the Department, within fourteen (14) days of mailing, as provided by the Employment Security Law and by the Claims for Wages Act, the period for filing a timely appeal *extends* to fourteen (14) days from the date of actual notice. *( )*

02. Decisions of the Appeals Examiner. If a party establishes by a preponderance of the evidence that, because of delay or error by the U.S. Postal Service, or because of error on the part of the Department, notice of a decision by an appeals examiner was not delivered to the party's last known address, or transmitted electronically to the party's electronic-mail address approved by the Department, within the time periods prescribed by the Employment Security Law or the Claims for Wages Act for filing an application for rehearing or an appeal to the Industrial Commission, as the case may be, then: *( )*

a. For an application for rehearing that must be filed within ten (10) days of notice of a decision, the period for filing a timely application for rehearing *extends* to ten (10) days from the date of actual notice; and *( )*

b. For an appeal to the Industrial Commission that must be filed within fourteen (14) days of notice of a decision, the period for filing a timely appeal *extends* fourteen (14) days from the date of actual notice. Ref. Section 72-1368 (5) and (6) and Section 45-617(7), Idaho Code. *( )*

038. DISMISSAL IF FILING IS LATE.
Where it appears any appeal (request for hearing) to the appeals examiner, or claim, or any other request or application, was not filed within the *time* period prescribed for filing, it will be dismissed on such grounds; provided, however, before or after such dismissal, the *adversely affected interested party* will be notified and given an opportunity to show that such appeal, claim for review, petition, or other request was timely. If it is found that such appeal, claim for review, petition, or other request or application was timely, the matter will be decided on the merits. Copies of a decision under this section will either be given, mailed, or electronically transmitted to an electronic-mail address approved by the Department pursuant to Section 72-1368(5), Idaho Code, to all interested parties, together with a clear statement of right of appeal or review. Ref. Section 72-1368 and Section 45-617, Idaho Code. *( )*

039. – 044. (RESERVED)

045. CONDUCT OF APPEALS HEARING.
Upon request for appeal, a hearing before an appeals examiner will be set. *W*ritten notice of the time and place of *the* hearing will be mailed or electronically transmitted to each interested party not less than seven (7) days prior to the hearing date. *( )*

01. Telephone Hearings. Hearings will be held by telephone unless, *at* the sole discretion of the appeals examiner, a personal hearing should be set. In deciding the manner in which to conduct the hearing, the appeals examiner will consider factors, including but not limited to the desires of the parties, possible delay and expense, the burden of proof, the complexity of the issues, and the number and location of witnesses. *( )*

02. Continuance. The appeals examiner may postpone or continue a hearing for good cause on the examiner's own motion or that of any party, before a hearing is concluded. The appeals examiner may dismiss an appeal for good cause, such as abandonment of the appeal. *( )*

03. Rehearing. An application for rehearing will be in writing and filed in person or postmarked within ten (10) days after the appeals examiner's decision is served. *( )*

04. No Appearance Hearings. If no party appears to present additional evidence, a decision may be based on the existing record. *For this purpose, the existing record* will consist of documents maintained by the Department in the ordinary course of adjudicating the issues in the case, copies of which ***are*** provided to the parties with the notice of hearing. *( )*

05. Exhibits and Recordings. *Hearing* exhibits and recordings may be destroyed, reused, or otherwise disposed of after the expiration of the time period for appeal from the decisions of the appeals examiner. *( )*

06. Subpoenas. After determining a subpoena of a witness or records is necessary and reasonable, the appeals examiner will issue the subpoena, which may be served by mail or in person. *( )*

07. Failure to Respond to Subpoena. If a person fails to respond to a subpoena issued by mail, the appeals examiner will proceed with the scheduled hearing and determine, after hearing available testimony, whether the subpoena is still necessary and reasonable. If so, the hearing will be continued and a second subpoena will be issued and personally served. *( )*

08. Witness Fees. Individuals who attend hearings before the appeals examiner as subpoenaed witnesses, not parties, are entitled to receive a fee of seven dollars and fifty cents ($7.50) for each day or portion thereof for attendance. In no case will a witness be paid more than seven dollars and fifty cents ($7.50) for any one

(1) day. Subpoenaed witnesses are entitled to mileage expense at the current allowable mileage reimbursement rate as determined by the Idaho State Board of Examiners. For appeals under the Employment Security Law, such witness fees and mileage expenses will be paid from the Employment Security Administration fund. Under no circumstances will interested parties to a hearing be granted witness fees or mileage expenses. Mileage fees are not allowed for vicinity travel. ( )

09. Undecided Issues. When it is apparent that there is no prior ruling on an issue that must be decided under the Act, the appeals examiner may hear and decide the issue. ( )

10. Type of Hearing. The proceeding before an appeals examiner will be a hearing **"**de novo**"** or original hearing and not solely a review proceeding. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ( )

11. Role of Appeals Examiner. The appeals examiner will function as a fact finder and not solely as a judge. The appeals examiner will have the responsibility of developing all the evidence that is reasonably available. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ( )

12. Order of Witnesses. The appeals examiner, in the exercise of reasonable discretion, will direct the order of witnesses and develop evidence in a logical and orderly manner to move the hearing along as expeditiously as possible. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ( )

13. Evidence. The appeals examiner may exclude evidence that is irrelevant, unduly repetitious, or excludable on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of this state. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ( )

14. Disruptive Individuals. The appeals examiner may exclude disruptive individuals from the hearing or may postpone the hearing if the integrity of the proceedings is being compromised. If an interested party is excluded, *they* will be provided a copy of the recording of the proceedings and given an opportunity to submit written evidence and argument prior to the issuance of the decision and the opposing party will be given an opportunity to respond. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ( )

15. Challenge of General Knowledge. If judicially cognizable facts or general, technical, or scientific facts within the appeals examiner's specialized knowledge are used in the decision, the parties will be given an opportunity to challenge them at the time of the hearing, or at the time of the issuance of the decision. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ( )

16. Closing Arguments. Closing arguments will be limited to five (5) minutes for each party unless the appeals examiner grants an exception. Ref. Sec. 72-1368(6) and Sec. 45-617(7), Idaho Code. ( )

046. COMMUNICATION WITH APPEALS STAFF.

No party involved in an appeal may communicate, either directly or indirectly, with appeals examiners, the Chief of the Appeals Bureau, or clerical staff of the Appeals Bureau, regarding any issue of fact or law relevant to an appeal, unless all parties involved have been provided notice and an opportunity to participate in such communication. No person acting on behalf of any party, including the Idaho Department of Labor, may attempt to influence the disposition of an appeal through such communications. No appeals examiner may knowingly cause a communication prohibited by this section to be made. ( )

01. Prohibition of Ex Parte Contacts. The prohibition on ex parte contacts contained in this rule applies from the time an appeal is filed pursuant to IDAPA 09.01.01.025 or IDAPA 09.01.01.027 until the appeal becomes final and conclusive pursuant to Sections 72-1368 and 45-617, Idaho Code. ( )

02. Issues of Fact. As used in this rule, the term **"**issue of fact or law relevant to an appeal**"** includes any matter relating to the merits of an appeal but does not include questions of appeals procedure or case status inquiries. Parties may not direct questions of appeals procedure or case status inquiries to the appeals examiner assigned to their case but rather to other appeals examiners, the Chief of the Appeals Bureau (unless he or she is functioning as the appeals examiner in the case), or to clerical staff of the Appeals Bureau. ( )

03. Reporting Prohibited Contacts. An appeals examiner or other Appeals Bureau *employee* who receives a communication prohibited by this rule must place in the record of the case all such written communications or a memorandum stating the substance of all such oral communications. The Appeals Bureau must send a full copy of the communication to other interested parties to the appeal and allow an appropriate time for the parties to respond. *( )*

047. – 059. (RESERVED)

060. INDUSTRIAL COMMISSION REVIEW OF APPEALS EXAMINER DECISIONS.

01. Claim for Review Under the Employment Security Law. A claim for review of the appeals examiner's decision, as provided in Section 72-1368, Idaho Code, must be made in writing, signed by the person claiming the review or by his attorney or agent, and filed with the Idaho Industrial Commission in accordance with rules adopted by *the Commission*. Ref. Sec. 72-1368(7) Idaho Code. *( )*

02. Transcripts. Upon receipt of a notice that a claim for review has been filed with the Industrial Commission, a true and correct transcript of the recorded proceedings must be prepared if ordered by the Commission. Copies of transcripts or recording of the proceedings, together with exhibits received in the case, must be transmitted by the Department to the Commission and provided to all interested parties without charge. *( )*

061. – 064. (RESERVED)

065. JUDICIAL REVIEW OF WAGE CLAIM DECISIONS.
A claimant or employer aggrieved by a final decision of the appeals examiner in a wage claim proceeding may seek judicial review of the decision pursuant to Title 67, Chapter 52, Idaho Code, and Section 45-619, Idaho Code, by timely filing a petition for judicial review in a court of competent jurisdiction. The Department is not an aggrieved party for purposes of any judicial review proceeding and will not be made a party in any petition for judicial review. The proper parties in a petition for judicial review are the claimant and the employer. *( )*

066. – 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated under Sections 72-1333 and 72-1342, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. IDAPA 09.01.08, "Rules on Disclosure of Employment Security Information." ( )

02. Scope. These rules address disclosure *by the Department* of employment security information, as defined in Section 74-106(7), Idaho Code. These rules comply with the requirements of 20 CFR Part 603, "Confidentiality and Disclosure of State Unemployment Compensation Information," and the Idaho Public Records Act. ( )

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
There is no administrative appeal under *this chapter*. Appeals of denials of requests for Department records are governed by the provisions of the Idaho Public Records Act. ( )

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Agent. One who acts for or in the place of an individual or employer by the authority of that individual or employer. (5-8-09)

02. Employment Security Law. The act codified at Title 72, Chapter 13, Idaho Code. ( )

03. Payment in Advance. Full payment of all costs before or at the time that employment security information is disclosed to a recipient. (5-8-09)

04. Public Official. In accordance with Section 72-1342, Idaho Code, a **"**public official**"** is an official, elected official, or a contractor thereof in or for a federal, state, or local government, agency, or public entity within the executive branch of federal, state, or local government, who has responsibility for administering or enforcing a law, including research related to administration of a law. ( )

05. Public Records Act. The act codified at Title 74, Chapter 1, Idaho Code. ( )

011. ACCESS BY PERSONS TO INFORMATION PERTAINING TO THEM.

01. Individual or Employer. Individuals or employers may access employment security information pertaining to them, subject to the procedures and restrictions contained in the Idaho Public Records Act and reimbursement provisions in Section 020 of these rules. Unless the disclosure is for the purposes of the Employment Security Law, the Department will not comply with requests for disclosure of records to an individual or employer on an ongoing basis, and only existing records in the Department's custody as of the date of receipt of the request will be disclosed, not records that may be created in the future. ( )

02. Attorney. An attorney representing a party for the purposes of the Employment Security Law need only submit a letter on letterhead to the Department confirming the attorney's representation of the party, for an Employment Security Law purpose, to access any employment security information that would be available to the attorney's client. If the attorney is not representing the client for the purposes of the Employment Security Law, the attorney must provide an informed consent release, in the same manner and with the same restrictions as an agent in Subsection 011.04 of these rules, in order to access any employment security information that would be available to the client. (5-8-09)

03. Elected Official. An elected official performing constituent services who requests employment security information on behalf of an individual or employer may access any employment security information related to the inquiry and available to the constituent if the elected official presents reasonable evidence the constituent authorized the disclosure. Such reasonable evidence may include a letter or written record of a telephone request for assistance from the constituent. ( )

04. Agent. In order to access any employment security information available to the individual or employer, an agent of an individual or employer must provide an informed consent release that meets the requirements of Subsection 013.01 of these rules. If the disclosure is for the purposes of Employment Security Law and it is impossible or impracticable to obtain an informed consent release, the agent must provide clear and convincing evidence, as determined by the Department, that the agent is authorized to act on behalf of the individual or employer in order to access any employment security information available to the individual or employer. Unless the disclosure is for the purposes of the Employment Security Law, the Department will not comply with requests for disclosure of records to an agent on an ongoing basis, and only existing records in the Department's custody as of the date of receipt of the request will be disclosed pursuant to the informed consent release, not records that may be created in the future. *( )*

012. DISCLOSURE TO PUBLIC OFFICIALS.
Employment security information may be disclosed by the director or the director's authorized representative to the following public officials or to an agent or contractor of the following public officials, for use in the performance of official duties: (5-8-09)

01. Required by Federal Law. Any public agency to whom the Department is required by federal law to disclose information, under the terms and restrictions required by federal law; (5-8-09)

02. Reciprocal Disclosures. Any public agency where reciprocal disclosures from such agency to the Department will reasonably assist in the collection of contributions and payments in lieu of contributions. (5-8-09)

03. Benefit to Department. Any public agency to whom disclosure of Department information would be consistent with the mission of the Department or of benefit to the Department, as determined by the director. (5-8-09)

04. Written Agreement. Any release of information to public officials under Subsections 012.02 and 012.03 of these rules must be pursuant to a written agreement signed by the requesting agency director or their authorized representative and the director of the Department. If an agent or contractor is to obtain or access information on behalf of a requesting agency, the requesting agency *director* or the director's authorized representative must sign the agreement. The requesting agency will be responsible for ensuring the agent or contractor complies with all security requirements of the agreement. *( )*

05. Terms and Conditions of Written Agreement. The interagency agreement must contain the following provisions: (5-8-09)

a. A description of the specific information to be furnished by the Department and the purpose(s) for which the information is sought and will be used; (5-8-09)

b. A statement that those who request or receive information under the agreement will be limited to those individuals, identified by name or job title, or both, with a need to access for purpose(s) specified in the agreement; (5-8-09)

c. Methods and timing, if the disclosure is to be made more than once, including the format to be used; (5-8-09)

d. Provisions for timely payment of the Department's billed costs as required by Subsection 020.02 of these rules, including the Department's costs of performing on-site inspections to ensure compliance with State and Federal law and agreement requirements; *( )*

e. Provisions for safeguarding the information disclosed, including the following requirements: (5-8-09)

i. Recipient will use the information only for purposes authorized by law and specified in the agreement; (5-8-09)

ii. Recipient will store the information in a place physically secure from access by unauthorized persons; (5-8-09)

iii. Recipient will store and process the information maintained in electronic format in a way that unauthorized persons cannot obtain the information by any means; (5-8-09)

iv. Recipient will undertake precautions to ensure only authorized personnel have access to the information stored in computer systems; ( )

v. Recipient will instruct and have all personnel with access to the information sign an acknowledgment they will adhere to the agreement's confidentiality requirements; understand the civil and criminal penalties in Sections 72-1372 and 72-1374, Idaho Code for unauthorized disclosure of information; and will fully and promptly report to the Department any breach of the confidentiality requirements; ( )

vi. Except for any information possessed by any court, Recipient will dispose of the information and any copies made by the requesting agency or its agent or contractor after the purpose of the disclosure has been served, and will not retain the information with personal identifiers for any longer period of time than the Department deems appropriate; and ( )

vii. Recipient will redisclose the information only as provided in the agreement or as required by State or Federal law. (5-8-09)

f. Provisions for on-site inspections of the requesting agency and/or its agent or contractor by the Department to ensure compliance with State and Federal law and the requirements of the agreement; (5-8-09)

g. Provisions that stipulate the Department determines the requesting agency or its agent or contractor is not adhering to the requirements of the agreement, including timely payment of the Department's billed costs, any and all further disclosures will immediately be suspended until the Department is satisfied corrective action has been taken and there will be no further breach; ( )

h. Provisions for terminating this agreement if, after a breach of the agreement, prompt and satisfactory corrective action is not taken, and for the immediate surrender to the Department of all employment security information, including copies in any form, obtained under the agreement by the requesting agency and/or its agent or contactor; and (5-8-09)

i. Provisions for the Department to take any remedial action permitted under State or Federal law to enforce the agreement, including seeking damages, penalties, restitution, attorneys fees and costs incurred by the Department for pursuit of any breaches of the agreement and required enforcement. (5-8-09)

06. Exception for Certain Federal Agencies. These requirements do not apply to disclosures of employment security information to a Federal agency which the U.S. Department of Labor has determined, by notice in the Federal Register, to have in place safeguards adequate to satisfy the confidentiality requirement of Section 303(a)(1) of the Social Security Act, and an appropriate method of paying or reimbursing the Department for any costs involved in such disclosures. (5-8-09)

07. Safety Concerns. Employment security information may be disclosed to a public official contacted for assistance when the safety of Department staff or property may be at risk. Such disclosures are considered necessary for the proper administration of programs under the Employment Security Law and may be made without a written agreement or a subpoena from the public official. (5-8-09)

013. DISCLOSURE TO THIRD PARTIES WITH WRITTEN, INFORMED CONSENT.
A person may agree, through written, informed consent, to allow a third party to obtain employment security information pertaining to the person from the Department, subject to the following terms and conditions: (5-8-09)

01. Informed Consent Release. (5-8-09)

a. An informed consent release must be signed by the person providing informed consent and dated

within one (1) year of the date of the request for access to the records. (5-8-09)

b. In the document, the person providing informed consent must: (5-8-09)

i. Identify the specific records to be disclosed; (5-8-09)

ii. Acknowledge Department files will be accessed to obtain the records; (5-8-09)

iii. List all third parties authorized to access the person's information; and (5-8-09)

iv. Indicate specific purpose(s) of the disclosure and state the records will be used only for the specified purpose(s). If the disclosure is not for purposes of the Employment Security Law, the purpose(s) specified must provide a service or benefit to the person providing informed consent or to administer or evaluate a public program to which informed consent release pertains. ( )

c. Unless disclosure is for the purposes of the Employment Security Law, the Department will not comply with disclosure requests to a third party on an ongoing basis. Only existing records in the Department's custody as of the date of receipt of the request will be disclosed pursuant to the informed consent release, not records that may be created in the future. ( )

02. Agreement by Third Party. Before the Department will disclose employment security information to a third party pursuant to an informed consent release, the third party must sign an agreement containing the following provisions: (5-8-09)

a. A description of the specific information to be furnished by the Department and the purpose(s) for which the information is sought and will be used, as specified in the informed consent release; (5-8-09)

b. A statement that those who request or receive information under the agreement will be limited to those individuals, identified by name, with a need to access it for the purpose(s) specified in the informed consent release; (5-8-09)

c. The method for the disclosure, including format; (5-8-09)

d. Provisions for payment of the Department's costs of disclosure as required by Subsection 020.02 of these rules, including the Department's costs of performing audits to ensure compliance with State and Federal law and the requirements of the agreement; (5-8-09)

e. Provisions for safeguarding the information disclosed, including the following requirements: (5-8-09)

i. Recipient will use the information only for purposes authorized by law and specified in the informed consent release; (5-8-09)

ii. Recipient will store the information in a place physically secure from access by unauthorized persons; (5-8-09)

iii. Recipient will store and process the information maintained in electronic format in such a way unauthorized persons cannot obtain the information by any means; (5-8-09)

iv. Recipient will undertake precautions to ensure only authorized personnel have access to the information stored in computer systems; (5-8-09)

v. Recipient will instruct and have all personnel with access to the information sign an acknowledgment that they will adhere to the agreement's confidentiality requirements; understand the civil and criminal penalties in Sections 72-1372 and 72-1374, Idaho Code for unauthorized disclosure of information; and will fully and promptly report to the Department any breach of the confidentiality requirements. ( )

vi. Except for any information possessed by any court, Recipient will dispose of the information and any copies made by the requesting agency or its agent or contractor after the purpose of the disclosure has been served, and will not retain the information with personal identifiers for any longer period of time than the Department deems appropriate; and ( )

vii. Recipient will redisclose the information only as authorized under informed consent release and for purpose(s) specified in the release or as required by State or Federal law. (5-8-09)

f. Provisions for on-site audits of the recipient by the Department as the Department may deem necessary to ensure compliance with State and Federal law and agreement requirements; (5-8-09)

g. Provisions for the immediate suspension of the agreement if the Department determines that the recipient is not adhering to the requirements of the agreement; (5-8-09)

h. Provisions for termination of the agreement if, after a breach of the agreement prompt and satisfactory corrective action is not taken, and for immediate surrender to the Department of all employment security information, including copies in any form, obtained under the agreement by the recipient; (5-8-09)

i. Acknowledgment by recipient the agreement is governed by the laws of the State of Idaho, and civil and criminal penalties in Sections 72-1372 and 72-1374, Idaho Code, apply to any unauthorized disclosure of information no matter where the unauthorized disclosure may occur; and (5-8-09)

j. Provisions for the Department to take any remedial action permitted under State or Federal law to enforce the agreement, including seeking damages, penalties, restitution, and attorneys fees and costs incurred by the Department for any breaches of the agreement and required enforcement. (5-8-09)

03. Department's Right to Audit. After a third party receives employment security information pursuant to an informed consent release, the Department may perform an on-site audit of the third party to ensure the information is used for authorized purposes only. ( )

014. -- 019. (RESERVED)

020. COSTS OF DISCLOSURE.
Unless the disclosure of employment security information is for the purposes of the Employment Security Law, the party requesting the disclosure must reimburse the Department's costs of disclosure, including staff time and processing costs, as follows: (5-8-09)

01. Private Party. If the requestor is not a public official, reimbursement *must be* in advance to the Department unless the disclosure involves an incidental amount of staff time and nominal processing costs. ( )

02. Public Official. If the requestor is a public official, payment to reimburse the Department may be made in advance or by way of billing invoice, as determined by the director, unless the disclosure involves only an incidental amount of staff time and nominal processing costs or there is a reciprocal cost arrangement with the public official. The Department may enter into a reciprocal cost arrangement with a public official when the relative benefits received by each agency through information sharing are approximately equal. (5-8-09)

021. SUBPOENAS OF EMPLOYMENT SECURITY INFORMATION.

01. Subpoena from Public Official. Employment security information may be supplied to a public official with subpoena authority after the Department receives a subpoena that is reasonable in nature and scope from the public official. This provision does not apply to subpoenas served on behalf of private parties to civil or criminal proceedings to which the Department is not a party. (5-8-09)

02. Subpoena from Private Party. If the Department is served with a subpoena on behalf of a private party to a civil or criminal proceeding to which the Department is not a party and the private party is not entitled to access the information pursuant to Section 011 of these rules, the Department will move to quash the subpoena and attempt to recover costs if other means of avoiding unauthorized disclosure of the information have been

unsuccessful or the court has not already ruled on the disclosure. (5-8-09)

022. RECORDS REQUESTS SUBMITTED BY ELECTRONIC MAIL.
The Department will *only* accept records requests sent via e-mail to records_requests@labor.idaho.gov*, unless an alternate method of transmittal is necessary to comply with applicable law or the request is for employment security information*. Records requests sent to any other Department electronic mail address will not be accepted. A person making a records request must include the requestor's name, mailing address, and telephone number. If the request is for employment security information, the person may be required to provide identification to the Department. For security reasons, the Department will not disclose employment security information via electronic mail. *( )*

023. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated under Section 72-1333, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. IDAPA 09.01.30, "Unemployment Insurance Benefits Administration Rules." ( )

02. Scope. These rules govern claims for unemployment insurance benefits. (3-19-99)

002. ADMINISTRATIVE APPEALS.
Administrative appeals *under this chapter are* governed by Section 72-1368, Idaho Code and IDAPA 09.01.01, "Rules of Administrative Procedure of the Department of Labor." ( )

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Additional Claim. An initial claim made after a period of employment subsequent to a new claim in the same benefit year. (3-19-99)

02. Average Annual Wage. For the purpose of determining the taxable wage base, under Section 72-1350(1), Idaho Code, the average annual wage is computed by dividing that calendar year's total wages in covered employment, excluding State government and cost reimbursement employers, by the average number of workers in covered employment for that calendar year as derived from data reported to the Department of Labor by covered employers. (3-19-99)

03. Average Weekly Wage. For the purpose of establishing the maximum weekly benefit amount, under Section 72-1367(2)(a), Idaho Code, the average weekly wage is computed by dividing the total wages paid in covered employment (including State government and cost reimbursement employers) for the preceding calendar year, as computed from data reported to the Department of Labor by covered employers, by the monthly average number of workers in covered employment for the preceding calendar year and then dividing the resulting figure by fifty-two (52). (4-11-06)

04. Central Claims Office. A claims office designated by the director, where unemployment claims throughout the state are processed. (3-28-18)

05. Chargeability Determination. A determination issued with respect to whether a covered employer's account will be charged for benefits paid on a claim. ( )

06. Claim. An application for unemployment insurance or "benefits." (3-19-99)

07. Continued Claim. An application for waiting-week credit or for benefits for specific compensable weeks. (3-19-99)

08. Corporate Officer. Any individual empowered in good faith by stockholders or directors in accordance with the corporation's articles of incorporation or bylaws to discharge the duties of a corporate officer. (4-4-13)

09. Fraud Overpayment. An established overpayment resulting from a determination that the claimant willfully made a false statement or willfully failed to report a material fact in order to obtain benefits. Ref. Sec. 72-1369, Idaho Code. ( )

10. Full-Time Employment. A week of full-time employment is one *where the claimant* worked what are customarily considered full-time hours for *that* industry or *where* the earnings *were* more than one and one half (1-1/2) times his weekly benefit amount. ( )

11. Initial Claim. The first claim for benefits made by an unemployed individual during a continuous period of unemployment. An initial claim may be either new or additional. (3-19-99)

12. Interstate Claim. A claim filed by a worker who resides in a state other than the state (or states) in which he has earned wages in covered employment. (3-19-99)

13. Intrastate Claim. A claim filed by a worker who *resides in Idaho and* has earned wages within or as federal wages assigned to *Idaho*. *( )*

14. Material. A fact is material if it is relevant to a determination of a claimant's right to benefits. All information a claimant is asked to provide when applying for unemployment benefits or when making a continued claim report is material and relevant to a determination of a claimant's right to benefits. To be considered material, the fact need not actually affect the outcome of an eligibility determination. Ref. Section 72-1366, Idaho Code. *( )*

15. Monetary Determination. A determination of eligibility which lists a claimant's base period employer(s) and wages and establishes, if the claimant is eligible, his benefit year, his weekly benefit amount, and his total benefit amount. (3-19-99)

16. New Claim. The first initial claim made in a benefit year. (3-19-99)

17. Non-Fraud Overpayment. Any established overpayment other than an overpayment resulting from a determination that a claimant made a false statement or willfully failed to report a material fact in order to obtain benefits. Ref. Sec. 72-1369, Idaho Code. *( )*

18. Non-Monetary Determination. A determination issued by a claims examiner with respect to the personal eligibility conditions of a claimant. (3-19-99)

19. Tolerance Amount. A tolerance of four dollars and ninety-nine cents ($4.99) connection with the recovery of overpayments and at the discretion of the Director, overpayments for this amount or less may be compromised. Ref. Sec. 72-1369, Idaho Code. *( )*

011. -- 099. (RESERVED)

100. ABLE TO WORK.
"Able to work" is the physical and mental ability to perform work under conditions ordinarily existing during a normal workweek. It does not mean that a person must be able to perform work in his customary occupation or the same kind of work he last performed. Ref. Sec. 72-1366(4), Idaho Code. *( )*

01. Able to Perform Some Type of Work. A person must be able to perform work of some type for which he can qualify at the time he files an initial claim for unemployment insurance. *( )*

02. Able to Work Part-Time. A person who is able to work only part of the workday or part of the workweek is not considered "able to work" for the purposes of Section 72-1366(4), Idaho Code. This rule does not apply to claimants who establish eligibility under the Americans with Disabilities Act. (3-19-99)

03. Disability Compensation. A claimant's receipt of disability compensation does not in itself establish that he is unable to work or unavailable for work, even though the payee has been declared totally disabled. (3-19-99)

04. Illness Provision. A person who claims benefits under the illness provision must remain available for job referral; however, he may leave the area for treatment of his illness and continue to be eligible under the illness provision. *( )*

05. Illness Provision as Applied to Transitional or Reopened Claim. *The illness provision will continue to apply* even though the current benefit year has ended and a transitional claim is filed the following year or the claim is reopened after a period of not filing with no intervening employment. *( )*

06. Withdrawing from Labor Market Because of Illness. A claimant who withdraws from the labor market because of illness or injury prior to filing a claim is not eligible until he is able and available for work. *( )*

101. -- 124. (RESERVED)

125. ALIEN ELIGIBILITY.

01. Alien Eligibility. Benefits are not payable based on services performed by an alien unless the alien was lawfully admitted for permanent residence at the time such services were performed, was lawfully present for purposes of performing such services, or was permanently residing in the United States under color of law at the time the services were performed. Ref. Sec. 72-1366(19), Idaho Code. (3-19-99)

02. Benefit Eligibility. To be eligible for benefits, an alien must fall within one (1) of the following three (3) categories at the time the work on which the claim is based was performed. In addition, at the time benefits are claimed, the alien must have current, valid authorization to work from the Immigration & Naturalization Service in order to meet the continuing eligibility requirement of being able and available to work (unless the alien claimant is a Canadian resident who is claiming benefits under the Interstate Benefit Payment Plan, in which case the claimant must satisfy only Canadian availability requirements). Ref. Sec. 72-1366(4), (19), Idaho Code. (3-19-99)

a. Permanent Residence. The category of individuals who are "lawfully admitted for permanent residence," includes aliens who have been lawfully admitted to the United States as "immigrants" and those whose status has been adjusted from that of "non-immigrant" under the Immigration and Nationality Act. Evidence of this status is the Alien Registration Receipt Card, or "green card," issued to each lawful permanent resident by the Immigration and Naturalization Service. (3-19-99)

b. Performing Services. The category of individuals who are "lawfully present for purposes of performing services" includes three (3) groups of aliens: (3-19-99)

i. Canadian and Mexican residents who commute daily or seasonally and are authorized to work in the United States; (3-19-99)

ii. Legally-admitted non-immigrants who are granted a status by the Immigration and Naturalization Service which authorizes them to work in the United States during their stay; and (3-19-99)

iii. Other aliens with Immigration and Naturalization Service authorization to work in the United States regardless of their status. (3-19-99)

c. Permanently Residing Under Color of Law. The category of individuals who are "permanently residing in the United States under color of law" includes the following groups of aliens: (3-19-99)

i. Refugees and parolees, as identified in the Immigration and Nationality Act; (3-19-99)

ii. Aliens presumed by the Immigration and Naturalization Service to be lawfully admitted for permanent residence; and (3-19-99)

iii. Aliens who, after review of their particular circumstances under INS statutory or regulatory procedures, have been granted a status which allows them to remain in the United States for an indefinite period of time. For informal Immigration and Naturalization Service action to authorize an alien's residence under "color of law," the Immigration and Naturalization Service must know of the alien's presence, and must provide the alien with official, documented assurance that enforcement of deportation is not planned. (3-19-99)

126. -- 149. (RESERVED)

150. AMERICANS WITH DISABILITIES ACT (ADA).
An individual with a medically verifiable long term or permanent physical or mental disability (as defined at 29 C.F.R. Sec 1630.2(g)) that prevents the individual from working full time or during particular shifts is not deemed unable to work or unavailable for work for so long as he is able to perform some work and remains available for work to the full extent of his ability. Claimants meeting the above criteria must be exempt from complying with eligibility requirements found elsewhere in these Rules which would be in conflict with the intent of this provision. (3-19-99)

01. Availability Requirement. For purposes of this rule, a claimant with a disability will be considered as having complied with the requirement of being available for work if he is willing to work the maximum number of hours that he has established through medically verifiable evidence that he is able to work. (3-19-99)

02. Full-Time Employment. An individual claiming benefits under this provision will be considered fully employed and ineligible to receive benefits in any week that the individual works the maximum number of hours that he is able to work. (3-19-99)

03. Long Term. For purposes of this rule, "long term" is defined as twelve (12) months or longer. (3-19-99)

151. -- 174. (RESERVED)

175. AVAILABLE FOR WORK.
"Available for work" is a state of mind *that encompasses* a readiness and willingness to work, and a desire to find a job, including the possibility of marketing one's services in the claimant's area of availability. There must remain a reasonable possibility of a claimant finding and obtaining, or being referred and hired for, suitable work. Ref. Sec. 72-1366(4), Idaho Code. *( )*

01. Availability Requirements. The type of work for which the claimant is available must exist in the claimant's area to the extent that a normal unemployed person would generally find work within a reasonable period of time. (3-19-99)

02. Child Care. Child care must be arranged so as not to restrict a claimant's availability for work or for seeking work. (3-19-99)

03. Compelling Personal Circumstances. *C*ompelling personal circumstances *mean*: *( )*

a. A situation in which the claimant required the assistance of emergency response personnel; (4-11-06)

b. The serious illness, death, or funeral of an immediate family member; or (4-11-06)

c. The wedding of the claimant or an immediate family member. (4-11-06)

d. *Under* this rule, "immediate family member" *means* a claimant's spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage. *( )*

e. *Under* this rule, "workweek" is defined: *( )*

i. Code R, U, or X. The claimant's normal workweek as defined by the employer. *( )*

ii. Code B. Monday through Friday, 8 a.m.-5 p.m. *( )*

iii. Code D. Regular class hours. *( )*

f. Claimant work availability requirements are waived on Independence Day, Thanksgiving Day, Christmas Day, and New Year's Day. *( )*

04. Conscientious Objection. No person may be held to be unavailable for work solely because of religious convictions not permitting work on a certain day. (3-19-99)

05. Contract Obligation. A person who is bound by a contract that prevents him from accepting other employment is not eligible for benefits. (3-19-99)

06. Distance to Work. A claimant seeking work must be willing to travel the distance normally traveled by other workers in his area and occupation. (3-19-99)

07. Domestic Circumstances. A claimant is not eligible for benefits if domestic circumstances take precedence over the claimant's availability for work or for seeking work. (3-19-99)

08. Equipment. Claimants will be required to provide necessary tools or equipment in certain occupations. The lack of these tools or equipment will directly affect a claimant's availability for work, unless he will accept other work. (3-19-99)

09. Experience or Training. A claimant is expected to be available for work consistent with his past experience or training, provided there is no change in his ability to perform that work. (3-19-99)

10. Full-Time/Part-Time Work. To be eligible for benefits, a claimant must be available for a full workweek and a full, normal workday unless the claimant establishes that a majority of the weeks worked in his base period were for less than full-time work or the claimant establishes eligibility under the Americans with Disabilities Act. An individual who restricts his availability to part-time work pursuant to Section 72-1366(4)(c), Idaho Code, will be considered fully employed and ineligible to receive benefits if the individual works hours comparable to his part-time work experience in his base period. (3-29-10)

11. Incarceration/Work Release. A claimant who is incarcerated for any part of the workweek is not eligible for benefits for that week, unless the claimant can establish he has work release privileges which would provide him a reasonable opportunity to meet his work search requirements and obtain full-time employment. *( )*

12. Jury Duty/Subpoenas. A claimant serving on jury duty or subpoenaed is excused from the availability and work-seeking requirements of the law for that time period, and may refuse work *that would commence during that time period*. *( )*

13. Licensing or Government Restrictions. A claimant prohibited by law from engaging in certain work must be available for other employment to be eligible for benefits. (3-19-99)

14. Moving to Remote Area. A claimant who moves to a remote locality where there is very little possibility of obtaining work will be ineligible for benefits. (3-19-99)

15. Public Official. A public official who receives pay and performs "full-time" service is not unemployed or eligible for benefits. Part-time officials, even though receiving pay, may be considered available for work the same as any other individual employed on a part-time basis. Ref. Sec. 72-1312(1). (3-19-99)

16. Public Service. Performing public service, including voluntary non-remunerated service, does not disqualify an individual for benefits as long as he is meeting the availability and work-seeking requirements. (3-19-99)

17. Restricting Work to Within the Home. A claimant who restricts his availability to only work done within the home which severely limits the work available to him is ineligible for benefits. (3-19-99)

18. School Attendance or a Training Course. A person who is attending school or a training course may be eligible for benefits if the attendance does not conflict in any way with that person's availability for work or for seeking work and if he will discontinue attendance upon receipt of an offer of employment *that creates* a conflict between employment and the schooling or training. *( )*

19. Temporary Absence from Local Labor Market to Seek Work. All claimants, regardless of their attachment to an industry or employer, must meet the same standard of remaining within their local labor market area during the workweek in order to be considered available for work, unless the primary purpose of a temporary absence is to seek work in another labor market; provided, however, claimants otherwise eligible to receive benefits while participating in an approved training program or course are not deemed ineligible when the training or course occurs outside of their local labor market due to the unavailability of similar programs or courses within their local labor market. *( )*

20. Transportation Difficulties. Lack of transportation is not a bona fide reason for a claimant to fail to be available for or to seek work. Transportation is the responsibility of the claimant. (3-19-99)

21. Unreasonable Restrictions on Working Conditions. A claimant who places unreasonable restrictions on working conditions so as to seriously hinder his availability and search for work is ineligible for benefits. (3-19-99)

22. Vacation. A person on a vacation approved by his employer during time when work is available is not eligible for benefits. *( )*

23. Wages. A claimant is eligible for benefits if the wages or other conditions of available work are substantially less favorable to the claimant than those prevailing for similar work in the local area. Ref. Sec. 72-1366(7)(b), Idaho Code. *( )*

a. Demanding Higher Wages. A claimant is ineligible for benefits if he unduly restricts his availability for work by insisting on a wage rate that is higher than the prevailing wage for similar work in that area. (3-19-99)

b. Prior Earnings. The claimant's prior earnings and past experience are considered in determining whether he is available for suitable work. (3-19-99)

24. Waiver of Two-Year Training Limitation. A waiver under Idaho Code Section 72-1366(8)(c)(ii) for claimants who lack skills to compete in the labor market *requires*: *( )*

a. Financial Plan. The claimant must demonstrate a workable financial plan for completing the school or training course after his benefits have been exhausted. (3-19-99)

b. Demand for Occupation. The claimant must establish there is a demand for the occupation in which the claimant will be trained. A "demand occupation" is one in which work opportunities are available and there is not a surplus of qualified applicants. (3-19-99)

c. Duration of Training. At the time that the claimant applies for the waiver, the duration of the school or training course is no longer than two (2) years to completion. (3-19-99)

d. Denial. No claimant will be denied a waiver of the two (2) year limitation on school or training because the claimant is already enrolled or participating in the school or training at the time he requests the waiver. *( )*

176. -- 199. (RESERVED)

200. CANCELING CLAIMS.
Upon the written request of a claimant, a claim may be canceled at any time, provided that the claimant did not misrepresent or fail to report a material fact in making the claim and the claimant has repaid any benefits received on the claim, unless the benefits received will be offset from a new claim the claimant is filing. Ref. Sec. 72-1327A, Idaho Code. (3-19-99)

201. -- 224. (RESERVED)

225. DECEASED CLAIMANTS.
Upon the death of a benefit claimant who has completed a compensable period prior to his death, distribution of benefits due him will be made to the surviving spouse or, if none, to the dependent child or children. If there is no surviving spouse nor dependent child or children, the benefits become the property of the claimant's estate. (3-29-10)

226. -- 249. (RESERVED)

250. DETERMINATIONS/APPELLATE PROCESSES.

01. Rebuttal Procedure. Whenever any information is provided in response to a claim, and the

information contradicts a statement made previously, all interested parties will be given an opportunity for rebuttal. Ref. Sec. 72-1368(3), Idaho Code. (3-19-99)

02. Reestablishing Eligibility After a Determination of Ineligibility. Evidence of requalifying wages includes, but is not limited to, the name of the employer, the mailing address, the dates of employment, the type of employment performed, and the claimant's gross earnings. Ref. Sec 72-1366(14), Idaho Code. *( )*

251. -- 274. (RESERVED)

275. DISCHARGE.

01. Burden of Proof. The burden of proving that a claimant was discharged for employment-related misconduct rests with the employer. (3-19-99)

02. Disqualifying Misconduct. *To disqualify* a claimant for benefits, *misconduct* must be connected with the claimant's employment and involve one of the following: *( )*

a. Disregard of Employer's Interest. A willful, intentional disregard of the employer's interest. (3-19-99)

b. Violation of Reasonable Rules. A deliberate violation of the employer's reasonable rules. (3-19-99)

c. Disregard of Standards of Behavior. If the alleged misconduct involves a disregard of a standard of behavior which the employer has a right to expect of his employees, there is no requirement that the claimant's conduct be willful, intentional, or deliberate. The claimant's subjective state of mind is irrelevant. The test for misconduct in "standard of behavior cases" is as follows: (3-19-99)

i. Whether the claimant's conduct fell below the standard of behavior expected by the employer; and (3-19-99)

ii. Whether the employer's expectation was objectively reasonable in the particular case. (3-19-99)

03. Inability to Perform or Ordinary Negligence. Mere inefficiency, unsatisfactory conduct, failure of good performance as the result of inability or incapacity, inadvertencies, isolated instances of ordinary negligence, or good faith errors in judgment or discretion are not considered misconduct connected with employment. (3-19-99)

04. Non-Job Related Conduct. If the claimant *was* discharged for conduct involving personal, non-job related behavior, the discharge is not for misconduct connected with employment. *( )*

05. When Notice of Discharge Prompts a Resignation. If a claimant has resigned after receiving a notice of discharge (or lay off due to a lack of work), but before the effective date of the discharge, both "separations" must be considered. The following three (3) elements should be present for both actions to affect the claimant's eligibility: (3-19-99)

a. The employee was given notice by the employer of a specific separation date; (3-19-99)

b. The employee's decision to quit before the effective date of the termination was a consequence of the pending separation; and (3-19-99)

c. The voluntary quit occurred a short time prior to the effective date of the termination. (3-19-99)

06. Indefinite Suspension. A claimant who has been suspended without pay for an indefinite period of time, who has not been given a date to return to work, is considered discharged. *( )*

276. -- 324. (RESERVED)

325. EMPLOYEES OF EDUCATIONAL INSTITUTIONS.

01. Possibility of Employment. An offer of employment by an educational institution or service agency is not "bona fide" if merely a possibility of employment exists. A possibility of employment, rather than a reasonable assurance, exists when: (3-19-99)

a. The circumstances under which the claimant would be employed are not within the control of the educational institution; and (3-19-99)

b. The educational institution does not provide evidence that such an individual normally would perform services the following academic year. (3-19-99)

02. Reasonable Assurance. "Reasonable assurance" of continuing employment exists when an educational institution or service agency provides an oral or written statement to the Department indicating that the claimant has been given a bona fide offer of a specific job in the second academic period. In addition, for such "reasonable assurance" to exist, the terms and conditions of the job offered in the second period must not be substantially less favorable than the terms and conditions of the job performed in the first period. (4-5-00)

03. Reasonable Assurance Later Given. A claimant who initially *was* determined not to have a reasonable assurance of continuing employment, will subsequently become disqualified for benefits under Sections 72-1366(17)(a), (b), or (c), Idaho Code, when an educational institution or service agency gives the claimant such reasonable assurance. *( )*

04. Retroactive Payments. A claimant seeking retroactive payments pursuant to 72-1366(17)(b), Idaho Code, must make a request for the retroactive payment with the Department no later than thirty (30) days after the beginning of the second school year or term or retroactive payment will not be made. In addition, the claimant must provide written evidence from the employer who previously provided reasonable assurance of continuing work, that the claimant was not offered an opportunity to return to work in the second of two (2) successive school years or terms. *( )*

05. Under Contract, but Between School Terms. Employees of educational institutions who are hired under contract for the school term, are considered unemployed between school terms even though they may receive their salary in twelve (12) monthly payments. (3-19-99)

326. -- 349. (RESERVED)

350. EXTENDED BENEFITS.
Ref. Sec. 72-1367A, Idaho Code. (3-19-99)

01. Evidence of Employment for Extended Benefits. Satisfactory evidence that an individual's prospects for obtaining work in his customary occupation within a reasonably short period includes: (3-19-99)

a. A letter signed by a prospective employer giving assurances of work within the next four (4) weeks; or (3-19-99)

b. A verifiable, written statement by the claimant that he will have work within the next four (4) weeks. (3-19-99)

02. Remuneration Earned. Remuneration earned must be in employment where an employee-employer relationship exists to satisfy requalification requirements for Extended Benefits. (3-19-99)

351. -- 374. (RESERVED)

375. FULLY EMPLOYED/NOT UNEMPLOYED.
Ref. Section 72-1312(1), Idaho Code. (3-29-12)

01. Excessive Earnings Week. An excessive earnings week is a week in which the claimant's wages allocable to that week are more than one and one half (1-1/2) times the claimant's weekly benefit amount. (3-19-99)

02. Leave of Absence. A claimant who is on a mutually agreed upon leave of absence*, and whose employer has committed to the claimant's return to work at the end of the leave,* is employed and not eligible for benefits. *( )*

03. Suspension. A claimant suspended with or without pay for a specific number of days, who has been given a date to resume employment after the suspension, is not considered unemployed and is not eligible for benefits. *( )*

04. Corporate Officer.

a. A corporate officer has the burden of proving by a preponderance of evidence that he is unemployed due to circumstances beyond his control or the control of a family member with an ownership interest in the corporation. *( )*

b. Circumstances beyond a corporate officer's control or the control of a family member with an ownership interest in the corporation. Circumstances beyond a corporate officer's or a family member's control are circumstances that last through the corporate officer's benefit year end date and include, but are not limited to, the following: (3-29-12)

i. Unemployment due to the corporate officer's removal from the corporation under circumstances that satisfy the personal eligibility conditions *of* Section 72-1366, Idaho Code; *( )*

ii. Unemployment due to dissolution of the corporation; or (3-29-12)

iii. Unemployment due to the sale of the corporation to an unrelated third party. (3-29-12)

376. -- 399. (RESERVED)

400. LABOR DISPUTE/UNION RULES.
A "labor dispute" is a controversy with respect to wages, hours, working conditions, or right of representation affecting the work or employment of a number of individuals employed for hire which results in a deadlock or impasse between the contending parties. Ref. Sec. 72-1366(7), (10), Idaho Code. *( )*

01. Burden of Proving Nonparticipation. The burden of proving non-participation, lack of financing and similar factors is upon the claimant. *( )*

02. Involvement of Work Site in Labor Dispute. A claimant will not be denied benefits because of a labor dispute if the dispute is not in any way directly connected with the factory, establishment, or premises at which the individual is or was last employed. *( )*

03. Lack of Work. A claimant's unemployment will be deemed due to lack work and not due to a labor dispute if it is shown that because of the labor dispute the employer's business has fallen off to the extent that he can no longer utilize the services of the claimant due to the drop in business. *( )*

04. Laid Off Before Labor Dispute. A claimant laid off because of lack of work from an employer where a labor dispute later occurred will not be considered unemployed due to the labor dispute. (3-19-99)

05. Period of Ineligibility. The period of ineligibility applies for the whole of any week in which any part of a claimant's unemployment is due to a labor dispute. (3-19-99)

06. Picketing Work Site. The act of picketing the work site of a labor dispute constitutes participation in the labor dispute, whether or not payment is made for such services. (3-19-99)

07. Refusal to Cross Picket Line. Voluntary refusal to cross a peaceable picket line to work constitutes participation in the labor dispute. (3-19-99)

08. Subsequent Employment. Subsequent employment does not make the claimant eligible for benefits if his unemployment is still due to the labor dispute. As long as the claimant intends to return to the employer where the labor dispute exists, his unemployment is due to the labor dispute regardless of any intervening employment. (3-19-99)

09. Termination of Labor Dispute. The period of ineligibility due to the labor dispute terminates at the end of the calendar week in which the labor dispute no longer exists. The termination of the dispute does not automatically make a claimant eligible for benefits. (3-19-99)

10. Union Member. The fact that an individual is a dues-paying union member alone does not constitute financing a labor dispute. Nor does the fact that he is not a union member establish that he is not financing or participating in the dispute. (3-19-99)

401. -- 424. (RESERVED)

425. NEW CLAIMS/ADDITIONAL CLAIMS.
Ref. Sec. 72-1308, Idaho Code. (3-19-99)

01. Claims for Benefits, Delayed Filing. When the Central Claims Office has determined that a claimant's attempt to file an initial claim was delayed due to problems with the Department's telephone or electronic filing system, the claim may be backdated if the claimant reported the access problem to the Central Claims Office within seven (7) days of the date the problem occurred. When a claim is backdated, the continued claim report for the period of time involved *is* timely if filed during the same week or the next week after the claim is filed. *( )*

02. Effective Date of Backdated Claims. When the filing of an initial claim for benefits is backdated due to a Department system malfunction, the effective date is the Sunday of the week in which the claimant first reported to the Central Claims Office to file the claim or attempted to access the telephone or electronic claim filing system and there were problems with the system. (3-28-18)

03. Filing of New Claims, Additional, and Reopen Claims. Intrastate and interstate claims, including, without limitation, new claims, additional claims, and reopen claims, may be filed electronically or by telephone at the Department's discretion. *( )*

a. Electronically Filed Claims. Claimants may file claims electronically by accessing Idaho's Internet claim system or, if filing through an Idaho Works location, by accessing the Department's Intranet claim system. Electronically filed claims will be date and time stamped at the time the claimant completes the application process. The claim will not be completed until the claimant has finished the process and has electronically submitted the claim to the Department. A claim filed via the Internet or an Idaho Works location is effective as of the Sunday of the week of the date shown on the date/time stamp. *( )*

b. Interstate Claims. Any claim filed by an interstate claimant is accepted in the same manner and conditions for which claims are accepted from intrastate claimants. *( )*

c. Telephone Claims. A claimant may also file a claim by calling the Central Claims Office. A claim filed via telephone is effective as of the Sunday of the week in which the claimant first calls the Central Claims Office to initiate the claim. *( )*

d. Claimants' Electronic Verification. A unique confidential number or other electronic method of verification approved by the Department may be used by a claimant or an employer to submit information or engage in transactions with the Department through electronic or telephonic means. Use of this method of verification has the same force and effect as a manual signature. *( )*

04. Registration/Reporting Requirements -- Interstate Claimants. Interstate claimants are required to comply with the same reporting requirements prescribed for regular Idaho intrastate claimants. Ref. Sec. 72-1366(1), (2), Idaho Code. *( )*

07. Requirement to Provide Information. If a claimant fails to provide the Department with all

necessary information pertinent to eligibility, the claimant *is* denied benefits until the information is provided. Any individual making a claim for benefits must provide the Department with: *( )*

a. The claimant's legal name; (3-15-02)

b. The claimant's Social Security Number; (3-15-02)

c. The address where the claimant's mail is delivered; (3-15-02)

d. The claimant's place of last employment; (3-15-02)

e. The name, correct mailing address, *dates of employment,* and the reason for separation from all of the claimant's most recent and base-period employers; *( )*

f. If requested by the Department, a list of all other employment in the past twenty-four (24) months; (3-15-02)

g. The claimant's plans for finding other employment at the earliest possible time; and (3-15-02)

h. Other information necessary for the proper processing of the claim. (3-15-02)

i. Once a claim has been established, the claimant must provide, upon request, a record of the claimant's work search, in order for the Department to assess compliance with personal eligibility requirements. *( )*

j. If the claimant's identifying information does not match with data provided by the Social Security Administration, the Division of Motor Vehicles, or other public entities for identity verification purposes, the claimant will be provided notice and an opportunity to provide proof of identity before benefits *are* denied. *( )*

08. Separation Notice. (3-19-99)

a. Notice to Employer of Separation. Every employer (including employers not subject to Title 72, Chapter 13, Idaho Code), when contacted by a Department representative for a response, must respond to the Department with the reasons for the separation whenever the claimant: *( )*

i. Left his employment voluntarily; (3-19-99)

ii. Was discharged from his employment due to misconduct; (3-19-99)

iii. Is unemployed due to a strike, lockout, or other labor dispute; (3-30-07)

iv. Is not working due to a suspension; or (3-30-07)

v. Was separated for any other reason except lack of available work. (3-19-99)

b. Employer Response. The employer's response must be given by the employer or on the employer's behalf by someone having personal knowledge of the facts concerning the separation. The employer should provide to the Department, via electronic media or mail, copies of any documentation supporting their position. (3-30-07)

09. Additional Claim or Reopened Claim. A claim must be reestablished after a claimant has failed to report or has reported excessive earnings for two (2) or more consecutive weeks. *( )*

10. Use of Wage Credits. All unemployment insurance wage credits from any source that are assignable to the state of Idaho will be used in establishing a claim and determining the claimant's monetary eligibility. Ref. Sec. 72-1367(1), Idaho Code. (3-19-99)

11. Valid Claim. To be a valid claim for benefits, a claim must be filed during a week of no work, a

week of less than full-time work in which the total wages payable to the claimant for work performed in such week amount to less than one and one-half (1-1/2) times the claimant's weekly benefit amount, or a week in which the claimant is separated from employment. Ref. Sec. 72-1327A and 72-1312, Idaho Code. (3-19-99)

426. -- 449. (RESERVED)

450. QUIT.
Ref. Sec. 72-1366(5), Idaho Code. (3-19-99)

01. Burden of Proof. The claimant has the burden of proof to establish that he voluntarily left his employment with good cause in connection with the employment to be eligible for benefits. (3-19-99)

02. Cause Connected with Employment. To be connected with employment, a claimant's reason(s) for leaving the employment must arise from the working conditions, job tasks, or employment agreement. If the claimant's reason(s) for leaving the employment arise from personal/non job-related matters, the reasons are not connected with the claimant's employment. (3-19-99)

03. Good Cause. The standard of what constitutes good cause is the standard of reasonableness as applied to the average man or woman. Whether good cause is present depends upon whether a reasonable person would consider the circumstances resulting in the claimant's unemployment to be real, substantial, and compelling. (3-19-99)

04. Moral or Ethical Quit. A claimant who leaves a job because of a reasonable and serious objection to the work requirements of the employer on moral or ethical grounds and is otherwise eligible, will not be denied benefits. (3-19-99)

05. Quit Due to Health or Physical Condition. A claimant whose unemployment is due to his health or physical condition which makes it impossible for him to continue to perform the duties of the job will be deemed to have quit work with good cause connected with employment. (3-19-99)

06. Quit for Permanent Work or Quit Part-Time Work for Increase in Work Hours. A claimant who quits a temporary job for a permanent job or who quits part-time employment for employment with an increase in the number of hours of work will be deemed to have quit work with good cause connected with employment. (3-19-99)

07. Quit or Retirement During Employer Downsizing. An individual who has continuing suitable work available and who voluntarily elects to retire or to terminate employment during a period of reorganization or downsizing will be *deemed* to have voluntarily quit the employment for personal reasons. *( )*

08. Unrelated Discharge Prior to Pending Resignation. *The eligibility of a* claimant discharged before a pending resignation has occurred for reasons unrelated to the pending resignation will *be* determined on the basis of the discharge. *( )*

09. When Notice of Resignation Prompts a Discharge. If a claimant had given notice of a pending resignation, but was discharged before the effective date of the resignation, both "separations" must be considered. The following three (3) elements should be present for both actions to affect the claimant's eligibility: (3-19-99)

a. The employee gave notice to the employer of a specific separation date; (3-19-99)

b. The employer's decision to discharge the claimant before the effective date of the resignation was a consequence of the pending separation; and (3-19-99)

c. The discharge occurred a short time prior to the effective date of the resignation. (3-19-99)

10. Quit Due to Harassment. Good cause for quitting employment may be established by showing the party was subjected to any form of harassment that is unlawful under the Idaho Human Rights Act, Title 67, Chapter 59, Idaho Code. (6-30-19)T

451. -- 459. (RESERVED)

460. PROFESSIONAL ATHLETES BETWEEN SEASONS.
Ref. Sec. 72-1366(18), Idaho Code. (3-30-07)

01. Base Period Wages. No base period wages are used *to establish* a claim when substantially all services performed during the base period consist of participation in sports, athletic events, training, or preparing to so participate, for any week which commences during the period between two (2) successive sport seasons (or similar periods) if the individual performed such services in the first season (or similar period) and there is a reasonable assurance that the individual will perform such services in the later of such seasons (or similar periods). *( )*

02. Reasonable Assurance. Reasonable assurance *requires* the following: *( )*

a. The claimant has a contract, either written or oral; (3-30-07)

b. The claimant offered to work and the employer expressed an interest in hiring the player for the next season (or similar period); or (3-30-07)

c. The claimant expresses a readiness and willingness or intent to participate in the sport the following season. Reasonable assurance exists if the claimant asserts he or she intends to pursue employment as a professional athlete the next season despite not having a specific employer to return to or a formal offer of employment. (3-30-07)

03. Substantially All Services. An individual is deemed to have performed "substantially all services" in sports, athletic events, training, or preparing to so participate if ninety percent (90%) or more of the base period wages were based on such services. (3-30-07)

461. -- 474. (RESERVED)

475. REFUSAL OF WORK/FAILURE TO APPLY.
Ref. Sec. 72-1366(6), (7), Idaho Code. (3-19-99)

01. Citizenship or Residency Requirements. An employer's restrictions on citizenship or residency is deemed good cause for a claimant's failure to apply for available work if he does not meet the requirements. (3-19-99)

02. Claimant Conduct. A claimant who, by his conduct, causes an employer to withdraw an offer of suitable work or terminate the offer after the claimant has accepted it is ineligible. (3-19-99)

03. Claimant Responsibility. A claimant has the responsibility to apply for and accept suitable work. (3-19-99)

04. Conscientious Objection. A claimant may refuse employment that requires him to work on his Sabbath if his religious convictions do not permit him to work on that day. (3-19-99)

05. Employer Requirements. Claimants are expected to comply with reasonable, lawful requirements that are typical of certain occupations, such as a requirement that a worker be bonded. Unreasonable requirements by employers will not be used as a basis to deny benefits. However, a claimant must have good cause to refuse or fail to meet an employer's reasonable, lawful employment requirements to be eligible for benefits. (3-19-99)

06. Failure to Report. A claimant who fails to report to *the Department* when so directed, fails to follow explicit instructions for applying for suitable, available work, or fails to report to work after accepting employment, without good cause, is ineligible. Ref. Sec. 72-1366(2), (6), Idaho Code. *( )*

07. Failure to Return to Work After Layoff. A claimant who has been laid off, but fails to return to work on the date specified by the employer at the time of layoff or fails to respond to a callback after a layoff, will be considered to have refused an offer of work if the ongoing employment relationship is severed as a result. If the

claimant declines work with the employer but the ongoing employment relationship is not severed as a result, the claimant's availability for work will be examined, but the claimant will not be considered to have refused an offer of work *under* Sections 72-1366(6) or (21)(a)(ii)(A), Idaho Code. *( )*

08. Government Requirements. A claimant who cannot meet government requirements within a reasonable period of time has good cause for refusing that opportunity to work. *( )*

09. Moral Objections. A claimant is not ineligible for failing to apply for or accept employment if the claimant has reasonable, serious objections to the work or the workplace on moral or ethical grounds. (3-19-99)

10. Offer of Work. A claimant whose unemployment is due to his failure without good cause to accept available, suitable work is ineligible. The job offer must have been genuine and known to the claimant. (3-19-99)

11. Part-Time Work. A claimant must be available for and willing to accept suitable part-time work in the absence of suitable full-time work. (3-19-99)

12. Personal Circumstances. To have good cause to refuse to apply for or accept available, suitable work because of personal circumstances, a claimant must show that his circumstances were so compelling that a reasonably prudent individual would have acted in the same manner under the same circumstances. (3-19-99)

13. Prospect of More Suitable Work. A claimant is not ineligible for failing to accept employment if he has excellent prospects for more suitable work with his former employer or in his regular occupation. (3-19-99)

14. Suitable Work. Every claimant has the right to restrict his availability to suitable work. (3-19-99)

15. Travel Distance. A claimant is not ineligible if the travel distance to available work is excessive or unreasonable. A claimant is ineligible if he fails to apply for and accept suitable work within a commuting area similar to other workers in his area and occupation. (3-19-99)

476. -- 499. (RESERVED)

500. REISSUING BENEFIT PAYMENTS.
Whenever a benefit payment is lost, stolen, destroyed, or forged, the claimant will be issued a new benefit payment upon his proper presentation of the facts and submission of an affidavit, in a form prescribed by the Department, for the issuance of a new benefit payment. Ref. Section 72-1368(1), Idaho Code. (7-1-10)

01. Affidavit for Issuance of New Benefit Payment. A claimant's affidavit filed for the issuance of a new benefit payment must be signed before a notary public or an authorized representative of the Department. (7-1-10)

02. Reissuance of Stolen Benefit Payments. If a claimant knows who took a benefit payment, he must provide evidence that he has taken all reasonably available legal steps and been unsuccessful in recovering the benefit payment before the Department will consider reissuing the benefit payment. (7-1-10)

501. -- 524. (RESERVED)

525. REPORTABLE INCOME.
Ref. Sections 72-1312, 72-1328, Idaho Code. (3-19-99)

01. Back Pay or Disputed Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages for the weeks in which the claimant would have earned them, or are assignable to the weeks stipulated in the award or judgment. *( )*

02. Disability/Injury Compensation. Injury or disability compensation payments are not considered wages and are not reportable income for unemployment insurance purposes. (3-19-99)

03. Disability Retirement Payments. Retirement payments as a result of disability are treated the

same as other types of retirement payments. Ref. Section 72-1312(4), Idaho Code. (3-19-99)

04. Gratuities or Tips. Gratuities or tips must be reported by a claimant for the week in which each gratuity or tip is earned. (3-19-99)

05. Holiday Pay. Holiday pay must be reported as though earned in the week in which the holiday occurs. (4-6-05)

06. Non-Periodic Remuneration. All non-periodic remuneration such as one-time severance pay, profit sharing, and bonus pay is reportable for the week in which paid. (3-19-99)

07. Penalty or Damage Awards. Amounts awarded to a claimant as a penalty or damages against an employer, other than for lost wages, do not constitute wages. (3-19-99)

08. Pension, Retirement, or Annuity Payments. The pension deduction provision of Section 72-1312(4), Idaho Code, only applies if the pension, retirement pay, annuity, or other similar periodic payment is made under a plan maintained or contributed to by a base period employer. The dollar amount of the weekly pension will be deducted from the claimant's weekly benefit amount unless the claimant has made contributions toward the pension. If the claimant has made contributions toward the pension plan, no deduction for the pension will be made from the claimant's weekly benefit amount. Ref. Section 72-1312(4), Idaho Code. *( )*

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

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

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

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

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

10. Self-Employment Earnings. When reporting earnings, a claimant must report gross earnings from self-employment. *If* the claimant *demonstrates to the Department* that certain *expenses* were *reasonable and* necessary in order to accomplish the work, *the Department may allow the deduction of those expenses from claimant's gross wages*. *Deductible expenses* may include, but are not limited to, buying products wholesale for resale and renting equipment to accomplish a task. *Non-deductible expenses* include, but are not limited to, transportation costs, uniforms, and depreciation of equipment. *( )*

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

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

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

14. Wages for Contract Services. A person who is bound by a contract which does not prevent him

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

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

16. Temporary Disability Benefits. For any week with respect to which a claimant is receiving or has received temporary disability benefits under a worker's compensation law of any state or under a similar law of the United States, such payments must be reported in an amount attributable to such week. *( )*

526. -- 549. (RESERVED)

550. REPORTING REQUIREMENTS.
Each claimant must report weekly or biweekly for benefits as directed. When filing claim reports, a claimant must use the reporting method assigned by the Department. Failure to file timely reports in a manner required by this rule will result in ineligibility for benefits for the week(s) claimed. Ref. Section 72-1366(1), Idaho Code. (3-29-12)

01. Mailed Reports. Reports that are mailed are considered timely when the envelope containing the report is postmarked within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period will extend to the next working day. *( )*

02. Internet Reports. Reports filed via the internet are considered timely when made between 12:00 a.m., mountain time *zone,* of the Sunday following the week being claimed and midnight 11:59 p.m., mountain time *zone* of the Saturday following the week being claimed. *( )*

03. Facsimile Reports. Reports filed by facsimile are considered timely when transmitted on a form provided by the Department to a telephone number designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period will extend to the next working day. Reports are deemed filed upon receipt by the Department. *( )*

04. Electronic Mail Reports. Reports filed by electronic mail are considered timely when electronically mailed in a format provided by the Department to an email address designated by the Department to receive such documents within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the reporting period will extend to the next working day. Reports are deemed filed upon receipt by the Department. *( )*

05. Telephone Reports. Reports filed by telephone *are* timely *if* the claimant contacts the Central Claims Office at a telephone number designated by the Department to provide such reports during regular business hours within nine (9) calendar days immediately following the week(s) being claimed, except if the ninth day is a holiday, the report period will extend to the next working day. *( )*

06. When Report Missing. If a claimant establishes, by credible and corroborated evidence, that a missing report was properly filed as required by this rule, a replacement report will be considered timely. (3-29-12)

551. -- 574. (RESERVED)

575. SEEKING WORK.
Ref. Sec. 72-1366(4), (6), Idaho Code. (3-19-99)

01. Attitude and Behavior. A claimant's attitude and behavior must be conducive to a positive reaction by employers to his job search. (3-19-99)

02. Effort to Secure Employment. A claimant will be expected to do what is normally done by unemployed persons that are seeking work. (3-19-99)

03. Employer's Hiring Practices. An employer's reluctance to hire a claimant because of his

appearance or physical condition is not a determining factor in ruling on the claimant's eligibility. (3-19-99)

04. Job Attachment Classifications. For the purpose of administering the work search requirements of Section 72-1366(4) and (6), Idaho Code, a claimant will be classified according to his attachment to an employer or industry, as follows: (3-19-99)

a. Code R-Recall, U-Union or X-Both. A claimant who has a firm attachment to an employer, industry or union, or who is temporarily or seasonally unemployed, and expects to return to his former job or employer in a reasonable length of time not to exceed a maximum of sixteen (16) weeks. If during the sixteen (16) weeks the claimant returns to work temporarily for the job attached employer, the claimant's period of job attachment will be extended by one (1) week for each week of verified full-time employment as defined by Section 72-1312, Idaho Code. (3-25-16)

b. Code B. A claimant who possesses marketable skills in an occupation, but has no immediate prospects for reemployment, and whose employment expectations (i.e., wages, hours, etc.) are realistic in relation to the normal labor market supply and demand in his area of availability. (3-19-99)

c. Code D. A claimant who is assigned to a training course under the provisions of Section 72-1366(8), Idaho Code. (3-19-99)

05. Jobs Availability. A claimant will not be required to make useless employer contacts if there are no jobs available in the area due to seasonal factors. (3-19-99)

06. License or Permits. A claimant must provide or be capable of obtaining a license or permit if required by law for performance of the work. *( )*

07. No Employment Prospects. A claimant must apply for and accept a lower or beginning pay rate for employment if he has no prospects for a better paying job in the locality. (3-19-99)

08. Seasonal Availability. A claimant who is regularly employed on a seasonal basis must be available for other types of work in the off-season to be eligible for benefits. (3-19-99)

09. Work-Seeking Requirement Categories. A claimant must seek work in accordance with the following categories of work-seeking activity, as instructed by a Department representative or as notified by the Department via electronic claims messaging. A claimant must meet the requirements of the code to which the claimant is assigned. A claimant's category of work-seeking activity will be determined and modified based on the claimant's prevailing local labor market conditions and/or the average county unemployment rates. Failure to comply with work-seeking requirements *will* result in a denial of benefits. *( )*

a. Code O claimant must maintain regular contact with his employer(s) or union. (3-29-17)

b. Code 1 claimant must engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-15-02)

i. Make at least one (1) employer contact each week in the manner prescribed by the Central Claims Office; (3-28-18)

ii. Attend a Job Search Workshop; (3-15-02)

iii. Expand work search efforts to surrounding areas or states; (3-15-02)

iv. Send resumes to firms/businesses that hire people with his skills; (3-15-02)

v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as

prescribed by a Department representative. (4-11-06)

c. Code 2 claimant must engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-15-02)

i. Make at least two (2) employer contacts per week in the manner prescribed by the Central Claims Office; (3-28-18)

ii. Attend a Job Search Workshop; (3-15-02)

iii. Expand work search efforts to surrounding areas or states; (3-15-02)

iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)

v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

d. Code 3 claimant must engage in one (1) or more of the following activities to increase his prospects of securing employment: (3-15-02)

i. Make at least three (3) employer contacts per week in the manner prescribed by the Central Claims Office; (3-28-18)

ii. Attend a Job Search Workshop; (3-15-02)

iii. Expand work search efforts to surrounding areas or states; (3-15-02)

iv. Send resumes to firms/businesses that hire people with their skills; (3-15-02)

v. Enroll in and attend a specific training program to meet the requirements of the claimant's employment plan; or (3-15-02)

vi. Engage in other work search activities such as resume preparation or labor market research, as prescribed by a Department representative. (4-11-06)

576. -- 599. (RESERVED)

600. SELF-EMPLOYMENT.
A claimant is ineligible when his self-employment is of such size and nature that the operation of it is his principal duty and working for an employer is merely incidental. Ref. Sec. 72-1366(13), Idaho Code. (3-19-99)

01. Occupational Conflicts. Agricultural activities, commercial enterprises, family enterprises, and commission sales work are examples of self-employment which may render a claimant ineligible unless he can show he is seeking employment and is available for suitable work. (3-19-99)

02. Potential Employability. A claimant is eligible if his self-employment in no way interferes with his potential employability and work schedule. (3-19-99)

601. -- 649. (RESERVED)

650. SIGNATURES OF ILLITERATES AND WITNESSES.
If a claimant is unable to write his name, he must instead use the mark (X). The mark must be witnessed by a Department representative or an individual who must enter, immediately after the mark (X), the words "His Mark." Next, the name of the claimant must be printed, followed by the signature of the Department representative or the

individual who witnessed the mark. Ref. Sec. 72-1366 (1), Idaho Code. (3-19-99)

651. -- 674. (RESERVED)

675. TOTAL TEMPORARY DISABILITY ALTERNATE BASE PERIOD (TTD).
The alternate base period provision *of Section 72-1306(2), Idaho Code, will* apply only if the claimant cannot establish monetary eligibility by using the regular base period *described in of Section 72-1306(1), Idaho Code*. *( )*

676. -- 699. (RESERVED)

700. PARTIAL PAYMENTS OF AMOUNTS OWED THE DEPARTMENT.
Upon the Department's receipt of a partial payment of an overpayment and accrued interest and penalties thereon, the Department must, unless other arrangements have been made with the debtor and approved by the Department, apply the partial payment to the amounts owed as follows: *( )*

01. Interest. The partial payment must be applied first to any accrued interest of the amounts due, starting with the oldest accrued interest; *( )*

02. Penalties. After any accrued interest has been paid in full, the partial payment must be applied next to any assessed penalties, starting with the oldest assessed penalty; *( )*

03. Fraud Overpayments. After all accrued interest and assessed penalties have been paid in full, the partial payment must be applied next to any fraud overpayments due, starting with the oldest fraud overpayment; and *( )*

04. Nonfraud Overpayments. After all fraud overpayments have been paid in full, the partial payment must be applied next to any nonfraud overpayments, starting with the oldest nonfraud overpayment. Ref. Sec. 72-1369, Idaho Code. *( )*

701. – 724. (RESERVED)

725. RECOVERIES.
Unless the overpayment resulted from a determination that the claimant willfully made a false statement or willfully failed to report a material fact, overpayments will be deducted from any future benefits payable. Ref. Secs. 72-1369 and 72-1366, Idaho Code. *( )*

726. – 749. (RESERVED)

750. WAIVER OF REPAYMENT.
An interested party must submit a written request for a waiver of repayment within fourteen (14) days of the date of mailing of the Determination of Overpayment. Ref. Sec.72-1369 *( )*

751. – 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated under Section 72-1333, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. IDAPA 09.01.35, "Unemployment Insurance Tax Administration Rules." ( )

02. Scope. These rules govern Department procedures and the rights and duties of employers under the Unemployment Insurance Program. (3-19-99)

002. ADMINISTRATIVE APPEALS.
Administrative appeals from determinations under this chapter may be taken as provided in IDAPA 09.01.01, "Rules of Administrative Procedure of the Department of Labor," and Sections 72-1361 and 72-1368, Idaho Code. ( )

003. -- 010. (RESERVED)

011. GENERAL PROVISIONS.

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

02. Contribution Due Date. If the normal due date falls on a weekend or holiday the next workday is the due date for contributions. Ref. Section 72-1349, Idaho Code. ( )

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

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

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

06. Determinations and Appeals. The rules governing the form, filing, and other procedures relating to determinations under this chapter, and any appeal from those determinations, are provided in IDAPA 09.01.01, "Rules of Administrative Procedure of the Department of Labor." ( )

07. When Reports Replace Determinations. In cases where a determination of amounts due is made by the Department pursuant to Section 72-1358, Idaho Code, the reports shall replace the determination and will be used to establish the employer's liability if: ( )

a. The employer files reports for the periods covered by the determination before the determination becomes final; and (3-30-01)

b. The Department determines that the reports are accurate and complete. If the Department determines the reports are not accurate or complete, the reports shall be treated as an appeal of the determination. (3-30-01)

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

Ref. Section 72-1349, Idaho Code. (3-19-99)

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

10. Contribution Reports. Each contribution shall be accompanied by an employer's contribution report. All contribution reports shall be filed electronically with the department unless the employer has petitioned the department in writing for a waiver and the department has granted a waiver allowing the filing of a non-electronic contribution report. All contribution reports shall be in a form or medium prescribed and furnished or approved for such purpose by the department, giving such information as may be required, including number of individuals employed and wages paid or payable to each, which must be signed, furnished, or acknowledged by the covered employer or, on their behalf by someone having personal knowledge of the facts therein stated, and who has been authorized by the covered employer to submit the information. Ref. Section 72-1349, Idaho Code. (3-20-14)

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

012. -- 039. (RESERVED)

040. COMPROMISE OF PENALTY AND CIVIL PENALTY.
Pursuant to Section 72-1354, Idaho Code, the Director or his authorized representative may, for good cause shown, compromise the amount of penalties owed on an employer account. An employer shall submit a request in writing for compromise of penalties, setting forth the reason(s) for the delinquency, and attaching any available evidence supporting the request. (4-11-06)

01. Good Cause. An employer has established good cause if the employer can show that one (1) of the following criteria has been met: ( )

a. The reason for the delinquency was beyond the reasonable control of the employer. Examples of circumstances that are beyond the reasonable control of the employer include, but are not limited to, the following: (3-19-99)

i. Departmental error, including but not limited to providing incorrect information to the employer or not furnishing proper forms in sufficient time to permit timely payment of contributions; (3-19-99)

ii. Death or serious illness or injury of the employer or the employer's accountant or members of their immediate families; (3-19-99)

iii. Destruction by fire or other casualty of the employer's place of business or business records; or (3-19-99)

iv. Postal service delays. (3-19-99)

b. The delinquency was due to circumstances for which the imposition of penalties would be inequitable. (3-19-99)

c. Good cause is also established in the case of an employer who has never received a status determination, who has never paid any contributions to the director, who voluntarily approaches the Department to inquire as to whether workers are engaged in covered employment, and the failure to pay contributions was due to the employer's good faith belief that the employer was not a covered employer pursuant to the provisions of Idaho

Employment Security Law. Ref. Section 72-1354, Idaho Code. (7-1-05)

041. -- 050. (RESERVED)

051. ROUNDING WAGES REPORTED ON CONTRIBUTION REPORT TO NEXT LOWER DOLLAR AMOUNT.
The total wages and taxable wages shown on the contribution report which are to be used in computing contributions due shall be reduced to the next lower dollar amount. Ref. Section 72-1349, Idaho Code. (3-19-99)

052. -- 055. (RESERVED)

056. APPLICATION OF PAYMENTS ON DELINQUENT ACCOUNTS.
Unless otherwise specified and approved by the Department, apply payment as follows: *( )*

01. First Application. First, credit such payment in satisfaction of interest due for the calendar quarter or period most delinquent in point of time; (3-19-99)

02. Second Application. Next, credit the remainder of such payment in satisfaction of penalty due for such calendar quarter or period most delinquent in point of time; (3-19-99)

03. Third Application. Next, credit the remainder of such payment in satisfaction of contributions due for the calendar quarter or period most delinquent in point of time; (3-19-99)

04. Subsequent Applications. Such applications shall be applied in a like manner for each remaining delinquent quarter. Any remaining credit shall be applied to interest on civil penalties then to civil penalty due until the amount of payment is exhausted. Ref. Section 72-1354, Idaho Code. (4-11-06)

057. -- 060. (RESERVED)

061. DEFINITIONS.
The definitions listed in IDAPA 09.01.35, "Unemployment Insurance Tax Administration Rules," Section 011, and the following are applicable to the UI Compliance Bureau. (3-22-07)

01. Tolerance Amount. A tolerance of four dollars and ninety-nine cents ($4.99) is established in connection with collection of amounts due; and under normal circumstances, no delinquency or credit will be issued or carried on the books of accounts for this amount or less. Ref. Section 72-1349, Idaho Code. (3-19-99)

02. Wages. The term "wages" includes all remuneration from whatever source, paid or given in exchange for services performed or to be performed, including the cash value of remuneration in any medium other than cash. "Wages" in covered employment, and subject to unemployment insurance reporting, include, but are not limited to: (3-19-99)

a. Commissions, bonuses, draws, distributions, dividends and any other forms or types of payments made by corporations or other similar entities if paid in exchange for services; (4-5-00)

b. Bonuses, prizes, and gifts given to an employee in recognition of services, sales, or production; (3-19-99)

c. Commissions for past services in covered employment; (3-19-99)

d. Remuneration paid to corporate officers which is paid in exchange for services performed or to be performed for or on behalf of the corporation; (4-5-00)

e. Salary advances against commissions; (3-19-99)

f. All forms of profit sharing for services rendered unless specifically exempt under Section 72-1328, Idaho Code; (3-19-99)

g. Excess travel or employer business allowances over actual expense, or over the federal allowance per diem rate for the area of travel, unless returned to the employer; (3-19-99)

h. Vacation or "idle-time" pay, no matter when paid; (3-19-99)

i. Personal expense reimbursement, not gifts, i.e., clothing, family expenses, rent. (3-19-99)

j. The director or his authorized representative shall determine the fair market value of any other remuneration, regardless of its classification, form, or label, which is paid to a worker in exchange for services. In making such determination, consideration will be given to the prevailing wage for similar services. Ref. Section 72-1328, Idaho Code. (3-19-99)

03. Exclusions From Wages. The term "wages" described in Section 72-1328, Idaho Code, does not include the following: (3-19-99)

a. Prizes or gifts for special occasions which are expressions of good will; (3-19-99)

b. Bonuses paid for signing a contract; (3-19-99)

c. Fees paid to participate periodically in meetings of boards of directors unless exceedingly high; i.e., amounts comparable to other employers in the same industry, of relatively the same size; (3-19-99)

d. Drawings or advances by partners of a partnership, or by members of a limited liability company treated for federal tax purposes as a partnership or sole proprietorship; (4-5-00)

e. Rental charge for personal equipment provided by the employee on the job: if (3-19-99)

i. There is a rental agreement; and (3-19-99)

ii. The worker has received a reasonable wage for services performed; and (3-19-99)

iii. The fees are held separately on the employer's records. (3-19-99)

f. Stock or membership interests issued for purposes other than services performed or to be performed; (3-19-99)

g. Reimbursement for actual employee expense, or business allowance arrangements with employees that requires them: (3-19-99)

i. To have paid or incurred reasonable job related expenses while performing services as employees; and (3-19-99)

ii. To account adequately to the employer for these expenses; and (3-19-99)

iii. To return any excess reimbursement or allowance. (3-19-99)

h. Payments for employee travel expenses, provided: (3-19-99)

i. Payments are job related expenses while performing services; and (3-19-99)

ii. Payments do not exceed actual expenses or the federal allowance per diem rate for the area of travel; and (3-19-99)

iii. Records for days of travel pertaining to per diem payments are verifiable. (3-19-99)

i. Employee fringe benefits as set forth in Section 132 of the Internal Revenue Code, which are

excluded from an employee's gross income and which are not subject to federal unemployment taxes. (3-19-99)

j. Noncash payment to farmworkers. Noncash payments for farm work will be excluded from wages if they are "de minimis" in relation to the amount of cash wages paid to the farmworkers, or are not intended to be treated as the cash equivalent of wages, or as the cash payment of wages. Ref. Section 72-1328, Idaho Code. (3-15-02)

k. Payments of any kind by a partnership to its partner or by a sole proprietorship to its owner. (3-29-17)

04. Treatment of Limited Liability Companies. For purposes of state unemployment tax coverage, a limited liability company will have the same status as it may have elected for federal tax purposes, or as that status may be determined or required by the federal government, subject to the provisions of Subsections 061.02 and 061.03. Any member of a limited liability company that has elected to be treated as a corporation for federal tax purposes shall be treated as a corporate officer for state Employment Security Law purposes. (4-4-13)

05. Domestic Employment. Domestic employment is defined as work performed in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority, as distinguished from services as an employee in pursuit of an employer's trade, occupation, profession, enterprise, or vocation. In general, domestic employment "in the operation or maintenance of a private home, local college club, or local chapter of a college fraternity or sorority" includes, but is not limited to, services rendered by cooks, waiters, butlers, maids, janitors, handymen, gardeners, housekeepers, housemothers, and in-home caregivers. Ref. Section 72-1315, Idaho Code. (3-15-02)

06. Casual Labor. Casual labor is labor that meets the requirements of Section 72-1316A(19), Idaho Code. The term, "services not in the course of the employer's trade or business," refers to services that do not promote or advance the trade or business of the employer. ( )

07. Willfully. When applied to the intent with which an act is done or omitted, willfully implies simply a purpose or willingness to commit the act or make the omission referred to. It does not require any intent to violate law, in the sense of having an evil or corrupt motive or intent. It is more nearly synonymous with "intentionally," "designedly," "without lawful excuse," and therefore not accidental. Ref. Section 72-1372 and 72-1351A, Idaho Code. (3-22-07)

062. SUBSTANCE VS. FORM.
In recognizing covered employers, covered employment and in classifying wages, the Department shall examine both the substance and the form of the arrangement, contract, transaction or event, but more consideration shall be given to the substance of the arrangement, contract, transaction or event than to the form. If it is determined that true economic substance is lacking or the operations, accounting practices and records do not reflect the purported form or legal status, the Department shall, regardless of the form, determine proper coverage or classification. (3-15-02)

063. -- 080. (RESERVED)

081. EMPLOYER RECORDS.
Each person hiring one (1) or more individuals, whether or not such employment is sufficient to create the status of a covered employer, shall maintain records for five (5) years to show the information hereinafter indicated. Ref. Section 72- 1337, Idaho Code. ( )

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

a. Full name and home address of worker; (3-19-99)

b. Social Security account number; (3-19-99)

c. The place of work within this State; (4-11-06)

d. Date on which employee was hired, rehired, or returned to work after temporary or partial layoff; (3-19-99)

e. Date employment was terminated; whether the termination occurred by voluntary action of the individual and the reason given, or by discharge or death, and the reason for discharge; (3-19-99)

f. Wages paid for employment in each pay period and total wages for all pay periods ending in each quarter of the year, showing separately: money wages; the cash value of other remuneration; and the amount of all bonuses or commissions. (3-19-99)

02. Travel or Employee Business Expenses. Amounts paid to employees as allowances or reimbursement for travel and employee business expenses and the amounts of such expenditures actually incurred and accounted for by them. (3-19-99)

03. Records to Be Made Available. The records to be made available to the director or his authorized representative, in accordance with the provisions of Section 72-1337, Idaho Code, shall include all of the business records, such as journals, ledgers, time books, minute books, or any other records or information which would tend to establish the existence of and/or amounts paid for services performed, whether or not in covered employment, and for information necessary to assist in or enable collection efforts or any other investigations conducted by the Department. (4-11-06)

082. -- 095. (RESERVED)

096. EMPLOYER STATUS REPORT.

01. Status Report. Each employer shall report on such form or any online system as may be prescribed and furnished, such information as may be necessary to make an initial or subsequent determination of status under the Idaho Code. Said reports shall be signed by the employer, or on behalf of the employer by a duly authorized representative for such purpose. Ref. Section 72-1337, Idaho Code. (4-11-06)

02. Exceptions. The provisions of this Rule do not apply to any employer for whom the services performed do not, by virtue of the provisions of Section 72-1316, Idaho Code, constitute covered employment, except that the director reserves the right, in his discretion, to require any such employer at any time to make the reports mentioned in Section 096 of this rule. Ref. Section 72-1337, Idaho Code. (3-19-99)

097. -- 105. (RESERVED)

106. CLAIMS OF EXEMPTION.
Any employer claiming that services performed for the employer or remuneration paid by the employer does not constitute covered employment or covered wages, as defined in Section 72-1316 and 72-1328, Idaho Code, shall make a report to the Department of Labor of all pertinent facts upon which said claim is based, which report needs to be signed by the person making the claim, if he is the employer, or on behalf of the employer by an authorized representative. Ref. Section 72- 1337, Idaho Code. (4-11-06)

107. REMUNERATION PAID CONSTITUTES BOTH TAXABLE WAGES AND EXCLUDED AMOUNTS.
When remuneration paid includes payment for other than wages for services performed in covered employment, the employer's records must account for wages and other remuneration separately. When this distribution is not shown on the records, the employee's entire remuneration will be deemed to be wages. Ref. Section 72-1337, Idaho Code. (3-19-99)

108. ELECTION TO EXEMPT CORPORATE OFFICERS.
A corporation may elect to exempt one (1) or more corporate officers from coverage by registering with the Department each qualifying corporate officer it elects to exempt pursuant to Section 72-1352A, Idaho Code. Registrations in the format prescribed by the Department made on or before December 15th shall become effective on the first day of the next calendar year and remain effective for at least two (2) consecutive calendar years. Exemptions are not retroactive and no refund or credit shall be given for contributions paid before the effective date of the

exemption. Exemptions continue to remain in effect after two (2) consecutive calendar years unless the exemption is terminated according to Subsection 108.04 of this rule or coverage is reinstated according to Subsection 108.05 of this rule. (3-29-12)

01. Public Company Election. A public company, as defined in Section 72-1352A, Idaho Code, may elect to exempt any bona-fide corporate officer who: (3-29-12)

a. Is voluntarily elected or voluntarily appointed in accordance with the articles of incorporation or bylaws of the corporation; (3-29-12)

b. Is a shareholder of the corporation; (3-29-12)

c. Exercises control in the daily management of the corporation; and (3-29-12)

d. Does not perform manual labor as a primary work responsibility. (3-29-12)

02. Election for Corporations That Are Not Public Companies. A corporation that is not a public company as defined in Section 72-1352A, Idaho Code, may exempt from coverage any bona-fide corporate officer who: (3-29-12)

a. Is a shareholder of the corporation; (3-29-12)

b. Voluntarily agrees to be exempted from coverage; and (3-29-12)

c. Exercises substantial control in the daily management of the corporation. (3-29-12)

03. Election to Exempt Not Applicable. The election to exempt does not apply to corporate officers covered by Sections 72-1316A, 72-1322D and 72-1349C, Idaho Code. (3-29-12)

04. Termination of Exemption. A corporate officer's exemption terminates upon the corporate officer's failure to satisfy the election criteria of Section 72-1352A, Idaho Code. It is the responsibility of the corporation to notify the Department in writing in a format required by the Department when an exempt corporate officer no longer meets the election criteria. A corporation is responsible for any taxes, penalties, and interest due after the date the exemption is terminated or should have been terminated. (3-29-12)

05. Reinstatement of Coverage. A corporation may elect to reinstate coverage for one (1) or more corporate officers previously exempted. Reinstatement requires written notice from the corporation to the Department in a format required by the Department. Reinstatement requests received by the Department on or before December 15th become effective the first day of the calendar year following the end of the exemption's initial two (2) year effective date. Coverage shall not be reinstated retroactively. (3-29-12)

06. Definitions. For purposes of this chapter: (3-29-12)

a. "Bona-fide corporate officer" is defined as any individual empowered in good faith by stockholders or directors, in accordance with the corporation's articles of incorporation or bylaws, to discharge the duties of a corporate officer. (3-29-12)

b. "Exercise substantial control in the daily management of the corporation" is defined as when an individual makes managerial decisions over a business function or functions that have some effect on the entire corporation. This includes the authority to hire and fire, to direct other's activities in the corporation, or the responsibility to account for and pay over taxes or debts incurred by the corporation. (3-29-12)

07. Services in Employment. Unless specifically exempted, services performed by corporate officers are considered services in employment and are covered for purposes of unemployment insurance. (3-29-12)

109. -- 110. (RESERVED)

111. SERVICES PERFORMED PART IN COVERED EMPLOYMENT AND PART IN EXCLUDED EMPLOYMENT.
When wages paid cover services performed both in covered employment and excluded employment, the employer's records must show the hours and wages for covered employment and also hours and wages for excluded employment. When this distribution is not shown on the records, the employee's entire wage will be deemed to have been earned in covered employment. Ref. Section 72-1337, Idaho Code. (3-19-99)

112. DETERMINING STATUS OF WORKER.

01. Determining if Worker Is an Employee. In making a determination as to whether a worker is performing services in covered employment, it shall be determined whether the worker is an employee. To determine whether a worker is an employee, the following factors may be considered: (3-22-07)

a. The way in which the business entity represented its relationship with the worker prior to the investigation or litigation, including representations to the Internal Revenue Service; (3-19-99)

b. Statements made to the Department; (3-19-99)

c. Method of payment to the worker, in particular whether federal, state, and FICA taxes are withheld from paychecks; and (3-19-99)

d. Whether life, health, or other benefits are provided to the worker at the business entity's expense. (3-19-99)

02. Determining if Worker Is an Independent Contractor. If it cannot be determined that a worker is an employee pursuant to Subsection 112.01 above, then a determination shall be made whether the worker is an "independent contractor" pursuant to the terms of Section 72-1316(4), Idaho Code. For the purposes of that section and these rules, an independent contractor is a worker who meets the requirements of both Sections 72-1316(4)(a) and (b), Idaho Code. (3-19-99)

03. Proving Worker Is Free from Control or Direction in His Work. To meet the requirement of Section 72-1316(4)(a), Idaho Code, the alleged employer must prove that a worker has been and will continue to be free from control or direction in the performance of his work, both under his contract of service and in fact. The following factors may be considered in this determination: (3-22-07)

a. Whether the alleged employer has control over the details of the work, the manner, method or mode of doing the work, and the means by which the work is to be accomplished, but without reference to having control over the results of the work. (3-19-99)

b. The freedom from direction and control must exist in theory (under a contract of service) and in fact; and (4-11-06)

c. The employer must demonstrate that it lacked a right to control the worker. (4-11-06)

04. Proving Worker Is Engaged in Independently Established Business. To meet the requirement of Section 72-1316(4)(b), Idaho Code, it must be proven that a worker is engaged in an independently established trade, occupation, profession or business. The following factors are significant and shall be considered in making this determination, although no single factor is regarded as controlling: (3-20-14)

a. The level of skill required to perform the work; (3-20-14)

i. A worker who performs routine tasks requiring little or no training is indicative of the worker's status as an employee. (3-20-14)

ii. A worker who performs work requiring skills marketable as a trade, occupation, profession or business, such as an electrician, attorney, physician, or CPA, is indicative of the worker's status as an independent contractor. (3-20-14)

iii. A worker who performs work requiring special licensing or compliance with regulatory requirements is indicative of the worker's status as an independent contractor. (3-20-14)

iv. A worker who receives all or substantially all of the worker's job training from the alleged employer is indicative of the worker's status as an employee. (3-20-14)

b. The extent to which the worker's services are an integral part of the alleged employer's business; (3-20-14)

i. A worker who performs the primary type of work that the alleged employer is in business to provide to its customers or clients is indicative of the worker's status as an employee. For example, an automotive repair business hires an additional mechanic to help in its service repair shop. Since the work provided by the worker is the primary type of work the automotive repair business provides to its customers, the work is indicative of the worker's status as an employee. (3-20-14)

ii. A worker who performs a specific job that is secondary to an integral part of the employer's business is indicative of the worker's status as an independent contractor. For example, if a manufacturing business requiring routine electrical work within its manufacturing facility hires an independent electrical company to provide that service, the electrical work performed is indicative of the worker's status as an independent contractor. (3-20-14)

iii. A worker who supervises the alleged employer's employees is indicative of the worker's status as an employee. (3-20-14)

iv. If the success of a business depends to an appreciable degree upon the performance of certain services, the worker performing those services is indicative of that worker's status as an employee. (3-20-14)

v. If a worker is not required to work solely for the alleged employer and there is a separate contractual relationship for each job that ends upon the completion of that job, the work is indicative of the worker's status as an independent contractor. (3-20-14)

c. The permanency of the relationship; (3-20-14)

i. The longer a worker works solely for a single alleged employer, the more indicative it is of the worker's status as an employee. (3-20-14)

ii A worker who makes the worker's services available to the general public for hire on a regular and consistent basis is indicative of the worker's status as an independent contractor. (3-20-14)

iii. A worker whose hours worked are regularly scheduled, rather than sporadic or occasional, is indicative of the worker's status as an employee. (3-20-14)

iv. Work with a specific ending date that ends the working relationship between the worker and the alleged employer is indicative of the worker's status as an independent contractor. (3-20-14)

v. Work that is open ended allowing the worker to continue working for the same alleged employer as long as performance standards are met, is indicative of the worker's status as an employee. (3-20-14)

d. A worker's investment in facilities and equipment; (3-20-14)

i. A worker who is reimbursed for work-related purchases, materials or supplies, or is furnished work-related materials or supplies by the alleged employer is indicative of the worker's status as an employee. (3-20-14)

ii. A worker who uses the tools and equipment of the alleged employer is indicative of the worker's status as an employee. (3-20-14)

iii. A worker's significant investment in tools and equipment compared to the cost of the tools and equipment provided by the alleged employer is indicative of the worker's status as an independent contractor. (3-20-14)

iv. A worker who is financially responsible to the alleged employer for damage to equipment or tools is indicative of the worker's status as an independent contractor. (3-20-14)

v. A worker's investment in physical facilities used by the worker in performing services is indicative of the worker's status as an independent contractor. (3-20-14)

vi. A worker's lack of investment in physical facilities indicating a dependence on the alleged employer for whom the worker's services are performed is indicative of the worker's status as an employee. (3-20-14)

e. Whether a worker is customarily engaged in an outside trade, occupation, profession, or business providing the same type of services the worker provides for the alleged employer engaging his services; (3-20-14)

i. A worker who provides one (1) type of service for an alleged employer, while providing the same type of service to others for hire, is indicative of the worker's status as an independent contractor. (3-20-14)

ii. A worker who provides one (1) type of service for an alleged employer, while providing a different type of service to others for hire, is indicative of the worker's status as an employee of the alleged employer. (3-20-14)

iii. A worker who advertises independently via yellow pages, business cards, web pages, or other types of media is indicative of the worker's status as an independent contractor. (3-20-14)

f. A worker's opportunities for profit and loss; (3-20-14)

i. A worker required to carry business related expenses such as insurance, bonding, or workers compensation coverage is indicative of the worker's status as an independent contractor. (3-20-14)

ii. A worker's ability to earn a profit by performing work more efficiently or suffer a loss because of the work performed is indicative of the worker's status as an independent contractor. (3-20-14)

iii. A worker who is subject to a risk of economic loss due to significant investments or a bona fide liability for expenses is indicative of the worker's status as an independent contractor. (3-20-14)

g. Other factors when viewed fairly in light of all the circumstances that may or may not indicate that the worker was engaged in an independently established trade occupation, profession, or business. These factors may include control of the premises, right to determine hours, or who sets the rate of pay. (3-20-14)

05. Meeting Criteria for Covered Employment. A worker who meets one (1), but not both, of the tests in Subsections 112.03 and 112.04 above shall be found to perform services in covered employment. (3-19-99)

06. Evidence of Contractual Liability for Termination. For purposes of making a determination under Section 72-1316(4), Idaho Code, and this regulation, the party alleging that summary termination by either party would result in contractual liability must present some evidence upon which to base such allegation. Ref. Section 72-1316(4), Idaho Code. (3-19-99)

113. -- 130. (RESERVED)

131. FARM COMMODITY OWNERSHIP.
In determining if the farm operator-processor produced more than fifty percent (50%) of the commodities being processed, the following apply: (3-19-99)

01. Quantity. It will be determined on a quantity basis where the farm operator processes only one (1)

commodity. (3-19-99)

02. Wages. It will be determined on the basis of the relationship between wages paid for processing commodities raised by the farm operator-processor and total wages paid for processing where the farm operator processes several commodities. Wages paid for processing each commodity will be determined. The proportionate share of such wages paid for processing that portion of the commodity raised by the farm operator-processor will be ascertained on the basis of the percentage of such commodity which was produced by the farm operator. This will be done for each commodity processed so as to ascertain total wages paid for processing commodities produced by the farm operator-processor. If such total is more than fifty percent (50%) of the total wages paid for processing all commodities, the activity will be exempt but if it is fifty percent (50%) or less, it will not be exempt. Ref. Section 72-1304, Idaho Code. (3-19-99)

132. STATUS.

01. Status Information Required. To determine the taxable status of an employer, detailed information regarding the business activities of any person engaged in business in Idaho shall be submitted as required, including articles of incorporation, articles of organization, minutes of boards of directors, financial reports, partnership agreements, number of employees, wages paid, employment contracts, income tax records, and any other records or other information which may tend to establish such person's status. Ref. Section 72-1337, Idaho Code. (3-19-99)

02. Notification to Liable Employers. An employer shall be notified in writing of any determination as to its liability for contributions, or its status as a covered employer if a formal determination was made after the employer questioned its status. The determination shall be in the form required by IDAPA 09.01.01.27.01, and shall become final if no timely appeal is taken to an appeals examiner pursuant to the Rules of Administrative Procedure of the Department of Labor. ( )

03. Employer Quarterly Report Forms. Employers who are liable to pay tax contributions, or who have elected a cost reimbursement option in lieu of tax contributions, shall submit quarterly report forms in any form or medium designated by the director or his authorized representative. Ref. Section 72-1349, Idaho Code. (4-11-06)

04. Update Requirements. Covered employers shall furnish the Department with pertinent status data when new or additional information is available. Ref. Section 72-1337, Idaho Code. (3-19-99)

133. (RESERVED)

134. PROFESSIONAL EMPLOYER ORGANIZATIONS.
A professional employer organization shall fully comply with the requirements of the Professional Employer Recognition Act, Chapter 24, Title 44, Idaho Code in order to be eligible for any transfers of experience rating as allowed by Section 72-1349B, Idaho Code. (3-15-02)

01. Methods of Reporting. To report the wages and employees covered by the professional employer arrangement between a professional employer and client, professional employers and their clients shall make reports to the Department in one (1) of the following ways, subject to the conditions in Subsections 134.02 through 134.06 of this rule: (3-15-02)

a. Report the workers included in the professional employer arrangement under the employer account number of the professional employer and transfer the rate of the client to the professional employer; or (3-15-02)

b. Report the workers included in the professional employer arrangement under the employer account number of the client without an experience rate transfer. Ref. Section 72-1349B, Idaho Code. (3-15-02)

02. Joint Transfer of Experience Rate. In order to effect a transfer of a client's experience rate into the experience rate of a professional employer organization, both the client and the professional employer organization shall jointly apply for the transfer of the experience rate within the same timeframes as required of employers by Section 72-1351(5), Idaho Code, from the date of the contract entered into between the professional employer organization and the client required by Section 44-2405, Idaho Code. Failure to submit a timely joint

request for transfer of experience rate shall result in the professional employer organization reporting wages for the client under the employer account number of the client. Ref. Section 72-1351(5), Idaho Code. (3-22-07)

03. Partial Transfers of Experience Rate Prohibited. In the event that a client and a professional employer organization jointly apply to transfer the experience rate of the client into that of the professional employer, the client's entire experience rate and factors of experience rate shall be transferred into that of the professional employer, and no partial transfers of experience factors or the experience rate shall be allowed. Ref. Section 72-1349B, Idaho Code. (3-15-02)

04. Partial Reporting of Workers. If some of the client's workers are included in the professional employer arrangement and some are not included, and the professional employer organization and the client elect to report the workers included in the professional employer arrangement under the employer account number of the client, then only one (1) quarterly report shall be remitted to the Department, which shall list or include all the client's workers whether or not included in the professional employer arrangement. Ref. Section 72-1349B, Idaho Code. (3-15-02)

05. Combined Wages or Services for Purposes of Coverage. If a client employer has employees or employment, or both, that does not independently meet the coverage or threshold requirements necessary to constitute covered employment, such employees, services or employment shall nonetheless be deemed to meet the coverage requirements of the Employment Security Law if, in combination with other employees, employment or services of such other employees of the professional employer organization or any of its clients, such wages, services or employees do jointly meet coverage requirements. (3-15-02)

135. -- 165. (RESERVED)

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

01. Limitation for Commencing Administrative Procedures. The director may commence an administrative proceeding for purposes of establishing a tax liability, *or otherwise to enforce the provisions of Section 72-1349, Idaho Code,* by issuing a determination *at any time within* five (5) years from the due date of a quarterly report or the date a quarterly report is filed, whichever is later, subject to tolling pursuant to Section 72-1349, Idaho Code. *( )*

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

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

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

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

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

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

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

167. -- 185. (RESERVED)

186. ACCOUNTING AND DELINQUENCY CONTROL.
Overpayments on employer accounts may be refunded without written application by the employer. Credits resulting from overpayments or adjustments to an employer's account shall be refunded periodically unless such credit is applied to a subsequent balance due. Ref. Section 72-1357, Idaho Code. (3-19-99)

01. Erroneous Wage Reports. An employer submitting an erroneous report of employee wages resulting in payment of unearned unemployment insurance benefits shall have said benefit payments subtracted from any refund due that employer, if such employer benefited from the unearned benefit payments. Ref. Section 72-1372, Idaho Code. (4-11-06)

02. Notification of Underpayments. Employers shall be notified periodically of any taxes, penalties, or lien interest due on their tax account. Ref. Section 72-1349, Idaho Code. (3-19-99)

03. Cancellation of Refund Warrants. Refund warrants, outstanding after the validity date, shall be canceled, stop-payment procedures initiated, and then reissued only upon completion of an affidavit for the replacement of the lost or destroyed warrant. Ref. Section 72-1357, Idaho Code. (4-11-06)

187. -- 220. (RESERVED)

221. TRANSFER OF EXPERIENCE RATING.
Upon request, employers shall be informed of the requirements for transferring an experience rating record. Notification shall be issued to interested parties when an experience rating record transfer request is made. Ref. Sections 72-1351 and 72-1351A, Idaho Code. (4-11-06)

01. Mandatory Transfer of Rate. An experience rating record transfer shall be mandatory if there is a transfer of trade or business and ownership or management or control is substantially the same between the predecessor and successor. The parties in interest shall be notified of such transfer of experience as determined from the facts applicable to the case. The determination shall be in the form required by IDAPA 09.01.01.027.01, and become final if no appeal is taken to an appeals examiner pursuant to the Rules of Administrative Procedure of the Department of Labor. ( )

02. Partial Experience Rate Transfers. The following method is used to compute the pro-rata share of the experience rate account that is to be transferred from the predecessor to a successor. The pro-rata share is determined by dividing the gross payroll associated with the portion of the business acquired by the total gross payroll for the entire business operations for the same time period. The time period upon which this computation is based is the four (4) most recently completed quarters as reported by the predecessor prior to the date of acquisition or change in entity. (4-11-06)

03. Continued Predecessor Employment for Liquidation. When a total transfer of experience rating record has been completed and it is found that the predecessor employer continues to have employment in connection with the liquidation of his business, such employer shall continue to pay contributions at the assigned rate for the period of liquidation but not to extend beyond the balance of the rate year. Ref. Section 72-1351, Idaho Code. (3-19-99)

04. Management or Ownership or Control Substantially the Same. For the purposes of Subsection 72-1351A, Idaho Code, in determining whether the ownership or management or control of a successor is substantially the same as the ownership or management or control of the predecessor factors to be considered include, but are not limited to, the extent of policy making authority, the involvement in daily management of operations, the supervision over the workforce, the percentage of ownership of shares or assets, and the involvement on boards of directors or other controlling bodies. (4-11-06)

05. Wage Paid by Predecessor. The successor employer may use wages paid by the predecessor employer to arrive at the wage base for purposes of calculating taxable wages only when the experience rate of a predecessor employer has been transferred to a successor employer. Ref. Sections 72-1349(1), 72-1351(5), and 72-1350(8), Idaho Code. (4-11-06)

222. -- 230. (RESERVED)

231. EXPERIENCE RATING -- QUALIFYING PERIOD.
When an eligible employer ceases to have covered employment for a period of six (6) consecutive quarters or more, they must complete another qualifying period in order to again be eligible for consideration for a reduced contribution rate. Ref. Section 72-1319, Idaho Code. (4-11-06)

232. -- 240. (RESERVED)

241. BOARD, LODGING, MEALS.
When board, lodging, meals, or any other payment in kind considered as payment for services performed by an employee constitute a part of wages or wholly comprise an employee's wages, the value of such board, lodging, or other payment shall be determined as follows: (3-19-99)

01. Cash Value. If a cash value for such board, lodging, or other payment is agreed upon in any contract of hire, the amount so agreed upon shall be used provided it is a reasonable, fair market value. If there is no agreement, or if the contract of hire states an amount less than a reasonable, fair market value, the Department of Labor shall determine the reasonable or fair market value to be used. Ref. Section 72-1328, Idaho Code. (3-30-01)

02. Meals and Lodging Not Included in Gross Wages. The value of meals and lodging furnished by an employer to the employee will not be included in the employee's gross income if it meets the following tests: (4-11-06)

a. The meals or lodging are furnished on the employer's business premises; (3-19-99)

b. The meals or lodging are furnished for the employer's convenience; and (3-19-99)

c. In the case of lodging (but not meals), the employees must be required to accept the lodging as a condition of their employment. This means that they must accept the lodging to allow them to properly perform their duties. (3-29-10)

d. In order to exclude the value of lodging from an employee's gross wages, the employer must show that the wages paid to the employee for services performed meets the prevailing wage for those services. If the employer's records do not show or establish that the employee received the prevailing wage for services performed, then the reasonable or fair market value of the lodging will be included in the employee's gross income as wages. Ref. Section 72-1328, Idaho Code. (3-29-10)

03. Meals or Lodging for Employer Convenience. Meals or lodging furnished will be considered for the employer's convenience if the employer has a substantial business reason other than providing additional pay to the worker. A statement that the meals or lodging are not intended as pay is not enough to prove that either meals or lodging are furnished for the employer's convenience. Ref. Section 72-1328, Idaho Code. (3-19-99)

04. Subsistence Remuneration. In the case of employees who receive remuneration in the form of subsistence, such as groceries, staples, and fundamental shelter, the fair value of such subsistence will be determined by the Director. Ref. Section 72-1328, Idaho Code. (3-19-99)

242. -- 255. (RESERVED)

256. DETERMINATION OF FAIR VALUE OF REMUNERATION FOR PERSONAL SERVICES.
When the amount paid to an employee by an employer includes remuneration for other than personal services such as equipment use, travel costs, etc., the Director shall determine the fair value of the remuneration for the employee's personal services. In making such determination, the Director shall consider the wages specified in the contract of

hire, the prevailing wages for similar work under comparable conditions, and other pertinent factors. The wages so determined by the Director shall be reported by the employer. Ref. Section 72-1328, Idaho Code. (3-19-99)

257. -- 261. (RESERVED)

262. DETERMINATION OF PROPER QUARTER IN WHICH TO ASSIGN AND REPORT WAGES.

01. Wage Assignment to Proper Calendar Quarter. Wages paid shall be assigned to the calendar quarter in which the wages were: (3-29-10)

a. Actually paid to the employee in accordance with the employer's usual and customary payday as established by law or past practice; or (3-30-01)

b. Due the employee in accordance with the employer's usual and customary payday as established by law or past practice but not actually paid on such date because of circumstances beyond the control of the employer or the employee; or (3-30-01)

c. Not paid on the usual or customary payday as established by law or past practice but set apart on the employer's books as an amount due and payable or otherwise recognized as a specific and ascertainable amount due and payable to the worker in accordance with an agreement or contract of hire under which services were rendered. Ref. Section 72-1367, Idaho Code. (3-19-99)

02. Draws and Advances on Wages. Payments to employees made prior to regular or established paydays will be assignable and reportable during the quarter in which they would have been paid unless a practice is established whereby all employees or a class of employees are given an opportunity to take a "draw" by which such action, another "regular" payday appears to have been created. (3-19-99)

03. Judgments of Wages. Amounts received as a result of labor relations awards or judgments for back pay, or for disputed wages, constitute wages and will be reported in the quarter or quarters in which the award or judgment has become final, after all appeals have been exhausted, or the quarter or quarters to which the court assigns the wages, if different. Ref. Section 72-1328, Idaho Code. (3-15-02)

04. Awarded Damages Against Employers. Amounts awarded to the claimant as a penalty or damages against the employer, other than for lost wages, do not constitute wages. Ref. Section 72-1328, Idaho Code. (3-19-99)

263. DETERMINATION OF REPORTABLE QUARTERS.
An employer shall be covered for all four (4) quarters in the calendar year in which the employer becomes a covered employer as well as for all four (4) quarters in the succeeding calendar year. Employers are not required to file quarterly reports until meeting the coverage criteria pursuant to Section 72-1315, Idaho Code. Upon becoming a covered employer within a calendar year, the quarterly report(s) for the quarter(s) prior to the employer becoming covered shall be filed with the quarterly report for the quarter in which the employer became covered. Quarterly reports for the periods subsequent to coverage shall be filed when due after the end of each quarter. Ref. Sections 72-1315 and 72-1337, Idaho Code. (3-22-07)

264. -- 999. (RESERVED)

09.01.60 – COMPLAINT PROCEDURES UNDER THE WORKFORCE INNOVATION AND OPPORTUNITY ACT (WIOA)

000. LEGAL AUTHORITY.
These rules are promulgated Section 72-1333(2), Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 09.01.60, "Complaint Procedures Under the Workforce Innovation and Opportunity Act." *( )*

02. Scope. These rules govern the procedures for processing and adjudicating discrimination and program complaints by or against any program or activity funded or authorized under Title I of the federal Workforce Innovation and Opportunity Act. (3-15-02)

a. Discrimination Complaints. The Workforce Innovation and Opportunity Act prohibits discrimination against all individuals in the United States on the basis of race, color, religion, sex, national origin, age, disability, political affiliation or belief, and discrimination against beneficiaries on the basis of either citizenship or status as a lawfully admitted immigrant authorized to work in the United States or participation in any WIOA Title I financially assisted program or activity; and incorporates the provisions of Title VI of the Civil Rights Act of 1964, as amended, which prohibits discrimination on the basis of race, color and national origin; Section 504 of the Rehabilitation Act of 1973, as amended, which prohibits discrimination against qualified individuals with disabilities; The Age Discrimination Act of 1975, as amended, which prohibits discrimination on the basis of age; and Title IX of the Education Amendments of 1972, as amended, which prohibits discrimination on the basis of sex in educational programs. A complaint alleging a violation of any of these provisions is a discrimination complaint which shall be processed and adjudicated according to the discrimination complaint procedures provided for in these rules. Further, no entity receiving financial assistance under WIOA may discharge, intimidate, retaliate against, threaten, coerce, or discriminate against any person because such person has filed a complaint, opposed a prohibited practice, furnished information, assisted, or participated in any manner in an investigation or hearing. These actions are also considered discrimination and are enforced under this rule's discrimination complaint procedures. (3-15-02)

b. Program Complaints. *C*omplaints *that do not allege unlawful discrimination or retaliation, and instead* involv*e* the proper application of the Workforce Innovation and Opportunity Act and its regulations and policies are program complaints, which shall be processed and adjudicated according to the program complaint procedures provided for in these rules. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Department. Idaho Department of Labor. (3-15-02)

02. Local Administrative Entity. The administrative entity that administers the workforce investment system within a designated local area. (3-15-02)

03. One-Stop Operator. One (1) or more entities designated or certified under the provisions of WIOA to operate a One-Stop Center. (3-15-02)

04. Service Provider. Any operator or provider of aid, benefits, services, or training to any WIOA Title I funded program or activity that receives financial assistance either from or through *the Department or a* WIOA recipient, or for any participant through that participant's Individual Training Account; or any entity that is selected or certified as an eligible provider of training services to participants. *( )*

05. WIOA Recipient. Any entity *receiving* financial assistance under WIOA Title I from *or through* the Department, including any successor, assignee, or transferee of a recipient, but excluding the ultimate beneficiaries of the WIOA Title I-funded program or activity. *( )*

011. ABBREVIATIONS.
Unless the context clearly requires otherwise, these abbreviations shall have the following meanings when used in this chapter. (3-15-02)

01. **CRC**. Civil Rights Center of the U.S. Department of Labor. (3-15-02)

02. **EO**. Equal Opportunity. (3-15-02)

03. **WIOA**. Workforce Innovation and Opportunity Act. (3-15-02)

012. DISCRIMINATION COMPLAINTS.

Complaints alleging discrimination must be in writing and may be filed by the complainant or the complainant's designated representative with the Department, Local Administrative Entity, Service Provider, or One-Stop Operator *and must contain the information required by, and be processed in accordance with, the Department's WIOA nondiscrimination plan and other applicable policies and procedures adopted by the director. The plan and those policies and procedures must explain that w*ritten complaints *may be* taken by the Department, Local Administrative Entity, Service Provider, or One-Stop Operator*, and also* may also be filed directly with the Director, CRC, U.S. Department of Labor, 200 Constitution Avenue NW, Room N-4123, Washington, DC 20210. *( )*

01. **Confidential Information**. Information that could lead to the identification of the person filing the complaint shall be kept confidential unless disclosure is required by law or is necessary for conducting an investigation or engaging in enforcement activities. (3-15-02)

02. **Jurisdiction**. In order to have jurisdiction to process and adjudicate a discrimination complaint the respondent against whom the complaint was filed must be a WIOA recipient, the complaint must allege a basis for discrimination that is prohibited by WIOA, and the complaint must be filed within one hundred eighty (180) days of the alleged discrimination. (3-15-02)

03. **Notice of Lack of Jurisdiction**. If a determination is made that there is no jurisdiction to process the complaint, a Notice of Lack of Jurisdiction must be sent to the complainant that includes the reason for the determination and notice that the complainant has the right to file a complaint directly with CRC within thirty (30) days from receipt of the Notice of Lack of Jurisdiction. (3-15-02)

04. **Joint Jurisdiction**. Where the complaint alleges discrimination by a WIOA recipient or service provider on a basis that is prohibited by both WIOA and by a civil rights law independently enforced by that WIOA recipient or service provider, the complaint must be referred to that WIOA recipient or service provider for processing under their procedures. For example, WIOA prohibits discrimination on the basis of national origin. If a discrimination complaint on the basis of national origin is made against a WIOA recipient or service provider and they are also prohibited under their own regulations from discriminating on the basis of national origin, then the complaint shall be referred to that WIOA recipient or service provider for processing according to their regulations. Notice of the referral must be sent to the complainant. (3-15-02)

05. **Sole Jurisdiction**. Where the complaint alleges discrimination by a WIOA recipient or service provider on a basis that is prohibited by WIOA and is not covered by a civil rights law independently enforced by that WIOA recipient or service provider (e.g. religion, political affiliation or belief, citizenship or participation in WIOA Title I), the complaint shall be processed by that WIOA recipient or service provider under these procedures. (3-15-02)

013. PROGRAM COMPLAINTS AGAINST LOCAL WIOA PROGRAMS AND POLICIES.

Participants, One-Stop partners, service providers, and other interested parties may file complaints alleging nondiscriminatory, non-criminal violations of the WIOA agreements, policies or activities of a Local Administrative Entity or local service provider. Local program complaints shall be in writing and shall be filed with the local service provider or local administrative entity against whom the complaint is made within one hundred eighty (180) days from the date of the event or condition that is alleged to be a violation of WIOA. A complaint may be amended prior to a scheduled hearing or withdrawn by the complainant at any time. Information about the identity of the person filing the complaint or to the identity of any person who furnishes information relating to, or assisting in, an investigation, shall be kept confidential from non-parties to the complaint process unless disclosure is required by law. No entity receiving financial assistance under WIOA may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any person because such person has filed a complaint, opposed a prohibited practice, furnished information, assisted, or participated in any manner in an investigation or hearing. (3-15-02)

01. Initial Review. Written complaints shall be taken by the local service provider or local administrative entity from the complainant or the complainant's designated representative. All complaints shall be logged. If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIOA, the complaint shall be referred to the appropriate organization for resolution. Notice of the referral shall be sent to the complainant. If the complaint is retained, *the* complaint *and its* file *must* contain *the information required by, and be processed in accordance with, Department policies and procedures adopted by the director*. *( )*

014. PROGRAM COMPLAINTS AGAINST STATEWIDE WIOA PROGRAMS AND POLICIES.
Participants, One-Stop partners, service providers and other interested parties may file complaints alleging nondiscriminatory, non-criminal violations of statewide WIOA agreements, policies or activities. Statewide program complaints shall be in writing and shall be filed with the statewide service provider or the Department within one hundred eighty (180) days from the date of the event or condition that is alleged to be a violation of WIOA. A complaint may be amended prior to a scheduled hearing or withdrawn at any time. Information about the identity of the person filing the complaint or to the identity of any person who furnishes information relating to, or assisting in, an investigation, shall be kept confidential from non-parties to the complaint process unless disclosure is required by law. No entity receiving financial assistance under the Act may discharge, intimidate, retaliate, threaten, coerce, or discriminate against any person because such person has filed a complaint, opposed a prohibited practice, furnished information, assisted, or participated in any manner in an investigation or hearing. (3-15-02)

01. Initial Review. Written complaints shall be taken from the complainant or the complainant's designated representative. All complaints shall be logged. If the complaint alleges a violation of local WIOA programs, policies or agreements, the complaint shall be referred to the local administrative entity for processing under the complaint procedures for program complaints against local WIOA programs. If the complaint alleges a violation of any statute, regulation, policy, or program that is not governed by WIOA, the complaint shall be referred to the appropriate organization for resolution. Notice of the referral shall be sent to the complainant. If the complaint is retained, *the* complaint *and its* file *must* contain *the information required by, and be processed in accordance with, Department policies and procedures adopted by the director*. *( )*

015. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated under Section 72-1333, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. IDAPA 09.02.01, "Rules of the Disability Determinations Service." ( )

02. Scope. These rules govern time limits for submission of invoices by vendors for payment for services. (4-2-08)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
There is no administrative appeal from any proceedings brought pursuant to this chapter. (4-2-08)

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Consultative Examinations. Consultative examinations include physical and mental examinations, x-rays, laboratory tests, and special diagnostic studies from qualified sources. (4-2-08)

02. Medical Evidence of Record. Medical evidence of record includes medical history reports, medical opinions, treatment records, copies of laboratory reports, prescriptions, ancillary tests, x-rays, operative and pathology reports, consultative reports, and other technical information used to document disability claims. ( )

03. Travel. Travel includes costs associated with applicants, beneficiaries, recipients, and other authorized individuals in connection with attending consultative examinations or disability hearings by commercial carrier (air, rail, taxi, shuttle, or bus), or privately owned vehicles. ( )

04. Interpretive Services. Interpretive services include authorized contracted interpreters for individuals with limited English proficiency or requiring language assistance for a consultative examination or disability hearing. (4-2-08)

011. -- 021. (RESERVED)

022. PAYMENT FOR SERVICES.
In order to receive payment for services provided, submission of bills must be within one year from date of service. This includes consultative examinations, medical evidence of record, travel, and interpretative services. ( )

023. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated under Section 72-1382, Idaho Code, and Title 67, Chapter 52, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 09.05.03, "Rules for Determining Bargaining Representatives." (6-30-19)T

02. Scope. The rules govern all proceedings before the Department brought pursuant to Section 72-1382, Idaho Code, or concerning mediation proceedings brought pursuant to Section 72-1381, Idaho Code. *IDAPA Sections 09.05.03.011, 09.05.03.012, 09.05.03.013, and 09.05.03.014 relate only to powers concerning determination of representation under Section 72-1382, Idaho Code, and for conciliation and mediation purposes under Section 72-1381, Idaho Code.* *( )*

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
There is no administrative appeal *under* this chapter. *( )*

004. -- 011. (RESERVED)

012. UNION AGREEMENTS AND INSULATED PERIOD.
Once the contract becomes effective as a bar to an election, no petition will be accepted until the end of the period during which the contract is effective as a bar. A contract for a fixed period of more than three (3) years will bar an election sought by a contracting party during the life of the contract, but will act as a bar to an election sought by an outside party for only three (3) years following its effective date. A contract of no fixed period will not act as a bar at all. Petitions filed not more than ninety (90) days but over sixty (60) days before the end of the contract bar period will be accepted and can bring about an election, or if a petition is filed after a contract expires it will be accepted. The last sixty (60) days of the contract bar period is called an insulated period. During that time the parties to the existing contract are free to negotiate a new contract or to agree to extend the old one. If they do so, petitions will not be accepted until ninety (90) days before the end of the new contract bar period. (1-21-74)

013. STRIKERS DEEMED EMPLOYEES.
Strikers are deemed to be employees even though replaced by other workers for representation purposes only and may be entitled to vote in any election conducted within twelve (12) months after the commencement of the strike. (1-21-74)

014. EMPLOYEE REPRESENTATION.

01. Petition or Union Representation. Any employer, union, or employee may petition the Department to conduct an investigation and/or hearing to determine whether the majority of the employees of any given business wish union representation and what union they wish to be represented by. Such petition must fully set forth and allege the exact question concerning representation of employees in the collective bargaining unit. The request must fully state the name of the employer, the place of business, the type of business, the name of the labor organization or organizations involved; and if the request is made by the employer it must include a list of employees employed in said unit. (1-21-74)

02. Requests Made by Unions. If the request is made by a union, such union must submit written statements or authorization cards from at least thirty percent (30%) of those workers in the unit to establish there is such a question of representation, except in establishments having less than six (6) employees, in which case twenty-five percent (25%) of the employees involved will be deemed sufficient. A description of the bargaining unit must be given. (1-21-74)

03. Collective Bargaining Unit. When a question arises concerning representation of employees in a collective bargaining unit the Department *will investigate* in order to determine the wishes of the majority of the employees in said unit. *( )*

04. Hearings. In any such investigation, a hearing may be held after giving due notice to all interested parties as provided for in the procedural rules of the Department. If as a result of such hearing or investigation the parties agree which union, if any, may properly represent them, a certification will be made and issued by the Director

of the Department designating the union for bargaining purposes. If after such a hearing and/or investigation, there is any doubt as to the wishes of the majority of the employees employed in said unit, a time and place will be scheduled to permit the employees to vote by secret ballot. (1-21-74)

05. Preparation of Ballot. In all cases where a secret ballot is taken, the ballot must be prepared by the Department to permit a vote for or against representation by anyone named on the ballot. In case of two (2) or more unions, a place must be provided for a vote against any union. (1-21-74)

06. Waiver of Investigation and Hearing. The investigation and hearing may be waived by consent of the parties pursuant to written stipulation by all parties involved, and a cross check may be conducted by representatives of the Department. Such cross check will be made by comparing the signatures or names appearing on the employer's payroll with signatures on authorization cards submitted by the union involved. At such cross check, no representatives will be permitted to be present except representatives of the Department. The Department may, at its discretion, also question individual employees. (1-21-74)

07. Elections. If it becomes necessary to conduct an election, such election will be held only after appropriate notice is posted by the department in a conspicuous place where the employees are employed. Whenever possible, the election will be held on the premises of the employer and at a time calculated to best permit all employees who are eligible to vote, and so far as possible at a time which will minimize the disruption of the employer's business. Such notice must be posted at least twenty-four (24) hours before the election and in those cases where, because of the nature of the shifts, a longer time is necessary, it shall be so given. Every effort will be made to hold the election reasonably soon after the twenty-four (24) hour period except in those exceptional cases. (1-21-74)

08. Observers. The parties involved may each designate and have present at the election *only* one (1) observer. Neither management nor union officials may act as observers. Employees having the right to hire or fire or to effectively recommend hiring or firing will be considered as management personnel of the employer and will not be permitted to vote at such election or to act as observers. No member of an employer's immediate family will be eligible to vote at such representation election or to act as an observer, or any principal stockholder owning ten percent (10%) or more of the company stock. (1-21-74)

09. Voting Eligibility. All employees in said bargaining unit on the payroll at the time the petition was received in the Department may vote. Regular part-time employees will be permitted to vote. Casual part-time employees or workers who are employed for a limited period will not be permitted to vote. (1-21-74)

10. Challenging Eligibility. Any interested party or representative of the Department may challenge the eligibility of any person to participate in the election for cause under these rules. The ballots of such challenged person will be impounded. Upon conclusion of the election and before the ballots are counted, the parties will be permitted to offer evidence in support of their contentions as to eligibility to vote, after which time a ruling will be made sustaining or overruling the objection. If overruled, the ballot will be placed in the ballot box. (1-21-74)

11. Ballots. Ballots prepared by the Department will set forth the question involved. One ballot will be given to each eligible voter. Such ballots are not to be signed by the voters. Voters will be requested to place an "X" in a square which will require only "YES" or "NO" votes. The ballot must be prepared to permit a vote against any representation. (1-21-74)

12. Deauthorization of Union Representation. A petition in a union shop for an election to determine whether there should be any union representation or not, may be filed with the Department. In such petition, it must be shown at least thirty percent (30%) or more of the employees in the unit covered by the agreement desire deauthorization. Only employees in the bargaining unit will be counted for this purpose subject to the provisions of Subsection 014.12. (1-21-74)

13. Petition for Election. The demand or petition set forth in Subsection 014.12 need not be in any particular form, but must comply with the procedural rules of the Department. No such election as set forth in Subsection 014.12 will be conducted among employees presently covered by a valid collective bargaining agreement, except when filed in accordance with the reopening or termination clause of such agreement. (1-21-74)

14. Existing Collective Bargaining Agreement. An existing collective bargaining agreement is a bar

to any representation election except as provided for within Section 012. (1-21-74)

15. Frequency of Election. No election may be held in any bargaining unit or subdivision thereof within which a valid election was held in the preceding twelve (12) month period. (1-21-74)

015. -- 999. (RESERVED)

IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

DOCKET NO. 10-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1208 and 55-1606, Idaho Code.

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

This pending fee rule adopts and re-publishes the following chapter under IDAPA 10, Rules of the Board of Licensure for Professional Engineers and Professional Land Surveyors as amended:

10.01.01, *Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors*

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 10, rules of the Idaho Board of Licensure for Professional Engineers and Professional Land Surveyors:

- ***(VACATED)*** *10.01.02, Rules of Professional Responsibility*
- ***(VACATED)*** *10.01.03, Rules of Corner Perpetuation and Filing*
- ***(VACATED)*** *10.01.04, Rules of Continuing Professional Development*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 1248 – 1272.

The Board adopts the pending rule as amended. The changes include consolidating four rule chapters into one chapter. IDAPA 10.01.02, 10.01.03, and 10.01.04 have been incorporated into IDAPA 10.01.01 and the proposed rulemakings promulgated under this docket number are hereby vacated. The Board approved the following changes:

- Easing some compliance requirements for continuing professional development;
- Minor technical corrections to the procedures;
- Removing unneeded administrative requirements;
- Simplifying language for clarity; and
- Boilerplate language was removed as part of the consolidation of four chapters into one.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fee categories are as follows:

1. Licensure as a Professional Engineer or Professional Land Surveyor by examination
2. Licensure as a Professional Engineer or Professional Land Surveyor by comity
3. Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying
4. Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities
5. Late or denied renewals
6. Reissuance of certificates
7. Reinstatement of a retired, expired, and discontinued license or certificate

8. Faculty restricted licensure and renewal as a professional engineer
9. Administrative penalty for violating the statutes or rules of the Board which accrue to the general fund of the State of Idaho

This fee or charge is being imposed pursuant to Sections 54-1213, 54-1216, 54-1219, 54-1220, and 54-1221, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund or the dedicated fund of the agency because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Keith Simila, (208) 373-7210.

Dated this 19th day of September, 2019.

Keith Simila
Executive Director
Idaho Board of Professional Engineers and
Professional Land Surveyors
1510 E. Watertower St, Ste 110,
Meridian, ID 83642
Phone (208) 373-7210
Fax (208)373-7213

10.01.01 – RULES OF THE IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

000. LEGAL AUTHORITY.
These rules are promulgated as authorized by Sections 54-1208(1) and 55-1606, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 10.01.01, "Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors." ( )

02. Scope. These rules include procedures of the Board, rules of professional responsibility, rules of continuing professional development, and rules for properly completing corner perpetuation and filing forms. ( )

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions set forth in Section 55-1603, Idaho Code, the following terms are used as defined below: ( )

01. Active Participation. Serving as an officer or committee chair at either the national, state or local (section or chapter) level. ( )

02. Activity. Any qualifying action with a clear purpose and objective which will maintain, improve, or expand the skills and knowledge relevant to the licensee's field of practice or practices. Routine job assignments are not considered qualified activities. ( )

03. Board. The Board of Licensure of Professional Engineers and Professional Land Surveyors. ( )

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

05. College Semester or Quarter Credit Hour. Credit for college courses. ( )

06. Continuing Education Unit (CEU). Unit of credit customarily used for continuing education courses. One (1) continuing education unit equals ten (10) hours of class in an approved continuing education course. ( )

07. Deceit. To intentionally misrepresent a material matter, or intentionally omit to disclose a known material matter. ( )

08. Documented Self-Study. Documented study of professional/technical journals, published papers, articles, books, software or other areas of training which increase knowledge of the technology above and beyond routine job assignments. ( )

09. Incompetence. Failure to meet the standard of care. ( )

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

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

12. Professional Development Hour (PDH). A contact hour (minimum of fifty (50) minutes) of instruction or presentation. The common denominator for other units of credit. ( )

SUBCHAPTER A - RULES OF PROCEDURE (RULES 011 THROUGH 099)

011. FEES.

01. Applications and Renewals. All fees are set by the Board in the following categories and may in no event be more than the amount specified in Sections 54-1213, 54-1214, 54-1216, 54-1219 and 54-1223, Idaho Code. Fees are not refundable. ( )

a. Licensure as a professional engineer or professional land surveyor by examination. ( )

b. Reinstatement of a retired or expired license. ( )

c. Certification for a business entity applying for a certificate of authorization to practice or offer to practice engineering or land surveying. ( )

d. Renewals for professional engineers, professional land surveyors, engineer interns, land surveyor interns, and business entities. ( )

e. Licensure for professional engineers or professional land surveyors by comity. ( )

02. Late or Denied Renewals. Failure on the part of any licensee or business entity to renew their license or certificate of authorization prior to their expiration will not deprive such persons or business entity of the right of renewal, but the fees to be paid for renewal after their expiration will be increased as prescribed in Section 54-1216, Idaho Code, unless otherwise waived by the Board. ( )

012. REISSUANCE OF CERTIFICATES.

A new certificate of licensure or authorization, to replace any certificate lost, destroyed or mutilated, may be issued upon written request and payment of fee of ten dollars ($10). ( )

013. (RESERVED)

014. SEALS.

01. Official Seal of Board. The official seal of this Board consists of the seal of the state of Idaho, surrounded with the words "Board of Professional Engineers and Professional Land Surveyors" and "State of Idaho." ( )

02. Standard Seals for Engineers and Land Surveyors. The Board adopts standard seals for use by licensed professional engineers and professional land surveyors as prescribed by Section 54-1215, Idaho Code. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ( )

03. Seal for Professional Engineer/Land Surveyor. Engineers obtaining licensure as land surveyors under the changes to Section 54-1217, Idaho Code, by the 1978 Legislature use the seal showing licensure as a Professional Engineer and Land Surveyor as adopted by the Board. Seals prepared and approved prior to July 1, 2008 are valid for continued use. ( )

015. CERTIFICATES.

Certificates of licensure or authorization issued by the Board must be displayed in the place of business. ( )

016. APPLICATION FOR LICENSURE OR CERTIFICATION.

01. Forms. Application forms for licensure as a professional engineer, or professional land surveyor, certification as an engineer intern, land surveyor intern or certificates of authorization to practice or offer to practice engineering or land surveying by a business entity may be obtained online from the Board. ( )

02. Completion of Application. Applications must be made on such forms as may be prescribed by the Board. All forms, references, transcripts and other written materials must be in English pursuant to Section 72-121, Idaho Code. An application that is not fully completed by the applicant need not be considered or acted upon by the Board. The application by a business entity for a certificate of authorization to practice or offer to practice

engineering or land surveying must set forth its address, and name and address of the individual, or individuals, duly licensed to practice engineering or land surveying in this state, who will be in responsible charge of engineering or land surveying services offered or rendered by the business entity in this state. ( )

***03. Submittal of Applications and Examination Cutoff Date**. Submittal of applications for licensure or intern certification must occur after passing the required national examinations. Examinations may be given in various formats and different registration dates apply depending on the examination format. ( )*

***a.** For national examinations administered in a computer-based or paper format once or twice per year the registration requirements, including the deadline and testing windows, are established by the National Council of Examiners for Engineering and Surveying (NCEES). ( )*

***b.** For national examinations administered continuously in a computer-based format, there is no deadline for registering with NCEES. The registration requirements, including the testing windows, are established by NCEES. ( )*

***c.** In order for the Board to be able to verify experience, only experience up to the date of submittal of the application for licensure will be considered as valid. ( )*

***d.** Applications for certification as engineering or surveying interns are submitted after passing the Fundamentals of Engineering or the Fundamentals of Surveying examination and providing evidence of graduation with educational credentials required by Subsection 017.03 of this chapter. ( )*

***04. Residency Requirement**. Except for military personnel stationed in the state of Idaho on military orders, and except for persons employed full-time in the state of Idaho, only residents of the state of Idaho and students enrolled at an Idaho university or college may qualify for initial licensure. The Board will accept as proof of Idaho residency a valid Idaho issued driver's license, a utility bill issued within the last sixty (60) days with an Idaho address in the name of the applicant, a statement from a financial institution issued within the last sixty (60) days to the applicant at an Idaho address, proof of current voter registration in Idaho, or current Idaho vehicle registration in the name of the applicant. The Board will accept as proof of full-time employment in the state of Idaho verification from the Idaho employer stating employment status. The Board will accept a valid student identification card as proof of enrollment at an Idaho university or college. ( )*

***05. Confidentiality of References**. All information received from references named by the applicant is held in confidence by the Board except as provided by Section 74-113, Idaho Code. Neither members of the Board nor relatives of the applicant by blood or marriage may be named or accepted as references. ( )*

***06. Minimum Standards -- References**. An applicant may not be licensed until satisfactory replies have been received from a minimum of five (5) of his references for professional engineers or land surveyors. It is the responsibility of each applicant to furnish references with the forms prescribed by the Board. ( )*

***07. Minimum Boundary Survey Experience**. The Board requires a minimum of two (2) years boundary survey experience as a condition of professional land surveyor licensure. ( )*

017. EXAMINATIONS AND EDUCATION.

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

***02. Use of NCEES Examinations**. National examinations prepared and graded by the National Council of Examiners for Engineering and Surveying (NCEES) may be used by the Board. Applicants registering for a national professional examination must have first passed the fundamentals examination unless exempted per Subsection 017.10 of this chapter. ( )*

***03. Eligibility for Licensure, Educational Requirements**. The application for licensure as a*

professional engineer or professional land surveyor together with a passing score on the written ethics questionnaire or Idaho specific land surveying examination, is considered in the determination of the applicant's eligibility. Each applicant must meet the minimum requirements as set forth in Section 54-1212, Idaho Code, before being licensed. Prescriptive education requirements are as follows: ( )

a. *In regard to educational requirements, the Board will consider as unconditionally approved only those engineering programs that are accredited by the Engineering Accreditation Commission (EAC) of ABET, Inc., or the bachelor of science programs accredited by the Canadian Engineering Accrediting Board, or those bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council. Non-EAC/ABET accredited engineering programs, related science programs, and engineering technology programs will be considered by the Board on their specific merits, but are not considered equal to engineering programs accredited by EAC/ABET. The Board may continue consideration of an application for valid reasons for a period of one (1) year, without forfeiture of the application fee. ( )*

b. *An applicant who has completed a four (4) year bachelor degree program in engineering not accredited by EAC/ABET or a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(3)(b), Idaho Code, for certification as an Engineer Intern or as required by Section 54-1212(1)(b), Idaho Code, for licensure as a professional engineer: ( )*

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. ( )

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/ management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ( )

iii. Forty-eight (48) college credit hours of engineering science and/or engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ( )

iv. The Board may require detailed course descriptions for seminar, directed study, special problem and similar courses to ensure that the above requirements are met. ( )

c. In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(4)(b), Idaho Code, for certification as a Land Surveyor Intern or as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ( )

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; ( )

ii. Twelve (12) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; ( )

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems. Graduate-level surveying courses can be included to fulfill curricular requirements in this area. ( )

***d.** The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited engineering degree or a non-engineering degree. Such evaluation must be done through an organization approved by the Board and be done at the expense of the applicant to ensure that the applicant has completed the coursework requirements of Subsection 017.02.b. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee is forfeited. (4-11-15)*

***04. Two Examinations for Engineering Licensure**. The complete examining procedure for licensure as a professional engineer normally consists of two (2) separate written examinations. The first is the Fundamentals of Engineering examination for engineer intern certification, and the second is the Principles and Practice of Engineering for professional engineer licensure. The examination will be a duration as determined by the Board. Normally, applicants are eligible to take the Fundamentals of Engineering examination during the last or second-to-last semester of or after graduation from an accredited bachelor of science engineering program. A certificate as an Engineer Intern will be issued only to those student applicants who earn a passing grade on the examination and who receive a degree. Having passed the Fundamentals of Engineering examination, applicants will be required to take the Principles and Practice of Engineering examination at a later date when qualified by the Board. ( )*

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

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

***07. Three Examinations for Land Surveying Licensure**. The complete examining procedure for licensure as a professional land surveyor consists of three (3) separate written examinations. The first is the Fundamentals of Surveying examination for land surveyor intern certification, and the second is the Principles and Practice of Surveying, and the third is the Idaho specific professional land surveying examination. All examinations are required for professional land surveyor licensure. The examination will be a duration as determined by the Board. Having passed the Fundamentals of Surveying examination, applicants will be required to take the Principles and Practice of Surveying examination at a later date when qualified by the Board. The examination covers the theory and principles of surveying, the practice of land surveying and the requirements of legal enactments. The Principles and Practice of Surveying examination may consist of separate modules, each of which must be passed. Having passed the Principles and Practice of Surveying examination, applicants will be required to pass the Idaho specific professional land surveying examination, which tests for knowledge of the laws and rules of Idaho, and the legal and technical aspects of land surveying in Idaho. ( )*

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

***09. Grading**. Unless otherwise provided in 54-1219, or 54-1223 Idaho Code, each land surveyor intern, engineer intern, professional land surveyor and professional engineer applicant must attain a passing score on the entire examination or modules as determined by the Board, before being awarded certification or licensure. Passing scores on national examinations are established by the National Council of Examiners for Engineering and Surveying. A passing score on the Idaho specific ethics questionnaire is eighty (80), a passing score on the law and rules module of the Idaho specific land surveying examination is ninety (90), and a passing score on the public land surveying module of the Idaho specific land surveying examination is seventy-five (75). ( )*

***10. Exemption – Examination on the Fundamentals of Engineering**. The Board may exempt an exceptional individual who has twelve (12) or more years of appropriate engineering experience from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(2), Idaho Code. The Board will exempt an individual who has an earned bachelor's degree and an earned doctoral degree from an approved engineering program from the requirement for satisfactory completion of an examination on the fundamentals of engineering as specified in 54-1223(3), Idaho Code. ( )*

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

018. REEXAMINATIONS.

The reexamination policy for each failed national examination will be established by NCEES. Reexamination for failed Idaho specific examinations will be allowed until a passing score is attained, but the Board may, in addition, require oral or other examinations. ( )

019. LICENSEES OR CERTIFICATE HOLDERS OF OTHER STATES, BOARDS, AND COUNTRIES.

***01. Interstate Licensure Evaluation**. Each application for an Idaho professional engineer license or professional land surveyor license submitted by an applicant who is licensed as a professional engineer, or licensed as a professional land surveyor, respectively, in one (1) or more states, possessions or territories or the District of Columbia, will be considered by the Board on its merits, and the application evaluated for substantial compliance*

with respect to the requirements of the Idaho law related to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation with a bachelor of science degree is required for licensure. Individuals who have passed the National Council of Examiners for Engineering and Surveying (NCEES) examinations for professional engineering or professional land surveying will be considered to have satisfied the examination requirement for issuance of a license as a professional engineer or professional land surveyor provided that land surveyor applicants also pass the Idaho specific professional land surveying examination. Prescriptive education requirements are as follows: ( )

a. *Graduates from programs accredited by the Engineering Accreditation Commission of the ABET, Inc., (EAC/ABET), or graduates of university bachelor of science engineering programs accredited by the Canadian Engineering Accrediting Board, or those university bachelor of science engineering programs that are accredited by official organizations recognized by the U.K. Engineering Council, or graduates of engineering programs with coursework evaluated by the Board as being substantially equivalent to EAC/ABET degrees, will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ( )*

b. *The Board may require an independent evaluation of the engineering education of an applicant who has a non-EAC/ABET accredited four (4) year bachelor degree. Such evaluation must be done through an organization approved by the Board and is done at the expense of the applicant to ensure that they have completed the coursework requirements of Subsection 019.01.c. Such evaluation is not required if the applicant has been licensed in another jurisdiction of the United States for an minimum of ten (10) years and has not had any disciplinary action against them and there is none pending, and possesses the education, experience and examination credentials that were specified in the applicable registration chapter in effect in this state at the time such certification was issued. The Board may table action on the application pending receipt of the evaluation, and, in the event the applicant does not provide the evaluation within one (1) year, the Board may terminate the application, in which case the application fee will be forfeited. ( )*

c. *An applicant who was originally licensed in another jurisdiction after June 30, 1996, and who has completed a four (4) year bachelor degree program in engineering technology, or in a related science degree program other than engineering must have completed the following before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code: ( )*

i. Thirty-two (32) college semester credit hours of higher mathematics and basic sciences. The credits in mathematics must be beyond algebra and trigonometry and must emphasize mathematical concepts and principles rather than computation. Courses in differential and integral calculus are required. Additional courses may include differential equations, linear algebra, numerical analysis, probability and statistics and advanced calculus. The credits in basic sciences must include at least two (2) courses. These courses must be in general chemistry, general calculus-based physics, or general biological sciences; the two (2) courses may not be in the same area. Additional basic sciences courses may include earth sciences (geology, ecology), advanced biology, advanced chemistry, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements. Basic engineering science courses or sequence of courses in this area are acceptable for credit but may not be counted twice. ( )

ii. Twelve (12) college credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are philosophy, religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics (micro and macro), professional ethics, social responsibility. Examples of other general education courses deemed acceptable include management (such as organizational behavior), accounting, written and oral communications, business, and law. No more than six (6) credit hours may come from courses in management, accounting, business, or law. Courses in engineering economics, engineering management, systems engineering/ analysis, production, and industrial engineering/ management will not be counted. Language courses in the applicant's native language are not acceptable for credit; no more than six (6) credit hours of foreign language courses are acceptable for credit. Native language courses in literature and civilization may be considered in this area. Courses which instill cultural values are acceptable, while routine exercises of personal craft are not. ( )

iii. Forty-eight (48) college credit hours of engineering science and engineering design courses. Courses in engineering science must be taught within the college / faculty of engineering having their roots in

mathematics and basic sciences but carry knowledge further toward creative application of engineering principles. Examples of approved engineering science courses are mechanics, thermodynamics, heat transfer, electrical and electronic circuits, materials science, transport phenomena, and computer science (other than computer programming skills). Courses in engineering design stress the establishment of objectives and criteria, synthesis, analysis, construction, testing, and evaluation. Graduate level engineering courses may be included to fulfill curricular requirements in this area. Engineering technology courses cannot be considered to meet engineering topic requirements. ( )

d. *In regard to educational requirements, the Board will consider as unconditionally approved only those surveying programs that are accredited either by the Engineering Accreditation Commission (EAC), the Applied and Natural Science Accreditation Commission (ANSAC) or the Engineering Technology Accreditation Commission (ETAC) of ABET, Inc. An applicant who has completed a four (4) year bachelor degree program in a related program must have completed a minimum of the following college level academic courses, or their equivalents as determined by the Board, before the Board will consider them to possess knowledge and skill approximating that attained through graduation from an approved four (4) year surveying curriculum as required by Section 54-1212(2)(b), Idaho Code, for licensure as a professional land surveyor: ( )*

i. Eighteen (18) college semester credit hours of mathematics and basic sciences. A minimum of twelve (12) credits in mathematics must be beyond basic mathematics, but the credits include college algebra or higher mathematics. These courses must emphasize mathematical concepts and principles rather than computation. Mathematics courses may include college algebra, trigonometry, analytic geometry, differential and integral calculus, linear algebra, numerical analysis, probability and statistics, and advanced calculus. A minimum of six (6) credits must be in basic sciences. These courses must cover one or more of the following topics: general chemistry, advanced chemistry, life sciences (biology), earth sciences (geology, ecology), general physics, and advanced physics. Computer skills and/or programming courses may not be used to satisfy mathematics or basic science requirements; ( )

ii. Twelve (12) college semester credit hours in a general education component that complements the technical content of the curriculum. Examples of traditional courses in this area are religion, history, literature, fine arts, sociology, psychology, political science, anthropology, economics, professional ethics, and social responsibility. No more than six (6) credit hours of languages other than English or other than the applicant's native language are acceptable for credit. English and foreign language courses in literature and civilization may be considered in this area. Courses that instill cultural values are acceptable, while routine exercises of personal craft are not; ( )

iii. Thirty (30) college semester credit hours of surveying science and surveying practice. Courses must be taught by qualified surveying faculty. Examples of surveying courses are basic surveying, route surveying, geodesy, geographic information systems, land development design and planning, global positioning systems, photogrammetry, mapping, survey adjustment and coordinates systems, cartography, legal descriptions, and remote sensing. Required courses will include a minimum of basic surveying, route surveying, geodesy, surveying law, public land survey system and global positioning systems.Graduate-level surveying courses can be included to fulfill curricular requirements in this area. ( )

02. International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process*. The Board may determine the professional engineering licensure process in other countries or jurisdictions within other countries is substantially equivalent to that required 54-1219 Idaho Code. As such, the Board may waive prescriptive education and examination requirements if the applicant possesses a professional engineer license credential, attains a minimum of eight (8) years of experience after licensure, provided the applicant has no criminal or outstanding disciplinary action in any country or jurisdiction, and is in good standing with the licensing Board within that country or jurisdiction. A bona fide licensing process in another country must include requirements of experience, education, testing, a code of professional responsibility, regulation of licensees including the ability take disciplinary action and the willingness, availability, and capacity of a foreign Board to release information to the Idaho Board in English. ( )*

03. International Engineering Licensure Evaluation - Countries or Jurisdictions Without a Board Approved Licensure Process*. Each application for an Idaho professional engineer license submitted by an applicant who is licensed as a professional engineer in one (1) or more foreign countries or jurisdictions within a country, will be considered by the Board on its merits, and the application evaluated for substantial compliance with the*

requirements of Idaho law with respect to experience, examination, and education. A minimum of four (4) years of progressive experience after graduation is required for licensure. The Board will require two (2) years of experience working in the United States or two (2) years of experience working on projects requiring the knowledge and use of codes and standards similar to those utilized in the United States where the experience is validated by a professional engineer licensed in the United States. The Board may postpone acting on or deny an application for a license by comity if disciplinary or criminal action related to the applicant's practice has been taken or is pending in any country or jurisdiction. Applicants must have passed a professional engineering examination administered by NCEES. Applicants who meet the residency requirements of 54-1212, Idaho Code, are eligible for initial licensure in Idaho when qualified by the Board. Prescriptive education requirements are as follows: ( )

a. *Graduates of engineering university programs accredited by the Canadian Engineering Accrediting Board, or official organizations recognized by the U.K. Engineering Council, or graduates of engineering university programs accredited by EAC/ABET or evaluated by the Board as being substantially equivalent to EAC/ABET programs will be considered to have satisfied the educational requirement for issuance of a license as a professional engineer. ( )*

b. *The Board may require an independent credentials evaluation of the engineering education of an applicant educated outside the United States who has a non-EAC/ABET accredited engineering degree. Such evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. ( )*

c. *The Board may require an independent credentials evaluation of the education for an applicant who has completed a four (4) year bachelor degree program outside the United States in engineering technology, or in a related science degree program other than engineering and must demonstrate completion of the requirements of Subsection 019.01.c. before the Board will consider the applicant to possess the knowledge and skill approximating that attained through graduation from an approved four (4) year engineering curriculum as required by Section 54-1212(1)(b), Idaho Code. Such evaluation must be done through NCEES or another organization approved by the Board and is done at the expense of the applicant. ( )*

04. Waiver of Prescriptive Engineering Licensure Evaluation for Unique International Expertise*. The Board may waive the prescriptive licensure evaluation requirements of 019.03 for international applicants who, in the Board's opinion, are qualified by reason of education and experience and offer unique technical expertise, provided the licensee meets the requirements of 54-1219 Idaho Code. ( )*

05. Denials or Special Examinations*. An application from a licensee of another state, possession or territory, District of Columbia, or foreign country may be denied by the Board for any just cause and the application fee retained; or the Board may approve the applicant for a special written and/or oral examination. ( )*

06. Business Entity Requirements*. No application for a certificate of authorization to practice or offer to practice professional engineering or professional land surveying, or both, in Idaho by a business entity authorized to practice professional engineering or professional land surveying, or both, in one (1) or more states, possessions or territories, District of Columbia, or foreign countries are considered by the Board unless such application includes the name and address of the individual or individuals, duly licensed to practice professional engineering or professional land surveying or both in this state, who will be in responsible charge of the engineering or land surveying services, or both, as applicable, to be rendered by the business entity in Idaho. The said individual or individuals must certify or indicate to the Board their willingness to assume responsible charge. ( )*

020. DISCONTINUED, RETIRED, AND EXPIRED LICENSES AND CERTIFICATES.

01. Reinstatement – Disciplinary*. Licensees who choose to convert their license to retired status as part of a disciplinary action, or in lieu of discipline, or in lieu of compliance with continuing professional development requirements, may be reinstated upon written request. The Board will consider the reinstatement request at a hearing or may waive the hearing for minor violations. ( )*

02. Reinstatement – Nondisciplinary*. Licensees who chose to convert their license to retired status not as part of a disciplinary action may request reinstatement in writing. Reinstatement may require a hearing by the Board. ( )*

***03. Continuing Professional Development**. Licensees requesting reinstatement must demonstrate compliance with the continuing professional development requirements described in these rules as a condition of reinstatement. ( )*

***04. Practice Not Permitted**. Discontinued, retired, or expired status does not permit a licensee or certificate holder to engage in the practice of professional engineering or professional land surveying. ( )*

***05. Designation**. Licensees who chose retired status may represent themselves with the title of Professional Engineer Retired or Professional Land Surveyor Retired or similar designation. ( )*

***06. Fee for Reinstatement of Retired License**. The fee for reinstatement of a retired license to active practice is as required for renewals in Section 54-1216, Idaho Code. ( )*

***07. Fee for Renewal of Expired License**. The fee for renewal of an expired license or certificate to active practice is as required for delayed renewals in Section 54-1216, Idaho Code. ( )*

***08. Eligibility**. Unless otherwise approved by the Board, only unexpired licensees are eligible to convert to retired status. ( )*

***09. Discontinued Certificate of Authorization**. Business entities no longer providing engineering or land surveying services in Idaho may request their certificates be discontinued. Reinstatement of a discontinued certificate may be requested by submitting a new application with the Board. ( )*

***10. Fee for Reinstatement of Discontinued Certificate of Authorization**. The fee for reinstatement of a discontinued certificate will be as required for applications in Section 54-1213, Idaho Code. ( )*

021. (RESERVED)

022. REQUIREMENTS TO BE CONSIDERED "EXCEPTIONAL" UNDER SECTION 54-1223(2), IDAHO CODE.

***01. Waiver of the Fundamentals of Engineering Examination**. In order to be considered "exceptional" under Section 54-1223(2), Idaho Code, an applicant for licensure as a professional engineer, either by examination or by comity, who seeks waiver of the fundamentals of engineering examination, must have a record of service and contributions beyond the ordinary in two (2) of the following three (3) areas: ( )*

***a.** Professional or technical; ( )*

***b.** Business or industry; and ( )*

***c.** Community or cultural. ( )*

***02. Activities That the Board Believes Are Exceptional**. Examples of activities that the Board believes are exceptional are serving as an officer or committee chair, originating projects or initiatives, investing time or energy into the community, authoring significant publications, and receiving significant awards. ( )*

***03. Activities That the Board Believes Are Ordinary**. Examples of activities that the Board believes are only ordinary are completing routine job assignments, holding membership in professional and technical societies, contributing money to causes, attending community events, and owning a business. ( )*

***04. Written Request for Exceptional Designation**. An applicant who seeks waiver of the fundamentals of engineering examination must submit a written request for the exceptional designation accompanied by two (2) written references supporting and explaining the applicants contributions that are beyond the ordinary. ( )*

023. PROFESSIONAL ENGINEER LICENSURE FOR FACULTY APPLICANTS.
Written examinations related to applicable laws and rules for engineering licensure based upon criteria established

by the Board must be offered to Idaho college or university faculty applicants whose credentials have been approved by the Board and who possess an earned doctorate degree. The credentials the Board considers in this regard should include the applicant's university course work completed, the applicant's thesis and dissertation work, the applicant's peer reviewed publications, and the nature of the applicant's professional experience. A satisfactory application, along with a passing score on the examination exempts the applicant from the written technical examinations, and may qualify the applicant for a restricted license as a professional engineer. The restricted license applies only to college or university related teaching upper division design subjects. All conditions for maintaining licensure, such as compliance with the laws and rules of the Board, fees and continuing professional development are the same as required for all licensees. The restricted license is effective from the date of issuance until such time as the licensee ceases to be a faculty member of an Idaho college or university, unless not renewed, retired, suspended or revoked and is subject to renewal requirements established in 54-1216, Idaho Code. Teaching and teaching work products are exempt from the requirements of sealing and signing engineering work under 54-1215(c), Idaho Code. Restricted licensees are not required to obtain a seal. ( )

024. -- 099. (RESERVED)

SUBCHAPTER B - RULES OF PROFESSIONAL RESPONSIBILITY (RULES 100 THROUGH 199)

100. RESPONSIBILITY TO THE PUBLIC.

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

***02. Standard of Care**. Each Licensee and Certificate Holder must exercise such care, skill and diligence as others in that profession ordinarily exercise under like circumstances. ( )*

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

***04. Obligation to Communicate Discovery of Discrepancy**. Except as provided in the Idaho Rules of Civil Procedure 26(b)(4)(B), if a Licensee or Certificate Holder, during the course of his work, discovers a material discrepancy, error, or omission in the work of another Licensee or Certificate Holder, which may impact the health, property and welfare of the public, the discoverer must make a reasonable effort to inform the Licensee or Certificate Holder whose work is believed to contain the discrepancy, error or omission. Such communication must reference specific codes, standards or physical laws which are believed to be violated and identification of documents which are believed to contain the discrepancies. The Licensee or Certificate Holder whose work is believed to contain the discrepancy must respond within twenty (20) calendar days to any question about his work raised by another Licensee or Certificate Holder. In the event a response is not received within twenty (20) days, the discoverer must notify the License or Certificate Holder in writing, who has another twenty (20) days to respond. Failure to respond (with supportable evidence) on the part of the Licensee or Certificate Holder whose work is believed to contain the discrepancy is considered a violation of these rules and may subject the Licensee or Certificate Holder to disciplinary action by the Board. The discoverer must notify the Board in the event a response that does not answer the concerns of the discoverer is not obtained within the second twenty (20) days. A Licensee or Certificate Holder is exempt from this requirement if their client is an attorney and they are being treated as an expert witness. In this case, the Idaho Rules of Civil Procedure apply. ( )*

***05. Obligation to Comply with Rules of Continuing Professional Development**. All Licensees must comply with the continuing professional development requirements contained in these rules. ( )*

***06. Obligation to Affected Landowners**. Land surveyors have a duty to set monuments at the corners of their client's property boundaries in compliance with 54-1227, Idaho Code. Per Subsection 100.04 above, land surveyors also have a duty to notify other licensees of a material discrepancy prior to setting monuments that*

represent a material discrepancy with a prior survey. If a monument is to be set at a location that represents a material discrepancy with an existing monument at any corner of record, land surveyors must also notify in writing all affected adjoining land owners and the Board prior to setting the new monument. ( )

101. COMPETENCY FOR ASSIGNMENTS.

***01. Assignments in Field of Competence**. A Licensee must undertake to perform assignments only when qualified by education or experience in the specific technical field involved, however, a Licensee, as the prime professional, may accept an assignment requiring education or experience outside of his own field of competence, but his services are restricted to those phases of the project in which the Licensee is qualified. All other phases of such project must be performed by qualified associates, consultants or employees. For projects encompassing one (1) or more disciplines beyond the Licensee's competence, a Licensee may sign and seal the cover sheet for the total project only when the Licensee has first determined that all elements of the project have been prepared, signed and sealed by others who are competent, licensed and qualified to perform such services. ( )*

***02. Aiding and Abetting an Unlicensed Person**. A Licensee or Certificate Holder must avoid actions and procedures which, in effect, amount to aiding and abetting an unlicensed person to practice engineering or land surveying. ( )*

***03. Use of Seal on Documents**. A Licensee must affix his signature and seal only to plans or documents prepared under his responsible charge. ( )*

102. PUBLIC STATEMENTS.

***01. Reports, Statements or Testimony**. A Licensee or certificate holder must not commit fraud, violate the standard of care, or engage in deceit or misconduct in professional reports, statements or testimony. Each licensee or certificate holder must include all relevant and pertinent information in such reports, statements or testimony and will express opinions in such reports, statements or testimony in accordance with the standard of care. ( )*

***02. Opinions Based on Adequate Knowledge**. A Licensee or Certificate Holder, when serving as an expert or technical witness before any court, commission or other tribunal, may express an opinion only when it is founded upon adequate knowledge of the facts in issue, upon a background of technical competence in the subject matter, and upon honest conviction of the accuracy and propriety of his testimony. ( )*

***03. Statements Regarding Public Policy**. On matters connected with establishing public policy a Licensee or Certificate Holder may issue no statements, criticisms or arguments that are paid for by an interested party, or parties, unless he has prefaced his comment by explicitly identifying himself, by disclosing the identities of the party, or parties, on whose behalf he is speaking, and by revealing the existence of any pecuniary interest he may have in the matters. ( )*

***04. Actions in Regard to Other Licensees or Certificate Holders**. A Licensee or Certificate Holder may not attempt to injure, maliciously or falsely, directly or indirectly, the professional reputation, prospects, practice or employment of another Licensee or Certificate Holder, nor may he indiscriminately criticize another Licensee's or Certificate Holder's work in public. If he believes that another Licensee or Certificate Holder is guilty of fraud, deceit, negligence, incompetence, misconduct or violation of these rules he should present such information to the Board for action. ( )*

103. CONFLICT OF INTEREST.

***01. Conflict of Interest to Be Avoided**. Each Licensee or Certificate Holder must conscientiously avoid conflict of interest with an employer or client, and, when unavoidable, must forthwith disclose the circumstances in writing to the employer or client. In addition, the Licensee or Certificate Holder must promptly inform the employer or client in writing of any business association, interests, or circumstances which could influence a Licensee's or Certificate Holder's judgment or quality of service, or jeopardize the clients' interests. ( )*

***02. Compensations From Multiple Parties on the Same Project**. A Licensee or Certificate Holder may*

accept compensation, financial or otherwise, from more than one (1) party for services on the same project, or for services pertaining to the same project, provided the circumstances are fully disclosed, in writing, in advance and agreed to by all interested parties. ( )

***03. Solicitation From Material or Equipment Suppliers**. A Licensee or Certificate Holder may not solicit or accept financial or other valuable considerations from material or equipment suppliers for specifying or recommending the products of said suppliers, except with full disclosure as outlined in Subsection 103.02. ( )*

***04. Gratuities**. A Licensee or Certificate Holder may not solicit or accept gratuities, gifts, travel, lodging, loans, entertainment or other favors directly or indirectly, from contractors, their agents or other third parties dealing with a client or employer in connection with work for which the Licensee or Certificate Holder is responsible, which can be construed to be an effort to improperly influence the Licensee's or Certificate Holder's professional judgment. Minor expenditures such as advertising trinkets, novelties and meals are excluded. Neither may a Licensee or Certificate Holder make any such improper offer. ( )*

***05. Solicitation From Agencies**. A Licensee, a Certificate Holder or a representative thereof may not solicit or accept a contract from a governmental authority on which an existing officer, director, employee, member, partner, or sole proprietor of his organization serves as a member of the elected or appointed policy and governing body of such governmental authority or serves as a member of an entity of such governmental authority having the right to contract or recommend a contract for the services of a Licensee or a Certificate Holder. ( )*

***06. Professional Services Decisions of Agencies**. A Licensee, Certificate Holder or representative thereof serving as a member of the governing body of a governmental authority, whether elected or appointed, or an advisor or consultant to a governmental Board, commission or department may at all times be subject to the statutory provisions concerning ethics in government, Section 74-401, Idaho Code, et seq. A violation of the "Ethics in Government Act of 2015" will be considered a violation of these rules. ( )*

***07. Unfair Advantage of Position and Work Outside Regular Employment**. When a Licensee or an individual Certificate Holder is employed in a full time position, the person may not use the advantages of the position to compete unfairly with other professionals and may not accept professional employment outside of that person's regular work or interest without the knowledge of and written permission or authorization from that person's employer. ( )*

104. SOLICITATION OF WORK.

***01. Commissions**. A Licensee or Certificate Holder may not pay or offer to pay, either directly or indirectly, any commission, gift or other valuable consideration in an effort to secure work, except to bona fide employees or bona fide established business enterprises retained by a Licensee or Certificate Holder for the purpose of securing business or employment. ( )*

***02. Representation of Qualifications**. A Licensee or Certificate Holder may not falsify or permit misrepresentation of his or his associates' academic or professional qualifications, and may not misrepresent or exaggerate the degree of responsibility in or for the subject matter of prior assignments. Brochures or other presentations incident to the solicitation of employment may not misrepresent pertinent facts concerning employers, employees, associates, joint-venturers or his or their past accomplishments with the intent and purpose of enhancing qualifications for the work. The Licensee or Certificate Holder may not indulge in publicity that is misleading.( )*

***03. Assignment on Which Others Are Employed**. A Licensee or Certificate Holder may not knowingly seek or accept employment for professional services for an assignment that another Licensee or Certificate Holder is employed, or contracted to perform without the currently employed or contracted entity being informed in writing. ( )*

***04. Contingency Fee Contracts**. A Licensee or Certificate Holder may not accept an agreement, contract, or commission for professional services on a "contingency basis" that may compromise his professional judgment and may not accept an agreement, contract or commission for professional services that includes provisions wherein the payment of fee involved is contingent on a "favorable" conclusion, recommendation or judgment. ( )*

***05. Selection on the Basis of Qualifications**. A Licensee or Certificate Holder should seek professional employment or professional service work on the basis of qualifications and competence for proper accomplishment of the work assignment. On selections for professional engineering and land surveying services that are required pursuant to Section 67-2320, Idaho Code, a licensee or certificate holder, in response to solicitations described in Section 67-2320, Idaho Code, may not submit information that constitutes a bid for services requested either as a consultant or subconsultant. ( )*

105. IMPROPER CONDUCT.

***01. Fraudulent or Dishonest Enterprises**. A Licensee or Certificate Holder may not knowingly associate with, or permit the use of his name or the firm name in a business venture by any person or firm that it is known to be, or there is reason to believe, is engaging in business or professional practices of a fraudulent or dishonest nature. ( )*

***02. Confidentiality**. Licensees or Certificate Holders may not reveal confidential facts, data or information obtained in a professional capacity without prior written consent of the client or employer except as authorized or required by law. ( )*

***03. Actions by Other Jurisdictions**. The surrender, revocation, suspension or denial of a license to practice Professional Engineering or Professional Land Surveying, as an individual or through a business entity, in another jurisdiction, for reasons or causes which the Board finds would constitute a violation of the Idaho laws regulating the practice of Engineering and Land Surveying, or any code or rules promulgated by the Board, is sufficient cause after a hearing for disciplinary action as provided in Title 54 Chapter 12, Idaho Code. ( )*

106. -- 199. (Reserved)

SUBCHAPTER C - RULES OF CONTINUING PROFESSIONAL DEVELOPMENT (RULES 200 THROUGH 299)

200. REQUIREMENTS.
Every Licensee is required to obtain thirty (30) PDH units during the renewal period biennium (beginning on the first day of the month following the month in which the Licensee was born). Alternatively, the licensee may choose to obtain thirty (30) PDH units cumulative during the two (2) calendar years which are closest to the renewal period biennium. If a Licensee exceeds the biennial requirement in any renewal period or earns PDHs during a period in which he is exempt, a maximum of thirty (30) PDH units may be carried forward into the subsequent renewal period. If the exemption is for the "First Renewal Period" (see Rule 204.01), then at any time in the full biennium before this first license renewal the licensee may earn up to 30 PDHs to carry forward into their second renewal period following licensure. If the licensee chooses to use the calendar year basis, PDH's in excess of thirty (30) cumulative in two (2) years, or PDH's earned during a period in which he is exempt, can be carried forward to the next two (2) year calendar period, not to exceed thirty (30) PDH's carried forward to the next two (2) year calendar period. PDH units may be earned in the following activities, however, PDH units must come from two (2) or more activities.( )

***01. Successful Completion of College Credits**. ( )*

***02. Successful Completion of Continuing Education Units**. ( )*

***03. Successful Completion of Other Courses**. Correspondence, televised, online, and other short courses/tutorials for which college credits or CEUs are awarded. ( )*

***04. Attending Qualifying Seminars**. Attending qualifying seminars, inhouse courses, workshops, or technical or professional presentations made at meetings, conventions, or conferences for which no college credits or CEUs are awarded. ( )*

***05. Mentoring, Teaching or Instructing**. Teaching or instructing in Subsections 200.01 through 200.04, above and beyond routine job assignments. ( )*

06. Authoring Published Papers, Articles, or Books. ( )

07. Membership in Technical or Professional Organizations. ( )

08. Active Participation in Technical or Professional Organizations. ( )

09. Patents. ( )

10. Presentations to Technical, Professional or Civic Organizations. ( )

11. Documented Self Study. ( )

201. UNITS.
The conversion of other units of credit to PDH (Professional Development Hour) units is as follows:

1 College semester credit hour	=	45 PDH
1 College quarter credit hour	=	30 PDH
1 Continuing Education Unit	=	10 PDH
1 Hour of attendance in course work, seminars, or technical or professional presentations made at meetings, conventions, or conferences	=	1 PDH
Mentoring or teaching the above, above and beyond normal job assignments, apply multiple of 2 for teaching the first time only	=	8 PDH per year for mentoring
Each published technical or professional paper, article, or book chapter not to exceed a total of 10 PDH's per year, above and beyond normal job assignments	=	5 PDH per paper, article, or book chapter
Each peer review of a published technical or professional paper, article, or book chapter not to exceed a total of 6 PDH's per year, above and beyond normal job assignments	=	3 PDH per paper, article, or book chapter
Membership in technical or professional organizations (Maximum of 2 organizations)	=	1 PDH per year per organization
Active participation in technical or professional organizations (Maximum of 2 organizations)	=	1 PDH per year per organization
Each patent 5 PDH's, not to exceed per year	=	5 PDH
Presentations to technical, professional, or civic organizations, first presentation only	=	2 PDH per hour of presentation
Documented self-study not to exceed 3 PDH per year at the rate of ½ PDH per hour of self-study		

( )

202. DETERMINATION OF CREDIT.
With the exception of those seminars and courses of continuing professional development offered by an organization registered with the Registered Continuing Education Providers Program of the American Council of Engineering Companies, which are preapproved, the Board will not pre-approve activities as qualifying for continuing professional development, but has final authority to judge the PDH value for all activities submitted to fulfill continuing professional development requirements. ( )

203. RECORD KEEPING.
Maintenance of records to support credits claimed is the responsibility of the Licensee. Records required include, but are not limited to: ( )

01. Log. A log showing the type of activity claimed, sponsoring organization, location, duration, instructor's or speaker's name, and PDH credits earned; and ( )

***02. Attendance Verification**. Attendance verification records in the form of completion certificates or other documents supporting evidence of attendance; Time sheets or expense sheets signed by the Licensee documenting the Continuing Professional Development activity claimed (sponsoring organization, location, duration, instructor's or speaker's name), time and/or expense related thereto, and claimed PDH credits earned are acceptable if attendance certificates are not available; or ( )*

***03. Records**. Records may be maintained by a repository for same. ( )*

***04. Documented Self-Study**. In order to qualify in this category, the licensee must prepare and retain an abstract of the material studied, the date the activity occurred and the number of PDH's claimed, and a bibliographic reference of the material studied. A photocopy of pertinent parts of the material studied, annotated with the date the activity occurred and the number of PDH's claimed, are deemed to meet this requirement. ( )*

***05. Record Retention**. All continuing professional development records must be maintained for a period of six (6) years and copies must be provided to the Board upon request for audit purposes. ( )*

204. EXEMPTIONS.
A Licensee may be exempt from the continuing professional development requirements for one (1) of the following reasons: ( )

01. First Renewal Period. New Licensees by way of examination or comity reinstated licensees, and delayed renewal licensees less than one year from the biennial renewal date, are exempt from compliance with these rules during the time between issuance or reinstatement or delayed renewal of the license and the due date of their first renewal following the issuance of the license. ( )

***02. Active Duty in the Armed Forces**. A Licensee serving on active duty in the armed forces of the United States, or a civilian deployed with the military, and temporarily assigned duty at a location other than their normal home station for a period of time exceeding one hundred twenty (120) consecutive days in a renewal period or the two (2) calendar year period closest to the renewal biennium is exempt from obtaining the professional development hours required during that renewal period or the two (2) calendar year period closest to the renewal biennium. ( )*

***03. Extenuating Circumstances**. A Licensee experiencing physical disability, serious illness, or other extenuating circumstances accepted by the Board. ( )*

***04. Retired**. A Licensee who has chosen "Retired" status is exempt from the professional development hours required. In the event such a person elects to return to active practice of professional engineering or professional land surveying, professional development hours must be earned before returning to active practice. Thirty (30) PDH's must be earned for an exempted period less than four (4) years prior to the reinstatement request date. The thirty (30) PDH's earned must be earned within the previous two (2) years of the reinstatement request date. Sixty (60) PDH's must be earned for exempted periods of four (4) years or more prior to the reinstatement request date. The sixty (60) PDH's must be earned within the previous four (4) years of the reinstatement request date. All PDH's earned must comply with the requirements of this chapter. ( )*

***05. Expired License**. A Licensee who has chosen to allow his license to expire is exempt from the professional development hours required. In the event such a person elects to renew the license, professional development hours must be earned and documented before renewing the license. The requirements for PDH's are the same as shown for retired licensees in Subsection 204.04 for delayed renewals more than three (3) months. ( )*

205. COMITY/OUT-OF-JURISDICTION RESIDENTS.
The CPD requirements for non-resident licensees are the same as that for resident licensees. ( )

206. USE OF NCEES MODEL CPC STANDARD.
Licensees have the option of complying with the requirements of this chapter, or may choose to comply with the National Council of Examiners for Engineering and Surveying (NCEES) Continuing Professional Competency (CPC) renewal standard as identified in the latest version of the NCEES Model Rule 240.30. This standard is found at http://ncees.org/wp-content/uploads/https://ncees.org/wp-content/uploads/CPC-Guidelines-2017-final.pdf. *( )*

207. -- 299. (RESERVED)

SUBCHAPTER D - RULES FOR CORNET PERPETUATION AND FILING (RULES 300 THROUGH 399)

300. FORM.

The form to be used in filing corner perpetuations in the state of Idaho shall be substantially the same as that form available from the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors, 1510 E. Watertower St., Ste. 110, Meridian, ID 83642-7993. Clear spaces on the form may be provided as requested and required by County Recorders in order to place recording information in an unobstructed area. The form is not available in quantity from the Board, but one (1) copy will be furnished, upon request, and it may be duplicated or reproduced. ( )

301. COMPLETION OF FORM.

Prior to filing of the form, the professional land surveyor performing the work shall complete the form in compliance with the requirements set forth in these rules. Additional information, for example latitude and longitude, with datum used, may be included. ( )

302. CONTENTS ON THE FORM.

The contents on the form must contain the following: ( )

*01. **Record of Original Corner and Subsequent History**. Information provided in this section includes the name of the original surveyor and the date or dates on which the original survey was performed and a description of the original monument set. The information also includes the history of subsequent remonumentation, including the name(s) of the surveyor(s), the agency or company they represented, the date(s) of the survey(s) and a description of all monuments found or set, including all monuments and accessories that are not shown on previously recorded corner records. Information provided in this section also includes the instrument numbers of all previously recorded corner records, or the filing information if the corner record was not recorded, pertaining to the corner in question. ( )*

*02. **Description of Corner Evidence Found**. Information provided in this section includes a description of any evidence found relating to the original corner. If no evidence of the original corner is found, evidence of a subsequent remonumentation shall be indicated on the form. ( )*

*03. **Description and Sketch of Monument and Accessories Found or Established to Perpetuate the Location of this Corner**. Information provided in this section includes a description and a sketch of the monument and accessories found or placed in the current survey as well as the date the work was performed and the true or assumed magnetic declination at the time of the survey if magnetic bearings are used. If magnetic bearings are not used, the professional land surveyor shall indicate the basis of bearing to accessories. ( )*

*04. **Surveyor's Certificate**. Include a print of the surveyor's name, the license number issued by the Board, and the name of the employer for whom the surveyor is working. ( )*

*05. **Seal, Signature, Date**. Include an imprint of the surveryor's professional land surveyor seal, which is signed and dated by the surveryor. ( )*

*06. **Marks on Monument Found or Set**. Include a sketch or legible image of the marks found or placed on the monument, if applicable. ( )*

*07. **Diagram**. Include clear marks on the section diagram the location of the monument found or being established or reestablished in the survey. ( )*

*08. **Location**. State the county, section, township, range and the monument location being established or reestablished or found in the survey. ( )*

303. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE

DOCKET NO. 11-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections (Forensics) 67-2901, 18-8002A, 18-8004, 19-5504, 67-2919; (Forfeitures) 67-2901, 37-2744; (Motor Vehicles) 67-2901, 49-901; (Sex Offender Registry) 18-8304, 18-8305; (Commercial Vehicle Safety) 67-2901A, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 11, rules of the Idaho State Police:

IDAPA 11
- 11.03.01, *Rules Governing Alcohol Testing*
- 11.06.01, *Rules Governing Civil Asset Forfeiture Reporting*
- 11.07.01, *Rules Governing Motor Vehicles-General Rules*
- 11.07.02, *Rules Governing Safety Glazing Material*
- 11.07.03, *Rules Governing Emergency Vehicles/Authorized Emergency Vehicles*
- 11.10.03, *Rules Governing the Sex Offender Registry*
- 11.13.01, *The Motor Carrier Rules*

The adoption of these rules is necessary to allow the Idaho State Police to carry out the statutory duties of providing public safety services to law enforcement, prosecuting attorneys, the judicial system, and everyone who travels through or resides in the State of Idaho. The changes to these rules were clean up in nature, which in some instances consolidated and/or eliminated definitions; combined, re-ordered and re-numbered similar sections; and removed office hours and other information included on the coversheet. All the changes maintain the intent, scope, and purpose intended and previously approved.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 1273 - 1305**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact:

- 11.03.01 Forensics — Lab Director Matthew Gamette, Phone: (208) 884-7217, Fax: (208) 884-7290, E-mail: **matthew.gamette@isp.idaho.gov**

- 11.06.01 Forfeitures — Captain Russ Wheatley, Phone: (208) 884-7202, Fax: (208) 884-7290, E-mail: **russ.wheatley@isp.idaho.gov**

- 11.07.01, 11.07.02, 11.07.03 Motor Vehicles — Major Bill Gardiner, Phone: (208) 884-7206, Fax (208) 884-7290, E-mail: **bill.gardiner@isp.idaho.gov**
- 11.10.03 Sex Offender Registry — Bureau Chief Leila McNeill, Phone: (208) 884-7136, Fax: (208) 884-7193, E-mail **leila.mcneill@isp.idaho.gov**
- 11.13.01 Commercial Vehicle Safety — Captain Scott Hanson, Phone: (208) 884-7222, Fax: 208-884-7192, E-mail **scott.hanson@isp.idaho.gov**

Dated this 3rd day of October, 2019.

Charlie Spencer
Police Services Major
Rules Review Officer
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642
charlie.spencer@isp.idaho.gov
Phone: (208) 884-7203
Fax: (208) 884-7290

000. LEGAL AUTHORITY.
The Director of the Idaho State Police has general rulemaking authority to prescribe rules and regulations for alcohol testing, pursuant to Section 67-2901, Idaho Code. (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.03.01, "Rules Governing Alcohol Testing." (4-7-11)

02. Scope. The rules relate to the governance and operation of the Alcohol Testing Program. (4-7-11)

002. INCORPORATION BY REFERENCE.
The following are incorporated by reference in this chapter of rules: (4-7-11)

01. Conforming Products List of Evidential Breath Measurement Devices (revised 11/2/2017). This document is available on the Internet at https://www.gpo.gov/fdsys/pkg/FR-2017-11-02/pdf/2017-23869.pdf. (12-14-17)T

003. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

01. Alcohol. "Alcohol" means the chemical compounds of ethyl alcohol, methyl alcohol, or isopropyl alcohol. (4-11-15)

02. Approved Vendor. "Approved vendor" means a source/provider/manufacturer of an approved standard. (4-11-15)

03. Blood Alcohol Analysis. "Blood alcohol analysis" means an analysis of blood to determine the concentration of alcohol present. (7-1-93)

04. Breath Alcohol Analysis. "Breath alcohol analysis" means an analysis of breath to determine the concentration of alcohol present. (7-1-93)

05. Breath Alcohol Test. "Breath alcohol test" means a breath sample or series of separate breath samples provided during a breath testing sequence. (4-11-15)

06. Breath Alcohol Testing Sequence. "Breath alcohol testing sequence" means a sequence of events as determined by the Idaho State Police Forensic Services, which may be directed by the instrument, the Operator, or both, and may consist of air blanks, performance verification, internal standard checks, and breath samples.(4-11-15)

07. Breath Testing Certification Class. "Breath testing certification class" means a department approved training class for prospective or uncertified breath alcohol Operators/Breath Testing Specialists. (4-11-15)

08. Breath Testing Specialist (BTS). "Breath Testing Specialist" means an operator who has completed advanced training approved by the department and are certified to perform routine instrument maintenance, teach instrument operation skills, proctor proficiency tests for instrument Operators, and testifying as an expert on alcohol physiology and instrument function in court. (4-11-15)

09. Calibration. "Calibration" means a set of laboratory operations which establish under specified conditions, the relationship between values indicated by a measuring instrument or measuring system, or values represented by a material, and the corresponding known values of a measurement. (4-11-15)

10. Certificate of Analysis. "Certificate of analysis" means a certificate stating the standards used for performance verification have been tested and approved for use by the ISPFS or are manufactured by an ISO 17025:2005 vendor and are traceable to N.I.S.T. standards. (4-11-15)

11. Certificate of Instrument Calibration. "Certificate of instrument calibration" means a certificate stating that an individual breath alcohol testing instrument has been evaluated by the ISPFS and found to be suitable for forensic alcohol testing. The certificate bears the signature of the calibration analyst at Idaho State Police Forensic Services, and the effective date of the instrument approval. (4-11-15)

12. Changeover Class. "Changeover class" means a training class for currently certified Operators during which the Operator is taught theory, operation, and proper testing procedure for a new make or model of instrument being adopted by their agency. Breath Testing Specialists complete BTS training that qualifies them to perform BTS duties related to the new make or model instrument. (4-11-15)

13. Department. "Department" means the Idaho State Police. (7-1-93)

14. Deprivation Period. "Deprivation period" means a minimum time period of fifteen (15) minutes immediately prior to evidentiary breath alcohol testing during which the subject/individual shall not be allowed to smoke, drink, or eat substances containing alcohol. (4-11-15)

15. Evidentiary Test. "Evidentiary test" means a blood, breath, or urine test performed on a subject/individual for potential evidentiary or legal purposes. A distinction is made between evidentiary testing and non-quantitative screening/monitoring. (4-11-15)

16. Idaho State Police Forensic Services (ISPFS). "Idaho State Police Forensic Services" means a division of the Idaho State Police. ISPFS is dedicated to providing forensic science services to the criminal justice system of Idaho. ISPFS is the administrative body for the alcohol testing programs in Idaho. (4-11-15)

17. Laboratory. "Laboratory" means the place at which specialized devices, instruments and methods are used by trained personnel to measure the concentration of alcohol in samples of blood, vitreous humor, urine, or beverages for law enforcement purposes. (4-11-15)

18. MIP/MIC. "MIP/MIC" means an abbreviation used to designate minor in possession or minor in consumption of alcohol. (4-11-15)

19. Monitoring Period. "Monitoring Period" means a minimum deprivation period of fifteen (15) minutes immediately prior to evidentiary breath alcohol testing during which the subject/individual should be observed by the officer and any belch/burp/vomit/regurgitation should be noted by the operator. (4-11-15)

20. Operator Certification. "Operator certification" means the condition of having satisfied the training requirements for administering breath alcohol tests as established by the department. (4-11-15)

21. Operator. "Operator" means an individual certified by the department as qualified by training to administer breath alcohol tests. (4-11-15)

22. Performance Verification. "Performance verification" means a verification of the accuracy of the breath testing instrument utilizing a performance verification standard. Performance verification should be reported to three decimal places. While ISPFS uses the term performance verification, manufacturers and others may use a term such as "calibration check" or "simulator check." (4-11-15)

23. Performance Verification Standard. "Performance verification standard" means an ethyl alcohol standard used for field performance verifications. The standard is provided or approved, or both, by the department. (4-11-15)

24. Proficiency Testing. "Proficiency testing" means a periodic analysis of blood, urine, or other liquid specimen(s) whose alcohol content is unknown to the testing laboratory, to evaluate the capability of that laboratory to perform accurate analysis for alcohol concentration. (4-11-15)

25. Quality Control. "Quality control" means an analysis of referenced samples whose alcohol content is known, which is performed with each batch of blood, vitreous humor, urine or beverage analysis to ensure that the laboratory's determination of alcohol concentration is reproducible and accurate. (4-11-15)

26. Recertification Class. "Recertification class" means a training class offered by the department for currently certified personnel, completion of which results in uninterrupted continuation of their BTO or BTS status for an additional 2 years. (4-11-15)

27. Urine Alcohol Analysis. "Urine alcohol analysis" means an analysis of urine to determine the concentration of alcohol present. (7-1-93)

011. (RESERVED)

012. GENERAL PROVISIONS.

Continuation of Policies. All policies, training manuals, approvals of instruments, and/or certifications of officers in effect when the alcohol program was managed by the Department of Health and Welfare shall continue to be in effect in the Idaho State Police until the policy, training manual, approval and/or certification is changed or deleted by the Idaho State Police. (7-1-93)

013. REQUIREMENTS FOR LABORATORY ALCOHOL ANALYSIS.

01. Laboratory. Any laboratory desiring to perform urine alcohol, vitreous humor, blood alcohol, or beverage analysis shall meet the following standards: (4-11-15)

a. The laboratory shall prepare and maintain a written procedure governing its method of analysis, including guidelines for quality control and proficiency testing. A copy of the procedure shall be provided to ISPFS for initial approval. Whenever procedure, protocol, or method changes (however named) are adopted by a laboratory, a copy of the update with the changes clearly indicated shall be approved by ISPFS before implementation; (4-11-15)

b. The laboratory shall provide adequate facilities and space for the procedure used. The laboratory alcohol related functions shall be subject to an assessment by either an accrediting body or the department each calendar year, and the results from the annual audit shall be submitted to the department. The assessment shall be at the expense of the laboratory; (4-11-15)

c. Specimens shall be maintained in a limited access and secure storage area prior to analysis. A chain of custody shall be maintained while the evidence is in the laboratory; (4-11-15)

d. All instrumentation, equipment, reagents and glassware necessary for the performance of the chosen procedure shall be on hand or readily available on the laboratory premises. Instrument maintenance documentation shall be available for review by the department; (4-11-15)

e. The laboratory shall participate in approved proficiency testing and pass this proficiency testing according to standards set by the department. Laboratories must participate in proficiency testing from a department approved provider at least once a calendar year. Approved providers include National Highway Traffic Safety Administration (NHTSA) and Collaborative Testing Services (CTS). Each test consists of at least four (4) blood samples spiked with an unknown concentration of ethyl alcohol, and possibly other volatiles, for qualitative determination. Participating laboratories must obtain proficiency tests from approved providers and are responsible for all costs associated with obtaining and analyzing such tests. Results from proficiency tests must be submitted by the due date to the test provider and ISPFS. Results not submitted to a test provider within the allowed time do not qualify as a proficiency test. An alcohol concentration range is determined from the target value and ±3.0 standard deviations as provided by the proficiency test provider. Reported values must fall within this range. If a laboratory determines more than one (1) alcohol value for a given sample, the mean value of results will be submitted and evaluated. Upon satisfactory completion of an approved proficiency test, a certificate of approval will be issued by the department to the participating laboratory. Approval to perform legal blood alcohol determinations is continued until the results of the next proficiency test are reviewed and notification is sent to the respective laboratory by ISPFS. Failure to pass a proficiency test shall result in immediate suspension of testing by an analyst or laboratory in the form of a written inquiry from the department. The test is graded as unsuccessful when the mean results are outside the tolerance range established from the accepted mean values. The laboratory shall have thirty (30) calendar days to respond to the department inquiry. The department shall notify the laboratory within fourteen (14) calendar days regarding corrective action steps necessary to lift the testing suspension, or the department may issue a written revocation. The department shall not lift a proficiency testing related suspension or revocation until a successful proficiency test has been completed by the individual analyst or laboratory. (4-11-15)

f. For a laboratory performing blood, urine, vitreous humor, or beverage analysis for alcohol, approval shall be awarded to the laboratory director or primary analyst responsible for that laboratory. The

responsibility for the correct performance of tests in that laboratory rests with that person; however, the duty of performing such tests may be delegated to any person designated by such director or primary analyst. The department may temporarily suspend or permanently revoke the approval of a laboratory or analyst if the listed requirements are not met. The department will issue the suspension or revocation in writing to the laboratory director or primary analyst responsible; (4-11-15)

g. Reinstatement after revocation requires completed corrective action of any items listed on the revocation documentation issued by the department. Documentation of corrective actions taken to address the nonconformities shall be submitted to the department for review. Once the department is satisfied that the laboratory is in compliance with all requirements, the department will issue written approval for the resumption of testing by that laboratory or analyst. A laboratory may appeal a suspension or revocation to the Director of the department. (4-11-15)

02. Blood Collection. Blood collection shall be accomplished according to the following requirements: (7-1-93)

a. Blood samples shall be collected using sterile, dry syringes and hypodermic needles, or other equipment of equivalent sterility; (7-1-93)

b. The skin at the area of puncture shall be cleansed thoroughly and disinfected with an aqueous solution of a nonvolatile antiseptic. Alcohol or phenolic solutions shall not be used as a skin antiseptic; (7-1-93)

c. Blood specimens shall contain at least ten (10) milligrams of sodium fluoride per cubic centimeter of blood plus an appropriate anticoagulant. (4-4-13)

03. Blood Reported. The results of analysis on blood for alcohol concentration shall be reported in units of grams of alcohol per one hundred (100) cubic centimeters of whole blood. (4-11-15)

04. Urine Collection. Urine samples shall be collected in clean, dry containers. (4-11-15)

05. Urine Reported. The results of analysis on urine for alcohol concentration shall be reported in units of grams of alcohol per sixty-seven (67) milliliters of urine. Results of alcohol analysis of urine specimens shall be accompanied by a warning statement about the questionable value of urine alcohol results. (4-11-15)

06. Records. All records regarding proficiency tests, quality control and results shall be retained for three (3) years. (7-1-93)

014. REQUIREMENTS FOR PERFORMING BREATH ALCOHOL TESTING.

01. Instruments. Each breath testing instrument model shall be approved by the department and shall be listed in the "Conforming Products List of Evidential Breath Measurement Devices" published in the Federal Register by the United States Department of Transportation as incorporated by reference in Section 004 of this rule. The department will maintain a list of benchtop and portable instruments approved for evidentiary testing use in Idaho. Each individual breath testing instrument must be certified by the department. The department may, for cause, remove a specific instrument by serial number from evidential testing and suspend or withdraw certification thereof. (4-11-15)

02. Report. Each direct breath testing instrument shall report alcohol concentration as grams of alcohol per two hundred ten (210) liters of breath. (7-1-93)

03. Administration. Breath tests shall be administered in conformity with standards established by the department. Standards shall be developed for each type of breath testing instrument used in Idaho, and such standards shall be issued in the form of Idaho administrative rules, ISPFS analytical methods, and ISPFS standard operating procedures. (4-11-15)

a. The breath alcohol test must be administered by an operator (BTO or BTS) currently certified in the use of the instrument. (4-11-15)

b. Prior to administering the monitoring period, any foreign objects/materials which have the potential to enter the instrument/breath tube or may present a choking hazard (e.g. gum, chewing tobacco, food) should be removed. (4-11-15)

c. The operator shall administer a monitoring period prior to evidentiary testing. (4-11-15)

d. If mouth alcohol is suspected or indicated by the testing instrument, the operator shall begin another fifteen (15) minute monitoring period if repeating the testing sequence. If during the monitoring period the subject/individual vomits or regurgitates material from the stomach into the breath pathway, the monitoring period should start over. If there is doubt as to the events occurring during the monitoring period (e.g. silent burp, belch, vomit, regurgitation), the operator should evaluate the instrument results for any indication of mouth alcohol. (4-11-15)

e. A complete breath alcohol test includes two (2) valid breath samples taken during the testing procedure and preceded by air blanks. The subsequent breath samples performed with a portable breath testing instrument should be approximately two (2) minutes apart or more. If the subject/individual fails or refuses to provide a subsequent, adequate sample as requested by the operator, the single test result shall be considered valid. If a single test result is used, then the subject must have been observed during the fifteen (15) minute monitoring period. For hygienic reasons, the operator should use a new mouthpiece for each subject/individual tested. (4-11-15)

f. The operator has the discretion to end breath testing, repeat breath testing, or request a blood draw at any point during the testing process as the circumstances require (including but not limited to lack of sample correlation, lack of subject participation or cooperation, subject is incoherent or incapable of following instructions, subject incapacitation). If a subject/individual fails or refuses to provide a subsequent, adequate sample as requested by the operator, the results obtained are still considered valid, provided the failure to supply the requested samples was the fault of the subject/individual and not the operator. (4-11-15)

g. A third breath sample shall, when possible, be collected if the first two (2) results differ by more than 0.02 g/210L alcohol. Unless mouth alcohol is indicated or suspected, it is not necessary to repeat the monitoring period prior to obtaining a third breath sample. (4-11-15)

h. The results for subsequent breath samples should correlate within 0.02 g/210L alcohol to show consistent sample delivery, indicate the absence of RFI, and to indicate the absence of alcohol contamination in the subject/individual's breath pathway as a contributing factor to the breath results. (4-11-15)

i. In the event of an instrument failure, the operator should attempt to utilize another instrument or have blood drawn. (4-11-15)

04. Training. Each individual operator (BTO or BTS) shall demonstrate sufficient training to operate the instrument correctly. This shall be accomplished by successfully completing a training course approved by the department on each instrument model utilized by the operator. Operator certifications issued after July 1, 2013 are valid for two (2) calendar years from the course completion date. The department may revoke individual operator (BTO/BTS) certification for cause. (4-11-15)

05. Performance Verification Checks. Each breath testing instrument shall be checked for accuracy with a performance verification standard approved by the department. Performance verification checks shall be performed according to a procedure established by the department and shall be documented. The official time and date of the performance verification is the time and date recorded on the printout, or the time and date recorded in the log. (4-11-15)

a. A performance verification check shall occur within twenty-four (24) hours before or after an evidentiary test. The benchtop instrument requires a performance verification check as part of the testing sequence. On the portable instrument, multiple breath alcohol tests may be covered by a single performance verification. (4-11-15)

b. A performance verification on a portable instrument consists of two (2) samples at either the 0.08

or 0.20 level. Both samples must be run with the same performance verification standard. Three (3) attempts at obtaining an acceptable performance verification are allowed. Troubleshooting measures may be employed during this process. If the third performance verification fails, the instrument shall be taken out of service. The instrument shall not be returned to service until it has been calibrated and certified by ISPFS. (4-11-15)

c. A performance verification acquired during a breath testing sequence on an approved benchtop instrument consists of one (1) sample at either the 0.08 or 0.20 level. A performance verification acquired outside the breath testing sequence on an approved benchtop instrument consists of two (2) samples at either the 0.08 or 0.20 level. Three (3) attempts at obtaining an acceptable performance verification are allowed. Troubleshooting measures may be employed during this process. If the third performance verification fails, the instrument must be taken out of service. The instrument must not be returned to service until it has been calibrated and certified by ISPFS. (4-11-15)

d. Performance verification checks must be within +/- 10% of the performance verification standard target value. (4-11-15)

e. A wet bath 0.08 performance verification standard should be replaced with fresh standard approximately every twenty-five (25) verifications or every calendar month, whichever comes first. For a closed loop, recirculating system (e.g. the Intox 5000 series), the 0.08 performance verification standard should be replaced with fresh standard approximately every one hundred (100) verifications or every calendar month, whichever comes first. (4-11-15)

f. A wet bath 0.20 performance verification standard should be replaced with fresh standard approximately every twenty-five (25) verifications. (4-11-15)

g. Dry gas performance verification standards may be used continuously without replacement until the canister is spent or the expiration date is reached. (4-11-15)

h. Performance verification standards should not be used beyond the expiration date. (4-11-15)

i. If Section 18-8004C, Idaho Code, (excessive alcohol concentration) is applicable, then a 0.20 performance verification must be run and results documented once per calendar month. Failure to perform a 0.20 performance verification will not invalidate any tests where Section 18-8004C, Idaho Code, is not applicable. A performance verification with a 0.20 standard does not need to be performed within twenty-four (24) hours of an evidentiary breath test in excess of 0.20 g/210L alcohol. (4-11-15)

j. Temperature of the wet bath simulator shall be between thirty-three point five degrees Celsius (33.5°C) and thirty-four point five degrees Celsius (34.5°C) in order for the performance verification results to be valid. (4-11-15)

k. An agency may run additional performance verification standard levels at their discretion. (4-11-15)

06. Records. Operators must document and retain test results (i.e. written log, printout, or electronic database). All records regarding maintenance and results shall be retained for three (3) years. ISPFS is not responsible for storage of documentation not generated by ISPFS. (4-11-15)

07. Deficiencies. Failure to meet any of the conditions listed in Sections 013 and 014. Any laboratory or breath testing instrument may be disapproved for failure to meet one (1) or more of the requirements listed in Sections 013 and 014, and approval may be withheld until the deficiency is corrected. (4-7-11)

08. Standards. Premixed alcohol simulator solutions shall be from an approved vendor and explicitly approved in writing by the department before distribution within Idaho. Dry gas standards from ISO 17025:2005 certified providers are explicitly approved by the department for use in Idaho without evaluation by the department. (4-11-15)

09. MIP/MIC. The presence or absence of alcohol is the determining factor in the evidence in an MIP/MIC case. The instrumentation used in obtaining the breath sample is often the same instrumentation utilized for

acquiring DUI evidence. The different standard of evidence requires different standards for the procedure. (4-11-15)

a. Fifteen (15) minute monitoring period: The monitoring period is not required for the MIP/MIC procedure. (4-11-15)

b. The breath alcohol test must be administered by an operator currently certified in the use of that instrument. (4-11-15)

c. The instrument used must be certified by ISPFS. The instrument only needs to be initially certified by ISPFS. Initial certification shows that the instrument responds to alcohols and not to acetone. The instrument does not need to be checked regularly or periodically with any of the 0.08 or 0.20 standard. (4-11-15)

d. The officer should have the individual being tested remove all loose foreign material from their mouth before testing. False teeth, partial plates, or bridges installed or prescribed by a dentist or physician do not need to be removed to obtain a valid test. The officer may allow the individual to briefly rinse their mouth out with water prior to the breath testing. Any alcohol containing material left in the mouth during the entirety of the breath test sampling could contribute to the results in the breath testing sequence. (4-11-15)

e. A complete breath alcohol test includes two (2) valid breath samples taken from the subject and preceded by an air blank. The subsequent breath samples do not need to be consecutive samples from the same subject. The individual breath samples should be approximately two (2) minutes apart or more. A deficient or insufficient sample does not automatically invalidate a test sample. The operator should use a new mouthpiece for each individual. (4-11-15)

f. A third breath sample is required if the first two (2) results differ by more than 0.02 g/210L alcohol. In the event that all three (3) samples fall outside the 0.02 g/210L alcohol correlation, and testing indicates or the officer suspects mouth alcohol, they must administer a fifteen (15) minute monitoring period and then retest the subject. If mouth alcohol is not suspected or indicated by the test results, then the officer may retest the subject without administering a monitoring period. (4-11-15)

g. The operator should manually log test results and/or retain printouts for possible use in court. (4-11-15)

h. The instrument must not be in passive mode for the testing of subjects for evidential purposes. (4-11-15)

i. The passive mode of testing using the Lifeloc FC20 or ASIII should be used for testing liquids or containers of liquid for the presence or absence of alcohol. (4-11-15)

015. -- 999. (RESERVED)

000. LEGAL AUTHORITY.

01. General. The Director of the Idaho State Police has general rulemaking authority to prescribe rules for civil asset forfeiture reporting, pursuant to Section 67-2901, Idaho Code. ( )

02. Specific. In accordance with Section 37-2744 (Chapter 27, Article V), Idaho Code, the Idaho State Police is authorized to promulgate such rules and forms it deems necessary to carry out the provisions and mandate of said Section 37-2744, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.06.01, "Rules Governing Civil Asset Forfeiture Reporting," IDAPA 11, Title 06, Chapter 01. ( )

02. Scope. These rules concern the civil asset forfeiture reporting form that the Idaho State Police is charged with promulgating pursuant to Section 37-2744, Idaho Code. ( )

002. INCORPORATION BY REFERENCE.
The following is incorporated by reference in this chapter of rules: ( )

01. Idaho Civil Asset Forfeiture Reporting Form. As adopted February 7, 2019, this document is available on the Internet at https://www.isp.idaho.gov. ( )

003. – 009. (RESERVED)

010. DEFINITIONS.

01. Civil Asset Forfeiture Reporting Form. A form promulgated by *and available from* the Idaho State Police, to be used by each state and local law enforcement agency. *( )*

011. CONTENTS OF CIVIL ASSET FORFEITURE REPORTING FORM.

01. Asset Forfeiture Reporting Form. The Asset Forfeiture Reporting Form shall contain fields for entry of the following information: ( )

a. The name of the law enforcement agency that seized the property; ( )

b. The date of seizure; ( )

c. The type and description of property seized, including make, model, year, and serial number, if applicable; ( )

d. The crime(s), if any, for which the suspect has been charged, including whether such crime is a violation of state or federal law; ( )

e. The criminal case number, if any; ( )

f. The outcome, if any, of the suspect's case; ( )

g. If the forfeiture was not processed under state law, the reason for the federal transfer, if known; ( )

h. The forfeiture case number; ( )

i. The date of the forfeiture decision; ( )

j. Whether there was a forfeiture settlement; ( )

k. The date and outcome of property disposition as described by one (1) or more of the following: returned to owner; partially returned to owner; sold; destroyed; or retained by law enforcement; and ( )

l. The value of the property forfeited based on the value realized, if sold, or a reasonable good faith estimate of the value, if possible. ( )

012. – 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules adopting national safety codes and standards are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67- 2901 and 49-901, Idaho Code. (4-2-08)

001. TITLE AND SCOPE.

01. Title. The name of this chapter is IDAPA 11.07.01, "Rules Governing Motor Vehicles – General Rules." (4-2-08)

02. Scope. All owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with these rules to the extent the rules are applicable. (4-2-08)

002. DEFINITIONS.
The definitions in Title 49, Chapter 1, Idaho Code apply to this chapter. *( )*

003. INCORPORATED BY REFERENCE.
Rules 20, 30, and 40 incorporate by reference various state and national safety codes and federal regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the Headquarters Office of the Idaho State Police, listed in Rule 004. The following codes and standards are incorporated: (4-2-08)

01. Society of Automotive Engineers (SAE). The SAE Ground Vehicle Lighting Standards Manual, 2009 edition, and SAE standards J586, J588, and J639 are published by the Society of Automotive Engineers and are available from SAE World Headquarters, 400 Commonwealth Drive, Warrendale, PA 15096-0001 and may be ordered by calling 1-877-606-7323 or on the worldwide web at http://store.sae.org/. (4-2-08)

02. Idaho State Department of Education, Standards for Idaho School Buses and Operations Manual. The Standards for Idaho School Buses and Operations Manual, effective July 1, 2018, is published by the Idaho Department of Education, 650 West State Street, P.O. Box 83720, Boise, ID 83720-0027 and may be ordered by calling 1-208-332-6800 or downloaded from the worldwide web at http://www.sde.idaho.gov/student-transportation/files/forms-lists/regulations/SISBO-Manual-2018.pdf. (4-2-08)

03. Federal Regulations – 49 C.F.R. Parts 392, 393, and 571 (June 3, 2019). These regulations are found in the Code of Federal Regulations, available from the U.S. Government Printing Office, Superintendent of Documents, Attn: New Orders, PO Box 37954, Pittsburgh, PA 15250-7954. The incorporated parts are also available on the worldwide web at https://www.ecfr.gov/cgi-bin/ECFR?page=browse. (4-2-08)

004. -- 019. (RESERVED)

020. SOCIETY OF AUTOMOTIVE ENGINEERS (SAE).
In accordance with the SAE Ground Vehicle Lighting Standards Manual, and SAE standards J586, J588, and J639, all owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable provisions incorporated by reference in Subsection 008.01. (3-29-10)

01. Standards and Specifications for Lighting Devices. Pursuant to Section 49-901(1), Idaho Code, the standards and specifications set forth by the Society of American Engineers in the SAE Ground Vehicle Lighting Standards Manual, as incorporated by reference in Subsection 008.01. (3-29-10)

02. Standards for Rear Mounted Acceleration and Deceleration Lighting Systems (Use Optional). The current standards found in "Supplemental High Mounted Stop and Rear Turn Signal Lamps for Use on Vehicles Less Than 2032 MM Overall Width -- SAE J586 and J588," is found in Section 49-921, Idaho Code, as incorporated by reference in Subsection 008.01. (4-2-08)

03. Safety Practices and Standards for Automotive Air Conditioning Devices, Standards and Specifications. Pursuant to Section 49-901(7), Idaho Code, the current standards set forth in "Safety Practices For Mechanical Vapor Compression Refrigeration Equipment of Systems Used to Cool Passenger Compartment of Motor Vehicles -- SAE J639," as incorporated by reference in Subsection 008.01. (4-2-08)

021. -- 029. (RESERVED)

030. IDAHO STATE DEPARTMENT OF EDUCATION, STANDARDS FOR IDAHO SCHOOL BUSES AND OPERATIONS MANUAL.
In accordance with the "Standards for Idaho School Buses and Operations" manual, all owners and operators of

motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable standards incorporated by reference in Subsection 006.02. ( )

01. General Rules. Pursuant to Section 49-901(8), Idaho Code, the standards found in the "Standards for Idaho School Buses and Operations" manual approved by the Idaho State Department of Education incorporated by reference in Subsection 006.02. ( )

02. Lighting Equipment. Pursuant to Section 49-901(2), Idaho Code, the standards found in the "Standards for Idaho School Buses and Operations" manual approved by the Idaho State Department of Education incorporated by reference in Subsection 006.02. ( )

031. -- 039. (RESERVED)

040. FEDERAL REGULATIONS - 49 C.F.R. PARTS 392, 393, AND 571.
In accordance with Title 49 of the Code of Federal Regulations, Parts 392, 393, and 571, all owners and operators of motor vehicles that operate on the highways under the jurisdiction of the Idaho State Police are required to comply with the applicable Parts found in Title 49 of the Code of Federal Regulations. (3-29-10)

01. Certain Vehicles Required to Stop at All Railroad Crossings. Pursuant to Section 49-648, Idaho Code, the Director hereby incorporates by reference the requirements found in Title 49 (49 C.F.R.) of the Code of Federal Regulations (Federal Motor Carrier Safety Regulations) Part 392, Subpart B, Section 392.10, as if set forth herein in full. (4-2-08)

02. Devices With Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to Requirements for fusees and liquid burning flares found in 49 C.F.R., Part 393, Subpart H, Section 393.95. Warning devices with self-contained energy sources permissible, under this chapter are limited to liquid burning emergency flares, and fusees. (4-2-08)

03. Modulating Headlights for Motorcycles. Pursuant to Section 49-925, 49-901(3), 49-901(4), Idaho Code, the Director hereby approves modulating headlights for use on motorcycles. Such headlights shall conform to the standards and specifications with regard to modulating headlights found in 49 C.F.R. Section 571.108, Standard 108, S7.9.4, which is hereby adopted by reference as if set forth herein in full. (4-2-08)

04. Standards for Safety Helmets. Pursuant to Section 49-666, Idaho Code, the Director hereby incorporates by reference the standards found in 49 C.F.R. Section 571.218, Standard No. 218, as if set forth herein in full. (4-2-08)

05. Standards for Devices Without Self Contained Energy Sources. Pursuant to Section 49-952, Idaho Code, the Director hereby incorporates by reference the standards and specifications with regard to reflex reflective and fluorescent material warning devices found in 49 C.F.R. Section 571.125, Standard 125, as if set forth herein in full. (3-29-10)

041. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901(4), Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.07.02, "Rules Governing Safety Glazing Material." (5-3-03)

02. Scope. The rules apply to safety glazing material on motor vehicles under the jurisdiction of the Idaho State Police (5-3-03)

002. INCORPORATION BY REFERENCE.

01. Incorporated Document. Pursuant to Section 49-901, Idaho Code, the director hereby adopts by reference the standards and specifications set forth in 49 C.F.R. Sections 571.1 through 571.500, revised as of June 3, 2019. ( )

02. Availability of Reference Material. The federal regulations adopted by reference in these rules are maintained at the following locations: (7-2-97)

a. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174; and (5-3-03)

b. Idaho State Police, 700 S. Stratford Drive, Meridian, Idaho 83642. ( )

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Light Transmission. The ratio of the amount of total light, expressed in percentages, that is allowed to pass through the product or material to the amount of total light falling on the product or material and the glazing. ( )

02. Luminous Reflectance. The ratio of the amount of total light, expressed in percentages, that reflected outward by the product or material to the amount of total light falling on the product or material. ( )

03. Own or Owning. Having the property in or title to a motor vehicle. These terms include persons, other than lienholders, who are entitled to the use and possession of a vehicle subject to a security interest in another person, but excludes a lessee under a lease not intended as security. ( )

04. Person. Every natural person, firm, fiduciary, co-partnership, association, corporation, trustee, receiver or assignee for the benefit of creditors, political subdivision, state or federal governmental department, agency, or instrumentality. ( )

05. Window Tinting Films or Sunscreening Devices. Designed to be used in conjunction with approved vehicle glazing materials for the purpose of reducing the effects of the sun. ( )

011. STANDARDS FOR SAFETY GLAZING MATERIAL.

01. General. It is unlawful for any person to place, install, affix or apply any window tinting film or sunscreening device to the windows of any motor vehicle, except as follows: (7-1-93)

a. Non-reflective window tinting film or sunscreening devices shall not be applied to the windshield below the AS-1 line; if no AS-1 line is identifiable on the windshield, non-reflective window tinting film or sunscreening devices shall not be applied to the windshield below a line extending six (6) inches below and parallel to the roof line; (7-1-93)

b. Non-reflective window tinting film or sunscreening devices that have a light transmission of not less than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the front side vents, front side windows to the immediate right and left of the driver, and the rear window; (7-1-93)

c. Non-reflective window tinting film or sunscreening devices that have a light transmission of not less than twenty percent (20%) with a tolerance limit of plus or minus three percent (3%) and a luminous reflectance of no more than thirty-five percent (35%) with a tolerance limit of plus or minus three percent (3%) may be applied to the side windows to the rear of the driver. (7-1-93)

02. Restriction. No person may operate on the public highways, sell or offer to sell any motor vehicle with a windshield or windows which are not in compliance with the provisions of this rule and the standards of Section 40-944, Idaho Code. (7-1-93)

03. Limitation. Nothing in this section may be construed to make illegal the operation or sale of any motor vehicle, the windshield or windows of which are composed of, covered by, or treated with, any material, substance, system, or component with which such motor vehicle was sold when new or could have been equipped for sale when new as standard or optional equipment under any United States government statute or regulation governing such sale at the time of manufacture. (7-1-93)

012. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901(4), Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.07.03, "Rules Governing Emergency Vehicles/Authorized Emergency Vehicles." (5-3-03)

02. Scope. The rules apply to emergency vehicles/authorized emergency vehicles under the jurisdiction of the Idaho State Police. (5-3-03)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Unless specifically defined in this chapter, the definitions in Title 49, Chapter 1, Idaho Code apply to this chapter. *( )*

01. Limited Authorized Vehicle. *A* vehicle to which a limited authorization is issued by the Director for limited emergency uses as defined by the Director upon agreement with an applicant under terms specified therein. *( )*

02. Driver. *E*very person who is in actual physical control of an authorized emergency vehicle. *( )*

011. PURPOSE.

01. General. The purpose of this chapter is to specify a procedure to be followed to obtain approval for authorized emergency vehicles. Pursuant to Section 49-218, Idaho Code, the Director may designate any particular vehicle as an authorized emergency vehicle upon a finding that designation of that vehicle is necessary to the preservation of life or property or to the execution of an emergency governmental function. (5-3-03)

02. Emergency Vehicles. This chapter will not pertain to emergency vehicles as defined by Section 49-123, Idaho Code, i.e., vehicles operated by any fire department or law enforcement agency of the state of Idaho or political subdivision thereof, and ambulances of any public utility or public service corporation. (5-3-03)

012. AUTHORIZATION REQUIREMENTS.

01. General. Any person, firm, corporation, or municipal corporation, desiring to have a vehicle registered as an authorized emergency vehicle, pursuant to Section 49-218, Idaho Code, must apply for authorization to the Director on forms provided by the department *and:* *( )*

a. *Provide a* description of*:* *( )*

i. The specific geographic area in which the vehicle will be used as an authorized emergency vehicle. (7-1-93)

ii. The specific purposes for which the vehicle will be used as an emergency vehicle. (7-1-93)

iii. The emergency vehicle listing year, make, model, vehicle identification number and license plate number. (7-1-93)

iv. The emergency lighting equipment to be used on the emergency vehicle. (7-1-93)

v. The emergency horns or warning devices to be used on the emergency vehicle. (7-1-93)

b. *Provide w*ritten documentation indicating the emergency vehicle will have radio communications between a central dispatch location and, when applicable, between other emergency vehicles. *( )*

c. Maintain a certificate or liability and property damage insurance executed by an insurer authorized to transact insurance business with the state *and have a* copy on file in the Director's office and must be updated upon each renewal period, with notice of renewal being filed with the Director. The certificate must show expiration date,

liability (single event and aggregate) and property damage coverage. ( )

d. *Provide a*n explanation of the nature and the scope of the duties, responsibilities and the authority of the vehicle driver which necessitates the vehicle's registration as an authorized emergency vehicle. ( )

e. *Provide a* list of the names, addresses, birthdates, social security numbers of all persons who use the vehicle as an authorized emergency vehicle. ( )

f. *Provide* written documentation as to the emergency vehicle driving courses and hours of instruction completed by each driver. ( )

g. *Provide a* recommendation by the chief law enforcement officer or fire chief, if the vehicle is to be used for firefighting purposes, of each jurisdiction in which the vehicle is to be used as an authorized emergency vehicle stating that a need exists in such jurisdiction for the vehicle to be used as described in the application. The Director may issue emergency vehicle authorization to vehicles which operate throughout the state. ( )

013. LIMITED AUTHORIZED EMERGENCY VEHICLE.

01. General. Any person, firm, corporation, or municipal corporation, desiring to have a vehicle registered as a limited authorized emergency vehicle must apply for authorization to the Director on forms provided by the department *that provides the following information:* ( )

a. A description of the emergency vehicle listing year, make, model, vehicle identification number and license plate number. (7-1-93)

b. A description of the emergency lighting equipment to be used on the emergency vehicle. (7-1-93)

02. Requirements. Each driver of an authorized emergency vehicle must: (7-1-93)

a. Be eighteen (18) years of age or older. (7-1-93)

b. Not have been convicted in any court within three (3) years of an offense of driving under the influence of alcohol, drugs, or any other intoxicating substance, reckless driving, failure to stop or report an accident, or any other conviction which the Director may deem a disqualifier to drive an authorized emergency vehicle. (7-1-93)

c. Not have had driving privileges suspended for any reason within the last three (3) years. (7-1-93)

014. AUTHORIZATION LIMITATIONS.

01. Durations. The authorization proved by the Director will be for one (1) year. The application for continued emergency vehicle authorization or limited emergency vehicle authorization must be renewed prior to the expiration date. (7-1-93)

02. Restrictions. An authorized emergency vehicle may not be used except as follows: (7-1-93)

a. Only by the drivers named on the original or amended application. (7-1-93)

b. Only with the equipment described in the original or amended application. (7-1-93)

c. Only within the geographical area described in the original or amended application. (7-1-93)

d. Only for the purposes set forth in the original or amended application. (7-1-93)

03. Limited Restriction. A limited authorized emergency vehicle may not be used except as follows: (7-1-93)

a. Where a lane of traffic is obstructed or at the discretion of a peace officer, it may display a red, flashing light. (7-1-93)

b. To gain access to accident or emergency scenes, it may use interstate system emergency crossovers, provided such usage is done in a safe manner. (7-1-93)

c. It is unlawful and cause for immediate revocation of the limited authorization if red lights are used while traveling to or from an incident or an emergency or for any reason not described herein. (7-1-93)

015. -- 020. (RESERVED)

021. EQUIPMENT REQUIRED.

01. Authority. Pursuant to Section 49-901, Idaho Code, the Director has authority to approve and disapprove warning lighting devices on emergency vehicles and to issue and enforce regulations for such emergency warning lighting devices. (5-3-03)

02. Equipment. Every authorized emergency vehicle must be equipped in conformance with Section 49-623(3), Idaho Code, with at least one (1) red light visible in a three hundred and sixty (360) degree arc at a distance of one thousand feet (1000') under normal atmospheric conditions and/or an audible signaling device having a decibel rating of at least one hundred (100) decibels at a distance of ten feet (10'). (5-3-03)

022. PROCEDURE.

01. Approval. If the Director approves the application, he may issue a certificate of approval which is valid for thirty (30) days, during which time the emergency equipment may be installed. After installation of the emergency equipment, the applicant must bring the vehicle to a district office of the Idaho State Police to be examined to determine if the equipment is of an approved type and is properly mounted. An Idaho State Police officer must certify the results of this examination on a form prescribed and provided by the department, and the applicant must file the form with the Idaho State Police. ( )

02. Carried. The certificate of approval, and when issued the agreement or copies thereof, including all endorsements for changes of conditions, must be carried in the authorized emergency vehicle or limited authorized emergency vehicle at all times and must be displayed upon request of any law enforcement officer. (7-1-93)

03. Violation. Violation of any of the Rules is grounds for suspension or revocation of the authorized emergency vehicle agreement or limited authorized emergency vehicle agreement without prior written notice or opportunity for hearing. (7-1-93)

04. Authorization. Any authorization may be terminated at any time without cause or prior written notice or opportunity for hearing by the Director or his designated representative. (7-1-93)

05. Copy. A copy of the authorized emergency vehicle certificate approved by the Director or limited authorization certificate approved by the Director must be carried in each authorized vehicle and shown to any peace officer upon request. (7-1-93)

06. Valid. Any renewals or new applications expire on June 30 of each subsequent year following. (7-1-93)

023. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho State Police has authority to make rules to implement the sex offender central registry pursuant to Title 18, Chapter 83, Idaho Code, Sections 18-8301 through 18-8331. (3-29-12)

001. TITLE AND SCOPE.
These rules are titled IDAPA 11.10.03, "Rules Governing the Sex Offender Registry." The rules relate to the administration of the state's sex offender central registry, which includes both adult and juvenile offenders. (3-18-99)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The terms defined in Section 67-3001, Idaho Code, will have the same meaning in these rules. In addition, the following terms have the meanings set forth below: (3-29-12)

01. Central Registry. *The* state-level records system containing information, photographs and fingerprints relating to persons required to register as a sex offender under Title 18, Chapters 83 and 84, Idaho Code. *( )*

02. Substantially Equivalent. *Any* sex offense related crime, regardless of whether a felony or misdemeanor, that consists of similar elements defined in Title 18 of the Idaho Criminal Code. It does not mean exactly the same, nor exactly identical to. *( )*

03. Working Days. *Each* day except Saturday, Sunday, or a legal state holiday. *( )*

011. (RESERVED)

012. SEX OFFENDER CENTRAL REGISTRY -- ADMINISTRATION.

01. Central Registry Established. Pursuant to Title 18, Chapter 83, Idaho Code, the department establishes a sex offender central registry in the bureau of criminal identification. The bureau is responsible for administration of the central registry pursuant to the requirements set forth in Title 18, Chapters 83 and 84, Idaho Code and these rules. (3-18-99)

02. Forms. The following forms and procedures will be used to provide notice to and collect information from persons required to register as a sex offender pursuant to Title 18, Chapters 83 and 84, Idaho Code. (3-29-12)

a. "Idaho Sex Offender Registry Form." This three (3) page form notifies an offender of register requirements and collects from an offender information required for registration or any change of address or status, as required by statute. (3-29-12)

b. "Idaho Sex Offender Registry Homeless - Location Verification Form." This one (1) page form is used during weekly reporting to collect from an offender the information required when the offender does not provide a physical address at the time of registration. (3-29-12)

03. Photographs and Fingerprints. *( )*

a. An offender's photograph will be in color. The sheriff will forward a copy of the photograph with tagging information so it may easily be located by registry staff in the department of transportation photo database. Photographs submitted to the central registry will be a copy of the new photographs taken at the time of each registration. From collected registration fees, the sheriff will pay to the state the cost of photography materials lawfully required by a state agency or department. (3-29-12)

b. The sheriff will also submit the required fingerprints *and palmprints for each registrant, in a manner prescribed by the department, either by manual card or electronic submission* each registration. *( )*

04. Notification to Local Law Enforcement. Lists of all offenders registered within a county are available on the sex offender registry web site. The bureau will notify the appropriate county law enforcement agency with jurisdiction any time the bureau becomes aware of a change of status or change of residence of a registered sex

offender; and of a registered offender's intent to reside in an agency's jurisdiction. ( )

05. Notification to Other Jurisdictions. Within one (1) working day of receiving notification that a registered sex offender is moving to another jurisdiction, the bureau will notify the receiving jurisdiction's designated sex offender registration agency of the move by mail or electronic means. (3-29-12)

06. Expungement of Central Registry Information. (3-18-99)

a. Upon receipt of a certified copy of a death certificate recording the death of a person registered with the central registry, the bureau will expunge all records concerning the person from the central registry. (3-18-99)

b. Upon receipt of a duly attested copy of a pardon issued by the governor of the jurisdiction where the conviction was entered and then reported to the central registry, the bureau will expunge all records concerning the conviction from the central registry. If the pardoned person has no other conviction requiring registration, the bureau will expunge all references concerning the person from the central registry. (3-29-12)

c. Upon receipt of a duly attested document from a court clerk that a conviction previously reported to the central registry has been reversed by the court of conviction, the bureau will expunge all records concerning the conviction from the central registry, provided that the person has no other conviction requiring registration. (3-29-12)

i. Expungement of a record will not occur in cases where a court has ordered a dismissal for a withheld judgment. (3-29-12)

d. Pursuant to Section 18-8310(5), Idaho Code, if a person is exempted from the registration requirement by court order, the bureau will expunge all records and references concerning the offender from the central registry. (3-29-12)

07. Determination of Substantially Equivalent or Similar Crime. (3-29-12)

a. A person convicted of a sex offense in another jurisdiction and who moves to, works in, or becomes a student in Idaho may be required to register as a sex offender in Idaho pursuant to Title 18, Chapters 83 or 84, Idaho Code. (3-25-16)

b. The bureau shall determine if a person's out-of-jurisdiction conviction is substantially equivalent or similar to an Idaho sex related offense, as defined by Idaho's Criminal Code, for the purposes of requiring a person to register in Idaho. (3-29-12)

c. The bureau may make all substantially equivalent determinations using the *police report (of the incident related to the sex offense), indictment or information or other lawful charging document, judgment or order (of sex offense conviction), psychosexual evaluation report, and order of probation.* ( )

d. If a person seeks a substantially equivalent determination by the bureau before moving to, working in, or becoming a student in Idaho, that person shall provide a completed application and attach certified copies of all above-named documents to the bureau. ( )

e. The bureau shall issue a substantially equivalent determination within sixty (60) days upon receipt of a completed application and the required documents. (3-25-16)

f. The bureau's determination is a declaratory ruling as defined by Chapter 52, Title 67, Idaho Code. (3-25-16)

g. Judicial review of the bureau's determination shall be made in accordance with Chapter 52, Title 67, Idaho Code. (3-25-16)

013. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated pursuant to the authority granted to the Idaho State Police pursuant to Section 67-2901A, Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 11.13.01, "The Motor Carrier Rules." (4-5-00)

02. Scope. These rules apply to intrastate motor carriers under the jurisdiction of the Idaho State Police and, when provided in the rule, to interstate or foreign carriers providing transportation of persons or property over highways of the state of Idaho by motor vehicles in the furtherance of their business or for hire. ( )

002. INCORPORATION BY REFERENCE.
In accordance with Section 67-5229, Idaho Code, the following sections of the Code of Federal Regulations, specifically 49 CFR, and 40 CFR are herein incorporated by reference: (3-25-16)

01. Safety Fitness Procedures (See Section 012). Adoption of Federal Regulations, 49 CFR subtitle, chapter III. subchapter B - Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C-Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not. (3-25-16)

02. Transportation of Hazardous Materials, Substances, and Wastes (See Section 018). Adoption of Federal Regulations. 40 CFR Part 262 and 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 are hereby adopted by reference. All interstate and foreign carriers and all intrastate carriers subject to the safety authority of the Idaho State Police while operating in Idaho that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must comply with 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 applicable to motor carriers and their shippers, and the laws and rules of the state of Idaho. Whenever any of these federal regulations exempt intrastate carriers from any of their requirements, Section 018 removes that exemption and subjects intrastate carriers to the same requirements. The Department asserts its authority under Section 018, to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-670 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. ( )

a. Version of Federal Regulations Adopted. Per Section 49-2212, Idaho Code, the federal regulations adopted by reference in Section 018 of these rules, are those contained in the compilations of 40 CFR Part 262 published in the Code of Federal Regulations volume dated July 1, 1998, and as subsequently recompiled, and those contained in the compilations of 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 published in the Code of Federal Regulations volume dated October 1, 1998, and as subsequently recompiled, and all amendments to these rules appearing in the Federal Registers. Amendments to the annual volumes are published in the Federal Register pending their incorporation in the next annual volumes. ( )

03. Carrier Safety Requirements (See Rule 19). Adoption of Federal Regulations 49 CFR Parts 356, 365, 380, 382, 383, 385, 386, 387, 388 and 390 through 399 are hereby adopted by reference. Whenever any one (1) of these federal regulations (except Section 391.11(b)(1)) exempts intrastate carriers from any of their requirements, the rule at Section 019, removes that exemption and subjects the intrastate carrier to the same requirements. The Department asserts its authority under Section 019 of these rules to the maximum extent allowed by Section 67-2901A, Idaho Code, Public Laws 89-679 and 89-170 (see 49 U.S.C. 502(c)(3)), 49 CFR Part 388. ( )

a. Version of Federal Regulations Adopted. The federal regulations adopted by reference in Section 019 of these rules, are those contained in the compilation of 49 CFR Parts 356, 365, 380, 382, 383, 385, 386, 387, 388, 390 through 399 published in the Code of Federal Regulations volumes dated October 21, 2015. (3-29-17)

04. Availability of Incorporated Documents. The 49 CFRs can be found on the Federal Motor Carrier Safety Administration website at www.fmcsa.dot.gov. ( )

003. -- 007. (RESERVED)

008. FORMS.
The Idaho State Police Commercial Vehicle Safety Program Manager is authorized to produce and distribute forms and reports to carry out these rules. (3-29-10)

009. RELIEF FROM REGULATIONS.
The Department may issue a declaration of emergency relieving intrastate carriers from the requirements of 49 CFR Parts 390 through 399 adopted by reference in Section 019 of these rules following the declaration of an emergency. The maximum duration of the declaration of emergency, the particular rules in 49 CFR Parts 390 through 399 from which the carrier is relieved from complying, and all other aspects relieved from regulation are the same as provided in those Federal regulations. (3-29-10)

010. DEFINITIONS.
Whenever any term used in these rules is defined or referred to in the Idaho Code, that term takes its statutory definition in these rules. (4-5-00)

01. Commercial Motor Vehicle (CMV). Any self-propelled or towed motor vehicle used on a highway in interstate or intrastate commerce to transport passengers or property when the vehicle: (3-29-10)

a. Has a gross vehicle weight rating (GVWR) or gross combination weight rating (GCWR), or gross vehicle weight (GVW) or gross combination weight (GCW), of four thousand, five hundred thirty-six kilograms (4,536 kg.), (ten thousand, one pounds (10,001 lbs.)) or more, whichever is greater; or (3-29-10)

b. Is designed or used to transport more than eight (8) passengers, including the driver, for compensation; or (3-29-10)

c. Is designed or used to transport more than fifteen (15) passengers, including the driver, and is not used to transport passengers for compensation; or (3-29-10)

d. Is used in transporting material found by the Secretary of Transportation to be hazardous under 49 U.S.C. 5103 and transported in a quantity requiring placarding under regulations prescribed by the Secretary under 49 CFR, Subtitle B, Chapter I, Subchapter C. (3-29-10)

02. Department. The Idaho State Police. (4-5-00)

03. Highway. Public roads, highways, and streets of the State. (4-5-00)

04. Interstate Carrier. Any person owning or operating any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property. (4-5-00)

05. Motor Carrier. An individual, partnership, corporation or other legal entity engaged in the transportation by motor vehicle of persons or property in the furtherance of a business or for hire. (4-5-00)

06. Motor Vehicle. Any vehicle, machine, tractor, trailer, or semitrailer propelled or drawn by mechanical power and used upon the highway in the transportation of passengers and/or property, but does not include any vehicle, locomotive, or car operated exclusively on a rail or rails. (4-5-00)

07. Person. Any individual, firm, co-partnership, corporation, company, association, or joint stock association, and includes any trustee, receiver, assignee, or personal representative thereof. (4-5-00)

08. Transportation. Includes all vehicles operated by, for, or in the interest of any motor carrier irrespective of ownership or contract, express or implied, together with all services, facilities and property furnished, operated or controlled by any such carrier or carriers and used in the transportation of passengers and/or property in commerce in the state of Idaho. (3-29-10)

011. (RESERVED)

012. SAFETY FITNESS PROCEDURES.

01. Purpose and Scope. (4-5-00)

a. This section establishes procedures to determine the safety fitness of motor carriers, assign safety ratings, take remedial action when required and prohibit motor carriers receiving a safety rating of "unsatisfactory" from operating a commercial motor vehicle: ( )

i. To provide transportation of hazardous materials for which vehicle placarding is required in accordance with 49 CFR Part 172, subpart F; or (4-5-00)

ii. To transport more than fifteen (15) passengers, including the driver. (4-5-00)

b. All provisions of Section 012 apply to all motor carriers subject to the requirement of this subchapter. (4-5-00)

02. Definitions. The following definitions apply to Section 012. (4-5-00)

a. Applicable safety regulations or requirements. Means 49 CFR subtitle, chapter III. subchapter B- Federal Motor Carrier Safety Regulations; and 49 CFR subtitle B, chapter I. subchapter C- Hazardous Materials Regulations. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Whenever a federal regulation is adopted by reference in these rules, subsequent recompilations are also adopted by reference, but subsequent amendments are not. ( )

b. Preventable accident on the part of a motor carrier. Means an accident that: (4-5-00)

i. Involved a commercial motor vehicle, and (4-5-00)

ii. Could have been averted but for an act, or failure to act, by the motor carrier or the driver. (4-5-00)

c. Reviews: ( )

i. Compliance review. An onsite examination of motor carrier operations, which may be at the carrier's place of business, including driver's hours of service, vehicle maintenance and inspection, driver qualifications, commercial driver's license requirements, financial responsibility, accidents, hazardous materials, and such other related safety and transportation records to determine safety fitness. (4-5-00)

(1) A compliance review may be conducted in response to a request to change a safety rating, to investigate potential violations of safety regulations by motor carriers, or to investigate complaints or other evidence of safety violations. (4-5-00)

(2) A compliance review may result in the initiation of an enforcement action. (4-5-00)

ii. Safety management controls. The systems, policies programs, practices, and procedures used by a motor carrier to ensure compliance with applicable safety and hazardous materials regulations which ensure the safe movement of products and passengers through the transportation system, and to reduce the risk of highway accidents and hazardous materials incidents resulting in fatalities, injuries, and property damage. (4-5-00)

d. Safety ratings: ( )

i. Satisfactory safety rating. A motor carrier has in place and functioning adequate safety management controls to meet the safety fitness standard prescribed in Subsection 012.03 of this rule. Safety management controls are adequate if they are appropriate for the size and type of operation of the particular motor carrier. (4-5-00)

ii. Conditional safety rating. A motor carrier does not have adequate safety management controls in place to ensure compliance with the safety fitness standard that could result in occurrences listed in Subsection 012.03 of this rule. (4-5-00)

iii. Unsatisfactory safety rating. A motor carrier does not have adequate safety management controls in

place to ensure compliance with the safety fitness standard which has resulted in occurrences listed in Subsection 012.03 of this rule. (4-5-00)

iv. Unrated carrier. A safety rating has not been assigned to the motor carrier. (4-5-00)

03. Safety Fitness Standard. The satisfactory safety rating is based on the degree of compliance with the safety fitness standard for motor carriers. To meet the safety fitness standard, the motor carrier must demonstrate that it has adequate safety management controls in place, which function effectively to ensure acceptable compliance with applicable safety requirements to reduce the risk associated with: (4-5-00)

a. Commercial driver's license standards violations. (4-5-00)

b. Inadequate levels of financial responsibility. (4-5-00)

c. The use of unqualified drivers. (4-5-00)

d. Improper use and driving of motor vehicles. (4-5-00)

e. Unsafe vehicles operating on the highways. (4-5-00)

f. Failure to maintain accident register and copies of accident reports. (4-5-00)

g. The use of fatigued drivers. (4-5-00)

h. Inadequate inspection, repair, and maintenance of vehicles. (4-5-00)

i. Transportation of hazardous materials, driving and parking rule violations. (4-5-00)

j. Violation of hazardous materials regulations. (4-5-00)

k. Motor vehicle accidents and hazardous materials incidents. (4-5-00)

04. Factors to Be Considered in Determining a Safety Rating. The factors to be considered in determining the safety fitness and assigning a safety rating include information from safety reviews, compliance reviews and any other data. The factors may include all or some of the following: (4-5-00)

a. Adequacy of safety management controls. The adequacy of controls may be questioned if their degree of formalization or automation is found to be substantially below the norm for similar carriers. Violations, accidents or incidents substantially above the norm for similar carriers will be strong evidence that management controls are either inadequate or not functioning property. (4-5-00)

b. Frequency and severity of regulatory violations. (4-5-00)

c. Frequency and severity of driver/vehicle regulatory violations identified in roadside inspections. (4-5-00)

d. Number and frequency of out-of-service driver/vehicle violations. (4-5-00)

e. Increase or decrease in similar types of regulatory violations discovered during safety or compliance reviews. (4-5-00)

f. Frequency of accidents; hazardous materials incidents; accident rate per million miles; preventable accident rate per million miles; and other accident indicators; and whether these accident and incident indicators have improved or deteriorated over time. (4-5-00)

g. The number and severity of violations of state safety rules, regulations, standards, and orders applicable to commercial motor vehicles and motor carrier safety that are compatible with Federal rules, regulations,

standards and orders. (4-5-00)

05. Determination of Safety Fitness. Following a compliance review of a motor carrier operation, the Idaho State Police Commercial Vehicle Safety Program Manager, using the factors prescribed in Subsection 012.04 of this rule, will determine whether the present operations of the motor carrier are consistent with the safety fitness standards set forth in Subsection 012.03 of this rule. (3-29-10)

06. Notification of a Safety Fitness Rating. Following a compliance review, the Idaho State Police Commercial Vehicle Safety Program Manager will determine the safety fitness of a motor carrier and notify the motor carrier and the Department in writing. Notification will include a list of those items for which immediate corrective actions must be taken. (3-29-10)

07. Motor Carrier Certification. Upon notification of violations cited in the compliance review and recommendations made to correct violations a motor carrier must certify to the Idaho State Police Commercial Vehicle Safety Program Manager, within thirty (30) days, whether all corrective actions identified by the safety review have been taken. Failure to certify or falsely certifying under Section 012 of this Chapter will be considered a reporting violation under Section 67-2901B(3), Idaho Code. ( )

013. -- 017. (RESERVED)

018. TRANSPORTATION OF HAZARDOUS MATERIALS, SUBSTANCES, AND WASTES.

01. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to Section 018 that transport hazardous materials, substances or wastes listed in, defined by or regulated by 49 CFR Parts 107, 171, 172, 173, 177, 178 and 180 must obtain copies of these federal regulations and make them available to their drivers and other personnel handling hazardous materials, substances or wastes and must familiarize their drivers and other personnel handling hazardous materials, substances or wastes with any regulation pertaining to the particular material, substance or waste that is transported. The annual volumes of the CFRs may be obtained from the Superintendent of Documents, Government Printing Office, Washington, D.C. 20402. Amendments to the annual volumes are published in the Federal Register, pending their incorporation in the next annual volumes. Failure to be familiar with these federal regulations adopted by reference is a violation of Section 018 of this Chapter for any carrier transporting such cargoes. The federal regulations adopted by reference in this Section 018 have the following subject matter: ( )

a. Part 107. Hazardous Materials Program Procedures. (4-5-00)

b. Part 171. General Information, Regulations and Definitions. (4-5-00)

c. Part 172. Hazardous Materials Table, special provisions, hazardous materials communications, emergency response information, and training requirements. (3-29-10)

d. Part 173. Shippers-General Requirements for Shipments and Packaging. (4-5-00)

e. Parts 174-176. (Not adopted regulations for railroads, aircraft and vessels). (4-5-00)

f. Part 177. Carriage by Public Highway. (4-5-00)

g. Part 178. Specifications for packagings. (3-29-10)

h. Part 179. (Not adopted regulations for rail tanker cars). (4-5-00)

i. Part 180. Continuing Qualification and Maintenance of Packagings. (3-29-10)

02. Recognition of Federal Waivers. Whenever a carrier has applied to a federal agency and been granted a waiver of the packaging requirements of the federal regulations adopted in Subsection 018.01, the federal waiver will also be recognized under these rules. The Department will not administer a program to duplicate consideration or approval of federal waivers on the state level. (4-5-00)

03. Hazardous Materials. *M*eans a substance or material that the Secretary of Transportation has determined is capable of posing an unreasonable risk to health, safety, and property when transported in commerce and has designated as hazardous under section 5103 of the Federal hazardous materials transportation law (49 U.S.C. 5103). The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials, materials designated as hazardous in the Hazardous Materials Table (see 49 CFR 172.101), and materials that meet the defining criteria for hazard classes and divisions in Part 173 of Subchapter C of Title 49 of the Code of Federal Regulations. *( )*

04. Hazardous Substances. *M*eans a material, its mixtures or solutions, that is listed in the Appendix A to 49 CFR 172.101 and that is in a quantity in one (1) package that equals or exceeds the reportable quantity (RQ) listed in the Appendix A to 49 CFR 172.101. *( )*

05. Hazardous Waste. *M*eans any material that is subject to the Hazardous Waste Manifest requirements of the U.S. Environmental Protection Agency. See 40 CFR Part 262. *( )*

019. CARRIER SAFETY REQUIREMENTS.

01. Adoption of Federal Regulations - Exceptions. (3-25-16)

a. All interstate and foreign carriers and intrastate carriers, except those carriers listed in Subsection 019.01.b. of this rule, subject to the safety authority of the Idaho State Police while operating in Idaho that transport passengers or property, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

b. Intrastate carriers operating commercial motor vehicles transporting property with a GVW, GVWR, GCW or GCWR greater than ten thousand (10,000) pounds and up to twenty-six thousand (26,000) pounds, subject to the authority of the Idaho State Police, must comply with 49 CFR Part 390 Subpart A, Part 391.15, Parts 392, 393, and Part 396.1, 396.3(a), (a)(1), and (a)(2), and 396.5 through 396.9 and the law and rules of the state of Idaho. All intrastate carriers transporting placardable quantities of hazardous material under 49 CFR Part 172, Subpart F and passengers, meeting the definition of a commercial motor vehicle, must comply with 49 CFR Parts 356, 365, 382, 383, 385, 387, 388 and 390 through 399, and the law and rules of the state of Idaho (except Part 391.11(b)(1) for intrastate carriers). (3-30-07)

c. The subject matter of 49 CFR 391.11(b)(1) is a twenty-one (21) year minimum age for drivers of commercial vehicles subject to federal safety regulation. Intrastate carriers subject to the safety authority of the Idaho State Police may hire drivers who are eighteen (18) years or older as set forth in Section 49-303, Idaho Code. (3-30-07)

02. Obligation of Familiarity with Rules. All interstate and foreign carriers and all intrastate carriers subject to Section 019, must obtain copies of the federal regulations adopted by reference in Subsection 019.01 of this rule, and make them available to their drivers and other personnel affected by the regulations. Failure to be familiar with these federal regulations adopted by reference is a violation of this Subsection 019.02 of this rule, for any carrier subject to those regulations. The federal regulations adopted by reference address the following subject matter: *( )*

a. Part 356. Motor Carrier Routing Regulations. (3-29-10)

b. Part 365. Rules Governing Application for Operating Authority. (3-29-10)

c. Part 380. Longer Combination Vehicle (LCV) Driver-Training and Driver-Instructor Requirements. (3-29-17)

d. Part 382. Controlled Substance and Alcohol Use and Testing. (4-5-00)

e. Part 383. Commercial Driver's License Standards; Requirements and Penalties. (4-5-00)

f. Part 385. Safety Fitness Procedures. (3-29-10)

g. Part 386.71-84. Rules of Practice for Motor Carrier, Intermodal Equipment Provider, Broker, Freight Forwarder, and Hazardous Materials Proceedings. (4-11-15)

h. Part 387. Minimum Levels of Financial Responsibility. (3-29-10)

i. Part 388. Cooperative Agreements with States. (4-5-00)

j. Part 390. Federal Motor Carrier Safety Regulations: General. (4-5-00)

k. Part 391. Qualifications of Drivers. (4-5-00)

l. Part 392. Driving of Commercial Motor Vehicles. (3-29-10)

m. Part 393. Parts and Accessories Necessary for Safe Operation. (4-5-00)

n. Part 395. Hours of Service of Drivers. (4-5-00)

o. Part 396. Inspection, Repair and Maintenance. (4-5-00)

p. Part 397. Transportation of Hazardous Materials; Driving and Parking Rules. (4-5-00)

q. Part 398. Transportation of Migrant Workers. (4-5-00)

r. Part 399. Employee Safety and Health Standards. (4-5-00)

03. Recognition of Federal Waivers. Whenever a driver or carrier has applied to a federal agency and been granted a waiver from any of the requirements of the federal regulations adopted in Subsection 019.01 of these rules, the federal waiver will also be recognized under these rules. The Department reserves the authority to implement a waiver program and grant waivers on the state level for intrastate commercial motor vehicle drivers. (4-5-00)

020. -- 029. (RESERVED)

030. INTERSTATE AND FOREIGN COMMERCE.
Section 018 and 019 of these rules apply to motor carriers when engaged in interstate or foreign commerce in Idaho: *( )*

031. OBEDIENCE AND COMPLIANCE WITH RULES AND REGULATIONS.

01. Proof of Compliance Required. Whenever requested by an employee of this Department whose duties include enforcement of any of these rules and regulations, all motor carriers and their agents or employees are required to demonstrate proof of compliance with these rules. *( )*

02. Sanctions. The failure of any motor carrier to obey and comply with these rules is just and sufficient cause for imposition of the sanctions authorized by Title 67, Chapter 29, Idaho Code. *( )*

032. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE

DOCKET NO. 11-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections (Alcohol Beverage Control) 23-616, 23-932, 23-946, 23-1010(7), 23-1011A, 23-1330, 23-1408, (Bureau of Criminal Identification) 67-3001, 67-3003, 67-3004, 67-3007, 67-3010, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 11, rules of the Idaho State Police:

IDAPA 11
- 11.05.01, *Rules Governing Alcohol Beverage Control*
- 11.10.02, *Rules Governing State Criminal History Records and Crime Information*

The adoption of these rules is necessary to allow the Idaho State Police to carry out the statutory duties of providing public safety services to law enforcement, prosecuting attorneys, the judicial system, and everyone who travels through or resides in the State of Idaho. The changes to these rules were clean up in nature, which in some instances consolidated and/or eliminated definitions; combined, re-ordered and re-numbered similar sections; and removed office hours and other information included on the coversheet. All the changes maintain the intent, scope, and purpose intended and previously approved.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1306-1318**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

11.05.01.013.01 – Priority list fee
11.05.01.013.03 – Licensing fee return provision
11.10.02.031 – Fingerprint and background check fees

This fee or charge is being imposed pursuant to Sections 23-904, 23-907, and 67-3010, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact:

- 11.05.01 ABC — Captain Brad Doty, Phone: (208) 884-7062, Fax: (208) 884-7462, E-mail **bradley.doty@isp.idaho.gov**

- 11.10.02 BCI — Bureau Chief Leila McNeill, Phone: (208) 884-7136, Fax: (208) 884-7193, E-mail **leila.mcneill@isp.idaho.gov**

Dated this 2nd day of October, 2019.

Charlie Spencer
Police Services Major
Rules Review Officer
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642
charlie.spencer@isp.idaho.gov
Phone: (208) 884-7203
Fax: (208) 884-7290

000. LEGAL AUTHORITY.
The Director of the Idaho State Police has general rulemaking authority to prescribe rules and regulations for alcohol beverage enforcement, pursuant to Sections 23-932, 23-946(b), 23-1330 and 23-1408, Idaho Code. (3-6-07)

001. TITLE AND SCOPE.

01. **Title**. These rules are titled IDAPA 11.05.01, "Rules Governing Alcohol Beverage Control." (2-20-01)

02. **Scope**. The rules relate to the governance and operation of Alcohol Beverage Control. Unless a specific reference herein limits application of a rule to a particular kind of alcoholic beverage, these rules apply to and implement Idaho Code Sections for liquor (Title 23, Chapter 9, Idaho Code), beer (Title 23, Chapter 10, Idaho Code), and wine (Title 23, Chapter 13, Idaho Code). (2-20-01)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Licensed Premises**. Any premises for which a license has been issued under any of the provisions of Title 23, Chapters 9, 10 or 13, Idaho Code. All areas included on the floor plan submitted to the Director with the licensee's application for a license constitute the licensed premises. In the event of loss or move of the physical licensed premises, the licensee has ninety (90) days to secure and occupy a new premises in which to display the license. All licenses must be prominently displayed in a suitable premises and remain in actual use by the licensee and available for legitimate sales of alcoholic beverages by the drink. An additional sixty (60) days may be granted by the Director, upon petition by the license holder. (3-6-07)

02. **New Licenses**. For purposes of Section 23-908(4), Idaho Code, a "new license" is one that has become available as an additional license within a city's limits under the quota system after July 1, 1980. The requirement of Section 23-908(4), Idaho Code, that a new license be placed into actual use by the licensee and remain in use for at least six (6) consecutive months is satisfied if the licensee makes actual sales of liquor by the drink during at least eight (8) hours per day, no fewer than six (6) days per week. (3-6-07)

03. **Multipurpose Arena**. (4-4-13)

a. For purposes of Section 23-944(3), Idaho Code, a Multipurpose Arena is a: (4-4-13)

i. Publicly or privately owned or operated arena, coliseum, stadium, or other facility where sporting events, concerts, live entertainment, community events, and other functions are presented for a ticketed price of admission or one whose premises are leased for private events such as receptions; (4-4-13)

ii. Facility that is licensed to sell liquor by the drink at retail for consumption upon the premises; and (4-4-13)

iii. Facility that has been endorsed by the director. (4-4-13)

b. A Multipurpose Arena facility must apply annually for an endorsement on its alcohol beverage license. (4-4-13)

c. To receive a Multipurpose Arena endorsement under this Section will require the facility to have food available including, but not limited to, hamburgers, sandwiches, salads, or other snack food. The director may also restrict the type of events at a Multipurpose Arena facility at which beer, wine, and liquor by the drink may be served. The director will also consider the seating accommodations, eating facilities, and circulation patterns in such a facility, and other amenities available at a Multipurpose Arena facility before the director will endorse the license. (4-4-13)

d. A licensee that applies for a Multipurpose Arena endorsement must submit with the application an operating/security plan to the director and the local law enforcement agency for review and approval. Once approved, the plan remains in effect until the licensee requests a change or the director determines that a change is necessary due to demonstrated problems or conditions not previously considered or adequately addressed in the original plan. The

plan must be submitted in a format designated by the director and contain all of the following elements: (4-4-13)

i. How the Multipurpose Arena facility will prevent the sale and service of alcohol to persons under twenty-one (21) years of age and those who appear to be intoxicated; (4-4-13)

ii. The ratio of alcohol service staff and security staff to the size of the audiences at events where alcohol is being served; (4-4-13)

iii. Training provided to staff who serve, regulate, or supervise the service of alcohol; (4-4-13)

iv. The facility's policy on the number of alcoholic beverages that will be served to an individual patron during one (1) transaction; (4-4-13)

v. A list of event type/categories to be held in the facility at which alcohol service is planned, along with a request for the level of alcohol service at each event; and (4-4-13)

vi. Diagrams and designation of alcohol service areas for each type of event category with identified restrictions of minors. (4-4-13)

e. Prior to the first of each month, the licensee must provide a schedule of events for the upcoming month to the director and local law enforcement office. This schedule must show the date and time of each event during which alcohol service is planned. The licensee must notify the director and local law enforcement at least twenty-four (24) hours in advance of any events where alcohol service is planned that were not included in the monthly schedule. (4-4-13)

f. To prevent persons who are under twenty-one (21) years of age or who appear intoxicated from gaining access to alcohol, the director may require that an operating plan include additional mandatory requirements if it is determined that the plan does not effectively prevent violations of liquor laws and regulations, particularly those that prevent persons under twenty-one (21) years of age or who are apparently intoxicated from obtaining alcohol. (4-4-13)

g. If premises, licensed as a Multipurpose Arena, subsequently ceases to meet the qualifications of a Multipurpose Arena, the restrictions contained in Section 23-943, Idaho Code, apply and the posting of signs as provided for in Section 23-945, Idaho Code, is required. The licensee shall advise the director, by mail, that his premises no longer constitute a Multipurpose Arena, so that the license may be modified accordingly. (4-4-13)

04. **Partition**. A partition, as used in Section 23-944 Idaho Code, is defined as a structure separating the place from the remainder of the premises. Access through the structure to the place will be controlled to prevent minors from entering the place. The structure must be: (3-6-07)

a. Permanently fixed from the premises ceiling to the premises floor. (3-6-07)

b. Made or constructed of solid material such as glass, wood, metal or a combination of those products. (3-6-07)

c. Designed to prevent an alcoholic beverage from being passed over, under or through the structure. (3-6-07)

d. All partitions must be approved by the Director. (3-6-07)

05. **Place**. For the purposes of Section 23-943, Idaho Code, “Place” as defined by Section 23-942(b), for a one (1) room restaurant without a barrier or partition, refers to the immediate bar area wherein there is seating alongside a counter or barrier that encloses bar supplies and equipment that are kept, and where alcoholic beverages are mixed, poured, drawn or served for consumption. (3-6-07)

06. **Restaurant**. The term Restaurant, as defined by Section 23-942(c), Idaho Code, is further defined as an establishment maintained, advertised and held out to the public as primarily a food eating establishment, where

individually priced meals are prepared and regularly served to the public, primarily for on-premises consumption. The establishment must also have a dining room or rooms, kitchen and cooking facilities for the preparation of food, and the number, and type of employees normally used in the preparing, cooking and serving of meals. Primarily as defined for the purposes of Section 010, also includes that the licensee must show to the director the following: (3-6-07)

a. An established menu identifying the individually priced meals for consumption; (3-20-04)

b. Food service and preparation occurs on the premises by establishment employees; (3-20-04)

c. Stoves, ovens, refrigeration equipment or such other equipment usually and normally found in restaurants are located on the premises of the establishment; (3-20-04)

d. The licensee must demonstrate to the satisfaction of the Director, through appropriate business records, that the establishment is advertised and held out to the public as primarily a food eating establishment, or that at least forty percent (40%) of the establishment's consumable purchases are derived from purchases of food and non-alcoholic beverages. (3-20-04)

07. Stock Transfer. For the purposes of Section 23-908, Idaho Code, the sale or exchange of stock in a closely held corporation holding a license is deemed a transfer of the license. However, the sale or exchange of shares in a family corporation among family members, is not a transfer. (3-6-07)

011. GENERAL PROVISIONS.

01. Delegation of Authority to License Alcoholic Beverages. The Director hereby delegates his authority for the licensing of establishments which sell alcoholic beverages, as contained in Title 23, Chapters 9, 10, and 13, Idaho Code, to the, Alcohol Beverage Control Bureau, Idaho State Police. All applications and inquiries concerning alcoholic beverage licenses must be directed to the Alcohol Beverage Control Bureau. The Alcohol Beverage Control Bureau provides forms for all applications and inquiries. Nothing contained herein shall interfere with the Director's supervisory authority for alcoholic beverage licensing. (Section 67-2901(4), Idaho Code). *( )*

02. Authority to Stagger the Renewal of Licenses to Sell Alcohol. For the purposes of Sections 23-908, 23-1010 and 23-1316, Idaho Code, the Director may adjust the renewal month to accommodate population increases. *Renewal months vary by county and are available on the Alcohol Beverage Control website.* *( )*

012. TRANSFER OF ALCOHOLIC BEVERAGE LICENSES.

01. Transfer of License Subject to Sanctions. The Director of the Idaho State Police may deny the transfer of an alcoholic beverage license which is subject to possible disqualification, revocation or suspension under the provisions of Title 23, Chapters 9, 10, and 13, Idaho Code, or these rules, when an action has been filed to such effect before the Idaho State Police pursuant to Sections 23-933, 23-1037 or 23-1331, Idaho Code. (7-1-93)

02. Death or Incapacity of Licensee. In the event of the incapacity, death, receivership, bankruptcy, or assignment for the benefit of creditors of a licensee, his guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may, upon written authorization from the Alcohol Beverage Control Bureau, continue the business of the licensee on the licensed premises for the duration of the license or until the business is terminated. Any person operating the licensed premises under this regulation must submit a signed agreement that he will assume all of the responsibilities of the licensee for operation of the premises in accordance with law. A person operating licensed premises under the regulation must demonstrate to the satisfaction of the Alcohol Beverage Control Bureau that he is qualified to hold an alcoholic beverage license. A guardian, executor, administrator, receiver, trustee in bankruptcy, or assignee for benefit of creditors may renew or transfer a license so held, in the same manner as other licensees, subject to the approval of the Alcohol Beverage Control Bureau. (Sections 23-908(1), 23-1005A, and 23-1317, Idaho Code). (3-31-95)

03. Authorization to Transfer and Assignment of Privilege to Renew. Any person applying to renew a liquor license who was not the licensee at the applicable premises for the preceding year, must submit with the application to renew, a written Authorization to Transfer and Assignment of Privilege to Renew signed by the current licensee. (7-1-93)

04. Temporary Permits. When application for transfer of an alcoholic beverage license has been made, the Alcohol Beverage Control Bureau, in its discretion, may authorize issuance of a temporary permit during the review of the application, during which time the applicant for transfer may conduct business as a temporary permit holder. The permit holder, in accepting the temporary permit, is responsible for complying with all statutes and rules pertinent to the sale of alcoholic beverages. Sanctions against such permit holder, whether civil, administrative, or criminal lies with the permittee, and acceptance of the permit constitute**s** a waiver of any defenses by permit holder based upon the fact that the permit holder is not, technically, a licensee. The Alcohol Beverage Control Bureau may withdraw a temporary permit it has issued pursuant to this rule at any time without hearing or notice. (3-6-07)

05. Product Replacement and Credit. Any beer or wine products removed from the licensed retailer's premises by a wholesaler/distributor for quality control or public health are not considered to be a violation of Section 23-1033 or 23-1325, Idaho Code, which prohibit aid to the retailer or of Sections 23-1031 or 23-1326, Idaho Code, which prohibit extension of credit to a retailer, if: (3-6-07)

a. The packages or kegs are replaced with identical product and quantity; or (8-1-95)

b. In the instance of replacement of a partial keg of beer or wine, a credit to be redeemed on subsequent alcoholic beverage purchases by the retailer is given for the value of the unused portion; or (3-6-07)

c. In the instance of removal of product for which the identical product or quantity thereof is not immediately available to the wholesaler/distributor at the time of removal of the product, a credit is given. The credit shall be redeemed on subsequent alcoholic beverage purchases by the retailer; or (8-1-95)

d. In the case of a licensed establishment which is in operation no less than two (2) months and no more than nine (9) months of each year, prior to its period of closure, it is apparent that product will become outdated or spoiled before the date of re-opening, a wholesaler/distributor may remove product from the retailer's premises and may give a credit to the retailer. Such credit shall be redeemed on subsequent alcoholic beverage purchases by the same retailer. (8-1-95)

e. Credit is given to a retailer for the amount paid by the retailer at the time of purchase of the product being removed by the wholesaler/distributor. (3-6-07)

06. Expiration of Licenses. When a county *or city* has, pursuant to Sections 23-927 and/or 23-1012, Idaho Code, passed an ordinance extending the hours of sale of liquor and/or beer to two o'clock a.m. (2:00 a.m.), all liquor and/or beer licenses in that county expire at two a.m. (2 a.m.), on the first of the *renewal* month of the year following their issuance. (Section 23-908(1), Idaho Code). *( )*

07. Maintenance of Keg Receipts. Licensees shall retain a copy of all completed keg receipts required by Section 23-1018, Idaho Code, for a period of six (6) months. (3-6-07)

013. PRIORITY LISTS.

01. Priority Lists for Incorporated City Liquor Licenses. The Alcohol Beverage Control Bureau maintains a priority list of applicants for those cities in which no incorporated city liquor license is available. A separate list is maintained for each city. A person, partnership, or corporation desiring to be placed on a priority list shall file a completed application for an incorporated city liquor license, accompanied by payment of one-half (1/2) of the annual license fee. Such application need not show any particular building or premises upon which the liquor is to be sold, nor that the applicant is the holder of any license to sell beer. Priority on the list is determined by the earliest application, each succeeding application is placed on the list in the order received. (3-6-07)

02. Written Notification. When an incorporated city liquor license becomes available Alcohol Beverage Control offers it in writing to the applicant whose name appears first on the priority list. If the applicant does not notify the Alcohol Beverage Control Bureau in writing within ten (10) days of receipt of the notice of his intention to accept the license, the license is offered to the next applicant in priority. An applicant accepting the license shall have a period of one hundred eighty (180) days from the date of receipt of Notice of License Availability in which to complete all requirements necessary for the issuance of the license. Provided, however, that upon a

showing of good cause the Director of the Idaho State Police may extend the time period in which to complete the necessary requirements for a period not to exceed ninety (90) days. (3-6-07)

03. Refusal to Accept Offer of License or Failure to Complete Application for License. An applicant refusing a license offered under this rule or an applicant who fails to complete his application may have his name placed at the end of the priority list upon his request. Should the applicant holding first priority refuse or fail to accept the license or to complete the application within the time specified, the applicant shall be dropped from the priority list, the deposit refunded, and the license offered to the applicant appearing next on the list. (3-6-07)

04. Limitations on Priority Lists. An applicant shall hold only one position at a time on each incorporated city priority list. An applicant must be able to demonstrate to the Director the ability to place an awarded license into actual use as required by Section 23-908(4), Idaho Code and these rules. An applicant for a place on an incorporated city liquor license priority list may not execute an inter vivos transfer or assignment of his place on the priority lists. For the purposes of this rule, "inter vivos transfer or assignment" means the substitution of any individual; partnership; corporation, including a wholly owned corporation; organization; association; or any other entity for the original applicant on the waiting list. An attempt to assign inter vivos a place on an incorporated city liquor license priority list shall result in the removal of the name of the applicant from the lists. An applicant, however, may assign his or her place on an alcoholic liquor license priority list by devise or bequest in a valid will. A place on an incorporated city liquor license priority list becomes part of an applicant's estate upon his or her death. (3-6-07)

05. Priority Lists Where Licenses Are Available. The Alcohol Beverage Control Bureau shall not maintain a list for a city in which a liquor license is available, nor for a city that does not permit retail sale of liquor. *( )*

014. CONDUCT OF LICENSED PREMISES.

Upon request of an agent of the Director, a licensee, or anyone acting on his behalf, must produce any records required to be kept pursuant to Title 23, Chapters 9, 10, or 13, Idaho Code, and permit the agent of the Director or peace officer to examine them and permit an inspection of the licensee's premises. Upon request of a peace officer, a licensee, or anyone acting on his behalf, must permit an inspection of the licensee's premises. Any inspection performed pursuant to this rule must occur during the licensee's regular and usual business hours. The failure to produce such records or to permit such inspection on the part of any licensee is a violation of this rule. A violation of this rule, federal or state law or local code or ordinance may subject the licensee to administrative sanctions pursuant to Sections 23-933, 23-1037 and 23-1331, Idaho Code. (3-6-07)

015. -- 020. (RESERVED)

021. AGE RESTRICTION REQUIREMENTS.

01. Over/Under Clubs. Minors *can*not enter, remain or loiter in any licensed establishment that sells alcoholic beverages by the drink, or where drinking alcohol is the predominant activity, or where an environment is created in which drinking alcohol appears to be the predominant activity. This includes an establishment that provides entertainment and whose primary source of revenue comes from the sale of alcoholic beverages for consumption on the premises, or cover charges, or both. *( )*

02. Posting of Age Restriction Signs. Sections 23-945 and 23-1026, Idaho Code, require every alcoholic beverage licensee to post an age restriction sign. Such sign must contain the following words in lettering of at least one (1) inch in height: "Admittance of persons under twenty-one (21) years of age prohibited by law." Such sign must be placed conspicuously over or on the door of each entrance to the licensed premises and be clearly visible from the exterior approached to such premises. (3-6-07)

03. Counterfeit or Altered Age Documents. If alcoholic beverage licensees, their employees, or agents receive age identification documents which have been lost or voluntarily surrendered, they shall deliver the documents to an agent or investigator of the Alcohol Beverage Control Bureau or to other law enforcement officials within fifteen (15) days from the date they were received, found or voluntarily surrenders. When identification documents that appear to be mutilated, altered or fraudulent are presented to a licensee, their employees or agents, they must contact law enforcement and/or refuse service. (3-6-07)

022. AGE RESTRICTION REQUIREMENTS FOR LICENSED MOVIE THEATERS - WHEN MINORS PERMITTED.

01. Minors Prohibited. Persons under twenty-one (21) years of age are prohibited from entering or being in any movie theater licensed to sell alcoholic beverages during the time alcohol is available for sale or consumption in the movie theater. Age restriction signs must be posted as *outlined* in Subsection 021.02 of these rules at all times alcoholic beverages are sold, served or consumed in the movie theater. *( )*

02. Minors Permitted. Any person under twenty-one (21) years of age is permitted in a movie theater licensed to sell alcoholic beverages and no age restriction posting is required at any time when all alcohol is secured, locked up and not available for sale or consumption. (4-7-11)

03. Exemption. Nothing in this rule applies to any movie theater that qualifies under Section 23-944(7), Idaho Code. (4-7-11)

023. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are authorized by Sections 67-3001, 67-3003, 67-3004, 67-3007, and 67-3010, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.10.02, "Rules Governing State Criminal History Records and Crime Information." (3-20-14)

02. Scope. The rules relate to the governance and operation of criminal history records and crime information. (3-30-01)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Except as otherwise specifically provided, the terms defined *or abbreviated* in Section 67-3001, Idaho Code, have the same meaning in these rules. Any other terms not defined in Section 67-3001 are given their ordinary and commonly understood meaning. *( )*

01. Acquittal. The legal certification by a jury or judge that a person is not guilty of the crime charged. (3-20-14)

02. Criminal Summons. Includes any summons, information or indictment issued in a criminal proceeding or action. (3-20-14)

03. Dismissal. Termination of a criminal action without further hearing or trial in the interest of justice. ( )

04. Expunge. To erase or destroy, to declare null and void outside the record, so that it is noted in the original record as expunged, and redacted from all future copies. (3-20-14)

05. Serious Misdemeanor. A crime, that if convicted, could be punishable by imprisonment in a county jail. (3-20-14)

011. -- 020. (RESERVED)

021. EXPUNGEMENT PROCEDURE.
A person seeking to expunge their criminal history record *must*: *( )*

01. Application. *S*ubmit the proper *completed* application to the Bureau of Criminal Identification as provided by the Bureau. *( )*

02. Required Information. *I*nclude a copy of one (1) of the following to the Bureau of Criminal Identification: *( )*

a. Criminal citation; or (3-20-14)

b. Criminal Summons, Complaint, and Affidavit of Service by the county sheriff's office; or (3-20-14)

c. Indictment; or (3-20-14)

d. Information. (3-20-14)

03. Certified Copy of Order of Acquittal or Order of Dismissal. ( )

a. *I*nclude a certified copy of the court's order of acquittal finding the applicant was not guilty of the crime charged; or *( )*

b. A certified copy of the dismissal order, showing that all charges related to that arrest were dismissed. ( )

022. TRANSMITTAL OF CRIMINAL HISTORY RECORDS.
The transmittal of criminal history arrest fingerprint(s) may be via electronic submission from a live-scan or card scanner over a secured and approved network or by hard copy through regular mail. (3-20-14)

023. PROCEDURE FOR CONTESTING THE ACCURACY AND COMPLETENESS OF A CRIMINAL HISTORY RECORD CONTAINED IN AGENCY FILE.

01. Challenge Accuracy of Records. A person may challenge the accuracy and correctness of their criminal history records contained in the Bureau's database. (3-20-14)

a. The applicant must submit to fingerprinting through either the Bureau of Criminal Identification or other law enforcement agency. A fingerprinting fee may apply. (3-20-14)

02. Notification of Fingerprints Not Matched. If the applicant's fingerprints do not match those contained in the Bureau's database, the applicant will be notified by certified mail. (3-20-14)

03. Documentation of Erroneous Information. If the applicant's fingerprints match, but the applicant has documentation showing the information is in error, the applicant may submit such information to the Bureau of Criminal Identification. (3-20-14)

04. Correction of Records. The Bureau of Criminal Identification will correct its records per the direction of the law enforcement agency where the initial criminal action arose or appropriate court order. (3-20-14)

024. -- 030. (RESERVED)

031. FEES FOR SERVICES.
The Bureau shall charge fees as follows: *( )*

01. Fingerprint Check. *N*ot more than twenty-five dollars ($25) for each fingerprint check requested for other than law enforcement purposes. *( )*

02. Name Check. *N*ot more than twenty dollars ($20) for each name check requested for other than law enforcement purposes. *( )*

03. Rolling Fingerprint. *N*ot more than ten dollars ($10) for rolling a set of fingerprints and no more than five dollars ($5) for each additional copy of such rolled fingerprints. *( )*

03*2*. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE
STATE BRAND BOARD

DOCKET NO. 11-0200-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 25-1102, 25-1110, 25-1160 and 25-3302, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 11, rules of the Idaho State Police, Idaho State Brand Board:

IDAPA 11
- 11.02.01, *Rules of the Idaho State Brand Board*

This pending rule vacates the following proposed rule previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 11, rules of the Idaho State Police, Idaho State Brand Board:

- **(*VACATED)** *11.02.02, Idaho Livestock Dealer Licensing (*This chapter has been consolidated into 11.02.01 as Subchapter B.)*

The Idaho State Brand Board is tasked with serving and protecting the Idaho livestock industry, by creating a deterrent of theft, illegal transportation and slaughter of livestock. The adoption of these rules continue to authorize the Boards ability to carry out the statutory duties of protecting and regulating the livestock industry. The changes to these rules were housekeeping in nature and meet the requirements of the Red Tape Reduction Act by consolidating or eliminating definitions, combining, re-ordering and re-numbering similar sections and provisions, and removing unnecessary language. All the changes maintain the intent, scope, and purpose intended and previously approved.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1319-1334**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 11.02.01.
011.02.a. - Recording and Use of Brands Fee;
011.02.d. – Brand Recording Fee;
011.04.a. – Brand Renewal Fee;
011.05.b. – Brand Transfer Fee;
016.01 – Sheep Brand Recording Fee;
019.04 – Brand Inspection Fees;
020.03 – Fees for Owner Inspections;
021.05 – Annual Brand Inspection Certificate Fee;
031 – Idaho Livestock Moving to Pasture Out of State Fee;
032.03 – Livestock Auction Sales Fee;
034 – Schedule of Fees for the Idaho State Brand Board

101 - Application Fees (Subchapter B - Idaho Livestock Dealer Licensing)

These fees are being imposed pursuant to Section 25-1160, 25-3303, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Cody D. Burlile, State Brand Inspector, phone (208) 884-7070, Fax (208) 884-7097, email **cody.burlile@isp.idaho.gov**.

Dated this 15th day of October, 2019.

Charlie Spencer
Police Services Major
Rules Review Officer
Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642
charlie.spencer@isp.idaho.gov
Phone: (208) 884-7203
Fax: (208) 884-7290

000. LEGAL AUTHORITY.
The State Brand Board has authority to make rules to implement and enforce the state brand laws pursuant to Title 25, Chapters 11 *and 33*, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.02.01, "Rules of the Idaho State Brand Board." (3-30-01)

02. Scope. The rules relate to the governance and operation of the Idaho State Brand Board. *These rules also provide for the issuance and administration of livestock dealer licenses, the collection of appropriate fees for licensure, the provision of requirements necessary for licensure.* *( )*

002. *-- 004. (RESERVED)*

005. DEFINITIONS.
The definitions found in Sections 25-1101 *and 25-3301*, Idaho Code, also apply to these rules. Additionally, as used in rules 000 through 052, the following terms have the following definitions: *( )*

01. Auction Brand Inspection Certificate. A brand inspection certificate issued to the new owner only from organized auction market sales. In addition to the information required of a brand inspection certificate by Section 25-1101, Idaho Code, the auction brand certificate must contain: (7-1-93)

a. The names and addresses of the buyer and/or new owner; (7-1-93)

b. The destination of the livestock for the new owner; (7-1-93)

c. The auction market name and location and the date of the sale; (7-1-93)

d. The number of livestock inspected in each category of animals as designated on the auction brand inspection certificate. (7-1-93)

e. The signature of either an Idaho brand inspector or a clerk. (7-1-93)

02. Auction Brand Inspection. A brand inspection made at an Idaho Auction market with a record made of such inspection on a tally sheet. (7-1-93)

03. Bar Brand. A horizontal elongation of a line placed either above, between or below the main part of a brand, causing the name of the brand to be read to include the bar. (7-1-93)

04. Bill of Sale. The formal instrument for transfer of title to livestock. A bill of sale must include the date of the sale, a description of the livestock sold, the name of the purchaser, and the signature of the seller. (7-1-93)

05. Board. The Idaho State Brand Board. (7-1-93)

06. Brand Card. A wallet size card issued by the State Brand Inspector in a specific color for each brand renewal period, showing a drawing of the brand, the location of the brand, the name and address of each owner of the recorded brand. (7-1-93)

07. Brand Inspection. The physical examination of livestock by a brand inspector to determine ownership of the livestock. A brand inspection includes examination of proofs of ownership, including the visual examination of brands and marks. (7-1-93)

08. Consignee. Any person who has possession of livestock for feed, care or sale, but who is not deemed to be the owner of the livestock unless a later proper transfer of title to the livestock is completed. (7-1-93)

09. Courtesy Brand Inspection. An inventory of livestock requested by a financial institution or owner or a regulatory agency, shown on a tally sheet. (7-1-93)

10. **Dash Brand**. A horizontal elongation of a line placed either ahead of, between or behind the main part of a brand causing the name of the brand to be read to include the dash. (7-1-93)

11. **Destination**. The place where the livestock are to be transported. (7-1-93)

12. **DOT Brands**. A brand that is a spot or blotch brand that is unreadable. (3-30-01)

13. **Field Brand Inspection Certificate**. A brand inspection certificate issued following a field brand inspection. In addition to the information required of a brand inspection certificate by Section 25-1101, Idaho Code, the field brand certificate must contain: (7-1-93)

a. Names and address of the owner, seller, buyer and new owner; (7-1-93)

b. The location where the brand inspection was made; (7-1-93)

c. The date of the inspection; (7-1-93)

d. The destination of the livestock designated by the new owner; (7-1-93)

e. The number of livestock inspected on the field brand inspection certificate; *( )*

f. The brand inspection fees paid by the owner/seller; and (7-1-93)

g. The signature of the owner/seller or his agent and an Idaho brand inspector. (7-1-93)

14. **Field Brand Inspection**. A brand inspection made for livestock other than those sold at an auction market. (7-1-93)

15. **Hold Order**. A written order issued by an Idaho Brand Inspector, requiring an auction market, slaughter plant or feed lot to retain either livestock or the proceeds from the sale of livestock until a release order is filed by a brand inspector. (7-1-93)

16. **Idaho Livestock Owner**. A livestock owner who owns real property in the state of Idaho, and uses such property to feed, pasture or otherwise hold livestock for at least four (4) consecutive months each year. (7-1-93)

17. **Lifetime Certificate**. An ownership and transportation certificate. (7-1-93)

18. ***Livestock.*** *( )*

a. *Defined in Section 25-1101, Idaho Code, as used in Title 25, Chapter 11, Idaho Code.* *( )*

b. *Defined in Section 25-3301, Idaho Code, as used in Title 25, Chapter 33, Idaho Code.* *( )*

19. **Order Buyer**. A livestock dealer. (7-1-93)

20. **Ownership and Transportation Certificate**. A certificate issued pursuant to Section 25-1122, Idaho Code, that permits a horse owner to transport horses in Idaho or nationwide, for any purpose except for sale or trade. (7-1-93)

21. ***Person.*** *( )*

a. *Defined in Section 25-1101, Idaho Code, as used in Title 25, Chapter 11, Idaho Code.* *( )*

b. *Defined in Section 25-3301(5), Idaho Code, as used in Title 25, Chapter 33, Idaho Code.* *( )*

2***2.*** **Release Order**. A written order issued by an Idaho Brand inspector that clears a release on a hold order of livestock or the proceeds from a sale of livestock. (7-1-93)

*23. **Representative of a Licensee ("Representative")**. Any full time employee, agent, or other person who buys, receives, sells, or assembles livestock for resale on behalf of a licensed livestock dealer. ( )*

2*4.* **Tally Sheet**. A document containing a list of all livestock inspected at an auction market or courtesy brand inspection, which must include a listing of all livestock inspected. The tally sheet must indicate the name of the owner, the brands or brand inspection certificates on the animals, and the number of livestock inspected. The name of the owner must be either the name under which the brand is recorded or the name of the new owner as shown on the brand inspection certificate. (7-1-93)

006. -- 010. (RESERVED)

011. RECORDING, USE AND PLACEMENT OF BRANDS.

01. Recording and Use of Brands. (7-1-93)

a. All brands must be recorded with the State Brand Inspector, as required by Section 25-1144, Idaho Code. (7-1-93)

b. No person may brand livestock with an unrecorded brand. (7-1-93)

c. No person may use any brand registered to any other person. (7-1-93)

d. No person may lease a brand to any other person. (7-1-93)

02. Recording Procedures. (7-1-93)

a. Any person desiring to record a brand in the state of Idaho must submit an application and fee with the State Brand Inspector, at the main office as provided by Section 25-1144, Idaho Code. If the State Brand Inspector finds that the proposed brand does not conflict with any presently recorded brand, the State Brand inspector must record the proposed brand. (7-1-93)

b. Upon recording of the brand, the State Brand Inspector issues a certificate of recorded brand and a brand card to each owner of the brand. The brand card will be recognized by all brand inspectors as proof that the brand indicated thereon has been properly registered. (7-1-93)

c. A brand may be recorded in more than one name, subject to space limitations on the brand card. (7-1-93)

d. Section 25-1144, Idaho Code, authorizes the Idaho State Brand Board to prorate the brand *recording* fee to facilitate entry into the staggered brand renewal schedule. The staggered brand renewal system records a new brand on a five (5) year cycle determined by first initial of the applicant's last name. This is a continually staggered five (5) year renewal cycle and can be reviewed at any time at the Idaho State Brand Board Main Office. *( )*

03. Brands Acceptable for Recording. (7-1-93)

a. Dash brands and bar brands must be at least two (2) inches long and slashes at least four (4) inches long. *( )*

b. Recorded brands appearing on the neck, horns, hooves or jaw of livestock, or on any other location not expressly included within the definition of "brand" in Section 25-1101, Idaho Code, may not be recorded and are not relevant for identification. (7-1-93)

c. Markings made on the necks of equine animals made pursuant to the "International Horse Identification System," otherwise known as the "Angle Numerical System," U.S. Patent Number 3633584 may not be recorded as brands, but may be recognized for identification purposes. (7-1-93)

d. A vertical arrangement of numbers in groups of two (2) or more made by freeze or hot iron branding for the purpose of individual identification of cattle must be preceded with the oval cipher "o" and must be placed on the shoulder, rib or hip. Such numbers may not be recorded as brands, but may be recognized for identification purposes. Said animals are also to be branded with an Idaho recorded ownership brand. (3-30-01)

e. Lip Tattoos may not be recorded as brands, but may be recognized for identification purposes. (7-1-93)

f. Wattles, earmarks, dewlaps or ear tags may not be recorded as brands, but may be recognized for identification purposes. (7-1-93)

g. No new DOT brands will be recorded. Existing DOT brands will be grandfathered in to the official brand records. (3-30-01)

04. Renewal of Brands. (7-1-93)

a. A brand may be renewed by making application and submitting the renewal fee to the Main Office of the Idaho State Brand Board. (7-1-93)

b. Recorded brands are renewed as provided in Section 25-1145, Idaho Code. *( )*

c. A minimum of two (2) new brand cards will be issued to the recorded owner(s) upon renewal. The State Brand Inspector maintains a record of each renewal of a recorded brand. (7-1-93)

05. Transfer of Recorded Brands. (7-1-93)

a. Brands must be transferred whenever brand is sold or otherwise transferred to a new owner; or whenever persons are added to or deleted from the list of owners of a particular recorded brand. (7-1-93)

b. A transfer fee is charged for all transfers; provided, however, if the change is made on or before July 1 of the renewal year, no fee will be charged whenever one (1) or more new owners are added to or deleted from the recorded brand; or whenever the brand is transferred to a corporation, the stockholders of which are the same persons who were the owners of the brand. (7-1-93)

c. If any owner of a recorded brand is deceased, the personal representative for the estate of the deceased person must file with the State Brand Inspector a certified copy of the court order showing his appointment. The personal representative may thereafter transfer the ownership interests of the deceased person in the brand. *Alternatively, where no personal representative has been appointed, the surviving spouse of the owner of a recorded brand may submit a certified copy of a death certificate to effectuate transfer of the brand.* *( )*

d. A brand inspection of the livestock must occur prior to the transfer of the recorded brand *pursuant to* Subsection 019.01.d. *( )*

06. Conflicts Between Brands. The State Brand Inspector may, at any time after recording, cancel any brand that infringes upon any previously recorded brand. Notice of cancellation of the brand will be mailed to the owners of the brand. The owners have thirty-five (35) days from the date indicated on the postmark of the notice to appeal the Brand Inspector's decision to the Brand Board. (7-1-93)

012. -- 014. (RESERVED)

015. BRAND ALTERNATIVES.

01. Identification. Identification marks, devices or documents issued by the state brand inspector as an alternative to permanent marks may be used for each animal. Documents acceptable as an alternative to a permanent brand *must be approved by the State Brand Inspector and* are *as follows*: *( )*

a. *Lifetime* Ownership and Transportation certificate for horses, mules and asses. Such certificate must show pictures of two (2) side views, including registration numbers where appropriate. *( )*

b. Purebred registration papers for cattle used for breeding or show purposes. *( )*

c. Any other form of positive identification requested to be used by a livestock owner. *( )*

016. BRANDING OF SHEEP.
Recording and placement of Sheep Brands. Brands for sheep may be recorded in the same manner and for the same fee as other recorded brands. Sheep brands must comply with Section 25-1142, Idaho Code. (7-1-93)

017. -- 018. (RESERVED)

019. BRAND INSPECTIONS.

01. Owners. Owners of livestock must obtain a brand inspection in any of the following situations: (7-1-93)

a. When ownership of livestock changes in any manner; (7-1-93)

b. When livestock are to be moved out of the state within ninety-six (96) hours, unless the transportation of the livestock is covered by an ownership and transportation certificate or an annual inspection certificate; (7-1-93)

c. When livestock are to be slaughtered within ninety-six (96) hours; (7-1-93)

d. When a recorded brand is sold or transferred to a new owner, except that no brand inspection is required if no livestock carry the brand that is to be transferred; or the transfer involves the addition or deletion of owners to the recorded brand as provided in Subsection 011.05.b.; or when brand owners incorporate as provided in Subsection 011.05.b. (7-1-93)

02. General Procedures. (7-1-93)

a. Brand inspectors will be available upon request to inspect livestock during the normal daylight working hours. At least twenty-four (24) hours notice should be given to the brand inspector when a brand inspection is required. Brand inspections should be performed at the point of origin of the livestock, unless otherwise approved by the State Brand Inspector or District Brand Supervisor. Requested brand inspections may be made in the nighttime by artificial light only with the expressed consent of the State Brand Inspector or the district brand supervisor. (3-30-01)

b. The livestock to be inspected should be gathered and ready for inspection prior to the arrival of the Brand Inspector. Brand inspectors are not responsible for gathering livestock to be inspected. (7-1-93)

c. The brand inspector must notify any owner of stray livestock found during the brand inspection process. If the owner of the stray animals cannot be found, the strays are sold pursuant to the estray statutes, Title 25, Chapter 23, Idaho Code. (7-1-93)

d. Upon change of ownership of livestock, *any previous* brand inspection certificate must be surrendered to the brand inspector. *( )*

03. Proof of Ownership. (7-1-93)

a. The livestock owner must maintain proof of ownership of this livestock by branding them and/or by keeping brand inspection certificates. Proof of ownership of livestock may be established by*:* *( )*

i. The animals being branded with its owner's recorded brand. *( )*

ii. A brand inspection certificate*, issued by Idaho or another state*. *( )*

iii. An ownership and transportation certificate, or by an ownership and transportation certificate issued by another state (applies only to horses, mules or asses). *( )*

iv. A bill of sale, providing that the brand inspection takes place within ten (10) days of the purchase and the brand inspector can be reasonably assured that the bill of sale is valid. Bills of sale may be issued in livestock transactions but do not replace a brand inspection certificate. *( )*

b. Fresh brands on livestock bearing older brands, may or may not be accepted at the discretion of the State Brand Inspector or District Brand Supervisor as proof of ownership unless accompanied by a brand inspection certificate or a bill of sale covering the older brands as provided for in Subsection 019.03.a.iv. above. The State Brand Inspector may inquire into the ownership of all livestock bearing two (2) or more brands. (3-30-01)

c. If the inspector finds that the livestock brands are not owned by the person claiming the same, such person is required to produce a bill of sale or other satisfactory evidence of ownership. (3-30-01)

04. Fees. (7-1-93)

a. Except as provided in Subsection 019.04.b. of this rule, the fees for any brand inspection are as provided in Subsection 034.01. (7-1-93)

b. Livestock owned by an Idaho livestock owner, bearing an Idaho recorded brand, leaving the state of Idaho for grazing purposes only and that will return to the state at a later date, will be inspected at a rate of one-half (1/2) of the regular per head inspection fee. (7-1-93)

020. BABY CALVES – OWNER INSPECTION.

01. General Requirements for Baby Calf Inspection. Baby calves that are ten (10) days or less old, may be sold within the state of Idaho, by their owner or the owner's agent, without a state brand inspection established in the provisions of Section 019, under the following conditions: (10-1-93)

a. The baby calf must have been given birth to by a cow that the owner of the baby calf owned at the time of the baby calf's birth; (10-1-93)

b. The owner of the baby calf, or the owner's agent, must inspect the baby calf; (10-1-93)

c. The owner of the baby calf, or the owner's agent, must *maintain an accurate baby calf sales report, that establishes proof of ownership and transfer of any baby calves*; *( )*

d. The completed baby calf *sales report* must fully and accurately set forth the names and addresses of the owner and the buyer and be signed by both the owner or the owner's agent and the buyer and *must be made available to a Brand Inspector upon request;* *( )*

e. At the time of the owner inspection, the baby calf must have no brand or have the owner's brand*;* *( )*

f. *Conditions of Baby Calf Inspections by owner contained here do not apply to baby calves sold at public livestock markets, slaughter plants, or circumstances that require a brand inspection for baby calves leaving the state of Idaho.* *( )*

02. Inspection of Calves Eleven Days or More Old. Any calf eleven (11) days old or older must be inspected pursuant to Section 019 whenever an inspection is required. (10-1-93)

021. ANNUAL BRAND INSPECTION CERTIFICATE.

01. Certificates. Annual brand inspection certificates for livestock may be used to transport livestock

or for any purpose other than for the purpose of slaughter, sale or trade. (7-1-93)

02. Annual Brand Inspection Form Also Known as "Seasonal." Annual brand inspection certificates will expire zero (0) to twelve (12) months from the date of issue *as determined by the Brand Inspector* and contain the breed, color, sex, markings, brands and location thereof, breed registry number if appropriate, and any other information that distinguishes the animal or animals for which the certificate is issued. *( )*

03. Annual Inspection. Subsection 030.01 which requires that livestock be transported out of the state within ninety-six (96) hours of the brand inspection of the livestock, does not apply to annual inspections. (7-1-93)

04. Agreements. The State Brand Inspector is authorized to enter into reciprocal agreements with brand authorities in adjacent states to allow livestock to move between the two states using the annual brand inspection issued in the home state. *( )*

05. Fee. The fee for an annual brand inspection certificate is provided in Subsection 034.01. (7-1-93)

022. *LIFETIME* OWNERSHIP AND TRANSPORTATION *CERTIFICATES*.

01. Owner. Any owner of a horse, mule or ass may request a *lifetime* ownership and transportation certificate by contacting a brand inspector. *( )*

02. Detain. In the event that a brand inspector or other law enforcement officer finds a person who is not the owner of an animal in possession of both the animal and the *lifetime* ownership and transportation certificate, the brand inspector or other law enforcement officer may detain the animal for a sufficient period of time to determine the validity of the non-owner's possession of such animal. Any expenses caused by the detention are paid by the person in possession of the animal and certificate, or by the actual owner of the animal. *( )*

03. Nationwide. *Lifetime* ownership and transportation certificates issued under Section 25-1122, Idaho Code, may be used nationwide for transportation of horses, mules and asses. *( )*

04. Validity. *Lifetime* ownership and transportation certificates for any horse, mule or ass is valid so long as the animal remains within the ownership of the person to whom the certificate was issued. The *lifetime* ownership and transportation certificate is not transferable. *( )*

023. -- 029. (RESERVED)

030. TRANSPORTATION OF LIVESTOCK.

01. Out-of-State. Any person transporting livestock out of the state of Idaho must obtain a brand inspection before the animals leave the state, as provided by Section 25-1121, Idaho Code. The brand inspection must be obtained no more than ninety-six (96) hours prior to the transport of the livestock out of the state. Provided, however, that a brand inspection is not required if the livestock are accompanied by either of the following documents: (7-1-93)

a. The Idaho *lifetime* ownership and transportation certificate described in Section 022, which may be used by the owner to transport horses, mules or asses nationwide; and *( )*

b. The annual inspection certificate described in Section 021, which may be used to transport livestock out of the state of Idaho. (3-30-01)

02. In-State. Livestock may be transported intrastate as follows: (7-1-93)

a. Persons in possession of their brand cards may transport their livestock marked with the brand shown on the card any place within the state of Idaho without obtaining a brand inspection. (7-1-93)

b. In those instances where the livestock have been purchased, and such livestock does not carry a brand or if the livestock carry the brand of the previous owner, the blue copy of the *field* brand inspection certificate

or auction brand inspection certificate issued to the present owner may be used to transport the livestock within Idaho. *( )*

c. *By written ownership transportation permit, pursuant to Section 25-1101, Idaho Code.* *( )*

031. IDAHO LIVESTOCK MOVING TO PASTURE OUT OF STATE.
Livestock owned by an Idaho livestock owner, bearing an Idaho recorded brand, leaving the state of Idaho for grazing or pasture purposes only, and to be returned to the state of Idaho at a later date, will be inspected by an Idaho brand inspector at one-half (1/2) of the regular per head inspection fee, *p*rovided that if the State Brand Inspector determines an inspection fee is not necessary, he may issue a brand inspection without charge. Livestock leaving the state of Idaho for pasture purposes, which are not to be returned to the state of Idaho by their owner, will be charged the regular inspection fee *and* additional fees provided in Subsection 034.01. *( )*

032. LIVESTOCK AUCTION SALES.

01. General. Livestock auction sales include all public livestock markets chartered by law, dispersal sales of livestock subject to brand inspection, and sales of livestock by an association of breeders subject to brand inspection where livestock are physically sold to the highest bidder. *( )*

02. Other Groups. Sales of livestock at county fairs within the state involving Future Farmers of America (FFA) and 4-H groups are not auction sales for the purpose of charging and collecting the minimum brand inspection fee in Subsection 034.01. (7-1-93)

03. Fee. The minimum brand inspection fee will be charged and collected at all auction sales described in this rule. The fee must be paid by the livestock auction sale, whether or not the inspection fees received from the owners of livestock inspected equals the minimum fee. If the fees paid by the owners of livestock inspected at the sale, as shown as to number of head on the brand inspector's auction tally sheet, exceed the minimum fee, the actual amount of fees collected by the auction operator must be paid, rather than the minimum amount. (7-1-93)

033. BRAND INSPECTIONS AT SLAUGHTER PLANTS AND MOBILE SLAUGHTER UNITS.

01. Notification. All livestock slaughtering plants and mobile slaughtering units must notify the local brand inspector in advance of any livestock slaughtering operation. Brand inspection of the animals to be slaughtered must be accomplished not more than ninety-six (96) hours prior to slaughtering, whether for commercial purposes or for the owner's immediate family needs. (7-1-93)

02. Records. Such slaughtering operations must keep accurate records indicating the number of animals slaughtered, the source of the animals, ownership and the brands on such animals. Such records must be available for inspection by the brand inspector during regular business hours. (7-1-93)

03. *Record of Ownership*. In the event no brand inspector is available for inspection prior to slaughter of livestock, the owner of such livestock and the persons slaughtering the livestock must complete a *record* of ownership. Such *record* must be retained by the person who slaughtered the animal(s) until it may be submitted to the brand inspector. *( )*

04. Collection. In situations when a brand inspector cannot be present before the time of slaughter, slaughter plants and mobile slaughter units must collect the brand inspection fees for each animal slaughtered and remit the same to the brand inspector. (7-1-93)

05. Inspection. All slaughter plants and mobile slaughter units must permit a brand inspector to inspect the hides removed from slaughtered livestock. The hides must be kept for ten (10) days. (7-1-93)

034. SCHEDULE OF FEES FOR THE IDAHO STATE BRAND BOARD.

01. Fees. Fees authorized by the State Brand Board and to be collected by the State Brand Inspector are as follows:

SCHEDULE OF FEES		
Recording of a Brand	**$50 initial recording fee plus a $20 per year prorated staggered *recording* fee every year thereafter**	
Transfer of a recorded brand	$50.00	
Renewal of a recorded brand (every five years)	$100.00	
Duplicate brand registration certificate	$1.50	
Lifetime ownership and transportation certificate	$*50.00*	
Duplicate *lifetime* ownership and transportation certificate	$5.00	
Annual inspection equine or bovine	$5.00	
	CATTLE	**HORSES**
Brand inspection (per head)	$1.19	$*5.00*
Idaho livestock to pasture (per head)	$.60	$*2.50*
Minimum auction fee (per day)	$50.00	$50.00
Minimum field brand inspection fee	$20.00	$20.00
Equine farm service fee		*$45.00*
Courtesy brand inspection	$1.19	$*5.00*

Fees To Be Collected By The State Brand Inspector For Other State Agencies:	
Idaho Beef Council (per head)	$1.50
Idaho Horse Board (per head)	$3.00
Idaho Department of Agriculture:	
Animal *Disease Control* (per head)	$.22
Animal Damage Control (per head)	$.05
Wolf Control Assessment	*$25/brand renewal $5/staggered recording fee every year thereafter*

( )

02. Due and Payable. Pursuant to Section 25-1160, Idaho Code, all brand inspection fees, and all other fees required to be collected by the Brand Inspector are due and payable at the time of inspection, except that livestock owners may make arrangements with a deputy brand inspector *and approved by the state brand inspector* to pay for all accumulated brand inspection fees *to be paid at least monthly*. Failure to comply with *the payment arrangement* makes all fees immediately due and payable. *( )*

03. Minimum Fees. Feedlots, currently approved by the Idaho Department of Agriculture, and slaughter plants are exempt from the minimum brand inspection fee. Other minimum brand inspection fees may be waived at the discretion of the State Brand Inspector or District Brand Supervisor. *( )*

04. ***Equine Farm Service Fee****. See Section 25-1160(2), Idaho Code.* ***( )***

035. -- 039. (RESERVED)

040. CLAIMS FOR FUNDS OR LIVESTOCK SUBJECT TO A HOLD ORDER.

01. Claim. Any person claiming to be the owner of any animal sold under Section 25-1174, Idaho Code, may claim the proceeds of the sale by filing a written and verified claim for such proceeds together with any supporting documents with the State Brand Inspector, 700 S. Stratford, Meridian, Idaho 83642. The claim must contain the following information: (3-30-01)

a. The name and address of the claimant; (7-1-93)

b. A short, plain statement of the matters asserted in the claim, including but not limited to: facts as to ownership, a description of the animal including brands and marks, the location of the animals when they were last in the possession of the claimant, and any other pertinent facts tending to establish the claim; (7-1-93)

c. A claim for the proceeds, or portion of the proceeds, of the sale; (7-1-93)

d. Names and addresses, if known, of any other potential claimants to the funds; and (7-1-93)

e. A request for a hearing, if desired. (7-1-93)

02. More Than One Claimant. Where there is more than one (1) claimant, each claimant must serve a complete copy of his claims upon the other claimants to the funds. (7-1-93)

03. Investigation. The State Brand Inspector will then investigate the matter and will determine whether the claimants can stipulate to the disposition of the funds. If a stipulation is reached, the State Brand Inspector or Deputy Brand Inspector will issue a release order on the livestock or the funds in accordance with the stipulation. (3-30-01)

04. Hearing. In the event that a stipulation is not possible, or where a claimant has requested in writing that a hearing be held, a hearing will be held by the State Brand Inspector, after giving thirty (30) days notice to all claimants. (7-1-93)

041. – 099. (RESERVED)

SUBCHAPTER B – IDAHO LIVESTOCK DEALER LICENSING

100. **APPLICATION FEES.**

01. Annual Fees. The annual fees cover the period from July 1 to June 30 of the next year. (7-1-93)

02. Livestock Dealer. *O*ne hundred dollars ($100). ***( )***

03. ***Representative****. T*hirty-five dollars ($35). ***( )***

101. **FINANCIAL INFORMATION.**
Financial information must be filed with an application and show the gross amount of livestock purchases for the previous year. (7-1-93)

102. **LIVESTOCK DEALER BONDS.**
A surety bond must be filed to support the application for a livestock dealer license *as follows*: ***( )***

01. Bond. File a bond from an Idaho surety *or Packers and Stockyards U.S.D.A.* in the amount required *under "Coverage"* shown herein. ***( )***

a. *Coverage. To compute the required amount of bond coverage, divide the total dollar value of livestock purchased in Idaho during the preceding year, by one-half the number of days on which business was conducted. The number of days in any business year, for the purpose of this rule is two hundred sixty (260). Therefore, the divisor is one hundred thirty (130). The amount of bond coverage must be the next multiple of five thousand dollars ($5,000) above the amount so determined. When the computation exceeds seventy-five thousand dollars ($75,000) the amount of bond coverage need not exceed seventy-five thousand dollars ($75,000) plus ten percent (10%) of the excess over seventy-five thousand dollars ($75,000), raised to the next five thousand dollars ($5,000) multiple. In no case shall the amount of bond coverage be less than ten thousand dollars ($10,000).* *( )*

b. **Evidence**. Provide evidence of a*n Idaho surety or* bond filed with the Packers and Stockyards U.S.D.A in the amount required. (Subject to verification). *( )*

103. APPLICATION FOR A LICENSE TO REPRESENT A LICENSED LIVESTOCK DEALER.
A representative may only represent one (1) licensed livestock dealer at any one time. If an individual desires to act on behalf of more than one (1) dealer, he must apply for a regular livestock dealer license. The licensed livestock dealer who sponsors the applicant must sign and approve the application as well as agree to cover this representative under the dealer's bond. *( )*

104. **LICENSE CERTIFICATES AND CARDS.**
Upon approval of the application for a livestock dealer's license, the State Brand Inspector will issue a card to the licensed livestock dealer *and representative(s)*. *( )*

105. **NOTIFICATION REQUIRED.**
The office of the state brand inspector must be notified within two (2) days of cancellation of a bond affecting the license of the livestock dealer or, termination of a representative that has been previously approved. *( )*

106. **BRAND INSPECTOR TO REQUIRE DEALER LICENSE NUMBER.**
Each licensed livestock dealer and each representative shall provide a livestock dealer license number at the time a brand inspection is made for cattle, horses, mules or asses. The name of the licensed livestock dealer or representative together with the appropriate certificate or card number will be placed on the brand inspection certificate in the space for the "buyer." *( )*

107. **RULES APPLY TO OUT OF STATE BUYERS.**

01. **Application**. A livestock dealer who resides outside the state of Idaho may operate as a livestock dealer or representative within the state of Idaho by filing a proper application for an Idaho livestock dealer's license *by* complying with the bond requirements and receive a certificate authorizing such out of state livestock dealer to purchase livestock within the state of Idaho. *( )*

02. **Applicability**. These rules apply to any livestock dealer purchasing livestock within the state of Idaho, whether or not such livestock as a destination within or outside the state of Idaho. (7-1-93)

108. **-- 999. (RESERVED)**

IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION

DOCKET NO. 11-0400-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 11, rules of the Idaho State Police, Idaho State Racing Commission:

IDAPA 11
- 11.04.04, *Rules Governing Disciplinary Hearings and Appeals*
- 11.04.06, *Rules Governing Racing Officials*
- 11.04.08, *Rules Governing Pari-Mutuel Wagering*
- 11.04.09, *Rules Governing Claiming Races*
- 11.04.10, *Rules Governing Live Horse Races*
- 11.04.13, *Rules Governing the Idaho State Racing Commission*
- 11.04.14 *Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents*

These rules provide regulatory safeguards for the integrity of imminent horse races, the safety of horses and personnel involved in races, and the prevention of monetary fraud upon racing industry members and the public. The changes to these rules were clean up in nature, which in some instances consolidated and/or eliminated definitions; combined, re-ordered and re-numbered similar sections; and removed office hours and other information included on the coversheet. All the changes maintain the intent, scope, and purpose intended and previously approved.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 1335-1446**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ardie Noyes at phone (208) 884-7080, Fax (208) 884-7098, or email **ardie.noyes@isp.idaho.gov**.

Dated this 15th day of October, 2019.

Charlie Spencer, Police Services Major / Rules Review Officer
Phone (208) 884-7203 / Fax: (208) 884-7290
Charlie.spencer@isp.idaho.gov

Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules of the Idaho State Racing Commission are cited as IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals." (3-29-10)

02. Scope. These rules govern disciplinary hearings and appeals in the State of Idaho. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Act. The Idaho Racing Act, Section 54-2501, Idaho Code. (3-29-10)

02. Appeal. A request for the Racing Commission or its designee to investigate, consider and review any decisions or rulings of Stewards of a meeting. (3-29-10)

03. Burden of Proof. The obligation to establish by the preponderance of the evidence that a violation of statute or rules occurred. (3-29-10)

04. Continuance. Postponement of adjudicatory proceedings to a future date. (3-29-10)

05. De Novo Hearing. To have the matter heard anew. (3-29-10)

06. Disciplinary Action. A process for dealing with behavior that violates the provisions of these rules. (3-29-10)

07. Evidence. Data presented in proof of the facts in issue and which may include the testimony of witnesses, records, documents, or objects. (3-29-10)

08. Exclusion. The act of preventing a person from entering or remaining on the grounds of any racing association or simulcast facility under the jurisdiction of the Racing Commission. (3-29-10)

09. Executive Director. The person responsible for the administration of the Idaho State Racing Commission. (3-29-10)

10. Hearing Officer. An official appointed by the Idaho State Racing Commission to conduct an investigation or administrative hearing so that the agency can exercise its statutory powers. (3-29-10)

11. Horsemen's Bookkeeper. A bonded racing association employee who manages the horsemen's accounts which covers all monies due horsemen in regards to purses, stakes, rewards, claims and deposits. (3-29-10)

12. Licensee. Any person or entity holding a license from the Racing Commission to engage in racing or a regulated activity. (3-29-10)

13. Motions. A request for a steward or racing commission to make a decision. (3-29-10)

14. Notice. A written or printed announcement from Stewards or the Racing Commission. (3-29-10)

15. Racing Association. Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (3-29-10)

16. Ruling. An official decision by the stewards stating the charges against the licensee. (3-29-10)

17. Stay. To delay or stop the effect of a stewards ruling. (3-29-10)

18. Steward. A racing official who presides over a race meet, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (3-29-10)

19. **Suspension**. A temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein. (3-29-10)

011. -- 019. (RESERVED)

020. APPLICABILITY.
These rules apply to all proceedings for disciplinary action of licensees and associated proceedings including disqualification. (3-29-10)

021. -- 029. (RESERVED)

030. EXEMPTION FROM THE IDAHO RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL.

01. Findings. In accordance with Section 67-5206(5)(b), Idaho Code, the Racing Commission makes the following findings: (3-29-10)

a. Horse racing is a sport requiring racing officials to make immediate binding decisions affecting the races and participants in the races. (3-29-10)

b. A central element of horse racing is pari-mutuel betting, and public confidence in the outcome of races is critical to the racing industry and the general public. (3-29-10)

c. Racing seasons at certain locations are often very short and involve preliminary and final races requiring quick action in order for disciplinary action to be effective and in order to permit final races to be run without controversy as to the participants and winners. (3-29-10)

d. Nationwide, participants in racing have become accustomed to, and acknowledge the need for, immediate authoritative decisions and quick disciplinary action. (3-29-10)

02. Idaho Rules of Administrative Procedure of the Attorney General. Because of the factors described in Subsection 030.01 of these rules, the Racing Commission adopts IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-29-10)

a. Proceedings before the Racing Commission are governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-29-10)

b. Proceedings by the Stewards are governed exclusively by this chapter (IDAPA 11.04.04), and supersede IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-29-10)

031. PROCEEDINGS BY THE RACING COMMISSION.
De novo hearings and other proceedings before the Racing Commission are governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," insofar as such provisions are not inconsistent with these rules. (3-29-10)

032. -- 039. (RESERVED)

040. DISCIPLINARY ACTION.
Only the Stewards or the Racing Commission have the right to impose a fine or suspension. (3-29-10)

041. WRITTEN REPORT.
The Stewards must report fines or suspensions imposed in the daily written report submitted to the Racing Commission. (3-29-10)

042. FINES.
All fines imposed by the Stewards must be paid to the Horsemen's Bookkeeper immediately after imposition, except:

(3-29-10)

01. Otherwise Ordered. As otherwise ordered by the Stewards under these rules; (3-29-10)

02. Stayed by Commission. Stayed by the Racing Commission; or (3-29-10)

03. Stayed by Courts. As stayed by a court of competent jurisdiction. (3-29-10)

043. SUSPENSIONS.
All suspensions for a specified period of time are to be considered in calendar days. The ruling will show the first and the last day of suspension. (3-29-10)

044. -- 049. (RESERVED)

050. SUMMARY SUSPENSION.
If the Stewards determine that a licensee's actions constitute an immediate danger to the public health, safety or welfare, the Stewards may summarily suspend the license pending a hearing. (3-29-10)

01. Entitlement to Hearing. A licensee whose license has been summarily suspended is entitled to a hearing on the summary suspension not later than the third day after the license was summarily suspended. The licensee may waive his right to a hearing on the summary suspension within the three (3) day limit. (3-29-10)

02. Issue at Hearing. The Stewards must conduct a hearing on the summary suspension in the same manner as other disciplinary hearings. At a hearing on a summary suspension, the sole issue is whether the licensee's license should remain suspended pending a final disciplinary hearing and ruling. (3-29-10)

051. -- 059. (RESERVED)

060. RIGHTS OF THE LICENSEE.
A licensee who is the subject of a disciplinary hearing conducted by the Stewards is entitled to the following: (3-29-10)

01. Proper Notice. Proper notice of all charges; (3-29-10)

02. Legal Counsel. The right to legal counsel at the licensee's own expense; (3-29-10)

03. Examination of Evidence. The right to examine all evidence to be presented against the licensee; (3-29-10)

04. Defense. The right to present a defense; (3-29-10)

05. Call Witnesses. The right to call witnesses; and (3-29-10)

06. Cross Examination. The right to cross examine witnesses. (3-29-10)

061. -- 069. (RESERVED)

070. PROPER NOTICE OF ALL CHARGES.
The Stewards must provide written notice at least three (3) days before the hearing to a licensee who is the subject of a disciplinary hearing, except as provided for by these rules regarding summary suspensions. The licensee may waive his right to a three-day notice by executing a written waiver. (3-29-10)

071. CONTENT OF NOTICE.
Notice given under Section 070 includes: ( )

01. Hearing Schedule. A statement of the time, place and nature of the hearing; (3-29-10)

02. Legal Authority. A statement of the legal authority and jurisdiction under which the hearing is to be held; (3-29-10)

03. Violation. A reference to the particular sections of the statutes or rules involved; (3-29-10)

04. Description of Conduct. A short, in plain language of the alleged conduct that has given rise to the disciplinary hearing; (3-29-10)

05. Possible Penalties. The possible penalties that may be imposed; and (3-29-10)

06. Rights. A statement summarizing the rights of the licensee as outlined in Section 060 of these rules. (3-29-10)

072. SERVICE OF NOTICE.

01. Hand Delivery. If possible, the Stewards or their designee may hand deliver the written notice of the disciplinary hearing to the licensee who is the subject of the hearing. (3-29-10)

02. Mail Delivery. If hand delivery is not possible, the Stewards may mail the notice to the licensee's last known address, as found in the Racing Commission's licensing files, by regular mail and by certified mail, return receipt requested. (3-29-10)

03. Disqualification. If the disciplinary hearing involves an alleged medication violation that could result in the disqualification of a horse, the Stewards must provide notice of the hearing to the owner, managing owner or lessee of the horse in the manner provided by Section 072. (3-29-10)

073. NONAPPEARANCE.

01. Nonappearance After Adequate Notice. Nonappearance of a summoned party after adequate notice is construed as a waiver of the right to a hearing before the Stewards. (3-29-10)

02. Suspension of License. In compliance with these rules the Stewards may suspend the license of a person who fails to appear at a disciplinary hearing after written notice of the hearing has been sent. (3-29-10)

074. -- 079. (RESERVED)

080. CONTINUANCES.

01. Request for Continuance. Upon receipt of a notice of disciplinary hearing, a licensee may request a continuance of the hearing. (3-29-10)

02. Good Cause. The Stewards may grant a continuance of any hearing for good cause shown. (3-29-10)

03. Order of Continuance. The Stewards may at any time order a continuance on their own motion. (3-29-10)

081. -- 089. (RESERVED)

090. EVIDENCE.
Each witness at a disciplinary hearing conducted by the Stewards *will* be sworn in by the presiding steward. *( )*

091. RULES OF EVIDENCE.
The Stewards are to allow a full presentation of evidence and are not bound by the technical rules of evidence. However, the Stewards may disallow evidence that is irrelevant or unduly repetitive of other evidence. The Stewards have the authority to determine, in their sole discretion, the weight and credibility of any evidence or testimony. The Stewards may admit hearsay evidence if the Stewards determine the evidence is of a type that is commonly relied on

by reasonably prudent people. The rules of privilege recognized by state law apply in hearings before the Stewards. (3-29-10)

092. BURDEN OF PROOF.
The burden of proof is on the person bringing the complaint to show, by a preponderance of the evidence, that the licensee has violated or is responsible for a violation of the Act or a Racing Commission rule. (3-29-10)

093. RECORD OF HEARING.
The Stewards must make a tape recording of all disciplinary hearings. A transcript of the recording may be made available at the expense of the requesting person. (3-29-10)

094. -- 099. (RESERVED)

100. RULING.
The issues at a disciplinary hearing must be decided by a majority vote of the Stewards. If the vote is not unanimous, the dissenting steward must include a written statement of the reason(s) for the dissent with the record of the hearing. (3-29-10)

101. FORM OF RULING.
A ruling by the Stewards must be on a form prescribed by the Racing Commission and include: (3-29-10)

01. Personal Information. The full name, date of birth, last record address, license type and license number of the person who is the subject of the hearing; (3-29-10)

02. Charges. A statement of the charges against the licensee, including a reference to the specific section of the Act or rules of the Racing Commission that the licensee is found to have violated; (3-29-10)

03. Dates. The date of the hearing and the date the ruling was issued; (3-29-10)

04. Penalty. The penalty imposed; (3-29-10)

05. Order of Finish. Any changes in the order of finish or purse distribution; and (3-29-10)

06. Other Information. Any other information required by the Racing Commission. (3-29-10)

07. Signing of Ruling. *Signatures* by a majority of the Stewards. *( )*

102. -- 109. (RESERVED)

110. SERVICE OF RULING.

01. Hand Delivery. If possible, the Stewards or their designee may hand deliver a copy of the ruling to the person who is the subject of the ruling. (3-29-10)

02. Mail. If hand delivery is not possible, the Stewards may mail the ruling to the person's last known address, as found in the Racing Commission's licensing files, by regular mail and by certified mail, return receipt requested. (3-29-10)

03. Copy. A copy of the ruling must be sent to the association of Racing Commissioners International or association of Racing Commissioners International Ruling Database. (3-29-10)

04. Disqualification. If the ruling includes the disqualification of a horse, the Stewards must provide a copy of the ruling to the owner of the horse, the horsemen's bookkeeper, the appropriate past performance service(s) and the Association of Racing Commissioners International in the manner provided for in these rules. (3-29-10)

111. -- 119. (RESERVED)

120. NOTICE OF RIGHT OF APPEAL.
A licensee who is the subject of the proceeding must be informed by the Stewards of his right to appeal the ruling at the time he is informed of the ruling. (3-29-10)

121. -- 139. (RESERVED)

140. TRANSFER OF HORSE PROHIBITED.
The transfer of a horse to avoid application of a Racing Commission rule or ruling is prohibited. (3-29-10)

141. -- 149. (RESERVED)

150. APPEALS.
Except as provided in Section 160 of these rules, a licensee aggrieved by a ruling of the Stewards may appeal to the Racing Commission. A licensee who fails to file an appeal by the deadline and in the form *outlined* by these rules waives the right of appeal. *( )*

151. TIME FRAME FOR APPEAL.
An appeal must be filed with the Executive Director of the Racing Commission not later than five (5) calendar days after the entry of the ruling. If the Racing Commission determines the appeal to be frivolous, the appellant may be subject to a fine. (3-29-10)

152. FORM OF APPEAL.

01. Form of Appeal. An appeal must be in writing on a form prescribed by the Racing Commission and include: (3-29-10)

a. The name, address, telephone number and signature of the licensee making the appeal; and (3-29-10)

b. A statement of the basis for the appeal. (3-29-10)

02. Bond. The licensee filing the appeal may be required to furnish a bond in the amount of two hundred dollars ($200) to cover the administrative costs and which may be forfeited should the appeal be heard. (3-29-10)

153. RECORD FOR APPEAL.
Upon notification by the Racing Commission that an appeal has been filed, the Stewards must forward to the Racing Commission the written record of the proceeding and any evidence or exhibits on which the appeal is based. (3-29-10)

154. PAYMENT OF FINES DURING APPEAL.
If a licensee against whom a fine has been assessed files an appeal of the ruling that assesses the fine, the licensee must pay the fine in accordance with these rules. If the appeal is disposed of in favor of the appellant, the Racing Commission *will* refund the amount of the fine. *( )*

155. -- 159. (RESERVED)

160. NO APPEAL FROM DISQUALIFICATION FOR INTERFERENCE.
A decision by the Stewards regarding a disqualification for interference during the running of the race is final and may not be appealed to the Racing Commission. (3-29-10)

161. -- 169. (RESERVED)

170. HEARING ON APPEAL.
The hearing of the Racing Commission on appeal is limited to oral argument regarding issues of law and fact as may be found in the record established before the Board of Stewards, except, the Racing Commission may order a de novo hearing if the Racing Commission determines that exceptional circumstances require it. (3-29-10)

171. WRITTEN APPEAL.

01. Written Appeal. With the consent of the appellant, an appeal may be submitted in writing. (3-29-10)

02. Determination. The Racing Commission will determine the matter upon the record submitted to the Racing Commission. (3-29-10)

03. Papers. All papers filed with the Racing Commission are the property of the Racing Commission. (3-29-10)

172. HEARING OFFICER.
The Racing Commission may assign a hearing officer to hear the matter pending before the Racing Commission, pursuant to the IDAPA 04.11.01, "Idaho Rules of Administrative Proceeding of the Attorney General." (3-29-10)

173. WRITTEN ARGUMENTS.
Written arguments and briefs or briefs and motions regarding the appeal will be allowed under such terms as the Racing Commission may direct in its notice of hearing, which will be issued at least twenty-eight (28) days prior to the date set for hearing. (3-29-10)

174. MOTIONS.
Requests for postponement and other motions must be filed in writing not later than seven (7) days before the scheduled hearing. The Executive Director may determine whether good cause is shown for the postponement and may grant or deny the request on behalf of the Racing Commission. (3-29-10)

175. -- 179. (RESERVED)

180. RECORD OF PROCEEDINGS.

01. Record of Proceedings. A verbatim record of the proceedings at hearings before the Racing Commission will be maintained either by electrical devices or by stenographic means, as the Racing Commission may direct. (3-29-10)

02. Stenographic Record. If any party to the action requests a stenographic record of the proceedings, the record will be done by stenographic means. (3-29-10)

03. Cost. The requesting party must pay the costs of reporting the proceedings. (3-29-10)

181. FINAL ORDER.
Following the hearing the Racing Commission will issue a final order as provided by Section 67-5246, Idaho Code. The Executive Director may sign the final order on behalf of the Racing Commission Chairman. (3-29-10)

182. -- 199. (RESERVED)

200. STAY OF RULING.
A licensee who has been disciplined by a ruling of the Stewards may apply to the Executive Director for a stay of the ruling. (3-29-10)

201. TIME FRAME FOR APPLICATION.
An application for a stay must be filed with the Racing Commission's Executive Director not later than the deadline for filing an appeal. (3-29-10)

202. FORM OF APPLICATION.

01. Application for Stay. An application for a stay must be in writing and include: (3-29-10)

a. The name, address, and telephone number of the person requesting the stay; (3-29-10)

b. A statement of the justification for the stay. (3-29-10)

02. Licensee Signature. The application must be signed by the licensee requesting the stay. (3-29-10)

203. GRANT OR DENIAL OF STAY.
The Executive Director may grant a stay for cause. (3-29-10)

01. Licensee Notification. The Executive Director must notify the licensee in writing of the decision. (3-29-10)

02. Rescission of Stay. The Executive Director may rescind a stay granted under this Subsection of these rules for reasonable cause. (3-29-10)

204. EFFECT OF STAY.
The fact that a stay is granted is not a presumption that the ruling by the Stewards is invalid. (3-29-10)

205. -- 349. (RESERVED)

350. EXCLUSION.
The Stewards or Racing Commission may order an individual excluded from all or part of any premises under the regulatory jurisdiction of the Racing Commission if the Stewards, Executive Director, or Racing Commission determine that: (3-29-10)

01. Statutory or Regulatory Exclusion. The individual may be excluded under the statutes or rules of the Racing Commission. (3-29-10)

02. Integrity Exclusion. The individual's presence on racing association grounds is inconsistent with maintaining the honesty and integrity of racing. (3-29-10)

351. HEARING ON EXCLUSION.
An exclusion may be ordered separately or in conjunction with other disciplinary action taken by the Stewards or Racing Commission. (3-29-10)

01. Ordered Separately. If an exclusion is ordered separately, the excluded individual is entitled to a hearing before the Stewards or Racing Commission. (3-29-10)

02. Conduct of Hearing. A hearing on an exclusion is conducted in the same manner as other hearings conducted by the Stewards or Racing Commission. (3-29-10)

03. Effect of Exclusion. If an individual is excluded under these rules, a horse owned or trained by or under the care or supervision of the individual is ineligible to be entered or to start in a race in this jurisdiction. (3-29-10)

352. -- 399. (RESERVED)

400. RULINGS IN OTHER JURISDICTIONS.
The Racing Commission and the Stewards may honor rulings from other pari-mutuel jurisdictions regarding license suspensions, revocation, or eligibility of horses. (3-29-10)

401. APPEALS OF RECIPROCAL RULINGS.
Persons subject to rulings in other jurisdictions have the right to request a hearing before the Racing Commission to show cause why such ruling should not be enforced in this jurisdiction. (3-29-10)

01. Request for Hearing. Any request for such hearing must clearly set forth in writing the reasons for the appeal. (3-29-10)

02. Signed. The request must be signed by the person requesting the hearing. (3-29-10)

402. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.06, "Rules Governing Racing Officials." (3-29-10)

02. Scope. These rules govern the Racing Officials of the Idaho State Racing Commission. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Appointment. A person approved by the Racing Commission or its designee, for an official racing position. (3-29-10)

02. Apprentice Jockey. A jockey who has not ridden a certain number of winners within a specified period of time. (3-29-10)

03. Approval. Acceptance of a racing official's eligibility by the Racing Commission or its designee. (3-29-10)

04. Assistant Starter. The employee of a racing association who, under direct supervision of the starter, helps place the starting gate for a race, leads horses into the gate, helps jockeys and handles horses while in the gate until the start. (3-29-10)

05. Attendance. Being at an assigned location for an assigned period of time. (3-29-10)

06. Clerk of Scales. The employee of a racing association responsible for sequestering all jockeys each racing day, weighing all jockeys out and in from races, checking their assigned riding weights versus their actual weights, and reporting all changes. (3-29-10)

07. Clocker. A person who times workouts and races. (3-29-10)

08. Commission Veterinarian. A Racing Commission appointed veterinarian having authority to enforce the Racing Commission's rules relating to veterinary practices. (3-29-10)

09. Complaint. A written allegation of a violation of these rules. (3-29-10)

10. Conditions. Qualifications which determine a horse's eligibility to be entered in a race. (3-29-10)

***11*. Daily Program**. The published listing of all contests and contestants for a specific performance. (3-29-10)

***12*. Dead Heat**. The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. (3-29-10)

***13*. Declaration**. The act of withdrawing an entered horse from a race before the closing of overnight entries. (3-29-10)

***14*. Eligibility Certificate**. Document(s) showing the eligibility of all horses competing at the track or stabled on the grounds. (3-29-10)

***15*. Entrance Money Records**. A record showing all monies due and paid prior to entry of a contest. (3-29-10)

***16*. Entries**. A list of horses entered in a race. (3-29-10)

17. **Gate Judge**. A track employee who is present at the starting gate just prior to the running of each race. (3-29-10)

18. **Horse Identifier**. A person who is responsible for positively identifying all horses entered to a race, stabled or on racing association grounds. (3-29-10)

19. **Horsemen's Bookkeeper**. A bonded racing association employee who manages the horsemen's accounts which covers all monies due horseman in regards to purses, stakes, rewards, claims and deposits. (3-29-10)

20. **Jockey's Room**. A room reserved for jockey's to prepare for a race. (3-29-10)

21. **Jockey Room Custodian**. A racing association employee authorized to regulate the conduct of the jockeys, ensure good order is maintained and monitors the jockeys. (3-29-10)

22. **Jurisdiction**. The limits or territory within which Racing Officials authority may be exercised. (3-29-10)

23. **Nerved Horses**. A horse that has had posterior digital neurectomy (heel nerving) surgery. (3-29-10)

24. **Nomination**. The naming of a horse to a certain race or series of races generally accompanied by payment of a prescribed fee. (3-29-10)

25. **Objection**. A verbal claim of foul in a race lodged with the stewards or their designee by the horse's jockey, trainer, owner or the owner's authorized agent before the race is declared official. (3-29-10)

26. **Order of Finish**. The order of finish of the contestants in a contest as declared official by the stewards/judges. (3-29-10)

27. **Paddock Judge**. The employee of a racing association responsible for getting jockeys and horses in order to go to the starting gate; also checks the equipment used by each horse and supervises the saddling of the horses. (3-29-10)

28. **Paddock Judge's List**. A list of horses which may not be entered in a race for safety reasons. (3-29-10)

29. **Patrol Judge**. A person who observes a race and reports information concerning the race to the stewards. (3-29-10)

30. **Photo Finish**. A requested photo to help in determining the correct order of finish. (3-29-10)

31. **Placing Judge**. A person who determines the order of finish in a race as the horses pass the finish line. (3-29-10)

32. **Presiding State Steward**. One (1) of the three (3) stewards appointed by the Racing Commission who presides over hearings and designates duties for the other stewards. (3-25-16)

33. **Protest**. A written complaint made to the stewards concerning a horse entered in a race and filed not later than one (1) hour prior to the scheduled post time of the first race on the day in which the questioned horse is entered. (3-29-10)

34. **Purse**. The total dollar amount for which a race is contested. (3-29-10)

35. **Race Meet**. The number of races and race days approved by the Racing Commission in the Racing Association license. (3-29-10)

36. **Racing Association**. Any person licensed by the Racing Commission to conduct a race meet and

pari-mutuel wagering. (3-29-10)

37. **Racing Secretary**. The employee of a racing association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. (3-29-10)

38. **Records**. A daily log kept by the presiding steward of the stewards' official activities. Also, an accounting of each horse, owner, trainer or jockey participating at a race meet who had funds due or on deposit in the horsemen's account completed by the Horsemen's Bookkeeper's. (3-29-10)

39. **Reports**. A daily account of the stewards' actions and observations made during each day's race program. (3-29-10)

40. **Rule Off**. An action by the racing stewards, under these rules, to suspend a license for a violation of these rules. (3-29-10)

41. **Stake**. The prize in a contest. (3-29-10)

42. **Stalls**. Stable area on racing association grounds for horses assigned by the racing secretary. (3-29-10)

43. **Starter**. The employee of a racing association responsible for dispatching the horses for a race. (3-29-10)

44. **Starter's List**. A list of all horses which are ineligible to be entered in any race due to poor or inconsistent behavior or performance in the starting gate. (3-29-10)

45. **Stewards**. A horse racing official who presides over a race meet, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (3-29-10)

46. **Substitute Officials**. An emergency vacancy among racing officials that is filled with the stewards' approval and reported to the Racing Commission. (3-29-10)

47. **Substitute Steward**. Appointment by the remaining stewards during an absence of any steward at race time when an approved alternate is not available. (3-29-10)

48. **Timer**. A person who accurately records the time elapsed between the start and finish of each race. (3-29-10)

49. **Violations**. All unauthorized activities under these rules. (3-29-10)

50. **Wagering**. To risk or stake an amount of money on an unknown outcome. (3-29-10)

51. **Weight**. The amount that a jockey weighs prior to and after a race. (3-29-10)

01*1*. -- 014. (RESERVED)

015. LICENSED RACING OFFICIALS.

No person may act as a racing official prior to being licensed by the Racing Commission to act in that capacity. The Racing Commission, in its sole discretion, may determine the qualifications of a racing official and, in its sole discretion, may license or not license any such official. (3-29-10)

016. -- 019. (RESERVED)

020. RACING OFFICIALS.

01. Officials. Officials at a race meet may include the following: (3-29-10)

a. Stewards; (3-29-10)

b. Racing Secretary; (3-29-10)

c. Horsemen's Bookkeeper; (3-29-10)

d. Paddock Judge; (3-29-10)

e. Identifier; (3-29-10)

f. Clerk of Scales; (3-29-10)

g. Jockey Room Custodian; (3-29-10)

h. Starter; (3-29-10)

i. Timer; (3-29-10)

j. Clocker; (3-29-10)

k. Patrol Judge; (3-29-10)

l. Placing Judge; and (3-29-10)

m. Commission Veterinarian; (3-29-10)

02. Other Persons. Any other person designated by the Racing Commission. (3-29-10)

021. RACING OFFICIAL QUALIFICATIONS.
All racing officials must be: (3-29-10)

01. Of Good Character. *P*ass all Racing Commission background and fingerprint requirements; *( )*

02. Experienced. Experienced and knowledgeable in racing; (3-29-10)

03. Familiar with Rules. Familiar with the duties of the position and with the Racing Commission's rules; (3-29-10)

04. Mentally and Physically Able. Mentally and physically able to perform the duties of the job; and (3-29-10)

05. In Good Standing. In good standing and not under suspension or ineligible in any racing jurisdiction. (3-29-10)

022. -- 024. (RESERVED)

025. PROHIBITED PRACTICES.
While serving in an official capacity, racing officials may not: (3-29-10)

01. Ownership. Participate in the sale, purchase, or ownership of any horse racing at the meeting; (3-29-10)

02. Sell Insurance. Sell or solicit horse insurance on any horse racing at the meeting; (3-29-10)

03. Licensed in Other Capacity. Be licensed in any other capacity without permission of the Racing

Commission, or in case of an emergency, the permission of the stewards; (3-29-10)

04. **Wager**. Wager on the outcome of any race at the race meet where they are officiating; or (3-29-10)

05. **Consume Alcohol**. Consume or be under the influence of alcohol or any prohibited substances. (3-29-10)

026. -- 029. (RESERVED)

030. REPORT OF VIOLATIONS.
Racing officials must report immediately to the stewards every observed violation of any Racing Commission rules and applicable state or federal laws. (3-29-10)

031. -- 034. (RESERVED)

035. COMPLAINTS AGAINST OFFICIALS.

01. **Complaints Against Racing Official**. Any complaint against a racing official other than a steward must be made to the stewards in writing and signed by the complainant. All such complaints must be reported to the Racing Commission by the stewards, together with a report of the action taken or the recommendation of the stewards. (3-29-10)

02. **Complaints Against Stewards**. Complaints against any steward must be made in writing to the Racing Commission and signed by the complainant. (3-29-10)

03. **Responsible for Subordinates**. A racing official may be held responsible by the stewards or the Racing Commission for the actions of any person they supervise. (3-29-10)

036. -- 039. (RESERVED)

040. SUBSTITUTE OFFICIALS.
When an emergency vacancy exists among racing officials, the stewards or the racing association must fill the vacancy immediately subject to the stewards' approval. Such appointment must be reported to the Racing Commission and will be effective until the vacancy is filled in accordance with these rules. (3-29-10)

041. SUBSTITUTE STEWARDS.
Should any steward be absent at race time, and no approved alternate steward be available, the remaining stewards must appoint a substitute for the absent steward. If a substitute steward is appointed, the Racing Commission and the racing association must be notified by the stewards. (3-29-10)

042. -- 049. (RESERVED)

050. STEWARDS QUALIFICATIONS.
To qualify for appointment as a Steward, the appointee must meet the experience, education and examination requirements necessary to be accredited by the Racing Officials Accreditation Program in association with the Universities of Arizona and Louisville and be in good standing with all racing jurisdictions. The Racing Commission may, with good cause, waive some or all of the requirements of the section. (3-29-10)

051. STEWARDS GENERAL AUTHORITY.
The stewards for each race meet are responsible to the Racing Commission for the conduct of the race meet in accordance with the laws of Idaho and all Racing Commission rules. (3-29-10)

01. **Jurisdiction**. The Board of Stewards' jurisdiction in any matter commences thirty (30) days prior to the first day of a race meet and extends up to and including ninety (90) days following the conclusion of a race meet. However, the Racing Commission may, at its discretion, extend this time period if any matter is not resolved after the conclusion of ninety (90) days. (3-28-18)

02. Suspensions and Fines. The Stewards may suspend licenses for a period not to exceed one hundred eighty (180) days, or impose fines not to exceed twenty-five hundred dollars ($2500) or they may impose both such fine and suspension. (3-29-10)

03. Reported. All such suspensions and fines must be reported to the Racing Commission. (3-29-10)

04. Stewards Enforce Rules. The stewards enforce all Racing Commission rules and the racing laws of the State of Idaho. (3-29-10)

05. Supervision of Officials and Others. The stewards' authority includes supervision of all racing officials, track management, licensed personnel, other persons responsible for the conduct of racing, and patrons, as necessary to insure compliance with any Racing Commission rules. (3-29-10)

06. Resolve Conflicts. The stewards have authority to resolve conflicts or disputes related to racing and to discipline violators in accordance with the provisions of any Racing Commission rules. (3-29-10)

07. Interpret Rules. The stewards have the authority to interpret the rules and to decide all questions of racing not specifically covered by the rules. (3-29-10)

08. Other. Matters not covered by Racing Commission rules must be determined by the Stewards in conformity with justice and in the best interest of racing. (3-29-10)

052. -- 054. (RESERVED)

055. NUMBER OF STEWARDS.
*T*hree (3) Stewards *must* supervise each race meet; *( )*

01. Presiding State Steward. One (1) steward will be assigned, and compensated by the Racing Commission to be the Presiding State Steward; (3-25-16)

02. Deputy State Stewards. Two (2) stewards will be assigned by the Racing Commission to be the Deputy State Stewards and *will* be compensated by the Racing Commission. *( )*

056. STEWARDS ON DUTY.
On each entry, scratch and racing day at least one (1) Steward must be on duty at regularly posted hours. Such duty includes and is not limited to scratch time and when races are drawn. On race day the full Board of Stewards must sit in regular session to exercise the authority and perform the duties imposed. (3-29-10)

057. STEWARDS' PRESENCE.

01. In Stands. There must be three (3) Stewards in the stands when a race is being run. (3-29-10)

02. Notice. The Stewards must take notice of any questionable conduct with or without complaint thereof. (3-29-10)

03. Investigations. The Stewards must investigate promptly and render a decision in every protest and in every complaint properly made to them. (3-29-10)

058. -- 059. (RESERVED)

060. ORDER OF FINISH.
The stewards determine the official order of finish for each race in accordance with the rules governing horse racing in Idaho. The decision of the stewards as to the official order of finish, including the disqualification of a horse or horses as a result of any event occurring during the running of the race, must be final for purposes of distribution of the pari-mutuel wagering pool. (3-29-10)

061. CANCEL WAGERING.

The stewards have the authority to cancel wagering on an individual betting interest or on an entire race and also have the authority to cancel a pari-mutuel pool for a race or races, if such action is necessary to protect the integrity of pari-mutuel wagering. (3-29-10)

062. -- 064. (RESERVED)

065. SUBSTITUTE JOCKEY.
The Stewards for reasonable cause may substitute a Jockey of their selection on any horse. (3-29-10)

066. TEMPORARY CHARGE.
The Stewards for reasonable cause may place a horse in the temporary charge of a Trainer of their selection. (3-29-10)

067. -- 069. (RESERVED)

070. STEWARDS DAILY REPORTS.
The stewards must prepare a daily report, on a form approved by the Racing Commission, detailing their actions and observations made during each day's race program. The report must contain the name of the racetrack, the date, the weather and track conditions, claims, inquiries, and objections and any unusual circumstances or conditions. The report must be signed by each steward and be filed with the Racing Commission not later than twenty-four (24) hours after the end of each race day. (3-29-10)

071. -- 074. (RESERVED)

075. PRESIDING STEWARDS LOG.
The presiding state steward must maintain a detailed log of the stewards' official activities *that* describe*s* all questions, disputes, protests, complaints, or objections brought to the attention of the stewards and all interviews, investigations and rulings made by the stewards. The log must be available at all times for inspection by the Racing Commission or its designee. *( )*

076. -- 079. (RESERVED)

080. RACE MEET REPORT.
Not later than seven (7) days after the last day of a race meet, the presiding steward must submit to the Racing Commission a written report regarding the race meet *that* contain*s*: *( )*

01. Observations. The Stewards' observations and comments regarding the conduct of the race meet and the overall conditions of the racing association grounds during the race meet; and (3-29-10)

02. Recommendations. Any recommendations for improvement by the racing association or action by the Racing Commission. (3-29-10)

081. -- 089. (RESERVED)

090. STEWARD'S LIST.
The stewards must maintain a Stewards' List of the horses which are ineligible to be entered in a race because of poor or inconsistent performance or behavior on the racetrack that endangers the health or safety of other participants in racing. (3-29-10)

01. Ownership. The stewards may place a horse on the Stewards' List when there exists a question as to the exact identification or ownership of said horse. (3-29-10)

02. Inconsistent Performance. A horse which has been placed on the Stewards' List because of inconsistent performance or behavior, may be removed from the Stewards' List when, in the opinion of the stewards, the horse can satisfactorily perform competitively in a race without endangering the health or safety of other participants in racing. (3-29-10)

03. Identity Established. A horse which has been placed on the Stewards' List because of questions as to the exact identification or ownership of said horse, may be removed from the Stewards' List when, in the opinion of the stewards, proof of exact identification or ownership has been established. (3-29-10)

091. -- 099. (RESERVED)

100. RACING SECRETARY.
The racing secretary is responsible for the programming of races during the race meet, compiling and publishing condition books, assigning weights for handicap races, and must receive all entries, declarations and scratches. (3-29-10)

101. FOAL, HEALTH, AND OTHER ELIGIBILITY CERTIFICATES.
The racing secretary is responsible for receiving, inspecting and safeguarding the foal and health certificates, Equine Infectious Anemia (EIA) test certificates and other documents of eligibility for all horses competing at the track or stabled on the grounds. (3-29-10)

01. Alteration of Sex. The racing secretary determines that the alteration of the sex of a horse has been recorded on the horse's foal certificate and report such to the appropriate breed registry and past performance services. (3-29-10)

02. Posterior Digital Neurectomy. The racing secretary must record on a horse's registration certificate when a posterior digital neurectomy (heel nerving) is performed on that horse. (3-29-10)

102. -- 104. (RESERVED)

105. LIST OF BRED FILLIES AND MARES.
The racing secretary must maintain a list of all fillies or mares on racing association grounds who have been covered by a stallion. The list must also contain the name of the stallion to which each filly or mare was bred and be made available for inspection by other licensees participating in the race meet. (3-29-10)

106. -- 109. (RESERVED)

110. ALLOCATION OF STALLS.
The racing secretary determines that stables are properly assigned and maintain a record of arrivals and departures of all horses stabled on racing association grounds. (3-29-10)

111. -- 114. (RESERVED)

115. CONDITIONS.
The racing secretary determines that all conditions and eligibility requirements for entering races meet Racing Commission rules and cause them to be published to owners, trainers and the Racing Commission and be posted in the racing secretary's office. (3-29-10)

01. Winnings Included. For the purpose of establishing conditions, winnings must be considered to include all monies and prizes won up to the time of the start of a race. (3-29-10)

02. Winnings Calculated. Winnings during the year must be calculated by the racing secretary from the preceding January 1. (3-29-10)

116. -- 119. (RESERVED)

120. LISTING OF HORSES.
The racing secretary must: (3-29-10)

01. Examine Entry Blanks. Examine all entry blanks and declarations to verify information as set forth therein; and (3-29-10)

02. Select Horses. Select the horses to start and the also eligible horses from the declarations in accordance with Racing Commission rules. (3-29-10)

121. -- 124. (RESERVED)

125. POSTING OF ENTRIES.
Upon completion of the draw each day, the racing secretary must post a list of entries in a conspicuous location in the racing office and make the list available to the media. (3-29-10)

126. -- 129. (RESERVED)

130. DAILY PROGRAM.
The racing secretary must publish the official daily program, ensuring the accuracy therein of the following information: (3-29-10)

01. Sequence of Races. Sequence of races to be run and post time for the first race; (3-29-10)

02. Purse, Conditions, and Distance. The purse, conditions and distance for each race, and current track record for such distance; (3-29-10)

03. Owner's Name. The name of licensed owners of each horse, indicated as leased, if applicable, and description of racing colors to be carried; (3-29-10)

04. Trainer and Jockey. The name of the trainer and the name of the jockey named for each horse together with the weight to be carried; (3-29-10)

05. Post Position. The post position and saddle cloth number or designation for each horse if there is a variance with the saddle cloth designation; (3-29-10)

06. Horse Identification. Identification of each horse by name, color, sex, age, sire and dam; and (3-29-10)

07. Other Information. Such other information as may be requested by the racing association or the Racing Commission. (3-29-10)

131. -- 134. (RESERVED)

135. NOMINATIONS AND DECLARATIONS.
The racing secretary must examine nominations and declarations and early closing events, late closing events and stakes events to verify the eligibility of all declarations and nominations and compile lists thereof for publication. (3-29-10)

136. -- 139. (RESERVED)

140. STAKES AND ENTRANCE MONEY RECORDS.
The racing secretary is the caretaker of the permanent records of all stakes and verifies that all entrance monies due are paid prior to entry for races conducted at the meeting. (3-29-10)

141. -- 149. (RESERVED)

150. HORSEMEN'S BOOKKEEPER.
The horsemen's bookkeeper *needs to* maintain the records and accounts and perform the duties described herein and maintain such other records and accounts and perform such other duties as the racing association and Racing Commission may prescribe. *( )*

151. FINANCIAL ASSURANCE.
The horsemen's bookkeeper *needs to* be insured against crime or employee dishonesty in a manner approved by the Racing Commission. *( )*

152. -- 154. (RESERVED)

155. HORSEMEN'S BOOKKEEPER RECORDS.
The records must include the name, mailing address, social security number or federal tax identification number, and the state or country of residence of each horse owner, trainer or jockey participating at the race meet who has funds due or on deposit in the horsemen's account. (3-29-10)

01. Records Kept Separate. All records of the horsemen's bookkeeper must be kept separate and apart from the records of the racing association. (3-29-10)

02. Records Subject to Inspection. All records of the horsemen's bookkeeper including records of accounts and monies and funds kept on deposit are subject to inspection by the Racing Commission at any time. (3-29-10)

03. Record of Winnings. The horsemen's bookkeeper must maintain the record of applicable winning races on all apprentice certificates at the meeting. (3-29-10)

04. Apprentice Jockey Certificates. The horsemen's bookkeeper must release apprentice jockey certificates, upon the jockey's departure or upon the conclusion of the race meet. (3-29-10)

156. -- 159. (RESERVED)

160. MONIES AND FUNDS ON ACCOUNT.
All monies and funds on account with the horsemen's bookkeeper must be maintained: (3-29-10)

01. Separate. Separate and apart from monies and funds of the racing association; (3-29-10)

02. Insured Account. In an account insured by the Federal Deposit and Insurance Corporation or the Federal Savings and Loan Insurance Corporation. (3-29-10)

161. -- 164. (RESERVED)

165. PAYMENT OF PURSES.
The horsemen's bookkeeper must receive, maintain and disburse the purses of each race and all stakes, entrance money, jockey fees, purchase money in claiming races, along with all applicable taxes and other monies that properly come into horsemen's bookkeeper possession in accordance with the provisions of Racing Commission rules and any applicable State or Federal statutes. (3-29-10)

01. Disbursement Upon Request. The horsemen's bookkeeper must disburse the purse of each race and all stakes, entrance money, jockey fees and purchase money in claiming races, along with all applicable taxes, upon request, within forty-eight (48) hours of receipt of notification that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards or the Racing Commission, except that minimum jockey mount fees may be disbursed prior to notification that the tests have cleared the testing laboratory(ies). (3-29-10)

02. No Prior Request. Absent a prior request, the horsemen's bookkeeper must disburse monies to the persons entitled to receive same within fifteen (15) days after the last race day of the race meet, including purses for official races, provided that all tests with respect to such races have cleared the drug testing laboratory(ies) as reported by the stewards, and provided further that no protest or appeal has been filed with the stewards or the Racing Commission. (3-29-10)

03. Disbursement Not A Finding. The fact that purse money has been distributed prior to the issuance of a laboratory report may not be deemed a finding that no chemical substance has been administered, in violation of any Racing Commission rules, to the horse earning such purse money. (3-29-10)

04. Protests. In the event a protest or appeal has been filed with the stewards or the Racing

Commission, the horsemen's bookkeeper must disburse the purse within forty-eight (48) hours of receipt of dismissal or a final non-appealable order disposing of such protest or appeal. (3-29-10)

166. -- 169. (RESERVED)

170. OTHER MONIES.
The horsemen's bookkeeper may accept monies due belonging to other organizations or recognized race meets, provided prompt return is made to the organization to which the money is due. (3-29-10)

171. -- 199. (RESERVED)

200. PADDOCK JUDGE.
The Paddock Judge is in charge of the paddock and must comply with IDAPA 11.04.10, "Rules Governing Live Horse Races." (3-29-10)

201. -- 209. (RESERVED)

210. PADDOCK JUDGE'S LIST.
The paddock judge must maintain a list of horses which may not be entered in a race because of poor or inconsistent behavior in the paddock that endangers the health or safety of other participants in racing. (3-29-10)

01. Provide List to Stewards. At the end of each race day, the paddock judge must provide a copy of the List to the stewards. (3-29-10)

02. Removal from List. To be removed from the paddock judge's List, a horse must be schooled in the paddock and demonstrate to the satisfaction of the paddock judge and the stewards that the horse is capable of performing safely in the paddock. (3-29-10)

211. -- 219. (RESERVED)

220. HORSE IDENTIFIER.
The Horse Identifier is responsible for positively identifying all horses entered to race *and must:* *( )*

01. Inspection. *I*nspect, identify and prepare I.D. cards by using the lip tattoo, markings from photos, written descriptions, or National Animal Identification System compliant devices. *( )*

02. Examination. *E*xamine every starter in the paddock for sex, color, markings and lip tattoo or other identification method approved by the appropriate breed registry and the Racing Commission for comparison with its registration certificate to verify the horse's identity; and *( )*

03. Report Violation. *R*eport to the stewards any horse not properly identified or whose registration certificate is not in conformity with any Racing Commission rules. *( )*

221. -- 229. (RESERVED)

230. CLERK OF SCALES.
The Clerk of the Scales must: (3-29-10)

01. Verify Presence. Verify the presence of all jockeys in the jockeys' room at the appointed time and verify that all such jockeys have a current jockey's license issued by the Racing Commission; (3-29-10)

02. Verify Weight. Verify the correct weight of each jockey according to IDAPA 11.04.10 "Rules Governing Live Horse Races"; (3-29-10)

03. Report Infractions. Promptly report to the stewards any infraction of the rules with respect to weight, weighing, riding equipment or conduct; (3-29-10)

04. Record Data. Record all required data on the scale sheet and submit that data to the horsemen's bookkeeper at the end of each race day; and (3-29-10)

05. Assume Duties. Assume the duties of the jockey room custodian in his absence. (3-29-10)

231. -- 239. (RESERVED)

240. JOCKEY ROOM CUSTODIAN.
The jockey room custodian must: (3-29-10)

01. Supervise Conduct. Supervise the conduct of the jockeys and their attendants while they are in the jockey room; (3-29-10)

02. Ensure Safety. Ensure all jockeys are in the correct colors and wearing Racing Commission approved riding vest and helmet before leaving the jockey room to prepare for mounting their horses; (3-29-10)

03. Display Program. Keep a daily program displayed in plain view for the jockeys so they may have ready access to mounts that may become available; (3-29-10)

04. Secure Jockey Room. Keep unauthorized persons out of the jockey room; and (3-29-10)

05. Report to Stewards. Report to the stewards any unusual occurrences in the jockey room. (3-29-10)

241. -- 249. (RESERVED)

250. STARTER.
The Starter must have complete jurisdiction over the starting gate, the starting of horses in accordance with IDAPA 11.04.10 “Rules Governing Live Horse Races.” (3-29-10)

01. Assess Jockey’s Ability. The Starter must assess the ability of each person applying for a jockey's license in breaking from the starting gate and working a horse in the company of other horses, and make said assessment known to the stewards. (3-29-10)

251. -- 259. (RESERVED)

260. ASSISTANT STARTERS.
Assistant Starters are under the direct control and responsibility of the Starter. (3-29-10)

261. -- 269. (RESERVED)

270. STARTER’S LIST.
No horse will be permitted to start in a race unless approval is given by the starter. The starter must maintain a Starter's List of all horses which are ineligible to be entered in any race because of poor or inconsistent behavior or performance in the starting gate. Such horse will be refused entry until it has demonstrated to the starter that it has been satisfactorily schooled in the gate and can be removed from the Starter's List. Schooling must be under the direct supervision of the starter. (3-29-10)

271. -- 299. (RESERVED)

300. TIMER.
In the absence of an electronic timer, the timer must: (3-29-10)

01. Record Time. Accurately record the time elapsed between the start and finish of each race; (3-29-10)

02. Record From the Instant the First Horse Leaves. Record from the instant that the first horse leaves the point from which the distance is measured until the first horse reaches the finish line; (3-29-10)

03. Post Quarter Times. At a racetrack equipped with an appropriate infield totalisator board, post the quarter times (splits) for thoroughbred races in fractions as a race is being run. For quarter horse races, the timer must post the official times in hundredths of a second; (3-29-10)

04. Time All Races. For back-up purposes, also use a stopwatch to time all races. In time trials, ensure that at least three (3) stopwatches are used by the stewards or their designees; and (3-29-10)

05. Maintain Record. Maintain a printed record of fractional and finish times of each race and have same available for inspection by the stewards or the Racing Commission on request. (3-29-10)

301. -- 309. (RESERVED)

310. CLOCKER.
The clocker must be present during training hours at each track on racing association grounds, which is open for training, to identify each horse working out and to accurately record the distances and times of each horse's workout *and must:* *( )*

01. List of Workouts. Each day, prepare a list of workouts that describes the name of each horse which worked along with the distance and time of each horse's workout. *( )*

02. Deliver List. At the conclusion of training hours, deliver a copy of the list of workouts to the stewards and the racing secretary. *( )*

311. -- 319. (RESERVED)

320. PATROL JUDGE.
The patrol judge, when utilized, is responsible for observing the race and reporting information concerning the race to the stewards. If the track's video replay system is deemed adequate, use of patrol judges is optional. (3-29-10)

321. -- 329. (RESERVED)

330. GATE JUDGE.
The Racing Commission may require each track to employ a gate judge whose duties include being present at the starting gate just prior to the running of each race to observe and report any violations of the rules to the stewards, and to otherwise assist the stewards as they may so order. (3-29-10)

331. -- 339. (RESERVED)

340. PLACING JUDGE.
The placing judges, if utilized, determine the order of finish in a race as the horses pass the finish line. (3-29-10)

341. PHOTO FINISH.
In the event the placing judges or the stewards request a photo of the finish, the photo finish sign must be posted on the totalisator board. (3-29-10)

01. Order of Finish. Following their review of the photo finish, the placing judges, with the approval of the stewards, determine the exact order of finish for all horses participating in the race. (3-29-10)

02. Photographic Print. In the event a photo was requested, the placing judges must cause a photographic print of said finish to be produced. The finish photograph, when needed, *will* be used by the placing judges as an aid in determining the correct order of finish. *( )*

03. Photographic Prints Displayed. Upon determination of the correct order of finish of a race in which the placing judges have utilized a photographic print to determine the first four (4) finishers, the placing judges must cause prints of said photograph to be displayed publicly in the grandstand and clubhouse areas of the racetrack. (3-29-10)

342. DEAD HEATS.
In the event the placing judges determine that two (2) or more horses finished the race simultaneously and cannot be separated as to their order of finish, a dead heat must, with the approval of the stewards, be declared. (3-29-10)

343. -- 349. (RESERVED)

350. COMMISSION VETERINARIAN QUALIFICATIONS.
The Commission Veterinarian must be a graduate of an accredited school of veterinary medicine and licensed to practice veterinary medicine in Idaho. (3-29-10)

351. COMMISSION VETERINARIAN AUTHORITY.
The Commission Veterinarian has the authority to supervise the actions of veterinarians licensed by the Racing Commission while they are practicing at any location under the jurisdiction of the Racing Commission in accordance with IDAPA 11.04.11, "Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances, and Drug Testing of Horses." (3-29-10)

352. EXAMINATION OF HORSES.

01. Examination of Horses. The Commission Veterinarian must examine each horse prior to racing and report to the Stewards any horse that is not of the age or condition that is satisfactory for the type of racing to be conducted at the meeting. (3-29-10)

02. Declared Ineligible. The Stewards may declare any such horse as reported as ineligible to be entered or started at the meeting until such time as the Commission Veterinarian certifies such horse to be raceably sound. (3-29-10)

03. Present In Paddock. The Commission Veterinarian must be present in the paddock on the race course during the saddling, the parade and at the starting gate and until the horses are dispatched from the gate for the race. (3-29-10)

04. Emergencies. The Commission Veterinarian has the authority to treat any horse in event of an emergency, accident or injury, the details of which must be immediately reported to the Stewards. (3-29-10)

05. Humanely Destroy. The Commission Veterinarian is authorized to humanely destroy any horse which is so seriously injured that it is in the best interest of racing to so act and every horse owner and trainer participating in a race in Idaho does consent thereto. This authorization to destroy the horse is extended only in the event the owner or trainer is not present. (3-29-10)

353. COMMISSION VETERINARIAN.
The Commission Veterinarian is responsible to the Stewards for the conduct of horses and their attendants in the receiving and detention barn. (3-29-10)

354. -- 359. (RESERVED)

360. ADDITIONAL RACING OFFICIALS.
The Racing Commission may create additional racing official positions, as needed. Persons selected for these positions are considered racing officials and are subject to the general qualifications outlined in this chapter. (3-29-10)

361. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.08, "Rules Governing Pari-Mutuel Wagering" of the Idaho State Racing Commission. (3-29-10)

02. Scope. These rules govern Pari-mutuel wagering in the State of Idaho. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Advanced Wagering. Wagering before a scheduled post time for the first contest of a performance. (3-29-10)

02. Breakage. The net pool minus payout. (3-29-10)

03. Cancelled Race. A race not held. (3-29-10)

04. Common Pool Wagering. The inclusion of wagers placed at guest association locations and secondary pari-mutuel organizations into a common pari-mutuel pool for the purpose of display of wagering information and calculation of payoffs on winning wagers. (3-29-10)

05. Contest. A competitive racing event or competition between horses in which pari-mutuel wagering is conducted. (3-29-10)

06. Coupled Entries. Two (2) or more horses which are entered or run in a race and are coupled because of common ties or ownership. (3-29-10)

07. Daily Double. A daily double requires the selection of the first place finisher in two (2) consecutive races. (3-29-10)

08. Dead Heat. The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. (3-29-10)

09. Exacta. The Exacta requires selection of the first two (2) finishers, in their exact order, for a single contest. (3-29-10)

10. Guest Association. A racing association approved to offer simulcast races and pari-mutuel wagering on races conducted at other racetracks. (3-29-10)

11. Independent Real Time Monitoring System. A system approved by the Racing Commission for the purpose of immediate and continuous analysis of wagering and other pari-mutuel systems data in order to detect suspect wagering transactions or other activity indicating a possible problem relating to the integrity of the pari-mutuel system and which transmits transactional level data to a wagering security database. (3-29-10)

12. Live Event Host. A licensed racing association where live racing is conducted and on which pari-mutuel wagering is conducted by guest associations or secondary pari-mutuel organizations. (3-29-10)

13. Minus Pool. When the amount of money to be distributed on winning wagers is in excess of the amount of money comprising the net pool. (3-29-10)

14. Odds. Number indicating amount of profit per dollar to be paid to holders of winning pari-mutuel rickets. (3-29-10)

15. Official Results. The finish of the race as declared by the Stewards. (3-29-10)

16. **Pari-Mutuel Cash Voucher**. A document or card produced by a pari-mutuel system device on which a stored cash value is represented and the value of which is recorded in and redeemed through the pari-mutuel system. (3-29-10)

17. **Pari-Mutuel Pool Host**. A racing association that operates and controls access of guest associations or secondary pari-mutuel organizations to, a pari-mutuel pool. (3-29-10)

18. **Pari-Mutuel System**. The hardware, software and communications equipment used to record wagers, calculate payouts for winning wagers, and transmits wagering transactions and pari-mutuel pool data for display to patrons and to communicate with other pari-mutuel systems linked to facilitate common pool wagering. (3-29-10)

19. **Pari-Mutuel Ticket**. A document printed or record produced by a pari-mutuel system device on which is represented a pari-mutuel wager or wagers that have been authorized and accepted for purposes of participation in a pari-mutuel pool. (3-29-10)

20. **Pari-Mutuel Wagering**. **A** form of wagering on the outcome of an event in which all wagers are pooled and held by an pari-mutuel pool host for distribution of the total amount, less the deductions authorized by law, to holders of tickets on the winning contestants. (3-29-10)

21. **Parlay**. A multi-race bet in which all winnings are subsequently wagered on each succeeding race. (3-29-10)

22. **Payout**. Money disbursed after a race is official. (3-29-10)

23. **Pick (n)**. The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. (3-29-10)

24. **Place Pool**. The total amount wagered on a specific entry to finish second in a race. (3-29-10)

25. **Quinella**. The Quinella requires selection of the first two (2) finishers, irrespective of order, for a single contest. (3-29-10)

26. **Quinella Double**. The Quinella Double requires selection of the first two (2) finishers, irrespective of order, in each of two (2) specified contests. (3-29-10)

27. **Racing Association**. Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (3-29-10)

28. **Scratch**. The act of withdrawing an entered horse from the race after closing of overnight entries. (3-29-10)

29. **Scratched Horse**. A horse that is withdrawn from a race after the betting has begun. (3-29-10)

30. **Secondary Pari-Mutuel Organization**. An entity other than a licensed racing association that offers and accepts pari-mutuel wagers. This may include an off-track wagering system or an account wagering system. (3-29-10)

31. **Show Pool**. The total amount wagered on a specific entry to finish third in a race. (3-29-10)

32. **Superfecta**. The Superfecta requires selection of the first four (4) finishers, in their exact order, for a single contest. (3-29-10)

33. **Take or Takeout**. Racing Commission money deducted from mutuel pools which is shared by the track and local and state governing bodies in the form of a tax. (3-29-10)

34. **Trifecta**. The Trifecta requires selection of the first three (3) finishers, in their exact order, for a single contest. (3-29-10)

35. **Tri-Superfecta**. The Tri-Superfecta requires selection of the first three (3) finishers, in their exact order, in the first two (2) designated contests and the first four (4) finishers, in exact order, in the second of the two (2) designated contests. (3-29-10)

36. **Twin Quinella**. The Twin Quinella requires selection of the first two (2) finishers, irrespective of order, in each of two (2) designated contests. (3-29-10)

37. **Twin Trifecta**. The Twin Trifecta requires selection of the first three (3) finishers, in their exact order, in each of two (2) designated contests. (3-29-10)

38. **Voucher Identification Number**. A number specifically unique to each pari-mutuel voucher. (3-29-10)

39. **Wager**. To risk or state an amount of money on an unknown outcome. (3-29-10)

40. **Win Pool**. The amount wagered on a specific entry to finish a race. (3-29-10)

41. **Win Three**. The Win Three (3) requires selection of a first-place finisher in each of three (3) specified contests. (3-29-10)

42. **Winnings**. Money won by successfully wagering on the winner in a live or simulcast race based on the official order of finish. (3-29-10)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Pari-Mutuel System. Pari-mutuel wagering utilizes a totalisator system to pool wagers. The totalisator system may be located on property of a racing association or may, subject to compliance with applicable law and these rules, reside at another location. (3-29-10)

02. Wagering Subject to Approval. Wagering subject to approval and compliance with applicable laws and rules, may be accepted by separate totalisator systems in this or another jurisdictions, and combine via communication between totalisator systems. (3-29-10)

03. Designee. The Racing Commission may utilize a designee for the purposes of licensing, certification, verification, inspection, testing, and investigation. A Racing Commission designee may be another Racing Commission or equivalent regulatory authority, a multi-jurisdictional group of regulatory authorities, a racing association of regulatory authorities, or auditing, consulting, security, investigation, legal services, or other qualified entities or persons. (3-29-10)

04. Multi-Jurisdiction Agreements. The Racing Commission may enter into multi-jurisdiction agreements with other regulatory authorities to facilitate certification of compliance with requirements by and licensing of, totalisator companies, entities providing services for simulcasting and common pool wagering, secondary pari-mutuel organizations, and advance deposit account wagering systems. At a minimum such agreements *need to* ensure certification and licensing requirements comparable to this jurisdiction. *( )*

101. PARI-MUTUEL WAGERING.
The following requirements are applicable to racing associations licensed by the Racing Commission that offers pari-mutuel wagering. These requirements are also to such organizations licensed or approved by other regulatory authority as a condition of Racing Commission approval of any agreement or contract for simulcasting or common pool wagering (3-29-10)

01. Pari-Mutuel Tickets. A pari-mutuel ticket is evidence of a contribution to the pari-mutuel pool

and is evidence of the obligation to pay to the holder of such portion of the distributable amount of the pari-mutuel pool as is represented by a valid pari-mutuel ticket. The racing association must cash all valid winning tickets when they are presented for payment during the course of the meeting where sold, and for a specified period after the last day of the meeting. (3-29-10)

02. Valid Pari-Mutuel Ticket. To be deemed a valid pari-mutuel ticket, the ticket must have been issued by a pari-mutuel ticket machine operated by the racing association and issued as a ticket entitled to a share of the pari-mutuel pool, and contain imprinted information as follows: (3-29-10)

a. The name of the racing association operating the meeting; (3-29-10)

b. A unique identifying number or code; (3-29-10)

c. Identification of the terminal at which the ticket was issued; (3-29-10)

d. **A** designation of the performance for which the wagering transaction was issued; (3-29-10)

e. The contest number for which the pool is conducted; (3-29-10)

f. The type or types of wagers represented; (3-29-10)

g. The number or numbers representing the betting interests for which the wager is recorded; and, (3-29-10)

h. The amount or amounts of the contributions to the pari-mutuel pool or pools for which the ticket is evidence. (3-29-10)

03. Previously Paid, Cancelled, or Non-Existent Pari-Mutuel Ticket. No pari-mutuel ticket recorded or reported as previously paid, cancelled, or non-existent may be deemed a valid pari-mutuel ticket by the racing association. The racing association may withhold payment and refuse to cash any pari-mutuel ticket deemed not valid, except as in these rules. (3-29-10)

102. PARI-MUTUEL TICKET SALES.

01. Ticket Sales. Pari-mutuel tickets may not be sold by anyone other than a racing association licensed to conduct pari-mutuel wagering. (3-29-10)

02. Wager -- Person Under Eighteen. No person under eighteen (18) years of age is allowed to wager. (3-29-10)

03. License -- Person Under Eighteen. No person under eighteen (18) years of age may be granted a license to work in the pari-mutuel department. (3-29-10)

04. Wagering by Employees of the Mutuel Department not Permitted. Wagering by employees of the mutuel department is not permitted while on duty. Violation of this rule may result in the revocation of the offender's license. (3-29-10)

05. Purchase of Pari-Mutuel Tickets for Hire or Gratuity. Only persons or messengers employed by the racing associations and approved by the Racing Commission may directly or indirectly purchase pari-mutuel tickets or participate in the purchase of any or part of a pari-mutuel pool or another for hire or for any gratuity. (3-29-10)

06. Closed Wagering. No pari-mutuel ticket may be sold on a contest for which wagering has already been closed and no racing association will be responsible for ticket sales not recorded into or not completed by issuance of a ticket before the totalisator is closed for wagering on such contest. (3-29-10)

07. Claims by Bettor. Claims pertaining to a mistake on an issued ticket, or a mistake involving failure

to issue a ticket, must be made by the bettor prior to leaving the seller's window except in accordance with written policies established by the racing association and approved by the Racing Commission. (3-29-10)

08. Payment on Winning Pari-Mutuel Wagers. Payment on winning pari-mutuel wagers is made on the basis of the order of finish as purposely posted and declared "official." Any subsequent change in the order of finish or award of purse money as may result from a subsequent ruling by the stewards or Racing Commission will in no way affect the pari-mutuel payout. If an error in the posted order of finish or payout figures is discovered, the official order of finish or payout prices may be corrected and an announcement concerning the change must be made to the public. (3-29-10)

09. Cancellation or Exchange Tickets. Cancellation or exchange of tickets issued is not permitted after a patron has left a seller's window, except in accordance with written policies established by the racing association and approved by the Racing Commission. (3-29-10)

10. Claims on Lost, Mutilated, or Altered Tickets. The racing association may satisfy claims on lost, mutilated, or altered pari-mutuel tickets without authorization of the Racing Commission. (3-29-10)

11. Equipment Failure. The racing association has no obligation to enter a wager into a betting pool if unable to do so due to equipment failure. (3-29-10)

103. ADVANCE WAGERING.
No racing association may permit wagering to begin more than one (1) hour before scheduled post time of the first contest of a performance unless it has first obtained the authorization of the Racing Commission. This does not preclude earlier common pool wagers in accordance with a contract with the host association that has been approved by the Racing Commission. (3-29-10)

104. CLAIMS FOR PAYMENT FROM PARI-MUTUEL POOL.
At a designated location, a written, verified claim for payment from a pari-mutuel pool must be accepted by the racing association in any case wherein the racing association has withheld payment or has refused to cash a pari-mutuel wager. The claim must be made on such form as approved by the Racing Commission *with t*he original claim forwarded to the Racing Commission within 48 hours. *( )*

01. Claim for Mutilated Ticket. In the case of a claim made for payment of a mutilated pari-mutuel ticket which does not contain the total imprinted elements *outlined* in these rules, the racing association will make a recommendation to accompany the claim forwarded to the Racing Commission as to whether or not the mutilated ticket has sufficient elements to be positively identified as a winning ticket. *( )*

02. Racing Commission to Adjudicate or Deny Claim. In the case of a claim made for payment on a pari-mutuel wager, the Racing Commission *will* adjudicate the claim and may order payment thereon from the pari-mutuel pool or by the racing association, or may deny the claim, or may make such other order, as it may deem proper as provided for in Section 113 of these rules. *( )*

105. PAYMENT FOR ERRORS.
If an error occurs in the payment amounts for pari-mutuel wagers that are cashed or entitled to be cashed and, as a result of such error, the pari-mutuel pool involved in the error is not correctly distributed among winning ticket holders, the following applies: (3-29-10)

01. Underpayments. Verification is required to show that the amount of the commission, the amount in breakage, and the amount in payouts is equal to the total gross pool. If the amount of the pool is more than the amount used to calculate the payout, the underpayment belongs to the Racing Commission. In the event there is an underpayment on any race in the amount actually due to the wagerers, the amount of such underpayments to wagerers, at the end of each day of racing, will revert to and be paid to the Racing Commission and may not be retained by the racing association. (3-29-10)

02. Underpayment Claim. Any claim not filed with the racing association within thirty (30) days, inclusive of the date on which the underpayment was publicly announced, is deemed waived; and the racing association has no further liability. (3-29-10)

03. Overpayment. In the event the error results in an overpayment to winning wagers, the racing association is responsible for such payment. (3-29-10)

106. BETTING EXPLANATION.
A summary explanation of pari-mutuel wagering and each type of betting pool offered must be published in the program for every wagering performance. The rules of racing relative to each type of pari-mutuel pool offered must be prominently displayed on the racing association grounds and available upon request through racing association representatives. (3-29-10)

107. DISPLAY OF BETTING INFORMATION.

01. Approximate Odds for Win Pool. Approximate odds for Win pool betting must be posted on display devices within view of the wagering public and updated at intervals of not more than sixty (60) seconds for the current race of the performance. (3-29-10)

02. Probable Payout. The probable payout or amounts wagered, in total and on each betting interest, for other pools may be displayed to the wagering public at intervals and in a manner approved by the Racing Commission. (3-29-10)

03. Official Results and Payouts. Official results and payouts must be displayed upon each contest being declared official. (3-29-10)

04. Errors Corrected Promptly. If an error is made in posting the payoff figures on the public board, it will be corrected promptly and only the correct amounts will be used in the payoff, irrespective of the error. If because of mechanical failure it is impossible to promptly correct the posted payoff, a statement must be made over the public address system stating the facts and corrections. (3-29-10)

108. CANCELLED CONTESTS.
If a contest is cancelled or declared "no contest," refunds must be granted on valid wagers in accordance with these rules. (3-29-10)

01. Refunds. Notwithstanding other provisions of these rules, refunds of the entire pool must be made on: (3-29-10)

a. Win pools, Exacta pools, and first-half Double pools offered in contests in which the number of betting interests has been reduced to fewer than two (2). (3-29-10)

b. Place pools, Quinella pools, Trifecta pools, first-half Quinella Double pools, first-half Twin Quinella pools, first-half Twin Trifecta pools, and first-half Tri-Superfecta pools offered in contest in which the number of betting interests has been reduced to fewer than three (3). (3-29-10)

c. Show pools, Superfecta pools, and first-half Twin Superfecta pools offered in contests in which the number of betting interests has been reduced to fewer than four (4). (3-29-10)

02. Authorized Refund to be Paid. Authorized refunds must be paid upon presentation and surrender of the affected pari-mutuel ticket. (3-29-10)

03. Scratched Horse. If a horse is scratched from racing after the betting has begun, the money bet on that horse must be refunded; except that when the horse is part of an Entry or the Field there will be no refund if the Entry or the Field, as the case may be, has at least one (1) actual starter. (3-29-10)

04. Horse Prevented from Racing Because of Starting Gate Failure. If it is determined by the Stewards that a horse has been prevented from racing because of the failure of the stall door of the starting gate to open, the money bet on that horse must be refunded; except that when the horse is part of an Entry or the Field there will be no refund if the Entry or the Field, as the case may be, has at least one (1) actual starter. (3-29-10)

05. Coupled Entries and Mutuel Fields. If no horse finished in a race, all money wagered on that race must be refunded. (3-29-10)

109. COUPLED ENTRIES AND MUTUEL FIELDS.

01. Coupled Entry Considered Single Betting Interest. Contestants coupled in wagering as a coupled entry or mutuel field are considered part of a single betting interest for the purpose of price calculations and distribution of pools. Should any contestant in a coupled entry or mutuel field be officially withdrawn or scratched, the remaining contestant in that coupled entry or mutuel field may remain valid betting interests and no refunds will be granted; or the stewards may order a refund for the entire betting interest. If all contestants within a coupled entry or mutuel field are scratched, then tickets on such betting interests must be refunded, notwithstanding other provisions of these rules. (3-29-10)

02. Dead Heat Involving Coupled Entry. For the purpose of price calculations only, coupled entries and mutuel fields are calculated as a single finisher, using the finishing position of the leading contestant in that coupled entry or mutuel field to determine order of placing. This rule applies to all circumstances, including situations involving a dead heat, except as otherwise provided by these rules. (3-29-10)

110. POOLS DEPENDANT UPON BETTING INTERESTS.

01. Offer Wagering Pools. Unless otherwise provided by the Racing Commission, upon request received no later than twenty-four (24) hours after the post position draw, at the time the pools are opened for wagering, the racing association: (3-29-10)

a. *Must offer*: *( )*

i. Win wagering on all contests with three (3) or more betting interests. May offer win wagering on all contests with two (2) or more betting interests. (3-29-10)

ii. Place wagering on all contests with four (4) or more betting interests. If the number of starting betting interests drops below four (4), the racing association may at its discretion cancel place wagering. The racing association must make an appropriate public address announcement. (3-29-10)

iii. Show wagering on all contests with five (5) or more betting interests. If the number of starting betting interests drops below five (5), the racing association may at its discretion cancel show wagering. The racing association must make an appropriate public address announcement. (3-29-10)

b. *May offer*: *( )*

i. Quinella wagering on all contests with three (3) or more betting interests. (3-29-10)

ii. Quinella double wagering on all contests with three (3) or more betting interests. (3-29-10)

iii. Exacta wagering on all contests with two (2) or more betting interests. (3-29-10)

iv. Trifecta wagering on all contests with three (3) or more betting interests. (3-29-10)

v. Superfecta wagering on all contests with four (4) or more betting interests. (3-29-10)

vi. Twin quinella wagering on all contests with three (3) or more betting interests. (3-29-10)

c. May not offer twin trifecta, tri-superfecta or twin trifecta wagering on any contests with six (6) or less betting interests. (3-29-10)

111. PRIOR APPROVAL FOR BETTING POOLS.

01. Prior Approval for Betting Pools. A racing association that desires to offer new forms of

wagering must apply in writing to the Racing Commission and receive written approval prior to implementing the new betting pool. ( )

02. Suspend Previously Approved Forms of Wagering. The racing association may suspend previously-approved forms of wagering with the prior approval of the Racing Commission. Any carryover must be held until the suspended form of wagering is reinstated. A racing association may request approval of a form of wagering or separate wagering pool for specific performances. (3-29-10)

112. CLOSING OF WAGERING IN A CONTEST.

01. Close Wagering. A Racing Commission representative must close wagering for each contest after which time no pari-mutuel tickets may be sold for that contest. (3-29-10)

02. Approved Close Wagering System. The racing association must maintain, in good order, a system approved by the Racing Commission for closing wagering. (3-29-10)

113. COMPLAINTS PERTAINING TO PARI-MUTUEL OPERATIONS.

01. Compliance Report. When a patron makes a complaint regarding the pari-mutuel department to a racing association, the racing association must immediately issue a compliance report, setting out: (3-29-10)

a. The name of the complainant; (3-29-10)

b. The nature of the complaint; (3-29-10)

c. The name of the persons, if any, against whom the complaint was made; (3-29-10)

d. The date of the complaint; and (3-29-10)

e. The action taken or proposed to be taken, if any, by the racing association. (3-29-10)

02. Submit Complaint to Racing Commission. The racing association must submit every complaint report to the Racing Commission within forty-eight (48) hours after the complaint was made. The Racing Commission will review the complaint and a decision must be issued within seven (7) working days. (3-29-10)

114. LICENSEES -- DUTY TO REPORT.
All licensees must report any known irregularities or wrong doings by any person involving pari-mutuel wagering immediately to the Racing Commission and cooperate in subsequent investigations. (3-29-10)

115. EMERGENCY SITUATIONS.
In the event of an emergency in connection with the pari-mutuel department not covered in these rules, the pari-mutuel manager representing the racing association must report the problem to the stewards and the racing association and the stewards render a full report to the Racing Commission within forty-eight (48) hours. (3-29-10)

116. UNRESTRICTED ACCESS.
The racing association must permit the Racing Commission unrestricted access at all times to its facilities and equipment and to all books, ledgers, accounts, documents and records of the racing association that relate to pari-mutuel wagering. (3-29-10)

117. PARI-MUTUEL CASH VOUCHERS.

01. Cash Vouchers. Pari-mutuel cash vouchers may be offered by a racing association that issues pari-mutuel tickets. These vouchers must be dispensed through the totalisator system. The stored value on a voucher may be redeemed in the same manner as a value of a winning pari-mutuel ticket for wagers placed at a pari-mutuel window or a self-service terminal, and may be redeemed for their cash value at any time. (3-29-10)

02. Vouchers as Incentives or Promotional Prizes. A racing association may, with the prior approval

of the Racing Commission, issue special pari-mutuel cash vouchers as incentives or promotional prizes, and may restrict the use of those vouchers to the purchase of pari-mutuel wagers. (3-29-10)

03. Voucher Identification Number. The tote system transaction record for all pari-mutuel vouchers must include the voucher identification number in subsequent pari-mutuel transactions and pari-mutuel wagers made from a voucher must identify the voucher by identification number. (3-29-10)

118. OTHER STORED VALUE INSTRUMENTS AND SYSTEMS.

01. Stored Value Instrument or System. A racing association may not utilize any form of stored value instrument or system other than a pari-mutuel voucher for purpose of making or cashing pari-mutuel wagers without the prior approval of the Racing Commission,. (3-29-10)

02. Request for Approval. Any request for approval of a stored value instrument or system must include a detailed description of the standards utilized: (3-29-10)

a. To identify the specific stored value instrument or account in the pari-mutuel system wagering transaction record; (3-29-10)

b. To verify the identity and business address of the person(s) obtaining, holding, and using the stored value instrument or system; (3-29-10)

c. To record and maintain records of deposits, credits, debits, transaction numbers, and account balances involving the stored value instruments or accounts. (3-29-10)

03. Prevent Wagering Transactions. A stored value instrument or system must prevent wagering transactions in the event such transactions would create a negative balance in an account, and may not operate so as to automatically facilitate a transfer of funds into a stored value instrument or account without the direct authorization of each such deposit transfer by the person holding the instrument or account. (3-29-10)

04. Affirmation. Any request for approval of a stored value instrument or system must include an affirmation of the ready availability when requested by the Racing Commission. All records and reports relating to all transactions, account records, and customer identification and verification in hard copy or standard electronic format approved by the Racing Commission certification of secure retention of all records for a period of not less than three (3) years or such longer period specified by the Racing Commission. (3-29-10)

119. -- 199. (RESERVED)

200. CALCULATION OF PAYOFFS AND DISTRIBUTION OF POOLS.

01. Pari-Mutuel Wagering Pools Separately and Independently Calculated and Distributed. All permitted pari-mutuel wagering pools must be separately and independently calculated and distributed. Takeout will be deducted from each gross pool as stipulated by law. The remainder of the monies in the pool constitutes the net pool for distribution as payoff on winning wagers. ( )

02. Standard or Net Price Calculation. Either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools. (3-29-10)

03. Profit per Dollar. For each wagering pool, the amount wagered on the winning betting interest or betting combinations is deducted from the net pool to determine the profit; the profit is then divided by the amount wagered on the winning betting interest or combinations, such quotient being the profit per dollar. (3-29-10)

04. Single Commission Pools. With written approval from the Racing Commission, either the standard or net price calculation procedure may be used to calculate single commission pools, while the net price calculation procedure must be used to calculate multi-commission pools. (3-29-10)

a. Standard Price Calculation Procedure. (3-29-10)

Table - Single Price Pool (Win Pool)		
gross pool	=	sum of wagers on all betting interest-refunds
takeout	=	gross pool x percent takeout
net pool	=	gross pool - takeout
profit	=	net pool - gross amount bet on winner
profit per dollar	=	profit / gross amount bet on winner
$1 unbroken price	=	profit per dollar + $1
$1 broken price	=	$1 unbroken price rounded down to the break point
total payout	=	$1 broken price x gross amount bet on winner
total breakage	=	net pool - total payout

(3-29-10)

i. Profit Split (Place Pool). Profit is net pool less gross amount bet on all place finishers. Finishers split profit one-half (1/2) and one-half (1/2) (place profit), then divide by gross amount bet on each place finisher for two (2) unique prices. (3-29-10)

ii. Profit Split (Show Pool). Profit is net pool less gross amount bet on all show finishers. Finishers split profit one-third (1/3) and one-third (1/3) and one-third (1/3) (show profit), then divide by gross amount bet on each show finisher for three (3) unique prices. (3-29-10)

b. Net Price Calculation Procedure. (3-29-10)

Table - Single Price Pool (Win Pool)		
gross pool	=	sum of wagers on all betting interest-refunds
takeout	=	gross pool x percent takeout
# for each source:		
net pool	=	gross pool - takeout
net bet on winner	=	gross amount bet on winner x (1 - percent takeout)
total net pool	=	sum of all sources net pools
total net bet on winner	=	sum of all sources net bet on winner
total profit	=	total net pool - total net bet on winner
profit per dollar	=	total profit / total net bet on winner
$1 unbroken base price	=	profit per dollar + $1 for each source:
$1 unbroken price	=	$1 unbroken base price x (1 - percent takeout)
$1 broken price	=	$1 unbroken price rounded down to the break point
total payout	=	$1 broken price x gross amount bet on winner

Table - Single Price Pool (Win Pool)		
total breakage	=	net pool - total payout

(3-29-10)

i. Profit Split (Place Pool). Total profit is the total net pool less the total net amount bet on all place finishers. Finishers split total profit one-half (1/2) and one-half (1/2) (place profit), then divide by total net amount bet on each place finisher for two (2) unique unbroken base prices. (3-29-10)

ii. Profit Split (Show Pool). Total profit is the total net pool less the total net amount bet on all show finishers. Finishers split total profit one-third (1/3) and one-third (1/3) and one-third (1/3) (show profit), then divide by total net amount bet on each show finisher for three (3) unique unbroken base prices. (3-29-10)

c. If a profit split results in only one (1) covered winning betting interest or combinations it is calculated the same as a single price pool. (3-29-10)

d. Minimum payout and the method used for calculating breakage are established by the Racing Commission. (3-29-10)

e. The individual pools outlined in these rules may be given alternative names by each racing association, provided prior approval is obtained from the Racing Commission. (3-29-10)

f. In the event a minus pool occurs in either the Win, Place or Show pool, the expense of said minus pool will be born by the racing association and the State will receive intact its share of the remaining pools. (3-29-10)

201. WIN POOLS.

01. Win Pools. The amount wagered on the betting interest that finishes first is deducted from the net pool, the balance remaining being the profit; the profit is divided by the amount wagered on the betting interest finishing first, such quotient being the profit per dollar wagered to Win on that betting interest. (3-29-10)

02. Net Win Pool. The net Win pool must be distributed as a single price pool to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. To those whose selection finished first; but if there are no such wagers, then; (3-29-10)

b. To those whose selection finished second; but if there are no such wagers, then; (3-29-10)

c. To those whose selection finished third; but if there are no such wagers, then; (3-29-10)

d. The entire pool must be refunded on Win wagers for that contest. (3-29-10)

03. Dead Heat for First. If there is a dead heat for first involving: (3-29-10)

a. Contestants representing the same betting interest, the Win pool is distributed as if no dead heat occurred. (3-29-10)

b. Contestants representing two (2) or more betting interests, the Win pool is distributed as a profit split. (3-29-10)

Table 1 -- Win Pool (Standard Price Calculation)		
Sum of Wagers on All Betting Interest	=	$194,230.00

Table 1 -- Win Pool (Standard Price Calculation)		
Refunds	=	$1,317.00
Gross Pool:		
Sum of Wagers on All Betting Interest - Refunds	=	$192,913.00
Percent Takeout	=	18%
Takeout:		
Gross Pool x Percent Takeout	=	$34,724.34
Net Pool:		
Gross Pool - Takeout	=	$158,188.66
Gross Amount Bet on Winner	=	$23,872.00
Profit:		
Net Pool - Gross Amount Bet on Winner	=	$134,316.66
Profit Per Dollar:		
Profit / Gross Amount Bet on Winner	=	$5.6265357
$1 Unbroken Price:		
Profit Per Dollar + $1	=	$6.6265357

(3-29-10)

202. PLACE POOLS.

01. Place Pools. The amounts wagered to Place on the first two (2) betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into two (2) equal portions, one (1) being assigned to each winning betting interest and divided by the amount wagered to Place on that betting interest, the resulting quotient is the profit per dollar wagered to Place on that betting interest. (3-29-10)

02. Net Place Pool. The net Place pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. If contestants of a coupled entry or mutuel field finished in the first two (2) places, as a single price pool to those who selected the coupled entry or mutuel field; otherwise (3-29-10)

b. As a profit split to those whose selection is included within the first two (2) finishers; but if there are no such wagers on one (1) of those two (2) finishers, then; (3-29-10)

c. As a single price pool to those who selected the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; (3-29-10)

d. As a single price pool to those who selected the third-place finisher; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Place wagers for that contest. (3-29-10)

03. Dead Heat for First. If there is a dead heat for first involving: (3-29-10)

a. Contestants representing the same betting interest, the Place pool must be distributed as a single price pool. (3-29-10)

b. Contestants representing two (2) or more betting interest, the Place pool must be distributed as a profit split. (3-29-10)

04. Dead Heat for Second. If there is a dead heat for second involving: (3-29-10)

a. Contestants representing the same betting interest, the Place pool is distributed as if no dead heat occurred. (3-29-10)

b. Contestants representing two (2) or more betting interests, the Place pool is divided with one-half (1/2) of the profit distributed to Place wagers on the betting interest finishing first and the remainder is distributed equally among Place wagers on those betting interests involved in the dead heat for second. (3-29-10)

Table 2 -- Place Pool (Standard Price Calculation)

Sum of Wagers on All Betting Interests	=	$194,230.00
Refunds	=	$1,317.00
Gross Pool:		
Sum of Wagers on All Betting Interests - Refunds	=	$192,913.00
Percent Takeout	=	18%
Takeout:		
Gross Pool x Percent Takeout	=	$34,724.34
Net Pool:		
Gross Pool - Takeout	=	$158,188.66
Gross Amount Bet on 1st place finisher	=	$23,872.00
Gross Amount Bet on 2nd place finisher	=	$12,500.00
Profit:		
Net Pool-Gross Amount Bet on 1st place finisher - Gross Amount Bet on 2nd place finisher	=	$121,816.66
Place Profit:		
Profit / 2	=	$60,908.33
Profit Per Dollar for 1st place:		
Place Profit / Gross Amount Bet on 1st place finisher	=	$2.5514548
$1 Unbroken Price for 1st place:		
Profit Per Dollar for 1st place + $1	=	$3.5514548
Profit Per Dollar for 2nd place:		
Place Profit / Gross Amount Bet on 2nd place finisher	=	$4.8726664
$1 Unbroken Price for 2nd place:		
Profit Per Dollar for 2nd place + $1		$5.8726664

(3-29-10)

203. SHOW POOLS.

01. Show Pools. The amounts wagered to Show on the first three (3) betting interests to finish are deducted from the net pool, the balance remaining being the profit; the profit is divided into three (3) equal portions, one (1) being assigned to each winning betting interest and divided by the amount wagered to Show on that betting interest, the resulting quotient being the profit per dollar wagered to Show on that betting interest. (3-29-10)

02. Net Show Pool Distribution. The net Show pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. If contestants of a coupled entry or mutuel field finished in the first three (3) places, as a single price pool to those who selected the couple entry or mutuel field, otherwise; (3-29-10)

b. If contestants of a coupled entry or mutuel field finished as two (2) of the first three (3) finishers, the profit is divided with two-thirds (2/3) distributed to those who selected the coupled entry or mutuel field and one-third (1/3) distributed to those who selected the other betting interest included within the first three (3) finishers, otherwise; (3-29-10)

c. As a profit split to those whose selection is included within the first three (3) finishers; but if there are no such wagers on one (1) of those three (3) finishers, then; (3-29-10)

d. As a profit split to those who selected one (1) of the two (2) covered betting interests included within the first three (3) finishers; but if there are no such wagers on two (2) of those three (3) finishers, then: (3-29-10)

e. As a single price pool to those who selected the one (1) covered betting interest included within the first three (3) finishers; but if there are no such wagers, then; (3-29-10)

f. As a single price pool to those who selected the fourth-place finisher; but if there are no such wagers, then; (3-29-10)

g. The entire pool must be refunded on Show wagers for that contest. (3-29-10)

03. Dead Heat for First. If there is a dead heat for first involving: (3-29-10)

a. Two (2) contestants representing the same betting interest, the profit is divided with two-thirds (2/3) distributed to those who selected the first-place finishers and one-third (1/3) distributed to those who selected the betting interest finishing third. (3-29-10)

b. Three (3) contestants representing a single betting interest, the Show pool must be distributed as a single price pool. (3-29-10)

c. Contestants representing two (2) or more betting interests, the Show pool must be distributed as a profit split. (3-29-10)

04. Dead Heat for Second. If there is a dead heat for second involving: (3-29-10)

a. Contestants representing the same betting interest, the profit is divided with one-third (1/3) distributed to those who selected the betting interest finishing first and two-thirds (2/3) distributed to those who selected the second-place finishers. (3-29-10)

b. Contestants representing two (2) betting interests, the Show pool must be distributed as a profit split. (3-29-10)

c. Contestants representing three (3) betting interests, the Show pool is divided with one-third (1/3) of the profit distributed to Show wagers on the betting interest finishing first and the remainder is distributed equally amongst Show wagers on those betting interests involved in the dead heat for second. (3-29-10)

05. Dead Heat for Third. If there is a dead heat for third involving: (3-29-10)

a. Contestants representing the same betting interest, the Show pool must be distributed as if no dead heat occurred. (3-29-10)

b. Contestants representing two (2) or more betting interests, the Show pool is divided with two-thirds (2/3) of the profit distributed to Show wagers on the betting interests finishing first and second and the remainder is distributed equally among Show wagers on those betting interests involved in the dead heat for third. (3-29-10)

Table 3 -- Show Pool (Standard Price Calculation)		
Sum of Wagers on All Betting Interests	=	$194,230.00
Refunds		$1,317.00
Gross Pool:		
Sum of Wagers on All Betting Interests - Refunds	=	$192,913.00
Percent Takeout	=	18%
Takeout:		
Gross Pool x Percent Takeout	=	$34,724.34
Net Pool:		
Gross Pool - Takeout	=	$158,188.66
Gross Amount Bet on 1st place finisher	=	$23,872.00
Gross Amount Bet on 2nd place finisher	=	$12,500.00
Gross Amount Bet on 3rd place finisher	=	$4,408.00
Profit:		
Net Pool - Gross Amount Bet on 1st place finisher - Gross Amount Bet on 2nd place finisher - Gross Amount Bet on 3rd place finisher	=	$117,408.66
Show Profit:		
Profit / 3	=	$39,136.22
Profit Per Dollar for 1st place:		
Show Profit / Gross Amount Bet on 1st place finisher	=	$1.6394194
$1 Unbroken Price for 1st place:		
Profit Per Dollar for 1st place + $1	=	$2.6394194
Profit Per Dollar for 2nd place:		
Show Profit / Gross Amount Bet on 2nd place finisher	=	$3.1308976
$1 Unbroken Price for 2nd place:		
Profit Per Dollar for 2nd place + $1	=	$4.1308976
Profit Per Dollar for 3rd place:		
Show Profit / Gross Amount Bet on 3rd place finisher	=	$8.8784528

Table 3 -- Show Pool (Standard Price Calculation)		
$1 Unbroken Price for 3rd place:		
Profit Per Dollar for 3rd place + $1	=	$9.8784528

(3-29-10)

Table 4 -- Show Pool Single Takeout Rate & Single Betting Source		
(Net Price Calculation)		
Sum of Wagers on All Betting Interests	=	$194,230.00
Refunds	=	$1,317.00
Gross Pool:		
Sum of Wagers on All Betting Interests - Refunds	=	$192,913.00
Percent Takeout	=	18%
Takeout:		
Gross Pool x Percent Takeout	=	$34,724.34
Total Net Pool:		
Gross Pool - Takeout	=	$158,188.66
Gross Amount Bet on 1st place finisher	=	$23,872.00
Net Amount Bet on 1st place finisher	=	$19,575.04
Gross Amount Bet on 2nd place finisher	=	$12,500.00
Net Amount Bet on 2nd place finisher	=	$10,250.00
Gross Amount Bet on 3rd place finisher	=	$4,408.00
Net Amount bet on 3rd place finisher	=	$3,614.56
Total Net Bet on Winners:		
Net Amount Bet on 1st place finisher + Net Amount Bet on 2nd place finisher + Net Amount Bet on 3rd place finisher	=	$33,439.60
Total Profit:		
Total Net Pool - Total Net Bet on Winners	=	$124,749.06
Show Profit:		
Total Profit / 3	=	$41,583.02
Profit Per Dollar for 1st place:		
Show Profit / Net Amount Bet on 1st place finisher	=	$2.1242879
$1 Unbroken Base Price for 1st place:		
Profit Per Dollar for 1st place + $1	=	$3.1242879
$1 Unbroken Price for 1st place:		
$1 Unbroken Base Price for 1st place x (1 - percent takeout)	=	$2.5619161

Table 4 -- Show Pool Single Takeout Rate & Single Betting Source		
Profit Per Dollar for 2nd place: Show Profit / Net Amount Bet on 2nd place finisher	=	$4.0568800
$1 Unbroken Base Price for 2nd place:		
Profit Per Dollar for 2nd place + $1	=	$5.0568800
$1 Unbroken Price for 2nd place:		
$1 Unbroken Base Price for 2nd place x (1 - percent takeout)	=	$4.1466416
Profit Per Dollar for 3rd place:		
Show Profit / Net Amount Bet on 3rd place finisher	=	$11.504310
$1 Unbroken Base Price for 3rd place:		
Profit Per Dollar for 3rd place + $1	=	$12.504310
$1 Unbroken Price for 3rd place:		
$1 Unbroken Base Price for 3rd place x (1 - percent takeout)	=	$10.253534

(3-29-10)

204. DOUBLE POOLS.

01. Double Pools. Only one (1) Daily Double will be permitted during a single racing day, unless approval is obtained from the Racing Commission. (3-29-10)

02. First Place Finisher. The Double requires selection of the first-place finisher in each of two (2) specified contests. (3-29-10)

03. Winning Distribution. The net Double pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. As a single price pool to those whose selection finished first in each of the two (2) contests; but if there are no such wagers, then; (3-29-10)

b. As a profit split to those who selected the first-place finisher in either contest; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those who selected the one (1) covered first-place finisher in either contest; but if there are no such wagers, then; (3-29-10)

d. As a single price pool to those whose selection finished second in each of the two (2) contests; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Double wagers for those contests. (3-29-10)

04. Dead Heat for First. If there is a dead heat for first in either of the two (2) contests involving: (3-29-10)

a. Contestants representing the same betting interest, the Double pool is distributed as if no dead heat occurred. (3-29-10)

b. Contestants representing two (2) or more betting interests, the Double pool is distributed as a profit split if there is more than one (1) covered winning combination. (3-29-10)

05. Scratched Interest -- First-Half. Should a betting interest in the first-half of the Double be scratched prior to the first Double contest being declared official, all money wagered on combinations including the scratched betting interest is deducted from the Double pool and refunded. (3-29-10)

06. Scratched Interest -- Second-Half. Should a betting interest in the second-half of the Double be scratched prior to the close of wagering on the first Double contest, all money wagered on combinations including the scratched betting interest is deducted from the Double pool and refunded. (3-29-10)

07. Consolation Payout. Should a betting interest in the second-half of the Double be scratched after the close of wagering on the first Double contest, all wagers combining the winner of the first contest with the scratched betting interest in the second contest are allocated a consolation payout. In calculating the consolation payout the net Double pool is divided by the total amount wagered on the winner of the first contest and an unbroken consolation price obtained. The broken consolation price is multiplied by the dollar value of wagers on the winner of the first contest combined with the scratched betting interest to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net Double pool before calculation and distribution of the winning Double payout. Dead heats including separate betting interests in the first contest will result in a consolation payout calculated as a profit split. (3-29-10)

08. Cancelled or "No Contest." If either of the Double contests are cancelled prior to the first Double contest, or the first Double contest is declared "no contest," the entire Double pool must be refunded on Double wagers for those contests. (3-29-10)

09. Second Double Cancelled or "No Contest." If the second Double contest is cancelled or declared "no contest" after the conclusion of the first Double contest, the net Double pool is distributed as a single price pool to wagers selecting the winner of the first Double contest. In the event of a dead heat involving separate betting interests, the net Double pool is distributed as a profit split. (3-29-10)

10. Payoff Posting. Before the running of the last half of the Daily Double pool, the payoff of each combination coupled with the winner of the first half of the Daily Double must be posted in a prominent place. (3-29-10)

11. Third Heat Announcement. In case of a dead heat for winner in the first half (1/2) of the Daily Double, the payoff of the Daily Double need not be posted until after the running of the second half (1/2) of the Daily Double. However, announcement of this fact must be made over the loud speaker and notice to this effect be posted on the board at conclusion of the first half (1/2) of the Daily Double. (3-29-10)

12. Close of Sale. Sale of Daily Double tickets must close not later than "off-time" of the first race of the Daily Double. (3-29-10)

13. Daily Double Not a Parlay. The Daily Double Pool is not a parlay and is not connected with the WIN, PLACE, SHOW or other pools in any manner whatsoever. (3-29-10)

Table 5 -- Double Pool (Standard Price Calculation)

Sum of Wagers on All Betting Interests	=	$194,230.00
Refunds	=	$1,317.00
Gross Pool:		
Sum of Wagers on All Betting Interests - Refunds	=	$192,913.00
Percent Takeout	=	18%
Takeout:		
Gross Pool x Percent Takeout	=	$34,724.34
Net Pool:		
Gross Pool - Takeout	=	$158,188.66
Gross Amount Bet on Winning Combination	=	$23,872.00

Table 5 -- Double Pool (Standard Price Calculation)		
Profit:		
Net Pool - Gross Amount Bet on Winning Combination	=	$134,316.66
Profit Per Dollar:		
Profit / Gross Amount Bet on Winning Combination	=	$5.6265357
$1 Unbroken Price:		
Profit Per Dollar + $1	=	$6.6265357

(3-29-10)

Table 6 -- Double Pool Consolation Pricing:		
Sum of Wagers on All Betting Interests	=	$194,230.00
Refunds	=	$1,317.00
Gross Pool:		
Sum of Wagers on All Betting Interests - Refunds	=	$192,913.00
Percent Takeout	=	18%
Takeout:		
Gross Pool x Percent Takeout	=	$34,724.34
Net Pool:		
Gross Pool - Takeout	=	$158,188.66
Consolation Pool:		
Sum Total Amount Bet on winner of the first contest with all second contest betting interests	=	$43,321.00
$1 Consolation Unbroken Consolation Price:		
Net Pool / Consolation Pool	=	$3.6515468
$1 Consolation Broken Price:	=	$3.65
Amount Bet on winner of the first contest with scratched betting interests:	=	$1,234.00
Consolation Liability:		
$1 Consolation Broken Price x (Amount Bet on the winner of the first contest with scratched betting interests)	=	$4,504.10
Adjusted Net Pool:		
Net Pool - Consolation Liability	=	$153,684.56
Gross Amount Bet on the Winning Combination	=	$23,872.00
Profit:		
Adjusted Net Pool - Gross Amount Bet on the Winning Combination	=	$129,812.56

Table 6 -- Double Pool Consolation Pricing:		
Profit Per Dollar:		
Profit / Gross Amount Bet on the Winning Combination	=	$5.4378586
Unbroken Price:		
Profit Per Dollar + $1	=	$6.4378586

(3-29-10)

205. WIN THREE POOLS.

01. Win Three Pools. The Win Three (3) requires selection of the first-place finisher in each of three (3) specified contests. (3-29-10)

02. Distribution. The net Win Three (3) pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. As a single price pool to those whose selection finished first in each of the three (3) contests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those who selected the first-place finisher in any two (2) of the three (3) contests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those who selected the first-place finisher in any one (1) of the three (3) contests; but if there are no such wagers, then; (3-29-10)

d. The entire pool must be refunded on Win Three (3) wagers for those contests. (3-29-10)

03. Dead Heat. If there is a dead heat for first in any of the three (3) contests involving: (3-29-10)

a. Contestants representing the same betting interest, the Win Three (3) pool is distributed as if no dead heat occurred. (3-29-10)

b. Contestants representing two (2) or more betting interests, the Win Three (3) pool is distributed as a single price pool and is distributed as follows: (3-29-10)

i. As a profit split to those whose selections finished first in each of the three (3) contests; but if there are no such wagers, then; (3-29-10)

ii. As a single price pools to those who selected the first place finisher in any two (2) of the three (3) contests; but if there are no such wagers, then; (3-29-10)

iii. As a single price pool to those who selected the first place finisher in any one (1) of the three (3) contests; but if there are no such wagers, then; (3-29-10)

iv. The entire Win Three (3) pool is refunded. (3-29-10)

04. Substitution of a Scratch. Should a betting interest be scratched from a leg of the Win Three (3) all bets with the scratched betting interest will be handled as follows: (3-29-10)

a. If the scratch (that herein after includes being declared a non-starter or a non-betting starter) was made prior to the start of the first leg, all bets containing such scratched betting interest must be refunded to determine the gross pool an removed from further consideration in the pool; (3-29-10)

b. If the scratch was made in the second leg after the start of the first leg, a consolation payoff will be

computed for those bets combining the winners of the first and third legs with the scratched betting interest as follows: (3-29-10)

i. The statutory take-out is deducted from the gross pool and then the amount represented by the bets on combinations involving betting interests scratched from the third leg (reduced by the take-out thereon). (3-29-10)

ii. The resulting remainder is divided by the amounts bet on the combination of such first and third leg winners with all betting interests (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and third legs with the betting interest scratched in the second leg. The break may not be deduced from the pool. (3-29-10)

c. If a betting interest is scratched in the third leg after the start of the first leg, a consolation payoff must be computed as for those bets combining the winners of the first and second legs with such scratched betting interest as follows: (3-29-10)

i. The statutory take-out is deducted from the gross pool and then the amount represented by bets on combinations involving betting interests scratched from the second leg (reduced by the rate of the take-out thereon). (3-29-10)

ii. The resulting remainder is divided by the amount bet on the combination of such first and second leg winners with all betting interests in the third leg (less breaks) to determine the consolation price per dollar payable to those bets combining winners of the first and second legs with a betting interest scratched in the third leg. The breaks must not be deducted from the pool. (3-29-10)

d. If betting interests are scratched in both the second and third legs after the start of the first leg, a consolation payoff is computed for those bets combining the winner of the first leg with the betting interests scratched in both the second and third legs as follows: (3-29-10)

i. The takeout is deducted from the gross pool and the remainder is divided by the amount bet on the winner of the first leg combined with all other betting interests (less breaks) to determine the consolation price per dollar payable to those tickets combining the winner of the first leg with the scratch betting interests from both the second and third legs. (3-29-10)

05. **All Three Cancelled**. If all three (3) Win Three (3) contests are cancelled or declared "no contest," the entire pool must be refunded on Win Three (3) wagers for those contests. (3-29-10)

06. **One or Two Canceled**. If one (1) or two (2) of the Win Three (3) contests are cancelled or declared "no contest," the Win Three (3) pool will remain valid and must be distributed in accordance with these rules. (3-29-10)

206. PICK (N) POOLS.

01. Pick (n) Pools. The Pick (n) requires selection of the first-place finisher in each of a designated number of contests. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Pick (n) contests, the designation of one (1) of the methods prescribed in these rules, and the amount of any cap to be set on the carryover. Any changes to the approved Pick (n) format require prior approval from the Racing Commission. (3-29-10)

02. Apportioning the Pool. The Pick (n) pool is apportioned under one (1) of the following methods: (3-29-10)

a. Method 1- Pick (n) with Carryover: The net Pick (n) pool and carryover, if any, must be distributed as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. If there are no such wagers, then a designated percentage of the net pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the remainder will be added to the carryover. (3-29-10)

b. Method 2 - Pick (n) with Minor Pool and Carryover: The major share of the net Pick (n) pool and the carryover, if any, must be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first- place finisher of all Pick (n) contests, the minor share of the net Pick (n) pool will be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests; and the major will be added to the carryover. (3-29-10)

c. Method 3 - Pick (n) with No Minor Pool and No Carryover: The net Pick (n) pool must be distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. If there are no winning wagers, the pool is refunded. (3-29-10)

d. Method 4 - Pick (n) with Minor Pool and No Carryover: The major share of the net Pick (n) pool must be distributed to those who selected the first place finisher in the greatest number of Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool is combined with the major share for distribution as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If the greatest number of first-place finishers selected is one (1), the major and minor shares are combined for distribution as a single price pool. If there are no winning wagers, the pool is refunded. (3-29-10)

e. Method 5 - Pick (n) with Minor Pool and No Carryover: The major share of net Pick (n) pool must be distributed to those who selected the first-place finisher in each of the Pick (n) contests, based upon the official order of finish. The minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher in the second greatest number of Pick (n) contests, based upon the official order of finish. If there are no wagers selecting the first-place finisher in all Pick (n) contests, the entire net Pick (n) pool is distributed as a single price pool to those who selected the first-place finisher in the greatest number of Pick (n) contests. If there are no wagers selecting the first-place finisher in a second greatest number of Pick (n) contests, the minor share of the net Pick (n) pool is combined with the major share for distribution as a single price pool to those who selected the first-place finisher in each of the Pick (n) contests. If there are no winning wagers, the pool is refunded. (3-29-10)

f. Method 6 - Pick (n) with Minor Pool, Jackpot Pool, Major Carryover and Jackpot Carryover: Predetermined percentages of the net Pick (n) pool must be set aside as a Major pool, Minor pool and Jackpot pool. The Major share of the net Pick (n) pool and the Major carryover, if any, is distributed to those who selected the first-place finisher of each of the Pick (n) contests, based on the official order of finish. If there are no tickets selecting the first-place finisher in each of the Pick (n) contests, the Major net pool is added to the Major carryover. If there is only one (1) single ticket selecting the first-place finisher of each of the Pick (n) contests, based on the official order of finish, the Jackpot share of the net Pick (n) pool and the Jackpot carryover, if any, is distributed to the holder of that single ticket, along with the Major net pool and the Major carryover, if any. If more than one (1) ticket selects the first-place finisher of each of the Pick (n) contests the Jackpot net pool is added to the Jackpot carryover. The Minor share of the net Pick (n) pool is distributed to those who selected the first-place finisher of the second greatest number of Pick (n) contests, based on the official order of finish. If there are no wagers selecting the first-place finisher of all Pick (n) contests, the Minor net pool of the Pick (n) pool is distributed as a single price pool to those who selected the first-place finisher of the greatest number of Pick (n) contests. (3-29-10)

03. Dead Heat. If there is a dead heat for first in any of the Pick (n) contests involving: (3-29-10)

a. Contestants representing the same betting interest, the Pick (n) pool must be distributed as if no dead heat occurred. (3-29-10)

b. Contestants representing two (2) or more betting interests, the Pick (n) pool must be distributed as a single price pool with each winning wager receiving an equal share of the profit. (3-29-10)

04. Scratched Entry. Should a betting interest in any of the Pick (n) contests be scratched, the actual favorite, as evidenced by total amounts wagered in the Win pool at host association for the contest at the close of wagering on that contest, will be substituted for the scratched betting interest for all purposes, including pool

calculations. In the event that the Win pool total for two (2) or more favorites is identical, the substitute selection will be the betting interest with the lowest program number. The totalisator must produce reports showing each of the wagering combinations with substituted betting interests which became winners as a result of the substitution, in addition to the normal winning combination. (3-29-10)

05. Cancellation and Refunds. The Pick (n) pool will be cancelled and all Pick (n) wagers for the individual performance will be refunded, if: (3-29-10)

a. At least two (2) contests included as part of a Pick Three (3) are cancelled or declared "no contest"; (3-29-10)

b. At least three (3) contests included as part of a Pick Four (4), Pick Five (5) or Pick Six (6) are cancelled or declared "no contest"; (3-29-10)

c. At least four (4) contests included as part of a Pick Seven (7), Pick Eight (8) or Pick Nine (9) are cancelled or declared "no contest"; or (3-29-10)

d. At least five (5) contests included as part of a Pick Ten (10) are cancelled or declared "no contest." (3-29-10)

06. Net Pool Distribution. If at least one (1) contest included as part of a Pick (n) is cancelled or declared "no contest," but not more than the number specified in these rules the net pool must be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests for that performance. Such distribution must include the portion ordinarily retained for the Pick (n) carryover but not the carryover from previous performances. (3-29-10)

07. Course Condition. If the condition of the course warrants a change of racing surface in any of the legs of the Pick (n) races, and such change was not known to the public prior to the closing of wagering for the Pick (n) pool, the stewards must declare the changed leg(s) a "no contest" for Pick (n) wagering purposes only. A "no contest" race is not to be considered as a contested race. (3-29-10)

08. Capped Carryover. The Pick (n) carryover may be capped at a designed level approved by the Racing Commission so that if, at the close of any performance, the amount in the Pick (n) carryover equals or exceeds the designated cap, the Pick (n) carryover will be frozen until it is won or distributed under other provisions of this rule. After the Pick (n) carryover is frozen, one hundred (100%) percent of the net pool, part of which ordinarily would be added to the Pick (n) carryover, must be distributed to those whose selection finished first in the greatest number of Pick (n) contests for that performance. (3-29-10)

09. Carryover Requested. A written request for permission to distribute the Pick (n) carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. (3-29-10)

10. Single Price Distribution. Should the Pick (n) carryover be designated for distribution on a specified date and performance in which there are no wagers selecting the first-place finisher in each of the Pick (n) contests, the entire pool must be distributed as a single price pool to those whose selection finished first in the greatest number of Pick (n) contests. The Pick (n) carryover must be designated for distribution on a specified date and performance only under the following circumstances: (3-29-10)

a. Upon written approval from the Racing Commission as provided in these rules. (3-29-10)

b. Upon written approval from the Racing Commission when there is a change in the carryover cap, a change from one (1) type of Pick (n) wagering to another or when the Pick (n) is discontinued. (3-29-10)

c. On the closing performance of the meet or split meet. (3-29-10)

11. Carryover Deposit. If, for any reason, the Pick (n) carryover must be held over to the

corresponding Pick (n) pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Pick (n) carryover plus accrued interest must then be added to the net Pick (n) pool of the following meet on a date and performance so designated by the Racing Commission. (3-29-10)

12. Contribution to Pool. With the written approval of the Racing Commission, the racing association may contribute to the Pick (n) carryover a sum of money up to the amount of any designated cap. (3-29-10)

13. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of live tickets remaining is strictly prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (3-29-10)

14. Suspension of Wagering. The racing association may suspend previously-approved Pick (n) wagering with the prior approval of the Racing Commission. Any carryover must be held until the suspended Pick (n) wagering is reinstated. A racing association may request approval of a Pick (n) wager or separate wagering pool for specific performances. (3-29-10)

TABLE 7 -- PICK 7 POOL

MULTIPLE TAKEOUT RATES AND MULTIPLE BETTING SOURCES

	Percent Takeout	Gross Pool Bet On	Gross Amount - Win	Net Pool Bet On	Net Amount - Win
Source 1:	16%	$190,000	$44	$159,600	$36.96
Source 2:	18.5%	$10,000	$18	$8,150	$14.67
Source 3:	21%	$525,730	$124	$415,326.70	$97.96
TOTALS:		$725,730	$186	$583,076.70	$149.59

(Net Price Calculation)		
Total Profit:		
Total Net Pool - Total Net Bet on the Winning Combination	=	$582,927.11
Profit Per Dollar:		
Total Profit / Total Net Bet on the Winning Combination	=	$3,896.8321
$1 Unbroken Base Price:		
Profit Per Dollar + $1	=	$3,897.8321
$1 Unbroken Price for Source 1:		
$1 Unbroken Base Price x (1 - Percent Takeout)	=	$3,274.1789
$1 Unbroken Price for Source 2:		
$1 Unbroken Base Price x (1 - Percent Takeout)	=	$3,176.7331
$1 Unbroken Price for Source 3:		
$1 Unbroken Base Price x (1 - Percent Takeout)	=	$3,079.2873

(3-29-10)

207. QUINELLA POOLS.

01. Quinella Pools. The Quinella requires selection of the first two (2) finishers, irrespective of order, for a single contest. (3-29-10)

02. Distribution. The net Quinella pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. If contestants of a coupled entry or mutuel field finish as the first two (2) finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; (3-29-10)

b. As a single price pool to those whose combination finished as the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one (1) of those two (2) finishers, then; (3-29-10)

d. As a single price pool to those whose combination included the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Quinella wagers for that contest. (3-29-10)

03. Dead Heat -- First Place. If there is a dead heat for first involving: (3-29-10)

a. Contestants representing the same betting interest, the Quinella pool is distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. (3-29-10)

b. Contestants representing two (2) betting interests, the Quinella pool is distributed as if no dead heat occurred. (3-29-10)

c. Contestants representing three (3) or more betting interests, the Quinella pool is distributed as a profit split. (3-29-10)

04. Dead Heat -- Second Place. If there is a dead heat for second involving contestants representing the same betting interest, the Quinella pool is distributed as if no dead heat occurred. (3-29-10)

05. Dead Heat -- Two or More Interests. If there is a dead heat for second involving contestants representing two (2) or more betting interests, the Quinella pool is distributed to wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; (3-29-10)

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then; (3-29-10)

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead heat for second; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Quinella wagers for that contest. (3-29-10)

208. QUINELLA DOUBLE POOLS.

01. Quinella Double Pools. The Quinella Double requires selection of the first two (2) finishers, irrespective of order, in each of two (2) specified contests. (3-29-10)

02. Distribution. The net Quinella Double pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. If a coupled entry or mutuel field finishes as the first two (2) contestants in either contest, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest, as well as the first two (2) finishers in the alternate Quinella Double contest, otherwise; (3-29-10)

b. As a single price pool to those who selected the first two (2) finishers in each of the two (2) Quinella Double contests; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those who selected the first two (2) finishers in either of the two (2) Quinella Double contests; but if there are no such wagers on one (1) of those contests, then; (3-29-10)

d. As a single price pool to those who selected the first two (2) finishers in the one (1) covered Quinella Double contest; but if there were no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Quinella Double wagers for those contests. (3-29-10)

03. Dead Heat - First Place. If there is a dead heat for first in either of the two (2) Quinella Double contests involving: (3-29-10)

a. Contestants representing the same betting interest, the Quinella Double pool is distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish for that contest. (3-29-10)

b. Contestants representing two (2) betting interests, the Quinella Double pool is distributed as if no dead heat occurred. (3-29-10)

c. Contestants representing three (3) or more betting interests, the Quinella Double pool is distributed as a profit split. (3-29-10)

04. Dead Heat -- Second Place. If there is a dead heat for second in either of the Quinella Double contests involving contestants representing the same betting interest, the Quinella Double pool is distributed as if no dead heat occurred. (3-29-10)

05. Dead Heat -- Second Place Two or More Interests. If there is a dead heat for second in either of the Quinella Double contests involving contestants representing two (2) or more betting interests, the Quinella Double pool is distributed as a profit split. (3-29-10)

06. Betting Interest Deducted -- First Half. Should a betting interest in the first-half of the Quinella Double be scratched prior to the first Quinella Double contest being declared official, all money wagered on combinations including the scratched betting interest will be deducted from the Quinella Double pool and refunded. (3-29-10)

07. Betting Interest Deducted -- Second Half. Should a betting interest in the second-half of the Quinella Double be scratched prior to the close of wagering on the first Quinella Double contest, all money wagered on combinations including the scratched betting interest will be deducted from the Quinella Double pool and refunded. (3-29-10)

08. Consolation Payoff. Should a betting interest in the second-half of the Quinella Double be scratched after the close of wagering on the first Quinella Double contest, all wagers combining the winning

combination in the first contest with a combination including the scratched betting interest in the second contest will be allocated a consolation payout. In calculating the consolation payout the net Quinella Double pool is divided by the total amount wagered on the winning combination in the first contest and an unbroken consolation price obtained. The unbroken consolation price is multiplied by the dollar value of wagers on the winning combination in the first contest combined with a combination including the scratched betting interest in the second contest to obtain the consolation payout. Breakage is not declared in this calculation. The consolation payout is deducted from the net Quinella Double pool before calculation and distribution of the winning Quinella Double payout. In the event of a dead heat involving separate betting interests, the net Quinella Double pool is distributed as a profit split. (3-29-10)

09. Refunded Quinella. If either of the Quinella Double contests is cancelled prior to the first Quinella Double contest, or the first Quinella Double contest is declared "no contest," the entire Quinella Double pool must be refunded on Quinella Double wagers for those contests. (3-29-10)

10. Second Double Contest Cancelled. If the second Quinella Double contest is cancelled or declared "no contest" after the conclusion of the first Quinella Double contest, the net Quinella Double pool must be distributed as a single price pool to wagers selecting the winning combination in the first Quinella Double contest. If there are no wagers selecting the winning combination in the first Quinella Double contest, the entire Quinella Double pool must be refunded on Quinella Double wagers for those contests. (3-29-10)

209. EXACTA POOLS.

01. Exacta Pools. The Exacta requires selection of the first two (2) finishers, in their exact order, for a single contest. (3-29-10)

02. Distribution. The net Exacta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. If contestants of a coupled entry or mutuel field finish as the first two (2) finishers, as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; (3-29-10)

b. As a single price pool to those whose combination finished in correct sequence as the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those whose combination included either the first-place betting interest to finish first or the second-place betting interest to finish second; but if there are no such wagers on one (1) of those two (2) finishers, then; (3-29-10)

d. As a single price pool to those whose combination included the one (1) covered betting interest to finish first or second in the correct sequence; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Exacta wagers for that contest. (3-29-10)

03. Dead Heat for First. If there is a dead heat for first involving: (3-29-10)

a. Contestants representing the same betting interest, the Exacta pool is distributed as a single price pool to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. (3-29-10)

b. Contestants representing two (2) or more betting interests, the Exacta pool is distributed as a profit split. (3-29-10)

04. Dead Heat for Second. If there is a dead heat for second involving contestants representing the same betting interest, the Exacta pool is distributed as if no dead heat occurred. (3-29-10)

05. Dead Heat for Second -- Two or More Betting Interests. If there is a dead heat for second involving contestants representing two (2) or more betting interests, the Exacta pool is distributed to ticket holders in

the following precedence, based upon the official order of finish: (3-29-10)

a. As a profit split to those combining the first-place betting interest with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; (3-29-10)

b. As a single price pool to those combining the first-place betting interest with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those wagers correctly selecting the winner for first-place and those wagers selecting any of the dead-heated betting interests for second-place; but if there are no such wagers, then; (3-29-10)

d. The entire pool must be refunded on Exacta wagers for that contest. (3-29-10)

210. TRIFECTA POOLS.

01. Trifecta Pools. The Trifecta requires selection of the first three (3) finishers, in their exact order, for a single contest. (3-29-10)

02. Distribution. The net Trifecta Pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (3-29-10)

d. The entire pool must be refunded on Trifecta wagers for that contest. (3-29-10)

03. Less Than Three Interests Finish. If less than three (3) betting interests finish and the contest is declared official, payoffs will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest will be ignored. (3-29-10)

04. Dead Heat for First. If there is a dead heat for first involving: (3-29-10)

a. Contestants representing three (3) or more betting interests, all of the wagering combinations selecting three (3) betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split. (3-29-10)

b. Contestants representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place betting interest will share in a profit split. (3-29-10)

05. Dead Heat -- Second Place. If there is a dead heat for second, all of the combinations correctly selecting the winner combined with any of the betting interests involved in the dead heat for second will share a profit split. (3-29-10)

06. Dead Heat -- Third Place. If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for third will share in a profit split. (3-29-10)

07. Coupled Entries and Mutuel Fields. Trifecta pools with hard entries may not be established for any race with fewer than eight (8) racing interests scheduled to start. For those licensees who hold race meets only

during their county fair meets, a trifecta pool can be established for any race with a hard entry in which there are no fewer than six (6) racing interests scheduled to start. In all cases, entrees coupled as a single wagering interest will be permitted provided that such single wagering interest constitutes an individual wagering selection and a scratch of any horse that is a part of any entry or the field does not constitute a scratch of the single wagering interest.(3-29-10)

211. SUPERFECTA POOLS.

01. Superfecta Pools. The Superfecta requires selection of the first four (4) finishers, in their exact order, for a single contest. (3-29-10)

02. Distribution. The net Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Superfecta wagers for that contest. (3-29-10)

03. Less Than Four Finish. If less that four (4) betting interests finish and the contest is declared official, payouts will be made based upon the order of finish of those betting interests completing the contest. The balance of any selection beyond the number of betting interests completing the contest will be ignored. (3-29-10)

04. Dead Heat -- First Place. If there is a dead heat for first involving: (3-29-10)

a. Contestants representing four (4) or more betting interests, all of the wagering combinations selecting four (4) betting interests which correspond with any of the betting interests involved in the dead heat will share in a profit split. (3-29-10)

b. Contestants representing three (3) betting interests, all of the wagering combinations selecting the three (3) dead-heated betting interests, irrespective of order, along with the fourth-place betting interest will share in a profit split. (3-29-10)

c. Contestants representing two (2) betting interests, both of the wagering combinations selecting the two (2) dead-heated betting interests, irrespective of order, along with the third-place and fourth-place betting interests will share in a profit split. (3-29-10)

05. Dead Heat -- Second Place. If there is a dead heat for second involving: (3-29-10)

a. Contestants representing three (3) or more betting interests, all of the wagering combinations correctly selecting the winner combined with any of the three (3) betting interests involved in the dead heat for second will share in a profit split. (3-29-10)

b. Contestants representing two (2) betting interests, all of the wagering combinations correctly selecting the winner, the two (2) dead-heated betting interests, irrespective of order, and the fourth-place betting interest will share in a profit split. (3-29-10)

06. Dead Heat - Third Place. If there is a dead heat for third, all wagering combinations correctly selecting the first two (2) finishers, in correct sequence, along with any two (2) of the betting interests involved in the

dead heat for third will share in a profit split. (3-29-10)

07. Dead Heat -- Fourth Place. If there is a dead heat for fourth, all wagering combinations correctly selecting the first three (3) finishers, in correct sequence, along with any of the betting interests involved in the dead heat for fourth will share in a profit split. (3-29-10)

212. TWIN QUINELLA POOLS.

01. Twin Quinella Pools. The Twin Quinella requires selection of the first two (2) finishers, irrespective of order, in each of two (2) designated contests. Each winning ticket for the first Twin Quinella contest must be exchanged for a free ticket on the second Twin Quinella contest in order to remain eligible for the second-half Twin Quinella pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Quinella contest. There will be no monetary reward for winning the first Twin Quinella contest. Both of the designated Twin Quinella contests will be included in only one (1) Twin Quinella pool. (3-29-10)

02. Winning Procedure. In the first Twin Quinella contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Quinella contest: (3-29-10)

a. If a coupled entry or mutuel field finishes as the first two (2) finishers, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish are winners, otherwise; (3-29-10)

b. Those whose combination finished as the first two (2) betting interests are winners; but if there are no such wagers, then; (3-29-10)

c. Those whose combination included either the first- or second-place finisher are winners; but if there are no such wagers on one (1) of those two (2) finishers, then; (3-29-10)

d. Those whose combination included the one (1) covered betting interest included within the first two (2) finishers are winners; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Twin Quinella wagers for that contest. (3-29-10)

03. Dead Heat -- First Place. In the first Twin Quinella contest only, if there is a dead heat for first involving: (3-29-10)

a. Contestants representing the same betting interest, those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish are winners. (3-29-10)

b. Contestants representing two (2) betting interests, the winning Twin Quinella wagers are determined as if no dead heat occurred. (3-29-10)

c. Contestants representing three (3) or more betting interests, those whose combination included any two (2) of the betting interests finishing in the dead heat are winners. (3-29-10)

04. Dead Heat -- Second Place. In the first Twin Quinella contest only, if there is a dead heat for second involving contestants representing two (2) or more betting interests, the Twin Quinella pool will be distributed to wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second but if there is only one (1) covered combination, then; (3-29-10)

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then; (3-29-10)

d. As a profit split to those whose combination included the winner and any other betting interest and wagers selecting any of the betting interests involved in the dead hear for second; but if there are no such wagers, then; (3-29-10)

e. The entire pool must be refunded on Twin Quinella wagers for that contest. (3-29-10)

05. Distribution. In the second Twin Quinella contest only, the entire net Twin Quinella pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Quinella contest: (3-29-10)

a. If a coupled entry or mutuel field finishes as the first two (2) finishers, as a single price pool to those who selected the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish, otherwise; (3-29-10)

b. As a single price pool to those whose combination finished as the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those whose combination included either the first- or second-place finisher; but if there are no such wagers on one (1) of those two (2) finishers, then; (3-29-10)

d. As a single price pool to those whose combination included the one (1) covered betting interest included within the first two (2) finishers; but if there are no such wagers, then; (3-29-10)

e. As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then; (3-29-10)

f. In accordance with Subsection 212.02 of these rules. (3-29-10)

06. Dead Heat -- First Place. In the second Twin Quinella contest only, if there is a dead heat for first involving: (3-29-10)

a. Contestants representing the same betting interest, the net Twin Quinella pool will be distributed to those selecting the coupled entry or mutuel field combined with the next separate betting interest in the official order of finish. (3-29-10)

b. Contestants representing two (2) betting interests, the net Twin Quinella pool will be distributed as if no dead heat occurred. (3-29-10)

c. Contestants representing three (3) or more betting interests, the net Twin Quinella pool will be distributed as a profit split to those whose combination included any two (2) of the betting interests finishing in the dead heat. (3-29-10)

07. Dead Heat -- Second Place. In the second Twin Quinella contest only, if there is a dead heat for second involving contestants representing two (2) or more betting interests, the Twin Quinella pool will be distributed to wagers in the following precedence, based upon the official order of finish: (3-29-10)

a. As a profit split to those combining the winner with any of the betting interests involved in the dead heat for second; but if there is only one (1) covered combination, then; (3-29-10)

b. As a single price pool to those combining the winner with the one (1) covered betting interest involved in the dead heat for second; but if there are no such wagers, then; (3-29-10)

c. As a profit split to those combining the betting interests involved in the dead heat for second; but if there are no such wagers, then;; (3-29-10)

d. As a profit split to those whose combination included the winner and any other betting interest and

wagers selecting any of the betting interests involved in the dead heat for second, then; (3-29-10)

e. As a single price pool to all the exchange ticket holders for that contest; but if there are no such tickets, then; (3-29-10)

f. In accordance with Subsection 212.02 of these rules. (3-29-10)

08. Forfeiture of Rights. If a winning ticket for the first-half of the Twin Quinella is not presented for exchange prior to the close of betting on the second-half Twin Quinella contest, the ticket holder forfeits all rights to any distribution of the Twin Quinella pool resulting from the outcome of the second contest. (3-29-10)

09. First-Half Scratch. Should a betting interest in the first-half of the Twin Quinella be scratched, those Twin Quinella wagers including the scratched betting interest must be refunded. (3-29-10)

10. Second-Half Scratch. Should a betting interest in the second-half of the Twin Quinella be scratched, an announcement concerning the scratch must be made and a reasonable amount of time be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Quinella contest, the ticket holder forfeits all rights to the Twin Quinella pool. (3-29-10)

11. Contest Cancelled. If either of the Twin Quinella contests is cancelled prior to the first Twin Quinella contest, or the first Twin Quinella contest is declared "no contest," the entire Twin Quinella pool must be refunded on Twin Quinella wagers for that contest. (3-29-10)

12. Second-Half Cancelled. If the second-half Twin Quinella contest is cancelled or declared "no contest" after the conclusion of the first Twin Quinella contest, the net Twin Quinella pool will be distributed as a single price pool to wagers selecting the winning combination in the first Twin Quinella contest and all valid exchange tickets. If there is no such wagers, the net Twin Quinella pool must be distributed as described in Subsection 212.02 of these rules. (3-29-10)

213. TWIN TRIFECTA POOLS.

01. Twin Trifecta Pools. The Twin Trifecta requires selection of the first three (3) finishers, in their exact order, in each of two (2) designated contests. Each winning ticket for the first Twin Trifecta contest must be exchanged for a free ticket on the second Twin Trifecta contest in order to remain eligible for the second-half Twin Trifecta pool. Such ticket may be exchanged only at attended ticket windows prior to the second Twin Trifecta contest. Winning first-half Twin Trifecta wagers will receive both an exchange and a monetary payoff. Both of the designated Twin Trifecta contests will be included in only one (1) Twin Trifecta pool. (3-29-10)

02. Providing Pools. After wagering closes for the first-half of the Twin Trifecta and commissions have been deducted from the pool, the net pool is then divided into separate pools: the first-half Twin Trifecta pool and the second-half Twin Trifecta pool. (3-29-10)

03. Winning Precedence. In the first Twin Trifecta contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Trifecta contest: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests, but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests, but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination correctly selected the first-place betting interest only, but if there are no such wagers, then; (3-29-10)

d. The entire Twin Trifecta pool must be refunded on Twin Trifecta wagers for that contest and the second-half cancelled. (3-29-10)

04. Carryover Pool. If no first-half Twin Trifecta ticket selects the first three (3) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Twin Trifecta pool. In such case, the second-half Twin Trifecta pool must be retained and added to any existing Twin Trifecta carryover pool. (3-29-10)

05. Exchange of Tickets. Winning tickets from the first-half of the Twin Trifecta will be exchanged for tickets selecting the first three (3) finishers of the second-half of the Twin Trifecta. The second-half Twin Trifecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Trifecta contest: (3-29-10)

a. As a single price pool, including any existing carryover monies, to those whose combination finished in the correct sequence as the first three (3) betting interests; but if there are no such tickets, then; (3-29-10)

b. The entire second-half Twin Trifecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Twin Trifecta pool of the next consecutive performance. (3-29-10)

06. Forfeiture of Rights. If a winning first-half Twin Trifecta ticket is not presented for cashing and exchange prior to the second-half Twin Trifecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Trifecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool. (3-29-10)

07. Coupled Entries and Mutuel Field. Coupled entries and mutuel fields are prohibited in Twin Trifecta contests. (3-29-10)

08. Scratched Interests. Should a betting interest in the first-half of the Twin Trifecta be scratched, those Twin Trifecta wagers including the scratched betting interest must be refunded. (3-29-10)

09. Second-Half Betting Interest Scratch. Should a betting interest in the second-half of the Twin Trifecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time be provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Trifecta contest, the ticket holder forfeits all rights to the second-half Twin Trifecta pool. (3-29-10)

10. Reduced Interests. If, due to a late scratch, the number of betting interests in the second-half of the Twin Trifecta is reduced to fewer than the minimum, all exchange tickets and the outstanding first-half winning tickets will be entitled to the second-half Twin Trifecta pool for that contest as a single price pool, but not the Twin Trifecta carryover. (3-29-10)

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first or second-half of the Twin Trifecta, all Twin Trifecta wagers selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In case of a dead heat occurring in: (3-29-10)

a. The first-half of the Twin Trifecta, the payoff is calculated as a profit split. (3-29-10)

b. The second-half of the Twin Trifecta, the payoff is calculated as a single price pool. (3-29-10)

12. Cancelled Contest. If either of the Twin Trifecta contests are cancelled prior to the first Twin Trifecta contest, or the first Twin Trifecta contest is declared "no contest," the entire Twin Trifecta pool must be refunded on Twin Trifecta wagers for that contest and the second-half cancelled. (3-29-10)

13. Second-Half Cancelled. If the second-half Twin Trifecta contest is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning Twin Trifecta tickets will be entitled to the net Twin Trifecta pool for that contest as a single price pool, but not Twin Trifecta carryover. If there are no such tickets, the net Twin Trifecta pool must be distributed as described in Subsection 213.05 of these rules. (3-29-10)

14. Capped Carryover. The Twin Trifecta carryover may be capped at a designated level approved by

the Racing Commission so that if, at the close of any performance, the amount in the Twin Trifecta carryover equals or exceeds the designated cap, the Twin Trifecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the Twin Trifecta carryover is frozen, one hundred percent (100%) of the net Twin Trifecta pool for each individual contest must be distributed to winners of the first-half of the Twin Trifecta pool. (3-29-10)

15. Request to Distribute Carryover. A written request for permission to distribute the Twin Trifecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. (3-29-10)

16. Winning Precedence. Should the Twin Trifecta carryover be designated for distribution on a specific date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Trifecta after completion of the first-half of the Twin Trifecta: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in the correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (3-29-10)

d. As a single price pool to holders of valid exchange tickets. (3-29-10)

e. As a single price pool to holders of outstanding first-half winning tickets. (3-29-10)

17. Exchange of Tickets. Contrary to Subsection 213.04 of these rules, during a performance designated to distribute the Twin Trifecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Trifecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interest. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Trifecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Twin Trifecta pool and any existing Twin Trifecta carryover. (3-29-10)

18. Carryover Designation. The Twin Trifecta carryover must be designated for distribution on a specified date and performance only under the following circumstances: (3-29-10)

a. Upon written approval from the Racing Commission as provided in Subsection 213.15 of these rules. (3-29-10)

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Twin Trifecta is discontinued. (3-29-10)

c. On the closing performance of the meet or split meet (3-29-10)

19. Carryover from Past Subsequent Meet. If, for any reason, the Twin Trifecta carryover must be held over to the corresponding Twin Trifecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Twin Trifecta carryover plus accrued interest will then be added to the second-half Twin Trifecta pool of the following meet on a date and performance so designated by the Racing Commission. (3-29-10)

20. Prohibited Information. Providing information to any person regarding covered combinations,

amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (3-29-10)

21. Contest Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Twin Trifecta contests, the percentage of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Trifecta format require prior approval from the Racing Commission. (3-29-10)

214. TRI-SUPERFECTA POOLS.

01. Tri-Superfecta Pools. The Tri-Superfecta requires selection of the first three (3) finishers, in their exact order, in the first two (2) designated contests and the first four (4) finishers, in exact order, in the second of the two (2) designated contests. Each winning ticket for the first Tri-Superfecta contest must be exchanged for a free ticket on the second Tri-Superfecta contest in order to remain eligible for the second-half Tri-Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Tri-Superfecta contest. Winning first-half Tri-Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Tri-Superfecta contests will be included in only one (1) Tri-Superfecta pool. (3-29-10)

02. Providing Pools. After wagering closes for the first-half of the Tri-Superfecta and commissions have been deducted from the pool, the net pool will then be divided into two (2) separate pools: the first-half Tri-Superfecta pool and the second-half Tri-Superfecta pool. (3-29-10)

03. Winning Precedence. In the first Tri-Superfecta contest only, winning tickets must be determined using the following precedence, based upon the official order of finish for the first Tri-Superfecta contest: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first three (3) betting interests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (3-29-10)

d. The entire Tri-Superfecta pool must be refunded on Tri-Superfecta wagers for that contest and the second-half cancelled. (3-29-10)

04. Carryover Pool. If no first-half Tri-Superfecta ticket selects the first three (3) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Tri-Superfecta pool. In such case, the second-half Tri-Superfecta pool must be retained and added to any existing Tri-Superfecta carryover pool. (3-29-10)

05. Exchange of Tickets. Winning tickets from the first-half of the Tri-Superfecta will be exchanged for tickets selecting the first four (4) finishers of the second-half of the Tri-Superfecta. The second-half Tri-Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Tri-Superfecta contest: (3-29-10)

a. As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such tickets, then; (3-29-10)

b. The entire second-half Tri-Superfecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Tri-Superfecta pool of the next performance. (3-29-10)

06. Forfeiture of Rights. If a winning first-half Tri-Superfecta ticket is not presented for cashing and exchange prior to the second-half Tri-Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Tri-Superfecta pool but forfeits all rights to any distribution of the second-half Tri-

Superfecta pool. (3-29-10)

07. Coupled Entries and Mutuel Field. Coupled entries and mutuel fields are prohibited in Tri-Superfecta contests. (3-29-10)

08. Scratched Interest. Should a betting interest in the first-half of the Tri-Superfecta be scratched, those Tri-Superfecta tickets including the scratched betting interest must be refunded. (3-29-10)

09. Second-Half Betting Interest Scratch. Should a betting interest in the second-half of the Tri-Superfecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Tri-Superfecta contest, the ticket holder forfeits all rights to the second-half Tri-Superfecta pool. (3-29-10)

10. Reduced Interests. If, due to a late scratch, the number of betting interests in the second-half of the Tri-Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets will be entitled to the second-half Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover. (3-29-10)

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first- or second-half of the Tri-Superfecta, all Tri-Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In the case of a dead heat occurring in: (3-29-10)

a. The first-half of the Tri-Superfecta, the payoff is calculated as a profit split. (3-29-10)

b. The second-half of the Tri-Superfecta, the payoff is calculated as a single price pool. (3-29-10)

12. Cancelled Contest. If either of the Tri-Superfecta contests are cancelled prior to the first Tri-Superfecta contest, or the first Tri-Superfecta contest is declared "no contest," the entire Tri-Superfecta pool must be refunded on Tri-Superfecta wagers for that contest and the second-half cancelled. (3-29-10)

13. Second-Half Cancelled. If the second-half Tri-Superfecta contest is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning Tri-Superfecta tickets will be entitled to the net Tri-Superfecta pool for that contest as a single price pool, but not the Tri-Superfecta carryover. If there are no such tickets, the net Tri-Superfecta pool must be distributed as described in Subsection 214.03 of these rules. (3-29-10)

14. Capped Carryover. The Tri-Superfecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Tri-Superfecta carryover equals or exceeds the designated cap, the Tri-Superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half Tri-Superfecta carryover is frozen, one hundred percent (100%) of the net Tri-Superfecta pool for each individual contest will be distributed to winners of the first-half of the Tri-Superfecta pool. (3-29-10)

15. Request to Distribute Carryover. A written request for permission to distribute the Tri-Superfecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefits to be derived, and the intended date and performance for the distribution. (3-29-10)

16. Winning Precedence. Should the Tri-Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Tri-Superfecta after completion of the first-half of the Tri-Superfecta: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

d. As a single price pool to those whose combination included, in correct sequence, the first-place betting interest only; but if there are no such wagers, then; (3-29-10)

e. As a single price pool to holders of valid exchange tickets. (3-29-10)

f. As a single price pool to holders of outstanding first-half winning tickets. (3-29-10)

17. Exchange of Tickets. Contrary to Subsection 214.04 these rules, during a performance designated to distribute the Tri-Superfecta carryover, exchange tickets will be issued for those combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Tri-Superfecta. If there are no wagers correctly selecting the first-, second-, and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Tri-Superfecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Tri-Superfecta pool and any existing Tri-Superfecta carryover as a single price pool. (3-29-10)

18. Carryover Designation. The Tri-Superfecta carryover may be designated for distribution on a specified date and performance only under the following circumstances: (3-29-10)

a. Upon written approval from the Racing Commission as provided in Subsection 214.15 of these rules. (3-29-10)

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Tri-Superfecta is discontinued. (3-29-10)

c. On the closing performance of the meet or split meet. (3-29-10)

19. Carryover from Past Subsequent Meet. If, for any reason, the Tri-Superfecta carryover must be held over to the corresponding Tri-Superfecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Tri-Superfecta carryover plus accrued interest will then be added to the second-half Tri-Superfecta pool of the following meet on a date and performance so designated by the Racing Commission. (3-29-10)

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (3-29-10)

21. Contest Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Tri-Superfecta contest, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Tri-Superfecta format requires prior approval from the Racing Commission. (3-29-10)

215. TWIN SUPERFECTA POOLS.

01. Twin Superfecta Pools. The Twin Superfecta requires selection of the first four (4) finishers, in their exact order, in each of two (2) designated contests. Each winning ticket for the first Twin Superfecta contest must be exchanged for a free ticket on the second Twin Superfecta contest in order to remain eligible for the second-half Twin Superfecta pool. Such tickets may be exchanged only at attended ticket windows prior to the second Twin Superfecta contest. Winning first-half Twin Superfecta tickets will receive both an exchange and a monetary payoff. Both of the designated Twin Superfecta contests will be included in only one (1) Twin Superfecta pool. (3-29-10)

02. Dividing Pools. After wagering closes for the first-half of the Twin Superfecta and commissions have been deducted from the pool, the net pool must then be divided into two (2) separate pools: the first-half Twin Superfecta pool and the second-half Twin Superfecta pool. (3-29-10)

03. Winning Precedence. In the first Twin Superfecta contest only, winning wagers must be determined using the following precedence, based upon the official order of finish for the first Twin Superfecta contest: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (3-29-10)

e. The entire Twin Superfecta pool must be refunded on Twin Superfecta wagers for that contest and the second-half cancelled. (3-29-10)

04. Carryover Pool -- First Race. If no first-half Twin Superfecta ticket selects the first four (4) finishers of that contest in exact order, winning ticket holders will not receive any exchange tickets for the second-half Twin Superfecta pool. In such case, the second-half Twin Superfecta pool will be retained and added to any existing Twin Superfecta carryover pool. (3-29-10)

05. Winning Distribution. Winning tickets from the first-half of the Twin Superfecta will be exchanged for tickets selecting the first four (4) finishers of the second-half of the Twin Superfecta. The second-half Twin Superfecta pool must be distributed to winning wagers in the following precedence, based upon the official order of finish for the second Twin Superfecta contest: (3-29-10)

a. As a single price pool, including any existing carryover monies, to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such tickets, then; (3-29-10)

b. The entire second-half Twin Trifecta pool for that contest must be added to any existing carryover monies and retained for the corresponding second-half Twin Superfecta pool of the next performance. (3-29-10)

06. Forfeiture of Second-Half Rights. If a winning first-half Twin Superfecta ticket is not presented for cashing and exchange prior to the second-half Twin Superfecta contest, the ticket holder may still collect the monetary value associated with the first-half Twin Superfecta pool but forfeits all rights to any distribution of the second-half Twin Trifecta pool. (3-29-10)

07. Prohibited Entries. Coupled entries and mutuel fields are prohibited in Twin Superfecta contests. (3-29-10)

08. Scratched First-Half Interest. Should a betting interest in the first-half of the Twin Superfecta be scratched, those Twin Superfecta tickets including the scratched betting interest must be refunded. (3-29-10)

09. Scratched Second-Half Interest. Should a betting interest in the second-half of the Twin Superfecta be scratched, an announcement concerning the scratch must be made and a reasonable amount of time provided for exchange of tickets that include the scratched betting interest. If tickets have not been exchanged prior to the close of betting for the second Twin Superfecta contest, the ticket holder forfeits all rights to the second-half Twin Superfecta pool. (3-29-10)

10. Late Scratch. If, due to a late scratch, the number of betting interests in the second-half of the Twin Superfecta is reduced to fewer than the minimum, all exchange tickets and outstanding first-half winning tickets will be entitled to the second-half Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover. (3-29-10)

11. Dead Heat. If there is a dead heat or multiple dead heats in either the first- or second-half of the Twin Superfecta, all Twin Superfecta tickets selecting the correct order of finish, counting a betting interest involved in a dead heat as finishing in any dead-heated position, is a winner. In the case of a dead heat occurring in: (3-29-10)

a. The first-half of the Twin Superfecta, the payoff is calculated as a profit split. (3-29-10)

b. The second-half of the Twin Superfecta, the payoff is calculated as a single price pool. (3-29-10)

12. Canceled Contest. If either of the Twin Superfecta contests are cancelled prior to the first Twin Superfecta contest, or the first Twin Superfecta contest is declared "no contest," the entire Twin Superfecta pool must be refunded on Twin Superfecta wagers for that contest and the second-half cancelled. (3-29-10)

13. Canceled Second-Half Contest. If the second-half Twin Superfecta contest is cancelled or declared "no contest," all exchange tickets and outstanding first-half winning Twin Superfecta tickets will be entitled to the net Twin Superfecta pool for that contest as a single price pool, but not the Twin Superfecta carryover. If there are no such tickets, the net Twin Superfecta pool must be distributed as described in Subsection 215.03 of these rules. (3-29-10)

14. Capped Carryover. The Twin Superfecta carryover may be capped at a designated level approved by the Racing Commission so that if, at the close of any performance, the amount in the Twin Superfecta carryover equals or exceeds the designated cap, the Twin Superfecta carryover will be frozen until it is won or distributed under other provisions of this rule. After the second-half Twin Superfecta carryover is frozen, one hundred percent (100%) of the net Twin Superfecta pool for each individual contest will be distributed to winners of the first-half of the Twin Superfecta pool. (3-29-10)

15. Request for Carryover. A written request for permission to distribute the Twin Superfecta carryover on a specific performance may be submitted to the Racing Commission. The request must contain justification for the distribution, an explanation of the benefit to be derived, and the intended date and performance for the distribution. (3-29-10)

16. Winning Precedence. Should the Twin Superfecta carryover be designated for distribution on a specified date and performance, the following precedence will be followed in determining winning tickets for the second-half of the Twin Superfecta: (3-29-10)

a. As a single price pool to those whose combination finished in correct sequence as the first four (4) betting interests; but if there are no such wagers, then; (3-29-10)

b. As a single price pool to those whose combination included, in correct sequence, the first three (3) betting interests; but if there are no such wagers, then; (3-29-10)

c. As a single price pool to those whose combination included, in correct sequence, the first two (2) betting interests; but if there are no such wagers, then; (3-29-10)

d. As a single price pool to those whose combination correctly selected the first-place betting interest only; but if there are no such wagers, then; (3-29-10)

e. As a single price pool to holders of valid exchange tickets. (3-29-10)

f. As a single price pool to holders of outstanding first-half winning tickets. (3-29-10)

17. Exchange Ticket Distribution. Contrary to Subsection 215.04 of these rules, during a performance designated to distribute the Twin Superfecta carryover, exchange tickets will be issued for those

combinations selecting the greatest number of betting interests in their correct order of finish for the first-half of the Twin Superfecta. If there are no wagers correctly selecting the first-, second-, third-, and fourth-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-, second-, and third-place betting interests. If there are no wagers correctly selecting the first-, second- and third-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first- and second-place betting interests. If there are no wagers correctly selecting the first- and second-place finishers, in their exact order, then exchange tickets will be issued for combinations correctly selecting the first-place betting interest only. If there are no wagers selecting the first-place betting interest only in the first-half of the Twin Superfecta, all first-half tickets will become winners and will receive one hundred percent (100%) of that day's net Twin Superfecta pool and any existing Twin Superfecta carryover as a single price pool. (3-29-10)

18. Carryover Distribution. The Twin Superfecta carryover must be designated for distribution on a specified date and performance only under the following circumstances: (3-29-10)

a. Upon written approval from the Racing Commission as provided in Subsection 215.15 of these rules. (3-29-10)

b. Upon written approval from the Racing Commission when there is a change in the carryover cap or when the Twin Superfecta is discontinued. (3-29-10)

c. On the closing performance of the meet or split meet. (3-29-10)

19. Carryover Held. If, for any reason, the Twin Superfecta carryover must be held over to the corresponding Twin Superfecta pool of a subsequent meet, the carryover must be deposited in an interest-bearing account approved by the Racing Commission. The Twin Superfecta carryover plus accrued interest will then be added to the second-half Twin Superfecta pool of the following meet on a date and performance so designated by the Racing Commission. (3-29-10)

20. Prohibited Information. Providing information to any person regarding covered combinations, amounts wagered on specific combinations, number of tickets sold, or number of valid exchange tickets is prohibited until the race is made official. This does not prohibit necessary communication between totalisator and pari-mutuel department employees for processing of pool data. (3-29-10)

21. Written Approval. The racing association must obtain written approval from the Racing Commission concerning the scheduling of Twin Superfecta contests, the percentages of the net pool added to the first-half pool and second-half pool, and the amount of any cap to be set on the carryover. Any changes to the approved Twin Superfecta format require prior approval from the Racing Commission. (3-29-10)

216. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. This chapter is cited as IDAPA 11.04.09 "Rules Governing Claiming Races." (3-29-10)

02. Scope. This chapter describes the procedures and requirements for the claiming of horses and the conduct of claiming races. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Certificate of Registration. A document identifying a horse, its breeding and registry. (3-29-10)

02. Claimant. A person who has successfully claimed a horse in a claiming race. (3-29-10)

03. Claimed. A horse that has been properly purchased under these rules. (3-29-10)

04. Claiming Race. A race in which any horse starting may be purchased for a designated amount in conformance with this chapter. (3-29-10)

05. Colt. An intact male horse under five (5) years of age. (3-29-10)

06. Eligible. A horse that is qualified to run in a race under these rules. (3-29-10)

07. Eligible Person. A licensed owner, licensed trainer or authorized agent who has been properly authorized to claim a horse. (3-29-10)

08. Engagements. Race days where a horse has been entered to race. (3-29-10)

09. Filly. A female horse that has not reached five (5) years of age. (3-29-10)

10. Gelding. An altered male horse of any age. (3-29-10)

11. Horse. Includes filly, mare, colt, horse or gelding in general; when referring to sex, a horse is an intact male when five (5) years old or older. (3-29-10)

12. Ineligible or Undisclosed Person. A person that is not eligible to be licensed or a person who has not been properly authorized to claim a horse. (3-29-10)

13. In-foal. A filly or mare that is pregnant. (3-29-10)

14. Licensed Authorized Agent. A person licensed by the Racing Commission and appointed by a written instrument, signed and acknowledged before a notary public by the owner in whose behalf the agent will act. (3-29-10)

15. Mare. A female horse that has reached the age of five (5) years. (3-29-10)

16. Officials. Persons licensed by the state to ensure the rules of racing are enforced. (3-29-10)

17. Owner. A person who holds any title, right or interest, whole or partial in a horse, including the lessee and lessor of a horse. (3-29-10)

18. Racing Association. Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (3-29-10)

19. **Racing Secretary**. The employee of a racing association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. (3-29-10)

20. **Stable**. All the race horses belonging to a particular owner. (3-29-10)

21. **Starter Allowance Race**. A race where entrants have established eligibility by participation in a previous race. *( )*

22. **Steward**. A horse racing official who presides over a race meeting, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (3-29-10)

23. **Title**. Legal document showing ownership of a horse. (3-29-10)

24. **Transfer**. To convey the possession or legal title of a horse to another. (3-29-10)

011. -- 019. (RESERVED)

020. FREE AND CLEAR TITLE.
No person may enter a horse in a claiming race unless the title to said horse is free and clear of any existing lien, either as security interest mortgage, bill of sale, or lien of any kind. (3-29-10)

021. TITLE VESTED.
Title to a claimed horse must be transferred to the claimant at the time the horse becomes an official starter. The successful claimant must then become the owner of the horse whether it be alive or dead, sound or unsound or injured at any time after becoming an official starter. A transfer of ownership arising from a recognized claiming race will terminate any existing prior lease for that horse. (3-29-10)

022. -- 024. (RESERVED)

025. IN-FOAL FILLY OR MARE.
An in-foal filly or mare is eligible to be entered into a claiming race only if the following conditions are fulfilled: (3-29-10)

01. **Condition Disclosed**. Full disclosure of such fact is on file with the racing secretary and such information is posted in the racing office; (3-29-10)

02. **Service Certificate**. The stallion service certificate has been deposited with the racing secretary's office; and (3-29-10)

03. **Release of Service Certificate**. The release of the stallion service certificate to the successful claimant at the time of claim is guaranteed. (3-29-10)

026. -- 028. (RESERVED)

029. RESCISSION OF CLAIM.
The stewards may set aside and order rescission of a claim for any horse from a claiming race run in Idaho upon a showing that any party to the claim committed a prohibited action, as specified in any Racing Commission rule, or that the owner of the horse at the time of entry in the claiming race failed to comply with any requirement of any Racing Commission rule. Should the stewards order a rescission of a claim, they may make a further order for the costs of maintenance and care of the horse as they may deem appropriate. (3-29-10)

030. CLAIMED FOR ENTERED PRICE.
Any horse starting in a claiming race is subject to be claimed for its entered price by any: (3-29-10)

01. **Licensed Owner**. Owner licensed in Idaho; (3-29-10)

02. Authorized Agent. Licensed authorized agent acting on behalf of an eligible person. (3-29-10)

031. -- 034. (RESERVED)

035. ELIGIBLE HORSES.
No horse which has been claimed out of a claiming race in which said horse was declared the official winner, is eligible to start in any other claiming race for a period of thirty (30) days, exclusive of the day it was claimed, for less than twenty-five percent (25%) more than the amount for which it was claimed. A horse which has been claimed out of a claiming race in which said horse was not declared the official winner may be eligible to start for any price desired by the claimant. No horse which has been claimed out of a claiming race is eligible to race at any other race meeting in this state or elsewhere until the close of the meeting where it was claimed, unless its removal from the grounds of such meeting is approved by the Stewards for good cause or is required by the Racing Association where it was claimed. (3-29-10)

036. -- 049. (RESERVED)

050. PROHIBITIONS.

01. Financial or Beneficial Interest. A person may not claim a horse in which the person has a financial or beneficial interest as an owner or trainer. (3-29-10)

02. Undisclosed Financial or Beneficial Interest. A person may not cause another person to claim a horse for the purpose of obtaining or retaining an undisclosed financial or beneficial interest in the horse. (3-29-10)

03. Agreement. A person may not enter into an agreement for the purpose of preventing another person from obtaining a horse in a claiming race. (3-29-10)

04. Ineligible or Undisclosed Person. A person may not claim a horse, or enter into any agreement to have a horse claimed, on behalf of an ineligible or undisclosed person. (3-29-10)

05. No more than One Horse. A person may not claim more than one (1) horse in a race. No authorized agent may submit more than one (1) claim for the same horse in a race, even if the authorized agent represents several owners. When a trainer's stable consists of more than one (1) owner, each owner may submit a claim in any one race, but no two (2) or more *can* submit a claim for any one (1) horse or all such claims *are* void. No person, corporation, partnership, stable name, or other legal entity will be eligible to claim another owner's horse from his own trainer's stable. *( )*

051. -- 059. (RESERVED)

060. VALID CLAIMS.
To make a valid claim for a horse, an eligible person must: (3-29-10)

01. Funds on Deposit. Have on deposit with the horsemen's bookkeeper an amount equal to the amount of the claim, plus all transfer fees and applicable taxes; (3-29-10)

02. Written Claim Form. Complete a written claim on a form furnished by the racing association and approved by the Racing Commission; (3-29-10)

03. Horses Name. Identify the horse to be claimed by the spelling of its name as the name appears on the certificate of registration or as spelled on the official program; (3-29-10)

04. Sealed Envelope. Place the completed claim form inside a sealed envelope furnished by the racing association and approved by the Racing Commission; (3-29-10)

05. Time of Day. Have the time of day that the claim is entered, recorded or electronically stamped by a racing official at the paddock on the envelope; and (3-29-10)

06. Deposit Envelope. Have the envelope deposited in the claim box no later than ten (10) minutes prior to post time of the race for which the claim is entered. (3-29-10)

061. -- 064. (RESERVED)

065. CLAIMS ARE IRREVOCABLE.
After a claim has been deposited in the claim box, it is irrevocable by the claimant and may not be withdrawn from the claim box until the time designated by the stewards. (3-29-10)

066. -- 069. (RESERVED)

070. NO INFORMATION PROVIDED.
Officials and employees of the racing association may not provide any information as to the filing of claims until after the race has been run, except as is necessary for processing of the claim. (3-29-10)

071. -- 079. (RESERVED)

080. MORE THAN ONE CLAIM.
If more than one (1) claim is filed on a horse, the successful claim must be determined by drawing lots conducted by the Stewards or their representatives. (3-29-10)

081. -- 089. (RESERVED)

090. SEX OR AGE OF A HORSE CLAIMED.
Notwithstanding any designation of sex or age appearing in the racing program or in any racing publication, the claimant of a horse is solely responsible for the determination of the sex or age of any horse claimed. (3-29-10)

091. -- 099. (RESERVED)

100. TRANSFER OF OWNERSHIP.
Upon successful claim an authorization of transfer of the horse from the original owner to the claimant must be issued by the stewards on forms approved by the Racing Commission. Copies of the transfer authorization must be forwarded to and maintained by the stewards and the racing office. Upon notification by the stewards, the horsemen's bookkeeper must immediately debit the claimant's account for the claiming price, applicable taxes and transfer fees. (3-29-10)

101. -- 109. (RESERVED)

110. TRANSFER OF POSSESSION.
Transfer of possession of a claimed horse must take place immediately after the race has been run unless otherwise directed by the stewards. If the horse *has* to be taken to the test barn for post-race testing, the original trainer or an authorized representative must maintain physical custody of the claimed horse and observe the testing procedure and sign the test sample tag. The successful claimant or an authorized representative of that claimant may also accompany the horse to the test barn. *( )*

111. -- 119. (RESERVED)

120. DELIVERY OF A CLAIMED HORSE.
No person may refuse to deliver a properly claimed horse to the successful claimant. (3-29-10)

121. -- 129. (RESERVED)

130. TRANSFER OF ENGAGEMENTS.
When a horse is claimed out of a claiming race, the horse's engagements and eligibilities are transferred, with the horse, to the claimant. (3-29-10)

131. -- 139. (RESERVED)

140. RESALE OR TRANSFER OF OWNERSHIP.
Ownership interest in any horse claimed from a race may not be resold or transferred for thirty (30) days after such horse was claimed, except by claim from a subsequent race. (3-29-10)

141. -- 149. (RESERVED)

150. CONTROL OR MANAGEMENT OF FORMER OWNER.
A claimed horse may not remain in the same stable or under the control or management of its former owner. (3-29-10)

151. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.10, "Rules Governing Live Horse Races." (3-29-10)

02. Scope. These rules govern the running of live horse races in Idaho. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Apprentice Jockey. A thoroughbred jockey who has ridden less than one (1) year and less than forty-five (45) winners since first having been licensed in any racing jurisdiction and who otherwise meets the requirements and qualifications for a license as a Jockey. (3-29-10)

02. Authorized Agent. A person appointed by a written instrument signed and acknowledged before a notary public by the owner and filed in accordance with these rules. (3-29-10)

03. **Chemical**. A substance composed of chemical elements or obtained by chemical processes. (3-29-10)

04. **Claiming Race**. A race in which any horse entered therein may be claimed in conformity with these rules. (3-29-10)

05. **Dead Heat**. The finish of a race in which the noses of two (2) or more horses reach the finish line at the same time. (3-29-10)

06. **Declaration**. The act of withdrawing an entered horse from a race before the closing of overnight entries. (3-29-10)

07. **Disqualification**. Interference or a foul determined by the stewards in a contest that may result in an adjustment to the offending entrants finish position. (3-29-10)

08. **Engagements**. Race days where a horse has been entered to race. (3-29-10)

09. **Entry**. Means, according to the requirements of these rules: (3-29-10)

a. A horse made eligible to run a race. (3-29-10)

b. Two (2) or more horses that are entered or run in a race and are coupled because of common ties or ownership. (3-29-10)

10. **Equipment**. As applied to a horse means whips, blinkers, tongue straps, muzzle, nosebands, bits, shadow rolls, martingales, breast plate, bandages, boots, hoods, flipping halters, goggles and plates. (3-29-10)

11. **Forfeit**. Money due because of an error fault, neglect of duty, breach of contract or a penalty. (3-29-10)

12. **Foul**. A violation, by a jockey or horse, of these rules during a race. (3-29-10)

13. **Grounds**. Any area owned or leased by any licensed Racing Association which is operated for the purpose of conducting pari-mutuel racing. (3-29-10)

14. **Handicap**. A weight adjustment for entered horses for the purpose of equalizing the respective chances of winning. (3-29-10)

15. **Horse**. Includes filly, mare, colt, horse and gelding in general; when referring to sex, a filly becomes a mare when five (5) years old; a horse is an entire male when five (5) years old or older. (3-29-10)

16. **Jockey**. A race rider, whether a licensed Jockey, apprentice, or amateur. (3-29-10)

17. **Jostle**. To bump, push or shove. (3-29-10)

18. **Maiden**. A horse that has never won a race on the flat in a state or country where racing is supervised by a legalized Racing Commission or board and where the races are covered by the Racing Form, American Quarter Horse chart books, the Appaloosa Horse Club chart books, the Paint Horse chart books and the Arabian Horse chart books. A maiden that has been disqualified after finishing first still is a maiden. (3-29-10)

19. **Nomination**. The act of nominating to a stake race. (3-29-10)

20. **Nominator**. A person in whose name a horse is entered for a race. (3-29-10)

21. **Owner**. Includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. In case of husband and wife, it is presumed that joint ownership exists. (3-29-10)

22. **Paddock**. An enclosure in which horses scheduled to compete in a contest are saddled prior to racing. (3-29-10)

23. **Person**. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-29-10)

24. **Place**. Means first, second or third and in that order is called "Win," "Place," and "Show." (3-29-10)

25. **Post Position**. The starting position assigned. (3-29-10)

26. **Post Time**. The time set for the arrival at the starting point. (3-29-10)

27. **Preference System**. A method used by the Racing Secretary to determine the order of qualification for a race. (3-29-10)

28. **Race**. A contest between horses for purse, stake or reward on any licensed race track and in the presence of a Judge or Judges. (3-29-10)

29. **Race Day**. Any period of twenty-four (24) hours beginning at midnight and included in the period of a race meeting and in the matter of penalties the word "DAY" means a "CALENDAR DAY." (3-29-10)

30. **Race Meet**. The entire consecutive period for which a license to race has been granted to any one (1) Racing Association by the Racing Commission. (3-29-10)

31. **Racing Association**. Any person licensed by the Racing Commission to conduct live horse racing and pari-mutuel wagering. (3-29-10)

32. **Racing Interest**. Any individual owner or any partnership of owners or corporations or any registered stable, but not including a lessee, which participates as an owning entity or nominator of a race horse. A licensed owner may participate in more than one (1) racing interest. (3-29-10)

33. **Recognized Meet**. Any meet wherever held, which is under the jurisdiction of the Idaho State Racing Commission. The Racing Commission will recognize all race meets conducted under the jurisdiction of members of the National Association of State Racing Commissioners International, or associate members or state and other recognized authority. (3-29-10)

34. **Ringer**. In addition to the definitions expressed in these rules, means any horse which runs under the name and identity of another or under a fictitious name. (3-29-10)

35. **Scratch**. The act of withdrawing an entered horse from the race after closing of overnight entries. (3-29-10)

36. **Scratch Time**. The time set by the Racing Association for the closing of applications for permission to withdraw from the races of that day. (3-29-10)

37. **Stake Race**. A race to which nominators of the engaged entries contribute to a purse; to which money, or any other award, may be added; but no overnight race, regardless of its conditions, is deemed a stake race. (3-29-10)

38. **Starter**. (3-29-10)

a. The individual approved to dispatch the horses in a race. (3-29-10)

b. The horse is a "starter" for a race when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses. (3-29-10)

39. **Stewards**. The Stewards of the meeting or their duly appointed deputies. (3-29-10)

40. **Suspension**. A temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein. (3-29-10)

41. **Trial**. A race to determine qualifiers for a future race. (3-29-10)

42. **Straightaway Race**. A race ran for a specified distance with no turns. (3-29-10)

43. **Weight for Age**. Standard weight according to the scale adopted by the Racing Commission and set forth herein. (3-29-10)

44. **Year**. A calendar year. (3-29-10)

011. -- 019. (RESERVED)

020. ENTER, SEARCH, AND INSPECT.
Every Racing Association, the Racing Commission, the Stewards, or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses that are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (3-29-10)

021. -- 029. (RESERVED)

030. ILLEGAL PRACTICES.

01. Offer of Bribes. No person may give, offer or promise, directly or indirectly, to anyone any bribe, gift or gratuity in any form for the purpose of improperly influencing the result of a race. (3-29-10)

02. Acceptance of Bribes. No person licensed by the Racing Commission, nor any other person, may accept or offer to accept, on his own behalf or on behalf of another, any bribe, gift or gratuity in any form to influence the result of a race. (3-29-10)

03. Conspire. No person may conspire with any other person for the commission of any corrupt or

fraudulent practice in relation to racing, nor may he commit such an act on his own account. (3-29-10)

04. Bets. No person except the Owner or Trainer of the horse the Jockey is riding may make a bet for the account of any Jockey and then only on the horse being ridden by said Jockey. (3-29-10)

05. Shodding. A horse starting in a race must not be shod with ordinary shoes, training shoes or bar plates except by permission of the Stewards. (3-29-10)

06. Devices. No electrical or mechanical device or other appliance designed to increase or decrease the speed of a horse, other than ordinary whip, may be possessed by anyone or applied by anyone to a horse at any time on the grounds of a Racing Association during a meeting whether in a race or otherwise. (3-29-10)

07. Tampering. No person may improperly tamper or attempt to tamper with any horse in such a way as to affect his speed in a race, nor may he counsel or in any way aid or abet any such tampering. (3-29-10)

08. Jockey's Spouse. A jockey may not compete in any race against a horse which is trained by the jockey's spouse. (3-29-10)

031. -- 039. (RESERVED)

040. CONSUMPTION OF ALCOHOL.
No jockey, starter, assistant starter, pony person, outrider, or racing official may have present within his body any amount of alcohol while participating in any horse race held that day. (3-29-10)

041. -- 049. (RESERVED)

050. HORSE RACES -- GENERAL RULES.

01. Post Time. Post time must be shown a reasonable time prior to the race on a clock device, provided for that purpose, prominently displayed and clearly readable from the grandstand. (3-29-10)

02. Paddocks. Horses must be in the paddock at least twenty (20) minutes before post time *and* be saddled in the paddock. *( )*

03. Number. In a race, each horse must carry a conspicuous saddlecloth number and a head number, corresponding to the assigned number on the official program. In the case of an Entry, each horse making up the Entry must carry the same number (head and saddlecloth) with a distinguishing letter. In the case of a Field, the horses comprising the Field must carry an individual number. (3-29-10)

04. Jockey. After the horses enter the track, no Jockey may dismount and no horse is entitled to the care of an attendant without consent of the Stewards or the Starter, and the horse must be free of all hands other than those of the Jockey or assistant starter before the starter dispatches the Field. (3-29-10)

05. Accidents. In case of accident to a Jockey, his mount, or equipment, the Stewards or the starter may permit the Jockey to dismount and the horse to be cared for during the delay, and may permit all Jockeys to dismount and all horses to be attended during the delay. (3-29-10)

06. Injured Jockey. If a Jockey is injured on the way to the post so as to require replacement, the horse must be taken to the paddock and another Jockey and equipment obtained. (3-29-10)

07. Parade. All horses must parade and, under penalty of disqualification, carry their weight from the paddock to the starting post, such parade to pass the Stewards' stand. (3-29-10)

08. Delays. After entering the track, no more than twelve (12) minutes may be consumed in the parade of the horses to the post except in cases of unavoidable delay. After passing the stand once, horses will be allowed to break formation and canter, warm up or go as they please to the post. When horses have reached the post, they must be started without unnecessary delay. (3-29-10)

09. **Willful Delay**. No person may willfully delay the arrival of a horse at the post. (3-29-10)

10. **Selection of Horses**. When the number of horses competing in a race exceeds the numbered capacity of the tote, the Field horses are to be selected by the handicapper or the Racing Secretary. (3-29-10)

11. **Limit on Number of Horses**. No more than eight (8) horses may start in any race on a one-half (1/2) mile track. (3-29-10)

12. **Start**. A horse may not be qualified to start in any race unless the horse has been and continues to be properly entered therein. (3-29-10)

054. -- 059. (RESERVED)

060. STRAIGHTAWAY RACES.

01. Maintain Position. In a Straightaway Race every horse must maintain position as nearly as possible in the lane in which it starts. (3-29-10)

02. Entitled to Room. Every horse in the race is entitled to racing room and may not be deliberately impeded. If a horse is ridden or drifts out of its lane in such a manner that it interferes with or impedes another horse in any way, it is a foul. (3-29-10)

03. Offending Horse. The offending horse may be disqualified when, in the opinion of the Stewards, the outcome of the race was affected by the foul. This applies whether the foul was caused by the horse or by the rider, irrespective of cause. (3-29-10)

04. Caused by Horse. When the Stewards rule that the foul was caused by the horse, in spite of obvious efforts of the Jockey to maintain position in its lane, no blame will be attached to the Jockey. (3-29-10)

05. Effort of Jockey. When the Stewards rule that the Jockey did not make an effort to prevent the foul, then the Jockey may be fined or suspended, or both. (3-29-10)

06. Fined or Suspended. A Jockey who rides the horse out of its lane or fails to make an effort to hold the horse in its lane when the horse is lugging either in or out may be fined or suspended even though no actual foul occurs. (3-29-10)

061. -- 069. (RESERVED)

070. RACES AROUND A TURN.

01. Race Around a Turn. In a race run around a turn, a horse that is in the clear may be taken to any part of the track, except that weaving back and forth in front of another horse may be considered interference or intimidation and may be penalized. (3-29-10)

02. Jostles. If a horse or Jockey jostles another horse, the aggressor may be disqualified unless the jostled horse or Jockey was at fault or the jostle was wholly caused by the fault of some other horse or Jockey. (3-29-10)

03. Crossing Another Horse. A horse crossing another so as to actually impede it is disqualified, unless the impeded horse was partly in fault or the crossing was wholly caused by the fault of some other horse or Jockey. (3-29-10)

04. Strikes. If a Jockey willfully strikes another horse or Jockey or rides willfully or carelessly so as to injure another horse, which is in no way at fault, or so as to cause other horses to do so, the Jockey's horse is disqualified. (3-29-10)

05. Shorten Strides. No Jockey may unnecessarily shorten his horses stride so as to give the appearance of having suffered a foul. (3-29-10)

071. -- 079. (RESERVED)

080. DISQUALIFICATION.
The Stewards are vested with the power to determine the extent of disqualification in case of fouls. (3-29-10)

01. Placing. They may place the offending horse behind such horses as in their judgment it interfered with or they may place it last. (3-29-10)

02. Entries. When a horse is disqualified under these rules, the other horse or horses in the same race coupled as an Entry may be disqualified. (3-29-10)

081. -- 089. (RESERVED)

090. CLAIMS OF FOUL.
Claims of foul under these rules can only be received from the owner, trainer or jockey of the horse alleged to be aggrieved and must be made to the Clerk of the Scales or to the Stewards before the jockey has passed the scales. But nothing in these rules prevents the Stewards taking cognizance of foul riding. (3-29-10)

01. Fouls. Any Jockey against whom a foul is claimed will be given the opportunity to appear or communicate with the Stewards before any decision is made. (3-29-10)

02. Frivolous Complaints. An owner, trainer, or jockey who frivolously complains his horse was crossed or jostled may be subject to disciplinary action. (3-29-10)

091. -- 099. (RESERVED)

100. BEST EFFORT.
All *participants* are expected to give their best efforts in races and any instructions or advice to Jockeys to ride or handle their mounts otherwise than for the purpose of winning are forbidden and such instructions must be reported immediately to the Board of Stewards by the Jockey. All persons giving or following such instructions or advice are subject to disciplinary action by the Board of Stewards. *( )*

101. - 109. (RESERVED)

110. ENTRIES AND DECLARATIONS.
The Racing Secretary is authorized to receive entries and declarations for all races. (3-29-10)

01. Overnight Race. Overnight Race Entries closes at a time designated and published by the Racing Secretary. (3-29-10)

02. Ineligible. No person may enter or start a horse which is known or believed to be ineligible or disqualified. (3-29-10)

03. Ringer. No person may enter or start a horse which is a ringer. (3-29-10)

04. Declaring an Entry. No person may offer or receive money or any other benefit for declaring an Entry from a race. (3-29-10)

05. Entry Refused. The entries of any person, or the transfer of any Entry, may be refused without notice for reasons deemed to be in the best interest of racing as determined by the stewards. (3-29-10)

06. Eligible. All horses must be eligible to start at time of Entry*, and t*o compete in a race, a horse *needs to* be eligible at the time of starting that race. *( )*

07. Responsibility. Any person participating in the entry will be jointly and severally responsible and liable with the Trainer for the accuracy and authority of the entry. (3-29-10)

08. Trainer. No horse is permitted to enter or to start unless in the care and attendance of a licensed Trainer. (3-29-10)

09. Name of Jockey. Upon making an entry, every Trainer *needs* to furnish the name of the Jockey who will ride the entry or, if this is not possible, in any event to furnish the information not later than scratch time. If no Jockey has been named by that hour, the Stewards will name the best available rider for the horse. *( )*

10. Entry Void. If any entry from any disqualified person or a disqualified horse is received, such entry is void and any money paid for such entry may be forfeited to the purse of the race. (3-29-10)

11. Entries. All entries are under the supervision of the Stewards. (3-29-10)

111. -- 112. (RESERVED)

113. COUPLED ENTRIES.

01. Coupled Entries. Two (2) or more horses that are entered in a race will be joined as a mutuel entry and single betting interest if they are owned or leased in whole or in part by the same racing interest or are trained by a trainer who owns or leases any interest in any of the other horses in the race, except: (3-29-10)

a. Multiple horses owned by the same racing interest may be uncoupled in stake races for the purpose of pari-mutuel wagering; or (3-29-10)

b. Multiple horses owned by the same racing interest may be uncoupled for the purpose of pari-mutuel wagering. (4-11-15)

02. Overnight Race. No more than two (2) horses owned by the same racing interest may be entered in an overnight race. Under no circumstances may both horses of such an entry start to the exclusion of a single entry. When making an entry, a preference for one (1) of the horses must be made. (4-11-15)

114. (RESERVED)

115. WRITTEN ENTRIES.
Entries and declarations must be made in writing and signed by the Trainer of the horse, or his delegate or some person deputized by him, except: (3-29-10)

01. Telephone. Entries may be made by telephone or facsimile if approved by the State Steward. All telephone or facsimile entries must be signed by the Trainer of the horse, or his delegate or some person authorized by him, before the horse will be allowed to start in any race. (3-29-10)

02. Entry Blanks. Each Racing Association must provide blank forms on which entries and declarations are to be made *as* approved by the Racing Commission. *( )*

116. -- 119. (RESERVED)

120. REGISTRATION.

01. Duly Registered. No thoroughbred horse will be allowed to enter or start in any race unless duly registered and named at the registry office of the Jockey Club (New York), nor will a quarter horse be allowed to enter or start in any race unless duly registered with the American Quarter Horse Association (Amarillo, Texas), nor any Appaloosa horse will be allowed to enter or start unless duly registered with the Appaloosa Horse Club, Inc., (Moscow, Idaho), with the exception that the Stewards may at their discretion, for good cause, waive this requirement if the horse is otherwise properly identified. (3-29-10)

02. Certificate or Facsimile. At the time of entry, certificate or facsimile of registration from the Jockey Club (New York) or the American Quarter Horse Association (Amarillo, Texas) or the Appaloosa Horse Club, Inc., (Moscow, Idaho) of every horse starting must be filed in the office of the Racing Secretary. The Stewards may at their discretion waive this rule in the case of haul in horses. (3-29-10)

03. New Name. If the name of a horse is changed, the new name together with the former name will be published in the official program for the first three (3) starts after the change has been made. No change of names will be acceptable unless first granted by the Jockey Club, the American Quarter Horse Association, the Appaloosa Horse Club or other registry under which the horse is registered. Violation of any part of this rule will cause the horse to be named a "RINGER" and the horse and all persons connected with the violation will be ruled off and referred to the Racing Commission. (3-29-10)

04. Sex Altered. All geldings and all fillies and mares which have been "spayed" (i.e., rendered incapable of conception by whatever procedure, including removal of the ovaries) must be reported promptly by the owner or person in charge of the animal to the registry office, giving, in the case of geldings, the date of castration (or any other procedures having the effect of castration) and, in the case of fillies and mares, the date and nature of the procedure employed. (3-29-10)

121. -- 129. (RESERVED)

130. IDENTIFICATION.

01. Identification. If entered for the first time, a horse will be identified by stating his name, color, sex and age and the name of his sire and dam as registered. This description must be repeated in every entry until a description of the horse with its name has been published in the official program or the list of entries of the Association or in such other publication as the Racing Commission may designate. In every entry after such publication, its name and age will be sufficient. (3-29-10)

02. Permitted to Start. No horse is permitted to start that has not been fully identified. (3-29-10)

03. Responsibility. Responsibility in the matter of establishing either the identity of a horse or its complete and actual ownership is as binding on the persons so identifying or undertaking to establish as it is on the person having the horse requiring identification and the same penalty applies to them in case of fraud or attempt at fraud. (3-29-10)

04. Method of Identification. All horses must have either a lip tattooed or be identified by a National Animal Identification System compliant device. (3-29-10)

131. -- 139. (RESERVED)

140. OWNERSHIP.

01. Disclosure of Ownership. All ownerships in a horse must be filed with the Racing Secretary before the horse may start, *and update* every change in ownership thereafter during the race meeting. Failure to disclose all ownerships may result in a fine or suspension, or both. *( )*

02. Registration of Partnerships. No horse involved in a partnership will be permitted to enter or to start until the rules for the registration of partnerships have been complied with. (3-29-10)

03. Disqualified. No horse will be qualified to be entered or to start in any race if owned in whole or in part by or if under the direct or indirect management of a person disqualified under Idaho Law or Racing Commission rules. (3-29-10)

141. -- 149. (RESERVED)

150. WORKOUTS.

01. Minimum Number of Workouts. A horse that has never run at a recognized race meet must have a minimum of two (2) official workouts and be approved by the Starter before being eligible to start in an official race. (3-29-10)

02 Recognized Meet. Any horse that has not run at a recognized race meet in the forty-five (45) days prior to the race in which it is sought to be entered must have at least one (1) official workout before being eligible to start in an official race. (3-29-10)

03. Workout Around the Turn. Any horse that has not raced around one (1) turn must have one (1) official workout around the turn before being able to enter or start any race around the turn. (3-29-10)

151. -- 159. (RESERVED)

160. ENTRIES CLOSED.

01. Entries Closed at Advertised Time. Entries must be closed at an advertised time and no entry accepted thereafter. The Racing Secretary, however, with the consent of the Stewards, may postpone closing of overnight races. (3-29-10)

02. Absence of Notice. In the absence of notice to the contrary, entrance and declarations for a stakes race must be at the office of the Racing Secretary who will make provisions therefore. (3-29-10)

03. Hour of Closing. When the hour for closing is designated, entries and declaration for stake races cannot be received afterwards. If an hour is not designated, then the close of entries and declarations will be at the close of the day's draw. (3-29-10)

04. Entries Compiled. Entries that have closed must be complied without delay by the Racing Secretary and conspicuously posted. (3-29-10)

05. Changes. No changes may be made in any entry after closing of entries except the Racing Secretary may correct an error with the approval of the Stewards. (3-29-10)

06. Unclosed Race. The Racing Association has the right to withdraw or change any unclosed race. (3-29-10)

161. -- 169. (RESERVED)

170. NOT QUALIFIED TO START.

01. Listed. No horse on the Stewards, Veterinarians, Starters, or Paddock list is qualified to start. (3-29-10)

02. Money Paid. No horse is allowed to start in a race unless any stake or entrance money payable in respect to that race has been duly paid. (3-29-10)

03. Nominator. The nominator is liable for the entrance money or stake and the death of a horse or mistake in its entry does not release the subscriber or transferee from liability for stake. The entrance money to the purse that is run off will not be returned on the death of a horse or its failure to start for any cause whatever. (3-29-10)

04. Registration Papers. No horse is allowed to start unless the horses registration papers are on file in the Racing Secretary's office. (3-29-10)

05. Unlicensed Owner. No horse is allowed to start unless the horses owner has been licensed by the Racing Commission. (3-29-10)

171. -- 189. (RESERVED)

190. PREFERENCE SYSTEM.

01. Preferred List. A copy of the preferred list will be made available to the Racing Commission and horsemen before taking entries for the following race day. (3-29-10)

02. Excluded Twice. If a horse has been excluded twice consecutively, it has preference over a horse excluded only once and so on. (3-29-10)

03. Opportunity. No horse will be placed on the preferred list if the Owner or Trainer thereof did not accept the opportunity of starting when it was presented. (3-29-10)

04. No Consideration. Horses whose names appear in the entries and have an opportunity to start will be given no consideration whatsoever should they be entered for the following race day and the race overfills, except stakes races. (3-29-10)

05. Claim. In entering horses on the preferred list, a claim of preference must be made at time of entry and noted on the entry or the preference will be lost and no claim of error will be considered by the Stewards if the person making the claim has signed an entry not marked in keeping with these rules. (3-29-10)

191. -- 194. (RESERVED)

195. NOMINATIONS AND ENGAGEMENTS.

01. Nominations and Engagements. Nominations and all entries or rights of entry are valid when a horse is sold with its engagements duly transferred in duly registered partnerships when subscriptions, entries and rights of entry survive in the remaining partners and when entries under the decedent's subscriptions have been made previous to the decedent's death by the transfer of the rights of entry. (3-29-10)

02. When Nominations Void. Nominations and all entries or rights of entry become void on the death of a nominator except in the case of duly registered partnerships or except, subject to the sanction of the Stewards, when the personal representative of an estate of the decedent nominator for the privilege of transfer agrees to assume any and all obligations incident to the original entries. (3-29-10)

03. Transfer. In case of any transfer of a horse with its engagements, such horse will not be eligible to start in any stake unless at the usual time of the running of the stake, or prior thereto, the transfer of the horse and its engagements are exhibited to the Racing Secretary when demanded. (3-29-10)

04. Sold. Should a horse be sold with its engagements, or any part of them, the seller cannot strike the horse out of any such engagements. (3-29-10)

05. Claimed Out. When a horse is claimed out of a claiming race, its engagements are included. (3-29-10)

06. Engagements Voided. If a horse is sold to a disqualified person, said horse's racing engagements is void as of the date of sale. (3-29-10)

196. -- 199. (RESERVED)

200. POST POSITIONS.

01. Post Positions Determined by Lot. Post positions are determined publicly by lot in the presence of the Racing Secretary and Steward. Thereafter if a regular carded horse is excused from a race, all horses will move up in post position order. (3-29-10)

02. Applicability. This rule applies unless the Association specifically provides otherwise in writing in its stake or condition book. (3-29-10)

03. Position. Horses must take their position at the post in the post position order in which their names have been drawn, beginning from the inside rail. (3-29-10)

04. Starter. The starter is the final authority as to the horses' numerical loading order into the starting gate and the order may be changed by the starter with the approval of the Board of Stewards. (3-29-10)

201. -- 209. (RESERVED)

210. NUMBER OF STARTERS.

01. Limit. The race is limited to the number of starters as specified in the conditions. (3-29-10)

02. More Than the Specified Number. If more than the specified number of entries is received in an overnight race, then: (3-29-10)

a. Winners of a stakes race have first preference; (3-29-10)

b. Winners have second preference; (3-29-10)

c. Stake placed maidens have third preference; (3-29-10)

d. Other maidens have fourth preference; and (3-29-10)

e. Non-starters have fifth preference. (3-29-10)

211. -- 219. (RESERVED)

220. DEAD HEAT.

01. Dead Heat. When two (2) or more horses run a dead heat, the dead heat will not be run off. (3-29-10)

02. Purse Divided Equally. The owners of the horses in a dead heat must equally divide the purse money and other prizes. If no agreement can be reached as to which receives the cup, plate or other indivisible prize, they must draw lots for it in the presence of one (1) or more of the Stewards. (3-29-10)

03. First Place. If a dead heat is for first place, each horse is considered a winner of the amount received in accordance with Subsection 202.02 of these rules. (3-29-10)

221. -- 229. (RESERVED)

230. DECLARATIONS.

01. Scratched or Declared. No horse is considered scratched or declared until the Trainer or an authorized agent, or some person authorized by the Trainer, has given due and timely notice in writing to the Racing Secretary. (3-29-10)

02. Stake Races. For stake races, if a horse is not named through the entry box at the specified time of closing, the horse is automatically out. (3-29-10)

03. Irrevocable. The declaration or scratch of a horse is irrevocable. (3-29-10)

04. Miscarriage. If the miscarriage of any declaration by mail or otherwise is alleged, satisfactory proof of such miscarriage is required; otherwise, the declaration is accepted as of the time alleged. (3-29-10)

05. Stewards. All declarations are under the supervision of the Stewards. (3-29-10)

231. -- 239. (RESERVED)

240. SCRATCHES.

01. Scratches. A horse may be scratched from a race if eight (8) betting interests remain in the race. (3-29-10)

02. Request to Withdraw. If there are more requests to withdraw than are available, permission to withdraw will be decided by lot. However, in all races involving the Daily Double or Trifecta, no entry may be withdrawn that would reduce the starting field to less than the number designated by the Racing Secretary except with the permission of the Stewards. (3-29-10)

03. Other Causes. No other entries will be excused except upon receipt of a Veterinarian's Certificate of unfitness, a change of track conditions since the time of entry, or other causes acceptable to the Stewards. (3-29-10)

241. -- 249. (RESERVED)

250. COLORS.

01. Racing Colors. Owners may obtain suitable racing colors that must be registered annually, together with the owners' license application. (3-29-10)

02. Fine. Anyone using colors other than their own are subject to a fine. However, in case of emergency, the Stewards may allow the use of substitute colors which must be of standard track colors furnished by the Racing Association. (3-29-10)

03. Standard Colors. Racing Associations may use standard colors if approved by the Racing Commission. If standard colors are used, such colors must be furnished by the Racing Association and in these instances the owner will not *need* to provide colors. *( )*

251. -- 259. (RESERVED)

260. WEIGHTS.
The following weights are carried when they are not stated in the condition of the race: (3-29-10)

01. Intermediate Length. In races of intermediate lengths, the weights for the shorter distance are carried. (3-29-10)

02. Allowances. In all races, except handicaps and races where the conditions expressly state to the contrary, two-year old fillies are allowed three (3) pounds, three-year old and older fillies and mares are allowed five (5) pounds before the first of September and three (3) pounds thereafter. (3-29-10)

03. Overnight Races. In all overnight races, except handicaps, not more than six (6) pounds may be deducted from the scale of weight for age, except allowances; but in no case may the total of allowance of any type reduce the lowest weight below one hundred three (103) pounds, except that this minimum weight need not apply to two-year olds or three-year olds when racing older horses. (3-29-10)

04. Penalties. Penalties and allowances of weight are not cumulative unless so declared by the conditions of the race. Horses not entitled to the first weight allowance in a race are not entitled to the second and so on. (3-29-10)

261. -- 262. (RESERVED)

263. APPRENTICE JOCKEY WEIGHT ALLOWANCE.

01. Weight Allowance. An Apprentice Jockey must ride with a five (5) pound weight allowance beginning with the first mount for one (1) full year from the date of the fifth winning mount. (3-29-10)

02. After One Year. If after riding one (1) full year from the date of the fifth winning mount the Apprentice Jockey has failed to ride a total of forty (40) winners from the date of the first winning mount, the apprentice must continue to ride with a five (5) pound weight allowance for one (1) more year from the date of the fifth winning mount or until the apprentice has ridden a total of forty (40) winners, whichever comes first. (3-29-10)

03. If Unable to Ride. If an Apprentice Jockey is unable to ride for a period of fourteen (14) consecutive days or more from the date of the apprentice's fifth winning mount because of service in the Armed Forces of the United States or because of physical disablement, the Racing Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such Apprentice Jockey was unable to ride. (3-29-10)

264. (RESERVED)

265. WEIGHTS IN HANDICAP RACES.

01. Weight Assignment. The Handicapper or Board of Handicappers assigns all weight to be carried in a handicap race. (3-29-10)

02. No Alterations. No alteration may be made after publication except in the case of omission through error of the name or weight of a horse duly entered; in which case, by permission of the Stewards, the omission may be rectified by the Handicapper. (3-29-10)

266. -- 269. (RESERVED)

270. WEIGHT FOR AGE.

01. Scale of Weight for Age.

DISTANCE	AGE	JAN	FEB	MAR	APR	MAY	JUN	JUL	AUG	SEP	OCT	NOV	DEC
1/4 Mile	2yrs	104	104	104	108	108	108	112	112	112	116	116	116
	3yrs	120	120	120		122	122	124	124	124	126	126	126
	4yrs & up	128	128	128	128	128	128	128	128	128	128	128	128
1/2 Mile	2yrs	105	108	111	114	114							
	3yrs	117	117	119	119	121	123	125	127	127	128	129	129
	4yrs	130	130	130	130	130	130	130	130	130	130	130	130
	5yrs	130	130	130	130	130	130	130	130	130	130	130	130
	& up	13	13	11	11	9	7	5	4	3	2	1	1
Furlongs	2yrs	102	105	108	111	111							
	3yrs	114	114	117	117	119	121	123	125	126	127	128	128
	4yrs	129	129	130	130	130	130	130	130	130	130	130	130
	5yrs	130	130	130	130	130	130	130	130	130	130	130	130
	& up	15	15	13	13	11	9	7	5	4	3	2	2

One Mile	2yrs	96	99	102	102								
	3yrs	107	107	111	111	113	115	117	119	121	122	123	123
	4yrs	127	127	128	128	127	126	126	126	126	126	126	126
	5yrs	128	128	128	128	127	126	126	126	126	126	126	126
	& up	20	20	17	17	14	11	9	7	5	4	3	3
1-1/4 Mile	2yrs												
	3yrs	101	101	107	107	111	113	116	118	120	121	122	122
	4yrs	125	125	127	127	127	126	126	126	126	126	126	126
	5yrs	127	127	127	127	127	126	126	126	126	126	126	126
	&up	24	24	20	20	16	13	10	8	6	5	4	4
1-1/2 Mile	2yrs												
	3yrs	98	98	104	104	108	111	114	117	119	121	122	122
	4yrs	124	124	126	126	126	126	126	126	126	126	126	126
	5yrs	126	126	126	126	126	126	126	126	126	126	126	126
	& up	26	26	22	22	18	15	12	9	7	5	4	4
2 Miles	3yrs	96	96	92	92	106	109	112	114	117	119	120	120
	4yrs	124	124	126	126	126	126	126	125	125	124	124	124
	5yrs	126	126	126	126	126	126	126	125	125	124	124	124
	& up	28	28	24	24	20	17	14	11	8	5	4	4

(3-29-10)

02. Limit. Exclusively for three-year olds or four-year-olds the weight is one hundred twenty-six (126) pounds and in races exclusively for two-year olds it is one hundred twenty-two (122) pounds. (3-29-10)

271. -- 279. (RESERVED)

280. CLERK OF THE SCALES.

01. In Charge of the Scales. The Clerk of the Scales is in charge of the scales furnished by the Racing Association. (3-29-10)

02. Check the Weight. The Clerk of the Scales must check the weight of all Jockeys out and perform such other duties as are customary. *( )*

03. Record. At the time of weighing out, the Clerk of the Scales must record all overweights *and* announce *them* publicly prior to the first race of the day and before the running of each race. *( )*

04. Weigh In. After each race the Clerk of the Scales must weigh in all Jockeys running fourth or better. (3-29-10)

281. -- 284. (RESERVED)

285. PRE-RACE WEIGH OUT.

01. Specific Horse. Every Jockey must be weighed for a specified horse no more than thirty (30)

minutes before the time fixed for the race. (3-29-10)

02. Jockey Equipment. A Jockey's weight includes riding clothes, saddle and pad but does not include the safety helmet or whip. (3-29-10)

286. -- 289. (RESERVED)

290. OVERWEIGHT.

01. Overweight. If a Jockey intends to carry overweight, the amount thereof must be declared at the time of weighing out. If in doubt as to the proper weight, the weight to be carried may be declared. (3-29-10)

02. More Than Two Pounds. If a Jockey intends to carry overweight exceeding by more than two (2) pounds the weight which the horse is to carry and the Trainer consents, the Jockey must declare the amount of overweight to the Clerk of the Scales at least forty-five (45) minutes before the time appointed for the race and the Clerk must state the overweight on the notice board immediately. Failure on the part of the Jockey to comply with this rule must be reported to the Stewards. (3-29-10)

03. No More Than Seven Pounds. No horse may carry more than seven (7) pounds overweight, except at fair circuit racetracks with the permission of the stewards. (3-29-10)

291. -- 294. (RESERVED)

295. POST RACE WEIGH IN.

01. Upon Completion of a Race. After a race has been run and after the Jockey has pulled up the horse ridden, the Jockey must ride promptly to the area designated by the Stewards. After obtaining permission from the Judges, the Jockey must dismount and present himself to the Clerk of the Scales to be weighed in. If a Jockey is prevented from riding a mount to the Judges stand because of an accident or an illness either to the Jockey or the horse, the Jockey may walk or be carried to the scales or may be excused by the Stewards from weighing. (3-29-10)

02. Preparation for Weigh In. Except by permission of the Stewards upon returning to the Placing Judges stand, every Jockey must unsaddle the horse ridden. No person may touch the Jockey or the horse, except by the bridle, nor cover the horse in any manner until the Jockey has removed the equipment to be weighed. (3-29-10)

03. Carrying Equipment. Each Jockey must weigh in carrying over the Scales all pieces of equipment with which weighed out. Thereafter, the equipment may be given to the Jockey's attendant. (3-29-10)

04. Same Weight. Each Jockey must weigh in at the same weight as that which he weighed out and, if short of it by more than two (2) pounds, the horse will be disqualified. (3-29-10)

05. More Weight. If any Jockey weighs in at more than two (2) pounds over the proper or declared weight, the Jockey will be fined or suspended or ruled off by the Stewards, having due regard for any excess weight caused by rain or mud. The case must be reported to the Racing Commission for such action as it may deem proper. (3-29-10)

296. -- 299. (RESERVED)

300. PADDOCK JUDGE.
The Paddock Judge is in charge of the paddock. (3-29-10)

01. Horses. The Paddock Judge must check all horses for each race. (3-29-10)

02. Records. The Paddock Judge must keep a record of equipment carried by horses in races under the Paddock Judge's jurisdiction *and he may* not permit any change in equipment not authorized by the Stewards. *( )*

03. Shod. The Paddock Judge must determine that horses in the paddock are properly shod and report any irregularities to the Stewards. (3-29-10)

04. Bandages. The Paddock Judge and the Commission Veterinarian must inspect bandages on horses prior to the participation in a race. They may order removal and replacement of bandages. They must report any indications of fraud in the type of bandages or other equipment to the Stewards. (3-29-10)

05. Commands. The Paddock Judge issues the command "RIDERS UP" and the order to proceed to the post parade. (3-29-10)

06. Conduct. The Paddock Judge is responsible for the conduct of all persons in the paddock and all irregularities in conduct must be reported to the Stewards. (3-29-10)

07. Paddock Safety. The Paddock Judge is responsible for safety in the paddock and for safety reasons may limit the number of people allowed in the paddock area. (3-29-10)

301. -- 309. (RESERVED)

310. EQUIPMENT.

01. Permission Needed for Equipment Change. Permission for any change of equipment from that which a horse carried in its last race must be secured from the Paddock Judge before being granted by the Stewards. Such change *needs to* be announced or posted for public information. *( )*

02. Blinkers. Permission to use or discontinue the use of blinkers must be secured from the starter before being granted by the Stewards. (3-29-10)

03. Bridles and Whips. All bridles and whips must be of racing design and in a clean serviceable condition approved by the Stewards. All whips must have a minimum of three (3) rows of feathers. (3-29-10)

04. Tongue Tie. Permission to use or discontinue the use of a tongue tie must be secured from the Paddock Judge before being granted by the Stewards. (3-29-10)

05. Change. Any equipment change from the time the horses enter the track until the horses are dispatched at the start of the race must be made by the Starter. If schooled before the Starter and approved by him and the Stewards before time of entry, a whip or blinkers, or both, may be used on two-year-olds and other first time starters. (3-29-10)

06. Head Number. Every horse in a race must have a head number attached at the junction of the brow band and the head piece of the bridle. This number must correspond to the saddle cloth number of the horse as shown on the program. The Stewards may for good cause excuse this requirement. *( )*

311. -- 319. (RESERVED)

320. THE STARTER.

01. Starter. The Starter must give orders to secure a fair start. To avoid delay, if after reasonable efforts a horse cannot be led or backed into position, the Starter will request the horse scratched by the Stewards. (3-29-10)

02. Starting Gate. All races must utilize a starting gate approved by the Racing Commission, except that with permission of the Stewards a race may be started with or without a gate. When the starting gate is used, it must be placed on the track at the direction of the Starter. (3-29-10)

03. Assistants. The Starter may appoint assistants but neither the Starter nor assistants may strike or use abusive language toward a Jockey. The Starter or assistant will be disciplined by the Stewards for violation of this rule. (3-29-10)

04. Schooled. Horses must be schooled under the supervision of the Starter or assistants and the Starter

must designate the horses to be placed on the starters list, a copy of which *is to* be posted in the office of the Racing Secretary. *( )*

05. Approval. The Starter must approve all entries of two-year-olds and first time starters before they are allowed to start. (3-29-10)

06. Disciplinary Action. The Starter may recommend to the Stewards disciplinary action against Jockeys or other persons. (3-29-10)

321. -- 329. (RESERVED)

330. TIMER.

01. Timers. The Timers, the number to be determined by the Stewards, must occupy the Timer's stand or other appropriate place during the running of a race and they will record the time of each race for posting. At the close of each day's racing, they must file a written report of the time, including the fractional time, of each race of the day with the Racing Secretary. (3-29-10)

02. Recorded Time. The time recorded for the first horse to cross the finish line is the official time of the race. If a horse establishes a track record and it is later determined there is a presence of a drug, such track record is null and void. (3-29-10)

03. Electronic Timing. Electronic timing devices must be approved by the Racing Commission. (3-29-10)

331. -- 339. (RESERVED)

340. PATROL JUDGE.

01. Duties. The Racing Association may appoint and assign Patrol Judges, as required by the Stewards, whose duties are to view each race from the vantage point assigned to them by the Stewards. (3-29-10)

02. Communication. The Racing Association must provide communication devices between the Patrol Judges and the Stewards. (3-29-10)

03. Report. Prior to 9 a.m. the following work day the Patrol Judge must report in writing the Judge's observation of each race *and* be provided to the Stewards. *( )*

341. -- 349. (RESERVED)

350. PLACING JUDGES.
The Placing Judge or Judges may decide which horse wins and assign respective places in the race as is proper, usually the first four (4) finishing positions. When the Judges differ, the majority governs. In determining the places of horses at the finish of a race, the Placing Judges must consider only the respective noses of such horses. (3-29-10)

351. -- 359. (RESERVED)

360. PHOTO FINISH CAMERA.

01. Approved Camera. A photo finish camera that has been approved by the Racing Commission must be installed as an aid to the Placing Judges at each track. (3-29-10)

02. Judges Decision. The camera is merely an aid and the decision of the Judges is final. The finish line must appear in the photos. (3-29-10)

03. Photo Posted. The photograph of each photo finish must be posted in at least one (1) conspicuous place at the track as promptly as possible after each such race. (3-29-10)

04. Photographic Record. The Racing Association must keep a photographic record of each race on file for the duration of the race meet for reference or reproduction upon request of the Racing Commission. (3-29-10)

361. PLACING ERRORS.

01. Errors. Nothing in these rules may be construed to prevent the Placing Judges, with the approval of the Stewards, from correcting an error before the display of the sign "OFFICIAL." (3-29-10)

02. Method. If the "OFFICIAL" sign is displayed in error, the pools and purses must be calculated for both error and correction and the Racing Association must make up any losses. (3-29-10)

362. VIDEO RECORDS.
In instances where there was an inquiry, disqualification or suspension as a result of the running of the race, video camera tapes of races will be kept until released in writing by the Racing Commission. (3-29-10)

363. -- 369. (RESERVED)

370. CLAIMING RACES.
All claiming races must be run in conformance with these rules and IDAPA 11.04.09 "Rules Governing Claiming Races". (3-29-10)

371. -- 399. (RESERVED)

400. STAKE RACE APPLICATIONS.

01. Stake Race Nomination Applications. Stake race nomination applications must be submitted to the Racing Commission for approval. Rules adopted by the Racing Commission supersede conditions of the race. (3-29-10)

02. Weights. Weights, or the method of selection of weights, must be listed on the nomination application. (3-29-10)

03. Purse. Stake nomination applications must indicate the amount of money to be added to the purse by the Racing Association or sponsor, if any. (3-29-10)

04. No Deductions. No deductions may be withheld from the purse unless so stated on the nomination application. (3-29-10)

401. -- 404. (RESERVED)

405. STAKE RACE NOMINATIONS.
If a nominee is sold, the entry goes with the foal and fees may be kept up by the buyer. There will be no refunds. If a nominee dies, the entry fees remain in the race. (3-29-10)

406. -- 409. (RESERVED)

410. NOMINATION AND ENTRY FEES.

01. Fees Deposited. Nomination and entry fees must be deposited in an account approved by the Racing Commission. (3-29-10)

02. Interest. Accrued interest must be added to the purse of the stakes race. (3-29-10)

03. List. A list of all horses remaining eligible must be sent to the Racing Commission and each nominator or made available on a website listed on the nomination application to the stake no later than fourteen (14) days after the closing of each payment. (3-29-10)

04. Deposits. All monies and accrued interest must be deposited with the Horsemen's Bookkeeper prior to the day of entry. (3-29-10)

05. Refund. Any horses drawing outside the gate will have the entry fee refunded. (3-29-10)

411. -- 414. (RESERVED)

415. CANCELLATION OF A STAKES RACE.
A Racing Association reserves the right, with the consent of the Racing Commission, to cancel or postpone a stakes race. (3-29-10)

416. -- 419. (RESERVED)

420. FAILURE OF STALL GATE.
No liability will be incurred beyond the refund of starting and entry fees if a stall gate fails to open and such horse is declared a nonstarter. (3-29-10)

421. -- 424. (RESERVED)

425. RACE OFF.
If a stake race is declared off, all nominations and fees and accrued interest paid in connection with that race must be refunded. Incurred administration expense may be deducted, subject to review by the Racing Commission. (3-29-10)

426. -- 429. (RESERVED)

430. STAKE TRIALS.

01. Trial. Except in cases where the starting gate physically restricts the number of horses starting, each trial must consist of no more than ten (10) horses. (3-29-10)

02. Less Than Ten Stalls. If the Racing Association's starting gate has less than ten (10) stalls, then the maximum number of qualifiers will correspond to the maximum number of starting gate positions. (3-29-10)

03. Finals Only. The Racing Association may choose to run a finals only if the number of horses eligible is less than the available stalls in the starting gate. (3-29-10)

431. -- 434. (RESERVED)

435. TRIALS RACED UNDER SAME CONDITIONS.

01. Same Conditions. The trials must be raced under the same conditions as the finals and the number of qualifiers for the finals must correspond to the number of stalls in the starting gate for the finals. (3-29-10)

02. Conducted On Same Day. If the trials are conducted on the same day, the number of horses corresponding to the stalls available in the starting gate per the conditions of the race will qualify to participate in the finals. (3-29-10)

03. Conducted On Two Days. If the trials are conducted on two (2) days, one-half (1/2) of the horses that qualify for the finals must come from the first day of trials and one-half (1/2) of the horses that qualify for the finals must come from the second day of trials. (3-29-10)

04. More Than One Entry. When trials are conducted on two (2) days, the Racing Secretary must split owners with more than one (1) entry into separate days. (3-29-10)

436. -- 439. (RESERVED)

440. QUALIFICATION BASED ON TIME.

01. Qualifying. In the time trials, horses qualify on the basis of time and order of finish. The times of the horses in the time trial will be determined to the limit of the timer. (3-29-10)

02. Same Trial Heat. The only exception is when two (2) or more horses have the same time in the same trial heat. Then the order of finish also determines the preference in qualifying for the finals. (3-29-10)

03. Different Trial Heats. Should two (2) or more horses in different time trials have the same qualifying time to the limit of the timer for the final qualifying position(s), then a draw by public lot will be conducted as directed by the Stewards. (3-29-10)

04. Not Determined Beyond the Limit of the Timer. Qualifying times in separate trials will not be determined beyond the limit of the timer by comparing or enlarging photo-finish images, or both. (3-29-10)

05. Adjustments. No adjustments will be made in the times recorded in the time trials to account for head-wind, tail-wind, off-track, etc. (3-29-10)

441. -- 444. (RESERVED)

445. DISQUALIFICATION.

01. Disqualification. Except in the case of disqualification, under no circumstances will a horse qualify ahead of a horse that finished ahead of that horse in the official order of finish in a time trial. (3-29-10)

02. Interference. Should a horse be disqualified for interference during the running of a time trial, it will receive the time of the horse it is immediately placed behind plus one hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. (3-29-10)

03. No Time. If a horse is disqualified for interference with another horse causing loss of rider or the horse not to finish the race, the disqualified horse will be given no time plus one hundredth (.01) of a second, or the maximum accuracy of the electronic timing device. (3-29-10)

446. -- 449. (RESERVED)

450. TIMER MALFUNCTION IN A TIME TRIAL.

01. Electronic Time Malfunction. Should a malfunction occur with electronic timer on any time trial, finalists from that time trial will then be determined by official hand times operated by three (3) official and disinterested persons. (3-29-10)

02. Average of Times. The average of the three (3) hand times will be utilized for the winning time, unless one (1) of the hand times is clearly incorrect. In such cases, the average of the two (2) accurate hand times will be utilized for the winning time. Other horses will be given times according to the order and margins of finish with the aid of the photo-finish, if available. (3-29-10)

03. Malfunction in Some Trials Only. When there is a malfunction of the timer in some time trials, but the timer operates correctly in other time trials, the accurate electronic times will not be discarded, nor will the average of the hand times be used for all time trials. (3-29-10)

04. Accuracy Questioned. If the accuracy of the electronic timer or the average of the hand times, or both, are questioned, the video of a time trial may be used by the stewards to estimate the winning time by counting the number of video frames in the race from the moment the starting gate stall doors are fully open parallel to the racing track. (3-29-10)

05. Based on Video. When the timer malfunctions and there are no hand times, the stewards may select qualifiers based on the video. (3-29-10)

451. QUALIFICATION BASED ON ORDER OF FINISH.

01. Order of Finish. Qualification for finals may be based upon order of finish in the trials as opposed to time. (3-29-10)

02. Top Finishers. The top finishers in each trial heat will qualify in equal numbers from each heat with the total number of qualifiers limited to the maximum number of starting gate positions. (3-29-10)

03. Equal Number of Qualifiers. In the event an equal number of qualifiers from each trial heat will not be sufficient to fill all stating gate positions, the remaining positions will be filled by lot between the horses in each trial heat that finished directly behind those that qualified. (3-29-10)

452. -- 454. (RESERVED)

455. STARTING GATE MALFUNCTION.

01. Malfunction. Should there be a malfunction of the starting gate, and one (1) or more stall doors do not open or open after the exact moment when the starter dispatches the field, the stewards may declare the horses with malfunctioning stall doors non-starters and the starting and entry fees refunded, or may allow any horse whose stall door opened late, but still ran a time fast enough to qualify to be declared a starter for qualifying purposes. (3-29-10)

02. Breaks Through Gate. If a horse breaks through the stall door, or the stall door opens prior to the exact moment the starter dispatched the field, the horse must be declared a non-starter and the starting and entry fees refunded. If the field has not been dispatched, the horse may be allowed to start at the discretion of the Stewards. (3-29-10)

03. Considered Starters. If one (1) or more, but not all, stall doors open at the exact moment the starter purposely dispatches the field, all horses should be considered starters for qualifying purposes and placed according to their electronic time. (3-29-10)

456. -- 459. (RESERVED)

460. SCRATCHED FROM TRIALS.
If a horse should be scratched from the trials, the horse's owner is not eligible for a refund of the fees paid and is not allowed to enter the final. (3-29-10)

461. -- 464. (RESERVED)

465. SCRATCHED FROM FINALS.
If a horse that qualified for the final should be unable to enter due to racing soundness, or scratched for any reason other than a positive drug test or a rule violation, the horse is deemed to have earned and the owner will receive, last place purse money. If more than one (1) horse is scratched from the final, then those purse monies will be added together and divided equally among those owners. (3-29-10)

466. -- 469. (RESERVED)

470. QUALIFIER INELIGIBLE.

01. Prior to Entry. If a qualifier for a final or consolation is disqualified for ineligibility or a rule violation after the trials are declared official, but prior to entry for the final or consolation, the next eligible horse to qualify will replace the disqualified horse. (3-29-10)

02. After Entry. If a qualifier is disqualified after entry for the final or consolation for ineligibility or a rule violation in the trials, the purse will be redistributed, and the next eligible horse to qualify will receive last place purse money. (3-29-10)

471. -- 474. (RESERVED)

475. ALSO ELIGIBLE.

01. Also Eligibles. There will be no more than four (4) also eligibles selected when one (1) division of a stake is to be run. Horses cannot be advanced after the regular advertised scratch time. (3-29-10)

02. No Also Eligible List. When two (2) or more divisions of the same stake are to be run, there will be no "also eligible list" in any of the two (2) or more divisions and if a horse should scratch, the owner will receive last place purse money in that particular division for which the horse qualified. (3-29-10)

03. More Than One Scratch. If more than one (1) horse should scratch out of the same division, than those monies will be added together and divided equally among those scratching out of that division. (3-29-10)

476. -- 499. (RESERVED)

500. JOCKEY ROOM CUSTODIAN.
The Jockey Room Custodian must be in attendance at all times that the Jockeys are in the Jockey room. The Custodian is authorized to regulate the conduct of Jockeys. (3-29-10)

501. -- 529. (RESERVED)

530. IDENTIFIER.

01. Identifier. The Identifier is responsible for positively identifying all horses entered to race. (3-29-10)

02. **Inspection**. The Identifier inspects each horse prior to its departure for the post. (3-29-10)

03. **Other**. The Identifier inspects, identifies and prepares I.D. cards by using the lip tattoo, markings from photos, written descriptions, or National Animal Identification System compliant devices. (3-29-10)

531. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (5-8-09)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.13, "Rules Governing the Idaho State Racing Commission." (5-8-09)

02. Scope. These rules govern the Idaho State Racing Commission. (5-8-09)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Chairman. The presiding officer of the Racing Commission. (5-8-09)

02. Commissioner. One (1) of the three (3) members of the Idaho State Racing Commission. (5-8-09)

03. Costs. Charges and expenses reasonably necessary to carry out the business of the Racing Commission. (5-8-09)

04. Exclusion. The act of preventing a person from entering or remaining on the grounds of any racing association or simulcast facility under the jurisdiction of the Racing Commission. (5-8-09)

05. License. A permission granted by the Racing Commission to engage in any regulated activity. (5-8-09)

06. **Natural Person**. Any person eighteen (18) years of age or older, but does not include any corporation, partnership, limited liability company, trust, or estate. (5-8-09)

07. **Person**. Any individual, racing association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, limited liability company or any legal entity, that is recognized by law as the subject of rights and duties. (5-8-09)

08. **Quorum**. Two (2) or more members of the Racing Commission. (5-8-09)

09. **Race**. A contest between horses for purse, stake or reward run by any racing association and in the presence of a judge or judges. (5-8-09)

10. **Race Days**. The number of racing days authorized by the Racing Commission in a racing association license. (5-8-09)

11. **Racing Association**. Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (5-8-09)

12. **Simulcast Operator**. A person licensed by the Racing Commission to operate a simulcast wagering system as provided for by these rules. (5-8-09)

011. -- 014. (RESERVED)

015. GENERAL AUTHORITY.

01. Racing Commission to Regulate Races and Participation. The Racing Commission will regulate each race meet and the persons who participate in each race meet. (5-8-09)

02. Racing Commission to Regulate Simulcast and Advance Deposit Wagering. The Racing Commission will license and regulate all simulcast operators and activities and advance deposit wagering and

activities. (5-8-09)

016. COSTS AND ANNUAL REPORT.

01. Audited and Approved. Costs necessary to administer the Racing Commission will be audited and approved by the Racing Commission. (5-8-09)

017. -- 019. (RESERVED)

020. MEETINGS.
The Racing Commission will meet at the call of the chair or a majority of the members, or as otherwise provided by statute. Notice of the meetings *will* be given and the meetings conducted in accordance with Idaho's Open Meeting Act, Section 67-2340 through 67-2347, Idaho Code. *( )*

***021. –* 023. (RESERVED)**

024. HORSEMEN'S GROUP.
For purposes of these rules, whichever group was the recognized horsemen's group in 2004 is hereby designated as the existing horsemen's group. (5-8-09)

01. Decertifying an Existing Horsemen's Group - Notice of Intent and Petition. Upon the filing with the Racing Commission of a notice of intent to decertify an existing horsemen's group by an alternate horsemen's group, the alternate horsemen's group has no more than six (6) months from the date of filing to acquire, on a petition, the signatures of twenty-five percent (25%) of the existing horsemen's group's licensed members. (5-8-09)

a. Contents of Notice. The notice of intent *needs to* contain the following: *( )*

i. The name of the alternate horsemen's group; (5-8-09)

ii. The names of the principals of the horsemen's group; (5-8-09)

iii. The date of filing; (5-8-09)

iv. The articles of incorporation and bylaws; and (5-8-09)

v. A copy of the petition as it will be circulated. (5-8-09)

b. No more than one (1) petition by any alternate horsemen's group to decertify an existing horsemen's group will be circulated at any given time. (5-8-09)

c. In addition, the alternate horsemen's group must submit the names of a minimum of fifty (50) members who *are* Idaho licensed owners or trainers. *( )*

02. Racing Commission's Receipt of Petition. (5-8-09)

a. Upon receipt of a petition that meets the criteria set forth in Subsection 024.01 of these rules, the Racing Commission will consider the petition and will validate the signatures found on said petition. Validation includes, but is not limited to, verification of current Idaho licensed owners and trainers and signature verification. (5-8-09)

b. If the validated signatures do not meet the requirements of these rules, the Racing Commission will notify the alternate and the existing horsemen's groups that no further action will be taken on the petition. (5-8-09)

03. Validating Signatures, Setting of Election Date, Conducting an Election. (5-8-09)

a. If the validated signatures are found to meet these requirements, the Racing Commission will set

the date for the election prior to the next regularly scheduled meeting. (5-8-09)

b. A representative of the alternate horsemen's group must appear to answer any questions at the meeting at which signatures are validated. (5-8-09)

c. The existing horseman's group must conduct an election among the licensed members *and report the* results to the Racing Commission. *( )*

d. A deciding vote of fifty percent plus one (50% + 1) of the ballots returned must be used to determine the one organization to be recognized as the horsemen's group, absent clear and convincing evidence that the election was fraudulent. (5-8-09)

04. Good Cause. Except for good cause, the Racing Commission will not conduct an election within eighteen (18) months of a prior election among the existing group's licensed members. (5-8-09)

025. (RESERVED)

026. PROHIBITED ACTS.
The Commissioners and Racing Commission employees *can*not: ( )

01. Financial Interest. Own a financial interest in a racing association or simulcast operation located in Idaho. (5-8-09)

02. Accept Remuneration. Accept remuneration from a racing association or simulcast operation located in Idaho. (5-8-09)

03. Owner, Lessor or Lessee. Be an owner, lessor or lessee of a horse or a mule that is entered in a race at a licensed race meet in Idaho. (5-8-09)

04. Wager. Commissioners and Racing Commission employees *can*not wager in any pari-mutuel pool at any facility or through any pari-mutuel system in the State of Idaho. *( )*

027. -- 029. (RESERVED)

030. POWER OF ENTRY.
Members of the Racing Commission will have the right to enter and inspect any part of the grounds and facilities of the racing association or simulcast operator. (5-8-09)

031. -- 034. (RESERVED)

035. EXCLUSION.
The Racing Commission may order an individual excluded from all or part of any racing association or simulcast operator's grounds under the statutory jurisdiction of the Racing Commission if the stewards or judges or executive director of the Racing Commission determine that: (5-8-09)

01. Deemed to Be Detrimental. The individual is deemed to be detrimental to the best interest of racing or is in violation of Section 54-2509, Idaho Code, or these rules. (5-8-09)

02. Honesty and Integrity. The individual's presence on a racing association or simulcast operator's grounds is inconsistent with maintaining the honesty and integrity of racing. (5-8-09)

036. -- 039. (RESERVED)

040. ALLOCATION OF RACE DAYS AND RACES.
The Racing Commission is the sole judge of the number of race days and races for which each racing association is licensed. (5-8-09)

041. PUBLIC HEALTH OR SAFETY HAZARD.
Nothing in these rules is intended to require race days and races to be held if it constitutes a public health or safety hazard. (5-8-09)

042. CANCELLATION OF RACE DAYS OR RACES.
Racing days or races within a racing day specified on a racing association's license may be cancelled under the following conditions: (5-8-09)

01. Conditions. Conditions at the racing facility constitute a health or safety hazard for people using the facility. (5-8-09)

02. Inclement Weather. Inclement weather or track conditions constitute a health or safety hazard for track personnel or horses entered to race. (5-8-09)

03. Approved Cancellation. The Racing Commission approved the cancellation due to a health or safety hazard. (5-8-09)

04. **Advanced Approval**. Races cancelled for any reason other than a health or safety hazard must be approved in advance by the Racing Commission. (5-8-09)

05. Rescheduling Cancelled Races. The Racing Association will make a good-faith effort to reschedule cancelled races. (5-8-09)

043. -- 999. (RESERVED)

11.04.14 – RULES GOVERNING OWNERS, TRAINERS, AUTHORIZED AGENTS, JOCKEYS, APPRENTICE JOCKEYS, AND JOCKEY AGENTS

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.14, "Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents". (3-29-10)

02. Scope. These rules govern the conduct of Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents in Idaho. (3-29-10)

002. -- 009. (RESERVED).

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Apprentice Jockey. A Jockey who has ridden less than one (1) year and less than forty-five (45) thoroughbred winners since first having been licensed in any racing jurisdiction and who otherwise meets the requirements and qualifications for a license as a Jockey. (3-29-10)

02. Authorized Agent. A person appointed by a written instrument signed and acknowledged before a notary public by the Owner and filed in accordance with these rules. (3-29-10)

03. Bleeder. Any horse known to have bled from its nostrils during a workout or race, and so designated by the Commission Veterinarian. (3-29-10)

04. Bribe. Anything of value not limited to money. (3-29-10)

05. Chemical. A substance composed of chemical elements or obtained by chemical processes. (3-29-10)

06. Declaration. The act of withdrawing an entered horse from a race before the closing of overnight entries. (3-29-10)

07. Disqualified Person. A person whose license is suspended. (3-29-10)

08. Drug. Any chemical compound or any noninfectious biological substance not used for its mechanical properties, which may be administered to or used on or for patients, either human or animal, as an aid in diagnosis, treatment or prevention of disease or other abnormal condition, for the relief of pain or suffering, or to control or improve any physiological or pathological condition. (3-29-10)

09. Engagement. An agreement between a Jockey and an Owner or Trainer. (3-29-10)

10. Entry. A horse made eligible to run a race. (3-29-10)

11. Equipment. As applied to a horse means whips, blinkers, tongue straps, muzzle, nosebands, bits, shadow rolls, martingales, breast plate, bandages, boots, hoods, flipping halters, goggles and plates. (3-29-10)

12. Gifts. Anything of value not limited to money. (3-29-10)

13. Gratuities. Anything of value not limited to money. (3-29-10)

14. Grounds. Any area owned or leased by any licensed Racing Association, which is operated for the purpose of conducting pari-mutuel wagering. (3-29-10)

15. Horse. Any filly, mare, colt, horse or gelding includes filly, mare, colt, horse and gelding in general; when referring to sex, a filly becomes a mare when five (5) years old; a horse is an intact male when five (5) years old or older. (3-29-10)

16. **Jockey**. A person licensed by the Racing Commission to ride in races. (3-29-10)

17. **Jockey Agent**. A person who helps a Jockey obtain mounts in return for a portion of the Jockey's earnings. (3-29-10)

18. **Jockey's Fees**. The approved amount of money a Jockey receives for riding in a race. (3-29-10)

19. **Month**. A calendar month. (3-29-10)

20. **Nerved**. A surgical procedure in which the nerve supply to the navicular area is removed. The toe and remainder of the foot have feeling. (3-29-10)

21. **Nomination**. Submitting the name of a horse to run in a certain race or series of races accompanied by the payment of any prescribed fee. (3-29-10)

22. **Nominator**. A person in whose name a horse is entered for a race. (3-29-10)

23. **Overnight Race**. A race for money or any other prize to which the Owners of the horses do not contribute. (3-29-10)

24. **Owner**. Includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. In case of husband and wife, it is presumed that joint ownership exists. (3-29-10)

25. **Paddock**. An enclosure in which horses scheduled to compete in a contest are saddled prior to racing. (3-29-10)

26. **Person**. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-29-10)

27. **Place**. Means first, second or third and in that order is called "Win," "Place," and "Show." (3-29-10)

28. **Race**. A contest between horses for purse, stake or reward on any licensed race track and in the presence of a Judge or Judges. (3-29-10)

29. **Race Meet**. The entire consecutive period for which a license to race has been granted to any one (1) racing association by the Racing Commission. (3-29-10)

30. **Racing Association**. Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (3-29-10)

31. **Racing Colors**. Racing silks, the jacket and cap worn by Jockeys. Silks can be generic and provided by the track or specific to one (1) Owner. (3-29-10)

32. **Recognized Race Meet**. Any race meet wherever held, which is under the jurisdiction of the Racing Commission. The Racing Commission will recognize all race meets conducted under the jurisdiction of members of the Association of Racing Commissioner International, or associate members or state and other recognized authority. (3-29-10)

33. **Ringer**. Any horse which runs under the name and identity of another or under a fictitious name. (3-29-10)

34. **Safety Equipment**. Any safety equipment to be worn *as specified* by these rules. *( )*

35. **Scratch**. The act of withdrawing an entered horse from the race after closing of overnight entries. (3-29-10)

36. **Scratch Time**. The time set by the Racing Association for the closing of applications for permission to withdraw from the races of that day. (3-29-10)

37. **Sound**. A horse that is in competitive racing condition. (3-29-10)

38. **Stake Race**. A race to which nominators of the engaged entries contribute to a purse; to which money, or any other award, may be added; but no overnight race, regardless of its conditions, may be deemed a stake race. (3-29-10)

39. **Steward**. A horse racing official who presides over a race meet, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (3-29-10)

40. **Suspension**. Punishment for infraction of the rules. The offender is denied privileges of the racetrack for a specified period of time. (3-29-10)

41. **Trainer**. The person who conditions and prepares a race horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (3-29-10)

42. **Valet**. An employee who takes care of a Jockey's equipment, ensures that the correct silks are at the Jockey's locker, and the Jockey has the proper weight in the lead pad. (3-29-10)

43. **Weight In**. Post-race weight of the Jockey and equipment. (3-29-10)

44. **Weight Out**. Pre-race weight of the Jockey and equipment. (3-29-10)

45. **Winner**. The horse whose nose reaches the finish line first or is place first through disqualification by stewards. (3-29-10)

46. **Year**. A calendar year. (3-29-10)

011. -- 019. (RESERVED)

020. OWNERS AND TRAINERS.
All Owners and Trainers of horses and their stable employees are subject to the Laws of Idaho and the Rules promulgated by the Racing Commission upon occupancy of stabling accommodations on the grounds of a Racing Association or upon entering a horse to run in a race on a Racing Association track. (3-29-10)

021. -- 024. (RESERVED)

025. ENTER, SEARCH, AND INSPECT.
Every Racing Association, the Racing Commission, the Stewards or trained and qualified Agents of the Idaho State Police, has the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (3-29-10)

026. -- 029. (RESERVED)

030. EMPLOYEES.
Any Owner or Trainer that employs any person in a capacity that *needs* to be licensed by the Racing Commission prior to the Racing Commission granting such a license will be subject to suspension or fine, or both, to be determined by the Board of Stewards. *( )*

031. -- 034. (RESERVED)

035. BRIBES, GIFTS, AND GRATUITIES.
No Owner or Trainer may accept or offer, directly or indirectly, any bribe, gift or gratuity in any form which might influence the result of any race or tend to do so. (3-29-10)

036. -- 039. (RESERVED)

040. ILLNESS OF HORSES.
The Owner or Trainer or their representative must immediately report any illness or an unusual condition of his horse to the Racing Secretary, Board of Stewards or Commission Veterinarian. (3-29-10)

041. -- 049. (RESERVED)

050. TRAINER CHANGES.
If an Owner changes trainers, the racing secretary and stewards must be notified within twenty-four (24) hours. (3-29-10)

051. -- 059. (RESERVED)

060. REPRESENTATION FOR ENTRIES.
A Trainer licensed in Idaho may represent the Owner in the matter of entries, declarations and the employment of Jockeys. (3-29-10)

061. -- 069. (RESERVED)

070. RESTRICTIONS ON OWNERS AND TRAINERS.
No Owner or Trainer may enter or start a horse that: (3-29-10)

01. Is Not Sound. Is not in sound competitive racing condition. (3-29-10)

02. Has Been Nerved. (3-29-10)

a. Horses that have had posterior digital neurectomy (heel nerved) may be permitted to race subject to the pre-race veterinary examination and subject to posting with the racing secretary and being recorded on its foal certificate. (3-29-10)

b. Horses that have been nerved, blocked with alcohol or any other medical drug that desensitizes the nerves, other than posterior digital nerves, will not be permitted to race. (3-29-10)

03. Impaired Vision. Has impaired vision in both eyes. (3-29-10)

071. -- 079. (RESERVED)

080. POWERS AND DUTIES OF AUTHORIZED AGENTS.
A licensed Authorized Agent may perform on behalf of a licensed owner-principal all acts as relate to racing, as specified in the Racing Commission approved agency appointment, that could be performed by the principal if such principal were present. The acts of the Authorized Agent are deemed the acts of his licensed principal and the principal accepts responsibility for the Authorized Agent's acts. (3-29-10)

01. Documents. In executing any document on behalf of the principal, the Authorized agent must clearly identify the Authorized Agent and the owner-principal. (3-29-10)

02. Ownership Disclosure. Authorized Agents are responsible for disclosure of the true and entire ownership of each horse for which they have authority. Any change in ownership must be reported immediately to, and approved by, the stewards and recorded by the racing secretary. (3-29-10)

03. Entering a Claim. When an Authorized Agent enters a claim for the account of a principal, the name of the licensed Owner for whom the claim is being made and the name of the Authorized Agent must appear on the claim slip or card. (3-29-10)

081. -- 099. (RESERVED)

100. TRAINER IS ABSOLUTE INSURER.
The Trainer is the absolute insurer of, and responsible for, the condition of the horses entered in a race regardless of the acts of third parties. (3-29-10)

01. Chemical Tests. Should the analysis of blood or urine samples or tests of other materials prove positive, showing the presence of any chemical or drug of any kind or description, except as permitted in IDAPA 11.04.11, "Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses," the Trainer of the horse will be fined or suspended, or both. (3-29-10)

02. Trainer Absent. When a Trainer is absent from the stable or the grounds for a period of more than two (2) days and the Trainer's horses are to be entered, a substitute licensed Trainer must assume the complete responsibility of the horses entered or running. Such licensed Trainer must sign a form in the presence of the Stewards accepting complete responsibility for the horse or horses being entered or running. (3-29-10)

101. -- 109. (RESERVED)

110. SAFETY EQUIPMENT.
The Trainer is responsible to ensure that every Jockey and exercise person wears an approved helmet properly fastened when exercising horses. (3-29-10)

111. -- 114. (RESERVED)

115. DISQUALIFIED PERSON.
No Trainer may have charge or supervision of any horse owned, in whole or part, by a disqualified person. (3-29-10)

116. -- 129. (RESERVED)

130. HORSES IN PADDOCK AT APPOINTED TIME.
All Trainers must have their horses in the paddock in accordance with IDAPA 11.04.10, "Rules Governing Live Horse Races," Subsection 050.02. (3-29-10)

131. -- 139. (RESERVED)

140. TRAINER'S PRESENCE IN PADDOCK.
All Trainers must attend their horses in the paddock and be present to supervise saddling unless the permission of a steward has been obtained to send another licensed Trainer to substitute. (3-29-10)

141. -- 199. (RESERVED)

200. PREVENTING JOCKEYS FROM RIDING.
No Owner or Trainer may employ a Jockey for the purpose of preventing him from riding for another Trainer in any race. (3-29-10)

201. -- 219. (RESERVED)

220. PHYSICAL EXAMINATION.
The Stewards may require any Jockey to be examined by a licensed medical professional at any time and may refuse to allow any Jockey to ride until such examination has been satisfactorily completed. (3-29-10)

221. -- 224. (RESERVED)

225. JOCKEY FALLS FROM HORSE.
In the event any Jockey falls or is thrown from a mount prior to, during or after a race, the Stewards may refuse to allow that Jockey to ride until examined by a licensed medical professional and determined by such examiner to be physically fit to ride. (3-29-10)

226. -- 229. (RESERVED)

230. JOCKEYS OBLIGATIONS.
All Jockeys must faithfully fulfill all engagements to ride except when excused by the stewards. An excuse may be given by a medical professional with the approval of the stewards. (3-29-10)

231. -- 244. (RESERVED)

245. RACING COLORS.
All Jockeys must wear the colors of the Owner or Owners of the horse being ridden, except by special permission of the Stewards or where approved standard colors are used. (3-29-10)

246. -- 249. (RESERVED)

250. SAFETY EQUIPMENT.
All Jockeys must wear the following safety equipment: (3-29-10)

01. Helmet. *W*hen mounted, a fastened protective helmet approved by the Jockey Guild. *( )*

02. Safety Vest. *A* safety vest when riding in any official or exhibition race *that* weigh*s* no more than two (2) pounds*,* and *is* designed to provide shock absorbing protection to the upper body of at least a rating of five (5), as defined by the British Equestrian Trade Racing Association. *( )*

251. -- 254. (RESERVED)

255. JOCKEY'S VALET.
No Jockey may have a valet other than one (1) provided by the Racing Association. (3-29-10)

256. -- 259. (RESERVED)

260. JOCKEYS WEIGHED.
Every Jockey who is engaged in a race must report to the Jockey's Room on the day of the race at the time required by the Stewards. (3-29-10)

01. Engagements. The Jockey's engagements and overweight, if any, must then be reported to the clerk of the scales and, thereafter, the Jockey may not leave the Jockey Room except to view the races from a point approved by the Stewards or to ride in a race until all engagements of the day have been fulfilled. (3-29-10)

02. Weighed Out. Jockeys *need* to present themselves to be weighed out at the time fixed by the clerk of the scales. *( )*

261. -- 269. (RESERVED)

270. RESTRICTIONS ON JOCKEYS.

01. Owner. No licensed Jockey may be the Owner or Trainer of any race horse. (3-29-10)

02. Betting. No Jockey may make a bet on any race nor accept the promise or the token of any bet with respect to the race in which riding, except through or from the Owner or Trainer of the horse being ridden and then only that horse. (3-29-10)

03. Spurs. No Jockey may use spurs or steels of any kind in an official or exhibition race. (3-29-10)

271. -- 279. (RESERVED)

280. JOCKEY'S FEES.
Jockey's riding fees for a race meet must be approved by the Racing Commission. (3-29-10)

01. Engagements. If any Owner or Trainer engages two (2) or more Jockeys for the same race, each engaged Jockey not riding in the race must be paid the losing fee. The proper fee must be paid the Jockey riding. (3-29-10)

02. Fees. A Jockey's fee is considered earned when the Jockey is weighed out by the Clerk of the Scales. The fee is not considered earned if the Jockey takes himself off of his mount where injury to the horse or rider is not involved. Any conditions or considerations not covered by this Section are at the discretion of the stewards. (3-29-10)

03. Posted Fees. The fee to a Jockey in all races must be posted prominently and provided to the Horsemen's Bookkeeper by the Racing Association at each race meet. (3-29-10)

04. Dead Heat. In a dead heat the Jockeys involved will divide equally the total fees they would have received individually had one (1) beaten the other or others. The Owners of the horses involved must pay an equal share of the fees. (3-29-10)

281. -- 289. (RESERVED)

290. JOCKEY SUSPENSIONS.
A Jockey who is under suspension will not be permitted to fulfill any engagements, including stake races. (3-29-10)

01. Suspended in Another Jurisdiction. A Jockey under suspension in any other State will not be permitted to ride in Idaho during such suspension. (3-29-10)

02. Time Suspension Begins. The suspension of a Jockey for an offense not including fraud begins at the time set by the stewards. (3-29-10)

03. Temporary Suspensions. A Jockey temporarily suspended may be permitted by the stewards to exercise or gallop horses during the morning hours. (3-29-10)

291. -- 299. (RESERVED)

300. APPRENTICE JOCKEYS.
Apprentice Jockeys are bound by all the rules for Jockeys, except in the instance of a specific exception for an Apprentice Jockey. (3-29-10)

01. End of Apprenticeship. The apprenticeship automatically terminates one (1) year from the date of the apprentice's fifth winning ride or on the first anniversary of the date of issuance of the license as an Apprentice Jockey if during such first year the apprentice has ridden at least forty-five (45) thoroughbred winners. Otherwise, the apprenticeship automatically terminates after the first anniversary date on the date of the forty-fifth winning mount is ridden by the apprentice or on the date of the third anniversary of the first apprentice license, whichever comes first. (3-29-10)

02. Extend Apprenticeship Termination. For good cause, the Racing Commission may extend the termination date of any apprenticeship or the conditions under which the apprenticeship may be granted. (3-29-10)

03. Races Considered. Races other than recognized thoroughbred races in the United States, Canada or Mexico reported in the Daily Racing Form or other similar official publication will not be considered in determining eligibility for a license as Apprentice Jockey; provided, however, that any person who has ridden as a licensed Jockey at any recognized meeting in the United States or other country will have the burden of establishing that the granting of an apprentice license to such person is in the best interest of thoroughbred racing in Idaho. (3-29-10)

301. -- 319. (RESERVED)

320. MANAGEMENT OF APPRENTICE JOCKEYS.
No person other than an Owner, Trainer, Jockey Agent or an Authorized Agent of an Owner may make engagements for or manage Apprentice Jockeys. (3-29-10)

321. -- 329. (RESERVED)

330. APPRENTICE WEIGHT ALLOWANCE.
An Apprentice Jockey must ride with a five (5) pound weight allowance beginning with the first mount for one (1) full year from the date of the fifth winning mount. (3-29-10)

01. After One Year. If after riding one (1) full year from the date of the fifth winning mount the Apprentice Jockey has failed to ride a total of forty (40) winners from the date of the first winning mount, the apprentice must continue to ride with a five (5) pound weight allowance for one (1) more year from the date of the fifth winning mount or until the apprentice has ridden a total of forty (40) winners, whichever comes first. (3-29-10)

02. Unable to Ride. If an Apprentice Jockey is unable to ride for a period of fourteen (14) consecutive days or more from the date of the apprentice's fifth winning mount because of service in the Armed Forces of the United States or because of physical disablement, the Racing Commission may extend the time during which such apprentice weight allowance may be claimed for a period not to exceed the period such Apprentice Jockey was unable to ride. (3-29-10)

331. -- 339. (RESERVED)

340. APPRENTICE JOCKEY CONTRACTS.
An Apprentice Jockey may be granted an apprentice certificate in lieu of an apprentice contract. The apprentice certificate grants an apprentice all the allowances and conditions granted to the apprentice who is under contract. (3-29-10)

01. Forms. Apprentice contracts entered into in the state of Idaho must be made on forms supplied by the Idaho State Racing Commission and a copy be filed with the Racing Commission. (3-29-10)

02. Filed With Racing Commission. A copy of all apprentice contracts, wherever entered into, must be filed with the Racing Commission. (3-29-10)

03. Contract Transferred. If an apprentice contract is transferred, said transfer must be approved by the stewards and registered with the Racing Commission by both the transferrer and the transfe*ror*. *( )*

04. Certificate. An application for a license as an Apprentice Jockey must be accompanied by an original or photo static copy of his birth certificate or an apprentice certificate. (3-29-10)

341. -- 349. (RESERVED)

350. ONLY ONE JOCKEY AGENT.
No Jockey may have more than one (1) agent. All engagements to ride, other than those for contract employers, must be made by the Jockey's Agent. A Jockey may make his own engagements. (3-29-10)

351. -- 359. (RESERVED)

360. JOCKEY AGENT.
No person may act as a Jockey Agent prior to being licensed by the Racing Commission. Each Jockey Agent is permitted to make the riding engagements of three (3) riders only; two (2) Jockeys and one (1) Apprentice Jockey. (3-29-10)

01. Other Jockeys. No Jockey Agent may make or assist in making any engagement for any rider

other than those he is licensed to represent. (3-29-10)

02. Records. Each Jockey Agent must keep a record of all engagements made for the represented riders *that is* up to date and ready at all times for inspection by the Stewards. *( )*

03. Notify Stewards. If any Jockey Agent gives up the making of engagements for any rider, the Stewards must be immediately provided a written list of any unfilled engagements. All rival claims for the services of a rider will be adjusted by the Stewards. (3-29-10)

361. -- 369. (RESERVED)

370. GIVING INFORMATION.
No Jockey Agent may give to anyone, directly or indirectly, any information or advice pertaining to a race or engage in the practice commonly known as "touting" for the purpose of influencing or tending to influence any person in the making of a wager on any race. (3-29-10)

371. -- 379. (RESERVED)

380. JOCKEY AGENT ACCESS.
No Jockey Agent is permitted within the saddling enclosure during racing hours; nor may said Agent have access to the Jockey Room at any time; nor may said Agent be allowed on the race track at the conclusion of any race run; nor may said Agent communicate with any Jockey during racing hours except with the approval of the Stewards. (3-29-10)

381. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE
RACING COMMISSION

DOCKET NO. 11-0400-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-2506, 54-2507, 54-2508, 54-2509, 54-2512, 54-2513, and 54-2514, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 11, rules of the Idaho State Police, Idaho State Racing Commission:

IDAPA 11
- 11.04.02, *Rules Governing Simulcasting*
- 11.04.03, *Rules Governing Licensing and Fees*
- 11.04.05, *Rules Governing Advanced Deposit Wagering*
- 11.04.07, *Rules Governing Racing Associations*
- 11.04.11, *Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses*
- 11.04.15, *Rules Governing Controlled Substance and Alcohol Testing of Licensees, and Applicants*

These rules provide regulatory safeguards for the integrity of imminent horse races, the safety of horses and personnel involved in races, and the prevention of monetary fraud upon racing industry members and the public. The changes to these rules were clean up in nature, which in some instances consolidated and/or eliminated definitions; combined, re-ordered and re-numbered similar sections; and removed office hours and other information included on the coversheet. All the changes maintain the intent, scope, and purpose intended and previously approved.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1447-1512**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 11.04.02
- 11.04.02.015.03 – Daily Simulcast License Fee
- 11.04.02.015.03.a. – Daily Simulcast License Fee
- l l.04.02.015.03.b. – Daily Simulcast License Fee
- l l.04.02.015.03.c. – Daily Simulcast License Fee

IDAPA 11.04.03
- 11.04.03.050.01 – Applicant License (fingerprint fee)
- 11.04.03.050.03 – Applicant License (fingerprint fee)
- 11.04.03.095 – Applicant License Add-on Fees
- 11.04.03.095.01 – Applicant License Add-on Fees
- 11.04.03.095.02 – Applicant License Add-on Fees

- 11.04.03.330.05 – Supplemental Hair Testing Fee
- 11.04.03.600 – General Licensing Fee Schedule

IDAPA 11.04.05
- 11.04.05.010.19 – Source Market Fee Definition
- 11.04.05.060 – Source Market Fee

IDAPA 11.04.07
- 11.04.07.110 – Racing Association License Fees

IDAPA 11.04.11.
- 11.04.11.160.03 – Shipping and Testing Fees For Split Samples

IDAPA 11.04.15
- 11.04.15.150.02 – Costs Associated With Retesting of the Sample
- 11.04.15.300 – Alcohol/Drug Testing Expense

This fee or charge is being imposed pursuant to Sections 54-2506, 54-2508, 54-2512, 54-2513, 54-2515, and 54-2517, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Ardie Noyes at phone (208) 884-7080, Fax (208) 884-7098, or email **ardie.noyes@isp.idaho.gov**.

Dated this 15th day of October, 2019.

Charlie Spencer
Police Services Major
Rules Review Officer
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642
charlie.spencer@isp.idaho.gov
Phone: (208) 884-7203
Fax: (208) 884-7290

IDAHO STATE RACING COMMISSION

11.04.02 – RULES GOVERNING SIMULCASTING

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, Idaho Code. (4-9-09)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.04.02, "Rules Governing Simulcasting," of the Idaho State Racing Commission. (4-9-09)

02. Scope. These rules regulate simulcasting within Idaho and all aspects of simulcasting. (4-9-09)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Authorized User. A person authorized by the Racing Commission to receive, decode, and use for legal purposes the encrypted simulcast signal of pari-mutuel events. (4-9-09)

02. Breakage. The odd cents rounded down to the lowest multiple of ten cents ($.10) in a positive pool and down to the lowest multiple of five cents ($.05) in a minus pool. (4-9-09)

03. Downlink. A receiving antenna coupled with an audio-visual signal receiver that is compatible with and capable of receiving simultaneous audio-visual signals or data emanating from a host association. This includes the electronic transfer of received signals from the receiving antenna to TV monitors within the satellite facility. (4-9-09)

04. Enclosure, Enclosure-Public. Includes all enclosed areas of the simulcast wagering facility. (4-9-09)

05. Encryption. The scrambling or other manipulation of the audio-visual signals to mask the original content of the signal and so cause such signals to be indecipherable and unrecognizable to any person receiving such signal. (4-9-09)

06. Guest, Guest Association or Simulcast Operator. A simulcast licensee authorized by the Racing Commission to offer, sell, cash, redeem or exchange pari-mutuel tickets on races being run at a host association. (4-9-09)

07. Handle or Gross Handle. Total amount of money wagered on a race less refunds and cancels. (4-9-09)

08. Horse. Includes filly, mare, colt, horse or gelding in general; when referring to sex, filly becomes a mare when five (5) years old; a horse is an intact male when five (5) years old or older. (4-9-09)

09. Host or Host Association. The racing association conducting a licensed horse racing meeting when it is authorized by the Racing Commission to simulcast its racing program. It may also be considered the sending track which means any track from which simulcast signals originate. (4-9-09)

10. Hub. A facility that acts as an intermediary between pari-mutuel wagering facilities for the transmission of wagering data and that is responsible for generating all reports necessary for the reconciliation of payments. (4-9-09)

11. Intrastate Simulcasting Wagering. Pari-mutuel wagering at an Idaho guest association on Idaho horse racing events run at an Idaho host association. (4-9-09)

12. Racing Association. Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (4-9-09)

13. Simulcast Facility. The physical premises, structure and equipment utilized by a guest or host

association for conducting pari-mutuel wagering on horse racing events and permitted pari-mutuel events. Such facility must be a part of the license granted to the guest or host association. (4-9-09)

14. Simulcast Service Supplier. (4-9-09)

a. A person engaged in providing service, supplies or equipment necessary to the operation of intrastate, interstate or out-of-state simulcast wagering for use by a host association, guest association, simulcast operator, or authorized user, including pari-mutuel wagering terminals, uplink, downlink, television receivers and related equipment. (4-9-09)

b. It does not include persons authorized by the Federal Communications Commission to provide telephone service or space segment time on satellite transponders. (4-9-09)

15. Satellite Transponder, Transponder. Leased space segment time of an earth-orbit communication satellite. (4-9-09)

16. Take or Takeout. Money deducted from mutuel pools that is shared by the track and local and state governing bodies in the form of a tax. (4-9-09)

17. Terminal. The device connected to the pari-mutuel system used to place wagers. (3-20-14)

18. Totalizator. A computer that, directly or indirectly through one (1) or more other totalizators, receives pari-mutuel wagering information, calculates pay-offs for winning tickets and generates reports with respect to such information, and may refer to the linked computers of the hub and the track. (4-9-09)

19. Uplink. An earth station broadcasting facility, whether mobile or fixed, which is used to transmit audio-visual signals or data on Federal Communication Commission-controlled frequencies, and includes any electronic transfer of the audio-visual signals from within the racing enclosure to the location of the transmitter at the uplink. (4-9-09)

011. -- 014. (RESERVED)

015. REQUIREMENTS FOR LICENSURE OF A SIMULCAST FACILITY.

01. General. Any racing association or simulcast operator authorized under these rules to conduct pari-mutuel wagering who desires to display the simulcast of pari-mutuel events on which pari-mutuel betting will be permitted, in the manner and subject to the conditions provided for under these rules, may apply to the Racing Commission for a license. (4-9-09)

02. Application for License. The application for a license must be in such form as may be prescribed by the Racing Commission and contain such information or other material or evidence as the Racing Commission may require. (4-9-09)

03. Daily Simulcast License Fee. The fee for such license is based upon the weekly handle. (4-9-09)

a. If the handle is greater than thirty thousand dollars ($30,000), the fee will be one hundred dollars ($100) per day of simulcast operation payable by the licensee to the Racing Commission. Seventy-five dollars ($75) of this fee will be paid to the Idaho State Racing Commission and twenty-five ($25) will be deposited in the Public School Income Fund. (4-9-09)

b. If the weekly handle is at least fifteen thousand dollars ($15,000), but less than thirty thousand dollars ($30,000), the fee will be fifty dollars ($50) per day of simulcast operation payable by the licensee to the Racing Commission. Twenty-five dollars ($25) of this fee will be deposited in the Public School Income Fund and twenty-five dollars ($25) will be paid to the Idaho State Racing Commission. (4-9-09)

c. If the weekly handle is less than fifteen thousand dollars ($15,000), the fee will be twenty-five dollars ($25) which will be deposited in the Public School Income Fund. (4-9-09)

04. Review and Approve. Before the Racing Commission grants such license, it will review and approve a plan of operation submitted with a license application including, but not limited to, the following information: (4-9-09)

a. A feasibility study denoting the revenue earnings expected from the simulcast facility and the costs expected to operate such a facility. The feasibility study includes: (4-9-09)

i. The number of simulcast races to be displayed; (4-9-09)

ii. The types of wagering to be offered; (4-9-09)

iii. The level of attendance expected and the area from which such attendance will be drawn; (4-9-09)

iv. The level of anticipated wagering activity; (4-9-09)

v. The source and amount of revenues expected from other than pari-mutuel wagering; (4-9-09)

vi. The cost of operating the simulcast facility and the identification of costs to be amortized and the method of amortization of such costs; and (4-9-09)

vii. The probable impact of the proposed operation on revenues to local government. (4-9-09)

b. The security measures to be employed to protect the facility, to control crowds, to safeguard the transmission of wagering data to effectuate common wagering pools. (4-9-09)

c. The type of data processing, communication and transmission equipment to be utilized. (4-9-09)

d. The description of the management groups responsible for the operation of the simulcast facility. (4-9-09)

e. The system of accounts to maintain a separate record of revenues collected by the simulcast facility, the distribution of such revenues and the accounting of costs relative to the simulcast operation. (4-9-09)

f. The location of the facility and a written confirmation from appropriate local officials that the location of such facility and the number of patrons expected to occupy such facility are in compliance with all applicable local ordinances, along with approval by appropriate county or city officials. (4-9-09)

016. CRITERIA FOR APPROVAL OF APPLICATION FOR SIMULCAST OPERATOR.
The Racing Commission uses the following decisional criteria in the approval or disapproval of an application for simulcast operator. (4-9-09)

01. General Benefit to the State. The operator's general benefit to the state of Idaho. (4-9-09)

02. General Benefit to Horse Racing Industry. The operator's general benefit to the state of Idaho's horse racing industry. (4-9-09)

03. Operator's Integrity. The operator's integrity, including: (4-9-09)

a. Individual and corporate conduct; (4-9-09)

b. Criminal history; and (4-9-09)

c. Betting and gaming industry conduct. (4-9-09)

04. Operator's Credibility. The operator's credibility, including: (4-9-09)

a. Accuracy of a feasibility study; and (4-9-09)

b. Experience and expertise of the operator in the simulcast industry. (4-9-09)

05. Financial Stability. The operator's financial stability. (4-9-09)

017. -- 025. (RESERVED)

026. HOST ASSOCIATION.

01. Contract. Subject to Racing Commission approval of a simulcast contract, a host association licensed by the Racing Commission may simulcast its horse races to intrastate, interstate and out-of-state authorized users for the purpose of pari-mutuel wagering. (4-9-09)

02. Content. A racing association is responsible for the content of its simulcast and *needs to* use all reasonable effort to present a simulcast that offers the viewers an exemplary depiction of its racing program, a periodic display of wagering information, and continuity programming between horse racing events. *( )*

03. Video. Unless otherwise permitted by the Racing Commission, every simulcast *needs to* contain in its video content a digital display of the actual time of day, the name of the host facility from where it emanates, the number of the horse race being displayed, and the minutes to post. *( )*

04. Security Controls. As a condition of contract approval, or when deemed necessary by the Racing Commission, the host association may be required to provide and maintain security controls, including encryption over its uplink and communications systems. (4-9-09)

027. GUEST ASSOCIATIONS.

01. Contract Approval. Guest racing associations that are licensed by the Racing Commission and subject to contract approval by the Racing Commission may receive simulcast races for the purpose of pari-mutuel wagering from one (1) or more host associations. (4-9-09)

02. Plan for Testing. A plan that is subject to approval by the Racing Commission must be submitted by a guest racing association for testing the transmission, encryption and decoding, and data communication to assure proper system function prior to the commencement of each simulcast program or race from a host association. (4-9-09)

028. INTERSTATE COMMON POOL WAGERING.
Subject to contract approval by the Racing Commission, a racing association may participate in common pool wagering by accepting wagers placed in other jurisdictions or by offering wagers on races run in other jurisdictions. Contract approval requirements include, but may not be limited to, the following: (4-9-09)

01. Licensing Requirement. A contract to participate in interstate common pool wagering must include evidence that the authorized user in the other jurisdiction is licensed or otherwise authorized or approved by the pari-mutuel authority or equivalent in that jurisdiction. (4-9-09)

02. Pari-Mutuel Systems Requirement. A contract to participate in interstate common pool wagering must: (4-9-09)

a. Include evidence that the authorized user in the other jurisdiction utilizes a pari-mutuel wagering system fully compliant with requirements for totalizator systems used by licensed racing associations in Idaho; (4-9-09)

b. Specify the regulatory authority responsible for granting a license to the racing association serving as host for purposes of aggregation of common pool wagering; (4-9-09)

c. Specify the name and location of the racing association that is the host for the common pool, and the individuals and contact information for matters relating to the contract and common pool wagering; and (4-9-09)

d. Specify the name of the totalizator company, location of the totalizator facility utilized to receive wagers and aggregate pools for the purpose of common pool wagering and the individuals and contact information for matters relating to the contract and common pool wagering. (4-9-09)

03. Access to Reports and Wagering Information Requirement. A contract to participate in interstate common pool wagering must include evidence that the authorized user in the other jurisdiction will provide full and prompt access to, and cooperation in providing, all reports and information that may be requested by the Racing Commission. This includes wagering transaction data in either a hard copy report or a standard electronic data format acceptable to the Racing Commission. Such requirement apply to all wagering on races run in Idaho and all wagering pools that accept wagers placed from Idaho. (4-9-09)

04. Breakage. The contract must include provisions specifying the distribution of breakage consistent with the requirement for wagers placed in Idaho. (4-9-09)

029. NET POOL PRICING.

01. Takeout Rates. If takeout rates are not the same for all jurisdictions and net pool pricing is utilized, the contract must specify net pool pricing. (4-9-09)

a. Individual wagering transactions are deemed to be made at the point of sale in the state where placed unless otherwise specified by statute or court ruling. (4-9-09)

b. Any surcharges or withholdings in addition to the takeout *may* only be applied in the jurisdiction otherwise imposing such surcharges or withholdings. *( )*

c. In determining whether to approve an interstate common pool which does not include the host track or which includes races from more than one racing association, the Racing Commission will consider and may approve use of a bet type which is not utilized at the host association, application of a takeout rate not in effect at the live event track, or other factors which are presented to the Racing Commission. (4-9-09)

d. The content and format of the visual display of racing and wagering information at facilities in other jurisdictions where wagering is permitted in the interstate common pool need not be identical to the similar information permitted or required to be displayed under these rules. (4-9-09)

02. Guest Participation in Interstate Common Pools. (4-9-09)

a. The Racing Commission may approve a takeout from the pari-mutuel pools identical to that of other jurisdictions participating in a merged pool. (4-9-09)

b. Rules, either Live or Historic, as established in the host state will apply to the merged pool. (3-20-14)

c. The simulcast operator must designate which one of the following procedures it will use if it becomes impossible to successfully merge the corresponding pools into the interstate common pool, and publish their designated procedure in the printed program: (4-9-09)

i. Compute payouts in accordance with payout prices that would have been in effect if prices for the pool of bets were calculated without regard to wagers placed elsewhere; or (4-9-09)

ii. With permission of the Racing Commission, pay winning tickets at the payout prices at the host track; or (4-9-09)

iii. Declare such accepted bets void and make refunds in accordance with the applicable rules.(4-9-09)

030. HOST PARTICIPATING IN INTERSTATE COMMON POOLS.

01. Rules of Racing Established. Rules of racing established for races held in Idaho will also apply to interstate common pools unless the Racing Commission has specifically determined otherwise. (4-9-09)

02. When Impossible to Merge Pools. Any contract for interstate common pools must contain a provision that states that if, for any reason, it becomes impossible to successfully accept placed wagers or to merge corresponding pools into the interstate common pool formed by the pari-mutuel pool host and the Racing Commission's or the pari-mutuel pool host's representative determines that accepting wagers or attempting to effect transfer of pool data from the guest association may endanger the integrity of the pool or the timely processing of payouts, the pari-mutuel pool host will have no liability for guest's wagers or corresponding pools not being accepted into the host pool. (4-9-09)

031. -- 034. (RESERVED)

035. LICENSES FOR SIMULCAST OPERATORS.

01. License. Every person acting as a simulcast operator within Idaho must procure a license from the Racing Commission and no person will act in the capacity of a simulcast operator without a valid license. Such license may be renewed annually unless the application is denied for any cause that justifies the suspension or revocation of the license for violation of these rules. (4-9-09)

02. Responsibilities of Applicant. Each applicant must: (4-9-09)

a. Submit a financial statement as required by the Idaho State Racing Commission; (4-9-09)

b. Post with the Racing Commission a surety, in the amount and in such form as the Racing Commission may require, that is sufficient to ensure payment of distributable amounts of pari-mutuel pools pursuant to statute, operational costs, salaries, wages, benefits, and related financial obligations; and (4-9-09)

c. Demonstrate experience or adequate knowledge of the conduct of simulcast wagering or pari-mutuel wagering operations. (4-9-09)

03. Simulcast License Application. The simulcast operator intending to conduct wagering on an out-of-state race must file with the Racing Commission a completed simulcast application. The application will be provided and approved by the Racing Commission. At a minimum the application will require the applicant to provide the following information: (4-9-09)

a. The number of live races projected in the current year; (4-9-09)

b. The number of live races run in the preceding year; (4-9-09)

c. Documentation that the required bond has been posted; (4-9-09)

d. Documentation that the appropriate public liability insurance has been obtained; (4-9-09)

e. Evidence of approval from the appropriate county or city officials; (4-9-09)

f. A signed contract from a local horsemen's group. The horsemen's group must be one that meets the definition of a horsemen's group as defined in Section 54-2502, Idaho Code. The contract *can*not conflict with any of the provisions of Sections 3001 through 3007 of Title 15 of the United States Code or any other federal laws; *( )*

g. A statement setting forth the date and time it intends to commence accepting wagers on out-of-state race or races; and (4-9-09)

h. Any other written or oral approvals required by the Racing Commission. (4-9-09)

04. Restrictions. (4-9-09)

a. No license will be granted to any person or entity that has failed, refused or neglected to comply with any rule, condition of license, or order of the Racing Commission or its stewards that is reasonably related to its conduct as a simulcast operator. (4-9-09)

b. No license will be granted to any person or entity that has engaged in any activity that is grounds for denial, suspension or revocation of license pursuant to the rules of the Racing Commission or whose general partners, officers, directors, or employees have engaged in any unlawful activity determined to be conduct detrimental to the best interest of horseracing. (4-9-09)

c. Additionally, no license will be granted to a person or entity that has failed, refused or neglected to enter into an agreement with a horsemen's group as defined in Section 54-2502, Idaho Code. (4-9-09)

05. No Limitation. There will be no limitation as to the number of days a licensee may operate except as may otherwise be provided for within these rules or the Idaho Code. (4-9-09)

036. SIMULCAST PURSE MONEY COLLECTION AND DISTRIBUTION.

01. Designated Purse Monies. Each simulcast operator licensed by the Racing Commission must remit to the Racing Commission those monies designated by the horsemen's agreement as purse monies. Payment must be made on a timely basis as provided in said agreement which will in no event be greater than thirty (30) days after accrual to the simulcast facility. (4-9-09)

02. Dual Signature Insured Account. Each horsemen's group signatory to a horsemen's agreement authorizing simulcasting must open and maintain a dual signature insured account, hereinafter called a "purse accumulation account." (4-9-09)

03. Deposit into Appropriate Account. Prior to commencement of the live race meet, the Racing Commission will annually deposit into the appropriate purse accumulation account those funds paid to the Racing Commission by the respective simulcast operator(s). The Racing Commission has the authority to approve more frequent payments, if requested by said horseman's group. (4-9-09)

04. Sanctions. In addition to all available sanctions, any person or licensee who receives monies designated as purse monies as described in these rules, and who violates these rules, can be ordered to pay a monetary penalty as set forth in Section 54-2509(4), Idaho Code, and daily interest accrued thereupon at the rate set by the Idaho State Treasurer. (4-9-09)

037. -- 039. (RESERVED)

040. DUTIES OF SIMULCAST OPERATOR.

01. General. A simulcast operator conducts and operates a pari-mutuel wagering system at one (1) or more guest associations on the results of horse races being held or conducted and simulcast from the enclosures of one (1) or more host associations pursuant to its agreement with such guest and host association and with the approval of the Racing Commission. (4-9-09)

02. Provisions. A simulcast operator must provide: (4-9-09)

a. Adequate transmitting or receiving equipment that does not interfere with the closed circuit TV system of the host association. All equipment must be of acceptable broadcast quality and meet applicable Federal Communications Commission and Racing Commission rules and orders. Said equipment may include approved microwave transmitters, with appropriate safeguards, as approved by the Racing Commission. (4-9-09)

b. Pari-mutuel terminals, pari-mutuel odds display, modems or switching units enabling pari-mutuel data transmissions, and data communication between the sending and the receiving racing associations. (4-9-09)

03. Pari-Mutuel Inspector. The Racing Commission will appoint at least one (1) state pari-mutuel

inspector to monitor all approved simulcast facilities and may require additional pari-mutuel inspectors as is reasonably necessary for the protection of the public interest. The state pari-mutuel inspector, as well as a member or members of the Racing Commission, must: (4-9-09)

a. Be given free access to all of the books, papers and records of the simulcast operator's simulcast operations during normal business hours. (4-9-09)

b. Be empowered to direct the simulcast operator to adopt such rules and to install such methods and systems of operating the mutuel department as may be deemed reasonably necessary so as to ensure compliance with the law and the rules of the Racing Commission. (4-9-09)

c. The state pari-mutuel inspector must report to the Racing Commission any failure of the licensee to comply with the provision hereof or any violation of the law or any of the rules of the Racing Commission which may come to his attention, including in his reports, recommendations with respect to the revocation of the licenses of any employee of the simulcast operator for failure to comply with the rules of the Racing Commission, or for fraud, dishonesty, or incompetency. (4-9-09)

04. Video Record. Upon the request of the Racing Commission the simulcast operator must make its best effort to provide the Racing Commission with a copy of the simulcast race requested. (4-9-09)

05. Test Program. Not less than thirty (30) minutes prior to the commencement of transmission of the racing program for each day or night, the simulcast operator must initiate a test program of its transmitter, encryption and decoding, and data communication to assure proper operation of the system. (4-9-09)

06. Locations Listing. At the request of any representative of the Racing Commission the Racing Association must provide a listing of all locations within this state enabled to receive the simulcast in decoded forms. Failure to do so is grounds for immediate summary suspension of license and immediate cessation of simulcasting activities. (4-9-09)

07. Security. The Racing Association must maintain such security controls over its uplink and communications system as directed by the Racing Commission. (4-9-09)

08. Filing. Every simulcast operator at the request of the Racing Commission must file an annual report of its simulcast operations, and an audited balance sheet and income statement prepared according to Generally Accepted Accounting Principles. (4-9-09)

09. Compliance. The simulcast operator must comply with Section 54-2512, Idaho Code. (4-9-09)

041. PROHIBITION OF SIMULCAST SIGNAL.
Pertaining to the simulcasting of greyhound racing, should substantial, competent evidence of cruelty to or misconduct in the treatment of greyhounds occur at a site under the jurisdiction of another state regulatory agency, the Racing Commission will prohibit the retransmission of any and all simulcast signals until appropriate action has been taken by the other state regulatory agency. (4-9-09)

042. -- 044. (RESERVED)

045. DISTRIBUTION OF DEPOSITS.
The Racing Commission will distribute deposits generated by simulcast races in accordance with the provisions of Section 54-2507 and 54-2513, Idaho Code, as applicable. (4-9-09)

046. CONFLICT OF LAWS.
In the event of a conflict between the laws of the host track and the laws or rules of the state of Idaho, the laws or rules of the state of Idaho will apply. (4-9-09)

047. TOTALIZATOR OR OTHER APPROVED EQUIPMENT REQUIRED.
Pari-mutuel wagering on live horse races *may* only be conducted through the use of a totalizator or other similar mechanical equipment approved by the Commission. *( )*

048. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (4-9-09)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.04.03, "Rules Governing Licensing and Fees," of the Idaho State Racing Commission. (4-9-09)

02. Scope. These rules govern licensing procedures and the fees charged for licenses by the Idaho State Racing Commission. (4-9-09)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Admissions. A racing association employee who collects admission money for entrance to the racetrack. (4-9-09)

02. Authorized Agent. A person appointed by a written instrument signed and acknowledged before a notary public empowered to transact the business of a stable owner or horse breeder. (4-9-09)

03. Apprentice Jockey. A jockey who has not ridden a certain number of winners within a specified period of time. (4-9-09)

04. Announcer. A person employed by a racing association to announce during the running of the races. (4-9-09)

05. Assistant Starter. The employee of a racing association who, under direct supervision of the starter, helps place the starting gate for a race, leads horses into the gate, helps jockeys and handles horses while in the gate until the start. (4-9-09)

06. Chart Person. An official who compiles the statistical "picture" of a race which shows the position and margin of each horse at designated points of call during the race and other data. (4-9-09)

07. Clerk of Scales. The employee of a racing association responsible for sequestering all jockeys each racing day, weighing all jockeys out and in from races, checking their assigned riding weights versus their actual weights, and reporting all changes. (4-9-09)

08. Clocker. A person who times workouts and races. (4-9-09)

09. Concessionaire. A person that offers goods or services for sale to the public at a racetrack. (4-9-09)

10. Concession Employee. An employee of a concessionaire or a racing association employee offering goods or services for sale to the public. (4-9-09)

11. Duplicate. Replacement license for a license that has been lost or destroyed. (4-9-09)

12. Emergency Medical Technician. An emergency responder trained and certified to provide emergency medical services to the critically ill and injured person. (4-9-09)

13. Exercise Person. A rider who exercises horses at a racetrack. (4-9-09)

14. Groom. A person hired by a trainer who cares for a horse at a racetrack. (4-9-09)

15. Horsemen's Bookkeeper. A bonded racing association employee who manages the horsemen's accounts which covers all monies due horseman in regards to purses, stakes, rewards, claims and deposits. (4-9-09)

16. **Identifier**. The employee of a racing association who checks the lip tattoo, other identification, and markings of each horse as it enters the paddock to make sure the correct horses are running in the race. (4-9-09)

17. **Jockey**. A professional rider licensed to ride in races. (4-9-09)

18. **Jockey Agent**. A person who helps a jockey obtain mounts in return for a portion of the jockey's earnings. (4-9-09)

19. **Jocks Room Custodian**. A racing association employee authorized to regulate the conduct of the jockeys, ensure good order is maintained, and monitors the jockeys. (4-9-09)

20. **Maintenance**. A racing association employee hired to maintain the grounds and facility of the racetrack. (4-9-09)

21. **Medical Professional**. A doctor, physician's assistant, or emergency medical technician licensed or certified in the state of Idaho. (4-9-09)

22. **Mutuel Employee**. A racing association employee that accepts the patrons' money and issues the betting ticket. (4-9-09)

23. **Office Personnel**. A racing association employee who works in the office of the racetrack. (4-9-09)

24. **Official**. Persons licensed by the state to ensure the rules of racing are enforced. (4-9-09)

25. **Outrider**. The employee of a racing association who leads the post parade at a racetrack and gets the horses and jockeys to the starting gates on time. (4-9-09)

26. **Owner**. The person that has legal title to, or has financial control of, a horse utilized for racing in Idaho. However, an interest in the winnings of a horse does not itself constitute ownership. (4-9-09)

27. **Owner/Trainer**. An owner who conditions and prepares his own horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (4-9-09)

28. **Paddock Judge**. The employee of a racing association responsible for getting jockeys and horses in order to go to the starting gate; also checks the equipment used by each horse and supervises the saddling of the horses. (4-9-09)

29. **Photographer**. A person who takes photographs of the winning horses in the winner's circle. (4-9-09)

30. **Plater**. A blacksmith who shoes horses at a racetrack. (4-9-09)

31. **Pony Person**. A person on horseback who accompanies a horse and jockey to the starting gate. (4-9-09)

32. **Racetrack**. The grounds and enclosures of any racing association where horse racing or pari-mutuel betting occurs under the authority and supervision of the Racing Commission. (4-9-09)

33. **Racing Association**. Any person licensed by the Racing Commission to conduct a race meet and pari-mutuel wagering. (4-9-09)

34. **Racing Secretary**. The employee of a racing association, who writes the conditions for the races, assigns the weights for handicap races, receives entries, conducts the draw, and is responsible for the operation and organization of the race office. (4-9-09)

35. **Stable Name**. An assumed business name used by a person for his horse racing operation. (4-9-09)

36. **Stall Superintendent**. A racing association employee hired to assign applicants such stabling as deemed proper to be occupied by horses in preparation for racing and determines all conflicting claims to stable space. (4-9-09)

37. **Starter**. The employee of a racing association responsible for dispatching the horses for a race. (4-9-09)

38. **State Veterinarian**. A veterinarian employed by the Racing Commission to serve as professional adviser and consultant to the Racing Commission on veterinary matters including all regulatory aspects of the application and practice of veterinary medicine at racetracks. (4-9-09)

39. **Steward**. A horse racing official who presides over a race meeting, has jurisdiction over all racing officials, rules on protests and claims of foul, and imposes fines and suspensions. (4-9-09)

40. **Tote Employee**. An employee of a company providing the automated pari-mutuel system that dispenses and records betting tickets, calculates and displays odds and payoffs, and provides the mechanism for cashing winning tickets. (4-9-09)

41. **Track Superintendent**. The employee of a racing association responsible for maintaining acceptable racing and training track conditions during a race meet. (4-9-09)

42. **Track Security**. A person responsible to provide security at a racetrack. (4-9-09)

43. **Trainer**. The person who conditions and prepares a race horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (4-9-09)

44. **Valet**. A person who attends riders and keeps their wardrobe and equipment in order. (4-9-09)

45. **Veterinarian**. A private veterinary practitioner employed by owners or trainers on an individual case or contract basis. (4-9-09)

46. **Vet Assistant**. A person who assists a state veterinarian. (4-9-09)

47. **Video Employee**. An employee hired by a photo/video provider to operate the equipment during the running of horse races for the benefit of the stewards and racetracks. (4-9-09)

011. -- 019. (RESERVED)

020. APPLICABILITY.
Pursuant to Section 54-2506, Idaho Code, these rules apply to any person that participates, directly or indirectly, in any race meet. (4-9-09)

021. -- 029. (RESERVED)

030. REFUSAL TO ISSUE LICENSE.
The Racing Commission may refuse to issue a license and may revoke any license already issued to any person: (4-9-09)

01. Convicted. Who has been convicted of any felony and whose civil rights have not yet been restored pursuant to Section 18-310(2), Idaho Code. (4-9-09)

02. Felony Probation. Who is on probation, or parole for a conviction or withheld judgment for any felony. (4-9-09)

03. Misrepresentation. Who has made any material misrepresentation or false statement to the Racing Commission or its agents in his application for license or otherwise, or who fails to answer any material question on

any application for a license. (4-9-09)

04. Unqualified. Who is unqualified by age, skill, knowledge or ability to engage in the activities for which a license is required. (4-9-09)

05. Ownership. Who fails to disclose the true ownership or interest in any or all horses as required by any application. (4-9-09)

06. Ejection. Who is subject to exclusion or ejection from the racing enclosure or is within the classes of persons prohibited from participating in pari-mutuel wagering. (4-9-09)

07. Conduct. Who has committed an act or acts demonstrating financial instability, intemperate habits or has a bad reputation for truth, honesty and integrity, or other similar conduct contrary to the best interest of racing. (4-9-09)

08. Narcotics. Who has been convicted of possession, use, or sale of any narcotic, dangerous drug, or marijuana if such conviction was a misdemeanor, within two (2) years prior to the date of making application for any license. (4-9-09)

09. Drug Probation. Who is on probation or parole for a conviction or withheld judgment for misdemeanor possession, use, or sale of any narcotic, dangerous drug, or marijuana. (4-9-09)

10. Not Permitted. Who is not permitted by law or statute to engage in the occupation for which the license is sought. (4-9-09)

11. Violated Rules. Who has violated or who aids or abets or conspires with any person to violate any provision of the Racing Commission rules or of Sections 54-2501 through 54-2516, Idaho Code. (4-9-09)

12. Age. No person under sixteen (16) years of age may be issued a license by the Racing Commission with the exception that a person under sixteen (16) years of age may be licensed as a co-owner with a parent or guardian if the person under sixteen (16) years of age submits an Assumption of Liability form signed by the parent or guardian and notarized by a notary public. This co-ownership is not intended to allow an underage person access to any areas of the track facility. (4-9-09)

13. Deny or Revoke. The Racing Commission may deny a license to, or revoke the license of, any person who has had a license revoked or denied by any recognized racing jurisdiction. (4-9-09)

031. -- 039. (RESERVED)

040. CRUELTY TO ANIMALS.
No licensee may violate Title 25, Chapter 35, Idaho Code, "Cruelty to Animal," while on the grounds of a racing association. The stewards will be the sole judges of whether or not a violation of Title 25, Chapter 35, Idaho Code, has occurred on racing association grounds. The penalty for a first offense may include a fine or a suspension or both. A second violation within a calendar year will include a mandatory suspension, the length of which will be at the discretion of the stewards. (4-9-09)

041. -- 049. (RESERVED)

050. FINGERPRINTS.
All persons between the ages of eighteen (18) and sixty-nine (69) applying for licensing pursuant to this chapter are required to submit information and fingerprints necessary to obtain criminal history information from the Idaho State Police Bureau of Criminal Identification and the Federal Bureau of Investigation. The Idaho State Racing Commission (ISRC) may receive criminal history information from the Idaho State Police Bureau of Criminal Identification and from the Federal Bureau of Investigation for the purpose of evaluating the fitness of applicants pursuant to Section 54-2508, Idaho Code. Pursuant to state and federal law, further dissemination or other use of the criminal history information is prohibited. (3-24-17)

01. License Applicants. Any person that applies for a license from the Racing Commission who has not been fingerprinted within the past five (5) years must be fingerprinted prior to a license being issued. Pursuant to Section 67-3008, Idaho Code, the ISRC will submit a set of fingerprints obtained from the applicant and the required fees to the Idaho State Police Bureau of Criminal Identification for a criminal records check of state and national databases. (3-24-17)

02. Existing Licensees. Any person that currently holds a valid license from the ISRC must be re-fingerprinted at least every five (5) years in accordance with the procedures outlined in Subsection 050.01 of these rules. (3-24-17)

03. Fees. The cost of taking and processing such fingerprints is the responsibility of the applicant. Fees for taking and processing fingerprints are in accordance with the amount(s) charged by the Idaho State Police Bureau of Criminal Identification pursuant to Section 67-3010, Idaho Code. (3-24-17)

051. -- 089. (RESERVED)

090. APPLICATIONS.
All application forms must be filled out completely and legibly. (4-9-09)

01. Application Forms. All applications must be submitted to the Racing Commission on forms obtained from the Racing Commission*, and all persons applying for licenses shall submit completed applications meeting all requirements, including obtaining necessary signatures as indicated on the form or otherwise noted in this chapter. License types are listed in the License Fee section of this chapter.* *( )*

02. Other Forms. All other forms to be submitted to the Racing Commission by this chapter must be of a type approved by the Racing Commission. *( )*

03. Age. Applicants between sixteen (16) and eighteen (18) years of age are required to submit an Assumption of Liability Form signed by their guardian and notarized by a notary public. (4-9-09)

091. -- 094. (RESERVED)

095. ADD-ON.
Any qualified person may add an additional license category to an existing license by paying the add-on fee unless: (4-9-09)

01. Higher Fee. The fee for the category added is higher than the fee for the existing license category. (4-9-09)

02. Additional License. If the fee for the license category that is requested is higher than the fee for the existing license category, the person must pay the Racing Commission the higher fee. (4-9-09)

096. DUPLICATE LICENSE.
The Racing Commission may issue a duplicate license in the event an existing license has been lost or destroyed. (4-9-09)

097. -- *09*9. (RESERVED)

100. LICENSES REQUIRING RACING ASSOCIATION SIGNATURES
The following application types are also signed by a racing association:

01. Admissions.

02. Announcer.

03. Clocker.

04. Clerk of Scales.

05. Horsemen's Bookkeeper.

06. Identifier.

07. Jocks Room Custodian.

08. Maintenance.

09. Office Personnel.

10. Outrider.

11. Paddock Judge.

12. Racing Secretary.

13. Stall Superintendent.

14. Starter.

15. Track Superintendent.

16. Valet.

101. -- 109. (RESERVED)

110. APPRENTICE JOCKEY LICENSE.
The application *is also* signed by a steward and an apprentice jockey certificate signed by a licensed starter, two (2) licensed jockeys, a licensed outrider, and a steward. *( )*

111. -- 129. (RESERVED)

130. ASSISTANT STARTER LICENSE.
The application *is also* signed by a licensed starter. *( )*

131. -- 139. (RESERVED)

140. AUTHORIZED AGENT LICENSE.
A notarized authorized agent form *is submitted with the application*. *( )*

01. Each Owner Represented. A separate authorized agent form must be filed for each owner represented. (4-9-09)

02. Written Instrument. A written instrument signed by the owner must accompany the application and clearly set forth the delegated powers of the authorized agent. The owner's signature on the written instrument must be acknowledged before a notary public. (4-9-09)

03. Power of Attorney. If the written instrument is a power of attorney, it must be filed with the Racing Commission and attached to the regular application form. (4-9-09)

04. Changes. Any changes must be made in writing and filed with the Racing Commission as described in Subsection 140.02 of these rules. (4-9-09)

05. Termination. The authorized agent's appointment may be terminated by the owner, in writing, acknowledged before a notary public and filed with the Racing Commission whereupon the license is no longer valid. (4-9-09)

141. -- 144. (RESERVED)

145. BAD CHECKS.
Any licensee who make, draw, order or deliver a check, draft or order for the payment of money to another Idaho licensee, Racing Association, Racing Commission or employee of said Association, Racing Association or Racing Commission, which check, draft or order for the payment of money is invalid on its face or non-negotiable, or there are not sufficient funds on deposit for full payment of such check, draft or order, may be subject to suspension or disciplinary action, or both, by the Racing Commission. (4-9-09)

146. -- 159. (RESERVED)

160. CONCESSIONAIRE LICENSE.
The application *includes*: *( )*

01. Names of Owners. The names and addresses of all of the principal owners. (4-9-09)

02. Proof of Financial Stability. A financial statement of assets and liabilities. (4-9-09)

03. Type of Business. The type of business generally engaged in by the applicant. (4-9-09)

161. -- 165. (RESERVED)

166. CONCESSION EMPLOYEE LICENSE.
The application *is also* signed by a licensed concessionaire. *( )*

167. -- 189. (RESERVED)

190. EMERGENCY MEDICAL TECHNICIAN LICENSE.
All persons applying for an emergency medical technician license must submit a completed application signed by a racing association and a copy of Emergency Medical Technician Certification. (4-9-09)

191. -- 199. (RESERVED)

200. EXERCISE PERSON LICENSE.
A Steward must also sign the application for a first time licensee. *( )*

201. -- 209. (RESERVED)

210. GROOM LICENSE.
The application signed by a licensed trainer. *( )*

211. -- 239. (RESERVED)

240. JOCKEY LICENSE.

01. Application for License. *The application includes* a current physical evaluation from a medical professional. *( )*

02. First Time Licensed. The application for a person that has not been previously licensed as a jockey in Idaho *is also* signed by a steward. *( )*

241. -- 249. (RESERVED)

250. JOCKEY AGENT LICENSE.
The application contains a list of licensed jockeys represented. Each jockey agent may represent no more than two (2) jockeys and one (1) apprentice jockey. *( )*

251. -- 279. (RESERVED)

280. MUTUEL EMPLOYEE LICENSE.
The application *is also* signed by a racing association and *the applicant is* at least eighteen (18) years of age. *( )*

281. -- 299. (RESERVED)

300. OFFICIAL LICENSE.
The application *is also* signed by a racing association or Racing Commission. *( )*

301. -- 329. (RESERVED)

330. OWNER LICENSE.
All persons listed on the registration papers must obtain an owners license. *( )*

01. Financial Responsibility. If the Racing Commission has reason to doubt the financial responsibility of an applicant for an owner's license, the applicant may be required to complete a verified financial statement. (4-9-09)

02. Transfer of Horse Prohibited. The Racing Commission may refuse, deny, suspend or revoke an owner's license for the spouse or member of the immediate family or household of a person ineligible to be licensed as an owner, unless there is a showing on the part of the applicant or licensed owner, and the Racing Commission determines that participation in racing will not permit a person to serve as a substitute for an ineligible person. The transfer of a horse to circumvent the intent of a Racing Commission rule or ruling is prohibited. (4-9-09)

03. Multiple Owners. If the legal owner of any horse is a partnership, corporation, limited liability company, syndicate or other racing association or entity, each shareholder, member or partner must be licensed as an owner. (4-9-09)

04. Lease Agreements. A horse may be raced under lease provided a completed breed registry or other lease form acceptable to the Racing Commission is attached to the certificate of registration and on file with the Racing Commission. The lessee must be licensed as a horse owner. (4-9-09)

05. Supplemental License Fee. When submitting a horse for hair testing as required in IDAPA 11.04.11, "Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses," the owner(s) must pay a supplemental license fee of two hundred twenty-five dollars ($225) per hair test. The Racing Commission, its Executive Director, or its Business Operations Manager are authorized to, and will designate the individual(s) responsible for collecting the supplemental fee. The owner or trainer must submit payment to said designated individual prior to testing. (9-17-18)T

331. -- 359. (RESERVED)

360. PLATER LICENSE.
*The a*pplication for a first time plater license *includes* a letter of recommendation from an owner or trainer. *( )*

361. -- 369. (RESERVED)

370. PONY PERSON LICENSE.
If the application is for a first time pony person license, the application *is also* signed by a steward. *( )*

371. -- 389. (RESERVED)

390. STABLE NAME LICENSE.
The application includes the identity or identities of the ownership interests involved in the horse racing operation. *( )*

01. Changes of Ownership. Any change in ownership of the horse racing stable must be reported immediately to and approved by the Racing Commission. (4-9-09)

02. Trainer. A trainer who is licensed as an owner or part owner may use a stable name as owner or part owner. However, no trainer may be licensed as a trainer other than in his legal name. (4-9-09)

391. STABLE NAME CHANGE.

01. Cancellation. Any person who has been granted a stable name license may at anytime cancel the stable name license if written notice has been submitted to the Racing Commission and the Racing Commission approves the cancellation. (4-9-09)

02. Name Change. A stable name may be changed at anytime by canceling the existing stable name and submitting a new stable name application with the appropriate fee. (4-9-09)

392. STABLE NAMES PROHIBITED.
No stable name may be: (4-9-09)

01. Registered. Registered by any other person with a racing association conducting a recognized meeting, or the Jockey Club (N.Y.) or with another racing authority; (4-9-09)

02. Real Name. The real name of any owner of race horses nor the real or assumed name of any prominent person not owning race horses; (4-9-09)

03. Misleading. Misleading to the public or unbecoming to the sport; (4-9-09)

04. Distinguishable. All stable names must be plainly distinguishable from all other licensed stable names. (4-9-09)

05. One Name. No individual may license more than one (1) stable name. (4-9-09)

393. -- 419. (RESERVED)

420. STATE VETERINARIAN LICENSE.
The applicant must have a signed contract on file in the Racing Commission office. *( )*

421. -- 429. (RESERVED)

430. STEWARD LICENSE.
All persons applying for a steward license must meet the Stewards Qualifications, as set down in IDAPA 11.04.06, "Rules Governing Racing Officials," Section 050, and must submit a completed license application signed by the Racing Commission. (4-9-09)

431. -- 459. (RESERVED)

460. TRACK SECURITY LICENSE.
The application *is also* signed by their employer. *( )*

461. -- 469. (RESERVED)

470. TRAINER LICENSE.
All persons applying for a trainer license for the first time in Idaho must pass the trainer's test and have their application signed by a steward, or have a current valid trainers license from another recognized jurisdiction. *( )*

471. -- 489. (RESERVED)

490. VETERINARIAN LICENSE.
The applica*nt must* have a current valid license to practice veterinary medicine from the state of Idaho. *( )*

491. -- 499. (RESERVED)

500. VET ASSISTANT LICENSE.
The application *is also* signed by a state veterinarian. *( )*

501. -- 599. (RESERVED)

600. LICENSE FEES.
All persons *must submit completed applications when* applying for license *types listed below and* pursuant to this chapter *and also* pay the Racing Commission the fee associated with the type of license being sought before any license will be issued.

LICENSE		FEE		LICENSE		FEE
Add-ons	-	$10		Official	-	$50
Admission	-	$15		Outrider	-	$25
Announcer	-	$25		Owner	-	$50
Apprentice Jockey	-	$50		Owner/Trainer	-	$65
Assistant Starter	-	$25		Paddock Judge	-	$25
Authorized Agent	-	$50		Photographer	-	$25
Chart Person	-	$25		Plater	-	$50
Clerk of Scales	-	$25		Pony Person	-	$25
Clocker	-	$25		Racing Secretary	-	$35
Concession Employee	-	$15		Stable Registration	-	$50
Concessionaire	-	$50		Stall Superintendent	-	$25
Duplicate	-	$10		Starter	-	$25
EMT	-	$25		State Veterinarian	-	$0
Exercise Person	-	$25		Steward	-	$50
Groom	-	$25		Tote Employee	-	$15
Horsemen's Bookkeeper	-	$35		Track Security	-	$25
Identifier	-	$25		Track Superintendent	-	$25
Jockey	-	$50		Trainer	-	$50
Jockey Agent	-	$50		Valet	-	$10
Jocks Room Custodian	-	$25		Veterinarian	-	$50
Maintenance		$15		Vet Assistant	-	$15
Mutuel Employee	-	$15		Video Employee	-	$15
Office Personnel	-	$15			-	

( )

601. -- 989. (RESERVED)

990. PENALTIES.
Any person violating any of the provisions of this chapter is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code. (4-9-09)

991. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.04.05, "Rules Governing Advanced Deposit Wagering." (3-29-10)

02. Scope. These rules govern advanced deposit wagering in Idaho. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Account. An account for advanced deposit wagering with a specific identifiable record of credits, debits, deposits, wagers, and withdrawals established by an account holder and managed by the advanced deposit wagering operator. (3-29-10)

02. Account Holder. A natural person who successfully completed an application and for whom the advance deposit wagering operator has opened an account. (3-29-10)

03. Advance Deposit Wagering Facility. An actual location, equipment, and staff of an advance deposit wagering operator involved in the management, servicing and operation of advance deposit wagering. (3-29-10)

04. Advance Deposit Wagering Operator. Those persons or entities licensed by the Idaho State Racing Commission with the authority to accept deposits and wagers, issue a receipt or other confirmation to the account holder evidencing such deposits and wagers, and transfer credits and debits to and from accounts. (3-29-10)

05. Confidential Information. Confidential information includes: (3-29-10)

a. The amount of money credited to, debited from, withdrawn from, or present in any particular account holder's account; (3-29-10)

b. The amount of money wagered by a particular account holder on any race or series of races; (3-29-10)

c. The account number and secure personal identification code of a particular account holder; (3-29-10)

d. The identities of particular entries on which the account holder is wagering or has wagered; (3-29-10)

e. Unless otherwise authorized by the account holder, the name, address, and other information in the possession of the advance deposit wagering operator that would identify the account holder to anyone other than the Racing Commission. (3-29-10)

06. Credits. All positive inflow of money to an account. (3-29-10)

07. Debits. All negative outflow of money from an account. (3-29-10)

08. Deposit. A payment of money by cash, check, money order, credit card, debit card, or electronic funds transfer made by an account holder to the account holder's account. (3-29-10)

09. Natural Person. Any person at least eighteen (18) years of age, but does not include any corporation, partnership, limited liability company, trust, or estate. (3-29-10)

10. Principal Residence Address. That place where the natural person submitting an application for

an account resides at least fifty percent (50%) of the time during the calendar year. (3-29-10)

11. **Proper Identification**. A form of identification accepted in the normal course of business to establish that the person making a transaction is the account holder. (3-29-10)

12. **Secure Personal Identification Code**. An alpha-numeric character code chosen by an account holder as a means by which the advance deposit wagering operator may verify a wager or account transaction as authorized by the account holder. (3-29-10)

13. **Source Market Fee**. That part of a wager, made outside of the state by an Idaho resident, that is returned to the Racing Commission. (3-29-10)

14. **Withdrawal**. A payment of money from an account by the advance deposit wagering operator to the account holder when property requested by the account holder. (3-29-10)

15. **Withdrawal Slip**. A form provided by the advance deposit wagering operator for use by an account holder in withdrawing funds from an account. (3-29-10)

011. -- 014. (RESERVED)

015. LICENSING FOR ADVANCED DEPOSIT WAGERING.
No person may conduct advanced deposit wagering activities within Idaho prior to receiving an advance deposit wagering license from the Racing Commission. (3-29-10)

016. -- 019 (RESERVED)

020. ADVANCED DEPOSIT WAGERING LICENSE.
Any person may request a license from the Racing Commission to conduct advanced deposit wagering in accordance with Section 54-2512(5), Idaho Code, and these rules. As part of the request, such person must submit a detailed plan of how its proposed advance deposit wagering system would operate. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a request. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. (3-29-10)

021. -- 024. (RESERVED)

025. ADVANCE DEPOSIT WAGERING LICENSE APPLICATION.
An applicant for an advance deposit wagering operator license must provide the following information as part of the application: (3-29-10)

01. Legal Name. The legal name of the person seeking the license. (3-29-10)

02. Corporation. If the person seeking a license is a corporation: the names, addresses of all directors and officers, the date of incorporation and the place of incorporation;. (3-29-10)

03. Partnership. If the person seeking a license is a partnership: the names, addresses of all partners. If a partner is a corporation the date of incorporation, the place of incorporation and the names and addresses of all directors and officers. (3-29-10)

04. Race Tracks. The names of the race tracks the advance deposit wagering operator has contracts with that allow the applicant to provide wagering on the product. (3-29-10)

05. Financial Information. Financial information that demonstrates the financial resources to operate. (3-29-10)

06. Budget. A detailed budget showing anticipated revenue, expenditures and cash flows by month during the license period. (3-29-10)

07. Number of Days. The number of days of planned operation during the fiscal year in which they are seeking to be licensed. (3-29-10)

026. DETAILED PLAN OF OPERATION FOR ADVANCED DEPOSIT WAGERING.

01. Detailed Plan of Operation. The detailed plan of operation for an advanced deposit wagering license must include, but is not limited to, the following information: (3-29-10)

a. The manner in which the wagering system will operate; (3-29-10)

b. Programs for responsible wagering; and (3-29-10)

c. Mitigation for the effects of advance deposit wagering on the source market in which the account holder resides. (3-29-10)

02. Requirements for Accounts Established and Operated for Persons Whose Principal Residence is Outside of the State of Idaho. The Racing Commission may require changes in a proposed plan of operations as a condition of granting a license. No subsequent changes in the system's operation may occur unless ordered by the Racing Commission or until approval is obtained from the Racing Commission after it receives a written request. (3-29-10)

027. -- 029. (RESERVED)

030. INVESTIGATIONS OR INSPECTIONS.
The Racing Commission may conduct investigations and inspections and request additional information from the advanced deposit wagerer as it deems appropriate. (3-29-10)

031. -- 039. (RESERVED)

040. CLAIMS OF NON-PAYMENT.

01. Claim of Non-Payment. An account holder, who is claiming that non-payment has occurred, must make a claim of non-payment to the Racing Commission. (3-29-10)

02. Investigation of Claim. The Racing Commission will investigate the claim and provide the advance deposit wagering operator with an opportunity to respond thereto and submit any supporting documents or evidence it needs to defend the claim. (3-29-10)

03. Commission Determination. If the Racing Commission determines that the account holder is entitled to restitution, the advance deposit wagering operator has ten (10) days to pay the amount determined by the Racing Commission. (3-29-10)

041. -- 049. (RESERVED)

050. PROMOTE AND ADVERTISE.
An applicant licensed under these rules may enter into such agreements, for what it deems good and sufficient reasons, that are necessary to promote, advertise, and further the sport of racing, or that may be necessary for the effective operation of interstate account wagering, including, without limitation, television production and telecommunications services. Such agreements are reviewed by the Racing Commission and may be denied. (3-29-10)

051. -- 059. (RESERVED)

060. OUT-OF-STATE PROVIDERS.
Any advance deposit wagering by an account holder with a provider outside of the State by telephone or other electronic means is illegal, unless that provider is licensed by the Racing Commission and provides a source market

fee of not less than ten percent (10%) of the handle forwarded monthly to the Racing Commission. (3-29-10)

061. -- 069. (RESERVED)

070. RESIDENCE OUTSIDE THE STATE OF IDAHO.
Requirements for the establishment and operation of accounts for individuals whose principle residence is outside of the state of Idaho must be set forth in the operation plan as stated in these rules. (3-29-10)

071. -- 079. (RESERVED)

080. ESTABLISHING AN ACCOUNT.

01. Establishing an Account. The application for establishing the account must be authorized in a manner acceptable to the Racing Commission and include the applicant's: (3-29-10)

a. Full legal name; (3-29-10)

b. Principal residence address; (3-29-10)

c. Telephone number of their permanent residence; (3-29-10)

d. Social security number; and (3-29-10)

e. Proper identification or certification demonstrating that the applicant is at least eighteen (18) years of age. (3-29-10)

02. Other Information. As needed, any other information required by the Racing Commission or the advance deposit operator must be included. (3-29-10)

081. ACCOUNT INFORMATION.
Each application for an advance deposit wagering account may be subject to verification. (3-29-10)

082. IDENTIFYING AN ACCOUNT NUMBER.
Each account must have a unique identifying account number. The identifying account number may be changed at any time by the advance deposit wagering operator provided the advance deposit wagering operator informs the account holder in writing prior to the change. (3-29-10)

01. Secure Personal Identification Code. The applicant must supply the advance deposit wagering operator with an alpha-numeric code to be used as a secure personal identification code when the account holder is placing an account wager. The account holder has the right to change this code at any time. (3-29-10)

02. Principle Residence. The principal residence address will be established by reliance on the information submitted on the application form provided and certified by the applicant. (3-29-10)

03. Upon Approval Account Holder Receives. The account holder will receive, at the time the account is approved: (3-29-10)

a. A unique account identification number; (3-29-10)

b. A copy of the advance deposit wagering rules and such other information and material that is pertinent to the operation of the account; and (3-29-10)

c. Such other information as the advance deposit wagering operator or Racing Commission may deem appropriate. (3-29-10)

04. Name of Natural Persons. The advance deposit wagering operator will accept accounts in the name of a natural person only. (3-29-10)

05. Nontransferable. The account is nontransferable between natural persons. (3-29-10)

083. -- 089. (RESERVED)

090. CLOSE OR REFUSE TO OPEN AN ACCOUNT.
The advance deposit wagering operator may close or refuse to open an account, for what it deems good and sufficient reason, and will order an account closed if it is determined that information that was used to open an account was false, or that the account has been used in violation of these rules. (3-29-10)

091. -- 094. (RESERVED)

095. ACCOUNT HOLDER RESPONSIBILITIES.

01. Personal Use Only. Accounts are for the personal use of the account holder. (3-29-10)

02. Security. The account holder is responsible for maintaining the secrecy of the account number and secure personal identification code. (3-29-10)

03. Account Losses. Except where the advance deposit wagering center or its employees or agents act without good faith or fail to exercise ordinary care, the advance deposit wagering center is not be responsible for any loss arising from the use by any other person or persons of an account holder's account. (3-29-10)

04. Notification of Account Security Breach. The account holder must immediately notify the advance deposit wagering center of a breach of the account's security. (3-29-10)

096. -- 099. (RESERVED)

100. OPERATION OF AN ACCOUNT.

01. Operator May Refuse Deposits. The advance deposit wagering operator may refuse deposits to an account for what it deems good and sufficient reason. (3-29-10)

02. Operator May Suspend or Close Account. The advance deposit wagering operator may suspend or close any account at any time provided that within five (5) business days of closing the account the advance deposit wagering operator returns to the account holder all monies then on deposit by sending it to the principal residence address as listed on the application. (3-29-10)

101. -- 104. (RESERVED)

105. CREDITS TO AN ACCOUNT.
After the initial establishment of an account, credits to an account may be made as follows: (3-29-10)

01. Deposits. Deposits to an account by an account holder must be made in the following forms: (3-29-10)

a. Cash given to the staff of an advance deposit wagering operator; (3-29-10)

b. Personal or cashier check, or money order given or sent to an advance deposit wagering operator; (3-29-10)

c. Charges made to an account holder's credit card or debit card upon the direct and personal instruction of the account holder. Such instructions may be given by telephone or any electronic device to the advance deposit wagering facility by the account holder if the use of the card has been approved by the advance deposit wagering operator; or (3-29-10)

d. Transfer by means of an electronic funds transfer from a monetary account controlled by an

account holder to his account. The account holder is liable for any charges imposed by the transmitting or receiving entity with such charges to be deducted from the account. (3-29-10)

02. Credit for Winnings. Credit for winnings from wagers placed with funds in an account and credit for account wagers on entries that are scratched will be posted to the account by the advance deposit wagering operator. (3-29-10)

03. Accordance with Financial Institution. Checks, money orders and other negotiable instruments will be posted to the credit of the account holder in accordance with financial institution funds availability schedules. (3-29-10)

106. DEBITS TO AN ACCOUNT.

01. Debits to an Account. Debits to an account are made as follows: (3-29-10)

a. Upon receipt by the advance deposit wagering operator of an account wager, the advance deposit wagering center debits the account in the amount of the wager; or (3-29-10)

b. For fees for service or other transaction-related charges by the advance deposit wagering operator. (3-29-10)

02. Account Withdrawals. An advance deposit wagering operator may authorize a withdrawal from an account when one (1) of the following exists: (3-29-10)

a. The account holder of an account appears personally at the advance deposit wagering operators location and provides the following: (3-29-10)

i. Proper identification; (3-29-10)

ii. The correct secure personal identification code; and (3-29-10)

iii. A properly completed and signed withdrawal slip. (3-29-10)

b. The account holder sends to the advance deposit wagering operator a properly completed and signed withdrawal slip by any means, electronic or otherwise. (3-29-10)

i. Upon receipt of a properly completed and signed withdrawal slip, and if there are sufficient funds in the account to cover the withdrawal, the advance deposit wagering operator must, within five (5) business days of its receipt, send a check to the account holder. The check *is* payable to the holder of the account and in the amount of the requested withdrawal. *( )*

ii. If funds are not sufficient to cover the withdrawal, the account holder will be notified in writing and those funds in the account will be withdrawn and sent to the account holder within the five (5) business day time period. Electronic funds transfers may be used for withdrawals in lieu of a check at the discretion of the account holder and the advance deposit wagering operator subject to the same conditions described for electronic funds transfer credits. (3-29-10)

c. The advance deposit wagering operator may close accounts in which there has been no activity for at least six (6) months, returning funds remaining therein to the account holder at his principal residence address. (3-29-10)

d. In the event an account holder is deceased, funds accrued in the account will be released to the decedent's legal representative upon receipt of a copy of a valid death certificate, tax releases or waivers, probate court authorizations or other documents required by applicable laws. (3-29-10)

107. WAGERS IN EXCESS OF ACCOUNT BALANCE.
The advance deposit wagering operator will not accept wagers from an account holder in an amount in excess of the account balance. (3-29-10)

108. ACCOUNTS WILL NOT BEAR ANY INTEREST.
Monies deposited with the advance deposit wagering operator for advance deposit wagering must not bear any interest to the account holder. (3-29-10)

109. PAYMENTS ON WINNING PARI-MUTUEL WAGERS.
Payments on winning pari-mutuel wagers and credits for account wagers on entries which are scratched must be posted to the credit of the account holder as soon as practicable after the race is declared official. (3-29-10)

110. MAILING ADDRESS.
The principal residence address, provided in writing by the account holder at the time of application, is deemed to be the proper address for the purposes of mailing checks, statements of account, account withdrawals, notices, or other appropriate correspondence. The mailing of checks or other correspondence to the address given by the account holder is at the sole risk of the account holder. (3-29-10)

111. -- 119. (RESERVED)

120. POWERS OF THE RACING COMMISSION TO REVIEW AND AUDIT RECORDS.
The Racing Commission or its staff will be given access to all records and financial information of the advance deposit wagering operator for review and audit. The Racing Commission may require that the advance deposit wagering operator annually submit to the Racing Commission audited financial statements of the advance deposit wagering system. (3-29-10)

121. -- 124. (RESERVED)

125. CONFIDENTIAL INFORMATION.
No confidential information related to the placing of any wager or to the operation of the advance deposit wagering center may be divulged by any employee or agent of the advance deposit wagering center, except, as required by these rules, to the account holder or the Racing Commission, or as otherwise required by state or federal law or regulation or rules of the Racing Commission. (3-29-10)

126. -- 129. (RESERVED)

130. APPLICABLE LAWS, RULES, AND REGULATIONS.
All advance deposit wagering operators must adhere to all applicable state and federal laws, rules, and regulations. (3-29-10)

131. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.04.07, "Rules Governing Racing Associations." (3-29-10)

02. Scope. This rule governs conduct and licensing of racing associations. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Bookmaker. A person who makes a business of accepting the bets of others on the outcome of any sports contest including horse racing. (3-29-10)

02. Breed Association. A group organized under Idaho law to receive breeder awards. (3-29-10)

03. Breeder. Breeder of a horse is determined by the definition of breeder used by the registry of the particular breed of that horse. (3-29-10)

04. Chemical. A substance composed of chemical elements or obtained by chemical processes. (3-29-10)

05. Claiming Race. A race in which any horse entered therein may be claimed in conformity with the rules. (3-29-10)

06. Conditions. Qualifications and requirements set by the Racing Association which determine a horse's eligibility to be entered in a race. (3-29-10)

07. Drug. Any chemical compound or any noninfectious biological substance not used for its mechanical properties, which may be administered to or used on or for patients, either human or animal, as an aid in diagnosis, treatment or prevention of disease or other abnormal condition, for the relief of pain or suffering, or to control or improve any physiological or pathological condition. *( )*

08. Entry. Means, according to the requirements of the text: (3-29-10)

a. A horse made eligible to run a race. (3-29-10)

b. Two (2) or more horses that are entered or run in a race and are coupled because of common ties or ownership. Where two (2) or more horses owned by separate owners but trained by the same Trainer are entered in the same race, the horses may run as separate betting interests. (3-29-10)

***09.* Forfeit**. Money due because of an error fault, neglect of duty, breach of contract or a penalty. (3-29-10)

***10.* Grounds**. Any area owned or leased by any licensed Association, Corporation, or Race Track which is operated for the purpose of conducting pari-mutuel racing. (3-29-10)

***11.* Handbook**. A method of soliciting and recording wagers on the outcome of a sports contest including a horse race. (3-29-10)

***12.* Horse**. Includes filly, mare, colt, horse and gelding in general; when referring to sex, a filly becomes a mare when five (5) years old; a horse is an entire male when five (5) years old or older. (3-29-10)

***13.* Horsemen's Agreement**. An agreement approved by the Racing Commission between the Racing Association and the authorized horsemen's group. (3-29-10)

14. **Idaho Bred**. A foal dropped by a mare in Idaho. (3-29-10)

15. **Jockey**. A race rider, whether a licensed Jockey, apprentice, or amateur. (3-29-10)

16. **Meet**. The entire consecutive period for which a license to race has been granted to any one (1) association by the Racing Commission. (3-29-10)

17. **Month**. A calendar month. (3-29-10)

18. **Owner**. Includes the owner, part owner and lessee of any horse. An interest only in the earnings of a horse does not constitute ownership. In case of husband and wife, it is presumed that joint ownership exists. (3-29-10)

19. **Place**. Means first, second or third and in that order is called "Win," "Place," and "Show." (3-29-10)

20. **Purse Race**. A race for money or any other prize to which the owners of the horses do not contribute. (3-29-10)

21. **Racing Association**. Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (3-29-10)

22. **Racing Dates**. The number of racing dates authorized by the Racing Commission in a Racing Association license. (3-29-10)

23. **Ruled Off**. An action by the racing stewards, under these rules, to suspend a license for a violation of these rules. (3-29-10)

24. **Starter**. (3-29-10)

a. The individual approved to dispatch the horses in a race. (3-29-10)

b. The horse is a "starter" for a race when the stall doors of the starting gate open in front of it at the time the starter dispatches the horses. (3-29-10)

25. **Stewards**. The Stewards of the meet or their duly appointed deputies. (3-29-10)

26. **Winner**. Winner of a single race of a certain sum or value unless otherwise expressed in the conditions. (3-29-10)

27. **Year**. A calendar year. (3-29-10)

011. -- 019. (RESERVED)

020. ENTER, SEARCH AND INSPECT.
Every Racing Association, the Racing Commission, the Stewards or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (3-29-10)

021. -- 039. (RESERVED)

040. RACING COMMISSION.

01. Visit and Inspection. The Racing Commission or designated representatives will visit and inspect

the race meets. Each Racing Association conducting a race meet must make available to the Racing Commission a box of four (4) seats for each day of the race meet. The private cars of Racing Commissioners or designated representatives will have access to the restricted parking area of all tracks. (3-29-10)

02. Association Office. Each Racing Association must furnish and provide an adequate office for the use of the Racing Commission or its designated representatives. (3-29-10)

041. -- 049. (RESERVED)

050. EMPLOYEES.

01. Licenses. Any Racing Association that employs any person in a capacity that is required to be licensed by the Racing Commission prior to the Racing Commission granting such a license may be subject to suspension or a fine, or both. (3-29-10)

02. Suspension or Fine. The extent of said suspension or fine, or both, is determined by the Board of Stewards. (3-29-10)

03. Report to Stewards. Any licensee who harbors anyone not licensed by the Racing Commission will be immediately reported to the Stewards of the race meet so that they may make investigation thereof and report the fact to the Racing Commission. (3-29-10)

051. -- 054. (RESERVED)

055. DISTURBING THE PEACE.
No person will in any manner or at any time disturb the peace or behave in a disorderly manner on the grounds of a Racing Association; nor will any person interfere with the performance of the duties of a racing official or any employee or representative of the Racing Commission. (3-29-10)

056. -- 059. (RESERVED)

060. RULED OFF.

01. Admittance to Grounds. No person or horse ruled off, or under suspension by any recognized racing authority, will be admitted to or allowed to remain upon the grounds of any Racing Association. (3-29-10)

02. Persons Ruled Off a Track Ineligible. When a person is ruled off a course or suspended, every horse owned in whole or part by him, or under his care, management, training or superintendence, is ineligible to enter or to start in any race until the rescinding of said person's penalty, or by the placement of the horse or horses in the hands of a licensed Trainer approved by the Stewards. (3-29-10)

061. -- 069. (RESERVED)

070. PROHIBITED PRINTED MATERIAL.
No unauthorized tip sheet, pamphlet or other printed matter, other than official programs, the Daily Racing Form and general newspapers, are to be sold on the Racing Association grounds. (3-29-10)

01. Copies. Copies of all such materials offered for sale in the parking area or elsewhere on or off the grounds of the Racing Association must be furnished daily to the Presiding State Steward, not later than two (2) hours before first post. (3-29-10)

02. Publishers. All tip sheet publishers and vendors must be licensed by the Racing Commission. (3-29-10)

071. -- 074. (RESERVED)

075. HANDBOOKS.

No person may make a handbook or a foreign book, or solicit a bet with a handbook or a foreign book on the grounds of a Racing Association. (3-29-10)

076. -- 079. (RESERVED)

080. BOOKMAKERS.

01. Entry Prohibited. The following persons will not be allowed entry into or remain upon the premises of any Racing Association: (3-29-10)

a. A person who is a bookmaker or who is known or reputed to be a bookmaker; (3-29-10)

b. A person who is a vagrant within the meaning of the laws of Idaho; (3-29-10)

c. A person who is a fugitive from justice; (3-29-10)

d. A person whose conduct now or heretofore has been improper, obnoxious, unbecoming or detrimental to the best interest of racing. (3-29-10)

02. Ejection. Upon discovery or recognition, all such persons described in Subsection 080.01 of these rules will be ejected by the Racing Association or representatives and agents of the Racing Commission. (3-29-10)

03. License Revocation. Associating with a person or persons such as described in Subsection 080.01 of these rules may be grounds for the revocation of any license. (3-29-10)

081. -- 089. (RESERVED)

090. IDAHO BRED RACES.
At least one (1) race each day at each race meet must be limited to Idaho bred horses. If a sufficient class of horses is not available to fill the race, said race may be opened to Idaho bred preferred. (3-29-10)

01. Number of Races. The Racing Secretary must alternate among breeds according to the applicable horsemen's agreement. (3-29-10)

02. Certificate of Registration. The owners' certificate of registration is proof that horses entered in such races were bred in Idaho. (3-29-10)

091. BREEDER AWARDS.
A sum equal to ten percent (10%) of the first place purse money won by an Idaho bred horse must be paid by the Racing Association to the breeder of such horse. All purse moneys derived from pari-mutuel racing and all purse enhancement moneys from the Idaho State Racing Commission are included in the calculation of these breeder payments. All nominating and sustaining fees, and any moneys from outside sponsors are excluded from the calculation of these breeder payments. (3-29-10)

092. -- 094. (RESERVED)

095. BREED ASSOCIATIONS.
Pursuant to Section 54-2513, Idaho Code, on or before December 15 of each year, representatives of each breed which received money the preceding year must file a financial report showing disposition of any funds thus received. (3-29-10)

01. Failure to File. Failure to file such report is grounds for the Racing Commission to deny approval of any future disbursement to that breed. (3-29-10)

02. Representatives. "Lawfully constituted representatives of each breed" is the designated representative of the one (1) recognized breed organization for each breed racing in Idaho that has established itself as the traditional breed acknowledged by the Racing Commission. (3-29-10)

096. -- 099. (RESERVED)

100. RACING ASSOCIATION LICENSE.
No person may conduct a live race meet unless they possess a valid Racing Association license issued by the Racing Commission. (3-29-10)

101. -- 109. (RESERVED)

110. RACING ASSOCIATION LICENSE FEES.
Every Racing Association conducting a race meet in Idaho must pay a fee of twenty-five dollars ($25) for each day of racing, except as otherwise provided in Title 54, Chapter 25, Idaho Code. (3-29-10)

111. -- 119. (RESERVED)

120. RACING ASSOCIATION LICENSE APPLICATIONS.
Applications for Racing Association licenses must be made on forms approved by the Racing Commission. The Racing Commission sets the application date. (3-29-10)

121. -- 129. (RESERVED)

130. APPLICATIONS FOR SUCCEEDING SEASONS.
Applications for a license to conduct a race meet during the next succeeding season must be filed with the Racing Commission over the signature of an executive officer of the Racing Association. The Racing Commission sets the application date. (3-29-10)

131. -- 139. (RESERVED)

140. HORSEMEN'S AGREEMENT.
Every Racing Association must have in effect a signed Horsemen's Agreement. (3-29-10)

141. -- 149. (RESERVED)

150. RACING ASSOCIATIONS OPERATION.

01. Requirements. The scope of the Racing Associations operation and plant facilities will determine the Racing Commission's requirements for the following: (3-29-10)

a. Proof of financial stability; (3-29-10)

b. Names of stockholders; (3-29-10)

c. Medical and veterinary facilities; (3-29-10)

d. Lodging facilities; and (3-29-10)

e. Protective facilities. (3-29-10)

02. Additional Information. The Racing Commission or Idaho State Police may require additional background information of applicants or licensees. (3-29-10)

151. -- 159. (RESERVED)

160. REPORT OF FUNDS.
Pursuant to Section 54-2513, Idaho Code, prior to or at the time of making application for licensing Racing Associations which received money the preceding year must file a financial report with the Racing Commission showing disposition of any funds thus received. (3-29-10)

161. -- 169. (RESERVED)

170. APPROVAL OF RACING ASSOCIATION LICENSES.
The Racing Commission will consider each application for a Racing Association license individually and decide whether to grant the license or not on a case by case basis. (3-29-10)

171. -- 179. (RESERVED)

180. LICENSE GRANTED UPON CONDITIONS.
Every Racing Association license is granted upon the condition that the licensee accept, observe and enforce the Racing Commission rules. (3-29-10)

01. Duty. It is the duty of each and every officer to observe and enforce the Racing Commission rules. (3-29-10)

02. Investigations. The Racing Commission may require background investigations, fingerprints and photographs of Racing Association officers, stockholders or employees. (3-29-10)

181. -- 189. (RESERVED)

190. REFUSAL TO ISSUE LICENSE.
The Racing Commission may refuse to issue a Racing Association license when such refusal appears to be for the best interest of racing and of the public. The Racing Commission will, in deciding upon applications for Racing Association licenses, consider the following matters: (3-29-10)

01. Properly Develop. The opportunity for the sport to properly develop. (3-29-10)

02. Competition. The avoidance of competition with established tracks in Idaho. (3-29-10)

03. Community Support. The extent of community support for the promotion and continuance of the tracks. (3-29-10)

04. Reputation. The character and reputation of the persons identified with the Racing Association. (3-29-10)

05. Safety. The general conditions and safety of the Racing Association facilities. (3-29-10)

191. -- 199. (RESERVED)

200. FINGERPRINTS -- PHOTOGRAPH.
Every person holding a Racing Association license in Idaho, and every person that holds such a license who is an officer or director of a Racing Association that is in any capacity connected to any extent with the pari-mutuel wagering business in this State, must, on demand, furnish his fingerprints and photograph to the Racing Commission for its files. Fingerprints and photograph are to be taken at such time and place and in such manner as the Racing Commission may from time to time direct and prescribe. (3-29-10)

201. -- 209. (RESERVED)

210. RACING DATES.
Application for racing dates must be made on forms approved by the Racing Commission. Application for racing dates does not commit the Racing Commission to the granting of a license to conduct race meets upon the dates requested. (3-29-10)

211. -- 219. (RESERVED)

220. LICENSE NOT TRANSFERABLE.

No Racing Association license or any part thereof is transferable or assignable without the consent of the Racing Commission and said license is not valid for any racing days other than those set out therein. (3-29-10)

221. -- 239. (RESERVED)

240. PROPOSED OFFICIALS.
Thirty (30) days prior to the first day of a race meet the Racing Association must submit in writing to the Racing Commission all names and personal data of proposed officials for processing for licensing. No official may act until approved by the Racing Commission. A Racing Commission representative at the track will process substitutions. The required form will be provided by the Racing Commission. (3-29-10)

01. Hardship. To avoid undue hardship the Racing Commission may authorize Racing Associations to allow officials other than Stewards to act in dual capacities. (3-29-10)

241. -- 249. (RESERVED)

250. RACING ASSOCIATIONS: GENERAL RULES.

01. Laws and Rules. The laws of Idaho and the rules promulgated by the Racing Commission supersede the conditions of the race or the regulations of a race meet. (3-29-10)

02. Racing Hours. Each Racing Association may conduct horse racing only between the hours of 12:00 noon and 12:00 midnight, unless otherwise specifically authorized by the Racing Commission. (3-29-10)

03. Conditions of Races. Each Racing Association must file with the Racing Commission the conditions of races it proposes to hold together with the stakes, purse or rewards. (3-29-10)

04. Open Market. Owners and stables participating in race meets operating under license of the Racing Commission may purchase feed and supplies on the open market. No Racing Association may grant exclusive concessions which will interfere with this right. (3-29-10)

05. Toilets and Other Facilities. Each Racing Association must on every racing day provide and maintain adequate toilet facilities and facilities for furnishing drinking water for its patrons and persons having business at the track. (3-29-10)

06. Tampering. Each Racing Association must provide protection facilities to prevent tampering with horses or any other corrupt practices at licensed race meets. The Racing Commission may at any time require Racing Associations to expand their protective services. (3-29-10)

07. Fire Regulations Posted. Every Racing Association must post in the stable area of its premises the fire regulations applicable on its grounds and state the location of the nearest fire alarm box and the telephone number of the fire department or other pertinent instructions as to the method for reporting a fire in the area. Such notices must be posted no more than one hundred (100) feet apart or as approved by the local fire authority. No Racing Association or other person may violate the posted fire regulations specified by the Racing Commission. *( )*

08. Credentials. A full record of credentials issued by the Racing Association must be compiled and open to inspection at all times *with a*ll additions made to or changes in the list of employees of any Racing Association reported promptly to the Racing Commission in writing. *( )*

09. Horse Ambulance. Racing Associations must furnish, maintain, and have available a horse ambulance, as required by the Racing Commission, for each day that the track is open for racing or exercising during the race meet. (3-29-10)

10. Human Emergency Medical Response Vehicle. Racing Associations must furnish and maintain a human emergency medical response vehicle, as required by the Racing Commission, for each day that the track is open for racing or exercising during the race meet. If the human emergency medical response vehicle is being used to transport an individual, the Racing Association may not conduct a race until the ambulance is replaced. (3-29-10)

11. Medical Professionals. Racing Associations must have a licensed physician, registered nurse, paramedic or licensed emergency medical technician on duty at the track on each day of racing and also provide adequate first aid and medical facilities to protect patrons and participants at licensed race meets. (3-29-10)

12. Comfort and Safety. Racing Associations must at all times maintain the premises in good condition and properly secured, with special consideration for the comfort and safety of the public, of the horses and of all others present. (3-29-10)

13. Violators. Violators of any rules are subject to ejection from the grounds, fine, suspension, being ruled off or any combination of the preceding. (3-29-10)

14. Post Notices. Racing Associations must promptly post Racing Commission notices in places that can be easily viewed by licensees. (3-29-10)

251. -- 259. (RESERVED)

260. HORSEMEN'S ACCOUNT.
Unless otherwise authorized by the Racing Commission and consistent with the Horsemen's agreement pertaining to the Horsemen's account, each Racing Association must keep an account, to be known as the "Horsemen's Account," with sufficient funds at all times in such account to cover all monies due horsemen in regard to purses, stakes, rewards, claims and deposits. (3-29-10)

01. Subject to Review or Audit. The account is at all times be subject to review or audit by the Racing Commission. (3-29-10)

02. Bonded. The horsemen's bookkeeper is in charge of such an account and must be insured against crime or employee dishonesty in a manner approved by the Racing Commission. (3-29-10)

261. -- 269. (RESERVED)

270. PURSE MONEY.
Purse money must be made available to the winners promptly following release by the Racing Commission or its representative. (3-29-10)

01. Release. Release will be given when test results of the horse's urine, blood or other specimens have been reported to the Racing Commission. (3-29-10)

02. Breeder's Awards. Breeder's awards will be payable when the purse is cleared. (3-29-10)

03. Weekly Remittance. The one-half (1/2) of one percent (1%) to benefit owners or breeders is to be remitted weekly by the Racing Association to the Racing Commission for distribution quarterly to the representatives of each breed. (3-29-10)

271. -- 279. (RESERVED)

280. COMMUNICATION.

01. Communication System. Racing Associations must provide and maintain in good working order a communication system between racing officials and locations as determined by the Racing Commission. (3-29-10)

02. Public Address System. Racing Associations must provide and maintain a public address system capable of clearly transmitting announcements to the patrons and to the stable area. (3-29-10)

281. -- 289. (RESERVED)

290. DOCUMENTS FILED WITH RACING COMMISSION.

Not less than thirty (30) days before opening a race meet each Racing Association must file with the Racing Commission the following: (3-29-10)

01. Bond. A bond signed by a surety company licensed to do business in this State in such form and in the sum as may be required by the Racing Commission, conditioned that the association will pay to the state of Idaho all money due under the provisions of Title 54, Chapter 25, Idaho Code. (3-29-10)

02. Liability Insurance. Proof of public liability insurance by a company licensed to do business in this State in such form and in the amount as may be required by the Racing Commission for the protection of the public, the exhibitors and visitors. (3-29-10)

03. Accident Insurance or Workmen's Compensation Insurance. Proof of an accident insurance policy or workmen's compensation insurance policy issued by a company licensed to do business in Idaho for the protection of Jockeys and exercise persons for injuries incurred in connection with race meets in such form and amount as may be required by the Racing Commission. (3-29-10)

291. -- 299. (RESERVED)

300. HORSE RACE TRACKS.

01. Track Width. A minimum of twenty (20) feet of track width must be allowed for the first two (2) horses in a race, with an additional five (5) feet for each added starter. (3-29-10)

02. Implements. Racing Associations must provide adequate equipment and personnel to maintain the track surface in a safe training and racing condition *and* provide back-up equipment for maintaining the track surface. *( )*

03. Limit on Number of Horses. No more than eight (8) horses may start in any race on a one-half (1/2) mile track. (3-29-10)

04. Racing Surface. The surface of a racetrack, including the cushion, subsurface and base, must be designed, constructed and maintained to provide for the safety of the jockeys and horses. (3-29-10)

05. Rails. Race tracks must have inside and outside rails, including gap rails, designed, constructed and maintained to provide for the safety of jockeys and horses. The design and construction of rails must be approved by the Racing Commission prior to the first race meet at the track. (3-29-10)

301. -- 309. (RESERVED)

310. JOCKEY ROOM.
Each Racing Association must provide a room reserved for jockeys to prepare for a race. (3-29-10)

311. -- 319. (RESERVED)

320. OFFICIALS' STANDS.
Racing Associations must provide adequate stands for officials to have a clear view of the racetrack. The location and design of the stands must be approved by the Racing Commission. (3-29-10)

321. -- 329. (RESERVED)

330. PHOTO FINISH DEVICES.
Racing Associations must provide two (2) electronic photo finish devices with mirror image to photograph the finish of each race and record the time of each horse in at least hundredths of a second. (3-29-10)

01. Location. The location and operation of the photo finish devices must be approved by the Racing Commission before its first use in a race. (3-29-10)

02. Posting Photographs. The Racing Association must promptly post a photograph of each photo finish for win, place or show in an area accessible to the public. (3-29-10)

03. Devices Calibrated. The Racing Association must ensure that the photo finish devices are calibrated before the first day of each race meet and at other times as required by the Racing Commission. (3-29-10)

04. Print Provided. On request by the Racing Commission, the Racing Association must provide, without cost, a print of a photo finish to the Racing Commission. (3-29-10)

05. Records. Photo finish records of each race must be maintained by the Racing Association for not less than six (6) months after the end of the race meet, or such other period as may be requested by the stewards or the Racing Commission. (3-29-10)

331. -- 339. (RESERVED)

340. VIDEOTAPING SYSTEM.
Racing Associations must provide a videotaping system approved by the Racing Commission. Cameras must be located to provide clear panoramic and head-on views of each race. (3-29-10)

01. Monitors. Separate monitors that simultaneously display the images received from each camera and are capable of simultaneously displaying a synchronized view of the recordings of each race for review must be provided in the stewards' stand. (3-29-10)

02. Location. The location and construction of video towers must be approved by the Racing Commission. (3-29-10)

03. Stewards. The stewards may, at their discretion, direct the video camera operators to videotape the activities of any horses or persons handling horses prior to, during or following a race. (3-29-10)

04. Oval Track. Races run on an oval track must be recorded by at least three (3) video cameras. (3-29-10)

05. Straight Course. Races run on a straight course must be recorded by at least two (2) video cameras. (3-29-10)

06. Videotape Copy. Racing Associations must, upon request, provide to the Racing Commission, without cost, a copy of a videotape of a race. (3-29-10)

07. **Videotapes Maintained**. Videotapes recorded prior to, during and following each race must be maintained by the Racing Association for not less than six (6) months after the end of the race meet, or such other period as may be requested by the stewards or the Racing Commission. (3-29-10)

08. **Objection**. Following any race in which there is an inquiry or objection, the Racing Association must display to the public on designated monitors the videotaped replays of the incident in question which were utilized by the stewards in making their decision. (3-29-10)

341. -- 349. (RESERVED)

350. STARTING GATE.
All horse races must utilize a starting gate approved by the Racing Commission, except that with permission of the Stewards a race may be started with or without a gate. When the starting gate is used, it must be placed on the track at the direction of the Starter. (3-29-10)

01. **Training Hours**. Racing Associations must make at least one (1) starting gate and qualified starting gate personnel available for schooling during designated training hours. (3-29-10)

02. **Backup Equipment**. If a race is started at a place other than in a chute, the Racing Association

must provide and maintain in good operating condition backup equipment for moving the starting gate. The backup equipment must be immediately available to replace the primary moving equipment in the event of failure. (3-29-10)

351. -- 359. (RESERVED)

360. DISTANCE MARKERS.
Racing Associations must provide starting point markers and distance poles in a size and position that is clearly seen from the stewards' stand. (3-29-10)

361. -- 369. (RESERVED)

370. BARNS.
Racing Associations must provide barns containing a sufficient number of stalls to accommodate all horses approved to race and all other horses approved to be on the grounds. The Racing Association's stable area configuration and facilities must be approved by the Racing Commission. (3-29-10)

01. **Good Repair**. Racing Associations must ensure that the barns are kept clean and in good repair, have a water supply available, be well-ventilated, have proper drainage, and be constructed to be comfortable during the race meet. *( )*

02. **Stall Size**. Racing Associations must ensure that each horse is stabled in an individual box stall with minimum dimensions of ten feet by ten feet (10' x 10'). (3-29-10)

371. -- 379. (RESERVED)

380. TEST AREA.
Racing Associations must provide a test area for taking specimens of urine, blood or other bodily substances or tissues for testing*, and* limit access to the test area to persons authorized by the commission veterinarian. *( )*

381. -- 389. (RESERVED)

390. ISOLATION AREA.
Racing Associations must provide an isolation area, approved by the Racing Commission, for the care and treatment of a horse that is ordered isolated by the commission veterinarian. (3-29-10)

391. -- 899. (RESERVED)

900. SECURITY.
Racing Associations conducting live race meets must maintain security controls over their grounds. Security controls are subject to the approval of the Racing Commission. (3-29-10)

01. **Restricted Areas**. Racing Associations must restrict access of licensees or their guests to certain areas of the grounds. Those restricted areas are the Paddock, Jockey Room, Veterinarian's Test Area, the Steward's Stand, the Mutuel Room, racing offices and any other area the Racing Association feels should be limited access. (3-29-10)

02. **Escort Guests**. Any licensee may escort an unlicensed guest through the enclosure of a Racing Association except restricted areas. The licensee and the guest must sign in and out and identify all such persons. The licensee by signing accepts full responsibility for the safety and actions of the guest while in the enclosure. (3-29-10)

03. **Passes**. Racing Associations may establish a system or method of issuing credentials or passes to restrict access to its restricted areas or to ensure that all participants at its race meet are licensed as required by these rules. (3-29-10)

04. **Prevent Access**. Racing Associations must prevent access to and remove or cause to be removed from its restricted areas any person who is unlicensed, or who has not been issued a visitor's pass or other identifying credential, or whose presence in such restricted area is unauthorized. (3-29-10)

05. **List of Security Personnel**. On request by the Racing Commission, a Racing Association must provide a list of the security personnel, including the name, qualifications, training, duties duty station and area supervised by each employee. (3-29-10)

06. **Daily Reports**. Each day, the chief of security for a Racing Association must deliver a written report to the stewards regarding occurrences on Racing Association grounds on the previous day. Not later than twenty-four (24) hours after an incident occurs requiring the attention of security personnel, the chief of security must deliver to the stewards a written report describing the incident. The report must include the name of each individual involved in the incident, the circumstances of the incident and any recommended charges against each individual involved. (3-29-10)

901. -- 909. (RESERVED)

910. COMPLAINTS.
Racing Associations must promptly notify the Racing Commission of any complaints regarding: (3-29-10)

01. **Violations**. Alleged violation of Section 54-2501, Idaho Code, ordinances or statutes, or a rule of the Racing Commission; (3-29-10)

02. **Accidents or Injuries**. (3-29-10)

03. **Unsafe Conditions**. Unsafe or unsanitary conditions for patrons, licensees or horses. (3-29-10)

911. -- 919. (RESERVED)

920. EXCLUSION AND EJECTION.
Racing Associations must immediately, upon notification by the Racing Commission, take steps to bar admittance to the racing grounds to any person who is subject to an exclusion order of the Racing Commission. (3-29-10)

01. **Lawful Reason**. Racing Associations may eject or exclude a person for any lawful reason. Racing Associations must immediately notify the stewards and the Racing Commission in writing of any person ejected or excluded by the Racing Association and the reasons for the ejection or exclusion. (3-29-10)

02. **Readmission**. Any person ejected from the grounds of a Racing Association will be denied readmission to said grounds until permission has been approved by the Racing Commission. (3-29-10)

921. -- 999. (RESERVED)

11.04.11 – RULES GOVERNING EQUINE VETERINARY PRACTICES, PERMITTED MEDICATIONS, BANNED SUBSTANCES AND DRUG TESTING OF HORSES

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.11, "Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses." (3-29-10)

02. Scope. These rules governs the practices of veterinarians licensed by the Racing Commission, permitted medication of horses and drug testing of horses by the Idaho State Racing Commission. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS *AND ABBREVIATIONS*.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Bleeder List. A list maintained by the commission veterinarian with all horses that have demonstrated external evidence of exercise induced pulmonary hemorrhage from one (1) or both nostrils during or after a race or workout. (3-29-10)

02. Calendar Year. A calendar year beginning January 1 and ending December 31. (3-29-10)

03. Colt. An intact male horse under five (5) years of age. (3-29-10)

04. Commission Veterinarian. A Racing Commission appointed veterinarian having authority to enforce the Racing Commission's rules relating to veterinary practices. (3-29-10)

05. DMSO. Dimethyl Sulfoxide. (3-29-10)

06. Filly. A female horse that has not reached five (5) years of age. (3-29-10)

07. Gelding. An altered male horse of any age. (3-29-10)

08. Horse. Includes filly, mare, colt, horse or gelding in general; when referring to sex, a horse is an intact male five (5) years old or older. (3-29-10)

09. Hypodermics. Any hypodermic instrument, hypodermic syringe or hypodermic hollow needle used for injection of substances into the body of a horse. (3-29-10)

***10.* Inspection of Horses**. A veterinarian inspection to assess the racing condition of every horse entered in an official race. (3-29-10)

***11.* Mare**. A female horse that has reached the age of five (5) years. (3-29-10)

***12.* Medication Report Form**. A form signed by the treating veterinarian disclosing the identity of the horse, the permitted drug being used with dosage or procedure administered, the time administered and the name of the trainer. (3-29-10)

13. Needle and Syringe. See Hypodermics - Subsection 010.08 of this rule. (3-29-10)

14. Owner. The person that has legal title to, or has financial control of, a horse utilized for racing in Idaho. However, an interest in the winnings of a horse does not itself constitute ownership. (3-29-10)

15. Penalties. For this chapter, a penalty issued against an individual(s) found guilty of medication and drug violations. (3-29-10)

16. Primary Laboratory. A laboratory approved by the Racing Commission to conduct testing and official analysis of post-race samples. (3-25-16)

17. **Prohibited Substances**. Medication and drugs that should not be administered to a horse. (3-29-10)

18. **Racing Association**. Any person licensed by the Racing Commission to conduct live or simulcast pari-mutuel wagering. (3-29-10)

19. **Racing Condition**. The physical ability to race of a horse determined by the commission veterinarian. (3-29-10)

20. **Referee Laboratory**. Laboratory approved by the Racing Commission to conduct split sample testing. (3-25-16)

21. **Sample**. A blood, urine, saliva, hair, or any other acceptable specimen taken from a horse at the direction of the commission veterinarian. ( )

22. **Split Sample**. A blood, urine, saliva, hair, or any other acceptable specimen taken from a horse that is greater than the minimum sample requirement. ( )

23. **Suspension**. Punishment for violation of the Racing Commission rules. The offender is denied privileges of the racing facilities for a specified period of time. (3-29-10)

24. **Test Area**. A secured testing area provided by a racing association used for taking samples of blood, urine, saliva, hair, or any other acceptable specimen for testing. ( )

25. **Trainer**. The person who conditions and prepares a race horse for racing, with the absolute responsibility to ensure the physical condition and eligibility of the race horse. (3-29-10)

26. **Veterinarian's List**. A list of all horses which are ineligible to be entered in any race due to a physical condition. (3-29-10)

27. **Veterinarians' Reports**. The Medication Report Form completed by every veterinarian who treats a racehorse at any location under the jurisdiction of the Racing Commission. (3-29-10)

28. **Veterinarian**. Practicing Private practitioner employed by owners and trainers on an individual case or contract basis. (3-29-10)

011. -- 019. (RESERVED)

020. ENTER, SEARCH AND INSPECT.
Every Racing Association, the Racing Commission, the Stewards or trained and qualified agents of the Idaho State Police, have the right to enter, search and inspect the buildings, stables, rooms and other places where horses which are eligible to race are kept, or where property and effects of the licensee are kept within the grounds of the Racing Association. Any licensee accepting a license is deemed to have consented to such search and to the seizure of any non-approved or prohibited materials, chemicals, drugs or devices and anything apparently intended to be used in connection therewith. (3-29-10)

021. AUTHORITY OF THE COMMISSION VETERINARIAN.
The Commission Veterinarian has the authority to supervise the actions of veterinarians licensed by the Racing Commission while they are practicing at any location under the jurisdiction of the Racing Commission. The commission veterinarian recommends to the Stewards or the Racing Commission disciplinary actions for any veterinarian who violates any Racing Commission rule. (3-29-10)

022. REPORT OF DISEASE.
All practicing veterinarians must promptly notify the commission veterinarian of any reportable disease and any unusual incidence of a communicable illness in any horse in his charge. (3-29-10)

023. RESTRICTIONS OF WAGERING.
A practicing veterinarian may not wager on the outcome of any race if the practicing veterinarian has treated a horse participating in the race within the past thirty (30) days. (3-29-10)

024. -- 029. (RESERVED)

030. TREATMENT RESTRICTIONS.
Except as otherwise provided by these rules, no person other than a veterinarian licensed to practice veterinary medicine in Idaho and licensed by the Racing Commission may administer a prescription or controlled medication, drug, chemical or other substance, including any medication, drug, chemical or other substance by injection, to a horse at any location under the jurisdiction of the Racing Commission. (3-29-10)

031. ADMINISTRATION OF NON-INJECTABLE SUBSTANCES.
These rules do not apply to the administration of the following substances in approved quantitative levels present in post-race samples, if any, or as they may interfere with post-race testing: (3-29-10)

01. Nutritional Supplement. A recognized non-injectable nutritional supplement or other substance approved by the commission veterinarian; (3-29-10)

02. Prescription. A non-injectable substance on the direction or by prescription of a licensed veterinarian; or (3-29-10)

03. Non-Prescription. A non-injectable non-prescription medication or substance. (3-29-10)

032. -- 034. (RESERVED)

035. HYPODERMIC NEEDLES.

01. Possession Prohibited. No person may possess a hypodermic needle, syringe or injectable of any kind on Racing Association grounds, unless approved by the Racing Commission. (3-29-10)

02. Disposable Needles. At any location under the jurisdiction of the Racing Commission, licensed veterinarians may use only one-time disposable needles, and must dispose of them in a manner approved by the Racing Commission. (3-29-10)

03. Medical Condition. If a person has a medical condition that makes it necessary to have a syringe at any location under the jurisdiction of the Racing Commission, that person must: (3-29-10)

a. Request permission of the Stewards or the Racing Commission in writing; (3-29-10)

b. Furnish a letter from a licensed physician explaining why it is necessary for the person to possess a syringe; and (3-29-10)

c. Comply with any conditions and restrictions set by the Stewards or the Racing Commission. (3-29-10)

036. -- 039. (RESERVED)

040. BANNED SUBSTANCES.

01. Banned Substances. Any medication, drug, chemical, narcotic, anesthetic, or analgesic that is not specifically permitted by these rules is banned from use in horses that are eligible to race in Idaho and are located on the grounds of a racing association. (3-29-10)

02. Administration by Veterinarians. All practicing veterinarians administering drugs, medications or other substances are responsible for ensuring that the drugs, medications or other substances and the veterinary treatment of horses are administered in accordance with these rules. (3-29-10)

041. -- 049. (RESERVED)

050. NON-PERMITTED MEDICATION.
If the Stewards find that any non-permitted medication, drug, chemical, narcotic, anesthetic, or analgesic has been administered to a horse in such a manner that it is present in a pre-race or post-race test sample, such presence constitutes prima facie evidence of a violation of these rules. (3-29-10)

051. -- 059. (RESERVED)

060. MEDICATIONS.

01. Taking Samples. The Commission Veterinarian, the Racing Commission, or any member of the Board of Stewards may take samples of any medicines or other materials suspected of containing improper medication, drugs or chemicals that would affect the racing condition of a horse in a race. (3-29-10)

02. Location. Any substances found in stables or elsewhere on the grounds of a racing association or in the possession of any person connected with racing are subject to sampling. (3-29-10)

03. Testing. Substances sampled must be delivered to a laboratory designated by the Racing Commission for testing. (3-29-10)

061. -- 069. (RESERVED)

070. ANTI-ULCER MEDICATIONS.
The following anti-ulcer medications are permitted to be administered, at the stated dosage, up to twenty-four (24) hours prior to the race in which the horse is entered: (3-29-10)

01. Cimetidine (Tagamet®). Dosage 8-20 mg/kg PO BID-TID. (3-29-10)

02. Omeprazole (Gastrogard®). Dosage 2.2 grams PO SID. (3-29-10)

03. Ranitidine (Zantac®). Dosage 8 mg/kg PO BID. (3-29-10)

071. -- 074. (RESERVED)

075. ENVIRONMENTAL CONTAMINANTS AND SUBSTANCES OF HUMAN USE.
The following substances can be environmental contaminants in that they are endogenous to the horse or that they can arise from plants traditionally grazed or harvested as equine feed or are present in equine feed because of contamination during the cultivation, processing, treatment, storage or transportation phases. (3-29-10)

01. Caffeine. Caffeine is recognized as a substance of human use and could be found in the horse due to its close association with humans. The regulatory threshold for caffeine is 100 nanograms of caffeine per milliliter of serum or plasma. (3-29-10)

02. Positive Test. If the preponderance of evidence presented in a hearing shows that a positive test is the result of environmental contamination or inadvertent exposure due to human drug use it should be considered as a mitigating factor in any disciplinary action taken against the affected trainer. (3-29-10)

076. -- 099. (RESERVED)

100. TESTING FACILITIES.
The Racing Commission may require the Racing Association to provide such facilities for medication, drug or other tests of a horse as may be required by the Racing Commission. (3-29-10)

101. -- 104. (RESERVED)

105. LABORATORY MINIMUM STANDARDS.
Laboratories conducting either primary or split post-race sample analysis must meet at least the following minimum standards: (3-29-10)

01. Lab Accreditation. A testing laboratory must be accredited by a recognized accrediting body to any standards set forth and required by the Racing Commission. (3-29-10)

02. Instrumentation for Screening. A testing laboratory must have, or have access to, LC/MS instrumentation for screening or confirmation purposes, or both. (3-29-10)

03. Standards of Detection. A testing laboratory must be able to meet minimum standards of detection, which is defined as the specific concentration at which a laboratory is expected to detect the presence of a particular drug or metabolite, or both, or by the adoption of a regulatory threshold. (3-29-10)

106. -- 109. (RESERVED)

110. TESTING.

01. Testing. The official winning horse and any other horse ordered by the Racing Commission or the Stewards must be taken to the testing area to have a blood, urine, saliva, hair, or any other acceptable specimen taken at the direction of the Commission Veterinarian. ( )

02. Examination. Examination of the race winner or other designated horses must be made by the Commission Veterinarian or his assistant. (3-29-10)

03. Specimens. All specimens must be collected by the Commission Veterinarian or his assistant. (3-29-10)

111. OUT-OF-COMPETITION TESTING.

01. Racing Commission Authority to Request Test. The Racing Commission may request an out-of-competition testing (OCT) sample be collected and screened for any violation of Section 600 of these rules. ( )

02. Conditions for Racing Commission Request. The Racing Commission may request any owner or trainer currently licensed by the Racing Commission to allow for an OCT sample be collected under any of the following conditions: ( )

a. The horse is stabled on the grounds of a licensed race meet. ( )

b. The horse is nominated or eligible for a stake or handicap race. ( )

c. The registration certificate of the horse is currently on file with the racing association. If the horse selected is not currently stabled on the grounds, the owner or trainer shall present the horse to the test barn at a time designated by the commission. ( )

03. Horse Selection. Horses will be selected for OCT by a Racing Commission veterinarian, steward, or executive secretary. ( )

04. Sample Collection and Split Samples. Sample collection and split samples will be done in accordance with Sections 110 through 180 of these rules. ( )

05. Refusal to Submit. Refusal to submit to an OCT sample request will result in penalties consistent with Sections 501, 990, and 995 of these rules. ( )

06. Qualified Horse. If a horse that qualifies under Subsection 111.02 of this rule is selected for testing and is not stabled at a race meet licensed by the Racing Commission, the Racing Commission may approve a regulatory veterinarian from another jurisdiction to collect and submit the sample providing the process complies

with Sections 110 through 180 of these rules. ( )

07. Penalties. Penalties for a report of a positive laboratory finding in violation of this Section 111 will be consistent with Sections 501, 990, and 995 of these rules. ( )

112. -- 114. (RESERVED)

115. RANDOM OR EXTRA TESTING.
Random or extra testing may be required by the Stewards or the Racing Commission at any time on any horse on Racing Association grounds. Unless otherwise directed by the Stewards or the Commission Veterinarian, a horse that is selected for testing must be taken directly to the testing area. (3-29-10)

116. -- 119. (RESERVED)

120. TRAINER PRESENT.

01. Present During Testing. The Trainer, or his authorized representative, must be present in the testing area when a blood, urine, saliva, hair, or any other acceptable specimen is taken from a horse. ( )

02. Tag Signed. The sample tag must be signed by the Trainer or his representative, as witness to the taking of the specimen. (3-29-10)

03. Refusal. Willful failure to be present at or a refusal to allow the taking of such specimen, or any act or threat to impede or prevent or otherwise interfere therewith, subjects the person or persons doing so to immediate suspension by the Stewards and the matter will be referred to the Racing Commission for such further penalty as may be determined. (3-29-10)

121. -- 129. (RESERVED)

130. SPECIMENS.

01. Delivery to Approved Laboratory. All specimens taken by or under direction of the Commission Veterinarian, or other authorized representative of the Racing Commission, must be delivered to the laboratory approved by the Racing Commission for official analysis. (3-29-10)

02. Number and Date. Each specimen must be marked by number and date and may also bear such information as may be essential to its proper analysis. (3-29-10)

03. Identity. The identity of the horse from which the specimen was taken or the identity of its Owner, Trainer, Jockey, or stable must not be revealed to the laboratory. (3-29-10)

04. Container. The container of each specimen must be sealed as soon as the specimen is placed therein and must bear the name of the Racing Commission. (3-29-10)

131. -- 139. (RESERVED)

140. DETERMINATION OF SAMPLE.

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

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

03. More Than The Minimum. If a specimen obtained is greater than the minimum sample requirement, the portion of the sample that is greater than the minimum sample requirement may be secured as the split sample if proper storage capabilities exist. (3-25-16)

141. -- 149. (RESERVED)

150. STORAGE AND SHIPMENT OF SPLIT SAMPLES.
Split samples obtained in accordance with Subsection 140.03 of these rules, must be secured and made available for further testing in accordance with the following procedures: (3-29-10)

01. Secured. A split sample must be secured under the same manner as the portion of the specimen acquired for shipment to a primary laboratory until such time as specimens are packed and secured for shipment to the primary laboratory. (3-29-10)

02. Transfer of Samples. Split samples must then be transferred to a freezer or other approved storage container, at a secure location approved by the Racing Commission. ( )

151. -- 159. (RESERVED)

160. TESTING SPLIT SAMPLES.
After having been notified that a written report from a primary laboratory stating that a prohibited substance has been identified in a specimen obtained pursuant to these rules, a trainer or owner of a horse may request that a split sample, corresponding to the portion of the specimen tested by the primary laboratory, be sent to another laboratory approved by the Racing Commission. (3-25-16)

01. Submission of Testing Request. A formal request for split sample testing must be made in writing and delivered to the Stewards not later than three (3) business days after the trainer of the horse receives written notice of the findings of the primary laboratory. The request must include the requesting trainer or owner's top three (3) referee laboratory choices. Any request for split sample testing not received by the specified deadline, and/or without all the required information, *is* considered invalid. *( )*

02. Lab's Willingness to Test. Upon receipt of the written request for split sample testing, the Racing Commission *will* confirm the referee laboratory has agreed to accommodate the request and provide official test results to the Racing Commission. The Racing Commission *will* identify the confirmed referee laboratory to the requesting owner or trainer to arrange for payment of shipping costs and testing services costs. *( )*

03. Shipping and Testing Fees. The requesting owner or trainer is entirely responsible for all costs and fees associated with sample shipment and testing services. Payment for sample shipment must be made to the Commission Veterinarian, or his authorized designee, prior to shipment of the split sample. Once the Racing Commission has received confirmation of payment of necessary fees required for split sample testing, the requested split samples *will* be shipped to the referee laboratory within ten (10) business days. Shipments are mailed only on Monday, Tuesday or Wednesday to avoid the samples sitting in a warehouse unrefrigerated over a weekend if there is a problem in transit. *( )*

04. Unforeseen Circumstances. (3-25-16)

a. If the Racing Commission is unable to secure the services of a referee laboratory, the Racing Commission *has* the option to request the primary laboratory to conduct the split sample testing. The owner and trainer affected will be notified by the Racing Commission. *( )*

b. If the Racing Commission is unable to contact the affected trainer or owner by telephone or last known location, the Racing Commission may proceed with split sample testing by the primary laboratory. (3-25-16)

c. If an Act of God, power failure, accident, strike, or other action that is beyond the control of the Racing Commission prevents a split sample from being tested, the test results of the primary laboratory *will* be accepted as prima facie evidence. *( )*

05. Split Sample Test Results. The referee laboratory send*s* the results of the split sample test to the Racing Commission and the Racing Commission *will* forward those results simultaneously to the requesting owner or trainer as quickly as possible. *( )*

a. If the split sample testing confirms the findings of the primary laboratory, it *is* considered a prima facie violation of the applicable provisions of this chapter. *( )*

b. If the split sample testing does not substantially confirm the findings of the primary laboratory, it *does* not constitute a prima facie violation of this chapter and no penalty will be imposed by the Racing Commission. *( )*

161. -- 179. (RESERVED)

180. CHAIN OF CUSTODY.
The Racing Commission will provide a split sample chain of custody verification form. (3-29-10)

181. -- 199. (RESERVED)

200. NON-STEROIDAL ANTI-INFLAMMATORY DRUGS.

01. Exception. No horses may be entered into a race utilizing a Non-Steroidal Anti-Inflammatory Drug, except DMSO, unless: (3-29-10)

a. The Trainer and Veterinarian of the horse submit to the Commission Veterinarian the Non-Steroidal Anti-Inflammatory Drug Request Form; and (3-29-10)

b. The Commission Veterinarian has granted written approval for the use. (3-29-10)

02. Procedures. The Commission Veterinarian must establish and publish reasonable procedures pertaining to use of the Non-Steroidal Anti-Inflammatory Drug Request Form. (3-29-10)

03. Posted. A copy of the established procedures must be posted in the office of the Racing Secretary. (3-29-10)

201. -- 209. (RESERVED)

210. NON-STEROIDAL ANTI-INFLAMMATORY DRUG REQUEST FORM.
The Non-Steroidal Anti-Inflammatory Drug Request Form submitted to the Commission Veterinarian must include and be processed as follows: (3-29-10)

01. Name of Horse. The name, age, sex and breed of the horse; (3-29-10)

02. Name of Trainer and Veterinarian. The name of the licensed Trainer and veterinarian; (3-29-10)

03. Nature of Injury. The nature of the horse's injury or disease as determined by an examination by a qualified and duly licensed veterinarian; (3-29-10)

04. Name of Drug Requested. The name of the Non-Steroidal Anti-Inflammatory drug requested and the proposed time and method of administration; (3-29-10)

05. Signature. Signature of Trainer and veterinarian attending the horse and the Commission Veterinarian. (3-29-10)

06. Filing. The trainer or veterinarian attending the horse must file the completed request form with the racing secretary. (3-29-10)

211. -- 219. (RESERVED)

220. APPROVAL OF NON-STEROIDAL ANTI-INFLAMMATORY DRUG REQUEST.
The Commission Veterinarian will approve the Non-Steroidal Anti-Inflammatory Drug request only if: (3-29-10)

01. Professional Judgment. In the exercise of his professional judgment, a need for the use of the Non-Steroidal Anti-Inflammatory Drug for the particular horse's injury or disease has been satisfactorily demonstrated. (3-29-10)

02. Professional Diagnosis. In arriving at the decision, the Commission Veterinarian may take into account or rely upon the written professional diagnosis made by a qualified and duly licensed veterinarian. (3-29-10)

221. -- 229. (RESERVED)

230. EXPIRATION OF APPROVAL.
Approved medication may be discontinued with permission of the Commission Veterinarian. (3-29-10)

231. -- 239. (RESERVED)

240. PERMITTED NON-STEROIDAL ANTI-INFLAMMATORY DRUGS.
The only Non-Steroidal Anti-Inflammatory Drugs permitted by these rules are: (3-29-10)

01. Phenylbutazone (Butazoladin); (3-29-10)

02. Mechlofenamic Acid (Arquel); (3-29-10)

03. Flunixin (Banamine); and (3-29-10)

04. Ketoprofen (Ketofen). (3-29-10)

241. -- 249. (RESERVED)

250. DAILY RACING PROGRAM.
Horses that are on a Non-Steroidal Anti-Inflammatory Drug must be indicated on the daily racing programs or any other publications and a list of horses on a Non-Steroidal Anti-Inflammatory Drug will be posted at a location designated by the Racing Commission. (3-29-10)

251. -- 259. (RESERVED)

260. NON-STEROIDAL ANTI-INFLAMMATORY DRUG ADMINISTRATION.
No Non-Steroidal Anti-Inflammatory Drug may be administered to the horse later than twenty-four (24) hours prior to the time the horse is scheduled to race. Only one (1) Non-Steroidal Anti-Inflammatory Drug may be in a horse’s system on race day. (3-29-10)

261. -- 264. (RESERVED)

265. BLEEDER TREATMENT.

01. Written Approval Needed. Epistaxis treatment for bleeders is permitted as a race day medication provided that written approval of the Commission Veterinarian is obtained prior to race day treatment on the Medication Request Form. (3-29-10)

02. Bleeders. Bleeders that have been running under Epistaxis treatment must obtain written approval of the Commission Veterinarian prior to entry in any race before running without similar treatment. (3-29-10)

03. Premarin. Premarin is a permissible Epistaxis treatment and may be used up to two (2) hours before post time. (3-29-10)

04. Lasix. Lasix is a permissible Epistaxis treatment. (3-29-10)

266. -- 269. (RESERVED)

270. IDAHO BLEEDER LIST.
Any horse which exhibits symptoms of Epistaxis or respiratory tract hemorrhage is eligible for placement on the Idaho Bleeder List and for treatment on race days with approved medication to prevent or limit bleeding during racing. (3-29-10)

01. Placed on Idaho Bleeder List. To be placed on the Idaho Bleeders List a horse must be found to have shed free blood from one (1) or both nostrils or bled internally in the respiratory tract during or immediately following a race or workout. The Commission Veterinarian, following his personal examination of a horse or after consulting with the horses' private veterinarian, may certify a horse as a bleeder. (3-29-10)

02. Bleeder. (3-29-10)

a. Any horse that bleeds a second time in Idaho will not be able to race for a period of thirty (30) days from the date of the second bleeding offense. (3-29-10)

b. Any horse that bleeds a third time in Idaho, and each time thereafter, will be suspended from racing for a period of one (1) year from the date of each bleeding offense. (3-29-10)

03. Bleeder from Another Jurisdiction. A bleeder horse shipped into Idaho from another racing jurisdiction must comply with Racing Commission rules. Any horse on a bleeder list in another racing jurisdiction may be placed on the Idaho Bleeder List provided a current certificate from the jurisdiction where it was confirmed on the bleeder list, or a letter from the horses private veterinarian, who is currently licensed by the racing jurisdiction, is presented to the Commission Veterinarian for his approval. (3-29-10)

04. Removal from Bleeder List. The Commission Veterinarian may remove a horse from the Idaho Bleeder List, provided the proper paperwork is complete and it is the recommendation of the licensed veterinarian treating the horse, or after an examination by the Commission Veterinarian, it is determined that the horse is not a bleeder and is no longer eligible for the Bleeder List. (3-29-10)

271. -- 279. (RESERVED)

280. URINE SAMPLES.

01. Phenylbutazone. No urine sample taken from a horse authorized to use phenylbutazone may exceed one hundred sixty-five (165) micrograms total of phenylbutazone or its metabolites per milliliter of urine. (3-29-10)

02. Lasix. Any horse whose post-race urine creatinine is less than forty (40) milligrams creatinine per one hundred (100) milliliters urine, and the ratio of urine furosemide to urine creatinine does not exceed fifteen hundredths (.15), with urine furosemide being measured in micrograms per milliliter of urine will be said to be positive for Lasix overage. (3-29-10)

281. -- 289. (RESERVED)

290. BLOOD SAMPLES.
No blood sample taken from a horse authorized to use the following substances may exceed these limits: (3-29-10)

01. Phenylbutazone. May not exceed five (5) micrograms of phenylbutazone or oxyphenbutazone per milliliter of plasma; (3-29-10)

02. Flunixin (Banamine). May not exceed twenty (20) nanograms per milliliter of plasma. (3-29-10)

03. Mechlofenamic Acid (Arquel). May not exceed one (1) microgram per milliliter of plasma. (3-29-10)

04. Ketoprofen (Ketofen). May not exceed ten (10) nanograms per milliliter of plasma. (3-29-10)

05. Lasix (Furosemide) May not exceed one hundred (100) nanograms of furosemide per milliliter of plasma. (3-29-10)

291. HAIR TESTING.
No hair sample taken from a horse *may* contain any prohibited drug or other non-approved medication. *( )*

01. Racing Commission Authority. The Racing Commission is authorized to collect and submit hair samples for testing in quarter horses and mixed breed races. Hair samples *will* be collected consistent with Section 111 of these rules. *( )*

02. Presence of Prohibited Substances. The presence of any prohibited substances that appears in a pre or post-race sample including, but not limited to, Clenbuterol, Zilpaterol, and Ractopamine in Quarter Horse and mixed breed races will constitute a violation. Any report of prohibited or non-permitted medication in a hair sample will result in the horse being placed on a stewards list for sixty (60) days. A horse must provide a negative hair test prior to removal from list. ( )

03. Positive Finding for Prohibited Substance. Samples collected for out-of-competition testing in Quarter Horses and mixed breed horses that result in a positive finding for a prohibited substance as listed in Section 600 of these rules will be reported to the Board of Stewards and considered a violation. The presence of Clenbuterol in an out-of-competition test in a Quarter Horse will result in the horse being placed on the official veterinarians list for a minimum of sixty (60) days or until a sample is submitted and is reported as negative for the presence of Clenbuterol. If, at the owner's request, a sample is submitted for screening for removal from the official veterinarians list, the owner is responsible for the cost of the testing. ( )

04. Hair Sample. If a horse is selected for hair testing and the mane is less than four and one-half inches (4 1/2") in length, the Racing Commission may elect to collect a hair sample using the tail. ( )

292. -- 299. (RESERVED)

300. LASIX ADMINISTRATION.

01. Time of Treatment. Horses on the Bleeder List must be treated at least four (4) hours prior to post time with the bleeder medication furosemide (ie. Lasix). (3-29-10)

02. Dosage. Bleeder medication must be administered in the manner and at a dose level approved by the Commission Veterinarian, such dosage not to exceed two hundred fifty (250) mg. (3-29-10)

03. Witness. At his request, the Commission Veterinarian or his designee may witness the administration of Lasix by the trainer's private licensed veterinarian. (3-29-10)

04. Reporting. Administration of Lasix must be reported in writing, on the form designated by the Racing Commission, to the Commission Veterinarian no later than three (3) hours prior to the scheduled post time of the last live race of the program. (3-29-10)

301. -- 319. (RESERVED)

320. HORSES NOT STABLED ON GROUNDS.
Any horse on the Idaho Bleeder List that is not stabled on the actual grounds of the Racing Association where it is to race must be brought on to the grounds of the Racing Association where it is scheduled to race at least five (5) hours prior to the post time for the race for which it is entered. (3-29-10)

321. -- 399. (RESERVED)

400. BICARBONATE TESTING.

01. Administration Prohibited. No bicarbonate-containing substance or alkalizing substance that

effectively alters the serum or plasma pH or concentration of bicarbonates or carbon dioxide in a horse may be administered to a horse on race day. (3-29-10)

02. Positive Test Level. Test samples collected from a horse either before or within one (1) hour following a race may not exceed thirty-seven point zero (37.0) millimoles of total carbon dioxide concentration per liter of serum or plasma. A serum total carbon dioxide level exceeding this value constitutes a positive test. (3-29-10)

03. Collection of Test Samples. The Commission Veterinarian, the Board of Stewards, or the Executive Director acting on behalf of the Racing Commission may at their discretion and at any time order the collection of test samples from any horses ordered to the test area to determine the serum or plasma pH or concentration of bicarbonate, carbon dioxide, or electrolytes. A sample consisting of at least thirteen (13) ml in a SST tube must be taken from any horse either just prior to a race or up to one (1) hour after a race to determine the serum total carbon dioxide concentration. If the primary testing laboratory finds that the total carbon dioxide levels in the tubes exceed the standard test values of thirty-seven point zero (37.0) millimoles per liter, this may be grounds for disciplinary action. (3-29-10)

04. Split Sample Testing Prohibited. When taking samples for total carbon dioxide levels, split samples are prohibited. The procedures for split sample testing does not apply to bicarbonate testing procedures. (3-29-10)

401. -- 499. (RESERVED)

500. PROTECTION OF HORSES.

The Trainer, groom and any other person having charge, custody or care of a horse is obligated to properly protect the horse and guard it against actual or attempted administration of drugs. If the Stewards find that any person has failed to properly protect and guard a horse, they may impose such penalty and take such other action as they deem proper. (3-29-10)

501. ILLEGAL PRACTICES BY TRAINER.

01. Disciplinary Sanctions. A trainer who is found to have committed illegal practices under the statutes or rules, or both, that govern live horse racing in Idaho *is* subject to disciplinary sanctions, which may be levied by a fine up to two thousand five hundred dollars ($2,500), license suspension or license revocation. *( )*

02. Disqualification for Non-Permitted Substance. If a horse tests positive for any substance (medication, drug, chemical, narcotic, anesthetic, or analgesic) not specifically permitted by these rules by either a pre- or post-race laboratory test, that horse *is* deemed ineligible to have raced in the race and *will* be disqualified retroactively to the start of the affected race. If such disqualification occurs, the horse's owner(s) shall, within five (5) calendar days, return the entire amount of the purse or sweepstakes or trophy that was awarded in the affected race and the same *will* be redistributed. If the affected race is a qualifying race for a subsequent race and if a horse *is* disqualified, the eligibility of other horses that ran in the affected race and that have started in the subsequent race before announcement of such disqualification *will* not in any way be affected. *( )*

502. -- 599. (RESERVED)

600. NON-APPROVED MEDICATION.

01. Administration by Owner or Trainer. A horse owner or trainer found to have administered any non-approved medication substances is in violation of these rules. ( )

02. Clenbuterol. A finding of Clenbuterol is prohibited in blood, urine, saliva, hair, or any other acceptable specimen. ( )

601. -- 699. (RESERVED)

700. MEDICATION REPORT FORM.

01. Submission of Medication Report Form. All practicing licensed Veterinarians must submit daily to the Commission Veterinarian a Medication Report Form furnished by the Racing Commission. (3-29-10)

02. Content of Medication Report Form. The form must contain the following information: (3-29-10)

a. The name, age, sex and breed of the horse; (3-29-10)

b. The permitted drug used; (3-29-10)

c. The time the permitted drug was administered; and (3-29-10)

d. The route and dosage of the administration. (3-29-10)

03. Signed and Dated. The report must be dated and signed by the licensed Veterinarian so administering the medication. (3-29-10)

04. Confidential. Any such report is confidential and its content may not be disclosed except in a proceeding before the Stewards or the Racing Commission or in the exercise of the Racing Commission's jurisdiction. (3-29-10)

701. -- 989. (RESERVED)

990. PENALTIES.
Any person violating any of the provision of these rules is subject to the penalties provided for in Title 54, Chapter 25 Idaho Code and any of the Racing Commission rules. (3-29-10)

991. -- 994. (RESERVED)

995. VIOLATIONS.
Any person violating any of the provisions of these rules is subject to the penalties provided for in Title 54, Chapter 25, Idaho Code and any of the Racing Commission rules. (3-29-10)

01. First Violation. The first violation of these rules will result in the issuance of a fine to the horse's Trainer and such other penalty deemed appropriate. (3-29-10)

02. Second Violation. The second violation of this chapter by the same Trainer during the same calendar year will result in a suspension, a fine and such other penalty deemed appropriate. (3-29-10)

03. Third Violation. A third violation of this chapter will be referred to the Racing Commission for appropriate action up to and including revocation of license. (3-29-10)

04. Not Detected. If a Non-Steroidal Anti-inflammatory Drug other than DMSO is not detected in the urine or in any other specimen taken from a horse authorized to use the Non-Steroidal Anti-Inflammatory Drug, a fine up to five hundred dollars ($500) may be imposed upon the horse's Trainer without loss of purse. (3-29-10)

05. Detected. If a Non-Steroidal Anti-Inflammatory Drug is detected in the urine or in any other specimen taken from a horse not authorized to use the Non-Steroidal Anti-Inflammatory Drug, the violation will result in loss of purse and the horse's Trainer is subject to such penalties deemed appropriate. (3-29-10)

996. -- 999. (RESERVED)

11.04.15 – RULES GOVERNING CONTROLLED SUBSTANCE AND ALCOHOL TESTING OF LICENSEES AND APPLICANTS

000. LEGAL AUTHORITY.
This chapter is adopted pursuant to the legal authority of Title 54, Chapter 25, of the Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.04.15, "Rules Governing Controlled Substance and Alcohol Testing of Licensees and Applicants," of the Idaho State Racing Commission. *( )*

02. Scope. These rules govern controlled substance and alcohol testing of licensees and applicants by the Idaho State Racing Commission. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions in Title 54, Chapter 25, Idaho Code, the following apply: *( )*

01. Alcohol. The intoxicating agent in beer, wine, or liquor, as the terms are defined in Title 23, Idaho Code, and includes ethyl, methyl, and isopropyl alcohols. (3-29-10)

02. Applicant. Any person who has applied to the Racing Commission for a license. (3-29-10)

03. Controlled Substance. A drug, substance, or immediate precursor listed in schedules I through V of Article II of Title 37, Chapter 27, Idaho Code. (3-29-10)

04. Licensee. Any person who has been issued a license by the Racing Commission. (3-29-10)

05. Person. Any individual, association, partnership, firm, joint stock company, joint venture, trust, estate, political subdivision, public or private corporation, or any legal entity, which is recognized by law as the subject of rights and duties. (3-29-10)

06. Racing Association. Any person licensed by the Racing Commission to conduct live horse races and pari-mutuel wagering. (3-29-10)

07. Reasonable Suspicion. Behavior or pattern of behavior indicates that the licensee or applicant is under the influence of a controlled substance or alcohol. The basis of the suspicion may be a specific, contemporaneous event or conduct that has been observed over a period of time. *( )*

08. Suspension. A temporary remedial measure designed to protect the safety and integrity of the horse racing industry and the participants therein. (3-29-10)

09. Sample. A urine sample collected for the purpose of drug testing, or a blood, breath, or saliva sample collected for the purpose of alcohol testing. (3-29-10)

011. -- 019. (RESERVED)

020. PRIMARY PURPOSE.
In order to protect the integrity of horse racing in the state of Idaho, to protect the health and welfare of licensees and applicants engaged in horse racing within the state of Idaho, to prevent exploitation of the public, licensees and applicants engaged in horse racing in the state of Idaho, to foster fairness of competition within the racing industry and in order to protect public safety within the state of Idaho, the Racing Commission intends to regulate the use of any controlled substance and alcohol at all race meets licensed by it. *( )*

021. -- 049. (RESERVED)

050. USE OF CONTROLLED SUBSTANCES.
No licensee or applicant may have within their body any unauthorized controlled substance while within the enclosure of or on the premises managed by any racing association or the Racing Commission. *( )*

051. -- 059. (RESERVED)

060. CONSUMPTION OF ALCOHOL.
No jockey, starter, assistant starter, pony person, outrider, or racing official may have present within his body any amount of alcohol while participating in any horse race held that day. (3-29-10)

061. -- 099. (RESERVED)

100. TESTING.
The Board of Stewards, or the Racing Commission acting through the executive director, may require any licensee or applicant to provide blood, urine, or saliva samples for the purpose of drug or alcohol analysis under either of the following circumstances: ( )

01. Random Testing. As part of a random testing program. (3-29-10)

02. Reasonable Suspicion. When the Board of Stewards finds that there is reasonable suspicion to believe that the proposed testee has used any controlled substance. (3-29-10)

101. -- 119. (RESERVED)

120. POST-ACCIDENT TESTING.
At its discretion the Board of Stewards may conduct post-accident controlled substance or alcohol testing of any licensee or applicant who is involved in a racing or job-related accident on the track or on racing association grounds that requires treatment away from the scene of the accident. ( )

121. -- 129. (RESERVED)

130. REFUSAL TO TEST.

01. Refusal to Supply a Sample. When any licensee or applicant is requested to submit to a drug test in a manner prescribed in these rules, the person must do so in a prompt manner. Refusal to supply such sample will result in: ( )

a. The immediate suspension of the licensee or applicant; and ( )

b. A hearing before the Board of Stewards in accordance with IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals," Section 050. (3-29-10)

02. Suspended from Racing for Refusal to Test. (3-29-10)

a. If the Board of Stewards finds at the hearing that said refusal to test occurred, the licensee or applicant will be suspended from racing for seven (7) calendar days and be subject to random testing for one (1) year. ( )

b. In the event of a finding of just cause the licensee or applicant must submit to a test immediately once the conditions which justly prevented testing abate or can be eliminated. ( )

03. Subject to Random Testing. In the event a licensee or applicant refuses to test when requested after previously refusing to test or previously testing positive for drugs, that licensee or applicant will be suspended from racing for a period of ninety (90) calendar days and subject to random testing for a period of one (1) year. ( )

131. -- 149. (RESERVED)

150. TESTING PROCEDURE.

01. Accordance with Established Procedures. Testing must be done in accordance with established

medical and law enforcement procedures in the state of Idaho. (3-29-10)

02. Retesting. The sample may be retested at the request of the licensee or applicant at either the laboratory used by the Racing Commission or a separate laboratory selected from a list provided by the Racing Commission. The licensee or applicant is responsible for all costs associated with the retesting of the sample. *( )*

151. -- 199. (RESERVED)

200. A POSITIVE TEST.
On receiving written notice from the approved laboratory that a sample has been found positive for a controlled substance, the Racing Commission will initiate the following procedure: (3-29-10)

01. Notification. The Racing Commission, through the Executive Director, will notify the presiding Steward and forward the test results to the Board of Stewards. (3-29-10)

02. Hearing Set. The Board of Stewards will set a hearing in accordance with IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals," within the next two (2) racing days or seven (7) calendar days, whichever is less, after they receive notice of a positive test from the Executive Director. (3-29-10)

03. Written Notice. (3-29-10)

a. Notice of Hearing. Written notice of the hearing must be given to the licensee or applicant as soon as the hearing date is set. The hearing may be held within a shorter or longer period of time if the licensee, employee, or applicant named and the Board of Stewards agree. *( )*

b. Service of Notice. Service must be to the licensee or applicant personally by leaving the notice at the person's residence with someone of reasonable age and discretion residing therein, or by mail to the person's last known address. If by mail, service is deemed completed on the third day after mailing. *( )*

04. Opportunity for Explanation. The hearing *will* conducted before the Board of Stewards pursuant to IDAPA 11.04.04, "Rules Governing Disciplinary Hearings and Appeals." At the hearing, the licensee or applicant will be provided an opportunity to present evidence and explain the positive test. *( )*

05. Confidentiality. The Board of Steward's hearing must be closed and the facts therein will be kept confidential, unless for use with respect to any subsequent contested hearing or order by the Racing Commission or judicial hearing with regard to such facts. Closure of the hearing and confidentiality of the proceedings may be waived by the licensee, employee, or applicant. (3-29-10)

06. Lacking Satisfactory Explanation. Lacking a satisfactory explanation and documentation or upon the licensee or applicant agreeing with the test results, the Board of Stewards will suspend the licensee or applicant in accordance with Section 220 of these rules. *( )*

201. -- 219. (RESERVED)

220. PROCEDURES FOLLOWING A POSITIVE CHEMICAL ANALYSIS.

01. First Positive Test. For a licensee's or applicant's first positive drug test he will not be allowed to participate in racing for seven (7) calendar days and until such time as he has received a substance abuse evaluation and has begun the recommended rehabilitation program. Additionally, the licensee or applicant will be subject to random testing for a period of one (1) year from the date the positive sample was taken. *( )*

02. After Evaluation. After such evaluation, but not before the tolling of the seven (7) calendar days awarded in Subsection 220.01 of these rules, if said licensee's or applicant's condition proves non-addictive and not detrimental to the best interest of racing, said licensee or applicant will be allowed to participate in racing provided he can produce a negative test result from a laboratory approved by the Racing Commission and agrees to further testing at the discretion of the Stewards or designated Racing Commission representative to ensure his unimpairment. *( )*

03. Second Violation. For a licensee's or applicant's second violation, he will be suspended for ninety (90) consecutive days and until he provides the Stewards with documentation that he has enrolled and is progressing satisfactorily in a certified drug rehabilitation program approved by the Racing Commission. ( )

04. Third Violation. For a licensee's or applicant's third violation, he will be suspended and the case referred to the Racing Commission for consideration of revocation of the individual's license. ( )

221. -- 249. (RESERVED)

250. CONFIDENTIALITY OF TEST RESULTS.
All test results are obtained as part of an inquiry into a person's fitness to be granted or to retain a license and are exempt from public disclosure pursuant to Section 9-304C, Idaho Code. A statistical summary will be made available annually. (3-29-10)

251. -- 299. (RESERVED)

300. TESTING EXPENSE.
Except for retesting requested by a licensee or applicant, all testing ordered pursuant to these rules, whether blood, urine, or breath, will be at the expense of the Racing Commission. All expense of drug or alcohol evaluation, treatment, reports, and fees will be at the expense of the licensee or applicant undergoing such evaluation or treatment. ( )

301. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE
IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

DOCKET NO. 11-1001-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 19-5201 - 5204, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 11, rules of the Idaho State Police, Idaho Public Safety and Security Information System, known as "ILETS":

IDAPA 11
- 11.10.01, *Rules Governing Idaho Public Safety and Security Information System*

The adoption of these rules is necessary to allow the Idaho State Police to carry out the statutory duties of providing public safety services to law enforcement, prosecuting attorneys, the judicial system, and everyone who travels through or resides in the State of Idaho. The changes to these rules were clean up in nature, which in some instances consolidated and/or eliminated definitions; combined, re-ordered and re-numbered similar sections; and removed office hours and other information included on the coversheet. All the changes maintain the intent, scope, and purpose intended and previously approved.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1513-1525**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. All law enforcement agencies with a signed user agreement and a direct terminal connection or system access to the ILETS network pay access and usage fees based on that agency's percentage of total annual messages sent and received by the agency through the ILETS message switcher. The total percentage for an agency includes the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access. This fee or charge is being imposed pursuant to Section 19-5202, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Bureau Chief Leila McNeill, phone (208) 884-7136, Fax (208) 884-7193, email **Leila.mcneill@isp.idaho.gov**.

Dated this 3rd day of October, 2019.

Charlie Spencer, Police Services Major / Rules Review Officer
Phone (208) 884-7203 / Fax: (208) 884-7290
Charlie.spencer@isp.idaho.gov

Idaho State Police
700 S. Stratford Drive
Meridian, ID 83642

000. LEGAL AUTHORITY.
Title 19, Chapter 52, Idaho Code, creates an information system board and authorizes it to make rules necessary to establish and operate the Idaho Public Safety and Security Information System, known as "ILETS." (3-19-07)

001. TITLE AND SCOPE.

01. Title. These rules are cited as IDAPA 11.10.01, "Rules Governing Idaho Public Safety and Security Information System." (3-19-07)

02. Scope. These rules relate to the governance and operation of the Idaho Public Safety and Security Information System. (3-19-07)

002. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 11.10.01 incorporates by reference the full text of the requirements relating to criminal justice information and the system used to transport such information found in the following documents: (3-20-04)

a. "Criminal Justice Information Systems," 28 CFR Part 20 (July 1, 2006); (3-19-07)

b. "Criminal Justice Information Systems--CJIS Security Policy," Federal Bureau of Investigation, *Criminal Justice Information Services (CJIS) Division*, Version *5.8* (*June 2019*); *( )*

c. "National Crime Information Center 2000, Operating Manual," Federal Bureau of Investigation, National Crime Information Center (*August 2015*); *( )*

d. *The International and Public Safety Network*, NLETS, Users Guide, (*October 19, 2012*); *( )*

e. *The International and Public Safety Network*, NLETS, Policies and Procedures, (*October 19, 2012*). *( )*

02. Document Availability. The above listed documents are available during normal working hours for inspection and copying at the Idaho State Police. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Access Agency. An agency that electronically accesses ILETS through the services of an interface agency. (3-20-04)

02. Administration of Criminal Justice. (3-30-01)

a. *P*erformance of any of the following activities: *detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of accused persons or criminal offenders.* *( )*

b. *It also* includes: *c*riminal identification activities; and collection, storage, and dissemination of criminal history record information. *( )*

03. Associated System. Any automated or manual information system that is accessible through ILETS. (3-30-01)

04. Board. The Board created by Title 19, Chapter 52, Idaho Code to establish priorities and operational policies and procedures relating to ILETS. (3-20-04)

05. Criminal Justice Agency. (3-30-01)

a. Federal and state courts having jurisdiction to hear criminal matters; and (3-30-01)

b. A government agency or a subunit of a government agency that performs the administration of criminal justice pursuant to a statute or executive order and that allocates a substantial part of its annual budget to the administration of justice. (3-20-04)

06. Department. The Idaho State Police, or its successor agency. (3-20-04)

07. Executive Officer. A position on the ILETS Board filled by the director of the Idaho State Police, or its successor agency. (3-20-04)

08. III. The Interstate Identification Index, which is a cooperative federal-state system for the exchange of automated criminal history records and, to the extent of their participation in the III system, the criminal history repositories of the states. (3-30-01)

09. ILETS. The Idaho Public Safety and Security Information System as established by the director of Idaho State Police pursuant to Title 19, Chapter 52, Idaho Code, includes all hardware, software, electronic switches, peripheral gear, microwave links, and circuitry that comprise the system. (3-19-07)

10. Interface Agency. An agency that has management control of a computer system directly connected to ILETS. (3-20-04)

11. Management Control Agreement. A written agreement between a criminal justice agency and a non-criminal justice agency that provides services (dispatching, record keeping, computer services, etc.) to the criminal justice agency. The agreement gives the criminal justice agency authority to set and enforce policies governing the non-criminal justice agency's access to ILETS. (3-20-04)

12. NCIC 2000. The Federal Bureau of Investigation National Crime Information Center, is a computerized information system that includes telecommunications lines and message facilities authorized by law, regulation, or policy approved by the United States Attorney General to link local, state, tribal, federal, foreign, and international criminal justice agencies for the purpose of exchanging NCIC related information. ( )

13. NLETS. The International Justice and Public Safety Information Sharing Network, is a national computerized message switching system that links national and state criminal justice information systems. (3-19-07)

14. Non-Criminal Justice Agency. A state agency, federal agency, or unit of local government that is not a criminal justice agency. The term does not refer to private individuals, corporations, or non-governmental agencies or organizations. (3-30-01)

011. (RESERVED)

012. EXECUTIVE OFFICER OF THE BOARD.

01. Authority of Office. The executive officer represents the Board in the day-to-day administration of ILETS and is responsible for ensuring that all policies and decisions of the Board are promulgated pursuant to the authority of Chapter 52, Title 19, Idaho Code. The executive officer may delegate duties to employees and officers of the department and executes instruments for, and on behalf of, the Board and ILETS. (3-20-04)

02. Additional Responsibilities. In addition to the responsibilities assigned to the office by statute, the executive officer is responsible for ensuring, subject to adequate legislative appropriations, that the Board receives adequate staff support and that the following staff duties are performed: (3-30-01)

a. Preparation and dissemination of agendas, posting of legal notices of all meetings, and maintenance of a written record of the proceedings of board meetings; and (3-30-01)

b. Management and safekeeping of all documents relating to the Board and ILETS operations. (3-30-01)

03. Governing Policies and Rules. The executive officer and any department employees and officials assigned by the executive officer to support ILETS operations will be governed by policies and rules of the State of Idaho and the department concerning, but not limited to, fiscal, purchasing, and personnel matters. (3-30-01)

013. ILETS BOARD: MEETINGS AND QUORUM.

01. Schedule of Meetings. The Board holds regular meetings twice annually and may hold special meetings at other times as the executive officer deems necessary or upon the written request of a majority of the Board. *( )*

02. Quorum. When meeting, four (4) members of the Board constitutes a quorum necessary for transacting business. (3-20-04)

03. Representation at Meetings. A board member may appoint a proxy to attend a meeting and exercise the voting privilege of that member. (4-7-11)

a. An Idaho State Police proxy must be at least a major in rank; (4-7-11)

b. A police chief proxy must be an Idaho police chief; (4-7-11)

c. A sheriff proxy must be an Idaho sheriff; and (4-7-11)

d. Proxy designations must be made in writing to the Executive Officer prior to the meeting. (4-7-11)

014. ILETS BOARD: POWERS AND DUTIES, CHAIRMAN, AND AD HOC ADVISORY COMMITTEES.

01. Powers and Duties. Pursuant to its authority under Title 19, Chapter 52, Idaho Code, the Board establishes policies relating to management and operation of ILETS. The Board enforces compliance with all laws and regulations governing ILETS operations. (3-20-04)

02. Election of Chairman. At the first regular meeting of a calendar year, the Board elects a chairman from its membership by majority vote. The chairman serves a term of one (1) year and may succeed himself. (3-20-04)

03. Presiding Officer. The chairman presides at all meetings and conduct the meetings pursuant to "Roberts' Rules of Order, Current Revised Edition." If the chairman is absent from a meeting, the executive officer presides at that meeting. (3-20-04)

04. Advisory Committees. With the approval of the Board, the chairman may appoint ad hoc advisory committees to assist the Board in the execution of its statutory duties. *( )*

015. *(RESERVED)*

016. ILETS NETWORK.

01. Establishment. The executive officer establishes ILETS as a program of the Idaho State Police or its successor agency. (3-20-04)

02. Responsibilities. The program, as established by the executive officer, has the following responsibilities: (3-20-04)

a. Develop and operate a computerized criminal justice telecommunications and information system that provides message switching and record inquiry and retrieval capabilities. (3-30-01)

b. Publish an ILETS Operations Manual and distribute copies to each user agency. (3-30-01)

c. Function as the NCIC control terminal agency and the NLETS control terminal agency for the State of Idaho. (3-30-01)

d. Assist and train criminal justice agencies regarding information retrieved from ILETS and associated systems for use in administration of criminal justice. (3-30-01)

e. Develop and maintain linkages with the Idaho Transportation Department, Idaho Department of Correction, other agencies and systems to make appropriate information available to Idaho criminal justice agencies that will assist them in the enforcement of state criminal and traffic laws and regulations. (3-30-01)

f. Provide staff support to the ILETS Board. (3-30-01)

g. Operate a program of record validation, quality control, and audits to ensure that records entered into ILETS and NCIC files by the department and user agencies are kept accurate and complete and that compliance with state and national standards is maintained. (3-30-01)

h. Create model management control agreements between criminal justice agencies and non-criminal justice agencies. (3-30-01)

i. Provide assistance and information access to non-criminal justice user agencies for statutory licensing, employment and regulatory purposes and for other purposes authorized by law and approved by the Board. (3-30-01)

017. AGENCY ACCESS TO ILETS.

01. Authorized Agencies. Consistent with Title 19, Chapter 52, Idaho Code, which mandates the exclusive use of ILETS for law enforcement and traffic safety purposes, access to ILETS shall be restricted to the following governmental agencies: (3-30-01)

a. Criminal justice agencies; (3-30-01)

b. Non-criminal agencies that provide computer services, dispatching support, or other direct support service to one (1) or more criminal justice agencies, and which have signed an ILETS-approved management control agreement with the criminal justice agency; (3-30-01)

c. Non-criminal justice agencies with a statutory requirement to use information capabilities that may be available via ILETS, and use of terminal access will not adversely affect criminal justice agency users, and use of the terminal will be for the administration of criminal justice; and (3-30-01)

d. Non-criminal justice agencies that provide information or capabilities needed by criminal justice agencies for a criminal justice purpose, and access or use of a terminal will improve the ability to provide such information or capabilities. (3-30-01)

02. Management Control Agreements. The management control agreement between a criminal justice agency and a non-criminal justice agency grants to the criminal justice agency the authority to set and enforce: (3-20-04)

a. Priorities of service; (3-30-01)

b. Standards for the selection, supervision, and termination of personnel authorized to access ILETS; and (3-30-01)

c. Policies governing the operation of computers, circuits, and telecommunications terminals used to process, store, or transmit information to or receive information from ILETS. (3-30-01)

03. Board Approval. The Board reviews all requests for access to ILETS and determines whether an agency meets the criteria for access and whether access is appropriate based on system resources. Approved non-

criminal justice agencies may have access to ILETS information on a limited basis (for example, motor vehicle information only) as authorized by the Board. (3-19-07)

018. USER ACCESS FEES.

01. Payment of Fees Required. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the network must pay access and usage fees as provided in Section 018. (3-13-02)

02. ILETS Network User Access Fees. The access fees approved by the Board and to be collected quarterly in advance by the department are as follows: (3-13-02)

a. An agency at the county or municipal level pays an annual access fee of five thousand dollars ($5,000). (3-20-14)

b. An agency at the state, federal, or tribal level pays an annual access fee of eight thousand, seven hundred fifty dollars ($8,750). (3-20-14)

03. Usage Fee. Any agency that has signed a user agreement with ILETS to have direct terminal or system access to the ILETS network pays quarterly a usage fee based on that agency's percentage of total annual messages sent and received by user agencies through the ILETS message switcher. The total percentage for an agency includes the message traffic generated by any other agency authorized to access ILETS through that agency's direct terminal or system access. (3-20-04)

a. The usage fee is assessed according to the following schedule:

Percentage of Total ILETS Message Traffic	Annual Usage Fee Effective October 1, 2014
0 - .25 %	$1,875
.26 - .50 %	$3,750
.51 - .75 %	$7,500
.76 - 1.0 %	$15,000
1.01 - 1.50 %	$22,500
1.51 – 2.0 %	$33,750
2.01 – 5.0 %	$50,625
> 5.01 %	$75,939

( )

b. The department will conduct audits of ILETS message switcher traffic for even-numbered years to determine an agency's annual usage fee. This fee is effective for two (2) years and begins with the quarterly statement beginning October 1 of odd-numbered years. (3-20-04)

c. If an agency discontinues direct terminal or system access to ILETS and acquires authorized access through another agency, the usage fee for the agency maintaining direct access will be adjusted to reflect the combined historical usage. (3-20-04)

d. A new agency approved for direct ILETS access that does not have historical usage will be assessed an interim usage fee by the department pending the next audit of ILETS message traffic. The department sets an interim fee based on the agency's similarities to existing agencies with direct terminal or system access. An agency may appeal the interim usage fee set by the department to the ILETS Board. (3-20-04)

e. As operator of ILETS, the department, in lieu of payment of fees, provides direct and in-kind

support of network operations. The Board reviews biennially the proportion of that support to the overall operating cost of the system. (3-20-04)

04. Billing and Payment. The department mails billing statements quarterly to all agencies with direct terminal or system access to ILETS. Payment of the fees is due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment is due on the first successive business day. (3-20-04)

05. Sanctions for Delinquency. Any user agency that becomes delinquent in payment of assessed fees is subject to sanctions under Section 028. (3-20-04)

019. ADJUSTED ACCESS FEES DURING PILOT PROJECTS.

The Board may adjust access fees of user agencies participating in pilot projects being conducted by the department in behalf of ILETS. The fee adjustment is based on any cost savings, actual or anticipated, realized by the ILETS network. (3-20-04)

020. USER RESPONSIBILITIES.

01. User Agreement. Any agency with access to ILETS, whether directly or through another agency, is responsible for adhering to all applicable ILETS rules and policies and must have signed an agreement with ILETS or an interface agency to that effect. (3-20-04)

02. Record Validation. Any agency that enters information into ILETS or NCIC files is responsible for the accuracy, timeliness and completeness of that information. ILETS will send a record validation review list, regularly, to each agency. Validation is accomplished by reviewing the original entry and current supporting documents. Recent consultation with any appropriate complainant, victim, prosecutor, court, motor vehicle registry files, or other appropriate source or individual also is required with respect to the wanted person, missing person, and vehicle files. In the event the agency is unsuccessful in its attempts to contact the victim, complainant, etc., the entering authority must make a determination based on the best information and knowledge available whether or not to retain the original entry in the file. Validation procedures must be formalized and copies of these procedures be on file for review during an ILETS or NCIC audit. When the agency has completed the validation process, the records must be modified to verify their validity no later than thirty (30) days after receiving electronic notification. (3-20-04)

03. Minimum Training. Each agency employee who operates a computer to access ILETS must complete ILETS training at a level consistent with the employee's duties. Each employee who operates a computer to access ILETS must be re-certified by the agency every two (2) years. (3-20-04)

04. Hit Confirmation. When another agency receives a positive record response (Hit) from ILETS or NCIC and requests confirmation of the status of the record (warrant, stolen vehicle, etc.), the agency responsible for entry of the record must respond within ten (10) minutes for urgent hit confirmation requests or within one (1) hour for routine hit confirmation requests, with an answer that indicates the status of the record or a time frame when the record status will be confirmed. (3-20-04)

05. Terminal Agency Coordinators. The agency administrator of each agency with computer access to ILETS must designate one (1) or more terminal agency coordinators who will be the primary contact(s) for all matters relating to use of ILETS by the agency. A terminal agency coordinator must have sufficient authority to implement and enforce necessary policy and procedures. (3-20-04)

06. Background Checks of Terminal Operators Required. Policies for access to the FBI-NCIC system require background screening of all terminal operators with access to the NCIC system. For efficiency and consistency, the NCIC background screening policies are also adopted for all ILETS access. (3-20-04)

021. INFORMATION ACCESS AND DISSEMINATION.

01. General Policy. Information is made available to ILETS users from various sources and agencies, including ILETS and other state justice information system files, motor vehicle departments, NCIC, and NLETS.

Each user must observe any restrictions placed on the use or dissemination of information by its source. It is ILETS' responsibility to advise user agencies of any restrictions which apply to any information accessed via ILETS. (3-30-01)

02. Criminal History Records. Criminal history information accessed via ILETS from a state or national computerized file is available only to criminal justice agencies for criminal justice purposes. This precludes the dissemination of such information for use in connection with licensing applications, regulatory activities, or local or state employment, other than with a criminal justice agency. (3-20-04)

03. Administrative Messages. An administrative message (AM) is a free text message from one (1) agency to one (1) or more agencies. All administrative messages transmitted via ILETS must be by the authority of an authorized user and relate to criminal justice purposes or matters of interest to the user community. Administrative messages sent within Idaho, either statewide, regionally or to individual terminal identifiers are subject to the following restrictions: (3-30-01)

a. No messages supportive or in opposition to political issues, labor management issues, or announcements of meetings relative to such issues. (3-30-01)

b. No messages supportive or in opposition of legislative bills. (3-30-01)

c. No requests for criminal history record information. (3-30-01)

022. -- 023. (RESERVED)

024. ILETS SECURITY.

01. General Policy. The data stored in the ILETS, NCIC, and other criminal justice information system files is documented criminal justice information. This information must be protected to ensure its integrity and its correct, legal and efficient storage, dissemination and use. It is incumbent upon an agency accessing ILETS directly, or another system that has access to the ILETS network, to implement the procedures necessary to make the access device secure from any unauthorized use and to ensure ILETS is not subject to a malicious disruption of service. ILETS access agencies must participate in ILETS training and compliance activities to ensure that all agency personnel authorized to access the ILETS network are instructed in the proper use and dissemination of the information and that appropriate agency personnel are aware of security requirements and of the dangers to network integrity. ILETS retains the authority to disconnect an access agency or network connection when serious security threats and vulnerabilities are detected. (3-20-04)

02. Definitions. The following is a list of terms and their meanings as used in the ILETS security rule: (3-30-01)

a. Computer interface capabilities means any communication to ILETS allowing an agency to participate in the system. (3-20-04)

b. Firewall means a collection of components placed between two (2) networks that keep the host network secure by having the following properties: (3-30-01)

i. All traffic from inside the network to outside, and vice-versa, must pass through it; (3-30-01)

ii. Only authorized traffic is allowed to pass; and (3-30-01)

iii. The components as a whole are immune to unauthorized penetration and disablement. (3-20-04)

c. ILETS Security Officer (ISO) is the department staff member designated by the executive officer to monitor and enforce agency compliance with site and network security requirements. (3-20-04)

d. Peer networks are computer interfaces between cooperative governmental agencies in Idaho where none of the participating entities exercise administrative or management control over any other participating entity. (3-20-04)

e. Interface agency is an agency that has management control of a computer system directly connected to ILETS. (3-20-04)

f. Untrusted system is a system that does not employ sufficient hardware or software security measures to allow its use for simultaneously processing a range of sensitive or confidential information. (3-20-04)

03. Interface Agency Agreements. To ensure agencies having computer interface capabilities to ILETS are fully aware of their duties and of the consequences of failure to carry out those duties, a written and binding Interface Agency Addendum must exist between ILETS and all interface agencies. This agreement will clarify that the interface agency is equally responsible for actions by secondary and affiliated systems connected through their site to ILETS. Interface agencies must put in place similar subsidiary security agreements with secondary and affiliated systems to protect its network and ILETS. (3-20-04)

04. ILETS Security Officer. The ILETS Security Officer is responsible for the following duties: (3-20-04)

a. Disseminating to user agencies copies of ILETS security policies and guidelines; (3-30-01)

b. Communicating to user agencies information regarding current perceived security threats and providing recommended measures to address the threats; (3-30-01)

c. Monitoring use of the ILETS network either in response to information about a specific threat, or generally because of a perceived situation; (3-30-01)

d. Directing an interface agency, through its nominated contact, to rectify any omission in its duty of responsibility; (3-20-04)

e. When an agency is unable or unwilling to co-operate, reporting the issue to the executive officer and initiating the procedure for achieving an emergency disconnection; and (3-30-01)

f. Provide support and coordination for investigations into breaches of security. (3-30-01)

05. Agency Security Contacts. A terminal agency coordinator shall serve as that agency's security contact for ILETS, unless another individual is specifically selected for this purpose and approved by the ILETS Security Officer. ILETS primary sites shall ensure the agency's security contact, or another person or position designated in an incident contingency plan, can be contacted by the ILETS security officer at any time. (3-30-01)

06. Peer Networks. The security responsibilities of the operators of peer networks connected to ILETS, with respect to their user organizations, are parallel to those of ILETS user organizations in respect to their individual users. The ILETS Security Officer shall ensure that a written agreement exists between ILETS and an interface agency, signed by the agency heads, that embodies these principles. (3-20-04)

07. Physical Security Standards. Interface agencies will observe standards and procedures to ensure security of the physical premises and computing equipment. The minimum standards and procedures include the following: (3-20-04)

a. Access to computer rooms will be limited to staff who require access for the normal performance of their duties. (3-30-01)

b. Electrical power protection devices to suppress surges, reduce static, and provide battery backup in the event of a power failure will be used as necessary. (3-30-01)

c. Computer system backups shall be stored in a secure location with restricted access. (3-30-01)

d. Network infrastructure components will be controlled with access limited to support personnel with a demonstrated need for access. (3-20-04)

e. Physical labeling of infrastructure components will be done to assist in proper identification. Additionally, all components will be inventoried at regular intervals for asset management and physical protection. (3-30-01)

f. An interface agency must create and enforce a password policy in which the agency is responsible for assigning ILETS users a unique password. The password policy must require that a new password be initiated by the user or agency every ninety (90) days. (3-20-04)

08. Network Security Standards. User agencies must exercise appropriate security precautions when connecting ILETS and computer systems linked to ILETS with external untrusted systems. The primary objective of such precautions is to prevent unauthorized access to sensitive information while still allowing authorized users free access. The minimum standards and procedures include the following: (3-20-04)

a. Agencies must routinely audit for and remove unused or unneeded services/accounts, review accounts periodically, and enforce aggressive and effective password strategies. (3-20-04)

b. Agencies must ensure that the software security features of the networks they manage are installed and functioning correctly. (3-20-04)

c. Agencies must monitor network security on a regular basis. Adequate information concerning network traffic and activity must be logged to ensure that breaches in network security can be detected. (3-20-04)

d. Agencies must implement and maintain procedures to provide the ILETS network adequate protection from intrusion by external and unauthorized sources. (3-20-04)

e. No computer connected to the network can have stored, on its disk(s) or in memory, information that would permit access to other parts of the network. For example, scripts used in accessing a remote host may not contain passwords. (3-30-01)

f. No connection to ILETS may be established utilizing dial-up communications. Asynchronous communications connections should be limited and tightly controlled as they pose a serious risk because they can circumvent any security precaution enacted to protect networks from untrusted sources. (3-30-01)

g. Network management protocols must be limited to internal or trusted networks. (3-20-04)

h. Any system having direct or indirect access to the Internet via their computer network must have in place services that allow no access to ILETS from the Internet. Organizations with large distributed Wide Area Networks connecting many remote sites may choose to incorporate many security layers and a variety of strategies. These strategies must incorporate the implementation of a firewall to block network traffic, and restriction of remote user access. (3-20-04)

i. Agencies accessing ILETS directly or through another agency, must insure that all telecommunications infrastructure meets the FBI CJIS Security Policy for encryption standards. (3-20-04)

j. No routing or IP Network Translations are to be performed on individual access devices. All routing and translation must be performed on a router or firewall device. (3-20-04)

025. -- 027. (RESERVED)

028. USER AGENCY SANCTIONS.

01. Review of Violations. The board reviews violations of ILETS rules and may impose appropriate sanctions on access agencies. (3-20-04)

02. Objective of Sanctions. The objectives of the sanction procedure are as follows: (3-20-04)

a. To ensure the security, integrity, and financial stability of the ILETS. (3-30-01)

b. To create an awareness among access agencies of the importance of following rules, regulations, and procedures in order to minimize the risk to liabilities that may be incurred by misuse of the system and access to its information. (3-20-04)

03. Class of Sanctions. Sanctions are based upon the class of violation, any previous violations, and any exposure to criminal and civil liabilities that the violation might place on the system, its officials, and the offending agency. Violations are classed as either administrative (minor) or security (serious) violations. Security violations are defined as ones which have or could result in access of ILETS data by unauthorized individuals. All other violations are classed as administrative. (3-20-04)

04. Form of Sanctions. When imposing sanctions, the Board considers the severity of the violation, the violation type, either administrative or security, and previous sanctions issued. The Board may require the violating agency to submit a mediation plan showing how the violation will be corrected and future violations prevented. The Board shall consider such a mediation plan, if submitted, when imposing sanctions. The Board may impose as sanctions one (1) or more of the following: (3-19-07)

a. Written warning. (3-30-01)

b. Written notice of violation. (3-30-01)

c. Written notice of probation. (3-30-01)

d. Written notice of temporary suspension. (3-30-01)

e. Written notice of permanent suspension. (3-30-01)

05. Effective Date of Sanctions. Temporary or permanent suspension of service will not begin, unless an emergency exists, until fifteen (15) days after the agency head has received written notice by certified mail or personal service. (3-30-01)

06. Reinstatement. An agency placed on permanent suspension may apply to the Board for reinstatement. (3-30-01)

029. -- 999. (RESERVED)

IDAPA 11 – IDAHO STATE POLICE
PEACE OFFICER STANDARDS AND TRAINING COUNCIL

DOCKET NO. 11-1101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 19-5107, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 11, rules of the Idaho State Police, Peace Officer Standards and Training Council:

IDAPA 11
- 11.11.01, *Rules of the Idaho Peace Officer Standards and Training Council*

Peace Officer Standards and Training (POST) is tasked with establishing the requirements for basic training and certification, providing academy and in-service training, issuing certifications, and maintaining permanent files and transcripts for all law enforcement officers in the State of Idaho. POST is also responsible for conducting decertification investigations of officers who violate standards of conduct as established by the POST Council's code of ethics. This rule must be adopted to allow POST to carry out the statutory duties of providing training and certification to the law enforcement officers who provide public safety services to the citizens of the State of Idaho. The changes to these rules were clean up in nature, which in some instances consolidated and/or eliminated definitions; combined, re-ordered and re-numbered similar sections; and removed office hours and other information included on the coversheet. All the changes maintain the intent, scope, and purpose intended and previously approved.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1526-1563**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

- 11.11.01.134 – Course evaluation fee
- 11.11.01.135.03 – Course evaluation fee

This fee or charge is being imposed pursuant to Section 19-5112 and 19-5118, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact POST Division Administrator, Brad Johnson, phone (208) 884-7251, Fax (208) 884-7295, email **brad.johnson@POST.idaho.gov**.

Dated this 15th day of October, 2019.

Charlie Spencer
Police Services Major
Rules Review Officer
Idaho State Police
700 S. Stratford Dr.
Meridian, ID 83642
charlie.spencer@isp.idaho.gov
Phone: (208) 884-7203
Fax: (208) 884-7290

000. LEGAL AUTHORITY.
Pursuant to Section 19-5107, Idaho Code, the Peace Officer Standards and Training Council has authority, in accordance with Title 67, Chapter 52, Idaho Code, to promulgate rules it deems necessary to carry out the provisions of Title 19, Chapter 51, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 11.11.01, "Rules of the Idaho Peace Officer Standards and Training Council," IDAPA 11, Title 11, Chapter 01. ( )

02. Scope. These rules constitute the minimum standards of training, education, employment, and certification for any discipline certified by the POST Council. ( )

002. APPLICATIONS AND FORMS.
All persons seeking certification or endorsement by POST under these rules must complete a*ll relevant* POST approved form*s*, which shall be signed by the applicant's agency head or designee (on file at POST) prior to submission to POST. *( )*

003. DOCUMENTATION – COPIES.

01. Citizenship, Education, Military and Criminal Records. All documentation of citizenship, educational records and transcripts, military service, and criminal records required by these rules shall be submitted to POST in the form of a copy of a certified original document. ( )

02. Training and Other Records. Training records and other records required or allowed to be submitted to POST by these rules shall be submitted in the form of an original or certified copy. Where neither an original or certified copy is available, records shall be legible and not mutilated, altered or damaged. ( )

03. Notice of Employment/Termination. The names of all officers hired must be submitted to the Council within fifteen (15) days of employment. The termination of an officer's employment must also be relayed to the Council within fifteen (15) days of such action on an appropriate form designated by the Council. ( )

004. – **009. (RESERVED)**

010. DEFINITIONS.
In addition to the definitions under 19-5101, Idaho Code, the following terms apply: ( )

01. Act. Title 19, Chapter 51, of the Idaho Code. ( )

02. Adult Felony Probation and Parole Officer. An employee of the Idaho Department of Correction who is responsible for supervision of adult offenders on felony probation or parole. ( )

03. Adult Misdemeanor Probation Officer. An employee of a county misdemeanor probation department or contractor of a county who is responsible for preparing reports to the court, making recommendations regarding conditions of probation, and the supervision of misdemeanor offenders' compliance with court orders. ( )

04. Agency. A law enforcement agency which is a part of or administered by the state of Idaho or any political subdivision thereof and which is responsible for the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision; a juvenile detention center; a juvenile probation department; an adult misdemeanor probation department, a Public-Safety Answering Point (PSAP); the Idaho Department of Juvenile Corrections; the Idaho Department of Correction; or a private prison contractor of the State Board of Correction that is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in the a private correctional facility. ( )

05. Agency Head. A chief of police of a city, sheriff of a county or chief administrator of a law enforcement agency, as defined herein. ( )

06. Applicant. A person applying to participate in a POST training program or applying for POST

certification. ( )

07. **Basic Training Academy**. A basic course of Council approved instruction in a discipline certified by POST. ( )

08. **Canine Team**. A specific person and a specific dog controlled by that person as its handler, formally assigned to perform law enforcement duties together. ( )

09. **Canine Team Evaluator**. An officer trained and certified by POST to evaluate the competence of canine teams. ( )

10. **Challenge Examination**. A test to aid POST in determining whether an officer has sufficient competence that a waiver of completion of a basic training academy for that officer is warranted. ( )

11. **College Credit**. A unit of work toward an academic or vocational degree awarded by a college or university accredited by one of the accrediting agencies listed in Subsection 11.11.01.053.01.d. or other POST accepted U.S. regional accrediting agency. ( )

12. **Conviction**. Any conviction in any federal, tribal, state, county, or municipal court; a voluntary forfeiture of bail, bond, or collateral deposited to secure a defendant's appearance in court as final disposition; the payment of a fine or civil penalty; a plea of guilty or nolo contendere; or a finding of guilt, notwithstanding the form of judgment or withheld judgment, regardless of whether the sentence is imposed, suspended, deferred, or withheld, or whether the plea or conviction is set aside or withdrawn, or the case or charge is dismissed or reduced, or the record expunged under Section 19-2604, Idaho Code, or any other comparable statute or procedure, where the setting aside of the plea or conviction, or dismissal or reduction of the case or charge, or expungement of the record is based upon lenity or rehabilitation rather than upon a defect in the legality or factual basis of the plea, finding of guilt, or conviction. "Conviction" does not include a misdemeanor conviction upon a bond forfeiture for a violation that is or would at the time have in Idaho been an infraction violation, if the only reason it is classified as a misdemeanor is due to the bond forfeiture. ( )

13. **Correction Officer**. An employee of the Idaho Department of Correction or a private prison contractor of the State Board of Correction who is responsible for the first-line supervision, security, protection, and risk reduction of offenders housed in a correction facility. ( )

14. **Council**. The Idaho Peace Officer Standards and Training Council. ( )

15. **County Detention Officer**. An employee of a county sheriff who works in a county jail and is responsible for the safety, care, protection, and monitoring of county jail inmates. ( )

16. **Crime of Deceit**. Any offense described in Section 18-1301 et seq., Idaho Code, (Bribery), Section 18-1401 et seq. (Burglary), Sections 18-1901 (Fictitious Stock Subscription), 18-1902 (Exhibition of False Papers to Public Officers), 18-1903 (Use of False Name in Prospectus), 18-1904 (Illegal Dividends and Reductions of Capital), 18- 1905 (Falsification of Corporate Books), 18-1906 (Fraudulent Reports by Officers), 18- 2202(1) (Computer Crime), 18-2302 (False Swearing as to Qualifications as Voter), 18- 2304 (Procuring Illegal Votes), 18-2305 (Intimidation, Corruption and Frauds), 18-2306 (Illegal Voting or Interference with Election), 18-2307 (Attempting to Vote When Not Qualified or to Repeat Voting), 18-2309 (Officers Attempting to Change Result), 18- 2310 (Forging or Counterfeiting Returns), 18-2311 (Adding to or Subtracting From Votes), 18-2316 (Tampering with Certificates of Nomination or Ballots), 18-2320 (Bribery of Electors), Section 18-2401 et seq. (Theft), Section 18-2601 et seq. (Falsifying Evidence -- Offering Forged or Fraudulent Documents in Evidence), Section 18-2701 et seq. (Bribery of Executive Officers), Sections 18-3105 (False Statement by Commission Merchant, Broker, Agent, Factor or Consignee to Principal or Consignor), 18-3106 (Drawing Check Without Funds -- Drawing Check With Insufficient Funds -- Prima Facie Evidence of Intent -- Standing of Person Having Acquired Rights -- Probation Conditions), 18-3123 (Forgery of a Financial Transaction Card), 18-3124 (Fraudulent Use of a Financial Transaction Card), 18-3125 (Criminal Possession of Financial Transaction Card and FTC Forgery Devices), 18-3125A (Unauthorized Factoring of Credit Card Sales Drafts), 18-3126 (Misappropriation of Personal Identifying Information), 18-3127 (Receiving or Possessing Fraudulently Obtained Goods or Services), 18-3201 (Officer Stealing, Mutilating or Falsifying Public Records), 18-3202 (Private Person Stealing, Mutilating or Falsifying Public Records), 18-3203 (Offering False or

Forged Instrument for Record), 18-3204 (False Certificates or Other Instruments from Officers), 18-3206 (Mutilating Written Instruments), Section 18-3601 et seq. (Forgery and Counterfeiting), Sections 18-4616 (Defacing Marks on Logs or Lumber), 18- 4617 (Stealing Rides on Trains), 18-4621 (Stealing Electric Current -- Tampering with Meters), 18-4622 (Stealing Electric Current -- Accessories Liable as Principals), 18-4624 (Taken or Converted Merchandise as Theft), 18-4626 (Willful Concealment of Goods, Wares or Merchandise -- Defense for Detention), 18-4630 (Illegal Use of Documents), 18-4701 (Alteration of Bills), 18-4702 (Alteration of Enrolled Copies), 18-4703 (Offering Bribes to Legislators), 18-4704 (Legislators Receiving Bribes), Section 18-5401 et seq. (Perjury), Section 18-6501 et seq. (Robbery), Sections 18-8201 (Money Laundering and Illegal Investment -- Penalty -- Restitution), 41-293 (Insurance Fraud), 41-294 (Damage to or Destruction of Insured Property), 41-1306 (False Financial Statements), 49-228 (Receiving or Transferring Stolen Vehicles), 49- 231 (Farm Implements -- Purchasing or Selling When Identifying Number Altered or Defaced a Felony), 49-232 (Fraudulent Removal or Alteration of Numbers Prohibited), 49-518 (Altering or Forging Certificate -- Stolen Cars -- Destroying or Altering Engine or Decal Number -- Use of Fictitious Name -- Fraud), or any attempt, conspiracy or solicitation to commit any of the foregoing offenses, or any racketeering offense under Section 18-7801 et seq., Idaho Code, in which any of the foregoing offenses constitutes at least one (1) of the predicate acts, or any other crime defined in the Idaho Code involving any form of theft or including fraudulent intent as an element, or an offense equivalent to any of the foregoing in any other jurisdiction. ( )

17. **Division Administrator**. The administrator of the Idaho Peace Officers Standards and Training Division of the Idaho State Police. ( )

18. **Emergency Communications Officer**. Any emergency call taker or dispatcher employed by a Public Safety Answering Point (PSAP), whose responsibilities include receiving or dispatching 9-1-1 calls. ( )

19. **Field Training**. Formal, on the job training for special and defined purposes. ( )

20. **Full Time**. An employee who is, for a calendar month, employed on average at least thirty (30) hours of service per week, or one hundred thirty (130) hours of service per month. ( )

21. **Hearing Board**. A board of three members designated by the Chair of the Council to hear contested cases and enter recommended orders for the Council's decision. ( )

22. **Hearing Officer**. A person designated by the Council to preside over decertification proceedings and to render findings of fact, conclusions of law and a recommended order at the conclusion of those proceedings. ( )

23. **In-Service Training**. Training designed to refresh or enhance a certified officer's ability to perform their duties. ( )

24. **Juvenile Corrections Direct Care Staff**. An employee of the Idaho Department of Juvenile Corrections whose primary job duties include the safety, care, education, protection, or supervision of juveniles committed to the custody of the department. Direct care staff positions include: Rehabilitation Technician Trainee; Rehabilitation Technician; Rehabilitation Supervisor; Rehabilitation Specialist; Rehabilitation Specialist Associate; Instructor – DJC; Instructor Specialist; Instructor Assistant; Safety and Security Officer; Recreation Coordinator, Corrections; and Safety and Security Supervisor. ( )

25. **Juvenile Detention Center**. A facility that is part of or administered by an Idaho county and is responsible for the safety, care, protection, and monitoring of juvenile offenders. ( )

26. **Juvenile Detention Officer**. An employee working in a juvenile detention center who is responsible for the safety, care, protection, and monitoring of juvenile offenders. ( )

27. **Juvenile Probation Department**. A public or private agency administered by or contracted with the court, and providing juvenile probation services to a county at the concurrence and expense of the county commissioners. ( )

28. **Juvenile Probation Officer**. An employee of a juvenile probation department who is responsible

for preparing social history reports to the court, making recommendations regarding conditions of probation, and the supervision of juvenile offenders' compliance with court orders. ( )

29. **Law Enforcement Certification Program**. A program operated by a college or university, law enforcement agency, or private entity and satisfying POST basic training academy requirements. ( )

30. **Law Enforcement Certification Program Facility**. A facility at which law enforcement certification programs conduct training. ( )

31. **Law Enforcement Profession**. As used in these rules in reference to agreements authorized pursuant to Section 19-5112, Idaho Code, the "law enforcement profession" includes the following positions: Peace Officer, County Detention Officer, Emergency Communications Officer, Juvenile Detention Officer, Juvenile Probation Officer, Correction Officer, Juvenile Corrections Direct Care Staff, Adult Felony Probation and Parole Officer, Idaho Department of Juvenile Corrections Direct Care Staff, and Adult Misdemeanor Probation Officer. ( )

32. **Marine Deputy**. A person employed by a county sheriff whose primary function is to perform marine-related enforcement duties within established policies and procedures. ( )

33. **Misdemeanor Probation Department**. A public or private agency administered by or contracted with the county, and providing misdemeanor probation services to a county at the concurrence and expense of the county commissioners. ( )

34. **Part-Time Employee**. An employee, regardless of discipline, who works less than thirty (30) hours per week or one hundred thirty (130) hours per month. ( )

35. **Peace Officer**. A full or part-time patrol officer employed by an agency whose duties primarily consist of the prevention and detection of crime and the enforcement of penal, traffic or highway laws of this state or any political subdivision. "Peace officer" also means a patrol or reserve officer employed by a police or law enforcement agency of a federally recognized Indian tribe who has completed a POST basic training academy and has been deputized by a sheriff of a county or a chief of police of a city in Idaho. ( )

36. **POST**. The Idaho Peace Officer Standards and Training Program. ( )

37. **POST Certified Instructor**. A person certified by POST as qualified to instruct or assess students in a course of instruction which meets POST standards for certification or training. ( )

38. **Program Coordinator**. A person designated by a college, university, or agency to be responsible for a law enforcement certification program. ( )

39. **Prosecutor**. A city prosecuting attorney, city assistant prosecuting attorney, county prosecuting attorney, county deputy prosecuting attorney, attorney general, deputy attorney general, United States attorney, or assistant United States attorney. ( )

40. **Public Safety Answering Point (PSAP)**. A city, county, or state emergency call center that receives direct or transferred 9-1-1 calls for police, firefighting, and ambulances. ( )

41. **Regional Training Specialist**. A POST employee who is assigned to a specific region of the state, and who assesses training materials and instruction for law enforcement personnel to assure compliance with POST standards. ( )

42. **Reserve Peace Officer**. A person appointed by an agency to perform the duties of a peace officer on a limited basis. ( )

43. **School**. A school, college, university, academy, or local training program which offers law enforcement training and which is certified by the Council. ( )

44. **State**. Unless otherwise indicated, the state of Idaho. ( )

45. **Student**. A person participating in any Council-approved basic training program or law enforcement certification training program. ( )

46. **Temporary/Seasonal**. Employment of less than one hundred eighty (180) consecutive days.( )

47. **Trainee**. A POST certified officer participating in in-service training. ( )

011. – 029. (RESERVED)

030. POST COUNCIL.

01. Council Members. The Council *will* be made up of such members as designated by statute. *( )*

02. Compensation. Council members *will* not be compensated for services to POST, but *will* be allowed actual and necessary expenses incurred in performing their duties. *( )*

03. Resignations. A Council member who ceases to qualify as such or intends to resign from the Council *needs to* notify the Governor and Chair in writing as soon as practicable. *( )*

031. POWERS AND DUTIES OF POST COUNCIL.
The duties of the Council include, but are not limited to, the following: *( )*

01. Certification. Authorizing POST to issue certification to members of the law enforcement profession as defined in these rules and issue certifications, approvals or endorsements to instructors, schools and programs providing instruction to law enforcement personnel. ( )

02. Records. Maintaining records on all certified officers, certified or endorsed instructors and approved law enforcement certification programs, and furnish records upon request in accordance with the Idaho Public Records Act. ( )

03. Committees. Establishing such committees as may be necessary to more fully carry out the duties of the Council. ( )

04. Vice-Chairman. Electing a Vice-Chairman annually from among the Council's membership. ( )

05. Rules. Adopting rules and procedures for the internal management of POST and the operation of law enforcement certification programs. ( )

06. Assist, Study, Consult and Cooperate. Assisting departments and law enforcement certification training programs in complying with POST requirements, studying law enforcement training methods, consulting and cooperating with agencies and educational institutions concerned with law enforcement training. ( )

07. Additional Time to Complete POST Training and Certification. Granting or delegating to the Division Administrator the authority to grant additional time, upon a showing of good cause and in writing, to complete POST training and certification. Good cause includes, but is not limited to, sickness or physical disability of officer or immediate family member, cancellation of a basic academy, natural disaster, or reapplication to the academy after failing or being unable to complete a previous basic academy. ( )

08. Reimbursement of Instructors. Reimbursing instructors at POST certified training programs for travel, food and lodging at state per diem rates. ( )

032. POST HEARING BOARD.
The Council may appoint a Hearing Board to hear matters assigned to the Board by the Council. ( )

01. Members. The Council Chair will appoint three (3) members of the Council to serve on the Hearing Board. ( )

02. Recommended and Final Orders. Orders issued by the Hearing Board at the conclusion of proceedings *are* recommended orders and become final orders after the Council's review. *( )*

03. Discovery. Discovery may be conducted in contested cases before a Hearing Officer and the Council. ( )

033. POST DIVISION ADMINISTRATOR.
The Idaho State Police will employ a POST Division Administrator in a non-classified position, to serve under the direction of the Council. ( )

01. Selection. The Director of the Idaho State Police *will*, subject to approval of the Council, select the Division Administrator from the register established by the Idaho Division of Human Resources after competitive testing. The Council Chair *will* select one (1) Chief or Sheriff from the Council to serve on the examining board. *( )*

02. Responsibilities. The Division Administrator will: ( )

a. Supervise POST employees; ( )

b. Report to the Council on such matters as the Council may direct; and ( )

c. Perform such other duties as set forth in these rules or as the Council and the Director of the Idaho State Police direct. ( )

03. Administration. For administrative purposes, the Division Administrator and POST staff *are* governed by the Policies and Rules of the Idaho State Police, concerning but not limited to fiscal, purchasing, and personnel matters. *( )*

034 – 049. (RESERVED)

050. BASIC CERTIFICATION OF LAW ENFORCEMENT OFFICERS.
All applicants for POST certification must meet the following standards and comply with the following requirements to be eligible to attend a basic training academy and for certification and employment in Idaho in any law enforcement discipline. ( )

051. MANDATORY AND VOLUNTARY CERTIFICATION.

01. Mandatory Certification. Except as otherwise provided in these rules, no person shall act as a peace officer, marine deputy, county detention officer, emergency communications officer, juvenile detention officer, juvenile probation officer, correctional officer, adult probation and parole officer, juvenile direct care staff or misdemeanor probation officer in Idaho unless they are certified to do so by POST in accordance with these rules. ( )

02. Voluntary Certification for Correctional Officers and Adult Probation and Parole Officers Employed Prior to July 1, 2005. Correctional officers and adult probation and parole officers who were employed prior to July 1, 2005 are not required to be POST certified in those disciplines, but may become certified by meeting all requirements for certification set forth in these rules. ( )

03. Voluntary Certification for Emergency Communications Officers Employed Prior to July 1, 2012. Emergency Communications Officers who were employed prior to July 1, 2012 are not required to be POST certified, but may become certified by meeting all requirements for certification set forth in these rules. ( )

04. Voluntary Certification for Certain Officials. The director of the Idaho State Police or any elected official, although specifically excluded by law from meeting the requirements set by the Council, may be

certified if they so desire, provided they meet the minimum requirements for certification as prescribed in these rules. ( )

052. CITIZENSHIP.
An applicant shall be a citizen of the United States and submit a certified copy or original of one (1) of the following as verification of citizenship: ( )

01. Birth Certificate. A birth certificate issued by a city, county, or state; ( )

02. Passport. A current passport issued by the United States Government; ( )

03. Naturalization Certificate; ( )

04. Consular Report of Birth Abroad or Certification of Birth; or ( )

05. Certificate of Citizenship. ( )

053. EDUCATION.

01. Acceptable Education. An applicant must have: ( )

a. Graduated from a school accredited as a high school at the time of graduation by the state in which it is located or by a recognized regional accreditation body; ( )

b. Passed a GED or an IBM Assessment Test in subject areas required by POST; ( )

c. Have completed a high school equivalency program and obtained a state- issued certificate; ( )

d. Completed a minimum of fifteen (15) credits at a college accredited by one of the following: Middle States Association of Schools and Colleges; New England Association of Schools and Colleges; North Central Association of Colleges and Schools (the Higher Learning Commission); Northwest Association of Colleges and Universities; Southern Association of Colleges and Schools; and Western Association of Schools and Colleges; or ( )

e. Completed a course of study, either in a formal school setting or through homeschooling if the program is recognized by a state or by a local school district within a state as having met that state's high school graduation requirements. ( )

f. If educated outside the United States, an applicant must have passed GED testing or provide an evaluation from a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE), showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. ( )

02. Documentation of Education. An applicant must provide a certified copy or original of one of the following: ( )

a. High school diploma indicating date of graduation; ( )

b. Official high school transcript indicating date of graduation; ( )

c. Official transcript of GED results indicating a passing score; ( )

d. Correspondence from the Idaho Department of Labor, providing a passing score result of testing; ( )

e. Correspondence from a state or local school district indicating that the applicant has met that state's high school graduation requirements; ( )

f. State-issued high school equivalency certificate; ( )

g. Official transcript from a POST accepted U.S. regionally-accredited college indicating completion of a minimum of fifteen (15) credits; ( )

h. Official evaluation of foreign education by a member of the National Association of Credential Evaluation Services (NACES) or Association of International Credential Evaluators, Inc. (AICE) showing the applicant's education meets or exceeds the U.S. requirements for high school graduation. ( )

054. AGE.
The minimum age requirements for employment in the following disciplines are: ( )

01. Twenty-One (21) Years of Age. Patrol officers, felony probation and parole officers, misdemeanor probation officers, juvenile detention officers, juvenile probation officers, and juvenile corrections direct care staff. ( )

02. Eighteen (18) Years of Age. Corrections officers, adult detention officers, emergency communications officers. ( )

055. INELIGIBILITY BASED UPON PAST CONDUCT.
An applicant is ineligible to attend a basic training academy and for certification under the following circumstances. ( )

01. Criminal Conviction. An applicant is ineligible if he was convicted of: ( )

a. A felony, if the applicant was eighteen (18) years old or older at the time of conviction; ( )

b. A misdemeanor Driving Under the Influence offense(s) within two (2) years immediately preceding application, or two or more (2) misdemeanor Driving Under the Influence offenses within five (5) years immediately preceding application; ( )

c. A misdemeanor crime involving domestic violence, if the relevant law enforcement discipline requires the applicant to possess a firearm in the course of their duty, or if the conviction occurred within 5 years immediately preceding application; ( )

d. A misdemeanor crime of deceit, as defined in these rules, or a misdemeanor sex offense, if the conviction occurred within five (5) years immediately preceding application; ( )

e. A misdemeanor drug-related offense, if the conviction occurred within one (1) year immediately preceding application. ( )

02. Driver's License. An applicant is ineligible if he does not possess a valid driving license from the applicant's state of residence and is unable to qualify for an Idaho driver's license, except for the following disciplines: ( )

a. Correction Officers; ( )

b. Emergency Communications Officers. ( )

03. Marijuana. An applicant is ineligible if he used marijuana, cannabis, hashish, hash oil, or THC in synthetic and natural forms, whether charged or not, if such use occurred: ( )

a. Within one (1) year immediately preceding application; ( )

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the use occurred. ( )

04. Violations of Idaho Controlled Substances Act. An applicant is ineligible if he, while eighteen (18) years old or older, violated any provision of the Idaho Uniform Controlled Substances Act, Section 37-2701 et seq., Idaho Code, whether charged or not, that constitutes a felony, or of a comparable statute of another state or country, if the violation occurred: ( )

a. Within three (3) years immediately preceding application; ( )

b. While employed as a law enforcement officer, in a prosecutorial position, or in a position of public safety, regardless of when the illegal use occurred. ( )

05. Use of Prescription or Other Legally Obtainable Controlled Substance. An applicant is ineligible if he unlawfully used any prescription drug or a legally obtainable controlled substance within the past three (3) years, unless: ( )

a. The applicant was under the age of eighteen (18) at the time of using the controlled substance; or ( )

b. An immediate, pressing, or emergency medical circumstance existed to justify the use of a prescription controlled substance not specifically prescribed to the person. ( )

06. Military Discharge. An applicant is ineligible if he received a "dismissal," "bad conduct discharge" (BCD), "dishonorable discharge" (DD), or administrative discharge of other than honorable (OTH) from military service. ( )

07. Decertification or Denial of Certification. An applicant is ineligible if he has been denied certification or his basic certificate has been revoked by the Council in this state or the responsible licensing agency in any other issuing jurisdiction, unless the denial or revocation has been rescinded by the Council or by the responsible licensing agency of the issuing jurisdiction. ( )

056. DOCUMENTATION OF CRIMINAL, TRAFFIC, AND MILITARY DISCHARGE RECORDS.
With a POST application, an applicant shall submit the following to verify criminal, traffic or military records. ( )

01. Criminal or Traffic Matters. Charging documents, including citations, complaints, information or indictments; judgements of convictions, orders of restitution; orders involving probation, parole, or revocation of probation or parole; orders of dismissal or release; records of payments to the court. ( )

02. Military Discharge. Copies of a DD214 for active military service, NGB Form 22 for National Guard Service, or Official Military Discharge Documentation for Reserve military service. ( )

057. REQUIREMENTS FOR BASIC CERTIFICATION.
In addition to complying with the foregoing standards, each applicant for certification must also comply with the following requirements. ( )

01. Agency Employment. Each applicant must be an employee of an agency, as defined in these rules, in a position requiring POST certification, or be a member of POST professional staff. ( )

02. Background Investigation. The employing agency must conduct a comprehensive background investigation of each applicant to ensure that he meets requirements for POST certification and employment in the law enforcement profession. ( )

a. The applicant must complete a comprehensive application and personal history statement prior to a background investigation in aid of determining he is eligible for certification. ( )

b. The applicant must be fingerprinted on a standard FBI Applicant fingerprint card and a search of local, state, and national fingerprint data bases must be made to disclose any criminal record. The employing agency

must retain originals of all records check results. ( )

c. The employing agency must investigate the applicant's traffic records in each state in which he resided. ( )

d. The background investigation must include information from personal references, schools, the applicant's last three (3) previous employers, and law enforcement agency or PSAP records in jurisdictions where the applicant has lived or worked. ( )

e. The employing agency must interview each applicant to ascertain his suitability for the law enforcement profession. Interview topics must include use of intoxicants, controlled substances, physical, mental, and emotional history, family problems, moral outlook and habits, and the applicant's financial history. ( )

f. An experienced investigator must conduct a thorough investigation into the applicant's reputation, integrity, honesty, dependability, qualifications, experience, associations, emotional stability, and respect for the law. ( )

03. Physical Readiness Assessment. The employing agency shall require an assessment of an applicant's physical readiness to ensure he can perform physically demanding tasks and tests while attending a basic training academy or equivalent program. An applicant who fails a required physical test during an academy may be dismissed, but may attend a future academy and must pass a physical readiness test prior to certification. ( )

04. Mental Readiness Assessment. Where there is a question as to whether the applicant may be subject to a mental or emotional disorder that calls his suitability for the law enforcement profession into question, the employing agency shall have a psychiatrist or clinical psychologist conduct a thorough evaluation to ensure he is capable of performing law enforcement duties. ( )

05. Application. Each applicant must fill out a POST Application and submit it to the employing agency, which shall submit it to POST with all required documentation. ( )

a. Upon review of an application, POST may inspect an agency's background investigation file to ensure it is accurate and complete. If a review indicates that information submitted to POST may be inaccurate, incomplete or falsified, the Division Administrator must inspect the agency's background investigation file. ( )

b. If the application contains inaccuracies or omissions, the Division Administrator may require the agency to supplement the application, and may approve the application. ( )

c. If the application contains evident falsifications, the Division Administrator shall reject the application. ( )

06. Aptitude Test. An applicant shall complete an aptitude test to ensure he is capable of performing law enforcement duties. ( )

07. Code of Ethics/Standards of Conduct. Each applicant shall attest that he will abide by the following Law Enforcement Code of Ethics, and that he understands violations thereof constitute grounds for decertification:

> As a member of the law enforcement profession, my fundamental duty is to serve the community; to safeguard lives and property; to protect the innocent against deception, the weak against oppression or intimidation, and the peaceful against violence or disorder; and to respect the Constitutional rights of all to liberty, equality and justice.
>
> I will keep my private life unsullied as an example to all and will behave in a manner that does not bring discredit to me or my agency. I will maintain courageous calm in the face of danger, scorn, or ridicule; develop self-restraint; and be constantly mindful of the welfare of others. Honest in thought and deed in both my personal and official life, I will be exemplary in obeying the law and the regulations of my department. Whatever I see or hear of a confidential nature or that is confided to me in my official capacity will be kept

ever secret, unless revelation is necessary in the performance of my duty.

I will never act officiously or permit personal feelings, prejudices, political beliefs, aspirations, animosities or friendships to influence my decisions. With no compromise for crime and the relentless prosecution of criminals, I will enforce the law courteously and appropriately without fear or favor, malice or ill will, never employing unnecessary force or violence and never accepting gratuities.

I recognize the badge or position of my office as a symbol of public faith, and I accept it as a public trust to be held so long as I am true to the ethics of law enforcement/public service. I will never engage in acts of corruption or bribery, nor will I condone such acts by other law enforcement or emergency communications officers. I will cooperate with all legally authorized agencies and their representatives in the pursuit of justice.

I know that I alone am responsible for my own standard of professional performance and will take every reasonable opportunity to enhance and improve my level of knowledge and competence. I will constantly strive to achieve these objectives and ideals, dedicating myself before God or have a sincere and unfaltering commitment to my chosen profession…law enforcement.

( )

08. Time for Completing Basic Training Academy or Alternative Training, Field Training and Probationary Period. ( )

a. Except as otherwise provided in these rules, every person attending a basic training academy must complete that academy, a minimum of 40 hours of field training and six consecutive months of probation in that discipline with that hiring agency within twelve months of beginning employment in order to be certified. ( )

b. Emergency communications officers attending a basic training academy must complete that academy, and six consecutive months of probation in that discipline with that hiring agency within eighteen (18) months of beginning employment in order to be certified. ( )

c. Any person who does not become certified in the relevant discipline within three (3) years of graduating from a basic training academy or POST certified equivalent program must repeat that entire academy or program in order to become certified. ( )

d. Every person seeking certification through the POST challenge process must complete that process within one year of beginning employment with an agency. ( )

058. STANDARDS OF CONDUCT FOR BASIC TRAINING ACADEMY STUDENTS.

01. Required Behavior. All students shall conduct themselves in a manner which will bring credit to the law enforcement profession. Student behavior must reflect courtesy, consideration and respect for others. ( )

02. Prohibited Conduct. Any conduct detrimental to the efficiency or discipline of the academy, whether or not stated in the instructions, is prohibited and can be cause for disciplinary action or expulsion. A student's agency head will be informed of any such infraction. ( )

03. Notice. POST shall inform students of requirements relating to residency, equipment, supplies, and conduct at the academy at the time of their acceptance into an academy. ( )

059. CHALLENGING A BASIC TRAINING ACADEMY.

An applicant for POST certification may challenge the basic training academy in the relevant discipline under the following circumstances, and subject to the following conditions. ( )

01. Requirements for Challenging a Basic Training Academy. Except as otherwise provided by these rules, an applicant challenging a basic training academy must: ( )

a. Be employed by an agency in Idaho; ( )

b. Have been employed, and if applicable, have been certified or commissioned by another state or the federal government as an officer in the relevant discipline within the last five (5) years, or a student who has satisfactorily completed a basic training academy equivalent to the POST basic training academy in the relevant discipline within the last three (3) years; ( )

c. Submit a POST certification challenge packet, including copies of all relevant service, educational and training records; ( )

d. Disclose all information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction; ( )

e. Complete a probationary period of at least six (6) consecutive months with the employing agency in the relevant discipline; ( )

f. Comply with any additional provisions required by POST for a challenge in a specific discipline; and ( )

g. Reserve Officers must have been employed, certified, or commissioned by another state or the federal government as an officer in the relevant discipline within the last three (3) years. ( )

02. Patrol and Detention Law Enforcement Certification Program or POST Academy Graduates. An applicant who is appointed to either a peace officer or a detention officer position from 3 to 5 years after completing both the patrol and detention officer training through a POST approved law enforcement certification program or POST basic training academy, will be eligible for certification in the other discipline without attending an additional basic training academy, provided the officer: ( )

a. Was appointed to a peace officer or detention officer position in Idaho within three (3) years from graduating from a law enforcement certification program or a POST Academy; ( )

b. Possesses a detention or peace officer certification from POST; ( )

c. Submits a POST challenge packet; ( )

d. Discloses information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction; ( )

e. Completes a probationary period of at least six (6) consecutive months with the employing agency in the relevant discipline; and ( )

f. Complies with any additional provisions required by POST for a challenge in a specific discipline. ( )

060. AGREEMENT TO SERVE – REIMBURSEMENT REQUIREMENT.

01. Agreement. Pursuant to Section 19-5112, Idaho Code, any student attending a POST funded basic training academy must execute an agreement promising to remain within the law enforcement profession in Idaho for two (2) years immediately following graduation. Violation of the agreement will give rise to a civil action which may be commenced by the Council on behalf of the state for restitution of all costs of education paid by the Council plus costs and reasonable attorney's fees. ( )

02. Fulfillment of Agreement. The agreement will be fulfilled if, following graduation from a basic training academy, the student remains in the law enforcement profession in Idaho, as follows: ( )

a. On a full-time basis, for two (2) full calendar years immediately following graduation date; or ( )

b. On a part-time basis, and the officer provides the Council with documentation of four thousand one hundred sixty (4,160) hours of service immediately following graduation date. ( )

03. Relief from Obligation to Serve. A student is relieved of his obligations under the agreement if the student is: ( )

a. Terminated by the employing agency due to budget cutbacks or loss of funding and the agency provides POST with a letter stating the student was terminated due to the agency's lack of funding; ( )

b. Forced to resign due to his own or an immediate family member's terminal illness or prolonged debilitating condition and the student provides POST with documentation from an attending physician verifying the medical condition; ( )

c. Ordered into full-time active military service, and the student provides POST with documentation of official military orders; or ( )

d. The spouse of a person who is a member of the military and is being required to transfer outside Idaho for a prolonged period of time, and the student provides POST with documentation of the spouse's official military orders. ( )

04. Reimbursement. A student who graduates from a basic training academy whose employment is terminated or resigns prior to fulfillment of the agreement or does not qualify for disqualification must reimburse the state for educational training expenses. ( )

05. Proration. A student's reimbursement obligation under the agreement will be prorated if he remains in the law enforcement profession in Idaho following graduation from a basic training academy for the following time periods: ( )

a. On a full-time basis for less than twelve (12) complete months following graduation. The full amount of money set forth in the agreement shall be owed; ( )

b. On a full-time basis for a minimum of twelve (12) complete months following graduation but less than twenty-four (24) complete months. The amount owed to the Council will be reduced proportionately for each complete month worked from the date of graduation to the date of separation; or ( )

c. On a part-time basis for a documented minimum of two thousand eighty (2,080) hours service following graduation, but less than four thousand one hundred sixty (4,160) hours. The amount owed to the Council will be reduced proportionately for each one hundred seventy-three (173) hours worked from the date of graduation to the date of separation. ( )

06. Multiple Basic Training Academies. A student who graduates from more than one (1) basic training academy must fulfill a two-year agreement for each academy attended. ( )

07. Decertification. A student who is decertified by POST prior to a period of two (2) years after graduating from an academy shall not be relieved of the obligation to reimburse POST pursuant to this section. ( )

061. – 069. (RESERVED)

070. HIGHER LEVEL CERTIFICATION.

In addition to basic certification, the Council may issue higher-level certifications in recognition of additional training and experience to full-time officers already possessing a basic POST certification. ( )

01. Types of Higher-Level Certification. In addition to basic certification, the Council may issue the following: ( )

a. Intermediate certification for peace officers, detention officers, juvenile probation officers, juvenile

detention officers and emergency communications officers; ( )

b. Advanced certification for peace officers, detention officers and emergency communications officers; ( )

c. Supervisor certification for peace officers, detention officers and emergency communications officers; ( )

d. Master certification for peace officers, detention officers and emergency communications officers; ( )

e. Management certification for peace officers, detention officers and emergency communications officers; ( )

f. Executive certification for peace officers. ( )

02. Requirements. In addition to the requirements otherwise set forth in these rules, the following are required for higher level certification: ( )

a. An applicant shall possess POST basic certification in the relevant discipline and be a full-time employee of an agency. ( )

b. An applicant shall attach to his POST application all relevant transcripts, certificates, diplomas, degrees, course outlines, or other documents not listed on the applicant's POST training record, verifying his education and training. ( )

c. The agency of an applicant for a Supervisor, Management, or Executive certification must submit a job description or other documentation verifying the applicant's duties. ( )

071. LAW ENFORCEMENT EXPERIENCE, MILITARY EXPERIENCE, AND COLLEGE CREDITS FOR PURPOSES OF HIGHER CERTIFICATION.
For purposes of determining whether a person is eligible for higher level certifications based upon experience and education, the following apply. ( )

01. Law Enforcement Experience. Law enforcement experience shall include actual time served with a law enforcement agency as a peace officer or county detention officer. POST Council determines the acceptability of time served in one of those positions in a jurisdiction other than Idaho, or one which does not comply with the minimum standards set forth in these rules. ( )

02. Juvenile Justice Experience. Juvenile justice experience means actual time served as a full-time juvenile corrections, juvenile detention, or juvenile probation officer. ( )

03. Emergency Communications Officer Experience. Emergency communications officer experience means actual time served as a full-time emergency communications officer with a duly constituted law enforcement or PSAP agency. ( )

04. Military Law Enforcement Service and Education. An applicant who has served in the military as a full-time military law enforcement officer may be awarded partial credit toward law enforcement experience and training. The applicant shall have served as a full-time military law enforcement officer for the period of time for which credit is requested. Regular guard duty does not qualify. ( )

a. Credit will be awarded as follows: ( )

i. One (1) year of accepted military law enforcement service shall equal three (3) months of law enforcement experience. ( )

ii. Eight (8) hours of accepted military law enforcement training shall equal four (4) hours of law

enforcement training. ( )

b. No applicant shall be awarded more than two (2) years of law enforcement experience or more than one thousand (1,000) hours of law enforcement training. ( )

c. Educational credit may be awarded for completion of military law enforcement schools. All certificates, course outlines, diplomas, DD-214's, and certificates of completion showing length of school shall be submitted to POST with the application for higher certification. ( )

05. College Credits. POST may award credits for college education as follows: ( )

a. One (1) college or university semester hour or unit shall equal one (1) college credit. ( )

b. One (1) college or university quarter hour or unit shall equal two-thirds (2/3) of one (1) college credit. ( )

c. College credits may be converted to POST training hours at the rate of twenty (20) POST training hours for one (1) college credit. ( )

d. When college credit is awarded or purchased for POST approved training, it may be counted for either POST training hours or college credit, whichever is to the advantage of the applicant. ( )

e. Applicants shall submit an official college transcript as verification of college credit. ( )

072. INTERMEDIATE AND ADVANCED CERTIFICATION.
POST Intermediate and Advanced certification recognizes the additional training and experience of patrol, detention, emergency communications officers, juvenile probation officers and juvenile detention officers already possessing a basic POST certification. In addition to the requirements otherwise set forth in these Rules, the following are required for an Intermediate or Advanced Certificate. ( )

01. Intermediate Certification. An applicant shall hold a current POST basic certification, and have acquired either the combination of college credits and/or POST training hours, combined with the prescribed years of law enforcement experience, or an associate or baccalaureate degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: ( )

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Patrol Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

( )

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	600 hours	800 hours	1,200 hours	1,600 hours	1,800 hours	POST Basic Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Law Enforcement Experience	8 or more	7	6	5	4	4	2

( )

c. Emergency communications officers. The applicant shall: ( )

i. Have completed a minimum of one hundred twenty (120) hours of POST certified training, which must include basic training. ( )

ii. A minimum of three (3) years of emergency communications officer experience. ( )

d. Juvenile detention officers.

POST Training Hours Including POST Basic Juvenile Detention Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Detention Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree
Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

( )

e. Juvenile probation officers.

POST Training Hours Including POST Basic Juvenile Probation Academy	200 hours	400 hours	600 hours	800 hours	1,000 hours	POST Basic Juvenile Probation Academy	
One College Credit Equals Twenty (20) POST Training Hours	The above may be a combination of College Credits and POST Training Hours					Associate Degree	Baccalaureate Degree

Years of Juvenile Justice Experience	8 or more	7	6	5	4	4	2

( )

02. Advanced Certification. An applicant shall hold a current POST basic certification, possess or be eligible to possess an intermediate certificate, and have acquired either the combination of college credits and POST training hours, combined with the prescribed years of law enforcement experience, or an associate, baccalaureate, master's or doctoral degree from a college recognized by a regional accreditation agency, combined with the prescribed years of law enforcement experience, as set forth in the following subsections: ( )

a. Peace officers.

POST Training Hours Including POST Basic Patrol Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Patrol Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. ( )

b. Detention officers.

POST Training Hours Including POST Basic Detention Academy	500 hours	600 hours	700 hours	800 hours	900 hours	1,200 hours	POST Basic Detention Academy		
College Credits	15	20	30	40	45	60	Associate Degree	Baccalaureate Degree	Master's Degree or PhD
Years of Law Enforcement Experience	13 or more	12	11	10	9	8	8	6	4

Graduation from the Drug Enforcement Administration School in Washington, D.C., the Northwestern University Traffic Institute School of Police Staff and Command, the FBI National Academy or Southern Police Institute's Administrative Officers Course/Command Officers Development Course shall be accepted in lieu of the fifteen (15) college credits required for the Advanced Certificate with thirteen (13) years or more of experience. ( )

c. Emergency communications officers. ( )

i. Have completed a minimum of five hundred (500) hours of POST certified training, which must include POST approved basic training. ( )

ii. Have at least ten (10) years of communications specialist experience. ( )

03. Probationary Period. An applicant shall have completed a probationary period of at least six (6) consecutive months with the employing agency prior to applying for intermediate or advanced certificates. Agencies may require a longer probationary period prior to application. ( )

073. SUPERVISOR CERTIFICATION.
POST supervisor certification recognizes the training and experience of patrol, detention and emergency communications officers employed in positions above the operational level who holds the rank of sergeant or equivalent title and who are responsible for the direct supervision of line personnel. In addition to the requirements otherwise set forth in these rules, an applicant for a supervisor certificate must: ( )

01. Position. Be employed for a minimum of one (1) year by an agency in a first-line supervision position above the operational level which is responsible for the direct supervision of nonsupervisory personnel. ( )

02. Certification. Possess an intermediate or advanced patrol, detention officer or emergency communications officer certificate. ( )

03. Training. Have completed one hundred (100) hours of POST certified supervisory-level training, of which fifty (50) hours shall have been completed within three (3) years immediately prior to submitting an application for the supervisor certificate. ( )

074. MASTER CERTIFICATION.
POST master certification recognizes the training and experience of patrol, detention and emergency communications officers who hold a rank below sergeant or equivalent title and who have focused their career efforts on line functions. In addition to the requirements otherwise set forth in these Rules, an applicant for a master certificate must: ( )

01. Prior Certification. Possess an advanced certificate. ( )

02. Training. Have completed one thousand five hundred (1,500) hours of POST certified training. College credits may be converted to POST training hours at the rate of one (1) college credit equals twenty (20) POST training hours. ( )

03. Experience. Have completed a minimum of fifteen (15) years of full-time law enforcement service in assignments which did not include full-time supervisory, management, or executive positions. ( )

075. MANAGEMENT CERTIFICATION.
POST management certification recognizes the training and experience of patrol, detention and emergency communications officers in positions between a first-line supervisor and an executive, with responsibility for direct supervision of supervisory personnel and/or command duties. POST management certification is also available to city police chiefs or administrators within state agencies having law enforcement powers whose duties are primarily administrative. In addition to the requirements otherwise set forth in these rules, the following are required for an award of a management certificate. ( )

01. Position. An applicant must be employed by an agency for a minimum of six (6) months in a management or executive position with primary responsibilities that are administrative or managerial in nature, including direct supervision of supervisory personnel and/or command duties, and which is typically occupied by a person holding the rank of lieutenant or higher, or equivalent title. ( )

02. Certification. An applicant must possess POST certification as a peace officer, detention officer, or

emergency communications officer; certification from another state that has minimum peace officer standards; or a certificate of completion from a city, county, state, or federal law enforcement academy that meets that state's minimum training standards. ( )

03. Training. An applicant must have completed one hundred (100) hours of POST certified management-level training, of which fifty (50) hours shall have been completed within three (3) years immediately prior to submitting an application for the Management Certificate. ( )

04. Officers not Certified in Idaho. In addition to the other requirements of this section, officers who are not POST certified must: ( )

a. Submit a Patrol Challenge Packet to POST, including copies of POST training records from other states, transcripts, certificates, diplomas, or other documents substantiating the officer's training, education and experience. ( )

b. Attend a POST approved course of study in Idaho law and pass the POST Idaho law exam. ( )

05. Police Chiefs, Agency Administrators. City police chiefs or administrators within state agencies having law enforcement powers who have duties which are primarily administrative may satisfy the certification requirement of Section 19-5109(2), Idaho Code, by obtaining this certificate. All other city police chiefs or state agency administrators having law enforcement powers may be awarded this certificate upon meeting the requirements, but shall also complete the requirements necessary to obtain a Basic Certificate. ( )

076. EXECUTIVE CERTIFICATION.
POST Executive Certification recognizes the training and experience of law enforcement agency heads. In addition to the requirements otherwise set forth in these rules, an applicant for an Executive Certificate must: ( )

01. Position. Be employed for a minimum of three (3) years as a chief of police, sheriff, director or chief executive of an agency. ( )

02. Prior Certification. Possess a POST Advanced or Management Certificate, or the equivalent from another state meeting or exceeding Idaho standards. ( )

03. Training. Have completed one hundred (100) hours of POST certified executive-level training, of which fifty (50) hours shall have been completed within three (3) years immediately prior to application for an Executive Certificate. ( )

077. – 079. (RESERVED)

080. CERTIFICATIONS FOR PART-TIME OFFICERS.
In addition to basic POST certification, as set forth in these rules, the Council may issue certifications to the following employees who work under the supervision of full-time, POST certified Officers. ( )

01. Requirements. Part-time officers in all disciplines except reserve peace officers, marine deputies and part-time juvenile detention officers will meet the same requirements as full time officers and will be issued a basic certificate. ( )

a. Part-time juvenile detention officers who attend the basic juvenile detention academy will receive a basic certificate. Part-time juvenile detention officers who attend the part-time juvenile detention training will be issued a part-time juvenile detention certificate. ( )

b. Part-time misdemeanor probation officers must work sixty (60) hours per year to maintain certification. ( )

c. Reserve peace officers will be issued a reserve peace officer certification. ( )

d. Marine deputies will be issued a marine deputy certification. ( )

02. Lapse of Certification. All part-time POST certifications shall lapse in the same manner as basic certifications, and as set forth in these rules. ( )

03. Decertification. All-part time officers are subject to decertification in the manner set forth in these rules. ( )

04. Limit and Authority. The certification and authority of part-time officers is not limited except where indicated in these rules. ( )

081. RESERVE PEACE OFFICER CERTIFICATION.

The Council may issue reserve peace officer certification for part-time employees of agencies who are assigned limited duties and work under the supervision of full-time, POST certified peace officers. ( )

01. Eligibility. An applicant for reserve peace officer certification must be a reserve peace officer employed on a part-time basis by an agency and meet minimum standards for employment as provided in these rules. ( )

02. Reserve Officer Training. An applicant for reserve peace officer certification shall complete the POST approved reserve peace officer academy. ( )

03. Peace or Reserve Officers Certified In Another State, Commissioned by the Federal Government, or Graduates of a Basic Police Academy. An applicant who has served as a full-time certified peace officer or reserve officer in another state or as a full-time commissioned peace officer of the federal government within the three (3) years immediately preceding application or a student who has completed an equivalent to the basic patrol academy within the three (3) years immediately preceding application is eligible for reserve office certification without attending the reserve officer academy, provided he: ( )

a. Submits, with a reserve officer certification packet, records of certifications and training from other states, and transcripts, certificates, diplomas, or other documents that verify the officer's training and experience; ( )

b. Discloses all information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction; ( )

c. Comply with any additional provisions required by POST. ( )

04. Absence of Three Years. An officer who has not served in law enforcement for over three (3) years must complete all requirements set forth in this section to be eligible for reserve peace officer certification. ( )

05. Supervision. An agency utilizing reserve peace officers shall have a policy regarding the duties and supervision of certified reserve peace officers. ( )

06. Limitation on Certification. A reserve peace officer's certification is effective only while he is formally assigned to peace officer duties by the employing agency. ( )

07. Retaining Certification. A certified reserve peace officer must work a minimum of one hundred twenty (120) hours annually in a peace officer capacity to retain certification. A certified reserve peace officer working less than one hundred twenty (120) hours annually must complete all requirements for initial reserve peace officer certification to be recertified. ( )

082. MARINE DEPUTY CERTIFICATION.

01. Appointment by Sheriff. Marine deputies may be appointed by the Sheriff of a county for the purpose of enforcing: ( )

a. The provisions of Title 67, Chapter 70, Idaho Code; ( )

b. The provisions of IDAPA 26, Title 01, Chapter 30, Administrative Rules of the Idaho Department of Parks and Recreation; ( )

c. City and county ordinances pertaining to watercraft and waterways; and ( )

d. Enforcement of Idaho Code as assigned by the Sheriff. ( )

02. Minimum Basic Training. A person desiring marine deputy certification shall complete the Council approved core curriculum, comprising basic law enforcement and marine specific courses. ( )

03. Peace Officer Eligibility. A person who, within the three (3) years immediately preceding application, has served as a full-time POST certified peace officer shall be eligible for POST marine deputy certification without completing the core curriculum, provided he completes required marine specific courses and passes the marine deputy certification examination. ( )

04. Certified or Commissioned in Another Jurisdiction; Graduate of Basic Police Academy. A person who has, within the three (3) years immediately preceding application, served as a full-time certified peace officer in another state, or served as a full-time commissioned peace officer for the federal government, or completed a basic police academy equivalent to the POST basic patrol academy may be eligible for POST marine deputy certification, provided he passes the POST marine deputy certification examination and meets all additional POST requirements for marine deputy certification. ( )

05. Absence of Three Years. A person who has not served as a marine deputy or as a peace officer for over three (3) years must complete the POST core curriculum to be eligible for marine deputy certification. ( )

083. PART-TIME JUVENILE DETENTION OFFICER CERTIFICATION.
A part-time juvenile detention officer must be certified by the Council within one (1) year of the date he was first employed as a part-time juvenile detention officer. ( )

01. Eligibility. *An applicant shall:* *( )*

a. *M*eet the definition of part-time juvenile detention officer as defined in these rules. *( )*

b. *M*eet the minimum standards for certification provided in these rules. *( )*

c. *M*ust have been employed by the agency for a minimum six (6) consecutive months, which may include part-time juvenile detention officer training time, prior to certification. *( )*

02. Requirements for Certification. An applicant must: ( )

a. Complete POST approved part-time juvenile detention officer training. ( )

b. Complete POST approved part-time juvenile detention officer field-training of no less than forty (40) hours. ( )

c. Comply with any additional provisions required by POST. ( )

03. Retaining Certification. A certified part-time juvenile detention officer must work sixty (60) hours annually in a juvenile detention officer capacity to retain certification. Documentation of hours worked must be kept on file at the appointing agency. A part-time juvenile detention officer working less than sixty (60) hours annually must complete all requirements for certification set forth in this section to be recertified. ( )

04. Limitations on Certification and Authority. ( )

a. A part-time juvenile detention officer's certification is effective only during those periods when he

is formally assigned by the employing agency to perform the duties of a certified part-time juvenile detention officer. ( )

b. All certified part-time juvenile detention officers shall be directly supervised by a POST certified full-time juvenile detention officer, and each agency shall have a policy regarding supervision of part-time juvenile detention officers. ( )

084. – 089. (RESERVED)

090. CANINE-RELATED CERTIFICATIONS.
Canine related certificates ensure the competence of law enforcement canine teams and evaluators. These rules do not limit the use of canine teams employed by other states or federal agencies for law enforcement purposes, or the use of volunteer canine teams in which the handler is not an Idaho peace, detention, correction, or adult probation and parole officer. ( )

091. CANINE TEAM CERTIFICATION.

01. Mandatory Certification. A canine team shall be POST certified to perform law enforcement duties. ( )

02. Eligibility. A canine handler shall hold a POST law enforcement certification. Contract employees *are* not eligible for canine team certification. ( )

03. Areas of Certification. The Council shall certify a canine team which successfully demonstrates the handler's ability to control the dog, under the scrutiny of an evaluator, in addition to proficiency in one (1) or more areas as deemed by the Council. ( )

04. Evaluation. Evaluators of canine teams shall use POST standards for that particular skill category. Performance shall be rated on a pass/fail basis. The evaluator may discontinue testing if excessive time has been spent without results. The evaluator shall not be the owner or handler of the dog being evaluated, and not have a proprietary interest in the training of the team being evaluated. A Regional Training Specialist shall be notified of all canine certification testing. ( )

05. Failed Evaluation. If a team fails any portion of an evaluation, the entire evaluation is considered as having been failed. All skills shall be repeated and successfully demonstrated during retesting. The team shall wait at least twenty-four (24) hours before retesting, and be retested by the same evaluator, or his designee, that evaluated the failed test. ( )

06. Expiration of Certification. POST Canine Certification is valid for fifteen (15) months. A canine team must be evaluated prior to their certification expiration date to maintain certification. Certification shall lapse if the handler and canine dog cease to perform canine team functions together. ( )

092. CANINE EVALUATOR CERTIFICATION.

01. Certification. POST shall certify applicants who meet the requirements set forth in this section and are deemed qualified by their training and experience to evaluate police canine teams. Certificates shall be issued in the areas of Patrol and Detection. ( )

02. Eligibility. To be eligible for a Canine Evaluator Certificate, each applicant shall: ( )

a. Possess a current or previous POST professional certification and not have been previously decertified as a public safety official in any jurisdiction; ( )

b. Have three (3) years of experience as a certified canine handler; ( )

c. Have three hundred ninety (390) hours of POST certified or federally- approved canine-related training; ( )

d. Complete the POST certified Canine Evaluators course; ( )

e. Evaluate seven (7) dogs while under supervision of a POST certified canine evaluator; and ( )

f. Submit a Canine Evaluator Application Packet to POST, which includes: ( )

i. Transcripts, certificates, diplomas, or other documents verifying the applicant's education and training in the canine field; and ( )

ii. A letter of recommendation from an administrator within the applicant's agency. ( )

03. Retaining Certification. A certified canine evaluator shall evaluate a minimum of four (4) dogs every two (2) years in the discipline in which they are certified to evaluate. Any evaluator not satisfying this requirement shall complete all requirements for initial canine evaluator certification to be recertified. ( )

04. Revocation. The Council may revoke Canine Evaluator certification if an evaluator is deemed unqualified to continue evaluating police canine teams. Review of canine evaluator certification may be initiated upon the request of an agency head, other reliable source or the Council. ( )

093. – 099. (RESERVED)

100. LAPSE OF BASIC CERTIFICATION – REINSTATEMENT.

01. Lapse by Time. POST basic certification in any discipline will lapse if the officer does not serve as an officer in the discipline of certification in Idaho for three (3) consecutive years. The three-year period will be tolled during any time an officer is the subject of a POST decertification investigation and is no longer employed in law enforcement. ( )

02. Exception for Officers Remaining With Agency. A POST certified officer who changes from one certified discipline to another while remaining with the same agency will retain certification in the original discipline in which he was employed if he satisfies the continuing training requirements set forth in these rules. ( )

03. Reinstatement After Three to Five Years Absence. An officer who has not served in full-time law enforcement from three (3) to five (5) years must meet the following requirements to be recertified: ( )

a. Submit a POST Certification Challenge Packet; ( )

b. Disclose all information regarding any decertification investigation or proceeding or the equivalent from any other jurisdiction. ( )

c. Comply with any additional provisions required by POST. ( )

d. Satisfy any applicable probationary period set forth in these rules. ( )

04. Reinstatement After Five Years to Eight Years Absence. An officer who has not served in full-time law enforcement for over five (5) years but less than eight (8) years must attend a basic training academy to be recertified. ( )

a. The Council may waive this requirement on a showing of good cause supported by clear and convincing evidence that during a substantial part of the that time out of full-time law enforcement, the officer engaged in an occupation requiring law enforcement training, skill, and experience equivalent to that required in the officer's discipline of certification. This evidence must be submitted with a POST challenge packet. ( )

b. Upon receiving a waiver, the officer must: ( )

i. Disclose all information regarding any decertification investigation or proceeding or the equivalent

from any other jurisdiction. ( )

ii. Satisfy any applicable probationary period set forth in these rules. ( )

iii. Comply with any additional provisions required by POST. ( )

05. Reinstatement After Eight Years Absence. An officer who has not served in full-time law enforcement for over eight (8) years must attend a basic training academy to be recertified. ( )

101 – 109. (RESERVED)

110. DECERTIFICATION.

01. Mandatory Decertification. The Council shall decertify any person for: ( )

a. A conviction of any felony or offense which would be a felony if committed in Idaho; ( )

b. A conviction for a misdemeanor offense involving domestic violence; ( )

c. Willfully falsifying or omitting any material information to obtain certification. ( )

02. Discretionary Decertification. The Council may decertify any person for: ( )

a. A conviction of any misdemeanor; ( )

b. A violation of the Council's Code of Ethics; ( )

c. Criminal conduct whether charged or not; ( )

d. Consuming alcoholic beverages on duty, except as necessary for the lawful performance of duties; ( )

e. Harassment or intimidation; ( )

f. Lying or falsifying official written or verbal communications; ( )

g. Inappropriate sexual conduct while on duty; ( )

h. An inappropriate relationship, sexual or otherwise, with a person who the officer knows or should have known is a victim, witness, defendant, or informant in an ongoing investigation or adjudication; ( )

i. Unauthorized use or unlawful conversion of the employing agency's property, equipment, or funds; ( )

j. Intentional and unauthorized disclosure of confidential information or information that may compromise an official investigation; ( )

k. Failure to report being charged with a felony or misdemeanor within five (5) business days; ( )

l. Failure to respond or to respond truthfully to questions related to an investigation or legal proceeding. ( )

03. Required Notifications by Officers and Agencies. ( )

a. An officer charged with a felony or a misdemeanor shall notify his agency head within five (5) business days. ( )

b. The agency head of an officer charged with a felony or misdemeanor shall notify the Division Administrator within fourteen (14) days of learning of the charge. ( )

c. A person who is not currently employed by a law enforcement agency but is certified by POST shall notify POST of a misdemeanor or felony charge within fourteen (14) business days. ( )

04. Effect of Decertification. ( )

a. A person decertified by the Council *is* ineligible for POST certification of any kind for ten (10) years following the date of decertification. After the expiration of ten (10) years an agency head may petition the Council to allow a decertified officer to attend a basic academy and become certified. *( )*

b. No decertified person shall exercise any law enforcement authority until recertified. Any officer who is the subject of a decertification investigation *is* ineligible for any additional POST certification while under investigation. *( )*

111. DUE PROCESS PROCEDURES IN DECERTIFICATION PROCEEDINGS.

01. Legal Authority. In accordance with the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01.050, the Council declines to adopt the procedures established in IDAPA 04.11.01 for contested cases. The procedures provided within these rules meet the unique requirements of the law enforcement profession for expeditious resolution of contested cases in order to assure public safety and to secure a just, speedy and economical determination of all matters presented to the Council. These procedures meet or exceed minimum Constitutional requirements for due process while allowing the Council to fulfill its obligations to protect the safety of the public and the integrity of the law enforcement profession. ( )

02. Overview. The Division Administrator shall investigate all trustworthy allegations of misconduct by a person holding POST certification and determine whether decertification proceedings *will* be commenced. *( )*

03. Decertification Investigations. A person who is the subject of a decertification investigation shall receive an administrative warning requiring that he respond to questions, to answer such questions truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, as based on Garrity v.New Jersey, 385 U.S. 493 (1967). ( )

112. DECERTIFICATION PROCEEDINGS.
If the Division Administrator determines that the allegations of misconduct by an officer, if proven, are cause for decertification, the officer shall be provided with notice and an opportunity to respond before a decision regarding decertification is made. ( )

01. Notice of Intent to Decertify. The Division Administrator shall provide the person who is the subject of the proceeding with a notice of the intent to decertify, which include*s*: *( )*

a. The basis for the contemplated decertification and an explanation of the evidence supporting the intended action. ( )

b. That the person shall have the opportunity to respond and present the Division Administrator, in writing or in person, any reasons why the intended action should not be taken. ( )

c. That the officer person has a right to be represented by a person of their own choosing. ( )

d. That the person may waive a response by submitting a written waiver to the Division Administrator. ( )

e. That, if the person waives a response or fails to respond within the designated time, the Division Administrator will enter an order of decertification. ( )

02. Decision – Request for Hearing. After the person who is the subject of the decertification proceeding has responded or waived a response, or the period to respond has expired, the Division Administrator shall, within twenty-eight (28) days, issue a decision on decertification. ( )

a. The decision shall include findings of fact and conclusions of law and be final unless the person files a request for a hearing on the decision with the Council within fourteen (14) days of the date of the Division Administrator's decision. ( )

b. A request for hearing shall include a brief statement of the issues on which the person contends a hearing is required. ( )

03. Hearing and Order. Upon receipt of a request for hearing, the Council shall assign the matter to a hearing officer for hearing. ( )

a. The hearing officer shall have the power to subpoena witnesses, administer oaths, examine evidence and witnesses and request additional information from the parties. ( )

b. The person who is the subject of the proceeding shall have the right to be represented at the hearing by a person of their own choosing and the right to conduct discovery. ( )

c. Prior to submitting testimonial evidence, the person shall receive an administrative warning requiring that he provide testimony truthfully, and to acknowledge his understanding that no statements provided shall be used against him in criminal proceedings, based on Garrity v. New Jersey, 385 U.S. 493 (1967). ( )

d. The hearing shall be recorded at the Council's expense. The recording will be the official record of the hearing. Any party to the action may, at their expense, request that a transcript of the hearing be prepared or that additional recordings be made. Such a request shall be approved if the additional recording does not distract from or disrupt the hearing. ( )

e. Pursuant to Idaho Code Section 19-5113, the Division Administrator shall have the authority to compel the attendance and testimony of witnesses and production and examination of books, papers, and records. ( )

f. At the conclusion of proceedings, the hearing officer shall issue a decision in writing consisting of findings of fact, conclusions of law and an order that the person be decertified or that POST failed to show grounds for decertification and reinstating the officer. The decision and the record of the proceedings, shall be filed with the Council. ( )

g. The decision shall be final, unless a petition for review by the full Council is filed with the Council within twenty-eight (28) days of the date of the decision. A petition for review shall include a brief statement of the basis upon which review is requested. ( )

h. Where the decision directs the reinstatement of the person's certification, the Division Administrator shall reinstate certification upon the expiration of the time for filing a petition for review. ( )

04. Petition for Review. ( )

a. Upon receipt of a petition for review, the Council shall issue a briefing schedule allowing the petitioner an opening brief, the respondent a response brief and the petition a reply brief. The Council shall review the record, briefs submitted and may allow oral argument. The petitioner may be represented by a person of their own choosing. ( )

b. The Council may affirm, reverse, or modify the decision of the hearing officer, or may remand the matter. The Council's decision shall be final and may be appealed to district court by filing a notice of appeal within twenty-eight (28) days of the date of service of the decision. ( )

05. Service. Service of all notices to be given, orders or other documents under Section 092 shall be by

personal service, facsimile, other electronic means, or by U.S. mail, with postage prepaid, addressed to a party's last known address. ( )

113. – 119. (RESERVED)

120. POST INSTRUCTOR CERTIFICATION.
To ensure the competence of instructors of subjects pertinent to law enforcement personnel, the Council will certify instructors who meet the requirements set forth in these rules. ( )

121. POST INSTRUCTOR CERTIFICATION – GENERAL PROVISIONS.

01. POST Training Credit. POST will grant training credit for completion of training conducted by POST or instructed entirely by POST certified instructors provided the training is documented and meets POST training standards. ( )

02. Agency Responsibility. Agencies, school directors, and POST Academy and Regional Training Specialists shall supervise, monitor, and audit instructors and courses to ensure that instructional excellence is maintained. ( )

122. REQUIREMENTS FOR INSTRUCTORS OF LAW ENFORCEMENT SUBJECTS.
In addition to the other requirements for instructor certification set forth in these rules, instructors of law enforcement subjects must meet the following requirements. ( )

01. Experience and Certification. An applicant must have a minimum of three (3) years of law enforcement experience, possess current or previous Idaho POST professional certification, and must not have been previously decertified as a law enforcement official of any jurisdiction. ( )

02. Instructor Development Course. An applicant must complete the POST Instructor Development Course or approved equivalent. ( )

03. Additional Requirements. An applicant must comply with any additional provisions required by POST. ( )

123. REQUIREMENTS FOR HIGH LIABILITY INSTRUCTOR ENDORSEMENT.
POST certified instructors must obtain additional endorsements to instruct any topics deemed as “high liability” by the Council. ( )

01. Completion of a High Liability Instructor School. An applicant for High Liability Instructor Endorsement must complete all requirements of the POST instructor course specific to the high liability topic area in which the applicant intends to instruct. ( )

02. Application. After meeting the requirements for POST instructor certification, the applicant must submit a completed POST High Liability Instructor Endorsement Application Packet and must comply with any additional provisions required by POST. ( )

03. Multiple Endorsements. A current POST endorsed high liability instructor applying for instructor endorsement in an additional high liability topic area must meet the requirements of this section for the additional topic area prior to endorsement in that topic. ( )

04. Instruction Pending Endorsement. Prior to evaluation by a Regional Training Specialist, high liability instructor endorsement applicants *can*not act as an instructor for any course offered for POST training credit in the intended topic area: Following completion of the POST instructor course specific to the intended high liability intended topic area, and upon notice from the Regional Training Specialist, the applicant may begin co-instruction of in the intended topic area, in preparation for evaluation. *( )*

05. Continuing Training Requirements. High liability instructors must complete a minimum of eight (8) hours of continuing instructor training every two (2) years, including use of force law, liability, and further

instructor training specific to the endorsed topic area(s). ( )

124. REQUIREMENTS FOR CANINE INSTRUCTOR CERTIFICATION.
POST canine instructor certificates recognize the competency of instructors of canine subjects pertinent to law enforcement. In addition to the other requirements set forth in these rules of POST Instructors, the following are necessary for award of a POST canine instructor certificate: ( )

01. Canine Instructor School. The applicant must have completed a POST approved Canine Instructor School. ( )

02. Certification and Service in Specific Discipline. The applicant must have served a minimum of five (5) years as a handler and have a minimum of five (5) annual certifications in the specific discipline for which certification is sought. ( )

03. Canine Training. The applicant must have received a minimum of six hundred eighty (680) hours of canine training. ( )

04. Recommendation. The applicant must be recommended for canine instructor certification by a committee comprised of a POST Training Specialist and two (2) POST certified canine instructors. ( )

05. Application. After meeting the foregoing requirements, the applicant must submit a completed Certified Instructor Packet to POST. ( )

06. Requirements for Maintaining Certification. To maintain certification, a POST certified canine instructor must teach a minimum of forty (40) hours every two (2) years in the specific discipline they are certified to teach. ( )

07. Additional Requirements for Patrol Canine Instructor Certification. In addition to the requirements in this section, applicants for Patrol Canine Instructor Certification must obtain a High Liability Instructor Endorsement. ( )

125. MASTER INSTRUCTOR CERTIFICATION.
POST master instructor certificates recognize exceptional competence as an instructor of instructors in subjects pertinent to law enforcement personnel. The Council will determine master instructor disciplines. In addition to the requirements otherwise set forth in these Rules, the following are required for award of a master instructor certificate. ( )

01. POST Instructor Certification. POST will determine the number of master instructor certifications issued based upon POST's need of instructors. An applicant shall be a current POST certified instructor in the subject for which master instructor certification is sought in for a minimum of three (3) years prior to application. The Council may, upon written request, waive this requirement in exceptional cases. An applicant shall: ( )

02. Instruction. Have instructed a minimum of forty (40) hours of classes in the subject for which he is applying for master instructor certification during each of the previous two (2) years. ( )

03. Additional Training or Education. Have received additional training or education beyond basic training in the area of their instructor certification. ( )

04. Exceptional Ability. Have demonstrated exceptional ability to develop and present training.( )

05. Recommendation. Be recommended for master instructor certification by a Regional Training Specialist or POST certified master instructor. ( )

06. Maintain Certification. Teach a minimum of one (1) instructor class during the certification period to maintain certification. ( )

07. Compliance With Other POST Requirements. Comply with any additional provisions required by POST. ( )

126. MAINTAINING POST INSTRUCTOR CERTIFICATIONS AND ENDORSEMENTS.

01. Renewal of High Liability Endorsement. High liability instructor endorsements are valid for two (2) years, except Firearms endorsements which are valid for one (1) year, provided the instructor remains in good standing and complies with all POST requirements for in-service training. To renew the endorsement, the instructor must comply with any additional provisions required by POST. ( )

02. Renewal of Master Instructor Certification. Master instructor certification is valid for three (3) years. To renew the certification, the instructor must comply with any additional provisions required by POST. If a master instructor's certification through the manufacturer becomes invalid for any reason, his POST certification for that device shall immediately be deemed inactive. ( )

03. Renewal of Canine Instructor Certification. Canine instructor certification is valid for two (2) years. To renew the certification, the instructor must comply with any additional provisions required by POST.( )

04. Lapse of POST Instructor Certification. Except as otherwise set forth in these rules, POST instructor certification is valid indefinitely, provided it is not suspended or revoked, the instructor remains in good standing, and complies with all POST in-service training requirements. ( )

a. Instructors who fail to instruct for a period of two (2) years will be deemed inactive and may not instruct as a POST instructor until they have reapplied. ( )

b. Inactive instructors may be required to complete a POST approved instructor orientation course. ( )

127. SUSPENSION AND REVOCATION OF INSTRUCTOR CERTIFICATION OR ENDORSEMENT.

01. Suspension. The Division Administrator may suspend instructor certification or endorsement for up to one year if an instructor significantly or repeatedly fails to develop, document, conduct, or report training activities according to POST standards, or fails to abide by the POST Instructor Code of Ethics. A suspension will initiate an immediate review to determine if a revocation of the instructor's certificate is warranted. ( )

02. Revocation. The Council may revoke instructor certification if an instructor is deemed unqualified to continue instructing. Review of instructor certification may be initiated upon request of an agency head, school director or coordinator, POST Division Administrator, the Council, or other reliable source. ( )

128. – 129. (RESERVED)

130. IN-SERVICE TRAINING REQUIREMENTS.
The Council may, as a condition of continuing certification, require law enforcement officers to attend in-service training meeting POST standards. ( )

131. IN-SERVICE TRAINING REQUIREMENTS FOR RETAINING BASIC CERTIFICATION.

01. Peace Officers and County Detention Officers. To retain POST certification, a peace officer or county detention officer must complete a minimum of forty (40) hours of continuing law enforcement training related to law enforcement every two (2) calendar years beginning January 1 following the date the officer was certified. ( )

02. Emergency Communications Officers. To retain POST certification, an emergency communications officer must complete a minimum of forty (40) hours of continuing training related to public safety emergency communications every two (2) calendar years beginning January 1 following the date the officer was certified. ( )

03. Tolling of Two-Year Period. The two (2) year continuing training period shall be tolled while an officer is on active military duty, and recommence upon the officer's return to duty with his agency. The agency shall submit a Notice of Separation/Change in Status form upon the officer's departure from and return to the agency. ( )

132. DOCUMENTATION OF IN-SERVICE TRAINING.

01. Agency Responsibility to Ensure Accuracy of Training Records. Agency heads are required to ensure POST records of agency personnel training are up to date and complete as of December 31 of each year. ( )

02. Agency Retention of Training Records. Each agency shall maintain, and make available to POST, records of each in-service training course provided, including: ( )

a. The name of the course provider and name and resume of the course instructor; ( )

b. The course learning objectives, the number of instructional hours, the number of in-service training hours awarded and the attendance roster. ( )

c. The names of the trainees completing the course and the date of completion. ( )

03. POST Training Credit. No officer *may* receive POST training credit for training which has not been certified or approved by POST. *( )*

04. Notice of Non-Compliance. POST shall give written notice to officers who are not in compliance with in-service training requirements, and their agency heads. If an officer is not in compliance by December 31 of a two-year training cycle, his certification shall be suspended beginning January 1 of the following calendar year, unless an extension of time, not to exceed six (6) months, is granted by POST. The Division Administrator, may grant an additional extension of time for good cause shown. ( )

05. College Courses. An officer fulfilling continuing training requirements by successfully completing a college course must have the college provide the employing agency with a transcript. The agency will make the transcript available to POST upon request. ( )

133. POST CREDIT FOR IN-SERVICE TRAINING.

01. Credit for POST In-Service Training Provided by a Post Certified Instructor in Idaho. POST will grant training credit for in-service training according to the following criteria: ( )

a. The training was provided by Idaho POST Certified Instructor(s). One (1) or more training instructors for any class must be POST certified. Instructors who are not POST certified will not be given credit for POST instructor hours. ( )

b. The training was at least thirty (30) minutes in length. ( )

02. Credit for POST In-Service Training Provided by an Organization or Vendor who is not POST Certified. All third-party in-service training must be pre- approved. The Council may maintain a list of organizations and vendors that will be exempt from this pre-approval process based on their reputation providing quality training, that are well established training organizations within the law enforcement training community, or that are offered through a regionally accredited college or university. Organizations and vendors who do not meet the criteria established through the Council, or its designee must meet the following criteria. ( )

a. At least thirty (30) days prior to an in-service training session, the host agency will submit the following documents to a Regional Training Specialist: ( )

i. A course outline; ( )

ii. A description of the subject material and the time period to be devoted to each subject area; ( )

iii. A description of the enforcement personnel to be instructed; ( )

iv. A résumé on each instructor, unless the instructor is POST certified or approved; and ( )

v. A lesson plan and all presentation and handout materials used in the course. ( )

b. The course must be at least four (4) hours in length. ( )

c. Any course which has been approved through this process, may be placed on the Council's designated pre-approved list after meeting the following criteria: ( )

i. The course has been taught at least once in a calendar year, for at least three (3) consecutive years; or ( )

ii. Is approved by the International Association of Directors of Law Enforcement Standards and Training (IADLEST) and placed on the IADLEST national course certification index. ( )

03. Course Attendance Roster. A lead instructor or facilitator must submit an original or electronic POST course attendance roster no later than thirty (30) days following the completion of the training for POST training credit approval. ( )

04. Training Outside Idaho. In-service training which is delivered outside of Idaho will be considered POST approved if the trainee provides any of the following: ( )

a. The training was approved by the state's equivalent of POST, where the training occurred; or ( )

b. The training course was approved by the International Association of Directors of Law Enforcement Standards and Training (IADLEST); or ( )

c. The training course meets the criteria set forth above; and ( )

d. Is submitted within thirty (30) days of the completion of the course; and ( )

e. The trainee provides POST with the location, hours of the training, and a course syllabus or table of contents. ( )

134. COURSE EVALUATION FEE.

01. Fee Schedule. POST may charge an entity applying for school or course approval a course evaluation fee at the time of application as follows: ( )

a. One (1) to four (4) hour course: $200. ( )

b. Five (5) to eight (8) hour course: $400. ( )

c. Nine (9) to sixteen (16) hour course: $600. ( )

d. Seventeen (17) to twenty-four (24) hour course: $800. ( )

e. Twenty-five (25) to forty (40) hour course: $1,000. ( )

f. Over 40 hours: A combination of the above as determined by the Division Administrator. ( )

02. Exception. POST will not charge a course evaluation fee to governmental entities. ( )

03. Waiver. The Division Administrator may waive a course evaluation fee in whole or in part. ( )

135. ALTERNATIVE METHODS OF IN-SERVICE TRAINING.
The Council may approve alternative methods of delivering training, including but not limited to training by videotape or compact discs, computer programs, internet-based training or written correspondence. ( )

01. Training Medium. The training medium utilized must be indicated on the application for approval of the training. ( )

02. Specialized Equipment. The applicant must provide POST with any specialized equipment, software, network access, etc. needed for the evaluation, at no cost at the time of application. ( )

03. Course Evaluation Fee. A course evaluation fee may be charged pursuant to these rules. ( )

136. – 139. (RESERVED)

140. LAW ENFORCEMENT CERTIFICATION PROGRAM APPROVAL.
POST approval of a law enforcement certification program is established to ensure that instruction offered by such programs is equivalent to or exceeds POST basic academy training. ( )

141. LAW ENFORCEMENT CERTIFICATION PROGRAM – GENERAL PROVISIONS.

01. Eligibility. To be eligible for approval as a law enforcement certification program, program must comply with all Idaho Department of Education standards if applicable, for such programs, and all other requirements of these rules. ( )

02. Permission to Proceed With Approval Process. A program seeking approval as a law enforcement certification program must receive permission to proceed from POST prior to beginning the approval process, comply with the requirements of these Rules, and contact a Regional Training Specialist to schedule an on-site assessment. ( )

03. Initial Assessment. POST will conduct an on-site assessment and provide the results to the program coordinator. ( )

a. If the assessment finds that all requirements for program approval have not been met, the program will be given ninety (90) days to correct the deficiencies and a Regional Training Specialist will conduct a second on-site assessment. ( )

b. If all requirements for the program approval are met, the Council will approve the program. ( )

04. Assessment Visits. POST may conduct scheduled and unscheduled visits to entities seeking law enforcement certification program approval and currently- approved programs, to assess adherence to POST standards. ( )

05. Expiration and Renewal of Certification. ( )

a. Initial and subsequent law enforcement certification program approval is valid for two (2) years. ( )

b. Renewals must be completed prior to the program approval expiration date. ( )

142. ADMINISTRATION OF COLLEGE OR UNIVERSITY PROGRAM.
A college or university law enforcement certification program shall have an advisory committee comprised of the Division Administrator or his designee and criminal justice executives or their designees from several agencies representative of the region the program serves. ( )

01. Chair and Vice-Chair; Selection; Term. The advisory committee *will* elect a chair and vice-chair from among the committee members other than the Division Administrator or designee. The terms of office *will* be initially staggered. No chair or vice-chair *may* serve in that capacity for longer than four (4) consecutive years.*( )*

02. Duties of Chair and Vice-Chair. The chair or vice-chair schedule meetings and set agendas for advisory committee, meetings, work with the program coordinator and the program's administration, and perform other duties as necessary. ( )

143. MAINTENANCE OF RECORDS.
A law enforcement certification program must maintain: ( )

01. Course File. A file for each POST approved law enforcement training course it conducts, including curriculum, class schedules, attendance and discipline records, counseling records, tests with answer sheets, a course summary, and course evaluations. ( )

02. Student Training File. A training file for each student including sufficient records to determine whether the student has completed all performance objectives. ( )

03. Instructor File. A file for each instructor for the program including proof that the instructor is POST certified for each subject the instructor teaches, a copy of the instructor's student evaluations for the past year, and any other pertinent information related to the instructor's performance. ( )

144. MINIMUM ATTENDANCE REQUIREMENTS.
A law enforcement certification program may have no fewer than six (6) students in a required class. Training required for certification will not be conducted for a class of less than six (6) students. The Council may consider exceptions upon a written request from the program coordinator. ( )

145. POST-GRADUATION SELF-EVALUATION.
A law enforcement certification program must conduct post-graduation evaluations of its entry-level training from six (6) to twelve (12) months after students leave the program, and must assess the relevance of the training to current law enforcement practices. ( )

146. INSTRUCTION.
A law enforcement certification program must: *( )*

01. Monitoring of Instruction. *C*onduct periodic and random monitoring of instruction to ensure that lesson plans are being used, objectives are being addressed, appropriate instructional aids are available and being used properly, the instructor is in control and engaging the students; and classroom conditions such as lighting, noise levels, and temperature are acceptable. *( )*

02. Lesson Plans. *H*ave a lesson plan on file for every training class and must review and update lesson plans and curricula on a regular basis to ensure compliance with POST requirements. *( )*

03. Evaluation of Instructors. *Require* students to complete written evaluations of every instructor. *( )*

04. Student Complaints. *I*nvestigate any student complaint regarding an instructor or the training process. *( )*

147. STANDARDS.

01. Law Enforcement Certification Program Student*. Shall:* *( )*

a. *M*eet the minimum standards for POST certification as set forth in these rules, with the exception of age. *( )*

b. *A*ttest that he has read, understands, and will abide by the Law Enforcement Code of Conduct as set

forth in these rules. ( )

***02. Law Enforcement Certification Program**. Shall:* ( )

a. *H*ave an integrity policy, which provide*s* that dishonesty, including academic dishonesty, plagiarism and untruthfulness are grounds for disciplinary action and expulsion. All students shall review this policy on entering the program. ( )

b. *H*ave a policy prohibiting students from social contact, on or off campus, with staff members or instructors. Students and program staff or instructors shall maintain a professional relationship at all times. ( )

c. *A*ddress other standards of conduct and behavior that reflect courtesy, consideration, and respect for others. Any conduct detrimental to the conduct, efficiency, or discipline of the program *is* prohibited. ( )

148. PERIODIC ASSESSMENT BY POST.

01. Assessment. POST will perform periodic on-site assessments of each law enforcement certification program. POST will provide the program coordinator with no less than two (2) weeks notice prior to the assessment, and notify the program coordinator of the results. ( )

02. Failure to Comply With Standards; Reassessment. If a law enforcement certification program does not meet all requirements for POST approval, the Council may suspend approval and direct corrective action. ( )

a. The program must remedy all deficiencies within ninety (90) days of the initial assessment unless the Council grants an extension of time. ( )

b. After ninety (90) days, or the applicable period if an extension of time is granted, POST will conduct a reassessment of the program. If all deficiencies are corrected, the Council will approve the program. ( )

c. If all standards are not met, POST will notify the program administrator and, if applicable, the chairman of the program's advisory committee of the continuing deficiencies. The Council will review the reassessment report and may grant additional time to correct the deficiencies. ( )

d. If all deficiencies are not corrected, the Council will revoke approval. ( )

149. – 999. (RESERVED)

IDAPA 12 – IDAHO DEPARTMENT OF FINANCE

DOCKET NO. 12-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: These rules have been adopted by the agency and are now pending review by the 2020 Idaho State Legislature for final approval. The pending rules become final and effective upon the conclusion of the legislative session, unless the rules are approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rules are approved or rejected in part by concurrent resolution, the rules become final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Sections 26-2144, 26-2228(4), 26-2248, 26-31-204(5), 26-31-302, and 28-46-104, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 12, rules of the Idaho Department of Finance:

IDAPA 12
- IDAPA 12.01.04, *Rules Pursuant to the Idaho Credit Union Act*
- IDAPA 12.01.09, *Rules Pursuant to the Idaho Credit Code*
- IDAPA 12.01.10, *Rules Pursuant to the Idaho Residential Mortgage Practices Act*
- IDAPA 12.01.11, *Rules Pursuant to the Idaho Collection Agency Act*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin, Vol. 19-6SE, pages 1566 – 1571, Rules Pursuant to the Idaho Credit Union Act; Rules Pursuant to the Idaho Credit Code, pages 1572 – 1573; Rules Pursuant to the Idaho Residential Mortgage Practices Act, pages 1574 – 1577; and, Rules Pursuant to the Idaho Collection Agency Act, page 1578.

The rule making was prompted by the expiration of the rules. The department considered the Licensing Freedom Act and the Red Tape Reduction Act and the continued efforts to clarify and streamline its rules. Minor housekeeping edits are also intended to clarify and simplify existing language, and reduce or eliminate unnecessary restrictions. Following are descriptions of changes made to the pending rules that differ from the proposed rules:

- IDAPA 12.01.04, *Rules Pursuant to the Idaho Credit Union Act* – Removed section regarding written interpretations; removed sections defining self-evident scope and purposes of rules.
- IDAPA 12.01.09, *Rules Pursuant to the Idaho Credit Code* – Removed section regarding written interpretations and subsequent references to that section.
- IDAPA 12.01.10, *Rules Pursuant to the Idaho Residential Mortgage Practices Act* – Removed section regarding written interpretations and subsequent references to that section; added definition for replacement term referred to in the rules and removed definition for term defined in the Act; replaced undefined terms with defined terms; removed duplicative disclosure requirements; and, removed rules describing the structure and use of the Nationwide Mortgage Licensing System.
- IDAPA 12.01.11, *Rules Pursuant to the Idaho Collection Agency Act* – Removed section regarding written interpretations and subsequent references to that section.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact:

- Financial Institutions Bureau Chief Bradley Bergquist, (208) 332-8041 *(Rules Pursuant to the Idaho Credit Union Act)*
- Consumer Finance Bureau Chief Anthony Polidori, (208) 332-8060 *(Rules Pursuant to the Idaho Credit Code, Rules Pursuant to the Idaho Residential Mortgage Practices Act, Rules Pursuant to the Idaho Collection Agency Act)*

Dated this 4th day of October, 2019.

Mary E. Hughes
Acting Director
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83720-0031
Phone: (208) 332-8030
Fax: (208) 332-8099

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Section 26-2144, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
The title of this chapter is the Credit Union Rules of the Idaho Department of Finance; and may be cited as IDAPA 12.01.04, "Rules Pursuant to the Idaho Credit Union Act." These rules implement statutory intent with respect to the regulation and supervision of state chartered credit unions in the state of Idaho. (7-1-93)

002. -- 004. (RESERVED)

005. DEFINITIONS.
The definitions used in this chapter are as follows: (7-1-93)

01. **Act**. Means the Idaho Credit Union Law, Chapter 21, Title 26, Idaho Code. (7-1-93)

02. **Applicant**. Means a group of persons applying for a credit union charter. (7-1-93)

03. **Department**. Means the Idaho Department of Finance. (7-1-93)

04. **Director**. Means the Director of the Department. (7-1-93)

05. **Corporate Credit Union**. Means a corporate credit union chartered under the provisions of the act. (7-1-93)

06. **Credit Union**. Means a credit union chartered under the provisions of the act. (7-1-93)

07. **NCUA**. Means the National Credit Union Administration. (7-1-93)

006. -- 009. (RESERVED)

010. CHARTER APPLICATIONS.

01. **Guidelines for Approval of Credit Union Charters**. Each application for a credit union shall set forth or show: (7-1-93)

a. The proposed name of the credit union; (7-1-93)

b. The city, county, or area in which the proposed credit union is to hold its charter; (7-1-93)

c. A description of the common bond for the field of membership of the potential members of the credit union. Said field of membership should indicate that there are enough potential members to allow the proposed credit union to successfully carry on credit union operations; (7-1-93)

d. That the stability of employment of the potential members of the credit union or that the stability of membership in the association which comprises the common bond of membership is sufficient to allow the credit union to maintain a stable level of participation by members; (7-1-93)

e. The economic characteristics of the proposed field of membership indicating the ability of members to provide funds in sufficient amounts to carry out the purposes for which the credit union is formed; (7-1-93)

f. That the persons who form the common bond and potential field of membership of the credit union have indicated sufficient interest in the credit union that the Director may reasonably believe that credit union operations may be carried out successfully. (7-1-93)

011. -- 019. (RESERVED)

020. SERVICES, ADVERTISING, REPORTING CRIMES, BONDS.

01. **Credit Union Services**. (7-1-93)

a. *A* credit union *shall not allow*, by contract or otherwise, any credit union bookkeeping or record keeping services for itself, whether on or off premises, unless assurances satisfactory to the Director are provided by both the credit union and the party performing such services, which indicate that the performance thereof will be subject to rule and examination by the Director or his duly authorized representative to the same extent as if such services were being performed by the credit union itself on its own premises. If this service is "on premises" then prior written approval of the Director must be obtained before service is sold or otherwise made available to any outside customer. *( )*

b. The assurances referred to above shall be submitted prior to the time the contract or agreement becomes effective in the form of letters from both parties and signed by a duly authorized officer of the credit union and by the party, or duly authorized officer or representative of such party, stating they will perform the services for the credit union, that the credit union and the party performing such services have entered into an agreement, that the performance of the services will be subject to rule and examination by the Director, and that such performance of services will be made available for examination. A copy of the contract or agreement covering these services shall accompany these letters. (7-1-93)

02. Advertising. (7-1-93)

a. A credit union shall not issue, circulate, or publish any advertisement which misrepresents the nature of its shares, stocks, investments, certificates, or the rights of shareholders in respect thereto. (7-1-93)

b. No credit union may in any advertisement: (7-1-93)

i. Use the words "chartered by the state of Idaho" unless said credit union has been issued a charter by the Director; (7-1-93)

ii. Use the words "National Credit Union Share Insurance Fund" or any facsimile thereof; nor use any insignia, seal, or device whatsoever which represents that the shares or deposits of the credit union are insured by the Administrator, NCUA, unless, in fact, the credit union is so insured. *( )*

c. The Director upon written notification to any or all credit unions may require that a true copy of the text of any advertisement be filed with his office at least five (5) days prior to the issuance, circulation, or publication of such advertisement. (7-1-93)

021. -- 039. (RESERVED)

040. MEMBER BUSINESS LOANS.

01. Definitions. For the purposes of this rule, the following definitions apply: (7-1-93)

a. The term "member business loan" means any loan, line of credit, or letter of credit, the proceeds of which will be used for a commercial, business, or agricultural purpose, except the following are not considered member business loans for the purpose of this rule: (7-1-93)

i. A loan or loans fully secured by a lien on a one to four family dwelling that is either the member's primary residence, or the member's secondary residence. (7-1-93)

ii. A loan that is fully secured by shares in the credit union or deposits in other financial institutions. (7-1-93)

iii. A loan, the proceeds of which are used for a commercial, business, or agricultural purpose, made to a borrower or an associated member, which, when added to such other loans to the borrower, is less than fifteen thousand dollars ($15,000). (7-1-93)

iv. A loan, the repayment of which is fully insured or fully guaranteed by, or where there is an advance commitment to purchase in full by, an agency of the federal government or a state or any of its political subdivisions. (7-1-93)

b. "Reserves" means all reserves including the allowance of loan losses account and undivided earnings or surplus. (7-1-93)

c. "Associated Member" means any member with a common ownership, investment or other pecuniary interest in a business or commercial endeavor. (7-1-93)

d. "Immediate Family Member" means a spouse or other family members, related by blood or operation of law, living in the same household. (7-1-93)

02. Requirements. A credit union may make member business loans only in accordance with the following requirements: (7-1-93)

a. Written Loan Policies. Except as provided in this section, the board of directors must adopt specific business loan policies within sixty (60) days of the effective date of this rule and review them at least annually. A credit union must submit the proposed written policies, and any future amendments to the policies, to the Director for approval at least thirty (30) days prior to the proposed date of implementation of the member business loan program or amendments. Any credit union that is NCUA insured must also provide notice and a copy of the loan policies or amendments to the appropriate NCUA regional office within thirty (30) days before adoption and implementation of the policies or amendments. (7-1-93)

b. Credit Unions that do not intend to make member business loans do not have to adopt and implement these policies. However, if such a credit union decides to begin making member business loans at some time in the future, the requirements of this section will apply, except that the specific business loan policies must be adopted and implemented no less than thirty (30) days before any member business loan is made *that,* at a minimum, address the following: *( )*

i. Types of business loans that will be made. (7-1-93)

ii. The credit union's trade area for business loans. (7-1-93)

iii. Maximum amount of the credit union's assets in relationship to reserves that will be invested in business loans, not to exceed three hundred percent (300%). (7-1-93)

iv. Maximum amount of credit union assets in relationship to reserves that will be invested in a given category or type of business loan. (7-1-93)

v. Maximum amount of credit union assets, in relation to reserves, that will be loaned to any one (1) member or group of associated members. (7-1-93)

vi. Qualifications and experience of personnel involved in making and administering business loans. (7-1-93)

vii. Analysis of ability of the borrower to repay the loan. (7-1-93)

viii. The following considerations shall be addressed unless the board of directors finds that they are not appropriate for a particular type of business loan and states the reasons for those findings in the credit union's written policies: balance sheet, trend and structure analysis; ratio analysis of cash flow, income and expenses, and tax data; leveraging; comparison with industry averages; receipt and periodic updating of financial statements and other documentation, including tax returns. (7-1-93)

ix. Collateral requirements, including loan-to-value ratios; appraisals, title search and insurance requirements; steps to be taken to secure various types of collateral; and how often the value and marketability of collateral is to be reevaluated. (7-1-93)

x. Appropriate interest rates and maturities of business loans. (7-1-93)

xi. Loan monitoring, servicing, and follow-up procedures, including collection procedures. (7-1-93)

c. Loans to One (1) Member. The following restrictions apply to credit unions loans to one (1) member. (7-1-93)

i. The aggregate amount of outstanding member business loans to any one (1) member or group of associated members shall not exceed twenty percent (20%) of the credit union's reserves. (7-1-93)

ii. If any portion of a member business loan is fully secured by a one (1) to four (4) family dwelling that is the member's primary residence or secondary residence, or by shares in the credit union or deposits in another financial institution, or insured or guaranteed by, or subject to an advance commitment to purchase by, any agency of the federal government or of a state or any of its political subdivisions, such portion shall not be calculated in determining the twenty percent (20%) limit. (7-1-93)

iii. Credit unions seeking an exception from the twenty percent (20%) limit must present to the Director the higher limit sought, an explanation of the need to raise the limit, an analysis of the credit union's prior experience making member business loans, and a copy of its business lending policy. In addition, at the same time this information is presented to the Director, any credit union that is NCUA insured must also submit a copy of the information to the appropriate NCUA regional office for its review and comment. ( )

iv. Any decision by the Director to grant any request to exceed the twenty percent (20%) loan-to-one borrower's limit will be made only after consultation and coordination with NCUA. (7-1-93)

d. Allowance for Loan Losses. The determination of whether a member business loan will be classified as substandard, doubtful, or loss will rely on factors not limited to the delinquency of the loan. Non-delinquent loans may be classified, depending on an evaluation of factors including, but not limited to, the adequacy of analysis and documentation. (7-1-93)

e. Loans classified shall be reserved as follows: (7-1-93)

i. Loss loans at one hundred percent (100%) of outstanding amount; (7-1-93)

ii. Doubtful loans at fifty percent (50%) of outstanding amount; and (7-1-93)

iii. Substandard loans at ten percent (10%) of outstanding amount, unless other factors (e.g., history of such loans at the credit union) indicate that a greater or lesser amount is appropriate. (7-1-93)

03. Prohibitions. A credit union may not make member business loans to the following nonvolunteer, senior management employees, or to any associated member or immediate family member of such employees: (7-1-93)

a. The credit union's chief executive officer; typically this individual holds the title of president, treasurer, or manager. (7-1-93)

b. Any assistant chief executive officers; often the assistant manager. (7-1-93)

c. The chief financial officer or comptroller. The credit union shall not grant a member business loan where any provision for the payment, or the amount of the payment, on the loan is conditioned on the profitability or success of the business or commercial endeavor for which the loan is made. (7-1-93)

041. -- 049. (RESERVED)

050. NONPREFERENTIAL TREATMENT.

01. Nonpreferential Treatment. The rates, terms, and conditions on any loan or line of credit either made to, or endorsed or guaranteed by: (7-1-93)

a. An official; (7-1-93)

b. An immediate family member of an official; or (7-1-93)

c. Any individual having a common ownership, investment, or other pecuniary interest in a business enterprise with an official or with an immediate family member of an official, cannot be more favorable than the rates, terms, and conditions for comparable loans or lines of credit to other credit union members. "Official" means any member of the board of directors, credit committee, or supervisory committee. "Immediate family member" means a spouse or other family members, related by blood or operation of law, living in the same household. (7-1-93)

051. -- 059. (RESERVED)

060. PROHIBITED FEES, COMMISSIONS, COMPENSATION.
A credit union may not make any loan or extend any line of credit if, either directly or indirectly, any commission, fee, or other compensation is to be received by the credit union's directors, committee members, senior management employees, loan officers, or any immediate family members of such individuals, in connection with underwriting, insuring, servicing, or collecting the loan or line of credit. However, salary for employees is not prohibited by this section. "Senior management employees" refers to those employees described in Subsection 040.03 of these rules. "Immediate family member" means a spouse, or other family members, related by blood or operation of law, living in the same household. *( )*

061. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Section 28-46-104, Idaho Code. ( )

001. TITLE AND SCOPE.
The title of this chapter is the Idaho Credit Code Rules of the Idaho Department of Finance; and may be cited as IDAPA 12.01.09, "Rules Pursuant to the Idaho Credit Code." These rules implement statutory intent with respect to the regulation of credit transactions in the state of Idaho in accordance with the provisions of chapters 41 through 49 of title 28, Idaho Code. (7-1-93)

002. -- 004. (RESERVED)

005. INCORPORATION BY REFERENCE.
The "Rules Pursuant to the Idaho Credit Code," incorporate by reference the full text of the federal Consumer Credit Protection Act, 15 U.S.C., Chapter 41, et seq., and regulations issued pursuant to that act, including the following: (4-11-19)

01. The Truth in Lending Act. Consumer Credit Cost Disclosure Act or "The Truth in Lending Act." As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 2019. The Truth in Lending Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapI.htm. (4-11-19)

02. Regulation Z. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1026, et seq., as amended to and including January 1, 2019. Regulation Z is available for viewing online at: https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol9/xml/CFR-2018-title12-vol9-part1026.xml. (4-11-19)

03. Restrictions on Garnishment Act. As set forth in 15 U.S.C. 1671, et seq., as amended to and including January 1, 2019. The Restrictions on Garnishment Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapII.htm. (4-11-19)

04. Credit Repair Organizations Act. As set forth in 15 U.S.C. 1679, et seq., as amended to and including January 1, 2019. The Credit Repair Organizations Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapII-A.htm. (4-11-19)

05. Credit Reporting Agencies Act or "Fair Credit Reporting Act." As set forth in 15 U.S.C. 1681, et seq., as amended to and including January 1, 2019. The Fair Credit Reporting Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapIII.htm. (4-11-19)

06. Regulation V. As set forth in 12 CFR 1022, et seq., as amended to and including January 1, 2019. Regulation V is available for viewing online at: https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1022.xml. (4-11-19)

07. Equal Credit Opportunity Act. As set forth in 15 U.S.C. 1691, et seq., as amended to and including January 1, 2019. The Equal Credit Opportunity Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapIV.htm. (4-11-19)

08. Regulation B. As set forth in 12 CFR 1002, et seq., as amended to and including January 1, 2019. Regulation B is available for viewing online at: https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1002.xml. (4-11-19)

09. Debt Collection Practices Act or "Fair Debt Collection Practices Act." As set forth in 15 U.S.C. 1692, et seq., as amended to and including January 1, 2019. The Fair Debt Collection Practices Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapV.htm. (4-11-19)

10. Electronic Funds Transfer Act. As set forth in 15 U.S.C. 1693, et seq., as amended to and including January 1, 2019. The Electronic Funds Transfer Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapVI.htm. (4-11-19)

11. Regulation E. As set forth in 12 CFR 1005, et seq., as amended to and including January 1, 2019. Regulation E is available for viewing online at: https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1005.xml. (4-11-19)

12. Availability of Documents. Unless otherwise available, the documents incorporated by reference may be viewed at the central office of the Idaho Department of Finance. ( )

006. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Sections 26-31-103, 26-31-204(5), 26-31-302(1)(a), and 26-31-302(2), Idaho Code. (3-29-10)

001. TITLE AND SCOPE.
The title of this chapter is "Rules Pursuant to the Idaho Residential Mortgage Practices Act," which rules are administered by the Idaho Department of Finance, and may be cited as IDAPA 12.01.10. These rules interpret the Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-29-10)

002. -- 004. (RESERVED)

005. INCORPORATION BY REFERENCE (RULE 5).
The "Rules Pursuant to the Idaho Residential Mortgage Practices Act," incorporate by reference the full text of the following: (4-4-13)

01. The Real Estate Settlement Procedures Act. As set forth in 12 U.S.C. 2601, et seq., as amended to and including January 1, 2019. The Real Estate Settlement Procedures Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title12/html/USCODE-2016-title12-chap27.htm. (4-11-19)

02. Regulation X. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1024, et seq., as amended to and including January 1, 2019. Regulation X is available for viewing online at: https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol8/xml/CFR-2018-title12-vol8-part1024.xml. (4-11-19)

03. The Truth in Lending Act. As set forth in 15 U.S.C. 1601, et seq., as amended to and including January 1, 2019. The Truth in Lending Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41.htm. (4-11-19)

04. Regulation Z. As issued by the federal Bureau of Consumer Financial Protection and codified at 12 CFR 1026, et seq., as amended to and including January 1, 2019. Regulation Z is available for viewing online at: https://www.gpo.gov/fdsys/pkg/CFR-2018-title12-vol9/xml/CFR-2018-title12-vol9-part1026.xml. (4-11-19)

05. Availability of Documents. Unless otherwise available, the documents incorporated by reference may be viewed at the Department's central office. *( )*

006. DEFINITIONS.
In addition to the terms defined in the Idaho Residential Mortgage Practices Act, the following definitions apply: *( )*

01. Act. The Idaho Residential Mortgage Practices Act, Title 26, Chapter 31, Idaho Code. (3-30-06)

02. Application. In relation to a "residential mortgage loan" or "loan modification" as defined in the Act, an "application" means a request for a residential mortgage loan or loan modification and any form or document representing such request. The term "application" does not include the processing of such request. (3-29-10)

03. Closing. The process of executing legally binding documents regarding a lien on property that is subject to a residential mortgage loan and includes the day agreed upon by a borrower and a *covered* person to complete such process. *( )*

04. *Covered Person*. *A person who has been issued a license, pursuant to the Act, or a person required to be licensed under the Act.* *( )*

007. -- 039. (RESERVED)

040. DECEPTIVE ADVERTISING.

01. Advertising. Advertising means making or permitting to be made any oral, written, graphic or pictorial statements, in any manner, in the course of the solicitation of business authorized under the Act. Deceptive advertising is defined to include the following practices by a *covered* person: *( )*

a. Advertising without clearly and conspicuously disclosing the business name and unique identifier assigned by the Nationwide Mortgage Licensing System and Registry (NMLSR) to the *covered* person. *( )*

b. Engaging in bait and switch advertising or misrepresenting, directly or indirectly, the terms, conditions or charges incident to services authorized under the Act. Bait and switch advertising, for the purposes of these rules, means advertising services without the intent to provide them but, rather, to lure a person into making an application for services and then switch the person from obtaining the advertised services to other or different services on a basis more advantageous to the *covered person*. *( )*

c. Using an address in advertising at which the *covered person* conducts no mortgage brokering, mortgage lending, or mortgage loan origination activities or for which the *covered* person does not hold a license. *( )*

d. Advertising or soliciting in a manner that has the effect of misleading a person to believe that the advertisement or solicitation is from a person's current mortgage holder, a government agency, or that an offer is a limited opportunity, when such is not the case. (3-29-10)

041. -- 049. (RESERVED)

050. WRITTEN DISCLOSURES.

01. Receipt of an Application. Upon receipt of an application as defined in Subsection 006.02 of these rules, and before receipt of any moneys from a borrower, a *covered* person shall make available to each borrower information, in a manner acceptable to the Director, about the services authorized under the Act that he may provide to a borrower. *( )*

02. Loan Modification Confirmation. Within three (3) business days, including Saturdays, of receipt of a notice from a creditor or its agent of a loan modification offer, a *covered* person shall deliver or send by first-class mail to the borrower a written confirmation of the terms of the loan modification offer. Such confirmation shall include information regarding proposed rates, payments, and loan balance. *( )*

051. RESTRICTIONS ON FEES.
If a *covered* person imposes fees authorized by Section 26-31-210 of the Act, the following restrictions apply, subject to the Director's authority to set limits on fees and charges pursuant to Section 26-31-204(6) of the Act: *( )*

01. Application Fee. An application fee shall include only the actual costs incurred by a *covered* person in connection with the taking of an application and transcribing application information. *( )*

02. Cancellation Fee. A cancellation fee may only be charged at the time of, or subsequent to, a request or instruction by a borrower to a *covered* person to cancel a request for services authorized under the Act. Such fee must bear a reasonable relationship to the actual costs incurred by the *covered* person for services provided to a borrower up to the borrower's request or instruction to cancel the request for services. A cancellation fee must comply with the requirements of Regulation Z, when applicable. *( )*

052. -- 059. (RESERVED)

060. PROHIBITED PRACTICES.
It is a prohibited practice for any *covered* person in connection with offering or providing services authorized under the Act, to: *( )*

01. Fail to Disburse Funds Timely. Fail to disburse funds in a timely manner, in accordance with any commitment or agreement with the borrower, either directly or through a mortgage broker: (3-29-10)

a. Either immediately upon closing of the loan in the case of a purchase/sale transaction; or (11-1-98)

b. Immediately upon expiration of the three (3) day rescission period in the case of a refinancing, or taking of a junior mortgage on the existing residence of the borrower. (3-30-06)

c. For the purposes of this Subsection, the term "immediately" represents a period of time no greater than seventy-two (72) hours. (3-29-10)

02. Fail to Provide Reasonable Opportunity for Document Review. Fail to give the borrower, upon the borrower's verbal or written request, a reasonable opportunity of at least twenty-four (24) hours prior to closing to review every document to be signed or acknowledged by the borrower for the purpose of obtaining a residential mortgage loan, and every document that is required pursuant to these rules, and other applicable laws, rules or regulations. (3-29-10)

03. Require Excessive Insurance. Require a borrower to obtain or maintain fire insurance or other hazard insurance in an amount that exceeds the replacement value of the improvements to the real estate. (3-29-10)

04. Engage in Deceptive Advertising. Engage in any deceptive advertising as set forth in Section 040 of these rules. (3-29-10)

061. -- 089. (RESERVED)

090. BORROWERS UNABLE TO OBTAIN LOANS.
If, for any reason, a *covered* person fails to obtain a residential mortgage loan for a borrower that is satisfactory to the borrower, and the borrower has paid for an appraisal, the *covered* person shall provide a copy of the appraisal to the borrower and transmit and assign original appraisal reports, along with any other documents provided by the borrower, to any other person to whom the borrower directs that the documents be transmitted. The *covered* person shall provide such copies or transmit such documents within three (3) business days after the borrower makes the request in writing. *( )*

091. -- 999. (RESERVED)

12.01.11 – RULES PURSUANT TO THE IDAHO COLLECTION AGENCY ACT

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Sections 26-2228(4) and 26-2248, Idaho Code. (4-11-19)

001. TITLE AND SCOPE (RULE 1).
The title of this chapter is "Rules Pursuant to the Idaho Collection Agency Act," which rules are administered by the Idaho Department of Finance, and may be cited as IDAPA 12.01.11. These rules interpret the Idaho Collection Agency Act, Title 26, Chapter 22, Idaho Code. (4-11-19)

002. -- 004. (RESERVED)

005. INCORPORATION BY REFERENCE.
The "Rules Pursuant to the Idaho Collection Agency Act," incorporate by reference the full text of the following: (4-11-19)

01. Fair Debt Collection Practices Act. As set forth in 15 U.S.C. 1692, et seq., as amended to and including January 1, 2019. Fair Debt Collection Practices Act is available for viewing online at: https://www.gpo.gov/fdsys/pkg/USCODE-2016-title15/html/USCODE-2016-title15-chap41-subchapV.htm. (4-11-19)

02. Availability of Documents. Unless otherwise available, the documents incorporated by reference may be viewed at the Department's central office. ( )

006. -- 999. (RESERVED)

IDAPA 12 – IDAHO DEPARTMENT OF FINANCE

DOCKET NO. 12-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 30-14-605, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 12, rules of the Idaho Department of Finance:

- 12.01.08, *Rules Pursuant to the Uniform Securities Act*

This pending rule vacates the following proposed rule previously promulgated as part of the omnibus proposed fee rulemaking under IDAPA 12, rules of the Idaho Department of Finance:

- ***(Vacated)*** IDAPA 12.01.06, *Rules Pursuant to the Idaho Endowment Care Cemetery Act*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 1582 - 1615.

The rule making was prompted by the expiration of the rules. The department considered the Licensing Freedom Act and the Red Tape Reduction Act and the continued efforts to clarify and streamline its rules. Minor housekeeping edits are also intended to clarify and simplify existing language, and reduce or eliminate unnecessary restrictions. Following are descriptions of changes made to the pending rules that differ from the proposed rules:

- IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act* – Removed sections regarding written interpretations, and identifying mailing address and phone number of the department.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

1. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 003.04: $50 fee with each request for no-action position or interpretive opinion letter.

2. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 040.03: $300 fee for annual renewal of registration statement.

3. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 053.01.b. and c.: $300 fee for filing of notice of offering and annual renewal of mutual funds by investment companies, and $100 filing fee for notice of offering and annual renewal of unit investment trusts.

4. IDAPA 12.01.08, *Rules Pursuant to the Uniform Securities Act*, Rule 053.02.b. and c.: $50 fee for Regulation D Rule 506 notice filings, and $50 additional fee for late filing.

The fees or charges are being imposed pursuant to Sections 30-14-302, 30-14-305, and 30-14-605, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Senior Securities Analyst Patricia Highley, (208) 332-8077.

Dated this 4th day of October, 2019.

Mary E. Hughes
Acting Director
Idaho Department of Finance
800 Park Blvd., Suite 200
Boise, ID 83720-0031
Phone: (208) 332-8030
Fax: (208) 332-8099

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Section 30-14-605, Idaho Code. (3-24-05)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Securities Rules of the Idaho Department of Finance"; and may be cited as IDAPA 12.01.08, "Rules Pursuant to the Uniform Securities Act (2004)." (3-24-05)

02. Implementation. These rules implement statutory intent with respect to the offer and sale of securities and the giving of investment advice in the state of Idaho by licensed individuals and others. (3-24-05)

002. -- 003. (RESERVED)

004. SECURITIES EXEMPTIONS, OPINIONS, AND NO-ACTION LETTERS.
Interpretative Opinions. The Administrator, in his discretion, may honor requests from interested persons for formal interpretive opinions and no-action positions, including consideration of waivers, relating to an actual specific factual circumstance where appropriate and in the public interest, on the basis of facts stated and submitted in writing, with respect to the provisions of the Act or any rule or statement of policy adopted thereunder, provided such requests satisfy and conform to the following requirements: (3-24-05)

01. Written Requests. Such requests shall be in writing and shall include or be accompanied by all information and material required by any statute, rule or statement of policy under which an exception or exemption may be claimed, including but not limited to, copies of prospectuses or offering circulars if applicable or appropriate. (3-24-05)

02. Narrative. The letter should contain a brief narrative of the fact situation and should set out all of the facts necessary to reach a conclusion in the matter; however, such narratives should be concise and to the point. (3-24-05)

03. Hypotheticals Not Considered. The names of the company or companies, organization or organizations and all other persons involved should be stated and should relate and be limited to a particular factual circumstance. Letters relating to hypothetical situations will not warrant a formal response. (3-24-05)

04. Fee. Each request for a no-action position or interpretive opinion letter shall be accompanied by payment of a fee in the amount of fifty dollars ($50). (3-24-05)

005. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 12.01.08, "Rules Pursuant to the Uniform Securities Act (2004)," adopts and incorporates by reference the full text of the following Statements of Policy and guidelines adopted by the North American Securities Administrators Association (NASAA): (3-24-05)

a. "Loans and Other Material Affiliated Transactions," as adopted with amendments through March 31, 2008; (3-29-17)

b. "Options and Warrants," as adopted with amendments through March 31, 2008; (3-29-17)

c. "Corporate Securities Definitions," as adopted with amendments through March 31, 2008; (3-29-17)

d. "Impoundment of Proceeds," as adopted with amendments through March 31, 2008; (3-29-17)

e. "Preferred Stock," as adopted with amendments through March 31, 2008; (3-29-17)

f. "Promotional Shares," as adopted with amendments through March 31, 2008; (3-29-17)

g. "Promoters' Equity Investment," as adopted with amendments through March 31, 2008; (3-29-17)

h. "Specificity in Use of Proceeds," as adopted with amendments through March 31, 2008; (3-29-17)

i. "Underwriting Expenses, Underwriter's Warrants, Selling Expenses, and Selling Securities Holders," as adopted with amendments through March 31, 2008; (3-29-17)

j. "Unsound Financial Condition," as adopted with amendments through March 31, 2008; (3-29-17)

k. "Unequal Voting Rights," as adopted March 31, 2008; (3-29-17)

l. "Debt Securities," as adopted April 25, 1993; (3-24-05)

m. "NASAA Guidelines Regarding Viatical Investments," as adopted October 1, 2002; (3-24-05)

n. "NASAA Statement of Policy Regarding Small Company Offering Registrations (SCOR)," as adopted April 28, 1996. (3-24-05)

02. Availability of Referenced Documents. Copies of the "NASAA Statements of Policy" are available at the following locations: (3-24-05)

a. NASAA, 750 First Street, N.E., Suite 1140, Washington, D.C. 20002. (3-24-05)

b. Department of Finance, 800 Park Blvd., Suite 200, Boise, ID 83712. (3-29-17)

c. NASAA Web site at http://www.nasaa.org/regulatory-activity/statements-of-policy/. (3-24-05)

006. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. The Uniform Securities Act (2004) set forth in Chapter 14, Title 30, Idaho Code. (3-24-05)

02. Administrator. The Director of the Department of Finance. (3-24-05)

03. Agent of Issuer. The term "agent of issuer" is used interchangeably with the term "issuer agent" through these rules. (3-24-05)

04. CRD. Central Registration Depository. (3-24-05)

05. Department. The Idaho Department of Finance. (3-24-05)

06. EFD. Electronic Filing Depository. (3-29-17)

07. FINRA. Financial Industry Regulatory Authority. (3-29-17)

08. Form ADV. The Uniform Application for Investment Adviser Registration. (3-24-05)

09. Form ADV-H. The Uniform Application for a Temporary or Continuing Hardship Exemption. (3-24-05)

10. Form ADV-W. The Uniform Request for Withdrawal of Investment Adviser Registration. (3-24-05)

11. Form BD. The Uniform Application for Broker-Dealer Registration. (3-24-05)

12. Form BDW. The Uniform Request for Withdrawal from Registration as a Broker-Dealer. (3-24-05)

13. Form BR. The Uniform Application for Broker-Dealer Branch Registration. (3-29-17)

14. Form D. The federal form entitled "Notice of Sale of Securities Pursuant to Regulation D, Section 4(6) and or Uniform Limited Offering Exemption." (3-24-05)

15. **Form NF**. The Uniform Notice Filing Form. (3-24-05)

16. **Form 1-A**. A federal securities registration form of that number. (3-24-05)

17. **Form S-18**. A federal securities registration form of that number. (3-24-05)

18. **Form U-1**. The Uniform Application to Register Securities. (3-24-05)

19. **Form U-2**. The Uniform Consent to Service of Process. (3-24-05)

20. **Form U-4**. The Uniform Application for Securities Industry Registration or Transfer. (3-24-05)

21. **Form U-5**. The Uniform Request for Withdrawal of Securities Industry Registration or Transfer. (3-24-05)

22. **Form U-7**. The Uniform Small Company Offering Registration Form. (3-24-05)

23. **IARD**. Investment Adviser Registration Depository. (3-24-05)

24. **NASAA**. The North American Securities Administrators Association, Inc. (3-24-05)

25. **NASD**. The National Association of Securities Dealers, Inc. (3-24-05)

26. **NASDAQ**. The National Association of Securities Dealers Automated Quotations. (3-24-05)

27. **SEC**. The U.S. Securities and Exchange Commission. (3-24-05)

28. **Transact Business**. For purposes of the Act, to "transact business" means to buy or to sell or contract to buy or to sell or dispose of a security or interest in a security for value. It also means any offer to buy or offer to sell or dispose of, and every solicitation of clients or of any offer to buy or to sell, a security or interest in a security for value. With respect to investment advisers and investment adviser representatives, "transact business" includes preparation of financial plans involving securities, recommendations to buy or sell securities or interests in a security for value, and solicitation of investment advisory clients. (3-24-05)

29. **USA**. The Uniform Securities Act (2004). (3-24-05)

30. **Unsolicited Order or Offer**. (3-24-05)

a. As used in these rules, an order or offer to buy is considered "unsolicited" if: (3-24-05)

i. The broker-dealer has not made a direct or indirect solicitation or recommendation that the customer purchase the security; and (3-24-05)

ii. The broker-dealer has not recommended the purchase of the security to the customer, either directly or in a manner that would bring its recommendation to the customer; and (3-24-05)

iii. The broker-dealer has not volunteered information on the issuer to the customer; and (3-24-05)

iv. The customer has previously, and independent of any information furnished by the broker-dealer, decided to buy the security. (3-24-05)

b. Any offer or order to buy from a customer whose first knowledge of the specific security or issuer was volunteered to him by the broker-dealer is regarded as a solicited order. (3-24-05)

c. Any claim of exemption pursuant to Section 30-14-202(6), Idaho Code, shall be supported by the broker-dealer's certificate that the transaction in question was, in fact, unsolicited. (3-24-05)

011. -- 019. (RESERVED)

020. APPLICATION FOR REGISTRATION OF SECURITIES.

01. Registration by Coordination. A registration statement to register securities by coordination shall contain the following: (3-24-05)

a. The Form U-1 and accompanying documents (including subscription agreement); (3-24-05)

b. A consent to service of process (Form U-2) in compliance with Section 30-14-611, Idaho Code; (3-24-05)

c. A copy of the prospectus, including financial statements where: (3-24-05)

i. The prospectus for a securities registration by coordination under Section 30-14-303, Idaho Code, shall be prepared using the forms required under the Securities Act of 1933, and (3-24-05)

ii. All historical financial statements in the registration statement shall be in conformity with generally accepted accounting principles (GAAP) and financial statements filed with a registration statement by coordination that complies with the requirements of the United States Securities and Exchange Commission. (3-24-05)

d. All exhibits filed with the United States Securities and Exchange Commission in connection with the registration statement; (3-24-05)

e. The filing fee specified in Section 30-14-305(b), Idaho Code; and (3-24-05)

f. Any additional information or documents requested by the Department. (3-24-05)

02. Registration by Qualification. A registration statement to register securities by qualification shall contain the following in addition to the requirements of Section 30-14-304, Idaho Code: (3-24-05)

a. Financial Statements. Except for SCOR applications, registration statements filed pursuant to Section 30-14-304, Idaho Code, shall contain audited financial statements of the issuer for its last two (2) fiscal years. An issuer with less than one (1) year of operations may file reviewed financial statements until the end of its first fiscal year. Registration statements filed with SCOR applications on the Form U-7 shall contain the financial statements specified in the instructions to the Form U-7. (4-11-06)

b. Unaudited Interim Financial Statements. If the audited financial statements or unaudited financial statements required in Subsection 020.02.a. of this rule are not current to within four (4) months of the date of filing of the registration statement, additional unaudited financial statements as of the issuer's last fiscal quarter or any later date designated by the Administrator shall be included. (3-24-05)

c. Small Company Offering Registration (SCOR). A SCOR registration statement shall contain the following: (3-24-05)

i. The Form U-1 and accompanying documents (including subscription agreement); (3-24-05)

ii. An executed Form D; (3-24-05)

iii. A consent to service of process (Form U-2) in compliance with Section 30-14-611, Idaho Code; (3-24-05)

iv. For SCOR offerings, the prospectus to be used shall be the Form U-7, as adopted and revised by NASAA in September 1999; (3-24-05)

v. The filing fee specified in Section 30-14-305(b), Idaho Code; and (3-24-05)

vi. Any additional information or documents requested by the Department. (3-24-05)

d. Registration statements by qualification shall contain the following: (3-24-05)

i. The Form U-1 and accompanying documents (including subscription agreement); (3-24-05)

ii. A consent to service of process (Form U-2) in compliance with Section 30-14-611, Idaho Code; (3-24-05)

iii. Financial statements prepared in accordance with Subsection 020.02.a. of this rule; (3-24-05)

iv. A copy of the prospectus containing the information or records specified in Sections 30-14-304(b)(1) through 304(b)(18), Idaho Code; (3-24-05)

v. The prospectus shall be prepared using one of the following forms: Part II of Form 1-A of Regulation A of the Securities Act of 1933; Parts I and II of Form SB-2 of the Securities Act of 1933; Form U-7; or any other applicable form used to prepare a prospectus under the Securities Act of 1933, if approved by the department. (3-24-05)

03. Other Forms. Any other applicable form used to prepare a prospectus under the Securities Act of 1933, if approved by the Department, containing: (3-24-05)

a. The filing fee specified in Section 30-14-305(b), Idaho Code; and (3-24-05)

b. Any additional information or documents requested by the Department. (3-24-05)

021. AMENDMENTS TO REGISTRATION STATEMENT.

01. Amendments Required. A correcting amendment to an effective registration statement shall be prepared and submitted to the Department any time that the information contained therein becomes inaccurate or incomplete in any material respect. The responsibility for identifying and reporting a material change lies with the registrant. (3-24-05)

02. Contents of Amendment Filing. Each filing of a correcting amendment to a registration statement shall contain a copy of each item of the registration statement which has been changed, with all changes clearly marked. To be complete, a filing of a correcting amendment to the registration statement shall contain a report of material changes setting forth a summary of each material change and indicating the location of such change in the documents filed. Neither the Administrator nor any member of his staff shall be held to have taken notice of any item of material change not summarized in such a report. (3-24-05)

03. Time of Filing and Undertaking. Every registration statement shall contain an undertaking by the applicant to file correcting amendments to the registration statement whenever the information in the registration statement becomes inaccurate or incomplete in any material respect by the earlier of: (3-24-05)

a. Two (2) business days after filing such amendment with the SEC; or (3-24-05)

b. Fifteen (15) business days following the event giving rise to the amendment. (3-24-05)

c. If not registered with the SEC, registrants shall file an amended registration statement if required within fifteen (15) business days following the event giving rise to the amendment. (3-24-05)

04. Effect of Failure to Amend. Solicitation of prospective investors through utilization of a prospectus containing information which is inaccurate or incomplete in any material respect is a violation of Section 30-14-501, Idaho Code, and constitutes a basis for the suspension or revocation of the registration under Section 30-14-306(a)(1), Idaho Code. Nothing in Section 021, of these rules, shall be construed to require any open-end investment company registered under the 1940 Act and the Act to disclose fluctuations in its investment portfolio. (3-24-05)

022. FINANCIAL STATEMENTS.

01. Application of Regulation S-X. As to definitions, qualifications of accountants, content of accountant's certificates, requirements for consolidated or combined statements, and actual form and content of financial statements, the Administrator shall apply Regulation S-X of the SEC (17 CFR Part 210) in its most currently amended form as of the date of the filing of the application to all financial statements filed with the Department in connection with the registration of securities. (3-24-05)

02. Financial Statements Incorporated by Reference. Where financial statements in a prospectus are incorporated by reference from another document, the Administrator may require that such other document be filed with the Department and be delivered to investors with the prospectus. (3-24-05)

03. Application of Antifraud Provisions. Any financial statement distributed in connection with the offer or sale of securities under the Act shall be subject to the provisions of Section 30-14-501, Idaho Code. Any financial statement filed with the Department shall be subject to the provisions of Section 30-14-505, Idaho Code. (3-24-05)

023. -- 035. (RESERVED)

036. NASAA STATEMENTS OF POLICY -- REGISTERED OFFERINGS.
The Department will apply the applicable statement(s) of policy adopted by NASAA and incorporated herein by reference pursuant to Section 005, of these rules, to an offering seeking registration in Idaho when conducting a review to determine whether an offering is fair, just and equitable. Such an offering must comply with the requirements of such policy or policies, unless waived by the Administrator. (3-24-05)

037. REGISTRATION OF DEBT SECURITIES.
In addition to the requirements contained in the NASAA Statement of Policy Regarding Debt Securities, as adopted on April 25, 1993, the issuer of debt securities will incorporate the following standards: (3-24-05)

01. Suitability. In establishing standards of fairness and equity, the Department has established the following investor suitability guidelines for debt offerings registered under the Act: (3-24-05)

a. No more than ten percent (10%) of any one (1) Idaho investor's net worth (exclusive of home, home furnishings, and automobiles) shall be invested in the securities being registered with the Department; and either (3-24-05)

b. A gross income of forty-five thousand dollars ($45,000) and a net worth of forty-five thousand dollars ($45,000) (exclusive of home, home furnishings and automobiles); or (3-24-05)

c. A net worth of one hundred fifty thousand dollars ($150,000) (exclusive of home, home furnishings and automobiles). (3-24-05)

02. Department May Establish Standards. The suitability standard in Subsection 037.01 of this rule is a guideline. Higher or lower suitability standards may be established or may be required by the Department as a condition of registration. (3-24-05)

03. Standards To Be Disclosed. The suitability standards must be disclosed in the prospectus. (3-24-05)

038. WITHDRAWAL/ABANDONMENT OF A REGISTRATION STATEMENT.

01. Withdrawal. The withdrawal of an application (prior to effectiveness) may be permitted by the Administrator upon the written request of the applicant. (3-24-05)

02. Abandonment. The abandonment of an application, where there has been no activity on the application by the applicant for a period of six (6) months or more, may be considered to signify a request for withdrawal. (3-24-05)

03. Time Limit. An application for registration of securities pursuant to Section 30-14-303 or 30-14-304, Idaho Code, shall be deemed abandoned if such registration is not effective in the state of Idaho within one (1) year from the date of receipt by the Department of the initial filing of the application for registration. (3-24-05)

04. Abandoned Applications Not Reinstated. Once deemed abandoned, the original application shall not be reinstated. A new application including the registration statement, appropriate exhibits and filing fees is required. (3-24-05)

039. REPORT OF COMPLETION OF OFFERING.

01. Completion Statement. Within thirty (30) days of the completion of a registered offering in Idaho, the registrant shall provide a written statement to the Department that states the following: (3-24-05)

a. The date the offering was completed in Idaho; and (3-24-05)

b. The number and amount of registered securities sold in Idaho, for SCOR offerings and offerings registered by qualification. (3-24-05)

02. Signatures. The written statement must be signed by an officer, director or agent of the issuer or by an authorized signatory of the registrant. (3-24-05)

040. ANNUAL REPORT FOR THE RENEWAL OF A REGISTRATION STATEMENT.
To renew a registration statement for an additional year, the registrant shall file the following with the Department before the anniversary of the effective date of the registration statement in Idaho: (3-24-05)

01. Cover Letter. A cover letter requesting renewal; (3-24-05)

02. Consent to Service. A consent to service of process (Form U-2) in accordance with Section 30-14-611, Idaho Code; and (3-24-05)

03. Filing Fee. A filing fee of three hundred dollars ($300) for all registered offerings. (3-24-05)

041. SUBSCRIPTION AGREEMENT.
The subscription agreement shall contain, among other things, an acknowledgment by the subscriber that he has received a copy of the prospectus. Each completed subscription agreement shall be kept in the office of the issuer or broker-dealer for a period of five (5) years and be subject to inspection by the Department. (3-24-05)

042. DELIVERY OF PROSPECTUS.
As a condition of registration, an applicant shall comply with the following: (3-24-05)

01. Registration by Qualification. A person offering or selling a security under a registration by qualification, other than through a broker-dealer, shall deliver a copy of the final prospectus to each prospective purchaser before or at the time of the confirmation of a sale made by or for the account of the person. (3-24-05)

02. Registration by Coordination. A person offering or selling a security under a registration by coordination shall deliver a copy of the prospectus as required by the Securities Act of 1933. (3-24-05)

043. REGISTRATIONS -- NOTICE OF INTENDED IDAHO BROKER -- DEALER OR AGENT.
At the time of filing of an application for registration of any security required to be registered in Idaho, written notice shall be provided to the Department of the name of at least one (1) broker-dealer or agent, registered as such in this state, that is intended or qualified to offer or sell such security in Idaho. The Administrator may deny or revoke effectiveness of any registration pending receipt of the notice or may hold the application without further review until the notice has been received. (3-24-05)

044. RECORDS TO BE PRESERVED BY ISSUERS.

01. Required Records. All issuers who effect sales of registered securities, other than through a broker-dealer, shall preserve the following records for at least three (3) years following the expiration of the registration: (3-24-05)

a. Copies of all documents contained in the registration statement; (3-24-05)

b. Copies of all advertisements, including a record of the dates, names and addresses of media carrying those advertisements; (3-24-05)

c. Copies of all communications received and sent by the issuer pertaining to the offer, sale and transfer of the securities, including purchase agreements and confirmations; and (3-24-05)

d. A list of the name, address and telephone number of each investor to whom the securities were sold, and for each such person, information regarding: (3-24-05)

i. The type of securities sold; (3-24-05)

ii. The number and amount of securities sold; (3-24-05)

iii. The type of consideration paid; and (3-24-05)

iv. The name of the agent that sold the securities. (3-24-05)

02. Retention Period. An issuer will need to retain the records set forth in Subsection 044.01 of this rule for each investor at least three (3) years after the investor's investment has terminated, even if more than three (3) years has lapsed since the expiration of the registration. (3-24-05)

03. Form. Records may be stored in paper form or electronically. (3-24-05)

045. EXAMINATION OF APPLICATION.

The Department shall conduct a special examination of each application for registration under Sections 30-14-303 and 30-14-304, Idaho Code, to determine the adequacy of disclosure and to fulfill the Department's obligations under Section 30-14-306, Idaho Code. This examination shall be based upon material contained in the registration statement and any other documentation which the applicant may be required to submit. Each application for registration shall be accompanied by the filing fee set forth in Section 30-14-305(b), Idaho Code. The examination report shall consist of the Department's written comments regarding the filing. (3-24-05)

046. ON-SITE EXAMINATION OF ISSUERS.

The business and records of issuers offering and/or selling securities in, or out of, Idaho may be subject to periodic on-site examinations by the Administrator, or his designee, at such times as the Administrator determines necessary for the protection of the public. (3-24-05)

047. ADVERTISING.

01. Definitions. The following words and terms, when used in Section 047, of these rules, have the following meaning, unless the context clearly indicates otherwise: (3-24-05)

a. "Sales literature" means material published, or designed for use, in a newspaper, magazine or other periodicals, radio, television, telephone solicitation or tape recording, videotaped display, signs, billboards, motion pictures, telephone directories (other than routine listings), other public media and any other written communication distributed or made generally available to customers or the public including, but not limited to, prospectuses, pamphlets, circulars, form letters, seminar texts, research reports, surveys, performance reports or summaries and reprints or excerpts of other sales literature or advertising to include publications in electronic format. (3-24-05)

b. "Sales literature package" means all submissions of sales literature to the Department under one (1) posting or delivery relating to a specific issue of securities. (3-24-05)

02. Filing Requirement. Pursuant to Section 30-14-504, Idaho Code, this rule requires the filing of all sales literature for review and response by the Administrator before use or distribution in Idaho. A complete filing shall consist of the sales literature package and a representation by the applicant, issuer or broker-dealer, that reads substantially as follows: "I ------ hereby attest and affirm that the enclosed sales literature or advertising package contains no false or misleading statements or misrepresentations of material facts, and that all information set forth therein is in conformity with the Company's most recently amended registration statement as filed with the Department on or about -------." (3-29-17)

03. Exemption From Filing. The following types of sales literature are excluded from the filing requirements set forth herein: (3-24-05)

a. Sales literature which does nothing more than identify a broker-dealer or investment adviser, and/or offer a specific security at a stated price; (3-29-17)

b. Internal communications that are not distributed to the public; (3-24-05)

c. Prospectuses, preliminary prospectuses, prospectus supplements and offering circulars which have been filed with the Department as part of a registration statement, including a final printed copy if clearly identified as such; (3-24-05)

d. Sales literature solely related to changes in a name, personnel, location, ownership, offices, business structure, officers or partners, telephone or teletype numbers; (3-29-17)

e. Sales literature filed with and approved by FINRA, the SEC, or other regulatory agency with substantially similar requirements; (3-29-17)

f. Sales literature relating to certain federal covered securities as set forth in Section 30-14-504(b), Idaho Code. (3-29-17)

04. Piecemeal Filings. The Department will not approve any sales literature package until a complete filing is received. Piecemeal filings will not be accepted and will result in the disapproval of any materials submitted therewith. (3-24-05)

05. Application of Antifraud Provisions. Sales literature used in any manner in connection with the offer or sale of securities is subject to the provisions of Section 30-14-501, Idaho Code, whether or not such sales literature is required to be filed pursuant to Section 30-14-504, Idaho Code, or Section 047 of these rules. Further, sales literature filed with the Department is subject to the provisions of Sections 30-14-501 and 30-14-505, Idaho Code. Sales literature should be prepared accordingly and should not contain any ambiguity, exaggeration or other misstatement or omission of material fact, which might confuse or mislead an investor. (3-29-17)

06. Prohibited Disclosures. Unless stating that the Administrator or Department has not approved the merits of the securities offering or the sales literature, no sales literature shall contain a reference to the Administrator or Department unless such reference is specifically requested by the Administrator. (3-24-05)

048. DEPARTMENT ACCESS.

Each issuer examined shall provide the personnel of the Department access to business books, documents, and other records. Each issuer shall provide personnel with office space and facilities to conduct an on-site examination, and assistance in the physical inspection of assets and confirmation of liabilities. Failure of any issuer to comply with any provision here of shall constitute a violation of Section 048, of these rules, and shall be a basis for denial, suspension or revocation of the registration or application for registration or other administrative or civil action by the Department. (3-24-05)

049. -- 051. (RESERVED)

052. ISSUER AGENT REGISTRATION.

Any individual not exempted pursuant to Sections 30-14-402(b)(3), (4) or (5), Idaho Code, must be registered as an issuer agent or comply with the registration requirement of Section 30-14-402(a), Idaho Code, if the individual is

compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. (3-29-17)

053. FEDERAL COVERED SECURITIES.

01. Investment Company Notices. (3-24-05)

a. Notice Requirement. Pursuant to Section 30-14-302, Idaho Code, prior to the offer in this state of a series or portfolio of securities of an investment company that is registered, or that has filed a registration statement, under the Investment Company Act of 1940, that is not otherwise exempt under Sections 30-14-201 through 30-14-203, Idaho Code, the issuer must file a notice with the Administrator relating to such series or portfolio of securities. (3-24-05)

b. Content of Notice. Each notice shall include the following: ( )

i. A properly completed Form NF; (3-24-05)

ii. A consent to service of process (Form U-2); (3-24-05)

iii. A filing fee of three hundred dollars ($300) for mutual funds and one hundred dollars ($100) for unit investment trusts; and (3-29-17)

iv. Notification of SEC effectiveness. (3-24-05)

c. Renewal of Notice. The effectiveness of a notice required pursuant to Subsection 053.01.a. of this rule may be renewed each year for an additional one (1) year period of effectiveness by filing on or before the expiration of the effectiveness of such notice: (3-24-05)

i. A properly completed Form NF clearly indicating the state file number of the Notice to be renewed; (3-24-05)

ii. A consent to service of process (Form U-2) in accordance with Section 30-14-611, Idaho Code; and (3-24-05)

iii. A renewal fee of three hundred dollars ($300) for mutual funds and one hundred dollars ($100) for unit investment trusts. (3-24-05)

d. Amendments. Amendment filings are required for the following: (3-24-05)

i. Issuer name change; (3-24-05)

ii. Address change for contact person; and (3-24-05)

iii. Notification of termination or completion. (3-24-05)

e. Other Documents. Documents other than those required in Subsections 053.01.b., 053.01.c., and 053.01.d. of this rule, unless specifically requested by the Department, should not be filed with the Department. Documents that should be filed with the Department only if specifically requested include, but are not limited to, registration statements, prospectuses, amendments, statements of additional information, quarterly reports, annual reports, and sales literature. (3-29-17)

02. Regulation D Rule 506 Notice Filing. (3-24-05)

a. Notice Requirement. Issuers offering a security in this state in reliance upon Section 30-14-301, Idaho Code, by reason of compliance with Regulation D, Rule 506, adopted by the United States Securities and Exchange Commission, shall be required to file a notice with the Department or with EFD pursuant to the authority of Section 30-14-302(c), Idaho Code, if a sale of a security in this state occurs as a result of such offering. (3-29-17)

b. Terms of Notice Filing. The issuer shall file with the Department or with EFD no later than fifteen (15) days after the first sale of a security in this state for which a notice is required under Subsection 053.02.a. of this rule: (3-29-17)

i. One (1) copy of the SEC-filed Form D; and (3-29-17)

ii. The notice filing fee of fifty dollars ($50). (3-24-05)

iii. A cover letter should be included in the notice filing which states the date in which the first sale of securities occurred in Idaho. (3-24-05)

c. Terms of Late Notice Filing. An issuer failing to file with the Administrator as *provided in* Subsection 053.02.b. of this rule may submit its notice filing as *provided in* Subsection 053.02.b. of this rule with an additional fifty dollars ($50) late filing payment within thirty (30) days after the first sale of a security in this state. Failure to file a notice on or before the thirtieth day after the first sale of a securities in Idaho will result in the inability of the issuer to rely on Section 30-14-302(c), Idaho Code, for qualification of the offering in Idaho. *( )*

d. Issuer Agent Registration. Pursuant to Section 30-14-402(b)(5), Idaho Code, an individual who represents an issuer who effects transactions in a federal covered security under Section 18(b)(4)(D) of the Securities Act of 1933 (15 U.S.C. 77r(b)(4)(D)) is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated in connection with the agent's participation by the payment of commissions or other remuneration based, directly or indirectly, on transactions in those securities. In addition, if such person is registered as a broker-dealer or agent in another state or with FINRA, or affiliated with a broker-dealer registered in another state, with the SEC or FINRA, then such person must also be similarly registered in Idaho. (3-29-17)

054. NOT FOR PROFIT DEBT SECURITIES NOTICE FILING.

01. Securities Exempt. With respect to the offer or sale of a note, bond, debenture, or other evidence of indebtedness, such issuers relying upon the exemption from registration provided in Section 30-14-201(7), Idaho Code, shall file a notice with the Administrator at least thirty (30) days prior to the first offering of sale pursuant to such claim. Such exemption shall become effective thirty (30) days after the filing of a complete notice if the Administrator has not disallowed the exemption. (3-24-05)

02. Notice Information. The notice required in Subsection 054.01 of this rule shall specify, in writing, the material terms of the proposed offer or sale to include, although not limited to, the following: (3-24-05)

a. The identity of the issuer; (3-24-05)

b. The amount and type of securities to be sold pursuant to the exemption; (3-24-05)

c. A description of the use of proceeds of the securities; and (3-24-05)

d. The person or persons by whom offers and sales will be made. (3-24-05)

03. Notice Requirements. The following items must be included as a part of the notice in Subsection 054.01 of this rule: (3-24-05)

a. The offering statement, if any; and (3-24-05)

b. A consent to service of process (Form U-2). (3-24-05)

04. Sales and Advertising Literature. All proposed sales and advertising literature to be used in connection with the proposed offer or sale of the securities shall be filed with the Administrator only upon request. (3-24-05)

05. NASAA Statements of Policy or Guidelines. The Statements of Policy or guidelines adopted by

NASAA may be applied, as applicable, to the proposed offer or sale of a security for which a notice must be filed pursuant to this rule. Failure to comply with the provisions of an applicable Statement of Policy or guideline promulgated by NASAA may serve as the grounds for disallowance of the exemption from registration provided by Section 30-14-201(7), Idaho Code. (3-24-05)

06. Waiver. The Administrator may waive any term or condition set forth in this rule. (3-24-05)

055. MORTGAGE NOTE EXEMPTION.

01. Investment Contract or Profit-Sharing Agreement. The exemption specified in Section 30-14-202(11), Idaho Code, shall not extend to any transaction in a security in the nature of an investment contract or profit-sharing agreement. (3-24-05)

02. Definition "Offered and Sold as a Unit." As used in Section 30-14-202(11), Idaho Code, "offered and sold as a unit" means an offer and sale of the entire mortgage or other security agreement to a single purchaser at a single sale. (3-24-05)

056. MANUAL EXEMPTION.
For the purpose of the manual exemption (Section 30-14-202(2), Idaho Code), the following securities manuals or portions of the manuals are recognized. (3-24-05)

a. Best's Insurance Reports- Life-Health. (3-24-05)

b. Mergent's Industrial Manual. (3-24-05)

c. Mergent's International Manual. (3-24-05)

d. Walkers Manual of Western Corporations. (3-24-05)

057. MINING, OIL OR GAS EXPLORATION EXEMPTION REQUIREMENTS.

01. Legal Opinion for Extractive Industries. If the Department deems it necessary or advisable in the public interest or for the protection of investors, it may require an issuer engaged in mining, gas, or oil exploration or extraction to submit an opinion of counsel on the nature of the title held to the property noting any defects or liens or both, and the principal terms of any lease or option with respect to the property. If continued possession of the property by the issuer depends upon the satisfaction of certain working conditions, describe these conditions and state the extent to which they have been met. The Department may require other issuers to submit a status of title to any real estate which is material to the business of the issuer. (3-29-17)

02. Quarterly Reports. The issuer shall file quarterly reports, on the "Quarterly Report Form for Small Mining Issues." during the time the securities remain registered. Such reports are due within thirty (30) days following the end of the issuer's quarter. Failure to comply with this rule could be grounds for suspension or revocation of a permit. (3-24-05)

03. Advertising. The only advertising of exempt mining securities, whether on radio, television, print media, or other medium, shall be restricted to announcing the securities offering and stating the name and address of the issuer, the type of security, the underwriter, and where additional information may be obtained. (3-24-05)

04. Offering Circulars. All offers of the security must be accompanied by a complete, current offering circular previously reviewed by the Administrator adequate to satisfy the antifraud provisions of the Act. (3-24-05)

058. STOCK EXCHANGE LISTED SECURITIES.
Stock exchanges specified by or approved under Section 30-14-201(6), Idaho Code, are as follows: (3-24-05)

01. The New York Stock Exchange; (3-24-05)

02. The American Stock Exchange; (3-24-05)

03. The NASDAQ Global Market and Global Select Market; (3-29-17)

04. The Chicago Stock Exchange; (3-24-05)

05. The Chicago Board Options Exchange; (3-24-05)

06. Tier I of the Pacific Stock Exchange; and (3-24-05)

07. Tier I of the Philadelphia Stock Exchange, Inc. (3-24-05)

059. (RESERVED)

060. REGISTRATION OR EXEMPTION OF "BLIND POOL" OFFERINGS PROHIBITED.
An offering in which it is proposed to issue stock or other equity interest without an allocation of proceeds to sufficiently identifiable properties or objectives shall be considered a "blind pool" offering and one in which the duty to provide full disclosure cannot be met. Because of the inability or failure to make full disclosure, the Department is of the position that the offering would work a fraud upon purchasers and, therefore, the offering may not be registered or qualify for an exemption from registration in Idaho. (3-24-05)

061. CROSS-BORDER TRANSACTIONS EXEMPTION.
By authority delegated to the Administrator in Section 30-14-203, Idaho Code, transactions effected by a Canadian broker-dealer and its agents that meet the requirements for exemption from registration pursuant to Section 084 of these rules, are determined to be classes of transactions for which registration is not necessary or appropriate for the protection of investors and are exempt from Sections 30-14-301 and 30-14-504, Idaho Code. (3-24-05)

062. DESIGNATED MATCHING SERVICES.

01. In General. Sections 30-14-301 through 30-14-305, Idaho Code, shall not apply to any offer or sale of a security by an issuer in a transaction that meets the requirements of this rule. A designated matching service shall not be deemed a broker-dealer subject to registration within the meaning of the Act or the rules thereunder. (3-24-05)

02. Definitions. The following words and terms, when used in this rule, shall have the following meanings, unless the context clearly indicates otherwise. (3-24-05)

a. Designated Matching Service. Means a matching service designated by the Administrator under Section 062 of these rules. (3-24-05)

b. Designated Matching Service Facility. Means a computer system operated, or a seminar or meeting conducted, by a designated matching service. (3-24-05)

c. Individual Accredited Investor. Means any natural person whose individual net worth, or joint net worth with that person's spouse, at the time of his or her purchase, exceeds one million dollars ($1,000,000) or any natural person who had an individual income in excess of two hundred thousand dollars ($200,000) in each of the two (2) most recent years or joint income with that person's spouse in excess of three hundred thousand dollars ($300,000) in each of those years and has a reasonable expectation of reaching the same income level in the current year. In addition each purchaser must evidence such knowledge and experience in financial and business matters that he is capable of evaluating the merits and risks of the prospective investment. The term "individual accredited investor" also includes any self-directed employee benefit plan with investment decisions made solely by persons that are "individual accredited investors" as defined in Subsection 062.02.c. of this rule, and the individual retirement account of any such individual accredited investor. (3-24-05)

d. Investor Member. Means an investor who has been properly qualified by and uses a designated matching service. Either of the following investors may be properly qualified: any institutional investor as described in Section 30-14-102(11), Idaho Code, or an individual accredited investor as defined in this rule. (3-29-17)

e. Issuer Member. Means an issuer who uses a designated matching service facility. (3-24-05)

f. Summary Business Plan. Means a brief statement specifically describing the issuer, its management, its products or services, and the market for those products or services. Other information, including, specifically, financial projections, must not be included in a summary business plan. (3-24-05)

03. Application. A person may apply to the Administrator to be a designated matching service by filing such forms as required by the Administrator. No designation will be made unless the applicant demonstrates that it: (3-24-05)

a. Owns, operates, sponsors, or conducts a matching service facility limited to providing investor members with the summary business plans and identities of issuer members; (3-24-05)

b. Will not be involved in any manner in the sale, offer for sale, solicitation of a sale or offer to buy, a security other than as set forth in Subsection 062.03.a. of this rule; (3-24-05)

c. Will make a reasonable factual inquiry to determine whether an investor member is properly qualified; (3-24-05)

d. Is a governmental entity, quasi-governmental entity, an institution of higher education or an Idaho nonprofit corporation that is associated with a governmental or quasi-governmental entity or an institution of higher education; (3-24-05)

e. Does not employ any person required to be registered under the Act as a broker-dealer, investment adviser, agent, or investment adviser representative; (3-24-05)

f. Does not have, and does not employ any person who has a business relationship with any investor member or issuer member other than to provide such member access to the matching service facility; (3-24-05)

g. Charges fees only in an amount necessary to cover its reasonable operating costs and that are unrelated to the amount of money being raised by any issuer member or the amount of securities sold by any issuer member; (3-24-05)

h. Agrees to not use any advertisement of its matching service facility that advertises any particular issuer or any particular securities or the quality of any securities or that is false or misleading or otherwise likely to deceive a reader thereof; and (3-24-05)

i. Meets such other conditions as the Administrator considers appropriate for the protection of investors and consistent with the purposes fairly intended by the policy and provisions of the Act, and the rules thereunder. (3-24-05)

04. Designation Consistent with Act. Designation under this rule is not available to any matching service formed in a manner that constitutes part of a scheme to violate or evade the provisions of the Act or rules thereunder. (3-24-05)

05. Withdrawal of Designation. The Administrator, upon ten (10) days notice and hearing before the Administrator or a hearing officer, may withdraw a person's designation as a matching service if the person does not meet the standards for designation provided in this rule. (3-24-05)

06. Disqualifications. (3-24-05)

a. No exemption under this rule shall be available for the securities of any issuer if the issuer: (3-24-05)

i. Within the last five (5) years, has filed a registration statement which is the subject of a currently effective registration stop order entered by the United States Securities and Exchange Commission or any state securities administrator; (3-24-05)

ii. Within the last five (5) years, has been convicted of any criminal offense in connection with the offer, purchase, or sale of any security or any felony involving fraud or deceit or a misdemeanor involving financial fraud; (3-24-05)

iii. Is the subject of any state or federal administrative enforcement order, entered within the last five (5) years, finding fraud or deceit in connection with the purchase or sale of any security; or (3-24-05)

iv. Is the subject of any order, judgment or decree of any court of competent jurisdiction, entered within the last five (5) years, temporarily, preliminarily or permanently restraining or enjoining such party from engaging in or continuing to engage in any conduct or practice involving fraud or deceit in connection with the purchase or sale of any security. (3-24-05)

b. For purposes of this rule, the term "issuer" includes: (3-24-05)

i. Any of the issuer's predecessors or any affiliated issuer; (3-24-05)

ii. Any of the issuer's directors, officers, general partners, or beneficial owners of ten percent (10%) or more of any class of its equity securities (beneficial ownership meaning the power to vote or direct the vote or the power to dispose or direct the disposition of such securities); (3-24-05)

iii. Any of the issuer's promoters presently connected with the issuer in any capacity, including: (3-24-05)

(1) Any person who, acting alone or in conjunction with one (1) or more other persons, directly or indirectly takes initiative in founding and organizing the business or enterprise of an issuer; or (3-24-05)

(2) Any person who, in connection with the founding and organizing of the business or enterprise of an issuer, directly or indirectly receives in consideration of services or property, or both services and property, ten percent (10%) or more of any class of securities of the issuer or ten percent (10%) or more of the proceeds from the sale of any class of such securities; however, a person who receives such securities or proceeds either solely as underwriting commissions or solely in consideration of property shall not be deemed a promoter within the meaning of Subsection 062.06.b.iii. of this rule, if such person does not otherwise take part in founding and organizing the enterprise. (3-24-05)

iv. Any underwriter of the issuer. (3-24-05)

c. The exemption under this rule is not available to an issuer that is in the development stage that either has no specific business plan or purpose or had indicated that its business plan is to engage in a merger or acquisition with an unidentified company or companies, or other entity or person. (3-24-05)

07. Notice of Transaction. The issuer shall file with the Administrator a notice of transaction, consent to service of process (Form U-2), and a copy of its summary business plan within fifteen (15) days after the first sale in this state. (3-24-05)

063. -- 077. (RESERVED)

078. IMPLEMENTATION OF CRD.

01. Designation and Use of CRD System. Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Central Registration Depository (CRD) operated by FINRA to receive and store filings and collect related fees from broker-dealers, agents and investment adviser representatives on behalf of the Administrator. Forms U-4, U-5, BD, BR, and BDW shall be used to register or terminate agents, investment adviser representatives or broker-dealers, respectively, in the state of Idaho through the CRD system. The CRD system will be utilized to effect FINRA registration as well as registration, termination, and renewal in the state. (3-29-17)

02. Registrations Not Automatic. A filing of Form U-4, BD, or BR with the CRD system does not constitute an automatic registration in Idaho. Broker-dealers and investment advisers should not consider agents or investment adviser representatives registered until such approval from the state of Idaho has been received by them through CRD. (3-29-17)

03. Electronic Signature. When a signature or signatures are required by the particular instructions of any filing to be made through CRD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to CRD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

079. IMPLEMENTATION OF IARD.

01. Designation. Pursuant to Section 30-14-406, Idaho Code, the Administrator designates the web-based Investment Adviser Registration Depository (IARD) operated by FINRA to receive and store filings and collect related fees from investment advisers on behalf of the Administrator. (3-29-17)

02. Use of IARD. Unless otherwise provided, all investment adviser applications, amendments, reports, notices, related filings and fees required to be filed with the Administrator pursuant to the rules promulgated under the Act, shall be filed electronically with and transmitted to IARD. The following additional conditions relate to such electronic filings: (3-24-05)

a. Electronic Signature. When a signature or signatures are required by the particular instructions of any filing to be made through IARD, a duly authorized officer of the applicant or the applicant him or herself, as required, shall affix his or her electronic signature to the filing by typing his or her name in the appropriate fields and submitting the filing to IARD. Submission of a filing in this manner shall constitute irrefutable evidence of legal signature by any individuals whose names are typed on the filing. (3-24-05)

b. When Filed. Solely for purposes of a filing made through IARD, a document is considered filed with the Administrator when all fees are received and the filing is accepted by IARD on behalf of the state. (3-24-05)

03. Electronic Filing. The electronic filing of any particular document and the collection of related processing fees shall not be required until such time as IARD provides for receipt of such filings and fees and thirty (30) days notice is provided by the Administrator. Any documents or fees required to be filed with the Administrator that are not permitted to be filed with or cannot be accepted by IARD shall be filed directly with the Administrator. (3-24-05)

04. Hardship Exemptions. Subsection 079.04 of this rule provides two (2) "hardship exemptions" from the requirements to make electronic filings as required by the rules. (3-24-05)

a. Temporary Hardship Exemption. (3-24-05)

i. Investment advisers registered or required to be registered under the Act who experience unanticipated technical difficulties that prevent submission of an electronic filing to IARD may request a temporary hardship exemption from the requirements to file electronically. (3-24-05)

ii. To request a temporary hardship exemption, the investment adviser must file Form ADV-H which can be found at 17 CFR 279.3 in paper format with the Administrator where the investment adviser's principal place of business is located, no later than one (1) business day after the filing (that is the subject of the Form ADV-H) was due; and submit the filing that is the subject of the Form ADV-H in electronic format to IARD no later than seven (7) business days after the filing was due. (3-24-05)

iii. Effective Date - Upon Filing. The temporary hardship exemption will be deemed effective upon receipt by the Administrator of the complete Form ADV-H. Multiple temporary hardship exemption requests within the same calendar year may be disallowed by the Administrator. (3-24-05)

b. Continuing Hardship Exemption. (3-24-05)

i. Criteria for Exemption. A continuing hardship exemption will be granted only if the investment adviser is able to demonstrate that the electronic filing requirements of this rule are prohibitively burdensome. (3-24-05)

ii. To apply for a continuing hardship exemption, the investment adviser must file Form ADV-H which can be found at 17- CFR 279.3 in paper format with the Administrator at least twenty (20) business days before a filing is due; and, if a filing is due to more than one (1) securities regulator, the Form ADV-H must be filed with the Administrator where the investment adviser's principal place of business is located. The Administrator who receives the application will grant or deny the application within ten (10) business days after the filing of Form ADV-H. (3-24-05)

iii. Effective Date - Upon Approval. The exemption is effective upon approval by the Administrator. The time period of the exemption may be no longer than one (1) year after the date on which the Form ADV-H is filed. If the Administrator approves the application, the investment adviser must, no later than five (5) business days after the exemption approval date, submit filings to IARD in paper format (along with the appropriate processing fees) for the period of time for which the exemption is granted. (3-24-05)

080. BROKER-DEALER REGISTRATION -- APPLICATION/RENEWAL.

01. Initial Application -- FINRA Member Firms. Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are contemporaneously applying for FINRA membership or who are a FINRA member, shall file: (3-29-17)

a. With CRD, a completed Form BD, including Schedules A-D; (3-29-17)

b. With CRD, a filing fee as specified in Section 30-14-410, Idaho Code; (3-24-05)

c. With CRD, the Form BR. (3-29-17)

02. Initial Application -- Non-FINRA Member Firms. Broker-dealers applying for initial registration pursuant to Section 30-14-406, Idaho Code, and who are not contemporaneously applying for FINRA membership or are not a FINRA member, shall file with the Department: (3-29-17)

a. A completed Form BD, including Schedules A-E; (3-24-05)

b. The filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)

c. Audited financial statements; (3-24-05)

d. Documentation of compliance with the minimum capital requirements of Section 087 of these rules; (3-24-05)

e. Designation and qualification of a principal officer; (3-24-05)

f. A list of the addresses, telephone numbers and resident agents of all office locations within the state of Idaho, to be provided within sixty (60) days of becoming registered; (3-24-05)

g. A copy of the written supervisory procedures of the broker-dealer; (3-24-05)

h. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

03. Incomplete Applications. After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

04. Annual Renewal. (3-24-05)

a. A FINRA member shall renew its registration by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD according to their policies and procedures. A non-FINRA member shall renew its registration by submitting to the Department current information required for initial registration, and the renewal fee specified in Section 30-14-410, Idaho Code. (3-29-17)

b. It is required that an application for the renewal of the registration of a broker-dealer must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the broker-dealer to reapply for registration with the Department in accordance with the requirements of the Act. (3-24-05)

05. Updates and Amendments. (3-24-05)

a. A broker-dealer must file with CRD, in accordance with the instructions in Form BD, any amendments to the broker-dealer's Form BD. All broker-dealers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form BD or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-29-17)

c. Litigation Notice. Any broker-dealer shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement does not include minor traffic violations or minor civil actions unrelated to the registrant's business as a broker-dealer. (3-24-05)

d. Notice of Address. Every broker-dealer shall provide the Department, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

e. Change of Name. If a registered broker-dealer desires to change its name, notice of such an intent must be submitted to the CRD or this Department for non-FINRA members, either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-29-17)

06. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all required submissions have been received by the Administrator. (3-24-05)

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

081. WITHDRAWAL OF BROKER -- DEALER AND AGENT REGISTRATION.

01. Application Withdrawal. Withdrawal from registration as a broker-dealer or agent becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within sixty (60) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Administrator may nevertheless institute a revocation or suspension proceeding under Section 30-14-412, Idaho Code, within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration is effective. (3-24-05)

02. Broker-Dealer. The application for withdrawal of registration as a broker-dealer shall be completed by following the instructions on Form BDW and filing Form BDW with CRD. (3-24-05)

03. Agents. The application for withdrawal of registration as an agent shall be completed by following the instructions on Form U-5 and filed upon Form U-5 with CRD. (3-24-05)

082. WITHDRAWAL OF AGENT OF ISSUER REGISTRATION.

01. Pending Revocation or Suspension. Withdrawal from registration as an agent of issuer becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within sixty (60) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Administrator may nevertheless institute a revocation or suspension proceeding under Section 30-14-412, Idaho Code, within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration is effective. (3-24-05)

02. Agent of Issuer. The application for withdrawal of registration as an agent of issuer shall be completed by following the instructions on Form U-5 and filed upon Form U-5 with the Department. (3-24-05)

083. BROKER-DEALER AGENT/ISSUER AGENT REGISTRATION.

01. Broker-Dealer Agents. Agents of broker-dealers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following: (3-24-05)

a. With CRD, a completed Form U-4; (3-24-05)

b. With CRD, the filing fee specified in Section 30-14-410, Idaho Code; (3-24-05)

c. With CRD, proof of successful completion of the applicable examinations specified in Section 103 of these rules; (3-24-05)

d. With the Department, any additional documentation, supplemental forms and information as the Administrator may deem necessary; (3-24-05)

e. With the Department, Subsections 083.01.a. through 083.01.d. of this rule, for any agent of a non-FINRA member. (3-29-17)

02. Agents of Issuer. (3-24-05)

a. Agents of issuers applying for initial registration in the state of Idaho pursuant to Section 30-14-406, Idaho Code, shall file the following with the Department: (3-24-05)

i. A completed Form U-4; (3-24-05)

ii. The fee specified in Section 30-14-410, Idaho Code; (3-24-05)

iii. Proof of successful completion of the applicable examination(s) specified in Section 103 of these rules; (3-24-05)

iv. Proof of a bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of ten thousand dollars ($10,000) and conditioned upon faithful compliance with the provisions of the Act by the agent, such that upon failure to so comply by the agent, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Provided, however, that the obligation of the surety bond must be maintained at all times in the amount therein provided; and provided further, that a certificate of deposit issued by any bank in the state of Idaho and assigned to the Administrator in an amount equal to the bond which would otherwise be

required may be accepted by the administrator in lieu of a bond, if the certificate of deposit is maintained at all times in the amount and manner herein provided during the term for which the registration is effective and for three (3) years thereafter; (3-24-05)

v. Any additional documentation, supplemental forms and information as the Administrator may deem necessary. (3-24-05)

b. An individual who represents an issuer that effects transactions in a federal covered security under Section 18(b)(3) (transactions relating to "qualified purchasers" as that term may be defined by the SEC) or 18(b)(4)(D) (commonly known as Regulation D, Rule 506) of the Securities Act of 1933 is not exempt from the registration requirements of Section 30-14-402(a), Idaho Code, if the individual is compensated, directly or indirectly, for participation in the specified securities transactions. (3-24-05)

c. Exceptions for officers. If there are not more than two (2) officers of an issuer, such officers may be registered as agents for a particular original offering of the issuer's securities without being required to pass such written examination or file an agent's bond as *provided in* Subsection 083.02.a.iii. and 083.02.a.iv. of this rule, unless such person has registered under this rule within the prior five (5) years. *( )*

03. Incomplete Applications. After a period of six (6) months from date of receipt, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

04. Annual Renewal. (3-24-05)

a. Broker-Dealer Agent. Agents of FINRA members shall renew their registrations by submitting the renewal fee specified in Section 30-14-410, Idaho Code, to the CRD. Agents of non-FINRA members shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. (3-29-17)

b. Issuer Agent. Issuer agents shall renew their registrations by submitting a completed renewal application and a renewal fee as specified in Section 30-14-410, Idaho Code. (3-24-05)

05. Updates and Amendments. (3-24-05)

a. A broker-dealer agent or agent of issuer must file with CRD, or with this Department, in accordance with the instructions in Form U-4, any amendments to the broker-dealer agent's or issuer agent's Form U-4. It is the responsibility of each broker-dealer agent or issuer agent to assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4 or by direct notice to the Department. (3-24-05)

b. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-29-17)

c. Litigation Notice. Any broker-dealer agent or issuer agent shall notify the Administrator in writing or through the CRD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement does not include minor traffic violations or minor civil actions unrelated to the registrant's business as a broker-dealer. (3-24-05)

d. Notice of Address. Every broker-dealer agent and issuer agent shall provide the Department with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-24-05)

e. Change of Name. If a registered broker-dealer agent or issuer agent changes his or her name, notice of such must be submitted to the CRD or this Department within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

06. Completion of Filing. An application for initial or renewal registration is not considered complete for purposes of Section 30-14-406(c), Idaho Code, until the required fee and all amendments, including submissions requested by the Department, have been received by the Department. ( )

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

084. CROSS-BORDER LICENSING EXEMPTION.

By authority delegated to the Administrator in Section 30-14-401(d), Idaho Code, a Canadian broker-dealer meeting all of the following conditions is determined to be exempt from the registration requirement in Section 30-14-401(a), Idaho Code: (3-24-05)

01. Canadian Broker-Dealer. The broker-dealer is registered in Canada, does not have an office or other physical presence in this state, and is not an office or branch of a broker-dealer domiciled in the United States. (3-24-05)

02. Registered Broker-Dealer. The broker-dealer is registered with or a member of a Canadian self-regulatory organization, stock exchange, or the Bureau des Services Financiers and maintains that registration or membership in good standing. (3-24-05)

03. Customers. The broker-dealer and its agents effect transactions in securities with or for, or induce or attempt to induce the purchase or sale of any security by: (3-24-05)

a. An individual from Canada that temporarily resides or is temporarily present in this state and with whom the broker-dealer had a bona fide broker-dealer-customer relationship before the individual entered the United States; or (3-24-05)

b. An individual present in this state whose transactions relate to a self-directed, tax advantaged Canadian retirement plan of which the individual is the holder or contributor. (3-24-05)

04. Disclosure. The broker-dealer prominently discloses in writing to its clients in this state that the broker-dealer and its agents are not subject to the full regulatory requirement of the Act. (3-24-05)

05. Jurisdiction. Neither the broker-dealer nor its agents disclaim the applicability of Canadian law or jurisdiction to any transaction conducted pursuant to this exemption. (3-24-05)

06. Anti-Fraud Provisions. The broker-dealer and its agents comply with the antifraud provisions of the Act and of federal securities laws. (3-24-05)

07. Consent to Service. Prior to or contemporaneously with the first transaction in Idaho, the broker-dealer must file a consent to service of process (Form U-2) in a manner that effectively appoints the Administrator as agent for service of process. (3-24-05)

08. Provide Requested Information. Any Canadian broker-dealer or agent relying on this exemption shall, upon written request, furnish the Department any information relative to a transaction covered by Section 084, of these rules, that the Administrator deems relevant. (3-24-05)

085. RELICENSING (FORMERLY TEMPORARY AGENT TRANSFER (TAT) SYSTEM).

01. Relicensing Agents. Transfer of agents from one broker-dealer to another shall be effected pursuant to, and in accordance with, the NASAA/CRD relicense program which allows for an automatic temporary license. (3-24-05)

02. Relicensing Investment Adviser Representatives. Transfer of investment adviser representatives from one (1) investment adviser to another shall be effected pursuant to, and in accordance with, the NASAA/CRD relicense program which allows for an automatic temporary license. (3-24-05)

03. Temporary License Expiration. An agent or investment adviser representative may not transact business in Idaho after the expiration of a temporary license unless a permanent license has been issued. In all cases, the Administrator retains the right to deny, suspend, or revoke a temporary license for the causes listed in Section 30-14-412, Idaho Code. (3-24-05)

086. AGENT TERMINATION.
Termination notice pursuant to the requirements of Section 30-14-408, Idaho Code, shall be given by filing within thirty (30) calendar days of termination, a completed Form U-5. For agents terminating registration with a FINRA member, such notice shall be filed with the CRD. For agents terminating registration with a non-FINRA member, such notice shall be filed with the Department. (3-29-17)

087. NET CAPITAL REQUIREMENTS FOR BROKER-DEALERS.
Every registered broker-dealer shall have and maintain an adjusted net capital in compliance with 17 CFR 240.15c3-1 under the Securities Exchange Act of 1934, as currently amended. (3-24-05)

088. RECORDS REQUIRED FOR BROKER-DEALERS.

01. Required Books and Records. Unless otherwise provided by order of the SEC, each broker-dealer registered or required to be registered under the Act shall make, maintain and preserve books and records in compliance with the SEC rules 17a-3 (17 CFR 240.17a-3), 17a-4 (17 CFR 240.17a-4), 15g-9 (17 CFR 240.15g-9) and 15c2-11 (17 CFR 240.15c2-11), which are adopted and incorporated by reference. (3-24-05)

02. Compliance. To the extent that the SEC promulgates changes to the above referenced rules, broker-dealers in compliance with such rules as amended are not subject to enforcement action by the Department for violation of this rule to the extent that the violation results solely from the broker-dealer's compliance with the amended rule. (3-24-05)

089. INVESTMENT ADVISER REGISTRATION -- APPLICATION/RENEWAL.

01. Initial Application. The application for initial registration as an investment adviser, pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form ADV which can be found at 17 CFR 279.1 in accordance with the form instructions and by filing the form with IARD. The application for initial registration shall also include the following: (3-24-05)

a. Proof of compliance by the investment adviser with the examination requirements of Section 103 of these rules; (3-24-05)

b. A bond of a surety company duly authorized to transact business in this state, said bond to be in the sum of twenty-five thousand ($25,000) and conditioned upon faithful compliance with the provisions of the Act by the investment adviser such that upon failure to so comply by the investment adviser, the surety company shall be liable to any and all persons who may suffer loss by reason thereof. Except that an investment adviser that has its principal place of business in a state other than this state shall be excluded from these bonding requirements provided that such investment adviser is registered as an investment adviser in the state where it maintains its principal place of business and is in compliance with such state's bonding or minimum net worth requirements; (3-29-17)

c. A copy of the investment advisory contract to be executed by Idaho clients; (3-24-05)

d. A balance sheet, prepared substantially in accordance with Generally Accepted Accounting Principles, dated as of the investment adviser's prior fiscal year-end; however, if the investment adviser has not been in operation for an entire year, a balance sheet dated within ninety (90) days of filing shall be submitted; (3-29-17)

e. The fee required by Section 30-14-410, Idaho Code; and; (3-24-05)

f. Any other information the Department may reasonably require. (3-24-05)

02. Incomplete Applications. After a period of six (6) months from the date of receipt by the

Department, an incomplete application will automatically be considered abandoned and withdrawn if the requirements have not been fulfilled. (3-24-05)

03. Annual Renewal. The application for annual renewal registration as an investment adviser shall be filed with IARD according to their policies and procedures. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

04. Applications Prior to Expiration. An application for the renewal of the registration of an investment adviser must be filed with the Department before the registration expires, which is the thirty-first day of December next following such registration, per the provisions of Section 30-14-406(d), Idaho Code, unless an order is in effect under Section 30-14-412, Idaho Code. Any registration that is not renewed within that time limit will be deemed to have lapsed, thus requiring the investment adviser to reapply for registration with the Department in accordance with the requirements of the Act. (3-29-17)

05. Updates and Amendments. (3-24-05)

a. An investment adviser must file with IARD, in accordance with the instructions in Form ADV, any amendments to the investment adviser's Form ADV. All investment advisers must assure that current and accurate information is on file with the Department at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form ADV or by direct notice to the Department. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

b. Within ninety (90) days of the end of the investment adviser's fiscal year, an investment adviser must file a copy of the investment adviser's balance sheet as of the prior fiscal year-end. (3-24-05)

c. Litigation Notice. Any investment adviser shall notify the Administrator in writing or through the IARD of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement does not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser. (3-24-05)

d. Notice of Address. Every investment adviser shall provide the Department, through IARD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-29-17)

06. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all submissions have been received by the Administrator and until the investment adviser is registered in the jurisdiction where it maintains its principal place of business. ( )

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

090. INVESTMENT ADVISER REPRESENTATIVE REGISTRATION – APPLICATION/RENEWAL.

01. Initial Application. The application for initial registration as an investment adviser representative pursuant to Section 30-14-406, Idaho Code, shall be made by completing Form U-4 in accordance with the form instructions and by filing Form U-4 with CRD. The application for initial registration also shall include the following: (3-24-05)

a. Proof of compliance by the investment adviser representative with the examination requirements of Section 103 of these rules; and (3-24-05)

b. The fee required by Section 30-14-410, Idaho Code. (3-24-05)

02. Incomplete Applications. After a period of six (6) months from the date of receipt by the Department, an incomplete application will automatically be considered abandoned and withdrawn if the

requirements have not been fulfilled. (3-24-05)

03. Annual Renewal. The application for annual renewal registration as an investment adviser representative shall be filed with CRD. The application for annual renewal registration shall include the fee required by Section 30-14-410, Idaho Code. (3-24-05)

04. Updates and Amendments. (3-24-05)

a. The investment adviser representative is under a continuing obligation to update information required by Form U-4 as changes occur. All investment adviser representatives must assure that current and accurate information is on file with the Department, through CRD, at all times. If information in an application for registration becomes inaccurate or incomplete, additional information must be submitted through updates on the Form U-4. (3-29-17)

b. An investment adviser representative and the investment adviser must file promptly with CRD any amendments to the representative's Form U-4. An amendment will be considered to be filed promptly if the amendment is filed within thirty (30) days of the event that requires the filing of the amendment. (3-24-05)

c. Litigation Notice. Any investment adviser representative shall notify the Administrator in writing, through CRD, of any civil, administrative, or criminal complaint, petition, or pleading issued or filed against him and of any bankruptcy proceeding filed by or against him within thirty (30) days of his receipt of the initial pleading. This requirement shall not include minor traffic violations or minor civil actions unrelated to the registrant's business as an investment adviser representative. (3-24-05)

d. Change of Name. If a registered investment adviser representative changes his or her name, notice of such must be submitted to the CRD or this Department either before or within a reasonable time after the effective date of the change. The name change will not be effective in this state until the notice is received. (3-24-05)

e. Notice of Address. Every investment adviser representative shall provide the Department, through CRD, with an address sufficiently descriptive to allow service of process pursuant to the Idaho Rules of Civil Procedure. (3-29-17)

05. Completion of Filing. An application for initial or renewal registration is not considered filed for purposes of Section 30-14-406, Idaho Code, until the required fee and all submissions have been received by the Administrator. ( )

06. Dual Registration Exemption. A person may transact business in this state as an investment adviser representative if he is registered as an agent pursuant to Section 30-14-402, Idaho Code, and is employed by a broker-dealer registered pursuant to Section 30-14-401, Idaho Code, and (3-24-05)

a. The person's investment advisory activities are limited to recommending the investment advisory services of an investment adviser registered under Section 30-14-403, Idaho Code, or a federal covered adviser that has made a notice filing pursuant to Section 30-14-405, Idaho Code, and all such recommendations are made on behalf of the employing broker-dealer; (3-24-05)

b. The person is not compensated directly for making such recommendations; and (3-24-05)

c. The person provides written notice to the administrator that he is relying on this exemption from the requirement to be registered as an investment adviser representative. (3-24-05)

07. Deferral of Effectiveness. The Administrator may defer the effective date of any registration until noon on the forty-fifth day after the filing of any amendment completing the application. (4-11-06)

091. WITHDRAWAL OF INVESTMENT ADVISER AND INVESTMENT ADVISER REPRESENTATIVE REGISTRATION.

01. Application Withdrawal. Withdrawal from registration as an investment adviser or investment

adviser representative becomes effective thirty (30) days after receipt of an application to withdraw or within such shorter period of time as the Administrator may determine, unless a revocation or suspension proceeding is pending when the application is filed or a proceeding to revoke or suspend or to impose conditions upon the withdrawal is instituted within sixty (60) days after the application is filed. If a proceeding is pending or instituted, withdrawal becomes effective at such time and upon such conditions as the Administrator by order determines. If no proceeding is pending or instituted and withdrawal automatically becomes effective, the Administrator may nevertheless institute a revocation or suspension proceeding under Section 30-14-412, Idaho Code, within one (1) year after withdrawal became effective and enter a revocation or suspension order as of the last date on which registration is effective. (3-24-05)

02. Investment Adviser. The application for withdrawal of registration as an investment adviser shall be completed by following the instructions on Form ADV-W which can be found at 17 CFR 279.2 and filed upon Form ADV-W with IARD. (3-24-05)

03. Investment Adviser Representative. The application for withdrawal of registration as an investment adviser representative shall be completed by following the instructions on Form U-5 and filed upon Form U-5 with CRD. (3-24-05)

092. NOTICE FILING REQUIREMENTS FOR FEDERAL COVERED ADVISERS.

01. Notice Filing. The notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD on an executed Form ADV which can be found at 17 CFR 279.1. A notice filing of a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410, Idaho Code, and the Form ADV are filed with and accepted by IARD on behalf of the state. (3-24-05)

02. When Deemed Filed. The Administrator will deem filed Part 2 of Form ADV if a federal covered adviser provides, within five (5) days of a request, Part 2 of Form ADV to the Administrator. Because the Administrator deems Part 2 of the Form ADV to be filed, a federal covered adviser is not required to submit Part 2 of Form ADV to the Administrator unless requested. (3-29-17)

03. Renewal. The annual renewal of the notice filing for a federal covered adviser pursuant to Section 30-14-405, Idaho Code, shall be filed with IARD. The renewal of the notice filing for a federal covered adviser shall be deemed filed when the fee required by Section 30-14-410(e), Idaho Code, is filed with and accepted by IARD on behalf of the state. (3-24-05)

04. Updates and Amendments. A federal covered adviser must file with IARD, in accordance with the instructions in the Form ADV, any amendments to the federal covered adviser's Form ADV. (3-24-05)

093. RECORDS REQUIRED OF INVESTMENT ADVISERS.

Pursuant to provisions of the Act, every investment adviser registered or required to be registered under the Act shall make and keep true, accurate and current books and records as listed in 17 CFR 275.204-2 under the Investment Advisers Act of 1940, as currently amended. (3-29-17)

094. CLIENT CONTRACTS – INVESTMENT ADVISERS.

01. Contract. As used in this rule, "investment advisory contract" means any contract or agreement whereby a person agrees to act as investment adviser or to manage any investment or trading account for a person other than an investment company, as defined in the Investment Company Act of 1940, as amended. (3-24-05)

02. Contents of Client Contract. No investment adviser shall enter into, extend, or renew any investment advisory contract, or in any way perform any investment advisory contract entered into, extended, or renewed, after the effective date of this rule, unless such contract is in writing and contains the following: (3-24-05)

a. Provides that an investment adviser shall not receive compensation based on a share of capital gains upon or capital appreciation of funds or any portion of the funds of the client, except as exempted in 17 CFR 275.205-3 under the Investment Adviser Act of 1940; (3-29-17)

b. Provides that no assignment of the contract shall be made by the investment adviser without the written consent of the client; (3-24-05)

c. Provides that if the investment adviser is a partnership, the investment adviser shall notify the client of any change in the membership of such partnership within a reasonable time after such change; (3-24-05)

d. Provides the investment adviser's policy regarding termination of the contract, in compliance with 17 CFR 275.204-3(b). (3-24-05)

e. Detailed description of the services to be provided; (3-24-05)

f. Terms of the contract; (3-24-05)

g. Amount of the advisory fee, the formula for computing the fee, and the amount of any prepaid fee to be returned in the event of contract termination or non-performance; (3-24-05)

h. Discloses whether the contract grants discretionary power to the investment adviser; (3-24-05)

i. A contract may not contain any provision that limits or purports to limit the liability of the investment adviser for conduct or omission arising from the advisory relationship that does not conform to the Act, applicable federal statutes, or common law fiduciary standard of care; or the remedies available to the client at law or equity or the jurisdiction where any action shall be filed or heard. (3-24-05)

095. INVESTMENT ADVISER BROCHURE RULE.
An investment adviser registered or required to be registered under the Act shall, in accordance with 17 CFR 275.204-3 under the Investment Advisers Act of 1940, deliver to each advisory client and prospective advisory client with a written disclosure statement that may be either a copy of Part 2 of its Form ADV which complies with 17 CFR 275.201(b) of the Investment Advisers Act of 1940, or a written document containing at least the information then so required by Part 2 of Form ADV. (3-29-17)

096. REQUIREMENTS FOR CUSTODY.
If an investment adviser registered or required to be registered under the Act maintains custody of client funds, it shall be done in accordance with the requirements and standards set forth in 17 CFR 275.206(4)-2 of the Investment Advisers Act of 1940. (3-29-17)

097. INVESTMENT ADVISER AFFILIATION WITH BROKER-DEALERS/ISSUERS/AGENTS.
If an investment adviser becomes affiliated with a broker-dealer or issuer, he will be under a continuing obligation to make full disclosure of the affiliation to all parties to the affiliation, and must provide written notice to the Administrator of any material changes concerning any affiliation. Compliance with Part 2 of Uniform Form ADV and delivery of Part 2 of that form, or of a separate brochure or document containing substantially the same information that meets the requirements of the federal brochure rule, will be deemed to be in compliance with this rule. (3-29-17)

098. NAMES USED BY BROKER-DEALERS AND INVESTMENT ADVISERS.

01. Unregistered Names. (3-24-05)

a. Broker-dealers, Broker-dealer Agents. Upon written request, the Administrator, in his discretion, may allow use by a broker-dealer of the name of an entity which is not registered with the Department as a broker-dealer if, in all communications and advertising, a notation is prominently displayed indicating that all securities transactions are made through a named registered broker-dealer. However, any and all payments received must be in the name of the registered broker-dealer. The Administrator may impose any further conditions or restrictions on the use of the nonregistered name that he deems appropriate for the protection of the public. Except as provided in this rule, the use of unregistered names by a broker-dealer is prohibited. (3-24-05)

b. Investment Advisers, Investment Adviser Representatives. All advising, transactions, communications, and advertising regarding securities and the conducting of business as an investment adviser must be accomplished under the name of the investment adviser that is currently registered with the Department. Upon

written request, the Administrator, in his discretion, may allow use by an investment adviser or investment adviser representative of the name which is not registered with the Department. (3-24-05)

02. Change of Name. If a registered broker-dealer, investment adviser, investment adviser representative or agent desires a name change, notice of such an intent must be submitted through CRD or to the Department within thirty (30) days after the effective date of the change. The name change will not be effective in this state until the notice is received. Any notice of a name change must include a copy of the rider to be attached to the investment adviser's surety bond, if such bond is required, reflecting the name change. (3-24-05)

099. CIRCUMVENTION OF ORDERS PROHIBITED.
A broker-dealer, investment adviser, agent, or investment adviser representative may not circumvent the imposition of an order denying registration or revoking registration by withdrawing the application through the CRD system after such order has been issued. Such action will not be recognized by the Administrator, and will have no effect on the outcome of the order. (3-24-05)

100. WAIVER BY ADMINISTRATOR.
The Administrator may, either upon request or upon his own motion, waive or modify the application of any particular section to a particular agent, broker-dealer or investment adviser when, in his opinion, just and reasonable cause exists for such action and the waiving or modifying of such rule would not be contrary to the provisions of the Act or to the public interest. (3-24-05)

101. NOTIFICATION OF OPENING, CLOSING OR RELOCATION OF BRANCH OFFICES.
Any broker-dealer or investment adviser, registered as such with the Department, shall notify the Administrator in writing or through CRD, no later than thirty (30) days after the opening, closing or relocation of any branch office. For purposes of this rule, "branch office" is defined by FINRA. (3-29-17)

102. CANCELLATION OF REGISTRATION OR APPLICATION -- GROUNDS.
If the Administrator finds that any registrant or applicant for registration is no longer in existence or has ceased to do business as a broker-dealer, investment adviser, salesman or investment adviser representative, or is subject to an adjudication of mental incompetence or to the control of a committee, conservator or guardian, or cannot be located after reasonable search, the Administrator may by order cancel the registration or application. (3-24-05)

103. EXAMINATION REQUIREMENTS.

01. Examination Required. The following examinations are required for the following applicants: (3-24-05)

a. Broker-dealer agent application. General agents of securities broker-dealers are required to take and pass: (3-24-05)

i. The applicable FINRA examinations; and (4-11-19)

ii. Either the Series 63 or the Series 66 examination. (3-24-05)

b. Investment adviser representative and investment adviser qualifying officer application. Applicants for registration as investment adviser representatives or as an investment adviser qualifying officer shall take and pass: (3-24-05)

i. The Series 65; or (3-24-05)

ii. The Series 66, the Series 7, and the Securities Industry Essentials examinations. (4-11-19)

c. Specialized agent of a broker-dealer, issuer agent and qualifying officer for non-FINRA broker-dealer application. Specialized agents of broker-dealers, issuer agents and qualifying officers for non-FINRA broker-dealers application are required to take and pass: (3-29-17)

i. The applicable FINRA examinations; and (3-29-17)

ii. Either the Series 63 or the Series 66 examination. (3-24-05)

d. Sales of Viaticals. Persons selling viatical investments are required to take and pass the Securities Industry Essentials and Series 7 examinations. (4-11-19)

02. Specialized Examination Authority. Any registration granted pursuant to a specialized examination will be restricted, and the registrant will be authorized to effect securities transactions only in securities of the type specified by the conditions of the license. (3-24-05)

03. Investment Adviser Representatives - Waiver. An applicant for investment adviser representative or investment adviser qualifying officer registration may qualify for a waiver of the examination requirement if the applicant currently holds one (1) of the following designations: (3-24-05)

a. Certified Financial Planner (CFP) awarded by the Certified Financial Planner Board of Standards, Inc.; (3-24-05)

b. Chartered Financial Consultant (ChFC) awarded by the American College, Bryn Mawr, Pennsylvania; (3-24-05)

c. Chartered Financial Analyst (CFA) awarded by the Institute of Chartered Financial Analysts; (3-24-05)

d. Personal Financial Specialist (PFS) awarded by the American Institute of Certified Public Accountants; (3-24-05)

e. Chartered Investment Counselor (CIC) awarded by the Investment Counsel Association of America, Inc.; or (3-24-05)

f. Such other professional designation as the Administrator may by rule or order recognize. (3-24-05)

04. Waiver. The Administrator, in his sole discretion, may waive any examination required by this rule upon a sufficient showing of good cause and upon any conditions he may impose. (3-24-05)

104. FRAUDULENT, DISHONEST AND UNETHICAL PRACTICES - BROKER-DEALER, BROKER-DEALER AGENTS, ISSUER AGENTS, INVESTMENT ADVISERS, INVESTMENT ADVISER REPRESENTATIVES.

01. Fraudulent, Dishonest and Unethical Practices. Any broker-dealer, agent, issuer agent, investment adviser or investment adviser representative who engages in one (1) or more of the practices identified in Subsections 104.02 through 104.47 of this rule shall be deemed to have engaged in one (1) or both of the following: (3-29-17)

a. An "act, practice, or course of business that operates or would operate as a fraud or deceit" as used in Section 30-14-501 and Section 30-14-502, Idaho Code; (3-29-17)

b. A dishonest and unethical practice as used in Section 30-14-412(d)(13), Idaho Code, and such conduct may constitute grounds for denial, suspension, or revocation of registration or such other action authorized by statute. (3-24-05)

c. This rule is not intended to be all-inclusive, and thus, acts or practices not enumerated herein may also be deemed fraudulent, or dishonest and unethical. (3-24-05)

02. Delivery Delays. Engaging in a pattern of unreasonable and unjustifiable delays in the delivery of securities purchased by any of its customers and/or in the payment upon request of free credit balances reflecting completed transactions of any of its customers. (3-24-05)

03. Churning. Inducing trading in a customer's account which is excessive in size or frequency in view of the financial resources and character of the account. (3-24-05)

04. Unsuitable Recommendations. (3-29-17)

a. Recommending to a customer the purchase, sale, or exchange of any security without reasonable grounds to believe that such transaction or recommendation is suitable for the customer based upon reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other relevant information known by the broker-dealer, agent, or issuer agent. (3-29-17)

b. Recommending to a customer, to whom investment advice is provided, the purchase, sale, or exchange of any security without reasonable grounds to believe that the recommendation is suitable for the customer on the basis of information furnished by the customer after reasonable inquiry concerning the customer's investment objectives, financial situation and needs, and any other information known by the investment adviser or investment adviser representative. (3-29-17)

05. Unauthorized Transactions. Executing a transaction on behalf of a customer without authorization to do so. (3-24-05)

06. Discretionary Authority. Exercising any discretionary power in effecting a transaction for a customer's account without first obtaining written discretionary authority from the customer, unless the discretionary power relates solely to the time and/or price for the executing of orders. (3-24-05)

07. Margin Accounts. Executing any transaction in a margin account without securing from the customer a properly executed written margin agreement before or promptly after the initial transaction in the account. (3-24-05)

08. Segregation of Client Securities. Failing to segregate customers' free securities or securities held in safekeeping. (3-24-05)

09. Hypothecating Customer Securities. Hypothecating a customer's securities without having a lien thereon unless the broker-dealer secures from the customer a properly executed written consent before or promptly after the initial transaction, except as permitted by rules of the Securities and Exchange Commission. (3-24-05)

10. Unreasonable Price, Commission. Entering into a transaction with or for a customer at a price not reasonably related to the current market price of the security or receiving an unreasonable commission or profit. (3-24-05)

11. Failure to Supervise. Failure by a broker-dealer or investment adviser to exercise diligent supervision over the securities activities of all its broker-dealer agents, investment adviser representatives and employees as set forth in Section 105 of these rules. (3-24-05)

12. Unreasonable Fees. Charging unreasonable and inequitable fees for services performed, including miscellaneous services such as collection of monies due for principal, dividends or interest, exchange or transfer of securities, appraisals, safekeeping, or custody of securities and other services related to its securities business. (3-24-05)

13. Sales at the Market. Representing that a security is being offered to a customer “at the market” or a price relevant to the market price unless such broker-dealer knows or has reasonable grounds to believe that a market for such security exists other than that made, created, or controlled by such broker-dealer, or by any such person for whom the broker-dealer is acting or with whom the broker-dealer is associated in such distribution, or any person controlled by, controlling, or under common control with such broker-dealer. (3-24-05)

14. Manipulative, Deceptive or Fraudulent Practices. Effecting any transaction in, or inducing the purchase or sale of, any security by means of any manipulative, deceptive, or fraudulent device, practice, plan, program, design, or contrivance, which may include: (3-24-05)

a. Effecting any transaction in a security which involves no change in the beneficial ownerships thereof; (3-24-05)

b. Entering an order or orders for the purchase or sale of any security with the knowledge that an order or orders of substantially the same size, at substantially the same time and substantially the same price, for the sale of any such security, has been or will be entered by or for the same or different parties for the purpose of creating a false or misleading appearance of active trading in the security or a false or misleading appearance with respect to the market for the security. However, nothing in Subsection 104.14, of this rule, prohibits a broker-dealer from entering bona fide agency cross transactions for customers; or (3-24-05)

c. Effecting, alone or with one (1) or more other persons, a series of transactions in any security creating actual or apparent active trading in such security or raising or depressing the price of such security, for the purpose of inducing the purchase or sale of such security by others. (3-24-05)

15. Loss Guarantees. Guaranteeing a customer against loss in any securities account of such customer carried by the broker-dealer or in any securities transaction effected by the broker-dealer or in any securities transaction effected by the broker-dealer with or for such customer. (3-24-05)

16. Bona Fide Price Reports. Publishing or circulating, or causing to be published or circulated, any notice, circular, advertisement, newspaper article, investment service, or communication of any kind which purports to report any transaction as a purchase or sale of any security unless such broker-dealer believes that such transaction was a bona fide purchase or sale of such security; or which purports to quote the bid price or asked price for any security, unless such broker-dealer believes that such quotation represents a bona fide bid for, or offer of, such security. (3-24-05)

17. Deceptive or Misleading Advertising. Using any advertising or sales presentation in such a fashion as to be deceptive or misleading. (3-24-05)

18. Disclosure of Control. Failing to disclose that the broker-dealer or investment adviser is controlled by, controlling, affiliated with, or under common control with the issuer of any security before entering into any contract with or for a customer for the purchase or sale of such security, the existence of such control to such customer, and if such disclosure is not made in writing, it shall be supplemented by the giving or sending of written disclosure at or before the completion of the transaction. (3-24-05)

19. Bona Fide Distribution. Failing to make a bona fide public offering of all of the securities allotted to a broker-dealer for distribution, whether acquired as an underwriter, a selling group member, or from a member participating in the distribution as an underwriter or selling group member by, among other things, transferring securities to a customer, another broker-dealer or a fictitious account with the understanding that those securities will be returned to the broker-dealer or its nominees or parking or withholding securities. (3-24-05)

20. Customer Communication. Failure or refusal to furnish a customer, upon reasonable request, information to which the customer is entitled, or to respond to a formal written request or complaint. (3-24-05)

21. Loans from Customers. Borrowing money or securities from a customer, unless the customer is a broker-dealer, an affiliate, or a financial institution engaged in the business of loaning funds or securities, or immediate family. For purposes of this rule, the term "immediate family" means parents, mother-in-law, father-in-law, husband, wife, brother, sister, brother-in-law, sister-in-law, son-in-law, daughter-in-law, and children. (3-24-05)

22. Loans to Customers. Loaning money to a customer, other than an immediate family member, unless the broker-dealer or investment adviser is a financial institution engaged in the business of loaning funds or the customer is an affiliate of the broker-dealer or investment adviser. (3-29-17)

23. Unrecorded Transactions. Effecting securities transactions not recorded on the regular books or records of the broker-dealer which the agent represents, unless the transactions are authorized in writing by the broker-dealer prior to execution of the transaction. (3-24-05)

24. Fictitious Accounts. Establishing or maintaining an account containing fictitious information in order to execute transactions which would otherwise be prohibited. (3-24-05)

25. Profit/Loss Sharing. Sharing directly or indirectly in profits or losses in the account of any customer without the written authorization of the customer and the broker-dealer which the agent represents. (3-24-05)

26. Splitting Commissions. Dividing or otherwise splitting the agent's commissions, profits, or other compensation from the purchase or sale of securities with any person not also registered in Idaho as an agent for the same broker-dealer, or for a broker-dealer under direct or indirect common control. (3-24-05)

27. Unsolicited Transactions. Marking any order tickets or confirmations as unsolicited when in fact the transaction was solicited. (3-24-05)

28. FINRA and NASD Rules Compliance. Failing to comply with any applicable provision of the NASD Conduct Rules and any other FINRA Rules or any applicable fair practice or ethical standard promulgated by the Securities and Exchange Commission or by a self-regulatory organization approved by the Securities and Exchange Commission. (3-29-17)

29. Contradicting Prospectus Information. Contradicting or negating the importance of any information contained in a prospectus or other offering materials with intent to deceive or mislead. (3-24-05)

30. Inside Information. In connection with the offer, sale, or purchase of a security, falsely leading a customer to believe that the broker-dealer, agent, investment adviser or investment adviser representative is in possession of material, non-public information which would impact the value of the security, or communicating to customers or other persons bona fide information not generally available to the public that may be used in the person's decision to buy, sell, or hold a security. (3-29-17)

31. Contradictory Recommendations. In connection with the solicitation of a sale or purchase of a security, engaging in a pattern or practice of making contradictory recommendations to different investors of similar investment objective for some to sell and others to purchase the same security, at or about the same time, when not justified by the particular circumstance of each investor. (3-24-05)

32. Prospectus Delivery. Failure to comply with any prospectus delivery requirement promulgated under federal law. (3-24-05)

33. Penny Stock Sales. Effect any transaction in, or to induce or attempt to induce the purchase or sale of, any penny stock by any customer except in accordance with the requirements as set forth in the 1934 Securities Exchange Act, Section 15(h) and the rules and regulations prescribed thereunder. (3-29-17)

34. Misrepresentations Concerning Advisory Services. To misrepresent to any advisory client, or prospective advisory client, the qualifications of the investment adviser, investment adviser representative or any employee of the investment adviser, or to misrepresent the nature of the advisory services being offered or fees to be charged for such service, or to omit to state a material fact necessary to make the statements made regarding qualifications, services, or fees, in light of the circumstances under which they are made, not misleading. (3-24-05)

35. Unreasonable Advisory Fees. Charging a client an unreasonable advisory fee. (3-24-05)

36. Conflicts of Interest. Failing to disclose to clients in writing before any advice is rendered any material conflict of interest relating to the adviser or any of its employees which could reasonably be expected to impair the rendering of unbiased and objective advice including: (3-24-05)

a. Compensation arrangements connected with advisory services to clients which are in addition to compensation from such clients for such services; and (3-24-05)

b. Charging a client an advisory fee for rendering advice when a commission for executing securities transactions pursuant to such advice will be received by the adviser or its employees. (3-24-05)

37. Guaranteeing Specific Results. Guaranteeing a client that a specific result will be achieved (gain or no loss) with advice which will be rendered. (3-24-05)

38. Advertising. Publishing, circulating, or distributing any advertisement that does not comply with 17 CFR 275.206(4)-1 under the Investment Advisers Act of 1940. (3-29-17)

39. Disclosure of Private Information. Disclosing the identity, affairs, or investments of any client unless required by law to do so, or unless consented to by the client. (3-24-05)

40. Advisory Contract Disclosures. Entering into, extending, or renewing any investment advisory contract unless such contract is in writing and discloses, in substance the services to be provided, the term of the contract, the advisory fee, the formula for computing the fee, the amount of prepaid fee to be returned in the event of contract termination or non-performance, whether the contract grants discretionary power to the adviser and that no assignment of such contract shall be made by the investment adviser without the consent of the other party to the contract. (3-24-05)

41. Protection of Non-Public Information. Failing to establish, maintain, and enforce written policies and procedures reasonably designed to prevent the misuse of material nonpublic information, or that are contrary to the provisions of Section 204A, and rules associated with it, of the Investment Advisers Act of 1940. (3-29-17)

42. Advisory Contract to Comply with Federal Law. To indicate, in an advisory contract, any condition, stipulation, or provisions binding any person to waive compliance with any provision of the Act or of the Investment Advisers Act of 1940, or any other practice contrary to the provisions of Section 215, and rules associated with it, of the Investment Advisers Act of 1940. (3-29-17)

43. Waiver of State or Federal Law Prohibited. Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940. (3-29-17)

44. Fraudulent, Deceptive or Manipulative Acts. Engaging in any act, practice, or course of business which is fraudulent, deceptive, or manipulative in contrary to the provisions and associated rules of Section 206(4) of the Investment Advisers Act of 1940, notwithstanding the fact that such investment adviser is not registered or required to be registered under Section 203 of the Investment Advisers Act of 1940. (3-29-17)

45. Outside Business Activities - Selling Away. Any agent or investment adviser representative associated with a broker-dealer or investment adviser registered under the Act shall not engage in business activities, for which he receives compensation either directly or indirectly, outside the scope of his regular employment unless he has provided prior written notice to his employer firm. (3-24-05)

46. Third Party Conduct. Engaging in conduct or any act, indirectly or through or by any other person, which would be unlawful for such person to do directly under the provisions of the Act or any rules thereunder, or engaging in other conduct such as nondisclosure, incomplete disclosure, or deceptive practices shall be deemed an unethical business practice. The federal statutory and regulatory provisions referenced herein shall apply to investment advisers and federal covered advisers, to the extent permitted by the National Securities Markets Improvement Act of 1996 (Pub. L. No. 104-290). (3-24-05)

47. Misleading Filings. For purposes of Section 30-14-505, Idaho Code, the term "proceeding" includes, but is not limited to, any investigation, examination or other inquiry initiated by the Department. (3-24-05)

105. SUPERVISION OF AGENTS, INVESTMENT ADVISER REPRESENTATIVES AND EMPLOYEES.

01. Supervision Required. Every broker-dealer, investment adviser, and designated supervisor shall exercise diligent supervision over the securities activities of all of his agents, investment adviser representatives and employees. (3-24-05)

02. Broker-Dealer Procedures. Every agent and employee of the broker-dealer shall be subject to the supervision of a supervisor designated by such broker-dealer. The supervisor may be the broker-dealer in the case of

a sole proprietor, or a partner, officer, office manager, or any other qualified person. (3-24-05)

03. Written Compliance Procedure. Every broker-dealer shall establish, maintain and enforce written procedures *and keep* a copy in each business office, that set forth the procedures adopted by the broker-dealer to comply with the following duties imposed by this rule, and state at which business office or offices the broker-dealer keeps and maintains the records required by Section 30-14-411, Idaho Code: *( )*

a. The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

b. The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for churning and switching of securities in customers' accounts, as well as unsuitable recommendations and sales of unregistered securities; (3-24-05)

c. The prompt review and written approval by the designated supervisor of all securities transactions and all correspondence pertaining to the solicitation or execution of all securities transactions; (3-24-05)

d. The review of back office operations, i.e., all systems and procedures, including the currency and accuracy of books and records, the status and causes of "Fails to Receive" and "Fails to Deliver." net capital, credit extensions and financial reports; (3-24-05)

e. The review of form, content and filing of all correspondence related in any way to the purchase or sale or solicitation for the purchase or sale of securities; (3-24-05)

f. The review and written approval by the designated supervisor of the delegation by any customer of discretionary authority with respect to his account to a stated agent or associate of the broker-dealer and the prompt written approval of each discretionary order entered on behalf of that account; and (3-24-05)

g. The prompt review and written approval of the handling of all customer complaints. As used in these rules, "complaint" is considered to be any written statement by a customer or by any person acting for a customer which complains about the activities of the broker-dealer, agent or associate in connection with the solicitation or execution of a transaction or the disposition of funds of that customer. (3-24-05)

04. Investment Adviser Procedures. Every investment adviser shall establish, maintain and enforce written procedures *and keep* a copy in each business office, that set forth procedures reasonably designed to prevent violation of the Idaho Uniform Securities Act and Rules and comply with the following duties as applicable to the business of the investment adviser: *( )*

a. The review and written approval by the designated supervisor of the opening of each new customer account; (3-24-05)

b. The frequent examination of all customer accounts to detect and prevent irregularities or abuses, including a review for unsuitable recommendations and recommendations of unregistered securities; (3-24-05)

c. The prompt review and written approval by the designated supervisor of all securities recommendations and all correspondence pertaining to the solicitation or execution of all securities recommendations; (3-24-05)

d. The review of form, content and filing of all correspondence related in any way to the recommendation of the purchase of any securities; (3-24-05)

e. The prompt review and written approval of the handling of all customer complaints. As used in these rules, a "complaint" is considered to be any written statement by a customer, or by any person acting for a customer, questioning the activities of the investment adviser or representative in connection with recommendations concerning, or disposition of, funds in the account. (3-24-05)

106. -- 999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: The agency has adopted rules that are now pending review by the 2020 Idaho State Legislature. These pending rules become final and effective upon the conclusion of the legislative session, unless a rule is approved, rejected, or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If a pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted pending rules. The action is authorized pursuant to Sections 36-103, 36-104, 36-105, 36-111, 36-201, 36-301, 36-303, 36-307, 36-401, 36-402, 36-403, 36-404, 36-405, 36-406, 36-406A, 36-407, 36-408, 36-409, 36-409A, 36-410, 36-411, 36-412, 36-412A, 36-413, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, 36-804, 36-901, 36-902, 36-1001, 36-1101, 36-1102, 36-1508, 36-2201, 36-2202, 36-2203, 36-2204, 36-2205, Idaho Code.

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

The pending rules adopt and re-publish the following existing and previously approved and codified chapters of IDAPA 13, rules of the Department of Fish and Game. The text of the pending rules varies from the content of the proposed rules in a manner authorized by Section 67-5227, Idaho Code. The complete text of each IDAPA 13 chapter is published, except as noted below. The original text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1,619 – 1,750**.

IDAPA 13

- 13.01.01, *Rules of Practice and Procedure of the Fish and Game Commission*
- 13.01.02, *Rules Governing Mandatory Education and Mentored Hunting*
  (***Except 13.01.02.200 and 13.01.02.201***, which are being reauthorized as fee rules)
- 13.01.03, *Public Use of Lands Owned or Controlled by the Department of Fish and Game*
- 13.01.04, *Rules Governing Licensing*
  (***Except 13.01.04.601***, which is being reauthorized as a fee rule)
- 13.01.06, *Rules Governing Classification and Protection of Wildlife*
- 13.01.07, *Rules Governing the Taking of Upland Game Animals*
- 13.01.08, *Rules Governing the Taking of Big Game Animals*
  (***Except 13.01.08.263***, which is being reauthorized as a fee rule)
- 13.01.09, *Rules Governing Taking of Game Birds*
- 13.01.10, *Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife*
  (***Except IDAPA 13.01.10.410***, which is being reauthorized as a fee rule)
- 13.01.11, *Rules Governing Taking of Fish*
- 13.01.12, *Rules Governing Commercial Fishing*
- 13.01.14, *Rules Governing Falconry*
- 13.01.15, *Rules Governing Use of Dogs*
- 13.01.16 *Trapping of Predatory and Unprotected Wildlife and Taking of Furbearers*
- 13.01.17 *Rules Governing the Use of Bait and Trapping for Taking Big Game Animals*
- 13.01.18 *Rules Governing Emergency Feeding of Pronghorn, Elk, and Deer*
- 13.01.19, *Rules for Operating, Discontinuing, and Suspending Vendors*
  (***Except IDAPA 13.01.19.102***, which is being reauthorized as a fee rule)

Prior to adopting pending rules, the agency provided opportunity for written and in-person public comment. The agency also considered the Red Tape Reduction Act and the Licensing Freedom Act, and continued efforts to clarify and streamline its rules. The variation in content between pending and proposed rules reflects changes the agency made to simplify, streamline, consolidate and reduce unnecessary restrictions. Changes for clarity included reorganization and renumbering of some sections within and among chapters. Variation in content also reflects technical corrections for consistency with statutes, and for consistency among IDAPA 13 chapters. The agency also identified outdated or ineffective proposed rule language, or proposed rule language that duplicates statutory

provisions. The agency did not adopt such language in pending rules, so it will expire with the expiration of the temporary rule.

Edits were made to all IDAPA 13 chapters of proposed rules for compliance with the Red Tape Reduction Act. Variation between pending and proposed rule content in all chapters includes deletion/revision of Sections 002-006 consistent with changes in standardized formatting as directed by the Office of Administrative Rules. Variation in language includes the following:

- 13.01.02.150 (new section) is a relocation of language from proposed rule 13.01.08.250.01 because of mentored hunting subject matter.
- 13.01.04.263 (rules for military personnel eligibility) reorganized based on nonresident eligibility and continued eligibility of Idaho residents stationed elsewhere.
- 13.01.04.306 (new section) is a relocation/consolidation of duplicative sections for tag requirements for disabled hunters and companions in proposed rule section 13.01.08.201 (big game) and 13.01.09.104 (game birds).
- 13.01.04.550 and 13.01.04.560 (new sections) is a relocation of language for nonresident tag quotas and sale of unsold nonresident tags, separated from proposed fee rule 13.01.04.600 because of distinct subject matter.
- 13.01.06 changes reflect updates in taxonomy, including bighorn sheep, cackling goose, pacific marten and integration of subspecies and other color phases of cutthroat trout and rainbow trout; edit to clarify "forest grouse" as used in proclamations.
- 13.01.06.150 does not include the proposed rules' definitions or list of threatened or endangered species; the agency has determined that statutory and rule provisions make this classification duplicative in effect of other protected classifications for game and nongame species, and those provisions will expire with the expiration of the temporary rule.
- 13.01.08.404 – 407 (new Sections) is a relocation of language related to muzzleloader, archery, and short-range only seasons from proposed rule section 13.01.08.410 to improve clarity.
- 13.01.09.300.01 includes revised language related to take of forest grouse consistent with immediately preceding version of final rule.
- 13.01.10.100 includes revised language for allowance for captive possession of unprotected, predatory, and native reptiles or amphibians for consistency with 13.01.06.300 and with immediately preceding version of final rule 13.01.10.
- 13.01.11.200.01 includes revised language related to requirement for attendance of fishing lines consistent with immediately preceding version of final rule.
- 13.01.14.100 includes provision for clarity as to application of migratory bird treaty act in accordance with Section 36-1102, Idaho Code.
- 13.01.16.400 does not include provisions concerning raccoon because they are outdated with statutory change to classify raccoons as predatory wildlife in Section 36-201, Idaho Code; that language will expire with expiration of temporary rule.
- 13.01.19.104 does not include provisions that are outdated (e.g., reporting is now automated); that language will expire with expiration of temporary rule.
- 13.01.19.200 (new section) includes language moved from proposed rule Section 13.01.04.260 for telephonic/electronic licensing because subject matter is more relevant to license vendor rules.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this rulemaking, contact Paul Kline, Deputy Director at (208) 334-3771.

Dated this 21st day of October, 2019.

Paul Kline, Deputy Director
Phone: (208) 334-3771 / Fax: (208) 334-4885
rules@idfg.idaho.gov

Idaho Department of Fish and Game
600 S. Walnut, P.O. Box 25
Boise, ID 83707

IDAPA 13 – DEPARTMENT OF FISH AND GAME

13.01.01 – RULES OF PRACTICE AND PROCEDURE OF THE IDAHO FISH AND GAME COMMISSION

000. LEGAL AUTHORITY.
Sections 36-103 and 36-104, Idaho Code, authorize the Commission to adopt rules concerning administration of the state's wildlife policy. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.01, "Rules of Practice and Procedure of the Idaho Fish and Game Commission." These rules govern rulemaking, contested cases, meeting procedure, and appearances before the Commission and Department. ( )

002. ADMINISTRATIVE *PROCEDURE*.
IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," govern *rulemaking and contested cases for the Commission and Department unless otherwise provided by these rules*. *( )*

***003*. – *010*. (RESERVED)**

011. COMMISSION OFFICERS.
Commission officers are Chair, Vice-chair, and Secretary. The Commission annually elects the Chair and Vice-chair for the ensuing year. The newly elected chair and vice-chair assume their respective duties at the conclusion of the meeting at which they are elected. ( )

012. DUTIES OF CHAIR *AND VICE-CHAIR*.
The Chair presides at meetings, sets meeting agendas, and performs other duties at Commission direction. The Vice-Chair performs the Chair's duties in *the Chair's* absence. If both Chair and Vice-Chair are absent, the Commission may appoint an Acting Chair to preside. *( )*

***013*. DIRECTOR – COMMISSION SECRETARY.**
The Director is Commission Secretary, a non-voting member of the Commission. The Secretary or designee is custodian of Commission records. The Secretary or designee is responsible for taking written minutes for Commission meetings and *issuing* publications and notices. *( )*

***014*. DELEGATION OF POWERS.**
The Commission may delegate powers to the Director as law allows. The Director may delegate powers to Department employees as law allows. *( )*

***015*. INVESTIGATIONS.**
The Commission may authorize formal or informal investigations for fact-finding purposes (e.g., IDAPA 04.11.01.420.01), with report of investigation results to the Director, hearing officer or Commission. ( )

***016*. OFFICIAL RECEIPT OF DOCUMENTS.**
*The Director, or a specified designee in a particular matter, is the officer with whom to file all documents in rulemakings or contested cases under IDAPA 04.11.01, at the principal office address as provided in the cover sheet to these rules, u*nless provided otherwise by statute, rule, order, or notice. *A* document is not officially received by the Commission until received at the Commission's office, as evidenced by date stamp placed on paper documents, or timestamp of email receipt as of a business day. Communications received by individual Commissioners are not considered officially received by the Commission unless they are received at the Commission office. *( )*

017. ORDERS.

***01. Signature on Commission Orders**. The Chair or the Director (as Secretary) signs all orders issued or authorized by the Commission.* *( )*

***02. Signature on Director's Orders**. The Director (as Director) signs all orders issued under the Director's authority in carrying out Idaho Code, Title 36.* *( )*

018. – 049. (RESERVED)

050. CONDUCT OF COMMISSION MEETINGS.
The Commission holds regular and special meetings under Section 36-104(a), Idaho Code. ( )

01. Motions and Voting. A motion needs a second for the Commission to consider it. All members will vote upon all motions placed before the Commission unless excused by the Chair for reasons stated for the record. *( )*

02. Parliamentary Rules. Robert's Revised Rules of Order, with Procedure in Small Boards, governs the conduct of Commission meetings when applicable, unless inconsistent with statute or these rules. ( )

***051*. PROCEDURE FOR PUBLIC TESTIMONY AT COMMISSION MEETINGS.**
The Commission provides an opportunity for oral public testimony at its annual and quarterly meetings and at other times at the Commission's discretion. ( )

0*1*. Sign Up Card. For administrative record purposes, persons wishing to speak at *a* meeting *will* complete and turn in a sign-up card. *( )*

0*2*. Limiting Testimony. The Chair has sole discretion to set a uniform time limit for oral public testimony at a meeting, and to limit oral testimony that is: ( )

a. Not relevant to Commission business; ( )

b. Not directed to the Commission (e.g., where the person testifying is seeking to converse with the audience in general or individuals other than the Commission); or ( )

c. Is threatening, abusive, or profane. ( )

0*3*. Written Testimony. The Commission will accept written testimony instead of or in addition to oral testimony. ( )

0*4*. Public Conduct at Commission Meetings. No person may behave in a manner that disrupts the orderly conduct of a Commission meeting or hearing. Any person who refuses to conduct himself appropriately, and who fails to depart immediately from the meeting area when the Chair notifies him to do so, is subject to removal. ( )

05*2*. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-103, 36-104, 36-401, 36-412, and 36-1508 authorize the Commission to adopt rules concerning administration of *hunting, archery, and trapping* education programs and mentored hunting. *( )*

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.02, "Rules Governing Mandatory Education and Mentored Hunting." These rules establish criteria for *hunting, archery, and trapping* education programs and mentored hunting. *( )*

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.

01. Accompanied. *C*lose enough to be within normal conversation or hearing range without shouting or the aid of electronic devices. *( )*

011. -- 100. (RESERVED)

101. MENTORED HUNTING PROGRAM.
*Other than as specified herein, n*othing in this section alter*s* statutory or rule requirements for licensing or the take of wildlife. *( )*

01. Hunting Passport. A Hunting Passport is a special authorization for a person to take wildlife as a mentee, provided *the Passport holder* is accompanied by a mentor and participating in the Mentored Hunting Program. Hunting Passports may be obtained from the Department or license vendor. *( )*

a. *A person may obtain a Hunting Passport without h*unter education certification. *( )*

b. A Hunting Passport expires December 31 of the year for which it is valid. ( )

c. *A Hunting Passport is to be carried on one's person and exhibited on request as provided in Section 36-1201, Idaho Code.* *( )*

02. Eligibility of Mentee. ( )

a. *Only* person*s eight (8) years of age or older* who ha*ve* not previously possessed a *Hunting Passport, a* hunting license or equivalent license in any state or other country may possess a Hunting Passport to participate in the Mentored Hunting Program as a mentee. *A youth may possess additional Hunting Passport(s) each year until reaching ten (10) years of age.* *( )*

b. Any mentee possessing a Hunting Passport is eligible to possess *game tags for* general *hunts* if the mentee is qualified to participate in the hunt. *( )*

c. Any mentee possessing a Hunting Passport is not eligible to possess a controlled hunt *game* tag *or permit, except as* designated for a Landowner controlled hunt tag if the mentee is qualified to participate in the hunt. *( )*

d. Any mentee with a Hunting Passport *is not eligible to hunt big game unless the Passport holder is* ten (10) years of age or older. *( )*

03. Eligibility of Mentor. ( )

a. Any person who possesses a valid Idaho hunting license and who is eighteen (18) years or older may participate in the Mentored Hunting Program as a mentor. ( )

b. A mentor may accompany *no* more than two (2) mentees at one (1) time that are participating in the Mentored Hunting Program. *( )*

c. A mentor may hunt while participating in the Mentored Hunting Program if the mentor is qualified

to participate in the hunt. ( )

102. NONRESIDENT JUNIOR MENTORED LICENSE.
A person hunting big game or turkey with a valid Nonresident Junior Mentored License and game tag, held in accordance with Sections 36-404 and 36-407, Idaho Code, must be accompanied by an adult with a valid license and game tag for the species hunted. *( )*

10*3*. -- 999. (RESERVED)

13.01.03 – PUBLIC USE OF LANDS OWNED OR CONTROLLED BY THE DEPARTMENT OF FISH AND GAME

000. LEGAL AUTHORITY.
Section 36-104(b), Idaho Code, authorizes the Commission to adopt rules concerning the use of lands owned or controlled by the Department. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.03 "Public Use of Lands Owned or Controlled by the Department of Fish and Game." These rules govern use of lands owned or controlled by the Department. ( )

***002*. – 009. (RESERVED)**

010. DEFINITIONS.

01. Aircraft. Any vehicle capable of use for transportation on or in the air and any unmanned aircraft system. ( )

02. Commercial Use. Any use or activity related to a business venture or for which a fee is charged, or in which the primary purpose is the sale or barter of goods or services, regardless of whether the use or activity is intended to produce a profit. ( )

03. Lands Owned or Controlled by the Department. Real property, owned or controlled by the Commission or Department, managed for public recreation or for the protection, maintenance, and enhancement of fish and wildlife. ( )

04. Designated Roads and Trails. All roads and trails posted as open or designated as open on Department public use maps. ( )

05. Safety Zone. A posted area established for the safety and protection of persons, equipment, structures, or livestock and where shooting within, across, or into the area is not permitted. ( )

06. Unattended. As it pertains to decoys, the absence of any person within one hundred (100) yards from any decoy for a period of more than one-half (1/2) hour. ( )

07. Watercraft. Any vessel capable of use for transportation on or in the water. ( )

011. – 099. (RESERVED)

100. PUBLIC USE RESTRICTIONS.

01. Activities *Not Allowed* Without Authorization. Unless specifically authorized by the Commission, Director, Regional Supervisor, or *designee, no person may*: *( )*

a. *E*nter, use, or occupy lands or water when said lands are posted against such entry, use, or occupancy. *( )*

b. *C*amp or park a vehicle or trailer in any area posted against such use, or to leave unattended a camp, vehicle, or trailer for more than forty-eight (48) hours, or to camp or park a vehicle or trailer for more than ten (10) days *during* any thirty (30) day period *on* any one *(1) Wildlife Management Area (WMA) or one (1) access site separate from a WMA*. *( )*

c. *O*perate any motorized vehicle, including over-snow use, except on designated roads and trails. *( )*

d. *U*se watercraft on any waters posted against such use. *( )*

e. *U*se any form of fireworks or explosives. *( )*

f. *P*ermit any dog or other domestic animal to run at large when not present to control or care for it, or to permit any dog to be off leash when posted *against such use*. *( )*

g. Conduct a dog field trial of any type, except a dog field trial or dog training using artificially propagated game birds between August 1 and September 30 with Department authorization under IDAPA 13.01.15.300, "Rules Governing the Use of Dogs." ( )

h. Construct any blind, pit, platform, or tree stand, where soil is disturbed or trees are cut or altered, and fasteners, such as wire, rope, or nails are used; or to leave any portable manufactured blind or tree stand overnight. ( )

i. Adjust, open, close, tamper with, or manipulate in any manner, any diversion structure, headgate, flume, recorded or flow dock or any device for water control. This provision does not limit the powers of agencies or irrigation districts as provided by statute or rule. ( )

j. Shoot within, across, or into posted safety zones. ( )

k. Leave any decoy unattended, or to place any decoy any earlier than two (2) hours before official shooting hours for waterfowl, or to leave any decoy at a hunting site later than two (2) hours after official shooting hours for waterfowl. ( )

l. Discharge any paintball guns. ( )

m. Disturb or remove any soils, gravel, or minerals. ( )

n. Turn domestic livestock into, or allow said animals to graze or trail on or across Department lands, except riding and pack animals may be used in association with recreational uses or as posted. ( )

o. Cut, dig, or remove any crops, trees, shrubs, grasses, forbs, logs, or fuel wood. ( )

p. Place, maintain, or store any beehives or bee boards. ( )

q. Use lands for any commercial purpose. ( )

r. Place a geocache. ( )

s. Use for group events of over fifteen (15) people. ( )

t. Land or launch aircraft except on public airstrips. ( )

u. Use or transport any hay, straw, or mulch that is not weed-free certified. ( )

101. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-104(b), 36-301, 36-401 through 413, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning issuance and sales of licenses. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.04, "Rules Governing Licensing." These rules govern licensing. ( )

***002*. – 009. (RESERVED)**

010. DEFINITIONS.

01. Authorized Corporate Representative. Any shareholder in a corporation, designated in writing by the corporation as the eligible applicant, who is in actual physical control of the eligible property. ( )

02. Blind Person. A blind person has a medically documented loss or impairment of vision and includes any person whose visual acuity with correcting lens does not exceed twenty/two hundred (20/200) in the better eye, or whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees. ( )

03. Domicile. The place where an individual has his true, fixed, permanent home and to which place he has the intention of returning whenever he is absent. An individual can have several dwelling places, but only one (1) domicile. Factors to consider establishing domicile include, but are not limited to: ( )

a. What address does the person use on tax returns and where does the person file a state resident income tax return? ( )

b. Where is the person registered to vote? ( )

c. Where do the person and his immediate family live? ( )

d. Where does the person have his mail sent or forwarded to? ( )

e. Where does he register his automobiles? ( )

f. Where has the person claimed a homeowner exemption on a personal residence? ( )

g. Where does he have a driver's license? ( )

04. Disabled. *A disabled person is defined as a person meeting criteria set forth in Sections 36-406(g), or 36-1101(b), Idaho Code*. *( )*

0*5*. Eligible Property. At least three hundred twenty (320) acres of land*, excluding any government lands,* in one (1) controlled hunt *area* determined by the Department to be valuable for habitat or propagation purposes for deer, elk, pronghorn, and/or black bear, whether owned by one (1) or more persons, a partnership, or corporation. *( )*

0*6*. Landowner. Any person or corporation whose name appears on a deed as the owner of eligible property or whose name appears on a contract for sale of eligible property as the purchaser, and any affiliates, management companies, associated entities, wholly-owned subsidiaries, corporations, or limited liability corporations wherein fifty percent (50%) or more of the ownership or controlling interest is maintained by a single individual, partnership or corporation. ( )

0*7*. Permanent Disability. *A* medically determinable physical impairment, which a physician has certified that the condition has no expectation for a fundamental or marked change at any time in the future. *( )*

0*8*. Physician. A person licensed to practice medicine pursuant to the Idaho Medical Practice Act (Sections 54-1801 through 54-1820, Idaho Code), or equivalent state licensing authority if the person is not licensed to practice in Idaho. ( )

09. **Resident**. "Resident" is defined in Section 36-202(s), Idaho Code. ( )

011. – 049. (RESERVED)

050. *RESIDENT LICENSES AND LIFETIME CERTIFICATES*.

A person, upon payment of the appropriate fee set forth in Sections 36-413 or 36-416, Idaho Code, and proof of Idaho residence or qualification for resident license privileges, may receive the corresponding resident license or lifetime license certificate under the conditions set forth in this section. *( )*

01. ***Proof of Residence***. *Resident l*icense and lifetime license certificate applications must be supported by *an original or unaltered copy of* the following: *( )*

a. Idaho Driver's License for all persons who drive. ( )

b. Nondrivers may use other suitable proof of residency, such as: ( )

i. Idaho Identification Card issued by the Idaho Transportation Department; or ( )

ii. Two (2) documents bearing the applicant's name and address, not issued by the applicant, such as: ( )

(1) Rent receipts or mortgage statements for previous six (6) months; ( )

(2) Home utility bills for previous six (6) months; ( )

(3) A notarized statement from an employer on business letterhead; ( )

(4) Proof of voter registration dated six months prior; ( )

c. *For persons under eighteen (18) years of age who do not have an Idaho Driver's license or Idaho Identification Card:* *( )*

i. For lifetime license certificates: a certified copy of the minor's birth certificate, and proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection. *( )*

ii. For annual or shorter-term licenses: proof of Idaho residency of one (1) parent or legal guardian in accordance with this subsection and attestation by the parent or legal guardian of the minor's identity. *( )*

02. **Verification of Idaho Residency**. The Department may investigate and verify that the information submitted by the applicant *as to Idaho residency* is true and correct. *( )*

03. **Application by Telephone or Electronic Methods**. *Application for annual or shorter term licenses may be made* by telephone or other electronic methods, *provided* the *applicant supplies the* number *from a valid license or identification card issued by the Idaho Transportation Department.* *( )*

04. **Applications *for Lifetime License Certificates***. Applications *for lifetime license certificates will* be made on a form prescribed by the Department and may *only* be submitted either in person *at a Department office* or by mail to the *Department* at P.O. Box 25, Boise, ID 83707. *( )*

051. PURCHASING LICENSES FOR OTHERS.

01. ***Resident Licenses****. A resident may purchase a license for the resident's spouse or child under the age of eighteen (18) living in the same household, provided that the purchaser presents proof of residence for the person who will hold the license.* *( )*

02. ***Nonresident Licenses****. A person may purchase a nonresident license for another person because no*

residency certification is necessary. *( )*

03. Lifetime License Certificates. If the lifetime license certificate is being purchased for a person other than the one submitting the application, the purchaser must *provide proof of residence for* the intended recipient of the lifetime license certificate *in accordance with Section 050 of these rules.* *( )*

***052.* – 199. (RESERVED)**

200. LICENSES, PERMITS, AND TAGS *FOR LIFETIME LICENSE CERTIFICATE HOLDERS*.

01. Licenses. Authorized lifetime license certificate holders will be issued *the* appropriate *combination, hunting, or fishing* license annually*, provided they are eligible for said license*. *( )*

02. Permits and Tags. The certificate holder has the responsibility to obtain *any appropriate* permit or *game* tag. *( )*

201. CERTIFICATE *NON-TRANSFERABLE*.
Neither the lifetime license certificate nor the annual licenses are transferable. The fee paid is not refundable under any circumstances. *( )*

202. CERTIFICATE HOLDERS RESIDING OUT-OF-STATE.

01. Validity. The lifetime license certificate *does* not become invalid if the certificate holder subsequently resides outside the state of Idaho. *( )*

02. Effect of Subsequent Change in Residency. Should the certificate holder *subsequently* become a nonresident, *the following applies:* *( )*

a. *The holder may only purchase* permits, and tags at the nonresident fee. *( )*

b. *The holder will be treated as a resident for purposes of controlled hunt applications and limits or quotas on the number of tags or permits based on resident/non-resident status.* *( )*

c. *The holder will* be entitled to resident bag and possession limits. *( )*

20*3*. OBTAINING CERTIFICATES UNLAWFULLY.
It is unlawful for any person to obtain, use or possess, or attempt to obtain, use or possess a lifetime license certificate by fraud, deceit or misrepresentation. All licenses including lifetime license certificates unlawfully obtained shall be seized and shall become null and void. Any fees paid will not be refunded. *( )*

20*4*. REVOCATION OF CERTIFICATE AND LICENSES.
A lifetime license and the rights of a lifetime license certificate holder to obtain a license may be revoked pursuant to Section 36-1402, and Chapter 15, Title 36, Idaho Code. ( )

20*5*. – 249. (RESERVED)

250. *DEFACED OR ALTERED LICENSES INVALID*.
Any license *that* is defaced, altered, or tampered with will be invalid from the date and time of issuance. It *is unlawful* to use or attempt to use any license that has been defaced, tampered with, or altered. Evidence of defacing, tampering, or altering includes but is not limited to tears or erasures or typeovers to the license stock. *( )*

251. – 25*4*. (RESERVED)

***255*. AUTHORIZATION NUMBER *PENDING RECEIPT OF LICENSE*.**

01. Authorization *Number*. *A person applying by telephone or other electronic method will* receive an authorization number assigned as directed by the Department. *( )*

02. Authorization Number Used in Lieu of License. The authorization number *provided to telephone applicants* may be used in lieu of the actual license only by the individual for whom the license was purchased. When used in lieu of a license, the person must carry *government-issued identification and* present such identification *and provide the authorization number to comply with Section 36-1201, Idaho Code*. The authorization number may be used for not more than fourteen (14) calendar days from the date of issue, except authorization numbers for short-term licenses *are* valid only for the stated term from the beginning effective date of the license. This allows the authorization-number holder to hunt or fish during the time period it takes to mail the license to the individual. Thereafter, the individual must have in possession the appropriate signed license to hunt or fish. *( )*

03. Violation. It is a violation to hunt and fish with an invalid authorization number or an authorization number issued to another person. ( )

04. Authorization Number Only Eligible for Certain Activities. The authorization number may be used only for those hunting or fishing activities that do not require a license, tag, or permit to be notched or attached to a carcass. ( )

256. – 261. (RESERVED)

262. *RESIDENT LICENSES* – JOB CORPS STUDENTS.

A Job Corps student may obtain a resident fishing license pursuant to Section 36-202(s)4, Idaho Code, *provided the student presents certification of current enrollment at a Job Corps Center in Idaho* signed by the Center director. *( )*

263. *RESIDENT LICENSES* – MILITARY PERSONNEL – U.S. AND FOREIGN

01. Nonresident *Eligibility*. *( )*

a. *A nonresident member of the Armed Forces of the United States or a foreign country may obtain a resident license pursuant to Section 36-202(s)(3), provided the service member presents a copy of assignment orders (in official form appropriate for the branch of service, such as "Request and Authorization for Permanent Change of Station-Military") that indicate the member is on active duty with a permanent duty station in Idaho at the time of license application. The nonresident active duty member's spouse and dependent children less than eighteen (18) years of age may obtain a resident license, provided they present a copy of the assignment orders and documentation they are member of the active duty member's household in Idaho.* *( )*

b. *Members of the Armed forces* who are not residents of the state, and who are *stationed or domiciled in Idaho for fewer than thirty (30) days immediately preceding application* are not *eligible for* resident licenses or a military *furlough license* and must purchase nonresident license*s* and tags. *( )*

c. Discharged serviceme*mbers* who were not residents of the state of Idaho at the time of their induction or enlistment, or who have not been stationed within the state of Idaho for a period of at least six (6) months prior to their discharge are not entitled to resident licenses until they have domiciled in this state for a period of six (6) months. *The Department will rely on* Discharge Form DD214 *(or official successor form certifying release or discharge from active duty) for* the home of record. *( )*

d. Civilian employees of the military *who are not Idaho residents are not eligible for resident licenses*. *( )*

02. Resident. Idaho residents who are in the military service of the United States and maintain Idaho as their official home of residence *are* eligible to purchase a resident license or obtain a *military* furlough *license, pursuant to Section 36-202(s)(2), provided they provide a current leave and earnings statement or other proof identifying Idaho as their official state of residence.* The *service member's* spouse and *dependent* children less than eighteen (18) *years of age* living in the *service member's* household may purchase resident licenses. *( )*

264. *RESIDENT LICENSES* – STUDENT.

01. ***Absent Full-time Student***. *Pursuant to* Section 36-202(s)1, Idaho Code, a*n* Idaho *resident* who is a full-time student of an out-of-state institution of learning, paying nonresident tuition *or otherwise not claiming residency in another state*, is entitled to receive a resident license*, for a period not to exceed five (5) years,* even though the *student* is not physically present in Idaho continuously for a period of six (6) months preceding his application for such license. *( )*

02. ***Temporarily Present.*** Students who *are* temporarily *present* within the state of Idaho *while exercising residency privileges in another state or country* are not eligible to purchase resident licenses. *( )*

265. FOREIGN EXCHANGE HIGH SCHOOL STUDENTS.
Pursuant to Section 36-202(s), Idaho Code, any foreign exchange student enrolled in an Idaho high school may obtain a resident fishing license*, provided the student presents proof of Idaho high school enrollment and* a copy of the U.S. Immigration document or other government document showing "J-1" *student* classification. All other foreign students are nonresidents. *( )*

266. FOREIGNERS/ALIENS IN IDAHO.
Foreigners residing in the state on a temporary visa are not eligible for a resident license. Persons residing in the state *who present a valid* permanent visa or *a currently pending* appl*ication* for U.S. citizenship are eligible for a resident license if they have *been domiciled within Idaho for six (6) months with a bona fide intent to remain*. *( )*

26*7*. – 301. (RESERVED)

302. DISABILITY LICENSES.
Disability licenses include: Disabled Combination*, Disabled* Hunting, Disabled Fishing, Disabled American Veterans Combination*, Disabled American Veterans* Hunting, Disabled American Veterans Fishing, and Nonresident Disabled American Veterans Hunting. *( )*

01. **Attest*ation* to Disability**. *No* person *may* misrepresent any information to obtain a disability license. *( )*

02. **Documentation *for Eligibility***. *To obtain a disability license, an applicant* must present, to a Department office or vendor, *or by mail to the Department,* one (1) of the following: *( )*

a. A *benefit verification letter from the Social Security Administration* in the individual's name showing that *the applicant* is receiving SSI *(Supplemental Security Income)* or SSDI benefits for the current year; *( )*

b. A letter from the Railroad Retirement board verifying disability status dated within three (3) years preceding the application for a disabled license; *( )*

c. A letter*, of any date prior to license application,* from the Veterans Affairs office verifying a service-connected disability rating of forty percent (40%) or greater. Such documentation will be required only for the initial application and will not be required for subsequent disability license application. *Applicants for nonresident Disabled American Veteran licenses must support their applications with this form of documentation.* *( )*

d. A current year's letter from the Veterans Affairs office showing an individual is receiving a nonservice-connected pension. ( )

e. *C*ertification of permanent disability *on a form prescribed by the Department, completed and signed by* the applicant's physician, physician assistant, or nurse practitioner*, also signed by the applicant,* stating which of the criteria set forth in Subsection 010.04 of this rule, qualifies the applicant *as permanently disabled* and why. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. *( )*

f. *A valid Idaho driver's license if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, and the driver's license is appropriately marked as disabled.* *( )*

303. DISABLED PERSONS MOTOR VEHICLE HUNTING PERMITS.

01. Applications for Disabled Motor Vehicle Hunting Permits. ( )

a. Applications for disabled motor vehicle hunting permits *will* be on a form prescribed by the Department*, completed and signed by the applicant,* or an individual may present their valid Idaho driver's license in lieu of the prescribed Department form if the individual meets the disability requirements of Section 49-117(7)(b), Idaho Code, except for blindness, and the driver's license is appropriately marked as disabled. *( )*

b. Each application submitted on the Department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating which of the criteria set forth in Section 36-1101, Idaho Code, qualifies the applicant and why*, along with t*he applicant*'s* certif*ication* that the applicant is capable of holding and firing, without assistance from other persons, legal hunting equipment. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for short-term or long-term disability on the application. If the disability is short term and physical mobility is expected to improve, the physician, physician assistant, or nurse practitioner must include a date when the disability is expected to end. *( )*

02. Disabled Motor Vehicle Hunting Permits. ( )

a. Disabled motor vehicle hunting permits *will* expire no later than December 31 of the fifth year following the date of issuance. *( )*

b. The permit shall be prominently displayed on any vehicle from which the person is hunting*,* on the driver's side of the dashboard of the parked vehicle, suspended from the rearview mirror, or otherwise displayed so as to be in plain view of any person looking *at the vehicle or* through *any* windshield. *( )*

304. DISABLED ARCHERY PERMIT.

01. Applications for Disabled Archery Permits. ( )

a. Applications for disabled archery permits *will* be *completed* on a form prescribed by the Department *signed by the applicant*. *( )*

b. Each application shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating that the applicant has a permanent disability whereby he does not have use of one (1) or both of his arms or hands*, along with the* applicant*'s* certif*ication* that the applicant is capable of holding and firing, without assistance from other persons, a bow or crossbow. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner*'s* medical license must accompany the application. *( )*

02. Disabled Archery Permits. ( )

a. Disabled archery permits expire on December 31 of the fifth year following the date of issuance. *( )*

b. The disabled archery permit shall be carried on the person of anyone participating in an archery only season with the use of a crossbow and produced upon *officer* request. *( )*

c. The disabled archery permit *authorizes* the holder thereof to participate in an archery only hunt with the use of a crossbow or a device attached that holds a bow at partial or full draw *or a low magnification scope (magnification no greater than four (4) power) containing battery-powered or tritium-lighted reticles*. *( )*

305. REASONABLE MODIFICATION PERMIT FOR SPECIAL WEAPON HUNTING SEASONS.

01. Applications for Reasonable Modification Permits for Special Weapon Hunting Seasons. ( )

a. Applications for reasonable modification permits *will* be on a form prescribed by the Department. *( )*

b. Each application submitted on the Department form shall be accompanied by certification from the applicant's physician, physician assistant, or nurse practitioner stating the criteria limiting the applicant's ability to participate without special accommodation*, along with t*he applicant*'s certification* that the applicant is capable of holding and firing, without assistance from other persons, legal firearms or archery equipment. If the physician, physician assistant, or nurse practitioner is not licensed to practice in Idaho, a copy of the physician, physician assistant, or nurse practitioner's medical license must accompany the application. Physicians, physician assistants, or nurse practitioners must check the appropriate box for short-term or long-term disability on the application*, and for short-term disability,* include a date when the disability is expected to end. *( )*

c. *Each application* must identify the equipment accommodation requested, and explain how the requested accommodation will allow *the applicant* to participate in the special weapon hunt without enhancing their abilities beyond the limitations and purpose of the special weapon hunt. *( )*

02. Reasonable Modification Permits for Special Weapon Hunting Seasons. ( )

a. Reasonable modification permits *will* expire no later than December 31 of the fifth year following the date of issuance. *( )*

b. The *Department will make its determination based on the reasonableness of the* accommodation *and its* consisten*cy* insofar as possible with all provisions guiding other participants in the special weapon hunting season. The *Department has discretion to* deny the application *as unreasonable in light of restrictions for other participants in the hunt,* or set a modification different from the modification requested. *( )*

c. A copy of the permit shall be carried by the person while hunting in any special weapon hunt. ( )

306. DISABLED HUNTER AND COMPANION: GAME TAGS, PERMITS, AND LIMITS.

***01. Assistance of Disabled Hunter by Designated Companion**. Any disabled hunter possessing a valid disability license, disabled motor vehicle or disabled archery permit, as provided in Sections 302 through 304, or who is a disabled veteran participating in a hunt as provided in Section 36-408(7), Idaho Code, may be accompanied by a designated companion who may assist the disabled hunter with taking wildlife. ( )*

***02. Excepted From Game Tag or Game Permit Possession Only**. The companion assisting a disabled hunter is excepted from game tag or permit possession to take game wounded by a disabled hunter. All other applicable rules governing the taking of wildlife apply to the companion, including possession of a valid hunting license and any applicable weapons permit (archery or muzzleloader) for the hunt. ( )*

***03. Validation and Attachment of Tag**. The companion to a disabled hunter may validate and attach the disabled hunter's game tag or permit in accordance with applicable rules (IDAPA 13.01.08, Rules Governing the Taking of Big Game Animals, or IDAPA 13.01.09, Rules Governing the Taking of Game Birds). ( )*

***04. Accompanying the Disabled Hunter**. The companion must accompany the disabled hunter while hunting. Once a disabled hunter has wounded game, the hunter's companion does not need to be accompanied by the disabled hunter while taking game wounded by the disabled hunter or while tagging or retrieving downed game on behalf of the disabled hunter. ( )*

***05. Written Statement of Designation**. While taking wounded or killed game to assist a disabled hunter, the companion to a disabled hunter must possess a written statement from the disabled hunter designating that person as the disabled hunter's companion, signed by the disabled hunter including the disabled hunter's name, address, hunting license number, any applicable tag or permit number, and the dates of designation as a companion.*

If a companion to a disabled hunter transports any wildlife on behalf of a disabled hunter, a proxy statement is required in accordance with Section 36-502, Idaho Code. *( )*

***06. Companion's Possession Limit**. Any wounded game killed, or game tagged or retrieved, by a designated companion on behalf of a disabled hunter counts against the disabled hunter's possession limit and does not count against the companion's possession limit.* *( )*

***07. Disabled Hunter Considered for Violation**. The disabled hunter in possession of the valid game tag or permit is considered the hunter for violation of waste or destruction of wildlife under Section 36-1202, Idaho Code.* *( )*

307. – 399. (RESERVED)

400. LANDOWNER APPRECIATION PROGRAM *(LAP)*.

01. Property and Landowner Registration. *( )*

***a.** Only landowners who have registered their eligible property with the Department are eligible to apply for LAP controlled hunt tags for deer, elk, pronghorn, and/or black bear. Registered landowners must notify the Department of any changes in property ownership or eligibility.* *( )*

***b.** Registration of an eligible property and landowner applicant will be on a form prescribed by the Department. The landowner must submit the registration form; a copy of the deed(s) and the most recent tax assessment(s) describing the eligible property and showing the name(s) of the owner(s); and a map of the eligible property to the Department regional office. Department personnel will certify the registration and land description and return a copy to the landowner.* *( )*

***c.** If the person registering is an authorized corporate or partnership representative, the registration will include written verification from the board of directors, partnership, or an officer of the corporation, other than himself, verifying that he is authorized to register the property and eligible applicants.*
( )

02. Hunt *Areas*. LAP controlled hunt tags *will* be issued only for those controlled hunt *areas* designated by the *Commission* as eligible for such *tags*. *( )*

03. Tag Eligibility. Landowners may receive LAP controlled hunt tags only for the species and sex that use the *eligible* property *and only for LAP hunt areas in which the registered property is located*. *( )*

***04. Controlled Hunt* Applications**. Applications for LAP controlled hunt tag(s) *will* be on a form prescribed by the Department. *( )*

a. Applications from landowners with six hundred forty (640) acres or more will be accepted on or after June 15 of each year. Applications *submitted in person or mailed to* the Department main office or *any Regional Office,* postmarked not later than July 15 of each year, will be entered in the random drawing for *LAP controlled hunt* tags. Each application will be entered in the random drawing one (1) time based upon each six hundred and forty (640) acres of eligible property registered by the landowner that are within the *LAP controlled* hunt area. For example, if a landowner has six thousand four hundred (6,400) eligible acres, the application will be entered into the random drawing ten (10) times. *( )*

b. One (1) application may be submitted by a landowner with eligible property consisting of six hundred forty (640) acres to four thousand nine hundred ninety-nine (4,999) acres. A second application may be submitted for eligible property consisting of five thousand (5,000) acres or more. ( )

05. Left Over Tags. Landowners with *eligible property consisting of* three hundred twenty (320) acres or more may apply for left-over tags following the random draw. Written applications will be accepted *beginning on the first business day on or* after August 15 of each year on a first-come, first-served basis*, provided they are* accompanied by the appropriate application fee as specified in Section 36-416, Idaho Code. *( )*

06. Issuance of Controlled Hunt Tag(s). ( )

a. Once the *Commission* has determined the number of controlled hunt tags to be issued in any controlled hunt *area*, an additional ten percent (10%) of the number of controlled hunt tags *may* be issued as LAP tags. In subsequent years up to twenty-five percent (25%) of the number of controlled hunt tags *may* be issued only if the hunt is over subscribed by eligible LAP applicants. *( )*

b. Where the number of LAP applicants exceeds the number of LAP controlled hunt tags available in a*n area*, successful applicants will be determined by drawing. All eligible landowners in the drawing will be considered for one (1) tag before any landowner is eligible for a second tag. *( )*

c. No more than two (2) LAP controlled hunt tags may be issued to any eligible landowner. *( )*

d. Only one (1) leftover LAP controlled hunt tag may be issued for eligible property consisting of between three hundred twenty (320) and six hundred thirty-nine (639) acres within *a LAP controlled* hunt area. Only one (1) LAP controlled hunt tag may be issued for eligible property consisting of between six hundred forty (640) and four thousand nine hundred ninety-nine (4,999) acres within *a LAP controlled* hunt area. One (1) additional controlled hunt tag may be issued to a landowner or designated agent(s) for eligible property in excess of five thousand (5,000) acres within *a LAP controlled* hunt area. No landowner or designated agent(s) is eligible to receive more than one (1) *LAP* controlled hunt tag for one (1) species in a calendar year. *( )*

e. A successful landowner, corporate or partnership representative drawing a LAP controlled hunt tag may designate an eligible individual *to* whom the controlled hunt tag will be issued. *( )*

07. *Sale or Marketing Unlawful*. *It is unlawful to sell or market LAP* controlled hunt tags. *In addition to any statutory penalties, a violator of this provision will not be eligible to participate in the LAP program for three (3) years.* *( )*

08. Application of Controlled Hunt Restrictions. ( )

a. The restriction that applying for a moose, bighorn sheep, or mountain goat controlled hunt makes the applicant ineligible to apply for any other controlled hunt *does* not apply to persons who are otherwise eligible to apply for a LAP controlled hunt tag. *( )*

b. LAP controlled hunt*s are exempt from limits or quotas on* nonresident *tags*. *( )*

c. LAP controlled hunt tags are exempt from the one (1) year waiting periods for deer, elk and pronghorn *controlled hunt applications under IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Section 257*. *( )*

09. Special Restrictions. Any person hunting with a LAP controlled hunt tag *may* hunt only within the boundaries described in the *LAP controlled* hunt area. *Bag and possession limits set forth in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Section 200, apply to holders of LAP controlled hunt tags.* *( )*

401. LANDOWNER APPRECIATION SEASONS.
The Commission sets landowner appreciation seasons*, including designation of controlled hunt areas and tag numbers,* by proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

402. – 499. (RESERVED)

500. NONRESIDENT DEER AND ELK TAG OUTFITTER SET-ASIDE.

01. Tags. The following number*s* of nonresident *general hunt* deer tags and nonresident *general hunt* elk tags *will* annually be set aside and reserved for sale to persons who have entered into an agreement to utilize the services of an outfitter licensed under Chapter 21, Title 36, Idaho Code. For each Hunting Season: *( )*

a. One thousand nine hundred eighty-five (1,985) deer tags (*the combined total of* regular *and* White-tailed); *( )*

b. Two thousand four hundred (2,400) elk tags (*the combined total of* A *and* B tags for all zones). *( )*

02. Restrictions. Tags for use in general hunts *will* be sold on a first-come, first-serve basis through July 14 of each year. Application for purchase of these tags *will* be made by the outfitter for the nonresident on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the nonresident has a contract to hunt with the outfitter making application. *( )*

03. Unsold Tags. Any tags not sold by July 15 of each year *will* be sold by the Department to nonresidents on a first-come, first serve basis. *( )*

501. – 504. (RESERVED)

505. DEER AND ELK TAG ALLOCATION.

01. Allocation of Tags for Capped General Hunt Units o*r* Zones. Pursuant to Section 36-408, Idaho Code, the Commission may allocate a number of deer and/or elk tags for use by hunters with signed agreements with licensed outfitters in *units or* zones with limited numbers of tags. The Commission may use this subsection or the allocated tag provisions of Section 36-408, Idaho Code, *to allocate* outfitter tags in capped *general hunt units or* zones. *( )*

a. When the number of hunters in a general hunt unit or zone becomes restricted, the Department will calculate the initial number of allocated tags for each zone using the Idaho Outfitters and Guides Licensing Board's records of average historic use during the previous five (5) year period. Where it is biologically feasible, any reductions in the number of tags available within a zone *that* exceed twenty percent (20%) will be spread over a three (3) year period with a maximum reduction of fifty percent (50%) taken in the first year and twenty-five percent (25%) in the second year. *( )*

b. The allocation of tags will be calculated on a *unit or* zone basis. Any reduction or increase in hunting opportunities will be proportionate among non-outfitted hunters and outfitted hunters, and will be proportionate among resident and non-resident hunters; EXCEPT where such reduction would result in an allocation of greater than twenty-five percent (25%) for non-resident hunters, the Commission may reduce the allocation for non-resident hunters to a percentage of not less than twenty-five percent (25%). *( )*

02. Allocation of Tags for Controlled Hunt Areas. The Commission may only allocate outfitter tags in controlled hunt areas with historic licensed deer and/or elk outfitted area(s). Hunt application and eligibility rules will apply to allocated tags in controlled hunts. *( )*

a. The number of outfitter allocated tags will be in addition to the number of tags authorized by the Commission within each controlled hunt area with historic licensed deer and/or elk outfitter areas. ( )

b. *A person is not eligible to apply for* an outfitter allocated controlled hunt *unless that person has* a written agreement with an outfitter licensed in the hunt area. Successful applicants of an outfitter allocated controlled hunt must hunt with an outfitter licensed for the hunt area. The outfitter must purchase the successful applicant's controlled hunt tag by August 20. *( )*

c. Successful applicants who do not want to participate in the outfitted hunt *may* decline the hunt upon written notification to the Department. Those declining the hunt will then be eligible to participate in a general season or leftover controlled hunt. Those drawing an outfitted controlled hunt and then declining the controlled hunt will be subject to *any applicable* waiting period *under IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Section 257*. *( )*

d. Successful applicants that do not secure the services of an Idaho licensed outfitter and have not purchased the controlled hunt tag by August 20 will forfeit the opportunity to purchase a controlled hunt tag. The

forfeited controlled hunt tag will then be listed as a leftover controlled hunt tag. The Department will inform the Idaho Outfitters and Guides Board that a leftover controlled hunt tag is available. After securing a client, the outfitter(s) may then purchase the leftover controlled hunt tag at a Department office. ( )

e. The *Commission may use this subsection or* the allocated tag provisions of Section 36-408, Idaho Code, *to allocate outfitter tags in controlled hunt areas*: *( )*

i. No less than one (1) tag and no more than three percent (3%) of the total tags; or ( )

ii. A number based on the average historic use during the previous five (5) year period to be rounded up when a decimal equals or exceeds zero point six (0.6) and rounded down when a decimal is less than zero point six (0.6); or ( )

iii. An unlimited number of allocated tags or a number of allocated tags based on historic use as alternatives only for controlled hunt areas with limited nonresident tags and unlimited resident tags; or ( )

iv. No tags will be allocated. ( )

506. DEER AND ELK OUTFITTER ALLOCATED TAG.

01. Distribution of *Outfitter* Allocated Tags. Allocated tags *will* be sold by the Department, as designated by Section 36-2107, Idaho Code, and IDAPA 25.01.01, "Rules of Idaho Outfitters and Guides Licensing Board," to hunters with signed agreements with licensed outfitters in those zones with a cap on the number of tags sold *and in outfitter allocated controlled hunts*. Application for the purchase of allocated tags *will* be made by the outfitter for the hunter on a form prescribed by the Department. The application shall be accompanied by the appropriate license fees and a certification by the outfitter that the hunter has a signed agreement to hunt with the outfitter making application. *( )*

02. Designated Buyers. Purchasers of allocated tags who return their unused tag and a notarized affidavit stating that the tag buyer has not hunted may designate another person to purchase a replacement tag. If the original buyer does not make a designation, the outfitter may make the designation. The designated buyer must pay the regular fee for the replacement tag. ( )

05. Unsold Tags. Any allocation tags not sold by August 1 of each year *will* be sold by the Department *on a first-come, first-served basis*. *( )*

507. – *549*. (RESERVED)

550. NONRESIDENT DEER AND ELK TAG QUOTAS.

***01. General Hunt Tag Quotas**. The following number of general hunt deer tags and elk tags will be set aside annually and reserved for sale to nonresidents: ( )*

***a.** Fourteen thousand (14,000) total deer tags (regular and white-tailed deer tags); ( )*

***b.** Twelve thousand eight hundred fifteen (12,815) total elk tags (A and B tags); ( )*

***c.** One thousand five hundred (1,500) white-tailed deer tags, available only upon sell out of deer tags referenced in Subsection 550.01.a. ( )*

***02. Exceptions**. Sales of nonresident general hunt deer and elk tags to the following persons will not be counted in the quota: ( )*

***a.** Unqualified Residents: Persons who have moved into Idaho and by notarized affidavit show proof of their intent to become bona fide Idaho residents but are not yet qualified to purchase a resident license. ( )*

***b.** Designated Buyers of unused nonresident tags to which the quota has already applied: an unused*

nonresident general hunt deer or elk tag, accompanied by a notarized affidavit stating that the tag buyer has not hunted, may be designated to another nonresident for purchase at the regular tag price, by the original buyer or an outfitter or guide retained by the original buyer, or absent such designation, may be sold by the Department on a first-come, first-serve basis. *( )*

c. *Holders of resident lifetime license certificates who are no longer Idaho residents.* *( )*

d. *Holders of nonresident junior mentored and disabled American veteran tags.* *( )*

551. – 559. (RESERVED)

560. SALE OF UNSOLD NONRESIDENT DEER AND ELK TAGS AS SECOND TAGS.
Any nonresident deer or elk tags unsold on or after August 1 may be sold to residents and to nonresidents as a second tag, at the nonresident deer or elk tag price. All privileges and restrictions associated with the use of such nonresident tags will apply equally to tag buyers that are residents. *( )*

561. – 601. (RESERVED)

602. SPECIAL MILITARY DEPLOYMENT REFUND AND RAIN CHECK.

01. Special Refund and Rain Check. This special refund and rain check rule applies to the appropriate calendar year hunting season. Because of military deployment, some *persons* will be unable to hunt big game animals for which they purchased tags. *( )*

02. Special Refund and Rain Check Eligibility. *Holders of* tags who can show in good faith they could not participate in hunting activities due to military deployment will be eligible for a refund or rain check for license and tags for the next calendar year hunting season as outlined in this rule. *( )*

03. Tag *Options*. Holders of a general season *or controlled hunt* tag for deer*,* elk*, moose, bighorn sheep, or mountain goat* may request: *( )*

a. A refund of the hunting license and tag fee; ( )

b. A rain check for a hunting license and *the* same *general or controlled hunt* tag *for the same species* for the next calendar year hunting season; or *( )*

c. *For deer and elk only, a*n exchange in the calendar year for a *general season* tag *for the same species* in another zone or area so long as tags are available in that area or zone. *( )*

0*4*. Nonresident Bear or Mountain Lion Tags. Holders of nonresident bear or mountain lion tags may request: ( )

a. A refund of the hunting license and tag fee; or ( )

b. A rain check for a hunting license and tag for the next calendar year hunting season. ( )

0*5*. Ineligible to Request Tag Refund or Rain Check. If the person hunts a species of wildlife before requesting a refund or rain check, then the tag fee for that species will not be refunded or eligible for a rain check for the next calendar year season. ( )

0*6*. Ineligible to Request License Fee Refund or Rain Check. If the person hunts for any species during the applicable year before requesting a refund or rain check, then the hunting license fee will not be refunded or eligible for a rain check for the next calendar year season. *( )*

0*7*. Refunds Will Be for the Amount Paid. All refunds will be for the amount the person paid for the hunting license or tag. ( )

08. **Use of Department-Approved Form for Rain Check or Refund Request**. *R*equest*s* for a refund or rain check *under this section will be made* on the Department-approved form (found on Idaho Fish and Game website at http://fishandgame.idaho.gov/) *on or before December 31 of the calendar year in which the license and tags were valid*, along with a copy of deployment papers, or a letter from their commanding officers stating the dates the individual was deployed for duty. Those requests received after this date will not be eligible for the special refund or rain check. *( )*

603. – 699. (RESERVED)

700. BIGHORN SHEEP AUCTION TAG.

01. Eligibility. *Only persons eligible to purchase an Idaho hunting license are* eligible to bid on the bighorn sheep auction tag. *( )*

02. Validity of Tag. The Bighorn Sheep Auction Tag *will* be valid in Controlled Hunt Area 11 only during odd-numbered years and during even-numbered years when the Bighorn Sheep Lottery Tag holder chooses not to hunt in Controlled Hunt Area 11. *( )*

03. License and Controlled Hunt Tag. ( )

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the auction. ( )

b. The successful bidder for the Bighorn Sheep Auction Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. ( )

04. Application of Big Game Rules. All rules governing IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," apply to the eligible and successful bidders other than as specified herein. *( )*

a. No successful bidder *is* eligible to apply for a bighorn sheep controlled hunt tag the same year the bidder is issued a Bighorn Sheep Auction Tag. *( )*

b. *Bighorn sheep auction tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep*. *( )*

701. GOVERNOR'S WILDLIFE PARTNERSHIP TAGS.

01. Application of Big Game Rules. All rules in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," apply to recipients of Governor's Wildlife Partnership Tags other than as specified in this section. *( )*

02. Eligibility. ( )

a. *Only* person*s* eligible to purchase an Idaho hunting license *are eligible to bid on a Governor's Wildlife Partnership Tag*. *( )*

b. A person is eligible to receive only one (1) Governor's Wildlife Partnership Tag in *a calendar* year. *( )*

c. There is no waiting period for eligibility for Governor's Wildlife Partnership Tags for elk, deer, or pronghorn. ( )

03. Validity of Tag. Each Governor's Wildlife Partnership Tag *is* valid for one (1) designated species annually and within the timeframe and area prescribed by the Commission. *( )*

04. License and Controlled Hunt Tag. ( )

a. A hunting license and controlled hunt tag will be provided to the successful bidder from the net proceeds of the Governor's Wildlife Partnership Tag auction. ( )

b. The successful bidder for a Governor's Wildlife Partnership Tag must file a notarized affidavit within fifteen (15) days of the successful bid if the hunting license and tag are to be designated to another individual. ( )

c. If a recipient of a Governor's Wildlife Partnership Tag draws a controlled hunt tag for that species for the same year, the controlled hunt tag *is* voided and the tag fee *will be* refunded *upon the return of the tag to the Department*, unless the tag is a controlled depredation hunt tag or a controlled hunt extra tag. The recipient of a Governor's Wildlife Partnership Tag may purchase second, extra, or leftover tags if a holder of a controlled hunt tag for deer, elk, or pronghorn is allowed to do so under IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals." *( )*

d. Any person who receives a Governor's Wildlife Partnership Tag for bighorn sheep, mountain goat or moose, and who is otherwise eligible to apply for a deer, elk or pronghorn controlled hunt tag, and who draws such a tag, *will* be allowed to hunt for those species during the same year the Governor's Wildlife Partnership Tag is valid. *( )*

702. – 799. (RESERVED)

800. BIGHORN SHEEP LOTTERY TAG.

01. Eligibility. ( )

a. *Only* person*s* eligible to purchase an Idaho hunting license *are eligible to purchase tickets for the Bighorn Sheep Lottery Tag. "Tickets" for the Lottery Tag are hunt applications and are not transferable. A person may submit an application for another eligible individual*. *( )*

b. If any person *is drawn for* the Bighorn Sheep Lottery Tag and has already been drawn for a bighorn sheep controlled hunt tag for the same year, the controlled hunt tag *will be* voided and the tag fees refunded *after return of the earlier drawn tag to the Department*. The Lottery Tag *is* valid to hunt bighorn sheep *in the* year *drawn*. *( )*

02. Validity of Tag. The Bighorn Sheep Lottery Tag *will* be valid in Controlled Hunt Area 11 only during even-numbered years and during odd-numbered years when the Bighorn Sheep Auction Tag holder chooses not to hunt in Controlled Hunt Area 11. *( )*

03. Tag. ( )

a. A hunting license (if needed) and a controlled hunt tag will be provided to the *eligible person drawn for the* Lottery Tag from the net proceeds. *( )*

b. The Bighorn Sheep Lottery Tag *will only* be issued to the *eligible* person whose name appears on the *application drawn for the tag, and will not be issued* to another individual. *( )*

04. Application of Big Game Rules. All rules in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," apply to Lottery Tag *applicants and the Tag recipient*, other than as specified herein. *( )*

a. *Bighorn Sheep Lottery Tag recipients are exempt from the once-in-a-lifetime restrictions on killing bighorn sheep*. *( )*

b. Any person who wins a Bighorn Sheep Lottery Tag, and who is otherwise eligible to apply for a deer, elk, or pronghorn controlled hunt tag and who has drawn such a tag, *will* be allowed to hunt for those species during the same year the Bighorn Sheep Lottery Tag is valid. *( )*

801. – 899. (RESERVED)

900. CHILDREN WITH SPECIAL NEEDS BIG GAME TAG.

01. Availability. The Department *will* make up to five (5) big game tags available for children with life threatening medical conditions each year. *( )*

a. Any of the five (5) big game tags described in Section 901 that has not been issued by July 15 each year may also be available for children with life threatening conditions. *( )*

02. Eligibility. *A* special needs big game tag *will only be issued to* a resident or nonresident minor (seventeen (17) years of age or younger) *with* a life threatening medical condition as certified by a qualified and licensed physician*, and who is* sponsored by a qualified organization defined in Section 36-408(6), Idaho Code. Minimum age, hunter education, and license requirements are waived for individuals applying for or receiving a special needs big game tag. *( )*

03. Validity of Tag. Each special needs tag *will* be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. *( )*

a. The special needs tag is valid in any open hunt, controlled or general, as provided by Commission proclamation, EXCEPT the use of the special needs tag is restricted from use in any Controlled Hunt with less than five (5) controlled hunt tags. ( )

b. Applicants may only receive one (1) special needs tag in a lifetime. ( )

c. In exercising hunting privileges, the recipient of a special needs tag must be accompanied by an adult in possession of a valid Idaho big game hunting license. ( )

04. Application. Applications *will* be on a form as prescribed by the *Department*. *( )*

a. Applications *will only be considered from* eligible nonprofit organizations*. For drawing eligibility, the Department* must receive *an application between* January 2 through January 31*, inclusively,* of the calendar year for the hunt. *( )*

b. Applications received by the Department after January 31 may be considered on a first-come basis if there are not sufficient eligible applications. ( )

c. A copy of the nonprofit organization's IRS determination letter must accompany the application. ( )

05. Fees. All fees associated with applying for and receiving a special needs tag*, including fees for any associated Disabled Persons Motor Vehicle Hunting Permit or Disabled Archery Permit, are* waived. *( )*

06. Random Draw. Eligible applications will be randomly drawn for tag issuance if the number of applications exceeds the number of tags available. ( )

07. Nonresident Tag Limitation. Not more than one (1) special needs tag will be issued to a nonresident, unless there are insufficient applications for resident applicants. ( )

901. DISABLED VETERANS SPECIAL BIG GAME TAG.

01. Availability. The Department *will* make five (5) big game tags available for disabled veterans, of which two (2) tags will be designated to the Idaho Division of Veterans Services. *( )*

a. Any of the five (5) big game tags described in Section 900 that has not been issued by July 15 each year may also be available for disabled veterans. *( )*

02. Eligibility. *A* disabled veterans special big game tag *will only* be *issued to* a disabled veteran, as certified by the Idaho Division of Veterans Services*, who is* sponsored by a qualified organization defined in Section 36-408(7), Idaho Code. *( )*

a. *A disabled veteran does not need a hunting license or hunter education to* apply for or receive a disabled veterans special big game tag. *( )*

b. *An individual may only receive one (1) disabled veterans special big game tag in a lifetime. ( )*

03. Validity of Tag. Each disabled veterans special big game tag *will* be valid for only one (1) of the following species: deer, elk, pronghorn, moose, black bear, or mountain lion. The disabled veterans special big game tag *will be* valid *for use* in any *general or controlled* hunt *open for that species*, EXCEPT *for those* Controlled Hunts with *fewer* than five (5) controlled hunt tags*, as authorized by Commission proclamation*. *( )*

a. Applicants may only receive one (1) disabled veterans special big game tag in a lifetime. ( )

04. Application. Applications *will* be on a form as prescribed by the Director. *( )*

a. Applications *will only* be *considered from* an eligible nonprofit organization or governmental agency*. For drawing eligibility,* the Department *must receive the application between* January 2 through January 31*, inclusively,* of the calendar year for the hunt. *( )*

b. Applications received by the Department after January 31 may be considered on a first come basis if there are not sufficient eligible applications. ( )

c. A copy of the nonprofit organization's IRS determination letter must accompany the application. ( )

05. Fees. All fees associated with applying for and receiving *a* disabled veterans special big game tag*, including any associated Disabled Persons Motor Vehicle Hunting Permit or Disabled Archer Permit, are* waived. *( )*

902. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-104(b) and 36-201, Idaho Code, authorize the Commission to adopt rules concerning the classification and protection of wildlife in the state of Idaho. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife." These rules establish the classification and protection of wildlife. ( )

002. **– 099. (RESERVED)**

100. CLASSIFICATION OF WILDLIFE – BIG GAME ANIMALS.

01. Black bear – *Ursus americanus.* ( )

02. *B*ighorn sheep – *Ovis canadensis*, *identified as "California bighorn sheep" when occurring south of Interstate 84 and as "Rocky Mountain bighorn sheep" when occurring north of Interstate 84.* *( )*

03. Elk – *Cervus canadensis*. *( )*

04. Gray wolf – *Canis lupus*. ( )

05. Grizzly bear – *Ursus arctos*. ( )

06. Moose – *Alces americanus*. *( )*

07. Mountain goat – *Oreamnos americanus*. ( )

08. Mountain lion – *Puma concolor*. ( )

09. Mule deer – *Odocoileus hemionus*. ( )

10. Pronghorn – *Antilocapra americana.* ( )

1*1*. White-tailed deer – *Odocoileus virginianus.* ( )

101. CLASSIFICATION OF WILDLIFE – UPLAND GAME ANIMALS.

01. Mountain cottontail – *Sylvilagus nuttallii*. ( )

02. Pygmy rabbit – *Brachylagus idahoensis*. ( )

03. Snowshoe hare – *Lepus americanus*. ( )

04. Red squirrel – *Tamiasciurus hudsonicus*. ( )

102. CLASSIFICATION OF WILDLIFE – GAME BIRDS.
Game birds include upland game birds, migratory game birds, and American crow. ( )

01. Upland Game Birds. ( )

a. Pheasants: *Phasianus sp.*, including ring-necked pheasant *(P. cochicus)*. *( )*

b. Partridge: gray (Hungarian) partridge – *Perdix perdix*; chukar – *Alectoris sp*. ( )

c. Quail: northern bobwhite – *Colinus virginianus*; California quail – *Callipepla californica*; mountain quail – *Oreortyx pictus*; and Gambel's quail – *Callipepla gambelii*. ( )

d. Grouse: Dusky (blue) grouse – *Dendragapus obscurus*; ruffed grouse – *Bonasa umbellus*; spruce grouse – *Falcipennis canadensis*; Greater sage grouse – *Centrocercus urophasianus*; and sharp-tailed grouse –

Tympanuchus phasianellus. "Forest grouse" means dusky grouse, ruffed grouse, and spruce grouse. ( )

e. Wild turkey – *Meleagris gallopavo*. ( )

02. Migratory Game Birds. ( )

a. American coot – *Fulica americana*. ( )

b. Doves: mourning dove – *Zenaida macroura* and white-winged dove – *Zenaida asiatica*. ( )

c. Ducks: members of the *Anatidae* family other than geese and swans, including bufflehead – *Bucephala albeola*; canvasback – *Aythya valisineria*; gadwall – *Mareca strepera*; Barrow's goldeneye – *Bucephala islandica*; common goldeneye – *Bucephala clangula*; harlequin duck – *Histrionicus histrionicus*; mallard – *Anas platyrhynchos*; common merganser – *Mergus merganser*; hooded merganser – *Lophodytes cucullatus*; red-breasted merganser – *Mergus serrator*; long-tailed duck – *Clangula hyemalis*; northern pintail – *Anas acuta*; redhead – *Aythya americana*; ring-necked duck – *Aythya collaris*; ruddy duck – *Oxyura jamaicensis*; greater scaup – *Aythya marila*; lesser scaup – *Aythya affinis*; northern shoveler – *Spatula clypeata*; blue-winged teal – *Spatula discors*; cinnamon teal – *Spatula cyanoptera*; green-winged teal – *Anas crecca*; American wigeon – *Mareca americana*; Eurasian wigeon – *Mareca penelope*; and wood duck – *Aix sponsa*. ( )

d. Geese: members of the *Anatidae* family other than ducks and swans, including Canada goose – *Branta canadensis ("Canada goose" to include cackling goose – Branta hutchinsii)*; Ross's goose – *Anser rossii*; snow goose – *Anser caerulescens*; and greater white-fronted goose – *Anser albifrons*. ( )

e. Swans: members of the *Anatidae* other than ducks and geese, including Trumpeter swan – *Cygnus buccinator*; and Tundra swan – *Cygnus columbianus*. ( )

f. Wilson's snipe – *Gallinago delicata*. ( )

g. Sandhill Crane – *Antigone canadensis*. ( )

03. American Crow – *Corvus brachyrhynchos*. ( )

103. CLASSIFICATION OF WILDLIFE – GAME FISH.
Game fish includes the following fish and crayfish: ( )

01. American shad – *Alosa sapidissima*. ( )

02. Arctic grayling – *Thymallus arcticus*. ( )

03. Atlantic salmon – *Salmo salar*. ( )

04. Bear Lake whitefish – *Prosopium abyssicola*. ( )

05. Black bullhead – *Ameirus melas*. ( )

06. Black crappie – *Pomoxis nigromaculatus*. ( )

07. Blue catfish – *Ictalurus furcatus*. ( )

08. Blueback trout – *Salvelinus alpinus oquassa*. ( )

09. Bluegill – *Lepomis macrochirus, including hybrid with pumpkinseed*. ( )

10. Bonneville cisco – *Prosopium gemmifer*. ( )

11. Bonneville whitefish – *Prosopium spilonotus*. ( )

12. **Brook trout** – *Salvelinus fontinalis*. ( )

13. **Brown bullhead** – *Ameirus nebulosus*. ( )

14. **Brown trout** – *Salmo trutta*. ( )

15. **Bull trout** – *Salvelinus confluentus*. ( )

16. **Burbot** – *Lota lota*. ( )

17. **Channel catfish** – *Ictalurus punctatus*. ( )

18. **Chinook salmon** – *Oncorhynchus tshawytscha*. ( )

19. **Coho salmon** – *Oncorhynchus kisutch*. ( )

20. **Crayfish** – *Pacifastacus sp*. ( )

21. **Cutthroat trout** – *Oncorhynchus clarkii*, *including subspecies Bonneville cutthroat trout – O. clarkii utah, Lahontan cutthroat trout – O. clarkii henshawi, Westslope cutthroat trout – O. clarkii lewisi, and Yellowstone (including "finespotted") cutthroat trout – O. clarkii bouvieri.* ( )

22. **Flathead catfish** – *Pylodictis olivaris*. ( )

23. ***Golden trout*** *– Oncorhynchus aguabonita.* ( )

24. **Green sunfish** – *Lepomis cyanellus*. ( )

25. **Kokanee** – *Oncorhynchus nerka kennerlyi (not anadromous)*. ( )

26. **Lake trout** – *Salvelinus namaycush*. ( )

27. **Lake whitefish** – *Coregonus clupeaformis*. ( )

28. **Largemouth bass** – *Micropterus salmoides*. ( )

29. **Mountain whitefish** – *Prosopium williamsoni*. ( )

30. **Northern pike** – *Esox lucius*. ( )

31. **Pumpkinseed** – *Lepomis gibbosus*. ( )

32. **Pygmy whitefish** – *Prosopium coulterii*. ( )

33. **Rainbow trout** – *Oncorhynchus mykiss, including redband trout – O. mykiss gairdneri*. ( )

34. **Rainbow/cutthroat trout** ***(cutbow)*** – *O. mykiss* x *O. clarkii* hybrid. ( )

35. **Sauger** – *Sander canadensis*. ( )

36. **Smallmouth bass** – *Micropterus dolomieu*. ( )

37. **Splake** – *S. namaycush* x *S. fontinalis*. ( )

38. **Sockeye salmon** – *Oncorhynchus nerka (anadromous)*. ( )

39. **Steelhead trout** – *Oncorhynchus mykiss (anadromous).* *( )*

40. **Tiger Trout** – *Salmo trutta* x *Salvelinus fontinalis*. ( )

41. **Tiger muskie** – *Esox lucius* x *E. masquinongy*. *( )*

42. **Walleye** – *Sander viteus*. ( )

43. **Warmouth** – *Lepomis gulosus*. ( )

44. **White crappie** – *Pomoxis annularis*. ( )

45. **White sturgeon** – *Acipenser transmontanus*. ( )

46. **Yellow bullhead** – *Ameiurus natalis*. ( )

47. **Yellow perch** – *Perca flavescens*. ( )

104. CLASSIFICATION OF WILDLIFE – FURBEARING ANIMALS.

01. **American badger** – *Taxidea taxus*. ( )

02. **American marten** – *Martes americana*. ( )

03. **American mink** – *Vison vison*. *( )*

04. **Beaver** – *Castor canadensis*. ( )

05. **Bobcat** – *Lynx rufus*. ( )

06. **Canada lynx** – *Lynx canadensis*. ( )

07. **Common muskrat** – *Ondatra zibethicus*. ( )

08. **Fisher** – *Pekania pennanti*. *( )*

09. **Northern river otter** – *Lontra canadensis*. ( )

10. ***Pacific marten*** *– Martes caurina.* *( )*

1*1*. **Red fox** – *Vulpes vulpes* (all color phases). ( )

105. – 149. (RESERVED)

150. THREATENED OR ENDANGERED SPECIES.

151. – 199. (RESERVED)

200. PROTECTED NONGAME SPECIES.

01. **Mammals**. ( )

a. American pika – *Ochotona princeps*. ( )

b. Bats – all species. ( )

c. Chipmunks – *Tamias spp*. *( )*

d. Columbia Plateau ground squirrel – *Urocitellus canus*. ( )

e. Golden-mantled ground squirrel – *Callospermophilus lateralis*. ( )

f. Great Basin ground squirrel – *Urocitellus mollis*. ( )

g. Kit fox – *Vulpes macrotis*. ( )

h. Wolverine – *Gulo gulo*. ( )

i. Northern Idaho ground squirrel – *Urocitellus brunneus*. ( )

j. Northern flying squirrel – *Glaucomys sabrinus*. ( )

k. Rock squirrel – *Otospermophilus variegatus*. ( )

l. Southern Idaho ground squirrel – *Urocitellus endemicus*. ( )

m. Woodland caribou – *Rangifer tarandus caribou*. ( )

n. Wyoming ground squirrel – *Urocitellus elegans nevadensis*. ( )

02. Birds. All native species, except game birds. ( )

03. Amphibians. All native species. ( )

04. Reptiles. All native species. ( )

05. Fish. ( )

a. Bear Lake sculpin – *Cottus extensus*. ( )

b. Northern leatherside chub – *Lepidomeda copei*. ( )

c. Pacific Lamprey – *Entosphenus tridentatus*. ( )

d. Sand roller – *Percopsis transmontana*. ( )

e. Shoshone sculpin – *Cottus greenei*. ( )

f. Wood River sculpin – *cottus leiopomus*. ( )

g. Bluehead sucker – *Catostomus discobolus*. ( )

201. PREDATORY WILDLIFE.
Predatory wildlife are defined in Section 36-201, Idaho Code. ( )

202. – 249. (RESERVED)

250. UNPROTECTED WILDLIFE.
Unprotected Wildlife includes all wildlife not classified in the preceding categories. ( )

251. – 299. (RESERVED)

300. PROTECTION OF WILDLIFE.

01. Game Species. Those species of wildlife classified as Big Game Animals, Upland Game Animals, Game Birds, Migratory Birds, Game Fish/Crustacea, or Furbearing Animals may be taken only in accordance with Idaho law and Commission rules. ( )

02. Protected Nongame and Threatened or Endangered Species. No person may take or possess those species of wildlife classified as Protected Nongame, or Threatened or Endangered at any time or in any manner, except as provided in Idaho Code (including Sections 36-106(e), and 36-1107), and Commission rules. Protected Nongame status is not intended to prevent unintentional take of these species, protection of personal health or safety, limit property and building management, or prevent management of animals to address public health concerns or agricultural damage. ( )

03. Unprotected and Predatory Wildlife. Those species of wildlife classified as Unprotected Wildlife and Predatory Wildlife may be taken in any amount, at any time, and in any manner, by holders of the appropriate valid Idaho hunting, trapping, fishing, or combination license, provided such taking is not *otherwise* in violation of *federal,* state, county, or city laws, rules, ordinances, or regulations. *( )*

301. – 999. (RESERVED)

13.01.07 – RULES GOVERNING THE TAKING OF UPLAND GAME ANIMALS

000. LEGAL AUTHORITY.
Sections 36-103, 36-104, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the taking of upland game animals. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.07, "Rules Governing the Taking of Upland Game Animals." These rules govern the take of upland game animals. ( )

***002*. – 009. (RESERVED)**

010. DEFINITIONS.
IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife," defines upland game animals. ( )

011. – 099. (RESERVED)

100. METHODS OF TAKE.
No person *may* take upland game animals: *( )*

01. Time. From one-half (1/2) hour after sunset to one-half (1/2) hour before sunrise. ( )

02. Type. With a trap, snare, net, or shotgun using shotgun shells exceeding three and one-half (3 1/2) inches in length. ( )

03. Electronic Call. By the use or aid of any electronic call. ( )

101. – 199. (RESERVED)

200. AREAS CLOSED TO HUNTING OF UPLAND GAME ANIMALS.
*No person may h*unt, kill, or molest upland game animals in the following areas: *( )*

01. Craters of the Moon National Monument. Craters of the Moon National Monument in Blaine and Butte Counties (the area of the Monument prior to the November 2000 expansion, which does not include the National Preserve). ( )

02. Harriman State Park. Harriman State Park Wildlife Refuge in Fremont County. ( )

03. Nez Perce National Historical Park. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. ( )

04. Ada County. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue, and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. ( )

05. Yellowstone National Park. Yellowstone National Park in Fremont County. ( )

06. Mann's Lake. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. ( )

07. Other. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which upland game bird hunting closures have been declared by legislative or Commission action. ( )

201. – 299. (RESERVED)

300. WOUNDING – RETRIEVING.
No person *may* wound or kill any upland game animal without making a reasonable effort to retrieve it and reduce it to possession. Every upland game animal wounded by hunting and reduced to possession shall immediately be killed and become a part of the daily bag limit. *( )*

301. – 399. (RESERVED)

400. UPLAND GAME ANIMALS SEASONS, BAG, AND POSSESSION LIMITS.
The Commission sets seasons, bag limits, and possession limits by proclamation, adopted and published as provided by Section 36-105, Idaho Code. ( )

401. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-104(b), 36-405, 36-408, 36-409, and 36-1101(a), Idaho Code, authorize the Commission to adopt rules concerning the taking of big game animals. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals." These rules govern the taking of big game animals. *( )*

***002.* -- *00*9. (RESERVED)**

010. DEFINITIONS.

***01. Established Roadway**. Any road that is established, built, maintained, approved or designated by any governmental entity or private landowner for the purpose of travel by full-sized automobiles. An established roadway shows evidence of repeated use by full-sized automobiles, and may include a traveled way of natural earth with depressed wheel tracks and little or no vegetation in the wheel tracks. ( )*

***02. Front Quarters, Hind Quarter, Loins, and Tenderloins**. As applied in Section 36-1202, Idaho Code, for edible portions of big game animals, front quarters of big game animals include the meat surrounding the ball joint as far down as the knees, hindquarters include the meat surrounding the ball joint as far down as the hock, and the loins and tenderloins are the meat along the backbone. ( )*

***03. Full-sized Automobile**. Any motorized vehicle with a gross weight in excess of one thousand five hundred (1,500) pounds. ( )*

***04. Hunter**. A person engaged in the activity of hunting, as defined in Section 36-202, Idaho Code. ( )*

***05. Motorized Vehicle**. As defined in Section 36-202, Idaho Code. ( )*

011. -- 199. (RESERVED)

200. BAG AND POSSESSION LIMITS.
No person may take more than one (1) deer, elk, pronghorn, moose, bighorn sheep, mountain goat, black bear, or gray wolf during a calendar year EXCEPT: ( )

01. Depredation Hunts. *One (1) additional deer, elk, pronghorn, black bear, or gray wolf may be taken by persons holding a depredation hunt tag for that hunt, EXCEPT where the depredation hunt precedes or follows a controlled hunt in the area, persons who drew that controlled hunt may be selected to participate in the depredation hunt in accordance with Section 800. Such persons must follow the weapon restrictions that apply to the controlled hunt they drew, and participation in the depredation hunt does not allow them to take a second animal. ( )*

02. Extra Tag Hunts. In extra tag hunts, one (1) additional deer, elk or pronghorn may be taken by persons holding tags for those hunts. ( )

03. Limits on Take -- Deer, Elk, Pronghorn, Mountain Lion, Black Bear, Gray Wolf. In no event *may* any person take more deer, elk, pronghorn, mountain lion, black bear, or gray wolf in a calendar year than the number of tags the person legally possesses for each species. *( )*

20*1*. -- 249. (RESERVED)

250. TAGS AND PERMITS.
No person *may take* big game animals without having in possession the appropriate license, tags, and permits. *( )*

01. Use of *Controlled Hunt* Tags. *( )*

a. Controlled hunt tags*, including controlled depredation hunt tags and controlled hunt extra tags,* issued for *big game animals* may be used only *for take of the animal in the hunt area specified by Commission*

proclamation or Department order for the controlled hunt for which the *tag is issued*. *( )*

02. ***Use of General Season Tags***. General season tags*, including extra general season tags,* issued for *big game animals* may be used *during any open general season, including any general special weapon season, ONLY as follows:* *( )*

a. *Only for take of the animal specified on the tag, with a Regular Deer tag being valid for mule deer or white-tailed deer; and* *( )*

b. *Only in the hunt area for which the tags are issued, as designated by Commission proclamation.* *( )*

c. *AND for elk, Elk A Tags may be used only during a general season, including any general special weapon season, designated by Commission proclamation as an Elk A season, and Elk B Tags may be used only during any general season, including any general special weapon season designated by Commission proclamation as an Elk B season.* *( )*

03. ***Statewide Hunt Area****. If a general season tag, including any extra general season tag, for a big game animal does not specify a hunt area, the tag may be used statewide, unless Commission proclamation or Department order specifies an area where such tag use is prohibited or otherwise limited in its use.* *( )*

04. ***Additional Use of Nonresident Deer and Elk Tags****. A nonresident tag, excluding a nonresident junior mentored tag, issued for elk or deer may be used to take a black bear, mountain lion or gray wolf, during any open general season corresponding to the elk or deer tag when the season for the animal taken is also open.* *( )*

251. ***ARCHERY AND MUZZLELOADER PERMITS.***
No person *may* hunt in a *season designated by Commission proclamation as A*rchery *O*nly or *M*uzzleloader *O*nly *without* the appropriate *archery or muzzleloader* permit for the relevant season validated on their license. *( )*

25*2*. -- 254. (RESERVED)

255. NONRESIDENT TAG RESTRICTIONS.

01. Nonresident Tag Limitations. ( )

a. In controlled hunts with ten (10) or fewer tags, not more than one (1) nonresident tag will be issued. In controlled hunts, EXCEPT unlimited controlled hunts, with more than ten (10) tags, not more than ten percent (10%) of the tags will be issued to nonresidents. This rule *will* apply to each uniquely numbered controlled hunt and to the controlled hunts for each species. *( )*

b. In unlimited controlled hunts, the Commission may limit the number of tags available for nonresident*s* to no less than ten percent (10%) of the average number of tags drawn annually during the previous five (5) year period. *( )*

c. Outfitter allocated hunts are exempt from the limitation of this Subsection. ( )

d. For each species, the total number of outfitter allocated controlled hunt tags *will* be subtracted from the result of ten percent (10%) of the sum of all controlled hunt tags; including outfitter allocated controlled hunts, but excluding all unlimited controlled hunts. In addition to the limitations of this Subsection, the resulting net number *will* be the maximum number of controlled hunt tags that may be issued to nonresidents for all controlled hunts except outfitter allocated and unlimited controlled hunts. *( )*

e. Governor's Wildlife Partnership Tags for deer, elk, pronghorn, bighorn sheep, mountain goat, and moose *will* be taken from the nonresident tag quota and availability is subject to Nonresident Tag Limitations. *( )*

256. (RESERVED)

257. ELIGIBILITY FOR CONTROLLED HUNT APPLICATION.
A person must possess an Idaho hunting license valid for taking game animals to apply for any controlled hunt for big game species. ( )

01. Bighorn Sheep. ( )

a. Any person whose name was drawn on a controlled hunt for *any* bighorn sheep *is* not *eligible to* apply for any bighorn tag for two (2) years. Except that a person may apply for a bighorn tag in the second application period or a leftover bighorn tag the following year. *( )*

b. Any person who has killed a California bighorn ram *is not eligible to apply for a California bighorn ram controlled hunt tag; and any person who has killed* a Rocky Mountain bighorn ram *is not eligible to* apply for a *Rocky Mountain bighorn ram controlled hunt tag*, EXCEPT any person who has killed a California bighorn ram south of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a Rocky Mountain bighorn ram tag for any hunt north of Interstate Highway 84*; and a*ny person who has killed a Rocky Mountain bighorn ram north of Interstate Highway 84 since 1974 and is otherwise eligible, may apply for a California bighorn ram tag for any hunt south of Interstate Highway 84. *( )*

c. Any person who kills a bighorn ewe *is not eligible to* apply for another bighorn ewe controlled hunt tag for five (5) years. The harvest of a bighorn ewe does not make the *person* ineligible to apply for a tag to take a California bighorn ram or a Rocky Mountain bighorn ram. Any person who applies for a bighorn ewe *is not eligible to* apply for any bighorn ram the same year. *( )*

02. Mountain Goat. ( )

a. Any person whose name was drawn on a controlled hunt for mountain goat *is not eligible to* apply for a mountain goat tag for two (2) years. Except that a person may apply for a mountain goat tag in the second application period or a leftover mountain goat tag the following year. *( )*

b. Any person who has killed a mountain goat since 1977 *is not eligible to* apply for a mountain goat tag. *( )*

03. Moose. ( )

a. Any person whose name was drawn on a controlled hunt for moose *is not eligible to* apply for a moose permit for two (2) years. Except that a person may apply for a moose tag in the second application period or a leftover moose tag the following year. *( )*

b. Any person who has killed an antlered moose in Idaho *is not eligible to* apply for a moose tag for antlered moose, and any person who has killed an antlerless moose in Idaho *is not eligible to* apply for a tag for antlerless moose EXCEPT that any person may apply for tags remaining *unsold* after the controlled hunt draw.*( )*

04. Antlered Deer. Any person whose name was drawn on a controlled antlered-only deer hunt *is not eligible to* apply for any other controlled antlered-only deer hunt for one (1) year. Except that a person may apply for an antlered-only deer tag in the second application period or a leftover antlered-only deer tag the following year. *( )*

05. Antlered Elk. Any person whose name was drawn on a controlled antlered-only elk hunt *is not eligible to* apply for any other controlled antlered-only elk hunt for one (1) year. Except that a person may apply for an antlered-only elk tag in the second application period or a leftover antlered-only elk tag the following year. The one (1) year waiting period does NOT apply to controlled hunts with an unlimited number of tags, Landowner Appreciation Program tags, or Governor's Wildlife Partnership Tags. *( )*

06. Grizzly Bear. *No* person who has killed a grizzly bear in Idaho may apply for a grizzly bear tag. *( )*

07. Black Bear. Any nonresident applying for a controlled black bear hunt *who wishes to use hounds*

must *separately apply for* a Hound Hunter Permit*, subject to applicable limitations of* IDAPA 13.01.15.200.04, "Rules Governing the Use of Dogs." *( )*

08. Landowner Permission Hunts. Any person applying for a landowner permission hunt must have a permission slip *including the name, address, and signature of* a landowner who owns more than one hundred fifty-nine (159) acres in the hunt area. *( )*

09. Youth Only Hunts. *Youth-only controlled hunt application eligibility is limited to persons nine (9) to seventeen (17) years of age, provided they will be ten (10) to seventeen (17) years of age during the hunt for which they apply. A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person sixty-five (65) years of age or older with a senior or disabled combination or hunting license may apply during a second application period for youth-only controlled hunts or purchase leftover youth-only controlled hunt tags on a first come, first served basis.* *( )*

10. Outfitter Allocated Hunts. Any person must have a written agreement with an outfitter to submit an application for an outfitter allocated controlled hunt. ( )

11. Multiple Applications. ( )

a. Any person applying for a bighorn sheep, mountain goat, *grizzly bear,* or moose controlled hunt *is not eligible to* apply for any other controlled hunt in the same year EXCEPT Unlimited Controlled Hunts, a controlled black bear hunt, a controlled gray wolf hunt, or a designated depredation or extra tag hunt for deer, elk or pronghorn. In addition, unsuccessful applicants for bighorn sheep, mountain goat or moose controlled hunts are eligible to participate in *the* second application period for deer, elk, and pronghorn and the first-come, first-served deer, elk, and pronghorn controlled hunt permit sales. *( )*

b. Any person may apply for both a controlled hunt tag and a controlled hunt extra tag for the same big game species. ( )

258. CONTROLLED HUNT APPLICATIONS

01. Applications. Individual applications or group applications for controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, via the Internet or telephone, not later than the annual dates shown below. Any individual application or group application which is unreadable, has incomplete or incorrect hunt or license numbers, or lacks information or fees will be declared void and will not be entered in the drawing. All applications will be considered final; EXCEPT: applicants who would like to change their submitted controlled hunt application may request the original application be canceled to resubmit a new controlled hunt application during the applicable application period. The new application is subject to the appropriate application fees. *( )*

a. Spring black bear, spring grizzly bear -- Application period - January 15 - February 15. ( )

b. Moose, bighorn sheep, and mountain goat -- Application period for first drawing - April 1 - 30. ( )

c. Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for first drawing -- May 1-June 5. ( )

d. Moose, bighorn sheep, and mountain goat -- Application period for second drawing, if applicable - June 15-25. ( )

e. Deer, elk, pronghorn, fall black bear, fall grizzly bear -- Application period for second drawing -- August 5-15. ( )

02. Applicant Requirements. Applicants must comply with the following requirements: ( )

a. Only one (1) application, per person or group, will be accepted for the same species, EXCEPT a person or group may submit one additional application for a controlled hunt extra tag for the same species. Additional applications for the same person or group for the same species will result in all applicants being declared ineligible. ( )

b. Only one (1) controlled hunt extra tag will be issued for each person on any application submitted. ( )

c. Several applications may be submitted so long as each application is for a single species, a single applicant or group, and both hunts on an application must be controlled hunt tag hunts or controlled hunt extra tag hunts. ( )

d. Fees must be submitted with each application. A single payment may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. The application fee is set by Section 36-416, Idaho Code, per person per controlled hunt applied for. The tag fees are not to be submitted for deer, elk, pronghorn, black bear, or gray wolf. Persons applying for moose, bighorn sheep, *grizzly bear,* or mountain goat controlled hunts must submit the tag fee and application fee with their application. Applicants successful in drawing for a moose, bighorn sheep, or mountain goat will receive a tag in the mail. *( )*

03. Group Application. ( )

a. A "group application" for deer, elk, and pronghorn is defined as two, three, or four (2, 3, or 4) *persons* applying for the same controlled hunt on the same application. All *applicants* must comply with all rules and complete applications properly. All applicants must abide by the same first and second hunt choices. *( )*

b. A "group application" for moose, bighorn sheep, mountain goat, black bear, and gray wolf, is defined as two (2) *persons* applying for the same controlled hunt on the same application. Both *applicants* must comply with all rules and complete applications properly. Both applicants must abide by the same first and second hunt choices. *( )*

c. If a group application exceeds the number of tags available in a hunt, that group application will not be selected for that hunt. ( )

04. Unlimited Controlled Hunts. Deer and elk unlimited controlled hunts identified by proclamation as "first-choice only" may be applied for only as a first choice controlled hunt during the controlled hunt application process. ( )

05. Landowner Permission Controlled Hunts. Landowner permission hunt tags will be sold first-come, first-served basis at the Headquarters or regional offices of the Idaho Department of Fish and Game *beginning the first business day on or after* July 15. *( )*

06. Sale of Remaining Tags. Any controlled hunt tags, EXCEPT unlimited controlled hunts that remain unsold after the controlled hunt drawings may be sold by any *license* vendor, through the Internet, or over the telephone on a first-come, first-served basis on the dates below UNLESS such day is a Sunday or legal holiday, in which case the permits will go on sale the next legal business day. A controlled hunt application and tag will be issued to successful controlled hunt purchasers. The ten percent (10%) nonresident limitation *will* not apply. *Controlled hunt a*pplicants with a tag already in possession must return their tag to a Department office to be exchanged for the appropriate controlled hunt tag*, except where the Commission has authorized by proclamation possession of the additional tag*. *( )*

a. Spring Bear - April 1. *( )*

b. Moose, Bighorn Sheep, and Mountain Goat - July 10. ( )

c. Deer, Elk, Pronghorn, and Fall Bear - August 25. ( )

07. Controlled Hunt Drawing. Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing, provided the second choice hunt applied for has not been filled. ( )

08. Second Drawing Exclusion. The Director may designate certain leftover controlled hunt tags to become immediately available on a first-come, first-served over-the-counter basis due to the dates of the hunt. ( )

259. DEADLINE FOR CLAIMING TAGS AND UNCLAIMED TAGS.

Successful applicants for the first deer, elk, black bear, gray wolf, or pronghorn controlled hunt drawing must purchase and pick up their controlled hunt tag *no later than* August 1. All controlled hunt tags not purchased and picked up will be entered into a second controlled hunt drawing. Any controlled hunt tags*, except unlimited controlled hunt tags,* left over or unclaimed after the second controlled hunt drawing will be sold on a first-come, first-served basis. *( )*

260. USE OF CONTROLLED HUNT TAGS.

01. Use of Controlled Hunt Tags. No person may hunt in any controlled hunt without having a valid controlled hunt tag in possession. ( )

a. A controlled hunt area with an "X" suffix is an extra tag hunt. ( )

b. In the event a tag is issued based on erroneous information, the tag will be invalidated by the Department and may NOT be used. The Department will notify the *person* of the invalidation of the tag. The person will remain on the drawn list, and if there is a waiting period in a succeeding year, the person will be required to wait the specified time period. *( )*

02. Deer. Any person who draws a controlled hunt tag for deer is *not eligible to hunt* in any other deer hunt--archery, muzzleloader, or general; EXCEPT: *( )*

a. The *person* may choose not to purchase the controlled hunt tag by the date set by *Section 259 of these* rules for the first deer drawing, allowing the *person* to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. *( )*

b. If the *person* draws an unlimited controlled hunt, the *person* may relinquish the controlled hunt prior to purchasing, allowing the *person* to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. *( )*

c. The holder of a deer controlled hunt tag may purchase a nonresident general season tag as a second tag. *( )*

d. Any person who draws a controlled hunt extra tag for deer may hunt in any other deer hunt-archery, muzzleloader, general or controlled hunt. ( )

03. Elk. Any person who draws a controlled hunt tag for elk is *not eligible to hunt* in any other elk hunt--archery, muzzleloader, or general; EXCEPT: *( )*

a. The *person* may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first elk drawing, allowing the *person* to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. *( )*

b. If the *person* draws an unlimited controlled hunt, the hunter may relinquish the controlled hunt prior to purchasing, allowing the *person* to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. *( )*

c. The holder of an elk controlled hunt tag may purchase a nonresident general season tag as a second tag. *( )*

d. Any person who draws a controlled hunt extra tag for elk may hunt in any other elk hunt-archery, muzzleloader, general or controlled hunt. ( )

04. Pronghorn. Any person who draws a *pronghorn* controlled hunt tag *is not eligible to hunt* in any other pronghorn hunt; EXCEPT: *( )*

a. The *person* may choose not to purchase the controlled hunt tag by the date set by Commission rule for the first pronghorn drawing allowing the *person* to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. *( )*

b. If the *person* draws an unlimited controlled hunt, the *person* may relinquish the controlled hunt prior to purchasing, allowing the *person* to participate in a general season hunt or the second application period or the leftover controlled hunt tag sale. *( )*

c. The holder of a pronghorn controlled hunt tag may purchase a controlled hunt extra tag for pronghorn. ( )

d. Any person who draws a pronghorn controlled hunt extra tag may apply for a controlled hunt tag for pronghorn. ( )

05. Black Bear. ( )

a. Any person who draws a spring controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or *return* a*n unused* general season bear tag *in exchange* for the controlled hunt bear tag. *( )*

b. Any person who draws a fall controlled hunt tag for black bear may choose to purchase the controlled hunt bear tag or *return* a*n unused* general season bear tag *in exchange* for the controlled hunt bear tag. *( )*

261. SPECIAL CONTROLLED HUNTS.

01. Special Controlled Hunt Program. The Special Controlled Hunt Program is a program to partially fund a sportsman access program adopted by the Commission. This program will offer forty (40) tags valid for the current year hunting seasons; including, twelve (12) tags each for elk, deer, and pronghorn, and four (4) tags for moose. ( )

a. The rules for controlled hunts set forth in Section 260, of these rules, do not apply to the Special Controlled Hunt Program. ( )

b. The Special Controlled Hunt application will be marketed by the Department. The Department will issue these tags to eligible persons selected by an impartial random draw process. The successful applicants will receive the tag necessary to hunt the appropriate species. *( )*

02. Moneys. The Department *will* deposit all moneys received from the sale of Special Controlled Hunt Applications in accordance with state law. The Department *will* specifically use funds for the sportsman access program. *( )*

03. General Rules. ( )

a. Any individual, resident or nonresident, may purchase and submit applications without limit. ( )

b. Special controlled hunt applications may be entered in the name of individuals other than the purchaser. ( )

c. Each successful applicant must have or be eligible to obtain a valid Idaho hunting license. ( )

d. Each tag will be issued to the individual named on the drawn application that meets license eligibility requirements and cannot be transferred. ( )

e. An individual may be drawn for only one (1) special controlled hunt tag for each species. ( )

f. Each special controlled hunt tag is valid for the designated species and allows the *person* to hunt in any open hunt, general or controlled, for the designated species in the applicable year's season. *( )*

g. The special controlled hunt tag *will* be in addition to any other tag the *person* is eligible to obtain. *( )*

h. Any applicant, including those who harvest an animal on a special controlled hunt tag, *will* be eligible to apply for any controlled hunt for the same species in the same year or subsequent years. *( )*

i. In the event a license, tag, or permit is issued based on erroneous information, all documents issued based on the erroneous information will be invalidated by the Department and may not be used. The Department will notify the individual at his last known place of residence of the invalidation of the license, tag or permit. ( )

04. Application Fees. Applications may be sold for individual species (Super Hunt) or grouped for combined species (Super Hunt Combo). The application fees will be set by Commission Order under Section 36-415, Idaho Code, or will be the same as the controlled hunt fee set in Section 36-416, Idaho Code. ( )

05. Drawing Dates. There will be two (2) drawings. All drawings *will* be held at the Department's offices in Boise, Idaho. The first drawing winners will be notified by June 10, and the second drawing winners will be notified by August 15 each year. The Commission may order a different drawing day in case of business emergency, holiday, or non-business days. *( )*

06. Department Marketed Applications. ( )

a. Individual applications for special controlled hunts shall be made on a form prescribed by the Department or submitted electronically at any Department Office or license vendor, via Internet or telephone. ( )

b. *Applications received at the Licenses Section, Headquarters Office, Idaho Department of Fish and Game, PO Box 25, Boise, Idaho 83707-0025, or submitted electronically, by no later than 11:59 pm Mountain time May 31 of the current calendar year will be eligible for the first drawing held in June; and those received after May 31 and by no later than 11:59 pm Mountain time, August 10, of the current calendar year for the second drawing. Applications received after August 10 will be eligible for the drawing held in June of the following year. ( )*

c. All applications entered into the first drawing are not eligible for and will not be entered into the second drawing. ( )

d. Any individual application that is unreadable, has multiple or no species box checked, is incomplete, or lacks the information or fee will be declared void and will not be entered in the drawing. All applications will be considered final; they may not be resubmitted after correction. *( )*

e. Should the winner be ineligible, deceased, or incapacitated to hunt, the first alternate drawn will be declared the winner. Should the first alternate be ineligible, deceased or incapacitated to hunt, the second alternate drawn will *be* declared the winner. Should the second alternate be ineligible, deceased or incapacitated to hunt, that special controlled hunt tag *will* be null and void and *will* not be issued to any person. *( )*

262. DESIGNATION OF CONTROLLED HUNT TAGS TO CHILDREN.

01. Designation by Residents. Any resident adult who possesses any controlled hunt tag EXCEPT a moose, bighorn sheep, mountain goat, or grizzly bear tag, may designate the controlled hunt tag to his or her resident minor child or grandchild who is qualified to participate in the hunt. ( )

02. Designation by Nonresidents. Any nonresident adult who possesses any controlled hunt tag EXCEPT a moose, bighorn sheep, mountain goat, or grizzly bear tag, may designate the controlled hunt tag to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. ( )

03. Applicability of Controlled Hunt Rules. Rules for eligibility, tag claim deadline, and use (Sections 257, 259, 260 and 261) apply to the adult who possesses and designates a controlled hunt tag and to the designated minor child or grandchild. Rules for application for controlled hunt tags apply to the adult who possesses and designates a controlled hunt tag to his or her minor child or grandchild. Mandatory school as provided in Section 270 *will* apply to the designated minor child or grandchild. *( )*

04. Form. Designation of the controlled hunt tag shall be made on a form prescribed by the Department and may be submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. ( )

05. Children. Any resident child or grandchild cannot be designated more than one controlled hunt tag per species per calendar year. ( )

06. Date for Designation. Designation of a controlled hunt tag shall be completed before the opening date for the hunt for which the tag may be used. ( )

263 -- 269. (RESERVED)

270. MANDATORY HUNTER ORIENTATION.
Anyone drawing a controlled archery-only hunt tag *with* mandatory hunter orientation as denoted in the season proclamation will receive orientation information that includes hunt boundaries, legal restrictions, and hunter ethics. Tag holders must sign and return an affidavit that they have reviewed and understand the orientation to receive a Certificate of Completion, which must be carried by the hunter during the hunt. Holders of "Certificates of Completion" from previous hunts *do not have* to repeat this orientation and will be provided with updated Certificates of Completion to participate in the hunt. *( )*

271. -- 299. (RESERVED)

300. IDENTIFICATION OF ANIMALS THAT LEGALLY MAY BE TAKEN.

01. Big Game Animals of Either Sex. Big game animals of either sex may be taken, except the following may not be taken: ( )

a. Mountain Goat. Females accompanied by young. ( )

b. Black Bear. Females accompanied by young. ( )

c. Mountain Lion. Spotted young or females accompanied by young. ( )

d. Grizzly Bear. Adult grizzly bears accompanied by young, or young accompanied by adult grizzly bear(s). ( )

02. Seasons Restricted to Antlered or Male Animals Only. ( )

a. Deer. Only deer with at least one (1) antler longer than three (3) inches may be taken in any season open for antlered deer only. ( )

b. Two-point deer. Only deer with not more than two (2) points on one (1) antler, not including brow point, and at least one (1) antler longer than three (3) inches may be taken in any season open for two-point deer only. *( )*

c. Three-point deer. Only deer having at least one (1) antler with three (3) or more points not counting

the brow point or tine may be taken in any season open for three-point or larger deer only. ( )

d. Four-point deer. Only deer having at least one (1) antler with four (4) or more points, not including the brow point or tine, may be taken in any season open for four-point or larger deer only. ( )

e. Elk. Only elk with at least one (1) antler longer than six (6) inches may be taken in any season which is open for antlered elk only. ( )

f. Spike elk. Only elk with no branching on either antler and at least one (1) antler longer than six (6) inches may be taken in any season which is open for spike elk only. A branch is an antler projection that is at least one (1) inch long and longer than the width of the projection. ( )

g. Brow-tined elk. Any elk having an antler or antlers with a visible point on the lower half of either main beam that is greater than or equal to four (4) inches long. ( )

h. Moose. Only moose with at least one (1) antler longer than six (6) inches may be taken in any season open for antlered moose only. ( )

03. Seasons Restricted to Antlerless or Female Animals Only. ( )

a. Deer. Only deer without antlers or with antlers shorter than three (3) inches may be taken in any season open for antlerless deer only. ( )

b. Elk. Only elk without antlers or with antlers shorter than six (6) inches may be taken in any season open for antlerless elk only. ( )

c. Pronghorn. Only pronghorn without a black "cheek patch" or horns less than three (3) inches long may be taken during doe and fawn only pronghorn seasons. ( )

d. Bighorn sheep. Only bighorn sheep with horns between six (6) inches and twelve (12) inches in length may be taken in any season which is open for bighorn ewes only. ( )

e. Moose. Only moose without antlers or with antlers less than six (6) inches long may be taken in any season which is open for antlerless moose only. ( )

301. -- 319. (RESERVED)

320. TAG VALIDATION AND ATTACHMENT.

01. Tag. Immediately after any deer, elk, pronghorn, moose, bighorn sheep, mountain goat, mountain lion, black bear, grizzly bear, or gray wolf is killed, the appropriate big game animal tag must be validated and securely attached to the animal. ( )

a. Validation. Cut out and completely remove only the two (2) triangles indicating the date and month of kill. ( )

b. Attachment of Tag. ( )

i. Deer, elk, pronghorn, moose, mountain goat, black bear, and bighorn sheep: to the largest portion of the edible meat to be retained by the hunter or any person transporting for the hunter. The tag must remain attached during transit to a place of processing and remain attached until the meat is processed. The validated tag must accompany the processed meat to the place of final storage or final consumption. ( )

ii. Mountain lion, black bear, grizzly bear, and gray wolf: To the hide *until the mandatory check is complied with*. ( )

321. -- 349. (RESERVED)

350. IDENTIFICATION OF SEX, SIZE, AND/OR SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Evidence of Sex. Evidence of sex must be left naturally attached to the carcass of any big game animal *until the carcass reaches the final place of storage or consumption or a commercial meat processing facility as follows:* *( )*

a. In antlered or male only seasons, the evidence of sex requirement is met when the head, horns, or antlers are left naturally attached to the whole carcass or to a front quarter. If the head, horns, or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter; AND the horns or antlers must accompany the carcass while in transit. *( )*

b. In spike elk or two-point (2) deer only seasons, the evidence of sex requirement is met when the head with both complete unaltered antlers are left naturally attached to the whole carcass or to a front quarter. If the head or antlers are removed, some other external evidence of sex (either scrotum, penis or testicles) must be left naturally attached to the carcass or to a hind quarter; AND both complete unaltered antlers naturally attached to each other must accompany the carcass while in transit. *( )*

c. In antlerless, doe/fawn or female only seasons, if the head is removed from female elk, moose, deer, pronghorn, or bighorn sheep, some other external evidence of sex (either udder or the vulva) must be left naturally attached to the carcass or to a hind quarter. *( )*

d. The entire head of antlerless male elk, moose, deer, or pronghorn, or a male lamb bighorn sheep killed during an antlerless, female, doe/fawn or ewe only season, may be left naturally attached to the carcass or to a front quarter. If the head is removed, some other external evidence of sex (either scrotum, penis, or testicles *for males or udder or vulva for females*) must be left naturally attached to the carcass or to a hind quarter; AND the lower jaw must accompany the carcass while in transit. *( )*

e. For black bear, grizzly bear, mountain lion, and gray wolf, external evidence of sex (either scrotum, penis or testicles for males, or *udder or* vulva for females) must be left naturally attached to the hide until the mandatory check has been complied with. *( )*

02. Evidence of Species. In seasons restricted to mule deer only or white-tailed deer only, if the head is removed, the fully-haired tail must be left naturally attached to the carcass. ( )

03. Evidence of Size. Any *person* taking a bighorn ram must leave that portion of the skull plate containing the upper one-half (1/2) of the eye socket naturally attached to both of the horns until after the horns have been pinned by the Department. *( )*

04. Other. The Commission may by proclamation designate seasons and areas in which the head or lower jaw must accompany the carcass in transit. ( )

35*1*. -- 399. (RESERVED)

400. HUNTING HOURS.
Big game animals may be taken ONLY from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. *( )*

401. WOUNDING AND RETRIEVING.
No person *may* wound or kill any big game animal without making a reasonable effort to retrieve it and reduce it to possession. *( )*

402. -- 403. (RESERVED)

404. SPECIAL WEAPON SEASONS.
The Commission may designate by proclamation Special Weapon seasons, such as Archery Only, Muzzleloader Only,

or Short-range Weapons Only, in which restrictions to method of take apply in addition to those set forth in Section 410. ( )

405. SPECIAL WEAPON SEASONS – ARCHERY.

***01. Archery Only Season**. During a season designated by Commission proclamation as an Archery Only season, it is unlawful to take a big game animal: ( )*

***a.** With any firearm, crossbow (except by a holder of disabled archery permit), or implement other than a longbow, compound bow, or recurve bow. ( )*

***b.** With any device attached to the bow that holds a bow at partial or full draw (except by a holder of a disabled archery permit). ( )*

***c.** With any bow or crossbow equipped with magnifying sights. ( )*

***02. Traditional Archery Only Season**. During a season identified by Commission proclamation as Traditional Archery Only, it is unlawful to take any big game animal: ( )*

***a.** With any firearm, crossbow, or implement other than a longbow or recurve bow. ( )*

***b.** With an arrow not constructed of wood or fletched with non-natural material. ( )*

***c.** With any bow equipped with sights. ( )*

406. SPECIAL WEAPON SEASONS – MUZZLELOADER.

***01. Muzzleloader Only Season**. During a season designated by Commission proclamation as a Muzzleloader Only season, it is unlawful to take a big game animal with any firearm, including muzzleloading pistols, or implement other than a muzzleloading rifle or musket that complies with each of the following: ( )*

***a.** Is at least forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat or black bear. ( )*

***b.** Is capable of being loaded only from the muzzle. ( )*

***c.** Is equipped only with open or peep sights. ( )*

***d.** Is loaded only with loose black powder including synthetic black powder. ( )*

***e.** Is equipped with no more than two (2) barrels. ( )*

***f.** Is loaded only with a projectile with a diameter within one hundredth (.01) of an inch of the bore diameter. ( )*

***g.** Is equipped only with flint, musket cap, or percussion cap. 209 primers are prohibited. ( )*

***h.** Is equipped with an exposed ignition system. ( )*

***i.** Is loaded only with a patched round ball or conical non-jacketed projectile comprised wholly of lead or lead alloy. ( )*

***02. Pelletized Powder**. It is unlawful to use pelletized powder in a Muzzleloader Only season. ( )*

***03. Sabot**. It is unlawful to use a sabot in a Muzzleloader Only season. ( )*

407. SPECIAL WEAPON SEASONS – SHORT-RANGE WEAPONS.

*01. **Short-range Weapon Only Season**. During a season designated by Commission proclamation as a Short-Range Weapon Only season, it is unlawful to use any weapon other than the following: ( )*

a. Any shotgun using any slug or double-aught (#00) or larger buckshot. ( )

b. Any muzzleloader that is at least forty-five (0.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or at least fifty (0.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ( )

c. Any bow having a peak draw weight of not less than forty (40) pounds up to or at a draw of twenty-eight (28) inches. ( )

d. Any crossbow having a peak draw weight of not less than one hundred fifty (150) pounds. ( )

e. Any handgun using straight wall centerfire cartridges not originally developed for rifles. ( )

f. Any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles at least thirty-five (0.35) caliber for deer and pronghorn antelope or at least forty-five (0.45) caliber for elk and moose. ( )

***408*. -- 409. (RESERVED)**

410. UNLAWFUL METHODS OF TAKE – GENERAL.
No person *may* take big game animals as *set forth* in this section. *( )*

01. Firearms. ( )

a. With any firearm that, in combination with a scope, sling, and/or any other attachments, weighs more than sixteen (16) pounds. ( )

b. With any shotgun using any shot smaller than double-aught (#00) buck. ( )

c. With any rimfire rifle, rimfire handgun or any muzzleloading handgun, EXCEPT for mountain lion and trapped gray wolf. ( )

d. With a fully automatic firearm. ( )

e. With any electronic device attached to, or incorporated in, the firearm (including handguns and shotguns) or scope; except scopes containing battery powered or tritium lighted reticles are allowed. ( )

02. Bows, Crossbows, Arrows, Bolts, Airguns, Chemicals or Explosives. ( )

a. With arrows or bolts having broadheads measuring less than seven-eighths (7/8) inch in width and having a primary cutting edge less than fifteenth-thousandths (0.015) inch thick. ( )

b. With any bow having a peak draw weight of less than forty (40) pounds up to or at a draw of twenty-eight (28) inches, or any crossbow having a peak draw weight of less than one hundred-fifty (150) pounds. ( )

c. With any chemicals or explosives attached to the arrow or bolt. ( )

d. With arrows or bolts having expanding broadheads. ( )

e. With arrows or bolts having barbed broadheads. A barbed broadhead is a broadhead which has any portion of the rear edge of the broadhead forming an angle less than ninety (90) degrees with the shaft or ferrule. ( )

f. With any electronic or tritium-powered device attached to, or incorporated into, an arrow, bolt, crossbow, or bow (except nonmagnifying scopes containing battery powered or tritium lighted reticles may be used by disabled archery permit holders). ( )

g. With any bow capable of shooting more than one (1) arrow at a time. ( )

h. With any compound bow with more than eighty-five percent (85%) let-off. ( )

i. With an arrow and broadhead, or bolt and broadhead, with a combined total weight of less than three hundred (300) grains. ( )

j. With an arrow less than twenty-four (24) inches or a crossbow bolt less than twelve (12) inches in length from the broadhead to the nock inclusive. ( )

k. With an arrow wherein the broadhead does not precede the shaft and nock. ( )

l. With any crossbow pistol. ( )

m. With any airgun using pre-charged pneumatic power to propel a projectile (excluding shot and arrows) with unignited compressed air or gas and projectiles less than thirty-five (0.35) caliber for deer, pronghorn antelope, mountain lion, or gray wolf, or less than forty-five (0.45) caliber for elk, moose, bighorn sheep, mountain goat, or black or grizzly bear. ( )

03. Muzzleloaders. ( )

a. With a muzzleloading rifle or musket which is less than forty-five (.45) caliber for deer, pronghorn, mountain lion, or gray wolf, or which is less than fifty (.50) caliber for elk, moose, bighorn sheep, mountain goat, or black bear. ( )

b. With any electronic device attached to, or incorporated in, the muzzleloader. ( )

0*4*. Other. ( )

a. With electronic calls EXCEPT for the hunting of mountain lions, black bears, and wolves in seasons set by proclamation. ( )

b. With any bait including grain, salt in any form (liquid or solid), or any other substance (not to include *synthetic* liquid scent) to constitute an attraction or enticement, EXCEPT for black bear baiting and gray wolf trapping, in accordance with IDAPA 13.01.17, "Rules Governing the Use of Bait and Trapping for Taking Big Game Animals." ( )

c. With dogs, EXCEPT for mountain lion or black bear in accordance with IDAPA 13.01.15, "Rules Governing the Use of Dogs." ( )

d. With any net, snare, trap, chemical, deadfall or device other than legal firearm, archery or muzzleloader equipment *or airgun*; EXCEPT wolves may be trapped or snared in seasons set by Commission proclamation and in accordance with IDAPA 13.01.17, "Rules Governing the Use of Bait and Trapping for Taking Big Game Animals." *( )*

e. Within an enclosure designed to prevent ingress or egress of big game animals, including fenced facilities defined as Domestic Cervidae Farms under Section 25-3501, Idaho Code, unless authorized by the director. This rule *does* not apply to domestic cervids. *( )*

f. With radio telemetry or other electronic tracking devices used as an aid to locate big game animals. This rule does not affect the use of telemetry equipment on hounds or other sporting dogs. ( )

411. MOTORIZED HUNTING RULE.

The use of motorized vehicles by hunters as an aid to hunting big game is restricted in certain areas. This use restriction is in addition to all federal, state and local laws, rules, regulations, ordinances and orders; including, but not limited to, any motorized vehicle licensing, registration, and permitting requirements and traffic laws. Hunters must comply with all motorized vehicle limits or prohibitions instituted by the landowner or land manager. Also, this use restriction rule is not an exception from, and is in addition to, the statutory prohibition against hunting from or by the use of any motorized vehicle set forth in Section 36-1101(b)(1), Idaho Code. ( )

01. Use Restriction. In designated units from August 30 through December 31, hunters may only use motorized vehicles on established roadways which are open to motorized traffic and capable of being traveled by full-sized automobiles. ( )

02. Exceptions. This use restriction rule *does* not apply to the following permissible motorized vehicle uses by hunters off of an established roadway: *( )*

a. Holders of a valid *Disabled* Motor Vehicle Hunting Permit may use a motorized vehicle as allowed by the land owner or manager. *( )*

b. Hunters may use a motorized vehicle to retrieve downed game if such travel is allowed by the land owner or manager. ( )

c. Hunters may use a motorized vehicle to pack camping equipment in or out if such travel is allowed by the land owner or manager; however, hunters *may* not hunt while packing camping equipment. *( )*

d. Private landowners on their private land, their authorized agents, and persons with written landowner permission are excepted from the Motorized Hunting Rule use restriction. ( )

412. DESIGNATED MOTORIZED HUNTING RULE UNITS.
The motorized hunting use restriction applies to units 29, 30, 30A, 32, 32A, 36A, 37, 37A, 45, 47, 49, 50, 51, 52, 52A 53, 56, 58, 59, 59A, 66, 66A, 69, 70, 72, 73, 75, 76, 77, and 78. ( )

413. -- 41*8*. (RESERVED)

419. RETURN OF TAGS BY UNSUCCESSFUL HUNTERS.
Hunters who are not successful in killing a bighorn sheep, mountain goat, grizzly bear, or moose shall present or mail their unused tags to a Department office within ten (10) days after the close of the season for which the tag was valid. Canceled tags will be returned to the hunter upon request. *( )*

420. MANDATORY CHECK AND REPORT REQUIREMENTS.
Any *person* killing black bear, moose, bighorn sheep, mountain goat, gray wolf, or mountain lion in a unit with no quota, must, WITHIN TEN (10) DAYS OF THE DATE OF KILL, or any *person* killing mountain lion in a unit with a quota, or a grizzly bear, must, WITHIN FIVE (5) DAYS OF THE DATE OF KILL comply with the mandatory check and report requirements by: *( )*

01. Harvest Report. Completing the relevant harvest report (big game mortality report or other report form as required) for the species taken. ( )

02. Presentation of Animal Parts. Presenting the following animal parts so that Department personnel may collect biological data and mark the animal parts: ( )

a. Black Bear: Skull and hide to be presented to a conservation officer, regional office or official check point for removal and retention of premolar tooth and to have the hide marked. ( )

b. Grizzly Bear: Skull and hide to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. ( )

c. Mountain Lion: Skull and hide to be presented to a conservation officer or regional office to have the hide marked. ( )

d. Gray Wolf: Skull and hide to be presented to a conservation officer or regional office for removal and retention of a premolar tooth, and to have the hide marked. ( )

e. Moose: Antlers from antlered animals to be presented to a conservation officer or regional office. ( )

f. Bighorn Sheep: Ram horns to be presented to a regional office for marking, ewe horns to be presented to a regional office. ( )

g. Mountain Goat: Horns to be presented to a conservation officer or regional office. ( )

03. Possession of Raw Pelts of Black Bear, Grizzly Bear, Mountain lion, and Gray Wolf. ( )

a. No person may have in possession, except during the open season and for ten (10) days after the close of the season, any raw black bear or raw gray wolf pelt without an official state export tag attached, unless that person possesses a fur buyer or taxidermist license or appropriate import documentation. ( )

b. No person may have in possession, except during the open season and for five (5) days after the close of the season, any raw mountain lion or raw grizzly bear pelt without an official state export tag attached, unless that person possesses a fur buyer or taxidermist license or appropriate import documentation. ( )

04. Authorized Representative. A *person* may authorize another person to comply with the above requirements if that person complies with reporting requirements and possesses enough information to accurately complete the necessary form. *( )*

421. MANDATORY PRONGHORN, DEER, AND ELK REPORT REQUIREMENTS.

01. Mandatory Report. Any hunter that obtains a pronghorn, deer, or elk tag must submit to the Department an accurately completed Mandatory Report for the respective species on a form prescribed by the Department, WITHIN TEN (10) DAYS OF KILL*ING SUCH ANIMAL, or if the hunter does not kill such animal,* WITHIN TEN (10) DAYS OF THE CLOSING DATE OF THE APPROPRIATE SEASON. *( )*

02. Failure to Report. Failure to submit the pronghorn, deer, or elk Mandatory Report as required in *this* section will render the *person* ineligible to obtain any license until a late Mandatory Report permit is submitted with the Department. *( )*

422. MANDATORY TELEPHONE REPORT.
In addition to other check and reporting requirements, any hunter killing a grizzly bear must report the harvest within twenty-four (24) hours by calling the Grizzly Bear Reporting Number, a toll-free telephone number published in the grizzly bear season and rules brochure available at Department offices and on the Department website. ( )

423. -- 499. (RESERVED)

500. AREAS CLOSED TO HUNTING OF BIG GAME ANIMALS.

01. Restricted Areas for Big Game. *No person may h*unt, kill, or molest any big game animal in the following areas: *( )*

a. *That area of* Craters of the Moon National Monument in Blaine and Butte Counties *prior to the 2000 expansion of the Monument* (*which* exclud*es* Craters of the Moon Preserve). *( )*

b. All state parks, EXCEPT Farragut State Park*, which* has a November/December deer archery season, *and* Billingsley Creek at Malad Gorge State Park, Castle Rock State Park and state land within the City of Rocks National Reserve*, which* are all open to hunting; *( )*

c. Harriman State Park Wildlife Refuge. ( )

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties; ( )

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21 to Warm Springs Avenue and the Boise City limits; ( )

f. Yellowstone National Park in Fremont County; ( )

g. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which hunting closures have been declared by legislative or Commission action. ( )

h. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges. ( )

i. All Snake River islands between the Glenns Ferry bridge and the Sailor Creek bridge in Elmore County. ( )

j. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area of fifty (50) feet in elevation above the high water level of the Snake River*, as* marked by yellow fiberglass markers, *with* hunting permitted downslope to the river. *( )*

02. Mountain Lions and Gray Wolves. *No person may hunt or pursue m*ountain lion or gray wolf within one-half (1/2) mile of any active Department of Fish and Game big game feeding site. *( )*

03. Black Bear, Grizzly Bear, and Gray Wolves. *No person may hunt or pursue b*lack bear, grizzly bear, or gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. *( )*

501. -- 599. (RESERVED)

600. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 1-5.

01. Unit 1. All of BOUNDARY COUNTY and that portion of BONNER COUNTY north of the Pend Oreille River, Pend Oreille Lake and Clark Fork River. ( )

02. Unit 2. Those portions of BONNER and KOOTENAI COUNTIES within the following boundary: beginning at the intersection of the Idaho-Washington State line and the north bank of the Pend Oreille River, then east along the Pend Oreille River to Pend Oreille Lake at the railroad trestle in the southeast corner of the City of Sandpoint, then south across the railroad trestle, then east and south along the western shore line of Pend Oreille Lake to the south boundary of Farragut State Park, then west along the boundary to State Highway 54 at the west entrance to Farragut State Park, then west on State Highway 54 to U.S. 95, then south on U.S. 95 to Lake Coeur d'Alene at the source of the Spokane River, then west along the southern bank of the Spokane River to the Idaho-Washington State line, then north along the state line to the point of beginning. ( )

03. Unit 3. Those portions of KOOTENAI, SHOSHONE, and BENEWAH COUNTIES within the following boundary: beginning at Mission Point on the St. Joe River and State Highway 3, then northeast on State Highway 3 to Interstate 90, then east on Interstate 90 to Kingston, then north on Forest Highway 9 (North Fork of the Coeur d'Alene River Road) to Forest Service Road 209 (Little North Fork of the Coeur d'Alene River Road), then northwest along Forest Service Road 209 then north along Forest Road 385 to the watershed divide between the Coeur d'Alene River and Pend Oreille Lake, then northwest along the divide to Bernard Peak, then north to Steamboat Rock on Pend Oreille Lake, then west along the lake shore to the south boundary of Farragut State Park, then west along the boundary to State Highway 54 at the west entrance of Farragut State Park, then west on State Highway 54 to U.S. 95, then south on U.S. 95 to Coeur d'Alene Lake, then southeast along the eastern shore line of Coeur d'Alene and Round Lakes to Mission Point, the point of beginning. ( )

04. Unit 4. Those portions of BONNER, KOOTENAI, and SHOSHONE COUNTIES within the

following boundary: beginning on the Idaho-Montana State line at the watershed divide between Pend Oreille Lake and the Coeur d'Alene River, then southeast along the state line to the watershed divide between the Coeur d'Alene and St. Joe Rivers, then west along the divide to State Highway 3, then northeast on State Highway 3 to Interstate 90, then east on Interstate 90 to Kingston, then north on Forest Highway 9 (North Fork of the Coeur d'Alene River Road) to Forest Service Road 209 (Little North Fork of the Coeur d'Alene River Road), then northwest along Forest Service Road 209 then north along Forest Road 385 to the watershed divide between the Coeur d'Alene River and Pend Oreille Lake, then northeast along the divide to the point of beginning. ( )

05. Unit 4A. Those portions of BONNER and KOOTENAI COUNTIES within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between Pend Oreille Lake and the Coeur d'Alene River, then southwest along the divide to Bernard Peak, then north to Steamboat Rock on Pend Oreille Lake, then northwest along the western shoreline of Pend Oreille Lake to the railroad trestle approximately one (1) mile south of Sandpoint, then north on the railroad trestle to Sandpoint, then east along the north banks of Pend Oreille Lake and the Clark Fork River to the Idaho-Montana State line, then south on the state line to the point of beginning. ( )

06. Unit 5. Those portions of BENEWAH and KOOTENAI COUNTIES within the following boundary: beginning at the intersection of the Idaho-Washington State line and the Spokane River, then east along the southern bank of the Spokane River to U.S. 95 at Coeur d'Alene Lake, then southeast along the eastern shore line of Coeur d'Alene and Round Lakes to Mission Point, then upstream along the northern bank of the St. Joe River to the mouth of St. Maries River, then upstream along the St. Maries River to the intersection of the St. Maries River and State Highway 3 near Washburn, then south on State Highway 3 to the intersection of State Highway 6, then west on State Highway 6 to the watershed divide between the St. Maries and Palouse Rivers, then northwest along the divide to West Dennis Peak, then west along the watershed divide between Hangman Creek and Palouse River to the Idaho-Washington State line, then north along the state line to the Spokane River, the point of beginning. ( )

601. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 6-10A.

01. Unit 6. Those portions of KOOTENAI, SHOSHONE, BENEWAH, CLEARWATER, and LATAH COUNTIES within the following boundary: beginning at St. Maries, then downstream along the northern bank of the St. Joe River to Mission Point on State Highway 3, then north on State Highway 3 to the watershed divide between the St. Joe and Coeur d'Alene Rivers, then east along the divide to the Moon Pass Road, then south on Moon Pass Road to Avery, then west on the St. Joe River Road to the Fishhook Creek Road (Forest Service Road 301), then south on Fishhook Creek Road to Breezy Saddle, then southwest on Forest Service Road 301 to White Rock Springs, then south along the watershed divide between the St. Maries River and Little North Fork of the Clearwater River over Stony Butte to Hemlock Butte, then northwest along the St. Maries River-Potlatch River watershed divide across Bald Mountain to State Highway 6, then northeast on State Highway 6 to the intersection of State Highway 3, then north on State Highway 3 to the St. Maries River, then downstream to St. Maries, the point of beginning. ( )

02. Unit 7. That portion of SHOSHONE COUNTY within the following boundary: beginning on the Idaho-Montana State line at the watershed divide between the St. Joe and Coeur d'Alene Rivers, then west along the divide to the Moon Pass Road, then south on Moon Pass Road to Avery, then west on the St. Joe River Road to the Fishhook Creek Road (Forest Service Road 301), then south on the Fishhook Creek Road to Forest Service Road 201, then east on Forest Service Road 201 to Bluff Creek Saddle (Dismal Saddle), then southeast past Dismal Lake and Bathtub Springs to the watershed divide between the St. Joe and North Fork of the Clearwater Rivers, then east along the divide to the Idaho-Montana State line, then north along the state line to the point of beginning. ( )

03. Unit 8. Those portions of LATAH, NEZ PERCE, and CLEARWATER COUNTIES within the following boundary: Beginning on the Idaho-Washington state line at the watershed divide between Hangman Creek and Palouse River, south along the divide to U.S. 95, then south along U.S. 95 to State Highway 6, then east along State Highway 6 to State Highway 9, then southeast along State Highway 9 to Deary, then south on State Highway 3 to Kendrick, then southeast along County Road P-1 through Southwick and Cavendish to the North Fork of the Clearwater River at Ahsahka, then downstream along the North Fork of the Clearwater River to its junction with the main Clearwater River, then down the main Clearwater River to the Idaho-Washington state line, then north to the point of beginning. ( )

04. Unit 8A. Those portions of BENEWAH, LATAH, CLEARWATER, and NEZ PERCE COUNTIES

within the following boundary: Beginning at Ahsahka on County Road P-1, then northwest along County Road P-1 through Southwick and Cavendish to State Highway 3, then northeast along State Highway 3 to Deary, then northwest along State Highway 9 to State Highway 6, then west along State Highway 6 to U.S. 95, then north along U.S. 95 to the watershed divide between Hangman Creek and Palouse River, then southeast along the divide to West Dennis Mountain, then southeast along the St. Maries watershed divide to Hemlock Butte, then south on Elk Creek Road (Forest Service Road 382.4) to Elk River, then south on the Dent Bridge-Elk River Road to the south shoreline of Dworshak Reservoir, then along the southern shoreline to Dworshak Dam, then downstream to the main Clearwater River, then downstream along the North Fork of the Clearwater River (including islands) to Ahsahka, the point of beginning. ( )

05. Unit 9. Those portions of SHOSHONE and CLEARWATER COUNTIES within the following boundary: beginning at Getaway Point, then due south to the Little North Fork of the Clearwater River, then upstream to the watershed divide between Bear and Devils Club Creeks, then east along the divide to Larkins Peak, then northeast along the watershed divide between the Little North Fork of the Clearwater River and the North Fork of the Clearwater River to the Surveyors Ridge-Bathtub Springs Road (Forest Service Road 201), then northwest on Surveyors Ridge-Bathtub Springs Road past Bathtub Springs and Bluff Creek Saddle (Dismal Saddle), to the Fishhook Creek Road (Forest Service Road 301), then south on Fishhook Creek Road to Breezy Saddle, then southwest on Fishhook Creek Road to the Goat Mountain-Getaway Point Road, then southeast on the Goat Mountain-Getaway Point Road to Getaway Point, the point of beginning. ( )

06. Unit 10. Those portions of SHOSHONE, CLEARWATER, and IDAHO COUNTIES within the following boundary: beginning at the confluence of the Little North Fork and the North Fork of the Clearwater Rivers at the upstream end of Dworshak Reservoir, then up the east bank of the reservoir and the Little North Fork of the Clearwater River to the watershed divide between Bear and Devils Club Creeks, then east along the divide to the watershed divide between the Little North Fork and the North Fork of the Clearwater Rivers, then east along the divide to the watershed divide between the North Fork of the Clearwater and the St. Joe Rivers, then east along the divide to the Idaho-Montana State line, then south along the state line to the divide between the North Fork of the Clearwater and the Lochsa Rivers, then west along the divide over Williams Peak to its intersection with the Lolo Motor Way (Forest Service Road 500), then west on Lolo Motor Way to its intersection with the Hemlock Butte Road (Forest Service Road 104), then northwest on Hemlock Butte Road to Hemlock Butte and the watershed divide between Weitas and Orogrande Creeks, then north along the divide to Cabin Point then northwest along Forest Service Trail 17 to the North Fork Clearwater River then downstream along the North Fork of the Clearwater River and the north bank of Dworshak Reservoir to the mouth of the Little North Fork of the Clearwater River, the point of beginning. ( )

07. Unit 10A. Those portions of SHOSHONE, IDAHO and CLEARWATER COUNTIES within the following boundary: beginning at the mouth of the North Fork of the Clearwater River, upstream to Dworshak Dam, then up Dworshak Reservoir along the southern shoreline to Dent Bridge, then north on the Elk River Road to Elk River, then north on the Elk Creek Road (Forest Service Road 382) to Hemlock Butte, then north along the watershed divide between the St. Maries and Little North Fork of the Clearwater Rivers over Stony Butte to White Rock Springs, then east on the Gold Center-Roundtop Road (Forest Service Road 301) to the Goat Mountain-Getaway Point Road (Forest Service Roads 457 and 220), then south along Goat Mountain-Getaway Point Road to Getaway Point, then due south to the Little North Fork of the Clearwater River, then downstream to Dworshak Reservoir, then along the east bank of the reservoir to the North Fork of the Clearwater River, then east along the north bank of the reservoir and the North Fork of the Clearwater River, to Forest Service Trail 17, then south along Forest Service Trail 17 to Cabin Point and the watershed divide between Orogrande and Weitas Creeks, then south along the divide to Hemlock Butte and its intersection with Forest Service Road 104, then southeast on Forest Service Road 104 to Lolo Motor Way (Forest Service Road 500), then south along Lolo Motor Way to Smith Creek Road (Forest Service Road 101), then southwest along Smith Creek Road to the Middle Fork of the Clearwater River, then northwest along the Middle Fork of the Clearwater River to the mouth of the North Fork of the Clearwater River, the point of beginning. ( )

602. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 11-15.

01. Unit 11. Those portions of NEZ PERCE, LEWIS, and IDAHO COUNTIES within the following boundary: beginning at the mouth of the Clearwater River, upstream to U.S. 95 bridge near Spalding, then southeast on U.S. 95 to the Graves Creek Road at Cottonwood, then south on Graves Creek Road to the Salmon River, then

downstream to the Snake River, then downstream to the mouth of the Clearwater River, the point of beginning. ( )

02. Unit 11A. Those portions of CLEARWATER, NEZ PERCE, LEWIS, and IDAHO COUNTIES within the following boundary: beginning on the Clearwater River at the U.S. 95 bridge near Spalding, upstream (excluding islands) to the South Fork of the Clearwater River, then up the South Fork to Harpster Bridge, then southwest on State Highway 13 to U.S. 95 at Grangeville, then northwest on U.S. 95 to Spalding, the point of beginning. ( )

03. Unit 12. Those portions of IDAHO and CLEARWATER COUNTIES within the following boundary: beginning at the junction of the Smith Creek Road (Forest Service Road 101) and the Middle Fork of the Clearwater River, then northeast on the Smith Creek Road to the Lolo Motor Way (Forest Service Road 500), then north along the Lolo Motor Way to the point where it leaves the watershed divide between the North Fork of the Clearwater and Lochsa Rivers at the heads of Papoose Creek and Cayuse Creek, then north along the divide over Williams Peak to the Idaho-Montana State line, then southeast along the state line to the watershed divide between the Lochsa and Selway Rivers, then west along the divide over Diablo Mountain, Elk Summit, McConnell Mountain and Fenn Mountain to the confluence of the Lochsa and Selway Rivers, then down the Middle Fork of the Clearwater River to the Smith Creek Road, the point of beginning. ( )

04. Unit 13. That portion of IDAHO COUNTY bounded by the Snake River on the west, the Salmon River on the east and north and the White Bird-Pittsburg Landing Road on the south. ( )

05. Unit 14. That portion of IDAHO COUNTY within the following boundary: beginning at Riggins on the Salmon River, then upstream to Wind River, then up Wind River to Anchor Creek, then up Anchor Creek to Anchor Meadows, then northeast along the old wagon road (Forest Service Trail 313) to the divide between the Salmon River and South Fork Clearwater River, then west on the divide to Square Mountain, then west on the Square Mountain-Gospel Hill Road (Forest Service Road 444) to the Grangeville-Salmon River Road (Forest Service Road 221), then north on Grangeville-Salmon River Road to State Highway 13 at Grangeville, then west on Highway 13 to U.S. 95, then northwest on U.S. 95 to Cottonwood, then south on the Graves Creek Road to the Salmon River, then upstream to Riggins, the point of beginning. ( )

06. Unit 15. That portion of IDAHO COUNTY within the following boundary: beginning at Grangeville on State Highway 13, then northeast on State Highway 13 to the South Fork of the Clearwater River, then downstream to the road that goes up Sally Ann Creek, then up the road to the town of Clearwater, then southeast along Forest Service Road 284 to Forest Service Road 464, then east along Forest Service Road 464 to the watershed divide between the South Fork Clearwater and Selway Rivers, then southeast along the divide over Forest Service Trail 835 to Anderson Butte, then south over Forest Service Trail 505 to Black Hawk Mountain and Soda Creek Point to the Montana Road (Forest Service Road 468), then west on Montana Road to the Red River Ranger Station-Mackay Bar Road (Forest Service Road 222.3), then southwest on Red River Ranger Station-Mackay Bar Road to Dixie Summit, then west along the watershed divide between the South Fork Clearwater and Salmon Rivers over the Crooked River-Big Creek Divide, Orogrande Summit and Square Mountain to the Moores Guard Station-Adams Ranger Station Road (Forest Service Road 444), then west on Moores Guard Station-Adams Ranger Station Road to the Grangeville-Salmon River Road (Forest Service Road 221), then north on Grangeville-Salmon River Road to Grangeville, the point of beginning. ( )

603. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 16-20A.

01. Unit 16. That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of the Middle Fork of the Clearwater River, then upstream to the confluence of the Lochsa and Selway Rivers, then east along the watershed divide between the Lochsa and Selway Rivers to the watershed divide between Gedney and Three Links Creeks, then south along the divide to Big Fog Mountain, then along Forest Service Trail 343 to Big Fog Saddle, then south along the Fog Mountain Road (Forest Service Road 319) to the Selway River, then upstream to Meadow Creek, then up the Meadow Creek-Falls Point Road (Forest Service Road 443) to Forest Service Road 464, then west along Forest Service Road 464 to Forest Service Road 284, then along Forest Service Road 284 to the town of Clearwater, then west along the road down Sally Ann Creek to State Highway 13, then downstream on the South Fork of the Clearwater River to the Middle Fork of the Clearwater River, the point of beginning. ( )

02. Unit 16A. That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of Meadow Creek on the Selway River, up the Selway River to Mink Creek, then up the divide between Mink Creek and the drainages of Coyote, Wolf, Jims, and Otter Creeks, over Wolf Point and Highline Ridge to the divide between Meadow Creek and the Selway River, then southeast along the divide over Bilk Mountain and Elk Mountain to the Elk Mountain Road, then southwest on the Elk Mountain-Green Mountain-Montana Road to the watershed divide between the South Fork of the Clearwater River and the Selway River (near Mountain Meadows), then northeast along the divide over Soda Creek Point and around the head of Red River, then northwest along the divide over Black Hawk Mountain to Anderson Butte, then from Anderson Butte northwest on Forest Service Trail 835 to the Falls Point Road (Forest Service Road 443), then northeast on Falls Point Road to the mouth of Meadow Creek, the point of beginning. ( )

03. Unit 17. That portion of IDAHO COUNTY within the following boundary: beginning at the Fog Mountain Road (Forest Service Road 319) on the Selway River, then north along Fog Mountain Road to Big Fog Saddle, then north along Forest Service Trail 343 to Big Fog Mountain, then north along the watershed divide between Gedney and Three Links Creeks to the watershed divide between the Lochsa and Selway Rivers, then northeast along the divide over McConnell Mountain and Diablo Mountain to the Idaho-Montana State line, then south along the state line to the watershed divide between the Selway and Salmon Rivers, then west along the divide over Square Top, Waugh Mountain, Salmon Mountain, Burnt Knob and Three Prong Mountain to the Green Mountain-Elk Mountain Road, then north along Green Mountain-Elk Mountain Road to Elk Mountain, then along the watershed divide between the Selway River and Meadow Creek over Elk Mountain and Bilk Mountain to the head of Mink Creek, then down the divide between Mink Creek and the drainages of Otter, Jims, Wolf and Coyote Creeks over Highline Ridge and Wolf Point to the confluence of Three Links Creek with the Selway River, then down the Selway River to the Fog Mountain Road, the point of beginning. ( )

04. Unit 18. Those portions of IDAHO and ADAMS COUNTIES within the following boundary: beginning at Riggins, up the Little Salmon River to Rapid River, then up Rapid River to and including the Shingle Creek drainage to the Snake River divide, then south along the divide to Purgatory Saddle at the head of Granite Creek, then down Granite Creek to the Snake River, then downstream to Pittsburg Landing, then east on the Pittsburg Landing-White Bird Road to the Salmon River, then upstream to Riggins, the point of beginning. ( )

05. Unit 19. That portion of IDAHO COUNTY within the following boundary: beginning on the Salmon River at the mouth of Wind River, then up Wind River to Anchor Creek, then up Anchor Creek to Anchor Meadows, then northeast along the old wagon road (Forest Service Trail 313) to the divide between the Salmon River and South Fork Clearwater River, then east on the divide over Orogrande Summit and the Crooked River-Big Creek divide to Dixie Summit on the Red River Ranger Station-Dixie-Mackay Bar Road, then south on Red River Ranger Station-Dixie-Mackay Bar Road to Mackay Bar, then down the Salmon River to the mouth of Wind River, the point of beginning. ( )

06. Unit 19A. Those portions of IDAHO and VALLEY COUNTIES within the drainage of the south side of the Salmon River from the French Creek-Burgdorf-Summit Creek Road upstream to the South Fork of the Salmon River, the drainage of the west side of the South Fork of the Salmon River from its mouth upstream to and including the Bear Creek watershed, and the drainage of the Secesh River upstream from the mouth of Paradise Creek (including the Paradise Creek watershed), EXCEPT those portions of the French Creek, Lake Creek and Summit Creek drainages west of the French Creek-Burgdorf-Summit Creek Road. ( )

07. Unit 20. That portion of IDAHO COUNTY within the following boundary: beginning at the mouth of the South Fork of the Salmon River, then north along the Mackay Bar-Red River Ranger Station Road (Forest Service Road 222.3) to the Montana Road, then east along Montana Road to the Green Mountain-Elk Mountain Road, then northeast along Green Mountain-Elk Mountain Road to the watershed divide between the Selway and Salmon Rivers around the head of Bargamin Creek, then southeast along the divide over Three Prong Mountain, Burnt Knob, Salmon Mountain and Waugh Mountain, then south down Waugh Ridge to the Salmon River, then downstream to the South Fork of the Salmon River, the point of beginning. ( )

08. Unit 20A. Those portions of IDAHO and VALLEY COUNTIES within the drainage of the south side of the Salmon River from the mouth of the South Fork of the Salmon River upstream to the mouth of the Middle Fork of the Salmon River; the drainage of the east side of the South Fork of the Salmon River from its mouth upstream to and including Hall Creek drainage, and the drainage of the west side of the Middle Fork of the Salmon

River from its mouth upstream to but excluding the Big Creek drainage. ( )

604. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 21-25.

01. Unit 21. That portion of LEMHI COUNTY within the following boundary: beginning at the Idaho-Montana State line on U.S. 93, then west along the state line to the Idaho-Lemhi County line, then southwest along the Idaho-Lemhi County line to the Salmon River, then upstream to the town of North Fork, then north on U.S. 93 to the Idaho-Montana State line, the point of beginning. ( )

02. Unit 21A. That portion of LEMHI COUNTY within the drainage of the east side of the Salmon River downstream from and including the Carmen Creek drainage to the town of North Fork, and that portion of the North Fork of the Salmon River drainage east of U.S. 93 between the town of North Fork and the Idaho-Montana State line. ( )

03. Unit 22. Those portions of IDAHO, ADAMS, and WASHINGTON COUNTIES within the following boundary: beginning at the mouth of Granite Creek on the Snake River, then up Granite Creek to Purgatory Saddle located on the watershed divide between Rapid River and Snake River, then south along the divide to Lick Creek Lookout, then along the watershed divide between Boulder Creek and the Weiser River to the watershed divide between Mud Creek and the Weiser River, then south along the divide to U.S. 95, then southwest on U.S. 95 to Cambridge, then northwest on State Highway 71 to Brownlee Dam, then down the Snake River to Granite Creek, the point of beginning. ( )

04. Unit 23. Those portions of IDAHO, ADAMS, and VALLEY COUNTIES within the drainage of the south side of the Salmon River from its confluence with the Little Salmon River upstream to the French Creek-Burgdorf-Summit Creek Road; those portions of the French Creek, Lake Creek and Summit Creek drainages west of the French Creek-Burgdorf-Summit Creek Road; and within the Little Salmon River drainage, EXCEPT that portion on the north side of Rapid River from the mouth upstream to and including Shingle Creek drainage. ( )

05. Unit 24. That portion of VALLEY COUNTY within the drainage of the North Fork of the Payette River, EXCEPT that portion south of the Smiths Ferry Bridge-Packer John Road on the east side of the river and south of the Smith Ferry-High Valley Road on the west side of the river. ( )

06. Unit 25. That portion of VALLEY COUNTY within the drainage of the South Fork of the Salmon River south of the Hall Creek drainage on the east side of the river, and south of the Bear Creek drainage on the west side of the river, EXCEPT that portion of the Secesh River drainage upstream from and including Paradise Creek drainage. ( )

605. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 26-30A.

01. Unit 26. Those portions of IDAHO and VALLEY COUNTIES within the drainage of Big Creek (tributary to the Middle Fork of the Salmon River). ( )

02. Unit 27. Those portions of LEMHI, VALLEY, and CUSTER COUNTIES within the drainage of the Middle Fork of the Salmon River as follows: the drainages on the east side of the Middle Fork Salmon River from its mouth upstream to Camas Creek; the drainages on the north side of Camas Creek from its mouth upstream to, but excluding, the Yellowjacket Creek drainage; the drainages on the south side of Camas Creek and south of the Camas Creek Trail (Forest Service Trail 134); the drainages on the east side of the Middle Fork Salmon River from Camas Creek upstream to, but excluding, the Marsh Creek drainage; and the drainages on the west side of the Middle Fork of the Salmon River upstream from, but excluding, the Big Creek drainage to, but excluding, the Sulphur Creek drainage. ( )

03. Unit 28. That portion of LEMHI COUNTY within the drainage of the Salmon River south and west of the river from the mouth of the Middle Fork of the Salmon River upstream to, but excluding, the Ellis Creek and Morgan Creek drainages to the Custer County line, and that portion of the north side of Camas Creek and north of the Camas Creek Trail (Forest Service Trail 134) upstream from and including the Yellowjacket Creek drainage. ( )

04. **Unit 29**. That portion of LEMHI COUNTY within the Lemhi River drainage south and west of State Highway 28 and that portion of the Salmon River drainage east of the Salmon River from the Salmon River bridge in the City of Salmon upstream to and including the Poison Creek drainage. ( )

05. **Unit 30**. That portion of LEMHI COUNTY within the Lemhi River drainage north and east of State Highway 28 and north and west of State Highway 29 and that portion of the Salmon River drainage east of the Salmon River from the U.S. 93 bridge in the City of Salmon downstream to, but excluding, the Carmen Creek drainage. ( )

06. **Unit 30A**. That portion of LEMHI COUNTY within the Lemhi River Drainage north and east of State Highway 28 and east of State Highway 29. ( )

606. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 31-35.

01. **Unit 31**. That portion of WASHINGTON COUNTY within the following boundary: beginning at Brownlee Dam on the Snake River, then southeast on State Highway 71 to U.S. 95, then southwest on U.S. 95 to the Snake River at Weiser, then down the Snake River to Brownlee Dam, the point of beginning. ( )

02. **Unit 32**. Those portions of ADA, ADAMS, BOISE, GEM, PAYETTE, VALLEY, and WASHINGTON COUNTIES within the following boundary: beginning at Banks, then down State Highway 55 to Floating Feather Road, then west on Floating Feather Road to State Highway 16, then north on State Highway 16 to State Highway 52, then north on State Highway 52 to the Payette River, then downstream (EXCLUDING PAYETTE RIVER ISLANDS) to the Snake River, then downstream to Weiser, then northeast on U.S. 95 to the Emmett-Council Road in Indian Valley, then south on Emmett-Council Road to the Sheep Creek Road, then east on the Sheep Creek Road to the Squaw Creek Road, then south on the Squaw Creek Road to Ola, then northeast on the Ola-Smiths Ferry Road to High Valley, then south on the High Valley-Dry Buck Road to Banks, the point of beginning. ( )

03. **Unit 32A**. Those portions of ADAMS, GEM, VALLEY, and WASHINGTON COUNTIES within the following boundary: beginning at U.S. 95 on the watershed divide between Weiser River and Mud Creek, then southeast along the watershed divide between Weiser River and Little Salmon River to No Business Lookout, then south along the watershed divide between Weiser River and North Fork Payette River to Lookout Peak, then south along the watershed divide between Squaw Creek and North Fork Payette River to the Smiths Ferry-Ola Road, then northeast on Smiths Ferry-Ola Road to Smiths Ferry, then down the North Fork to Banks, then northwest on the Banks-Dry Buck-High Valley Road to the Ola-High Valley Road, then west on Ola-High Valley Road to Ola, then north on the Squaw Creek Road to the Sheep Creek Road, then west on the Sheep Creek Road to the Emmett-Council Road, then north on Emmett-Council Road to U.S. 95 in Indian Valley, then north on U.S. 95 to the watershed divide between the Weiser River and Mud Creek, the point of beginning. ( )

04. **Unit 33**. Those portions of BOISE and VALLEY COUNTIES within the North Fork of the Payette River drainage east of the river and south of the Packer John Lookout Road, and the drainage of the Middle and South Forks of the Payette River, (EXCEPT the drainage of the Deadwood River upstream from and including Nine Mile Creek on the west side, and No Man Creek on the east side), and that portion of the South Fork of the Payette River drainage downstream from and including the Lick Creek drainage on the north side of the South Fork of the Payette River and downstream from, but excluding, the Huckleberry Creek drainage on the south side of the South Fork of the Payette River. ( )

05. **Unit 34**. Those portions of BOISE and VALLEY COUNTIES within the Middle Fork of the Salmon River drainage on the west side of the river upstream from and including the Sulphur Creek drainage, the drainage of Bear Valley Creek and the drainage of Deadwood River upstream from and including the Nine Mile Creek drainage on the west side and the No Man Creek drainage on the east side. ( )

06. **Unit 35**. That portion of BOISE COUNTY within the South Fork of the Payette River drainage upstream from, but excluding, the Lick Creek drainage on the north side of the South Fork of the Payette River and upstream from, and including the Huckleberry Creek drainage on the south side of the South Fork of the Payette River. ( )

607. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 36-40.

01. Unit 36. Those portions of BLAINE and CUSTER COUNTIES within the Salmon River drainage upstream from and including the Yankee Fork on the north side of the river, and upstream from, and including the Warm Springs, Treon, Cold, and Beaver Creek drainages on the south side of the Salmon River, and including the Marsh Creek drainage of the Middle Fork of the Salmon River. ( )

02. Unit 36A. That portion of CUSTER COUNTY within the Salmon River drainage south and west of U.S. 93 between Willow Creek Summit and the U.S. 93 bridge across the Salmon River south of the town of Challis, and all drainages on the southeast side of the Salmon River upstream from the U.S. 93 bridge to, but excluding, the Warm Springs, Treon, Cold, and Beaver Creek drainages. ( )

03. Unit 36B. That portion of CUSTER COUNTY within the Salmon River drainage on the north and west side of the Salmon River from and including the Ellis Creek drainage upstream to, but excluding, the Yankee Fork drainage. ( )

04. Unit 37. Those portions of CUSTER and LEMHI COUNTIES within the Salmon and Pahsimeroi River drainages east of the Salmon River, south and west of the Ellis-May-Howe Highway, and north and east of U.S. 93 between the U.S. 93 bridge across the Salmon River south of the town of Challis and Willow Creek Summit. ( )

05. Unit 37A. Those portions of CUSTER and LEMHI COUNTIES within the Salmon and Pahsimeroi River drainages east of the Salmon River upstream from, but excluding, the Poison Creek drainage and north and east of the Ellis-May-Howe Highway. ( )

06. Unit 38. Those portions of ADA, BOISE, CANYON, ELMORE, GEM, and PAYETTE COUNTIES within the following boundary: beginning at the confluence of the Payette and Snake Rivers, then up the Payette River (INCLUDING ISLANDS) to State Highway 52 near Emmett, then south on State Highway 52 to State Highway 16, then south on State Highway 16 to Floating Feather Road, then east on Floating Feather Road to State Highway 55, then south on State Highway 55 to State Highway 44, then east on State Highway 44 to Boise, then south on Interstate 84 to Mountain Home, then south on State Highway 51 to the Snake River, then downstream (INCLUDING ISLANDS) to the Idaho-Oregon State line, then north on the state line to the Payette River, the point of beginning. ( )

07. Unit 39. Those portions of ADA, BOISE, and ELMORE COUNTIES within the following boundary: beginning at the City of Boise, then southeast on Interstate 84 to Mountain Home, then northeast on the Mountain Home-Anderson Ranch Dam Road to Anderson Ranch Dam, then up the South Fork of the Boise River to Fall Creek (center of Anderson Ranch Reservoir), then up Fall Creek to the Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road, then north on Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road to James Creek Summit, then east along the watershed divide between the South and Middle Forks of the Boise River to the intersection of the Camas, Blaine and Elmore County lines, then north along the watershed divide between the Boise and Salmon Rivers to the watershed divide between the Boise and South Fork of the Payette Rivers, then west along the divide to Hawley Mountain, then northwest along the divide between the Payette River and the South Fork Payette River to Banks, then south on State Highway 55 to State Highway 44, then east on State Highway 44 to Boise, the point of beginning. ( )

08. Unit 40. That portion of OWYHEE COUNTY within the following boundary: beginning on the Snake River at the Idaho-Oregon State line, upstream to Grandview, then southeast on State Highway 78 to the Poison Creek Road, then southwest on the Poison Creek-Mud Flat-Deep Creek-Cliffs Road to the North Fork of the Owyhee River, then downstream to the Idaho-Oregon State line, then north to the Snake River, the point of beginning. ( )

608. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 41-45.

01. Unit 41. That portion of OWYHEE COUNTY within the following boundary: beginning at Grandview on the Snake River, then southeast on State Highway 78 to the Poison Creek Road, then southwest on the Poison Creek-Mud Flat Road to Poison Creek Summit, then southeast along the watershed divide between the drainages of Poison, Shoofly and Jacks Creeks, and the drainage of Battle Creek to the El Paso Natural Gas Pipeline,

then south along the pipeline to the Idaho-Nevada State line, then east to the Rogerson-Three Creek-Jarbidge Road, then north on Rogerson-Three Creek-Jarbidge Road to the Jarbidge River, then downstream to the West Fork of the Bruneau River, then downstream to the Bruneau River, then downstream to State Highway 51, then north on State Highway 51 to the Snake River, then downstream (EXCLUDING ISLANDS) to Grandview, the point of beginning. ( )

02. Unit 42. That portion of OWYHEE COUNTY within the following boundary: beginning on the North Fork of the Owyhee River at the Idaho-Oregon State line, south along the state line to the Idaho-Nevada State line, then east along the state line to the El Paso Natural Gas Pipeline, then north along the pipeline to the watershed divide between Battle and Jacks Creeks, then northwest along the divide and the divide between Battle, Shoofly, and Poison Creeks to the Poison Creek-Mud Flat Road, then west on Poison Creek-Mud Flat Road to the North Fork of the Owyhee River crossing, then downstream to the state line, the point of beginning. ( )

03. Unit 43. Those portions of CAMAS and ELMORE COUNTIES within the following boundary: beginning at the confluence of the South Fork of the Boise River and Fall Creek (center of Anderson Ranch Reservoir), then up Fall Creek to the Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road, then north on Anderson Ranch Reservoir-Fall Creek-Trinity Mountain-Rocky Bar-James Creek Road to James Creek Summit, then east along the watershed divide between the Middle and South Forks of the Boise River to the intersection with the Elmore-Camas County line, then north along the Elmore-Camas County line to the junction with the Camas-Blaine County line, then southeast along the Camas-Blaine County line to the Dollarhide Summit-Carrie Creek-Little Smoky Creek Road (Forest Service Road 227), then southwest on Dollarhide Summit-Carrie Creek-Little Smoky Creek Road to the Five Points Creek-Couch Summit Road (Forest Service Road 094), then south on Five Points Creek-Couch Summit Road to Couch Summit, then west along the South Fork of the Boise River-Camas Creek watershed divide to Iron Mountain, then southwest on the Forest Service trail to and down the Middle Fork of Lime Creek to Lime Creek (Forest Service Trails 050 and 049), then downstream to the South Fork of the Boise River (middle of Anderson Ranch Reservoir) to the confluence of Fall Creek, the point of beginning. ( )

04. Unit 44. Those portions of BLAINE, CAMAS, and ELMORE COUNTIES within the following boundary: beginning at the junction of the Camp Creek-Croy Creek Road and U.S. 20, then west on U.S. 20 to the Anderson Ranch Dam Road, then north on the Anderson Ranch Dam Road to Anderson Ranch Dam, then up the South Fork of the Boise River (middle of Anderson Ranch Reservoir) to Lime Creek, then upstream along Lime Creek to the Middle Fork of Lime Creek, then northeast on the Middle Fork Lime Creek Forest Service trail to Iron Mountain (Forest Service Trails 049 and 050), then east along the South Fork Boise River-Camas Creek watershed divide to Couch Summit, then north on the Five Points Creek Road (Forest Service Road 094), to the Little Smoky Creek-Carrie Creek-Dollarhide Summit Road (Forest Service Road 227), then northeast on Little Smoky Creek-Carrie Creek-Dollarhide Summit Road to Dollarhide Summit, then southeast along the Little Smoky Creek-Big Wood River-Camas Creek watershed divide to Kelly Mountain, then south down Kelly Gulch Creek to the Camp Creek-Croy Creek Road, then southwest on Camp Creek-Croy Creek Road to U.S. 20, the point of beginning. ( )

05. Unit 45. Those portions of CAMAS, ELMORE, and GOODING COUNTIES within the following boundary: beginning at the junction of U.S. 20 and the Anderson Ranch Dam Road, then east on U.S. 20 to State Highway 46, then south on State Highway 46 to Gooding, then west on U.S. 26 to Bliss, then south on U.S. 30 to the Malad River, then downstream to the Snake River, then downstream (EXCLUDING ALL ISLANDS) to State Highway 51, then north on State Highway 51 to Mountain Home, then northeast on U.S. 20 to Anderson Ranch Dam Road, the point of beginning. ( )

609. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 46-50.

01. Unit 46. Those portions of ELMORE, OWYHEE, and TWIN FALLS COUNTIES within the following boundary: beginning at the State Highway 51 bridge on the Snake River, then upstream (INCLUDING ALL ISLANDS) to the Gridley Bridge across the Snake River near Hagerman, then southeast on U.S. 30 to U.S. 93, then south on U.S. 93 to Rogerson, then southwest on the Rogerson-Three Creek-Jarbidge Road to the Jarbidge River, then downstream to the West Fork of the Bruneau River, then downstream to the Bruneau River, then downstream to State Highway 51, then north on State Highway 51 to the Snake River, the point of beginning. ( )

02. Unit 47. Those portions of OWYHEE and TWIN FALLS COUNTIES within the following

boundary: beginning at Rogerson on U.S. 93, then southwest on the Rogerson-Three Creek-Jarbidge Road to the Idaho-Nevada State line, then east along the state line to U.S. 93, then north on U.S. 93 to Rogerson, the point of beginning. ( )

03. Unit 48. That portion of BLAINE COUNTY within the following boundary: beginning at Ketchum, then south on State Highway 75 to U.S. 20, then west on U.S. 20 to the Camp Creek-Croy Creek Road, then northeast on Camp Creek-Croy Creek Road to Kelly Gulch Creek, then up Kelly Gulch Creek to the Big Wood River-Camas Creek-South Fork of the Boise River watershed divide, then north, east, and south around the headwaters of the Big Wood River to the Trail Creek Road, then southwest on Trail Creek Road to Ketchum, the point of beginning. ( )

04. Unit 49. That portion of BLAINE COUNTY with the following boundary: beginning at Ketchum, then south on State Highway 75 to U.S. 20, then east on U.S. 20 to Lava Lake, then up Copper Creek to the watershed divide between the Little Wood and Big Lost Rivers, then along the divide to the watershed divide between the Big Wood and Big Lost Rivers, then along the divide to the Trail Creek Road, then southwest on Trail Creek Road to Ketchum, the point of beginning. ( )

05. Unit 50. Those portions of BLAINE, BUTTE, and CUSTER COUNTIES within the Big Lost River drainage north of U.S. 20-26 and State Highway 33, and the area east of Lava Lake and Copper Creek and north of U.S. 20-26. ( )

610. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 51-55.

01. Unit 51. Those portions of BUTTE, CUSTER, and LEMHI COUNTIES within the Little Lost River drainage north and west of State Highway 33. ( )

02. Unit 52. Those portions of BLAINE, CAMAS, GOODING, AND LINCOLN COUNTIES within the following boundary: beginning at Gooding, then north on State Highway 46 to U.S. 20, then east on U.S. 20 to Carey, then southwest on U.S. 93 to Shoshone, then west on U.S. 26 to Gooding, the point of beginning. ( )

03. Unit 52A. Those portions of BLAINE, BUTTE, LINCOLN, and MINIDOKA COUNTIES within the following boundary: beginning at Shoshone, then north and east on U.S. 93 to the Arco-Minidoka Road (approximately two (2) miles SW of Arco), then south on the Arco-Minidoka Road to the East Minidoka Road (approximately two (2) miles east of Minidoka), then northwest on the East Minidoka Road to Minidoka, then northwest on State Highway 24 to Shoshone, the point of beginning. ( )

04. Unit 53. Those portions of BLAINE, CASSIA, GOODING, JEROME, LINCOLN, MINIDOKA, POWER, and TWIN FALLS COUNTIES within the following boundary: beginning at Twin Falls, then west and north on U.S. 30 to the Snake River, then down the Snake River to the Malad River, then up the Malad River to U.S. 30, then northwest on U.S. 30 to Bliss, then east on U.S. 26 to Shoshone, then southeast on State Highway 24 to Minidoka, then east on the East Minidoka Road approximately one (1) mile to the Minidoka-Blaine County line, then south along the Minidoka-Blaine County line to the Minidoka National Wildlife Refuge, then southeast along the refuge boundary to the Cassia-Power County line, then south along the Cassia-Power County line to Interstate 86 near Raft River, then west on Interstate 86 to Yale Road, then southwest on Yale Road over Interstate 84 to State Highway 81, then west on State Highway 81 to Burley, then west on U.S. 30 to Twin Falls, the point of beginning. ( )

05. Unit 54. Those portions of CASSIA and TWIN FALLS COUNTIES within the following boundary: beginning at Burley, then west on U.S. 30 to U.S. 93 west of Twin Falls, then south on U.S. 93 to the Idaho-Nevada State line, then east along the state line to the Oakley-Goose Creek Road, then north on Oakley-Goose Creek Road to Oakley, then north on State Highway 27 to Burley, the point of beginning. ( )

06. Unit 55. That portion of CASSIA COUNTY within the following boundary: beginning at Burley, then south on State Highway 27 to Oakley, then south on the Oakley-Goose Creek Road to the Idaho-Utah State line, then east on the state line to the Strevell-Malta Road, then north on Strevell-Malta Road to Malta and State Highway 81, then northwest on State Highway 81 to Burley, the point of beginning. ( )

611. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 56-60A.

01. Unit 56. Those portions of CASSIA, ONEIDA, and POWER COUNTIES within the following boundary: beginning at the Yale Road-State Highway 81 junction, then northeast on Yale Road over Interstate 84 to Interstate 86, then east on Interstate 86 to State Highway 37, then south on State Highway 37 to Holbrook, then south on the Holbrook-Stone Road to the Idaho-Utah State line, then west on the state line to Interstate 84, then northwest on Interstate 84 to the Malta-Sublett Road, then west on Malta-Sublett Road to its junction with State Highway 81, then north on State Highway 81 to the point of beginning. ( )

02. Unit 57. Those portions of CASSIA and ONEIDA COUNTIES within the following boundary: beginning at Malta, then east on the Malta-Sublett Road to Interstate 84, then southeast on Interstate 84 to the Idaho-Utah State line, then west on the state line to the Malta-Strevell Road, then northwest on Malta-Strevell Road to Malta, the point of beginning. ( )

03. Unit 58. Those portions of BUTTE, CLARK, JEFFERSON, and LEMHI COUNTIES within the Birch Creek drainage northwest of State Highway 22. ( )

04. Unit 59. That portion of CLARK COUNTY within the following boundary: beginning at Dubois, then north on Interstate 15 to the Idaho-Montana State line, then west along the state line to Bannock Pass (Clark County), then south on Medicine Lodge Road to State Highway 22, then east on State Highway 22 to Dubois, the point of beginning. ( )

05. Unit 59A. Those portions of CLARK, JEFFERSON, and LEMHI COUNTIES within the following boundary: beginning at Bannock Pass (Clark County) on the Idaho-Montana State line, then west along the state line to the watershed divide between Birch and Crooked Creeks, then south along the divide through Reno Point to State Highway 22, then east on State Highway 22 to Medicine Lodge Road, then north on Medicine Lodge Road to Bannock Pass, the point of beginning. ( )

06. Unit 60. Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at Ashton, then north on U.S. 191-20 to the old (south) Shotgun Valley Road, then west on Shotgun Valley Road to Idmon, then south on the Rexburg-Kilgore Road (Red Road) to the Camas Creek-Jackson Mill Springs Road, then east on Camas Creek-Jackson Mill Springs Road to the Hamilton Hill Road, then southeast on the Hamilton Hill Road to the Sand Creek Road, then southeast on the Sand Creek Road to the old Yellowstone Highway, then east on old Yellowstone Highway to U.S. 191-20, then north on U.S. 191-20 to Ashton, the point of beginning. ( )

07. Unit 60A. Those portions of CLARK, FREMONT, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at Spencer, east on the Spencer-Kilgore Road to Idmon, then south on the Rexburg-Kilgore Road (Red Road) to the Camas Creek-Jackson Mill Springs Road, then east on Camas Creek-Jackson Mill Springs Road to the Hamilton Hill Road, then southeast on the Hamilton Hill Road to the Sand Creek Road, then south on the Sand Creek Road to the old Yellowstone Highway, then south on old Yellowstone Highway to U.S. 191-20, then south on U.S. 191-20 to Rexburg, then west on State Highway 33 to Sage Junction, then north on Interstate 15 to Spencer, the point of beginning. ( )

612. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 61-65.

01. Unit 61. Those portions of CLARK and FREMONT COUNTIES within the following boundary: beginning at Spencer, east on the Spencer-Kilgore Road to Idman, then east on the old (south) Shotgun Valley Road to U.S. 191, then south on U.S. 191 to State Highway 47, then southeast on State Highway 47 to the North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on the Pineview-Island Park Road to the Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then north along the Yellowstone Park boundary to the Idaho-Montana State line, then west to Monida Pass, then south on Interstate 15 to Spencer, the point of beginning. ( )

02. Unit 62. Those portions of FREMONT, MADISON, and TETON COUNTIES within the following boundary: beginning at the Leigh Creek Road on the Idaho-Wyoming State line, north along the state line to the Yellowstone Park boundary, then northwest along the Yellowstone Park boundary to Robinson Creek, then

downstream to State Highway 47, then southwest on State Highway 47 to Ashton, then south on U.S. 191 to State Highway 33, then east on State Highway 33 to Leigh Creek Road east of Tetonia, then east on Leigh Creek Road to the state line, the point of beginning. ( )

03. Unit 62A. That portion of FREMONT COUNTY within the following boundary: beginning at Ashton, then north on U.S. 191 to State Highway 47, then south on State Highway 47 to the North Hatchery Butte Road, then east on North Hatchery Butte Road to Pineview, then north on the Pineview-Island Park Road to the Baker Draw-Black Mountain Springs Road, then east on Baker Draw-Black Mountain Springs Road to Fish Creek Road, then south on Fish Creek Road to the North Fork of Partridge Creek, then upstream to the Yellowstone Park boundary, then south along the park boundary to Robinson Creek, then downstream to State Highway 47, then southwest on State Highway 47 to Ashton, the point of beginning. ( )

04. Unit 63. Those portions of BINGHAM, BONNEVILLE, BUTTE, CLARK, and JEFFERSON COUNTIES within the following boundary: beginning at Blackfoot then north on Interstate 15 to Dubois, then southwest on State Highway 22 to U.S. 20-26, then southeast on U.S. 26 to Interstate 15 at Blackfoot, the point of beginning. ( )

05. Unit 63A. Those portions of BONNEVILLE, JEFFERSON, and MADISON COUNTIES within the following boundary: beginning at Idaho Falls, then east on U.S. 26 to the spot directly above the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then north across the South Fork of the Snake River to the Heise-Archer-Lyman Road (Snake River Road), then northwest on Heise-Archer-Lyman Road to U.S. 191, then north on U.S. 191 to Rexburg, then west on State Highway 33 to Interstate 15 (Sage Junction), then south on Interstate 15 to Idaho Falls, then east on Broadway Street to U.S. 26, the point of beginning. ( )

06. Unit 64. Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning at the junction of State Highway 33 and U.S. 191 at Sugar City, then south on U.S. 191 to the Lyman-Archer-Heise Road (Snake River Road), then southeast on Lyman-Archer-Heise Road to the Kelly Canyon-Tablerock Road, then east on Kelly Canyon-Tablerock Road to the Hawley Gulch Road (Forest Service Road 218), then east on Hawley Gulch Road to the Moody Swamp Road (Forest Service Road 226), then northeast on Moody Swamp Road to the head of Hilton Creek, then east along the watershed divide between Big Burns and Canyon Creeks to Garns Mountain, then north along the watershed divide between Canyon Creek and Teton River to Grandview Point, then north down the Milk Creek Road to State Highway 33, then west on State Highway 33 to U.S. 191, the point of beginning. ( )

07. Unit 65. Those portions of BONNEVILLE, MADISON, and TETON COUNTIES within the following boundary: beginning on the Leigh Creek Road at the Idaho-Wyoming State line east of Tetonia, west to State Highway 33, then west on State Highway 33 to Milk Creek Road, then south on Milk Creek Road to Grandview Point, then south along the watershed divide between Canyon Creek and Teton River to Garns Mountain, then southeast along the watershed divide between Pine Creek and Teton River over Red Mountain to Pine Creek Pass, then east on State Highway 31 to Victor, then southeast on State Highway 33 to the state line, then north to the Leigh Creek Road, the point of beginning. ( )

613. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 66-70.

01. Unit 66. Those portions of BINGHAM and BONNEVILLE COUNTIES within the following boundary: beginning at the Idaho-Wyoming State line on the South Fork of the Snake River, then downstream to the Swan Valley bridge on U.S. 26, then northwest on U.S. 26 to the watershed divide between Granite and Garden Creeks, then southwest along the divide and the divides between Garden-Antelope Creeks, Antelope-Pritchard Creeks and Fall-Tex Creeks to the Fall Creek Road (Forest Service Road 077), then west on Fall Creek Road to Skyline Ridge Road (Forest Service Road 077), then south on Skyline Ridge Road to Brockman Guard Station, then down Brockman Creek to Grays Lake Outlet, then upstream along the outlet to the Bone-Grays Lake Road, then east on Bone-Grays Lake Road through Herman to the McCoy Creek Road (Forest Service Road 087), then east on the McCoy Creek Road to the Idaho-Wyoming State line, then north to the point of beginning. ( )

02. Unit 66A. Those portions of BONNEVILLE and CARIBOU COUNTIES within the following boundary: beginning on the McCoy Creek Road (Forest Service Road 087) at the Idaho-Wyoming State line, west on McCoy Creek Road through Herman to the Bone-Grays Lake Road, then west on the Bone-Grays Lake Road to the

West Side Road west of Grays Lake, then south on the West Side Road to State Highway 34, then east on State Highway 34 to the state line, then north along the state line to the point of beginning. ( )

03. Unit 67. Those portions of BONNEVILLE, JEFFERSON, MADISON, and TETON COUNTIES within the following boundary: beginning on State Highway 33 at the Idaho-Wyoming State line, then northwest to Victor, then southwest on State Highway 31 to Pine Creek Pass, then northwest along the watershed divide between Pine Creek and Teton River over Red Mountain to Garns Mountain, then west along the watershed divide between Big Burns and Canyon Creeks to the Moody Swamp Road (Forest Service Road 226) at Hilton Creek, then west on Moody Swamp Road to the Hawley Gulch Road (Forest Service Road 218), then west on Hawley Gulch Road and the Kelly Canyon Road to the South Fork Snake River Road, then upstream to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then due south across the river to the mean high water line on the south shore of the South Fork Snake River, then upstream along the mean high water line to the divide between Garden and Granite Creeks in Conant Valley, then south up the divide to U.S. 26, then southeast on U.S. 26 to the Swan Valley bridge, then up the South Fork Snake River to the Idaho-Wyoming State line, then north on the state line to State Highway 33, the point of beginning. ( )

04. Unit 68. Those portions of BINGHAM, BLAINE, BUTTE, CASSIA, MINIDOKA, and POWER COUNTIES within the following boundary: beginning at Arco, then southeast on U.S. 26 to Blackfoot, then southwest on State Highway 39 to American Falls, then southwest on Interstate 86 to the Cassia-Power County line east of Raft River, then north along the Cassia-Power county line to the north bank of the Snake River, then northwest along the northern boundary of the Minidoka National Wildlife Refuge to the Minidoka-Blaine County line, then north along the Minidoka-Blaine County line to the East Minidoka Road, then east on the East Minidoka Road approximately one (1) mile to the Arco-Minidoka Road, then north on the Minidoka-Arco Road to U.S. 93 approximately two (2) miles southwest of Arco, then northeast approximately two (2) miles on U.S. 93 to Arco, the point of beginning. ( )

05. Unit 68A. Those portions of BANNOCK, BINGHAM, BONNEVILLE, and POWER COUNTIES within the following boundary: beginning at American Falls, then northeast on State Highway 39 to U.S. 26 near Blackfoot, then east on U.S. 26 to Interstate 15, then north on Interstate 15 to Idaho Falls, then east on Broadway Street to U.S. 91 (Old Yellowstone Highway), then south on U.S. 91 to Interstate 15, then south on Interstate 15 to Interstate 86, then southwest on Interstate 86 to American Falls, the point of beginning. ( )

06. Unit 69. Those portions of BINGHAM, BONNEVILLE, and CARIBOU COUNTIES within the following boundary: beginning at Idaho Falls, then south on U.S. 91 to Blackfoot, then south on Interstate 15 to the Fort Hall interchange, then east on the Fort Hall-Government Dam Road to the Blackfoot River below the Government Dam, then along the north and east shore of the Blackfoot River and Reservoir to State Highway 34, then north on State Highway 34 to the West Side Road, then north on the West Side Road west of Grays Lake to the Bone-Grays Lake Road, then east on the Bone-Grays Lake Road to Grays Lake Outlet, then downstream along the outlet to Brockman Creek, then up Brockman Creek to the Brockman Guard Station, then northwest on the Skyline Ridge Road (Forest Service Road 077) to Fall Creek Road (Forest Service Road 077), then east on the Fall Creek Road to the watershed divide between Fall and Tex Creeks, then north along the Fall Creek-Tex Creek, Antelope Creek-Pritchard Creek, Antelope Creek-Garden Creek and Garden Creek-Granite Creek watershed divides to the South Fork of the Snake River, then downstream along the mean high water line on the south shore of the South Fork to the Heise measuring cable (about 1.5 miles upstream from Heise Hot Springs), then southwest to U.S. 26, then west on U.S. 26 to Idaho Falls, the point of beginning. ( )

07. Unit 70. Those portions of BANNOCK and POWER COUNTIES within the following boundary: beginning at the junction of Interstate 86 and Interstate 15 near Pocatello, then west on Interstate 86 to the Bannock Creek-Arbon Valley Highway, then south along Bannock Creek-Arbon Valley Highway to Mink Creek-Arbon Valley junction near Pauline, then northeast along Mink Creek Road to the Rattlesnake Creek Road, then east along the Rattlesnake Creek-Garden Gap-Arimo Road, then southeast on Rattlesnake Creek-Garden Gap-Arimo Road to Arimo, then north on Interstate 15 to the point of beginning. ( )

614. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 71-75.

01. Unit 71. Those portions of BANNOCK, BINGHAM, and CARIBOU COUNTIES within the following boundary: beginning at Bancroft, then north on the Bancroft-Chesterfield Road to Chesterfield Dam, then

upstream on the Portneuf River to the Government Dam-Fort Hall Road, then west to Fort Hall interchange, then south on Interstate 15 to U.S. 30, then east to the Pebble-Bancroft county road (old U.S. 30N), then northeast to Bancroft, the point of beginning. ( )

02. Unit 72. Those portions of BINGHAM and CARIBOU COUNTIES within the following boundary: beginning at State Highway 34 on the Blackfoot River, then west along the east and north shore of the Blackfoot River and Reservoir to the Government Dam Road, then west on the Government Dam-Fort Hall Road to the Portneuf River, then downstream to Chesterfield Dam, then south on the Chesterfield-Bancroft Road to Bancroft, then east on the Pebble-Bancroft county road (old U.S. 30N) to U.S. 30N-State Highway 34, then northeast on State Highway 34 to the point of beginning. ( )

03. Unit 73. Those portions of BANNOCK, FRANKLIN, POWER, and ONEIDA COUNTIES within the following boundary: beginning on U.S. 91 at the Idaho-Utah State line, then north to Arimo, then northwest on the Arimo-Garden Gap-Rattlesnake Road to the Mink Creek Highway, then south along Mink Creek Highway to the Arbon Valley Highway near Pauline, then south on the Arbon Valley Highway to State Highway 37, then west to Holbrook, then south on the Holbrook-Stone Road to the Idaho-Utah State line, then east along the state line to U.S. 91, the point of beginning. ( )

04. Unit 73A. Those portions of BANNOCK, ONEIDA, and POWER COUNTIES within the following boundary: beginning at Holbrook, then north on State Highway 37 to Interstate 86, then northeast on Interstate 86 to the Bannock Creek-Arbon Valley Highway, then south on Bannock Creek-Arbon Valley Highway to State Highway 37, then west to Holbrook, the point of beginning. ( )

05. Unit 74. Those portions of BANNOCK, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Preston, then north on U.S. 91 to Interstate 15, then north on Interstate 15 to U.S. 30N, then east on U.S. 30N to the Pebble-Bancroft county road (old U.S. 30N), then northeast to State Highway 34, then south on State Highway 34 to Preston, the point of beginning. ( )

06. Unit 75. Those portions of BEAR LAKE, CARIBOU, and FRANKLIN COUNTIES within the following boundary: beginning at Montpelier, then northwest on U.S. 30 to State Highway 34, then south to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on the Hot Springs-Strawberry Canyon Road to the Strawberry Canyon-Emigration Canyon Road, then east on Strawberry Canyon-Emigration Canyon Road to Ovid, then east on U.S. 89 to Montpelier, the point of beginning. ( )

615. GAME MANAGEMENT UNIT BOUNDARY DESCRIPTIONS — UNITS 76-78.

01. Unit 76. Those portions of BEAR LAKE and CARIBOU COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Montpelier, then north on U.S. 30 to Soda Springs, then northeast on State Highway 34 to the Idaho-Wyoming State line, then south on the Idaho-Wyoming State line to the Idaho-Utah State line, then west on the Idaho-Utah State line to U.S. 89, the point of beginning. ( )

02. Unit 77. That portion of FRANKLIN COUNTY within the following boundary: beginning at U.S. 91 on the Idaho-Utah State line, then north to Preston, then north on State Highway 34 to Cleveland Bridge, then south on the county road to Maple Grove Hot Springs, then east on the Hot Springs-Strawberry Canyon Road to the Strawberry Canyon-Emigration Canyon Road, then south on the Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415), then south on the Franklin Basin Road to the Idaho-Utah State line, then west on the state line to U.S. 91, the point of beginning. ( )

03. Unit 78. Those portions of BEAR LAKE and FRANKLIN COUNTIES within the following boundary: beginning at U.S. 89 on the Idaho-Utah State line, then north to Ovid, then west on the Emigration Canyon-Strawberry Canyon Road, then south on the Highline Trail (Forest Service Trail 316) to Danish Pass (Forest Service Road 415), then west on (Forest Service Road 415), then south on Franklin Basin Road to the Idaho-Utah State line, then east on the state line to U.S. 89, the point of beginning. ( )

616. -- 649. (RESERVED)

650. ELK ZONE DESCRIPTIONS.

01. Panhandle Zone. All of Units 1, 2, 3, 4, 4A, 5, 6, 7, and 9. ( )

02. Palouse Zone. All of Units 8, 8A, and 11A. ( )

03. Dworshak Zone. All of Unit 10A. ( )

04. Hells Canyon Zone. All of Units 11, 13, and 18. ( )

05. Lolo Zone. All of Units 10 and 12. ( )

06. Elk City Zone. All of Units 14, 15, and 16. ( )

07. Selway Zone. All of Units 16A, 17, 19, and 20. ( )

08. Middle Fork Zone. All of Units 20A, 26, and 27. ( )

09. Salmon Zone. All of Units 21, 21A, 28, and 36B. ( )

10. Weiser River Zone. All of Units 22, 32, and 32A. ( )

11. McCall Zone. All of Units 19A, 23, 24, and 25. ( )

12. Lemhi Zone. All of Units 29, 37, 37A, and 51. ( )

13. Beaverhead Zone. All of Units 30, 30A, 58, 59, and 59A. ( )

14. Brownlee Zone. All of Unit 31. ( )

15. Sawtooth Zone. All of Units 33, 34, 35, and 36. ( )

16. Pioneer Zone. All of Units 36A, 49, and 50. ( )

17. Owyhee Zone. All of Units 38, 40, 41, and 42. ( )

18. South Hills Zone. All of Units 46, 47, 54, 55, 56, and 57. ( )

19. Boise River Zone. All of Unit 39. ( )

20. Smoky - Bennett Zone. All of Units 43, 44, 45, 48, and 52. ( )

21. Big Desert Zone. All of Units 52A and 68. ( )

22. Island Park Zone. All of Units 60, 60A, 61, 62, and 62A. ( )

23. Palisades Zone. All of Units 64, 65, and 67. ( )

24. Tex Creek Zone. All of Units 66 and 69. ( )

25. Bannock Zone. All of Units 70, 71, 72, 73, 73A, and 74. ( )

26. Bear River Zone. All of Units 75, 77, and 78. ( )

27. Diamond Creek Zone. All of Units 66A and 76. ( )

28. Snake River Zone. All of Units 53, 63, 63A, and 68A. ( )

651. -- 699. (RESERVED)

700. SEASONS, LIMITS, CONTROLLED HUNT*S, AND TAG NUMBERS*.
The Commission sets seasons (including general and youth only, special weapon, short-range, unit exceptions for methods of take), limits, controlled hunt areas *and tag numbers, and general unit or zone tag numbers* by proclamation adopted and published in accordance with Section 36-105(3), Idaho Code. *( )*

701. -- 799. (RESERVED)

800. EMERGENCY DEPREDATION HUNTS.

01. Eligibility. ( )

a. Only Idaho residents with a valid Idaho hunting or combination license are eligible to apply to participate in emergency depredation hunts. ( )

b. Persons submitting applications for emergency depredation hunts are eligible to apply for controlled hunts or may hunt in the general season. ( )

02. Applications. ( )

a. A person may submit no more than (1) application per year for each species--deer, elk, pronghorn, black bear, or gray wolf. ( )

b. An individual or a group may apply. A group is defined as two (2) hunters applying for the same depredation hunt on the same application. If an individual submits application for more than one (1) species, he does not have *to* apply in the same group or area for each application *( )*

c. Any form not properly completed will be ineligible for selection. ( )

d. Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag will be considered an applicant for any depredation hunt for that species which is: ( )

i. Held prior to the antlerless or doe/fawn, or black bear controlled hunt; and ( )

ii. Is in the same area as the depredation. ( )

e. Any holder of an antlerless or doe/fawn, or black bear controlled hunt tag may also apply for a depredation hunt in any region. ( )

f. A list of depredation hunt applications received will be maintained for the time period July 1 to June 30. Applications are valid only for the time period for which they are submitted. ( )

03. Selection of Participants. The Department will place all applications (individual or group) for each depredation hunt received by June 30 in random order. All applications received after June 30 will be placed at the end of the list in the order received, except that military personnel returning from active duty will be given priority. The Department *will* select participants for a hunt in the order in which applicants appear on the list EXCEPT for those hunts which precede, or at the discretion of the Regional Supervisor, follow a controlled hunt for doe/fawn or antlerless animals or black bear. If a depredation hunt is scheduled before or, at the discretion of the Regional Supervisor, after a doe/fawn or antlerless hunt or black bear hunt in the same unit, the holders of the doe/fawn or antlerless tags or black bear tag will be given the option to hunt in the depredation hunt. If no doe/fawn or antlerless or black bear hunts are scheduled in that unit, or if some depredation hunt tags are not taken by controlled hunt hunters, participants will be selected from applicants for that depredation hunt. If a group application is selected, both hunters will be offered depredation hunt tags. *( )*

801. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-103, 36-104, 36-1101, and 36-1102, Idaho Code, authorize the Commission to adopt rules concerning the taking of game birds. ( )

001. TITLE AND SCOPE.
The *title of this chapter for citation is* IDAPA 13.01.09, "Rules Governing the Taking of Game Birds." These rules govern the taking of game birds. *( )*

***002*. – 009. (RESERVED)**

010. DEFINITIONS.

***01. Accompanied**. Close enough to be within normal conversation or hearing range without shouting or the aid of electronic devices.* *( )*

0*2*. Migratory Game Birds. Birds classified as migratory game birds in IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife." ( )

0*3*. Upland Game Birds. Birds classified as upland game birds in IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife." ( )

0*4*. Waterfowl. The combination of ducks, geese, and swans, under the migratory game bird classification in IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife." ( )

011. – 099. (RESERVED)

100. SAGE AND SHARP-TAILED GROUSE TAGS, PERMITS, AND VALIDATIONS.
No person may hunt sage or sharp-tailed grouse anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license with validation for sage grouse and sharp-tailed grouse. ( )

101. MIGRATORY GAME BIRD TAGS, PERMITS, AND VALIDATIONS.

01. License Validation. No person may hunt migratory game birds anywhere within the state, without having in possession the appropriate hunting license with validation for the Migratory Game Bird Harvest Information Program and tag. ( )

02. Sandhill Crane Tag. ( )

a. Immediately after any sandhill crane is killed, the sandhill crane tag must be validated and securely attached to the sandhill crane. *Tag validation means* cut*ting* out and completely remov*ing* two (2) triangles on the border of the tag, one (1) for the month and one (1) for the day of the kill. *( )*

***b*.** The tag must remain attached so long as the sandhill crane is in transit or storage. ( )

03. Youth Waterfowl Season. The youth waterfowl season is open only to licensed hunters with Migratory Bird validation who are eight (8) to seventeen (17) years of age, and *who are* accompanied in the field at all times by a licensed hunter eighteen (18) years of age or older. *( )*

102. WILD TURKEY TAGS, STAMPS, PERMITS, AND VALIDATIONS.
No person may hunt wild turkey without having in possession the appropriate hunting license, tag, and controlled hunt permit. ( )

01. Tags. There are three (3) types of turkey tags available: the general tag, extra tag, and special unit tag. A hunter may purchase one (1) general tag, two (2) extra tags, and three (3) special unit tags. The general tag and one (1) extra tag may be used during the spring general season; however, if one (1) or both go unused, the unused tag(s) may be used during the general fall season. A second extra tag may also be used during the general fall season. A general tag or an extra tag may be used with a controlled hunt permit in the spring and fall seasons. Special unit tags may be used in designated units during any season set by the Commission *or in a depredation hunt when authorized by the Director*. *( )*

02. Youth General Hunts. Youth-only general hunts are limited to participation by hunters who are ten (10) to seventeen (17) years of age with a valid license. ( )

03. Controlled Hunts. A controlled hunt permit for wild turkey is valid only for the hunt area for which the permit was drawn. ( )

a. Eligibility: The holders of hunting licenses valid for game birds are eligible to apply for spring and fall controlled hunts subject to the following restrictions: ( )

i. In the event a permit is issued based on erroneous information, the permit will be invalidated and the person will remain on the drawn list. ( )

ii. *L*andowner permission hunt *application eligibility is limited to persons who have* a signed permission slip*, which includes the landowner's name and address,* from a landowner who owns more than seventy-nine (79) acres in the hunt area. *( )*

iii. *Y*outh-only controlled hunt *application eligibility is limited to persons* nine (9) to seventeen (17) years of age, provided they *will be* ten (10) to seventeen (17) years of age during the hunt for which they apply. *A nine (9) year old cannot participate in the hunt until turning age ten (10). A person who turns eighteen (18) years of age during the hunt may continue to participate through the end of the youth-only controlled hunt. A person* sixty-five (65) years of age or older with a senior *or disabled* combination *or* hunting license may apply *on a* first-come, first-served *basis for* leftover youth-only controlled hunt permits. *( )*

b. Applications: Applications for spring and fall controlled hunts may be submitted electronically through the automated licensing system at any vendor location, including Department offices, through the Internet, or via telephone, not later than March 1 for spring hunts and June 5 for fall hunts, annually. *( )*

i. Duplicate license numbers will not be accepted. *Applications from Holders of a Duplicate License (Type 501) will be processed only if they include original license numbers.* *( )*

ii. Only one (1) application per person or group will be accepted. Additional applications will result in all applicants being declared ineligible. *( )*

iii. A single payment (either cashier's check, money order, certified check, or personal check) may be submitted to cover fees for all applications. If a check or money order is insufficient to cover the fees, all applications will be voided and returned. ( )

iv. A "group application" is defined as two (2) hunters applying for the same controlled hunt on the same application. ( )

v. Hunting license and tag fees will NOT be refunded to unsuccessful applicants. ( )

c. Drawing information: Single or group applications which are not drawn for the first choice hunt will automatically be entered into a second choice drawing provided the second choice hunt applied for has not been filled. ( )

04. Tag Validation. ( )

a. Tag and permit validation and attachment: Immediately after any wild turkey is killed, the turkey tag and permit, if a controlled hunt, must be validated and securely attached to the wild turkey. *T*ag and permit *validation means* cut*ting* out and completely remov*ing* two (2) triangles on the border of *each* tag and permit, one (1) for the month and one (1) for the day of the kill. *( )*

b. The tag and permit must remain attached so long as the turkey is in transit or storage. ( )

05. Tag Designation. ( )

a. Any resident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her resident minor child or grandchild who is qualified to participate in the hunt. *( )*

b. Any nonresident adult person who possesses a controlled hunt permit may designate the controlled hunt permit to his or her nonresident minor child or grandchild who is qualified to participate in the hunt. *( )*

c. *The d*esignation of the controlled hunt permit *is not effective unless it is:* *( )*

i. *M*ade on a form prescribed by the Department and submitted either in person to any Department Office or by mail to the License Supervisor at P.O. Box 25, Boise, ID 83707. *( )*

ii. *Completed before the first opening hunt date for the permit.* *( )*

d. Any child cannot be designated more than one (1) controlled hunt permit per calendar year. ( )

06. Landowner Permission Tags. Landowner permission hunt tags will be sold on a first-come, first-served basis at Department offices after March 20 for spring hunts and after July 10 for fall hunts. ( )

103. PHEASANT TAGS, PERMITS, AND VALIDATIONS.
No person may hunt pheasant anywhere within the state, except licensed shooting preserves, without having in possession the appropriate hunting license and permit. ( )

01. WMA Upland Game Bird Permit. ( )

a. Any person eighteen (18) years of age or older hunting for or having a pheasant in his or her possession on Fort Boise, C.J. Strike, Montour, Payette River, Sterling, Market Lake, Mud Lake, Cartier, or Niagara Springs Wildlife Management Areas must have a valid WMA Upland Game Bird Permit in possession. ( )

b. Permit Limit. Each WMA Upland Game Bird Permit has a limit of six (6) cocks. Multiple permits may be purchased. ( )

c. Permit Validation. Any person harvesting a pheasant where a WMA Upland Game Bird Permit is required must immediately validate their Permit upon reducing a pheasant to possession by entering the harvest date and location in Non-Erasable ink, and removing a notch from the permit for each pheasant taken. ( )

02. Youth Pheasant Season. The youth pheasant season is open only to *licensed* hunters ten (10) to seventeen (17) years of age and hunting passport holders eight (8) to seventeen (17) years of age, *provided such youth hunters/passport holders are* accompanied in the field at all times by *a licensed hunter* eighteen (18) years of age or older. *( )*

10*4*. – 199. (RESERVED)

200. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION.
No person *may* possess*,* transport*,* or ship any game bird *or Eurasian-collared dove between the place where taken and the personal abode of the possessor OR between the place where taken and a commercial processing or storage facility unless*: *( )*

01. Wild Turkey. The beard or leg of wild turkey *is* left naturally attached to the carcass. *( )*

02. All Other Game Birds and Eurasian-Collared Doves. One (1) fully-feathered wing or the head *is left naturally attached to the carcass*. *( )*

201. – 299. (RESERVED)

300. UPLAND GAME BIRD METHODS OF TAKE.

01. Upland Game Birds. No person *may* take upland game birds: *( )*

a. With a trap, snare, net, crossbow, or firearm. ( )

i. EXCEPT *upland game birds may be taken with* a shotgun using shells not exceeding three and one-half (3-1/2) inches maximum length, *or muzzleloading shotgun*; *or* *( )*

ii. EXCEPT, forest grouse only *may be taken with* a crossbow *or firearm*. *( )*

b. From any watercraft. ( )

c. By the use or aid of any electronic call. ( )

d. By the aid of baiting. Bait is defined as any substance placed to attract upland game birds. ( )

e. When hunting on Wildlife Management Areas where pheasants are stocked, without wearing at least thirty-six (36) square inches of visible hunter orange above the waist. ( )

02. Wild Turkey. In addition to the methods listed above, *no person may take* wild turkey: *( )*

a. With lead shot exceeding BB size. ( )

b. With steel shot exceeding T size. ( )

c. By the use of dogs, except during fall hunts. ( )

301. MIGRATORY GAME BIRD AND AMERICAN CROW METHODS OF TAKE.
As provided by Section 36-1102, Idaho Code, taking of migratory birds is subject to the provisions of the federal migratory bird treaty act and federal regulations (found at 50 CFR Part 20). ( )

01. Waterfowl. No person may take waterfowl, or coot while in possession of shot other than nontoxic shot federally approved for waterfowl hunting. No person may take waterfowl with shot larger than two tenths (.20) inches in diameter (size T). ( )

02. Mourning Doves, Common Snipe, and Sandhill Cranes. No person may take mourning doves, common snipe, or Sandhill Cranes while in possession of shot larger than two tenths (.20) inches in diameter (size T). ( )

03. American Crow. No person may take American crow: with trap, snare, net, rifle, pistol or a shotgun using shells exceeding three and one-half (3-1/2) inches maximum length. ( )

302. – 399. (RESERVED)

400. AREAS CLOSED TO HUNTING OF GAME BIRDS.

01. General. *The following areas are CLOSED to the* hunting, killing, or molesting of any game bird: *( )*

a. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the 2000 expansion of the Monument (which excludes the Craters of the Moon National Preserve). ( )

b. Hagerman Fossil Beds National Monument in Twin Falls County, EXCEPT that portion within an area fifty (50) feet in elevation above the high water level of the Snake River (the upslope area is marked by yellow fiberglass markers, and hunting is permitted downslope to the river). ( )

c. Harriman State Park Wildlife Refuge in Fremont County. ( )

d. Nez Perce National Historical Park in Clearwater, Idaho, and Nez Perce Counties. ( )

e. That portion of Ada County within Veterans Memorial Park and the area between State Highway 21, Warm Springs Avenue and the Boise City limits. ( )

f. Yellowstone National Park in Fremont County. ( )

g. Fort Boise Wildlife Management Area (WMA) in Canyon County from September 15 through the end of the waterfowl hunting season in the area enclosed by the following boundary: Beginning at the bridge across Sand Hollow Creek on Old Fort Boise Road approximately one hundred (100) yards west of the WMA headquarters, then north along the east bank of Sand Hollow Creek to its confluence with the Snake River, then north and northeast downstream along the east bank of the Snake River to the WMA boundary fence, then south and southeast along the WMA boundary fence to Old Fort Boise Road, then west on Old Fort Boise Road to the point of beginning. ( )

h. Roswell Marsh Wildlife Habitat Area in Canyon County on Sundays, Mondays, Tuesdays and Wednesdays from September 15 through the end of the waterfowl hunting season in the area south of Highway 18 and west of Pebble Lane (Roswell Marsh segment). ( )

i. Mann's Lake in Nez Perce County and extending three hundred (300) yards beyond the Bureau of Reclamation property that encompasses the lake. ( )

j. On any of those portions of federal refuges, State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which bird hunting closures have been declared by legislative or Commission action EXCEPT as otherwise expressly stated below in Section 401 under Game Preserves Open to Hunting of Game Birds. ( )

02. Migratory Game Birds. In addition to the areas listed above *as closed to* hunting of game birds, the following areas *are* CLOSED to hunting*, killing, or molesting* migratory game birds *other than mourning dove*: *( )*

a. Fort Hall Indian Reservation in Bingham, Bannock, and Power Counties within three hundred (300) yards each way of the Fort Hall Bluffs from Bigbend Boat Launch to the west boundary of the Fort Hall Indian Reservation, and within one hundred (100) yards of any improved roadway or inhabited dwelling any place within the reservation boundary. ( )

b. Hagerman Wildlife Management Area (WMA) in Gooding County in the area enclosed by the following boundary: Beginning at a point two hundred (200) yards west of the point at which U.S. Highway 30 crosses the south bank of Gridley Island, then northwest along a line two hundred (200) yards southwest of and parallel to U.S. Highway 30 to a point two hundred (200) yards west of the junction of U.S. Highway 30 and the WMA entrance, then west and north and east along a line two hundred (200) yards outside of the WMA boundary which is marked by a fence, to the point at which the fence meets U.S. Highway 30, then east and south along a line five hundred (500) yards outside of the WMA boundary to the Snake River, then downstream along the north bank of the Snake River and then along the south bank of Gridley Island to the point where U.S. Highway 30 crosses the south bank of Gridley Island, then two hundred (200) yards west of U.S. Highway 30 to the point of beginning. Exception: Department sponsored waterfowl hunts. ( )

c. Hubbard Reservoir in Ada County including the shoreline area within two hundred (200) yards of the existing water line. ( )

d. Mormon Reservoir in Camas County including the shoreline area within two hundred (200) yards of the ordinary high water line. ( )

e. Spokane River in Kootenai County from the Post Falls Dam to Lake Coeur d'Alene at the orange pilings, within two hundred (200) yards of the ordinary high water line two thousand one hundred twenty-eight (2,128) feet above sea level. ( )

f. Thompson Lake in Kootenai County in the area enclosed by the following center-of-roadway

boundary: Beginning at the junction of State Highway 97 and Thompson Lake Road 317 north of the town of Harrison, then along Thompson Lake Road 317 to the junction of Blue Lake Road 318 east of Thompson Lake, then along Blue Lake Road 318 to the junction of Anderson Lake Road 319 at Springston, then along Anderson Lake Road 319 to the Trail of the Coeur d'Alenes bicycle path, then west along the bicycle path to the junction of State Highway 97 west of Harrison, then along State Highway 97 to the point of beginning. ( )

03. Geese. In addition to the areas listed above *as closed to hunting of game birds and migratory game birds, the following areas are CLOSED to* the hunting, killing, or molesting of any species of geese: *( )*

a. Canyon County in the area enclosed by the following roadway boundary and within one hundred fifty (150) feet of the exterior side of said boundary (except that the closure extend*s* to one hundred (100) yards from the exterior side of said boundary along that section commencing at the junction of Lake Shore Drive and Rim Road, then south on Rim Road to west Lewis Lane, then east on west Lewis Lane to Lake Shore Drive, then along Lake Shore Drive to Emerald Road): Beginning approximately three fourths (3/4) of a mile south of the City of Nampa at the junction of State Highway 45 (12th Avenue Road) and Greenhurst Road, then west following Greenhurst Road to its junction with Middleton Road, then north following Middleton Road to its junction with Lake Lowell Avenue, then west following Lake Lowell Avenue to its junction with Lake Avenue, then north following Lake Avenue to its junction with West Roosevelt Avenue, then west following West Roosevelt Avenue to its junction with Indiana Avenue, then north following Indiana Avenue to its junction with State Highway 55 (Karcher Road), then west following State Highway 55 to its junction with Riverside Road, then south following Riverside Road to the Deer Flat National Wildlife Refuge boundary, then west along boundary fence below lower embankment as posted to Lake Shore Drive, then in a southeast direction following Lake Shore Drive to its junction with Marsing Road, then east and south on Lake Shore Drive to Rim Drive, then south on Rim Drive to West Lewis Lane, then east on West Lewis Lane to Lake Shore Drive, then southeast on Lake Shore Drive to State Highway 45, then north on State Highway 45 to its junction with Greenhurst Road, the point of beginning. *( )*

b. Hagerman Valley in Gooding and Twin Falls Counties in the area enclosed by the following boundary: Beginning at the Gridley Island Bridge on the Snake River, then south and east along the south bank to a point perpendicular to mile marker 187.5, then on a direct line east to the southern tip of Ritter Island (in the Snake River), then continuing east to the intersection of 3200 South Road and 1300 East Road, then north on the 1300 East Road to the 1200 East Road, then northwest and north on the 1200 East Road to the 3000 South Road, then west on the 3000 South Road to a point (which is five hundred (500) yards east of the intersection of the 3000 South Road and the Hagerman National Fish Hatchery Road) five hundred (500) yards east of the Hagerman Wildlife Management Area (WMA) boundary, then north and west five hundred (500) yards outside the Hagerman WMA boundary to U.S. Highway 30, then west and south two hundred (200) yards outside the Hagerman WMA boundary to the 2900 South Road, then west on the 2900 South Road to the 900 East Road, then due south to a point two hundred (200) yards north of the Snake River, then west and north two hundred (200) yards outside the high water line on the east bank of the Snake River to Lower Salmon Dam, then west across the Snake River, then south, southwest and east two hundred (200) yards outside the high water line on the west bank of the Snake River (including the Idaho Power Upper Salmon Dam diversion canal) to the Gridley Bridge on U.S. Highway 30, the point of beginning. ( )

c. Minidoka and Cassia Counties in the area enclosed by the following boundary: Within two hundred (200) yards of the high water line of the Snake River from Milner Dam upstream to Meridian Road (north side of the Snake River) and 650 East Road (south side of the Snake River), approximately six and one-half (6 1/2) miles east of the City of Burley. ( )

401. GAME PRESERVES OPEN TO THE HUNTING OF MIGRATORY GAME BIRDS.
The David Thompson Preserve in Bonner County is open to the hunting of migratory game birds. ( )

402. – 449. (RESERVED)

450. WOUNDING – RETRIEVING.
No person *may* wound or kill any game bird without making a reasonable effort to retrieve it and reduce it to possession. Every game bird wounded by hunting and reduced to possession shall be killed immediately and become a part of the daily bag limit. *( )*

451. – 499. (RESERVED)

500. OFFICIAL SHOOTING HOURS.
No person *may* take game birds outside of official shooting hours. ( )

01. Migratory Game Birds and Wild Turkey. Official shooting hours for migratory game birds and wild turkey are from one-half (1/2) hour before sunrise until sunset. ( )

02. Upland Game Birds and American Crow. Official shooting hours for upland game birds and American crow are from one-half (1/2) hour before sunrise to one-half (1/2) hour after sunset. In locations requiring possession of a WMA Upland Game Bird permit, the Commission may designate alternate official shooting hours by proclamation. ( )

501. – 599. (RESERVED)

600. SEASONS, BAG, AND POSSESSION LIMITS, AND MANAGEMENT UNITS.
The Commission sets seasons, bag limits, and possession limits for game birds by proclamation, as published in a brochure available at Department offices and license vendors. Management Unit Descriptions for wild turkey are contained in IDAPA 13.01.08.600, "Rules Governing the Taking of Big Game Animals." ( )

601. – 999. (RESERVED)

13.01.10 – RULES GOVERNING THE IMPORTATION, POSSESSION, RELEASE, SALE, OR SALVAGE OF WILDLIFE

000. LEGAL AUTHORITY.
Sections 36-103, 36-104, 36-501, 36-504, 36-506, 36-701, 36-703, 36-704, 36-706, 36-708, and 36-2201-2205, Idaho Code, authorize the Commission to adopt rules concerning the importation, possession, release, sale, or salvage of wildlife in the state of Idaho. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife." These rules govern the commercial and non-commercial importation, possession, release, sale, or salvage of wildlife. These rules do not apply to bullfrog, fish or crustacean, the importation, possession, release, sale or salvage of which are governed by IDAPA 13.01.11, "Rules Governing Fish," and IDAPA 13.01.12, "Rules Governing Commercial Fishing." ( )

002. **– 009. (RESERVED)**

010. DEFINITIONS.
IDAPA 13.01.06, "Classification and Protection of Wildlife," defines game animals, big game animals, game birds, furbearing animals and unprotected wildlife. Section 36-201, Idaho Code, defines predatory wildlife. As used in this chapter, "wildlife" does not include any bullfrog, fish, or crustacean, for which requirements for import, possession, transport, release, and sale are addressed in IDAPA 13.01.11, "Rules Governing Fish" and 13.01.12 "Rules Governing Commercial Fishing." ( )

01. Commercial Wildlife Farm. Any facility where the operator obtains, possesses, or propagates big game animals, for any commercial purpose. ( )

02. Private Park. Any facility where the operator obtains, possesses, or propagates big game animals for personal pleasure and not for any commercial purpose. *( )*

03. Bona Fide Pet Store. A legitimate retail store with a set location and regular business hours. ( )

04. Big Game Animal. As classified in IDAPA 13.01.06, "Classification and Protection of Wildlife," excluding domestic cervids as defined and regulated by Title 25, Chapter 37, Idaho Code. ( )

05. Agricultural or Domestic Animals. Animals or their eggs normally considered to be of agricultural or domestic types currently common to Idaho, not including wildlife as defined by Section 36-202, Idaho Code (such as animals listed in IDAPA 13.01.06, "Rules Governing the Classification and Protection of Wildlife." ( )

06. Commercial Wildlife Facility. Any facility where the operator obtains, possesses, or propagates wildlife for any commercial purpose, including exhibition, education, entertainment, or sale. A commercial wildlife farm is included in this definition. ( )

07. Not Permanently Located Within the State of Idaho. A traveling circus, menagerie, or trained act of wild animals *that is* not located within the state of Idaho more than two (2) months out of any calendar year. *( )*

08. Traveling Circus, Menagerie, or Trained Act of Wild Animals. Any mobile display or exhibit of wildlife maintained for instructional, educational, entertainment, or other commercial purposes. ( )

09. Publicly Owned Zoo or Wildlife Exhibit. Any facility exhibiting wildlife owned by any municipal, county, state, or federal agency. ( )

011. – 099. (RESERVED)

100. PERMITS FOR IMPORT, EXPORT, TRANSPORT, *POSSESSION,* RELEASE, AND SALE OF LIVE WILDLIFE.
No person may import into, export from, sell, or transport, cause to be transported, *possess (hold in captivity), propagate,* or release within the state of Idaho any living wildlife, including eggs thereof, without having first

obtained a permit from the Department. ( )

01. Exemptions for Import, Export, Transport, Possession or Sale. No permit is *needed* from the Department to import, export, transport, possess or sell the following (although another state or federal agency may regulate such activity): ( )

a. Agricultural or domestic animals. ( )

b. Domestic furbearing animals, as defined and regulated under Chapter 30, Title 25, Idaho Code. ( )

c. Domestic cervids, as defined and regulated under Chapter 37, Title 25, Idaho Code. ( )

d. Animals commonly considered conventional household pets, including sugar glider (*Petaurus breviceps*) and African hedgehog (*Atelerix albiventris*). ( )

e. Domestic Game birds produced in captivity and lawfully obtained, as shown by proof maintained and presented in accordance with Section 36-709, Idaho Code. ( )

f. Birds of prey, provided actions comply with IDAPA 13.01.14, "Rules Governing Falconry." ( )

02. Exemptions for Unprotected and Predatory Wildlife. ( )

a. *Wildlife classified as Unprotected Wildlife and Predatory Wildlife that are lawfully taken by a person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may be sold, exported, transported, or possessed, without additional permit from the Department, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations. The Idaho Department of Agriculture may restrict the possession, sale, or import of fox, skunk, raccoon or other animals, such as restrictions under Section 25-236, Idaho Code.* ( )

b. Lawfully taken native unprotected or predatory wildlife may be released on private lands in the county of origin *without a Department permit* in accordance with Section 36-502, Idaho Code and with written landowner consent in possession while such wildlife is in transit to the release site. ( )

03. Exemption for Native Reptiles and Amphibians*. A person licensed or authorized to hunt or trap in accordance with Chapter 4, Title 36, Idaho Code, may capture alive, or hold in captivity and possess, up to four (4) individuals per species of Idaho native reptiles or amphibians at the same time, provided such action is not otherwise in violation of federal, state, county, or city laws, rules, ordinances, or regulations.* ( )

0*4*. Restriction on Permit Issuance. The Department will not issue any permit for import, export, transport, release*, possession,* or sale of live wildlife or eggs thereof, if the wildlife or eggs thereof would pose a threat to the state of Idaho, including threat of disease, genetic contamination or displacement of or competition with existing species. ( )

101. IMPORT OR TRANSPORT PERMIT ISSUANCE.

01. Application. Application *for a permit to import or transport wildlife will* be on a form prescribed by the Department. The applicant must possess a valid commercial or private wildlife facility license or individual *captive wildlife* permit or make concurrent application for such facility license or *individual animal* possession permit. ( )

02. Inspection and Examination. *Upon Department request*, the applicant must provide a valid Certificate of Veterinary Inspection from the state of origin for each animal imported *or transported*. ( )

03. Additional Requirements. The Department may impose test and certification requirements related to genetic issues or diseases of concern for any animal to be imported or transported. ( )

102. POSSESSION OF UNLAWFUL IMPORT.
No person may possess any wildlife, progeny or eggs thereof, whose import into this state was unlawful. ( )

103. – 149. (RESERVED)

150. WILDLIFE IN TRANSIT.
All required licenses, permits, and certificates must accompany live captive wildlife while in transit. ( )

151. – 199. (RESERVED)

200. CAPTIVE WILDLIFE.

01. General. No person *may* possess, hold in captivity, or propagate *any wildlife, except those animals exempted under Section 100 of these rules,* without obtaining *a captive wildlife permit for each individual animal* from the Department. *( )*

02. Compliance with Other Agency Requirements. No person *may* possess, hold in captivity, or propagate any wildlife without complying with relevant city or county ordinances, including any zoning and planning commission approval, and any Idaho or U.S. Department of Agriculture requirements. *( )*

03. Marking Big Game. All big game animals shall be uniquely marked with a Department-approved marking system. ( )

04. Applications. Application for license *will* be on a form prescribed by the Department. *( )*

05. Inspections *and Records*. *As a condition to any facility license or individual captive animal permit, the Department will be able to access for inspection at any reasonable time* all records, all wildlife, and the facilities where the wildlife are kept*, with records maintained as specified in Section 36-709(c), Idaho Code*. *( )*

201. DISEASE OF CAPTIVE WILDLIFE.
The Department Wildlife Veterinarian and the Idaho Department of Agriculture Administrator of the Division of Animal Industries *will* mutually determine the diseases and parasites of concern and the mechanisms and procedures for control of diseases and parasites in captive wildlife within the state of Idaho. Such mechanisms and procedures include but *are* not limited to examination, testing, quarantine, and slaughter or destruction*, at the owner's expense,* of individual animals or herds that are infected with or affected by diseases or parasites that may have significant detrimental effect on native wildlife, other captive wildlife, livestock or the public health of the citizens of the state of Idaho. Such disease and parasite control measures *will* be included in and enforced by regulations of the Division of Animal Industries of the Department of Agriculture. *( )*

202. – 299. (RESERVED)

300. RECOVERY, POSSESSION, AND SALE OF WILDLIFE PARTS.

01. Wildlife Legally Killed. ( )

a. The possession, sale, and purchase of wildlife or parts of wildlife legally killed is lawful, provided *it is in compliance with these rules* and Title 36, Idaho Code. *( )*

i. *No person may purchase, barter, or sell the* edible flesh of wildlife classified as big game animals, upland game animals, game birds, migratory birds, or rattlesnakes taken from the wild. *( )*

ii. The annual sale by holders of a valid Idaho hunting, trapping or combination hunting and fishing license of *no more than* six (6) skins of legally taken rattlesnakes is lawful. *( )*

b. A written statement showing the taker's name, address, license and tag numbers, date and location of kill, signed by the taker, must be provided to the buyer of any black bear or mountain lion head, hide or parts

(except tanned hides finished into rugs or mounts). A copy of the sales statement must be forwarded by the buyer to the Department within ten (10) days after such sale. A Department Form CE-50, Statement of Sale/Purchase of Wildlife Parts, may be used in lieu of a sales statement. ( )

c. Persons possessing a taxidermist or fur buyer license shall keep a record *of any wildlife received for mounting or preservation, and of any purchase of* furbearers, black bear *part or raw* skin, *and* mountain lion *part or raw* skin*, with said record to be kept for two (2) years from the respective date of receipt or purchase*. Records may be written or retained on media other than paper*, provided that the media* comply with standards set forth in Section 9-328, Idaho Code*; c*opies of sales statements *complying with* Subsection 300.01.b. *are adequate records*. *( )*

02. Animals Found Dead. Protected species of wildlife that have died naturally or accidentally remain in public trust to be disposed of by the Department. However, a person may recover, possess, sell or purchase the wildlife parts as specified below, but ONLY under the conditions specified and ONLY if the wildlife has NOT been unlawfully killed. Natural causes *do* not include any man-caused mortality. Accidental death include*s* accidental vehicle-collision caused mortality. *( )*

a. Horns of Bighorn Sheep. ( )

i. Bighorn sheep horns of animals that have died of natural causes may be recovered and possessed*, provided such horns are presented to a Department office for marking by placement of a permanent metal pin in the horn within thirty (30) days of recovery. No person* may *sell*, barter*,* purchase*, or* transfer to another person *any horn recovered from a bighorn sheep that has died from natural causes* without a permit issued by the *Department*. The insertion of a pin *is not a* certif*ication* that the animal was legally taken or possessed. *( )*

ii. No person *may* alter, deface, or remove a pin placed in a bighorn sheep horn by the Department. No person *may* possess the horn(s) of a bighorn sheep that bears an altered, defaced, or counterfeit Idaho pin or from which the Idaho pin has been removed. *( )*

b. Antlers, hides, bones, and horns of deer, elk, moose, pronghorn and mountain goat, parts of bear and mountain lion and elk teeth of animals that have died of natural causes may be recovered, possessed, purchased, bartered or sold*, provided that r*eporting of bear and mountain lion parts *is in accordance with reporting under* Subsection 300.01 of this rule. *( )*

c. Parts, including meat, of big game animals, upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be recovered and possessed*, provided that such taking is not in violation of state, federal, county, or city law, ordinance, rule, or regulation, and provided that:* *( )*

*i. N*otification to the Department *is made* within twenty-four (24) hours of salvage*;* and *( )*

*ii. W*ritten authorization *is obtained from the Department* within seventy-two (72) hours *of recovery; and* *( )*

iii. Mandatory check and report requirements *are complied with* for *any* bighorn sheep, black bear, mountain lion, mountain goat, moose, gray wolf, bobcat, and river otter*,* as described in IDAPA 13.01.08.420 and 13.01.16.500. *( )*

d. Parts, excluding meat, of big game animals (except bighorn sheep), upland game animals, upland game birds, and furbearing animals, which may be lawfully hunted or trapped, that have been accidentally killed as a result of vehicle-collision mortality may be purchased, bartered, or sold, where sale is not specifically prohibited by federal statute or regulation or state statute, when accompanied by written authorization from the *Department* as described in IDAPA 13.01.10.300.02.c. *No person may purchase, barter, or sell b*ighorn sheep accidentally killed as a result of vehicle-collision. *( )*

03. Wildlife Taken in Other States. Wildlife or parts thereof that have been legally taken outside of Idaho, may be possessed or sold in Idaho if such possession or sale is *lawful* in Idaho*, in* the state, province, or country where taken, *and under* federal law. *( )*

301. POSSESSION, IMPORTATION, AND TRANSPORTATION OF CERVID CARCASSES OR PARTS FROM AREAS WITH CHRONIC WASTING DISEASE (CWD) *UNLAWFUL*.

01. Prohibitions. It is unlawful to: ( )

a. Import into Idaho the carcass or any part of a deer, elk, or moose from another state, province of Canada, or country (other than Canada) with any documented case of CWD; ( )

b. Transport the carcass or any part of a deer, elk, or moose out of any CWD Management Zone designated by the Commission to any portion of the state that is not a designated CWD Management Zone; or *( )*

c. Possess the carcass or any part of a deer, elk, or moose that: has been imported from another state, province or country (other than Canada) with a documented case of CWD; or transported out of any CWD Management Zone designated by the Commission to any part of the state that is not a designated CWD Management Zone. *( )*

02. Exceptions. This section does not apply to the following animal parts: ( )

a. Meat that is cut and wrapped; ( )

b. Quarters or deboned meat that does not include brain or spinal tissue; ( )

c. Edible organs that do not include brains; ( )

d. Hides without heads; ( )

e. Upper canine teeth (ivories, buglers, or whistlers); ( )

f. Finished taxidermy; ( )

g. Dried antlers; or ( )

h. Cleaned and dried skulls or skull caps. ( )

302. – 399. (RESERVED)

400. PRIVATE PARKS AND COMMERCIAL WILDLIFE FACILITIES.

01. General. No person may operate or maintain a private park or commercial wildlife facility without obtaining the appropriate license for each facility and the individual captive animals from the Department. ( )

02. Compliance with Other Agency Requirements. No person *may* operate a private park or commercial wildlife facility without complying with relevant city or county ordinances, including any zoning and planning commission approval, and any Idaho or U.S. Department of Agriculture requirements. *( )*

03. License Display. A commercial wildlife license *is to* be displayed at the licensed facility in plain view at all times. *( )*

04. Applications. Application for permits or licenses to possess wildlife *will* be on a form prescribed by the Department*, with* separate application *to* be made for each facility and for any animal(s) imported after a facility is licensed. The *Department will only consider an* application *that* include*s*: *( )*

a. The name and address of the applicant. ( )

b. Proof of compliance with city/county zoning ordinance or zoning permit application. ( )

c. The name and address of the owner(s) of the wildlife if not the applicant. ( )

d. The location of the proposed facility, including a legal description of the land and the approximate space devoted to the facility. ( )

e. The name and address of the owner of the property if not the applicant. ( )

f. The number and kinds of wildlife being or to be kept. ( )

g. The date upon which each animal is to be obtained. ( )

h. The source, including address and telephone number, from which each animal was, or is to be, obtained, and health certificate for all animals addressing diseases of concern. If already in possession, the type of permit or license under which each animal is possessed. ( )

i. Specifications of pens and shelters furnished for each kind of animal. ( )

j. Specifications of the guard fence or other security measures to prevent escape or protect the public from injury by the animals. ( )

05. Inspections. *As a condition to any facility license, t*he licensee *will* make available for inspection all records, all wildlife, and the facilities covered by the license at any reasonable time upon request of the Department. *( )*

06. Evidence of Legal Possession. Records shall include evidence of legal possession of all wildlife kept at the facility or under the licenses, including licenses, permits, receipts, invoices, bills of lading, or other satisfactory evidence of ownership. The records shall also identify all animals born at the facility, exported from the facility, or transported within the state. ( )

07. Dead Wildlife. Record of inspection by a licensed veterinarian shall be kept for all wildlife which die on the premises, and a copy forwarded to the Department Wildlife Laboratory within ten (10) days of the death of the animal. *( )*

08. Cages or Enclosures. All wildlife held in captivity in a wildlife facility shall be confined at all times in cages or *enclosures* of such structure or type of construction that it will be impossible for such animals to escape*, and that meet the following minimum specifications:* *( )*

a. *For b*ig game animals, including bear and mountain lion, *the* enclosure *will*: *( )*

i. Ha*ve* a floor made of cement or concrete at least three (3) inches thick into which metal fence stakes are permanently placed or a floor that consists of chain link or other material that will preclude the animal digging through the floor to escape; *( )*

ii. Ha*ve* a chain link fence of at least eight (8) feet in height with barbed wire overhang; *( )*

iii. Ha*ve* a chain link cage top; *( )*

iv. Ha*ve* any other Department-approved configuration such as a pit that will preclude escape. *( )*

b. *For a*ll *animals,* cages or enclosures *will* be of sufficient size to give the animal or bird confined ample space for exercise and to avoid being overcrowded. *( )*

i. The length of the cage or enclosure *will* be a minimum of four (4) times the body length (tip of nose to base of tail) of the animal being kept, reptiles excepted. *( )*

ii. The width *will* be at least three-fourths (3/4) of the cage length. *( )*

iii. For the second animal housed in cage, floor space *will* be increased twenty-five percent (25%) and for each additional animal housed in the cage, floor space *will* be increased fifteen percent (15%). Cages with tops *will* be of reasonable height to accommodate the animals contained therein. No nails or other sharp protrusions *that* might injure or impair the animal *will* be allowed within the cages. *( )*

c. *For all animals,* cages or enclosures *will* be constructed to prevent entrance by other animals and prevent harm to or by the general public. Cages, fencing, and guardrails *will* be kept in good repair at all times; and gates *will* be securely fastened and locked. *( )*

d. *C*age*s* or enclosure for birds and smaller animals *will* be provided with a den, nest box or other suitable housing containing adequate bedding material for the comfort of the species held. A suitable shelter or shield *will* be provided for big game and other larger animals for protection from inclement weather and from the sun. At least one (1) wall of the enclosure *will* be constructed so as to provide a windbreak for the animal confined. *( )*

e. *For a*ll venomous reptiles*,* enclosure*s will have safety glass and* cage*s will have* small enough mesh to prevent the animal's escape and double walls sufficient to prevent penetration of fangs to the outside*; and a*ll cages and enclosures *will* be kept locked. *( )*

f. Cages or enclosures *will* be kept dry if containing terrestrial animals and with adequate water if containing aquatic animals. Where natural climate of the species being held differs from the climate of the area where the wildlife facility is located, provisions *will* be made to adjust holding conditions, as nearly as possible, to natural habitat. *( )*

g. Cages or enclosures *will* be kept in a clean and sanitary condition consistent with good animal husbandry. *( )*

09. Sale of Animal Meat or Parts. ( )

a. A commercial wildlife facility licensee may sell or otherwise dispose of the carcass, parts, or by-products of a properly identified big game animal taken from a commercial wildlife facility only upon preparing an invoice or bill of sale as specified by the Department and attaching a copy of it to the lot shipment, carcass, or container and keeping a copy for his records. Upon the attaching of the invoice or bill of sale to the carcass, parts, or by-products of the animal, the same may be transported to the transferee named on the invoice or bill of sale. ( )

b. The licensee may sell commercial wildlife facility animals for meat upon compliance with all applicable health laws, USDA, and Idaho Department of Agriculture regulations. ( )

401. – 410. (RESERVED)

411. HUMANE TREATMENT OF CAPTIVE WILDLIFE

01. Humane Treatment. All captive wildlife must be handled in a humane manner and in a manner to prevent parasites, sickness, or disease*, including but not limited to the following actions:* *( )*

a. Any captive wildlife afflicted with parasites or disease *is* immediately given professional medical attention or destroyed in a humane manner. Any infected or injured animal infected *is* removed from public display. *( )*

b. *Any captive wildlife is fed on a r*egular schedule. Food *is* adequate and varied and so far as possible, consistent with food ordinarily eaten by such animals. Food *is* of good quality and stores of same *are* kept in suitable containers with tight fitting covers so as to render it inaccessible to rats, flies, or other vermin. *( )*

i. The public *is not allowed* to feed any captive wildlife. Proper signs *are* conspicuously posted on cages or enclosures advising the public to refrain from feeding or annoying the birds or animals. *( )*

c. Fresh or running water for drinking purposes *is* available in cages or enclosures at all times*,* and *is*

kept clean and in a sanitary condition. ( )

d. Any animals with a propensity to fight or which are otherwise incompatible *are* kept segregated. ( )

e. At no time *is* any wildlife held for public display or exhibition chained or otherwise tethered to any stake, post, tree, building, or other anchorage, except for raptors as provided by IDAPA 13.01.14, "Rules Governing Falconry." ( )

***02. Documentation**. At least once a year and otherwise on demand, the owner or possessor of any captive wildlife held under Department permit must provide to the Department a certificate from a licensed veterinarian, on a form as prescribed by the Department, stating the physical condition or health of each animal in captivity. The permittee must maintain a complete record of illness, treatment and disposition for each permitted animal and make such record available to the Department upon request.* ( )

412. RESPONSIBILITY OF POSSESSOR OF CAPTIVE WILDLIFE.
Any person possessing live wildlife in captivity shall be responsible for the care of the wildlife in possession and the protection of the public, and liable for the expense of capture or destruction of any escaped wildlife, including any costs incurred by the Department. The Department makes no representation concerning public safety of any licensed captive wildlife or facility. ( )

413. – 499. (RESERVED)

500. SHOOTING PRESERVE RULES.

01. Shooting Preserves. No person *may* operate a shooting preserve without a permit from the Department. ( )

02. Applications. Application for a shooting preserve license *will* be on a form prescribed by the Department. ( )

03. License *Vendorship*. *No person may operate a shooting preserve unless the operator has a* vendorship contract with the Department and maintain*s* a supply of shooting preserve hunting licenses for issuance to clients of the preserve. ( )

04. Species Permitted. Only those species of upland game birds specified on the permit may be held or released on the shooting preserve. ( )

05. Disease Free Birds. *No person may ship* upland game birds into Idaho for release on a shooting preserve *unless they are* certified free from disease as evidenced by a written statement by a licensed veterinarian. ( )

06. Holding Facilities. *The provisions of* Subsection 400.08 of these rules *pertaining to bird enclosures apply to all rearing pens, holding pens, and other rearing or holding facilities*. ( )

07. Habitat Requirements. No shooting preserve permit will be issued except upon verification by the Department that the proposed area has suitable habitat to provide food and cover for birds released for hunting purposes. The Department *will* provide technical advice to the applicant in developing proper habitat needs for the various species permitted under the shooting preserve license. ( )

08. Inspection. *As a condition to any shooting preserve permit, the Department will have* reasonable access to the premises of any authorized shooting preserve for the purpose of inspecting rearing, holding, and storage facilities, licenses, hunters' bag limits, and records pertaining to the operation of said shooting preserve. ( )

501. – 599. (RESERVED)

600. CAPTIVE WOLVES.

01. Definitions – Primary Wolf Characteristics. ( )

a. Eyes shine greenish orange; ( )

b. Ears rounded and smaller in proportion to those of the coyote; ( )

c. Snout is broad with nose pad wider than one (1) inch; ( )

d. Legs are long, an adult would stand at approximately twenty-six (26) to thirty-two (32) inches at the shoulder; ( )

e. Length is four and one-half (4.5) to six (6) feet from the tip of the nose to the tip of the tail; ( )

f. An adult weighs at least eighty (80) pounds; ( )

g. Tail is carried high or straight out when running; ( )

h. Fur is long and coarse, varies from white to black but is generally grayish in coloration resembling the coyote. The underparts are not as white and the legs and feet are not as red as those of the coyote. ( )

02. License and Tattoos. No person may possess a live wolf or other canine exhibiting primary wolf characteristics without *proper identification (tattoo) and* a license from the Department*, to be obtained within three (3) days of commencing possession of a live wolf or other canine exhibiting primary wolf characteristics*. *Application for* license *will be* on a form prescribed by the Department. *( )*

a. *P*roper tattoo *consists of placement of* a three (3) digit number*, as* assigned by the Department*, on the right flank or inside of the right ear by a qualified veterinarian*. *A*nimals do not require tattooing until the age of six (6) months. The applicant will provide written confirmation of tattooing from the veterinarian. *( )*

b. Each wolf license is valid from January 1 through December 31*, and renewal is needed each year to continue to* possess the animal. *( )*

601. – 699. (RESERVED)

700. VIOLATION GROUNDS FOR LICENSING ACTION AND ANIMAL REMOVAL.
The Department *may* give written notice of violation(s) to any person, with a permit or license under this chapter, who is violation of Chapter 7 of Title 36, Idaho Code or these rules, and that person *will* then have ten (10) days to correct such violation(s). If at the end of that time the violation is not corrected, the *Department* may revoke any existing permit or license and may refuse to issue any future permit. Such revocation or refusal to issue a future permit *may* be in addition to any criminal charges or civil action that may be filed. *All* animals *held under said license or permit so revoked or held without appropriate license or permit will be* removed at owner's expense*, with disposition as determined by the Department*. *( )*

701. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-103, 36-104, 36-406A, 36-407, 36-410, 36-701, 36-706, 36-901, 36-902, 36-1001, Idaho Code, authorize the Commission to adopt rules concerning fishing, methods of take, seasons, limits, and fishing contests. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.11, "Rules Governing Fish." These rules establish the methods of take, seasons, and possession limits for all non-commercial fishing and govern fishing contests. ( )

002. – 009. (RESERVED)

***010*. DEFINITIONS – FISH.**

01. Chinook Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus tshawytscha* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage, (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam), and the Boise River drainage. ( )

02. Coho Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus kisutch* in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and Clearwater River drainage (excluding lakes, reservoirs, and the North Fork of the Clearwater River above Dworshak Dam). ( )

03. Game Fish. As classified in IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife." ( )

04. Hybrid Fish. The offspring of two different species or subspecies of fish. ( )

05. Jack Salmon. Anadromous (ocean run) salmon of a size set by Commission proclamation. ( )

06. Invasive Fish Species. Bullfrog, fish and crustacea species designated invasive species by state authority (IDAPA 02.06.09 "Rules Governing Invasive Species of the Idaho Department of Agriculture"). ( )

07. Sockeye Salmon. Anadromous (ocean run) salmon of the species *Oncorhynchus nerka* in the Snake River drainage below Hells Canyon Dam and the Salmon River drainage. ( )

08. Steelhead. Any rainbow trout longer than twenty (20) inches in the Snake River drainage below Hells Canyon Dam, the Salmon River drainage, and the Clearwater River drainage (excluding that portion above Dworshak Dam); and any rainbow trout longer than twenty (20) inches in length with the adipose fin clipped (as evidenced by a healed scar) in the Snake River drainage from Hells Canyon Dam upstream to Oxbow Dam, and in the Boise River drainage from its mouth upstream to Barber Dam. ( )

09. Trout. Trout, including brown, cutthroat, golden, grayling, lake (Mackinaw), rainbow (other than steelhead), splake, sunapee, tiger; trout hybrids; and landlocked (not ocean runs) forms of chinook, coho, atlantic and kokanee (blueback) salmon. ( )

10. Unprotected Fish. Bullfrog and all fish species not classified in a protected category (game fish, protected nongame, threatened or endangered species) in IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife." ( )

***011*. DEFINITIONS – CONDUCT OF FISHING.**

01. Artificial Fly. Any fly made entirely of rubber, wood, metal, glass, feather, fiber, or plastic by the method known as fly tying. ( )

02. Artificial Lure. Any device made entirely of rubber, wood, metal, glass, feather, fiber, or plastic with hook or hooks attached. ( )

03. Bag Limit. The maximum number of fish that may be lawfully taken by any one (1) person in one (1) day, construed in accordance with Sections 36-202 and 36-410, Idaho Code. ( )

04. **Bait**. Organic substances, other than rubber, wood, feather, fiber, or plastic, attached to a hook to attract fish. Bait includes insects, insect larvae, worms, dead fish, fish parts, any other animal or vegetable matter, or scented synthetic materials. ( )

05. **Barbless Hook**. A fish hook without barbs or on which all barbs have been bent completely closed. ( )

06. **Catch-and-Release**. Effort, by permitted methods, to catch fish*, provided* that any fish so caught *is* released immediately back to the water. *( )*

07. **Confluence of a Stream or River**. The point where two (2) rivers or streams come together. ( )

08. **Diversion**. A man-made structure designed to change the direction of flowing water in a stream. ( )

09. **Diversion Pond**. A man-made pond holding water taken from a stream or reservoir, which pond may be connected to the stream or reservoir by an open ditch or pipe. ( )

10. **Drainage**. All water flowing into a common river or stream system, either above or below ground, due to area geography. ( )

11. **Electric Motors Only**. For fishing waters listed in proclamation as "electric motors only," *no* gas (internal combustion) motors may be *used, although they may be* attached to the boat. *( )*

12. **Fish Trap**. Any man-made structure designed to capture fish. ( )

13. **Fish Weir**. Any man-made structure placed in a water body to delay or divert migrating fish. ( )

14. **Flat Water**. Water where there is no observable direction of flow. ( )

15. **Float Tube**. A floating device that suspends a single occupant, from the seat down, in the water, and is not propelled by oars, paddles, or motors. ( )

16. **Fly Fishing**. Fishing with a fly rod, fly reel, fly line, and artificial fly. ( )

17. **General Fishing Season**. The season and bag limits as determined by proclamation on a Regional basis. ( )

18. **Harvest**. Reduce a fish to possession. ( )

19. **Hook**. A bent wire device, for the catching of fish, to which one (1), two (2), or three (3) points may be attached to a single shank. Up to five (5) hooks per line may be used, except where specifically *identified*. *( )*

20. **Ice Fishing**. Fishing through an opening broken or cut through the ice. ( )

21. **Length**. The length between the tip of the nose or jaw and the tip of the tail fin. ( )

22. **Limit is 0 (Zero)**. Fishing is allowed*, provided the fish is released* after landing and not reduced to possession. *( )*

23. **Motor**. Includes electric and internal combustion motors. ( )

24. **Mouth of River or Stream**. The place where a river or stream enters a larger body of water. ( )

25. No Motors. For fishing waters listed in proclamation as "no motors," *no person may* fish from a boat with a motor attached. *( )*

26. Possession Limit. As defined in Section 36-202, Idaho Code. ( )

27. Reservoir. The flat water level existing at any time within a reservoir basin. Unless noted otherwise, a stream flowing through the drawdown portion of a reservoir is not considered part of the reservoir. ( )

28. Season Limit. The maximum number of fish that may be lawfully harvested in any declared season. ( )

29. Section. An area of a river, stream, or reservoir between specific boundary locations. ( )

30. Single-Point Hook. A bent wire device, for catching fish, with one (1) shank and one (1) point. ( )

31. Sliding Sinker. A method of attaching a sinker to a device that slides freely on the main line. ( )

32. Snagging. Taking or attempting to take a fish by use of a hook or lure in any manner or method other than enticing or attracting a fish to strike with, and become hooked in, its mouth or jaw. ( )

33. Special Rule Waters. Any water with a gear, season, or bag limit rule that is listed in proclamation and different from the general fishing season. ( )

34. Tributary. A stream flowing into a larger stream or lake. ( )

35. Unattended Line. A line not under the immediate surveillance by the angler. ( )

36. Upstream. Moving from a lower elevation towards a higher elevation point in the same stream. ( )

37. Watercraft. Those devices designed as a means of transportation on water. ( )

012. DEFINITIONS – FISHING CONTESTS.

01. Fishing Contest. Any organized fishing event that: ( )

a. Has a live-fish weigh-in; *or* *( )*

b. Awards cash or prizes of one thousand dollars ($1,000) or more based on number, size, or species of fish captured; or ( )

c. Is expected to draw or have more than twenty (20) participants. ( )

02. Catch-and-Release Contest. Any fishing contest with specific procedures to keep target fish species alive and healthy and to release all fish caught back into the contest water on the same day. ( )

03. Harvest Contest. Any fishing contest that allows participants to harvest fish. ( )

013. – 100. (RESERVED)

101. RELEASE OF FISH WHILE FISHING.
Any fish caught in Idaho waters that *is un*lawful *to* possess must be immediately released back to the water. *( )*

102. STURGEON.
*No person may remove s*turgeon from the water*,* and *it is unlawful to possess sturgeon*. *( )*

103. (RESERVED)

104. IDENTIFICATION OF SPECIES AND SIZE IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Restrictions. No person may have in the field or in transit any trout, tiger muskie, or bass from which the head or tail has been removed unless: ( )

a. The angler is ashore and done fishing for the day; ( )

b. The fish is processed or packaged with the skin naturally attached to the flesh; *and* *( )*

c. The fish *is* processed or packaged in a manner that the number of fish harvested can be readily determined and *the p*rocessed *fish is* not transported by boat. *( )*

02. Transport or Gift. No person may transport for another or accept as a gift any game fish, unless a statement signed by taker accompanies the fish, showing the number and kinds, the date taken, the taker's name, address, and fishing license number. However, no person may claim ownership of more fish than allowed by the possession limit. ( )

105. PURCHASE, BARTER, OR SALE OF FISH.
No person may purchase, barter, or sell the edible flesh of fish, crayfish, or bullfrog harvested from the wild, except as provided in Section 36-501, Idaho Code, and Title 36, Chapter 8, Idaho Code, and rules promulgated pursuant thereto. *( )*

106. LIVE FISH – POSSESSION, TRANSPORT, IMPORT, AND RELEASE.

01. Permit. No person may possess, transport, cause to be transported, import, or release any live fish, crayfish, or bullfrog, or viable eggs thereof, without having first obtained a permit from the Director. *( )*

02. Marking Fish in Possession. No person may mark fish by any means, including with a tag, by removing fins or injuring with intent to leave a scar, without first obtaining a Scientific Collecting Permit from the Department. ( )

03. Import Inspection and Examination Requirements. All live fish imported into or transported within Idaho must be certified free from disease, as evidenced by a Certificate of Veterinary Inspection by a licensed veterinarian, (b) CFR Title 50 certification, (c) American Fisheries Society certified fish health inspector's certification, or (d) other certification by an individual designated by the Director of the Department of Agriculture. ( )

04. Unpermitted Fish Species Released. Any fish species unpermitted for import, possession, transport or release that is released by or escapes from an owner or operator shall be captured or destroyed by the owner, or by the Department at the owner's expense. ( )

107. LIVE FISH AND EGGS – EXCEPTIONS.
No permit is required to: ( )

01. Fish. Keep fish that can legally be reduced to possession *(except for anadromous salmon and steelhead)*, alive and in possession in a live well, net, or on a stringer while at the body of water from which they were taken. *( )*

02. Same Location. Release fish at the same time and place where captured. ( )

03. Aquarium Fish. Possess ornamental or tropical aquarium fish of varieties commonly accepted for

interstate shipment (not to include invasive species). ( )

04. Private Ponds or Commercial Fish Facility. Possess fish from a private pond or commercial fish facility when accompanied by sales receipt and written permission from the director, as provided in Chapter 7, Title 36, Idaho Code or from the Department of Agriculture as provided in Chapter 46, Title 22, Idaho Code. ( )

05. Transport Between Commercial Fish Facilities. Transport fish between commercial fish facilities licensed under Chapter 7, Title 36 and Chapter 46, Title 22, Idaho Code. ( )

06. Fish Eggs. Possess, sell, purchase or transport nonviable fish eggs used for bait or personal consumption. ( )

108. – 199. (RESERVED)

200. FISHING METHODS AND GEAR.

01. General Restrictions. *Unless modified by rule (such as the exceptions in the following subsections), order, or proclamation,* it is unlawful to*:* *( )*

a. Fish in any waters of Idaho with more than one (1) handline or pole with a line attached. *( )*

b. *Leave a line unattended.* *( )*

c. *H*ave more than five (5) hooks attached per line. *( )*

d. *F*ish by archery, spearfishing, snagging, hands, *trapping, seining,* or netting. *( )*

e. *U*se live fish, leeches, frogs, salamanders, waterdogs, or shrimp as bait. *( )*

f. *L*and any fish with a gaff hook. *( )*

02. Molesting Fish. It is unlawful to molest any fish by shooting at it with a firearm or pellet gun, striking at it with a club, hands, rocks, or other objects, building obstructions for catching fish, or chasing fish up or downstream in any manner. ( )

03. Hook and Line Exceptions. The holder of a valid two (2) pole permit may use two (2) poles during a general fishing season. A person may use no more than (5) lines while ice fishing. ( )

04. Archery and Spear Fishing Exceptions. Fishing with the use of bow and arrow, crossbow, spear or mechanical device, excluding firearms, is permitted for the taking of unprotected fish, provided there is an open season for game fish. ( )

05. Gaff Hook Exceptions. It is permitted to use a gaff hook through a hole cut or broken in the ice in waters which have no length restrictions or harvest closures for that species, or when landing unprotected fish species taken with archery equipment, provided the angler does not intend to release fish so caught. ( )

06. Snagging Exceptions. Snagging of unprotected fish species is permitted. ( )

07. Trapping and Seining Exceptions. It is lawful to take unprotected fish, crayfish, and yellow perch with a minnow net, seine, or up to five (5) traps, provided there is an open season for game fish, *and provided* the following *conditions are met*: *( )*

a. The seine or net *does* not exceed ten (10) feet in length or width, and *the* seine ha*s* three-eighths (3/8) inch square or smaller mesh; and the minnow or crayfish trap *does* not exceed two (2) feet in length, width or height. If the trap is of irregular dimension, but its volume does not exceed the volume of an eight (8) cubic foot trap, it is lawful to use. *( )*

b. Nets and seines *are* not left unattended. *( )*

c. Traps *are* checked at least every forty-eight (48) hours. *( )*

d. All game fish and protected nongame fish incidentally taken while trapping or seining *are* immediately released alive. *( )*

e. All traps have a tag attached bearing the owner's name and address or license number. *( )*

08. Use of Bait Exceptions. Live crayfish and bullfrog may be used for bait if caught on the body of water being fished. ( )

09. Use of Hands Exceptions. It is permitted to take bullfrog and crayfish with the hands. ( )

10. Barbed Hook Restrictions. It is unlawful to fish for sturgeon with barbed hooks. It is unlawful to fish for or take steelhead or salmon with barbed hooks in the Clearwater River drainage, Salmon River drainage, and Snake River drainage below Hells Canyon Dam. ( )

11. Sinker for Sturgeon. *W*hen fishing for sturgeon, *a person must use a sliding sinker* and a lighter test line to attach the weight to the main line (the line attached to the reel). *( )*

12. Fishing Shelters. Any enclosure or shelter left unattended overnight on the ice of any waters of the state shall have the owner's name, telephone numbers, and current address legibly marked on two (2) opposing sides of the enclosure or shelter. ( )

201. – 299. (RESERVED)

300. FISHING SEASONS, LIMITS, HOURS, AND REGIONAL EXCEPTIONS.
The Commission sets statewide and general seasons, special rule waters, bag and possession limits, and regional exceptions by proclamation, adopted and published as provided by Section 36-105, Idaho Code. ( )

301. – 344. (RESERVED)

345. FISHING IN BOUNDARY WATERS.

01. Bear Lake. The holder of a valid Idaho or Utah fishing license may fish all of Bear Lake, subject to the rules or regulations of the state in which they are fishing, including any closure. ( )

02. Snake River Between Idaho and Oregon or Washington. The holder of a valid Idaho fishing license may fish the Snake River where it forms the boundary between Idaho and the states of Oregon or Washington, subject to the fish and game laws of Idaho. *An Idaho license does not authorize the holder to* fish from the shoreline, sloughs, or tributaries on the Oregon or Washington side. An Oregon or Washington license holder has the same rights and restrictions with reference to the Idaho side. ( )

03. Limit for One License Only. Any angler who fishes on the Snake River or any other water forming an Idaho boundary is entitled to have in possession only the limit allowed by one (1) license regardless of the number of licenses he may possess. ( )

346. FISH SALVAGE.
No person may salvage fish from public waters without specific authorization of the Commission, Director, or Regional Supervisor. Authorization for salvage may allow holders of valid fishing licenses to harvest fish without regard to usual possession limits and may allow snagging, spearing, archery, dipnet, seines, or with the hands. ( )

347. – 399. (RESERVED)

400. STEELHEAD AND ANADROMOUS SALMON LICENSES, TAGS, AND PERMITS.

01. Licenses. Any person fishing for steelhead or anadromous salmon, except those expressly exempt, must have in possession a valid fishing license. ( )

02. Permits. *No* person *may* fish for, or reduce to possession, steelhead or anadromous salmon *without* a valid steelhead or salmon permit in possession for the targeted species. *( )*

401. – 402. (RESERVED)

403. PERMIT VALIDATION.
For each steelhead or adult anadromous salmon hooked, landed, and reduced to possession, the angler hooking the fish must immediately validate her permit by notching the permit and entering in ink the appropriate month, day and river location (listed by Commission proclamation). *( )*

404. IDENTIFICATION OF SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.

01. Provisions for Processing and Transporting Steelhead and Anadromous Salmon. No person may have in the field or in transit a hatchery-produced steelhead or anadromous salmon processed by removing the head and tail unless the following conditions are met: *( )*

a. The fish is processed and packaged with the skin naturally attached to the flesh including a portion with a healed, clipped, adipose fin scar or adipose fin; and ( )

b. The fish is packaged in a manner that the number of fish harvested can be readily determined. ( )

02. Restrictions on Processing and Transporting Steelhead and Anadromous Salmon. No person may process steelhead or anadromous salmon until he is ashore and done fishing for the day. No person may transport processed steelhead or anadromous salmon via boat. *No j*ack salmon may be processed while in the field or in transit. Each processed steelhead or anadromous salmon counts towards an angler's possession limit while in the field or in transit. *( )*

405. STEELHEAD AND ANADROMOUS SALMON METHODS OF TAKE.

01. Hooks. It is unlawful to use any hook larger than five-eighths (5/8) inch, measured from the point of the hook to the shank. Steelhead and anadromous salmon may be taken only with barbless hooks in the Salmon, Clearwater, and Snake River drainages. Bending the barb down to the shank of a single, double, or treble hook will meet this requirement. Steelhead and anadromous salmon may be taken with barbed hooks in the Boise River drainages, and the Snake River between Hells Canyon and Oxbow Dams. ( )

02. Snagging. No person may kill or retain in possession any steelhead or anadromous salmon hooked other than in the mouth or jaw. *( )*

03. Legal Catch. Any steelhead or anadromous salmon caught must be released or*, provided it is legal to possess,* killed immediately after it is landed. *( )*

04. Cease Fishing. Once an angler has attained his bag, possession or season limit on those waters with steelhead or anadromous salmon limits, he must cease fishing for steelhead or anadromous salmon, including catch-and-release fishing. ( )

05. Keeping Marked Fish. Only steelhead or anadromous salmon marked by clipping the adipose fin, as evidenced by a HEALED scar may be kept in the Salmon, Clearwater, and Snake River drainages. Anadromous salmon with an intact adipose fin may be retained as authorized by Commission proclamation. ( )

06. Fish Counted in Limit. Each fish that is hooked, landed, and reduced to possession count*s towards* the limit of the person hooking the fish. *( )*

07. Special Limits. No person may fish in waters having special limits while possessing fish of that species in excess of the special limit. ( )

406. – 407. (RESERVED)

408. STEELHEAD PURCHASE REPORT.

01. Filing Purchase Report. Any person holding a wholesale or retail steelhead trout buyer's license must report all sales and purchases of steelhead on an Idaho Steelhead Purchase Report to the Administration Bureau of the Idaho Department of Fish and Game, Boise, Idaho, on or before December 31 of each year. ( )

02. Inaccurate Reporting. Failure to provide complete and accurate information on the report or failure to file the report on or before December 31 is grounds for revocation of the wholesale or retail license. ( )

409. – 699. (RESERVED)

700. FISHING CONTESTS – PERMIT REQUIREMENT AND APPLICATION.

01. Permit Requirement. No person or other entity may conduct or participate in a fishing contest without having first obtained a fishing contest permit from the Department. Events organized wholly for youth under the age of fourteen (14) do not require a fishing contest permit. ( )

02. Permit Application. Application for fishing contest permits must be made on a form prescribed by the Department. An application must be submitted at least thirty (30) days prior to a catch-and-release contest and ninety (90) days prior to a harvest contest. ( )

701. FISHING CONTESTS PERMIT ISSUANCE.

01. General. The issuance of a fishing permit is at the Department's discretion. Among the factors the Department will consider are: ( )

a. Impacts of the contest on fish populations. ( )

b. Compatibility of the contest with fish population management and fishery goals. *( )*

c. Potential conflict with other recreational users. ( )

d. Potential conflict with other permitted contests. ( )

02. Limit on Contest. The Department will not issue a permit for a harvest contest for wild native trout or sturgeon in rivers or streams. The Director may issue a permit for a catch-and-release contest for these species if he determines there will be no harm to that fishery resource in the particular water where the contest is to take place: ( )

03. Conditions. The Department has discretion to specify conditions in the permit to minimize adverse impacts on fish populations, management programs and goals, other recreational users, or other permitted contests, including: ( )

a. The time of start and check-in; ( )

b. Limitations on the area where participants may fish; ( )

c. For catch-and-release contests, the method and location of release of fish; ( )

d. For harvest contests, more restrictive bag or size limits than *would* otherwise *apply*. *( )*

702. FISHING CONTESTS – REQUIREMENTS.

01. Rules. Any fishing contest participant must comply with seasons, limits, and rules pertaining to the taking of fish and any additional *conditions* of the fishing contest permit. *( )*

02. Culling. *No* fishing contest participant may release back to the water (cull) any fish that is not capable of swimming free. A participant in a catch-and release contest may have one (1) daily bag limit of the target species in possession while continuing to fish for the contest target species; if the participant catches another target fish, the participant must immediately release the last fish caught or immediately exchange it for another target fish in possession. ( )

703. FISHING CONTEST REPORTS.
Each fishing contest sponsor shall, within thirty (30) days after the last day of a fishing contest, submit a written report to the Fisheries Bureau at the Department's main office on the form prescribed by the Department. ( )

704. – 999. (RESERVED)

13.01.12 – RULES GOVERNING COMMERCIAL FISHING

000. LEGAL AUTHORITY.
Sections 36-104 and 36-804, Idaho Code, authorize the Commission to adopt rules concerning commercial fishing. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.12, "Rules Governing Commercial Fishing." These rules establish the criteria for commercial fishing in Idaho. ( )

***002*. – 009. (RESERVED)**

010. DEFINITIONS.

01. Commercial Fishing. Fishing for, taking, or transporting fish or crustacea for the purpose of selling, bartering, exchanging, offering or exposing for sale. ( )

02. Commercial Fish and Crustacea Species. ( )

a. Lake trout – *Salvelinus namaycush*. ( )

b. Lake whitefish – *Coregonus clupeaformis*. ( )

c. Crayfish – species of the genus *Pacifastacus*. ( )

d. Bullfrog – *Rana catesbeiana/Lithobates catesbeianus*. ( )

e. Unprotected fish species from the families of *Cyprinidae* (Minnows) and *Catostomidae* (Suckers) (species not classified as game fish or protected nongame species under 13.01.06, IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife)." ( )

011. – 099. (RESERVED)

100. LICENSES, TAGS, AND PERMITS.

01. Licenses. No person may set, operate, lift or fish with commercial gear unless he has a valid commercial fishing license or is assisting in the presence of such licensee. Any person assisting the holder of a commercial fishing license engaged in commercial fishing with the use of conventional rod and reel must have either a commercial or recreational fishing license. ( )

02. Tags. No person may set, operate, lift or fish commercial gear unless such gear has attached thereto a valid commercial gear tag from the Department, except that no tag need*s to* be attached to conventional rod and reel fishing tackle used for commercial fishing. *( )*

03. Permits. The Director may issue permits authorizing the holder to: ( )

a. Commercially fish for crustacea not listed as commercial species. ( )

b. Commercially fish in waters other than those listed in Section 700. ( )

c. Such permits *will* be valid for a period not to exceed one (1) year. *( )*

04. Revocation of Licenses and Permits. The Director is authorized to suspend, for a period not to exceed one (1) year, or revoke entirely, any commercial license or permit for violation of Title 36, Idaho Code by the licensee or persons acting under the licensee's direction and control. ( )

101. – 199. (RESERVED)

200. RELEASE OF NON-TARGET FISH AND CRUSTACEA.
Any person capturing with commercial gear any species of fish or crustacea not a commercial species or listed on a special permit shall immediately release the fish or crustacea unharmed back to the water. ( )

01. Female Crayfish. Any person capturing any female crayfish carrying eggs or young shall release the crayfish unharmed back to the water at the time the crayfish are sorted. ( )

02. Special Permit. No person may have in possession any species of fish or crustacea other than a commercial species or a species listed on a special permit issued by the Director pursuant to Subsection 100.03 at the time they are engaging in commercial fishing activities. ( )

201. – 299. (RESERVED)

300. POSSESSION AND TRANSPORTATION OF LIVE FISH OR CRUSTACEA.

01. Live Fish. No person *may* transport live fish without a permit from the Department. *( )*

02. Live Crustacea. Commercial fishers may possess and transport live commercial species of crustacea between the water areas where harvested and the point of sale or holding. Live crustacea may be held only in the waters where harvested, in ponds for which a private pond permit listing crayfish has been issued or in licensed commercial facilities. ( )

301. – 399. (RESERVED)

400. SIZE LIMITS.

01. Fish. Commercial *fish* species of any size may be taken commercially. *( )*

02. Crustacea. ( )

a. *Only c*rustacea three and five-eighths (3 5/8) inches (ninety-two (92) mm) *or greater* in length from the tip of the nose (acumen) to the tip of the tail (telson), measured in a straight line ventral side up, may be taken commercially. *( )*

b. Crustacea shall be sorted and any undersize crustacea returned to the water at the place of capture immediately following the emptying of any single trap or a trap line. However, an allowable sorting error percentage of undersized crustacea, not to exceed five percent (5%), is allowed in any load or lot. *T*he percentage of *undersized crustacea will be the mean of combined counts of samples measured and counted from* various portions of the load or lot. Samples *will* be taken in containers of not less than one (1) gallon size approximately full of crayfish*, with a*t least three (3) such samples taken from any load or lot. *( )*

401. – 499. (RESERVED)

500. COMMERCIAL GEAR AND METHODS OF TAKE FOR FISH OR CRUSTACEA.
*No person may commercially harvest f*ish or crustacea *except as* follow*s*: *( )*

01. Seine Nets. *With a* seine net *that is* either: *( )*

a. Under constant attendance by the licensee or someone working under the supervision of the licensee; or ( )

b. If being used to hold fish, clearly marked with buoys that are at least twelve (12) inches in diameter. ( )

02. Traps. *For crayfish and minnow ONLY, with a trap n*ot exceeding three feet in any dimension*, and provided* all crayfish and minnow traps *are* lifted and emptied of catch at least once every ninety-six (96) hours*,* except during periods of weather that pose a threat to human life, health, or safety. *( )*

03. Experimental Gear. *E*xperimental commercial gear specifically approved by the Director under such conditions as the Director may deem appropriate. *( )*

04. **By Hand**. For crayfish ONLY. ( )

05. **Trawl Nets**. Only as specifically approved by the Director. ( )

06. **Conventional Rod and Reel Fishing Tackle**. Only rod and reel methods approved for sportfishing, as described in IDAPA 13.01.11, "Rules Governing Fish," except that the holder of a commercial license may use more than two (2) lines while commercially fishing. ( )

07. **Gill Nets**. Only as specially approved by the Director under such conditions as he may deem appropriate, with approval subject to modification or termination if catch of game fish species is excessive*, and provided*: *( )*

a. All gill nets and lines within ten (10) feet of the surface *are* clearly marked with a minimum of six (6) inch diameter buoys every fifty (50) feet*; and* *( )*

b. All gill nets *are* lifted and emptied of catch at least once every eighteen (18) hours except during periods of weather that pose a threat to human life, health, or safety. *( )*

501. UNTAGGED GEAR.
Untagged gear, as well as any seine net or trap left unattended more than ninety-six (96) hours is considered unlawful or abandoned and may be confiscated by Department personnel. ( )

502. – 599. (RESERVED)

600. SEASONS.

01. **Commercial Fish**. YEAR-ROUND. ( )

02. **Commercial Crustacea**. April 1 through October 31 of each year. ( )

601. – 699. (RESERVED)

700. COMMERCIAL FISHING AREAS.
Commercial harvest is allowed only in the following areas: ( )

01. **For Seine Nets**. Seine nets with a mesh greater than one and one half (1 1/2") square may be used ONLY in the following waters, except as specifically approved by the Director for other waters: ( )

a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. ( )

b. Ashton Reservoir. ( )

c. Palisades Reservoir. ( )

d. Lake Lowell. ( )

e. Black Canyon Reservoir. ( )

f. Blackfoot Reservoir. ( )

g. Mud Lake. ( )

h. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ( )

02. Minnow Traps. Minnow traps for commercial fish may be *used* ONLY in the following areas, except as specifically approved by the Director for other waters. *( )*

a. Snake River excluding main stem impoundments from Weiser upstream to the confluence of the North and South Forks. ( )

b. Ashton Reservoir. ( )

c. Palisades Reservoir. ( )

d. Black Canyon Reservoir. ( )

e. Blackfoot Reservoir. ( )

f. Mud Lake. ( )

g. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ( )

03. Crayfish Traps. Crayfish traps for commercial crustacea may be used ONLY in the following areas, except as specifically approved by the Director: ( )

a. Snake River and main stem impoundments from Hells Canyon Dam upstream to the confluence of the North and South Forks. ( )

b. Black Canyon Reservoir. ( )

c. Blackfoot Reservoir. ( )

d. Mud Lake. ( )

e. Bear River and main stem impoundments from Utah state line upstream to and including Alexander Reservoir. ( )

04. Rod and Reel for Lake Trout Only. ( )

a. Lake Pend Oreille. ( )

05. Gill Nets. Gill nets for commercial fish may only be approved by the Director where commercial nongame species are likely to exceed eighty percent (80%) of the fish biomass. ( )

701. COMMERCIAL FISHING RESTRICTIONS.

01. Operation Limitations. No commercial gear *may* be set, operated, or lifted within one hundred (100) yards of any public boat ramp or dock. ( )

02. Storage Limitation. No commercial gear, boats, or other equipment or materials used in conjunction with a commercial fishing operation may be stored or left unattended at any public fishing access area in any manner that restricts angling or angler access. ( )

702. – 799. (RESERVED)

800. INSPECTIONS AND REPORTING REQUIREMENTS.

01. Inspections. Department personnel may inspect: ( )

a. Commercial gear at any time the gear is being used. ( )

b. Catches and catch records at any time. ( )

02. Reporting Requirements. All licensees shall submit a monthly report on a form prescribed by the Department*, with* all requested information including daily landings and effort, *such that it is* received by the Department not later than the fifteenth day of the month following the fishing activities. *( )*

801. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-104 (b), 36-409, and 36-1102, Idaho Code, authorize the Commission to adopt rules concerning falconry in the state of Idaho. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.14, "Rules Governing Falconry." These rules establish a falconry program in the state of Idaho. ( )

002. **-- 009. (RESERVED)**

010. DEFINITIONS.

01. Calendar Year. January 1 through December 31, *to apply to* any reference to the use of the terms twelve-month (12) period, annual, or year within this rule and federal regulations. *( )*

02. Captive-Bred. Any raptor raised in captivity from eggs laid by captive raptors. ( )

0*3.* Falconry. Capturing, possessing, caring for, transporting, training, and using raptors to hunt wild or artificially propagated birds and animals as a recreational sport, not to include any propagation, breeding or commercial use. ( )

0*4.* Federal. United States Code of Federal Regulations -- CFR Title 50 Parts 21 & 22 -- administered by the United States Department of Interior and U.S. Fish and Wildlife Service. ( )

0*5.* Form 3-186A. A Migratory Bird Acquisition and Disposition Report required by the United States Fish and Wildlife Service and the Department to track and record possession and status of raptors. ( )

0*6.* New U.S. Resident. Any person who has legally moved into the United States or a recognized U.S. Territory to reside and who may or may not have obtained U.S. citizenship. ( )

0*7.* Non-Resident. Any person who has not met the criteria to become an Idaho resident as stated in 36-202(s), Idaho Code, and possesses resident status and privileges from another U.S. state, territory or tribe. ( )

08. **Raptor**. Any bird of prey classified under the Families Falconidae, Strigidae, Accipitridae, and hybrids thereof. ( )

09. **Resident**. Any person meeting the residency requirements set forth in 36-202 (s), Idaho Code. ( )

1*0.* Territory. Recognized territories of the United States. ( )

1*1.* Tribe. Any United States recognized Native American or territorial tribe, its members and federal lands designated as reservations administered under a sovereign tribal government. ( )

1*2.* Transfer. To convey, deliver, loan, gift, give, barter, sell or move a raptor, raptor parts or any permit from one person, place or situation to another. ( )

1*3.* Visitor. Any person not legally residing in the United States or a recognized territory, and who is temporarily in the U.S. as a visitor. ( )

1*4.* Wild-Caught. Any raptor captured, removed or originating from the wild. Wild-caught raptors maintain wild-caught status throughout their life span in regard to capture, possession and transfer restrictions.( )

011. -- 099. (RESERVED)

100. PERMITS, POSSESSION, IMPORTATION, AND SALE.

***01. Migratory Bird Treaty Act and Regulations**. As provided by Section 36-1102, Idaho Code, no person may hunt, take, or have in possession any migratory birds, including raptors, except as provided by federal regulations made pursuant to the federal migratory bird treaty act (including 50 CFR, Parts 21 & 22) and in*

accordance with related rules and proclamations promulgated by the Commission. *( )*

02. **Falconry Permit**. Except as otherwise provided by this rule, an Idaho Falconry Permit (at a fee set forth under 36-416, Idaho Code) is required before any person may possess, capture, transport, import, export or purchase any raptor for the purpose of falconry. *( )*

03. **Raptor Captive Breeding Permit**. Except as otherwise provided by this rule, an Idaho Raptor Captive Breeding Permit (at a fee set forth under 36-416, Idaho Code) and a Federal Raptor Propagation Permit is required before any person may take, possess, transport, import, export, purchase, barter, sell or offer to sell, purchase, or barter any raptor, raptor egg, or raptor semen for propagation purposes. *( )*

04. **Non-Residents, New U.S. Residents Permit Purchase**. Non-Residents and New U.S. Residents may be issued Idaho Apprentice, General, Master Falconer, or Raptor Captive Breeding Permits without a waiting period upon permanently moving into the state of Idaho. ( )

a. Non-Resident and New U.S. Resident applicants shall surrender *to the Department* any permit(s) issued by another state or country, and provide a written and signed statement verifying intent to become an Idaho resident. *( )*

b. Non-Resident applicants will be issued an equivalent Idaho class permit(s) to the permit(s) surrendered from the applicant's past resident state, territory or tribe. ( )

c. New Residents to the U.S. will be required to pass the Department Apprentice Falconry Examination and provide documentation to support the class of permit applied for. The Department, based on applicant experience, *will* determine and assign the appropriate class of permit. *( )*

05. **Non-Resident, New U.S. Resident Permit Purchase within Thirty Days**. Non-Resident and New U.S. Resident falconers taking permanent residency in Idaho, shall, within thirty (30) consecutive days, purchase an Idaho Falconry Permit and a Raptor Captive Breeding Permit as required by Subsections 100.01 and 100.02 of this rule. ( )

06. **Expiration of Permits**. Idaho Falconry Permits and Raptor Captive Breeding Permits *are* valid *for* three (3) years from date of issuance or renewal. *( )*

07. **Permit Renewal**. Permit issuance or renewal *will* be initiated with the completion and submission of a Department Falconry Application Form to the appropriate Department Regional Office accompanied by the appropriate fee(s) as set forth under 36-416, Idaho Code. *( )*

08. **Transfer of Permits**. Idaho Falconry and Raptor Captive Breeding Permits are not transferable to another person, but may be updated to a new in-state location. ( )

09. **Permit-Class Upgrades**. ( )

a. Falconry Permit-class upgrades (e.g., moving from Apprentice to General status) *will* be made at no cost to the applicant. Permit-class change requests shall be submitted to the appropriate Department Regional Office on a Department Falconry Permit Application Form with required documentation to verify that prerequisites for the permit-class upgrade have been satisfied. *( )*

b. Permit Exemption for Temporary Possession. Except as otherwise provided, Non-Residents, Visitors and New U.S. Residents possessing a valid federal, territory, tribe, another state or country's equivalent Falconry or Raptor Captive Breeding/Propagation Permit, and not utilizing or possessing any Idaho resident privilege, may temporarily import, possess and transport raptors listed under their Falconry or Captive Breeding/ Propagation Permits for up to thirty (30) consecutive days without purchasing an Idaho Falconry or Raptor Captive Breeding Permit. ( )

i. Visitors and New U.S. Residents shall comply with federal raptor importation and registration laws and shall obtain a Department Wildlife Importation Permit before importing any raptor. ( )

ii. Visitors and New U.S. Residents entering Idaho with a raptor(s) under an Idaho Wildlife Import Permit shall contact the nearest Department Regional Office to take the Idaho Falconry Examination. Only applicants correctly answering at least eighty percent (80%) of the test questions will be issued a Temporary Idaho Falconry Permit. Wildlife Import and Temporary Falconry Permits shall be carried at all times when possessing raptors. ( )

iii. Exceptions to extend the thirty (30) day exemption period shall be at the Department's discretion and any temporary possession in excess of one hundred twenty (120) days shall require raptor housing in a falconry facility that has been approved by the Department under an existing Falconry or Captive Breeding Permit. ( )

iv. Non-Residents, New U.S. Residents and Visitors in addition to possessing a valid Falconry or Captive Breeding/Propagation Permit from their home state, territory, tribe or country shall comply with all other Idaho and federal rules regulating hunting and the possession of wildlife to include possession of appropriate non-resident licenses, tags, permits, stamps and validations. ( )

10. **Unlawful Sale and Possession of Raptors**. Except as otherwise provided by this rule, no person *may* sell, purchase, or barter any raptor or parts thereof, or possess raptors or parts that have been unlawfully obtained, sold, purchased or bartered. *( )*

a. Only live captive-bred raptors banded or micro-chipped in compliance with Subsection 400.01 of this rule may be sold, purchased or bartered between holders of valid state, federal, tribal, territory or another country's Falconry and Raptor Captive Breeding or Propagation Permit. ( )

b. Holders of valid Idaho Raptor Captive Breeding Permits and federal Raptor Propagation Permits may only sell, purchase and barter raptor eggs and semen produced and originating from raptor propagation or captive breeding programs under valid permit. ( )

101. -- 199. (RESERVED)

200. INSPECTION OF RAPTORS, FACILITIES, POSSESSION AND RECORDS.

01. Facilities Covered by Permits. All raptors, facilities, equipment and falconry records required in accordance with federal and Idaho rules *are* subject to reasonable business-hour inspection, any day of the week, in the presence of the applicant or permit holder. All raptors, equipment, and related records required by law shall be produced for inspection upon Department request. *( )*

02. Inspection Prior to Possession of Raptors. ( )

a. Except as otherwise provided by Section 100 of this rule, no person *may* possess any raptor(s) under the issuance of an Idaho Falconry or Raptor Captive Breeding Permit, until holding facilities and equipment have been inspected and approved by the Department to verify that facilities and equipment meet federal and Idaho standards. *( )*

b. Facility inspections *are* required any time a permit holder moves his holding facilities to any physical address location that is not recorded on his current Falconry or Raptor Captive Breeding Permits. Facility location changes shall be reported to the Department within five (5) days. *( )*

03. Facilities Accepted. Either indoor, including a personal residence, or outdoor falconry facilities, or a combination of both meeting federal standards of care, *are* authorized. *( )*

201. -- 299. (RESERVED)

300. APPROVED SPECIES, WILD CAPTURE, LIMITS, PERMITS, HACKING, AND REHABILITATION.

01. Approved Raptor Species. Except as otherwise provided by this rule, any species of raptor defined under Section 010 of this rule *is* authorized for use in falconry or captive breeding. *( )*

02. Capture Permits. Raptors may only be captured from the wild by persons possessing a valid Idaho Falconry Permit, or a Non-resident federal, state, territory or tribal Falconry Permit. Non-residents must also possess an Idaho Bird of Prey Capture Permit. ( )

03. Capture of Wild Raptors, Approved Species and Limitations. ( )

a. Resident Falconers. Except as otherwise provided by this rule, residents possessing a valid Idaho Falconry Permit *are* authorized to capture no more than two (2) wild raptors, as their permit class authorizes, each calendar year. ( )

i. Not more than one (1) Golden Eagle *may* be captured in any calendar year. ( )

ii. Capture and possession of any raptor classified under federal or state law as threatened or endangered is unlawful without Department approval and a special permit. ( )

iii. The issuance of an Idaho Eagle Falconry Permit is required to capture or possess Golden Eagles. ( )

iv. Capture and possession of Bald Eagles is unlawful. ( )

v. Capture and possession of wild Peregrines, as listing status allows, shall be restricted to a limited number of resident Peregrine Capture Permits. ( )

vi. The Commission, pursuant to Section 36-105 (3), Idaho Code, may establish capture quotas, and a capture permit allocation system by proclamation. ( )

b. Non-Resident Falconers. Non-resident falconers intending to capture any wild Idaho raptor shall comply with the following: ( )

i. Apply to the Department Licensing Bureau in Boise for a Non-Resident Bird of Prey Capture Permit, *issued on a calendar year basis,* at a fee set forth under Section 36-416, Idaho Code. ( )

ii. The Commission, pursuant to Section 36-105 (3), Idaho Code, will designate raptor species approved for capture, capture quotas, and a capture permit allocation system by proclamation. ( )

iii. Non-residents *will* be limited to the purchase of only one (1) Bird of Prey Capture Permit per calendar year. ( )

iv. Non-residents receiving a Bird of Prey Capture Permit shall be authorized to only capture and possess the species of raptor specified on their permit. ( )

v. Non-resident Capture Permit holders, successful with the capture of a raptor shall, within seventy-two (72) hours of capture, have their Capture Permit validated by the Department at any Regional Office prior to transporting any captured raptor out of Idaho. ( )

04. Approved Capture Dates - Resident and Non-Resident Falconers. ( )

a. Immature raptors (birds less than one (1) year of age) *are* open to capture all year with no restrictions in regard to days of the week or times of capture. ( )

b. Kestrels and Great-horned Owls may be captured as immature or adult birds (birds that are one (1) year of age or older). The take of adult birds *is* prohibited from March 1st through July 31st. ( )

05. Capture Area Restrictions. ( )

a. No person *may* capture or attempt to capture any raptor when such activity is unlawful under

federal, state, tribal, county or city law or ordinance. ( )

b. *No person may possess any r*aptors taken in violation of any federal, state, tribal, county or city law. ( )

06. Capture and Possession Limits. No person *may* exceed approved state and federal raptor possession and capture limits. ( )

07. Raptor Hacking. Raptor hacking in compliance with federal rules, by holders of a valid Idaho Falconry or Rehabilitation Permits, is authorized. ( )

08. Assisting with Raptor Rehabilitation. General or Master Class Falconers possessing a valid Idaho Falconry Permit may assist the Department and permitted raptor rehabilitators with the rehabilitation, conditioning and hacking of raptors*, provided the taking of a*ny raptor into possession for rehabilitative conditioning or training *is* coordinated and pre-approved by the appropriate Department Regional Office. ( )

301. -- 399. (RESERVED)

400. RAPTOR BANDING, RADIO TRANSMITTERS, TRANSFERS, REPORTING, AND RELEASE.

01. Raptor Banding. Except as otherwise provided for temporary possession and housing under federal rule and Section 100 of this rule, falconers and captive breeders possessing raptors shall comply with all federal banding and micro-chipping regulations *and comply with the following, with bands to be provided by the Department and micro-chips to be provided by the falconer:* ( )

a. Wild-caught Peregrines, Harris' Hawks, Gyrfalcons and Goshawks*:* banded with a black federal, non-reusable leg band or an approved micro-chip (ISO compliant at 134.2 kHz). ( )

b. All Captive-bred raptors*:* banded with a seamless band within two (2) weeks of hatching. Federally approved micro-chips or yellow federal, non-reusable leg bands may be used to replace seamless bands that are broken or have become unreadable. ( )

c. Raptors that suffer injury or develop health issues caused by leg bands, or routinely remove or damage bands*:* micro-chipped*, or, b*ased on unusual circumstances, a special written exemption to banding or micro-chipping. ( )

d. Bands or micro-chips*:* attached or placed on all federally required wild-caught raptors within five (5) days of acquisition or capture. ( )

02. Radio Transmitters. At least two (2) functioning radio transmitters shall be attached to any raptor hybrid, or any raptor not listed under CFR 50, Part 10.13, when being free flown. ( )

03. Raptor Transfers. Resident falconers/captive breeders *may* not transfer any species of wild-caught raptor to a non-resident until the transfer is approved under an Idaho Wildlife Export Permit. ( )

a. Idaho Wildlife Export Permits may be purchased at a fee set forth under Section 36-416, Idaho Code, by submitting an application to the Department Wildlife Health Lab. ( )

b. With Department approval, wild-caught raptors, possessed less than two (2) years from date of capture, that have been injured and can no longer be flown for falconry purposes, as determined by a veterinarian or raptor rehabilitator, may be transferred to a Captive Breeding or Propagation Permit. ( )

04. Release of Birds. No raptor *may* be permanently released into the wild without prior Department approval. ( )

05. Reporting. A Form 3-186A shall be completed and electronically submitted into the United States Fish and Wildlife Service electronic records database, or a hard copy thereof, shall be completed and submitted to the

appropriate Department Regional Office within five (5) days when any raptor is acquired, captured (including captures of already banded or telemetry equipped birds), re-captured, transferred, lost, escaped, stolen, released, banded, re-banded, micro-chipped, or deceased. ( )

401. -- 499. (RESERVED)

500. FALCONRY HUNTING SEASONS, BAG AND POSSESSION LIMITS.
The Commission sets hunting seasons, bag limits, and possession limits by proclamation adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

501. -- 599. (RESERVED)

600. TRAINING RAPTORS USING ARTIFICIALLY PROPAGATED GAME BIRDS.

01. Permit. A valid Idaho Falconry Training Permit is required before any person is authorized to possess, release, or use artificially propagated game birds for purposes of training raptors in the field. Training permits shall be issued at a fee set forth under Section 36-416, Idaho Code, currently a free permit, and are available to residents, non-residents and visitors, and all hunting license requirements apply. ( )

02. Permits Valid. Permits *are* valid *for* two (2) years from date of issuance. ( )

03. Establishing Limitations and Guidelines. In addition to the rules set forth, the Director is authorized to establish limitations and guidelines as to dates, locations, and conditions whereupon permits may be issued allowing the party or parties listed thereon to use, release and kill game birds obtained from a private domestic source for the purpose of field training raptors. ( )

04. Raptor Field Training, Conditions of Use. Raptor field training with a valid Idaho Falconry Training Permit and the use of artificially propagated game birds is lawful when the following conditions are met: ( )

a. The owner of the raptor(s) being trained possesses a valid Idaho Falconry Training Permit, or another state, country, territory or federal Falconry Permit. ( )

b. An Idaho Falconry Training Permit and required falconry permit(s) are carried in the field and available for Department inspection at the training site. ( )

c. Artificially propagated game birds used for training purposes are certified disease free under the standards set forth by the National Poultry Improvement Program (NPIP). ( )

d. Proof of lawful game bird origin is available for inspection. ( )

e. Permit holder complies with all additional stipulations outlined on the permit at time of issuance. ( )

601. -- 699. (RESERVED)

700. FALCONRY MEETS, PERMITS, NON-RESIDENTS, NEW U.S. RESIDENTS, AND VISITORS.
Non-residents, new U.S. residents and visitors shall purchase and possess an Idaho Falconry Meet Permit, at a fee set forth under 36-416, Idaho Code, or an appropriate Non-Resident hunting license to fly or hunt any raptor as a participant in any sponsored falconry meet or contest. ( )

701. -- 799. (RESERVED)

800. PENALTIES.
Conviction of a violation of these rules may be grounds for revocation of an Idaho falconry permit or denial of any pending applications for an Idaho falconry permit. The revocation of any permit may be appealed *in writing to the Director* within thirty (30) days of such revocation. ( )

801. -- 999. (RESERVED)

13.01.15 – RULES GOVERNING THE USE OF DOGS

000. LEGAL AUTHORITY.
Sections 36-104, 36-409, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the use of dogs in taking wildlife, use of game birds in field training, and related permitting. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.15, "Rules Governing the Use of Dogs." These rules govern the use of dogs in taking wildlife and use of game birds in field training dogs in Idaho. ( )

002. **-- 009. (RESERVED)**

010. DEFINITIONS.
IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife," defines upland game animals, upland game birds, and migratory game birds. ( )

01. Licensed Outfitter. An outfitter with a valid license issued under Title 36, Chapter 21, Idaho Code. ( )

02. Licensed Guide. A guide with a valid license issued under Title 36, Chapter 21, Idaho Code. ( )

03. Unarmed Observers. An unarmed person who is not the owner or controller of pursuit dogs and who accompanies a hunt without intent to take or harvest an animal. ( )

04. Unqualified Idaho Resident. A person who has moved into Idaho, and by notarized affidavit proves intent to become a bona fide Idaho resident but who is not yet qualified to purchase a resident license. ( )

011. -- 099. (RESERVED)

100. USE OF DOGS.
No person may use dogs for *taking* wildlife, except for the following wildlife under the following conditions: *( )*

01. Upland Game Animals, Upland Game Birds, and Migratory Game Birds. A dog may be used for training on or hunting upland game animals, game birds, and migratory game birds. ( )

02. Black Bear, Mountain Lion, Bobcat, and Fox—Taking. Dogs may be used for taking black bear, mountain lion, bobcat, and fox in a take season open for the species, unless the Commission prohibits dog use in the area by proclamation. ( )

03. Black Bear, Mountain Lion, Bobcat, and Fox—Training/Pursuit Only. Dogs may be used for training and pursuit only (no harvest) of black bear, mountain lion, bobcat, and fox in a dog training season open for the species, unless the Commission prohibits dog use in the area by proclamation. A big game tag valid for the calendar year that has been filled is still valid for training/pursuit only of the species. ( )

04. Blood Trailing of Big Game. The use of one (1) blood-trailing dog controlled by leash during hunting hours and within seventy-two (72) hours of hitting a big game animal is allowed to track animals and aid in recovery. ( )

05. Unprotected and Predatory Wildlife. A dog may be used for training on or taking unprotected and predatory wildlife. ( )

101. -- 199. (RESERVED)

200. HOUND HUNTER PERMIT.

01. Hound Hunter Permits. ( )

a. The following persons must have a valid hunting license and Hound Hunter Permit in possession when any dog is being used to hunt, including training or pursuit only, black bear, mountain lion, bobcat, and fox: ( )

i. Anyone who owns the dog. ( )

ii. Anyone having control of the dog if owned by another person. ( )

b. A permit is not transferable EXCEPT, a licensed outfitter may convey the authority of his Hound Hunter Permit to a nonresident licensed guide operating for him, provided the nonresident guide has a copy of the outfitter's Hound Hunter Permit in possession. ( )

c. A permit is valid from January 1 through December 31 of each year. ( )

02. Exceptions. A person owning or using a dog only for blood trailing does not need a hound hunter permit. An unarmed observer *does not need* a hunting license or hound hunter permit. *( )*

03. Limit on Hound Hunter Permits for Nonresidents. No more than seventy (70) nonresident hound hunter permits will be issued to nonresident hunters. Sales of nonresident Hound Hunter Permits to the following persons are exempt from this limit: ( )

a. A nonresident licensed outfitter or guide, provided the permit is not used for personal hunting. ( )

b. An unqualified Idaho resident. ( )

c. Persons who hound hunt solely in the Middle Fork Zone (Units 20A, 26, and 27). ( )

d. Persons who hound hunt solely in the Lolo Zone (Units 10 and 12). ( )

e. Persons who hound hunt solely within the Selway Zone (Units 16A, 17, 19, and 20), for which no more than forty (40) nonresident permits will be issued for Units 16A, 19, 20, and all of Unit 17, excluding Hunt Area 17-1, for which no more than six (6) nonresident permits will be issued. Hunt Area 17-1 is that portion of Unit 17 south of the following boundary: Beginning at the junction of the Unit 17 boundary and Forest Service Trail 24, then west along Forest Service Trail 24 to the Selway River, then north along the Selway River to Forest Service Trail 40, then southwest along Forest Service Trail 40 to Forest Service Trail 3, then along Forest Service Trail 3 to the Unit 17 boundary. ( )

04. Nonresident Applications. ( )

a. To be eligible for a controlled draw for limited nonresident permits, a nonresident must submit a legible, complete application for a hound hunter permit on the form prescribed by the Department such that it is received at the Department's main office by no later than December 1 of the year preceding the year in which the permit is to be valid. ( )

b. No person may submit more than one (1) application for a Hound Hunter Permit. ( )

c. Two nonresidents may apply for two (2) permits on the same application form. ( )

d. If nonresident tags are available after the application period, they will be available for purchase at any Department office on a first-come, first-served basis on or after December 10. ( )

201. -- 299. (RESERVED)

300. BIRD-DOG TRAINING AND FIELD TRIALS BY INDIVIDUALS USING ARTIFICIALLY PROPAGATED GAME BIRDS.

01. Bird-Dog Training. No person may conduct bird-dog field training with the use of artificially propagated game birds unless *all of* the following conditions are met: *( )*

a. The owner of any dog being field trained *has* a valid Bird-Dog Training Permit (obtainable at Department Offices), and *has* the permit available for inspection at the training site. *( )*

b. Artificially propagated game birds used for training purposes on Wildlife Management Areas *are* certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). *( )*

c. The permittee *is in* compl*iance* with permit terms. *( )*

02. Bird-Dog Field Trials. No person may conduct or own a dog participating in a bird-dog field trial using artificially propagated game birds unless *all of* the following conditions are met: *( )*

a. There *is* a valid Bird-Dog Field Trial Permit (obtainable at Department Offices) available for inspection at the field trial site. *( )*

b. Artificially propagated game birds used for training purposes *are* certified as disease free under the standards set forth by the National Poultry Improvement Program (NPIP). *( )*

c. Proof of lawful game-bird origin *is* available for inspection at the field trial site. *( )*

d. The permittee *is in* compl*iance* with permit terms. *( )*

301. -- 999. (RESERVED)

13.01.16 – THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS

000. LEGAL AUTHORITY.
Sections 36-104(b) and 36-1101(a), Idaho Code, authorize the Commission to adopt rules concerning the trapping of predatory and unprotected wildlife and the taking of furbearing animals. ( )

001. TITLE AND SCOPE.
The title for this chapter for citation is IDAPA 13.01.16, "The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals." These rules govern the taking of trapping predatory and unprotected wildlife and the taking of furbearing animals in the state of Idaho. ( )

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.
IDAPA 13.01.06, "Rules Governing Classification and Protection of Wildlife" defines furbearing animals and unprotected wildlife. Section 36-201, Idaho Code, defines predatory wildlife. ( )

01. Bait. Any animal parts; except bleached bones or liquid scent. ( )

02. Sets. ( )

a. Ground Set. Any foothold trap, body-gripping trap, or snare originally set in or on the land (soil, rock, etc.), which includes any traps elevated up to a maximum of thirty-six (36) inches above the natural ground level. ( )

b. Water Set. Any trap or snare originally set in or on any body of water, which includes traps on floats in the water and those that are set with a minimum of one-third (1/3) of the trap submerged. Water set includes traps set on beaver dams, in bank holes and in the water at bank slides. ( )

c. Other Sets. Any set not defined as a ground or water set, including without limitation, elevated sets originally set thirty-six (36) inches or more above natural ground level. ( )

03. Public Trail. Any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency. ( )

011. -- 099. (RESERVED)

100. IDENTIFICATION TAGS FOR TRAPS.
All traps or snares, except those used for pocket gophers, ground squirrels or other unprotected rodents, shall have attached to the snare or the chain of every trap, a metal tag bearing: ( )

01. Name and Address. In legible English the name and current address of the trapper; or ( )

02. Number. A six (6) digit number, *to be obtained by* the trapper *from* any Department office. *( )*

***a*.** Any person assigned a six (6) digit number to mark his traps or snares must notify the Department in writing or in person at any Department Office within thirty (30) days of any change in address. ( )

101. -- 149. (RESERVED)

150. CONTROLLED TRAPPING PERMITS.

01. General. No person may trap in a controlled trapping unit for the designated species without having a valid permit for that controlled trapping unit in possession. A permit issued based on erroneous information will be invalidated by the Department. The Department will notify the *individual* of the invalidation*, and that* person will *not be eligible for a controlled trapping permit that year or* in a succeeding year *to which a waiting period applies*. *( )*

02. Eligibility. Any person possessing a valid Idaho trapping license is eligible to apply for a controlled trapping unit permit. ( )

03. Applications. Applications for controlled trapping permits *will* be made on a form prescribed by the Department. *The Department will only consider applications* received at the Headquarters Office of the Department or postmarked not later than September 15 of each year. Any application that is unreadable, has incomplete or incorrect trapping license numbers, or lacks *mandatory* information or fee will be declared void and will not be entered in the drawing. All applications will be considered final *and cannot* be resubmitted after correction. *( )*

a. No person may submit more than one (1) application *per species* for a controlled trapping permit. *( )*

b. No group applications will be accepted. ( )

04. Controlled Trapping Permit Drawing. ( )

a. Applications not drawn for the first choice unit will automatically be entered into a second choice drawing, provided the second choice applied for has not been filled. ( )

b. If an insufficient number of "first choice" applications are received for a unit, remaining permits will be filled from applications listing the unit as a second choice. ( )

c. Any permits left unfilled after the second choice drawing may be issued on a first-come-first-served basis. ( )

05. Successful Applicants. Successful applicants will be notified by mail and must contact the person listed on the notice by October 14 to obtain the permit. The permittee, upon agreeing to follow trapping instructions for the unit, will be issued a permit. ( )

06. Revocation of Permits. Any permittee who does not comply with Title 36, Idaho Code, *administrative* rules, or trapping unit instructions may have his permit revoked. *( )*

07. Alternative Permittee. Any revoked permit may be issued to an alternate, selected at the time of the drawing. If there is no alternate, or the alternate fails to comply with Subsection 150.05 above, the permit may be issued to the first eligible trapper answering a notification of vacant trapping Unit as approved by the Regional Supervisor. ( )

151. -- 199. (RESERVED)

200. TRAPS.

01. Checking Traps. ( )

a. No person may place snares or traps for furbearing animals, predatory or unprotected wildlife, EXCEPT pocket gophers, ground squirrels and other unprotected rodents, without visiting every trap or snare once every seventy-two (72) hours and removing any catch therein. ( )

b. Trappers acting as government employees or contractors are exempt from this rule. ( )

02. Removing Trapped Animals of Another. No person may remove wildlife from the trap or snare of another EXCEPT licensed trappers with written permission from the owner. ( )

03. Release of Non-Target Catches. ( )

a. All non-target species caught alive shall be released immediately. Non-target species are defined as any species caught for which the season is closed *or is in excess of the trapper's limit*. *( )*

b. Any trapper who catches a non-target species that is dead shall: ( )

i. *Promptly* record the date and species of animal caught *and include t*his information in the mandatory furtaker harvest report. *( )*

ii. Remove the animal from the trap and take it into possession. ( )

iii. Notify the Department through the local Conservation Officer or Department office within seventy-two (72) hours to make arrangements to transfer the animal to the Department. ( )

c. The Department will reimburse trappers ten dollars ($10) for each bobcat, lynx, wolverine, otter, or fisher caught accidentally and turned in. ( )

201. -- 299. (RESERVED)

300. WOUNDING, RETRIEVING, AND POSSESSION.

01. Wound or Kill. No person may wound or kill any furbearer by hunting without making a reasonable effort to retrieve it and reduce it to possession. *( )*

02. Live Furbearer. No person *may* possess a live furbearer taken from the wild. *( )*

301. -- 399. (RESERVED)

400. METHODS OF TAKE.

01. Furbearing Animals. No person may take beaver, muskrat, mink, marten, or otter by any method other than trapping. *No person may hunt any furbearing animal with or by the aid of artificial light.* *( )*

02. Hunting. No person hunting furbearing animals or predatory or unprotected wildlife may *h*unt with dogs, except in accordance with IDAPA 13.01.15, "Rules Governing the Use of Dogs." *( )*

0*3*. Trapping. No person trapping furbearing animals or predatory or unprotected wildlife may: ( )

a. Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife. ( )

b. Use any set within thirty (30) feet of any visible bait. ( )

c. Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ( )

d. Use live animals as a bait or attractant. ( )

e. Place any ground sets on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. ( )

f. Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; except ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ( )

g. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area; except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. ( )

h. Place or set any ground set snare without a break-away device or cable stop incorporated within the loop of the snare. ( )

i. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. ( )

401. -- 499. (RESERVED)

500. MANDATORY CHECK AND REPORT – PELT TAGS.

01. Mandatory Check and Report. Any person taking river otter or bobcat must comply with the mandatory check, report and pelt tag requirements by: ( )

a. *Bobcat:* Present the pelt to a*ny* Department office or official check point to obtain the appropriate pelt tag and complete a harvest report. *( )*

b. River Otter: *Present the pelt to* the *Department* office in the region in which the animal was taken within seventy-two (72) hours of taking *to obtain the appropriate pelt tag and complete a harvest report*. Trappers unable to comply with the tagging requirements due to special or unique circumstances must report their harvest to the appropriate regional office or field personnel within seventy-two (72) hours and make arrangements for tagging at the proper regional office. *( )*

02. Pelt Tags. ( )

a. No person may have in possession, except during the open season and for ten (10) days after the close of the season, any raw bobcat pelt without an official state export tag attached, unless that person has a fur buyer or taxidermist license or appropriate import documentation. ( )

b. *No person may have in possession, except during the open season and for seventy-two (72) hours after the close of the season, any raw otter pelt legally harvested in Idaho that does not have an official state export tag attached.* *( )*

c. No person may sell, offer for sale, purchase, or offer to purchase any raw bobcat or otter pelt that does not have an official state export tag attached, unless that person has a fur buyer or taxidermist license or appropriate import documentation. *( )*

501. -- 599. (RESERVED)

600. TRAPPING ON GAME PRESERVES AND WILDLIFE MANAGEMENT AREAS.

01. Game Preserves and Wildlife Management Areas. All state game preserves and Department Wildlife Management Areas *(WMAs)* are open to the taking of furbearing animals during the open season declared for the areas in which they lie*, provided that any person* desi*ring* to trap on a *WMA* must register in advance, either at *WMA* headquarters or at the *Department* regional office. *( )*

02. Restrictions. The Regional Supervisor where a wildlife management area (WMA) is located may establish limits on the number of trappers allowed on the WMA, a method of equitable allocation of trapping opportunity on a WMA, the number and types of sets allowed, and posting and reporting requirements. ( )

601. -- 649. (RESERVED)

650. AREAS CLOSED TO THE TRAPPING OF PREDATORY AND UNPROTECTED WILDLIFE AND THE TAKING OF FURBEARING ANIMALS.

*No person may h*unt, trap, kill, or molest furbearing animals, predatory and unprotected wildlife in the following areas: *( )*

01. Craters of the Moon. That area of Craters of the Moon National Monument in Blaine and Butte Counties prior to the November 2000 expansion (which excludes the Craters of the Moon National Preserve). ( )

02. **Hagerman Fossil Beds National Monument**. In Twin Falls County. ( )

03. **Nez Perce National Historical Park**. In Clearwater, Idaho, and Nez Perce Counties. ( )

04. **Ada County**. That portion of Ada County: ( )

a. Within Veterans Memorial Park; ( )

b. Within one quarter (1/4) mile of the Boise River from the New York Canal Diversion Dam downstream to the Glenwood Bridge; and ( )

c. Between State Highway 21 and the New York Canal from the New York Canal Diversion Dam downstream to the Boise City limits. ( )

05. **Stanley Creek**. Wildlife Interpretive Area. In Custer County. ( )

06. **Yellowstone National Park**. In Fremont County. ( )

07. **Other Areas**. On any of those portions of State game preserves, State wildlife management areas, bird preserves, bird refuges, and bird sanctuaries for which trapping closures have been declared by legislative or Commission action. ( )

08. **National Wildlife Refuges**. All or portions of national wildlife refuges, EXCEPT as specified in federal regulations for individual refuges. ( )

651. -- 699. **(RESERVED)**

700. **COMMON SEASON BOUNDARIES FOR STREAMS AND RIVERS.**
Whenever a stream or river forms a boundary between two (2) different trapping areas, the stream or river channel proper *will* open for trapping on the earlier opening date and close on the later closing date of the two (2) seasons involved. *( )*

701. --749. **(RESERVED)**

750. **SEASONS AND LIMITS.**
The Commission sets the seasons, bag limits, and possessions limits by proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

751. -- 799. **(RESERVED)**

800. **TRAPPING REPORTS.**

01. **Trapping Report Completion**. *By July 31, a*ll trappers shall fill out the mandatory furtak*er* harvest report*, including both target and non-target catch, for the trapping license year by submission* via the Department website*, in person at a Department office,* or by mailing to Box 25, Boise, Idaho 83707. Any trapper failing to make such a report by July 31 will be refused a license to trap animals for the ensuing year until a late report is submitted. *( )*

02. **Return of Reports and Permits**. All permittees shall return their controlled trapping unit permits and controlled trapping reports to the person from whom they obtained their controlled trapping unit permits within ten (10) days of the close of the season for the controlled trapping unit. ( )

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

13.01.17 – RULES GOVERNING THE USE OF BAIT AND TRAPPING FOR TAKING BIG GAME ANIMALS

000. LEGAL AUTHORITY.
Sections 36-104, 409, and 36-1101, Idaho Code, authorize the Commission to adopt rules concerning the use of bait and trapping for taking big game animals. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.17, "Rules Governing the Use of Bait and Trapping for Taking Big Game Animals." These rules govern the use of bait and trapping for taking big game animals. *( )*

002. – 009. (RESERVED)

***010*. DEFINITIONS.**

01. Bait (Hunting). Bait for hunting purposes is any substance placed to attract big game animals, except synthetic liquid scent for deer and elk. ( )

02. Bait (Trapping). Bait for trapping purposes is defined as any animal parts; except bleached bones or liquid scent. ( )

03. Established Roadway. A roadway open to the general public for motorized traffic and capable of being traveled by full-sized automobiles. ( )

04. Ground Set. Any foothold trap, body-gripping trap, or snare originally set in or on the land (soil, rock, etc.), which includes any traps elevated up to a maximum of thirty-six (36) inches above the natural ground level. ( )

05. Public Trail (Trapping). Any trail designated by any city, county, state, or federal transportation or land management agency on the most current official map of the agency. ( )

0*11*. -- 099. (RESERVED)

100. USE OF BAIT FOR HUNTING BIG GAME.
Bait may be used to hunt ONLY black bear and ONLY under the following conditions, EXCEPT gray wolf may be taken incidentally to bear baiting. ( )

01. Time. ( )

a. No bait or bait container may be placed for the purpose of attracting or taking black bear prior to the opening of black bear take season EXCEPT bait may be placed one (1) week prior to the opening of bear season in Units 10, 12, 16A, 17, 19, 20, 20A, 26 and 27. ( )

b. All bait, bait containers and materials must be removed and all excavations refilled no later than seven (7) days after the close of each season (spring, fall, or black bear dog training); EXCEPT bait, bait containers, and materials may remain in Units 10 and 12 between the dog training season and the fall season. ( )

02. Location. ( )

a. No bait site may be located within two hundred (200) feet of any water (lake, pond, reservoir, year round free flowing spring and year round free flowing stream). ( )

b. No bait site may be located within two hundred (200) yards from any maintained trail or any established roadway; except in the Panhandle and Clearwater Regions, no bait site may be located within two hundred (200) feet from any maintained trail or any established roadway. ( )

c. No bait site may be located within one-half (1/2) mile of any designated campground or picnic area, administrative site, or dwelling. ( )

03. Types. ( )

a. No person may use any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife for bait or scent. ( )

b. The skin must be removed from any mammal parts or carcasses used as bait. ( )

c. No person *may* use salt in any form (liquid or solid) for bait. *( )*

04. Containers. ( )

a. No bait may be contained within paper, plastic, glass, metal, wood or other non-biodegradable materials, except that a single, metal container with a maximum size of fifty-five (55) gallons may be used if securely attached at the bait site. ( )

b. No bait may be contained in any excavated hole greater than four (4) feet in diameter. ( )

05. Establishment of Bait Sites. ( )

a. Any structures constructed at bait sites using nails, spikes, ropes, screws, or other materials must be removed by the permit holder within seven (7) days after the close of each season (spring, fall, or black bear dog training). ( )

b. All bait sites must be visibly marked at the nearest tree or on the bait container using a tag supplied by the Department. ( )

101. -- 199. (RESERVED)

200. BAITING PERMIT.

01. Baiting Permit. ( )

a. Baiting permits are issued by mail or in person from Department offices beginning March 1 of each year. ( )

b. Baiting permits are valid for the calendar year in which they are issued. ( )

02. Use of Baiting Permit. ( )

a. All persons placing bait must possess a baiting permit issued by the Department. ( )

b. Each hunter may possess only one (1) baiting permit each year and may maintain up to three (3) bait sites, except the number of bait sites maintained by outfitters will be that specified by the land management agency in the outfitter's operating plan. ( )

c. No person may hunt over an unlawful bait site. ( )

d. Guides and clients of outfitters are *exempt from possessing* a baiting permit, *provided* they have a copy of the outfitter's permit in their possession while *placing bait or* hunting over *the outfitter's permitted* bait site. *( )*

201. -- 399. (RESERVED)

400. TRAPPING BIG GAME ANIMALS.
Trapping may be used to take ONLY gray wolf and ONLY under the following conditions. ( )

01. Methods of Take When Trapping. No person trapping gray wolf may: ( )

a. Use any set, EXCEPT a ground set. ( )

b. Use for bait or scent, any part of a domestic or wild origin game bird, big game animal, upland game animal, game fish, or protected nongame wildlife; EXCEPT: ( )

i. Gray wolves may be trapped near a big game animal that has died naturally and the carcass has not been repositioned for trapping purposes. Natural causes *do* not include any man-caused mortality. *( )*

ii. Gray wolves may be trapped using a carcass of a legally taken gray wolf with the hide removed. ( )

iii. Gray wolves may be trapped using the parts of accidentally killed wildlife salvaged in accordance with IDAPA 13.01.10, "Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife," Subsections 300.02.c. and 300.02.d. in Game Management Units as identified by the Commission's Big Game Season Proclamation, adopted and published in accordance with Section 36-105(3), Idaho Code. ( )

c. Use any set within thirty (30) feet of any visible bait; including bait allowed in Subsection 400.01.b. ( )

d. Use a dirt hole ground set with bait unless the person ensures that the bait remains covered at all times to protect raptors and other meat-eating birds from being caught accidentally. ( )

e. Use live animals as a bait or attractant. ( )

f. Place any ground set on, across, or within ten (10) feet of the edge of any maintained unpaved public trail. ( )

g. Place any ground set on, across, or within any public highway as defined in Section 36-202, Idaho Code; EXCEPT ground sets may be placed underneath bridges and within and at culverts that are part of a public highway right-of-way. ( )

h. Place any ground set incorporating snare, trap, or attached materials within three hundred (300) feet of any designated public campground, trailhead, paved trail, or picnic area, except cage or box live traps may be placed within these areas as allowed by city, county, state, and federal law. ( )

i. Place or set any ground set snare without a diverter; or without a break-away device or cable stop incorporated within the loop of the snare. ( )

j. Place any ground set incorporating a foothold trap with an inside jaw spread greater than nine (9) inches. ( )

k. Trap *for* any gray wolf within one-half (1/2) mile of any active Department big game feeding site. *( )*

l. Trap *for* gray wolf within two hundred (200) yards of the perimeter of any designated dump ground or sanitary landfill. *( )*

02. ***Exceptions for Dispatch***. *A t*rapped gray wolf may be dispatched any time of day or night*, and a trapped gray wolf* may be dispatched with any rimfire rifle, rimfire handgun or any muzzleloading handgun *in exception to IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals," Sections 400 and 410.* *( )*

401. -- 449. (RESERVED)

450. TRAPS.
The requirements for identification of traps, checking traps, removing trapped animals of another, and release of non-target catches, set forth in Sections 100 and 200 of IDAPA 13.01.16, "Trapping of Predatory and Unprotected Wildlife and Taking of Furbearing Animals," apply to trapping gray wolf. *O*nly a licensed trapper with wolf trapper certification and written permission of the trap owner may remove a wolf from *another's* trap or snare. *( )*

451. -- 459. (RESERVED)

460. MANDATORY CHECK AND REPORT.

01. Harvest Report and Presentation of Animal Parts. *M*andatory check and report requirements as provided by IDAPA 13.01.08.420, "Rules Governing the Taking of Big Game Animals," *apply to any trapper taking gray wolf.* *( )*

02. Trapping Report Completion. *By July 31, a*ll trappers must fill out the mandatory fur-taking harvest report*, including both target and non-target catch, for the trapping license year by submission via the Department website, at a Department office in person, or by mail to the Department at* Box 25, Boise, Idaho 83707. Any trapper failing to make such a report by July 31 will be refused a license to trap animals for the following year until a late report is submitted. *( )*

461. MANDATORY WOLF TRAPPER EDUCATION CLASS.
Successful complet*ion of* a wolf trapping education class held by the Department *is a prerequisite to wolf* trapping. A certificate of *class* completion and trapping license *are necessary* to purchase tags for wolf trapping. *( )*

462. -- 499. (RESERVED)

500. TAG VALIDATION AND ATTACHMENT AND PROXY STATEMENT; IDENTIFICATION OF SEX, SIZE, SPECIES IN POSSESSION AND DURING TRANSPORTATION OR SHIPMENT.
Gray wolf may only be taken and possessed in accordance with Sections 300, 320, and 350, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho." ( )

501. -- 504. (RESERVED)

505. AREAS CLOSED TO HUNTING AND TRAPPING, AND TRAPPING ON GAME PRESERVES AND WILDLIFE MANAGEMENT AREAS.
Gray wolf may only be taken and possessed in accordance with Section 500, IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho." *No person may trap for gray wolf in areas closed to trapping under* Sections 600 and 650, IDAPA 13.01.16, "The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals." *( )*

506. -- 999. (RESERVED)

13.01.18 – RULES GOVERNING FEEDING OF PRONGHORN, ELK, AND DEER

000. LEGAL AUTHORITY.
Sections 36-104, 36-105 and 36-111, Idaho Code, authorize the Commission to adopt rules concerning feeding of pronghorn, elk, and deer. ( )

001. TITLE AND SCOPE.
The title of this chapter is "Rules Governing Feeding of Pronghorn, Elk, and Deer." These rules establish criteria for determining a feeding emergency, govern feeding operations, and prohibit private feeding within a designated CWD Management Zone. ( )

***002*. -- 099. (RESERVED)**

100. INTENT.
The Commission recognizes the importance of maintaining big game populations under natural conditions. Winter forage is the major limiting factor determining big game population size. To maintain these winter ranges, big game numbers are controlled through harvest. The Commission does not sanction widespread supplemental feeding programs. Additionally, supplemental feeding concentrates big game animals, making deer and elk susceptible to spreading or contracting Chronic Wasting Disease (CWD), as well as other diseases transmissible to livestock. The risk of disease transmission may factor into making a supplemental feeding decision. Big game harvests and weather vary from year to year throughout the state. In most years and areas, snow depths, temperatures, and animal body condition do not create adverse conditions for wintering animals. Unusual weather conditions, limited winter forage, or other circumstances may create critical periods of stress for animals or force them into areas involving public safety. The Commission is unable to manage big game populations for extreme weather. Therefore, emergency feeding of big game is appropriate under certain criteria. ( )

101. DELEGATION OF AUTHORITY TO REGIONAL SUPERVISORS.
Because the declaration of and quick response to a feeding emergency depends on local conditions, the Commission and Director delegate authority to declare a feeding emergency and to expend funds on feeding to the Department's Regional Supervisors. ( )

102. EMERGENCY FEEDING CRITERIA.

01. Declaration of Feeding Emergency. A feeding emergency may be declared if one (1) or more of the following criteria are met: ( )

a. Actual or imminent threat of depredation to private property. ( )

b. Threat to public safety, including traffic hazards. ( )

c. Excessive mortality that would affect herd recovery. ( )

d. Limited or unavailable winter forage caused by fire or unusual weather. ( )

02. Additional Guidelines. Regional Supervisors may develop additional guidelines on emergency feeding within the listed criteria based on risk of disease transmission, local conditions, and local public input. ( )

103. FEED STOCKPILES.
The Department has identified certain locations for stockpiling emergency feed. It is impractical and cost prohibitive to purchase feed and transport it to these locations after snowfall. The Commission and Director declare that stockpile maintenance constitutes a feeding emergency and authorize the expenditure of funds for stockpile maintenance. ( )

104. -- 199. (RESERVED)

200. PRIVATE FEEDING OF DEER AND ELK WITHIN DESIGNATED CWD MANAGEMENT ZONE.

01. Prohibition. It is unlawful to purposely or knowingly provide supplemental feed to deer and elk within any CWD Management Zone designated by the Commission, except supplemental or emergency feeding

activities conducted or authorized by the Department. ( )

02. Incidental Grazing. Incidental grazing by big game animals on private rangeland forage, standing agricultural crops, or agricultural crop residue left on the ground following typical harvest practices is not a violation of this section. ( )

03. Incidental Feeding. Incidental feeding of big game animals during the normal practice of providing feed to livestock in the winter is not a violation of this section. ( )

201. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 36-301 and 36-307, Idaho Code authorize the Commission to adopt rules governing issuance and sale of licenses and authorization and accountability of license vendors. ( )

001. TITLE AND SCOPE.
The title of this chapter for citation is IDAPA 13.01.19, "Rules for Selecting, Operating, Discontinuing, and Suspending Vendors." These rules *establish standards for license* vendor*s and related* administration. *( )*

***002*. -- 099. (RESERVED)**

100. VENDOR CLASSIFICATION.
The Department classifi*es* vendor applications into the following designations for record keeping, approval, and statistical purposes. *( )*

01. Class One. *A s*porting goods store carrying a complete line of hunting and fishing supplies and other sporting equipment, and open *at least* five (5) days a week year-round except for major holidays. *( )*

02. Class Two. A store with a section carr*ying* a complete line of hunting and fishing supplies and other sporting equipment, and open *at least* five (5) days a week year-round except for major holidays. *( )*

03. Class Three. A store which specializes in a single aspect of hunting or fishing such as gun, archery or fly fishing shops. ( )

04. Class Four. ( )

a. Strategic. A business or government agency located in an area where the Department has determined there is a need for the public to have licenses available. This may be in areas where there is no or very limited license availability within a twenty-five (25) mile radius from established license vendors. ( )

b. Exceptional Service. A business *that* can provide exceptional license availability in comparison to existing license vendors in the vicinity*, such as a business* open twenty-four (24) hours a day, seven (7) days a week *that* would not be classified as a class one, two, or three vendor. *( )*

05. Class Five. A business not open on a twelve (12) month basis such as *a* summer fishing resort *that* would otherwise qualify for *any* class one *through* four, *which may include* an outfitter or guide *business with* a permanent business location open to the public. *( )*

06. Class Six. All other businesses which provide no special or exceptional service to the Department or public. ( )

101. APPLICATION.

01. Form. Applications will be on a form prescribed by the Department. *( )*

02. Department *Review*. *( )*

a*. Application Review. The Department will evaluate *and determine approval or denial of vendor applications quarterly, on or before March 1, June 1, September 1, and December 1*. The Department will have thirty (30) calendar days after receipt of all necessary forms to review and investigate the application. The date received plus thirty (30) days will determine into which quarterly evaluation each vendor application will be considered. Applications from the same area will be *compared* to determine which will best meet *vendorship* needs in that area. Exceptions may be made by the Department when there are overriding needs for an immediate replacement of a license vendor in an area. This will primarily occur where there would be no vendor services available to the public within a twenty-five (25) mile radius. *( )

***b*. Field Review. After the License Section has received the application form and all other required information from an applicant, they will contact the Regional Conservation Officer for a recommendation on the application. The Regional Conservation Officer will have ten (10) days to provide the License Section with a recommendation on the application. ( )**

03. Applicant. ( )

a. Application. *The Department will only consider license vendorship applications completed in their entirety and accompanied by an original copy of a current credit rating from a recognized credit bureau. The Department will only consider completed applications received by the License section no later than sixty (60) days after the date of the application transmittal letter. The Department may grant an applicant's request to extend this period for up to thirty (30) additional days.* Any false or misleading response will void the application. *( )*

b. Approved Application. If the *Department approves an* application, the *applicant will have* sixty (60) days from the date of the applicant's approval letter *to provide the Department with a signed vendorship contract, and any bond, deposit, or documentation the Department may require*. Failure to meet th*is* deadline will void the approval except for extenuating circumstances approved by the Department. *( )*

102. (RESERVED)

103. ACTIVE VENDOR CEILING.
The number of active vendors, including approved vendor applicants, is limited to four hundred seventy-five (475). ( )

104. LICENSING SYSTEM.

01. Licens*e Issuance*. *A vendorship must* issue licenses according to *statutes, administrative rules, the vendorship contract,* the License Vendor Manual, and *Department* instructions. *( )*

02. Deposit Schedule. Amounts collected from the sale and issuance of licenses, along with the Department's share of the license issuance fee for each license *will* be deposited not less frequently than once every seven (7) calendar days in a bank account prescribed by the License Vendor. *( )*

03. Reporting Time Period. The accounting and reporting time period is a calendar week (Sunday through Saturday). *( )*

105. -- 109. (RESERVED)

110. OUT-OF-STATE VENDORS.
In general, an out-of-state location will not be approved to sell licenses unless it is located in close proximity (within fifty (50) miles) to the Idaho border or deemed *to* have a compelling benefit for the Department. *( )*

111. VENDOR LOCATION NOT MOVABLE.
No vendorship may be relocated to another area (address) without *advanced* written consent from the Department. *( )*

112. TYPES OF LICENSES SOLD BY VENDOR.
The Department *will* determine what licenses each vendor *may* issue. *( )*

11*3*. -- 119. (RESERVED)

120. CONTRACT AGREEMENT VIOLATIONS.

01. Notices of Contract Violations. *The Department will issue notices* of contract violations whenever a vendor fail*s* to make *deposits, submit reports,* or send in voided or canceled licenses on time*,* or issue licenses as instructed. *( )*

0*2*. Intent to Suspend. Prior to suspending a vendor, a written notice of intent to suspend *will* be sent to the vendor, except where the Department determines that an emergency or a risk to the public is created by the vendor's conduct or where the vendor has failed to pay for any fund deficiency within the prescribed time, in which cases the Department may terminate the vendor's agreement immediately. The vendor *will* have fifteen (15) days in

which to submit a written dispute to the Department. ( )

121. TERMINATION OR SUSPENSION OF VENDOR.

01. Grounds. The Department may terminate or suspend a license vendor on the following grounds: ( )

a. *Failure* to have sufficient funds for the electronic funds transfer (EFT) to the Department more than once during any twelve (12) month period. ( )

b. *Failure* to make good any fund deficiency to the Department within three (3) days of notification. ( )

c. *Failure* to follow any procedures specified by the Department for selling or reporting sales. ( )

d. *Failure* to comply with any terms of the contract agreement or *failure* to maintain the original criteria used in determining *vendor* eligibility. ( )

e. *F*raud or deception in the vendor application. ( )

f. *Negligence in obtaining proof of residence or completion of the application portion of the license could constitute grounds for suspension of a vendorship.* ( )

02. Immediate Termination/Suspension. ( )

a. A vendorship will be terminated immediately upon *the following grounds:* ( )

i. *N*otice from the bonding company that the vendor's bond has been canceled. ( )

ii. *Inactivity for a year.* ( )

iii. *Receipt of* two (2) suspensions in any three (3) year period. ( )

iv. *Sale of the business that is the vendorship.* ( )

b. *A vendorship will be suspended immediately and may be terminated immediately upon the following grounds:* ( )

i. *Violation of Fish and Game laws or rules.* ( )

ii. *Violation in the issuance of a license or in performance as a vendor.* ( )

iii. *Alteration of any license.* ( )

iv. *Three contract violations within any twelve- (12) month period. The vendorship will be suspended for up to one (1) year following such a third violation.* ( )

03. Terminations – Minimum Sales. ( )

a. Incorporated City. When a vendor located within an incorporated city fails to sell at least three hundred (300) licenses during the first year of operation, or sell at least six hundred twenty-five (625) licenses during the second and subsequent years, termination will be at the end of the calendar year. ( )

b. All Other Areas. All other vendors who fail to sell at least one hundred twenty-five (125) licenses during the first year of operation, or at least two hundred twenty-five (225) licenses during the second and subsequent year, will be terminated at the end of the calendar year. ( )

c. A vendorship not selling the minimum number of licenses will not be terminated if the Department determines the service is necessary. ( )

04. Application After Termination. *An application after termination for reason of inactivity, sale of the business, or nonpayment of license fees will be processed as a new application. The Department will not consider an application for a vendorship terminated for nonpayment of license fees until the applicant makes payment in full of all outstanding fees, including interest charged at the legal rate for judgments.* ( )

122. -- 129. (RESERVED)

130. ISSUING LICENSES AND TAGS.

01. Identification. A vendor *will* confirm proper identification and proof of residence as defined in IDAPA 13.01.04, "Rules Governing Licensing," *for every* individual before issuing a resident license. Nonresident licenses and daily fishing licenses do not require identification. ( )

02. Social Security Numbers. *A v*endor *will enter into the licensing system the final four digits* of social security number for any person who purchases a license*, for compliance with Section 73-122, Idaho Code, while protecting that number as confidential information and preventing its use for other purposes or release* to any third party. ( )

131. -- 149. (RESERVED)

150. PUBLIC MONIES.
All monies collected by a vendor *are* public monies of the state of Idaho and the state *has* a prior claim upon these monies over all creditors, assignees, or other claimants. ( )

151. VOIDED AND CANCELLED LICENSES.
*N*o correction, alteration, or erasure *may* be made to *an issued* license. *In case of error to an issued license, the vendor will c*ancel the license *via the license* terminal through the cancel function *and return t*he original voided license and cancellation receipt to the Department at the week's end, to be postmarked on or before the following Wednesday. If the original license is not received when due, the vendor may be charged for the value of the license. ( )

152. LOSS OF DOCUMENTS AND FEES.
A vendor is responsible for all lost documents and blank license stock, regardless of the reason for loss*, and will keep all documents and blank license stock in a safe and secure place, preferably in a fireproof box or vault*. The vendor *will immediately notify the Department of any loss and* submit a detailed report of the loss. ( )

153. INSPECTION AND AUDIT.
License records *are subject to* inspection and audit at all times by an authorized employee or agent of the Department or the State Controller's Office. ( )

154. TRANSFER AND SALE OF DOCUMENTS ISSUED TO VENDORS.
A vendor *may only* transfer blank license stock to a location *not listed on the original application* or to another license vendor with advance written permission from the Department. ( )

155. *RETURN OF EQUIPMENT,* LICENSE STOCK, FORMS, AND SUPPLIES.
*A vendor will return a*ny *equipment and* unused blank license stock, forms, and supplies to the Department immediately upon *termination or* request by the Department. ( )

156. INTERNET SERVICE PROVIDER (ISP).
Each License Vendor *will* provide their own Internet Service Provider (ISP)*, at Vendor's cost,* for the computerized license system. The ISP can be dial-up or any type of high-speed. ( )

157. -- *1*99. (RESERVED)

200. CONTRACT TO TAKE LICENSE APPLICATIONS BY TELEPHONE OR OTHER ELECTRONIC METHODS.

The Department may contract with one (1) or more suppliers to take applications for licenses by telephone or other electronic methods, provided license issuance complies with this chapter and any contract provisions. Any such contract will provide for the deposit of any license fees collected by the supplier to be deposited with the State Treasurer within twenty-four (24) hours of effective receipt of the monies. The supplier may collect a fee in addition to the license fee, which may be retained by the supplier. This contract between the Department and supplier will establish the fee. ( )

201. – 999. (RESERVED)

IDAPA 13 – DEPARTMENT OF FISH AND GAME

DOCKET NO. 13-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: The agency has adopted fee rules that are now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, these pending fee rules will not become final and effective until they have been approved by concurrent resolution of the Legislature because of the fees being imposed through this rulemaking. The pending fee rules become final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless these rules are rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 36-104, 36-303, 36-404, 36-407, 36-409, 36-412, 36-701, 36-703, and 36-708, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters of IDAPA 13, rules of the Department of Fish and Game. The text of the pending fee rules varies from the content of the proposed rules in a manner authorized by Section 67-5227, Idaho Code. The original text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1,754 – 1,759**.

The complete text of the major sections of fee chapters identified below is being published:

IDAPA 13
- 13.01.02.200, 13.01.02.201 *Rules Governing Mandatory Education and Mentored Hunting*
- 13.01.04.601 *Rules Governing Licensing*
- 13.01.08.263 *Rules Governing the Taking of Big Game Animals*
- 13.01.10.410 *Rules Governing the Importation, Possession, Release, Sale or Salvage of Wildlife*
- 13.01.19.102 *Rules for Operating, Discontinuing, and Suspending Vendors*

No changes were made to the amount of fees in the proposed rules. The fees or charges imposed by the rules are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges concern the dedicated portion of the state budget, and are reflected in the FY2020 budget already set by the Legislature and passed into law.

Prior to adopting pending fee rules, the agency provided opportunity for written and in-person public comment. The agency considered the Red Tape Reduction Act and the Licensing Freedom Act and continued efforts to clarify and streamline its rules. The variation in content between pending and proposed rules reflects changes the agency made to simplify, streamline, consolidate and reduce unnecessary restrictions. They also reflect technical corrections consistent with statutory changes and consistency among IDAPA 13 chapters. The agency also identified outdated or ineffective proposed rule language. The agency did not adopt such language in pending rules, so it will expire with the expiration of the temporary rule.

Variation between pending and proposed rule content includes the following.

- 13.01.02.200, 13.01.02.201, *Rules Governing Mandatory Education and Mentored Hunting*, were renumbered (proposed rules numbered as 13.01.02.100 and 13.01.02.102) to improve Chapter 02 organization.
- 13.01.04.601, *Rules Governing Licensing*, was renumbered into an independent section (proposed rule number 13.01.04.600.03) because of its distinct topic; the remainder of proposed rule 13.01.04.600 is no longer a fee rule and is now included in Pending Rule Docket No. 13-0000-1900.
- 13.01.08.263, *Rules Governing the Taking of Big Game Animals* was edited for consistency with grizzly bear controlled hunt tag provisions.

FEE SUMMARY: This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Below is a summary of the fee or charges imposed.

- 13.01.02.200 and 13.01.02.201 authorize charges of eight dollars ($8.00) per student for statutorily mandated education programs in hunting, trapping, and archery education. Hunter and archery education fees have been in effect since March 20, 2004; trapper educations fees have been in effect since March 24, 2017.
- 13.01.04.601 provides that non-resident general season and controlled hunt deer or elk tag fees may be refunded in certain circumstances. This rule establishes a $50 processing fee for tag refunds or a sliding scale for tag refunds in these special circumstances. This rule has been in effect since April 6, 2005.
- 13.01.08.263 provides that overpayment of fees of more than five dollars ($5) will be refunded and overpayment of five dollars ($5) or less will not be refunded and will be retained by the Department. This rule has been in effect since July 1, 1993.
- 13.01.10.410 provides bond requirements for large commercial wildlife facilities of fifty thousand dollars ($50,000) or an amount equal to ten percent (10%) of the total facility construction cost plus two thousand dollars ($2,000) per animal. This bond is meant to guarantee performance of license conditions and to reimburse the Department for any costs incurred for clean-up of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control. This rule has been in effect since July 1, 1999.
- 13.01.19.102 implements a $10,000 minimum surety bond requirement for vendors that present an undue risk. This bonding requirement ensures license vendors have sufficient coverage to ensure the Department is fully reimbursed for license sales and mitigates undue risk that may otherwise be placed upon the Department in the absence of such bonding. These Vendor bonding rules have been in place since March 20, 1997.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Paul Kline, Deputy Director at (208) 334-3771.

Dated this 21 day of October, 2019.

Paul Kline
Deputy Director
Idaho Department of Fish and Game
600 S. Walnut, P.O. Box 25
Boise, ID 83707
Phone: (208) 334-3771
Fax (208) 334-4885
rules@idfg.idaho.gov

(BREAK IN CONTINUITY OF SECTIONS)

*2*00. HUNTER AND ARCHERY EDUCATION.

01. Mandatory Hunter and Archery Education Programs. *A person may obtain certification of completion of hunter/archery education to comply with Section 36-411, Idaho Code, through classroom or on-line study, or other approved methods. The Department manages the Hunter Education Program pursuant to the Idaho Hunter Education Policy and Procedure Manual. "Equivalent certification" for hunter/archery education means* completed instruction *by an authorized agency or association including* firearms/archery safety, wildlife management, wildlife law, hunter ethics, first aid/survival, *and* practical experience in handling and shooting firearms/archery equipment. *( )*

02. Fees. *The Department will charge a* fee of eight dollars ($8) to each student enrolling in the Hunter or Archery Education Program. *( )*

03. Parent to Attend Shooting Clinic with Student. *S*tudents under the age of twelve (12) *may only* attend *a* Hunter Education Shooting Clinic *if accompanied by a parent, legal guardian or other adult designated by the parent or legal guardian*. *( )*

201. TRAPPER EDUCATION.

01. Mandatory Trapper Education Program. *No person who first purchased an Idaho trapping license on or after July 1, 2011 may be issued a trapping license unless that person presents a certificate of completion in trapper education issued by the Department or proof of equivalent certification from an authorized agency or association in Idaho or elsewhere. "Equivalent certification" for trapper education means completed* instruction including safe trapping methods and rules, non-target species avoidance techniques, wildlife identification, and good conduct and respect for the rights and property of others. *T*rapping education *specific only to wolves* in Idaho or *elsewhere is not equivalent certification*. *( )*

02. Fee. *The Department will charge a* fee of eight dollars ($8) to each student enrolling in the Trapper Education Program. *( )*

0*3*. Exemption. Persons who are acting pursuant to Section 36-1107, Idaho Code, are exempt from *Subsection 201.01*. *( )*

(BREAK IN CONTINUITY OF SECTIONS)

(BREAK IN CONTINUITY OF SECTIONS)

601. REFUNDS TO NONRESIDENTS.

The *Department will not refund any* fee for any nonresident license (as defined in Section 36-202(aa), Idaho Code), except as follows*, and provided the refund request is in writing, is accompanied by the original license and tag, and is received or postmarked on or before December 31 of the calendar year in which the license was valid*. *( )*

01. Refund. Nonresident general *or controlled hunt* deer or elk tag fees and hunting license fee*s* may be refunded *due to the* death of licensee; illness or injury of licensee *that* totally disabled the licensee for the entire length of any applicable hunting season; or military deployment of licensee due to an armed conflict*; as* substantiated by death certificate, published obituary, written justification by a licensed medical doctor, copy of military orders, or similar document*ation*. The hunting license fee will not be refunded if it was used to apply for any controlled hunt or to purchase a turkey, mountain lion, or bear tag. The amount refunded will be the amount of the applicable deer or elk tag and hunting license *fees,* less all issuance fees and a fifty dollar ($50) processing fee. *( )*

02. Partial Refund. Nonresident general and controlled hunt deer or elk tag fees may be partially refunded for a reason other than *those in the preceding subsection based on the postmark date in the below table.* The hunting license fee will not be refunded.

Postmarked	Percent of *Tag* Fee Refunded
Before April 1	75%
In April through June	50%
In July and August	25%
September through December	0%

( )

03. Department Error. The Department *will refund fees when it* determines that a Department employee made an error in the issuance of the license. *( )*

(BREAK IN CONTINUITY OF SECTIONS)

263. REFUNDS OF CONTROLLED HUNT FEES.

01. Refunds. ( )

a. Controlled hunt tag fees will be refunded to unsuccessful or ineligible applicants for moose, sheep, mountain goat, *and grizzly bear*. Unsuccessful applicants may donate all or a portion of *refunded* tag fees to Citizens Against Poaching by checking the appropriate box on the application. One dollar ($1) of the non-refundable application fee will go to Citizens Against Poaching unless the applicant instructs otherwise. *( )*

b. Fees for hunting licenses will NOT be refunded to unsuccessful or ineligible controlled applicants. ( )

c. Fees for deer or elk tags purchased prior to the drawing will NOT be refunded to unsuccessful or ineligible applicants. ( )

d. Overpayment of fees of more than five dollars ($5) will be refunded. Overpayment of five dollars ($5) or less will NOT be refunded and will be retained by the Department. ( )

e. Controlled hunt application fees are nonrefundable. ( )

f. Fees for resident and nonresident adult controlled hunt tags subsequently designated to a minor child or grandchild are not refundable. ( )

g. Fees for special controlled hunt application, tag and related hunting license are not refundable. *( )*

(BREAK IN CONTINUITY OF SECTIONS)

410. LARGE COMMERCIAL WILDLIFE FACILITIES.
Commercial wildlife facilities that are of a size large enough or with a large number of animals incompatible with the cage or enclosure requirements of Section 400 may, in the Director's discretion, be addressed *with facility-specific license terms. Only facilities housing* at least three (3) or more species or encompass*ing* display or exhibit areas larger than one (1) acre *will* qualify for *this* consideration. *( )*

01. Animal Display and Security. Any cage or enclosure shall be of such structure or type of construction to prevent escape of the captive wildlife, or damage to native wildlife through habitat degradation, genetic contamination, competition, or disease. *In identifying facility-specific license terms, the* Department *may* refer to standards such as those set by the American Zoological Association *for* cage, open space, shelter, enclosure*, and display in a natural-appearing environment and in such a way as to preserve animal dignity*. *Terms* may include, but *are* not limited to, fence specifications, electric fence specifications, pits or moats, buried fencing*, and display features to enhance appreciation for the species and its natural history*. *( )*

02 Application. Application for a large commercial wildlife facility license *will* generally meet the requirements of Subsection 400.04*, and will* identify the veterinarian of record for the facility. *( )*

03. Bond. *The Department will require, as a license condition,* a*ny* large commercial wildlife facility *to provide* a bond to the Department in the amount of fifty thousand dollars ($50,000), or an amount equal to ten percent (10%) of the total facility construction cost plus two thousand dollars ($2,000) per animal, whichever is greater, executed by a qualified surety duly authorized to do business in the state of Idaho, to guarantee performance of license conditions and to reimburse the Department for any costs incurred for clean up of abandoned or closed facilities, removal of animals from abandoned or closed facilities, capture or termination of escaped animals, or disease control. With prior approval, the applicant may *instead* submit a cash bond to the Department including, but not limited to, certificates of deposit, registered checks, certified funds, and money orders. *( )*

04. Specific Requirements. The Director has discretion to identify specific license conditions, and violation of any such condition *is* a violation of these rules. *( )*

(BREAK IN CONTINUITY OF SECTIONS)

102. SELECTION.
The following factors will be considered for selecting an applicant to become a license vendor: ( )

01. Low Numbered Vendors. Applicants classified in lower-numbered vendor classifications will be given priority over applicants in higher-numbered classifications from the same general location. ( )

02. Class Six Applicants. *C*lass six (6) *applicants* will be approved only when they demonstrate a significant public benefit to have a license vendorship at their location. *( )*

03. Unsettled Debts. Applicants who have unsettled debts listed with a credit bureau will not be approved. Unsettled debts that are in dispute will not be considered against the applicant. *( )*

04. Surety Bond. The Department may require an applicant to provide for each location, a ten thousand dollar ($10,000) surety bond from a corporate surety authorized to do business in the state of Idaho, which guarantees the payment of all state funds collected as a result of licenses issued by the vendor if it appears from the application or *other* information that an undue risk might otherwise be placed upon the Department in the absence of such bonding. Applicants who otherwise qualify for a vendorship and have been in business less than three (3) years will be required to furnish the Department a ten thousand dollar ($10,000) surety bond in the form and length as determined by the Director. Upon request, at the completion of two (2) years of service, the Department may release the vendor from the bonding requirement *based on a review of financial risk*. *( )*

05. Permanen*ce and Accessibility*. Applicants who do not have a permanent place of business open and accessible to all segments of the public will not be approved. *( )*

06. Number of Existing Vendors in Area. The three (3) closest existing vendors, their hours and days of operation, classification, accessibility to the public, and other pertinent information, including their distance to the applicant, will be compared to the applicant. *( )*

07. Minimum Sales Volume. If the applicant is seeking to replace an existing vendor at the prior vendor's location, the prior vendor's sales volume will be used to estimate the applicant's sales volume. *( )*

08. Performance Record. *An* applicant *who* was a license vendor or the manager for a vendor within the past five (5) years *will not be approved unless* the *applicant's* performance record *was* satisfactory. *( )*

09. Fish and Game Violations. *No* owner or store manager (if the applicant is a corporation) *may* have had a fish and game violation other than an infraction within the past five (5) years. *( )*

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION ON AGING

DOCKET NO. 15-0100-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5003, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 15.01, rules of the Idaho Commission on Aging:

IDAPA 15.01
- 15.01.01, *Rules Governing Senior Services and Older Americans Act Programs*
- 15.01.02, *Rules Governing Adult Protective Services Programs*
- 15.01.03, *Rules Governing the Ombudsman for the Elderly Program*
- 15.01.20, *Rules Governing Area Agency on Aging (AAA) Operations*

This pending rule vacates the following proposed rule previously promulgated as part of the omnibus proposed rulemaking under IDAPA15.01, rules of the Idaho Commission on Aging:

- ***(VACATED)*** *15.01.30, Rules Governing the Senior Community Services Employment Program*

The Idaho Commission on Aging considered the Licensing Freedom Act and the Red Tape Reduction Act and continued efforts to clarify and streamline rule language. Minor housekeeping edits were intended to clarify and simplify existing language and reduce or eliminate unnecessary restrictions. The ICOA is also vacating the proposed rule 15.01.30 – Rules Governing the Senior Community Services Employment Program.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 1760–1781**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Vicki Yanzuk, (208) 577-2847.

Dated this 30th day of September, 2019.

Judy B. Taylor, Administrator
Idaho Commission on Aging
341 W. Washington Street
P.O. Box 83720
Boise, ID 83720
(208) 334-3800

000. LEGAL AUTHORITY.
Under authority of Section 67-5003, Idaho Code, the Idaho Commission on Aging adopts the following rules. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.01, "Rules Governing Senior Services and Older Americans Act Programs." ( )

02. Scope. These rules constitute minimum requirements for aging services funded under authority of Sections 67-5005 through 5008, Idaho Code, and the Older Americans Act as Amended and include a list of common terms and definitions related to Idaho's aging programs. ( )

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. The Idaho Senior Services Act. Programs and services established in Sections 67-5001 through 67-5011, Idaho Code. ( )

02. Aging Network. The ICOA, the AAAs, Focal Points and other providers of direct service to older individuals. ( )

03. Area Agency on Aging (AAA). Separate organizational unit within a unit of general purpose local government or public or private non-profit agency or organization agency that functions only for purposes of serving as the area agency on aging that plans, develops, and implements services for older persons within a specified geographic area. ( )

04. Assessment. An instrument utilizing uniform criteria to assess eligibility. ( )

05. Caregiver. An adult family member or another individual, who is an "informal" provider of in-home and community care to an older individual. "Informal" means that the care is not provided as part of a public or private formal service program. ( )

06. Client. Person who has met service eligibility requirements addressed in this chapter. ( )

07. Cost Sharing Payment. An established payment required from individuals receiving services under this chapter. The cost sharing payment varies by regulation and according to client's current annual household or individual income. ( )

08. Department. Idaho Department of Health and Welfare. ( )

09. Focal Point. A facility established to encourage the maximum collocation and coordination of services for older individuals. ( )

10. Formal Supports. Services provided to clients by a formally organized entity, including, but not limited to, Medicaid HCBS. ( )

11. Household. For sliding fee purposes, a "household" includes a client and any other person permanently resident in the same dwelling who share accommodations and expenses with the client. ( )

12. ICOA. Idaho Commission on Aging. ( )

13. ICOA Program Manual. Operational guidance for services and programs. ( )

14. Impairment in Activities of Daily Living (ADL). The inability to perform one or more of the following six activities of daily living without personal assistance, stand-by assistance, supervision or cues: eating, dressing, bathing, toileting, transferring in and out of bed/chair, and walking. ( )

***15. Impairment in Instrumental Activities of Daily Living (IADL)**. The inability to perform one or more of the following eight instrumental activities of daily living without personal assistance, or stand-by assistance, supervision or cues: preparing meals, shopping for personal items, medication management, managing money, using telephone, doing heavy housework, doing light housework, and transportation ability (transportation ability refers to the individual's ability to make use of available transportation without assistance). ( )*

***16. Informal Supports**. Supports provided by church, family, friends, and neighbors, usually at no cost to the client. ( )*

***17. Medicaid HCBS**. Services approved under the Medicaid Waiver for the aged and disabled. ( )*

***18. Older Americans Act (OAA)**. Federal law which authorizes funding to states to provide home and community-based services for older persons. ( )*

***19. Program**. The Idaho Senior Services and Older Americans Act programs as administered by the ICOA. ( )*

***20. Program Regulations**. Applicable Federal statutes and regulations, the act, and these rules. ( )*

***21. Provider**. An AAA or a person or entity capable of providing services to clients under a formal contractual arrangement including duly authorized agents and employees. ( )*

***22. Services**. Long-term services and supports that assist clients to remain in their home and community including but not limited to: Transportation, congregate meals, in-home services, adult day care and information and assistance. ( )*

011. DEMONSTRATION PROJECTS.
The Administrator has authority to operate demonstration projects under the authority of section 67-5010, Idaho Code, which may be exempt from these rules at the Administers discretion. ( )

012. PROGRAM PURPOSE.
The Idaho Senior Services Act and Older Americans Act Services are designed to provide older individuals with the assistance they need to compensate for functional or cognitive limitations with the goal of living safe, dignified, and healthy lives within the community of their choice. ( )

013. PROGRAM POLICY.

***01. ICOA Program Manual**. The manual is developed, modified, and updated with input from the appropriate stakeholder groups and approved by the Administrator. At the Administrator's discretion, the manual may be modified to adhere to state or federal law or regulations. ( )*

***02. Contracts**. The ICOA may contract with Providers to deliver home and community-based services in accordance with the regulations. ( )*

03. Home and Community Based Services. Services may include: ( )

***a.** Adult Day Care. Personal care for clients in a supervised, protective, and congregate setting during some portion of a day. Services offered in conjunction with adult day care/adult day health typically include social and recreational activities, training, counseling, and services such as rehabilitation, medications assistance and home health aide services for adult day health. ( )*

***b.** Case Management. Case management is a service provided to clients, at the direction of the individual or a family member of the individual, to assess the needs of the person and to arrange, coordinate, and monitor an optimum package of services to meet those needs. Activities of case management include: comprehensive assessment of the individual; development and implementation of a service plan with the individual to mobilize*

formal and informal resources and services; coordination and monitoring of formal and informal service delivery; and periodic reassessment. ( )

c. *Chore Services. Providing assistance to clients who have functional limitations that prohibit them from performing tasks such as routine yard work, sidewalk maintenance, heavy cleaning, or minor household maintenance. ( )*

d. *Congregate Meals. A meal provided to an eligible individual in a congregate or group setting. The meal served must meet program requirements. ( )*

e. *Health Promotion and Disease Prevention. Services that include health screenings and assessments; organized physical fitness activities; evidence-based health promotion programs; medication management; home injury control services; and/or information, education, and prevention strategies for chronic disease and other health conditions that would reduce the length or quality of life of the person sixty (60) or older. ( )*

f. *Home-Delivered Meals. Meals delivered to clients in private homes. ( )*

g. *Homemaker Service. Assistance with housekeeping, meal planning and preparation, essential shopping and personal errands, banking and bill paying, medication management, and, with restrictions, bathing and washing hair. ( )*

h. *Information and Assistance Services. Provides current information about services available within the community, conducts intake and assessment, determines the appropriate available service, and makes a referral and to the extent practicable, establishes adequate follow-up procedures. ( )*

i. *Legal Assistance. Advice, counseling, or representation by an attorney or by a paralegal under the supervision of an attorney. ( )*

j. *National Family Caregiver Program. ( )*

i. Counseling. Assist caregivers in making decisions and solving problems relating to their caregiver roles. This includes counseling to individuals, support groups, and caregiver training (of individual caregivers and families). ( )

ii. Respite Care. Services which offer temporary, substitute supports or living arrangements for care recipients in order to provide a brief period of relief or rest for caregivers. ( )

iii. Supplemental services. Services provided on a limited basis to complement the care provided by caregivers. Examples of supplemental services include, but are not limited to, home modifications, assistive technologies, emergency response systems, and incontinence supplies. ( )

iv. Information Services. A service for caregivers that provides the public and individuals with information on resources and services available to the individuals within their communities. ( )

v. Access Assistance. A service that assists caregivers in obtaining access to the services and resources that are available within their communities. To the maximum extent practicable, it ensures that the individuals receive the services needed by establishing adequate follow-up procedures. ( )

k. *Outreach Services. A service which actively seeks out older individuals with greatest social and economic needs with particular attention to low-income older individuals, including low-income minority older individuals, older individuals with limited English proficiency, and older individuals residing in rural areas. ( )*

l. *Transportation Services. Services designed to transport clients to and from community facilities/ resources for the purposes of applying for and receiving services, reducing isolation, or otherwise promoting independence. ( )*

m. *Respite. Short-term, intermittent relief provided to caregivers of an ADL or IADL impaired care recipient.* *( )*

014. PROGRAM ELIGIBILITY.
Individuals are eligible for specific Services as established by the Older Americans Act and Idaho Senior Services Act. *( )*

015. SERVICE PRIORITY.
Highest priority is given to clients in immediate jeopardy then those with the greatest degree of ADL or IADL deficits and who are lacking formal and informal supports other than a caregiver. Caregiver services are prioritized by the Administrator in accordance with the Program Regulations. *( )*

016. SERVICE LIMITATIONS.

01. Cost Sharing Payments*. Payments are required based on the sliding fee scale established by the Administrator in accordance with the Program Regulations.* *( )*

02. Service*. Eligibility, denial, or termination are determined through the applicable ICOA Assessment.* *( )*

03. Medicaid HCBS*. Clients or individuals determined by the Department to be eligible for Medicaid or Medicaid HCBS, are not eligible for Services unless the Services are determined by the Provider to be needed on an interim, emergency basis until Medicaid or Medicaid HCBS is initiated.* *( )*

017. -- 999. (RESERVED)

15.01.02 – RULES GOVERNING ADULT PROTECTIVE SERVICES PROGRAMS

000. AUTHORITY.
Under authority of Sections 67-5003 and 39-5312, Idaho Code, the ICOA adopts the following rules. (7-1-98)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.02, "Rules Governing Adult Protective Services Programs." ( )

02. Scope. These rules relate to the authority and responsibilities of Providers to administer adult protective services. ( )

002. -- 009. (RESERVED)

010. DEFINITIONS.
Any item not specifically defined below has the same meaning as those defined in Idaho Code or IDAPA 15.01.01, "15.01.01, "Rules Governing Senior Services and Older Americans Act Programs." ( )

01. Adult Protective Services (APS). Statutory protections safeguarding vulnerable adults through investigations of reports alleging abuse, neglect, self-neglect or exploitation, and arrangements for the provision of emergency or supportive services necessary to reduce or eliminate risk of harm. (7-1-98)

02. Legal Representative. A person with documented legal authority to act on behalf of another individual. ( )

03. Protective Action Plan (PAP). An individual plan addressing the remedial, social, legal, medical, educational, mental health or other services available to reduce or eliminate the risk of harm to a vulnerable adult. ( )

04. Provider. An Area Agency on Aging or a person or entity capable of providing APS under a formal contractual arrangement including duly authorized agents and employees. ( )

011. -- 019. (RESERVED)

020. POLICY STATEMENT.
The ICOA is charged by statute to provide APS services to ensure the vulnerable adult population in Idaho is protected from abuse, neglect, and exploitation. Protective services will be provided that are the least restrictive to personal freedom and ensure the maximum independence of individuals served. In protecting the vulnerable adult population, APS is also intended to provide assistance to care giving families experiencing difficulties in maintaining functionally impaired relatives in the household. (7-1-98)

021. ADMINISTRATIVE REQUIREMENTS.
In accordance with Section 67-5011, Idaho Code, the ICOA will administer APS through contracts with Area Agencies on Aging. ( )

022. PROVISION OF SERVICE REQUIREMENTS.
In accordance with Section 67-5011, Idaho Code, each Provider assumes all responsibilities cited in Title 39, Chapter 53, Idaho Code. (7-1-98)

01. Direct Provision of Service. Area Agencies on Aging will administer APS as a direct service or may subcontract the service to another Provider at the sole discretion of the Administrator. ( )

02. Contracts. Each Provider must administer APS pursuant to contracts delineating the duties and obligations of each APS program. ( )

03. Court Visitors. APS staff shall not serve as a court appointed visitor in a guardianship or conservatorship proceeding involving a proposed ward who is or has been the alleged victim in an APS investigation. ( )

023. -- 030. (RESERVED)

031. INVESTIGATIVE REQUIREMENTS.

01. Review of Allegations. Upon receipt of a report of abuse, neglect, or exploitation the Provider shall conduct a review of the allegations of such report to determine whether: ( )

a. The report was required to be made to ICOA or its contractors pursuant to Section 39-5303, Idaho Code; (3-30-01)

b. An emergency exists; and (3-30-01)

c. In cases involving resident-to-resident contact reported pursuant to Section 39-5303(A), Idaho Code, determine whether the case involves the sexual abuse, death, or serious physical injury jeopardizing the life, health, or safety of a vulnerable adult, or involves repeated physical or verbal altercations between residents, not resulting in observable physical or mental injury, but constituting an ongoing pattern of resident behavior that a facility's staff is unable to remedy through reasonable efforts. (4-6-05)

02. Need for Investigation. If, based on its review, the Provider determines that a report involves a nursing facility defined in Section 39-1301(b), Idaho Code, and was required to be made to the Department pursuant to Section 39-5303, Idaho Code, the Provider shall immediately refer the report to the Department. If, based on its review, the Provider determines that a report involving resident-to-resident contact was exempted from reporting by Section 39-5303A, Idaho Code, no further investigation need be conducted on such report. The Provider shall investigate all other reports. ( )

03. Vulnerability Determination. Upon investigating a report, the Provider shall determine whether an alleged victim is vulnerable as defined in Section 39-5302, Idaho Code. If the alleged victim is determined to be vulnerable as defined in Section 39-5302, Idaho Code, the Provider shall continue the investigation. If the alleged victim is not vulnerable as defined in Section 39-5302, Idaho Code, the case shall be closed; however, the Provider may refer the complaint to Information and Assistance, Case Management, the Ombudsman, law enforcement or other appropriate entity for investigation and resolution. ( )

04. Assessment of Alleged Victim. An alleged victim's vulnerability and associated risk factors shall be determined through the ICOA-approved standardized assessment forms. Initial interviews and assessments of an alleged victim shall be conducted by the Provider. ( )

05. Investigative Determinations. The Provider shall make one (1) of two (2) investigative determinations upon completion of an APS investigation: ( )

a. Substantiated. A report of abuse, neglect, or exploitation of a vulnerable adult by another individual is deemed substantiated when, based upon limited investigation and review, the Provider perceives the report to be credible. A substantiated report shall be referred immediately to law enforcement for further investigation and action. Additionally, the name of the individual against whom a substantiated report was filed shall be forwarded to the Department pursuant to Sections 39-5304(5) and 39-5308(2), Idaho Code, for further investigation. In substantiated cases of self-neglect, the Provider shall initiate appropriate referrals for supportive services with the consent of the vulnerable adult or his legal representative. ( )

b. Unsubstantiated. The Provider shall close the case if a report of abuse, neglect, or exploitation is not substantiated. If a report is unsubstantiated, but the Provider determines that the vulnerable adult has unmet service needs, the Provider shall initiate appropriate referrals for supportive services with consent of the vulnerable adult or their legal representative. ( )

06. Protective Action Plan. Upon substantiating a report of abuse, neglect, or exploitation of a vulnerable adult, the Provider shall develop and implement a Protective Action Plan. ( )

07. Caretaker Neglect. In investigating a report of caretaker neglect, the Provider shall take into account any deterioration of the mental or physical health of the caregiver resulting from the pressures associated

with care giving responsibilities that may have contributed to the neglect of the vulnerable adult. In such cases, the Provider shall make every effort to assist the primary caregiver in accessing program services necessary to reduce the risk to the vulnerable adult. In APS cases, in which family members are experiencing difficulties in providing twenty-four (24) hour care for a functionally impaired relative, the Provider shall make appropriate referrals to available community services to provide needed assistance. ( )

08. Adult Protective Services and Ombudsman Coordination. Providers shall ensure that APS and the Ombudsman program maintain a written agreement establishing local cooperative protocols in the investigation of complaints. ( )

09. Confidentiality. All records relating to a vulnerable adult and held by a Provider are confidential and shall only be divulged as permitted pursuant to Sections 39-5307, 39-5304(5), and 39-5308, Idaho Code. ( )

032. CASE CLOSURE.

01. Case Closure. The Provider shall close a case under the following circumstances: ( )

a. The Provider shall close a substantiated case upon a determination that an initiated PAP or law enforcement involvement has successfully reduced the risk to the vulnerable adult. ( )

b. The Provider may close a substantiated case when the vulnerable adult refuses to consent to receive services, or upon a determination that the Provider has implemented all measures available to reduce risk but has been unable to reduce risk. ( )

c. A case will be closed if the Provider determines that an allegation has been made in bad faith or for a malicious purpose. ( )

02. Suspense File. Closed cases will be maintained in a suspense file until formal action is completed by law enforcement and/or the courts in the following instances: (7-1-98)

a. Cases referred by the Provider to law enforcement for criminal investigation and prosecution as determined necessary by the law enforcement agency. ( )

b. Cases referred by the Provider for guardianship/conservatorship proceedings. ( )

033. -- 999. (RESERVED)

15.01.03 – RULES GOVERNING THE OMBUDSMAN FOR THE ELDERLY PROGRAM

000. LEGAL AUTHORITY.
Under authority set forth in the OAA and Title 67, Chapter 50, Idaho Code, Section 67-5009, ICOA adopts the following rules. (7-1-98)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.03, "Rules Governing the Ombudsman for the Elderly Program." (7-1-98)

02. Scope. These rules relate to the authority, responsibility, and designation of the ombudsman program. (7-1-98)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Any item not specifically defined below has the same meaning as those defined in IDAPA 15.01.01, "Rules Governing Senior Services Program," and the Older Americans Act (OAA), Section 711, and Title 67, Chapter 50, Idaho Code. (7-1-98)

01. Access. Right to enter long-term care facility upon notification of person in charge. (7-1-98)

02. Affected Parties. Long-term care facilities, state or county departments or agencies, or others against whom a complaint has been lodged. (7-1-98)

03. Area III. Planning and service area made up of: Canyon, Valley, Boise, Gem, Elmore, Washington, Ada, Adams, Payette, and Owyhee counties. (7-1-98)

04. Complainant. The local ombudsman or any individual or organization who registers a complaint with the local ombudsman. (3-28-18)

05. Complaint Investigation/Resolution. Activities related to receiving, analyzing, researching, observing, interviewing, verifying or resolving a complaint through advocacy, facilitation, conciliation, mediation, negotiation, representation, referral, follow-up, or education. (7-1-98)

06. Complaints. Allegations made by or on behalf of eligible clients, whether living in long-term care facilities or in the community. (7-1-98)

07. Designation. Process by which the Office approves the location of local ombudsman programs within AAAs and delegates to such programs the authority to carry out the purposes of the program. (3-28-18)

08. Local Ombudsman. An individual associated with a designated local Ombudsman for the Elderly Program, who performs the duties of ombudsman. (3-28-18)

09. Long-Term Care Facility. Skilled nursing facilities as defined in IDAPA 16.03.02, Subsection 002.33, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities," and residential care facilities as defined in IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (7-1-98)

10. Non-Jurisdictional Complaints. Complaints made by or on behalf of residents of long-term care facilities who are under the age of sixty (60) or complaints concerning persons outside the statutory jurisdiction of an ombudsman. (7-1-98)

11. Office. Office of the State Ombudsman for the Elderly pursuant to Title 67, Chapter 50, Idaho Code, Section 67-5009. (7-1-98)

12. Resident. Resident as defined in IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (7-1-98)

011. -- 019. (RESERVED)

020. ADMINISTRATIVE REQUIREMENTS.
Each AAA local ombudsman program shall meet all administrative requirements as cited in OAA, Section 712 (a), and Title 67, Chapter 50, Idaho Code, Section 67-5009, unless granted a waiver by the Office. (3-28-18)

01. Procedures. All local ombudsmen shall follow procedures outlined in the Office Procedures Manual. (3-28-18)

02. Space. Each AAA shall provide space assuring privacy for local ombudsmen to hold confidential meetings. (3-28-18)

03. Supervision. Local ombudsmen shall operate under the direct supervision of the Office for all complaint handling activities and are considered subdivisions of the Office. (3-28-18)

04. Forms. All local ombudsmen shall utilize standardized forms provided by the Office. (3-28-18)

05. Conflict of Interest. AAAs shall ensure that the local ombudsmen are not part of an organization that: (3-28-18)

a. Is responsible for licensing and certifying skilled nursing or residential care facilities under IDAPA 16.03.22, "Rules for Licensed Residential and Assisted Living Facilities in Idaho"; (7-1-98)

b. Provides skilled nursing or living care or is an association of such a provider; or (7-1-98)

c. May impair the ability of the local ombudsmen to investigate and resolve complaints objectively and independently. (3-28-18)

06. Travel Funds. Each AAA shall provide travel funds for the local ombudsman program to carry out activities related to complaint investigations. (3-28-18)

07. Program Report. All local ombudsman programs shall comply with the Office's reporting requirements. (3-28-18)

08. Program Reviews. Each AAA shall submit to a program review of local ombudsman programs at reasonable intervals deemed necessary by the Office. (3-28-18)

09. Adult Protection and Ombudsman Coordination. Each AAA shall ensure that Adult Protection staff and the local ombudsman maintain a written agreement establishing cooperative protocols in the investigation of complaints. (3-28-18)

10. State Agreements. All local programs shall honor and carry out state-level agreements between the Office and other agencies of government. (3-28-18)

021. STAFFING.
Pursuant to the OAA, Section 712, in order to meet minimum requirements established for the position of local ombudsman, each AAA shall seek applicants having the following qualifications. (3-28-18)

01. Minimum Qualifications. Any person hired to fill the position of local ombudsman on or after July 1, 1998, shall have: (3-28-18)

a. A Bachelor's degree or equivalent; (3-30-01)

b. Minimum of one (1) year's experience working with the elderly; (7-1-98)

c. Ability to effectively communicate verbally and in writing; (7-1-98)

d. Knowledge of long-term care issues and resources; (7-1-98)

e. Demonstrated ability to interpret and apply relevant local, state and federal laws, rules, regulations, and guidelines; (7-1-98)

f. Demonstrated ability to work independently; (7-1-98)

g. Demonstrated skill in interviewing techniques; and (7-1-98)

h. Demonstrated ability to collect data, conduct interviews and to form conclusions. (7-1-98)

02. Hiring. The Office shall be included in the process of interviewing and selecting applicants for the local ombudsman position. The AAA shall make the final selection from the top three (3) applicants. (3-28-18)

022. -- 030. (RESERVED)

031. DESIGNATION OF AUTHORITY OF AAA.
The Office shall designate an entity as a local ombudsman. (3-28-18)

01. Designation of Authority. Each AAA shall directly provide, through a contract agreement with the ICOA, a local ombudsman program employing at least one (1) full-time local ombudsman whose function is to carry out the duties of the Office. AAAs I, II, IV, V and VI shall employ one (1) full-time local ombudsman; AAA III shall employ two (2) full-time local ombudsmen. An AAA may petition the Office in writing for a waiver of this requirement. (3-28-18)

02. Grounds for Revocation or Termination. In revoking a designated local ombudsman program, the Office shall provide due process in accordance with applicable law and IDAPA 04.11.01, Section 000, et seq., "Idaho Rules of Administrative Procedure of the Attorney General." (3-28-18)

a. Following termination of a local ombudsman program, the Office shall perform the duties of the local program *and withdraw funding for the local program for the remainder of the funding period*. ~~(3-28-18)~~( )

b. An AAA's appeal of the Office's termination of its local ombudsman program shall be governed by the Adjudicatory Rules of Practice and Procedures in Claims Relating to Contracts and Grants Funded under Title III, OAA. (3-28-18)

032. HANDLING OF COMPLAINTS.
The Office has jurisdiction to accept, identify, investigate, and resolve complaints made by, or on behalf of, persons aged sixty (60) or older, living in the community or in long-term care facilities. The Office and the local ombudsmen shall ensure that persons aged sixty (60) or older have regular and timely access to services provided through the Office. The Office shall represent the interests of older persons before governmental agencies and seek to protect the health, safety, welfare and rights of older persons. (3-28-18)

01. Non-Jurisdictional Complaints. Local ombudsmen may respond to complaints made by or on behalf of under age sixty (60) long-term care residents where such action will: (3-28-18)

a. Benefit other residents; or (7-1-98)

b. Provide the only viable avenue of assistance available to the complainant. (7-1-98)

02. Conflict of Interest. Local ombudsmen shall refer to the Office any complaint involving AAA staff or contractors. (3-28-18)

03. Complaints. Complaints concerning local ombudsmen, or relative to a local ombudsman's official duties, shall be directly referred to the Office. The Office, upon completing an investigation of such complaint, shall provide findings and recommendations to the AAA. (3-28-18)

04. Guardianship. The local ombudsmen shall not serve as an ex-officio or appointed member of any Board of Community Guardian, nor file an affidavit to the court for guardianship. (3-28-18)

05. Court Visitor. The local ombudsmen shall not act as court visitor in any guardianship/ conservatorship proceeding concerning a past or current client. (3-28-18)

06. Legal Documents. Local ombudsmen shall not, in their capacity as ombudsmen, act as a notary or a witness of signatures for legal documents. (3-28-18)

033. ACCESS.
The Office shall ensure that representatives of the Office have access to long-term care facilities and residents as well as appropriate access to medical and social records, and resident representative contact information needed to investigate complaints. (3-28-18)

01. Visitation. For visitation purposes, local ombudsmen shall have access to long-term care facilities during regular business hours. Visiting local ombudsmen shall: (3-28-18)

a. Notify the person in charge upon entering the facility; (7-1-98)

b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; and (7-1-99)

c. Communicate privately and without restriction with any resident who consents to the communication. (7-1-98)

02. Investigation. Local ombudsmen shall have access to long-term care facilities at any time for the purpose of conducting investigations. A local ombudsman conducting an investigation shall: (3-28-18)

a. Notify the person in charge upon entering the facility; (7-1-98)

b. Be allowed to visit common areas of the facility and the rooms of residents if consent is given by the resident; (7-1-98)

c. Seek out residents who consent to communicate privately; (7-1-98)

d. Communicate privately and without restriction with any resident who consents to the communication; and (7-1-98)

e. Inspect a resident's records under conditions set forth in the OAA, Section 712. (7-1-98)

f. Inspect facility administrative records, policies, and documents that are accessible to the resident and general public. (3-28-18)

03. Privacy. Local ombudsmen shall have statutory authority to visit facilities and residents in facilities unescorted by facility personnel. See Section 67-5009, Idaho Code. (3-28-18)

04. HIPAA. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) Privacy Rule, 45 CFR 164, subparts A and E, does not preclude release by the facility of resident private health information or other resident identifying information to the Office. (3-28-18)

034. -- 040. (RESERVED)

041. WRITTEN CONSENT.
The Office shall ensure appropriate access to review medical and social records of a resident. (See OAA, Section 712) (7-1-98)

01. Resident Written Consent. Access to confidential records requires the written consent of the resident or legal representative. (7-1-98)

02. Lack of Consent. If the client is unable to provide written or oral consent, or the legal representative is unavailable to provide consent, the local ombudsman, with approval of the Office may inspect available client records, including medical records that are necessary for investigation of a complaint. (3-28-18)

03. Consent Refused. If a local ombudsman has been refused access to records by legal representative but has reasonable cause to believe that the legal representative is not acting in the best interest of the client, the local ombudsman may, with the approval of the Office, inspect client records, including medical records. (3-28-18)

04. Requirements for Informing Client or Resident. The local ombudsman shall inform the complainant or resident regarding: (3-28-18)

a. Who will receive the information; (7-1-98)

b. What information will be disclosed; and (7-1-98)

c. The purpose for which the information is being disclosed. (7-1-98)

042. CONFIDENTIALITY.
The Office shall be the custodian of all local ombudsman program records including, but not limited to, records and files containing personal information relative to complainants and residents of long-term care facilities. Requests for release of confidential information shall be submitted to the Office for approval or denial. Release of information shall be granted pursuant to OAA, Section 721(e). (3-28-18)

01. Storage of Records. Client records shall be maintained in locked storage. Case records inactive for two (2) years or longer may be expunged. As required by law, release of these records shall be limited to persons authorized by the Office. (7-1-98)

02. Performance Evaluations. For performance evaluation purposes, direct supervisors shall have access to client files maintained by local ombudsmen. (3-28-18)

03. Confidential Records. Records to be safeguarded include, but are not limited to, long-term care and community-based complaint files including: (7-1-98)

a. Notes of interviews with complainants and clients or collateral contacts; (7-1-98)

b. All copies of residents' medical records or diagnoses; (7-1-98)

c. All records relevant to complaint investigations; (7-1-98)

d. All memoranda generated by the Office or by another agency office during the evaluation and resolution of a complaint; (7-1-98)

e. All photographs, video tapes, tape recordings, etc. pertaining to complaint investigation; (7-1-98)

f. All memoranda or letters generated during evaluation or resolution of a complaint; (7-1-98)

g. Written documentation that parties affected by ombudsman opinions or recommendations have been notified; and (7-1-98)

h. Information containing unverified complaints about long-term care facility owners, administrators, staff or other persons involved in the long-term care system or in other service programs. (7-1-98)

04. Request for Anonymity. The ombudsman shall honor a resident's or complainant's request to remain anonymous. If investigation of a complaint requires that a resident's or complainant's name be divulged in order for the investigation to proceed, the ombudsman shall so inform the resident or complainant. If the resident or complainant insists on maintaining anonymity, the ombudsman may terminate the investigation. (7-1-98)

043. DISCLOSURE.
The Office is the only entity authorized to disclose ombudsmen program files, records, or information. Identifying information of any resident or complainant shall be disclosed only with proper consent or in response to a court order. The Office, in its sole discretion, may delegate the disclosure of ombudsman program files, records, or information to a local ombudsman. (3-28-18)

01. Court Order. Identifying information of a resident, complainant, or both may be disclosed, with or without the consent of the resident, complainant, or both, pursuant to a court order issued by a court of competent jurisdiction. (3-28-18)

02. Resident Consent. Without a court order, identifying information of a resident shall be disclosed only if the resident or his representative communicates informed consent to the disclosure and the consent is given in writing, orally, visually or through the use of auxiliary aids and services; and such consent is documented by a representative of the Office in accordance with procedures. (3-28-18)

03. Complainant Consent. Without a court order, identifying information of a complainant shall be disclosed only if the complainant communicates informed consent to the disclosure and the consent is given in writing, orally, visually or through the use of auxiliary aids and services; and such consent is documented by a representative of the Office in accordance with procedures. (3-28-18)

044. -- 999. (RESERVED)

15.01.20 – RULES GOVERNING AREA AGENCY ON AGING (AAA) OPERATIONS

000. AUTHORITY.
Under authority of Section 67-5003, Idaho Code, the ICOA adopts the following rules. (7-1-98)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.01.20, "Rules Governing Area Agency on Aging (AAA) Operations." (7-1-98)

02. Scope. These rules relate to the authority, responsibilities, and designation of AAAs. (7-1-98)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Any item not specifically defined below has the same meaning as those defined in IDAPA 15.01.01, "Rules Governing Senior Services and Older Americans Act Programs." ( )

01. Area Plan. Plan describing aging programs and services which an AAA is required to submit to the Idaho Commission on Aging, in accordance with the OAA, in order to receive OAA funding. (3-20-04)

02. Contract. A legally binding, written agreement between two (2) or more parties which outlines the terms and provisions to which both parties agree. (7-1-98)

03. Planning and Service Area (PSA). ICOA designated geographical area within Idaho for which an AAA is responsible. (3-20-04)

011. -- 019. (RESERVED)

020. PLANNING AND SERVICE AREA (PSA) DESIGNATION.
The ICOA has divided the state into PSAs in accordance with Section 305 of the OAA, as amended. (3-20-04)

021. AAA.

01. AAA Designation. The ICOA shall accept applications for AAA designation in accordance with Section 305 of the OAA. (3-20-04)

02. Revocation of AAA Designation. The ICOA may revoke the designation of an AAA as specified in OAA and the federal regulations thereunder. (3-20-04)

03. Denial of AAA Designation. Any organization denied AAA designation through a competitive bidding process may appeal the decision to the Administrator of ICOA. (3-20-04)

04. Limit on the Number of Area Agencies and PSA's. In order to maximize funding for services that directly benefit the elderly, the number of PSAs and AAAs is limited to no more than six (6). (3-20-04)

022. AAA BUDGET FORMS AND REVISIONS.

01. Budget Forms. Each AAA shall submit, on forms provided by the ICOA, a budget for agency operations. The AAA shall maintain sufficiently detailed budget and expenditure records to respond to requests for information from the ICOA, U.S. Administration for Community Living, legislators, or the general public. (3-20-04)

02. Budget Revisions. Requests for approval of budget revisions shall be made in writing to the ICOA: (3-20-04)

a. In order to process transfers between Title III programs; (3-20-04)

b. To reflect holdbacks or midyear increases in state or federal spending; or (7-1-98)

c. If there is a change in spending which exceeds ten percent (10%) of any line item in the comprehensive budget summary. (3-20-04)

023. -- 040. (RESERVED)

041. AAA RESPONSIBILITIES.
On behalf of all older persons in the PSA, the AAA shall assume the lead role relative to aging issues. In accordance with the OAA and all pertinent federal regulations, the AAA shall serve as the public advocate for the development and enhancement of comprehensive, coordinated community-based service systems within each community throughout the PSA. (7-1-98)

042. CONTRACT MANAGEMENT REQUIREMENTS.
AAAs shall adhere to all applicable federal contracting and procurement requirements in awarding subcontracts. (3-20-04)

01. Non-Profit Agency Contractors. AAAs may subcontract with private, non-profit agencies that are incorporated as 501(c)(3) organizations. (3-20-04)

02. AAA Provider Subcontracts. All subcontracts between the AAA and service providers shall contain sufficient program and financial information to ensure all activities comply with the Area Plan, the OAA, federal regulations, the SS Act, and the rules of the ICOA. (3-20-04)

03. Contracts Term. Each AAA may award multi-year subcontracts not to exceed four (4) years. (3-20-04)

a. Each AAA shall maintain documentation satisfactory to ICOA that justifies the reason(s) a multi-year subcontract was awarded. Justification for a multi-year subcontract may include, but is not limited to, the following: (3-20-04)

i. More than one (1) year is necessary to complete the project or service; (7-1-98)

ii. More than one (1) year is necessary to justify substantial cost savings; or (3-20-04)

iii. A multi-year subcontract award is necessary to allow a provider the opportunity to increase and demonstrate capacity to operate a particular service. (3-20-04)

b. No AAA shall continue a multi-year subcontract unless the results of evaluation justify continuance of the subcontract. (3-20-04)

04. AAA Provider Appeals. AAAs shall develop fair and impartial hearing procedures and provide an opportunity for a hearing for any organization denied a subcontract with the AAA. (3-20-04)

043. -- 050. (RESERVED)

051. AREA ADVISORY COUNCILS ON AGING.

01. Establishment of Council. The AAA shall establish an advisory council in accordance with the requirements of the OAA, as amended, and all pertinent federal regulations. (7-1-98)

02. Council Meetings. Each advisory council shall meet at least two (2) times each year. (3-20-04)

03. Conflict of Interest. AAA employees, or members of the immediate families of AAA employees, shall not serve on the advisory council. (3-20-04)

04. By-Laws. The advisory council shall adopt and operate according to by-laws. (3-20-04)

052. AREA PLANS.
Each AAA shall submit a four (4) year area plan to the ICOA by close of business January 1, 2002, and by October 15 every four (4) years thereafter. Annual updates shall be submitted by October 15 of each year. The area plan and

annual updates shall be submitted in a uniform format prescribed by the ICOA to meet the requirements of the OAA and all pertinent federal regulations. (3-20-04)

053. SERVICE PRIORITY AND APPEALS.

01. Service Priority. Pursuant to the OAA, each AAA shall ensure that all service providers prioritize service delivery to those older individuals having the greatest economic and social need, with particular attention to low-income minority individuals and individuals residing in rural areas. (3-20-04)

02. Denial or Termination of Service. AAAs shall develop fair and impartial hearing procedures and provide an opportunity for a hearing for any individual who is denied or terminated from a service. (3-20-04)

054. ELIGIBILITY.
Individuals are eligible for services as established by the Older Americans Act and the Idaho Senior Services Act. ( )

055. AAA ASSESSMENTS OF PROVIDERS.
Every other year each AAA shall conduct, at a minimum, one (1) on-site assessment of each of its providers that receives fifty thousand dollars ($50,000) or more in combined federal and state funds during a contract year. Such assessments shall comply with the terms of the AAA contract with the ICOA and be on file for ICOA review. (3-30-07)

056. REPORTING REQUIREMENTS.

01. Reporting Forms. Each AAA shall submit to the ICOA such reports as are specified by the ICOA, in such format and on such schedule as is established by the ICOA, in fulfillment of all federal and state requirements. (7-1-98)

02. Verification of Service Provider Reports. The AAAs shall conduct ongoing verification of service provider reports. (3-20-04)

03. Reporting Deficiencies. If reports are late, incorrect, or incomplete, the ICOA shall withhold funds from the AAA, in accordance with terms of the contract between the ICOA and the AAA, until a correct report is received by the ICOA. (3-20-04)

057. CIVIL RIGHTS.
Neither the AAAs nor their providers shall violate any state or federal law regarding civil rights and shall provide all services and functions funded by the ICOA, affected by rule of the ICOA or provided for by contract with the ICOA without discrimination on the basis of race, color, national origin, age, gender, physical or mental impairment, or on any other basis prohibited by law. (7-1-98)

058. -- 065. (RESERVED)

066. FINANCIAL MANAGEMENT.

01. Regulations. Area agencies and service providers shall meet the financial management requirements of 45 CFR, 74 and 92. (7-1-98)

02. Allowable Costs. Allowable costs are delineated in the OAA, and 45 CFR, Part 75. These cost principles shall apply to the expenditure of federal funds, as well as any state or local funds which are reported as match for federal funds. In-kind contributions shall benefit the program for which they are reported as match. No expenditure may be used as match if it has been or will be counted as match for another award of federal or state funds. (3-20-04)

03. Audits. All AAAs and service providers shall be audited in accordance with the Single Audit Act of 1996 and OMB Circular A-133 as amended. ( )

067. -- 999. (RESERVED)

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

DOCKET NO. 15-0200-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-5407(d)(e) and 67-5408, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as proposed rules under this docket number under IDAPA 15.02, rules of the Commission for the Blind and Visually Impaired:

IDAPA 15.02
- 15.02.02, *Vocational Rehabilitation Services*
- 15.02.03, *Rules Governing the Independent Living Program*
- 15.02.04, *Rules Governing the Prevention of Blindness and Sight Restoration Program*
- 15.02.30, *Business Enterprise Program*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 1782-1811**.

The adoption of the pending rule is necessary to protect the health, safety, and welfare of the citizens of Idaho and confers a benefit on its citizens. These rules reduce the regulatory burden on the citizens of Idaho, are required for the continued effective and efficient administration of programs and services provided by the Commission.

The following are amendments have been made to the pending rule, promulgated under IDAPA 15.02.02, Vocational Rehabilitation Services, and all have been approved by the ICBVI Board of Commissioners:

- Section 004 - Adding 34 CFR 397 (The Use of Subminimum Wage). One of the federal statutes that governs the Vocational Rehabilitation program.
- Section 010 - Revision of the definition of "Most Significant Disability" to reflect changes to internal program policy.
- Subsection 101.05 - Application Forms. Removed restrictive language.
- Section 300 - Payment Policy. Removed everything under this section. Removal of 1889 words.
- Added New Sections 300., 301., 302., and 303. Addition of 243 words.
- Subsection 355.02 - Mediation. Removed restrictive language.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mike Walsh (208) 334-3220.

Dated this 13th day September, 2019.

Mike Walsh, PhD, CRC, Rehabilitation Services Chief
Phone: (208) 334- 3220 / Fax: (208) 334-2963
Email: **mike.walsh@icbvi.idaho.gov**

Idaho Commission for the Blind & Visually Impaired
341 West Washington, P.O. Box 83720
Boise, ID 83720-0012

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Sections 67-5407(e) and 67-5408, Idaho Code, and the Rehabilitation Act of 1973, as amended. (3-28-18)

001. TITLE AND SCOPE.
These rules will be known as Idaho Commission for the Blind and Visually Impaired Rules, IDAPA 15.02.02, "Vocational Rehabilitation Services." The provisions of these rules establish procedures, requirements, and implement program changes necessitated by the Rehabilitation Act of 1973, as amended, which address the provisions of vocational rehabilitation services to the blind and visually impaired population of Idaho. (3-28-18)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The following federal laws and regulations are incorporated by reference into the rules of this chapter and copies are available at the Commission's office: (4-2-08)

01. 29 U.S.C. Section 701, et seq., Rehabilitation Act of 1973 as amended through Public Law 114-95, enacted December 10, 2015. (3-28-18)

02. 34 CFR 361, 363*, and 397*. ~~(4-2-08)~~( )

03. Workforce Innovation and Opportunity Act (WIOA), Public Law 113-128, enacted July 22, 2014. (3-28-18)

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Blind or Visually Impaired. A person whose visual acuity with correcting lenses is not better than twenty/two hundred (20/200) in the better eye; or a person whose vision in the better eye is restricted to a field which subtends an angle of not greater than twenty (20) degrees; or a person who is functionally blind; or a person who is without any sight. (4-2-08)

02. Functionally Blind. A person with a visual impairment that constitutes or results in a substantial impediment to employment or substantially limits one (1) or more major life activities. This is determined by the vocational rehabilitation counselor, not a physician. (4-2-08)

03. Most Significant Disability (MSD). Meets the criteria as Significant Disability as found in the Rehabilitation Act of 1973, as amended, and defined in 34 CFR 361.5(c)(29), and is further defined as: Having a severe physical, mental, cognitive, or sensory impairment that seriously limits *four* (*4*) or more functional capacities (such as mobility, communication, self-care, self-direction, interpersonal skills, work tolerance or work skills) in terms of an employment outcome, and whose vocational rehabilitation can be expected to require multiple vocational rehabilitation services over an extended period of time. ~~(3-28-18)~~( )

04. Vocational Rehabilitation Service or Services. Services that reduce the impact of functional limitations on the ability of a client to achieve an employment outcome. (4-2-08)

011. -- 099. (RESERVED)

100. PROVISION OF SERVICES ON A STATEWIDE BASIS.
Vocational Rehabilitation Services are offered on a statewide basis to individuals who are blind or visually impaired or functionally blind, subject to eligibility. (4-2-08)

101. INFORMATION, REFERRAL, AND APPLICATION FOR VR SERVICES.
Any agency, organization, individual (including self) or the One-Stop delivery system may refer an individual to ICBVI for services. (3-29-12)

01. Contact by ICBVI. Each referred individual must be seen or contacted by ICBVI staff within three (3) working days of the referral's receipt by scheduling an initial appointment, or documentation in a case note of telephone contact or email contact. ICBVI staff will inform the referral of application requirements and information necessary to initiate an assessment for determining eligibility. (3-29-12)

02. Right to Apply. All individuals have the right to apply for ICBVI VR Services and to have a decision made regarding their eligibility for such services. (3-29-12)

03. Availability and Residence Requirements. Individuals must be available and legally permitted to join the labor market prior to eligibility determination. Residence requirements will not exclude any individual present in the state from vocational rehabilitation services. Individuals must have legal status in the United States and be authorized to work. (3-29-12)

04. Work Status and Identity Documentation. Documents that establish work status (employment eligibility) and identity must be consistent with Form I-9, Immigration and Naturalization Services (Form I-9, Employment Eligibility Verification). (3-29-12)

05. Application Forms. A referral or application is not required for an appointment with a VR counselor. Application form*s* are supplied upon request from any ICBVI office *and are* available through referral and outreach programs throughout the state, including the One-Stop Centers. ~~(3-29-12)~~( )

102. -- 109. (RESERVED)

110. ELIGIBILITY.

01. Eligibility Requirements. Eligibility of a client for vocational rehabilitation services shall be based upon a determination by the Commission that: (4-2-08)

a. The client is blind or visually impaired; (4-2-08)

b. The client's blindness or visual impairment constitutes or results in a substantial impediment to employment; and (4-2-08)

c. There is a reasonable expectation that vocational rehabilitation services will benefit the client in terms of securing, retaining, or regaining employment. (4-2-08)

d. The client has a disability priority which can include no significant disability (NSD), significant disability (SD), or most significant disability (MSD). (3-25-16)

111. -- 299. (RESERVED)

300. FINANCIAL PARTICIPATION.
As part of the development of the Individualized Plan for Employment (IPE), clients will be asked to complete a financial need assessment (FNA) to determine the extent, if any, of their participation in the costs of vocational rehabilitation services. State unit requirements for the consideration of client financial participation are identified in 34 CFR 361.54. ( )

301. COMPARABLE BENEFITS.
Eligible clients are to identify and use all available comparable benefits that may be available during the development of the IPE. Services that are exempt from this requirement are identified in 34 CFR 361.53(b). ( )

302. PURCHASING REQUIREMENTS.
All services and purchases will follow federal, state, and ICBVI purchasing guidelines. Client services require written Authorization for Purchase (AFP) prior to the initiation of the purchased service. An authorization will be issued on or before the beginning date of service. If services are provided without a Commission approved authorization, the Commission reserves the right to deny the vendor's invoice. ( )

303. PURCHASING STANDARDS.
ICBVI pays usual, customary, and reasonable charges for services. In accordance with 34 CFR 361.50, ICBVI has established a fee schedule for client services and levels of purchasing authority for VR Counselors. Exceptions to the upper limits established in the fee schedule need to be approved by the Rehabilitation Services Chief. Services that will meet the client's need at the least cost to the ICBVI will be the service considered for planning purposes. ( )

301. -- 354. (RESERVED)

355. CLIENT APPEALS.

01. Informal Dispute Resolution. Within fifteen (15) calendar days of notification of the contested action, lack of action or decision, the client may request that an informal dispute resolution be held. The request shall be made in writing to the Rehabilitation Services Chief. The written request should state the reason for the review. (4-2-08)

a. The Rehabilitation Services Chief shall inform the client in writing as to the time, place, and date of the informal dispute resolution. The client may choose to represent himself or may have a representative speak on his behalf. (4-2-08)

b. The Rehabilitation Services Chief will make a decision regarding the specifics of the informal dispute resolution. This decision will be in written form and it will be sent to the client, with a copy in the case file. (4-2-08)

02. Mediation. The request shall be made in writing to the Rehabilitation Services Chief *stating* the reason for the review. The mediation must take place within sixty (60) days of client's request. ~~(4-2-08)~~( )

03. Impartial Due Process Hearing. An impartial due process hearing can be held without an informal dispute resolution or mediation or if the client is dissatisfied with the result of the informal dispute resolution or mediation. The impartial due process hearing will deal with the issues involved in the original Informal dispute resolution or mediation, if one took place. The request for an impartial due process hearing shall be made in writing to the administrator of the Commission within fifteen (15) calendar days of the Rehabilitation Services Chief's decision from the informal dispute resolution or the mediation proceedings. The hearing by an impartial hearing officer must be held within sixty (60) days of a request by the client unless both parties agree to a specified delay. (4-2-08)

356. ORDER OF SELECTION.

01. Prioritizing Services. In the event that ICBVI lacks the personnel or financial resources to provide the full range of VR services to all eligible individuals, the following Order of Selection (OOS) will be used to prioritize service provisions. Students with disabilities, as defined by 34 CFR 361.5(c)(51), who received pre-employment transition services prior to eligibility determination and assignment to a priority category shall continue to receive such services. All clients who have an Individualized Plan for Employment (IPE) will continue to be served. Priority will be given to eligible individuals as follows: (3-28-18)

a. Priority 1. Eligible individuals with the Most Significant Disabilities (MSD). (3-28-18)

b. Priority 2. Eligible individuals with Significant Disabilities (SD). (3-28-18)

c. Priority 3. All other eligible individuals with Disabilities (D). (3-28-18)

02. Inability to Serve. If ICBVI cannot serve all eligible individuals within a priority category, individuals will be released from the statewide waitlist based on priority category and date of application. (3-28-18)

03. Exemption. Employed individuals, who are eligible for VR services and require immediate equipment or services to maintain their employment, are exempt from the Order of Selection policy, as authorized in the Rehabilitation Act, as amended by WIOA, 34 CFR 361.36(a)(3)(v). (3-28-18)

357. -- 999. (RESERVED)

15.02.03 – RULES GOVERNING THE INDEPENDENT LIVING PROGRAM

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Sections 67-5407(e) and 67-5408, Idaho Code. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.02.03, "Rules Governing the Independent Living Program." (4-2-08)

02. Scope. These rules include, but are not limited to, the procedure and practice requirements governing the provision of services under the Independent Living Program. (4-2-08)

002. -- 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The following federal laws and regulations are incorporated by reference into the rules of this chapter: (4-2-08)

01. 29 U.S.C. Section 701, et. seq., Rehabilitation Act of 1973, as amended in 1998. (4-2-08)

02. 34 CFR 364. (4-2-08)

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Blind or Visually Impaired. A person whose visual acuity with correcting lenses is not better than twenty/two hundred (20/200) in the better eye; or a person whose vision in the better eye is restricted to a field that subtends an angle of not greater than twenty (20) degrees; or a person who is functionally blind; or a person who is without any sight. (4-2-08)

02. Comparable Benefits and Services. Any benefit or service that exists under any other programs that is available to the client. Examples are, but not limited to, Medicaid, Medicare, private health insurance, and medical indigence programs for medication. (4-2-08)

03. Functionally Blind. A person with a visual impairment that constitutes or results in a substantial impediment to employment or substantially limits one (1) or more major life activities. (4-2-08)

04. Independent Living Services. Services that reduce the impact of functional limitations on the ability of a client to achieve independence in the family or community. (4-2-08)

011. -- 099. (RESERVED)

100. PROVISION OF SERVICES ON A STATEWIDE BASIS AND APPLICATION.

01. Services. Independent Living Services are offered on a statewide basis to individuals who are blind or visually impaired, subject to eligibility requirements as set forth in Section 110 of these rules. (4-2-08)

02. Eligibility Requirements. Eligibility requirements will be applied by the Commission without regard to sex, race, creed, color, physical or mental disability, sexual orientation, or national origin of the individual applying for Independent Living Services. (4-2-08)

03. Application. To apply for Independent Living Services, an individual must meet with a Commission rehabilitation teacher and complete an application for Independent Living Services. An individual is considered to have applied for Independent Living Services with the Commission when that individual has signed an application for Independent Living Services, including completion and signature of required forms relating to independent living rights and responsibilities and to the release and exchange of information. (4-2-08)

101. -- 109. (RESERVED)

110. ELIGIBILITY.

Eligibility of a client for Independent Living Services is based upon a determination by the Commission that: (4-2-08)

01. Blind or Visually Impaired. The client is blind or visually impaired; (4-2-08)

02. Ability to Function. The client's blindness or visual impairment substantially limits the client's ability to function in the family or community; (4-2-08)

03. Result of Services. Provision of Independent Living Services will improve the client's ability to function, continue functioning, or move toward functioning independently in the family or community; and (4-2-08)

04. Residency. The client is a resident of the state of Idaho. (4-2-08)

111. -- 149. (RESERVED)

150. INDEPENDENT LIVING PLAN.

01. Plan Development. For those clients determined eligible for Independent Living Services, an Independent Living Plan will be jointly developed by the client and the assigned Commission rehabilitation teacher, unless the need for an Independent Living Plan is waived by the client in writing. (4-2-08)

02. Plan Contents. If the client chooses to have an Independent Living Plan, it will include the independent living goals and objectives, Independent Living Services to be provided, including start and end dates, costs, Comparable Benefits and Services involved, client financial participation and any other elements deemed necessary by the Commission rehabilitation teacher. (4-2-08)

151. -- 199. (RESERVED)

200. CLIENT FINANCIAL PARTICIPATION.
There is no fee assessed for Independent Living Services provided directly to the client by the Commission rehabilitation teacher. However, where the provision of Independent Living Services includes the purchase of aids, appliances, assistive technology, computer hardware and software, and other purchased services or devices, the client's ability to pay will be taken into consideration with the expectation that the client will contribute toward or pay for the required service. The Commission will expend no more than five hundred dollars ($500) per eligible client towards the purchase of aids, appliances, assistive technology, computer hardware and software, and other devices and services. Any exceptions to this rule are only granted upon review and approval of the Commission independent living coordinator. (4-2-08)

201. -- 999. (RESERVED)

15.02.04 – RULES GOVERNING THE PREVENTION OF BLINDNESS AND SIGHT RESTORATION PROGRAM

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Section 67-5407(d) and (e), Idaho Code. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.02.04, "Rules Governing the Prevention of Blindness and Sight Restoration Program." (4-2-08)

02. Scope. These rules include, but are not limited to, the procedure and practice requirements governing the provision of services under the Prevention of Blindness and Sight Restoration Program. (4-2-08)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Blind or Visually Impaired. A person whose visual acuity with correcting lenses is not better than twenty/two hundred (20/200) in the better eye; or a person whose vision in the better eye is restricted to a field that subtends an angle of not greater than twenty (20) degrees; or a person who is functionally blind; or a person who is without any sight. (4-2-08)

02. Comparable Benefits or Services. Any benefit or service that exists under any other programs that is available to the client. Examples are, but not limited to, Medicaid, Medicare, private health insurance, and medical indigence programs for medication. (4-2-08)

03. Functionally Blind. A person with a visual impairment that constitutes or results in a substantial impediment to employment or substantially limits one (1) or more major life activities. (4-2-08)

04. Immediate Danger of Blindness. The status of an individual or client who is in danger of becoming blind or visually impaired within two (2) years. (4-2-08)

05. Prevention of Blindness and Sight Restoration Services. Treatment or surgery to prevent blindness or restore vision to clients without financial resources to procure such services for themselves. (4-2-08)

011. -- 099. (RESERVED)

100. PROVISION OF SERVICES ON A STATEWIDE BASIS.
Prevention of Blindness and Sight Restoration Services are offered on a statewide basis to individuals who are Blind or Visually Impaired or who are in immediate danger of Blindness, subject to eligibility and available funding. To apply, individuals must meet with a vocational rehabilitation assistant from the Commission to complete and sign an application. (4-2-08)

101. -- 109. (RESERVED)

110. ELIGIBILITY.
Eligibility of a client for Prevention of Blindness and Sight Restoration Services is based upon a determination by the Commission that a client is blind or visually impaired, functionally blind, or in immediate danger of blindness and that the client is without financial resources to procure services for themselves. Clients must also meet residency requirements as set forth in Subsection 110.02 of these rules. (4-2-08)

01. Demonstration of Financial Need. Only clients without financial resources to procure Services for themselves are eligible for Prevention of Blindness and Sight Restoration Services. Clients will undergo a financial needs assessment with Commission staff to determine whether financial eligibility requirements are met. (4-2-08)

02. Residency Requirements. In order to be eligible for Prevention of Blindness and Sight Restoration Services, a client must demonstrate the following residency requirements: (4-2-08)

a. If client is not a United States citizen, client must provide proof of his legal presence as a registered

alien in the United States. (4-2-08)

b. Residence in the state of Idaho for a minimum of six (6) months; and (4-2-08)

c. Presence in the state of Idaho at the time of provision of Prevention of Blindness and Sight Restoration Services. (4-2-08)

112 -- 199. (RESERVED)

200. PAYMENT FOR NECESSARY EXPENSES.
The Commission's payment of necessary expenses associated with provision of Prevention of Blindness and Sight Restoration Services to eligible clients is subject to availability of funds during any single state fiscal year. In the event available funds for Prevention of Blindness and Sight Restoration Services are exhausted prior to the end of any single state fiscal year, eligible clients are placed on a waiting list until such time as funding is available to resume Prevention of Blindness and Sight Restoration Services. (4-2-08)

01. Upper Limits. Subject to Subsection 200.03 of these rules, the Commission will pay no more than five thousand dollars ($5,000) per eligible client for necessary expenses incurred for Prevention of Blindness and Sight Restoration Services during each eligible client's lifetime participation in the Blind Prevention and Sight Restoration Program. (4-2-08)

02. Comparable Benefits and Services. Eligible clients must apply for and secure any comparable benefits and services which shall be applied towards payment of necessary expenses incurred for Prevention of Blindness and Sight Restoration Services before any expenditure of Commission funds. (4-2-08)

03. Exceptions. Any exceptions to the individual lifetime limit per eligible client set forth in Subsection 200.01 of these rules are only granted upon approval of the Commission rehabilitation services chief. (4-2-08)

201. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has designated the Commission for the Blind and Visually Impaired as the sole licensing agency under the provisions of the Randolph-Sheppard vending stand act pursuant to Section 67-5411, Idaho Code, and has given to the Board of the Idaho Commission for the Blind and Visually Impaired the legislative power to promulgate rules by the provisions of Section 67-5407(e), Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.02.30, "Business Enterprise Program." (3-15-02)

02. Scope. These rules specify the conditions and standards under which the Business Enterprise Program facilities are operated. (3-15-02)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Unless otherwise indicated in these rules, terms below are defined as follows: (3-1-93)

01. Administrator. The Administrator of the Commission. (3-15-02)

02. Agreement. An agreement between the Program and an operator for the operation of a vending facility as a primary location. (3-15-02)

03. Benefits. Retirement or pension plans, health insurance contributions, and paid sick and vacation leave available only to operators. (See 34 CFR 395.8.) (3-15-02)

04. Blind Person. A person who, after examination by a physician skilled in diseases of the eye or by an optometrist, whichever such person selects, has been determined to have the following (see 34 CFR 395.1(c)): (3-15-02)

a. Not more than twenty/two hundred (20/200) central visual acuity in the better eye with correcting lenses; or (3-15-02)

b. An equally disabling loss of the visual field as evidenced by a limitation to the field of vision in the better eye to such a degree that its widest diameter subtends an angle of no greater than twenty (20) degrees. (3-15-02)

05. Certified. Having successfully completed the Commission-approved training program established by the Program as a requirement for licensing. (See Section 150 of these rules.) (3-15-02)

06. Commission. The Idaho Commission for the Blind and Visually Impaired. (3-15-02)

07. Committee. The Idaho Blind Merchants Committee (IBMC). (3-15-02)

08. Contract. A contract with a licensee or other qualified individual for the operation of a vending facility. Contracts are of limited duration. (3-15-02)

09. Contract Facility. A facility operated under a contract by a licensee or other party. (3-15-02)

10. Facility. A vending enterprise defined as: (3-15-02)

a. Automatic vending machines, cafeterias, snack bars, cart service, shelters, counters, and such other appropriate auxiliary equipment which may be operated by blind licensees and which is necessary for the sale of newspapers, periodicals, confections, tobacco products, foods, beverages, and other articles or services dispensed automatically or manually and prepared on or off the premises in accordance with all applicable health laws, and including the vending or exchange of chances for any lottery authorized by state law and conducted by an agency of a state within such a state. (See 34 CFR 395.1(x)); or (3-15-02)

b. Restaurants, cafeterias, snack bars, and goods and services customarily offered in connection with

any of the foregoing, and includes vending machines dispensing foods when operated independently or in conjunction with such facilities. (See Section 67-6903, Idaho Code); or (3-15-02)

c. Any type of business which the Supervisor finds is consistent with and furthers the policies, goals, and objectives of the Program. (3-15-02)

11. License. A written instrument issued by the state licensing agency to a blind person, authorizing such person to operate a vending facility on federal or other property. (See 34 CFR 395.1(i).) (3-15-02)

12. Licensee. A blind person licensed by the state licensing agency to operate a vending facility on federal or other property. (See 34 CFR 395.1(b).) (3-15-02)

13. Operator. A licensee assigned to and operating a primary location. (3-15-02)

14. Permit. The official approval given a state licensing agency by a department, agency or instrumentality in control of the maintenance, operation, and protection of federal property, or person in control of other property, whereby the state licensing agency is authorized to establish a vending facility. (See 34 CFR 395.1(o).) (3-15-02)

15. Primary Location. A single building or group of buildings operated as a vending facility pursuant to an agreement. (3-15-02)

16. Probation. A conditional status wherein a vendor has a specified period of time to correct identified problems before an agreement or contract may be terminated. (3-15-02)

17. Program. The Business Enterprise Program (BEP), provided for by the Randolph-Sheppard Act to give priority to the blind in need of economic opportunities. (See 34 CFR 395.1(p) and Title 67, Chapter 69, Idaho Code.) (3-15-02)

18. Property Manager. The individual or entity in charge of administering vending contracts or permits in federal, state, or local government buildings or private buildings. (3-15-02)

19. Satellite. An ancillary site separate from a primary location granted to an operator as part of an agreement. (3-15-02)

20. Set Aside Funds. Funds which accrue to a state licensing agency from an assessment against the net proceeds of each vending facility in the state's vending facility program and any income from vending machines on federal property which accrues to the state licensing agency. (See 34 CFR 395.1(s).) (3-15-02)

21. State Licensing Agency. The Commission which has been designated by the Secretary of Education to issue licenses to blind persons for the operation of vending facilities on federal and other property. (See 34 CFR. 395.1(v).) (3-15-02)

22. Supervisor. The BEP individual who administers the Program. (3-15-02)

23. Suspension. Temporary withdrawal by the Supervisor of privileges granted by a license, agreement or contract during which time a vendor may not continue to operate a facility. (3-15-02)

24. Vendor. A licensee who operates a primary location with or without satellites, pursuant to an agreement, or who operates a contract facility pursuant to a contract. (3-15-02)

011. PURPOSE.
The purpose of the Program is to provide remunerative employment opportunities for blind individuals who have an interest in and aptitude for operating a facility, to demonstrate alternative techniques for coping with blindness, and to educate the public regarding the ability of blind individuals to independently operate businesses. The Supervisor is responsible for the administration of the Program and reports to the Administrator. The Program shall be coordinated with other vocational rehabilitation programs of the Commission. (3-15-02)

012. -- 029. (RESERVED)

030. LICENSES.

01. Issuance of Licenses. Licenses shall be issued for an indefinite period of time and shall be issued only to persons who are determined by the Program to be: (3-15-02)

a. Blind, as defined in Subsection 010.04 of these rules; and (3-15-02)

b. Citizens of the United States; and (3-15-02)

c. Certified by the Program as qualified and trained to operate a facility. (3-15-02)

02. Inactive License. If a licensee, who is not an operator, fails for more than one (1) year to bid for a facility, the license of such licensee shall become inactive. (3-15-02)

03. Reactivation. A license can be reactivated upon written request to the Supervisor. The Supervisor may require a licensee to repeat the certification requirements to reactivate a license. (3-15-02)

031. -- 039. (RESERVED)

040. TERMINATION AND SUSPENSION OF LICENSES.

01. Grounds for Termination. Licenses are subject to termination after fifteen (15) days' notice if the Program finds: (3-15-02)

a. That the facility is not being operated in accordance with Commission rules, the terms and conditions governing the permit, or the terms and conditions of the agreement or contract (See Section 140 of these rules.); (3-15-02)

b. That the licensee no longer meets the definition of blind person as set out in Subsection 010.04 of these rules; (3-15-02)

c. That the licensee has received a medically documented diagnosis that will result in prolonged incapacity of the licensee and a continuing inability to operate a facility; (3-15-02)

d. That the licensee has withdrawn from the Program by submitting written notification to the Supervisor; (3-15-02)

e. That the licensee has made unauthorized use of retirement account funds; or (3-15-02)

f. That the licensee engages in conduct or allows a condition to exist for which the licensee has previously been placed on probation, or which has previously led to the suspension of the license. (3-15-02)

02. Notice of Termination. Notice shall be in writing, specify the grounds upon which the notice of termination is based; and advise the operator of his right to administrative review and a full evidentiary hearing. (3-15-02)

03. Request for Review Not a Stay. A timely filed request for administrative review shall not stay the termination of the license. (3-15-02)

04. Termination. The termination becomes effective following the fifteen (15) day notice period unless the vendor seeks administrative review, in which case the license may be suspended and any contract or agreement may be terminated pending completion of the administrative review, full evidentiary hearing, and subsequent appeals. Until the review process has been concluded, the Program shall operate the facility. At the conclusion of the review process, should the vendor prevail, the Program shall restore all rights and benefits to the

vendor including compensation for the period of termination calculated at a weekly rate determined by averaging the net income for the facility for the prior federal fiscal year. (3-15-02)

05. Suspension. The Supervisor has the authority to suspend the license of a vendor whose conduct may jeopardize a permit or the Program. (3-15-02)

a. The Supervisor shall notify the vendor in writing of the suspension and identify the specific deficiencies and the time allowed for the vendor to take corrective action. If no resolution has been made at the end of the specified time, the Supervisor shall issue a notice of termination. (3-15-02)

b. If the Supervisor and a vendor, whose license has been suspended, cannot agree on arrangements for a temporary replacement vendor, the procedures set out in Section 180 of these rules shall be followed to resolve the matter. (3-15-02)

06. Probation. The Supervisor has the authority to place a vendor who is not in compliance with the terms of an agreement or contract on probation. The Supervisor shall notify the vendor in writing of the probation and identify the specific deficiencies and the time allowed for the vendor to take corrective action. If no resolution has been made at the end of the specified time, the Supervisor shall issue a notice of termination. (3-15-02)

07. Improvement Plans. If the Supervisor receives a set aside report from a vendor that indicates no profit has been realized during two (2) consecutive months or three (3) months in a fiscal year the Supervisor shall review the situation and, with the vendor, devise a plan with measurable objectives and timetables for improvement. Should the facility not show a reasonable profit during the three (3) subsequent months the Supervisor may issue a notice of termination or the facility may be contracted or closed. (3-1-93)

041. -- 049. (RESERVED)

050. SELECTION OF OPERATORS.

01. Notification of Opening. The Supervisor shall notify all licensees and prospective operators, all commissioners and counselors of the Commission of all facility openings in writing. The notice of openings shall also be posted on the Commission web site. The notice shall state the facility location, the application procedure, and the deadline for application. The notice shall also solicit interest in operating the facility on a contract, in the event it is not awarded as a primary location. Interested parties will be provided specific information about the openings upon request. (3-15-02)

02. Qualification of Bidders. A bidder for a primary location shall be: (3-15-02)

a. Licensed by the Commission; (3-1-93)

b. Current with Program payments, including monthly set asides and any other monies due the Program; and (3-15-02)

c. In good standing and not have been placed on probation or had his license suspended within the last calendar year. (3-15-02)

03. No Qualified Bidders. If no applications are received from qualified bidders' licensees who expressed an interest in operating the facility as a contract facility will be given priority in the selection of a contractor. If no licensee is awarded the facility, the Supervisor may award a contract to any qualified individual. (3-15-02)

04. Application. An application shall be in the form of a written letter to the Supervisor and include a statement of qualifications and pertinent experience. (3-15-02)

05. Selection Process. (3-1-93)

a. The Supervisor shall appoint a panel to review all applications and conduct interviews. (3-15-02)

b. The panel shall consist of the Supervisor who serves as chair, a representative of the Committee selected by the Committee chair, and one (1) person from field services. The person from field services shall not have had a client relationship with the applicants. (3-15-02)

c. The panel shall review all written applications and interview at least the top five (5) candidates, using the same format and interview questions. All members of the panel must be physically present during the interviews. (3-15-02)

d. A weighted evaluation form shall be used by each panel member. Selection criteria shall be consistent with the job requirements of that facility. Points shall be given by each interviewer to each candidate in the various categories assessed. A composite score shall be tabulated for each candidate. (3-15-02)

e. The Supervisor shall make a final selection from the two (2) candidates with the highest total points. If the candidate with the highest score is not selected, the Supervisor must provide an explanation in writing to the highest scoring candidate upon request. (3-15-02)

f. If no bidder is awarded operation of the facility, the Supervisor may grant it on a contract to a licensee or other qualified individual. (3-15-02)

06. Notification of Decision. The Supervisor shall notify all applicants in writing of the final decision. (3-1-93)

07. Records. The Supervisor shall maintain a record of all proceedings. (3-1-93)

08. Transfer and Promotion. The procedure for transfer and promotion shall be the same as for original selection of vendors. (3-15-02)

051. -- 059. (RESERVED)

060. ACCESS TO PROGRAM AND FINANCIAL INFORMATION.
Each licensee in the Program shall be provided access to all Program financial data relevant to the operation of the Program, including annual financial reports, provided that such disclosure does not violate applicable federal or state laws pertaining to the disclosure of confidential information. Insofar as practical, such data shall be made available in suitable alternative format. At the request of a licensee, qualified staff of the Program shall arrange a convenient time to assist in the interpretation of the financial data. (3-15-02)

061. -- 069. (RESERVED)

070. EQUIPMENT, INITIAL STOCK AND BUSINESS EXPENSES.

01. Program Responsibility. The Program assumes full responsibility for providing each facility established under the Program with adequate equipment and initial stock of merchandise. (3-15-02)

02. Initial Stock of Merchandise. An initial stock of merchandise shall be provided by the Supervisor. The Supervisor shall determine the quantity of the initial stock, which shall be enough for at least one (1) full week of operation. The vendor shall account for the value of the initial stock when the operation is concluded. (3-15-02)

03. Vending Machine Contracts. The Program shall negotiate contracts with vending companies for installation or location of vending machines in or to be assigned to facilities. (3-15-02)

04. Insurance. All vendors shall be responsible for obtaining general liability, product liability, and worker's compensation insurance. Proof of insurance must be sent to the Supervisor prior to the start of operation and within ten (10) days of policy renewal date. (3-15-02)

071. MAINTENANCE AND REPLACEMENT OF EQUIPMENT.
The Program shall maintain or cause to be maintained all equipment in a safe and satisfactory working condition.

Replacement in lieu of repair shall be a decision of the Supervisor. It is the vendor's responsibility to report any incident resulting in damage, breakage, theft, defacement, or malfunction of equipment or fixtures as soon as possible. Vendors are authorized to arrange for minor repairs or replacement of small equipment where the total cost does not exceed three hundred dollars ($300). Repair shall be deemed unauthorized when the repair or replacement is attributable to negligent actions by the vendor or when the equipment or fixtures are not the maintenance responsibility of the Program. (3-15-02)

072. OPERATOR OWNERSHIP OF VENDING FACILITIES.
The Commission does not vest title to equipment and stock in an operator. (3-1-93)

073. -- 099. (RESERVED)

100. SETTING ASIDE OF FUNDS.

01. Set Aside. The Commission may set aside, or cause to be set aside, from the net profit of the operation of facilities, funds for the purposes of maintenance and replacement and purchase of equipment. (3-1-93)

02. Other Purposes Allowed by the Randolph-Sheppard Act. The Commission reserves the right to use set aside funds for other purposes as permitted in accordance with the provisions of the Randolph-Sheppard Act and federal rules and regulations. (3-1-93)

03. Approval by the United States Department of Education. The funds set aside for those specified purposes shall not exceed the amount determined reasonable by the Rehabilitation Services Administration Commissioner, U.S. Department of Education. (3-1-93)

04. Record of Expenditures. The charge for each of the program purposes cited shall be determined on the basis of records of expenditures made for each of these purposes over a reasonable period of time with allowances for improving services, fluctuations in costs and program expansion. Adequate records shall be maintained to support the charges for each of the purposes cited. (3-1-93)

05. Increases. At no time shall the set aside charges be increased without prior consultation with the Committee. (3-1-93)

06. Review of Schedule of Funds. The schedule of funds to be set aside shall be reviewed periodically by the Supervisor and the Committee. After reviewing the accounting records and other criteria pertinent to the administration of the Program, it may be necessary to revise the set aside payment schedule. (3-1-93)

07. Income with No Program Operator. Vending machine income received from federal sites where there is no licensed Program operator shall be used for those purposes designated by the Committee in accordance with 34 CFR 395.8. (3-1-93)

101. DISTRIBUTION AND USE OF INCOME FROM VENDING MACHINES ON FEDERAL PROPERTY.

01. Limitations. No limitation shall be imposed on income from vending machines combined to create a facility when such facility is maintained, serviced or operated by a program vendor. (3-15-02)

02. Vending Machine Income. The Program shall manage vending machine income disbursed by a property managing department, agency or instrumentality of the United States in accordance with the requirements of 34 CFR 395.8. (3-15-02)

111. -- 119. (RESERVED)

120. OPERATOR BENEFITS.

01. Vending Machine Income. The Program shall provide licensees with information regarding benefits. Upon a majority vote of licensees, the Program may retain vending machine income from federal property in

accordance with 34 CFR 395.8(a). Such income may be used for the establishment and maintenance of retirement or pension plans, for health insurance contributions, and for the provision of paid sick leave and vacation time for operators. Distribution of benefit payments shall be determined by a majority vote of licensees and established as policy. (3-15-02)

02. Eligibility. Only operators of a primary location pursuant to an agreement shall be eligible to receive benefits. There shall be a ninety (90) day waiting period before a new operator is eligible to receive benefits. Benefit payments will not be interrupted when an operator transfers from one primary location to another. Benefits shall be paid only after the appropriate documentation is submitted to the Program. (3-15-02)

03. Medical Insurance. If a majority of licensees determines that operators shall be reimbursed for medical insurance premiums, operators shall be responsible for acquiring their own policies. The Program shall reimburse the operator in an amount determined by the vote of licensees. Operators shall provide documentation to the Program proving payment of their premiums, prior to any reimbursement. (3-15-02)

04. Retirement and Pension Accounts. If a majority vote of licensees determines that operators shall have retirement accounts, the Program shall deposit into approved retirement accounts an amount determined by a majority vote of licensees, up to the maximum federal allowance for IRAs per year. The funds shall be deposited on a monthly basis directly into each operator's retirement account. (3-20-04)

05. Sick Leave and Vacation Funds. If a majority vote of licensees determines that operators shall have sick or vacation leave funds, or both, the Program shall remit to each operator an amount determined by a majority vote of licensees. (3-15-02)

06. Non-Fully Funded Benefits. If funds are not available for full payment of benefits, as voted by the licensees, the Program may pro-rate the payments from available funds, unless another method of disbursement of non-fully funded benefits was voted by a majority of the licensees. (3-15-02)

121. -- 129. (RESERVED)

130. AGREEMENTS/CONTRACTS.
Vendors shall enter into an agreement or a contract with the Program that specifies the rights and responsibilities of the operator and Program as they relate to the operation of a primary location and any satellites. The contract shall specify the rights and responsibilities of the licensee or qualified operator and Program as they relate to the operation of a contract facility. (3-15-02)

01. Program Responsibilities. The Program shall: (3-15-02)

a. Equip the facility for carrying out the business authorized by the permit; (3-15-02)

b. Furnish initial stocks of merchandise sufficient to enable the vendor to commence operating the business. The Program shall also furnish the vendor with an inventory list of all equipment and initial stock; (3-15-02)

c. Provide for the maintenance of the equipment and replace obsolete and worn out equipment as necessary; (3-15-02)

d. Provide, or provide for supervisory and management services as deemed appropriate by the Supervisor for efficient operation; (3-15-02)

e. Periodically audit, or cause to be audited, the vendor's records and financial data to verify the accuracy of the set aside report; and (3-15-02)

f. Provide information or make available data in suitable format at the vendor's request when possible. (3-15-02)

02. Vendor Responsibilities. The vendor shall: (3-15-02)

a. Have the facility open for business as specified in the permit. Exceptions may be approved in advance by the Supervisor; (3-15-02)

b. Operate on a cash basis. The Program shall not be responsible for bills incurred by the vendor. The vendor is responsible for notifying suppliers that the vendor alone is responsible and shall verify that notification by use of the purveyor letter supplied by the Program; (3-15-02)

c. Be accountable to the Program for the income of the facility; (3-15-02)

d. Provide for a temporary worker in the vendor's absence because of illness, vacation, or other causes. The salary of the person who substitutes for the vendor, or that of other emergency help, shall be paid for by the vendor. The vendor shall notify the Program a reasonable time in advance of taking any voluntary leave, and as soon as possible with respect to any involuntary leave; (3-15-02)

e. Carry on the business of the facility in compliance with the permit and applicable health laws and regulations and make available to the Program copies of inspection reports; (3-15-02)

f. Maintain a neat, business-like appearance while working at the facility, and conduct business in an orderly, professional manner; (3-15-02)

g. Take proper care of the equipment and not make structural alterations or changes to the facility without written approval of the Program; (3-15-02)

h. Keep appropriate records and send a monthly report and set aside payment to the Program by the fifteenth day of the following month as required. Late reports or payments will be resolved in the manner set forth in Section 040 of these rules; (3-15-02)

i. Be responsible for the day to day management of the facility. For staffed facilities, the vendor should be present the majority of the time the facility is staffed for service to the public. For vending only facilities, the Supervisor and vendor will mutually agree on the hours that the vendor shall be at the facility, and the agreement shall become an addendum to the contract or operating agreement; and (3-15-02)

j. The vendor shall provide copies of proof of insurance as required by Subsection 070.04 of these rules. (3-15-02)

03. General Rights and Responsibilities. (3-1-93)

a. The business to be conducted shall be limited to that specified and authorized in the permit or contract between property managing agency and the Program. (3-15-02)

b. The right, title to, and interest in the equipment and initial inventories of the facility are vested in the Program. At termination of the operating agreement, a value equal to that assigned to the outgoing vendor as beginning inventory will be returned to the Program. The Program will determine what inventory will be accepted from the outgoing vendor. The outgoing vendor shall have receipts no more than ninety (90) days old to show the value of inventory. Any inventory refused by the Program will become the property of the outgoing vendor. If the takeover inventory is less than initially assigned, the outgoing vendor will pay the difference in cash. If the Program agrees to accept more inventory than was initially assigned, the Program will reimburse the outgoing vendor in cash. (3-15-02)

c. The monthly income of the vendor shall be the net profit for the period in question; the expenses shall be in accordance with the monthly set aside report as developed by the Program and the Committee. (3-15-02)

d. Rebates, commissions, or bonuses received by the vendor from suppliers shall be reported as income. Such income is not to be treated as the separate, personal income of the vendor. (3-15-02)

e. Merchandise taken from the stock in trade of the facility by the vendor for personal use shall be

paid for at cost. (3-15-02)

f. The business and premises shall be covered by adequate comprehensive and product liability insurance, and any such other insurance as will protect the vendor and anyone employed by the vendor against losses and claims arising out of the conduct of the business or which are required by law. The dollar amount of insurance shall be fixed by the Program and the Committee using industry standards and state requirements as guidelines to assure up-to-date coverage. The cost of such insurance shall be a cost of operating the business of the facility and taken into account as such in determining the net proceeds of the business operation. (3-15-02)

g. After an initial commitment to operate a primary location for twelve (12) months, an agreement may be terminated at anytime by the operator with at least thirty (30) days written notice to the Program. During the initial twelve (12) month period, the operator cannot bid on other primary locations without the consent of the Supervisor. (3-15-02)

h. The operator is encouraged to hire blind persons or persons with other disabilities when feasible. (3-15-02)

i. The vendor shall report promptly to the Supervisor any unresolved complaints of the property manager. (3-15-02)

j. The vendor may, with written approval of the Supervisor, negotiate with property managers for additional facilities. (3-15-02)

k. A vendor may purchase equipment for a facility only if the purchase is approved in advance, in writing, by the Supervisor. The Program, in its sole discretion, has the first option to purchase from the vendor any equipment purchased without advance, written approval. (3-15-02)

131. -- 139. (RESERVED)

140. TERMINATION AND SUSPENSION OF AGREEMENTS/CONTRACTS.

01. Grounds for Termination. Agreements and contracts may be terminated if: (3-15-02)

a. The vendor is not operating the facility on a cash basis; (3-15-02)

b. The health and safety of the vendor, the employees, or the customers are jeopardized; (3-15-02)

c. The set aside report indicates the vendor did not show an average one thousand dollar ($1,000) net profit per month, after set aside payment, for the prior federal fiscal year; (3-15-02)

d. The vendor jeopardizes the state's investment in the facility by violating the terms of the permit, agreement or contract, or by placing the facility in danger of being closed; (3-15-02)

e. The business and premises of the facility are not covered by adequate insurance; (3-15-02)

f. The facility is not being operated in accordance with the agreement, contract, Commission rules, or with applicable federal, state, or local laws, rules, and regulations; (3-15-02)

02. Notice of Termination. The notice shall be in writing and specify the grounds upon which the notice of termination is based and advise the vendor of his right to administrative review and a full evidentiary hearing. (3-15-02)

03. Request for Review Not a Stay. A timely filed request for administrative review shall not stay the termination of an agreement or contract. (3-15-02)

04. Review. The termination becomes effective following the fifteen (15) day notice period unless the vendor seeks administrative review, in which case the License may be suspended and any contract or agreement may

be terminated pending completion of the administrative review, full evidentiary hearing, and subsequent appeals. Until the review process has been concluded, the Program shall operate the facility. At the conclusion of the review process, should the vendor prevail, the Program shall restore all rights and benefits to the vendor including compensation for the period of termination calculated at a weekly rate determined by averaging the net income for the facility for the eight (8) weeks prior to the notice of termination. (3-15-02)

05. Grounds for Suspension. Agreements and contracts may be suspended if: (3-15-02)

a. The vendor has committed any of the acts enumerated in Subsection 140.01 of these rules; or (3-15-02)

b. The property manager requests the removal of the vendor and documents the request in writing, and the Program determines that immediate removal of the vendor is in the best interest of the Program; or (3-15-02)

c. The Supervisor and the vendor cannot agree on a plan to resolve violations and improve performance. (3-15-02)

06. Notice of Suspension. A written notice of suspension shall be delivered to the vendor and shall state the reason for the suspension. Suspension may continue up to sixty (60) days. If the vendor seeks administrative review of the suspension, the suspension shall continue until the administrative review, evidentiary hearing, and subsequent proceedings have concluded. During the suspension, the facility shall be operated by the Program. At the conclusion of the review process, should the vendor prevail, the Program shall restore all rights and benefits to the vendor including compensation for the period of termination calculated at a weekly rate determined by averaging the net income for the facility for the eight (8) weeks prior to the notice of termination. (3-15-02)

07. Cancellation. An agreement or contract may be cancelled by the Program at any time should the facility cease to be a vending facility by revocation of the permit by the property manager. Cancellation under this Subsection shall not affect licensure and does not give rise to a right to administrative review, evidentiary hearing or other relief. (3-15-02)

141. -- 149. (RESERVED)

150. TRAINING PROGRAM.

01. Certification. Prior to certification, an applicant shall satisfactorily complete the training program established by the Program and any on-the-job training prescribed by the Supervisor. The training program shall have certain basic requirements but also be customized to meet the needs of each individual applicant. The training program shall include, but is not limited to: fundamentals of purchasing, inventory control, pricing, record keeping and other accounting systems; display and arrangement of merchandise and equipment; and public relations and promotion. (3-1-93)

02. In-Service Training. The Program shall provide each vendor with regular and systematic assistance and in-service training to: promote maximum returns to the vendor; maximum service to the clientele; maintenance of a clean and attractive place of business; utilization of sound business practices; and adherence to the Commission's rules, policies, and building management requirements. (3-15-02)

03. Post-Employment Services. Post-employment services may be provided to eligible vendors when necessary to assure that they maintain suitable employment within the agency's Business Enterprise Program. Eligibility for and provision of post-employment services shall be in accordance with IDAPA 15.02.02, "Vocational Rehabilitation Services." (3-15-02)

151. -- 159. (RESERVED)

160. IDAHO BLIND MERCHANT'S COMMITTEE.

01. Committee Name. The Program shall provide for a state committee of blind vendors per the Randolph-Sheppard Act (See 34 CFR 395.14.) The name of this committee is the Idaho Blind Merchants Committee

(IBMC). (3-15-02)

02. Purpose of Committee. The purpose of the Committee is to: (3-15-02)

a. Actively participate with the Commission in major administrative decisions and policy and program development decisions affecting the overall administration of the Program; (3-15-02)

b. Receive and transmit to the Commission grievances at the request of vendors and serve as advocates for such vendors in connection with such grievances; (3-15-02)

c. Actively participate with the Commission in the development and administration of a system for the transfer and promotion of vendors; (3-15-02)

d. Actively participate with the Commission in the development of training and retraining programs for vendors; and (3-15-02)

e. Sponsor, with the assistance of the Commission, meetings and instructional conferences for vendors within the state. (3-15-02)

03. Bylaws. The Committee shall, by a two-thirds (2/3) majority vote, adopt bylaws, consistent with the Randolph-Sheppard Act, which govern the internal operation of the Committee. (3-15-02)

04. Committee Membership. The Committee comprises the operators of all facilities in the state. (3-15-02)

05. Executive Board. An executive board consisting of a chair, vice chair, secretary, and two (2) at large representatives shall be elected by the Committee at a regular meeting. Members of the executive board shall serve for two (2) years in their respective positions. The executive board may conduct all business of the Committee between regular meetings of the Committee. (3-15-02)

161. -- 169. (RESERVED)

170. MEETINGS OF THE COMMITTEE.

01. Annual Meetings. The Committee shall hold at least one (1) regular meeting each calendar year. (3-15-02)

02. Additional Meetings. The Committee may provide for additional meetings in its bylaws. (3-15-02)

03. Program Responsibilities. The Program shall work with the Committee chair or designated representative to coordinate the regular meetings of the Committee. At regular meetings, the Program shall give financial and overview reports, review Program rules and policies; and receive Committee recommendations for changes to the Program rules or polices. (3-15-02)

04. Expenses. Allowable expenses of not more than two (2) regular meetings per calendar year may be paid out of Program monies. Allowable expenses include meeting rooms, lodging, per diem, and transportation. The transportation arrangements shall be determined by the Supervisor. Expenses for additional meetings of the Committee may be paid by the Program at the discretion of the Supervisor after consultation with the Administrator. (3-15-02)

05. Future Meeting. The date and time for the next regular meeting shall be set prior to adjournment. (3-15-02)

06. Minutes. Minutes shall be kept by the Committee and made available to the Supervisor. Minutes shall be sent to each operator and to the Supervisor within ninety (90) days after conclusion of the meeting. The Program shall pay all reasonable costs for this service. (3-15-02)

171. -- 179. (RESERVED)

180. ADMINISTRATIVE REVIEW.

01. Request for Review. A vendor who is aggrieved by any action or failure to act arising from the operation or administration of the Program may ask for a review of the action by filing a written request with the Administrator. The written request for review, which may be filed by the vendor or a designated representative of the vendor, shall specify the matter to be reviewed and how the vendor has been aggrieved. (3-15-02)

02. Response. Upon receipt of a request for administrative review, the Administrator shall notify the Supervisor, who has fifteen (15) calendar days to file a written response to the request. A copy of the Supervisor's response shall be sent to the vendor or the vendor's designated representative. (3-15-02)

03. Filing Objections, Replies, and Decisions. Upon receipt of the response from the Supervisor, the vendor or the vendor's designated representative has fifteen (15) calendar days in which to file any objections or make reply, after which time the Administrator shall, in good faith, evaluate the materials submitted and issue a written decision within fifteen (15) calendar days. The vendor or the vendor's designated representative may request an evidentiary hearing in accordance with Subsection 190.01 of these rules if the decision issued by the Administrator fails to resolve the vendor's grievance(s). (3-15-02)

181. -- 189. (RESERVED)

190. FULL EVIDENTIARY HEARING.

01. Request. The Commission shall provide a vendor an opportunity for a full evidentiary hearing. The vendor or the vendor's designated representative may request a full evidentiary hearing following the receipt of an unfavorable decision issued by the Administrator pursuant to Subsection 180.03 of these rules. The written request shall be delivered to the Administrator, with a copy to the Committee chair, within fifteen (15) calendar days of the aggrieved party's receipt of the Administrator's decision. (3-15-02)

02. Suspension. If the conduct of the vendor places the facility or permit in jeopardy, the Supervisor may suspend or terminate the agreement or contract pending the decision of the full evidentiary hearing. (3-15-02)

03. Time and Place of Hearing. The evidentiary hearing shall be held in the Commission headquarters at a mutually convenient time. (3-15-02)

04. Time Limit. The hearing procedure shall be limited to ninety (90) calendar days, beginning on the date the request for hearing is filed by the vendor. The time limit may be extended due to illness of the vendor or delay in obtaining evidence because of circumstances beyond the control of the vendor or the Program. (3-15-02)

05. Hearing Officer. The Administrator shall appoint a hearing officer to conduct the evidentiary hearing and issue a report. (3-15-02)

06. Hearing Notice. A notice of the hearing date shall be provided to the vendor at least twenty-one (21) calendar days prior to the date set for the hearing. (3-15-02)

07. Legal Counsel. The vendor may arrange to have legal counsel or other representation. Such counsel shall be at the expense of the vendor. (3-15-02)

08. Evidence. The hearing officer shall make a reasonable effort to obtain the most credible evidence of fact in the case, and the rules of evidence do not apply. (3-15-02)

09. Conduct of Hearing. Each party shall be given an opportunity to present its case, examine and cross-examine witnesses, present argument, and rebut evidence. (3-15-02)

10. Transcripts. A transcript of the proceedings shall be made available to the parties upon request.

The Program shall pay all transcript costs associated with the conduct of the hearing. (3-15-02)

11. Report of Facts, Findings, Conclusion, and Recommended Decision. (3-15-02)

a. The hearing officer shall submit a report to the Administrator within twenty-one (21) calendar days after the hearing. This report shall include: the issues and relevant facts adduced at the hearing; applicable provisions of law, rules, and Commission policy; findings of fact and conclusions of law with respect to issues; and the reasons and basis thereof. (3-15-02)

b. The report shall also set forth any action necessary to resolve the issue and a recommended decision. (3-15-02)

12. Service of Report. The report shall be served on the Administrator and all parties to the hearing. (3-15-02)

13. Written Comments, Arguments, and Exceptions. Parties to the hearing may, within fifteen (15) calendar days of the date the report was received in the Administrator's office, file written comments, arguments, and exceptions to the report with the Administrator. Comments, arguments, and exceptions received in a timely fashion become a part of the record and shall be considered by the Administrator in making a final decision. (3-15-02)

14. Exclusive Record for Decision. The transcript of testimony, exhibits, and all papers and documents filed shall constitute an exclusive record for decision. (3-1-93)

15. Decision. The final decision of the Administrator shall be mailed to the vendor within thirty (30) days of receipt of the hearing officer's report. (3-15-02)

191. -- 199. (RESERVED)

200. ARBITRATION.
If a Vendor is dissatisfied with a decision rendered after a full evidentiary hearing, the vendor may request that an arbitration panel be convened by filing a complaint with the Secretary of the U.S. Department of Education in accordance with 34 CFR 395.13. (3-15-02)

201. -- 209. (RESERVED)

210. EXPLANATION TO VENDORS OF RIGHTS AND RESPONSIBILITIES.
The Program shall furnish to each vendor copies of documents relevant to the operation of the facility, including rules and procedures, a written description of the arrangements for providing services, the agreement and permit covering the operation of the facility, and shall provide explanation of these documents upon request by the vendor. (3-15-02)

211. -- 219. (RESERVED)

220. DISCRIMINATION.
The Program shall not discriminate against any applicant, licensee or vendor on the basis of gender, race, age, creed, color, religion, physical or mental handicap, sexual orientation, or national origin. (3-15-02)

221. -- 999. (RESERVED)

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO FOREST PRODUCTS COMMISSION

DOCKET NO. 15-0300-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 38-1508, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 15.03.01, rules of the Idaho Forest Products Commission.

- IDAPA 15.03.01, *Rules of Administrative Procedure of the Idaho Forest Products Commission*.

The rule making was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to make the rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 1812-1816**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fee rule specifies the collection and remittance of the assessment contained in Section 38-1515, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Jennifer Okerlund, (208) 344-3292.

Dated this 27th day of September, 2019.

Jennifer Okerlund
Director
Idaho Forest Products Commission
P. O. Box 855
Boise, ID 83701
(208) 334-3292

15.03.01 – RULES OF ADMINISTRATIVE PROCEDURE OF THE IDAHO FOREST PRODUCTS COMMISSION

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Title 38, Chapter 15, Idaho Code. (11-22-93)

001. TITLE AND SCOPE.
The title of this chapter is "Rules of Administrative Procedure of the Idaho Forest Products Commission," and cited as IDAPA 15.03.01. These rules set forth the practices and procedures for the activities of the Idaho Forest Products Commission. (11-22-93)

002. -- 003. (RESERVED)

004. DEFINITIONS.
In addition to the definitions set forth in Section 38-1502, Idaho Code, as used in this chapter: ~~*(11-22-93)*~~

01. Assessment. The fee authorized by Section 38-1515, Idaho Code, which is levied against financial supporters for their individual share of the Commission budget for the assessment year. The assessment will be based upon data compiled from the base year. (5-3-03)

02. Financial Supporter. Person who pays an assessment to the Commission. (5-3-03)

03. Person. An individual, partnership, association, corporation or other entity qualified to do business in the state of Idaho. (5-3-03)

005. -- 099. (RESERVED)

100. NOMINATIONS, VACANCIES AND TERMS.

01. Chair and Vice-Chair. The Commission nominates and elects, by majority vote, a Chair to serve as presiding officer at all Commission meetings. The Commission may also nominate and elect, by majority vote, a Vice-Chair to accept the duties of the Chair in the event that the Chair is unable to attend a meeting of the Commission. The term of the office of Chair and Vice-Chair is one (1) year, commencing July 30 of each year. (11-22-93)

02. Nominations. Nominations for expiring seats on the Commission will be made by the financial supporters of the Commission from the district in which the seat is expiring, or from all districts in the case of an at-large member, no later than June 1 of that year. The Commission will provide nomination applications to all financial supporters and will forward the names of all qualified nominees to the Governor. The Commission may also make recommendations or nominations. In making the appointments, the Governor will take into consideration recommendations made to him by the Commission and by organizations that represent or are engaged in harvesting, transporting or manufacturing forest products. (4-11-15)

03. Vacancies. Vacancies in any unexpired term will be filled by the Governor for the remainder of the unexpired term. The Commission will identify qualified candidates and forward their names to the Governor. The member appointed to fill the vacancy will represent the same region and interests as the person whose seat has become vacant. The at-large member will represent all regions. (4-11-15)

04. Terms. Terms of office for Commission members consist of three (3) year terms beginning on July 1 of the year of appointment. (7-1-98)

101. -- 199. (RESERVED)

200. ASSESSMENTS AND FEES.
An assessment for all logs harvested, measured or processed within the state of Idaho and for all employees, including self employed, engaged in the harvest or transport of timber, logs, unfinished lumber, chips, sawdust, shavings or hog fuel in Idaho, and for each acre of forest land owned by a business entity or person that owns more than ten thousand (10,000) acres of forest land will be set by the Commission no later than January 1 of the assessment year. Notice of the assessment will be mailed no later than the last day of the fourth week of May of the assessment year to the last known address of each financial supporter. Assessment will not be reduced for financial supporters who cease business during an assessment year. (4-11-15)

01. Payment Method. Financial supporters of the Commission may choose to pay their assessment in either one (1) full payment due thirty (30) days after the date the notice of assessment is mailed, or in four (4) equal payments with payment in full made by December 31 of the assessment year. (5-3-03)

02. Assessments Levied. Assessments on logs processed into various manufactured products will be levied against the forest products manufacturer that initiates the manufacturing process. (11-22-93)

03. Insufficient Funds Checks. The Commission will establish a policy and schedule for insufficient funds checks that will be reviewed annually. This policy and schedule will be available to the public under the procedures set forth by the Public Records Act, Title 74, Chapter 1, Idaho Code. (5-3-03)

201. -- 299. (RESERVED)

300. LATE PAYMENTS AND PENALTIES.
Whenever payment in full or a quarterly payment is not received within thirty (30) days of the posting date of an assessment invoice, the payment will be considered delinquent. Interest of one percent (1%) per calendar month on the balance due will be levied against all delinquent accounts, commencing thirty-one (31) calendar days after the posting date of the assessment invoice. The Commission may proceed with legal action against delinquent accounts in Fourth Judicial District Court or under the provisions of the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and seek attorney fees and costs in such proceedings. (11-22-93)

301. -- 999. (RESERVED)

IDAPA 15 – OFFICE OF THE GOVERNOR
DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION

DOCKET NO. 15-0400-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5309, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 15.04.01, rules of the Division of Human Resources (DHR) and Personnel Commission:

IDAPA 15.04
- 15.04.01, *Rules of the Division of Human Resources and Idaho Personnel Commission*

The rule making was prompted by the expiration of the rules. The Director considered the Red Tape Reduction Act and the continued efforts to clarify and streamline its rules. Minor housekeeping edits are also intended to make the Board's rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1,817-1,856**.

The removal of mandatory language is for the purpose of the ease of the reader of the rules and not to remove mandatory requirements in the rules.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Krissy Veseth by calling (208) 854-3074.

Dated this 15th day of October, 2019.

Susan E. Buxton, Administrator
Division of Human Resources
304 N. 8th Street
P.O. Box 83720
Boise, ID, 83720-0066
Office: 208-334-2263
Fax: 208-854-3088

15.04.01 – RULES OF THE DIVISION OF HUMAN RESOURCES AND IDAHO PERSONNEL COMMISSION

000. LEGAL AUTHORITY.

The rules of the Division of Human Resources and Idaho Personnel Commission are adopted pursuant to Section 67-5309, Idaho Code. The Division has authority to determine the policies of the Idaho Personnel System and make such rules as are necessary for the administration of the Personnel System. The administrator of the Division is appointed by the Governor, subject to confirmation by the Senate, and serves at the pleasure of the Governor pursuant to Section 67-5308(2), Idaho Code. (3-30-01)

001. TITLE, SCOPE, AND COMPLIANCE.

01. Title. These rules are title IDAPA 15.04.01, "Rules of the Division of Human Resources and Idaho Personnel Commission." (3-16-04)

02. Scope. These rules establish the policies and procedures of the Idaho Personnel System. (3-30-01)

03. Compliance. In accordance with the Legislature's intent in creating the Idaho Personnel Act and for consistency in rule administration, appointing authorities shall ensure that staff with human resource management responsibilities adhere to these administrative rules. Any person willfully violating provisions of the Idaho Personnel System or the rules established in this chapter, may be subject to discipline, up to and including dismissal under Rule 190, and/or sanctions provided in Section 67-5312, Idaho Code. (3-16-04)

002. -- 005. (RESERVED)

006. WAIVER OF RULES.

The administrator reserves the right to waive any rule in specific instances when, in his/her opinion, such waivers are legal, warranted and justified in the interests of a more effective and responsive system of personnel administration. (3-30-01)

007. (RESERVED)

008. APPLICABILITY TO HEALTH DISTRICTS.

These rules apply to Public Health Districts even though specific references are to state employment. (3-16-04)

009. DUTIES OF THE ADMINISTRATOR.

In addition to other duties as assigned by law, the administrator provides administrative support to the Idaho Personnel Commission, has custody of the books and records of the Division and the Commission, and maintains a record of the proceedings before the Commission and its hearing officers. (3-16-04)

010. DEFINITION.

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

01. Administrative Leave. Temporary paid leave from a job assignment where pay and benefits remain intact. (3-20-14)

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

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

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

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

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

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

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

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

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

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

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

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

***14. Division**. The Idaho Division of Human Resources.* ( )

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

16. Employment History. The information available to the public without the employee's consent in accordance with Section 74-106, Idaho Code, for every agency for which a current or former public official works, including the official reasons for separation from employment but not including accrued leave balances or usage. (5-8-09)

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

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

19. Hiring List. A hiring list is a subset of a register consisting of the top twenty-five (25) individuals on the register, plus all individuals tied for the twenty-fifth position, certified as eligible for a specific recruitment. Candidates for reinstatement or transfer may be considered and are provided in addition to the top twenty-five (25). (4-7-11)

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

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

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

23. Layoff. An involuntary reduction in hours of work or separation of an incumbent in the classified service either by reduction in force due to shortage of work or funds, or abolishment of positions. (4-5-85)

24. Light or Limited Duty. A general term describing a temporary limited assignment in relation to recovery from injury, illness or other limiting condition as approved by the appointing authority. (3-16-04)

25. Merit Increase. The advancement of an employee's compensation within a pay grade based upon performance in accordance with Section 67-5309B(3) and (4), Idaho Code. (3-20-14)

26. Merit Increase Matrix. A pay distribution tool used to advance employee pay based on performance and market data. (5-8-09)

27. Minimum Qualification Specialty. A minimum qualification required for one (1) or more positions in a classification that is in addition to the other minimum qualifications required for all positions in the classification. (3-16-04)

28. Occasional or Sporadic Work. Work that is voluntarily performed by an employee in a different capacity from the employee's regular work and is infrequent, irregular or occurring in scattered instances. (7-1-87)

29. On-Call Time. Time when an employee is required to carry a pager, cellular phone, or to leave word at home or with the agency where the employee may be reached if needed to work, and the employee can use the time effectively for personal purposes. (5-8-09)

30. Pay Line Exception. A temporary assignment of pay grade, pursuant to Section 67-5309D, Idaho Code, in excess of the pay grade allocated pursuant to Section 67-5309B, Idaho Code, as approved by the administrator. (5-8-09)

31. Permanent Employee. An employee in the classified service who has successfully completed entrance probation. Permanent employees remain subject to separation as set forth in these rules and Section 67-5309(n), Idaho Code. (5-8-09)

32. Promotion. The advancement through the competitive process of an employee with permanent status from a position which he occupies in one (1) classification to a position in another classification having a higher paygrade. (5-8-09)

33. Reduction in Pay. A reduction of an employee's salary from one (1) pay rate to a lower rate within the pay grade to which the employee's classification is allocated. (3-16-04)

34. Register. A list of names of persons or the name of one (1) person who has been determined to be eligible for employment in a classification on the basis of examination and merit factors as established by the administrator. An adequate register lists at least five (5) names of eligible candidates currently available for consideration for each vacancy in the classification for which the register was established. (3-16-04)

35. Resignation. The voluntary quitting or abandonment of state employment, excluding retirement. (5-8-09)

36. Respondent. The party whose interests are adverse to those of the appellant. (7-1-93)

37. Salary Equity Increase. The advancement of an employee's compensation within a pay grade based upon factors such as market demand, compression within the agency or classification, or inequities, and the employee's performance, in accordance with Section 67-5309B(3), Idaho Code. (3-20-14)

38. Suspension. An enforced period of absence, with or without pay, for disciplinary purposes, for felony charges, or pending investigation of charges made against an employee pursuant to Rule 190. (5-8-09)

39. Termination. The separation of an entrance or voluntary probationary employee from classified service for unsatisfactory service during the probationary period without cause assigned by the appointing authority

pursuant to Rule 152. (5-8-09)

40. **Transfer**. A change of work location of an employee in which the employee changes from one (1) position to another in the same classification or to another classification in the same pay grade. (3-16-04)

41. **Underfill**. Appointment to a position established at a higher classification while being compensated at a lower pay grade during completion of a training plan. Underfills must be approved in advance by the administrator. (3-20-14)

42. **USERRA**. Uniformed Services Employment and Reemployment Rights Act, 38 U.S.C. Sections 4301 through 4333. Prohibits employment discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services. (5-8-09)

43. **Workweek**. A period of seven (7) consecutive days beginning 12:01 a.m. Sunday. (Ref. Rule 073) (12-10-90)

011. -- 019. (RESERVED)

020. BASIC MERIT REQUIREMENTS OF THE PERSONNEL SYSTEM.
All appointments, promotions and separations in the classified service shall be based on competence, valid job requirements, and individual performance. (3-30-01)

021. DISCRIMINATION PROHIBITED.
No person shall be discriminated against in regards to appointments, promotions, demotions, separations, transfers, compensation, or other terms, conditions, or privileges of employment because of race, national origin, color, sex, age, religion, disability, or veteran status (unless under other than honorable conditions). (3-30-01)

022. PROHIBITED QUESTIONS.
All questions on applications and examinations shall be based on valid job requirements. Questions that impermissibly discriminate on the basis of race, national origin, color, sex, age, religion, disability, political affiliation, or veteran status are prohibited. Questions regarding veteran status for compliance with veterans' preference are permitted. (3-16-04)

023. BONA FIDE OCCUPATIONAL QUALIFICATION.
Qualification requirements based on age or gender may be established as necessary for specific positions by the Administrator of the Division. (3-30-01)

024. CONFLICT OF INTEREST AND PERSONAL CONDUCT.
The maintenance of a high standard of honesty, ethics, impartiality, and conduct by state employees is essential to ensure proper performance of state business and strengthen the faith and confidence of the people of Idaho in the integrity of state government and state employees. All appointing authorities shall establish such policies and standards necessary to prevent conflicts of interest. (5-8-09)

025. NEPOTISM.
No employee shall work under the immediate supervision of a supervisor who is a spouse, child, parent, brother, sister or the same relation by marriage. (8-1-81)

026. DUAL EMPLOYMENT.
There will be no conflicting hours of work when a classified employee is employed by more than one (1) state agency. The employee must obtain approval from all appointing authorities concerned prior to beginning dual employment. (5-8-09)

027. -- 039. (RESERVED)

040. NONCLASSIFIED EMPLOYEES SUBJECT TO CLASSIFIED SERVICE SUBSEQUENT TO APRIL 5, 1985.
The provisions of this rule apply to all employees exempt from classified service who, subsequent to April 5, 1985,

become subject to the provisions of Chapter 53, Title 67, Idaho Code. (3-30-01)

01. Probationary Period. A nonclassified employee brought under classified service under Rule 040 must serve a probationary period appropriate for the classification assigned to the employee's position. Service uninterrupted by resignation, termination, or dismissal immediately prior to inclusion in classified service shall be considered as probationary service. (3-16-04)

02. Certification to Permanent Status. An employee who has completed a probationary period as required above and who is certified in writing by the appointing authority as serving satisfactorily shall be certified to permanent status without examination. (3-30-01)

03. Examination. An employee who has not completed a classified entrance probationary period as required shall be required to meet the minimum qualifications by passing an examination for the classification assigned to the employee's position. The employee will be hired from a hiring list and serve a period of entrance probation. (3-28-18)

04. Separation. An employee who is not certified by the appointing authority as serving satisfactorily shall be separated from state service no later than thirty (30) calendar days after inclusion in classified service. An employee who fails to pass the examination or had an opportunity to have such examination and not availed himself or herself thereof shall be separated no later than thirty (30) calendar days after the establishment of an adequate register of eligibles. (3-30-01)

05. Salary Protection. If the salary of an employee, brought under classified service under Rule 040, is greater than the highest rate of the pay grade of the classification to which assigned, the employee's salary shall be protected; to the maximum of their new paygrade. (3-16-04)

041. -- 049. (RESERVED)

050. CONSULTANTS AND PERSONS EMPLOYED UNDER INDEPENDENT CONTRACT.
Nothing in these rules prohibits the use of independent contractors or consultants for legal, medical, technical, or other professional services, provided that they are not engaged in the performance of administrative duties for any state agency. No position in the state classified service will be filled by a consultant or independent contractor. (5-8-09)

01. Limited Use Only. Individuals employed through contracts with temporary services or professional staffing agencies will be utilized only for short-term situations. (3-30-01)

02. Conflict of Interest/Nepotism. Agency policies regarding conflict of interest/nepotism should address the award of work to consultants and contractors. (See Rules 024 and 025 and Ref. Section 18-1359, Idaho Code.) (3-16-04)

03. Not to Be Treated as Employees. Independent contractors, their staff or consultants must not be treated as employees. Appointing authorities must comply with current Internal Revenue Service guidance on independent contractor and employee definitions. (3-16-04)

051. -- 059. (RESERVED)

060. ADOPTION OF CLASSIFICATION SCHEDULE.
The Division *will* develop, adopt, and make effective a classification schedule consisting of classification specifications allocated to various pay grades in the compensation schedule for all positions based on an analysis of the duties and responsibilities of representative positions. ~~(3-16-04)~~( )

061. ANALYSIS OF CLASSIFICATIONS.
The Division will assist appointing authorities in the analysis of positions in determining proper classification and, at the determination of the administrator, will conduct independent classification reviews of the various agencies. (5-8-09)

062. AUTHORITY.
The administrator has the responsibility and authority to classify positions in the classification schedule. (3-30-01)

063. REVIEW OF CLASSIFICATION SCHEDULE.
The administrator *will* ensure the appropriateness and accuracy of classification specifications. ~~(3-16-04)~~( )

064. AMENDMENT OF CLASSIFICATION SCHEDULE.

01. Changes To Classifications. Whenever it is necessary to establish or delete a classified position or to revise a position's responsibilities, the appointing authority will submit proposed changes to the administrator. (3-30-01)

02. Approval. Each appointing authority, prior to establishing any new position within the agency, will obtain the approval of the administrator for the classification of such positions and their assignment to a pay grade in the compensation schedule. Approval by the administrator of the Division of Financial Management for sufficiency of funds is also required. (5-8-09)

03. Assignment to Pay Grade Required. No person will be appointed to, employed in, or paid for services in any classified position until the position has been established, classified, and assigned to a pay grade in accordance with these rules. (3-30-01)

065. APPROVAL OF NEW, REVISED AND DELETED CLASSIFICATIONS.

01. New and Refactored Classifications. New classifications of work and revised classifications require approval by both the administrator and the Division of Financial Management administrator when there is a fiscal impact. (3-16-04)

02. Revised and Deleted Classifications. Revised classifications with no fiscal impact and classifications deleted from the classification schedule require approval only of the administrator. (3-16-04)

066. ABOLISHMENT OF POSITIONS.
An appointing authority may abolish a position for reasons of administrative efficiency. Employees to be separated as a result shall have layoff and reemployment preference in accordance with Rules 140 through 147. (7-1-87)

067. RECLASSIFICATION OF POSITIONS.

01. Procedure. Positions may be reclassified in the same pay grade, upward, or downward as determined by an analysis by the Division of the duties and responsibilities assigned by appointing authorities to specific positions. An incumbent occupying a reclassified position shall be properly classified by an appointing authority within thirty (30) calendar days of being notified by the administrator that the duties and responsibilities assigned to the position are not properly classified. (3-20-14)

02. Effective Date. Reclassifications of positions are not effective until they are approved by the administrator, but may be retroactive to the beginning of the pay period during which approval is granted. Reclassification of an employee may not precede the effective date of the reclassification of the position. (3-30-01)

068. VIOLATIONS.
Accurate position classification is the foundation for providing equal pay for equal work, identification of actual work performed, fair employment and equal opportunity for promotions, and equitable compensation. Upon the administrator's determination that classification rules have been violated, the appointing authority will be informed and provided thirty (30) days to take actions necessary to correct the situation or submit a corrective action plan to the administrator. If these actions do not occur, the administrator will inform the employee, the appointing authority, and the state controller that the employee is being compensated in violation of these rules. (Ref. Sections 67-5308 and 67-5312, Idaho Code) (3-16-04)

069. (RESERVED)

070. COMPENSATION OF EMPLOYEES.

01. Assignment to Pay Grade. As a basis for pay equity, the Division will use a combination of point factoring and market data to determine the relative value of each classification. (Ref. Rule 074.01 and Section 67-5309B, Idaho Code) (5-8-09)

02. Factoring. The Division will use the Hay method to determine the relative value of each classification, and as a basis for internal pay equity. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

03. Salary Surveys. The Division will conduct or approve salary surveys, to determine salary ranges that represent labor market average rates for Hay point factored positions in classified service. (3-16-04)

04. Relevant Labor Markets. Labor markets used for wage comparison will be based on recruiting markets for specific job classifications. Consultation with various appointing authorities will also contribute to labor market determination. (5-8-09)

a. When the competition for employees is the local area market, the comparison will be made from a survey representing public and private employers in the state of Idaho. (3-16-04)

b. For classifications with a regional recruiting area, the comparator market will be from public and private employers from the neighboring states and Idaho. For those with no private counterparts, the comparator market will be state governments, including, but not limited to, Arizona, Colorado, Montana, Nevada, New Mexico, Oregon, Utah, Washington, and Wyoming. (5-8-09)

c. Recruitment and retention issues will be used to determine the need for additional special market surveys. (3-16-04)

05. Compensation Schedule. Significant changes to components of the compensation plan will be presented in a public meeting after notice. (5-8-09)

071. MERIT INCREASE MATRIX.
Salary increases must be based on a merit increase matrix approved by the Division. Shift and geographic premium pay, bonuses, reinstatements, transfers, promotions, salary equity increases, and recruitment and retention awards are not subject to a matrix. (3-20-14)

072. OPERATION OF COMPENSATION PLAN.

01. Authorized Pay Rate. No employee in the state classified service will be paid at a rate less than the minimum nor greater than the maximum rate of the pay grade assigned to the classification. (5-8-09)

02. Starting Salary. The starting salary for a new appointee may be anywhere within the pay grade assigned to the employee's classification and is at the appointing authority's discretion considering available budget, market, and relation to existing staff salaries. (5-8-09)

03. Payline Exceptions. Temporary assignments to a new pay grade may be made by the administrator. Such assignments apply to an entire classification for the purpose of recruitment or retention and will be reviewed annually to determine the need for continuance. (5-8-09)

04. Salary Equity Increases. An appointing authority may, with approval by the administrator, advance an employee's salary within a pay grade based upon factors such as market demand, to address compression within an agency or classification, or inequities. In accordance with Section 67-5309B(3), Idaho Code, the employee's performance must be considered. (3-20-14)

05. Salary After Reappointment from Layoff. Employees appointed by the agency that laid them off (Ref. Rules 101.01 and 146) will be paid in the current pay grade for the classification to which reappointed or at the same payrate the employee received immediately preceding layoff, whichever is greater, but not to exceed the maximum of the current pay grade. (5-8-09)

06. Salary Upon Transfer. (7-10-88)

a. A transfer between agencies (Ref. Rule 125) in the same classification or one of equal pay grade does not require a change in the employee's salary, but a lower or higher rate may be negotiated between the employee and the appointing authority. (5-8-09)

b. If the transfer is to a classification of lower pay grade (demotion), the employee's salary is negotiable between the employee and appointing authority within the lower pay grade. (3-16-04)

07. Salary Upon Reinstatement. Unless related to reemployment after a lay off, the salary of a reinstated employee (Ref. Rule 124) is negotiable between the employee and appointing authority in the current pay grade for the classification in which the employee has reinstatement privileges. (5-8-09)

08. Salary Upon Downward Reassignment. When a classification is reassigned downward the employee's salary will be protected to the maximum within the new pay grade. (3-16-04)

09. Salary Upon Return from Military Duty. An employee who returns to state service from active military duty in accordance with the provisions of Section 65-508, Idaho Code, and USERRA will be paid at the comparable rate in the current pay grade for the classification to which he was assigned prior to leaving for military service. (5-8-09)

073. CALCULATION OF PAY.

01. Standard Calculation of Pay. For other than police, correctional officers, or fire employees, pay is calculated in the following order: (5-8-09)

a. Holiday pay; (12-10-90)

b. All hours worked on a holiday as overtime; (12-10-90)

c. All hours worked over forty (40) in the workweek as overtime, excluding occasional or sporadic work; (4-7-11)

d. Vacation, sick and other paid or unpaid leaves; and (12-10-90)

e. All remaining hours worked at the employee's regular rate of pay. (5-8-09)

02. Shift Differential. Additional compensation paid to employees (including temporary or part-time employees) who work specific, designated hours. Shift differential is paid in addition to any other compensation. (Ref. Sections 67-5302(20) and 67-5328, Idaho Code; Shift differential may be awarded in amounts up to and including twenty-five percent (25%) of hourly rates, based on local market practice for similar jobs. (Ref. Section 67-5309(u), Idaho Code. (5-8-09)

03. Calculation of Pay for Police, Correctional Officers, and Fire Employees. Police, correctional officers, and fire employees on a twenty-eight (28) day work schedule will be compensated as described in Rules 073.01 and 073.02, except that overtime will be calculated based on one hundred sixty (160) hours in a twenty eight (28) day period instead of forty (40) hours in a workweek. (5-8-09)

04. Holiday Pay Calculation. (7-1-87)

a. Paid time off for holidays is a benefit and must be allocated in a substantially similar manner to all employees in the same classification. (5-8-09)

b. A full-time employee will receive holiday pay in accordance with the number of hours the employee works on a regular workday. If the employee's schedule is so irregular that a regular workday cannot be determined, the employee will receive eight (8) hours of holiday pay. An employee must receive some paid leave,

wages or salary for the pay period in which the holiday occurs to receive the holiday benefit. (3-16-04)

c. A part-time employee who has a regular work schedule shall be paid for a holiday in the same ratio as eight (8) hours is to a forty (40) hour work week, which for calculation purposes converts to two tenths (.20) x hours normally worked. (3-16-04)

d. To avoid inequities with regard to the Family Medical Leave Act (FMLA) during holiday weeks, if an employee is recording all hours for the week as Family Medical "Leave Without Pay," no hours will be coded on the holiday. Therefore, the holiday will not be counted toward the twelve (12) weeks of family medical leave. (5-8-09)

e. If a part-time employee's hourly schedule is so irregular that a normal workweek cannot be determined, the holiday benefit is in the same proportion that the hours the employee works during a week in which a holiday occurs relate to forty (40). (3-16-04)

f. Schedules resulting in holiday time off in excess of eight (8) hours may be approved by the appointing authority if included in the agency compensation plan. Appointing authorities may also suspend flex schedules during holiday weeks or otherwise adjust work schedules to ensure internal consistency. (5-8-09)

05. Reduction of Salary. The salary of an employee receiving more than the lowest rate of the pay grade for his classification may be reduced to a lower rate within the pay grade by the appointing authority for disciplinary reasons enumerated in Rule 190. (5-8-09)

06. Salary Administration. Each agency must develop a compensation plan designed to consider recruitment and retention and ensure pay equity within the organization. (Ref. Section 67-5309B, Idaho Code) (5-8-09)

07. Salaries for Temporary Appointments. Except as provided for in these rules, salaries for employees hired under temporary and project-exempt appointments will be governed by Section 59-1603, Idaho Code. (5-8-09)

074. ASSIGNMENT OF HAY EVALUATION POINTS.

01. Assignment to Pay Grade. Pursuant to Sections 67-5309B and C, Idaho Code, the pay grade to which a classification is assigned shall be determined by the number of Hay evaluation points assigned to each classification. (3-16-04)

02. Guide Charts. The Hay evaluation points assigned to a classification shall be the composite numerical value of points factored from the Hay guide charts. (3-16-04)

03. Factoring Benchmarks. The established factoring benchmarks shall be used in conjunction with the Hay Guide Charts to determine the number of points assigned to a classification. (3-28-18)

04. Factoring Process. Hay evaluation points shall be assigned to a classification through the following methods, which may be used separately or in combination with the others: (3-16-04)

a. Factoring Session. The administrator shall determine the membership of a factoring committee and schedule a factoring session in which the appointing authority or designee may present both oral and written information concerning the classification to be factored. The factoring committee shall assign Hay evaluation points in accordance with Rule 074 and the administrator shall notify the appointing authority in writing of the decision of the factoring committee. The appointing authority may request an issue conference with the factoring committee and present their perspective on the assigned points. The factoring committee may affirm or modify the assigned points. The administrator will provide a letter to the appointing authority stating the outcome of the issue conference. (3-16-04)

05. Approval. After consultation with the administrator of the Division of Financial Management for approval regarding potential fiscal impacts, the administrator of the Division has final approval of the Hay evaluation

points assigned to each classification. These points are final unless appealed in accordance with Section 67-5316, Idaho Code. (3-16-04)

075. BONUSES.

01. Performance Bonuses. Up to a total of two thousand dollars ($2,000) may be awarded each fiscal year, in recognition of exemplary performance. In extraordinary circumstances exceptions to the two thousand dollar ($2,000) limit may be granted if approved in advance by the State Board of Examiners. Documentation of the exemplary performance and related bonus award must be provided to the employee and placed in the employee's agency personnel file. (Ref. Sections 59-1603(7) and 67-5309D(1), Idaho Code) (5-8-09)

02. Employee Suggestion Award. Appointing authorities may award up to a total of twenty-five percent (25%) of the savings realized from an employee's idea to save taxpayer dollars, not to exceed two thousand dollars ($2,000). (Ref. Section 67-5309D, Idaho Code) (5-8-09)

a. Suggestions *need* to increase productivity, conserve state resources, reduce state costs, or improve the morale of state employees. ~~(5-8-09)~~( )

b. Suggestions that may deserve an award larger than two thousand dollars ($2,000) and suggestions aimed at saving money outside the employee's state agency should be submitted through the employee's agency first, *then submitted* to the Division. Awards greater than two thousand dollars ($2,000) must be approved in advance by the State Board of Examiners. ~~(5-8-09)~~( )

c. Employee suggestion awards may be funded from the expense category (personnel, operating, or capital) from which the savings were realized. (5-8-09)

076. -- 079. (RESERVED)

080. RECRUITMENT.
The administrator will cooperate with the appointing authority of each agency in the operation of a coordinated recruiting program. (3-28-18)

081. PURPOSE OF EXAMINATIONS.
The administrator shall conduct examinations for the purpose of maintaining eligibility registers. (8-1-81)

082. METHODS OF RECRUITMENT.
For the purpose of establishing eligibility registers, there are three (3) methods of recruitment: open competitive, agency promotional, or statewide promotional. The scope of advertising and outreach for each approach will vary with agency preference, needs, and labor market strategies. (5-8-09)

083. MOVING EXPENSE REIMBURSEMENT.

01. Reimbursement Limitations. The appointing authority may reimburse moving expenses for current or newly hired state employees in an amount less than or equal to ten percent (10%) of the employee's base salary or fifteen thousand dollars ($15,000), whichever is less. Moving expense reimbursements must comply with the State Board of Examiners' State Moving Policy and Procedures that are in effect at the time the move takes place. (5-8-09)

02. Exceptions to Reimbursement Limitations. Exceptions to the expense reimbursement limits set forth in Rule 083.01 may be granted if approved in advance by the appointing authority. (5-8-09)

084. ANNOUNCEMENT OF RECRUITMENT.

01. Distribution of Announcements. The announcement of each open-competitive recruitment will be supplied to the appropriate local offices of the Idaho Department of Labor and to other locations determined necessary by the administrator to develop a register of eligibles. If the open competitive recruitment has been requested by the appointing authority in lieu of a promotional recruitment, it will be his responsibility to post or

otherwise distribute the announcement so it can be seen by all employees of that agency prior to its expiration date. (Ref. Rule 169) (5-8-09)

02. Posting of Promotional Announcements. The announcement for each promotional recruitment will be supplied to the appointing authority of each affected agency. It will be his responsibility to post, electronically communicate, or otherwise distribute such announcement so it can be seen by all employees in the agency prior to the expiration date. (5-8-09)

085. CONTENT OF ANNOUNCEMENTS.
Each announcement shall contain the title of the classification, characteristic duties and responsibilities, salary, minimum qualifications, nature of examination, qualifying score, closing date, equal opportunity and veterans preference notice, and other pertinent information. (3-16-04)

086. APPLICATIONS.

01. Form. All applications must be filed in the form approved by the administrator. (5-8-09)

02. Filing of Applications. Applications are currently accepted by Internet application system. (3-29-17)

03. Application by Military Personnel. An application will be accepted after the closing date of the announcement from a person who was serving in the armed forces, or undergoing service-connected hospitalization of no more than one (1) year following discharge, during any period in which the announcement was open. The application must be submitted within one hundred twenty (120) days of the applicant's separation from the armed forces or hospitalization and prior to the expiration of the register established as a result of an examination. (Ref. Sections 65-503 and 67-5309(f), Idaho Code) (5-8-09)

04. Application by Disabled Veterans. A disabled veteran may file an application at any time up until a selection for any classification for which the Division maintains a register as a source for future job openings or for which a register is about to be established, provided the veteran has not already been examined twice for the same classification, does not have current eligibility on that register, or is not serving in a competitive position in the same pay grade as the classification for which application is made. (Ref. Sections 65-503 and 67-5309(f), Idaho Code) (5-8-09)

05. Promotion of Entrance Probationary Employee. Any classified employee on entrance probation may file an application for a promotional opportunity but is ineligible to be certified to a department or statewide promotional hiring list until permanent status has been attained. (Ref. Rule 169.03.) (3-29-17)

06. Disclosure of Information for Hiring Purposes. By submitting an application, an individual is deemed to authorize disclosure of confidential information to state agencies for purposes of screening, testing, interviewing and hiring. (Ref. Section 74-106, Idaho Code). (12-10-90)

087. DENIAL OF APPLICATIONS.

01. Basis. The administrator may choose not to process an application if: (3-16-04)

a. The applicant will not meet the minimum qualifications specified in the announcement at the time set for appointment. (3-30-01)

b. The application was not received on or before the closing date for acceptance of applications. (3-30-01)

c. A background investigation or examination of an applicant discloses that the applicant committed an act which is cause for dismissal as provided in Rule 190. (3-30-01)

02. Further Actions. When any such finding under Rule 087.01 is made, the administrator may deny the application and may cancel the eligibility of the applicant if he or she has already attained a place on the eligibility

register. If the applicant has already received appointment, the administrator may take appropriate action to have the employee removed from the position. (3-30-01)

088. -- 089. (RESERVED)

090. EXAMINATIONS.
Examinations shall be designed to evaluate factors pertinent to an individual's ability to perform competently the duties of the classification. The factors tested shall be job-related and may include, but are not limited to, education and experience, knowledge, skills, abilities, aptitude, and physical ability. (3-30-01)

091. PROHIBITED FACTORS.
No part of any examination may include any question designed to reveal prohibited information including the political or religious affiliation or belief, national origin or race of any candidate. (3-30-01)

092. PREPARATION OF EXAMINATIONS.

01. Content of Examinations. Examinations may include any questions, tests or criteria designed to evaluate the suitability of applicants for job openings within a classification. So far as is practical, promotional examinations will be similar to corresponding open-competitive examinations and the same standards will be applied in determining scores. (3-30-01)

02. Job Analysis and Confidentiality. Contents of each examination will be determined by the Division on the basis of appropriate professional techniques and procedures of job analysis and test development. No information concerning the specific content of the examination will be divulged to unauthorized personnel by the Division or other personnel who have access to the examinations. (5-8-09)

03. Subject-Matter Experts. The Division may, at its discretion, collaborate with appointing authorities, incumbents, subject-matter experts, or other qualified persons in the preparation of examinations. (5-8-09)

093. CONDUCT AND RATING OF EXAMINATIONS INCLUDING VETERANS' PREFERENCE POINTS.

01. Designation of Examiners. The examinations will be conducted and rated by persons designated by the administrator. (8-1-81)

02. Scoring of Examinations. Each examination will be rated for final scores on the basis of one hundred (100) point maximum. The Division will use appropriate statistical and professional techniques and procedures in determining passing points and final scores. (5-8-09)

03. Veterans Preference. (3-16-04)

a. Veterans and disabled veterans points, when applicable under state law, will be added to the final score achieved in the examinations, notwithstanding the fact that the augmented final score may exceed one hundred (100) points. Five (5) percentage points will be added to the earned rating of any veteran, as defined in Section 65-502, Idaho Code, and the widow or widower of any veteran, as defined in Section 65-502, Idaho Code, as long as the widow or widower remains unmarried. Pursuant to Section 65-504, Idaho Code, ten (10) percentage points will be added to the earned rating of any disabled veteran, as defined in Section 65-502, Idaho Code, or to the unmarried widow or widower of the same, or the spouse of any eligible disabled veteran who cannot qualify for any public employment because of a service-connected disability. Employment registers will be established in order of final score except that the names of all five (5) and ten (10) percentage point preference eligibles resulting from the merit system will be placed on the register in accordance with their augmented rating. (Ref. Sections 65-506 and 67-5309(f), Idaho Code) (5-8-09)

b. Veterans and disabled veterans preference points must not be used to achieve a passing score. (5-8-09)

04. Failing Score. Failure in any part of the examination may disqualify the applicant in the entire examination and from having his name placed on the register. Final scores will be computed in accordance with weights assigned the individual factors in the total examination. (5-8-09)

05. Waiver of Examination. Notwithstanding other provisions in these rules, when ten (10) or fewer applications are received from applicants meeting minimum qualifications for a position announcement and there is no existing register, the announced examination may be waived by the administrator. These applicants will be eligible for appointment and their placement on the register will take into account veterans' preference. When using registers developed in this manner, appointing authorities will provide the opportunity for placement interviews for each applicant on the register. (3-16-04)

06. Examination Upon Reclassification. An employee occupying a position which is reclassified (Ref. Rule 067.01) may be required at the discretion of the administrator to pass an examination for the classification to which reclassified. (5-8-09)

094. ELIMINATION TESTS.
Wherever it is stated in the announcement that an applicant must qualify in a series of different tests or satisfy other requirements to become eligible for appointment, and the applicant fails to meet such requirements, he or she shall not be permitted to take any further tests in the examination, and such tests if previously given need not be rated. (4-5-85)

095. NOTICE AND RECORD OF RESULTS OF EXAMINATION.
All competitors shall be notified of their final scores electronically or by mail. The records of scores are held as official records for the life of the resulting eligibility registers. (3-16-04)

096. REVIEW AND APPEAL.

01. Review of Examination Content and Scoring Material. Any competitor, or his/her representative authorized in writing, shall be permitted to inspect his/her own papers and records, except examination content and scoring material, upon application in person at the office of the Division in Boise during business hours. Alternative arrangements are available for competitors located outside of Boise. Review is limited to the time allowed for appeal of examination scores. (3-16-04)

02. Appeal of Examination Score. Any competitor, by written request to the administrator, may appeal his or her examination score within thirty-five (35) calendar days after the notice was sent to such competitor. The administrator will review the test, may change the score, and may take any other action necessary to insure the integrity and quality of the testing process. When such review discloses error affecting the scores of other competitors, the review and adjustment includes their scores. The administrator will provide a written explanation to competitors whose scores are affected by the action taken. (3-16-04)

097. ALTERNATIVE EXAMINATION PROCESS FOR PERSONS WITH DISABILITIES.

01. Conditions for Eligibility. Notwithstanding other provisions in these rules, an agency may appoint an individual directly into entrance or promotional probationary status in a classification if the Division of Vocational Rehabilitation, the Idaho Commission for the Blind, or the Industrial Commission certifies the following: (3-16-04)

a. That the individual has a physical or mental impairment that substantially limits one (1) or more major life activities, as further defined under state or federal law; (3-30-01)

b. That the individual meets the minimum qualifications of the classification and is qualified to perform the essential functions of a particular classified position with or without reasonable accommodation; and (3-16-04)

c. That the individual lacks competitiveness in the examination process due to the disability. (Ref. Section 67-5309(e), Idaho Code.) (3-16-04)

02. Concurrence Required. The certification shall be made with the concurrence of the Division.

(3-30-01)

03. Probationary Period. The probationary period shall be the sole examination for individuals certified under this alternative examination process. (Ref. Rule 150). (7-1-93)

098. -- 100. (RESERVED)

101. ELIGIBILITY REGISTERS.
Eligibility registers are established by the Division to provide for fair and impartial selection for entrance into the state classified service and for promotion on the basis of competitive merit examinations. (5-8-09)

01. Reemployment Preference Registers. Registers with reemployment preference for a given classification will contain the names of classified employees of permanent status who have been laid off except limited service appointments. (Ref. Rules 140 and 144). (3-20-14)

02. Open Competitive Registers. Open competitive registers for a given classification will contain the names of applicants who successfully passed an open competitive examination for the classification. (5-8-09)

102. PLACEMENT ON REGISTER.

01. Score Order. Eligible candidates will be placed on the register for a given classification ranked in descending numerical order based on their final score on the examination for such classification. (5-8-09)

02. Veterans' Preference. Eligible veterans or surviving spouses entitled to five (5) point preference will be placed on the open competitive register in accordance with their final score on the examination augmented by preference points. (Ref. Rule 093.03 and Section 65-504, Idaho Code) (5-8-09)

03. Disabled Veterans' Preference. Preference will be awarded to disabled veterans as follows:
(3-20-14)

a. Disabled veterans, Purple Heart recipients, spouses of any eligible disabled veterans who cannot qualify for any public employment because of a service-connected disability, and unmarried widows or widowers of disabled veterans entitled to ten (10) point preference will be placed on the open-competitive register in order of their final score on the examination augmented by preference points. (Ref. Rule 093.03 and Sections 65-503 and 65-504, Idaho Code) (3-20-14)

b. Disabled veterans who have a current service-connected disability of thirty percent (30%) or more will be offered an interview when their final score on the hiring list places them within the top twenty-five (25) qualified candidates. If more than ten (10) disabled veterans with a disability rating of thirty percent (30%) or more place in the top twenty-five (25) qualified scores of a hiring list, at least ten (10) will be offered an interview. (Ref. Rule 093.03 and Section 65-504, Idaho Code) (3-20-14)

103. DURATION OF ELIGIBILITY REGISTERS.

01. Reemployment Preference Registers. Eligible candidates will remain thereon for twelve (12) months from effective date of layoff. (Ref. Rules 101.01 and 144) (3-16-04)

02. Other Registers. The duration of all other registers will be determined by the administrator based on the frequency of job openings and agency need. (3-16-04)

104. REMOVAL OF NAMES.

01. Reasons Specified. Names may be removed from any eligibility register by the administrator because of: (5-8-09)

a. Appointment of the eligible candidate from the register to the classification or appointment to a classification in a higher pay grade. (3-16-04)

b. A statement by the eligible candidate that he is not willing to accept appointment under conditions previously specified. (5-8-09)

c. Physical, mental or other disability where it has been demonstrated that the disability will prevent the eligible candidate from satisfactorily performing the essential functions of the position with reasonable accommodation for the disability. (3-16-04)

d. Failure of an eligible candidate to respond within seven (7) calendar days to documented good faith inquiry concerning availability for employment. (3-16-04)

e. The eligible candidate's conduct renders him unsuitable for the position or classification for which he applied. (5-8-09)

f. Written rejection of the eligible candidate for good cause by an appointing authority as approved by the administrator. (3-30-01)

g. Conviction of an eligible candidate of any felony. (3-30-01)

h. False statements of material facts given in the eligible candidate's application for employment or any subsequent examinations or interviews. (3-30-01)

i. Dismissal of an eligible candidate from state service. (3-30-01)

j. Paying, promising to pay, or giving any money, thing, service or consideration to any person, directly or indirectly, for any service or influence given, used, or promised towards securing appointment. (3-16-04)

k. Directly or indirectly obtaining information regarding examinations to which, as an applicant, he is not entitled. (5-8-09)

l. Refusing an interview or refusing to accept a position under the conditions set forth in the recruitment announcement. (3-16-04)

m. Having been certified for a probationary appointment for three (3) separate positions in the same classification in the same agency and not been accepted for employment for good cause. (5-8-09)

n. Declining three (3) separate offers of employment or reemployment without good cause. (3-16-04)

02. Limitations and Duration of Removal. The administrator will determine if the candidate will be removed from all registers, registers for a particular classification, or registers for specified agencies. All removals will be for one (1) year unless otherwise authorized by the administrator. (3-16-04)

105. TEMPORARY UNAVAILABILITY NOT REASON FOR REMOVAL.
Temporary unavailability of an eligible applicant, not to exceed fifteen (15) calendar days, in order that the employee may give his or her employer advance notice of separation is not proper cause for his or her removal from the register. (3-30-01)

106. RESTORATION OF NAMES TO ELIGIBILITY REGISTERS.
Upon receiving appropriate evidence, the administrator shall restore the name of an eligible candidate to any eligibility register from which it has been removed for causes enumerated in Rule 104. (3-30-01)

107. REVISION OF CLASSIFICATION SPECIFICATIONS.
Whenever a classification specification is revised, the names of persons on the existing eligibility register who meet the minimum qualifications for the revised classification shall be placed in score order on the eligibility register for the revised classification. (3-16-04)

108. (RESERVED)

109. CERTIFICATION AND SELECTION.
Whenever a vacancy in a classified position is to be filled by a competitive recruitment process, the appointing authority shall make selection from a hiring list created from eligibility registers certified by the Division. Non-promotional internal or external transfers or reinstatements do not require registers certified by the Division. (3-20-14)

110. NUMBER OF NAMES ON REGISTER.
The Division will certify a hiring list from the eligibility register, in the order of their scores, a sufficient number of names so that the appointing authority is able to select for appointment from among twenty-five (25) eligible candidates for each position to be filled. If appointments are to be made to more than one (1) position, one (1) additional name shall be added for each vacancy so that the appointing authority has twenty-five (25) names to consider for each vacancy. The names of all eligible candidates with scores identical to the twenty-fifth ranking eligible candidate on the register shall be provided to appointing authorities for selection purposes. (3-20-14)

111. ADEQUATE REGISTERS.
A register with at least five (5) eligible candidates is adequate. If no register exists or if there are less than five (5) eligible candidates, appointing authorities may hire an eligible candidate listed on an inadequate register or request specialized recruitment. (3-30-01)

112. -- 118. (RESERVED)

119. APPOINTMENTS, REINSTATEMENTS, TRANSFERS, AND RESIGNATIONS.

01. Reemployment Preference Register. New appointments to a classification within an agency are not permissible if there is an agency reemployment preference register (Ref. Rule 101.01) for that classification with names of eligibles who are willing to accept employment. (5-8-09)

02. Probationary Period Required. All appointments to positions in the state classified service whenever adequate eligibility registers exist for the classification are probationary appointments except as otherwise provided in Rules 040 and 150. (5-8-09)

120. LIMITED SERVICE APPOINTMENTS.

01. Designation. Classified positions expected to be of limited duration due to funding or nature of the position or project must be identified and designated in advance of announcement. (3-16-04)

02. Permanent Status and Expedited Layoff. Employees appointed under limited-service appointments have permanent classified status after successful completion of probation. These employees have the same rights and responsibilities as other permanent employees but may be subject to expedited layoff pursuant to Rule 140.01.c. (5-8-09)

03. Limited Service Agreement. Appointing authorities making limited-service appointments must prepare, no later than the date of appointment, a written agreement for signature of both the employee and appointing authority describing the non-career nature of the appointment, potential for layoff, and the duration the employee may expect to work. Renewals and updated agreements are required every two (2) years. A copy of the agreement must be kept by the appointing authority. (3-29-17)

121. SEASONAL APPOINTMENT.

01. Purpose. An appointing authority may make a seasonal appointment from a register for work that occurs intermittently during the year. (Ref. Section 67-5302(31), Idaho Code). (3-16-04)

02. Employee Rights. Employees appointed under a seasonal appointment will have all obligations, rights, and privileges of any classified employee except those accorded by Rules 140 through 147, relating to reduction in force. (3-16-04)

03. Separation. Employees appointed under a seasonal appointment may be separated from the seasonal appointment and returned as frequently as intermittent workload dictates. (3-16-04)

04. Duration of Appointment. If an employee has not been called to work for six thousand two hundred forty (6,240) hours (three (3) years), the seasonal appointment expires; rehire of the employee must be from a register. (12-10-90)

122. TEMPORARY APPOINTMENTS (NON-CLASSIFIED).

01. Hours Limitation. Temporary appointments are limited to one thousand three hundred eighty-five (1,385) hours of work in any twelve (12) month period for any one agency. Both calculations begin on the date of the original temporary appointment (Ref. Section 67-5302(33), Idaho Code). (3-29-17)

02. Transition to Classified Service. Temporary employees who have served at least one thousand forty (1,040) hours of continuous service, may go from temporary status to classified entrance probation status in that same position without further examination if the announcement for the temporary position from which the certified register was created indicates that the temporary position has the potential of becoming a permanent classified position. The classified position must be in the same classification and at the same location as announced. (3-29-17)

123. PROJECT-EXEMPT APPOINTMENTS (NON-CLASSIFIED).
Project-exempt appointments are non-classified positions and are limited to the length of the project grant or twenty-four (24) months, or four thousand one hundred sixty (4,160) hours of credited state service, whichever is shorter. (Ref. Section 67-5303(m), Idaho Code) (3-16-04)

124. REINSTATEMENTS.

01. Eligibility. As determined by the administrator, a current or former employee will be eligible for reinstatement to a classification in which he held permanent status, or if deleted its successor, or to another classification of equal or lower pay grade under the following conditions (salary treatment is covered by Rule 072.06). (5-8-09)

a. Reinstatement is limited to a period equal to the length of the employee's probationary and permanent employment combined. (3-30-01)

b. The current or former employee must have separated from the classification for which reinstatement is desired without prejudice. A former employee must also have separated from state classified service without prejudice. (3-16-04)

c. The current or former employee must meet the current minimum qualifications of the classification to which reinstatement is desired. (3-16-04)

02. Reinstatement Prohibited. Reinstatement of a current or former employee is not permissible as long as there is an agency register (Ref. Rule 101.01) for that classification with names of eligibles who have reemployment preference status. (5-8-09)

03. Examination. The administrator may require a current or former employee to pass an examination for the classification to which reinstatement is desired. (3-16-04)

04. Probationary Period. An appointing authority may negotiate for a probationary period as a condition of reinstatement except where prohibited. (Ref. Rules 124.05 and 145.01). (3-16-04)

05. Return from Military Duty. An employee returning from military leave without pay (Ref. Rule 250.04) who is relieved or discharged from military duty under conditions other than dishonorable will be, upon application, reinstated in his former position, or one of comparable classification, without loss of credited state service, status, or pay as prescribed by Sections 46-216, 65-508, and 65-511, Idaho Code, USERRA, or the Military Selective Service Act, Title 38, Chapter 43, U.S. Code. Application for reemployment must be made in accordance with the provisions of USERRA. Salary treatment is covered by Rule 072.09. (5-8-09)

125. TRANSFERS.

01. Authority to Transfer. An appointing authority may transfer an employee at any time from one position to another in the same classification. (3-16-04)

02. Transfer Within Pay Grade. An appointing authority may transfer an employee from a classification in which he holds permanent status to another classification allocated to the same pay grade for which the employee meets the minimum qualifications. (5-8-09)

03. Probationary Period. An appointing authority may negotiate with an employee for a probationary period as a condition for a voluntary transfer. Voluntary probation is not allowed for intra agency transfers. (Ref. Rule 150) (5-8-09)

04. Limitation. Transfers will not be used to abridge an employee's rights in reduction in force prescribed by Rules 140 through 147. (5-8-09)

05. Transfer Between Agencies. An employee is eligible for transfer between agencies in the same classification in which he holds permanent status or to another classification in the same or lower pay grade for which the employee meets the minimum qualifications. Accrued vacation and sick leave will be transferred in accordance with Rules 230.04 and 240.02. Salary treatment is covered by Rule 072.06. (5-8-09)

06. Restriction. Transfer of an employee between agencies is not permissible as long as there is a agency register with reemployment preference status (Ref. Rule 101.01) for the classification in the agency to which transfer is desired with names of eligibles who are willing to accept reemployment. (5-8-09)

07. Examination. The administrator may require an employee transferring between classifications to pass an examination for the classification to which transfer is desired. (3-16-04)

08. Involuntary Transfer. Notice and an opportunity to be heard must be given to any employee subject to an involuntary transfer. (5-8-09)

126. RESIGNATION.

01. Notice. A classified employee may resign at any time. A resignation is effective at the time designated by the employee, without need for written or advance notice, or acceptance of the resignation by the appointing authority. (5-8-09)

02. Rescission and Reinstatement. Once an employee has submitted a resignation, reinstatement is in the discretion of the appointing authority as provided in Rule 124. The appointing authority may but is not required to allow an employee to rescind a resignation prior to its effective date. (5-8-09)

03. Resignation in Lieu of Dismissal. An employee may resign in lieu of being dismissed for cause. (7-1-93)

127. -- 128. (RESERVED)

129. ACTING APPOINTMENT TO A POSITION.

01. Conditions for Acting Appointment. At the discretion of an appointing authority, a classified employee with permanent status may be appointed to a position in a classification of higher pay grade within his own agency in an acting capacity whenever: (5-8-09)

a. The incumbent of the position in the higher classification is on authorized leave of absence; or (3-16-04)

b. A vacancy exists and there is no agency register with reemployment preference status (Ref. Rule

101.01) with names of eligibles who are willing to accept reemployment, nor adequate agency register for the classification. (5-8-09)

02. Minimum Qualifications. To be eligible for an acting appointment, an employee must meet the minimum qualifications of the class. (4-5-85)

03. Notification. Appointing authorities must notify the administrator of each acting appointment no later than the effective date of the appointment unless an exception is specifically authorized by the administrator. (5-8-09)

04. Effective Date. The effective date of each acting appointment may be retroactive to the beginning of the pay period during which approval is granted. (3-16-04)

130. LIMITATION ON LENGTH OF APPOINTMENT.
Acting appointments are limited to the period of time necessary to fill the vacancy pursuant to procedures prescribed in these rules but in no case can continue beyond one thousand forty (1,040) hours of credited state service unless specifically extended by the administrator. (3-16-04)

131. SALARY.
For any credited state service which an employee serves in a classification in an acting capacity, he or she shall receive the salary for the classification as though he or she had actually been promoted. (3-16-04)

132. EXPIRATION OF APPOINTMENT.

01. Return of Incumbent. When the incumbent of the classification returns from leave of absence, or the vacant position is filled, the acting appointment expires. The acting appointee is returned to the class, the pay grade and rate held immediately preceding the acting appointment. (3-16-04)

02. Failure of Incumbent to Return. Should the employee on leave of absence separate from state service, the employee serving in the acting appointment may continue to serve in that capacity until the vacancy has been filled but in no case exceed the time limits prescribed in Rule 130. (3-16-04)

133. -- 139. (RESERVED)

140. REDUCTION IN FORCE.

01. Conditions for Layoff. An appointing authority may lay off an employee whenever necessary due to: shortage of funds or work; reorganization; the end of a limited service appointment; employee's failure to complete interagency promotional probation when demotion options are not available; or abolishment of one (1) or more positions (ref. Rule 066). (3-16-04)

02. Layoff Decisions. Layoff decisions must not be based on race, color, national origin, gender, age, religion, disability, or political affiliation. Layoffs must be accomplished in a systematic manner with equity for the rights of classified employees and not do away with an employee's right to problem solving, or appeal if the layoff is in fact a dismissal. (5-8-09)

03. Assessment for Adverse Impact. In planning and conducting a reduction in force, the appointing authority must consider the effect layoff units and positions to be abolished may have on the composition of the agency work force. If layoff units or exclusions are established, adverse impact of protected classes must be assessed. The appointing authority must administer the reduction in force consistent with state and federal laws, and rules and guidelines governing adverse impact. (5-8-09)

04. Layoff by Position. Reduction in force must be by classification of position. (5-8-09)

a. Reduction in force may be limited to or specifically exclude employees appointed under selective certification (Ref. Rule 112) for bona fide occupational qualifications, or appointed to a classification with minimum qualification specialties. Inclusions or exclusions must include or exclude all incumbents of the classification

appointed under similar selective certification, or the same option or minimum qualification specialty and must be approved in advance by the administrator. (3-16-04)

b. An appointing authority may petition the administrator to exclude an individual from a reduction in force whose retention may be required to meet agency mission critical needs. Requests must provide a documented rationale *with* exclusions approved in advance by the administrator. ~~(5-8-09)~~( )

c. Limited-service appointments are defined by the project, program, or function for which the appointments were made. When a limited service project is completed or funding concluded, the limited service appointee is separated from state service as a layoff. However, limited service appointees have no reemployment preference and will not displace other regular permanent or limited services staff via voluntary demotion in lieu of layoff. (3-16-04)

05. Layoff Unit. Reduction in force must be agency-wide or by organizational unit designated for layoff purposes. Layoff units are geographic, programmatic, or other identified subdivisions of an agency designated for layoff purposes by the appointing authority. They must be approved by the administrator before the effective date of the layoff. Organizational layoff unit designations must be renewed with a change in appointing authority or administrator. (5-8-09)

06. Reduction of Hours Worked. An involuntary reduction in the number of hours worked for a selected position constitutes a layoff unless there is an equal reduction of hours worked for all positions in the same classification in the agency or approved layoff unit for a limited period of time, such as a furlough. (5-8-09)

07. Downward Reclass. A material change in duties of one (1) or more positions resulting in an employee's reclassification to a classification allocated to one (1) pay grade lower does not constitute a layoff (Ref Rule 067). More than one (1) pay grade change downward is considered a layoff, unless the change of duties is disciplinary (Ref. Section 190). (5-8-09)

141. CALCULATION OF RETENTION POINTS.

There will be an evaluation of all employees in the classification in the agency or organizational unit affected by the reduction in force based on a retention point system. Retention points are derived from experience as described in performance evaluations, classified credited state service, and veterans preference as described in Rule 141.03. The appointing authority will determine a process for the impartial assessment of evaluations to assign points as follows:

Exemplary Performance	-	.100 points
Solid Sustained Performance	-	.075 points
Achieves Performance Standards	-	.050 points
Does Not Achieve Performance Standards	-	.0 points

(3-20-14)

01. No Performance Evaluation on File for a Twelve-Month Period. All credited state service for which there is no performance evaluation will receive seventy-five thousandths (.075) points per hour. A supervisor's failure to document performance in a timely manner cannot be used to disadvantage an employee during retention point calculation. (5-8-09)

a. Grace period. Supervisors have ninety (90) days after each two thousand eighty (2,080) hours an employee works to complete the performance evaluation documentation. During that ninety (90) day time frame, the evaluation may be written to cover the two thousand eighty (2,080) hours or extended to also cover the time frame up to the date of the evaluation. (3-16-04)

b. Changes in prior periods not allowed. Once an evaluation has been signed by the supervisor, employee, manager, and other applicable reviewers, the document may not be changed, unless the change is a result of a problem solving dispute resolution. (3-16-04)

02. Calculation of Retention Points Since Last Evaluation. The most recent performance evaluation should be used to pro-rate retention points when calculating credited state service since that evaluation, unless that evaluation occurred more than two thousand eighty (2,080) hours from the date of calculation. In such cases, points are calculated in conformance with Rule 141.01. (5-8-09)

03. Veterans Preference. Veterans as defined in Title 65, Chapter 5, Idaho Code, will receive preference by the addition of retention points equivalent to three (3) years of service at a level that achieves performance standards. (Ref. Section 65-501, Idaho Code) (3-20-14)

04. Calculation Date Cutoff. No points will be calculated for the sixty (60) days prior to the effective date of the layoff. (3-16-04)

05. Audit of Retention Points. Each employee is entitled to an audit of retention points by an independent auditor designated by the administrator in cases of dispute between the appointing authority and the employee. The request for audit must be filed with the appointing authority within five (5) calendar days of the employee's receipt of layoff notification. The decision of the independent auditor is binding on both parties unless an appeal is filed within thirty-five (35) calendar days from the date of the auditor's notification to the affected parties. (5-8-09)

142. CREDITED STATE SERVICE.
Eligible credited state service for purposes of Rule 140 is defined as follows: (4-5-85)

01. Service Prior to State Personnel System. All credited state service prior to the establishment of classified service, Title 67, Chapter 53, Idaho Code. (Ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions of credited state service) (4-5-85)

02. Classified Service. All classified credited state service since the establishment of classified service. (4-5-85)

03. Nonclassified Service. All credited state service in a position exempt from classified service if that position is subsequently transferred to classified service pursuant to Rule 040. (7-1-87)

143. REDUCTION IN FORCE DETERMINATION AND NOTIFICATION.

01. Identification of Classifications. The appointing authority will identify the classification of positions to be reduced or eliminated. (5-8-09)

02. Calculation of Retention Points. Retention points will be calculated for all employees assigned to the classification of position including those serving in underfill positions. Retention points need not be calculated where layoff involves a single-incumbent class. (5-8-09)

03. Order of Reduction in Force. The order of reduction in force will be by type of appointment held by the employee in the affected classification as follows: first to be laid off are the entrance probationary appointees, and then the permanent appointees including those serving a voluntary probation. Employees will be placed on the layoff list beginning with the employee with the highest number of retention points. Employee layoffs will be made from the layoff list in inverse order. When two (2) or more employees have the same combined total of retention points, retention will be determined in the following sequence: (Ref. Rule 150.02.c.) (3-28-18)

a. The employee with the highest total retention points for the past thirty-six (36) months. (3-16-04)

b. Random selection. (4-5-85)

04. Notification to Affected Employees. Each employee affected will be notified in writing of layoff and the rationale for the decision at least fifteen (15) calendar days prior to the effective date. Notification will include a copy of the agency layoff procedure and a copy of the computation of retention points when required (Ref. Rule 143.02). (5-8-09)

05. Notification to Administrator. The appointing authority must give written notice of layoff to the administrator at least fifteen (15) calendar days prior to its effective date and must provide a list of persons affected by the layoff with their retention point calculations and must indicate which employees will be laid off. (5-8-09)

144. PLACEMENT ON REGISTER WITH REEMPLOYMENT PREFERENCE.
A permanent employee laid off from their job or who chooses a voluntary demotion in lieu of a layoff, under these rules shall be placed on their classification's register with reemployment preference in unranked order. Such placement will be for one (1) year from the effective date of demotion or layoff, or until the employee or former employee declines a total of three (3) separate job offers without good cause, whichever comes first. (Rule 104.01.n.) An employee or former employee may request their name be removed at any time. (3-16-04)

145. USE OF REGISTERS WITH REEMPLOYMENT PREFERENCE.

01. Priority for Reemployment by Agency that Conducted the Layoff. (3-16-04)

a. The employee who has been laid off will be offered reemployment to a position in the classification from which laid off, before any person outside that agency may be promoted to, transferred to, reinstated or appointed to that classification by an appointing authority of that agency. Appointing authorities may reassign or transfer individuals who are in the same classification within their agency but may not demote, promote, reclassify, or make acting appointments to that classification. If that agency determines a need to fill that classification, the employee who was laid off has first priority for that position. (Ref. Rules 125.04 and 125.08) Extenuating circumstances due to short term budget, workload, location, or other complexities may be used by the appointing authority to request a temporary waiver of this rule by the administrator. (4-7-11)

b. When attempting to fill vacancies for a classification where a lay off occurred, the agency will provide an opportunity to interview and will make their hiring selection from the individuals their agency laid off from the classification, including those separated from state service under Rule 241.02 and those that took a voluntary demotion in lieu of layoff. (5-8-09)

c. Individuals being returned to the classification from which they were laid off will be reinstated with the same salary, permanent status and their sick leave balance restored. If the pay minimum has increased, see Rule 072.03. (5-8-09)

02. Consideration for Hire by Other Agencies. For promotional opportunities, internal agency candidates are normally considered before outside recruitment occurs, including other agencies' laid off candidates. However, individuals who have been laid off must be offered the opportunity to interview before other agencies consider candidates from statewide promotional or open-competitive recruitments. (3-16-04)

03. Employment by Other Agency. Individuals may be reappointed or reinstated if eligible. The salary of an employee re-hired after a layoff is negotiable between the employee and new appointing authority in the current pay grade for the classification in which the employee is appointed. (3-16-04)

04. Return to Register. If an individual finds another agency's position unsatisfactory or does not satisfactorily complete a voluntary probation period, he may be placed back on a register for the remainder of their twelve (12) month time frame. Individuals appointed to a position, other than the classification from which laid off, will remain on preference register status for the remainder of the twelve-month (12) period if otherwise eligible. (5-8-09)

146. (RESERVED)

147. VOLUNTARY DEMOTION IN LIEU OF LAYOFF.
Within their layoff unit, an employee with permanent status may choose to accept a voluntary demotion rather than be laid off. Demotion options are limited to a classification, or if deleted, its successor, in which the employee held permanent status in the agency. Such demotion will not be permitted if it causes the layoff of an employee with greater retention points. (5-8-09)

01. Eligibility. (3-16-04)

a. Qualified. Employee must meet the classification's current minimum qualifications and any minimum qualification specialties. (3-16-04)

b. Exclusion. Limited service appointees are not eligible to take any voluntary demotion that would result in the displacement of other employees. However, voluntary demotions to a vacant position are allowed with the approval of the appointing authority. (3-16-04)

02. Acceptance. To accept a voluntary demotion rather than a layoff, the employee must notify the appointing authority in writing of their decision no later than three (3) working days after written notification of the layoff and opportunity to demote to a specific position. (3-16-04)

148. -- 149. (RESERVED)

150. PROBATIONARY PERIODS.

01. Probationary Period Required. Except as provided in Rule 040, every appointment and promotion to a classified position is probationary. (3-28-18)

02. Types of Probationary Periods. The probationary period serves as a working test period to provide the agency an opportunity to evaluate a probationary employee's work performance and suitability for the position. There are three (3) types of probationary periods: (5-8-09)

a. Entrance probation is the probationary service required of an employee at the time of his original appointment or any subsequent appointment to state classified service excluding reinstatement and transfer, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (5-8-09)

b. Promotional probation is the probationary service required when an employee is promoted, the duration of which is one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who must serve two thousand eighty (2,080) hours. (5-8-09)

c. Voluntary probation is an agreement between employees and the appointing authority for interagency employment actions such as reinstatement, transfer, or voluntary demotion. A voluntary probation is not to be used for employment actions within the agency. The probationary period is negotiable but may not exceed one thousand forty (1,040) hours of credited state service except for peace officers (defined in Section 19-5101, Idaho Code), who may serve up to two thousand eighty (2,080) hours. (5-8-09)

03. Extension of Probationary Period. Upon written request demonstrating good cause, the administrator may extend the probationary period of an employee for an additional specified period not to exceed one thousand forty (1,040) hours of credited state service. Extension must occur before an employee has worked one thousand forty (1,040) hours or two thousand eighty (2,080) hours for peace officers. (Ref. Section 67-5309(j), Idaho Code) (5-8-09)

04. Interruption of Probationary Period. The probationary period in any classification must be completed within a single agency uninterrupted by termination (Ref. Rule 152.02) or dismissal (Ref. Rule 190). An employee who separated during the probationary period must begin a new probationary period upon reappointment or promotion. (5-8-09)

05. Temporary Service Credit. At the request of the hiring agency, the administrator will allow temporary service time in a given classification to be used toward fulfilling the entrance probationary requirement in that classification as established in Section 67-5309(j), Idaho Code. The temporary duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(x), Idaho Code, and Rules 122 and 150.01)
\ (3-29-12)

06. Acting Service Credit. At the request of the hiring agency, the administrator will allow acting appointment service time in a given classification to be used toward fulfilling the promotional probationary

requirement in that classification as established in Section 67-5309(j), Idaho Code. The acting appointment duties must be substantially the same as the regular permanent appointment. (Ref. Section 67-5309(y), Idaho Code, and Rules 129 and 150.01) (3-29-12)

151. SATISFACTORY SERVICE.
When a probationary employee has satisfactorily served the probationary period hours, the employee will become permanent status. The appointing authority shall no later than thirty (30) calendar days after the expiration of the probationary period provide the employee and the Division a performance evaluation. Certification to permanent status is effective one thousand forty (1,040) hours of credited state service after appointment, except that it is effective two thousand eighty (2,080) hours of credited state service after appointment for peace officer classifications unless either period has been extended pursuant to Rule 150.03. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (3-29-17)

152. SEPARATION DURING PROBATION.

01. Notification. If a probationary employee does not serve satisfactorily, the appointing authority must provide the employee and the Division a performance evaluation indicating unsatisfactory performance in order to process the failure to complete probation separation within thirty (30) days after the expiration of the probationary period. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (3-29-17)

02. During Entrance and Voluntary Probation. (3-30-01)

a. An employee who does not serve satisfactorily during the entrance or voluntary probation must first be given the opportunity in writing to resign without prejudice; an employee who fails to resign may be terminated without cause assigned and without the right to file for problem-solving or an appeal. (Ref. Section 67-5309(j), Idaho Code, and Rule 210.04) (5-8-09)

b. Notice to the employee of termination for unsatisfactory service must be made not later than fifteen (15) calendar days prior to the effective date of termination, unless there are extenuating circumstances. (5-8-09)

153. UNSATISFACTORY PERFORMANCE DURING A PROMOTION PROBATION PERIOD.

01. Disciplinary Action. Regardless of the probation status, when a Rule 190 violation supports demotion, suspension, or dismissal, such action may occur. (3-16-04)

02. Intra-Agency. If an employee, on promotional probation, does not meet performance expectations, he or she shall be returned to a position in the classification which he or she holds permanent status or to another classification in the same pay grade for which the employee meets minimum qualifications. If the employee refuses to accept the position, it is considered a voluntary resignation. (3-16-04)

03. Inter-Agency. (3-16-04)

a. The employee may voluntarily demote to a vacant position in any classification he or she has held permanent status in state career service. However, the employee must meet the current minimum requirements for that classification. If more than one (1) option exists for demotion, the employee should be placed in the higher paid position, but the specific assignment is up to the appointing authority. (3-16-04)

b. If no position is available for the voluntary demotion option, the employee may be laid off and may: (3-16-04)

i. Request their name be placed on a register with reemployment preference rights for the next available vacancy in the classification they would have demoted to in his/her new agency; and/or (3-16-04)

ii. Request their name be placed on a register for the classification in the agency where they last held permanent status. (3-16-04)

c. When reinstatement occurs in the classification they promoted from, in the new agency or the prior

agency, the employee's name is removed from reemployment required preference status. (3-16-04)

154. FAILURE TO PROVIDE PERFORMANCE EVALUATION.
If the appointing authority fails to provide a performance evaluation as required in Rule 151, the employee shall be considered to have satisfactorily completed the probationary period and be certified to permanent status as provided by Rule 151, unless the probationary period has been extended by the administrator. (Ref. Rule 150.03) (3-16-04)

155. -- 158. (RESERVED)

159. STATUS AND TENURE.

01. Probationary Promotions. Employees serving a promotional probationary period have continued permanent status in the classification from which promoted until they are certified as having satisfactorily completed the promotional probationary period in the classification to which promoted. (Ref. Rules 151, 152, and 153) (5-8-09)

02. Tenure of Employment. All employment in the state classified service is without definite term except where the term may be specified by law, or under conditions of a limited-service appointment. (Ref. Rule 120) (5-8-09)

160. -- 168. (RESERVED)

169. PROMOTIONS.

01. Use of Promotional Registers. (7-1-93)

a. Preference for Promotion. Whenever practical, a vacancy in a classified position must be filled by the promotion of an employee in the agency in which the vacancy occurs. (Ref. Section 67-5309(g), Idaho Code) (5-8-09)

b. Exception. An appointing authority may request that a position be filled from a statewide promotional register (Ref. Rule 101.03) or an open competitive register (Ref. Rule 101.04) whenever he determines that such an appointment will best serve the interests of the agency. (5-8-09)

c. Agency Registers with Reemployment Preference Status. Promotions to a classification are not permissible as long as there is an agency register with reemployment preference status (Ref. Rule 101.01) for the classification with names of eligible candidates who are willing to accept reemployment. (5-8-09)

02. Interagency Promotions. All interagency promotions must be made using statewide promotional registers (Ref. Rule 101.03) (5-8-09)

03. Eligibility for Promotion. Promotional appointees must have permanent status (Ref. Rule 159) and meet the minimum qualifications of the promotional classification. (5-8-09)

04. Promotion, In-Grade. To reflect unique agency organization design, an agency may choose to request an internal competitive process to recognize the advancement of an employee with permanent status from a position occupied in one classification to a position in another classification having greater points or a unique specialty area, but within the same pay grade. With the approval of the administrator, an in-grade promotion will be treated in all regards as a promotion. (4-7-11)

170. -- 178. (RESERVED)

179. DEMOTIONS.
Demotions are reductions of an employee from a position which the employee occupies in one classification to a position in another classification in a lower pay grade. Demotions authorized under these rules apply to both probationary and permanent status employees who meet the minimum qualifications of the classification to which demoted. (5-8-09)

180. (RESERVED)

181. NONDISCIPLINARY DEMOTION OPTIONAL.
An appointing authority may allow a voluntary demotion when requested or accepted by an employee and approved by the appointing authority. (3-16-04)

182. DISCIPLINARY DEMOTION.
An appointing authority may make a disciplinary demotion for causes enumerated in Rule 190 that are not sufficiently severe to warrant dismissal. (7-1-87)

183. -- 189. (RESERVED)

190. DISCIPLINARY ACTIONS.

01. Cause for Disciplinary Actions or Separation From State Service. Dismissal, suspension, demotion, or the reduction in pay, of a classified employee, may occur for any of the following causes during the employee's employment: (5-8-09)

a. Failure to perform the duties and carry out the obligations imposed by the state constitution, state statutes, or rules of the agency or the Division and Idaho Personnel Commission. (5-8-09)

b. Inefficiency, incompetency, or negligence in performing duties, or job performance that fails to meet established performance standards. (5-8-09)

c. Physical or mental incapability for performing assigned duties, if a reasonable accommodation cannot be made for the disabling condition. (5-8-09)

d. Refusal to accept a reasonable and proper assignment from an authorized supervisor. (4-5-85)

e. Insubordination or conduct unbecoming a state employee or conduct detrimental to good order and discipline in the agency. (5-8-09)

f. Intoxication or being under the influence of alcohol, or the misuse of medications or controlled substances, while on duty. (5-8-09)

g. Careless, negligent, or improper use or unlawful conversion of state property, equipment, or funds. (4-5-85)

h. Use of any influence which violates the principles of the merit system in an attempt to secure a promotion or privileges for individual advantage. (4-5-85)

i. Conviction of official misconduct in office, or conviction of any felony, or conviction of any other crime involving moral turpitude. (4-5-85)

j. Acceptance of gifts in exchange for influence or favors given in the employee's official capacity. (5-8-09)

k. Habitual pattern of failure to report for duty at the assigned time and place. (4-5-85)

l. Habitual improper use of sick leave. (4-5-85)

m. Unauthorized disclosure of confidential information from official records. (4-5-85)

n. Absence without leave. (4-5-85)

o. Misstatement or deception in application for employment. (4-5-85)

p. Failure to obtain or maintain a current license or certificate lawfully required as a condition in performance of duties. (4-5-85)

q. Prohibited participation in political activities. (Ref. Section 67-5311, Idaho Code) (4-5-85)

02. Suspension for Investigation. An appointing authority may place an employee on administrative leave for investigation of disciplinary causes enumerated in Rule 190.01. Each suspension for investigation will be superseded by reinstatement to duty, dismissal, disciplinary demotion, or suspension within thirty (30) calendar days of the suspension for investigation or within an extension of an additional thirty (30) calendar days approved by the administrator. Further extensions may be granted with the approval of the Administrator. (3-20-14)

03. Disciplinary Suspension. An appointing authority may suspend without pay an employee for discipline for causes enumerated above. Disciplinary suspension of an employee with permanent status is subject to appeal by the employee to the Commission. (5-8-09)

04. Suspension on Felony Charges. An appointing authority may suspend without pay an employee upon the issuance of a complaint, an information or indictment for felony charges. Such suspensions may remain in effect during the time such charges are pending. Full reinstatement of all benefits and salary that the employee would have otherwise been entitled must be provided by the appointing authority to the employee upon a subsequent finding that charges or information were without grounds or the employee was not found guilty. For the purpose of this rule, a judgment withheld under Rule 33(d) of the Idaho Rules of Criminal Procedure is a conviction. (5-8-09)

05. Notice to Administrator. Whenever an appointing authority considers it necessary to take disciplinary action against an employee, he must notify the employee and the administrator concurrently in writing; and set forth the specific rules violated and the reasons for the action. Suspensions with pay for investigation (Ref. Rule 190.02) may be made without prior notice to the employee; in this case, the appointing authority must notify the administrator as soon as practical. (5-8-09)

191. -- 199. (RESERVED)

200. PROBLEM-SOLVING AND DUE PROCESS PROCEDURES.

01. Overview of Procedures. (3-30-01)

a. The due process procedure deals with the disciplinary matters set forth in Section 67-5315(2), Idaho Code, dismissals, suspensions without pay, and demotions, and with all involuntary transfers. The due process procedure generally requires the employee receive notice and an opportunity to respond before a disciplinary decision or involuntary transfer is made by the agency. Decisions regarding disciplinary dismissals, suspensions without pay, and demotions may be appealed in accordance with Rule 201. (5-8-09)

b. The problem-solving procedure deals with all matters not specifically reserved for the due process procedure. Problem solving decisions may not be appealed to the Commission except as authorized by Section 67-5316, Idaho Code. (5-8-09)

02. Establishment of Agency Problem-Solving and Due Process Procedures. Each participating agency must maintain written employee problem-solving and due process procedures, which have been approved by the administrator for conformity to law and Rule 200. (5-8-09)

03. Eligibility and Time for Filing Under Problem-Solving Procedure. Any classified employee with permanent, or entrance probationary status may file under the problem-solving procedure as defined by Section 67-5315(1), Idaho Code. An employee must file under the problem-solving procedure in writing not later than ten (10) working days after being notified or becoming aware of a nondisciplinary matter which may be handled through the problem-solving procedure; however, if the filing alleges an ongoing pattern of harassment or illegal discrimination, the agency is strongly encouraged to waive any time limits. The time limit for filing will be extended due to the employee's illness or other approved leave, up to ten (10) days after return to the job. The agency may accept a filing that is or appears to be filed late. Agency policies may provide for waiver of time elements or any intermediate step of the problem-solving procedure upon mutual agreement of the employee and appointing

authority. (3-28-18)

04. Elements of the Problem-Solving Procedure. The procedure must contain a statement from the agency head encouraging employees to use the procedure for any nondisciplinary, job-related matters, and encouraging the employee, supervisors, and upper-level managers and administrators to resolve the matter at the lowest management level possible within the organization. The statement must also provide a means whereby agency representatives can obtain timely authority, if needed, to resolve the matter. The procedure must require the employee to make a reasonable attempt to discuss the issue with the immediate supervisor before filing. After a written filing is received, the procedure must provide for such additional levels of management within the employee's chain of command as are appropriate in the agency. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. Timelines must not exceed five (5) working days between each step unless both the employee and the agency agree, in writing, to a specific number of days to extend the timelines herein, not to exceed thirty (30) days between each step. The procedure must also inform the employee that he is entitled to be represented by a person of the employee's own choosing at each step of the procedure, except the initial informal discussion with the immediate supervisor. Two (2) or more employees may join in a single filing under the problem-solving procedure. Retaliation for filing under the problem-solving procedure, for participating as a witness, or representative is expressly prohibited. This procedure does not apply to unsatisfactory performance during entrance probation (Ref. Sections 67-5309(j), 67-5315(1)(4), Idaho Code, and Rule 152). (3-29-17)

05. Filings Alleging Sexual Harassment or Other Illegal Discrimination. Each agency's problem-solving procedure must provide an optional alternative procedure for an employee to file allegations of sexual harassment or discrimination based on race, color, sex, national origin, religion, age, or disability. The procedure must expressly prohibit sexual harassment and discrimination. Employees must be informed of their right to file complaints with the Idaho Human Rights Commission. The alternative procedure must designate a specific person or persons to receive and investigate such filings, and require that the investigation and resolution of them be conducted with maximum regard for confidentiality. (5-8-09)

06. Elements of Due Process Procedure. An agency must provide notice and an opportunity to respond before making a decision to impose any disciplinary sanction or involuntary transfer, as set forth in Section 67-5315(2), Idaho Code. With respect to notice, an agency must provide notice of the contemplated action, the basis or reason for the contemplated action, and an explanation of the evidence supporting the contemplated action. The notice must be provided to the employee and administrator concurrently. With respect to the opportunity to respond, the employee must be given the opportunity to respond to the notice and present reasons why the contemplated action should not be taken. The opportunity to respond must not occur later than ten (10) working days after the employee has received notice, unless both the employee and agency agree otherwise in writing. After the employee has responded, or after the period to respond has expired or has been waived in writing by the employee, whichever occurs first, the appointing authority, or designee, must make and implement the agency's decision not later than ten (10) working days thereafter, excluding days the appointing authority, or designee, is out of the office, unless both the employee and agency agree otherwise in writing. The procedure must inform the employee of his right to be represented by a person of the employee's own choosing during the opportunity to respond. The procedure must also provide for the use of an impartial mediator upon agreement by the employee and agency. The procedure does not apply to unsatisfactory performance during entrance and promotional probation (Ref. Sections 67-5309(j), 67-5315(2), Idaho Code, and; Rules 150 through 153). The due process procedure is complete when the appointing authority, or designee, mails or delivers a decision to the affected employee. The decision must also be sent to the administrator concurrently. (5-8-09)

07. Notification. A copy of the approved problem-solving and due process procedures must be furnished and explained to each employee with permanent, or entrance probationary status in the agency concerned. (3-28-18)

08. Assistance to Agencies. The administrator will assist agencies whenever requested in the development or revision of their agency problem-solving and due process procedures. (5-8-09)

201. APPEAL PROCEDURE.

01. Idaho Rules of Administrative Procedure of the Attorney General. In addition to the following rules on appeals and petitions for review, the "Idaho Rules of Administrative Procedure of the Attorney General" on

contested cases, IDAPA 04.11.01.000 et seq., apply with the following exceptions, which are inconsistent with the Commission's statute or practice: IDAPA 04.11.01.055, 202, 240, 250, 270.01, 280, 300, 302, 651, 720, 730, 740, 790, 791, 821.02, and 860. Petitions for rulemaking and declaratory rulings are addressed in Rules 270 and 271. (3-16-04)

02. Filing of Appeal and Appearances. Every appeal filed with the Commission must be written and state the decision that is being appealed and the action requested of the Commission. The Commission must serve a copy of the appeal on the respondent and upon the legal counsel for the Commission. Notices of appearance and notices of substitution of counsel need not be filed by deputy attorneys general or members of law firms already representing a party in an appeal or petition for review. ~~(5-8-09)~~( )

03. Time for Appeal. An appeal from a decision of an appointing authority is deemed to be timely filed if received at the office of the Commission within thirty-five (35) calendar days after completion of the agency due process procedure. Personal delivery or deposit in the United States mail, postage prepaid, of a written notification to the affected employee of the appointing authority's decision constitutes completion of the agency due process procedure. An appeal of a decision or action of the administrator or staff must be filed at the office of the Commission within thirty-five (35) calendar days of personal delivery of notice of the decision or action, deposit of the notice in the United States mail, postage prepaid, or deposit of the notice in Statehouse mail. (5-8-09)

04. Non-Jurisdictional Appeals. Appeals which are non-jurisdictional may be dismissed without motion by the hearing officer, the chair of the Commission, or his designee. If a hearing officer orders such a dismissal, the dismissal may be appealed to the Commission as a petition for review pursuant to Rule 202.01. If the chair of the Commission orders such a dismissal, it constitutes the final order of the Commission and may be appealed pursuant to Sections 67-5317(3) and 67-5318, Idaho Code. (5-8-09)

05. Setting of Hearing. Within fifteen (15) days after receiving the appeal from the Commission, the hearing officer must consult with the parties to set a mutually agreeable date for hearing. The hearing officer may thereafter postpone or continue the hearing for good cause. (5-8-09)

06. Filing of Documents. Once an appeal is referred to the hearing officer, all documents relating thereto must be filed directly with the hearing officer during the pendency of the appeal *with c*opies provided simultaneously to opposing counsel and unrepresented parties. ~~(5-8-09)~~( )

07. Burden of Proof. In disciplinary actions, the appointing authority has the burden of proving cause for the discipline by a preponderance of the evidence. In all other actions, the appellant has the burden of proof by a preponderance of the evidence. (7-1-87)

08. Open Hearing. Every hearing is public, unless the hearing officer closes the hearing for good cause. Individual parties may represent themselves (pro se) or be represented by an attorney. (5-8-09)

09. Protective Orders. The hearing officer may issue protective orders limiting access to information obtained in the course of a hearing. (7-1-93)

10. Decision of Hearing Officer. The hearing officer must issue a decision in the form of a preliminary order explain*ing* the right to file a petition for review under Section 67-5317, Idaho Code. The preliminary order, consisting of such findings of fact, conclusions of law and orders as are necessary, together with the record of the proceedings must be filed at the office of the Commission *with* a copy sent or delivered to the parties. A motion for reconsideration under Section 67-5243, Idaho Code, is not permitted. ~~(5-8-09)~~( )

11. Procedure for Award of Attorney Fees and Costs. As part of his preliminary order, the hearing officer must make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the hearing officer finds a prevailing party is entitled to statutory attorney fees and costs, the prevailing party must file a memorandum of costs, including a supporting affidavit stating the basis and method of computation of the amount claimed. The memorandum must be filed with the hearing officer not later than ten (10) working days after receipt of the hearing officer's decision or no attorney fees and costs may be awarded. Objections to the award of attorney fees and costs must be filed not later than ten (10) working days after receipt of the memorandum of costs and supporting affidavit. The hearing officer must conduct a hearing on the award of attorney fees and costs within

ten (10) days of receiving any objections to the award. If no objections are timely filed with the hearing officer, or if the parties stipulate to have the matter decided on the briefs, no hearing is required. The hearing officer determines the amount of the award and must make written findings as to the basis and reasons for the award within ten (10) days after the hearing on the award of attorney fees and costs. If no hearing is required, the hearing officer must issue his decision on the award of attorney fees and costs no later than thirty (30) days after receipt of the prevailing party's memorandum of costs and supporting affidavit. (5-8-09)

12. Factors Considered in Award of Attorney Fees and Costs. The following factors are considered in the determination of an award of attorney fees and costs: the time and labor required;(12-10-90)

b. The experience and ability of the attorney; (12-10-90)

c. The prevailing charges for like work; (12-10-90)

d. The amount involved and the results obtained; (12-10-90)

e. Awards in similar cases; and (12-10-90)

f. Any other factor that appears pertinent to the award. (12-10-90)

202. PETITION FOR REVIEW PROCEDURE.

01. Filing of Petition for Review. A petition for review shall be filed at the office of the Commission within thirty-five (35) days of the hearing officer's decision issued pursuant to Rule 201.10. The petition shall be in writing and specifically cite the alleged errors of fact or law made by the hearing officer. (3-16-04)

02. Stay of Hearing Officer's Decision. Upon the filing of the petition for review, the jurisdiction of the hearing officer in the matter is ended except for resolving post-hearing motions and awarding attorney fees and costs. The hearing officer's decision and any orders entered pursuant to Rules 201.10 and 201.11 will be automatically stayed. (3-16-04)

03. Nature of Hearing. The hearing of the Commission on a petition for review will be limited to oral arguments regarding issues of law and fact as may be found in the record established before the hearing officer and any post-hearing orders. Written arguments or briefs and motions regarding the petition for review will be allowed under such terms as the Commission may direct in its notice of hearing, which will be issued at least twenty-eight (28) days prior to the date set for hearing. (12-10-90)

04. Transcript. If the petition for review involves questions of fact, the appellant shall provide a full transcript of the proceedings before the hearing officer for the Commission to review. The respondent may pay for an additional copy of the transcript for respondent's own use. (7-1-87)

05. Requests for Postponement and Other Motions. (7-1-93)

a. Except in emergencies, a request for postponement shall be filed in writing by a party or representative not later than seven (7) days before the scheduled hearing. The Chair of the Commission, or his or her designee, may determine whether good cause is shown for the postponement and grant or deny the request on behalf of the Commission. (3-16-04)

b. Motions to dismiss for lack of jurisdiction shall be decided by the Commission. All other motions shall be considered by the Chair of the Commission or at the Chair's discretion may be referred to one (1) Commissioner, whose decision on the motion may be communicated to the parties by letter or other informal means, by the Chair or by counsel to the Commission. (3-16-04)

06. Decision on Petition for Review. The decision of the Commission shall include a statement of appeal rights under Section 67-5318, Idaho Code. Motion for reconsideration of Commission decisions pursuant to Section 67-5246, Idaho Code are not permitted. The Commission shall file the original copy of its decision with the record of the proceedings and mail copies to the parties promptly. (3-16-04)

07. Record of the Proceedings. A verbatim record of the proceedings at hearings before the Commission shall be maintained either by electrical devices or by stenographic means, as the Commission may direct, but if any party to the action requests a stenographic record of the proceedings, the record shall be done stenographically. The requesting party shall pay the costs of reporting the proceedings. (7-1-87)

08. Attorney Fees and Costs in a Petition for Review. In its decision on petition for review, the Commission shall make findings as to the entitlement to attorney fees and costs, if any, pursuant to Section 12-117, Idaho Code. If the Commission finds the prevailing party, if any, is entitled to attorney fees and costs, the prevailing party shall file a request for attorney fees and costs, with accompanying memorandum and affidavit in support of the request described in Rule 201.11, with the Commission not later than ten (10) working days after receipt of the Commission's decision. Objections to the award of attorney fees and costs shall be filed not later than ten (10) working days after receipt of the request for attorney fees and costs. The Commission shall determine the amount of the award, if any, taking into account the factors defined in Rule 201.12. (3-16-04)

09. Protective Orders. The Commission may issue protective orders limiting access to information in the record. (7-1-93)

203. REFERRALS FROM FEDERAL AGENCIES ON DISCRIMINATION COMPLAINTS.
When the Division receives a complaint from a federal agency alleging violation of employment laws, the administrator must take prompt action to investigate. If the complaint is agency specific, the appointing authority will take necessary actions to ensure the investigation is thorough, staff are fully cooperative, and submit findings and any corrective action plan to the administrator and other proper authorities. (5-8-09)

204. -- 209. (RESERVED)

210. PERFORMANCE EVALUATIONS.

01. Performance Evaluations. Each agency shall use the statewide online performance evaluation system; however, another system may be used, provided it meets the basic objectives of the state's online performance evaluation system as approved in advance by the administrator. Agency records and supporting documentation are subject to review by the Division and the employee's overall performance rating must be transmitted to the administrator. (3-20-14)

02. Approval of Form. The Division will make available a standard format for purpose of the statewide online performance evaluation system. An appointing authority may utilize another form provided it meets the basic performance criteria and ratings and is approved in advance by the administrator. (3-20-14)

03. Purpose. The purpose of performance evaluation is to provide an objective evaluation by the immediate supervisor of an employee's performance in comparison with established expectations for the position; and to identify an employee's strengths and weaknesses and where improvement is necessary. All performance evaluations must be discussed with affected employee who will be allowed opportunity to submit written comments regarding the evaluation contents. (5-8-09)

04. Use of Evaluations. Performance evaluations should be used in connection with promotions, transfers, demotions, retentions, separations, and reassignments (Ref. Section 67-5309(h), Idaho Code); and used as the affirmative certification for merit increases, bonuses, and salary equity increases (Ref. Section 67-5309B, Idaho Code); and for certifying a probationary employee to permanent status (Ref. Rule 151). Other uses of performance evaluations are optional with the appointing authority. (3-20-14)

05. Evaluation Schedule. All classified employees must be evaluated for their performance during probationary periods for appointments and promotions and for every two thousand eighty (2,080) hours of credited state service thereafter (generally, an annual basis). (Ref. Sections 67-5309(h) and (j), 67-5309B(6), Idaho Code.) Part-time employees must be evaluated on an annual basis. (3-20-14)

06. Retention of Evaluation. A copy of the performance evaluation must be retained in agency records *with* a copy furnished to the employee. ~~(3-20-14)~~( )

07. **Supervisors' Requirements**. Supervisors are required to manage performance on a consistent basis including completion of performance evaluations on all employees under their direct supervision. (Ref. Section 67-5309B(6), Idaho Code) (3-20-14)

211. -- 219. (RESERVED)

220. RECORDS.

01. Employee Service Records. (7-1-93)

a. For each employee in classified service, the Division maintains a service record which must include all personnel transactions pertinent to the employee's employment history. (Ref. Section 67-5309(o), Idaho Code) (5-8-09)

b. Any employee may at all reasonable times during business hours review his service record maintained in the Division or maintained in any agency. Except for material used to screen and test for employment, all information maintained in an employee's service record must be made available to the employee or designated representative upon request. File contents may be corrected if found in error according to the procedure contained in Title 74, Chapter 1, Idaho Code. (5-8-09)

02. Administrative Records. The administrator must permanently maintain a record of the proceedings of the Commission and a record of all hearings of appeals. (5-8-09)

03. Employee Personnel Action Documents. The appointing authority must furnish each employee with notice of every personnel action affecting the employee's status, pay, tenure, or other terms and conditions of employment, including a copy of their performance evaluations. (5-8-09)

04. Transfers, Reemployment and Promotions Between Agencies. (4-7-11)

a. When an employee seeks a transfer, reemployment, or promotion between agencies, the appointing authority of the hiring agency, or designee, is entitled to examine the employee's service record and performance information before the hiring decision is made. (Ref. Section 67-5309(o), Idaho Code) (4-7-11)

b. All performance evaluation documents must be provided by the former agency and forwarded to the new agency when an interagency promotion, demotion, or transfer occurs. (3-29-17)

221. -- 229. (RESERVED)

230. VACATION LEAVE.

01. Eligibility. All classified employees, regardless of status or whether full-time or part-time, earn vacation leave and are eligible to take and be paid for unused vacation leave in accordance with Sections 67-5334, Idaho Code. (5-8-09)

02. Rate of Accrual. All credited state service (ref. Sections 67-5332 and 59-1604, Idaho Code, for definitions) are counted in determining leave accrual rate. (5-8-09)

03. Mutual Agreement. Vacation leave requested by the employee may be used only when approved by the agency. The employee and the agency must mutually agree upon such time or times when vacation leave least interferes with the efficient operation of the agency taking into consideration the vacation preference of the employee. (5-8-09)

04. Interagency Transfer. An employee who is transferred from one state agency to another agency will be credited with accrued vacation leave by the receiving agency at the time of transfer. (5-8-09)

231. -- 239. (RESERVED)

240. SICK LEAVE.

01. Eligibility. Sick leave is earned in accordance with Section 67-5333, Idaho Code. Sick leave must only be taken in pay periods subsequent to being earned. (5-8-09)

02. Interagency Transfer. An employee who is transferred from one state agency to another will be credited by the receiving agency with the amount of sick leave accrued at the time of transfer. (5-8-09)

03. Reasons for Use. Sick leave must only be used in cases of actual illness or disability or other medical and health reasons necessitating the employee's absence from work, or in situations where the employee's personal attendance is required or desired because of serious illness, disability, or death and funeral in the family. For purposes of this rule, family means a spouse, child, foster child, parent, brother, sister, grandparent, grandchild, or the same relation by marriage, or legal guardian. (5-8-09)

04. Serious Medical Conditions. Sick leave may be used in conjunction with Family and Medical Leave. (Ref. Rule 242) (5-8-09)

05. Notification. It is the responsibility of the employee to notify his supervisor as soon as possible in the event of sickness or injury which prevents the employee from reporting for duty. (5-8-09)

06. Donated Leave. Vacation leave may be transferred to another employee for the purposes of sick leave in accordance with Section 67-5334, Idaho Code. Such transfers are to be made from employee to employee. Vacation leave is retained by the donating party until it is converted to sick leave in the receiving employee's account. (5-8-09)

07. Sick Leave Abuse. A predictable and reliable level of attendance is an essential function of almost all positions. Consistent with the provisions of the Americans with Disabilities Act and the Family Medical Leave Act, a supervisor may investigate suspected sick leave abuse including a pattern of unscheduled absences which have a negative impact on the requirements of the job and take appropriate action. When an employee is absent due to illness or injury in excess of three (3) days, a doctor's certificate of justifiable cause for the absence may be required of the employee at the discretion of the immediate supervisor. A doctor's certification of illness or injury may be required of an employee for periods of less than three (3) consecutive working days whenever the immediate supervisor or manager believes special investigation of the absence should be made. (Ref. Rule 190 and Section 67-5333, Idaho Code) (5-8-09)

241. WORKERS COMPENSATION OR DISABILITY.

01. Use of Leave in a Workers Compensation Claim. In the event of a disability incurred on the job covered by workers compensation, the employee will be given the choice of either: (5-8-09)

a. Leave of absence without pay while receiving workers compensation; or (5-8-09)

b. Utilizing a portion of accrued sick or other paid leave to supplement workers compensation to maintain his regular salary; however, no appointing authority may require an employee to accept sick leave, vacation leave, or compensatory time off for overtime in lieu of workers compensation provided by law. Additionally, an employee may not waive his rights to workers compensation and cannot accept earned leave or other benefits in lieu thereof. (3-29-17)

02. Layoff After Twelve Weeks' Disability. If the employee becomes disabled, whether or not due to a workers compensation injury, and is unable to fully return to work after twelve (12) weeks' absence during any consecutive fifty-two (52) week period or when accrued sick leave has been exhausted, whichever is longer, the employee's position may be declared vacant unless otherwise prohibited by state or federal law. The twelve (12) weeks' period of absence need not occur consecutively. The employee's name is certified to a reemployment preference register when the administrator has been notified by the physician that the employee is able to return to work. (Ref. Rule 101.01) Conditional releases will be considered in accordance with the Americans with Disabilities Act. (4-7-11)

242. FAMILY AND MEDICAL LEAVE.

01. Applicability. The provisions of the federal Family and Medical Leave Act (FMLA) apply without regard to the exclusion for worksites employing less than fifty (50) employees in a seventy-five (75) mile area, and without the limitation on reinstatement of the highest-paid employees. (Ref. 29 U.S.C. 2601 et seq.). The State is one (1) employer for the purposes of FMLA. For consistency, the administrator shall publish statewide guidance on FMLA policies. (3-16-04)

02. Return to Work Release. An appointing authority may request a return to work release if, due to the nature of the health condition and the job: (3-30-01)

a. Light or limited duty work or other accommodation is requested; or (3-16-04)

b. The agency, having a reasonable basis in fact to do so, requires assurance that returning to work would not create a significant risk of substantial harm to the employee or others. (7-1-94)

243. MATERNITY AND PATERNITY LEAVE.

01. Use Of Sick Leave. Pregnancy, child birth or related medical conditions generally are considered temporary disabilities and are treated as such for sick leave purposes. Maternity and paternity leave are granted under the same conditions and requirements as other compensable and non-compensable leave under these rules, including the Family and Medical Leave Act. (5-8-09)

02. Determination of Disability Period. The employee's physician is considered the primary authority in determining the disability period insofar as compensable sick leave is concerned. (5-8-09)

03. Additional Time Off. Maternity and paternity leave preceding and following the time that the person is disabled is leave without pay unless the employee elects to use accrued vacation leave or compensatory time off for overtime. (5-8-09)

04. Discrimination Prohibited. Pregnancy discrimination is prohibited. The employee may continue to work as long as she is physically capable of performing the duties of her position and may return to work as soon as she is physically able as determined by her physician. (3-30-01)

05. Adoption and Foster Care. Leave will be granted for adoption and foster care as set forth in the Family and Medical Leave Act. (Ref. Rule 242) (3-30-01)

244. SEPARATION UPON FAILURE TO RETURN TO WORK.
Except for those employees on authorized leave or placed on a register with reemployment preference prescribed by Rule 241.02.a., an employee who has not returned to work within five (5) working days after approved paid or unpaid leave or release by his or her physician shall be considered as having voluntarily separated. Such separation shall be treated as a voluntary resignation, and the employee shall remain eligible for reinstatement as provided under Rule 124. Written notification of his or her separation/resignation shall be mailed to the last known home address. Any objections by the employee to the notice, must be received within five (5) working days of receipt of the notice, or acceptance of the separation/resignation will be presumed. If objections are received within the timeline, a disciplinary separation (dismissal) or other formal disciplinary action may be pursued as provided in Rule 190. (3-16-04)

245. -- 249. (RESERVED)

250. SPECIAL LEAVES.

01. Leave of Absence Without Pay. (7-1-93)

a. Approval. In addition to workers' compensation, family medical leave, disability, or other statewide leave policies, the appointing authority may grant an employee leave without pay for a specified length of

time when such leave would not have an adverse effect upon the agency. The request for leave must be in writing and establish reasonable justification for approval. (5-8-09)

b. Reemployment. The appointing authority approving the leave of absence assumes full responsibility for returning the employee to the same position or to another position in a classification allocated to the same pay grade for which the employee meets minimum qualifications. (7-1-87)

c. Exhaustion of Accrued Leave. Unless prohibited by workers compensation, family medical leave, disability, or other statewide leave policies, the appointing authority has discretion on whether the employee is required to exhaust accrued vacation leave or compensatory time off for overtime before commencing leave without pay. (Ref. Rule 240) (3-29-17)

d. Resignation. If vacation leave and compensatory time off for overtime are not exhausted and the employee resigns from state service while on leave, he will be paid for such accruals in accordance with Sections 67-5334 and 67-5328, Idaho Code. (3-29-17)

02. Leave Defaults. When an employee does not have accrued sick leave to cover an entire absence the following leave types will be used to the extent necessary to avoid leave without pay: accrued compensatory time and vacation. If abuse of sick leave is suspected see Rule 240.07. (5-8-09)

03. Military Leave With Pay. Employees who are members of the National Guard or reservists in the armed forces of the United States engaged in military duty ordered or authorized under the provisions of law, are entitled each calendar year to one hundred twenty (120) hours of military leave of absence from their respective duties without loss of pay, credited state service or evaluation of performance. Such leave is separate from vacation, sick leave, holiday, or compensatory time off for overtime. (Ref. Section 46-216, Idaho Code). (5-8-09)

04. Military Leave Without Pay. An employee whose employment is reasonably expected to continue indefinitely, and who leaves his position either voluntarily or involuntarily in order to perform active military duty, has reemployment rights as defined in Rule 124.05. The employee will either be separated from state service or placed in "inactive" status, at the option of the appointing authority. (5-8-09)

05. Leave of Absence With Pay. A period of absence from duty with the approval of the appointing authority, or as required or allowed by law or these rules, during which time the employee is compensated. Leaves of absence with pay have no adverse effect on the status of the employee and include the following: vacation leave; sick leave; special leave situations; compensatory time off for overtime worked; and administrative leave. (3-20-14)

06. Court and Jury Services and Problem-Solving and Due Process Leave. (7-1-98)

a. Connected with Official State Duty. When an employee is subpoenaed or required to appear as a witness in any judicial or administrative proceeding in any capacity connected with official state duty, he is not considered absent from duty. The employee is not entitled to receive compensation from the court. Expenses (mileage, lodging, meals, and miscellaneous expenses) incurred by the employee must be reimbursed by his respective agency in accordance with agency travel regulations. (5-8-09)

b. Private Proceedings. When an employee is required to appear as a witness or a party in any proceeding not connected with official state duty, the employee must be permitted to attend. The employee may use accrued leave or leave without pay. (5-8-09)

c. Jury Service. When an employee is summoned by proper judicial authority to serve on a jury, he will be granted a leave of absence with pay for the time which otherwise the employee would have worked. The employee is entitled to keep fees and mileage reimbursement paid by the court in addition to salary. Expenses in connection with this duty are not subject to reimbursement by the state. (5-8-09)

d. Problem-solving and due process procedures. Any employee who has been requested to serve as a mediator as provided by an agency problem-solving or due process procedure or to appear as a witness or representative during such a proceeding will be granted leave with pay, without charge to vacation leave or compensatory time off for overtime, to perform those duties. (5-8-09)

e. Notification. An employee summoned for court and jury service or requested to serve as a witness or representative must notify his supervisor as soon as possible to obtain authorization for leave of absence. (3-20-14)

07. Religious Leave. Appointing authorities will make reasonable accommodations to an employee's need for leave for religious observances. Such leave is charged to the employee's accrued vacation leave or compensatory time off for overtime. (5-8-09)

08. Leave During Facility Closure or Inaccessibility. (7-1-93)

a. Authorization. When a state office/facility is closed or declared inaccessible by the Governor or Governor's designee because of severe weather, civil disturbances, loss of utilities or other disruptions, affected employees are authorized administrative leave to cover their scheduled hours of work during the closure or inaccessibility. If an employee was not scheduled to work on the day when an office/facility is declared closed, the employee is not eligible for administrative leave. (3-28-18)

b. In the interest of employee safety, appointing authorities may approve employee early release, delayed start time, or absence from work due to weather or other emergency conditions. Those affected employees will use their appropriate accrued leave balances or leave without pay. Administrative leave will be granted to affected employees scheduled to work on a day the Governor or Governor's designee declares a state office/facility closed or inaccessible in accordance with Rule 250.08.a. (3-28-18)

09. Red Cross Disaster Services Leave. Employees who have been certified by the American Red Cross as disaster service volunteers will be granted up to one hundred twenty (120) hours of paid leave in any twelve (12) month period to participate in relief services pursuant to Section 67-5338, Idaho Code. (5-8-09)

10. Employee Assistance Program Leave. Employees may use sick leave or any paid or unpaid leave as approved to attend appointments through the Employee Assistance Program (EAP) during normal working hours. (3-29-17)

11. Bone Marrow and Organ Donor Leave With Pay. (5-8-09)

a. Approval. Upon request, a full-time employee will be granted five (5) work days' leave with pay to serve as a bone marrow donor or thirty (30) work days' leave with pay to serve as an organ donor. The employee must provide the appointing authority with written verification that the employee is the person serving as the donor. Paid leave, as provided in these rules, is limited to one-time bone marrow and one-time organ donor leave per employee. (Ref. Section 67-5343, Idaho Code) (5-8-09)

b. Use. An employee who is granted such leave of absence will receive compensation without interruption during the leave period. For purposes of determining credited state service, pay advancement, performance awards, or any benefit affected by a leave of absence, the service of the employee is considered uninterrupted by the paid leave of absence. (Ref. Section 67-5343, Idaho Code) (5-8-09)

251. ADMINISTRATIVE LEAVE.

01. Investigation and Due Process Procedure. Administrative leave may be granted by an appointing authority for employee investigations and due process procedures in accordance with Rule 190.02. (3-28-18)

02. Closure or Inaccessibility. Administrative leave for closure or inaccessibility of a state office/facility due to severe weather, emergencies or incidents that could jeopardize agency operations, or the safety of others must be granted in accordance with Rule 250.08. (3-28-18)

03. Other Reasons. Administrative leave for reasons other than those listed above must be approved in advance by the administrator. (3-28-18)

252. -- 259. (RESERVED)

260. COMPENSABLE HOURS.

01. Biweekly Employees. With the exception of holiday leave, no leave may be used if it results in pay in excess of the employee's regularly scheduled work week. (5-8-09)

02. Ineligible Employees. Employees who are "executive" as defined by Section 67-5302(12), Idaho Code, are ineligible to earn or receive payment for hours worked or accrued beyond their regularly scheduled work week. (5-8-09)

261. HOURS WORKED.

01. Hours in Performance of Job. Those hours actually spent in the performance of the employee's job, excluding holidays, vacation, sick leave other approved leaves of absence, and excluding on-call time. (5-8-09)

02. Travel Time. Travel time is compensated pursuant to policy set forth by the Board of Examiners. (5-8-09)

03. Hours Outside of Regular Working Hours. Attendance at lectures, meetings, training programs, and similar activities outside of the employee's regular working hours when attendance has been directed by the appointing authority or designee. (5-8-09)

262. OVERTIME.

01. Employing Agencies. The state is considered as one (1) employer for determining the number of hours an employee works. If an employee works for more than one (1) agency, the agency employing the employee when the overtime occurs is liable for compensatory time off or cash compensation as provided by law. (5-8-09)

02. Compensation for Overtime. Overtime accrual and compensation for classified employees is covered by Sections 67-5328 and 59-1607, Idaho Code, for nonclassified employees. Overtime is defined in Section 67-5302(20), Idaho Code. Overtime does not include any time, such as occasional or sporadic work, which is excluded from the overtime calculation by federal law. (4-7-11)

03. Modification of Workweek or Schedule. No agency will alter a previously established work week for the purpose of avoiding overtime compensation. An agency may modify the employee's regular schedule of work to avoid or minimize overtime. (5-8-09)

263. -- 271. (RESERVED)

272. POLICY MAKING AUTHORITY.
To address the need for all classified employees to be treated fairly, and in situations where the State may be considered as one (1) employer, the Division Administrator may issue guidance to provide consistent interpretation of federal law, state law, executive order or rule. (5-8-09)

273. -- 999. (RESERVED)

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO MILITARY DIVISION

DOCKET NO. 15-0600-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 31-4816(18), 39-7101, 46-804, 46-805, and 46-1027, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 15.06, rules of the Military Division:

IDAPA 15.06
- 15.06.01, *Rules Governing the Idaho Public Safety Communications Commission*
- 15.06.04, *Rules Governing the Idaho Youth Challenge Program*
- 15.06.05, *Hazardous Substance Response Rules*

This pending rule vacates the following proposed rules previously promulgated as part of the omnibus proposed rulemaking under IDAPA 05.06, rules of the Military Division:

- ***(VACATED)*** **15.06.02, Rules Governing the Idaho Public Safety Communications Commission Grants*
- ***(VACATED)*** *15.06.06, Rules Governing Use of Disaster Emergency Account Funds*

IDAPA **15.06.02* has been combined with IDAPA 15.06.01 to consolidate the Idaho Public Safety Communications Commission rules into a single chapter.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 1857 – 1879**.

These rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. Many of the rules listed above govern various emergency response, public safety, and communications functions necessary for the continued health and safety of the public. Further, the rules governing the Youth Challenge Program help ensure the continued success of that program. The text of 15.06.04, Rules Governing the Idaho Youth Challenge Program, and 15.06.05, Hazardous Substance Response Rules, contain minor changes as annotated in the bulletin.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Major Lauren Tschampl at (208) 422-5399.

Dated this 3rd day of October, 2019.

Michael J. Garshak
The Adjutant General
Idaho Military Division
4040 W. Guard, Building 600
Boise, Idaho 83705
(208) 422-5242

IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION

15.06.01 – RULES GOVERNING THE IDAHO PUBLIC SAFETY COMMUNICATIONS COMMISSION

000. LEGAL AUTHORITY.
These rules are promulgated in accordance with Section 31-4816(18), Idaho Code, by the Commission. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 15.06.01, "Rules Governing the Idaho Public Safety Communications Commission." (3-29-17)

02. Scope. *These rules govern the Commission's mediation and grant processes.* *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

***01. Applicant**. A Consolidated Emergency Communication Center submitting a grant application.* *( )*

02. Commission. The Idaho Public Safety Communications Commission as established within the Military Division by Section 31-4815(1), Idaho Code. (3-29-17)

***03.* Local Government Agency**. Those entities subject to Sections 31-4801 through 31-4818, Idaho Code. *( )*

***04. Consolidated Emergency Communication Center**. A governmental or multi-governmental organization authorized to collect emergency communication fees in accordance with Title 31, Chapter 48, Idaho Code.* *( )*

***05. Emergency Communications Grant Fund (ECGF)**. The portion of the Fund made available annually for grant disbursement.* *( )*

***06. Fund**. The Idaho Emergency Communications Fund established by Section 31-4818, Idaho Code.* *( )*

***07. Grant Cycle**. The period between July 1 through the following June 30 for grant application distribution, submission, award notice and disbursement in accordance with dates established in Section 021 of these rules.* *( )*

***08. Local Government Agency**. Those entities subject to Sections 31-4801 through 31-4818, Idaho Code.* *( )*

***09.* Mediation**. The process required by Section 31-4817, Idaho Code, as a condition precedent to local government agencies initiating any legal action. (4-11-16)

***10.* Submission**. Submission of the issues for mediation has occurred when the documents referred to in Sections 012, 020, and 035, if *applicable*, have been received by the Commission. *( )*

***11. Taxing District**. A fire protection district created pursuant to Section 31-1402, Idaho Code, an ambulance service created pursuant to Section 31-3901, Idaho Code, or an ambulance service district created pursuant to Section 31-3908, Idaho Code.* *( )*

011. (RESERVED)

SUB CHAPTER A - RULES GOVERNING MEDIATION

012. REQUEST FOR MEDIATION.
The parties must submit a written request for mediation to the Commission demonstrat*ing* to the reasonable satisfaction of the Commission that all parties are requesting the mediation. *( )*

013. SCHEDULED GROUP MEDIATION.
Within fifteen (15) days from the date of receipt of a request for mediation, the Commission shall schedule a date for a mediation at which all parties and a quorum of the Commission can be present. The Commission shall notify the parties in writing of the date of the group mediation. (4-11-06)

014. REQUIREMENT OF SUBMISSION OF DOCUMENTS AND EXHIBITS.
The Commission may require the parties to produce documents at or before the date set for the group mediation. Such documents may include, but are not limited to, individual statements of position from each party. The Commission will notify the parties in writing of any documents that may be required to be produced and the date of submission. No later than the date set by the Commission, the parties shall exchange and simultaneously submit to the Commission the required documents and exhibits. (4-11-06)

015. **INDIVIDUAL POSITION STATEMENTS.**
If the Commission requires individual statements of position from each party, the statements of position should begin with a one (1) page statement of the dispute. (4-11-06)

01. Stipulation of Facts. The parties are encouraged to stipulate to as many facts as possible and clearly identify what facts are being stipulated. (4-11-06)

02. Supporting Documents. The parties should present their entitlement position with specific references to appropriate supporting documents, to be included with the statement of position. (4-11-06)

016. **JUDICIAL RULES.**
The Commission will not be bound by any judicial rules of evidence or burden of proof applicable to civil proceedings. (4-11-06)

017. **GROUP MEDIATION.**
The Commission chairman, or in his absence the vice-chairman or other commissioner designated by the chairman, will preside over the mediation. (4-11-06)

01. Initial Presentation. Each party shall make an initial presentation of its position with respect to the dispute. (4-11-06)

02. Rebuttals. The Commission may allow rebuttals to such presentations when it considers them relevant or necessary to make its recommendations. (4-11-06)

03. Time Limits. The Commission may set and limit the time of any presentation as it deems necessary for a sufficient understanding of the facts or issues to make its recommendation. (4-11-06)

04. Questions by Commission. The Commission may question the parties during the group mediation. (4-11-06)

018. **SUPPLEMENTAL DOCUMENTATION.**
The Commission may require the parties to provide supplemental documentation and may establish a date by which such documentation is due. (4-11-06)

019. **COMMISSION RECOMMENDATION.**
Oral or Written: The Commission may make such recommendation orally or in writing. *( )*

020. **TERMINATION OF MEDIATION.**
The mediation shall be terminated: (4-11-06)

01. Settlement. By the signing of a settlement agreement between the parties covering any or all of the issues between them; and/or (4-11-06)

02. Failure to Agree. By the written declaration of all parties and the chairman, on behalf of the

Commission, that the parties could not come to an agreement in the mediation covering any or all of the issues between them. (4-11-06)

021. -- 099. (RESERVED)

SUB CHAPTER B - COMMISSION GRANTS

100. GRANT ADMINISTRATION.

***01. Emergency Communications Grant Fund Source**. The moneys that may be available through the ECGF are from the emergency communications fees placed in the Fund pursuant to Section 31-4819, Idaho Code.* *( )*

***02. Alternate Emergency Communications Grant Fund Sources**. Grants, donations, gifts, and revenues from other sources may augment the ECGF amount available when any limitations or requirements related to the use of such revenues are consistent with these rules.* *( )*

***03. Other Emergency Communications Grants**. The Commission may secure grants from federal, foundation, or other sources. When these sources place requirements or restrictions that are contrary to these rules, the Commission may establish a separate application, disbursement, or documentation program as appropriate.* *( )*

***04. Emergency Communications Fund Grant**. The amount of funds available through ECGF will be determined annually by the Commission in accordance with Section 31-4819, Idaho Code.* *( )*

101. GRANT CYCLE.

***01. Application Availability**. The Commission will make an application and guidance available no later than July 1 of each year.* *( )*

***02. Application Period**. The Applicant has until July 31 to complete and submit the application to the Commission.* *( )*

***03. Application Evaluation Period**. Prior to September 15, the Commission and, if applicable, a grant subcommittee, shall evaluate the applications received.* *( )*

***04. Award Notification**. Prior to October 31, the Commission shall issue notification to every Applicant regarding the disposition of its grant request.* *( )*

***05. Grant Disbursement**. Grant disbursement shall occur prior to April 30.* *( )*

***06. Deadline for Return of Funds**. All unused grant funds not expended for costs associated with Applicant's award must be returned by the Applicant no later than May 31.* *( )*

102. APPLICATION.

A completed application must be submitted by the Applicant on or before the conclusion of the application period specified in Section 101 of these rules to be considered during the Grant Cycle. *( )*

***01. Application Frequency**. Only one (1) application per Consolidated Emergency Communication Center may be filed in any Grant Cycle.* *( )*

***02. Required Information**. The Applicant must provide the Commission with information, including:* *( )*

***a.** Description of proposed equipment purchases;* *( )*

***b.** Type, quantity, and purpose of similar equipment presently in use by the Applicant;* *( )*

c. *Age and condition of equipment being replaced, if applicable; ( )*

d. *Documentation of one (1) or more vendor price quotes for all proposed equipment purchases; ( )*

e. *Prioritization by the Applicant of equipment requested when the application requests funding for two (2) or more items; ( )*

f. *Operating budget; ( )*

g. *All funding sources and revenue generated by source; ( )*

h. *Amount of emergency communications fee charged in accordance with Title 31, Chapter 48, Idaho Code; ( )*

i. *Resident population within the Applicant response area in Idaho; ( )*

j. *Migrant and tourist population within the Applicant response area in Idaho; ( )*

k. *Number and name(s) of law enforcement, fire, and emergency medical service organizations for which the Consolidated Emergency Communications Center serves as the primary 911 agency; ( )*

l. *County, city, or Taxing District endorsement(s); ( )*

m. *Federal Tax Identification Number and DUNS Number (Dun & Bradstreet Data Universal Numbering System); ( )*

n. *Contact person for verification of information; and ( )*

o. *Narrative description of need. ( )*

03. Incomplete Application*. An application missing required information may be excluded from consideration for an award. ( )*

04. Application Purpose*. The grant application and any attachments submitted by the Applicant shall be the primary source of information for awarding a grant. ( )*

05. Applicant's Request for Amendment*. An Applicant may amend its application after the application period has ended by sending both a written request and the proposed application amendment to the IPSCC grant subcommittee. The Applicant shall provide detailed reasons for the Applicant's request for amendment. The IPSCC grant subcommittee shall review the Applicant's request for amendment and make a recommendation to the IPSCC concerning the request. The IPSCC shall either approve or deny the Applicant's request for amendment by vote. The IPSCC's decision is final. If the IPSCC does not use a grant subcommittee, an Applicant's request for amendment shall be submitted directly to the IPSCC. ( )*

a. *An amended application can be submitted by any Applicant before award notifications have been issued. After award notifications have been issued, an amended application can only be submitted by an Applicant who has been awarded a grant for the applicable grant cycle. ( )*

b. *If an Applicant's request for amendment is approved before grant award notifications have been issued, the Applicant's amended application and not the Applicant's original application shall be considered for award eligibility. If an application amendment is approved after grant award notifications have been issued, the Applicant's award amount will not increase and may decrease depending on the needs specified in the amended application. ( )*

103. AWARD ELIGIBILITY REQUIREMENTS.

***01. Equipment**. Only equipment identified as allowable in the application guidance may be purchased with grant funds. ( )*

***02. Award Consideration Criteria**. To be considered for an award, an Applicant must meet all of the following requirements: ( )*

***a.** Be a Consolidated Emergency Communication Center collecting emergency communications fees in accordance with Title 31, Chapter 48, Idaho Code, delivering or seeking to deliver Consolidated Emergency Communication services; ( )*

***b.** Comply and warrant to comply with applicable law, including but not limited to Section 31-4804(5), Idaho Code; ( )*

***c.** Agree to follow all applicable bid laws in the acquisition of any equipment paid for with grant funds; and ( )*

***d.** Agree to use any grant funds in strict compliance with the grant terms and agree to provide written documentation or proof of expenses to the Commission as required by the grant terms. ( )*

104. AWARD RECOMMENDATION.
If the Commission uses a grant subcommittee, the Commission shall request a recommendation from the grant subcommittee regarding the distribution of grant funds. ( )

***01. Assessment and Validation of Need**. The grant subcommittee, if used, shall review grant applications prior to making a recommendation about awards. ( )*

***02. Contingency Awards**. The grant subcommittee, if used, may make contingency award recommendations in the event that other awards are withdrawn as described in Section 047 of these rules. ( )*

***03. Commission Approval**. Whether or not a grant subcommittee is used, all awards must be approved by the Commission. If no grant subcommittee is used, the Commission shall review the applications and may make provision for contingency awards, as set forth above. ( )*

105. CRITERIA FOR EQUIPMENT.
The following weighted criteria shall be used to evaluate applications for equipment, with maximum weight available for each criterion as indicated. Greater value will be assigned to conditions indicating greater need for each criterion: ( )

***01. Applicant Equipment Age**. The age of similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating older equipment will be assigned greater value. The application demonstrating replacement of older equipment with NG911/I3 compliant equipment will be assigned a greater value. ( )*

***02. Applicant Equipment Availability**. Similar equipment currently in use by the Applicant; value = fifteen (15). The application demonstrating lack of similar equipment will be assigned greater value; the application demonstrating no access to similar equipment will be assigned the maximum value. ( )*

***03. Anticipated Use**. An estimate of the frequency of use for the equipment; value = fifteen (15). The application demonstrating a higher ratio of dispatch per capita will be assigned greater value. ( )*

***04. Duration of Use**. An estimate of the length of time the equipment would be used, expressed as a mean time; value = fifteen (15). The application demonstrating a greater duration of use will be assigned greater value. ( )*

***05. Fiscal Resource Base**. The proportion of operating budget supported by tax revenue; value = ten (10). The application demonstrating less revenue from taxes expressed as a percent of total revenue for the most*

recent year will be assigned greater value. ( )

***06. City, County and Taxing District Endorsement**. The proportion of Idaho cities, counties and Taxing Districts within which the Applicant's primary service area occurs that endorse the application; value = five (5). The application demonstrating a larger percent of endorsements will be assigned greater value. ( )*

***07. Population**. The number of people residing in the Consolidated Emergency Communications Center's service area; value = five (5). The application demonstrating a greater number of people will be assigned greater value. ( )*

***08. Square Mileage**. The area served by the Consolidated Emergency Communications Center; value = fifteen (15). The application demonstrating a greater square mileage will be assigned greater value. ( )*

***09. Number of Law Enforcement, Fire and Emergency Medical Service Agencies Dispatched**. Value = ten (10). The application demonstrating a higher number of law enforcement, fire and emergency medical service agencies will be assigned greater value. ( )*

***10. Narrative**. The need for and lack of availability of funds from other sources as documented by the Applicant; value = twenty (20). The application demonstrating a greater need for and lack of available funds will be assigned greater value. The application seeking to share resources and equipment with other 911 service areas (e.g., host remote) will be assigned a greater value. ( )*

106. WITHDRAWAL, DISCONTINUANCE, ASSIGNMENT.

***01. Withdrawal**. Any Applicant may withdraw or forfeit an application at any time. ( )*

***02. Ability to Compete**. The withdrawal of an application does not affect the Applicant's ability to reapply in a subsequent Grant Cycle. ( )*

***03. Discontinuance**. The Commission may discontinue the grant award or approval process if any of the following occurs: ( )*

***a.** The chief administrative official of the Applicant or his designee submits a notice of withdrawal in written form to the Commission. ( )*

***b.** The Applicant does not provide required documentation during the award or approval process. ( )*

***c.** The Commission determines the Applicant is out of compliance with any award eligibility requirements. ( )*

***04. No Right of Assignment**. The Applicant may not assign any award to another Applicant or another Consolidated Emergency Communications Center. ( )*

108. FRAUDULENT INFORMATION ON GRANT APPLICATION.
Providing false information on any application or document submitted under these rules is grounds for declaring the Applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the Commission. ( )

109. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is adopted under the authority of Sections 46-804 and 46-805, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. This chapter is titled IDAPA 15.06.04, "Rules Governing the Idaho Youth Challenge Program." (3-20-14)

02. Scope. These rules establish the criteria for student enrollment in the Idaho Youth Challenge Program. (3-20-14)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.

***01. High School Dropout**. An individual who is no longer attending any school and who has not received a secondary school diploma or certificate from a program of equivalency for such diploma.* *( )*

***02*. Participant**. A participant is a person who meets all of the participant selection criteria for the Youth Challenge Program and is selected to participate in the Program from among the eligible applicants. (3-20-14)

***03*. Program**. The National Guard Youth Challenge Program is a community-based program that leads, trains, and mentors at-risk youth so that they may become productive citizens. *( )*

011. -- 099. (RESERVED)

100. PARTICIPANT SELECTION CRITERIA.
A participant must meet the following criteria: *( )*

01. Age. *B*e between the ages of sixteen (16) *and* eighteen (18) years of age at the time of entry into the Program. *( )*

02. Residency *Requirements*. *( )*

a. *B*e a citizen or legal resident of the United States. *( )*

b. *Be a* resident of the state of Idaho. *( )*

03. Physical and Mental Requirements. (3-20-14)

a. *B*e physically and mentally capable to participate in the Program in which enrolled with reasonable accommodation for physical and other disabilities. *( )*

b. ***R***eceive a physical examination in conjunction with their into the Program. Such examination must be sufficient *to reach* a conclusion as to the Participant's ability to complete the program with *only* reasonable accommodation for physical and other disabilities. The examination may also include testing for substance abuse and pregnancy insofar as directed by Department of Defense instructions and insofar as such testing does not conflict with state law. *( )*

04. Additional Requirements. *( )*

a. *B*e a high school dropout. *( )*

b. *B*e unemployed or underemployed at the time an application is submitted. *( )*

c. *N*ot currently on parole or probation for anything other than juvenile status offenses *or misdemeanors*. *( )*

d. *N*ot be serving time or awaiting sentencing. *( )*

e. *N*ot under indictment, charged with or convicted of a crime that is considered a felony when charged as an adult. *( )*

f. *B*e free from use of illegal substances. *( )*

g. *Be* free from the illegal use of substances. *( )*

***101*. -- 999. (RESERVED)**

MILITARY DIVISION – OFFICE OF EMERGENCY MANAGEMENT

15.06.05 – HAZARDOUS SUBSTANCE RESPONSE RULES

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the authority of Section 39-7101, Idaho Code. (3-23-10)

001. TITLE AND SCOPE (RULE 1).

01. Title. This chapter is titled IDAPA 15.06.05, "Hazardous Substance Response Rules." (3-23-10)

02. Scope. This chapter *creates* local emergency response authorities and regional response teams; the location and jurisdiction of regional response teams; liability for incident response costs; notification to local and state emergency response authorities of a hazardous substance incident; call-out procedure for emergency response agencies; and cost recovery and cost reimbursement procedures for emergency response agencies. *( )*

002. -- 009. (RESERVED).

010. DEFINITIONS (RULE 10).
In addition to the definitions in Section 39-7103, Idaho Code, the following definitions apply: *( )*

01. Emergency. As used in this chapter, **"**emergency**"** means a release or threat of release that, in the reasonable judgment of the local emergency response authority in consultation with the office, threatens immediate harm to the environment or the health and safety of any individual and that requires immediate action for the containment or control of a hazardous or potentially hazardous substance to prevent, minimize or mitigate harm to the public health, safety or the environment that may result if action is not taken. (3-23-10)

02. Emergency Responder. Person affiliated with an emergency response agency who is dispatched to the scene upon notification of a hazardous substance incident. Emergency responders may be local, state, federal or industry personnel who have received appropriate hazardous materials training as defined by OSHA and EPA Regulations. (3-23-10)

03. EPCRA. Emergency Planning and Community Right to Know Act of 1986 (Title III of the Superfund Amendments and Reauthorization Act).. (3-23-10)

04. Hazardous Substance. (3-23-10)

a. Any **"**hazardous substance**"** within the scope of section 101(14) of the Federal Comprehensive Environmental Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601(14); (3-23-10)

b. Any hazardous substance within the scope of section 104 of the Federal Hazardous Materials Transportation Act, (HMTA) 49 U.S.C. 1803, and the federal Department of Transportation regulations; (3-23-10)

c. Any extremely hazardous substance within the scope of section 302 of the federal Emergency Planning and Community Right-to-Know Act, (EPCRA) 42 U.S.C. 11002; and (3-23-10)

d. Any explosive or weapon of mass destruction utilized or threatened to be utilized in an act of terrorism, crime, or other threat to public safety. (3-23-10)

05. Hazardous Substance Incident. An emergency circumstance that requires a response by the state emergency response team or the local emergency response agency to monitor, assess and evaluate a release of, or the threat of a release of, a hazardous or potentially hazardous substance. A hazardous substance incident may require containment or confinement, or both, but does not include site cleanup or remediation efforts after the incident commander has determined the emergency has ended. (3-23-10)

06. Hazardous Substance Incident Levels. (3-23-10)

a. Regulatory - A release of a 'reportable quantity' or less of regulated hazardous substances that does not require any emergency response on the part of public sector responders. This would include a weapons of mass destruction threat or suspicion that is clearly a hoax without requiring additional analysis. (3-23-10)

b. Level 1 - An incident involving any response, public or private, to an incident involving hazardous substances that can be contained, extinguished, or abated using resources immediately available to the responders having jurisdiction. A weapons of mass destruction threat or suspicion that requires local response to determine whether or not it is life threatening. A Level 1 incident presents little risk to the environment or public health with containment and clean up. (3-23-10)

c. Level 2 - An incident involving hazardous substances that is beyond the capabilities of the first responders on the scene, and may be beyond the capabilities of the public sector response agency having jurisdiction. Level 2 incidents may require the services of a state of Idaho Regional Response Team, or other state/federal assistance. This would include a weapons of mass destruction (WMD) threat or incident that involves explosives, release of toxic material, release of radioactive material or release of organisms that can be analyzed and stabilized using resources that exist within the state of Idaho. This level may pose immediate and long-term risk to the environment and public health and could result in a local declaration of disaster. (3-23-10)

d. Level 3 - An incident involving weapons of mass destruction/hazardous substances that will require multiple state of Idaho Regional Response Teams or other resources that do not exist within the state of Idaho. These incidents may require resources from state and federal agencies and private industry. Level 3 incidents generally pose extreme, immediate and long-term risk to the environment and public health. (3-23-10)

07. Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. A plan that has the primary purpose of providing effective, coordinated emergency response support to local government by state, federal and private agencies for incidents involving the release of hazardous substances in the state of Idaho. (3-23-10)

a. This plan may be activated independently of the Idaho Emergency Operations Plan. (3-23-10)

b. Authority for implementation of this plan is derived from the Idaho Hazardous Substance Emergency Response Act (Section 39-7101, Idaho Code), the Idaho Environmental Protection and Health Act (Section 39-101 et seq., Idaho Code), the Hazardous Waste Management Act (Section 39-4401 et.seq., Idaho Code), Protection from Radioactive Materials (Section 39-3005, Idaho Code), and the Idaho Homeland Security Act of 2004 (Section 46-1001 et.seq. Idaho Code). (3-23-10)

08. Idaho Regional Response Teams. Teams authorized by the state of Idaho which are trained and equipped to respond to incidents. These teams are based in local departments and respond outside local jurisdictional boundaries upon approval of the Office of Emergency Management. These teams include Regional Hazardous Materials Response Teams (RRT's) as well as Regional Bomb Squads (RBS's). The Idaho Regional Response Teams are responsible to the local Incident Commander. (3-23-10)

09. Incident Command System (ICS)/National Incident Management System (NIMS). (3-23-10)

a. The Incident Command System (ICS) is a widely used and understood emergency management tool. It is used by local, state, and federal agencies and the military. Use of the ICS for hazardous substance incidents is required by the Emergency Planning and Community Right to Know Act (EPCRA), Occupational Safety and Health Administration (OSHA) rules, and the National Fire Protection Association (NFPA). It has been adopted by the National Fire Academy as the model system for the fire service. It is also the policy of the state of Idaho that the ICS will be used in response to hazardous substance incidents. (3-23-10)

b. NIMS is a system mandated by Homeland Security Presidential Directive 5 that provides a consistent nationwide approach for federal, state, local and tribal governments, as well as the private-sector and nongovernmental organizations to work effectively and efficiently together to prepare for, respond to, and recover from domestic incidents, regardless of cause, size or complexity. NIMS builds on the ICS and the proven principles of unified command. (3-23-10)

10. Incident Commander. The designated local emergency response official responding to an incident. This person must be fully trained and knowledgeable in the ICS. Normally, the Incident Commander will be the local fire chief or law enforcement officer. A local jurisdiction, based on its local plan and resource assessment, may request that Idaho State Police assume incident command, particularly for incidents on U.S. Interstates and state-

numbered routes, including rights-of-way. The Incident Commander shall be in overall charge of all efforts at the scene. (3-23-10)

11. Local Emergency Planning Committee (LEPC). A committee made up of local officials, citizens, and industry representatives charged with development and maintenance of emergency response plans for the local emergency planning district as per EPCRA requirements. Planning procedures include hazardous substance inventories, compilation and coordination of fixed facility emergency response plans, hazardous substance response training, and assessment of local response capabilities. (3-23-10)

12. Local Emergency Response Authority (LERA). Persons or agencies designated under Section 39-7105, Idaho Code, by the city or county to be the local representatives for hazardous substance incidents. *( )*

13. Regional Response Team (RRT). See Idaho Regional Response Teams. (3-23-10)

14. Reimbursable Costs. The total eligible expenses arising from response to a hazardous substance incident. Such costs generally include, but are not limited to, all state and local government expenses that result from the assessment and emergency phases of the response activity. Emergency response costs do not include clean-up or disposal costs of hazardous substances, except as may be reasonably necessary and incidental to preventing a release or threat of release of a hazardous substance or in stabilizing the emergency response incident. (3-23-10)

15. Responsible Party or Spiller. Any person who owns, controls, transports, or causes the release, or threat of release of a hazardous substance which is involved in a hazardous substance incident shall be strictly liable for the costs arising out of the response. (3-23-10)

16. **State Communications**. The communications center for state hazardous substance emergency response. State Communications can be reached by calling 1-800-632-8000 or 208-846-7610. Notification of State Communications is the first step in initiating the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. (3-23-10)

17. **State Emergency Response Teams**. See Idaho Regional Response Teams. (3-23-10)

18. **State On-Scene Coordinator (SOSC)**. To ensure coordination during a significant incident, the state of Idaho will provide a State On-Scene-Coordinator (SOSC). The SOSC will facilitate the formation of a unified command during a significant incident. Under Unified Command, the Idaho SOSC can assist by acquiring resources, advising on response issues, and coaching the jurisdiction in overall scene management. The SOSC will coordinate with responding state agencies and be the principal state spokesperson in the unified command as an advocate for all state interests. In this role, the SOSC effectively represents the interests of the state of Idaho and its citizens. The Idaho SOSC will be appointed by the Director, Office of Emergency Management or his designee. (3-23-10)

011. ABBREVIATIONS (RULE 11).

01. A.G. Office of the State Attorney General. (3-23-10)

02. CERCLA. Comprehensive Environmental Response, Compensation, and Liability Act. (3-23-10)

03. CFR. Code of Federal Regulations. (3-23-10)

04. **HMTA**. Hazardous Materials Transportation Act. (3-23-10)

05. **NIMS**. National Incident Management System. (3-23-10)

06. **NFPA**. National Fire Protection Act. (3-23-10)

07. **OEM**. Office of Emergency Management. (3-23-10)

08. **OSHA**. Occupational Safety and Health Administration. (3-23-10)

09. **RBS**. Idaho Regional Bomb Squads. (3-23-10)

10. **WMD**. Weapons of Mass Destruction. (3-23-10)

012. -- 099. (RESERVED).

100. REGIONAL RESPONSE TEAMS, DESIGNATION, LOCATION, JURISDICTION, ACTIVATION, LIABILITY (RULE 100).

01. Designation of Regional Response Teams. Each RRT shall be capable of responding to hazardous substance emergencies within their jurisdiction or, when approved by the state of Idaho Military Division, Office of Emergency Management, in their region, or other state regions. (3-23-10)

02. Location of Regional Response Teams.

Area of Idaho	Primary Response Counties	Designation	Team Location – Headquarters
Region 1	Benewah, Bonner, Boundary, Kootenai, Shoshone	RRT1 Spokane Bomb Squad	Kootenai County Fire and Rescue Spokane Police and Sheriff's Office
Region 2	Clearwater, Idaho, Latah, Lewis, Nez Perce	RRT2 Explosive response covered by Spokane and RBS3	Lewiston Fire Department
Region 3	Adams, Canyon, Gem, Owyhee, Payette, Washington (Gem response may come from Boise for access time)	RRT3 RBS3	Nampa/Caldwell Fire Department Nampa Police Department
Region 4	Ada, Boise, Camas, Elmore, Valley (Gem response for access time)	RRT4 RBS4	Boise Fire Department Boise Police Department
Region 5	Blaine, Cassia, Gooding, Jerome, Lincoln, Minidoka, Twin Falls (Minidoka and Cassia may come from Southeast for access time)	RRT 3, 4, 6, 7 RBS5	RRTs 3, 4, 6, 7 Twin Falls Police Department
Region 6	Bannock, Bear Lake, Butte, Bingham, Caribou, Franklin, Oneida, Power (Minidoka and Cassia responses for access time)	RRT6 Explosive response covered by RBS5 and RBS7	Pocatello Fire Department
Region 7	Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison, Teton	RRT7 RBS7	Idaho Falls Fire Department Idaho Falls Police Department

(3-23-10)

03. Primary Jurisdiction of Regional Response Teams. See Subsection 100.02 of these rules. (3-23-10)

04. Activation of Regional Response Teams. (3-23-10)

a. The party requesting the assistance must: (3-23-10)

i. Contact State Communications at 1-800-632-8000, or (208-846-7610. (3-23-10)

ii. State their name; (3-23-10)

iii. State their location; (3-23-10)

iv. Provide a description of the incident; and (3-23-10)

v. Provide a description of the type of assistance requested. (3-23-10)

b. RRTs must be activated by the Military Division when responding outside their jurisdiction by calling Idaho State Communications Center at 800-632-8000, or (208) 846-7610. This will initiate a conference call, if appropriate, with the appropriate state and local agencies. (3-23-10)

c. If the request is for assistance with a drug lab response, the requester must call State Communications and provide the following: (3-23-10)

i. That the request is for a drug lab response; (3-23-10)

ii. The location, which must include, at a minimum, the county and city; (3-23-10)

iii. The type of assistance requested; and (3-23-10)

iv. The nature of the chemicals released. (3-23-10)

d. State communications will then page the OEMHS Haz Mat Duty Officer, provide the information, and request authorization for the RRT to respond. Upon authorization, State Communications will notify the appropriate RRT of the request for assistance and the authorization to respond. (3-23-10)

05. Reimbursable Costs -- Hazardous Substances. (3-23-10)

a. State emergency response teams and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident, to the Military Division for reimbursement. Eligible documented costs, incurred as a result of their response to a hazardous substance incident, may be submitted. (3-23-10)

b. State emergency response teams and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident, to the Military Division for reimbursement. The following documented costs, incurred as a result of their response to a hazardous substance incident may be submitted: (3-23-10)

i. Disposable materials and supplies acquired, consumed, and expended specifically for the purpose of the response; (3-23-10)

ii. Compensation of employees for the time and efforts devoted specifically to the response that are not otherwise provided for in the applicant's operating budget, (e.g., overtime pay for permanent fulltime and other than fulltime employees, recalled personnel or responding when out of jurisdiction); (3-23-10)

iii. Rental or leasing of equipment used specifically for the response (e.g., protective equipment or clothing, scientific and technical equipment); (3-23-10)

iv. Replacement costs for equipment owned by the applicant that is contaminated beyond reuse or repair, if the applicant can demonstrate that the equipment was a total loss and that the loss occurred as a result of the response (e.g., self-contained breathing apparatus irretrievably contaminated during the response); (3-23-10)

v. Decontamination of equipment contaminated during the response; (3-23-10)

vi. Special technical services required for the incident response (e.g., costs associated with the time and efforts of local and state personnel to recover the costs of response, and of technical experts/specialists not otherwise provided for by the local government); (3-23-10)

vii. Medical monitoring, treatment of response personnel, and rehabilitation costs as per 29 CFR 1910, 120; NFPA 1500; and NFPA 1584; and (3-23-10)

viii. Laboratory costs for purposes of analyzing samples taken during the response. (3-23-10)

c. Reimbursement for costs will not exceed the duration of the response. Reimbursements shall only be paid after the military division finds that the actions by the RRT, or the emergency response agency were taken in response to a hazardous substance incident as defined in this chapter. (3-23-10)

06. Liability for Response Costs - Non-Hazardous Substances. (3-23-10)

a. *The spiller or transporter of non-hazardous substances shall be liable for the response costs of spills of non-hazardous substances* when the spiller or transporter failed to comply with laws or regulations of the state or federal government which would have facilitated identification of the product as a non-hazardous substance. *( )*

b. The person or entity requesting assistance in all other instances *shall be liable for response costs to non-hazardous substances*. *( )*

101. -- 199. (RESERVED).

200. LERA (RULE 200).

01. Responsibility of Local Governments for Establishment of LERA. LERA means those persons or agencies designated under Section 39-7105, Idaho Code, by the city, or county to be the first response authority for hazardous substance incidents. *( )*

02. LERA Powers and Duties. (3-23-10)

a. Respond: The LERA will provide response to all hazardous substances incidents in their jurisdiction and to any incidents that overlap jurisdictions in a fashion consistent with the Idaho Hazardous Materials/ WMD Incident Command and Response Support Plan except as provided in a local emergency response plan. (3-23-10)

b. Initiate State Plan: The LERA may request state assistance consistent with the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan through the State Communications Center. (3-23-10)

c. Right to Claim Reimbursement: The LERA may claim reimbursement or costs associated with a hazardous substance emergency directly from the spiller, shipper, transporter, property owner, occupant or party responsible for the hazardous substance incident or emergency. The LERA may, in the alternative, if the incident was reported to the State, submit claims to the Military Division within sixty (60) days after the termination of an incident for the reimbursement of documented costs listed in Section 39-7109, Idaho Code, incurred as a result of response to a hazardous substance incident. Reimbursement claims for those costs may not exceed the duration of the response. The LERA must provide a written incident report and any backup documentation to the Military Division containing the following information: (3-23-10)

i. Date and time of incident; (3-23-10)

ii. Type of incident; (3-23-10)

iii. Level of response required; (3-23-10)

iv. Response action taken; (3-23-10)

v. Time the incident commander declared the incident ended; (3-23-10)

vi. Follow-up information; and (3-23-10)

vii. Any other pertinent information such as responsible party etc. (3-23-10)

d. Local Planning: The LERA, as a member of the LEPC, should be an active participant in their jurisdictions emergency planning process. (3-23-10)

03. Training. Personnel responding to a hazardous substance emergency shall be trained, at a minimum, to the Hazardous Substance Operations level. In addition, all personnel must have training in the ICS and the NIMS set forth in the Idaho Hazardous Materials/WMD Incident Command and Response Support Plan. (3-23-10)

04. LERA Notification. (3-23-10)

a. Any spiller, shipper, transporter, property owner, occupant or other person with knowledge of a hazardous substance incident shall notify the LERA of any spill or potential spill. (3-23-10)

b. Notification of the LERA may be through the local dispatch authorities or through the State Communications Center at 800-632-8000, or (208) 846-7610. The State Communications Center shall notify the Local Authority and the Military Division ***HAZMAT*** Duty Officer. *( )*

c. The spiller, shipper, transporter, property owner, occupant or other person with knowledge of a hazardous substance incident notifying the LERA and State Communications Center shall provide their: (3-23-10)

i. Name; (3-23-10)

ii. Address and telephone number; (3-23-10)

iii. An address and telephone number where they can be reached for the duration of the incident. (3-23-10)

d. Such person shall remain available to the incident commander throughout the duration of the incident. (3-23-10)

201. -- 299. (RESERVED).

300. COST REIMBURSEMENT (RULE 300).

01. Submission of Claims and Forms. State RRTs and local emergency response agencies may submit claims within sixty (60) days of the termination of the incident to the State of Idaho, Military Division, for reimbursement of documented and reimbursable costs incurred as a result of their response to a hazardous or potentially hazardous substance incident. Reimbursable costs are those set forth in Section 39-7109, Idaho Code. (3-23-10)

02. Limitations for Seeking Reimbursement, Acceptance of Claims. Claims for reimbursement shall be submitted to the Military Division within sixty (60) days after termination of the hazardous substance incident for the State's determination of payment. Termination of the incident occurs when the Incident Commander declares the incident terminated. The Military Division will review the costs submitted and notify the response agency or agencies as to which costs disqualify for reimbursement within thirty (30) days of receipt. (3-23-10)

03. Claims Against Spiller or Other Responsible Party. (3-23-10)

a. Upon receipt and review of claims for reimbursement within sixty (60) calendar days after close of incident, the Military Division will compile a thirty (30) calendar day demand letter to the responsible party to be sent certified mail, as well as standard mail, with a copy of the complete packet. (3-23-10)

b. If responsible party does not respond or submit payment within thirty (30) calendar days of first letter, a ten (10) calendar day demand letter will be sent certified mail. (3-23-10)

c. If the responsible party has not responded to the ten-day letter; within ten (10) calendar days, a packet will be assembled for the A.G. This packet will include the entire file, and a letter to the A.G. explaining the steps taken and requesting their assistance in collecting the costs. (3-23-10)

d. If the responsible party does not respond to the A.G., upon their recommendation, the packet will be submitted to a Collection Agency. If the incident is submitted to a collection agency, the responsible party will incur additional costs. (3-23-10)

04. Cost Recovery, Deficiency Warrants. The Military Division shall be responsible for recovering documented and reimbursable costs incurred from the spiller. If a spiller is unknown, cannot be located, or refuses to pay upon demand, the Military Division will make recommendations as to payment to the Board of Examiners within one hundred twenty (120) days after termination of the hazardous substance incident. The Board of Examiners may authorize the issuance of deficiency warrants for the purpose of reimbursing reasonable and documented costs associated with emergency response actions taken by response agencies. (3-23-10)

05. Civil Actions. It is the duty of the A.G. to commence any civil action brought by the Military Division pursuant to nonpayment from a spiller. At the request of the Military Division, a political subdivision of the state, or a local governmental entity that has responded to or contained a hazardous substance incident, the A.G. may commence a civil action on their behalf. (3-23-10)

301. DUTY TO COOPERATE.

01. Responding Agencies. Local emergency response authorities, first responders, and regional response teams shall cooperate with the Military Division and the A.G. in collecting and securing payment from the spiller or other responsible party. (3-23-10)

02. Cooperation Provided. Such cooperation includes, but is not limited to: (3-23-10)

a. Allowing lawsuits to be filed in the name of the local jurisdiction, LERA, or regional response team; (3-23-10)

b. Providing testimony and assistance in preparing for trial; (3-23-10)

c. Investigation; (3-23-10)

d. The collection of evidence, including securing photographs or videotape of the spill site; and (3-23-10)

e. Providing relevant test data. (3-23-10)

302. -- 999. (RESERVED).

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO MILITARY DIVISION

DOCKET NO. 15-0600-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant Section 46-804, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 15.06, rules of the Military Division:

IDAPA 15.06
- 15.06.03, *Public Safety Communications Systems Installation and Maintenance Fee Rules*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 1884 –1887**. The pending rule differs from the proposed text as the fee schedules are removed. The previous text directed that the fee schedules were minimum rates that could be adjusted annually based on the Consumer Price Index and/or as contracts are negotiated or renewed. Agency representatives sought this change, because the published fee schedule has not been used; rather, the fees have been negotiated to meet mission needs.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule allows fees to be negotiated various fees associated with fleet communication services or emergency communication services. Those fees include: Fleet Vehicle Equipment Installation, Time and Materials Rate, Microwave Communication Services, Building Space Rental, Radio Communication Equipment Space Rental, and Radio Communication Services. This fee or charge is being imposed pursuant to Section 46-804, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Major Lauren Tschampl at (208) 422-5399.

Dated this 3rd day of October, 2019.

Michael J. Garshak
The Adjutant General
Idaho Military Division
4040 W. Guard, Building 600
Boise, Idaho 83705
(208) 422-5242

15.06.03 – PUBLIC SAFETY COMMUNICATIONS SYSTEMS INSTALLATION AND MAINTENANCE FEE RULES

000. LEGAL AUTHORITY.

This chapter is adopted under the authority of Section 46-804, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. This chapter is titled IDAPA 15.06.03, "Public Safety Communications Systems Installation and Maintenance Fee Rules." (3-20-14)

02. Scope. These rules establish fees for the installation and maintenance of public safety communications systems for local, state, federal, and tribal agencies, emergency, and first responders. (3-20-14)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Public Safety Communications. The ability to transmit voice, video and data sent electronically by means of radio, wireless, data, fiber, leased lines circuits, and digital transmission for emergency and first responders. (3-20-14)

02. Public Safety Communications Systems. Equipment used in providing interoperable means of communications between local, state, federal, and tribal agencies. These systems are designed to give emergency and first responders the ability to respond to normal and emergency situations and carry out normal and emergency operations in the protection of life, property and civil authority. (3-20-14)

03. Interoperable Communications. The ability of emergency response officials to share information via voice and data signals on demand, in real time, when needed, and as authorized, and may include one (1) or more forms of wireless communications and microwave systems. (3-20-14)

04. Wireless Communications. Is the ability to transfer information over distance utilizing electromagnetic waves through space as the medium to send voice, video, data, and information. Wireless communications for interoperability specifically refers to the ability of emergency response officials to share information via voice and data signals on demand, in real time, when needed, and as authorized. (3-20-14)

a. Radio Systems. These wireless systems are typically known as Land Mobile Radio. Land Mobile Radio Systems are the main wireless communications systems deployed by public safety communications for emergency and first responders. (3-20-14)

b. Data Systems. These wireless systems are used to transmit data at rates typically from 1.2 kilobit up to approximately 1 megabit. These systems are used to send data and text messaging utilized by emergency and first responders. (3-27-13)

c. Video Systems. These wireless systems are used to transmit video and closed circuit television (cctv) for use by emergency and first responders. These systems also carry full motion video for broadcast use such as Idaho Public Television. (3-27-13)

d. Broadband Systems. These wireless systems are used to transmit voice, video, and data information in multiple applications. These systems can either be point-to-point links or point to multi-point systems deployed today by emergency and first responders. (3-27-13)

05. Microwave Systems. Equipment or apparatus that utilize electromagnetic wavelengths between 1 meter down to 1 millimeter with the equivalent operating frequency between 0.3 GHz and 300 GHz to transmit and receive information. These transmissions are sent on micro-wave links which is a communications system operating between 0.3 GHz – 300 GHz that use electromagnetic waves to send voice, video and data information over distances ranging from a few feet to several hundred miles. (3-27-13)

011. FEES.

All fees for or associated with fleet communication services or emergency communication services will be determined using the Idaho Military Division standard fee schedule or as negotiated or renewed. ( )

012. -- 999. (RESERVED)

IDAPA 15 – OFFICE OF THE GOVERNOR
IDAHO STATE LIQUOR DIVISION

DOCKET NO. 15-1000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 23-206(b), Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 15, Administrative Rules of the Office of the Governor:

IDAPA 15.10
- 15.10.01, *Rules of the Idaho State Liquor Division*

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 1,888-1,899. The rule making was prompted by the expiration of the rules. The Idaho State Liquor Division has considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to make the rules consistent with any recent statutory changes, clarify and simplify existing language, eliminate redundancies, and reduce or eliminate unnecessary or obsolete restrictions.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. IDAPA 15.10.01 Section 022 allows the following fees to be charged by the Division:

1. Cost Reimbursement. The Division may seek cost reimbursement, as determined by the Division, from Supplier Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a Supplier Representative.

2. Maximum Fee for Samples. There will be a maximum fee of twenty-five dollars ($25) per case charged to Supplier Representatives for Samples.

3. Maximum Fee for Annual Supplier Representative Permit. There will be a maximum fee of fifty dollars ($50) charged to Supplier Representatives each January for an annual permit.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Tony Faraca, Chief Deputy Director, at (208) 947-9414.

Dated this 1st day of October, 2019.

Jeffrey Anderson
Director
Idaho State Liquor Division
Office Hours 8:30AM to 5:00PM
1349 E. Beechcraft Court
Boise, ID 83716
Ph. (208) 947-9400
Fax (208) 947-9401

000. LEGAL AUTHORITY.
These rules are adopted by the Director of the Idaho State Liquor Division pursuant to Section 23-206(b), Idaho Code. *( )*

001. TITLE AND SCOPE.
This chapter is titled IDAPA 15.10.01, "Rules of the Idaho State Liquor Division," Office of the Governor. These rules provide guidance regarding operational aspects of the Division and support and enforce applicable terms in the Idaho Liquor Act, Title 23, Idaho Code. *( )*

***002*. DEFINITIONS.**
The following terms, whenever used in these rules, have the meanings ascribed thereto, unless the context in which they are used clearly requires otherwise. (3-20-97)

01. Bailment. A system of storing Supplier-owned inventory in state-operated Warehouses. The Division holds the Liquor in trust until stock is needed at retail. (3-29-12)

02 Central Office. The main business office and Warehouse of the Idaho State Liquor Division. (3-20-97)

03. Close Relative. A person related by blood or marriage within the second degree of kinship. (3-20-97)

04. Delisting. The process of discontinuing any product offered for sale resulting in the product's removal from the Division's Product Line. The decision to retain or delist a product rests solely with the Director. (3-29-12)

***05*. Director**. The chief executive officer of the Division. (3-29-12)

***06*. Division**. The Idaho State Liquor Division. (3-20-97)

***07*. Distressed Liquor**. Liquor which is not in its original state of packaging. (3-20-97)

***08*. Distributing Station**. A privately owned business that sells Liquor. It operates under an Agreement with the Division pursuant to Title 23, Chapter 3, Idaho Code. Distributing Stations may also be termed Contract Stores. (3-29-12)

***09*. Distillery Distributing Station**. A privately owned business that holds a permit issued by the Alcohol and Tobacco Tax and Trade Bureau (TTB), a manufacturer's license pursuant to Section 23-507, Idaho Code, and sells Liquor to retail customers pursuant to a Special Distributor Agreement with the Division in accordance with Title 23, Chapter 3, Idaho Code. Distillery Distributing Stations are "manufacturers of distilled spirits" under Section 23-509A, Idaho Code. Distillery Distributing Stations may also be termed Contract Stores for purposes of retail sales of Liquor within the state of Idaho. (4-11-15)

***10*. Liquor**. Liquor controlled by the Division has the definition ascribed to it by Section 23-105, Idaho Code, excluding certain beers as defined in Section 23-1002, Idaho Code, and certain Wines as defined in Section 23-1303, Idaho Code. (3-20-97)

***11*. Licensee**. Person authorized to sell beer or Wine by the drink or by the bottle, Liquor by the drink, or any combination thereof. (3-20-97)

***12*. Listing (Listed)**. Liquor that is carried or approved to be carried in the Division's Product Line. (3-20-97)

***13*. Political Office**. A public office for which partisan politics is a basis for nomination, election, or appointment. (3-20-97)

***14*. Price Quotation**. Written verification of detailed product information submitted to the Division by Suppliers. (3-29-12)

15. **Product Line**. Items offered for sale by the Division. (3-29-12)

16. **Promotional Samples**. Liquor furnished by the liquor industry to local representatives for the purpose of promoting the product that are attached to another Liquor product in the liquor store as a value added promotion. (3-29-12)

17. **Retail Store**. Any State Store or Distributing Station. (3-20-97)

18. **Samples**. Liquor furnished by the liquor industry to Supplier Representatives for the purpose of promoting the product. (3-29-12)

19. **Shortage**. Any amount of cash or Liquor less than the true balance as maintained by the Central Office. Liquor Shortages are based on current retail value. (3-20-97)

20. **Special Distributor (Distributor)**. A private business owner authorized to operate a Distributing Station. A Special Distributor is not a state employee. (3-20-97)

21. **Special Distributor Agreement (Agreement)**. The contract signed by a Special Distributor acknowledging the conditions and terms for operation of a Distributing Station in accordance with Idaho Code and the rules of the Division. (3-20-97)

22. **Special Order**. Any item not regularly offered as part of the Division's Product Line. (3-29-12)

23. **State Store**. A Retail Store that sells Liquor. It is operated by state employees under the direct supervision of the Division. (3-20-97)

24. **Supplier**. Any manufacturer, rectifier, importer, wholesaler or Supplier of Liquor, Wine, or related products offered for sale by the Division. (3-29-12)

25. **Supplier Representative**. An individual, company, or entity authorized to represent a Supplier in the state of Idaho. A Supplier Representative may be an individual, a group of individuals operating as a brokerage firm or may be a direct employee of the Supplier. *( )*

26. **Warehouse**. The main Division distribution center and satellite distribution points. *( )*

27. **Wine**. Alcoholic beverages defined in Section 23-1303, Idaho Code. (3-29-12)

28. **Wine Gallon**. The liquid measure equivalent to the volume of two hundred thirty-one (231) cubic inches or one hundred twenty-eight (128) ounces. (3-20-97)

***003*. -- 009. (RESERVED)**

010. RETAIL STORES.

01. Site Location. Based on the criteria set forth in this section and in accordance with Sections 23-301 and 23-302, Idaho Code, the Division will select an appropriate Retail Store site to adequately serve the community. (3-20-97)

02. Site Selection Criteria. The following criteria will be used in selecting a location for a new Retail Store. (3-20-97)

a. Public acceptability of location in accordance with Sections 23-301 and 23-302, Idaho Code. (3-20-97)

b. Location and suitability of premises. (3-20-97)

c. Lease amount may not be the sole determining factor in site selection; final selection will be determined at the discretion of the Director. (3-20-97)

d. Compliance with local zoning. (3-20-97)

03. Customer Refunds and Exchanges. No refunds will be authorized without prior approval of the Director or his authorized agent. ( )

a. Liquor may be exchanged for other Liquor of the same price upon approval of the store manager and presentation of a valid receipt. ( )

b. Liquor brought in for exchange or refund must have been purchased in Idaho through the Division. ( )

c. A re-shelving charge may be assessed on returned items in accordance with Section 23-311, Idaho Code. ( )

04. Disabled Customers. Appropriate special services, in accordance with the Americans with Disabilities Act, will be provided to disabled customers. (3-20-97)

05. Prices. All prices will be in accordance with the published price list set by the Director in accordance with Section 23-207(g), Idaho Code. (3-20-97)

06. Distressed Liquor. Price adjustments can be made on Distressed Liquor with the approval of the Director or his authorized agent. (3-20-97)

07. Hours and Days of Operation. Retail Store hours and days of business operation will be set by the Director in accordance with Section 23-307, Idaho Code. (3-29-12)

08. Audits. Designated personnel will perform periodic inspections of all Retail Stores. Such inspections may be on an unannounced basis and may include physical inventory counts with the assistance of the store manager or authorized agent to assess the suitability of inventory levels and product mix and other evaluation procedures. (3-20-97)

09. Admission to State Store. Division personnel may refuse entry or take actions as are appropriate to cause the removal of a person from a State Store where such person is disrupting performance of the Division's duties or is inconsistent with the Division's charge to curtail the intemperate use of alcoholic beverages. ( )

011. DISTRIBUTING STATIONS.

01. Term of Agreement. Special Distributor Agreements are valid for a specified period as determined at the discretion of the Director. (3-20-97)

02. Transfer of Agreement. A Special Distributor Agreement is a personal privilege and is not considered property nor is it assignable or transferable. (3-20-97)

03. Agreement Renewal. If a Distributing Station's operation exceeds Division expectations, agreement renewals may be allowed. (3-20-97)

04. Agreement Evaluations. Periodic evaluation of the agreement, in accordance with the guidelines set in Subsection 011.06 of these rules, will be considered to insure reasonable, uniform and non-discriminatory criteria and procedures for selection and renewal of special Distributing Stations pursuant to Section 23-302, Idaho Code. These criteria are applicable to the replacement of an existing Distributing Station and to the establishment of a new Distributing Station. (3-20-97)

05. Acceptance of Applications. Applications for Distributing Stations are accepted only in response to public notices. Unsolicited applications may not be held on file pending future openings. (3-20-97)

06. Applicant Selection. The selection of the most qualified applicant for a Distributing Station will be made by the Director in accordance with Section 23-304, Idaho Code. The Director reserves the right to refuse to select any and all applicants. Applicant selection will be based on the following criteria: (3-20-97)

a. Public acceptability in accordance with Section 23-302, Idaho Code. (3-20-97)

b. Location and suitability of premises. (3-20-97)

c. An applicant who has been convicted of, or has plead guilty to, a felony or a crime of moral turpitude (an element of which is dishonesty or fraud) under the laws of any state, U.S. Territory or protectorate, the District of Columbia, or the United States will not be allowed to operate a Distributing Station. (3-20-97)

d. An applicant may not be a Close Relative of, or have a partnership or other close business relationship with any person employed by the Division who has the responsibility for establishing, approving, or influencing policies of the Division. (3-20-97)

e. An applicant may be a spouse, child, employee, blood relative, relative through marriage, or business associate of the retiring or deceased Distributor. (3-20-97)

f. Distributing Stations will not be established in a business that has a license to sell Liquor, Wine or beer by the drink. (3-20-97)

g. Where a new Distributing Station is created by the conversion of a State Store, an employee of that former state store can be chosen by the Division as the Special Distributor. (3-20-97)

h. If an existing Distributing Station is sold, the purchaser may, at the sole and absolute discretion of the Division, continue to operate the Distributing Station under comparable terms and conditions applied to the previous Special Distributor. (3-20-97)

07. General Operational Obligations. Special Distributors will*:* *( )*

a. *F*urnish an adequate building or facility with suitable shelving, display counters and storeroom facilities. It must be kept clean and sanitary at all times. *( )*

b. *N*ot permit a person under the age of nineteen (19) to perform any acts for the Division. *( )*

c. *K*eep the Distributing Station open for business in accordance with Section 23-307, Idaho Code. *( )*

d. *N*ot hold a partisan state elective political office. He cannot be a Close Relative of, or be in a business partnership with a person in a partisan state elective Political Office. *( )*

e. *N*ot present his views as being representative of the views of the Division and not attempt to politically influence customers in any manner. *( )*

f. *M*ake and transmit all reports as required by the Division in the time frame established by the Division. *( )*

g. *Be* responsible for and account to the Division for all Liquor furnished by the Division. *( )*

h. *O*nly sell Liquor received from the Division. *( )*

i. *O*nly sell the Liquor at prices set by the Division in accordance with Section 23-207(h), Idaho Code. *( )*

j. *N*ot deliver Liquor off premise *without explicit authorization of the Director*. *( )*

08. Days and Hours of Operation. (3-20-97)

a. Standard store hours will be in accordance with Subsection 010.07 of these rules. *( )*

b. The Distributor will not exceed the maximum legal selling hours as set by the Director. *( )*

***09. Fiduciary Responsibility**. Any and all unremitted monies collected in trust for the Division, and upon their receipt, are assigned to the Division in accordance with Section 23-401, Idaho Code.* *( )*

***10. Liquor Shortage**. The Distributor must pay the monetary value of any Shortage immediately after receipt of the request for payment from the Division showing its calculation of the Shortage.* *( )*

a. *If the Distributor disputes Liquor or cash Shortages, he may request a hearing before the Director.* *( )*

b. *Any payment made by the Distributor for Liquor shortages may be refunded in whole or in part if the Distributor's position is upheld by the Director.* *( )*

11. **Compensation**. The compensation paid by the Division to the Special Distributor will be full payment for the furnishing of all facilities, operating costs and expenses incidental to the operation of the Distributing Station, as well as full consideration for all services provided by the Distributor. Such compensation will be uniformly applied statewide in accordance with Section 23-305, Idaho Code. (3-20-97)

12. **Supplies**. The Division will furnish books, forms, and equipment for use by the distributor in transacting the business of the Division as required by law or as deemed necessary by the Director. *( )*

13. **Voluntary Agreement Termination**. (3-20-97)

a. The Distributor Agreement may be voluntarily terminated by the Distributor upon written notice by certified mail or personal delivery to the Division or its specified representative specifying the date of termination. (3-20-97)

b. The Distributor will allow reasonable time for the Division to conduct a final inventory audit and to remove all Liquor. (3-20-97)

c. The sale of the Distributor's business to any other party, the forfeiture of the business to a lien holder, or the foreclosure upon the business will be considered voluntary Agreement termination. (3-20-97)

14. **Automatic Agreement Termination**. *U*pon the death of the Distributor, the Distributor's estate, assisted by the Division, will be responsible for the operation of the Distributing Station until the termination date, as established by the Director. *( )*

15. **Agreement Termination for Cause**. The Division may terminate the Special Distributor Agreement for cause which includes, but is not limited to, any of the following: *( )*

a. A Distributor who at any time becomes insolvent or experiences a substantial change in financial condition that, in the judgment of the *Director*, creates a financial risk to the Division. *( )*

b. Significant breach of Distributor's obligations to manage the Distributing Station properly. (3-20-97)

c. Intoxication of the Distributor while in discharge of his duties as a representative of the Division. (3-20-97)

d. Participation of the Distributor in misappropriation of any assets of the Division. (3-20-97)

e. Distributor having been found guilty of a felony or a misdemeanor involving moral turpitude. (3-20-97)

f. Conduct detrimental to the good order of the Division as defined in IDAPA 15.04.01, "Rules of the Division of Human Resources and Personnel Commission," regarding classified conduct unbecoming state classified employees. Note - this Subsection in no way confers employee status on such Special Distributors, however outlines a specifically referenced standard of conduct. (3-20-97)

16. **Agreement Termination Procedure**. (3-20-97)

a. The Division will notify the distributor in writing, by certified mail or personal delivery, specifying the reasons for the proposed termination and *its* effective date. *( )*

b. The Division may notify the Distributor that he is immediately suspended pending final determination of the proposed termination. At the time of notification, the Division reserves the right to conduct a final audit and remove all Division property pending a final determination. (3-20-97)

c. If the Distributor wishes a hearing on the proposed termination to present information relative to the reason given for termination, he will notify the Division in writing within twenty (20) days after receiving the notice of the proposed termination. *( )*

d. Upon termination of this agreement, the Division *will:* *( )*

i. *R*emove all property owned by it; and *( )*

ii. *Cease* compensation to the Distributor as of the date of termination. *( )*

012. DISTILLERY DISTRIBUTING STATIONS.

01. Sample Tasting. Distillery Distributing Stations may offer sample tastings on the premises of its distillery in accordance with Section 23-509A, Idaho Code. (4-11-15)

02. Retail Sales. Distillery Distributing Stations may sell Liquor manufactured on premises of such distillery to customers outside the state of Idaho in accordance with Section 23-507, Idaho Code. Distillery Distributing Stations may sell Liquor manufactured on the premises that is purchased from the Division to customers on the premises of its distillery in accordance with and pursuant to a Special Distributor Agreement with the Division. The Special Distributor Agreement will include governing terms and conditions for retail sale of Liquor manufactured on the premises within the state of Idaho in accordance with Title 23, Chapter 3, Idaho Code, and applicable rules of the Division governing retail sale operations. (4-11-15)

013**. -- 019. (RESERVED)**

020. STORE CONVERSIONS.
The Division reserves the right at any time to convert a State Store to a Distributing Station or to convert a Distributing Station to a State Store. However, this right will not be arbitrarily applied and will not be exercised until relevant facts presented to the Director have been reviewed and there has been reasonable time during which appropriate public notice has been given. (3-20-97)

021. SUPPLIERS.

01. Price Quotations. All Suppliers must submit a Liquor Price Quotation, on forms prescribed by the Division, for every item they have Listed with the Division. *( )*

02. Warranties. Supplier warranties will conform to the requirements of the Tax and Trade Bureau of the *U.S. Department of Treasury*. *( )*

03. Liquor Shipments. Pursuant to Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, all

Liquor transported into the state of Idaho is under the direction of the Division. (3-20-97)

a. It is a violation of Sections 23-203(a), 23-203(b) and 23-207(d), Idaho Code, for any Supplier or other party to ship Liquor into the state of Idaho for purposes not authorized by the Director. *( )*

b. The Division reserves the right to select the mode of transportation for all Liquor within the state of Idaho. (3-20-97)

04. Title to Liquor, Wines and Related Products. Title to Product Line items delivered to the Division passes from the Supplier to the Division when the Division accepts the product, unless Product Line items are delivered directly to Bailment status. (3-29-12)

a. The Division reserves the right to conduct quality tests, or to inspect products directly ordered or withdrawn from Bailment. (3-29-12)

b. The Division reserves the right at any time to reject any Product Line item if, upon tests and inspections, it does not conform to requirements. (3-29-12)

c. In the event the Division rejects any delivery, ownership of products refused will remain with the Supplier. It will be the Supplier's responsibility to remove or relocate any refused products. (3-29-12)

05. Product Returns. Liquor, Wine, or related products may be returned to Suppliers by the Division, in full or partial cases, for "ordinary and usual commercial reasons" in accordance with the Tax and Trade Bureau of the *U.S. Department of Treasury* regulations. *( )*

a. The Supplier will reimburse the Division the full invoice cost plus an additional amount, fixed by the Division, as reimbursement for the Division's expense in shipping to and from its stores and Warehouse. *( )*

06. New Listings. New Listings will be added at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. *( )*

07. Delisting. Delistings are at the discretion of the Director pursuant to Sections 23-203 and 23-207, Idaho Code. *( )*

08. Resident Supplier Representatives. All Suppliers doing business with the Division will have resident representation. *A resident Supplier Representative cannot have been convicted of any felony.* *( )*

09. Supplier Representative Permits. Supplier Representatives will obtain *a* permit from the Division*, that is renewed annually*. *( )*

a. Permits will not be issued to any holder of a bartender's permit, retail licensee, a distributor of restaurant or bar supplies, a distributor of beer or Wine, or to a food wholesaler. (3-20-97)

b. Supplier Representatives may represent more than one (1) Supplier without additional permit fees. (3-29-12)

10. Facility Visitations. Supplier Representatives, or anyone acting in that capacity, will obtain prior approval from the Director or his authorized agent to conduct business at any State Store or Distributing Station. *( )*

11. Samples. Samples are limited to ten (10) Wine Gallons per month and the sizes of Samples are that which are permitted by federal regulation or statute. (3-20-97)

12. Promotional Samples. Promotional Samples are limited to fifty (50) ml size bottles unless specified otherwise by the Director. (3-20-97)

13. Contact With Licensees. No Supplier Representative, or anyone acting in that capacity, will

deliver any Liquor, Wine, or beer sold by the Division to a Licensee's place of business, other than Samples *that are*: *( )*

a. *L*imited to sizes permitted by federal regulation or statute. *( )*

b. *O*nly those items not carried in that Licensee's Product Line. *( )*

14. Liquor Displays. The Division will regulate all Retail Store Liquor displays. *( )*

15. Advertising. Advertising in all Retail Stores will be in accordance with Section 23-607, Idaho Code. *( )*

16. Violations. Any Supplier Representative, or anyone acting in that capacity, who violates Title 23, Idaho Code, or any rule of the Division, *may* subject the manufacturer's, wholesaler's or Distributor's products to removal from the Division's Product Line or; the Director, at his discretion, may suspend (temporarily or permanently) their Supplier Representative permit. *( )*

022. SCHEDULE OF FEES.
The following fees may be charged by the Division. (3-20-97)

01. Cost Reimbursement. The Division may seek cost reimbursement, as determined by the Division, from Supplier Representatives for mailing, shipping, or other expenses incurred by the Division to distribute information or displays to liquor stores at the request of a Supplier Representative. (3-29-12)

02. Maximum Fee for Samples. There will be a maximum fee of twenty-five dollars ($25) per case charged to Supplier Representatives for Samples. (3-29-12)

03. Maximum Fee for Annual Supplier Representative Permit. There will be a maximum fee of fifty dollars ($50) charged to Supplier Representatives each *year* for an annual permit. *( )*

023. -- 030. (RESERVED)

031. STATE STORES SOLICITATION AND PROMOTIONAL PRESENTATIONS.
No school, church, fraternal, civic, political or charitable organization or individual is allowed to solicit for donations or advertise for any purpose within any State Store. (3-20-97)

032. WINES.
Wines may be sold in any State Store or Distributing Station at the discretion of the Director pursuant to Section 23-1305, Idaho Code. All rules of the Division applicable to Liquor are also applicable to Wines and beer sold by the Division. (3-29-12)

033. LIQUOR FUND.
Determination of the final annual amount of cash available for distribution in the liquor account under Section 23-404, Idaho Code, is the amount of the Division's annual net income determined in accordance with Generally Accepted Accounting Principles, consistently applied. Notwithstanding the above, cash reserves are allowed under Section 23-403, Idaho Code. Further, the Director with the concurrence of the State Controller may hold back from distribution additional cash reserves needed for prudent operation of the Division. Such final annual amount of available cash will be disbursed no later than ninety (90) days following each fiscal year end. (3-20-97)

034. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

DOCKET NO. 16-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective at the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and effective upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 6-2604, 16-107, 16-1623, 16-2403, 16-2404, 16-2406, 16-2423, 16-2433, 31-3503C, 37-121, 39-242, 39-605, 39-906, 39-909, 39-910, 39-1003, 39-1118, 39-1301 through 39-1314, 39-1306, 39-1307, 39-1307A, 39-1307B, 39-1603, 39-2401(2), 39-3133, 39-3140, 39-3308, 39-3508, 39-4505(2), 39-4601 et seq., 39-4605, 39-4801, 39-5209, 39-5403, 39-5508, 39-5704, 56-133, 56-135, 56-201 et seq., 56-202, 56-202(b), 56-203, 56-204A, 56-209, 56-216, 56-221, 56-222, 56-227, 56-239, 56-250 through 257, 56-260 through 56-266, 56-1001, 56-1003, 56-1004, 56-1004A, 56-1005, 56-1007, 56-1009, 56-1011 through 56-1023, 54-1119, 56-1610, 66-317, Idaho Code, and 45 CFR Parts 260 - 265, Parts 400 and 401, by Section 412E, Title IV, Pub. L. 96-212, and Medicare Prescription Drug Improvement and Modernization Act of 2003, P.L. 108-173, Section 231, Section 1937 of the Social Security Act, the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C Sections 8621 to 8629, 42 USC 5101 et seq., and 7 USC 7501 et seq.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 16, rules of the Idaho Department of Health and Welfare:

- IDAPA 16.01.02, *Emergency Medical Services (EMS) - Rule Definitions*
- IDAPA 16.01.03, *Emergency Medical Services (EMS) - Agency Licensing Requirements*
- IDAPA 16.01.05, *Emergency Medical Services (EMS) - Education, Instructor, & Examination Requirements*
- IDAPA 16.01.06, *Emergency Medical Services (EMS) - Data Collection and Submission Requirements*
- IDAPA 16.01.12, *Emergency Medical Services (EMS) - Complaints, Investigations, & Disciplinary Actions*
- IDAPA 16.02.02, *Rules of the Idaho Emergency Medical Services (EMS) Physician Commission*
- IDAPA 16.02.06, *Quality Assurance for Idaho Clinical Laboratories*
- IDAPA 16.02.10, *Idaho Reportable Diseases*
- IDAPA 16.02.11, *Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho*
- IDAPA 16.02.12, *Procedures and Testing to be Performed on Newborn Infants*
- IDAPA 16.02.15, *Immunization Requirements for Idaho School Children*
- IDAPA 16.02.19, *Food Safety and Sanitation Standards for Food Establishments*
- IDAPA 16.02.23, *Rules Governing Indoor Smoking*
- IDAPA 16.02.24, *Clandestine Drug Laboratory Cleanup*
- IDAPA 16.03.01, *Eligibility for Health Care Assistance for Families and Children*
- IDAPA 16.03.02, *Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities*
- IDAPA 16.03.04, *Rules Governing the Food Stamp Program in Idaho*
- IDAPA 16.03.05, *Rules Governing Eligibility for Aid to the Aged, Blind and Disabled (AABD)*
- IDAPA 16.03.06, *Refugee Medical Assistance*
- IDAPA 16.03.07, *Rules for Home Health Agencies*
- IDAPA 16.03.08, *Rules Governing the Temporary Assistance for Families in Idaho (TAFI) Program*
- IDAPA 16.03.09, *Medicaid Basic Plan Benefits*
- IDAPA 16.03.10, *Medicaid Enhanced Plan Benefits*
- IDAPA 16.03.11, *Intermediate Care Facilities for People with Intellectual Disabilities (ICFs/ID)*
- IDAPA 16.03.13, *Consumer-Directed Services*
- IDAPA 16.03.14, *Rules and Minimum Standards for Hospitals in Idaho*

- IDAPA 16.03.17, *Medicare/Medicaid Coordinated Plan Benefits*
- IDAPA 16.03.21, *Developmental Disabilities Agencies (DDA)*
- IDAPA 16.03.23, *Rules Governing Uniform Assessments for State-Funded Clients*
- IDAPA 16.03.24, *The Medically Indigent Program - Request for Medicaid Eligibility Determination*
- IDAPA 16.03.25, *Idaho Medicaid Electronic Health Record (HER) Incentive Program*
- IDAPA 16.04.14, *Rules Governing the Low-Income Home Energy Assistance Program*
- IDAPA 16.04.17, *Rules Governing Residential Habilitation Agencies*
- IDAPA 16.05.01, *Use and Disclosure of Department Records*
- IDAPA 16.05.03, *Rules Governing Contested Case Proceedings and Declaratory Rulings*
- IDAPA 16.05.04, *Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding*
- IDAPA 16.05.07, *The Investigation and Enforcement of Fraud, Abuse, and Misconduct*
- IDAPA 16.06.05, *Rules Governing Alleged Medical Neglect of Handicapped Infants*
- IDAPA 16.06.12, *Rules Governing the Idaho Child Care Program (ICCP)*
- IDAPA 16.06.13, *Rules Governing Emergency Assistance for Families and Children*
- IDAPA 16.07.17, *Substance Use Disorders Services*
- IDAPA 16.07.19, *Behavioral Health Certification of Peer Support Specialists and Family Support Partners*
- IDAPA 16.07.25, *Prevention of Minors' Access to Tobacco Products*
- IDAPA 16.07.33, *Adult Mental Health Services*
- IDAPA 16.07.37, *Children's Mental Health Services*
- IDAPA 16.07.39, *Appointment of Designated Examiners and Designated Dispositioners*

This pending rule vacates the following proposed rules previously promulgated as part of the omnibus proposed rulemaking under IDAPA 16, rules of the Idaho Department of Health and Welfare:

- **(VACATED)** *IDAPA 16.01.01, Emergency Medical Services (EMS) - Advisory Committee (EMSAC)*
- **(VACATED)** *IDAPA 16.01.04, Emergency Medical Services (EMS) - Account III Grants*
- **(VACATED)** *IDAPA 16.03.20, Electronic Payments of Public Assistance, Food Stamps, and Child Support*
- **(VACATED)** *IDAPA 16.04.10, Rules Governing the Community Services Block Grant Program*
- **(VACATED)** *IDAPA 16.04.13, Rules Governing the Emergency Food Assistance Program*
- **(VACATED)** *IDAPA 16.04.16, Weatherization Assistance Program in Idaho*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019, Idaho Administrative Bulletin, Vol. 19-6SE, pages 1900 - 3141.

- *IDAPA 16.01.01, Emergency Medical Services (EMS) - Advisory Committee (EMSAC) - The proposed rule is being vacated.
- IDAPA 16.01.02, Emergency Medical Services (EMS) - Rule Definitions - This includes the update of chapter titles and minor corrections.
- IDAPA 16.01.03, Emergency Medical Services (EMS) - Agency Licensing Requirements - This includes the update of chapter titles and minor corrections.
- *IDAPA 16.01.04, Emergency Medical Services (EMS) - Account III Grants - The proposed rule is being vacated.
- IDAPA 16.01.05, Emergency Medical Services (EMS) - Education, Instructor, & Examination Requirements - This includes the update of chapter titles and minor corrections.
- IDAPA 16.01.06, Emergency Medical Services (EMS) - Data Collection and Submission Requirements - This includes the update of chapter titles and minor corrections.
- IDAPA 16.01.12, Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.02, Idaho Emergency Medical Services (EMS) Physician Commission - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.06, Quality Assurance for Idaho Clinical Laboratories - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.10, Idaho Reportable Diseases - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.11, Immunization Requirements for Children Attending Licensed Daycare Facilities in Idaho - This chapter title will change to “Immunization Requirements for Licensed Daycare Facility Attendees” - This includes the update of chapter titles and minor corrections.

- IDAPA 16.02.12, Procedures and Testing to be Performed on Newborn Infants - This chapter title will change to "Newborn Screening" - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.15, Immunization Requirements for Idaho School Children - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.19, Food Safety and Sanitation Standards for Food Establishments (The Idaho Food Code) - This chapter title will change to "Idaho Food Code" - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.23, Rules Governing Indoor Smoking - this chapter will change to "Indoor Smoking"- This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.24, Clandestine Drug Laboratory Cleanup - This includes the update of chapter titles and minor corrections.
- IDAPA 16.03.02, Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities - This chapter title will change to "Skilled Nursing Facilities" - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.04, Rules Governing the Food Stamp Program of Idaho - This chapter title will change to "Idaho Food Stamp Program" - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.05, Eligibility for Aid to the Aged, Blind, and Disabled (AABD) - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.06, Refugee Medical Assistance - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.07, Rules for Home Health Agencies - This Chapter title will change to "Home Health Agencies" - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.08, Rules Governing the Temporary Assistance for Families in Idaho (TAFI) Program - This chapter title will change to "Temporary Assistance for Families in Idaho (TAFI)" - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.09, Medicaid Basic Plan Benefits - This contains strikeouts of obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.10, Medicaid Enhanced Plan Benefits - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.11, Intermediate Care Facilities for People with Intellectual Disabilities (ICF/ID) - This includes the update of chapter title to "Intermediate Care Facilities for Individuals with Intellectual Disabilities (ICF/IID)", updates to titles, and minor corrections.
- IDAPA 16.03.17, Medicare/Medicaid Coordinated Plan Benefits - This includes the update of chapter titles and minor corrections.
- **IDAPA 16.03.20, Electronic Payments of Public Assistance, Food Stamps, and Child Support* - The proposed rule is being vacated.
- IDAPA 16.03.21, Developmental Disabilities Agencies (DDA) - This includes the update of chapter titles and minor corrections.
- IDAPA 16.03.23, Rules Governing Uniform Assessments for State-Funded Clients - The chapter title will be changing to "Uniform Assessments for State-Funded Clients" - This includes the update of chapter titles and minor corrections.
- IDAPA 16.03.24, The Medically Indigent Program - Request for Medicaid Eligibility Determination - this chapter title will change to "The Medically Indigent Program" - Removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.25, Idaho Medicaid Electronic Health Record (HER) Incentive Program - This chapter title will change to "Idaho Medicaid Promoting Interoperability (PI) Program" - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- **IDAPA 16.04.10, Rules Governing the Community Services Block Grant Program* - The proposed rule is being vacated.
- **IDAPA 16.04.13, Rules Governing the Emergency Food Assistance Program* - The proposed rule is being vacated.
- IDAPA 16.04.14, Low-Income Home Energy Assistance Program (LIHEAP) - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- **IDAPA 16.04.16, Weatherization Assistance Program in Idaho* - The proposed rules is being vacated.

- IDAPA 16.04.17, Residential Habilitation Agencies - This includes the update of chapter titles and minor corrections.
- IDAPA 16.05.01, Use and Disclosure of Department Records - This includes the update of chapter titles, legal authority, and minor corrections.
- IDAPA 16.05.03, Rules Governing Contested Case Proceedings and Declaratory Rulings - This chapter title will change to "Contested Case Proceedings and Declaratory Rulings" - Changes include adding required sections, updates of chapter titles and minor corrections.
- IDAPA 16.05.07, The Investigation and Enforcement of Fraud, Abuse, and Misconduct - This includes the update of chapter titles and minor corrections.
- IDAPA 16.06.05, Rules Governing Alleged Medical Neglect of Handicapped Infants - This chapter title will change to "Alleged Medical Neglect of Disabled Infants" - This includes the update of required sections, chapter titles and minor corrections.
- IDAPA 16.06.12, Rules Governing the Idaho Child Care Program (ICCP) - the chapter title will change to "Idaho Child Care Program (ICCP)" - This includes the update of chapter titles and minor corrections.
- IDAPA 16.06.13, Rules Governing Emergency Assistance for Families and Children - This chapter title will change to "Emergency Assistance for Families and Children," the update of required sections, chapter titles, and minor corrections.
- IDAPA 16.07.17, Substance Use Disorders Services - This removes obsolete or redundant language, updates to titles, minor edits, and reduction of restrictive language.
- IDAPA 16.07.19, Behavioral Health Certification of Peer Support Specialists and Family Support Partners - This chapter title will change to "Certification of Peer Support Specialists and Family Support Partners", chapter titles, and minor changes.
- IDAPA 16.07.25, Prevention of Minors' Access to Tobacco Products - This includes the update of chapter titles and minor corrections.
- IDAPA 16.07.33, Adult Mental Health Services - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.07.37, Children's Mental Health Services - This includes the update of chapter titles and minor corrections.
- IDAPA 16.07.39, Appointment of Designated Examiners and Designated Dispositioners - The chapter title will change to "Appointment of Designated Examiners and Dispositioners", removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending rule, contact the Administrative Rules Unit, **dhwrules@dhw.idaho.gov**, 450 W. State Street, 10 Floor, Boise, ID, 83720.

Dated this 16th day of October, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical services program. (7-1-14)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.01.02, "Emergency Medical Services (EMS) – Rule Definitions." (7-1-14)

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

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

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

c. IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements"; (7-1-16)

d. IDAPA 16.01.06, "Emergency Medical Services (EMS) -- Data Collection and Submission Requirements"; (7-1-17)

e. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements"; and (7-1-16)

f. IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations and Disciplinary Actions." (7-1-16)

002. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH B.
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

01. Advanced Emergency Medical Technician (AEMT). An AEMT is a person who: (7-1-14)

a. Has met the qualifications for licensure under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services (EMS) - Personnel Licensing Requirements"; (7-1-14)

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

c. Carries out the practice of emergency medical care within the scope of practice for AEMT determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission"; and ( )

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

02. Advanced Life Support (ALS). The provision of medical care, medication administration and treatment with medical devices that correspond to the knowledge and skill objectives in the Paramedic curriculum currently approved by the State Health Officer and within the scope of practice defined in IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as Paramedics by the Department. ( )

03. Advanced Practice Registered Nurse. A person who meets all the applicable requirements and is licensed to practice as an Advanced Practice Registered Nurse under Sections 54-1401 through 54-1418, Idaho Code. (7-1-14)

04. **Advertise**. Communication of information to the public, institutions, or to any person concerned, by any oral, written, graphic means including handbills, newspapers, television, radio, telephone directories, billboards, or electronic communication methods. (7-1-14)

05. **Affiliation**. The formal association that exists between an agency and those licensed personnel who appear on the agency's roster, which includes active participation, collaboration, and involvement. Affiliation can be demonstrated by the credentialing of licensed personnel by the agency medical director. (7-1-14)

06. **Affiliating EMS Agency**. The licensed EMS agency, or agencies, under which licensed personnel are authorized to provide patient care. (7-1-14)

07. **Air Ambulance**. Any privately or publicly owned fixed wing aircraft or rotary wing aircraft used for, or intended to be used for, the transportation of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. This may include dual or multipurpose vehicles *that* otherwise comply with Sections 56-1011 through 56-1023, Idaho Code, and specifications established in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." *( )*

08. **Air Medical Agency**. An agency licensed by the Department that responds to requests for patient care and transportation from hospitals and EMS agencies using a fixed wing aircraft or rotary wing aircraft. (7-1-14)

09. **Air Medical**. A service type available to a licensed air medical EMS agency that meets the requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." (7-1-17)

10. **Air Medical Response**. The deployment of an aircraft licensed as an air ambulance to an emergency scene intended for the purpose of patient treatment and transportation. (7-1-14)

11. **Air Medical Support**. A service type available to a licensed air medical EMS agency that meets the requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." (7-1-17)

12. **Ambulance**. Any privately or publicly owned motor vehicle, or nautical vessel, used for, or intended to be used for, the transportation of sick or injured persons who may need medical attention during transport. This may include dual or multipurpose vehicles *that* otherwise comply with Sections 56-1011 through 56-1023, Idaho Code, and specifications established in IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." *( )*

13. **Ambulance-Based Clinicians**. Licensed Registered Nurses and Advanced Practice Registered Nurses who are currently licensed under Sections 54-1401 through 54-1418, Idaho Code, and Physician Assistants who are currently licensed under Sections 54-1801 through 54-1841, Idaho Code. (7-1-14)

14. **Ambulance Agency**. An agency licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," operated with the intent to provide personnel and equipment for medical treatment at an emergency scene, during transportation or during transfer of persons experiencing physiological or psychological illness or injury who may need medical attention during transport. (7-1-14)

15. **Ambulance Certification**. Designation issued by the EMS Bureau to a licensed EMR indicating that the EMR has successfully completed ambulance certification training, examination, and credentialing as required by the EMS Bureau. The ambulance certification allows a licensed EMR to serve as the sole patient care provider in an ambulance during transport or transfer. (4-11-19)

16. **Applicant**. Any organization that is requesting an agency license under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," including the following: (7-1-14)

a. An organization seeking a new license; (7-1-14)

b. An existing agency that intends to: (7-1-14)

i. Change the level of licensed personnel it utilizes; (7-1-14)

ii. Change its geographic coverage area (except by agency annexation); or (7-1-14)

iii. Begin or discontinue providing patient transport services. (7-1-14)

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

18. Basic Life Support (BLS). The provision of medical care, medication administration, and treatment with medical devices *that* correspond to the knowledge and skill objectives in the EMR or EMT curriculum currently approved by the State Health Officer and within scope of practice defined in IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as EMRs or EMTs by the Department. *( )*

19. Board. The Idaho Board of Health and Welfare. (7-1-14)

011. DEFINITIONS AND ABBREVIATIONS C THROUGH E.
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

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

02. Candidate. Any individual who is requesting an EMS personnel license under Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) - Personnel Licensing Requirements." (7-1-14)

03. Certificate of Eligibility. Documentation that an individual is eligible for affiliation with an EMS agency, having satisfied all requirements for an EMS Personnel Licensure except for affiliation, but is not licensed to practice. (7-1-14)

04. Certification. A credential issued by a designated certification body for a specified period of time indicating that minimum standards have been met. (7-1-16)

05. Certified EMS Instructor. An individual approved by the Department, who has met the requirements in IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," to provide EMS education and training. (7-1-16)

06. CoAEMSP. Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions. (7-1-16)

07. Cognitive Exam. Computer-based exam to demonstrate knowledge learned during an EMS education program. (7-1-16)

08. Compensated Volunteer. An individual who performs a service without promise, expectation, or receipt of compensation other than payment of expenses, reasonable benefits or a nominal fee to perform such services. This individual cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. (7-1-14)

09. Conflict of Interest. A situation in which a decision by personnel acting in their official capacity is influenced by or may be a benefit to their personal interests. (7-1-16)

10. Consolidated Emergency Communications System. Facilities, equipment, and dispatching

services directly related to establishing, maintaining, or enhancing a 911 emergency communications service defined in Section 31-4802, Idaho Code. (7-1-16)

11. Core Content. Set of educational goals, explicitly taught (and not taught), focused on making sure that all students involved learn certain material tied to a specific educational topic and defines the entire domain of out-of-hospital practice and identifies the universal body of knowledge and skills for emergency medical services providers who do not function as independent practitioners. (7-1-16)

12. Course. The specific portions of an education program that delineate the beginning and the end of an individual's EMS education. A course is also referred to as a "section" on the NREMT website. (7-1-16)

13. Course Physician. A physician charged with reviewing and approving both the clinical and didactic content of a course. (7-1-16)

14. Credentialing. The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. (7-1-14)

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

16. Critical Care. The treatment of a patient with continuous care, monitoring, medication, or procedures requiring knowledge or skills not contained within the Paramedic curriculum approved by the State Health Officer. Interventions provided by Paramedics are governed by the scope of practice defined in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (7-1-14)

17. Critical Care Agency. An ambulance or air medical EMS agency that advertises and provides all of the skills and interventions defined as critical care in IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission." (7-1-14)

18. Department. The Idaho Department of Health and Welfare. (7-1-14)

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

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

21. Emergency. A medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (7-1-14)

22. Emergency Medical Care. The care provided to a person suffering from a medical condition, the onset of which is sudden, that manifests itself by symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in placing the person's health in serious jeopardy, or in causing serious impairments of bodily function or serious dysfunction of any bodily organ or part. (7-1-14)

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

a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; (7-1-14)

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

c. Carries out the practice of emergency medical care within the scope of practice for EMR

determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and (7-1-14)

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

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

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

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

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

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

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

25. Emergency Medical Services Advisory Committee (EMSAC). The statewide advisory board of the Department as described in IDAPA 16.01.01, "Emergency Medical Services (EMS) - Advisory Committee (EMSAC)." EMSAC members are appointed by the Director of the Idaho Department of Health and Welfare to provide counsel to the Department on administering the EMS Act. (7-1-14)

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

a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; (7-1-14)

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

c. Carries out the practice of emergency medical care within the scope of practice for EMT determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Rules of the Idaho Emergency Medical Services (EMS) Physician Commission"; and (7-1-14)

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

27. Emergency Scene. Any setting outside of a hospital, with the exception of the inter-facility transfer, in which the provision of EMS may take place. (7-1-14)

28. EMS Agency. Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," that operates an air medical service, ambulance service, or non-transport service. (7-1-14)

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

30. EMS Education Program. The institution or agency holding an EMS education course. (7-1-16)

31. EMS Education Program Director. The individual responsible for an EMS educational program or programs. (7-1-16)

32. EMS Education Program Objectives. The measurable outcome used by the program to determine

student competencies. (7-1-16)

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

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

35. EMS Response. A response to a request for assistance that would involve the medical evaluation or treatment of a patient, or both. (7-1-17)

012. DEFINITIONS AND ABBREVIATIONS F THROUGH N.
For the purposes of the Emergency Medical Services (EMS) chapters of rules, the following definitions apply: (7-1-14)

01. Formative Evaluation. Assessment, including diagnostic testing, is a range of formal and informal assessment procedures employed by teachers during the learning process. (7-1-16)

02. Full-Time Paid Personnel. Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Full-time personnel differ from part-time personnel in that full-time personnel work a more regular schedule and typically work more than thirty-five (35) hours per week. (7-1-14)

03. Glasgow Coma Score (GCS). A scale used to determine a patient's level of consciousness. It is a rating from three (3) to fifteen (15) of the patient's ability to open *their* eyes, respond verbally, and move normally. The GCS is used primarily during the examination of patients with trauma or stroke. *( )*

04. Ground Transport Time. The total elapsed time calculated from departure of the ambulance from the scene to arrival of the ambulance at the patient destination. (7-1-14)

05. Hospital. A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. (7-1-14)

06. Instructor. Person who assists a student in the learning process and meets the requirements to obtain instructor certification. (7-1-16)

07. Instructor Certification. A credential issued to an individual by the Department for a specified period of time indicating that minimum standards for providing EMS instruction under IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," have been met. (7-1-16)

08. Intermediate Life Support (ILS). The provision of medical care, medication administration, and treatment with medical devices *that* correspond to the knowledge and skill objectives in the AEMT curriculum currently approved by the State Health Officer and within the scope of practice defined in IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission," by persons licensed as AEMTs by the Department. *( )*

09. Investigation. Research of the facts concerning a complaint or issue of non-compliance *that* may include performing or obtaining interviews, inspections, document review, detailed subject history, phone calls, witness statements, other evidence, and collaboration with other jurisdictions of authority. *( )*

10. License. A document issued by the Department to an agency or individual authorizing specified activities and conditions as described under Sections 56-1011 through 56-1023, Idaho Code. (7-1-14)

11. Licensed Personnel. Those individuals who are licensed by the Department as Emergency Medical Responders (EMR), Emergency Medical Technicians (EMT), Advanced Emergency Medical Technicians (AEMT), and Paramedics. (7-1-14)

12. Licensed Professional Nurse. A person who meets all the applicable requirements and is licensed to practice as a Licensed Professional Nurse under Sections 54-1401 through 54-1418, Idaho Code. (7-1-14)

13. Local Incident Management System. The local system of interagency communications, command, and control established to manage emergencies or demonstrate compliance with the National Incident Management System. (7-1-14)

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

15. National Emergency Medical Services Information System (NEMSIS). NEMSIS is the national repository used to store national EMS data. NEMSIS sets the uniform data conventions and structure for the Data Dictionary. NEMSIS collects and provides aggregate data available for analysis and research through its technical assistance center accessed at http://www.nemsis.org. (7-1-17)

16. National Registry of Emergency Medical Technicians (NREMT). An independent, non-governmental, not for profit organization *that* prepares validated examinations for the state's use in evaluating candidates for licensure. *( )*

17. Non-transport Agency. An agency licensed by the Department, operated with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended to be the service that will actually transport sick or injured persons. (7-1-14)

18. Non-transport Vehicle. Any vehicle operated by an agency with the intent to provide personnel or equipment for medical stabilization at an emergency scene, but not intended as the vehicle that will actually transport sick or injured persons. (7-1-14)

19. Nurse Practitioner. An Advanced Practice Registered Nurse, licensed in the category of Nurse Practitioner, as defined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-14)

013. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.

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

01. Optional Module. Optional modules (OMs) are skills identified by the EMS Physician Commission that exceed the floor level Scope of Practice for EMS personnel and may be adopted by the agency medical director. (7-1-16)

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

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

a. Has met the qualifications for licensure in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.07, "Emergency Medical Services - Personnel Licensing Requirements"; (7-1-14)

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

c. Carries out the practice of emergency medical care within the scope of practice for paramedic determined by the Idaho Emergency Medical Services Physician Commission (EMSPC), under IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission"; and *( )*

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

04. Paramedicine. Providing emergency care to sick and injured patients at the advanced life support

(ALS) level with defined roles and responsibilities to be credentialed at the Paramedic level. (7-1-16)

05. Part-Time Paid Personnel. Personnel who perform a service with the promise, expectation, or receipt of compensation for performing such services. Part-time personnel differ from the full-time personnel in that the part-time personnel typically work an irregular schedule and work less than thirty-five (35) hours per week. (7-1-14)

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

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

08. Patient Care. The performance of acts or procedures under emergency conditions in responding to a perceived individual need for immediate care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury. (7-1-14)

09. Patient Movement. The relatively short distance transportation of a patient from an off-highway emergency scene to a rendezvous with an ambulance or air ambulance. (7-1-14)

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

11. Physician. A person who holds a current active license in accordance with Section 54-1803, Idaho Code, issued by the State Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restrictions upon, or actions taken against, *their* license. *( )*

12. Physician Assistant. A person who meets all the applicable requirements and is licensed to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code. (7-1-14)

13. Planned Deployment. The deliberate, planned placement of EMS personnel outside of an affiliating agency's deployment model declared on the application under which the agency is currently licensed. (7-1-14)

14. Prehospital. A setting where emergency medical care is provided prior to or during transport to a hospital. (7-1-16)

15. Psychomotor Exam. Practical demonstration of skills learned during an EMS education course. (7-1-16)

16. REPLICA. The Recognition of EMS Personnel Licensure Interstate Compact known as REPLICA that allows recognition of EMS personnel licensed in other jurisdictions that have enacted the compact to have personnel licenses reciprocated in the state of Idaho. (7-1-17)

17. Response Time. The total time elapsed from when the agency receives a call for service to when the agency arrives and is available at the scene. (7-1-14)

18. Seasonal. An agency that is active and operational only during a period of time each year that corresponds to the seasonal activity that the agency supports. (7-1-17)

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

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

21. Summative Evaluation. End of topic or end of course evaluation that covers both didactic and

practical skills application. (7-1-16)

22. **Supervision**. The medical direction by a licensed physician of activities provided by licensed personnel affiliated with a licensed ambulance, air medical, or non-transport service, including: (7-1-14)

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

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

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

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

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

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

25. **Uncompensated Volunteer**. An individual who performs a service without promise, expectation, or receipt of any compensation for the services rendered. An uncompensated volunteer cannot be a part-time or full-time employee of the same organization performing the same services as a volunteer and employee. (7-1-14)

014. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. (7-1-14)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.01.03, "Emergency Medical Services (EMS) – Agency Licensing Requirements." (7-1-14)

02. Scope. These rules include the categories of EMS agencies, eligibility requirements and standards for the licensing of EMS agencies, utilization of air medical services, and the initial application and renewal process for EMS agencies licensed by the state. (7-1-14)

002. INCORPORATION BY REFERENCE.
The Board of Health and Welfare has adopted the "Minimum Equipment Standards for Licensed EMS Services," edition 2016, version 1.0, as its standard for minimum equipment requirements for licensed EMS Agencies and incorporates it by reference. Copies of these standards may be obtained from the Department, as described in Section 005 of these rules, or online at: http://www.idahoems.org. (3-29-17)

003. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions," apply. (7-1-14)

011. -- 074. (RESERVED)

075. INVESTIGATION OF COMPLAINTS FOR EMS LICENSING VIOLATIONS.
Investigation of complaints and disciplinary actions for EMS agency licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions." (7-1-14)

076. ADMINISTRATIVE LICENSE OR CERTIFICATION ACTION.
Any license or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license or certification actions, including fines, imposed by the EMS Bureau for any action, conduct, or failure to act that is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions." (7-1-14)

077. -- 099. (RESERVED)

EMS AGENCY GENERAL LICENSURE REQUIREMENT
(Sections 100 - 199)

100. AGENCY LICENSE REQUIRED.
Any organization that advertises or provides ambulance, air medical, or non-transport emergency medical services in Idaho must be licensed as an EMS agency under the requirements in Sections 56-1011 through 56-1023, Idaho Code, and this chapter of rules. (7-1-14)

101. EXEMPTION OF EMS AGENCY LICENSURE.
An organization, licensed without restriction to provide emergency medical services in another state and not restricted from operating in Idaho by the Department, may provide emergency medical services in Idaho within the limits of its license without an Idaho EMS license only when the organization meets one (1) of the following: (7-1-14)

01. Interstate Compact with Idaho. The organization holds an EMS license in another state where an interstate compact specific to EMS agency licensure with Idaho is in effect. (7-1-14)

02. Emergency, Natural, or Man-made Disaster. The organization is responding to an emergency, or a natural or man-made disaster, declared by federal, state, or local officials and the services of the organization are requested by an entity of local or state government in Idaho. (7-1-14)

03. Transfer of Patient From Out-of-State Medical Facility. The organization is: (7-1-14)

a. Transferring a patient from an out-of-state medical facility to a medical facility in Idaho. The organization may return the patient to the point of origin; or (7-1-14)

b. Transferring a patient from an out-of-state medical facility through the state of Idaho. (7-1-14)

04. Transport of Patient From Out-of-State Emergency Scene. The organization is: (7-1-14)

a. Transporting a patient from an out-of-state emergency scene to a medical facility in Idaho; or (7-1-14)

b. Transporting a patient to a rendezvous with another ambulance. (7-1-14)

102. SERVICES PROVIDED BY A LICENSED EMS AGENCY.
An EMS agency can provide only those services that are within the agency's service type, clinical level, and operational declarations stated on the most recent license issued by the Department, except when the agency has a planned deployment agreement described in Section 603 of these rules. (7-1-14)

103. ELIGIBILITY FOR EMS AGENCY LICENSURE.
An entity is eligible for EMS agency licensure upon demonstrated compliance with the requirements in Idaho statutes and administrative rules in effect at the time the Department receives the application. (7-1-14)

104. -- 199. (RESERVED)

EMS AGENCY LICENSURE MODEL
(Sections 200 - 299)

200. EMS AGENCY-- LICENSING MODEL.

01. Licensing an EMS Agency. An eligible EMS agency in Idaho is licensed using a descriptive model that bases the agency licensure on the declarations made in the most recent approved initial or renewal application. An EMS agency must provide only those EMS services described in the most recent application on which the agency was issued a license by the Department. (7-1-14)

02. EMS Agency License Models. An EMS agency license is based on the agency's service types, clinical levels, license duration, and operational declarations. Geographic coverage areas and resources may differ between the service types, clinical levels, and operational declarations under which an agency is licensed. (7-1-14)

03. EMS Agency Providing Both Air Medical and Ground-Based EMS Services. An EMS agency that provides both air medical and ground-based EMS services must be licensed accordingly and meet all the requirements of an air medical and either an ambulance or non-transport agency, depending on the ground EMS services provided. (7-1-14)

04. Multiple Organization EMS Agency. An EMS agency may be comprised of multiple organizations licensed under a single responsible authority to which the governing officials of each organization agree. The authority must establish a deployment strategy that declares in which areas and at what times within their geographical response area will be covered by each declared service type, clinical level, and operational declaration. (7-1-14)

201. EMS AGENCY -- SERVICE TYPES.
An EMS agency may be licensed as one (1) or more service types. An agency that provides multiple service types must meet the minimum requirements for each service type provided. The following are the agency services types available for EMS agency licensure. (7-1-14)

01. Ground Agency Service Types. (7-1-14)

a. Non-transport. (7-1-14)

b. Ambulance. (7-1-14)

02. Air Medical Agency Service Types. (7-1-14)

a. Air Medical. (3-29-17)

b. Air Medical Support. (3-29-17)

202. EMS AGENCY -- CLINICAL LEVELS.
An EMS agency is licensed at one (1) or more of the following clinical levels depending on the agency's highest level of licensed personnel and life support services advertised or offered. (7-1-14)

01. Non-transport: (7-1-14)

a. EMR/BLS; (7-1-14)

b. EMT/BLS; (7-1-14)

c. AEMT/ILS; or (7-1-14)

d. Paramedic/ALS. (7-1-14)

02. Ambulance: (7-1-14)

a. EMR (with Ambulance Certification)/BLS; (4-11-19)

b. EMT/BLS; (7-1-14)

c. AEMT/ILS; (7-1-14)

d. Paramedic/ALS; or (7-1-14)

e. Paramedic/ALS Critical Care. (7-1-14)

03. Air Medical: (3-29-17)

a. Paramedic/ALS; or (7-1-14)

b. Paramedic/ALS Critical Care. (7-1-14)

04. Air Medical Support; (3-29-17)

a. EMT/BLS; (3-29-17)

b. AEMT/ILS; or (3-29-17)

c. Paramedic/ALS. (3-29-17)

203. EMS AGENCY -- LICENSE DURATION.
Each EMS agency must identify the license duration for each license type. License durations are: (7-1-14)

01. Ongoing. The agency is licensed to provide EMS personnel and equipment for an ongoing period of time and plans to renew its license on an annual basis. (7-1-14)

02. Limited. The agency is licensed to provide EMS personnel and equipment for the duration of a specific event or a specified period of time with no expectation of renewing the agency license. (7-1-14)

03. Seasonal. The agency is licensed to provide EMS personnel and equipment for the duration of time each year that corresponds to the seasonal activity that the agency supports. (3-29-17)

204. GROUND EMS AGENCY -- OPERATIONAL DECLARATIONS.
An agency providing ground services is licensed with one (1) or more of the following operational declarations depending on the services that the agency advertises or offers. (7-1-14)

01. Prehospital. The prehospital operational declaration is available to an agency that: (7-1-16)

a. Has primary responsibility for responding to calls for EMS within their designated geographic coverage area; and (7-1-16)

b. Is dispatched to prehospital emergency medical calls by a consolidated emergency communications system. (7-1-16)

02. Prehospital Support. The prehospital support operational declaration is available to an agency that: (7-1-16)

a. Provides support under agreement to a prehospital agency having primary responsibility for responding to calls for EMS within a designated geographic coverage area; and (7-1-16)

b. Is dispatched to prehospital emergency medical calls by a consolidated emergency communications system. (7-1-16)

03. Community Health EMS. The community health EMS operational declaration is available to an agency with a prehospital operational declaration or prehospital support operational declaration that provides personnel and equipment for medical assessment and treatment at a non-emergency scene or at the direction of a physician or independent practitioner. (7-1-16)

04. Transfer. The transfer operational declaration is available to an ambulance agency that provides EMS personnel and equipment for the transportation of patients from one (1) medical care facility in their designated geographic coverage area to another. An agency with this operational declaration must declare which sending facilities it routinely responds to if requested. (7-1-14)

05. Standby. The standby operational declaration is available to an agency that provides EMS personnel and equipment to be staged at prearranged events within their designated geographic coverage area. (7-1-14)

06. Non-Public. The non-public operational declaration is available to an agency that provides EMS personnel and equipment intended to treat patients who are employed or contracted by the license holder. An agency with a non-public operational declaration is not intended to treat members of the general public. A non-public agency must maintain written plans for patient treatment and transportation. (7-1-14)

07. Hospital. The hospital operational declaration is available to an agency whose primary responsibility is hospital or clinic activity and utilizes licensed EMS personnel in its facility to assist with patient care and movement. (3-29-17)

205. AIR MEDICAL AGENCY -- OPERATIONAL DECLARATIONS.
An agency providing air medical services is licensed with one (1) or more of the following operational declarations depending on the services that the agency advertises or offers. Service levels, geographic coverage areas, and resources may differ between the operational declarations under which an agency is licensed. (7-1-16)

01. Air Medical Transport. The air medical transport operational declaration is available to an air medical agency that provides transportation of patients by air ambulance from a rendezvous or emergency scene to a medical care facility within its designated geographic coverage area. (7-1-14)

02. Air Medical Transfer. The air medical transfer operational declaration is available to an Air Medical I agency that provides transportation of patients by air ambulance from one (1) medical care facility in its designated geographic coverage area to another. An agency with this operational declaration must declare which sending facilities it routinely responds to if requested. (7-1-14)

03. Air Medical Support. The air medical support operational declaration is available to an air medical agency that provides transportation of patients from an emergency scene to a rendezvous with a ground or air medical transport agency within its designated response area. (7-1-16)

206. -- 209. (RESERVED)

210. AMBULANCE EMS AGENCY -- PATIENT TRANSPORT OR TRANSFER.
An agency that is licensed as an ambulance service is intended for patient transport or transfer. (7-1-14)

01. Transport. An ambulance agency may provide transportation of patients from a rendezvous or emergency scene to a rendezvous or medical care facility when that agency is licensed with one (1) of the following operational declarations: (7-1-14)

a. Prehospital; (7-1-14)

b. Prehospital Support; or (7-1-14)

c. Standby. (7-1-14)

02. Transfer. An ambulance agency that provides the operational declaration of transfer can provide transportation of patients from one (1) medical care facility within their designated geographic coverage area to another. (7-1-14)

211. AIR MEDICAL EMS AGENCY -- PATIENT TRANSPORT, TRANSFER, OR SUPPORT.
An agency that is licensed with an air medical service type is intended for patient transport, transfer, or support. (3-29-17)

01. Transport. An air medical agency that provides the operational declaration of air medical transport may provide transportation of patients from a rendezvous or emergency scene to a medical care facility. (7-1-14)

02. Transfer. An air medical agency that provides the operational declaration of air medical transfer can provide transportation of patients from one (1) medical care facility within their designated geographic coverage area to another. (7-1-14)

03. Support. An air medical agency that provides the operational declaration of air medical support can provide patient movement from a remote area or scene to a rendezvous point where care will be transferred to another licensed air medical or ground transport service for transport to definitive care. An air medical support agency must report all patient movement events to the Department within thirty (30) days of the event. (3-29-17)

212. NON-TRANSPORT EMS AGENCY -- PATIENT MOVEMENT.
A non-transport agency is an agency that is not intended for patient transport and cannot advertise ambulance services. A non-transport agency can move a patient by vehicle only when: (7-1-14)

01. Accessibility of Emergency Scene. The responding ambulance or air ambulance agency cannot access the emergency scene. (7-1-14)

02. Licensed Personnel Level. Patient care is provided by EMS personnel licensed at: (7-1-14)

a. EMT level or higher; or (7-1-14)

b. EMR level only when the patient care integration agreement under which the non-transport agency operates addresses and enable patient movement. The agency must ensure that its personnel are trained and credentialed in patient packaging and movement. (7-1-14)

03. Rendezvous with Transport EMS Agency. Movement of the patient is to rendezvous with an ambulance or air ambulance agency during which the EMS personnel must be in active communication with the ambulance or air ambulance with which they will rendezvous. (7-1-14)

04. Report Patient Movement. A non-transport agency must report all patient movement events to the Department within thirty (30) days of the event. (7-1-14)

213. -- 299. (RESERVED)

PERSONNEL REQUIREMENTS FOR EMS AGENCY LICENSURE
(Sections 300 - 399)

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

01. Personnel Requirements for EMS Agency Licensure. Each agency must ensure availability of affiliated personnel licensed and credentialed at or above the clinical level for the entire anticipated call volume for each of the agency's operational declarations. (7-1-16)

02. Personnel Requirements for an Agency Utilizing Emergency Medical Dispatch. An agency dispatched by a consolidated emergency communications system that uses an emergency medical dispatch (EMD) process to determine the clinical needs of the patient must ensure availability of personnel licensed and credentialed at clinical levels appropriate to the anticipated call volume for each of the clinical levels the agency provides. (7-1-16)

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

301. AMBULANCE EMS AGENCY -- PERSONNEL REQUIREMENTS.
Each ambulance agency must ensure that there are two (2) crew members on each patient transport or transfer. The crew member providing patient care, at a minimum, must be a licensed EMR with an ambulance certification or a licensed EMT. (4-11-19)

302. AIR MEDICAL EMS AGENCY -- PERSONNEL REQUIREMENTS.
Each air medical agency must ensure that there are two (2) crew members, not including the pilot, on each patient transport or transfer. The crew member providing patient care, at a minimum, must be a licensed EMR with an ambulance certification or a licensed EMT. An air medical agency must also demonstrate that the following exists. (4-11-19)

01. Personnel for Air Medical Agency. An Air Medical agency must ensure that each flight includes at a minimum, one (1) licensed registered nurse and one (1) Paramedic. Based on the patient's need, an exception for transfer flights may include a minimum of one (1) licensed respiratory therapist and one (1) licensed registered nurse, or two (2) licensed registered nurses. (3-29-17)

02. Personnel for Air Medical Support Agency. An Air Medical Support agency must ensure that each flight includes at a minimum, two (2) crew members with one (1) patient care provider licensed at or above the agency's highest clinical level of licensure. (3-29-17)

01. Personnel for Air Medical Agency. An Air Medical agency must ensure that each flight includes at a minimum, one (1) licensed registered nurse and one (1) Paramedic. Based on the patient's need, an exception for transfer flights may include a minimum of one (1) licensed respiratory therapist and one (1) licensed registered nurse, or two (2) licensed registered nurses. (3-29-17)

02. Personnel for Air Medical Support Agency. An Air Medical Support agency must ensure that each flight includes at a minimum, two (2) crew members with one (1) patient care provider licensed at or above the agency's highest clinical level of licensure. (3-29-17)

303. CRITICAL CARE -- PERSONNEL REQUIREMENTS.
Each ambulance or air medical agency that advertises the provision of critical care clinical capabilities must affiliate and deploy EMS personnel trained and credentialed to provide all critical care skills described in IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission." *( )*

304. PLANNED DEPLOYMENT -- PERSONNEL REQUIREMENTS.
Planned deployment allows affiliated EMS personnel to act and provide predetermined services outside of their affiliating agency's geographic coverage area. It can allow EMS personnel licensed at a higher clinical level to provide patient care within their credentialed scopes of practice even when the agency into which the planned deployment occurs is licensed at a lower clinical level. A planned deployment agreement must be formally documented and meet all the requirements listed in Section 603 of these rules. (7-1-14)

305. AMBULANCE-BASED CLINICIANS -- PERSONNEL REQUIREMENTS.

01. Ambulance-Based Clinician Certified by Department. An EMS agency that advertises or provides out-of-hospital patient care by affiliating and utilizing a currently licensed registered nurse, advanced practice registered nurse, or physician assistant, as defined in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions," must ensure that those individuals maintain a current ambulance-based clinician certificate issued by the Department. See Section 306 of these rules for exceptions to this requirement. (7-1-14)

02. Obtaining an Ambulance-Based Clinician Certificate. An agency, on behalf of an individual who desires an ambulance-based clinician certificate, must provide the following information on the Department's application for a certificate: (7-1-14)

a. Documentation that the individual holds a current, unrestricted license to practice issued by the Board of Medicine or Board of Nursing; and (7-1-14)

b. Documentation that the individual has successfully completed an ambulance-based clinician course; or (7-1-14)

c. Documentation that the individual has successfully completed an EMT course. (7-1-14)

03. Maintaining an Ambulance-Based Clinician Certificate. An ambulance-based clinician certificate is valid for as long as the holder of the certificate is continuously licensed by *their* respective licensing board. *( )*

04. Revocation of an Ambulance-Based Clinician Certificate. The Department may revoke an ambulance-based clinician certificate based on the procedures for administrative license actions described in IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (7-1-14)

05. Licensed Personnel Requirements and Ambulance-Based Clinicians. An EMR/BLS, EMT/BLS, or AEMT/ILS agency may use ambulance-based clinicians to meet the licensed personnel requirements for agency licensure. An ALS agency, licensed with an ALS transfer declaration described in Section 204.04 of these

rules, may use ambulance-based clinicians to meet the licensed personnel requirements for the transfer declaration. (7-1-16)

06. Agency Responsibilities for Ambulance-Based Clinicians. The agency must verify that each ambulance-based clinician possess a current ambulance-based clinician certificate issued by the Department. The agency must ensure that any ambulance-based clinician meets additional requirements of the corresponding licensing board. (7-1-14)

306. UTILIZING PHYSICIAN ASSISTANTS, LICENSED REGISTERED NURSES OR ADVANCED PRACTICE REGISTERED NURSES.
An AEMT/ILS ambulance agency may use a non-certified physician assistant, licensed registered nurse, or advanced practice registered nurse as the crew member who is providing ILS patient services, only when accompanied by a licensed EMR with an ambulance certification or a licensed EMT in the patient compartment of the transport vehicle. (4-11-19)

307. -- 399. (RESERVED)

EMS AGENCY VEHICLE REQUIREMENTS
(Sections 400 - 499)

400. EMS AGENCY -- VEHICLE REQUIREMENTS.
Not all EMS agencies are required to have emergency response vehicles. An agency's need for emergency response vehicles is based on the deployment needs of the agency that is declared on the most recent agency licensure application. An agency with a deployment pattern that requires emergency response vehicles must meet the following requirements: (7-1-14)

01. Condition of Response Vehicles. Each of the agency's EMS response vehicles must be in sound, safe, working condition. (7-1-14)

02. Quantity of Response Vehicles. Each EMS agency must possess a sufficient quantity of EMS response vehicles to ensure agency personnel can respond to the anticipated call volume of the agency. (7-1-14)

03. Motor Vehicle Licensing Requirements. Each EMS agency's response vehicles must meet the applicable Idaho motor vehicle license and insurance requirements. (7-1-14)

04. Configuration and Standards for EMS Response Vehicles. Each of the EMS agency's response vehicles must be appropriately configured in accordance with the declared capabilities on the most recent agency license. Each EMS response vehicle must meet the minimum requirements for applicable federal, state, industry, or trade specifications and standards for ambulance or air ambulance vehicles as appropriate. Uniquely configured EMS response vehicles must be approved by the Department prior to being put into service. (7-1-14)

05. Location of Emergency Response Vehicles. Each agency's EMS response vehicles must be stationed or staged within the agency's declared geographic coverage area in a manner that allows agency personnel to effectively respond to the anticipated volume and distribution of requests for service. (7-1-14)

401. NON-TRANSPORT EMS AGENCY -- VEHICLES.
A licensed non-transport EMS agency may use ambulance vehicles to provide non-transport services. (7-1-14)

402. EMS AGENCY -- MINIMUM EQUIPMENT INSPECTION REQUIREMENTS.
Any newly acquired EMS response vehicle must be inspected by the Department for medical care supplies and devices as specified in the "Minimum Equipment Standards for Licensed EMS Services," before being put into service, except when the newly acquired vehicle is a replacement vehicle and all equipment and supplies are transferred from the vehicle being taken out of service. (7-1-14)

403. EMS AGENCY -- GROUND VEHICLE SAFETY INSPECTION REQUIREMENTS.
Each EMS agency that deploys emergency vehicles titled and registered for use on roads and highways, with the

exception of all-terrain vehicles and utility vehicles, must meet the following inspection requirements. (7-1-14)

01. New Vehicle Inspection. Each newly acquired, used EMS response vehicle must successfully pass a safety inspection conducted by an inspector authorized to perform Department of Transportation (DOT) vehicle safety inspections prior to the vehicle being put in service. (7-1-14)

02. Response Vehicle Involved in a Crash. Each EMS response vehicle, that is involved in a crash that could result in damage to one (1) or more of the vehicle systems identified in Subsection 403.03 of this rule, must successfully pass a safety inspection conducted by an inspector authorized to perform DOT vehicle safety inspections prior to being put back in service. (7-1-14)

03. Vehicle Inspection Standards. Each vehicle safety inspection must verify conformity to the fuel system, exhaust, wheels and tires, lights, windshield wipers, steering, suspension, brakes, frame, and electrical system elements of a DOT vehicle safety inspection defined in Appendix G to Subchapter B of Chapter III at 49 CFR Section 396.17. (7-1-14)

04. Vehicle Inspection Records. Each EMS agency must keep records of all emergency response vehicle safety inspections. These records must be made available to the Department upon request. (7-1-14)

404. -- 499. (RESERVED)

EMS AGENCY REQUIREMENTS AND WAIVERS
(Sections 500 - 599)

500. EMS AGENCY -- GENERAL EQUIPMENT REQUIREMENTS AND MODIFICATIONS.
Each EMS agency must meet the requirements of the "Minimum Equipment Standards for Licensed EMS Services," incorporated by reference in Section 004 of these rules, in addition to the following requirements: (7-1-14)

01. Equipment and Supplies. Each EMS agency must maintain sufficient quantities of medical care supplies and devices specified in the minimum equipment standards to ensure availability for each response. (7-1-14)

02. Safety and Personal Protective Equipment. Each EMS agency must maintain safety and personal protective equipment for licensed personnel and other vehicle occupants as specified in the minimum equipment standards. This includes equipment for body substance isolation and protection from exposure to communicable diseases and pathogens. (7-1-14)

03. Modifications to an EMS Agency's Minimum Equipment List. An EMS agency's minimum equipment list may be modified upon approval by the Department. Requests for equipment modifications must be submitted to the Department and include clinical and operational justification for the modification and be signed by the EMS agency's medical director. Approved modifications are granted by the Department as either an exception or an exemption. (7-1-14)

a. Exceptions to the agency's minimum equipment list requirements may be granted by the Department upon inspection or review of a modification request, when the circumstances and available alternatives assure that appropriate patient care will be provided for all anticipated incidents. (7-1-14)

b. Exemptions that remove minimum equipment and do not provide an alternative may be granted by the Department following review of a modification request. The request must describe the agency's deployment model and why there is no anticipated need for the specified equipment to provide appropriate patient care. (7-1-14)

04. Review of an Equipment Modification Request. Each request from an EMS agency for equipment modification may be reviewed by either the EMS Advisory Committee (EMSAC), or the EMS Physician Commission (EMSPC), or both. The recommendations from EMSAC and EMSPC are submitted to the Department which has the final authority to approve or deny the modification request. (7-1-14)

a. A modification request of an operational nature will be reviewed by EMSAC; (7-1-14)

b. A modification request of a clinical nature will be reviewed by the EMSPC; and (7-1-14)

c. A modification request that has both operational and clinical considerations will be reviewed by both. (7-1-14)

05. Denial of an Equipment Modification Request. An EMS agency may appeal the denial of an equipment modification request under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

06. Renewal of Equipment Modification. An EMS agency's equipment modification must be reviewed and reaffirmed as follows: (7-1-14)

a. Annually, with the agency license renewal application; or (7-1-14)

b. When the EMS agency changes its medical director. (7-1-14)

501. AIR MEDICAL EMS AGENCY -- EQUIPMENT REQUIREMENTS AND MODIFICATIONS.
Each air medical agency must meet the requirements outlined in Section 500 of these rules, as well as the following: (7-1-14)

01. FAA 135 Certification. The air medical agency must hold a Federal Aviation Administration 135 certification. (7-1-14)

02. Configuration and Equipment Standards. Aircraft and equipment configuration that does not compromise the ability to provide appropriate care or prevent emergency care providers from safely performing emergency procedures, if necessary, while in flight. (7-1-14)

502. -- 509. (RESERVED)

510. EMS AGENCY -- COMMUNICATION REQUIREMENTS.
Each EMS agency must meet the following communication requirements to obtain or maintain agency licensure. (7-1-14)

01. Air Medical EMS Agency. Each air medical agency must have mobile radios of sufficient quantities to ensure that every aircraft and ground crew has the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. (7-1-14)

02. Ambulance EMS Agency. Each ambulance EMS agency must have mobile radios of sufficient quantities to ensure that every vehicle crew has the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. (7-1-14)

03. Non-transport EMS Agency. Each non-transport EMS agency must have mobile or portable radios of sufficient quantities to ensure that agency personnel at an emergency scene have the ability to communicate on the frequencies 155.340 MHZ and 155.280 MHZ, with continuous tone coded squelch system encoding capabilities to allow access to the Idaho EMS radio communications system. (7-1-14)

511. EMS AGENCY -- DISPATCH REQUIREMENTS.
Each EMS agency must have a twenty-four (24) hour dispatch arrangement. (7-1-14)

511. -- 519. (RESERVED)

520. EMS AGENCY -- RESPONSE REQUIREMENTS AND WAIVERS.
Each EMS agency must respond to calls on a twenty-four (24) hour a day basis within the agency's declared geographic coverage area unless a waiver exists. (7-1-14)

521. NON-TRANSPORT EMS AGENCY -- WAIVER OF RESPONSE REQUIREMENT.
The controlling authority of a non-transport agency may petition the Department for a waiver of the twenty-four (24) hour response requirement if one (1) or more of the following conditions exist: (7-1-14)

01. Not Populated on 24-Hour Basis. The community, setting, industrial site, or event being served by the agency is not populated on a twenty-four (24) hour basis. (7-1-14)

02. Not on Daily Basis Per Year. The community, setting, industrial site, or event being served by the agency does not exist on a three hundred sixty-five (365) day per year basis. (7-1-14)

03. Undue Hardship on Community. The provision of twenty-four (24) hour response would cause an undue hardship on the community being served by the agency. (7-1-14)

04. Abandonment of Service. The provision of twenty-four (24) hour response would cause abandonment of the service provided by the agency. (7-1-14)

522. NON-TRANSPORT EMS AGENCY -- PETITION FOR WAIVER.

01. Submit Petition for Waiver. The controlling authority of an existing non-transport agency desiring a waiver of the twenty-four (24) hour response requirement must submit a petition for waiver to the Department. (7-1-14)

02. Waiver Declared on Initial Application. The controlling authority of an applicant non-transport agency desiring a waiver of the twenty-four (24) hour response requirement must declare the request for waiver on the initial application for agency licensure to the Department. (7-1-14)

03. Not Populated on a 24-Hour or Daily Basis -- Petition Content. A non-transport agency with a service area with less than twenty-four (24) hours population or less than three-hundred sixty-five (365) days per year population must include the following information on the petition for waiver of the twenty-four (24) hour response requirement: (7-1-14)

a. A description of the hours or days the geographic area is populated. (7-1-14)

b. A staffing and deployment plan that ensures EMS response availability for the anticipated call volume during the hours or days of operation. (7-1-14)

04. Undue Hardship or Abandonment of Service Waiver -- Petition Content. A non-transport agency must include the following information on the application for waiver of the twenty-four (24) hour response requirement when that provision would cause an undue hardship on the community being served by the agency or abandonment of service: (7-1-14)

a. A description of the applicant's operational limitations to provide twenty-four (24) hour response. (7-1-14)

b. A description of the initiatives underway or planned to provide twenty-four (24) hour response. (7-1-14)

c. A staffing and deployment plan identifying the agency’s response capabilities and back up plans for services to the community when the agency is unavailable. (7-1-14)

d. A description of the collaboration that exists with all other EMS agencies providing services within the applicant’s geographic response area. (7-1-14)

05. Renewal of Waivers. The controlling authority of a non-transport agency desiring to renew a waiver of the twenty-four (24) hour response requirement must declare the request for renewal of the waiver on the annual renewal application for agency licensure to the Department. (7-1-14)

523. -- 524. (RESERVED)

525. AMBULANCE OR AIR MEDICAL EMS AGENCY -- WAIVER OF RESPONSE REQUIREMENT.
The controlling authority of a existing ambulance or air medical agency may petition the Board of Health and for a waiver of the twenty-four (24) hour response requirement if one (1) or more of the following conditions exist: (7-1-14)

01. Undue Hardship on Community. The provision of twenty-four (24) hour response would cause an undue hardship on the community being served by the agency. (7-1-14)

02. Abandonment of Service. The provision of twenty-four (24) hour response would cause abandonment of the service provided by the agency. (7-1-14)

526. AMBULANCE OR AIR MEDICAL EMS AGENCY -- PETITION FOR WAIVER.

01. Submit Petition for Waiver. The controlling authority of an existing ambulance or air medical agency desiring a waiver of the twenty-four (24) hour response requirement must submit a petition for waiver to the Board. (7-1-14)

02. Undue Hardship or Abandonment of Service Waiver -- Petition Content. An ambulance EMS agency must include the following information on the petition for waiver of the twenty-four (24) hour response: (7-1-14)

a. A description of the petitioner's operational limitations to provide twenty-four (24) hour response. (7-1-14)

b. A description of the initiatives underway or planned to provide twenty-four (24) hour response. (7-1-14)

c. A staffing and deployment plan identifying the agency's response capabilities and back-up plans for services to the community when the agency is unavailable. (7-1-14)

d. A description of the collaboration that exists with all other EMS agencies providing services within the petitioner's geographic response area. (7-1-14)

527. -- 529. (RESERVED)

530. EMS AGENCY -- MEDICAL SUPERVISION REQUIREMENTS.
Each EMS agency must comply with medical supervision plan requirements and designate a physician as the agency medical director who is responsible for the supervision of medical activities defined in IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission." *( )*

531. -- 534. (RESERVED)

535. EMS AGENCY -- RECORDS, DATA COLLECTION, AND SUBMISSION REQUIREMENTS.
Each EMS agency must comply with the records, data collection, and submission requirements under IDAPA 16.01.06, "Emergency Medical Services (EMS) -- Data Collection and Submission Requirements." (7-1-17)

536. -- 599. (RESERVED)

EMS AGENCY AGREEMENTS, PLANS, AND POLICIES
(Sections 600 - 699)

600. EMS AGENCY -- AGREEMENTS, PLANS, AND POLICIES.
When applicable, each EMS agency must make the following agreements, plans, and policies, described in Sections

600 through 699 of these rules, available to the Department upon request. (7-1-14)

601. EMS AGENCY -- PATIENT CARE INTEGRATION.

01. Cooperative Agreements for Common Geographic Coverage Area. Each ground EMS agency that shares common geographic coverage areas with other EMS agencies must develop cooperative written agreements that address integration of patient care between the agencies. A ground agency can not provide a level of care that exceeds the clinical level of a prehospital agency receiving the patient, unless the written patient integration plan specifically addresses the continuation of the higher level of care throughout the patient transport. (7-1-14)

02. Cooperative Agreement for Non-Transport Agency. Each non-transport EMS agency must have a cooperative written agreement with a prehospital agency that will provide patient transportation. The agreement must address integration of patient care between the agencies. A non-transport prehospital agency may not provide a level of care that exceeds the clinical level of the responding transport prehospital agency unless the integration plan specifically addresses the continuation of the higher level of care throughout the patient transport. (7-1-14)

602. AIR MEDICAL EMS AGENCY -- PATIENT CARE INTEGRATION.
Each air medical agency must declare and make available its patient care integration policies to the Department upon request. (7-1-14)

603. EMS AGENCY -- PLANNED DEPLOYMENT AGREEMENTS.
Each EMS agency that utilizes a planned deployment must develop a cooperative planned deployment agreement between the EMS agencies. The agreement must include the following: (7-1-14)

01. Chief Administrative Officials. Approval of the chief administrative officials of each EMS agency entering into the agreement either as the receiver of the planned deployment or the provider of the planned deployment. (7-1-14)

02. Medical Directors. Approval of the medical directors of each EMS agency entering into the agreement either as the receiver of the planned deployment or the provider of the planned deployment. (7-1-14)

03. Geographic Locations and Services. The agreement must provide the geographic locations and the services to be provided by the planned deployment. (7-1-14)

04. Shared Resources. The agreement must provide for any sharing of resources between each EMS agency covered by the planned deployment. (7-1-14)

05. Equipment and Medication. The agreement must provide for the availability and responsibility of equipment and medications for each EMS agency covered by the planned deployment. (7-1-14)

06. Patient Integration of Care. The agreement must provide patient integration of care by each EMS agency covered by the planned deployment. (7-1-14)

07. Patient Transport. The agreement must provide for patient transport considerations by each EMS agency covered by the planned deployment. (7-1-14)

08. Medical Supervision. The agreement must have provisions for medical supervision of each EMS agency covered by the planned deployment. (7-1-14)

09. Quality Assurance. The agreement must provide for quality assurance and retrospective case reviews by each EMS agency covered by the planned deployment. (7-1-14)

604. -- 649. (RESERVED)

650. AIR MEDICAL EMS AGENCY -- REQUIRED POLICIES.
Each air medical EMS agency must have the following policies on file with the Department: (7-1-14)

01. Non-Discrimination Policy. Each air medical EMS agency must have written non-discrimination policies to ensure that requests for service are not evaluated based on the patient's ability to pay. (7-1-14)

02. Weather Turn Down Policy. Each air medical EMS agency must immediately notify other air medical agencies in common geographical areas and the Idaho EMS State Communications Center about any requests for services declined or aborted due to weather. Notification to other agencies of flights declined or aborted due to weather must be documented. (7-1-14)

03. Patient Destination Procedure. Each air medical EMS agency must maintain written procedures for the determination of patient destination. These procedures must: (7-1-14)

a. Consider the licensed EMS agency destination protocol and medical supervision received; (7-1-14)

b. Be made available to licensed EMS agencies that utilize their services; (7-1-14)

c. Honor patient preference if: (7-1-14)

i. The requested facility is capable of providing the necessary medical care; and (7-1-14)

ii. The requested facility is located within a reasonable distance not compromising patient care or the EMS system. (7-1-14)

04. Safety Program Policy. Each air medical EMS agency must maintain a safety program policy that includes: (7-1-14)

a. Designation of a safety officer; (7-1-14)

b. Designation of a multi-disciplinary safety committee that includes: pilot, medical personnel, mechanic, communication specialist, and administrative staff; (7-1-14)

c. Post-Accident Incident Plan; (7-1-14)

d. Fitness for Duty Requirements; (7-1-14)

e. Annual Air Medical Resource Management Training; (7-1-14)

f. Procedures for allowing a crew member to decline or abort a flight; (7-1-14)

g. Necessary personal equipment, apparel, and survival gear appropriate to the flight environment. Helmets must be required for each EMS crew member and pilot during helicopter operations; and (7-1-14)

h. A procedure to review each flight for safety concerns and report those concerns to the safety committee. (7-1-14)

05. Training Policy. Each air medical EMS agency must have written documentation of initial and annual air medical specific recurrent training for air ambulance personnel. Education content must include: (7-1-14)

a. Altitude physiology; (7-1-14)

b. Stressors of flight; (7-1-14)

c. Air medical resource management; (7-1-14)

d. Survival; (7-1-14)

e. Navigation; and (7-1-14)

f. Aviation safety issues including emergency procedures. (7-1-14)

651. -- 699. (RESERVED)

EMS AGENCY UTILIZATION OF AIR MEDICAL SERVICES (Sections 700 - 799)

700. EMS AGENCY -- CRITERIA TO REQUEST AN AIR MEDICAL RESPONSE.
Each ground EMS agency must establish written criteria for the agency's licensed EMS personnel that provides decision-making guidance for requesting an air medical response to an emergency scene. This criteria must be approved by the agency's medical director. The following conditions must be included in the criteria: (7-1-14)

01. Clinical Conditions. Each licensed EMS agency must develop written criteria based on best medical practice principles for requesting an air medical response for the following clinical conditions: (7-1-14)

a. The patient has a penetrating or crush injury to head, neck, chest, abdomen, or pelvis; (7-1-14)

b. Neurological presentation suggestive of spinal cord injury; (7-1-14)

c. Evidence of a skull fracture (depressed, open, or basilar) as detected visually or by palpation; (7-1-14)

d. Fracture or dislocation with absent distal pulse; (7-1-14)

e. A glasgow coma score of ten (10) or less; (7-1-14)

f. Unstable vital signs with evidence of shock; (7-1-14)

g. Cardiac arrest; (7-1-14)

h. Respiratory arrest; (7-1-14)

i. Respiratory distress; (7-1-14)

j. Upper airway compromise; (7-1-14)

k. Anaphylaxis; (7-1-14)

l. Near drowning; (7-1-14)

m. Changes in level of consciousness; (7-1-14)

n. Amputation of an extremity; and (7-1-14)

o. Burns greater than twenty percent (20%) of body surface or with suspected airway compromise. (7-1-14)

02. Complications to Clinical Conditions. Each licensed EMS agency must develop a written policy that provides guidance for requesting an air medical response when there are complicating conditions associated with the clinical conditions listed in Subsection 700.01 of this rule. The complicating conditions must include the following: (7-1-14)

a. Extremes of age; (7-1-14)

b. Pregnancy; and (7-1-14)

c. Patient "do not resuscitate" status. (7-1-16)

03. Operational Conditions for Air Medical Response. Each licensed EMS agency must have written criteria to provide guidance to the licensed EMS personnel for the following operational conditions: (7-1-14)

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

b. Air medical response to the scene and transport to an appropriate hospital will be significantly shorter than ground transport time; (7-1-14)

c. Access to time sensitive medical interventions such as percutaneous coronary intervention, thrombolytic administration for stroke, or cardiac care; (7-1-14)

d. When the patient's clinical condition indicates the need for advanced life support and air medical is the most readily available access to advanced life support capabilities; (7-1-14)

e. As an additional resource for a multiple patient incident; (7-1-14)

f. Remote location of the patient; and (7-1-14)

g. Local destination protocols. (7-1-14)

701. EMS AGENCY -- EMS PERSONNEL REQUEST FOR AIR MEDICAL RESPONSE.
Licensed EMS personnel en route to or at the emergency scene have the primary responsibility and authority to request the response of air medical services using the local incident management system and licensed EMS agency written criteria described in Section 700 of these rules. (7-1-14)

702. EMS AGENCY -- CANCELLATION OF AN AIR MEDICAL RESPONSE.
Following dispatch of air medical services, an air medical response may only be canceled upon completion of a patient assessment performed by licensed EMS personnel. (7-1-14)

703. EMS AGENCY -- ESTABLISHED CRITERIA FOR SIMULTANEOUS DISPATCH.
A ground EMS agency may establish criteria for simultaneous dispatch for air and ground medical response. Air medical services will not launch to an emergency scene unless requested in accordance with Subsection 720.01 of these rules. (7-1-14)

704. EMS AGENCY-- SELECTION OF AIR MEDICAL AGENCY.
Each EMS agency has the responsibility to select an appropriate air medical service EMS agency. (7-1-14)

01. Written Policy to Select Air Medical Agency. Each EMS agency must have a written policy that establishes a process to select an air medical service. (7-1-14)

02. Policy for Patient Requests. The written policy must direct EMS personnel to honor a patient request for a specific air medical service when the circumstances will not jeopardize patient safety or delay patient care. (7-1-14)

705. -- 719. (RESERVED)

720. EMS AGENCY -- COMMUNICATIONS WITH AIR MEDICAL SERVICES.

01. Responsibility to Request an Air Medical Response. In compliance with the local incident management system, each EMS agency must establish a uniform method of communication to request an air medical response. (7-1-14)

02. Required Information to Request an Air Medical Response. Requests for an air medical

response must include the following information as it becomes available: (7-1-14)

a. Type of incident; (7-1-14)

b. Landing zone location or GPS (latitude/longitude) coordinates, or both; (7-1-14)

c. Scene contact unit or scene incident commander, or both; (7-1-14)

d. Number of patients if known; (7-1-14)

e. Need for special equipment; (7-1-14)

f. Estimated weight of the patient; (7-1-14)

g. How to contact on scene EMS personnel; and (7-1-14)

h. How to contact the landing zone officer. (7-1-14)

03. Notification of Air Medical Response. The air medical agency must notify the State EMS Communication Center within ten (10) minutes of launching an aircraft in response to a request for medical transport. Notification must include: (7-1-14)

a. The name of the requesting entity; (7-1-14)

b. Location of the landing zone; and (7-1-14)

c. Scene contact unit and scene incident commander, if known. (7-1-14)

04. Estimated Time of Arrival at the Specified Landing Zone. Upon receipt of a request for air medical emergency services, the air medical agency must provide the requesting entity with an estimated time of arrival (ETA) at the location of the specified landing zone. All changes to that ETA must immediately be reported to the requesting entity. ETAs are to be reported in clock time, specific to the appropriate time zone. (7-1-14)

05. Confirmation of Air Medical Response Availability. Upon receipt of a request for an air medical response, the air medical agency must inform the requesting entity whether the specified air medical unit is immediately available to respond. (7-1-14)

721. -- 729. (RESERVED)

730. EMS AGENCY -- LANDING ZONE PROCEDURES FOR AIR MEDICAL RESPONSE.

01. Establish Landing Zone Procedures. A licensed ambulance or non-transport EMS agency in conjunction with an air medical agency must have written procedures for the establishment of a landing zone. These procedures must be compatible with the local incident management system. (7-1-14)

02. Responsibilities of Landing Zone Officer. The procedures for establishment of a landing zone must include identification of a Landing Zone Officer who is responsible for the following: (7-1-14)

a. Landing zone preparation; (7-1-14)

b. Landing zone safety; and (7-1-14)

c. Communication between the ground EMS agency and the air medical agency. (7-1-14)

03. Final Decision to Use Established Landing Zone. The air medical pilot may refuse the use of an established landing zone. In the event of a pilot's refusal to land, the landing zone officer must initiate communications to identify an alternate landing zone. (7-1-14)

731. EMS AGENCY -- REVIEW OF AIR MEDICAL RESPONSES.
Each EMS agency must provide incident specific patient care related data identified and requested by the Department in the review of air medical response criteria. (7-1-14)

732. -- 799. (RESERVED)

EMS AGENCY INSPECTIONS
(Sections 800 - 899)

800. EMS AGENCY -- INSPECTIONS BY THE DEPARTMENT.
Representatives of the Department are authorized to enter an agency's facility at reasonable times to inspect an agency's vehicles, equipment, response records, and other necessary items to determine that the EMS agency is in compliance with governing Idaho statutes and administrative rules. (7-1-14)

801. EMS AGENCY -- INSPECTION REQUESTS AND SCHEDULING.
An applicant eligible for agency inspection must contact the Department to schedule an inspection. In the event that the acquisition of capital equipment, hiring or licensure of personnel is necessary for the inspection process, the applicant must notify the Department when ready for the inspection. (7-1-14)

802. EMS AGENCY -- INSPECTION TIMEFRAME AFTER NOTIFICATION OF ELIGIBILITY.
An applicant must schedule and have an inspection completed within six (6) months of notification of eligibility by the Department. An application without an inspection completed within six (6) months is void and must be resubmitted as an initial application. (7-1-14)

803. -- 804. (RESERVED)

805. EMS AGENCY -- INITIAL AGENCY INSPECTION.
The Department will perform an initial inspection, which is an integral component of the application process, to ensure the EMS Agency applicant is in compliance regarding the following: (7-1-14)

01. Validation of Initial Application. Validate the information contained in the application. (7-1-14)

02. Verification of Compliance. Verify the applicant is in compliance with governing Idaho statutes and administrative rules. (7-1-14)

806. EMS AGENCY -- DEMONSTRATION OF CAPABILITIES DURING INSPECTION.
The Department will review historical and current information during the annual, random and targeted inspections whereas an applicant must demonstrate the following during the initial inspection process: (7-1-14)

01. Validation of Ability to Submit Data. Each EMS agency applicant must demonstrate the ability to submit data described in Section 535 of these rules. (7-1-14)

02. Validation of Ability to Communicate. Each EMS agency applicant must demonstrate the ability to communicate via radio with the state EMS communications center, local dispatch center, neighboring EMS agencies on which the applicant will rely for support, first response, air and ground patient transport, higher level patient care, or other purposes. (7-1-14)

807. -- 829. (RESERVED)

830. EMS AGENCY -- CONDITION THAT RESULTS IN VEHICLE OR AGENCY OUT OF SERVICE.
Upon discovery of a condition during inspection that could reasonably pose an immediate threat to the safety of the public or agency staff, the Department may declare the condition unsafe and remove the vehicle or agency from service until the unsafe condition is corrected. (7-1-14)

831. -- 839. (RESERVED)

840. EMS AGENCY -- EXEMPTIONS FOR AGENCIES CURRENTLY ACCREDITED BY A NATIONALLY RECOGNIZED PROFESSIONAL EMS ACCREDITATION AGENCY.
Upon petition by the accredited agency, the Department will review the accreditation standards under which the accredited agency was measured and may waive specific duplicated annual inspection requirements where appropriate. If an external accreditation inspection is found to be more rigorous than that of the Department, the Department may elect to relax the frequency of Department annual inspections or waive Department annual inspections altogether. (7-1-14)

841. -- 899. (RESERVED)

EMS AGENCY LICENSURE PROCESS
(Sections 900 - 999)

900. EMS AGENCY -- APPLICATION FOR INITIAL LICENSURE.
To be considered for initial EMS agency licensure an organization seeking licensure must request, complete, and submit the standardized EMS agency initial license application form provided by the Department. (7-1-14)

901. EMS AGENCY -- LICENSURE EXPIRATION.
Each EMS agency license, unless otherwise declared on the license, is valid for one (1) year from the end of the month of issuance by the Department. (7-1-14)

902. -- 970. (RESERVED)

971. LAPSED LICENSE.

01. Application Not Submitted Prior to Expiration of Current License. An agency that does not submit a complete application as prescribed in these rules will be considered lapsed. The license will no longer be valid. (7-1-14)

02. Grace Period. No grace periods or extensions to an expiration date will be granted when an agency has not submitted a completed renewal application within the timeframes described in Section 950 of these rules. (7-1-14)

03. Lapsed License. An agency that has a lapsed license cannot provide EMS services. (7-1-14)

04. To Regain Agency Licensure. An agency with a lapsed license will be considered an applicant for initial licensure and is bound by the same requirements and processes as an initial applicant. (7-1-14)

972. -- 979. (RESERVED)

980. EMS AGENCY LICENSE -- NONTRANSFERABLE.
An EMS agency license issued by the Department cannot be transferred or sold. (7-1-14)

981. CHANGES TO A CURRENT LICENSE.
An agency's officials must submit an agency update to the Department within sixty (60) days of any of the following changes: (7-1-14)

01. Changes Requiring Update to Department. An agency's officials must submit an agency update to the Department within sixty (60) days of any of the following changes: (7-1-14)

a. Changes made to the geographic coverage area by agency annexation; (7-1-14)

b. Licensed personnel added or removed from the agency affiliation roster. If licensed personnel are removed for cause, a description of the cause must be included; (7-1-14)

c. Vehicles or equipment added or removed from the agency; (7-1-14)

d. Changes to the agency communication plan or equipment; (7-1-14)

e. Changes to the agency dispatch agreement; or (7-1-14)

f. Changes to the agency Medical Supervision Plan. (7-1-14)

02. Changes Requiring Initial Licensure Application. When an agency decides to make any of the following changes, it must submit an initial agency application to the Department and follow the initial application process described in Sections 900 through 922 of these rules: (7-1-14)

a. Clinical level of licensed personnel it utilizes; (7-1-14)

b. Geographic coverage area changes, except by agency annexation; (7-1-14)

c. A non-transport agency that intends to provide patient transport or an ambulance agency that intends to discontinue patient transport and become a non-transport agency; or (7-1-14)

d. An agency that intends to add prehospital or transfer operational declarations. (7-1-14)

982. -- 999. (RESERVED)

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

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. (7-1-16)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.01.05, "Emergency Medical Services (EMS) – Education, Instructor, and Examination Requirements." (7-1-16)

02. Scope. These rules include criteria and requirements for education programs conducting initial and optional module EMS education, certification of instructors, certification examinations, and optional module examinations. Continuing education requirements can be found in IDAPA16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (7-1-16)

002. INCORPORATION BY REFERENCE.
The Department has incorporated by reference the following documents: (7-1-16)

01. Idaho EMS Education Standards, edition 2016-1. The Department has adopted the Idaho EMS Education Standards, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department, *see* online at: http://www.IdahoEMS.org. *( )*

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

03. Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1. The Department has adopted the Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1, and hereby incorporates these standards by reference. Copies may be obtained from the Department, *see* online at: http://www.IdahoEMS.org. *( )*

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.
Certified EMS instructors must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," to include: (7-1-16)

01. Initial Instructor Certification. Individuals seeking initial instructor certification must have successfully passed a criminal history and background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-16)

02. Reinstatement of Instructor Certification. Individuals requesting reinstatement of instructor certification must have successfully passed a criminal history and background check under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under IDAPA 16.05.06 will result in denial of reinstatement of certification. (7-1-16)

03. Additional Criminal History and Background Check. The Department may require an updated or additional criminal history and background check at any time, without expense to the candidate, if there is cause to believe new or additional information will be disclosed. (7-1-16)

010. DEFINITIONS.
For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions" apply. (7-1-16)

011. -- 074. (RESERVED)

075. INVESTIGATION OF COMPLAINTS FOR EMS EDUCATION PROGRAM AND PERSONNEL VIOLATIONS.
Investigation of complaints and disciplinary actions for EMS education program and personnel are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (7-1-16)

076. ADMINISTRATIVE ACTION IMPOSED FOR EMS INSTRUCTOR CERTIFICATION.
Any EMS instructor certificate may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative actions on an instructor certificate, imposed by the EMS Bureau for any action, conduct, or failure to act *that* is inconsistent with professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." *( )*

077. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS EDUCATION PROGRAM AND EXAM PERSONNEL.
All personnel associated with a EMS education program or exam must adhere to the following standards: (7-1-16)

01. Professional Conduct. EMS education program and exam personnel must uphold the dignity and honor of the profession and abide by all federal, state, and local laws and statutes. They must ensure just and equitable treatment for all members of the profession in the exercise of academic freedom, professional rights, and responsibilities while following generally recognized professional principles. (7-1-16)

02. Personal Relationships. EMS education program and exam personnel must maintain a professional relationship with all students, both inside and outside the physical and virtual classroom. They must avoid conflicts of interest when accepting gifts, gratuities, favors, and additional compensation from students, colleagues, parents, patrons, or business personnel. (7-1-16)

03. Professional Integrity. EMS education program and exam personnel must exemplify honesty and integrity in the course of professional practice. They must refrain from the possession, use, or abuse of alcohol or illegal drugs while they are involved in the instruction of students. They must comply with state and federal laws and program policies relating to the confidentiality of student records, unless disclosure is required or permitted by law. (7-1-16)

04. Respectful Behavior. EMS education program and exam personnel must behave in a respectful and appropriate manner when dealing with students, colleagues, parents, patrons, and business or Department personnel, ensuring that they are always aware of their intended audience. (7-1-16)

078. -- 099. (RESERVED)

EMS EDUCATION PROGRAMS
(Sections 100 - 199)

100. GENERAL REQUIREMENTS FOR EMS EDUCATION PROGRAMS.
EMS education programs must meet all requirements in these rules. A program may be approved by the Department if all requirements are met. Each program must be approved and in good standing in order for graduates of courses provided by a program to qualify for access to an Idaho EMS certification examination. (7-1-16)

101. INSPECTION OF EMS EDUCATION PROGRAMS.
Representatives of the Department are authorized to enter an EMS education facility at reasonable times for the purpose of assuring that an EMS education program meets the provisions of these rules. (7-1-16)

102. EMS EDUCATION STANDARDS.

01. Initial Education. Curriculum utilized for initial education must be based upon the Idaho EMS Education Standards incorporated under Section 004 of these rules. (7-1-16)

02. Optional Module Education. Curriculum utilized for optional module education must be based upon the Idaho EMS Education Standards incorporated under Section 004 of these rules for the higher level scope of practice in which the skills, knowledge, and competency exist in the floor of the scope of practice. (7-1-16)

103. EMS EDUCATION PROGRAM ELIGIBILITY.
The following entities are eligible for approval as an EMS Education Program: (7-1-16)

01. EMS Agency. A licensed Idaho EMS agency, or applicant for agency licensure, that has met all of the agency licensure requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," with the exception of the personnel requirements in the case of an applicant agency. (7-1-16)

02. Governmental Entity. A recognized governmental entity within the State of Idaho; (7-1-16)

03. School. A proprietary, secondary, or post-secondary school as defined in Title 33, Idaho Code, and in accordance with IDAPA 08.01.11, "Registration of Post-Secondary Educational Institutions and Proprietary Schools"; or (7-1-16)

04. Hospital. An Idaho hospital as defined in IDAPA 16.03.14, "Hospitals." *( )*

104. EMS EDUCATION PROGRAM APPROVAL REQUIREMENTS.
The following requirements must be met in order to be approved as an EMS Education Program: (7-1-16)

01. All Programs. All EMS educational programs must: (7-1-16)

a. Have the infrastructure elements described in the Idaho EMS Education Standards; (7-1-16)

b. Use a curriculum that meets the Idaho EMS Education Standards; (7-1-16)

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

d. Provide sufficient quantities of supplies and equipment in good working order based on the curriculum and the minimum equipment list; and (7-1-16)

e. Have successfully completed a program review within the last three (3) years. (7-1-16)

02. Paramedicine Programs. Programs teaching paramedicine must be accredited by, or have a Letter of Review (LoR) from, the Committee on Accreditation of Educational Programs for the EMS Professions (CoAEMSP). A representative of the Department may attend the CoAEMSP site visit. Documentation of official correspondence between CoAEMSP and the program must be provided to the Department within thirty (30) days. (7-1-16)

105. EMS EDUCATION PROGRAM ACCOUNTABILITY.
The Department will hold each EMS Education Program to the standards and requirements in these rules and the declarations made by the program on their most recent approved application. (7-1-16)

106. EMS EDUCATION PROGRAM ADMINISTRATION.

01. General. Each EMS Education Program must: (7-1-16)

a. Register and maintain program information with the Department and the certification agency. (7-1-16)

b. Respond to all program-specific Department inquiries within fifteen (15) days; (7-1-16)

c. Submit supporting documentation requested during an audit to the Department within twenty-one (21) days of the request; (7-1-16)

d. Ensure that all program personnel are familiar with and conduct business according to these rules; and (7-1-16)

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

02. Policies and Procedures. The EMS Education Program must provide students with their policies and procedures for the following: (7-1-16)

a. Program-specific student enrollment eligibility requirements; (7-1-16)

b. Receipt and resolution of complaints, to include the Bureau's complaint process; (7-1-16)

c. Process for students who do not show adequate progress; and (7-1-16)

d. Program-specific requirements for successful completion of the course. (7-1-16)

107. EMS EDUCATION PROGRAM COURSE ADMINISTRATION.

01. Education. In order to prepare students to demonstrate the expected competencies, the EMS Education Program must: (7-1-16)

a. Deliver didactic education and psychomotor training that meets the objectives of the approved curriculum; (7-1-16)

b. Establish and maintain hospital/clinical and field/internship experience agreements to ensure student access in accordance with the Idaho EMS Education Standards; (7-1-16)

c. The majority of initial education must be taught by certified EMS instructors. (7-1-16)

02. Evaluation. In order to assure that students can demonstrate the expected competencies, the EMS Education Program must: (7-1-16)

a. Establish and enforce pass/fail criteria that include evaluation of student performance and competency during labs, didactic, clinical, and field internship training; (7-1-16)

b. Provide formative evaluations during a course to monitor the progress of students; and (7-1-16)

c. Provide a formal summative evaluation that includes a variety of clinical behaviors and judgements at the end of the course to measure the student's mastery of the objectives of the approved curriculum. (7-1-16)

108. EMS EDUCATION PROGRAM COURSE DOCUMENTATION.

01. Records to be Submitted. Each EMS Education Program must submit the following documentation to the Department as described below and in the format provided by the Department: (7-1-16)

a. Application for Course Registration Number (CRN) at least thirty (30) days prior to beginning a new course; (7-1-16)

b. Course beginning record (roster) within ten (10) days after the course beginning date; (7-1-16)

c. EMR and EMT Programs: Declare date and location of the formal summative evaluation within the (10) days immediately following the date the course begins; (7-1-16)

d. AEMT and Paramedic Programs: Proposed dates and locations of the didactic and psychomotor certification examinations within ten (10) days of the course beginning date; and (7-1-16)

e. Course completion record (roster) within ten (10) days after the student's course completion date. (7-1-16)

02. Records to be Maintained. Each EMS Education Program must maintain documentation of the following: (7-1-16)

a. Student competence in all areas listed in the Idaho EMS Education Standards for the level being taught; and (7-1-16)

b. Student attendance in all didactic instruction, skills laboratories, hospital/clinical experience, and field experience. (7-1-16)

03. Records Retention. All documentation related to a course or program must be retained for a minimum of five (5) years in a retrievable format. (7-1-16)

109. -- 199. (RESERVED)

CRITERIA FOR EMS EDUCATION
(Sections 200 - 299)

200. INITIAL EMS EDUCATION REQUIREMENTS.

01. Content. (7-1-16)

a. Idaho-Specific Content. All initial EMS courses must include the following Idaho-specific content, developed professionally and approved by the Department, if available: (7-1-16)

i. Physician Order for Scope of Treatment (POST); (7-1-16)

ii. Safe Haven; (7-1-16)

iii. Landing Zone Officer; and (7-1-16)

iv. Extrication Awareness. (7-1-16)

b. National Content. All initial EMS courses must include the following national content: (7-1-16)

i. Incident Command System ICS-100 and ICS-700; and (7-1-16)

ii. HazMat Awareness. (7-1-16)

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

03. Consistency with State and National Standards. All curricula must be consistent with Idaho EMS Education Standards incorporated under Section 004 of these rules, and the National EMS Scope of Practice Model. (7-1-16)

201. -- 209. (RESERVED)

210. OPTIONAL MODULE EMS EDUCATION.

01. Consistency with Scope of Practice. All optional module curricula must be consistent with the Idaho scope of practice for licensed personnel as set forth in the EMS Physician Commission Standards Manual,

incorporated under IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission," which aligns with the clinical level of the course. ( )

02. Consistency with State and National Standards. All optional module curricula must be consistent with Idaho EMS Education Standards incorporated under Section 004 of these rules, and the National EMS Scope of Practice Model. (7-1-16)

211. -- 299. (RESERVED)

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

300. REQUIRED PERSONNEL FOR EMS EDUCATION PROGRAMS.

01. Program Director. Each program must identify an individual to serve as the Program Director. The Program Director may also serve as teaching faculty provided that faculty qualifications are met. (7-1-16)

02. Teaching Faculty. Each program must identify a sufficient number of teaching faculty who meet the qualifications described below in Subsections 301.02 and 301.03 of these rules. (7-1-16)

03. Course Physician. Each program must identify an individual to serve as the course physician. The course physician may also serve as teaching faculty, provided that faculty qualifications are met. (7-1-16)

301. EMS EDUCATION PROGRAM PERSONNEL QUALIFICATIONS.

01. Program Director. Program Directors must meet the following qualifications: (7-1-16)

a. Have completed an Education Program Orientation Course within the previous twenty-four (24) months. (7-1-16)

b. Have knowledge of current Idaho EMS Education Standards and the requirements for state certification and licensure. (7-1-16)

02. Instructor. Instructors must possess a current instructor certification issued by the Department. (7-1-16)

03. Adjunct Faculty or Guest Lecturers. Adjunct faculty and guest lecturers must be authorized by the course physician based on credentials, education, or expertise that corresponds to the knowledge and skill objectives they are teaching. (7-1-16)

04. Course Physician. Course physicians must meet the following qualifications: (7-1-16)

a. Be a Doctor of Osteopathy (DO) or Medical Doctor (MD) currently licensed to practice medicine with experience and current knowledge of emergency care of acutely ill and injured patients; and (7-1-16)

b. Have knowledge or experience in the delivery of out-of-hospital emergency care, including the proper care and transport of patients, medical direction, and quality improvement in out-of-hospital care. (7-1-16)

302. EMS EDUCATION PROGRAM PERSONNEL RESPONSIBILITIES.

An individual can have multiple personnel responsibilities, but must meet the applicable personnel requirements under Section 301 of these rules and fulfill all the responsibilities of each position they fill. (7-1-16)

01. Program Director. The program director's responsibilities include: (7-1-16)

a. Administrative oversight of the program; (7-1-16)

b. Ensuring that the program remains in compliance with these rules; and (7-1-16)

c. Serving as the program's point of contact for the Department, or for a national EMS certification body, or both. (7-1-16)

02. Instructor. The instructor's responsibilities include: (7-1-16)

a. Delivery of didactic and psychomotor education that satisfies the curriculum objectives; (7-1-16)

b. Documentation of student performance and competency in accordance with the standards defined by the program; (7-1-16)

c. Following program policies, requirements, and these rules; (7-1-16)

d. Modeling positive behaviors and serving as a role model for students. (7-1-16)

03. Course Physician. The course physician's responsibilities are to provide: (7-1-16)

a. Medical oversight for all medical aspects of instruction; and (7-1-16)

b. Cooperative involvement with the program director. (7-1-16)

303. -- 399. (RESERVED)

EMS INSTRUCTOR CERTIFICATION
(Sections 400-499)

400. EMS INSTRUCTOR CERTIFICATION REQUIREMENTS.

01. Instructor Certification is Required. In order to serve as an EMS instructor, an individual must possess a current EMS instructor certificate issued by the Department. (7-1-16)

02. Instructor Certification Requirements. An individual applying for and meeting the requirements defined in this section will be issued an initial EMS instructor certificate. The requirements for initial EMS instructor certification are: (7-1-16)

a. Have successfully passed an Idaho criminal history and background check; (7-1-16)

b. Have completed a Department-sponsored EMS Education Program Orientation Course within the preceding twenty-four (24) months; (7-1-16)

c. Have completed a course that meets the requirements of an Adult Methodology Course as defined in Section 404 of these rules; (7-1-16)

d. Hold a current EMS license or EMS certificate at or above the instructor level requested; and (7-1-16)

e. Have held an EMS license or EMS certificate at or above the level of instruction requested for a minimum of three (3) years. (7-1-16)

03. Duration of Certificate. EMS instructor certificates are good for up to three (3) years and will be issued with an expiration date of June 30 no more than three (3) years after the date the application was approved by the Department. (7-1-16)

401. EMS INSTRUCTOR CERTIFICATE RENEWAL.

An individual applying for and meeting the EMS instructor certificate requirements defined in this rule will be issued a renewed EMS instructor certificate. To renew your instructor certificate you must: (7-1-16)

01. Submit an Application. Submit an application for EMS instructor recertification in the format provided by the Department prior to the expiration date of the current certificate. Certified EMS instructors may submit the renewal application and documentation to the EMS Bureau up to six (6) months prior to the current expiration date of the instructor certificate. (7-1-16)

02. Teaching Time. Document twenty-four (24) hours of teaching time during the current certification period. (7-1-16)

03. Continuing Education. Complete eight (8) hours of continuing education specific to adult education during the current certification period. (7-1-16)

04. Education Program Orientation Course. Complete a Department-sponsored program orientation course within their certification cycle. The program orientation course can be counted as instructor continuing education. (7-1-16)

05. License or Certificate. Possess a current Idaho EMS personnel license, a current Idaho certificate of eligibility, or a current national certification at or above the level of instructor certificate. (7-1-16)

402. LAPSED EMS INSTRUCTOR CERTIFICATE.

01. Timely Submission. An application is considered timely when it is submitted to the Department prior to the expiration date of the EMS instructor certificate being renewed. (7-1-16)

02. Failure to Submit. An EMS instructor certificate will expire if an instructor fails to submit a complete and timely renewal application. (7-1-16)

03. No Grace Period. The Department will not grant grace periods or extensions to an expiration date. (7-1-16)

04. Application Under Review. Provided the instructor submitted a timely renewal application, an EMS instructor certificate will not lapse while under review by the Department. (7-1-16)

05. Additional Information. The Department may request additional information from the instructor to address an application that was found to be incomplete or otherwise non-compliant with these rules. The Department will send the request to the instructor's last known address. The instructor has twenty-one (21) days from the date of notification to respond to the Department after which the certificate will be considered lapsed. (7-1-16)

06. Reinstatement of a Lapsed Certificate. Personnel with a lapsed EMS instructor certificate must complete the requirements listed in Subsection 400.02 of these rules to reinstate their instructor certificate. (7-1-16)

403. CERTIFICATION OF CURRENTLY APPROVED EMS INSTRUCTORS.

01. Expiration of Approved Instructor Status. EMS instructor certificates issued prior to July 1, 2016, will expire on June 30, 2019. (7-1-16)

02. Certification Process. An EMS instructor approved prior to July 1, 2016, must submit an application for renewal to the Department prior to June 30, 2019, in order to maintain an EMS instructor certificate. (7-1-16)

03. Certificate Requirements. Currently approved EMS instructors who wish to maintain EMS instructor certification must meet the following requirements: (7-1-16)

a. Have successfully passed an Idaho criminal history and background check; (7-1-16)

b. Have completed a Department-sponsored Education Program Orientation Course orientation course within the preceding twenty-four (24) months; (7-1-16)

c. Hold a current EMS license or EMS certificate at or above the instructor level requested; and (7-1-16)

d. Have held an EMS license or EMS certificate at or above the level of instruction requested for a minimum of three (3) years. (7-1-16)

04. Duration of Certificate. EMS instructor certificates are good for up to three (3) years and will be issued with an expiration date of June 30 no more than three (3) years after the date the application was approved by the Department. (7-1-16)

404. ADULT METHODOLOGY REQUIREMENTS FOR EMS INSTRUCTORS.
Adult methodology requirements consist of completion of one (1) or more courses, developed professionally and approved by the Department, based on content that includes the following instructional topics: (7-1-16)

01. The Adult Learner. (7-1-16)

02. Goals and Objectives. (7-1-16)

03. Learning Styles. (7-1-16)

04. Lesson Plans. (7-1-16)

05. Teaching Resources. (7-1-16)

06. Teaching Aids. (7-1-16)

07. Teaching Methods. (7-1-16)

08. Measurement and Evaluation Techniques. (7-1-16)

09. Remediation, Communication, and Feedback. (7-1-16)

405. -- 499. (RESERVED)

EMS EXAMINATIONS
(Sections 500 through 599)

500. STANDARDIZED EMS CERTIFICATION EXAMINATIONS.
A graduate of an EMS course must successfully complete psychomotor and cognitive certification examinations in order to qualify for EMS personnel licensure under IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (7-1-16)

01. EMR and EMT Psychomotor Examination. The psychomotor certification examination requirement for EMR and EMT course graduates can be met by any of the following: (7-1-16)

a. Successful completion of the end-of-course examination described in Subsection 107.02.c. of these rules. (7-1-16)

b. Successful completion of a level-appropriate psychomotor examination administered by the Department. (7-1-16)

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

Department-sponsored certification psychomotor examination. (7-1-16)

03. Cognitive Examination. The cognitive certification examination requirement for all levels of course graduates can only be met by successfully completing the Idaho-approved certification cognitive examination. (7-1-16)

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

502. EMS EXAM APPLICATIONS.
An organization other than the educational program that wishes to host a Department-administered examination must notify the Department at least sixty (60) days in advance of the proposed exam date. Educational programs must notify the Department in accordance with Section 108 of these rules. (7-1-16)

503. -- 998. (RESERVED)

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

01. Unprofessional Conduct. Any act that violates the standards of professional conduct in Section 077 of these rules. (7-1-16)

02. Failure to Maintain Standards of Knowledge, Proficiency, or Both. Failure to maintain standards of knowledge, or proficiency, or both, as required under these rules as well as: (7-1-16)

a. IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensure Requirements"; and (7-1-16)

b. IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission." ( )

03. Mental Incompetency. A lawful finding of mental incompetency by a court of competent jurisdiction. (7-1-16)

04. Impairment of Function. Performance of duties under an EMS instructor certificate while under the influence of alcohol, an illegal substance, or a legal drug or medication causing impairment of function. (7-1-16)

05. Denial of Criminal History Clearance. Any conduct, action, or conviction that does or would result in denial of a criminal history clearance under IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-16)

06. Discipline, Restriction, Suspension, or Revocation. Discipline, restriction, suspension, or revocation by any other jurisdiction. (7-1-16)

07. Danger or Threat to Persons or Property. Any conduct, condition, or circumstance determined by the EMS Bureau that constitutes a danger or threat to the health, safety, or well-being of persons or property. (7-1-16)

08. Falsification of Applications or Reports. The submission of fraudulent or false information in any report, application, or documentation to the EMS Bureau. (7-1-16)

09. Attempting to Obtain a Certificate by Means of Fraud. Misrepresentation in an application, or documentation, for certification by means of concealment of a material fact. (7-1-16)

16.01.06 – EMERGENCY MEDICAL SERVICES (EMS) – DATA COLLECTION AND SUBMISSION REQUIREMENTS

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical services program. (7-1-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.01.06, "Emergency Medical Services (EMS) -- Data Collection and Submission Requirements." (7-1-17)

02. Scope. These rules contain the requirements for licensed EMS agencies to collect and report essential data information related to the performance, needs, and assessments of the statewide emergency medical services system. (7-1-17)

002. INCORPORATION BY REFERENCE.
The EMS Data Collection Standards Manual, Edition 2017-1, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at http://www.idahoems.org/ or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249. (7-1-17)

003. CONFIDENTIALITY OF *EMS* RECORDS.
EMS Response records and data collected or otherwise captured by the Bureau of Emergency Medical Services and Preparedness, its agents, or designees, will be deemed to be confidential and released in accordance with applicable Department policies and applicable state and federal laws. *( )*

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. EMS Definitions. For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions," apply. (7-1-17)

02. NEMSIS Data Dictionary. For the purposes of this chapter, definitions in the NEMSIS Data Dictionary apply. The NEMSIS website is at http://www.nemsis.org. (7-1-17)

011. -- 074. (RESERVED)

075. INVESTIGATION OF COMPLAINTS FOR EMS DATA COLLECTION OR SUBMISSION VIOLATIONS.
Investigation of complaints and disciplinary actions for EMS data collection and submission requirement violations are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions." (7-1-17)

076. ADMINISTRATIVE LICENSE OR CERTIFICATION ACTION.
Any license or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license or certification actions, including fines, imposed by the EMS Bureau for any action, conduct, or failure to act that is inconsistent with professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) - Complaints, Investigations, and Disciplinary Actions." *( )*

077. -- 099. (RESERVED)

100. EACH EMS AGENCY MUST COMPLY WITH THE FOLLOWING RECORDS, DATA COLLECTION, AND SUBMISSION REQUIREMENTS.
Each licensed EMS agency must collect and submit EMS response records to the EMS Bureau using the Idaho Prehospital Electronic Record Collections System known as PERCS. (7-1-17)

01. Records to be Maintained. Each licensed EMS agency must maintain a record that includes a

Patient Care Report completed for each EMS Response. (7-1-17)

02. Records to be Submitted. Each licensed EMS Agency must ensure that an accurate and complete electronic Patient Care Report (ePCR) is submitted to the EMS Bureau using approved and validated software in a format determined by the Department. (7-1-17)

03. Time Frame for Submitting Records. Each licensed EMS agency must submit each month's data to the Department by the 15th of the following month in a format determined by the Department. (7-1-17)

101. -- 104. (RESERVED)

105. EMS RESPONSE RECORDS AND DATA COLLECTED.
EMS response records and data collected from licensed EMS agencies or otherwise captured by the EMS Bureau, its agents, or designees, are deemed to be confidential and can only be released in accordance with applicable Department policies, state and federal laws, and this chapter of rules. (7-1-17)

106. -- 109. (RESERVED)

110. USE OF SUBMITTED RECORDS AND DATA.
Records and data submitted to the Department, may be used by Department staff and staff or other designated agencies in the performance of its regulatory duties. (7-1-17)

01. Data Reports. Data may be compiled into reports by a licensed emergency medical service agency from the respective agency's collected records. (7-1-17)

02. Patient Care Reports. Aggregate patient care report data may be released to the public in a format reasonably calculated to not disclose the identity of the individual patient. (7-1-17)

111. -- 199. (RESERVED)

200. DATA TO BE REPORTED.
The required data and information on an EMS Response is based on the definitions and structure of National Emergency Medical Services Information System (NEMSIS). NEMSIS defined data points to be reported to the Department for each EMS Response are provided in the "EMS Data Collection Standards Manual," incorporated by reference in Section 004 of these rules. (7-1-17)

201. -- 999. (RESERVED)

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

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 56-1023, Idaho Code, to adopt rules concerning the administration of the Idaho Emergency Medical Services Act. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. The EMS Bureau is authorized under Section 56-1022, Idaho Code, to manage complaints and investigations, and implement license actions against EMS personnel and agencies, that includes levying fines against an EMS agency. (3-29-12)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.01.12, "Emergency Medical Services (EMS) --Complaints, Investigations, and Disciplinary Actions." (3-29-12)

02. Scope. These rules provide for the management of complaints, investigations, enforcement, and disciplinary actions by the EMS Bureau for personnel and agency licensure and certification, and educational programs and instructor approval. (7-1-16)

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) - Rule Definitions" apply. (7-1-14)

011. -- 074. (RESERVED)

075. PEER REVIEW TEAM.
The EMS Bureau may elect to conduct a peer review for an alleged statute or rule violation when it determines that a peer review is an appropriate action. The EMS Bureau will determine who serves on a peer review team. (3-29-12)

076. MEMBERS OF A PEER REVIEW TEAM.
The peer review team will consist of four (4) team members selected by the EMS Bureau as appropriate to the case being considered from the following: (3-29-12)

01. Licensed Personnel. EMS personnel licensed at, or above, the license level of the subject; or (3-29-12)

02. Agency Administrator. EMS agency administrator; or (3-29-12)

03. Training Officer. EMS agency training officer; or (3-29-12)

04. Course Coordinator. Course coordinator of an EMS Bureau-approved education program or course; or (3-29-12)

05. Instructor. EMS Bureau-certified EMS instructor; and (3-29-12)

06. Chairman of Peer Review Team. Each peer review team will be chaired by a licensed Idaho EMS physician as follows: (3-29-12)

a. An Idaho EMS Physician Commissioner for cases involving EMS personnel; or (3-29-12)

b. An Idaho EMS agency medical director for cases involving an EMS agency; or (3-29-12)

c. An Idaho EMS Bureau-approved education program or course sponsoring physician for cases involving educators who are not licensed EMS personnel. (3-29-12)

077. QUALIFICATIONS REQUIRED OF A PEER REVIEW TEAM MEMBER.
An individual, serving as a member of an EMS peer review team, must have successfully completed an orientation to

EMS-related statute, rules and procedures and have signed confidentiality and conflict of interest agreements provided by the EMS Bureau. (3-29-12)

078. -- 099. (RESERVED)

REPORTING OF COMPLAINTS AND SUSPECTED VIOLATIONS (Sections 100 - 199)

100. COMPLAINT SUBMITTED WHEN A VIOLATION IS SUSPECTED.
Complaints must be submitted in writing on a complaint intake form found online at: http://www.idahoems.org. (3-29-12)

101. -- 109. (RESERVED)

110. REPORTING SUSPECTED VIOLATION.

01. Suspected Violations. Any person may report a suspected violation of any law or rule governing EMS. (7-1-16)

02. Report Violation. To report a suspected violation, contact the EMS Bureau, *see online at: http://www.idahoems.org*. *( )*

111. ANONYMOUS COMPLAINTS.
Anonymous complaints are accepted; however, the inability to collect further information from the complainant may hinder the progress of the investigation. (3-29-12)

112. -- 199. (RESERVED)

INVESTIGATION OF COMPLAINTS AND SUSPECTED VIOLATIONS (Sections 200 - 299)

200. EMS BUREAU INITIATES OFFICIAL INVESTIGATION.
An official investigation will be initiated when the any of the following occurs: (3-29-12)

01. Complaint with Allegations. A complaint with an allegation that, if substantiated, would be in violation of any law or rule governing EMS. (7-1-16)

02. Discovery of Potential Violation of Statute or Administrative Rule. EMS Bureau staff or other authorities discover a potential violation of any law or rule governing EMS. (7-1-16)

201. -- 209. (RESERVED)

210. VIOLATIONS THAT MAY RESULT IN ADMINISTRATIVE ACTIONS.
The EMS Bureau may impose administrative actions, including denial, revocation, suspension, or retention under conditions specified in Sections 300 through 399 of these rules. Administrative actions may be imposed on any of the following: the holder of, or an applicant or candidate for, an EMS license, certificate, education program approval, or recognition. Administrative actions may be imposed on any of the previously mentioned for any action, conduct, or failure to act that is inconsistent with the professionalism, standards, or both, established by statute or rule. (7-1-16)

211. -- 219. (RESERVED)

220. REFUSAL TO PARTICIPATE IN AN INVESTIGATION.
The refusal to participate by the subject will not prohibit full investigation or a peer review, nor prevent potential administrative license action. (3-29-12)

221. -- 229. (RESERVED)

230. SURRENDER OR LAPSE OF LICENSE.
Surrender or lapse of a license will not prohibit full investigation with the potential consequence of EMS Bureau imposing a formal administrative license action or fine. (3-29-12)

231. -- 239. (RESERVED)

240. INVESTIGATION CONFIDENTIALITY.

01. Informal Resolution. Informal resolution of complaints or non-compliance by guidance or negotiated resolution is not public information. (7-1-16)

02. Administrative License Action. Preliminary investigations and documents supplied or obtained in connection with them are confidential until a formal notice of administrative license action is issued. (3-29-12)

241. -- 249. (RESERVED)

250. NOTICE OF THE FINAL DISPOSITION OF AN INVESTIGATION.

01. Subject. The EMS Bureau will send notification to the last known address of the subject of the disposition of the investigation, including any pending or current administrative actions. (3-29-12)

02. Other Jurisdiction for EMS Personnel. A copy of administrative action imposed on EMS personnel will be sent to each agency of affiliation, agency medical director, the National Practitioners Data Base, and the National Registry of Emergency Medical Technicians. (3-29-12)

03. Other Jurisdictions for EMS Agencies. A copy of administrative action or nature of fines imposed on EMS agencies will be sent to the agency governing authorities and the agency medical director. (3-29-12)

04. Other Jurisdictions for Educational Programs or Instructors. A copy of any administrative action imposed on an EMS educational program or instructor may be sent to the state Board of Education, the sponsoring physician, the Committee on Accreditation of Educational Programs for the Emergency Medical Services Professions (CoAEMSP), and the National Registry of Emergency Medical Technicians (NREMT). (3-29-12)

251. -- 299. (RESERVED)

DISCIPLINARY AND CORRECTIVE ACTIONS
(Sections 300 - 399)

300. ACTIONS RESULTING FROM INVESTIGATIONS.
The following actions may be imposed upon the subject of an investigation by the EMS Bureau without peer review: (7-1-16)

01. Letter of Guidance. The EMS Bureau may issue a letter of guidance, directing the subject of the investigation to the standards, rules, educational resources, or local jurisdiction for resolution of minor non-compliance issues where no injury or threat of harm to the public, profession, or EMS system occurred. The subject of the investigation must show a willingness to become compliant and correct the issue within thirty (30) days of receipt of the personnel guidance letter. (7-1-16)

02. Warning Letter. The EMS Bureau may issue a warning letter for a first offense where an unlicensed individual is providing patient care in violation of Section 56-1020, Idaho Code. (7-1-16)

03. Negotiated Resolution. The EMS Bureau may negotiate a resolution with the subject of an investigation where allegations of misconduct or medical scope of practice non-compliance, if found to be true, did

not cause, or is not likely to cause, injury or harm to the public, profession, or EMS system. The issue must be resolved and corrected within thirty (30) days of the negotiated resolution or settlement agreed to by both the subject of the investigation and the EMS Bureau. (7-1-16)

a. Negotiated resolution participants will include the subject of the investigation, EMS Bureau staff and other parties deemed appropriate by the EMS Bureau. (3-29-12)

b. During the negotiated resolution process, the subject of the investigation may be offered specific remediation or disciplinary action by consent, which, if agreed to, will resolve the matter with no further right to appeal unless stipulated and agreed to at the time that the remediation or disciplinary action is agreed upon. (3-29-12)

c. When the remediation or disciplinary action is not agreed to by consent of both the subject of the investigation and the EMS Bureau, the matter may then be referred to a peer review. (3-29-12)

301. -- 319. (RESERVED)

320. PEER REVIEW.
The EMS Bureau may elect to conduct a peer review for alleged statute or rule violations when it determines that a peer review is an appropriate action, or a negotiated resolution or settlement agreement described in Section 300 of these rules, is not reached. The peer review is conducted as follows: (7-1-16)

01. Review of Case by Peer Review Team. The peer review team reviews the case details, subject's background, affiliation, licensure history, associated evidence, and documents, and then considers aggravating and mitigating circumstance as follows: (3-29-12)

a. Aggravating circumstances can include: prior or multiple offenses, vulnerability of victim, obstruction of the investigation, and dishonesty. (3-29-12)

b. Mitigating circumstances can include: absence of prior offenses, absence of dishonest or selfish motive, timely effort to rectify situation, interim successful rehabilitation, misdirection per agency protocol, or medical direction. (3-29-12)

02. Subject Given Opportunity to Respond. The subject of the investigation will be given the opportunity to respond in writing, by teleconference, or at the option of the EMS Bureau, in person to the alleged violation. (3-29-12)

03. Evaluation of Evidence. The peer review team will evaluate the evidence and make a majority decision of the finding for each alleged statute, rule, or standards violation, including any additional detected violations. (3-29-12)

04. Recommend Action. The peer review team will recommend actions to the EMS Bureau. If subject is found to have violated statutes, rules, or standards, the recommendations may include the following: (3-29-12)

a. Administrative license action, time frames, conditions, and fines, if imposed, on an EMS agency; (7-1-16)

b. Administrative license action, time frames, and conditions, if imposed, on EMS personnel; or (7-1-16)

c. Administrative action, time frames, conditions, and fines, if imposed, on an EMS approved education program or instructor certificate. (7-1-16)

321. -- 329. (RESERVED)

330. ADMINISTRATIVE ACTIONS.
The EMS Bureau may impose the following administrative actions: (3-29-12)

01. Deny Application. The EMS Bureau may deny an application for an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or an EMS instructor certification: (7-1-16)

a. When the application is not complete or the applicant does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission," or IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements"; or ( )

b. For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

02. Refuse to Renew. The EMS Bureau may refuse to renew an EMS personnel license, EMS personnel certificate of eligibility, EMS agency license, EMS education program approval, or EMS instructor certification: (7-1-16)

a. When the renewal application is not complete or does not meet the eligibility requirements provided in Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," or IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission"; or ( )

b. Pending final outcome of an investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property; or (7-1-16)

c. For any reason that would justify an administrative action according to Section 210 of these rules. (3-29-12)

03. Retain with Probationary Conditions. The EMS Bureau may allow the holder of an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification to retain a license, approval, or certificate as agreed to in a negotiated resolution, settlement, or with conditions imposed by the EMS Bureau. (7-1-16)

04. Suspend. The EMS Bureau may suspend an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification for: (7-1-16)

a. A period of time up to twelve (12) months, with or without conditions; or (3-29-12)

b. Pending final outcome of an investigation or criminal proceeding when criminal charges or allegations indicate an imminent danger or threat to the health, safety, or well-being of persons or property. (7-1-16)

05. Revoke. The EMS Bureau may revoke an EMS personnel license, EMS certificate of eligibility, EMS personnel limited recognition, EMS agency license, EMS education program approval, or EMS instructor certification when: (7-1-16)

a. A peer review team recommends revocation; or (7-1-16)

b. The license or certificate holder is found to no longer be eligible for criminal history clearance per IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-16)

c. The EMS Bureau will notify the city, fire district, hospital district, ambulance district, dispatch center, and county in which an EMS agency provides emergency prehospital response upon revocation of an EMS agency license. (7-1-16)

06. Review of Administrative Actions by the EMS Physician Commission. The EMS Physician Commission must review, at their next available meeting, administrative actions taken by the Department as described in Subsections 330.01 through 330.05 of this rule. (7-1-16)

331. -- 339. (RESERVED)

340. VIOLATIONS THAT MAY RESULT IN FINES BEING IMPOSED ON EMS AGENCY.
In addition to administrative license actions provided in Section 56-1022, Idaho Code, and these rules, a fine may be imposed by the EMS Bureau upon recommendation of a peer review team on a licensed EMS agency as a consequence of agency violations. Fines may be imposed for the following violations: (3-29-12)

01. Operating An Unlicensed EMS Agency. Operating without a license required in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," including: (7-1-14)

a. Failure to obtain an initial license; (3-29-12)

b. Failure to obtain a license upon change in ownership; or (3-29-12)

c. Failure to renew a license and continues to operate as an EMS agency. (3-29-12)

02. Unlicensed Personnel Providing Patient Care. Allowing an unlicensed individual to provide patient care without first obtaining an EMS personnel license required in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," at the appropriate level for the EMS agency. (3-29-12)

03. Failure to Respond. Failure of the EMS agency to respond to a 911 request for service within the agency primary response area in a typical manner of operations when dispatched to a medical illness or injury, under licensure requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," except when the responder reasonably determines that: (7-1-14)

a. There are disaster conditions; (3-29-12)

b. Scene safety hazards are present or suspected; or (3-29-12)

c. Law enforcement assistance is necessary to assure scene safety, but has not yet allowed entry to the scene. (3-29-12)

04. Unauthorized Response by EMS Agency. Responding to a request for service which deviates from or exceeds those authorized by the EMS agency license requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

05. Failure to Allow Inspections. Failure to allow the EMS Bureau or its representative to inspect the agency facility, equipment, records, and other licensure requirements provided in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-16)

06. Failure To Correct Unacceptable Conditions. Failure of the EMS agency to correct unacceptable conditions within the time frame provided in a negotiated resolution settlement, or a warning letter issued by the EMS Bureau. Including the following: (3-29-12)

a. Failure to maintain an EMS vehicle in a safe and sanitary condition; (3-29-12)

b. Failure to have available minimum EMS Equipment; (3-29-12)

c. Failure to correct patient or personnel safety hazards; or (3-29-12)

d. Failure to retain an EMS agency medical director: (3-29-12)

07. Failure to Report Patient Care Data. Failure to submit patient care data as required in IDAPA

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

341. FINES IMPOSED ON EMS AGENCY.
In addition to administrative license action allowed by statute and rule, a fine may be imposed by the EMS Bureau upon the recommendation of a peer review team. Fines are imposed on licensed EMS agency as a consequence of agency licensure violations. (3-29-12)

01. Maximum Amount of a Fine. A fine may not exceed one thousand dollars ($1000) for each specified violation. (3-29-12)

02. Fines Levied After Peer Review. The EMS Bureau may levy a fine against an EMS agency following a peer review that has a majority decision on finding and outcomes, and includes a fine be imposed as part of the recommended action. (3-29-12)

03. Table for Maximum Fine Amount. The maximum amount of a fine that may be imposed on an EMS agency for certain violations listed in Section 330 of these rules are provided in the table below:

EMS AGENCY FINE AMOUNT FOR VIOLATIONS
Section 341.03

Rule Violation Subsection	TYPE OF VIOLATION	Maximum Fine (each violation)
340.01.	**Operating an Unlicensed EMS Agency.** **a.** Failure to obtain an initial license: **b.** Failure to obtain a license upon change of ownership: **c.** Failure to successfully renew a license:	 $1000 $ 500 $ 500
340.02.	**Unlicensed EMS Personnel Providing Patient Care.**	$ 500
340.03.	**Failure to Respond.**	$ 750
340.04.	**Unauthorized Response by EMS Agency.** Licensed EMS agency responds to a request for service which deviates from or exceeds those authorized by the EMS agency license.	$ 500
340.05.	**Failure to Allow an Inspection of an EMS Agency.**	$ 500
340.06.	**Failure to Correct Unacceptable Conditions.** **a.** Failure to maintain an EMS vehicle in a safe and sanitary condition: **b.** Failure to have available minimum EMS equipment: **c.** Failure to correct patient or personnel safety hazards: **d.** Failure to retain an EMS agency medical director:	 $ 250 $ 250 $ 250 $ 500
340.07.	**Failure to Report Patient Care Data.**	$ 500

(3-29-12)

342. COLLECTED FINES.
Money collected from EMS agency fines will be deposited into the Emergency Medical Services Fund III provided for in Section 56-1018B, Idaho Code, a dedicated fund account for the purpose of providing grants to acquire vehicles and equipment for use by emergency medical services personnel in the performance of their duties. (3-29-12)

343. -- 349. (RESERVED)

350. REINSTATEMENT FOLLOWING REVOCATION.
An application of any revoked license, certificate, or educational program approval, may be filed with the EMS Bureau no earlier than one (1) year from the date of the revocation. (7-1-16)

01. Peer Review for Reinstatement. The EMS Bureau will conduct a peer review to consider the reinstatement application. (3-29-12)

02. Recommendation of Peer Review Team. The peer review team will make a recommendation to the EMS Bureau to accept or reject the application for reinstatement. (3-29-12)

03. Reinstatement Determination. The EMS Bureau will accept or reject the reinstatement application based on the peer review team recommendation and other extenuating circumstances. (3-29-12)

a. Reinstatement of a revoked EMS personnel license is subject to the lapsed license reinstatement requirements in IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (3-29-12)

b. Reinstatement of a revoked EMS agency license will be subject to an initial agency application requirements in IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements." (7-1-14)

351. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Sections 56-1013A and 56-1023, Idaho Code, the Idaho Emergency Medical Services (EMS) Physician Commission is authorized to promulgate these rules for the purpose of establishing standards for scope of practice and medical supervision for licensed personnel, air medical, ambulance services, and nontransport agencies licensed by the Department of Health and Welfare. (3-29-10)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission." *( )*

02. Scope. The scope of these rules is to define the allowable scope of practice, acts, and duties that can be performed by persons licensed as emergency medical services personnel by the Department of Health and Welfare Bureau of Emergency Medical Services and Preparedness and to define the required level of supervision by a physician. (3-29-10)

002. INVESTIGATIONS.

01. Physician Complaint Investigations. The provisions of the rules of the Board of Medicine, IDAPA 22.01.14, "Rules Relating to Complaint Investigation," govern investigation of complaints regarding physicians. (4-2-08)

02. EMS Personnel and EMS Agency Complaint Investigations. The provisions of IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions," govern investigation of complaints regarding licensed EMS personnel and EMS Agencies. (3-29-10)

003. INCORPORATION BY REFERENCE.
The Idaho Emergency Medical Services (EMS) Physician Commission has adopted the Idaho Emergency Medical Services (EMS) Physician Commission Standards Manual, edition 2019-1, and hereby incorporates this Standards Manual by reference. Copies of the manual may be obtained on the Internet at www.emspc.dhw.idaho.gov or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID, 83712-8249, whose mailing address is P.O. 83720, Boise, Idaho 83720-0036. (7-1-19)

004. *EMS COMPLAINTS*.
The provisions of IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions," govern the confidentiality of the investigation of complaints regarding licensed EMS personnel. *( )*

005. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the applicable definitions in Section 56-1012, Idaho Code, and IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions," the following terms are used in this chapter as defined below: *( )*

01. Credentialed EMS Personnel. Individuals who are authorized to provide medical care by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (4-2-08)

02. Credentialing. The local process by which licensed EMS personnel are authorized to provide medical care in the out-of-hospital, hospital, and medical clinic setting, including the determination of a local scope of practice. (3-29-10)

03. Designated Clinician. A licensed Physician Assistant (PA) or Nurse Practitioner designated by the EMS medical director, hospital supervising physician, or medical clinic supervising physician who is responsible for direct (on-line) medical supervision of licensed EMS personnel in the temporary absence of the EMS medical director. (3-29-10)

04. Direct (On-Line) Supervision. Contemporaneous instructions and directives about a specific patient encounter provided by a physician or designated clinician to licensed EMS personnel who are providing medical care. (3-29-10)

05. Emergency Medical Services (EMS). Under Section 56-1012(12), Idaho Code, emergency

medical services or EMS is aid rendered by an individual or group of individuals who do the following: (7-1-15)

a. Respond to a perceived need for medical care in order to prevent loss of life, aggravation of physiological or psychological illness, or injury; (7-1-15)

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

c. Use an alerting mechanism to initiate a response to requests for medical care; and (7-1-15)

d. Offer, advertise, or attempt to respond as described in Section 56-1012(12), (a) through (c), Idaho Code. (7-1-15)

e. Aid rendered by a ski patroller, as described in Section 54-1804(1)(h), Idaho Code, is not EMS. (7-1-15)

06. Emergency Medical Services (EMS) Bureau. The Bureau of Emergency Medical Services (EMS) and Preparedness of the Idaho Department of Health and Welfare. (4-2-08)

07. Emergency Medical Services (EMS) Physician Commission. The Idaho Emergency Medical Services Physician Commission as created under Section 56-1013A, Idaho Code, hereafter referred to as "the Commission." (4-2-08)

08. EMS Agency. An organization licensed by the EMS Bureau to provide emergency medical services in Idaho. (4-2-08)

09. EMS Medical Director. A physician who supervises the medical activities of licensed personnel affiliated with an EMS agency. (3-29-10)

10. Hospital. A facility in Idaho licensed under Sections 39-1301 through 39-1314, Idaho Code, and defined in Section 39-1301(a)(1), Idaho Code. (4-2-08)

11. Hospital Supervising Physician. A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a hospital. (3-29-10)

12. Indirect (Off-Line) Supervision. The medical supervision, provided by a physician, to licensed EMS personnel who are providing medical care including EMS system design, education, quality management, patient care guidelines, medical policies, and compliance. (3-29-10)

13. License. A license issued by the EMS Bureau to an individual for a specified period of time indicating that minimum standards corresponding to one (1) of several levels of EMS proficiency have been met. (7-1-15)

14. Licensed EMS Personnel. Individuals who possess a valid license issued by the EMS Bureau. (7-1-15)

15. Medical Clinic. A place devoted primarily to the maintenance and operation of facilities for outpatient medical, surgical, and emergency care of acute and chronic conditions or injury. (4-2-08)

16. Medical Clinic Supervising Physician. A physician who supervises the medical activities of licensed EMS personnel while employed or utilized for delivery of services in a medical clinic. (3-29-10)

17. Medical Supervision. The advice and direction provided by a physician, or under the direction of a physician, to licensed EMS personnel who are providing medical care, including direct and indirect supervision. (3-29-10)

18. Medical Supervision Plan. The written document describing the provisions for medical supervision of licensed EMS personnel. (3-29-10)

19. Nurse Practitioner. An Advanced Practice Professional Nurse, licensed in the category of Nurse Practitioner, as defined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (4-2-08)

20. Out-of-Hospital. Any setting outside of a hospital, including inter-facility transfers, in which the provision of emergency medical services may take place. (4-2-08)

21. Physician. In accordance with Section 54-1803, Idaho Code, a person who holds a current active license issued by the Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho and is in good standing with no restriction upon, or actions taken against, *their* license. *( )*

22. Physician Assistant. A person who meets all the applicable requirements to practice as a licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants." (4-2-08)

011. -- 094. (RESERVED)

095. GENERAL PROVISIONS.

01. Practice of Medicine. This chapter does not authorize the practice of medicine or any of its branches by a person not licensed to do so by the Board of Medicine. (4-2-08)

02. Patient Consent. The provision or refusal of consent for individuals receiving emergency medical services is governed by Title 39, Chapter 45, Idaho Code. (4-2-08)

03. System Consistency. All EMS medical directors, hospital supervising physicians, and medical clinic supervising physicians must collaborate to ensure EMS agencies and licensed EMS personnel have protocols, policies, standards of care, and procedures that are consistent and compatible with one another. (3-29-10)

096. -- 099. (RESERVED)

100. GENERAL DUTIES OF EMS PERSONNEL.

01. General Duties. General duties of EMS personnel include the following: (4-2-08)

a. Licensed EMS personnel must possess a valid license issued by the EMS Bureau equivalent to or higher than the scope of practice authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (3-29-10)

b. Licensed EMS personnel must only provide patient care for which they have been trained, based on curricula or specialized training approved according to IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements," or additional training approved by the hospital or medical clinic supervising physician. (3-29-10)

c. Licensed EMS personnel must not perform a task or tasks within their scope of practice that have been specifically prohibited by their EMS medical director, hospital supervising physician, or medical clinic supervising physician. (3-29-10)

d. Licensed EMS personnel that possess a valid credential issued by the EMS medical director, hospital supervising physician, or medical clinic supervising physician are authorized to provide services when representing an Idaho EMS agency, hospital, or medical clinic and under any one (1) of the following conditions: (3-29-10)

i. When part of a documented, planned deployment of personnel resources approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician; or (4-2-08)

ii. When, in a manner approved by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, administering first aid or emergency medical attention in accordance with Section 5-330 or 5-331, Idaho Code, without expectation of remuneration; or (4-2-08)

iii. When participating in a training program approved by the EMS Bureau, the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (4-2-08)

02. Scope of Practice. (4-2-08)

a. The Commission maintains an "EMS Physician Commission Standards Manual" that: (4-2-08)

i. Establishes the scope of practice of licensed EMS personnel; and (3-29-10)

ii. Specifies the type and degree of medical supervision for specific skills, treatments, and procedures by level of EMS licensure. (3-29-10)

b. The Commission will consider the United States Department of Transportation's National EMS Scope of Practice Model when preparing or revising the standards manual described in Subsection 100.02.a. of this rule; (4-2-08)

c. The scope of practice established by the EMS Physician Commission determines the objectives of applicable curricula and specialized education of licensed EMS personnel; (3-29-10)

d. The scope of practice does not define a standard of care, nor does it define what should be done in a given situation; (4-2-08)

e. Licensed EMS personnel must not provide out-of-hospital patient care that exceeds the scope of practice established by the Commission; (3-29-10)

f. Licensed EMS personnel must be credentialed by the EMS medical director, hospital supervising physician, or medical clinic supervising physician to be authorized for their scope of practice; (3-29-10)

g. The credentialing of licensed EMS personnel affiliated with an EMS agency, in accordance with IDAPA 16.01.03, "Emergency Medical Services (EMS) -- Agency Licensing Requirements," must not exceed the licensure level of that EMS agency; and (3-29-10)

h. The patient care provided by licensed EMS personnel must conform to the Medical Supervision Plan as authorized by the EMS medical director, hospital supervising physician, or medical clinic supervising physician. (3-29-10)

101. -- 199. (RESERVED)

200. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN QUALIFICATIONS.
The EMS Medical Director, Hospital Supervising Physician, and Medical Clinic Supervising Physician must: (4-2-08)

01. Accept Responsibility. Accept responsibility for the medical direction and medical supervision of the activities provided by licensed EMS personnel. (3-29-10)

02. Maintain Knowledge of EMS Systems. Obtain and maintain knowledge of the contemporary design and operation of EMS systems. (4-2-08)

03. Maintain Knowledge of Idaho EMS. Obtain and maintain knowledge of Idaho EMS laws, regulations, and standards manuals. (4-2-08)

201. -- 299. (RESERVED)

300. EMS MEDICAL DIRECTOR, HOSPITAL SUPERVISING PHYSICIAN, AND MEDICAL CLINIC SUPERVISING PHYSICIAN RESPONSIBILITIES AND AUTHORITY.

01. Documentation of Written Agreement. The EMS medical director must document a written agreement with the EMS agency to supervise licensed EMS personnel and provide such documentation to the EMS Bureau annually and upon request. (3-29-10)

02. Approval for EMS Personnel to Function. (4-2-08)

a. The explicit approval of the EMS medical director, hospital supervising physician, or medical clinic supervising physician is required for licensed EMS personnel under *their* supervision to provide medical care. *( )*

b. The EMS medical director, hospital supervising physician, or medical clinic supervising physician may credential licensed EMS personnel under *their* supervision with a limited scope of practice relative to that allowed by the EMS Physician Commission, or with a limited scope of practice corresponding to a lower level of EMS licensure. *( )*

03. Restriction or Withdrawal of Approval for EMS Personnel to Function. (4-2-08)

a. The EMS medical director, hospital supervising physician, or medical clinic supervising physician can restrict the scope of practice of licensed EMS personnel under *their* supervision when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the Idaho EMS Bureau. *( )*

b. The EMS medical director, hospital supervising physician, or medical clinic supervising physician can withdraw approval of licensed EMS personnel to provide services, under *their* supervision, when such personnel fail to meet or maintain proficiencies established by the EMS medical director, hospital supervising physician, or medical clinic supervising physician, or the EMS Bureau. *( )*

c. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must report in writing such restriction or withdrawal of approval within fifteen (15) days of the action to the EMS Bureau in accordance with Section 39-1393, Idaho Code. (4-2-08)

04. Review Qualifications of EMS Personnel. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document the review of the qualification, proficiencies, and all other EMS agency, hospital, and medical clinic affiliations of EMS personnel prior to credentialing the individual. (4-2-08)

05. Document EMS Personnel Proficiencies. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must document that the capabilities of licensed EMS personnel are maintained on an ongoing basis through education, skill proficiencies, and competency assessment. (3-29-10)

06. Develop and Implement a Performance Assessment and Improvement Program. The EMS medical director must develop and implement a program for continuous assessment and improvement of services provided by licensed EMS personnel under their supervision. (3-29-10)

07. Review and Update Procedures. The EMS medical director must review and update protocols, policies, and procedures at least every two (2) years. (4-2-08)

08. Develop and Implement Plan for Medical Supervision. The EMS medical director, hospital supervising physician, or medical clinic supervising physician must develop, implement and oversee a plan for supervision of licensed EMS personnel as described in Subsection 400.06 of these rules. (3-29-10)

09. Access to Records. The EMS medical director must have access to all relevant agency, hospital, or medical clinic records as permitted or required by statute to ensure responsible medical supervision of licensed EMS personnel. (3-29-10)

301. -- 399. (RESERVED)

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

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

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

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

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

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

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

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

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

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

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

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

07. Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau. The agency EMS medical director must submit the medical supervision plan within thirty (30) days of request to the EMS Bureau in a form described in the standards manual. (7-1-13)

a. The agency EMS medical director must identify the designated clinicians to the EMS Bureau annually in a form described in the standards manual. (7-1-13)

b. The agency EMS medical director must inform the EMS Bureau of any changes in designated clinicians or of a change in the agency medical director within thirty (30) days of the change(s). (7-1-13)

c. The EMS Bureau must provide the Commission with the medical supervision plans within thirty (30) days of request. (7-1-13)

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

401. -- 499. (RESERVED)

500. PHYSICIAN SUPERVISION IN HOSPITALS AND MEDICAL CLINICS.

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

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

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

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

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

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

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

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

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

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

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

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

09. Medical Supervision Plan. The medical supervision of licensed EMS personnel must be provided in accordance with a documented medical supervision plan. The hospital supervising physician or medical clinic supervising physician is responsible for developing, implementing, and overseeing the medical supervision plan, and must submit the plan(s) within thirty (30) days of request by the Commission or the EMS Bureau. (7-1-13)

501. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Section 56-1003, Idaho Code, the Idaho Legislature has delegated to the Board of Health and Welfare the authority to set standards for laboratories in the state of Idaho. (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.02.06, "Quality Assurance for Idaho Clinical Laboratories." (4-7-11)

02. Scope. These rules protect the public and individual health by requiring that all Idaho clinical laboratories develop satisfactory quality assurance programs that meet minimal standards approved by the Board. (4-7-11)

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of these rules, the following terms apply: (4-7-11)

01. Board. The Idaho Board of Health and Welfare. (4-7-11)

02. Department. The Idaho Department of Health and Welfare. (4-7-11)

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

04. Laboratory or Clinical Laboratory. A facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examinations of material derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or the impairment or assessment of human health. (4-7-11)

05. Laboratory Director. The person under whose supervision the laboratory is operating. (4-7-11)

06. Pathologist. A physician who is: (4-7-11)

a. Licensed by the Idaho State Board of Medicine in accordance with IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho"; and (4-7-11)

b. Board certified by the American Board of Anatomic and Clinical Pathology. (4-7-11)

07. Proficiency Testing. Evaluation of a laboratory's ability to perform laboratory procedures within acceptable limits of accuracy through analysis of unknown specimens distributed at periodic intervals. (4-7-11)

08. Quality Control. A day-to-day analysis of reference materials to ensure reproducibility and accuracy of laboratory results, and also includes an acceptable system to assure proper functioning of instruments, equipment and reagents. (4-7-11)

09. Reviewer. An employee or other designated representative of the Department's Idaho Bureau of Laboratories, who is knowledgeable and experienced in clinical laboratory methods and procedures. (4-7-11)

011. -- 099. (RESERVED)

100. REGISTRATION REQUIREMENTS FOR CLINICAL LABORATORIES.

01. Registration Timeframes. (4-7-11)

a. Every person responsible for the operation of a laboratory that performs tests on material derived from the human body must register such facility with the Department within thirty (30) days after first accepting specimens for testing. (4-7-11)

b. Existing laboratories must submit a completed laboratory registration form every two (2) years and indicate any changes in laboratory operations. (4-7-11)

02. Registration Form. Each laboratory must submit its registration information on the Department-approved form. These forms are available upon request from the Department. Each completed registration form must include the following information: (4-7-11)

a. Name and location of the laboratory; (4-7-11)

b. Name of the laboratory director; (4-7-11)

c. Types of laboratory tests performed in the laboratory; and (4-7-11)

d. Other information requested by the Department that it deems necessary to evaluate the performance of the laboratory. (4-7-11)

101. -- 109. (RESERVED)

110. EXCLUSIONS.

01. Other Certifying Agencies. Laboratories will be excluded from compliance with these rules (except Sections 100 and 200) upon submission of evidence of certification from one (1) of the following agencies: (4-7-11)

a. Centers for Medicare and Medicaid Services (CMS), Clinical Laboratory Improvement Amendment (CLIA) certification program (http://www.cms.gov/CLIA/01_Overview.asp); (4-7-11)

b. College of American Pathologists; (4-7-11)

c. Agencies approved by CMS as accreditation organizations. To review the current list of CMS-approved accreditation organizations go to, https://www.cms.gov/Regulations-and-Guidance/Legislation/CLIA/Downloads/AOList.pdf; (4-7-11)

d. Laboratories located in hospitals approved by the Joint Commission (http://www.jointcommission.org/); and (4-7-11)

e. Other certification programs approved by the Department. (4-7-11)

02. Facilities and Laboratories. The following laboratories and facilities are also excluded from compliance with this chapter: (4-7-11)

a. Laboratories operated for teaching or research purposes only, provided tests results are not used for diagnosis or treatment; (4-7-11)

b. Prosthetic dental laboratories; and (4-7-11)

c. Facilities performing skin testing solely for detection of allergies and sensitivities. (4-7-11)

111. -- 119. (RESERVED)

120. DEPARTMENT INSPECTIONS OF CLINICAL LABORATORIES.
A qualified representative of the Department is authorized to inspect the premises and operations of all approved laboratories for the purpose of determining the adequacy of the quality control program and supervision of each laboratory. (4-7-11)

121. -- 129. (RESERVED)

130. GENERAL REQUIREMENTS FOR CLINICAL LABORATORIES.

01. Laboratory Facilities. Each laboratory must have adequate space, equipment, and supplies to perform the services offered, with accuracy, precision, and safety. (4-7-11)

02. Records. (4-7-11)

a. Laboratory records must identify the person responsible for performing the procedure. (4-7-11)

b. Each laboratory must maintain a suitable record of each test result for a period of at least two (2) years. Reports of tests must be filed in a manner that permits ready identification and accessibility. (4-7-11)

c. Laboratory records and reports must identify specimens referred to other laboratories and must identify the reference laboratory testing such referred specimens. (4-7-11)

131. -- 149. (RESERVED)

150. PERSONNEL REQUIREMENTS FOR CLINICAL LABORATORIES.
The laboratory director must ensure that the staff of the laboratory: (4-7-11)

01. Appropriate Education, Experience, and Training. Have appropriate education, experience, and training to perform and report laboratory tests promptly and proficiently; (4-7-11)

02. Sufficient in Number for the Scope and Complexity. Are sufficient in number for the scope and complexity of the services provided; (4-7-11)

03. In-service Training. Receive in-service training appropriate to the type and complexity of the laboratory services offered; and (4-7-11)

04. Procedures and Tests that are Outside the Scope of Training. Do not perform procedures and tests that are outside the scope of training of the laboratory personnel. (4-7-11)

151. -- 199. (RESERVED)

200. PROFICIENCY TESTING OF CLINICAL LABORATORIES.

01. Scope. All laboratories must subscribe to, and satisfactorily participate in, a proficiency testing program that has been approved by the Department. (4-7-11)

02. Results to the Bureau of Laboratories. The laboratory director must furnish the Laboratory Improvement Section with copies of all proficiency testing results within thirty (30) days of receipt or make provisions for a duplicate of the results to be sent by the testing service directly to the Department. (4-7-11)

201. -- 209. (RESERVED)

210. QUALITY CONTROL PROGRAM REQUIREMENTS FOR CLINICAL LABORATORIES.

01. Establishment of Quality Control Program. To ensure reliability of day-to-day results, each laboratory must establish a quality control program compatible with regional and statewide practices. (4-7-11)

02. Program Scope. An acceptable quality control program must include the following: (4-7-11)

a. An effective preventive maintenance program that ensures proper functioning of all instruments and equipment; (4-7-11)

b. Routine testing of quality control materials along with patient specimens; (4-7-11)

c. Quality control checks on reagents and media utilized in the performance of tests; (4-7-11)

d. Maintenance of quality control records that will enable determination of reliability of all procedures performed. (4-7-11)

211. -- 219. (RESERVED)

220. DEPARTMENT APPROVAL OF CLINICAL LABORATORIES.
The Department will approve clinical laboratories for performance of tests on material from the human body if the laboratory meets the minimum standards specified in these regulations. (4-7-11)

221. -- 229. (RESERVED)

230. DEPARTMENT REVOCATION OF APPROVAL.
The Department may revoke approval, either in total or in part, for the following reasons: (4-7-11)

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

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

03. Failure to Obtain Satisfactory Results. The Department, through the quality review process, determines that the approved laboratory has failed to obtain satisfactory results on two (2) consecutive or on two (2) out of three (3) consecutive sets of proficiency test program specimens in one (1) or more testing categories. (4-7-11)

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

231. -- 239. (RESERVED)

240. REVOCATION PROCEDURE.

01. Unacceptable Results. Laboratories that fail to obtain passing results on two (2) consecutive proficiency testing events, or two (2) out of three (3) events, will be required to submit documentation of corrective action within fifteen (15) working days after receipt of the notification of the failures. Evaluation of proficiency testing results may overlap from one year to the next. (4-7-11)

02. Corrective Action. Upon receipt of documentation of corrective action, a reviewer will determine the adequacy of the action taken. If, in the opinion of the reviewer, the corrective action is not adequate, the laboratory will be required to submit to an on-site inspection that may include on-site testing of unknown samples. (4-7-11)

03. On-Site Inspection. If the results of the on-site inspection indicate that the laboratory's performance is unacceptable in one (1) or more testing categories, the approval to perform the test(s) in question will be revoked. (4-7-11)

04. Satisfactory Performance. The laboratory will continue to be approved for performance of all test procedures for which it has demonstrated satisfactory performance. (4-7-11)

05. Other Deficiencies. Failure to comply with other provisions of these rules may invoke revocation procedures. (4-7-11)

241. -- 249. (RESERVED)

250. RENEWAL OF APPROVAL OF *DISAPPROVED* TEST OR TESTS.

01. Renewal Granted. (4-7-11)

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

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

c. Upon determination that corrections leading to satisfactory and acceptable performance have been made, the Chief of the Bureau of Laboratories may reinstate approval. (4-7-11)

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

251. -- 269. (RESERVED)

270. LIST OF APPROVED LABORATORIES.
The Department will maintain a list of laboratories approved in accordance with this chapter. This list must include the name and address of each approved laboratory, and the name of the person directing the laboratory. (4-7-11)

271. -- 299. (RESERVED)

300. PENALTY FOR FAILURE TO REGISTER OR OPERATION OF A NON-APPROVED CLINICAL LABORATORY.
Failure to register a clinical laboratory, operation of a non-approved clinical laboratory, or performance of unapproved testing constitutes a violation of these rules. Any violation of these rules constitutes a misdemeanor under Section 56-1008, Idaho Code. (4-7-11)

301. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 39-605, 39-1003, 39-1603, and 56-1005, Idaho Code, grant authority to the Board of Health and Welfare to adopt rules protecting the health of the people of Idaho. Section 39-906, Idaho Code, provides for the Director to administer rules adopted by the Board of Health and Welfare. Section 39-4505(2), Idaho Code, gives the Director authority to promulgate rules regarding the identification of blood- or body fluid-transmitted viruses or diseases. Section 56-1003, Idaho Code, gives the Director the authority to adopt rules protecting the health of the people of Idaho and to recommend rules to the Board of Health and Welfare. Section 54-1119, Idaho Code, authorizes the Director to promulgate rules regarding the handling of dead human bodies as needed to preserve and protect the public health. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.02.10, "Idaho Reportable Diseases." (4-2-08)

02. Scope. These rules contain the official requirements governing the reporting, control, and prevention of reportable diseases and conditions and requirements to prevent transmission of health hazards from dead human bodies. The purpose of these rules is to identify, control, and prevent the transmission of reportable diseases and conditions within Idaho. (3-29-10)

002. DOCUMENTS INCORPORATED BY REFERENCE.
The documents referenced in Subsections 004.01 through 004.07 of this rule are used as a means of further clarifying these rules. These documents are incorporated by reference and are available at the Idaho State Law Library or at the Department's main office. ( )

01. Guideline for Isolation Precautions in Hospitals. Siegel, J.D., et al., "Guideline for Isolation Precautions in Hospitals." Health Care Infection Control Practices Advisory Committee, Atlanta, GA: Centers for Disease Control and Prevention, 2007. (4-2-08)

02. National Notifiable Diseases Surveillance System - Case Definitions. http://wwwn.cdc.gov/nndss/script/casedefDefault.aspx. (4-11-15)

03. Human Rabies Prevention -- United States, 2008. Morbidity and Mortality Weekly Report, May 23, 2008, Vol. 57.RR-3. Centers for Disease Control and Prevention. (4-11-15)

04. Updated U.S. Public Health Service Guidelines for the Management of Occupational Exposures to Human Immunodeficiency Virus and Recommendations for Postexposure Prophylaxis. Infection Control and Hospital Epidemiology, September 2013, Vol. 34, 9. The Society for Healthcare Epidemiology of America. These guidelines are found online at http://www.jstor.org/stable/10.1086/672271. (3-28-18)

05. Compendium of Animal Rabies Prevention and Control, 2016. National Association of State Public Health Veterinarians, Inc., Journal of American Veterinary Medical Association Vol. 248(5), March 1, 2016. This document is found online at http://nasphv.org/documentsCompendia.html. (3-28-18)

06. Standards for Cancer Registries, Volume II, Data Standards and Data Dictionary. North American Association of Central Cancer Registries, Eighteenth Edition, Record Layout Version 14, September 2013. (4-11-15)

07. Use of Reduced (4-Dose) Vaccine Schedule for Postexposure Prophylaxis to Prevent Human Rabies: Recommendations of the Advisory Committee on Immunization Practices, 2010. Morbidity and Mortality Weekly Report, Recommendations and Reports, March 19, 2010/59(RR02);1-9. This document is found online at https://www.cdc.gov/mmwr/preview/mmwrhtml/rr5902a1.htm. (3-28-18)

003. *DISCLOSURE OF INFORMATION*.
No employee of the Department or Health District may disclose the identity of persons named in disease reports except to the extent necessary for the purpose of administering the public health laws of this state. (4-2-08)

004. -- 009. (RESERVED)

010. DEFINITIONS A THROUGH K.
For the purposes of this chapter, the following definitions apply. (4-2-08)

01. Airborne Precautions. Methods used to prevent airborne transmission of infectious agents, as described in "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

02. Approved Fecal Specimens. Specimens of feces obtained from the designated person who has not taken any antibiotic orally or parenterally for two (2) days prior to the collection of the fecal specimen. The specimen must be collected and transported to the laboratory in a manner appropriate for the test to be performed. (4-2-08)

03. Bite or Other Exposure to Rabies. Bite or bitten means that the skin of the person or animal has been nipped or gripped, or has been wounded or pierced, including scratches, and includes probable contact of saliva with a break or abrasion of the skin. The term "exposure" also includes contact of saliva with any mucous membrane. In the case of bats, even in the absence of an apparent bite, scratch, or mucous membrane contact, exposure may have occurred, as described in "Human Rabies Prevention -- United States," incorporated in Section 004 of these rules. (3-28-18)

04. Board. The Idaho State Board of Health and Welfare as described in Section 56-1005, Idaho Code. (4-2-08)

05. Cancer Data Registry of Idaho (CDRI). The agency performing cancer registry services under a contractual agreement with the Department as described in Section 57-1703, Idaho Code. (4-2-08)

06. Cancers. Cancers that are designated reportable include the following as described in Section 57-1703, Idaho Code: (4-2-08)

a. In-situ or malignant neoplasms, but excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix. (4-2-08)

b. Benign tumors of the brain, meninges, pineal gland, or pituitary gland. (4-2-08)

07. Carrier. A carrier is a person who can transmit a communicable disease to another person, but may not have symptoms of the disease. (4-2-08)

08. Case. (4-2-08)

a. A person, who has been diagnosed as having a specific disease or condition by a physician or other health care provider, is considered a case. The diagnosis may be based on clinical judgment, on laboratory evidence, or on both criteria. Individual case definitions are described in "National Notifiable Diseases Surveillance System Case Definitions," incorporated in Section 004 of these rules. (4-11-15)

b. A laboratory detection of a disease or condition as listed in Section 050 of these rules and as further outlined in Sections 100 through 949 of these rules. (4-2-08)

09. Cohort System. A communicable disease control mechanism in which cases having the same disease are temporarily segregated to continue to allow supervision and structured attendance in a daycare or health care facility. (4-2-08)

10. Communicable Disease. A disease *that* may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means *that* may result in infection, illness, disability, or death. *( )*

11. Contact. A contact is a person who has been exposed to a case or a carrier of a communicable disease while the disease was communicable, or a person by whom a case or carrier of a communicable disease could have been exposed to the disease. (4-11-15)

12. Contact Precautions. Methods used to prevent contact transmission of infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

13. Daycare. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes as described by Section 39-1102, Idaho Code. (4-2-08)

14. Department. The Idaho Department of Health and Welfare or its designee. (4-2-08)

15. Director. The Director of the Idaho Department of Health and Welfare or *their* designee as described under Sections 56-1003 and 39-414(2), Idaho Code, and Section 950 of these rules. *( )*

16. Division of Public Health Administrator. A person appointed by the Director to oversee the administration of the Division of Public Health, Idaho Department of Health and Welfare, or *their* designee. *( )*

17. Droplet Precautions. Methods used to prevent droplet transmission of infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

18. Exclusion. An exclusion for a food service facility means a person is prevented from working as a food employee or entering a food establishment except for those areas open to the general public as outlined in the IDAPA 16.02.19, "Idaho Food Code." *( )*

19. Extraordinary Occurrence of Illness Including Clusters. Rare diseases and unusual outbreaks of illness *that* may be a risk to the public are considered an extraordinary occurrence of illness. Illnesses related to drugs, foods, contaminated medical devices, contaminated medical products, illnesses related to environmental contamination by infectious or toxic agents, unusual syndromes, or illnesses associated with occupational exposure to physical or chemical agents may be included in this definition. *( )*

20. Fecal Incontinence. A condition in which temporarily, as with severe diarrhea, or long-term, as with a child or adult requiring diapers, there is an inability to hold feces in the rectum, resulting in involuntary voiding of stool. (4-2-08)

21. Foodborne Disease Outbreak. An outbreak is when two (2) or more persons experience a similar illness after ingesting a common food. (4-2-08)

22. Food Employee. An individual working with unpackaged food, food equipment or utensils, or food-contact surfaces as defined in IDAPA 16.02.19, "Idaho Food Code." *( )*

23. Health Care Facility. An establishment organized and operated to provide health care to three (3) or more individuals who are not members of the immediate family. This definition includes hospitals, intermediate care facilities, residential care and assisted living facilities. (4-2-08)

24. Health Care Provider. A person who has direct or supervisory responsibility for the delivery of health care or medical services. This includes: licensed physicians, nurse practitioners, physician assistants, nurses, dentists, chiropractors, and administrators, superintendents, and managers of clinics, hospitals, and licensed laboratories. (4-2-08)

25. Health District. Any one (1) of the seven (7) public health districts as established by Section 39-409, Idaho Code, and described in Section 030 of these rules. (4-2-08)

26. Health District Director. Any one (1) of the public health districts' directors appointed by the Health District's Board as described in Section 39-413, Idaho Code, or *their* designee. *( )*

27. Idaho Food Code. Idaho Administrative Code that governs food safety, IDAPA 16.02.19, "Idaho Food Code." These rules may be found online at http://adminrules.idaho.gov/rules/current/16/160219.pdf. *( )*

28. Isolation. The separation of a person known or suspected to be infected with an infectious agent, or contaminated from chemical or biological agents, from other persons to such places, under such conditions, and for such time as will prevent transmission of the infectious agent or further contamination. The place of isolation will be

designated by the Director under Section 56-1003(7), Idaho Code, and Section 065 of these rules. (4-2-08)

011. DEFINITIONS L THROUGH Z.
For the purposes of this chapter, the following definitions apply. (4-2-08)

01. Laboratory Director. A person who is directly responsible for the operation of a licensed laboratory or *their* designee. *( )*

02. Laboratory. A medical diagnostic laboratory *that* is inspected, licensed, or approved by the Department or licensed according to the provisions of the Clinical Laboratory Improvement Act by the United States Health Care and Financing Administration. Laboratory may also refer to the Idaho State Public Health Laboratory, and to the United States Centers for Disease Control and Prevention. *( )*

03. Livestock. Livestock as defined by the Idaho Department of Agriculture in IDAPA 02.04.03, "Rules Governing Animal Industry." (4-11-15)

04. Medical Record. Hospital or medical records are all those records compiled for the purpose of recording a medical history, diagnostic studies, laboratory tests, treatments, or rehabilitation. Access will be limited to those parts of the record *that* will provide a diagnosis, or will assist in identifying contacts to a reportable disease or condition. Records specifically exempted by statute are not reviewable. *( )*

05. Outbreak. An outbreak is an unusual rise in the incidence of a disease. An outbreak may consist of a single case. (4-2-08)

06. Personal Care. The service provided by one (1) person to another for the purpose of feeding, bathing, dressing, assisting with personal hygiene, changing diapers, changing bedding, and other services involving direct physical contact. (4-2-08)

07. Physician. A person legally authorized to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine in Idaho as defined in Section 54-1803, Idaho Code. (4-2-08)

08. Quarantine. The restriction placed on the entrance to and exit from the place or premises where an infectious agent or hazardous material exists. The place of quarantine will be designated by the Director or Health District Board. (4-2-08)

09. Rabies Post-Exposure Prophylaxis (rPEP). The administration of a rabies vaccine series with or without the antirabies immune globulin, depending on pre-exposure vaccination status, following a documented or suspected rabies exposure, as described in "Use of Reduced (4-Dose) Vaccine Schedule for Postexposure Prophylaxis to Prevent Human Rabies: Recommendations of the Advisory Committee on Immunization Practices," incorporated in Section 004 of these rules. (3-28-18)

10. Rabies-Susceptible Animal. Any animal capable of being infected with the rabies virus. (4-2-08)

11. Residential Care Facility. A commercial or non-profit establishment organized and operated to provide a place of residence for three (3) or more individuals who are not members of the same family, but live within the same household. Any restriction for this type of facility is included under restrictions for a health care facility. (4-2-08)

12. Restriction. (4-2-08)

a. To limit the activities of a person to reduce the risk of transmitting a communicable disease. Activities of individuals are restricted or limited to reduce the risk of disease transmission until such time that they are no longer considered a health risk to others. (4-2-08)

b. A food employee who is restricted must not work with exposed food, clean equipment, utensils, linens, and unwrapped single-service or single-use articles. A restricted employee may still work at a food establishment as outlined in the IDAPA 16.02.19, "Idaho Food Code." *( )*

13. Restrictable Disease. A restrictable disease is a communicable disease, which if left unrestricted, may have serious consequences to the public's health. The determination of whether a disease is restrictable is based upon the specific environmental setting and the likelihood of transmission to susceptible persons. (4-2-08)

14. Severe Reaction to Any Immunization. Any serious or life-threatening condition *that* results directly from the administration of any immunization against a communicable disease. *( )*

15. Significant Exposure to Blood or Body Fluids. Significant exposure is defined as a percutaneous injury, contact of mucous membrane or non-intact skin, or contact with intact skin when the duration of contact is prolonged or involves an extensive area, with blood, tissue, or other body fluids as defined in "Updated U.S. Public Health Service Guidelines for the Management of Occupational Exposures to HIV and Recommendations for Postexposure Prophylaxis," incorporated in Section 004 of these rules. (3-29-10)

16. Standard Precautions. Methods used to prevent transmission of all infectious agents, as described in the "Guideline for Isolation Precautions in Hospitals," incorporated in Section 004 of these rules. (4-2-08)

17. State Epidemiologist. A person employed by the Department to serve as a statewide epidemiologist or *their* designee. *( )*

18. Suspected Case. A person diagnosed with or thought to have a particular disease or condition by a licensed physician or other health care provider. The suspected diagnosis may be based on signs and symptoms, or on laboratory evidence, or both criteria. Suspected cases of some diseases are reportable as described in Section 050 of these rules. (4-2-08)

19. Vaccination of an Animal Against Rabies. Vaccination of an animal by a licensed veterinarian with a rabies vaccine licensed or approved for the animal species and administered according to the specifications on the product label or package insert as described in the "Compendium of Animal Rabies Prevention and Control," incorporated in Section 004 of these rules. (3-28-18)

20. Veterinarian. Any licensed veterinarian as defined in Section 54-2103, Idaho Code. (4-2-08)

21. Waterborne Outbreak. An outbreak is when two (2) or more persons experience a similar illness after exposure to water from a common source and an epidemiological analysis implicates the water as the source of the illness. (4-11-15)

22. Working Day. A working day is from 8 a.m. to 5 p.m., Monday through Friday, excluding state holidays. (4-2-08)

012. -- 019. (RESERVED)

020. PERSONS REQUIRED TO REPORT REPORTABLE DISEASES, CONDITIONS, AND SCHOOL CLOSURES.

01. Physician. A licensed physician who diagnoses, treats, or cares for a person with a reportable disease or condition must make a report of such disease or condition to the Department or Health District as described in these rules. The physician is also responsible for reporting diseases and conditions diagnosed or treated by physician assistants, nurse practitioners, or others under the physician's supervision. (4-2-08)

02. Hospital or Health Care Facility Administrator. The hospital or health care facility administrator must report all persons who are diagnosed, treated, or receive care for a reportable disease or condition in *their* facility unless the attending physician has reported the disease or condition. *( )*

03. Laboratory Director. The laboratory director must report to the Department or Health District the identification of, or laboratory findings suggestive of, the presence of the organisms, diseases, or conditions listed in Section 050 of these rules. (4-2-08)

04. School Administrator. A school administrator must report diseases and conditions to the Department or Health District as indicated in Section 050 of these rules. A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in *their* opinion, such closing is related to a communicable disease. *( )*

05. Persons in Charge of Food Establishments. A person in charge of an eating or drinking establishment must report diseases and conditions to the Department or Health District as indicated in Section 050 of these rules and obtain guidance on proper actions needed to protect the public. (4-11-15)

06. Others Required to Report Reportable Diseases. In addition to licensed physicians, reports must also be made by physician assistants, certified nurse practitioners, licensed registered nurses, school health nurses, infection surveillance staff, public health officials, and coroners. (4-2-08)

021. ACCESS TO MEDICAL RECORDS.
No physician, hospital administrative person, or patient may deny the Department, Health Districts, or the Board access to medical records in discharge of their duties in implementing the reportable disease rules. (4-2-08)

022. PENALTY PROVISIONS.
These rules may be enforced under the civil and criminal penalties described in Sections 39-108, 39-109, 39-607, 39-1006, 39-1606, and 56-1008, Idaho Code, and other applicable statutes and rules. Penalties may include fines and imprisonment as specified in Idaho Code. (4-2-08)

023. DELEGATION OF POWERS AND DUTIES.
The Director has the authority to delegate to the Health Districts any of the powers and duties created by these rules under Section 39-414(2), Idaho Code. Any delegation authority will be in writing and signed by the both the Director and the Health District Board. (4-2-08)

024. -- 029. (RESERVED)

030. WHERE TO REPORT REPORTABLE DISEASES AND CONDITIONS.
Subsections 030.01 through 030.09 of this rule provide where information for reporting of suspected, identified, and diagnosed diseases and conditions are to be reported. The diseases and conditions in Sections 100 through 949 of these rules are reportable to the agencies listed in Subsections 030.01 through 030.09 of this rule. (4-2-08)

01. Department of Health and Welfare, Bureau of Communicable Disease Prevention Epidemiology Program. (4-2-08)

a. Main Office Address: 450 West State Street, 4th Floor, Boise, ID 83720. (4-2-08)

b. Phone: (208) 334-5939 and FAX: (208) 332-7307. (4-2-08)

02. Health District I - Panhandle Health District. The Panhandle Health District covers the counties of Benewah, Bonner, Boundary, Kootenai, and Shoshone. (4-2-08)

a. Main Office Address: 8500 N. Atlas Road, Hayden, ID 83835. (4-2-08)

b. Phone: (208) 772-3920 and FAX: 1-866-716-2599 Toll Free. (4-2-08)

03. Health District II - Public Health Idaho North Central District. The North Central District covers the counties of Clearwater, Idaho, Latah, Lewis, and Nez Perce. (4-2-08)

a. Main Office Address: 215 10th Street, Lewiston, ID 83501. (4-2-08)

b. Phone: (208) 799-3100 and FAX: (208) 799-0349. (4-2-08)

04. Health District III - Southwest District Health. Southwest District Health covers the counties of Adams, Canyon, Gem, Owyhee, Payette, and Washington. (4-2-08)

a. Main Office Address: 13307 Miami Lane, Caldwell, ID 83607. (4-2-08)

b. Phone: (208) 455-5442 and FAX: (208) 455-5350. (4-2-08)

05. Health District IV - Central District Health Department. The Central District Health Department covers the counties of Ada, Boise, Elmore and Valley. (4-2-08)

a. Main Office Address: 707 N. Armstrong Place, Boise, ID 83704. (4-2-08)

b. Phone: (208) 327-8625 and FAX: (208) 327-7100. (4-2-08)

06. Health District V - South Central Public Health District. The South Central Public Health District covers the counties of Blaine, Camas, Cassia, Gooding, Jerome, Lincoln, Minidoka, and Twin Falls. (4-2-08)

a. Main Office Address: 1020 Washington Street N., Twin Falls, ID 83301. (4-2-08)

b. Phone: (208) 737-5929 and FAX: (208) 736-3009. (4-2-08)

07. Health District VI - Southeastern Idaho Public Health. The Southeastern Idaho Public Health District covers the counties of Bannock, Bear Lake, Bingham, Butte, Caribou, Franklin, Oneida, and Power. (4-2-08)

a. Main Office Address: 1901 Alvin Ricken Drive, Pocatello, ID 83201. (4-2-08)

b. Phone: (208) 233-9080 and FAX: (208) 233-1916. (4-2-08)

08. Health District VII - Eastern Idaho Public Health District. The Eastern Idaho Public Health District covers the counties of Bonneville, Clark, Custer, Fremont, Jefferson, Lemhi, Madison and Teton. (4-2-08)

a. Main Office Address: 1250 Hollipark Drive, Idaho Falls, ID 83401. (4-2-08)

b. Phone: (208) 533-3152 and FAX: (208) 523-4365. (4-2-08)

09. Cancer Data Registry of Idaho (CDRI). (4-2-08)

a. Main Office Address: 615 N. 7th Street, P.O. Box 1278, Boise, ID 83701. (4-2-08)

b. Phone: (208) 338-5100. (4-2-08)

10. Inter-Agency Notification. The Health District must notify the Department of reportable diseases and conditions as listed in Section 050 of these rules. (4-11-15)

a. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case of a reportable disease or condition when required in Sections 100 through 949 of these rules. (4-2-08)

b. The Department and the Health District will exchange reported information no later than weekly of all other cases of reportable diseases and conditions. (4-11-15)

c. The Department will notify the Idaho Department of Agriculture of any identified or suspected source of an animal related disease when required in Sections 100 through 949 of these rules. (4-2-08)

031. -- 039. (RESERVED)

040. REPORT CONTENTS AND METHOD OF REPORTING.

01. Report Contents. Each report of a reportable disease or condition must include: (4-2-08)

a. The identity and address of the attending licensed physician or the person reporting; (4-2-08)

b. The diagnosed or suspected disease or condition; (4-2-08)

c. The name, current address, telephone number, birth date, age, race, ethnicity, and sex of the individual with the disease or other identifier from whom the specimen was obtained; (4-2-08)

d. The date of onset of the disease or the date the test results were received; and (4-2-08)

e. In addition, laboratory directors must report the identity of the organism or other significant test result. (4-2-08)

02. How To Report. A report of a case or suspected case may be made to the Department or Health District by telephone, mail, fax, or through electronic-disease reporting systems as listed in Section 030 of these rules. ( )

03. After Hours Notification. An after hours report of a disease or condition may be made through the Idaho State EMS Communications Center (State Comm) at (800) 632-8000. A public health official will be contacted regarding the report. (4-11-15)

041. -- 049. (RESERVED)

050. REPORTABLE OR RESTRICTABLE DISEASES, CONDITIONS AND REPORTING REQUIREMENTS.
Reportable diseases and conditions must be reported to the Department or Health District by those required under Section 020 of these rules. The table below identifies the reportable and restrictable diseases and conditions, the timeframe for reporting, and the person or facility required to report.

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS
TABLE 050

Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Acquired Immune Deficiency Syndrome (AIDS), (including CD-4 lymphocyte counts <200 cells/mm3 blood or < 14%)	100	Within 3 working days	None	
Amebiasis and Free-living Amebae	110	Within 3 working days	DC, FS, HC	Food Service Facility
Anthrax (*Bacillus anthracis*)	120	Immediately	None	
Arboviral Diseases	125	Within 3 working days	None	
Biotinidase Deficiency	130	Within 1 working day (in newborn screening)	None	
Botulism	140	Immediately	None	
Brucellosis (*Brucella* species)	150	Within 1 working day	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS
TABLE 050

Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Campylobacteriosis (*Campylobacter* species)	160	Within 3 working days	DC, FS, HC	Food Service Facility
Cancer	170	Report to Cancer Data Registry of Idaho within 180 days of diagnosis or recurrence (including suspected cases)	None	
Chancroid	180	Within 3 working days	None	
Chlamydia trachomatis Infections	190	Within 3 working days	HC - ophthalmia neo-natorum only	
Cholera (*Vibrio cholerae*)	200	Within 1 working day	FS, HC, DC	Food Service Facility
Congenital Hypothyroidism	210	Within 1 working day (in newborn screening)	None	
Conjunctivitis	080, 090	No reporting required	DC, S	
Cryptosporidiosis (*Cryptosporidium* species)	220	Within 3 working days	FS, HC, DC	
Cutaneous Fungal Infections	080, 090	No reporting required	DC, S	
Diarrhea (until common communicable diseases have been ruled out)	085	No reporting required	FS	
Diphtheria (*Corynebacterium diphtheriae*)	230	Immediately	DC, FS, HC, S	School
Echinococcosis	235	Within 3 working days	None	
Encephalitis, Viral or Aseptic	240	Within 3 working days	None	
Escherichia coli O157:H7 and other Shiga-Toxin Producing *E. coli* (STEC)	250	Within 1 working day	DC, FS, HC	Food Service Facility School
Extraordinary Occurrence of Illness, including Clusters	260	Within 1 working day	None	
Fever	085	No reporting required	FS	
Food Poisoning, Foodborne Illness, and Waterborne Illnesses	270	Within 1 working day	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS
TABLE 050

Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Galactosemia	280	Within 1 working day (in newborn screening)	None	
Giardiasis (*Giardia lamblia*)	290	Within 3 working days	DC, FS, HC	Food Service Facility
Haemophilus influenzae Invasive Disease	300	Within 1 working day	DC, S	School
Hantavirus Pulmonary Syndrome	310	Within 1 working day	None	
Hemolytic-Uremic Syndrome (HUS) or Thrombotic thrombo-cytopenic purpura-HUS (TTP-HUS)	320	Within 1 working day	None	
Hepatitis A	330	Within 1 working day	DC, FS, HC	Food Service Facility
Hepatitis B	340	Within 1 working day	None	
Hepatitis C	350	Within 3 working days	None	
Human Immunodeficiency Virus (HIV)	360	Within 3 working days	None	
Human T-Lymphotropic Virus	370	Within 3 working days	None	
Jaundice	085	No reporting required	FS	
Lead Poisoning	380	Within 3 working days	None	
Legionellosis	390	Within 3 working days	None	
Leprosy (Hansen's Disease)	400	Within 3 working days	None	
Leptospirosis	410	Within 3 working days	None	
Listeriosis (*Listeria* species)	420	Within 3 working days	None	
Lyme Disease	430	Within 3 working days	None	
Malaria (*Plasmodium* species)	440	Within 3 working days	None	
Maple Syrup Urine Disease	450	Within 1 working day (in newborn screening)	None	
Measles (Rubeola)	460	Within 1 working day	DC, HC, S	School
Meningitis, Viral or Aseptic	470	Within 3 working days	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS
TABLE 050

Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Methicillin-resistant *Staphylococcus aureus* (MRSA) Invasive Disease	475	Within 3 working days	None	**Note:** Only Laboratory Directors need to report.
Methicillin-resistant *Staphylococcus aureus* (MRSA) Non-Invasive Disease	475, 080, 090	No reporting required	DC, FS, HC, S	
Mumps	480	Within 3 working days	DC, S, HC	School
Myocarditis, Viral	490	Within 3 working days	None	
Neisseria gonorrhoeae Infections	500	Within 3 working days	HC-ophthalmia neonatorum only	
Neisseria meningitidis Invasive Disease	510	Within 1 working day	DC, HC, S	School
Norovirus	520	Within 1 working day	DC, FS, HC, S	
Novel Influenza A Virus	522	Within 1 working day	DC, FS, HC, S	
Pediculosis	080, 090	No reporting required	DC, S	
Pertussis (*Bordetella pertussis*)	530	Within 1 working day	DC, HC, S	School
Phenylketonuria (PKU)	540	Within 1 working day (in newborn screening)	None	
Plague (*Yersinia pestis*)	550	Immediately	HC, S	School
Pneumococcal Invasive Disease in Children less than Eighteen (18) Years of Age *(Streptococcus pneumoniae)*	560	Within 3 working days	DC, S	School
Pneumocystis Pneumonia (PCP)	570	Within 3 working days	None	
Poliomyelitis	580	Within 1 working day	DC	School
Psittacosis	590	Within 3 working days	None	
Q Fever	600	Within 1 working day	None	
Rabies - Human, Animal, and Post-Exposure Prophylaxis (rPEP)	610	Immediately (human), Within 1 working day (animal or rPEP)	None	
Relapsing Fever, Tick-borne and Louse-borne	620	Within 3 working days	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS
TABLE 050

Reportable or Restrictable Diseases and Conditions	Section in Rule	Reporting Timeframe	Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School	Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)
Respiratory Syncytial Virus (RSV)	630	Within 1 working day	None	**Note:** Only Laboratory Directors need to report.
Reye Syndrome	640	Within 3 working days	None	
Rocky Mountain Spotted Fever	650	Within 3 working days	None	
Rubella (including Congenital Rubella Syndrome)	660	Within 1 working day	DC, HC, S	School
Salmonellosis (including Typhoid Fever) (*Salmonella* species)	670	Within 1 working day	DC, FS, HC	Food Service Facility
Scabies	080, 090	No reporting required	DC, S	
Severe Acute Respiratory Syndrome (SARS)	680	Within 1 working day	DC, S	School
Severe Reaction to Any Immunization	690	Within 1 working day	None	
Shigellosis (*Shigella* species)	700	Within 1 working day	DC, FS, HC, S	Food Service Facility School
Smallpox	710	Immediately	DC, HC, S	School
Sore Throat with Fever	085	No reporting required	FS	
Staphylococcal Infections other than MRSA	080, 085, 090	No reporting required	DC, FS, S	
Streptococcal Pharyngeal Infections	080, 090	No reporting required	DC, S	
Streptococcus pyogenes (group A strep), Invasive or Resulting in Rheumatic Fever	720	Within 3 working days	DC, HC, S	School
Syphilis	730	Within 3 working days	None	
Taeniasis	085	No reporting required	FS	
Tetanus	740	Within 3 working days	None	
Toxic Shock Syndrome	750	Within 3 working days	None	
Transmissible Spongiform Encephalopathies (TSE), including Creutzfeldt-Jakob Disease (CJD) and Variant CJD (vCJD)	760	Within 3 working days	None	

REQUIREMENTS FOR REPORTABLE AND RESTRICTABLE DISEASES AND CONDITIONS TABLE 050				
Reportable or Restrictable Diseases and Conditions	**Section in Rule**	**Reporting Timeframe**	**Restrictable for DC = Daycare FS = Food Service HC = Health Care Facility S = School**	**Which Facilities Must Report in Addition to Health Care Providers, Laboratory Directors, & Hospital Administrators (Section 020)**
Trichinosis	770	Within 3 working days	None	
Tuberculosis (*Mycobacterium tuberculosis*)	780	Within 3 working days	DC, FS, HC, S	School Food Service Facility
Tularemia (*Francisella tularensis*)	790	Immediately; Identification of *Francisella tularensis* - within 1 working day	None	
Uncovered and Open or Draining Skin Lesions with Pus, such as a Boil or Open Wound	085	No reporting required	FS	
Varicella (chickenpox)	080, 090	No reporting required	DC, S	
Vomiting (until noninfectious cause is identified)	085	No reporting required	FS	
Yersiniosis (*Yersinia enterocolitica* and *Yersinia pseudotuberculosis*)	810	Within 3 working days; Identification of *Yersinia pestis* - immediately	FS	

(3-28-18)

051. -- 059. (RESERVED)

060. TESTING FOR CERTAIN REPORTABLE DISEASES WHEN INFORMED CONSENT IS NOT POSSIBLE.

Under Section 39-4504, Idaho Code, a licensed physician may order blood or body fluid tests for hepatitis viruses, malaria, syphilis, or the human immunodeficiency virus (HIV) when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-2-08)

061. -- 064. (RESERVED)

065. INVESTIGATION AND CONTROL OF REPORTABLE DISEASES.

01. Responsibility and Authority. The Department will use all reasonable means to confirm in a timely manner any case or suspected case of a reportable disease or condition, and will determine, when possible, all sources of infection and the extent of exposure. Investigations may be made when the Division of Public Health Administrator, Health District Director, or state epidemiologist determines a disease to be of public health significance. (4-2-08)

a. Every licensed physician or other health care provider attending a person with a reportable disease or condition must report the case or suspected case, as described in Section 050 of these rules. *They* must instruct the person on applicable control measures as outlined in Sections 100 through 949 of these rules and cooperate with the

Department in the investigation and control of the disease or condition. ( )

b. Any person providing emergency or medical services who believes *they have* experienced a significant exposure to blood or bodily fluids as defined in Subsection 011.15 of these rules may report said exposure as soon as possible or within fourteen (14) days of the occurrence to the Department on a significant exposure report form. When, in the state epidemiologist's judgment, a significant exposure has occurred, the Department will inform the exposed individual that *they* may have been exposed to the HIV or HBV virus, or that there is no information available based on the Department's current HIV or HBV registry and will recommend appropriate counseling and testing for the exposed individual. ( )

02. Inspection - Right of Entry. The Department may enter private or public property for the purpose of administering or enforcing the provisions of these rules under the authority and constraints granted by Section 56-1009, Idaho Code. (4-2-08)

03. Inviolability of Placards. If it is necessary to use placards, it is unlawful for any person to interfere with, conceal, mutilate or tear down any notices or placards on any house, building or premises placed by the Department. Such placards can only be removed by the health official. (4-2-08)

04. Verification of Diagnosis. Cases of diseases or conditions reported to the Department will be treated as such upon the statement of the attending licensed physician or other health care provider, unless there is reason to doubt the diagnosis. Final decision as to the diagnosis for administrative purposes will rest with the Division of Public Health Administrator or Health District Director. (4-2-08)

05. Closure of Schools and Places of Public Assembly. The Director may order the closing of any public, parochial, or private school, or other place of public assembly when, in *their* opinion, such closing is necessary to protect public health. The school or other place of public assembly must not reopen until permitted by the health official. ( )

06. Transportation of Patients With Communicable Disease. No person with a reportable disease in a communicable form, who is under orders of isolation, nor any contact who is restricted under an order of quarantine, may travel or be transported from one place to another without the permission of the Division of Public Health Administrator or Health District Director. An exception may be made in instances where the patient is to be admitted directly to a hospital or treatment facility, provided adequate precautions are taken to prevent dissemination of the disease by the patient enroute to the hospital or treatment facility. (4-2-08)

07. Order to Report for Examination. The Division of Public Health Administrator or Health District Director may issue an order to report for examination. An order to report for examination must be served by delivering one (1) copy to the person to be examined, one (1) copy to the prosecuting attorney of the county or city in which the person resides, and filing one (1) copy bearing the notation of time and place of service and the signature of the person serving the notice with the issuing health authority. (4-2-08)

08. Order for Isolation. The Division of Public Health Administrator or Health District Director may issue and withdraw an order for isolation if *they* determine that it is necessary to protect the public from a significant risk of the spread of infectious or communicable diseases or from contamination from chemical or biological agents. Orders for isolation must be executed as described in Subsections 065.08.a. and 065.08.b. of this rule. ( )

a. The order for isolation must be executed as follows: (4-2-08)

i. One (1) copy to the individual being isolated; (4-2-08)

ii. One (1) copy to the attending licensed physician; (4-2-08)

iii. One (1) copy to the prosecuting attorney of the county or city in which the person resides; and (4-2-08)

iv. One (1) copy to be filed in the office of the issuing officer along with an affidavit of service signed by the person who served the order. (4-2-08)

b. The issuing officer will make an assessment and identify the least restrictive means of isolation that effectively protects unexposed and susceptible individuals from the public health threat. Orders of isolation require the individual to isolate himself at a certain place or places, and may require specific precautions to be taken when outside a designated place of isolation as the issuing officer deems appropriate and necessary. If the place of isolation is other than the individual's place of residence, a copy of the order must be provided to the person in charge of that place. (4-2-08)

c. The Division of Public Health Administrator or Health District Director will withdraw an order for isolation once it is determined there is no longer a significant threat to the public's health posed by the individual under order for isolation. (4-2-08)

09. Order for Quarantine. The Division of Public Health Administrator or Health District Director is empowered whenever a case of any communicable disease occurs in any household or other place within *their* jurisdiction and in *their* opinion it is necessary that persons residing within must be kept from contact with the public, to declare the house, building, apartment, or room a place of quarantine and to require that no persons will leave or enter during the period of quarantine except with specific permission of the issuing officer. Orders for quarantine must be executed as described in Subsections 065.09.a. and 065.09.b. of this rule. *( )*

a. The order for quarantine must be executed as follows: (4-2-08)

i. One (1) copy to any individual being quarantined; (4-2-08)

ii. One (1) copy to the attending licensed physician; (4-2-08)

iii. One (1) copy to the prosecuting attorney of the county or city in which the quarantine occurs; (4-2-08)

iv. One (1) copy to be filed in the office of the issuing officer along with an affidavit of service signed by the person who served the order; and (4-2-08)

v. One (1) copy to the person in charge or owner of the place of quarantine. (4-2-08)

b. The issuing officer will make an assessment and identify the least restrictive timeframe of quarantine that effectively protects unexposed and susceptible individuals to the infection of public health threat. (4-2-08)

c. The Division of Public Health Administrator or Health District Director will withdraw an order for quarantine when *they* determine there is no longer a significant threat to the public's health posed by the individual or premises under the order for quarantine. *( )*

10. Sexually Transmitted Infection Contacts. Any person infected with a sexually transmitted infection (venereal disease) as defined in Section 39-601, Idaho Code, is required to provide the name, address, and telephone number(s) of all persons from whom the disease may have been acquired and to whom the disease may have been transmitted, when such information is requested by the Department or Health District. (4-2-08)

066. -- 067. (RESERVED)

068. PREVENTING SPREAD OF HEALTH HAZARDS FROM DEAD HUMAN BODIES.

01. Embalming. (3-29-10)

a. The Division of Public Health Administrator or Health District Director may order a dead human body to be embalmed or prohibit embalming to prevent the spread of infectious or communicable diseases or exposure to hazardous substances. (3-29-10)

b. The dead human body of a person suspected of or confirmed as having a viral hemorrhagic fever at

the time of death must not be embalmed, but wrapped in sealed leak-proof material and cremated or buried. (3-29-10)

02. Burial. The Division of Public Health Administrator or Health District Director may order a dead human body to be buried or cremated, or prohibit burial or cremation, and may specify a time frame for final disposition to prevent the spread of infectious or communicable diseases or exposure to hazardous substances. As required in Section 39-268, Idaho Code, all orders of cremation will be approved by the coroner and the coroner will be notified of prohibitions of cremation ordered by the Administrator or Director. (3-29-10)

03. Notification of Health Hazard. Any person authorized to release a dead human body of a person suspected of or confirmed as having a prior disease, a viral hemorrhagic fever, other infectious health hazard, or contaminated with a hazardous substance, must notify the person taking possession of the body and indicate necessary precautions on a written notice to accompany the body. (3-29-10)

069. (RESERVED)

070. SPECIAL DISEASE INVESTIGATIONS.
The Department may conduct special investigations of diseases or conditions to identify causes and means of prevention. All records of interviews, reports, studies, and statements obtained by or furnished to the Department or other authorized agency are confidential for the identity of all persons involved. Release of information to the Department as required or permitted by these rules does not subject any party furnishing such information to an action for damages as provided under IDAPA 16.05.01, "Use and Disclosure of Department Records." (4-2-08)

071. -- 079. (RESERVED)

080. DAYCARE FACILITY - REPORTING AND CONTROL MEASURES.

01. Readily Transmissible Diseases. Daycare reportable and restrictable diseases are those diseases that are readily transmissible among children and staff in daycare facilities as listed under Section 050 of these rules. (4-2-08)

02. Restrictable Disease - Work. A person who is diagnosed to have a daycare restrictable disease must not work in any occupation in which there is direct contact with children in a daycare facility, as long as the disease is in a communicable form. (4-11-15)

03. Restrictable Disease - Attendance. A child who is diagnosed to have a daycare restrictable disease must not attend a daycare facility as long as the disease is in a communicable form. This restriction may be removed by the written certification of a licensed physician, public health nurse or school nurse that the person's disease is no longer communicable. (4-11-15)

04. Prevention of the Transmission of Disease. When satisfactory measures have been taken to prevent the transmission of disease, the affected child or employee may continue to attend or to work in a daycare facility if approval is obtained from the Department or Health District. (4-2-08)

081. -- 084. (RESERVED)

085. FOOD SERVICE FACILITY - REPORTING AND CONTROL MEASURES.

01. Food or Beverage Transmitted Disease in a Communicable Form. Under Section 050 of these rules, a person who is determined to have one (1) or more of the diseases or conditions listed as restrictable for food establishments must not work as a food employee as long as the disease is in a communicable form. (4-11-15)

02. Food Employee Health Examination. The Division of Public Health Administrator may require a food employee to submit to an examination to determine the presence of a disease that can be transmitted by means of food when there is reasonable cause to believe the food employee is afflicted with a disease listed in Section 050 of these rules as restrictable for food establishments and that disease is in a communicable form. (4-2-08)

03. Notification of Disease in a Communicable Form. If the person in charge of an eating or drinking establishment has reason to suspect that any employee has a disease listed in Section 050 of these rules as restrictable for food establishments, and that disease is in a communicable form, the person in charge must immediately notify the Department or Health District and obtain guidance on proper actions needed to protect the public. (4-2-08)

086. -- 089. (RESERVED)

090. SCHOOL - REPORTING AND CONTROL MEASURES.

01. Restrictable Diseases. School reportable and restrictable diseases are those diseases that are readily transmissible among students and staff in schools as listed under Section 050 of these rules. (4-2-08)

02. Restrictions - Work. Any person who is diagnosed to have a school restrictable disease must not work in any occupation that involves direct contact with students in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

03. Restrictions - Attendance. Any person who is diagnosed with or reasonably suspected to have a school restrictable disease must not attend a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

04. Determination Disease Is No Longer Communicable. A licensed physician, public health nurse, school nurse or other person designated by the Department or Health District may determine when a person with a school restrictable disease is no longer communicable. (4-11-15)

05. School Closure. A school administrator must report the closure of any public, parochial, charter, or private school within one (1) working day when, in *their* opinion, such closing is related to a communicable disease. *( )*

091. -- 099. (RESERVED)

REPORTABLE DISEASES AND CONTROL MEASURES
(Sections 100 - 949)

100. ACQUIRED IMMUNE DEFICIENCY SYNDROME (AIDS).

01. Reporting Requirements. Each case of acquired immune deficiency syndrome (AIDS) that meets the current case definition established by the Centers for Disease Control and Prevention must be reported to the Department or Health District within three (3) working days of identification. Positive laboratory tests for HIV Antibody, HIV Antigen (protein or nucleic acid), HIV culture or other tests that indicate prior or existing HIV infection or CD-4 lymphocyte counts of less than two hundred (200) per cubic millimeter (mm3) of blood or less than or equal to fourteen percent (14%) must be reported. (4-2-08)

02. Investigation. Each reported case of AIDS must be investigated to obtain specific clinical information, to identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. (4-2-08)

101. -- 109. (RESERVED)

110. AMEBIASIS AND FREE-LIVING AMEBAE.

01. Reporting Requirements. Each case of amebiasis or infection with free-living amebae (*Ancanthamoeba* spp., *Balamuthia mandrillaris*, or *Naegleria fowleri*) must be reported to the Department or Health District within three (3) working days of identification. (4-11-15)

02. Investigation. Each reported case of infection with free-living amebae must be investigated to determine the source of infection. Each reported case of amebiasis must be investigated to determine whether the

person with amebiasis is employed as a food employee, provides personal care at a health care or daycare facility, or is a child attending a daycare facility. (4-11-15)

03. Restrictions - Daycare Facility. A person excreting *Entamoeba histolytica* must not attend a daycare facility while fecally incontinent and must not work in any occupation in which they provide personal care to children in a daycare facility, unless an exemption is made by the Department or Health District. (4-2-08)

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or (4-2-08)

b. At least two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. (4-11-15)

04. Restrictions - Food Service Facility. A symptomatic person excreting *Entamoeba histolytica* is restricted from working as a food employee. (4-2-08)

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or (4-2-08)

b. At least two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. (4-11-15)

05. Restrictions - Health Care Facility. A person excreting *Entamoeba histolytica* must not work in any occupation in which they provide personal care to persons confined to a health care facility, unless an exemption is made by the Department or Health District. (4-2-08)

a. This restriction may be withdrawn if an effective therapeutic regimen is completed; or (4-2-08)

b. At least two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart fail to show *Entamoeba histolytica* upon testing by a licensed laboratory. (4-11-15)

06. Restrictions - Household Contacts. A member of the household in which there is a case of amebiasis may not work in any occupations in Subsections 110.03 through 110.05 of this rule, unless approved by the Department or Health District. The household member must be asymptomatic and have at least one (1) approved fecal specimen found to be negative for ova and parasites on examination by a licensed laboratory prior to being approved for work. (4-2-08)

111. -- 119. (RESERVED)

120. ANTHRAX.

01. Reporting Requirements. Each case or suspected case of anthrax in humans must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of anthrax must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the source of infection. (4-11-15)

03. Handling of Report. The Department and Health District will exchange reported information within one (1) working day of any reported case of anthrax. The Department will notify the Idaho Department of Agriculture of any identified source or suspected source of anthrax. (4-2-08)

121. -- 124. (RESERVED)

125. ARBOVIRAL DISEASES.

01. Reporting Requirements. Each case of suspected or confirmed arboviral disease must be reported to the Department or Health District within three (3) working days of identification. Arboviral diseases include, but are not limited to, those caused by the following viruses: California encephalitis, chikungunya, Colorado tick fever, Crimean-Congo hemorrhagic fever, dengue (all subtypes), eastern equine encephalitis, Heartland, Jamestown

Canyon, Japanese encephalitis, Keystone, La Crosse, Mayaro, O'nyong-nyong, Powassan, Rift Valley fever, Ross River, St. Louis encephalitis, snowshoe hare, tick-borne encephalitis, Toscana, trivittatus, Venezuelan equine encephalitis, West Nile, western equine encephalitis, yellow fever, and Zika. (3-28-18)

02. Investigation. Each reported case of arboviral disease must be investigated to confirm the diagnosis, identify the source of infection, and determine if actions need to be taken to prevent additional cases. (3-28-18)

126. -- 129. (RESERVED)

130. BIOTINIDASE DEFICIENCY.
Each case or suspected case of biotinidase deficiency must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

131. -- 139. (RESERVED)

140. BOTULISM.

01. Reporting Requirements. Each case or suspected case of botulism must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of botulism must be investigated to confirm the diagnosis, determine if other persons have been exposed to *botulinum* toxins, and identify the source of the disease. (4-2-08)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of botulism. (4-2-08)

141. -- 149. (RESERVED)

150. BRUCELLOSIS.

01. Reporting Requirements. Each case of brucellosis must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of brucellosis must be investigated to confirm the diagnosis and identify the source of the disease. (4-2-08)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day of any reported case of brucellosis. The Department will notify the Idaho Department of Agriculture of any identified source or suspected source of the disease. (4-2-08)

151. -- 159. (RESERVED)

160. CAMPYLOBACTERIOSIS.

01. Reporting Requirements. Each case of campylobacteriosis must be reported to Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of campylobacteriosis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection and identify the source of the disease. (4-11-15)

03. Restrictions - Daycare Facility. A person excreting *Campylobacter* must not provide personal care in a daycare and an fecally incontinent person excreting *Campylobacter* must not attend a daycare facility unless an exemption is obtained from the Department or Health District. Before returning to work or daycare, the person must provide at least two (2) successive approved fecal specimens, collected at least twenty-four (24) hours apart, that fail to show *Campylobacter* upon testing by a licensed laboratory. (4-11-15)

04. Restrictions - Food Service Facility. A symptomatic person excreting *Campylobacter* is restricted from working as a food employee. (4-2-08)

05. Restrictions - Health Care Facility. A person excreting *Campylobacter* must not provide personal care to persons in a health care facility unless an exemption is obtained from the Department or Health District. Before returning to work, the person must provide at least two (2) successive approved fecal specimens, collected at least twenty-four (24) hours apart, that fail to show *Campylobacter* upon testing by a licensed laboratory. (4-11-15)

161. -- 169. (RESERVED)

170. CANCER.

01. Reporting Requirements. Cancer is to be reported within one hundred and eighty (180) days of its diagnosis or recurrence to the Cancer Data Registry of Idaho (CDRI). (4-2-08)

02. Handling of Report. All data reported to the CDRI is available for use in aggregate form for epidemiologic analysis of the incidence, prevalence, survival, and risk factors associated with Idaho's cancer experience. Disclosure of confidential information for research projects must comply with the CDRI's confidentiality policies as well as IDAPA 16.05.01, "Use and Disclosure of Department Records." (4-2-08)

03. Cancers Designated as Reportable. Cancers that are designated reportable to the CDRI include the following as described in Section 57-1703, Idaho Code. (4-2-08)

a. Each in-situ or malignant neoplasm diagnosed by histology, radiology, laboratory testing, clinical observation, autopsy, or suggested by cytology is reportable, excluding basal cell and squamous cell carcinoma of the skin unless occurring on a mucous membrane and excluding in-situ neoplasms of the cervix. (4-2-08)

b. Benign neoplasms are reportable if occurring in the central nervous system including the brain, meninges, pineal gland, or pituitary gland. (4-2-08)

c. The use of the words "apparently," "appears to," "comparable with," "compatible with," "consistent with," "favor," "malignant appearing," "most likely," "presumed," "probable," "suspected," "suspicious," or "typical" is sufficient to make a case reportable. (4-2-08)

d. The use of the words "questionable," "possible," "suggests," "equivocal," "approaching," "rule out," "potentially malignant," or "worrisome," is not sufficient to make a case reportable. (4-2-08)

04 Report Content. Each reported case must include the patient's name, demographic information, date of diagnosis, primary site, metastatic sites, histology, stage of disease, initial treatments, subsequent treatment, and survival time. Reporting of cases must adhere to cancer reporting standards as provided in "Standards for Cancer Registries, Vol. II." as incorporated by reference in Section 004 of these rules. (4-2-08)

05. Reported By Whom. Every private, federal, or military hospital, out-patient surgery center, radiation treatment center, pathology laboratory, or physician providing a diagnosis or treatment related to a reportable cancer is responsible for reporting or furnishing cancer-related data, including annual follow-up, to CDRI. (4-2-08)

171. -- 179. (RESERVED)

180. CHANCROID.

01. Reporting Requirements. Each case of chancroid must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation and Notification of Contacts. Each reported case of chancroid must be investigated to determine the source and extent of contact follow-up that is required. Each person diagnosed with chancroid is required to inform all sexual contacts that they have been exposed to a sexually transmitted infection, or to provide

specific information to health officials in order to locate these contacts. The contacts must be notified of the disease in order to be examined and treated according to Section 39-605, Idaho Code. (4-11-15)

181. -- 189. (RESERVED)

190. CHLAMYDIA TRACHOMATIS.

01. Reporting Requirements. Each case of *Chlamydia trachomatis* infection must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of *Chlamydia trachomatis* pelvic inflammatory disease may be investigated to determine the extent of contact follow-up that is required. (4-11-15)

03. Prophylaxis of Newborns. Prophylaxis against *Chlamydia trachomatis* ophthalmia neonatorum is required in IDAPA 16.02.12, "Newborn *Screening*." *( )*

04. Restrictions - Health Care Facility. A person with *Chlamydia trachomatis* ophthalmia neonatorum in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals" as incorporated by reference in Section 004 of these rules. (4-11-15)

191. -- 199. (RESERVED)

200. CHOLERA.

01. Reporting Requirements. Each case or suspected case of cholera must be reported to the Department or Health District within one (1) working day. (4-2-08)

02. Investigation. Each reported case of cholera must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify contacts, carriers, and the source of the infection. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of cholera. (4-2-08)

04. Restrictions - Daycare Facility. A person excreting *Vibrio cholerae* must not attend a daycare facility while fecally incontinent and must not work in any occupation that provides personal care to children in a daycare facility while the disease is in a communicable form, unless an exemption is obtained from the Department or Health District. (4-2-08)

05. Restrictions - Food Service Facility. A symptomatic person excreting *Vibrio cholerae* must be managed under IDAPA 16.02.19, "Idaho Food Code." *( )*

06. Restrictions - Health Care Facility. A person excreting *Vibrio cholerae* must not work in any occupation that provides personal care to persons confined in a health care or residential facility while in a communicable form, unless an exemption is obtained from the Department or Health District. A person in a health care facility who has cholera must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

07. Restrictions - Household Contacts. A member of the household in which there is a case of cholera may not work in any occupations listed in Subsections 200.04 through 200.06 of this rule, unless approved by the Department or Health District. The household member must be asymptomatic and provide at least one (1) approved fecal specimen found to be negative on a culture by a licensed laboratory prior to being approved for work. (4-2-08)

201. -- 209. (RESERVED)

210. CONGENITAL HYPOTHYROIDISM.
Each case or suspected case of congenital hypothyroidism must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

211. -- 219. (RESERVED)

220. CRYPTOSPORIDIOSIS.

01. Reporting Requirements. Each case of cryptosporidiosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case must be investigated to identify clusters or outbreaks of the infection, and identify the source of the infection. (4-11-15)

03. Restrictions - Daycare Facility. A fecally incontinent person excreting *Cryptosporidium* must not attend a daycare facility. A person excreting *Cryptosporidium* must not provide personal care in a daycare facility, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: (3-29-10)

a. At least two (2) successive fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or (4-11-15)

b. Diarrhea has ceased for twenty-four (24) hours. (4-2-08)

04. Restrictions - Food Service Facility. A symptomatic person excreting *Cryptosporidium* is restricted from working as a food employee. (3-29-10)

05. Restrictions - Health Care Facility. A person excreting *Cryptosporidium* must not provide personal care in a custodial institution, or health care facility while fecally incontinent, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn when: (3-29-10)

a. At least two (2) successive fecal specimens collected at least twenty-four (24) hours apart fail to show *Cryptosporidium* upon testing by a licensed laboratory; or (4-11-15)

b. Diarrhea has ceased for twenty-four (24) hours. (4-2-08)

221. -- 229. (RESERVED)

230. DIPHTHERIA.

01. Reporting Requirements. Each case or suspected case of diphtheria must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation and Response. Each reported case of diphtheria must be investigated to determine if the illness is caused by a toxigenic strain of *Corynebacterium diphtheriae*, identify clusters or outbreaks of the infection, and identify contacts, carriers, and the source of the infection. Contacts of a person with toxigenic diphtheria will be offered immunization against diphtheria. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case of diphtheria. (4-2-08)

04. Restrictions - Daycare Facility. A person diagnosed with diphtheria must be managed under Section 080 of these rules. (4-11-15)

05. Restrictions - Health Care Facility. (4-2-08)

a. A person with oropharyngeal toxigenic diphtheria in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. The Department or Health District may withdraw this isolation requirement after two (2) cultures of the nose and two (2) cultures from the throat, taken at least twenty-four (24) hours apart and at least twenty-four (24) hours after the completion of

antibiotic therapy, fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory.(4-2-08)

b. A person with cutaneous toxigenic diphtheria must be placed under contact precautions. The Department or Health District may withdraw these precautions after two (2) cultures from the wound fail to show toxigenic *Corynebacterium diphtheriae* upon testing by a licensed laboratory. (4-2-08)

06. Restrictions - Contacts. Contacts of a person with toxigenic diphtheria are restricted from working as food employees, working in health care facilities, or from attending or working in daycare facilities or schools until they are determined not to be carriers by means of a nasopharyngeal culture or culture of other site suspected to be infected. These restrictions may be withdrawn by the Department or Health District. (4-2-08)

231. -- 234. (RESERVED)

235. ECHINOCOCCOSIS.

01. Reporting Requirements. Each case of echinococcosis must be reported to the Department or Health District within three (3) working days of identification. (4-11-15)

02. Investigation. Each reported case of echinococcosis must be investigated to confirm the diagnosis and to identify possible sources of the infection. (4-11-15)

236. -- 239. (RESERVED)

240. ENCEPHALITIS, VIRAL OR ASEPTIC.

01. Reporting Requirements. Each case of viral or aseptic encephalitis, including meningoencephalitis, must be reported to the Department or Health District within three (3) working days of identification. (4-11-15)

02. Investigation. Each reported case of viral or aseptic encephalitis meningoencephalitis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the agent or source of the infection. (4-11-15)

241. -- 249. (RESERVED)

250. ESCHERICHIA COLI O157:H7 AND OTHER SHIGA-TOXIN PRODUCING E. COLI (STEC).

01. Reporting Requirements. Each case or suspected case of *Escherichia coli* O157:H7 or other Shiga-toxin producing *E. coli* (STEC) must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case must be investigated to determine if the person is employed as a food employee, provides personal care at a health care or daycare facility, or is a child attending a daycare facility. The investigation identifies clusters or outbreaks of the infection, and the most likely source of the infection. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *E. coli* O157:H7 or other Shiga-toxin producing *E. coli* (STEC). (4-2-08)

04. Restrictions - Daycare Facility. A person who is excreting *E. coli* O157:H7 or other STEC must not attend daycare facilities while fecally incontinent or provide personal care to children in a daycare facility while the disease is present in a communicable form without the approval of the Department or Health District. Before returning to work or attendance at a daycare, the person must provide two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart, that fail to show *E. coli* O157:H7 or other STEC. (4-11-15)

05. Restrictions - Food Service Facility. A person diagnosed with *E. coli* O157:H7 or other STEC

must be managed under IDAPA 16.02.19, "Idaho Food Code." ( )

06. Restrictions - Health Care Facility. A person who is excreting *E. coli* O157:H7 or other STEC must not provide personal care to persons in a health care facility while the disease is present in a communicable form without the approval of the Department or Health District. Before returning to work, the person must provide two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart, that fail to show *E. coli* O157:H7 or other STEC. (4-11-15)

251. -- 259. (RESERVED)

260. EXTRAORDINARY OCCURRENCE OF ILLNESS, INCLUDING CLUSTERS.

01. Reporting Requirements. Cases, suspected cases, and clusters of extraordinary or unusual illness must be reported to the Department or Health District within one (1) working day by the diagnosing person. (4-2-08)

a. Unusual outbreaks include illnesses *that* may be a significant risk to the public, may involve a large number of persons, or are a newly described entity. ( )

b. Even in the absence of a defined etiologic agent or toxic substance, clusters of unexplained acute illness and early-stage disease symptoms must be reported to the Department or Health District within one (1) working day and investigated. (4-2-08)

02. Investigation. Each reported case of extraordinary occurrence of illness, including clusters, must be investigated to confirm the diagnosis, determine the extent of the cluster or outbreak, identify the source of infection or exposure, and determine whether there is a risk to the public warranting intervention by a public health agency. Evaluation and control measures will be undertaken in consultation with the Department and other appropriate agencies. The Department may elect to investigate by conducting special studies as outlined in Section 070 of these rules. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case or suspected case. (4-2-08)

261. -- 269. (RESERVED)

270. FOOD POISONING, FOODBORNE ILLNESS, AND WATERBORNE ILLNESS.

01. Reporting Requirements. Each case, suspected case, or outbreak of food poisoning, foodborne illness, or waterborne illness must be reported to the Department or Health District within one (1) working day of identification. (4-11-15)

02. Investigation. Each reported case or outbreak of food poisoning, foodborne illness, or waterborne illness must be investigated to confirm the diagnosis, determine the extent of transmission, identify the source, and determine if actions need to be taken to prevent additional cases. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day of any reported case or suspected case. (4-2-08)

271. -- 279. (RESERVED)

280. GALACTOSEMIA.
Each case or suspected case of galactosemia must be reported to the Department or Health District within one (1) working day after diagnosis. (4-2-08)

281. -- 289. (RESERVED)

290. GIARDIASIS.

01. Reporting Requirements. Each case of giardiasis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of giardiasis must be investigated to determine if the person is employed as a food employee, provides personal care at a health care or daycare facility, or is a child attending a daycare facility. The investigation identifies clusters or outbreaks of the infection, and the most likely source of the infection. (4-11-15)

03. Restrictions - Daycare Facility. A person with diarrhea who is excreting *Giardia lamblia* must not attend daycare while fecally incontinent or provide personal care to children in a daycare facility while the disease is present in a communicable form or until therapy is completed. An asymptomatic person may provide these services or attend daycare with specific approval of the Department or Health District. (4-2-08)

04. Restrictions - Food Service Facility. A symptomatic person who is excreting *Giardia lamblia* must be managed under IDAPA 16.02.19, "Idaho Food Code." *( )*

05. Restrictions - Health Care Facility. A person with diarrhea who is excreting *Giardia lamblia* must not provide personal care to persons in a health care facility while the disease is present in a communicable form or until therapy is completed. An asymptomatic person may provide these services with specific approval of the Department or Health District. (4-2-08)

291. -- 299. (RESERVED)

300. HAEMOPHILUS INFLUENZAE INVASIVE DISEASE.

01. Reporting Requirements. Each case or suspected case of *Haemophilus influenzae* invasive disease, including, but not limited to, meningitis, septicemia, bacteremia, epiglottitis, pneumonia, osteomyelitis and cellulitis, must be reported to the Department or Health District within one (1) working day of identification. (4-11-15)

02. Investigation. Each reported case of *Haemophilus influenzae* invasive disease must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, identify contacts, and determine the need for antimicrobial prophylaxis of close contacts. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *Haemophilus influenzae* invasive disease. (4-2-08)

04. Restrictions - Daycare Facility. A person who is diagnosed with invasive disease caused by *Haemophilus influenzae* must not work in an occupation providing personal care to children, or attend a daycare facility as long as the disease is in a communicable form. (4-11-15)

05. Restrictions - School. A person who is diagnosed with invasive disease caused by *Haemophilus influenzae* must not work in any occupation where there is direct contact with students or attend a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-11-15)

301. -- 309. (RESERVED)

310. HANTAVIRUS PULMONARY SYNDROME.

01. Reporting Requirements. Each case or suspected case of hantavirus pulmonary syndrome must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of hantavirus pulmonary syndrome must be investigated to confirm the diagnosis, determine environmental risk factors leading to the infection, and determine any other at-risk individuals. (4-2-08)

03. Handling of Report. The Department and the Health District will exchange reported information

within one (1) working day by telephone on any reported case or suspected case of hantavirus pulmonary syndrome. (4-2-08)

311. -- 319. (RESERVED)

320. HEMOLYTIC-UREMIC SYNDROME (HUS).

01. Reporting Requirements. Each case of hemolytic-uremic syndrome (HUS) or thrombotic thrombocytopenic purpura-HUS (TTP-HUS) must be reported to the Department or Health District within one (1) working day. (3-29-10)

02. Investigation. Each case of HUS or TTP-HUS must be investigated to confirm the diagnosis, determine the etiologic agent including *E. coli* O157:H7, non-O157 Shiga-toxin producing *E. coli*, or other enteric pathogens, and determine the source of infection. (3-29-10)

321. -- 329. (RESERVED)

330. HEPATITIS A.

01. Reporting Requirements. Each case or suspected case of hepatitis A must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of hepatitis A must be investigated to confirm the diagnosis, identify contacts, determine the need for immune serum globulin (gamma globulin) or vaccine, and identify possible sources of the infection. (4-2-08)

03. Testing Without an Informed Consent. A physician may order blood tests for hepatitis A when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-2-08)

04. Restrictions - Daycare Facility. A child who has hepatitis A must not attend a daycare facility until the disease is no longer communicable as determined by a licensed physician, or unless an exemption is made by the Department or Health District. (4-2-08)

a. A person with hepatitis A must not work in any occupation in which personal care is provided to children in a daycare facility while the disease is in a communicable form. (4-2-08)

b. The Department or Health District may withdraw this restriction when the illness is considered to no longer be in a communicable form. (4-2-08)

05. Exclusion - Food Service Facility. (4-2-08)

a. A food employee with hepatitis A must be managed under IDAPA 16.02.19, "Idaho Food Code." ( )

b. A specific test for recent hepatitis A infection (IgM antiHAV) must be performed by a licensed laboratory on all food employees suspected of having hepatitis A. (4-2-08)

06. Restrictions - Health Care Facility. A person with hepatitis A in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

a. A person with hepatitis A must not work in any occupation in which personal care is provided to persons who are in a health care facility or living in a residential care facility while the disease is in a communicable form. (4-2-08)

b. The Department or Health District may withdraw this restriction when the illness is considered to

no longer be in a communicable form. (4-2-08)

07. Restrictions - Household Contacts. Any unvaccinated household member where there is a case of hepatitis A must not work in any of the occupations listed in Subsections 330.04 through 330.06 of this rule, unless an exemption is obtained from the Department or Health District. (4-2-08)

331. -- 339. (RESERVED)

340. HEPATITIS B.

01. Reporting Requirements. Each case or suspected case of hepatitis B must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of hepatitis B must be investigated to confirm the diagnosis, identify contacts and carriers, determine the need for prophylaxis with immune globulins, determine the need for hepatitis B vaccine, determine the exposure of any pregnant women, and identify possible sources of the infection. (4-2-08)

03. Testing Without an Informed Consent. A physician may order blood tests for hepatitis B when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-2-08)

04. Carrier Status. The carrier status of a person diagnosed with hepatitis B will be determined six (6) months after the initial diagnosis is established. (4-2-08)

a. The carrier status will be determined by the presence of hepatitis B surface antigen (HBsAG) in blood obtained at least six (6) months after the initial diagnosis of hepatitis B. (4-2-08)

b. The test for hepatitis B surface antigen (HBsAg) must be performed by a licensed laboratory. (4-2-08)

c. A person who is a carrier of hepatitis B must be reported to the Department or Health District by the physician at the time of determination for inclusion in the hepatitis B carrier registry. (4-2-08)

341. -- 349. (RESERVED)

350. HEPATITIS C.

01. Reporting Requirements. Each case of hepatitis C must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of hepatitis C must be investigated to confirm the diagnosis and identify possible sources of the infection. Hepatitis C may be confirmed by presence of hepatitis C antibody or antigen. (4-2-08)

03. Testing Without an Informed Consent. A physician may order blood tests for hepatitis C when an informed consent is not possible and there has been or is likely to be significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-2-08)

351. -- 359. (RESERVED)

360. HUMAN IMMUNODEFICIENCY VIRUS (HIV).

01. Reporting Requirements. Each case of HIV infection, including positive HIV laboratory tests for HIV antibody, HIV antigen (protein or nucleic acid), human immunodeficiency virus isolations, or other tests of infectiousness that indicate HIV infection, must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of HIV infection must be investigated to obtain specific clinical information, identify possible sources, risk factors, and contacts. Other manifestations of HIV infection as defined by the Centers for Disease Control and Prevention may be investigated. (4-2-08)

03. Testing Without an Informed Consent. A physician may order blood tests for HIV when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-2-08)

361. -- 369. (RESERVED)

370. HUMAN T-LYMPHOTROPIC VIRUS.

01. Reporting Requirements. Each case of HTLV infection must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of HTLV infection must be investigated to determine the source of infection and evaluate risk factors. (4-2-08)

371. -- 379. (RESERVED)

380. LEAD POISONING.

01. Reporting Requirements. Each case of lead poisoning must be reported to the Department or Health District within three (3) working days of the identification of the case when determined by symptoms or a blood level of: (4-11-15)

a. Ten (10) micrograms or more per deciliter (10 ug/dL) of blood in adults eighteen (18) years and older; or (4-11-15)

b. Five (5) micrograms or more per deciliter (5 ug/dL) of blood in children under eighteen (18) years of age. (4-11-15)

02. Investigation. Each reported case of lead poisoning or excess lead exposure may be investigated to confirm blood lead levels, determine the source, and whether actions need to be taken to prevent additional cases. (4-11-15)

381. -- 389. (RESERVED)

390. LEGIONELLOSIS.

01. Reporting Requirements. Each case of legionellosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of legionellosis must be investigated to confirm the diagnosis and identify possible sources of the infection. When two (2) or more cases occur within thirty (30) days of each other, an investigation must be conducted to identify a common environmental source and identify ways to prevent further infections. (4-2-08)

391. -- 399. (RESERVED)

400. LEPROSY (HANSEN'S DISEASE).

01. Reporting Requirements. Each case of leprosy must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of leprosy must be investigated to confirm the diagnosis and to

identify household or other close contacts. (4-2-08)

03. Restrictions - Examination of Contacts. All household members or close contacts of a new case must be examined by a licensed physician for signs of leprosy. Household members and close contacts and persons in remission must be registered with the Department and undergo periodic medical examinations every six (6) to twelve (12) months for five (5) years. (4-2-08)

401. -- 409. (RESERVED)

410. LEPTOSPIROSIS.

01. Reporting Requirements. Each case of leptospirosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of leptospirosis must be investigated to confirm the diagnosis and to identify possible sources of the infection. (4-2-08)

03. Handling of Report. Any identified or suspected source of infection reported to the Department is reported to the Idaho Department of Agriculture if animals are involved. (4-2-08)

411. -- 419. (RESERVED)

420. LISTERIOSIS.

01. Reporting Requirements. Each case of listeriosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of listeriosis must be investigated to confirm the diagnosis and to identify possible sources of the infection and extent of the outbreak. (4-2-08)

421. -- 429. (RESERVED)

430. LYME DISEASE.

01. Reporting Requirements. Each case of Lyme disease must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of Lyme disease must be investigated to confirm the diagnosis and to identify possible sources of the infection. (4-2-08)

03. Handling of Report. Any identified or suspected source of infection reported to the Department is reported to the Idaho Department of Agriculture if animals are involved. (4-2-08)

431. -- 439. (RESERVED)

440. MALARIA.

01. Reporting Requirements. Each case of malaria must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of malaria must be investigated to determine the type and the source of the infection. If transmission may have occurred in Idaho, an entomologic investigation will be performed by the Department or Health District to determine the extent of mosquito activity, and to institute control measures if endemic transmission is determined. (4-2-08)

03. Testing Without an Informed Consent. A physician may order blood tests for malaria when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or

body fluids by a person providing emergency or medical services. (4-2-08)

441. -- 449. (RESERVED)

450. MAPLE SYRUP URINE DISEASE.
Each case or suspected case of maple syrup urine disease must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

451. -- 459. (RESERVED)

460. MEASLES (RUBEOLA).

01. Reporting Requirements. Each case or suspected case of measles must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of measles must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, identify the source of the infection, and to identify susceptible contacts. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of measles. (4-2-08)

04. Restrictions - Daycare Facility and School. (4-2-08)

a. A child diagnosed with measles must not attend a daycare facility or school as long as the disease is in a communicable form. (4-2-08)

b. In the event of a case of measles in a daycare or school, susceptible children must be excluded until adequate immunization is obtained, or the threat of further spread of the disease is contained, as provided in Sections 33-512(7) and 39-1118, Idaho Code. (4-2-08)

c. A person who is diagnosed as having measles must not work in any occupation in which there is direct contact with children, as long as the disease is in a communicable form. (4-2-08)

05. Restrictions - Health Care Facility. A person diagnosed with measles in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated by reference in Section 004 of these rules. (4-2-08)

461. -- 469. (RESERVED)

470. MENINGITIS, VIRAL OR ASEPTIC.

01. Reporting Requirements. Each case of viral or aseptic meningitis must be reported to the Department or Health District within three (3) working days of identification. (4-11-15)

02. Investigation. Each reported case of viral or aseptic meningitis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the agent or source of the infection. (4-11-15)

471. -- 474. (RESERVED)

475. METHICILLIN-RESISTANT STAPHYLOCOCCUS AUREUS (MRSA).

01. Reporting Requirements. Each case or suspected case of invasive methicillin-resistant *Staphylococcus aureus* (MRSA), defined as MRSA isolated from a normally sterile site, must be reported to the Department or Health District within three (3) working days of identification by the laboratory director. (4-2-08)

02. Investigation. Any case of MRSA may be investigated to determine source and recommend

measures to prevent spread. (4-2-08)

03. Restrictions - Daycare Facility. A person who is diagnosed with MRSA infection must not work in an occupation providing personal care to children, or attend a daycare facility, if the infection manifests as a lesion containing pus such as a boil or infected wound that is open or draining; and (4-2-08)

a. The lesion is on the hands, wrists, or exposed portions of the arms, and is not protected by an impermeable cover; or (4-2-08)

b. The lesion is on another part of the body, and is not covered by a dry, durable, tight-fitting bandage. (4-2-08)

04. Restrictions - Food Service Facility. A food employee diagnosed with MRSA infection must be managed under IDAPA 16.02.19, "Idaho Food Code." ( )

05. Restrictions - Health Care Facility. A person who is diagnosed with MRSA infection must not provide personal care to persons in a health care facility if the infection manifests as a lesion containing pus such as a boil or infected wound that is open or draining; and (4-2-08)

a. The lesion is on the hands, wrists, or exposed portions of the arms, and is not protected by an impermeable cover; or (4-2-08)

b. The lesion is on another part of the body, and is not covered by a dry, durable, tight-fitting bandage. (4-2-08)

06. Restrictions - School. A person who is diagnosed with MRSA infection must not work in an occupation where there is direct contact with students or attend a private, parochial, charter, or public school, if the infection manifests as a lesion containing pus such as a boil or infected wound that is open or draining; and (4-2-08)

a. The lesion is on the hands, wrists, or exposed portions of the arms, and is not protected by an impermeable cover; or (4-2-08)

b. The lesion is on another part of the body, and is not covered by a dry, durable, tight-fitting bandage. (4-2-08)

476. -- 479. (RESERVED)

480. MUMPS.

01. Reporting Requirements. Each case of mumps must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of mumps must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, identify the source of the infection, and to identify susceptible contacts. (4-11-15)

03. Restrictions. A person with mumps must be restricted from daycare, school, or work for five (5) days after the onset of parotid swelling. (3-29-10)

481. -- 489. (RESERVED)

490. MYOCARDITIS, VIRAL.

01. Reporting Requirements. Each case of viral myocarditis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of viral myocarditis must be investigated to confirm the

diagnosis, identify clusters or outbreaks of the infection, and identify the agent or source of the infection. (4-2-08)

491. -- 499. (RESERVED)

500. NEISSERIA GONORRHOEAE.

01. Reporting Requirements. Each case of *Neisseria gonorrhoeae* infection must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. A person diagnosed with urethral, cervical, oropharyngeal, or rectal gonorrhea is required to inform all sexual contacts or provide sufficient information to health officials in order to locate these contacts. The contacts must be advised of their exposure to a sexually transmitted infection and informed they should seek examination and treatment. (4-11-15)

03. Prophylaxis of Newborns. Prophylaxis against gonococcal ophthalmia neonatorum is described in IDAPA 16.02.12, "Newborn *Screening*." *( )*

04. Isolation - Health Care Facility. A person with gonococcal ophthalmia neonatorum in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

501. -- 509. (RESERVED)

510. NEISSERIA MENINGITIDIS INVASIVE DISEASE.

01. Reporting Requirements. Each case or suspected case of *Neisseria meningitidis* invasive disease, including meningitis and septicemia, must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of *Neisseria meningitidis* invasive disease must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, identify contacts, and determine the need for antimicrobial prophylaxis or immunization of close contacts. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case of *Neisseria meningitidis* invasive disease. (4-2-08)

04. Restrictions - Daycare Facility. A person who is diagnosed with a disease caused by *Neisseria meningitidis* must not provide personal care to children, or attend a daycare facility, as long as the disease is present in a communicable form. (4-2-08)

05. Restrictions - Health Care Facility. A person with *Neisseria meningitidis* in a health care facility or residential care facility must be placed under respiratory isolation until twenty-four (24) hours after initiation of effective therapy. (4-2-08)

06. Restrictions - School. A person who is diagnosed with a disease caused by *Neisseria meningitidis* must not work in any occupation that involves direct contact with students, or attend a private, parochial, charter, or public school as long as the disease is present in a communicable form. (4-2-08)

511. -- 519. (RESERVED)

520. NOROVIRUS.

01. Reporting Requirements. Each case or suspected case of norovirus must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of norovirus must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the source of the infection. (4-11-15)

03. Restrictions - Daycare Facility. A person excreting norovirus must not attend or provide personal care in a daycare while symptomatic, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic for at least twenty-four (24) hours. (4-11-15)

04. Exclusions - Food Service Facility. A person suspected of infection with, or diagnosed with, norovirus is excluded from working as a food employee while symptomatic, unless an exemption is made by the Department or Health District. This exclusion will be withdrawn once the person is asymptomatic for at least twenty-four (24) hours. (4-11-15)

05. Restrictions - Health Care Facility. A person excreting norovirus must not provide personal care in a health care facility, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic for at least twenty-four (24) hours. (4-11-15)

06. Restrictions - School. A person excreting norovirus must not attend or work in a private, parochial, charter, or public school while symptomatic, unless an exemption is obtained from the Department or Health District. This restriction will be withdrawn once asymptomatic for at least twenty-four (24) hours. (4-11-15)

521. (RESERVED)

522. NOVEL INFLUENZA A VIRUS.

01. Reporting Requirements. (3-29-10)

a. Each detection of a novel influenza A virus must be reported to the Department or Health District within one (1) working day of identification by the laboratory director. (3-29-10)

b. Each probable or confirmed case of a novel influenza A infection resulting in hospitalization must be reported to the Department or Health District within one (1) working day of the event. (3-29-10)

02. Investigation. Any case of a novel influenza A infection may be investigated to determine severity and recommend measures to prevent spread. (3-29-10)

03. Restrictions. A person diagnosed with novel influenza A virus infection must be restricted from daycare, school, or work for twenty-four (24) hours after the fever is resolved. Fever must be absent without the aid of fever-reducing medicine. (3-29-10)

523. -- 529. (RESERVED)

530. PERTUSSIS.

01. Reporting Requirements. Each case or suspected case of pertussis must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of pertussis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, identify susceptible contacts, and identify the source of the infection. (4-11-15)

03. Restrictions - Daycare Facility. A person who is diagnosed with pertussis must not work in any occupation in which there is direct contact with children, or attend a daycare facility, as long as the disease is in a communicable form. (4-2-08)

04. Restrictions - Health Care Facility. A person who is diagnosed with pertussis must not work in any occupation in which there is direct contact with other persons in a health care facility as long as the disease is in a communicable form. (4-2-08)

05. Restrictions - School. A person diagnosed with pertussis must not attend or work in a private,

parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

531. -- 539. (RESERVED)

540. PHENYLKETONURIA.
Each case or suspected case of phenylketonuria must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

541. -- 549. (RESERVED)

550. PLAGUE.

01. Reporting Requirements. Each case or suspected case of plague must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of plague must be investigated to confirm the diagnosis, determine the source, identify clusters or outbreaks of the infection, and whether there has been person-to-person transmission. (4-11-15)

03. Handling of Report. Each case of plague reported to the Department is reported to the Idaho Department of Agriculture if animals are involved. (4-2-08)

04. Restrictions - Daycare Facility. A person who is diagnosed with pneumonic plague must not work in any occupation in which there is direct contact with children, or attend a daycare facility, as long as the disease is in a communicable form. (4-11-15)

05. Restrictions - Health Care Facility. (4-2-08)

a. A person with or suspected of having pneumonic plague in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

b. A person with or suspected of having bubonic plague in health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

06. Restrictions - School. A person diagnosed with pneumonic plague must not attend or work in any occupation in which there is direct contact with children, in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-11-15)

07. Prophylaxis of Contacts. Household members and face-to-face contacts of a person with pneumonic plague must be placed on chemoprophylaxis and placed under surveillance for seven (7) days. A person who refuses chemoprophylaxis must be maintained under droplet precautions with careful surveillance for seven (7) days. (4-2-08)

551. -- 559. (RESERVED)

560. PNEUMOCOCCAL INVASIVE DISEASE IN CHILDREN LESS THAN EIGHTEEN YEARS OF AGE.

01. Reporting Requirements. Each case of pneumococcal invasive disease in children under eighteen (18) years of age including, but not limited to, meningitis, septicemia, and bacteremia, must be reported to the Department or Health District within three (3) working days of identification. (4-11-15)

02. Investigation. Each reported case of pneumococcal invasive disease in children must be investigated to confirm the diagnosis and determine relevant vaccine history. (4-2-08)

03. Restrictions - Daycare Facility. A person who is diagnosed with pneumococcal invasive disease must not attend daycare or work in any occupation in which there is direct contact with children in a daycare facility

as long as the disease is in a communicable form. (4-2-08)

04. Restrictions - School. A person diagnosed with pneumococcal invasive disease must not attend or work in any occupation in which there is direct contact with children in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

561. -- 569. (RESERVED)

570. PNEUMOCYSTIS PNEUMONIA (PCP).

01. Reporting Requirements. Each case of *Pneumocystis* pneumonia (PCP) must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of *Pneumocystis* pneumonia (PCP) must be investigated to confirm the diagnosis, and to determine the underlying cause of any immune deficiency *that* may have contributed to the disease. When the underlying cause is an HIV infection, it must be reported as described in Section 360 of these rules. *( )*

571. -- 579. (RESERVED)

580. POLIOMYELITIS.

01. Reporting Requirements. Each case or suspected case of poliomyelitis infection must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of poliomyelitis infection must be investigated to confirm the diagnosis, to determine whether the case is polio vaccine associated or wild virus associated, identify clusters or outbreaks of the infection, whether there has been person-to-person transmission, and to identify susceptible contacts, carriers, and source of the infection. (4-11-15)

03. Immunization of Personal Contacts. The immunization status of personal contacts is determined and susceptible contacts are offered immunization. (4-2-08)

04. Restrictions - Daycare Facility. A person who is diagnosed with poliomyelitis infection must not work in any occupation in which there is direct contact with children, or attend a daycare facility, as long as the disease is in a communicable form. (4-11-15)

05. Restrictions - School. A person diagnosed with poliomyelitis infection must not attend or work in any occupation in which there is direct contact with children, in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-11-15)

581. -- 589. (RESERVED)

590. PSITTACOSIS.

01. Reporting Requirements. Each case of psittacosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify possible sources of the infection. (4-11-15)

03. Handling of Report. Any identified sources or suspected sources of infection must be reported to the Department which will notify the Idaho Department of Agriculture if birds or other animals are involved. (4-2-08)

591. -- 599. (RESERVED)

600. Q FEVER.

01. Reporting Requirements. Each case or suspected case of Q fever must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of Q fever must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the source of the infection. (4-11-15)

03. Handling of Report. Any identified or suspected sources of infection must be reported to the Department which will notify the Idaho Department of Agriculture if animals are involved. (4-2-08)

601. -- 609. (RESERVED)

610. RABIES - HUMAN, ANIMAL, AND POST-EXPOSURE PROPHYLAXIS (RPEP).

01. Reporting Requirements. (4-2-08)

a. Each case or suspected case of rabies in humans must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

b. Each case of rabies in animals must be reported to the Department or Health District within one (1) working day of identification. (3-28-18)

c. Each instance of rabies post-exposure prophylaxis (rPEP) series initiation must be reported to the Department or Health District within one (1) working day. (4-2-08)

02. Investigation. (4-2-08)

a. Each reported case or suspected case of rabies in humans must be investigated to confirm the diagnosis, identify the source and other persons or animals that may have been exposed to the source, and identify persons who may need to undergo rPEP. (3-29-10)

b. Each suspected or confirmed case of rabies in animals will be investigated to determine if potential human or animal exposure has occurred and identify persons who may need to undergo rPEP. (3-29-10)

c. Each reported rPEP series initiation must be investigated to determine if additional individuals require rPEP and identify the source of possible rabies exposure. (3-29-10)

03. Handling of Report. The Health District must notify the Department within one (1) working day of each reported case of this disease. (4-11-15)

04. Management of Exposure to Rabies. All human exposures to a suspected or confirmed rabid animal must be managed as described under the guidelines presented in the "Human Rabies Prevention -- United States" incorporated by reference in Subsection 004.03 of these rules and "Use of Reduced (4-Dose) Vaccine Schedule for Postexposure Prophylaxis to Prevent Human Rabies: Recommendations of the Advisory Committee on Immunization Practices" incorporated by reference in Subsection 004.07 in these rules. Animals involved with bites, or themselves bitten by a suspected or confirmed rabid animal, must be managed under the guidelines in the "Compendium of Animal Rabies Prevention and Control," incorporated by reference in Subsection 004.05 of these rules, and as described in Subsections 610.04.a., 610.04.b., and 610.04.c. *of this rule*. In the event that a human or animal case of rabies occurs, any designated representative of the Department, Health District, or Idaho State Department of Agriculture, will establish such isolation and quarantine of animals involved as deemed necessary to protect the public health. *( )*

a. The management of a rabies-susceptible animal that has bitten or otherwise potentially exposed a person to rabies must be as follows: (3-28-18)

i. Any livestock that has bitten or otherwise potentially exposed a person to rabies will be referred to the Idaho State Department of Agriculture for management. (3-28-18)

ii. Any healthy domestic dog, cat, or ferret, regardless of rabies vaccination status, that has bitten or otherwise potentially exposed a person to rabies must be confined and observed for illness daily for ten (10) days following the exposure under the supervision of a licensed veterinarian or other person designated by the Idaho State Department of Agriculture, Health District, or the Department. If signs suggestive of rabies develop, immediately consult the Health District or Department to discuss euthanasia and rabies testing. (3-28-18)

iii. Any domestic dog, cat, or ferret that cannot be managed as described in Subsection 610.04.a.ii. of this rule must be destroyed by a means other than shooting in the head. The head must be submitted to an approved laboratory for rabies analysis. (3-28-18)

iv. It is the animal owner's responsibility to follow instructions provided for the management of the animal. (3-28-18)

v. Rabies susceptible animals other than domestic dogs, cats, or ferrets must be destroyed and the head submitted to an approved laboratory for rabies analysis, unless an exemption is given by the Department or Health District. (3-28-18)

vi. No person will destroy, or allow to be destroyed, the head of a rabies-susceptible animal that has bitten or otherwise potentially exposed a person to rabies without authorization from the Department or Health District. (3-28-18)

b. The management of a rabies-susceptible animal that has not bitten a person, but has been bitten, mouthed, mauled by, or closely confined in the same premises with a confirmed or suspected rabid animal must be as follows: (3-28-18)

i. Any exposed livestock will be referred to the Idaho State Department of Agriculture for management. (3-28-18)

ii. Any domestic dog, cat, or ferret *that* has never been vaccinated against rabies as recommended by the American Veterinary Medical Association, must be appropriately vaccinated in accordance with guidance in the "Compendium of Animal Rabies Prevention and Control" incorporated by reference in Subsection 004.05 of these rules as soon as possible and placed in strict quarantine for a period of four (4) months (six (6) months for ferrets) under the observation of a licensed veterinarian or a person designated by the Idaho State Department of Agriculture, Health District, or the Department. The strict quarantine of such an animal must be within an enclosure deemed adequate by a person designated by the Idaho State Department of Agriculture, Health District, or the Department to prevent contact with any person or rabies-susceptible animal. If signs suggestive of rabies develop, immediately consult the Health District or Department to discuss euthanasia or rabies testing. Destruction of such an animal is permitted as an alternative to strict quarantine. *( )*

iii. An animal considered currently vaccinated against rabies, or overdue for rabies vaccination but with documentation of at least one (1) prior rabies vaccination, should be revaccinated against rabies as soon as possible with an appropriate vaccine, kept under the owner's control, and observed for illness for forty-five (45) days. If signs suggestive of rabies develop, immediately consult the Health District or Department to discuss euthanasia and rabies testing. These provisions apply only to animals for which an approved rabies vaccine is available. Animals should be managed in accordance with guidance in the "Compendium of Animal Rabies Prevention and Control" incorporated by reference in Subsection 004.05 of these rules to conduct serological monitoring when a previous vaccination may have been received, but the documentation is unavailable. If evidence of previous vaccination cannot be demonstrated, the animal must be managed as described in Subsection 610.04.b.ii. of this rule. (3-28-18)

iv. The owner of the animal is financially responsible for the cost of managing and testing of the animal as described in Subsection 610.04.b. of this rule. (3-28-18)

c. Any rabies-susceptible animal other than domestic dogs, cats, ferrets, or livestock that are suspected of having rabies, or have been in close contact with an animal known to be rabid, must be destroyed. The

animal must be tested by an approved laboratory for rabies if a person has been bitten or has had direct contact with the animal *that* might result in the person becoming infected unless an exemption is granted by the Department or Health District. *( )*

05. City or County Authority. Nothing in these rules is intended or will be construed to limit the power of any city or county in its authority to enact more stringent requirements to prevent the transmission of rabies. (4-2-08)

611. -- 619. (RESERVED)

620. RELAPSING FEVER, TICK-BORNE AND LOUSE-BORNE.

01. Reporting Requirements. Each case of tick-borne or louse-borne relapsing fever must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of tick-borne or louse-borne relapsing fever must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and whether transmission was from lice or ticks. (4-11-15)

621. -- 629. (RESERVED)

630. RESPIRATORY SYNCYTIAL VIRUS (RSV).
A laboratory director must report each detection of respiratory syncytial virus (RSV) infection to the Department or Health District within one (1) working day of identification. (4-2-08)

631. -- 639. (RESERVED)

640. REYE SYNDROME.

01. Reporting Requirements. Each case of Reye syndrome must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of Reye syndrome must be investigated to obtain specific clinical information and to learn more about the etiology, risk factors, and means of preventing the syndrome. (4-2-08)

641. -- 649. (RESERVED)

650. ROCKY MOUNTAIN SPOTTED FEVER.

01. Reporting Requirements. Each case of Rocky Mountain spotted fever must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of Rocky Mountain spotted fever must be investigated to confirm the diagnosis, identify the source of infection, and determine if control measures should be initiated. (4-2-08)

651. -- 659. (RESERVED)

660. RUBELLA - INCLUDING CONGENITAL RUBELLA SYNDROME.

01. Reporting Requirements. Each case or suspected case of rubella or congenital rubella syndrome must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of rubella or congenital rubella syndrome must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, identify any contacts who are susceptible and pregnant, and document the presence of the congenital rubella syndrome. (4-11-15)

03. Restrictions - Daycare Facility. A person who is diagnosed with rubella must not attend daycare or work in any occupation in which there is close contact with children in a daycare facility as long as the disease is in a communicable form. (4-11-15)

04. Restrictions - Health Care Facility. A person who is diagnosed with rubella must not work in any occupation in which there is close contact with other persons in a health care facility as long as the disease is in a communicable form. (4-11-15)

05. Restrictions - Schools. A person who is diagnosed with rubella must not attend, be present, or work in any occupation in which there is close contact with children or other persons in a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-11-15)

06. Restrictions - Personal Contact. A person who is diagnosed with rubella must not work in occupations in which there is close contact with women likely to be pregnant as long as the disease is in a communicable form. (4-11-15)

661. -- 669. (RESERVED)

670. SALMONELLOSIS - INCLUDING TYPHOID FEVER.

01. Reporting Requirements. Each case or suspected case of salmonellosis or typhoid fever must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of salmonellosis or typhoid fever must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and to identify contacts, carriers, and the source of infection. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any suspected or reported case. (4-2-08)

04. Restrictions - Chronic Carrier. Chronic carriers, which are those who excrete *Salmonella* for more than one (1) year after onset, are restricted from working as food employees. Chronic carriers must not work in any occupation in which they provide personal care to children in daycare facilities, or to persons who are confined to health care facilities or residential care facilities, until *Salmonella* is not identified by a licensed laboratory in any of three (3) successive approved fecal specimens collected at least seventy-two (72) hours apart. (4-2-08)

05. Restrictions - Non-Typhi Salmonella. (4-2-08)

a. A fecally incontinent person excreting non-Typhi *Salmonella* must not attend a daycare facility. (4-2-08)

b. A person excreting non-Typhi *Salmonella* must not work in any occupation in which they provide personal care to children in a daycare facility or provide personal care to persons confined to a health care facility, unless an exemption is obtained from the Department or Health District. (4-2-08)

c. A symptomatic food employee excreting non-Typhi *Salmonella* must be managed under the IDAPA 16.02.19, "Idaho Food Code." ( )

d. Before a person can attend or work in a daycare facility or a health care facility, or work as a food employee, the person must provide two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart, that fail to show *Salmonella*. (4-11-15)

e. The Department may withdraw this restriction on a case of non-Typhi *Salmonella* provided that the person is asymptomatic. (4-2-08)

f. Any member of a household in which there is a case of non-Typhi salmonellosis must not work as a

food employee until the member provides at least one (1) approved fecal specimen that fails to show *Salmonella* upon testing by a licensed laboratory. (4-11-15)

06. Restrictions - Salmonella Typhi. (4-2-08)

a. Any person with typhoid fever will remain subject to the supervision of the Department until *Salmonella Typhi* is not isolated by a licensed laboratory from three (3) successive approved fecal specimens collected at least twenty-four (24) hours apart and not earlier than one (1) month after onset. (4-11-15)

b. A food employee excreting *Salmonella Typhi* must be managed under IDAPA 16.02.19, "Idaho Food Code." *( )*

c. Any member of a household in which there is a case of *Salmonella Typhi* must not work in the occupations described in Subsection 670.05.d. of this rule until the member provides at least two (2) successive approved fecal specimens collected twenty-four (24) hours apart that fail to show *Salmonella* upon testing by a licensed laboratory. (4-11-15)

d. All chronic carriers of *Salmonella Typhi* must abide by a written agreement called a typhoid fever carrier agreement. This agreement is between the chronic carrier and the Department or Health District. Failure of the carrier to abide by the carrier agreement may cause the carrier to be isolated under Section 065 of these rules. The carrier agreement requires: (4-2-08)

i. The carrier cannot work as a food employee; (4-2-08)

ii. Specimens must be furnished for examination in a manner described by the Department or Health District; and (4-2-08)

iii. The Department or Health District must be notified immediately of any change of address, occupation, and cases of illness suggestive of typhoid fever in *their* family or among immediate associates. *( )*

e. Chronic carriers of typhoid fever may be released from carrier status when *Salmonella Typhi* is not identified by a licensed laboratory in any of six (6) consecutive approved fecal and urine specimens collected at least one (1) month apart. (4-2-08)

671. -- 679. (RESERVED)

680. SEVERE ACUTE RESPIRATORY SYNDROME (SARS).

01. Reporting Requirements. Each case or suspected case of severe acute respiratory syndrome (SARS) must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of SARS must be investigated to confirm the diagnosis, review the travel and other exposure history, identify other persons potentially at risk, and identify the most likely source of the infection. (4-2-08)

03. Isolation. Recommendations for appropriate isolation of the suspected or confirmed case will be made by the Department or Health District. (4-2-08)

681. -- 689. (RESERVED)

690. SEVERE REACTION TO ANY IMMUNIZATION.

01. Reporting Requirements. Each case or suspected case of a severe reaction to any immunization must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of severe reaction to any immunization must be investigated to confirm and document the circumstances relating to the reported reaction to the immunization. (4-2-08)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any reported case. (4-2-08)

691. -- 699. (RESERVED)

700. SHIGELLOSIS.

01. Reporting Requirements. Each case or suspected case of shigellosis must be reported to the Department or Health District within one (1) working day of identification. (4-2-08)

02. Investigation. Each reported case of shigellosis must be investigated to confirm the diagnosis and identify clusters or outbreaks of the infection. An attempt must be made to identify contacts, carriers, and the source of the infection. (4-11-15)

03. Handling of Report. The Department and the Health District will exchange reported information within one (1) working day on any suspected or reported case. (4-2-08)

04. Restrictions - Daycare Facility. (4-2-08)

a. A person excreting *Shigella* must not attend a daycare facility while fecally incontinent. (4-2-08)

b. A person excreting *Shigella* must not work in any occupation in which *they* provide personal care to children in a daycare facility while the disease is present in a communicable form, unless an exemption is obtained from the Department or Health District. During an outbreak in a daycare facility, a cohort system may be approved. *( )*

c. The Department or Health District may withdraw the daycare restriction when the person has provided two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart that fail to show *Shigella* upon testing by a licensed laboratory. (4-11-15)

05. Exclusions - Food Service Facility. (4-2-08)

a. A food employee excreting *Shigella* must be managed under IDAPA 16.02.19, "Idaho Food Code." *( )*

b. The Department or Health District may withdraw the food service restriction when the employee has provided two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart that fail to show *Shigella* upon testing by a licensed laboratory. (4-11-15)

06. Restrictions - Health Care Facility. (4-11-15)

a. A person excreting *Shigella* must not work in any occupation in which *they* provide personal care to persons who are confined to a health care facility while the disease is present in a communicable form, unless an exemption is obtained from the Department or Health District. During an outbreak in a facility, a cohort system may be approved. *( )*

b. The Department or Health District may withdraw the health care facility restriction when the employee has provided two (2) successive approved fecal specimens collected at least twenty-four (24) hours apart that fail to show *Shigella* upon testing by a licensed laboratory. (4-11-15)

c. During an outbreak in a facility, a cohort system may be approved. (4-11-15)

07. Restrictions - Household Contacts. No member of a household, in which there is a case of shigellosis, may work in any occupations in Subsections 700.04 through 700.06 of this rule, unless the Department or Health District approves and at least one (1) approved fecal specimen is negative for *Shigella* upon testing by a licensed laboratory. (4-11-15)

701. -- 709. (RESERVED)

710. SMALLPOX.

01. Reporting Requirements. Each case or suspected case of smallpox must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of smallpox must be investigated promptly to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the source of the infection and susceptible contacts. (4-11-15)

03. Restrictions - Daycare Facility. (4-2-08)

a. A person diagnosed with smallpox must not attend a daycare facility as long as the disease is in a communicable form. (4-2-08)

b. In the event of an outbreak, the Department or Health District may exclude susceptible children and employees from daycare facilities where a case has been identified until adequate immunization is obtained or the threat of further spread is contained. (4-2-08)

04. Restrictions - Health Care Facility. A person diagnosed or suspected of having smallpox in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules. (4-2-08)

05. Restrictions - Public Gatherings. A person diagnosed with smallpox must not attend public gatherings as long as the disease is in a communicable form. (4-2-08)

06. Restrictions - School. (4-2-08)

a. A person diagnosed with smallpox, regardless of age, must not attend a private, parochial, charter, or public school as long as the disease is in a communicable form. (4-2-08)

b. In the event of an outbreak, the Department or Health District may exclude susceptible children and employees from schools where a case has been identified until adequate immunization is obtained or the threat of further spread is contained under Section 33-512(7), Idaho Code. (4-2-08)

07. Restrictions - Working. A person diagnosed with smallpox must not work in any occupation as long as the disease is in a communicable form. (4-2-08)

711. -- 719. (RESERVED)

720. STREPTOCOCCUS PYOGENES (GROUP A STREP) INFECTIONS.

01. Reporting Requirements. Each case of *Streptococcus pyogenes* (group A strep) infection *that* is invasive or results in rheumatic fever or necrotizing fasciitis must be reported to the Department or Health District within three (3) working days of identification. *( )*

02. Investigation. Each reported case of *Streptococcus pyogenes* (group A strep) infection *that* is invasive or results in rheumatic fever or necrotizing fasciitis must be investigated to confirm the diagnosis, to determine if the infection is part of an outbreak, and to identify the source of the infection. *( )*

03. Restrictions - Daycare Facility. An infected person must not attend or work in a daycare until twenty-four (24) hours has elapsed after treatment is initiated or until *they are* no longer infectious as determined by a physician, the Department, or Health District. *( )*

04. Restrictions - Health Care Facility. An infected person must not work in a health care facility

until twenty-four (24) hours has elapsed after treatment is initiated or until *they are* no longer infectious as determined by a physician, the Department, or Health District. *( )*

05. Restrictions - School. An infected person must not attend or work in a private, parochial, charter, or public school until twenty-four (24) hours has elapsed after treatment is initiated or until the patient is no longer infectious as determined by a physician, the Department, or Health District. (4-2-08)

721. -- 729. (RESERVED)

730. SYPHILIS.

01. Reporting Requirements. Each case or suspected case of syphilis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of primary, secondary, or early latent syphilis must be investigated by the Department or Health District. Each person diagnosed with primary, secondary, or early latent infectious syphilis is required to inform all sexual contacts that they may have been exposed to a sexually transmitted infection, or provide sufficient information to public health officials so they may locate contacts and *ensure* that each is offered prompt diagnosis and treatment under Section 39-605, Idaho Code. *( )*

03. Testing Without an Informed Consent. A physician may order blood tests for syphilis when an informed consent is not possible and there has been, or is likely to be, significant exposure to a person's blood or body fluids by a person providing emergency or medical services. (4-2-08)

731. -- 739. (RESERVED)

740. TETANUS.

01. Reporting Requirements. Each case of tetanus must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of tetanus must be investigated to confirm the diagnosis and to determine the immunization status of the case. (4-2-08)

741. -- 749. (RESERVED)

750. TOXIC SHOCK SYNDROME.

01. Reporting Requirements. Each case of toxic shock syndrome must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of toxic shock syndrome must be investigated to obtain specific clinical information on the syndrome and to determine the etiology, risk factors, and means of preventing the syndrome. (4-2-08)

751. -- 759. (RESERVED)

760. TRANSMISSIBLE SPONGIFORM ENCEPHALOPATHIES (TSE), INCLUDING CREUTZFELDT-JAKOB DISEASE (CJD) AND VARIANT CJD (VCJD).

01. Reporting Requirements. Each case or suspected case of transmissible spongiform encephalopathy (TSE), including Creutzfeldt-Jakob disease (CJD) and variant CJD (vCJD) must be reported to the Department or Health District within three (3) working days of identification. (3-29-10)

02. Investigation. Each reported case of transmissible spongiform encephalopathy (TSE) must be investigated to determine the cause and confirm the diagnosis. (4-2-08)

03. Autopsy. The state epidemiologist may order an autopsy for suspected CJD or vCJD deaths as per Section 39-277, Idaho Code. (3-29-10)

761. -- 769. (RESERVED)

770. TRICHINOSIS.

01. Reporting Requirements. Each case of trichinosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of trichinosis must be investigated to confirm the diagnosis, identify clusters or outbreaks of the infection, and identify the source of the infection. (4-11-15)

03. Handling of Report. The Department will notify the Idaho Department of Agriculture and other regulatory agencies as applicable. (4-2-08)

771. -- 779. (RESERVED)

780. TUBERCULOSIS.

01. Reporting Requirements. Each case of tuberculosis must be reported to the Department or Health District within three (3) working days of identification. (4-2-08)

02. Investigation. Each reported case of tuberculosis must be investigated to confirm the diagnosis, identify contacts, associated cases, and the source of the infection. (4-2-08)

03. Active Pulmonary Tuberculosis - Definition. Tuberculosis disease of the lungs, determined by a physician to be potentially contagious by clinical or bacteriological evidence or by evidence of the spread of the disease to others. Tuberculosis is considered active until cured. (4-2-08)

04. Cure of Tuberculosis - Definition. The completion of a course of antituberculosis treatment. (4-2-08)

05. Restrictions - Daycare Facility. A person with active pulmonary tuberculosis must not attend or work in any occupation in which *they have* direct contact or provides personal care to children in a daycare facility, until *they are* determined to be noninfectious by a licensed physician, the Department, or Health District. *( )*

06. Restrictions - Health Care Facility. (4-2-08)

a. A person suspected to have pulmonary tuberculosis in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules, until the diagnosis of active pulmonary tuberculosis is excluded by a licensed physician. (4-2-08)

b. A person with active pulmonary tuberculosis in a health care facility must be managed under the "Guideline for Isolation Precautions in Hospitals," as incorporated in Section 004 of these rules, until *they are* determined to be noninfectious by a licensed physician, the infection control committee of the facility, or the Department. *( )*

c. A person with active pulmonary tuberculosis must not work in any occupation in which *they have* direct contact or provides personal care to persons confined to a health care or residential care facility, until *they are* determined to be noninfectious by a licensed physician, infection control committee of the facility, or the Department. *( )*

d. In the event that active pulmonary tuberculosis is diagnosed in an employee, patient, or resident, the health care facility must conduct an investigation to identify contacts. The Department or Health District may assist in the investigation. (4-2-08)

07. Restrictions - School. A person with active pulmonary tuberculosis must not attend or work in any occupation in which *they have* direct contact with students in a private, parochial, charter, or public school until *they are* determined to be noninfectious by a licensed physician, the Department, or Health District. *( )*

08. Restrictions - Household Contacts. Any member of a household, in which there is a case of active pulmonary tuberculosis, must not attend or work in any occupation in which *they* provide direct supervision of students in a school, personal care to children in a daycare facility or persons confined to a health care facility, or works in a food service facility, until *they have* been determined to be noninfectious by a licensed physician, the Department, or Health District. *( )*

781. -- 789. (RESERVED)

790. TULAREMIA.

01. Reporting Requirements. Each case or suspected case of tularemia must be reported to the Department or Health District immediately, at the time of identification, day or night. (4-2-08)

02. Investigation. Each reported case of tularemia must be investigated to confirm the diagnosis and to identify the source of the infection. (4-2-08)

03. Handling of Report. The Department will notify the Idaho Department of Agriculture of any identified source or suspected source of the infection. (4-2-08)

791. -- 809. (RESERVED)

810. YERSINIOSIS, OTHER THAN PLAGUE.

01. Reporting Requirements. Each case of yersiniosis, other than plague, must be reported to the Department or Health District within three (3) working days of identification. Plague must be reported immediately as described in Section 550 of these rules. (4-2-08)

02. Investigation. Each reported case of yersiniosis must be investigated to confirm the diagnosis, identify carriers, and the source of the infection. (4-2-08)

03. Restrictions - Food Service Facility. A symptomatic person must be managed under IDAPA 16.02.19, "Idaho Food Code." *( )*

811. -- 949. (RESERVED)

DELEGATION OF POWERS AND DUTIES
(Sections 950 - 999)

950. DELEGATION OF POWERS AND DUTIES.
The Director has the authority to delegate to the Health Districts any of the powers and duties created by these rules under Section 39-414(2), Idaho Code. Any delegation authority will be in writing and signed by both the Director and the Health District Board. (4-2-08)

951. -- 999. (RESERVED)

16.02.11 – IMMUNIZATION REQUIREMENTS FOR LICENSED DAYCARE FACILITY ATTENDEES

000. LEGAL AUTHORITY.
The Idaho Legislature has granted to the Idaho Board of Health and Welfare the authority to adopt rules for the administration and enforcement of an immunization program for children attending licensed daycare facilities in Idaho, under Section 39-1118, Idaho Code. (4-6-05)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.02.11, "Immunization Requirements for Licensed Daycare Facility *Attendees*." *( )*

02. Scope. These rules contain the legal requirements for the administration and enforcement of an immunization program for children who attend licensed daycare facilities in Idaho. (5-24-91)

002. INCORPORATION BY REFERENCE.
The "Recommended Immunization Schedules for Persons Aged 0 Through 18 Years -- United States, 2010," are incorporated by reference for this chapter of rules. Published in the Morbidity and Mortality Weekly Report, January 8, 2010, Vol. 58 (51 and 52), by the Centers for Disease Control and Prevention as recommended by the Advisory Committee on Immunization Practices (ACIP). This document is referred to in this chapter of rules as "ACIP Recommended Schedule." These schedules may be obtained from the Department or viewed online at http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5851a6.htm (4-7-11)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. ACIP. The Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices. (4-7-11)

02. Board. The Idaho State Board of Health and Welfare. (12-31-91)

03. Board of Medicine. The Idaho State Board of Medicine. (5-24-91)

04. Child. A person less than thirteen (13) years of age, as defined in Section 39-1102, Idaho Code. (4-7-11)

05. Department. The Idaho Department of Health and Welfare. (5-24-91)

06. Director. The Director of the Idaho Department of Health and Welfare, or *their* design*ee*. *( )*

07. Immunization Record. An electronic medical health record, an immunization registry document, or a written immunization certificate confirmed by a licensed health care professional or a physician's representative *that* states the month, day, and year of each immunization a person has received. *( )*

08. Initial Attendance. The first admission of a child to any licensed daycare facility in Idaho. (5-24-91)

09. Laboratory Proof. A certificate from a licensed medical laboratory stating the type of test performed, the date of each test and the results, accompanied by a physician's statement indicating the child is immune. Tests performed must meet the requirements in IDAPA 16.02.06, "Quality Assurance for Idaho Clinical Laboratories." *( )*

10. Licensed Daycare Facility. Any Idaho daycare facility maintained by an individual, organization, or corporation and licensed by an authorized governmental entity to provide care to children. (5-24-91)

11. Licensed Daycare Facility Operator. Any person who owns and operates or is designated by an individual, organization, or corporation to manage the day-to-day operation of a licensed daycare facility described in Subsection 010.10 of *this* rule. *( )*

12. Licensed Health Care Professional. A practitioner, licensed in the State of Idaho by the Board overseeing the practitioner's license, or by a similar body in another state or jurisdiction within the United States. The

practitioner's scope of practice for licensure must allow for the ordering of immunizations and writing of prescriptions, or the practitioner must be under the direction of a licensed physician. Licensed health care professionals who may provide for immunization requirements include: medical doctors, osteopaths, nurse practitioners, physicians' assistants, licensed registered nurses, and pharmacists. Other persons authorized by law to practice any of the healing arts, *will* not be considered licensed health care professionals for the purposes of this chapter. *( )*

13. Parent, Custodian, or Guardian. The legal parent, custodian, or guardian of a child or those with limited power of attorney for the temporary care or custody of a minor child. (5-24-91)

14. Physician. A medical doctor or osteopath licensed by the Idaho State Board of Medicine, or by a similar body in another state or jurisdiction within the United States, to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine. (4-7-11)

15. Physician's Representative. Any person appointed by or vested with the authority to act on behalf of a physician in matters concerning health. (5-24-91)

16. Regulatory Authority. The Director of the Idaho Department of Health and Welfare, or the Director's designee. (5-24-91)

011. -- 099. (RESERVED)

100. IMMUNIZATION REQUIREMENTS.
All immunizations listed in Subsections 100.01 through 100.09 of *this* rule, are required of children who attend licensed daycare facilities. These immunizations must be administered age appropriately according to the "ACIP Recommended Schedule," incorporated by reference in Section 004 of these rules, unless fewer doses are medically recommended by a physician. These recommendations are available from the Department. *( )*

01. Diphtheria, Tetanus and A-Cellular Pertussis (DTaP) Vaccine. (4-7-11)

02. Polio Vaccine. (4-7-11)

03. Measles, Mumps, and Rubella (MMR) Vaccine. (4-7-11)

04. Haemophilus Influenza Type B (HIB) Vaccine. (4-7-11)

05. Hepatitis B Vaccine. (4-7-11)

06. Varicella Vaccine. (4-7-11)

07. Pneumococcal Vaccine. (4-7-11)

08. Rotavirus Vaccine. (4-7-11)

09. Hepatitis A Vaccine. (4-7-11)

101. COMPLIANCE.
The parent, custodian, or guardian of a child must comply with the provisions contained in this chapter within fourteen (14) days of initial attendance to any licensed daycare facility in Idaho. (4-7-11)

102. EVIDENCE OF IMMUNIZATION STATUS.

01. Immunization Record. Within the deadlines established in Section 101 of these rules, a parent, custodian, or guardian of each child must present to the licensed daycare facility operator an immunization record. (4-7-11)

02. Schedule of Intended Immunizations Form. A child who has received at least one (1) dose of

each required vaccine and is currently on schedule for subsequent immunizations may conditionally attend daycare when a schedule of intended immunizations form is provided. The licensed daycare facility operator must have a schedule of intended immunizations form completed by a parent, custodian, or guardian for any child who is not immunized, excepted, or exempted, and who is in the process of receiving, or has been scheduled to receive, the required immunizations. A form provided by the Department, or one similar, must include the following information: (4-7-11)

a. Name and date of birth of child; (4-7-11)

b. Type, number and dates of scheduled immunizations to be administered; (4-7-11)

c. Signature of the parent, custodian, or guardian; and (4-7-11)

d. Signature of a licensed health care professional providing care to the child. (4-7-11)

103. -- 104. (RESERVED)

105. EXCEPTIONS TO IMMUNIZATION REQUIREMENT.
A child who meets one (1) or more of the following conditions, when supporting documentation is in the possession of the licensed daycare facility operator, will not be required to receive the required immunizations in order to attend the licensed daycare facility. (4-7-11)

01. Laboratory Proof. A child who has laboratory proof of immunity to any of the childhood diseases listed in Section 100 of these rules, will not be required to receive the required immunizations for which the child is immune. (4-7-11)

02. Disease Diagnosis. A child who has a statement signed by a licensed health care professional stating the child has had varicella (chickenpox) disease diagnosed by a licensed health care professional upon personal examination will not be required to receive the required immunizations for the diagnosed disease. (4-7-11)

03. Suspension of Requirement. The Regulatory Authority may temporarily suspend one (1) or more of the immunization requirements listed in Section 100 of these rules, if the Regulatory Authority determines that suspension of the requirement is necessary to address a vaccine shortage or other emergency situation in the state. The Regulatory Authority will suspend a requirement for the length of time needed to remedy the vaccine shortage or emergency situation. (4-7-11)

106. -- 109. (RESERVED)

110. EXEMPTIONS TO IMMUNIZATION REQUIREMENT.
When supporting documentation is in the possession of the licensed daycare facility operator, a child who meets one (1) or both of the conditions in Subsections 110.01 and 110.02 of this rule, will be exempt from the required immunizations. (4-7-11)

01. Life or Health Endangering Circumstances. A signed statement of a licensed physician that the child's life or health would be endangered if any or all of the required immunizations are administered. (4-7-11)

02. Religious or Other Objections. A signed statement of the parent, custodian, or legal guardian that must be either: (4-11-19)

a. On a standard Department form or similar form provided by the school; or (4-11-19)

b. A signed statement that must include: (4-11-19)

i. The name of child and the child's date of birth; and (4-11-19)

ii. A statement indicating that the child is exempt from immunization as provided in Section 110 of this rule for religious or other objections; and (4-11-19)

iii. The signature of the parent, custodian, or legal guardian. (4-11-19)

111. -- 149. (RESERVED)

150. EXCLUSION CRITERIA.

01. Noncompliance. A child meeting any one (1) of the following conditions must be excluded by the licensed daycare facility operator: (4-7-11)

a. Has received fewer than the required number of doses of immunizations described in Section 100 of these rules, and does not have the remaining required vaccine doses scheduled; (4-7-11)

b. Has failed to continue to receive immunizations as provided on the schedule of intended immunizations form described in Subsection 102.02 of these rules; (4-7-11)

c. Has received one *(1)* or more doses at less than the minimum interval or less than the minimum age as recommended by the ACIP under Section 004 *of these rules*; *( )*

d. Has not received any doses of the required immunization and does not have a valid exception or exemption described in Sections 105 and 110 of these rules; or (4-7-11)

e. Has no immunization record on file at the daycare facility. (4-7-11)

02. Exempted Children. A child exempted under Section 110 of these rules, may be excluded by the regulatory authority in the event of a disease outbreak under IDAPA 16.02.10, "Idaho Reportable Diseases." (4-7-11)

151. -- 199. (RESERVED)

200. DOCUMENTATION AND RETENTION OF IMMUNIZATIONS RECORD BY LICENSED DAYCARE FACILITY OPERATORS.

01. Provision of Information. The licensed daycare facility operator will provide to the parent, custodian, or guardian, information on immunization requirements and the ACIP recommended immunization schedule. (4-7-11)

02. Immunization Record Retention. The immunization documentation described in Section 102 of these rules must be retained by the licensed daycare facility for each child as long as the child attends the licensed daycare facility, plus one (1) year after last attendance. (4-7-11)

201. -- 299. (RESERVED)

300. INSPECTIONS.

01. Compliance Inspection. The regulatory authority will verify that the immunization record described in Section 010 of these rules, is retained in the licensed daycare facility. (4-7-11)

02. Recording of Violation. Following an inspection *that* reveals a violation of this chapter by a licensed daycare facility, the regulatory authority will record the violations in writing and provide a copy to the licensed daycare facility operator. *( )*

03. Response to Violation. The licensed daycare facility operator will submit a written report to the regulatory authority within thirty (30) days following the inspection stating that the specified violations have been corrected. (4-6-05)

04. Failure to Respond. The regulatory authority will report in writing to the licensing authority any violations recorded in Subsection 300.02 of this rule, to which a licensed daycare facility operator has not responded

as required by Subsection 300.03 of this rule. (4-7-11)

301. -- 309. (RESERVED)

310. ENFORCEMENT OF IMMUNIZATION REQUIREMENT.

01. Enforcement The regulatory authority may exclude any child who does not meet the requirements in this chapter and who has not been excluded from the licensed daycare facility as required in Section 150 of these rules. (4-7-11)

02. Length of Exclusion. Any child excluded from a licensed daycare facility in Idaho as required in Subsection 310.01 of this rule, may not be readmitted to the facility until the child is in compliance with the requirements of this chapter. (4-7-11)

311. -- 399. (RESERVED)

400. TECHNICAL ASSISTANCE.

01. Random Evaluations. A representative of the Department will randomly select and visit licensed daycare facilities in Idaho to evaluate the facility files for the following: (4-6-05)

a. Immunization record described in Section 010 of these rules; (4-7-11)

b. Exceptions documentation described in Section 105 of these rules; and (4-6-05)

c. Exemption statements described in Section 110 of these rules. (4-6-05)

02. Notice of Intent to Review. A representative of the Department will inform licensed daycare facilities selected in Subsection 400.01 of this rule, at least thirty (30) days prior to an intent to review the licensed daycare facilities' documents. (4-7-11)

03. Evaluation Results. Information will be provided to the licensed daycare facility about the results of the immunization evaluation described in Subsection 400.01 of this rule, and the recommendations for correcting deficiencies and increasing immunity levels. (4-7-11)

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has given the Board of Health and Welfare and the Director of the Department authority to promulgate rules governing the testing of newborn infants for phenylketonuria and other preventable diseases and governing the instillation of an ophthalmic preparation in the eyes of the newborn to prevent Ophthalmia Neonatorum, under Sections 39-906, 39-909, and 39-910, Idaho Code. (7-1-10)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.02.12, "Newborn *Screening*." *( )*

02. Scope. These rules specify the tests and procedures that must be performed on newborn infants for early detection of metabolic disorders, endocrine disorders, hemoglobin disorders, cystic fibrosis, critical congenital heart disease, and prevention of infant blindness. (7-1-18)

002. INCORPORATION BY REFERENCE.
The Department has incorporated by reference the following documents: (7-1-18)

01. Blood Collection on Filter Paper for Newborn Screening Programs; Approved Standard, Fifth Edition. The Department has adopted "Blood Collection on Filter Paper for Newborn Screening Programs; Approved Standard," Fifth Edition, Clinical and Laboratory Standards Institute. 2007 (ISBN 1-56238-644-1), and hereby incorporates this standard by reference. A copy is available for review at the Department, or through the Clinical and Laboratory Standards Institute, 940 West Valley Road, Suite 1400, Wayne, PA 19087-1898, telephone *1-*610-688-0100. *( )*

02. Critical Congenital Heart Defects (CHDs). The Department has adopted the Critical CHD Screening Methods as recommended by the American Academy of Pediatrics, from "Strategies of Implementing Screening for Critical Congenital Heart Diseases," Kemper, et al., 2011, and hereby incorporates this material by reference. Copies may be obtained from the Department, *see* online at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.
The following definitions will apply in the interpretation and enforcement of this chapter: (5-3-03)

01. Critical Congenital Heart Disease (CCHD). CCHD, also known as critical congenital heart defects, is a term that refers to a group of serious heart defects, as defined by the Centers for Disease Control and Prevention (CDC), that are present from birth. (7-1-18)

02. Department. The Idaho Department of Health and Welfare. (5-3-03)

03. Dried Blood Specimen. A blood specimen obtained from an infant by means of skin puncture, not by means of venipuncture or any other method, that is placed on special filter paper and allowed to dry. (7-1-10)

04. Hyperalimentation. The administration of an amount of nutrients beyond minimum normal requirements of the appetite, in an attempt to replace nutritional deficiencies. (7-1-10)

05. Laboratory. A medical or diagnostic laboratory certified according to the provisions of the Clinical Laboratory Improvement Amendments of 1988 by the United States Department of Health and Human Services. (5-3-03)

06. Newborn Screening. Newborn screening means a laboratory procedure performed on dried blood specimens from newborns to detect those at risk for the diseases specified in Subsection 100.01 of these rules. (5-3-03)

07. Person Responsible for Registering Birth of Child. The person responsible for preparing and filing the certificate of birth is defined in Section 39-255, Idaho Code. (5-3-03)

08. Pulse Oximetry. A non-invasive test that estimates the percentage of hemoglobin in blood that is

saturated with oxygen using equipment approved by the U.S. Food and Drug Administration for use with newborn infants. (7-1-18)

09. Test Kit. The materials provided by the laboratory for the purposes of dried blood specimen collection and submission of specimens for newborn screening laboratory procedures. (5-3-03)

011. -- 049. (RESERVED)

050. USE AND STORAGE OF DRIED BLOOD SPECIMENS.

01. Use of Dried Blood Specimens. Dried blood specimens will be used for the purpose of testing the infant from whom the specimen was taken, for congenital birth defects. Limited use of specimens for routine calibration of newborn screening laboratory equipment and quality assurance is permissible. (7-1-10)

02. Prohibited Use of Dried Blood Specimens. Dried blood specimens may not be used for any purpose other than those described in Subsection 050.01 of this rule without the express written consent of the parent(s) or guardian(s) of the infant from whom the specimen was collected. (7-1-18)

03. Storage of Dried Blood Specimens. Dried blood specimens may be stored at the testing facility for a period not to exceed eighteen (18) months. Acceptable use of stored specimens will be for re-testing the specimen in the event of a symptomatic diagnosis or death of the infant during the storage period. (7-1-10)

051. -- 099. (RESERVED)

100. DUTIES OF THE ADMINISTRATOR OF THE RESPONSIBLE INSTITUTION AND THE PERSON REQUIRED TO REGISTER THE BIRTH OF A CHILD.

01. Conditions for Which Infants Will Be Tested. All infants born in Idaho must be tested for at least the following conditions: (7-1-10)

a. Biotinidase deficiency; (5-3-03)

b. Congenital hypothyroidism; (5-3-03)

c. Galactosemia; (5-3-03)

d. Maple syrup urine disease; (7-1-18)

e. Phenylketonuria; and (7-1-18)

f. Critical congenital heart disease. (7-1-18)

02. Blood Specimen Collection. (5-3-03)

a. The dried blood specimen collection procedures must follow the document listed in Subsection 004.01 of these rules. (7-1-10)

b. For infants admitted to the neonatal intensive care unit (NICU), the initial dried blood specimen for newborn screening must be obtained upon admission to the NICU. (7-1-10)

c. For non-premature infants, in-hospital, the initial dried blood specimen for newborn screening must be obtained between twenty-four (24) and forty-eight (48) hours of age. (7-1-10)

d. For newborns transferred from one hospital to another, the originating hospital must assure that the dried blood specimen is drawn. If the newborn is too premature or too sick to have a dried blood specimen drawn for screening prior to transfer and a dried blood specimen is not obtained, the originating hospital must document this, and notify the hospital to which the newborn is being transferred that a dried blood specimen for newborn screening

has not been obtained. (7-1-10)

e. Prior to the discharge of an infant from the institution where initial newborn care or specialized medical care was rendered, the Administrator of the institution must assure that an adequate dried blood specimen has been collected regardless of the time the infant is discharged from the institution. (7-1-10)

f. For births occurring outside of a hospital, the birth attendant is responsible for assuring that an acceptable dried blood specimen is properly collected for newborn screening as stipulated in Section 100 of *this* rule. *( )*

g. Newborns who require a blood transfusion, hyperalimentation, or dialysis must have a dried blood specimen collected for screening prior to these procedures. (7-1-10)

h. If a dried blood specimen cannot be obtained for newborn screening before transfusion, hyperalimentation, or dialysis, the hospital must ensure that a repeat dried blood specimen is obtained at the appropriate time when the specimen will reflect the infant's own metabolic processes and phenotype. (7-1-10)

i. All infants must be retested. A test kit must be given to the parents or responsible party at the time of discharge from the institution where initial newborn care was rendered, with instructions to have a second dried blood specimen collected. The preferred time for sample collection is between ten (10) and fifteen (15) days of age. (7-1-10)

03. Specimen Data Card. The person obtaining the newborn screening specimen must complete the demographic information card attached to the sample kit. The First Specimen Card must include the infant's mother's date of birth, address, and phone number. Both the First and Second Specimen's Card must include the items listed in 100.03.a. through 100.03.k. of this rule, optional fields may be completed as needed. (7-1-10)

a. Name of the infant; (7-1-10)

b. Whether the birth was a single or multiple-infant birth; (7-1-10)

c. Name of the infant's mother; (7-1-10)

d, Gender of the infant; (7-1-10)

e. Method of feeding the infant; (7-1-10)

f. Name of the birthing facility; (7-1-10)

g. Date and time of the birth; (7-1-10)

h. Date and time the specimen was obtained; (7-1-10)

i. Name of the attending physician or other attendant; (7-1-10)

j. Date specimen was collected; and (7-1-10)

k. Name of person collecting the specimen. (7-1-10)

04. Specimen Mailing. Within twenty-four (24) hours after collection, the dried blood specimen must be mailed to the laboratory by first class mail or its equivalent, except when mailing service is not available. When mailing service is not available on weekends and holidays, dried blood specimens must be mailed to the laboratory on the first available mail pick-up day. The preferred method of mailing, following a weekend or holiday, is by expedited mail service. (7-1-10)

05. Record Keeping. Maintain a record of all dried blood specimens collected for newborn screening. This record must indicate: (7-1-10)

a. Name of the infant; (7-1-10)

b. Name of the attending physician or other attendant; (7-1-10)

c. Date specimen was collected; and (7-1-10)

d. Name of person collecting specimen. (7-1-10)

06. Collection Protocol. Ensure that a protocol for collection and submission for newborn screening of adequate dried blood specimens has been developed, documented, and implemented. Individual responsibilities must be clearly defined and documented. The attending physician must request that the test be done. The hospital may make an appropriate charge for this service. (7-1-10)

07. Responsibility for Recording Specimen Collection. (5-3-03)

a. The administrator of the responsible institution, or *their* designee, must record on the birth certificate whether the dried blood specimen for newborn screening has been collected. *( )*

b. When a birth occurs outside a hospital, the person responsible for registering the birth of the child must record on the birth certificate whether the dried blood specimen for newborn screening has been collected and submitted within twenty-four (24) hours following collection. (7-1-10)

08. Fees. The Department will provide access to newborn screening laboratory services. If the administration of the responsible institution or the person required to register the birth of a child chooses to utilize this service, the Department will collect a fee equal to the cost of the test kit, analytical, and diagnostic services provided by the laboratory. The fees must be remitted to the Department before the laboratory provides the test kit to those responsible for ensuring the infant is tested according to these rules. (7-1-10)

101. -- 199. (RESERVED)

200. LABORATORY DUTIES.

01. Participation in Centers for Disease Control and Prevention (CDC) Newborn Screening Quality Assurance Program. All laboratories receiving dried blood specimens for newborn screening on infants born in Idaho must participate in the Newborn Screening Quality Assurance Program operated by the CDC. (7-1-10)

02. Specimen Processing. Dried blood specimens for newborn screening must be processed within twenty-four (24) hours of receipt by the laboratory or before the close of the next business day. (5-3-03)

03. Result Notification. Normal test results may be reported by mail to the submitter. Other results must be reported in accordance with Section 300 of these rules. (5-3-03)

201. -- 299. (RESERVED)

300. FOLLOW-UP FOR UNSATISFACTORY SPECIMENS, PRESUMPTIVE POSITIVE RESULTS AND POSITIVE CASES.

01. Follow-Up for Unsatisfactory Specimens. (5-3-03)

a. The laboratory will immediately report any unsatisfactory dried blood specimens to the submitting institution *that* originated the dried blood specimen or to the healthcare provider responsible for the newborn's care, with an explanation of the results. The laboratory will request a repeat dried blood specimen for newborn screening from the institution or individual submitting the original sample, or from the responsible provider. *( )*

b. Upon notification from the laboratory, the health care provider responsible for the newborn's care

at the time of the report will cause another dried blood specimen to be appropriately forwarded to the laboratory for screening. (5-3-03)

02. Follow-Up of Presumptive Positive Results. The laboratory will report positive or suspicious results on an infant's dried blood specimen to the attending physician or midwife, or, if there is none or the physician or midwife is unknown, to the person who registered the infant's birth, and make recommendations on the necessity of follow-up testing. (5-3-03)

03. Positive Case Notification. Confirmed positive cases of biotinidase deficiency, congenital hypothyroidism, galactosemia, maple syrup urine disease, and phenylketonuria must be reported as described in IDAPA 16.02.10, "Idaho Reportable Diseases." (5-3-03)

301. NEWBORN CRITICAL CONGENITAL HEART DISEASE (CCHD) SCREENING.

01. Pulse Oximetry for the Screening of CCHD. (7-1-18)

a. For births occurring in a hospital, the administrator of the institution or *their* designee must assure that all infants who meet the CDC criteria for CCHD screening are screened following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html. *( )*

b. For births occurring outside of a hospital, the birth attendant must assure that screening for congenital heart disease is conducted through the use of pulse oximetry no sooner than twenty-four (24) hours after birth and no later than forty-eight (48) hours after birth following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html. (7-1-18)

02. Responsibility of Recording CCHD Screening Results. (7-1-18)

a. For births occurring in a hospital, the administrator of the responsible institution or *their* designee must record the pulse oximetry results on the birth certificate and whether the CCHD screening was determined as "passed" or "failed" following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html, or "not screened." *( )*

b. For births occurring outside of a hospital, the birth attendant or *their* designee must record the pulse oximetry results on the birth certificate and whether the CCHD screening was determined as "passed" or "failed" following the algorithm on the CDC website at: https://www.cdc.gov/ncbddd/heartdefects/hcp.html, or "not screened." *( )*

03. Follow Up for Abnormal CCHD Screening Results. (7-1-18)

a. For births occurring in a hospital, the administrator of the responsible institution or *their* designee must make a referral for further evaluation of the newborn whose CCHD results are abnormal and inform the parent or legal guardian of the need for appropriate intervention. *( )*

b. For births occurring outside of a hospital, the person performing the screening is responsible for making an immediate referral for further evaluation of the newborn whose CCHD results are abnormal and informing the parent or legal guardian of the need for appropriate intervention. (7-1-18)

302. -- 399. (RESERVED)

400. SUBSTANCES *THAT* FULFILL REQUIREMENTS FOR OPHTHALMIC PREPARATION.
Only those germicides proven to be effective in preventing ophthalmia neonatorum and recommended for use in its prevention by the U.S. Department of Health and Human Services (including the U.S. Public Health Service, the Center for Disease Control and Prevention, and the U.S. Food and Drug Administration) will satisfy the requirements established herein, *under* Section 39-903, Idaho Code. *( )*

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has granted to the Board of Health and Welfare, in cooperation with the State Board of Education and the Idaho School Boards Association, the authority to adopt rules for the administration and enforcement of an immunization program for Idaho school children, under Section 39-4801, Idaho Code. (4-6-05)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.02.15, "Immunization Requirements for Idaho School Children." (4-6-05)

02. Scope. These rules contain the legal requirements for the administration of an immunization program for children enrolled in grades preschool, kindergarten through twelve (12) of any Idaho public, private, or parochial school. (4-7-11)

002. INCORPORATION BY REFERENCE.
The "Recommended Immunization Schedules for Persons Aged 0 Through 18 Years -- United States, 2010," are incorporated by reference for this chapter of rules. Published in the Morbidity and Mortality Weekly Report, January 8, 2010, Vol. 58 (51 and 52), by the Centers for Disease Control and Prevention as recommended by the Advisory Committee on Immunization Practices (ACIP). This document is referred to in this chapter of rules as "ACIP Recommended Schedule." These schedules may be obtained from the Department or viewed online at http://www.cdc.gov/mmwr/preview/mmwrhtml/mm5851a6.htm. (4-7-11)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. ACIP. The Centers for Disease Control and Prevention's Advisory Committee on Immunization Practices. (4-7-11)

02. Admission. Admission to a public, private or parochial school is: (4-2-08)

a. Registration of a child before attendance; or (4-2-08)

b. Re-entry of a child after withdrawing from previous enrollment. (4-2-08)

c. Transfer of a child from one (1) Idaho school to another or from schools outside Idaho. (4-7-11)

03. Child. A minor who is enrolled in preschool, kindergarten through grade twelve (12) in any Idaho public, private, or parochial school. (4-7-11)

04. Department. Idaho Department of Health and Welfare. (10-13-92)

05 Immunization Record. An electronic medical health record, an immunization registry document, or a written immunization certificate confirmed by a licensed health care professional or a physician's representative which states the month, day, and year of each immunization a person has received. (4-7-11)

06. Laboratory Proof. A certificate from a licensed medical laboratory stating the type of test performed, the date of each test, and the results, accompanied by a physician's statement indicating the child is immune. Tests performed must meet the requirements of IDAPA 16.02.06, "Quality Assurance for Idaho Clinical Laboratories." (4-7-11)

07. Licensed Health Care Professional. A practitioner, licensed in the State of Idaho by the Board overseeing the practitioner's license, or by a similar body in another state or jurisdiction within the United States. The practitioner's scope of practice for licensure must allow for the ordering of immunizations and writing of prescriptions, or the practitioner must be under the direction of a licensed physician. Licensed health care professionals who may provide for immunization requirements include: medical doctors, osteopaths, nurse practitioners, physicians' assistants, licensed registered nurses, and pharmacists. Other persons authorized by law to practice any of the healing arts, will not be considered licensed health care professionals for the purposes of this chapter. (4-7-11)

08. Parent, Custodian, or Guardian. The legal parent, custodian, or guardian of a child or those with

limited power of attorney for the temporary care or custody of a minor child. (4-6-05)

09. Physician. A medical doctor or osteopath licensed by the Idaho State Board of Medicine, or by a similar body in another state or jurisdiction within the United States, to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine. (4-7-11)

10. Physician's Representative. Any person appointed by, or vested with the authority to act on behalf of a physician in matters concerning health. (8-15-79)

11. Preschool. The provision of education for children before the commencement of statutory and obligatory education, differing from traditional daycare in that the emphasis is learning and development rather than enabling parents to work or pursue other activities. Preschools may include, but are not limited to, federally-funded Head Start centers, state-funded preschools, government-funded special education programs, public school preschool programs, and for-profit and not-for profit preschool programs. (4-7-11)

12. Private or Parochial School. Any Idaho school maintained by an individual, organization or corporation, not at public expense, and open only to children selected and admitted by the individual, organization or corporation, or to children of a certain class or possessing certain qualifications, which may or may not charge tuition fees. (1-25-79)

13. Public School. Any Idaho school maintained at the public expense and open to all children within a given district, including those responsible for the education and training of exceptional children or those schools specially chartered. (1-25-79)

14. Regulatory Authority. The Director of the Idaho Department of Health and Welfare or the Director's designee. (4-7-11)

15. School Authority. An authorized representative designated by the Board of Trustees of a public school or a person or body designated to act on behalf of the governing body of a private or parochial school. (8-15-79)

011. -- 099. (RESERVED)

100. IMMUNIZATION REQUIREMENTS.
All immunizations listed in Subsections 100.01 through 100.05 of this rule, are required of students upon admission to kindergarten through grade twelve (12) of any Idaho public, private, or parochial school. Upon admission to preschool, students must be age appropriately immunized with all immunizations listed in Subsections 100.01 through 100.03 of this rule. Immunizations must be administered according to the "ACIP Recommended Schedule," incorporated by reference in Section 004 of these rules, unless fewer doses are medically recommended by a physician. These recommendations are available from the Department. Exemptions from these immunization requirements are provided in Section 110 of these rules. (4-11-19)

01. Student Born on or Before September 1, 1999. A student born on or before September 1, 1999, must meet the following minimum immunization requirements prior to admission for these vaccines: one (1) dose of Measles, Mumps, and Rubella (MMR), four (4) doses of Diphtheria, Tetanus, Pertussis (DTaP), three (3) doses of Polio, and three (3) doses of Hepatitis B. (4-11-19)

02. Student After September 1, 1999 Through September 1, 2005. A student born after September 1, 1999, through September 1, 2005, must meet the following minimum immunization requirements prior to admission for these vaccines: two (2) doses of Measles, Mumps, and Rubella (MMR), five (5) doses of Diphtheria, Tetanus, and Pertussis (DTaP), three (3) doses of Polio, and three (3) doses of Hepatitis B. (4-11-19)

03. Student After September 1, 2005. A student born after September 1, 2005, must meet the following minimum immunization requirements prior to admission for the following vaccines: two (2) doses of Measles, Mumps, and Rubella (MMR), five (5) doses of Diphtheria, Tetanus, and Pertussis (DTaP), four (4) doses of Polio, three (3) doses of Hepatitis B, two (2) doses of Hepatitis A, and two (2) doses of Varicella. (4-11-19)

04. Seventh Grade Immunization Requirements. Effective with the 2011-2012 school year, and each year thereafter, in addition to the required immunizations listed in Section 100.01 through 100.03 of this rule, a student must meet the following minimum immunization requirements prior to admission into the seventh (7th) grade for these vaccines: one (1) dose of Tetanus, Diphtheria, Pertussis Booster (Tdap), and one (1) dose of Meningococcal. This requirement will be extended to: 7th - 8th grade students in 2012, 7th - 9th grade students in 2013, 7th - 10th grade students in 2014, 7th - 11th grade students in 2015, and 7th - 12th grade students in 2016. (4-11-19)

05. Twelfth Grade Immunization Requirements. Effective at the start of the 2020-2021 school year, and each year thereafter, in addition to the required immunizations listed in Section 100.01 through 100.04 of this rule, students must meet the following minimum immunization requirements prior to admission into the twelfth (12th) grade: (4-11-19)

a. Students who received their first dose of Meningococcal (MenACWY) vaccine before the age of sixteen (16) must have two (2) doses of Meningococcal (MenACWY) vaccine. (4-11-19)

b. Students who received their first dose of Meningococcal (MenACWY) vaccine at sixteen (16) years of age and older, or those who have never received a dose, must have one (1) dose of Meningococcal (MenACWY) vaccine. (4-11-19)

06. Summary of Immunization Requirements. (4-7-11)

a. Immunization requirements.

TABLE 100.06.a. SUMMARY OF IMMUNIZATION REQUIREMENTS

Immunization Requirement*	Student born on or before September 1, 1999	Student born after September 1, 1999, through September 1, 2005	Student born after September 1, 2005
Measles, Mumps, and Rubella (MMR)	1 dose	2 doses	2 doses
Diphtheria, Tetanus, Pertussis	4 doses	5 doses	5 doses
Polio	3 doses	3 doses	4 doses
Hepatitis B	3 doses	3 doses	3 doses
Hepatitis A	0 doses	0 doses	2 doses
Varicella	0 doses	0 doses	2 doses
* Exemptions for immunization requirements are found in Section 110 of these rules.			

(4-11-19)

b. Seventh grade immunization requirements.

TABLE 100.06.b SUMMARY OF SEVENTH GRADE IMMUNIZATION REQUIREMENTS

Immunization Requirement*	Student admitted to 7th grade prior to 2011-2012 school year	Student admitted to 7th grade during 2011-2012 school year and each year thereafter
Tetanus, Diphtheria, Pertussis (Tdap)	0 doses	1 dose
Meningococcal (MenACWY)	0 doses	1 dose
* Exemptions for immunization requirements are found in Section 110 of these rules.		

(4-11-19)

c. Twelfth grade immunization requirements.

TABLE 100.06.c. SUMMARY OF TWELFTH GRADE IMMUNIZATION REQUIREMENTS			
Immunization Requirement*	**Student admitted to 12th grade prior to the 2020-2021 school year**	**Student admitted to 12th grade during 2020-2021 school year and each year thereafter, if student received their first dose of Meningococcal (MenACWY) vaccine at 16 years of age or older, or if student has never received a dose**	**Student admitted to 12th grade during 2020-2021 school year and each year thereafter, if student received their first dose of Meningococcal (MenACWY) vaccine before the age of 16**
Meningococcal (MenACWY)	1 dose	1 dose	2 doses
* Exemptions for immunization requirements are found in Section 110 of these rules.			

(4-11-19)

101. COMPLIANCE.
The parent, custodian, or guardian of any student who is to attend any public, private, or parochial school in Idaho must comply with the provisions contained in this chapter at the time of admission and before attendance. (4-11-19)

102. EVIDENCE OF IMMUNIZATION STATUS.

01. Immunization Record. Within the deadlines established in Section 101 of these rules, a parent, custodian, or guardian of each student must present to school authorities an immunization record. (4-11-19)

02. Schedule of Intended Immunizations Form. A student who has received at least one (1) dose of each required vaccine and is currently on schedule for subsequent immunizations may be conditionally admitted. School authorities, at the time of admission and before attendance, must have a schedule of intended immunizations form completed by a parent, custodian, or guardian for any student who is not immunized, excepted, or exempted, and who is in the process of receiving, or has been scheduled to receive, the required immunizations. A form provided by the Department, or one similar, must include the following information: (4-11-19)

a. Name and date of birth of student; (4-11-19)

b. School and grade student is enrolled in and attending; (4-11-19)

c. Types, numbers, and dates of scheduled immunizations to be administered; (4-7-11)

d. Signature of the parent, custodian, or guardian; and (4-7-11)

e. Signature of a licensed health care professional providing care to the student. (4-11-19)

03. Students Admitted to School and Failing to Continue the Schedule of Intended Immunizations. A student, who does not receive the required immunizations as scheduled in Subsection 102.02 of this rule, will be excluded by school authorities until documentation of the administration of the required immunizations is provided to school authorities by the student's parent, custodian, or guardian. (4-11-19)

103. -- 104. (RESERVED)

105. EXCEPTIONS TO IMMUNIZATION REQUIREMENT.
When supporting documentation is in the possession of school authorities at the time of admission and before attendance, a student who meets one (1) or both of the following conditions, will not be required to receive the required immunizations in order to attend school. (4-11-19)

01. Laboratory Proof. Laboratory proof of immunity to any of the childhood diseases listed in Section 100 of these rules, will not be required to receive the immunization for that disease for which the student is immune. (4-11-19)

02. Disease Diagnosis. A student who has a statement signed by a licensed health care professional stating that the student has had varicella (chickenpox) disease diagnosed by a licensed health care professional upon personal examination, will not be required to receive the immunization for the diagnosed disease. (4-11-19)

03. Suspension of Requirement. The Regulatory Authority may temporarily suspend one (1) or more of the immunization requirements listed in Section 100 of these rules, if the Regulatory Authority determines that suspension of the requirement is necessary to address a vaccine shortage or other emergency situation in the state. The Regulatory Authority will suspend a requirement for the length of time needed to remedy the vaccine shortage or emergency situation. (4-7-11)

106. -- 109. (RESERVED)

110. EXEMPTIONS TO IMMUNIZATION REQUIREMENT.
When supporting documentation is in the possession of school authorities, at the time of admission and before attendance, a student who meets one (1) or both of the following conditions in Subsections 110.01 and 110.02 of this rule, will not be required to receive the required immunizations. (4-11-19)

01. Life or Health Endangering Circumstances. A signed statement of a licensed physician that the student's life or health would be endangered if any or all of the required immunizations are administered. (4-11-19)

02. Religious or Other Objections. A signed statement of the parent, custodian, or legal guardian that must be either: (4-11-19)

a. On a standard Department form or similar form provided by the school; or (4-11-19)

b. A signed statement that must include: (4-11-19)

i. The name of student, and the student's date of birth; and (4-11-19)

ii. A statement indicating that the student is exempt from immunization as provided in Section 110 of this rule for religious or other objections; and (4-11-19)

iii. The signature of the parent, custodian, or legal guardian. (4-11-19)

111. -- 149. (RESERVED)

150. ENFORCEMENT OF IMMUNIZATION REQUIREMENT.

01. Noncompliance. Any student not in compliance with this chapter upon admission to any Idaho public, private, or parochial school, will be denied attendance by school authorities, unless the student is excepted or exempted from these immunization requirements as provided in Sections 105 and 110 of these rules. The regulatory authority may exclude any student who does not meet the requirements in this chapter and who has not been excluded from school. (4-11-19)

02. Length of Exclusion. Any student denied attendance in accordance with Subsection 150.01 of this rule, will not be allowed to attend any Idaho public, private or parochial school until the student is in compliance with the requirements of this chapter. (4-11-19)

03. Exempted Students. A student exempted under Section 110 of these rules, may be excluded by the regulatory authority in the event of a disease outbreak under IDAPA 16.02.10, "Idaho Reportable Diseases." (4-11-19)

151. -- 199. (RESERVED)

200. REPORTS BY SCHOOL AUTHORITIES.

01. Responsibility and Timeliness. School authorities must submit a report of each school's immunization status, by grade, to the Department on or before the first day of November each year. (4-6-05)

02. Form and Content of Report. Each school report must include the following information and be submitted on a Department form or electronically: (4-7-11)

a. Inclusive dates of reporting period; (10-13-92)

b. Name and address of school, school district and county; (4-6-05)

c. Grade being reported and total number of students enrolled in the grade; (4-11-19)

d. The name and title of the person completing the report form. (4-6-05)

e. Number of students who meet all of the required immunizations listed in Section 100 of these rules; (4-11-19)

f. Number of students who do not meet all of the required number of immunizations listed by specific immunization type; (4-11-19)

g. Number of students who do not meet the immunization requirement, but are in the process of receiving the required immunizations; and (4-11-19)

h. Number of students who claimed exemption to the required immunizations as allowed in Section 110 of these rules. (4-11-19)

201. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The State of Idaho Board of Health and Welfare is authorized under Sections 37-121 and 39-1603, Idaho Code, to adopt rules for the regulation of food establishments to protect public health.. (4-6-05)

001. TITLE, SCOPE AND APPLICABILITY.

01. Title. These rules are titled IDAPA 16.02.19, "Idaho Food Code." ( )

02. Scope. The purpose of these rules is to establish standards for the provision of safe, unadulterated and honestly presented food for consumption by the public. These rules provide requirements for licensing, inspections, review of plans, employee restriction, and license suspensions for food establishments and food processing plants. Also included are definitions and set standards for management, personnel, food operations, equipment and facilities. (4-6-05)

03. These Rules Apply to Food Establishments. Food establishments as defined in Section 39-1602, Idaho Code must follow these rules. Those facilities include but are not limited to the following: (4-6-05)

a. Restaurants, catering facilities, taverns, kiosks, vending facilities, commissaries, cafeterias, mobile food facilities, temporary food facilities; and (4-6-05)

b. Schools, senior centers, hospitals, residential care and treatment facilities, nursing homes, correctional facilities, camps, food banks, and church facilities; and (4-6-05)

c. Retail markets, meat, fish, delicatessen, bakery and supermarkets, convenience stores, health food stores, and neighborhood markets; and (4-6-05)

d. Food, water and beverage processing and bottling facilities that manufacture, process and distribute food, water and beverages within the state of Idaho, and are not inspected for food safety by a federal agency. (4-6-05)

04. These Rules Do Not Apply to These Establishments. These rules do not apply to the following establishments as exempted in Idaho Code. (4-6-05)

a. Agricultural markets as exempted in Section 39-1602, Idaho Code. (4-6-05)

b. Bed-and-breakfast operations that prepare and offer food for breakfast only to guests. The number of guest beds must not exceed ten (10) beds as defined in Section 39-1602, Idaho Code.' (4-6-05)

c. Day care facilities regulated by Sections 39-1101 through 39-1119, Idaho Code. (4-6-05)

d. Licensed outfitters and guides regulated by Sections 36-2101 through 36-2119, Idaho Code. (4-6-05)

e. Low-risk food establishments, as exempted in Section 39-1602, Idaho Code, which offer only non-time/temperature control for safety (non-TCS) foods. (7-1-16)

f. Farmers market vendors and roadside stands that only offer or sell non-time/temperature control for safety (non-TCS) foods or cottage foods. (7-1-16)

g. Non-profit charitable, fraternal, or benevolent organizations that do not prepare or serve food on a regular basis as exempted in Section 39-1602, Idaho Code. Food is not considered to be served on a regular basis if it is not served for more than five (5) consecutive days on no more than three (3) occasions per year for foods which are non-time/temperature control for safety (non-TCS). For all other food, it must not be served more than one (1) meal per week. (7-1-16)

h. Private homes where food is prepared or served for family consumption or receives catered or home-delivered food as exempted by Section 39-1602, Idaho Code. (4-6-05)

i. Cottage food operations, when the consumer is informed and must be provided contact information for the cottage food operations as follows: (7-1-16)

i. By a clearly legible label on the product packaging; or a clearly visible placard at the sales or service location that also states: (7-1-16)

ii. The food was prepared in a home kitchen that is not subject to regulation and inspection by the regulatory authority; and (7-1-16)

iii. The food may contain allergens. (7-1-16)

05. How to Use This Chapter of Rules. The rules in this chapter are modifications, additions or deletions made to the federal publication incorporated by reference in Section 004 of these rules. In order to follow these rules the publication is required. Changes to those standards are listed in this chapter of rules by listing which section of the publication is being modified at the beginning of each section of rule. (4-6-05)

002. INCORPORATION BY REFERENCE.
The Department is adopting by reference the "Food Code, 2013 Recommendations of the United States Public Health Service Food and Drug Administration," Publication PB2013-110462. A certified copy of this publication may be reviewed at the main office of the Department of Health and Welfare. It is also available online at http://www.fda.gov/Food/GuidanceRegulation/RetailFoodProtection/FoodCode/ucm374275.htm. This publication is being adopted with modifications and additions as follows: (7-1-16)

01. Chapter 1, Purpose and Definitions. Additions and modifications have been made to this chapter. See Sections 100 - 199 of these rules. (4-6-05)

02. Chapter 2, Management and Personnel. Modifications have been made to this chapter. See Sections 200 - 299 of these rules. (4-6-05)

03. Chapter 3, Food. Modifications have been made to this chapter. See Sections 300-399 of these rules. (4-6-05)

04. Chapter 4, Equipment, Utensils, and Linens. This chapter has been adopted with no modifications. (4-6-05)

05. Chapter 5, Water, Plumbing and Waste. This chapter has been adopted with no modifications. (4-6-05)

06. Chapter 6, Physical Facilities. Modifications have been made to this chapter. See Sections 600-699 of these rules. (7-1-16)

07. Chapter 7, Poisonous or Toxic Materials. Modifications have been made in this chapter. See Sections 700 - 799 of these rules. (4-6-05)

08. Chapter 8, Compliance and Enforcement. Modifications have been made in this chapter. See Sections 800-899 of these rules. (4-6-05)

09. Annexes 1 Through 7 Are Excluded. These sections have not been adopted. (4-6-05)

003. --* 005. *(RESERVED)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS REQUESTS.
Any disclosure of information obtained by the Department is subject to the restrictions in Title 74, Chapter 1, Idaho Code. Restrictions contained in Section 39-610, Idaho Code, and the Idaho Department of Health and Welfare Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records," must also be followed. (4-6-05)

01. Contested Hearing and Appeal Records. All contested case hearings are open to the public, unless ordered closed at the discretion of the hearing officer based on compelling circumstances. A party to a hearing must maintain confidentiality of discussions that warrant closing the hearing to the public. (4-6-05)

02. Inspection Report. A completed inspection report is a public document and is available for public disclosure to any person who requests the report as provided in Idaho's Public Records Law, Title 74, Chapter 1, Idaho Code. (4-6-05)

03. Medical Records. Medical information given to the Department or regulatory authority will be confidential and must follow IDAPA 16.05.01, "Use And Disclosure of Department Records." (4-6-05)

04. Plans and Specifications. Plans and specifications submitted to the regulatory authority as required in Chapter 8 of the 2013 Food Code referenced in Section 004 of these rules, must be treated as confidential or trade secret information under Section 74-107, Idaho Code. (7-1-16)

007. -- 049. (RESERVED).

050. TRAINING AND INFORMATIONAL MATERIALS.
The Department is authorized under Section 56-1007, Idaho Code, to establish a reasonable charge for training and informational materials that are provided to the public. (4-6-05)

051. -- 099. (RESERVED)

100. PURPOSES AND DEFINITIONS.
Sections 100 through 199 of these rules will be used for modifications and additions to Chapter 1 of the 2013 Food Code as incorporated in Section 004 of these rules. (7-1-16)

101. -- 109. (RESERVED)

110. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.
The definitions defined in this section are modifications or additions to the definitions and terms provided in the 2013 Food Code. (7-1-16)

01. Agricultural Market. Any venue where a fixed or mobile retail food establishment can engage in the sale of raw or fresh fruits, vegetables, and nuts in the shell. It may also include the sale of factory sealed non-time/temperature control for safety foods (non-TCS). Agricultural market means the same as "farmers market" or "roadside stand." (7-1-16)

02. Board. The State of Idaho Board of Health and Welfare as established in Section 56-1005, Idaho Code. (4-6-05)

03. Commissary. A commissary is a place where food containers or supplies are stored, prepared, or packaged for transit, sale, or service at other locations. (7-1-16)

04. Consent Order. A consent order is an enforceable agreement between the regulatory authority and the license holder to correct violations that caused the actions taken by the regulatory authority. (4-6-05)

05. Core Item. Modifications to Section 1-201.10(B) by amending the term "core item" to mean the same as "non-critical item." (7-1-16)

06. Cottage Food Operation. A cottage food operation is when a person or business prepares or produces cottage food products in the home kitchen of that person's primary residence or other designated kitchen or location. (7-1-16)

07. Cottage Food Product. Cottage food products are non-time/temperature control for safety (non-TCS) foods that are sold directly to a consumer. Examples of cottage foods may include but are not limited to: baked goods, fruit jams and jellies, fruit pies, breads, cakes, pastries and cookies, candies and confections, dried fruits, dry herbs, seasonings and mixtures, cereals, trail mixes and granola, nuts, vinegar, popcorn and popcorn balls, and cotton candy. (7-1-16)

08. Critical Item. A provision of this code that if in noncompliance, is more likely than other

violations to contribute to food contamination, illness, or environmental health hazard. A critical item includes items with a quantifiable measure to show control of hazards such as but not limited to, cooking, reheating, cooling, and hand washing. Critical item means the same as "priority item." Critical item is an item that is denoted with a superscript (P), (7-1-16)

09. Department. The Idaho Department of Health and Welfare as established in Section 56-1002, Idaho Code. (4-6-05)

10. Director. The Director of the Idaho Department of Health and Welfare as established in Section 56-1003, Idaho Code. (4-6-05)

11. Embargo. An action taken by the regulatory authority that places a food product or equipment used in food production on hold until a determination is made on the product's safety. (4-6-05)

12. Enforcement Inspection. An inspection conducted by the regulatory authority when compliance with these rules by a food establishment is lacking and violations remain uncorrected after the first follow-up inspection to a routine inspection. (4-6-05)

13. Farmers Market. Any fixed or mobile retail food establishment at which farmer producers sell agricultural products directly to the general public. Farmers market means the same as "agricultural market" and "roadside stand." (7-1-16)

14. Food Establishment. Modifications to Section 1-201.10 amends the definition of "food establishment" as follows: (7-1-16)

a. Delete Subparagraph 3(c) of the term "food establishment" in the 2013 Food Code; (7-1-16)

b. Add Subparagraph 3(h) to the term "food establishment" to clarify that a cottage food operation is not a food establishment. (7-1-16)

15. Food Processing Plant. Modification to Section 1-201.10 amends the definition of "food processing plant" by deleting Subparagraph 2 of the term "food processing plant" in the 2013 Food Code. (7-1-16)

16. Good Retail Practice. Good retail practice means the preventive measures that include practices and procedures that effectively control the introduction of pathogens, chemicals, and physical objects into food. (3-29-17)

17. High-Risk Food Establishment. A high-risk food establishment does the following operations: (4-6-05)

a. Extensive handling of raw ingredients; (4-6-05)

b. Preparation processes that include the cooking, cooling and reheating of time/temperature control for safety (TCS) foods; or (7-1-16)

c. A variety of processes requiring hot and cold holding of time/temperature control for safety (TCS) foods. (7-1-16)

18. Intermittent Food Establishment. An intermittent food establishment is a food vendor that operates for a period of time, not to exceed three (3) days per week, at a single, specified location in conjunction with a recurring event and that offers time/temperature control for safety (TCS) foods to the general public. Examples of a recurring event may be a farmers' or community market, or a holiday market. An intermittent food establishment does not include the vendor of farm fresh ungraded eggs at a recurring event (7-1-16)

111. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.

The definitions defined in this section are modifications or additions to the definitions and terms provided in the 2013 Food Code. (7-1-16)

01. License. The term "license" is used in these rules the same as the term "permit" is used in the 2013 Food Code. (7-1-16)

02. License Holder. The term "license holder" is used in these rules the same as the term "permit holder" is used in the 2013 Food Code. (7-1-16)

03. Low-Risk Food Establishment. A low-risk food establishment provides factory-sealed pre-packaged non-time/temperature control for safety (non-TCS) foods. The establishment may have limited preparation of non-time/temperature control for safety (non-TCS) foods only. (7-1-16)

04. Medium-Risk Food Establishment. A medium-risk food establishment includes the following: (4-6-05)

a. A limited menu of one (1) or two (2) items; or (4-6-05)

b. Pre-packaged raw ingredients cooked or prepared to order; or (4-6-05)

c. Raw ingredients requiring minimal assembly; or (4-6-05)

d. Most products are cooked or prepared and served immediately; or (4-6-05)

e. Hot and cold holding of time/temperature control for safety (TCS) foods is restricted to single meal service. (7-1-16)

05. Mobile Food Establishment. A mobile food establishment is a food establishment selling or serving food for human consumption from any vehicle or other temporary or itinerant station and includes any movable food service establishment, truck, van, trailer, pushcart, bicycle, watercraft, or other movable food service with or without wheels, including hand-carried, portable containers in or on which food or beverage is transported, stored, or prepared for retail sale or given away at temporary locations. (7-1-16)

06. Non-Critical Item. A non-critical item is a provision of this Code that is not designated as a critical item or potentially-critical item. A non-critical item includes items that usually relate to general sanitation, operation controls, sanitation standard operating procedures (SSOPs), facilities or structures, equipment design, or general maintenance. Non-critical item means the same as CORE ITEM. (7-1-16)

07. Potentially-Critical Item. A potentially-critical item is a provision in this Code whose application supports, facilitates, or enables one (1) or more critical items. Potentially critical item includes an item that requires the purposeful incorporation of specific actions, equipment, or procedures by industry management to attain control of risk factors that contribute to foodborne illness or injury such as personnel training, infrastructure or necessary equipment, HACCP plans, documentation or record keeping, and labeling. Potentially-critical item means the same as priority foundation item. A potentially-critical item is an item that is denoted in this code with a superscript (Pf). (7-1-16)

08. Priority Item. Modification to Section 1-201.10(B) by amending the term "priority item" to read priority item means the same as critical item. (7-1-16)

09. Priority Foundation Item. Modification to Section 1-201.10(B) by amending the term "priority foundation item" to read priority foundation item means the same as potentially-critical item. (7-1-16)

10. Regulatory Authority. The Department or its designee is the regulatory authority authorized to enforce compliance of these rules. (4-6-05)

a. The Department is responsible for preparing the rules, rule amendments, standards, policy statements, operational procedures, program assessments and guidelines. (4-6-05)

b. The seven (7) Public Health Districts and the Division of Licensing and Certification have been

designated by the Director as the regulatory authority for the purpose of issuing licenses, collecting fees, conducting inspections, reviewing plans, determining compliance with the rules, investigating complaints and illnesses, examining food, embargoing food and enforcing these rules. (7-1-16)

11. Risk Control Plan. Is a document describing the specific actions to be taken by the license holder to address and correct a continuing hazard or risk within the food establishment. (4-6-05)

12. Risk Factor Violation. Risk factor violation means improper practices or procedures that are most frequently identified by epidemiologic investigation as a cause of foodborne illness or injury. (3-29-17)

13. Roadside Stand. Any fixed or mobile retail food establishment at which an individual farmer producer sells own agricultural products directly to consumers. Roadside stand means the same as "agricultural market" and "farmers market." (7-1-160)

112. -- 199. (RESERVED)

200. MANAGEMENT AND PERSONNEL.
Sections 200 through 299 of these rules will be used for modifications and additions to Chapter 2 of the 2013 Food Code as incorporated in Section 004 of these rules. (7-1-16)

201. ASSIGNMENT OF PERSON IN CHARGE.
Modification to Section 2-101.11. The license holder will be the person in charge or will designate a person in charge and will ensure that a person in charge is present at the food establishment during all hours of food preparation and service. (4-6-05)

202. -- 209. (RESERVED)

210. DEMONSTRATION OF KNOWLEDGE.
Modification to Section 2-102.11. The person in charge of a food establishment may demonstrate knowledge on the risks of foodborne illness or health hazards by one (1) of the following. (4-6-05)

01. No Critical Violations. Complying with the 2013 Food Code by not having any critical violations at the time of inspection; or (7-1-16)

02. Approved Courses. Completion of the Idaho Food Safety and Sanitation Course, or an equivalent course designed to meet the same training as the Idaho Food Safety and Sanitation Course. (4-6-05)

03. Certified Food Protection Manager. Modification to Section 2-102.12(A). Beginning July 1, 2018, at least one employee that has supervisory and management responsibility and the authority to direct and control food preparation and service must be a certified food protection manager who has shown proficiency of required information through passing a test that is part of an accredited program. (7-1-16)

211. -- 299. (RESERVED)

300. FOOD.
Sections 300 through 399 of these rules will be used for modifications and additions to Chapter 3 of the 2013 Food Code as incorporated in Section 004 of these rules. (7-1-16)

301. -- 319. (RESERVED)

320. MEAT AND POULTRY.

01. Custom Meat. Meat that is processed for individual owner(s) by a custom butcher, under the custom exemption in 9 CFR 303.1 "Mandatory Meat Inspection Exemptions," must be marked "Not For Sale" and may not be sold, served or given away to any member of the public. This meat must be for the use in the household of such owner(s), their families, non-paying guest and employees only. (4-6-05)

02. Poultry Exemption. Poultry that is exempt in 9 CFR 381.10, Subpart C "Mandatory Poultry Products Inspection Exemptions" may be sold, served or given away in Idaho, if it is processed in a licensed food processing facility and is labeled "Exempt from USDA Inspection per PL 492." (4-6-05)

321. -- 324. (RESERVED)

325. GAME ANIMALS.
Modification to Section 3-201.l7(A)(4), is made by deleting Section 3-201.17(A)(4) and replacing it with Subsections 325.01 through 325.04 of these rules. (4-11-15)

01. Field Dressed Game Animals. Un-inspected wild game animals and wild poultry may be custom processed or prepared and served upon request by an individual having ownership of the animal. Except as allowed in Subsection 325.04 of this rule, un-inspected wild game animals and wild poultry must be processed for or served to that owner and for the family or guests of that individual animal owner only. (4-11-15)

02. Processing Game Animals. Game animals and birds are to be completely separated from other food during storage, processing, preparation and service with the use of separate equipment or areas or by scheduling and cleaning, providing there is compliance with the following: (4-6-05)

a. Slaughtering and cleaning of game animals or birds can not be done in the food establishment, except for meat processing establishments with kill floors; and (4-6-05)

b. Game animals and other animal carcasses are free of any visible dirt, filth, fecal matter or hair before such carcasses enter the food establishment, except for meat processing establishments with kill floors; and (4-6-05)

c. An identifying tag with the owner's name must be on each carcass or divided parts and packaged or wrapped parts; and (4-6-05)

d. Each carcass or divided parts and packaged or wrapped parts are marked or tagged with a "Not for sale" label. Except as allowed in Subsection 325.04 of this rule, these may not be sold, given away, or served to any members of the public. (4-11-15)

03. Un-Inspected Game Animals. Any un-inspected game animals prepared and served in a food establishment may only be prepared and served at the request of the owner of the animals for the owner and invited family or friends at a private dinner. Except as allowed in Subsection 325.04 of this rule, these animals may not be served, sold, or given away to any members of the public. (4-11-15)

04. Donated Game Meat. Legally harvested game meat may be donated to a food bank or food pantry when the following conditions are met: (4-11-15)

a. The end recipient of the donated game meat signs an acknowledgment statement indicating that he is aware that the meat has been donated and that the meat itself is un-inspected, wild-harvested game meat. (4-11-15)

b. The game meat must have been processed by: (4-11-15)

i. A facility that is subject to inspection by the regulatory authority with jurisdiction over meat products; (4-11-15)

ii. The facility packages the game meat into portions that require no further processing or cutting by the food bank or food pantry; and (4-11-15)

c. The meat is labeled by the processor with the following: (4-11-15)

i. Species identification; (4-11-15)

ii. The name and address of the meat processing facility; and (4-11-15)

iii. The words “Processed for Donation or Private Use” and “Cook to 165° F.” (4-11-15)

326. -- 354. (RESERVED)

355. FOOD PROCESSING PLANTS.
Food processing plants, establishments, canning factories or operations must meet the requirements in Chapters 1 through 8 of the 2013 Food Code, and Subsections 355.01 through 355.07 of this rule. (7-1-16)

01. Thermal Processing of Low-Acid Foods. Low-acid food products processed using thermal methods for canning must meet the requirements of 21 CFR 113. (4-6-05)

02. Processing of Acidified Foods. Acidified food products must meet the requirements of 21 CFR 114. (7-1-16)

03. Bottled Water Processing. Bottled drinking water processed in Idaho must be from a licensed processing facility that meets the requirements of 21 CFR 129. Bottled drinking water must also meet the quality and monitoring requirements in 21 CFR 165. (4-6-05)

04. Approval of Process Methods. A variance by the regulatory authority must be approved and granted for specialized processing methods for products listed in Section 3-502.11. (4-6-05)

05. Labels. Proposed labels must be submitted to the regulatory authority for review and approval before printing. (4-6-05)

06. Testing. The license holder is responsible for chemical, microbiological or extraneous material testing procedures to identify failures or food contamination of food products being processed or manufactured by the license holder. (4-6-05)

07. Quality Assurance Program. The license holder or his designated person must develop and submit to the regulatory authority for review and approval a quality assurance program or HACCP plan which covers the food processing operation. The program must include the following: (4-6-05)

a. An organization chart identifying the person responsible for quality control operations; (4-6-05)

b. A process flow diagram outlining the processing steps from the receipt of the raw materials to the production and packaging of the finished product(s) or group of related products; (4-6-05)

c. A list of specific points in the process which are critical control points that have scheduled monitoring; ( )

d. Product codes that establish and identify the production date and batch; (4-6-05)

e. A manual covering sanitary maintenance of the facility and hygienic practices to be followed by the employees; and (4-6-05)

f. A records system allowing for review and evaluation of all operations including the quality assurance program results. These records must be kept for a period of time that exceeds the shelf life of the product by six (6) months or for two (2) years, whichever is less. (4-6-05)

356. -- 359. (RESERVED)

360. ADVISING CONSUMERS OF HEALTH RISK OF RAW OR UNDERCOOKED FOODS.
Modification to Section 3-603.11. (4-6-05)

01. Consumption of Animal Foods That Are Raw, Undercooked, or Not Otherwise Processed to Eliminate Pathogens. Except as specified in Section 3-401.11(C) and Subparagraph 3-401.11(D)(3) and under

Section 3-801.11(D), if an animal food such as beef, eggs, fish, lamb, milk, pork, poultry, or shellfish that is raw, undercooked or not otherwise processed to eliminate pathogens is offered in a ready-to-eat form as a deli, menu, vended, or other item; or as a raw ingredient in another ready-to-eat food, the license holder must inform the consumers of health risks. (4-6-05)

02. How to Inform Consumers of Health Risk. The license holder must use any effective means to inform consumers of potential health risks. Some effective ways that may be used to inform consumers are: brochures, deli case placards, signs or verbal warnings, that state, "Consuming raw or undercooked meats, poultry, seafood, shellfish, or eggs may increase your risk of foodborne illness, especially if you have certain medical conditions." (4-6-05)

361. -- 369. (RESERVED)

370. ADULTERATED OR MISBRANDED FOOD.
The regulatory authority may order the license holder or other person who has custody of misbranded food to destroy, denature or recondition adulterated or misbranded food according to Section 37-118, Idaho Code. See Section 851 of these rules for embargo, tagging, storage and release of adulterated or misbranded food. (4-6-05)

371. -- 599. (RESERVED)

600. PHYSICAL FACILITIES.
Sections 600 through 699 of these rules will be used for modifications and additions to Chapter 6 of the 2013 Food Code as incorporated in Section 004 of these rules. (7-1-16)

601. -- 619. (RESERVED)

620. PRIVATE HOMES AND LIVING OR SLEEPING QUARTERS, USE PROHIBITION.
Modifications to Section 6-202.111. Except for cottage food operations, a private home, a room used as living or sleeping quarters, or an area directly opening into a room used as living or sleeping quarters may not be used for conducting food establishment operations. Residential care or assisted living facilities designed to be a homelike environment, are exempted from Section 6-202.111. (7-1-16)

621. -- 699. (RESERVED)

700. POISONOUS OR TOXIC MATERIALS.
Sections 700 through 799 of these rules will be used for modifications and additions to Chapter 7 of the 2013 Food Code as incorporated in Section 004 of these rules. (7-1-16)

701. -- 719. (RESERVED)

720. RESTRICTION AND STORAGE OF MEDICINES.
Modifications to Section 7-207.11. (4-6-05)

01. Medicines Allowed in a Food Establishment. Only those medicines that are necessary for the health of employees, patients or residents in a care facility are allowed in a food establishment. Subsection 720.01 does not apply to medicines that are stored or displayed for retail sale. (4-6-05)

02. Labeling of Medicines. Medicines that are in a food establishment for the employees, patients or residents use must be labeled as specified under Section 7-101.11 and located to prevent the contamination of food, equipment, utensils, linens, and single-service and single-use articles. (4-6-05)

721. REFRIGERATED STORAGE OF MEDICINES.
Modification to Section 7-207.12. Medicines belonging to employees, patients or residents in a care facility that require refrigeration may be stored in a food refrigerator using the following criteria: (4-6-05)

01. Medicines Stored in a Leak Proof Container. Medicines must be stored in a package or container and kept inside a covered, leak proof container that is identified as a container for the storage of medicines. (4-6-05)

02. Accessibility of Stored Medicines. Medicines will be stored to permit access to self-medicating patients or residents to their individual medication. Authorized staff in a care facility also have access to these medications. (4-6-05)

722. -- 799. (RESERVED)

800. COMPLIANCE AND ENFORCEMENT.
Sections 800 through 899 of these rules will be used for modifications and additions to Chapter 8 of the 2013 Food Code as incorporated in Section 004 of these rules. (7-1-16)

801. -- 829. (RESERVED)

830. APPLICATION FOR A LICENSE.

01. To Apply for a Food Establishment License. To apply for an Idaho food establishment license, the application and fee is submitted to the "regulatory authority" as defined in Section 111 of these rules. (7-1-16)

02. Food License Expiration. The license for an Idaho food establishment expires on December 31st of each year. (4-6-05)

03. Renewal of License. A renewal application and a license fee must be submitted to the regulatory authority by December 1st of each year for the next calendar year starting January 1st. (4-6-05)

04. Summary Suspension of License. A license may be immediately suspended under Section 831 of these rules. Reinstatement of a license after a summary suspension does not require a new application or fee unless the license is revoked. (4-6-05)

05. Revocation of License. When corrections have been made to a food establishment whose license has been revoked under Section 860 of these rules, a new application and fee must be submitted to the regulatory authority. (4-6-05)

06. License is Non-Transferable. A license may not be transferred when ownership changes according to Section 8-304.20, of the 2013 Food Code. The new owner must apply for his own license. (7-1-16)

831. SUMMARY SUSPENSION OF LICENSE.
The regulatory authority may summarily suspend a license to operate a food establishment when it determines an imminent health hazard exists. (4-6-05)

01. Reasons a Summary Suspension May Be Issued. When a food establishment does not follow the principles of food safety, or a foodborne illness is found, or an environmental health hazard exists and public safety cannot be assured by the continued operation of the food establishment, a summary suspension may be issued. The following are some reasons the regulatory authority may determine a summary suspension is necessary: (4-6-05)

a. Inspection of the food establishment shows uncorrected critical violations; (4-6-05)

b. Examination of food shows the food is unsafe; (4-6-05)

c. Review of records shows that proper steps for food safety have not been met; (4-6-05)

d. An employee working with food is suspected of having a disease that is communicable through food; or (4-6-05)

e. An imminent health hazard exists. (4-6-05)

02. Prior Notification Is not Required for a Summary Suspension. Upon providing a written notice

of summary suspension to the license holder or person in charge, the regulatory authority may suspend a food establishment's license without prior warning, notice of hearing, or hearing. (4-6-05)

03. Written Notice of Summary Suspension. The regulatory authority must give the license holder or person in charge a written notice when suspending a license. The notice must include the following: (4-6-05)

a. The specific reasons or violations the summary suspension is issued for with reference to the specific section of the 2013 Food Code which is in violation; (7-1-16)

b. A statement notifying the food establishment its license is suspended and all food operations are to cease immediately; (4-6-05)

c. The name and address of the regulatory authority representative to whom a written request for re-inspection can be made and who can certify the reasons for the suspension have been eliminated; (4-6-05)

d. A statement notifying the food establishment of its right to an informal hearing with the regulatory authority upon submission of a written request within fifteen (15) days of receiving the summary suspension notice; and (4-6-05)

e. A statement informing the food establishment that proceedings for revocation of its license will be initiated by the regulatory authority, if violations are not corrected. (4-6-05)

f. The right to appeal to the Department as provided in Section 861 of these rules. (4-6-05)

04. Length of Summary Suspension. The suspension will remain in effect until the conditions cited in the notice of suspension no longer exist and their elimination has been confirmed by the regulatory authority during a re-inspection. (4-6-05)

05. Re-Inspection of Food Establishment. The regulatory authority will conduct a re-inspection of the food establishment within two (2) working days of receiving a written request stating the condition for the suspension no longer exists. (4-6-05)

06. Reinstatement of License. The regulatory authority will immediately reinstate the suspended license if the re-inspection determines the public health hazard no longer exists. The regulatory authority will provide a written notice of reinstatement to the license holder or person in charge. (4-6-05)

832. -- 839. (RESERVED)

840. INSPECTIONS AND CORRECTION OF VIOLATIONS.
Modification to Section 8-401.10. (4-6-05)

01. Inspection Interval Section 8-401.10(A). Except as specified in Section 8-401.10(C), the regulatory authority must inspect a food establishment at least once a year. (4-6-05)

02. Section 8-401.10(B). This section has not been adopted. (4-6-05)

03. Section 8-401.10(C). This section is adopted as published. (4-6-05)

04. Section 8-405.11. This section is adopted with the following modifications: (7-1-16)

a. Delete Section 8-405.11(B)(1); and (7-1-16)

b. Amend Section 8-405-11(B)(2) to ten (10) calendar days after the inspection for the permit holder to correct critical or potentially-critical items or HACCP plan deviations. (7-1-16)

841. INSPECTION SCORES.
The regulatory authority must provide the license holder an inspection report with a total score indicating the number

of risk factor violations and the number of repeat risk factor violations added together. Repeat violations are those observed during the last inspection. The inspection report will also score the total number of good retail practice violations and the number of repeat good retail practice violations. These scores will be used to determine if a follow-up inspection or a written report of correction is needed to verify corrections have been made. (3-29-17)

01. Medium-Risk Food Establishment. If the risk factor violations exceed three (3), or good retail practice violations exceed eight (8), an on-site follow-up inspection is required for verification of correction by the regulatory authority. (3-29-17)

02. High-Risk Food Establishment. If the risk factor violations exceed five (5), or good retail practice violations exceed eight (8), an on-site follow-up inspection is required for verification of correction by the regulatory authority. (3-29-17)

03. Written Violation Correction Report. A written violation correction report by the license holder may be provided to the regulatory authority if the total inspection score of the food establishment does not exceed those listed in Section 845 of these rules. The report must be mailed within five (5) days of the correction date identified on the inspection report. (4-6-05)

842. -- 844. (RESERVED)

845. VERIFICATION AND DOCUMENTATION OF CORRECTION.
In addition to Section 8-405.20 of the 2013 Food Code, the on-site follow-up inspection may not be required for verification of correction if the regulatory authority chooses to accept a written report of correction from the license holder. (7-1-16)

01. Written Report of Correction. The regulatory authority may choose to accept a written report of correction from the license holder stating that specific violations have been corrected. The license holder must submit this report to the regulatory authority within five (5) days after the correction date identified on the inspection report. (4-6-05)

a. Medium-risk food establishment. If the risk factor violations do not exceed three (3), or the good retail practice violations do not exceed six (6), a follow-up inspection is not required for verification of correction. (3-29-17)

b. High-risk food establishment. If the risk factor violations do not exceed five (5), or the good retail practice violations do not exceed eight (8), a follow-up inspection is not required for verification of correction. (3-29-17)

02. Risk Control Plan. The regulatory authority may require the development of a risk control plan as verification of correction. The risk control plan must provide documentation on how the license holder will obtain long term correction of critical violations that are repeated violations, including how control will be monitored and who will be responsible. (4-6-05)

846. -- 849. (RESERVED)

850. ENFORCEMENT INSPECTIONS.

01. Follow-Up Inspection. If a follow-up inspection reveals that critical, potentially-critical, or non-critical violations identified on a previous inspection have not been corrected or still exist, an enforcement inspection may be made. (7-1-16)

02. Written Notice. The license holder will receive written notice on the inspection form of the specific date for an enforcement inspection. This date must be within fifteen (15) days of the current or follow-up inspection. (4-6-05)

03. Enforcement Inspections on Consent Order. When a compliance conference results in a consent order and includes a compliance schedule to correct violations without further regulatory action, all inspections by

the regulatory authority to satisfy the compliance schedule will be considered enforcement inspections until the next annual inspection. (4-6-05)

04. Regulatory Action. If the violations have not been corrected by the date of the enforcement inspection, regulatory action will be initiated to revoke the license issued to the food establishment. (4-6-05)

851. ENFORCEMENT PROCEDURES FOR ADULTERATED OR MISBRANDED FOOD.
The regulatory authority may order the license holder or other person who has custody of adulterated or misbranded food to destroy, denature or recondition adulterated or misbranded food according to Section 37-118, Idaho Code. The following procedures apply: (4-6-05)

01. Serving an Embargo Order. An embargo order must be served by one (1) of the following ways: (4-6-05)

a. Delivered personally to the license holder or person in charge of the food establishment; or (4-6-05)

b. Posted at a public entrance to the food establishment, provided a copy of the notice is sent by first-class mail to the license holder or the person in charge of the embargoed food. (4-6-05)

02. The Embargo Order Is Effective When Served. The embargo order is effective at the time the notice is delivered to the license holder or person in charge, or when the notice is posted. (4-6-05)

03. Tagging Embargoed Food. The regulatory authority must securely place an official tag or label on food or containers identified as food subject to the hold order. (4-6-05)

04. Storage of Embargoed Food. The regulatory authority allows storage of food under conditions specified in the embargo order, unless storage is not possible without risk to the public health. The regulatory authority may order immediate destruction of the adulterated or misbranded food for public safety. (4-6-05)

05. Removal of Embargo Tag or Label. The removal of the embargo tag, label or other identification from food under embargo must be done by the regulatory authority. (4-6-05)

06. Embargo Release. The issue of release and removal of the embargo tag, label or other identification from the suspected food when it is not adulterated or misbranded must be done by the regulatory authority. (4-6-05)

852. -- 859. (RESERVED)

860. REVOCATION OF LICENSE.
The regulatory authority may revoke the license issued to a food establishment when the license holder fails to comply with these rules or the operation of the food establishment is a hazard to public health. (4-6-05)

01. Reasons a License May Be Revoked. (4-6-05)

a. The license holder violates any term or condition in Section 8-304.11 of the 2013 Food Code. (7-1-16)

b. Access to the facility is denied or obstructed by an employee, agent, contractor or other representative during the performance of the regulatory authority's duties. It is not necessary for the regulatory authority to seek an inspection order to gain access as permitted in Section 8-402.40 of the 2013 Food Code, before proceeding with revocation. (7-1-16)

c. A public health hazard or critical violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation or hazard still exists. See Section 850 of these rules on enforcement inspections. (4-6-05)

d. A non-critical violation remains uncorrected after being identified by the regulatory authority and an enforcement inspection confirms the violation still exists. See Section 845 of these rules on verification and documentation of correction. (4-6-05)

e. Failure to comply with any consent order issued after a compliance conference. See Section 861 of these rules on compliance conference. (4-6-05)

f. Failure to comply with a regulatory authority's summary suspension order. See Section 831 of these rules on summary suspension of a license. (4-6-05)

g. Failure to comply with an embargo order. See Section 851 of these rules on adulterated or misbranded food. (4-6-05)

h. Failure to comply with a regulatory authority order issued when an employee is suspected of having a communicable disease. See Chapter 2 of the 2013 Food Code on employee health. (7-1-16)

02. Notice to Revoke a License. The regulatory authority must notify the license holder of the food establishment in writing of the intended revocation of the license. See Section 861 of these rules for appeal process. The notice must include Subsections 860.02.a. through 860.02.c. of this rule: (7-1-16)

a. The specific reasons and sections of the Idaho Food Code which are in violation and the cause for the revocation; and (4-6-05)

b. The right of the license holder to request in writing a compliance conference with the regulatory authority within fifteen (15) days of the notice; and (4-6-05)

c. The right of the license holder to appeal in writing to the Department of Health and Welfare. See Subsection 861.02 of these rules. (4-6-05)

d. The following is sufficient notification of the license holder's appeal rights: “You have the right to request in writing a compliance conference with (name and address of designated health district official) within fifteen (15) days of the receipt of this notice. You may also appeal the revocation of your license to the Director of the Department of Health and Welfare by filing a written appeal with the Department as provided in IDAPA 16.05.03, “Contested Case Proceeding and Declaratory Rulings,” within fifteen (15) days of the receipt of this notice, or if a timely request is made for a compliance conference and the matter is not resolved by a consent order, within five (5) working days following the conclusion of the compliance conference.” ( )

03. Effective Date of Revocation. The revocation will be effective fifteen (15) days following the date of service of notice to the license holder, unless an appeal is filed or a timely request for a compliance conference is made. If a compliance conference is requested and the matter is not resolved by a consent order, the revocation will be effective five (5) working days following the end of the conference, unless an appeal is filed with the Director of the Department of Health and Welfare within that time. See Section 861 of these rules for compliance conference, consent order and appeal process. (4-6-05)

861. APPEAL PROCESS.
A license holder may appeal a summary suspension, notice of revocation, other action, or failure to act by the regulatory authority which adversely affects the license holder. A summary suspension or other emergency order is not stayed during the appeal process. (4-6-05)

01. Compliance Conference. The license holder may request in writing a compliance conference with the regulatory authority within fifteen (15) days of receipt of the notice or action by the regulatory authority. If a timely request for a compliance conference is made, a compliance conference will be scheduled within twenty (20) days and conducted in an informal manner by the regulatory authority. At the compliance conference the license holder may explain the circumstances of the alleged violations and propose a resolution for the matter. (4-6-05)

a. If the compliance conference results in an agreement between the license holder and the regulatory authority to remedy circumstances giving rise to the action and to assure future compliance, the agreement must be put in written form and signed by both parties. This written agreement constitutes an enforceable consent order. (4-6-05)

b. Unless otherwise specifically stated in the consent order, the agreement will be for the duration of the existing license only. (4-6-05)

02. Appeal to the Director. The license holder may appeal in writing to the Director of the Department of Health and Welfare within fifteen (15) days of receipt of the notice of action by the regulatory authority, or if a timely request for a compliance conference was made, within five (5) working days following the completion of the compliance conference. (4-6-05)

a. The appeal must be in writing following the procedures in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

b. Procedures on appeal to the Director are governed by IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

862. -- 869. (RESERVED)

870. SERVICE OF NOTICE.

01. Service of Notice. A notice is considered properly served by any individual, or organization authorized to serve a civil process notice in any of the following ways: (4-6-05)

a. The notice is personally delivered to the license holder, manager or person in charge of the food establishment. (4-6-05)

b. The notice is clearly posted at a public entrance to the food establishment and a copy of the notice is also sent by first-class mail to the license holder. (4-6-05)

c. The notice is sent to the license holder's last known address by registered or certified mail, or by other public means in which a written acknowledgement of receipt is acquired. (4-6-05)

02. Proof of Service. Proof of service is determined when the person delivering the notice signs a certificate stating the notice has been served or posted, or by admission of the signed receipt by the license holder or person in charge of the food establishment. (4-6-05)

871. -- 889. (RESERVED)

890. CRIMINAL AND CIVIL PROCEEDINGS.
The regulatory authority may choose to enforce the provisions of these rules and its administrative orders through the courts. (4-6-05)

01. Criminal Proceedings. Misdemeanor proceedings to enforce these rules, federal regulations, and the enabling statutes may be instituted as provided in Sections 37-117, 37-119, 37-2103, and 56-1008, Idaho Code. These statutes provide for fines or terms of imprisonment that may be sought through the court of competent jurisdiction. (4-6-05)

02. Civil Proceedings. Civil enforcement actions may be commenced and prosecuted in the district court in the county where the alleged violation occurred according to Sections 56-1009 and 56-1010, Idaho Code. The person who is alleged to have violated any statute, rule, federal regulation, license or order may be charged in the court proceeding. This action may be brought to compel compliance with these rules, regulations, license or order for relief or remedies authorized in these rules. (4-6-05)

03. Injunctive Relief. In addition to other remedies provided by law, Section 56-1009, Idaho Code, allows for a search warrant to gain access and injunctions to be issued in the name of the state against any person or entity to enjoin them from violating these rules, regulations, statutes or administrative orders. (4-6-05)

891. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Director of the Idaho Department of Health and Welfare is authorized, under Section 39-5508, Idaho Code, to adopt rules to implement the Idaho Clean Indoor Air Act, Title 39, Chapter 55, Idaho Code. (4-6-05)

001. TITLE AND PURPOSE.

01. Title. These rules are titled IDAPA 16.02.23, "Indoor Smoking." ( )

02. Purpose. The purpose of these rules is to protect the public health, comfort, and environment, the health of employees who work at public places, and the rights of nonsmokers to breathe clean air by prohibiting smoking in public places and at public meetings. (4-6-05)

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of this chapter, the following terms apply. (4-6-05)

01. Act. The Idaho Clean Indoor Air Act, Title 39, Chapter 55, Idaho Code. (1-1-86)

02. Bar Within a Restaurant. A bar is considered to be "within a restaurant," and cannot allow smoking if it does not meet all of the following requirements: (4-6-05)

a. It must be physically isolated from all parts of the restaurant by solid floor to ceiling walls; (4-6-05)

b. It must have a separate outside public entrance that is not shared with the restaurant; (4-6-05)

c. It must not have any windows that can be opened, or doorways connecting it to the restaurant, either directly or through any indoor public place including lobbies, hallways, or passageways that the public uses. The bar may be connected to the restaurant through kitchens, private offices, hallways, or storerooms that are not available for public use; and (4-6-05)

d. It must not be necessary for restaurant patrons to pass through the bar or any indoor public place connected to the bar to access restrooms or other facilities or accommodations of the restaurant. (4-6-05)

03. Bowling Alley or Center. A place of business with at least two (2) bowling lanes on its premises and is operated for public entertainment. (4-6-05)

04. Department. The Idaho Department of Health and Welfare. (4-6-05)

05. Director. The Director of the Idaho Department of Health and Welfare, or *their* designee. ( )

06. Educational Facility. Any room, hall or building used for instruction, or supportive of instruction including: classrooms, libraries, auditoriums, gymnasiums, lounges, study areas, restrooms, halls, registration areas, and bookstores of any private or public preschool, kindergarten, elementary school, junior high or intermediate school, high school, vocational school, college or university. (4-6-05)

07. Enclosed. The space between a floor and ceiling designed to be surrounded on all sides at any time by solid walls, windows, or similar structures, not including doors, that extend from the floor to the ceiling. ( )

08. Grocery Store. Any establishment that sells food, at retail, for off-site consumption and is required to be licensed under IDAPA 16.02.19, "*Idaho* Food *Code*." ( )

09. Hospitals. Any facility required to be licensed as a hospital under Title 39, Chapter 13, Idaho Code. (4-6-05)

10. Incidental Service of Food. Incidental service of food is only serving food that is low-risk and non-potentially hazardous food as defined in IDAPA 16.02.19, "*Idaho* Food *Code*." ( )

11. Proprietor or Person in Charge. Any person, or agent of such person, who ultimately controls, governs, or directs the activities within the public place. The term does not mean the owner of the property unless *they* ultimately govern, control, or direct the activities within the public place. *( )*

12. Public Means of Mass Transportation. Any air, land, or water vehicle used for the transportation of persons for compensation including airplanes, trains, buses, boats, and taxis. The term does not include private, noncommercial vehicles. (4-6-05)

13. Retail Stores. Any store selling goods directly to the public. (1-1-86)

14. Tobacco Products. Any substance that contains tobacco including, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco paper, or smokeless tobacco. It will be presumed that a lighted cigarette, cigar, or pipe contains tobacco. (4-6-05)

011. -- 199. (RESERVED)

200. POSTING OF SIGNS.
Signs must be appropriately sized, conspicuous, legible, unobscured, and placed at a height and location easily seen and read by persons entering or within the posted area. Signs may contain information such as the international smoking and no smoking symbols and references to the Idaho Clean Indoor Air Act, Title 39, Chapter 55, Idaho Code. The letters on the signs must be at least one (1) inch in height. (4-6-05)

201. -- 299. (RESERVED)

300. VIOLATIONS AND PENALTIES.
Any person who violates any provision of these rules is subject to the penalty provided in Section 39-5507, Idaho Code. (4-6-05)

01. Responsibility of Employer. No employer or other person in charge of a public place or publicly owned building or office will knowingly or intentionally permit the smoking of tobacco products in violation of this chapter. (4-6-05)

02. Employer Fined for Violation. Any employer or other person in charge of a public place or publicly owned building or office who knowingly violates the provisions of this chapter of rule is guilty of an infraction and is subject to a fine, not to exceed one hundred dollars ($100). (4-6-05)

03. Employer Who Discriminates Against an Employee. Any employer who discharges or in any manner discriminates against an employee because that employee has made a complaint or has given information to the Department of Health and Welfare or the Department of Commerce and Labor under *these rules*, or Section 39-5507, Idaho Code, will be subject to a civil penalty of not less than one thousand dollars ($1,000) nor more than five thousand dollars ($5, 000) for each violation. *( )*

04. Employer Responsible to Request Person to Stop Smoking. An employer, or other person in charge of a public place or publicly owned building or *their* employee or agent, who observes a person smoking in apparent violation of the Idaho Clean Indoor Air Act, Title 39, Chapter 55, Idaho Code, must ask the person to extinguish all lighted tobacco products. *( )*

05. Smoker's Refusal to Comply. Any person who refuses to either extinguish the lighted tobacco product or leave the premises is guilty of an infraction and is subject to a fine not to exceed fifty dollars ($50). (4-6-05)

06. Violations Reported to Law Enforcement. Any violation identified in Subsections 300.02, 300.04, and 300.05 of *this* rule, may be reported to law enforcement. *( )*

301. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Department is authorized to adopt rules under the "Clandestine Drug Laboratory Cleanup Act," Section 6-2604, Idaho Code. (4-11-06)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.02.24, "Clandestine Drug Laboratory Cleanup." (4-11-06)

02. Scope. (4-11-06)

a. These rules establish the acceptable processes and technology-based standards for the cleanup of clandestine drug laboratories in Idaho. (4-11-06)

b. The rules also establish a program to add and remove residential properties that housed a clandestine drug laboratory from a list maintained by the Department. (4-11-06)

002. RIGHT TO APPEAL PROPERTY LISTING.
Appeal of Property Listing. The certification by the reporting law enforcement agency that it is more likely than not that the property has been contaminated through use as a clandestine drug laboratory is prima facie evidence for listing the property on the Clandestine Drug Laboratory Site Property List. (4-11-06)

01. Property Owner's Right to Appeal. The property owner listed on the Clandestine Drug Laboratory Site Property List may appeal the listing by filing a written request for hearing with the Administrative Procedures Section, 10th Floor, 450 West State Street, P.O. Box 83720, Boise, ID 83720-0036, within twenty-eight (28) days of the mailing of the notification by the law enforcement agency. (4-11-06)

02. Burden of Proof. The burden is on the property owner to show, by a preponderance of evidence, that the property has not been contaminated through use as a clandestine drug laboratory. (4-11-06)

003. – 009. ***(RESERVED)***

010. DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: (4-11-06)

01. Certificate of Delisting. A document issued by the Department certifying that a property has met the cleanup standard. (4-11-06)

02. Certify. To guarantee as meeting a standard. (4-11-06)

03. Chain of Custody. A procedure used to document each person that has had custody or control of an environmental sample from its source to the analytical laboratory, and the date and length of time of possession by each person. (4-11-06)

04. Clandestine Drug Laboratory. The area(s) where controlled substances or their immediate precursors, as those terms are defined in Section 37-2701, Idaho Code, have been, or were attempted to be, manufactured, processed, cooked, disposed of, or stored, and all proximate areas that are likely to be contaminated as a result of such manufacturing, processing, cooking, disposing or storing. (4-11-06)

05. Clandestine Drug Laboratory Site Property List. The list, maintained by the Department, of properties that have been identified as clandestine drug laboratories. (4-11-06)

06. Cleanup Contractor. One (1) or more individuals or commercial entities hired to conduct cleanup in accordance with the requirements of this rule. (4-11-06)

07. Cleanup Standard. The technology-based numerical value, established in Section 500 of these rules. (4-11-06)

08. Clearance Sampling. Testing conducted by a qualified industrial hygienist to verify that cleanup standards have been met. (4-11-06)

09. Contamination or Contaminated. The presence of chemical residues that exceed the cleanup standard established in Section 500 of these rules. (4-11-06)

10. Delisted. Removal of a property from the Clandestine Drug Laboratory Site Property List. (4-11-06)

11. Demolish. To completely tear down and dispose of a structure in compliance with local, state, and federal laws and regulations. (4-11-06)

12. Department. The Idaho Department of Health and Welfare. (4-11-06)

13. Discrete Sample. A single sample taken. (4-11-06)

14. Documentation. Preserving a record of an observation through writings, drawings, photographs, or other appropriate means. (4-11-06)

15. Listed. Addition of a property to the Clandestine Drug Laboratory Site Property List. (4-11-06)

16. Methamphetamine. Dextro-methamphetamine, levo-methamphetamine, and any racemic mixture of dextro/levo methamphetamine. (4-11-06)

17. Non-Porous. Resistant to penetration or saturation of chemical substances. (5-8-09)

18. Porous. Subject to penetration or saturation by chemical substances. (5-8-09)

19. Qualified Industrial Hygienist. Must be one (1) of the following: (4-11-06)

a. Certified Industrial Hygienist. An individual who is certified in comprehensive practice by the American Board of Industrial Hygiene. (4-11-06)

b. Registered Professional Industrial Hygienist™. An individual who is a registered member of the Association of Professional Industrial Hygienists and possesses a baccalaureate degree, issued by an accredited college or university, in industrial hygiene, engineering, chemistry, physics, biology, medicine, or related physical and biological sciences who has a minimum of three (3) years full-time industrial hygiene experience. A completed master's degree in a related physical or biological science, or in a related engineering discipline, may be substituted for one (1) year of the experience requirement; and a similar doctoral degree may be substituted for an additional year of the experience requirement. (4-11-06)

20. Sampling. A surface sample collected by wiping a sample media on the surface being sampled. (5-8-09)

21. Technology-Based Standard. A cleanup level based on what is believed to be conservative and protective, while at the same time achievable by currently available technologies. (4-11-06)

22. Vacant. Being without an occupant for the purposes of habitation or occupancy. (4-11-06)

011. -- 099. (RESERVED)

100. POSTING THE CLANDESTINE DRUG LABORATORY SITE.
In accordance with Section 6-2605, Idaho Code, the law enforcement agency having jurisdiction is responsible for posting a property with a sign stating that it has been identified as a clandestine drug laboratory. (4-11-06)

101. -- 109. (RESERVED)

110. NOTIFICATION PROCESS.
Once a property has been identified as a clandestine drug laboratory, the law enforcement agency having jurisdiction is responsible for initiating notification to the property owner and the Department within seventy-two (72) hours

using the Department-approved form available to law enforcement. (5-8-09)

111. -- 119. (RESERVED)

120. RECORD-KEEPING, LISTING, AND DELISTING A PROPERTY.

01. Listing a Property. Upon notification by a law enforcement agency, using the Department approved form, the Department will place the property on a Clandestine Drug Laboratory Site Property List. No property may be listed unless the reporting law enforcement agency certifies, on the approved form, that it is more likely than not that the property has been contaminated through use as a clandestine drug laboratory. The list will be publicly available online at: http://www.healthy.idaho.gov. (4-11-06)

02. Delisting a Property. When a property is determined by a qualified industrial hygienist to meet the cleanup standard set forth by the Department in these rules, or the property owner submits documentation establishing that the property has been fully and lawfully demolished, the Department will issue the property owner a certificate of delisting. The certificate will include the date the property was listed as a clandestine drug laboratory site and the date the property was delisted. (4-11-06)

03. Voluntary Compliance. When a property owner voluntarily reports *their* property as a clandestine drug laboratory, the property will be placed on the Clandestine Drug Laboratory Site Property List and will be delisted when the requirements of these rules are met. This action will afford the property owner immunity from civil actions as provided in Section 6-2608, Idaho Code. *( )*

121. -- 199. (RESERVED)

200. RESPONSIBILITIES OF THE PROPERTY OWNER.
The owner of a listed property must: (4-11-06)

01. Ensure the Vacancy of the Listed Property. Ensure the property remains vacant until the property is delisted in accordance with Section 120 of these rules; and (4-11-06)

02. Ensure That Cleanup Standards Are Met. (4-11-06)

a. Ensure that the property is cleaned up to meet the cleanup standards in Section 500 of these rules and have the analytical results certified by a qualified industrial hygienist; or (4-11-06)

b. Ensure that the property is demolished, in lieu of clean up, as provided for in Section 6-2606, Idaho Code. Demolition and removal of materials must be conducted in compliance with applicable local, state, and federal laws and regulations; and (4-11-06)

03. Provide the Department With a Written Report. Provide the Department with a written report in accordance with Section 600 of these rules. (4-11-06)

201. RESPONSIBILITIES OF THE QUALIFIED INDUSTRIAL HYGIENIST.

01. ***Conduct Sampling by*** **Qualified Industrial Hygienist**. A qualified industrial hygienist must conduct sampling in accordance with Section 400 of these rules and meet the reporting requirements under Section 600 of these rules. *( )*

02. ***Independent*** **Qualified Industrial Hygienist**. To prevent any real or potential conflicts of interest, qualified industrial hygienists conducting the sampling must be independent of the company or entity conducting the cleanup or analysis or both. *( )*

202. DEPARTMENT LIST OF QUALIFIED INDUSTRIAL HYGIENISTS.
The Department will maintain a list of qualified industrial hygienists on their website is https://environmentalhealth.dhw.idaho.gov/Methamphetamine-ClandestineLabCleanup/tabid/183/Default.aspx. (4-11-06)

203. -- 299. (RESERVED)

300. CLEANUP PROCESS.

01. Cleanup Options for the Property Owner. The property owner may choose to hire a cleanup contractor or conduct the cleanup himself in accordance with all applicable local, state, and federal laws and regulations. Cleanup must be conducted to reduce the concentration of methamphetamine to the standard specified in Section 500 of these rules. (5-8-09)

02. *Removal of* Porous Materials from Property. Porous materials must be removed from the property unless a qualified industrial hygienist certifies that the porous materials may remain on the property. An adequate coating or sealant can be applied to a porous surface as an acceptable cleanup method, if it meets the requirements under Subsection 500.02 of these rules. *( )*

301. DISPOSAL OF CLEANUP WASTE.
Waste disposal must be conducted in compliance with applicable local, state, and federal laws and regulations. (4-11-06)

302. -- 399. (RESERVED)

400. CLEARANCE SAMPLING REQUIREMENTS.

01. Qualified Industrial Hygienist Required. Sampling must be conducted by a qualified industrial hygienist to verify that cleanup standards have been met. (4-11-06)

02. General Sampling Procedures. Sample collection must be conducted according to the following minimum requirements: (4-11-06)

a. All sample locations must be photographed, and the photographs included in the final report required under Section 600 of these rules. *( )*

b. All sample locations must be shown on a floor plan of the property, and the floor plan included in the final report required under Section 600 of these rules. *( )*

c. All samples must be obtained, preserved, and handled in accordance with professional standards for the types of samples and analytical testing to be conducted under the chain of custody protocol. (4-11-06)

d. Samples must be analyzed by a laboratory certified by the U.S. Environmental Protection Agency or accredited by the American Industrial Hygiene Association laboratory accreditation program for the analyte being analyzed. (5-8-09)

e. All sampling locations must be numerically identified and the numbered sampling locations delineated on the floor plan, visible in photographs, and linked to samples. *( )*

f. Standard three inch by three (3x3) inch gauze must be used for all sampling. The gauze must be wetted with analytical grade methanol or isopropanol. Each surface being sampled must be wiped at least five (5) times in two (2) perpendicular directions and the gauze turned onto itself throughout the wiping process. (5-8-09)

g. After sampling, the sample must be placed in a new, clean sample container and sealed with a Teflon-lined lid. The sample container must be properly labeled with at least the site or project identification number, date, time, and actual sample location. The sample container must be handled according to professional standards and conducted under the chain of custody protocol. (5-8-09)

h. Discrete sampling must be used in areas expected to have the highest levels of contamination, as identified on the Department approved form. A ten (10) centimeter by ten (10) centimeter area (one hundred square centimeters (100 cm^2), or approximately sixteen (16) square inches) must be sampled from non-porous surfaces such as floors, walls, appliances, sinks, or countertops in each room. The sample area must be composed of no fewer than three (3) discrete samples. (4-11-06)

i. All other rooms of the property with lowest levels of contamination must be sampled using one (1) discrete sample per room. (4-11-06)

j. A ten (10) centimeter by ten (10) centimeter area (one hundred square centimeters (100 cm^2), or approximately sixteen (16) square inches) must be sampled from the ventilation system in a location to be determined by the qualified industrial hygienist. (4-11-06)

401. -- 499. (RESERVED)

500. CLEANUP STANDARDS.

01. Cleanup Standard for Methamphetamine. A level of methamphetamine that does not exceed a concentration of point one (0.1) micrograms per one hundred (100) square centimeters (0.1 µg/100 cm^2) as demonstrated by clearance sampling conducted by a qualified industrial hygienist. (4-11-06)

02. Cleanup Standard for a Porous Surface. If a porous surface has a level of methamphetamine that does not exceed a concentration of point five (0.5) micrograms per one hundred (100) square centimeters (0.5 µg/100 cm^2) as demonstrated by clearance sampling conducted by a qualified industrial hygienist, an adequate coating or sealant appropriate to the material can be used as a method to meet the cleanup standard under Subsection 500.01 of this rule. (5-8-09)

03. Other Cleanup Standards. Standards may be established for the cleanup of other controlled substances found in clandestine drug laboratories on a case by case basis, based on an inventory of chemicals found, and after consultation with the Department, the property owner, law enforcement, and a qualified industrial hygienist. (4-11-06)

501. -- 599. (RESERVED)

600. REPORTING REQUIREMENTS.
In order for the property to be delisted, the property owner must provide the Department with an original or certified copy of the final report from the qualified industrial hygienist. The final report must include at least the following information: (4-11-06)

01. Property Description. The property description including physical street address (apartment or motel number, if applicable), city, zip code, legal description, ownership, and number and type of structures present. (4-11-06)

02. Documentation of Clearance Sampling Procedures. Documentation of sampling procedures in accordance with the requirements under Section 400 of these rules. (4-11-06)

03. Laboratory Results. Analytical results from a laboratory as specified in Section 400 of these rules. (4-11-06)

04. Qualifications of the Qualified Industrial Hygienist. Qualified industrial hygienist statement of qualifications, including professional certification or documentation. (4-11-06)

05. Signed Certification Statement. A signed certification statement as stating: "I certify that the cleanup standard established by the Idaho Department of Health and Welfare has been met as evidenced by testing I conducted." (4-11-06)

06. Demolition Documentation. If the property owner chooses to demolish the property, documentation must be provided to the Department showing that the structure was completely and lawfully demolished and disposed of in compliance with local, state, and federal laws and regulations. (4-11-06)

601. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Sections 56-202, 56-203, 56-209, 56-239, 56-250, 56-253, 56-255, 56-256 and 56-257, Idaho Code, the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules for the administration of Title XIX of the Social Security Act (Medicaid), and Title XXI of the Social Security Act. (3-20-14)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (3-20-14)

02. Scope. These rules provide standards for issuing coverage for Title XIX and Title XXI of the Social Security Act. (3-20-14)

002. WRITTEN INTERPRETATIONS.
*T*his agency has written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost at the Department of Health and Welfare or at any of the Department's Regional Offices. *( )*

00*2*. -- 009. (RESERVED)

010. DEFINITIONS (A THROUGH L).
For the purposes of this chapter, the following terms apply. (3-20-14)

01. Advanced Payment of Premium Tax Credit. Payment of federal tax credits specified in 26 U.S.C. Part 36B (as added by section 1401 of the Affordable Care Act) which are provided on an advance basis to an eligible individual enrolled in a Qualified Health Plan (QHP) through an exchange in accordance with sections 1402 and 1412 of the Affordable Care Act. (3-20-14)

02. Adult. Any individual who has passed the month of his nineteenth birthday. (3-20-14)

03. Affordable Care Act. The Patient Protection and Affordable Care Act of 2010 (Pub. L. 111-148), as amended by the Health Care and Education Reconciliation Act of 2010 (Pub. L. 111-152). (3-20-14)

04. Applicant. A person applying for public assistance from the Department, including individuals referred to the Department from a Health Insurance Exchange or Marketplace. (3-20-14)

05. Application. An application for benefits including an Application for Assistance (AFA) or other application recognized by the Department, including referrals from a Health Insurance Exchange or Marketplace. (3-20-14)

06. Application Date. The date the Application for Assistance (AFA) is received by the Department or by the Health Insurance Exchange or Marketplace electronically, telephonically, in person, or the date the application is postmarked, if mailed. (3-20-14)

07. Caretaker Relative. A caretaker relative is a relative of a child by full- or half-blood, adoption, or marriage with whom the child is living and who assumes primary responsibility for the child's care. A caretaker relative *includes a child's natural, adoptive, or step parents, grandparents, siblings, aunt, uncle, niece, nephew, or cousin.* *( )*

08. Child. Any individual from birth through the end of the month of his nineteenth birthday. (3-20-14)

09. Citizen. A person having status as a "national of the United States" defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States. (3-20-14)

10. Cost-Sharing. A participant payment for a portion of Medicaid service costs such as deductibles, co-insurance, or co-payment amounts. (3-20-14)

11. Creditable Health Insurance. Creditable health insurance is coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease, or other supplemental-type benefits. (3-20-14)

12. Department. The Idaho Department of Health and Welfare. (3-20-14)

13. Federal Poverty Guidelines (FPG). The federal poverty guidelines issued annually by the Department of Health and Human Services (HHS).The Federal Poverty Guidelines (FPG) are available on the U.S. Health and Human Services website at http://aspe.hhs.gov/poverty. (3-20-14)

14. Health Assessment. Health Assessment is an examination performed by a primary care provider in order to determine the appropriate health plan for a Medicaid-eligible individual. (3-20-14)

***15. Health Care Assistance (HCA)**. Health coverage includes Medicaid coverage under Title XIX or Title XXI as well as private health insurance plans purchased with a Premium Tax Credit described in Subsection 010.01 of this rule granted by the Department for persons or families within the State of Idaho. ( )*

***16. Health Insurance Premium Program (HIPP)**. The Premium Assistance program in which Title XIX and Title XXI participants may participate. (3-20-14)

***17. Health Plan**. A set of health services paid for by Idaho Medicaid, or health insurance coverage obtained through the Health Insurance Exchange or Marketplace. (3-20-14)

***18. Health Questionnaire**. A tool used to assist Health and Welfare staff in determining the correct Health Plan for the Medicaid applicant. (3-20-14)

***19. Internal Revenue Code**. The federal tax law used to determine eligibility under Title 26 U.S.C. for individual income and self-employment income. (3-20-14)

***20. Internal Revenue Service (IRS)**. The U.S. government agency in charge of tax laws. These laws are used to determine income eligibility. The IRS website is at http://www.irs.gov. (3-20-14)

***21. Insurance Affordability Programs**. Insurance affordability programs include Title XIX title XXI and all insurance programs available in the Health Insurance Exchange or Marketplace. (3-20-14)

***22. Lawfully Present**. An individual who is a qualified non-citizen as described in Section 221 of these rules. (3-20-14)

011. DEFINITIONS (M THROUGH Z).
For the purposes of this chapter, the following terms apply. (3-20-14)

01. MAGI-Based Income. Income calculated using the same financial methodologies used by the IRS to determine modified adjusted gross income for federal tax filers, with the exception that: (3-20-14)

a. Educational income is excluded in Section 382 of these rules; (3-20-14)

b. Indian monies excluded by federal law are not included in MAGI-based income; (3-20-14)

c. Lump sum income is counted only in the month received in Section 384 of these rules; and (3-20-14)

d. For Medicaid applicants, MAGI-based income is calculated based on income received in the month of application. (3-20-14)

02. Medicaid. Idaho's Medical Assistance Program administered by the Department and funded with federal and state funds according to Title XIX of the Social Security Act that provides medical care for eligible individuals. (3-20-14)

03. Modified Adjusted Gross Income (MAGI). Modified Adjusted Gross Income (MAGI), is Adjusted Gross Income as defined by the IRS, plus certain tax-exempt income. (3-20-14)

04. Newborn Deemed Eligible. A child born to a woman who is eligible for and receiving medical assistance on the date of the child's birth, including during a month of retroactive eligibility for the mother. A child so born is eligible for Medicaid for the first year of his life. (3-20-14)

05. Non-Citizen. Same as "alien" defined in Section 101(a)(3) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 (a)(3)), and includes any individual who is not a citizen or national of the United States. (3-20-14)

06. Parent. For a household with a MAGI-based eligibility determination a parent can be: (3-20-14)

a. Natural; (3-20-14)

b. Biological; (3-20-14)

c. Adoptive; or (3-20-14)

d. Step-parent. (3-20-14)

07. Participant. An individual who is eligible for, and enrolled in, a Health Care Assistance program. (3-20-14)

08. **Qualified Hospital**. A qualified hospital has a Memorandum of Understanding (MOU) with the Department, participates as a provider under the Medicaid state plan, may assist individuals in completing and submitting applications for Health coverage, and has not been disqualified from doing presumptive eligibility determinations. (3-20-14)

09. **Qualified Non-Citizen**. Same as "qualified alien" defined at 8 U.S. C.164(b) and (c). (3-20-14)

10. **Reasonable Opportunity Period**. A period of time allowed for an individual to provide requested proof of citizenship or identity. A reasonable opportunity period extends for ninety (90) days beginning on the 5th day after the notice requesting the proof has been mailed to the applicant. This period may be extended if the Department determines that the individual is making a "good faith" effort to obtain necessary documentation. (3-20-14)

11. **Sibling**. For household with MAGI-based eligibility determination: Is a natural or biological, adopted, half- or step-sibling. (3-20-14)

12. **Tax Dependent**. A person, who is a related child, or other qualifying relative or person, according to federal IRS standards for whom another individual can claim a deduction for a personal exemption when filing a federal income tax for a taxable year. (3-20-14)

13. **Third Party**. Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. (3-20-14)

14. **Title XIX**. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the States. This program pays for medical assistance for certain individuals and families with low income, and for some program types, limited resources. (3-20-14)

15. **Title XXI**. Title XXI of the Social Security Act, known as the Children's Health Insurance Program (CHIP), is a federal and state partnership similar to Medicaid, that expands health insurance to targeted, low-income children. (3-20-14)

012. -- 099. (RESERVED)

APPLICATION REQUIREMENTS
(Sections 100 - 199)

100. PARTICIPANT RIGHTS.
The participant has rights protected by federal and state laws and Department rules. The Department must inform participants of the following rights during the application process and eligibility reviews. (3-20-14)

01. Right to Apply. Any person has the right to apply for any Health Care Assistance program. Applications may be submitted by paper, electronically, fax, or telephonically. Application information must be in a form or format provided by the Department. (3-20-14)

02. Right to Hearing. Any participant can request a hearing to contest a Department or Health Insurance Exchange or Marketplace decision under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Ruling." (3-20-14)

03. Right to Request Reinstatement of Benefits. Any participant has the right to request reinstatement of benefits until a hearing decision is made if the request for the reinstatement is made before the effective date of the action taken on the notice of decision. Reinstatement pending a hearing decision is not provided in the case of an application denied because an individual did not provide citizenship or identity documentation during a reasonable opportunity period allowed by the Department. (3-20-14)

101. -- 1*10*. (RESERVED)

111. SIGNATURES.
An individual who is applying for benefits, receiving benefits, or providing additional information as required by this chapter, may do so with the depiction of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-20-14)

1*12*. -- 129. (RESERVED)

130. APPLICATION TIME LIMITS.
Each application must be processed as close to real time as practicable, but not longer than forty-five (45) days, from the date of application, unless prevented by events beyond the Department's control. (3-20-14)

131. -- 139. (RESERVED)

140. ELIGIBILITY EFFECTIVE DATES.
Title XIX and Title XXI coverage begins the first day of the application month. Coverage for a newborn is effective the date of birth. *( )*

141. -- 149. (RESERVED)

150. RETROACTIVE MEDICAL ASSISTANCE ELIGIBILITY.
Title XIX and Title XXI can begin up to three (3) calendar months before the application month if the participant is eligible during the prior period. Coverage is provided if services that can be paid by Medicaid were received in the prior period. (3-20-14)

151. -- 199. (RESERVED)

NON-FINANCIAL REQUIREMENTS
(Sections 200 - 299)

200. NON-FINANCIAL CRITERIA FOR DETERMINING ELIGIBILITY.
Non-financial criteria are conditions of eligibility, other than income, that must be met before Health Care Assistance can be authorized. (3-20-14)

201. -- 209. (RESERVED)

210. RESIDENCY.
The participant must live in Idaho and have no immediate intention of leaving, including an individual who has entered the state to look for work, or who has no permanent, fixed address. (3-20-14)

211. -- 219. (RESERVED)

220. U.S. CITIZENSHIP VERIFICATION.

01. Citizenship Verified. Citizenship must be verified through electronic means when available. If an electronic verification is not immediately obtainable, the Department may request documentation from the applicant. The Department will not deny the application for Health Coverage until the applicant has had a reasonable opportunity period to obtain and provide the necessary proof of U. S. citizenship. (3-20-14)

02. Benefits During Reasonable Opportunity Period. Benefits are provided during the reasonable opportunity period that is provided to allow the applicant time to obtain and provide documentation to verify U.S. citizenship. No overpayment exists for the reasonable opportunity period if the applicant does not provide necessary documentation during the reasonable opportunity period so that the application results in denial. (3-20-14)

221. U.S. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.
To be eligible, an individual must be a lawfully present member of one (1) of the following groups: (3-20-14)

01. U.S. Citizen. A U.S. Citizen or a "national of the United States." (3-20-14)

02. Child Born Outside the U.S. A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-20-14)

a. At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This includes an adoptive parent; (3-20-14)

b. The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen, and the child does not have IR-4 status; (3-28-18)

c. The child is under eighteen (18) years of age; (3-20-14)

d. The child is a lawful permanent resident; and (3-20-14)

e. If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-20-14)

03. Full-Time Active Duty U.S. Armed Forces Member. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who is currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-20-14)

04. Veteran of the U.S. Armed Forces. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) who was honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy, or U.S. Coast Guard for a reason other than their citizenship status, or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-20-14)

05. Non-Citizen Entering the U.S. Before August 22, 1996. A non-citizen who entered the U.S.

before August 22, 1996, who is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c), who remained continuously present in the U.S. until he became a qualified non-citizen. (3-20-14)

06. Non-Citizen Entering on or After August 22, 1996. A non-citizen who entered the U.S. on or after August 22, 1996, and who is: (3-20-14)

a. A refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from the date of entry; (3-20-14)

b. An asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date asylee status is assigned; (3-20-14)

c. An individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date deportation or removal was withheld; (3-20-14)

d. An Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-20-14)

e. A Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act under Section 501(e) of P.L. 96-422 (1980), and can be eligible for seven (7) years from the date of entry. (3-20-14)

07. Qualified Non-Citizen Entering on or After August 22, 1996. A qualified non-citizen under 8 U.S.C. 1641(b) or (c), who entered the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-20-14)

08. American Indian Born in Canada. An American Indian born in Canada, under 8 U.S.C. 1359. (3-20-14)

09. American Indian Born Outside the U.S. An American Indian born outside of the U.S., who is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-20-14)

10. Qualified Non-Citizen Child Receiving Federal Foster Care. A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-20-14)

11. Victim of Severe Form of Trafficking. A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-14)

a. Is under the age of eighteen (18) years; or (3-20-14)

b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-14)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-14)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-20-14)

12. Afghan Special Immigrant. An Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007. (3-20-14)

13. Iraqi Special Immigrant. An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. (3-20-14)

14. Individuals not Meeting the Citizenship or Qualified Non-Citizen Requirements. An individual who does not meet the citizenship or qualified non-citizen requirements in Subsections 221.01 through

221.13 of this rule, may be eligible for emergency medical services if he meets all other conditions of eligibility. (3-25-16)

222. U.S. CITIZENSHIP AND IDENTITY VERIFICATION REQUIREMENTS.
Any individual who participates in a Title XIX Medicaid or Title XXI CHIP funded program must provide proof of U.S. citizenship and identity unless he has otherwise met the requirements under Section 226 of these rules. (3-20-14)

223. DOCUMENTATION OF U.S. CITIZENSHIP.

01. Documents Accepted as Stand-Alone Proof of U.S. Citizenship and Identity. The following documents are accepted as proof of both U.S. citizenship and identity: (3-20-14)

a. A U.S. passport or a U.S. passport card, without regard to expiration date as long as the passport or passport card was issued without limitation; (3-20-14)

b. A Certificate of Naturalization; (3-20-14)

c. A Certificate of U.S. Citizenship. (3-20-14)

d. Documented evidence, issued by a federally recognized Indian tribe, including tribes with an international border that identifies: (3-20-14)

i. The federally recognized Indian Tribe issuing the document; (3-20-14)

ii. The individual by name; (3-20-14)

iii. Confirms the individual's membership; and (3-20-14)

iv. Enrollment or affiliation with the Tribe. (3-20-14)

e. Verification of U.S. citizenship by a federal agency or another state on or after July 1, 2006, no further documentation of U.S. citizenship or identity is required. (3-20-14)

02. Documents Accepted as Evidence of U.S. Citizenship. The following documents are accepted as proof of U.S. citizenship if documented proof in Subsection 223.01 of this rule is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsection 223.03 or Section 224 of these rules to establish both citizenship and identity. (3-20-14)

a. A U.S. birth certificate that shows the individual was born in one (1) of the following: (3-20-14)

i. United States' fifty (50) states; (3-20-14)

ii. District of Columbia; (3-20-14)

iii. Puerto Rico, on or after January 13, 1941; (3-20-14)

iv. Guam; (3-20-14)

v. U.S. Virgin Islands, on or after January 17, 1917; (3-20-14)

vi. America Samoa; (3-20-14)

vii. Swain's Island; (3-20-14)

viii. Northern Mariana Islands, after November 4, 1986; or (3-20-14)

b. A cross match with a state's vital statistics agency that documents birth records. (3-20-14)

c. A certification of report of birth issued by the Department of State, Forms DS-1350 or FS-545; (3-20-14)

d. A report of birth abroad of a U.S. Citizen, Form FS 240; (3-20-14)

e. A U.S. Citizen I.D. card, DHS Form I-197; (3-20-14)

f. A Northern Mariana Identification Card; (3-20-14)

g. A final adoption decree showing the child's name and U.S. place of birth, or if the adoption is not final, a statement from the state-approved adoption agency that shows the child's name and U.S. place of birth; (3-20-14)

h. Evidence of U.S. Civil Service employment before June 1, 1976; (3-20-14)

i. An official U.S. Military record showing a U.S. place of birth; (3-20-14)

j. Certification of birth abroad, Form FS-545; (3-20-14)

k. Verification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database; (3-20-14)

l. Evidence of meeting the automatic criteria for U.S. citizenship outlined in the Child Citizenship Act of 2000; (3-20-14)

m. Medical records from a hospital, clinic, or doctor, admission papers from nursing facility, skilled care facility, or other institution that indicates a U.S. place of birth: (3-20-14)

n. Life, health, or other insurance record that indicates a U.S. place of birth. (3-20-14)

o. Officially recorded religious record that indicates a U.S. place of birth; (3-20-14)

p. School records, including pre-school, Head Start, and daycare that shows the child's name and indicates a U.S. place of birth; (3-20-14)

q. Federal or state census record that shows U.S. Citizenship or indicates a U.S. place of birth; or (3-20-14)

r. When an applicant has none of the documents listed in Subsections 223.02.a. through q. of this rule, an affidavit signed by another individual under the penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, and indicates the date and U.S. place of birth, may be submitted. The affidavit does not need to be notarized. (3-20-14)

03. Documents Accepted for Evidence of Identity. The following documents are accepted as proof of identity provided the document has a photograph or other identifying information that includes name, age, sex, race, height, weight, eye color, or address. (3-20-14)

a. A driver's license issued by a state or territory. A driver's license issued by a Canadian government authority is not a valid indicator of identity in the U.S. and cannot be used as evidence of identity. (3-20-14)

b. An identity card issued by federal, state, or local government; (3-20-14)

c. School identification card; (3-20-14)

d. U.S. Military card or draft record; (3-20-14)

e. Military dependent's identification card; (3-20-14)

f. U. S. Coast Guard Merchant Mariner card; or (3-20-14)

g. A finding of identity from a federal or state governmental agency, when the agency has verified and certified the identity of the individual, including public assistance, law enforcement, internal revenue or tax bureau, or corrections agency; (3-20-14)

h. A finding of identity from another state benefits agency or program provided that it obtained verification of identity as a criterion of participation; (3-20-14)

i. Two (2) documents containing consistent information that corroborates the applicant's identity including: employer identification cards, high school or high school equivalency diplomas, college diplomas, marriage certificates, divorce decrees, property deeds or titles; (3-20-14)

j. Identity affidavits are acceptable evidence of identity for individuals living in a residential care facility. (3-20-14)

k. When an applicant has none of the specified findings or documents listed in Subsections 223.03.a. through j. of this rule, the applicant may submit an affidavit signed by another individual under the penalty of perjury who can reasonably attest to the applicant's identity. The affidavit must contains the applicant's name, and identifying information to establish identity. The affidavit does not need to be notarized. (3-20-14)

224. IDENTITY RULES FOR CHILDREN.
The following additional sources of documentation of identity for children under nineteen (19) years of age may be used: (3-20-14)

01. School Records. School records may be used to establish identity, including nursery or day care records. (3-20-14)

02. Medical Records. Clinic, hospital, or doctor records may be used to establish identity. (3-20-14)

225. ELIGIBILITY FOR APPLICANTS WHO DO NOT PROVIDE U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION.

01. U.S. Citizenship and Identity not Verified. When the Department is unable to obtain verification of U.S. citizenship and identity through electronic means, or the applicant is unable to provide documentation at the time of application, the applicant will have a reasonable opportunity period of ninety (90) days to provide proof of U.S. citizenship and identity. (3-20-14)

02. Notice Mailed. The reasonable opportunity period of ninety (90) days to provide needed documentation for proof of U.S. citizenship and identity begins five (5) days after the date the notice requesting the proof of documentation is mailed. (3-20-14)

03. Medicaid Benefits. If the applicant meets all other eligibility requirements, Medicaid benefits will be approved pending verification of U.S. citizenship and identity. Medicaid benefits will be denied if the applicant refuses to obtain documentation. (3-20-14)

226. INDIVIDUALS CONSIDERED AS MEETING THE U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.
The individuals listed in Subsections 226.01 through 226.06 of this rule are considered to have met the U.S. citizenship and identity requirements and are not required to provide further documentation. (3-20-14)

01. Supplemental Security Income (SSI) Recipients. (3-20-14)

02. Social Security Disability Income (SSDI) Recipients. (3-20-14)

03. Individuals Entitled or Enrolled in Medicare by SSA. Individuals determined by the SSA to be entitled or enrolled in any part of Medicare. (3-20-14)

04. Adoptive or Foster Care Children Receiving Assistance. Adoptive or foster care children receiving under Title IV-B or Title IV-E of the Social Security Act. (3-20-14)

05. Individuals Deemed Eligible for Medicaid. A waived newborn under Section 530 of these rules. (3-20-14)

06. Individuals Whose Records Match Records of the SSA. Confirmed records of SSA that match and include: (3-20-14)

a. Name; (3-20-14)

b. Social Security Number; and (3-20-14)

c. Declaration of U.S. Citizenship. (3-20-14)

227. ASSISTANCE IN OBTAINING DOCUMENTATION.
The Department will provide assistance to individuals who need assistance in securing satisfactory documentary evidence of U.S. citizenship. (3-20-14)

228. VERIFICATION OF CITIZENSHIP AND IDENTITY ONE TIME.
Once an individual's U.S. citizenship and identity have been verified, whether through an electronic data match or by provided documentation, changes in eligibility will not require an individual to provide the verification again. If later verification, documentation, or information provides the Department with good cause to question the validity of the individual's U.S. citizenship or identity, the individual may be requested to provide further verification. (3-20-14)

229. -- 2*49*. (RESERVED)

250. EMERGENCY MEDICAL CONDITION.
An individual who meets eligibility criteria for a category of assistance but does not meet U.S. citizenship requirements or eligible non-citizen requirements may receive medical assistance under a Title XIX or Title XXI coverage group as follows: (3-20-14)

01. Emergency Medical Conditions. An individual not meeting the U.S. citizenship requirement may receive medical services necessary to treat an emergency medical condition, including labor and delivery. Emergency medical conditions have acute symptoms of severity, including severe pain. (3-20-14)

02. Determination of Emergency Medical Conditions. The Department determines if a condition meets criteria of an emergency medical condition. (3-20-14)

03. Limitation on Medical Assistance. Medical assistance is limited to the period of time established for the emergency medical condition. (3-20-14)

04. Documentation Waived. For undocumented individuals with emergency medical conditions, the Social Security Number (SSN) requirement is waived because an SSN cannot be issued. Individuals must be otherwise eligible for Title XIX or XXI. (3-20-14)

251. SPONSOR DEEMING.
Income of a legal non-citizen's sponsor and the sponsor's spouse are counted in determining eligibility. (3-20-14)

252. SPONSOR RESPONSIBILITY.
Section 213 of the Immigration and Naturalization Act requires that a sponsor signing Form I-864, Affidavit of Support, reimburse the Department for Health Care Assistance benefits paid for a sponsored, qualified non-citizen. (3-20-14)

253. -- 269. (RESERVED)

270. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.

01. SSN Required. An applicant must provide his social security number (SSN), or proof he has applied for an SSN, to the Department before approval of eligibility. If the applicant has more than one (1) SSN, all numbers must be provided. (3-20-14)

a. The SSN must be verified by the Social Security Administration (SSA) electronically. When an SSN is unverified, the applicant is not eligible for Health Care Assistance. (3-20-14)

b. The Department must notify the applicant in writing if eligibility is being denied or lost for failure to meet the SSN requirement. (3-20-14)

02. Application for SSN. The applicant must apply for an SSN, or a duplicate SSN when he cannot provide his SSN to the Department. If the SSN has been applied for, but not issued by the SSA, the Department can not deny, delay, or stop benefits. The Department will help an applicant with required documentation when the applicant applies for an SSN. (3-20-14)

03. Failure to Apply for SSN. The applicant may be granted good cause for failure to apply for an SSN if they have a well-established religious objection to applying for an SSN. A well-established religious objection means the applicant: (3-20-14)

a. Is a member of a recognized religious sect or division of the sect; and (3-20-14)

b. Adheres to the tenets or teachings of the sect, or division of the sect, and for that reason is conscientiously opposed to applying for or using a national identification number. (3-20-14)

04. SSN Requirement Waived. An applicant may have the SSN requirement waived when he is: (3-20-14)

a. Only eligible for emergency medical services as described in Section 250 of these rules; or (3-20-14)

b. A newborn deemed eligible child as described in Section 530 of these rules. (3-20-14)

271. -- 279. (RESERVED)

280. GROUP HEALTH PLAN ENROLLMENT.
Title XIX and Title XXI participants must apply for and enroll in a cost-effective group health plan if one is available. A cost-effective health plan is one which has premiums and co-payments at a lower cost than Medicaid would pay for full medical services. Medicaid will pay premiums and other co-payments for plans the Department finds cost-effective. (3-20-14)

281. -- 289. (RESERVED)

290. ASSIGNMENT OF RIGHTS TO MEDICAL SUPPORT AND THIRD PARTY LIABILITY.
By operation of Sections 56-203B and 56-209b(3), Idaho Code, medical support rights are assigned to the Department by signature on the application for assistance. The participant must cooperate to secure medical support from any liable third party. The cooperation requirement may be waived if the participant has good cause for not cooperating. (3-20-14)

291. MEDICAL SUPPORT COOPERATION.
A Medicaid participant responsible for assigning their rights to medical support must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify, and enforce a medical support order. (3-20-14)

01. Cooperation Defined. Cooperation includes providing all information to identify and locate the non-custodial parent, and identifying other liable third party payers. The participant must provide the first and last name of the non-custodial parent. The participant must also provide at least two (2) of the following pieces of information about the non-custodial parent: (3-20-14)

a. Birth date; (3-20-14)

b. Social Security Number; (3-20-14)

c. Current address; (3-20-14)

d. Current phone number; (3-20-14)

e. Current employer; (3-20-14)

f. Make, model, and license number of any motor vehicle owned by the non-custodial parent; or (3-20-14)

g. Names, phone numbers, and addresses of the parents of the non-custodial parent. (3-20-14)

02. Good Cause Defined. The participant may claim good cause for failure to cooperate in securing medical support for a minor child. Good cause is limited to the following reasons: (3-20-14)

a. There is proof the child was conceived as a result of incest or rape; (3-20-14)

b. There is proof the child's non-custodial parent may inflict physical or emotional harm to the participant, the child, the custodial parent, or the caretaker relative; (3-20-14)

c. A credible explanation is provided showing the participant cannot provide the minimum information regarding the non-custodial parent; or (3-20-14)

d. A participant who has good cause for not cooperating as described in Subsection 291.03.b of this rule. (3-20-14)

03. Conditions for Non-Denial of Medicaid. Medicaid cannot be denied for individuals who meet one (1) of the following conditions: (3-20-14)

a. A child or unmarried minor child who cannot legally assign his rights to medical support; or (3-20-14)

b. A pregnant woman whose income is at or below the federal poverty guideline, and who does not cooperate in establishing paternity and obtaining medical support from, or derived from, the father of the unborn child. (3-20-14)

292. -- 295. (RESERVED)

296. COOPERATION WITH THE QUALITY CONTROL PROCESS.
When the Department or federal government selects a case for review in the quality control process, the participant must cooperate in the review of the case. (3-20-14)

297. -- 299. (RESERVED)

FINANCIAL REQUIREMENTS
(Sections 300 - 344)

300. HOUSEHOLD COMPOSITION AND FINANCIAL RESPONSIBILITY.

Household composition and financial responsibility are divided into two categories: tax-filing and non-tax filing households. (3-20-14)

301. TAX FILING HOUSEHOLD.

01. Taxpayers. For an individual filing a federal tax return for the taxable year in which an initial determination or redetermination of eligibility is made, and who is not claimed as a tax dependent by another taxpayer, the tax filing household consists of the taxpayer, the taxpayer's spouse, and the taxpayer's tax dependents. (3-20-14)

02. Individuals Claimed as a Tax-Dependent. For an individual who is claimed as a tax dependent by another taxpayer, the tax filing household is the household of the taxpayer claiming such individual as a tax dependent, with the exception that tax dependents meeting any of the following criteria will be treated as non-filers described in Section 302 of these rules: (3-20-14)

a. Individuals claimed as a tax dependent by an individual other than a spouse or custodial parent; (3-20-14)

b. Individuals under age nineteen (19) living with both parents, if the parents are not married, or married filing separately; and (3-20-14)

c. Individuals under age nineteen (19) claimed as a tax dependent by a parent residing outside of the applicant household. (3-20-14)

03. Married Couples. For married couples living together, each spouse is included in the household of the other spouse, regardless of whether a joint federal tax return is filed, if one (1) spouse is claimed as a tax dependent by the other spouse, or if each filed separately. (3-20-14)

302. NON-TAX FILING HOUSEHOLD.

01. Individuals Not Filing a Tax Return and Not Claimed as a Tax Dependent. For an individual who does not expect to file a federal tax return and is not claimed as a tax dependent by a tax filer, or meets one (1) of the exceptions in Subsections 301.02.a. through 301.02.c. of these rules, the household consists of the individual and, if living with the individual the following: (3-20-14)

a. The individual's spouse; (3-20-14)

b. The individual's natural, adopted, and stepchildren under age nineteen (19); or (3-20-14)

c. In the case of individuals under age nineteen (19), the individual's natural, adopted, and step parents and natural, adoptive and step siblings under age nineteen (19). (3-20-14)

02. Married Couples. Married couples living together will be included in the household of the other spouse. (3-20-14)

303. -- 344. (RESERVED)

INCOME
(Sections 345 - 394)

345. HOUSEHOLD INCOME.
The sum of calculated Modified Adjusted Gross Income (MAGI-based income) of every individual whose income must be included in the household budget minus a standard disregard in the amount of five percent (5%) of Federal Poverty Guidelines (FPG) by family size, if the disregard is used to establish eligibility. (3-20-14)

346. DETERMINING INCOME ELIGIBILITY.

Financial eligibility for Medicaid applicants must be based on calculated monthly household income and household size. Eligibility for Health Care Assistance is determined by comparing the individual's calculated income against the income limit. ( )

347. EARNED INCOME.
Earned income is derived from labor or active participation in a business. Earned income includes taxable wages, tips, salary, commissions, bonuses, self-employment and any other type of income defined as earnings by the Internal Revenue Service (IRS). Earned income is counted as income when it is received, or would have been received except for the decision of the participant to postpone receipt. Earnings over a period of time and paid at one (1) time, such as the sale of farm crops, livestock, or poultry are annualized and IRS allowable self-employment expenses deducted. ( )

348. DEPENDENT CHILD'S EARNED INCOME.
A dependent child's earned income is excluded, unless the child is required to file a tax return based on his own income. (3-20-14)

349. *(RESERVED)*

350. IN-KIND INCOME.
An individual who receives a service, benefit, or durable goods instead of wages is earning in-kind income. In-kind income is excluded. (3-20-14)

351. SELF-EMPLOYMENT EARNED INCOME.
Income from self-employment is treated as earned income. Calculated self-employment income is the taxable self-employment income after gross receipts and the IRS allowable costs of producing the self-employment income, when the self-employment is expected to continue as provided in Title 26, U.S.C. (3-20-14)

352. -- 369. (RESERVED)

370. UNEARNED INCOME.
Unearned income is any income the individual receives that is not gained through employment. Unearned income *is not excluded income if it is taxable*. ( )

***371. –* 383. (RESERVED)**

384. LUMP SUM INCOME.
A non-recurring lump sum payment is income in the month the lump sum is received. Lump sum income is a retroactive monthly benefit or a windfall payment. The lump sum may be earned or unearned income that is paid in a single sum. Lump sum income includes retirement, survivors, and disability insurance (RSDI), severance pay, disability insurance, and lottery winnings. (3-20-14)

38*5*. -- 387. (RESERVED)

388. DEPENDENT CHILD'S UNEARNED INCOME.
A child's unearned income is countable towards his household's eligibility, only when the child must file a tax return based on his own income. (3-20-14)

389. -- 394. (RESERVED)

DISREGARDS
(Section 395 - 399)

395. INCOME DISREGARDS.
A standard disregard in the amount of five percent (5%) of Federal Poverty Guidelines (FPG) by family size is applied to the calculated income of an individual in those situations where the application of the disregard is

necessary in order for the individual to be eligible for the highest income limit Health Care coverage for which they may be eligible. (3-20-14)

396. -- 399. (RESERVED)

HEALTH COVERAGE FOR ADULTS
(Sections 400 - 499)

400. PARENTS AND CARETAKER RELATIVES ELIGIBLE FOR MEDICAID COVERAGE.
In order for an individual in a household budget unit to be eligible for Medicaid coverage, the individual must meet the requirements in Subsections 400.01 through 400.06 of this rule. (4-11-15)

01. Parent, Caretaker Relative, or a Pregnant Woman. The individual must be a parent, caretaker relative, or a pregnant woman in the household budget unit. (4-11-15)

02. Responsible for Eligible Dependent Child. The individual must be responsible for an eligible dependent child, which includes the unborn child of a pregnant woman. (4-11-15)

03. Live in Same Household. The individual must live in the same household with the eligible dependent child. (4-11-15)

04. MAGI Income Eligibility. The individual must meet all income requirements of the Medicaid program for eligibility determined according to MAGI methodologies identified in Sections 300 through 303, and 411 of these rules. Eligibility is based on: (4-11-15)

a. The number of members included in the household budget unit; and (3-20-14)

b. All countable income for the household budget unit. (3-20-14)

05. Member of More Than One Budget Unit. No person may receive benefits in more than one (1) budget unit during the same month. (3-20-14)

06. More Than One Medicaid Budget Unit in Home. If there is more than one (1) Medicaid budget unit in a home, each budget unit is considered a separate unit. (3-20-14)

40*1*. -- 4*1*0. (RESERVED)

411. INCOME LIMITS FOR PARENTS AND CARETAKER RELATIVES.
The income limits are based on the number of household budget unit members. Parents and caretaker relatives, whose MAGI-based income does not exceed the guidelines listed in the table below for their household size, meet the income limit for parent and caretaker relative Medicaid.

TABLE 411 INCOME LIMITS

Number of Household Members	Income Limit
1	$233
2	$289
3	$365
4	$439
5	$515
6	$590

TABLE 411 INCOME LIMITS	
Number of Household Members	**Income Limit**
7	$666
8	$741
9	$816
10	$982
Over 10 Persons	Add $75 Each

(3-20-14)

412. -- 418. (RESERVED)

419. TRANSITIONAL MEDICAID FOR ADULTS.
Participants who no longer qualify for Medicaid due to an increase in earned income or working hours are eligible for an additional twelve (12) months of Medicaid. Participants must have been eligible for Medicaid during at least three (3) of the six (6) months immediately preceding the month in which the participant became ineligible. (3-25-16)

420. EXTENDED MEDICAID FOR SPOUSAL SUPPORT INCREASE.
Participants are eligible for four (4) calendar months of Extended Medicaid if an increase in the participant's spousal support causes them to exceed the income limit for their household budget unit size. The participant must have received Medicaid in Idaho in at least three (3) of the six (6) months before the month the participant became income ineligible. (3-20-14)

421. -- 499. (RESERVED)

PREGNANCY-RELATED HEALTH COVERAGE
(Sections 500 - 519)

500. PREGNANT WOMAN COVERAGE.
A pregnant woman of any age is eligible for the Pregnant Woman coverage if she meets all of the non-financial and financial criteria of the coverage group. Health care assistance for Pregnant Woman coverage is limited to pregnancy-related and postpartum services. The Pregnant Woman medical assistance coverage extends through the sixty (60) day postpartum period if she was eligible to receive medical assistance when the child was born. (3-28-18)

01. Income Limit. The individual's calculated income must not exceed one hundred thirty-three percent (133%) of the Federal Poverty Guidelines (FPG) for her family size in the application month. (3-20-14)

02. Household Size. The household budget unit consists of the pregnant woman, the unborn child or children if expecting more than one (1) child, and any individual determined to be part of the household budget unit based on MAGI methodologies as identified in Sections 300 through 303, and 411 of these rules. (3-20-14)

03. Income Disregards. A standard disregard in the amount of five percent (5%) of Federal Poverty Guidelines (FPG) for family size is applied to the MAGI income of the pregnant woman if the disregard is necessary to establish income eligibility. (3-20-14)

04. Continuing Eligibility. The pregnant woman remains eligible during the pregnancy regardless of changes in income. The woman must report the end of pregnancy to the Department within ten (10) days. (3-20-14)

501. PREGNANT WOMAN INELIGIBLE BECAUSE OF EXCESS INCOME.
A pregnant woman who receives health care assistance and becomes ineligible because of an increase in income will continue to receive coverage through the end of the month in which the sixtieth day of her postpartum period falls.

(3-20-14)

502. PRESUMPTIVE ELIGIBILITY FOR PREGNANT WOMEN.
Presumptively eligible (PE) pregnant woman coverage is designed to provide some prenatal care during the time between the pregnancy diagnosis and the eligibility determination. (3-20-14)

01. Pregnancy Diagnosis and Eligibility Determination. A pregnant woman can get limited ambulatory prenatal care as a presumptively eligible (PE) pregnant woman through the end of the month after the month the provider completes the PE determination. (3-20-14)

02. Qualified Provider Completes Eligibility Determination. A qualified PE provider accepts written requests for these services and completes the eligibility determination. (3-20-14)

03. Formal Application. The qualified PE provider must inform the participant how to complete the formal application process. (3-20-14)

04. Notification of Eligibility Determination Results. Qualified PE providers are required to send the result of the PE decision and the completed application for the Pregnant Woman coverage to the Department within two (2) working days of the PE determination. (3-20-14)

05. Presumptive Eligibility Decisions. Notice and hearing rights of the Title XIX Medicaid program do not apply to the PE decisions. An individual is eligible for only one (1) period of PE coverage during each pregnancy. (3-20-14)

503. -- 519. (RESERVED)

HEALTH COVERAGE FOR CHILDREN
(Sections 520 - 529)

520. FINANCIAL ELIGIBILITY.
Children are eligible for Health Care Assistance when the household's total MAGI-Based income minus a standard disregard in the amount of five percent (5%) of Federal Poverty Guidelines (FPG) by family size is less than or equal to the applicable income limit for the age of the child. (3-20-14)

01. Title XIX Income Limit. For children age zero (0) to six (6), Title XIX income limit is one hundred forty-two percent (142%) of the FPG for the household size. For children age six (6) through age eighteen (18) the income limit is one hundred thirty three percent (133%) of the FPG for the household size. (3-20-14)

02. Title XXI Income Limit. For children age zero to six (0-6), Title XXI income limit is between one hundred forty-two percent (142%) and one hundred eighty-five percent (185%) of the FPG for the household size. For children ages six (6) through eighteen (18) the income limit is between one hundred thirty-three percent (133%) and one hundred eighty five percent (185%) of the FPG for the household size. (3-20-14)

03. Disregard Applied. A standard disregard in the amount of five percent (5%) of Federal Poverty Guidelines (FPG) by family size is applied to the calculated income used to establish the child's eligibility when applying the disregard is necessary for the child to be financially eligible. (3-20-14)

521. HOUSEHOLD SIZE AND FINANCIAL RESPONSIBILITY.
Household size and financial responsibility for health coverage for children is determined using the methodology described in Section 300 of these rules. (3-20-14)

522. (RESERVED)

523. ACCESS TO OR COVERAGE UNDER OTHER HEALTH PLANS.
A child is ineligible for coverage under the CHIP plan if they have access to or are enrolled in other health coverage plans as described below: (3-20-14)

01. Covered by Creditable Health Insurance. The child is covered by creditable health insurance at the time of application. (3-20-14)

02. Eligible for Title XIX. The child is eligible under Idaho's Title XIX State Plan. (3-20-14)

03. Idaho State Employee Benefit Plan. The child is eligible to receive health insurance benefits under Idaho's State employee benefit plan. (3-20-14)

524. CONTINUOUS HEALTH CARE ASSISTANCE ELIGIBILITY FOR CHILDREN UNDER AGE NINETEEN.
Children under age nineteen (19), who are found eligible for health coverage in an initial determination or at renewal, remain eligible for a period of twelve (12) months. The twelve (12) month continuous eligibility period does not apply if, for any reason, eligibility was determined incorrectly. (3-20-14)

01. Reasons Continuous Eligibility Ends. Continuous eligibility for children ends for one (1) of the following reasons: (3-20-14)

a. The child is no longer an Idaho resident; (3-20-14)

b. The child dies; (3-20-14)

c. The participant requests closure; or (3-20-14)

d. The child turns nineteen (19) years of age as defined in Subsection 010.05 of these rules. (3-20-14)

02. Children Not Eligible for Continuous Eligibility. Children are not eligible for continuous eligibility for one (1) of the following reasons: (3-20-14)

a. A child is approved for emergency medical services; or (3-20-14)

b. A child is approved for pregnancy-related services. (3-20-14)

525. FORMER FOSTER CHILD.
An individual who is between the age of eighteen (18) and twenty-six (26), who was in foster care in Idaho and became ineligible for Medicaid as a foster child due to age, may receive Medicaid coverage until his twenty-sixth birthday. There are no financial eligibility criteria. The only non-financial criteria are the receipt of foster care services and age. (3-20-14)

526. -- 529. (RESERVED)

SPECIAL CIRCUMSTANCES FOR CHILDREN
(Sections 530 - 549)

530. NEWBORN CHILD DEEMED ELIGIBLE FOR MEDICAID.
A child is deemed eligible for Medicaid for his first year of life when the following exists. (3-20-14)

01. Mother Filing an Application. The child is born to a mother who files an application for medical assistance. (3-20-14)

02. Mother Is Eligible for Medicaid. The mother is eligible for Medicaid in the newborn's birth month, including a month of retroactive coverage. This includes a mother who qualifies for coverage only for the delivery because of her alien status. (3-20-14)

531. MINOR PARENT LIVING WITH PARENTS.
A minor parent is a child under the age of eighteen (18) who is pregnant or has a child. Minor parents who live with

their parents may be eligible for Health Care Assistance for themselves and their children. The minor parent's eligibility is determined according to the Section 300 of these rules related to tax filing households. (3-20-14)

532. RESIDENT OF AN ELIGIBLE INSTITUTION.
A resident of an eligible institution must meet all nonfinancial and financial criteria of Title XIX, Title XXI, or any other applicable program. (3-25-16)

533. CHILDREN WITH SPECIAL CIRCUMSTANCES AND MEDICAID.
Children who receive foster care or are in adoptive placements are eligible for Medicaid. The children must meet nonfinancial criteria and must meet the financial requirements described for the children's coverage group. (3-20-14)

534. *(RESERVED)*

535. TITLE IV-E FOSTER CARE CHILD.
A child may be eligible for Medicaid under the Title IV-E foster care program if they meet the eligibility requirements in IDAPA 16.06.01, "Child and Family Services," Section 425. (3-28-18)

536. *-- 539. (RESERVED)*

540. YOUTH EMPOWERMENT SERVICES (YES) PROGRAM CHILDREN.

01. Payments for Children Under Eighteen (18) Years of Age with SED. In accordance with Section 56-254(2), Idaho Code, the Department will make payments for medical assistance for a child under eighteen (18) years of age with serious emotional disturbance (SED), as defined in Section 16-2403, Idaho Code, and verified by an independent assessment: (3-28-18)

a. Whose family income does not exceed three hundred percent (300%) of the federal poverty guideline (FPG) as determined using MAGI-based eligibility standards; or (3-28-18)

b. Who meets other Title XIX Medicaid eligibility standards in accordance with the rules of the Department. (3-28-18)

02. Youth Empowerment Services (YES) Benefits. Applicants whose family income is equal to or less three hundred percent (300%) of the Federal Poverty Guidelines (FPG) for children zero (0) to eighteen (18) years of age and who meet the non-financial eligibility criteria in Sections 200 through 299 of these rules may receive the following benefits: (3-28-18)

a. Youth Empowerment Services (YES) State Plan option services and supports described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 638; and (3-28-18)

b. Additional covered services set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 075 through 799. (3-28-18)

03. Additional Eligibility Criteria and Program Requirements for YES. Additional eligibility criteria and program requirements applicable to the Youth Empowerment Services (YES) State Plan option are described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 635 through 638. (3-28-18)

541. -- 544. (RESERVED)

545. PRESUMPTIVE ELIGIBILITY FOR CHILDREN AND PARENTS.
Presumptive eligibility determination for qualifying medical coverage groups can only be provided by a qualified hospital defined in Section 011 or these rules. (3-20-14)

01. Presumptive Eligibility Decisions. Decisions of presumptive eligibility can only be made for children up to age nineteen (19), parents or caretaker relatives with an eligible child in their household, or pregnant women, who meet program requirements for MAGI-based Medicaid coverage for families and children. (4-11-15)

02. Presumptive Eligibility Determination. Presumptive eligibility determinations are made by a qualified hospital when an individual receiving medical services is not covered by health care insurance and the financial assessment by hospital staff indicates the individual is eligible for Medicaid Coverage in Idaho. This determination is made by hospital staff through an online presumptive application process: (3-20-14)

a. Prior to completion of a full Medicaid application; and (3-20-14)

b. Prior to a determination being made by the Department on the full application. (3-20-14)

03. Presumptive Eligibility Period. The presumptive eligibility period begins on the date the presumptive application is filed online and ends with the earlier of the following: (3-20-14)

a. The date the full eligibility determination is completed by the Department; or (3-20-14)

b. The end of the month after the month the qualified hospital completed the presumptive eligibility determination. (4-11-15)

546. QUALIFIED HOSPITAL PRESUMPTIVE ELIGIBILITY PROCESSES.
A qualified hospital must have a Memorandum of Understanding (MOU) with the Department and follow all standards and processes agreed to in the MOU. (3-20-14)

01. Acceptance of Application. The qualified hospital accepts the request for services in the same manner as all applications for assistance are accepted. (3-20-14)

02. Standards and Processes. The presumptive eligibility determination must be based on standards and processes provided by the Department. (3-20-14)

03. Assistance to Applicant. The qualified hospital must assist the applicant in completing the Department's application process. (3-20-14)

04. Qualified Hospital Staff. Only qualified hospital staff who are trained in presumptive eligibility standards can make a presumptive eligibility determination. (3-20-14)

05. Notice to Applicant. The qualified hospital or the Department will provide notice to the applicant within two business days on the presumptive eligibility determination. (3-20-14)

06. Notice and Hearing Rights. Presumptive eligibility decisions are not appealable and do not have hearing rights under the Title XIX Medicaid program. (3-20-14)

07. Number of Presumptive Eligibility Periods Allowed. Only one (1) presumptive eligibility period is allowed per applicant in any twelve (12) month period. (3-20-14)

547. -- 599. (RESERVED)

CASE MAINTENANCE REQUIREMENTS
(Sections 600 - 701)

600. ANNUAL ELIGIBILITY RENEWAL.
Participants must have an annual eligibility review of all eligibility factors. Exceptions to the annual eligibility renewal are listed in Section 601 of these rules. (3-20-14)

01. Continuing Eligibility. Continuing eligibility is determined using available electronic verification sources without participant contact, unless: (3-20-14)

a. Information is not available; (3-20-14)

b. Information sources provide conflicting information; or (3-20-14)

c. Information is inconsistent with information provided by the participant. (3-20-14)

02. Inconsistency Impacts Eligibility. When inconsistency exists from electronic verification sources that impact participant eligibility, information must be verified by the participant. The Department provides the participant a document that displays household information currently being used to establish eligibility and asks the participant to verify correctness, and if not correct to provide updated information. (3-20-14)

601. EXCEPTIONS TO ANNUAL RENEWAL.
A participant who receives Title XIX or Title XXI through time-limited coverage does not require an annual renewal when the following exists. (3-20-14)

01. Extended Medicaid. A participant who receives extended Medicaid is eligible as provided in Section 420 of these rules. (3-20-14)

02. Pregnant Woman. A participant who receives Medicaid as a Low Income Pregnant Woman is eligible as provided in Section 500 of these rules. (3-20-14)

03. Newborn Child of Medicaid-Eligible Mother. A participant receiving Medicaid as the newborn child of a Medicaid-eligible mother is eligible as provided in Section 530 of these rules. (3-20-14)

602. -- 609. (RESERVED)

610. REPORTING REQUIREMENTS.
Changes in family circumstances must be reported to the Department by the tenth of the month following the month in which the change occurred. Report of changes may be made verbally, in writing, through personal contact, telephone, fax, electronic mail, or mail. (3-20-14)

611. TYPES OF CHANGES THAT MUST BE REPORTED.
Changes in circumstances the participant must report are the following: (3-20-14)

01. Name or Address. A name change for any participant must be reported. A change of address or location must be reported. (3-20-14)

02. Household Composition. Changes in family composition must be reported if a parent or relative caretaker receives Medicaid. (3-20-14)

03. Marital Status. Marriages or divorces of any family member must be reported if a parent or relative caretaker receives Medicaid. (3-20-14)

04. New Social Security Number. A Social Security Number (SSN) that is newly assigned to a Medicaid Health Care Assistance program participant must be reported. (3-20-14)

05. Health Insurance Coverage. Enrollment or disenrollment of a participant in a health insurance plan must be reported. (3-20-14)

06. End of Pregnancy. Pregnant participants must report when pregnancy ends. (3-20-14)

07. Earned Income. Changes in the amount or source of earned income must be reported if a parent or relative caretaker receives Title XIX benefits. (3-20-14)

08. Unearned Income. Changes in the amount or source of unearned income must be reported if a parent or relative caretaker receives Title XIX benefits. (3-20-14)

09. Support Income. Changes in the amount of spousal support received by an adult household member. (3-20-14)

10. Disability. A family member who becomes disabled or is no longer disabled must be reported if a parent or relative caretaker receives Title XIX benefits. (3-20-14)

612. -- 619. (RESERVED)

620. NOTICE OF CHANGES IN ELIGIBILITY.
The Department will notify the participant of changes in his Health Care Assistance. The notice must give the effective date, the reason for the action, the rule that supports the action, and appeal rights. (3-20-14)

621. NOTICE OF CHANGE OF PLAN.
The Department is allowed to switch a participant from the Medicaid Basic Plan to the Medicaid Enhanced plan within the same month. Advance notice must be given to the participant when there is a decrease in their benefits and he will be switched from the enhanced plan to the basic plan. (3-20-14)

622. ADVANCE NOTICE RESPONSIBILITY.
The Department must notify the participant at least ten (10) calendar days before the effective date of when a reported change results in Health Care Assistance closure. The effective date must allow for a five (5) day mailing period for any notice. (3-20-14)

623. ADVANCE NOTICE NOT REQUIRED.
Advance notice is not required when a condition listed in Subsections 623.01 through 623.08 of this rule exists. The participant must be notified no later than the date of the action. (3-20-14)

01. Death of Participant. The Department has proof of the participant's death. (3-20-14)

02. Participant Request. The participant requests closure in writing. (3-20-14)

03. Participant in Institution. The participant is admitted or committed to an institution. Further payments to the participant do not qualify for federal financial participation under the state plan. (3-20-14)

04. Nursing Care. The participant is placed in a nursing facility or Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID). (3-20-14)

05. Participant Address Unknown. The participant's whereabouts are unknown. (3-20-14)

06. Medical Assistance in Another State. A participant is approved for medical assistance in another state. (3-20-14)

07. Eligible One Month. The participant is eligible for aid only during the calendar month of his application for aid. (3-20-14)

08. Retroactive Medicaid. The participant’s Title XIX or Title XXI eligibility is for a prior period. (3-20-14)

624. -- 699. (RESERVED)

700. OVERPAYMENTS.
Health Care Assistance overpayments occur when a participant receives benefits during a month he was not eligible. (3-20-14)

701. RECOVERY OF OVERPAYMENTS.
All Health Care Assistance overpayments are subject to recovery. Overpayments are recovered by direct payment from the participant. (3-20-14)

01. Notice of Overpayment. The participant must be informed of the Health Care Assistance overpayment and appeal rights. (3-20-14)

02. Notice of Recovery. The participant must be informed when his Health Care Assistance overpayment is fully recovered. (3-20-14)

702. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has delegated to the Board of Health and Welfare the responsibility to establish and enforce rules to promote safe and adequate treatment of individuals within a Skilled Nursing Facility under Sections 39-1306, 39-1307, 39-1307A, and 39-1307B, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. **Title**. These rules are titled, IDAPA 16, Title 03, Chapter 02, "Skilled Nursing Facilities." *( )*

02. **Scope**. These rules establish regulations and standards for the provision of adequate care and licensure of Skilled Nursing Facilities in the state of Idaho. These rules are expressly intended for the benefit of all *s*killed *n*ursing *r*esidents. To this end, the Idaho State Board of Health and Welfare may issue variances to these rules under standards and procedures established by the Board. *( )*

002. WRITTEN INTERPRETATIONS.
This agency may have written statements that pertain to the interpretations of the rules of this chapter. *( )*

003. – 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. ***Criminal History and Background Check****. A skilled nursing facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the skilled nursing facility. A Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement. Other criminal history and background checks may be accepted provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee.* *( )*

02. ***Scope of a Criminal History and Background Check****. The criminal history and background check must, at a minimum, be a fingerprint-based criminal history and background check that includes a search of the following record sources:* *( )*

a. *Federal Bureau of Investigation (FBI);* *( )*

b. *Idaho State Police Bureau of Criminal Identification;* *( )*

c. *Sexual Offender Registry;* *( )*

d. *Office of Inspector General List of Excluded Individuals and Entities; and* *( )*

e. *Nurse Aide Registry.* *( )*

03. ***Availability to Work****. Any direct resident access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. The individual is allowed to only work under supervision until the criminal history and background check is completed. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident.* *( )*

04. ***Submission of Fingerprints****. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of their date of hire.* *( )*

05. ***New Criminal History and Background Check****. An individual must have a criminal history and background check when:* *( )*

a. *Accepting employment with a new employer; and* *( )*

b. *Their last criminal history and background check was completed more than three (3) years prior to their date of hire.* *( )*

06. ***Use of Criminal History Check Within Three Years of Completion****. Any employer may use a previous criminal history and background check obtained under these rules if:* *( )*

a. The individual has received a criminal history and background check within three (3) years of their date of hire; ( )

b. The employer has documentation of the criminal history and background check findings; ( )

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification; and ( )

d. No disqualifying crimes are found. ( )

07. Employer Discretion. *The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within the three (3) years of their date of hire. ( )*

010. DEFINITIONS.
For the purposes of these rules the following terms are used, as defined herein: (1-1-88)

01. Administrator. The person delegated the responsibility for management of a facility by the legal owner, employed as a full-time administrator in each facility, and licensed by the state of Idaho. The administrator and legal owner may be the same individual. (12-31-91)

***02. Advanced Practice Registered* Nurse**. A licensed registered nurse having specialized skills, knowledge and experience who is authorized under the Idaho Board of Nursing rules to provide certain health services in addition to those performed by licensed registered nurses (R.N.). *( )*

***03.* Board**. The Idaho State Board of Health and Welfare. (12-31-91)

***04.* Change of Ownership**. The sale, purchase, exchange, or lease of an existing facility by the present owner or operator to a new owner or operator. (12-31-91)

***05.* Charge Nurse**. One (1) or more licensed nurse(s) who has direct responsibility for nursing services in an operating unit or physical subdivision of a facility during one (1) eight (8) hour shift, to be provided by herself and by any other licensed nurse or auxiliary personnel under her immediate charge. (12-31-91)

***06.* Department**. The Idaho Department of Health and Welfare. (12-31-91)

***07.* Director**. The Director of the Department of Health and Welfare or designee. *( )*

08. Director of Nursing Services (DNS). *A licensed registered nurse currently licensed by the state of Idaho and qualified by training and experience. ( )*

***09.* Existing Facility**. A nursing home currently licensed. (12-31-91)

***10.* Governmental Unit**. The state of Idaho, any county, municipality, or other political subdivision, or any department, division, board or other agency thereof. (12-31-91)

***11.* Hospital Licensing Act**. The act set out in Sections 39-1301 through 39-1314, Idaho Code. (12-31-91)

***12.* Licensee**. The person or organization to whom a license is issued. (12-31-91)

***13.* Licensing Agency**. The Department of Health and Welfare. (12-31-91)

***14.* Licensed Nursing Personnel**. A licensed registered nurse (R.N.) or licensed practical nurse (L.P.N.) currently licensed by the Idaho State Board of Nursing. (12-31-91)

15. **New Construction**. (7-1-93)

a. New buildings to be used as a facility. (1-1-88)

b. Additions to existing buildings and/or added bed capacity. (1-1-88)

c. Conversion of existing buildings or portions thereof for use as a facility. (1-1-88)

16. **Person**. Any individual, firm, partnership, corporation, company, association, joint stock association, governmental unit, or legal successor thereof. (12-31-91)

17. **Pharmacist**. Any person licensed by the Idaho Board of Pharmacy as a licensed pharmacist. (12-31-91)

18. **Physician**. Any person who holds a license issued by the State Board of Medicine to practice medicine and surgery, osteopathic medicine and surgery, or osteopathic medicine, provided further, that others authorized by law to practice any of the healing arts will not be considered physicians (Section 54-1803(3), Idaho Code). (12-31-91)

*19. **Resident**. An individual requiring and receiving skilled nursing care and residing in a facility licensed to provide the level of care required. ( )*

20. **Skilled Nursing Facility (SNF)**. A facility designed to provide area, space, and equipment to meet the health needs of two (2) or more individuals who, at a minimum, require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative, rehabilitative care and assistance in meeting daily living needs. Medical supervision is necessary on a regular, but not daily, basis (Section 39-1301, Idaho Code). *( )*

21. **Substantial Compliance**. A facility is in substantial compliance with these rules, regulations and minimum standards when there are no deficiencies that would endanger the health, safety, or welfare of the residents. *( )*

22. **Supervising Nurse**. The one (1) licensed nurse designated by the DNS to be responsible for the overall direction and control of all nursing services throughout the entire facility during one (1) eight (8) hour shift. *( )*

23. **Waiver or Variance**. A waiver or variance to these rules and minimum standards in whole or in part that may be granted under the following conditions: (12-31-91)

a. Good cause is shown for such waiver and the health, welfare or safety of residents will not be endangered by granting such a waiver; *( )*

b. Precedent *will* not be set by granting of such waiver. The waiver may be renewed annually if sufficient written justification is presented to the Licensing Agency. *( )*

011. – 059. (RESERVED)

050. LICENSURE.

01. General Requirements. Before any person either directly or indirectly operate*s* a facility, *they must* make an application for and receive a valid license for operation of the facility*, and n*o resident *must* be admitted or cared for in a facility that is required under Idaho law to be licensed, until a license is obtained. *( )*

a. The facility and all related buildings associated with the operation of the facility, as well as all records required under these rules, *must* be accessible at any reasonable time to authorized representatives of the Department for the purpose of inspection, with or without prior notice. *( )*

b. Before any building is constructed or altered for use as a facility, written approval of construction or alteration of plans *must* be obtained from the Department. *( )*

c. Information received by the licensing agency through filed reports, inspection, or as otherwise authorized under this law, *must* not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving the question of licensure. Public disclosure of information obtained by the licensing agency for the purposes of this law *must* be governed by rules, regulations, and minimum standards adopted by the Board. *( )*

02. Application for an Initial License. In addition to obtaining prior approval of plans for construction or alterations, all persons planning the operation of a facility *must provide a Department-approved application* for an initial *facility* license at least three (3) months prior to the planned opening date *with the following:* *( )*

a. Evidence of a request for a determination of applicability for Section 1122 (Social Security Act) regulatory review. (1-1-88)

b. A copy of the nursing home administrator's license with the application. (1-1-88)

c. A certificate of occupancy from the local building and fire authority. (1-1-88)

03. Issuance of License. Every facility *must* be designated by a distinctive name in applying for a license, and the name *must* not be changed without first notifying the Department in writing at least thirty (30) days prior to the date the proposed change in name is to be effective. *( )*

a. Each license *will* be issued only for the premises and persons or governmental units named in the application and *will* not be transferable. *( )*

b. Each license *will* specify the maximum allowable number of beds in each facility, which *may* not be exceeded, except on a time-limited emergency basis, and authorized by the Department. *( )*

c. The facility license *must* be framed and posted so as to be visible to the general public. *( )*

04. Expiration and Renewal of License. Each license to operate a facility *must*, unless sooner suspended or revoked, expire on the date designated on the license. *Each application for renewal of a license must be submitted on a form prescribed by the Department and prior to the renewal of the license.* *( )*

05. Denial or Revocation of License. The Director may deny the issuance of a license or revoke any license when persuaded by a preponderance of the evidence that such conditions exist as to endanger the health or safety of any resident, or that the facility is not in substantial compliance with these rules and minimum standards. *( )*

a. Additional causes for denial of a license may include the following: (1-1-88)

i. The applicant has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (1-1-88)

ii. The applicant of the person proposed as the administrator has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation in relationship to the operation of a health facility. *( )*

i*ii*. The applicant or the person proposed as the administrator of the facility: (1-1-88)

(1) Has been denied or has had revoked any health facility license; or *( )*

(2) Has been convicted of operating any health facility without a license; or *( )*

(3) Has been enjoined from operating a health facility; or ( )

b. Additional causes for revocation of license. (1-1-88)

i. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation. ( )

ii. Any condition exists in the facility that endangers the health or safety of any resident. ( )

iii. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (1-1-88)

iv. The applicant or administrator has demonstrated lack of sound judgment in the operation or management of the skilled nursing facility. ( )

v. The facility lacks adequate staff to properly care for the number and type of residents residing at the facility. ( )

vi. The applicant or administrator of the facility: (1-1-88)

(1) Has been denied or has had revoked any health facility license; or ( )

(2) Has been convicted of operating any health facility without a license; or ( )

(3) Has been enjoined from operating a health facility or shelter home; or (1-1-88)

(4) Is directly under the control or influence of any person who has been subject to the proceedings in Subsection 050.05. (12-31-91)

06. Change of Ownership, Operator, or Lessee. When a change of a licensed facility's ownership, operator, or lessee is contemplated, the owner/operator *must* notify the Department at least thirty (30) days prior to the proposed date of change *and* new application submitted when there is a change of operator, ownership, or lessee. ( )

07. Penalty for Operating a Facility or Agency Without a License. Any person establishing, conducting, managing, or operating any facility or agency as defined, without a license, under Sections 39-1301 through 39-1314, Idaho Code, *is* guilty of a misdemeanor punishable by imprisonment in a county jail for a period of time not exceeding six (6) months, or by a fine not exceeding three hundred dollars ($300), or by both such fine and imprisonment, and each day of continuing violation constitute*s* a separate offense. In the event that the prosecuting attorney in the county where the alleged violation occurred fails or refuses to act within sixty (60) days of notification of the violation, the attorney general is authorized to prosecute any violations (Section 39-1312, Idaho Code). ( )

051. -- 099. (RESERVED)

100. ADMINISTRATION.

01. Governing Body. Each facility *must* be organized and administered under one (1) authority which may be a proprietorship, partnership, association, corporation, or governmental unit. *The following requirements must be met:* ( )

a. *That t*he true name and current address for each person or business entity having a five percent (5%) or more direct, or indirect, ownership interest in the facility *is* supplied to the Department at the time of licensure application or preceding any change in ownership. ( )

b. *That t*he names, addresses, and titles of offices held by all members of the facility's governing authority *are* submitted to the Department. ( )

c. *That a copy of the lease (if a building or buildings are leased to a person or persons to operate as a facility) showing clearly in the context which party to the agreement is to be held responsible for the maintenance and upkeep of the property to meet minimum standards is* available for review by the Department. Terms of the financial arrangement may be omitted from the copy of the lease available to the Department. *( )*

02. **Administrator**. The governing body, owner, or partnership *must* appoint a licensed nursing home administrator for each facility who *is* responsible and accountable for carrying out the policies determined by the governing body. In combined hospital and nursing home facilities, the administrator may serve both the hospital and nursing home provided *they are* currently licensed as a nursing home administrator. *The following requirements must be met:* *( )*

a. In the absence of the administrator, an individual who is responsible and accountable and at least twenty-one (21) years of age *is to* be authorized, in writing, to act in *their* behalf to assure administrative direction of the facility. *( )*

b. The administrator *is* responsible for establishing and assuring the implementation of written policies and procedures for each service offered by the facility, or through arrangements with an outside service. *( )*

c. The administrator, *their* relatives, or employees, *are* not *to* act as, the legal guardian of, or have power of attorney for any residents unless specifically adjudicated as such by appropriate legal order. *( )*

d. The administrator *is to* provide to the public and the resident an accurate description of the facility services and care. Representation of the facility's services to the public *is* not *to* be misleading. *( )*

e. The administrator *is* responsible for providing sufficient and qualified staff to carry out all of the basic services offered by the facility. *( )*

f. The administrator, owner, and employees of a facility *are* governed by the provisions of Section 15-2-616, Idaho Code, concerning the devise or bequest of a resident's property by a last will and testament. *( )*

03. **Admission Policies**. The administrator *must* establish written admission policies for all resident admissions *and* be available to residents, their relatives, and to the general public. *The following requirements must be met:* *( )*

a. A history and physical examination *is* recorded within forty-eight (48) hours after admission to the facility, unless the resident is accompanied by a record of a physical examination completed by a physician not more than five (5) days prior to admission. *( )*

b. Information upon admission include*s* the results of a tuberculosis skin test, chest x-ray, medical and/or psycho-social diagnosis, physician's plan of care, the resident's activity limitation, and the rehabilitation potential, and *are to* be dated and signed by the physician. *( )*

c. No children other than residents *are to* regularly occupy any portion of the resident living area. *( )*

d. Reasonable precautions *are* taken in all admissions for the safety of other residents. *( )*

e. Nothing in these rules and minimum standards should be construed as to require any facility to compel any person to undergo any medical screening, examination, diagnosis, or treatment or to accept any other health care or services provided under such plan for any purpose (other than for the purpose of discovering and preventing the spread of infection or other contagious disease or for the purpose of protecting environmental health), if such person objects (or, in case such person is a child, *their* parent or guardian objects), thereto on religious grounds. *( )*

04. **Use of Restraints**. The following types of restraints *must* not be used under any conditions: canvas

jackets, canvas sheets, canvas cuffs, leather belts, leather cuffs, leather hand mitts or restraints requiring a lock and key. ( )

05. Record of Resident's Personal Valuables. An inventory and proper accounting *must* be kept for all valuables entrusted to the facility for safekeeping *and t*he status of the inventory *is to* be available to the resident, *their* conservator, guardian, or representative for review upon request. ( )

06. **Accident or Injury**. The administrator *must* show evidence of written safety procedures for handling of residents, equipment lifting, and the use of equipment. *The following requirements must be met:* ( )

a. *That a*n incident-accident record be kept of all incidents or accidents sustained by employees, residents, or visitors in the facility and include the following information: ( )

i. Name and address of employee, resident, or visitor; ( )

ii. A factual description of the incident or accident; (1-1-88)

iii. Description of the condition of the resident, employee, or visitor including any injuries resulting from the accident; and ( )

iv. Time of notification of physician, if necessary. (1-1-88)

b. *That t*he physician *is* immediately notified regarding any resident injury or accident when there are significant changes requiring intervention or assessment. ( )

c. *That i*mmediate investigation of the cause of the incident or accident be instituted by the facility administrator and any corrective measures indicated adopted. ( )

101. -- 104. (RESERVED)

105. PERSONNEL.

01. Daily Work Schedules. Daily work schedules *must* be maintained that reflect: ( )

a. Personnel on duty at any given time for the previous three (3) months; (1-1-88)

b. The first and last names of each employee, including professional designation (R.N., L.P.N., etc.) and position; and (1-1-88)

c. Any adjustments made to the schedule. (1-1-88)

02. Job Description. Job descriptions *must* be current, on file, and: ( )

a. Include the authority, responsibilities, and duties of each classification of personnel; *and* ( )

b. Be given to each employee consistent with *their* classification. ( )

03. Age Limitations. *E*mployee*s*, other than licensed personnel, who *are* less than eighteen (18) years of age *may not* provide direct resident care except when employee*s are* student*s* or graduate*s* of a recognized vocational health care training program. ( )

04. Resident Employment. Whenever work of economic benefit to the facility is performed by a resident, such work will be subject to the provisions prescribed by law for any employee. ( )

05. Employee Health. Personnel policies relating to employee health *must* include: ( )

a. *That t*he facility establish*es*, upon hiring a new employee, the current status of a tuberculin skin

test. The determination may be based upon a report of the skin test taken prior to employment or within thirty (30) days after employment. If the skin test is positive, either by history or current test, a chest X-ray *is* taken, or a report of the results of a chest X-ray taken within three (3) months preceding employment *and* accepted. The TB Skin Test status *is* recorded and a chest X-ray alone is not a substitute. No subsequent chest X-ray or skin test is required for routine surveillance. *( )*

b. *That a* repeat skin test is required if a resident or other staff develop tuberculosis. *( )*

c. *That t*he facility require*s* all employees report immediately to their supervisor any signs or symptoms of personal illness. *( )*

d. *That p*ersonnel who have a communicable disease, infectious wound, or other transmittable condition and who provide care or services to residents *are* required to implement protective infection control techniques approved by administration; *are* not to work until the infectious stage is corrected; *are* reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent; or seek*s* other remedy to avoid spreading the employee's infection. *( )*

0*6*. Personnel Files. Personnel files *must* be kept for each employee contain*ing*: *( )*

a. Name, current address, and telephone number of the employee; (1-1-88)

b. Social security number; (1-1-88)

c. Qualifications for the position for which the employee is hired, including education and experience; (1-1-88)

d. If Idaho license is required, verification of current license; (1-1-88)

e. Position in facility; (1-1-88)

f. Date of employment; (1-1-88)

g. Date of termination and reason; *and* *( )*

h. Verification of TB skin test upon employment and any subsequent test results*.* *( )*

106. FIRE AND LIFE SAFETY.
Facilities must meet general requirements for the fire and life safety standards for a health care facility as follows: *( )*

01. General Requirements. General requirements for the fire and life safety standards for a health care facility are *as follows*: *( )*

a. The facility *must* be structurally sound, maintained, and equipped to assure the safety of residents, employees, and the public. *( )*

b. Where natural or man-made hazards are present on the premises, *that* the facility *must* provide suitable fences, guards, and/or railings to isolate the hazard from the resident's environment. *( )*

02. Life Safety Code Requirements. The facility *must* meet provisions of the Life Safety Code of the National Fire Protection Association, *2012 Edition* as are applicable to a health care facility except *existing facilities licensed prior to the effective date of these rules and in compliance with a previous edition of the Life Safety Code may continue to comply with the edition in force at that time.* *( )*

03. Smoking. Because smoking has been acknowledged to be a potential fire hazard, a continuous effort *must* be made to reduce such a hazard in the facility *to include adopting w*ritten rules available to all facility personnel, residents, and the public *with* the following: *( )*

a. That smoking is prohibited in any area where flammable liquids, gases, or oxygen are in use or stored *and* posted with "No Smoking" signs. *( )*

b. That residents are not permitted to smoke in bed. *( )*

c. That unsupervised smoking by residents not mentally or physically responsible is prohibited. This includes residents affected by medication. *( )*

d. That designated areas *are* assigned for employee, resident, and public smoking. *( )*

e. Nothing in Section 106 requires that smoking be permitted in facilities whose admission policies prohibit smoking. (12-31-91)

0*4*. Report of Fire. A separate report of each fire incident occurring within the facility *must* be submitted to the licensing agency within thirty (30) days of the occurrence. The reporting form "Facility Fire Incident Report" will be issued by the licensing agency to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries (if any). *( )*

0*5*. Storage, Heating Appliances, Hazardous Substances. *The following requirements must be met:* *( )*

a. *That a*ttics and crawl spaces *are* not used for storage of any materials. *( )*

b. *That r*ooms housing heating appliances *are* not used for storage of combustible materials. *( )*

c. *That a*ll fuel-fired heating devices have an easily accessible, plainly marked, functional remote fuel shut-off valve. *( )*

d. *That a*ll ranges *are* provided with hoods, mechanical ventilation, and removable filters. *( )*

107. DIETARY SERVICE.
The following requirements must be met: *( )*

01*. *Approved Diet Manual. A current diet manual approved by the Department *and available in the kitchen* (the Idaho Diet Manual is approved by the Department). *( )*

02*. *Preparation and Correction of Menus. *That m*enus *are* prepared at least a week in advance *and* corrected to conform with food actually served (items not served deleted and food actually served written in.) The corrected copy of the menu and diet plan *is to* be dated and kept on file for thirty (30) days. *( )*

03*. *Variety and Adequacy of Food. *That m*enus provide a sufficient variety of foods in adequate amounts at each meal. Menus *are to* be different for the same days each week and adjusted for seasonal changes. *( )*

108. ENVIRONMENTAL SANITATION.
The following requirements must be met: *( )*

01. Water Supply. An approved public or municipal water supply *is* used wherever available. *( )*

a. In areas where an approved public or municipal water supply is not available, a private water supply *is* provided, and meet*s* the standards approved by the Department. *( )*

b. If water is from a private supply, water samples *are* submitted to the Department through the district public health laboratory for bacteriological examination at least once every three (3) months. Monthly bacteriological examinations are recommended. Copies of the laboratory reports *are* kept on file in the facility by the administrator. *( )*

c. There *is* sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility at all times. *( )*

02. Linen-Laundry Facilities. Personal Laundry. *R*esidents' and employees' laundry *must* be collected, transported, sorted, washed, and dried in a sanitary manner and not be washed with bed linens. *R*esidents' clothing *is to* be labeled to ensure proper return to the owner. *( )*

109. -- 119. (RESERVED)

120. EXISTING BUILDINGS.
These standards *must* be applied to all currently licensed health care facilities. Any minor alterations, repairs, and maintenance *must* meet these standards. In the event of a change in ownership of a facility, the entire facility *must* meet these standards prior to issuance of a new license. *( )*

01. Codes and Standards. Construction features of all existing facilities *must* be in accordance with applicable local, state, national codes, standards, and regulations in effect at the time of adoption of these rules. *( )*

a. In the event of a conflict of requirement between the codes, the most restrictive apply. *( )*

b. In addition, existing facilities *are to* comply with applicable fire and life safety codes and standards as set forth in Section 106. *( )*

02. Site Requirements. The location of an existing facility *must meet* the following criteria: *( )*

a. It *must* be served by an all-weather road, kept open to motor vehicles at all times of the year. *( )*

b. It *must* be accessible to physician and medical services. *( )*

c. It *must* be remote from railroads, factories, airports and similar noise, odor, smoke, dust and other nuisances. *( )*

d. It *must* be accessible to public utilities. *( )*

e. It *must* be in a lawfully constituted fire district. *( )*

f. It *must* provide off-street motor vehicle parking at the rate of one (1) space for every three (3) licensed beds. *( )*

03. General Building Requirements. An existing facility *must* be of such character to be suitable for use as a facility. The facility *is* subject to approval by the Department. Other requirements are as follows: *( )*

a. *That t*he building and all equipment *are* in good repair. *( )*

b. *That h*andrails of sturdy construction *are* provided on both sides of all corridors used by residents. *( )*

c. *That n*o facility *is* maintained in an apartment house or other multiple dwelling. *( )*

d. *That r*oomers or boarders *are* not accepted for lodging in any facility. *( )*

04. Resident/Staff Communication. Requirements governing communication *must be* as follows: *( )*

a. *That e*ach building *has* a telephone for resident use so located as to provide wheelchair access for

personal, private telephone communications. A telephone with amplifying equipment *is* available for the hearing impaired. *( )*

b. *That a* staff calling system *is* installed at each resident bed and in each resident toilet, bath, and shower room. The staff call in the toilet, bath, or shower room *must* be an emergency call. All calls *are to* register at the staff station and actuate a visible signal in the corridor at the resident's door. The activating mechanism within the resident's sleeping room *is to* be located as readily accessible to the resident at all times. *( )*

05. Resident Accommodations. Accommodations for the residents of the facility *must* include the following: *( )*

a. *That e*ach resident room *is* an outside room. *( )*

b. *That n*ot more than four (4) residents can be housed in any multi-bed sleeping room. *( )*

c. *That e*very resident sleeping room *is* provided with a window as follows: *( )*

i. *E*qual to at least one-eighth (1/8) of the floor area. *( )*

ii. *O*penable to obtain fresh air. *( )*

iii. *P*rovided with curtains, drapes, or shades. *( )*

iv. *L*ocated to permit the resident a view from a sitting position. *( )*

v. *Has* screen*s*. *( )*

d. No resident room can be located: *( )*

i. In such a way that its outside walls are below grade. (1-1-88)

ii. In an attic, trailer house or in any room other than an approved room. (1-1-88)

iii. So it can be reached only by passing through another individual's room, a utility room, or any other room. (1-1-88)

iv. So it opens into any room in which food is prepared or stored. (1-1-88)

e. *That* resident rooms *are a* sufficient size to allow no less than eighty (80) square feet of usable floor space per resident in multiple-bed rooms. Private rooms *will* have no less than one hundred (100) square feet of usable floor space. *( )*

f. *That* resident beds *are* not placed in hallways or in any location commonly used for other than bedroom purposes. *( )*

g. *That r*ooms *have* dimensions that allow no less than three (3) feet between beds and two (2) feet of space between the bed and side wall. *( )*

h. *That c*eiling heights in resident rooms *are* a minimum of seven (7) feet, six (6) inches. *( )*

i. *That c*loset space in each sleeping room *is* twenty (20) inches by twenty-two (22) inches per resident. Common closets utilized by two (2) or more residents *are* provided with substantial dividers for separation of each resident's clothing for prevention of cross contamination. All closets *are* equipped with doors. Freestanding closets *will* be deducted from the square footage in the sleeping room. *( )*

j. *That e*very health care facility provide*s* a living room or recreation room for the sole use of the residents. Under no circumstances may these rooms be used as bedrooms by residents or personnel. A hall or entry is not acceptable as a living room or recreation room. *( )*

k. That all resident rooms are numbered and all other rooms numbered or identified as to purpose. ( )

l. That a drinking fountain is connected to cold running water, is accessible to both wheelchair and non-wheelchair residents, and located in each nursing or staff unit. ( )

m. That residents of the opposite sex are not housed in the same bedroom or ward, except in cases of husband and wife. ( )

n. That gardens, yards, or portions of yards are secure for outdoor use by all residents and bounded by a substantial enclosure if intended for unsupervised use by residents who may wander away from the facility. ( )

o. That toilet rooms, tub/shower rooms, and handwashing facilities are constructed as follows: ( )

i. Toilet rooms and bathrooms for residents and personnel are not to open directly into any room in which food, drink, or utensils are handled or stored. ( )

ii. Toilet and bathroom are separated from all other rooms by solid walls or partitions. ( )

iii. On floors where wheelchair residents are housed, there is at least one (1) toilet and one (1) bathing facility large enough to accommodate wheelchairs. ( )

iv. All inside bathrooms and toilet rooms have forced ventilation to the outside. ( )

v. Toilet rooms for resident use are arranged that it is not necessary for an individual to pass through or into another resident's room to reach the toilet facilities. ( )

vi. Handrails and/or grab bars are provided in resident toilet rooms and bathrooms and are located so as to be functionally adequate. ( )

vii. Each resident floor or nursing unit has at least one (1) tub or shower for every twelve (12) licensed beds; one (1) toilet for every eight (8) licensed beds; and one (1) lavatory with mirror for every eight (8) licensed beds. Tubs, showers, and lavatories are connected to hot and cold running water. ( )

06. Dining/Recreation Facilities. Facilities must provide one (1) or more attractively furnished, multipurpose areas for dining/recreation purposes that meets the following requirements: ( )

a. A minimum of twenty-five (25) square feet per licensed bed is to be provided. Any facility not in compliance on the effective date of this rule will not be required to comply until the number of licensed beds is increased or until there is a change of ownership of the facility. Provided, however, that a facility not in compliance may not reduce the number of licensed beds and reduce its present dining/recreation space until at least twenty-five (25) square feet per licensed bed is provided. ( )

b. It is for the sole use of the residents, and a hall or entry is not acceptable. ( )

07. Isolation Units (Temporary). Each health care facility must have available a room with private toilet, lavatory, and other accessory facilities for temporary isolation of a resident with a communicable or infectious disease. ( )

08. Utility Areas. A utility room with a separate entrance and physically partitioned from any toilet and/or bathing facility must be provided for the preparation, cleansing, sterilization, and storing of nursing supplies and equipment. A utility room must be provided on each floor in each nursing or staff unit of the facility. Provisions must be made for the separation of clean and soiled activities. Food and/or ice must not be stored or handled in a utility room. Soiled utility rooms must be provided with forced mechanical ventilation to the outside. ( )

09. Storage Space. The facility must provide general storage areas and medical storage areas as

follows: ( )

a. General storage at the rate of ten (10) square feet per licensed bed, in addition to suitable storage provided in the resident's sleeping room. ( )

b. The facility provides safe and adequate storage space for medical supplies and equipment and a space appropriate for the preparation of medications. ( )

10. Electrical and Lighting. All electrical and lighting installation *must* be in accordance with the National Electrical Code and as follows: ( )

a. All electrical equipment intended to be grounded *is* grounded. ( )

b. Frayed cords, broken plugs, and the like *are* repaired or replaced. ( )

c. Plug adaptors and multiple outlets are prohibited. (1-1-88)

d. Extension cords *are* U.L. approved, adequate in size (wire gauge), and limited to temporary usage. ( )

e. All resident personal electrical appliances *are* inspected and approved by the facility engineer and/or administrator. ( )

f. All resident rooms have a minimum of thirty (30) foot candles of light delivered to reading surfaces and ten (10) foot candles of light in the rest of the room. ( )

g. All hallways, storerooms, stairways, inclines, ramps, exits, and entrances have a minimum of five (5) foot candles of light measured in the darkest corner. ( )

11. Ventilation. The facility *must* be ventilated and precautions taken to eliminate offensive odors in the facility. ( )

12. Heating. A heating system *must* be provided for the facility that is capable of maintaining a temperature of seventy-five degrees (75F) to eighty degrees (80F) Fahrenheit in all weather conditions. ( )

a. Oil space heaters, recessed gas wall heaters, and floor furnaces cannot be used as heating systems for health care facilities. (1-1-88)

b. Portable comfort heating devices *are* not used. ( )

13. Plumbing. Plumbing at the facility *must* be as follows: ( )

a. All plumbing compl*ies* with applicable local and state codes. ( )

b. Vacuum breakers *are* installed where necessary to prevent backsiphonage. ( )

c. The temperature of hot water at plumbing fixtures used by residents *is* between one hundred five degrees (105F) and one hundred twenty degrees (120F) Fahrenheit. ( )

121. NEW CONSTRUCTION STANDARDS.

The following requirements must be met: ( )

01. Plans, Specifications, and Inspections. New facility construction or any addition, conversion, or renovation of an existing facility is governed by the following rules: (1-1-88)

a. Prior to commencing work pertaining to construction of new buildings, any additions, structural changes to existing facilities, or conversion of buildings to be used as a facility, plans and specifications *must* be

submitted to, and approved by, the Department to assure compliance with the applicable construction standards, codes, rules, and regulations. ( )

b. The plans and specifications *must* be prepared by, or executed under, the immediate supervision of a licensed architect registered in the state of Idaho. The employment of an architect may be waived by the Department in certain minor alterations. ( )

c. Preliminary plans *must* be submitted and include at least the following: ( )

i. The assignment of all spaces, size of areas and rooms, and indicated in outline the fixed and movable equipment and furniture. (1-1-88)

ii. The plans *are* drawn at a scale sufficiently large to clearly present the proposed design, but not less than a scale of one-eighth inch (1/8") equals one foot (1'). ( )

iii. The drawings include a plan for each floor, including the basement or ground floor *with* approach or site plan, showing roads, parking areas, sidewalks, etc. ( )

iv. The total floor area and number of beds *are* computed and noted on the drawings. ( )

v. Outline specifications provide a general description of the construction, including interior finishes, acoustical material, its extent and type and heating, electrical, and ventilation systems. (1-1-88)

d. Before commencing construction, the working drawings *must* be developed in close cooperation with, and approved by, the Department and other appropriate agencies *with the following*. ( )

i. Working drawings and specifications *are* prepared so that clear, distinct prints may be obtained, accurately dimensioned, and include all necessary explanatory notes, schedules, legends, and stamped with the licensed architect's seal. ( )

ii. Working drawings *are* complete and adequate for contract purposes. Separate drawings *are* prepared for each of the following branches of work: architectural, mechanical and electrical. ( )

e. Prior to occupancy, the facility *must* be inspected and approved by the licensing agency. The agency *will* be notified at least two (2) weeks prior to completion in order to schedule a final inspection. ( )

02. Codes and Standards. New construction features *must* be in accordance with applicable local, state, national standards, codes, and regulations in effect at the time of the construction, addition, remodeling, or renovation. ( )

a. In the event of a conflict of requirements between codes, the most restrictive appl*ies*. ( )

b. Compliance with the applicable provisions of the following codes and standards *must* be required by, and reviewed for, by this agency: ( )

i. American National Standard Specifications for Making Buildings and Facilities Accessible to and Usable by Physically Handicapped People (ANSI A117.1). ( )

ii. Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "*Idaho* Food *Code*." ( )

03. Site Requirements. The location of all new facilities or conversion of existing buildings is controlled by the following criteria: (1-1-88)

a. *That it is* adjacent to an all-weather road(s). ( )

b. *That it is* accessible to physician's services and medical facilities. ( )

c. *That it is* accessible to public utilities. ( )

d. *That it is* in a lawfully constituted fire district. *( )*

e. *That e*ach facility *has* parking space*s* to satisfy the minimum needs of residents, employees, staff, and visitors. In the absence of a local requirement, each facility provide*s* not less than one (1) space for each day shift staff member and employee, plus one (1) space for each five (5) resident beds. This ratio may be reduced in areas convenient to a public transportation system or to public parking facilities provided that approval of any reduction is obtained from the appropriate state agency. Space *must* be provided for emergency and delivery vehicles. *( )*

0*4*. *R*esident Care Unit. Each resident care unit *must* be in compliance with the following: *( )*

a. *That t*he number of beds in a unit *does* not exceed sixty (60); *( )*

b. *That a*t least eighty percent (80%) of the beds *are* located in rooms designed for one (1) or two (2) residents; *( )*

c. *That a*t least one (1) room in each facility *is* available for single occupancy for isolation of disease, for privacy in personality conflict, or disruptive resident situations. Each isolation room meet*s* the following requirements: *( )*

i. All features of regular resident rooms, as described in Subsection 121.05.d.; *( )*

ii. Supply an entry area that is adequate for gowning; (1-1-88)

iii. Supply a handwashing lavatory in or directly adjacent to the resident room entry; *( )*

iv. Provide a private toilet; (1-1-88)

v. Have finishes easily cleanable; and (1-1-88)

vi. Not be carpeted; (1-1-88)

d. *That e*ach resident room meet*s* the following requirements: *( )*

i. Minimum room area, exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, or vestibules *is* one hundred (100) square feet in single-bed rooms and eighty (80) square feet in multiple bed rooms per resident; *( )*

ii. Beds in all rooms *are* placed so that they are three (3) feet apart, two (2) feet away from the side wall parallel with beds, and three (3) feet, six (6) inches from the end of the bed to the opposite wall, or other obstructions; *( )*

iii. A lavatory *is* provided in each resident room. The lavatory may be omitted from a single-bed or two (2) bed room when a lavatory is located in an adjoining toilet room that serves that room only; *( )*

*i*v. Each resident *has* access to a toilet room without entering the general corridor area. One (1) toilet room serve*s* no more than four (4) beds, and no more than two (2) resident rooms. The toilet room contain*s* a water closet and a lavatory. The lavatory may be omitted from a toilet room if each resident room served by that toilet room contains a lavatory; *( )*

v. Each resident *is* provided, within the room, a wardrobe, locker, or closet with a minimum of four (4) square feet. Common closets are not permitted. An adjustable clothes rod and adjustable shelf *is* provided; *( )*

vi. Each resident room cannot be located more than one hundred twenty (120) feet from the soiled workroom or the soiled holding room; *( )*

*vi*i. Each room *has* a window that can be opened without the use of tools. The window sill must not be

higher than three (3) feet above the floor and *needs to* be above grade. The window *is* at least one-eighth (1/8) of the floor area and provided with shades or drapes; *( )*

viii. Cubicle curtains of fire retardant material, capable of enclosing the bed *is* provided in multiple-bed rooms to insure privacy for the residents. Alternatives to this arrangement may be allowed if the alternative provides the same assurance of privacy; *( )*

*i*x. Mirror(s) *are* arranged for convenient use by residents in wheelchairs, as well as by residents in standing position; *( )*

x. A staff calling system *is* installed at each resident bed and in each resident toilet, bath, and shower room. The staff call in the toilet, bath, and shower room *is* an emergency call. All calls register at the staff station and activate a visible signal in the corridor at the resident's door. The emergency call system *is* designed so that a signal light activated at the resident's station will remain lit until turned off at the resident's calling station; *( )*

xi. All resident rooms *are* visible to a staffed nurse's station; *( )*

xi*i*. Each resident room *is* an outside room; *( )*

x*iii*. *R*esidents cannot be cared for or housed in any attic story, trailer house, or in any room other than an approved resident room; *( )*

x*i*v. *R*esident beds *are* not be placed in hallways or any location commonly used for other than bedroom purposes; *( )*

xv. Ceiling heights in resident rooms *are* a minimum of eight (8) feet; *( )*

xvi. No room can be used for a resident room that can only be reached by passing through another resident room, utility room or any other room. All resident rooms have direct access to an exit corridor; *( )*

x*vi*i. *R*esident rooms *do* not open into any room in which food is prepared, served, or stored; and *( )*

x*viii*. All resident rooms *are* numbered. All other rooms *are* numbered or identified as to purpose. *( )*

e. Service Areas. *That t*he following service areas *are* located in, or readily available to, each resident care unit. The size and disposition of each service will depend upon the number and types of beds to be served. Although identifiable spaces are required to be provided for each of the indicated functions, consideration will be given to design solutions that would accommodate some functions without specific designation of areas or rooms. Details of such proposals *are* submitted for prior approval. Each service area may be arranged and located to serve more than one (1) resident care unit, but at least (1) such service area *is* provided on each resident floor and as follows: *( )*

i. Staff station with space for charting and storage for administrative supplies convenient to handwashing facilities; *( )*

ii. Lounge and toilet room(s) for staff (toilet room may be unisex); (1-1-88)

iii. Individual closets or compartments for the safekeeping of coats and personal effects of personnel located *close* to the duty station of personnel or in a central location; *( )*

iv. Clean workroom or clean holding room. If the room is used for work, *that* it contain*s* a counter and handwashing facilities. When the room is used only for storage as part of a system for distributing clean and sterile supplies, the work counter and handwashing facilities may be omitted; *( )*

v. *A* soiled workroom contain*s* a clinical sink or equivalent flushing rim fixture sink for handwashing, work counter, waste receptacle, and soiled linen receptacle. When the room is used only for temporary holding of soiled materials, the work counter may be omitted; *( )*

vi. Drug distribution station. Provisions *are* made for secure, convenient, and prompt twenty-four (24) hour availability of medicine to residents. A secure medicine preparation area *is* available and under the nursing staff's visual control and contains a work counter, refrigerator, and locked storage for controlled drugs, and *has* a minimum area of fifty (50) square feet. A medicine dispensing unit may be located at the nurse's station, in the clean workroom, or in an alcove or other space convenient to staff for staff control; *( )*

vii. Clean linen storage. A separate closet or a designated area within the clean workroom *is* provided. If a closed cart system is used, storage may be in an alcove; *( )*

viii. Nourishment station. The station contains a sink equipped for handwashing, equipment for serving nourishment between scheduled meals, refrigerator, and storage cabinets. Ice for residents' service and treatment *is* provided only by icemaker-dispenser units; *( )*

ix. Equipment storage room(s). Room(s) *is* available for storage of equipment such as I.V. stands, inhalators, air mattresses, and walkers; *( )*

x. *Resident* bathing facilities. A minimum of one (1) bathtub or shower *is* provided for each ten (10) beds not otherwise served by bathing facilities at *resident* rooms. *Residents* have access to at least one (1) bathtub in each nursing unit. Each tub or shower *is* in an individual room or enclosure that provides space for private use of the bathing fixture, for drying and dressing, and for a wheelchair and attendant. At least one (1) shower in each central bathing facility *has* a minimum of four (4) feet square without curbs and designed for use by a wheelchair. *( )*

f. Resident Toilet Facilities. *That e*ach resident toilet room meets the following criteria: *( )*

i. The minimum dimensions of a room containing only a water closet *is* three (3) feet by six (6) feet. Additional space *is* provided if a lavatory is located within the same room. Water closets *are* accessible for use by wheelchair residents. *( )*

ii. At least one (1) room on each floor *is* appropriate for toilet training. It *is* accessible from the corridor. A clearance of three (3) feet *is* provided at the front and at each side of the water closet and the room contains a lavatory. *( )*

iii. A toilet room *is* accessible to each central bathing area without having to go through the general corridor. This may be arranged to serve as the required toilet training facility. *( )*

g. Sterilizing Facilities. *That a* system for the sterilization of equipment and supplies *is* provided. *( )*

05. *R*esident Dining and Recreation Areas. The following minimum requirements apply to dining/ recreation areas. *( )*

a. Area Requirement. The total area set aside for these purposes *is* at least thirty (30) square feet per bed with a minimum, total area of at least two hundred twenty-five (225) square feet. For facilities with more than one hundred (100) beds, the minimum area may be reduced to twenty-five (25) square feet per bed. If day care programs are offered, additional space *is* provided as needed to accommodate for day care residents needing naps or for dining and activities. *( )*

b. Storage. Storage space *is* provided for recreational equipment and supplies. *( )*

06. Rehabilitation Therapy Facilities. Each facility *must* include provisions for physical and occupational therapy for rehabilitation of long term care residents. Areas and equipment *is* necessary to meet the intent of the program. As a minimum, the following *must* be located on-site, convenient for use to the nursing unit: *( )*

a. Space for files, records and administrative activities. (1-1-88)

b. Storage for supplies and equipment. (1-1-88)

c. Storage for clean and soiled linen. (1-1-88)

d. Handwashing facilities within the therapy unit. (1-1-88)

e. Space and equipment for carrying out each of the types of therapy that may be prescribed. (1-1-88)

f. Provisions for *resident* privacy. *( )*

g. Janitor closets, in or near unit. (1-1-88)

h. If the program includes outpatient treatment, additional provisions include: (1-1-88)

i. Convenient access from exterior for use by the handicapped. (1-1-88)

ii. Lockers for secure storage of residents' clothing and personal effects. *( )*

iii. Outpatient facilities for dressing and changing. (1-1-88)

iv. Showers for resident use. *( )*

i. Waiting area with provision for wheelchair outpatients. (1-1-88)

07. Personal Care Unit. A separate room *must* be provided with equipment for hair care and grooming needs of the residents. *( )*

08. Dietary Facilities. *The following must be provided:* *( )*

a. Handwashing facilities in the food preparation area. (1-1-88)

b. Resident meal service space including facilities for tray assembly and distribution. (1-1-88)

c. Warewashing in a room or an alcove separate from food preparation and serving areas. This include*s* commercial type dishwashing equipment. Space *is* also provided for receiving, scraping, sorting, and stacking soiled tableware and for transferring clean tableware to the using area. Handwashing facilities *are* conveniently available. *( )*

d. Potwashing facilities. (1-1-88)

e. Waste storage facilities that are easily accessible for direct pickup or disposal. (1-1-88)

f. Office or suitable work space for the dietitian or food service supervisor. (1-1-88)

g. Toilets for dietary staff with handwashing facility immediately available. (1-1-88)

h. Janitor's closet located within the dietary department. The closet contain*s* a floor receptor or service sink and storage space for housekeeping equipment and supplies. *( )*

09. Administration and Public Areas. The following *must* be provided: *( )*

a. Entrance at grade level, sheltered from the weather and able to accommodate wheelchairs. (1-1-88)

b. Lobby space, including: (1-1-88)

i. Storage space for wheelchairs. (1-1-88)

ii. Reception and information counter or desk. (1-1-88)

iii. Waiting space(s). (1-1-88)

iv. Public toilet facilities. (1-1-88)

v. Public telephone(s). (1-1-88)

vi. Drinking fountain(s). (1-1-88)

c. General or individual office(s) assuring privacy for interviews, business transactions, medical and financial records, and administrative and professional staff. (1-1-88)

d. Multipurpose room for conferences, meetings, and health education purposes. (1-1-88)

e. Storage for office equipment and supplies. (1-1-88)

10. Linen Services. The following *requirements* apply: Laundry processing room with commercial type equipment with which a seven (7) days' need can be processed. *( )*

11. Central Stores. General storage rooms *must* have a total area of not less than ten (10) square feet per bed and concentrated in one (1) area. *( )*

12. Janitors' Closets. In addition to the janitors' closets called for in certain departments, sufficient janitor's closets *must* be provided throughout the facility to maintain a clean and sanitary environment. These contain a floor receptor or service sink and storage space for housekeeping equipment and supplies. *( )*

13. Engineering Services and Equipment Areas. The following *must* be provided: *( )*

a. Equipment room(s) or separate building(s) for boilers, mechanical equipment and electrical equipment. (1-1-88)

b. Office or suitable desk space for the engineer. (1-1-88)

c. Maintenance shop(s). (1-1-88)

d. Storage room(s) for building maintenance supplies. (1-1-88)

e. Yard equipment storage consisting of a separate room or building for yard maintenance equipment and supplies if ground maintenance is provided by the facility. (1-1-88)

14. Details and Finishes. A high degree of safety for the residents *must* be provided to minimize the incidence of accidents with special consideration for residents who will be ambulatory to assist them in self-care. Hazards such as sharp corners *must* be avoided. All details and finishes for modernization projects as well as for new construction *must* comply with the following requirements: *( )*

a. Details: (1-1-88)

i. All rooms containing bathtubs, sitz baths, showers, and water closets subject to occupancy by residents *are* equipped with doors and hardware that will permit access from the outside of the rooms in an emergency. When such rooms have only one (1) opening or are small, the doors must open outwards or be designed to be opened without the need to push against a resident who may have collapsed within the room. *( )*

ii. Windows and outer doors that may be frequently left in an open position *are* provided with insect screens. *( )*

iii. Doors, sidelights, borrowed lights, and windows in which the glazing extends down to within eighteen (18) inches of the floor (thereby creating a possibility for accidental breakage by pedestrian traffic) *is* glazed with safety glass, wire glass, or plastic glazing material that will resist breaking and will not create dangerous cutting

edges when broken. Similar materials *are* used in wall openings of recreation rooms and exercise rooms unless required otherwise for safety. Safety glass or plastic glazing materials as noted above *are* used for shower doors and bath enclosures. *( )*

*i*v. Dumbwaiters, conveyors, and material handling systems *do* not open directly into a corridor or exitway. *( )*

v*i*. Thresholds and expansion joint covers *are* made flush with the floor surface to facilitate use of wheelchair and carts. *( )*

*v*i. Grab bars *are* provided at all resident toilets, showers, tubs, and sitz baths. The bars have one and one-half (1-1/2) inches clearance to walls and sufficient strength and anchorage to sustain a concentrated load of two hundred fifty (250) pounds. *( )*

vii. Recessed soap dishes *are* provided in showers and bathrooms. *( )*

viii. Handrails *are* provided on both sides of corridors used by residents. A clear distance of one and one-half (1-1/2) inches *is* provided between the handrail and the wall. Ends *are* returned to the wall. *( )*

ix. The arrangement of handwashing facilities provide*s* sufficient clearance for blade-type operating handles and *are* installed to permit use by wheelchair residents. *( )*

x. Lavatories and handwashing facilities *are* securely anchored to withstand an applied vertical load of not less than two hundred fifty (250) pounds on the front of the fixture. *( )*

xi. Mirrors *are* arranged for convenient use by residents in wheelchairs as well as by residents in a standing position. *( )*

x*ii*. Paper towel dispensers and waste receptacles *are* provided at all handwashing fixtures. *( )*

xi*ii*. Ceiling heights *are* as follows: *( )*

(1) Boiler rooms have ceiling clearances not less than two (2) feet, six (6) inches above the main boiler header and connecting piping. (1-1-88)

(2) Rooms containing ceiling-mounted equipment have height required to accommodate the equipment. (1-1-88)

(3) All other rooms have not less than eight (8) foot ceilings except that corridors, storage rooms, toilet rooms, and other minor rooms may not have less than seven (7) feet, eight (8) inches. Suspended tracks, rails, and pipes located in the path of normal traffic *are* not less than six (6) feet, eight (8) inches above the floor. *( )*

x*i*v. Recreation rooms, exercise rooms, and similar spaces where impact noises may be generated *are* not located directly over resident bed areas unless special provisions are made to minimize the noise. *( )*

b. Finishes: (1-1-88)

i. Floor materials *are* easily cleaned and have wear resistance appropriate for the location involved. Floors in areas used for food preparation or food assembly *are* water resistant and grease proof. Joints in tile and similar materials in such areas *are* resistant to food acids. In all areas frequently subject to wet cleaning methods or spillage, floor materials *are* not physically affected by germicidal and cleaning solutions. Floors that are subject to traffic while wet (such as shower and bath areas, kitchens, and similar work areas) have an impervious nonslip surface. Vinyl asbestos tile is not acceptable for such areas. *( )*

ii. Wall bases in kitchens, soiled workrooms, and other areas that are frequently subject to wet cleaning methods *are* made integral and coved with the floor, tightly sealed within the wall, and constructed without voids that can harbor insects. *( )*

iii. Wall finishes *are* washable and in the immediate area of plumbing fixtures smooth and moisture resistant. Finish, trim, and wall and floor construction in dietary and food preparation areas *are* free from spaces that can harbor rodents and insects. *( )*

iv. Floor and wall penetrations by pipes, ducts and conduits are tightly sealed to minimize entry of rodents and insects. Joints of structural elements are similarly sealed. (1-1-88)

v. Ceilings throughout the facility are easily cleanable. Ceilings in the dietary and food preparation areas have a finished ceiling covering all overhead piping and duct work. Finished ceilings may be omitted in mechanical and equipment spaces, shops, general storage areas and similar spaces, unless required for fire resistance purposes. (1-1-88)

15. Construction Features. The facility must be designed and constructed to sustain dead and live loads in accordance with local building codes. All construction must comply with applicable provisions of the codes and standards as listed in Section 121 and as follows: (12-31-91)

a. All buildings having resident use areas on more than one (1) floor have at least one (1) electrical or electrohydraulic elevator. *( )*

b. All mechanical installations comply with applicable codes and the following: *( )*

i. Prior to completion, all mechanical systems *are* tested, balanced, and operated to demonstrate to the owner or representative that the installation and operation conform to the plans and specifications. *( )*

ii. Heating and cooling ventilating systems. (1-1-88)

(1) Normal comfort the design temperature for all occupied areas provides a minimum of sixty-eight degrees (68) and a maximum of eighty degrees (80) Fahrenheit. (1-1-88)

(2) All air supply and air exhaust systems are mechanically operated. All fans serving exhaust systems are located at the discharge end of the system. (1-1-88)

c. Outdoor air intakes are located as far as practical but not less than twenty-five (25) feet from exhaust outlets of ventilating systems, combustion equipment stacks, medical-surgical vacuum systems, plumbing vent stacks, or from areas that may collect vehicular exhaust and other noxious fumes. The bottom of outdoor air intakes serving central systems are located as high as practical but not less than six (6) feet above ground level or, if installed above the roof, three (3) feet above roof level. (1-1-88)

d. The bottom of ventilation opening is not be less than three (3) inches above the floor of any room. (1-1-88)

e. All central ventilation or air-conditioning systems are equipped with filters having efficiencies no less than: (1-1-88)

i. Eighty percent (80%) for resident care, treatment, diagnostic, and related areas that may be reduced to thirty-five (35%) for all outdoor air systems. (1-1-88)

ii. Eighty percent (80%) for food preparation areas and laundries. (1-1-88)

iii. Twenty-five percent (25%) for all administrative, bulk storage, and sorted holding areas. (1-1-88)

f. Plumbing standards. All plumbing systems are designed to meet the following: (1-1-88)

i. Shower bases and tubs are provided with nonslip surfaces. (1-1-88)

ii. The water supply system are designed to supply water at sufficient pressure to operate all fixtures

and equipment during maximum demand periods. (1-1-88)

iii. Vacuum breakers are installed on hose bibs, janitors' sinks, bedpan flushing attachments, and on all other fixtures to which hoses or tubing can be attached. (1-1-88)

iv. Water distribution systems are arranged to provide hot water at each hot water outlet at all times. Hot water at shower, bathing, and handwashing facilities do not exceed one hundred twenty degrees (120) Fahrenheit. (1-1-88)

v. Hot water heating equipment has sufficient capacity to supply water at the temperature and amounts as follows: (1-1-88)

(1) Clinical. Six and one-half (6 1/2) gallons per hour per bed at one hundred twenty degrees (120) Fahrenheit. (1-1-88)

(2) Dietary. Four (4) gallons per hour per bed at one hundred eighty degrees (180) Fahrenheit. (1-1-88)

(3) Laundry. Four and one-half (4 1/2) gallons per hour per bed at one hundred sixty-five degrees (165) Fahrenheit. (1-1-88)

g. Electrical standards. All electrical installations comply with applicable codes and the following: (1-1-88)

i. General. Prior to completion, all electrical installations and systems are tested to show that the equipment is installed and operating as planned or specified. (1-1-88)

ii. Switchboards and power panels are located in a separate enclosure accessible only to authorized personnel. (1-1-88)

iii. Panel boards serving lighting and appliance circuits are located on the same floor as the circuits they serve. (1-1-88)

iv. Lighting: (1-1-88)

(1) All spaces occupied by people, machinery and equipment within buildings, approaches to buildings and parking lots have lighting. (1-1-88)

(2) Residents have general lighting and night lighting. A reading light is provided for each resident. At least one (1) light fixture for night lighting is switched at the entrance to each resident room. All switches for control of lighting in resident areas are of the quiet operating type. (1-1-88)

v. Receptacles (convenience outlets): (1-1-88)

(1) Resident rooms. Each resident room has duplex ground type receptacles as follows: One (1) on each side of the head of each bed; one (1) for television if used; and one (1) on another wall. (1-1-88)

(2) Corridors. Duplex receptacles for general use are installed approximately fifty (50) feet apart in all corridors and within twenty-five (25) feet of ends in corridors. (1-1-88)

vi. Equipment installation in special areas. The electrical circuits to fixed or portable equipment in hydrotherapy units are provided with five (5) milliampere ground fault interrupters. (1-1-88)

vii. Nurse/staff calling system. A nurse/staff calling system is provided as specified in Subsection 121.05.d.x. (12-31-91)

122. FURNISHINGS AND EQUIPMENT.

01. Furnishings – *R*esident Living Rooms and Bedrooms. Living rooms for residents' use *must* be provided with a sufficient number of reading lamps, tables, chairs, or sofas of satisfactory design for age and condition of the residents. *The following requirements must be met:* *( )*

a. Each resident *is* provided with *their* own bed that *is* at least thirty-six (36) inches wide, have a head and a footboard, be substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, double beds, or *H*ollywood-type beds *are* not *to* be used. *( )*

b. Each bed is provided with satisfactory type springs in good repair and a clean, comfortable mattress at least five (5) inches thick, (four (4) inches if of foam rubber construction and four and one-half (4-1/2) inches if of innerspring type) and standard in size for the bed. (12-31-91)

c. Each resident *is* provided with an individual rack with towel and washcloth. *( )*

d. In addition to basic resident care equipment, each resident *is* provided an individual reading light, bedside cabinet with drawer, comfortable chair, and storage space for clothing and other possessions. *( )*

e. Each resident *is* provided with a cup and a covered pitcher of fresh water (or the equivalent) at the bedside if the resident needs assistance to ambulate but is able to drink without assistance. *( )*

02. General Requirements. Equipment and supplies *must* be provided to satisfactorily meet the individualized needs of the residents of the facility. Equipment and supplies will vary according to the size of the facility and the type of residents. An authorized representative of the Department *will* make the final determination as to the adequacy and suitability of equipment and supplies. *The following must be met:* *( )*

a. Cubicle curtains of fire-retardant material that are designed to enclose the bed *are* provided in multiple-bed rooms to ensure privacy for the residents. Alternatives may be provided if equivalent privacy is allowed. *( )*

b. All furniture and equipment are maintained in a sanitary manner, kept in good repair, and be located for convenient use. (1-1-88)

c. *A*n adequate supply of clean linen *is available and* in good repair to keep the resident clean, odor-free, and insure*s* the comfort of the resident. *( )*

d. Equipment and supplies are stored in a designated area specific for equipment and supplies. Utensils not in use are sterilized prior to being stored. Those that cannot be sterilized are thoroughly cleansed in accordance with procedures approved by the Department. (1-1-88)

e. All utensils are kept in good condition. Chipped and otherwise damaged utensils are not to be used. (1-1-88)

f. Any single-use or disposable equipment and supplies are not to be reused. (1-1-88)

123. -- *150*. (RESERVED)

151. ACTIVITIES PROGRAM.
The facility must provide adequate funding for the activity program. Residents must not be required to support the funding. *( )*

152. SOCIAL SERVICES.
The facility *must* provide for the identification of the social and emotional needs of the residents either directly or through arrangements with an outside resource and provide means to meet the needs identified. *Sufficient staff must be provided to implement the program as follows*: *( )*

01. Licensed Social Worker. *That* a social worker *is* licensed by the state of Idaho as a social worker or who receives regular consultation from such a qualified social worker. *( )*

***02. Outside Resources**. That i*f the facility does not provide the services directly but arranges with an outside resource to provide the services, a facility staff member *is* designated in writing as a liaison person. *( )*

***03. Identify and Implement Programs**. That the facility e*nsures that identification of needs *and* implementation of programs meet*s* the needs and appropriate record keeping is accomplished. *( )*

153. *(RESERVED)*

154. *PHYSICIAN SERVICES*.
The following standards must be met: *( )*

0*1*. Physician Supervision. *That e*ach resident *is* under the direct and continuing supervision of a physician of *their* own choice licensed by the Idaho Board of Medicine. *( )*

***02. Necessary Medical Information**. That t*he physician provide*s* the facility with medical information necessary to care for the resident that includes at least a current history and physical or medical findings completed made no longer than five (5) days prior to admission or within forty-eight (48) hours after admission. The information include*s* diagnosis, medical findings, activity limitations, and rehabilitation potential. *( )*

***03. Physician's Plan of Care**. That a* physician's plan of care *is* provided to the facility upon admission of the resident that reflects medication orders, treatments, diet orders, activity level approved, and any other directives to the facility for the care of the resident. *( )*

***04. Plan of Care Review**. That t*he physician's plan of care for the resident *is* reviewed by the physician *as follows*: *( )*

a. Every thirty (30) to sixty (60) days for skilled care residents depending upon the visit schedule authorized. *( )*

b. The plan of care is reordered with any changes included by the physician and signed and dated by the physician at the time of the review. (1-1-88)

155. -- 199. (RESERVED)

200. NURSING SERVICES.
The following requirements must be met: *( )*

01. Director of Nursing Services *(DNS)*. A licensed registered nurse currently licensed by the state of Idaho and qualified by training and experience *is* designated DNS in each SNF and *is* responsible and accountable for *the following*: *( )*

a. Participating in the development and implementation of resident care policies; *( )*

b. Developing and/or maintaining goals and objectives of nursing service, standards of nursing practice, and nursing policy and procedures manuals; (1-1-88)

c. Assisting in the screening and selection of prospective residents in terms of their needs, and the services available in the facility; *( )*

d. Observing and evaluating the condition of each resident and developing a written, individualized patient care plan that *is* based upon an assessment of the needs of each resident, and that *is* kept current through review and revision; *( )*

e. Recommending to the administrator the numbers and categories of nursing and auxiliary personnel to be employed and participating in their recruitment, selection, training, supervision, evaluation, counseling, discipline, and termination when necessary. Developing written job descriptions for all nursing and auxiliary

personnel; (1-1-88)

f. Planning and coordinating orientation programs for new nursing and auxiliary personnel, as well as a formal, coordinated in-service education program for all nursing personnel; (1-1-88)

g. Preparing daily work schedule for nursing and auxiliary personnel that includes names of employees, professional designation, hours worked, and daily patient census; and (1-1-88)

h. Coordinating the nursing service with related resident care services; *( )*

02. Minimum Staffing Requirements. *That minimum staffing requirements include the following:* *( )*

a. A Director of Nursing Services (DNS) work*s* full time on the day shift but the shift may be varied for management purposes. If the *DNS* is temporarily responsible for administration of the facility, there *is* a licensed registered nurse (RN) assistant to direct patient care. The *DNS* is required for all facilities five (5) days per week. *( )*

i. The DNS in facilities with an average occupancy rate of sixty (60) residents or more *has* strictly nursing administrative duties. *( )*

ii. The DNS. in facilities with an average occupancy rate of fifty-nine (59) residents or less may, in addition to administrative responsibilities, serve as the supervising nurse. *( )*

b. A supervising nurse, licensed registered nurse, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse and meets the definition in Subsection 002.35. *( )*

c. A charge nurse, a licensed registered, or a licensed practical nurse, and who meets the requirements designated by the Idaho Board of Nursing to assume responsibilities as a charge nurse in accordance with the definition in Subsection 002.07. A charge nurse *is* on duty as follows: *( )*

i. In SNFs with an average occupancy rate of fifty-nine (59) residents or less a licensed registered nurse *is* on duty eight (8) hours of each day and no less than a licensed practical nurse *is* on duty for each of the other two (2) shifts. *( )*

ii. In SNFs with an average occupancy rate of sixty (60) to eighty-nine (89) residents a licensed registered nurse *is* on duty for each a.m. shift (approximately 7:00 a.m. - 3:00 p.m.) and p.m. shift (approximately 3:00 p.m. to 11:00 p.m.) and no less than a licensed practical nurse on the night shift. *( )*

iii. In SNFs with an average occupancy rate of ninety (90) or more residents a licensed registered nurse *is* on duty at all times. *( )*

*i*v. In those facilities authorized to utilize a licensed practical nurse as charge nurse, the facility must make documented arrangements for a licensed registered nurse to be on call for these shifts to provide professional nursing support. (1-1-88)

d. Nursing hours per resident per day *are* provided to meet the total needs of the residents. The minimum staffing *is* as follows: *( )*

i. Skilled Nursing Facilities with a census of fifty-nine (59) or less residents provide two and four-tenths (2.4) hours per resident per day. Hours *do* not include the DNS but the supervising nurse on each shift may be counted in the calculations of the two and four-tenths (2.4) hours per resident per day. *( )*

ii. Skilled Nursing Facilities with a census of sixty (60) or more residents provide two and four-tenths (2.4) hours per resident per day. Hours *do* not include the DNS or supervising nurse. *( )*

iii. Nursing hours per resident per day are required seven (7) days a week with provision for relief personnel. ( )

iv. Skilled Nursing Facilities *are* considered in compliance with the minimum staffing ratios if, on Monday of each week, the total hours worked by nursing personnel for the previous seven (7) days equal or exceed the minimum, staffing ratio for the same period when averaged on a daily basis and the facility has received prior approval from the Licensing Agency to calculate nursing hours in this manner. ( )

e. Combined Hospital and Skilled Nursing Facility. In a combined facility the DNS may serve both the hospital and long term care unit with supervising and charge nurses as required under Subsection 200.02.b. and 200.02.c. In a combined facility of less than forty-one (41) beds, the supervising or charge nurse may be an LPN. Combined beds (forty-one (41) or less) represent the total number of acute care (hospital) and long term care (nursing home) beds. (12-31-91)

f. Waiver of Licensed Registered Nurse as Supervising or Charge Nurse. In the event that a facility is unable to hire licensed registered nursing personnel to meet these regulation requirements, a licensed practical nurse will satisfy the requirements so long as: (1-1-88)

i. The facility continues to seek a licensed registered nurse at a compensation level at least equal to that prevailing in the community; (1-1-88)

ii. A documented record of efforts to secure employment of licensed registered nursing personnel is maintained in the facility; (1-1-88)

iii. The facility maintains at least forty (40) hours a week R.N. coverage. (1-1-88)

g. There *is* at least two (2) nursing personnel on duty on each shift to ensure *resident* safety in the event of accidents, fires, or other disasters. ( )

h. Nursing care is given only by licensed staff, nursing personnel, and auxiliary nursing personnel. (1-1-88)

03. *R*esident Care. *That nursing staff must document on the resident medical record, any assessments of the resident, any interventions taken, effect of interventions, significant changes and observations, and the administration of medications, treatments, and any other services provided, and entries made at the time the action occurs with signature, date and time. At a minimum, a monthly summary of the resident's condition and reactions to care must be written by a licensed nursing staff person.* ( )

04. Medication Administration. Medications *must* be provided to residents by licensed nursing staff in accordance with established written procedures that include*s* at least the following: ( )

a. Administered in accordance with physician's, dentist's, or nurse practitioner's written orders; (1-1-88)

b. The resident is identified prior to administering the medication; (1-1-88)

c. Medications are administered as soon as possible after preparation; (1-1-88)

d. Medications are administered only if properly identified; (1-1-88)

e. Medications are administered by the person preparing the medication for delivery to the *resident* (exception: Unit dose); ( )

f. Residents are observed for reactions to medications and if a reaction occurs, it is immediately reported to the charge nurse and attending physician; (1-1-88)

g. Each resident's medication is properly recorded on *their* individual medication record by the person

administering the medication. The record includes: ( )

i. Method of administration; (1-1-88)

ii. Name and dosage of the medication; (1-1-88)

iii. Date and time of administration; (1-1-88)

iv. Site of injections; (1-1-88)

v. Name or initial (that has elsewhere been identified) of person administering the medication; (1-1-88)

vi. Medications omitted; (1-1-88)

vii. Medication errors (that are reported to the charge nurse and attending physician. (1-1-88)

05. Tuberculosis Control. *That i*n order to assure the control of tuberculosis in the facility, there *is* a planned, organized program of prevention through written and implemented procedures that are consistent with current accepted practices and includes: ( )

a. The results of a T.B. skin test is established for each resident upon admission. If the status is not known upon admission, a T.B. skin test is done as soon as possible, but no longer than thirty (30) days after admission. (1-1-88)

b. If the T.B. skin test is negative, the test does not have to be repeated. (1-1-88)

c. If the T.B. skin test is positive, if determined upon admission or following the test conducted after admission, the resident *receives* a chest x-ray. A chest x-ray conducted thirty (30) days prior to admission is acceptable. ( )

d. When a chest x-ray is indicated and the resident's condition presents a transportation problem to the x-ray machine, a Sputum culture for m.tuberculosis is acceptable instead of a chest x-ray until the resident's next visit for any purpose to a place where x-ray is available. (1-1-88)

e. Annual T.B. skin testing and/or chest x-rays are not required. (1-1-88)

f. If a case of T.B. is found in the facility, all residents and employees *are* retested. ( )

201. PHARMACY SERVICES.
The following requirements must be met: ( )

01. Pharmacy Service. *That e*ach SNF *has* a written agreement with a pharmacist licensed by the state of Idaho to direct, supervise, and be responsible for pharmacy service in the facility *and* for *coordinating services when more than one (1) supplier of medications is utilized by the facility.* ( )

02. Care of General Medications. *That t*he care and handling of medications *is* conducted in the following manner: ( )

a. Medications are administered to *residents* of the SNF only on the order of a person authorized by law in Idaho to prescribe medications. This order *is* recorded on the resident's medical record, dated and signed by the ordering physician, dentist or nurse practitioner. ( )

b. All telephone and verbal orders are taken by licensed nurses, pharmacists and physicians only, and recorded on the resident's clinical record, dated and signed by the person taking the order. Telephone and verbal orders are countersigned by the ordering physician, dentist or nurse practitioner within seven (7) days. (1-1-88)

c. No person other than licensed nursing personnel and physicians administer medications. This does not include execution of duties of inhalation therapists as ordered by the attending physician. (1-1-88)

d. Nursing service personnel do not package or repackage, bottle or label any medication, in whole or in part. (1-1-88)

e. Prescription medication *is* administered only to the *resident* whose name appears on the prescription legend. *( )*

f. All medications are labeled with the original prescription legend including the name and address of the pharmacy, resident's name, physician's name, prescription number, original date and refill date, dosage unit, number of dosage units, and instructions for use and drug name. (Exception: See Unit Dose System.) (1-1-88)

g. No alteration or replacement of original prescription legend is allowed. (1-1-88)

h. Prescription renewal or refill is made only under physician's, dentist's, or nurse practitioner's authorization. (1-1-88)

i. Drugs dispensed meet the standards established by the United States Pharmacopeia, the National Formulary, New Drugs, the Idaho Board of Pharmacy, and the U.S. Food and Drug Administration. (1-1-88)

j. All medications in the facility *are* maintained in a locked cabinet *with t*he key for the lock carried only by licensed nursing personnel and/or the pharmacist. *( )*

k. Poisons and toxic chemicals are stored in separate locked areas apart from medications. (1-1-88)

0*3*. Record of Medications. (7-1-93)

a. An accurate and complete record of all medication given, both prescription and nonprescription, is recorded in the resident's chart. The record includes the time given, the medication given, date, dosage, method of administration, and the name and professional designation (R.N., L.P.N.) of the person preparing and administering the medication. The first and last name initials may be used if identified fully elsewhere in the medical record. (1-1-88)

b. Entries are made on the resident's medication record whenever medications are started or discontinued. (1-1-88)

c. Reasons for administration of a PRN medication and the resident's response to the medication are documented in the nurse's notes. (1-1-88)

0*4*. Unit Dose Pharmacy. *That a* unit dose pharmacy system may be provided in a SNF as the drug distribution system under the following rules and regulations. *( )*

a. All residents of the facility are served by the unit dose system. (1-1-88)

b. All medications distributed to the residents are under the unit dose system, if they are prepared and available in unit dose. (1-1-88)

c. The unit dose system is on a signed, written agreement basis between the facility and the pharmacist. If the facility employs a pharmacist to operate its own in-house pharmacy, a signed, written agreement is not necessary. (1-1-88)

d. All medications are packaged by individual unit dose, and labeled with drug (proprietary and/or generic) name, unit of dose, and lot identification number or date packaged, and such other rules that may be promulgated by the Board of Pharmacy. The pharmacist maintains a log identifying the drug lot number by date packaged. (1-1-88)

e. The pharmacist (or the facility) provides suitable drug-distribution cabinets that can be locked, or in lieu of a locked cabinet, medications are stored in a room that can be locked. Safe, orderly transport of the drug distribution cabinets are assured by the pharmacist. (1-1-88)

f. A direct copy of all medication orders from the resident's chart are supplied to the pharmacist in a timely manner so that they can maintain each individual resident's medication profile in the pharmacy from which they fill each resident's twenty-four (24) hour medication orders. (1-1-88)

g. The pharmacist is responsible to see that each individual resident's medication drawer is filled from the drug distribution cabinet each twenty-four (24) hours from the resident's medication profile; records individual doses not administered from returned sets of drawers; indicates the reason the medication was not administered; and records medications supplied for the next twenty-four (24) hour period. (1-1-88)

h. Designated nursing staff check each resident's medication drawer contents against *their* medication profile prior to distribution to the resident. *( )*

i. The unit dose system is an alternate to packaging and labeling requirements and does not preclude the facility from meeting all other requirements of Section 201. (12-31-91)

05. Customized Medication Packaging. *That t*he packaging of medications commonly referred to as "blister paks," "punch cards" and "bingo cards" may be utilized by the facility provided that measures of accountability, safety and sanitation are employed. Customized packaging is not to be interpreted to mean a unit dose system. All other requirements of Section 201 appl*ies* except for alternate packaging systems. *( )*

202. PET THERAPY.
The following requirements must be met: *( )*

01. Policies and Procedures. *That p*olicies and procedures *are* developed by the facility concerning the admission of pets through a visitation program or on a permanent basis. *( )*

02. Type of Pet Allowed. *That the t*ypes of pets allowed *are* as follows: *( )*

a. Only domesticated household pets (dogs, cats, birds, fish, hamsters, etc.) are permitted. Exotic pets and wild animals, even though trained, *are* not be permitted due to the high potential for spread of disease and injury to residents or staff. These include, but are not limited to, iguanas, snakes and other reptiles, monkeys, raccoons and skunks. Turtles are not permitted in the facility. *( )*

b. If animals that are prohibited as designated in Subsection 202.02.a. of these rules are brought in for visitation, they are kept on a leash and under the control of the trainer at all times. (1-1-88)

03. Examination of Pets. *That p*ets receive an examination by a veterinarian prior to admission to the facility. Appropriate vaccinations *are* given. Birds subject to transmission of psittacosis are included. *( )*

04. Enclosures. *That s*mall animals such as hamsters and birds *are* kept in enclosures. *( )*

05. Permitted Areas. *That p*ets *are* not *to* be allowed in food preparation or storage areas or any other area if their presence would pose a significant risk to residents, staff or visitors. *( )*

06. Interference. *That t*he presence of pets *do* not interfere with the health and rights of other individuals, i.e., noise, odor, allergies, and interference with the free movement of individuals about the facility. *( )*

203. RESIDENT RECORDS.
The facility maintains medical records for all residents in accordance with accepted professional standards and practices. *The following requirements must be met:* *( )*

01. Responsible Staff. *That t*he administrator designate*s* a staff member the responsibility for the

accurate maintenance of medical records. If this person is not a Registered Health Information Administrator (RHIA) or a Registered Health Information Technician (RHIT), consultation from such a qualified individual *is* provided periodically to the designated staff person. *( )*

02. Individual Medical Record. *That a*n individual medical record *is* maintained for each admission with all entries kept current, dated, and signed. *( )*

03. Confidentiality. *That t*he facility safeguard*s* medical record information against loss, destruction, and unauthorized use. *( )*

204. DAY CARE SERVICES.
Day care services may be provided for up to twelve (12) hours per day as determined by facility policy. If provided, it *can*not interfere with the regular services to facility residents. *The following requirements must be met:* *( )*

01. Staffing. *That t*he facility provide*s* additional staff depending upon the number of day care participants *with the following*: *( )*

a. Assure that in-house facility residents are provided the nursing hours per resident per day as described in Subsection 200.02.c. (12-31-91)

b. Assure that the day care participants receive the services necessary to meet their needs. (1-1-88)

02. Records. *That a* day care participant record *is* maintained. *( )*

03. Space and Supplies. *That f*acilities accepting day care participants provide such space and supplies as necessary to comfortably and efficiently meet the needs of both in-house residents and day care participants. *( )*

205. CHILD CARE CENTERS.
The following requirements must be met: *( )*

01. Policies and Procedures. *That a*ny facility that permits a child care center adjacent to or attached to the skilled nursing facility establish*es* well-defined written and implemented policies and procedures pertaining to the relationship between the child care center and the SNF. These include, but are not limited to *infection control and prevention of disease transmission.* *( )*

02. Day Care Licensure. *That a*ny day care home or day care center for children, as defined under Basic Day Care License Act, Sections 39-1101 through 39-1117, Idaho Code, either attached as a distinct part or as a separate facility on the premises of the SNF facility *is* licensed separately by the appropriate state or local licensing agency. *( )*

03. Day Care Compliance. *That e*very child day care home or center compl*ies* with the Idaho Department of Health and Welfare Rules, IDAPA 16.02.10, "Idaho Reportable Diseases." *( )*

04. Day Care Staff. *That e*ach child day care home or center *is* staffed appropriately to meet the needs of the children cared for as a completely separate staff from those employees of the SNF facility. *( )*

206. -- 300. (RESERVED)

301. RESPITE CARE SERVICES.
If the SNF offers respite care to relieve families or other individuals, there *must* be policies and procedures written and implemented regarding the program. *The following requirements must be met:* *( )*

01. Admissions. *That r*espite care residents *are* admitted to the facility in the same manner as any other admission that includes, but is not limited to: *( )*

a. Authorization by a physician. (1-1-88)

b. Current medical and other information sufficient to allow the facility to safely care for the resident. (1-1-88)

c. Medication and treatment orders signed and dated by the resident's attending physician. (1-1-88)

02. Limitations. *That n*o resident *is* considered as respite care when the stay at the facility is not for purposes of relief for other care givers or families and that exceeds a four (4) week period of time. Variances may be granted by the Department on a case-by-case basis. *( )*

03. Records. *That r*ecords *are* maintained for all respite care residents that include at least the following: *( )*

a. Medical information sufficient to care for the resident submitted by the attending physician. (1-1-88)

b. Signed and dated physician's orders for care, including diet, medications, treatments, and any physical activity limitations. (1-1-88)

c. Nursing and other notes by staff caring for the resident. (1-1-88)

d. Medication administration record. (1-1-88)

e. Pertinent resident data information such as name, address, next of kin, who to call in an emergency, name of physician, etc. (1-1-88)

04. Exceptions. *That d*ue to the short length of stay, certain documents and actions provided to and required for other in-house nonrespite care residents are not required for respite care residents. Allowances to be considered are as follows: *( )*

a. A complete history and physical examination by the physician is not required so long as he provides the facility with sufficient information to care for the resident. (1-1-88)

b. Physician visits are required only if the resident needs such a visit due to illness or injury or if the resident exceeds the definition of respite care and remains in the facility beyond a four (4) week period of time. (1-1-88)

c. The resident care plan may be limited to include care and services to be provided during *their* stay and short and long term goals are not necessary. *( )*

d. Activity assessments and plans are not necessary so long as any activity limitations are known and recorded on the resident's plan of care. (1-1-88)

302. *(RESERVED)*

303. OTHER SERVICES.
If a SNF offers home health, hospice, or other services from the facility, the needs and requirements for the delivery of those services *must* in no way interfere with the ongoing operation of the SNF. *( )*

304. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has granted the Department of Health and Welfare authority to enter into contracts and agreements with the Federal government to carry out the purposes of any Federal acts pertaining to public assistance or welfare services. The Department of Health and Welfare has authority to make rules governing the administration and management of the Department's business, pursuant to Sections 56-203, Idaho Code. (4-11-06)

001. TITLE, SCOPE, AND PURPOSE.

01. Title. These rules are titled IDAPA 16.03.04 "*Idaho* Food Stamp Program." *( )*

02. Scope. These rules contain the requirements for application and the eligibility criteria to receive benefits in the Food Stamp Program. These rules are administered by the Department of Health and Welfare for the United States Department of Agriculture. (4-11-06)

03. Purpose. The purpose of these rules is to raise the nutritional level among low-income households whose limited food purchasing power contributes to hunger and malnutrition among members of such households. These rules also provide the regulatory basis for that procedure. (4-11-06)

002. -- 007. (RESERVED)

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse or Misconduct." (3-30-07)

009. *(RESERVED)*

010. DEFINITIONS A THROUGH D.
For the Food Stamp Program, the following definitions apply: (4-11-06)

01. Adequate Notice. Notice a household must receive on or before the first day of the month an action by the Department is effective. (4-6-05)

02. Administrative Error Claim. A claim resulting from an overissuance caused by the Department's action or failure to act. (6-1-94)

03. Aid to the Aged, Blind and Disabled (AABD). Cash, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. (4-11-06)

04. Applicant. A person applying for Food Stamps. (6-1-94)

05. Application for Participation. The application form filed by the head of the household or authorized representative. (6-1-94)

06. Application for Recertification. When a household applies for recertification within thirty (30) days of the end of the certification period, it is considered an application for recertification even if a partial month of benefits is received. (4-11-06)

07. Authorized Representative. A person designated by the household to act on behalf of the household to apply for or receive and use Food Stamps. Authorized representatives include private nonprofit organizations or institutions conducting a drug addiction or alcoholic treatment and rehabilitation center acting for center residents. Authorized representatives include group living arrangement centers acting for center residents. Authorized representatives include battered women's and children's shelters acting for the shelters' residents. Homeless meal providers may not be authorized representatives for homeless Food Stamp recipients. (4-11-06)

08. Battered Women and Children's Shelter. A shelter for battered women and children which is a public or private nonprofit residential facility. If the facility serves others, a portion of the facility must be set aside on a long-term basis to serve only battered women and children. (6-1-94)

09. Boarder. Any person or group to whom a household, other than a commercial boarding house,

furnishes meals and lodging in exchange for an amount equal to or greater than the thrifty food plan. Children, parents and spouses in a household must not be treated as boarders. (6-1-94)

10. Boarding House. A licensed commercial enterprise offering meals and lodging for payment to make a profit. (6-1-94)

11. Broad Based Categorical Eligibility. If a participant meets the eligibility requirements found in 7 CFR Section 273.2(j)(2) as well as all other Food Stamp eligibility criteria, then the participant is eligible for Food Stamps. Participants who are eligible under this definition are also subject to resource, gross, and net income eligibility standards. (7-1-16)

12. Categorical Eligibility. If all household members receive or are authorized to receive monthly cash payment through TAFI, AABD or SSI, the household is categorically eligible. Categorically eligible households are exempt from resource, gross and net income eligibility standards. (4-11-06)

13. Certification Period. The period of time a household is certified to receive Food Stamp benefits. The month of application counts as the first month of certification. (4-11-06)

14. Contact (Six-Month). A six-month contact is a recertification that waives the interview requirement, allowing for written contact and verification of the participant's circumstances in lieu of the interview. (3-29-12)

15. Claim Determination. The action taken by the Department establishing the household's liability for repayment when an overissuance of Food Stamps occurs. (6-1-94)

16. Client. A person entitled to or receiving Food Stamps. (6-1-94)

17. Department. The Idaho Department of Health and Welfare. (6-1-94)

18. Disqualified Household Members. Individuals required to be excluded from participation in the Food Stamp Program are Disqualified Household Members. These include: (6-1-94)

a. Ineligible legal non-citizen who do not meet the citizenship or eligible legal non-citizen requirements. (7-1-98)

b. Individuals awaiting proof of citizenship when citizenship is questionable. (6-1-94)

c. Individuals disqualified for failure or refusal to provide a Social Security Number (SSN). (6-1-94)

d. Individuals disqualified for Intentional Program Violation (IPV). (6-1-94)

e. Individuals disqualified for receiving three (3) months of Food Stamps in a three (3) year period in which they did not meet the work requirement for able-bodied adults without dependent children. (7-1-98)

f. Individuals disqualified as a fugitive felon or probation or parole violator. (7-1-98)

g. Individuals disqualified for a voluntary quit or reduction of hours of work to less than thirty (30) hours per week. (7-1-98)

h. Individuals disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (7-1-98)

i. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use, or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. (3-30-01)

19. Documentation. The method used to record information establishing eligibility. The information

must sufficiently explain the action taken and the proof and how it was used. (6-1-94)

20. Drug Addiction or Alcoholic Treatment Program. Any drug addiction or alcoholic treatment rehabilitation program conducted by a private nonprofit organization or institution or a publicly operated community mental health center under Part B of Title XIX of the Public Health Service Act (42 USC 300x, et seq.). Indian reservation based centers may qualify if FNS requirements are met and the program is funded by the National Institute on Alcohol Abuse under Public Law 91-616 or was transferred to Indian Health Service funding. (4-6-05)

011. DEFINITIONS E THROUGH L.
For the Food Stamp Program, the following definitions apply: (4-11-06)

01. Electronic Benefit Transfer. A method of issuing Food Stamps to an eligible household. (7-1-98)

02. Eligible Foods. Any food or food product for human consumption excluding alcohol, tobacco, and hot foods and hot food products ready for immediate consumption. Eligible foods include: (6-1-94)

a. Garden seeds and plants to grow food for human consumption. (6-1-94)

b. Meals prepared for the elderly at a communal dining facility. (6-1-94)

c. Meals prepared and delivered by an authorized meal delivery service. (6-1-94)

d. Meals served to a narcotics addict or alcoholic who participate and reside in a rehabilitation center program. (6-1-94)

e. Meals prepared and served by an authorized group living center to blind or disabled residents who receive benefits under Titles I, II or X, XIV, XVI of the Social Security Act. (6-1-94)

f. Meals prepared and served at a shelter for battered women and children to eligible residents. (6-1-94)

g. Meals prepared and served by an authorized public or private nonprofit establishment to homeless Food Stamp participants. (6-1-94)

03. Eligible Household. A household living in Idaho and meeting the eligibility criteria in these rules. (4-11-06)

04. Emancipated Minor. A person, age fourteen (14) but under age eighteen (18), who has been married or whose circumstances show the parent and child relationship has been renounced such as a child in the military service. (6-1-94)

05. Enumeration. The requirement that each household member provide the Department either their Social Security Number (SSN) or proof that they have applied. (6-1-94)

06. Exempt. A household member who is not required to register for or participate in the JSAP program is exempt. A household member who is not required to register for work is exempt. (6-1-94)

07. Extended Certification Household (EC). A household in which all members are elderly or disabled, and no one has earned income. (3-29-10)

08. Fair Hearing. A fair hearing in an appeal of a Department decision. See Section 003 of these rules for appeals. (4-11-06)

09. Federal Fiscal Year. The federal fiscal year (FFY) is from October 1 to September 30. (6-1-94)

10. Field Office. A Department of Health and Welfare service delivery site. (4-6-05)

11. **Food and Nutrition Service (FNS)**. The Food and Nutrition Service of the U.S. Department of Agriculture. This is the federal entity that administers the Food Stamp program. (4-11-06)

12. **Group Living Arrangement**. A public or private nonprofit residential setting serving no more than sixteen (16) residents. The residents are blind or disabled and receiving benefits under Title II or XVI of the Social Security Act, certified by the Department under regulations issued under Section 1616(e) of the Social Security Act, or under standards determined by the Secretary of USDA to be comparable to Section 1616(e) of the Social Security Act. (6-1-94)

13. **Homeless Person**. A person: (6-1-94)

a. Who has no fixed or regular nighttime residence. (6-1-94)

b. Whose primary nighttime residence is a temporary accommodation for not more than ninety (90) days in the home of another individual or household. (7-1-98)

c. Whose primary nighttime residence is a temporary residence in a supervised public or private shelter providing temporary residence for homeless persons. (6-1-94)

d. Whose primary nighttime residence is a temporary residence in an institution which provides temporary residence for people who are being transferred to another institution. (6-1-94)

e. Whose primary nighttime residence is a temporary residence in a public or private place which is not designed or customarily used as sleeping quarters for people. (6-1-94)

14. **Homeless Meal Provider**. A public or private nonprofit establishment or a profit-making restaurant which provides meals to homeless people. The establishment or restaurant must be approved by the Department and authorized as a retail food store by FNS. (7-1-98)

15. **Identification Card**. The card identifying the bearer as eligible to receive and use Food Stamps. (4-11-06)

16. **Inadvertent Household Error Claim (IHE)**. A claim resulting from an overissuance, caused by the household's misunderstanding or unintended error. A household error claim pending an intentional program violation decision. (6-1-94)

17. **Income and Eligibility Verification System (IEVS)**. A system of information acquisition and exchange for income and eligibility verification which meets Section 1137 of the Social Security Act requirements. (6-1-94)

18. **Institution of Higher Education**. Any institution which normally requires a high school diploma or equivalency certificate for enrollment. These institutions include colleges, universities, and business, vocational, technical, or trade schools at the post-high school level. (7-1-97)

19. **Institution of Post-Secondary Education**. Educational institutions normally requiring a high school diploma or equivalency certificate for enrollment, or admits persons beyond the age of compulsory school attendance. The institution must be legally authorized by the state and provide a program of training to prepare students for gainful employment. (4-11-06)

20. **Legal Noncitizen**. A qualified alien under 8 USC Section 1641(b). (4-6-05)

21. **Limited Utility Allowance (LUA)**. Utility deduction given to a food stamp household that has a cost for more than one (1) utility. This includes electricity and fuel for purposes other than heating or cooling, water, sewage, well and septic tank installation and maintenance, telephone, and garbage or trash collection. (4-11-06)

012. DEFINITIONS M THROUGH Z.
For the Food Stamp Program, the following definitions apply: (4-11-06)

01. Migrant Farmworker Household. A migrant farmworker household has a member who travels from community to community to do agricultural work. (4-6-05)

02. Minimum Utility Allowance (MUA). Utility deduction given to a food stamp household that has a cost for one (1) utility that is not heating, cooling, or telephone. (3-29-10)

03. Nonexempt. A household member who must register for and participate in the JSAP program. A household member who must register for work. (6-1-94)

04. Nonprofit Meal Delivery Service. A political subdivision or a private nonprofit organization, which prepares and delivers meals, authorized to accept Food Stamps. (6-1-94)

05. Overissuance. The amount Food Stamps issued exceeds the Food Stamps a household was eligible to receive. (6-1-94)

06. Parental Control. Parental control means that an adult household member has a minor in the household who is dependent financially or otherwise on the adult. Minors, emancipated through marriage, are not under parental control. Minors living with children of their own are not under parental control. (4-6-05)

07. Participant. A person who receives Food Stamp benefits. (4-6-05)

08. Program. The Food Stamp Program created under the Food Stamp Act and administered in Idaho by the Department. (6-1-94)

09. Public Assistance. Public assistance means Temporary Assistance for Families in Idaho (TAFI), and Aid to the Aged, Blind, and Disabled (AABD). (4-6-05)

10. Recertification. A recertification is a process for determining ongoing eligibility for Food Stamps. (4-11-06)

11. Retail Food Store. A retail food store, for Food Stamp purposes means: (6-1-94)

a. An establishment, or recognized department of an establishment, or a house-to-house food trade route, whose food sales volume is more than fifty percent (50%) staple food items for home preparation and consumption. (6-1-94)

b. Public or private communal dining facilities and meal delivery services. (6-1-94)

c. Private nonprofit drug addict or alcohol treatment and rehabilitation programs. (6-1-94)

d. Public or private nonprofit group living arrangements. (6-1-94)

e. Public or private nonprofit shelters for battered women and children. (6-1-94)

f. Private nonprofit cooperative food purchasing ventures, including those whose members pay for food prior to the receipt of the food. (6-1-94)

g. A farmers' market. (6-1-94)

h. An approved public or private nonprofit establishment which feeds homeless persons. The establishment must be approved by FNS. (7-1-98)

12. Sanction. A penalty period when an individual is ineligible for Food Stamps. (3-30-07)

13. Seasonal Farmworker Household. A seasonal farmworker household has a member who does agricultural work of a seasonal or other temporary nature. (4-6-05)

14. Self-Employment. Self-employment is the process of actively earning income directly from one's own business, trade, or profession. To be considered self-employed, a person is responsible for obtaining or providing a service or product that generates or is expected to generate income. Self-employment applies only to a business owned by one (1) person. A business owned by more than one (1) person is considered employment, not self-employment. (4-11-19)

15. Spouse. Persons who are legally married under Idaho law. (4-4-13)

16. Standard Utility Allowance (SUA). Utility deduction given to a food stamp household that has a cost for heating or cooling. (4-11-06)

17. State. Any of the fifty (50) States, the District of Columbia, Puerto Rico, Guam, the Northern Mariana Islands and the Virgin Islands of the United States. (6-1-94)

18. State Agency. The Idaho Department of Health and Welfare. (6-1-94)

19. Student. An individual between the ages of eighteen (18) and fifty (50), physically and intellectually fit, and enrolled at least half-time in an institution of higher education. (6-1-94)

20. Supplemental Security Income (SSI). Monthly cash payments under Title XVI of the Social Security Act. Payments include state or federally administered supplements. (4-11-06)

21. Systematic Alien Verification for Entitlements (SAVE). The federal automated system that provides immigration status needed to determine an applicant's eligibility for many public benefits, including Food Stamps. (4-11-06)

22. Telephone Utility Allowance (TUA). Utility deduction given to a Food Stamp household that has a cost for telephone services and no other utilities. (3-29-10)

23. Timely Notice. Notice that is mailed via the U. S. Postal Service, or electronically, at least ten (10) days before the effective date of an action taken by the Department. (3-29-12)

24. Twelve Month Contact. For households that have a twenty-four (24) month certification period, Department staff contact the household during the twelfth month of the certification period for the purpose of determining continued eligibility. (4-6-05)

25. Tribal General Assistance. Cash, excluding in-kind assistance, financed by federal, state or local government and provided to cover living expenses or other basic needs. This cash is intended to promote the health and well-being of recipients. (4-11-06)

26. Verification. The proof obtained to establish the accuracy of information and the household's eligibility. (6-1-94)

27. Verified Upon Receipt. Food stamp benefits are adjusted on open food stamp cases when information is received from "verified upon receipt" sources. Information "verified upon receipt" is received from a manual query or automated system match with the Social Security Administration or Homeland Security query for citizenship status. (3-30-07)

28. Written Notice. Correspondence that is generated by any method including handwritten, typed, or electronic, delivered to the customer by hand, U.S. Mail, professional delivery service, or by any electronic means. The terms "notice" and "written notice" are used interchangeably. (3-29-12)

013. ABBREVIATIONS A THROUGH G.
For the purposes of the Food Stamp Program, the following abbreviations are used. (4-11-06)

01. AABD. Aid to the Aged, Blind and Disabled. (9-1-94)

02. **ABAWD**. Able bodied adults without dependents. (7-1-98)

03. **AE**. Administrative Error. (3-15-02)

04. **AFA**. Application for Assistance. (7-1-98)

05. **BIA**. Bureau of Indian Affairs. (6-1-94)

06. **BIA GA**. Bureau of Indian Affairs-general assistance. (6-1-94)

07. **COLA**. Cost of Living Allowance. COLA data comes from SSA. (4-6-05)

08. **CSS**. Bureau of Child Support Services. (7-1-98)

09. **DHW**. The Department of Health and Welfare in Idaho. (6-1-94)

10. **DMV**. Department of Motor Vehicles in Idaho. (4-11-06)

11. **EBT**. Electronic Benefit Transfer. (7-1-98)

12. **EWS**. Enhanced Work Services. (4-6-05)

13. **FNS**. The Food and Nutrition Service of the U.S. Department of Agriculture. (4-11-06)

14. **FFY**. Federal fiscal year. (6-1-94)

15. **FMV**. Fair market value. (6-1-94)

16. **FPG**. Federal Poverty Guideline(s). (4-6-05)

17. **FQC**. Federal Quality Control. (6-1-94)

18. **HUD**. The U.S. Department of Housing and Urban Development. (6-1-94)

014. ABBREVIATIONS I THROUGH Z.
For the purposes of the Food Stamp Program, the following abbreviations are used. (4-11-06)

01. **ICCP**. Idaho Child Care Program. (4-11-06)

02. **IHE**. Inadvertent household error. (6-1-94)

03. **INS**. Immigration and Naturalization Service, in 2003, became the United States Citizenship and Immigration Service (USCIS), a Division of Homeland Security. (4-11-06)

04. **INA**. Immigration and Nationality Act. (4-6-05)

05. **IPV**. Intentional program violation. (6-1-94)

06. **IRS**. Internal Revenue Service. (6-1-94)

07. **JSAP**. Job Search Assistance Program. (6-1-94)

08. **LUA**. Limited utility allowance. (4-11-06)

09. **MUA**. Minimum utility allowance. (4-11-06)

10. **PA**. Public Assistance. (6-1-94)

11. **RSDI**. Retirement, Survivors, Disability Insurance received from SSA. (6-1-94)

12. **SAVE**. Systematic Alien Verification for Entitlements. (4-11-06)

13. **SDX**. State Data Exchange. (6-1-94)

14. **SQC**. State Quality Control. (6-1-94)

15. **SRS**. Self Reliance Specialist. (7-1-98)

16. **SUA**. Standard utility allowance. (4-11-06)

17. **SSA**. Social Security Administration. (6-1-94)

18. **SSI**. The Federal Supplemental Security Income Program for the aged, blind or disabled. (6-1-94)

19. **SSN**. Social Security number. (6-1-94)

20. **TAFI**. Temporary Assistance for Families in Idaho. (7-1-98)

21. **TOP**. Treasury Offset Program. (3-15-02)

22. **TUA**. Telephone Utility Allowance. (3-29-10)

23. **UI**. Unemployment Insurance. (6-1-94)

24. **USDA**. United States Department of Agriculture. (6-1-94)

25. **VA**. The Veterans Administration. (6-1-94)

26. **WIOA**. The Workforce Innovation and Opportunity Act. (4-11-19)

27. **WIC**. The special supplemental Food Program for Women, Infants, and Children. (6-1-94)

015. -- 098. (RESERVED)

099. SIGNATURES.
An individual who is applying for benefits, receiving benefits, or providing additional information as required by this chapter, may do so with the depiction of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-29-12)

100. APPLICATION.
To apply for Food Stamps, the household or an authorized representative must complete and file the application form, interview with the Department and verify information. There is no age requirement for applicants. Applicants may bring anyone to the interview. The Department will act on all applications. The Department will grant Food Stamps to eligible households back to the date of application. (6-1-94)

101. APPLICATION FORMS.
Households can file an application the first day they contact the Department. The Department will have Application for Assistance (AFA) (HW 0901) forms readily available to households. *( )*

01. Expectation. The household must turn in page one (1) of the AFA to file for Food Stamps. The Department will provide an AFA to any person making a request. Requests for the application can be made by telephone, in person or by another person. The Department will mail or give the AFA to the person on the day

requested. ( )

02. Explanation of Application Process. The Department will provide a written statement telling what the household must do to complete the application process. The statement will identify sources of the proof needed to complete the application process. (3-15-02)

102. *(RESERVED)*

103. FILING AN APPLICATION.
The AFA must contain the applicant's name, address, signature and application date. A household can file for Food Stamps by turning in page one of the AFA to the Food Stamp office. This protects the application date. If the household is eligible, Food Stamps for the first month will be prorated from the application date. The AFA can be submitted at the Field Office by the household or authorized representative. The AFA can be submitted by mail. (6-1-94)

104. *-- 105. (RESERVED)*

106. DETERMINATION OF WHEN A NEW APPLICATION FOR ASSISTANCE (AFA) IS REQUIRED.
The Department must follow the procedure outlined in 7 CFR 273.2(g) and (h) in determining when a food stamp household is required to fill out a new application for assistance (AFA). (4-2-08)

***107*. -- 112. (RESERVED)**

113. HOUSEHOLD COOPERATION.
The household must cooperate with the Department. The application must be denied if the household refuses to cooperate. Refusal to cooperate includes failing to act without a sound and timely excuse. Giving false information on purpose is failure to cooperate. The Department must show false information was given on purpose before denying the application. The household is ineligible if it refuses to cooperate in a six-month or twelve-month contact, recertification, program review or evaluation. If an application is denied or Food Stamps are stopped for refusal to cooperate, the household can reapply. The household is not eligible until it cooperates with the Department. (3-29-12)

114. APPLICATION WITHDRAWAL.
Households can withdraw their application any time before the eligibility decision. The Department will document the withdrawal reason in the case record and whether the household was contacted to confirm the withdrawal. The Department will tell the household of the right to reapply. (6-1-94)

115. AUTHORIZED REPRESENTATIVE.
The household can choose a nonhousehold member to act as an authorized representative. The household can designate in writing another responsible household member or a responsible adult outside the household as an authorized representative. An adult employee, of an authorized drug addiction or alcoholic treatment and rehabilitation center or an authorized group living arrangement center, may act as an authorized representative for the household. Conditions for an authorized representative are: (4-11-06)

01. Designating Authorized Representative. When household members cannot apply for, receive or use Food Stamps, the household can choose an authorized representative. The household must appoint the authorized representative in writing. The authorized representative should be aware of household circumstances. The household should prepare or review the AFA when the authorized representative will be interviewed. (4-11-06)

02. Persons Who Cannot Be an Authorized Representative. Persons with a conflict of interest may not act as an authorized representative without the Department's written approval. The Field Office supervisor must determine if no one else is available and give written approval. Persons with a conflict of interest are listed below: (6-1-94)

a. Retailers allowed to accept Food Stamps. (6-1-94)

b. Department employees involved in the certification or issuance process. (6-1-94)

c. A person disqualified for IPV during the penalty period, unless he is the only adult household member and no one else is available. (6-1-94)

d. Homeless meal providers. (6-1-94)

03. Department Responsibilities. The Department will: (6-1-94)

a. Make sure authorized representatives are properly selected. (6-1-94)

b. Record the representative's name in the case record. (6-1-94)

c. Not place limits on the number of households a representative may represent. (6-1-94)

d. Inform the household it will be liable for any overissuance resulting from wrong information given by the representative. (6-1-94)

e. Make sure the household freely requested the representative. (6-1-94)

f. Make sure the household is getting the correct amount of benefits. (6-1-94)

g. Make sure the representative is properly using the Food Stamps. (6-1-94)

04. Authorized Representative Removed. The Department may remove an authorized representative for up to one (1) year if the person knowingly distorts a household's circumstances, gives false information, or improperly uses the Food Stamps. This provision does not apply to drug and alcohol centers and group homes. Written notice must be sent to the household and the authorized representative thirty (30) days before the penalty begins. The notice must list: (6-1-94)

a. The proposed action. (6-1-94)

b. The reason for the action. (6-1-94)

c. The right to a fair hearing. (6-1-94)

d. The name and telephone number to contact for more information. (6-1-94)

05. Contingency Designation. A household member able to apply for and get Food Stamps can name an authorized representative, in writing, in case the household becomes unable to use Food Stamps. (6-1-94)

06. Emergency Designation. The household may choose an emergency authorized representative if unforeseen circumstances arise. The household must complete a statement appointing the person as the authorized representative. The authorized representative must sign the statement. The household cannot be required to go to the Field Office to complete this statement. (4-11-06)

116. -- 119. (RESERVED)

120. HOUSEHOLD INTERVIEWS.
The Department must conduct an interview with the applicant, a member of the household, or the authorized representative. Interviews must be conducted either face-to-face or via telephone, based on hardship criteria evident in the case record. The applicant may bring any other person to the interview. The Department does not require households to report for an in-office interview during their certification period. The frequency of the interview must be as follows: (4-11-06)

01. Twenty-Four Months. The interview must be at least once every twenty-four (24) months for households certified for twenty-four (24) months. (4-11-06)

02. Twelve Months. The interview must be every twelve (12) months for all other households. (4-11-06)

***121*. -- 132. (RESERVED)**

133. VERIFICATION.
The Department must have verification to support the benefit determination. Verification is third party data or documents used to prove the accuracy of AFA information. The Department must give the applicant household a clear written statement of the proof to bring to the interview. The statement will indicate the Department will help the household get proof if needed. The Department must give the household ten (10) calendar days from the request date to provide proof. Proof can be provided in person, by mail or by an authorized representative. If the proof supplied is faulty, not complete or not consistent, the Department can require further proof. The Department must notify the household of any other steps necessary to complete the application process. (4-11-06)

134. *(RESERVED)*

135. SOURCES OF VERIFICATION.
The following sources of verification must be considered: (6-1-94)

01. Written Confirmation. A primary source of proof is written confirmation of circumstances. Written proof includes driver's licenses, work or school identification, birth certificates, wage stubs, award letters, court orders, divorce decrees, separation agreements, insurance policies, rent receipts and utility bills. Acceptable proof is not limited to a single document. Proof can be obtained from the household or other sources. Secondary sources of proof must be used to verify a household's circumstances if the primary source cannot be obtained or does not prove eligibility or benefit level. (4-11-06)

02. Collateral Contacts. A collateral contact is an oral confirmation of a household's circumstances by a person outside of the household. The collateral contact may be made either in person or over the telephone. *( )*

03. Automated System Data. Information that is obtained through interfacing with other government agency computer systems. (4-11-06)

136. *(RESERVED)*

137. PROOF FOR QUESTIONABLE INFORMATION.
Prior to the certification, a six-month or twelve-month contact, or recertification of the household, the Department must verify all questionable information regarding eligibility and benefit level. Proof is required when details are not consistent with information received by the Department. Proof may be obtained either verbally or in writing. (3-29-12)

138. PROVIDING PROOF TO SUPPORT APPLICATION STATEMENTS.
The household has primary responsibility to provide proof supporting its statements on the application. The household has primary responsibility to resolve any questionable information. The Department must assist the household in obtaining proof. Households may supply proof in person, through the mail, by facsimile or other electronic device, or through an authorized representative. The Department will not require the household to present proof in person. (3-15-02)

139. -- 141. (RESERVED)

142. PROCESSING STANDARDS.
The Department will determine Food Stamp eligibility within thirty (30) days of the application date. The application date is the day the AFA is received and date stamped by the Field Office. The application date for a person released from a public institution is the release date, if the person applied for Food Stamps before his release. The AFA must contain at least the applicant's name and address. The AFA must be signed by a responsible household member or representative. (6-1-94)

143. -- 145. (RESERVED)

146. DENIAL OF FOOD STAMP APPLICATION.
The Department will deny the Food Stamp application under conditions listed below. The Department will send the household notice of denial. (6-1-94)

01. Household Ineligible. The Department will deny the application for ineligible households as soon as possible, but not later than thirty (30) calendar days following the application date. (4-5-00)

02. Household Fails to Appear for Interview. If the household fails to appear for an interview, and fails to contact the Department, the application will be denied thirty (30) calendar days after the application date. (4-5-00)

03. Household Does Not Provide Proof After Interview. If the household did not provide requested proof after an interview or later request, the Department will deny the application ten (10) calendar days after the request for proof. (6-1-94)

147. CASE ACTION AFTER DELAY CAUSED BY HOUSEHOLD.
The Department must follow the procedure outlined in 7 CFR 273.2(g) and (h) in determining the appropriate action to take on food stamp benefits when the household has delayed completing the application process. (4-2-08)

148. DELAYS IN PROCESSING CAUSED BY THE DEPARTMENT.
A processing delay exists when the Department does not determine Food Stamp eligibility within thirty (30) days of application. The Department will determine the cause of the delay. Delays caused by the Department are: (6-1-94)

01. No Application Help. The Department did not offer or try to offer help to complete the application. (6-1-94)

02. Work Registration. (6-1-94)

a. The Department did not register household members for work. (6-1-94)

b. The Department did not inform the household of the need to register for work. (6-1-94)

c. The Department did not give the household ten (10) days from the notice date to register for work. (6-1-94)

03. Application Forms Mailed Late. Application forms were requested in writing or by telephone. The Department did not mail the application forms the same day the household made the request. (6-1-94)

04. Proof. The Department did not allow the household ten (10) days from the notice date to provide the missing proof. (6-1-94)

149. *(RESERVED)*

150. DELAYS OVER SIXTY DAYS.
If the Department caused the delay, the Department will process the original application until an eligibility decision is made. The original application must be used even if the second thirty (30) day period has passed. If the household is found eligible and the delay was the Department's fault during the first thirty (30) days, provide Food Stamps back to the application date. If the household is found eligible and the delay was the household's fault during the first thirty (30) days and the Department's fault during the second thirty (30) days, issue Food Stamps for the month after the application month. If the household is at fault for the first and second thirty (30) day delay, deny the application. A new application is required. (1-1-95)

151. -- 154. (RESERVED)

155. EXPEDITED SERVICE ELIGIBILITY.

Applicants must be screened to determine if the household is entitled to expedited service. The household must meet one (1) of the expedited service criteria below. The household must have provided proof postponed by the last expedited service or have been certified under the normal standards since the last expedited service. (4-4-13)

01. Low Income and Resources. To receive expedited services the household's monthly countable gross income must be less than one hundred fifty dollars ($150) and the household's liquid resources must not exceed one hundred dollars ($100). (6-1-94)

02. Destitute. To receive destitute expedited services the household must be a destitute migrant or seasonal farmworker household. The household's liquid resources must not exceed one hundred dollars ($100). (7-1-97)

03. Income Less Than Rent and Utilities. The household's combined monthly gross income and liquid resources are less than their monthly rent, or mortgage, and utilities cost. (6-1-94)

156. TIME LIMITS FOR EXPEDITED FOOD STAMPS.
Time limits for acting on expedited Food Stamp applications are listed below: (6-1-94)

01. Seven Day Limit for Food Stamps. For households entitled to expedited service, the Department will provide Food Stamps to the household within seven (7) days of the application date. (7-1-98)

02. Seven Days After Discovery. If not discovered at initial screening, the Department will provide expedited services to an expedite eligible household within seven (7) days. Seven (7) days begins the day after the Department finds the household is entitled to expedited service. (7-1-98)

03. Seven Days for Waived Interview. The Department will provide expedited services within seven (7) days for households entitled to an office interview waiver. Seven (7) days is counted from the application date. If a telephone interview is conducted, the AFA must be mailed to the household for signature. The mailing time must not be included in the seven (7) days. Mailing time includes the days the AFA is in the mail to and from the household. Mailing time includes the days the AFA is at the household pending signature and mailing. (7-1-98)

04. Treatment Centers. For residents of drug addiction or alcoholic treatment centers, Food Stamps must be provided within seven (7) days of the application date. (7-1-99)

05. Shelter Residents. For residents of shelters for battered women and children, Food Stamps must be provided within seven (7) days of the application date. (7-1-98)

157. EXPEDITED FOOD STAMP WORK REGISTRATION.
The applicant must complete work registration unless he is exempt or has a representative register him. Other non-exempt household members must register if the registration can be done in seven (7) days. (7-1-98)

158. EXPEDITED VERIFICATION.
The Department will verify the applicant's identity through readily available proof or a collateral contact. Proof may include identification such as a driver's license, birth certificate or voter registration card. The Department will try to get proof so that benefits can be issued within seven (7) days of the application date. Expedited Food Stamps must not be delayed beyond seven (7) days for proof other than identity. Other proof can be postponed to issue expedited Food Stamps. (7-1-98)

159. (RESERVED)

160. EXPEDITED CERTIFICATION.
If all required proof is provided for expedited certification, a normal certification period is assigned. Certification based on application date, household type and proof is listed below: (6-1-94)

01. Nonmigrant Household Applying from the First Through the Fifteenth of the Month. For a non-migrant household applying from the first through the fifteenth of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first month's benefits. Do not issue the second month's

benefits until the postponed proof is received. When proof is postponed the household has thirty (30) days from the application date to provide the proof. The household must be given timely and adequate notice no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice. If postponed proof is provided before the second month, process an issuance for the first working day of the second month. If proof is provided in the second month, issue benefits within seven (7) calendar days from the date the proof is received. If postponed proof is not provided within thirty (30) days from the application date, close the case. (3-15-02)

02. Nonmigrant Household Applying from the Sixteenth Through the End of the Month. For a non-migrant household applying from the sixteenth to the end of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first and second month's benefits within the expedited time frame. When proof is postponed the household has thirty (30) days from the application date to complete the proof. The household must be given timely and adequate notice no further benefits will be issued until proof is completed. If the proof results in changes in the household's Food Stamps, the Department will act on the changes without advance notice. If postponed proof is provided within thirty (30) days, process an issuance for the first working day of the third month. If postponed proof is not provided within thirty (30) days from the application date, close the case. (7-1-97)

03. Migrant Household Applying from the First Through the Fifteenth of the Month. For a migrant household applying from the first (1st) through the fifteenth (15th) of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first month's benefits. When proof is postponed the household has thirty (30) days from the application date to complete in-state proof. The household has sixty (60) days from the application date to complete out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the second month's benefits are issued, the household must provide all in-state postponed proofs. Before the third month's benefits are issued, the household must provide all out-of-state postponed proof. If the proofs result in changes in the household's Food Stamps the Department will act on these changes, without providing advance notice. Migrants are entitled to postponed out-of-state proof only once each season. If postponed in-state proof is provided before the second month, process an issuance for the first working day of the second month. If postponed out-of-state proof is provided before the third month, process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, issue benefits within seven (7) calendar days from the date proof is received. If postponed in-state proof is not provided within thirty (30) days from the application date, close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, close the case. (3-15-02)

04. Migrant Household Applying from the Sixteenth Through the End of the Month. For a migrant household applying from the Sixteenth to the end of the month, if proof of eligibility factors is postponed, assign a normal certification period. Issue the first and second months' benefits within the expedited time frame. When proof is postponed the household has thirty (30) days from the application date to provide in-state proof. The household has sixty (60) days from the application date to provide out-of-state proof. The household must be given adequate and timely notice no further benefits will be issued until the postponed proof is completed. Before the third month's benefits are issued, the household must provide all in-state and out-of-state postponed proofs. If the proofs result in changes in the household's Food Stamps the Department will act on these changes without providing advance notice. Migrants are entitled to postponed out-of-state proof only once each season. If postponed proof is provided before the third month, process a regular issuance for the third month. If postponed out-of-state proof is provided in the third month, issue benefits within seven (7) calendar days from the date proof is received. If postponed in-state proof is not provided within thirty (30) days from the application date, close the case. If postponed out-of-state proof is not provided within sixty (60) days from the application date, close the case. (3-15-02)

05. Reapplying Household. When a household granted postponed proof at the last expedited certification reapplies, it must provide the postponed proof. The Department does not require postponed proof if the household was certified under normal standards since the last expedited certification. (6-1-94)

161. NO LIMIT TO EXPEDITED CERTIFICATIONS.

There is no limit to the number of times a household can receive expedited certification. The household must provide proof postponed at the last expedited certification. The Department does not require postponed proof if the household was certified under normal standards since the last expedited certification. (6-1-94)

162. EXPEDITED SERVICES FOR DESTITUTE HOUSEHOLDS.
Migrant or seasonal farmworker households meeting destitute conditions below can get expedited services. The rules for destitute households apply at initial application, the six-month or twelve-month contact, and recertification, but only for the first month of each contact or certification period. (3-29-12)

01. Terminated Source of Income. The household's only income for the application month was received before the application date and was from a terminated source. The household is considered destitute. Terminated income is income received monthly or more often, no longer received from the same source the rest of the application month or the next month or income received less often than monthly, not expected in the month the next regular payment is normally due. (6-1-94)

02. New Income in Application Month. When only new income is expected in the application month, the household is considered destitute. Only twenty-five dollars ($25), or less, of new income can be received in the ten (10) days after the application date. Income is new if twenty-five dollars ($25), or less, is received during the thirty (30) days before the application date. New income received less often than monthly was not received in the last normal payment interval or was twenty-five dollars ($25) or less. (6-1-94)

03. Terminated Income and New Income in Application Month. Destitute households can get terminated income before the application date and new income before and after the application date. New income must not be received for ten (10) days after application and must not exceed twenty-five dollars ($25). The household must get no other income in the application month. (6-1-94)

04. Application Month. For the application month, count only income received between the first day of the month and the application date. Do not count income from a new source expected after the application date. (6-1-94)

163. SPECIAL CONSIDERATION OF INCOME FOR DESTITUTE HOUSEHOLDS.
Special consideration of income for destitute households is listed below. The rules for destitute households apply at initial application, a six-month or twelve-month contact, and recertification, but only for the first month of each contact or certification period. (3-29-12)

01. Travel Advances. For destitute eligibility and benefit level, travel advances apply as follows: Travel advances from employers for travel costs to a new employment location are excluded. Travel advances against future wages are counted as income, but not a new source of income. (6-1-94)

02. Household Member Changes Job. A person changing jobs with the same employer is still getting income from the same source. A migrant's income source is the grower, not the crew chief. When a migrant moves with a crew chief from one (1) grower to another, the income from the first grower is ended. The income from the next grower is new income. (6-1-94)

03. Recertification or Six-Month or Twelve-Month Contact. Disregard income from the new source for the first month of the new certification period if more than twenty-five dollars ($25) will not be received by the tenth calendar day after the normal issuance. (3-29-12)

164. DENIAL OF EXPEDITED SERVICE.
The Department will deny expedited service if the household does not meet expedite criteria. The Department will deny expedited service if the household fails to cooperate in the application process. Failure to cooperate includes missing a scheduled expedited service appointment. The Department will still process the application under standard methods. (6-1-94)

165. CONTESTING DENIED EXPEDITED SERVICE.
The Department will offer an agency conference to a household contesting denial of expedited services. The Department will tell households they can request an agency conference. The Department will tell a household an agency conference will not delay or replace a fair hearing. Migrant farmworker households and households planning to move are entitled to expedited fair hearings. (6-1-94)

166. -- 176. (RESERVED)

177. FOOD STAMPS FOR TAFI OR AABD HOUSEHOLDS.
The Department will tell TAFI or AABD applicants they can apply for Food Stamps when they apply for TAFI or AABD. Households, applying for TAFI or AABD and Food Stamps at the same time, must complete an application for TAFI or AABD and Food Stamps. Households may be eligible for an out-of-office interview. The Food Stamps must be issued by Food Stamp rules. The Department will tell Food Stamp households, applying for TAFI, that TAFI time limits and requirements do not apply to the Food Stamp program. Households no longer receiving TAFI may still be eligible for Food Stamps. (3-15-02)

178. CATEGORICALLY ELIGIBLE HOUSEHOLDS.
Households with all members meeting one (1) of the criteria below are categorically eligible for Food Stamps. The Department will not compute resource eligibility. The Department will not compute gross or net income eligibility. Categorically eligible households must meet all other Food Stamp eligibility criteria. Categorically eligible households have the same rights as other households. (4-7-11)

01. Cash Benefits. All household members are approved for, or already receive, TAFI or AABD or SSI cash benefits. The household is categorically eligible. (4-7-11)

02. Benefits Recouped. All household members have AABD or SSI benefits being recouped. The household is categorically eligible. (7-1-98)

03. Grant Less Than Ten Dollars. All household members not receiving TAFI or AABD or SSI because their grant is less than ten dollars ($10). The household is categorically eligible. (4-7-11)

179. HOUSEHOLDS NOT CATEGORICALLY ELIGIBLE.
The households listed below are not categorically eligible for Food Stamps. (4-7-11)

01. Medicaid Only. Households are not categorically eligible if any household member receives Medicaid benefits only. (4-7-11)

02. IPV. Households are not categorically eligible, if any household member is disqualified for a Food Stamp Intentional Program Violation (IPV). (6-1-94)

03. Work Requirements. Households are not categorically eligible, if any household member fails to comply with the Food Stamp work requirements. (6-1-94)

04. Ineligible Legal Non-Citizen or Student. Households are not categorically eligible if any member is an ineligible legal non-citizen or ineligible student. (7-1-98)

05. Nonexempt Institution. Households are not categorically eligible if any member is a person living in a nonexempt institution. (6-1-94)

180. CATEGORICAL ELIGIBILITY ENDS.
Categorical eligibility ends when the household member is no longer eligible for TAFI, AABD or SSI. If the household is still eligible under Food Stamp rules, the household will continue to receive Food Stamps. If categorical eligibility ends and household income or resources exceed the Food Stamp limits, the household is no longer eligible for Food Stamps. Food Stamps will stop after timely advance notice. (4-7-11)

181. BROAD BASED CATEGORICALLY ELIGIBLE HOUSEHOLD EXCEPTIONS.
If a household contains any of the following members, the household is not eligible under Broad Based Categorical Eligibility. (7-1-16)

01. IPV. Any household member is disqualified for an Intentional Program Violation (IPV). (7-1-16)

02. Drug-Related Felony. Any household member is ineligible because of a drug-related felony. (7-1-16)

03. Strike. Any household member is on strike. (7-1-16)

04. Transferred Resources. Any household member transferred resources in order to qualify for benefits. (7-1-16)

05. Refusal to Cooperate. Any household member refused to cooperate in providing information that is needed to determine initial or ongoing eligibility. (7-1-16)

182. VERIFICATION FOR TAFI OR AABD HOUSEHOLDS.
To determine eligibility for Food Stamps in TAFI or AABD households, *the Department will* use TAFI or AABD proof. *( )*

183. TIME LIMITS FOR CATEGORICALLY ELIGIBLE HOUSEHOLDS.
Food Stamp eligibility can be determined before a public assistance eligibility determination is made. The Food Stamp application must not be delayed or denied because of a delayed public assistance decision. If a Food Stamp household might be categorically eligible, the application cannot be denied until thirty (30) days after the application date. (6-1-94)

***184*. -- 194. (RESERVED)**

195. DISASTER CERTIFICATION.
When allowed by FNS, under the authority of Section 302(a) of the Disaster Relief Act of 1974, the Department can certify households affected by a natural disaster. If the Secretary of USDA declares a disaster area, the Department will follow disaster instructions issued by the USDA. (7-1-98)

196. -- 199. (RESERVED)

200. NONFINANCIAL CRITERIA.
Nonfinancial criteria are identification, residency, Social Security Number, citizenship, and work requirements. Households must meet these nonfinancial criteria to be eligible for Food Stamps. (6-1-94)

201. IDENTIFICATION.
The person making application for Food Stamps must prove identity. The authorized representative, applying on behalf of a household, must prove identity. If an authorized representative is used, the identity of the head of the household must also be proved. Proof includes a driver's license, school identification, wage stubs, and birth certificates. The Department will accept other reasonable proof of identity. (6-1-94)

202. RESIDENCY.
A household must live in Idaho when it applies for Food Stamps. A person can get Food Stamps as a member of only one (1) household a month. *( )*

01. Place of Residency. Households must live in the project area in which they make application. An eligible Food Stamp household is not required to live in a permanent dwelling or have a fixed mailing address. There is no residence duration requirement. (6-1-94)

02. Vacationing Persons Not Residents. Persons in Idaho for vacation only are not residents for Food Stamp eligibility. Vacation is the period a household spends away from their usual activity, work, or home. Vacation is taken for travel, rest, or recreation. (6-1-94)

03. Physical and Mailing Address Different. The physical address and the mailing address of a Food Stamp household can be different. If the mailing address is not the household's physical address, the household must provide proof of the physical address. (6-1-94)

203. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.

01. Expectations. Before certification, households must provide the Department the SSN, or proof of application for SSN, for each household member. If a household member has more than one (1) SSN, he must provide

all of his SSNs. Each SSN must be verified by the Social Security Administration (SSA). A household member with an unverified SSN is not eligible for Food Stamp benefits. The ineligible person's income and resources must be counted in the Food Stamp budget. If benefits are reduced or ended, because one (1) or more persons fail to meet the SSN requirement, the household must be notified in writing. ( )

02. Good Cause for Not Applying for SSN. If a household member can show good cause why an SSN application was not completed in a timely manner, an extension must be granted to allow him to receive Food Stamp benefits for one (1) month in addition to the month of application. Good cause for failure to apply must be shown monthly in order for such a household member to continue to participate. Good cause is described below: (3-20-04)

204. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.
To be eligible for Food Stamps, an individual must meet the requirements specified in 7 CFR 273.4, "Citizenship and alien status." In addition, special immigrants from Iraq and Afghanistan have refugee status under Public Law 111-118, Subsection 8120. (4-7-11)

205. WRITTEN DECLARATION OF CITIZENSHIP OR IMMIGRATION STATUS.
To get Food Stamps, one (1) adult household member must certify by signing a statement, under penalty of perjury, regarding the citizenship and immigration status of household members applying for benefits. ( )

206. PROOF OF PROPER IMMIGRATION STATUS.

01. Expectations. Households are required to submit documents to verify the immigration status of the legal non-citizen applicants. An alien number, by itself, is not considered proof of immigration status. ( )

02. Failure to Provide Legal Non-Citizen Documents. If a household says it is unable or unwilling to provide legal non-citizen status documents for a legal non-citizen household member, the legal non-citizen member must be classified as an ineligible legal non-citizen. (7-1-98)

207. NON-CITIZEN ELIGIBILITY PENDING VERIFICATION.
*When t*he applicant or the Department has submitted a request to a federal agency for proof of eligible alien status, the Department must certify the person applying as eligible for Food Stamps pending the results of the investigation. The certification can last up to six (6) months from the date of the original request for proof. ( )

208. -- 211. (RESERVED)

212. FOOD STAMP HOUSEHOLDS.
A Food Stamp household is composed of a person, or group of persons, applying for or getting Food Stamps. The composition of Food Stamp households is listed below: (6-1-94)

01. Living Alone. A person living alone. (6-1-94)

02. Living with Others. Preparing Separate Meals. A person or persons living with others but customarily purchasing food and preparing meals separately from the others. (6-1-94)

03. Living with Others, But Paying for Meals. A person or persons living with others and furnished both meals and lodging. The person or persons pay less than the thrifty food plan. (6-1-94)

04. Living Together and Preparing Common Meals. A group of persons who live, purchase food, and customarily prepare meals together for home consumption. (6-1-94)

05. Women Living in Shelter. Women, or women with their children, temporarily residing in a shelter for battered women and children. (6-1-94)

06. Living in Drug or Alcohol Treatment Center. Person living in a publicly operated community health center or in a private nonprofit center for drug addiction or alcoholic treatment and rehabilitation. (6-1-94)

07. Resident of Group Living Center. Person residing in a group living arrangement center certified by the Department. (6-1-94)

213. SEPARATE FOOD STAMP HOUSEHOLD COMPOSITION FOR RELATED MEMBERS.
One (1) of the conditions below must be met for related persons living together to be separate Food Stamp households. (6-1-94)

01. Children Age Twenty-Two and Older Living With Parents. Children age twenty-two (22) and older, living with their parents, can be separate Food Stamp households. The households must purchase and prepare their food separately. (9-1-94)

02. Households Must Prepare Food Together Because of Age and Disability. Households that must purchase and prepare food together because one (1) household contains a person sixty (60) years of age or older unable to purchase and prepare meals because of a disability, can be separate Food Stamp households. The spouse of the disabled person must be considered a member of that person's household. These households must meet the following conditions: The disability must be permanent under the Social Security Act or a nondisease related, severe permanent disability. The income of the household, which does not contain the person unable to purchase and prepare meals separately, must not exceed one hundred sixty-five percent (165%) of the net monthly income limit for the household size. To count income for the one hundred sixty-five percent (165%) net monthly income standard: Exclude the income of the disabled person and his spouse. Count all available income to the household not containing the disabled person. Compare the net monthly income eligibility standard for that size household. (5-3-03)

214. CHILD CUSTODY.
For a child who is under the age of eighteen (18), the parent who has primary physical custody is eligible to receive Food Stamp benefits for that child. If both parents request food stamp benefits for the child, primary custody is determined by where the child is expected to spend fifty-one percent (51%) or more of the nights during a certification period. When only one (1) parent applies for food stamp benefits, the child may be included in that parent's household even though they do not have primary physical custody of the child. (4-4-13)

215. PERSONS NOT ELIGIBLE FOR SEPARATE FOOD STAMP HOUSEHOLD STATUS.
Persons listed below cannot be separate Food Stamp households. For Food Stamps, they are part of the household where they live. (6-1-94)

01. Spouse. Spouses are not separate Food Stamp households. (6-1-94)

02. Boarder. Boarders are not separate Food Stamp households. (6-1-94)

03. Parents and Children Together. Children under age twenty-two (22), living together with their parents, are not separate Food Stamp households. Parents and children living together include natural, adopted, or stepchildren. Parents and children living together include natural, adopted, or stepparents. (7-1-98)

04. Child Under Age Eighteen Under Parental Control. A child under age eighteen (18) and under parental control of an adult household member is not a separate household, unless the child is a foster child. (9-1-94)

216. ELDERLY OR DISABLED FOOD STAMP HOUSEHOLD MEMBERS.
To be counted as an elderly or disabled Food Stamp household member, the person must meet one (1) of the criteria listed below: (6-1-94)

01. Age. Age sixty (60) or older. (6-1-94)

02. SSI. Entitled to Supplemental Security Income (SSI) benefits. This includes SSI presumptive disability payments, SSI emergency advance payments, or special SSI status. (6-1-94)

03. RSDI. Entitled to Social Security payments based on disability or blindness. (6-1-94)

04. State Supplement. Entitled to State or Federally funded State supplement payments to the SSI program such as AABD. (6-1-94)

05. Medicaid. Entitled to Medicaid based on SSI related disability or blindness. (6-1-94)

06. Disability Retirement. Entitled to Federal or State funded disability retirement benefits because of a disability considered permanent by the Social Security Administration. (6-1-94)

07. Disabled Veteran. A veteran with a service or nonservice connected disability rated or paid as total. (6-1-94)

08. Veteran Needing Aid and Attendance. A veteran considered in need of regular aid and attendance or permanently housebound under Title 38 of the U.S. Code. (6-1-94)

09. Veteran's Surviving Spouse. A veteran's surviving spouse in need of aid and attendance or permanently housebound. (6-1-94)

10. Veteran's Surviving Child. A veteran's surviving child permanently incapable of self-support under Title 38 of the U.S. Code. (6-1-94)

11. Veteran's Survivor Entitled. A veteran's surviving spouse or child entitled to receive payment for a service-connected death under Title 38 of the U.S. Code. The veteran's surviving spouse or child must be permanently disabled under Section 221(i) of the Social Security Act. A veteran's surviving spouse or child entitled to pension benefits for a nonservice death under Title 38 of the U.S. Code. The veteran's surviving spouse or child must be permanently disabled under Section 221(i) of the Social Security Act. "Entitled" refers to veterans, surviving spouses and children receiving pay or benefits or who have been approved for payments, but are not yet receiving them. (6-1-94)

12. Railroad Retirement and Medicare. Entitled to an annuity payment under Section 2(a)(1)(iv) of the Railroad Retirement Act of 1974 and determined eligible for Medicare by the Railroad Retirement Board. (6-1-94)

13. Railroad Retirement and Disability. Entitled to an annuity payment under Section 2(a)(1)(v) and is determined disabled by the Board according to SSI criteria. (6-1-94)

217. NONHOUSEHOLD MEMBERS.
Nonhousehold members are persons not counted in determining Food Stamp household size. Their income and resources do not count toward the Food Stamp household. Nonhousehold members may be eligible as a separate household. Nonhousehold members are listed below: (6-1-94)

01. Roomers. A person who pays for lodging, but not meals. (6-1-94)

02. Live-In Attendants. A person living with a household to provide medical, housekeeping, child care, or other similar services. (6-1-94)

03. Ineligible Students. A person between the ages of eighteen (18) and fifty (50), physically and intellectually fit, enrolled at least half-time in an institution of higher education, and not meeting Food Stamp eligibility requirements for students. (6-1-94)

04. Residents of Institutions. A resident of an institution is not a member of the Food Stamp household. A resident of an institution is an ineligible household member because the institution provides the resident over fifty percent (50%) of three (3) meals daily, as part of the normal services. The institution is not allowed to accept Food Stamps. (3-30-07)

218. PERSONS DISQUALIFIED AS FOOD STAMP HOUSEHOLD MEMBERS.
Persons disqualified as Food Stamp household members must not participate in the Food Stamp program. Disqualified household members are not counted in the household size. Disqualified household members' income and resources are counted. Disqualified household members are listed below: (6-1-94)

01. Ineligible Legal Non-Citizen. Ineligible legal non-citizens not meeting citizenship or eligible legal non-citizen requirements. (7-1-98)

02. Persons with Citizenship Questionable. Persons refusing to sign a declaration attesting to citizenship or legal non-citizen status. (7-1-98)

03. Person Refusing SSN. Persons disqualified for failure or refusal to provide a Social Security Number. (6-1-94)

04. JSAP or Work Registration Noncompliance. Persons disqualified for failure to comply with JSAP or work registration requirements. (4-5-00)

05. Persons With IPV. Persons disqualified for an Intentional Program Violation (IPV). (6-1-94)

06. Voluntary Quit or Reduction of Hours of Work. Persons disqualified for a voluntary quit or reduction in hours of work. (4-5-00)

07. ABAWD Not Meeting Work Requirement. Persons who have received three (3) months of Food Stamp benefits in a three (3) year period without meeting the ABAWD work requirement. (7-1-98)

08. Fugitive Felon. Individuals who are fleeing to avoid prosecution or custody for a crime, or an attempt to commit a crime, that would be classified as a felony (or in the State of New Jersey, a high misdemeanor) or who are violating a condition of probation or parole under a federal or state law. (3-20-04)

09. Drug Convicted Felon. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance when they do not comply with the terms of a withheld judgment, probation or parole. The felony must have occurred after August 22, 1996. (3-30-01)

10. Failure to Cooperate in Paternity Establishment or Obtaining Support. Persons disqualified for failure to cooperate in establishing paternity and obtaining support for a child under eighteen (18). (7-1-98)

219. CIRCUMSTANCES UNDER WHICH FOOD STAMP PARTICIPATION IS PROHIBITED.

01. Prohibition from Receiving Food Stamp Benefits. An individual is prohibited from receiving Food Stamp benefits at the time of application if he: (4-7-11)

a. Receives tribal commodities; (4-6-05)

b. Is incarcerated; (4-6-05)

c. Is in an institution; (4-6-05)

d. Is in foster care and the foster parents are receiving a cash benefit for providing care and maintenance for the child; (4-7-11)

e. Receives Food Stamp benefits in another household; (3-29-12)

f. Is deceased; or (3-29-12)

g. Receives cash benefits in a TAFI Caretaker Relative household. (3-29-12)

02. Prohibited Participation During the Certification Period. If the Department learns of prohibited participation during the certification period, it will act to end benefits for that individual. (4-7-11)

220. -- 225. (RESERVED)

226. JOB SEARCH ASSISTANCE PROGRAM (JSAP).

The JSAP program is designed to help Food Stamp recipients become self-sufficient. (7-1-99)

01. JSAP Status. All household members, unless exempt, must participate in JSAP. Household members who are on strike must participate in JSAP. Members who are not migrants in the job stream must participate in JSAP. Determine the JSAP status of a participant at certification, a six-month or twelve-month contact, recertification, and when household changes occur. (3-29-12)

02. JSAP Information. *The Department will explain* the JSAP requirement, rights, responsibilities, and the result of failure to comply. *( )*

227. EXEMPTIONS FROM JSAP.
Exemptions from JSAP are listed in Subsections 227.01 through 227.13 of these rules. (5-3-03)

01. Parents or Caretakers of a Child Under Six Years of Age. A parent or caretaker responsible for the care of a dependent child under age six (6) is exempt from JSAP. If the child becomes six (6) during the certification period, the parent or caretaker must register for JSAP at the next scheduled six-month or twelve-month contact or recertification, unless exempt for another reason. (3-29-12)

02. Parents and Caretakers of an Incapacitated Person. A parent or caretaker responsible for the care of a person incapacitated due to illness or disability is exempt from JSAP. (5-3-03)

03. Persons Who Are Incapacitated. A person who is physically or intellectually unfit for employment is exempt from JSAP. If a disability is claimed which is not evident, proof to support the disability can be required. Acceptable proof includes receipt of permanent or temporary disability benefits, or a statement from a physician or licensed or certified psychologist. (5-3-03)

04. Students Enrolled Half Time. A student who is eighteen (18) years or older is exempt from JSAP if: (4-11-06)

a. He is enrolled at least half-time in any institution of higher learning and if he meets the definition of an eligible student in Section 282 of these rules; or (5-3-03)

b. He is enrolled at least half-time in any other recognized school or training program. (5-3-03)

c. He remains enrolled during normal periods of class attendance, vacation, and recess. If he graduates, enrolls less than half-time, is suspended or expelled, drops out, or does not intend to register for the next normal school term (excluding summer), he must register for work at the next scheduled six-month or twelve-month contact or recertification. (3-29-12)

05. SSI Applicants. A person who is applying for SSI is exempt from JSAP until SSI eligibility is determined. (5-3-03)

06. Persons Who Are Employed. A person who is employed is exempt from JSAP if: (5-3-03)

a. He is working at least thirty (30) hours per week; or (5-3-03)

b. He is receiving earnings equal to the Federal minimum wage multiplied by thirty (30) hours; or (5-3-03)

c. He is a migrant or seasonal farm worker under contract or agreement to begin employment within thirty (30) days. (5-3-03)

07. Persons Who Are Self-Employed. A person who is self-employed is exempt from JSAP when the person is working a minimum of thirty (30) hours per week and is receiving earnings equal to or greater than the Federal minimum wage multiplied by thirty (30) hours. (4-11-19)

08. ***Persons in Treatment for a Substance Use Disorder***. A regular participant in a drug or alcohol treatment and rehabilitation program is exempt from JSAP. *( )*

09. Unemployment Insurance (UI) Applicant/Recipient. A person receiving UI is exempt from JSAP. A person applying for, but not receiving UI, is exempt from JSAP if he is required to register for work with the Department of Commerce and Labor as part of the UI application process. (5-3-03)

10. Children Under Age Sixteen. A child under age sixteen (16) is exempt from JSAP. A child who turns sixteen (16) within a certification period must register for JSAP at the six-month or twelve-month contact or recertification, unless exempt for another reason. (3-29-12)

11. Persons Age Sixteen or Seventeen. A household member age sixteen (16) or seventeen (17) is exempt from JSAP if he is attending school at least half-time, or is enrolled in an employment and training program, including GED, at least half-time. (5-3-03)

12. Participants Age Sixty or Older. A participant age sixty (60) or older is exempt from JSAP. (5-3-03)

13. Pregnant Women. A pregnant woman in her third trimester is exempt from JSAP. (3-29-12)

228. DEFERRALS FROM JSAP FOR HOUSEHOLD MEMBERS PARTICIPATING IN TAFI.
Deferrals from JSAP for household members participating in the TAFI program are listed in Subsections 228.01 through 228.03. (4-5-00)

01. Reasonable Distance. Appropriate child care is not available within a reasonable distance from the participant's home or work site. (7-1-99)

02. Relative Child Care. Informal child care by relatives or others is not available or is unsuitable. (7-1-99)

03. Child Care Not Available. Appropriate and affordable child care is not available. (7-1-99)

229. PARTICIPANTS LOSING JSAP EXEMPT STATUS.
If an exempt household member becomes mandatory, the Department must notify the participant of JSAP requirements. Mandatory JSAP participants must sign a JSAP agreement. (7-1-99)

230. -- 235. (RESERVED)

236. GOOD CAUSE.
A mandatory participant may get a deferral from JSAP requirements, if the Department determines a valid reason exists. (7-1-99)

237. SANCTIONS FOR FAILURE TO COMPLY WITH JSAP WORK PROGRAM REQUIREMENTS.
When a JSAP participant fails or refuses to comply with work program requirements without good cause, sanctions listed in Subsections 237.01 and 237.02 of these rules must be applied. In determining which sanction to impose, sanctions previously imposed for voluntary quit or reduction in work hours as described in Section 271 of these rules must be considered. (3-30-07)

01. Noncomplying Household Member. The participant who commits the work program violation is excluded as a household member when determining the Food Stamp allotment. The person cannot receive Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person must serve a minimum sanction period plus take corrective action to become eligible for Food Stamps again. If the sanctioned household member becomes exempt from JSAP requirements, end the sanction. (3-30-07)

a. First work program violation. A minimum sanction period of one (1) month is imposed. (3-30-07)

b. Second work program violation. A minimum sanction period of three (3) months is imposed. (3-30-07)

c. Third and subsequent work program violations. A minimum sanction period of six (6) months is imposed. (3-30-07)

02. Joins Another Household. If a sanctioned household member leaves the original household and joins another Food Stamp household, treat the sanctioned member as an excluded household member. The person cannot receive Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is excluded for the rest of the sanction period and until corrective actions are taken. (3-30-07)

03. Closure Reason. The household must be informed of the reason for the closure. (3-30-07)

04. Sanction Notice. The household must be informed of the proposed sanction period. (3-30-07)

05. Sanction Start. The household must be informed the sanction will begin the first month after timely notice. (3-30-07)

06. Actions to End Sanction. The household must be informed of the actions the household can take to end the sanction. (3-30-07)

07. Fair Hearing. The household must be informed of the right to a fair hearing. (3-30-07)

238. NOTICE OF SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.
Send the household a Notice of Decision when a participant fails to comply with JSAP requirements. The Notice of Decision must contain data listed in Subsections 238.01 through 238.04. If Notice of Decision is sent, and the Department proves the member complied by the effective date of the action, the action to end Food Stamps does not take effect. (4-5-00)

01. Sanction Period. The Notice of Decision must include the proposed sanction period. (6-1-94)

02. Reason for Sanction. The Notice of Decision must include the reason for sanction. (6-1-94)

03. Actions to End Sanction. The Notice of Decision must include the actions the sanctioned person must take to end the sanction. (6-1-94)

04. Right to Appeal. The Notice of Decision must tell the household of it's right to a fair hearing. (7-1-99)

239. RIGHT TO APPEAL SANCTION.
The participant has the right to appeal the decision to sanction. The participant may contest a decision of mandatory status or a denial, reduction, or termination of benefits, due to failure to comply with JSAP. Appeals are conducted under Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, Section 350, "Contested Case Proceedings and Declaratory Rulings." The Department will notify JSAP of the fair hearing. (7-1-99)

240. JSAP SANCTION BEGINS.
The sanction period begins the first month after the Notice of Decision, unless a fair hearing is requested. (6-1-94)

241. ENDING SANCTIONS FOR FAILURE TO COMPLY WITH JSAP.
Household members sanctioned for not complying with JSAP are ineligible until a condition listed below is met. (4-5-00)

01. Fair Hearing Reversal. Sanction ends if a fair hearing reverses the sanction. (6-1-94)

02. Sanctioned Member Becomes Exempt. Sanction ends if the sanctioned member becomes exempt from JSAP. (6-1-94)

03. Member Complies With JSAP. Sanction ends if the member, who refused to comply with a JSAP requirement, complies. The member must complete corrective action and serve the minimum sanction period. (7-1-99)

242. CORRECTIVE ACTION FOR WORK PROGRAMS.
A mandatory participant can requalify for Food Stamps after a sanction. The participant must contact the Department and request an opportunity to comply. The participant must show that failure to comply has ended. Before certifying failure to comply has ended, the Department may require the participant to attend an assigned activity for up to two (2) weeks, to show willingness to comply with work program requirements. (3-30-07)

243. -- *250*. (RESERVED)

251. ABLE BODIED ADULTS WITHOUT DEPENDENTS (ABAWD) WORK REQUIREMENT.
To participate in the Food Stamp program, a person must meet one (1) of the conditions in Subsections 251.01 through 251.05 of this rule. A person who does not meet one (1) of these conditions may not participate in the Food Stamp program as a member of any household for more than three (3) full months (consecutive or otherwise) in a fixed thirty-six (36) month period. (3-29-17)

01. Work at Least Eighty Hours per Month. The person must work at least eighty (80) hours per month. The definition of work under Section 251 of this rule is any combination of: (5-3-03)

a. Work in exchange for money. (3-15-02)

b. Work in exchange for goods or services, known as "in-kind" work. (3-15-02)

c. Unpaid work, with a public or private non-profit agency. (3-15-02)

02. Participate in JSAP or Another Work Program. The person must participate in and comply with the requirements of the JSAP program (other than job search or job readiness activities), the WIOA program, a program under Section 236 of the Trade Act of 1974, or another work program recognized by the Department. The person must participate for at least eighty (80) hours per month. (4-11-19)

03. Combination of Work and Work Programs. The person must work and participate in a work program. Participation in work and work programs must total at least eighty (80) hours per month. (3-15-02)

04. Participate in Work Opportunities. The person must participate in and comply with the requirements of a Work Opportunities program. (7-1-99)

05. Residents of High Unemployment Areas. ABAWDs residing in a county identified as having high unemployment or lack of jobs are not subject to the three (3) month limitation of benefits. ABAWDs residing in these counties are subject to JSAP work requirement but will not lose Food Stamp eligibility after three (3) months if they participate fewer than eighty (80) hours per month. An ABAWD residing in a high unemployment area must participate according to his plan. (3-20-04)

252. PROOF REQUIRED FOR ABAWDS.
The Department requires proof of compliance with the ABAWD requirements. (3-15-02)

01. Proof of Hours Worked. Each month the ABAWD must supply proof of work hours, participation in work programs, or participation in work opportunities. (3-15-02)

02. Food Stamp Months in Another State. If there is evidence the ABAWD got Food Stamps in another state, get proof of the number of countable months from that state, before certification. A written or verbal statement from the other state agency of countable months is acceptable proof. (3-15-02)

253. ABAWD GOOD CAUSE.
The work requirement is met if an ABAWD would have worked at least eighty (80) hours per month, but missed work for good cause. The absence from work must be temporary. The ABAWD must keep the job. Circumstances beyond control of the ABAWD are the basis of good cause. These include illness, illness of a household member requiring the presence of the ABAWD, household emergency, and lack of transportation. (3-15-02)

254. REPORTING ABAWD CHANGES.
ABAWDs must report within ten (10) days of the date of change, if total work or work program hours drop below eighty (80) hours per month. (3-15-02)

255. REGAINING ELIGIBILITY.
ABAWDs whose three (3) month eligibility expires may regain eligibility for Food Stamps. During any thirty (30) consecutive days, the person must meet one (1) of the work requirements in Subsections 255.01 and 255.02. Prorate Food Stamp benefits from the date the person regains eligibility. ABAWDs must continue to meet the work requirement to get Food Stamps, or meet conditions for the three (3) additional months. There is no limit on the number of times an ABAWD may regain and maintain eligibility by meeting the work requirement. (3-15-02)

01. Work Eighty Hours. The person must work eighty (80) or more hours per month. (3-15-02)

02. Participate in JSAP. The person must participate in and comply with the requirements of the JSAP program (other than job search or job search training), the WIOA program, or a program under section 236 of the Trade Act of 1974 for eighty (80) or more hours per month. (4-11-19)

256. THREE ADDITIONAL MONTHS OF FOOD STAMPS AFTER REGAINING ELIGIBILITY.
A person who regained eligibility under Section 255 of these rules, but is no longer fulfilling the ABAWD work requirements in Section 251 of these rules through no fault of his own, may get Food Stamps for an additional three (3) consecutive months. For an applicant, the three (3) consecutive months begin the first full month of benefits. For a participant, the three (3) consecutive months begin the month following the month the participant no longer meets the work requirements. A person is eligible for the additional three (3) consecutive months only once in a thirty-six (36) month period. (5-3-03)

257. PERSONS NOT CONSIDERED ABAWD.
Persons meeting a condition in Subsections 257.01 through 257.04 of this rule are not considered ABAWD. (4-6-05)

01. Age. Persons under eighteen (18) and fifty (50) years of age or older. (3-15-02)

02. Disability. Persons medically certified as physically or intellectually unfit for employment. Proof of the disability is required. A person is medically certified as physically or intellectually unfit for employment if: (3-15-02)

a. Receiving temporary or permanent disability benefits issued by a government or private source. (3-15-02)

b. Obviously intellectually or physically unfit for employment, as determined by the Department. (3-15-02)

c. The person has a statement from a physician, physician's assistant, nurse, nurse practitioner, designated representative of the physician's office, licensed or certified psychologist, a social worker, or any other medical personnel the Department determines appropriate, verifying physical or intellectual unfitness for employment. (3-15-02)

03. Residing in a Household Where a Member Is Under Age Eighteen. All persons residing in a household where a household member is under eighteen (18) years old. (3-15-02)

04. Pregnancy. Pregnant persons. (7-1-98)

258. FOOD STAMPS ISSUED TO INELIGIBLE ABAWD.
If an ineligible ABAWD gets a Food Stamp issuance, the issuance is an overissuance until the ABAWD pays it back in full. The overpaid months count against the ABAWD time limit until repaid. (3-15-02)

259. STRIKES.
Households must be denied Food Stamps if a member is unemployed because of a strike, unless the household was eligible for or getting Food Stamps the day before the strike. (6-1-94)

260. GOVERNMENT EMPLOYEES DISMISSED FOR STRIKE.
State, Federal, and local government employees, dismissed because of joining in a strike against the governmental entity, have voluntarily quit a job without good cause. (6-1-94)

261. VOLUNTARY JOB QUIT.
An employed household member who voluntarily quits a job without good cause is not eligible for Food Stamps. The Department is required to make a voluntary job quit determination when it learns that any employed household member has quit his job and any of the circumstances apply that are listed in Subsections 261.01 through 261.02 of this rule. (5-3-03)

01. Voluntary Job Quit Timeframes. The Department must make a voluntary job quit determination: (5-3-03)

a. For any applicant who quits his job within sixty (60) days of the application date. (5-3-03)

b. For any new household member who quit his job within the sixty (60) days prior to entering the household. (5-3-03)

c. For any recipient who quits his job at any time during the certification period. (5-3-03)

02. Job Definition for Voluntary Job Quit. The Department must make a voluntary job quit determination for any household member who is not exempt from work registration for any reason other than employment, if: (5-3-03)

a. He quit a job of at least thirty (30) hours a week; or (5-3-03)

b. His weekly earnings from the job he quit are equivalent to the Federal minimum wage multiplied by thirty (30) hours. (5-3-03)

262. VOLUNTARY REDUCTION IN WORK HOURS.
An employed household member who voluntarily reduces hours of work without good cause is not eligible for Food Stamps. The Department is required to make a reduction in work hours determination when it learns that any employed household member has voluntarily reduced his work hours and any of the circumstances apply that are listed in Subsections 262.01 through 262.02 of this rule. (5-3-03)

01. Voluntary Work Reduction Timeframe. The Department must make a reduction in work hours determination if the hours of work were voluntarily reduced: (5-3-03)

a. By an applicant, within sixty (60) days of the application date. (5-3-03)

b. By a new household member, within the sixty (60) days prior to entering the household. (5-3-03)

c. By a recipient, at any time during the certification period. (5-3-03)

02. What Counts as a Significant Voluntary Work Reduction. In order for any household member's eligibility for Food Stamps to be affected, the Department must determine that: (5-3-03)

a. Prior to the voluntary reduction in hours, the job was at least thirty (30) hours a week; and (5-3-03)

b. The hours of work have been voluntarily reduced to less than thirty (30) hours per week without good cause. (5-3-03)

263. -- 264. (RESERVED)

265. SITUATIONS NOT CONSIDERED VOLUNTARY JOB QUIT OR REDUCTION OF WORK.

Situations not counted as a voluntary job quit or reduction of work hours are listed below: (7-1-98)

01. Ending Self-Employment. The person ends self-employment enterprise. (6-1-94)

02. Employer Demands Resignation. A person resigns from a job at the demand of the employer. (6-1-94)

03. Laid Off From New Job. A person quits a job, secures new employment at comparable salary or hours and then is laid off. A person quits a job, secures new employment at comparable salary or hours and through no fault of his own loses the new job. (6-1-94)

266. HOUSEHOLD MEMBER LEAVES DURING A PENALTY PERIOD.
When the household member who committed a voluntary quit or reduction in hours penalty leaves the household, the penalty follows the household member who caused it. If the household member who committed the penalty joins another household, he is ineligible for the balance of the penalty period unless he meets the conditions stated in Subsection 275.01 of these rules. (5-3-03)

267. GOOD CAUSE FOR VOLUNTARILY QUITTING A JOB OR REDUCING WORK HOURS.
If a household member voluntarily quits a job, determine if the quit was for good cause. All facts and circumstances submitted by the household and the employer must be considered. Good cause includes the reasons listed below: (3-20-04)

01. Personal Difficulties. Personal difficulties include: (3-20-04)

a. Health problems; (3-20-04)

b. Structured drug and alcohol treatment; (3-20-04)

c. Jailed or necessary court appearances; and (3-20-04)

d. Conflicts with verified and practiced religious and ethical beliefs. (3-20-04)

02. Family Emergencies. Family emergencies include: (3-20-04)

a. Crisis in family health; and (3-20-04)

b. Child legal or behavioral problems. (3-20-04)

03. Environmental Barriers. Environmental barriers include: (3-20-04)

a. Weather conditions preventing the person from reaching the work site; (3-20-04)

b. Unexpected loss of transportation; and (3-20-04)

c. Housing or utility problems requiring immediate attention. (3-20-04)

04. Work Site Problems. Work site problems include: (3-20-04)

a. Temporary layoff from a regular, full-time job. The person must be able to return to the job within ninety (90) days; (3-20-04)

b. Work site conditions not meeting legal or local standards of health and safety, hours, pay, or benefits; and (3-20-04)

c. Alleged discrimination on the job site. (3-20-04)

05. Employment or School. The household member accepts employment, or enrolls at least half (1/2)

time in any recognized school, training program, or an institution of higher education. (4-5-00)

06. Employment or School in Another Area. Another household member accepts employment in another area, requiring the household to move. Another household member enrolls at least half (1/2) time in a recognized school, a training program, or an institution of higher education in another area, requiring the household to move. (6-1-94)

07. Retirement. Persons under age sixty (60) resign, if the resignation is recognized as retirement. (6-1-94)

08. Full Time Job Does Not Develop. A person accepts a bona fide offer of a full time job. The job does not develop. The job results in employment of less than thirty (30) hours a week, or weekly earnings of less than the Federal minimum wage multiplied by thirty (30) hours. (3-20-04)

09. Temporary Pattern of Employment. Person leaves a job where workers move from one (1) employer to another, such as migrant farm labor or construction work. Households may apply for benefits between jobs, when work is not yet available at the new site. Even though the new employment has not actually begun, the previous quit is with good cause if it is the pattern of that type of employment. (6-1-94)

268. PROOF OF JOB QUIT OR REDUCTION OF WORK HOURS.
Request proof if the household's job quit or reduction of work hours is questionable. The household is responsible for providing proof. If the household cannot get timely proof, offer assistance. Proof includes, but is not limited to, contacts with the previous employer or union organizations. If the employer cannot be contacted or the employer will not provide the information try to get the proof from a third party. In some cases, the household and the Department cannot prove the circumstances of the quit. This may occur because the employer cannot be located or refused to cooperate. This may include quits due to employer discrimination or unreasonable employer demands. In cases where proof of the voluntary quit cannot be obtained, the household must not be denied Food Stamps on the basis of a voluntary quit or reduction of work hours. If a household member refuses, without good cause, to provide enough information to determine voluntary quit or work reduction, a penalty must be imposed. Impose the appropriate quit or reduction penalty. (4-5-00)

269. *(RESERVED)*

270. PENALTY FOR APPLICANT QUITTING A JOB OR REDUCING WORK HOURS.
If the Department determines a voluntary quit or reduction of work hours was not for good cause, the member who quit is not eligible for a ninety (90) day penalty period. The penalty period begins the date the household member quit. The applicant household must be told the job quit and work reduction penalty information listed below: (4-5-00)

01. Denial Reason. The household must be informed of the reason for the Food Stamp denial for the member. (4-5-00)

02. Sanction Period. The household must be informed of the proposed voluntary quit or work reduction sanction period. (7-1-98)

03. Fair Hearing. The household must be informed of the right to a fair hearing. (6-1-94)

04. Right to Reapply. The household must be informed of the right to reapply after the ninety (90) day penalty period. (3-15-02)

271. PENALTY FOR RECIPIENT QUITTING A JOB OR REDUCING WORK HOURS.
If the Department determines a member of the household voluntarily quit a job or reduced work hours, the penalty listed in Subsection 271.01 of this rule must be imposed. Food Stamps must be reduced, beginning the first month after timely notice. The household must be told the information listed in Subsections 271.02 through 271.06 within ten (10) calendar days of the voluntary quit or reduction in work ruling. When determining the sanction to impose, previous sanctions for noncompliance with JSAP and work registration requirements as described in Section 237 of these rules must be considered. Previous sanctions for recipient voluntary quit or work reduction must also be

considered. If the sanctioned household member becomes exempt from JSAP requirements, end the sanction. The voluntary quit sanction does not end if the sanctioned household member becomes exempt due to application or receipt of Unemployment Insurance. (3-30-07)

01. Non-Complying Household Member. The participant who commits the work program violation is excluded as a household member when determining the Food Stamp allotment. The person cannot receive Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person must serve a minimum sanction period plus take corrective action to become eligible for Food Stamps again. Corrective action includes: returning to work, increasing work hours to meet the work exemption, or completing required activities with EWS. (3-30-07)

a. First work program violation. A minimum sanction period of one (1) month is imposed. (3-30-07)

b. Second work program violation. A minimum sanction period of three (3) months is imposed. (3-30-07)

c. Third and subsequent work program violation. A minimum sanction period of six (6) months is imposed, (3-30-07)

02. Joins Another Household. If a sanctioned household member leaves the original household and joins another Food Stamp household, treat the sanctioned member as an excluded household member. The person cannot receive Food Stamps, but his income and resources are counted in the Food Stamp computation for the household. The person is excluded for the rest of the sanction and until corrective actions are taken. (3-30-07)

03. Closure Reason. The household must be informed of the reason for the closure. (6-1-94)

04. Sanction Notice. The household must be informed of the proposed sanction period. (4-5-00)

05. Sanction Start. The household must be informed the sanction will begin the first month after timely notice. (6-1-94)

06. Actions to End Sanction. The household must be informed of the actions the household can take to end the sanction. (6-1-94)

07. Fair Hearing. The household must be informed of the right to a fair hearing. (6-1-94)

272. VOLUNTARY QUIT OR REDUCTION OF WORK HOURS DURING THE LAST MONTH OF THE CERTIFICATION PERIOD.

If the Department determines a member of the household voluntarily quit a job or reduced work hours, without good cause, in the last month of the six-month or twelve-month contact or certification period the voluntary quit or work reduction penalty is imposed. (3-29-12)

01. No Reapplication. If the household does not apply for recertification in the last month of the six-month or twelve-month contact or certification, the appropriate penalty is imposed. Begin the penalty the first month after the last month of the certification. The penalty is in effect should the household apply during the penalty period. (3-29-12)

02. Reapplication. If the household does apply for recertification in the last month of the six-month or twelve-month contact or certification period, the person quitting work or reducing hours is ineligible. The penalty is imposed, beginning the first month after the last month of the six-month or twelve-month contact or certification period. (3-29-12)

273. VOLUNTARY QUIT OR REDUCTION OF WORK HOURS NOT FOUND UNTIL THE LAST MONTH OF THE CERTIFICATION PERIOD.

The Department may find a household member voluntarily quit a job or reduced work hours, without good cause, before the last month of the certification period. If the voluntary quit or reduction is not found until the last month of the certification, the voluntary quit or reduction penalty must be determined. (4-5-00)

274. *(RESERVED)*

275. ENDING VOLUNTARY QUIT WORK PROGRAM PENALTIES.
Eligibility may be reestablished before the end of the penalty period for an otherwise eligible household member when he meets the conditions in Subsection 275.01 of this rule. Eligibility may be reestablished after a voluntary quit or work reduction penalty period has elapsed for an otherwise eligible household member when he meets a condition in Subsection 275.02 of this rule. (3-30-07)

01. Ending Voluntary Quit or Reduction Penalty Before the End of the Penalty Period. If the sanctioned household member becomes exempt from JSAP requirements, his eligibility for Food Stamps may be reestablished. The voluntary quit penalty does not end if the sanctioned household member becomes exempt due to application or receipt of Unemployment Insurance. (3-30-07)

02. Ending Voluntary Quit or Reduction Penalty After Penalty Period. (5-3-03)

a. If the sanctioned household member gets a new job comparable in salary or hours to the job he quit, his eligibility for Food Stamps may be reestablished. A comparable job may entail fewer hours or a lower net salary than the job which was quit. To be comparable, the hours for the new job cannot be less than thirty (30) hours per week and the salary or earnings for the new job cannot be less than Federal minimum wage multiplied by thirty (30) hours per week. (3-30-07)

b. If the sanctioned household member's hours of work are restored to more than thirty (30) hours per week before reduction, his eligibility for Food Stamps may be reestablished. (3-30-07)

c. A sanctioned household member can requalify for Food Stamps after serving the minimum sanction period and completing corrective action. The participant must contact the Department and request an opportunity to correct the sanction. The Department may require the participant to attend an assigned EWS activity for up to two (2) weeks to show his willingness to comply with work program requirements. (3-30-07)

276. FAILURE TO COMPLY WITH A REQUIREMENT OF ANOTHER MEANS - TESTED PROGRAM.
Food Stamps must not increase when a failure to comply causes other means-tested benefits to decrease. Benefits from means-tested programs like TAFI may decrease due to failure to comply with a program requirement. Food Stamp benefits must not increase because of this income loss. If a reduction in benefits from another means- tested program occurs, verify the reason for the reduction. If the reason for the reduction cannot be verified, document the case record to reflect the good faith effort to verify the information. (3-20-04)

277. PENALTY FOR FAILURE TO COMPLY WITH A REQUIREMENT OF ANOTHER MEANS - TESTED PROGRAM.
To prevent an increase in Food Stamp benefits, penalties will be applied to a Food Stamp case for failure to comply with a requirement of another means-tested program such as TAFI. When a Food Stamp recipient fails to comply with a requirement of the TAFI program, count that portion of the benefit decrease attributed to the TAFI penalty. Conditions for ending the penalty are listed in Subsections 277.01 through 277.03 of this rule. (3-20-04)

01. Time-Limited TAFI Penalty. If the TAFI penalty is time-limited, end the FS penalty when the TAFI penalty is ended. (7-1-98)

02. Lifetime TAFI Penalty. If the TAFI penalty is a lifetime penalty, apply the FS penalty for a length of time to match the remaining months of TAFI eligibility for the household. End the FS penalty if the household subsequently reapplies for TAFI and is denied for a reason other than the noncompliance that caused the TAFI penalty. (7-1-98)

03. Member Who Caused the TAFI Penalty Leaves the Household. End the FS penalty when the member who caused the TAFI penalty leaves the household. (7-1-98)

278. COOPERATION IN ESTABLISHMENT OF PATERNITY AND OBTAINING SUPPORT.

A natural or adoptive parent or other individual living with and exercising parental control over a minor child who has an absent parent must cooperate in establishing paternity for the child and obtaining support for the child and *themselves*. *( )*

279. FAILURE TO COOPERATE.
When a parent or individual fails to cooperate in establishing paternity and obtaining support, *they are* not eligible to participate in the Food Stamp Program. *( )*

280. EXEMPTIONS FROM THE COOPERATION REQUIREMENT.
The parent or individual will not be required to provide information about the absent or alleged parent or otherwise cooperate in establishing paternity or obtaining support if good cause for not cooperating exists. Good cause for failure to cooperate *in obtaining support is listed below:* *( )*

01. Rape or Incest. Proof the child was conceived as a result of incest or forcible rape. *( )*

02. Physical or Emotional Harm. Proof the absent parent may inflict physical or emotional harm to the children, the participant or individual exercising parental control. This must be supported by medical evidence, police reports, or as a last resort, an affidavit from a knowledgeable source. *( )*

03. Minimum Information Cannot be Provided. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. *( )*

281. (RESERVED)

282. STUDENT DEFINED.
A student must be between the ages of eighteen (18) and fifty (50). A student must be physically and intellectually fit. A student must be enrolled, at least half-time, in an institution of higher education. An institution of higher education usually requires a high school or general equivalency diploma for enrollment. This includes colleges, universities, and vocational or technical schools at the post-high school level. (6-1-94)

283. STUDENT ENROLLMENT.
A student is considered enrolled in an institution of higher education if participating in a regular curriculum there. Enrollment status of a student begins the first day of the institution of higher education school term. The enrollment continues through normal periods of class attendance, vacation and recess. Enrollment stops if the student graduates, is suspended or expelled, drops out, or does not intend to register for the next normal school term. Summer school terms are not normal school terms. (7-1-97)

284. DETERMINING STUDENT ELIGIBILITY.
To be eligible for Food Stamps, a student must meet at least one (1) of the criteria listed below: (6-1-94)

01. Employment. (3-29-12)

a. The student is employed a minimum of eighty (80) hours per month and is paid for such employment; or (3-29-12)

b. The student is self-employed a minimum of eighty (80) hours per month; and (3-29-12)

c. The student must earn at least the Federal minimum wage times eighty (80) hours. (3-29-12)

02. Work Study Program. The student is in a State or Federally financed work study program during the regular school year. The student exemption begins the month the school term begins, or the month the work study is approved, whichever is later. The exemption continues until the end of the month the school term ends, or it becomes known the student has refused an assignment. The student work study exemption stops when there are breaks of a full calendar month or longer between terms, without approved work study. The exemption only applies to months the student is approved for work study. (7-1-97)

03. Caring for Dependent Child. The student is responsible for the care of a dependent household

member under age six (6). There must not be another adult in the household available to care for the child. Availability of adequate child care is not a factor. The student is responsible for the care of a dependent household member at least age six (6) but under age twelve (12). The Department must determine adequate child care is not available to enable the student to attend class and satisfy the twenty (20) hour work requirement. The student must be a single parent responsible for the care of a dependent child under the age of twelve (12). The student is enrolled full-time in an institution of higher education. Full-time enrollment is determined by the institution. Availability of adequate child care is not a factor. (6-1-94)

04. TAFI Participant. The student gets cash benefits from the TAFI program. (7-1-98)

05. Training. The student is assigned to or placed in an institution of higher education through or complying with the WIOA program, the JOBS program, the JSAP program, a program under Section 236 of the Trade Act of 1974, or a program for employment and training operated by a State or local government. (4-11-19)

285. INELIGIBILITY OF FUGITIVE FELONS AND PROBATION AND PAROLE VIOLATORS.
A person is ineligible to receive Food Stamps for any month during which he meets a condition listed below. (7-1-98)

01. Fleeing to Avoid Prosecution. The person is fleeing to avoid prosecution for a crime which is a felony (or in New Jersey, a high misdemeanor) under the laws of the state he is fleeing. (7-1-98)

02. Fleeing to Avoid Custody or Confinement After Conviction. The person is fleeing to avoid custody or confinement after conviction for a crime which is a felony (or in New Jersey, a high misdemeanor) under the laws of the state he is fleeing. (7-1-98)

03. Violating a Condition of Probation or Parole. The person is violating a condition or probation or parole imposed under Federal or State law. (7-1-98)

286. EFFECTIVE DATE OF INELIGIBILITY.
Ineligibility of fugitive felons and probation and parole violators begins the earlier of the month a warrant, court order or decision, or decision by a parole board is issued finding the person is fleeing (or fled) to avoid prosecution, or custody or confinement after conviction or is violating (or violated) parole; or the first month the person fled to avoid prosecution, custody or conviction or violated a condition of probation or parole. (7-1-98)

287. INELIGIBILITY FOR A FELONY CONVICTION FOR POSSESSION, USE, OR DISTRIBUTION OF A CONTROLLED SUBSTANCE.
Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use, or distribution of a controlled substance can receive Food Stamps when they comply with the terms of a withheld judgment, probation, or parole. The felony must have occurred after August 22, 1996. Controlled substance felons not complying with the terms of a withheld judgment, probation, or parole are not eligible for Food Stamps. Count the income and resources of the disqualified individual in full. (3-30-01)

288. -- 299. (RESERVED)

300. RESOURCES DEFINED.
Resources include but are not limited to cash, bank accounts, stocks, bonds, personal property, and real property. A household must have the right, authority, or power to change the resource to cash for the resource to be counted. The household must have the legal right to use the resource for support and maintenance for the resource to be counted. (6-1-94)

301. DETERMINING RESOURCES.
The resources of all household members are counted unless the resource is excluded. (4-7-11)

302. -- **304. (RESERVED)**

305. RESOURCE LIMIT.
The Food Stamp resource limit is five thousand dollars ($5,000) for Broad Based Categorically Eligible households.

Households that do not meet the requirements for Broad Based Categorical Eligibility are subject to resource limits published by the USDA Food and Nutrition Service. (7-1-16)

306. -- 307. (RESERVED)

308. EQUITY VALUE OF RESOURCES.
Equity value is the current market value of a resource, minus any encumbrance. The current market value is the price the resource is expected to sell for, on the open market, in the geographic area involved. An encumbrance is a legally binding debt against property. The encumbrance on the property does not prevent the property owner from selling to a third party. (6-1-94)

309. LIQUID RESOURCES.
All liquid resources are counted, unless excluded. Liquid resources are listed below. Liquid resources can be easily converted to cash. (6-1-94)

01. Cash. Cash on hand. (6-1-94)

02. Bank Accounts. Checking, savings and credit union accounts. (6-1-94)

03. Lump Sum Payments. Lump sum payments such as insurance, SSI, retirement, income tax refund. (6-1-94)

04. Trusts. Unrestricted trust accounts and any available amounts from restricted trust accounts. (6-1-94)

05. Stocks. Stocks, less fees for transfer and penalty for early sale. (6-1-94)

06. Bonds. Savings bonds, treasury bonds, commercial bonds at current market value. (6-1-94)

07. Savings Certificates. Saving certificates or certificates of deposit issued by banks, credit unions, or other financial concerns, less the penalty for early withdrawal. (6-1-94)

310. NONLIQUID RESOURCES.
Countable nonliquid resources are listed below. Nonliquid resources are resources not easily converted to cash. (6-1-94)

01. Real Property. Equity value of real property (land and buildings, including mobile homes) unless specifically excluded. Property may be excluded if: (6-1-94)

a. The property is used as a home. (6-1-94)

b. The property is income-producing, and the income is consistent with the property's fair market value. (6-1-94)

c. The property is essential to employment or self- employment. (6-1-94)

d. The property is used in connection with an excluded vehicle. (6-1-94)

02. Vehicles. Licensed and unlicensed automobiles, trucks, vans, motorcycles, self-propelled motor homes, snowmobiles, boats, aircraft, all-terrain vehicles, and mopeds. (1-1-95)

03. Personal Property. Personal property not otherwise excluded. Personal property includes trailers pulled by another means or campers placed on the bed of a truck or pickup. (1-1-95)

311. FACTORS MAKING PROPERTY A RESOURCE.
Property of any kind, including cash, can be a resource. The property must meet all criteria listed below: (6-1-94)

01. Ownership Interest. A client must have ownership interest in property for it to be counted as a resource. Property is not a resource if the client does not own all or part of the property. (6-1-94)

02. Legal Right to Spend or Convert Property. A client must have a legal right to spend or convert property to cash. Property is not a resource if the owner lacks the legal right to spend or convert property into cash. Physical possession of property is not needed if the owner has the legal ability to spend or convert the property to cash. (6-1-94)

03. Legal Ability to Use for Support and Maintenance. Property is not a resource if it can not legally be used for the owner's support and maintenance. (6-1-94)

312. -- 313. (RESERVED)

314. JOINTLY-OWNED RESOURCES.
A resource owned jointly by members of two (2) or more households is counted in its entirety for each household, unless the household proves the resource is not available. If the household shows it has access to only a portion of a resource, that portion of the resource is counted. (6-1-94)

315. JOINTLY-OWNED RESOURCES EXCLUDED.
A jointly-owned resource is excluded, if the household shows it cannot sell or divide the resource without consent of the other owner, and the other owner will not sell or divide the resource. A jointly-owned resource is excluded, if owned by a resident in a shelter for battered women and children and access to the resource requires agreement of a joint owner living in the former household. A vehicle, jointly owned by a household member and a person not living in the household, may be excluded. The household member must not have possession of the vehicle. The household member must not be able to sell the vehicle. (7-1-97)

316. -- *320*. (RESERVED)

321. RESOURCES OF DISQUALIFIED HOUSEHOLD MEMBERS.
The household must report the resources of members disqualified for Food Stamps. The household must verify any questionable information. The resources of the disqualified person are included in determining the resource limit. Disqualified household members with resources counted toward the household limit are listed below: (6-1-94)

01. Member Disqualified for IPV. Resources of a household member disqualified for an intentional program violation are counted. (6-1-94)

02. Member Disqualified for Failure to Comply with Work Requirements. Resources of a household member disqualified for failing to comply with a work requirement are counted. (4-11-06)

03. Member Ineligible Due to SSN. Resources of a household member ineligible for refusing to get an SSN are counted. (6-1-94)

04. Ineligible Legal Non-Citizen. Resources of an ineligible legal non-citizen household member are counted. (7-1-98)

05. Member Disqualified for Failure to Meet the ABAWD Work Requirement. Resources of a household member disqualified for failure to meet the ABAWD work requirement are counted. (7-1-98)

06. Member Disqualified for a Voluntary Quit or Reduction in Hours of Work. Resources of a member disqualified for a voluntary quit or reduction of work are counted. (4-5-00)

07. Member Disqualified as a Fugitive Felon or Probation or Parole Violator. Resources of a member disqualified as a fugitive felon or probation or parole violator are counted. (7-1-98)

08. Member Disqualified for Failure to Cooperate in Establishing Paternity and Obtaining Support. Resources of a member disqualified for failure to cooperate in establishing paternity and obtaining support are counted. (7-1-98)

09. Member Disqualified for Conviction of a Controlled Substance Felony. Resources of individuals convicted under federal or state law of any offense classified as a felony involving the possession, distribution, or use of a controlled substance when they do not comply with the terms of a withheld judgment, probation, or parole are counted. The felony must have occurred after August 22, 1996. (3-30-01)

322. RESOURCES OF NONHOUSEHOLD MEMBERS.
Resources of nonhousehold members are not included when determining household resources. Resources of nonhousehold members are listed below: (6-1-94)

01. Ineligible Student. Resources of an ineligible student are not counted. (6-1-94)

02. Boarder or Roomer. Resources of a boarder or roomer are not counted. (6-1-94)

03. Foster Child. Resources of a foster child are not counted, if the child is not a member of the Food Stamp household. (6-1-94)

04. Foster Adult. Resources of a foster adult are not counted, if the adult is not a member of the Food Stamp household. (6-1-94)

323. LUMP SUM RESOURCES.
Nonrecurring lump sum payments are considered a resource in the month received, unless excluded under these rules. A household is not required to report changes in resources during a certification period. Some lump sum payments are listed below: (3-29-10)

01. Retroactive Payments. Retroactive payments from: (6-1-94)

a. Social Security. (6-1-94)

b. SSI. (6-1-94)

c. Public Assistance. (6-1-94)

d. Railroad Retirement Benefits. (6-1-94)

e. Unemployment Compensation Benefits. (6-1-94)

f. Child Support. (3-30-07)

02. Insurance. Insurance settlements. (6-1-94)

03. Refunds. Income tax refunds, rebates, or credits. (6-1-94)

04. Property Payments. Lump sum payment from sale of property. Contract payments from the sale of property are counted as income. (6-1-94)

05. Security Deposits. Refunds of security deposits on rental property or utilities. (6-1-94)

06. Disability Pension. Annual adjustment payments in VA disability pensions. (6-1-94)

07. Vacation Pay. Vacation pay, withdrawn in one lump sum by a terminated employee. (6-1-94)

08. Military Bonus. Military re-enlistment bonuses. (6-1-94)

09. Readjustment Pay. Job Corps readjustment pay. (6-1-94)

10. Severance Pay. Severance pay, paid in one (1) lump sum to a former employee. (6-1-94)

11. TAFI One-Time Cash Payment. The one-time TAFI cash diversion payment. (4-5-00)

324. -- 333. (RESERVED)

334. VEHICLES.
Treat any vehicle that is used primarily for transportation and not for recreational use, as described in Subsections 334.01 and 334.02 of this rule. The value of any vehicle that is primarily for recreational use counts toward the household's resource limit. (7-1-07)

01. Exclude One Vehicle Per Adult. The value of one (1) vehicle per adult in the Food Stamp household is excluded beginning with the highest valued vehicle. (7-1-07)

02. All Other Vehicles Are Subject To Federal Regulations. All other vehicles in the household will have their values counted as provided in 7 CFR 273. (7-1-07)

***335*. -- 350. (RESERVED)**

351. EXCLUDED RESOURCES.
Some resources do not count against the limit because they are excluded. Resources excluded by federal law are also excluded for Food Stamps. Exclusions from resources are listed in Sections 352 through 382. (3-29-12)

352. HOUSEHOLD GOODS EXCLUDED.
Household goods are items of personal property normally found in the home. The items must be used for maintenance, use, and occupancy of the home. Household goods include, but are not limited to, furniture, appliances, television sets, carpets, and utensils for cooking and eating. Household goods are excluded as resources. (6-1-94)

353. PERSONAL EFFECTS EXCLUDED.
Personal effects are items worn or carried by a client, or items having an intimate relation to the client. They include, but are not limited to, clothing, jewelry, personal care items, and prosthetic devices. Personal effects include items for education or recreation, such as books, musical instruments, or hobby materials. Personal effects are excluded as resources. (6-1-94)

354. HOME AND LOT EXCLUDED.
The home and surrounding land and buildings not separated by property owned by others, are excluded as a resource. A public road or right of way that separates any plot from the home will not affect the exclusion. Home may be a house, a trailer, or a vehicle. (6-1-94)

01. Unoccupied Home Exclusion. A temporarily unoccupied home is excluded if the household members intend to return. The household members must be absent because of employment, training for future employment, or illness, or the home must be temporarily uninhabitable from casualty or natural disaster. (6-1-94)

02. Building Lot Exclusion. A lot where a household is building a permanent home is excluded as a resource. A lot where a household intends to build a permanent home is excluded as a resource. The lot and partly completed home are excluded. The household can only have one home and lot excluded. The household can not own a home and lot and have a building lot exclusion for another property. (6-1-94)

355. LIFE INSURANCE EXCLUDED AS A RESOURCE.
The cash surrender value of life insurance policies is excluded as a resource. (6-1-94)

356. BURIAL SPACE OR PLOT AND FUNERAL AGREEMENT EXCLUSIONS.
Burial spaces or plots and funeral agreements are excluded from resources as listed in Subsections 356.01 through 356.02. (7-1-98)

01. Burial Space or Plot Exclusion. Exclude one (1) burial space or plot, for each household member, from resources. The value of the burial space or plot does not affect this exclusion. (7-1-98)

02. Funeral Agreement Exclusion. Exclude up to one thousand, five hundred dollars ($1,500) of the equity value of one (1) bona fide funeral agreement, for each household member, from resources. The equity value over one thousand, five hundred dollars ($1,500) is counted as a resource. (7-1-98)

357. PENSION PLANS OR FUNDS EXCLUDED AS A RESOURCE.
The cash value of any funds in a plan, contract, or account, described in Sections 401(a), 403(a), 403(b), 408, 408A, 457(b), and 501(c) of the Internal Revenue Code of 1986 and the value of funds in a Federal thrift Savings Plan account as provided for in 5 U.S.C. 8439 are excluded as a resource. This exclusion includes any current or future tax preferred retirement accounts which are approved under federal or state law. (5-8-09)

358. INCOME-PRODUCING PROPERTY EXCLUDED.
Property which annually produces income consistent with its fair market value is excluded as a resource. Real property, not used as a home, is excluded as a resource if it produces income consistent with it's fair market value. This exclusion includes land and buildings. Annual income is consistent with the property's fair market value when consistent with area market trends. (6-1-94)

359. LIVESTOCK EXCLUDED.
Livestock includes cows, pigs, sheep, llamas, and horses. Farm animals kept for food are excluded. (6-1-94)

360. PROPERTY USED FOR SELF-SUPPORT EXCLUDED.
Property essential to the employment or self-employment of a household member, such as tools of a trade or the farm land and machinery of a farmer, is excluded as a resource. Essential work-related equipment of an ineligible legal non-citizen or disqualified person is excluded as a resource. Self-support property is excluded during employment and temporary periods of unemployment. For a household member engaged in farming, property essential to self-employment continues to be excluded for one (1) year from the date the household member ends self-employment from farming. (7-1-98)

361. PROPERTY USED WITH EXCLUDED VEHICLE.
Portions of real or personal property are excluded as a resource if used in connection with an excluded vehicle. The vehicle must be used to produce income or be necessary for transporting a physically disabled household member. (6-1-94)

362. SALABLE ITEM WITHOUT SIGNIFICANT RETURN EXCLUDED.
Resources that cannot be sold for a significant return are excluded. A significant return is one-half (1/2) the household resource limit. One-half (1/2) the household resource limit is one thousand dollars ($1,000) or one thousand five hundred dollars ($1,500), depending on household composition. The Department requires the household to give proof of the value of a resource only if it questions the resource data provided. Vehicles are not included under this rule. A single resource cannot be divided to get an exclusion under this rule. A resource meeting the conditions described in Subsections 362.01 through 362.03 is not counted. (7-1-97)

01. No Profit from Sale. The sale, or other disposal, of the resource is not likely to produce one-half (1/2) the resource limit for the household. (7-1-97)

02. No Interest in Resource. The household's interest in a resource is slight. The sale of the resource is not likely to bring one-half (1/2) the household resource limit. (7-1-97)

03. Cost of Sale Too Great. The cost of selling the household's interest in a resource is excessive. The household is not likely to sell the resource for one-half (1/2) the resource limit. (7-1-97)

363. HUD FAMILY SELF-SUFFICIENCY (FSS) ESCROW ACCOUNT.
Escrow accounts and the interest earned on an escrow account established by HUD for families participating in the Family Self-Sufficiency (FSS) Program established by Section 544 of the National Affordable Housing Act, are excluded as a resource when determining eligibility for food stamps. The federal exclusion for the funds in this program and other similar type escrow funds are only excluded while the funds are still in the escrow account or being used for a HUD approved purpose. Participants in the FSS program may withdraw funds from the escrow account before completing the program, with permission from the public housing authority, but only for purposes related to the goal of the Family Self-Sufficiency contract, such as completion of higher education, job training, or to

meet start-up expenses involved in creation of a small business. (4-11-06)

364. EDUCATIONAL ACCOUNTS EXCLUDED AS A RESOURCE.
The cash value of any funds in a qualified tuition program described in Section 529 of the Internal Revenue Code of 1986 or in a Coverdell education savings account under Section 530 of the Internal Revenue Code are excluded as a resource. (5-8-09)

365. INDIVIDUAL DEVELOPMENT ACCOUNT EXCLUDED AS A RESOURCE.
The cash value of an Individual Development Account (IDA) established in compliance with Section 56-1101(5), Idaho Code, is excluded as a resource. (5-8-09)

366. -- 372. (RESERVED)

373. GOVERNMENT PAYMENTS EXCLUDED.
Government payments for the restoration of a home damaged in a disaster are excluded as a resource. The household must be subject to legal sanction if the funds are not used as intended. (6-1-94)

374. EXCLUDED INACCESSIBLE RESOURCES.
The cash value of resources not legally available to the household is excluded as a resource. The household must provide proof resources are not available. (6-1-94)

375. FROZEN OR SECURED ACCOUNTS EXCLUDED.
Frozen bank accounts used as security for a loan or due to bankruptcy proceedings are excluded as resources. (6-1-94)

376. REAL PROPERTY EXCLUDED IF ATTEMPT TO SELL.
Real property is excluded as a resource if the household is making a good faith effort to sell it at a reasonable price. Verify the property is for sale and the household has not refused a reasonable offer. Document in the case record the reason for excluding the property and the household's efforts to sell. (6-1-94)

377. TRUST FUNDS EXCLUDED.
Trust funds are excluded if all conditions listed below are met: (6-1-94)

01. Trust Irrevocable or Not Changeable by Household. The household must be unable to revoke the trust agreement or change the name of the beneficiary during the certification period. (6-1-94)

02. Trust Unlikely to End During Certification. The trust arrangement must be unlikely to end during the certification period. (6-1-94)

03. Trustee Independent from Household Control. The trustee of the fund is either a court, institution, corporation, or organization not under the direction or ownership of a household member, or a court appointed person who has court-imposed limits placed on the use of funds. (6-1-94)

04. Trust Not Under Control of Household-Directed Business. The trust investments do not directly involve or help any business or corporation under the control, direction, or influence of a household member. (6-1-94)

05. Origin and Use of Trust. The funds held in an irrevocable trust are: (6-1-94)

a. Set up from the household's own funds. The trustee uses the funds only to make investments for the trust, or to pay education or medical expenses of the beneficiary; or (7-1-97)

b. Set up from nonhousehold funds by a non-household member. (6-1-94)

378. INSTALLMENT CONTRACTS EXCLUDED.
An installment contract for the sale of land and buildings is excluded as a resource. The purchase price must be consistent with the property's fair market value. The contract or agreement must produce income consistent with the

property's fair market value. Income is consistent with the property's fair market value when consistent with area market trends. The actual property sold under an excluded installment contract is excluded as a resource. Property held as security for the fulfillment of an excluded installment contract is excluded as a resource. (6-1-94)

379. TREATMENT OF EXCLUDED RESOURCES.
An excluded resource kept in a separate account is excluded for an unlimited period. If an excluded resource is combined with countable resources, the resource is not counted for six (6) months from the date the funds are combined. After six (6) months, the total combined resources are counted. (6-1-94)

380. (RESERVED)

381. NONLIQUID RESOURCES WITH LIENS EXCLUDED.
A nonliquid resource, with a lien placed against it, is excluded. The lien must result from a business loan. The lien agreement must forbid the household to sell the resource. (6-1-94)

382. (RESERVED)

383. EXCLUDED RESOURCE CHANGES TO COUNTED RESOURCE.
Resource value increases when a client replaces an excluded resource with a counted resource. (6-1-94)

384. -- 385. (RESERVED)

386. TRANSFER OF RESOURCES.
If a household transfers a resource within three (3) calendar months before the date of application for Food Stamps, determine if the transfer was made with the intent to qualify for the Food Stamp Program. Disqualify a household if the transfer was made with the intent to qualify for the Food Stamp Program. After a household is certified for Food Stamps, the transfer of a resource to remain eligible for Food Stamps will result in disqualification. (6-1-94)

387. TRANSFER OF RESOURCE NOT COUNTED FOR DISQUALIFICATION.
A transferred resource is not counted for disqualification, if conditions below: (6-1-94)

01. Three Months Before Application. The transfer of a resource more than three (3) months before the date of Food Stamp application is not counted. (6-1-94)

02. Resources Less Than Limit. The transfer of a resource is not counted if the resource, when added to the other countable resources, does not exceed the resource limit. (6-1-94)

03. Transfer at Fair Market Value. The sale or trade of a resource, made at or near the fair market value, is not counted. (6-1-94)

04. Transfer Between Household Members. A resource transferred between members of the same household, including ineligible legal non-citizens or disqualified persons whose resources are considered available to the household, is not counted. (7-1-98)

05. Transfer for Reasons Other Than Food Stamps. A resource transferred for reasons other than trying to qualify for Food Stamps is not counted. (6-1-94)

388. DISQUALIFICATION FOR TRANSFERRING RESOURCES.
Disqualify a household from Food Stamps for up to one (1) year from the discovery date of the transfer. Base the disqualification period on the amount the transferred resource exceeds the resource limit, when added to other countable resources. Disqualification periods are listed in Table 388. The disqualification period begins in the month of application unless the household is already certified when the transfer is discovered. If the household is already certified, the disqualification period starts with the first allotment after timely notice to end benefits. *( )*

***389*. -- 399. (RESERVED)**

400. INCOME.

All household income is counted in the Food Stamp budget unless excluded under these rules. Income can be earned or unearned. Income must be verified and documented. (6-1-94)

401. EARNED INCOME.
Earned income includes, but is not limited to, income listed in Section 401. (3-15-02)

01. Wages or Salary. Wages and salaries of an employee, advances, tips, commissions, meals, and military pay are earned income. Garnishments from wages are earned income. (6-1-94)

02. Self-Employment Income. Income from self-employment, including capital gains, is earned income. Rental property is a self-employment enterprise. The income is earned if a household member manages the property an average of twenty (20) or more hours per week. Payment from a roomer or boarder is self-employment income. (6-1-94)

03. Training Allowances. Training allowances from programs such as Vocational Rehabilitation are earned income. (3-20-04)

04. Payments Under Title I. Payments under Title I, such as VISTA and University Year for Action under P.L. 93-113 are earned income. (6-1-94)

05. On-the-Job Training Programs. WIA income includes monies paid by WIA or the employer. Income from WIA on-the-job training programs is earned income, unless paid to a household member under age nineteen (19). The household member under age nineteen (19) must be under the control of another household member. (3-15-02)

06. Basic Allowance for Housing (BAH). BAH is an Armed Services housing allowance. BAH is counted as earned income. (4-5-00)

402. UNEARNED INCOME.
Unearned income includes, but is not limited to income listed below: (6-1-94)

01. Public Assistance (PA). Payments from SSI, TAFI, AABD, GA, or other Public Assistance programs are unearned income. (7-1-98)

02. Retirement Income. Payments from annuities, pensions, and retirement are unearned income. Old age, survivors, or Social Security benefits are unearned income. (6-1-94)

03. Strike Benefits. Strike benefits are unearned income. (6-1-94)

04. Veteran's Benefits. Veteran’s benefits are unearned income. (6-1-94)

05. Disability Income. Disability benefits are unearned income. (6-1-94)

06. Workers' Compensation. Workers’ Compensation is unearned income. (6-1-94)

07. Unemployment Insurance. Unemployment Insurance is unearned income. (6-1-94)

08. Contributions. Contributions are unearned income. (6-1-94)

09. Rental Property Income. Rental property income, minus the cost of doing business, is unearned income if a household member is not managing the property at least twenty (20) hours per week. (6-1-94)

10. Support Payments. Support payments, including child support payments, are unearned income. (6-1-94)

11. Alimony. Alimony payments are unearned income. (6-1-94)

12. Education Benefits. Educational scholarships, grants, fellowships, deferred payment loans, and veteran's educational benefits are excluded unearned income. (4-7-11)

13. Government Sponsored Program Payments. Payments from government sponsored programs are unearned income. (6-1-94)

14. Dividends, Interest, and Royalties. Dividends, interest, and royalties are unearned income. Interest income is excluded unearned income. (4-7-11)

15. Contract Income. Contract income from the sale of property is counted as unearned income. (6-1-94)

16. Funds From Trusts. Monies withdrawn from trusts exempt as a resource are unearned income. Dividends paid or dividends that could be paid from trusts exempt as a resource are unearned income. (7-1-97)

17. Recurring Lump Sum Payments. Recurring lump sum payments are unearned income. (7-1-98)

18. Prizes. Cash prizes, gifts and lottery winnings are unearned income. (6-1-94)

19. Diverted Support or Alimony. Child support or alimony payments, diverted by the provider to a third party, to pay a household expense are unearned income. (6-1-94)

20. Agent Orange Payments. Payments made under the Agent Orange Act of 1991 and disbursed by the U.S. Treasury are unearned income. (6-1-94)

21. Garnishments. Garnishments from unearned income are unearned income. (6-1-94)

22. Tribal Gaming Income. Tribal gaming income is unearned income. The participant can choose to count the income in the month received, or prorate the income over a twelve (12) month period. (4-5-00)

23. Other Monetary Benefits. Any monetary benefit, not otherwise counted or excluded, is unearned income. (6-1-94)

403. -- 404. (RESERVED)

405. EXCLUDED INCOME.
Income excluded when computing Food Stamp eligibility is listed below: (6-1-94)

01. Money Withheld. Money withheld voluntarily or involuntarily, from an assistance payment, earned income, or other income source, to repay an overpayment from that income source, is excluded. If an intentional noncompliance penalty results in a decrease of benefits under a means tested program such as SSI or GA, count that portion of the benefit decrease attributed to the repayment as income. (7-1-98)

02. Child Support Payments. Child support payments received by TAFI recipients which must be given to CSS are excluded as income. (7-1-98)

03. Earnings of Child Under Age Eighteen Attending School. Earned income of a household member under age eighteen (18) is excluded. The member must be under parental control of another household member and attending elementary or secondary school. For the purposes of this provision, an elementary or secondary student is someone who attends elementary or secondary school or who attends GED or home-school classes that are recognized, operated, or supervised by the school district. This exclusion applies during semester and summer vacations if enrollment will resume after the break. If the earnings of the child and other household members cannot be differentiated, prorate equally among the working members and exclude the child's share. (7-1-98)

04. Retirement Benefits Paid to Former Spouse or Third Party. Social Security retirement benefits based on the household member's former employment, but paid directly to an ex-spouse, are excluded as the household member's income. Military retirement pay diverted by court order to a household member's former spouse

is excluded as the household member's income. Any retirement paid directly to a third party from a household member's income by a court order is excluded as the household member's income. (6-1-94)

05. Infrequent or Irregular Income. Income received occasionally is excluded as income if it does not exceed thirty dollars ($30) total in a three (3) month period. (6-1-94)

06. Cash Donations. Cash donations based on need and received from one (1) or more private nonprofit charitable organizations are excluded as income. The donations must not exceed three hundred dollars ($300) in a calendar quarter of a federal fiscal year (FFY). (6-1-94)

07. Income in Kind. Any gain or benefit, such as meals, garden produce, clothing, or shelter, not paid in money, is excluded as income. (6-1-94)

08. Vendor Payments. A vendor payment is a money payment made on behalf of a household by a person or organization outside of the household directly to either the household's creditors or to a person or organization providing a service to the household. (3-20-04)

09. Third Party Payments. If a person or organization makes a payment to a third party on behalf of a household using funds that are not owed to the household, the payment will be excluded from income. (3-20-04)

10. Loans. Loans are money received which is to be repaid. Loans are excluded as income. (6-1-94)

11. Money for Third Party Care. Money received and used for the care and maintenance of a third party who is not in the household. If a single payment is for both household members and nonhousehold members the identifiable portion of the payment for nonhousehold members is excluded. If a single payment is for both household members and nonhousehold members, exclude the lesser of: (6-1-94)

a. The prorated share of the nonhousehold members if the portion cannot be identified. (6-1-94)

b. The amount actually used for the care and maintenance of the nonhousehold members. (6-1-94)

12. Reimbursements. Reimbursements for past or future expenses not exceeding actual costs. Payments must not represent a gain or benefit. Payments must be used for the purpose intended and for other than normal living expenses. Excluded reimbursements are not limited to: (6-1-94)

a. Travel, per diem, and uniforms for job or training. (6-1-94)

b. Out-of-pocket expenses of volunteer workers. (6-1-94)

c. Medical and dependent care expenses. (6-1-94)

d. Pay for services provided by Title XX of the Social Security Act. (6-1-94)

e. Repayment of loans made by the household from their personal property limit. The repayment must not exceed the amount of the loan. (6-1-94)

f. Work-related and dependent care expenses paid by the JSAP program. (6-1-94)

g. Transitional child care payments. (6-1-94)

h. Child care payments under the Child Care and Dependent Block Grant Act of 1990. (6-1-94)

13. Federal Earned Income Tax Credit (EITC). Federal EITC payments are excluded as income. (9-1-94)

14. Work Study. Work Study income received while attending post-secondary school is excluded as income. (3-20-04)

15. HUD Family Self-Sufficiency (FSS) Escrow Account. The federal exclusion for these funds are only excluded while the funds are in the escrow account or being used for a HUD approved purpose. See Section 363 of these rules for further clarification. (4-11-06)

16. Temporary Census Earnings. Wages earned for temporary employment related to U. S. Census activities are excluded as income during the regularly scheduled ten (10) year U. S. Census. (4-7-11)

17. Income Excluded by Federal Law. If income is excluded by federal law, it is excluded for Food Stamps. (3-29-12)

406. *(RESERVED)*

407. INCOME AND ELIGIBILITY VERIFICATION SYSTEM (IEVS).
Income must be verified with the IEVS system for all households applying for or getting Food Stamps. Income must be verified for disqualified members with income counted toward the household Food Stamp benefits. (6-1-94)

408. *(RESERVED)*

409. USE OF IEVS INFORMATION FOR APPLICANT HOUSEHOLDS.
IEVS data must be used to compute eligibility and benefits if IEVS data is received before the application is processed. IEVS data on applicant households must be used as soon as possible, even if the applicant household was approved before the IEVS data was received. Action on applications must not be delayed pending receipt of IEVS data. If IEVS data requiring further proof is received, before application approval, the proof must be obtained and resolved before approving the application. If an applicant household cannot provide an SSN at application, IEVS data must be used as soon as possible after the SSN is known. IEVS data must be used for all household members, eligible, excluded or disqualified. (6-1-94)

410. *(RESERVED)*

411. VERIFIED IEVS DATA.
The IEVS data listed below is considered verified upon receipt, unless it is questionable: (6-1-94)

01. Benefit Data Exchange (BENDEX). BENDEX Social Security retirement and disability income data. (6-1-94)

02. State Data Exchange (SDX). Benefit and eligibility data from SSA under Titles II and XVI of the Social Security Act accessed through the State Data Exchange (SDX). (6-1-94)

03. TAFI. Temporary Assistance for Families in Idaho. (7-1-98)

04. AABD. Aid to the Aged, Blind, or Disabled. (6-1-94)

05. Medicaid. The Federally-aided program for medical care (Title XIX, Social Security Act). (6-1-94)

412. UNVERIFIED IEVS DATA.
The IEVS data listed below is considered unverified: (6-1-94)

01. IRS Reported Unearned Income. Unearned income data from IRS, including any unreported assets producing income. (6-1-94)

02. Wages. Wage file data. Wage data from Department of Commerce and Labor or its counterpart in another state. Wage data from BEER. (7-1-98)

03. Self-Employment Earnings. Self-employment earnings data from BEER. (6-1-94)

04. Questionable Information. Income information the Department feels is doubtful. (6-1-94)

413. -- 414. (RESERVED)

415. EDUCATIONAL INCOME.
Educational income includes deferred repayment educational loans, grants, scholarships, fellowships, and veterans' educational benefits. The school attended must be a recognized institution of post secondary education, a school for the handicapped, a vocational education program, or a program providing completion of a secondary school diploma, or equivalent. Educational income is excluded. (4-7-11)

416. -- 426. (RESERVED)

427. AVERAGING SELF-EMPLOYMENT INCOME.

01. Annual Self-Employment Income. When self-employment income is considered annual support by the household, the Department averages the self-employment income over a twelve-month (12) period, even if: (5-8-09)

a. The income is received over a shorter period of time than twelve (12) months; and (5-8-09)

b. The household receives income from other sources in addition to self-employment. (5-8-09)

02. Seasonal Self-Employment Income. A seasonally self-employed individual receives income from self-employment during part of the year. When self-employment income is considered seasonal, the Department averages self-employment income for only the part of the year the income is intended to cover. (5-8-09)

428. CALCULATION OF SELF-EMPLOYMENT INCOME.
The Department calculates self-employment income by adding monthly income to capital gains and subtracting a deduction for expenses as determined in Subsection 428.03 of this rule. (5-8-09)

01. How Monthly Income Is Determined. If no income fluctuations are expected, the average monthly income amount is projected for the certification period. If past income does not reflect expected future income, a proportionate adjustment is made to the expected monthly income. (5-8-09)

02. Capital Gains Income. Capital gains include profit from the sale or transfer of capital assets used in self-employment. The Department calculates capital gains using the federal income tax method. If the household expects to receive any capital gains income from self-employment assets during the certification period, this amount is added to the monthly income, as determined in Subsection 428.01 of this rule, to determine the gross monthly income. (5-8-09)

03. Self-Employment Expense Deduction. The Department uses the standard self-employment deduction in Subsection 428.03.a. of this rule, unless the applicant claims that his actual allowable expenses exceed the standard deduction and provides proof of the expenses as described in Subsection 428.03.b. of this rule. (5-8-09)

a. The self-employment standard deduction is determined by subtracting fifty percent (50%) of the gross monthly self-employment income as determined in Subsections 428.01 and 428.02 of this rule; or (5-8-09)

b. The self-employment actual expense deduction is determined by subtracting the actual allowable expenses from the gross monthly self-employment income. The following items are not allowable expenses and may not be subtracted from gross monthly self-employment income. (5-8-09)

i. Net losses from previous tax years; (5-8-09)

ii. Federal, state, and local income taxes; (5-8-09)

iii. Money set aside for retirement; (5-8-09)

iv. Work-related personal expenses such as transportation to and from work; and (5-8-09)

v. Depreciation. (5-8-09)

429. SELF-EMPLOYED FARMER.
To be considered a self-employed farmer, a person must receive, or expect to receive, an annual gross income of one thousand dollars ($1,000) or more earned from farming activities. If a farmer's cost of producing self-employment income results in a loss, the Department subtracts the loss from other countable income in the household in accordance with 7 CFR 273.11(a)(2)(ii)(A) and (B). (4-11-19)

430. -- *500*. (RESERVED)

501. INITIAL CHANGES IN FOOD STAMP CASE.
Act on changes in household circumstances found during the application or the initial interview. (6-1-94)

0*1*. Food Stamp Issuance Changes. The Department will make changes to the household's Food Stamp issuance when it is required to act on a change. (3-30-07)

0*2*. Change Before Certification. If a household reports a change in household circumstances before certification, include the reported information in determining Food Stamp eligibility and amount. (7-1-14)

0*3*. Change After Certification. If a household reports a change after the initial Food Stamp benefit has been paid, the Department must act on the change as required by policy for acting on changes within a certification period. Notice of the change must be given to the Food Stamp household. (7-1-14)

502. EARNED INCOME WHEN A HOUSEHOLD MEMBER TURNS AGE EIGHTEEN.
When a child attending elementary or secondary school turns age eighteen (18), do not count earned income received or expected by that person until the next six-month or twelve-month contact, or recertification. (3-29-12)

503. -- 507. (RESERVED)

508. PROJECTING MONTHLY INCOME.
Income is projected for each month. Past income may be used to project future income. Changes expected during the certification period must be considered. Criteria for projecting monthly income is listed below: (6-1-94)

01. Income Already Received. Count income already received by the household during the month. If the actual amount of income from any pay period is known, use the actual pay period amounts to determine the total month's income. Convert the actual income to a monthly amount if a full month's income has been received or is expected to be received. If no changes are expected, use the known actual pay period amounts for the past thirty (30) days to project future income. (6-1-94)

02. Anticipated Income. Count income the household and the Department believe the household will get during the remainder of the certification period. If the exact income amount is uncertain or unknown, that portion must not be counted. If the date of receipt of income cannot be anticipated for the month of the eligibility determination, that portion must not be counted. If the income has not changed and no changes are anticipated, use the income received in the past thirty (30) days as one indicator of anticipated income. If changes in income have occurred or are anticipated, past income cannot be used as an indicator of anticipated income. If income changes and income received in the past thirty (30) days does not reflect anticipated income, the Department can use the household income received over a longer period to anticipate income. If income changes seasonally, the Department can use the household income from the last season, comparable to the certification period, to anticipate income. (6-1-94)

509. TYPES OF INCOME TO BE AVERAGED.
Types of income to be averaged are listed below. Income for a destitute migrant or seasonal farm worker household is not averaged. (3-30-07)

01. Self-Employment Income. Average self-employment income. (6-1-94)

02. Contract Income. Average contract income over the period of the contract, if not received on an hourly or piecework basis. Households with averaged contract income include school employees, share croppers and farmers. These households do not include migrants or seasonal farm workers. (6-1-94)

03. Income Received Less Often Than Monthly. When receipt of income is less often than monthly, the anticipated income can be averaged over the period intended to cover to determine the average monthly income. (6-1-94)

04. Child Support. Child support income can be averaged to make a valid projection for ongoing income. (3-30-07)

510. -- *511.* *(RESERVED)*

512. SPECIAL CASES FOR COUNTING INCOME.
Special cases for counting income are listed below: (6-1-94)

01. Wages Held at the Request of Employee. Wages held at the request of the employee are income in the month the wages would have been paid by the employer. (6-1-94)

02. Garnishments Held by Employer. Garnishments withheld by an employer are income in the month the wages would have been paid. (6-1-94)

03. Wages Held by Employer, Other Than Garnishment and Employee Request. Wages held by the employer, even if in violation of law, are not counted as income. (6-1-94)

04. Advances on Wages. Advances on wages will count as income if the household reasonably expects the advance to be paid. (6-1-94)

05. Varying Payment Cycles. Households getting unearned or earned income on a recurring monthly or semi-monthly basis do not have varying income merely because mailing or payment cycles cause additional payments to be received in a month. The income is counted for the month it is intended. (7-1-98)

06. Nonrecurring Lump Sum Payments and Capital Gains. Nonrecurring lump sum payments must not be counted as income. Nonrecurring lump sum payments are counted as a resource starting in the month received. Nonrecurring lump sum payments include capital gains from the sale or transfer of securities, real estate, or other real property held as an investment for a set period of time. The capital gains are income only if the assets were used in self-employment. (6-1-94)

07. PA Entitlement. If a household intentionally fails to comply with a means-tested program, a penalty may be imposed and benefits reduced to collect the means-tested program overpayment. Means-tested programs include PA. Count the full amount of means-tested benefits the household is entitled to, not the reduced amount caused by the failure to comply. (3-20-04)

513. -- 53*1*. (RESERVED)

532. GROSS INCOME LIMIT.
Households exceeding the gross income limit for the household size are not eligible, unless they are categorically eligible or have an elderly or disabled member. A household with an elderly or disabled household member is exempt from the gross income limit. If all household members receive or are authorized to receive monthly payments through TAFI, AABD, or SSI, the household is categorically eligible. The gross income limit is raised each federal fiscal year by FNS, based on the federal cost of living (COLA) adjustment. *( )*

533. HOUSEHOLD ELIGIBILITY AND BENEFIT LEVEL.
A household's eligibility and benefit level is calculated in accordance with 7 CFR 273.10, except as indicated below in Subsections 533.01 through 533.07. of this rule. The deductions in Subsections 533.01 through 533.07 of this rule are subtracted from non-excluded income. (4-11-06)

01. Standard Deductions. The standard deductions are controlled by Federal law. The monthly amounts are specified in Title 7 United States Code Section 2014. ( )

02. Earned Income Deduction. The earned income deduction is twenty percent (20%) of gross earned income. (6-1-94)

03. Homeless Shelter Deduction. The homeless shelter deduction is established by FNS. ( )

04. Excess Medical Deduction. Excess medical expense is nonreimbursed medical expense of more than thirty-five dollars ($35) per household per month. The household member must be either age sixty (60) or older or disabled to get this expense deduction. Special diets are not deductible. For allowable medical expenses, see Section 535 of these rules. (4-11-06)

05. Dependent Care Deduction. The dependent care expense deduction is for monthly dependent care expenses. The dependent care may be needed for children or adults. (5-8-09)

06. Child Support Deduction. The child support expense deduction is the legally obligated child support and arrearage the household pays, or expects to pay, to or for a non-household member. (4-11-06)

07. Excess Shelter Deduction. Excess shelter expense is the monthly shelter cost over fifty percent (50%) of the household's income after all other deductions. The excess shelter expense is not deducted if the household has received the homeless shelter deduction. For allowable shelter expenses, see Section 542 of these rules. (4-11-06)

534. AVERAGING INFREQUENT, FLUCTUATING, OR ONE-TIME ONLY EXPENSES.
Infrequent, fluctuating, or one-time only expenses for medical, child support, shelter or child care are averaged. (4-11-06)

535. MEDICAL EXPENSES.
Elderly or disabled household members that incur medical expenses over thirty-five dollars ($35) per month are allowed a Standard Medical Expense (SME) deduction. Eligible households must verify monthly medical expenses of more than thirty-five dollars ($35) at initial application. Households with medical expenses that exceed the monthly Standard Medical Expense may either verify the minimum amount to receive the SME or request and verify excess costs to receive an actual expense deduction at application and recertification. The household must provide proof of the incurred or anticipated cost before a deduction is allowed. ( )

536. DEPENDENT CARE EXPENSES.
The care of a dependent must be necessary to maintain employment, conduct job search, or attend school or training. The dependent care expenses must be deducted from income. ( )

537. DEPENDENT CARE RESTRICTIONS.
Dependent care restrictions are listed below: (6-1-94)

01. Care by Household Member. Dependent care cannot be deducted if the care is provided by another household member. (6-1-94)

02. In-Kind Payment. Dependent care cannot be deducted if the payment is in-kind, such as food or exchanges for shelter. (6-1-94)

03. Vendor Payment. Dependent care cannot be deducted if paid by vendor payment. (6-1-94)

04. Spouse Can Give Care. Dependent care cannot be deducted if the spouse in the home is physically capable of the dependent care and is not working, seeking work, or registered for work. (6-1-94)

05. Paid or Reimbursed Dependent Care. Dependent care cannot be deducted if paid or reimbursed under a federal child care program. (3-20-04)

538. CHILD SUPPORT EXPENSES.
*C*hild support expense may be deducted for a household paying or expecting to pay legally obligated child support to or for a person living outside the household. The child support expense deducted must reflect the child support the household pays or expects to pay during the certification period, rather than the obligated amount. *( )*

***539*. -- 541. (RESERVED)**

542. COSTS ALLOWED FOR SHELTER DEDUCTION.
Shelter costs are current charges for the shelter occupied by the household. Shelter costs include costs for the home temporarily not occupied because of employment or training away from home or illness. *( )*

543. UTILITY ALLOWANCES.
The shelter deduction is computed using one (1) of four (4) utility allowances: Standard Utility Allowance (SUA). Limited Utility Allowance (LUA), the Minimum Utility Allowance (MUA), or the Telephone Utility Allowance (TUA). Utility allowances are not prorated. (3-29-10)

01. Standard Utility Allowance (SUA). (4-6-05)

a. The household must have a primary heating or cooling cost to qualify for the SUA. The heating or cooling costs must be separate from rent or mortgage payments. *( )*

b. *Occupied and unoccupied homes are households with both an occupied home and an unoccupied home, that are limited to one (1) SUA.* *( )*

02. Limited Utility Allowance (LUA). The household must be billed for more than one (1) utility that is not for heating or cooling. *( )*

03. Minimum Utility Allowance (MUA). The household must be billed for one (1) utility that is not for heating, cooling, or telephone service. (3-29-10)

04. Telephone Utility Allowance (TUA). The household must be billed for telephone service and have no other verified utility expenses. (3-29-10)

544. -- *546*. (RESERVED)

547. COSTS NOT ALLOWED FOR THE SHELTER DEDUCTION.
The costs listed below are not allowed in computing the shelter deduction. (6-1-94)

01. Utility Deposit. Fees for a one (1) time utility deposit. (6-1-94)

02. Rental Deposit. Damage or advance deposits on rentals. (6-1-94)

03. Past Due Rent. Payments made to pay past due rent. (6-1-94)

04. Wood Cutting. The cost to cut the household's own wood for heating. (6-1-94)

05. Furniture Rental. Rental furniture fees. (6-1-94)

06. Personal Insurance. Insurance on furniture or personal belongings. (6-1-94)

07. Vehicle Not Used as Residence. Payments or gasoline costs on vehicles used only for recreation. (6-1-94)

08. Repairs Not Paid by Household. Costs for repairing or replacing shelter paid by private or public agencies, insurance companies, or any other source. (6-1-94)

09. Shelter Not Paid by Household. Shelter paid by a vendor or employer. (6-1-94)

10. Utility Cost Paid by Utility Payment. Utility costs paid entirely by HUD or FmHA negative utility payment. (8-1-94)

548. COMPUTING THE SHELTER DEDUCTION.
The shelter deduction is computed as listed below: (6-1-94)

01. Household with Elderly or Disabled Member. If the household has an elderly or disabled member, deduct the monthly shelter cost exceeding fifty percent (50%) of the household's income after all other deductions. (6-1-94)

02. Household with No Elderly or Disabled Member. If the household does not have an elderly or disabled member, deduct the excess of fifty percent (50%) of the household's income, after all other deductions, up to the maximum limit as specified in Title 7 USC Section 2014. (4-5-00)

549. NET INCOME LIMIT TEST.
Categorically eligible households do not have to meet the net income limit. All other households, including those with an elderly or disabled household member, must not exceed the net income limit to be eligible for Food Stamps. ( )

550. DETERMINATION OF FOOD STAMP BENEFIT.
The Food Stamp benefit is computed in accordance with 7 CFR 273.9 and 273.10. (4-6-05)

551. ROUNDING FOOD STAMP PAYMENT.
Income and deductions are not rounded in determining gross or net income. Only the final Food Stamp amount is rounded. (6-1-94)

552. -- 561. (RESERVED)

562. PRORATING INITIAL MONTH'S BENEFITS.
Prorating is based on a thirty (30) day calendar month. Benefits are prorated from the application date to the end of the month. ( )

563. FOOD STAMP PRORATING FORMULA.
The prorated Food Stamp amount is determined per 7 CFR 273.10(a)(1)(iii)(B). If the amount for the initial month is less than ten dollars ($10), benefits must not be issued. (3-29-10)

564. BENEFITS AFTER THE INITIAL MONTH.
After the initial month, benefits must be issued as described below. (6-1-94)

01. One and Two Person Households. All eligible one (1) and two (2) person households must receive a minimum allotment equal to eight percent (8%) of the maximum one (1) person allotment. (5-8-09)

02. Three or More Person Household. (6-1-94)

a. All eligible households with three (3) or more members entitled to one dollar ($1), must receive two dollars ($2). (6-1-94)

b. All eligible households with three (3) or more members entitled to three dollars ($3), must receive four dollars ($4). (6-1-94)

c. All eligible households with three (3) or more members entitled to five dollars ($5), must receive six dollars ($6). (6-1-94)

03. Not Categorically Eligible. All households, except categorically eligible households, must be denied if the household's net income exceeds the level at which benefits are issued. (6-1-94)

565. FOOD STAMP BENEFITS FOR CATEGORICALLY ELIGIBLE HOUSEHOLD.
Categorically eligible households with one (1) or two (2) household members are eligible to get an allotment amount of Food Stamps that is equal to at least eight percent (8%) of the maximum monthly one (1) person allotment, regardless of net income. Categorically eligible households with three (3) or more household members are eligible for Food Stamps, but do not get Food Stamps if the net income is too high. (3-29-10)

566. -- 572. (RESERVED)

573. ACTING ON HOUSEHOLD COMPOSITION CHANGES.
Changes in household composition are not required to be reported. If a household does report a change in household composition, the Department will act on the change as required by options allowed under 7 CFR 273.12(c). (7-1-14)

574. ADDING PREVIOUSLY DISQUALIFIED HOUSEHOLD MEMBERS.
The resources, income, and deductions of a previously disqualified household member must be determined. Change the previously disqualified household member's participation the month following the last month in the sanction or if the person becomes exempt. The disqualification must have been due to an intentional program violation (IPV), work registration or Job Search Assistance Program (JSAP) sanction, voluntary quit or reduction of work hours, failure to comply with the SSN requirement, or ineligible legal non-citizen status. The person's resources, income, and deductions that were previously prorated are counted in full the month after the disqualification ends. Prorate benefits from the date the ABAWD becomes Food Stamp eligible by reaching eighty (80) hours by working, participating in a work program, or combining work and work programs. (4-11-06)

575. HOUSEHOLD COMPOSITION CHANGES FOR STUDENT.
Ineligible students are defined as non-household members. When a student's status changes, the change is treated as a new person entering or leaving the Food Stamp household. (7-1-14)

576. **-- 587. (RESERVED)**

588. NOTICE OF DECISION TO HOUSEHOLDS.
The Department must send the household a written notice as soon as Food Stamps are approved or denied. The household must get the notice no later than thirty (30) days after the application date. *( )*

589. -- 600. (RESERVED)

601. REPORTING REQUIREMENTS AND RESPONSIBILITIES.
Changes may be reported by phone, mail, or e-mail, or directly to the Department. Households must report as follows: (3-29-10)

01. Income Exceeds One Hundred Thirty Percent (130%) of FPG. When the household's total gross income exceeds one hundred thirty percent (130%) of the Federal Poverty Guideline (FPG) for the household size. (3-29-10)

02. Decrease in ABAWD Hours to Less Than Eighty (80) Hours Per Month. When there is a decrease in the household's ABAWD hours to less than eighty (80) hours per month. (3-29-10)

602. *(RESERVED)*

603. PERSON OUTSIDE HOUSEHOLD FAILS TO PROVIDE PROOF -- CHANGES.
Food Stamps cannot be closed solely because a person outside the household fails to provide requested proof. The Department will attempt to get another source of proof if a person outside the household does not provide requested proof. Disqualified household members are not persons outside the household. (4-6-05)

604. -- 610. (RESERVED)

611. TIME FRAMES FOR REPORTING CHANGES IN HOUSEHOLD CIRCUMSTANCES.
Households must report changes in circumstances as required in Section 601 of these rules. Households reporting

required changes to the Department must do so by the tenth day of the month following the month in which the change occurred. (3-29-10)

01. Reporting Methods. Changes can be reported by telephone, personal contact, mail, or e-mail. Changes can be reported by a household member or authorized representative. (3-29-10)

02. Failure to Report. If Food Stamps are overissued because a household fails to report required changes, a Claim Determination must be prepared. A person can be disqualified for failure to report a change if he commits an Intentional Program Violation. (7-1-99)

612. (RESERVED)

613. CHANGES ON WHICH THE DEPARTMENT MUST ACT.
The Department must follow the procedures for acting on reported changes as described in 7 CFR 273.12. (7-1-14)

614 -- 616. (RESERVED)

617. INCREASES IN FOOD STAMP BENEFITS.

01. Household Reports a Change. If a household reports a change that results in an increase in Food Stamps and the proof cannot be obtained through interfaces or data brokers, the Department must allow the household ten (10) days to provide proof. (7-1-14)

02. Failure to Provide Proof of Change. If the household fails to provide proof of a change that would increase the benefit level, the Food Stamp benefit remains at the amount already established. (3-29-10)

03. Proof Provided Within Ten Days. If the household provides proof within ten (10) days of reporting the change, the Department will increase the Food Stamp benefits beginning the month immediately following the month in which the change was reported. For changes reported after the 20th of the month, a supplement is issued for the next month no later than the 10th of the next month. If the change is reported and verified after the final date to adjust Food Stamp benefits for the following month in the Department's automated eligibility system, the change to the Food Stamp benefits must be made by the following month, even if a supplement must be issued. (4-11-06)

04. Proof Not Provided Within Ten Days. If the household fails to provide proof within ten (10) days of reporting the change, but provides proof later, benefits are increased the month after the proof of the change is provided. (3-29-10)

618. DECREASES IN FOOD STAMP BENEFITS.
If the Department acts on a change that results in a decrease in Food Stamp benefits, the Department must give timely notice, if required. The notice must explain the reason for the action. (7-1-14)

619 -- 620. (RESERVED)

621. TAFI OR AABD HOUSEHOLD REPORTING CHANGES.
If a change in the AABD or TAFI grant results in a change in the household's Food Stamp benefits, the Department must count the new grant amount, regardless of whether the Food Stamps increase or decrease. If a change requires a reduction or ending of TAFI or AABD and Food Stamp benefits, the Department will issue a Notice of Decision for both programs. If the household makes a timely request for a fair hearing and continued benefits, Food Stamp benefits continue pending the hearing. The household must reapply if certification expires before the hearing is complete. (4-11-06)

622. CHANGE ENDS TAFI OR AABD INCOME.
A change ending a household's income from a TAFI or AABD grant during the certification period may affect Food Stamp eligibility. A household's Food Stamp benefits must not be closed just because of a TAFI or AABD closure. Food Stamp benefits will be closed only if the change requires the Department to take action under Section 613 of these rules and the action would close Food Stamps. If the household appeals and TAFI or AABD is continued,

continue Food Stamps at the same level. If a TAFI or AABD notice is not required or the household does not appeal, the Department must send a notice explaining that the household's benefits will end. A notice must be sent to the household when Food Stamp benefits change because of a TAFI or AABD change. If TAFI or AABD ends and the household remains Food Stamp eligible, the Department must advise the household of the work registration requirements. (4-6-05)

623. FAILURE TO TAKE REQUIRED ACTION.
If the Department is unable to make a change in Food Stamp eligibility or issuance and an overissuance results, collect the overpayment. If the Department fails to act on a change that increases household benefits, restore lost benefits. (4-11-06)

624. -- 628. (RESERVED)

629. NOTICE OF LOWERING OR ENDING BENEFITS.
Households must be sent a Notice of Decision when Food Stamps are ended or reduced, unless notice is not required under these rules. (6-1-94)

630. ADEQUATE NOTICE.
Adequate notice is a written statement telling the household the action the Department is taking. The notice must tell the reasons for the action. The notice must advise the household of the right to a hearing. All notices must be adequate. If Food Stamps are reduced, the household must receive the notice on or before the first day of the month the action is effective. ( )

631. NOTICE.
Notices must be sent within the time limits listed in these rules. Timely notice must be mailed at least ten (10) days before the effective date of the action. (4-11-06)

632. TIMELY NOTICE NOT REQUIRED.
Timely notice is not required when the conditions listed below are met. Adequate notice must be given. (4-11-06)

01. Statement of Household. The Department gets a clear, written, signed statement from the household. Food Stamps can be ended or reduced from the facts given in the household statement. (6-1-94)

02. Food Stamps Reduced After Closure Notice. The household is sent a notice of closure because it did not provide requested proof. The household provides the proof before the first day of the month of closure. If the proof results in reduced Food Stamps, the reduced benefits are issued. Timely notice of the reduction is not required. (4-11-06)

03. Food Stamps Closed or Reduced Because of Intentional Program Violation (IPV) Penalty. The Department must impose the IPV penalty the first of the month after the month it gives written notice to the client. Timely notice is not required. (4-11-06)

633. NOTICE OF CHANGES NOT REQUIRED.
Notice to individual Food Stamp households is not required when the conditions listed in Subsection 633.01 below are met. Mass notice must be given in some situations, as listed in Subsection 633.02 below: (4-5-00)

01. Waiver by the Household. A household member or authorized representative provides a written statement requesting closure. The person gives information causing reduction or an end to benefits and states, in writing, they know adverse action will be taken. The person acknowledges in writing continuation of benefits is waived, if a fair hearing is requested. (4-5-00)

02. Mass Change. Mass changes include: (6-1-94)

a. Changes in the income limit tables. (6-1-94)

b. Changes in the issuance tables. (6-1-94)

c. Changes in Social Security benefits. (6-1-94)

d. Changes in SSI payments. (6-1-94)

e. Changes in TAFI or AABD grants. (7-1-98)

f. Changes caused by a reduction, suspension, or cancellation of Food Stamps ordered by the Secretary of USDA. (6-1-94)

g. When it performs mass changes, the Department notifies Food Stamp households of the mass change by one of the following methods: (6-1-94)

i. Media notices. (6-1-94)

ii. Posters in the Food Stamp offices and issuance locations. (6-1-94)

iii. A general notice mailed to households. (6-1-94)

03. Mass Changes in TAFI or AABD. When a mass change to TAFI or AABD causes a Food Stamp change, use the following criteria: (7-1-98)

a. If the Department has thirty (30) days advance notice of the TAFI or AABD mass change, Food Stamps must be adjusted the same month as the change. (7-1-98)

b. If the Department does not have advance notice, Food Stamp benefits must be changed no later than the month after the TAFI or AABD mass change. (7-1-98)

c. Ten (10) day advance notice to Food Stamp households is not required. Adequate notice must be sent to Food Stamp households. (6-1-94)

d. If a household requests a fair hearing because of an issue other than mass change, continue Food Stamps. (6-1-94)

04. Notice of Death. Notice is not required when the Department learns of the death of all household members. (6-1-94)

05. Completion of Restored Benefits. Notice is not required when an increased allotment, due to restored benefits, ends. The household must have been notified in writing when the increase would end. (6-1-94)

06. Joint Public Assistance and Food Stamp Applications. Notice is not required if the household jointly applies for TAFI or AABD and Food Stamps and gets Food Stamps pending TAFI or AABD approval. The household must be notified at certification that Food Stamps will be reduced upon TAFI or AABD approval. (7-1-98)

07. Converting From Repayment to Benefit Reduction. Notice is not required if a household with an IHE or IPV claim fails to repay under the repayment schedule. An allotment reduction is enforced. (6-1-94)

08. Households Receiving Expedited Service. Notice is not required if all the following conditions are met: (4-11-06)

a. The applicant received expedited services. (4-11-06)

b. Proof was postponed. (6-1-94)

c. A regular certification period was assigned. (6-1-94)

d. Written notice, stating future Food Stamps depend on postponed proof, was given at approval. (6-1-94)

09. **Residents of a Drug or Alcoholic Treatment Center or a Group Living Arrangement Center**. Notice is not required when the Department ends Food Stamps to residents of a drug or alcoholic treatment center or group living arrangement center if: (6-1-94)

a. The Department revokes the center's certification. (6-1-94)

b. FNS disqualifies the center as a retailer. (7-1-98)

634. VERBAL REQUEST FOR END OF FOOD STAMPS.
If a household makes a verbal request for closure, end the benefits and notify the household with a ten (10) day advance Notice of Decision. (6-1-94)

635. -- *638*. (RESERVED)

639. CONTINUATION OF BENEFITS PENDING A HEARING.
The household retains the right to continued benefits when the household requests a fair hearing within the ten (10) day notice period. The household must request this continuation of Food Stamps. If certification has not expired, Food Stamps can continue at the former level. Benefits must be continued within five (5) working days of the household's request for a fair hearing. (6-1-94)

640. *(RESERVED)*

641. REDUCING OR ENDING BENEFITS BEFORE HEARING DECISION.
Benefits may be ended or reduced before the hearing decision, if a condition listed below is met: (6-1-94)

01. Appeal of Federal Law. The hearing official states, in writing, the sole issue being appealed is one of Federal law, regulation, or policy. (6-1-94)

02. Food Stamp Issuance Changes. Food Stamp eligibility or benefit level changes occur before the hearing decision and a new hearing is not requested. (6-1-94)

03 Food Stamps Expire. The Food Stamp certification period expires. (6-1-94)

04. Mass Change. A mass change occurs before the hearing decision. (6-1-94)

642. -- 643. (RESERVED)

644. EXPIRATION OF CERTIFICATION PERIOD.
Household eligibility ends when the certification period expires. (6-1-94)

645. RECERTIFICATION PROCESS.
The Department must follow the recertification procedures described in 7 CFR 273.14. (4-6-05)

646. NOTICE OF DECISION FOR TIMELY RECERTIFICATION.
A Notice of Decision must be sent to households that reapply for Food Stamps. To receive Food Stamps with no break in issuance, households must complete a six-month or twelve-month contact or recertification before the fifteenth day of the last month of certification or six-month or twelve-month contact period. If the household applies before the fifteenth day of the month, the Department will notify the household of eligibility or denial by the end of the current certification period. (3-29-12)

647. -- 649. (RESERVED)

650. RESTORATION OF LOST BENEFITS.
Lost benefits must be restored. The Department may find Food Stamps have been incorrectly denied, ended, or underissued to an eligible household. The Department may learn of lost benefits from case reviews, Quality Control reviews, or other sources. Benefits are restored when caused by a Department error, when a fair hearing is reversed,

or an IPV disqualification is reversed. Restore benefits to eligible and previously eligible households. Restore benefits to households who have moved out of state. Restore benefits for SSA joint processing errors. (6-1-94)

651. TIME FRAMES FOR RESTORATION OF BENEFITS.
Benefits must not be restored if lost more than twelve (12) months before notification or discovery. (6-1-94)

01. Lost Benefits Reported by Household. Lost benefits are restored when the Department learns of lost benefits reported by the household, a person outside the household or by another agency. Twelve (12) months are counted from the month the Department is notified of the lost benefits. (6-1-94)

02. Lost Benefits Discovered by Department. Lost benefits are restored when the Department discovers lost benefits during the course of business. Twelve (12) months are counted from the month the Department discovers the benefits were lost. (6-1-94)

03. Lost Benefits From Fair Hearing. Lost benefits are restored to a household that requests a fair hearing and the decision is in the household's favor. Twelve (12) months are counted from the effective date of the adverse action causing the fair hearing. (6-1-94)

***652*. -- 655. (RESERVED)**

656. REPLACING FOOD DESTROYED BY A DISASTER.
Conditions and procedures for replacing food destroyed by a disaster are listed below. The food must have been purchased with Food Stamps. (6-1-94)

01. Food Destroyed in a Disaster. The actual value of loss, not to exceed one (1) month's allotment, can be replaced. The food bought with Food Stamps must have been destroyed in a disaster. The disaster may involve only the household, such as a house fire, or a larger scope, such as a flood. There is no limit on the number of times food destroyed in a disaster may be replaced. (6-1-94)

02. Replacement Time Limit for Disaster Loss. The Department must provide either disaster Food Stamps or replacement Food Stamps, but not both, within ten (10) days of the reported loss, if: (6-1-94)

a. The household reports the disaster within ten (10) days of the incident. (6-1-94)

b. The disaster is verified by collateral contact, an organization such as the Fire Department or Red Cross, or by home visit. (6-1-94)

657. -- 674. (RESERVED)

675. IPV, IHE AND AE FOOD STAMP CLAIMS.
An overissuance exists when the amount of Food Stamps issued exceeds the Food Stamps a household is eligible to receive. The Department must establish a claim against the household, to recover the value of Food Stamps overissued or misused. The types of Food Stamp claims are listed in Subsections 675.01 through 675.03 of this rule.
( )

01. Intentional Program Violation (IPV) Claim. An IPV claim is an overissuance caused by an intentional, knowing, and willful program violation. (3-15-02)

02. Inadvertent Household Error (IHE) Claims. An IHE is a household error, without intent to cause an overissuance, which results in a Food Stamp over-issuance. Causes of IHE claims are: (3-15-02)

a. Failure to give information. A household, without intent to cause an over-issuance, fails to give correct or complete information. (3-15-02)

b. Failure to report change that was required to be reported. A household, without intent to cause an over-issuance, fails to report changes or to report at all. (4-11-06)

c. Failure to comply. A household, without intent to cause an over-issuance, fails to comply due to language barrier, educational level, or not understanding written or verbal instructions. (3-15-02)

d. Pending IPV. An IHE claim occurs between the time of an IPV referral, and the IPV decision. (3-15-02)

03. Agency Error Claim (AE). An agency error claim results from an overissuance caused by a Department action, or a failure to act. (3-15-02)

676. PERSONS LIABLE FOR FOOD STAMP CLAIMS.
The persons listed in Subsections 676.01 through 676.03 are responsible for paying a claim. (3-15-02)

01. Adult Household Members. Adult members of the household at the time of the overissuance or trafficking, are liable. They are individually and jointly liable, whether residing in the household where the claim arose, or in any other household. (3-15-02)

02. Sponsor of an Alien. The sponsor of an alien household member, if the sponsor is at fault for the claim. (3-15-02)

03. Person Connected to the Household. A person connected to the household, such as an authorized representative, who actually trafficks, or causes an overissuance or trafficking. (3-15-02)

677. COMPUTING FOOD STAMP CLAIMS.
The Department computes Food Stamp claims as described in Subsections 677.01 and 677.02 of this rule. (3-15-02)

01. Claims Not Related to Trafficking. The Department computes claims, not related to trafficking, back to a minimum of twelve (12) months before it became aware of the overissuance. The Department does not compute claims, not related to trafficking, back more than six (6) years. For an IPV claim, the Department computes back to the month the first act of IPV occurred. The Department continues to compute back a minimum of twelve (12) months before the first act of IPV. The Department does not compute IPV claims back more than six (6) years before the first act of IPV. *( )*

02. Trafficking-Related Claims. Claims arising from trafficking-related offenses are the value of the trafficked Food Stamps as determined by: (3-15-02)

a. The individual's admission. (3-15-02)

b. Adjudication. (3-15-02)

c. The documentation forming the basis for the trafficking determination. (3-15-02)

***678*. -- 691. (RESERVED)**

692. DETERMINING DELINQUENT CLAIMS.
The Department determines if a claim is delinquent by using Subsections 692.01 through 692.05 of this rule. (3-15-02)

01. Claim Not Paid by Due Date. The claim is delinquent if not paid by the due date, and there is not a satisfactory payment arrangement. The claim remains delinquent until paid in full, a satisfactory repayment agreement is negotiated, or allotment reduction is invoked. (3-15-02)

02. Payment Arrangement Not Followed. The claim is delinquent if a payment arrangement is established, but scheduled payment is not made by the due date. The claim remains delinquent until paid in full, allotment reduction is invoked, or the Department agrees to resume or re-negotiate the repayment schedule.(3-15-02)

03. Previous Claim. A claim is not delinquent if another claim for the same household is being paid through an installment agreement or allotment reduction. The Department begins collection on the new claim after

the first claim is settled. (3-15-02)

04. Collection Coordinated Through Court. A claim is not delinquent if the Department is unable to determine delinquency status because collection is coordinated through the court system. (3-15-02)

05. Claim Awaiting Hearing Decision. A claim awaiting a hearing decision is not delinquent. If later the hearing officer affirms a claim does exist against the household, the Department notifies the household. (3-15-02)

693. (RESERVED)

694. COLLECTING CLAIMS.
The Department collects payment for claims using the methods listed in Subsections 695.01 through 695.05 of these rules. (3-30-07)

01. Allotment Reduction. The Department reduces the Food Stamp allotment to collect the claim. (3-15-02)

a. For an IPV claim, the allotment reduction limit is the greater of twenty dollars ($20) per month or twenty percent (20%) of the household's monthly allotment. (3-15-02)

b. For an IHE or AE claim, the allotment reduction limit is the greater of ten dollars ($10) per month or ten percent (10%) of the household's monthly allotment. The household can agree to a higher amount. (3-15-02)

c. The Department does not reduce the initial month's Food Stamps, unless the household agrees to this reduction. (3-15-02)

02. Repayment from EBT Account. The household pays the claim from its Electronic Benefit Transfer (EBT) account. (3-15-02)

03. Cash, Check, or Money Order. Payment by cash, check, or money order. (3-15-02)

04. Household Performing Public Service. Payment by public service as ordered by a court, specifically as payment of a claim. (3-15-02)

05. Collection by Treasury Offset Program (TOP). The Department submits claims delinquent for one hundred and eighty (180) days, or more, for collection through TOP. (3-15-02)

695. TOP NOTICES.
The Department will provide the household with a notice of intent to collect via Treasury offset. The notice must inform the household of the right to request a Department review of the intended collection action. The Department must receive the request for review within sixty (60) days of the notice of intent to collect. The notice of review determination must inform the household of the right to request that FNS review the Department's decision. The notice must include instructions for requesting a review by FNS and the address of the FNS regional office. ( )

696. EFFECTS OF TOP ON THE FOOD STAMP HOUSEHOLD.
When a claim is referred to TOP, any eligible Federal payment owed to the household may be intercepted, and applied to the claim to reduce the debt. The household may be required to pay collection or processing fees charged by the Federal government to intercept the payment. (3-15-02)

697. REMOVING A CLAIM FROM TOP.
The Department removes a claim from TOP under the conditions listed in Subsections 697.01 through 697.05 of this rule. (3-15-02)

01. Instructed by FNS or Treasury. FNS or Treasury instructs the Department to remove the debt from TOP. (3-15-02)

02. Household Undergoing Allotment Reduction. The person is a member of a Food Stamp

household undergoing allotment reduction. (3-15-02)

03. Claim Is Paid in Full. The claim is paid in full. (3-15-02)

04. Claim Is Satisfied. The claim is satisfied through a hearing, termination, compromise, or other means. (3-15-02)

05. Payments Resumed. The household makes arrangements to resume payments. (3-15-02)

698. INTENTIONAL PROGRAM VIOLATION (IPV).
An IPV includes the actions listed in Subsections 698.01 through 698.06 of this rule. The client must intentionally, knowingly, and willfully commit a program violation. (3-30-07)

01. False Statement. A person makes a false statement to the Department, either orally or in writing, to get Food Stamps. (6-1-94)

02. Misleading Statement. A person makes a misleading statement to the Department, either orally or in writing, to get Food Stamps. (6-1-94)

03. Misrepresenting. A person misrepresents facts to the Department, either orally or in writing, to get Food Stamps. (6-1-94)

04. Concealing. A person conceals or withholds facts to get Food Stamps. (6-1-94)

05. Violation of Regulations. A person commits any act violating the Food Stamp Act, Federal regulations, or State Food Stamp regulations. The violation may relate to use, presentation, transfer, acquisition, receipt, or possession of Food Stamps. (3-30-07)

06. Trafficking in Food Stamps. Trafficking in Food Stamps means any of the following: (4-11-15)

a. The buying, selling, stealing, or otherwise effecting an exchange of food stamp benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signature, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; (4-11-15)

b. Attempting to buy, sell, steal, or otherwise affect an exchange of food stamp benefits issued and accessed via Electronic Benefit Transfer (EBT) cards, card numbers and personal identification numbers (PINs), or by manual voucher and signatures, for cash or consideration other than eligible food, either directly, indirectly, in complicity or collusion with others, or acting alone; (4-11-15)

c. The exchange of firearms, ammunition, explosives, or controlled substances, as defined in Section 802 of Title 21, U.S.C., for food stamp benefits; (4-11-15)

d. Purchasing a product with food stamp benefits that has a container requiring a return deposit with the intent of obtaining cash by discarding the product and returning the container for the deposit amount, intentionally discarding the product, and intentionally returning the container for the deposit amount; (4-11-15)

e. Purchasing a product with food stamp benefits with the intent of obtaining cash or consideration other than eligible food by reselling the product, and subsequently intentionally reselling the product purchased with food stamp benefits in exchange for cash or consideration other than eligible food; or (4-11-15)

f. Intentionally purchasing products originally purchased with food stamp benefits in exchange for cash or consideration other than eligible food. (4-11-15)

699. ESTABLISHING AN INTENTIONAL PROGRAM VIOLATION (IPV).
The Department establishes an IPV by the actions listed in Subsections 699.01 through 699.03 of this rule. (3-15-02)

01. **Waiver**. The client signs a waiver to a disqualification hearing. (6-1-94)

02. **Hearing**. An administrative disqualification hearing determines an IPV. (6-1-94)

03. **Judgement**. A court judgement determines an IPV. (6-1-94)

700. ADMINISTRATIVE RESPONSIBILITY FOR ESTABLISHING IPV.
The Department must investigate and refer cases for an IPV determination. If there is enough recorded evidence to establish an IPV, the Department must take the actions listed below: (6-1-94)

01. **Act to Collect**. The Department must act to collect overissuances. The Department must set up IHE overissuance claims, when a suspected IPV claim is not pursued under administrative or prosecution procedures. (6-1-94)

02. **Obtain Administrative Disqualification**. The Department pursues administrative disqualification when: (6-1-94)

a. The case facts do not warrant civil or criminal prosecution. (6-1-94)

b. The case referred for prosecution was declined. (6-1-94)

c. The case was referred for prosecution and no action was taken in a reasonable time. (6-1-94)

d. The case was referred for prosecution, but the case was withdrawn by the Department. (6-1-94)

03. **Do Not Obtain Administrative Disqualification**. The Department must not pursue an administrative disqualification in cases: (6-1-94)

a. Being referred for prosecution. (6-1-94)

b. After any prosecutor action against the accused if the case issues are the same or related circumstances. (6-1-94)

701. PENALTIES FOR AN IPV.
IPV persons are ineligible for Food Stamps for twelve (12) months for the first violation. IPV persons are ineligible for Food Stamps for twenty-four (24) months for the second violation. IPV persons are ineligible for Food Stamps permanently for the third violation. The Department will disqualify only the person or persons who committed the IPV. The Department will notify the person in writing of the disqualification penalty. The penalty continues without interruption until completed, regardless of the eligibility of the disqualified person. An IPV penalty can be imposed, even if no overissuance claim exists. ( )

01. **Administrative Disqualification Hearings**. The disqualification begins no later than the first day of the second month following the date the person gets written notice of the disqualification. (3-15-02)

02. **Waivers**. The disqualification begins the first day of the month, following the date the person gets the written notice of disqualification. (3-15-02)

03. **Court Decisions**. The disqualification begins on the date imposed by the court (to start the beginning of the following month) or, if no date is specified, within forty-five (45) days of the date the disqualification was ordered, beginning the first day of the month. (3-15-02)

702. PENALTIES FOR IPV TRAFFICKING.
IPV persons are ineligible for Food Stamps for two (2) years for the first finding by a court the recipient purchased illegal drugs with Food Stamps. IPV persons are permanently ineligible for Food Stamps for a second finding by the court the recipient purchased illegal drugs with Food Stamps. IPV persons are permanently ineligible for Food Stamps for a first finding by a court the recipient purchased firearms, ammunition or explosives with Food Stamps. A person convicted of trafficking in Food Stamp benefits of five hundred dollars ($500) or more is permanently

disqualified from the Food Stamp program. (7-1-98)

703. PENALTIES FOR IPV RECEIPT OF MULTIPLE BENEFITS.
A person found making a fraudulent statement or representation about identity or residence to get multiple benefits is ineligible for Food Stamps for ten (10) years for the first and second offenses and permanently for the third offense. (7-1-99)

704. -- 714. (RESERVED)

715. WAIVED HEARINGS.
Persons accused of an IPV may waive their right to an administrative disqualification hearing by completing and signing a Waiver of Disqualification Hearing. The steps needed to waive the hearing are listed below: (7-1-98)

01. Review of Evidence. The Department must be sure the evidence warrants scheduling a disqualification hearing before giving household members, suspected of an IPV, the waiver option. Household circumstances must be reviewed by the Examiner assigned the case and a program supervisor or designee. (6-1-94)

02. Advance Notice. If the reviewers determine a waiver is proper, each household member suspected of IPV must be mailed or given a Waiver of Disqualification Hearing. *( )*

716. DISQUALIFICATION AFTER WAIVED HEARING.
Persons waiving their right to an IPV administrative disqualification hearing must have penalties imposed. *( )*

717. COURT REFERRALS.
Procedures for court referrals are listed below: (6-1-94)

01. Referred Cases. The Department *may* refer persons suspected of getting *or receiving* Food Stamps by committing an IPV. The Department *may* refer persons suspected of committing *an* IPV. *( )*

02. Impose Court Penalties. The Department must disqualify a person found guilty of IPV by a court for the length of time specified by the court. The disqualified member's household will remain responsible for the overissuance, resulting from the disqualified member's IPV, regardless of the household's eligibility. If the court fails to specify a period, use the IPV penalty periods specified in Section 701 unless they are contrary to the court order. (7-1-98)

718. DEFERRED ADJUDICATION.
Deferred Adjudication is an out-of-court settlement between the accused IPV member and the prosecutor. Terms of the settlement are listed below: (6-1-94)

01. Deferred Judgement Conditions. Guilt is not decided by the court because the accused person has met the terms of a court order or an agreement with the prosecutor. (6-1-94)

02. Agreement with Prosecutor. If the Department has an agreement with the prosecutor, the prosecutor may defer adjudication. The prosecutor must agree to give advance written notice to the member stating the consequences of consenting to disqualification. (6-1-94)

03. Notice to Food Stamp Member. If the prosecutor decides deferred adjudication is fitting, the household member suspected of IPV must be mailed or presented with a Deferred Adjudication Disqualification Consent Agreement. *( )*

04. Disqualification Period. The period of disqualification must begin within forty-five (45) days of the date the member signed the Deferred Adjudication Disqualification Consent Agreement (HW 0546). The period of disqualification must begin as agreed upon with the Prosecutor. Once a disqualification penalty is imposed against a member, the period continues uninterrupted regardless of the household's eligibility. The disqualified member's household continues to be responsible for overissuance repayment resulting from the disqualified member's IPV regardless of the household's eligibility. (7-1-97)

05. Notice of Disqualification. The Department must provide a completed Notice of Disqualification (HW 0541) before the disqualification to the disqualified member and remaining household members. The Department must provide a Demand Letter for Overissuance and Repayment Agreement (HW 0544). (6-1-94)

719. (RESERVED)

720. CLAIMS DISCHARGED BY BANKRUPTCY.
The Department will act for *FNS* in bankruptcy proceedings against households owing claims. The Department may file proofs of claims, objections to discharge, exceptions, petitions and any other documents, motions, or objectives *FNS* might have filed. *( )*

721. (RESERVED)

722. INTERSTATE CLAIMS COLLECTION.
If a household owes a claim and moves from one State to another, the first State should start or continue collection action. The first State has the initial opportunity to collect. The receiving State should take collection action if the first State fails to act. The receiving State should contact the first State to be sure the first State does not intend to pursue collection. The State share of claims collected is kept by the State making the collection. (6-1-94)

723. -- 727. (RESERVED)

728. FOOD STAMP REDUCTION, SUSPENSION, OR CANCELLATION.
Food Stamps for all Food Stamp households must be reduced suspended, or cancelled, if ordered by the USDA Secretary to comply with Section 18 of the Food Stamp Act of 1977. Reduced Food Stamps are computed using the thrifty food plan amounts and are reduced by a percentage defined by FNS. Food Stamp reduction, suspension, and cancellation rules are described below: (7-1-98)

01. Reducing Food Stamps. FNS will notify the Department of the effective date of reduction and of the thrifty food plan reduction percentage. The Department must: (7-1-98)

a. Act immediately to carry out the reduction. (6-1-94)

b. Guarantee one (1) and two (2) person households a minimum benefit of equal to eight percent (8%) of the maximum one (1) person allotment unless the reduction is ninety percent (90%) or more of total projected monthly benefits. (5-8-09)

02. Restoring Lost Benefits. Households whose Food Stamps are reduced or cancelled under this section are not entitled to restoration of benefits. Reductions or cancellations of Food Stamps may be ordered restored by the USDA Secretary. (6-1-94)

03. Suspension or Cancellation. If a suspension or cancellation is in effect, no Food Stamps are to be issued to the applicant. (6-1-94)

04. Hearings. Any household whose allotment was reduced, suspended, or cancelled under this section can request a fair hearing. (6-1-94)

729. -- *750*. (RESERVED)

751. BOARDERS.
Rules for Food Stamp boarders are listed below: *( )*

01. Boarder Included with Food Stamp Household. Boarders may be included in the Food Stamp household providing board. The Food Stamp household must request the boarder be included. The household must be otherwise eligible. (6-1-94)

02. Foster Children. Foster children are boarders. Foster care payments and guardianship payments are not income for Food Stamps if the foster child does not get Food Stamps as part of the household. If the household

requests the foster child be included in the Food Stamp household, foster care payments and guardianship payments are counted. (4-5-00)

03. Foster Adults. Foster adults are boarders. Foster care payments are not income for Food Stamps if the foster adult does not get Food Stamps as part of the household. If the household requests the foster adult be included in the Food Stamp household, the foster care payments are counted. (6-1-94)

04. Meal Compensation. Boarder status must be given to persons paying a reasonable monthly amount for meals. (6-1-94)

a. Payments for more than two (2) meals a day must equal or exceed the thrifty food plan for the boarder household size. (6-1-94)

b. Payments for two (2) meals or less per day must equal or exceed two-thirds (2/3) of the thrifty food plan for the boarder household size. (6-1-94)

05. Nonboarder Status. A person paying less than a reasonable amount for meals is a member of the household providing board. (10-1-94)

06. Income from Boarders. If the boarder is not a Food Stamp household member: (6-1-94)

a. The meals and lodging payment is self-employment income for the Food Stamp household. (6-1-94)

b. The boarder's income and resources are not counted for the Food Stamp household. (6-1-94)

752. STRIKERS.
Households with strikers are not eligible to get Food Stamps, unless the household was eligible the day before the strike. (6-1-94)

753. SPONSORED LEGAL NON-CITIZENS.
Sponsored legal non-citizens are lawfully admitted for permanent United States residence, as defined in Sections 101(a)(15) and 101(a)(20) of the Immigration and Nationality Act. A sponsor executes an I-864 affidavit of support on behalf of legal non-citizen, as a condition of the legal non-citizen's entry or admission into the United States as a permanent resident. The income and resources of the sponsor will be deemed until the legal non-citizen becomes a naturalized citizen or until he has worked forty (40) qualifying quarters of coverage under Title II of the Social Security Act, or the sponsor dies. A qualifying quarter includes a quarter worked by the legal non-citizen's parent while the legal non-citizen was under eighteen (18) and a quarter worked by the legal noncitizen's spouse during marriage if the legal non-citizen remains married to the spouse or the spouse is deceased. Any quarter after January 1, 1997 in which a legal non-citizen received any federal means-tested benefit is not counted as a qualifying quarter. (3-20-04)

754. DEEMING INCOME AND RESOURCES TO SPONSORED LEGAL NON-CITIZEN.
Income and resources of the sponsor are deemed available to the legal non-citizen. If the sponsor lives with his spouse, the spouse's income and resources are also deemed available to the legal non-citizen. The income and resources are deemed, even if the sponsor and spouse were married after the sponsor signed the sponsorship agreement. The Department counts income and resources deemed to the legal non-citizen toward Food Stamp eligibility and issuance level of the legal non-citizen's household. *( )*

***01. Battered Legal Non-Citizen Whose Sponsor Signed an Affidavit of Support**. For sponsor deeming, a battered legal non-citizen includes the non-citizen and the child of the non-citizen. The non-citizen or child must be battered in the U.S. by a spouse, parent, or member of the family in the same household. The non-citizen must not participate in, or acquiesce to, the battering of the child. ( )*

***a.** A battered legal non-citizen whose sponsor signed an affidavit of support is exempt from the sponsor deeming requirement for one (1) year, if the need for Food Stamps is connected to the battery and the legal non-citizen no longer lives with the batterer. ( )*

b. The exemption from the sponsor deeming requirement can exceed more than one (1) year if the legal non-citizen demonstrates the battery has been recognized in an order of a judge or by the INS and the need for Food Stamps is connected to the battery. ( )

*02. **Indigent Legal Non-Citizen Whose Sponsor Signed an Affidavit of Support**. A non-citizen is indigent if the household income does not exceed one-hundred thirty percent (130%) of the poverty income guideline (gross income limit) for the household size. ( )*

a. For an indigent non-citizen, the Department counts the noncitizen's own income and the cash or in-kind income and resources actually provided by the sponsor and spouse who signed an affidavit of support. ( )

b. A legal non-citizen that satisfies the indigent exemption criteria is exempt from deeming for twelve (12) months. The exemption can be renewed for additional twelve-month periods. ( )

c. If a legal non-citizen is granted an indigence exemption, the department must provide written notification to the Statistics Branch of the INS on an annual basis. Required information includes, written notice of the determination, the sponsored legal non-citizen's name, and the sponsor's name. ( )

d. A legal non-citizen can elect to decline the indigent exemption to avoid sponsor liability, and notification to the INS. ( )

e. If the legal non-citizen declines the indigent exemption, the household is subject to sponsored deeming. ( )

755. – 756. (RESERVED)

757. SPONSORED LEGAL NON-CITIZEN'S RESPONSIBILITY.
The legal non-citizen and legal non-citizen's spouse are responsible for getting the sponsor to cooperate with the Department in determining Food Stamp eligibility. The legal non-citizen and legal non-citizen's spouse are responsible for providing the information and proof to determine the income and resources of the sponsor and sponsor's spouse. The legal non-citizen and legal non-citizen's spouse are responsible for providing information and proof to determine if the sponsor sponsors other legal non-citizens and how many. (7-1-98)

758. – 760. (RESERVED)

761. COLLECTING CLAIMS AGAINST SPONSORS WHO SIGNED AN I-864 AFFIDAVIT OF SUPPORT ON OR AFTER DECEMBER 19, 1997.
The Department must send a demand letter to the sponsor. The demand letter must include the amount owed, the reason for the claim, and the repayment options. The demand letter must tell the sponsor he will not have to repay, if he can show he did not give false statements or withhold information about his circumstances. Collection action may be stopped if documentation is obtained showing the sponsor cannot be located. Collection action may be stopped if the cost of collection exceeds the amount to be recovered. If the sponsor responds to the demand letter, a lump sum cash payment may be collected if the sponsor can pay the claim at one (1) time. If the sponsor cannot pay by lump sum, a monthly repayment schedule may be negotiated. Sponsor repayments must be recorded in the case file and identified as either an IHE or IPV claim. (3-20-04)

762. COLLECTING CLAIMS AGAINST SPONSORED LEGAL NON-CITIZENS.
Claims may be collected against sponsored legal non-citizens with a sponsor who signed an I-864 affidavit of support on or after December 19, 1997. Action may be taken to collect by submitting an IHE or IPV. (3-20-04)

763. REIMBURSEMENT FOR BENEFITS RECEIVED.
A sponsor who signed an affidavit on or after December 19, 1997 must reimburse the Department for the amount of Food Stamps received by the sponsored legal non-citizen. At the time of application for a sponsored legal non-citizen, the legal non-citizen's sponsor must be notified that he will be required to reimburse the Department for the entire amount of Food Stamps received by the sponsored legal non-citizen. (7-1-99)

764. -- *774*. (RESERVED)

775. FOOD STAMPS FOR HOUSEHOLDS WITH IPV MEMBERS, INELIGIBLE FUGITIVE FELON, PROBATION/PAROLE VIOLATOR, WORK REQUIREMENT SANCTIONS, OR A MEMBER CONVICTED OF A CONTROLLED SUBSTANCE-RELATED FELONY.
The Department *calculates* Food Stamp eligibility and benefit level for households containing members disqualified for an IPV, ineligible fugitive felon, probation/parole violator, members ineligible because of work requirement sanctions including JSAP, and Voluntary Quit, or a member ineligible because of a controlled substance-related felony. The household's Food Stamps must not increase because a household member is disqualified for IPV.
( )

***776*. -- 790. (RESERVED)**

791. RESIDENT OF AN INSTITUTION.
A resident of an institution is not eligible for Food Stamps unless the resident meets one (1) of the requirements listed below. A person is a resident of an institution if the institution provides over fifty percent (50%) of the person's meals as a part of normal services. Residents must be otherwise Food Stamp eligible. (6-1-94)

01. Resident Under Housing Act. The resident is in Federally subsidized housing for the elderly, under Section 202 of the Housing Act or 236 of the National Housing Act. (6-1-94)

02. Narcotic Addict or Alcoholic. The resident is a narcotic addict or an alcoholic living and taking part in a treatment and rehabilitation program. (6-1-94)

03. Blind or Disabled. The person is a disabled or blind resident of a group living arrangement. (6-1-94)

04. Battered Women and Children. The resident is a woman or a woman and her children, temporarily living in a shelter for battered women and children. (6-1-94)

a. The woman is a separate household from other shelter residents for Food Stamps. (6-1-94)

b. The woman and her children are a separate household from other shelter residents for Food Stamps. (6-1-94)

05. Homeless Persons. The resident is a person living in a public or private nonprofit shelter for homeless persons. (6-1-94)

792. PRERELEASE APPLICANTS FROM PUBLIC INSTITUTIONS.
Residents of public institutions who apply for prerelease program SSI may apply for Food Stamps before their release from public institutions. The application date is the date the person is released from the institution. Eligibility is based on the best estimate of a household's circumstances for the release month and the month after. Eligibility and Food Stamp amount are based on income and resources. Food Stamps for the initial month are prorated from the date the person is released from the institution to the end of the calendar month. (6-1-94)

793. NARCOTIC ADDICT AND ALCOHOLIC TREATMENT CENTERS.

0*1*. Center Provides Certification List. Each month, each center must give the Field Office a list of current client residents. The list's accuracy must be certified in writing by the center manager or designee. The Department must conduct random on-site visits to assure list accuracy. If the list is not accurate, or the Department fails to act on the change, the Department may transfer the Food Stamp amount from the center's account to the household's Food Stamp account, for the months the household was not living in the center. (4-5-00)

0*2*. Center Misusing Food Stamps. The Department must promptly notify FNS if it believes a center is misusing Food Stamps. The Department must not take action before FNS takes action against the center. *( )*

794. TREATMENT CENTER RESPONSIBILITIES.

*Each t*reatment *c*enter *must follow SNAP application standards, with the exception of:* *( )*

0*1*. Return Food Stamps. (6-1-94)

a. The center must return all issue documents and Food Stamps, not given to a departing resident, to the Department. (6-1-94)

b. Food Stamps must be returned to the Department if the client left before the sixteenth of the month and the center was unable to give him the Food Stamps. (6-1-94)

c. Food Stamps must be returned to the Department if they were left over for a resident who left on or after the sixteenth of the month. (6-1-94)

0*2*. Give Food Stamps to Departing Client. (6-1-94)

a. The center must give the departing client the ID card and any unredeemed Food Stamps. (6-1-94)

b. The center must give the client a full month's Food Stamps if they have been issued, but none have been spent on behalf of the client. (6-1-94)

c. The center must give the departing client one-half (1/2) of the monthly Food Stamps if the client leaves before the sixteenth of the month and a portion of the Food Stamps have been spent on behalf of the client. (6-1-94)

d. If the client leaves the center on or after the sixteenth, and Food Stamps were issued and used, the center is not required to give Food Stamps to the client. (6-1-94)

0*3*. Food Stamp Misuse. The center must be disqualified if it is administratively or judicially found the center misappropriated or used Food Stamps for purchases not contributing to a certified client's meals.(3-30-07)

0*4*. FNS Disqualifies Center. If FNS disqualifies a center as a retailer, the Department must close residents' cases. Individual notice of adverse action is not required. (7-1-98)

795. RESIDENTS OF GROUP LIVING ARRANGEMENTS.
Disabled or blind residents of public or private non-profit group living arrangements, serving no more than sixteen (16) residents may get Food Stamps. Residents get Food Stamps under the same standards as other households. Group living arrangements rules are listed below: (6-1-94)

01. FNS Authorized Retailer or Department Certified. The center must be an FNS authorized retailer or be certified by the Department as a non-profit group living center. Center status must comply with Section 1616(e) of the Social Security Act or comparable standards of the Secretary of USDA. (7-1-98)

0*2*. Application Option. Residents may apply on their own. Residents may apply as a group. Residents may apply through an authorized representative employed and designated by the center. Residents may apply through an authorized representative of the resident's choice. (6-1-94)

0*3*. Residents Apply on Their Own Behalf. A person or a group of residents making up a household can apply on their own behalf. The center must determine the resident is physically and intellectually capable of handling his own affairs. If the resident is eligible the center does not act as the authorized representative. The resident or group is responsible for reporting any changes affecting eligibility or benefit level. The resident is responsible for overissuances. (6-1-94)

0*4*. Certification. Residents of a center applying through the center's authorized representative must be certified as a one (1) person household. Residents of a center applying on their own behalf must be certified according to household size. (6-1-94)

0*5*. Exempt From Work Registration. Residents are exempt from work registration. (6-1-94)

06. **Notices**. Residents are entitled to notices of adverse action. If a group living arrangement center loses its authorization or certification notice is not required. (6-1-94)

07. **Using Food Stamps**. The Food Stamps may be used by the resident, a group of residents, or by the center to purchase food for the resident. The center may accept Food Stamps as payment for meals. If residents purchase or prepare food for home consumption, the center must insure each resident's Food Stamps are used for meals intended for that resident. (3-30-07)

796. SHELTERS FOR BATTERED WOMEN AND CHILDREN.
The Department must determine if the shelter for battered women and children is a public or private non-profit residential facility. The Department must determine if the shelter serves only battered women and their children. If the facility serves other persons, the Department must determine if a portion of the facility is set aside to serve only battered women and children. Shelters having FNS authorization to redeem Food Stamps on a wholesale basis meet the shelter definition. Battered women and children shelter rules are listed below: (7-1-98)

01. **Food Stamp Eligibility**. Women and children who recently left a household containing a person who abused them may get Food Stamps, even if the household they left was getting Food Stamps. Shelter residents may apply for and get separate Food Stamps only once in a month. The original Food Stamp certification must have included the person who subjected them to abuse. The resident household must meet eligibility criteria for income, resources, and expenses. (6-1-94)

02. **Income, Resources, and Expenses**. Income, resources, and expenses of the household are counted. Income, resources, and expenses of their former household, containing the person who subjected them to abuse, are not counted. Jointly held resources are inaccessible if the resources are jointly owned by the shelter resident and members of the abusive household. Jointly held resources are inaccessible if the shelter residents' access to the resource is dependent on the agreement of the joint owner still living in the former household. Room payments to the shelter are shelter expenses. (6-1-94)

03. **Food Stamps for Former Household**. The Department must take prompt action to correct the former household's eligibility and allotment. The Department must issue a ten (10) day advance notice of adverse action. (6-1-94)

***797*. -- 815. (RESERVED)**

816. PURCHASE OF PREPARED MEALS.
Persons listed below may purchase prepared meals with their Food Stamps *at sites authorized to accept Food Stamps.* *( )*

01. **Older Persons Eating at Communal Dining Facility**. Persons sixty (60) or older and their spouses, or persons who receive SSI and their spouses, can use Food Stamps to buy meals made for them at communal dining facilities *authorized to accept Food Stamps*. *( )*

02. **Persons Unable to Prepare Meals Getting Meal Delivery Service**. A person sixty (60) years of age or over, and a spouse, can elect to use Food Stamps to purchase meals from a nonprofit meal delivery service. A housebound, physically handicapped or otherwise disabled person, unable to adequately prepare all meals, and a spouse, can elect to use Food Stamps to purchase meals from a nonprofit meal delivery service. *( )*

03. **Resident *Center***. A *resident of* a drug addiction or alcoholic center can use Food Stamps at the center. The person must be enrolled in a treatment and rehabilitation program operated by a nonprofit organization or institution. *( )*

04. **Battered Women and Children**. A resident of a shelter for battered women and children can use Food Stamps to purchase meals prepared by the shelter. *( )*

05. **Homeless**. A homeless Food Stamp client can use Food Stamps to buy meals prepared by a homeless meal provider. *( )*

***817*. -- 849. (RESERVED)**

850. FOOD STAMP HOUSEHOLD RIGHTS.
The Food Stamp household has rights protected by Federal and State laws and Department rules. The Department must inform clients of their rights during the application process and eligibility reviews. Food Stamp rights are listed below: (4-11-06)

01. Application. The right to get an application on the date requested. (6-1-94)

02. Application Registered. The right to have the signed application accepted right away. (6-1-94)

03. Representative. The right to have an authorized representative if the applicant cannot get to the Food Stamp office. The authorized representative must have knowledge of the applicant's situation. (6-1-94)

0*4*. Thirty Day Processing. The right to have the application processed and Food Stamps issued within thirty (30) days. (6-1-94)

0*5*. Notification. The right to be told in writing of: (6-1-94)

a. The reasons for the Department's action if the application is rejected. (6-1-94)

b. The reasons for the Department's action if Food Stamps are reduced or stopped. (6-1-94)

***06*. Fair Hearing**. The right to request a fair hearing about the Department's decision. The right to request a fair hearing if the household feels discrimination has taken place in any way. Food Stamp fair hearings must be requested within ninety (90) days from the day notice is mailed. In certain situations, Food Stamps may continue if a fair hearing is requested. (6-1-94)

851. *(RESERVED)*

852. FOOD STAMP HOUSEHOLD RESPONSIBILITIES.
The Food Stamp household must provide correct and complete information so the Department can make accurate eligibility and benefit decisions. The responsibilities of the Food Stamp household are listed below: (6-1-94)

01. Provide Information. The Food Stamp household must provide information to determine Food stamp eligibility. This includes, but is not limited to, all information about household income, work and housing cost. (3-29-10)

0*2*. Quality Control. The Food Stamp household must cooperate with Quality Control if the case is selected for review. (6-1-94)

853. DEPARTMENT INFORMING RESPONSIBILITIES.
The Department must inform the Food Stamp household of what is expected of the household in the eligibility determination process. The Department must advise the household of the information listed below: (6-1-94)

01. Households Rights and Responsibilities. The Department must inform the household of the household's rights and responsibilities. (6-1-94)

02. Eligibility Factors. The Department must inform the household of the eligibility factors that must be met. (6-1-94)

03. Eligibility Factor Proof. The Department must inform the household all eligibility factors must be proven. (6-1-94)

04. Consequences of Failure to Cooperate. The Department must inform the household of the consequences for failure to provide proof of eligibility factors. (6-1-94)

05. Methods for Getting Proof. The Department must inform the household of the alternate methods to prove eligibility when the household is unable to provide proof. (6-1-94)

06. Department Methods for Getting Proof. The Department must inform the household of the methods it uses to prove eligibility when the household is unable to provide proof. (6-1-94)

07. Social Security Number Use. The Department must inform the household Social Security Numbers will be used to get wage, income and employment information. Information is obtained from the Department of Employment (DOE), the Social Security Administration (SSA) and the Internal Revenue Service (IRS). (6-1-94)

854. DEPARTMENT WILL DOCUMENT ELIGIBILITY DECISIONS.
The Department will document eligibility, ineligibility and Food Stamp issuance in the case record. The Department must record enough detail to support the Food Stamp determination. (6-1-94)

855. -- 860. (RESERVED)

861. NO DISCRIMINATION IN FOOD STAMP PROGRAM.
The Department must not allow human rights discrimination in the Food Stamp Program. The Department will administer the Food Stamp program so no applicant or recipient in Idaho is discriminated for or against due to race, color, gender or age. The Department will administer the Food Stamp program so no applicant or recipient in Idaho is discriminated for or against, due to political or religious belief or affiliation, national origin, handicap or disability. (4-5-00)

862. PUBLIC NOTICE FOR NO DISCRIMINATION.
The Department must inform the public the Food Stamp Program is conducted without discrimination. The Department must display the U.S.D.A. poster "... And Justice for All" in all Field Offices. The application form must inform the public the Food Stamp Program is conducted without discrimination. Department Food Stamp publications must inform the public the Food Stamp Program is conducted without discrimination. (6-1-94)

863. DISCRIMINATION COMPLAINT INFORMATION.
Field Offices must maintain copies of notices informing the public the Food Stamp Program is conducted without discrimination. These files must be available for inspection during reviews and audits. *( )*

864. DISCRIMINATION COMPLAINT PROCEDURE.
Any person can file a discrimination complaint. The person may use the Department's complaint procedure. The person may file a complaint directly to FNS, to the Department or both. The Field Office must explain both procedures orally or in writing. The Field Office must explain the one hundred eighty (180) day filing time limit, extensions and where to submit complaints. The Department must submit a written report describing the discrimination complaint and the action taken. This report is submitted to the Department's Civil Rights Coordinator. The Department must keep all complaints and complaint records for three (3) years. (7-1-98)

865. DISCLOSURE OF INFORMATION.
Department programs include the Food Stamp Act, Federal regulations, Federal or Federally-aided means-tested assistance programs and general assistance programs with a means test and formal application procedures. *The Department will* make available to any Federal, State, or local law enforcement officer the address, SSN, and (if available) photograph of a Food Stamp recipient. The officer must furnish the recipient's name and notify the Department the person is fleeing to avoid prosecution, custody or confinement for a felony; violating a condition of parole or probation; or has information necessary for the officer to conduct an official duty related to a felony/parole violation. *( )*

866. AVAILABILITY OF PUBLIC INFORMATION.
Rules, plans of operation, procedures, manuals and instructions used to certify households must be available to the public. These materials must be available for public examination during regular office hours and workdays. Copies of audits or investigations, conducted by USDA, are for official use only and are not for public examination. (6-1-94)

867. FOOD STAMP INFORMATION REQUIREMENTS.
Federal regulations and procedures in FNS notices and policy memos must be available for examination by the public. State plans of operation must be available for examination by the public. Examination may take place during office hours at Department headquarters. Handbooks must be available for examination upon request at each Field Office. The Department must provide information about Food Stamps through mass media, posters, fliers, pamphlets and face-to-face contacts. Minimum requirements are listed below: (7-1-98)

01. Rights and Responsibilities. Households must be informed of Food Stamp program rights and responsibilities. (6-1-94)

02. Bilingual Information. All program information must be available in Spanish. Spanish information must say the program is available without regard to race, color, sex, age, handicap, religious creed, national origin or political belief. (6-1-94)

868. -- *871*. (RESERVED)

872. PROGRAM TRANSFER DURING CERTIFICATION PERIOD.
Households changing from one (1) program to the other program within a certification period can do so only by ending participation. The household must tell the proper agency of its intent to switch programs. Households certified in either program on the first day of the month can only get that program's benefits during that month. A household, wanting to switch from one (1) program to the other program, must have its eligibility stopped for the currently certified program. Eligibility must end as of the last day of the month it chooses to change programs. The household must file an application for the program in which it wishes to take part. (6-1-94)

873. -- 875. (RESERVED)

876. PERSONNEL REQUIREMENTS.
The Department must provide the qualified employees needed to assure prompt action on applications and issuance of benefits. Department employees certifying households for Food Stamps must be hired under Idaho Personnel Commission standards. Only qualified Department employees can interview households and determine eligibility and benefit amount. Only authorized employees or contractors of the Department may have access to Food Stamp cards or other issuance documents. (3-30-07)

877. VOLUNTEERS.
Volunteers, or other persons not employed by the Department, can engage in certification-related activities. Volunteers, or other persons not employed by the Department, must not conduct interviews or certify households. Volunteers and other persons can teach nutrition education and provide transportation to the Field Offices. Volunteers and other persons can help households complete the application forms. Volunteers and other persons can help get proof for information reported on the application. (6-1-94)

878. PERSONNEL AND FACILITIES OF PARTIES TO A STRIKE.
Persons or organizations, who are parties to a strike or lockout, cannot be used in any activity related to certification. These persons must not certify applicant households, interview households or help get proof for the households. These persons can give proof of information provided by households, if they are in the best position to confirm a household's circumstances. Facilities of persons or organizations who are parties to a strike or lockout cannot be used in the certification process or as an interview site. (6-1-94)

879. REVIEW OF CASE FILE.
The client or his representative is allowed to review his case file under Department Rules, IDAPA 16.05.01, "Use and Disclosure of Department Records." (6-1-94)

880. -- 882. (RESERVED)

883. QUALITY CONTROL AND FOOD STAMP ELIGIBILITY.
State Quality Control (SQC) is the Department's case review system. SQC determines rates of correct Food Stamp issuances and Department and recipient caused errors. Quality control reviews open Food Stamp cases, denials and closures. The quality control review period extends from October 1st to September 30th of the next year. Households

selected for quality control review by State Quality Control (SQC) and Federal Quality Control (FQC) must cooperate with both reviews. ( )

01. Refusal to Cooperate with SQC or FQC. If a household refuses to cooperate in a SQC or FQC review, it is not eligible. ( )

a. The Department must send the household advance notice to end Food Stamps. The notice must list the reason for the proposed action, the right to a hearing, the right to schedule a conference or to continue the SQC or FQC review. (3-30-07)

b. The Department will close the Food Stamp case. (6-1-94)

02. Food Stamp Eligibility During Quality Control Review Period, After Refusal to Cooperate. The household is not eligible for Food Stamps during the Quality Control review period until it cooperates with the SQC or FQC review. (3-30-07)

884. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare, according to Section 56-202, Idaho Code, adopts these rules for the administration of public assistance programs. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." *( )*

02. Scope. These rules provide standards for issuing AABD cash benefits and related Medicaid *benefits*. *( )*

002. INCORPORATION BY REFERENCE.
The Department is adopting by reference the "Medicare Modernization Act - Prescription Drug Program Guidance to States for the Low Income Subsidy (LIS)," dated May 25, 2005. The guidelines may be viewed at the main office of the Department of Health and Welfare. It is also available online at http://www.cms.hhs.gov/States/Downloads/StateLISGuidance4-4.pdf. (4-11-06)

003. -- 009. (RESERVED)

***010*. DEFINITIONS.**
For purposes of this chapter, the following terms apply. (3-20-14)

01. AABD Cash. An EBT payment to a participant, a participant's guardian, or a holder of a limited power of attorney for EBT payments. AABD Cash is a payment of a supplemental cash amount to an individual who meets the program requirements. This payment may be made through direct deposit or an electronic benefits card. (3-20-14)

02. Applicant. A person applying for public assistance from the Department, including individuals referred to the Department from a health insurance exchange or marketplace. (3-20-14)

03. Annuity. A right to receive periodic payments, either for life, a term of years, or other interval of time, whether or not the initial payment or investment has been annuitized. It includes contracts for single payments where the single payment represents an initial payment or investment together with increases or deductions for interest or fees rather than an actuarially-based payment from an insurance pool. (3-30-07)

04. Asset. Includes all income and resources of the individual and the individual's spouse, including any income or resources which the individual or such individual's spouse is entitled to, but does not receive because of action by: (3-30-07)

a. The individual or such individual's spouse; (3-30-07)

b. A person, including a court or administrative body, with legal authority to act in place of or on behalf of the individual or such individual's spouse; or (3-30-07)

c. A person, including any court or administrative body, acting at the direction or upon the request of the individual or such individual's spouse. (3-30-07)

05. Asset Transfer for Sole Benefit. An asset transfer is considered to be for the sole benefit of a spouse, blind or disabled child, or disabled individual if the transfer is arranged in such a way that no individual or entity except the spouse, blind or disabled child, or disabled individual can benefit from the assets transferred in any way, whether at the time of transfer or at any time in the future. (5-3-03)

06. Child. Any individual from birth through the end of the month of his nineteenth birthday. (3-20-14)

07. Citizen. A person having status as a "national of the United States" defined in 8 U.S.C. 1101(a)(22) that includes both citizens of the United States and non-citizen nationals of the United States. (3-20-14)

08. **Department**. The Department of Health and Welfare. (7-1-99)

09. **Direct Deposit**. The electronic deposit of a participant's AABD cash to the participant's personal account with a financial institution. (7-1-99)

10. **Electronic Benefits Transfer (EBT)**. A method of issuing AABD cash to a participant, a participant's guardian or a holder of a limited power of attorney for EBT payments for a participant. ( )

11. **Essential Person**. A person of the participant's choice whose presence in the household is essential to the participant's well-being. The essential person provides the services a participant needs to live at home.(5-3-03)

12. **Fair Market Value**. The fair market value of an asset is the price for which the asset can be reasonably expected to sell on the open market, in the geographic area involved. (5-3-03)

13. **Long-Term Care**. Long-term care services are services provided to an institutionalized individual as defined in 42 U.S.C. 1396p(c)(1)(C). (3-30-07)

14. **Medicaid**. Idaho's Medical Assistance Program administered by the Department and funded with federal and state funds according to Title XIX, Social Security Act that provides medical care for eligible individuals. (3-20-14)

15. **Medical Assistance Rules**. Idaho Department of Health and Welfare Rules, IDAPA 16.03.09, "Medicaid Basic Plan Benefits," IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits." (3-20-14)

16. **Medicaid for Families With Children Rules**. Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (7-1-99)

17. **Needy**. A person is considered needy for AABD cash payments if the person meets the nonfinancial requirements of Title XVI of the Social Security Act and the criteria in Section 514 of these rules. (4-7-11)

18. **Non-Citizen**. Same as "alien" defined in Section 101(a)(3) of the Immigration and Nationality Act (INA) (8 U.S.C. 1101 (a)(3)), and includes any individual who is not a citizen or national of the United States. (3-20-14)

19. **Participant**. An individual who is eligible for, and enrolled in, a Health Care Assistance Program or Medicaid. (3-20-14)

20. **Partnership Policy**. A partnership policy is a qualified long-term care insurance policy as defined in Section 7702B(b) of the Internal Revenue Code of 1986, which meets the requirements of the long-term care insurance model regulation and long-term care insurance model act promulgated by the National Association of Insurance Commissioners (NAIC), as incorporated in 42 USC 1396p(b)(5)(A). (4-2-08)

21. **Premium**. A regular, periodic charge or payment for health coverage. (3-20-14)

22. **Reasonable Opportunity Period**. A period of time allowed for an individual to provide requested proof of citizenship or identity. A reasonable opportunity period extends for ninety (90) days beginning on the 5th day after the notice requesting the proof has been mailed to the applicant. This period may be extended if the Department determines that the individual is making a "good faith" effort to obtain necessary documentation. (3-20-14)

23. **Pension Funds**. Pension funds are retirement funds held in individual retirement accounts (IRAs), as described by the Internal Revenue Code, or in work-related pension plans, including plans for self-employed individuals sometimes referred to as Keogh plans. (4-2-08)

24. **Sole Beneficiary**. The only beneficiary of a trust, including a beneficiary during the grantor's life, a

beneficiary with a future interest, and a beneficiary by the grantor's will. (7-1-99)

25. **TAFI Rules**. Idaho Department of Health and Welfare Rules, IDAPA 16.03.08, "Temporary Assistance for Families in Idaho." (7-1-99)

26. **Title XVI**. Title XVI of the Social Security Act, known as "Grants to States for Aid to the Aged, Blind, or Disabled," is a program for financial assistance to needy individuals who are sixty-five (65) years of age or over, are blind, or are eighteen (18) years of age or over and permanently and totally disabled. (4-7-11)

27. **Title XIX**. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. (3-20-14)

28. **Title XXI**. Title XXI of the Social Security Act, known as the Children's Health Insurance Program (CHIP), is a federal and state partnership that provides health insurance to targeted, low-income children. (3-20-14)

29. **Treasury Rate**. The five (5) year security note rate listed in the "Daily Treasury Yield Curve Rate" by the U.S. Treasury on January 1 of each year. The January 1 rate is used for the entire calendar year. (4-2-08)

30. **Working Day**. A calendar day when regular office hours are observed by the state of Idaho. Weekends and state holidays are not considered working days. (3-20-14)

011. -- 019. ***(RESERVED)***

020. **ABBREVIATIONS.**

01. **AABD**. Aid to the Aged, Blind and Disabled. (7-1-99)

02. **AB**. Aid to the Blind. (7-1-99)

03. **AFA**. Application for Assistance. (7-1-99)

04. **APTD**. Aid to the Permanently and Totally Disabled. (7-1-99)

05. **ASVI**. Alien Status Verification Index. (7-1-99)

06. **COLA**. Cost of Living Adjustment. (7-1-99)

07. **CSA**. Community Spouse Allowance. (7-1-99)

08. **CSNS**. Community Spouse Need Standard. (7-1-99)

09. **CSRA**. Community Spouse Resource Allowance. (7-1-99)

10. **DHW**. Department of Health and Welfare. (7-1-99)

11. **EBT**. Electronic Benefits Transfer. (7-1-99)

12. **EITC**. Earned Income Tax Credit. (7-1-99)

13. **FMA**. Family Member Allowance. (7-1-99)

14. **FSI**. Federal Spousal Impoverishment. (7-1-99)

15. **HCBS**. Home and Community Based Services. (7-1-99)

16. **HUD**. The U.S. Department of Housing and Urban Development. (7-1-99)

17. **IEVS**. Income and Eligibility Verification System. (7-1-99)

18. **INA**. Immigration and Nationality Act. (7-1-99)

19. **IRS**. The U.S. Internal Revenue Service. (7-1-99)

20. **MA**. Medical Assistance. (7-1-99)

21. **OAA**. Old Age Assistance. (7-1-99)

22. **PASS**. Plan for Achieving Self-Support. (7-1-99)

23. **RSDI**. Retirement, Survivors, and Disability Insurance. (7-1-99)

24. **SAVE**. Systematic Alien Verification for Entitlements. (7-1-99)

25. **SSA**. Social Security Administration. (7-1-99)

26. **SSI**. Supplemental Security Income. (7-1-99)

27. **SSN**. Social Security Number. (7-1-99)

28. **TAFI**. Temporary Assistance for Families in Idaho. (7-1-99)

29. **UIB**. Unemployment Insurance Benefits. (7-1-99)

30. **VA**. Veterans Administration. (7-1-99)

***021*. -- 048.** **(RESERVED)**

049. SIGNATURES.
An individual who is applying for benefits, receiving benefits, or providing additional information as required by this chapter, may do so with the depiction of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-29-12)

050. APPLICATION FOR ASSISTANCE.

01. **Application Submitted by Participant**. The participant must submit an application form to the Department. An adult participant, a legal guardian or a representative, must sign the application form. (4-7-11)

02. **Application Submitted Through Social Security Administration (SSA) Low-Income Subsidy Data Transmission**. For low-income subsidy applicants identified on the SSA data transmission, the protected Medicare Savings Program application date is the day they applied for the low-income subsidy (LIS). (4-7-11)

051. EFFECTIVE DATE.
The effective date for aid is the first day of the month of application. Medicaid eligibility begins as described in Subsections 051.01 through 051.04. (7-1-99)

01. **AABD Cash**. AABD cash aid is effective on the application date. (3-28-18)

02. **Normal Medicaid Eligibility**. Medicaid coverage begins on the first day of the application month. (7-1-99)

03. **Retroactive (Backdated) Medicaid Eligibility**. Medicaid benefits must be backdated to the first day of the calendar month, for each of the three (3) months before the month of application, if the participant was Medicaid eligible during that month. If the participant is not eligible for Medicaid when he applies, retroactive

eligibility is evaluated. (7-1-99)

04. Ineligible Non-Citizen Medicaid. Ineligible legal or illegal non-citizen coverage is restricted to emergency services. Coverage begins when the emergency treatment is required. Coverage ends with the last day emergency treatment is required. (7-1-99)

052. PERSONAL INTERVIEW.
Each applicant for AABD must participate in a telephone interview unless good cause exists. Upon request, the Department may require a face-to-face interview. (3-20-04)

053. -- 069. (RESERVED)

070. TIME LIMITS.
The application must be processed within forty-five (45) days for an applicant sixty-five (65) years of age or older. The application must be processed within ninety (90) days for a disabled applicant. The time limit can be extended by events beyond the Department's control. (7-1-99)

071. DEATH OF APPLICANT.
An application may be filed for a deceased person. The application must be filed within the backdated eligibility period. Medicaid can be approved, through the date of death, if an AABD applicant dies before eligibility is determined. (7-1-99)

072. REQUIRED VERIFICATION.
Applicants must prove their eligibility for aid. The participant is allowed ten (10) calendar days to provide requested proof. The application is denied if the applicant does not provide proof in ten (10) calendar days of the written request and does not have good cause for not providing proof. The Department may also use electronic verification sources when they are available. (3-20-14)

073. -- 089. (RESERVED)

090. APPLICATIONS FOR MEDICAID.
The Department must examine the potential eligibility of the participant for all Medicaid coverage groups when a participant applies for Medicaid. (7-1-99)

091. OUT OF STATE APPLICANTS.
A participant receiving AABD cash from another state must not receive AABD cash in Idaho until he is living in Idaho and the cash benefit has ended in the other state. A participant may receive Medicaid in Idaho before AABD cash or Medicaid stops in another state. AABD cash from another state is unearned income for Medicaid. Out-of-state medical coverage is a Medicaid third party resource. Idaho residents temporarily out of the state, and not receiving aid, may apply for aid in Idaho. (7-1-99)

092. CONCURRENT BENEFIT PROHIBITION.
If a person is potentially eligible for AABD cash, TAFI, or foster care, only one (1) program may be chosen. (3-20-14)

093. -- 099. (RESERVED)

100. RESIDENCY.
The participant must be living in Idaho and have no immediate intention of leaving. For Medicaid, other persons are Idaho residents if they meet a criteria in Subsections 100.01 through 100.05 of this rule. (3-20-14)

01. Foster Child. A participant living in Idaho and receiving child foster care payments from another state. (7-1-99)

02. Incapable Participant. A participant, who is incapable of indicating his state of residency after age twenty-one (21), is considered a resident of Idaho when: (3-20-14)

a. His parent or guardian lives in Idaho; or (3-20-14)

b. He resides in an Idaho institution. (3-20-14)

03. Placed in Another State by Idaho. A participant placed by the state of Idaho in an institution in another state. (7-1-99)

04. Homeless. A participant not maintaining a permanent home or having a fixed address who intends to remain in Idaho. (7-1-99)

05. Migrant. A migrant working and living in Idaho. (7-1-99)

101. TEMPORARY ABSENCE.
A participant may be temporarily absent from his home and still receive AABD cash and Medicaid. A participant is temporarily absent if he intends to return home within one (1) month. Temporary absence may exceed one (1) month for a child attending school or vocational training or a participant in a medical institution, hospital, or nursing home. (7-1-99)

102. U.S. CITIZENSHIP VERIFICATION REQUIREMENTS.
Any individual who participates in AABD cash, Health Care Assistance, or Medicaid benefits must provide proof of U.S. citizenship unless he has otherwise met the requirements under Subsection 104.06 of these rules. (3-20-14)

01. Citizenship Verified. Citizenship must be verified by electronic means when available. If an electronic verification is not immediately obtainable, the Department may request documentation from the applicant The Department will not deny the application until the applicant has had a reasonable opportunity period to obtain and provide the necessary proof of U.S. citizenship. (3-20-14)

02. Benefits During Reasonable Opportunity Period. Benefits are provided during the reasonable opportunity period that is provided to allow the applicant time to obtain and provide documentation to verify U.S. citizenship. No overpayment will exist for the reasonable opportunity period if the applicant does not provide necessary documentation during the reasonable opportunity period so that the application results in denial. (3-20-14)

03. Electronic Verification. Electronic interfaces initiated by the Department with agencies that maintain citizenship and identity information are the primary sources of verification of U.S. Citizenship and Identity. (3-20-14)

04. Documents. When verification is not available through an electronic interface, the individual must provide the Department with the most reliable document that is available. Documents can be: (3-20-14)

a. Originals; (3-20-14)

b. Photocopies; (3-20-14)

c. Facsimiles; (3-20-14)

d. Scanned; or (3-20-14)

e. Other type of copy of a document. (3-20-14)

05. Accepted Documentation. Other forms of documentation are accepted to the same extent as an original document, unless information on the submitted document is: (3-20-14)

a. Inconsistent with other information available to the Department; or (3-20-14)

b. The Department has good cause to question the validity of the document or the information on it. (3-20-14)

06. Submission of Documents. The Department accepts documents that are submitted: (3-20-14)

a. In person; (3-20-14)

b. By mail or parcel service; (3-20-14)

c. Through an electronic submission; or (3-20-14)

d. Through a guardian or authorized representative. (3-20-14)

103. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.

01. SSN Required. The applicant must provide his social security number (SSN), or proof he has applied for an SSN, to the Department before approval of eligibility. If the applicant has more than one (1) SSN, all numbers must be provided. (3-20-14)

a. The SSN must be verified by the Social Security Administration (SSA) electronically. An applicant with an unverified SSN is not eligible for AABD cash, Health Care Assistance, or Medicaid benefits. (3-20-14)

b. The Department must notify the applicant in writing if eligibility is denied or lost for failure to meet the SSN requirement. (3-20-14)

02. Application for SSN. To be eligible, the applicant must apply for an SSN, or a duplicate SSN when he cannot provide his SSN to the Department. If the SSN has been applied for but not issued by the SSA, the Department cannot deny, delay, or stop benefits. The Department will help an applicant with required documentation when the applicant applies for an SSN. (3-20-04)

03. Failure to Apply for SSN. The applicant may be granted a good cause exception for failure to apply for an SSN if they have a well-established religious objection to applying for an SSN. A well-established religious objection means the applicant: (3-20-04)

a. Is a member of a recognized religious sect or division of the sect; and (3-20-04)

b. Adheres to the tenets or teachings of the sect or division of the sect and for that reason is conscientiously opposed to applying for or using a national identification number. (3-20-04)

04. SSN Requirement Waived. An applicant may have the SSN requirement waived when he is: (3-20-04)

a. Only eligible for emergency medical services as described in Section 801 of these rules; or (3-20-04)

b. A newborn child deemed eligible as described in Section 800 of these rules. (4-2-08)

104. U.S. CITIZENSHIP AND IDENTITY DOCUMENTATION REQUIREMENTS.
To be eligible for AABD cash and Medicaid, an individual must provide proof of U.S. citizenship and identity unless he has otherwise met the requirements under Subsection 104.06 of this rule. The individual must provide the Department with the most reliable document that is available. The Department will accept documents as described in Section 102 of these rules. (3-20-14)

01. Documents Accepted as Proof of Both U.S. Citizenship and Identity. The following documents are accepted as proof of both U.S. citizenship and identity: (3-20-14)

a. A U.S. passport, including a U.S. Passport card, without regard to expiration date as long as the passport or passport card was issued without limitation; (3-20-14)

b. A Certificate of Naturalization; or (3-20-14)

c. A Certificate of U.S. Citizenship. (3-20-14)

d. Documentary evidence issued by a federally recognized Indian tribe. Such documents include: (3-20-14)

i. A tribal enrollment card; (3-20-14)

ii. A certificate of Degree of Indian Blood; (3-20-14)

iii. A tribal census document; or (3-20-14)

iv. Documents on tribal letterhead, issued under the signature of the appropriate tribal official. (3-20-14)

02. Documents Accepted as Evidence of U.S. Citizenship. The following documents are accepted as proof of U.S. citizenship if the proof in Subsection 104.01 of this rule is not available. These documents are not proof of identity and must be used in combination with a least one (1) document listed in Subsections 104.03 and 104.04 of this rule to establish both citizenship and identity. If the applicant does not have one (1) of the documents listed below, he may submit an affidavit signed by another individual under penalty of perjury who can reasonably attest to the applicant's citizenship, and that contains the applicant's name, date of birth, and place of U.S. birth. The affidavit does not have to be notarized. (3-20-14)

a. A U.S. birth certificate that shows the individual was born in one (1) of the following: (3-30-07)

i. United States fifty (50) states; (3-30-07)

ii. District of Columbia; (3-30-07)

iii. Puerto Rico, on or after January 13, 1941; (3-30-07)

iv. Guam; (3-20-14)

v. U.S. Virgin Islands, on or after January 17, 1917; (3-30-07)

vi. America Samoa; (3-30-07)

vii. Swain's Island; or (3-30-07)

viii. Northern Mariana Islands, after November 4, 1986; (3-30-07)

b. A certification of report of birth issued by the Department of State, Forms DS-1350 or FS-545; (3-30-07)

c. A report of birth abroad of a U.S. Citizen, Form FS-240; (3-30-07)

d. A U.S. Citizen I.D. card, DHS Form I-197; (3-30-07)

e. A Northern Mariana Identification Card; (3-20-14)

f. A final adoption decree showing the child's name and U.S. place of birth, or if the adoption is not final, a statement from the state-approved adoption agency that shows the child's name and U.S. place of birth; (3-20-14)

g. Evidence of U.S. Civil Service employment before June 1, 1976; (4-2-08)

h. An official U.S. Military record showing a U.S. place of birth; (4-2-08)

i. A certification of birth abroad, FS-545; (4-2-08)

j. Verification with the Department of Homeland Security's Systematic Alien Verification for Entitlements (SAVE) database; (3-20-14)

k. Evidence of meeting the automatic criteria for U.S. citizenship outlined in the Child Citizenship Act of 2000; (3-20-14)

l. Medical records, including, hospital, clinic, or doctor records, or admission papers from a nursing facility, skilled care facility, or other institution that indicate a U.S. place of birth; (3-20-14)

m. Life, health, or other insurance record that indicates a U.S. place of birth; (3-20-14)

n. Official religious record recorded in the U.S. showing that the birth occurred in the U.S; (3-20-14)

o. School records, including pre-school, Head Start, and daycare, showing the child's name and U.S. place of birth; or (3-20-14)

p. Federal or state census record showing U.S. citizenship or a U.S. place of birth. (3-20-14)

03. Evidence of Identity. The following documents are accepted as proof of identity, provided the document has a photograph or other identifying information including: name, age, sex, race, height, weight, eye color, or address. (3-20-14)

a. A state- or territory-issued driver's license. A driver's license issued by a Canadian government authority is not a valid indicator of identity in the U. S.; (3-20-14)

b. A federal, state, or local government-issued identity card; (3-20-14)

c. School identification card; (3-20-14)

d. U.S. Military card or draft record; (3-30-07)

e. Military dependent's identification card; (3-30-07)

f. U. S. Coast guard Merchant Mariner card; (3-30-07)

g. A cross-match with a federal or state governmental, public assistance, law enforcement, or corrections agency's data system; (3-20-14)

h. A finding of identity from a federal or state governmental agency, when the agency has verified and certified the identity of the individual, including public assistance, law enforcement, internal revenue or tax bureau, or corrections agency; (3-20-14)

i. A finding of identity from another state benefits agency or program provided that it obtained verification of identity as a criterion of participation; (3-20-14)

j. Verification of citizenship by a federal agency or another state. If the Department finds that a federal agency or an agency in another state verified citizenship on or after July 1, 2006, no further documentation of citizenship or identity is required; (3-20-14)

k. Two (2) documents containing consistent information that corroborates the applicant's identity including: employer identification cards, high school or high school equivalency diplomas, college diplomas, marriage certificates, divorce decrees, property deeds or titles; or (3-20-14)

l. When the applicant does not have any documentation as specified in Subsections 104.03.a. through

k. of this rule, the applicant may submit an affidavit signed by another individual under penalty of perjury, who can reasonably attest to the applicant's identity. The affidavit must contain the applicant's name and other identifying information to establish identity stated in Subsection 104.03 of this rule. The affidavit does not have to be notarized. (3-20-14)

04. Identity Rules for Children. For children under age nineteen (19), clinic, doctor, or hospital records, including pre-school or daycare records, may be used as additional sources of documentation of identity. (3-20-14)

05. Eligibility for Medicaid Applicants Who Do Not Provide U.S. Citizenship and Identity Documentation. If verification of U.S. citizenship and identity is not obtained through electronic means, or if the applicant is unable to provide documentation at the time of application, the applicant has ninety (90) days to provide proof of U.S. citizenship and identity. The ninety (90) days begins five (5) days after the date the notice is mailed requesting the documentation of citizenship and identity. Medicaid benefits will be approved pending verification if the applicant meets all other eligibility requirements. Medicaid will be denied if the applicant refuses to obtain documentation. (3-20-14)

06. Individuals Considered as Meeting the U.S. Citizenship and Identity Documentation Requirements. The following individuals are considered to have met the U.S. citizenship and identity documentation requirements, regardless of whether documentation required in Subsections 104.01 through 104.05 of this rule is provided: (3-20-14)

a. Supplemental Security Income (SSI) recipients; (4-2-08)

b. Individuals determined by the SSA to be entitled to or enrolled in any part of Medicare; (3-20-14)

c. Social Security Disability Income (SSDI) recipients; (4-7-11)

d. Adoptive or foster care children receiving assistance under Title IV-B or Title IV-E of the Social Security Act; (4-7-11)

e. Individuals deemed eligible for Medicaid as a newborn under Section 800 of these rules; and (4-7-11)

f. Individuals whose name and social security number are validated by the Social Security Administration data match as meeting U.S. citizenship status. (4-7-11)

07. Assistance in Obtaining Documentation. The Department will provide assistance to individuals who need assistance in securing satisfactory documentary evidence of citizenship. (3-20-14)

08. Provide Verification of U.S. Citizenship and Identity One Time. When an individual's U.S. citizenship and identity have been verified, whether through electronic data matches or provision of documentation, changes in eligibility will not require an individual to provide the verification again. If later verification provides the Department with good cause to question the validity of the individual's citizenship or identity, the individual may be requested to provide further verification. (3-20-14)

105. CITIZENSHIP AND QUALIFIED NON-CITIZEN REQUIREMENTS.
To be eligible for AABD cash and Medicaid, an individual must be a member of one (1) of the groups listed in Subsections 105.01 through 105.16 of this rule. An individual must also provide proof of identity as provided in Section 104 of these rules. (3-20-14)

01. U.S. Citizen. A U.S. Citizen or a "national of the United States." (3-20-14)

02. Child Born Outside the U.S. A child born outside the U.S., as defined in Public Law 106-395, is considered a citizen if all of the following conditions are met: (3-30-07)

a. At least one (1) parent is a U.S. Citizen. The parent can be a citizen by birth or naturalization. This

includes an adoptive parent; (3-30-07)

b. The child is residing permanently in the U.S. in the legal and physical custody of a parent who is a U.S. Citizen; (3-30-07)

c. The child is under eighteen (18) years of age; (3-30-07)

d. The child is a lawful permanent resident; and (3-30-07)

e. If the child is an adoptive child, the child was residing in the U.S. at the time the parent was naturalized and was in the legal and physical custody of the adoptive parent. (3-30-07)

03. Full-Time Active Duty U.S. Armed Forces Member. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member. (3-30-07)

04. Veteran of the U.S. Armed Forces. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran. (3-30-07)

05. Non-Citizen Entering the U.S. Before August 22, 1996. A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) and remained continuously present in the U.S. until they became a qualified alien. (3-30-07)

06. Non-Citizen Entering on or After August 22, 1996. A non-citizen who entered on or after August 22, 1996, and; (3-30-07)

a. Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; (3-30-07)

b. Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; (3-30-07)

c. Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; (3-30-07)

d. Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; (4-7-11)

e. Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry; (4-7-11)

f. Is an Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007; or (4-7-11)

g. Is an Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. (4-7-11)

07. Qualified Non-Citizen Entering on or After August 22, 1996. A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has held a qualified non-citizen status for at least five (5) years. (3-30-07)

08. American Indian Born in Canada. An American Indian born in Canada under 8 U.S.C. 1359. (3-30-07)

09. American Indian Born Outside the U.S. An American Indian born outside of the U.S., and is a member of a U.S. federally recognized tribe under 25 U.S.C. 450 b(e). (3-30-07)

10. Qualified Non-Citizen Child Receiving Federal Foster Care. A qualified non-citizen child as defined in 8 U.S.C. 1641(b) or (c), and receiving federal foster care assistance. (3-30-07)

11. Victim of Severe Form of Trafficking. A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)

a. Is under the age of eighteen (18) years; or (3-20-04)

b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-30-07)

12. Qualified Non-Citizen Receiving Supplement Security Income (SSI). A qualified non-citizen under 8 U.S.C. 1641(b) or (c), and is receiving SSI; or (3-20-04)

13. Permanent Resident Receiving AABD Cash On August 22, 1996. A permanent resident receiving AABD cash on August 22, 1996. (3-20-04)

14. Individuals Not Meeting the Citizenship or Qualified Non-Citizen Requirements. An individual who does not meet the citizenship or qualified non-citizen requirements in Subsections 105.01 through 105.13 of this rule, may be eligible for emergency medical services if he meets all other conditions of eligibility. (3-25-16)

106. (RESERVED)

107. INSTITUTIONAL STATUS.
An institution provides treatment, services, food, and shelter to four (4) or more people, not related to the owner. A participant living in an ineligible institution an entire calendar month is not eligible for AABD cash, unless he qualifies for the institution payment exception. (7-1-99)

01. Eligible Institutions. Eligible institutions for AABD and Medicaid are defined in Subsections 107.01.a. through 107.01.c. (7-1-99)

a. Medical institution. A public or private medical institution, including a hospital, nursing care facility, or an intermediate care facility for persons with intellectual disabilities is an eligible institution. A participant is not eligible for AABD cash if he is a resident of a medical institution the full month. (7-1-99)

b. Child care institution. A non-profit private child care institution is an eligible institution. A public child care institution with no more than twenty-five (25) beds is an eligible institution. A child care institution must be licensed or approved by the Department. A detention facility for delinquent children is not a child care institution. A child care institution for mental diseases (IMD) is an eligible institution if it has sixteen (16) beds or less. A participant is not eligible for AABD cash if he is a resident of a child care institution the full month. (7-1-99)

c. Community residence. A community residence is a facility providing food, shelter, and services to residents. A privately operated community residence is an eligible institution. A publicly operated community residence serving no more than sixteen (16) residents is an eligible institution. The Community Restorium in Bonners Ferry, Idaho, is an eligible institution even though more than sixteen (16) residents are served. (7-1-99)

02. Ineligible Institutions. Ineligible institutions for AABD and Medicaid are defined in Subsections 107.02.a. through 107.02.d. (7-1-99)

a. Public institution. Public institutions are ineligible institutions unless listed in Subsection 108.01. (7-1-99)

b. Institution for mental diseases. An institution for mental diseases for adults is an ineligible institution. A facility is an institution for mental diseases if it is maintained primarily for the care and treatment of persons with mental diseases. (7-1-99)

c. Institution for tuberculosis. An institution for tuberculosis is an ineligible institution. A facility is an institution for tuberculosis if it is maintained primarily for the care and treatment of persons with tuberculosis. (7-1-99)

d. Correctional institution. A correctional institution is an ineligible institution. A correctional institution is a facility for prisoners, persons detained pending disposition of charges, or held under court order as material witnesses or juveniles. (7-1-99)

03. Medicaid Exception for Inmates. An inmate can receive Medicaid while *they are* an inpatient in a medical *facility*. *The inmate* must meet all Medicaid eligibility requirements. *( )*

108. AABD ELIGIBILITY IN INELIGIBLE INSTITUTIONS.
A participant may get AABD cash in an ineligible institution or a medical institution if he meets one (1) of the conditions listed in Subsections 108.01 and 108.02. (7-1-99)

01. First Month in Institution. An AABD participant can get AABD cash for the month he entered the institution. Eligibility for the entry month applies to these residents: (7-1-99)

a. Resident of a public institution. The person is a resident if he or anyone pays for his food, shelter, and other services in the institution. (7-1-99)

b. Patient in a medical institution. A patient is a person receiving room, board, and professional services in a medical institution, including an institution for tuberculosis or mental diseases. (7-1-99)

02. Temporary Institution Stay. An AABD participant can get up to three (3) months' AABD payment during a temporary stay in an institution. A participant entering a public medical or psychiatric institution, a hospital, a nursing facility, or an ICF/ID may continue to get AABD payments. The Department must receive the temporary stay data no later than the ninetieth full day of confinement, or the release date, whichever is first. The payments may continue up to three (3) months if these conditions are met: (7-1-99)

a. The Department is informed of the institutional stay. (7-1-99)

b. A physician certifies the participant's stay is not likely to exceed three (3) full months. (7-1-99)

c. A signed statement from the participant or a responsible party showing the participant's need to continue to maintain and pay for the place he intends to return to live. (7-1-99)

109. CONDITIONS FOR TEMPORARY AABD IN INSTITUTIONS.
Special conditions for AABD when a participant is in an institution are listed in Subsections 109.01 through 109.05. (7-1-99)

01. Living Arrangement. AABD cash is paid based on the participant's living arrangement the month before the first month in the institution. Changes in living arrangement costs are used to determine AABD cash eligibility and benefit amount. (7-1-99)

02. Participant Becomes Ineligible. If the participant becomes ineligible for AABD during his temporary institutional stay, his AABD payment must be ended after proper notice. (7-1-99)

03. AABD Status. A participant must get AABD for the month he enters the institution to receive continued AABD payments. (7-1-99)

04. Counting Three Full Months. A full month is a month the participant is in the institution every day of the month. If the participant enters after the first day of a month, the month of entry is not included in the three (3) full months. If the participant is discharged before the last day of the month, the month of discharge is not included in the three (3) full months. (7-1-99)

05. SSI Benefits. If SSA decides a participant's SSI benefit will continue while the participant is in the institution, AABD payments can also continue. (7-1-99)

110. -- 128. (RESERVED)

129. PARTICIPANT'S GUARDIAN FOR AABD CASH.
A court appointed guardian can manage AABD cash for a participant who is not competent to do so. The Department may petition the District Court to appoint a guardian if one is needed. (7-1-99)

130. ESTATE NOT IN PROBATE.
An administrator for public aid for a deceased participant's AABD cash can be court appointed. The administrator must spend AABD cash, accessible through EBT before the participant's death, for the estate. The AABD cash can only be spent to meet the needs of the participant, or his dependents, for the month it was paid. If a participant had no debts for himself, or his dependents, the administrator must return the AABD cash to the Department. AABD benefits paid by direct deposit or posted to the participant's EBT account, after the participant's death, are the property of the state of Idaho. (7-1-99)

131. ESTATE IN PROBATE.
AABD cash received by a participant before his death is disbursed as part of the participant's estate, if it is probated. The probate administrator spends the AABD cash under his oath of administration. (7-1-99)

132. -- 154. (RESERVED)

155. AABD FOR THE AGED.
To qualify for AABD for the aged, a person must be age sixty-five (65) or older. (7-1-99)

156. AABD FOR THE DISABLED.
To qualify for AABD for the blind or disabled, a person must meet the definition of blindness or disability used by the SSA for RSDI and SSI benefits. (7-1-99)

01. SSA Decision for Disabled. SSA's disability decision is binding on the Department unless: (7-1-99)

a. The participant states his disabling condition is different from, or in addition to, his condition considered by SSA, and the participant has not reapplied for SSI; or (7-1-99)

b. More than twelve (12) months have passed since the SSA made a final determination the participant was not disabled, and the participant states his condition has changed or become worse since that final determination, and the participant has not reapplied for SSI. (7-1-99)

02. Medicaid Pending SSA Appeal. When SSA decides a participant is no longer disabled, he meets the AABD disability requirement and can continue receiving Medicaid if he appeals SSA's decision. Medicaid ends if the SSA decision is upheld. (7-1-99)

03. Grandfathered Participant for Aid to the Permanently and Totally Disabled (APTD) or Aid to the Blind (AB). A participant is disabled if he was eligible as disabled in December 1973, and continues to meet the disability requirement in effect in December 1 1973. He must also meet the other current eligibility requirements. (7-1-99)

157. -- 165. (RESERVED)

166. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.
A participant is ineligible to receive AABD for any month during which he is fleeing to avoid prosecution for a felony, fleeing to avoid custody or confinement after a felony conviction, or violating a federal or state condition of probation or parole. (7-1-99)

167. FRAUDULENT MISREPRESENTATION OF RESIDENCY.
A participant is ineligible for AABD for ten (10) years if he was convicted in a federal or state court of having fraudulently misrepresented residence to get AABD, SSI, TAFI, Food Stamps or Medicaid from two (2) or more states at the same time. (7-1-99)

168. -- 199. (RESERVED)

200. RESOURCES DEFINED.
Resources are cash, personal property, real property, and notes receivable. A participant, or spouse, must have the right, authority, or power to convert the resource to cash. The participant must have the legal right to use the resource for support and maintenance. (3-20-04)

201. RESOURCE LIMIT.
The value of countable resources must be two thousand dollars ($2,000) or less, for a single person to be AABD eligible. A married person must have countable resources of three thousand dollars ($3,000) or less to be eligible for AABD cash. Resources are counted the first moment of each calendar month and apply to the entire month. (7-1-99)

202. CHANGE IN VALUE OF RESOURCES.
A change in the value of resources is counted the first moment of the next month. (7-1-99)

203. RESOURCES AND CHANGE IN MARITAL STATUS.
A change in marital status changes the resource limit. The resource limit change is effective the month after individual participants are married, divorced, separated, or one (1) spouse dies. (7-1-99)

204. FACTORS MAKING PROPERTY A RESOURCE.
Property of any kind is a resource if the participant has an ownership interest in the property and the legal right to spend or convert the property to cash. (7-1-99)

205. COUNTING RESOURCES AND INCOME.
An asset cannot be counted as income and resources in the same month. Assets received in cash or in-kind during a month are income. Income held past the month received is a resource. (7-1-99)

206. TYPES OF RESOURCES.
Liquid resources are resources in cash or resources convertible to cash within twenty (20) working days. Nonliquid resources are any resources, not in the form of cash, which cannot be converted to cash within twenty (20) workdays. (7-1-99)

207. EQUITY VALUE OF RESOURCES.
Equity value is the fair market value of a resource, minus any debts on it. (7-1-99)

208. SHARED OWNERSHIP RULE.
Except for checking and savings accounts and time deposits, each owner of shared property owns only his fractional interest in the property. The total value of the property is divided among the owners, in direct proportion to each owner's share. (7-1-99)

209. CONVERSION OR SALE OF A RESOURCE NOT INCOME.
Payment from the sale, exchange, or replacement of a resource is not income. The payment is a resource. (3-15-02)

210. RESOURCES EXCLUDED BY FEDERAL LAW.
A resource excluded by federal law is not counted in determining the resource amount available to the participant. (3-29-10)

211. -- 214. (RESERVED)

215. DEEMING RESOURCES.
Resources are deemed from a spouse to a participant, from a parent or spouse of a parent to a child participant, from an essential person to a participant, or from a sponsor to a legal non-citizen participant. Resource deeming is determined by the participant's circumstances the first moment of the month. Deeming starts the first full calendar month the participant is in a deeming situation. Deeming ends the first full calendar month the participant is not in a deeming situation. Deeming to a child ends the month after the child's eighteenth birthday. (7-1-99)

01. Spouse of Adult Participant. When a participant lives with a spouse, his resources include those of the spouse. The resource limit is for a couple, when the spouse was a member of the household as of the first moment of the benefit month. The AABD resource exclusions are subtracted. Pension funds the ineligible spouse has on deposit are excluded. (7-1-99)

02. Resources of Parent(s) of Child Under Age Eighteen. When a child participant, under age eighteen (18), is living with his parent or the spouse of his parent, their resources are deemed to the child. When there is more than one (1) child participant in the household, deemed parental resources are divided equally among the child AABD cash participants. When the child lives with one (1) parent, resources over the single person resource limit are deemed to the child. When the child lives with both parents, resources over the couple limit are deemed to the child. A stepparent's resources are not deemed to the child for Medicaid eligibility. A stepparent's resources are deemed to the child for AABD cash. Resources and exclusions of the child participant, and the parents, are computed separately. Pension funds owned by an ineligible parent or parent's spouse are excluded from resources for deeming. (4-5-00)

03. Resources of Essential Person of Participant. When a participant lives with an essential person, the resources of the essential person are deemed to the participant. The essential person's countable resources are combined with the participant's countable resources. When the essential person is not the participant's spouse, the single person resource limit is used. When the essential person is the participant's ineligible spouse, the couple resource limit is used. (7-1-99)

04. Resources of Legal Non-Citizen's Sponsor -- No INS Form I-864 Signed. A legal non-citizen's resources include those of his sponsor and of the sponsor's spouse. When the sponsor has not signed an I-864 affidavit of support, the resources deeming period is three (3) years after the legal non-citizen's admission to the U.S. A sponsor's resources are not deemed to the legal non-citizen for Medicaid eligibility. (3-15-02)

a. If the sponsor does not have a spouse living with him, the sponsor's countable resources over the single person resource limit are deemed to the legal non-citizen participant. (7-1-99)

b. If the sponsor's spouse lives with him, the sponsor couple's resources over the couple resource limit are deemed to the legal non-citizen participant. (7-1-99)

c. If a person sponsors two (2) or more legal non-citizen participants, the sponsor's deemed resources are divided and deemed equally to the legal non-citizen participants. (7-1-99)

05. Resources of Legal Non-Citizen's Sponsor -- INS Form I-864 Signed. For a legal non-citizen admitted to the U.S. on or after August 22, 1996, whose sponsor has signed an INS Form I-864 affidavit of support, all resources of the sponsor and sponsor's spouse are deemed to the legal non-citizen for AABD cash and Medicaid eligibility. Exceptions are listed in Subsections 215.05.a. and 215.05.b. of these rules. (3-15-02)

a. The legal non-citizen, or the legal non-citizen child's parent, was battered or subjected to extreme cruelty in the U.S. There is a substantial connection between the battery and the participant's need for assistance. The person subjected to the battery or cruelty no longer lives with the person responsible for the battery or cruelty. (3-15-02)

b. Alien sponsor deeming is suspended for twelve (12) months, if the legal non-citizen is not able to get food and shelter without AABD cash. (3-15-02)

216. HOUSEHOLD FOR RESOURCE COMPUTATIONS.
A participant living in an institution is not a household for resource computations. (7-1-99)

217. UNKNOWN RESOURCES.
An asset is not a resource if the participant is unaware of his ownership. The asset is a resource the month after discovery. (7-1-99)

218. -- 221. (RESERVED)

222. VEHICLES.
Vehicles are excluded as resources as described in Subsection 222.01 of these rules. If more than one (1) vehicle is owned, the exclusion applies in the best way for the participant. (4-11-06)

01. One Vehicle Excluded. One (1) vehicle is excluded, regardless of value. (4-11-06)

02. Other Vehicles Not Excluded. The equity value of a vehicle not excluded under Subsection 222.01 of these rules is a resource. (4-11-06)

223. BURIAL FUNDS EXCLUDED FROM RESOURCE LIMIT.
Burial funds up to one thousand five hundred dollars ($1,500) per person, set aside for the burial expenses of the participant or spouse, are excluded from resources. To be excluded, burial funds must be kept separate from assets not burial related. A burial contract that can be revoked or sold, without significant hardship, is a resource. Any portion of the contract for the purchase of burial spaces is excluded from resources. A burial contract that cannot be revoked, and cannot be sold without significant hardship, is not a resource. The burial fund portion of the contract counts against the one thousand five hundred dollar ($1,500) burial funds exclusion. The burial space portion of the contract does not count against the burial funds exclusion. Interest earned on excluded burial funds is also excluded. (3-15-02)

01. Life Insurance Policy as Burial Funds. The participant can designate a countable life insurance policy as a burial fund. The face value of excluded life insurance policies on the participant counts against the burial funds exclusion. (7-1-99)

02. Face Value of Burial Insurance Policies Not Counted. The face value of burial insurance policies does not count toward the one thousand five hundred dollar ($1,500) life insurance limit, when computing the total face value of life insurance policies owned by a participant. Interest on excluded burial funds does not count toward the one thousand five hundred dollar ($1,500) burial funds exclusion. (7-1-99)

03. Effective Date of Burial Funds Exclusion. The exclusion is effective the month after the month the funds were set aside. Burial funds can be designated retroactively, back to the first day of the month the participant intended the funds to be set aside. The participant must confirm the designation in writing. (7-1-99)

04. Penalty for Misusing Burial Funds. If the participant does not get SSI, burial funds used for another purpose lose the exclusion. An overpayment must be recovered. If the participant gets SSI, and is penalized by SSA because he used excluded burial funds for another purpose, his AABD payment must not be increased to compensate the SSA penalty. (7-1-99)

224. BURIAL SPACE OR PLOT EXCLUSION.
A burial space is a burial plot, grave site, crypt, mausoleum, casket, urn, niche, or other repository normally used for the deceased's remains. A burial space, or burial space purchase agreement, held for the burial of the participant, spouse, or other member of his immediate family is an excluded resource. (7-1-99)

01. Burial Space Contract. The burial space contract must list all burial spaces and include a value for each space or the total value of all the spaces. The contract must not require further payment after the contract is signed. (7-1-99)

02. Space Held by Ineligibles Excluded. A space held by an ineligible spouse or parent, for the burial of a participant, spouse, and any member of the participant's immediate family, is excluded. A space held by a legal

non-citizen sponsor, or essential person, for his own burial is excluded only if the sponsor is a member of the participant's immediate family. (7-1-99)

225. -- *234*. (RESERVED)

235. EXCLUDED HOUSEHOLD GOODS AND PERSONAL EFFECTS.
Household goods and personal effects are excluded from resources, regardless of their dollar value. (4-11-06)

236. (RESERVED)

237. REAL PROPERTY DEFINITION.
Real property is land, including buildings or immovable objects attached permanently to the land. Real property is a resource unless excluded. (7-1-99)

238. HOME AS RESOURCE.
An individual's home is property he owns, and serves as his principal place of residence. His principal place of residence is the place he considers his principal home. If the individual is absent from his home, it is still his principal place of residence if he intends to return. (3-30-07)

01. AABD Cash, and Medicaid With the Exception of Long-Term Care. For AABD Cash and Medicaid with the exception of long-term care, the value of an individual's home is an excluded resource. (3-30-07)

02. Long-Term Care Services. For long-term care services, when the value of a participant's equity in the home is seven hundred fifty thousand dollars ($750,000) or less, the home is excluded as a resource. When the equity value exceeds seven hundred fifty thousand dollars ($750,000), the individual is ineligible for long-term care services. The equity value, regardless of the amount, is an excluded resource when one (1) of the following applies: (3-30-07)

a. The spouse of the individual lives in the home; or (3-30-07)

b. The individual's child, who is under age twenty-one (21), or is blind, or meets the disability requirements for AABD cash, lives in the home. (3-30-07)

239. SALE OF EXCLUDED HOME AND REPLACEMENT.
If the participant plans to buy another excluded home, proceeds from the sale of a participant's excluded home are excluded resources. Proceeds from the sale of an excluded home must be used to replace the home within three (3) calendar months. Proceeds retained beyond three (3) calendar months are a countable resource. (7-1-99)

240. REPLACEMENT OF EXCLUDED RESOURCES.
Cash and in-kind payments for replacement or repair of lost, damaged, or stolen excluded resources, are excluded resources for nine (9) months from the date received. This exclusion can be extended for cash payments, up to an additional nine (9) months. The extension can be made if, for the first nine (9) months, circumstances beyond the participant's control prevent repair or replacement of the lost, damaged or stolen property and keep the participant from contracting for repair or replacement. This exclusion can be extended for twelve (12) more months for a catastrophe the President declares a major disaster. Interest earned by funds excluded under this provision is excluded from resources. (7-1-99)

241. UNDUE HARDSHIP EXCLUSION FROM SALE OF JOINTLY-OWNED REAL PROPERTY.
A participant's ownership interest, in jointly-owned real property, is an excluded resource, as long as sale of the property will cause undue hardship to a co-owner. Undue hardship results if a co-owner uses the property as his principal place of residence, would have to move if the property were sold, and has no other readily available housing. (7-1-99)

242. INDIAN PROPERTY EXCLUDED.
For the purposes of determining eligibility for an individual who is an Indian, the following property is excluded: (3-29-10)

01. Property. Real property and improvements located on a reservation, including any federally recognized Indian Tribe's reservation, pueblo, or colony, and Indian allotments on or near a reservation as designated and approved by the Bureau of Indian Affairs. (3-29-10)

02. Natural Resources. Ownership interest in rents, leases, royalties, or usage rights related to natural resources resulting from the exercise of federally protected rights. (3-29-10)

03. Other Ownership Interests or Usage Rights. Ownership interests in or usage rights to property not covered by Subsections 242.01 or 242.02 of this rule that have a unique religious, spiritual, traditional, or cultural significance or rights that support subsistence or traditional lifestyle according to applicable tribal law or custom. (3-29-10)

243. RESOURCES ASSOCIATED WITH PROPERTY.
Resources associated with real property are mineral rights, timber rights, easements, leaseholds, water rights, remainder interests, and sale of natural resources. These resources are counted as real property. (7-1-99)

244. RESOURCES ESSENTIAL FOR SELF-SUPPORT EXCLUDED.
Resources are excluded as essential to self-support, if they fall into one (1) of the categories described in Subsections 244.01 through 244.03. (7-1-99)

01. Essential Property in Current Use. Property in current use in the type of activity that qualifies it as essential to self-support is excluded, regardless of value or rate of return. Trade or business property, government permits, and personal property used by an employee for work are excluded regardless of value or rate of return. If the property is not in current use, for reasons beyond the participant's control, there must be a reasonable expectation the required use will resume. If the participant does not intend to resume the self-support activity, the property is a countable resource for the month after the month of last use. (7-1-99)

02. Nonbusiness Property Producing Goods or Services. Up to six thousand dollars ($6,000) of the equity value of nonbusiness property, used to produce goods or services essential to daily activities, is excluded regardless of rate of return. Equity value over six thousand dollars ($6,000) is not excluded. This exclusion is not used for income producing property. (7-1-99)

03. Nonbusiness Income Producing Property. Up to six thousand dollars ($6,000) equity in nonbusiness income producing property is excluded if it produces at least a six percent (6%) rate of return. The property must produce a net annual return equal to at least six percent (6%) of the excluded equity. If a participant owns more than one (1) piece of income producing property, the six percent (6%) return requirement applies to each. The six thousand dollars ($6,000) equity value limit applies to the total equity value of all the properties meeting the six percent (6%) return requirement. If the earnings decline is for reasons beyond the participant's control, up to twenty-four (24) months can be allowed for the property to resume producing a six percent (6%) return. If the property still is not producing a six percent (6%) return at the end of the twenty-four (24) month extension, the resource exclusion must end the month after the month the twenty-four (24) month period ends. (7-1-99)

245. RESOURCES SET ASIDE AS PART OF A PLAN FOR ACHIEVING SELF-SUPPORT (PASS) EXCLUDED.
PASS allows blind and disabled participants to set aside income and resources necessary for the achievement of its goals. Resources set aside as part of an approved PASS are excluded. The PASS disregard must not be applied to resources unless the participant would be ineligible due to excess resources. To disregard resources, the PASS must show how resources the participant has or will receive under the plan, will be used to obtain the PASS goal. The PASS must show how the disregarded resources will be identified separately from the participant's other resources. The PASS must list items or activities requiring savings or purchases and the amounts the participant anticipates saving or spending. The PASS must show a specific target date to achieve the objective. (7-1-99)

246. LIMITED AWARD TO CHILD WITH LIFE-THREATENING CONDITION.
Any gift from a tax exempt nonprofit organization to a child under age eighteen (18), who has a life threatening condition, is excluded from resources under the conditions in Subsections 246.01 through 246.02. (4-5-00)

01. In-Kind. An in-kind gift is excluded if the gift is not converted to cash. (4-5-00)

02. Cash. Cash gifts are excluded up to two thousand dollars ($2,000) for the calendar year the cash gifts are made. (4-5-00)

247. LIFE ESTATE INTEREST IN ANOTHER'S HOME.
The purchase of a life estate interest in another individual's home is a resource unless the purchaser resides in the home for a period of at least twelve (12) consecutive months after the date of purchase. (3-30-07)

248. -- 254. (RESERVED)

255. RETROACTIVE SSI AND RSDI BENEFITS.
Retroactive SSI and RSDI benefits are issued after the calendar month for which they are paid. Retroactive SSI and RSDI benefits are excluded from resources for nine (9) calendar months after the month they are received. Interest earned by excluded funds is counted as income. (4-7-11)

256. (RESERVED)

257. DISASTER ASSISTANCE.
Assistance received because of a major disaster, declared by the President, is excluded from resources. Interest earned on excluded funds is excluded from income and resources. (7-1-99)

258. CASH TO PURCHASE MEDICAL OR SOCIAL SERVICES.
Cash paid by a recognized medical or social services program, for the participant to purchase medical or social services, is not a resource for one (1) calendar month after receipt. The cash must not be repayment for a bill already paid. (7-1-99)

259. (RESERVED)

260. ALASKA NATIVE CLAIMS SETTLEMENT ACT.
Payments to Alaska Natives and their descendants from the Alaska Native Claims Settlement Act, under public Law 100-241, are excluded from resources. (7-1-99)

261. STOCK IN ALASKA REGIONAL OR VILLAGE CORPORATIONS.
Stock held by Alaska natives in regional or village corporations is inalienable for a twenty (20) year period under Sections 7(h) and 8(c) of the Alaska Native Claims Settlement Act. (7-1-99)

262. VICTIMS' COMPENSATION PAYMENTS.
Payments, from a fund set up by a State to aid victims of crime, are excluded from resources for nine (9) months. Interest earned on unspent victims' compensation payments is counted for income and resources. (7-1-99)

263. -- 264. (RESERVED)

265. TAX ADVANCES AND REFUNDS RELATED TO EARNED INCOME TAX CREDITS.
A Federal tax refund or payment made by an employer, related to Earned Income Tax Credits (EITC), is excluded from resources, for the month after the month the refund or payment is received. Interest earned on unspent tax refunds related to EITC is counted for income and resources. (7-1-99)

266. IDENTIFYING EXCLUDED FUNDS COMMINGLED WITH FUNDS NOT EXCLUDED.
Excluded funds must be separately identifiable to remain excluded. (7-1-99)

267. DEDICATED ACCOUNT FOR SSI PARTICIPANT.
A dedicated account for past-due SSI benefits, set up in a financial institution for an SSI participant under age eighteen (18) is an excluded resource. The account must be set up by the child's SSI representative payee, and excluded by SSA. (7-1-99)

268. SUPPORT AND MAINTENANCE ASSISTANCE (HOME ENERGY ASSISTANCE).
Support and Maintenance Assistance (SMA) is in-kind support and maintenance, or cash paid for food or shelter

needs. It includes Home Energy Assistance. SMA Home Energy Assistance is aid to meet the costs of heating or cooling a home. SMA and Home Energy Assistance are excluded resources. (4-11-06)

269. -- 270. (RESERVED)

271. VA MONETARY ALLOWANCES TO A CHILD BORN WITH SPINA BIFIDA.
VA monetary allowances to a child born with spina bifida, who is the child of a Vietnam veteran, are excluded resources. (7-1-99)

272. WALKER V. BAYER PAYMENTS.
Class action settlement payments in Susan Walker v. Bayer Corporation, et al are excluded from resources for Medicaid by Public Law 105-33. These payments are not excluded for AABD cash. (7-1-99)

273. -- 275. (RESERVED)

276. EXCLUDED REAL ESTATE CONTRACT.
The principal balance of a real estate contract is excluded from resources of a participant in long-term care when the Department determines it is in the Department's best interest to exclude the contract. The determination by the Department of its best interest is final. (3-20-04)

277. FEES PAID TO A CONTINUING CARE RETIREMENT COMMUNITY (CCRC) OR LIFE CARE COMMUNITY.
An entrance fee to a CCRC or a life care community is a resource if the participant or applicant for long-term care has discretion to spend the fee or if the fee may be used to pay for care in a contingency. A CCRC or life care community is a type of long-term care facility that offers varying levels of care and in which a resident contracts with the facility to obtain care that is intended to endure for the remainder of the resident's life in exchange for valuable consideration. (3-30-07)

278. TRUSTS.
A trust is a resource to a participant with the legal right to revoke the trust, and use the principal for his own support and maintenance. See Sections 838 through 873 in these rules for treatment of trusts for Medicaid. (7-1-99)

279. RETIREMENT FUNDS.
Retirement funds are work-related plans for providing income or pensions when employment ends. A retirement fund, owned by a participant, is a resource if he has the option of withdrawing a lump sum, even though he is not yet eligible for periodic retirement payments. If the participant is eligible for periodic retirement payments, the fund is not a countable resource. The value of a retirement fund is the amount of money a participant can currently withdraw from the fund. (3-28-18)

280. INHERITANCE.
An inheritance is cash, a right, including probate allowances, trust payments and annuities, or noncash items received as the result of someone's death. Cash or noncash items in an inheritance are income the month received and a resource the next month. Participants are required to make claims and take all reasonable action necessary to obtain any inheritance to which they may be entitled. Failure to make such claims or take reasonable steps to obtain an inheritance is an asset transfer. A contested inheritance is not counted as a resource until the contest is settled and money is distributed. (3-30-07)

281. LIFE INSURANCE.
A life insurance policy is an excluded resource if its face value, plus the face value of all other life insurance policies the participant owns on the same insured person, totals one thousand five hundred dollars ($1,500) or less. If the face values exceed one thousand five hundred dollars ($1,500) the policies are a resource in the amount of the cash surrender value. (7-1-99)

282. CONSERVATORSHIP.
Funds required to be made available for the care and maintenance of a participant, under a court order, are the participant's resource. This is true even if the participant or his agent is required to petition the court to withdraw funds for the participant's care. (7-1-99)

283. CONDITIONAL BENEFITS.
A participant ineligible due solely to excess nonliquid resources, can receive AABD cash and related Medicaid. The participant must meet two (2) conditions. First, his countable liquid resources must not exceed three (3) times the participant's AABD cash budgeted needs. Second, the participant agrees, in writing, to sell excess nonliquid resources at their fair market value, within three (3) months. The value of excess real property is not counted as a resource, as long as the participant makes reasonable efforts to sell the property at its fair market value, and his reasonable efforts to sell are not successful. This exclusion is also used to compute deemed resources. (7-1-99)

01. Conditional Benefits Payments Disposal/Exclusion Period. The disposal period and exclusion period for excess nonliquid resources begins on the date the participant signs the Agreement to Sell Property. The disposal and exclusion periods can begin earlier for a participant who met all requirements to receive conditional benefits before his first opportunity to sign the Agreement to Sell Property. The participant must sign the Agreement to Sell Property before his application is approved. (7-1-99)

02. Time Period for Disposal of Excess Resources. The disposal period for excess nonliquid personal property is three (3) months. One (1) three (3) month extension, for sale of personal property, is allowed when good cause exists. (7-1-99)

03. Good Cause for Not Making Efforts to Sell Excess Property. The participant has good cause exists for not making efforts to sell property, when circumstances beyond his control prevent his taking the required actions. Without good cause, the participants's countable resources include the value of the excess property, retroactive to the beginning of the conditional benefits period. (7-1-99)

284. RESOURCE TRANSFER FOR LESS THAN FAIR MARKET VALUE.
Starting November 1, 2000, AABD cash participants are subject to a period of ineligibility if they transfer resources for less than fair market value. The participant is not subject to a period of ineligibility if his total countable resources in the transfer month were under two thousand dollars ($2,000), even if he had kept the transferred resources. Excluded resources, except for the excluded home and associated property, are not subject to the resource transfer period of ineligibility. The exceptions to the period of ineligibility for transfer of resources are listed in Section 292. (3-15-02)

01. Transfer of Resources. Transfer of resources includes reducing or eliminating the participant's ownership or control of the resource. Transfer of resources includes giving away cash resources without receiving fair market value. (3-15-02)

02. Transfer of Resources by a Spouse. A transfer by the participant's spouse of either spouse's resources subjects the participant to the resource transfer period of ineligibility. (3-15-02)

03. Transfer of Resources by a Co-Owner. Transfer of the participant's resources by a co-owner subjects the participant to a period of ineligibility based on his share of the co-owed resources. (3-15-02)

04. Transfer of Resources by a Legal Representative. Transfer of the participant's resources by a legal representative such as a legal guardian or parent of a minor child subjects the participant to a period of ineligibility. (3-15-02)

285. AABD PERIOD OF INELIGIBILITY FOR RESOURCE TRANSFERS.
The resource transfer period of ineligibility is a period of AABD ineligibility for up to sixty (60) months. The period of ineligibility begins the first day of the month after the transfer month. The participant must be notified, in writing, at least ten (10) days before a resource transfer period of ineligibility is imposed. (3-30-07)

286. RESOURCE TRANSFER LOOK-BACK PERIOD.
The resource transfer penalty applies to any transfer for less than fair market value made during a period preceding a request for cash assistance. The look-back period is determined as follows: (3-30-07)

01. Transfers Prior to February 8, 2006. For any resource transferred prior to February 8, 2006, the look-back period is thirty-six (36) months. The look-back period is counted from the month prior to the month the

application was submitted. (3-30-07)

02. Transfers On or After February 8, 2006. Any resource transferred on or after February 8, 2006, regardless of type, is subject to a look-back period of sixty (60) months. The look-back period is counted from the date of the application for cash, or the date of the transfer, whichever is later in time. (3-30-07)

287. CALCULATING THE PERIOD OF INELIGIBILITY FOR RESOURCE TRANSFERS.
The period of ineligibility is the number of months computed by dividing the difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the participant's living arrangement. For an applicant, use the full AABD allowance for the application month. For a participant, use the full AABD allowances for the transfer month. For an AABD couple, the period of ineligibility is computed by dividing the difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the couple's living arrangement. The number of months of ineligibility is computed to two (2) decimal places and rounded down to the nearest whole number. If the amount transferred is less than the participant's AABD allowances for one (1) month, the participant is not subject to a period of ineligibility. (3-15-02)

288. LENGTH OF PERIOD OF INELIGIBILITY.
The period of ineligibility begins with the month after the month the transfer took place. The period of ineligibility continues whether or not the participant receives AABD. Ineligibility continues until all the resources are returned to the participant or spouse, adequate consideration for all the resources is received, sixty (60) months passes, or the penalty period ends. (3-30-07)

289. SPOUSE APPLIES AFTER PERIOD OF INELIGIBILITY IS COMPUTED.
If the spouse applies after the period of ineligibility is computed, compute the spouse's period of ineligibility by multiplying the number of months in the period of ineligibility already expired by the full AABD allowances for the couple's living arrangement. Subtract the total from the original difference between the fair market value of the resource and the amount the participant received for the resource. Divide the remaining difference between the fair market value of the resource and the amount the participant received for the resource by the full AABD allowances for the couple's living arrangement for the first month of ineligibility. (3-15-02)

290. MULTIPLE RESOURCE TRANSFERS.
If the participant makes more than one (1) resource transfer, the difference between the fair market value of all the transferred resource's and the amount the participant received for all the transferred resources is used to determine the length of the period of ineligibility. The period of ineligibility begins with the month after the month of the first transfer. (3-15-02)

291. TRANSFERS TO TRUSTS.
A trust established from the participant's resources is a resource transfer for less than fair market value, unless it meets an exception in Section 292 of these rules. If the trust includes resources of another person, the resource transfer period of ineligibility applies to the participant's share of the trust. (3-15-02)

01. Payment from Trust Not for Participant. If a payment is made to another individual from a trust counted as a resource, and the payment is not for the benefit of the participant, the payment is a resource transfer for less than fair market value. (3-15-02)

02. Payment from Trust Restricted. If the participant takes action so no payment from a trust counted as a resource can be made for any reason, the trust is a resource transfer for less than fair market value. By taking the action, the participant causes the trust to be no longer counted as a resource and the participant is subject to the period of ineligibility. The date of the action restricting payment is the date of the transfer. (3-15-02)

292. PERIOD OF INELIGIBILITY EXCEPTIONS.
A participant or spouse is not subject to the resource transfer period of ineligibility if one (1) of the following conditions is satisfied. (3-15-02)

01. Home to Spouse. Title to the home is transferred solely to the spouse. (3-15-02)

02. Home to Minor Child or Disabled Adult Child. Title to the home is transferred to the child of the participant or spouse. The child must be under age twenty-one (21), blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (3-15-02)

03. Home to Brother or Sister. Title to the home is transferred to a brother or sister of the participant or spouse who must have had an equity interest or life estate in the transferred home and was residing in that home for at least one (1) year immediately before the month the home was transferred. (3-15-02)

04. Home to Adult Child. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must have resided in that home for at least two (2) years immediately before the month the participant entered a medical facility or long-term care. The son or daughter must have provided care to the participant, which permitted him to live at home rather than enter a medical facility or long-term care. (3-15-02)

05. Benefit of Spouse. Resources, other than the home, were transferred to the participant's spouse or to another person for the sole benefit of the spouse. (3-15-02)

06. Transfer from Spouse. The resources were transferred from the participant's spouse to another person for the sole benefit of the participant's spouse. (3-15-02)

07. Transfer to Child. The resources were transferred to the participant's child or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (3-15-02)

08. Transfer to Trust for Person Under Sixty-Five. The resources were transferred to a trust for the sole benefit of a person under age sixty-five (65), blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The person must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (3-15-02)

09. Transfer to a Trust That Is a Countable Resource. The resources were transferred to a trust and the trust is a countable resource for AABD in the amount of the transfer. (3-15-02)

10. Intent to Receive Fair Market Value. The participant or spouse proves he intended to dispose of the resources at fair market value or for other adequate consideration, but can prove good cause for not doing so. (3-15-02)

11. Resources Returned. All resources transferred for less than fair market value have been returned to the participant. (3-15-02)

12. No AABD Purpose. The participant or spouse proves the resources were transferred exclusively for a purpose other than qualifying for AABD. Purposes other than qualifying for AABD include: (3-15-02)

a. After the resource transfer the participant has a traumatic onset of disability. (3-15-02)

b. After the resource transfer a previously unknown disabling condition is diagnosed. (3-15-02)

c. After the resource transfer the participant has an unexpected loss of income or resources resulting in eligibility for AABD. (3-15-02)

d. The resource was excludable in the transfer month. (3-15-02)

e. The transfer of resources was court-ordered, provided the participant did not petition the court to order the transfer. (3-15-02)

f. The participant took a vow of poverty and gave the resources to a religious order. (3-15-02)

13. Undue Hardship. The participant proves failure to receive AABD would deprive him of food or shelter and his total available funds, including income and liquid resources, are less than his AABD allowances for

the month he claims undue hardship. Undue hardship must be proven for each month of the period of ineligibility. When determining total available funds for a child, count any income and resources deemed from his parents. (3-15-02)

14. Exception to Fair Market Value. The amount received is reasonable, even if less than fair market value if a forced sale was done under reasonable circumstances, and little or no market demand exists for the type of resource transferred, or the resource was transferred to settle a legal debt approximately equal to the fair market value of the transferred resource. (3-15-02)

15. No Benefit to Participant. The participant received no benefit from the resource because he or the spouse held title to the property only as a trustee for another person, or the transfer was done to clear title to property and the participant or spouse had no interest in the property that would benefit him. (3-15-02)

16. Fraud Victim. The resource was transferred because the participant or spouse was the victim of fraud, misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the resources or property or its equivalent in damages. The participant must assign recovery rights to the state of Idaho. (3-15-02)

293. EFFECT ON MEDICAID ELIGIBILITY.
Ineligibility for AABD cash because of property transfer does not make the participant ineligible for Medicaid. (3-15-02)

294. -- 299. (RESERVED)

300. INCOME DEFINITION.
Income is anything that can be used to meet needs for food, or shelter. Income is cash, wages, pensions, in-kind payments, inheritances, gifts, awards, rent, dividends, interest, or royalties the participant receives during a month. (4-11-06)

01. Cash Income. Cash income is currency, checks, money orders, or electronic funds transfers. Cash income includes Social Security checks, unemployment checks, and payroll checks. (7-1-99)

02. In-Kind Income. In-kind income is not cash. In-kind income is food or shelter. Wages paid as in-kind earnings, such as food or shelter, are counted as unearned income. Other in-kind income is not counted. (4-11-06)

03. Inheritances. An inheritance is cash, a right, or noncash items received as the result of someone's death. Cash or noncash items in an inheritance are income the month received and a resource the next month. A contested inheritance is not counted as income until the contest is settled and money is distributed. (7-1-99)

301. APPLICATION FOR POTENTIAL BENEFITS.
The participant must apply for benefits, including RSDI, VA, pensions, Workman's Compensation, or Unemployment Insurance, when there is potential eligibility. The participant must apply when he reaches the earliest age to qualify for the benefit. (7-1-99)

01. SSI. To get AABD cash, the participant must apply for SSI benefits, if he is potentially eligible. To get AABD-Medicaid, the participant does not have to apply for SSI benefits. (7-1-99)

02. VAIP. Participants entitled to a VA pension as of December 31, 1978 are not required to file for Veterans Administration Improved Pension Plan (VAIP), to get AABD cash or AABD-related Medicaid. (7-1-99)

03. Other Benefits. EITC, TAFI, BIA General Assistance and victim's compensation benefits are exempt from the filing requirement. (7-1-99)

302. RELATIONSHIP OF INCOME TO RESOURCES.
Income is counted as income in the current month. If the participant keeps countable income after the month received, it is counted as a resource. (7-1-99)

303. WHEN INCOME IS COUNTED.

Income is counted the earliest of when received, when credited to a participant's account, or when set aside for the participant's use. Income from SSA, SSI or VA is counted for the month it is intended to cover. (7-1-99)

304. PROSPECTIVE ELIGIBILITY.
Eligibility for AABD cash and Medicaid is prospective. Expected income for the month is compared to the participant's income limit that month. (4-11-15)

305. PROJECTING MONTHLY INCOME.
Income is projected for each month to determine AABD cash amount. Past income may be used to project future income. Expected changes must be considered. Income received less often than monthly is not prorated or converted. Patient liability income is not prorated or converted. (7-1-99)

306. CRITERIA FOR PROJECTING MONTHLY INCOME.
Monthly income is projected as described in this Subsections 306.01 through 306.08. (7-1-99)

01. Converting Income to a Monthly Amount. If a full month's income is expected, but is received on other than a monthly basis, convert the income to a monthly amount using one (1) of the formulas in Subsections 306.01.a. through 306.01.d.

TABLE 306.01 MONTHLY CONVERSION OF INCOME

	Conversion	Procedure
a.	Weekly to Monthly	Multiply weekly amounts by 4.3.
b.	Biweekly to Monthly	Multiplying bi-weekly amounts by 2.15.
c.	Semimonthly to Monthly	Multiplying semi-monthly amounts by 2.
d.	Exact Amount	Use the exact monthly income if it is expected for each month.

(7-1-99)

02. Income Already Received. Count income already received during the month. Convert the actual income to a monthly amount if a full month's income has been received or is expected to be received as described in Subsections 306.02.a. and 306.02.b. (7-1-99)

a. Actual income. If the actual amount of income from any pay period a month is known, use the actual pay period amounts to determine the total month's income. Convert the actual income to a monthly amount if a full month's income has been received or is expected. (7-1-99)

b. Projecting income. If no pay changes are expected, use the known actual pay period amounts for the past thirty (30) days to project future income. Convert the actual income to a monthly amount if a full month's income has been received or is expected. (7-1-99)

03. Expected Income. Count income the participant and the Department believe the participant will get. Convert expected income to a monthly amount as described in Subsections 306.03.a. through 306.03.d. (7-1-99)

a. Exact income unknown. If the exact income amount is uncertain or unknown, the uncertain or unknown portion must not be counted. The certain or known amount is counted. (7-1-99)

b. Income not changed. If the income has not changed and no changes are expected, past income can be used to project future income. (7-1-99)

c. Income changes. If income changes, and income received in the past thirty (30) days does not reflect expected income, income received over a longer period is used to project future income. (7-1-99)

d. Seasonal income changes. If income changes seasonally, income from the last comparable season is used to project future income. (7-1-99)

04. Ongoing Income. Ongoing income comes from an ongoing source. It was received in the past and is expected to be received in the future. Convert ongoing income to a monthly amount as described in Subsections 306.04.a. through 306.04.d. (7-1-99)

a. Full month's income not expected from ongoing source. If a full month's income is not expected from an ongoing source, count the amount of income expected for the month. If actual income is known, use actual income. If actual income is unknown, project expected income. Convert income to a monthly amount. Use zero (0) income for any pay period in which income was not received that month. (7-1-99)

b. Income from new source. If a full month's income from a new source is not expected, count the actual income expected for the month. Do not convert the income to a monthly amount. (7-1-99)

c. Income stops. If income stops and no additional income is expected from the terminated source, count the actual income received during the month. Do not convert the terminated source of income. (7-1-99)

d. Full month's income not expected from new or stopped source. If a full month's income is not expected from a new or terminated source, count the income expected for the month. If the actual income is known, use the known income. If the actual income is unknown, project the income. Do not convert the income to a monthly amount if a full month's income from a new or terminated source is not expected. (7-1-99)

05. Income Paid on Salary. Income paid on salary, rather than an hourly wage, is counted at the expected monthly salary rate. (7-1-99)

06. Income Paid at Hourly Rate. Compute expected income paid on an hourly basis by multiplying the hourly pay by the expected number of hours the participant will work in the pay period. Convert the pay period amount to a monthly basis. (7-1-99)

07. Monthly Income Varies. When monthly income varies each pay period and the rate of pay remains the same, average the income from the past thirty (30) days to determine the average pay period amount. Convert the average pay period amount to a monthly amount. When income changes and income from the past thirty (30) days is not a valid indicator of future income, a longer period of income history is used to project income. (7-1-99)

08. Income Received Less Often Than Monthly. Recurring income, such as quarterly payments or annual income, is counted in the month received, even if the payment is for multiple months. The income is not prorated or converted. If the amount is known, use the actual. If the amount is unknown, use the best information available to project income. (7-1-99)

307. COUNTING RESOURCES AND INCOME.

An asset cannot be counted as income and resources in the same month. Assets received in cash or in-kind during a month are income. Income held past the month received is a resource. (3-15-02)

308. -- 309. (RESERVED)

310. ADOPTION ASSISTANCE UNDER TITLE IV-B OR TITLE XX.

Adoption assistance payments, provided under Title IV-B or Title XX of the Social Security Act, are excluded. Adoption assistance payments using funds provided under Title IV-E are income. The twenty dollar ($20) standard disregard is not subtracted. (7-1-99)

311. -- 312. (RESERVED)

313. ASSISTANCE BASED ON NEED (ABON).

ABON is aid paid under a program using income as a factor of eligibility. ABON is funded wholly by a State, or a political subdivision of a State, or an Indian tribe, or a combination of these sources. Federal funds are not used. ABON is excluded. (7-1-99)

314. (RESERVED)

315. BUREAU OF INDIAN AFFAIRS (BIA) FOSTER CARE.
BIA foster care payments are social services. They are excluded for the foster child and foster family. (7-1-99)

316. BLIND OR DISABLED STUDENT EARNED INCOME.
To qualify for this exclusion, the student must be blind or disabled. The student must be under age twenty-two (22). The student must be regularly attending high school, college, university or course of vocational or technical training designed to prepare him for gainful employment. The maximum monthly and annual exclusions cannot exceed the limits set by SSI for the current year. (4-11-06)

317. "BUY-IN" REIMBURSEMENT.
The SSA reimbursement for self-paid Medicare Part B "Buy-In" premiums is excluded. (7-1-99)

318. COMMODITIES, FOOD STAMPS, AND FOOD PROGRAMS.
Food, under the Federal Food Stamp Program, Donated Commodities Program, School Lunch Program, and Child Nutrition Program, is excluded. This includes free or reduced price food for women and children under the National School Lunch Act and the Child Nutrition Act of 1966. (7-1-99)

319. CONTRIBUTIONS FOR RESIDENTIAL AND ASSISTED LIVING FACILITY RESIDENTS.
Contributions from a third party, for a participant residing in a Residential and Assisted Living Facility, are excluded. The contribution must be paid directly to the facility. The contribution must pay for items or services provided to the participant by the facility. The items or services must not be included in the participant's State Plan Personal Care Services or his Personal Care Supplement or must be charges for rent, utilities, or food exceeding the Personal Care Supplement Allowance. The participant must not be charged a higher rate than other residents of the facility. The person making the contribution must provide a signed statement identifying the item or service the payment covers, the reason the item or service is needed by the participant, and the monthly amount of the payment. (5-3-03)

320. CONVERSION OR SALE OF A RESOURCE NOT INCOME.
Payment from the sale, exchange, or replacement of a resource is excluded. The payment is a resource that changed form. (7-1-99)

321. CREDIT LIFE OR DISABILITY INSURANCE PAYMENTS.
Credit life or credit disability insurance covers payments on loans and mortgages, in case of death or disability. Insurance payments are made directly to loan or mortgage companies, and are not available to the participant. These payments are excluded. (7-1-99)

322. DEPARTMENT OF EDUCATION SCHOLARSHIPS.
Any grant, scholarship, or loan, to an undergraduate for educational purposes, made or insured under any program administered by the Commissioner of Education, is excluded. (7-1-99)

323. GIFTS OF DOMESTIC TRAVEL TICKETS.
A ticket for domestic travel received as a gift by a participant or spouse is excluded. (7-1-99)

324. GRANTS, SCHOLARSHIPS, AND FELLOWSHIPS.
Any grant, scholarship, or fellowship, not administered by the Commissioner of Education, and used for paying tuition, fees, or required educational expenses is excluded. This exclusion does not apply to any portion set aside or actually used for food or shelter. (4-11-06)

325. DISASTER ASSISTANCE.
Payments received because of a major disaster, declared by the President, are excluded. This includes payments to repair or replace the person's own home or other property, and disaster unemployment aid. (7-1-99)

326. DOMESTIC VOLUNTEER SERVICE ACT PAYMENTS.
Compensation, other than wages, provided to volunteers in the Foster Grandparents Program, RSVP, and similar National Senior Volunteer Corps programs under Sections 404(g) and 418 of the Domestic Volunteer Service Act is excluded. (7-1-99)

327. EARNED INCOME TAX CREDITS.
Earned Income Tax Credits advance payments and refunds are excluded. (7-1-99)

328. FEDERAL HOUSING ASSISTANCE.
Federal housing assistance listed in Subsections 328.01 through 328.05 is excluded. (7-1-99)

01. United States Housing Act of 1937. United States Housing Act of 1937, Section 1437 et seq. of 42 U.S. Code. (7-1-99)

02. The National Housing Act. The National Housing Act, Section 1701 et seq. of 12 U.S. Code. (7-1-99)

03. Housing and Urban Development Act of 1965. Section 101 of the Housing and Urban Development Act of 1965, Section 1701s of 12 U.S. Code, and Section 1451 of 42 U.S. Code. (7-1-99)

04. Housing Act of 1949. Title V of the Housing Act of 1949, Section 1471 et seq. of 42 U.S. Code. (7-1-99)

05. Housing Act of 1959. Section 202(h) of the Housing Act of 1959. (7-1-99)

329. FOSTER CARE PAYMENTS.
Foster care payments using funds provided under Title IV-B or Title XX of the Social Security Act are excluded. Payments for foster care of a non SSI-child placed by a public or private non-profit child placement or child care agency are excluded. Foster care payments using funds provided under Title IV-E are income. The twenty dollar ($20) standard disregard is not subtracted. (7-1-99)

330. EXPENSE OF OBTAINING INCOME.
Essential expenses of obtaining unearned income are subtracted from the income. An expense is essential if the participant would not receive the income unless he paid the expense. Expenses of receiving income, such as withheld taxes, are not subtracted. (7-1-99)

331. GARNISHMENTS.
Garnishments of unearned income are counted as unearned income. Garnishments of earned income are counted as earned income. (7-1-99)

332. GERMAN REPARATIONS.
Reparations payments from the Federal Republic of Germany received on or after November 1, 1984 are excluded. (7-1-99)

333. GOVERNMENT MEDICAL OR SOCIAL SERVICES.
Governmental payments authorized by Federal, State, or local law, for medical or social services, are excluded. Any cash provided by a nongovernmental medical or social services organization (including medical and liability insurers) for medical or social services already received is excluded. (4-11-06)

01. Medical Services. Medical services are diagnostic, preventive, therapeutic, or palliative treatment. Treatment must be performed, directed, or supervised by a State licensed health professional. Medical services include room and board provided during a medical confinement. Medical services include in-kind medical items such as prescription drugs, eye glasses, prosthetics, and their maintenance. In-kind medical items include devices intended to bring the physical abilities of a handicapped person to a par with an unaided person who is not handicapped. Electric wheelchairs, modified scooters, and service animals and their food are in-kind medical items. (4-11-06)

02. Social Service. A social service is any service, other than medical. A social service helps a handicapped or socially disadvantaged person to function in society on a level comparable to a person not handicapped or disadvantaged. Housebound and Aid and Attendance Allowances, including Unusual Medical Expense Allowances, received from the Veterans Administration are excluded. (7-1-99)

334. HOME ENERGY ASSISTANCE (HEA) AND SUPPORT AND MAINTENANCE ASSISTANCE (SMA).
SMA is in-kind support and maintenance, or cash paid for food or shelter needs. SMA includes HEA. HEA is aid to meet the costs of heating or cooling a home. SMA must be provided in-kind by a nonprofit organization. HEA must be provided in cash or in-kind by suppliers of home heating gas or oil or a municipal utility providing home energy. SMA and HEA are excluded. (4-11-06)

335. HOME PRODUCE FOR PERSONAL USE.
Home produce is excluded if it is consumed by the participant or his household. Home produce includes livestock grown for personal consumption. (7-1-99)

336. IN-HOME SUPPORTIVE SERVICES.
Payments made by Title XX or other governmental programs to pay an ineligible spouse or ineligible parent for in-home supportive services provided to a participant are excluded. In-home supportive services include attendant care, chore services and homemaker services. (7-1-99)

337. INCOME EXCLUDED BY LAW.
Any income excluded by Federal statute, is excluded. (7-1-99)

338. INFREQUENT OR IRREGULAR INCOME.
The first thirty dollars ($30) of earned income and the first sixty dollars ($60) of unearned income per calendar quarter are excluded, when they are infrequent or irregular payments. Income is infrequent if the participant receives it once in a calendar quarter from a single source. Income is irregular if the participant could not reasonably expect to receive it. (4-11-06)

339. (RESERVED)

340. LOANS.
Loans are excluded, if the participant has signed a written repayment agreement. The signed agreement must state how the loan will be repaid. The signed written agreement can be obtained after the loan is received. Items bought on credit are paid with a loan and are not income. Money repaid to a participant on the principal of a loan is not income, it is a resource. Interest received by a participant on money loaned by him is countable income. (7-1-99)

341. MANPOWER DEVELOPMENT AND TRAINING ACT PAYMENTS.
Payments made under the Manpower Development and Training Act of 1962, as amended by the Manpower Act of 1965 are excluded. (7-1-99)

342. NATIVE AMERICAN PAYMENTS.
Payments authorized by law made to people of Native American ancestry are excluded. (7-1-99)

343. (RESERVED)

344. NUTRITION PROGRAMS FOR OLDER AMERICANS.
Payments, other than a wage or salary, made under Chapter 35 of Title 42 of the U.S. Code, Programs for Older Americans, are excluded. (7-1-99)

345. PERSONAL SERVICES.
A personal service performed for a participant is excluded. Personal services include lawn mowing, house cleaning, grocery shopping, and baby sitting. (7-1-99)

346. (RESERVED)

347. REBATES, REFUNDS, AABD UNDERPAYMENTS AND REPLACEMENT CHECKS.
Rebates, refunds, AABD underpayments and returns of money already paid are excluded. A replacement check is excluded. (7-1-99)

348. RELOCATION ASSISTANCE.

Relocation payments under Title II of the Uniform Relocation Assistance and Real Property Acquisitions Policies Act of 1970, Subchapter II, Chapter 61, Title 42 of the U.S. Code are excluded. Relocation payments, paid to civilians of World War II per Public Law 100-383, are excluded. (7-1-99)

349. REPLACEMENT OF INCOME ALREADY RECEIVED.
Replacement of a participant's lost, stolen, or destroyed income is excluded. (7-1-99)

350. RETURN OF MISTAKEN PAYMENTS.
A returned mistaken payment is excluded. If the participant keeps the mistaken payment, it is income. (7-1-99)

351. TAX REFUNDS.
Refunds of Federal, State or local taxes paid on income, real property, or food bought by the participant and his family, are excluded. (7-1-99)

352. UTILITY PAYMENTS.
Payments for utility costs made to low-income housing tenants by a local housing authority are excluded when paid directly to the tenant or jointly to the tenant and the utility company. (7-1-99)

353. (RESERVED)

354. VICTIMS' COMPENSATION PAYMENTS.
Any payment made from a State-sponsored fund to aid victims of crime is excluded. (7-1-99)

355. VOCATIONAL REHABILITATION SERVICES PAYMENTS.
Payments other than wages made to an eligible handicapped individual employed in a Vocational Rehabilitation Services project under Title VI of the Rehabilitation Act of 1973 are excluded. (7-1-99)

356. VOLUNTEER SERVICES INCOME.
Payments to volunteers under Chapter 66 of Title 42 of the U.S. Code Domestic Volunteer Services (ACTION programs) are excluded. Payments are not excluded, if the Director of the ACTION agency determines the value, adjusted for hours served, is equal to or greater than the Federal or State minimum wage. (7-1-99)

357. WALKER V. BAYER PAYMENTS.
Class action settlement payments in Susan Walker v. Bayer Corporation, et al are excluded for Medicaid but not for AABD cash. (7-1-99)

358. WEATHERIZATION ASSISTANCE.
Weatherization assistance is excluded. (7-1-99)

359. TEMPORARY CENSUS INCOME.
For Medicaid only, all wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded. (5-8-09)

360. -- 399. (RESERVED)

400. EARNED INCOME.
Earned income remaining after disregards and exclusions are subtracted is counted in computing AABD cash. Wages are counted the month they become available to the participant. (7-1-99)

401. COMPUTING SELF-EMPLOYMENT INCOME.
Countable self-employment income is the difference between the gross receipts and the allowable costs of producing the income, if the amount is expected to continue. Self-employment income is computed using one (1) of the methods listed in Subsections 401.01 through 401.03. (7-1-99)

01. Self-Employed at Least One Year. For individuals who are self-employed for at least one (1) year, income and expenses are averaged over the past twelve (12) months. (7-1-99)

02. Self-Employed Less Than One Year. For individuals who are self-employed for less than one (1) year, income and expenses are averaged over the months the business has been in operation. (7-1-99)

03. Monthly Increase or Decrease. If a monthly average does not reflect actual monthly income, because of an increase or decrease in business, the self-employment income is counted monthly. This method is not used for businesses with seasonal or unusual income peaks at certain times of the year. (7-1-99)

04. Net Self-Employment Income Seven and Sixty-Five Hundredths Percent Deduction. If net self-employment income is over four hundred dollars ($400) per year, seven and sixty-five hundredths percent (7.65%) is deducted. This deduction compensates for Social Security taxes paid. If self-employment Social Security tax is not paid, this deduction is not allowed. (7-1-99)

402. SELF-EMPLOYMENT ALLOWABLE EXPENSES.
Allowable operating expenses subtracted from self-employment income are listed in Subsections 402.01 through 402.17 of this rule. (3-29-17)

01. Labor. Labor paid to individuals not in the family. (7-1-99)

02. Materials. Materials such as stock, seed and fertilizer. (7-1-99)

03. Rent. Rent on business property. (7-1-99)

04. Interest. Interest paid to purchase income producing property. (7-1-99)

05. Insurance. Insurance paid for business property. (7-1-99)

06. Taxes. Taxes on income producing property. (7-1-99)

07. Business Transportation. Business transportation as defined by the IRS. (7-1-99)

08. Maintenance. Landscape and grounds maintenance. (7-1-99)

09. Lodging. Lodging for business related travel. (7-1-99)

10. Meals. Meals for business related travel. (7-1-99)

11. Use of Home. Costs of partial use of home for business. (7-1-99)

12. Legal. Business related legal fees. (7-1-99)

13. Shipping. Business related shipping costs. (7-1-99)

14. Uniforms. Business related uniforms. (7-1-99)

15. Utilities. Utilities for business property. (7-1-99)

16. Advertising. Business related advertising. (7-1-99)

17. Depreciation. Depreciation for equipment, machinery, or other capital investments. (3-29-17)

403. SELF-EMPLOYMENT EXPENSES NOT ALLOWED.
Self-employment expenses not allowed are listed in Subsections 403.01 through 403.08. (3-29-17)

01. Payments on the Principal of Real Estate. Payments on the principal of real estate mortgages on income-producing property. (7-1-99)

02. Purchase of Capital Assets or Durable Goods. Purchases of capital assets, equipment,

machinery, and other durable goods. Payments on the principal of loans for these items. (7-1-99)

03. **Taxes**. Federal, state, and local income taxes. (7-1-99)

04. **Savings**. Monies set aside for future use such as retirement or work related expenses. (7-1-99)

05. **Labor Paid to Family Member**. Labor paid to any family member. (7-1-99)

06. **Loss of Farm Income**. Loss of farm income subtracted from other income. (7-1-99)

07. **Personal Transportation**. Personal transportation. (7-1-99)

08. **Net Losses**. Net losses from previous periods. (7-1-99)

404. ROYALTIES.
Royalties received as part of a trade or business, or for publication of the participant's work are earned income. Other royalties are unearned income. (7-1-99)

405. HONORARIA.
An honorarium for services rendered is earned income. An honorarium for travel expenses and lodging for a guest speaker is unearned income in the amount it exceeds the expenses. The portion that equals the expenses is excluded as an expense of obtaining the income. (7-1-99)

406. SHELTERED WORKSHOP OR WORK ACTIVITIES CENTER PAYMENTS.
Payments for services performed in a sheltered workshop or work activities center are earned income. (7-1-99)

407. JOB TRAINING PARTNERSHIP ACT (JTPA).
JTPA payments are earned income. JTPA payments for child care, transportation, medical care, meals, and other reasonable expenses, provided in cash or in-kind, are not income. (7-1-99)

408. PROGRAMS FOR OLDER AMERICANS.
Wages or salary paid under Chapter 35 of Title 42 of the U.S. Code, Programs for Older Americans, is earned income. (7-1-99)

409. UNIFORMED SERVICES PAY AND ALLOWANCES.
Basic pay is earned income. All other pay and allowances are unearned income. (7-1-99)

410. RENTAL INCOME.
Net rental income is unearned income, unless from the business of renting real property. Net unearned rental income is gross rent less the expenses on the rental property listed in Subsections 410.01 through 410.06. Net rental income from the business of renting properties is self-employment earned income. (7-1-99)

01. **Interest**. Interest and escrow portions of a mortgage payment. (7-1-99)

02. **Insurance**. Real estate insurance. (7-1-99)

03. **Repairs**. Minor repairs to an existing rental structure. (7-1-99)

04. **Taxes**. Property taxes. (7-1-99)

05. **Yard Care**. Lawn care, including tree and shrub care and snow removal. (7-1-99)

06. **Advertising**. Advertising costs for tenants. (7-1-99)

411. OVERPAYMENT WITHHOLDING OF UNEARNED INCOME.
Money withheld by any benefit program to recover an overpayment is counted as income. Money withheld is not income if the overpaid benefit amount was used to compute AABD cash. (7-1-99)

412. RETIREMENT, SURVIVORS, AND DISABILITY INSURANCE (RSDI).
RSDI monthly benefits are unearned income. The income is the amount reported by SSA, regardless of penalties to recover an SSI overpayment. (7-1-99)

413. SSI PAYMENTS.
SSI monthly payments are unearned income. The income is the amount reported by SSA, regardless of penalties to recover an SSI overpayment. An advance SSI payment, to an applicant appearing SSI eligible with a financial emergency, is not income the month received. When SSA reduces ongoing SSI to recover the advance, the SSI payment before the reduction continues to be counted as income. (7-1-99)

414. BLACK LUNG BENEFITS.
Black Lung payments are unearned income. (7-1-99)

415. RAILROAD RETIREMENT PAYMENTS.
Railroad Retirement Board payments are unearned income. (7-1-99)

416. UNEMPLOYMENT INSURANCE BENEFITS.
Unemployment insurance benefits received under State and Federal unemployment laws are unearned income. (7-1-99)

417. UNIFORM GIFTS TO MINORS ACT (UGMA).
UGMA payments from the custodian to the minor are income to the minor. UGMA property, including earnings or additions, are not income to the minor until the month the minor becomes eighteen (18) years of age. (7-1-99)

418. WORKERS' COMPENSATION.
Workers' compensation, less expenses required to get the payment, is unearned income. (7-1-99)

419. MILITARY PENSIONS.
Military pensions are unearned income. (7-1-99)

420. VA PENSION PAYMENTS.
VA pension payments are unearned income. The twenty dollar ($20) standard disregard is not subtracted, except by a special act of Congress. (7-1-99)

421. VA COMPENSATION PAYMENTS.
VA compensation payments to a veteran, spouse, child, or widow(er) are unearned income. (7-1-99)

422. VA EDUCATIONAL BENEFITS.
VA educational payments funded by the government are excluded. (3-29-12)

423. ALIMONY, SPOUSAL, AND ADULT SUPPORT.
Alimony, spousal, and other adult support payments are unearned income. (7-1-99)

424. CHILD SUPPORT PAYMENTS.
Child support payments are unearned income. One-third (1/3) of a child support payment is excluded for the child receiving support. Child support collected by a State and retained for TAFI payments is not income. (7-1-99)

425. DIVIDENDS AND INTEREST.
Dividends and interest are unearned income. (7-1-99)

426. AWARDS.
Awards are unearned income. (7-1-99)

427. GIFTS.
Gifts are unearned income. (7-1-99)

428. PRIZES.
Prizes are unearned income. (7-1-99)

429. WORK-RELATED UNEARNED INCOME.
Work-related payments that are not salary or wages are unearned income. (7-1-99)

430. COMMUNITY SERVICE BLOCK GRANTS.
Community service block grant distributions are unearned income, unless excluded by the type of aid, such as medical services or Support and Maintenance Assistance. (7-1-99)

431. FEDERAL EMERGENCY MANAGEMENT AGENCY (FEMA) EMERGENCY FOOD DISTRIBUTION AND SHELTER PROGRAMS.
FEMA funds are unearned income, unless excluded by the type of aid, such as medical services or Support and Maintenance Assistance. (7-1-99)

432. BUREAU OF INDIAN AFFAIRS GENERAL ASSISTANCE (BIA GA).
BIA GA payments are unearned income. BIA GA payments are Federally-funded income based on need. They are paid in cash or in-kind. The twenty dollar ($20) standard disregard is not subtracted. (7-1-99)

433. BIA ADULT CUSTODIAL CARE (ACC) AND CHILD WELFARE ASSISTANCE (CWA) PAYMENTS.
BIA ACC and CWA payments, other than foster care, made to participants out of an institution, are unearned income. (7-1-99)

434. INDIVIDUAL INDIAN MONEY (IIM) ACCOUNTS.
Deposits to an unrestricted IIM account are income in the month deposited. (7-1-99)

435. ACCELERATED LIFE INSURANCE INCOME.
Accelerated life insurance payments are unearned income in the month received. (7-1-99)

436. REAL ESTATE CONTRACT INCOME.
Payments received on the interest of a negotiable real estate contract are unearned income for Medicaid eligibility. Payments received on the principal of a negotiable real estate contract are a resource for Medicaid eligibility. Payments received on a nonnegotiable real estate contract are unearned income. Principal and interest payments received on an excluded real estate contract of a long-term care participant are unearned income for patient liability. (3-20-04)

437. LIMITED AWARD TO CHILD WITH LIFE-THREATENING CONDITION.
Any gift from a tax exempt nonprofit organization to a child under age eighteen (18), who has a life threatening condition, is excluded from income under the conditions in Subsections 437.01 through 437.02. (4-5-00)

01. In-Kind. An in-kind gift is excluded if the gift is not converted to cash. (4-5-00)

02. Cash. Cash gifts are excluded up to two thousand dollars ($2,000) for the calendar year the cash gifts are made. (4-5-00)

438. -- 450. (RESERVED)

451. DEEMING INCOME.
Income deeming counts the income of another person as available to an AABD participant, for eligibility and the amount of AABD cash. Income is deemed to the participant from his ineligible spouse. Income is deemed to the child participant from his ineligible parent. Income deeming starts the first full calendar month the participant is in a deeming situation. Deeming ends the first full calendar month the participant is not in a deeming situation. Deeming to a child ends the month after the child's eighteenth birthday. (7-1-99)

01. Ineligible Parent. A natural or adoptive father or mother, or a stepparent, who does not receive AABD and lives in the same household as a child. (7-1-99)

02. Ineligible Spouse. A participant's husband or wife, living with the participant, not receiving AABD is an ineligible spouse. The ineligible husband or wife, of the parent of a child participant, living with the child participant and his parent, is an ineligible spouse. (7-1-99)

03. Ineligible Child. A child under age twenty-one (21) who does not receive AABD, and lives with the AABD participant. (7-1-99)

04. Income Deeming Exclusions. Income excluded from deeming is listed in Table 451.04.

TABLE 451.04 - INCOME DEEMING EXCLUSIONS

Type of Income	Ineligible Spouse or Parent, Ineligible Child, Eligible Legal Non-citizen	Essential Person	Sponsor of Legal Non-citizen
Income excluded by Federal laws other than the Social Security Act.	Excluded	Excluded	Excluded
Public Income Maintenance Payments (PIM). Public income maintenance payments include TAFI, AABD, SSI, refugee cash assistance, BIA-GA, VA payments based on need, local, county and state payments based on need, and payments under the 1974 Disaster Relief Act.	Excluded	Not Excluded	Not Excluded
Income used by a PIM program for amount of payment to someone other than an SSI recipient.	Excluded	Not Excluded	Not Excluded
Grants, scholarships, fellowships.	Excluded	Not Excluded (unless excluded by Federal laws)	Not Excluded (unless excluded by Federal laws)
Foster care payments.	Excluded	Not Excluded	Not Excluded
Food Stamps and Dept. of Agriculture donated foods.	Excluded	Not Excluded	Not Excluded
Home grown produce.	Excluded	Not Excluded	Not Excluded
Tax refunds on real property or food.	Excluded	Not Excluded	Not Excluded
Income used in an approved plan for achieving self support (PASS).	Excluded	Not Excluded	Not Excluded
Income used to pay court ordered or Title IV-D support payments.	Excluded	Not Excluded	Not Excluded
Payments based to Alaskans based on age and residence.	Excluded (not applicable to children)	Not Excluded	Not Excluded
Disaster Assistance.	Excluded	Excluded	Excluded
Infrequent or irregular income.	Excluded	Not Excluded	Not Excluded
Blind Work Expenses (BWE).	Excluded	Not Excluded	Not Excluded
Payments to provide in-home support.	Excluded	Not Excluded	Not Excluded

TABLE 451.04 - INCOME DEEMING EXCLUSIONS			
Type of Income	**Ineligible Spouse or Parent, Ineligible Child, Eligible Legal Non-citizen**	**Essential Person**	**Sponsor of Legal Non-citizen**
Home energy assistance and support and maintenance assistance.	Excluded	Excluded	Excluded
Child's earned income, up to one thousand two hundred and ninety dollars ($1,290) per month and five thousand two hundred dollars ($5,200) per year.	Excluded (not applicable to spouses or parents)	Does Not Apply	Does Not Apply
Impairment-related work expenses (IRWE).	Excluded	Not Excluded	Not Excluded
Interest on burial funds, appreciation in the value of burial space purchase agreements excluded from resources and interest on the value of burial space purchase agreements.	Excluded	Not Excluded	Not Excluded

(5-3-03)

452. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT.
Income is deemed from an ineligible spouse to the participant, if they live together. Income is deemed as described in Subsections 452.01 through 452.08.

TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE		
Step		**Procedure**
01.	Compute Child's Living Allowance.	Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance. Subtract the child's unearned income from his living allowance. Subtract the child's earned income from any living allowance remaining.
02.	Adjust Spouse Income with Child's Living Allowance	Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible spouse's gross unearned income, then from gross earned income.
03.	Add Adjusted Earned and Unearned Incomes	Add adjusted earned and unearned income. This is the deemed income of the ineligible spouse.
04.	Compute Participant's Needs as a Single Person	Compute the participant's budgeted AABD needs as if he was a single person, living alone.
05.	Deemed Income Equal to or Less Than One-Half of Participant's Needs	If the deemed income is equal to, or less than, one-half of the participant's budgeted needs, computed as if he was a single person living alone, no income is deemed from the ineligible spouse.

TABLE 452 - INCOME DEEMED FROM INELIGIBLE SPOUSE		
Step		**Procedure**
06.	Deemed Income More Than One-Half Participant's Needs	If the deemed income is more than one-half of the participant's budgeted needs, computed as if he was a single person living alone, continue the deeming process.
07.	Compute Participant's Income	Add the remaining earned and unearned ineligible spouse deemed income (after the ineligible child deduction) to the gross earned and unearned incomes of the participant. This is the total earned and unearned income. Subtract the standard disregard of twenty dollars ($20) from the total unearned income. If the total unearned income is less than twenty dollars ($20), subtract the remainder from the total earned income. Subtract the earned income disregard of sixty-five dollars ($65) from the earned income. Subtract one-half of the remaining earned income. Combine the remaining unearned income and the remaining earned income to compute the participant's total countable income. Determine the couple's budgeted needs as if they were an eligible couple. If the participant's countable income, including deemed income, is more than the couple's budgeted needs, the participant is ineligible. If the participant's countable income, including deemed income, is less than the couple's budgeted needs compute the participant's AABD cash.
08.	Determine AABD Cash	Subtract the participant's countable and deemed incomes from the couple's budgeted needs, to compute the budget deficit. Compute a second budget deficit, using the participant's income, and the single person budgeted needs. AABD cash is the smaller of the two (2) budget deficits.

(7-1-99)

453. DEEMING INCOME FROM INELIGIBLE PARENT TO AABD CHILD.
Income is deemed from an ineligible parent, or his ineligible spouse, to a child participant under age eighteen (18) living in the same household. A stepparent's income is deemed to the child for AABD cash, but not Medicaid. The income is deemed as described in Subsections 453.01 through 453.11.

TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT		
Step		**Procedure**
01.	Compute Child's Living Allowance	Compute the living allowance for each ineligible child in the household. The living allowance is the difference between the basic allowance for a person living alone and the basic allowance for a couple. Round up cents to the next dollar. A child receiving public income-maintenance payments does not get a living allowance. Subtract the child's unearned income from his living allowance. Subtract the child's earned income from any living allowance remaining. Subtract the remaining living allowance, for each ineligible child in the household, from the ineligible parents unearned income. If any living allowance remains subtract it from the parent's earned income.
02.	Remaining Parental Income	The parent may have remaining income. Go to Subsection 453.03.
03.	Subtract Income Disregard	Subtract one (1) standard twenty dollar ($20) disregard from the unearned income of the parents. If unearned income is less than twenty dollars ($20) subtract the balance of the twenty dollars ($20) from the earned income of the parents.
04.	Subtract Earned Income Disregard	Subtract one (1) sixty-five dollar ($65) earned income disregard from the earned income of the parents. Subtract one-half (1/2) of the remaining balance of the earned income of the parents.
05.	Combine Income	Combine any remaining parental earned income with any remaining parental unearned income.
06.	Compute Living Allowance for Parent	Compute a living allowance for the ineligible parent. For one (1) parent, the living allowance is the basic allowance for a person living alone. For two (2) parents, the living allowance is the basic allowance for a couple. A parent receiving public income maintenance payments does not get a living allowance.
07.	Subtract Living Allowance	Subtract the parent living allowance from the remaining balance of the parent's income. This is the deemed parental income.
08.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.

TABLE 453 - INCOME DEEMED FROM INELIGIBLE PARENT		
Step		Procedure
09.	Subtract Disregard	Subtract the standard twenty dollar ($20) disregard from each child participant's unearned income, including deemed income. If a child's total unearned income is less than twenty dollars ($20), subtract the balance of the standard disregard from the child's earned income.
10.	Subtract Disregard	Subtract the sixty-five dollar ($65) earned income disregard and one-half of the balance from each child's own earned income.
11.	Combine Income	Combine each child's unearned income with his earned income. If the child's remaining countable income is less than his actual budgeted needs, the child has a budget deficit. If the child is otherwise eligible, his AABD cash is the budget deficit.

(7-1-99)

454. DEEMING INCOME FROM ESSENTIAL PERSON TO PARTICIPANT.
If a participant and an essential person live in the same household, the essential person's income is deemed to the participant. If essential person deeming makes the participant ineligible, do not use essential person deeming. The income is deemed as described in Subsections 454.01 through 454.06.

TABLE 454 - DEEMING FROM ESSENTIAL PERSON TO PARTICIPANTS		
Step		Procedure
01.	Compute Income	Compute the total earned and unearned income of the essential person. Subtract income exclusions.
02.	Subtract Disregard	Subtract income exclusions and disregards from the participant's income.
03.	Add Unearned Income	Add the income from Subsection 454.01 to the participant's unearned income.
04.	Add Earned Income	Add the participant's remaining earned income from Subsection 454.02 to the income in Subsection 454.03. This is the participant's countable income.
05.	Compute Needs	Compute the participant's budgeted needs, as though the participant and the essential person were an AABD couple.
06.	Subtract Income	Subtract participant's income in Subsection 454.04 from his budgeted needs. The difference is the participant's AABD cash.

(7-1-99)

455. DEEMING INCOME FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT.
If a participant, his ineligible spouse and their child participant live in the same household, income is deemed from the participant to the child participant. The income is deemed as described in Subsections 455.01 through 455.03.

TABLE 455 - DEEMING FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT		
Step		Procedure
01.	Compute AABD cash	Use the procedures in Table 452, to determine if the participant is eligible for AABD cash. If the participant is eligible, no income is deemed to the child participant.

TABLE 455 - DEEMING FROM INELIGIBLE SPOUSE TO PARTICIPANT AND CHILD PARTICIPANT		
	Step	**Procedure**
02.	Participant Not Eligible	If the participant has too much income, including deemed income, to be eligible for AABD cash, all income over the amount needed to reduce the participant's AABD cash to zero is deemed to the child participant.
03.	Divide Deemed Income	If there is more than one (1) child participant in the household, the deemed parental income is divided equally between those children. Each child's share of parental income must only reduce the amount of his AABD cash to zero, when combined with the child's own countable income. Excess deemed parental income, remaining after a child participant's AABD cash is reduced to zero, is divided equally between the other child participants in the household. The excess deemed income is combined with their share of the parental income available for deeming.

(7-1-99)

456. DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN PARTICIPANT -- NO I-864 AFFIDAVIT OF SUPPORT.
Deem income as described in this Section, if the legal non-citizen's sponsor signed an affidavit of support other than the I-864. The deemed income is counted, even if the participant does not live in the sponsor's household. The sponsor's income is not deemed to the participant for Medicaid. (7-1-99)

01. Three Year Limit. Effective October 1, 1996 the deeming period, regardless of admission date, is three (3) years after the date the legal non-citizen is lawfully admitted. Deeming stops the end of the month, three (3) years from the date the sponsored participant lawfully entered the U.S. for permanent residence. (7-1-99)

02. Sponsored Legal Non-Citizen Exempt from Deeming. A lawfully admitted legal non-citizen participant is exempt from sponsor deeming if one (1) or more of the conditions in Subsections 456.02.a. through 456.02.m. applies. (7-1-99)

a. Refugee. The legal non-citizen was admitted to the U.S. as a refugee, asylee, or parolee. (7-1-99)

b. Applied before October 1, 1980. The legal non-citizen first applied for AABD before October 1, 1980. (7-1-99)

c. Permanent resident. The legal non-citizen is a permanent resident under color of law. (7-1-99)

d. Sponsored with job. The legal non-citizen's entry into the U.S. was sponsored by a church, other social service organization, or an employer who has offered him a job. (7-1-99)

e. Blind or disabled. The legal non-citizen becomes blind or disabled after he is admitted to the U.S. (7-1-99)

f. Legal non-citizen lives with spouse. The legal non-citizen was sponsored by and resides in the same household with his ineligible spouse or ineligible parent. Use ineligible spouse and ineligible parent deeming, not sponsor deeming. (7-1-99)

g. Sponsor dies. The legal non-citizen's sponsor dies. (7-1-99)

h. Legalized legal non-citizen. The legal non-citizen was legalized under the Immigration Reform and Control Act of 1986. (7-1-99)

i. Resided for thirty-six (36) months. The legal non-citizen has lived in the U.S. for thirty-six (36)

months beginning with the month he was admitted for permanent residence or granted permanent residence status. (7-1-99)

j. Registry legal non-citizen. The legal non-citizen was admitted under Section 249 of the INA as a registry legal non-citizen. (7-1-99)

k. Amerasian legal non-citizen. The legal non-citizen is an applicant for permanent residence who is an Amerasian or a specified relative of an Amerasian. The Amerasian must be born in Vietnam between January 1, 1962 and January 1, 1976. A specified relative is a spouse, child, parent or stepparent of the Amerasian, or someone who has acted in the place of a parent of an Amerasian and/or his spouse or child. (7-1-99)

l. Cuban/Haitian. The legal non-citizen is an applicant for adjustment under the Cuban/Haitian provisions of Section 202 of the Immigration Reform and Control Act of 1986. (7-1-99)

03. Sponsor/Legal Non-Citizen Relationships. Sponsor/legal non-citizen relationships and deeming rules are listed in Subsections 456.03.a. through 456.03.f.

TABLE 456.03 - SPONSOR/LEGAL NON-CITIZEN RELATIONSHIPS AND DEEMING

Step		Procedure
a.	Sponsor is Spouse	If the legal non-citizen's sponsor is his ineligible spouse, and the couple does not live together, sponsor to legal non-citizen deeming is used.
b.	Legal Non-Citizen is a Child	If the legal non-citizen is a child, and does not live with his sponsor parent(s), sponsor to legal non-citizen deeming is used.
c.	Child With Ineligible Parent	If the participant is a child whose ineligible parent(s) and sponsor both have income available for deeming to him, the income of the ineligible parent(s) is deemed as in Section 376.
d.	Child Eligible After Parent Deeming	If the child remains eligible after income is deemed from his ineligible parent(s), the sponsor's income is deemed to him under the sponsor to legal non-citizen deeming procedures.
e.	Participant Couple With Sponsors	If each member of a participant couple has his own sponsor, separate deeming computations are used. The couple's countable income includes the combined deemed incomes.
f.	Member of Couple Not Eligible	If one (1) member of a couple with separate sponsors is not eligible, the ineligible spouse's income is deemed to the participant as in Section 379. This is in addition to income deemed from the sponsor.

(7-1-99)

04. Sponsor to Legal Non-Citizen Deeming Procedures. Budget the legal non-citizen's actual needs, as if he is a single person living alone. Subtract the legal non-citizen's own income, less exclusions and disregards. Subtract the couple's income, less exclusions, from their needs. If there is no budget deficit, the participant is not eligible. If there is a budget deficit, follow the procedures in Subsections 456.04.a. through 456.04.d. to compute sponsor deemed income.

TABLE 456.04 - SPONSOR TO LEGAL NON-CITIZEN DEEMING PROCEDURES

Step		Procedure
a.	Compute Income	Compute the gross monthly earned and unearned income of the sponsor, and the sponsor's spouse, if living with him.

TABLE 456.04 - SPONSOR TO LEGAL NON-CITIZEN DEEMING PROCEDURES		
Step		Procedure
b.	Subtract Living Allowance	Subtract a living allowance for the sponsor the sponsor's spouse, if living with him. The sponsor's living allowance is the basic allowance for a single person living alone. The living allowance for the sponsor's spouse is one-half the basic allowance for a single person living alone. Round up cents to the next dollar.
c.	Subtract Dependent Living Allowance	Subtract a living allowance for each dependent claimed by the sponsor on his most recent Federal tax return. Do not subtract an allowance for the sponsor's spouse in this step. The living allowance is one-half the basic allowance for a single person living alone. Round up cents to the next dollar. Do not reduce the living allowance by the dependent's income.
d.	Deem Income	Income remaining is deemed to the participant from the sponsor.

(7-1-99)

457. DEEMING INCOME FROM SPONSOR TO LEGAL NON-CITIZEN -- SPONSOR SIGNED INS FORM I-864 AFFIDAVIT OF SUPPORT.
If the legal non-citizen's sponsor has signed an INS form I-864 affidavit of support, all income of the sponsor and the sponsor's spouse is deemed to the legal non-citizen for AABD cash and Medicaid eligibility. Deeming continues until the legal non-citizen becomes a naturalized citizen or has forty (40) quarters of work. Exceptions are listed in Subsections 457.01 and 457.02. (3-15-02)

01. Battery Exception. The legal non-citizen, or the legal non-citizen child's parent, was battered or subjected to extreme cruelty in the U.S. There is a substantial connection between the battery and the participant's need for assistance. The person subjected to the battery or cruelty no longer lives with the person responsible for the battery or cruelty. (3-15-02)

02. Indigence. Alien sponsor deeming is suspended for twelve (12) months, if the legal non-citizen is not able to get food and shelter without AABD cash. (3-15-02)

458. -- 499. (RESERVED)

500. FINANCIAL NEED.
The participant has financial need if his allowances, as described in Sections 501 through 513 of these rules, are more than his income. (4-7-11)

501. BASIC ALLOWANCE.
Each participant receives a basic allowance unless he lives in a nursing facility. The basic allowance for each living arrangement is listed in Subsections 501.01 through 501.03 of this rule. The Semi-Independent Group Residential Facility, Room and Board, Residential and Assisted Living Facility and Certified Family Home basic allowances are those in effect January 1, 2001. They do not change with the annual cost-of-living increase in the federal SSI benefit amount. (4-7-11)

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

a. Living alone. (7-1-99)

b. Living with his ineligible spouse. (7-1-99)

c. Living with another participant who is not his spouse. (7-1-99)

d. Living in another's household. This includes a living arrangement where the participant purchases lodging (room) and meals (board) from his parent, child or sibling. (3-30-01)

e. Living with his TAFI child. (7-1-99)

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

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

502. SPECIAL NEEDS ALLOWANCES.
Special needs allowances are a restaurant meals allowance and a service animal food allowance. (4-11-06)

01. Restaurant Meals. The restaurant meals allowance is fifty dollars ($50) monthly. A physician must state the participant is physically unable to prepare food in his home. A participant able to prepare his food, but living in a place where cooking is not permitted, may be budgeted the restaurant meals allowance for up to three (3) months. (7-1-99)

02. Service Animal Food. The service animal food allowance is seventeen dollars ($17) monthly. The allowance is budgeted for a blind or disabled participant, using a trained service animal. (3-20-14)

503. -- *511*. (RESERVED)

512. ROOM AND BOARD HOME ALLOWANCE.
Room and board is a living arrangement where the participant purchases lodging (room) and meals (board) from a person he lives with who is not his parent, child or sibling. (3-30-07)

01. Budgeted Room and Board Allowance. Beginning January 1, 2006, a participant living in a room and board home is budgeted six hundred ninety-three dollars ($693). Beginning July 1, 2013, the Room and Board allowance will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The room and board allowance increase will be rounded to the next dollar. (7-1-13)

02. Basic Allowance for Participant in Room and Board Home. A participant living in a room and board home is budgeted seventy-seven dollars ($77) monthly as a basic allowance. Beginning July 1, 2013, this basic allowance will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The basic allowance increase will be rounded to the nearest dollar. (7-1-13)

513. RESIDENTIAL CARE OR ASSISTED LIVING FACILITY AND CERTIFIED FAMILY HOME ALLOWANCES.
A participant living in a Residential Care or Assisted Living Facility (RALF), in accordance with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho," or a Certified Family Home (CFH), in accordance with IDAPA 16.03.19, "Rules Governing Certified Family Homes," is budgeted a basic allowance of ninety-six dollars ($96) monthly. Beginning July 1, 2013, this basic allowance will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. The basic allowance increase will be rounded to the nearest dollar. (3-28-18)

01. Budgeted Monthly Allowance Based On Level of Care. A participant is budgeted a monthly allowance for care based on the level of care received as described in Section 515 of these rules. If the participant

does not require State Plan Personal Care Services (PCS), his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. (4-7-11)

02. Care Levels and Monthly Allowances. Beginning January 1, 2006, care levels and monthly allowances are those listed in Table 513.02 of these rules. Beginning July 1, 2013, the RALF and CFH allowances for participants living in a RALF or CFH on State Plan PCS will be adjusted annually by the percentage of the annual cost-of-living increase in the federal SSI benefit rate for a single person. This adjustment will be effective on January 1st of each year. This increase will be rounded to the next dollar.

TABLE 513.02 - STATE PLAN PCS CARE LEVELS AND ALLOWANCES AS OF 1-1-06

	Level of Care	Monthly Allowance
a.	Level I	Eight hundred and thirty-five dollars ($835)
b.	Level II	Nine hundred and two dollars ($902)
c.	Level III	Nine hundred and sixty-nine dollars ($969)

(7-1-13)

03. CFH Operated by Relative. A participant living in a Certified Family Home (CFH) operated by his parent, child or sibling is not entitled to the CFH State Plan PCS allowances. He may receive the allowance for a person living with a relative as described in Section 501 of these rules. A relative for this purpose is the participant's parent, child, sibling, aunt, uncle, cousin, niece, nephew, grandparent or grandchild by birth, marriage, or adoption. (3-30-17)

514. AABD CASH PAYMENTS.

Only a participant who receives an SSI payment for the month is eligible for an AABD cash payment in the same month. The AABD cash payment amount is based on the participant's living arrangement described in Subsections 514.01 through 514.04 of this rule. An AABD cash payment is the difference between a participant's financial need and his countable income. If the difference is not an even dollar amount, AABD cash is paid at the next higher dollar. AABD cash is paid electronically as provided in IDAPA 16.03.20, "Electronic Payments of Public Assistance, Food Stamps, and Child Support." (4-7-11)

01. Single Participant Maximum Payment. For a single participant described in Section 501.01 of these rules, the maximum monthly AABD cash payment amount is fifty-three dollars ($53). (4-7-11)

02. Couple or Participant Living with Essential Person Maximum Amount. For participants described in Subsection 501.02 of these rules, the maximum monthly AABD cash payment amounts are: (4-7-11)

a. A couple receives twenty dollars ($20); or (4-7-11)

b. A participant living with essential person receives eighteen dollars ($18). (4-7-11)

03. Semi-Independent Group Maximum Payment. For a participant described in Subsection 501.03 and Section 511 of these rules, the maximum monthly AABD cash payment amount is one hundred sixty-nine dollars ($169). (4-7-11)

04. Room and Board Maximum Payment. For a participant described in Section 512 of these rules, the maximum monthly AABD cash payment is one hundred ninety-eight dollars ($198). (4-7-11)

05. RALF and CFH. A participant residing in a RALF or CFH is not eligible for an AABD cash payment. (4-7-11)

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

The participant's need for care, level of care, plan of care, and the licensed facility's ability to provide care is assessed by the Bureau of Long-Term Care Services (BLTCS) when a participant is admitted. The BLTCS must approve the placement before Medicaid can be approved. (3-20-14)

516. CHANGE IN LEVEL OF CARE.
A change in the participant's level of care affects eligibility as described in Subsections 516.01 and 516.02 of this rule. (4-7-11)

01. Increase in Level of Care. An increase in level of care is effective the month the BLTCS reassesses the level of care. (3-20-14)

02. Decrease in Level of Care. When the BLTCS verifies the participant has a decrease in his level of care, and his income exceeds his new level of care, his Medicaid must be stopped after timely notice. When the BLTCS determines the participant no longer meets any level of care, his eligibility and allowances are based on the Room and Board rate in Section 512 of these rules. (3-20-14)

517. -- 520. (RESERVED)

521. MOVE FROM RESIDENTIAL CARE AND ASSISTED LIVING FACILITY OR CERTIFIED FAMILY HOME TO LIVING SITUATION OTHER THAN A NURSING HOME OR HOSPITAL.
A participant may move from a licensed facility to a living situation, other than a nursing home or hospital. No change to his Medicaid income limit is made, based on the move, until the next month. (5-3-03)

522. -- 523. (RESERVED)

524. MOVE FROM NURSING HOME OR HOSPITAL.
If a participant moves from a nursing home or hospital to a different living situation, other than a residential and assisted living facility or certified family home, his AABD cash for the month is determined as if he lived in his new situation the entire month. His AABD cash is his AABD allowances less his countable income. (4-5-00)

525. -- 530. (RESERVED)

531. COUPLE BUDGETING.
Income of an AABD participant and his participant spouse living in the same household is combined. The twenty dollar ($20) standard income disregard and the sixty-five dollar ($65) earned income disregard are subtracted once a month, per couple. Each member of a couple living in an institution must have income budgeted as a single person. A couple living together as of the first day of a month, is counted as living together throughout that month. Budgeting as a couple continues through the month the couple stops living together. For couple budgeting, a household is a home, a rental, another's household, or room and board. (7-1-99)

532. -- 539. (RESERVED)

540. STANDARD DISREGARD.
The standard disregard is twenty dollars ($20). The standard disregard is first subtracted from unearned income. If the unearned income is less than the standard disregard, the remainder of the standard disregard is subtracted from earned income. The participant retains the standard disregard for his personal use. (3-15-02)

01. Standard Disregard and a Couple. Subtract the standard disregard only once a month from the combined income of a couple in the same household. (7-1-99)

02. Standard Disregard Exception. The standard disregard must not be subtracted from nonservice-connected VA payments, Title IV-E foster care payments, or BIA General Assistance. (7-1-99)

541. SUBTRACTION OF EARNED INCOME DISREGARDS.
Earned income disregards are subtracted from AABD earned income in the order listed in Sections 542 through 547. They are subtracted the month the income is paid. (7-1-99)

542. SIXTY-FIVE DOLLAR EARNED INCOME DISREGARD.
Sixty-five dollars ($65) of earned income in a month are not counted. Subtract the sixty-five dollar ($65) disregard only once a month from the combined income of a couple in the same household. The sixty-five dollar ($65) disregard is a work incentive. The participant retains the sixty-five dollar ($65) disregard for his personal use. (3-15-02)

543. IMPAIRMENT-RELATED WORK EXPENSE (IRWE) DISREGARD.
Impairment-related work expenses are items and services needed and used by a disabled AABD participant to work. The items must be needed because of the participant's impairment. The items may be bought or rented. The cost for impairment-related work expenses is subtracted from the participant's earned income, for eligibility and AABD cash amount. An item disregarded as a blindness work expense, or as part of a PASS, cannot be disregarded as an impairment-related work expense. (7-1-99)

544. ONE-HALF REMAINING EARNED INCOME DISREGARD.
One-half (1/2) of remaining earned income, after the IRWE is subtracted, is not counted. The one-half (1/2) of remaining earned income is a work incentive. The participant retains the one-half (1/2) of remaining earned income for his personal use. (3-15-02)

545. BLINDNESS WORK EXPENSE DISREGARD.
The cost of earning income is subtracted from the earned income of a blind person. The blind person must be under age sixty-five (65). If the blind person is age sixty-five (65) or older, he must receive SSI for blindness, or have received AABD the month before he became sixty-five (65). (7-1-99)

01. Blind Work Expense Limit. Blindness work expenses are subtracted from earned income. The amount subtracted must not exceed the participant's monthly earnings. (7-1-99)

02. No Duplication for Blind Work Expenses. Expenses, subtracted under the impairment-related work expense disregard, cannot be subtracted again under this disregard. (7-1-99)

546. PLAN TO ACHIEVE SELF-SUPPORT (PASS).
A blind or disabled participant, with an approved plan to achieve self-support (PASS), must have income and resources disregarded. Conditions for this disregard are listed in Subsections 546.01 through 546.03. (7-1-99)

01. Under Age Sixty-Five. The participant must be under sixty-five (65), or receive AABD for the blind or disabled during the month of his sixty-fifth birthday. (7-1-99)

02. Approved PASS. A participant receiving SSI must have a PASS approved by SSA. A participant not receiving SSI must have a PASS approved by the Department. (7-1-99)

03. Income Necessary for Self-Support. The income and resources disregarded under the PASS must be necessary for the participant to achieve self-support. (7-1-99)

547. PASS APPROVED BY DEPARTMENT.
A PASS approved by the Department must be in writing. The PASS must contain all the items in Subsections 547.01 through 547.06. (7-1-99)

01. Occupational Objective. The PASS must have a specific occupational objective. (7-1-99)

02. Specific Goals. The PASS must have specific goals for using the disregarded income and resources to achieve self-support. (7-1-99)

03. Time Limit. The PASS must show a specific target date to achieve the goal. An approved PASS is limited to an initial period of eighteen (18) months. Extensions may be granted if needed. (7-1-99)

a. The first extension period lasts up to eighteen (18) months. (7-1-99)

b. A second eighteen (18) month extension period can be granted. (7-1-99)

c. A final extension, up to twelve (12) months can be granted. The PASS can be extended a total of forty-eight (48) months, when the original PASS goal required extensive education or vocational training. (7-1-99)

04. No Duplication of Disregards. An item disregarded as an impairment-related work expense or under the blindness exception cannot be disregarded under the PASS. (7-1-99)

05. Resource Limitation. The PASS disregard must not be used for resources, unless the resources cause the participant to be ineligible without the PASS disregard. (7-1-99)

06. Disregard of Resources. The PASS must list the participant's resources. The PASS must list any resources the participant will receive under the plan. The PASS must show how the resources will be used toward the occupational goal. The PASS must list goal-related items or activities requiring savings or purchases and the amounts the participant plans to save or spend. The PASS must list resources disregarded under the plan. The PASS must show resources disregarded under the plan can be identified separate from the participant's other resources. (7-1-99)

548. -- 599. (RESERVED)

600. DEPARTMENT NOTICE RESPONSIBILITY.
The participant must be notified of changes in eligibility or AABD cash amount. The notice must give the effective date, the reason for the action, the rule that supports the action, and appeal rights. (7-1-99)

601. ADVANCE NOTICE RESPONSIBILITY.
When a reported change results in closure or decrease, the participant must be notified at least ten (10) calendar days before the effective date of the action. (7-1-99)

602. ADVANCE NOTICE NOT REQUIRED.
Advance notice is not required when a condition listed in Subsections 602.01 through 602.12 exists. The participant must be notified by the date of the action. (7-1-99)

01. Death of Participant. The Department has proof of the participant's death. (7-1-99)

02. Participant Request. The participant requests closure in writing. (7-1-99)

03. Participant in Institution. The participant is admitted or committed to an institution. Further payments to the participant do not qualify for federal financial participation under the state plan. (7-1-99)

04. Nursing Care. The participant is placed in a nursing facility, or Intermediate Care for Persons with Intellectual Disabilities. (7-1-99)

05. Participant Address Unknown. The participant's whereabouts are unknown. Department mail is returned with no forwarding address. (7-1-99)

06. Aid in Another State. A participant is approved for aid in another state. (7-1-99)

07. Eligible One Month. The participant is eligible for aid only during the calendar month of his application for aid. (7-1-99)

08. Non-Citizen With Emergency. The participant is an illegal or legal non-citizen whose Medicaid eligibility ends the day his emergency medical condition stops. (7-1-99)

09. Retroactive Medicaid. The participant's Medicaid eligibility is for a prior period. (7-1-99)

10. Special Allowance. A special allowance granted for a specific period is stopped. (7-1-99)

11. Patient Liability. Patient liability or client participation changes. (7-1-99)

12. Level of Care. The participant's level of care changes. (7-1-99)

603. (RESERVED)

604. PARTICIPANT DETERMINED SSI ELIGIBLE AFTER APPEAL.
If the SSA finds a participant is blind or disabled, based on an appeal of an SSA decision, the participant meets the disability requirements for AABD cash and related Medicaid on the effective date determined by SSA. AABD cash payments are effective no earlier than the month SSA issues the favorable decision for SSI payments. (4-7-11)

605. REPORTING REQUIREMENTS.
The participant must report changes in circumstances verbally or in writing, by the tenth of the month following the month in which the change occurred. The participant must show good cause for not reporting changes. If failure to report a change results in an overpayment, the overpayment must be recovered. (4-2-08)

606. REQUIRED PROOF.
The participant must prove continuing eligibility for aid when a change could affect eligibility. The participant is allowed ten (10) calendar days to provide requested proof. The case is closed if the participant does not provide proof within ten (10) days and does not have good cause for not providing proof. (7-1-99)

607. CHANGES AFFECTING ELIGIBILITY OR AABD CASH AMOUNT.
If a participant reports a change that results in an increase, AABD cash is increased effective the month of report. If a participant reports a change that results in a decrease, AABD cash is decreased or ended effective the first month after proper notice. (7-1-99)

608. AABD CASH UNDERPAYMENT.
If the Department is at fault for issuing a payment less than the participant should have received, the Department issues a supplemental payment for the difference. (7-1-99)

609. AABD CASH OVERPAYMENT.
If the participant is paid more AABD cash than he is eligible for, the Department must collect the overpayment. The Department must notify the participant of the right to a hearing, the method for repayment and the need for a repayment interview. (7-1-99)

610. OFFSET OF OVERPAYMENT AND UNDERPAYMENT.
When an underpayment is computed, any overpayment for that month is subtracted from the underpayment. When an overpayment is computed, any underpayment for the month is subtracted. (7-1-99)

611. -- 616. (RESERVED)

617. HEARING REQUEST.
A participant may request a hearing to contest a Department decision. The participant must make the request within thirty (30) days of the date the Department mailed the notice of decision. Hearings will be conducted according to IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (3-15-02)

618. CONTINUED BENEFITS PENDING A HEARING DECISION.
The participant may continue to receive benefits upon request, pending the hearing decision. The Department must receive the participant's request for continued benefits before the effective date of the Department's action stated in the notice of decision. An applicant cannot receive continued benefits when appealing a denial for failure to provide citizenship and identity verification after the expiration of a reasonable opportunity period. (3-20-14)

01. Amount of Assistance. The Department will continue the participant's assistance at the current month's level while the hearing decision is pending, unless another change affecting assistance occurs. (3-15-02)

02. Continued Eligibility. The participant must continue to meet all eligibility requirements not related to the hearing issue. (3-15-02)

03. Overpayment. When the hearing decision is in the Department's favor, the participant must repay

assistance received while the hearing decision was pending. (3-15-02)

619. (RESERVED)

620. MEDICAID OVERPAYMENT.
If the participant receives Medicaid services during a month he is not eligible, the Department must collect the overpayment. If too little patient liability or client participation is computed, the Department must collect the overpayment. The participant must be notified of the overpayment. (7-1-99)

621. CHANGES IN PATIENT LIABILITY.

01. Increase in Patient Liability. If the patient liability is increased for the current or a past month, the Department will collect the patient liability directly from the client. (3-20-14)

02. Decrease in Patient Liability. If the patient liability is decreased for a current or past month, the funds will be paid to the provider and the provider must reimburse the client for the portion of the costs the client paid in excess of their patient liability. (3-20-14)

622. (RESERVED)

623. ELIGIBILITY REDETERMINATION.
An eligibility redetermination is completed at least once every year and when a change affecting eligibility occurs. (7-1-99)

624. -- 649. (RESERVED)

650. COOPERATION WITH THE QUALITY CONTROL PROCESS.
When the Department or federal government selects a case for review in the quality control process, the participant must cooperate in the review of the case. Benefits must be stopped, following advance notice, when a participant is unwilling to take part in the quality control process. If the participant reapplies for benefits he must fully cooperate with the quality control process before the application can be approved. (7-1-99)

651. -- 699. (RESERVED)

700. MEDICAID ELIGIBILITY.
A participant must meet the eligibility requirements for at least one (1) Medicaid coverage group to be eligible for Medicaid benefits. Income and circumstances in the current month are used for eligibility for the current month. Resources are counted as of the first moment of the month. (7-1-99)

701. MEDICAID APPLICATION.
An adult participant, a legal guardian or a representative of the participant must sign the application. The participant must submit the application to the Department. A Medicaid application may be made for a deceased person. (3-20-14)

702. MEDICAL SUPPORT COOPERATION.
Medical support rights are assigned to the Department by signature on the application. The participant must cooperate with the Department to secure medical support and payments, to be eligible for Medicaid. The participant must cooperate on behalf of himself and any participant for whom he can legally assign rights. A participant who cannot legally assign his own rights must not be denied Medicaid if the legally responsible person does not cooperate. (7-1-99)

703. CHILD SUPPORT COOPERATION.
The participant must cooperate to identify and locate the noncustodial parent, establish paternity, and establish, modify and enforce a child medical support order, to be eligible for Medicaid. This includes support payments received directly from the noncustodial parent. The cooperation requirement is waived for poverty level pregnant women exempt from cooperating in establishing paternity and obtaining medical support from, or derived from, the father of a child born out of wedlock. A participant who cannot legally assign his own rights must not be denied

Medicaid if the legally responsible person does not cooperate. (3-20-14)

704. COOPERATION DEFINED.
Cooperation includes, but is not limited to, providing all information to identify and locate the noncustodial parent. Cooperation for Medicaid includes identifying other liable third party payers. (7-1-99)

01. Name of Noncustodial Parent. The participant must provide the first and last name of the noncustodial parent. (7-1-99)

02. Information About Noncustodial Parent. The participant must also provide at least two (2) pieces of information, about the noncustodial parent, listed in Subsections 703.02.a. through 703.02.g. (7-1-99)

a. Birth Date. (7-1-99)

b. Social Security Number. (7-1-99)

c. Current address. (7-1-99)

d. Current phone number. (7-1-99)

e. Current employer. (7-1-99)

f. Make, model, and license number of any motor vehicle owned by the noncustodial parent. (7-1-99)

g. Names, phone numbers and addresses of the parents of the noncustodial parent. (7-1-99)

705. GOOD CAUSE FOR NOT COOPERATING IN SECURING MEDICAL AND CHILD SUPPORT.
The participant may claim good cause for failure to cooperate in securing medical and child support for himself or a minor child. Good cause is limited to the reasons listed in Subsections 705.01 through 705.03. (7-1-99)

01. Rape or Incest. There is proof the child was conceived as a result of incest or rape. (7-1-99)

02. Physical or Emotional Harm. There is proof the child's non-custodial parent may inflict physical or emotional harm to the participant, the child, the custodial parent or the caretaker relative. There is proof another person may inflict physical or emotional harm to an AABD-related participant if the participant cooperates in securing medical and child support. (7-1-99)

03. Minimum Information Cannot Be Provided. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. (7-1-99)

706. CLOSURE AFTER REVIEW OF GOOD CAUSE REQUEST.
If the participant claims good cause for not cooperating, but the Department determines there is not good cause, the participant must be given the opportunity to withdraw the application or have his Medicaid closed. (7-1-99)

707. APPLICATION REQUIREMENTS FOR POTENTIAL MEDICAL COVERAGE.

01. Group Health Plan Enrollment Requirement. Each participant must apply for and enroll in a cost-effective employer group health plan as a condition of eligibility for Medicaid. Medicaid coverage must not be denied, delayed, or stopped pending the start of a participant's group health insurance coverage. A child entitled to enroll in a group health plan must not be denied Medicaid coverage solely because his caretaker fails to apply for the child's enrollment. (3-30-07)

02. Medicare Enrollment Requirement. Each participant who may be eligible for Medicare must apply for all parts of Medicare parts A, B, and D for which he is likely to be eligible, as a condition of eligibility for Medicaid. (3-30-07)

708. MEDICAID QUALIFYING TRUST PAYMENTS.

For Medicaid Qualifying Trusts established before August 11, 1993, the maximum payment permitted to be made to a participant from the trust must be counted for Medicaid eligibility. The maximum is counted whether or not the trustee actually distributes payments. (7-1-99)

709. MEDICAID ELIGIBILITY FOR AABD PARTICIPANT.
A participant eligible for AABD cash is eligible for Medicaid, unless he is in an ineligible institution, receives excess payment from a Medicaid Qualifying Trust, or has an irrevocable trust that is not exempt. (7-1-99)

710. -- 719. (RESERVED)

720. LONG-TERM CARE RESIDENT AND MEDICAID.
A resident of a long-term care facility must meet the AABD eligibility criteria to be eligible for Medicaid. A long-term care facility is a nursing facility or an intermediate care facility for persons with intellectual disabilities. The need for long-term care is determined using IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

01. Resources of Resident. The resident's resource limit is two thousand dollars ($2,000). Resources of a married person in long-term care are computed using Federal Spousal Impoverishment rules. Under the SSI method, spouses can use the three thousand dollar ($3,000) couple resource limit if more advantageous. The couple must have lived in the nursing home, in the same room, for six (6) months. (3-20-04)

02. Medicaid Income Limit of Long-Term Care Resident Thirty Days or More. The monthly income limit for a long-term care facility resident is three (3) times the Federal SSI benefit for a single person. To qualify for this income limit the participant must be, or be likely to remain, in long-term care at least thirty (30) consecutive days. (3-20-04)

03. Medicaid Income Limit of Long-Term Care Resident Less Than Thirty Days. The monthly income limit, for the resident of a long-term care facility for less than thirty (30) consecutive days, is the AABD income limit for the participant's living situation before long-term care. Living situations before long-term care do not include hospital stays. (7-1-99)

04. Income Not Counted. The income listed in Subsections 720.04.a. through 720.04.e. of these rules is not counted to compute Medicaid eligibility for a long-term care facility resident. This income is counted in determining participation in the cost of long-term care. (4-2-08)

a. Income excluded or disregarded, in determining eligibility for AABD cash, is not counted. (3-20-04)

b. The September 1972 RSDI increase is not counted. (3-20-04)

c. Any VA Aid and Attendance allowance, including any increment which is the result of a VA Unusual Medical Expense allowance, is not counted. These allowances are not counted for patient liability, unless the veteran lives in a state operated veterans' home. (3-20-04)

d. RSDI benefit increases, from cost-of-living adjustments (COLA) after April 1977, are not counted if they made the participant lose SSI or AABD cash. The COLA increases after SSI or AABD cash stopped are not counted. (3-20-04)

e. Income paid into an income trust exempt from counting for Medicaid eligibility under Subsection 872.02 of these rules is used for patient liability. Income paid to the trust and not used for patient liability, is subject to the asset transfer penalty. (3-20-04)

05. Medicaid Participant Residing in a Skilled Nursing Facility. When a Medicaid participant who is a resident of a skilled nursing facility and meets that level of care as evidenced by the PASARR defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 227, the resident is determined to be disabled for the duration of his residency in the skilled nursing facility. (3-29-17)

721. QUALIFIED LONG-TERM CARE PARTNERSHIP POLICY.

Participants who have received, or are entitled to receive, benefits under a Qualified Long-Term Care Partnership policy issued in Idaho after November 1, 2006, will have certain resources disregarded as described in Subsections 721.01 and 721.02 of these rules. (4-2-08)

01. Value of the Participant's Resources. The total dollar amount of the insurance benefits paid out for a policy holder of a Qualified Long-Term Care Partnership policy is disregarded in calculating the value of the participant's resources for long-term care Medicaid eligibility. The amount that is disregarded is determined on the effective date of an initial application approval for long-term care Medicaid benefits. (4-2-08)

02. Resource Disregard Excluded From Estate Recovery. The amount of the resources disregarded from a Qualified Long-Term Care Partnership policy under Subsection 721.01 of this rule, is deducted from the assets of the estate for Medicaid estate recovery. (4-2-08)

722. PATIENT LIABILITY.
Patient liability is the participant's income counted toward the cost of long-term care. Patient liability begins the month after the first full calendar month the patient is receiving benefits in a long-term care facility. (4-11-15)

723. PATIENT LIABILITY FOR PERSON WITH NO COMMUNITY SPOUSE.
For a participant with no community spouse, patient liability is computed as described in Subsections 723.01 through 723.03 of this rule. (5-3-03)

01. Income of Participants in Long-Term Care. For a single participant, or participant whose spouse is also in long-term care and chooses the SSI method of calculating the amount of income and resources, the patient liability is his total income less the deductions in Subsection 723.03 of this rule. (5-3-03)

02. Community Property Income of Long-Term Care Participant with Long-Term Care Spouse. Patient liability income for a participant, whose spouse is also in long-term care, choosing the community property method, is one-half (1/2) his share of the couple's community income, plus his own separate income. The deductions in Table 723.03 are subtracted from his income. (7-1-99)

03. Income of Participant in Facility. A participant residing in the long-term care facility at least one (1) full calendar month, beginning with his most recent admission, must have the deductions in Subsection 723.03 subtracted from his income, after the AABD exclusions are subtracted from the income. Total monthly income includes income paid into an income (Miller) trust that month. The income deductions must be subtracted in the order listed. Remaining income is patient liability. (3-15-02)

a. AABD Income Exclusions. Subtract income excluded in determining eligibility for AABD cash. (7-1-99)

b. Aid and Attendance and UME Allowances. Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home. (3-30-01)

c. SSI Payment Two (2) Months. Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility. (7-1-99)

d. AABD Payment. Subtract the AABD payment, and income used to compute the AABD payment, for a participant paid continued AABD payments up to three (3) months in long-term care. (7-1-99)

e. First Ninety ($90) Dollars of VA Pension. Subtract the first ninety ($90) dollars of a VA pension for a veteran in a private long-term care facility or a State Veterans Nursing Home. (5-3-03)

f. Personal Needs. Subtract forty dollars ($40) for the participant's personal needs. For a veteran or surviving spouse in a private long-term care facility or a State Veterans Nursing Home the first ninety ($90) dollars of VA pension substitutes for the forty dollar ($40) personal needs deduction. (5-3-03)

g. Employed and Sheltered Workshop Activity Personal Needs. For an employed participant or

participant engaged in sheltered workshop or work activity center activities, subtract the lower of the personal needs deduction of two hundred dollars ($200) or his gross earned income. The participant's total personal needs allowance must not exceed two hundred and thirty dollars ($230). For a veteran or surviving spouse with sheltered workshop or earned income, and a protected VA pension, the total must not exceed two hundred dollars ($200). This is a deduction only. No actual payment can be made to provide for personal needs. (3-30-01)

h. Home Maintenance. Subtract two hundred and twelve dollars ($212) for home maintenance cost if the participant had an independent living situation, before his admission for long-term care. His physician must certify in writing the participant is likely to return home within six (6) months, after the month of admission to a long-term care facility. This is a deduction only. No actual payment can be made to maintain the participant's home. (7-1-99)

i. Maintenance Need. Subtract a maintenance need deduction for a family member, living in the long-term care participant's home. A family member is claimed, or could be claimed, as a dependent on the Federal Income Tax return of the long-term care participant. The family member must be a minor or dependent child, dependent parent, or dependent sibling of the long-term care participant. The maintenance need deduction is the AFDC payment standard for the dependents, computed according to the AFDC State Plan in effect before July 16, 1996. (7-1-99)

j. Medicare and Health Insurance Premiums. Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Medicare Part B premiums must not be subtracted, if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed. (7-1-99)

k. Mandatory Income Taxes. Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income. (7-1-99)

l. Guardian Fees. Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee is the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly. (3-20-14)

m. Trust Fees. Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust. (7-1-99)

n. Impairment Related Work Expenses. Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services that are purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged. (3-20-14)

o. Income Garnished for Child Support. Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the maintenance need standard. (3-30-01)

p. Incurred Medical Expenses. Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount. (4-11-15)

q. Pre-existing Medical Expenses. Subtract amounts for medical and remedial care expenses incurred within the three (3) months prior to the month of application. The deductions for medical and remedial care expenses are limited to those medically necessary expenses incurred by the participant for the participant's care. The deduction for medical and remedial care expenses is limited to the amount of liability owed by the participant, and if applicable, after any third-party insurance has been applied. The deduction for medical and remedial care expenses that were incurred as the result of imposition of a transfer of assets penalty period is limited to zero. (3-25-16)

724. INCOME OWNERSHIP OF PARTICIPANT WITH COMMUNITY SPOUSE.
Income ownership of a long-term care participant with a community spouse is determined before patient liability is computed. The participant's income ownership is counted as shown in Subsections 724.01 through 724.04. (7-1-99)

01. Income Paid in the Name of Spouse. Income paid solely in the name of a spouse, and not paid from a trust, is the separate income of the spouse. (7-1-99)

02. Payment in Name of Both Spouses. Income paid in the names of both the long-term care participant and the community spouse is divided evenly between each spouse. (7-1-99)

03. Payment in Name of Spouse or Spouses and Another Person. Income paid in the names of the participant and/or the community spouse and another person is counted as available to each spouse, in proportion to the spouse's ownership. If payment is made to both spouses, and no proportion of ownership is specified, one-half of the income is counted to each spouse. (7-1-99)

04. Payment of Aid and Attendance. In the case of VA Aid and Attendance Allowance paid in the veteran's name, with an increment for the veteran's spouse, the increment is counted to the veteran. (7-1-99)

725. PATIENT LIABILITY FOR PARTICIPANT WITH COMMUNITY SPOUSE.
After income ownership is decided, patient liability is determined using steps in Table 725.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY

Step		Procedure
01.	AABD Income Exclusions	Subtract income excluded in determining eligibility for AABD cash.
02.	Aid and Attendance and UME Allowances	Subtract a VA Aid and Attendance allowance and Unusual Medical Expense (UME) allowance for a veteran or surviving spouse, unless the veteran lives in a state operated veterans' home.
03.	SSI Payment Two (2) Months	Subtract the SSI payment for a participant entitled to receive SSI at his at-home rate for up to two (2) months, while temporarily in a long-term care facility.
04.	AABD Cash	Subtract the AABD cash payment and income used to compute AABD cash, for a participant eligible to have his AABD cash continued up to three (3) months, while he is in long-term care.
05.	VA Pension	Subtract the first ninety (90$) of the VA pension for a veteran.
06.	Personal Needs	Subtract forty dollars ($40) for the participant's personal needs. Do not allow this deduction for a veteran.
07.	Employed and Sheltered Workshop Activity Needs	For an employed participant or participant engaged in sheltered workshop or work activity center activities subtract the lower of two hundred dollars ($200) or his earned income.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
	Step	**Procedure**
08.	Community Spouse Allowance: Step a.	Compute the Community Spouse Allowance (CSA) using Step a. through Step c. Compute the Shelter Adjustment. Add the current Food Stamp Program Standard Utility Allowance to the community spouse's shelter costs. Shelter costs include rent, mortgage principal and interest, homeowner's taxes, insurance, and condominium or cooperative maintenance charges. The Standard Utility Allowance must be reduced by the value of any utilities included in maintenance charges for a condominium or cooperative. Subtract the Shelter Standard from the shelter and utilities. The Shelter Standard is thirty percent (30%) of one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the Federal Office of Management and Budget (OMB) for a family of two (2) persons. The Shelter Adjustment is the positive balance remaining.
09.	Community Spouse Allowance: Step b.	Compute the Community Spouse Need Standard (CSNS). Add the Shelter Adjustment to the minimum CSNS. The minimum CSNS equals one hundred fifty percent (150%) of one-twelfth (1/12) of the income official poverty line defined by the OMB for a family unit of two (2) members. The minimum CSNS is revised annually in July. The total CSNS may not exceed the maximum CSNS. The maximum CSNS is computed by multiplying one thousand five hundred dollars ($1,500) by the percentage increase in the consumer price index for all urban Consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The maximum CSNS is revised annually in January.
10.	Community Spouse Allowance: Step c.	Compute the Community Spouse Allowance. Subtract the community spouse's gross income from the CSNS. The community spouse’s income includes income produced by his resources. Round any remaining cents to the next higher dollar. Any positive balance remaining is the CSA. The CSA is subtracted as actually paid to the community spouse, up to the computed maximum. A larger spouse support amount must be used as the CSA, if court-ordered. The CSA ordered by a court is not subject to the CSA limit.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step		**Procedure**
11.	Family Member Allowance (FMA)	Compute the family member's gross income. Subtract the family member's gross income from the minimum CSNS. Divide the difference by three (3). Round cents to the next higher dollar. Any remainder is the FMA for that family member. The FMA is allowed, whether or not it is actually paid by the participant. A family member is, or could be claimed, as a dependent on the Federal income tax return of either spouse. The family member must be a minor or dependent child, dependent parent or dependent sibling of either spouse. The family member must live in the community spouse's home.
12.	Medicare and Health Insurance Premiums	Subtract expenses for Medicare and other health insurance premiums, and deductibles or coinsurance charges, not subject to payment by a third party. Deduction of Medicare Part B premiums is limited to the first two (2) months of Medicaid eligibility. Do not subtract the Medicare Part B premiums if the participant got SSI or AABD cash the month prior to the month for which patient liability is being computed.
13.	Mandatory Income Taxes	Subtract taxes mandatorily withheld from unearned income for income tax purposes. To qualify for deduction of mandatory taxes, the tax must be withheld from income before the participant receives the income.
14.	Guardian Fees	Subtract court-ordered guardianship fees of the lesser of ten percent (10%) of the monthly benefit handled by the guardian, or twenty-five dollars ($25). Where the guardian and trustee are the same person, the total deduction for guardian and trust fees must not exceed twenty-five dollars ($25) monthly.
15.	Trust Fees	Subtract up to twenty-five dollars ($25) monthly paid to the trustee for administering the participant's trust.
16.	Impairment Related Work Expenses	Subtract impairment-related work expenses for an employed participant who is blind or disabled under AABD criteria. Impairment-related work expenses are purchased or rented items and services, purchased or rented to perform work. The items must be needed because of the participant's impairment. The actual monthly expense of the impairment-related items is subtracted. Expenses must not be averaged.
17.	Income Garnisheed for Child Support	Subtract income garnisheed for child support to the extent the expense is not already accounted for in computing the Family Member Allowance.
18.	Incurred Medical Expenses	Subtract amounts for certain limited medical or remedial care expenses that have current balances owed and are deemed medically necessary as defined in IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” Current medical expenses that are not covered by the Idaho Medicaid Plan, or by a third party, may be deducted from the base participation amount.

TABLE 725 - INCOME DEDUCTIONS FOR PARTICIPANT IN FACILITY		
Step		Procedure
19.	Pre-existing Medical Expenses	Subtract amounts for medical and remedial care expenses incurred within the three (3) months prior to the month of application. The deductions for medical and remedial care expenses are limited to those medically necessary expenses incurred by the participant for the participant's care. The deduction for medical and remedial care expenses is limited to the amount of liability owed by the participant, and if applicable, after any third-party insurance has been applied. The deduction for medical and remedial care expenses that were incurred as the result of imposition of a transfer of assets penalty period is limited to zero.

(3-25-16)

726. PERSONAL NEEDS SUPPLEMENT (PNS).
A nursing home participant may receive a PNS to bring his gross income up to forty dollars ($40). Gross income is income after exclusions and before disregards. Gross income includes money withheld to recover an AABD overpayment. The PNS is the difference between the participant's gross income and forty dollars ($40). If not in an even dollar amount, the PNS is rounded up to the next dollar. The participant's income including the PNS must not exceed forty dollars ($40). (3-15-02)

727. FAIR HEARING ON CSA DECISION.
Either spouse may ask for a fair hearing, to show the community spouse needs a higher CSA. The hearing officer must consider if, due to unusual conditions, using the computed CSA causes significant financial hardship for the community spouse. If the fair hearing decision finds the community spouse needs more income than the CSA, the CSA must include the additional income. (7-1-99)

728. -- 730. (RESERVED)

731. MEDICAID ELIGIBILITY OF MARRIED PERSONS.
There are three (3) methods for Medicaid eligibility of an aged, blind, or disabled married person: The SSI method, the Community Property (CP) method, and the Federal Spousal Impoverishment (FSI) method. The FSI method takes precedence. If the participant is not subject to the FSI method, the CP or SSI methods can be used. (7-1-99)

732. CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD.
Table 732 is used determine the resource counting method for a married person. If an HCBS participant with a spouse at home is not eligible using the FSI method, resources are computed using the SSI/CP method.

TABLE 732 - CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD					
	SPOUSE ONE (1) IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE (1) IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE (1) AT HOME NO HCBS	SPOUSE ONE (1) AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE (1) AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO (2) IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	SSI/CP	SSI/CP	SSI/CP

TABLE 732 - CHOOSING FSI, SSI, OR CP RESOURCE COUNTING METHOD					
SPOUSE TWO (2) IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME NO HCBS	SSI/CP	FSI	SSI/CP	SSI/CP	FSI
SPOUSE TWO (2) AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	SSI/CP	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(7-1-99)

733. CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD.
Table 733 is used determine the income counting method for a married person. If a participant subject to the FSI method is not eligible using FSI, income is computed using the SSI/CP method.

TABLE 733 - CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD					
	SPOUSE ONE (1) IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE (1) IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE (1) AT HOME NO HCBS	SPOUSE ONE (1) AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE (1) AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO (2) IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME NO HCBS	FSI	FSI	SSI/CP	FSI	FSI

TABLE 733 - CHOOSING FSI, SSI, OR CP INCOME COUNTING METHOD					
SPOUSE TWO (2) AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO (2) AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(7-1-99)

734. CHOOSING FSI, SSI, OR CP PATIENT LIABILITY OR CLIENT PARTICIPATION METHOD.
Table 734 is used determine the patient liability or client participation method for a married participant in long term care or receiving HCBS.

TABLE 734 - PATIENT LIABILITY OR CLIENT PARTICIPATION METHOD					
	SPOUSE ONE IN NURSING HOME BEFORE 9/30/89	SPOUSE ONE IN NURSING HOME ON OR AFTER 9/30/89	SPOUSE ONE AT HOME NO HCBS	SPOUSE ONE AT HOME WITH HCBS BEFORE 9/30/89	SPOUSE ONE AT HOME WITH HCBS ON OR AFTER 9/30/89
SPOUSE TWO IN NURSING HOME BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO IN NURSING HOME ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO AT HOME NO HCBS	FSI	FSI	N/A	FSI	FSI
SPOUSE TWO AT HOME WITH HCBS BEFORE 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP
SPOUSE TWO AT HOME WITH HCBS ON OR AFTER 9/30/89	SSI/CP	SSI/CP	FSI	SSI/CP	SSI/CP

(7-1-99)

735. FEDERAL SPOUSAL IMPOVERISHMENT (FSI) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
The FSI method must be used to compute income and resources of a married participant, who requires long-term care as defined in Section 010 of these rules, and who has a community spouse. The participant must have entered long-term care on or after September 30, 1989. Terms used in the FSI method are listed in Subsections 735.01 through 735.05 of this rule. (4-2-08)

01. Long-Term Care Spouse. The long-term care spouse must be in a medical institution or nursing facility, or be an HCBS participant, for thirty (30) consecutive days, or appear likely to meet the thirty (30) days requirement. (7-1-99)

02. Community Spouse. The community spouse is the husband or wife of the long-term care participant. A community spouse is not in long-term care and is not an HCBS participant. (7-1-99)

03. Continuous Period of Long-Term Care. A continuous period of long-term care is a period of residence either in a medical institution with nursing facility services, or at home with HCBS. A continuous period of long-term care is also a combination of institution and personal care services likely to last at least thirty (30) consecutive days. Absence from the institution, or a lapse in HCBS eligibility, of thirty (30) consecutive days breaks continuity. The thirty (30) consecutive days of long-term care must not begin on a day the participant is hospitalized. If the participant is hospitalized after the first day of the thirty (30) consecutive days, the hospital stay does not interrupt the thirty (30) consecutive days. (7-1-99)

04. Start of Continuous Period. The start of a continuous period of long-term care is the first month of long-term care or HCBS. (7-1-99)

05. Nursing Facility Services. Nursing facility services are services at the nursing facility level or the intermediate care for persons with intellectual disabilities level provided in a medical institution. (7-1-99)

736. ASSESSMENT DATE AND COUNTING FSI RESOURCES.
The assessment date is the start date of the first continuous period of long-term care. The Department does a one-time assessment to determine the value of the couple's community and separate resources as of the date of the first continuous period of long-term care. The resource assessment is done at the request of either spouse, after one spouse is in long-term care or meets the level of care for HCBS, whether or not the couple has applied for Medicaid. State laws relating to community property or the division of marital property are not applied in determining the FSI total combined resources of the couple. (4-2-08)

737. TREATMENT OF RESOURCES FOR ASSESSMENT.
The resource rules used in determining eligibility for AABD cash and Medicaid are also used in determining the couple's total combined resources for the FSI resource assessment with the following exceptions: (4-2-08)

01. Resources For Sale. Excess resources offered for sale, are not excluded from the couple's total combined resources for the FSI resource assessment. (3-30-07)

02. Jointly Owned Real Property. Jointly owned real property that is not the principal residence of the participant, is not excluded, if the community spouse is the joint owner. (3-30-07)

03. Long-term Care Partnership Policy. Resources excluded because of a participant's qualified long-term care policy are not excluded for the FSI resource assessment. (4-2-08)

04. Excluded Home. As defined in 42 U.S.C. 1396r-5(c)(5), an excluded home placed in trust retains its exclusion for purposes of the resource assessment. (3-30-07)

738. ONE-HALF SPOUSAL SHARE.
The spousal share is one-half (1/2) of the couple's total combined resources on the assessment date. The spousal share does not change, even if the participant leaves long-term care and then enters long-term care again. The Department must inform the couple of the resources counted in the assessment and the value assigned. The couple must sign the

assessment form under penalty of perjury. The signature requirement may be waived for the long-term care spouse if he or his representative says he is unable to sign the resources assessment. A copy of the assessment form must be provided to each spouse when eligibility is determined or when either spouse requests a assessment prior to application. (7-1-99)

739. -- 741. (RESERVED)

742. COMMUNITY SPOUSE RESOURCE ALLOWANCE.
The CSRA protects resources for the community spouse. The CSRA is determined by subtracting the greater of the minimum resource allowance, or the spousal share from the couple's total combined resources as of the first day of the application month. The deduction must not be more than the maximum resource allowance at the time eligibility is determined. (4-11-06)

743. RESOURCE ALLOWANCE LIMITS.
The maximum resource allowance is computed by multiplying sixty thousand dollars ($60,000) by the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. The minimum resource allowance is computed by multiplying twelve thousand dollars ($12,000) by the percentage increase in the consumer price index for all urban consumers (all items; U.S. city average) between September 1988 and the September before the current calendar year. If the result is not an even one hundred dollar ($100) amount, round up to the next one hundred dollars ($100). The couple's resources exceeding the CSRA are counted for the long-term care spouse. (7-1-99)

744. INCOME COUNTED FIRST FOR CSRA REVISION.
Income is determined prior to determining resources. If the couple's income is more than the minimum CSNS, the CSRA cannot be increased. If the community spouse has less income than the minimum CSNS, the CSRA may be increased as provided in Section 745 of these rules. Couple income is the community spouse's gross income plus the long-term care spouse's income. The long-term care spouse's income is his gross income less the AABD cash income exclusions and his patient liability income deductions, but not the CSA deduction. (4-2-08)

745. UPWARD REVISION OF CSRA.
If the community spouse's income, including income from his CSA and income-producing resources in his CSRA, is less than the minimum CSNS, the CSRA may be increased. The CSRA is increased by enough resources, transferred from the long-term care spouse, to raise the community spouse's income to the minimum CSNS Resources included in the transfer are presumed to produce income at the treasury rate, whether or not the resources produce income. If the community spouse shows he is making reasonable use of his income and resources, to generate income, the Department may waive the treasury rate requirement. Actual income produced by the resources transferred to the community spouse is used to compute the CSA. A higher CSA can be requested under Section 727 of these rules. If the transferred resources produce more than the treasury rate, the actual income produced is used to determine the additional resources that can be transferred to the community spouse in the CSRA. The long-term care spouse must transfer the resources to the community spouse, or the CSRA is not revised. (4-2-08)

746. RESOURCE TRANSFER ALLOWANCE (RTA).
The resource transfer allowance (RTA) is computed by subtracting the community spouse's resources, at the time of application, from the CSRA. The community spouse must own less than the CSRA to get an RTA. The long term care spouse may transfer the RTA to the community spouse without an asset transfer penalty. If the institutional spouse transfers more than the RTA, the amount of the couple's resources over the CSRA counts as the institutional spouse's resources. After the month a long-term care spouse is determined Medicaid eligible under FSI, resources of the community spouse are not considered available to the him while he remains in long-term care. (7-1-99)

747. PROTECTED PERIOD FOR RTA TRANSFER.
The long-term care spouse has sixty (60) days, from the date his application is approved, to transfer his ownership of the RTA resources to the community spouse. The long-term care spouse must state, in writing, his intent to transfer the RTA resources to the community spouse, within the protected period, before he can be Medicaid eligible. Resources not transferred within the sixty (60) day protected period are available to the long-term care spouse, effective the day he entered the facility. (7-1-99)

748. EXTENSION FOR RTA TRANSFER.

The protected period can be extended beyond sixty (60) days if necessary because of the participant's circumstances. (7-1-99)

749. RESOURCE ELIGIBILITY FOR COMMUNITY SPOUSE.
When the community spouse is a Medicaid participant, the spouse's resources are counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. For the month the couple stopped living together, resources of the community spouse available for his Medicaid eligibility are the resources owned by the couple. (7-1-99)

750. INCOME ELIGIBILITY FOR COMMUNITY SPOUSE.
When the community spouse is a Medicaid participant, the spouse's income is counted using Medicaid rules. The FSI rules apply only to the long-term care spouse. The community spouse may choose between the SSI and CP methods for determining income for Medicaid eligibility. (7-1-99)

751. CHANGE IN CIRCUMSTANCES.
The FSI method of calculating income and resources stops the first full calendar month after a change in circumstances resulting in a couple no longer having a community spouse and a long-term care spouse. (7-1-99)

752. NOTICE AND HEARING.
The Department must tell the participant the CSA, the family member allowance, the CSRA and how it was computed, and RTA. Any hearing requested about the CSRA or the RTA must be held within thirty (30) days of the date of the request for hearing. (7-1-99)

753. -- 760. (RESERVED)

761. CHOICE OF SSI OR CP METHODS.
A married participant, not using FSI, must be furnished a written explanation of SSI and CP income and resource counting methods. The couple chooses the most useful method, based on their circumstances. The same method must be used for both spouses. (7-1-99)

762. SSI METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
The SSI method is the same method used to count income and resources for AABD cash. Income and resources of the participant and spouse are counted as mutually available. This method must be used for months either spouse gets SSI or AABD cash, or an SSI and/or AABD application is filed and approved. This method must be used for Medicaid eligibility, and liability for the cost of long-term care, whether one (1) or both spouses apply for Medicaid. For long-term care, the couple's income and resources are mutually available when one (1) or both spouses apply during the month they separated, because one (1) or both left their mutual home to enter a long-term care facility. (7-1-99)

763. COMMUNITY PROPERTY (CP) METHOD OF COUNTING INCOME AND RESOURCES OF A COUPLE.
A married participant in long-term care, whose spouse is not in the community, can use the CP method. A married participant using the FSI method, but not income eligible using FSI, may choose the CP method for income eligibility. The CP method must not be used for the FSI participant's resource eligibility or patient liability. (7-1-99)

764. CP METHOD.
The CP method gives each spouse has an equal one-half (1/2) share of the couple's community income and resources. Each spouse also has his or her own separate income and resources. Whether the spouses live together or, if not living together, the length of time they have lived apart, does not change the way income and resources are counted. A spouse's property includes income, personal property and real property. The income and resources of a married couple acquired during the marriage are presumed to be community property of the couple. The couple can give evidence to rebut the presumption that property acquired during the marriage is community property. (7-1-99)

765. TRANSFER OF RIGHTS TO FUTURE INCOME NOT VALID.
An agreement between spouses, transferring or assigning rights to future income from one (1) spouse to the other, is not valid for eligibility for Medicaid. (7-1-99)

766. CP METHOD NEED STANDARD.
The participant is budgeted as a single person if his spouse is not a Medicaid applicant, is not living with him, or was

not living with him on the first day of the month. The participant and spouse are budgeted as a couple if they both apply, and live together, or if they were living together on the first day of the month. (7-1-99)

767. CP METHOD RESOURCE LIMIT.
The participant's resource limit is two thousand dollars ($2,000) if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. The participant and spouse have a resource limit of three thousand dollars ($3,000) if they both apply, and live together, or if they were living together on the first day of the month. (7-1-99)

768. CP METHOD INCOME DISREGARDS.
The participant gets the twenty dollar ($20) standard disregard if his spouse is not a Medicaid applicant, is not living with him, or was not living with him on the first day of the month. If the participant has earned income, he gets the sixty-five dollar plus one-half ($65 + 1/2) of the remainder earned income disregard. The participant and spouse get the standard disregard on their combined unearned income if they both apply, and live together, or if they were living together on the first day of the month. If either spouse has earned income, they get the earned income disregard from their combined earned income. (7-1-99)

769. -- 775. (RESERVED)

776. 1972 RSDI RECIPIENT.
A participant remains eligible if he meets any of the conditions in Subsections 776.01 through 776.03 and all other Medicaid eligibility requirements. (7-1-99)

01. Money Payment in August 1972. In August 1972, the participant was eligible for, or received, a state money payment of OAA, AB, APTD or Aid to Families with Dependent Children (AFDC). (7-1-99)

02. Eligible If Not in Institution. The participant would have been eligible for OAA, AB, APTD or Aid to Families with Dependent Children (AFDC) if he were not in a medical institution or intermediate care facility in August 1972. (7-1-99)

03. Getting RSDI in August 1972. The participant received RSDI benefits in August 1972, and became ineligible for a state money payment due to the RSDI benefit increase effective in September 1972. (7-1-99)

777. ELIGIBLE SSI RECIPIENT.
An SSI recipient, or an individual who would be SSI eligible if he applied, is eligible for Medicaid if he meets any of the conditions in Subsections 777.01 through 777.03. (7-1-99)

01. Receives SSI. Gets SSI payments, even if eligibility is based on presumptive disability or presumptive blindness. (7-1-99)

02. Conditionally Eligible. Is conditionally eligible for SSI, based on an agreement to dispose of excess resources. (7-1-99)

03. Eligible Spouse. Has his SSI payments combined with his spouse's SSI payments. (7-1-99)

778. INELIGIBLE SSI RECIPIENT.
An SSI recipient is not eligible for Medicaid if he meets any of the conditions in Subsections 778.01 through 778.04. (7-1-99)

01. Medicaid Qualifying Trust. Has excess income from a Medicaid Qualifying Trust, created and funded before August 11, 1993. (7-1-99)

02. Noncooperation. Fails to cooperate in establishing paternity or securing support. (7-1-99)

03. Institution. Is in an ineligible institution. (7-1-99)

04. Trust. Has a trust that makes him ineligible for Medicaid. (7-1-99)

779. PSYCHIATRIC FACILITY RESIDENT.
A resident of a long-term care psychiatric medical facility, is eligible for Medicaid if he is age sixty-five (65) or older. He must meet all the requirements of a long-term-care resident. (7-1-99)

780. GRANDFATHERED SSI RECIPIENT.
A grandfathered SSI recipient is eligible for Medicaid. A grandfathered SSI recipient received, or was eligible to receive, APTD, APTD-MA, AB or AB-MA or APTD-MA in long-term care on December 31, 1973, or had an application for this assistance on file December 31, 1973. (7-1-99)

01. Disability and Blindness Criteria. The grandfathered SSI recipient must have been eligible under the disability criteria for APTD or the blindness criteria for AB in effect on December 31, 1973. For each consecutive month after December 1973, the grandfathered SSI recipient must continue to meet the criteria for disability or blindness. (7-1-99)

02. Eligibility Requirements. The grandfathered SSI recipient must meet all current Medicaid rules, except the criteria for blindness or disability. A long-term care participant must also remain in long-term care, and continue to need long-term care. (7-1-99)

781. RSDI RECIPIENT ENTITLED TO COLA DISREGARD.
A participant receiving RSDI is eligible for Medicaid if he became and remains ineligible for SSI payments as of April 2011, or for AABD cash or SSI payments from May 1977 through March 2011. The participant must still be entitled to AABD cash or SSI, except for a cost-of-living adjustment (COLA) in RSDI benefits. All RSDI COLAs received by the participant, and any person whose income and resources are counted in determining the participant's eligibility, are disregarded for Medicaid. (3-28-18)

782. MEDICAID BENEFITS UNDER SECTION 1619(B) OF THE SOCIAL SECURITY ACT.
A participant may be eligible for Medicaid under Section 1619(b) of the Social Security Act either under federal or state criteria, depending on his circumstances. (4-11-06)

01. Federally Qualified Under SSA Section 1619(b). An SSI recipient with a disability, previously eligible for SSI cash, who, because of earnings from employment, no longer meets the financial eligibility requirements for SSI cash, is eligible for Medicaid. SSA determines the qualification for eligibility under Section 1619(b). (4-11-06)

02. State-Only Qualified Under SSA Section 1619(b). An AABD cash participant with a disability, who, because of earnings from employment, no longer meets the financial eligibility requirements for AABD cash, may be eligible for Medicaid. The Department determines eligibility for State-only Section 1619(b) Medicaid. State-only Section 1619(b) Medicaid is authorized under Section 1905(q) of the Social Security Act. (4-11-06)

a. Eligibility Requirements. A participant must meet all of the following requirements to be eligible for State-only 1619(b) Medicaid: (4-11-06)

i. The participant received AABD cash in the month prior to the first month of his eligibility under this Section of rule. (4-11-06)

ii. The participant is under age sixty-five (65). (4-11-06)

iii. The participant continues to have a disability. (4-11-06)

iv. The participant must depend on Medicaid coverage to continue working. An individual depends on Medicaid coverage if he: (4-11-06)

(1) Used Medicaid coverage within the past twelve (12) months; or (4-11-06)

(2) Expects to use Medicaid coverage in the next twelve (12) months; or (4-11-06)

(3) Would be unable to pay unexpected medical bills in the next twelve (12) months without Medicaid coverage. (4-11-06)

v. The participant is not able to afford medical insurance equivalent to Medicaid, including attendant care. The participant meets this requirement if his earnings are under the limit referred to in Subsection 782.02.a.vii. of this rule. (4-11-06)

vi. The participant continues to meet all of the non-disability eligibility requirements in these rules. (4-11-06)

vii. The participant's annual gross earned income is less than the current calendar year's charted threshold for Idaho as developed by SSA for federal qualification for Section 1619(b) Medicaid. The charted threshold for Idaho is online at http://policy.ssa.gov/poms.nsf/lnx/0502302200. (4-11-06)

b. Ending State-Only 1619(b) Medicaid. State-only Section 1619(b) Medicaid ends when the participant meets one (1) of the following criteria: (4-11-06)

i. The participant is no longer eligible for AABD cash for a reason other than excess earned income; (4-11-06)

ii. The participant's gross earned income is equal to or more than the current calendar year's annual earnings threshold for Idaho developed by the Social Security Administration for Federal Section 1619(b) Medicaid; (4-11-06)

iii. The participant is age sixty-five (65) or older; or (4-11-06)

iv. The participant regains eligibility for AABD cash. (4-11-06)

783. APPEAL OF SSA DECISION - APPLICANT DETERMINED SSI ELIGIBLE AFTER APPEAL.
An applicant denied Medicaid, because he does not meet SSI eligibility or RSDI disability requirements, can appeal the SSA denial with SSA. He can get Medicaid, if found eligible for SSI or Social Security disability as a result of his appeal. The effective date for Medicaid is the first day of the month of the Medicaid application that was denied, because of the SSA denial. The participant's eligibility for backdated Medicaid coverage must be determined. (7-1-99)

784. APPEAL OF SSA DECISION AND CONTINUED MEDICAID.
A Medicaid participant, denied RSDI or SSI because he is not disabled, can continue to get Medicaid if he appeals the SSA decision. The appeal must be filed within sixty (60) days of the SSA decision. If the final administrative decision rules against the participant's appeal, Medicaid benefits must end. Medicaid benefits paid during the appeal are not an overpayment. (7-1-99)

785. CERTAIN DISABLED CHILDREN.
A disabled child, not eligible for Medicaid outside a medical institution, is eligible for Medicaid if he meets the conditions in Subsections 785.01 through 785.08 of these rules. (3-29-10)

01. Age. Is under nineteen (19) years old. (7-1-99)

02. AABD Criteria. Meets the AABD blindness or disability criteria. (7-1-99)

03. AABD Resource Limit. Meets the AABD single person resource limit. (7-1-99)

04. Income Limit. Has monthly income not exceeding three (3) times the Federal SSI benefit payable monthly to a single person. (7-1-99)

05. Eligible for Long Term Care. Meets the medical conditions for long-term care in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

06. Appropriate Care. Is appropriately cared for outside a medical institution, under a physician's plan of care. (7-1-99)

07. Cost of Care. Can be cared for cost effectively outside a medical institution. The estimated cost of caring for the child must not exceed the cost of the child's care in a hospital, nursing facility, or ICF/ID. (3-15-02)

08. Share of Cost. The financially responsible adult of a certain disabled child, who has family income above one hundred fifty percent (150%) of the federal poverty guidelines, is required to share in the cost of the child's Medicaid benefits under the provisions in IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-29-10)

786. EXTENDED (POSTPARTUM) MEDICAID FOR PREGNANT WOMEN.
A woman receiving Medicaid while pregnant continues to be eligible through the last day of the month in which the sixty (60) day post partum period ends. (7-1-99)

787. HOME AND COMMUNITY BASED SERVICES (HCBS).
An aged, blind, or disabled participant, who is not income eligible for SSI or AABD cash, in his own home or community setting, is eligible for Medicaid if he meets the conditions in Subsections 787.01 through 787.07 of these rules, and meets all requirements in one (1) of the waiver Sections 788 through 789 of these rules. (3-30-07)

01. Resource Limit. Meets the AABD single person resource limit. (3-20-04)

02. Income Limit. Income of the participant must not exceed three (3) times the Federal SSI monthly benefit for a single person. A married participant living at home with his spouse who is not an HCBS participant, may choose between the SSI, CP, and FSI methods. If his spouse is also an HCBS participant or lives in a nursing home, the couple may choose between the SSI and CP methods. (3-20-04)

03. Maintained in the Community. The applicant must be able to be maintained safely and effectively in his own home or in the community with the waiver services. (3-20-04)

04. Cost of Care. The cost of the participant's care must be determined to be cost effective as provided in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

05. Waiver Services Needed. The participant must need and receive, or be likely to need and receive, waiver services for thirty (30) consecutive days. The participant is ineligible when there is a break in need for, or receipt of, waiver services for thirty (30) consecutive days. (3-20-04)

06. Effective Date. Waiver services are effective the first day the participant is likely to need and receive waiver services. Medicaid begins the first day of the month in which the first day of approved waiver services are received. (3-20-04)

07. Annual Limit. The Department limits the number of participants approved for waiver services each year. A participant who applies for waiver services after the annual limit is reached, must be denied waiver services. (3-20-04)

788. AGED AND DISABLED (A&D) WAIVER.
In order to be eligible for the Aged and Disabled (A&D) Waiver, the participant must: (3-30-07)

01. Age Eighteen Through Sixty-Four. Be eighteen (18) through sixty-four (64) years old and meet both the disability criteria, as provided in Section 156 of these rules, and need nursing facility level of care as provided in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits"; or (3-30-07)

02. Age Sixty-Five or Older. Be age sixty-five (65) or older and need nursing facility level of care as provided in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits." (3-30-07)

789. DEVELOPMENTALLY DISABLED (DD) WAIVER.
To be eligible, the participant must be at least eighteen (18) years of age and need the level of care provided by an intermediate care facility for persons with intellectual disabilities (ICF/ID) under IDAPA 16.03.10 "Medicaid

Enhanced Plan Benefits." (3-30-07)

790. -- 798. (RESERVED)

799. MEDICAID FOR WORKERS WITH DISABILITIES.
An individual is eligible to participate in the Medicaid for Workers with Disabilities coverage group if the individual meets the requirements in Subsections 799.01 through 799.07 of this rule. (3-30-07)

01. Non-Financial Requirements. An individual must: (3-30-07)

a. Be at least sixteen (16) but less than sixty-five (65) years of age; (3-30-07)

b. Meet the Medicaid residency requirement as described in Section 100 of these rules; (3-30-07)

c. Meet the citizenship requirements as described in Sections 105 and 106 of these rules; (3-30-07)

d. Meet the SSN requirements as described in Section 104 of these rules; and (3-30-07)

e. Meet the child support cooperation requirements as described in Sections 703 through 706 of these rules. (3-30-07)

02. Disability. An individual must meet the medical definition for having a disability or blindness used by the Social Security Administration for Social Security Disability Insurance (SSDI) and Supplemental Security Income (SSI) benefits. (3-30-07)

03. Employment. An individual must be employed which may include self-employment. Proof of employment must be provided to the Department. Hourly wage or hours worked will not be used to determine employment. (3-30-07)

04. Resources. Countable resources cannot exceed ten thousand dollars ($10,000) for an individual or fifteen thousand dollars ($15,000) for a couple. When calculating resources the following items will be excluded: (3-30-07)

a. Any resources excluded under Section 210 and Sections 222 through 299 of these rules; (3-30-07)

b. A second vehicle as described in Sections 222 of these rules; (3-30-07)

c. Life insurance policies; (3-30-07)

d. Retirement accounts; and (3-30-07)

e. Exempt trusts as described in Section 872 of these rules. (3-30-07)

05. Countable Income. Countable income is calculated using exclusions and disregards as described in Sections 300 through 547 of these rules. (4-2-08)

a. An individual's countable income cannot exceed five hundred percent (500%) of the current federal poverty guideline for a household of one (1). (3-30-07)

b. A couple's countable income cannot exceed five hundred percent (500%) of the current federal poverty guideline for a household of two (2). (3-30-07)

06. Earned Income Test. Gross income is the total of earned and unearned income before exclusions or disregards. Each individual's gross earned income must be at least fifteen percent (15%) of his total gross income to qualify. (3-30-07)

07. Cost-Sharing. A participant in the Medicaid for Workers with Disabilities coverage group may be

required to cost-share. If a participant is required to cost-share for Medicaid, the costs are determined under the provisions in IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-30-07)

800. NEWBORN CHILD OF MEDICAID MOTHER.
A child is deemed eligible for Medicaid without an application if born to a woman receiving Medicaid on the date of the child's birth, including during a period of retroactive eligibility for the mother. The child remains eligible for Medicaid for up to one (1) year without an application. An application for Medicaid must be filed on behalf of the child no later than his first birthday. He must qualify for Medicaid in his own right after the month of his first birthday. (3-20-14)

801. INELIGIBLE NON-CITIZEN WITH EMERGENCY MEDICAL CONDITION.
A non-citizen, who is otherwise ineligible only because of his status as a non-citizen, is eligible only for medical services necessary to treat an emergency medical condition. (4-11-06)

01. Emergency Medical Condition. An emergency medical condition can reasonably be expected to seriously harm the patient's health, cause serious impairment to bodily functions, or cause serious dysfunction of any bodily organ or part, without immediate medical attention. The Division of Medicaid determines if the condition is an emergency and the services necessary to treat it. (7-1-99)

02. Effective Date of Eligibility. Medicaid eligibility begins no earlier than the date the participant experienced the medical emergency and ends the date the emergency condition stops. The Division of Medicaid determines the beginning and ending dates. (7-1-99)

802. WOMAN DIAGNOSED WITH BREAST OR CERVICAL CANCER.
A woman not otherwise eligible for Medicaid and meeting the conditions in Subsections 802.01 through 802.06 of this rule is eligible for Medicaid for the duration of her cancer treatment. Medicaid income and resource limits do not apply to this coverage group. (5-3-03)

01. Diagnosis. The participant is diagnosed with breast or cervical cancer through the Centers for Disease Control and Prevention's National Breast and Cervical Cancer Early detection Program. (3-15-02)

02. Age. The participant is under age sixty-five (65). (3-15-02)

03. Creditable Health Insurance. The participant is uninsured or, if insured, the plan does not cover her type of cancer. (3-15-02)

04. Non-Financial Eligibility. The participant meets the Medicaid non-financial eligibility requirements in Sections 100 through 108 and Sections 166 and 167 of these rules. (3-15-02)

05. Medical Support Cooperation. The participant meets the medical support cooperation requirement in Sections 702 through 706 of these rules. (3-15-02)

06. Group Health Plan Enrollment. The participant meets the requirement to enroll in available cost-effective employer group health insurance. (3-15-02)

07. Presumptive Eligibility. The Department can presume the participant is eligible for Medicaid, before a formal Medicaid eligibility determination is made. A clinic authorized to screen for breast or cervical cancer by the National Breast and Cervical Cancer Early Detection Program makes the presumptive eligibility determination. The clinic tells the participant how to complete the formal Medicaid determination process. The Medicaid notice and hearing rights do not apply to presumptive eligibility. No overpayment occurs if the formal Medicaid determination finds the participant is not eligible. (5-3-03)

08. End of Treatment. The Division of Medicaid determines the end of treatment date according to IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

803. -- 805. (RESERVED)

806. DISABLED ADULT CHILD.
A participant age eighteen (18) or older is eligible for Medicaid if he received SSI or AABD cash based on blindness or a disability which began before he reached age twenty-two (22), and becomes ineligible for and remains ineligible for AABD cash or SSI because his disabled child RSDI benefit started or increased July 1, 1987, or later. (7-1-99)

01. RSDI Benefits Disregarded for Disabled Adult Child. If the participant became ineligible because he began receiving a disabled child benefit on or after July 1, 1987, the benefit amount and any later increases are disregarded. (7-1-99)

02. RSDI Increase Disregarded for Disabled Adult Child. If the participant became ineligible because his disabled child benefit increased on or after July 1, 1987, the increase and any later increases are disregarded. (7-1-99)

807. (RESERVED)

808. EARLY WIDOWS AND WIDOWERS BEGINNING JANUARY 1, 1991.
A participant who meets the conditions in Subsections 808.01 through 808.06 is considered an SSI recipient for Medicaid. (7-1-99)

01. Age. The participant, age fifty (50) to age sixty four and one-half (64-1/2), began receiving early widows or widowers Social Security benefits. (7-1-99)

02. Lost SSI or AABD. The participant lost SSI or AABD cash because he began receiving early widows or widowers Social Security benefits. (7-1-99)

03. Received SSI or AABD. The participant received SSI or AABD cash in the month, before the month, he became ineligible because he began receiving early widows or widowers Social Security benefits.(7-1-99)

04. Widows or Widowers Benefits. The participant would still be eligible for SSI or AABD cash if his Social Security early widows or widowers benefits were not counted as income. (7-1-99)

05. No "Part A" Insurance. The participant is not entitled to Medicare Part A hospital insurance. (7-1-99)

06. Applied On or After January 1, 1991. The participant's Medicaid application was filed, or pending, on or after January 1, 1991. (7-1-99)

809. CERTAIN DISABLED WIDOWS AND WIDOWERS THROUGH JUNE 30, 1988.
A participant who meets the conditions in Subsections 809.01 through 809.04 is considered an SSI recipient for Medicaid. (7-1-99)

01. Age. The participant was under age sixty (60) when his disabled widows and widowers benefits began. (3-30-01)

02. Lost SSI. The participant is ineligible for SSI because of an increase in SSA disability benefits starting January, 1984. (7-1-99)

03. Continuously Entitled. The participant is continuously entitled to Social Security benefits for disabled widows and widowers starting January, 1984 or earlier. (7-1-99)

04. Applied Before July 1, 1988. The participant applied for Medicaid before July 1, 1988. (7-1-99)

810. QUALIFIED MEDICARE BENEFICIARY (QMB).
A person meeting all requirements in Subsections 810.01 through 810.07 is eligible for QMB. QMB Medicaid pays Medicare premiums, coinsurance, and deductibles. (3-15-02)

01. Medicare Part A. The participant must be entitled to hospital insurance under Part A of Medicare

at the time of his application. (7-1-99)

02. Nonfinancial Requirements. The participant must meet the Medicaid residence, citizenship, support cooperation, and SSN requirements. (7-1-99)

03. Income. Monthly income must not exceed one hundred percent (100%) of the Federal Poverty Guidelines (FPG). The single person income limit is the poverty line for a family of one (1) person. The couple income limit is the poverty line for a family of two (2) persons. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual FPG revision is published. AABD cash is not counted as income. The income exclusions and disregards used for AABD are used for QMB. (4-7-11)

04. Dependent Income. Income of the dependent child, parent, or sibling is not counted. (7-1-99)

05. QMB Dependent Family Member Disregard. A dependent family member is a minor child, adult child meeting SSA disability criteria, parent or sibling of the participant or spouse living with the participant. The family member is or could be claimed on the Federal tax return of the participant or spouse. A participant with a dependent family member has an income disregard based on family size. The spouse is included in family size, whether or not the spouse is also participant. The disregard is based on the official poverty line income as defined by the OMB. The disregard is the difference between the poverty line for one (1) person, or two (2) persons if the participant has a spouse, and the poverty line for the family size including the participant, spouse, and dependent. (7-1-99)

06. Resource Limit. The resource limit is equal to the amount defined under 42 U.S.C. 1396d(p)(1)(C). The resource exclusions used for AABD are used for QMB. (4-7-11)

07. Effective Dates. The effective date of QMB coverage is no earlier than the first day of the month after the approval month. A QMB participant is not entitled to backdated Medicaid. (7-1-99)

811. SPECIFIED LOW INCOME MEDICARE BENEFICIARY (SLMB).
A person meeting all requirements in Subsections 811.01 through 811.06 is eligible for SLMB. Medicaid pays the Medicare Part B premiums for a SLMB. The income and resource exclusions and disregards used for AABD are used for SLMB. (4-7-11)

01. Other Medicaid. The SLMB may be eligible for other Medicaid. (4-7-11)

02. Medicare Part A. The SLMB must be entitled to hospital insurance under Part A of Medicare at the time of his application. (7-1-99)

03. Nonfinancial Requirements. The SLMB must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation, and SSN. (7-1-99)

04. Income. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual FPG revision is published. The single person limit is based on a family of one (1). The couple limit is based on a family of two (2). The monthly income limit is up to one hundred twenty percent (120%) of the FPG. (4-7-11)

05. Resource Limit. The resource limit is equal to the amount defined under 42 USC 1396d(p)(1)(C). The resource exclusions used for AABD are used for SLMB. (4-7-11)

06. Effective Dates. SLMB coverage begins on the first day of the application month. SLMB coverage may be backdated up to three (3) calendar months before the application month. (7-1-99)

812. QUALIFIED INDIVIDUAL (QI).
A person meeting all requirements in Subsections 812.01 through 812.07 is eligible for QI. Medicaid pays the Medicare Part B premiums for a QI. The income and resource exclusions and disregards used for AABD are used for QI. (4-7-11)

01. Other Medicaid. The QI cannot be eligible for any other type of Medicaid. (4-7-11)

02. Medicare Part A. The QI must be entitled to hospital insurance under Part A of Medicare at the time of his application. (4-7-11)

03. Nonfinancial Requirements. The QI must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation, and SSN. (4-7-11)

04. Income. The annual Social Security cost of living increase is disregarded from income, until the month after the month the annual FPG revision is published. The single person limit is based on a family of one (1). The couple limit is based on a family of two (2). The monthly income limit is up to one hundred thirty-five percent (135%) of the FPG. (4-7-11)

05. Resource Limit. The resource limit is equal to the amount defined under 42 USC 1396d(p)(1)(C). The resource exclusions used for AABD are used for SLMB. (4-7-11)

06. Coverage Limits. There is an annual limit on participants served, based on availability of federal funds. New applications are denied when the annual limit is reached. (4-7-11)

07. Effective Dates. QI coverage begins on the first day of the application month. QI coverage may be backdated up to three (3) calendar months before the application month. (4-7-11)

813. QUALIFIED DISABLED AND WORKING INDIVIDUAL (QDWI).
A person meeting all requirements in Subsections 812.01 through 812.05 of these rules is eligible for QDWI. The person must not be eligible for any other type of Medicaid. A QDWI is eligible only for Medicaid payment of his Medicare Part A premium. (3-15-02)

01. Age and Disability. The participant must be a disabled worker under age sixty-five (65). (7-1-99)

02. Nonfinancial Requirements. The participant must meet the Medicaid eligibility requirements of residence, citizenship, support cooperation and SSN. (7-1-99)

03. Section 1818A Medicare. SSA determined the participant meets the conditions of Section 1818A of the Social Security Act. (7-1-99)

04. Income. Monthly income must not exceed two hundred percent (200%) of the one (1) person official poverty line defined by the OMB. (7-1-99)

05. Resource Limit. The resource limit is equal to the amount defined under 42 USC 1396d(s). The resource exclusions used for AABD are used for QDWI. (4-7-11)

814. SPONSORED LEGAL NON-CITIZEN.
All income and resources of a legal non-citizen's sponsor are deemed for Medicaid eligibility if the sponsor has signed an I-864 affidavit of support. (7-1-99)

815. CHILD SUBJECT TO DEEMING.
Income and resources of a child's stepparent are not deemed to the child in determining his Medicaid eligibility. (7-1-99)

816. FUGITIVE FELON OR PROBATION OR PAROLE VIOLATOR.
A person denied SSI or AABD cash because of the prohibition against payment to fugitive felons and probation and parole violators is not disqualified from Medicaid. (7-1-99)

817. -- 830. (RESERVED)

831. ASSET TRANSFER RESULTING IN PENALTY.
Starting August 11, 1993, the participant is subject to a penalty if he transfers his income or resources for less than

fair market value. The asset transfer penalty applies to Medicaid services received October 1, 1993 and later. Excluded resources, other than the home and associated property, are not subject to the asset transfer penalty. Asset transfers subject to penalty under these rules may be voided and set aside by court action as provided in Section 56-218, Idaho Code. The asset transfer penalty applies to a Medicaid participant in long-term care or HCBS. A participant in long-term care is a patient in a nursing facility or a patient in a medical institution, requiring and receiving the level of care provided in a nursing facility. (3-30-07)

01. Rebuttable Presumption. Unless a transfer meets the requirements of Section 841 of these rules, it is presumed that the transfer was made for the purpose of qualifying for Medicaid. The asset transfer penalty is applied unless the participant shows that the asset transfer would not have affected his eligibility for Medicaid or the transfer was made for another purpose than qualifying for Medicaid. (4-11-06)

02. Contract for Services Provided by a Relative. A contract for personal services to be furnished to the participant by a relative is presumed to be made for the purpose of qualifying for Medicaid. The asset transfer penalty applies unless the participant shows that: (3-15-02)

a. A written contract for personal services was signed before services were delivered. The contract must require that payment be made after services are rendered. The contract must be dated and the signatures notarized. Either party must be able to terminate the contract; and (3-15-02)

b. The contract must be signed by the participant or a legally authorized representative through a power of attorney, legal guardianship or conservatorship. A representative who signs the contract must not be the provider of the personal care services under the contract; and (3-15-02)

c. Compensation for services rendered must be comparable to rates paid in the open market. (3-15-02)

03. Transfer of Income or Resources. Transfer of income or resources includes reducing or eliminating the participant's ownership or control of the asset. (4-5-00)

04. Transfer of Income or Resources by a Spouse. A transfer by the participant's spouse of either spouse's income or resources, before eligibility is established, subjects the participant to the asset transfer penalty. After the participant's eligibility is established, a transfer by the spouse of the spouse's own income or resources does not subject the participant to the asset transfer penalty. (4-5-00)

05. Transfer of Certain Notes and Loans. Funds used to purchase a promissory note, loan, or mortgage are considered a transferred asset which subjects the participant to a period of ineligibility. The amount of the asset transfer of such note, loan or mortgage is the outstanding balance due on the date of the Medicaid application, unless the note, loan or mortgage meets the following: (3-30-07)

a. Has a repayment term that is actuarially sound; (3-30-07)

b. Provides for payments to be made in equal amounts during the term of the loan with no deferral and no balloon payments; and (3-30-07)

c. Prohibits the cancellation of the balance upon the death of the lender. (3-30-07)

832. MEDICAID PENALTY FOR ASSET TRANSFERS.

The asset transfer penalty is restricted Medicaid coverage. (7-1-99)

01. Restricted Coverage. Restricted coverage means Medicaid will not participate in the cost of nursing facility services. Medicaid will not participate in a level of care in a medical institution equal to nursing facility services. The penalty for a person receiving PCS or community services under the HCBS waiver is ineligibility. (7-1-99)

02. Notice and Exemption. The participant must be notified, in writing, at least ten (10) days before an asset transfer penalty is imposed. (7-1-99)

833. ASSET TRANSFER LOOK-BACK PERIOD.
The asset transfer penalty applies to any transfer for less than fair market value made during a period preceding or following a request for long-term care services. The look-back period is determined as follows: (3-30-07)

01. Transfers Prior to February 8, 2006. For any asset transferred prior to February 8, 2006, the look-back period is thirty-six (36) months, unless the transfer is to or from a trust. If the transfer is to or from a trust, the look-back period is sixty (60) months. If the person is entitled to Medicaid or HCBS services, the look-back period is counted from the month long-term care or HCBS services began, or would have begun, were it not for a penalty. If the person is not entitled to Medicaid, the look-back period is counted from the month prior to the month the application was submitted. (3-30-07)

02. Transfers On or After February 8, 2006. Any asset transferred on or after February 8, 2006, regardless of type, is subject to a look-back period of sixty (60) months. The look-back period is counted from the date of the application for long-term care or HCBS services or the date of the transfer, whichever is later in time. (3-30-07)

834. PERIOD OF RESTRICTED COVERAGE FOR ASSET TRANSFERS.
The period of restricted coverage is the number of months computed by dividing the net uncompensated value of the transferred asset by the statewide average cost of nursing facility services to private patients. The cost is computed for the time of the participant's most recent request for Medicaid. If the spouse becomes eligible for long-term care Medicaid, the rest of the period of restricted coverage is divided between the participant and spouse. (4-2-08)

835. APPLYING THE PENALTY PERIOD OF RESTRICTED COVERAGE.
Restricted coverage continues until the participant or spouse recovers all the assets, receives fair market value at the time of the transfer for all of the assets, or the period of restricted coverage ends. The penalty continues whether or not the participant is in long-term care. The penalty period for asset transfers is applied as follows: (3-30-07)

01. Penalty Period for Transfer Prior to February 8, 2006. For assets transferred prior to February 8, 2006, there is no penalty if the amount transferred is less than the cost of one (1) month's care. The penalty period begins running the month the transfer took place. The month the transfer took place is counted as one (1) of the penalty months. A penalty period is computed for each transfer. A penalty period must expire before the next begins. Each partial month before the end of consecutive penalty periods is a penalty month. A partial month at the end of consecutive penalty periods is dropped. (3-30-07)

02. Penalty Period for Transfers On or After February 8, 2006. For assets transferred on or after February 8, 2006, the penalty period begins running the first day of the month after the month the transfer took place or was discovered to have taken place, or the date the individual would have been eligible for long-term care services or HCBS, if not for the transfer, whichever date is later in time. The value of all asset transfers made during the look-back period is accumulated for the purpose of calculating the penalty. If an additional transfer is discovered after the penalty has been served, a new penalty period begins the month following timely notice of closure of benefits. When a penalty period ends after the first day of the month, eligibility for long-term care services begins the day after the penalty period ends. (4-4-13)

836. MULTIPLE PENALTY PERIODS APPLIED CONSECUTIVELY.
A penalty period is computed for each transfer. One (1) penalty period must expire before the next begins. (3-30-07)

837. LIFE ESTATE AS ASSET TRANSFER.

01. Transfer of a Remainder Interest. When a life estate in real property is retained by an individual, and a remainder interest in the property is transferred during the look-back period for less than the fair market value of the remainder interest transferred, the value of the uncompensated remainder is subject to the asset transfer penalty as described in Sections 831 through 835 of these rules. To compute the value of the life estate remainder, multiply the fair market value of the real property at the time of transfer by the remainder factor for the participant's age at the time of transfer listed in the following table:

TABLE 837.01 - REMAINDER TABLE

Age	Remainder	Age	Remainder	Age	Remainder	Age	Remainder
0	.02812	**28**	.03938	**56**	.20994	**84**	.63002
1	.01012	**29**	.04187	**57**	.22069	**85**	.64641
2	.00983	**30**	.04457	**58**	.23178	**86**	.66236
3	.00992	**31**	.04746	**59**	.24325	**87**	.67738
4	.01019	**32**	.05058	**60**	.25509	**88**	.69141
5	.01062	**33**	.05392	**61**	.26733	**89**	.70474
6	.01116	**34**	.05750	**62**	.27998	**90**	.71779
7	.01178	**35**	.06132	**63**	.29304	**91**	.73045
8	.01252	**36**	.06540	**64**	.30648	**92**	.74229
9	.01337	**37**	.06974	**65**	.32030	**93**	.75308
10	.01435	**38**	.07433	**66**	.33449	**94**	.76272
11	.01547	**39**	.07917	**67**	.34902	**95**	.77113
12	.01671	**40**	.08429	**68**	.36390	**96**	.77819
13	.01802	**41**	.08970	**69**	.37914	**97**	.78450
14	.01934	**42**	.09543	**70**	.39478	**98**	.79000
15	.02063	**43**	.10145	**71**	.41086	**99**	.79514
16	.02185	**44**	.10779	**72**	.42739	**100**	.80025
17	.02300	**45**	.11442	**73**	.44429	**101**	.80468
18	.02410	**46**	.12137	**74**	.46138	**102**	.80946
19	.02520	**47**	.12863	**75**	.47851	**103**	.81563
20	.02635	**48**	.13626	**76**	.49559	**104**	.82144
21	.02755	**49**	.14422	**77**	.51258	**105**	.83038
22	.02880	**50**	.15257	**78**	.52951	**106**	.84512
23	.03014	**51**	.16126	**79**	.54643	**107**	.86591
24	.03159	**52**	.17031	**80**	.56341	**108**	.89932
25	.03322	**53**	.17972	**81**	.58033	**109**	.95455
26	.03505	**54**	.18946	**82**	.59705		
27	.03710	**55**	.19954	**83**	.61358		

(4-2-08)

02. Transfer of a Life Estate. When a life estate in real property is transferred by an individual during the look-back period for less than fair market value, the value of the life estate is subject to the asset transfer penalty as described in Sections 831 and 835 of these rules. To compute the value of the life estate, multiply the fair market value of the real property at the time of transfer by the life estate factor for the participant's age at the time of transfer listed in the following table:

TABLE 837.02 - LIFE ESTATE TABLE

Age	Life Estate	Age	Life Estate	Age	Life Estate	Age	Life Estate
0	.97188	**28**	.96062	**56**	.79006	**84**	.36998
1	.98988	**29**	.95813	**57**	.77391	**85**	.35359
2	.99017	**30**	.95543	**58**	.76822	**86**	.33764
3	.99008	**31**	.95254	**59**	.75675	**87**	.32262
4	.98981	**32**	.94942	**60**	.74491	**88**	.30859
5	.98938	**33**	.94608	**61**	.73267	**89**	.29526
6	.98884	**34**	.94250	**62**	.72002	**90**	.28221
7	.98822	**35**	.93868	**63**	.70696	**91**	.26955
8	.98748	**36**	.93460	**64**	.69352	**92**	.25771
9	.98663	**37**	.93026	**65**	67970	**93**	.24692
10	.98565	**38**	.92567	**66**	.66551	**94**	.23728
11	.98453	**39**	.92083	**67**	.65098	**95**	.22887
12	.98359	**40**	.91571	**68**	.63610	**96**	.22181
13	.98198	**41**	.91030	**69**	.62086	**97**	.21550
14	.98066	**42**	.90457	**70**	.60522	**98**	.21000
15	.97937	**43**	.89855	**71**	.58914	**99**	.20486
16	.97815	**44**	.89221	**72**	.57261	**100**	.19975
17	.97700	**45**	.88558	**73**	.55571	**101**	.19532
18	.97590	**46**	.87863	**74**	.53862	**102**	.19054
19	.97480	**47**	.87137	**75**	.52149	**103**	.18437
20	.97365	**48**	.86374	**76**	.50441	**104**	.17856
21	.97425	**49**	.85578	**77**	.48742	**105**	.16962
22	.97120	**50**	.83743	**78**	.47049	**106**	.15488
23	.96986	**51**	.83674	**79**	.45357	**107**	.13409
24	.96841	**52**	.82969	**80**	.43659	**108**	.10068
25	.96678	**53**	.82028	**81**	.41967	**109**	.04545
26	.96495	**54**	.81054	**82**	.40295		
27	.96290	**55**	.80046	**83**	.38642		

(4-2-08)

838. ANNUITY AS ASSET TRANSFER.
Except as provided in this rule, when assets are used to purchase an annuity during the look-back period, it is an asset transfer presumed to be made for the purpose of qualifying for Medicaid. To rebut this presumption, the participant must provide proof that clearly establishes the annuity was not purchased to make the participant eligible for

Medicaid or avoid recovery from the estate following death. Proof is met if the participant shows the annuity meets the requirements described in Subsections 838.02 through 838.05 of this rule. (4-2-08)

01. Revocable Annuity. A revocable annuity is an annuity that can be assigned. The surrender amount of a revocable annuity is a countable resource. (4-2-08)

02. Irrevocable Annuity. The purchase price of an irrevocable, non-assignable annuity is treated as an asset transfer, unless the requirements of Subsections 838.03 through 838.05 of this rule are met. (3-29-17)

03. Irrevocable Annuity Life Expectancy Test. The participant's life expectancy, as shown in the following table, must equal or exceed the term of the annuity. Using the Table 838.03 compare the face value of the annuity to the participant's life expectancy at the purchase time. The annuity meets the life expectancy test if the participant's life expectancy equals or exceeds the term of the annuity. If the exact age is not in the Table, use the next lower age.

TABLE 838.03 - LIFE EXPECTANCY TABLE

Age	Years of Life Remaining Male	Years of Life Remaining Female	Age	Years of Life Remaining Male	Years of Life Remaining Female
0	73.26	79.26	**74**	10.12	12.74
10	64.03	69.93	**75**	9.58	12.09
20	54.41	60.13	**76**	9.06	11.46
30	45.14	50.43	**77**	8.56	10.85
40	35.94	40.86	**78**	8.07	10.25
50	27.13	31.61	**79**	7.61	9.67
60	19.07	22.99	**80**	7.16	9.11
61	18.33	22.18	**81**	6.72	8.57
62	17.60	21.38	**82**	6.31	8.04
63	16.89	20.60	**83**	5.92	7.54
64	16.19	19.82	**84**	5.55	7.05
65	15.52	19.06	**85**	5.20	6.59
66	14.86	18.31	**86**	4.86	6.15
67	14.23	17.58	**87**	4.55	5.74
68	13.61	16.85	**88**	4.26	5.34
69	13.00	16.14	**89**	3.98	4.97
70	12.41	15.44	**90**	3.73	4.63
71	11.82	14.75	**95**	2.71	3.26
72	11.24	14.06	**100**	2.05	2.39
73	10.67	13.40	**110**	1.14	1.22

(3-29-17)

04. State Named as Beneficiary. The purchase of an annuity is treated as an asset transfer unless the

State of Idaho, Medicaid Estate Recovery is named as: (3-30-07)

a. The remainder beneficiary in the first position for at least the total amount of medical assistance paid on behalf of the institutionalized individual under this title; or (4-2-08)

b. The remainder beneficiary in the second position after the community spouse or minor or disabled child and is named in the first position if the community spouse or a representative of the minor or disabled child disposes of any remainder for less than fair market value. (3-30-07)

05. Equal Payment Test. The annuity must provide for payments in equal amounts during the term of the annuity with no deferral and no balloon payments made. (3-30-07)

06. Permitted Annuity. The purchase of an annuity is not treated as an asset transfer if the annuity meets any of the descriptions in Sections 408(b), or 408(q), Internal Revenue Code; or is purchased with proceeds from an account or trust described in Sections 408(a), 408(c), or 408(p), Internal Revenue Code, or is a simplified employee pension as described in Section 408(k), Internal Revenue Code, or is a Roth IRA described in Section 408A, Internal Revenue Code. (3-30-07)

839. TRUSTS AS ASSET TRANSFERS.
A trust established wholly or partly from the participant's assets is an asset transfer. Assets transferred to a trust on or after August 11, 1993 are subject to the asset transfer penalty, regardless of when the trust was established. If the trust includes assets of another person, the asset transfer penalty applies to the participant's share of the trust. (7-1-99)

840. TRANSFER OF JOINTLY-OWNED ASSET.
Transfer of an asset owned jointly by the participant and another person is considered a transfer by the participant. The participant's share of the asset is used to compute the penalty. If the participant and his spouse are joint owners of the transferred asset, the couple's combined ownership is used to compute the penalty. If the spouse becomes eligible for long-term care Medicaid, the rest of the period of restricted coverage is divided between the participant and spouse. (7-1-99)

841. PENALTY EXCEPTIONS FOR ASSET TRANSFERS.
A participant is not subject to the asset transfer penalty for taking any action described in Subsections 841.01 through 841.14 of this rule. (4-2-08)

01. Home to Spouse. The asset transferred was a home. Title to the home was transferred to the spouse. (7-1-99)

02. Home to Minor Child or Disabled Adult Child. The asset transferred was a home. Title to the home was transferred to the child of the participant or spouse. The child must be under age twenty-one (21) or blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (7-1-99)

03. Home to Brother or Sister. The asset transferred was a home. Title to the home was transferred to a brother or sister of the participant or spouse. The brother or sister must have an equity interest in the transferred home. The brother or sister must reside in that home for at least one (1) year immediately before the month the participant starts long-term care. (7-1-99)

04. Home to Adult Child. The asset transferred was a home. Title to the home was transferred to a son or daughter of the participant or spouse, other than a child under the age of twenty-one (21). The son or daughter must reside in that home for at least two (2) years immediately before the month the participant started long-term care. The adult child must prove he provided nursing facility level medical care to the participant which permitted him to live at home rather than enter long-term care. The son or daughter must not have received payment from Medicaid for home and community based services provided to the participant. (4-2-08)

05. Benefit of Spouse. The assets were transferred to the participant's spouse or to another person for the sole benefit of the spouse. (7-1-99)

06. Transfer From Spouse. The assets were transferred from the participant's spouse to another

person for the sole benefit of the participant's spouse. (7-1-99)

07. Transfer to Child. The assets were transferred to the participant's child, or to a trust established solely for the benefit of the participant's child. The child must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. The child may be any age. (7-1-99)

08. Intent to Get Fair Market Value. The participant or spouse proves he intended to dispose of the assets at fair market value or for other adequate consideration. (7-1-99)

09. Assets Returned. All assets transferred for less than fair market value have been returned to the participant. (7-1-99)

10. Medicaid Qualification Not the Intent. The participant or spouse proves the assets were transferred exclusively for a purpose other than to qualify for Medicaid or to avoid recovery. (3-20-04)

11. Undue Hardship. The participant, his representative, or the facility in which he resides may request the hardship waiver. The hardship waiver must be requested in writing within ten (10) days of the date of the asset transfer penalty notice. Undue hardship exists if any of the conditions in Subsections 841.11.a. through 841.11.d. of this rule apply. (4-2-08)

a. The participant proves he is not able to pay for his nursing facility services or his wavier services by any means. (3-30-07)

b. The participant proves that he has made reasonable efforts, consistent with his physical and financial ability, to recover the transferred asset. The participant must fully cooperate with the state of Idaho in efforts to recover the transferred asset and, upon request, must assign his rights to recover the asset to the State of Idaho. (3-30-07)

c. The participant proves he did not knowingly transfer the asset. (3-30-07)

d. The participant proves he would be deprived of food, clothing, shelter or other necessities of life if the asset transfer penalty is imposed and he assigns his rights to recover the asset to the State of Idaho. (3-30-07)

12. Exception to Fair Market Value. The amount received is adequate, even if not fair market value. This exception must meet one (1) of the conditions in Subsections 841.12.a. through 841.12.c. of this rule. (4-2-08)

a. A forced sale was done under reasonable circumstances. (7-1-99)

b. Little or no market demand exists for the type of asset transferred and the lack of market demand was not created by a voluntary act of the participant to qualify for assistance or to avoid recovery. (4-2-08)

c. The asset was transferred to settle a legal debt approximately equal to the fair market value of the transferred asset. (7-1-99)

13. No Benefit to Participant. The participant received no benefit from the asset. This exception must meet one (1) of the conditions in Subsections 841.13.a. and 841.13.b. of this rule. (4-2-08)

a. The participant or spouse held title to the property only as a trustee for another person. The participant or spouse had no beneficial interest in the property. (7-1-99)

b. The transfer was done to clear title to property. The participant or spouse had no beneficial interest in the property. The defect in the title was not created in an attempt to transfer assets to qualify for assistance or avoid recovery. (3-30-07)

14. Fraud Victim. The asset was transferred because the participant or spouse was the victim of fraud, misrepresentation, or coercion. The participant or spouse must take all possible steps to recover the assets or property, or its equivalent in damages and must assign recovery rights to the state of Idaho. (3-20-04)

15. Transfer to Trust of Disabled Person. The assets were transferred to a trust established solely for the benefit of an individual under sixty-five (65) years of age who is disabled. (3-28-18)

842. -- 870. (RESERVED)

871. TREATMENT OF TRUSTS.
These trust treatment rules apply to all Medicaid participants. These rules apply to trusts established with the participant's assets on August 11, 1993 or later, and to amounts placed in trusts on or after August 11, 1993. Section 871 of these rules does not apply to an irrevocable trust if the participant meets the undue hardship exemption in Subsection 841.11 of these rules. Assets transferred to a trust are subject to the asset transfer penalty. Section 871 does not apply to a trust created with assets other than those of the individual, including a trust established by a will. (3-30-07)

01. Revocable Trust. Revocable trusts are treated as listed in Subsections 871.01.a. through 871.01.d. of these rules. A revocable burial trust is not a trust for the purposes of Subsection 871.01 of these rules. (4-11-06)

a. The body (corpus) of a revocable trust is a resource. (7-1-99)

b. Payments from the trust to or for the participant are income. (7-1-99)

c. Any other payments from the trust are an asset transfer, triggering an asset transfer penalty period. (7-1-99)

d. As defined in 42 U.S.C. 1396p(e)(5), the home and adjoining property loses its exclusion for eligibility purposes when transferred to a revocable trust, unless the participant or spouse is the sole beneficiary of the trust. The home is excluded again if removed from the trust. The exclusion restarts the month following the month the home was removed from the trust. (3-30-07)

02. Irrevocable Trust. Irrevocable trusts are treated as listed in Subsections 871.02.a. through 871.02.g. of these rules. (4-11-06)

a. The part of the body of an irrevocable trust, from which corpus or income payments could be made to or for the participant, is a resource. (7-1-99)

b. Payments made to or for the participant are income. (7-1-99)

c. Payments from the trust for any other reason are asset transfers, triggering the asset transfer penalty. (7-1-99)

d. Any part of the trust from which payment cannot be made to, or for the benefit of, the participant under any circumstances, is an asset transfer. (7-1-99)

e. The effective date of the transfer is the date the trust was established, or the date payments to the participant were foreclosed. (7-1-99)

f. The value of the trust, for calculating the transfer penalty, includes any payments made from that portion of the trust after the date the trust was established or payments were foreclosed. (7-1-99)

g. An irrevocable burial trust is not subject to treatment under Subsection 871.02 of these rules, unless funds in the trust can be paid for a purpose other than the participant's funeral and related expenses. The trust can provide that funds not needed for the participant's funeral expenses are available to reimburse Medicaid, or to go to the participant's estate. (4-11-06)

872. EXEMPT TRUSTS.
A trust, created or funded on or after August 11, 1993, is exempt from trust treatment and not subject to the asset transfer penalty if it meets a condition in Subsections 872.01 through 872.03 of this rule. (4-2-08)

01. Trust for Disabled Person. To be exempt, a trust for a disabled person must meet all the conditions in Subsections 872.01.a. through 872.01.f. of this rule. (4-2-08)

a. The trust contains the assets of a person under age sixty-five (65). (7-1-99)

b. The person is blind or totally disabled under the Social Security and SSI rules in 20 CFR Part 416. (7-1-99)

c. The trust is established for the person's benefit by his parent, grandparent, legal guardian or a court. (7-1-99)

d. The trust is irrevocable. (7-1-99)

e. The trust is exempt until the person reaches age sixty-five (65). After the person reaches age sixty-five (65), additions or augmentations are not exempt from trust treatment. (3-20-04)

f. Upon the person's death, the amount not distributed by the trust must first be paid to the state of Idaho, up to the amount Medicaid has paid on the person's behalf. (3-20-04)

02. Income Trust. To be exempt, an income trust must meet all the conditions in Subsections 872.02.a. through 872.02.e. of this rule. (4-2-08)

a. The trust is established for the sole benefit of a person who would be eligible for Medicaid in long-term care, or eligible for HCBS except for excess income. (3-20-04)

b. Any income, placed directly into an income trust in the same calendar month in which received by the recipient, is not considered income to the individual for determining long-term care Medicaid eligibility. Money paid into the trust is income for patient liability or client participation. (4-2-08)

c. The trust is irrevocable. The trust document may include a clause allowing the trust to be revoked if the participant leaves the nursing facility or HCBS for a reason other than death, and is no longer eligible for Medicaid because of excess income, if Medicaid is reimbursed up to the amount Medicaid has paid on the person's behalf. (3-20-04)

d. Income transferred to the trust must be used to pay patient liability or client participation. If income is not used to pay allowable expenses, it is subject to the asset transfer penalty, unless one (1) of the following exceptions in Subsections 872.02.d.i. through 872.02.d.iii. of this rule applies. (4-2-08)

i. Benefit of the spouse in Subsection 841.05 of these rules; (4-2-08)

ii. Transfer from the spouse in Subsection 841.06 of these rules; or (4-2-08)

iii. Undue hardship in Subsection 841.11 of these rules. (4-2-08)

e. Upon the person's death, the amount not distributed by the trust must first be paid to the state of Idaho, up to the amount Medicaid has paid on the person's behalf. (3-20-04)

03. Trust Managed by Non-Profit Association for Disabled Person. To be exempt, a trust managed by non-profit association for a disabled person must meet all the conditions in Subsections 872.03.a. through 872.03.e. of this rule. (4-2-08)

a. The trust is established and managed by a nonprofit association. The nonprofit association must not be the participant, his parent or his grandparent. (7-1-99)

b. The trust contains the assets of a disabled person. The person must be blind or totally disabled under Social Security and SSI rules in 20 CFR Part 416. (7-1-99)

c. Accounts in the trust are established only for the benefit of disabled persons. An account can be established by the disabled person, his parent, grandparent, legal guardian, or a court. A separate account must be maintained for each beneficiary of the trust. For purposes of investment and management, the trust may pool the funds in the accounts. (3-20-04)

d. The trust is irrevocable. (7-1-99)

e. Upon the person's death, the amount not distributed by the trust must first be paid to the state of Idaho, up to the amount Medicaid has paid on the person's behalf. (3-20-04)

873. PAYMENTS FROM AN EXEMPT TRUST FOR DISABLED PERSON OR POOLED TRUST.
Cash payments from an exempt trust for a disabled person or a pooled trust must be treated as described in Subsections 873.01 through 873.04 of these rules. (4-11-06)

01. Payments from Exempt Trust. Cash payments from an exempt trust for a disabled person are income in the month received. (7-1-99)

02. Payments from Pooled Trust. Cash payments from a pooled trust made directly to the participant are income in the month received. (7-1-99)

03. Payments for Food or Shelter. Payments for the participant's food or shelter are income in the month paid. The payments for food or shelter are valued at one-third (1/3) of the AABD budgeted needs for the participant's living arrangement. (4-11-06)

04. Payments Not Made to Participant. Payments from the exempt trust not made to, or on behalf of, the participant are an asset transfer. (7-1-99)

874. -- 914. (RESERVED)

915. MEDICAID REDETERMINATION.
Medicaid eligibility is redetermined each year. The redetermination for AABD cash is the Medicaid redetermination for participants receiving both programs. (7-1-99)

916. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This program is authorized by 45 CFR Parts 400 and 401, by Section 412E, Title IV, Pub. L. 96-212 also known as the Refugee Act of 1980, 94 Stat. 114 (8 USC 1521) and Action Transmittal ORR-AT-80-6, and by provisions of Sections 56-202 and 56-203, Idaho Code, which authorize the Department of Health and Welfare to assist needy people of the State with medical assistance and to enter into contracts with the federal government to provide assistance. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.06, "Refugee Medical Assistance." (4-2-08)

02. Scope. This chapter of rules governs the administration of the Refugee Medical Assistance Program in the state of Idaho. (4-2-08)

002. **-- 009. (RESERVED)**

010. DEFINITION OF TERMS AND ABBREVIATIONS.
For the purposes of these rules, the following terms and abbreviations apply: (3-20-14)

0*1*. Department. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (4-2-08)

0*2*. Federal Poverty Guidelines (FPG). The federal poverty guidelines issued annually by the Department of Health and Human Services (HHS). (4-2-08)

0*3*. INA. Immigration and Nationality Act, 8 USC Sections 1101-1537. (4-2-08)

0*4*. I-94. A white three by five (3x5) inch alien identification card issued to refugees prior to their release to a sponsor. This card gives the refugee's name, United States address, and other identifying data. The refugee status will be printed in the lower right hand corner. If a refugee does not have this card, they should be referred to USCIS to obtain one. The dependent of a repatriated United States citizen may also have an I-94 card. (4-2-08)

***05*. Medical Assistance Program**. Services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (4-2-08)

***06*. Children's Health Insurance Program (CHIP)**. CHIP is Title XXI of the Social Security Act. It is a federal and state partnership similar to Medicaid, that expands health insurance to targeted, low- income children. (3-20-14)

***07*. USCIS**. United States Citizenship and Immigration Services. (3-20-14)

011. -- 099. (RESERVED)

100. IDENTIFICATION OF REFUGEES.
A person has refugee status for purposes of assistance under the Refugee Medical Assistance Program if *they are* one (1) of the following: *( )*

01. Form I-94 Indication. A person from any country who has Form I-94 indicating that the person has been: *( )*

a. Paroled under Section 212(d)(5) of the INA as a refugee or asylee; or (4-2-08)

b. Admitted as a conditional entrant under Section 203(a)(7) of the INA; or (4-2-08)

c. Admitted as a refugee under Section 207 of INA; or (4-2-08)

d. Granted asylum under Section 208 of INA; or (4-2-08)

02. Afghan Special Immigrants. An Afghan special immigrant, as defined in Public Law 110-161, who has special immigration status after December 26, 2007. ( )

03. Iraqi Special Immigrants. An Iraqi special immigrant, as defined in Public Law 110-181, who has special immigration status after January 28, 2008. ( )

04. Other Factors in Determining Eligibility for the Refugee Medical Assistance Program. (4-2-08)

a. An applicant who has applied for, but has not been granted asylum, is not eligible. (4-2-08)

b. A person who entered the United States as a resident alien is not eligible. (4-2-08)

c. A Form I-94 which shows a person has been paroled into the United States under Section 212(d)(5) of the INA must clearly indicate that the person has been paroled as a "Refugee" or "Asylee" if such form was issued: (4-2-08)

i. To a person from Cambodia, Laos, or Vietnam before October 1, 1997, in accordance with P.L. 106-429, Section 101(a), as amended by P.L. 108-447; or (4-2-08)

ii. To a person from Cuba; or (4-2-08)

iii. To a person from any other country at any time. (4-2-08)

d. A person whose status is Cuban/Haitian Entrant must have his eligibility for benefits under the Refugee Medical Assistance Program determined under Sections 125 and 200 of these rules. (4-2-08)

e. An Amerasian or close family member admitted as an immigrant but eligible for Refugee Medical Assistance as though he were a refugee must have either of the following documents verifying his status: (4-2-08)

i. A temporary identification document, Form I-94 stamped "Processed for I-551. Temporary evidence of lawful admission for permanent residence. Valid until (expiration date). Employment authorized." The back of Form I-94 contains the stamped word "Admitted" and is coded AM1, AM2, or AM3; or (4-2-08)

ii. A permanent identification document, Form I-551 coded AM6, AM7, or AM8. (4-2-08)

101. -- 124. (RESERVED)

125. IDENTIFICATION OF ENTRANTS.
Identification of Cuban, Haitian, or other entrants, and determination of their eligibility for Refugee Medical Assistance must be conducted in accordance with 45 CFR 401. (4-2-08)

126. -- 134. (RESERVED)

135. PRECEDENCE OF CATEGORICAL ASSISTANCE PROGRAMS.
An applicant for medical assistance must first have their eligibility determined for Medicaid or CHIP. To be eligible for Medicaid or CHIP, the refugee must meet all the eligibility criteria for the applicable category of assistance. If the applicant is determined ineligible for Medicaid or CHIP, then the Department will determine their eligibility for the Refugee Medical Assistance Program. (3-20-14)

136. -- 149. (RESERVED)

150. REFUGEE MEDICAL ASSISTANCE PROGRAM.

01. Time Limitation. Medical assistance under the Refugee Medical Assistance Program will be limited to eight (8) consecutive months beginning with the month the refugee enters the United States. ( )

02. Medical Only. A refugee is not required to apply for or receive Cash Assistance as a condition of eligibility for Refugee Medical Assistance. Denial or closure of Refugee Cash Assistance is not a reason to deny or close Refugee Medical Assistance. (4-2-08)

03. Refugee Cash Assistance Excluded. Refugee Cash Assistance is excluded from income when determining eligibility for Refugee Medical Assistance. (3-20-14)

04. Automatic Eligibility. Refugees whose countable income does not exceed one hundred fifty percent (150%) of the Federal Poverty Guidelines are automatically eligible for Refugee Medical Assistance. (4-2-08)

05. Refugee Medical Assistance with "Spend Down." An applicant for Refugee Medical Assistance whose countable income exceeds one hundred fifty percent (150%) FPG for *their* family size may become eligible for Refugee Medical Assistance under certain conditions. A special provision, for refugees only, will allow those refugees whose income exceeds one hundred fifty percent (150%) FPG for *their* family size to subtract *their* medical costs from *their* income and thus "spend down" to the FPG limit for *their* family size. *( )*

06. Counting Income for Refugee Medical Assistance. *( )*

a. Income is counted or excluded in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." The sole exception is that Refugee Cash Assistance is excluded from income when determining eligibility for Refugee Medical Assistance. (3-20-14)

b. The income of sponsors, and the in-kind services and shelter provided to refugees by their sponsors, will not be considered in determining eligibility for Refugee Medical Assistance. *( )*

***151*. -- 699. (RESERVED)**

700. OVERPAYMENTS AND RESTORATION OF BENEFITS.
Policy governing recovery of overpayments and restoration of benefits of Refugee Medical Assistance is contained in IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (4-2-08)

***701*. -- 994. (RESERVED)**

995. PROVISIONS CONTINGENT UPON FEDERAL FUNDING.
The provisions in these rules, are contingent upon availability and receipt of funds appropriated through federal legislation. When federal funds are not available to the State of Idaho, these provisions, or any part therein, will not be in force and operation of the Refugee Medical Assistance Program in Idaho will be suspended. Advance notice of termination or reduction of benefits is not required. (4-2-08)

996. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Board of Health and Welfare according to 39-2401(2), Idaho Code, adopts these rules for the operation of home health agencies *(HHAs)*. *( )*

001. TITLE.
The rules contained in this chapter are to be cited in full as Idaho Department of Health and Welfare Rules, IDAPA 16, Title 03, Chapter 07, "Home Health Agencies." *( )*

002. WRITTEN INTERPRETATIONS.
This agency may have written statements that pertain to the interpretations of the rules of this chapter. *( )*

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department's Criminal History and Background Check. A home health agency (HHA) must comply with IDAPA 16.05.06, "Criminal History and Background Checks." (3-26-08)

02. Direct Patient Access Individuals. These rules apply to employees and contractors hired or contracted with after October 1, 2007, who have direct patient access. (3-26-08)

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must complete an application before having access to patients. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any patient without a clearance by the Department. Once the notarized application is completed the individual can only work under supervision until the individual has been fingerprinted. The individual must have their fingerprints submitted to the Department within twenty-one (21) days of completion of the notarized application. (3-26-08)

***010.* DEFINITIONS.**

01. Abuse. Any conduct as a result of which (a person) suffers skin bruising, bleeding, malnutrition, sexual molestation, burns, fracture of any bone, subdural hematoma, soft tissue swelling, failure to thrive or death, or mental injury, and such condition or death is not justifiably explained, or where the history given concerning such condition or death is at variance with the degree or type of such condition or death, or the circumstances indicate that such condition or death, may not be the product of accidental occurrence. (Idaho Code, Title 39, Chapter 5202(2). (7-1-93)

02. Administrator. The person appointed by the governing body delegated the responsibility for managing the *(HHA)*. *( )*

03. Audiologist. A person who *is licensed by the Idaho Bureau of Occupational Licenses to provide audiology services.* *( )*

04. Audit. A methodical examination and review. (12-31-91)

05. Board. The Idaho State Board of Health and Welfare. (12-31-91)

06. Branch Office. A location from which a HHA provides services within a portion of the total geographic area served by the parent agency. The branch office is part of the HHA and must be sufficiently close to the parent agency that it is not impractical for it to receive administration, supervision and services from the parent agency. The branch office is not required to independently meet the requirements for licensure. (7-1-93)

07. Business Entity. A public or private organization owned or operated by one (1) or more persons. (7-1-93)

08. Patient. An *individual* who is a recipient of provided health care services. *( )*

09. Clinical Note. A notation of a contact with or regarding a patient that is written and dated by a member of the health team. (7-1-93)

10. **Clinical Record**. A legal document containing all pertinent information relating to a patient. (7-1-93)

11. **Complaint Investigation**. An investigation by an agency to determine the validity of an allegation against it. ( )

12. **Complaint Survey**. On-site inspection conducted by the Department to investigate an allegation against an agency. (7-1-93)

13. **Deficiency**. A determination of noncompliance with a specific rule or part of a rule. (7-1-93)

14. **Department**. The Idaho Department of Health and Welfare. (7-1-93)

15. **Directly**. Providing home health services either through salaried employees or through personnel under hourly or per visit contracts. (7-1-93)

16. **Director**. A physician or licensed registered nurse responsible for general supervision, coordination, and direction of patient care in a*n HHA*. ( )

17. **Follow-Up Survey**. A survey made to determine if corrections have been made to deficiencies cited in an earlier survey. Areas surveyed are determined by the nature of the deficiencies cited during the previous survey although new deficiencies may be cited in any area. (7-1-93)

18. **Governing Body**. The designated person or persons who assume full responsibility for the conduct and operation of the *HHA*. ( )

19. **Government Unit**. The state, or any county, municipality, or other political subdivision, or any department, division, board or other agency thereof. (7-1-93)

20. **Grievance Procedure**. A method to *ensure* patient rights by receiving, investigating, resolving, and documenting complaints related to the provision of services of the *HHA*. ( )

21. **Group of Professional Personnel**. A group which includes, at least, one (1) physician, at least, one (1) licensed registered nurse, and other health professionals representing at least the scope of the program, agency staff, and others. (7-1-93)

22. **Health Care Services**. Any of the following services that are provided at the residence of an individual: (7-1-93)

a. Skilled nursing services; (7-1-93)

b. Homemaker/home health aide services; (7-1-93)

c. Physical therapy services; (7-1-93)

d. Occupational therapy services; (7-1-93)

e. Speech therapy services; (7-1-93)

f. Nutritional Services/Registered Dietitian Services; (7-1-93)

g. Respiratory therapy services; (7-1-93)

h. Medical/social services; (7-1-93)

i. Intravenous therapy services; and (7-1-93)

j. Such other services as may be authorized by rule of the Board. (7-1-93)

23. Home Health Agency *(HHA)*. Any business entity that primarily provides skilled nursing services by licensed nurses and at least one (1) other health care service as defined in Subsection 010.22 to a patient in that patient's place of residence. Any entity that has a provider agreement with the Department as a personal assistance agency under Title 39, Chapter 56, Idaho Code, requires licensure as a*n HHA* only if it primarily provides nursing services. *( )*

24. Homemaker/Home Health Aide. A person who has successfully completed a basic prescribed course or its equivalent*.* *( )*

25. Individual. A natural person who is a recipient of provided health care services. (7-1-93)

26. Licensed Practical Nurse. A person who is duly licensed pursuant to Title 54, Chapter 14 of the Idaho Code. (7-1-93)

27. Licensing Agency. The Department of Health and Welfare. (12-31-91)

28. Medical Equipment and Supplies. Items, which due to their therapeutic or diagnostic characteristics, are essential to provide patient care. (7-1-93)

***29*. Neglect**. The negligent failure to provide those goods or services which are reasonably necessary to sustain the life and health of a person. {Idaho Code, Title 39, Chapter 5302 (8)}. (7-1-93)

3*0*. Occupational Therapist. A person licensed by the Idaho *Bureau of Occupational Licenses* to provide occupational therapy services. *( )*

3*1*. Occupational Therapy Assistant. A person certified by the Idaho *Bureau of Occupational Licenses* to provide occupational therapy services under the supervision of an occupational therapist. *( )*

3*2*. Parent Unit. The part of the HHA which develops and maintains administrative and professional control of branch offices. Services are provided by the parent unit. *( )*

3*3*. Physical Therapist. A person licensed by the Idaho *Bureau of Occupational Licenses* to provide physical therapy services. *( )*

3*4*. Physical Therapy Assistant. A person certified by the Idaho *Bureau of Occupational Licenses* to provide physical therapy services under the supervision of a physical therapist. *( )*

3*5*. Physician. Any person licensed as required by Title 54, Chapter 18, of the Idaho Code. (7-1-93)

3*6*. Place of Residence. Wherever a patient makes their home. This may be a dwelling, an apartment, a relative's home, a residential care facility, a retirement center, or some other type of institution exclusive of licensed facilities which provide skilled nursing care. (7-1-93)

3*7*. Progress Note. A written notation, dated and signed by a member of the health team, that documents facts about the patient's assessment, care provided, and the patient's response during a given period of time. (7-1-93)

3*8*. Registered Dietitian. A person who is *licensed by the Idaho Board of Medicine* as a registered dietitian. *( )*

***39*. Licensed Registered Nurse (RN)**. A person who is duly licensed pursuant to Title 54, Chapter 14 of the Idaho Code. (7-1-93)

4*0*. Regulation. A requirement established by state, federal, or local governments pursuant to law and

having the effect of law. (7-1-93)

41. **Respiratory Therapist**. A person who is duly licensed *by the Idaho Board of Medicine*. *( )*

42. **Skilled Nursing Services**. Those services provided directly by a licensed nurse for the purpose of promoting, maintaining, or restoring the health of an individual or to minimize the effects of injury, illness, or disability. (7-1-93)

43. **Social Services**. Those services provided by a person currently licensed by the Bureau of Occupational Licenses as a social worker in the state of Idaho. (12-31-91)

44. **Speech Therapist**. A person who *is licensed by the Idaho Bureau of Occupational Licenses to provide speech, hearing, and communication services.* *( )*

45. **Summary of Care Report**. The compilation of the pertinent factors of a patient's clinical and progress notes that is submitted to the patient's physician. (7-1-93)

46. **Supervision**. Authoritative procedural guidance by a qualified person for the accomplishment of a function or activity. (7-1-93)

47. **Under Arrangement**. Furnishing home health services through contractual or affiliation arrangements with other agencies, organizations or persons. (7-1-93)

011. -- 012. (RESERVED)

013. **LICENSURE - GENERAL REQUIREMENTS.**

01. **Types of Licensure**. License, Provisional License. *( )*

a. License. *A license issued to an HHA found to be in substantial compliance with these rules.* *( )*

b. Provisional License. A license issued to an agency which is not found to be in substantial compliance with these rules. (7-1-93)

02. **Application for Licensure**. An application for a license must be made to the Department upon forms provided by it and contain such information as it reasonably requires, which includes affirmative evidence of ability to comply with such reasonable standards, and rules as are lawfully adopted by the Board. (7-1-93)

03. **Issuance of License**. Upon receipt of an application for license, the Department *will* issue a license if the applicant meets the requirements established under this chapter. A license, unless suspended or revoked, *is* renewable each and every year upon filing by the licensee, and approval by the Department, of an annual report *on a form prescribed by the licensing agency giving such information as contained within said form*. Each license *is* issued only for the premises and persons or governmental units named in the application and *is* not transferable or assignable except with the written approval of the Department. Every agency *must* be designated by a distinctive name in applying for a license, and the name *must* not be changed without first notifying the Department in writing at least thirty (30) days prior to the date the proposed change in name is to be effective. Licenses *must* be posted in a conspicuous place on the licensed premises. *( )*

04. **Denial of Application**. The Department may deny any application when persuaded by evidence that such conditions exist as to endanger the health or safety of any patient, or which will violate the patients' rights, or the *HHA* does not meet requirements for licensure to the extent that it hinders its ability to provide quality services that comply with rules for *HHAs*, or the *HHA or any owner or sponsor of the HHA* has a history of repeat deficiencies. Before denial is final, the Department *will* provide opportunity for a hearing at which time the owner or sponsor of an *HHA* may appear and show cause why the license should not be denied. Hearings for denial *will* be conducted by the Department pursuant to *the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings."* *( )*

05. Expiration Date and Renewal. Each license to operate a*n HHA* expire*s* on the date designated on the license, unless suspended or revoked. *( )*

06. Revocation of License. The licensing agency may deny or revoke any license when persuaded by the evidence that: (7-1-93)

a. Any conditions exist as to endanger the health or safety or welfare of any patient. (7-1-93)

b. Has a history of repeat deficiencies. (7-1-93)

c. Prior actions. Has been denied or has had revoked any license to operate a health or personal care facility or agency or has been convicted of operating any *HHA* without a license or has been enjoined from operating such agency within two (2) years from the date of application. *( )*

d. Lacks personnel sufficient in number or qualifications by training, experience, or judgement, to properly service the proposed or actual number and type of patients. (7-1-93)

e. Has been guilty of fraud or deceit or misrepresentation in the preparation of the application or other documents required by the licensing agency; has been guilty of fraud or deceit or misrepresentation or dishonesty associated with the operation of a licensed *HHA*; has been guilty of negligence or abuse or neglect or assault or battery while associated with the provision of services in the operation of a*n HHA*. If the Department finds the public health, safety, or welfare imperatively requires emergency action, a license may be summarily suspended pending proceedings for revocation or other action. *( )*

f. Refusal to allow inspection of all records. (7-1-93)

07. Return of License. Each license is the property of the state of Idaho and must returned to the Department immediately upon the revocation of the license. (7-1-93)

08. Appeal. Before denial or revocation is final, the Department *will* provide opportunity for a hearing at which time the owner or sponsor of an agency may appear and show cause why the license should not be denied or revoked. *( )*

09. Injunction to Prevent Operation Without License. *Regardless of* the existence or pursuit of any other remedy, the Department may in the manner provided by law maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management or operation of an agency without a license required under this chapter. The Department *will* be represented by the county prosecutor of the county in which the violation occurs or by the office of the attorney general. *( )*

1*0*. Conformity to Rules. Applicants for licensure and licensees must conform to all applicable rules of the Department. (12-31-91)

1*1*. Inspection of Records. The *HHA* and all records required under these rules *must* be accessible at any reasonable time to authorized representatives of the Department for the purpose of inspection with or without prior notice. Refusal to allow such access *will* result in revocation of the *HHA*'s license. *( )*

***014*. CHANGE OF OWNERSHIP, ADMINISTRATOR OR LESSEE.**

01. Notification to Department. When a change of a licensed agency's ownership, administrator, lessee, title, or address occurs, the owner/administrator must notify the Department in writing. (7-1-93)

02. New Application Required. A new application must be submitted in the instance of a change of ownership or lessee, or establishment of a branch. *( )*

***015*. -- 019. (RESERVED)**

020. ADMINISTRATION - GOVERNING BODY.

01. Scope. The *HHA must* be organized under a governing body, which assume*s* full legal responsibility for the conduct of the agency. *( )*

02. Structure. The administrative responsibilities of the agency must be documented by means of a current organizational chart. (7-1-93)

03. Responsibilities. The governing body must assume responsibility for: (7-1-93)

a. Adopting appropriate bylaws and policies and procedures. (7-1-93)

b. Appointing the group of professional personnel. *( )*

c. Appointing an administrator qualified to carry out the agency's overall responsibilities in relation to written goals and objectives and applicable state and federal laws. The administrator participates in deliberation and policy decisions concerning all services. (7-1-93)

d. Providing a continuing and annual program of overall agency evaluation. (11-19-76)

e. Assuring that appropriate space requirements, support services, and equipment for staff to carry out assigned responsibilities. (11-19-76)

f. Assuring that an agency having one or more branches providing service and located in a geographic area which varies from a centralized administrative area, provides, on a regular basis, supervision and guidance relating to all activities so as to maintain the entire agency on an equitable basis. (7-1-93)

g. Assuring that branches are held to the same standards and policies as the parent organization. Services offered by branches are specified in writing. Branches do not need to offer the same services as the parent agency. (7-1-93)

h. Seeking and promoting sources of reimbursement for home health services which will provide for the patient's economic protection. (7-1-93)

i. Cooperating in establishing a system by which to coordinate and provide continuity of care within the community served. (11-19-76)

j. Assuring that services will be provided directly or under arrangement with another person, agency or organization. Overall administrative and supervisory responsibility for services provided under arrangement rests with HHA. The HHA *ensures* that legal physician's orders are carried out regardless of whether the service is provided directly or under arrangement. The *HHA* and it's staff, including staff services under arrangement, must operate and furnish services in accordance with all applicable federal, state, and local laws. *( )*

04. Patients' Rights. *Ensure* that patients' rights are recognized and *must* include as a minimum the following: *( )*

a. Home health providers have an obligation to protect and promote the exercise of these rights. The governing body of the agency must *ensure* patients' rights are recognized. *( )*

b. A patient has a right to be informed of his rights and has a right to be notified in writing of his rights and obligations before treatment is begun. HHAs must provide each patient and family with a written copy of the bill of rights. A signed, dated copy of the patient's bill of rights will be included in the patient's medical record. (7-1-93)

c. A patient has the right to exercise his rights as a patient of the HHA. A patient's family or guardian may exercise a patient's rights when a patient has been judged incompetent. (7-1-93)

d. A patient's rights must include at a minimum the following: (7-1-93)

i. A patient has the right to courteous and respectful treatment, privacy, and freedom from abuse and neglect. (7-1-93)

ii. A patient has the right to be free from discrimination because of race, creed, color, sex, national origin, sexual orientation, and diagnosis. (7-1-93)

iii. A patient has the right to have his property treated with respect. (7-1-93)

iv. A patient has the right to confidentiality with regard to information about his health, social and financial circumstances and about what takes place in his home. (7-1-93)

v. The HHA will only release information about a patient as required by law or authorized by a patient. (7-1-93)

vi. A patient has the right to access information in his own record upon written request within two (2) working days. (7-1-93)

vii. A patient has the right to voice grievances regarding treatment or care that is or fails to be furnished, or regarding the lack of respect for property by anyone who is furnishing services on behalf of the HHA and must not be subjected to discrimination or reprisal for doing so. (7-1-93)

viii. The HHA investigates complaints made by a patient or the patient's family or guardian regarding treatment or care that is (or fails to be) furnished, or regarding the lack of respect for the patient's property by anyone furnishing services on behalf of the HHA and documents both the existence of the complaint and the resolution of the complaint. (7-1-93)

ix. A patient has the right to be advised of the availability of the toll-free HHA hotline in the state. When the agency accepts a patient for treatment or care, the HHA advises the patient in writing of the telephone number of the home health hotline established by the state, the hours of its operation and that the purpose of the hotline is to receive complaints or questions about local HHAs. (7-1-93)

x. A patient has the right to be informed of the HHA's right to refuse admission to, or discharge any patient whose environment, refusal of treatment, or other factors prevent the HHA from providing safe care. (7-1-93)

xi. A patient has the right to be informed of all services offered by the agency prior to, or upon admission to the agency. (7-1-93)

xii. A patient has the right to be informed of his condition in order to make decisions regarding his home health care. (7-1-93)

xiii. Upon admission, the HHA provides written and oral information to all adult patients regarding The Natural Death Act (Idaho Code, Title 39, Chapter 45). The agency maintains documentation showing that it has complied with this requirement whether or not the patient has executed an advance directive ("Living Will" and/or "Durable Power of Attorney for Health Care"). (7-1-93)

xiv. An agency cannot condition the provision of care or otherwise discriminate against a patient based on whether or not the patient has executed an advance directive. (7-1-93)

xv. If the agency cannot comply with the patient's "Living Will" and/or "Durable Power of Attorney for Health Care" as a matter of conscience, the agency will assist the patient in transferring to an agency that can comply. (7-1-93)

xvi. The HHA advises a patient, in advance, of the disciplines that will furnish, care, and frequency of visits proposed to be furnished. (7-1-93)

xvii. The HHA advises a patient in advance of any change in the plan of care before the change is made. (7-1-93)

xviii. A patient has the right to participate in the development of the plan of care, treatment, and discharge planning. The HHA advises the patient in advance of the right to participate in planning the care or treatment. (7-1-93)

xix. A patient has the right to be informed prior to any care provided by the agency which has experimental or research aspects. The patient's or the patient's legal guardian's written consent is required. (7-1-93)

xx. A patient has the right to refuse services or treatment. (7-1-93)

xxi. Before the care is initiated, the HHA must inform a patient orally and in writing of the following: (7-1-93)

(1) The extent to which payment may be expected from third party payors; and (7-1-93)

(2) The charges for services that will not be covered by third party payors; and (7-1-93)

(3) The charges that the patient may have to pay; and (7-1-93)

(4) The HHA informs a patient orally and in writing of any changes in these charges as soon as possible, but no later than thirty (30) days from the date the HHA provider becomes aware of the change. (7-1-93)

xxii. A patient has the right to have access, upon request, to all bills for service he has received regardless of whether they are paid by him or by another party. (7-1-93)

021. ADMINISTRATOR.
An administrator must be appointed by the governing body and be responsible and accountable for implementing the policies and programs approved by the governing body. (11-19-76)

01. Medical Personnel as Administrator. The administrator may also be a supervising physician or supervising licensed registered nurse. (11-19-76)

02. Absences. The administrator must designate, in writing, a qualified person to perform the functions of the administrator to act in his absence. (7-1-93)

03. Responsibilities. The administrator, or his designee, must assume responsibility for: (7-1-93)

a. Organizing and coordinating administrative functions of the program, delegating duties, establishing a formal means of accountability on the part of staff members, and maintaining continuing liaison among the governing body, the group of professional personnel and the staff. (7-1-93)

b. Providing staff orientation, continuing education, information on applicable laws, rules and policies, resource materials, and staff development to effectively implement and continue the program. (11-19-76)

c. Appointing a director to provide general supervision, coordination, and direction of the medical, nursing, and other direct patient services of the program. (7-1-93)

d. Insuring that personnel employed are qualified to perform their assigned duties and that agency practices are supported by written personnel policies. (7-1-93)

e. Personnel records of staff working directly with patients include: qualifications, licensure or certification when indicated, orientation to home health, the agency and its policies; performance evaluation, and documentation of attendance or participation in staff development, in-service, or continuing education; documentation of a current CPR certificate; and other safety measures mandated by state/federal rules or regulations. (7-1-93)

f. Developing and implementing a policy addressing safety measures to protect patients and staff as

mandated by state/federal rules or regulations. (7-1-93)

g. Insuring that agency personnel, including those providing services under arrangement, practice within the bounds set forth by the applicable state licensure boards. (7-1-93)

h. Insuring that if personnel under hourly or per visit contracts are used by the HHA, there is a written contract between those personnel and the agency that specifies the following: (7-1-93)

i. A patient is accepted for care only by the primary HHA; (7-1-93)

ii. The services that are to be furnished; (7-1-93)

iii. The necessity to conform to all applicable HHA patient care policies including personnel qualifications; (7-1-93)

iv. The responsibility for participating in developing plans of care; (7-1-93)

v. The manner in which services will be controlled, coordinated, and evaluated by the primary agency; (7-1-93)

vi. The procedures for submitting clinical and progress notes, scheduling of visits, and periodic patient evaluation; (7-1-93)

vii. The procedures for payment for services furnished under the contract; and (7-1-93)

viii. A statement to the effect that the contractee does not engage in patient discrimination because of race, creed, color, sex, national origin, sexual orientation, and diagnosis. (7-1-93)

i. Insuring that the clinical record and minutes of case conferences establish that effective interchange, reporting, and coordination of patient care between all agency personnel caring for that patient does occur. (7-1-93)

j. Implementing an ongoing program of budgeting and accounting. (7-1-93)

i. The annual operating budget includes all anticipated income and expenses related to the overall operation of the program. (11-19-76)

ii. The overall plan and budget is reviewed and updated at least annually by the governing body. (11-19-76)

k. Coordinating agency services with other community health care providers. (11-19-76)

l. Conducting an annual evaluation and maintaining documentation of reports and communications to the governing body. (11-19-76)

m. Directing investigations by the agency of complaints against the agency or agency personnel. (7-1-93)

n. Reporting all suspected instances of abuse or neglect as defined by state law, to the appropriate state authority. (7-1-93)

o. Ensuring that all agency personnel, including volunteers authorized by the agency, provide services in accordance with agency policies and procedures. Family members and other volunteers not affiliated with the agency are exempt from this requirement. (7-1-93)

022. DIRECTOR.

01. Qualifications. General supervision, coordination, and direction of the medical, nursing, and other services provided are the responsibility of a physician or licensed registered nurse. The physician or licensed registered nurse or their designee, who must be a physician or licensed registered nurse, must be available at all times during operating hours and must participate in all activities relative to the professional or other services provided, including the qualifications of personnel as related to their assigned duties. (11-19-76)

02. Responsibilities. The director or designee must be responsible for assuring that: (11-19-76)

a. An initial assessment/evaluation is made to provide a data base to plan and initiate care of the patient; (11-19-76)

b. There is a plan of treatment established for each patient; (7-1-93)

c. Continuing assessment and evaluation is provided in accordance with the patient's response and progress as related to the course of his disease or illness and the plan of treatment; (11-19-76)

d. The initial plan of treatment and subsequent changes are approved by signature of the attending physician and carried out according to his direction. (11-19-76)

e. The total plan of treatment is reviewed by the attending physician as often as the severity of the patient's condition requires and is reviewed at least every sixty (60) days; (5-3-03)

f. Information is available to the attending physician on an ongoing basis and is timely, accurate, and significant of change in clinical status or condition; (11-19-76)

g. Information is provided to the administrator and guidance requested as is necessary to carry out assigned duties. (11-19-76)

023. POLIC*IES* AND PROCEDURE*S*.

01. Development and Approval. *P*olic*ies* and procedure*s must* be developed for effectively implementing the objectives of the home care program. They *must* be approved by the governing body. These policies and procedures *must* be reviewed annually and revised as indicated. *( )*

02. Contents. *Policies and procedures* will, at a minimum, reflect the: *( )*

a. Scope of services offered and geographic area served; (11-19-76)

b. Acceptance of patients; (11-19-76)

c. Description of clinical records maintained; (11-19-76)

d. Procedures that may be performed in the home by each service; (11-19-76)

e. Patient safety assessment; (11-19-76)

f. Emergency care measures; (11-19-76)

g. Administrative records to be maintained; (11-19-76)

h. Personnel qualifications, responsibilities, and job descriptions; (11-19-76)

i. Program evaluation; (11-19-76)

j. Audit of clinical records for medical, nursing, and other services; (11-19-76)

k. Description of the relationship and manner of administrative and program supervision,

coordination, and evaluation of services provided through *branches* providing services in geographic locations which varies from the centralized administrative area; *( )*

l. Patient rights. (11-19-76)

024. SKILLED NURSING SERVICES.
The HHA furnishes nursing services by or under the supervision of a licensed registered nurse in accordance with the plan of care. (7-1-93)

01. Licensed Registered Nurse. A licensed registered nurse *ensures* that care is coordinated between services and that all of the patients needs identified by the assessments are addressed. A licensed registered nurse performs the following: *( )*

a. Makes the initial evaluation visit and regularly reevaluates the patient's nursing needs; (7-1-93)

b. Initiates the plan of care and makes necessary revisions; (7-1-93)

c. Provides those services requiring substantial and specialized nursing skill; (7-1-93)

d. Initiates appropriate preventive and rehabilitative nursing procedures; (7-1-93)

e. Prepares clinical and progress notes, and summaries of care; (7-1-93)

f. Informs the physician and other personnel of changes in the patient's condition and needs; (7-1-93)

g. Counsels the patient and family in meeting nursing and related needs; (7-1-93)

h. Supervises and teaches other nursing personnel; (7-1-93)

i. Participates in in-service programs, and (7-1-93)

j. For patients receiving care from a licensed practical nurse, the licensed registered nurse reviews the plan of care and nursing services received at least every two (2) weeks and documents this in the patient's medical record.
(7-1-93)

02. Licensed Practical Nurse. A licensed practical nurse performs the following: (7-1-93)

a. Furnishes services in accordance with agency policies and the plan of care; (7-1-93)

b. Assists the physician and licensed registered nurse in performing specialized procedures; (7-1-93)

c. Prepares equipment and materials for treatments observing aseptic technique as required; (7-1-93)

d. Assists the patient in learning appropriate self-care techniques; (7-1-93)

e. Consults the licensed registered nurse in making judgments and decisions regarding care and services rendered; (7-1-93)

f. Prepares clinical and progress notes, and (7-1-93)

g. A licensed practical nurse may not assume responsibility for intravenous therapy in the home.
(7-1-93)

03. Home Health Aide. *A qualified home health aide is a person who has successfully completed training and a competency evaluation for the duties assigned to them by an RN*. Duties of a home health aide include the following: *( )*

a. The performance of simple procedures as an extension of therapy services; (7-1-93)

b. Personal care; (7-1-93)

c. Ambulation and exercise; (7-1-93)

d. Assistance with nutritional needs of the patient; (7-1-93)

e. Household services essential to health care at home; (7-1-93)

f. Assistance with medications that are ordinarily self-administered; (7-1-93)

g. Reporting changes in the patient's condition and needs; and (7-1-93)

h. Completing appropriate records. (7-1-93)

04. Supervisory Visits. A licensed registered nurse or therapist makes a supervisory visit to the patient's residence at least every two (2) weeks, either when the aide is present to observe and assist, or when the aide is absent, to assess relationships and determine whether goals are met. For patients who are receiving only home health aide services, a supervisory visit must be made at least every sixty (60) days. (7-1-93)

05. Training, Assignment, and Instruction of a Home Health Aide. (7-1-93)

a. A home health aide must receive training for all care duties. The professional responsible for the specific services *ensures* that training occurs. *( )*

b. A home health aide is assigned to a particular patient by a registered nurse. (7-1-93)

c. Written instructions for home care, including specific exercises, are prepared by a licensed registered nurse or therapist as appropriate. (7-1-93)

025. THERAPY SERVICES.
Any therapy services offered by the HHA directly or under arrangement are given by a qualified therapist or by a qualified therapy assistant under the supervision of a qualified therapist and in accordance with the plan of care. (7-1-93)

01. Qualified Therapist. A qualified therapist duties include the following: (7-1-93)

a. Assists in developing the plan of care and revising it when necessary; (7-1-93)

b. Advises and consults with the family and other agency personnel; (7-1-93)

c. Prepares clinical and progress notes, and summaries of care; and (7-1-93)

d. Participates in in-service programs. (7-1-93)

02. Services Provided. Services furnished by a qualified physical therapy assistant or qualified occupational therapy assistant may be furnished under the supervision of a qualified physical or occupational therapist. The duties of a physical therapy assistant or occupational therapy assistant include the following: (7-1-93)

a. Performs services planned, delegated, and supervised by the therapist; (7-1-93)

b. Assists in preparing clinical and progress notes and, summaries of care; and (7-1-93)

c. Participates in educating the patient and his family; and (7-1-93)

d. Participates in in-service programs. (7-1-93)

03. Speech Therapy Services. Speech therapy services are furnished only by or under the supervision of a qualified speech pathologist or audiologist and include the following: (7-1-93)

a. Performs services planned, delegated, and supervised by the therapist; (7-1-93)

b. Assists in preparing clinical and progress notes, and summaries of care; (7-1-93)

c. Participates in educating the patient and his family; and (7-1-93)

d. Participates in in-service programs. (7-1-93)

026. SOCIAL SERVICES.

01. Service Providers. If the agency furnishes medical social services, those services are given by a qualified social worker, licensed in Idaho, in accordance with the plan of care. (7-1-93)

02. Social Worker. A social worker performs the following duties: (7-1-93)

a. Assists the physician and other team members in understanding the significant social and emotional factors related to health problems; (7-1-93)

b. Participates in the development of the plan of care; (7-1-93)

c. Prepares clinical and progress notes; (7-1-93)

d. Works with the patient's family; (7-1-93)

e. Participates in discharge planning; (7-1-93)

f. Participates in in-service programs; and (7-1-93)

g. Acts as a consultant to other agency personnel. (7-1-93)

027. NUTRITIONAL SERVICES DEFINED AS REGISTERED DIETITIAN SERVICES.
The duties of the registered Dietitian include the following: (7-1-93)

01. ***Performs Services***. *Assists in developing plans of care and revising the plan when necessary.* *( )*

02. ***Provides Assistance***. *P*repares clinical and progress notes, and summaries of care. *( )*

03. ***Education***. *P*articipates in educating the patient and their family. *( )*

04. ***In-Service Programs***. *Participates in In-Service Programs*. *( )*

028. -- 029. (RESERVED)

030. PLAN OF CARE.
Patients are accepted for treatment on the basis of a reasonable expectation that the patient's medical, nursing, and social needs can be met adequately by the agency in the patient's plan of care. (7-1-93)

01. Written Plan of Care. A written plan of care must be developed and implemented for each patient by all disciplines providing services for that patient. Care follows the written plan of care and includes: (7-1-93)

a. All pertinent diagnoses; (7-1-93)

b. The patient's mental status; (7-1-93)

c. Types of services and equipment required; (7-1-93)

d. Frequency of visits; (7-1-93)

e. Functional limitations; (7-1-93)

f. Ability to perform basic activities of daily living; (7-1-93)

g. Activities permitted; (7-1-93)

h. Nutritional requirements; (7-1-93)

i. Medication and treatment orders; (7-1-93)

j. Any safety measures to protect against injury; (7-1-93)

k. Any environmental factors that may affect the agency's ability to provide safe, effective care; (7-1-93)

l. The family's or other caregiver's ability to provide care; (7-1-93)

m. The patient and his family's teaching needs; (7-1-93)

n. Planning for discharge; and (7-1-93)

o. Other appropriate items. (7-1-93)

02. Goals of Patient Care. The goals of patient care must be expressed in behavioral terms that provide measurable indices for performance. (7-1-93)

03. Orders for Therapy Services. Orders for therapy services include the specific procedures and modalities to be used and the amount, frequency, and duration. (7-1-93)

04. Initial Plan of Care. The initial plan of care and subsequent changes to the plan of care are approved by a doctor of medicine, osteopathy, or podiatric medicine. (7-1-93)

05. Total Plan of Care. The total plan of care is reviewed by the attending physician and HHA personnel as often as the severity of the patient's condition requires but at least once every sixty (60) days. (5-3-03)

06. Changes to Plan. Agency professional staff promptly alert the physician to any changes that suggest a need to alter the plan of care. (7-1-93)

07. Drugs and Treatments. Drugs and treatments are administered by agency staff only as ordered by the physician. The nurse or therapist immediately records and signs oral orders and obtains the physician's countersignature. Agency staff check all medications a patient may be taking to identify possible ineffective side effects, the need for laboratory monitoring of drug levels, drug allergies, and contraindicated medication and promptly report any problems to the physician. (7-1-93)

031. CLINICAL RECORDS.

01. Purpose. A clinical record containing past and current findings, in accordance with accepted professional standards, is maintained for every patient receiving home health services. (7-1-93)

02. Contents. Clinical records must include: (7-1-93)

a. Appropriate identifying information; (7-1-93)

b. Assessments by appropriate personnel; (7-1-93)

c. The plan(s) of care; (7-1-93)

d. Name of physician *and other providers involved in the patient's care*; *( )*

e. Drug, dietary treatment, and activity orders; (7-1-93)

f. Signed and dated clinical and progress notes; (7-1-93)

g. Copies of summary reports sent to the attending physician; (7-1-93)

h. Signed patient release or consent forms where indicated; (11-19-76)

i. A signed dated copy of the patient's bill of rights; (7-1-93)

j. Copies of transfer information sent with the patient; and (7-1-93)

k. A discharge summary. (7-1-93)

03. Clinical and Progress Notes, and Summaries of Care. Clinical and progress notes must be written or dictated on the day service is rendered and incorporated into the clinical record within seven (7) days. Summaries of care reports must be submitted to the attending physician at least every sixty (60) days. (5-3-03)

04. Written Policies and Procedures. Written policies and procedures must ensure that clinical records are legibly written in ink suitable for photocopying and are available and retrievable during operating hours either in the agency or by electronic means. (7-1-93)

05. Retention Period. Clinical records must be retained for five (5) years after the date of discharge, or in the case of a minor, three (3) years after the patient becomes of age. Policies provide for retention even if the HHA discontinues operations. Records must be protected from damage. (7-1-93)

06. Disposal of Records. There must be a method of disposal of clinical records, assuring prevention of retrieval and subsequent use of information. (7-1-93)

07. Copies of Records. There must be a means of submitting a copy of the clinical record or an abstract and copy of most recent summary report with the patient in the event of patient transfer to another agency or health care facility. (7-1-93)

08. Safeguarding and Protection of the Record. Agencies must ensure that records are protected from unauthorized use and damage and adhere to written procedures governing use and removal of records and conditions for release of information unless authorized by law. (7-1-93)

032. -- 039. (RESERVED)

040. AGENCY EVALUATION.

A group of professional personnel, which includes at least one (1) physician, one (1) licensed registered nurse, and with appropriate representation from other professional disciplines, establishes and annually reviews the agency's policies governing the scope of services offered, admission and discharge policies, medical supervision and plans of care, emergency care, clinical records, personnel qualifications, and program evaluation. At least one (1) member of the group is neither an owner nor an employee of the agency. (7-1-93)

01. Evaluation Timetable. The group of professional personnel meets as needed to advise the agency and monitor the program. The HHA has written policies requiring an overall evaluation of the agency's total program at least once a year by the group of professional personnel, or a committee of this group, HHA staff, and consumers, or by professional people working outside the agency in conjunction with consumers. (7-1-93)

02. Evaluation Criteria and Purpose. The evaluation consists of an overall policy and administrative review and a clinical record review and assesses the extent to which the agency's program is appropriate, adequate, effective, and efficient. (7-1-93)

03. Evaluation Results. Results of the evaluation are reported to and acted upon by those responsible for the operation of the agency and are maintained separately as administrative records. (7-1-93)

041. -- 049. (RESERVED)

050. CLINICAL RECORD REVIEW.
The agency must have a subcommittee to perform an audit of clinical records on at least a quarterly basis to determine the adequacy of services provided in meeting patient's needs. The committee members will represent the scope of the program consisting of health professionals. The review consists of at least a ten percent (10%) sampling of both active and closed clinical records representing all services being offered. A written summary of findings and recommendations of the committee are utilized in the overall review and self-evaluation of the agency. (7-1-93)

051. -- 059. (RESERVED)

060. STATISTICAL AND REPORTING SYSTEM.
A documented statistical and reporting system must be maintained and may include: age, sex, diagnosis, referral source, length of service, number of visits, types of services provided, reason for discharge or referral, patient disposition. (11-19-76)

061. -- 069. (RESERVED)

070. *DISCONTINUATION* OF AGENCY.
Upon determination the HHA will discontinue providing services, the agency is required to: *( )*

01. Provide *Written* Notice. *Provide written notice no less than fifteen (15) days from the intended date of discontinuation of services to the:* *( )*

a. *Patient or patient representative; and* *( )*

b. *Department's Division of Licensing and Certification.* *( )*

02. Provide Clinical Records. *Provide a copy of the patient's clinical records to:* *( )*

a. *Patient or patient representative; and* *( )*

b. *Any agency in which the patient or patient representative has elected to have their care transferred.* *( )*

03. Inform Public. *Inform the public no less than fifteen (15) days from the intended day of discontinuation of services by publishing a public notice in a media outlet prominent in the community of the HHA.* *( )*

04. *Ensure* Confidentiality, Safekeeping, and Storage of Records. *The HHA will:* *( )*

a. *Retain records for a period of not less than five (5) years; and* *( )*

b. *Inform the Department of the location of said records.* *( )*

***05. Discontinuation of Operation**. Agencies discontinuing operation must obtain approval of a plan to preserve or destroy clinical records prior to disposition.* *( )*

0*6*. Return License to the Department. *The HHA will return the license to the Department the day following the final day of operation.* *( )*

071. -- 994. (RESERVED)

995. WAIVERS.
Pursuant to Section 39-2404, Idaho Code, waivers to these rules, may be granted by the Department as necessary, provided that granting the waiver does not endanger the health or safety or rights of any patient. The decision to grant a waiver is not to be considered as precedent or be given any force or effect in any other proceeding. Said waiver may be renewed annually if sufficient written justification is presented to the Department. (7-1-93)

996. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare is authorized to adopt rules for the administration of public assistance programs under Section 56-202, Idaho Code, and 45 CFR Parts 260 - 265. (3-30-07)

001. TITLE, SCOPE, AND PURPOSE.

01. Title. These rules are titled IDAPA 16.03.08, "Temporary Assistance for Families in Idaho (TAFI) Program." *( )*

02. Scope. These rules provide standards for the administration of the TAFI program. (3-30-07)

03. Purpose. The purpose of these rules are to help participants in the Temporary Assistance for Families in Idaho (TAFI) program to obtain jobs by providing assistance and support. This focus requires more than government alone can or should provide. This program requires relationships where participants, families, local communities and employers work together to help participants obtain employment and achieve self-reliance. Department resources for applicants and participants will be provided in the following priority order, if applicable: Child Support Services (CSS); child care assistance; other Department services such as Medicaid, Food Stamps, Aid to the Aged, Blind and Disabled (AABD); and TAFI. (3-30-07)

002. – 007. (RESERVED)

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, or Misconduct." (3-30-07)

009. (RESERVED)

010. DEFINITIONS.

01. Agency Error. A benefit error caused by the Department's action or failure to act. (7-1-12)

02. Applicant. An individual who applies for Temporary Assistance for Families in Idaho. (7-1-98)

03. Assistance. Cash payments, vouchers, and other benefits designed to meet a *household*'s ongoing basic needs. Assistance includes recurring benefits, such as transportation and child care, conditioned on participation in work activities. *( )*

04. Caretaker Relative. An adult who is a specified relative, other than parents, who has an eligible related child residing with them and who is responsible for the child's care. Only one (1) child in the *household* must be related to one (1) of the following specified relatives: brother, sister, aunt/great aunt, uncle/great uncle, grandparent/great grandparent, nephew, niece, cousin, any one (1) of these relationships by half-blood, a step-sibling, or a spouse of a relative by marriage, even if the marriage has ended. *( )*

05. Department. The Idaho Department of Health and Welfare. (7-1-98)

06. Dependent Child. A child under the age of eighteen (18). (4-11-19)

07. Good Cause. The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (7-1-98)

08. Household. A unit of eligible individuals that includes parents, or may include caretaker relatives who have an eligible child residing with them. (3-29-17)

09. Inadvertent Household Error (IHE). A benefit error caused unintentionally by the household. (7-1-12)

10. Noncustodial Parent. A parent legally responsible for the support of a dependent minor child, who does not live in the same household as the child. (3-30-01)

11. **Parent**. The mother/step-mother or father/step-father of the dependent child. In Idaho, a man is presumed to be the child's father if he is married to the child's mother at the time of conception or at the time of the child's birth. (3-29-17)

12. **Participant**. An individual who has signed a Personal Responsibility Contract. (7-1-98)

13. **Personal Responsibility Contract (PRC)**. An agreement negotiated between a *household* and the Department that is intended to result in self-reliance. *( )*

011. ABBREVIATIONS.

01. **AABD**. Aid to the Aged, Blind and Disabled. (7-1-98)

02. **CSS**. Child Support Services. (7-1-98)

03. **ECA**. Extended Cash Assistance. (7-1-98)

04. **EITC**. Earned Income Tax Credit. (7-1-98)

05. **HUD**. The U.S. Department of Housing and Urban Development. (7-1-98)

06. **IPV**. Intentional Program Violation. (7-1-98)

07. **PRC**. Personal Responsibility Contract. (7-1-98)

0*8*. **SSN**. Social Security Number. (7-1-98)

09. **TAFI**. Temporary Assistance for Families in Idaho, which is the TANF program in Idaho. (7-1-98)

10. **TANF**. Temporary Assistance to Needy Families (Federal Program). (7-1-98)

11. **VA**. Veterans Administration. (7-1-98)

012. -- 099. (RESERVED)

100. TAFI ELIGIBILITY.
To be eligible for TAFI, an individual must sign an application; provide verification requested by the Department; negotiate and sign a PRC; cooperate in establishing and obtaining support; complete work activities including job search; and meet all other personal responsibility and financial criteria. (7-1-99)

101. TIME LIMIT.
Lifetime eligibility for adults is limited to twenty-four (24) months unless otherwise provided by these rules. When there is more than one (1) adult in the *household*, the number of months of the adult with the most months of TANF participation *will* be counted towards the time limit. Any month that a TANF benefit was received in another state after June 30, 1997, counts toward the twenty-four (24) month Idaho time limit, unless the other state reports it did not count the months toward the federal time limit. If during the twenty-four (24) month time limit the Department does not end benefits at the appropriate time and a payment is made in error, the month is not counted towards the twenty-four (24) month time limit. It is counted toward the federal sixty (60) month time limit. *( )*

102. RESIDENCE EXCEPTION TO TIME LIMIT.
In determining the number of months of federal TANF or state TAFI participation, the Department will not count any month the adult meets the conditions in Subsections 102.01 and 102.02. (3-30-01)

01. **Lived in Indian Country or Alaskan Native Village**. The adult lived in Indian country or an Alaskan Native village during the month. (7-1-99)

02. Fifty Percent Not Employed. The most reliable data about the month shows at least one thousand (1,000) individuals lived in the Indian country unit or Alaskan Native Village and fifty percent (50%) or more of the adults were not employed. (3-30-01)

103. -- 105. (RESERVED)

106. SIGNATURES.
An individual who is applying for benefits, receiving benefits, or providing additional information as required by this chapter, may do so with the depiction of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-29-12)

107. (RESERVED)

108. APPLICATION FOR ASSISTANCE.
The application form must be signed by an adult participant, a legal guardian, or a representative, and received by the Department. A new TAFI application is required if the application was denied for failure to provide verification and more than thirty (30) days have elapsed since the household applied. *( )*

109. (RESERVED)

110. EFFECTIVE DATE.
The effective date of the TAFI grant is the date income and resource criteria are met, and a PRC is signed, unless the Department causes a delay, or a later date that is negotiated with the Department. (7-1-98)

111. SUBSTANCE ABUSE SCREENING AND TESTING NOTICE AT APPLICATION.
The Department will provide notice of substance abuse screening and possible testing to each TAFI applicant. The notice will advise the applicant of the factors listed in Subsections 111.01 through 111.08. (3-15-02)

01. Screening Requirement. The Department conducts substance abuse screening as a condition of receiving TAFI cash assistance. (3-15-02)

02. Testing Requirement. The Department conducts substance abuse testing as a condition for receiving TAFI cash assistance, if screening indicates the applicant is engaged in, or at high risk of, substance abuse. (3-15-02)

03. Treatment Requirement. Participants must enter a substance abuse treatment program and cooperate with treatment, if screening, assessment or testing shows them in need of substance abuse treatment. (3-15-02)

112. (RESERVED)

113. CONCURRENT MULTIPLE BENEFIT PROHIBITION.

01. Multiple TAFI Benefits. If individuals in a *household* unit are potentially eligible for TAFI benefits, only one (1) TAFI cash benefit is allowed in the same month for the *household* unit. *( )*

02. Multiple Program Benefits. If an individual is potentially eligible for either TAFI or AABD, only one (1) program may be chosen. If a child is potentially eligible for either TAFI or foster care, only one (1) program may be chosen. No individual may be eligible for benefits as a member of more than one (1) *household* in the same month. *( )*

***03. Program Benefits from Another State**. Individuals cannot receive TAFI benefits from Idaho and TANF benefits from another state in the same month.* *( )*

114. -- 115. (RESERVED)

116. PERSONAL RESPONSIBILITY CONTRACT (PRC).
A personal responsibility contract must be negotiated and signed by the mandatory adult household members defined under Section 125 of these rules, *with* all application activities completed before eligibility can be approved. The *household* must continue to comply with ongoing personal responsibility contract requirements to remain eligible.
( )

117. (RESERVED)

118. SUBSTANCE ABUSE ASSESSMENT.
A Department approved substance abuse contractor will conduct screening to evaluate a participant's need for testing. The contractor will use a screening instrument approved by the Department as a valid and reliable indicator of possible substance abuse. The contractor must have adequate training in the recognition of substance abuse, use of the screening instrument, and interpretation of results. When found necessary by the contractor, the assessment process will include substance abuse testing. The contractor will interpret the results. (3-15-02)

119. REFERRAL FOR SUBSTANCE ABUSE ASSESSMENT.
The Department will refer the participant for assessment when screening results indicate a reasonable suspicion the participant is engaged in, or at high risk of, substance abuse. A Department approved substance abuse contractor will conduct the assessment. (3-15-02)

120. SUBSTANCE ABUSE TESTING.
Idaho law requires substance abuse testing of any TAFI applicant or recipient, if the Department has a reasonable suspicion they are engaged in, or at high risk of, substance abuse. Testing will be conducted if screening and assessment give a reasonable suspicion the participant is engaged in substance abuse. TAFI participants must comply with substance abuse testing as a condition of eligibility. (3-15-02)

121. CONSENT AND ACKNOWLEDGMENT REQUIRED BEFORE SUBSTANCE ABUSE TESTING.
Before taking a substance abuse test, the participant must sign a consent for testing. The participant will be asked, but not required, to advise the person administering the test of the use of any over-the-counter or prescription drugs. This information will be considered in the results of the drug test. The participant must acknowledge, in writing, they received and understands the notice elements listed this Section and Section 111 of these rules. (3-15-02)

122. ADMINISTRATION OF SUBSTANCE ABUSE TEST.
A Department approved contractor will administer the substance abuse test. The contractor must have training, through a licensed laboratory, in correct procedures for specimen collection and chain of custody. Specimen collection will be documented including labeling containers to prevent erroneous drug test results. The contractor must perform specimen collection, storage, and transportation to the laboratory site in a manner preventing specimen contamination or adulteration. A licensed laboratory will evaluate specimens. The laboratory will analyze specimens for controlled substances and alcohol. (3-15-02)

01. Specimen Collection Procedures. The contractor *must* collect the specimen for substance abuse testing with due regard for the privacy of the participant providing the specimen *and* in a manner preventing substitution or contamination of the specimen. *( )*

02. Test Results. The Department will evaluate the results of the substance abuse test, before notifying the participant of them. The Department will evaluate all positive test results to verify the specimen was collected, transported, and analyzed under proper procedures. The Department will determine if other circumstances caused the positive test result. The Department will review and confirm medical information provided by the applicant. After this evaluation is complete, the Department will notify the participant of the test results. If the test result is positive, the Department will inform the participant of available substance abuse treatment programs, and of the requirement for treatment to be TAFI eligible. (3-15-02)

03. Request for New Test. Within ten (10) calendar days of notice of a positive test result, the participant can request a new test. The participant must notify the Department in writing of the intent to challenge the test results. For those participants approved for TAFI, benefits will continue during the re-test process. (3-15-02)

123. TAFI APPROVAL BEFORE SUBSTANCE ABUSE SCREENING AND TESTING RESULTS KNOWN.
Applicants may be approved for TAFI, if otherwise eligible, when they agree to substance abuse screening. They must complete the screening instrument and if required, participate in a substance abuse assessment. This includes providing a specimen for testing, if needed as part of the assessment process. The applicant should complete these steps within fifteen (15) calendar days of approval. If the process takes longer than fifteen (15) calendar days, through no fault of the applicant, TAFI may be approved if the participant is cooperative in satisfying their substance abuse screening requirements. (3-15-02)

124. SUBSTANCE ABUSE TREATMENT.
If substance abuse screening, assessment or testing shows the participant needs substance abuse treatment, the Department will require the participant to enter a substance abuse treatment program and cooperate with treatment. Treatment will be provided at no cost to TAFI participants. Treatment will be community based and gender specific. The Department will provide for the participant's transportation and child care needs if necessary. (3-15-02)

125. MANDATORY TAFI HOUSEHOLD MEMBERS.
Individuals who must be included in the *household* are listed in *the following:* *( )*

01. Children. Children under the age of eighteen (18) must reside with a parent or caretaker relative who exercises care and control of them. A dependent child's brother or sister, including half (1/2) siblings, living in the same home as the dependent child will be included in the *household*. Children receiving Supplemental Security Income (SSI) are excluded from the household. *( )*

02. Parents. Parents, as defined in Section 010 of these rules, who have an eligible child residing with them. (3-29-17)

03. Pregnant Woman. A pregnant woman with no other children who is in at least the third calendar month before the baby is due and is unable to work due to medical reasons. (4-5-00)

04. Spouses. Anyone related by marriage to another mandatory household member. (7-1-12)

126. BUDGETING FOR CARETAKER RELATIVES.
Individuals who may be eligible are listed in Subsections 126.01 and 126.03 of this rule. (3-29-17)

01. Relatives. Adult specified relatives other than parents who have an eligible related child residing with them and who are responsible for the child's care. Only one (1) child in the *household* must be related to one (1) of the specified caretaker relatives defined in Section 010 of these rules. *( )*

02. Caretaker Relative Applying Only for Relative Child. When a caretaker relative applies only for a relative child, only the child's income is counted. (3-29-17)

03. Multiple Children. When multiple children are included in the *household* unit and any child receives Supplemental Security Income, that income is not counted in the determination of the grant amount. *( )*

127. MARRIED CHILD UNDER AGE EIGHTEEN.
A married child under age eighteen (18) is no longer considered a dependent child. The child's subsequent separation, divorce or annulment does not change that status. (7-1-98)

128. UNMARRIED PARENT UNDER THE AGE OF EIGHTEEN.
An unmarried parent under age eighteen (18) must live with *their* parents, unless good cause is established. Two (2) unmarried parents under the age of eighteen (18), with a child in common, can choose to live with the parents of the unmarried father or the unmarried mother. *( )*

129. GOOD CAUSE NOT TO LIVE WITH PARENTS.
Good cause reasons *are required* for unmarried parents under age eighteen (18) *to* not live with their parents. *( )*

130. (RESERVED)

131. CITIZENSHIP AND QUALIFIED NON-CITIZEN CRITERIA.
To be eligible, an individual must be a member of one (1) of the groups listed in Subsections 131.01 through 131.10 of this rule. (5-8-09)

01. U.S. Citizen. A U.S. Citizen; or (3-20-04)

02. U.S. National, National of American Samoa or Swains Island. A U. S. National, National of American Samoa or Swains Island; or (3-20-04)

03. Full-Time Active Duty U.S. Armed Forces Member. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) currently on full-time active duty with the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard, or a spouse or unmarried dependent child of the U.S. Armed Forces member; or (3-20-04)

04. Veteran of the U.S. Armed Forces. A qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c) honorably discharged from the U.S. Army, U.S. Air Force, U.S. Marine Corps, U.S. Navy or U.S. Coast Guard for a reason other than their citizenship status or a spouse, including a surviving spouse who has not remarried, or an unmarried dependent child of the veteran; or (3-20-04)

05. Non-Citizen Entering the U.S. Before August 22, 1996. A non-citizen who entered the U.S. before August 22, 1996, and is currently a qualified non-citizen as defined in 8 U.S.C. 1641(b) or (c); or (3-20-04)

06. Non-Citizen Entering on or After August 22, 1996. A non-citizen who entered on or after August 22, 1996, and (3-20-04)

a. Is a refugee admitted into the U.S. under 8 U.S.C. 1157, and can be eligible for seven (7) years from their date of entry; or (3-20-04)

b. Is an asylee granted asylum into the U.S. under 8 U.S.C. 1158, and can be eligible for seven (7) years from the date their asylee status is assigned; or (3-20-04)

c. Is an individual whose deportation or removal from the U.S. has been withheld under 8 U.S.C. 1253 or 1231(b)(3) as amended by Section 305(a) of Division C of Public Law 104-208, and can be eligible for seven (7) years from the date their deportation or removal was withheld; or (3-20-04)

d. Is an Amerasian immigrant admitted into the U.S. under 8 U.S.C. 1612(b)(2)(A)(i)(V), and can be eligible for seven (7) years from the date of entry; or (3-20-04)

e. Is a Cuban or Haitian entrant to the U.S. under Section 501(e) of the Refugee Assistance Act, and can be eligible for seven (7) years from their date of entry; or (3-20-04)

07. Qualified Non-Citizen Entering on or After August 22, 1996. A qualified non-citizen under 8 U.S.C. 1641(b) or (c), entering the U.S. on or after August 22, 1996, and who has had a qualified non-citizen status for at least five (5) years; or (3-20-04)

08. Victim of Severe Form of Trafficking. A victim of a severe form of trafficking in persons, as defined in 22 U.S.C. 7102(13); who meets one (1) of the following: (3-20-04)

a. Is under the age of eighteen (18) years; or (3-20-04)

b. Is certified by the U.S. Department of Health and Human Services as willing to assist in the investigation and prosecution of a severe form of trafficking in persons; and (3-20-04)

i. Has made a bona fide application for a temporary visa under 8 U.S.C. 1104(a)(15)(T), which has not been denied; or (3-20-04)

ii. Is remaining in the U.S. to assist the U.S. Attorney General in the prosecution of traffickers in persons. (3-20-04)

09. Afghan Special Immigrants. An Afghan special immigrant, as defined in Public Law 111-118, who has special immigration status after December 26, 2007, is eligible from the date they enter into the U.S. as a special immigrant or the date they convert to the special immigrant status. (4-7-11)

10. Iraqi Special Immigrants. An Iraqi special immigrant, as defined in Public Law 111-118, who has special immigration status after January 28, 2008, is eligible from the date they enter the U.S. as a special immigrant or the date they convert to the special immigrant status. (4-7-11)

132. (RESERVED)

133. SOCIAL SECURITY NUMBER (SSN) REQUIREMENT.
An applicant must provide *their* Social Security Number (SSN), or proof *they have* applied for an SSN, to the Department before approval of eligibility, *unless good cause exists*. If the applicant has more than one (1) SSN, all numbers must be provided. The SSN *will* be verified by the Social Security Administration (SSA) electronically. When an SSN is unverified, the applicant is not eligible for TAFI benefits. The Department *will* notify the applicant in writing if eligibility is being denied or lost for failure to meet the SSN requirement. *( )*

134. RESIDENCE IN IDAHO.
Individuals must live in the state of Idaho, have no immediate intention of leaving, and cannot be a resident of another state. (7-1-98)

***135*. -- *141*. (RESERVED)**

142. SCHOOL ATTENDANCE RESPONSIBILITY.
School age children included in the *household* must attend school until they reach age eighteen (18). A fifty dollar ($50) penalty per month, per child, will be subtracted from the grant if a dependent child does not attend school. This penalty does not apply if the child is participating in work activities outlined in the PRC. *( )*

143. -- 146. (RESERVED)

147. ASSIGNMENT OF SUPPORT RIGHTS.
The parent, or the caretaker relative included in the grant, is required by law to assign to the State their rights to child support payments for the *household* to be eligible for TAFI. The State will retain all child support collections up to the amount of assistance that the *household* receives. This assignment only applies to the period of time the *household* is receiving TAFI. *( )*

148. COOPERATION RESPONSIBILITY.
For the *household* to be eligible, a parent, or a caretaker relative included in the grant, must cooperate with the Department to identify and locate *any* non-custodial parent, establish paternity, and establish, modify and enforce the child support order, unless good cause exists. *( )*

149. GOOD CAUSE FOR NOT COOPERATING.
Good cause for not cooperating with Child Support Services (CSS) *includes:* *( )*

01. Rape or Incest. Proof is provided that the child was conceived as a result of incest or rape. (7-1-98)

02. Physical or Emotional Harm. Proof is provided that the non-custodial parent may inflict physical or emotional harm to the children, the custodial parent or the caretaker relative. (7-1-98)

03. Minimum Information Cannot Be Provided. Substantial and credible proof is provided indicating the participant cannot provide the minimum information regarding the non-custodial parent. (7-1-99)

150. (RESERVED)

151. PATERNITY NOT ESTABLISHED WITHIN TWELVE MONTHS.
If information is provided but paternity is not established within twelve (12) months from the effective date of the application or the birth of a child, whichever is later, the grant is reduced by fifty percent (50%), unless the delay is caused by the Department or a third party. When determining the twelve (12) months, the Department *will* count only months the *household* received TAFI. *( )*

152. -- 156. (RESERVED)

157. APPLICANT JOB SEARCH.
Before the application can be approved, adult applicants will be required to engage in job search activities, unless good cause is established. (7-1-98)

158. (RESERVED)

159. APPLICANT VOLUNTARY QUIT.
The *household* is not eligible for ninety (90) days from the date any adult *household* member has voluntarily quit the most recent job of twenty (20) or more hours per week without good cause, within sixty (60) days of the application date. *( )*

160. PROHIBITION ON APPLICANT STRIKING.
When any applicant adult *household* member is on strike, the entire *household* is not eligible. A strike is a concerted stoppage or slowdown of work by employees. *( )*

161. -- 162. (RESERVED)

163. WORK ACTIVITIES RESPONSIBILITY.
All adult mandatory household members must participate in work activities, up to forty (40) hours per week. A child between the ages of sixteen (16) and eighteen (18), who is not attending school, must participate up to forty (40) hours per week in assigned work activities. A single custodial parent of a child less than six (6) years of age is not required to participate in a work activity if one of the reasons listed in Subsections 163.01 through 163.03 occurs. (7-1-12)

01. Reasonable Distance. Appropriate child care is not available within a reasonable distance from the participant's home or work site. (7-1-98)

02. Relative Child Care. Informal child care by relatives or others is not available or is unsuitable. (7-1-98)

03. Child Care Not Available. Appropriate and affordable child care is not available. (7-1-98)

164. WORK ACTIVITIES.
Work activities include paid work, including self-employment that produces earnings of at least the federal minimum wage; unpaid work; community service; work search activities; education leading to high school diploma or equivalency; work preparation education; vocational or job skills training; and other activities that improve the ability to obtain and maintain employment or support self-reliance. (7-1-98)

165. WORK REQUIREMENTS DURING SUBSTANCE ABUSE TREATMENT.
The Department may require participants to engage in appropriate work activities during substance abuse treatment. The treatment program will judge the work activities to be appropriate to the participant's treatment plan. Negotiation of the Personal Responsibility Contract between the participant, the Department and the Treatment program will include the work activities. (3-15-02)

166. CONSENT TO RELEASE CONFIDENTIAL INFORMATION.
Participants entering a substance abuse treatment program must sign a consent to release program information to the Department. The treatment program will only release substance abuse treatment information to report participant

progress. (3-15-02)

167. FAILURE TO COMPLY WITH SUBSTANCE ABUSE SCREENING AND TESTING REQUIREMENTS.
TAFI applicants or participants refusing to cooperate with substance abuse screening, assessment, testing or treatment are ineligible. (3-15-02)

168. NOT COMPLYING WITH WORK ACTIVITIES.
Each time an adult does not comply with work activity requirements in the PRC, without good cause, it is counted as an occurrence. The *household* is subject to the penalties, based on the number of occurrences, as listed in Subsections 168.01 through 168.03. *( )*

01. First Occurrence. The *household* is ineligible for one (1) month or until compliance, whichever is longer. *( )*

02. Second Occurrence. The *household* is ineligible for three (3) months or until compliance, whichever is longer. *( )*

03. Third Occurrence. The *household* is ineligible for lifetime. *( )*

169. APPLYING PENALTIES FOR NOT COMPLYING WITH WORK ACTIVITIES.
Work activity penalties are applied as listed in Subsections 169.01 through 169.02. (7-1-98)

01. *Household* Penalty. Penalties apply to the entire *household*, but the number of individual occurrences follows the individual. The penalty period for the *household* is the greatest number of any individual's occurrences. If the individual leaves the *household*, any period of ineligibility caused by that individual ends. If an adult who does not comply returns or joins another *household*, any remaining period of ineligibility resumes. *( )*

02. Work Activity Penalty. A fifty dollar ($50) penalty per month, per child, will be subtracted from the *household* grant when a child sixteen (16) years of age or older does not comply with work activities, as long as the child resides with the *household*. *( )*

170. -- *176*. (RESERVED)

177. TEMPORARY ABSENCE.
Eligible individuals may be temporarily absent from the home for a reasonable period not to exceed one hundred eighty (180) days. (7-1-98)

178. NOTIFICATION REQUIREMENT.
The Department will notify the *household*, in writing, of the approval or denial of the application and the right of appeal, if applicable. *( )*

179. -- 199. (RESERVED)

200. RESOURCE LIMIT.
The total of the entire *household*'s countable resources must not be greater than five thousand dollars ($5,000) in any month. Resources are money, financial instruments, vehicles, and real property. *( )*

201. COUNTABLE RESOURCES.
Resources are countable when the *household* has a legal interest in the resource and can take action to obtain or dispose of the resource. Except for vehicles, the fair market value of the resource less all liens, mortgages, or other encumbrances, is the countable amount of the resource. *( )*

202. -- 206. (RESERVED)

207. VEHICLES.
The Department counts the resource value of a vehicle as described in Subsections 207.01 and 207.02 of these rules

as long as the vehicle is used primarily for transportation and not for recreational use. The value of any vehicle that is primarily for recreational use counts toward the household's resource limit. (7-1-07)

01. Exclude One Vehicle Per Adult. The value of one (1) vehicle per adult in the TAFI household is excluded beginning with the highest valued vehicle. (7-1-07)

02. All Other Vehicles Subject to Federal Regulations. All other vehicles in the household will have their values counted as provided in the Federal Food Stamp Program under 7 CFR 273.8. (7-1-07)

208. RESOURCE EXCLUSIONS.
The resources listed in Subsections 208.01 through 208.14 of this rule, are excluded. (5-8-09)

01. Home and Lot. The *household*'s home, surrounding land and buildings not separated by property owned by others. A public road or right of way that separates any plot from the home does not affect the exclusion. *( )*

02. Household Goods. Household goods are items of personal property normally found in the home. The items will be used for maintenance, use, and occupancy of the home. Household goods include furniture, appliances, television sets, carpets, and utensils for cooking and eating. (3-30-01)

03. Personal Effects. Personal effects are items worn or carried by a participant, or items having an intimate relation to the participant. Personal effects include clothing, jewelry, personal care items, and prosthetic devices. Personal effects also include items for education or recreation, such as books, musical instruments, or hobby materials. (3-30-01)

04. Building Lot. One (1) unoccupied lot and one (1) partially built home. Only one (1) home and one (1) lot can be excluded. (7-1-98)

05. Unoccupied Home. A home temporarily unoccupied due to employment, training, medical care or treatment and natural disasters. (7-1-98)

06. Home Loss or Damage Insurance Settlements. An insurance settlement awarded to a *household* for home loss or damage, for twelve (12) months from the date of receipt. *( )*

07. Income Producing Property. Real property that annually produces income consistent with its fair market value. (7-1-98)

08. Equipment Used in a Trade or Business. Equipment used in a trade or business or reasonably expected to be used within one (1) year from their most recent use. (7-1-98)

09. Contracts. A mortgage, deed of trust, promissory note, or any other form of sales contract if the purchase price and income produced are consistent with the property's fair market value. (7-1-98)

10. Life Insurance. The cash surrender value of a life insurance policy. (7-1-98)

11. Native American Payments. To the extent authorized, payments or purchases made with payments authorized by law based on Native American ancestry. (7-1-98)

12. Funeral Agreements. The cash value of an irrevocable funeral agreement. (7-1-98)

13. Education Accounts. Account with funds legally identified as monies to pay for educational expenses. (5-8-09)

14. Retirement and Tax Preferred Accounts. Accounts legally identified as monies for retirement. (5-8-09)

209. -- 213. (RESERVED)

214. COUNTABLE INCOME.
All earned and unearned income is counted in determining eligibility and grant amount, unless specifically excluded by rule. (7-1-98)

215. EXCLUDED INCOME.
The types of income listed in Subsections 215.01 through 215.40 of this rule, are excluded. (4-11-19)

01. Supportive Services. Supportive services payments. (7-1-98)

02. Work Reimbursements. Work-related reimbursements. (7-1-98)

03. Child's Earned Income. Earned income of a dependent child, who is attending school. (7-1-98)

04. Child Support. Child support payments assigned to the State and non-recurring child support payments received in excess of that amount. (7-1-98)

05. Child's Supplemental Security Income (SSI). Income received for a child from Supplemental Security Income (SSI). (4-11-19)

06. Loans. Loans with a signed, written repayment agreement. (7-1-98)

07. Third Party Payments. Payments made by a person directly to a third party on behalf of the *household*. *( )*

08. Money Gifts. Money gifts, up to one hundred dollars ($100), per person per event, for celebrations typically recognized with an exchange of gifts. (7-1-98)

09. TAFI. Retroactive TAFI grant corrections. (7-1-98)

10. Social Security Overpayment. The amount withheld for a Social Security overpayment. Money withheld voluntarily or involuntarily to repay an overpayment from any other source is counted as income. (7-1-99)

11. Interest Income. Interest posted to a bank account. (7-1-98)

12. Tax Refunds. State and federal income tax refunds. (7-1-98)

13. EITC Payments. EITC payments. (7-1-98)

14. Disability Insurance Payments. Taxes withheld and attorney's fees paid to secure disability insurance payments. (7-1-98)

15. Sales Contract Income. Taxes and insurance costs related to sales contracts. (7-1-98)

16. Foster Care. Foster care payments. (7-1-98)

17. Adoption Assistance. Adoption assistance payments. (7-1-98)

18. Food Programs. Commodities and food stamps. (7-1-98)

19. Child Nutrition. Child nutrition benefits. (7-1-98)

20. Elderly Nutrition. Elderly nutrition benefits received under Title VII, Nutrition Program for the Elderly, of the Older Americans Act of 1965. (7-1-98)

21. Low Income Energy Assistance. Benefits paid under the Low Income Energy Assistance Act of 1981. (7-1-98)

22. Home Energy Assistance. Home energy assistance payments under Public Law 100-203, Section 9101. (7-1-98)

23. Utility Reimbursement Payment. Utility reimbursement payments. (7-1-98)

24. Housing Subsidies. An agency or housing authority pays a portion of or all of the housing costs for a participant. (5-8-09)

25. Housing and Urban Development (HUD) Interest. Interest earned on HUD *household* self-sufficiency escrow accounts established by Section 544 of the National Affordable Housing Act. *( )*

26. Native American Payments. Payments authorized by law made to people of Native American ancestry. (7-1-98)

27. Educational Income. Educational income includes deferred repayment education loans, grants, scholarships, fellowships, and veterans' educational benefits. The school attended must be a recognized institution of post secondary education, a school for the handicapped, a vocational education program, or a program providing completion of a secondary school diploma, or equivalent. (7-1-12)

28. Work Study Income of Student. College work study income. (7-1-98)

29. VA Educational Assistance. VA Educational Assistance. (7-1-98)

30. Senior Volunteers. Senior volunteer program payments to individual volunteers under the Domestic Volunteer Services Act of 1979, 42 U.S.C. Sections 4950 through 5085. (7-1-98)

31. Relocation Assistance. Relocation assistance payments received under Title II of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970. (7-1-98)

32. Disaster Relief. Disaster relief assistance paid under the Disaster Relief Act of 1974 and aid provided under any federal statute for a President-declared disaster. Comparable disaster assistance provided by states, local governments, and disaster assistance organizations. (7-1-98)

33. Radiation Exposure Payments. Payments made to persons under the Radiation Exposure Compensation Act. (7-1-98)

34. Agent Orange. Agent Orange settlement payments. (7-1-98)

35. Spina Bifida. Spina bifida allowances paid to children of Vietnam veterans. (7-1-99)

36. Japanese-American Restitution Payments. Payments by the U.S. Government to Japanese-Americans, their spouses, or parents (or if deceased to their survivors) interned or relocated during World War II. (3-30-01)

37. Vista Payments. Volunteers in Service to America (VISTA) payments. (3-30-01)

38. Subsidized Employment. Employment for which the employer receives a subsidy from public funds to offset a portion or all of the wages and costs of employing an individual. This type of employment is a short-term placement, pays prevailing wage, and a specific skill is acquired. The employment is prescribed through a memorandum of agreement with no guarantee of permanent employment for the participant. (5-8-09)

39. Temporary Census Income. All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten (10) year U.S. Census. (4-7-11)

40. Income Excluded By Federal Law. Income excluded by federal law is not counted in determining income available to the participant. (7-1-12)

216. -- 220. (RESERVED)

221. DETERMINING ELIGIBILITY.
To determine initial and continuing eligibility, the countable monthly income that is or will be available to the *household* is used in the calculation of the grant. *( )*

222. CONVERTING INCOME TO A MONTHLY AMOUNT.
Income received more often than once a month is converted to a monthly amount as listed in Subsections 222.01 through 222.03, if a full month's income is anticipated. Figures are not rounded when income is converted to a monthly amount. (7-1-98)

01. Weekly Payments. The projected weekly payment is multiplied by four point three (4.3). (7-1-98)

02. Biweekly Payments. The projected bi-weekly amount is multiplied by two point one five (2.15). (7-1-98)

03. Semi-Monthly Payments. The projected semi-monthly amount is multiplied by two (2). (7-1-98)

223. AVERAGING INCOME.
Income may be averaged for participants who receive income from a contract, from self-employment, or any other income that is intended to cover more than one (1) month, if it is expected to continue. The income is averaged over the number of months it is intended to cover. (7-1-98)

224. -- 228. (RESERVED)

229. SELF-EMPLOYMENT INCOME.
For the purposes of these rules, self-employment income is from a business that is a sole proprietorship. A sole proprietorship is a business owned by one (1) person. (5-8-09)

230. AVERAGING SELF-EMPLOYMENT INCOME.

01. Annual Self-Employment Income. When self-employment income is considered annual support by the household, the Department averages the self-employment income over a twelve (12) month period, even if: (5-8-09)

a. The income is received over a shorter period of time than twelve (12) months; and (5-8-09)

b. The household receives income from other sources in addition to self-employment. (5-8-09)

02. Seasonal Self-Employment Income. A seasonally self-employed individual receives income from self-employment during part of the year. When self-employment income is considered seasonal, the Department averages self-employment income for only the part of the year the income is intended to cover. (5-8-09)

231. CALCULATION OF SELF-EMPLOYMENT INCOME.
The Department calculates self-employment income by adding monthly income to capital gains and subtracting a deduction for expenses as determined in Subsection 231.03 of this rule. (5-8-09)

01. How Monthly Income is Determined. If no income fluctuations are expected, the average monthly income amount is projected for the certification period. If past income does not reflect expected future income, a proportionate adjustment is made to the expected monthly income. (5-8-09)

02. Capital Gains Income. Capital gains include profit from the sale or transfer of capital assets used in self-employment. The Department calculates capital gains using the federal income tax method. If the household expects to receive any capital gains income from self-employment assets during the certification period, this amount is added to the monthly income, as determined in Subsection 231.01 of this rule, to determine the gross monthly income. (5-8-09)

03. Self-Employment Expense Deduction. The Department uses the standard self-employment deduction in Subsection 231.03.a. of this rule, unless the applicant claims that their actual allowable expenses exceed the standard deduction and provides proof of the expenses described in Subsection 231.03.b. of this rule. (5-8-09)

a. The self-employment standard deduction is determined by subtracting fifty percent (50%) of the gross monthly self-employment income as determined in Subsections 231.01 and 231.02 of this rule; or (5-8-09)

b. The self-employment actual expense deduction is determined by subtracting the actual allowable expenses from the gross monthly self-employment income. The following items are not allowable expenses and may not be subtracted from the gross monthly self-employment income: (5-8-09)

i. Net losses from previous tax years; (5-8-09)

ii. Federal, state, and local income taxes; (5-8-09)

iii. Money set aside for retirement; (5-8-09)

iv. Work-related personal expenses such as transportation to and from work; and (5-8-09)

v. Depreciation. (5-8-09)

232. RENTAL INCOME FROM REAL PROPERTY.
If a *household* member is managing the property twenty (20) hours or more per week, the rental income minus rental costs is earned income. If a *household* member is managing the property less than twenty (20) hours per week, the rental income minus rental costs is unearned income. Rental costs do not include the principal portion of the mortgage payment, depreciation or depletion, capital payments, and personal expenses not related to the rental income. *( )*

233. -- 239. (RESERVED)

240. INDIVIDUALS EXCLUDED FROM *HOUSEHOLD* SIZE.
Individuals listed in Subsections 240.01 through 240.06 are excluded from the *household* size in determining eligibility and grant amount. Income and resources of these ineligible *household* members are counted unless otherwise excluded in Section 215 of these rules. *( )*

01. Ineligible Non-Citizens. Individuals who are non-citizens and are not listed in Section 131. (7-1-98)

02. *With* Drug Related Conviction. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance, when they do not comply with the terms of a withheld judgment, probation or parole*, and whose* felony occurred after August 22, 1996. *( )*

03. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony. (7-1-98)

04. Felons Violating a Condition of Probation or Parole. Felons who are violating a condition of probation or parole imposed for a federal or state felony. (7-1-98)

05. *Convicted of* Fraudulent Misrepresentation of Residency. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid or SSI from two (2) or more states at the same time are ineligible for ten (10) years from the date of conviction. *( )*

06. Children Receiving Supplemental Security Income (SSI). A child who is receiving Supplemental Security Income (SSI). (4-11-19)

241. SPONSORED NON-CITIZEN.
The income and resources of a legal non-citizen's sponsor and the sponsor's spouse are counted in determining eligibility and grant amount in accordance with applicable federal law. (7-1-98)

242. ONE-HALF GRANT CHILD SUPPORT PENALTY AND SCHOOL OR WORK PENALTY.
If the grant amount is reduced by fifty percent (50%) for not establishing paternity within twelve (12) months and there are one (1) or more penalties for not attending school or work, the child support penalty is calculated first. (7-1-98)

243. -- 247. (RESERVED)

248. MAXIMUM GRANT AMOUNT.
The maximum grant is three hundred nine dollars ($309). (5-3-03)

249. GRANT AMOUNT FOR FAMILIES WITH NO INCOME.
The grant amount for eligible families with no income is the maximum grant minus penalties, if applicable. (7-1-98)

250. GRANT AMOUNT FOR FAMILIES WITH UNEARNED INCOME.
The grant amount for eligible families with unearned income only is the maximum grant minus the unearned income, and penalties if applicable. (7-1-98)

251. WORK INCENTIVE TABLE.
Work Incentive Table 251 is used in the calculation of the grant amount for *households* with earned income.

WORK INCENTIVE TABLE 251	
Number of *Household* Members	Monthly Amount
1	$309
2	$309
3	$389
4	$469
5	$547
6	$628
7	$708
8	$787
9	$867
10	$947
Over 10 Persons	Add $80 Each

( )

252. GRANT AMOUNT FOR FAMILIES WITH EARNED INCOME.
For eligible families with earned income, an amount is calculated by subtracting sixty percent (60%) of gross earned income, one hundred percent (100%) of any unearned income, and applicable penalties from the figure in the Work Incentive Table based on the *household* size. The grant amount is the result of this calculation rounded to the next lowest dollar or the maximum grant, whichever is less. *( )*

253. PRORATING BENEFITS FOR THE APPLICATION MONTH.
The grant amount is prorated from the effective date. (7-1-98)

254. GRANT LESS THAN TEN DOLLARS NOT PAID.
A payment is not made when the grant amount is less than ten dollars ($10). (7-1-98)

255. -- 259. (RESERVED)

260. APPLICANT ONE-TIME CASH PAYMENT.
An applicant *household* may be eligible for a one-time cash assistance payment for any emergency need. The *household* must meet the income criteria in the first month of the one-time cash payment, but all income is excluded in calculating the monthly one-time cash payment amount. Eligibility criteria, except SSN, are verified at the discretion of the Department. *( )*

261. APPLICANT ONE-TIME CASH PAYMENT ELIGIBILITY CRITERIA.
The applicant *household* must meet the *following requirements:* *( )*

01. SSN. *Provide* SSN, or proof of application for an SSN, for each adult *household* member. *( )*

02. Dependent Child. *Have* a dependent child or a pregnant woman in her last trimester *who is* medically unable to work. *( )*

03. Residence. *L*ive in Idaho *with no* adults in the household receiv*ing* a TANF payment in the same month from another state. *( )*

04. Voluntary Quit. *No* adult *household* member *who has* voluntarily quit their most recent employment within sixty (60) days or *has been* on strike. *( )*

05. Income and Resources. *B*e income eligible for TAFI *without* resources to meet the need. *( )*

06. Period of Ineligibility. *N*ot be in a period of TAFI ineligibility. *( )*

07. Agreement. *C*omplete a one-time cash agreement. *( )*

08. Episode of Need Restriction. *For households* receiv*ing* Career Enhancement services or Emergency Assistance, *no receipt of* one-time cash payment for the same episode of need. *( )*

262. PARTICIPANT ONE-TIME CASH PAYMENT.
A participant *household* may be eligible for a one-time cash assistance payment to obtain or maintain employment. A participant *household* must have at least two (2) months of the twenty-four (24) month TAFI time limit remaining for each month of the one-time cash payment. The participant *household*'s income is excluded in calculating the monthly one-time cash payment amount. The participant *household*'s PRC must be modified to include the one-time cash payment agreement. *( )*

263. ONE-TIME CASH PAYMENT AGREEMENT.
The one-time cash agreement must include the information listed in Subsections 263.01 through 263.05. (7-1-98)

01. Reason. The reason for the one-time cash payment. (7-1-98)

02. Number of Months. The number of months included in the one-time cash payment. (7-1-98)

03. Penalty Months. The number of penalty months subtracted from the *household*'s twenty-four (24) month time limit. *( )*

04. Remaining Months. The number of months remaining in the twenty-four (24) month time limit. (7-1-98)

05. Ineligibility Period. The months the *household* will not be eligible for TAFI. *( )*

264. AMOUNT OF ONE-TIME CASH PAYMENT.
The amount of the one-time cash payment is the amount of need or up to three (3) times the maximum monthly grant amount. (7-1-98)

265. INELIGIBILITY PERIOD.
A *household* who receives a one-time cash payment is ineligible for the number of full or partial months for which the one-time cash payment is made and one (1) additional month for each month included in the one-time cash payment. An applicant *household* who receives a one-time cash payment is ineligible for TAFI beginning the month of the one-time cash payment. A participant *household* who receives a one-time cash payment is ineligible for TAFI beginning the month after TAFI ends due to the one-time cash payment. The ineligibility period counts toward the twenty-four (24) month time limit. *( )*

266. LIFETIME ELIGIBILITY.
A *household* can be eligible for a one-time cash payment only once in a lifetime in Idaho. *( )*

267. -- 299. (RESERVED)

300. DEPARTMENT NOTIFICATION RESPONSIBILITY.
Notification *will* be provided to a *household* whenever eligibility or the grant amount changes. The notification *will* state the effective date and the reason for the action, the rule that supports the action, and the *household*'s appeal rights. Notification may be delivered to the customer by hand, U.S. Mail, professional delivery service, or by any electronic means. *( )*

301. ADVANCE NOTIFICATION RESPONSIBILITY.
Whenever a reported change results in a grant closure or decrease, the Department will provide notification at least ten (10) calendar days before the effective date of the action. (7-1-98)

302. ADVANCE NOTIFICATION NOT REQUIRED.
Notification must be provided by the date of the action, but advance notification is not required *in the following circumstances:* *( )*

01. *Household* Request. The *household* requests closure of the grant. *( )*

02. *Household* Member in Institution. A *household* member is admitted or committed to an institution. *( )*

03. *Household*'s Address Unknown. The *household*'s whereabouts are unknown and Department mail is returned showing no known forwarding address. *( )*

04. TANF Received in Another State. A *household* member is receiving TANF in another state. *( )*

05. Child Removed. A child *household* member is removed from the home due to a judicial determination. *( )*

06. Intentional Program Violation (IPV). An IPV disqualification begins the first month after the month the member receives written notice of disqualification. (7-1-98)

07. Failure to Comply with Personal Responsibility Contract. A participant fails to comply with activities agreed to in the participant's Personal Responsibility Contract. (3-30-07)

303. -- 307. (RESERVED)

308. *HOUSEHOLD* REPORTING RESPONSIBILITIES.
The *household* must report changes in circumstances to the Department, either verbally or in writing, within ten (10) calendar days from the date the change becomes known, unless good cause is established. *( )*

309. PENALTY FOR FAILURE TO REPORT.
When a *household* member does not report a change in income, resources or *household* composition, without good cause, the *household* is ineligible *as follows:* *( )*

01. First Occurrence. The *household* is ineligible for one (1) month. *( )*

02. Additional Occurrence. The *household* is ineligible for three (3) months. *( )*

310. CHANGES AFFECTING ELIGIBILITY OR GRANT AMOUNT.
If a *household* reports a change that results in an increase, the grant will be increased effective the month after the month of report. If a *household* reports a change that results in a decrease, the grant is decreased or ended effective the first month after advance notice to the *household*, unless the change does not require advance notice. *( )*

311. TAFI ELIGIBILITY DURING SUBSTANCE ABUSE TREATMENT.
A participant may receive TAFI after showing a positive test result. They must agree to enter treatment and meet all other eligibility factors. Participants continuing to meet TAFI eligibility factors will remain eligible during substance abuse treatment. A participant absent from the home, due to residential treatment, continues to be a member of the TAFI assistance unit. (3-15-02)

312. FAILURE TO COMPLY WITH TREATMENT OR ENGAGING IN SUBSTANCE ABUSE AFTER TREATMENT.
The Department will deny TAFI benefits to any participant who leaves treatment before being released, or engages in substance abuse following treatment. (3-15-02)

313. CONTINUATION OF ELIGIBILITY FOR CHILDREN.
A dependent child's eligibility for TAFI is not affected if an adult in the assistance unit is ineligible for refusal to comply with the substance abuse screening, testing or treatment. (3-15-02)

314. PROTECTIVE PAYEE.
If an adult in the assistance unit is ineligible for TAFI for failure to comply with substance abuse screening, testing or treatment requirements, the Department may establish a protective payee for the benefit of the child. If the adult refuses to cooperate in establishing an appropriate protective payee for the child, the Department may appoint one. (3-15-02)

315. (RESERVED)

316. UNDERPAYMENT.
If the Department is at fault for issuing a payment less than the *household* should have received, the Department issues a supplemental benefit for the difference. *( )*

317. FAIR HEARING REQUEST.
A *household* may request a fair hearing to contest a Department decision. The *household* must make the request for a fair hearing within thirty (30) days from the date the notification was mailed by the Department. *( )*

318. CONTINUATION PENDING LOCAL HEARING DECISION.
The *household* may continue to receive assistance during the hearing process if the Department receives the request for continued benefits within ten (10) days from the date the notification was mailed. Assistance will be continued at the current month's level while the hearing decision is pending, unless the twenty-four (24) month limit is reached or another change affecting the *household*'s eligibility occurs, including failure to cooperate with requirements of the Personal Responsibility Contract while waiting for the Fair Hearing decision. *( )*

319. -- 323. (RESERVED)

324. INTENTIONAL PROGRAM VIOLATIONS (IPV).
An IPV is an intentionally false or misleading action or statement made to establish or maintain eligibility. The Department investigates and refers appropriate cases for IPV determination, which may include a referral for the prosecution of fraud. An IPV will be established as *follows:* *( )*

01. Admission. When a *household* member admits the IPV in writing and waives the right to an administrative hearing. *( )*

02. Hearing. By an administrative hearing. (7-1-98)

03. Court Decision. By a court decision. (7-1-98)

04. Deferred Adjudication. By deferred adjudication. (7-1-98)

325. DEFERRED ADJUDICATION.
Deferred adjudication exists when *either of the following* is met: *( )*

01. Meets Terms of Court Order. The court does not issue a determination of guilt because the accused *household* member meets the terms of a court order. *( )*

02. Agreement with Prosecutor. The court does not issue a determination of guilt because the accused *household* member meets the terms of an agreement with the prosecutor. *( )*

326. DISQUALIFICATION FOR IPV.
*T*he entire *household* is *in*eligible for the *following* periods *on findings of an IPV for:* *( )*

01. First Offense. Twelve (12) months for the first IPV or fraud offense, or the length of time specified by the court. (7-1-98)

02. Second Offense. Twenty-four (24) months for the second IPV or fraud offense, or the length of time specified by the court. (7-1-98)

03. Third Offense. Permanent disqualification when a third or subsequent offense is committed, or for the length of time specified by the court. (7-1-98)

327. APPLYING PENALTIES FOR IPV.
IPV penalties apply to the entire *household*, but the number of individual occurrences follows the individual. The penalty period for the *household* is the greatest number of any individual's occurrences. If the individual leaves the *household*, any period of ineligibility caused by that individual ends. If an individual serving an IPV penalty returns to the *household* or joins another *household*, the remaining period of ineligibility is applied to the *household*. *( )*

328. (RESERVED)

329. IPV OVERPAYMENTS.
An IPV overpayment is the portion of a monthly TAFI payment issued to a *household* that exceeds the amount for which the *household* is eligible. The overpayment must result from an IPV established as described in Section 324. *( )*

330. IPV OVERPAYMENT AND EARNED INCOME.
If the IPV is the result of the *household*'s failure to report earned income, the Department *will* use one hundred percent (100%) of the *household*'s earned income to calculate the IPV overpayment. *( )*

331. IPV OVERPAYMENT COLLECTION.
The Department *will* take all reasonable steps to collect an IPV overpayment. The remaining adult *household* members are responsible for an IPV overpayment resulting from one (1) member's IPV, regardless of the *household*'s current TAFI eligibility. *( )*

332. NOTICE OF OVERPAYMENT.
The Department will notify the participant when an overpayment exists. The notice will inform the participant of mandatory recovery, the right to a hearing, the method for repayment and the need to arrange a repayment interview. (7-1-12)

333. INADVERTENT HOUSEHOLD ERROR AND AGENCY ERROR TAFI OVERPAYMENTS.
An overpayment exists when a household receives a TAFI payment that exceeds the amount they were eligible to receive. The Department will establish a claim against the household, to recover the value of the overpaid TAFI benefit. (7-1-12)

01. Inadvertent Household Error (IHE). An IHE is an error caused by an adult household member, without intent to cause an overpayment, which results in an overpayment. Examples of IHE claims are: (7-1-12)

a. Failure to Give Information. A household, without intent to cause an overpayment, fails to give correct or complete information. (7-1-12)

b. Failure to Report a Change that was required to be reported. A household, without intent to cause an overpayment, fails to report changes or to report at all. (7-1-12)

c. Failure to Comply. A household, without intent to cause an overpayment, fails to comply due to a language barrier, educational level, or not understanding written or verbal instructions. (7-1-12)

d. Benefits Paid Pending a Hearing. A household gets continued TAFI pending a fair hearing decision and the hearing decision, when made, is against the household. (7-1-12)

02. Agency Error (AE). An agency error overpayment claim results from an overpayment caused by a Department action, or failure to act. (7-1-12)

334. (RESERVED)

335. REVIEW OF PERSONAL RESPONSIBILITY CONTRACT AND ELIGIBILITY.
The PRC and eligibility are reviewed on an ongoing basis and when a change occurs that may affect eligibility. (7-1-98)

336. PRC MODIFICATIONS.
If the participant cannot meet a PRC condition, the participant must notify the Department. Either the participant or the Department may initiate renegotiation or modification of the PRC when conditions change. (7-1-98)

337. NOT COMPLYING WITH CONDITIONS OF PRC.
If the participant does not comply with a requirement of the PRC, without good cause, the penalty specified in the rules addressing the activity is imposed. The Department's non-compliance with a PRC requirement is good cause. (7-1-98)

338. -- 339. (RESERVED)

340. EXTENDED CASH ASSISTANCE (ECA).
Extended Cash Assistance (ECA) may be provided to families who have received twenty-four (24) months of assistance. All eligibility criteria apply to ECA. (7-1-98)

341. EXTENDED CASH ASSISTANCE APPLICATION.
No application is required for ECA for families receiving temporary cash assistance. For all other families an application is required. (7-1-98)

342. EXTENDED CASH ASSISTANCE ADDITIONAL ELIGIBILITY CRITERIA.
In addition to all the eligibility requirements for TAFI, all adults in the *household* must meet one (1) of the conditions listed in Subsections 342.01 through 342.02. *( )*

01. Physical Condition. A physical or mental condition expected to last at least three (3) months. The condition must prevent any employment that would generate earnings of at least one hundred sixty-seven percent (167%) of the maximum grant, per month. (7-1-98)

02. Care of Ill or Incapacitated *Household* Member. Care of an ill or incapacitated child or spouse in the home. The in-home care must be provided for a minimum of one (1) month *and* prevent any employment that would generate earnings of at least one hundred sixty-seven percent (167%) of the maximum grant, per month. *( )*

343. (RESERVED)

344. EXTENDED CASH ASSISTANCE TIME LIMITS.
There are no time limits for ECA, but all adults in the *household* must continue to meet both ECA and temporary cash assistance eligibility criteria. *( )*

345. -- 349. (RESERVED)

350. TRANSITIONAL ASSISTANCE.
Transitional Assistance may be provided to an individual whose *household* is no longer eligible for TAFI cash assistance due to employment or who requested TAFI closure because of employment. At the time of closure, the *household*'s income must be below two hundred percent (200%) of the federal poverty guidelines. *( )*

351. TRANSITIONAL ASSISTANCE ELIGIBILITY CRITERIA.
The *following requirements* must *be* met: *( )*

01. TAFI *Household*. The *household has* received TAFI for one (1) partial month or one (1) full month within the past twelve (12) months. *( )*

02. Need for Work-Related Services. The individual needs work-related services to maintain employment. (4-5-00)

03. Residence. The individual lives in the state of Idaho and is not a resident of another state. (4-5-00)

04. Controlled Substance Felon. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance, can receive Transitional Assistance when they comply with the terms of a withheld judgment, probation or parole, and whose felony occurred after August 22, 1996. (5-3-03)

05. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony cannot receive Transitional Assistance. (5-3-03)

06. Parole Violation. Felons who are violating a condition of probation or parole imposed for a federal or state felony cannot receive Transitional Assistance. (5-3-03)

07. Fraud. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid, or SSI, from two (2) or more states at the same time, cannot receive Transitional Assistance for ten (10) years from the date of conviction. (5-3-03)

352. (RESERVED)

353. TRANSITIONAL ASSISTANCE TIME LIMIT.
Transitional Assistance may be provided up to twelve (12) months after TAFI ends due to employment. Transitional Assistance does not count toward the TAFI twenty-four (24) month time limit. If the Department pays Transitional Assistance in error, the month does not count towards the twenty-four (24) month TAFI time limit. (5-3-03)

354. -- 367. (RESERVED)

368. CAREER ENHANCEMENT ASSISTANCE.
Career Enhancement Assistance may be provided to an individual with dependent children. The individual must have a work-related need, that if unmet, would prevent them from maintaining employment or participating in work programs. Career Enhancement Assistance is non-recurrent, short-term, and designed to deal with a specific crisis

situation or episode of need. (5-3-03)

369. CAREER ENHANCEMENT SERVICE PLAN.
All individuals receiving Career Enhancement Assistance must have a written Career Enhancement Service Plan. (4-7-11)

370. CAREER ENHANCEMENT ASSISTANCE ELIGIBILITY CRITERIA.
The *following requirements* must *be* met: *( )*

01. Application and Service Plan. *Submit a completed* application form for Career Enhancement Assistance, unless the *household* already receives services from the Food Stamp Medicaid, Idaho Child Care or Child Support Services programs*; all eligible individuals complete a* Career Enhancement service plan. *( )*

02. Verification of Career Enhancement Eligibility. *Have* SSN verified. Other eligibility criteria are verified at the discretion of the Department. *( )*

03. Eligible Individual. *No failure* to comply with a previous Career Enhancement Service Plan *without good cause*. *B*e a parent or a caretaker relative with a dependent child in the home, a pregnant woman; or a non-custodial parent legally responsible to provide support for a dependent child who does not reside in the same home. *( )*

04. Need for Work-Related Services. *B*e in need *for* work-related services to maintain employment or participate in work programs*;* participate in meeting *that* need to the extent possible. This requires the individual to meet a portion of the need if possible, and to explore other resources available to meet the need. *( )*

05. Income Limit. *M*eet the income limit for only the first month of the service to receive Career Enhancement Assistance*; have household* income below two hundred percent (200%) of the federal poverty guidelines, be eligible for Food Stamps, Medicaid or ICCP. For non-custodial parents, *have household* income below four hundred percent (400%) of the federal poverty guidelines, or be eligible for Food Stamps or Medicaid. *( )*

06. Citizenship and Legal Non-Citizen. *B*e a citizen or meet the legal non-citizenship requirements of Section 131. *( )*

07. SSN. *Provide a*n SSN, or proof of application for an SSN. *( )*

08. Residence. *L*ive in the state of Idaho and not a resident of another state. *( )*

09. *No* Duplication of Services. *No* Career Enhancement Assistance for a need already met by Emergency Assistance under IDAPA 16.06.01, "Family and Children's Services," or by a one-time TAFI cash payment. *( )*

10. TANF Restrictions. The *household can*not be receiving TANF or TAFI benefits or be serving a TAFI sanction *and p*articipants *can*not receive Career Enhancement Assistance if they have received five (5) years of TANF benefits. The *household* must not be receiving TANF Extended Cash Assistance. The participant cannot receive Career Enhancement Assistance if they have received it within the past twelve (12) months. *( )*

11. Controlled Substance Felons. Individuals convicted under federal or state law of any offense classified as a felony involving the possession, use or distribution of a controlled substance can receive Career Enhancement Assistance when they comply with the terms of a withheld judgment, probation or parole and if their felony occurred after August 22, 1996. (5-3-03)

12. Fleeing Felons. Felons who are fleeing to avoid prosecution, custody or confinement after conviction of a felony or an attempt to commit a felony cannot receive Career Enhancement Assistance. (5-3-03)

13. Probation or Parole Violation. Felons who are violating a condition of probation or parole imposed for a federal or state felony cannot receive Career Enhancement Assistance. (5-3-03)

14. Fraud. Individuals convicted in a federal or state court of fraudulently misrepresenting residence to get TANF, AABD, Food Stamps, Medicaid, or SSI, from two (2) or more states at the same time, cannot receive Career Enhancement Assistance for ten (10) years from the date of conviction. (5-3-03)

371. -- 372. (RESERVED)

373. FUNDING RESTRICTIONS.
If a funding shortfall is projected, the Department will take action to reduce Career Enhancement Assistance payments. (5-3-03)

374. CAREER ENHANCEMENT ASSISTANCE TIME LIMIT.
An individual may only receive one (1) Career Enhancement Assistance payment in a twelve (12) month period. Career Enhancement Assistance payments do not count towards the TAFI twenty-four (24) month time limit or the sixty (60) month TANF time limit. If the Department pays Career Enhancement Assistance in error, the month does not count towards the twenty-four (24) month TAFI time limit. (5-3-03)

375. SUPPORTIVE SERVICE EXPENDITURES.
Supportive Service expenditures may be provided to *household* members who receive TAFI Cash Assistance, Extended Cash Assistance, Transitional Assistance, or Career Enhancement Assistance. *( )*

01. TAFI Cash Assistance or Extended Cash Assistance Expenditure Requirement. The Supportive Service expenditure must be needed to support an element of the Personal Responsibility Contract (PRC). (5-3-03)

02. Transitional Assistance Expenditure Requirement. The Supportive Service expenditure must be directly related to maintaining employment. (5-3-03)

03. Career Enhancement Assistance Expenditure Requirements. The Supportive Service expenditure must be directly related to maintaining employment or participating in a training program. Career Enhancement Assistance Supportive Services must be identified and authorized in a thirty (30) day period to meet needs that do not extend beyond a ninety (90) day period. All Supportive Services provided through Career Enhancement Assistance do not have to be identified at the same time, as long as the need is identified and authorized within thirty (30) days of the Service Plan. (5-3-03)

376. PROHIBITED SUPPORTIVE SERVICE EXPENDITURES.
Supportive Service expenditures must not be authorized for the following types of expenses: (5-3-03)

01. Child Care. Child care of any type. (5-3-03)

02. Medical Services. Medical services, including medical exams. (5-3-03)

03. Vehicles. Motorized vehicle purchases, and down payments. (4-7-11)

04. Services for Children. Services or payments for a child, such as counseling, clothing, and school supplies. (5-3-03)

05. Credit Card Accounts. Payments on charge cards. (5-3-03)

06. Household Items. Furniture and major home appliances. (5-3-03)

07. Fines. Any type. (5-3-03)

08. Professional Union or Trade Dues. Any type. (5-3-03)

09. Any Service. Available through another resource. (5-3-03)

377. ENHANCED WORK SERVICES.

01. Time Period. Enhanced Work Services may be provided for up to twelve (12) months to *household* members who receive Transitional Assistance or Career Enhancement Assistance. *( )*

02. Purpose. Enhanced Work Services are to help individuals maintain employment and include the following: (5-3-03)

a. Screening; (5-3-03)

b. Job Placement Assessment; (5-3-03)

c. Case Management; and (5-3-03)

d. Job Readiness Services. (5-3-03)

378. -- 999. (RESERVED)

000. LEGAL AUTHORITY.

01. Rulemaking Authority. The Idaho Department of Health and Welfare has the authority to promulgate public assistance rules under Section 56-202(b), 56-264, and 56-1610, Idaho Code. (3-29-12)

02. General Administrative Authority. Titles XIX and XXI of the Social Security Act, as amended, and the companion federal regulations, are the basic authority for administration of the federal program. General administrative duties for the Department are found under Section 56-202, Idaho Code. (3-30-07)

03. Administration of the Medical Assistance Program. (3-30-07)

a. Section 56-203(7), Idaho Code, empowers the Department to define persons entitled to medical assistance. (3-30-07)

b. Section 56-203(9), Idaho Code, empowers the Department to identify the amount, duration, scope of care, and services to be purchased as medical assistance on behalf of individuals eligible to receive benefits under the Medical Assistance Program. (3-30-07)

c. Sections 56-250 through 56-257, and 56-260 through 56-266, Idaho Code, establish minimum standards that enable these rules. (3-29-12)

04. Fiscal Administration. (3-30-07)

a. Fiscal administration of these rules is authorized by Titles XIX and XXI of the Social Security Act, as well as 42 CFR Part 447 and the Provider Reimbursement Manual (PRM) Part I and Part II found in CMS Publication 15-1 and 15-2. Provisions of the PRM, as incorporated in Section 004 of these rules, apply unless otherwise provided for in these rules. (3-30-07)

b. Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for certain Medicaid providers. (3-30-07)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-30-07)

02. Scope. This chapter of rules contains the general provisions regarding the administration of the Medical Assistance Program. All goods and services not specifically included in this chapter are excluded from coverage under the Medicaid Basic Plan. A guide to covered services is found under Section 399 of these rules. These rules also contain requirements for provider procurement and provider reimbursement. (3-30-07)

002. WRITTEN INTERPRETATIONS.

*T*his agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection. *( )*

003. (RESERVED)

00*4*. INCORPORATION BY REFERENCE.

The following are incorporated by reference in this chapter of rules: (3-30-07)

01. American Speech-Language-Hearing Association (ASHA): Medicaid Guidance for Speech-Language Pathology Services. The American Speech-Language-Hearing Association (2004) Medicaid Guidance for Speech-Language Pathology Services: Addressing the "Under the Direction of" Rule technical report is available on the internet at: http://www.asha.org/policy/ps2004-00098.htm. The report may also be obtained at the ASHA National Office, 2200 Research Boulevard, Rockville, MD 20850-3289, telephone (301) 296-5700. (3-29-10)

02. DSM-5. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5) Arlington, VA, American Psychiatric Association, 2013. A copy of the manual is available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (3-20-14)

03. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives. This document may be obtained from American Hospital Publishing, Inc., 211 East Chicago Avenue, Chicago, IL, 60611. (3-30-07)

04. Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual 2016, As Amended (CMS/Medicare DME Coverage Manual). Since the supplier manual is amended on a quarterly basis by CMS, the current year's manual is being incorporated by reference, as amended, to allow for the incorporation of the most recent amendments to the manual. The full text of the CMS/Medicare DME Coverage Manual is available via the Internet at https://med.noridianmedicare.com/web/jddme/education/supplier-manual. (7-1-17)

05. Provider Reimbursement Manual (PRM). The Provider Reimbursement Manual (PRM), Part I and Part II (CMS Publication 15-1 and 15-2), is available on the CMS website at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals.html. (3-30-07)

06. Travel Policies and Procedures of the Idaho State Board of Examiners. The text of "Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners," Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at http://www.sco.idaho.gov. (3-30-07)

005. -- **007. (RESERVED)**

008. AUDIT, INVESTIGATION, AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate, and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-30-07)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

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

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

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

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

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

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

a. Contracted Non-Emergency Medical Transportation Providers. All staff of transportation providers having contact with participants must comply with IDAPA 16.05.06, "Criminal History and Background Checks," with the exception of individual contracted transportation providers defined in Subsection 870.02 of these rules. (4-7-11)

b. Provider types deemed by the Department to be at high risk for fraud, waste, and abuse under Subsection 200.02 of these rules must consent to comply with criminal background checks, including fingerprinting, in accordance with 42 CFR 455.434. (3-20-14)

010. DEFINITIONS: A THROUGH H.
For the purposes of these rules, the following terms are used as defined below: (3-30-07)

01. Abortion. The medical procedure necessary for the termination of pregnancy endangering the life of the woman, or the result of rape or incest, or determined to be medically necessary in order to save the health of the woman. (3-30-07)

02. Amortization. The systematic recognition of the declining utility value of certain assets, usually not owned by the organization or intangible in nature. (3-30-07)

03. Ambulatory Surgical Center (ASC). Any distinct entity that operates exclusively for the purpose of providing surgical services to patients not requiring hospitalization, and which is certified by the U.S. Department of Health and Human Services as an ASC. (3-30-07)

04. Audit. An examination of provider records on the basis of which an opinion is expressed representing the compliance of a provider's financial statements and records with Medicaid law, regulations, and rules. (3-30-07)

05. Auditor. The individual or entity designated by the Department to conduct the audit of a provider's records. (3-30-07)

06. Audit Reports. (3-30-07)

a. Draft Audit Report. A preliminary report of the audit finding sent to the provider for the provider's review and comments. (3-30-07)

b. Final Audit Report. A final written report containing the results, findings, and recommendations, if any, from the audit of the provider, as approved by the Department. (3-30-07)

c. Interim Final Audit Report. A written report containing the results, findings, and recommendations, if any, from the audit of the provider, sent to the Department by the auditor. (3-30-07)

07. Bad Debts. Amounts due to provider as a result of services rendered, but which are considered uncollectible. (3-30-07)

08. Basic Plan. The medical assistance benefits included under this chapter of rules. (3-30-07)

09. Buy-In Coverage. The amount the State pays for Part B of Title XVIII of the Social Security Act on behalf of the participant. (3-30-07)

10. Certified Registered Nurse Anesthetist (CRNA). A Licensed Registered Nurse qualified by advanced training in an accredited program in the specialty of nurse anesthesia to manage the care of the patient during the administration of anesthesia in selected surgical situations. (3-30-07)

11. Claim. An itemized bill for services rendered to one (1) participant by a provider and submitted to the Department for payment. (3-30-07)

12. CFR. Code of Federal Regulations. (3-30-07)

13. Clinical Nurse Specialist (CNS). A licensed registered nurse who meets all the applicable requirements to practice as clinical nurse specialist under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-17)

14. **CMS**. Centers for Medicare and Medicaid Services. (3-30-07)

15. **CMS/Medicare DME Coverage Manual**. Medicare Durable Medical Equipment (DME) Medicare Administrative Contractor (MAC) Jurisdiction D Supplier Manual. (7-1-17)

16. **Co-Payment**. The amount a participant is required to pay to the provider for specified services. (3-30-07)

17. **Cost Report**. A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (3-30-07)

18. **Customary Charges**. Customary charges are the rates charged to Medicare participants and to patients liable for such charges, as reflected in the facility's records. Those charges are adjusted downward, when the provider does not impose such charges on most patients liable for payment on a charge basis or, when the provider fails to make reasonable collection efforts. The reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt as described in Chapter 3, Sections 310 and 312, PRM. (3-30-07)

19. **Department**. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (3-30-07)

20. **Director**. The Director of the Idaho Department of Health and Welfare or their designee. (3-30-07)

21. **Dual Eligibles**. Medicaid participants who are also eligible for Medicare. (3-30-07)

22. **Durable Medical Equipment (DME)**. Equipment and appliances that: (7-1-17)

a. Are primarily and customarily used to serve a medical purpose; (7-1-17)

b. Are generally not useful to an individual in the absence of a disability, illness, or injury; (7-1-17)

c. Can withstand repeated use; (7-1-17)

d. Can be reusable or removable; (7-1-17)

e. Are suitable for use in any setting in which normal life activities take place; and (7-1-17)

f. Are reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (7-1-17)

23. **Emergency Medical Condition**. A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent layperson, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following: (3-30-07)

a. Placing the health of the individual, or, with respect to a pregnant woman, the health of the woman or unborn child, in serious jeopardy. (3-30-07)

b. Serious impairment to bodily functions. (3-30-07)

c. Serious dysfunction of any bodily organ or part. (3-30-07)

24. **EPSDT**. Early and Periodic Screening, Diagnosis, and Treatment. (3-30-07)

25. **Facility**. Facility refers to a hospital, nursing facility, or intermediate care facility for people with intellectual disabilities. (3-30-07)

26. Federally Qualified Health Center (FQHC). An entity that meets the requirements of 42 U.S.C Section 1395x(aa)(4). The FQHC may be located in either a rural or urban area designated as a shortage area or in an area that has a medically underserved population. (3-30-07)

27. Fiscal Year. An accounting period that consists of twelve (12) consecutive months. (3-30-07)

28. Healthy Connections. The primary care case management model of managed care under Idaho Medicaid. (3-30-07)

29. Home Health Services. Services and items that are: (7-1-17)

a. Ordered by a physician as part of a home health plan of care; (7-1-17)

b. Performed by a licensed, qualified professional; (7-1-17)

c. Typically received by a Medicaid participant at the participant's place of residence; and (7-1-17)

d. Reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (7-1-17)

30. Hospital. A hospital as defined in Section 39-1301, Idaho Code. (3-30-07)

31. Hospital-Based Facility. A nursing facility that is owned, managed, or operated by, or is otherwise a part of a licensed hospital. (3-30-07)

011. DEFINITIONS: I THROUGH O.
For the purposes of these rules, the following terms are used as defined below: (3-30-07)

01. ICF/ID. Intermediate Care Facility for People with Intellectual Disabilities. An ICF/ID is an entity licensed as an ICF/ID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (3-30-07)

02. Idaho Behavioral Health Plan (IBHP). The Idaho Behavioral Health Plan is a prepaid ambulatory health plan (PAHP) that provides outpatient behavioral health coverage for Medicaid-eligible children and adults. Outpatient behavioral health services include mental health and substance use disorder treatment as well as case management services. The coordination and provision of behavioral health services as authorized through the IBHP contract are provided to qualified, enrolled participants by a statewide network of professionally licensed and certified behavioral health providers. (3-20-14)

03. Idaho Infant Toddler Program (ITP). The Idaho Infant Toddler Program serves children from birth through the end of their 36th month of age, who meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C. (7-1-18)

04. In-Patient Hospital Services. Services that are ordinarily furnished in a hospital for the care and treatment of an in-patient under the direction of a physician or dentist except for those services provided in mental hospitals. (3-30-07)

05. Intermediary. Any organization that administers Title XIX or Title XXI; in this case the Department of Health and Welfare. (3-30-07)

06. Intermediate Care Facility Services. Those services furnished in an intermediate care facility as defined in 42 CFR 440.150, but excluding services provided in a Christian Science Sanatorium. (3-30-07)

07. Legal Representative. A parent with custody of a minor child, one who holds a legally-executed and effective power of attorney for health decisions, or a court-appointed guardian whose powers include the power to make health care decisions. (3-30-07)

08. Legend Drug. A drug that requires, by federal regulation or state rule, the order of a licensed medical practitioner before dispensing or administration to the patient. (3-30-07)

09. Level of Care. The classification in which a participant is placed, based on severity of need for institutional care. (3-30-07)

10. Licensed, Qualified Professionals. Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (3-30-07)

11. Lock-In Program. An administrative sanction, required of a participant found to have misused the services provided by the Medical Assistance Program. The participant is required to select one (1) provider in the identified area(s) of misuse to serve as the primary provider. (3-30-07)

12. Locum Tenens/Reciprocal Billing. The practice of a physician to retain a substitute physician when the regular physician is absent for reasons such as illness, pregnancy, vacation, or continuing medical education. The substitute physician is called the "Locum Tenens" physician. Reimbursement to a Locum Tenens physician will be limited to a period of ninety (90) continuous days. Reciprocal billing occurs when a substitute physician covers the regular physician during an absence or on an on-call basis a period of fourteen (14) continuous days or less. (3-30-07)

13. Medical Assistance. Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)

14. Medicaid. Idaho's Medical Assistance Program. (3-30-07)

15. Medicaid-Related Ancillary Costs. For the purpose of these rules, those services considered to be ancillary by Medicare cost reporting principles. Medicaid-related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid participants by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid-related ancillaries. (3-30-07)

16. Medical Necessity (Medically Necessary). A service is medically necessary if: (3-30-07)

a. It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-30-07)

b. There is no other equally effective course of treatment available or suitable for the participant requesting the service that is more conservative or substantially less costly. (3-30-07)

c. Medical services must be*:* *( )*

i. Of a quality that meets professionally-recognized standards of health care*;* and *( )*

ii. Substantiated by records including evidence of such medical necessity and quality. Those records must be made available to the Department upon request. *( )*

17. Medical Supplies. Healthcare-related items that are consumable, disposable, or cannot withstand repeated use by more than one (1) individual, are suitable for use in any setting in which normal life activities take place, and are reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (7-1-17)

18. Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual (CMS/Medicare DME Coverage Manual). A publication that is incorporated by reference in Section 004 of these rules and contains information on DME supplier enrollment, documentation, claim submission, coverage, appeals, and overpayments. (7-1-17)

19. **Midwife**. An individual qualified as one (1) of the following: (3-29-12)

a. Licensed Midwife. A person who is licensed by the Idaho Board of Midwifery under Title 54, Chapter 55, Idaho Code, and IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (3-29-12)

b. Nurse Midwife (NM). An advanced practice registered nurse who is licensed by the Idaho Board of Nursing and who meets all the applicable requirements to practice as a nurse midwife under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-29-12)

20. **Nominal Charges**. A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the services provided. (3-30-07)

21. **Non-Legend Drug**. Any drug the distribution of which is not subject to the ordering, dispensing, or administering by a licensed medical practitioner. (3-30-07)

22. **Non-Physician Practitioner (NPP)**. A non-physician practitioner, previously referred to as a midlevel practitioner, comprises the following practitioner types: certified registered nurse anesthetists (CRNA), nurse practitioners (NP), nurse midwives (NM), clinical nurse specialists (CNS), *pharmacist (RPh),* and physician assistants (PA), as defined in these rules. *( )*

23. **Nurse Practitioner (NP)**. A registered nurse or licensed professional nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-13)

24. **Nursing Facility (NF)**. An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. Participants must require medical or nursing care, or rehabilitation services for injuries, disabilities, or sickness. (3-30-07)

25. **Orthotic**. Pertaining to or promoting the support of an impaired joint or limb. (3-30-07)

26. **Outpatient Hospital Services**. Preventive, diagnostic, therapeutic, rehabilitative, or palliative items or services furnished by or under the direction of a physician or dentist to a patient not in need of inpatient hospital care. (3-30-07)

27. **Out-of-State Care**. Medical service that is not provided in Idaho or bordering counties is considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-30-07)

28. **Oxygen-Related Equipment**. Equipment that is utilized or acquired for the routine administration of oxygen in any setting in which normal life activities take place. This includes oxygen tanks, regulators, humidification nebulizers, oxygen concentrators, and related equipment. Equipment that is used solely for the administration of medication into the lungs is excluded from this definition. (7-1-17)

012. DEFINITIONS: P THROUGH Z.
For the purposes of these rules, the following terms are used as defined below: (3-30-07)

01. **Participant**. A person eligible for and enrolled in the Idaho Medical Assistance Program. (3-30-07)

02. **Patient**. The person undergoing treatment or receiving services from a provider. (3-30-07)

03. ***Pharmacist****. A person who meets all the applicable requirements to practice as licensed pharmacist under Title 54, Chapter 17, Idaho Code, and IDAPA 27.01.01, "Rules for the Idaho State Board of Pharmacy."* *( )*

04. **Physician**. A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree

and licensed to practice medicine by a State or United States territory. (3-30-07)

05. Physician Assistant (PA). A person who meets all the applicable requirements to practice as licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants." (3-30-07)

06. Plan of Care. A written description of medical, remedial, or rehabilitative services to be provided to a participant, developed by or under the direction and written approval of a physician. Medications, services and treatments are identified specifically as to amount, type and duration of service. (3-30-07)

07. Prepaid Ambulatory Health Plan (PAHP). As defined in 42 CFR 438.2, a PAHP is an entity that provides medical services to enrollees under contract with the Department on the basis of prepaid capitation payments, or other arrangements that do not use State Plan payment rates. The PAHP does not provide or arrange for, and is not responsible for the provision of any inpatient hospital or institutional services for its enrollees, and does not have a comprehensive risk contract. (3-20-14)

08. Private Rate. Rate most frequently charged to private patients for a service or item. (3-30-07)

09. PRM. Provider Reimbursement Manual. (3-30-07)

10. Prosthetic Device. Replacement, corrective, or supportive devices prescribed by a physician or other licensed practitioner of the healing arts profession within the scope of their practice as defined by state law to: (3-30-07)

a. Artificially replace a missing portion of the body; or (3-30-07)

b. Prevent or correct physical deformities or malfunctions; or (3-30-07)

c. Support a weak or deformed portion of the body. (3-30-07)

d. Computerized communication devices are not included in this definition of a prosthetic device. (3-30-07)

11. Provider. Any individual, partnership, association, corporation or organization, public or private, that furnishes medical goods or services in compliance with these rules and who has applied for and received a Medicaid provider number and who has entered into a written provider agreement with the Department in accordance with Section 205 of these rules. (3-30-07)

12. Provider Agreement. A written agreement between the provider and the Department, entered into in accordance with Section 205 of these rules. (3-30-07)

13. Provider Reimbursement Manual (PRM). A federal publication that specifies accounting treatments and standards for the Medicare program, CMS Publications 15-1 and 15-2, that are incorporated by reference in Section 004 of these rules. (3-30-07)

14. Prudent Layperson. A person who possesses an average knowledge of health and medicine. (3-30-07)

15. Psychologist, Licensed. A person licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (3-30-07)

16. Psychologist Extender. A person who practices psychology under the supervision of a licensed psychologist as required under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners," and who is registered with the Bureau of Occupational Licenses. (3-30-07)

17. Public Provider. A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality. (3-30-07)

18. Quality Improvement Organization (QIO). An organization that performs utilization and quality control review of health care furnished to Medicare and Medicaid participants. A QIO is formerly known as a Peer Review Organization (PRO). (3-30-07)

19. Related Entity. An organization with which the provider is associated or affiliated to a significant extent, or has control of, or is controlled by, that furnishes the services, facilities, or supplies for the provider. (3-30-07)

20. R.N. Registered Nurse, which in the State of Idaho is known as a Licensed Registered Nurse, is a person who meets all the applicable requirements and is licensed to practice as a Licensed Registered Nurse under Sections 54-1401 through 54-1418, Idaho Code.. (3-30-07)

21. Rural Health Clinic (RHC). An outpatient entity that meets the requirements of 42 USC Section 1395x(aa)(2). It is primarily engaged in furnishing physicians and other medical and health services in rural, federally-defined, medically underserved areas, or designated health professional shortage areas. (3-30-07)

22. Rural Hospital-Based Nursing Facilities. Hospital-based nursing facilities not located within a metropolitan statistical area (MSA) as defined by the United States Bureau of Census. (3-30-07)

23. Social Security Act. 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons who meet certain criteria. (3-30-07)

24. State Plan. The contract between the state and federal government under 42 USC Section 1396a(a). (3-30-07)

25. Supervision. Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (3-30-07)

26. Title XVIII. Title XVIII of the Social Security Act, known as Medicare, for aged, blind, and disabled individuals administered by the federal government. (3-30-07)

27. Title XIX. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-30-07)

28. Title XXI. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (3-30-07)

29. Third Party. Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a medical assistance participant. (3-30-07)

30. Transportation. The physical movement of a participant to and from a medical appointment or service by the participant, another person, taxi or common carrier. (3-30-07)

013. MEDICAL CARE ADVISORY COMMITTEE.

The Director of the Department will appoint a Medical Care Advisory Committee to advise and counsel on all aspects of health and medical services. (3-30-07)

01. Membership. The Medical Care Advisory Committee will include, but not be limited to, the following: (3-30-07)

a. Licensed physicians and other representatives of the health professions who are familiar with the medical needs of low-income population groups and with the resources available and required for their care; and (3-30-07)

b. Members of consumer groups, including medical assistance participants and consumer organizations. (3-30-07)

02. Organization. The Medical Care Advisory Committee will: (3-30-07)

a. Consist of not more than twenty-two (22) members; and (3-30-07)

b. Be appointed by the Director to the Medical Care Advisory Committee to serve three (3) year terms, whose terms are to overlap; and (3-30-07)

c. Elect a chairman and a vice-chairman to serve a two (2) year term; and (3-30-07)

d. Meet at least quarterly; and (3-30-07)

e. Submit a report of its activities and recommendations to the Director at least once each year. (3-30-07)

03. Policy Function. The Medical Care Advisory Committee must be given opportunity to participate in medical assistance policy development and program administration. (3-30-07)

04. Staff Assistance. The Medical Care Advisory Committee must be provided staff assistance from within the Department and independent technical assistance as needed to enable them to make effective recommendations, and will be provided with travel and per diem costs, where necessary. (3-30-07)

014. -- 099. (RESERVED)

GENERAL PARTICIPANT PROVISIONS
(Sections 100 - 199)

100. ELIGIBILITY FOR MEDICAL ASSISTANCE.
Idaho Department of Health and Welfare Rules, IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and Idaho Department of Health and Welfare Rules, IDAPA 16.03.05, "Eligibility for the Aged, Blind and Disabled (AABD)," are applicable in determining eligibility for medical assistance. (3-30-07)

101. -- 124. (RESERVED)

125. MEDICAL ASSISTANCE PROCEDURES.

01. Issuance of Identification Cards. When a person is determined eligible for medical assistance, the Department will issue a Medicaid identification card to the participant. When requested, the Department will give providers of medical services eligibility information regarding participants so that services may be provided. (3-30-07)

02. Identification Card Information. An identification card will be issued to each participant and will contain the following information: (3-30-07)

a. The name of the participant to whom the card was issued; and (3-30-07)

b. The participant's Medicaid identification number; and (3-30-07)

c. The card number. (3-30-07)

03. Information Available for Participants. The following information will be available at each Field Office for use by each medical assistance participant: (3-30-07)

a. The amount, duration and scope of the available care and services; and (3-30-07)

b. The manner in which the care and services may be secured; and (3-30-07)

c. How to use the identification card. (3-30-07)

126. -- 149. (RESERVED)

150. CHOICE OF PROVIDERS.

01. Service Selection. Each participant may obtain any services available from any participating institution, agency, pharmacy, or practitioner of their choice, unless enrolled in Healthy Connections or a Prepaid Ambulatory Health Plan (PAHP) that limits provider choice. This, however, does not prohibit the Department from establishing the fees that will be paid to providers for furnishing medical and remedial care available under the Medical Assistance Program, or from setting standards relating to the qualifications of providers of such care. (3-20-14)

02. Lock-In Option. (3-30-07)

a. The Department may implement a total or partial lock-in program for any participant found to be misusing the Medical Assistance Program according to provisions in Sections 910 through 918 of these rules. (3-30-07)

b. In situations where the participant has been restricted to a participant lock-in program, that participant may choose the physician and pharmacy of their choice. The providers chosen by the lock-in participant will be identified in the Department's Eligibility Verification System (EVS). This information will be available to any Medicaid provider who accesses the EVS. (3-30-07)

151. -- 159. (RESERVED)

160. RESPONSIBILITY FOR KEEPING APPOINTMENTS.
The participant is solely responsible for making and keeping an appointment with the provider. The Department will not reimburse providers when participants do not attend scheduled appointments. Providers may not bill participants for missed appointments. (3-20-14)

161. -- 164. (RESERVED)

165. COST-SHARING.

01. Co-Payments. When a participant accesses certain services inappropriately, the provider can require the participant to pay a co-payment as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (4-2-08)

02. Premiums. A participant can be required to share in the cost of basic plan benefits in the form of a premium as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (4-2-08)

166. -- 199. (RESERVED)

GENERAL PROVIDER PROVISIONS
(Sections 200 - 299)

200. PROVIDER APPLICATION PROCESS.

01. Provider Application. Providers who meet Medicaid enrollment requirements may apply for Idaho Medicaid provider status with the Department. All healthcare providers who are eligible for a National Provider Identifier (NPI) must apply using that identifying number. For providers not eligible for a NPI, the

Department will assign a provider number upon approval of the application. (3-20-14)

02. Screening Levels. In accordance with 42 CFR 455.450, the Department will assign risk levels of "limited," "moderate," or "high" to defined groups of providers. These assignments and definitions will be published in the provider handbook. (3-20-14)

03. Medicare Enrollment Requirement for Specified Providers. The following providers must enroll as Medicare providers or demonstrate enrollment with another state's Medicaid agency prior to enrollment or revalidation as an Idaho Medicaid provider. (7-1-17)

a. Any providers classified in the "moderate" or "high" categorical risk level, as defined in the provider handbook. (3-20-14)

b. Any provider type classified as an institutional provider by Medicare. (3-20-14)

04. Disclosure of Information by Providers and Fiscal Agents. All enrolling providers and their fiscal agents must comply with the disclosure requirements as stated in 42 CFR 455, Subpart B, "Disclosure of Information by Providers and Fiscal Agents." (3-20-14)

05. Denial of Provider Agreement. The Department may deny provider status by refusing a request to enter into a provider agreement, refusing to extend an existing agreement, or refusing to enter into additional agreements with any individual or entity. Reasons for denying provider status include those described in IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct," Section 265. (3-20-14)

06. Mandatory Denial of Provider Agreement. The Department will deny a request for a provider agreement when: (3-20-14)

a. The provider fails to meet the qualifications required by rule or by any applicable licensing board; (3-20-14)

b. The provider was a managing employee, or had an ownership interest, as defined in 42 CFR Section 455.101, in any entity that was previously found by the Department to have engaged in fraudulent conduct, or abusive conduct related to the Medicaid program, or has demonstrated an inability to comply with the requirements related to the provider status for which application is made, including submitting false claims or violating provisions of any provider agreement; (3-20-14)

c. The provider was a managing employee, or had an ownership interest, as defined in 42 CFR Section 455.101, in any entity that failed to repay the Department for any overpayments, or to repay claims previously found by the Department to have been paid improperly, whether the failure resulted from refusal, bankruptcy, or otherwise, unless prohibited by law; (3-20-14)

d. The provider employs as a managing employee, contracts for any management services, shares any ownership interests, or would be considered a related party to any individual or entity identified in Subsections 200.06.a. through 200.06.c. of this rule. (3-20-14)

e. The provider fails to comply with any applicable requirement under 42 CFR 455. (3-20-14)

f. The provider is precluded from enrollment due to a temporary moratorium issued by the Secretary of Health and Human Services in accordance with 42 CFR 455.470. (3-20-14)

g. The provider is currently suspended from Medicare or Medicaid in any state, or has been terminated from Medicare or Medicaid in any state. (3-20-14)

201. -- 204. (RESERVED)

205. AGREEMENTS WITH PROVIDERS.

01. In General. All individuals or organizations must enter into a written provider agreement accepted by the Department prior to receipt of any reimbursement for services. Agreements may contain any terms or conditions deemed appropriate by the Department. All provider agreements must be signed by the provider or by an owner or officer who has the legal authority to bind the provider in the agreement. (3-20-14)

02. Federal Disclosure Requirements. To comply with the disclosure requirements in 42 CFR 455, Subpart B, each provider, other than an individual practitioner or a group of practitioners, must disclose to the Department: (3-30-07)

a. The full name and address of each individual who has either direct or indirect ownership interest in the disclosing entity or in any subcontractor of five percent (5%) or more prior to entering into an agreement or at the time of survey and certification; and (3-30-07)

b. Whether any person named in the disclosure is related to another person named in the disclosure as a spouse, parent, or sibling. (3-30-07)

03. Provider Agreement Enforcement Actions and Terminations. Provider agreements may be terminated with or without cause. Terminations for cause may be appealed as a contested case in accordance with the IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." The Department may, at its discretion, take any of the following actions for cause based on the provider's conduct or the conduct of its employees or agents, or when the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation: (3-20-14)

a. Require corrective actions as described in IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct," Section 270. (3-20-14)

b. Require a corrective action plan to be submitted by the provider to address noncompliance with the provider agreement; (3-20-14)

c. Reduce, limit, or suspend payment of claims pending the submission, acceptance, or completion of a corrective action plan; (3-20-14)

d. Limit or suspend provision of services to participants who have not previously established services with the provider pending the submission, acceptance, or completion of a corrective action plan; or (3-20-14)

e. Terminate the provider's agreement. (3-20-14)

04. Termination of Provider Agreements. Due to the need to respond quickly to state and federal mandates, as well as the changing needs of the State Plan, the Department may terminate provider agreements without cause by giving written notice to the provider as set forth in the agreement. If an agreement does not provide a notice period, the period is twenty-eight (28) days. Terminations without cause may result from elimination or change of programs or requirements, or the provider's inability to continue providing services due to the actions of another agency or board. Terminations without cause are not subject to contested case proceedings since the action will either affect a class of providers, or will result from the discretionary act of another regulatory body. ( )

206. -- 209. (RESERVED)

210. CONDITIONS FOR PAYMENT.

01. Participant Eligibility. The Department will reimburse providers for medical care and services, regardless of the current eligibility status of the medical assistance participant in the month of payment, provided a complete and properly submitted claim for payment has been received and each of the following conditions are met: (3-20-14)

a. The participant was found eligible for medical assistance for the month, day, and year during which the medical care and services were rendered; (3-30-07)

b. The participant received such medical care and services no earlier than the third month before the month in which application was made on such participant's behalf; and (3-30-07)

c. The provider verified the participant's eligibility on the date the service was rendered and can provide proof of the eligibility verification. (3-20-14)

d. Not more than twelve (12) months have elapsed since the month of the latest participant services for which such payment is being made. Medicare cross-over claims are excluded from the twelve (12) month submittal limitation. (3-30-07)

02. Time Limits. The time limit set forth in Subsection 210.01.d. of this rule does not apply with respect to retroactive eligibility adjustment. When participant eligibility is determined retroactively, the Department will reimburse providers for services within the period of retroactive eligibility if a claim for those services is submitted within twelve (12) months of the date of the participant's eligibility determination. (3-20-14)

03. Acceptance of State Payment. By participating in the Medical Assistance Program, providers agree to accept, as payment in full, the amounts paid by the Department for services to Medicaid participants. Providers also agree to provide all materials and services without unlawfully discriminating on the grounds of race, age, sex, creed, color, national origin, or physical or intellectual disability. (3-30-07)

04. Payment in Full. If a provider accepts Medicaid payment for a covered service, the Medicaid payment must be accepted as full payment for that service, and the participant cannot be billed for the difference between the billed amount and the Medicaid allowed amount. (3-30-07)

05. Medical Care Provided Outside the State of Idaho. Out-of-state medical care is subject to the same utilization review and other Medicaid coverage requirements and restrictions as medical care received within the state of Idaho. (3-30-07)

06. Ordering, Prescribing, and Referring Providers. Any service or supply ordered, prescribed, or referred by a physician or other professional who is not an enrolled Medicaid provider will not be reimbursed by the Department. (3-20-14)

07. Referral From Participant's Assigned Primary Care Provider. Medicaid services may require a referral from the participant's assigned primary care provider. Services requiring a referral are listed in the Idaho Medicaid Provider Handbook. Services provided without a referral, when one is required, are not covered and are subject to sanctions, recoupment, or both. The Department may change the services that require a referral after appropriate notification of Medicaid-eligible individuals and providers as specified in Section 563 of these rules. (3-25-16)

08. Follow-up Communication with Assigned Primary Care Provider. Medicaid services may require timely follow-up communication with the participant's assigned primary care provider. Services requiring post-service communication with the primary care provider and time frames for that communication are listed in the Idaho Medicaid Provider Handbook. Services provided without timely communication of care outcomes, when communication is required, are not covered and are subject to sanctions, recoupment, or both. The Department may change the services that require communication of care outcomes after appropriate notification of Medicaid eligible individuals and providers as specified in Section 563 of these rules. (3-25-16)

09. Services Delivered Via Telehealth. Services delivered via telehealth as defined in Title 54, Chapter 57, Idaho Code, must be identified as such in accordance with billing requirements published in the Idaho Medicaid Provider Handbook. Telehealth services billed without being identified as such are not covered. Services delivered via telehealth may be reimbursed within limitations defined by the Department in the Idaho Medicaid Provider Handbook. Fee for service reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a physician and a participant. (3-25-16)

211. -- 214. (RESERVED)

215. THIRD PARTY LIABILITY.

01. Determining Liability of Third Parties. The Department will take reasonable measures to determine any legal liability of third parties for medical care and services rendered to a participant. (3-30-07)

02. Third Party Liability as a Current Resource. The Department is to treat any third party liability as a current resource when such liability is found to exist and payment by the third party has been made or will be made within a reasonable time. (3-30-07)

03. Withholding Payment. The Department must not withhold payment on behalf of a participant because of the liability of a third party when such liability, or the amount thereof, cannot be currently established or is not currently available to pay the participant's medical expense. (3-30-07)

04. Seeking Third Party Reimbursement. The Department will seek reimbursement from a third party when the party's liability is established after reimbursement to the provider is made, and in any other case in which the liability of a third party existed, but was not treated as a current resource, with the exceptions provided in Subsection 215.05 of this rule. (3-25-16)

a. The Department will seek reimbursement from a participant when a participant's liability is established after reimbursement to the provider is made; and (3-30-07)

b. In any other situation in which the participant has received direct payment from any third party resource and has not forwarded the money to the Department for services or items received. (3-30-07)

05. Billing Third Parties First. Medicaid providers must bill all other sources of direct third party payment, with the following exceptions: (3-25-16)

a. When the resource is a court-ordered absent parent and there are no other viable resources available, the claims will be paid and the resources billed by the Department; (3-25-16)

b. Preventive pediatric care including early and periodic screening and diagnosis. Screening and diagnosis program services include: (7-1-19)

i. Regularly scheduled examinations and evaluations of the general physical, dental, and mental health, growth, development, and nutritional status of children under age twenty-one (21), provided according to guidance for child wellness exams published in the Medicaid General Provider and Participant Handbook; (3-25-16)

ii. Immunizations recommended by the American Academy of Pediatrics immunization schedule; (3-25-16)

iii. Diagnosis services to identify the nature of an illness or other problem by examination of the symptoms. (3-25-16)

c. When prior authorization has been approved according to Section 883 of these rules, treatment services to control, correct, or ameliorate health problems found through diagnosis and screenings; (3-25-16)

d. If the claim is for preventative pediatric care as described in Subsection 215.05.b of this rule, the Department will make payment for the service provided in its fee schedule and will seek reimbursement from the third party according to 42 U.S.C. 1396a(a)(25)(E). (7-1-19)

06. Accident Determination. When the participant's Medicaid card indicates private insurance or when the diagnosis indicates an accident for which private insurance is often carried, *or both,* the claim will be suspended or denied until it can be determined that there is no other source of payment. *( )*

07. Third Party Payments. The Department will pay the provider the lowest amount of the following: (3-29-12)

a. The provider’s actual charge for the service; or (3-29-12)

b. The maximum allowable charge for the service as established by the Department in its pricing file. If the service or item does not have a specific price on file, the provider must submit supporting documentation to the Department. Reimbursement will be based on the documentation; or (3-29-12)

c. The third party-allowed amount minus the third party payment, or the patient liability as indicated by the third party. (3-29-12)

08. Subrogation of Third Party Liability. In all cases where the Department will be required to pay medical expenses for a participant and that participant is entitled to recover any or all such medical expenses from any third party, the Department will be subrogated to the rights of the participant to the extent of the amount of medical assistance benefits paid by the Department as the result of the occurrence giving rise to the claim against the third party. (3-30-07)

a. If litigation or a settlement in such a claim is pursued by the medical assistance participant, the participant must notify the Department. (3-30-07)

b. If the participant recovers funds, either by settlement or judgment, from such a third party, the participant must repay the amount of benefits paid by the Department on their behalf. (3-30-07)

09. Subrogation of Legal Fees. (3-30-07)

a. If a medical assistance participant incurs the obligation to pay attorney fees and court costs for the purpose of enforcing a monetary claim to which the Department is subrogated, the amount which the Department is entitled to recover, or any lesser amount which the Department may agree to accept in compromise of its claim, will be reduced by an amount which bears the same relation to the total amount of attorney fees and court costs actually paid by the participant as the amount actually recovered by the Department, exclusive of the reduction for attorney fees and court costs, bears to the total amount paid by the third party to the participant. (3-30-07)

b. If a settlement or judgment is received by the participant that does not specify which portion of the settlement or judgment is for payment of medical expenses, it will be presumed that the settlement or judgment applies first to the medical expenses incurred by the participant in an amount equal to the expenditure for benefits paid by the Department as a result of the payment or payments to the participant. (3-30-07)

216. -- 224. (RESERVED)

225. REPORTING TO THE INTERNAL REVENUE SERVICE (IRS).
In accordance with 26 U.S.C 6041, the Department must provide annual information returns to the IRS showing aggregate amounts paid to providers identified by name, address, and social security number or employer identification number. (3-30-07)

226. -- 229. (RESERVED)

230. GENERAL PAYMENT PROCEDURES.

01. Provided Services. (3-30-07)

a. Each participant may consult a participating physician or provider of their choice for care and receive covered services by presenting their identification card to the provider, subject to restrictions imposed by participation in Healthy Connections or enrollment in a Prepaid Ambulatory Health Plan (PAHP). (3-20-14)

b. The provider must obtain the required information by using the Medicaid number on the identification card from the Electronic Verification System and transfer the required information onto the appropriate claim form. Where the Electronic Verification System (EVS) indicates that a participant is enrolled in Healthy Connections, the provider must comply with referral or follow-up communication requirements defined in Section 210 of these rules. (3-25-16)

c. Upon providing the care and services to a participant, the provider or their agent must submit a properly completed claim to the Department. (3-30-07)

d. The Department is to process each claim received and make payment directly to the provider. (3-30-07)

e. The Department will not supply claim forms. Forms needed to comply with the Department's unique billing requirements are included in Appendix D of the Idaho Medicaid Provider Handbook. (3-30-07)

02. Individual Provider Reimbursement. The Department will not pay the individual provider more than the lowest of: (3-30-07)

a. The provider's actual charge for service; or (3-30-07)

b. The maximum allowable charge for the service as established by the Department on its pricing file, if the service or item does not have a specific price on file, the provider must submit documentation to the Department and reimbursement will be based on the documentation; or (3-30-07)

c. The Medicaid-allowed amount minus the Medicare payment or the Medicare co-insurance and deductible amounts added together when a participant has both Medicare and Medicaid. (3-30-07)

03. Services Normally Billed Directly to the Patient. If a provider delivers services and it is customary for the provider to bill patients directly for such services, the provider must complete the appropriate claim form and submit it to the Department. (3-30-07)

04. Reimbursement for Other Noninstitutional Services. The Department will reimburse for all noninstitutional services that are not included in other Idaho Department of Health and Welfare Rules, but allowed under Idaho's Medical Assistance Program according to the provisions of 42 CFR Section 447.325. (3-30-07)

05. Review of Records. (3-30-07)

a. The Department, or its duly authorized agent, the U.S. Department of Health and Human Services, and the Bureau of Audits and Investigations have the right to review pertinent records of providers receiving Medicaid reimbursement for covered services. (3-30-07)

b. The review of participants' medical and financial records must be conducted for the purposes of determining: (3-30-07)

i. The necessity for the care; or (3-30-07)

ii. That treatment was rendered in accordance with accepted medical standards of practice; or (3-30-07)

iii. That charges were not in excess of the provider's usual and customary rates; or (3-30-07)

iv. That fraudulent or abusive treatment and billing practices are not taking place. (3-30-07)

c. Refusal of a provider to permit the Department to review records pertinent to medical assistance will constitute grounds for: (3-30-07)

i. Withholding payments to the provider until access to the requested information is granted; or (3-30-07)

ii. Suspending the provider's number. (3-30-07)

06. Lower of Cost or Charges. Payment to providers, other than public providers furnishing such services free of charge or at nominal charges to the public, is the lesser of the reasonable cost of such services or the

customary charges with respect to such services. Public providers that furnish services free of charge, or at a nominal charge, are reimbursed fair compensation that is the same as reasonable cost. (3-30-07)

07. Procedures for Medicare Cross-Over Claims. (3-30-07)

a. If a medical assistance participant is eligible for Medicare, the provider must first bill Medicare for the services rendered to the participant. (3-30-07)

b. If a provider accepts a Medicare assignment, the Department will pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment, and forward the payment to the provider automatically based upon the Medicare Summary Notice (MSN) information on the computer tape that is received from the Medicare Part B Carrier on a weekly basis. (3-30-07)

c. If a provider does not accept a Medicare assignment, an MSN must be attached to the appropriate claim form and submitted to the Department. The Department will pay the provider for the services, up to the Medicaid allowable amount minus the Medicare payment. (3-30-07)

d. For all other services, an MSN must be attached to the appropriate claim form and submitted to the Department. The Department will pay the provider for the services up to the Medicaid allowable amount minus the Medicare payment. (3-30-07)

08. Services Reimbursable After the Appeals Process. Reimbursement for services originally identified by the Department as not medically necessary will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-30-07)

231. HANDLING OF OVERPAYMENTS AND UNDERPAYMENTS FOR SPECIFIED PROVIDERS.
The provisions in Subsections 231.01 and 231.02 of this rule apply only to hospitals, FQHCs, RHCs and Home Health providers. (3-30-07)

01. Interest Charges on Overpayments and Underpayments. The Medicaid program will charge interest on overpayments, and pay interest on underpayments, as follows: (3-30-07)

a. Interest After Sixty Days of Notice. If full repayment from the indebted party is not received within sixty (60) days after the provider has received the Department reimbursement notice, interest will accrue from the date of receipt of the Department reimbursement notice, and will be charged on the unpaid settlement balance for each thirty (30) day period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty (30) day period, and the thirty (30) day interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. (3-30-07)

b. Waiver of Interest Charges. When the Department determines an overpayment exists, it may waive interest charges if it determines that the administrative costs of collecting them exceed the charges. (3-30-07)

c. Rate of Interest. The interest rate on overpayments and underpayments will be the statutory rate as set forth in Section 28-22-104(1), Idaho Code, compounded monthly. (3-30-07)

d. Retroactive Adjustment. The balance and interest will be retroactively adjusted to equal the amounts that would have been due based on any changes that occur as a result of the final determination in the administrative appeal and judicial appeal process. Interest penalties will only applied to unpaid amounts and will be subordinated to final interest determinations made in the judicial review process. (3-30-07)

02. Recovery Methods for Overpayments. One (1) of the following methods will be used for recovery of overpayments: (3-30-07)

a. Lump Sum Voluntary Repayment. Upon receipt of the notice of program reimbursement, the provider voluntarily refunds, in a lump sum, the entire overpayment to the Department. (3-30-07)

b. Periodic Voluntary Repayment. The provider must*:* *( )*

i. *R*equest in writing that recovery of the overpayment be made over a period of twelve (12) months or less*; and* *( )*

ii. *A*dequately document the request by demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time than requested. *( )*

c. Department Initiated Recovery. The Department will recover the entire unpaid balance of the overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receiving the notice. (3-30-07)

d. Recovery from Medicare Payments. The Department can request that Medicare payments be withheld in accordance with 42 CFR Section 405.377. (3-30-07)

232. -- 234. (RESERVED)

235. PATIENT "ADVANCE DIRECTIVES."

01. Provider Participation. Hospitals, nursing facilities, providers of home health care services (home health agencies, federally qualified health clinics, rural health clinics), hospice providers, and personal care R.N. supervisors must: (3-30-07)

a. Provide all adults receiving medical care written and oral information (the information provided must contain all material found in the Department's approved advance directive form "Your Rights As A Patient To Make Medical Treatment Decisions") which defines their rights under state law to make decisions concerning their medical care. (3-30-07)

i. The provider must explain that the participant has the right to make decisions regarding their medical care which includes the right to accept or refuse treatment. If the participant has any questions regarding treatment, the facility or agency will notify the physician of those concerns. Their physician can answer any questions they may have about the treatment. (3-30-07)

ii. The provider will inform the participant of their rights to formulate advance directives, such as "Living Will" or "Durable Power of Attorney For Health Care," *or both.* *( )*

iii. The provider must comply with Subsection 235.02 of this rule. (3-30-07)

b. Provide all adults receiving medical care written information on the providers' policies concerning the implementation of the participant's rights regarding "Durable Power of Attorney for Health Care," "Living Will," and the participant's right to accept or refuse medical and surgical treatment. (3-30-07)

c. Document in the participant's medical record whether the participant has executed an advance directive ("Living Will" or "Durable Power of Attorney for Health Care," *or both*), or have a copy of the Department's approved advance directive form ("Your Rights as a Patient to Make Medical Treatment Decisions") attached to the patient's medical record which has been completed acknowledging whether the patient/resident has executed an advance directive ("Living Will" or "Durable Power of Attorney for Health Care," *or both).* *( )*

d. The provider cannot condition the provision of care or otherwise discriminate against an individual based on whether that participant has executed an "Advance Directive." (3-30-07)

e. If the provider cannot comply with the patient's "Living Will" or "Durable Power of Attorney for Health Care," *or both,* as a matter of conscience, the provider will assist the participant in transferring to a facility or agency that can comply. *( )*

f. Provide education to their staff and the community on issues concerning advance directives. (3-30-07)

02. When "Advance Directives" Must Be Given. Hospitals, nursing facilities, providers of home health care (home health agencies, federally qualified health centers, rural health clinics), hospice agencies, and personal care R.N. supervisors, must give information concerning "Advance Directives" to adult participants in the following situations: (3-30-07)

a. Hospitals must give the information at the time of the participant's admission as an inpatient unless Subsection 235.03 of this rule applies. (3-30-07)

b. Nursing facilities must give the information at the time of the participant's admission as a resident. (3-30-07)

c. Home health providers must give the information to the participant in advance of the participant coming under the care of the provider. (3-30-07)

d. The personal care R.N. supervisors will inform the participant when the R.N. completes the R.N. Assessment and Care Plan. The R.N. supervisor will inform the Qualified Intellectual Disabilities Professional (QIDP) and the personal care attendant of the participants decision regarding "Advance Directives." (3-30-07)

e. A hospice provider must give information at the time of initial receipt of hospice care by the participant. (3-30-07)

03. Information Concerning "Advance Directives" at the Time an Incapacitated Individual Is Admitted. An individual may be admitted to a facility in a comatose or otherwise incapacitated state and be unable to receive information or articulate whether they have executed an advance directive. In this case, to the extent that a facility issues materials about policies and procedures to the families or to the surrogates or other concerned persons of the incapacitated patient in accordance with state law, it must also include the information concerning advance directives. This does not relieve the facility from its obligation to provide this information to the patient once they are no longer incapacitated. (3-30-07)

04. Provider Agreement. A "Memorandum of Understanding Regarding Advance Directives" is incorporated within the provider agreement. By signing the Medicaid provider agreement, the provider is not excused from its obligation regarding advance directives to the general public per Section 1902(a) of the Social Security Act, as amended by Section 4751 of OBRA 1990. (3-30-07)

***236*. -- 244. (RESERVED)**

245. PROVIDERS OF SCHOOL-BASED SERVICES.
Only school districts and charter schools can be reimbursed for the services described in Sections 850 through 856 of these rules. (7-1-13)

246. -- 249. (RESERVED)

250. SELECTIVE CONTRACTING.
The Department may contract with a limited number of providers of certain Medicaid products and services, including: dental services, eyeglasses, transportation, and some medical supplies. (3-30-07)

251. -- 299. (RESERVED)

GENERAL REIMBURSEMENT PROVISIONS FOR INSTITUTIONAL PROVIDERS (Sections 300 - 389)

300. COST REPORTING.
The provider's Medicaid cost report must be filed using the Department designated reporting forms, unless the

Department has approved an exception. The request to use alternate forms must be sent to the Department in writing, with samples attached, a minimum of ninety (90) days prior to the due date for the cost report. The request for approval of alternate forms cannot be used as a reason for late filing. (3-30-07)

301. -- 304. (RESERVED)

305. REIMBURSEMENT SYSTEM AUDITS.

01. Scope of Reimbursement System Audits. The Department reserves the right to audit financial and other records of the provider, and, when warranted, the records of entities related to the provider. Audits consist of the following types of records: (3-30-07)

a. Cost verification of actual costs for providing goods and services; (3-30-07)

b. Evaluation of provider's compliance with the provider agreement, reporting form instructions, and any applicable law, rule, or regulation; (3-30-07)

c. Effectiveness of the service to achieve desired results or benefits; and (3-30-07)

d. Reimbursement rates or settlement calculated under this chapter. (3-30-07)

02. Exception to Scope for Audits and Investigations. Audits as described in these rules do not apply to the audit processes used in conducting investigations of fraud and abuse under IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-30-07)

306. -- 329. (RESERVED)

330. PROVIDER'S RESPONSIBILITY TO MAINTAIN RECORDS.
The provider must maintain financial and other records in sufficient detail to allow the Department to audit them as described in Section 305 of these rules. (3-30-07)

01. Expenditure Documentation. Documentation of expenditures must include the amount, date, purpose, payee, and the invoice or other verifiable evidence supporting the expenditure. (3-30-07)

02. Cost Allocation Process. Costs such as depreciation or amortization of assets and indirect expenses are allocated to activities or functions based on the original identity of the costs. Documentation to support basis for allocation must be available for verification. The assets referred to in this Section of rule are economic resources of the provider recognized and measured in conformity with generally accepted accounting principles. (3-30-07)

03. Revenue Documentation. Documentation of revenues must include the amount, date, purpose, and source of the revenue. (3-30-07)

04. Availability of Records. Records must be available for and subject to audit by the auditor, with or without prior notice, during any working day between the hours of 8:00 a.m. and 5:00 p.m. at the provider's principal place of business in the state of Idaho. (3-30-07)

a. The provider is given the opportunity to provide documentation before the interim final audit report is issued. (3-30-07)

b. The provider is not allowed to submit additional documentation in support of cost items after the issuance of the interim final audit report. (3-30-07)

05. Retention of Records. Records required in Subsections 330.01 through 330.03 of this rule must be retained by the provider for a period of five (5) years from the date of the final payment under the provider agreement. Failure to retain records for the required period can void the Department's obligation to make payment for the goods or services. (3-30-07)

331. -- 339. (RESERVED)

340. DRAFT AUDIT REPORT.
Following completion of the audit field work and before issuing the interim final audit report to the Department, the auditor will issue a draft audit report and forward a copy to the provider for review and comment. (3-30-07)

01. Review Period. The provider will have a period of sixty (60) days, beginning on the date of transmittal, to review and provide additional comments or evidence pertaining to the draft audit report. The review period may be extended when the provider: (3-30-07)

a. Requests an extension prior to the expiration of the original review period; and (3-30-07)

b. Clearly demonstrates the need for additional time to properly respond. (3-30-07)

02. Evaluation of Provider's Response. The auditor will evaluate the provider's response to the draft audit report and will delete, modify, or reaffirm the original findings, as deemed appropriate, in preparing the interim final audit report. (3-30-07)

341. FINAL AUDIT REPORT.
The auditor will incorporate the provider's response and an analysis of the response into the interim final report as appendices and transmit it to the Department. The Department will issue a final audit report and a notice of program reimbursement, if applicable, that sets forth settlement amounts due to the Department or the provider. The final audit report and notice of program reimbursement, if applicable, will take into account the findings made in the interim final audit report and the response of the provider to the draft audit report (3-30-07)

342. -- 359. (RESERVED)

360. RELATED PARTY TRANSACTIONS.

01. Principle. Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer. (3-30-07)

02. Cost Allowability - Regulation. Allowability of costs is subject to the regulations prescribing the treatment of specific items as outlined in 42 CFR 413.17, et al., and the Providers Reimbursement Manual, PRM Chapter 10 and other applicable chapters of the PRM. (3-30-07)

361. APPLICATION.

01. Determination of Common Ownership or Control in the Provider Organization and Supply Organization. In determining whether a provider organization is related to a supplying organization, the tests of common ownership and control are to be applied separately. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other. (3-30-07)

a. Common Ownership Rule. A determination as to whether an individual(s) possesses ownership or equity in the provider organization and the supplying organization, so that the organizations will be considered to be related by common ownership, will be made on the basis of the facts and circumstances in each case. (3-30-07)

b. Control Rule. The term "control" includes any kind of control whether or not it is legally enforceable and however it is exercisable or exercised. It is the reality of the control that is decisive, not its form or the mode of its exercise. (3-30-07)

02. Cost to Related Organizations. The charges to the provider from related organizations may not exceed the billing to the related organization for these services. (3-30-07)

03. Costs Not Related to Patient Care. All home office costs not related to patient care are not allowable under the Program. (3-30-07)

04. Interest Expense. Generally, interest expense on loans between related entities will not be reimbursable. See Chapters 2, 10, and 12, PRM, for specifics. (3-30-07)

362. EXCEPTION TO THE RELATED ORGANIZATION PRINCIPLE.
An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence to the satisfaction of the intermediary: (3-30-07)

01. Supplying Organization. That the supplying organization is a bona fide separate organization; (3-30-07)

02. Nonexclusive Relationship. That a substantial part of the supplying organization's business activity of the type carried on with the provider is transacted with other organizations not related to the provider and the supplier by common ownership or control and there is an open, competitive market. (3-30-07)

03. Lease or Rentals of Hospital. The exception is not applicable to sales, lease or rentals of hospitals. These transactions would not meet the requirement that there be an open, competitive market for the facilities furnished as described in Sections 1008 and 1012, PRM. (3-30-07)

a. Rentals. Rental expense for transactions between related entities will not be recognized. Costs of ownership will be allowed. (3-30-07)

b. Purchases. When a facility is purchased from a related entity, the purchaser's depreciable basis must not exceed the seller's net book value as described in Section 1005, PRM. (3-30-07)

363. -- 389. (RESERVED)

EXCLUDED SERVICES
(Section 390)

390. SERVICES, TREATMENTS, AND PROCEDURES NOT COVERED BY MEDICAL ASSISTANCE.
The following services, treatments, and procedures are not covered for payment by the Medical Assistance Program: (3-30-07)

01. Service Categories Not Covered. The following service categories are not covered for payment by the Medical Assistance Program: (3-30-07)

a. Acupuncture services; (3-30-07)

b. Naturopathic services; (3-30-07)

c. Bio-feedback therapy; (3-30-07)

d. Group hydrotherapy; and (3-30-07)

e. Fertility-related services, including testing. (3-30-07)

02. Types of Treatments and Procedures Not Covered. The costs of physician and hospital services for the following types of treatments and procedures are not covered for payment by the Medical Assistance Program: (3-30-07)

a. Elective medical and surgical treatment, except for family planning services, without Departmental approval. Procedures that are generally accepted by the medical community and are medically necessary may not require prior approval and may be eligible for payment; (3-30-07)

b. Cosmetic surgery, excluding reconstructive surgery that has prior approval by the Department; (3-30-07)

c. Acupuncture; (3-30-07)

d. Bio-feedback therapy; (3-30-07)

e. Laetrile therapy; (3-30-07)

f. Procedures and testing for the inducement of fertility. This includes artificial inseminations, consultations, counseling, office exams, tuboplasties, and vasovasostomies; ( )

g. New procedures of unproven value and established procedures of questionable current usefulness as identified by the Public Health Service and that are excluded by the Medicare program or major commercial carriers; (3-30-07)

h. Drugs supplied to patients for self-administration other than those allowed under the conditions of Section 662 of these rules; (3-30-07)

i. Services provided by psychologists and social workers who are employees or contract agents of a physician, or a physician's group practice association except for psychological testing on the order of the physician; (3-30-07)

j. The treatment of complications, consequences, or repair of any medical procedure where the original procedure was not covered by the Medical Assistance Program, unless the resultant condition is life-threatening as determined by the Department; (3-30-07)

k. Medical transportation costs incurred for travel to medical facilities for the purpose of receiving a noncovered medical service; (3-30-07)

l. Eye exercise therapy; or (3-30-07)

m. Surgical procedures on the cornea for myopia. (3-30-07)

03. Experimental Treatments or Procedures. Treatments and procedures used solely to gain further evidence or knowledge or to test the usefulness of a drug or type of therapy are not covered for payment by the Medical Assistance Program. This includes both the treatment or procedure itself, and the costs for all follow-up medical treatment directly associated with such a procedure. Treatments and procedures deemed experimental are not covered for payment by the Medical Assistance Program under the following circumstances: (3-30-07)

a. The treatment or procedure is in Phase I clinical trials in which the study drug or treatment is given to a small group of people for the first time to evaluate its safety, determine a safe dosage range, and identify side effects; (3-30-07)

b. There is inadequate available clinical or pre-clinical data to provide a reasonable expectation that the trial treatment or procedure will be at least as effective as non-investigational therapy; or (3-30-07)

c. Expert opinion suggests that additional information is needed to assess the safety or efficacy of the proposed treatment or procedure. (3-30-07)

391. -- 398. (RESERVED)

399. COVERED SERVICES UNDER BASIC PLAN BENEFITS.
Individuals who are eligible for Medicaid Basic Plan Benefits are eligible for the following benefits, subject to the coverage limitations contained in these rules. Those individuals eligible for services under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are also eligible for the services covered under this chapter of rules, unless

specifically exempted. (5-8-09)

01. Hospital Services. The range of hospital services covered is described in Sections 400 through 449 of these rules. (5-8-09)

a. Inpatient Hospital Services are described in Sections 400 through 406. (3-30-07)

b. Outpatient Hospital Services are described in Sections 410 through 416. (3-30-07)

c. Reconstructive Surgery services are described in Sections 420 through 426. (3-30-07)

d. Surgical procedures for weight loss are described in Sections 430 through 436. (3-30-07)

e. Investigational procedures or treatments are described in Sections 440 through 446. (3-30-07)

02. Ambulatory Surgical Centers. Ambulatory Surgical Center services are described in Sections 450 through 499 of these rules. (5-8-09)

03. Physician Services and Abortion Procedures. Physician services and abortion procedures are described in Sections 500 through 519 of these rules. (5-8-09)

a. Physician services are described in Sections 500 through 506. (3-30-07)

b. Abortion procedures are described in Sections 510 through 516. (3-30-07)

04. Other Practitioner Services. Other practitioner services are described in Sections 520 through 559 of these rules. (5-8-09)

a. Non-physician practitioner services are described in Sections 520 through 526. (7-1-17)

b. Chiropractic services are described in Sections 530 through 536. (3-30-07)

c. Podiatrist services are described in Sections 540 through 545. (3-29-12)

d. Licensed midwife (LM) services are described in Sections 546 through 552. (3-29-12)

e. Optometrist services are described in Sections 553 through 556. (3-29-12)

05. Primary Care Case Management. Primary care case management services are described in Sections 560 through 579 of these rules**.** (5-8-09)

a. Healthy Connections services are described in Sections 560 through 566. (4-4-13)

06. Prevention Services. The range of prevention services covered is described in Sections 580 through 649 of these rules. (4-4-13)

a. Child Wellness Services are described in Sections 580 through 586. (3-30-07)

b. Adult Physical Services are described in Sections 590 through 596. (3-30-07)

c. Screening mammography services are described in Sections 600 through 606. (3-30-07)

d. Diagnostic Screening Clinic services are described in Sections 610 through 614. (4-4-13)

e. Additional Assessment and Evaluation services are described in Section 615. (4-4-13)

f. Health Questionnaire Assessment is described in Section 618. (4-4-13)

g. Preventive Health Assistance benefits are described in Sections 620 through 626. (5-8-09)

h. Nutritional services are described in Sections 630 through 636. (3-30-07)

i. Diabetes Education and Training services are described in Sections 640 through 646. (3-30-07)

07. Laboratory and Radiology Services. Laboratory and radiology services are described in Sections 650 through 659 of these rules. (5-8-09)

08. Prescription Drugs. Prescription drug services are described in Sections 660 through 679 of these rules. (5-8-09)

09. Family Planning. Family planning services are described in Sections 680 through 689 of these rules. (5-8-09)

10. Outpatient Behavioral Health Services. Community-based outpatient services for behavioral health treatment are described in Sections 707 through 711 of these rules. (3-20-14)

11. Inpatient Psychiatric Hospital Services. Inpatient Psychiatric Hospital services are described in Sections 700 through 706. (3-20-14)

12. Home Health Services. Home health services are described in Sections 720 through 729 of these rules. (5-8-09)

13. Therapy Services. Occupational therapy, physical therapy, and speech-language pathology services are described in Sections 730 through 739 of these rules. (5-8-09)

14. Audiology Services. Audiology services are described in Sections 740 through 749 of these rules. (5-8-09)

15. Durable Medical Equipment and Supplies. The range of covered durable medical equipment and supplies is described in Sections 750 through 779 of these rules. (5-8-09)

a. Durable Medical Equipment and supplies are described in Sections 750 through 756. (3-30-07)

b. Oxygen and related equipment and supplies are described in Sections 760 through 766. (3-30-07)

c. Prosthetic and orthotic services are described in Sections 770 through 776. (3-30-07)

16. Vision Services. Vision services are described in Sections 780 through 789 of these rules. (5-8-09)

17. Dental Services. The dental services covered by Medicaid are covered under a selective contract as described in Section 800 through 819 of these rules. (4-11-19)

18. Essential Providers. The range of covered essential services is described in Sections 820 through 859 of these rules. (5-8-09)

a. Rural health clinic services are described in Sections 820 through 826. (3-30-07)

b. Federally Qualified Health Center services are described in Sections 830 through 836. (3-30-07)

c. Indian Health Services Clinic services are described in Sections 840 through 846. (3-30-07)

d. School-Based services are described in Sections 850 through 857. (3-20-14)

19. Transportation. The range of covered transportation services is described in Sections 860 through

879 of these rules. (5-8-09)

a. Emergency transportation services are described in Sections 860 through 866. (3-30-07)

b. Non-emergency medical transportation services are described in Sections 870 through 876. (4-4-13)

20. EPSDT Services. EPSDT services are described in Sections 880 through 889 of these rules. (5-8-09)

21. Specific Pregnancy-Related Services. Specific pregnancy-related services are described in Sections 890 through 899 of these rules. (5-8-09)

COVERED SERVICES
(Sections 400 - 899)

SUB AREA: HOSPITAL SERVICES
(Sections 400 - 449)

400. INPATIENT HOSPITAL SERVICES: DEFINITIONS.

01. Administratively Necessary Day (AND). An Administratively Necessary Day (AND) is intended to allow a hospital time for an orderly transfer or discharge of participant inpatients who are no longer in need of a continued acute level of care. ANDs may be authorized for inpatients who are awaiting placement for nursing facility level of care, or in-home services that are not available, or when catastrophic events prevent the scheduled discharge of an inpatient. (3-30-07)

02. Allowable Costs. The current year's Medicaid apportionment of a hospital's allowable costs determined at final or interim settlement consist of those costs permitted by the principles of reimbursement contained in the Provider Reimbursement Manual (PRM) and do not include costs already having payment limited by Medicaid rate file or any other Medicaid charge limitation. (3-30-07)

03. Apportioned Costs. Apportioned costs consist of the share of a hospital's total allowable costs attributed to Medicaid program participants and other patients so that the share borne by the program is based upon actual services received by program participants, as set forth in the applicable Title XVIII principles of cost reimbursement as specified in the PRM and in compliance with Medicaid reimbursement rules. (3-30-07)

04. Capital Costs. For the purposes of hospital reimbursement, capital costs are those allowable costs considered in the settlement that represent the cost to each hospital for its reasonable property related and financing expense, and property taxes. (3-30-07)

05. Case-Mix Index. The Case-Mix Index for a hospital is the average weight of values assigned to a range of diagnostic related groups those used in the Medicare system or adjoining states and applied to Medicaid discharges included in a hospital's fiscal year end settlement. The index will measure the relative resources required to treat Medicaid inpatients. The Case-Mix Index of the current year will be divided by the index of the principal year to assess the percent change between the years. ( )

06. Charity Care. Charity care is care provided to individuals who have no source of payment, third-party or personal resources. (3-30-07)

07. Children's Hospital. A Medicare-certified hospital as set forth in 42 CFR Section 412.23(d). (3-30-07)

08. Critical Access Hospitals (CAH). A rural hospital with twenty five (25) or less beds as set forth in 42 CFR Section 485.620. (4-7-11)

09. Current Year. Any hospital cost reporting period for which reasonable cost is being determined will be termed the current year. (3-30-07)

10. Customary Hospital Charges. Customary hospital charges reflect the regular rates for inpatient or outpatient services charged to patient(s) liable for payment for their services on a charge basis. Implicit in the use of charges as the basis for comparability (or for apportionment under certain apportionment methods) is the objective that services are related to the cost of services billed to the Department. (3-29-12)

a, No more than ninety-one and seven-tenths percent (91.7%) of covered charges will be reimbursed for the separate operating costs for either total inpatient services or total outpatient services at the time of final cost settlement for any fiscal year with the exception set forth in Subsection 405.03.b. of these rules. (3-29-12)

b. For in-state hospitals that are not specified in Section 56-1408, Idaho Code, no more than one hundred percent (100%) of covered charges will be reimbursed. (3-29-12)

c. No more than one hundred one percent (101%) of covered charges will be reimbursed to Critical Access Hospitals (CAH) for in-state hospitals. (3-29-12)

d. No more than eighty-seven and one-tenth percent (87.1%) of covered charges will be reimbursed to out-of-state hospitals. (3-29-12)

11. Disproportionate Share Hospital (DSH) Allotment Amount. The DSH allotment amount determined by CMS that is eligible for federal matching funds in any federal fiscal period for disproportionate share payments. (3-30-07)

12. Disproportionate Share Hospital (DSH) Survey. The DSH survey is an annual data request from the Department to the hospitals to obtain the information necessary to compute DSH in accordance with Subsection 405.09.a. of these rules. (3-30-07)

13. Disproportionate Share Threshold. The disproportionate share threshold is: (3-30-07)

a. The arithmetic mean plus one (1) standard deviation of the Medicaid Utilization Rates of all Idaho Hospitals; or (3-30-07)

b. A Low Income Revenue Rate exceeding twenty-five percent (25%). (3-30-07)

14. Excluded Units. Excluded units are distinct units in hospitals that are certified by Medicare according to 42 CFR Sections 412.25, 412.27 and 412.29 for exclusion from the Medicare prospective payment system. (3-30-07)

15. Hospital Inflation Index. An index calculated through Department studies and used to adjust inpatient operating cost limits and interim rates for the current year. (3-30-07)

16. Low Income Revenue Rate. The Low Income Revenue Rate is the sum of the following fractions, expressed as a percentage, calculated as follows: (3-30-07)

a. Total Medicaid inpatient revenues paid to the hospital, plus the amount of the cash subsidies received directly from state and local governments in a cost reporting period, divided by the total amount of revenues and cash subsidies of the hospital for inpatient services in the same cost reporting period; plus (3-30-07)

b. The total amount of the hospital's charges for inpatient hospital services attributable to charity care in the same cost reporting period, divided by the total amount of the hospital's charges for inpatient services in the hospital in the same period. The total inpatient charges attributed to charity care must not include contractual allowances and discounts and reduction in charges given to Medicare, Medicaid, other third-party payors, or cash for patient services received directly from state and local governments' county assistance programs. (3-30-07)

17. Medicaid Inpatient Day. For purposes of DSH payments, an inpatient day is defined as a

Medicaid inpatient day in a hospital for which there is also no Medicare inpatient day counted. (3-30-07)

18. Medicaid Utilization Rate (MUR). The MUR for each hospital will be computed using the Department's record of paid inpatient days for the fiscal year divided by the total inpatient days for the same fiscal year as reported in the DSH survey. In this paragraph, the term "inpatient days" includes administratively necessary days, newborn days, days in specialized wards, days provided at an inappropriate level of care, and Medicaid inpatient days from other states. In this paragraph, "Medicaid inpatient days" includes paid days not counted in prior DSH threshold computations. (4-7-11)

19. Obstetricians. For purposes of an adjustment for hospitals serving a disproportionate share of low income patients, and in the case of a hospital located in a rural area, as defined by the federal Executive Office of Management and Budget, the term "obstetrician" includes any physician with staff privileges at the hospital to perform nonemergency obstetric procedures. (3-30-07)

20. On-Site. A service location over which the hospital exercises financial and administrative control. "Financial and administrative control" means a location whose relation to budgeting, cost reporting, staffing, policy-making, record keeping, business licensure, goodwill and decision-making are so interrelated to those of the hospital that the hospital has ultimate financial and administrative control over the service location. The service location must be in close proximity to the hospital where it is based, and both facilities serve the same patient population (e.g., from the same area, or catchment, within Medicare's defined Metropolitan Statistical Area (MSA) for urban hospitals or thirty-five (35) miles from a rural hospital). (3-30-07)

21. Operating Costs. For the purposes of hospital reimbursement, operating costs are the allowable costs included in the cost centers established in the finalized Medicare cost report to accumulate costs applicable to providing routine and ancillary services to patients for the purposes of cost assignment and allocation in the step-down process. (3-30-07)

22. Other Allowable Costs. Other allowable costs are those reasonable costs recognized under the Medicaid reasonable cost principles for services not subject to Medicaid limitations of coverage or reimbursement limits. Costs that are not reimbursed as operating costs, but recognized by Medicare principles as allowable costs will be included in the total reasonable costs. Other allowable costs include, but are not necessarily limited to, physician's component which was combined-billed, capital costs, ambulance costs, excess costs, carry-forwards and medical education costs. (3-30-07)

23. Principal Year. The principal year is the period from which the Medicaid Inpatient Operating Cost Limit is derived. For inpatient services on or after July 1, 2010, the principal year will be the Medicare cost report period used to prepare the Medicaid cost settlement. ( )

24. Public Hospital. For purposes of Subsection 405.03.b. of these rules, a Public Hospital is a hospital operated by a federal, state, county, city, or other local government agency or instrumentality. (3-30-07)

25. Reasonable Costs. Except as otherwise provided in Subsection 405.03 of these rules, reasonable costs include all necessary and ordinary costs incurred in rendering the services related to patient care that a prudent and cost-conscious hospital would pay for a given item or service which do not exceed the Medicaid cost limit. (3-30-07)

26. Reimbursement Floor Percentage. (3-29-12)

a. The floor calculation for out-of-state hospitals is seventy-three and five-tenths percent (73.5%) of Medicaid costs. (3-29-12)

b. The floor calculation for in-state CAH hospitals is one hundred one percent (101%) of Medicaid costs. (3-29-12)

c. For in-state hospitals that are not specified in Section 56-1408, Idaho Code, the floor calculation is eighty-five percent (85%) of Medicaid costs. (3-29-12)

d. For in-state hospitals that are specified in Section 56-1408, Idaho Code, the floor calculation is seventy-seven and four-tenths percent (77.4%) of Medicaid costs. (3-29-12)

27. Uninsured Patient Costs. For the purposes of determining the additional costs beyond uncompensated Medicaid costs that may be reimbursed as a DSH payment without exceeding the state Allotment Amount, only inpatient costs of uninsured patients will be considered. (4-7-11)

28. Upper Payment Limit. The Upper Payment Limit for hospital services is defined in the Code of Federal Regulations. (3-30-07)

401. (RESERVED)

402. INPATIENT HOSPITAL SERVICES: COVERAGE AND LIMITATIONS.
The policy, rules, and regulations to be followed will be those cited in 42 CFR 456.50 through 42 CFR 456.145. All hospital services must conform to federal and state laws and regulations. Services must be medically necessary as defined in Section 011 of these rules. (7-1-18)

01. Initial Length of Stay. Prior authorization requirement for an initial length of stay will be established by the Department, or its designee, in the Idaho Medicaid Provider Handbook. (7-1-18)

02. Extended Stay. The Department, or its designee, will establish authorization requirements in the Idaho Medicaid Provider Handbook. An authorization is necessary when the appropriate care of the participant indicates the need for hospital days in excess of the initial length of stay, or previously approved extended stay. (7-1-18)

03. Exceptions and Limitations. The following exceptions and limitations apply to in-patient hospital services: (3-30-07)

a. Payment for accommodations is limited to the hospital's all-inclusive rate. The all-inclusive rate is a flat fee charge incurred on a daily basis that covers both room and board. (3-30-07)

b. The Department will not authorize reimbursement above the all-inclusive rate unless the attending physician orders a room that is not an all-inclusive rate room for the patient because of medical necessity. (3-30-07)

403. INPATIENT HOSPITAL SERVICES: PROCEDURAL REQUIREMENTS.

01. Prior Authorization. Some services may require a prior authorization from the Department or its designee. Documentation for the request must include the most recent plan of care and adequate documentation to demonstrate continued medical necessity. The Department will set additional documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. (7-1-18)

02. Certification of Need. At the time of admission, the physician must certify that inpatient services are necessary. Recertification must occur at least every sixty (60) days inpatient hospital services are required, but may be required more frequently as determined by the Department. (7-1-18)

03. Individual Plan of Care. The individual plan of care is a written plan developed for the participant upon admission to a hospital and updated at least every sixty (60) days, but may be required more frequently as determined by the Department. The plan must include: (7-1-18)

a. Diagnoses, symptoms, complaints, and complications indicating the need for admission; (7-1-18)

b. A description of the functional level of the individual; (7-1-18)

c. Any orders for medications, treatments, rehabilitative services, activities, social services, or diet; and (7-1-18)

d. Plans for continuing care or discharge, as appropriate. (7-1-18)

04. Request for Extended Stay. To qualify for reimbursement, authorization must be obtained from the Department, or its designee. The request should be made before the initial length of stay or previously authorized extended stay ends, and submitted as designated by the Department, or its designee. Documentation for the request should include the most recent plan of care. The Department will set additional documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. (7-1-18)

05. Administratively Necessary Day Requests (AND). When Administratively Necessary Days are requested, the hospital must provide the Department with complete and timely documentation prior to the participant's anticipated discharge date. Authorization for reimbursement will be denied for all untimely requests and tardy submittal of requested documentation. All requests for AND must be made in writing. Hospitals must make the documentation and related information requested by the Department available within ten (10) working days of the date of the request for subsequent payment to be granted. The documentation provided by the hospital will include: ( )

a. A Brief Summary. A brief summary of the participant's medical condition; and (3-30-07)

b. Statements. Statements as to why the participant is unable to discharge to a nonhospital setting; and (7-1-18)

c. Documentation. Documentation that the hospital has diligently made every effort to locate, without success, a facility or organization within twenty-five (25) miles that is able and willing to deliver the appropriate care. Such evidence must include a list of facilities and organizations, the dates of contact, the names of the persons contacted, and the result of each contact. (7-1-18)

404. INPATIENT HOSPITAL SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
In addition to the provider enrollment agreement, each claim submitted by a hospital constitutes an agreement by which the hospital agrees to accept and abide by the Department's rules. Only a Medicare certified hospital, licensed by the state in which it operates, may enroll in the Idaho Medicaid program. Hospitals not participating as a Medicaid swing-bed provider, which are licensed for long-term care or as a specialty hospital that provides a nursing home level of care, will be reimbursed as a nursing facility. Hospitals not eligible for enrollment which render emergency care will be paid rates established in these rules. (3-30-07)

405. INPATIENT HOSPITAL SERVICES: PROVIDER REIMBURSEMENT.
Under the Medicaid provisions of the Social Security Act, in reimbursing hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of inpatient services in accordance with the procedures detailed under this rule. The upper limits observed by the Department in reimbursing each individual hospital must not exceed the payment that would be determined as a reasonable cost under the policies, definitions and procedures observed under Medicare (Title XVIII) principles of cost reimbursement. (3-30-07)

01. Exemption of New Hospitals. A hospital that has operated as the type of facility for which it is certified (or the equivalent thereof) under present and previous ownership for less than three (3) full years will be paid in accordance with the Title XVIII principles of reasonable cost reimbursement, including those provisions applicable to new providers for the carryover and recovery of unreimbursed costs, in accordance with 42 CFR Section 413.64. (3-30-07)

02. Medicaid Inpatient Operating Cost Limits. The following describe the determination of inpatient operating cost limits. (3-30-07)

a. Medicaid Cost Limits for Dates of Service Prior to a Current Year. The reimbursable reasonable costs for services rendered prior to the beginning of the principal year, but included as prior period claims in a subsequent period's cost report, will be subject to the same operating cost limits as the claims under settlement. (3-30-07)

b. Application of the Medicaid Cost Limit. In the determination of a hospital's reasonable costs for inpatient services rendered after the effective date of a principal year, a hospital inflation index, computed for each hospital's fiscal year end, will be applied to the operating costs, excluding capital costs and other allowable costs as

defined for the principal year and adjusted on a per diem basis for each subsequent year under the hospital inflation index. (7-1-18)

i. Each inpatient routine service cost center, as reported in the finalized principal year end Medicare cost report, will be segregated in the Medicaid cost limit calculation and assigned a share of total Medicaid inpatient ancillary costs. The prorated ancillary costs will be determined by the ratio of each Medicaid routine cost center's reported costs to total Medicaid inpatient routine service costs in the principal year. (3-30-07)

ii. Each routine cost center's total Medicaid routine service costs plus the assigned share of Medicaid inpatient ancillary costs of the principal year will be divided by the related Medicaid patient days to identify the total costs per diem in the principal year. (3-30-07)

(1) The related inpatient routine service cost center's per diem capital and graduate medical education costs plus the prorated share of inpatient ancillary capital costs will be subtracted from the per diem amount identified in Subsection 405.02.b.ii. of this rule to identify each inpatient routine service cost center per diem cost limit in the principal year. (3-30-07)

(2) If a provider did not have any Medicaid inpatient utilization or render any Medicaid inpatient services in an individual inpatient routine service cost center in the fiscal year serving as the principal year, the principal year for only those routine cost centers without utilization in the provider's principal year will be appropriately calculated using the information available in the next subsequent year in which Medicaid utilization occurred. (3-30-07)

iii. Each routine cost center's cost per diem for the principal year will be multiplied by the hospital inflation index for each subsequent fiscal year. (7-1-18)

iv. The sum of the per diem cost limits for the Medicaid inpatient routine service cost centers of a hospital during the principal year, as adjusted by the hospital inflation index, will be the Medicaid cost limit for operating costs in the current year. (7-1-18)

(1) At the date of final settlement, reimbursement of the Medicaid current year inpatient routine cost centers plus the assigned ancillary costs will be limited to the total per diem operating costs as adjusted for each subsequent fiscal year after the principal year through the current year by the hospital inflation cost index. (7-1-18)

(2) Providers will be notified of the estimated inflation index periodically or hospital inflation index (CMS Market Basket Index) prior to final settlement only upon written request. (7-1-18)

03. Adjustments to the Medicaid Cost Limit. A hospital's request for review by the Department concerning an adjustment to or exemption from the cost limits imposed under the provisions set forth in this rule, will be granted under the following circumstances: (3-30-07)

a. Adjustments. Because of Extraordinary Circumstances. Where a provider's costs exceed the Medicaid limit due to extraordinary circumstances beyond the control of the provider, the provider can request an adjustment to the cost limit to the extent the provider proves such higher costs result from the extraordinary circumstances including increased costs attributable to strikes, fires, earthquake, flood, or similar, unusual occurrences with substantial cost effects. ( )

b. Reimbursement to Public Hospitals. A public hospital that provides services free or at a nominal charge, which is less than, or equal to fifty percent (50%) of its total allowable costs, will be reimbursed at the same rate that would be used if the hospital's charges were equal to, or greater than, its costs. (7-1-18)

c. Adjustment to Cost Limits. A hospital is entitled to a reasonable increase in its Medicaid cost limits if the hospital shows that its per diem costs of providing services have increased due to increases in case- mix, the adoption of new or changed services, the discontinuation of services or decrease in average length of stay for Medicaid inpatients since the principal year. Any hospital making such showing is entitled to an increase commensurate with the increase in per diem costs. (7-1-18)

i. The Medicaid operating cost limit may be adjusted by multiplying cost limit by the ratio of the current year's case-mix index divided by the principal year's case-mix index. (7-1-18)

ii. The contested case procedure set forth in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," is available to larger hospitals seeking such adjustments to their Medicaid cost limits. (7-1-18)

d. Adjustment to the Proration of Ancillary Costs in the principal year. Where the provider asserts that the proration of ancillary costs does not adequately reflect the total Medicaid cost per diem calculated for the inpatient routine service cost centers in the principal year, the provider may submit a detailed analysis of ancillary services provided to each participant for each type of patient day during each participant's stay during the principal year. The provider will be granted this adjustment only once upon appeal for the first cost reporting year that the limits are in effect. (3-30-07)

04. Payment Procedures. The following procedures are applicable to in-patient hospitals: (3-30-07)

a. The participant's admission and length of stay is subject to prior authorization, concurrent review, continued stay review, and retrospective review by a Quality Improvement Organization (QIO) designated by the Department. QIO review will be governed by provisions of the QIO Idaho Medicaid Provider Manual as amended. If a review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. Failure to obtain a timely QIO review as required by Section 402 of these rules, and as outlined in the QIO Idaho Medicaid Provider Manual as amended, will result in the QIO conducting a late review. After a QIO review has determined that the hospital stay was medically necessary, Medicaid will assess a late review penalty to the hospital as outlined in this rule. (7-1-18)

i. All admissions are subject to QIO review to determine if continued stay in inpatient status is medically necessary. A QIO continued stay review is required when the participant's length of stay exceeds the number of days certified by the QIO. If no initial length of stay certification was issued by the QIO, a QIO continued stay review is required when the admission exceeds a number of days as specified by the Department. (3-30-07)

ii. Reimbursement for services originally identified as not medically necessary by the QIO will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-30-07)

iii. Absent the Medicaid participant's informed decision to incur services deemed unnecessary by the QIO, or not authorized by the QIO due to the negligence of the provider, no payment for denied services may be obtained from the participant. (3-30-07)

b. In reimbursing licensed hospitals, the Department will pay the lesser of customary hospital charges or the reasonable cost of semi-private rates for in-patient hospital care as set forth in this rule, unless an exception applies as stated in Section 402 of these rules. The upper limits for payment must not exceed the payment that would be determined as reasonable cost using the Title XVIII standards and principles. (3-30-07)

05. Hospital Penalty Schedule. (3-30-07)

a. A request for a preadmission or continued stay QIO review*, or for both,* that is one (1) day late will result in a penalty of two hundred and sixty dollars ($260), from the total Medicaid paid amount of the inpatient hospital stay. *( )*

b. A request for a preadmission or continued stay QIO review*, or for both,* that is two (2) days late will result in a penalty of five hundred and twenty dollars ($520), from the total Medicaid paid amount of the inpatient hospital stay. *( )*

c. A request for a preadmission or continued stay QIO review*, or for both,* that is three (3) days late will result in a penalty of seven hundred and eighty dollars ($780), from the total Medicaid paid amount of the inpatient hospital stay. *( )*

d. A request for a preadmission or continued stay QIO review*, or for both,* that is four (4) days late

will result in a penalty of one thousand and forty dollars ($1,040), from the total Medicaid paid amount of the inpatient hospital stay. ( )

e. A request for a preadmission or continued stay QIO review, *or for both,* that is five (5) days late or greater will result in a penalty of one thousand three hundred dollars ($1,300), from the total Medicaid paid amount of the inpatient hospital stay. ( )

06. AND Reimbursement Rate. Reimbursement for an AND will be made at the weighted average Medicaid payment rate for all Idaho nursing facilities for routine services, as defined per 42 CFR 447.280(a)(1), furnished during the previous calendar year. ICF/ID rates are excluded from this calculation. (3-30-07)

a. The AND reimbursement rate will be calculated by the Department by March 15 of each calendar year and made effective retroactively for dates of service on or after January 1 of the respective calendar year. (3-30-07)

b. Hospitals with an attached nursing facility will be reimbursed the lesser of their Medicaid per diem routine rate or the established average rate for an AND; and (3-30-07)

c. The Department will pay the lesser of the established AND rate or a facility's customary hospital charge to private pay patients for an AND. (3-30-07)

07. Reimbursement for Services. Routine services as addressed in Subsection 405.08 of this rule include all medical care, supplies, and services that are included in the calculation of nursing facility property and non-property costs as described in these rules. Reimbursement of ancillary services will be determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. (3-30-07)

08. Hospital Swing-Bed Reimbursement. The Department will pay for nursing facility care in certain rural hospitals. Following approval by the Department, such hospitals may provide service to participants in licensed hospital "swing-beds" who require nursing facility level of care. (4-11-19)

a. Facility Requirements. The Department will approve hospitals for nursing facility care provided to eligible participants under the following conditions: (3-30-07)

i. The Department's Licensure and Certification Section finds the hospital in conformance with the requirements of 42 CFR 482.58 "Special Requirements" for hospital providers of long-term care services ("swing-beds"), or 42 CFR 485.645 – Special requirements for CAH providers of long-term services ("swing-beds") as applicable; and (4-11-19)

ii. The hospital is approved by the Medicare program for the provision of "swing-bed" services; and (3-30-07)

iii. The facility does not have a twenty-four (24) hour nursing waiver granted under 42 CFR 488.54(c); and (3-30-07)

iv. The hospital must not have had a swing-bed approval terminated within the two (2) years previous to application for swing-bed participation; and (3-30-07)

v. The hospital must be licensed for less than one hundred (100) beds as defined by 42 CFR 482.58(a)(1) for swing-bed purposes; and (3-30-07)

vi. Nursing facility services in swing-beds must be rendered in beds used interchangeably to furnish hospital or nursing facility-type services. (3-30-07)

b. Participant Requirements. The Department will reimburse hospitals for participants under the following conditions: (3-30-07)

i. The participant is determined to be entitled to such services in accordance with IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled"; and (3-30-07)

ii. The participant is authorized for payment in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 222.02. (3-30-07)

c. Reimbursement for "Swing-Bed" Patient Days. The Department will reimburse swing-bed hospitals on a per diem basis utilizing a rate established as follows: (3-30-07)

i. Payment rates for routine nursing facility services will be at the weighted average Medicaid rate per patient day paid to hospital-based nursing facility/ICF facilities for routine services furnished during the previous calendar year. ICF/ID facilities' rates are excluded from the calculations. (3-30-07)

ii. The rate will be calculated by the Department by March 15 of each calendar year. The rate will be based on the previous calendar year and effective retroactively for dates of service on or after January 1 of the respective year. (3-30-07)

iii. The weighted average rate for nursing facility swing-bed days will be calculated by dividing total payments for routine services, including patient contribution amounts but excluding miscellaneous financial transactions relating to prior years, by total patient days for each respective level of care occurring in the previous calendar year. (3-30-07)

iv. Routine services include all medical care, supplies, and services that are included in the calculation of nursing facility property and nonproperty costs as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Subsection 225.01. (3-30-07)

v. The Department will pay the lesser of the established rate, the facility's charge, or the facility's charge to private pay patients for "swing-bed" services. (3-30-07)

vi. Reimbursement of ancillary services not included in the nursing facility rates furnished for extended care services will be billed and determined in the same manner as hospital outpatient reasonable costs in accordance with Medicare reasonable cost principles, except that reimbursement for prescription drugs will be in accord with Section 665 of these rules. (3-30-07)

vii. The number of swing-bed days that may be reimbursed to a provider in a twelve (12) month period will be limited to the greater of one thousand ninety-five (1,095) days which may be prorated over a shorter fiscal period or, fifteen percent (15%) of the product of the average number of available licensed beds in the hospital in the period and the number of days in the fiscal period. The Department may authorize additional critical access hospital swing-bed days for participants residing in a community without a nursing facility within thirty-five (35) miles contingent on a review of medical necessity, cost-effectiveness, residency, and quality of care. (4-11-19)

d. Computation of "Swing-Bed" Patient Contribution. The computation of the patient's contribution of swing-bed payment will be in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 224. (3-30-07)

09. Adjustment for Disproportionate Share Hospitals (DSH). All Idaho hospitals serving a disproportionate share of low income patients must qualify either as a Mandatory DSH or as Deemed DSH to receive a DSH payment. The Department will send each hospital a DSH survey on or before January 31 of each calendar year. A hospital will not receive a DSH payment if the survey is not returned by the deadline, unless good cause is determined by the Department. ( )

a. Mandatory Eligibility. Mandatory Eligibility for DSH status will be provided for hospitals that: (3-30-07)

i. Meet or exceed the disproportionate share threshold as defined in Subsection 400.13 of these rules. (3-30-07)

ii. Have at least two (2) obstetricians with staff privileges at the hospital who have agreed to provide obstetric services. (3-29-10)

(1) Subsection 405.09.b.ii. of this rule does not apply to a hospital in which the inpatients are predominantly individuals under eighteen (18) years of age; or (3-30-07)

(2) Does not offer nonemergency inpatient obstetric services as of December 21, 1987. (3-30-07)

iii. The MUR will not be less than one percent (1%). (3-30-07)

iv. If an Idaho hospital exceeds both disproportionate share thresholds, as described in Subsection 400.13 of these rules, and the criteria of Subsections 405.09.b.ii. and 405.09.b.iii. of this rule are met, the payment adjustment will be the greater of the amounts calculated using the methods identified in Subsections 405.09.b.vi. through 405.09.b.x. of this rule. (3-29-10)

v. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one (1) standard deviation and less than one and one-half (1 1/2) standard deviations above the mean of all Idaho hospitals will receive a DSH payment equal to two percent (2%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

vi. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates equal to or exceeding one and one-half (1 1/2) standard deviations and less than two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

vii. Hospitals qualifying for Mandatory DSH eligibility with Medicaid Inpatient Utilization Rates exceeding two (2) standard deviations of the mean of all Idaho hospitals will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

viii. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to or exceeding twenty-five percent (25%) will receive a DSH payment equal to four percent (4%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

ix. Hospitals qualifying for Mandatory DSH eligibility with Low Income Utilization Rates equal to, or exceeding, thirty percent (30%) will receive a DSH payment equal to six percent (6%) of the payments related to the Medicaid inpatient days included in the MUR computation. (3-30-07)

b. Deemed Disproportionate Share Hospital (DSH). All hospitals in Idaho that have inpatient utilization rates of at least one percent (1%) only in Idaho inpatient days, and meet the requirements unrelated to patient day utilization specified in Subsection 405.09.b. of this rule, will be designated a Deemed Disproportionate Share Hospital. The disproportionate share payment to a Deemed DSH hospital will be the greater of: (3-29-10)

i. Five dollars ($5) per Idaho Medicaid inpatient day included in the hospital's MUR computation; or (3-30-07)

ii. An amount per Medicaid inpatient day used in the hospital's MUR computation that equals the DSH allotment amount, less the Mandatory DSH payment amount, divided by the number of Medicaid inpatient days used in the MUR computation for all Idaho DSH hospitals. (3-30-07)

c. Insufficient DSH Allotment Amounts. When the DSH allotment amount is insufficient to make the aggregate amount of DSH payments to each DSH hospital, payments to each hospital will be reduced by the percentage by which the DSH allotment amount was exceeded. (3-30-07)

d. DSH Payments Will Not Exceed Costs. A DSH payment will not exceed the costs incurred during the year of furnishing services to individuals who are either eligible for medical assistance under the State Plan or were uninsured for health care services provided during the year. (3-30-07)

i. Payments made to a hospital for services provided to indigent patients by a state or a unit of local government within a state will not be considered a source of third party payment. (3-30-07)

ii. Claims of uninsured costs that increase the maximum amount that a hospital may receive as a DSH payment must be documented. (3-30-07)

e. DSH Will be Calculated on an Annual Basis. A change in a provider's allowable costs as a result of a reopening or appeal will not result in the recomputation of the provider's annual DSH payment. (3-30-07)

f. To the extent that audit findings demonstrate that DSH payments exceed the documented hospital specific cost limits, the Department will collect overpayments and redistribute DSH payments. (4-7-11)

i. If at any time during an audit the Department discovers evidence suggesting fraud or abuse by a provider, that evidence, in addition to the Department's final audit report regarding that provider, will be referred to the Medicaid Fraud Unit of the Idaho Attorney General's Office. (4-7-11)

ii. The Department will submit an independent certified audit to CMS for each completed Medicaid State plan rate year, consistent with 42 CFR Part 455, Subpart D, "Independent Certified Audit of State Disproportionate Share Hospital Payment Adjustments." (4-7-11)

iii. Beginning with FFY 2011, if based on the audit of the DSH allotment distribution, the Department determines that there was an overpayment to a provider, the Department will immediately: (4-7-11)

(1) Recover the overpayment from the provider; and (4-7-11)

(2) Redistribute the amount in overpayment to providers that had not exceeded the hospital-specific upper payment limit during the period in which the DSH payments were determined. The payments will be subject to hospital-specific upper payment limits. (4-7-11)

iv. Disproportionate share payments must not exceed the DSH state allotment, except as otherwise required by the Social Security Act. In no event is the Department obligated to use State Medicaid funds to pay more than the State Medicaid percentage of DSH payments due a provider. (4-7-11)

10. Out-of-State Hospitals. (3-30-07)

a. Cost Settlements for Certain Out-of-State Hospitals. Hospitals not located in the state of Idaho will have a cost settlement computed with the state of Idaho if the following conditions are met: (3-30-07)

i. Total inpatient and outpatient covered charges are more than fifty thousand dollars ($50,000) in the fiscal year; or (3-30-07)

ii. When less than fifty thousand dollars ($50,000) of covered charges are billed to the state by the provider, and a probable significant underpayment or overpayment is identifiable, and the amount makes it administratively economical and efficient for cost settlement to be requested by either the provider or the state, a cost settlement will be made between the hospital and the Department. (3-30-07)

b. Payment for Hospitals Without Cost Settlement. Those out-of-state hospitals not cost settling with the state will have annually adjusted rates of payment no greater than seventy-five percent (75%) for inpatient covered charges and no greater than eighty percent (80%) of outpatient covered charges or, the Department's established fee schedule for certain outpatient services. These rates represent average inpatient and outpatient reimbursement rates paid to Idaho hospitals. (3-30-07)

11. Audit Function. Under a common audit agreement, the Medicare Intermediary may perform any audit required for both Title XVIII and Medicaid purposes. The Department may elect to perform an audit even though the Medicare Intermediary does not choose to audit the facility. (3-30-07)

12. Adequacy of Cost Information. Cost information as developed by the provider must be current,

accurate, and in sufficient detail and in such form as needed to support payments made for services rendered to participants. This includes all ledgers, books, reports, records and original evidences of cost (purchase requisitions, purchase orders, vouchers, requisitions for materials, inventories, labor time cards, payrolls, bases for apportioning costs, etc.), which pertain to the determination of reasonable costs, leaving an audit trail capable of being audited. Financial and statistical records will be maintained in a consistent manner from one (1) settlement period to another. (3-30-07)

13. Availability of Records of Hospital Providers. A participating hospital provider of services must make available to the Department in the state in which the facility is licensed, the provider's fiscal and other necessary records for the purpose of determining its ongoing record keeping capability and to ascertain information pertinent to the determination of the proper amount of program payments due the provider. (3-30-07)

14. Interim Cost Settlements. The Department may initiate or a hospital may request an interim cost settlement based on the Medicare cost report as submitted to the Medicare Intermediary. (3-30-07)

a. Cost Report Data. Interim settlement cost report data will be adjusted to reflect Medicaid payments and statistical summary reports sent to providers before the filing deadline. (3-30-07)

b. Limit or Recovery of Payment. The Department may limit a recovery or payment of an interim settlement amount up to twenty-five percent (25%) of the total settlement amount when the cost report information is in dispute. (3-30-07)

15. Notice of Program Reimbursement. Following receipt of the finalized Medicare cost report and the timely receipt of any other information requested by the Department to fairly cost settle with the provider, a certified letter with the return receipt requested will be sent to the provider that sets forth the amounts of underpayment or overpayment made to the provider. The notice of the results of the final retroactive adjustment will be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Medicaid program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. Such action of recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. (3-30-07)

a. Timing of Notice. The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the cost report from the Medicare Intermediary. (3-30-07)

b. Reopening of Completed Settlements. A Medicaid completed cost settlement may be reopened by the provider or the state within a three (3) year period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed and resolved through the reopening of the cost report by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. (3-30-07)

16. Nonappealable Items. The formula for the determination of the hospital inflation index, the principles of reimbursement that define allowable cost, non-Medicaid program issues, interim rates that are in compliance with state and federal rules, and the preliminary adjustments prior to final cost settlement determinations as supported by properly completed cost reports and audits are not acceptable as appealable items. (7-1-18)

17. Interim Reimbursement Rates. The interim reimbursement rates *must be* reasonable and adequate to meet the necessary costs *that are* incurred by economically and efficiently operated providers *that* provide services in conformity with applicable state and federal laws, rules, and quality and safety standards. *( )*

a. Annual Adjustments. Interim rates will be adjusted at least annually based on the best information available to the Department. The interim rate will reflect the Medicaid Inpatient Operating Cost Limits used to set inpatient rates and the Reimbursement Floor Percentage. (3-30-07)

b. Retrospective Adjustments. Interim rates will not be adjusted retrospectively upon request for rate

review by the provider. (3-30-07)

c. Basis for Adjustments. The Department may make an adjustment based on the Medicare cost report as submitted and accepted by the Intermediary after the provider's reporting year to bring interim payments made during the period into agreement with the tentative reimbursable amount due the provider at final settlement. If the settlement amount is equal to or greater than ten percent (10%) of the payments received or paid and equal to or greater than one hundred thousand dollars ($100,000), the interim rate will be adjusted to account for half (½) of the difference. (3-30-07)

d. Unadjusted Rate. The Medicaid interim reimbursement rate on file is synonymous with the term unadjusted rate used by other payors. (3-30-07)

18. Audits. All financial reports are subject to audit by Departmental representatives in accordance with Section 305 of these rules. (3-30-07)

406. INPATIENT HOSPITAL SERVICES: QUALITY ASSURANCE.
The designated QIO must prepare, distribute, and maintain a provider manual that is periodically updated. The manual must include the following: (3-30-07)

01. QIO Information. The QIO's policies, criteria, standards, operating procedures, and forms for performing: preadmission monitoring, assessment reviews, continued stay requests, and requests for retroactive medical reviews. (3-30-07)

02. Department Provisions. Department-selected diagnoses and elective procedures in which a hospital will request preauthorization of an admission, transfer, or continuing stay. (3-30-07)

03. Approval Timeframe. A provision that the QIO will inform the hospital of a certification within five (5) days, or other time frame as determined by the Department, of an approved admission, transfer, or continuing stay. (3-30-07)

04. Method of Notice. The method of notice to hospitals of QIO denials for specific admissions, transfers, continuing stays, or services rendered in post-payment reviews. (3-30-07)

05. Procedural Information. The procedures that providers or participants will use to obtain reconsideration of a denial by the QIO prior to appeal to the Department. Such requests for reconsideration by the QIO must be made in writing to the QIO within one hundred eighty (180) days of the issuance of the "Notice of Non-Certification of Hospital Days." (3-30-07)

407. -- 409. (RESERVED)

410. OUTPATIENT HOSPITAL SERVICES: DEFINITIONS.
Outpatient hospital services include preventive, diagnostic, therapeutic, rehabilitative or palliative items, and services furnished by or under the direction of a physician or dentist, unless excluded by any other provisions of this chapter. (3-30-07)

411. (RESERVED)

412. OUTPATIENT HOSPITAL SERVICES: COVERAGE AND LIMITATIONS.

01. Services Provided On-Site. Outpatient hospital services must be provided on-site. (3-30-07)

02. Exceptions and Limitations. (3-30-07)

a. Payment for emergency room service is limited to six (6) visits per calendar year. (3-30-07)

b. Emergency room services that are followed immediately by admission to inpatient status will be excluded from the six (6) visit limit. (3-30-07)

03. Co-Payments. (4-2-08)

a. When an emergency room physician conducts a medical screening and determines that an emergency condition does not exist, the hospital can require the participant to pay a co-payment as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (4-2-08)

b. A hospital may refuse to provide services to a participant when a medical screening has determined that an emergency condition does not exist and the participant does not make the required co-payment at the time of service. Under these circumstances, the hospital must provide notification to the participant as specified in Section 1916A(e) of the Social Security Act. (4-2-08)

413. OUTPATIENT HOSPITAL SERVICES: PROCEDURAL REQUIREMENTS.

01. Review Prior to Delivery of Outpatient Services. Failure to obtain a timely review from the Department or its quality improvement organization (QIO) prior to delivery of outpatient services, listed on the select procedure and diagnosis list in the QIO Idaho Medicaid Providers Manual and the Hospital Provider Handbook, as amended, for participants who are eligible at the time of service, will result in a retrospective review. The Department will assess a late review penalty, as outlined in Subsection 405.05 of these rules, when a review is conducted due to an untimely request. (4-4-13)

02. Follow-Up for Emergency Room Patients. Hospitals must establish procedures to refer Medicaid participants who are not enrolled in Healthy Connections to an Idaho Medicaid Healthy Connections provider, if one is available within a reasonable distance of the participant's residence. Hospitals must coordinate care of patients who already have a Healthy Connections provider with that PCP. (3-25-16)

414. (RESERVED)

415. OUTPATIENT HOSPITAL SERVICES: PROVIDER REIMBURSEMENT.

01. Outpatient Hospital. The Department will not pay more than the combined payments the provider is allowed to receive from the participants and carriers or intermediaries for providing comparable services under comparable circumstances under Medicare. Outpatient hospital services identified below that are not listed in the Department's fee schedules will be reimbursed reasonable costs based on a year end cost settlement. (3-30-07)

a. Maximum payment for hospital outpatient diagnostic laboratory services will be limited to the Department's established fee schedule. (3-30-07)

b. Maximum payment for hospital outpatient partial care services will be limited to the Department's established fee schedule. (3-30-07)

c. Hospital-based ambulance services will be reimbursed at the lower of either the provider's actual charge for the service or the maximum allowable charge for the service as established by the Department in its pricing file. (3-30-07)

d. Hospital Outpatient Surgery. Those items furnished by a hospital to an outpatient in connection with Ambulatory Surgical Center must be surgical procedures covered by Idaho Medicaid. The aggregate amount of payments for related facility services, furnished in a hospital on an outpatient basis, is equal to the lesser of: (3-30-07)

i. The hospital's reasonable costs as reduced by federal mandates for certain operating costs, capital costs, customary hospital charges; or (3-30-07)

ii. The blended payment amount that is based on hospital specific cost and charge data and Medicaid rates paid to free-standing Ambulatory Surgical Centers (ASC); or (3-30-07)

iii. The blended rate of costs and the Department's fee schedule for ambulatory surgical centers at the

time of cost settlement; or (3-30-07)

iv. The blended rate for outpatient surgical procedures is equal to the sum of forty-two percent (42%) of the hospital specific amount and fifty-eight percent (58%) of the ASC amount. (3-30-07)

e. Hospital Outpatient Radiology Services include diagnostic and therapeutic radiology, CAT scan procedures, magnetic resonance imaging, ultrasound and other imaging services. The aggregate payment for hospital outpatient radiology services furnished will be equal to the lesser of: (3-30-07)

i. The hospital's reasonable costs; or (3-30-07)

ii. The hospital's customary charges; or (3-30-07)

iii. The blended payment amount for hospital outpatient radiology equal to the sum of forty-two percent (42%) of the hospital specific amount and fifty-eight percent (58%) of the Department's fee schedule amount. (3-30-07)

02. Reduction to Outpatient Hospital Costs. Outpatient costs not paid according to the Department's established fee schedule, including the hospital specific component used in the blended rates, will be reduced by five and eight-tenths percent (5.8%) of operating costs and ten percent (10%) of each hospital's capital costs component. This reduction will only apply to the following provider classes: (3-29-12)

a. In-state hospitals specified in Section 56-1408(2), Idaho Code, that are not a Medicare-designated sole community hospital or rural primary care hospital. (3-29-12)

b. Out-of-state hospitals that are not a Medicare-designated sole community hospital or rural primary care hospital. (3-29-12)

416. -- 421. (RESERVED)

422. RECONSTRUCTIVE SURGERY: COVERAGE AND LIMITATIONS.
Reconstruction or restorative procedures that may be rendered with prior approval by the Department include procedures that restore function of the affected or related body part(s). Approvable procedures include breast reconstruction after mastectomy, or the repair of other injuries resulting from physical trauma. (3-30-07)

423. -- 430. (RESERVED)

431. SURGICAL PROCEDURES FOR WEIGHT LOSS: PARTICIPANT ELIGIBILITY.
Surgery for the correction of obesity is covered when all of the following conditions are met: (3-30-07)

01. Participant Medical Condition. The participant must meet criteria for clinically severe obesity with a Body Mass Index (BMI) equal to or greater than forty (40), or a BMI equal to or greater than thirty-five (35) with comorbid conditions such as type 2 diabetes, hypothyroidism, atherosclerotic cardiovascular disease, or osteoarthritis of the lower extremities. The serious comorbid medical condition must be documented by the primary physician who refers the patient for the procedure, or a physician specializing in the participant's comorbid condition who is not associated by clinic or other affiliation with the surgeons who will perform the surgery. (3-30-07)

02. Other Medical Condition Exists. The obesity is caused by the serious comorbid condition, or the obesity could aggravate the participant's cardiac, respiratory or other systemic disease. (3-30-07)

03. Psychiatric Evaluation. The participant must have a psychiatric evaluation to determine the stability of personality at least ninety (90) days prior to the date a request for prior authorization is submitted to Medicaid. (3-30-07)

432. SURGICAL PROCEDURES FOR WEIGHT LOSS: COVERAGE AND LIMITATIONS.

01. Non-Surgical Treatment for Obesity. Services in connection with non-surgical treatment of

obesity are covered only when such services are an integral and necessary part of treatment for another medical condition that is covered by Medicaid. (3-30-07)

02. Abdominoplasty or Panniculectomy. Abdominoplasty or panniculectomy is covered when medically necessary, as defined in Section 011 of these rules, and when the surgery is prior authorized by the Department. The request for prior authorization must include the following documentation: (3-30-07)

a. Photographs of the front, side and underside of the participant's abdomen; (3-30-07)

b. Treatment of any ulceration and skin infections involving the panniculus; (3-30-07)

c. Failure of conservative treatment, including weight loss; (3-30-07)

d. That the panniculus severely inhibits the participant's walking; (3-30-07)

e. That the participant is unable to wear a garment to hold the panniculus up; and (3-30-07)

f. Other detrimental effects of the panniculus on the participant's health such as severe arthritis in the lower body. (3-30-07)

433. SURGICAL PROCEDURES FOR WEIGHT LOSS: PROCEDURAL REQUIREMENTS.

01. Medically Necessary. The Department must determine the surgery to be medically necessary, as defined in Section 011 of these rules. (3-30-07)

02. Prior Authorization. The surgery must be prior authorized by the Department. The Department will consider the guidelines of private and public payors, evidence-based national standards of medical practice, and the medical necessity of each participant's case when determining whether surgical correction of obesity will be prior authorized. (3-30-07)

434. SURGICAL PROCEDURES FOR WEIGHT LOSS: PROVIDER QUALIFICATIONS AND DUTIES.
Physicians and hospitals must meet national medical standards for weight loss surgery. (3-30-07)

435. -- 442. (RESERVED)

443. INVESTIGATIONAL PROCEDURES OR TREATMENTS: PROCEDURAL REQUIREMENTS.
The Department may consider Medicaid coverage for investigational procedures or treatments on a case-by-case basis for life-threatening medical illnesses when no other treatment options are available. For these cases, a focused case review is completed by a professional medical review organization to determine if an investigational procedure would be beneficial to the participant. The Department will perform a cost-benefit analysis on the procedure or treatment in question. The Department will determine coverage based on this review and analysis. (3-30-07)

01. Focused Case Review. A focused case review consists of assessment of the following: (3-30-07)

a. Health benefit to the participant of the proposed procedure or treatment; (3-30-07)

b. Risk to the participant associated with the proposed procedure or treatment; (3-30-07)

c. Result of standard treatment for the participant's condition, including alternative treatments other than the requested procedure or treatment; (3-30-07)

d. Specific inclusion or exclusion by Medicare national coverage guidelines of the proposed procedure or treatment; (3-30-07)

e. Phase of the clinical trial of the proposed procedure or treatment; (3-30-07)

f. Guidance regarding the proposed procedure or treatment by national organizations; (3-30-07)

g. Clinical data and peer-reviewed literature pertaining to the proposed procedure or treatment; and (3-30-07)

h. Ethics Committee review, if appropriate. (3-30-07)

02. Additional Clinical Information. For cases in which the Department determines that there is insufficient information from the focused case review to render a coverage decision, the Department may, at its discretion, seek an independent professional opinion. (3-30-07)

03. Cost-Benefit Analysis. The Department will perform a cost-benefit analysis that will include at least the following: (3-30-07)

a. Estimated costs of the procedure or treatment in question. (3-30-07)

b. Estimated long-term medical costs if this procedure or treatment is allowed. (3-30-07)

c. Estimated long-term medical costs if this procedure is not allowed. (3-30-07)

d. Potential long-term impacts approval of this procedure or treatment may have on the Medical Assistance Program. (3-30-07)

04. Coverage Determination. The Department will make a decision about coverage of the investigational procedure or treatment after consideration of the focused case review, cost-benefit analysis, and any additional information received during the review process. (3-30-07)

444. -- 449. (RESERVED)

SUB AREA: AMBULATORY SURGICAL CENTERS (Sections 450 - 499)

450. -- 451. (RESERVED)

452. AMBULATORY SURGICAL CENTER SERVICES: COVERAGE AND LIMITATIONS.
Those surgical procedures identified by the Medicare program as appropriately and safely performed in an ASC will be reimbursed by the Department. In addition, the Department may add surgical procedures to the list developed by the Medicare program as required by 42 CFR 416.164 if the procedures meet the criteria identified in 42 CFR 416.166. (3-30-07)

453. RESERVED.

454. AMBULATORY SURGICAL CENTER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Provider Approval. The ASC must be surveyed by the Department's Bureau of Facility Standards as required by 42 CFR 416.25 through 416.52 and be approved by the U.S. Department of Health and Human Services for participation as a Medicare ASC provider. (3-30-07)

02. Cancellation. Grounds for cancellation of the provider agreement include: (3-30-07)

a. The loss of Medicare program approval; (3-30-07)

b. Identification of any condition that threatens the health or safety of patients by the Department's Bureau of Facility Standards. (3-30-07)

455. AMBULATORY SURGICAL CENTER SERVICES: PROVIDER REIMBURSEMENT.

01. Payment Methodology. ASC services reimbursement is designed to pay for use of facilities and supplies necessary to safely care for the patient. Such services are reimbursed as follows: (3-30-07)

a. ASC service payments represent reimbursement for the costs of goods and services recognized by the Medicare program as described in 42 CFR, Part 416. Payment levels will be determined by the Department. Any surgical procedure covered by the Department, but which is not covered by Medicare will have a reimbursement rate established by the Department. (3-30-07)

b. ASC services include the following: (3-30-07)

i. Nursing, technician, and related services; (3-30-07)

ii. Use of ASC facilities; (3-30-07)

iii. Drugs, biologicals, surgical dressings, supplies, splints, casts, and appliances and equipment directly related to the provision of surgical procedures; (3-30-07)

iv. Diagnostic or therapeutic services or items directly related to the provision of a surgical procedure; (3-30-07)

v. Administration, record-keeping and housekeeping items and services; and (3-30-07)

vi. Materials for anesthesia. (3-30-07)

c. ASC services do not include the following services: (3-30-07)

i. Physician services; (3-30-07)

ii. Laboratory services, x-ray or diagnostic procedures (other than those directly related to the performance of the surgical procedure); (3-30-07)

iii. Prosthetic and orthotic devices; (3-30-07)

iv. Ambulance services; (3-30-07)

v. Durable medical equipment typically used in the participant's place of residence, but may be suitable for use in any setting in which normal life activities take place, other than a hospital, nursing facility, or ICF/ID; and (7-1-17)

vi. Any other service not specified in Subsection 455.01.b. of this rule. (3-30-07)

02. Payment for Ambulatory Surgical Center Services. Payment is made at a rate established in accordance with Section 230 of these rules. (3-30-07)

456. -- 499. (RESERVED)

**SUB AREA: PHYSICIAN SERVICES AND ABORTION PROCEDURES
(Sections 500 - 519)**

500. PHYSICIAN SERVICES: DEFINITIONS.

01. Physician Services. Physician services include the treatment of medical and surgical conditions by doctors of medicine or osteopathy subject to the limitations of practice imposed by state law, and to the restrictions and exclusions of coverage contained in Section 390 and Section 502 of these rules. (7-1-18)

02. Telehealth. Telehealth as defined in Title 54, Chapter 57, Idaho Code. (3-25-16)

501. (RESERVED)

502. PHYSICIAN SERVICES: COVERAGE AND LIMITATIONS.

01. Sterilization Procedures. Restrictions pertaining to payment for sterilization procedures are contained in Sections 680 through 686 of these rules. (7-1-18)

02. Abortions. Restrictions governing payment for abortions are contained in Sections 511 through 514 of these rules. (3-30-07)

03. Tonometry. Payment for tonometry is limited to one (1) examination for individuals over the age of forty (40) years during any twelve (12) month period (in addition to tonometry as a component of examination to determine visual acuity). In the event examination to determine visual acuity is not done, two (2) tonometry examinations per twelve (12) month period are allowed for participants over the age of forty (40). This limitation does not apply to participants receiving continuing treatment for glaucoma. (7-1-18)

04. Physical Therapy Services. Payment for physical therapy services performed in the physician's office is limited to those services that are described and supported by the diagnosis. (3-30-07)

05. Injectable Vitamins. Payment for allowable injectable vitamins will be allowed when supported by the diagnosis. Injectable vitamin therapy is limited to Vitamin B12 (and analogues), Vitamin K (and analogues), folic acid, and mixtures consisting of Vitamin B12, folic acid, and iron salts in any combination. (3-30-07)

06. Corneal Transplants and Kidney Transplants. Corneal transplants and kidney transplants are covered by the Medical Assistance Program. (3-30-07)

07. Telehealth. Synchronous interaction telehealth encounters, delivered as defined in Title 54, Chapter 57, Idaho Code, are reimbursable as follows: (3-25-16)

a. Physician services delivered via telehealth are subject to primary care provider communication requirements in Section 210 of these rules. The Department will define limitations for telehealth in the Idaho Medicaid Provider Handbook to promote quality services and program integrity. (3-25-16)

b. Fee for service reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between a physician and a participant. (3-25-16)

503. (RESERVED)

504. PHYSICIAN SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Misrepresentation of Services. Any representation that a service provided by a nurse practitioner, nurse midwife, physical therapist, physician assistant, psychologist, social worker, or other nonphysician professional as a physician service is prohibited. (3-30-07)

02. Locum Tenens Claims and Reciprocal Billing. (3-30-07)

a. In reimbursement for Locum Tenens/reciprocal billing, the patient's regular physician may submit the claim and receive payment for covered physician services (including emergency visits and related services) provided by a Locum Tenens physician who is not an employee of the regular physician if: (3-30-07)

i. The regular physician is unavailable to provide the visit services. (3-30-07)

ii. The Medicaid patient has arranged for or seeks to receive services from the regular physician. (3-30-07)

iii. The regular physician pays the Locum Tenens for their services on a per diem or similar fee-for-time basis. (3-30-07)

iv. The substitute physician does not provide the visit services to Medicaid patients over a continuous period of longer than ninety (90) days for Locum Tenens and over a continuous period of fourteen (14) days for reciprocal billing. (3-30-07)

v. The regular physician identifies the services as substitute physician services meeting the requirements of this rule by appending modifier-Q6 (service furnished by a Locum Tenens physician) to the procedure code or Q5 (services furnished by a substitute physician under reciprocal billing arrangements). (3-30-07)

vi. The regular physician must keep on file a record of each service provided by the substitute physician associated with the substitute physician's UPIN, and make this record available to the department upon request. (3-30-07)

vii. The claim identifies, in a manner specified by the Department, the physician who furnished the services. (3-30-07)

b. If the only Locum Tenens/reciprocal billing services a physician performs in connection with an operation are post-operative services furnished during the period covered by the global fee, those services may not be reported separately on the claim as substitution services, but must be deemed as included in the global fee payment. (3-30-07)

c. A physician may have Locum Tenens/reciprocal billing arrangements with more than one (1) physician. The arrangements need not be in writing. Locum Tenens/reciprocal billing services need not be provided in the office of the regular physician. (3-30-07)

505. PHYSICIAN SERVICES: PROVIDER REIMBURSEMENT.

01. Physician Penalties for Late QIO Review. Medicaid will assess the physician a penalty for failure to request a preadmission review from the Department, for procedures and diagnosis listed on the select list in the Department's Physician Provider Handbook and the QIO Idaho Medicaid Provider Manual. If a retrospective review determines the procedure was medically necessary, and the physician was late in obtaining a preadmission review the Department will assess a penalty according to Subsection 505.02 of this rule. The penalty will be assessed after payment for physician services has occurred. (3-30-07)

02. Physician Penalty Schedule. (3-30-07)

a. A request for preadmission QIO review that is one (1) day late will result in a penalty of fifty dollars ($50). (3-30-07)

b. A request for preadmission QIO review that is two (2) days late will result in a penalty of one hundred dollars ($100). (3-30-07)

c. A request for preadmission QIO review that is three (3) days late will result in a penalty of one hundred and fifty dollars ($150). (3-30-07)

d. A request for preadmission QIO review that is four (4) days late will result in a penalty of two hundred dollars ($200). (3-30-07)

e. A request for preadmission QIO review that is five (5) days late or later will result in a penalty of two hundred and fifty dollars ($250). (3-30-07)

03. Physician Excluded From the Penalty. Any physician who provides care but has no control over the admission, continued stay, or discharge of the patient will not be penalized. Assistant surgeons and multi-surgeons are not excluded from the penalty. (3-30-07)

506. -- 510. (RESERVED)

511. ABORTION PROCEDURES: PARTICIPANT ELIGIBILITY.
The Department will fund abortions under the Medical Assistance Program only under circumstances where the abortion is necessary to save the life of the woman, or in cases of rape or incest as determined by the courts, or, where no court determination has been made, if reported to a law enforcement agency. (3-30-07)

512. -- 513. (RESERVED)

514. ABORTION PROCEDURES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Required Documentation in the Case of Rape or Incest. In the case of rape or incest, the following documentation must be provided to the Department: (3-30-07)

a. A copy of the court determination of rape or incest; or *( )*

b. Where no court determination has been made, documentation that the rape or incest was reported to a law enforcement agency. (3-30-07)

c. Where the rape or incest was not reported to a law enforcement agency, a licensed physician must certify in writing that, in the physician's professional opinion, the woman was unable, for reasons related to her health, to report the rape or incest to a law enforcement agency. The certification must contain the name and address of the woman. (3-30-07)

02. Required Documentation in the Case Where the Abortion is Necessary to Save the Life of the Woman. In the case where the abortion is necessary to save the life of the woman, a licensed physician must certify in writing that the woman may die if the fetus is carried to term. The certification must contain the name and address of the woman. (3-30-07)

515. -- 519. (RESERVED)

SUB AREA: OTHER PRACTITIONER SERVICES
(Sections 520 - 559)

520. -- 521. (RESERVED)

522. NON-PHYSICIAN PRACTITIONER SERVICES: COVERAGE AND LIMITATIONS.
The Medicaid Program will pay for services provided by *non-physician practitioners (NPPs)*, as defined in these rules and in accordance with the provisions found under Sections 523 through 525 of these rules. *( )*

523. (RESERVED)

524. NON-PHYSICIAN PRACTITIONER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Identification of Services. The required services must be covered under the legal scope of practice as identified by the appropriate State rules of the NP*P*. *( )*

02. Deliverance of Services. The services must be delivered under physician supervision, if required by Idaho Statute. (3-30-07)

525. NON-PHYSICIAN PRACTITIONER SERVICES: PROVIDER REIMBURSEMENT.

01. Billing of Services. Billing for the services must be as provided by the NP*P* and not represented as a physician service. *( )*

02. Payments Made Directly to CRNA. Payments under the fee schedule must be made directly to the CRNA under the individual provider number assigned to the CRNA. Rural hospitals that qualify for a Medicare exception and employ or contract CRNAs may be reimbursed on a reasonable cost basis. (3-30-07)

03. Reimbursement Limits. The Department will reimburse for each service to be delivered by the NP, NM, CNS, or PA as either the billed charge or reimbursement limit established by the Department, whichever is less. (7-1-17)

526. -- 529. (RESERVED)

530. CHIROPRACTIC SERVICES: DEFINITIONS.
Subluxation is partial or incomplete dislocation of the spine. (3-30-07)

531. (RESERVED)

532. CHIROPRACTIC SERVICES: COVERAGE AND LIMITATIONS.
Only treatment involving manipulation of the spine to correct a subluxation condition is covered. The Department will pay for a total of six (6) manipulation visits during any calendar year for remedial care by a chiropractor. (3-29-12)

533. (RESERVED)

534. CHIROPRACTIC SERVICES: PROVIDER QUALIFICATIONS.
A person who is qualified to provide chiropractic services is licensed by the Board of Chiropractic Physicians in the Idaho Board of Occupational Licensing, or is licensed according to the regulations in the state where the services are provided. (3-29-12)

535. -- 539. (RESERVED)

540. PODIATRIST SERVICES: DEFINITIONS.

01. Acute Foot Conditions. An acute foot condition, for the purpose of this provision, means any condition that hinders normal function, threatens the individual, or complicates any disease. (3-29-12)

02. Chronic Foot Diseases. Chronic foot diseases, for the purpose of this provision, include: (3-29-12)

a. Diabetes melitus; (3-29-12)

b. Peripheral neuropathy involving the feet; (3-29-12)

c. Chronic thrombophlebitis; and (3-29-12)

d. Peripheral vascular disease; (3-29-12)

e. Other chronic conditions that require regular podiatric care for the purpose of preventing recurrent wounds, pressure ulcers, or amputation; or (3-29-12)

f. Other conditions that have the potential to seriously or irreversibly compromise overall health. (3-29-12)

541. PODIATRIST SERVICES: PARTICIPANT ELIGIBILITY.
Participants eligible for podiatrist services are: (3-29-12)

01. Participants Who Have a Chronic Disease. Participants who have a chronic disease where the evidence-based guidelines recommend regular foot care. (3-29-12)

02. Participants with an Acute Condition. Participants with an acute condition that, if left untreated, may cause an adverse outcome to the participant's health. (3-29-12)

542. PODIATRIST SERVICES: COVERAGE AND LIMITATIONS.
Coverage for podiatrist services is limited to: (3-29-12)

01. Services Defined in Chronic Care Guidelines. Acute and preventive foot care services defined in chronic care guidelines; and (3-29-12)

02. Treatment of Acute Conditions. Treatment of acute conditions that if left untreated will result in chronic damage to the participant's foot. (3-29-12)

543. (RESERVED)

544. PODIATRIST SERVICES: PROVIDER QUALIFICATIONS.
A qualified podiatrist is licensed by the Board of Podiatry in the Idaho Board of Occupational Licensing, or licensed according to the regulations in the state where the services are provided. (3-29-12)

545. (RESERVED)

546. LICENSED MIDWIFE (LM) SERVICES.
The Department will reimburse licensed midwives for maternal and newborn services performed within the scope of their practice. This section of rule does not include non-physician practitioner services provided by a nurse midwife (NM) which are described in Sections 522 through 525 of these rules. (7-1-17)

547. LM SERVICES: DEFINITIONS.

01. Licensed Midwife. An individual who holds a current license issued by the Idaho Board of Midwifery. (3-29-12)

02. Board of Midwifery. The Idaho Board of Midwifery is located within the Idaho Bureau of Occupational Licensing and is the licensing authority for LM providers. (3-29-12)

548. LM SERVICES: PARTICIPANT ELIGIBILITY.
A participant is eligible for LM services if the participant is pregnant, in the six (6) week postpartum period, or is a newborn up to six (6) weeks old. (3-29-12)

549. LM SERVICES: COVERAGE AND LIMITATIONS.

01. Maternity and Newborn - Coverage. Antepartem, intrapartum, and up to six (6) weeks of postpartum maternity and newborn care are covered. (3-29-12)

02. Maternity and Newborn - Limitations. Maternal or newborn services provided after the sixth postpartum week are not covered when provided by a CPM. (3-29-12)

03. Medication - Coverage and Limitations. LM providers may administer medication and bill Medicaid if the medication is a Medicaid covered service, and is also listed in the LM formulary in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (3-29-12)

550. LM SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Each LM provider must: (3-29-12)

01. Licensed. Have a current license as a LM from the Idaho Board of Midwifery or be licensed according to the regulations in the state where the services are provided. (3-29-12)

02. Scope of Practice. Provide only those services that are within the scope of practice under IDAPA

24.26.01, "Rules of the Idaho Board of Midwifery." (3-29-12)

551. LM SERVICES: PROVIDER REIMBURSEMENT.
Reimbursement for LM services will be the lesser of the billed amount, or eighty-five percent (85%) of the Department's physician fee schedule, The physician fee schedule is available from the Central Office for the Division of Medicaid, see online at: http:\\www.idmedicaid.com. (3-29-12)

552. LM SERVICES: PROVIDER QUALITY ASSURANCE ACTIVITIES.
Each LM provider must: *( )*

01. Licensure Required. Maintain current licensure with the Idaho Board of Midwifery. (3-29-12)

02. Informed Consent Form Required. *Keep a* signed copy of the participant's informed consent in the participant's record. *( )*

03. Compliance with Board of Midwifery Requirements. *A*dhere to all regulations listed in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." *( )*

04. Department Access to Practice Data. *Make a*ll practice data submitted to the Board of Midwifery according to the provisions in IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery," immediately available to the Department upon request. *( )*

553. (RESERVED)

554. OPTOMETRIST SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Optometrist services are provided to the extent specified in the individual provider agreements entered into under the provisions of Section 205 of these rules. (3-30-07)

01. Payment Availability. Payment for services included in Subsection 502.04 and Sections 780 through 786 of these rules is available to all licensed optometrists. (3-30-07)

02. Provider Agreement Qualifications. Optometrists who have been issued and who maintain certification under the provisions of Sections 54-1501 and 54-1509, Idaho Code, qualify for provider agreements allowing payment for the diagnosis and treatment of injury or disease of the eye to the extent allowed under Section 54-1501, Idaho Code, and to the extent payment is available to physicians as defined in these rules. (3-30-07)

555. -- 559. (RESERVED)

SUB AREA: PRIMARY CARE CASE MANAGEMENT
(Sections 560 - 579)

560. HEALTHY CONNECTIONS: DEFINITIONS.
Healthy Connections is a primary care case management program in which a primary care provider or team provides comprehensive medical care for participants with the goal of improving health outcomes. For purposes of this Sub Area that includes Sections 560 through 566 of these rules, the following terms and definitions apply: (3-25-16)

01. Capitated Payments. Payments to a primary care provider made on a per assigned participant per month basis for patient services. Capitated payments will vary to reflect the level of responsibility for services the provider elects to provide as described in Section 564 of these rules. Capitated payments may include payment for all provider services at a set rate per participant per month when that type of full-risk reimbursement is agreed to by the provider and the Department. (3-25-16)

02. Clinic. Two (2) or more qualified medical professionals who provide services jointly through an organization for which an individual is given authority to act on its behalf. It also includes Federally Qualified Health Centers (FQHCs), Certified Rural Health Clinics, and Indian Health Clinics. (3-30-07)

03. Grievance. The formal process by which problems and complaints related to Healthy Connections are addressed and resolved. Grievance decisions may be appealed as provided herein. (3-30-07)

04. Patient-Centered Medical Home. A model of primary care that is patient-centered, comprehensive, team-based, coordinated, accessible, and focused on quality and safety. This results in primary care being delivered at the right place, at the right time, and in the manner that best suits a patient's needs. (3-25-16)

05. Preventive Care. Medical care that focuses on disease prevention and health maintenance. (4-4-13)

06. Primary Care Case Management. A model of care in which primary care providers and their primary care team are responsible for direct care of a participant, and for coordinating access to services that improve the health of the participant. (3-25-16)

07. Primary Care Provider (PCP). A physician, physician assistant, or advanced practice registered nurse as defined in IDAPA 23.01.01,"Rules of the Idaho Board of Nursing," who contracts with Medicaid to coordinate and manage the care of participants enrolled in the Healthy Connections program. (3-25-16)

08. Primary Care Team. A multidisciplinary team of health care providers who work together to meet the physical, emotional, and psychological needs of their patients using a patient-centered and coordinated approach. (3-25-16)

09. Referral. A documented communication from a participant's primary care provider (PCP) to another Medicaid provider authorizing specific covered services subject to primary care case management that are not provided by the participant's PCP. (4-4-13)

10. Transitional Care. A set of actions designed to ensure the coordination and continuity of health care as patients transfer between different locations or different levels of care within the same location. (3-25-16)

561. HEALTHY CONNECTIONS: PARTICIPANT ELIGIBILITY.

01. Primary Care Case Management Enrollment. Each participant in Idaho Medicaid is enrolled in Healthy Connections, unless the participant is granted an exemption by the Department described in Subsections 561.02.a. through 561.02.h. of this rule. Each participant must choose a PCP within the Healthy Connections program. If a participant fails to choose a PCP, one will be assigned to the participant by the Department. Participants of the same family may choose different Healthy Connections providers. (4-4-13)

02. Exemption from Participation. An exemption from participation in Healthy Connections may be granted on a individual basis by the Department for a participant who: (4-4-13)

a. Is unable to access a Healthy Connections provider within a distance of thirty (30) miles, or within thirty (30) minutes to obtain primary care services; (4-4-13)

b. Has an eligibility period that is less than three (3) months; (4-4-13)

c. Has an eligibility period that is only retroactive; (4-4-13)

d. Is eligible only as a Qualified Medicare Beneficiary; (4-4-13)

e. Has an existing relationship with a primary care physician or clinic who is not participating in Healthy Connections; (4-4-13)

f. Is enrolled in the Medicare/Medicaid Coordinated Plan; (4-4-13)

g. Resides in a nursing facility or an ICF/ID; or (4-4-13)

h. Resides in a county where there are not an adequate number of providers to deliver primary care

case management services. (4-4-13)

562. HEALTHY CONNECTIONS: PRIMARY CARE SERVICES.

01. Eligible Services. Participants enrolled with a primary care provider (PCP) are eligible to receive: (3-25-16)

a. Basic care management and care coordination; (3-25-16)

b. Timely access to routine primary care; (3-25-16)

c. A patient-centered health care decision making process; (3-25-16)

d. Twenty-four (24) hour, seven (7) days per week access to an on-call medical professional; and (3-25-16)

e. Referral to other medically necessary services as specified in Section 210 of these rules, based on the clinical judgment of their primary care provider. (3-25-16)

02. Selection or Change in Primary Care Provider. Participants may select or change their primary care provider as follows: (7-1-19)

a. When they become eligible for Idaho Medicaid benefits, or after a break in their eligibility for Idaho Medicaid benefits; (7-1-19)

b. For cause at any time ("for cause" reasons are listed in the Idaho Medicaid Provider Handbook). (7-1-19)

c. Without cause: (7-1-19)

i. During the ninety (90) days following the effective date of the participants enrollment with a PCP. (7-1-19)

ii. At least once every twelve (12) months thereafter during the open enrollment period. (7-1-19)

d. All approved PCP change requests will be effective the first of the following month. (7-1-19)

563. HEALTHY CONNECTIONS: PROCEDURAL REQUIREMENTS.

01. Changes to Requirements. The Department will provide sixty (60) day notice of any substantive and significant changes to requirements for referrals, primary care provider reimbursement, as specified in Section 565 of these rules, or provider duties on its website and provider portal. The Department will provide a method to allow providers to provide input and comment on proposed changes. (3-25-16)

02. Problem Resolution. (3-30-07)

a. To help assure the success of Healthy Connections, the Department provides a mechanism for timely and personal attention to problems and complaints related to the program. (4-4-13)

b. To facilitate problem resolution, the Department will have a designated representative who will receive and attempt to resolve all complaints and problems related to the program and function as a liaison between participants and providers. It is anticipated that most problems and complaints will be resolved informally at this level. (4-4-13)

c. A participant or a provider may register a complaint or notify the Department of a problem related to Healthy Connections either in writing, electronically, or by telephone to the designated representative. The designated representative will attempt to resolve conflicts and disputes whenever possible and refer the complainant

to alternative forums where appropriate. (4-4-13)

d. If a participant or provider is not satisfied with the resolution of a problem or complaint addressed by the designated representative, they may file a formal grievance in writing to the representative. The manager of the managed care program may, where appropriate, refer the matter to a review committee designated by the Department to address issues such as quality of care or medical necessity. However, such decisions are not binding on the Department. The Department will respond in writing to grievances within thirty (30) days of receipt. (4-4-13)

e. Decisions in response to grievances may be appealed. Appeals are governed by the requirements of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," and must be filed according to the provisions of that chapter. (4-4-13)

564. HEALTHY CONNECTIONS: PROVIDER QUALIFICATIONS AND DUTIES.

01. Primary Care Providers. Primary care services may be provided by enrolled physicians, physician assistants, advanced practice registered nurses, and by care teams under those providers' direction. (3-25-16)

02. Provider Duties. All Healthy Connections providers are responsible for delivering the services listed in Section 562 of these rules. (3-25-16)

03. Additional Services. Healthy Connections providers may also elect to provide specific additional sets of patient-centered medical home services in exchange for increased reimbursement as described in Section 565 of these rules. The definition and provision of additional patient-centered medical home services are subject to specific requirements as defined by the Department and described in the Idaho Medicaid Provider Handbook and individual provider agreements with the Department. Additional services may include: (3-25-16)

a. Connection to the Idaho Health Data Exchange; (3-25-16)

b. Maintaining third-party patient-centered medical home recognition or certification; (3-25-16)

c. Expanded patient access to services; (3-25-16)

d. Provision of an evidence-based primary care service model that enables improved patient health outcomes; (3-25-16)

e. Reporting clinical data to the Department to allow for assessment of provider abilities and impact of their services on patient health outcomes; (3-25-16)

f. Coordination of transitions of care between health care settings; (3-25-16)

g. Integration of behavioral health services; and (3-25-16)

h, Other indicators of improved patient health outcomes associated with primary care provider abilities. (3-25-16)

04. Provider Participation Conditions and Restrictions. (3-30-07)

a. Provider Agreements. Each independent provider or provider organization participating in primary care case management must: (4-4-13)

i. Sign an agreement; (4-4-13)

ii. Enroll with the Department all primary care providers and all clinic locations participating in the Healthy Connections program; and (4-4-13)

iii. Complete pre-enrollment requirements for participation in the Healthy Connections program as

defined by the Department in the Idaho Medicaid Provider Handbook. (3-25-16)

b. Patient Limits. A provider may limit the number of participants they manage. Subject to this limit, the provider must accept all participants who either elect or are assigned to the provider, unless disenrolled in accordance with Subsection 564.02.d. of this rule. A provider may change the participant limit effective the first day of any month. The provider must make the request in writing to the Department thirty (30) days prior to the effective date of the change. (3-25-16)

c. Disenrollment. When the provider-patient relationship breaks down due to failure of the participant to follow the care plan or for other reasons, a provider may choose to withdraw as the participant's primary care provider effective the first day of any month. The PCP must notify in writing, both the participant and the Department thirty (30) days prior to the date of withdrawal. This advance notice requirement may be waived by the Department. (4-4-13)

d. Record Retention. Each provider must: (4-4-13)

i. Retain patient and financial records and provide the Department access to those records for a minimum of six (6) years from the date of service; (4-4-13)

ii. Upon the reassignment of a participant to another PCP, the provider must transfer (if a request is made) a copy of the patient's medical record to the new PCP; and (4-4-13)

iii. Disclose information required by Subsection 205.01 of these rules, when applicable. (4-4-13)

e. Termination or Amendment of Provider Agreements. The Department may terminate a provider's agreement as provided in Subsection 205.03 of these rules. An agreement may be amended for the same reasons. (3-30-07)

565. HEALTHY CONNECTIONS: PROVIDER REIMBURSEMENT.

01. Capitated Payments. Healthy Connections providers are compensated for their patient care services on a per participant per month basis. (3-25-16)

02. Capitated Payment Amounts. Capitated payment amounts are determined by the Department and reflect the complexity of the patient's health combined with the provider's ability to impact patient health outcomes. This monthly payment to a provider is based on the number of participants assigned to the provider on the first day of each month. (3-25-16)

03. Advanced Practice Registered Nurse Telehealth Services. Services provided via telehealth by advanced practice registered nurse enrolled as Healthy Connections providers will be reimbursed within the limitations defined by the Department for telehealth services in the Idaho Medicaid Provider Handbook. Fee for service reimbursement is not available for a telephone conversation, electronic mail message (e-mail), or facsimile transmission (fax) between an advanced practice registered nurse and a participant. (3-25-16)

566. HEALTHY CONNECTIONS: QUALITY ASSURANCE.
The Department will establish performance measurements to evaluate the effectiveness of the primary care case management programs. The performance measurements will be reviewed at least annually and adjusted as necessary to provide quality assurance. (4-4-13)

567. -- 579. (RESERVED)

SUB AREA: PREVENTION SERVICES
(Sections 580 - 649)

580. CHILD WELLNESS SERVICES: DEFINITIONS.

01. Interperiodic Medical Screens. Interperiodic medical screens are screens that are done at intervals other than those identified in the American Academy of Pediatrics periodicity schedule. (3-30-07)

02. Periodic Medical Screens. Interperiodic medical screens are screens done at intervals identified in the American Academy of Pediatrics periodicity schedule. (3-30-07)

581. CHILD WELLNESS SERVICES: PARTICIPANT ELIGIBILITY.
Child Wellness Services are available to all participants up to, and including, the month of their twenty-first (21st) birthday. (3-30-07)

582. CHILD WELLNESS SERVICES: COVERAGE AND LIMITATIONS.

01. Periodic Medical Screens. Periodic medical screens are to be completed according to the American Academy of Pediatrics periodicity schedule including blood lead tests at age twelve (12) months and twenty-four (24) months. The medical screen must include a blood lead test when the participant is age two (2) through age twenty-one (21) and has not been previously tested. (3-30-07)

02. Interperiodic Screens. Interperiodic screens will be performed when there are indications that it is medically necessary to determine whether a child has a physical or mental illness or condition that may require further assessment, diagnosis, or treatment. Interperiodic screens may occur in children who have already been diagnosed with an illness or condition, and there is indication that the illness or condition may have become more severe or changed sufficiently, so that the further examination is medically necessary (3-30-07)

03. Developmental Screens. Developmental screening is considered part of every routine initial and periodic examination. If the screening identifies a developmental problem, then a developmental assessment will be ordered by the physician and be conducted by qualified professionals. (3-30-07)

583. (RESERVED)

584. CHILD WELLNESS SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Interperiodic Medical Screens. Interperiod medical screens must be performed by a physician, NP, or PA. (3-30-07)

02. Periodic Medical Screens. Periodic medical screens can be performed by a physician, NP, PA, or a Registered Nurse Screener. (3-30-07)

585. EARLY INTERVENTION SERVICES.
Early Intervention Services for infants and toddlers enrolled in Idaho Medicaid are provided by the Idaho Infant Toddler Program (ITP). Early Intervention Services must be provided in accordance with the Individuals with Disabilities Education Act (IDEA), Part C, and all Medicaid regulations. (7-1-18)

586. EARLY INTERVENTION SERVICES: PROGRAM REQUIREMENTS.
Idaho Medicaid and the ITP coordinate the delivery of Early Intervention Services through an intra-agency agreement published on the Department's website. Program requirements include: (7-1-18)

01. Physician Recommendation. The ITP can bill for health-related services provided to eligible children when the services are documented as medically necessary and provided under the recommendation of a physician. ITP may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated physician recommendation. The recommendation is valid for up to three hundred sixty-five (365) days. (7-1-18)

02. Individualized Family Service Plan (IFSP). The ITP may bill for Medicaid services covered by a current IFSP. The plan must be developed by a multi-disciplinary team and be based on the results of assessment(s). (7-1-18)

03. Qualified Staff. ITP staff qualifications must meet IDEA Part C requirements, and all Medicaid

regulations as specified in the intra-agency agreement. (7-1-18)

587. EARLY INTERVENTION SERVICES: PROVIDER REIMBURSEMENT.
Medicaid will reimburse the Infant Toddler Program for covered medically necessary services. (7-1-18)

01. Fee Schedule. Reimbursement for Early Intervention Services will be based on the Idaho Medicaid Fee Schedule for Early Intervention. (7-1-18)

02. Payment Review. Reimbursement is subject to pre-payment and post-payment review in accordance with Section 56-209h(3), Idaho Code, and recoupment in accordance with IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." (7-1-18)

588. -- 589. (RESERVED)

590. ADULT PHYSICALS.
Adult preventive physical examinations are limited to one (1) per year. (3-30-07)

591. -- 601. (RESERVED)

602. SCREENING MAMMOGRAPHIES: COVERAGE AND LIMITATIONS.

01. Screening Mammographies. Screening mammographies are limited to one (1) per year for women who are forty (40) or more years of age. (3-30-07)

02. Diagnostic Mammographies. Diagnostic mammographies are not subject to the limitations of screening mammographies. Diagnostic mammographies are covered when a physician orders the procedure for a participant of any age. (3-30-07)

603. (RESERVED)

604. SCREENING MAMMOGRAPHIES: PROVIDER QUALIFICATIONS AND DUTIES.
Idaho Medicaid will cover screening or diagnostic mammographies performed with mammography equipment and staff considered certifiable or certified by the Bureau of Laboratories. (3-30-07)

605. -- 609. (RESERVED)

610. CLINIC SERVICES: DIAGNOSTIC SCREENING CLINICS.
The Department will reimburse medical social service visits to clinics that coordinate the treatment between physicians and other medical professionals for participants which are diagnosed with cerebral palsy, myelomeningitis or other neurological diseases and injuries with comparable outcomes. (3-30-07)

01. Multidisciplinary Assessments and Consultations. The clinic must perform on site multidisciplinary assessments and consultations with each participant and responsible parent or guardian. Diagnostic and consultive services related to the diagnosis and treatment of the participant will be provided by board certified physician specialists in physical medicine, neurology and orthopedics. (3-30-07)

02. Billings. No more than five (5) hours of medical social services per participant may be billed by the specialty clinic each state fiscal year for which the medical social worker monitors and arranges participant treatments and provides medical information to providers who have agreed to coordinate the care of their participant. (3-30-07)

03. Services Performed. Services performed or arranged by the clinic will be subject to the amount, scope and duration for each service as set forth elsewhere in this chapter. (3-30-07)

04. The Clinic. The clinic is established as a separate and distinct entity from the hospital, physician or other provider practices. (3-30-07)

611. -- 617. (RESERVED)

618. HEALTH QUESTIONNAIRE.
The Health Questionnaire assesses the general health status and health behaviors of a participant. The information collected is used to provide customized health education to the participant. The Health Questionnaire is administered at initial program entry and at periodic intervals thereafter. Participant responses to the issues addressed in the Health Questionnaire may identify a participant's interest in the Preventive Health Assistance benefits described in Section 620 of these rules. (3-30-07)

619. (RESERVED)

620. PREVENTIVE HEALTH ASSISTANCE (PHA): DEFINITIONS.

01. Behavioral PHA. Benefits available to a participant specifically to support weight control. (3-20-14)

02. Benefit Year. A benefit year is twelve (12) continuous months. A participant's PHA benefit year begins the date their initial points are earned. (3-30-07)

03. PHA Benefit. A mechanism to reward healthy behaviors and good health choices of a participant eligible for preventive health assistance. (3-30-07)

04. Wellness PHA. Benefits available to a participant to support wellness. (3-20-14)

621. PREVENTIVE HEALTH ASSISTANCE (PHA): PARTICIPANT ELIGIBILITY.

01. Behavioral PHA. The participant must have a Health Questionnaire on file with the Department. The Health Questionnaire is used to determine eligibility for a Behavioral PHA. The participant must indicate on the Health Questionnaire that they want to change a behavior related to weight management. The participant must meet one (1) of the following criteria: (3-20-14)

a. For an adult, a body mass index (BMI) of thirty (30) or higher or eighteen and one-half (18 1/2) or lower. (3-30-07)

b. For a child, a body mass index (BMI) that falls in either the overweight or the underweight category as calculated using the Centers for Disease Control (CDC) Child and Teen BMI Calculator. (3-30-07)

02. Wellness PHA. A participant who is required to pay premiums to maintain eligibility under IDAPA 16.03.01, “Eligibility for Health Assistance for Families and Children,” is eligible for Wellness PHA. (3-30-07)

622. PREVENTIVE HEALTH ASSISTANCE (PHA): COVERAGE AND LIMITATIONS.

01. Point System. The PHA benefit uses a point system to track points earned and used by a participant. Each point equals one (1) dollar. (3-29-10)

a. Maximum Benefit Points. (3-30-07)

i. The maximum number of points that can be earned for a Behavioral PHA is two hundred (200) points each benefit year. (3-30-07)

ii. The maximum number of points that can be earned for a Wellness PHA benefit is one hundred twenty (120) points each benefit year. (3-30-07)

b. Points expire and are removed from a participant's PHA benefit at the end of the participant's benefit year. (3-30-07)

c. Points earned for a specific participant's PHA benefit cannot be transferred to or combined with

points in another participant's PHA benefit. (3-30-07)

02. Weight Management Program. Each program must provide weight management services and must include a curriculum that includes at least one (1) of the three (3) following areas: (3-30-07)

a. Physical fitness; (3-30-07)

b. Balanced diet; or (3-30-07)

c. Personal health education. (3-30-07)

03. Participant Request for Coverage. A participant can request that a previously unidentified service be covered. The Department will approve a request if the product or service meets the requirements described in this rule and the vendor meets the requirements in Section 624 of these rules. (3-20-14)

04. Premiums. (3-30-07)

a. Wellness PHA benefit points must be used to offset a participant's premiums. (3-29-10)

b. Only premiums that must be paid to maintain eligibility under IDAPA 16.03.01, "Eligibility for Health Assistance for Families and Children" can be offset by PHA benefit points. (3-30-07)

05. Hearing Rights. A participant does not have hearing rights for issues arising between the participant and a chosen vendor. (3-30-07)

623. PREVENTIVE HEALTH ASSISTANCE (PHA): PROCEDURAL REQUIREMENTS.

01. Behavioral PHA. (3-30-07)

a. A PHA benefit will be established for each participant who meets the eligibility criteria for Behavioral PHA. A participant must complete a PHA Benefit Agreement Form prior to earning any points. (3-30-07)

b. Each participant who chooses to enroll in weight management must participate in a physician approved or monitored weight management program. (3-20-14)

c. An initial one hundred (100) points are earned when the agreement form is received by the Department and the benefit is established. (3-30-07)

d. An additional one hundred (100) points can be earned by a participant who completes their program or reaches a chosen, defined goal. The vendor monitoring the participant's progress must verify that the program was completed or the goal was reached. (3-30-07)

02. Wellness PHA. (3-30-07)

a. A PHA benefit will be established for each participant who meets the eligibility criteria for Wellness PHA. Each participant must demonstrate that they have received recommended wellness visits and immunizations for their age prior to earning any points. (3-30-07)

b. Ten (10) points can be earned each month by a participant who receives all recommended wellness visits and immunizations for their age during the benefit year. (3-29-10)

624. PREVENTIVE HEALTH ASSISTANCE (PHA): PROVIDER QUALIFICATIONS AND DUTIES.

01. Provider Agreement. A behavioral PHA vendor must have a fully-executed provider agreement on file with the Department prior to providing services or products. (3-29-10)

02. Prior Authorization. A behavioral PHA vendor must request prior authorization from the Department for each product or service provided as a PHA benefit. (3-29-10)

03. Medications and Pharmaceutical Supplies Vendor. Each vendor must be a licensed pharmacy and must meet the criteria in Section 664 of these rules for prescription drug provider qualifications and duties. (3-29-10)

04. Weight Management Program Vendor. *Each vendor must:* *( )*

a. Be established as a business that serves the general public; (3-30-07)

b. Meet all state, county, and local business licensing requirements: and (3-30-07)

c. Be able to provide a weight management program as described in Section 622 of these rules. (3-30-07)

625. PREVENTIVE HEALTH ASSISTANCE (PHA): PROVIDER REIMBURSEMENT.
With the prior agreement of the participant, the vendor may bill the participant for the difference between the Department's reimbursement and the vendor's usual and customary charge for Behavioral PHA products or services provided. (3-29-10)

626. PREVENTIVE HEALTH ASSISTANCE (PHA): QUALITY ASSURANCE.
The Department will establish performance measurements to evaluate the effectiveness of PHA. The performance measurements will be reviewed at least annually and adjusted as necessary to provide quality assurance. (3-30-07)

627. -- 629. (RESERVED)

630. NUTRITIONAL SERVICES: DEFINITIONS.
Nutritional services include intensive nutritional education, counseling, and monitoring. (3-30-07)

631. (RESERVED)

632. NUTRITIONAL SERVICES: COVERAGE AND LIMITATIONS.

01. Physician Referral. The need for nutritional services must be discovered by the screening services and ordered by the physician. (3-30-07)

02. Medically Necessary. The services must be medically necessary. (3-30-07)

633. (RESERVED)

634. NUTRITIONAL SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Nutritional services must be performed by a registered dietician or an individual who has a baccalaureate degree from a U.S. regionally accredited college or university and has met the academic and professional requirements in dietetics as approved by the American Dietetic Association. (3-30-07)

635. NUTRITIONAL SERVICES: PROVIDER REIMBURSEMENT.
Payment for nutritional services is made at a rate established in accordance with Section 230 of these rules. (3-30-07)

636. -- 639. (RESERVED)

640. DIABETES EDUCATION AND TRAINING SERVICES: DEFINITIONS.
For purposes of these rules, a Certified Diabetes Educator is a state-licensed health professional who is identified as a Certified Diabetes Educator according to the national standards of the National Certification Board for Diabetes Educators. (3-30-07)

641. DIABETES EDUCATION AND TRAINING SERVICES: PARTICIPANT ELIGIBILITY.
The medical necessity for diabetes education and training are evidenced by the following: (3-30-07)

01. Recent Diagnosis. A recent diagnosis of diabetes within ninety (90) days of enrollment with no history of prior diabetes education; or (3-30-07)

02. Uncontrolled Diabetes. Uncontrolled diabetes manifested by two (2) or more fasting blood sugar of greater than one hundred forty milligrams per decaliter (140 mg/dL), hemoglobin A1c greater than eight percent (8%), or random blood sugar greater than one hundred eighty milligrams per decaliter (180 mg/dL), in addition to the manifestations; or (3-30-07)

03. Recent Manifestations. Recent manifestations resulting from poor diabetes control including neuropathy, retinopathy, recurrent hypoglycemia, repeated infections, or nonhealing wounds. (3-30-07)

642. DIABETES EDUCATION AND TRAINING SERVICES: COVERAGE AND LIMITATIONS.

01. Concurrent Diagnosis. Only training and education services that are reasonable and necessary for treatment of a current injury or illness will be covered. Covered professional and educational services will address each participant's medical needs through scheduled outpatient group or individual training or counseling concerning diet and nutrition, medications, home glucose monitoring, insulin administration, foot care, or the effects of other current illnesses and complications. (3-30-07)

02. No Substitutions. The physician may not use the formally structured program, or a Certified Diabetes Educator, as a substitute for basic diabetic care and instruction the physician must furnish to the participant, which includes the disease process and pathophysiology of diabetes mellitus, and dosage administration of oral hypoglycemic agents. (3-30-07)

03. Services Limited. Diabetes education and training services will be limited to twenty-four (24) hours of group sessions and twelve (12) hours of individual counseling every five (5) calendar years. (3-30-07)

643. DIABETES EDUCATION AND TRAINING SERVICES: PROCEDURAL REQUIREMENTS.
To receive diabetes counseling, the participant must have a written order from the primary care provider who referred the participant to the program. (3-30-07)

644. DIABETES EDUCATION AND TRAINING SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Outpatient diabetes education and training services will be covered under the following conditions: (3-30-07)

01. Meets Program Standards of the ADA. The education and training services are provided through a diabetes management program recognized as meeting the program standards of the American Diabetes Association. (3-30-07)

02. Conducted by a Certified Diabetic Educator. The education and training services are provided by a Certified Diabetic Educator through a formal program conducted in a hospital outpatient department, or in a physician's office. (3-30-07)

645. DIABETES EDUCATION AND TRAINING SERVICES: PROVIDER REIMBURSEMENT.
Diabetes education and training services will be reimbursed according to the Department's established fee schedule in accordance with Section 230 of these rules. (3-30-07)

646. -- 649. (RESERVED)

**SUB AREA: LABORATORY AND RADIOLOGY SERVICES
(Sections 650 - 659)**

650. LABORATORY AND RADIOLOGY SERVICES: DEFINITIONS.

01. Independent Laboratory. A laboratory that is not located in a physician's office, and receives specimens from a source other than another laboratory. A physician is not an independent laboratory. (7-1-19)

02. Laboratory or Clinical Laboratory. A facility for the biological, microbiological, serological, chemical, immunohematological, hematological, biophysical, cytological, pathological, or other examinations of material derived from the human body for the purpose of providing information for the diagnosis, prevention, or treatment of any disease, or the impairment or assessment of human health. (7-1-19)

03. Proficiency Testing. Evaluation of a laboratory's ability to perform laboratory procedures within acceptable limits of accuracy through analysis of unknown specimens distributed at periodic intervals. (7-1-19)

04. Quality-Control. A day-to-day analysis of reference materials to ensure reproducibility and accuracy of laboratory results, and includes an acceptable system to assure proper functioning of instruments, equipment and reagents. (7-1-19)

05. Reference Laboratory. A laboratory that only accepts specimens from other laboratories. (7-1-19)

651. -- 652. (RESERVED)

653. LABORATORY AND RADIOLOGY SERVICES: COVERAGE AND LIMITATIONS.

01. Medical Necessity Criteria. Services must meet the definition of Medical Necessity in Section 011 of these rules as detailed in the Idaho Medicaid Provider Handbook. (7-1-19)

02. Prior Authorization of Services. The Department may require prior authorization of any laboratory or radiology service as detailed in the Idaho Medicaid Provider Handbook. (7-1-19)

654. LABORATORY AND RADIOLOGY SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Laboratory and Radiology Requirements. Providers of laboratory and radiology services must be eligible for Medicare certification for these services. (7-1-19)

02. Use of Reference Laboratories. Laboratories using reference laboratories must ensure that all requirements of Sections 650 through 659 of these rules are met by the reference laboratory. (7-1-19)

655. LABORATORY AND RADIOLOGY SERVICES: PROVIDER REIMBURSEMENT.

01. Provider of Service. Payment for laboratory tests can only be made to the actual provider of that service. An exception to the preceding is made in the case of: (7-1-19)

a. An independent laboratory that can bill for a reference laboratory; (7-1-19)

b. A transplant facility that can bill for histocompatibility testing; and (7-1-19)

c. Healthcare professionals acting within the licensure and scope of their practice to comply with IDAPA 16.02.12, "Newborn Screening." (7-1-19)

02. Tests Performed by or Personally Supervised by a Physician. The payment level for clinical diagnostic laboratory tests performed by or personally supervised by a physician will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be a rate established by the Department. (3-30-07)

03. Tests Performed by an Independent Laboratory. The payment level for clinical diagnostic laboratory tests performed by an independent laboratory will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be at a rate established by the Department. (3-30-07)

04. Tests Performed by a Hospital Laboratory. The payment level for clinical diagnostic laboratory tests performed by a hospital laboratory for anyone who is not an inpatient will be at a rate established by the Department that is no higher than Medicare's fee schedule. The payment level for other laboratory tests will be at a rate established by the Department. (3-30-07)

05. Specimen Collection Fee. Collection fees for specimens drawn by venipuncture or catheterization are payable only to the physician or laboratory who draws the specimen. If done during an office visit on the same day the service is ordered, specimen collection may be reimbursed even if prior authorization is not approved. (7-1-19)

656. LABORATORY AND RADIOLOGY SERVICES: QUALITY ASSURANCE.
Laboratories, as a condition of payment, must maintain a quality-control program, including proficiency testing consistent with federal requirements, as detailed in the Idaho Medicaid Provider Handbook. The laboratory must provide the results of proficiency testing to the Department or their Quality Improvement Organization vendor upon request. (7-1-19)

657. -- 659. (RESERVED)

SUB AREA: PRESCRIPTION DRUGS
(Sections 660 - 679)

660. (RESERVED)

661. PRESCRIPTION DRUGS: PARTICIPANT ELIGIBILITY.

01. Obtaining a Prescription Drug. To obtain a prescription drug, a Medicaid participant or authorized agent must present the participant's Medicaid identification card to a participating pharmacy together with a prescription from a licensed prescriber. (3-30-07)

02. Tamper-Resistant Prescription Requirements. Any written, non-electronic prescription for a Medicaid participant must be written on a tamper-resistant prescription form. The paper on which the prescription is written must have: (3-29-10)

a. One (1) or more industry-recognized features designed to prevent unauthorized copying of a completed or blank prescription form; (3-29-10)

b. One (1) or more industry-recognized features designed to prevent the erasure or modification of information written on the prescription by the prescriber; (3-29-10)

c. One (1) or more industry-recognized features designed to prevent the use of counterfeit prescription forms. (3-29-10)

03. Tamper-Resistant Prescription Requirements Not Applicable. The tamper-resistant prescription requirements do not apply when the prescription is communicated by the prescriber to the pharmacy electronically, verbally, by fax, or when drugs are provided in an inpatient hospital or a nursing facility where the patient and family do not have direct access to the paper prescription. (3-29-10)

04. Drug Coverage for Dual Eligibles. For Medicaid participants who are also eligible for Medicare known as “dual eligibles”, the Department will pay for Medicaid-covered drugs that are not covered by Medicare Part D. Dual eligibles will be subject to the same limits and processes used for any other Medicaid participants. (3-29-10)

662. PRESCRIPTION DRUGS: COVERAGE AND LIMITATIONS.

01. General Drug Coverage. The Department will pay for those prescription drugs not excluded by Subsections 662.06 and 662.07 of this rule that are legally obtainable by the order of a licensed prescriber whose

licensing allows for the prescribing of prescription drugs or legend drugs, as defined under Section 54-1705, Idaho Code, and which are deemed medically necessary as defined in Section 011 of these rules. (4-11-19)

02. Preferred Drug List (PDL). (4-11-19)

a. The PDL identifies the preferred drugs and non-preferred drugs within a therapeutic class designated by the Department and reviewed by the Idaho Medicaid Pharmacy and Therapeutics Committee. (4-11-19)

b. A brand name drug may be designated as a preferred drug by the Department if the net cost of the brand name drug after consideration of all rebates is less than the cost of the generic equivalent. (4-11-19)

c. The Director of the Department makes final decisions regarding the designated preferred or non-preferred status of drugs based on therapeutic recommendations from the Pharmacy and Therapeutics Committee and cost analysis from the Idaho Medicaid Pharmacy Program. (4-11-19)

d. Drugs in a drug class on the Medicaid PDL may require therapeutic prior authorization regardless of preferred or non-preferred designation. (4-11-19)

03. Covered Drug Products. Idaho Medicaid provides coverage to Medicaid participants for the following drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under Section 1927(d)(2) of the Social Security Act: (4-11-19)

a. Agents, when used to promote smoking cessation. (4-11-19)

b. Prescription vitamins and mineral products. Covered agents include the following: (4-11-19)

i. Injectable vitamin B12 (cyanocobalamin and analogues); (4-11-19)

ii. Vitamin K and analogues; (4-11-19)

iii. Prescription vitamin D and analogues; (4-11-19)

iv. Prescription pediatric vitamins, minerals, and fluoride preparations; (4-11-19)

v. Prenatal vitamins for pregnant or lactating individuals; and (4-11-19)

vi. Prescription folic acid and oral prescription drugs containing folic acid in combination with vitamin B12 or iron salts, or both, without additional ingredients. (4-11-19)

c. Certain prescribed non-prescription products, including the following: (4-11-19)

i. Permethrin; (4-11-19)

ii. Oral iron salts; (4-11-19)

iii. Disposable insulin syringes and needles; and (4-11-19)

iv. Insulin. (4-11-19)

d. Barbiturates. (4-11-19)

e. Benzodiazepines. (4-11-19)

04. Additional Criteria for Coverage. (4-11-19)

a. Medical necessity is the primary determinant of whether a therapeutic agent will be covered. The

Department will cover generic drugs, and also brand drugs when medically necessary and when that necessity is adequately documented. If case-specific indications of medical necessity are present, the Department may also issue prior authorization for otherwise excluded drugs. (4-11-19)

b. The Director of the Department of Health and Welfare, acting upon the recommendation of the Pharmacy and Therapeutics Committee, may determine that a non-prescription drug product is covered when the non-prescription product is found to be therapeutically interchangeable with prescription drugs in the same pharmacological class following evidence-based comparisons of efficacy, effectiveness, clinical outcomes, and safety, and the product is deemed by the Department to be a cost-effective alternative. Information regarding the Pharmacy and Therapeutics Committee and covered drug products is posted at http://medicaidpharmacy.idaho.gov. (4-11-19)

05. Excluded Drug Products. Idaho Medicaid excludes from coverage the following drugs or classes of drugs, or their medical uses, which may be excluded from coverage or otherwise restricted under Section 1927(d)(2) of the Social Security Act: (4-11-19)

a. Agents, when used to promote fertility. (4-11-19)

b. Agents, when used for cosmetic purposes or hair growth. (4-11-19)

c. Agents, when used for the symptomatic relief of cough and colds. (4-11-19)

d. Covered outpatient drugs for which the manufacturer seeks to require as a condition of sale that associated tests or monitoring services be purchased exclusively from the manufacturer or its designee. (4-11-19)

e. Agents, when used for the treatment of sexual or erectile dysfunction, unless such agents are used to treat a condition, other than sexual or erectile dysfunction, for which the agents have been approved by the Food and Drug Administration. (4-11-19)

06. Additional Excluded Drugs. Drugs are also not covered when any of the following circumstances apply: (4-11-19)

a. The participant's practitioner has written an order for a prescription drug for which federal financial participation is not available. (4-11-19)

b. The participant's practitioner has written an order for a prescription drug that is deemed to be experimental or investigational, as defined in Subsection 390.03 of these rules. Investigational drugs are not a covered service under the Idaho Medicaid pharmacy program. The Department may consider Medicaid coverage on a case-by-case basis for life-threatening medical illnesses when no other treatment options are available. When approved for payment, reimbursement will be at actual acquisition cost, plus the assigned professional dispensing fee. (4-11-19)

07. Limitation of Quantities. Medication refills provided before at least seventy-five percent (75%) of the estimated days' supply has been utilized are not covered, unless an increase in dosage is ordered. Days' supply is the number of days a medication is expected to last when used at the dosage prescribed for the participant. No more than a thirty-four (34) days' supply of continuously required medication is to be purchased in a calendar month as a result of a single prescription with the following exceptions: (3-30-07)

a. Maintenance Medications. Pharmacy providers may be reimbursed for up to a three (3) month supply of select medications or classes of medications for a participant who has received the same dose of the same select medication or class of medications for two months or longer. The Director of the Department of Health and Welfare, acting upon the recommendation of the Pharmacy and Therapeutics Committee, approves the list of covered maintenance medications, which targets medications that are administered continuously rather than intermittently, are used most commonly to treat a chronic disease state, and have a low probability for dosage changes. The list of covered maintenance medications is available on the Medicaid Pharmacy website at http://medicaidpharmacy.idaho.gov. (4-11-19)

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

663. PRESCRIPTION DRUGS: PROCEDURAL REQUIREMENTS.
In accordance with Section 1927(d)(1)(A) of the Social Security Act, the Idaho Medicaid Pharmacy Program may subject any covered outpatient drug to prior authorization. (4-11-19)

01. Drugs Requiring Prior Authorization. No payment for drugs requiring prior authorization will be issued until the prior authorization request has been reviewed and approved by the Department. (4-11-19)

02. Prior Authorization Criteria. Criteria for prior authorization for individual drugs and drug classes will be determined by the Department, and will include: (4-11-19)

a. Food and Drug Administration (FDA) indications and labeling, including dosage guidelines. (4-11-19)

b. Compendia of drug information recognized by the Centers for Medicare and Medicaid Services (CMS), including: (4-11-19)

i. American Hospital Formulary Service-Drug Information; (4-11-19)

ii. United States Pharmacopeia-Drug Information, or its successor publications; and (4-11-19)

iii. The DrugDex Information System. (4-11-19)

c. Evidence-based, peer-reviewed, published medical literature, including: (4-11-19)

i. Systematic reviews; (4-11-19)

ii. Randomized controlled trials; and (4-11-19)

iii. Meta-analysis studies. (4-11-19)

d. Guidelines and case-controlled studies may be considered where systematic reviews, randomized controlled trials and meta-analysis studies do not exist. (4-11-19)

e. The requested drug’s preferred drug status. (4-11-19)

03. Request for Prior Authorization. (4-11-19)

a. The prior authorization procedure is initiated by the prescriber who must submit the request to the Department in the format prescribed by the Department. (3-30-07)

b. Whenever possible, the Department will use automated authorization, in which claims are adjudicated at point of sale using submitted National Council for Prescription Drug Programs (NCPDP) data elements or claims history to verify that the Department's authorization requirements have been satisfied, without the need for the prescriber to submit additional clinical information. (4-11-19)

04. Notice of Decision. The Department will determine coverage based on this request, and will notify the participant of a denial. The participant has twenty-eight (28) days from the date the denial letter is mailed to appeal the decision. Hearings will be conducted in accordance with IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” (4-11-19)

05. Emergency Situation. The Department will provide for the dispensing of at least a seventy-two (72) hour supply of a covered outpatient prescription drug in an emergency situation as required in 42 U.S.C. 1396r-8(d)(5)(B). (3-30-07)

06. Response to Request. The Department will respond within twenty-four (24) hours to a request for prior authorization of a covered outpatient prescription drug as required in 42 U.S.C. 1396r-8(d)(5)(A). (3-30-07)

07. Prohibition Against Cash Payment for Controlled Substances. Pharmacy providers are prohibited from accepting cash as payment for controlled substances from persons known to be Medicaid participants. (4-11-19)

08. Supplemental Rebates. (3-30-07)

a. Purpose. The purpose of supplemental rebates is to enable the Department to purchase prescription drugs provided to Medicaid participants in a cost-effective manner. The supplemental rebate may be one (1) factor considered in determining a drug's preferred drug status, but it is secondary to considerations of the safety, effectiveness, and clinical outcomes of the drug in comparison with other therapeutically interchangeable alternative drugs. (4-11-19)

b. Rebate Amount. The Department may negotiate with manufacturers supplemental rebates for prescription drugs that are in addition to those required by Title XIX of the Social Security Act. There is no upper limit on the dollar amounts of the supplemental rebates the Department may negotiate. (3-30-07)

09. Comparative Costs to be Considered. Whenever possible, physicians and pharmacists are encouraged to utilize less expensive drugs and drug therapies. (3-30-07)

664. PRESCRIPTION DRUGS: PROVIDER QUALIFICATIONS AND DUTIES.

01. Payment for Covered Drugs. Payment will be made, as provided in Section 665 of these rules, only to pharmacies registered with the Department as a provider for the specific location where the service was performed. An out of the state pharmacy shipping or mailing a prescription into Idaho must have a valid mail order license issued by the Idaho Board of Pharmacy and be properly enrolled as a Medicaid provider. (3-30-07)

02. Dispensing Procedures. The following protocol must be followed for proper prescription filling. (3-30-07)

a. Prescription Drug Refills. Refills of prescription drugs must be authorized by the prescriber on the original or new prescription order on file and each refill must be recorded on the prescription or logbook, or computer print-out, or on the participant's medication profile. (3-30-07)

b. Automatic Refills. (4-11-19)

i. Automatic refills are not allowed for Idaho Medicaid participants. A request specific to each medication is required. (4-11-19)

ii. All prescription refills must be initiated by a request from the participant, the prescriber, or another person, such as a family member, acting as an agent of the participant. (4-11-19)

iii. Authorization for each prescription refill must be received prior to the beginning of the filling process by the pharmacy. (4-11-19)

c. Dispensing Prescription Drugs. Prescriptions must be dispensed according to: (3-30-07)

i. 21 CFR Section 1300, et seq.; (3-30-07)

ii. Title 54, Chapter 17, and Title 37, Chapters 1, 27, and 32, Idaho Code; (4-11-19)

iii. IDAPA 27.01.03, "Rules Governing Pharmacy Practice"; and (4-11-19)

iv. Sections 660 through 666 of these rules. (3-30-07)

d. Prescriptions on File. Prescriptions must be maintained on file in pharmacies in such a manner that they are available for immediate review by the Department upon written request. (3-30-07)

03. Return of Unused Prescription Drugs. When prescription drugs were dispensed in unit dose packaging, as defined by IDAPA 27.01.03, "Rules Governing Pharmacy Practice," and the participant for whom the drugs were prescribed no longer uses them: (4-11-19)

a. A licensed skilled nursing care facility may return unused drugs dispensed in unit dose packaging to the pharmacy provider that dispensed the medication. (3-30-07)

b. A residential or assisted living facility may return unused drugs dispensed in unit dose packaging to the pharmacy provider that dispensed the medication. (3-30-07)

04. Pharmacy Provider Receiving Unused Prescription Drugs. In order for a pharmacy provider to receive unused prescription drugs that it dispensed in unit dose packaging and that are being returned by a facility identified in Subsection 664.03 of this rule, the pharmacy provider: (3-30-07)

a. Must comply with IDAPA 27.01.03, "Rules Governing Pharmacy Practice," regarding unit dose packaging; (4-11-19)

b. Must credit the Department the amount billed for the cost of the drug less the professional dispensing fee; and (4-11-19)

c. May receive a fee for acceptance of returned unused prescription drugs. The value of the unused prescription drug being returned must be such that return of the drug is cost-effective as determined by the Department. (3-30-07)

665. PRESCRIPTION DRUGS: PROVIDER REIMBURSEMENT.
With specific exceptions as set forth in Subsections 665.01 through 665.04 of this rule, Idaho Medicaid pharmacy providers are reimbursed based on actual acquisition costs. Idaho Medicaid may require providers to supply documentation of their acquisition costs as described in the Medicaid Pharmacy Claims Submission Manual available at: https://idaho.fhsc.com/downloads/providers/IDRx_Pharmacy_Claims_Submission_Manual.pdf. Reimbursement is restricted to those drugs supplied from labelers that are participating in the CMS Medicaid Drug Rebate Program. (4-11-19)

01. Pharmacy Reimbursement. Prescriptions not filled in accordance with the provisions of Subsection 664.02 of these rules will be subject to nonpayment or recoupment. The following protocol must be followed for proper reimbursement. (4-1-17)

a. Filing Claims. Pharmacies must file claims electronically with Department-approved software or by submitting the appropriate claim form to the fiscal contractor. Upon request, the contractor will provide pharmacies with a supply of claim forms. The form must include information described in the pharmacy guidelines issued by the Department. (4-1-17)

b. Billed Charges. A pharmacy's billed charges are not to exceed the usual and customary charges defined as the lowest charge by the provider to the general public for the same service including advertised specials. (3-30-07)

c. Reimbursement. Reimbursement to pharmacies is limited to the lowest of the following: (3-30-07)

i. Actual Acquisition Cost (AAC) based on results of the periodic state cost survey as defined in this rule, plus the assigned professional dispensing fee. In cases where no AAC is available, reimbursement will be the Wholesale Acquisition Cost (WAC). WAC will mean the price, for a given calendar quarter, paid by a wholesaler for the drugs purchased from the wholesaler's supplier. The wholesaler's supplier is typically the manufacturer of the drug as published by a recognized compendium of drug pricing for the same calendar quarter; (4-11-19)

ii. State Maximum Allowable Cost (SMAC), as established by the Department, plus the assigned professional dispensing fee; (4-1-17)

iii. Federal Upper Limit (FUL), as established by the Centers for Medicare and Medicaid Services (CMS) of the U.S. Department of Health and Human Services, plus the professional dispensing fee assigned by the Department; or (4-11-19)

iv. The provider's usual and customary charge to the general public. (4-11-19)

d. Periodic State Cost Surveys. The Department will utilize periodic state cost surveys to obtain the most accurate pharmacy drug acquisition costs in establishing a pharmacy reimbursement fee schedule. Pharmacies participating in the Idaho Medicaid Pharmacy Program are required to participate in these periodic state cost surveys by disclosing the costs of all drugs. A pharmacy that is non-responsive to the periodic state cost surveys can be disenrolled as a Medicaid provider by the Department. (4-11-19)

e. Physician Administered Drugs. (4-11-19)

i. Reimbursement to providers that are not 340B covered entities for medications administered to Medicaid participants by physicians or other qualified and licensed providers will be ninety percent (90%) of the published Medicare Average Sales Price plus six percent (6%) rate (ASP+6% rate). If the ASP+6% rate is not available, payment will be at the Wholesale Acquisition Cost (WAC). (4-11-19)

ii. Reimbursement to 340B covered entities for medications administered to Medicaid participants by physicians or other qualified and licensed providers will be the actual 340B drug acquisition cost, not to exceed the 340B ceiling price. (4-11-19)

f. Clotting Factors. (4-11-19)

i. Reimbursement to specialty pharmacies will be at a state-based price equivalent to the published Medicare ASP+6% rate, plus the assigned professional dispensing fee. (4-11-19)

ii. Reimbursement to Hemophilia Treatment Centers will be the 340B actual acquisition cost, not to exceed the 340B ceiling price. (4-11-19)

g. Professional Dispensing Fee. Professional Dispensing Fee is defined as a tier-based amount paid on a pharmacy claim, over and above the ingredient cost, to compensate the provider for the pharmacist's professional services related to dispensing a prescription to a Medicaid participant, including: (4-11-19)

i. Looking up information about a participant's coverage on the computer; (4-11-19)

ii. Performing drug use reviews and preferred drug list review activities; (4-11-19)

iii. Measuring or mixing the covered outpatient drug; (4-11-19)

iv. Filling the container; (4-11-19)

v. Participant counseling; (4-11-19)

vi. Physically providing the completed prescription to the Medicaid participant; (4-11-19)

vii. Special packaging; and (4-11-19)

viii. Overhead associated with maintaining the facility and equipment necessary to operate the dispensing entity. (4-11-19)

h. Limitations on Payment of Professional Dispensing Fee. Only one (1) professional dispensing fee

per month will be allowed for the dispensing of each maintenance drug to any participant as an outpatient or a resident in a care facility except: (4-11-19)

i. Multiple dispensing of topical and injectable medication when dispensed in manufacturer's original package sizes, unless evidence exists, as determined by the Department, that the quantity dispensed does not relate to the prescriber's order; (3-30-07)

ii. Multiple dispensing of oral liquid maintenance medication if a reasonable quantity, as determined by the Department, is dispensed at each filling; (3-30-07)

iii. Multiple dispensing of tablets or capsules if the quantity needed for a thirty-four (34) day supply is excessively large or unduly expensive, in the judgment of the Department; or (3-30-07)

iv. When the dose is being titrated for maximum therapeutic response with a minimum of adverse effects. (3-30-07)

i. Tier-Based Professional Dispensing Fees. A professional dispensing fee for each pharmacy provider will be established in accordance with this rule. (4-11-19)

j. Claims Volume Survey for Tier-Based Professional Dispensing Fees. The Department will survey pharmacy providers to establish a professional dispensing fee for each provider. The professional dispensing fees will be paid based on the provider's total annual claims volume. The provider must return the claims volume survey to the Department no later than May 31st each year. Pharmacy providers who do not complete the annual claims volume survey will be assigned the lowest professional dispensing fee starting on July 1st until the next annual survey is completed. Based upon the annual claims volume of the enrolled pharmacy, the professional dispensing fee is provided online at: http://healthandwelfare.idaho.gov/Portals/0/Medical/PrescriptionDrugs/PharmacyReimbChangesFAQs.pdf. (4-1-17)

k. Remittance Advice. Claims are processed by computer, and payments are made directly to the pharmacy or its designated bank through electronic funds transfer. A remittance advice with detailed information of each claim transaction will accompany each payment made by the Department. (4-1-17)

02. 340B Covered Entity Reimbursement. (4-1-17)

a. Participation as a 340B Covered Entity. Medicaid will reimburse 340B covered entities as defined in Section 340B of the Public Health Service Act, codified under 42 U.S.C. 256b(a)(4), when the provider meets the following requirements: (4-1-17)

i. A 340B covered entity may receive reimbursement for drugs provided to Idaho Medicaid participants through the 340B drug pricing program if the 340B covered entity submits its unique 340B identification number issued by the Health Resources and Services Administration (HRSA) and a copy of its completed HRSA 340B registration to Idaho Medicaid. (4-1-17)

ii. A 340B covered entity that elects to provide drugs to Idaho Medicaid participants through the 340B drug pricing program must use 340B covered outpatient drugs for all dispensed or administered drugs, including those dispensed through the 340B covered entity's retail pharmacy or administered in an outpatient clinic. A 340B covered entity must ensure that a contract pharmacy does not dispense drugs, or receive Medicaid reimbursement for drugs, acquired by the 340B covered entity through the 340B drug pricing program. An entity that does not use 340B covered outpatient drugs for all dispensed or administered drugs, including those dispensed through the 340B covered entity's retail pharmacy or administered in an outpatient clinic, will be deemed to be carved out of the 340B drug pricing program and will be reimbursed for brand name and generic drugs as provided in Subsection 665.01 of this rule. (4-11-19)

iii. A 340B covered entity must provide Idaho Medicaid with thirty (30) days advance written notice of its intent to discontinue the provision of drugs acquired through the 340B drug pricing program to Idaho Medicaid participants. (4-1-17)

b. Filing Claims. A 340B covered entity must file claims electronically with Department-approved software or by submitting the appropriate claim form to the fiscal contractor. The form must include information described in the pharmacy guidelines issued by the Department. (4-1-17)

c. Reimbursement Exclusions. Drugs acquired through the federal 340B drug pricing program and dispensed by 340B contract pharmacies are not covered. (4-11-19)

d. Reimbursement. Reimbursement to 340B covered entities is limited to their actual 340B drug acquisition cost submitted, not to exceed the 340B ceiling price, plus the assigned professional dispensing fee. (4-11-19)

e. Professional Dispensing Fee. Only one (1) professional dispensing fee per month will be allowed for the dispensing of each maintenance drug to any participant as an outpatient or a resident in a care facility except: (4-1-17)

i. Multiple dispensing of topical and injectable medication when dispensed in manufacturer's original package sizes, unless evidence exists, as determined by the Department, that the quantity dispensed does not relate to the prescriber's order; (4-1-17)

ii. Multiple dispensing of oral liquid maintenance medication if a reasonable quantity, as determined by the Department, is dispensed at each filling; (4-1-17)

iii. Multiple dispensing of tablets or capsules if the quantity needed for a thirty-four (34) day supply is excessively large or unduly expensive, in the judgment of the Department; or (4-1-17)

iv. When the dose is being titrated for maximum therapeutic response with a minimum of adverse effects. (4-1-17)

f. Tier-Based Professional Dispensing Fees. A professional dispensing fee for each 340B covered entity will be established in accordance with this rule. (4-1-17)

g. Remittance Advice. Claims are processed by computer, and payments are made directly to the 340B covered entity or its designated bank through electronic funds transfer. A remittance advice with detailed information of each claim transaction will accompany each payment made by the Department. (4-1-17)

03. Reimbursement for Drugs Dispensed by Other Provider Types. (4-11-19)

a. Drugs acquired through non-340B Indian Health Service, Tribal, or Urban Indian pharmacies will be reimbursed at the actual acquisition cost to the entity, plus the assigned professional dispensing fee. (4-11-19)

b. Drugs acquired via the Federal Supply Schedule (FSS) will be reimbursed at the FSS actual acquisition cost, plus the assigned professional dispensing fee. (4-11-19)

c. Drugs acquired at nominal price, which is defined as pricing that is outside of 340B regulations or FSS, will be reimbursed at the actual acquisition cost, plus the assigned professional dispensing fee. (4-11-19)

d. Specialty drugs not dispensed by retail community pharmacies and dispensed primarily through the mail will be reimbursed at the Idaho actual acquisition cost, if such cost is available, plus the professional dispensing fee. If the actual acquisition cost is not available, drugs will be reimbursed at the lower of the Wholesale Acquisition Cost (WAC) or State Maximum Allowable Cost (SMAC) as established by the Department, plus the assigned professional dispensing fee. (4-11-19)

e. Drugs not distributed by a retail community pharmacy, such as drugs dispensed in a long-term care facility or dispensed to participants receiving swing-bed services, as described in Subsection 405.08 of these rules, will be reimbursed at the actual ingredient cost, plus the assigned professional dispensing fee. (4-11-19)

04. Limitations on Payment. Medicaid payment for prescription drugs will be limited as follows:

(4-11-19)

a. Medication for Multiple Persons. When the medication dispensed is for more than one (1) person, Medicaid will only pay for the amount prescribed for the person or persons covered by Medicaid. (4-11-19)

b. No Prior Authorization. Medicaid will not pay for a covered drug or pharmacy item that requires, but has not received, prior authorization for Medicaid payment as required in Section 663 of these rules. (4-11-19)

c. Limitations to Discourage Waste. Medicaid may conduct drug utilization reviews and impose limitations for participants whose drug utilization exceeds the standard participant profile or disease management guidelines determined by the Department. (4-11-19)

05. Return of Drugs. Drugs dispensed in unit dose packaging as defined by IDAPA 27.01.01, "General Provisions," must be returned to the dispensing pharmacy when the participant no longer uses the medication as follows: (4-11-19)

a. A pharmacy provider using unit dose packaging must comply with IDAPA 27.01.03, "Rules Governing Pharmacy Practice." (4-11-19)

b. The pharmacy provider that receives the returned drugs must credit the Department the amount billed for the cost of the drug less the professional dispensing fee. (4-1-17)

c. The pharmacy provider may receive a fee for acceptance of returned unused drugs. The value of the unused drug being returned must be cost effective as determined by the Department. (3-30-07)

06. Cost Appeal Process. Cost appeals will be determined by the Department's process provided online at: http://healthandwelfare.idaho.gov/Portals/0/Medical/PrescriptionDrugs/PharmacyReimbChangesFAQs.pdf. (4-4-13)

666. PRESCRIPTION DRUGS: QUALITY ASSURANCE.

01. Pharmacy And Therapeutics Committee (P&T Committee). (3-30-07)

a. Membership. The P&T Committee is appointed by the Director and is composed of practicing pharmacists, physicians and other licensed health care professionals with authority to prescribe medications. (3-30-07)

b. Function. The P&T Committee has the following responsibilities for the prior authorization of drugs under Section 663 of these rules: (3-30-07)

i. To serve in evaluational, educational and advisory capacities to the Idaho Medicaid Pharmacy Program specific to the prior authorization of drugs. (4-11-19)

ii. To review evidence-based clinical and pharmacy economic data and recommend to the Department preferred and non-preferred drugs in classes designated for the Idaho Medicaid Preferred Drug List. (4-11-19)

iii. To recommend to the Department the classes of medications to be reviewed through evidence-based evaluation. (3-30-07)

iv. To review drug utilization outcome studies and intervention reports from the Drug Utilization Review Board as part of the process of reviewing and developing recommendations to the Department. (3-30-07)

c. Meetings. The P&T Committee meetings will be open to the public and a portion of each meeting will be set aside to hear and review public comment. The P&T Committee may adjourn to executive session to consider the following: (3-30-07)

i. Relative cost information for prescription drugs that could be used by representatives of

pharmaceutical manufacturers or other people to derive the proprietary information of other pharmaceutical manufacturers; or (3-30-07)

ii. Participant-specific or provider-specific information. (3-30-07)

667. -- 679. (RESERVED)

SUB AREA: FAMILY PLANNING
(Sections 680 - 699)

680. (RESERVED)

681. FAMILY PLANNING SERVICES: PARTICIPANT ELIGIBILITY.

01. Sterilization Procedures -- General Restrictions. The following restrictions govern payment for sterilization procedures for eligible persons. (3-30-07)

a. No sterilization procedures will be paid on behalf of a participant who is not at least twenty-one (21) years of age at the time they sign the informed consent. (3-30-07)

b. No sterilization procedures will be paid on behalf of any participant who is twenty-one (21) years of age or over and who is incapable of giving informed consent. (3-30-07)

c. Each participant must voluntarily sign the properly completed "Consent Form" HW 0034, or its equivalent, in the presence of the person obtaining consent in accordance with Section 683 of these rules. (3-30-07)

d. Each participant must sign the "Consent Form" at least thirty (30) days but not more than one hundred eighty (180) days, prior to the sterilization procedures. Exceptions to these time requirements are described under Subsection 682.03 of these rules. (3-30-07)

02. Circumstances Under Which Payment Can be Made for a Hysterectomy. Payment can be made for a hysterectomy only if: (3-30-07)

a. It is medically necessary. A document must be attached to the claim to substantiate this requirement; and (3-30-07)

b. There was more than one (1) purpose in performing the hysterectomy, and the hysterectomy would not have been performed for the sole purpose of rendering an individual permanently incapable of reproducing; and (3-30-07)

c. The participant was advised orally and in writing that sterility would result and that she would no longer be able to bear children; and (3-30-07)

d. The participant signs and dates an "Authorization for Hysterectomy" form. The form must state "I have been informed orally and in writing that a hysterectomy will render me permanently incapable of reproducing. I was informed of these consequences prior to the surgery being performed." (3-30-07)

682. FAMILY PLANNING SERVICES: COVERAGE AND LIMITATIONS.
Family planning includes counseling and medical services prescribed or performed by an independent licensed physician, or a qualified certified nurse practitioner or physician's assistant. Specific items covered are diagnosis, treatment, contraceptive supplies, related counseling, and restricted sterilization. (3-30-07)

01. Contraceptive Supplies. (3-30-07)

a. Contraceptive supplies include condoms, foams, creams and jellies, prescription diaphragms, intrauterine devices, or oral contraceptives. (3-30-07)

b. Contraceptives requiring a prescription are payable subject to Section 662 of these rules. (3-30-07)

c. Payment for oral contraceptives is limited to purchase of a three (3) month supply. (3-30-07)

02. Sterilization. (3-30-07)

a. No sterilizations for individuals institutionalized in correctional facilities, mental hospitals, or other rehabilitative facilities are eligible for payment unless such sterilizations are ordered by a court of law. (3-30-07)

b. Hysterectomies performed solely for sterilization purposes are not eligible for payment (see Subsection 681.02 of these rules for those conditions under which a hysterectomy can be eligible for payment). (3-30-07)

c. All requirements of state or local law for obtaining consent, except for spousal consent, must be followed. (3-30-07)

d. Suitable arrangements must be made to insure that information as specified in Subsection 681.01 of these rules is effectively communicated to any individual to be sterilized who is blind, deaf, or otherwise disabled. (3-30-07)

03. Exceptions to Sterilization Time Requirements. If premature delivery occurs or emergency abdominal surgery is required, the physician must certify that the sterilization was performed because of the premature delivery or emergency abdominal surgery less than thirty (30) days, but no less than seventy-two (72) hours after the date of the participant's signature on the consent form; and (3-30-07)

a. In the case of premature delivery, the physician must also state the expected date of delivery and describe the emergency in detail; and (3-30-07)

b. Describe, in writing to the Department, the nature of any emergency necessitating emergency abdominal surgery; and (3-30-07)

c. Under no circumstance can the period between consent and sterilization exceed one hundred eighty (180) days. (3-30-07)

04. Requirements for Sterilization Performed Due to a Court Order. When a sterilization is performed after a court order is issued, the physician performing the sterilization must have been provided with a copy of the court order prior to the performance of the sterilization. In addition they must: (3-30-07)

a. Certify, by signing a properly completed "Consent Form" HW 0034, or its equivalent, and submitting the consent form with their claim, that all requirements have been met concerning sterilizations; and (3-30-07)

b. Submit to the Department a copy of the court order together with the "Consent Form" and claim. (3-30-07)

683. FAMILY PLANNING SERVICES: PROCEDURAL REQUIREMENTS.

01. Sterilization Consent Form Requirements. Informed consent exists when a properly completed "Consent Form" HW 0034, or its equivalent, is submitted to the Department together with the physician's claim for the sterilization. (3-30-07)

a. The consent form must be signed and dated by: (3-30-07)

i. The participant to be sterilized; and (3-30-07)

ii. The interpreter, if one (1) is provided; and (3-30-07)

iii. The individual who obtains the consent; and (3-30-07)

iv. The physician who will perform the sterilization procedure. (3-30-07)

v. If the individual obtaining the consent and the physician who will perform the sterilization procedure are the same person, that person must sign both statements on the consent form. (3-30-07)

b. Informed consent must not be obtained while the participant in question is: (3-30-07)

i. In labor or childbirth; or (3-30-07)

ii. Seeking to obtain or obtaining an abortion; or (3-30-07)

iii. Under the influence of alcohol or other substances that affect the individual's state of awareness. (3-30-07)

c. An interpreter must be provided if the participant does not understand the language used on the consent form or the language used by the person obtaining the consent. (3-30-07)

d. The person obtaining consent must: (3-30-07)

i. Offer to answer any questions the participant may have concerning the procedure; and (3-30-07)

ii. Orally advise the participant that they are free to withhold or withdraw consent to the procedure at any time before the sterilization without affecting their right to future care or treatment, and without loss or withdrawal of any federally funded program benefits to which the individual might otherwise be entitled; and (3-30-07)

iii. Provide a description of available alternative methods of family planning and birth control; and (3-30-07)

iv. Orally advise the participant that the sterilization procedure is considered to be irreversible; and (3-30-07)

v. Provide a thorough explanation of the specific sterilization procedure to be performed; and (3-30-07)

vi. Provide a full description of the discomfort and risks that may accompany and follow the performing of the procedure, including an explanation of the type and possible effects of any anesthetic to be used; and (3-30-07)

vii. Provide a full description of the benefits or advantages that can be expected as a result of the sterilization; and (3-30-07)

viii. Advise that the sterilization procedure will not be performed for at least thirty (30) days except under extreme circumstances as specified in Subsection 682.03 of these rules. (3-30-07)

e. The person securing the consent from the participant must certify by signing the “Consent Form” that: (3-30-07)

i. Before the participant signed the consent form, they were advised that no federal benefits would be withheld because of the decision to be or not to be sterilized; and (3-30-07)

ii. The requirements for informed consent as set forth on the consent form were orally explained; and (3-30-07)

iii. To the best of their knowledge and belief, the participant appeared mentally competent and knowingly and voluntarily consented to the sterilization. (3-30-07)

f. The physician performing the sterilization must certify by signing the "Consent Form" that: (3-30-07)

i. At least thirty (30) days have passed between the participant's signature on that form and the date the sterilization was performed; and (3-30-07)

ii. To the best of the physician's knowledge the participant is at least twenty-one (21) years of age; and (3-30-07)

iii. Before the performance of the sterilization the physician advised the participant that no federal benefits will be withdrawn because of the decision to be or not to be sterilized; and (3-30-07)

iv. The physician explained orally the requirement for informed consent as set forth in the "Consent Form"; and (3-30-07)

v. To the best of their knowledge and belief the participant to be sterilized appeared mentally competent and knowingly and voluntarily consented to the sterilization. (3-30-07)

g. If an interpreter is provided, they must certify by signing the "Consent Form" that: (3-30-07)

i. They accurately translated the information and advice presented orally to the participant; and (3-30-07)

ii. They read the "Consent Form" and accurately explained its contents; and (3-30-07)

iii. To the best of their knowledge and belief, the participant understood the interpreter. (3-30-07)

h. The person obtaining consent must sign the "Consent Form" and certify that they have fulfilled specific requirements in obtaining the participant's consent. (3-30-07)

i. The physician who performs the sterilization must sign the "Consent Form" HW 0034, certifying that the requirements of this rule have been fulfilled. (3-30-07)

684. (RESERVED)

685. FAMILY PLANNING SERVICES: PROVIDER REIMBURSEMENT.
Payment to providers of family planning services for contraceptive supplies is limited to estimated acquisition cost. (3-30-07)

686. -- 699. (RESERVED)

SUB AREA: BEHAVIORAL HEALTH SERVICES (Sections 700 - 719)

700. INPATIENT BEHAVIORAL HEALTH SERVICES: DEFINITIONS.

01. Freestanding Psychiatric Hospital. A hospital, nursing facility, or other institution of sixteen (16) beds or less that is primarily engaged in the diagnosis and treatment of mental diseases. The hospital is not considered freestanding if it shares a building or campus with another hospital, or is owned by another hospital. (7-1-18)

02. Hospital Psychiatric Unit. The psychiatric unit of a general hospital that furnishes inpatient care and treatment services for mental illness under a psychiatrist or other physician qualified to treat mental diseases. (7-1-18)

03. Institutions for Mental Disease (IMD). A hospital, nursing facility or other institution of seventeen (17) beds or more that is primarily engaged in providing diagnosis, treatment, or care of persons with mental diseases, including medical attention, nursing care, and related services. A specific licensure is not necessary to meet this definition. This definition does not apply to ICF/IDs. (7-1-18)

04. Substance Use Disorder. A substance use disorder is evidenced by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using a substance despite significant substance-related problems. A diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to use of the substance and the current DSM. (7-1-18)

701. INPATIENT BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.

01. Inpatient Psychiatric Hospital Services. Participants are eligible who have a diagnosis from the current DSM with substantial impairment in thought, mood, perception, or behavior. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. Medical necessity must be demonstrated for admission or extended stay by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. Services may be provided in: (7-1-18)

a. A freestanding psychiatric hospital; (7-1-18)

b. A hospital psychiatric unit; (7-1-18)

c. Institutions for mental disease for participants meeting the conditions in Subsections 701.01.c.i. and 701.01.c.ii. of this rule: (7-1-18)

i. Participants must be under the age of twenty-one (21); and (7-1-18)

ii. If a participant reaches age twenty-one (21) while receiving services, he may continue inpatient treatment until services are no longer required, or he reaches age twenty-two (22), whichever comes first. (7-1-18)

02. Inpatient Substance Use Disorder Services. Participants are eligible when medical necessity is demonstrated by meeting the severity of illness and intensity of service criteria as found in Subsections 701.03 and 701.04 of this rule. A court-ordered admission or physician's emergency certificate alone does not justify Medicaid reimbursement for these services. Services may be provided in: (7-1-18)

a. A freestanding psychiatric hospital; or (7-1-18)

b. A hospital psychiatric unit. (7-1-18)

03. Severity of Illness Criteria. Both severity of illness and intensity of services criteria must be met for admission to an IMD or psychiatric unit of a general hospital. (7-1-18)

a. Severity of illness criteria. The participant must meet one (1) of the following criteria related to the severity of his psychiatric illness: (7-1-18)

i. Is currently dangerous to self as indicated by at least one (1) of the following: (3-30-07)

(1) Has actually made an attempt to take his own life in the last seventy-two (72) hours (details of the attempt must be documented); or (3-30-07)

(2) Has demonstrated self-mutilative behavior within the past seventy-two (72) hours (details of the behavior must be documented); or (3-30-07)

(3) Has a clear plan to seriously harm himself, overt suicidal intent, and lethal means available to follow the plan (this information can be from the participant or a reliable source and details of the participant's plan must be documented); or (7-1-18)

(4) The participant has a current plan, specific intent, or recurrent thoughts to seriously harm himself or others, and is at significant risk of making an attempt without immediate intervention; or (7-1-18)

ii. Participant is actively violent or aggressive and exhibits homicidal ideation or other symptoms which indicate he is a probable danger to others as indicated by one (1) of the following: (7-1-18)

(1) The participant has engaged in, or threatened behavior harmful or potentially harmful to others or caused serious damage to property which would pose a serious threat of injury or harm to others within the last twenty-four (24) hours (description of the behavior and extent of injury or damage must be documented, as well as the time the behavior occurred relative to the present); or (7-1-18)

(2) The participant has made threats to kill or seriously injure others or to cause serious damage to property which would pose a threat of injury or harm to others and has effective means to carry out the threats (details of threats must be documented); or (7-1-18)

(3) A mental health professional has information from the participant or a reliable source that the participant has a current plan, specific intent, or recurrent thoughts to seriously harm others or property and is at significant risk of making the attempt without immediate intervention (details must be documented); or (7-1-18)

iii. Participant is gravely impaired as indicated by at least one (1) of the following criteria: (7-1-18)

(1) The participant has such limited functioning that his physical safety and well being are in jeopardy due to his inability for basic self-care, judgment and decision making (details of the functional limitations must be documented); or (7-1-18)

(2) The acute onset of psychosis or severe thought disorganization or clinical deterioration has rendered the participant unmanageable and unable to cooperate in non-hospital treatment (details of the participant's behaviors must be documented); or (7-1-18)

(3) There is a need for treatment, evaluation, or complex diagnostic testing where the participant's level of functioning or communication precludes assessment and/or treatment in a non-hospital based setting, and may require close supervision of medication or behavior or both. (7-1-18)

(4) The participant is undergoing severe or medically complicated withdrawal from alcohol, opioids, stimulants, or sedatives. (7-1-18)

04. Intensity of Service Criteria. The participant must meet all of the following criteria related to the intensity of services needed for treatment. (7-1-18)

a. Documentation that ambulatory care resources available in the community do not meet the treatment needs of the participant; and (7-1-18)

b. The services provided can reasonably be expected to improve the participant's condition or prevent further regression so that inpatient services will no longer be needed; and (7-1-18)

c. Treatment of the participant's condition requires services on an inpatient basis, including twenty-four (24) hour nursing observation. (7-1-18)

d. Exceptions. The requirement to meet intensity of service criteria may be waived for first-time admissions if severity of illness is met and the physician is unable to make a diagnosis or treatment decision while the participant is in his current living situation. The waiver of the intensity of services requirement can be for no longer than forty-eight (48) hours and is not waivable for repeat hospitalizations. (7-1-18)

05. Exclusions. If a participant meets one (1) or more of the following criteria, Medicaid reimbursement will be denied: (7-1-18)

a. The participant is unable to actively participate in an outpatient treatment program solely because of a major medical condition, surgical illness or injury; or (7-1-18)

b. The participant has a primary diagnosis of being intellectually disabled and the primary treatment need is related to the intellectual disability. (7-1-18)

702. INPATIENT BEHAVIORAL HEALTH SERVICES: COVERAGE AND LIMITATIONS.

01. Initial Length of Stay. An initial length of stay, or a prior authorization requirement, will be established by the Department, or its designee, in the Idaho Medicaid Provider Handbook. Requirements for establishing length of stay will never be more restrictive than requirements for non-behavioral health services in a general hospital. (7-1-18)

02. Extended Stay. The Department, or its designee, will establish authorization requirements in the Idaho Medicaid Provider Handbook. An authorization is necessary when the appropriate care of the participant indicates the need for inpatient days in excess of the initial length of stay or previously approved extended stay. (7-1-18)

03. Excluded Services. Placement in an IMD for participants between the ages of twenty-one (21) and sixty-four (64) is not a covered service. (7-1-18)

703. INPATIENT BEHAVIORAL HEALTH SERVICES: PROCEDURAL REQUIREMENTS.

01. Prior Authorization. Some services may require a prior authorization from the Department, or its designee. The Department will set documentation requirements in the Idaho Medicaid Provider Handbook to ensure quality of care and integrity of services. Requests for prior authorization must include: (7-1-18)

a. Diagnosis; and (3-30-07)

b. Summary of present medical findings including symptoms, complaints and complications indicating the need for admission; and (3-30-07)

c. Medical history; and (3-30-07)

d. Mental and physical functional capacity; and (3-30-07)

e. Prognosis. (7-1-18)

02. Individual Plan of Care – Content. The individual plan of care is a written plan developed for the participant upon admission. The objective of the plan is to improve their condition to the extent that acute psychiatric care is no longer necessary. It must be developed by an interdisciplinary team as defined in Subsection 703.03 of this rule. The plan of care must be implemented within seventy-two (72) hours of admission, and reviewed at least every three (3) days. The individual plan of care must contain: (7-1-18)

a. A diagnostic evaluation that includes examination of the medical, behavioral, and developmental aspects of the participant's situation and reflects the medical necessity for in-patient care; and (7-1-18)

b. Treatment objectives related to conditions that necessitated the admission; and (7-1-18)

c. An integrated program of therapies, treatments (including medications), activities (including special procedures to assure the health and safety of the participant), and experiences designed to meet the objectives; and (7-1-18)

d. A discharge plan designed to achieve the participant’s discharge at the earliest possible time that includes plans for coordination of community services to ensure continuity of care with the participant’s family, school, and community upon discharge. (7-1-18)

03. Individual Plan of Care – Interdisciplinary Team. The individual plan of care must be

developed by an interdisciplinary team capable of assessing the participant's immediate and long range therapeutic needs, developmental priorities and personal strengths and liabilities, assessing the potential resources of the participant's family, setting the treatment objectives, and prescribing therapeutic modalities to achieve the plan's objectives. The team must include at a minimum: (7-1-18)

a. One (1) of the following: (7-1-18)

i. A board-certified psychiatrist; or (7-1-18)

ii. A licensed psychologist and a physician licensed to practice medicine or osteopathy; or (3-30-07)

iii. A physician licensed to practice medicine or osteopathy with specialized training and experience in the diagnosis and treatment of mental disease and a licensed clinical professional counselor; and (3-30-07)

b. One (1) of the following: (7-1-18)

i. A licensed, clinical or master's social worker; or (7-1-18)

ii. A registered nurse with specialized training or one (1) year's experience in treating individuals with behavioral health needs; or (7-1-18)

iii. A licensed occupational therapist who has had specialized training or one (1) year of experience in treating individuals with behavioral health needs, (7-1-18)

c. The participant and their parents, legal guardians, or others into whose care they will be released after discharge. (3-30-07)

704. INPATIENT BEHAVIORAL HEALTH SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Provider Qualifications. Inpatient hospital psychiatric services must be provided under the direction of a physician in a facility accredited by the Joint Commission on Accreditation of Healthcare Organizations (JCAHO) and licensed by the state of Idaho or the state in which they provide services. To provide services beyond emergency medical screening and stabilization treatment, the hospital must have a separate psychiatric unit with staff qualified to provide psychiatric services. General hospitals licensed to provide services in their state, but are not JCAHO certified, may not bill for psychiatric services beyond emergency screening and stabilization. (7-1-18)

02. Record Keeping. A written report of each evaluation and the plan of care must be entered into the participant's record at the time of admission or if the participant is already in the facility, immediately upon completion of the evaluation or plan. (7-1-18)

03. Utilization Review (UR). The facility must have in effect a written utilization review plan that provides for review of each participant's need for the services that the hospital furnishes them. The UR plan must meet the requirements under 42 CFR 456.201 through 456.245. (7-1-18)

705. INPATIENT BEHAVIORAL HEALTH SERVICES: PROVIDER REIMBURSEMENT.
Failure to request a prior authorization, concurrent review, or continued stay review in a timely manner will result in a retrospective review being conducted by the Department. If the retrospective review determines the stay is medically necessary, the Department will assess a penalty to the hospital as specified in Subsection 705.02 of this rule. The admitting physician will be assessed a penalty for failure to request a prior authorization, concurrent review, or continued stay review in a timely manner as specified in Subsection 705.03 of this rule. A physician who provides hospital care but has no control over the admission, continued stay, or discharge of the participant is not subject to this penalty. (7-1-18)

01. Payment. Reimbursement for the participant's admission and length of stay is subject to prior authorization, concurrent review, continued stay review, or retrospective review by the Department. The hospital and

the participant's physician are responsible for obtaining the required review. If such review identifies that an admission or continued stay is not medically necessary, then no Medicaid payment will be made. (7-1-18)

a. In reimbursing for inpatient hospital psychiatric services the Department will pay the lesser of customary charges or the reasonable cost of semi-private rates for inpatient hospital care in accordance with the rules set forth in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-30-07)

b. The cost of services that would be the responsibility of the Department of Education for school age children cannot be considered in the cost of inpatient psychiatric hospital services. (3-30-07)

02. Hospital Penalty Schedule. Failure to request a prior authorization, concurrent review, or continued stay review from the Department in a timely manner will result in the hospital being assessed a penalty as follows. The penalty will be assessed after payment for hospital services for a medically necessary hospital admission. (7-1-18)

a. A request for a preadmission or continued stay review that is one (1) day late will result in a penalty of two hundred sixty dollars ($260). (3-30-07)

b. A request for a preadmission or continued stay review that is two (2) days late will result in a penalty of five hundred twenty dollars ($520). (3-30-07)

c. A request for a preadmission or continued stay review that is three (3) days late will result in a penalty of seven hundred eighty dollars ($780). (3-30-07)

d. A request for a preadmission or continued stay review that is four days (4) late will result in a penalty of one thousand forty dollars ($1,040). (3-30-07)

e. A request for a preadmission or continued stay review that is five (5) or more days late will result in a penalty of one thousand three hundred dollars ($1,300). (3-30-07)

03. Physician Penalty Schedule. Failure to request a preadmission review from the Department in a timely manner will result in the admitting physician being assessed a penalty as follows. The penalty will not be assessed against a physician who provides hospital care but has no control over the admission, continued stay, or discharge of the participant. The penalty will be assessed after payment for physician services for a medically necessary hospital admission: (7-1-18)

a. A request for a preadmission review that is one (1) day late will result in a penalty of fifty dollars ($50). (3-30-07)

b. A request for a preadmission review that is two (2) days late will result in a penalty of one hundred dollars ($100). (3-30-07)

c. A request for a preadmission review that is three (3) days late will result in a penalty of one hundred fifty dollars ($150). (3-30-07)

d. A request for a preadmission review that is four (4) days late will result in a penalty of two hundred dollars ($200). (3-30-07)

e. A request for a preadmission review that is five (5) or more days late will result in a penalty of two hundred fifty dollars ($250). (3-30-07)

706. INPATIENT BEHAVIORAL HEALTH SERVICES: QUALITY ASSURANCE.
The policy, rules, and regulations to be followed must be those cited in 42 CFR 456.480 through 42 CFR 456.482. (7-1-18)

707. OUTPATIENT BEHAVIORAL HEALTH SERVICES.
Outpatient behavioral health services are contained in the "Idaho Behavioral Health Plan" (IBHP) that is authorized

by a 1915(b) waiver authority and delivered under a PAHP contract. The IBHP allows for the contractor to provide the administration of community-based outpatient behavioral health services for individuals, based on medical necessity, that include therapeutic and rehabilitative treatment intended to minimize symptoms of mental illness, emotional disturbance, and substance use disorders. These services also help restore independent functioning to the greatest extent possible. For more information, please visit the IBHP website at: http://www.optumidaho.com/. (3-20-14)

708. OUTPATIENT BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.
All participants who are eligible for Medicaid Basic or Enhanced Benchmark State Plan services, except for participants enrolled in the Idaho Medicare-Medicaid Coordinated Plan (MMCP), are automatically enrolled in the Idaho Behavioral Health Plan and may access behavioral health services that are determined to be medically necessary. (3-20-14)

709. OUTPATIENT BEHAVIORAL HEALTH SERVICES: COVERAGE AND LIMITATIONS.

01. Community-Based Outpatient Behavioral Health Services. The Community-Based Outpatient Behavioral Health Services included in the Idaho Behavioral Health Plan (IBHP) are medically necessary rehabilitation services that evaluate the need for and provide therapeutic and rehabilitative treatment to minimize symptoms of mental illness and substance use disorders and restore independent functioning. These services include: (3-20-14)

a. Assessments and Planning; (3-20-14)

b. Psychological and Neurological Testing; (3-20-14)

c. Psychotherapy (Individual, Group, and Family); (3-20-14)

d. Pharmacologic Management; (3-20-14)

e. Partial Care Treatment; (3-20-14)

f. Behavioral Health Nursing; (3-20-14)

g. Drug Screening; (3-20-14)

h. Community-Based Rehabilitation; (3-20-14)

i. Substance Use Disorder Treatment Services; and (3-20-14)

j. Case Management. (3-20-14)

02. Prior Authorization. Some behavioral health services may require prior authorization from the IBHP contractor. (3-20-14)

710. OUTPATIENT BEHAVIORAL HEALTH SERVICES: PROVIDER QUALIFICATIONS.
The IBHP services are delivered by network providers who are enrolled with the contractor and meet reimbursement, quality, and utilization standards. All community-based outpatient behavioral health service providers are subject to the limitations of practice imposed by state law, federal regulations, and by the various state boards that regulate professional competency requirements, and in accordance with applicable Department rules. The contractor will enter into agreements with enrolled providers to provide the services under the IBHP. These agreements will include the reimbursement methodology agreed upon by the contractor and Department. (3-20-14)

711. OUTPATIENT BEHAVIORAL HEALTH SERVICES: PROCEDURAL REQUIREMENTS.
Providers must enroll in the IBHP with the contractor and meet both the credentialing and quality assurance guidelines of the contractor. (3-20-14)

01. Administer IBHP. The contractor is responsible for administering the IBHP, including: eligibility

verification, management of behavioral health service provision, behavioral health claims processing, payments to providers, data reporting, utilization management, and customer service. (3-20-14)

02. Authorization. The contractor is responsible for authorization of covered behavioral health services that require authorization prior to claim payment. (3-20-14)

03. Complaints, Grievances, and Appeals. Complaints, grievances, and appeals are handled through a process between the contractor and Department that is in compliance with state and federal requirements. Participants must utilize the complaint, grievance, and appeal process required by the contractor prior to initiating an administrative appeal with the Department. (3-20-14)

712 -- 719. (RESERVED)

SUB AREA: HOME HEALTH SERVICES
(Sections 720 - 729)

720. HOME HEALTH SERVICES: DEFINITIONS.

01. Home Health Plan of Care. A written description of home health services to be provided to a participant. (7-1-17)

02. Home Health Services. Home health services are services and items, including nursing services, home health aide services, physical therapy, occupational therapy, speech-language pathology services, audiology services, and medical supplies, equipment, and appliances that are: (7-1-17)

a. Ordered by a physician as part of a home health plan of care; (7-1-17)

b. Performed by a licensed, qualified professional acting within their authorized scope of practice; (7-1-17)

c. Typically received by a participant at the participant's place of residence, but may be received in any setting in which normal life activities take place, other than a hospital, nursing facility, ICF/ID (unless such services are not otherwise required to be provided by the ICF/ID), or any other setting in which payment is made, or could be made, under Medicaid for inpatient services that include room and board; and (7-1-17)

d. Reasonable and medically necessary for the treatment of a disability, illness, or injury for a Medicaid participant. (7-1-17)

03. Place of Residence. For the purposes of home health services, generally any setting in which a participant makes their home, other than a hospital, nursing facility, or ICF/ID. (7-1-17)

721. (RESERVED)

722. HOME HEALTH SERVICES: COVERAGE AND LIMITATIONS.
Home health visits are limited to one hundred (100) visits per calendar year per person. (3-30-07)

723. HOME HEALTH SERVICES: PROCEDURAL REQUIREMENTS.

01. Physician Orders. (7-1-17)

a. Home health services must be ordered by a physician. Such orders must include at a minimum, the physician's National Provider Identifier (NPI), the services or items to be provided, the frequency, and, where applicable, the expected duration of time for which the home health services will be needed. (7-1-17)

b. In the event that home health services are required for extended periods, these services must be reordered as necessary, but at least every sixty (60) days for services and at least annually for medical supplies,

equipment, and appliances. (7-1-17)

02. Face-to-Face Encounter for Home Health Services -- Excluding Medical Supplies, Equipment, and Appliances. (7-1-17)

a. For the initiation of home health services, excluding medical supplies, equipment, and appliances, the participant's physician must document that a face-to-face encounter that is related to the primary reason the patient requires home health services occurred with the participant no more than ninety (90) days before, or thirty (30) days after, the start of the home health services. Appropriate documentation must indicate the practitioner who conducted the encounter, and the date of the encounter as described in the CMS/Medicare DME coverage manual. (7-1-17)

b. The face-to-face encounter may occur via telehealth, as defined in Title 54, Chapter 57, Idaho Code. (7-1-17)

c. The face-to-face encounter may be performed by participant's physician, including an attending acute or post-acute physician, or one (1) of the following non-physician practitioners (NPP): (7-1-17)

i. A nurse practitioner or clinical nurse specialist working in collaboration with the ordering physician; (7-1-17)

ii. A nurse midwife; or (7-1-17)

iii. A physician assistant under the supervision of the ordering physician. (7-1-17)

d. If the face-to-face encounter is performed by an allowed NPP, the NPP must communicate the clinical findings of that face-to-face encounter to the ordering physician. (7-1-17)

03. Face-to-Face Encounter for Home Health Medical Supplies, Equipment, and Appliances. (7-1-17)

a. For the initiation of home health medical supplies, equipment, and appliances, the participant's physician, or a non-physician practitioner as authorized in Subsection 723.03 of this rule, must document that a face-to-face encounter that is related to the primary reason the patient requires medical supplies, equipment, and appliances, occurred with the participant no more than six (6) months before the start of services. Appropriate documentation must indicate the practitioner who conducted the encounter, and the date of the encounter as described in the CMS/Medicare DME coverage manual. (7-1-17)

b. The face-to-face encounter may occur via telehealth, as defined in Title 54, Chapter 57, Idaho Code. (7-1-17)

c. The face-to-face encounter may be performed by participant's physician, including an attending acute or post-acute physician, or one (1) of the following non-physician practitioners (NPP): (7-1-17)

i. A nurse practitioner or clinical nurse specialist working in collaboration with the ordering physician; or (7-1-17)

ii. A physician assistant under the supervision of the ordering physician. (7-1-17)

d. If the face-to-face encounter is performed by an allowed NPP, the NPP must communicate the clinical findings of that face-to-face encounter to the ordering physician. (7-1-17)

04. Home Health Plan of Care. (7-1-17)

a. All home health services must be provided under a home health plan of care that is established prior to beginning treatment. The home health plan of care must be signed by the licensed, qualified professional who established the plan and must contain the information required under IDAPA 16.03.07, "Home Health Agencies."

(7-1-17)

b. All home health plans of care must be reviewed by the participant's physician as necessary, but at least every sixty (60) days for services, and at least annually for medical supplies, equipment, and appliances. (7-1-17)

724. HOME HEALTH SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
In order to participate as a Home Health Agency (HHA) provider for Medicaid-eligible persons, the provider must be licensed as required by the state, and be certified to participate in the Medicare Program. Loss of either state license or Medicare Program certification is cause for termination of Medicaid provider status. (3-30-07)

725. HOME HEALTH SERVICES: PROVIDER REIMBURSEMENT.

01. Mileage Included in Cost. Payment by the Department for home health services will include mileage as part of the cost of the visit. (3-30-07)

02. Payment Procedures. Payment for home health services will be limited to the services authorized in Sections 720 through 722 of these rules and must not exceed the lesser of reasonable cost as determined by Medicare or the Medicaid percentile cap. (3-30-07)

a. For visits performed in the first state fiscal year for which this Subsection is in effect, the Medicaid percentile cap will be established at the seventy fifth percentile of the ranked costs per visit as determined by the Department using the data from the most recent finalized Medicare cost reports on hand in the Department on June 1, 1987. Thereafter, the percentile cap will be revised annually, effective at the beginning of each state fiscal year. Revisions will be made using the data from the most recent finalized Medicare cost reports on hand thirty (30) days prior to the effective date. (3-30-07)

b. When determining reasonable costs of rented medical equipment ordered by a physician and used for the care of the participant, the total rental cost of a Durable Medical Equipment (DME) item must not exceed one-tenth (1/10) of the total purchase price of the item. A minimum rental rate of fifteen dollars ($15) per month is allowed on all DME items. (7-1-17)

c. The Department may enter into lease/purchase agreements with providers in order to purchase medical equipment when the rental charges total the purchase price of the equipment. (3-30-07)

d. The Department will not pay for services at a cost in excess of prevailing Medicare rates. (3-30-07)

e. If a person is eligible for Medicare, all services ordered by the physician will be purchased by Medicare, except for the deductible and co-insurance amounts that the Department will pay. (3-30-07)

726. -- 729. (RESERVED)

**SUB AREA: THERAPY SERVICES
(Sections 730 - 739)**

730. THERAPY SERVICES: DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: (4-2-08)

01. Duplicate Services. Services are considered duplicate: (4-2-08)

a. When participants receive any combination of physical therapy, occupational therapy, or speech-language pathology services with treatments, evaluations, treatment plans, or goals that are not separate and unique to each service provided; or (4-2-08)

b. When more than one (1) type of therapy is provided at the same time. (4-2-08)

02. Feeding Therapy. Feeding Therapy means those therapy services necessary for the treatment of

feeding disorders. Feeding disorders include problems gathering food and getting ready to suck, chew, or swallow it. (7-1-16)

03. Maintenance Program. A program established by a therapist that requires the skills of a therapist or therapy professional and consists of activities and mechanisms to assist a participant in maximizing or maintaining the progress they have made during therapy or to prevent or slow further deterioration due to a disease or illness. (7-1-16)

04. Occupational Therapy Services. Therapy services that: (4-2-08)

a. Are provided within the scope of practice of licensed occupational therapy professionals; (7-1-16)

b. Are necessary for the evaluation and treatment of impairments, functional disabilities, or changes in physical function and health status; and (4-2-08)

c. Improve the individual's ability to perform those tasks required for independent functioning. (4-2-08)

05. Physical Therapy Services. Therapy services that: (4-2-08)

a. Are provided within the scope of practice of licensed physical therapy professionals; (7-1-16)

b. Are necessary for the evaluation and treatment of physical impairment or injury by the use of therapeutic exercise and the application of modalities that are intended to restore optimal function or normal development; and (4-2-08)

c. Focus on the rehabilitation and prevention of neuromuscular, musculoskeletal, integumentary, and cardiopulmonary disabilities. (4-2-08)

06. Speech-Language Pathology Services. Therapy services that are: (4-2-08)

a. Provided within the scope of practice of licensed speech-language pathologists; and (4-2-08)

b. Necessary for the evaluation and treatment of speech and language disorders that result in communication disabilities; or (4-2-08)

c. Necessary for the evaluation and treatment of swallowing disorders (dysphagia), regardless of the presence of a communication disability. (4-2-08)

07. Therapeutic Procedures. Therapeutic procedures are the application of clinical skills, services, or both, that attempt to improve function. (4-2-08)

08. Therapist. An individual licensed by the appropriate Idaho state licensing board as an occupational therapist, physical therapist, or speech-language pathologist. (7-1-16)

09. Therapy Professional. An individual licensed by the appropriate Idaho state licensing board as an occupational therapist or occupational therapist assistant, physical therapist or physical therapist assistant, or speech-language pathologist. (7-1-16)

10. Therapy Services. Occupational therapy, physical therapy, and speech-language pathology services are all considered to be therapy services. These services are ordered by the participant's attending physician, nurse practitioner, or physician assistant as part of a plan of care. (4-2-08)

11. Treatment Modalities. A treatment modality is any physical agent applied to produce therapeutic changes to biological tissue, including the application of thermal, acoustic, light, mechanical or electrical energy. (4-2-08)

731. THERAPY SERVICES: PARTICIPANT ELIGIBILITY.
To be eligible for therapy services, a participant must be eligible for Medicaid benefits and must have: (4-2-08)

01. Physician Order. A physician order for therapy services; and (7-1-16)

02. A Therapy Evaluation Showing Need. A therapy evaluation of the participant showing a need for therapy due to a functional limitation, a loss or delay of skill, or both; and (4-2-08)

03. A Therapy Evaluation Establishing Participant Benefit. A therapy evaluation establishing that the participant will benefit and demonstrate progress as a result of the therapy services. (4-2-08)

732. THERAPY SERVICES: COVERAGE AND LIMITATIONS.
Therapy services are covered under these rules when delivered by a therapy professional and provided by one (1) of the following providers: outpatient hospitals, outpatient rehabilitation facilities, comprehensive outpatient rehabilitative facilities, nursing facilities, school-based services, independent practitioners, and home health agencies. Therapy services provided by a home health agency under a home health plan of care must meet the requirements found in Sections 730 through 739 of these rules, and the requirements found in Sections 720 through 729 of these rules. (7-1-18)

01. Service Description: **Occupational Therapy and Physical Therapy**. Modalities, therapeutic procedures, tests, and measurements as described in the Physical Medicine and Rehabilitation Subsection and the Neurology and Neuromuscular Procedures Subsection of the Physician's Current Procedural Terminology (CPT Manual) are covered with the following limitations: (4-2-08)

a. Any evaluation or re-evaluation may only be performed by the therapist. Any changes in the participant's condition not consistent with planned progress or treatment goals necessitate a documented re-evaluation by the therapist before further treatment is carried out. (4-2-08)

b. Any CPT procedure code that falls under the heading of either, “Active Wound Care Management,” or “Tests and Measurements,” requires the therapist to have direct, one-to-one (1:1) patient contact. (4-2-08)

c. The therapist may be reimbursed for the technical component of muscle testing, joint range of motion, electromyography, or nerve velocity determinations as described in the CPT Manual when ordered by a physician, nurse practitioner, or physician assistant. (4-2-08)

d. Any assessment provided under the heading “Orthotic Management and Prosthetic Management” must be completed by the therapist. (4-2-08)

e. Any modality that is defined as “unlisted” in the CPT Manual requires prior authorization by the Department. In this case, the therapist and the physician, nurse practitioner, or physician assistant must provide information in writing to the Department that documents the medical necessity of the modality requested. (4-2-08)

f. The services of occupational or physical therapy assistants used when providing covered therapy benefits are included as part of the covered service. These services are billed by the supervising therapist. Therapy assistants may not provide evaluation services, make clinical judgments or decisions, or take responsibility for the service. The therapist has full responsibility for the service provided. Therapy assistants act at the direction and under the supervision of the treating therapist and in accordance with state licensure rules. (7-1-16)

02. Service Description: Speech-Language Pathology. Speech-language pathology services must be provided as defined in Section 730 of these rules. Services provided by speech-language pathology aides and assistants are considered unskilled services, and will be denied as not medically necessary if they are billed as speech-language pathology services. (7-1-16)

03. Non-Covered Services: Occupational Therapy, Physical Therapy, and Speech-Language Pathology. (4-2-08)

a. Continuing services for participants who do not exhibit the capability to achieve measurable

improvement and who do not meet the criteria for a maintenance program. (7-1-16)

b. Services that address developmentally acceptable error patterns. (4-2-08)

c. Services that do not require the skills of a therapy professional. (7-1-16)

d. Massage, work hardening, and conditioning. (4-2-08)

e. Services that are not medically necessary, as defined in Section 011 of these rules. (4-2-08)

f. Duplicate services, as defined under Section 730 of these rules. (4-2-08)

g. Acupuncture (with or without electrical stimulation). (7-1-16)

h. Biofeedback, unless provided to treat urinary incontinence. (7-1-16)

i. Duplicate Services. (7-1-16)

j. Services that are considered to be experimental or investigational. (7-1-16)

k. Vocational Program. (7-1-16)

l. Vision Therapy. (7-1-16)

04. Service Limitations. (4-2-08)

a. Physical therapy (PT) and speech-language pathology (SLP) services are limited to a combined annual dollar amount for all PT and SLP services. The Department will set the total amount based on the annual Medicare caps. The Department may authorize additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (7-1-17)

b. Occupational therapy services are limited to an annual dollar amount set by the Department based on the annual Medicare caps. The Department may authorize additional therapy services, when the services are determined to be medically necessary and supporting documentation is provided upon request of the Department. (7-1-17)

c. Exceptions to service limitations. (3-29-12)

i. Therapy provided by home health agencies is subject to the limitations on home health services contained in Section 722 of these rules. (3-29-12)

ii. Therapy provided through school-based services or the Idaho Infant Toddler Program is not included in the service limitations under Subsection 732.04 of this rule. (7-1-13)

iii. Therapy provided to EPSDT participants under the age of twenty-one (21) in accordance with the EPSDT requirements contained in Sections 881 through 883 of these rules, and in Section 1905(r) of the Social Security Act, will be authorized by the Department when additional therapy services are medically necessary. (3-29-12)

d. Feeding therapy services are covered for children with a diagnosed feeding disorder that results in a clinically significant deviation from normal childhood development. The provider of feeding therapy is an occupational therapist or speech therapist with training specific to feeding therapy. (7-1-16)

e. Maintenance therapy is covered when an individualized assessment of the participant's condition demonstrates that skilled care is required to carry out a safe and effective maintenance program. (7-1-16)

f. Telehealth modalities are covered to the extent they are allowed under the rules of the applicable

board of licensing. The Department will define limitations on telehealth in the provider handbook to promote quality services and program integrity. (7-1-16)

733. THERAPY SERVICES: PROCEDURAL REQUIREMENTS.
The Department will pay for therapy services rendered by a therapy professional if such services are ordered by a physician, nurse practitioner, or physician assistant as part of a plan of care. (7-1-16)

01. Physician Orders. (4-2-08)

a. All therapy must be ordered by a physician, nurse practitioner, or physician assistant. Such orders must include at a minimum, the service to be provided, the frequency, and, where applicable, the expected duration of time for which the therapy will be needed. If the initial order is to evaluate and treat, but does not specify at least the type of service ordered and the frequency, then: (7-1-16)

i. The therapist may perform a therapy evaluation based on the initial physician order for the evaluation; and (7-1-16)

ii. The therapist must then develop a therapy plan of care based on that evaluation and send the plan to the ordering physician, nurse practitioner, or physician assistant and begin care; and (7-1-16)

iii. The physician, nurse practitioner, or physician assistant must either sign an order specifying the service to be provided, the frequency and the duration, or they must sign the therapy plan of care that includes that information within thirty (30) days for therapy to continue. No claims may be billed until the complete order or the plan of care is signed by the physician, nurse practitioner, or physician assistant. (7-1-16)

b. In the event that services are required for extended periods, these services must be reordered as necessary, but at least every ninety (90) days for all participants with the following exceptions: (5-8-09)

i. Therapy provided by home health agencies must be included in the home health plan of care and be reordered at least every sixty (60) days. (4-2-08)

ii. Therapy for individuals with long-term medical conditions, as documented by physician, nurse practitioner, or physician assistant, must be reordered at least every three hundred sixty-five (365) days. (7-1-16)

c. Therapy services provided under a home health plan of care must comply with the physician order requirements in Section 723 of these rules. (7-1-17)

02. Level of Supervision. Supervision of physical therapist assistants and occupational therapist assistants by the physical therapist or occupational therapist must be done according to the rules of the applicable licensure board. (7-1-16)

03. Face-to-Face Encounter for Home Health Therapy Services. Therapy services provided under a home health plan of care must comply with the face-to-face encounter requirements in Section 723 of these rules. (7-1-17)

04. Therapy Plan of Care. All therapy services must be provided under a therapy plan of care that is established prior to beginning treatment. (7-1-17)

a. The plan of care must be signed by the person who established the plan. (7-1-17)

b. The plan of care must be consistent with the therapy evaluation and must contain, at a minimum: (7-1-17)

i. Diagnoses; (7-1-16)

ii. Treatment goals that are measurable and pertain to the identified functional impairment(s); and (7-1-16)

iii. Type, frequency, and duration of therapy services. (7-1-16)

c. Therapy services provided under a home health plan of care must comply with the home health plan of care requirements in Section 723 of these rules. (7-1-17)

734. THERAPY SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
The following providers are qualified to provide therapy services as Medicaid providers. (4-2-08)

01. Occupational Therapist, Licensed. A person licensed by the State Board of Medicine to conduct occupational therapy assessment and therapy in accordance with the Occupational Therapy Practice Act, Title 54, Chapter 37, Idaho Code, and IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." (7-1-16)

02. Physical Therapist, Licensed. A person licensed by the Physical Therapy Licensure Board to conduct physical therapy assessments and therapy in accordance with the Physical Therapy Practice Act, Title 54, Chapter 22, Idaho Code, and IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board." (4-2-08)

03. Speech-Language Pathologist, Licensed. A person licensed by the Speech and Hearing Services Licensure Board to conduct speech-language assessments and therapy in accordance with the Speech and Hearing Services Practice Act, Title 54, Chapter 29, Idaho Code, and IDAPA 24.23.01, "Rules of the Speech and Hearing Services Licensure Board," who possesses a certificate of clinical competence in speech-language pathology from the American Speech, Language, and Hearing Association (ASHA) or who will be eligible for certification within one (1) year of employment. (4-2-08)

735. THERAPY SERVICES: PROVIDER REIMBURSEMENT.

01. Payment for Therapy Services. The payment for therapy includes the use of therapeutic equipment to provide the modality or therapy. No additional charge may be made to either the Medicaid program or the participant for the use of such equipment. (4-2-08)

02. Payment Procedures. Payment procedures are as follows: (3-30-07)

a. Therapy provided by home health agencies will be paid at a per visit rate as described in Section 725 of these rules and in accordance with IDAPA 16.03.07, "Home Health Agencies." (4-2-08)

b. Therapists enrolled with Medicaid as independent practitioners and licensed by the appropriate state licensing board will be reimbursed on a fee-for-service basis. Only those independent practitioners who have been enrolled as Medicaid providers can bill the Department directly for their services. A therapy assistant cannot bill Medicaid directly. The maximum fee will be based upon the Department's fee schedule, available from the central office for the Division of Medicaid. (3-20-14)

c. Therapy rendered on-site to hospital inpatients or outpatients will be paid at a rate not to exceed the payment determined as reasonable cost using Title XVIII (Medicare) standards and principles. (4-2-08)

d. Payment for therapy services rendered to participants in long-term care facilities is included in the facility reimbursement as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-13)

e. Payment for therapy services rendered to participants in school-based services is described in Section 855 of these rules. (4-2-08)

736. THERAPY SERVICES: QUALITY ASSURANCE ACTIVITIES.

01. Unreimbursable Services and Penalties. Therapy services that are not medically necessary or that are not specifically covered by these rules are not reimbursable, and if paid are subject to recoupment and penalties under IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." (4-2-08)

02. Therapist Conditions and Requirements. The therapist is required to formulate all therapy interventions in accordance with the applicable licensure rules in IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," or IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," or IDAPA 24.23.01, "Rules of the Speech and Hearing Services Licensure Board," as well as the applicable association's professional Code of Ethics and Standards supporting best practice. (4-2-08)

03. Documentation. (4-2-08)

a. The provider must maintain financial and other records in sufficient detail to allow the Department to audit them as described in Section 305 of these rules. (4-2-08)

b. The following documentation must be maintained in the files of the provider: (4-2-08)

i. Physician, nurse practitioner, or physician assistant orders for therapy services; (4-2-08)

ii. Therapy plans of care; and (4-2-08)

iii. Progress or other notes documenting each assessment, each therapy session, and results of tests and measurements related to therapy services. (4-2-08)

c. The provider must grant the Department immediate access to all information required to review compliance with these rules, as required in Section 330 of these rules. The absence of such documentation is cause for recoupment of Medicaid payment. (4-2-08)

737. -- 739. (RESERVED)

SUB AREA: AUDIOLOGY SERVICES
(Sections 740 - 749)

740. AUDIOLOGY SERVICES.

Audiology services are diagnostic, screening, preventive, or corrective services provided by an audiologist. These services must be provided in accordance with Title 54, Chapter 29, Idaho Code, and require the order of a physician, nurse practitioner, or physician assistant. Audiology services do not include equipment needed by the patient such as communication devices or environmental controls. (4-2-08)

741. AUDIOLOGY SERVICES: PARTICIPANT ELIGIBILITY.

01. All Participants. All participants are eligible to receive diagnostic screening services necessary to obtain a differential diagnosis. (3-29-12)

02. Participants Under the Age of 21. Participants under the age of twenty-one (21) are eligible for all services listed in Section 742 of these rules. (3-29-12)

742. AUDIOLOGY SERVICES: COVERAGE AND LIMITATIONS.

All audiology services must be ordered by a physician or non-physician practitioner. The Department will pay for routine audiometric examination and testing once in each calendar year, and audiometric services and supplies in accordance with the following guidelines and limitations: (7-1-17)

01. Non-Implantable Hearing Aids. When there is a documented hearing loss of at least thirty (30) decibels based on the standard Pure Tone Average (500, 1000, 2000 hertz), the Department will cover the purchase of non-implantable hearing aids for participants under the age of twenty-one (21) with the following requirements and limitations: (3-29-12)

a. Covered services included with the purchase of the hearing aid include proper fitting and refitting of the ear mold or aid, or both, during the first year, instructions related to the aid's use, and extended insurance coverage for two (2) years. (3-30-07)

b. The following services may be covered in addition to the purchase of the hearing aid for participants under the age of twenty-one (21): batteries purchased on a monthly basis, follow-up testing, necessary repairs resulting from normal use after the second year, and the refitting of the hearing aid or additional ear molds no more often than forty-eight (48) months from the last fitting. (3-29-12)

c. Lost, misplaced, stolen or destroyed hearing aids are the responsibility of the participant. The Department has no responsibility for the replacement of any hearing aid. In addition, the Department has no responsibility for the repair of hearing aids that have been damaged as a result of neglect, abuse or use of the aid in a manner for which it was not intended. (3-30-07)

02. Implantable Hearing Aids. The Department may cover a surgically implantable hearing aid for participants under the age of twenty-one (21) when: (3-29-12)

a. There is a documented hearing loss as described in Subsection 742.01 of this rule; (4-2-08)

b. Non-implantable options have been tried, but have not been successful; and (4-2-08)

c. The Department has determined that a surgically implanted hearing aid is medically necessary through the prior authorization process. The Department will consider the guidelines of private and public payers, evidence-based national standards or medical practice, and the medical necessity of each participant's case. (3-29-12)

03. Provider Documentation Requirements. The following information must be documented and kept on file by the provider: (4-2-08)

a. The participant's diagnosis; (4-2-08)

b. The results of the basic comprehensive audiometric exam that include pure tone, air and bone conduction, speech reception threshold, most comfortable loudness, discrimination and impedance testing; and (4-2-08)

c. The brand name and model type of the hearing aid needed. (4-2-08)

04. Allowance to Waive Impedance Test. The Department will allow a medical doctor to waive the impedance test based on their documented judgment. (4-2-08)

743. AUDIOLOGY SERVICES: PROCEDURAL REQUIREMENTS.

01. Audiology Examinations. Basic audiometric testing by licensed audiologists or licensed physicians will be covered without prior approval. (3-30-07)

02. Additional Testing. Any hearing testing beyond the basic comprehensive audiometry and impedance testing must be ordered in writing before the testing is done and kept on file by the provider. (3-30-07)

744. AUDIOLOGY SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

The following are qualified to provide audiology services as Medicaid providers: (3-30-07)

01. Audiologist, Licensed. A person licensed to conduct hearing assessment and therapy, in accordance with the Speech and Hearing Services Practice Act, Title 54, Chapter 29, Idaho Code, who either possesses a certificate of clinical competence in audiology from the American Speech, Language and Hearing Association (ASHA) or will be eligible for certification within one (1) year of employment. (3-30-07)

02. Speech-Language Pathologist, Licensed. A person licensed to conduct speech-language assessment and therapy in accordance with the Speech and Hearing Services Practice Act, Title 54, Chapter 29, Idaho Code, who possesses a certificate of clinical competence in speech-language pathology from the American Speech, Language and Hearing Association (ASHA) or who will be eligible for certification within one (1) year of employment. (3-30-07)

745. AUDIOLOGY SERVICES: PROVIDER REIMBURSEMENT.

01. Payment Procedures. The following procedures must be followed when billing the Department: (3-30-07)

a. The Department will only pay the hearing aid provider for an eligible Medicaid participant if a properly completed claim is submitted to the Department within the one (1) year billing limitation. (3-30-07)

b. Payment will be based upon the Department's fee schedule in accordance with Section 230 of these rules). (3-30-07)

02. Limitations. The following limitations apply to audiometric services and supplies: (3-30-07)

a. Hearing aid selection is restricted to the most cost-effective type and model that meets the participant's medical needs. (3-30-07)

b. Follow-up services are included in the purchase of the hearing aid for the first two (2) years including repair, servicing and refitting of ear molds. ( )

c. Providers are required to maintain warranty and insurance information on file on each hearing aid purchased from them by the Department and are responsible for exercising the use of the warranty or insurance during the first year following the purchase of the hearing aid. (3-30-07)

d. Providers must not bill participants for charges in excess of the fees allowed by the Department for materials and services. (3-30-07)

746. -- 749. (RESERVED)

**SUB AREA: DURABLE MEDICAL EQUIPMENT AND SUPPLIES
(Sections 750 - 779)**

750. (RESERVED)

751. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: PARTICIPANT RESPONSIBILITY.
The participant has a responsibility to reasonably protect and preserve equipment issued to them. Replacement of medical equipment or supplies that are lost, damaged or broken due to participant misuse or abuse are the responsibility of the participant. (7-1-17)

752. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: COVERAGE AND LIMITATIONS.
The Department will purchase or rent, when medically necessary, reasonable and cost-effective, durable medical equipment (DME) and medical supplies that are suitable for use in any setting in which normal life activities take place. Medical supplies, equipment, and appliances provided by a home health agency under a home health plan of care must meet the requirements found in Sections 750 through 779 of these rules and the requirements found in Sections 720 through 729 of these rules. (7-1-17)

01. Medical Necessity Criteria -- Equipment and Supplies. Department standards for medical necessity are those national standards set by Centers for Medicare and Medicaid Services (CMS) in the CMS/ Medicare DME coverage manual. Exceptions to Medicare coverage are described in the Idaho Medicaid Provider Handbook available at: www.idmedicaid.com. Items for convenience, comfort, or cosmetic reasons are not covered. (7-1-17)

02. Prior Authorization -- Equipment and Supplies. (7-1-17)

a. Unless otherwise specified by the Department in the provider handbook, durable medical equipment and medical supplies require prior authorization by the Department. (7-1-17)

b. Each request for prior authorization must include all medical necessity documentation required under Section 753 of these rules. (7-1-17)

c. The Medicaid fee schedule that identifies medical supplies, equipment, and appliances commonly ordered for Medicaid participants, is not a comprehensive list of all medical supplies, equipment, and appliances available to Medicaid participants. If a participant requires an item that is not listed on the fee schedule, a request may be submitted to the Department to assess items for coverage. This request must include justification of the medical necessity, amount of, and duration for the item or service. (7-1-17)

03. Coverage Conditions -- Equipment. Medical equipment is subject to coverage limitations in the CMS/Medicare DME coverage manual. Exceptions to these coverage conditions and coverage conditions for medically necessary equipment not included in that manual are described in the Idaho Medicaid Provider Handbook available at: www.idmedicaid.com. Exceptions must be established using evidence-based or best clinical practice standards as determined by the Department. (7-1-17)

04. Coverage Conditions -- Supplies. (7-1-17)

a. The Department will purchase no more than a one (1) month supply of necessary medical supplies per month for the treatment or amelioration of a medical condition identified by the attending physician. Supplies in excess of the limitations in the CMS/Medicare DME coverage manual must be prior authorized by the Department. (7-1-17)

b. Medical supplies are subject to the coverage limitations in the CMS/Medicare DME coverage manual. Exceptions to these coverage conditions and coverage conditions for medically necessary supplies not included in that manual are described in the Idaho Medicaid Provider Handbook available at: www.idmedicaid.com. Exceptions must be established using evidence-based or best clinical practice standards as determined by the Department. (7-1-17)

753. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: PROCEDURAL REQUIREMENTS.

01. Physician Orders. (7-1-17)

a. All medical supplies, equipment, and appliances must be ordered by a physician. Such orders must meet the requirements described in the CMS/Medicare DME coverage manual. (7-1-17)

b. Date of delivery is considered the date of service. (7-1-17)

c. In the event that medical equipment and supplies are required for extended periods, these must be reordered as necessary, but at least annually, for all participants. (7-1-17)

d. The following information to support the medical necessity of the item(s) must be included in the physician's order and accompany all requests for prior authorization, or be kept on file with the DME provider for items that do not require prior authorization: (7-1-17)

i. The participant's medical diagnosis, including current information on the medical condition that requires the use of the supplies or medical equipment, or both; (7-1-17)

ii. An estimate of the time period that the medical equipment or supply item will be necessary and frequency of use. As needed (PRN) orders must include the conditions for use and the expected frequency; (7-1-17)

iii. For medical equipment, a full description of the equipment needed. All modifications or attachments to the basic equipment must be supported; (7-1-17)

iv. For medical supplies, the type and quantity of supplies necessary must be identified; and (7-1-17)

v. Documentation of the participant's medical necessity for the item, that meets coverage criteria in the CMS/Medicare DME coverage manual. (7-1-17)

vi. Additional information may be requested by the Department for specific equipment or supplies, or both, including equipment for which CMS/Medicare has established no coverage criteria. (7-1-17)

02. Face-to-Face Encounter for Home Health Medical Supplies, Equipment, and Appliances. Medical supplies, equipment, and appliances provided under a home health plan of care must comply with the face-to-face encounter requirements in Section 723 of these rules. (7-1-17)

03. Plan of Care Requirements for Home Health Medical Supplies, Equipment, and Appliances. Medical supplies, equipment, and appliances provided under a home health plan of care must comply with the home health plan of care requirements in Section 723 of these rules. (7-1-17)

04. Prior Authorizations. (7-1-17)

a. Prior authorization means a written, faxed, or electronic approval from the Department that permits payment or coverage of a medical item or service that is covered only by such authorization. (7-1-17)

i. Medicaid payment will be denied for the medical item or service or portions thereof that were provided prior to the submission of a valid prior authorization request. (7-1-17)

ii. The provider may not bill the Medicaid participant for services not reimbursed by Medicaid solely because the authorization was not requested or obtained in a timely manner. An exception may be allowed on a case-by-case basis where, despite diligent efforts on the part of the provider to submit a request, or events beyond the provider's control prevented it. (7-1-17)

b. An item or service will be deemed prior approved where the individual to whom the service was provided was not eligible for Medicaid at the time the service was provided, but was subsequently found eligible under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled," and the medical item or service provided is approved by the Department by the same guidance that applies to other prior authorization requests. (7-1-17)

c. A valid prior authorization request is a written, faxed, or electronic request from a provider of Medicaid for services that contains all information and documentation as required by these rules to justify the medical necessity, amount of and duration for the item or service. (3-30-07)

05. Notification of Changes to Prior Authorization Requirements. The Department will provide sixty (60) days notice of any substantive and significant changes to requirements for prior authorization in its provider handbook. The Department will provide a method to allow providers to provide input and comment on proposed changes. (7-1-17)

06. Equipment Rental -- Purchase Procedures. Unless specified by the Department, all equipment must be rented except when it would be more cost effective to purchase it. Rentals are subject to the following guidelines: (7-1-17)

a. Rental payments, including intermittent payments, are to be automatically applied to the purchase of the equipment. (3-30-07)

b. The Department may choose to continue to rent certain equipment without purchasing it. Such items include apnea monitors, ventilators, and other respiratory equipment. (3-30-07)

c. The total monthly rental cost of a DME item must not exceed one-tenth (1/10) of the total purchase price of the item. (3-30-07)

07. Notice of Decision. A Notice of Decision approving or denying a requested item will be issued to

the participant by the Department. The participant has twenty-eight (28) days from the date of the denial to request a fair hearing on the decision. Hearings will be conducted in accordance with IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (7-1-17)

754. (RESERVED)

755. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: PROVIDER REIMBURSEMENT.

01. Items Included in Per Diem Excluded. No payment will be made for any participant's DME or medical supplies that are included in the per diem payment while such an individual is an inpatient in a hospital nursing facility or ICF/ID. (3-30-07)

02. Least Costly Limitation. When multiple features, models or brands of equipment or supplies are available, coverage will be limited to the least costly version that will reasonably and effectively meet the minimum requirements of the individual's medical needs. (3-30-07)

03. Billing Procedures. The Department will provide billing instructions to providers of DME/medical supplies. When prior authorization by the Department is required, the authorization number must be included on the claim form. (3-30-07)

04. Fees and Upper Limits. The Department will reimburse according to Section 230 of these rules. (3-30-07)

05. Date of Service. Unless specifically authorized by the Department the date of services for durable medical equipment and supplies is the date of delivery of the equipment or supply(s)*, or both*. The date of service cannot be prior to the vendor receiving all medical necessity documentation. *( )*

06. Manually Priced Codes. For codes that are manually priced, including miscellaneous codes, a copy of the manufacturer's suggested retail pricing (MSRP) or an invoice or quote from the manufacturer is required. Reimbursement will be seventy-five percent (75%) of MSRP. If the pricing documentation is the invoice, reimbursement will be at cost plus ten percent (10%), plus shipping, if that documentation is provided. (7-1-17)

07. Warranties and Cost of Repairs. No reimbursement will be made for the cost of repairs (materials or labor, or both) covered under the manufacturer's warranty. The date of purchase and the warranty period must be kept on file by the DME vendor. The following warranty periods are required to be provided on equipment purchased by the Department: (7-1-17)

a. A power drive wheelchair must have a minimum one (1) year warranty period; (7-1-17)

b. An ultra-light or high-strength lightweight wheelchair must have a lifetime warranty period on the frame and crossbraces; (7-1-17)

c. All other wheelchairs must have a minimum one (1) year warranty period; (7-1-17)

d. All electrical components and new or replacement parts must have a minimum six (6) month warranty period; (7-1-17)

e. All other DME not specified in Subsections 755.07.a. through 755.07.d. of this rule must have a minimum one (1) year warranty period; (7-1-17)

f. If the manufacturer denies the warranty due to user misuse or abuse, or both, that information must be forwarded to the Department at the time of the request for repair or replacement; (7-1-17)

g. The monthly rental payment must include a full service warranty. All routine maintenance, repairs, and replacement of rental equipment are the responsibility of the provider. (7-1-17)

756. DURABLE MEDICAL EQUIPMENT AND SUPPLIES: QUALITY ASSURANCE.

The use or provision of DME/medical supply items to an individual other than the participant for which such items were ordered is prohibited. The provision of DME/medical supply items that is not supported by required medical necessity documentation is prohibited and subject to recoupment. Violators are subject to penalties for program fraud or abuse*, or both, that* will be enforced by the Department. The Department has no obligation to repair or replace any piece of durable medical equipment that has been damaged, defaced, lost, or destroyed as a result of neglect, abuse, or misuse of the equipment. Participants suspected of the same will be reported to the Surveillance and Utilization Review (SUR/S) committee. *( )*

***757*. -- 770. (RESERVED)**

771. PROSTHETIC AND ORTHOTIC SERVICES: PARTICIPANT ELIGIBILITY.
The Medical Assistance Program will purchase or repair*, or both,* medically necessary prosthetic and orthotic devices and related services *that* artificially replace a missing portion of the body or support a weak or deformed portion of the body within the limitations established by the Department. *( )*

772. PROSTHETIC AND ORTHOTIC SERVICES: COVERAGE AND LIMITATIONS.

01. Program Requirements. The following program requirements will be applicable for all prosthetic and orthotic devices or services purchased by the Department: (3-30-07)

a. A temporary lower limb prosthesis will be purchased when documented by the attending physician that it is in the best interest of the participant's rehabilitation to have a temporary lower limb prosthesis prior to a permanent limb prosthesis. A new permanent limb prosthesis will only be requested after the residual limb size is considered stable; (3-30-07)

b. A request for a replacement prosthesis or orthotic device must be justified to be the least costly alternative as opposed to repairing or modifying the current prosthesis or orthotic device; (3-30-07)

c. All prosthetic and orthotic devices that require fitting must be provided by an individual who is certified or registered by the American Board for Certification in Orthotics or Prosthetics*, or both*; *( )*

d. All equipment that is purchased must be new at the time of purchase. Modification to existing prosthetic or orthotic equipment*, or both,* will be covered by the Department; *( )*

e. Prosthetic limbs purchased by the Department must be guaranteed to fit properly for three (3) months from the date of service; therefore, any modifications, adjustments, or replacements within the three (3) months are the responsibility of the provider that supplied the item at no additional cost to the Department or the participant; (3-30-07)

f. Not more than ninety (90) days may elapse between the time the attending physician orders the equipment and the preauthorization request is presented to the Department for consideration; (3-30-07)

g. A reusable prosthetic or orthotic device purchased by the Department will remain the property of the Department and return of the device to the Department may be required when: (3-30-07)

i. The participant no longer requires the use of the device; or (3-30-07)

ii. The participant expires. (3-30-07)

02. Program Limitations. The following limitations apply to all prosthetic and orthotic services and equipment: (3-30-07)

a. No replacement will be allowed for prosthetic or orthotic devices within sixty (60) months of the date of purchase except in cases where there is clear documentation that there has been major physical change to the residual limb, and ordered by the attending physician; (3-30-07)

b. Refitting, repairs, or additional parts must be limited to once per calendar year for all prosthetics or

orthotics, *or both,* unless it has been documented that a major medical change has occurred to the limb, and ordered by the attending physician; *( )*

c. All refitting, repairs or alterations require preauthorization based on medical justification by the participant's attending physician; (3-30-07)

d. Prosthetic and orthotic devices provided for cosmetic or convenience purposes are not covered by the Department. (3-30-07)

e. Electronically powered or enhanced prosthetic devices are not covered; (3-30-07)

f. The Department will only authorize corrective shoes or modification to an existing shoe owned by the participant when they are attached to an orthosis or prosthesis or when specially constructed to provide for a totally or partially missing foot; (3-30-07)

g. Shoes and accessories such as mismatch shoes, comfort shoes following surgery, shoes to support an overweight individual, or shoes used as bandage following foot surgery, arch supports, foot pads, metatarsal head appliances or foot supports are not covered; and (3-30-07)

h. Corsets are not a benefit nor are canvas braces with plastic or metal bones. However, special braces enabling a participant to ambulate will be covered when the attending physician documents that the only other method of treatment for this condition would be application of a cast. (3-30-07)

773. PROSTHETIC AND ORTHOTIC SERVICES: PROCEDURAL REQUIREMENTS.
Prosthetic and orthotic devices and services will be paid for only if prescribed by a physician. The following information must be included in the physicians order and must be kept on file by the provider: (3-30-07)

01. Full Description of the Services Requested. A full description of the services requested; (3-30-07)

02. Number of Months the Equipment Will Be Needed and the Participant's Prognosis. Number of months the equipment will be needed and the participant's prognosis; (3-30-07)

03. Participant's Medical Diagnosis and Condition. The participant's medical diagnosis and the condition *that* requires the use of the prosthetic or orthotic services, *or both,* supplies, equipment or modifications, *or both*; and *( )*

04. Modifications to the Prosthetic or Orthotic Device. All modifications to the prosthetic or orthotic device must be supported by the attending physician's description on the prescription. (3-30-07)

774. (RESERVED)

775. PROSTHETIC AND ORTHOTIC SERVICES: PROVIDER REIMBURSEMENT.
The Department will reimburse according to Section 230 of these rules. (3-30-07)

776. -- 779. (RESERVED)

SUB AREA: VISION SERVICES
(Sections 780 - 789)

780. *-- 781.* (RESERVED)

782. VISION SERVICES: COVERAGE AND LIMITATIONS.
The Department will pay for vision services and supplies in accordance with the guidelines and limitations listed below. (3-30-07)

01. Eye Examinations. (3-29-12)

a. The Department will pay participating physicians and optometrists for one (1) eye examination during any twelve (12) month period to determine the need for glasses to correct a refractive error. (3-29-12)

b. The Department will pay for eyeglasses within Department guidelines following a diagnosis of visual defects and a recommendation that eyeglasses are needed for correction of a refractive error. (3-29-12)

02. Lenses. *L*enses, single vision or bifocal, will be purchased by the Department not more often than once every four (4) years except when there is documentation of a major visual change as defined by the Department. *( )*

a. Scratch resistant coating is required for all plastic and polycarbonate lenses (3-30-07)

b. Payment for tinted lenses will only be made when there is a diagnosis of albinism or in the case of other extreme medical conditions as defined by the Department as defined in the Provider Handbook. Documentation must be kept on file by both the examining and supplying providers. *( )*

c. All contact lenses require prior authorization by the Department. Contact lenses will be covered for participants only with documentation of: *( )*

i. A need for correction equal to or greater than plus or minus ten (±10) diopters; or (3-29-12)

ii. An extreme medical condition that does not allow correction through the use of conventional lenses, such as cataract surgery, keratoconus, anisometropia, or other extreme conditions as defined by the Department. (3-29-12)

03. Replacement Lenses. Replacement lenses will be purchased for participants under the age of twenty-one (21) prior to the four (4) year limitation only with documentation of a major visual change as defined by the Department in the Idaho Medicaid Provider Handbook. Replacement lenses for participants age twenty-one (21) and older will be purchased when necessary to prevent permanent damage to the eye. (3-29-12)

04. Frames. Frames will be purchased according to the following guidelines: (3-30-07)

a. One (1) set of frames will be purchased by the Department for eligible participants not more often than once every four (4) years; *( )*

b. When it is documented by the vision provider that there has been a major change in visual acuity that cannot be accommodated in lenses that will fit in the existing frames, new frames also may be authorized. (3-29-12)

05. Fitting Fees. Fitting fees for either contact lenses or conventional frames and lenses are covered only when the participant is eligible under the Medicaid program guidelines to receive the supplies associated with the fitting fee. (3-29-12)

06. Non-Covered Items. A Medicaid Provider may receive payment from a Medicaid participant for vision services that are either not covered by the State Plan, or include special features or characteristics that are desired by the participant but are not medically necessary. (3-29-12)

a. Non-covered items include Trifocal lenses, Progressive lenses, photo gray, and tint. (3-29-12)

b. Replacement of broken, lost, or missing glasses is the responsibility of the participant. (3-29-12)

783. -- 784. (RESERVED)

785. VISION SERVICES: PROVIDER REIMBURSEMENT.
All eyeglass frames and lenses provided to Medicaid participants and paid for by the Medicaid Program will be purchased from the supplier designated by the Department. (3-30-07)

786. -- 799. (RESERVED)

SUB AREA: DENTAL SERVICES
(Sections 800 - 819)

800. DENTAL SERVICES: SELECTIVE CONTRACT FOR DENTAL COVERAGE.
All participants eligible for Medicaid dental benefits are covered under a selective contract for a dental insurance program called Idaho Smiles at http://www.healthandwelfare.idaho.gov/Medical/Medicaid/MedicalCare/DentalServices/tabid/696/Default.aspx. (4-11-19)

801. DENTAL SERVICES: DEFINITIONS.
For the purposes of dental services covered in Sections 800 through 807 of these rules, the following definitions apply: (3-29-12)

01. Adult. A person who is past the month of their twenty-first birthday. (3-29-12)

02. Child. A person from birth through the month of their twenty-first birthday. (3-29-12)

03. Idaho Smiles. A dental insurance program provided to eligible Medicaid participants through a selective contract between the Department and a dental insurance carrier. (3-29-12)

802. DENTAL SERVICES: PARTICIPANT ELIGIBILITY.
Children and adults eligible for Medicaid are eligible for Idaho Smiles dental benefits described in Section 803 of these rules. (4-11-19)

803. DENTAL SERVICES: COVERAGE AND LIMITATIONS.
Some covered dental services may be subject to limitations, authorization from the Idaho Smiles contractor or benefit restrictions according to the terms of its contract with the Department, in addition to those specified in these rules. (4-11-19)

01. Dental Coverage for Children. Children are covered for dental services that include preventative screenings, problem-focused and comprehensive exams, diagnostic, restorative, endodontic services (including root canals and crowns), periodontics, prosthodontic, orthodontic treatments, dentures, and oral surgery; (4-11-19)

02. Dental Limitation for Children. Orthodontics are limited to children who meet Medicaid eligibility requirements and the Idaho Medicaid Handicapping Malocclusion Index as determined by the State's contractor. (4-11-19)

03. Dental Coverage for Adults. Adults are covered for dental services that include preventative screenings, problem-focused and comprehensive exams, diagnostic, restorative, periodontics, prosthodontic, dentures, oral surgery, and endodontic services with limitations. (4-11-19)

04. Dental Limitation for Adults. Root canals and crowns are not covered. (4-11-19)

804. DENTAL SERVICES: PROCEDURAL REQUIREMENTS.
Providers must enroll in the Idaho Smiles network with the dental insurance contractor and meet both credentialing and quality assurance guidelines of the contractor. (3-29-12)

01. Administer Idaho Smiles. The contractor is responsible for administering the Idaho Smiles program, including dental claims processing, payments to providers, customer service, eligibility verification, and data reporting. ( )

02. Authorization. The contractor is responsible for authorization of covered dental services that require authorization prior to claim payment. (3-29-12)

03. Grievances. The contractor is responsible for tracking and reporting all grievances to the State's contract monitor. (4-11-19)

04. Appeals. Appeals are handled by a process between the contractor and the Department as specified in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," and in compliance with state and federal requirements. (4-11-19)

805. DENTAL SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Providers are credentialed by the contractor to ensure they meet licensing requirements of the Idaho Board of Dentistry standards. Providers' duties are based on the contract requirements and are monitored and enforced by the contractor. (3-29-12)

806. DENTAL SERVICES: PROVIDER REIMBURSEMENT.
The Idaho Smiles administrator reimburses dental providers on a fee-for-service basis under a Department-approved fee schedule. The State will collaborate with the contractor to establish rates that promote and ensure adequate access to dental services. (4-11-19)

807. DENTAL SERVICES: QUALITY ASSURANCE.
Providers are subject to the contractor's Quality Assurance guidelines including monitoring for potential fraud, overutilization, or abuse of Medicaid. The contractor is required to share such potential cases with the Medicaid Fraud Unit as discovered. (3-29-12)

808. -- 819. (RESERVED)

SUB AREA: ESSENTIAL PROVIDERS
(Sections 820 - 859)

820. RURAL HEALTH CLINIC (RHC) SERVICES.
A Rural Health Clinic is located in a rural area designated as a physician shortage area, and is neither a rehabilitation agency nor does it primarily provide for the care and treatment of mental diseases. (3-30-07)

821. -- 822. (RESERVED)

823. RURAL HEALTH CLINIC (RHC) SERVICES: COVERAGE AND LIMITATIONS.
RHC services are defined as follows: (3-30-07)

01. Physician Services. Physician services; (3-30-07)

02. Services and Supplies Incident to a Physician Service. Services and supplies incident to a physician service, which cannot be self administered; (3-30-07)

03. Physician Assistant Services. Physician assistant services; (3-30-07)

04. Nurse Practitioner or Clinical Nurse Specialist Services. Nurse practitioner or clinical nurse specialist services; (3-30-07)

05. Clinical Psychologist Services. Clinical psychologist services; (3-30-07)

06. Clinical Social Worker Services. Clinical social worker services; (3-30-07)

07. Other Services and Supplies. Services and supplies incident to a nurse practitioner, physician's assistant, clinical psychologist, or clinical social worker as would otherwise be covered by a physician service; or (3-30-07)

08. Home Health Agency Shortage Area Services. Part-time or intermittent nursing care, and related medical services to a home bound individual, when an RHC located in an area with a shortage of home health

agencies. (3-30-07)

824. -- *825.* (RESERVED)

826. RURAL HEALTH CLINIC (RHC) SERVICES: REIMBURSEMENT METHODOLOGY.

01. Payment. Payment for Federally Qualified Health Center and Rural Health Clinic services must be made in accordance with Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, P.L. 106-554, 42USC Section 1396a(bb), Subsections (1) through (4). (3-30-07)

02. RHC Encounter. An encounter, for RHC payment purposes, is a face-to-face contact for the provision of a medical or mental service between a clinic patient and a provider as specified in 823.01 through 823.06 of these rules. (3-30-07)

a. Each contact with a separate discipline of health professional (medical or mental) on the same day at the same location is considered a separate encounter. (3-30-07)

b. Reimbursement for services is limited to two (2) encounters per participant per day. (3-30-07)

c. As an exception to Subsection 826.02.a. of this rule, a second encounter with the same professional on the same day may be reimbursed; or (3-30-07)

d. As an exception to Subsection 826.02.b. of this rule, an additional encounter may be reimbursed, if the encounter is caused by an illness or injury that occurs later in time than the first encounter and requires additional diagnosis or treatment. (3-30-07)

e. A core service ordered by a health professional who did not perform the service but was performed by support staff is considered a single encounter. (3-30-07)

f. Multiple contacts with clinic staff of the same discipline (medical, mental) on the same day related to the same illness or injury are considered a single encounter. (3-30-07)

827. -- 829. (RESERVED)

830. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: DEFINITIONS.

01. Change in Intensity of Services of an FQHC. A change in the intensity of services of an FQHC means a change in the quantity and complexity of services delivered that could change an FQHC's total allowable cost per encounter. This does not include an expansion or remodeling of an existing FQHC. This may include such things as the addition of new services or the deletion of existing services. (4-2-08)

02. Encounter. An encounter, for FQHC payment purposes, is a face-to-face contact for the provision of medical/mental or dental services between a FQHC patient and a provider as specified in Subsections 832.01 through 832.07 of these rules. For the purposes of establishing encounter rates, the term “medical/mental” refers to a single category of service. (4-2-08)

03. Encounter Rate. An encounter rate can be of two (2) types, either medical/mental or dental; either of these two (2) types can be either an interim rate or a finalized rate. An encounter rate is the total amount of annual costs for the type of encounter divided by the total number of encounters for that type of encounter for the FQHC’s fiscal year. (4-2-08)

a. Interim Encounter Rate. If the FQHC is new and historical cost information is not available, the Department sets the interim encounter rate using budgeted cost and encounter information submitted by the provider. If the FQHC is not able to obtain its financial budget information, the Department sets the interim encounter rate by referring to encounter rates paid to other FQHCs in the same or adjacent regional areas with similar caseloads. (4-2-08)

b. Finalized Encounter Rate. If the FQHC is an existing facility and has at least twenty-four (24) consecutive months of historical cost and encounter information, the Department uses the second full twelve (12) month audited Medicare cost report to calculate a finalized encounter rate. (4-2-08)

04. Federally Qualified Health Centers (FQHCs). Federally qualified health centers are defined in federal law at 42 USC Section 1396d(1)(2), which incorporates the definition at 42 USC Section 1395x(aa)(1), and includes community health centers, migrant health centers, providers of care for the homeless, and outpatient health programs or clinics operated by a tribe or tribal organization under the Indian Self-Determination Act (P.L. 93-638). It also includes clinics that qualify for, but are not actually receiving, grant funds according to Sections 329, 330, or 340 of the Public Health Service Act (42 USC Sections 201, et seq.) that may provide ambulatory services to medical assistance participants. (4-2-08)

05. Medicare Cost Report Period. The period of time covered by the Medicare-required annual report of an FQHC's costs. (4-2-08)

06. Medicare Economic Index (MEI). MEI is an annual measure of inflation designed to estimate the increase in the total cost for the average physician to operate a medical practice. The MEI takes into account cost categories such as a physician's own time, non-physician employees' compensation, rents, and medical equipment. The MEI is used in establishing the annual changes to the payment conversion factors used as part of the methodology for determining FQHC reimbursement rates. (4-2-08)

831. (RESERVED)

832. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: COVERAGE AND LIMITATIONS.
FQHC services are defined as follows: (3-30-07)

01. Physician Services. Physician services; or (3-30-07)

02. Incidental Services and Supplies to Physician Services. Services and supplies incidental to physician services, including drugs and pharmaceuticals that cannot be self-administered; or (3-30-07)

03. Physician Assistant Services. Physician assistant services; or (3-30-07)

04. Nurse Practitioner or Clinical Nurse Specialist Services. Nurse practitioner or clinical nurse specialist services; or (3-30-07)

05. Clinical Psychologist Services. Clinical psychologist services; or (3-30-07)

06. Clinical Social Worker Services. Clinical social worker services; or (3-30-07)

07. Licensed Dentist and Dental Hygienist Services. Licensed dentist and dental hygienist services; or (3-30-07)

08. Incidental Services and Supplies to Non-Physicians. Services and supplies incident to a nurse practitioner, physician's assistant, clinical psychologist, clinical social worker, or dentist or dental hygienist services that would otherwise be covered if furnished by or incident to physician services; or (3-30-07)

09. FQHC Services. In the case of an FQHC that is located in an area that has a shortage of home health agencies, FQHC services are part-time or intermittent nursing care and related medical services to a home-bound individual; and (3-30-07)

10. Other Payable Medical Assistance Ambulatory Services. Other payable medical assistance ambulatory services offered by the Idaho Medicaid program that the FQHC undertakes to provide, including pneumococcal or immunization vaccine and its administration. (3-30-07)

833. *-- 834* (RESERVED)

835. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: REIMBURSEMENT METHODOLOGY.

01. Payment. Payment for Federally Qualified Health Center and Rural Health Clinic services must be made in accordance with Section 702 of the Medicare, Medicaid, and SCHIP Benefits Improvement and Protection Act of 2000, P.L. 106-554, 42 USC Section 1396a(bb), Subsections (1) through (4). (3-30-07)

02. FQHC Encounter Limitations and Exceptions. FQHC encounters have the following limitations and exceptions to these limitations as described in Subsections 835.02.a. through 835.02.d. of this rule: (4-2-08)

a. Each contact with a separate discipline of health professional (medical/mental or dental), on the same day at the same location, is considered a separate encounter. All contacts with all practitioners within a disciplinary category (medical/mental or dental) on the same day is one (1) encounter. (4-2-08)

b. Reimbursement for services is limited to three (3) encounters per participant per day. (3-30-07)

c. As an exception to Subsection 835.02.a. of this rule, a second encounter with the same professional on the same day may be reimbursed; or (4-2-08)

d. As an exception to Subsection 835.02.b. of this rule, an additional encounter may be reimbursed, if the encounter is caused by an illness or injury that occurs later in time than the first encounter and requires additional diagnosis or treatment. (4-2-08)

836. FEDERALLY QUALIFIED HEALTH CENTER (FQHC) SERVICES: RATE SETTING METHODOLOGY.

01. Prospective Payment System. (4-2-08)

a. For rate periods beginning on January 1, 2001, the Department will establish separate, finalized rates for medical/mental encounters and for dental encounters. The Department will prospectively set these finalized encounter rates using the FQHC's medical/mental and dental encounter costs. (4-2-08)

b. Beginning in federal fiscal year 2002, and for each federal fiscal year thereafter, the Department will pay each FQHC an encounter rate equal to the amount paid in the previous federal fiscal year. For the period starting with federal fiscal year 2002 and thereafter, the Department will adjust the encounter rate for inflation using the Medicaid Economic Index (MEI), as published by CMS. For both medical/mental encounters and dental encounters, FQHCs are paid on a per encounter basis, with the limitations and exceptions described under Subsection 835.02 of these rules. (4-2-08)

c. If an out-of-state FQHC becomes an Idaho Medicaid provider and provides less than one hundred (100) Idaho Medicaid encounters or receives less than ten thousand dollars ($10,000) in Idaho Medicaid payments in the first year after entering the program, the Department will deem the FQHC a low utilization provider. The finalized encounter rate for low utilization providers will be the same as the interim encounter rate as defined in Subsection 836.02.a. of this rule. If there is an increase in either the number of encounters or in the amount of payments over any twelve (12) month Medicare cost report period, the Department reserves the right to audit a low utilization provider's Medicare cost report in order to set a new interim encounter rate as defined in Subsection 836.02.a. of this rule. (4-2-08)

02. FQHCs That Become Idaho Medicaid Providers. (4-2-08)

a. If the FQHC is new and encounter rate information for other FQHCs in the same or adjacent regional areas with similar caseloads is not available, the Department will set the interim encounter rate using historical cost information. If historical cost information is not available, the Department will use budgeted cost and encounter information submitted by the provider. If the FQHC is not able to provide its financial budget information, the Department will set the interim encounter rate by referring to encounter rates paid to other FQHCs in the same or adjacent regional areas with similar caseloads. Regional areas are defined by the Department. (4-2-08)

b. If the FQHC has been designated as an FQHC for at least twenty-four (24) consecutive months and provides the historical cost and encounter information for this period to the Department, the Department will use the second full twelve (12) month audited Medicare cost report to calculate a finalized encounter rate. The Department will provide the FQHCs a supplemental information worksheet to complete. This worksheet will be used by the Department to identify dental encounters and other incidental costs related to either medical/mental or dental FQHC encounters. (4-2-08)

c. For both new and existing FQHCs that become Idaho Medicaid providers, the Department will audit the Medicare cost report for the twenty-four (24) consecutive months that represent two (2) complete fiscal years after the FQHC has become a Medicaid provider. The Department will also audit the Medicare cost report for any partial year prior to the twenty-four (24) consecutive months. (4-2-08)

d. For both new and existing FQHCs that become Idaho Medicaid providers, the Department will adjust the finalized encounter rate annually for inflation in accordance with Subsection 836.01.b. of this rule. (4-2-08)

e. The Department will adjust the claim payments for all FQHC claims paid at the interim encounter rate(s). These adjustments will reflect the payment at the finalized encounter rate(s). The Department will pay the FQHC for any total adjustment amount over what was reimbursed. The FQHC must pay the Department for any total adjustment amount that is under what was reimbursed. (4-2-08)

03. Change in an FQHC Encounter Rate Due to a Change in the FQHC's Scope of Services. (4-2-08)

a. After an FQHC obtains approval for a change in scope of service from the federal Human Resources and Services Administration (HRSA), Bureau of Primary Healthcare, the FQHC must request the Department to review the encounter rate(s) for the FQHC. The review will include reviewing the addition of a new service(s), deletion of an existing service(s), or other changes in the intensity of services offered by an FQHC that could change an FQHC's total cost per encounter. The FQHC must request the Department to review the encounter rate(s) within sixty (60) days after the FQHC has gained approval from the HRSA Bureau of Primary Health Care for a change in scope of service. The Department requires the same supporting documentation required by the HRSA Bureau of Primary Health Care. (4-2-08)

b. When an FQHC does not have to file a change in scope of service with the HRSA Bureau of Primary Health Care, but plans an increase or decrease in the intensity of services to be offered that will result in a change the FQHC's scope of services, the FQHC must request the Department to review the request for a change in intensity and determine if there will be an increase or decrease in the encounter rate(s) for the FQHC. The Department will review the request for a change in intensity within 60 (sixty) days of the planned change in intensity of services. (4-2-08)

c. The Department reserves the right to audit the Medicare cost report and recalculate the encounter rates when the FQHC has reported a change in scope of service. (4-2-08)

d. The Department will determine the encounter rate in accordance with Subsection 836.02 of this rule when the FQHC has reported a change in scope of service. The Department will audit and cost settle the most recent twenty-four (24) consecutive months of Medicare cost reports following any change(s) in an FQHC's scope of service. The Department will also audit the Medicare cost report for any partial year prior to the twenty-four (24) consecutive months. The finalized encounter rate(s) for both medical/mental and dental encounters will be recalculated and audited using the Medicare cost report for the second full twelve (12) month period. (4-2-08)

04. Annual Filing Requirements. Each provider is required to file a copy of its Medicare cost report on an annual basis. Department deadlines are the same as those imposed by Medicare. (4-2-08)

05. Quarterly Supplemental Payments. In the case of any FQHC that contracts with a managed care organization, the Department will make quarterly supplemental payments to the FQHC for the difference between the payment amounts paid by the managed care organization and the amount to which the FQHC is entitled under the prospective payment system for Medicaid participants. (4-2-08)

837. -- 841. (RESERVED)

842. INDIAN HEALTH SERVICE (IHS) CLINIC SERVICES: COVERAGE AND LIMITATIONS.
Payment will be available to Indian Health Service (IHS) clinics for any service provided within the conditions of the scope of care and services described in Subsection 835.02 of these rules. (3-30-07)

843. -- 844. (RESERVED)

845. INDIAN HEALTH SERVICE (IHS) CLINIC SERVICES: PROVIDER REIMBURSEMENT.

01. Payment Procedure. Payment for services other than prescribed drugs will be made on a per visit basis at a rate not exceeding the outpatient visit rate established by the Federal Office of Management and Budget as published annually in the Federal Register. (3-30-07)

02. Payment for Prescribed Drugs. Payment for prescribed drugs will be available as described in Subsection 662.01 of these rules. (3-30-07)

03. Dispensing Fee for Prescriptions. The allowed dispensing fee used to compute maximum payment for each prescription will be the midpoint dispensing fee of the range of fees in effect at the date of service unless a higher fee is justified by a pharmacy cost of operations report on file with the Department. (3-30-07)

04. Third Party Liability Not Applicable. The provisions of Section 215 of these rules are not applicable to Indian health service clinics. (3-30-07)

846. -- 849. (RESERVED)

850. SCHOOL-BASED SERVICE: DEFINITIONS.

01. Activities of Daily Living (ADL) for Personal Care Services. The performance of basic self-care activities in meeting an individual's needs for sustaining him in a daily living environment, including, but not limited to, bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. (7-1-16)

02. Educational Services. Services that are provided in buildings, rooms, or areas designated or used as a school or an educational setting, which are provided during the specific hours and time periods in which the educational instruction takes place in the school day and period of time for these students, which are included in the individual educational plan (IEP) for the student. (7-1-16)

03. School-Based Services. School-based services are health-related and rehabilitative services provided by Idaho public school districts and charter schools under the Individuals with Disabilities Education Act (IDEA). (7-1-13)

04. The Psychiatric Rehabilitation Association (PRA). An association that works to improve and promote the practice and outcomes of psychiatric rehabilitation and recovery. The PRA also maintains a certification program to promote the use of qualified staff to work for individuals with mental illness. http://www.psychrehabassociation.org. (7-1-16)

05. PRA Credential. Certificate or certification in psychiatric rehabilitation based upon the primary population with whom the individual works in accordance with the requirements set by the PRA. (7-1-19)

06. Practitioner of the Healing Arts. A physician’s assistant, nurse practitioner, or clinical nurse specialist who is licensed and approved by the state of Idaho to make such recommendations or referrals for Medicaid services. (7-1-13)

07. Serious Mental Illness (SMI). In accordance with 42 CFR 483.102(b)(1), a person with SMI: (3-20-14)

a. Currently or at any time during the year, must have had a diagnosable mental, behavioral, or emotional disorder of sufficient duration to meet the diagnostic criteria specified in the DSM-V; and (3-20-14)

b. Must have a functional impairment that substantially interferes with or limits one (1) or more major life activities. Functional impairment is defined as difficulties that substantially interfere with or limit role functioning with an individual's basic daily living skills, instrumental living skills, and functioning in social, family, vocational or educational contexts. Instrumental living skills include maintaining a household, managing money, getting around the community, and taking prescribed medication. An adult who met the functional impairment criteria during the past year without the benefit of treatment or other support services is considered to have a serious mental illness. (3-20-14)

08. Serious and Persistent Mental Illness (SPMI). A participant must meet the criteria for SMI, have at least one (1) additional functional impairment, and have a diagnosis under DSM-V with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. (3-20-14)

851. SCHOOL-BASED SERVICE: PARTICIPANT ELIGIBILITY.

To be eligible for medical assistance reimbursement for covered services, school districts and charter schools must ensure the student is: (7-1-13)

01. Medicaid Eligible. Eligible for Medicaid and the service for which the school district or charter school is seeking reimbursement; (7-1-13)

02. School Enrollment. Enrolled in an Idaho school district or charter school; (7-1-13)

03. Age. Twenty-one (21) years of age or younger and the semester in which their twenty-first birthday falls is not finished; (3-30-07)

04. Educational Disability. Identified as having an educational disability under the Department of Education standards in IDAPA 08.02.03, "Rules Governing Thoroughness." (7-1-13)

05. Parental Consent. Providers must obtain a one-time parental consent to access public benefits or insurance from a parent or legal guardian for school-based Medicaid reimbursement. (7-1-16)

852. SCHOOL-BASED SERVICE: SERVICE-SPECIFIC PARTICIPANT ELIGIBILITY.

Skills Building/Community Based Rehabilitation Services (CBRS). Behavioral Intervention, Behavioral Consultation, and Personal Care Services (PCS) have additional eligibility requirements. (7-1-19)

01. Skills Building/Community Based Rehabilitation Services (CBRS). To be eligible for Skills Building/CBRS, the student must meet one (1) of the following: (7-1-19)

a. A student who is a child under eighteen (18) years of age must meet the Serious Emotional Disturbance (SED) eligibility criteria for children in accordance with the Children's Mental Health Services Act, Section 16-2403, Idaho Code. A child who meets the criteria for SED must experience a substantial impairment in functioning. The child's level and type of functional impairment must be documented in the school record. A Department-approved assessment must be used to obtain the child's initial functional impairment score. Subsequent scores must be obtained at least annually in order to determine the child's change in functioning that occurs as a result of mental health treatment. (7-1-16)

b. A student who is eighteen (18) years old or older must meet the criteria of Serious and Persistent Mental Illness (SPMI). This requires that a student participant meet the criteria for SMI, as described in 42 CFR 483.102(b)(1), have at least one (1) additional functional impairment, and have a diagnosis under DSM-V, or later edition, with one (1) of the following: Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Borderline Personality Disorder. The

only Not Otherwise Specified (NOS) diagnosis included is Psychotic Disorder NOS for a maximum of one hundred twenty (120) days without a conclusive diagnosis. In addition, the psychiatric disorder must be of sufficient severity to affect the participant's functional skills negatively, causing a substantial disturbance in role performance or coping skills in at least two (2) of the areas listed below on either a continuous or intermittent basis, at least once per year. The skill areas that are targeted must be consistent with the participant's ability to engage and benefit from treatment. The detail of the participant's level and type of functional impairment must be documented in the medical record in the following areas: (7-1-16)

i. Vocational/educational; (3-20-14)

ii Financial; (3-20-14)

iii. Social relationships/support; (3-20-14)

iv. Family; (3-20-14)

v. Basic living skills; (3-20-14)

vi. Housing; (3-20-14)

vii. Community/legal; or (3-20-14)

viii. Health/medical. (3-20-14)

02. Behavioral Intervention and Behavioral Consultation. To be eligible for behavioral intervention and behavioral consultation services, the student must: (3-20-14)

a. Meet the criteria for developmental disabilities as identified in Section 66-402(5), Idaho Code, and have documentation to support eligibility using the standards under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501-503; and (7-1-16)

b. Exhibit maladaptive behaviors that include frequent disruptive behaviors, aggression, self-injury, criminal or dangerous behavior evidenced by a score of at least one point five (1.5) standard deviations from the mean in at least two (2) behavior domains and by a rater familiar with the student, or at least two (2) standard deviations from the mean in one (1) composite score that consists of at least three (3) behavior domains by a rater familiar with the student, on a standardized behavioral assessment approved by the Department; and (7-1-16)

c. Have maladaptive behaviors that interfere with the student's ability to access an education. (3-20-14)

03. Personal Care Services. To be eligible for personal care services (PCS), the student must have a completed children's PCS assessment and allocation tool approved by the Department. To determine eligibility for PCS, the assessment results must find the student requires PCS due to a medical condition that impairs the physical or functional abilities of the student. (7-1-16)

853. SCHOOL-BASED SERVICE: COVERAGE AND LIMITATIONS.

The Department will pay school districts and charter schools for covered rehabilitative and health-related services. Services include medical or remedial services provided by school districts or other cooperative service agencies, as defined in Section 33-317, Idaho Code. (7-1-13)

01. Excluded Services. The following services are excluded from Medicaid payments to school-based programs: (3-30-07)

a. Vocational Services. (3-30-07)

b. Educational Services. Educational services (other than health related services) or education-based costs normally incurred to operate a school and provide an education. Evaluations completed for educational services

only cannot be billed. (3-30-07)

c. Recreational Services. (3-30-07)

d. Payment for school-related services will not be provided to students who are inpatients in nursing homes or hospitals. (7-1-16)

02. Evaluation and Diagnostic Services. Evaluations to determine eligibility or the need for health-related services may be reimbursed even if the student is not found eligible for health-related services. Evaluations completed for educational services only cannot be billed. Evaluations completed must: (3-30-07)

a. Be recommended or referred by a physician or other practitioner of the healing arts. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral; (3-28-18)

b. Be conducted by qualified professionals for the respective discipline as defined in Section 855 of these rules; (3-20-14)

c. Be directed toward a diagnosis; (7-1-16)

d. Include recommended interventions to address each need; and (7-1-16)

e. Include name, title, and signature of the person conducting the evaluation. (7-1-16)

03. Reimbursable Services. School districts and charter schools can bill for the following health-related services provided to eligible students when the services are provided under the recommendation of a physician or other practitioner of the healing arts for the Medicaid services for which the school district or charter school is seeking reimbursement. A school district or charter school may not seek reimbursement for services provided more than thirty (30) days prior to the signed and dated recommendation or referral. The recommendations or referrals are valid up to three hundred sixty-five (365) days. (3-28-18)

a. Behavioral Intervention. Behavioral Intervention is used to promote the student's ability to participate in educational services, as defined in Section 850 of these rules, through a consistent, assertive, and continuous intervention process to address behavior goals identified on the IEP. It includes the development of replacement behaviors by conducting a functional behavior assessment and behavior implementation plan with the purpose of preventing or treating behavioral conditions for students who exhibit maladaptive behaviors. Services include individual or group behavioral interventions. (7-1-16)

i. Group services must be provided by one (1) qualified staff providing direct services for a maximum of three (3) students. (7-1-16)

ii. As the number and severity of the students with behavioral issues increases, the staff-to-student ratio must be adjusted accordingly. (7-1-16)

iii. Group services should only be delivered when the child's goals relate to benefiting from group interaction. (7-1-13)

b. Behavioral Consultation. Behavioral consultation assists other service professionals by consulting with the IEP team during the assessment process, performing advanced assessment, coordinating the implementation of the behavior implementation plan and providing ongoing training to the behavioral interventionist and other team members. (7-1-13)

i. Behavioral consultation cannot be provided as a direct intervention service. (7-1-13)

ii. Behavioral consultation must be limited to thirty-six (36) hours per student per year. (7-1-13)

c. Medical Equipment and Supplies. Medical equipment and supplies that are covered by Medicaid

must be medically necessary, ordered by a physician, and prior authorized. Authorized items must be for use at the school where the service is provided. Equipment that is too large or unsanitary to transport from home to school and back may be covered, if prior authorized. The equipment and supplies must be for the student's exclusive use and must be transferred with the student if the student changes schools. All equipment purchased by Medicaid belongs to the student. (7-1-16)

d. Nursing Services. Skilled nursing services must be provided by a licensed nurse, within the scope of his or her practice. Emergency, first aid, or non-routine medications not identified on the plan as a health-related service are not reimbursed. (7-1-16)

e. Occupational Therapy and Evaluation. Occupational therapy and evaluation services for vocational assessment, training or vocational rehabilitation are not reimbursed. (3-30-07)

f. Personal Care Services. School based personal care services include medically oriented tasks having to do with the student's physical or functional requirements. Personal care services do not require a goal on the plan of service. The provider must deliver at least one (1) of the following services: (7-1-16)

i. Basic personal care and grooming to include bathing, care of the hair, assistance with clothing, and basic skin care; (7-1-13)

ii. Assistance with bladder or bowel requirements that may include helping the student to and from the bathroom or assisting the student with bathroom routines; (7-1-16)

iii. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; (7-1-13)

iv. Assisting the student with physician-ordered medications that are ordinarily self-administered, in accordance with IDAPA 23.01.01, “Rules of the Idaho Board of Nursing,” Subsection 490.05; (7-1-13)

v. Non-nasogastric gastrostomy tube feedings, if the task is not complex and can be safely performed in the given student care situation, and the requirements are met in accordance with IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Subsection 303.01. (7-1-13)

g. Physical Therapy and Evaluation. (3-30-07)

h. Psychological Evaluation. (3-30-07)

i. Psychotherapy. (3-30-07)

j. Skills Building/Community Based Rehabilitation Services (CBRS). Skills Building/CBRS are interventions to reduce the student’s disability by assisting in gaining and utilizing skills necessary to participate in school. They are designed to build competency and confidence while increasing mental health and/or decreasing behavioral symptoms. Skills Building/CBRS provides training in behavior control, social skills, communication skills, appropriate interpersonal behavior, symptom management, activities of daily living, and coping skills. These services are intended to prevent placement of the student into a more restrictive educational situation. (7-1-19)

k. Speech/Audiological Therapy and Evaluation. (3-30-07)

l. Social History and Evaluation. (3-30-07)

m. Transportation Services. School districts and charter schools can receive reimbursement for mileage for transporting a student to and from home and school when: (7-1-16)

i. The student requires special transportation assistance, a wheelchair lift, an attendant, or both, when medically necessary for the health and safety of the student; (3-28-18)

ii. The transportation occurs in a vehicle specifically adapted to meet the needs of a student with a

disability; (3-30-07)

iii. The student requires and receives another Medicaid reimbursable service billed by the school-based services provider, other than transportation, on the day that transportation is being provided; (3-30-07)

iv. Both the Medicaid-covered service and the need for the special transportation are included on the student's plan; and (3-30-07)

v. The mileage, as well as the services performed by the attendant, are documented. See Section 855 of these rules for documentation requirements. (3-20-14)

n. Interpretive Services. Interpretive services needed by a student who is deaf or does not adequately speak or understand English and requires an interpreter to communicate with the professional or paraprofessional providing the student with a health-related service may be billed with the following limitations: (7-1-13)

i. Payment for interpretive services is limited to the specific time that the student is receiving the health-related service; documentation for interpretive service must include the Medicaid reimbursable health-related service being provided while the interpretive service is provided. (7-1-16)

ii. Both the Medicaid-covered service and the need for interpretive services must be included on the student's plan; and (3-30-07)

iii. Interpretive services are not covered if the professional or paraprofessional providing services is able to communicate in the student's primary language. (3-30-07)

854. SCHOOL-BASED SERVICE: PROCEDURAL REQUIREMENTS.
The following documentation must be maintained by the provider and retained for a period of five (5) years: (7-1-16)

01. Individualized Education Program (IEP) and Other Service Plans. School districts and charter schools may bill for Medicaid services covered by a current Individualized Education Program (IEP), transitional Individualized Family Service Plan (IFSP), or Services Plan (SP) defined in the Idaho Special Education Manual on the State Department of Education website for parentally placed private school students with disabilities when designated funds are available for special education and related services. The plan must be developed within the previous three hundred sixty-five (365) days that indicates the need for one (1) or more medically-necessary health-related service, and lists all the Medicaid reimbursable services for which the school district or charter school is requesting reimbursement. The IEP and transitional IFSP must include: (7-1-16)

a. Type, frequency, and duration of the service(s) provided; (7-1-13)

b. Title of the provider(s), including the direct care staff delivering services under the supervision of the professional; (7-1-13)

c. Measurable goals, when goals are required for the service; and (7-1-13)

d. Specific place of service, if provided in a location other than school. (7-1-16)

02. Evaluations and Assessments. Evaluations and assessments must*:* *( )*

a. *S*upport services billed to Medicaid*:* *( )*

b. *A*ccurately reflect the student's current status*: and* *( )*

c. *B*e completed at least every (3) years. *( )*

03. Service Detail Reports. A service detail report that includes: (7-1-13)

a. Name of student; (7-1-13)

b. Name, title, and signature of the person providing the service; (7-1-16)

c. Date, time, and duration of service; (7-1-13)

d. Place of service, if provided in a location other than school; (7-1-13)

e. Category of service and brief description of the specific areas addressed; and (7-1-13)

f. Student's response to the service when required for the service. (7-1-13)

04. One Hundred Twenty Day Review. A documented review of progress toward each service plan goal completed at least every one hundred twenty (120) days from the date of the annual plan. (7-1-13)

05. Documentation of Qualifications of Providers. (7-1-13)

06. Copies of Required Referrals and Recommendations. Copies of required referrals and recommendations. (7-1-13)

a. School-based services must be recommended or referred by a physician or other practitioner of the healing arts for all Medicaid services for which the school district or charter school is receiving reimbursement. (7-1-13)

b. A recommendation or referral must be obtained within thirty (30) days of the provision of services for which the school district or charter school is seeking reimbursement. Therapy requirements for the physician's order are identified in Section 733 of these rules. (3-28-18)

c. A recommendation or referral must be obtained for the service at least every three hundred sixty-five (365) days. (7-1-16)

07. Parental Notification. School districts and charter schools must document that parents were notified of the health-related services and equipment for which they will bill Medicaid. Notification must comply with the requirements in Subsection 854.08 of this rule. (3-20-14)

08. Requirements for Cooperation with and Notification of Parents and Agencies. Each school district or charter school billing for Medicaid services must act in cooperation with students' parent or guardian, and with community and state agencies and professionals who provide like Medicaid services to the student. (7-1-16)

a. Notification of Parents. For all students who are receiving Medicaid reimbursed services, school districts and charter schools must document that parents are notified of the Medicaid services and equipment for which they will bill Medicaid. Notification must describe the service(s), service provider(s), and state the type, location, frequency, and duration of the service(s). The school district must document that they provided the student's parent or guardian with a current copy of the child's plan and any pertinent addenda; and (7-1-16)

b. Primary Care Physician (PCP). School districts and charter schools must request the name of the student's primary care physician and request a written consent to release and obtain information between the PCP and the school from the parent or guardian. (7-1-16)

c. Other Community and State Agencies. Upon receiving a request for a copy of the evaluations or the current plan, the school district or charter school must furnish the requesting agency or professional with a copy of the plan or appropriate evaluation after obtaining consent for release of information from the student's parent or guardian. (7-1-13)

855. SCHOOL-BASED SERVICE: PROVIDER QUALIFICATIONS AND DUTIES.
Medicaid will only reimburse for services provided by qualified staff. The following are the minimum qualifications for providers of covered services: (7-1-13)

01. Behavioral Intervention. Behavioral intervention must be provided by or under the supervision of a professional. (7-1-13)

a. A behavioral intervention professional must meet the following: (7-1-13)

i. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028; or (7-1-13)

ii. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019; or (7-1-13)

iii. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 029; or (7-1-13)

iv. Habilitative intervention professional who meets the requirements defined in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits," Section 685; or (7-1-13)

v. Individuals employed by a school as certified Intensive Behavioral Intervention (IBI) professionals prior to July 1, 2013, are qualified to provide behavioral intervention; and (7-1-13)

vi. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. This can be achieved by previous work experience gained through paid employment, university practicum experience, or internship. It can also be achieved by increased on-the-job supervision experience gained during employment at a school district or charter school. (7-1-13)

b. A paraprofessional under the direction of a qualified behavioral intervention professional, must meet the following: (7-1-13)

i. Must be at least eighteen (18) years of age; (7-1-13)

ii. Demonstrate the knowledge, have the skills needed to support the program to which they are assigned; and (7-1-16)

iii. Must meet the paraprofessional requirements under the Elementary and Secondary Education Act of 1965, as amended, Title 1, Part A, Section 1119. (7-1-13)

c. A paraprofessional delivering behavioral intervention services must be under the supervision of a behavioral intervention professional or behavioral consultation provider. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the behavioral intervention service. (7-1-13)

02. Behavioral Consultation. Behavioral consultation must be provided by a professional who has a Doctoral or Master's degree in psychology, education, applied behavioral analysis, or has a related discipline with one thousand five hundred (1500) hours of relevant coursework or training, or both, in principles of child development, learning theory, positive behavior support techniques, dual diagnosis, or behavior analysis (may be included as part of degree program); and who meets one (1) of the following: (7-1-13)

a. An individual with an Exceptional Child Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 028. (7-1-13)

b. An individual with an Early Childhood/Early Childhood Special Education Blended Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 019. (7-1-13)

c. A Special Education Consulting Teacher who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity" Section 029. (7-1-13)

d. An individual with a Pupil Personnel Certificate who meets the qualifications defined under IDAPA 08.02.02, "Rules Governing Uniformity," Section 027, excluding a licensed registered nurse or audiologist. (7-1-13)

e. An occupational therapist who is qualified and registered to practice in Idaho. (7-1-13)

f. Therapeutic consultation professional who meets the requirements defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 685. (7-1-13)

03. Medical Equipment and Supplies. See Subsection 853.03 of these rules. (3-20-14)

04. Nursing Services. Nursing services must be provided by a licensed registered nurse (RN) or by a licensed practical nurse (LPN) licensed to practice in Idaho. (7-1-13)

05. Occupational Therapy and Evaluation. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

06. Personal Care Services. Personal care services must be provided by or under the direction of a registered nurse licensed by the State of Idaho. (7-1-13)

a. Providers of PCS must have at least one (1) of the following qualifications: (7-1-13)

i. Licensed Registered Nurse (RN). A person currently licensed by the Idaho State Board of Nursing as a licensed registered nurse; (7-1-13)

ii. Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; (7-1-16)

iii. Certified Nursing Assistant (CNA). A person currently certified by the State of Idaho; or (7-1-16)

iv. Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. (4-11-19)

b. The licensed registered nurse (RN) must review or complete, or both, the PCS assessment and develop or review, or both, the written plan of care annually. Oversight provided by the RN must include all of the following: (7-1-16)

i. Development of the written PCS plan of care; (7-1-13)

ii. Review of the treatment given by the personal assistant through a review of the student's PCS service detail reports as maintained by the provider; and (7-1-16)

iii. Reevaluation of the plan of care as necessary, but at least annually. (7-1-13)

c. The RN must conduct supervisory visits on a quarterly basis, or more frequently as determined by the IEP team and defined as part of the PCS plan of care. (7-1-16)

07. Physical Therapy and Evaluation. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

08. Psychological Evaluation. A psychological evaluation must be provided by a: (7-1-13)

a. Licensed psychiatrist; (7-1-13)

b. Licensed physician; (7-1-13)

c. Licensed psychologist; (7-1-13)

d. Psychologist extender registered with the Bureau of Occupational Licenses; or (7-1-13)

e. Endorsed or certified school psychologist. (7-1-16)

09. Psychotherapy. Provision of psychotherapy services must have, at a minimum, one (1) or more of the following credentials: (7-1-13)

a. Psychiatrist, M.D.; (7-1-13)

b. Physician, M.D.; (7-1-13)

c. Licensed psychologist; (7-1-13)

d. Licensed clinical social worker; (7-1-13)

e. Licensed clinical professional counselor; (7-1-13)

f. Licensed marriage and family therapist; (7-1-13)

g. Certified psychiatric nurse (R.N.), as described in Subsection 707.13 of these rules; (7-1-13)

h. Licensed professional counselor whose provision of psychotherapy is supervised in compliance with IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (7-1-13)

i. Licensed masters social worker whose provision of psychotherapy is supervised as described in IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (7-1-13)

j. Licensed associate marriage and family therapist whose provision of psychotherapy is supervised as described in IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; or (7-1-13)

k. Psychologist extender, registered with the Bureau of Occupational Licenses, whose provision of diagnostic services is supervised in compliance with IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (7-1-13)

10. Skills Building/Community Based Rehabilitation Services (CBRS). Skills Building/CBRS must be provided by one (1) of the following. Skills Building/Community Based Rehabilitation Services (CBRS) provider who is not required to have a PRA credential must be one (1) of the following: (7-1-19)

a. Licensed physician, licensed practitioner of the healing arts; (7-1-16)

b. Advanced practice registered nurse; (7-1-16)

c. Licensed psychologist; (7-1-13)

d. Licensed clinical professional counselor or professional counselor; (7-1-13)

e. Licensed marriage and family therapist; (7-1-16)

f. Licensed masters social worker, licensed clinical social worker, or licensed social worker; (7-1-13)

g. Psychologist extender registered with the Bureau of Occupational Licenses; (7-1-13)

h. Licensed registered nurse (RN); (7-1-13)

i. Licensed occupational therapist; (7-1-13)

j. Endorsed or certified school psychologist; (7-1-16)

k. Skills Building/Community Based Rehabilitation Services specialist. A Skills Building/CBRS specialist must: (7-1-19)

i. Be an individual who has a Bachelor's degree and holds a current PRA credential; or (7-1-19)

ii. Be an individual who has a Bachelor's degree or higher, but does not hold a current PRA credential and was hired on or after November 1, 2010, to work as a Skills Building/CBRS specialist to deliver Medicaid-reimbursable mental health services. This individual may continue to provide Medicaid-reimbursable Skills Building/CBRS without a current PRA credential for a period not to exceed thirty (30) months. This thirty-month (30) period does not restart with new employment as a Skills Building/CBRS specialist when transferring to a new school district, charter school, or agency. The individual must show documentation that they are working towards obtaining the required PRA credential. In order to continue providing Skills Building/CBRS as a Skills Building/CBRS specialist beyond a total period of thirty (30) months, the individual must have obtained the required current PRA credential; (7-1-19)

iii. Be under the supervision of a licensed behavioral health professional, a physician, nurse, or an endorsed/certified school psychologist. The supervising practitioner is required to have regular one-to-one (1:1) supervision of the specialist to review treatment provided to student participants on an ongoing basis. The frequency of the one-to-one (1:1) supervision must occur at least on a monthly basis. Supervision can be conducted using telehealth when it is equally effective as direct on-site supervision; and (7-1-19)

iv. Have a credential required for CBRS specialists. (7-1-19)

(1) Skills Building/CBRS specialists who intend to work primarily with adults, age eighteen (18) or older, must obtain a current PRA credential to work with adults. (7-1-19)

(2) Skills Building/CBRS specialists who intend to work primarily with adults, but also with participants under the age of eighteen (18), must obtain a current PRA credential to work with adults, and must have additional training addressing children's developmental milestones, or have evidence of classroom hours in equivalent courses. The individual's supervisor must determine the scope and amount of training the individual needs in order to work competently with children assigned to the individual's caseload. (7-1-19)

(3) Skills Building/CBRS specialists who intend to work primarily with children under the age of eighteen (18) must obtain a current PRA credential to work with children. (7-1-19)

(4) Skills Building/CBRS specialists who intend to primarily work with children, but also work with participants eighteen (18) years of age or older, must obtain a current PRA credential to work with children, and must have additional training or have evidence of classroom hours addressing adult issues in psychiatric rehabilitation. The individual's supervisor must determine the scope and amount of training the worker needs in order to competently work with adults assigned to the individual's caseload. (7-1-19)

11. Speech/Audiological Therapy and Evaluation. For therapy-specific rules, refer to Sections 730 through 739 of these rules. (7-1-16)

12. Social History and Evaluation. Social history and evaluation must be provided by a licensed registered nurse (RN), psychologist, M.D, school psychologist, certified school social worker, or by a person who is licensed and qualified to provide social work in the state of Idaho. (7-1-13)

13. Transportation. Transportation must be provided by an individual who has a current Idaho driver's license and is covered under vehicle liability insurance that covers passengers for business use. (7-1-13)

14. Therapy Paraprofessionals. The schools may use paraprofessionals to provide occupational

therapy, physical therapy, and speech therapy if they are under the supervision of the appropriate professional. The services provided by paraprofessionals must be delegated and supervised by a professional therapist as defined by the appropriate licensure and certification rules. The portions of the treatment plan that can be delegated to the paraprofessional must be identified in the IEP or transitional IFSP. (7-1-16)

a. Occupational Therapy (OT). Refer to IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants," for qualifications, supervision, and service requirements. (7-1-16)

b. Physical Therapy (PT). Refer to IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board," for qualifications, supervision and service requirements. (7-1-16)

c. Speech-Language Pathology (SLP). Refer to IDAPA 24.23.01, "Rule of the Speech and Hearing Services Licensure Board," and the American Speech-Language-Hearing Association (ASHA) guidelines for qualifications, supervision and service requirements for speech-language pathology. The guidelines have been incorporated by reference in Section 004 of these rules. (7-1-16)

i. Supervision must be provided by an SLP professional as defined in Section 734 of this chapter of rules. (7-1-16)

ii. The professional must observe and review the direct services performed by the paraprofessional on a monthly basis, or more often as necessary, to ensure the paraprofessional demonstrates the necessary skills to correctly provide the SLP service. (7-1-16)

856. SCHOOL-BASED SERVICE: PROVIDER REIMBURSEMENT.
Payment for health-related services provided by school districts and charter schools must be in accordance with rates established by the Department. (7-1-13)

01. Payment in Full. Providers of services must accept as payment in full the school district or charter school payment for such services and must not bill Medicaid or Medicaid participants for any portion of any charges. (7-1-13)

02. Third Party. For requirements regarding third party billing, see Section 215 of these rules. (3-30-07)

03. Recoupment of Federal Share. Failure to provide services for which reimbursement has been received or to comply with these rules will be cause for recoupment of the Federal share of payments for services, sanctions, or both. (3-30-07)

04. Matching Funds. Federal funds cannot be used as the State's portion of match for Medicaid service reimbursement. School districts and charter schools must, for their own internal record keeping, calculate and document the non-federal funds (maintenance of effort assurance) that have been designated as their certified match. This documentation needs to include the source of all funds that have been submitted to the State and the original source of those dollars. The appropriate matching funds will be handled in the following manner: (3-30-07)

a. Schools will estimate the amount needed to meet match requirements based on their anticipated monthly billings. (3-30-07)

b. School districts and charter schools will send the Department the matching funds, either by check or automated clearing house (ACH) electronic funds transfers. (3-30-07)

c. The Department will hold matching funds in an interest bearing trust account. The average daily balance during a month must exceed one hundred dollars ($100) in order to receive interest for that month. (3-30-07)

d. The payments to the districts will include both the federal and non-federal share (matching funds). (3-30-07)

e. Matching fund payments must be received and posted in advance of the weekly Medicaid payment

cycle. (3-30-07)

f. If sufficient matching funds are not received in advance, all Medicaid payments to the school district will be suspended and the school district will be notified of the shortage. Once sufficient matching funds are received, suspended payments will be processed and reimbursement will be made during the next payment cycle. (3-30-07)

g. The Department will provide the school districts a monthly statement that will show the matching amounts received, interest earned, total claims paid, the matching funds used for the paid claims, and the balance of their funds in the trust account. (3-30-07)

h. The school districts will estimate the amount of their next billing and the amount of matching funds needed to pay the Department. (3-30-07)

i. The estimated match requirement may be adjusted up or down based on the remaining balance held in the trust account. (3-30-07)

857. SCHOOL-BASED SERVICE: QUALITY ASSURANCE AND IMPROVEMENT.
The provider will grant the Department immediate access to all information required to review compliance with these rules. (7-1-16)

01. Quality Assurance. Quality Assurance consists of reviews to assure compliance with the Department's rules and regulations. If problems are identified during the review, the provider must implement a corrective action plan within forty-five (45) days after the results are received. The Department will work with the school to answer questions and provide clear direction regarding the corrective action plan. (7-1-16)

02. Quality Improvement. The Department may gather and utilize information from providers to evaluate student satisfaction, outcomes monitoring, quality assurance, quality improvement activities, and health and safety. These findings may lead to quality improvement activities to improve provider processes and outcomes for the students. (7-1-16)

858. -- 859. (RESERVED)

**SUB AREA: MEDICAL TRANSPORTATION SERVICES
(Sections 860 - 879)**

860. (RESERVED)

861. EMERGENCY TRANSPORTATION SERVICES: PARTICIPANT ELIGIBILITY.
Ambulance services are medically necessary when an emergency condition exists. For purposes of reimbursement, an emergency condition exists when a participant manifests acute symptoms or signs*, or both,* which, by reasonable medical judgment of the Department, represent a condition of sufficient severity such that the absence of immediate medical attention could reasonably be expected to result in death, serious impairment of a bodily function or major organ, or serious jeopardy to the overall health of the participant. If such condition exists, and treatment is required at the participant's location, or transport of the participant for treatment in another location by ambulance is the only appropriate mode of travel, the Department will review such claims and consider authorization for emergency ambulance services. *( )*

862. EMERGENCY TRANSPORTATION SERVICES: COVERAGE AND LIMITATIONS.

01. Prior Authorization. Medically necessary ambulance services are reimbursable in emergency situations or when prior authorization has been obtained from the Department. (3-30-07)

02. Local Transport Only. Only local transportation by ambulance is covered. In exceptional situations where the ambulance transportation originates beyond the locality to which the participant was transported, payment may be made for such services only if the evidence clearly establishes that such institution is the nearest one

with appropriate facilities and the service is authorized by the Department. (3-30-07)

03. Air Ambulance Service. In some areas, transportation by airplane or helicopter may qualify as ambulance services. Air ambulance services are covered only when: (3-30-07)

a. The point of pickup is inaccessible by land vehicle; or (3-30-07)

b. Great distances or other obstacles are involved in getting the participant to the nearest appropriate facility and speedy admission is essential; and (3-30-07)

c. Air ambulance service will be covered where the participant's condition and other circumstances necessitate the use of this type of transportation; however, where land ambulance service will suffice, payment will be based on the amount payable for land ambulance, or the lowest cost. (3-30-07)

04. Co-Payments. When the Department determines that the participant did not require emergency transportation, the provider can bill the participant for the co-payment amount as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (4-2-08)

863. EMERGENCY TRANSPORTATION SERVICES: PROCEDURAL REQUIREMENTS.

01. Services Subject to Review. Ambulance services are subject to review by the Department prior to the service being rendered, and on a retrospective basis. (3-30-07)

02. Non-Emergency Transport Prior Authorization Required. If an emergency does not exist, prior written authorization to transport by ambulance must be secured from the Department. (3-30-07)

03. Air Ambulance. Air ambulance services must be approved in advance by the Department, except in emergency situations. Emergency air ambulance services will be authorized by the Department on a retrospective basis. (3-30-07)

864. EMERGENCY TRANSPORTATION SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.

01. Medically Necessary. For purposes of reimbursement, in non-emergency situations, the provider must provide justification to the Department that travel by ambulance is medically necessary due to the medical condition of the participant, and that any other mode of travel would, by reasonable medical judgment of the Department, result in death, serious impairment of a bodily function or major organ, or serious jeopardy to the overall health of the participant. *( )*

02. Licensure Required. All Emergency Medical Services (EMS) Providers that provide services to Medicaid participants in Idaho must hold a current license issued by the Emergency Medical Services Bureau of the Department *in accordance with* IDAPA 16.01.03, *"Emergency Medical Services (EMS) Agency Licensing Requirements," and IDAPA 16.01.07, "Emergency Medical Services (EMS) Personnel Licensing Requirements."* Ambulances based outside the state of Idaho must hold a current license issued by their states' EMS licensing authority when the transport is initiated outside the state of Idaho. Payment will not be made to ambulances that do not hold a current license. *( )*

03. Usual Charges. Ambulance services providers cannot charge Medicaid participants more than is charged to the general public for the same service. (3-30-07)

04. Air Ambulance. The operator of the air service must bill the air ambulance service rather than the hospital or other facility receiving the participant. (3-30-07)

865. EMERGENCY TRANSPORTATION SERVICES: PROVIDER REIMBURSEMENT.

01. Scope of Coverage and General Requirements for Ambulance Services. Ambulance service review is governed by provisions of the Transportation Policies and Procedures Manual as amended. If such review identifies that an ambulance service is not covered, then no Medicaid payment will be made for the ambulance

service. Reimbursement for ambulance services originally denied by the Department will be made if such decision is reversed by the appeals process required in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Payment for ambulance services is subject to the following limitations: (3-30-07)

02. Ambulance Reimbursement. (3-30-07)

a. The base rate for ambulance services includes customary patient care equipment and items such as stretchers, clean linens, reusable devices and equipment. The base rate also includes nonreusable items, and disposable supplies such as oxygen, triangular bandages and dressings that may be required for the care of the participant during transport. In addition to the base rate, the Department will reimburse mileage. (3-30-07)

b. Charges for extra attendants are not covered except for justified situations and must be authorized by the Department. (3-30-07)

c. If a physician is in attendance during transport, they are responsible for the billing of their services. (3-30-07)

d. Reimbursement for waiting time will not be considered unless documentation submitted to the Department identifies the length of the waiting time and establishes its medical necessity or indicates that it was physician ordered. Limited waiting time will be allowed for round trips. (3-30-07)

e. Ambulance units are licensed by the EMS Bureau of the Department, or other states' EMS licensing authority according to the level of training and expertise its personnel maintain. At least this level of personnel is required to be in the patient compartment of the vehicle for every ambulance trip. The Department will reimburse a base rate according to the following: (3-30-07)

i. The level of personnel required to be in the patient compartment of the ambulance; (3-30-07)

ii. The level of ambulance license the unit has been issued; and (3-30-07)

iii. The level of life support authorized by the Department. (3-30-07)

f. Units with Emergency Medical Technician - Basic (EMT-B) or equivalent personnel in the patient compartment of the vehicle will be reimbursed up to the Basic Life Support (BLS) rate. Units with Advanced Emergency Medical Technician-Ambulance (AEMT-A) or equivalent personnel in the patient compartment of the vehicle will be reimbursed up to the Advanced Life Support, Level I (ALSI) rate. Units with Emergency Medical Technician - Paramedic (EMT-P) or equivalent personnel in the patient compartment of the vehicle will be reimbursed up to the Advanced Life Support, Level II (ALSII) rate. When a participant's condition requires hospital-to-hospital transport with ongoing care that must be furnished by one (1) or more health care professionals in an appropriate specialty area, including emergency or critical care nursing, emergency medicine, or a paramedic with additional training, Specialty Care Transport (SCT) may be authorized by the Department. (3-30-07)

g. If multiple licensed EMS providers are involved in the transport of a participant, only the ambulance provider *who* actually transports the participant will be reimbursed for the services. *( )*

i. In situations where personnel and equipment from a licensed ALSII provider boards an ALSI or BLS ambulance, the transporting ambulance may bill for ALSII services as authorized by the Department. *( )*

ii. In situations where personnel and equipment from a licensed ALSI provider boards an ALSII or BLS ambulance, the transporting ambulance may bill for ALSI services as authorized by the Department. *( )*

iii. In situations where medical personnel and equipment from a medical facility are present during the transport of the participant, the transporting ambulance may bill at the ALSI or ALSII level of service. The transporting provider must arrange to pay the other provider for their services. The only exception to the preceding policy is in situations where medical personnel employed by a licensed air ambulance provider boards an ALSI, ALSII, or BLS ground ambulance at some point, and the air ambulance medical personnel also accompany and treat the participant during the air ambulance trip. In this situation, the air ambulance provider may bill the appropriate

base rate for the air ambulance trip, and may also bill the charges associated with their medical personnel and equipment as authorized by the Department. ( )

iv. The ground ambulance provider may also bill for their part of the trip as authorized by the Department. ( )

h. If multiple licensed EMS providers transport a participant for different legs of a trip, each provider must bill their base rate and mileage, as authorized by the Department. (3-30-07)

i. If a licensed transporting EMS provider responds to an emergency situation and treats the participant, but does not transport the participant, the Department may reimburse for the treat and release service. The Department will reimburse the appropriate base rate. This service requires authorization from the Department, usually on a retrospective basis. (3-30-07)

j. If an ambulance vehicle and crew have returned to a base station after having transported a participant to a facility and the participant's physician orders the participant to be transferred from this facility to another facility because of medical need, two (2) base rate charges, in addition to the mileage, will be considered for reimbursement. If an ambulance vehicle and crew do not return to a base station and the patient is transferred from one (1) facility to another facility, charges for only one (1) base rate, waiting time, and mileage will be considered. (3-30-07)

k. Round trip charges will be allowed only in circumstances when a facility in-patient is transported to another facility to obtain specialized services not available in the facility in which the participant is an in-patient. The transport must be to and from a facility that is the nearest one with the specialized services. (3-30-07)

l. If a licensed transporting EMS provider responds to a participant's location and upon examination and evaluation of the participant, finds that their condition is such that no treatment or transport is necessary, the Department will pay for the response and evaluation service. This service requires authorization by the Department, usually on a retrospective basis. No payment will be made if the EMS provider responds and no evaluation is done, or the participant has left the scene. No payment will be made to an EMS provider who is licensed as a non-transporting provider. (3-30-07)

866. -- 869. (RESERVED)

870. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES: DEFINITIONS.
For the purposes of Sections 870 through 879 of these rules, the following definitions apply. (4-7-11)

01. Contracted Transportation Provider. A non-emergency medical transportation provider who is under contract with the transportation broker to provide non-emergency medical transportation for Medicaid participants. (4-7-11)

02. Individual Contracted Transportation Provider. An individual who is under contract with the transportation broker to provide non-emergency medical transportation for a Medicaid participant in the provider's personal vehicle. (4-7-11)

03. Non-Emergency Medical Transportation. Non-emergency medical transportation is transportation that is: (4-7-11)

a. Not of an emergency nature; and (4-7-11)

b. Required for a Medicaid participant to access medically necessary services covered by Medicaid when the participant's own transportation resources, family transportation resources, or community transportation resources do not allow the participant to reach those services. (4-7-11)

04. Transportation Broker. An entity under contract with the Department to administer, coordinate, and manage a statewide network of non-emergency medical transportation providers. (4-7-11)

05. Travel-Related Services. Travel-related services are meals, lodging, and attendant care required

for non-emergency medical transportation to be completed for a Medicaid participant. (4-7-11)

871. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES: DUTIES OF THE TRANSPORTATION BROKER.
The transportation broker under contract with the Department is required to: (4-7-11)

01. Coordinate and Manage. Coordinate and manage all non-emergency medical transportation services for Medicaid participants statewide. (4-7-11)

02. Contract With Transportation Providers. Contract with transportation providers throughout the state to provide non-emergency medical transportation services for Medicaid participants. (4-7-11)

03. Call Center. Operate a call center to receive and review non-emergency medical transportation for Medicaid participants meeting the requirements in Section 872 of these rules. (4-7-11)

04. Authorize Non-Emergency Medical Transportation Services. Authorize non-emergency medical transportation services for Medicaid participants requesting transportation and who meet the requirements in Section 872 of these rules. (4-7-11)

05. Reimburse Contracted Transportation Providers. Reimburse contracted transportation providers for non-emergency medical transportation services meeting the requirements in Section 872 of these rules. (4-7-11)

06. Safe and Professional Transportation. Assure that contracted transportation providers deliver non-emergency medical transportation services in a safe and professional manner. (4-7-11)

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

01. Non-Emergency Medical Transportation Services. The transportation broker will reimburse contracted transportation providers for non-emergency medical transportation services under the following conditions: (4-7-11)

a. The travel is essential to get to or from a medically necessary Medicaid covered service; (4-7-11)

b. The mode of transportation is the least costly that is appropriate for the medical needs of the participant; (4-7-11)

c. The transportation is to the nearest medical provider appropriate to perform the needed services, and transportation is by the most direct route practicable; (4-7-11)

d. Other modes of transportation, including personal vehicle, assistance by family, friends, and charitable organizations, are unavailable or impractical under the circumstances; (4-7-11)

e. The travel is authorized and scheduled by the transportation broker; and (4-7-11)

f. The contracted transportation provider is in compliance with the terms of its contract with the transportation broker. (4-7-11)

02. Travel-Related Services. The transportation broker will reimburse a contracted transportation provider for travel-related services under the following circumstances: (4-7-11)

a. The reasonable cost of meals actually incurred in transit will be reimbursed for the participant when there is no other practical means of obtaining food. (4-7-11)

b. The reasonable cost for lodging actually incurred for the participant will be reimbursed when: (4-7-11)

i. The round trip and the needed medical service cannot be completed in the same day; and (4-7-11)

ii. No less costly alternative is available. (4-7-11)

c. The reasonable cost of wages for an attendant will be reimbursed when: (4-7-11)

i. An attendant is medically necessary or when the vulnerability of the participant requires accompaniment for safety; and (4-7-11)

ii. No family member or other unpaid attendant is available to accompany the participant. (4-7-11)

d. The reasonable cost of meals actually incurred in transit will be reimbursed for one (1) family member or one (1) attendant, when: (4-7-11)

i. Attendant care is medically necessary or when the vulnerability of the participant requires accompaniment for safety; and (4-7-11)

ii. There is no other practical means of obtaining food. (4-7-11)

e. The reasonable cost of lodging actually incurred will be reimbursed for one (1) family member or one (1) attendant when: (4-7-11)

i. An overnight stay is required to receive the service; (4-7-11)

ii. It is medically necessary or the vulnerability of the participant requires accompaniment for safety; and (4-7-11)

iii. No less costly alternative is available. (4-7-11)

873. NON-EMERGENCY MEDICAL TRANSPORTATION SERVICES: REIMBURSEMENT METHODOLOGY.
The Department will reimburse the NEMT services broker a fixed, actuarially sound amount per member per month based on the cost of efficiently delivered, timely, and safe non-emergency medical transportation for eligible Idaho Medicaid participants and the cost for efficient administration of the brokerage program. (4-11-19)

874. -- 879. (RESERVED)

SUB AREA: EPSDT SERVICES
(Sections 880 - 889)

880. EARLY PERIODIC SCREENING, DIAGNOSIS, AND TREATMENT (EPSDT) SERVICES: DEFINITION.
Medically necessary services for eligible Medicaid participants under the age of twenty-one (21) are health care, diagnostic services, treatment, and other measures described in Section 1905(a) of the Social Security Act (SSA) necessary to correct or ameliorate defects, physical and mental illness, and conditions discovered by the screening services as defined in Section 1905(r) of the SSA, whether or not such services are covered under the State Plan. Services must be considered safe, effective, and meet acceptable standards of medical practice. (4-4-13)

881. EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) SERVICES: PARTICIPANT ELIGIBILITY.
EPSDT services are available to child participants from birth through the month of their twenty-first birthday. (3-30-07)

882. EARLY PERIODIC SCREENING, DIAGNOSIS AND TREATMENT (EPSDT) SERVICES: COVERAGE AND LIMITATIONS.

01. Additional Services. Any service required as a result of an EPSDT screen and which is currently covered under the scope of the Idaho Medicaid program will not be subject to the existing amount, scope, and duration, but will be subject to the authorization requirements of those rules. (3-30-07)

02. Medically Necessary. The need for additional services must be documented by the attending physician as medically necessary. ( )

03. Prior Authorization. Any service requested, that is covered under Title XIX or Title XXI of the Social Security Act, that is not identified in these rules specifically as a Medicaid-covered service will require prior authorization prior to payment for that service. (3-30-07)

04. Services Not Covered. The Department will not cover services for cosmetic, convenience, or comfort reasons. (3-30-07)

05. Hearing Aids Under EPSDT. (3-30-07)

a. When binaural aids are requested they will be authorized if documented to the Department's satisfaction, that the child's ability to learn would be severely restricted. (3-30-07)

b. When replacement hearing aids are requested, they may be authorized if the requirements in Subsections 742.01.a., 742.01.b., and 742.03 are met. (4-2-08)

c. The Department will purchase additional ear molds after the initial six (6) months to one (1) year period if medically necessary. Requests in excess of every six (6) months will require prior authorization and documentation of medical need from either the attending physician or audiologist. (3-30-07)

06. Eyeglasses Under EPSDT. (3-30-07)

a. In the case of a major visual change, the Department can authorize purchase of a second pair of eyeglasses and can authorize a second eye examination to determine that visual change. (3-30-07)

b. The Department may pay for replacement of lost glasses or replacement of broken frames or lenses. New frames will not be purchased if the broken frame can be repaired for less than the cost of new frames if the provider indicates one (1) of these reasons on their claim. If repair costs are greater than the cost of new frames, new frames may be authorized. (3-30-07)

***883*. -- 889. (RESERVED)**

SUB AREA: SPECIFIC PREGNANCY-RELATED SERVICES (Sections 890 - 899)

890. PREGNANCY-RELATED SERVICES: DEFINITIONS.

01. Individual and Family Social Services. Services directed at helping a participant to overcome social or behavioral problems that may adversely affect the outcome of the pregnancy. (3-30-07)

02. Maternity Nursing Visit. Office visits by a licensed registered nurse, acting within the limits of the Nurses Practices Act, for the purpose of checking the progress of the pregnancy. (3-30-07)

03. Nursing Services. Home visits by a licensed registered nurse to assess the participant's living situation and provide appropriate education and referral during the covered period. (3-30-07)

04. Nutritional Services. Nutritional services are described in Sections 630 through 635 of these rules. (3-30-07)

05. Risk Reduction Follow-Up. Services to assist the participant in obtaining medical, educational,

social and other services necessary to assure a positive pregnancy outcome. (3-30-07)

891. (RESERVED)

892. PREGNANCY-RELATED SERVICES: COVERAGE AND LIMITATIONS.
When ordered by the participant's attending physician, nurse practitioner or nurse midwife, payment of the following services is available after confirmation of pregnancy and extending through the end of the month in which the sixtieth day following delivery occurs. (3-30-07)

01. Individual and Family Social Services. Limited to two (2) visits during the covered period. (3-30-07)

02. Maternity Nursing Visit. These services are only available to women unable to obtain a physician, NP, PA, or NM to provide prenatal care. This service is to end immediately when a primary physician is found. A maximum of nine (9) visits can be authorized. (3-30-07)

03. Nursing Services. Limited to two (2) visits during the covered period. (3-30-07)

04. Nutrition Services. Nutritional services are described in Sections 630 through 632 of these rules. (3-30-07)

05. Qualified Provider Risk Assessment and Plan of Care. When prior authorized by the Department, payment is made for qualified provider services in completion of a standard risk assessment and plan of care for women unable to obtain a primary care physician, nurse practitioner, or nurse midwife for the provision of antepartum care. (3-30-07)

893. PREGNANCY-RELATED SERVICES: PROCEDURAL REQUIREMENTS.
Pregnancy-related services described in Sections 890 through 892 of these rules must be prior authorized by the Department. (3-30-07)

894. PREGNANCY-RELATED SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Services must be: *( )*

01. Risk Reduction Follow-Up. Provided by licensed social workers, licensed registered nurses, nurse midwife, physician, NP, or PA either in independent practice or as employees of entities that have current provider agreements with the Department. (3-30-07)

02. Individual and Family Social Services. Provided by a licensed social worker qualified to provide individual counseling in accordance with the provisions of IDAPA 24.14.01, “Rules of the State Board of Social Work Examiners.” (3-30-07)

895. PREGNANCY-RELATED SERVICES: PROVIDER REIMBURSEMENT.

01. Rates. Rate of payment for pregnancy-related services is established under the provisions of Section 230 of these rules. (3-30-07)

02. Risk Reduction Followup Services. A single payment will be made for each month of service provided. (3-30-07)

896. -- 899. (RESERVED)

INVESTIGATIONS, AUDITS, AND ENFORCEMENT
(Sections 900 - 999)

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

900. LIENS AND ESTATE RECOVERY.
In accordance with Sections 55-819, 56-218, 56-218A, and 56-225, Idaho Code, this Section of rule sets forth the provisions for recovery of medical assistance, the filing of liens against the property of deceased persons, the filing of liens against the property of permanently institutionalized participants, and the recording of requests for notice. (4-7-11)

01. Medical Assistance Incorrectly Paid. The Department may, *in accordance with* a judgment of a court, file a lien against the property of a living or deceased person of any age to recover the costs of medical assistance incorrectly paid. *( )*

02. Administrative Appeals. Permanent institutionalization determination, undue hardship waiver, and request for notice hearings are governed by the fair hearing provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (4-7-11)

901. LIENS AND ESTATE RECOVERY: DEFINITIONS.
The following terms are applicable to Sections 900 through 909 of these rules: (4-7-11)

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

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

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

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

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

06. Institutionalized Participant. An inpatient in a nursing facility (NF), intermediate care facility for people with intellectual disabilities (ICF/ID), or other medical institution, who is a Medicaid participant subject to post-eligibility treatment of income in IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind and Disabled (AABD)." (3-30-07)

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

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

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

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

11. Residing in the Home on a Continuous Basis. Occupying the home as the primary dwelling and

continuing to occupy such dwelling as the primary residence. (3-30-07)

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

13. Undue Hardship. Conditions that justify waiver of all or a part of the Department's claim against an estate, described in Subsections 905.06 through 905.10 of these rules. (4-7-11)

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

902. LIENS AND ESTATE RECOVERY - NOTIFICATION TO DEPARTMENT.
All notification regarding liens, estate claims, and requests for notice must be directed to the Department of Health and Welfare, Estate Recovery Unit, 3272 Elder, Suite B, P.O. Box 83720, Boise, Idaho, 83720-0009. (4-7-11)

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

01. Lien Imposed During Lifetime of Participant. During the lifetime of the permanently institutionalized participant, and subject to the restrictions set forth in Subsection 903.04 of this rule, the Department may impose a lien against the real property of the participant for medical assistance correctly paid on their behalf. The lien must be filed within ninety (90) days of the Department's final determination, after notice and opportunity for a hearing, that the participant is permanently institutionalized. The lien is effective from the beginning of the most recent continuous period of the participant's institutionalization, but not before July 1, 1995. Any lien imposed will dissolve upon the participant's discharge from the medical institution and return home. (4-7-11)

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

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

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

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

03. Notice of Determination of Permanent Institutionalization and Hearing Rights. The Department must notify the participant or their authorized representative, in writing, of its intention to make a determination that the participant is permanently institutionalized, and that they have the right to a fair hearing in accordance with Subsection 900.02 of these rules. This notice must inform the participant of the following information, at a minimum: (4-7-11)

a. The Department's decision that they cannot reasonably be expected to be discharged from the medical institution to return home is based upon a review of the medical records and plan of care, but that this does not preclude them from returning home with services necessary to support nursing facility or ICF/ID level of care; and (4-7-11)

b. They or their authorized representative may request a fair hearing prior to the Department's final determination that they are permanently institutionalized. The notice must include information that a pre-hearing conference may be scheduled prior to a fair hearing. The notice must include the time limits and instructions for requesting a fair hearing. (4-7-11)

c. If they or their authorized representative does not request a fair hearing within the time limits specified, their real property, including their home, may be subject to a lien, contingent upon the restrictions in Subsection 903.04 of this rule. (4-7-11)

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

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

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

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

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

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

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

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

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

ii. A son or daughter of the participant, who was residing in the participant's home for a period of at least two (2) years immediately before the date of the participant's admission to the medical institution, and who establishes by a preponderance of the evidence that they provided necessary care to the participant, and the care they provided allowed the participant to remain at home rather than in a medical institution. (3-30-07)

06. Recovery Upon Sale of Property Subject to Lien Imposed During Lifetime of Participant. Should the property upon which a lien is imposed be sold prior to the participant's death, the Department will seek recovery of all medical assistance paid on behalf of the participant, subject to the restrictions in Subsection 903.05 of this rule. Recovery of the medical assistance paid on behalf of the participant from the proceeds from the sale of the property does not preclude the Department from recovering additional medical assistance paid from the participant's estate as described in Subsection 904.01 of these rules. (4-7-11)

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

a. The name and last known address of the participant; and (3-30-07)

b. The name and address of the official or agent of the Department filing the lien; and (3-30-07)

c. A brief description of the medical assistance received by the participant; and (3-30-07)

d. The amount paid by the Department, as of a given date, and, if applicable, a statement that the amount of the lien will increase as long as medical assistance benefits are paid on behalf of the participant. (3-30-07)

08. Renewal of Lien Imposed During Lifetime of Participant. The lien, or any extension thereof, must be renewed every five (5) years by filing a new verified statement as required in Subsection 903.07 of this rule, or as required by Idaho law. (4-7-11)

09. Termination of Lien Imposed During Lifetime of Participant. The lien will be released as provided by Idaho Code, upon satisfaction of the Department's claim. The lien will dissolve in the event of the participant's discharge from the medical institution and return home. Such dissolution of the lien does not discharge the underlying debt and the estate remains subject to recovery under estate recovery provisions in Sections 904 and 905 of these rules. (4-7-11)

904. LIENS AND ESTATE RECOVERY: REQUIREMENTS FOR ESTATE RECOVERY.

01. Estate Recovery Requirements. In accordance Sections 56-218 and 56-218A, Idaho Code, the Department is required to recover the following: (4-7-11)

a. The costs of all medical assistance correctly paid on or after July 1, 1995, on behalf of a participant who was permanently institutionalized; (3-30-07)

b. The costs of medical assistance correctly paid on behalf of a participant who received medical assistance at age fifty-five (55) or older on or after July 1, 1994; and (3-30-07)

c. The costs of medical assistance correctly paid on behalf of a participant who received medical assistance at age sixty-five (65) or older on or after July 1, 1988. (3-30-07)

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

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

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

05. Assets in Estate Subject to Claims. The authorized representative will be notified of the Department's claim against the assets of a deceased participant. Assets in the estate from which the claim can be satisfied must include all real or personal property that the deceased participant owned or in which they had an ownership interest, including the following: (3-30-07)

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

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

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

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

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

c. Any trust instrument that is designed to hold or to distribute funds or property, real or personal, in

which the deceased participant had a beneficial interest is an asset of the estate. (3-30-07)

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

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

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

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

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

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

905. LIENS AND ESTATE RECOVERY: LIMITATIONS AND EXCLUSIONS.

01. Limitations on Estate Claims. Limits on the Department's claim against the assets of a deceased participant or spouse are subject to Sections 56-218 and 56-218A, Idaho Code. A claim against the estate of a spouse of a participant is limited to the value of the assets of the estate that had been, at any time after October 1, 1993, community property, or the deceased participant's share of the separate property, and jointly owned property. Recovery will not be made until the deceased participant no longer is survived by a spouse, a child who is under age twenty-one (21), or a blind or disabled child, as defined in 42 U.S.C. 1382c as amended and, when applicable, as provided in Subsection 903.05 of these rules. No recovery will be made if the participant received medical assistance as the result of a crime committed against the participant. (4-7-11)

02. Expenses Deducted From Estate. The following expenses may be deducted from the available assets to determine the amount available to satisfy the Department's claim: (3-30-07)

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

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

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

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

05. Certain Life Estates. The value of a life estate owned by a Medicaid participant or their spouse will not be subject to estate recovery if: (4-4-13)

a. Neither the Medicaid participant or their spouse ever owned the remainder interest; or (4-4-13)

b. The life estate was created prior to July 1, 1995. (4-4-13)

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

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

a. When an undue hardship waiver as defined in Subsection 905.07 of this rule has been granted; or (4-7-11)

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

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

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

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

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

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

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

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

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

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

906. LIENS AND ESTATE RECOVERY: REQUEST FOR NOTICE.

01. Request for Notice - Notice - Hearing. The Department must notify the participant or their

authorized representative, in writing, of its intention to record a request for notice, and that they have the right to a fair hearing in accordance with Subsection 900.02 of these rules. The notice must inform the participant of the following information, at a minimum: (4-7-11)

a. The Department's determination that they are the record titleholder or purchaser under a land sale contract of real property subject to a request for notice; (4-7-11)

b. They or their authorized representative may request a fair hearing prior to the Department's recording a request for notice. The notice must include the time limits and instructions for requesting a fair hearing; and (4-7-11)

c. If they or their authorized representative do not request a fair hearing within the time limits specified, a request for notice applying to their real property, including their home, may be recorded. (4-7-11)

02. Request for Notice - Forms - Content. The notices must include, at a minimum, the following information: (4-7-11)

a. The name of the public assistance recipient and the spouse of such public assistance recipient, if any; (4-7-11)

b. The Medicaid number for the public assistance recipient and spouse, if any; (4-7-11)

c. The legal description of the real property affected or to be affected; (4-7-11)

d. The mailing address at which the Department is to receive notice as provided in Section 902 of these rules; (4-7-11)

e. If the document is a Notice of Transfer or Encumbrance, the name and address of the transferee or lien holder; and (4-7-11)

f. A fully executed acknowledgment as required for recording under Section 55-805, Idaho Code. (4-7-11)

03. Webpages for Forms. The forms may be found at: (4-7-11)

a. Notice of Transfer or Encumbrance at http://healthandwelfare.idaho.gov. (4-7-11)

b. Request for Notice at http://healthandwelfare.idaho.gov. (4-7-11)

c. Termination of Request for Notice at http://healthandwelfare.idaho.gov. (4-7-11)

907. -- 909. (RESERVED)

SUB AREA: PARTICIPANT LOCK-IN
(Sections 910 - 918)

910. PARTICIPANT UTILIZATION CONTROL PROGRAM.
This Program is designed to promote improved and cost-efficient medical management of essential health care by monitoring participant activities and taking action to correct abuses. Participants demonstrating unreasonable patterns of utilization or exceeding reasonable levels of utilization*, or both,* will be reviewed for restriction. The Department may require a participant to designate a primary physician or a single pharmacy or both for exclusive provider services in an effort to protect the individual's health and safety, provide continuity of medical care, avoid duplication of services by providers, avoid inappropriate or unnecessary utilization of medical assistance, and avoid excessive utilization of prescription medications. *( )*

911. LOCK-IN DEFINED.
Lock-in is the process of restricting the access of a participant to a specific provider or providers. (3-30-07)

912. DEPARTMENT EVALUATION FOR LOCK-IN.
The Department will review participants to determine if services are being utilized at a frequency or amount that results in a level of utilization or a pattern of services *that* is not medically necessary. Evaluation of utilization patterns can include review by the Department staff of medical records or computerized reports*, or both,* generated by the Department reflecting claims submitted for physician visits, drugs/prescriptions, outpatient and emergency room visits, lab or diagnostic procedures, *or both,* hospital admissions, and referrals. *( )*

913. CRITERIA FOR LOCK-IN.
Since it is impossible to identify all possible patterns of over utilization, and since a particular pattern may be justified based on individual conditions, no specific criteria for lock-in will be developed. However, the Department may develop guidelines for purposes of uniformity. The guidelines will not be binding on the Department and will not limit or restrict the ability of the Department to impose lock-in when any pattern of over utilization is identified. The following utilization patterns may be considered abusive, not medically necessary, potentially endangering the participant's health and safety, or over utilization of Medicaid services, and may result in the restriction of Medicaid reimbursement for a participant to a single provider or providers: (3-30-07)

01. Unnecessary Use of Providers or Services. Unnecessary use of providers or Medicaid services, including excessive provider visits. (3-30-07)

02. Demonstrated Abusive Patterns. Recommendation from a medical professional or the participant's primary care physician that the participant has demonstrated abusive patterns and would benefit from the lock-in program. (3-30-07)

03. Use of Emergency Room Facilities. Frequent use of emergency room facilities for non-emergent conditions. (3-30-07)

04. Multiple Providers. Use of multiple providers. (3-30-07)

05. Controlled Substances. Use of multiple controlled substances. (3-30-07)

06. Prescribing Physicians or Pharmacies. Use of multiple prescribing physicians or pharmacies*, or both*. *( )*

07. Prescription Drugs and Therapeutic Classes. Overlapping prescription drugs with the same therapeutic class. (3-30-07)

08. Drug Abuse. Diagnosis of drug abuse or drug withdrawal, or both. (3-30-07)

09. Drug Behavior. Drug-seeking behavior as identified by a medical professional. (3-30-07)

10. Other Abusive Utilization. Use of drugs or other Medicaid services determined to be abusive by the Department's medical or pharmacy consultant. (3-30-07)

914. LOCK-IN PARTICIPANT NOTIFICATION.
A participant who has been designated by the Department for the Participant Utilization Control Program will be notified in writing by the Department of the action and the participant's right of appeal by means of a fair hearing. (3-30-07)

915. LOCK-IN PROCEDURES.

01. Participant Responsibilities. The participant will be given thirty-five (35) days to contact the Regional Program Manager or designee and complete and sign the lock-in agreement form and select designated provider(s) in each area of misuse. (3-30-07)

02. Appeal Stays Restriction. The Department will not implement the participant restriction if a valid appeal is noted in accordance with Section 917 of these rules. (3-30-07)

03. Lock-In Duration. The Department will restrict participants to their designated providers for a time period determined by the Department. Upon review at the end of that period, lock-in may be extended for an additional period determined by the Department. (3-30-07)

04. Payment to Providers. Payment to provider(s) other than the designated lock-in physician or pharmacy is limited to documented emergencies or written referrals from the primary physician. (3-30-07)

05. Regional Programs Manager. The Regional Programs Manager, or designee will: (3-30-07)

a. Clearly describe the participant's appeal rights in accordance with the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings"; (3-30-07)

b. Specify the effective date and length of the restriction; (3-30-07)

c. Have the participant choose a designated provider or providers; and (3-30-07)

d. Mail the completed lock-in agreement to the Surveillance and Utilization Unit. Upon receipt of the lock-in agreement, the participant's Medicaid services will be immediately restricted to the designated provider(s). (3-30-07)

916. PENALTIES FOR LOCK-IN NONCOMPLIANCE.
If a participant fails to respond to the notification of medical restriction(s), fails to sign the lock-in agreement, or fails to select a primary physician within the specified time period, the Medicaid benefits will be restricted to documented emergencies only. If a participant continues to abuse or over-utilize items or services after being identified for lock-in, the Department may terminate medical assistance benefits for a specified period of time as determined by the Department. ( )

917. APPEAL OF LOCK-IN.
Department determinations to lock-in a participant may be appealed in accordance with the fair hearings provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," of the Department. (3-30-07)

918. RECIPIENT EXPLANATION OF MEDICAID BENEFITS (REOMBS).

01. Monthly Surveys. The Department will conduct monthly surveys of services rendered to medical assistance participants using REOMBs. (3-30-07)

02. Participant Response. A medical assistance participant is required to respond to the Department's explanation of medical benefits survey whenever they are aware of discrepancies. (3-30-07)

03. Participant Unable to Respond. If the participant is unable, because of medical or physical limitations, to respond to the survey personally, then a responsible family member or friend can respond on their behalf. (3-30-07)

04. Medicare-to-Medicaid Cross-Over Claims. All claims processed through the cross-over system will be subject to these rules. All providers submitting cross-over claims must comply with the terms of their provider agreements. (3-30-07)

919. -- 999. (RESERVED)

APPENDIX A

IDAHO MEDICAID HANDICAPPING MALOCCLUSION INDEX

OVERBITE:	MEASUREMENT/POINTS:	SCORE:
Lower incisors: striking lingual of uppers at incisal	1/3 = 0	
Striking lingual of uppers at middle	1/3 = 1	
Striking lingual of uppers at gingival	1/3 = 2	
OPENBITE: (millimeters) *a,b		
Less than……	2 mm = 0	
	2-4 mm = 1	
	4+ mm = 2	
OVERJET: (millimeters) *a		
Upper…….	2-4 mm = 0	
Measure horizontally parallel to occlusal plane.	5-9 mm = 1	
	9+ mm = 2	
Lower……	0-1 mm = 0	
	2 mm = 1	
	3+ mm = 2	
POSTERIOR X-BITE: (teeth) *b		
Number of teeth in x-bite:	0-2 = 0	
	3 = 1	
	4 = 2	
TOOTH DISPLACEMENT: (teeth) *c, d, e		
Number of teeth rotated 45 degrees or displaced 2mm from normal position in arch.	0-2 = 0 3-6 = 1 7+ = 2	
BUCCAL SEGMENT RELATIONSHIP:		
One side distal or mesial ½ cusp	= 0	
Both sides distal or mesial or one side full cusp	= 1	
Both sides full cusp distal or mesial	= 2	

OVERBITE:	MEASUREMENT/POINTS:	SCORE:

TOTAL SCORE:_____

Scoring Definitions:

a. Impacted or blocked cuspids are scored 1 open bite and 1 over jet for two teeth. Score 2 for open bite and 2 for over jet for 4 blocked cuspids.

b. Cross bites are scored for the teeth in cross bite, not the teeth in the opposing arch.

c. Missing teeth count as 1, if the space is still present.

d. Do not score teeth that are not fully erupted.

e. Displaced teeth are based on where they are in their respective arch line, not their relationship with the opposing arch.

000. LEGAL AUTHORITY.

01. Rulemaking Authority. The Idaho Department of Health and Welfare has the authority to promulgate public assistance rules under Section 56-202(b), 56-264, and 56-1610, Idaho Code. (3-21-12)

02. General Administrative Authority. Title XIX and Title XXI, of the Social Security Act, as amended, and the companion federal regulations, are the basic authority for administration of the federal program. General administrative duties for the Department are found under Section 56-202, Idaho Code. (3-19-07)

03. Administration of the Medical Assistance Program. (3-19-07)

a. Section 56-203(7), Idaho Code, empowers the Department to define persons entitled to medical assistance. (3-19-07)

b. Section 56-203(9), Idaho Code, empowers the Department to identify the amount, duration, scope of care, and services to be purchased as medical assistance on behalf of individuals eligible to receive benefits under the Medical Assistance Program. (3-19-07)

c. Sections 56-250 through 56-257, and 56-260 through 56-266, Idaho Code, establish minimum standards that enable these rules. (3-21-12)

04. Fiscal Administration. (3-19-07)

a. Fiscal administration of these rules is authorized by Title XIX and Title XXI of the Social Security Act, as well as 42 CFR Part 447 and the Provider Reimbursement Manual (PRM) Part I and Part II found in CMS Publication 15-1 and 15-2. Provisions of the PRM, as incorporated by reference in Section 004 of these rules, apply unless otherwise provided for in these rules. (3-19-07)

b. Title 56, Chapter 1, Idaho Code, establishes standards for provider payment for certain Medicaid providers. (3-19-07)

001. TITLE AND SCOPE.

01. Title. The title of these rules is IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-19-07)

02. Scope. These rules establish the Medicaid Enhanced Plan Benefits covered under Title XIX and Title XXI. Participants who are eligible for Enhanced Plan Benefits are also eligible for benefits under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." Dental benefits and outpatient behavioral health benefits are contained in IDAPA 16.03.09. "Medicaid Basic Plan Benefits." (4-11-19)

03. Scope of Reimbursement System Audits. These rules also provide for the audit of providers' claimed costs against these rules and Medicare standards. The Department reserves the right to audit financial and other records of the provider, and, when warranted, the records of entities related to the provider. Audits consist of the following types of records: (3-19-07)

a. Cost verification of actual costs for providing goods and services; (3-19-07)

b. Evaluation of provider's compliance with the provider agreement, reporting form instructions, and any applicable law, rule, or regulation; (3-19-07)

c. Effectiveness of the service to achieve desired results or benefits; and (3-19-07)

d. Reimbursement rates or settlement calculated under this chapter. (3-19-07)

04. Exception to Scope for Audits and Investigations. Audits as described in these rules do not apply to the audit processes used in conducting investigations of fraud and abuse under IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-19-07)

002. WRITTEN INTERPRETATIONS.

*T*his agency may have written statements that pertain to the interpretations of the rules of this chapter. These

documents are available for public inspection. ( )

003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The Department has incorporated by reference the following document: (3-19-07)

01. 42 CFR Part 447. 42 CFR Part 447, "Payment for Services," revised as of October 1, 2001, is available from CMS, 7500 Security Blvd, Baltimore, M.D., 21244-1850 or on the Code of Federal Regulations website at http://www.ecfr.gov/cgi-bin/text-idx?SID=3ec1965dbf5044d8f79b25d4d58c4cd1&mc=true&tpl=/ecfrbrowse/Title42/42cfrv4_02.tpl#0. (3-19-07)

02. Estimated Useful Lives of Depreciable Hospital Assets, 2004 Revised Edition, Guidelines Lives. This document may be obtained from American Hospital Publishing, Inc., 211 E. Chicago Ave., Chicago, IL. 60611. (3-19-07)

03. Medicare Region D Durable Medical Equipment Regional Carrier (DMERC) Supplier Manual or Its Successor. The full text of the Medicare Region D DMERC Supplier Manual Chapters IX and X, date April 2001, is available via the Internet at www.cignamedicare.com. A copy is also available at the Idaho State Supreme Court Law Library. (3-19-07)

04. Provider Reimbursement Manual (PRM). The Provider Reimbursement Manual (PRM), Part I and Part II CMS Publication 15-1 and 15-2), is available on the CMS website at https://www.cms.gov/Regulations-and-Guidance/Guidance/Manuals/Paper-Based-Manuals.html. (3-19-07)

05. Resource Utilization Groups (RUG) Grouper. The RUG III, version 5.12, 34 Grouper, nursing weights only, with index maximization. The RUG Grouper is available from CMS, 7500 Security Blvd., Baltimore, MD, 21244-1850. (3-19-07)

06. Travel Policies and Procedures of the Idaho State Board of Examiners. The text of "Idaho State Travel Policies and Procedures of the Idaho State Board of Examiners," Appendices A and B, June 13, 2000, is available at the Office of the State Controller, 700 W. State St., 5th Fl., Box 83720, Boise, Idaho 83720-0011 or on the Internet at http://www.sco.idaho.gov/. (3-19-07)

005. -- 007. (RESERVED)

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, or Misconduct." (3-19-07)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History Check. Agencies must verify that individuals working in the area listed in Subsection 009.03 of these rules whom are employed or whom they contract have complied with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (3-19-07)

02. Additional Criminal Convictions. Once an individual has received a criminal history clearance, any additional criminal convictions must be reported by the agency to the Department when the agency learns of the conviction. (3-19-07)

03. Providers Subject to Criminal History and Background Check Requirements. The following providers are required to have a criminal history and background check: (3-19-07)

a. Adult Day Health, *Chore Services, Skilled Nursing, and Supported Employment* Providers. The criminal history and background check requirements applicable to providers as provided in Sections 329 and 705 of these rules. ( )

b. Adult Residential Care*, Attendant Care, Companion Services, Day Habilitation, and Homemaker Services* Providers. The criminal history and background check requirements applicable to providers as provided in Section 329 of these rules. *( )*

c. Behavior Consultation or Crisis Management Providers. The criminal history and background check requirements applicable to behavior consultation or crisis management providers as provided in Section 705 of these rules. (4-4-13)

d. Certified Family Home Providers and All Adults in the Home. The criminal history and background check requirements applicable to certified family homes are found in Sections 305, 329 and 705 of these rules, and as provided in IDAPA 16.03.19, "Certified Family Homes." (4-2-08)

e. Developmental Disabilities Agencies (DDA). The criminal history and background check for DDA and staff as provided in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 009. (7-1-11)

f. Personal Assistance Agencies Acting As Fiscal Intermediaries. The criminal history and background check requirements applicable to the staff of personal assistance agencies acting as fiscal intermediaries as provided in Subsection 329.02 of these rules. (3-19-07)

g. Personal Care Providers. The criminal history and background check requirements applicable to personal care providers as provided in Subsection 305.06 of these rules. (3-19-07)

h. Residential Habilitation Providers. The criminal history and background check requirements applicable to residential habilitation providers as provided in Sections 329 and 705 of these rules, and IDAPA 16.04.17 "Residential Habilitation Agencies," Sections 202 and 301. (4-2-08)

i. Respite Care Providers. The criminal history and background check requirements applicable to respite care providers as provided in Sections 329, 665, and 705 of these rules. (7-1-11)

j. Service Coordinators and Paraprofessionals. The criminal history and background check requirements applicable to service coordinators and paraprofessionals working for an agency as provided in Section 729 of these rules. (3-19-07)

k. Therapeutic Consultant. The criminal history and background check requirements applicable to therapeutic consultation providers as provided in Section 685 of these rules. (7-1-11)

010. DEFINITIONS: A THROUGH D.
For the purposes of these rules, the following terms are used as defined below: (3-19-07)

01. Accrual Basis. An accounting system based on the principle that revenues are recorded when they are earned; expenses are recorded in the period incurred. (3-19-07)

02. Active Treatment. Active treatment is the continuous participation, during all waking hours, by an individual in an aggressive, consistently implemented program of specialized and generic training, treatment, health and related services, and provided in accordance with a treatment plan developed by an interdisciplinary team and monitored by a Qualified Intellectual Disabilities Professional (QIDP) directed toward: the acquisition of the behaviors necessary for the resident to function with as much self-determination and independence as possible; or the prevention or deceleration of regression or loss of current functional status. (3-19-07)

03. Activities of Daily Living (ADL). The performance of basic self-care activities in meeting an individual's needs for sustaining them in a daily living environment, including bathing, washing, dressing, toileting, grooming, eating, communication, continence, mobility, and associated tasks. *( )*

04. Allowable Cost. Costs that are reimbursable, and sufficiently documented to meet the requirements of audit. (3-19-07)

05. **Amortization**. The systematic recognition of the declining utility value of certain assets, usually not owned by the organization or intangible in nature. (3-19-07)

06. **Appraisal**. The method of determining the value of property as determined by an Appraisal Institute appraisal. The appraisal must specifically identify the values of land, buildings, equipment, and goodwill. (3-19-07)

07. **Assets**. Economic resources of the provider recognized and measured in conformity with generally accepted accounting principles. (3-19-07)

08. **Attendant Care**. Services provided under a Medicaid Home and Community-Based Services waiver that involve personal and medically-oriented tasks dealing with the functional needs of the participants and accommodating the participant's needs for long-term maintenance, supportive care, or activities of daily living (ADL). These services may include personal assistance and medical tasks that can be done by unlicensed persons or delegated to unlicensed persons by a health care professional or the participant. Services are based on the person's abilities and limitations, regardless of age, medical diagnosis, or other category of disability. This assistance may take the form of hands-on assistance (actually performing a task for the person) or cuing to prompt the participant to perform a task. (4-4-13)

09. **Audit**. An examination of provider records on the basis of which an opinion is expressed representing the compliance of a provider's financial statements and records with Medicaid law, regulations, and rules. (3-19-07)

10. **Auditor**. The individual or entity designated by the Department to conduct the audit of a provider's records. (3-19-07)

11. **Audit Reports**. (3-19-07)

a. Draft Audit Report. A preliminary report of the audit finding sent to the provider for the provider's review and comments. (3-19-07)

b. Final Audit Report. A final written report containing the results, findings, and recommendations, if any, from the audit of the provider, as approved by the Department. (3-19-07)

c. Interim Final Audit Report. A written report containing the results, findings, and recommendations, if any, from the audit of the provider, sent to the Department by the auditor. (3-19-07)

12. **Bad Debts**. Amounts due to provider as a result of services rendered, but that are considered uncollectible. (3-19-07)

13. **Bed-Weighted Median**. A numerical value determined by arraying the average per diem cost per bed of all facilities from high to low and identifying the bed at the point in the array at which half of the beds have equal or higher per diem costs and half have equal or lower per diem costs. The identified bed is the median bed. The per diem cost of the median bed is the bed-weighted median. (3-19-07)

14. **Capitalize**. The practice of accumulating expenditures related to long-lived assets that will benefit later periods. (3-19-07)

15. **Case Mix Adjustment Factor**. The factor used to adjust a provider's direct care rate component for the difference in the average Medicaid acuity and the average nursing facility-wide acuity. The average Medicaid acuity is from the picture date immediately preceding the rate period. The average nursing facility-wide acuity is the average of the indexes that correspond to the cost reporting period. (3-19-07)

16. **Case Mix Index (CMI)**. A numeric score assigned to each nursing facility resident, based on the resident's physical and mental condition, that projects the amount of relative resources needed to provide care to the resident. (3-19-07)

a. Nursing Facility Wide Case Mix Index. The average of the entire nursing facility's case mix indexes identified at each picture date during the cost reporting period. If case mix indexes are not available for applicable quarters due to lack of data, case mix indexes from available quarters will be used. (3-19-07)

b. Medicaid Case Mix Index. The average of the weighting factors assigned to each Medicaid resident in the facility on the picture date, based on their RUG classification. Medicaid or non-Medicaid status is based upon information contained in the MDS databases. To the extent that Medicaid identifiers are found to be incorrect, the Department may adjust the Medicaid case mix index and reestablish the reimbursement rate. (3-19-07)

c. State-Wide Average Case Mix Index. The simple average of all nursing facilities "facility wide" case mix indexes used in establishing the reimbursement limitation July 1st of each year. The state-wide case mix index will be calculated annually during each July 1st rate setting. (3-19-07)

17. Certified Family Home. A home certified by the Department to provide care to one (1) or two (2)adults, who are unable to reside on their own and require help with activities of daily living, protection and security, and need encouragement toward independence. (3-19-07)

l8. Chain Organization. A proprietorship, partnership, or corporation that leases, manages, or owns two (2) or more facilities that are separately licensed. (3-19-07)

19. Claim. An itemized bill for services rendered to one (1) participant by a provider and submitted to the Department for payment. (3-19-07)

20. Clinical Nurse Specialist. A licensed registered nurse who meets all the applicable requirements to practice as clinical nurse specialist under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-19-07)

21. Common Ownership. An individual, individuals, or other entities who have equity or ownership in two (2) or more organizations that conduct business transactions with each other. Common ownership exists if an individual or individuals possess significant ownership or equity in the provider and the institution or organization serving the provider. (3-19-07)

22. Compensation. The total of all remuneration received, including cash, expenses paid, salary advances, etc. (3-19-07)

23. Control. Control exists where an individual or an organization has the power, directly or indirectly, to significantly influence or direct the actions or policies of an organization or institution. (3-19-07)

24. Cost Center. A "collection point" for expenses incurred in the rendering of services, supplies, or materials that are related or so considered for cost-accounting purposes. (3-19-07)

25. Cost Component. The portion of the nursing facility's rate that is determined from a prior cost report, including property rental rate. The cost component of a nursing facility's rate is established annually at July 1st of each year. (3-19-07)

26. Cost Reimbursement System. A method of fiscal administration of Title XIX and Title XXI that compensates the provider on the basis of expenses incurred. (3-19-07)

27. Cost Report. A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (3-19-07)

28. Cost Statements. An itemization of costs and revenues, presented on the accrual basis, that is used to determine cost of care for facility services for a specified period of time. These statements are commonly called income statements. (3-19-07)

29. Costs Related to Patient Care. All necessary and proper costs that are appropriate and helpful in developing and maintaining the operation of patient care facilities and activities. Necessary and proper costs related

to patient care are usually costs that are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expenses, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, and normal standby costs. ( )

30. Costs Not Related to Patient Care. Costs that are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are nonallowable in computing reimbursable costs. They include, for example, cost of meals sold to visitors or employees; cost of drugs sold to other than patients; cost of operation of a gift shop; and similar items. Travel and entertainment expenses are nonallowable unless it can be specifically shown that they relate to patient care and for the operation of the nursing facility. (3-19-07)

31. Customary Charges. Customary charges are the rates charged to Medicare participants and to patients liable for such charges, as reflected in the facility's records. Those charges are adjusted downward, when the provider does not impose such charges on most patients liable for payment on a charge basis or, when the provider fails to make reasonable collection efforts. The reasonable effort to collect such charges is the same effort necessary for Medicare reimbursement as is needed for unrecovered costs attributable to certain bad debt under PRM, Chapter 3, Sections 310 and 312. (3-19-07)

32. Day Treatment Services. Day treatment services are developmental services provided regularly during normal working hours on weekdays by, or on behalf of, the Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID). However, day treatment services do not include recreational therapy, speech therapy, physical therapy, occupational therapy, or services paid for or required to be provided by a school or other entity. (3-19-07)

33. Department. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (3-19-07)

34. Depreciation. The systematic distribution of the cost or other basis of tangible assets, less salvage, over the estimated life of the assets. (3-19-07)

35. Developmental Disability (DD). A developmental disability, as defined in Section 66-402, Idaho Code, means a chronic disability of a person that appears before the age of twenty-two (22) years of age; and (3-19-07)

a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments, that requires similar treatment or services or is attributable to dyslexia resulting from such impairments; (3-19-07)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (3-19-07)

c. Reflects the need for a combination or sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and individually planned and coordinated. (3-19-07)

36. Direct Care Costs. Costs directly assigned to the nursing facility or allocated to the nursing facility through the Medicare cost finding principles and consisting of the following: (3-19-07)

a. Direct nursing salaries that include the salaries of licensed registered nurses (RN), certified nurse's aides, and unit clerks; (3-19-07)

b. Routine nursing supplies; (3-19-07)

c. Nursing administration; (3-19-07)

d. Direct portion of Medicaid related ancillary services; (3-19-07)

e. Social services; (3-19-07)

f. Raw food; (3-19-07)

g. Employee benefits associated with the direct salaries: and (3-19-07)

h. Medical waste disposal, for rates with effective dates beginning July 1, 2005. (3-19-07)

37. Director. The Director of the Department of Health and Welfare or their designee. (3-19-07)

38. Durable Medical Equipment (DME). Equipment other than prosthetics or orthotics that can withstand repeated use by one (1) or more individuals, is primarily and customarily used to serve a medical purpose, is generally not useful to a person in the absence of an illness or injury, is appropriate for use in the home, and is reasonable and necessary for the treatment of an illness or injury for a Medicaid participant. (5-8-09)

011. DEFINITIONS: E THROUGH K.
For the purposes of these rules, the following terms are used as defined below: (3-19-07)

01. Educational Services. Services that are provided in buildings, rooms or areas designated or used as a school or as educational facilities; that are provided during the specific hours and time periods in which the educational instruction takes place in the normal school day and period of time for these students; and that are included in the individual educational plan for the participant or required by federal and state educational statutes or regulations; are not related services**;** and such services are provided to school age individuals as defined in Section 33-201, Idaho Code. (3-19-07)

02. Eligibility Rules. IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind and Disabled (AABD)." (3-19-07)

03. Emergency Medical Condition. A medical condition manifesting itself by acute symptoms of sufficient severity, including severe pain, that a prudent lay person, who possesses an average knowledge of health and medicine, could reasonably expect the absence of immediate medical attention to result in the following: (3-19-07)

a. Placing the health of the individual, or, with respect to a pregnant woman, the health of the woman or unborn child, in serious jeopardy. (3-19-07)

b. Serious impairment to bodily functions. (3-19-07)

c. Serious dysfunction of any bodily organ or part. (3-19-07)

04. Enhanced Plan. The medical assistance benefits included under this chapter of rules. (3-19-07)

05. EPSDT. Early and Periodic Screening Diagnosis and Treatment. (3-19-07)

06. Equity. The net book value of all tangible and intangible assets less the recorded value of all liabilities, as recognized and measured in conformity with generally accepted accounting principles. (3-19-07)

07. Facility. Facility refers to a hospital, nursing facility, or an intermediate care facility for persons with intellectual disabilities. (3-19-07)

a. "Free-standing and Urban Hospital-based Behavioral Care Unit" means the same as Subsection 011.07.b. or 011.07.h. of this rule, and qualifies as a behavioral care unit nursing facility provider described in Section 266 of these rules. (4-4-13)

b. "Free-standing Nursing Facility" means a nursing facility that is not owned, managed, or operated by, nor is otherwise a part of a licensed hospital. (3-19-07)

c. "Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID)" means an entity as defined in Subsection 011.30 in this rule. (4-4-13)

d. "Nursing Facility (NF)" means a facility licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare patients. (3-19-07)

e. "Rural Hospital-based Provider" means a hospital-based nursing facility not located within a metropolitan statistical area (MSA) as defined by the United States Bureau of the Census. (4-4-13)

f. "Rural Hospital-based Behavioral Care Unit" means the same as Subsection 011.07.e., and qualifies as a behavioral care unit nursing facility provider described in Section 266 of these rules. (4-4-13)

g. Skilled Nursing Facility" means a nursing facility licensed by the Department to provide twenty-four (24) hour skilled nursing services and federally certified as a "Nursing Facility" under Title XVIII. (3-19-07)

h. "Urban Hospital-based Nursing Facility" means a hospital-based nursing facility located within a metropolitan statistical area (MSA) as defined by the United States Bureau of the Census. (4-4-13)

08. Fiscal Intermediary Agency. An entity that provides services that allow the participant receiving personal assistance services, or their designee or legal representative, to choose the level of control they will assume in recruiting, selecting, managing, training, and dismissing their personal assistant regardless of who the employer of record is, and allows the participant control over the manner in which services are delivered. (5-8-09)

09. Fiscal Year. An accounting period that consists of twelve (12) consecutive months. (3-19-07)

10. Forced Sale. A forced sale is a sale required by a bankruptcy, foreclosure, the provisions of a will or estate settlement pursuant to the death of an owner, physical or mental incapacity of an owner that requires ownership transfer to existing partner or partners, or a sale required by the ruling of a federal agency or by a court order. (3-19-07)

11. Funded Depreciation. Amounts deposited or held that represent recognized depreciation. (3-19-07)

12. Generally Accepted Accounting Principles (GAAP). A widely accepted set of rules, conventions, standards, and procedures for reporting financial information as established by the Financial Standards Accounting Board. (3-19-07)

13. Goodwill. The amount paid by the purchaser that exceeds the value of the net tangible assets. The value of goodwill is derived from the economic benefits that a going concern may enjoy, as compared with a new one, from established relations in the related markets, with government departments and other noncommercial bodies and with personal relationships. These intangible assets cannot be separated from the business and sold as can plant and equipment. Under the theory that the excess payment would be made only if expected future earnings justified it, goodwill is often described as the price paid for excess future earnings. The amortization of goodwill is a nonallowable, nonreimbursable expense. (3-19-07)

14. Healthy Connections. The primary care case management model of managed care under Idaho Medicaid. (3-19-07)

15. Historical Cost. The actual cost incurred in acquiring and preparing an asset for use, including feasibility studies, architects' fees, and engineering studies. (3-19-07)

16. Home and Community-Based Services (HCBS). HCBS are those long-term services and supports that assist eligible participants to remain in their home and community. (7-1-16)

17. ICF/ID Living Unit. The physical structure that an ICF/ID uses to house patients. (3-19-07)

18. **Improvements**. Improvements to assets that increase their utility or alter their use. (3-19-07)

19. **Indirect Care Costs**. The following costs either directly coded to the nursing facility or allocated to the nursing facility through the Medicare step-down process described in the PRM: (3-19-07)

a. Activities; (3-19-07)

b. Administrative and general care costs; (3-19-07)

c. Central service and supplies; (3-19-07)

d. Dietary (non-"raw food" costs); (3-19-07)

e. Employee benefits associated with the indirect salaries; (3-19-07)

f. Housekeeping; (3-19-07)

g. Laundry and linen; (3-19-07)

h. Medical records; (3-19-07)

i. Other costs not included in direct care costs, or costs exempt from cost limits; and (3-19-07)

j. Plant operations and maintenance (excluding utilities). (3-19-07)

20. **Inflation Adjustment**. The cost used in establishing a nursing facility's prospective reimbursement rate is indexed forward from the midpoint of the cost report period to the midpoint of the rate year using the inflation factor plus one percent (+1%) per annum. (3-19-07)

21. **Inflation Factor**. For use in establishing nursing facility prospective rates, the inflation factor is the Skilled Nursing Facility Market Basket as established by *IHS Markit*, or its successor. If subsequent to the effective date of these rules, *IHS Markit*, or its successor develops an Idaho-specific nursing facility index, it will be used. The Department is under no obligation to enter into an agreement with *IHS Markit* or its successor to have an Idaho-specific index established. The national index is used when there is no state or regional index. *( )*

22. **In-State Care**. Medical services provided within the Idaho border or in counties bordering Idaho are considered to be in-state, excluding long term care. (3-19-07)

23. **Inspection of Care Team (IOCT)**. An interdisciplinary team that provides inspection of care in intermediate care facilities for persons with intellectual disabilities approved by the Department as providers of care for eligible medical assistance participants. Such a team is composed of: (3-19-07)

a. At least one (1) licensed registered nurse; and (3-19-07)

b. One (1) Qualified Intellectual Disabilities Professional (QIDP); and when required, one (1) of the following: (3-19-07)

i. A consultant physician; or (3-19-07)

ii. A consultant social worker; or (3-19-07)

iii. When appropriate, other health and human services personnel responsible to the Department as employees or consultants. (3-19-07)

24. **Instrumental Activities of Daily Living (IADL)**. Those activities performed in supporting the activities of daily living, including, but not limited, to managing money, preparing meals, shopping, light housekeeping, using the telephone, or getting around in the community. (3-19-07)

25. Interest. The cost incurred for the use of borrowed funds. (3-19-07)

26. Interest on Capital Indebtedness. The cost incurred for borrowing funds used for acquisitions of capital assets, improvements, etc. These costs are reported under property costs. (3-19-07)

27. Interest on Working Capital. The costs incurred for borrowing funds that will be used for "working capital" purposes. These costs are reported under administrative costs. (3-19-07)

28. Interest Rate Limitation. The interest rate allowed for working capital loans and for loans for major movable equipment for ICF/ID facilities is the prime rate as published in the western edition of the Wall Street Journal or successor publication, plus one percent (+1%) at the date the loan is made. (3-19-07)

29. Interim Reimbursement Rate (IRR). A rate paid for each Medicaid patient day that is intended to result in total Medicaid payments approximating the amount paid at audit settlement. The interim reimbursement rate is intended to include any payments allowed in excess of the percentile cap. (3-19-07)

30. Intermediary. Any organization that administers the Title XIX and Title XXI program; in this case the Department of Health and Welfare. (3-19-07)

31. Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID). An entity licensed as an ICF/ID and federally certified to provide care to Medicaid and Medicare participants with developmental disabilities. (3-19-07)

32. Keyman Insurance. Insurance on owners or employees with extraordinary talents in which the direct or indirect beneficiary is the facility or its owners. Premiums related to keyman insurance are not allowable. (3-19-07)

012. DEFINITIONS: L THROUGH O.
For the purposes of these rules, the following terms are used as defined below: (3-19-07)

01. Lease. A contract arrangement for use of another's property, usually for a specified time period, in return for period rental payments. (3-19-07)

02. Leasehold Improvements. Additions, adaptations, corrections, etc., made to the physical components of a building or construction by the lessee for their use or benefit. Such additions may revert to the owner. Such costs are usually capitalized and amortized over the life of the lease. (3-19-07)

03. Legal Representative. A parent with custody of a minor child, one who holds a legally-executed and effective power of attorney for health decisions, or a court-appointed guardian whose powers include the power to make health care decisions. (3-19-07)

04. Level of Care. The classification in which a participant is placed, based on severity of need for institutional care. (3-19-07)

05. Licensed Bed Capacity. The number of beds that are approved by the Licensure and Certification Agency for use in rendering patient care. (3-19-07)

06. Licensed, Qualified Professionals. Individuals licensed, registered, or certified by national certification standards in their respective discipline, or otherwise qualified within the state of Idaho. (3-19-07)

07. Lower of Cost or Charges. Payment to providers (other than public providers furnishing such services free of charge or at nominal charges to the public) is the lesser of the reasonable cost of such services or the customary charges with respect to such services. Public providers that furnish services free of charge or at a nominal charge are reimbursed fair compensation; which is the same as reasonable cost. (3-19-07)

08. MAI Appraisal. An appraisal that conforms to the standards, practices, and ethics of the Appraisal

Institute and is performed by a member of the Appraisal Institute. (3-19-07)

09. Major Movable Equipment. Major movable equipment means such items as beds, wheelchairs, desks, furniture, vehicles, etc. The general characteristics of this equipment are: (3-19-07)

a. A relatively fixed location in the building; (3-19-07)

b. Capable of being moved, as distinguished from building equipment; (3-19-07)

c. A unit cost of five thousand dollars ($5000) or more; (3-19-07)

d. Sufficient size and identity to make control feasible by means of identification tags; and (3-19-07)

e. A minimum life of three (3) years. (3-19-07)

10. Medical Assistance. Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-19-07)

11. Medicaid. Idaho's Medical Assistance Program. (3-19-07)

12. Medicaid Related Ancillary Costs. For the purpose of these rules, those services provided in nursing facilities considered to be ancillary by Medicare cost reporting principles. Medicaid related ancillary costs will be determined by apportioning direct and indirect costs associated with each ancillary service to Medicaid residents by dividing Medicaid charges into total charges for that service. The resulting percentage, when multiplied by the ancillary service cost, will be considered Medicaid related ancillaries. (3-19-07)

13. Medical Care Treatment Plan. The problem list, clinical diagnosis, and treatment plan of care administered by or under the direct supervision of a physician. (3-19-07)

14. Medical Necessity (Medically Necessary). A service is medically necessary if: (3-19-07)

a. It is reasonably calculated to prevent, diagnose, or treat conditions in the participant that endanger life, cause pain, or cause functionally significant deformity or malfunction; and (3-19-07)

b. There is no other equally effective course of treatment available or suitable for the participant requesting the service that is more conservative or substantially less costly. (3-19-07)

c. Medical services must be of a quality that meets professionally recognized standards of health care, be substantiated by records including evidence of such medical necessity and quality, *and* be made available to the Department upon request. *( )*

15. Medical Supplies. Items excluding drugs and biologicals and equipment furnished incident to a physician's professional services commonly furnished in a physician's office or items ordered by a physician for the treatment of a specific medical condition. These items are generally not useful to an individual in the absence of an illness and are consumable, nonreusable, disposable, and generally have no salvage value. Surgical dressings, ace bandages, splints and casts, and other devices used for reduction of fractures or dislocations are considered supplies. (3-19-07)

16. Medicare Savings Program. The program formerly known as “Buy-In Coverage,” where the state pays the premium amount for participants eligible for Medicare Parts A and B of Title XVIII. (3-19-07)

17. Minimum Data Set (MDS). A set of screening, clinical, and functional status elements, including common definitions and coding categories, that forms the foundation of the comprehensive assessment for all residents of long term care facilities certified to participate in Medicare or Medicaid. The version of the assessment document used for rate setting is version 2.0. Subsequent versions of the MDS will be evaluated and incorporated into rate setting as necessary. (3-19-07)

18. Minor Movable Equipment. Minor movable equipment includes such items as wastebaskets, bedpans, syringes, catheters, silverware, mops, buckets, etc. Oxygen concentrators used in lieu of bottled oxygen may, at the facility's option, be considered minor movable equipment with the cost reported as a medical supply. The general characteristics of this equipment are: (3-19-07)

a. No fixed location and subject to use by various departments of the provider's facility; (3-19-07)

b. Comparatively small in size and unit cost under five thousand dollars ($5000); (3-19-07)

c. Subject to inventory control; (3-19-07)

d. Fairly large quantity in use; and (3-19-07)

e. A useful life of less than three (3) years. (3-19-07)

19. Necessary. The purchase of goods or services that is required by law, prudent management, and for normal, efficient and continuing operation of patient related business. (3-19-07)

20. Negotiated Service Agreement (NSA). The plan reached by the resident and their representative, or both, and the facility or certified family home based on the assessment, physician or authorized provider's orders, admissions records, and desires of the resident. The NSA must outline services to be provided and the obligations of the facility or certified family home and the resident. (3-19-07)

21. Net Book Value. The historical cost of an asset, less accumulated depreciation. (3-19-07)

22. New Bed. Subject to specific exceptions stated in these rules, a bed is considered new if it adds to the number of beds for which a nursing facility is licensed on or after July 1, 1999. (3-19-07)

23. Nominal Charges. A public provider's charges are nominal where aggregate charges amount to less than one-half (1/2) of the reasonable cost of the related services. (3-19-07)

24. Nonambulatory. Unable to walk without assistance. (3-19-07)

25. Nonprofit Organization. An organization whose purpose is to render services without regard to gains. (3-19-07)

26. Normalized Per Diem Cost. Refers to direct care costs that have been adjusted based on the nursing facility's case mix index for purposes of making the per diem cost comparable among nursing facilities. Normalized per diem costs are calculated by dividing the nursing facility's direct care per diem costs by its nursing facility-wide case mix index, and multiplying the result by the statewide average case mix index. (3-19-07)

27. Nurse Practitioner. A licensed registered nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-19-07)

28. Nursing Facility (NF). An institution, or distinct part of an institution, that is primarily engaged in providing skilled nursing care and related services for participants. It is an entity licensed as a nursing facility and federally certified to provide care to Medicaid and Medicare participants. The participants require medical or nursing care, or rehabilitation services for injuries, disabilities, or illness. (3-19-07)

29. Nursing Facility Inflation Rate. See the definition of Inflation Factor in Subsection 011.20 of these rules. (4-4-13)

30. Ordinary. Ordinary means that the costs incurred are customary for the normal operation of the business. (3-19-07)

31. Out-of-State Care. Medical service that is not provided in Idaho or bordering counties is

considered out-of-state. Bordering counties outside Idaho are considered out-of-state for the purpose of authorizing long term care. (3-19-07)

013. DEFINITIONS: P THROUGH Z.
For the purposes of these rules, the following terms are used as defined below: (3-19-07)

01. Patient Day. (3-21-12)

a. For ICF/ID, a calendar day of care includes the day of admission and excludes the day of discharge, unless discharge occurs after 3:00 p.m. or it is the date of death. When admission and discharge occur on the same day, one (1) day of care is deemed to exist. (3-21-12)

b. For a nursing facility, a calendar day of care includes the day of admission and excludes the day of discharge, unless it is the date of death. When admission and discharge occur on the same day, one (1) day of care is deemed to exist. (3-21-12)

02. Participant. A person eligible for and enrolled in the Idaho Medical Assistance Program. (3-19-07)

03. Patient. The person undergoing treatment or receiving services from a provider. (3-19-07)

04. Personal Assistance Agency. An entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for services provided, provides payroll and benefits for personal assistants working for them, and is the employer of record as well as the actual employer. (5-8-09)

05. Personal Assistance Services (PAS). Services that include both attendant care for participants under an HCBS waiver and personal care services for participants under the Medicaid State Plan. PAS means services that involve personal and medically-oriented tasks dealing with the functional needs of the participant and accommodating the participant's needs for long-term maintenance, supportive care, or instrumental activities of daily living (IADLs). These services may include personal assistance and medical tasks that can be done by unlicensed persons or delegated to unlicensed persons by a health care professional or participant. Services are based on the participant's abilities and limitations, regardless of age, medical diagnosis, or other category of disability. (5-8-09)

06. Physician. A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree and licensed to practice medicine by a state or United States territory. (3-19-07)

07. Physician's Assistant. A person who meets all the applicable requirements to practice as licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, “Rules for the Licensure of Physician Assistants.” (3-19-07)

08. Picture Date. A point in time when case mix indexes are calculated for every nursing facility based on the residents in the nursing facility on that day. The picture date to be used for rate setting will be the first day of the first month of a quarter. The picture date from that quarter will be used to establish the nursing facility’s rate for the next quarter. (3-19-07)

09. Plan of Care. A written description of medical, remedial, or rehabilitative services to be provided to a participant, developed by or under the direction and written approval of a physician. Medications, services and treatments are identified specifically as to amount, type and duration of service. (3-19-07)

10. Private Rate. Rate most frequently charged to private patients for a service or item. (3-19-07)

11. Property. The homestead and all personal and real property in which the participant has a legal interest. (3-19-07)

12. Property Costs. Property costs are the total of allowable interest expense, plus depreciation, property insurance, real estate taxes, amortization, and allowable lease/rental expense. The Department may require and utilize an appraisal to establish which components are an integral part of property costs. (3-19-07)

13. Property Rental Rate. A rate paid per Medicaid patient day to free-standing nursing facilities and ICF/IDs in lieu of reimbursement for property costs other than property taxes, property insurance, and the property costs of major movable equipment at ICF/ID facilities. (3-19-07)

14. Provider. Any individual, partnership, association, corporation or organization, public or private, that furnishes medical goods or services in compliance with these rules and who has applied for and received a Medicaid provider number and has entered into a written provider agreement with the Department in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205. (3-19-07)

15. Provider Agreement. A written agreement between the provider and the Department, in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205. (3-19-07)

16. Provider Reimbursement Manual (PRM). The Providers Reimbursement Manual, a federal publication that specifies accounting treatments and standards for the Medicare program, CMS Publications 15-1 and 15-2, that are incorporated by reference in Section 004 of these rules. (3-19-07)

17. Psychologist, Licensed. A person licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (3-19-07)

18. Psychologist Extender. A person who practices psychology under the supervision of a licensed psychologist as required under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners," and who is registered with the Bureau of Occupational Licenses. (3-19-07)

19. Public Provider. A public provider is one operated by a federal, state, county, city, or other local government agency or instrumentality. (3-19-07)

20. Raw Food. Food used to meet the nutritional needs of the residents of a facility, including liquid dietary supplements, liquid thickeners, and tube feeding solutions. (3-19-07)

21. Reasonable Property Insurance. Reasonable property insurance means that the consideration given is an amount that would ordinarily be paid by a cost-conscious buyer for comparable insurance in an arm's length transaction. Property insurance per licensed bed in excess of two (2) standard deviations above the mean of the most recently reported property insurance costs per licensed bed of all facilities in the reimbursement class as of the end of a facility's fiscal year cannot be considered reasonable. (3-19-07)

22. Recreational Therapy (Services). Those activities or services that are generally perceived as recreation such as fishing, hunting, camping, attendance or participation in sporting events or practices, attendance at concerts, fairs or rodeos, skiing, sightseeing, boating, bowling, swimming, and special day parties (birthday, Christmas, etc.). ( )

23. Regional Nurse Reviewer (RNR). A licensed registered nurse who reviews and makes determinations on applications for entitlement to and continued participation in Title XIX and Title XXI long term care for the Department. (3-19-07)

24. Registered Nurse - R.N. Which in the state of Idaho is known as a Licensed Registered Nurse and who meets all the applicable requirements to practice as a licensed registered nurse under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01 "Rules of the Idaho Board of Nursing." (3-19-07)

25. Related Entity. An organization with which the provider is associated or affiliated to a significant extent, or has control of, or is controlled by, that furnishes services, facilities, or supplies for the provider. (3-19-07)

26. Related to Provider. The provider, to a significant extent, is associated or affiliated with, or has control of, or is controlled by, the organization furnishing the services, facilities, or supplies. (3-19-07)

27. **Residential Assisted Living Facility**. A facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. In this chapter, Residential Assisted Living Facilities are referred to as "facility." Distinct segments of a facility may be licensed separately, provided each segment functions independently and meets all applicable rules. ( )

28. **Resource Utilization Groups (RUG)**. A process of grouping residents according to the clinical and functional status identified by the responses to key elements of the MDS. The RUG Grouper is used for the purposes of rate setting and determining nursing facility level of care. (4-2-08)

29. **Skilled Nursing Care**. The level of care for patients requiring twenty-four (24) hour skilled nursing services. (3-19-07)

30. **Social Security Act**. 42 USC 101 et seq., authorizing, in part, federal grants to the states for medical assistance to low-income persons meeting certain criteria. (3-19-07)

31. **State Plan**. The contract between the state and federal government under 42 U.S.C. section 1396a(a). (3-19-07)

32. **Supervision**. Procedural guidance by a qualified person and initial direction and periodic inspection of the actual act, at the site of service delivery. (3-19-07)

33. **Title XVIII**. Title XVIII of the Social Security Act, known as Medicare, for the aged, blind, and disabled administered by the federal government. (3-19-07)

34. **Title XIX**. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-19-07)

35. **Title XXI**. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (3-19-07)

36. **Third Party**. Includes a person, institution, corporation, public or private agency that is liable to pay all or part of the medical cost of injury, disease, or disability of a participant of medical assistance. (3-19-07)

37. **Transportation**. The physical movement of a participant to and from a medical appointment or service by the participant, another person, taxi or common carrier. (3-19-07)

38. **Uniform Assessment**. A set of standardized criteria to assess functional and cognitive abilities. (3-19-07)

39. **Uniform Assessment Instrument (UAI)**. A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities as described in IDAPA 16.03.23 "Uniform Assessments of State-Funded Clients." (3-19-07)

40. **Updated Assessments**. Assessments are considered updated and current when a qualified professional with the same credential or the same qualifications of that professional who completed the assessment has reviewed such assessment and verified by way of their signature and date in the participant's file that the assessment continues to reflect the participant's current status and assessed needs. (3-29-12)

41. **Utilities**. All expenses for heat, electricity, water and sewer. (3-19-07)

42. **Utilization Control (UC)**. A program of prepayment screening and annual review by at least one (1) Regional Nurse Reviewer to determine the appropriateness of medical entitlement and the need for continued medical entitlement of applicants or participants to Title XIX and Title XXI benefits in a nursing facility. (3-19-07)

43. **Utilization Control Team (UCT)**. A team of Regional Nurse Reviewers that conducts on-site

reviews of the care and services in the nursing facilities approved by the Department as providers of care for eligible medical assistance participants. (3-19-07)

44. **Vocational Services**. Services or programs that are directly related to the preparation of individuals for paid or unpaid employment. The test of the vocational nature of the service is whether the services are provided with the expectation that the participant would be able to participate in a sheltered workshop or in the general work force within one (1) year. (3-19-07)

014. -- 019. (RESERVED)

GENERAL PARTICIPANT PROVISIONS

020. PARTICIPATION IN THE COST OF WAIVER SERVICES.

01. Waiver Services and Income Limit. A participant is not required to participate in the cost of Home and Community-Based (HCBS) waiver services unless: (3-19-07)

a. The participant's eligibility for medical assistance is based on approval for and receipt of a waiver service; and (3-19-07)

b. The participant is eligible for Medicaid if they meet the conditions referred to under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 787. (4-7-11)

02. Waiver Cost-Sharing. Participation in the cost of HCBS waiver services is determined as described in IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-19-07)

021. MEDICARE SAVINGS PROGRAM FOR PARTICIPANTS COVERED BY MEDICARE.
The Department has an agreement with the Centers for Medicare and Medicaid Services (CMS) to pay the premiums for Parts A and B of Title XVIII for each participant eligible for Medicare and medical assistance regardless of whether the participant receives a financial grant from the Department. (3-19-07)

01. AABD Effective Date. The effective date of the Medicare Savings Program for a participant approved for medical assistance and an AABD grant is the first month of eligibility for the AABD grant. (3-19-07)

02. SSI Effective Date. The effective date of the Medicare Savings Program for a participant approved for medical assistance who also receives SSI, but not AABD, is the first month of eligibility for medical assistance. (3-19-07)

03. Neither AABD or SSI Effective Date. The effective date of the Medicare Savings Program for a participant approved for medical assistance who does not receive an AABD grant or SSI is the first day of the second month following the month in which they became eligible for medical assistance. This would mean the third month of medical assistance eligibility for the participant. (3-19-07)

04. Update of Records. After the effective date of the Medicare Savings Program it takes the Social Security Administration up to one (1) month to update its records to show the Department's payment of the Medicare Savings Program premium. (3-19-07)

05. Policies for Treatment of the Medicare Savings Program. The Department advises each participant who is paying Parts A and B Medicare premiums to discontinue payments beginning the month the Medicare Savings Program becomes effective. Policies for treatment of the Medicare Savings Program for determining eligibility for medical assistance or AABD, grant amount for AABD, or patient liability are in IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind and Disabled (AABD)." Policies for treatment of the Medicare Savings Program for determining participation of an HCBS participant are found in Section 020 of these rules. (3-19-07)

022. PARTICIPANT'S REQUIREMENTS FOR ESTATE RECOVERY.

A participant's estate may be obligated to pay the Medicaid program back for the amount Medicaid paid out for medical assistance during the participant's life. The requirements for that estate recovery are found in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 900. (3-19-07)

023. -- 024. (RESERVED)

025. GENERAL SERVICE LIMITATIONS.
Service limitations stated in these rules include any services received by a participant under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-19-07)

026. SELECTIVE CONTRACTING.
The Department may contract with a limited number of providers of certain Medicaid products and services. (7-1-11)

027. -- 029. (RESERVED)

GENERAL REIMBURSEMENT PROVISIONS

030. COST REPORTING.
The provider's Medicaid cost report must be filed using the Department designated reporting forms, unless the Department has approved an exception. The request to use alternate forms must be sent to the Department in writing, with samples attached, a minimum of ninety (90) days prior to the due date for the cost report. The request for approval of alternate forms cannot be used as a reason for late filing. (3-19-07)

031. -- 035. (RESERVED)

036. GENERAL REIMBURSEMENT.

01. Long-Term Care Facility Payment. Long-term care facilities will be reimbursed the lower of their customary charges, their actual reasonable costs, or the standard costs for their class as set forth in the Provider Reimbursement Manual, but the upper limits for payment must not exceed the payment that would be determined as reasonable costs using the Title XVIII Medicare standards and principles. (3-19-07)

02. Individual Provider Payment. The Department will not pay the individual provider more than the lowest of: (3-19-07)

a. The provider's actual charge for service; or (3-19-07)

b. The maximum allowable charge for the service as established by the Department on its pricing file, if the service or item does not have a specific price on file, the provider must submit documentation to the Department and reimbursement will be based on the documentation; or (3-19-07)

c. The Medicaid upper limitation of payment on those services, minus the Medicare payment, where a participant is eligible for both Medicare and Medicaid. The Department will not reimburse providers an amount in excess of the amount allowed by Medicaid, minus the Medicare payment. (3-19-07)

037. GENERAL REIMBURSEMENT: PARTICIPANT SERVICES.
The Department will evaluate provider reimbursement rates that comply with 42 U.S.C. 1396a(a)(30)(A). This evaluation will assure payments are consistent with efficiency, economy, and quality of care and safeguards against unnecessary utilization of care and services. Reimbursements will be sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. (4-4-13)

01. Applicable Participant Services. *Unless otherwise provided in this chapter of rules, the following types of services are reimbursed as provided in this rule:* *( )*

a. *The Personal Care Services (PCS) described in Sections 300-308 of these rules.* *( )*

b. The Aged and Disabled Waiver services described in Sections 320-330 of these rules. ( )

c. The Children's Developmental Disabilities Home and Community-Based State Plan Option Services described in Sections 520-528 of these rules. ( )

d. The Adult Developmental Disabilities Waiver services described in Sections 700-706 of these rules. ( )

e. The Adult Developmental Disabilities Home and Community-Based State Plan Option Services described in Sections 645-657 of these rules. ( )

0*2*. **Review Reimbursement Rates**. The Department will review provider reimbursement rates and conduct cost surveys when an access or quality indicator reflects a potential access or quality issue described in this rule. *( )*

0*3*. **Access**. The Department will review annual statewide and regional access reports by service type comparing the previous twelve (12) months to the base-line year of State Fiscal Year 2012. The following measures will be used to determine when there is potential for access issues. (4-4-13)

a. Compare the change in total number of provider locations for service type to the change in eligible participants; or (4-4-13)

b. When participant complaints and critical incidence logs reveal outcomes that identify access issues for a service type. (4-4-13)

0*4*. **Quality**. The Department will review quality reports required by each program used to monitor for patterns indicating an emerging quality issue. (4-4-13)

0*5*. **Cost Survey**. The Department will survey one hundred percent (100%) of providers. Providers that refuse or fail to respond to the periodic state surveys may be disenrolled as Medicaid providers. The Department will derive reimbursement rates using direct care staff costs, employment related expenditures, program related costs, and indirect general and administrative costs in the reimbursement methodology, when these costs are incurred by a provider. The Department will conduct cost surveys customized for each of the services *identified* in *this* rule. *( )*

a. Wage rates will be used in the reimbursement methodology when the expenditure is incurred by the provider type executing the program. Wages will be identified in the Bureau of Labor Statistics website at www.bls.gov when there is a comparable occupation title for the direct care staff. When there is no comparable occupation title for the direct care staff, then a weighted average hourly rate methodology will be used. (4-4-13)

b. For employer related expenditures: (4-4-13)

i. The Bureau of Labor Statistics's report for employer costs per hour worked for employee compensation and costs as a percent of total compensation for Mountain West Divisions will be used to determine the incurred employer related costs by each provider type. The website for access to this report is at www.bls.gov. (4-4-13)

ii. The Internal Revenue Service employer cost for social security benefit and Medicare benefit will be used to determine the incurred employer related costs by provider type. The website for access to this information is at www.irs.gov. (4-4-13)

c. Cost surveys to collect indirect general, administrative, and program related costs will be used when these expenditures are incurred by the provider type executing the program. The costs will be ranked by costs per provider, and the Medicaid cost used in the reimbursement rate methodology will be established at the seventy-fifth percentile in order to efficiently set a rate. (4-4-13)

038. SPECIALIZED REIMBURSEMENT: CERTAIN HOME AND COMMUNITY-BASED SERVICES.

The Department will review provider reimbursement rates to ensure compliance with 42 U.S.C. 1396a(a)(30)(A). This review will assure payments are consistent with efficiency, economy, quality of care, and safeguard against unnecessary utilization of care and services. Reimbursements will be sufficient to enlist enough providers so that care and services are available under the plan at least to the extent that such care and services are available to the general population in the geographic area. ( )

***01. Applicable Home and Community-Based Services**. The home and community-based services provided by the following types of providers are reimbursed as described in this rule:* ( )

a. *Developmental Disability Agencies providing services to adults;* ( )

b. *Developmental Disability Agencies providing services to children;* ( )

c. *Residential Habilitation Agencies;* ( )

d. *Supported Employment Agencies; and* ( )

e. *Targeted Service Coordination Agencies.* ( )

***02. Timing, Description, and Results of Rate Reviews**.* ( )

a. *Standard Rate Reviews. The Department will conduct a cost survey and review reimbursement rates at least once every five (5) years for each type of provider specified in this rule. Cost surveys will be conducted in the order and on the schedule established by the Department.* ( )

b. *Interim Rate Reviews. The Department will prepare an annual trigger analysis and publish the report on its Medicaid Providers webpage, http://healthandwelfare.idaho.gov/Providers/MedicaidProviders/tabid/214/Default.aspx. This annual report will describe the triggers for interim rate review, a summary of the data reviewed for each trigger, and the Department's determination and rationale of whether each trigger was met. The Department will conduct an interim rate review upon the occurrence of one (1) or more of the following triggers:* ( )

i. When substantiated participant complaints, critical incidents, or both, related to a lack of qualified providers indicate an emerging access issue; ( )

ii. When quality reports prepared by the Department or substantiated participant complaints and critical incidents related to the quality of services provided indicate an emerging quality issue; or ( )

iii. When the federal or Idaho state minimum wage requirement in effect at the time of the standard rate review significantly increases or decreases. ( )

c. *No Obligation to Revise Rates. The Department is not required to revise reimbursement rates each time a rate review or cost survey is conducted. The results of a rate review or cost survey do not guarantee a change to the reimbursement rate.* ( )

***03. Cost Survey Procedures**.* ( )

a. *Participation. The Department will survey one hundred percent (100%) of providers. A provider who refuses or fails to respond to the periodic cost surveys may be disenrolled as a Medicaid provider.* ( )

b. *Customization. The Department will conduct cost surveys customized for each type of provider identified in this rule.* ( )

c. *Independent Consultant. The Department will engage an independent cost survey consultant with expertise and experience in fee-for-service home and community-based services, including services for individuals with developmental disabilities.* ( )

d. Provider Engagement. ( )

i. The Department will establish reimbursement advisory workgroups to advise on matters related to the specialized reimbursement specified in this rule, including notice and development of cost surveys, recommendation of Bureau of Labor and Statistics occupation profile or profiles utilized when setting new reimbursement rates, and other reimbursement-related matters presented by the Department. The Department will retain final decision-making authority over all matters presented to or reviewed by the workgroups. ( )

ii. The Department will provide reasonable prior notice of pending cost surveys to impacted providers. ( )

iii. The Department or its cost survey consultants will train providers how to complete the cost survey, and provide technical assistance to providers during the cost survey response period. ( )

***04. Reimbursement Rate Setting Methodology**. Reimbursement rates will be derived using a combination of four (4) cost components - direct care staff wages or targeted service coordinator wages, employee-related expenses, program-related expenses, and general and administrative expenses. Each provider must demonstrate that the average percent of wage and benefits paid to their direct care staff (or targeted service coordinators) meets or exceeds the percent of wages and employee-related expenses utilized in establishing the reimbursement rate for the service type. The Department will utilize the reimbursement advisory workgroup established in this rule to collaboratively develop monitoring and enforcement procedures for this minimum allocation requirement. The cost components and new reimbursement rate are established in accordance with the following: ( )*

a. Direct Care Staff Wages and Targeted Service Coordinator Wages. ( )

i. Direct care staff and targeted service coordinator wages are wages paid to individuals employed or contracted by an agency who perform duties described in the applicable service coverage description for at least seventy-five percent (75%) of the total annual amount of time they are compensated. ( )

ii. The wage component (Wage) used to establish the new reimbursement rate is set using the mean hourly wage of one (1) or more occupation profiles from the most current Bureau of Labor and Statistics (BLS) State Occupational Employment and Wage Estimates table for the state of Idaho found on the BLS website at www.bls.gov. The BLS occupation profile that most closely aligns with the duties, education level, and supervision requirements of the direct care staff (or targeted service coordinator) providing the service is utilized. If more than one (1) occupation profile aligns with the duties, education level, and supervision requirements of the direct care staff (or the targeted service coordinator) providing the service, then a weighted average of the mean hourly wage of multiple BLS occupation profiles is utilized. ( )

iii. When there is no comparable occupation profile or profiles for the direct care staff (or targeted service coordinator), then the wage component used to establish the new reimbursement rate is set using the weighted average hourly rate (WAHR) of the surveyed wages included in the final cost survey results. ( )

iv. The Department will make the final determination of BLS occupation profile or profiles after consideration of advice from the relevant Reimbursement Advisory Workgroup. ( )

v. The Department will evaluate an appropriate wage inflation factor based on the economic data available at the time the reimbursement rate is set. ( )

b. Employee-Related Expenses (ERE). ( )

i. ERE are the expenses incurred by the provider agency for the benefit of the direct care staff (or targeted service coordinators) of an agency in the following six (6) categories: (1) paid leave, (2) supplemental pay, (3) payroll taxes, (4) workers' compensation, (5) insurance coverage, and (6) retirement contributions. ( )

ii. The ERE component percentage (ERE%) used to establish the new reimbursement rate is set using the cumulative percentage of employer costs for employee compensation from the most current BLS Employer Costs

for Employee Compensation table for the West Region in the Mountain Division and IRS Publication 15. ( )

c. *Program-Related Expenses (PRE). ( )*

i. PRE are wages and other expenses that support the objectives and provision of the service but cannot be tied to any particular person receiving the service. Requirements related to the delivery of services in accordance with statute and rule are PRE. ( )

ii. Program-related staff are individuals employed by an agency who perform program-related duties as required by statute or rule for at least seventy-five percent (75%) of the total annual amount of time they are compensated. ( )

iii. Utilizing data in the final cost survey results, each agency's PRE component percentage (PRE%) is calculated by dividing the agency's total PRE by the agency's total wages. Each agency's PRE% is ranked, and the PRE% used to calculate the new reimbursement rate is set at the mean of the agency PRE%. ( )

d. *General and Administrative (G&A) Expenses. ( )*

i. G&A expenses are wages and other expenses related to day-to-day operations common across all businesses. ( )

ii. G&A staff are individuals employed by an agency who perform administrative duties for at least seventy-five percent (75%) of the total annual amount of time they are compensated. ( )

iii. Utilizing data in the final cost survey results, each agency's G&A component percentage (G&A%) is calculated by dividing the agency's total G&A expenses by the sum of the agency's total wages, plus the total ERE, plus the total PRE, plus the total G&A expenses. Each agency's G&A% is ranked, and the G&A% used to calculate the new reimbursement rate is set at the mean of the agency G&A%. ( )

iv. The G&A% used to calculate the new reimbursement rate will not exceed ten percent (10%) of the total reimbursement rate per staff hour. ( )

e. *Total Reimbursement Rate Per Staff Hour of Service = ((Wage + (ERE% x Wage) + (PRE% x Wage)) /(1- (G&A%)). ( )*

f. *The Department is not obligated to make budget requests based on the total reimbursement rate per staff hour. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. Reimbursement rates may be set at a percentage of the total reimbursement rate per staff hour. All reimbursement rate increases are subject to approval by the Idaho State Legislature. ( )*

05. Quality Performance Incentives*. ( )*

a. *Based on the quality of services provided to its Medicaid participants, a provider may become eligible to receive incentive payments. ( )*

b. *Quality measures and associated payment percentages will be established by the Department, in collaboration with the Idaho Council on Developmental Disabilities and DisAbility Rights Idaho (or such other organization designated by the Governor as the state's protection and advocacy system), and will be described in the Idaho Medicaid Provider Handbook available at www.idmedicaid.com. The Department will provide sixty (60) days prior notice of any substantive changes to the quality measures and associated payment percentages described in its provider handbook. ( )*

c. *Incentive payments will be subject to the availability of State and federal funds, and may be rescinded if the quality of services declines. ( )*

039. ACCOUNTING TREATMENT.
Generally accepted accounting principles, concepts, and definitions will be used except as otherwise specified.

Where alternative treatments are available under GAAP, the acceptable treatment will be the one that most clearly attains program objectives. (3-19-07)

01. Final Payment. A final settlement will be made based on the reasonable cost of services as determined by audit, limited in accordance with other sections of this chapter. (3-4-11)

02. Overpayments. As a matter of policy, recovery of overpayments will be attempted as quickly as possible consistent with the financial integrity of the provider. (3-19-07)

03. Other Actions. Generally, overpayment will result in two (2) circumstances: (3-19-07)

a. If the cost report is not filed, the sum of the following will be due: (3-19-07)

i. All payments included in the period covered by the missing report(s). (3-19-07)

ii. All subsequent payments. (3-19-07)

b. Excessive reimbursement or non-covered services may precipitate immediate audit and settlement for the period(s) in question. Where such a determination is made, it may be necessary that the interim reimbursement rate (IRR) will be reduced. This reduction will be designated to effect at least one (1) of the following: (3-19-07)

i. Discontinuance of overpayments (on an interim basis). (3-19-07)

ii. Recovery of overpayments. (3-19-07)

040. PROVIDER'S RESPONSIBILITY TO MAINTAIN RECORDS.
The provider must maintain financial and other records in sufficient detail to allow the Department to audit them as described in Subsection 001.03 of these rules. (3-19-07)

01. Expenditure Documentation. Documentation of expenditures must include the amount, date, purpose, payee, and the invoice or other verifiable evidence supporting the expenditure. (3-19-07)

02. Cost Allocation Process. Costs such as depreciation or amortization of assets and indirect expenses are allocated to activities or functions based on the original identity of the costs. Documentation to support basis for allocation must be available for verification. (3-19-07)

03. Revenue Documentation. Documentation of revenues must include the amount, date, purpose, and source of the revenue. (3-19-07)

04. Availability of Records. Records must be available for and subject to audit by the auditor, with or without prior notice, during any working day between the hours of 8:00 a.m. and 5:00 p.m. at the provider's principal place of business in the state of Idaho. (3-19-07)

a. The provider is given the opportunity to provide documentation before the interim final audit report is issued. (3-19-07)

b. The provider is not allowed to submit additional documentation in support of cost items after the issuance of the interim final audit report. (3-19-07)

05. Retention of Records. Records required in Subsections 040.01 through 040.03 of these rules must be retained by the provider for a period of five (5) years from the date of the final payment under the provider agreement. Failure to retain records for the required period can void the Department's obligation to make payment for the goods or services. (3-19-07)

041. -- 049. (RESERVED)

050. DRAFT AUDIT REPORT.

Following completion of the audit field work on a hospital, nursing facility, or an ICF/ID, and before issuing the interim final audit report to the Department, the auditor will issue a draft audit report and forward a copy to the provider for review and comment. (3-19-07)

01. Review Period. The provider will have a period of sixty (60) days, beginning on the date of transmittal, to review and provide additional comments or evidence pertaining to the draft audit report. The review period may be extended when the provider: (3-19-07)

a. Requests an extension prior to the expiration of the original review period; and (3-19-07)

b. Clearly demonstrates the need for additional time to properly respond. (3-19-07)

02. Evaluation of Provider's Response. The auditor will evaluate the provider's response to the draft audit report and will delete, modify, or reaffirm the original findings, as deemed appropriate, in preparing the interim final audit report. (3-19-07)

051. FINAL AUDIT REPORT.
The auditor will incorporate the provider's response and an analysis of the response into the interim final report as appendices and transmit it to the Department. The Department will issue a final audit report and a notice of program reimbursement, if applicable, that sets forth settlement amounts due to the Department or the provider. The final audit report and notice of program reimbursement, if applicable, will take into account the findings made in the interim final audit report and the response of the provider to the draft audit report (3-19-07)

052. -- 059. (RESERVED)

060. CRITERIA FOR PARTICIPATION IN THE IDAHO TITLE XIX AND TITLE XXI PROGRAMS.

01. Application for Participation and Reimbursement. Prior to participation in the Medical Assistance Program, facilities must be licensed or certified by the Department. The Department issues a provider number to the facility that becomes the primary provider identification number. The Division of Medicaid will establish an interim rate for the new applicant facility. This facility is now authorized to offer services at the level for which the provider agreement was issued. ( )

02. Reimbursement. The reimbursement mechanism for payment to provider facilities is specified in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." The Medical Assistance Program will not reimburse a facility until it is certified, has a signed agreement for participation and an established interim per diem rate. (3-19-07)

061. -- 069. (RESERVED)

070. EXCEPTION TO THE RELATED ORGANIZATION PRINCIPLE.
An exception is provided to the general rule applicable to related organizations. The exception applies if the provider demonstrates by convincing evidence to the satisfaction of the intermediary: (3-19-07)

01. Supplying Organization. That the supplying organization is a bona fide separate organization; (3-19-07)

02. Nonexclusive Relationship. That a substantial part of the supplying organization's business activity of the type carried on with the provider is transacted with other organizations not related to the provider and the supplier by common ownership or control and there is an open, competitive market. (3-19-07)

03. Sales and Rental of Extended Care Facilities. The exception is not applicable to sales, lease or rentals of nursing homes or extended care facilities. These transactions would not meet the requirement that there be an open, competitive market for the facilities furnished. See PRM, Sections 1008 and 1012. (3-19-07)

a. Rental expense for transactions between related entities will not be recognized. Costs of ownership will be allowed. (3-19-07)

b. When a facility is purchased from a related entity, the purchaser's depreciable basis will not exceed the seller's net book value. See PRM, Section 1005. (3-19-07)

071. -- 074. (RESERVED)

COVERED SERVICES
(Sections 075)

075. ENHANCED PLAN BENEFITS: COVERED SERVICES.
Individuals who are eligible for the Medicaid Enhanced Plan are enrolled in all benefits covered under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." In addition to those benefits, individuals in the enhanced plan are eligible for enhanced benefits as described in this chapter of rules. (4-11-19)

076. MANAGED CARE FOR DUALS: DEFINITIONS.
For the purposes of the managed care service delivery system for dual eligible beneficiaries described in Sections 076 through 079 of these rules, the following definitions apply: (4-11-19)

01. Dual Eligible. A participant who is eligible for medical assistance under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." The participant's Medicaid eligibility must not be based solely on the requirements found under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 802. In addition, the participant must be eligible for and enrolled in both Medicare Part A and Medicare Part B, and must not have Medicare eligibility due to End-Stage Renal Disease (ESRD). (4-11-19)

02. Health Plan. A health insurance company responsible for administering Medicaid benefits to dual eligible participants under a provider agreement with the Department. (4-11-19)

03. Idaho Medicaid Plus. A managed care program designed to administer Medicaid benefits for dual eligible participants administered under a provider agreement between the Department and participating health plans. (4-11-19)

04. Medicare/Medicaid Coordinated Plan. A managed care program as defined in IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits." (4-11-19)

05. Passive Enrollment. An enrollment process in which a participant is assigned to a participating health plan in a managed care service delivery structure unless the participant actively opts out of the enrollment process. (4-11-19)

077. MANAGED CARE FOR DUALS: PROGRAM AUTHORITY AND IMPLEMENTATION.

01. Program Authority. Idaho Medicaid Plus is a managed care program for dual eligible participants administered with approval from the Centers for Medicare and Medicaid Services (CMS). The Idaho Medicaid Plus program allows for a health plan to administer Medicaid benefits to dual eligible participants. (4-11-19)

02. Implementation. Idaho Medicaid Plus will be implemented using a phased-in approach. (4-11-19)

a. Idaho Medicaid Plus will be implemented in a pilot county upon approval from CMS and after the Department determines that participating health plans have passed a readiness review for implementation. (4-11-19)

b. Implementation in additional counties will occur in a phased-in manner upon successful implementation in the pilot county as determined by the Department. Phased-in implementation in any and all additional counties will be subject to Department approval. (4-11-19)

c. Participating health plans must meet established performance benchmarks prior to Idaho Medicaid Plus implementation in each successive geographic service area. (4-11-19)

078. MANAGED CARE FOR DUALS: PARTICIPANT ELIGIBILITY AND ENROLLMENT.
Idaho Medicaid Plus will be made available to dual eligible participants over age twenty-one (21) who reside in a county with at least one (1) participating health plan. (4-11-19)

01. Excluded Populations. Idaho Medicaid Plus is not available to the following populations: (4-11-19)

a. Dual eligible participants that have elected to enroll in the Medicare Medicaid Coordinated Plan as defined in IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits." (4-11-19)

b. Individuals who have Medicare eligibility related to End-Stage Renal Disease. (4-11-19)

c. Individuals enrolled in the Adult Developmental Disabilities 1915(c) waiver program as defined in Section 702 of these rules. (4-11-19)

02. Optional Populations. Tribal members and pregnant women who are dual eligible participants can elect to voluntarily enroll in Idaho Medicaid Plus if it is available in their county of residence. These participants retain the right to disenroll from Idaho Medicaid Plus at any time. (4-11-19)

03. Mandatory Enrollment. Dual eligible participants that are not members of an excluded population and reside in a county with two (2) or more participating health plans must select a health plan to administer their Idaho Medicaid Plus program. Mandatory enrollment procedures will occur in accordance with 42 CFR 438 Subpart B. (4-11-19)

04. Passive Enrollment. Dual eligible participants that are not members of an excluded population and reside in a county with only one (1) participating health plan will be enrolled into that health plan to administer their Idaho Medicaid Plus program unless they opt out by contacting the Department using the instructions on the enrollment notice. These dual eligible participants may opt out of Idaho Medicaid Plus at any time. (4-11-19)

079. MANAGED CARE FOR DUALS: COVERED SERVICES.

01. Coverage and Limitations. (4-11-19)

a. Idaho Medicaid Plus covered services include Medicaid benefits as described in this chapter and IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (4-11-19)

b. Services for adults with developmental disabilities as described in Sections 511, 580, and 703 of these rules are excluded from Idaho Medicaid Plus. (4-11-19)

c. Services administered under the managed care or brokerage contracts as described in Section 080 of these rules, and IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 870 through 872 are excluded from Idaho Medicaid Plus. (4-11-19)

02. Provider Reimbursement. Idaho Medicaid Plus participating health plans are required to reimburse network providers, at minimum, the established Medicaid fee schedule rates published on the Medicaid provider webpage and developed in accordance with Idaho Code and Department rule. (4-11-19)

080. -- 089. (RESERVED)

SUB AREA: ENHANCED HOSPITAL SERVICES
(Sections 090 - 099)

090. ORGAN TRANSPLANTS.
The Department will reimburse for organ transplant services as detailed in the Idaho Medicaid Provider Handbook, when medically necessary and provided by hospitals approved by the Centers for Medicare and Medicaid for the Medicare program that have completed a provider agreement with the Department. (7-1-19)

091. -- 092. (RESERVED)

093. ORGAN TRANSPLANTS: COVERAGE AND LIMITATIONS.

01. Coverage Limitations. No organ transplant will be covered by the Medical Assistance Program unless prior authorized by the Department, or its designee. Coverage is limited to organ transplants performed for the treatment of medical conditions in accordance with evidence-based standards of care. (7-1-19)

02. Living Donor Costs. The transplant costs for actual or potential living donors are fully covered by Medicaid and include all medically necessary preparatory, operation, and post-operation recovery expenses associated with the donation. Payments for post-operation expenses of a donor will be limited to the period of actual recovery. (7-1-19)

094. -- 095. (RESERVED)

096. ORGAN TRANSPLANTS: PROVIDER REIMBURSEMENT.
Organ transplant, procurement services, and follow-up care by facilities will be reimbursed as specified in the provider agreement. Reimbursement for organ procurement and histocompatibility laboratory tests will be made to the facility performing the transplant. (7-1-19)

097. -- 099. (RESERVED)

**SUB AREA: ENHANCED INPATIENT BEHAVIORAL HEALTH SERVICES
(Sections 100-199)**

100. INPATIENT BEHAVIORAL HEALTH SERVICES.
The Medicaid Enhanced Plan Benefits include psychiatric services covered under inpatient hospital services and inpatient behavioral health services covered in IDAPA 16.03.09 "Medicaid Basic Plan Benefits." (7-1-18)

101. INPATIENT BEHAVIORAL HEALTH SERVICES: PARTICIPANT ELIGIBILITY.
The rules *for Inpatient Behavioral Health Services are found* in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 700 through 706 *and* apply to Inpatient Behavioral Health Services in *these* rules. Individuals over age sixty-five (65) are eligible for inpatient behavioral health services under *these* rule*s*. *( )*

102. -- 199. (RESERVED)

**SUB AREA: ENHANCED HOME HEALTH CARE
(Sections 200-214)**

200. PRIVATE DUTY NURSING SERVICES.
Private Duty Nursing services are nursing services provided by a licensed registered nurse or licensed practical nurse to a non-institutionalized child under the age of twenty-one (21) requiring care for conditions of such medical severity or complexity that skilled nursing care is necessary. Sections 200 through 209 of these rules cover requirements for private duty nursing services. (3-19-07)

201. PRIVATE DUTY NURSING: DEFINITIONS.
The following definitions apply to Sections 200 through Section 209 of these rules. (3-19-07)

01. Primary RN. The RN identified by the family to be responsible for development, implementation, and maintenance of the Medical Plan of Care. (3-19-07)

02. Private Duty Nursing (PDN) RN Supervisor. An RN providing oversight of PDN services delegated to LPN's providing the child's care, in accordance with IDAPA 23.01.01, "Rules of the Board of Nursing." (3-19-07)

202. PRIVATE DUTY NURSING: ELIGIBILITY.
To be eligible for Private Duty Nursing (PDN), the nursing needs must be of such a nature that the Idaho Nursing Practice Act, Rules, Regulations, or policy require the service to be provided by an Idaho Licensed Registered Nurse (RN), or by an Idaho Licensed Practical Nurse (LPN), and require more individual and continuous care than is available from Home Health nursing services. PDN service will be authorized by the Department prior to delivery of service. (3-19-07)

203. PRIVATE DUTY NURSING: FACTORS ASSESSED FOR ELIGIBILITY AND REDETERMINATION.
Factors assessed for eligibility/redetermination include: (3-19-07)

01. Age for Eligibility. The individual is under the age of twenty-one (21) years. (3-19-07)

02. Maintained in Personal Residence. That the child is being maintained in their personal residence and receives safe and effective services through PDN services. (3-19-07)

03. Medical Justification. The child receiving PDN services has medical justification and physician's orders. (3-19-07)

04. Written Plan of Care. That there is an updated written plan of care signed by the attending physician, the parent or legal guardian, PDN, RN supervisor, and a representative from the Department. (3-19-07)

05. Attending Physician. That the attending physician has determined the number of PDN hours needed to ensure the health and safety of the child in their home. (3-19-07)

06. Redetermination. Redetermination will be at least annually. The purpose of an annual redetermination for PDN is to: (3-19-07)

a. Determine if the child continues to meet the PDN criteria in Subsection 203.01 through 203.05 of these rules; and (3-19-07)

b. Assure that services and care are medically necessary and appropriate. (3-19-07)

204. PRIVATE DUTY NURSING: COVERAGE AND LIMITATIONS.
PDN services are functions that cannot be delegated to an Unlicensed Assistive Personnel (UAP) as defined by Idaho Code and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-19-07)

01. Ordered by a Physician. PDN Services must be ordered by a physician and include: (3-19-07)

a. A medical status that is so complex or unstable, as determined by the attending physician, that licensed or professional nursing assessment is needed to determine the need for changes in medications or other interventions; or (3-19-07)

b. An assessment by a licensed registered nurse of a child's health status for unstable chronic conditions that includes an evaluation of the child's responses to interventions or medications. (3-19-07)

02. Plan of Care. PDN Services must include a Plan of Care *that*: *( )*

a. Is developed by a multi-disciplinary team to include, at a minimum, the parent or legal guardian, the primary PDN, RN, or RN Supervisor, and a representative from the Department; (3-19-07)

b. Includes all aspects of the medical, licensed, and personal care services medically necessary to be performed, including the amount, type, and frequency of such service; (3-19-07)

c. Is approved and signed by the attending physician, parent or legal guardian, and primary PDN, RN, or RN supervisor, and a representative from the Department; and (3-19-07)

d. Is revised and updated as child's needs change or upon significant change of condition, but at least annually, and is submitted to the Department for review and prior authorization of service. (3-19-07)

03. Status Updates. Status updates must be completed every ninety (90) days from the start of services. The Status Update is intended to document any change in the child's health status. Annual plan reviews will replace the fourth quarter Status Update. The Status Update must be signed by both the parent or legal guardian and the primary RN supervisor completing the form. (3-19-07)

04. Limitations. PDN Services may be provided only in the child's personal residence or when normal life activities take the child outside of this setting. However, if service is requested only to attend school or other activities outside of the home, but does not need such services in the home, private duty nursing will not be authorized. The following are specifically excluded as personal residences: (3-19-07)

a. Licensed Nursing Facilities (NF); (3-19-07)

b. Licensed Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID); (3-19-07)

c. Residential Assisted Living Facilities; ( )

d. Licensed hospitals; and (3-19-07)

e. Public or private school. (3-19-07)

205. - 208. (RESERVED)

209. PRIVATE DUTY NURSING: PROVIDER QUALIFICATIONS AND DUTIES.

01. Primary RN Responsibility For PDN Redetermination. Primary RN responsibility for PDN redetermination is to submit a current plan of care to the Department at least annually or as the child's needs change. Failure to submit an updated plan of care to the Department prior to the end date of the most recent authorization will cause payments to cease until completed information is received and evaluated and authorization given for further PDN services. The plan of care must include all requested material outlined in Subsection 204.02 of these rules. (3-19-07)

02. Physician Responsibilities. Physician responsibilities include: (3-19-07)

a. Medical Information. Provide the Department the necessary medical information in order to establish the child's medical eligibility for services based on an EPSDT screen. (3-19-07)

b. Order Services. Order all services to be delivered by the private duty nurse. (3-19-07)

c. Sign Medical Plan of Care. Review, sign, and date child's Medical Plan of Care and orders at least annually or as condition changes. (3-19-07)

d. Community Resources. Determine if the combination of PDN Services along with other community resources are sufficient to ensure the health or safety of the child. If it is determined that the resources are not sufficient to ensure the health and safety of the child, notify the family and the Department and facilitate the admission of the child to the appropriate medical facility. (3-19-07)

03. Private Duty Nurse Responsibilities. RN supervisor or an RN providing PDN services responsibilities include: (3-19-07)

a. Notify the physician immediately of any significant changes in the child's medical condition or response to the service delivery; (3-19-07)

b. Notify the Department within forty-eight (48) hours or on the first business day following a

weekend or holiday of any significant changes in the child's condition or if the child is hospitalized at any time; (3-19-07)

c. Evaluate changes of condition; (3-19-07)

d. Provide services in accordance with the nursing care plan; and (3-19-07)

e. Must ensure copies of records are maintained in the child's home includ*ing*: *( )*

i. The date; (3-19-07)

ii. Time of start and end of service delivery each day; (3-19-07)

iii. Comments on child's response to services delivered; (3-19-07)

iv. Nursing assessment of child's status and any changes in that status per each working shift; (3-19-07)

v. Services provided during each working shift; and (3-19-07)

vi. The Medical Plan of Care signed by the physician, primary RN, the parent or legal guardian and a representative from the Department. (3-19-07)

04. LPN Providers. In the case of LPN providers, document that oversight of services by an RN is in accordance with the Idaho Nursing Practice Act and IDAPA 23.01.01, "Rules of the Board of Nursing." RN Supervisor visits must occur at least once every thirty (30) days when services are provided by an LPN. (3-19-07)

05. Ensure Health and Safety of Children. PDN providers must notify the physician if the combination of Private Duty Nursing Services along with other community resources are not sufficient to ensure the health or safety of the child. (3-19-07)

210. - 214. (RESERVED)

SUB AREA: THERAPIES
(Sections 215 - 219)

215. - 219. (RESERVED)

SUB AREA: LONG-TERM CARE
(Sections 220 - 330)

220. NURSING FACILITY.
The Enhanced Plan Benefit includes nursing facilities services permitted under Section 1905(a)(4)(A) of the Social Security Act. These services include nursing facilities services (other than services in an institution for mental diseases) for individuals determined to be in need of such care. (3-19-07)

221. (RESERVED)

222. NURSING FACILITY SERVICES: ELIGIBILITY.
Entitlement to medical assistance participation in the cost of long-term care exists when the individual is eligible for medical assistance and the Department has determined that the individual meets the criteria for nursing facility services. Entitlement will be determined prior to authorization of payment for such care for an individual who is either a participant of or an applicant for medical assistance. (4-2-08)

01. Criteria for Determination. The criteria for determining a medical assistance participant's need

for nursing facility care is described in Section 223. In addition, the Inspection of Care/Utilization Control (IOC/UC) nurse must determine whether a medical assistance participant's needs could be met by alternatives other than residing in a nursing facility, such as an independent living arrangement or residing in a room and board situation. (3-19-07)

a. The participant can select any certified facility to provide the care required. (3-19-07)

b. The final decision as to the level of care required by a medical assistance participant must be made by the IOC/UC Nurse. (3-19-07)

c. The final decision as to the need for developmental disability (DD) or mental illness (MI) active treatment will be made by the appropriate Department staff as a result of the Level II screening process. (3-19-07)

d. No payment will be made by the Department on behalf of any eligible medical assistance participant to any long-term care facility that, in the judgment of the IOC/UC Team, is admitting individuals for care or services that are beyond the facility's licensed level of care or capability. (3-19-07)

02. Authorization of Long-Term Care Payment. If it has been determined that a person eligible for medical assistance is entitled to medical assistance participation in the cost of long-term care, and that the facility selected by the participant is licensed and certified to provide the level of care the participant requires, the Field Office will forward to such facility an "Authorization for Long-Term Care Payment" form HW 0459. (3-19-07)

223. NURSING FACILITY: CRITERIA FOR DETERMINING NEED.
The participant requires nursing facility level of care when an adult meets one (1) of the Resource Utilization Group (RUG III) classifications or when a child meets one (1) or more of the criteria described in Subsections 223.02, 223.03, 223.04 or 223.05 of this rule. A child is an individual from age zero (0) through eighteen (18) years; an adult is an individual more than eighteen (18) years of age. (4-2-08)

01. Required Assessment for Adults. A standard assessment will be approved by the Department for all adults requesting services with requirements for nursing facility level of care. The Department will specify the instrument to be used. (4-2-08)

02. Supervision Required for Children. Where the inherent complexity of a service prescribed by the physician is such that it can be safely and effectively performed only by or under the supervision of a licensed nurse or licensed physical or occupational therapist. (3-19-07)

03. Preventing Deterioration for Children. Skilled care is needed to prevent, to the extent possible, deterioration of the child's condition or to sustain current capacities, regardless of the restoration potential of a child, even where full recovery or medical improvement is not possible. (3-19-07)

04. Specific Needs for Children. When the plan of care, risk factors, and aggregate of health care needs is such that the assessments, interventions, or supervision of the child necessitates the skills of a licensed nurse or a licensed physical therapist or licensed occupational therapist. In such cases, the specific needs or activities must be documented by the physician's orders, progress notes, plan of care, and nursing and therapy notes. (3-19-07)

05. Nursing Facility Level of Care for Children. Using the criteria found in Subsections 223.02, 223.03, and 223.04 of these rules, plus consideration of the developmental milestones, based on the age of the child, the Department's *BLTC* will determine nursing facility level of care. *( )*

06. Conditions of Payment. (3-19-07)

a. As a condition of payment by the Department for long-term care on behalf of medical assistance participants, each fully licensed long-term care facility is to be under the supervision of an administrator who is currently licensed under the laws of the state of Idaho and in accordance with the rules of the Bureau of Occupational Licenses. (3-19-07)

b. Payment by the Department for the cost of long-term care excludes the date of the participant's

discharge, unless the day of discharge occurs on the same day as admission; then, one (1) day of care is deemed to exist. When a Medicaid patient dies in a nursing home, the date of death is covered, regardless of the time of death. (3-21-12)

224. NURSING FACILITY: POST-ELIGIBILITY TREATMENT OF INCOME.
Where an individual is determined eligible for medical assistance participation in the cost of their long term care, the Department will reduce its payment to the long term care facility by the amount of their income considered available to meet the cost of their care. This determination is made in accordance with IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Sections 721 through 726. The amount that the medical assistance participant receives from SSA as reimbursement for their payment of the premium for Part B of Title XVIII (Medicare) is not considered income for patient liability under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 317. (3-19-07)

225. NURSING FACILITY: COVERAGE AND LIMITATIONS.
An institution must provide, on a regular basis, health-related care and services to individuals; who because of their mental or physical condition require care and services above the level of room, board, and supervision. (3-19-07)

01. Nursing Facility Care. The minimum content of care and services for nursing facility patients must include the following: (3-19-07)

a. Room and board; (3-19-07)

b. Bed and bathroom linens; (3-19-07)

c. Nursing care, including special feeding if needed; (3-19-07)

d. Personal services; (3-19-07)

e. Supervision as required by the nature of the patient's illness and duration of their stay in the nursing facility; (3-4-11)

f. Special diets as prescribed by a patient's physician; (3-19-07)

g. All common medicine chest supplies that are over-the-counter including mouthwashes, analgesics, laxatives, emollients, burn ointments, first aid cream, protective creams and liquids, cough and cold preparations, and simple eye preparations; (3-4-11)

h. Dressings; (3-19-07)

i. Administration of intravenous, subcutaneous, or intramuscular injections and infusions, enemas, catheters, bladder irrigations, and oxygen; (3-19-07)

j. Application or administration of all drugs; (3-19-07)

k. All medical supplies including gauzes, bandages, tapes, compresses, cottons, sponges, hot water bags, ice bags, disposable syringes, thermometers, cellucotton, incontinent supplies, or any other type of pads used to save labor or linen, and disposable gloves; ( )

l. Social and recreational activities; and (3-19-07)

m. Each item that is utilized by individual patients and is reusable and expected to be available, such as bed rails, canes, crutches, walkers, wheel chairs, traction equipment, and other durable medical equipment. (3-4-11)

02. Skilled Services. Skilled services include services that could qualify as either skilled nursing or skilled rehabilitative services, that include: (3-19-07)

a. Overall management and evaluation of the care plan. The development, management, and evaluation of a resident's care plan, based on the physician's orders, constitute skilled services when, in terms of the patient's physical or mental condition, such development, management, and evaluation necessitate the involvement of technical or professional personnel to meet their needs, promote their recovery, and assure their medical safety. This would include the management of a plan involving only a variety of personal care services where, in light of the patient's condition, the aggregate of such services necessitates the involvement of technical or professional personnel. Where the patient's overall condition would support a finding that their recovery and safety could be assured only if the total care they require is planned, managed, and evaluated by technical or professional personnel, it would be appropriate to infer that skilled services are being provided. (3-19-07)

b. Observation and assessment of the resident's changing condition. When the resident's condition is such that the skills of a licensed nurse or other technical or professional person are required to identify and evaluate the patient's need for possible modification of treatment and the initiation of additional medical procedures until their condition is stabilized, such services constitute skilled services. (3-19-07)

03. Direct Skilled Nursing Services. Direct skilled nursing services include the following: (3-19-07)

a. Intravenous injections; intravenous feedings; intramuscular or subcutaneous injection required on more than one (1) shift; (3-19-07)

b. Nasopharyngeal feedings; (3-19-07)

c. Nasopharyngeal and tracheotomy aspiration; (3-19-07)

d. Insertion and sterile irrigation and replacement of catheters; (3-19-07)

e. Application of dressings involving prescription medications or aseptic techniques; (3-19-07)

f. Treatment of extensive decubitus ulcers or other widespread skin disorders; (3-19-07)

g. Heat treatments that have been specifically ordered by a physician as part of treatment and that require observation by nurses to adequately evaluate the resident's progress; and (3-19-07)

h. Initial phases of a regimen involving administration of oxygen. (3-19-07)

04. Direct Skilled Rehabilitative Services. Direct skilled rehabilitative services include the following: (3-19-07)

a. Ongoing assessment of rehabilitation needs and potential, services concurrent with the management of a resident's care plan, including tests and measurements of range of motion, strength, balance, coordination, endurance, functional ability, activities of daily living, perceptual deficits, speech and language or hearing disorders; (3-19-07)

b. Therapeutic exercises or activities that, because of the type of exercises employed or the condition of the resident, must be performed by or under the supervision of a qualified physical therapist or occupational therapist to ensure the safety of the resident and the effectiveness of the treatment; (3-19-07)

c. Gait evaluation and training furnished by a physical or occupational therapist to restore function in a resident whose ability to walk has been impaired by neurological, muscular, or skeletal abnormality; and (3-19-07)

d. Ultrasound, short-wave, and microwave therapy treatments by a licensed physical therapist. (3-19-07)

05. Other Treatment and Modalities. Other treatment and modalities that include hot pack, hydroculator, infrared treatments, paraffin baths, and whirlpool, in cases where the resident's condition is complicated by circulatory deficiency, areas of desensitization, open wounds, fractures, or other complications, and the skills, knowledge, and judgement of a licensed physical therapist are required. (3-19-07)

226. NURSING FACILITY: PROCEDURAL RESPONSIBILITIES.

01. Nursing Facility Responsibility. Each nursing facility administrator, or *their* authorized representative must report the following information to the appropriate *BLTC* within three (3) working days of the date the facility has knowledge of the following. *( )*

a. Any readmission or discharge of a participant, and any temporary absence of a participant due to hospitalization or therapeutic home visit. (3-19-07)

b. Any changes in the amount of a participant's income. (3-19-07)

c. When a participant's account has exceeded the following amount; (3-19-07)

i. For a single individual, one thousand eight hundred dollars ($1,800);or (3-19-07)

ii. For a married couple, two thousand eight hundred dollars ($2,800). (3-19-07)

02. Other Financial Information for Participant. Other information about a participant's finances that may potentially affect eligibility for medical assistance must be reported if the nursing facility has any knowledge of the participant's financial information. (3-19-07)

227. PREADMISSION SCREENING AND RESIDENT REVIEW PROGRAM (PASRR).
All Medicaid certified nursing facilities must participate in, cooperate with, and meet all requirements imposed by, the Preadmission Screening and Resident Review program, (PASRR) as set forth in 42 CFR, Part 483, Subpart C. *( )*

01. Background and Purpose. The purpose of these provisions is to comply with and implement the PASRR requirements imposed on the state by federal law. The purpose of those requirements is to prevent the placement of individuals with mental illness (MI) or intellectual disabilities (ID) in a nursing facility unless their medical needs clearly indicate that they require the level of care provided by a nursing facility. This is accomplished by both pre-admission screening (PAS) and resident review (RR). Individuals, for whom it appears that a diagnosis of MI or ID is likely, are identified for further screening by means of a Level I screen. The actual PASRR is accomplished through a Level II screen where it is determined whether, because of the individual's physical and mental condition, *they* require the level of services provided by a nursing facility. If the individual with MI or ID is determined to require a nursing facility level of care, it must also be determined whether the individual requires specialized services. PASRR applies to all individuals entering or residing in a nursing facility, regardless of payment source. *( )*

02. Policy. It is the policy of the Department that the difficulty in providing specialized services in the nursing facility setting makes it generally inappropriate to place individuals needing specialized services in an nursing facility. This policy is supported by the background and development of the federal PASRR requirements, including the narrow definition of mental illness adopted by federal law. While recognizing that there are exceptions, it is envisioned that most individuals appropriate for nursing facility placement will not require services in excess of those required to be provided by nursing facilities by 42 CFR 483.45. (3-19-07)

03. Inter-Agency Agreement. The state Medicaid agency will enter into a written agreement with the state mental health and intellectual disabilities authorities as required in 42 CFR 431.621(c). This agreement will, among other things, set forth respective duties and delegation of responsibilities, and any supplemental criteria to be used in making determinations. (3-19-07)

a. The "State Mental Health Authority" (SMHA) in the Division of *Behavioral Health* of the Department, or its successor entity. *( )*

b. The "State Intellectual Disabilities or Developmental Disabilities Authority" (SDDA) in the Division of Family and Community Services of the Department, or its successor entity. (3-19-07)

04. Coordination for PASRR. The PASRR process is a coordinated effort between the state Medicaid

agency, the SMHA and SDDA, independent evaluators and the nursing facility. PASRR activities will be coordinated through the *Bureau of Long Term Care* (*BLTC*). *BLTC* is responsible for record retention and tracking functions. However, the nursing facility is responsible for assuring that all screens are obtained and for coordination with the *BLTC*, independent MI evaluators, the SMHA and SDDA, and their designees. *( )*

a. All required Level I screens and reviews must be completed and submitted to the *BLTC* prior to admission to the facility. *( )*

b. When a nursing facility identifies an individual with MI or ID through a Level I screen, or otherwise, the nursing facility is responsible for contacting the SMHA or SDDA (as appropriate), and assuring that a Level II screen is completed prior to admission to the facility, or in the case of an existing resident, completed in order to continue residing in the facility. (3-19-07)

c. Resident Reviews (RR). An individual identified with MI or ID must be reviewed and a new determination made promptly after a significant change in *their* physical or mental condition. The facility must notify the *BLTC* of any such change within two (2) working days of its occurrence. For the purpose of this section, significant change for the participant's mental condition means a change that may require the provision of specialized services or an increase in such services. A significant change in physical condition is a change that renders the participant incapable of responding to MI or D.D. program interventions. *( )*

228. NURSING FACILITY: COORDINATION OF NURSING FACILITY ELIGIBILITY AND THE NEED FOR SPECIALIZED SERVICES.
Determinations as to the need for nursing facility care and determinations as to the need for specialized services should not be made independently. Such determinations will often be made on an individual basis, taking into account the condition of the resident and the capability of the facility to which admission is proposed to furnish the care needed. When an individual identified with MI and ID is admitted to a nursing facility, the nursing facility is responsible for meeting that individual's needs, except for the provision of specialized services. (3-19-07)

01. Level of Care. (3-19-07)

a. Individual determinations must be based on evaluations and data as required by these rules. (3-19-07)

b. Categorical determinations. Recognizing that individual determinations of level of care are not always necessary, those categories set forth as examples at 42 CFR 483.130(d) are hereby adopted as appropriate for categorical determinations. When nursing facility level of care is determined appropriate categorically, the individual may be conditionally admitted prior to completion of the determination for specialized services. However, conditional admissions cannot exceed seven (7) days, except for respite admissions which cannot exceed thirty (30) consecutive days in one (1) calendar year. (3-19-07)

02. Specialized Services. Specialized services for mental illness as defined in 42 CFR 483.120(a)(1), and for intellectual disabilities as defined in 42 CFR 483.120(a)(2), are those services provided by the state that due to the intensity and scope can only be delivered by personnel and programs that are not included in the specialized rehabilitation services required of nursing facilities under 42 CFR 483.45. The need for specialized services must be documented and included in both the resident assessment instrument and the plan of care. (3-19-07)

a. Individual determinations must be based on evaluations and data as required by these rules. (3-19-07)

b. Categorical determinations that specialized services are not needed may be made in those situations permitted by 42 CFR 483.130. (3-19-07)

03. Penalty for Non-Compliance. No payment will be made for any services rendered by a nursing facility prior to completion of the Level I screen and, if required, the Level II screen. Failure to comply with PASRR requirements for all individuals admitted or seeking admission may also subject a nursing facility to other penalties as part of certification action under 42 CFR 483.20. (3-19-07)

04. Appeals. Discharges, transfers, and preadmission PASRR determinations may be appealed to the extent required by 42 CFR, Part 483, Subpart E, and under Section 67-5229, Idaho Code. Appeals under this paragraph are made in accordance with the fair hearing provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-19-07)

a. A Level I finding of MI or ID is not an appealable determination. It may be disputed as part of a Level II determination appeal. (3-19-07)

b. In the event that the PASRR program is eliminated or made non-mandatory by an act of Congress, the provisions of Section 227 of these rules will cease to be operative on the effective date of any such act, without further action. (3-19-07)

229. NURSING FACILITY: PREPAYMENT SCREEN AND DETERMINATION OF ENTITLEMENT TO MEDICAID PAYMENT FOR NURSING FACILITY CARE AND SERVICES.
The level of care for Title XIX and Title XXI payment purposes is determined by the Department. Necessity for payment is determined in accordance with 42 CFR 483 Subpart C and Section 1919(e) (7) of the Social Security Act. In the event a required Level II screen was not accomplished prior to admission, entitlement for Medicaid payment as established by the *BLTC* will not be earlier than the date the Level II screen is completed, indicating that nursing facility placement is appropriate. *( )*

01. Information Required for Medical Evaluation Determination. A current Minimum Data Set (MDS) assessment will be provided to the Department. Additional supporting information may be requested. (3-19-07)

02. Information Required for Level I and II Screen Determination. An accurate Level I screen and when required, a Level II screen. (3-19-07)

230. NURSING FACILITY: PROVIDER QUALIFICATIONS AND DUTIES.

01. Provider Application and Certification. A facility must apply to participate as a nursing facility. (3-19-07)

02. Licensure and Certification. (3-19-07)

a. Upon receipt of an application from a facility, the Licensing and Certification Agency determines the facility's compliance with certification standards for the type of care the facility proposes to provide to medical assistance participants. (3-19-07)

b. If a facility proposes to participate as a skilled nursing facility, Medicare (Title XVIII) certification and program participation is required before the facility can be certified for Medicaid. The Licensing and Certification Agency will determine the facility's compliance with Medicare requirements and recommend certification to the Medicare Agency. (3-19-07)

c. If the Licensing and Certification Agency determines that a facility meets Title XIX certification standards for nursing facility care. The Department will certify to the appropriate branch of government that the facility meets the standards for nursing facility level of care. (3-19-07)

d. Upon receipt of the certification from the Licensing and Certification Agency, the Department may enter into a provider agreement with the long-term care facility. (3-19-07)

e. After the provider agreement has been executed by the Facility Administrator and by the Department, one (1) copy will be sent by certified mail to the facility and the original is to be retained by the Department. (3-19-07)

232. -- 234. (RESERVED)

235. NURSING FACILITY: PROVIDER REIMBURSEMENT.

01. Payment Methodology. Nursing facilities will be reimbursed in accordance with the payment methodologies as described in Sections 236 through 295 of these rules. (3-19-07)

02. Date of Discharge. Payment by the Department for the cost of long term care is to exclude the date of the participant's discharge. If a Medicaid patient dies in a nursing home, their date of death is covered regardless of the time of occurrence. If an admission and a discharge occur on the same date, then one (1) day of care will be deemed to exist. (3-21-12)

236. NURSING FACILITY: REASONABLE COST PRINCIPLES.
To be allowable, costs must be reasonable, ordinary, necessary and related to patient care. It will be expected that providers will incur costs in such a manner that economical and efficient delivery of quality health care to participants will result. (3-19-07)

01. Application of Reasonable Cost Principles. (3-19-07)

a. Reasonable costs of any services are determined in accordance with this chapter of rules found in Sections 236 through 295 of these rules, and Provider Reimbursement Manual (PRM), Sections 100 through 2600, as modified by the exceptions contained herein, is used to identify cost items to be included on Idaho's Uniform Cost Report. (3-19-07)

i. Reasonable cost takes into account both direct and indirect costs of providers of services, including normal standby costs. (3-19-07)

ii. The objectives of these methods are that: first, the costs with respect to individuals covered by the program will not be borne by others not so covered. Second, the costs with respect to individuals not covered will not be paid by the program. (3-19-07)

b. Costs may vary from one institution to another because of a variety of factors. It is the intent of the program that providers will be reimbursed the actual operating costs of providing high quality care, unless such costs exceed the applicable maximum base rate developed pursuant to provisions of Title 56, Idaho Code, or are unallowable by application of promulgated regulation. (3-19-07)

c. Implicit in the intention that actual operating costs be paid to the extent they are reasonable is the expectation that the provider seeks to minimize its costs and that its actual operating costs do not exceed what a prudent and cost-conscious buyer pays for a given item or service. (3-19-07)

d. If costs are determined to exceed the level that such buyers incur, in the absence of clear evidence that the higher costs were unavoidable, the excess costs are not reimbursable. (3-19-07)

02. Costs Related to Patient Care. These include all necessary and proper costs in developing and maintaining the operation of patient care facilities. Necessary and proper costs related to patient care are usually costs that are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expense, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, normal standby costs, and others. ( )

03. Costs Not Related to Patient Care. Costs not related to patient care are costs that are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs. ( )

04. Form and Substance. Substance of transactions will prevail over the form. Financial transactions will be disallowed to the extent that the substance of the transaction fails to meet reasonable cost principles or comply with rules and policy. ( )

237. NURSING FACILITY: NOTICE OF PROGRAM REIMBURSEMENT.
Following receipt of the finalized Medicare Cost Report and the timely receipt of any other information requested by

the Department to fairly cost settle with the provider, a certified letter with the return receipt requested will be sent to the provider that sets forth the amounts of underpayment or overpayment made to the provider. (3-19-07)

01. Notice. The notice of the results of the final retroactive adjustment will be sent even though the provider intends to request a hearing on the determination, or has appealed the Medicare Intermediary's determination of cost settlement. Where the determination shows that the provider is indebted to the Medicaid program because total interim and other payments exceed cost limits, the state will take the necessary action to recover overpayment, including the suspension of interim payments sixty (60) days after the provider's receipt of the notice. (3-19-07)

02. Recovery or Suspension. Such action of recovery or suspension will continue even after a request for an informal conference or hearing is filed with the state. If the hearing results in a revised determination, appropriate adjustments will be made to the settlement amount. (3-19-07)

03. Timing of Notice. The Department will make every effort to issue a notice of program reimbursement within twelve (12) months of receipt of the Cost Report from the Medicare Intermediary. (3-19-07)

04. Reopening of Completed Settlements. A Medicaid completed cost settlement may be reopened by the provider or the state within a three-year (3) period from the date of the letter of notice of program reimbursement. The issues must have been raised, appealed and resolved through the reopening of the Cost Report by the Medicare Intermediary. Issues previously addressed and resolved by the Department's appeal process are not cause for reopening of the finalized cost settlement. (3-19-07)

238. NURSING FACILITY: INTEREST CHARGES ON OVERPAYMENTS AND UNDERPAYMENTS.
The Title XIX and Title XXI programs will charge interest on overpayments, and pay interest on underpayments. (3-19-07)

01. Interest After Sixty Days of Notice. If full repayment from the indebted party is not received within sixty (60) days after the provider has received notice of program reimbursement, interest will accrue from the date of receipt of the notice of program reimbursement, and will be charged on the unpaid settlement balance for each thirty- day (30) period that payment is delayed. Periods of less than thirty (30) days will be treated as a full thirty-day (30) period, and the thirty-day (30) interest charge will be applied to any unpaid balance. Each payment will be applied first to accrued interest, then to the principal. Interest accrued on overpayments and interest on funds borrowed by a provider to repay overpayments are not an allowable interest expense. (3-19-07)

02. Waiver of Interest Charges. When the Department determines an overpayment exists, it may waive interest charges if it determines that the administrative costs of collecting them exceed the charges. (3-19-07)

03. Rate of Interest. The interest rate on overpayments and underpayments will be the statutory rate as set forth in Section 28-22-104(1), Idaho Code, compounded monthly. (3-19-07)

04. Retroactive Adjustment. The balance and interest will be retroactively adjusted to equal the amounts that would have been due based on any changes that occur as a result of the final determination in the administrative appeal and judicial appeal process. Interest penalties will only be applied to unpaid amounts and will be subordinated to final interest determinations made in the judicial review process. (3-19-07)

239. NURSING FACILITY: RECOVERY METHODS FOR OVERPAYMENTS.
One (1) of the following methods will be used for recovery of overpayments: (3-19-07)

01. Lump Sum Voluntary Repayment. Upon receipt of the notice of program reimbursement, the provider voluntarily refunds, in a lump sum, the entire overpayment to the Department. (3-19-07)

02. Periodic Voluntary Repayment. The provider must request in writing that recovery of the overpayment be made over a period of twelve (12) months or less. The provider must adequately document the request by demonstrating that the financial integrity of the provider would be irreparably compromised if repayments occurred over a shorter period of time than requested. (3-19-07)

03. Department Initiated Recovery. The Department will recover the entire unpaid balance of the

overpayment of any settlement amount in which the provider does not respond to the notice of program reimbursement within thirty (30) days of receiving the notice. (3-19-07)

04. Recovery From Medicare Payments. The Department can request that Medicare payments be withheld in accordance with 42 CFR, Section 405.377. (3-19-07)

240. NURSING FACILITY: ALLOWABLE COSTS.
The following definitions and explanations apply to allowable costs: (3-19-07)

01. Accounts Collection. The costs related to the collection of past due program related accounts, such as legal and bill collection fees, are allowable. (3-19-07)

02. Auto and Travel Expense. Maintenance and operating costs of a vehicle used for patient care purposes and travel expense related to patient care are reimbursable. The allowance for mileage reimbursement cannot exceed the amount determined reasonable by the Internal Revenue Service for the period being reported. Meal reimbursement is limited to the amount that would be allowed by the state for a state employee. (3-19-07)

03. Bad Debts. Payments for efforts to collect past due Title XIX and Title XXI accounts are reimbursable. This may include the fees for lawyers and collection agencies. Other allowances for bad debt and bad debt write-off are not allowable. However, Title XIX and Title XXI coinsurance amounts are one hundred percent (100%) reimbursable under PRM, Section 300. (3-19-07)

04. Bank and Finance Charges. Charges for routine maintenance of accounts are allowable. Penalties for late payments, overdrafts, etc., are not allowable. (3-19-07)

05. Compensation of Owners. An owner may receive reasonable compensation for services subject to the limitations in this chapter, to the extent the services are actually performed, documented, reasonable, ordinary, necessary, and related to patient care. Allowable compensation cannot exceed the amount necessary to attract assistance from parties not related to the owner to perform the same services. The nature and extent of services must be supported by adequate documentation including hours performing the services. Where an average industry wide rate for a particular function can be determined, reported allowable owner compensation cannot exceed the average rate. Compensation to owners, or persons related to owners, providing administrative services is further limited by provisions in Section 274 of these rules. In determining the reasonableness of compensation for services paid to an owner or a person related to an owner, compensation is the total of all benefits or remuneration paid to or primarily for the benefit of the owner regardless of form or characterization. It includes, but is not limited to, the following: (3-19-07)

a. Salaries wages, bonuses and benefits that are paid or are accrued and paid for the reporting period within one (1) month of the close of the reporting period. (3-19-07)

b. Supplies and services provided for the owner's personal use. (3-19-07)

c. Compensation paid by the facility to employees for the sole benefit of the owner. (3-19-07)

d. Fees for consultants, directors, or any other fees paid regardless of the label. (3-19-07)

e. Keyman life insurance. (3-19-07)

f. Living expenses, including those paid for related persons. (3-19-07)

06. Contracted Service. All services that are received under contract arrangements are reimbursable to the extent that they are related to patient care or the sound conduct and operation of the facility. (3-19-07)

07. Depreciation. Depreciation on buildings and equipment is an allowable property expense subject to Section 275 of these rules. Depreciation expense is not allowable for land. Lease-hold improvements may be amortized. Generally, depreciation and amortization must be calculated on a straight line basis and prorated over the estimated useful life of the asset. (3-19-07)

08. Dues, Licenses and Subscriptions. Subscriptions to periodicals related to patient care and for general patient use are allowable. Fees for professional and business licenses related to the operation of the facility are allowable. Dues, tuition, and educational fees to promote quality health care services are allowable when the provisions of PRM, Section 400, are met. (3-19-07)

09. Employee Benefits. Employee benefits including health insurance, vacation, and sick pay are allowable to the extent of employer participation. See PRM, Chapter 21 for specifics. (3-19-07)

10. Employee Recruitment. Costs of advertising for new employees, including applicable entertainment costs, are allowable. (3-19-07)

11. Entertainment Costs Related to Patient Care. Entertainment costs related to patient care are allowable only when documentation is provided naming the individuals and stating the specific purpose of the entertainment. (3-19-07)

12. Food. Costs of raw food are allowable. The provider is only reimbursed for costs of food purchased for patients. Costs for nonpatient meals are nonreimbursable. If the costs for nonpatient meals cannot be identified, the revenues from these meals are used to offset the costs of the raw food. ( )

13. Home Office Costs. Reasonable costs allocated by related entities for home office services are allowable in their applicable cost centers. (3-19-07)

14. Insurance. Premiums for insurance on assets or for liability purposes, including vehicles, are allowable to the extent that they are related to patient care. (3-19-07)

15. Interest. Interest on working capital loans is an allowable administrative expense. When property is reimbursed based on cost, interest on related debt is allowable. However, interest payable to related entities is not normally an allowable expense. Penalties are not allowable. (3-19-07)

16. Lease or Rental Payments. Payments for the property cost of the lease or rental of land, buildings, and equipment are allowable according to Medicare reasonable cost principles when property is reimbursed based on cost for leases entered into before March 30, 1981. Such leases entered into on or after March 30, 1981, will be reimbursed in the same manner as an owned asset. The cost of leases related to home offices cannot be reported as property costs, but will be allowable based on reasonable cost principles subject to other limitations contained herein. (3-19-07)

17. Malpractice and Public Liability Insurance. Premiums for malpractice and public liability insurance must be reported as administrative costs. (3-19-07)

18. Payroll Taxes. The employer's portion of payroll taxes is reimbursable. (3-19-07)

19. Property Costs. Property costs related to patient care are allowable subject to other provisions of this chapter. Property taxes and reasonable property insurance are allowable for all facilities. For free-standing nursing facilities, the property rental rate is paid as described in Section 275 of these rules. Hospital-based nursing facilities are paid based on property costs. (3-19-07)

a. Amortization of leasehold improvements will be included in property costs. (3-19-07)

i Straight line depreciation on fixed assets is included in property costs. (3-19-07)

ii. Depreciation of moveable equipment is an allowable property cost. (3-19-07)

b. Interest costs related to the purchase of land, buildings, fixtures or equipment related to patient care are allowable property costs only when the interest costs are payable to unrelated entities. (3-19-07)

20. Property Insurance. Property insurance per licensed bed is limited to no more than two (2)

standard deviations above the mean of the most recently reported property insurance costs, as used for rate setting purposes, per licensed bed of all facilities in the reimbursement class of the end of a facility's fiscal year. (3-19-07)

21. Repairs and Maintenance. Costs of maintenance and minor repairs are allowable when related to the provision of patient care. (3-19-07)

22. Salaries. Salaries and wages of all employees engaged in patient care activities or operation and maintenance are allowable costs. However, non-nursing home wages are not an allowable cost. (3-19-07)

23. Supplies. Cost of supplies used in patient care or providing services related to patient care is allowable. (3-19-07)

24. Taxes. The cost of property taxes on assets used in providing patient care are allowable. Other taxes are allowable costs as provided in the PRM, Chapter 21. Tax penalties are nonallowable costs. (3-19-07)

241. NURSING FACILITY: NONALLOWABLE COSTS.
The following definitions and explanations apply to nonallowable costs: (3-19-07)

01. Accelerated Depreciation. Depreciation in excess of calculated straight line depreciation, except as otherwise provided is nonallowable. (3-19-07)

02. Acquisitions. Costs of corporate acquisitions, such as purchase of corporate stock as an investment, are nonallowable. (3-19-07)

03. Barber and Beauty Shops. All costs related to running barber and beauty shops are nonallowable. (3-19-07)

04. Charity Allowances. Cost of free care or discounted services are nonallowable. (3-19-07)

05. Fees. Franchise fees are nonallowable, see PRM, Section 2133.1. (3-19-07)

06. Fund Raising. Certain fund raising expenses are nonallowable, see PRM, Section 2136.2. (3-19-07)

07. Goodwill. Costs associated with goodwill as defined in Section 011 of these rules are nonallowable. (3-19-07)

08. Holding Companies. All home office costs associated with holding companies are nonallowable see PRM, Section 2150.2A. (3-19-07)

09. Interest. Interest to finance nonallowable costs are nonallowable. (3-19-07)

10. Medicare Costs. All costs of Medicare Part A or Part B services incurred by Medicare certified facilities, including the overhead costs relating to these services are nonallowable. (3-19-07)

11. Nonpatient Care Related Activities. All activities not related to patient care are nonallowable. (3-19-07)

12. Organization. Organization costs are nonallowable, see PRM, Section 2134. (3-19-07)

13. Pharmacist Salaries. Salaries and wages of pharmacists are nonallowable. (3-19-07)

14. Prescription Drugs. Prescription drug costs are nonallowable. (3-19-07)

15. Related Party Interest. Interest on related party loans are nonallowable, see PRM, Sections 218.1 and 218.2. (3-19-07)

16. **Related Party Nonallowable Costs**. All costs nonallowable to providers are nonallowable to a related party, whether or not they are allocated. (3-19-07)

17. **Related Party Refunds**. All refunds, allowances, and terms, will be deemed to be allocable to the members of related organizations, on the basis of their participation in the related purchases, costs, etc. (3-19-07)

18. **Self-Employment Taxes**. Self-employment taxes, as defined by the Internal Revenue Service, that apply to facility owners are nonallowable. (3-19-07)

19. **Telephone Book Advertising**. Telephone book advertising costs in excess of the base charge for a quarter column advertisement for each telephone book advertised in are nonallowable. (3-19-07)

20. **Vending Machines**. Costs of vending machines and cost of the product to stock the machine are nonallowable costs. (3-19-07)

242. NURSING FACILITY: HOME OFFICE COST PRINCIPLES.
The reasonable cost principles will extend to the home office costs allocated to individual providers. In addition, the home office, through the provider, will provide documentation as to the basis used to allocate its costs among the various entities it administers or otherwise directs. (3-19-07)

243. NURSING FACILITY: RELATED PARTY TRANSACTIONS.

01. Principle. Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer. (3-19-07)

02. Cost Allowability - Regulation. Allowability of costs is subject to the regulations prescribing the treatment of specific items as outlined in 42 CFR 413.17, et al, and the Providers Reimbursement Manual, PRM Chapter 10 and other applicable chapters of the PRM. (3-19-07)

244. NURSING FACILITY: APPLICATION OF RELATED PARTY TRANSACTIONS.

01. Determination of Common Ownership or Control in the Provider Organization and Supply Organization. In determining whether a provider organization is related to a supplying organization, the tests of common ownership and control are to be applied separately. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other. (3-19-07)

a. A determination as to whether an individual(s) possesses ownership or equity in the provider organization and the supplying organization, so that the organizations will be considered to be related by common ownership, will be made on the basis of the facts and circumstances in each case. (3-19-07)

b. The term “control” includes any kind of control whether or not it is legally enforceable and however it is exercisable or exercised. It is the reality of the control that is decisive, not its form or the mode of its exercise. (3-19-07)

02. Cost to Related Organizations. The charges to the provider from related organizations may not exceed the billing to the related organization for these services. (3-19-07)

03. Costs Not Related to Patient Care. All home office costs not related to patient care are not allowable under the program. (3-19-07)

04. Interest Expense. Generally, interest expense on loans between related entities will not be reimbursable. See the PRM, Chapters 2, 10, and 12 for specifics. (3-19-07)

245. NURSING FACILITY: COMPENSATION OF RELATED PERSONS.
Compensation paid to persons related to owners or administrators is allowable only to the extent that services are

actually performed and are necessary and adequately documented and the compensation for the services is reasonable. (3-19-07)

01. Compensation Claimed. Compensation claimed for reimbursement must be included in compensation reported for tax purposes and be actually paid. (3-19-07)

a. Where such persons perform services without pay, no cost may be imputed. (3-19-07)

b. Time records documenting actual hours worked are required in order that the compensation be allowable for reimbursement. (3-19-07)

c. Compensation for undocumented hours worked will not be a reimbursable cost. (3-19-07)

02. Related Persons. A related person is defined as having one (1) of the following relationships with the provider: (3-19-07)

a. Husband or wife; (3-19-07)

b. Son or daughter or a descendant of either; (3-19-07)

c. Brother, sister, stepbrother, stepsister or descendant thereof; (3-19-07)

d. Father, mother, stepfather, stepmother, an ancestor thereof, or a brother or sister thereof; (3-19-07)

e. Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law; (3-19-07)

f. A descendant of a brother or sister of the provider's father or mother; (3-19-07)

g. Any other person with whom the provider does not have an arms length relationship. (3-19-07)

246. NURSING FACILITY: INTEREST EXPENSE.
Generally interest on loans between related entities is not an allowable expense. The loan will usually be considered invested capital. See PRM, Chapter 2 for specifics. (3-19-07)

247. -- 249. (RESERVED)

250. NURSING FACILITY: COST LIMITS.
Sections 250 through 271 of these rules, provide procedures and specifications necessary to implement the provisions and accomplish the objectives of the nursing home reimbursement system as specified in Sections 56-101 through 56-135, Idaho Code. All audits related to fiscal years ending on or before December 31, 1999, are subject to rules in effect before July 1, 1999. (3-19-07)

251. (RESERVED)

252. NURSING FACILITY: PROPERTY AND UTILITY COSTS.
Whether or not each of these cost items is allowed will be determined in accordance with other provisions of this chapter, or the PRM in those cases where this the rules of this chapter are silent or not contradictory. Total property and utility costs are defined as being made up of the following cost categories. The Department may require and utilize an appraisal to establish those components of property costs that are identified as an integral part of an appraisal. (3-19-07)

01. Depreciation. All allowable depreciation expense. (3-19-07)

02. Interest. All allowable interest expense relating to financing building and equipment purchases.
( )

03. Property Insurance. All allowable property insurance. Malpractice insurance, workmen's compensation and other employee-related insurances will not be considered to be property costs. (3-19-07)

04. Lease Payments. All allowable lease or rental payments. (3-19-07)

05. Property Taxes. All allowable property taxes. (3-19-07)

06. Utility Costs. All allowable expenses for heat, electricity, water and sewer. (3-19-07)

253. -- 254. (RESERVED)

255. NURSING FACILITY: RATE SETTING.
The objectives of the rate setting mechanism for nursing facilities are: (3-19-07)

01. Payments. To make payments to nursing facilities through a prospective cost-based system, which includes facility-specific case mix adjustments. (3-19-07)

02. Rate Adjustment. To set rates based on each facility's case mix index on a quarterly basis and establishing rates that reflect the case mix of that facility's Medicaid residents as of a certain date during the preceding quarter. (3-19-07)

256. NURSING FACILITY: PRINCIPLE FOR RATE SETTING.
Reimbursement rates will be set based on projected cost data from cost reports and audit reports. Reimbursement is to be set for freestanding and hospital-based facilities. In general, the methodology will be a cost-based prospective reimbursement system with an acuity adjustment for direct care costs. (3-19-07)

257. NURSING FACILITY: DEVELOPMENT OF THE RATE.
Nursing facility rates are prospective, with new rates effective July 1st of each year, and are recalculated annually with quarterly adjustments for case mix. The rate for a nursing facility is the sum of the cost components described in Subsection 257.04 through 257.08 of this rule. In no case will the rate be set higher than the charge for like services to private pay patients in effect for the period for which payment is made as computed by the lower of costs or customary charges. For the rate year of July 1, 2011, through June 30, 2012, rates will be calculated using audited cost reports ended in calendar year 2010 with no allowance for inflation to the rate year of July 1, 2011, through June 30, 2012. For the rate years beginning July 1, 2012, and annually thereafter, rates will be calculated using audited cost reports for periods ended in the preceding calendar year with no allowance for inflation to the prospective rate period. (4-4-13)

01. Applicable Case Mix Index (CMI). The Medicaid CMI used in establishing each facility's rate is calculated based on the most recent assessment for each Medicaid resident in the nursing facility on the first day of the month of the preceding quarter (for example, assessments as of April 1are used to establish the CMI needed to establish rates for the quarter beginning July 1st). Facility-wide CMI is calculated based on the most recent assessment for all residents in the nursing facility. The CMI is recalculated quarterly and each nursing facility's rate is adjusted accordingly. A facility-wide CMI is also established each year by averaging four (4) calendar quarter CMIs for the cost reporting period from historical data to represent each fiscal quarter in the cost reporting period (for example, an October 1 CMI would represent the fiscal quarter ended September 30th). (3-19-07)

02. Applicable Cost Data. The cost data used in establishing the cost components of the rate calculation are from the audited or unaudited cost report that ended during the previous calendar year (for example, cost reports ending during the period from January 1, 1998 - December 31, 1998 are used in setting rates effective July 1, 1999). The draft audit of a cost report submitted by a facility will be issued by the Department no later than five (5) months after the date all information required for completion of the audit is filed with the Department. (3-19-07)

03. Interim Rates. Nursing facilities with unaudited cost reports are given an interim rate established by the Department until a rate is calculated based on an audited cost report. When audited data are available, a retroactive adjustment to the payment rate is made through the calculation of the finalized rate. (3-19-07)

04. Direct Care Cost Component. The direct care cost component of a nursing facility's rate is determined as follows: (3-19-07)

a. The direct care per diem cost limit applicable to the rate period for a nursing facility type (free-standing and urban hospital-based nursing facility, rural hospital-based nursing facility, free-standing and urban hospital-based behavioral care unit, or rural hospital-based behavioral care unit) is identified. The identified direct care cost limit is divided by the statewide average CMI for the cost reporting period, and then multiplied by the nursing facility's facility-wide CMI for the cost reporting period to derive the adjusted direct care per diem cost limit. (4-4-13)

b. The adjusted direct care per diem cost limit is compared to the nursing facility's inflated direct care per diem costs. The lower of the two (2) amounts is then case mix adjusted. (3-19-07)

i. If the adjusted direct care per diem cost limit is lower, the adjusted limit is divided by the nursing facility's facility-wide CMI for the cost reporting period, and then multiplied by the nursing facility's most recent quarterly Medicaid CMI for the rate period to arrive at the direct care cost component. (3-19-07)

ii. If the inflated direct care per diem costs are lower, these costs, minus raw food and Medicaid related ancillary costs, are divided by the nursing facility's facility-wide CMI for the cost reporting period, then multiplied by the nursing facility's most recent quarterly Medicaid CMI for the rate period. Raw food and Medicaid related ancillary costs are then added back to arrive at the direct care cost component. (3-19-07)

05. Indirect Care Cost Component. The indirect care cost component of a facility's rate is the lesser of the facility's inflated indirect care per diem costs, or the indirect per diem cost limit for that type of provider -- free-standing and urban hospital-based nursing facilities including behavioral care unit nursing facility providers, or rural hospital-based nursing facilities including behavioral care unit nursing facility providers. (4-4-13)

06. Costs Exempt From Limitation. Costs exempt from cost limits are property taxes, property insurance, utilities and costs related to new legal mandates as defined in Section 264 of these rules. (3-19-07)

07. Property Reimbursement. The property reimbursement component is calculated in accordance with Section 275 and Subsection 240.19 of these rules. (3-19-07)

08. Revenue Offset. Revenues from products or services provided to nonpatients will be offset from the corresponding rate component(s) as described in Section 257 of this rule. (4-4-13)

258. NURSING FACILITY: COST LIMITS BASED ON COST REPORT.

Each July 1st cost limitations will be established for nursing facilities based on the most recent audited cost report with an end date of June 30th of the previous year or before. Calculated limitations will be effective for a one (1) year period, from July 1 through June 30th of each year, which is the rate year. For the rate year of July 1, 2011, through June 30, 2012, the direct and indirect cost limits were calculated using the most recent audited cost reports adjusted to the midpoint of the cost reporting year’s end in calendar year 2010, to allow for no inflation to the rate year. For rate years beginning July 1, 2012, and annually thereafter, the direct and indirect cost limits will be calculated using the most recent audited cost reports adjusted to the midpoint of each provider's cost reporting year that is used to set the July 1 rate, to allow for no inflation to the rate year. (4-4-13)

01. Percentage Above Bed-Weighted Median. (4-4-13)

a. Prior to establishing the first “shadow rates” at July 1, 1999, the estimated Medicaid payments under the previous retrospective system for the year period from July 1, 1999, through June 30, 2000, will be calculated. This amount will then be used to model the estimated payments under the case mix system set forth in Sections 255 through 257 of these rules. The percentages above the bed-weighted median, for direct and indirect costs, will be established at a level that approximates the same amount of Medicaid expenditures as would have been produced by the retrospective system. The percentages will also be established to approximate the same distribution of total Medicaid dollars between the hospital-based and freestanding nursing facilities as existed under the retrospective system. (4-4-13)

b. Once the percentage is established, it will be used to calculate the limit by multiplying the bed-weighted median per diem direct cost times the calculated percentage for that class of provider. There will be a direct and indirect percentage that is applied to freestanding and urban hospital-based nursing facilities, and a higher direct and indirect percentage that is applied to rural hospital-based nursing facilities. (4-4-13)

c. Beginning with rates effective October 1, 2012, additional direct care cost limit categories will be added for free-standing and urban hospital-based behavioral care units and rural hospital-based behavioral care units. Percentages previously established for other provider class types not considered a behavioral care unit will remain unchanged. Once established, these percentages will remain in effect for future rate setting periods. (4-4-13)

02. Direct Cost Limits. The direct cost limitation will be calculated by indexing the selected cost data forward by the inflation adjustment from the midpoint of the cost report period to the midpoint of the period for which the limit will be applicable. The indexed per diem costs will then be normalized and arrayed from high to low, with all nursing facilities included in the same array, and the bed-weighted median will be computed. (4-4-13)

03. Indirect Cost Limits. The indirect cost limitation will be calculated by indexing the selected cost data forward by the inflation adjustment from the midpoint of the cost report period to the midpoint of the period for which the limit will be applicable. The indexed per diem costs will then be arrayed, with all nursing facilities included in the same array, and the bed-weighted median will be computed. (4-4-13)

04. Limitation on Increase or Decrease of Cost Limits. Increases in the direct and indirect cost limits will be determined by the limitations calculated in the most recent base year, indexed forward each year from the midpoint of the base year to the midpoint of the rate year by the inflation factor plus one percent (1%) per annum. The calculated direct and indirect cost limits will not be allowed to decrease below the limitations effective in the base year. The maximum rate of growth on the cost limits, and the minimum cost limitation, will be examined by the oversight committee periodically to determine which factors to use in the calculation of the limitations effective in the new base year and forward. (3-29-10)

05. Costs Exempt From Limitations. Costs exempt from limitations include property taxes, property insurance, and utilities. These costs will be reimbursed on a per diem basis and will not be included in the calculation of the direct or indirect care component. However, property taxes and property insurance will be subject to minimum occupancy levels as defined in Section 278 of these rules. (3-19-07)

259. NURSING FACILITY: TREATMENT OF NEW BEDS.

Facilities that add beds after July 1, 1999, will have their reimbursement rate subjected to an additional limitation for the next three (3) years. This limitation will apply beginning with the first rate setting period that utilizes a cost report that includes the date when the beds were added. (3-19-07)

01. Limitation of Facilities Rate. The facility's rate will be limited to the bed-weighted average of the following two (2) rates: (3-19-07)

a. The facility's current prospective rate calculated in accordance with Section 257 of these rules; and (3-19-07)

b. The current median rate for nursing facilities of that type, free-standing, rural hospital-based, or urban hospital-based, established each July 1st. (3-19-07)

02. Calculation of the Bed-Weighted Average. The current calculated facility rate is multiplied by the number of beds in existence prior to the addition. The median rate is multiplied by the number of added beds, weighted for the number of days in the cost reporting period for which they were in service. These two (2) amounts are added together and divided by the total number of beds, with the new beds being weighted if they were only in service for a portion of the year. The resulting per diem amount represents an overall limitation on the facility's reimbursement rate. Providers with calculated rates that do not exceed the limitation receive their calculated rate. (3-19-07)

03. Exception to New Bed Rate. The following situations will not be treated as new beds for reimbursement purposes: (3-19-07)

a. Any beds converted from nursing facility beds to assisted living beds, can be converted back to nursing facility beds within three (3) years and not be classified as new nursing facility beds. When a nursing facility bed has been converted to an assisted living bed for three (3) or more concurrent years and the bed is converted back to a nursing facility bed, it must be treated as a new nursing facility bed. (3-19-07)

b. Beds added as a result of expansion plans, that the Department was aware of prior to July 1, 1999, will not be treated as new beds. The facility must have already expended significant resources on the purchase of land, site planning, site utility planning, and development. The existence of adequate land or space at the nursing facility does not by itself constitute a significant expenditure of resources for the purposes of expansion. A written request with adequate supporting documentation for an exception under this provision must have been received by the Department no later than December 31, 1999. In no case will beds added after July 1, 2003, qualify for this exception to the new bed criteria. (3-19-07)

c. Beds that are decertified as a requirement of survey and certification due to deficiencies at the facility can be re-certified as existing beds with the approval of the Department. (3-19-07)

d. When a facility can demonstrate to the Department that adding beds is necessary to meet the needs of an under served area, these beds will not be treated as new beds. For an existing facility the new beds are reimbursed at the same reimbursement rate for that facility's existing beds. For a new facility, the reimbursement rate is negotiated with the Department. (3-19-07)

260. NURSING FACILITY: TREATMENT OF NEW FACILITIES.

Facilities constructed subsequent to July 1, 1999, will be reimbursed at the median rate for skilled care facilities of that type (freestanding or hospital-based) for the first three (3) full years of operation. During the period of limitation, the facility's rate will be modified each July 1st to reflect the current median rate for skilled care facilities of that type. After the first three (3) full years, the facility will have its rate established at the next July 1st with the existing facilities in accordance with Section 257 of this rule. (3-19-07)

261. NURSING FACILITY: TREATMENT OF A CHANGE IN OWNERSHIP.

New providers resulting from a change in ownership of an existing facility will receive the previous owner's rate until such time as the new owner has a cost report that qualifies for the rate setting criteria established under these rules. If the Department determines that such a facility is operationally or financially unstable, the Department may negotiate a reimbursement rate different than the rate then in effect for the facility. (5-8-09)

262. NURSING FACILITY: OUT-OF-STATE NURSING HOMES.

The Idaho Medicaid Program will reimburse for out-of-state nursing home placements when services are not available in Idaho to meet the participant's medical need, or in a temporary situation for a limited period of time required to safely transport the participant to an Idaho facility. Reimbursement for out-of-state nursing homes will be at the per diem rate set by the Medicaid Program in the state where the nursing home is located. Special rates will be allowed according to Section 270 of these rules. (3-19-07)

263. NURSING FACILITY: DISTRESSED FACILITY.

01. Determination. If the Department determines that a facility is located in an under-served area, or addresses an under-served need, the Department may negotiate a reimbursement rate different than the rate then in effect for that facility. (5-8-09)

02. Discretionary Factors. The fact that a facility may be located in an under-served area or meets an under-served need does not guarantee increased reimbursement. In exercising its discretion to apply a higher rate, the Department will consider the factors as described in Subsections 263.02.a. through 263.02.e. of this rule. (5-8-09)

a. Prudent Spending Patterns. The facility has exercised prudent spending and cost allocation practices, as evidenced by a thorough and comprehensive review of the facility's accounts by the Department. (5-8-09)

b. Reasonable Attempts to Remedy Problems. The facility must persuade the Department that it has conscientiously and diligently attempted to cover its costs of care, hire qualified staff and otherwise operate

effectively and efficiently, but for causes beyond the facility's reasonable control, it has not been able to do so. (5-8-09)

c. Facility Already Receives Special Rates. When a facility already receives special rates for certain difficulty-of-care patients from the Department, the same costs of care that were used to determine special rates will not be applied toward a determination of distressed facility status, because the special rate meets that need. (5-8-09)

d. Direct and Indirect Costs of Care Apportioned to Patient Care. The Department reimburses the costs of patient care, and does not pay for indirect costs not associated with patient care. The determination of distressed status will focus on whether the facility's distress stems from patient care costs, or whether the distress arises from expenses unrelated to patient care costs. (5-8-09)

e. Existing Cost Limits.Under no circumstances may a facility's reimbursement exceed the lower of its actual costs or customary charge to private-pay patients, as required by federal law, subject to the exceptions in federal law. The Department's cost caps can be exceeded through the distressed facility process, but to an amount no greater than the federal upper payment limit. (5-8-09)

03. Annual Review. Distressed facility payments are assumed to be short-term in nature. Each distressed payment must be re-requested and re-justified for each subsequent fiscal year that the facility desires the distressed facility rate. (5-8-09)

04. Prospective Application. Distressed facility status will be applied only to facilities that are currently distressed or entering a period of distress. Distressed facility status will not be applied to retroactive rate years. (5-8-09)

05. Facility-by-Facility Basis. Each facility must independently establish distress on its own merits, whether or not other facilities with a common owner may also be experiencing distress. (5-8-09)

264. NURSING FACILITY: INTERIM ADJUSTMENTS TO RATES AS A RESULT OF NEW MANDATES.

Certain costs may be excluded from the cost limit calculations, may be subject to retrospective settlement at the discretion of the Department, and may result in changes to the prospective rates as provided in this Section to assure equitable reimbursement: (3-19-07)

01. Changes of More Than Fifty Cents Per Patient Day in Costs. Changes of more than fifty cents ($.50) per patient day in costs otherwise subject to the cost limitations incurred by a facility as a result of changes in state or federal laws or rules will be reported separately on the cost report until such time as they can be properly reflected in the cost limits. (3-19-07)

a. The provider will report these costs on a separate schedule or by notations on the cost report so that these costs can be identified and reconciled to the provider's general ledger. These costs will be reported separately and will not be reimbursed through the rate setting process until the costs are fully represented in the cost data used to establish the cost limitations and rates. (3-19-07)

b. If more than one (1) increase occurs as a result of one (1) or more law or rule changes, the costs from each event are to be reported separately. (3-19-07)

c. The computation of the cost increase amount or amounts is to be presented in detail on a supplementary schedule or schedules unless the Department states otherwise. (3-19-07)

02. Interim Rate Adjustments. For interim rate purposes, the provider may be granted an increase in its prospective rate to cover such cost increases. A cost statement covering a recent period may be required with justification for the increased costs. The actual amount related to such increases will be determined at audit and may be retrospectively settled. (3-19-07)

03. Future Treatment of Costs. After the initial deadline has passed for all providers to file cost reports for reporting periods beginning on or after the date certain cost increases were first required, the Department

will, at it's option, include all of the previously excluded costs related to those increases in the calculation of costs subject to the cost center limits. The intent of this provision is for costs to be exempt from the cost limits until these costs are able to be fully and equitably incorporated into the data base used to project the cost limits. When cost increases that have been excluded from the cap are incorporated in the inflation indices used to set the cost limits, the cost indices will be adjusted to exclude the influence of such changes if the amount included in the index is identified. When the cost limits are set to include previously excluded amounts, any adjustments made to the indices related to the previously excluded costs will be removed. (3-19-07)

265. NURSING FACILITY: MDS REVIEWS.
The following Minimum Data Set (MDS) reviews will be conducted: (3-19-07)

01. Facility Review. Subsequent to the picture date, each facility will be sent a copy of its resident roster (a listing of residents, their RUG classification, case mix index, and identification as Medicaid or other). It will be the facility's responsibility at that time to review the roster for accuracy. If the roster is accurate, the facility will sign and return the roster for rate setting. If any errors are detected, those errors will be communicated to the Department in writing along with any supporting documentation. If the signed resident roster is not returned and no errors are communicated to the Department, the original resident roster will be used for rate setting. Once the resident roster has been used for rate setting, it will be considered final unless modified by subsequent Departmental review. (3-19-07)

02. Departmental Review. If a departmental review of the MDS data reveals errors that result in an incorrect case mix index, the provider's rate will be retroactively adjusted, for all quarters containing the incorrect assessment, and an amount due to or from the Department will be calculated. This does not include residents who received the default classification due to incomplete or inconsistent MDS data. (3-19-07)

266. NURSING FACILITY: BEHAVIORAL CARE UNIT (BCU) AND RATE STRUCTURE.
Effective October 1, 2012, the additional direct care costs associated with BCU residents will remain in direct care costs subject to the direct care cost limitation. Those qualifying BCU nursing facility providers may have a direct care cost limitation higher than non-BCU nursing facility providers. BCU nursing facility providers will not receive an increased indirect care cost limitation. (4-4-13)

01. Determination. The BCU must have a qualifying program and have been providing care in the BCU to behavior residents as of July 1, 2011. Nursing facility providers that meet the BCU criteria will have BCU direct care costs included in direct care costs subject to the cost limit. The direct care cost limitation may be higher than a non-BCU nursing facility. (4-4-13)

02. BCU Routine Customary Charge. If the cost to operate a BCU is included in a nursing facility's rate calculation, the nursing facility must report its usual and customary charge for semi-private rooms in both the BCU and general nursing facility. A weighted average routine customary charge is computed to represent the composite of all Medicaid nursing facility residents in the nursing facility based on the type of rooms they occupy, including the BCU. (4-4-13)

03. Prospective Rate Setting. Beginning October 1, 2012, the direct care cost limit calculation for any special rate revenue offsets in the prior year related to one-to-one (1:1) staffing ratios, BCU, or increased staffing, will be reversed before calculating the cost limit. This revenue offset reversal excludes revenues related to special rate add-ons for ventilator-dependent or tracheostomy services. Rates will be calculated using the cost report ended in the calendar year prior to each July 1 rate setting period with the BCU's direct care costs included in direct care costs subject to the higher BCU cost limit. (4-4-13)

04. Annual Rates Beginning July 1, 2013. For annual rates beginning July 1, 2013, once a rate has been set as provided in Subsection 266.03 of this rule, the following process will be used to determine BCU eligibility. A nursing facility must apply for BCU eligibility on an annual basis. Eligibility is determined by: (4-4-13)

a. BCU days, regardless of payer source, are divided by the total occupied days in the nursing facility and that calculation equals or exceeds a minimum of twenty percent (20%). (4-4-13)

b. The BCU nursing facility provider must provide a list of all residents they believe were qualified

for BCU status for the previous year; (4-4-13)

i. The Department will select a sample of Idaho Medicaid participants from the submitted list. The nursing facility provider must send the MDS for each selected sample participant, along with related census information, and other requested information to the Department. (4-4-13)

ii. The Department will review this information to determine that the participants meet the requirements of Subsection 266.06 of this rule and calculate the percentage of BCU days to the total occupied days in the facility to determine whether the facility meets the BCU eligibility requirement in Subsection 266.05.a. of this rule. (4-4-13)

05. Participant Characteristics. All participants in a BCU must meet the criteria for nursing facility level of care, and have the following characteristics as provided in the participants' MDS assessment: (4-4-13)

a. Medically based behavior disorder that causes a significantly diminished capacity for judgment, retention of information, or decision making skills, or medically based mental health disorder of diagnosis and has a high level resource use; and (4-4-13)

b. Must have a history or demonstrate need for additional resources to provide for disruptive behaviors requiring enhanced resource use from nursing facility staff, evidenced by one (1) or more of the following: (4-4-13)

i. Wandering behaviors; (4-4-13)

ii. Verbally abusive behaviors; (4-4-13)

iii. Physically abusive behaviors; (4-4-13)

iv. Socially inappropriate or disruptive behaviors, such as verbal or vocal symptoms like disruptive sounds, noises, screaming, physical symptoms like self-abusive acts, public sexual behavior or disrobing in public, smearing or throwing food or bodily wastes, hoarding, rummaging through belongings of other residents; (4-4-13)

v. Behaviors that resist care; or (4-4-13)

vi. Does not meet unit discharge criteria outlined in Subsection 266.13 of this rule. (4-4-13)

c. A behavior baseline profile must be established for each participant; (4-4-13)

d. A behavior intervention program must be in place for each participant, designed to reduce or control the inappropriate behaviors to enhance the participant's quality of life, functional and cognitive status or safety. (4-4-13)

06. BCU Annual Renewal. The facility must request continuation in the BCU program annually including the following: (4-4-13)

a. A description of the facility's program that includes the required components in Subsections 266.05 and 266.06 of this rule; and (4-4-13)

b. A profile of the types of behavior of participants served and any restrictions the facility has adopted. (4-4-13)

07. Administrative and Staffing Requirements. (4-4-13)

a. Staffing must be at a level necessary for the facility to be able to provide direct supervision of participants as needed. (4-4-13)

b. Psychiatrist or physician extender must be available to consult as needed for initial and on-going

assessments and for twenty-four hours a day/seven days a week (24/7) emergency services. Consultants must make at least quarterly site visits and be available to participate in Behavior Management Team meetings as needed. (4-4-13)

c. Licensed Master Social Worker (LMSW), Licensed Professional Counselor (LPC), or Licensed Social Worker (LSW) with behavioral experience must be available to consult as needed, make periodic site visits and to participate in the assessment, behavioral intervention planning, behavioral intervention implementation and Behavior Management Team meetings as needed. (4-4-13)

0*8*. Behavior Management Team Meetings. Weekly behavior management team meetings must be conducted that include psychiatrist, physician, facility social services staff, behavior program director, director of nursing services, dietary manager, recreational services or activity director, and selected primary care staff. Physicians, psychiatrists, social services consultants and other off-site specialists are included as needed, and may participate in person or by telephone. *( )*

0*9*. Staff Training. Behavioral training classes for staff that are tailored to the needs of the positions involved, and includes appropriate information on: (4-4-13)

a. Assessment and prevention; (4-4-13)

b. Medication and side effects; (4-4-13)

c. Effects of disease process on mood state; (4-4-13)

d. Safety techniques; (4-4-13)

e. Deflecting aggression or target behaviors; (4-4-13)

f. Comprehensive environmental intervention; (4-4-13)

g. Stress management; and (4-4-13)

h. Documentation and charting. (4-4-13)

***10*. Yearly Training**. Yearly training for behavioral interventions and safety techniques is required for staff. (4-4-13)

***11*. Care Planning, Behavioral Management, and Programming**. Individualized care plans, based on assessments of cognitive and functional abilities, along with behavior analysis to create a strategy for prevention and intervention that are documented for each participant and include the following: (4-4-13)

a. Thirty (30) day assessments of progress made by each participant, must be completed, documented, and reviewed by the facility's behavioral management team. (4-4-13)

b. Comprehensive behavior monitoring techniques that track and trend the intensity and daily occurrence of behaviors, successful interventions, and behavior modification techniques used must be documented for each participant. (4-4-13)

c. Attempts to involve family and responsible parties with the participant through visits, training, outings, or appropriate communications, must be documented. (4-4-13)

d. Recreational and activity programming must be targeted to specific needs of each individual participant and the behaviors each participant exhibits must be documented. (4-4-13)

e. Integration for appropriate social interactions must be used when appropriate for each individual participant. (4-4-13)

f. Community for transition must be used when appropriate for each individual participant. (4-4-13)

g. Attempts to meet discharge criteria must be documented for each individual participant when progress shows a decline in the need for special care programming. (4-4-13)

12. **Discharge Criteria**. The BCU must maintain and document discharge criteria as follows: (4-4-13)

a. Document improvement in ability to function that would enable transfer to less-restrictive environment. (4-4-13)

b. Document lack of benefit from specialized programs offered in BCU. (4-4-13)

c. Document consistent refusals by participant or responsible party to allow interventions that are determined to be helpful. (4-4-13)

d. Document acute danger to self or others that cannot be managed by staffing in the BCU. (4-4-13)

e. Document acute physical illness or complications requiring a higher level of medical care than available in the facility. (4-4-13)

13. **Termination of BCU Status**. If a provider opts to leave the BCU program, the Department must be notified so the direct care cap can be adjusted to that of a non-BCU provider, beginning with the next rate year. (4-4-13)

14. **Refusal of Admissions**. These rules do not preclude a nursing facility from refusing to admit a participant whose needs cannot be met by the nursing facility. (4-4-13)

267. NURSING FACILITY: TREATMENT OF NEWLY LICENSED FACILITIES WITH BEHAVIORAL CARE UNITS.

01. Criteria to Qualify as a New BCU On or After September 1, 2017. Facilities licensed on or after September 1, 2017, must meet the qualifications for a BCU described in Subsections 266.02, 266.03, and 266.05 through 266.15 of these rules. BCU facilities existing prior to this date that receive a new license due to a change in ownership will not be subject to the provisions of this rule. (3-28-18)

02. Reimbursement for Years One (1) Through Three (3). Beginning with the first day of the first month following approval of the BCU license and when the provider can demonstrate that BCU days from a minimum of sixty (60) calendar days, regardless of payer source, divided by total census days for that same sixty-day (60) period, equals or exceeds a minimum of twenty percent (20%), the provider's rate will change to reflect BCU services. The provider will be reimbursed at the median rate for BCU facilities of that type, either freestanding or hospital-based, for the remaining period within the first three (3) full years of operation. If there are no facilities of the same type (for example, no other hospital-based BCUs), the provider will receive the median rate for their type, but the direct cost portion of the rate will be revised to the median rate of existing BCUs. The rate change to reflect BCU services will not be retroactive to rate quarters paid prior to meeting the twenty percent (20%) BCU occupancy requirement. (3-28-18)

a. A nursing facility must apply for BCU eligibility on an annual basis in accordance with Subsection 266.07 of these rules. If the provider did not meet the BCU qualifications described in Section 266 of these rules, with the exception of Subsections 266.01 and 266.04, for a full cost report year corresponding to the initial application year, the twenty percent (20%) BCU day requirement will apply only to days beginning with the first day of BCU eligibility to the end of the year. (3-28-18)

b. During the period of limitation, the facility's rate will be modified annually on July 1st to reflect the current median rate for skilled care facilities of that type. After the first three (3) complete years of operations, the facility will have its rate established at the next July 1st with the existing facilities in accordance with Subsections 266.03 and 266.05 of these rules. (3-28-18)

c. During the period of limitation, providers must demonstrate annually that BCU days were equal to

or exceeded twenty percent (20%), as described in Subsection 267.02 of this rule. Providers must provide a report to the Department with a calculation of BCU days for each month during the period being reviewed. If the twelve-month (12) average falls below twenty percent (20%), then the BCU reimbursement will revert back to the median rate per Section 260 of these rules. Once the Department has established the provider has met the requirements of Subsection 267.01 of this rule they will be eligible for a new rate outlined in Subsection 267.02.b. of this rule. (3-28-18)

268. NURSING FACILITY: EXISTING PROVIDER ELECTS TO ADD BEHAVIORAL CARE UNIT (BCU).

An existing nursing facility provider that elects to add a BCU on or after September 1, 2017, may be deemed eligible after meeting the following requirements: (3-28-18)

01. Meet Criteria for BCU. The nursing facility provider must meet the criteria for a BCU described in Section 266 of these rules. (4-4-13)

02. BCU Eligible Days. The provider must demonstrate that BCU days from a minimum of sixty (60) calendar days, regardless of payer source, divided by total census days for that same sixty (60) day period, equals or exceeds a minimum of twenty percent (20%). (3-28-18)

03. BCU Payments. Once the provider has met the requirements of Subsections 268.01 and 268.02 of this rule, beginning with the first day of the first quarter following approval of the BCU license, the provider's rate will change to reflect BCU services. At no time will the rate be adjusted mid-quarter. The rate will be calculated as follows. (3-28-18)

a. The indirect costs, costs exempt from limitations, and property cost will be reimbursed in the same manner as all other nursing facilities in accordance with reimbursement provisions contained in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-28-18)

b. The direct cost portion of the rate will be reimbursed as a prospective rate not subject to a change from an interim rate to a final rate. The direct cost portion of the rate will be calculated by determining the median direct cost portion for BCU facilities of that type (freestanding or hospital-based) effective on July 1 of the rate year. If there are no facilities of the same type (for example no other hospital-based BCUs), the direct cost portion of the rate will be set at the median rate of existing BCUs. The direct cost portion of the rate will be updated on July 1 of each rate year until the provider has a qualifying twelve-month (12) cost report, as described in Subsection 268.03.d. of this rule. (3-28-18)

c. The provider's total calculated rate will be subject to customary charge limitations and any other rate reductions implemented for other providers. (3-28-18)

d. Once the provider has a twelve-month (12) cost report that contains a full year of BCU costs, their rate will be calculated in the same manner as other providers in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-28-18)

e. A nursing facility must apply for BCU eligibility on an annual basis in accordance with Section 266 of these rules. If the provider was not a BCU for a full cost report year, the twenty percent (20%) BCU day requirement will apply only to days beginning with the first day of BCU eligibility to the end of the year. (3-28-18)

269. NURSING FACILITY: NEW OWNER OF AN EXISTING NURSING FACILITY WITH A BEHAVIORAL CARE UNIT (BCU).

01. New Owner Elects to Continue BCU. An existing nursing facility that is considered a BCU will continue to be a BCU, if the new owner elects to continue to provide these services. The new owner will receive a rate calculated according to the current change of ownership rules in Section 261 of these rules. The prior owner's cost report will be used until the new owner has a qualifying cost report. They BCU will continue to qualify for the higher direct care cost limit the previous owner was allowed. (4-4-13)

02. New Owner Does Not Elect to Continue BCU. If the new owner does not elect to operate the

BCU, the prior owner's cost report will be used. The direct care cost limit will be adjusted down to that of the non-BCU nursing facility. (4-4-13)

270. NURSING FACILITY: SPECIAL RATES.
A special rate consists of a facility's daily reimbursement rate for a patient plus an add-on amount. Section 56-117, Idaho Code, provides authority for the Department to pay facilities an amount in addition to the daily rate when a patient has needs that are beyond the scope of facility services and when the cost of providing for those additional needs is not adequately reflected in the rates calculated. This special rate add-on amount for such specialized care is in addition to any payments made in accordance with other provisions of this chapter and is excluded from the computation of payments or rates under other provisions in these rules. (4-4-13)

01. Determination. The Department determines to approve a special rate on a patient-by-patient basis. No rate will be allowed if reimbursement for these needs is available from a non-Medicaid source. A special rate request will be based on an identified condition that will continue for a period greater than thirty (30) days. (3-4-11)

02. Effective Date. Upon approval, a special rate is effective on the date the application was received. (3-4-11)

03. Reporting. Costs equivalent to payments for special rate add-on amounts must be removed from the cost components subject to limits, and be reported separately by the provider. (3-19-07)

04. Limitation. A special rate cannot exceed the provider's charges to other patients for similar services. (3-19-07)

05. Prospective Rate Treatment. Prospective treatment of special rates became effective July 1, 2000. Subsections 270.06 and 270.07 of this rule provide clarification of how special rates are paid under the prospective payment system. (4-4-13)

06. Determination of Payment for Qualifying Residents. Special rate add-on amounts are calculated using one (1) of the methods described in Subsections 270.06.a. through 270.06.c. of this rule. (4-4-13)

a. One Hundred Percent (100%) Special Care Facility Existing July 1, 2000. If on July 1, 2000, an entire facility was a special care unit that included Medicaid residents, the facility's direct care cost per diem will not be subject to the direct care cost limit. However, the direct care costs are case mix adjusted based on the ratio of the facility's Medicaid CMI for the rate period to the facility-wide CMI for the cost reporting period. (3-19-07)

b. Equipment and Non-Therapy Supplies. Equipment and non-therapy supplies not addressed in Section 225 of these rules as determined by the Department, are reimbursed in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 755, as an add-on amount. (4-4-13)

c. Ventilator Dependent Residents and Residents Receiving Tracheostomy Care. Nursing facilities providing care to residents who are ventilator-dependent or who receive tracheostomy care are eligible to submit requests for the fixed add-on amount, in addition to the facility's rate for residents receiving this type of care. Approved requests are effective the date the type of care is needed by the participant, or no earlier than sixty (60) days prior to the date the request is received by the Department. The rate includes the cost for equipment and supplies and for additional registered nurse and certified nursing assistant hours, as appropriate for each type of care. Costs for equipment and supplies will be adjusted annually for inflation, and registered nursing and certified nursing assistant costs will be adjusted according to the annual Weighted Average Hourly Rates (WAHR) survey results. (7-1-19)

i. Approved add-on rates for ventilator-dependent residents and residents receiving tracheostomy care are subject to annual reviews by the Department to ensure that the add-on rate remains necessary for the type of care needed by the resident. (7-1-19)

ii. The provider must inform the department if an approved add-on rate is no longer needed or if the resident requires a change from one type of care to another. (7-1-19)

d. Ventilator Dependent Residents and Residents Receiving Tracheostomy Care in Out-of-State

Nursing Facilities. For residents who are ventilator-dependent or receive tracheostomy care in an out-of-state facility, the add-on amount to the facility's rate is effective the date this type of care is needed by the participant or no earlier than sixty (60) days prior to the date the request is received by the Department. The add-on rate will include:(7-1-19)

i. Calculation of a staffing add-on for the cost, if any, for additional direct care staff required in meeting the exceptional needs of these residents. The hourly add-on rate is equal to the current WAHR CNA or current WAHR RN wage rate plus a benefits allowance based on annual cost report data, then weighted to remove the CNA minimum daily staffing time adjusted for the appropriate skill level of care staff; and (4-4-13)

ii. Calculation of an add-on for equipment and non-therapy supplies following the provisions in Subsection 270.06.b. of this rule. (4-4-13)

07. Treatment of the Special Rate Cost for Future Rate Setting Periods. Special rates are established on a prospective basis similar to the overall facility rate. When the cost report used to set a prospective rate contains special rate costs, an adjustment is made to "offset," or reduce costs by an amount equal to total incremental revenues, or add-on payments received by the provider during the cost reporting period. The amount received is calculated by multiplying the special rate add-on amount paid for each qualifying resident by the number of days that were paid. No related adjustment is made to the facility's CMIs. (4-4-13)

08. Special Rate for Providers that Change Ownership or Close. When a facility changes ownership or closes, a closing cost report is not required. Special rate payments made in the closing cost reporting period may be reviewed by the Department. (4-4-13)

271. (RESERVED)

272. NURSING FACILITY: LEGAL CONSULTANT FEES AND LITIGATION COSTS.
Costs of legal consultant fees and litigation costs incurred by the provider will be handled in accordance with the following: (3-19-07)

01. In General. Legal consultant fees unrelated to the preparation for or the taking of an appeal of an audit performed by the Department of Health and Welfare, or litigation costs incurred by the provider in an action unrelated to litigation with the Department of Health and Welfare, will be allowed as a part of the total per diem costs of which the Medicaid Program will reimburse a portion according to the percentage of Medicaid patient days. (3-19-07)

02. Administrative Appeals. In the case of the provider contesting in administrative appeal the findings of an audit performed by the Department of Health and Welfare, the costs of the provider's legal counsel will be reimbursed by the Medicaid Program only to the extent that the provider prevails on the issues involved. The determination of the extent that the provider prevails will be based on the ratio of the total dollars at issue for the audit period at issue in the hearing to the total dollars ultimately awarded to the provider for that audit period by the hearing officer or subsequent adjudicator. (3-19-07)

03. Other. All other litigation costs incurred by the provider in actions against the Department of Health and Welfare will not be reimbursable either directly or indirectly by the Medicaid Program except where specifically ordered by a court of law. (3-19-07)

273. NURSING FACILITY: PATIENT FUNDS.
The safekeeping of patient funds, under the program, is the responsibility of the provider. Accordingly, the administration of these funds requires scrupulous care in recording all transactions for the patient. (3-19-07)

01. Use. Generally, funds are provided for personal needs of the patient to be used at the patient's discretion. The provider agrees to manage these funds and render an accounting but may not use them in any way. (3-19-07)

02. Provider Liability. The provider is subject to legal and financial liabilities for committing any of the following acts. This is only a partial listing of the acts contrary to federal regulations: (3-19-07)

a. Management fees may not be charged for managing patient trust funds. These charges constitute double payment as management is normally performed by an employee of the provider and their salary is included in reasonable cost reimbursement. (3-19-07)

b. Nothing is to be deducted from these funds, unless such deductions are authorized by the patient or their agent in writing. (3-19-07)

c. Interest accruing to patient funds on deposit is the property of the patients and is part of the personal funds of each patient. The interest from these funds is not available to the provider for any use, including patient benefits. (3-19-07)

03. Fund Management. Proper management of such funds would include the following as minimum: (3-19-07)

a. Savings accounts, maintained separately from facility funds. (3-19-07)

b. An accurate system of supporting receipts and disbursements to patients. (3-19-07)

c. Written authorization for all deductions. (3-19-07)

d. Signature verification. (3-19-07)

e. Deposit of all receipts of the same day as received. (3-19-07)

f. Minimal funds kept in the facility. (3-19-07)

g. As a minimum these funds must be kept locked at all times. (3-19-07)

h. Statement of policy regarding patient's funds and property. (3-19-07)

i. Periodic review of these policies with employees at training sessions and with all new employees upon employment. (3-19-07)

j. System of periodic review and correction of policies and financial records of patient property and funds. (3-19-07)

274. NURSING FACILITY: IDAHO OWNER-ADMINISTRATIVE COMPENSATION.
Allowable compensation to owners and persons related to owners who provide any administrative services will be limited based on the schedule in this **s**ection. (3-19-07)

01. Allowable Owner Administrative Compensation. The following schedule will be used in determining the maximum amount of owner administrative compensation allowable for the calendar year ending December 31, 2002.

Licensed Bed Range	Upper limit
51 - 100	86,951
101 - 150	95,641
151 - 250	129,878
251 - up	186,435

(3-19-07)

02. The Administrative Compensation Schedule. The administrative compensation schedule in this Section will be adjusted annually based upon the change in average hourly earnings in nursing and personal care

facilities as published by *IHS Markit*, its successor organization or, if unavailable, another nationally recognized forecasting firm. *( )*

03. The Maximum Allowable Compensation. The maximum allowable compensation for an owner providing administrative services is determined from the schedule in Subsection 274.01 of these rules**.** Allowable compensation will be determined as follows: (3-19-07)

a. In determining the number of beds applicable on the schedule, all licensed beds for which the individual provides administrative services will be counted, regardless of whether they are in the same facility. (3-19-07)

b. For an owner providing services to more than fifty (50) beds, the amounts shown on the schedule for the applicable number of beds will determine the upper limit for allowable compensation. (3-19-07)

c. For owners providing services to less than fifty-one (51) beds, such services related to administrative duties will be reimbursed at the hourly rate allowable if the owner was providing services to fifty-one (51) beds. Additionally, services other than administrative services may be performed by the owner and will be allowable at the reasonable market rate for such services. To be allowable, hours for each type of service will be documented. In no event will the total compensation for administrative and non-administrative duties paid to an owner or related party to an owner of a facility or facilities with fifty (50) licensed beds or less exceed the limit that would be applicable to an owner with the same number of points providing administrative services to facilities with fifty-one (51) beds as set forth in the schedule of Subsection 274.01 of these rules. (3-19-07)

04. Compensation for Persons Related to an Owner. Compensation for persons related to an owner will be evaluated in the same manner as for an owner. (3-19-07)

05. When an Owner Provides Services to More Than One Provider. When an owner provides services to more than one (1) provider compensation will be distributed on the same basis as costs are allocated for non-owners. (3-19-07)

06. More Than One Owner or Related Party May Receive Compensation for Hours Actually Worked. Services must be actually performed, documented and necessary. Total compensation must be reasonable, and not greater than the amount for which the same services could be obtained on the open market. The standard by which full time compensation is measured will be two thousand eighty (2,080) hours. Compensation of an owner or a party related to an owner is subject to other provisions of this chapter, and will not exceed the compensation determined from the Administrative Compensation Schedule, and, on an hourly basis, will not exceed the compensation determined in the Administrative Compensation Schedule divided by two thousand eighty (2,080). (3-19-07)

275. NURSING FACILITY: PROPERTY RENTAL RATE REIMBURSEMENT.

Free standing nursing facilities other than hospital based nursing facilities will be paid a property rental rate. Property taxes and property insurance will be reimbursed as costs exempt from limitations. The property rental rate includes compensation for major movable equipment but not for minor movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. Prior to final audit for free-standing nursing facilities, an interim rate for property reimbursement will be set to approximate the property rental rate as determined by Sections 56-108 and 56-109, Idaho Code. (3-19-07)

01. Property Rental Rate. The property rental rate is based upon current construction costs, the age of the facility, the type of facility, and major expenditures made to improve the facility, or a rate based upon property costs as of January 1, 1985. The amount paid for each Medicaid day of care will be phased in according to Section 275.01 of these rules, and, beginning April 1, 1985, will be: (3-19-07)

R = “Property Base” x 40 - “Age” / 40 x “change in building costs” where: (3-19-07)

a. “R” = the property rental rate. (3-19-07)

b. “Property Base” = thirteen dollars and nineteen cents ($13.19) beginning October 1, 1996 for all

freestanding nursing facilities. (3-19-07)

c. "Change in building costs" = 1.0 from October 1, 1996, through December 31, 1996. Beginning January 1, 1997, "change in building costs" will be adjusted each calendar year to reflect the reported annual change in the building cost index for a class D building in the western region, as published by the Marshall Swift Valuation Service or the consumer price index for renter's costs whichever is greater. For freestanding nursing facilities, the index available in September of the prior year will be used. (3-19-07)

d. "Age" of facility - The effective age of the facility in years will be set by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof will be assigned an age of more than thirty (30) years, however: (3-19-07)

i. If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the age will be set at thirty (30) years. Adequate documentation will include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contract, and original notes of indebtedness. An age will be determined for each building. A weighted average using the age and square footage of the buildings will become the effective age of the facility. The age of each building will be based upon the date when construction on that building was completed. This age will be adjusted to reflect major building expansion or remodeling prior to April 1, 1985, if that expenditure was large enough to reduce the age of the facility by two (2) or more years according to the following formula: (3-19-07)

$$r = A \times E / S \times C$$

Where:

r	=	Reduction in the age of the facility in years.
A	=	Age of the building at the time when construction was completed.
E	=	Actual expenses for the construction provided that the total costs must have been incurred within twenty-four (24) months of the completion of the construction.
S	=	The number of square feet in the building at the end of construction.
C	=	The cost of construction for the buildings in the year when construction was completed according to the schedule in Subsection 275.01.d.ii.

If the result of this calculation, "r" is equal to or greater than 2.0, the age of the building in years will be reduced by this number, rounded to the nearest whole number for rate setting purposes. In no case will the age be less than zero (0). (3-19-07)

ii. Historical nursing home construction cost per square foot for purposes of evaluating facility age.

Age	Year	Cost	Age	Year	Cost	Age	Year	Cost
1	2004	82.41	**2**	2003	80.80	**3**	2002	79.06
4	2001	78.43	**5**	2000	74.34	**6**	1999	71.55
7	1998	71.34	**8**	1997	68.20	**9**	1996	67.59
10	1995	66.19	**11**	1994	64.14	**12**	1993	60.56
13	1992	59.03	**14**	1991	56.13	**15**	1990	54.61
16	1989	53.17	**17**	1988	52.03	**18**	1987	51.66
19	1986	51.56	**20**	1985	50.55			

(3-19-07)

iii. For rates paid after June 30, 1989, the effective age of a facility will be further adjusted when the cost of major repairs, replacement, remodeling, or renovation of a building initiated after April 1, 1985, results in the change in age by at least one (1) year when applied to the formula in Subsection 275.01.d.i. of these rules. However, such change will not decrease the effective age of a facility beyond the point where the increase in the property rental rate is greater than three-fourths (3/4) of the difference between the property rental rate "r" for a new facility at the time of the proposed rate revision and the property rental rate for which the facility was eligible immediately before the adjustment. The cost used for "C" will be adjusted according to costs published by Marshall Swift Valuation Service to reflect current construction costs for average Class D convalescent hospitals. It is the provider's responsibility to notify the Department and document costs. The Department will adjust the age after documentation of costs. (3-19-07)

iv. In the event that new requirements are imposed by state or federal agencies, the Department will reimburse the expenditures directly related to these requirements as an increase in the property rental rate if the expense is in excess of one hundred dollars ($100) per bed. If the cost related to the requirement is less than one hundred dollars ($100) per bed, the Department will, within twelve (12) months of verification of expenditure, reimburse the Medicaid share of the entire cost of such new requirements, as a one (1) time payment to the facility. (3-19-07)

v. At no time will the property rental rate paid to a facility be less than the greater of the rate allowable to that facility on December 31, 1988, the rate allowable immediately following the first opening of a new facility after December 31, 1988, or the rate allowable immediately following the last, if any, age revision after December 31, 1988. However, subsequent to the application of this provision, before any property rental rate increase may be made for current or successor operators, the final settlement amount of any increase in the property rental rate will first be offset by an amount equal to the impact on final settlement of any rate decrease that would have occurred if the provisions of Subsections 275.01.d.iii. and 275.01.d.iv. of these rules had not been applied. This is intended to allow the postponement of the financial burden to providers of property rental rate decreases and to allow an equal offset of the financial burden to the state of subsequent property rate increases for a current or successor provider. (3-19-07)

vi. Effective July 1, 1991, for freestanding nursing facilities, "age of facility" will be a revised age that is the lesser of the age established under other provisions of this Section or the age that most closely yields the rate allowable to existing facilities as of June 30, 1991, under Subsection 275.01 of these rules. This revised age will not increase over time. (3-19-07)

02. Grandfathered Rate. A "grandfathered property rental rate" for existing free-standing nursing facilities will be determined by dividing the audited allowable annualized property costs, exclusive of taxes and insurance, for assets on hand as of January 1, 1985, by the total patient days in the period July 1, 1984, through June 30, 1985. (3-19-07)

a. Prior to audit settlement, the interim rate for property costs allowable as of January 1, 1985, will be used to approximate the grandfathered rate. (3-19-07)

b. The grandfathered property rental rate will be adjusted to compensate the facility for the property costs of major repairs, replacement, expansion, remodeling or renovation initiated prior to April 1, 1985, and completed during calendar year 1985. (3-19-07)

c. Beginning July 1, 1989, facilities receiving grandfathered rates may have those rates adjusted for modifications related to major repairs, replacement, expansion, remodeling, or renovation initiated after January 1, 1986, if the cost of these modifications would be sufficient to reduce the age of the facility by one (1) year or more according to Subsection 275.01.d.i.of these rules. The grandfathered rate will be revised after completion of modifications and will be the greater of: (3-19-07)

i. The grandfathered rate previously allowed; or (3-19-07)

ii. The actual per diem property costs of amortization, depreciation and interest not applicable to the modifications for the audit period in which the modifications were completed plus the per diem rate of the first year amortization of the cost of these modifications when amortized over American Hospital Association guideline useful life or lives. However, no change in the grandfathered rate will be allowed to change that rate by more than three-

fourths (3/4) of the difference between the previous grandfathered rate and the property rental rate that would be paid for a new building at the time of the proposed rate revision. (3-19-07)

d. The facility will be reimbursed a rate that is the higher of the grandfathered property rental rate as determined according to provisions of Subsection 275.02 of these rules or the property rental rate determined according to Subsections 275.01, 275.03, or 275.05 of these rules. (3-19-07)

03. Leased Freestanding Nursing Facilities. Freestanding nursing facilities with leases will not be reimbursed in the same manner specified in Subsections 275.01 and 275.02 of these rules. Provisions in this section do not apply to reimbursement of home office costs. Home office costs will be paid based on reasonable cost principles. (3-19-07)

a. Facilities with leases entered into on or after March 30, 1981, are to be reimbursed in the same way as owned facilities with ownership costs being recognized instead of lease costs. (3-19-07)

b. Facilities with leases entered into prior to March 30, 1981, will not be subject to reimbursement according to the provisions of Subsections 275.01 or 275.02 of these rules. Their property rental rate per day of care will be the sum of the annualized allowed lease costs and the other annualized property costs for assets on hand as of January 1, 1985, exclusive of taxes and insurance when paid separately, divided by total patient days in the period June 30, 1983, through July 1, 1984. (3-19-07)

i. Effective July 1, 1989, the property rental rates of leased nursing facilities with leases entered into prior to March 30, 1981, may be adjusted to compensate for increased property costs resulting from facility modifications related to major repairs, replacement, expansion, remodeling, or renovation initiated after January 1, 1985, if the cost would be sufficient to reduce the age of the facility by one (1) year or more according to Subsection 275.01.d.i. of these rules. The rate will be revised after the completion of such modifications and will be the greater of the property rental rate previously allowed under Subsection 275.03, or the actual per diem property costs for the amortization, depreciation, and interest not applicable to the modifications for the reporting period in which the modifications were completed, plus the per diem of the first year amortization of the modification expenses using the American Hospital Association guideline useful life of lives. However, no such rate change will increase the allowable property rental rate by more than three-fourths (3/4) of the difference between the previous rate and the property rental rate that would be allowed for a new building at the time of the proposed rate revision. (3-19-07)

ii. Where such leases contain provisions that bind the lessee to accept an increased rate, reimbursement will be at a rate per day of care that reflects the increase in the lease rate. (3-19-07)

iii. Where such leases bind the lessee to the lease and allow the rate to be renegotiated, reimbursement will be at a rate per day of care that reflects an annual increase in the lease rate not to exceed the increase in the consumer price index for renters' costs. After April 1, 1985, if such a lease is terminated or if the lease allows the lessee the option to terminate other than by an option to purchase the facility, the property rental rate will become the amount "R" determined by the formula in Subsection 275.01 of these rules as of the date on which the lease is or could be terminated. (3-19-07)

04. Sale of a Facility. In the event of the sale of a facility, or asset of a facility, the buyer will receive the property rental rate of Subsection 275.01 of these rules, except in the event of a forced sale or except in the event of a first sale of a facility receiving a "grandfathered rate" after June 30, 1991, whereupon the property rental rate of the new owner will be computed as if no sale had taken place. (3-19-07)

05. Forced Sale of a Facility. In the event of a forced sale of a facility, or asset of a facility, where the seller has been receiving a grandfathered rate, the buyer will receive a rate based upon their incurred property costs, exclusive of taxes and insurance, for the twelve (12) months following the sale, divided by the facility's total patient days for that period, or the property rental rate, not modified by Section 275 of these rules**,** whichever is higher, but not exceeding the rate that would be due the seller. (3-19-07)

276. -- 277. (RESERVED)

278. NURSING FACILITY: OCCUPANCY ADJUSTMENT FACTOR.

In order to equitably allocate fixed costs to the Medicaid patients in cases where a facility is not maintaining reasonable occupancy levels, an adjustment will be made. No occupancy adjustment will be made against the costs that are used to calculate the property rental rate; however adjustment will be made against all other property costs. The adjustment will be made as follows: (3-19-07)

01. Occupancy Levels. If a facility maintains an average occupancy of less than eighty percent (80%) of a facility's capacity, the total property costs not including cost paid under the property rental rate, will be prorated based upon an eighty percent (80%) occupancy rate. Property costs and property rental rates are defined in Section 013 of these rules. The facility's average occupancy percentage will be subtracted from eighty percent (80%) and the resultant percentage will be taken times the total fixed costs to determine the nonallowable fixed costs. (3-19-07)

02. Occupancy Adjustment. For purposes of an occupancy adjustment, facility capacity will be computed based upon the greater of the largest number of beds for which the facility was licensed during the period being reported on or the largest number of beds for which the facility was licensed during calendar year 1981, except where a portion of the facility has been converted to use for nonroutine nursing home activities or the facility is newly constructed and has entered the Medicaid Program subsequent to January 1, 1982. If the facility's designed capacity has been changed, the number of beds used to determine occupancy will be lowered by the amount of capacity being converted to nonroutine nursing home activities. Facility capacity for a new facility will be based on the number of beds approved by the certificate of need process less any capacity converted to nonroutine nursing home activities. (3-19-07)

03. Fixed Costs. For purposes of an occupancy adjustment fixed costs will be considered all allowable and reimbursable costs reported under the property cost categories. (3-19-07)

04. Change in Designed Capacity. In cases where a provider changes the designed capacity of a facility, the average occupancy for the period prior to the change and subsequent to the change will be computed and each period will be adjusted separately. If the designed capacity is increased, the increased number of beds will not be subject to this adjustment for the first six (6) months following their licensure. (3-19-07)

05. New Facility. In the case of a new facility being licensed and occupied, the first six (6) months occupancy level will not be subject to this adjustment. (3-19-07)

279. NURSING FACILITY: RECAPTURE OF DEPRECIATION.
Where depreciable assets that were reimbursed based on cost and were used in the Medicaid Program by a facility subsequent to January 1, 1982, and for which depreciation has been reimbursed by the Program, are sold for an amount in excess of their net book value, depreciation so reimbursed will be recaptured from the buyer of the facility in an amount equal to reimbursed depreciation after January 1, 1982, or gain on the sale, whichever is less. (3-19-07)

01. Amount Recaptured. Depreciation will be recaptured in full if a sale of a depreciated facility takes place within the first five (5) years of a seller's ownership. Credit will be given for the period of ownership prior to January 1, 1982. For every year the asset is held beyond the first five (5) years, the total depreciation recaptured will be reduced by ten percent (10%) per year of the total depreciation taken. (3-19-07)

02. Time Frame. Depreciation will be recaptured by the Medicaid Program from the buyer of the facility over a period of time not to exceed five (5) years from the date of sale, with not less than one-fifth (1/5) of the total amount being recaptured for each year after such date. (3-19-07)

280. NURSING FACILITY: REPORTING SYSTEM.
The objective of the reporting requirements is to provide a uniform system of periodic reports that will allow: (3-19-07)

01. Basis for Reimbursement. A basis of provider reimbursement approximating actual costs. (3-19-07)

02. Disclosure. Adequate financial disclosure. (3-19-07)

03. Statistical Resources. Statistical resources, as a basis for measurement of reasonable cost and comparative analysis. (3-19-07)

04. Criteria. Criteria for evaluating policies and procedures. (3-19-07)

281. NURSING FACILITY: REPORTING SYSTEM PRINCIPLE AND APPLICATION.
The provider will be required to file mandatory annual cost reports. (3-19-07)

01. Cost Report Requirements. The fiscal year end cost report filing must include: (3-19-07)

a. Annual income statement (two (2) copies); (3-19-07)

b. Balance sheet; (3-19-07)

c. Statement of ownership; (3-19-07)

d. Schedule of patient days; (3-19-07)

e. Schedule of private patient charges; (3-19-07)

f. Statement of additional charges to residents over and above usual monthly rate; and (3-19-07)

g. Other schedules, statements, and documents as requested. (3-19-07)

02. Special Reports. Special reports may be required. Specific instructions will be issued, based upon the circumstance. (3-19-07)

03. Criteria of Reports. All reports must meet the following criteria: (3-19-07)

a. State-approved formats used. (3-19-07)

b. Presented on accrual basis. (3-19-07)

c. Prepared in accordance with generally accepted accounting principles and principles of reimbursement. (3-19-07)

d. Appropriate detail provided on supporting schedules or as requested. (3-19-07)

04. Preparer. It is not required that any statement be prepared by an independent, licensed or certified public accountant. (3-19-07)

05. Reporting by Chain Organizations or Related Party Providers. PRM, Section 2141.7, prohibits the filing of combined or consolidated cost reports as a basis for cost reimbursement. Each facility so related must file a separate set of reports. These cost reports will be required for each level of organization that allocates expenses to the provider. Consolidated financial statements will be considered supplementary information and are not acceptable as fulfilling the primary reporting requirements. (3-19-07)

06. Change of Management or Ownership. To properly pay separate entities or individuals when a change of management or ownership occurs, the following requirements must be met: (3-19-07)

a. Outgoing management or administration must file an adjusted-period cost report if they are being reimbursed on a retrospective basis at the time of the charge. This report must meet the criteria for annual cost reports, except that it is not filed later than sixty (60) days after the change in management or ownership for the purpose of computing a final program settlement. (3-19-07)

b. The Department may require an appraisal at the time of a change in ownership. (3-19-07)

c. Providers who are receiving a new provider rate or being reimbursed on a prospective basis, when the change of management or ownership occurs, will not be required to file a closing cost report. (3-19-07)

282. NURSING FACILITY: REPORTING PERIOD.
For purposes of nursing facility rate setting, cost report periods of less than six (6) months will not be used. If a provider changes their fiscal year-end or experiences a change in ownership, the last cost report filed by that facility that is greater than six (6) months will be used until a cost report exceeding six (6) months is received from the new owner, or is based on the new fiscal year. (3-19-07)

283. NURSING FACILITY: FILING DATES.

01. Deadlines. Deadlines for annual cost reports will be the last day of the third month following the fiscal year end or the deadline imposed by Medicare if the provider is required to file a Medicare cost report. (3-19-07)

02. Waivers. A delay of thirty (30) days may be granted for annual cost reports in unusual circumstances. Requests for such deferrals and reasons therefore must be in writing and should be made prior to the deadline. A written decision will be rendered in writing within ten (10) days. (3-19-07)

284. NURSING FACILITY: FAILURE TO FILE.
Failure to submit timely reports may result in a reduction in the interim rate. Failure to file the required cost reports, including required supplemental information, unless a waiver is granted, may result in a reduction of ten percent (10%) in the provider's interim rate(s) the first day of the month following the deadline date. Continued failure to comply will result in complete payment suspension on the first day of the following month. When suspension or reduction has occurred and the provider has filed the required cost reports, amounts accruing to the provider during the period of suspension or reduction will be restored. Loss of license or certification will result in immediate termination of reimbursement, full scope audit and settlement for the cost period. (3-19-07)

285. NURSING FACILITY: ACCOUNTING SYSTEM.
Reports must be filed using the accrual basis and conform with generally accepted accounting principles or within provisions of the guidelines as specified. In any case, the recorded transaction must be capable of verification by Departmental audit. (3-19-07)

286. NURSING FACILITY: AUDITS.
All financial reports are subject to audit by Departmental representatives. (3-19-07)

01. Accuracy of Recording. To determine whether the transactions recorded in the books of record are substantially accurate and reliable as a basis for determining reasonable costs. (3-19-07)

02. Reliability of Internal Control. To determine that the facilities internal control is sufficiently reliable to disclose the results of the to the provider's operations. (3-19-07)

03. Economy and Efficiency. To determine if Title XIX and Title XXI participants have received the required care on the a basis of economy and efficiency. (3-19-07)

04. Application of GAAP. To determine if GAAP is applied on a consistent basis in conformance with applicable federal and state regulations. (3-19-07)

05. Patient Trust Fund Evaluation. To evaluate the provider's policy and practice regarding their fiduciary responsibilities for patients, funds and property. (3-19-07)

06. Enhancing Financial Practices. To provide findings and recommendations aimed at better financial practices to allow the most economical delivery of patient care. (3-19-07)

07. Compliance. To provide recommendations that will enable the provider to conform more closely with state and federal regulations in the delivery of health care to program participants. (3-19-07)

08. Final Settlement. To effect final settlement when required by **Sections** 250 through 296 of these rules. (3-19-07)

287. NURSING FACILITY: AUDIT APPLICATION.

01. Annual Audits. Normally, all annual statements will be audited within the following year. (3-19-07)

02. Limited Scope Audit. Other statements and some annual audit recommendations may be subject to limited scope audits to evaluate provider compliance. (3-19-07)

03. Additional Audits. In addition, audits may be required where: (3-19-07)

a. A significant change of ownership occurs. (3-19-07)

b. A change of management occurs. (3-19-07)

c. An overpayment of twenty-five percent (25%) or more has resulted for a completed cost period. (3-19-07)

04. Audit Appointment. Annual field audits will be by appointment. Auditors will identify themselves with a letter of authorization or Departmental I.D. cards. (3-19-07)

288. NURSING FACILITY: AUDIT STANDARDS AND REQUIREMENTS.

01. Review of New Provider Fiscal Records. Before any program payments can be made to a prospective provider the intermediary will review the provider's accounting system and its capability of generating accurate statistical cost data. Where the provider's record keeping capability does not meet program requirements the intermediary will offer limited consultative services or suggest revisions of the provider's system to enable the provider to comply with program requirements. (3-19-07)

02. Requirements. Providers Reimbursement Manual (PRM), Section 2404.3, states: “Examination of Pertinent Data and Information -- Providers asking to participate as well as those currently participating must permit the intermediary to examine such records and documents as are deemed necessary. (3-19-07)

03. Examination of Records. Examination of records and documents may include: (3-19-07)

a. Corporate charters or other documents of ownership including those of a parent or related companies. (3-19-07)

b. Minutes and memos of the governing body including committees and its agents. (3-19-07)

c. All contracts. (3-19-07)

d. Tax returns and records, including workpapers and other supporting documentation. (3-19-07)

e. All insurance contracts and policies including riders and attachments. (3-19-07)

f. Leases. (3-19-07)

g. Fixed asset records (see audit section - Capitalization of Assets). (3-19-07)

h. Schedules of patient charges. (3-19-07)

i. Notes, bonds and other evidences of liability. (3-19-07)

j. Capital expenditure records. (3-19-07)

k. Bank statements, cancelled checks, deposit slips and bank reconciliations. (3-19-07)

l. Evidence of litigations the facility and its owners are involved in. (3-19-07)

m. Documents of ownership including attachments that describe the property. (3-19-07)

n. All invoices, statements and claims. (3-19-07)

o. Providers Accounting Firm. Where a provider engages an accounting firm to maintain its fiscal records, the financial audit work papers prepared by the accounting firm are considered to be the property of the provider and must be made available to the intermediary upon request, under PRM, Subparagraph 2404.4(Q). (3-19-07)

p. Ledgers, journals, all working papers, subsidiary ledgers, records and documents relating to financial operation. (3-19-07)

q. All patient records, including trust funds and property. (3-19-07)

r. Time studies and other cost determining information. (3-19-07)

s. All other sources of information needed to form an audit opinion. (3-19-07)

04. Adequate Documentation. (3-19-07)

a. Adequate cost information as developed by the provider must be current, accurate, and in sufficient detail to support payment made for services rendered to beneficiaries. This includes all ledgers, books, records and original evidences of cost including purchase requisitions, purchase orders, vouchers, requisitions for material, inventories, labor time cards, payrolls, bases for apportioning costs, and other documentation that pertains to the determination of reasonable cost, capable of being audited under PRM, Section 2304. (3-19-07)

b. Adequate expenses documentation including an invoice, or a statement with invoices attached that support the statement. All invoices should meet the following standards: (3-19-07)

i. Date of service or sale; (3-19-07)

ii. Terms and discounts; (3-19-07)

iii. Quantity; (3-19-07)

iv. Price; (3-19-07)

v. Vendor name and address; (3-19-07)

vi. Delivery address if applicable; (3-19-07)

vii. Contract or agreement references; and (3-19-07)

viii. Description, including quantity, sizes, specifications brand name, services performed. (3-19-07)

c. Capitalization of assets for major movable equipment will be capitalized. Minor movable equipment cannot be capitalized. The cost of fixed assets and major movable equipment must be capitalized and depreciated over the estimated useful life of the asset under PRM, Section 108.1. This rule applies except for the provisions of PRM, Section 106 for small tools. (3-19-07)

d. Completed depreciation records must meet the following criteria for each asset: (3-19-07)

i. Description of the asset including serial number, make, model, accessories, and location. (3-19-07)

ii. Cost basis should be supported by invoices for purchase, installation, etc. (3-19-07)

iii. Estimated useful life. (3-19-07)

iv. Depreciation method such as straight line, double declining balance, etc. (3-19-07)

v. Salvage value. (3-19-07)

vi. Method of recording depreciation on a basis consistent with accounting policies. (3-19-07)

vii. Report additional information, such as additional first year depreciation, even though it isn't an allowable expense. (3-19-07)

viii. Reported depreciation expense for the year and accumulated depreciation will tie to the asset ledger. (3-19-07)

e. Depreciation methods such as straight line depreciation is always acceptable. Methods of accelerated depreciation are acceptable only upon authorization by the Office of Audit or its successor organization. Additional first year depreciation is not allowable. (3-19-07)

f. The depreciable life of any asset may not be shorter than the useful life stated in the publication, Estimated Useful Lives of Depreciable Hospital Assets, 1993 revised edition. Guidelines Lives, which is incorporated by reference under Section 004 of these rules. Deviation from these guidelines will be allowable only upon authorization from the Department. (3-19-07)

g. Lease purchase agreements may generally be recognized by the following characteristics: (3-19-07)

i. Lessee assumes normal costs of ownership, such as taxes, maintenance, etc.; (3-19-07)

ii. Intent to create security interest; (3-19-07)

iii. Lessee may acquire title through exercise of purchase option that requires little or no additional payment or, such additional payments are substantially less than the fair market value at date of purchase; (3-19-07)

iv. Non-cancelable or cancelable only upon occurrence of a remote contingency; and (3-19-07)

v. Initial loan term is significantly less than the useful life and lessee has option to renew at a rental price substantially less than fair rental value. (3-19-07)

h. Assets acquired under such agreements will be viewed as contractual purchases and treated accordingly. Normal costs of ownership such as depreciation, taxes and maintenance will be allowable as determined in this chapter. Rental or lease payments will not be reimbursable. (3-19-07)

i. Complete personnel records normally contain the following: (3-19-07)

i. Application for employment. (3-19-07)

ii. W-4 Form. (3-19-07)

iii. Authorization for other deductions such as insurance, credit union, etc. (3-19-07)

iv. Routine evaluations. (3-19-07)

v. Pay raise authorization. (3-19-07)

vi. Statement of understanding of policies, procedures, etc. (3-19-07)

vii. Fidelity bond application (where applicable). (3-19-07)

05. Internal Control. (3-19-07)

a. A system of internal control is intended to provide a method of handling all routine and nonroutine tasks for the purpose of: (3-19-07)

i. Safeguarding assets and resources against waste, fraud, and inefficiency. (3-19-07)

ii. Promoting accuracy and reliability in financial records. (3-19-07)

iii. Encouraging and measuring compliance with company policy and legal requirements. (3-19-07)

iv. Determining the degree of efficiency related to various aspects of operations. (3-19-07)

b. An adequate system of internal control over cash disbursements would normally include: (3-19-07)

i. Payment on invoices only, or statements supported by invoices. (3-19-07)

ii. Authorization for purchase such as a purchase order. (3-19-07)

iii. Verification of quantity received, description, terms, price, conditions, specifications, etc. (3-19-07)

iv. Verification of freight charges, discounts, credit memos, allowances, and returns. (3-19-07)

v. Check of invoice accuracy. (3-19-07)

vi. Approval policy for invoices. (3-19-07)

vii. Method of invoice cancellation to prevent duplicating payment. (3-19-07)

viii. Adequate separation of duties between ordering, recording, and paying. (3-19-07)

ix. System separation of duties between ordering, recording, and paying. (3-19-07)

x. Signature policy. (3-19-07)

xi. Pre-numbered checks. (3-19-07)

xii. Statement of policy regarding cash or check expenditures. (3-19-07)

xiii. Adequate internal control over the recording of transactions in the books of record. (3-19-07)

xiv. An imprest system for petty cash. (3-19-07)

06. Accounting Practices. Sound accounting practices normally include the following: (3-19-07)

a. Written statement of accounting policies and procedures, including policies of capitalization, depreciation and expenditure classification criteria. (3-19-07)

b. Chart of accounts. (3-19-07)

c. A budget or operating plan. (3-19-07)

289. -- *290.* (RESERVED)

291. NURSING FACILITY: COSTS FOR THE COMPLETION OF NURSE AIDE TRAINING AND COMPETENCY EVALUATION PROGRAMS (NATCEPS) AND FOR COMPLYING WITH CERTAIN OTHER REQUIREMENTS.

Provisions of federal law require the state to give special treatment to costs related to the completion of training and competency evaluation of nurse aides and to increase rates related to other new requirements. Treatment will be as follows: (3-19-07)

01. Cost Reimbursement. Effective for cost reports filed and for payments made after April 1, 1990, NATCEP costs will be outside the content of nursing facility care and will be reported separately as exempt costs. (3-19-07)

02. Costs Subject to Audit. Such NATCEP costs are subject to audit, and must be reported by all nursing facilities, including those that are hospital-based, and are not included in the percentile cap. (3-19-07)

292. NURSING FACILITY: PAYMENTS FOR PERIODS OF TEMPORARY ABSENCE.

Payments may be made for reserving beds in long-term care facilities for participants during their temporary absence if the facility charges private paying patients for reserve bed days, subject to the following limitations: (3-19-07)

01. Facility Occupancy Limits. Payment for periods of temporary absence from long term care facilities will not be made when the number of unoccupied beds in the facility on the day preceding the period of temporary absence in question is equal to or greater than: (3-19-07)

a. If licensed beds are less than one hundred (<100) and they have five (5) or more beds unoccupied, leave of absence payments are not allowed. (3-19-07)

b. If licensed beds are greater than or equal to one hundred (>100), they must have a minimum occupancy rate of ninety-five percent (95%) for leave of absence payments to be allowed. (3-19-07)

02. Time Limits. Payments for periods of temporary absence from long term care facilities will be made for therapeutic home visits for nursing facility residents of up to three (3) days per visit and not to exceed a total of fifteen (15) days per calendar year so long as the days are part of a treatment plan ordered by the attending physician. (3-19-07)

03. Limits on Amount of Payments. Payment for reserve bed days will be the lesser of the following: (3-19-07)

i. Seventy-five percent (75%) of the audited allowable costs of the facility; or (3-19-07)

ii. The rate charged to private paying patients for reserve bed days. (3-19-07)

04. Payment Procedures. Each long term care facility must submit its claims to the Department in accordance with the procedures established by the Department. The Department will not pay for a claim on behalf of a medical assistance participant unless the information on the claim is consistent with the information in the Department's computer eligibility file. (3-19-07)

293. -- *299*. (RESERVED)

300. PERSONAL CARE SERVICES (PCS).

Under Sections 39-5601 through 39-5607, Idaho Code, it is the intent of the Department to provide personal care services (PCS) to eligible participants in their own homes or personal residences to prevent unnecessary institutional placement, to provide for the greatest degree of independence possible, to enhance quality of life, to encourage individual choice, and to maintain community integration. (3-19-07)

301. PERSONAL CARE SERVICES: DEFINITIONS.

01. Children's PCS Assessment. A set of standardized criteria adopted by the Department to assess functional and cognitive abilities of children to determine eligibility for children's personal care services. (3-29-10)

02. Natural Supports. Personal associations and relationships that enhance the quality and security of life for people, such as family, friends, neighbors, volunteers, church, or others. (3-29-10)

03. Personal Care Services (PCS). A range of medically-oriented care services related to a participant's physical or functional requirements. These services are provided in the participant's home or personal residence, but do not include housekeeping or skilled nursing care. (3-29-10)

04. PCS Family Alternate Care Home. The private home of an individual licensed by the Department to provide personal care services to one (1) or two (2) children, who are unable to reside in their own home and require assistance with medically-oriented tasks related to the child's physical or functional needs. (3-29-10)

302. PERSONAL CARE SERVICES: ELIGIBILITY.

01. Financial Eligibility. The participant must be financially eligible for medical assistance under IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," or 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." (3-19-07)

02. Other Eligibility Requirements. *Bureau of Long Term Care* (*BLTC*) will prior authorize payment for the amount and duration of all services when all of the following conditions are met: *( )*

a. The *BLTC* finds that the participant is capable of being maintained safely and effectively in *their* own home or personal residence using PCS. *( )*

b. The participant is an adult for whom a Uniform Assessment Instrument (UAI) has been completed, or a child for whom a children's PCS assessment has been completed; (3-29-10)

c. The *BLTC* reviews the documentation for medical necessity; and *( )*

d. The participant has a plan of care that meets the person-centered planning requirements described in Sections 316 and 317 of these rules. (7-1-16)

03. State Plan Option. A participant who receives medical assistance is eligible for PCS under the State Medicaid Plan option if the Department finds they require PCS due to a medical condition that impairs their physical, mental function, or independence. (3-19-07)

04. Annual Eligibility Redetermination. The participant's eligibility for PCS must be redetermined at least annually under Subsections 302.01. through 302.03 of these rules. (3-19-07)

a. The annual financial eligibility redetermination must be conducted under IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," or 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." *BLTC will* make the medical eligibility redetermination. The redetermination can be completed more often than once each year at the request of the participant, the Self-Reliance Specialist, the Personal Assistance Agency, the personal assistant, the supervising RN, the QIDP, or the physician. *( )*

b. The medical redetermination assesses the following factors: (3-19-07)

i. The participant's continued need for PCS; (3-19-07)

ii. Discharge from PCS; and (3-19-07)

iii. Referral of the participant from PCS to a nursing facility. (3-19-07)

303. PERSONAL CARE SERVICES: COVERAGE AND LIMITATIONS.

01. Medical Care and Services. PCS services include medically-oriented tasks related to a participant's physical or functional requirements, as opposed to housekeeping or skilled nursing care, provided in the participant's home or personal residence. The provider must deliver at least one (1) of the following services:

(3-19-07)

a. Basic personal care and grooming to include bathing, care of the hair, assistance with clothing, and basic skin care; (3-19-07)

b. Assistance with bladder or bowel requirements that may include helping the participant to and from the bathroom or assisting the participant with bedpan routines; (3-19-07)

c. Assistance with food, nutrition, and diet activities including preparation of meals if incidental to medical need; (3-29-10)

d. The continuation of active treatment training programs in the home setting to increase or maintain participant independence for the participant with developmental disabilities; (3-29-10)

e. Assisting the participant with physician-ordered medications that are ordinarily self-administered, in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Subsection 490.05; (3-29-10)

f. Non-nasogastric gastrostomy tube feedings if authorized by *BLTC* prior to implementation and if the following requirements are met: *( )*

i. The task is not complex and can be safely performed in the given participant care situation; (3-19-07)

ii. A Licensed Registered Nurse (RN) has assessed the participant's nursing care needs and has developed a written standardized procedure for gastrostomy tube feedings, individualized for the participant's characteristics and needs; (3-19-07)

iii. Individuals to whom the procedure can be delegated are identified by name. The RN must provide proper instruction in the performance of the procedure, supervise a return demonstration of safe performance of the procedure, state in writing the strengths and weaknesses of the individual performing the procedure, and evaluate the performance of the procedure at least monthly; (3-19-07)

iv. Any change in the participant's status or problem related to the procedure must be reported immediately to the RN; (3-19-07)

v. The individualized procedure, the supervised performance of the procedure, and follow-up evaluation of the performance of the procedure must be documented in writing by the supervising RN and must be readily available for review, preferably with the participant's record; and (3-19-07)

vi. Routine medication may be given by the personal assistant through the non-nasogastric tube if authorized by the supervising RN. (3-19-07)

02. Non-Medical Care and Services. PCS services may also include non-medical tasks. In addition to performing at least one (1) of the services listed in Subsections 303.01.a. through 303.01.f. of this rule, the provider may also perform the following services, if no natural supports are available: (3-29-10)

a. Incidental housekeeping services essential to the participant's comfort and health, including changing bed linens, rearranging furniture to enable the participant to move around more easily, laundry, and room cleaning incidental to the participant's treatment. Cleaning and laundry for any other occupant of the participant's residence are excluded. (3-19-07)

b. Accompanying the participant to clinics, physicians' office visits or other trips that are reasonable for the purpose of medical diagnosis or treatment. (3-19-07)

c. Shopping for groceries or other household items specifically required for the health and maintenance of the participant. (3-19-07)

03. Place of Service Delivery. PCS may be provided in the participant's own home or personal residence. The participant's personal residence may be a Certified Family Home or a Residential Assisted Living Facility, or a PCS Family Alternate Care Home. The following living situations are specifically excluded as a personal residence: ( )

a. Certified nursing facilities or hospitals. (3-19-07)

b. Licensed Intermediate Care Facilities for Persons with Intellectual Disabilities (ICFs/ID).(3-19-07)

c. A home that receives payment for specialized foster care, professional foster care or group foster care, as described in IDAPA 16.06.01, "Child and Family Services." (3-19-07)

04. Type of Service Limitations. The provider is excluded from delivering the following services: (3-19-07)

a. Irrigation or suctioning of any body cavities that require sterile procedures or the application of dressings involving prescription medication and aseptic techniques; (3-19-07)

b. Insertion or sterile irrigation of catheters; (3-19-07)

c. Injecting fluids into the veins, muscles or skin; and (3-19-07)

d. Administering medication. (3-19-07)

05. Participant Service Limitations. (3-19-07)

a. Adults who receive PCS under the State Medicaid Plan option are limited to a maximum of sixteen (16) hours per week per participant. (3-19-07)

b. Children who meet the necessity criteria for EPSDT services under IDAPA 16.03.09 "Medicaid Basic Plan Benefits," Section 882, may receive up to twenty-four (24) hours per day of PCS per child through the month of their twenty-first birthday. (3-19-07)

06. Provider Coverage Limitations. (3-19-07)

a. The provider must not bill for more time than was actually spent in service delivery. (3-19-07)

b. No provider home, regardless of the number of providers in the home, may serve more than two (2) children who are authorized for eight (8) or more hours of PCS per day. (3-19-07)

304. PERSONAL CARE SERVICES: PROCEDURAL REQUIREMENTS.

01. Service Delivery Based on Plan of Care or NSA. All PCS services are provided based on a written plan of care or a negotiated service agreement (NSA). The requirements for the NSA for participants in Residential Assisted Living Facilities are described in IDAPA 16.03.22, "Residential Assisted Living Facilities." The requirements for the NSA for participants in Certified Family Homes are described in IDAPA 16.03.19, "Certified Family Homes." The Personal Assistance Agency and the participant who lives in their own home are responsible to prepare the plan of care. (3-19-07)

a. The plan of care for participants who live in their own homes or in a PCS Family Alternate Care Home is based on: (3-29-10)

i. The physician's or authorized provider's information if applicable; (4-2-08)

ii. The results of the UAI for adults, the children's PCS assessment and, if applicable, the QIDP's assessment and observations of the participant; and (3-29-10)

iii. Information obtained from the participant. (3-19-07)

b. The plan of care must include all aspects of medical and non-medical care that the provider needs to perform, including the amount, type and frequency of necessary services. (3-19-07)

c. The plan of care must be revised and updated based upon treatment results or a change(s) in the participant's needs, or both, but at least annually. (3-19-07)

d. The plan of care or NSA must meet the person-centered planning requirements described in Sections 316 and 317 of these rules. (7-1-16)

02. Service Supervision. The delivery of PCS may be overseen by a licensed registered nurse (RN) or Qualified Intellectual Disabilities Professional (QIDP). The *BLTC will* identify the need for supervision. *( )*

a. Oversight must include all of the following: (3-19-07)

i. Assistance in the development of the written plan of care; (3-19-07)

ii. Review of the treatment given by the personal assistant through a review of the participant's PCS record as maintained by the provider; (3-19-07)

iii. Reevaluation of the plan of care as necessary; and (3-19-07)

iv. Immediate notification of the guardian, emergency contact, or family members of any significant changes in the participant's physical condition or response to the services delivered. (3-19-07)

b. All participants who are developmentally disabled, other than those with only a physical disability as determined by the *BLTC*, may receive oversight by a QIDP as defined in 42 CFR 483.430. Oversight must include: *( )*

i. Assistance in the development of the plan of care for those aspects of active treatment that are provided in the participant's personal residence by the personal assistant; (3-19-07)

ii. Review of the care or training programs given by the personal assistant through a review of the participant's PCS record as maintained by the provider and through on-site interviews with the participant; (3-19-07)

iii. Reevaluation of the plan of care as necessary, but at least annually; and (3-19-07)

iv. An on-site visit to the participant to evaluate any change of condition when requested by the personal assistant, the Personal Assistance Agency, the nurse supervisor, the service coordinator or the participant. (3-19-07)

03. Prior Authorization Requirements. All PCS services must be prior authorized by the Department. Authorizations will be based on the information from: (3-29-10)

a. The children's PCS assessment or Uniform Assessment Instrument (UAI) for adults; (3-29-10)

b. The individual service plan developed by the Personal Assistance Agency; and (3-29-10)

c. Any other medical information that supports the medical need. (3-29-10)

04. PCS Record Requirements for a Participant in *Their* Own Home. The PCS records must be maintained on all participants who receive PCS in their own homes or in a PCS Family Alternate Care Home. *( )*

a. Written Requirements. The PCS provider must maintain written documentation of every visit made to the participant's home and must record the following minimum information: (3-19-07)

i. Date and time of visit; (3-19-07)

ii. Length of visit; (3-19-07)

iii. Services provided during the visit; and (3-19-07)

iv. Documentation of any changes noted in the participant's condition or any deviations from the plan of care. (3-19-07)

b. Participant's Signature. The participant must sign the record of service delivery verifying that the services were delivered. The *BLTC* may waive this requirement if it determines the participant is not able to verify the service delivery. *( )*

c. Provider Signature. The Plan of Care must be signed by the provider indicating that they will deliver services according to the authorized service plan and consistent with home and community-based requirements. (7-1-16)

d. Copy Requirement. A copy of the information required in Subsection 304.04 of these rules must be maintained in the participant's home unless the *BLTC* authorizes the information to be kept elsewhere. Failure to maintain this information may result in recovery of funds paid for undocumented services. *( )*

e. Telephone Tracking System. Agencies may employ a software system that allows personal assistants to register their start and stop times and a list of services by placing a telephone call to the agency system from the participant's home. This system will not take the place of documentation requirements of Subsection 304.04 of these rules. (3-19-07)

05. PCS Record Requirements for a Participant in a Residential Assisted Living Facility or Certified Family Home. The PCS records must be maintained on all participants who receive PCS in a Residential Assisted Living Facility or Certified Family Home. (7-1-16)

a. Participant in a Residential Assisted Living Facility. The additional PCS record requirements for participants in Residential Assisted Living Facilities are described in IDAPA 16.03.22, "Residential Assisted Living Facilities." (7-1-16)

b. Participant in a Certified Family Home. The additional PCS record requirements for participants in Certified Family Homes are described in IDAPA 16.03.19, "Certified Family Homes." (7-1-16)

c. Participant's Signature. The participant or legal guardian must sign the NSA agreeing to the delivery of services as specified. (7-1-16)

d. Provider Signature. The NSA must be signed by the supervisory nurse or agency personnel responsible for developing the NSA with the participant, and must indicate that they will deliver services according to the authorized NSA and consistent with home and community-based requirements. (7-1-16)

06. Provider Responsibility for Notification. The Personal Assistance Agency is responsible to notify the *BLTC* and physician or authorized provider when any significant changes in the participant's condition are noted during service delivery. This notification must be documented in the Personal Assistance Agency record. *( )*

305. PERSONAL CARE SERVICES: PROVIDER QUALIFICATIONS.

01. Provider Qualifications for Personal Assistants. All personal assistants must have at least one (1) of the following qualifications: (3-19-07)

a. Licensed Registered Nurse (RN). A person currently licensed by the Idaho State Board of Nursing as a licensed registered nurse; (3-19-07)

b. Licensed Practical Nurse (LPN). A person currently licensed by the Idaho State Board of Nursing as a licensed practical nurse; or (3-19-07)

c. Personal Assistant. A person who meets the standards of Section 39-5603, Idaho Code, and receives training to ensure the quality of services. The assistant must be at least age eighteen (18) years of age. The *BLTC* may require a certified nursing assistant (CNA) if, in their professional judgment, the participant's medical condition warrants a CNA. *( )*

02. Provider Training Requirements. In the case where care is provided in the participant's own home, and the participant has a developmental disability that is not physical only and requires more than physical assistance, all those who provide care must have: (3-19-07)

a. Completed one (1) of the Department-approved developmental disabilities training courses; or (3-19-07)

b. Experience providing direct services to people with developmental disabilities. (3-19-07)

c. *BLTC* determines whether developmental disability training is required. Providers who are qualified as QIDPs are exempted from the Department-approved developmental disabilities training course. *( )*

d. In order to serve a participant with a developmental disability, a region may temporarily approve a PCS provider who meets all qualifications except for the required training course or experience, if all the following conditions are met: (3-19-07)

i. The *BLTC* verifies that there are no other qualified providers available; *( )*

ii. The provider is enrolled in the next available training course with a graduation date no later than six (6) months from the date of the request for temporary provider status; and (3-19-07)

iii. The supervising QIDP makes monthly visits until the provider graduates from the training program. (3-19-07)

03. Provider Exclusion. If PCS is paid for by Medicaid, a PCS service provider cannot be the spouse of any participant or be the parent of a participant if the participant is a minor child. (3-19-07)

04. Care Delivered in Provider's Home for a Child. When care for a child is delivered in the provider's home, the provider must be licensed or certified for the appropriate level of child foster care or day care. The provider must be licensed for care of individuals under age eighteen (18), as defined in Section 39-1213, Idaho Code. Noncompliance with these standards is cause for termination of the provider's provider agreement. (3-19-07)

05. Care Delivered in Provider's Home for an Adult. When care for an adult is provided in a home owned or leased by the provider, the provider must be certified as a Certified Family Home under IDAPA 16.03.19, "Certified Family Homes." (3-19-07)

06. Criminal History Check. All PCS providers, including service coordinators, RN supervisors, QIDP supervisors and personal assistants, must participate in a criminal history check as required by Section 39-5604, Idaho Code. The criminal history check must be conducted in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (3-19-07)

07. Health Screen. Each Personal Assistance Agency employee who serves as a personal assistant must complete a health questionnaire. Personal Assistance Agencies must retain the health questionnaire in their personnel files. If the personal assistant indicates on the questionnaire that they have a medical problem, they are required to submit a statement from a physician or authorized provider that their medical condition does not prevent them from performing all the duties required of a personal care provider. Misrepresentation of information submitted on the health questionnaire may be cause for termination of employment for the personal assistant and would disqualify the employee to provide services to Medicaid participants. (3-19-07)

306. PERSONAL ASSISTANCE AGENCY (PAA): QUALIFICATIONS AND DUTIES.

01. Provider Agreement Required. A Personal Assistance Agency is an organization that has signed the Medicaid Provider General Agreement and the Additional Terms-Personal Assistance Agencies, Aged and Disabled Waiver Provider Agreement with the Department. The PAA agrees to comply with all conditions within the agreements. A Personal Assistance Agency may also provide fiscal intermediary services in accordance with Section 329 of these rules. Each Personal Assistance Agency must direct, control, and monitor the work of each of its personal assistants. (5-8-09)

02. Responsibilities of a Personal Assistance Agency. A Personal Assistance Agency must be capable of and is responsible for all of the following, no matter how the PAA is organized or the form of the business entity it has chosen: (3-19-07)

a. Recruitment, hiring, firing, training, supervision, scheduling and payroll for personal assistants and the assurance that all providers are qualified to provide quality service; (3-19-07)

b. Participation in the provision of worker's compensation, unemployment compensation and all other state and federal tax withholdings; (3-19-07)

c. Maintenance of liability insurance coverage. Termination of either worker's compensation or professional liability insurance by the provider is cause for termination of the provider's provider agreement; (3-19-07)

d. Provision of a licensed registered nurse (RN) or, where applicable, a QIDP supervisor to develop and complete plans of care and provide ongoing supervision of a participant's care; (3-19-07)

e. Assignment of qualified personal assistants to eligible participants after consultation with and approval by the participants; (3-19-07)

f. Assuring that all personal assistants meet the qualifications in Subsection 305.01 of these rules; (3-19-07)

g. Billing Medicaid for services approved and authorized by the *BLTC*; *( )*

h. Collecting any participant contribution due; (5-8-09)

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

307. PERSONAL CARE SERVICES: PROVIDER REIMBURSEMENT.

01. Reimbursement Rate. Personal assistance providers will be paid a uniform reimbursement rate for service as established by the Department. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (4-4-13)

02. Calculated Fee. The fee calculated for personal care provider reimbursement includes a basic rate for services and mileage. No separate charges for mileage will be paid by the Department for non-medical transportation, unless approved by the Department or its contractor under a Home and Community-Based Services (HCBS) waiver, or provider transportation to and from the participant's home. Fees will be calculated as provided in Subsections 307.03 through 307.08 of this rule. (4-4-13)

03. Weighted Average Hourly Rate Methodology. Annually Medicaid will conduct a poll of all Idaho nursing facilities and ICFs/ID, and establish the weighted average hourly rates (WAHR) for nursing facility industry employees in comparable positions (i.e. RN, QMRP, certified and non-certified nurse's aides) in Idaho to be used in calculating the reimbursement rate to be effective on July 1st of that year. (4-4-13)

04. Payment for Personal Assistance Agency. Payment for personal assistance agency services will be paid according to rates established by the Department. (4-4-13)

a. The Department will establish Personal Assistance Agency rates for personal assistance services based on the WAHR.

Personal Assistance Agencies	WAHR x supplemental component	=	$ amount/hour

(4-4-13)

b. The Department will calculate a supplemental component using costs reported for travel, administration, training, and all payroll taxes and fringe benefits. The survey data is the cost information collected during the prior State Fiscal Year. (4-4-13)

c. The Department will survey one hundred percent (100%) of personal care service providers. Cost surveys are unaudited, but a provider that refuses or fails to respond to the periodic state surveys may be disenrolled as a Medicaid provider. The Department will derive reimbursement rates using direct care staff costs, employment related expenditures, program related costs, and indirect general and administrative costs in the reimbursement methodology, when these costs are incurred by a provider. (4-4-13)

05. Payment Levels for Adults in Residential Assisted Living Facilities or Certified Family Homes. Adult participants living in Residential Assisted Living Facilities (RALF) or Certified Family Homes will receive personal care services at a rate based on their care level. Each level will convert to a specific number of hours of personal care services. (3-19-07)

a. Reimbursement Level I -- One point twenty-five (1.25) hours of personal care services per day or eight point seventy-five (8.75) hours per week. (3-19-07)

b. Reimbursement Level II -- One point five (1.5) hours of personal care services per day or ten point five (10.5) hours per week. (3-19-07)

c. Reimbursement Level III -- Two point twenty-five (2.25) hours of personal care services per day or fifteen point seventy-five (15.75) hours per week. (3-19-07)

d. Reimbursement Level IV - One point seventy-nine (1.79) hours of personal care services per day or twelve point five (12.5) hours per week. This level will be assigned based on a documented diagnosis of mental illness, intellectual disability, or Alzheimer's disease. If an individual is assessed as Level III with a diagnosis of mental illness, intellectual disability, or Alzheimer's disease the provider reimbursement rate will be the higher amount as described in Subsection 307.05.c. of these rules. (3-19-07)

06. Attending Physician Reimbursement Level. The attending physician or authorized provider will be reimbursed for services provided using current payment levels and methodologies for other services provided to eligible participants. (3-19-07)

07. Supervisory RN and QMRP Reimbursement Level. The supervisory RN and QMRP will be reimbursed at a per visit amount established by the Department for supervisory visits. Participant evaluations and Care Plan Development will be reimbursed at a rate established by the Department, following authorization by the Department or its contractor. (4-4-13)

a. The number of supervisory visits by the RN or QMRP to be conducted per calendar quarter will be approved as part of the PCS care plan by the Department or its contractor. (4-4-13)

b. Additional evaluations or emergency visits in excess of those contained in the approved care plan will be authorized when needed by the Department or its contractor. (4-4-13)

08. Payment for PCS Family Alternate Care Home. The Department will establish PCS Family Alternate Care Home rates for personal assistance services based on the WAHR. Based on the survey conducted, the

Department will calculate a supplemental component using costs reported for administration, and training. The survey data is the cost information collected during the prior State Fiscal Year.

PCS Family Alternate Care Home	Children's PCS Assessment Weekly Hours x (WAHR x supplemental component)	=	$ amount/week

(4-4-13)

308. PERSONAL CARE SERVICES (PCS): QUALITY ASSURANCE.

01. Responsibility for Quality. Personal Assistance Agencies, Residential Assisted Living Facilities, and Certified Family Homes furnishing PCS are responsible for assuring that they provide quality services in compliance with applicable rules. (7-1-16)

02. Review Results. Results of quality assurance reviews conducted by the Department must be transmitted to the provider within forty-five (45) days after the review is completed. (3-19-07)

03. Quality Improvement Plan. The provider must respond within forty-five (45) days after the results are received. If problems are identified, the provider must implement a quality improvement plan and report the results to the Department upon request. (3-19-07)

04. HCBS Compliance. Personal Assistance Agencies are responsible for ensuring they meet the setting requirements described in Section 313 of these rules. Residential Assisted Living Facilities, and Certified Family Homes are responsible for ensuring that they meet the setting requirements described in Sections 313 and 314 of these rules. All providers furnishing PCS are responsible for ensuring they meet the person-centered planning requirements described in Sections 316 through 317 of these rules. PCS providers must comply with associated Department quality assurance activities. The Department may take enforcement actions as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, if the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation. (7-1-16)

309. (RESERVED)

SUB AREA: HOME AND COMMUNITY-BASED SERVICES
(Sections 310 - 317)

310. HOME AND COMMUNITY-BASED SERVICES.
Home and Community-Based Services (HCBS) are those services and supports that assist eligible participants to remain in their home and community. The federal authorities under 42 CFR 441.301, 42 CFR 441.710, and 42 CFR 441.725 require the state to deliver HCBS in accordance with the rules described in Sections 310 through 319 of these rules. HCBS include the following: (4-11-19)

01. Children's Developmental Disability Services. Children's developmental disability services as defined in Sections 663 and 683 of these rules. (7-1-16)

02. Adult Developmental Disability Services. Adult developmental disability services as defined in Sections 645 through 659, 703, and 705 of these rules. (7-1-16)

03. Consumer-Directed Services. Consumer-directed services as defined in IDAPA 16.03.13, "Consumer-Directed Services." (7-1-16)

04. Aged and Disabled Waiver Services. Aged and disabled waiver services as defined in Section 326 of these rules. (7-1-16)

05. Personal Care Services. Personal care services as defined in Section 303 of these rules. (7-1-16)

06. Services for Children with Serious Emotional Disturbance (SED). SED services, as defined in

Section 368 of these rules, for children who are enrolled in the Medicaid SED program in support of Youth Empowerment Services (YES). (4-11-19)

311. HCBS REQUIREMENTS AND DECISION-MAKING AUTHORITY.
HCBS requirements, contained in Sections 312 through Sections 317 of these rules, do not supersede decision-making authority legally assigned to another individual or entity on the participant's behalf. This includes: (7-1-16)

01. Payee. A representative payee appointed by the Social Security Administration; (7-1-16)

02. Restrictions (Probation or Parole). Court-imposed restrictions related to probation or parole; (7-1-16)

03. Restrictions (When Committed). Court-imposed restrictions when committed to the Director of Health and Welfare; and (7-1-16)

04. Legal Guardians Who Retain Full Decision-making Authority. It is presumed that the parent or parents of participants birth through seventeen (17) years of age have full decision-making authority unless the minor child has another legally assigned decision-making authority. (7-1-16)

312. HOME AND COMMUNITY-BASED SETTINGS.
Home and community-based settings include all locations where participants who receive HCBS live or receive their services. (7-1-16)

01. Home and Community-Based Settings Not Included. Home and community-based settings do not include the following: (7-1-16)

a. A nursing facility; (7-1-16)

b. An institution for mental diseases; (7-1-16)

c. An intermediate care facility for persons with intellectual disabilities (ICF/ID); (7-1-16)

d. A hospital; or (7-1-16)

e. Any other location that has the qualities of an institutional setting. These institutional qualities include: (7-1-16)

i. Any setting that is located in a building that is also a publicly or privately operated facility that provides inpatient institutional treatment; or (7-1-16)

ii. A building on the grounds of, or immediately adjacent to, a state or federally operated inpatient treatment facility; or (7-1-16)

iii. Any setting that has the effect of isolating participants receiving Medicaid HCBS from the broader community of individuals not receiving Medicaid HCBS. (7-1-16)

313. REQUIRED HOME AND COMMUNITY-BASED QUALITIES.
Home and community-based settings must support eligible participants to have the same opportunities for integration, independence, choice, and rights as individuals who do not require supports or services to remain in their home or community. If a setting requirement described in this rule presents a health or safety risk to the participant or those around the participant, goals must be identified with strategies to mitigate the risk. These goals and strategies must be documented in the person-centered plan. Providers must develop and implement policies and procedures to address the following HCBS setting requirements. (7-1-16)

01. Required Home and Community-Based Qualities. Home and community-based settings are required to have the following qualities: (7-1-16)

a. Integration and Access. The setting is integrated in and supports full access to the greater community for participants receiving HCBS. Typical, age-appropriate activities include opportunities to seek employment and work in competitive integrated settings, engage in community life, control personal resources, and receive services in the community in the same manner as individuals who do not require supports or services to remain in their home or community. (7-1-16)

b. Selection of Setting. Home and community-based settings are selected by the participant or the participant's decision-making authority from among disability-specific and non-disability-specific settings, and are based on the participant's needs and preferences including consideration of the participant's safety and the safety of those around the participant. (7-1-16)

c. Participant Rights. The setting ensures a participant's rights of privacy, dignity, and respect, and freedom from coercion and unauthorized restraint are honored. (7-1-16)

d. Autonomy and Independence. The setting optimizes, but does not regiment, an individual's initiative, autonomy, and independence in making life choices, including daily activities, physical environment, and with whom to interact. (7-1-16)

e. Choice. The setting promotes opportunities for participant choice regarding the services and supports provided in the setting. (7-1-16)

02. Services Delivered in the Participant's Own Home. It is presumed that services delivered in the participant's own home, that is not a provider-owned or controlled residence, meet the HCBS setting requirements described in this rule. Providers may not impose restrictions on HCBS setting qualities in a participant's own home without goals and strategies to mitigate risk described in this rule that have been agreed to through the person-centered planning process. (7-1-16)

314. RESIDENTIAL PROVIDER-OWNED OR CONTROLLED SETTING QUALITIES.
In addition to the setting requirements described in Section 313 of these rules, provider-owned or controlled settings, including Residential Assisted Living Facilities and Certified Family Homes that provide services to HCBS participants, must also meet the following conditions: (7-1-16)

01. Written Agreement. A lease, residency agreement, admission agreement, or other form of written agreement will be in place for each HCBS participant at the time of occupancy. The lease or residency agreement must provide protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law. (7-1-16)

02. Privacy. Participants have the right to privacy within their residence. Each participant must have privacy in their sleeping or living unit to include the following: (7-1-16)

a. The right to entrance doors that are lockable by the individual, with only appropriate staff having keys to doors. (7-1-16)

b. Participants sharing units have a choice of roommates in that setting. (7-1-16)

03. Décor. Participants have the freedom to furnish and decorate their sleeping or living units within the lease or other agreement. (7-1-16)

04. Schedules and Activities. Participants have the freedom and support to control their own schedules and activities. (7-1-16)

05. Access To Food. Participants have access to food at any time. (7-1-16)

06. Visitors. Participants are able to have visitors of their choosing at any time in accordance with the applicable requirements under IDAPA 16.03.19, "Certified Family Homes," and IDAPA 16.03.22, "Residential Assisted Living Facilities." (7-1-16)

07. **Accessibility**. The setting is physically accessible to the participant. (7-1-16)

315. EXCEPTIONS TO RESIDENTIAL PROVIDER-OWNED OR CONTROLLED SETTING QUALITIES.
Exceptions to residential setting requirements outlined in Section 314 of these rules must be made based on the needs of the participant that are identified through person-centered planning. Service plans with exceptions to residential setting requirements must be submitted to the Department or its designee for review and approval. When an exception is made, the following information must be documented in the person-centered service plan: (7-1-16)

01. **Assessed Needs**. Specific and individualized assessed needs that are related to the exception. (7-1-16)

02. **Interventions and Supports**. Positive interventions and supports used prior to any exceptions to the person-centered service plan. (7-1-16)

03. **Prior Methods**. List less intrusive methods previously implemented that were unsuccessful in addressing the needs of the participant. (7-1-16)

04. **Description of Intervention**. A clear description of the intervention for the exception that is directly proportionate to the specific assessed needs. (7-1-16)

05. **Data Collection**. Regular collection and review of data to measure the ongoing effectiveness of the exception. (7-1-16)

06. **Time Limits**. Established time limits for periodic reviews to determine if the exception is still necessary, if a transition plan can be developed, or if the exception can be terminated. (7-1-16)

07. **Informed Consent**. Informed consent of the participant or legal guardian for the exception. (7-1-16)

08. **Assurance of No Harm**. An assurance that interventions and supports will cause no harm to the participant. (7-1-16)

316. HOME AND COMMUNITY-BASED PERSON-CENTERED PLANNING REQUIREMENTS.
All participants or their decision-making authority must direct the development of their service plan through a person-centered planning process. Information and support must be given to the HCBS participant to maximize their ability to make informed choices and decisions. Individuals invited to participate in the person-centered planning process should be identified by the participant or the participant's decision-making authority. Legal guardians who do not have full decision-making authority as described in Section 311 of these rules will have a participatory role as needed and defined by the participant. The person-centered planning process must: (7-1-16)

01. **Timely and Convenient**. Be conducted timely and occur at convenient times and locations to the participant and the participant’s decision-making authority in accordance with program requirements. (7-1-16)

02. **Cultural Considerations**. Reflect cultural considerations of the participant. (7-1-16)

03. **In Plain Language and Accessible**. Be conducted by providing information in plain language and in a manner that is accessible to participants with disabilities and persons who are limited English proficient as defined in 42 CFR 435.905(b). (7-1-16)

04. **Conflict Resolution**. Utilize strategies for solving conflict or disagreement within the process, and follow clear conflict-of-interest guidelines for all planning participants. (7-1-16)

317. HOME AND COMMUNITY-BASED PERSON-CENTERED SERVICE PLAN REQUIREMENTS.
All person-centered service plans must reflect the following components: (7-1-16)

01. **Services And Supports**. Clinical services and supports that are important for the participant’s

behavioral, functional, and medical needs as identified through an assessment. (7-1-16)

02. Service Delivery Preferences. Indication of what is important to the participant with regard to the service provider and preferences for the delivery of such services and supports. (7-1-16)

03. Setting Selection. HCBS settings selected by the participant or the participant's decision-making authority are chosen from among a variety of setting options, as required in Section 313 of these rules. The person-centered service plan must identify and document the alternative home and community setting options that were considered by the participant, or the participant's decision-making authority. (7-1-16)

04. Participant Strengths and Preferences. (7-1-16)

05. Individually Identified Goals and Desired Outcomes. (7-1-16)

06. Paid and Unpaid Services and Supports. Paid and unpaid services and supports that will assist the participant to achieve identified goals, and the providers of those services and supports, including natural supports. (7-1-16)

07. Risk Factors. Risk factors to the participant as well as people around the participant and measures in place to minimize them, including individualized back-up plans and strategies when needed. (7-1-16)

08. Understandable Language. Be understandable to the participant receiving services and supports, and the individuals important in supporting them. At a minimum, the written plan must be understandable, and written in plain language in a manner that is accessible to participants with disabilities and persons who are limited English proficient, consistent with 42 CFR 435.905(b). (7-1-16)

09. Plan Monitor. Identify the name of the individual or entity responsible for monitoring the plan. (7-1-16)

10. Plan Signatures. Be finalized and agreed to, by the participant, or the participant's decision-making authority, in writing, indicating informed consent. The plan must also be signed by all individuals and providers responsible for its implementation indicating they will deliver services according to the authorized plan of service and consistent with home and community-based requirements. (7-1-16)

a. Children's DD service providers responsible for implementation of the plan include the providers of those services defined in Sections 663 and 683 of these rules. (7-1-16)

b. Adult DD service providers responsible for implementation of the plan include those required to develop a provider implementation plan as defined in Sections 513 and 654 of these rules. (7-1-16)

c. Consumer-directed service providers responsible for implementation of the plan include the participant, Support Broker, and Fiscal Employment Agency as identified in IDAPA 16.03.13, "Consumer-Directed Services." (7-1-16)

d. Personal Care and Aged and Disabled Waiver service providers responsible for the implementation of the plan include the providers of those services defined in Sections 303 and 326 of these rules. (7-1-16)

11. Plan Distribution. Be distributed to the participant and the participant's decision-making authority, if applicable, and other people involved in the implementation of the plan. At a minimum, the following providers will receive a copy of the plan: (7-1-16)

a. Children's DD providers of services defined in Sections 663 and 683 of these rules as identified on the plan of service developed by the family-centered planning team. (7-1-16)

b. Adult DD service providers required to develop a provider implementation plan as defined in Sections 513 and 654 of these rules. Additionally, the participant will determine during the person-centered planning process whether the service plan, in whole or in part, will be distributed to any other developmental disability service

provider. (7-1-16)

c. Consumer-Directed service providers as defined in IDAPA 16.03.13, "Consumer-Directed Services," Section 110. Additionally, the participant, or the participant's decision-making authority will determine during the person-centered planning process whether the service plan, in whole or in part, will be distributed to any other community support worker or vendors. (7-1-16)

d. Personal Care and Aged and Disabled Waiver service providers furnishing those services defined in Sections 303 and 326 of these rules. (7-1-16)

12. Residential Requirements. For participants living in residential provider owned or controlled settings as described in Section 314 of these rules, the following additional requirements apply: (7-1-16)

a. Options described in Subsection 317.03 of this rule must include a residential setting option that allows for private units. Selection of residential settings will be based on the participant's needs, preferences, and resources available for room and board. (7-1-16)

b. Any exception to residential provider owned or controlled setting qualities as described in Section 314 of these rules must be documented in the person-centered plan as described in Section 315 of these rules. (7-1-16)

318. HCBS TRANSITION PLAN.

As required by the Department, all current providers of HCBS must complete a Department-approved self assessment form related to the setting requirements and qualities described in Sections 311 through 314 of these rules. (7-1-16)

01. Provider Transition Plan. As part of the self-assessment process, providers not in compliance with any portion of the new requirements and qualities must develop a plan for coming into compliance. Self-assessment forms are subject to review and validation by the Department via quality assurance activities. (7-1-16)

02. New HCBS Providers or Service Settings. New HCBS providers or service settings are expected to fully comply with the HCBS requirements and qualities as a condition of becoming a Medicaid provider. (7-1-16)

03. Quality Assurance. The Department will begin enforcement of quality assurance compliance with Sections 311 through 314 of these rules on January 1, 2017. (7-1-16)

319. HCBS -- TERMINATION OF PARTICIPANT ENROLLMENT.

01. Federal and State Eligibility Requirements. To be enrolled in an HCBS waiver or State Plan option program as provided in 42 CFR 441 and Section 1915 of the Social Security Act, a participant must meet the following eligibility requirements that include: (4-11-19)

a. An independent assessment; (4-11-19)

b. A state-approved person-centered plan; (4-11-19)

c. At least an annual redetermination of eligibility; and (4-11-19)

d. Other state-established criteria for determining eligibility under the State Plan for medical assistance. (4-11-19)

02. Failure to Meet Requirements. A participant who fails to meet any of the conditions of participation required by state established eligibility criteria is subject to termination of enrollment. (4-11-19)

03. Conditions for Termination of Enrollment. The Department will terminate the enrollment of a participant who is enrolled in an HCBS waiver or State Plan option, or who has accessed Medicaid coverage through an HCBS waiver or State Plan option under any of the following conditions. The participant: (4-11-19)

a. Does not have an identified need for a waiver or State Plan option service; (4-11-19)

b. Elects not to use services offered under the HCBS waiver or State Plan option; (4-11-19)

c. Declines to engage in person-centered planning; (4-11-19)

d. Does not meet other HCBS requirements provided in Section 319.01 of this rule; or (4-11-19)

e. Is non-responsive to three or more contact attempts by the Department or its designee to engage the participant in fulfilling requirements. (4-11-19)

04. Continuous Eligibility for Children Under Age Nineteen. Continuous health care assistance eligibility for children under age nineteen (19), as provided in IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," does not apply for a participant under the age of nineteen (19) who is enrolled in an HCBS waiver or State Plan option program or who has accessed Medicaid coverage through an HCBS waiver or State Plan option program. (4-11-19)

320. AGED AND DISABLED WAIVER SERVICES.
Idaho's elderly and physically disabled citizens should be able to maintain self-sufficiency, individuality, independence, dignity, choice, and privacy in a cost-effective home-like setting. When possible, services should be available in the consumer's own home and community regardless of their age, income, or ability and should encourage the involvement of natural supports, such as family, friends, neighbors, volunteers, church, and others. (3-19-07)

321. AGED AND DISABLED WAIVER SERVICES: DEFINITIONS.
The following definitions apply to Sections 320 through 330 of these rules: (3-19-07)

01. Uniform Assessment Instrument (UAI). A set of standardized criteria adopted by the Department to assess functional and cognitive abilities. (3-19-07)

02. Individual Service Plan. A document that outlines all services including activities of daily living (ADL) and instrumental activities of daily living (IADL), required to maintain the individual in their home and community. The plan is initially developed by the Department or its contractor for services provided under the Home and Community-Based Services Waiver. This plan must be approved by the Department or its contractor, and all Medicaid reimbursable services must be contained in the plan. (4-4-13)

03. Personal Assistance Agency or Agency. An entity that recruits, hires, fires, trains, supervises, schedules, oversees quality of work, takes responsibility for the care given, and provides payroll, including all required withholding for federal and state tax purposes, and benefits for care providers working for them. They also bill Medicaid for services provided by employees, and collect participant contribution. (3-19-07)

04. Employer of Record. An entity that bills for services, withholds required taxes, and conducts other administrative activities for a waiver program participant. Such an entity is also called a personal assistance agency functioning as a fiscal intermediary agency. (5-8-09)

05. Employer of Fact. A participant or representative of a participant who hires, fires, and directs the services delivered by a waiver program provider. This individual may be a family member. (3-19-07)

06. Participant. An aged or disabled individual who requires and receives services under the Home and Community-based Waiver program. (3-19-07)

322. AGED AND DISABLED WAIVER SERVICES: ELIGIBILITY.
The Department provides waiver services to eligible participants: to prevent unnecessary institutional placement; to provide for the greatest degree of independence possible; to enhance the quality of life; to encourage individual choice; and to achieve and maintain community integration. For a participant to be eligible, the Department must find that the participant: (3-19-07)

01. Has a Disabling Condition. Requires services due to a disabling condition that impairs their mental or physical function or independence; and (3-19-07)

02. Safe in a Non-Institutional Setting. Be capable of being maintained safely and effectively in a non-institutional setting; and (3-19-07)

03. Requires Such Services. Would, in the absence of such services, require the level of care provided in a Nursing Facility. (4-2-08)

04. Functional Level for Adults. Based on the results of the assessment, the level of impairment of the individual will be established by the Department or its contractor. In determining need for nursing facility care an adult must require the level of assistance listed in Subsections 322.04 through 322.07 of this rule, according to the formula described in Subsection 322.08 of this rule. (4-4-13)

05. Critical Indicator - 12 Points Each. (4-2-08)

a. Total assistance with preparing or eating meals. (4-2-08)

b. Total or extensive assistance in toileting. (4-2-08)

c. Total or extensive assistance with medications that require decision making prior to taking, or assessment of efficacy after taking. (4-2-08)

06. High Indicator - 6 Points Each. (4-2-08)

a. Extensive assistance with preparing or eating meals. (4-2-08)

b. Total or extensive assistance with routine medications. (4-2-08)

c. Total, extensive or moderate assistance with transferring. (4-2-08)

d. Total or extensive assistance with mobility. (4-2-08)

e. Total or extensive assistance with personal hygiene. (4-2-08)

f. Total assistance with supervision from Section II of the Uniform Assessment Instrument (UAI). (4-2-08)

07. Medium Indicator - 3 Points Each. (4-2-08)

a. Moderate assistance with personal hygiene. (4-2-08)

b. Moderate assistance with preparing or eating meals. (4-2-08)

c. Moderate assistance with mobility. (4-2-08)

d. Moderate assistance with medications. (4-2-08)

e. Moderate assistance with toileting. (4-2-08)

f. Total, extensive, or moderate assistance with dressing. (4-2-08)

g. Total, extensive or moderate assistance with bathing. (4-2-08)

h. Extensive or moderate assistance with supervision from Section II No. 18 of the UAI. (4-2-08)

08. Nursing Facility Level of Care, Adults. In order to qualify for nursing facility level of care, the

individual must score twelve (12) or more points in one (1) of the following ways. (4-2-08)

a. One (1) or more critical indicators = Twelve (12) points. (4-2-08)

b. Two (2) or more high indicators = Twelve (12) points. (4-2-08)

c. One (1) high and two (2) medium indicators = Twelve (12) points. (4-2-08)

d. Four (4) or more medium indicators = Twelve (12) points. (4-2-08)

323. AGED AND DISABLED WAIVER SERVICES: PARTICIPANT ELIGIBILITY DETERMINATION.
Waiver eligibility will be determined by the Department or its contractor. The participant must be eligible for Medicaid as described in IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." In addition, waiver participants must meet the following requirements. (4-4-13)

01. Requirements for Determining Participant Eligibility. The Department or its contractor must determine that: (4-4-13)

a. The participant would qualify for nursing facility level of care under Sections 222 and 223 of these rules**,** if the waiver services listed in Section 326 of these rules were not made available; and (3-19-07)

b. The participant could be safely and effectively maintained in the requested or chosen community residence with appropriate waiver services. Prior to any denial of services on this basis, the Department or its contractor must verify that services to correct the concerns of the team are not available. ( )

c. The average daily cost of waiver services and other medical services to the participant would not exceed the average daily cost to Medicaid of nursing facility care. (3-19-07)

d. Following the approval by the Department or its contractor for services under the waiver, the participant must receive and continue to receive a waiver service as described in these rules. A participant who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. (4-4-13)

02. Admission to a Nursing Facility. A participant who is determined by the Department or its contractor to be eligible for services under the waiver may elect to not utilize waiver services and may choose admission to a nursing facility. (4-4-13)

03. Redetermination Process. Case Redetermination will be conducted by the Department or its contractor. The redetermination process will verify that the participant continues to meet nursing facility level of care and the participant's continued need for waiver services. (4-4-13)

324. AGED AND DISABLED WAIVER SERVICES: TARGET GROUP.
Persons who would be Medicaid eligible if residing in a nursing facility, require the level of care provided in a nursing facility, are over the age of eighteen (18), demonstrate significant disability on the Uniform Assessment Instrument (UAI), and have deficits that affect their ability to function independently. (3-19-07)

325. HOME AND COMMUNITY-BASED SERVICES (HCBS) WAIVER: PARTICIPANT LIMITATIONS.
The number of Medicaid participants to receive waiver services under the Home and Community-Based Services (HCBS) waiver for the aged and disabled will be limited to the projected number of users identified in the Department's approved waiver. If necessary, participants who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after September 30th of each new waiver year. The earliest effective date of waiver service delivery for these participants will be October 1st of each new waiver year. (3-19-07)

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

01. Adult Day Health. Adult day health is a supervised, structured service generally furnished four (4) or more hours per day on a regularly scheduled basis, for one (1) or more days per week. It is provided outside the home of the participant in a non-institutional, community-based setting, and it encompasses health services, social services, recreation, supervision for safety, and assistance with activities of daily living needed to ensure the optimal functioning of the participant. Adult day health services provided under this waiver will not include room and board payments. (4-4-13)

02. Adult Residential Care Services. Adult residential care services consist of a range of services provided in a homelike, non-institutional setting that include residential care or assisted living facilities and certified family homes. Payment is not made for the cost of room and board, including the cost of building maintenance, upkeep and improvement. (4-4-13)

a. Adult residential care services consist of a range of services provided in a congregate setting licensed under IDAPA 16.03.22, "Residential Assisted Living Facilities," that include: (4-4-13)

i. Medication assistance, to the extent permitted under State law; (4-4-13)

ii. Assistance with activities of daily living; (3-19-07)

iii. Meals, including special diets; (3-19-07)

iv. Housekeeping; (3-19-07)

v. Laundry; (3-19-07)

vi. Transportation; (3-19-07)

vii. Opportunities for socialization; (3-19-07)

viii. Recreation; and (3-19-07)

ix. Assistance with personal finances. (3-19-07)

x. Administrative oversight must be provided for all services provided or available in this setting. (3-19-07)

xi. A written individual service plan must be negotiated between the participant or their legal representative, and a facility representative. (3-19-07)

b. Adult residential care services also consist of a range of services provided in a setting licensed under IDAPA 16.03.19, "Certified Family Homes," that include: (4-4-13)

i. Medication assistance, to the extent permitted under State law; (4-4-13)

ii. Assistance with activities of daily living; (4-4-13)

iii. Meals, including special diets; (4-4-13)

iv. Housekeeping; (4-4-13)

v. Laundry; (4-4-13)

vi. Transportation; (4-4-13)

vii. Recreation; and (4-4-13)

viii. Assistance with personal finances. (4-4-13)

ix. Administrative oversight must be provided for all services provided or available in this setting. (4-4-13)

x. A written individual service plan must be negotiated between the participant or their legal representative, and a facility representative. (4-4-13)

03. Specialized Medical Equipment and Supplies. (4-4-13)

a. Specialized medical equipment and supplies include: (4-4-13)

i. Devices, controls, or appliances that enable a participant to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live; and (4-4-13)

ii. Items necessary for life support, ancillary supplies and equipment necessary for the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State Plan. (4-4-13)

b. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the Medicaid State plan and exclude those items that are not of direct medical or remedial benefit to the participant. (4-4-13)

04. Non-Medical Transportation. Non-medical transportation enables a waiver participant to gain access to waiver and other community services and resources. (4-4-13)

a. Non-medical transportation is offered in addition to medical transportation required in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and will not replace it. (4-4-13)

b. Whenever possible, family, neighbors, friends, or community agencies who can provide this service without charge, or public transit providers will be utilized. (3-19-07)

05. Attendant Care. Services provided under a Medicaid Home and Community-Based Services waiver that involve personal and medically oriented tasks dealing with the functional needs of the participant and accommodating the participant's needs for long-term maintenance, supportive care, or activities of daily living (ADL). These services may include personal assistance and medical tasks that can be done by unlicensed persons, or delegated to an unlicensed person by a licensed health care professional or the participant. Services are based on the participant's abilities and limitations, regardless of age, medical diagnosis, or other category of disability. This assistance may take the form of hands-on assistance (actually performing a task for the person) or cuing to prompt the participant to perform a task. (4-4-13)

06. Chore Services. Chore services include the following services when necessary to maintain the functional use of the home, or to provide a clean, sanitary, and safe environment: (4-4-13)

a. Intermittent assistance may include the following. (4-4-13)

i. Yard maintenance; (3-19-07)

ii. Minor home repair; (3-19-07)

iii. Heavy housework; (3-19-07)

iv. Sidewalk maintenance; and (3-19-07)

v. Trash removal to assist the participant to remain in the home. (4-4-13)

b. Chore activities may include the following: (3-19-07)

i. Washing windows; (3-19-07)

ii. Moving heavy furniture; (3-19-07)

iii. Shoveling snow to provide safe access inside and outside the home; (3-19-07)

iv. Chopping wood when wood is the participant's primary source of heat; and (3-19-07)

v. Tacking down loose rugs and flooring. (3-19-07)

c. These services are only available when neither the participant, nor anyone else in the household is capable of performing or financially providing for them, and where no other relative, caregiver, landlord, community volunteer, agency, or third-party payer is willing to provide them or is responsible for their provision. (4-4-13)

d. In the case of rental property, the landlord's responsibility under the lease agreement will be examined prior to any authorization of service. Chore services are limited to the services provided in a home rented or owned by the participant. (4-4-13)

07. Companion Services. Companion services include non-medical care, supervision, and socialization provided to a functionally impaired adult. Companion services are in-home services to ensure the safety and well-being of a person who cannot be left alone because of frail health, a tendency to wander, inability to respond to emergency situations, or other conditions that would require a person on-site. The service provider, who may live with the participant, may provide voice cuing and occasional assistance with toileting, personal hygiene, dressing, and other activities of daily living. Providers may also perform light housekeeping tasks that are incidental to the care and supervision of the participant. However, the primary responsibility is to provide companionship and be there in case they are needed. (4-4-13)

08. Consultation. Consultation services are services to a participant or family member. Services are provided by a Personal Assistance Agency to a participant or family member to increase their skills as an employer or manager of their own care. Such services are directed at achieving the highest level of independence and self-reliance possible for the participant and the participant's family. Services include consulting with the participant and family to gain a better understanding of the special needs of the participant and the role of the caregiver. (4-4-13)

09. Home Delivered Meals. Home delivered meals are meals that are delivered to the participant's home to promote adequate participant nutrition. One (1) to two (2) meals per day may be provided to a participant who: (4-4-13)

a. Rents or owns a home; (4-4-13)

b. Is alone for significant parts of the day; (4-4-13)

c. Has no caregiver for extended periods of time; and (4-4-13)

d. Is unable to prepare a meal without assistance. (4-4-13)

10. Homemaker Services. Homemaker services consist of performing for the participant, or assisting them with, or both, the following tasks: laundry, essential errands, meal preparation, and other routine housekeeping duties if there is no one else in the household capable of performing these tasks. (4-4-13)

11. Environmental Accessibility Adaptations. Environmental accessibility adaptations include minor housing adaptations that are necessary to enable the participant to function with greater independence in the home, or without which, the participant would require institutionalization or have a risk to health, welfare, or safety. Such adaptations may include: (4-4-13)

a. The installation of ramps and lifts, widening of doorways, modification of bathroom facilities, or installation of electric and plumbing systems that are necessary to accommodate the medical equipment and supplies

necessary for the welfare of the waiver participant, but must exclude those adaptations or improvements to the home that are not of direct medical or remedial benefit to the participant, such as carpeting, roof repair, or central air conditioning. (4-4-13)

b. Unless otherwise authorized by the Department, permanent environmental modifications are limited to a home that is the participant's principal residence, and is owned by the participant or the participant's non-paid family. (4-4-13)

c. Portable or non-stationary modifications may be made when such modifications can follow the participant to their next place of residence or be returned to the Department. (4-4-13)

12. Personal Emergency Response System (PERS). PERS is an electronic device that enables a waiver participant to secure help in an emergency. The participant may also wear a portable "help" button to allow for mobility. The system is connected to the participant's phone and programmed to signal a response center once a "help" button is activated. The response center is staffed by trained professionals. This service is limited to participants who: (4-4-13)

a. Rent or own a home, or live with unpaid caregivers; (4-4-13)

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

c. Have no caregiver for extended periods of time; and (4-4-13)

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

13. Respite Care. Respite care includes short-term breaks from care giving responsibilities to non-paid caregivers. The caregiver or participant is responsible for selecting, training, and directing the provider. While receiving respite care services, the waiver participant cannot receive other services that are duplicative in nature. Respite care services provided under this waiver do not include room and board payments. Respite care services may be provided in the participant's residence, a certified family home, a developmental disabilities agency, a residential care or assisted living facility, or an adult day health facility. (4-4-13)

14. Skilled Nursing. Skilled nursing includes intermittent or continuous oversight, training, or skilled care that is within the scope of the Nurse Practice Act. Such care must be provided by a licensed registered nurse, or licensed practical nurse under the supervision of a licensed registered nurse, licensed to practice in Idaho. These services are not appropriate if they are less cost effective than a Home Health visit. (4-4-13)

15. Habilitation. Habilitation services assist the participant to reside as independently as possible in the community, or maintain family unity. (4-4-13)

a. Residential habilitation. Residential habilitation services consist of an integrated array of individually tailored services and supports furnished to eligible participants. These services and supports are designed to assist the participants to reside successfully in their own homes, with their families, or in certified family homes. The services and supports that may be furnished consist of the following: (4-4-13)

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

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

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

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

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

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

vii. Personal assistance services necessary to assist the individual in daily living activities, household tasks, and such other routine activities as the person or the person's primary caregiver(s) are unable to accomplish on their own behalf. Personal assistance activities include direct assistance with grooming, bathing, and eating, assistance with medications that are ordinarily self-administered, supervision, communication assistance, reporting changes in the waiver participant's condition and needs, household tasks essential to health care at home to include general cleaning of the home, laundry, meal planning and preparation, shopping, and correspondence. (4-4-13)

b. Day habilitation. Day habilitation consists of assistance with acquisition, retention, or improvement in self-help, socialization, and adaptive skills that take place in a non-residential setting, separate from the home or facility in which the participant resides. Services will normally be furnished four (4) or more hours per day on a regularly scheduled basis, for one (1) or more days per week, unless provided as an adjunct to other day activities included in a participant's plan of care. Day habilitation services will focus on enabling the participant to attain or maintain their maximum functional level and will be coordinated with any physical therapy, occupational therapy, or speech-language pathology services listed in the plan of care. In addition, day habilitation services may serve to reinforce skills or lessons taught in school, therapy, or other settings. (4-4-13)

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

a. Supported employment services rendered under this waiver are not available under a program funded by either the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA). Documentation must be maintained in the file of each individual receiving this service verifying that the service is not otherwise available or funded under the Rehabilitation Act of 1973, as amended, or the IDEA. (4-4-13)

b. Federal Financial Participation (FFP) cannot be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following: incentive payments made to an employer of waiver participants to encourage or subsidize the employer's participation in a supported employment program, payments that are passed through to beneficiaries of a supported employment program, or payments for vocational training that is not directly related to a waiver participant's supported employment program. (4-4-13)

17. Transition Services. Transition services include goods and services that enable a participant residing in a nursing facility, hospital, IMD, or ICF/ID to transition to a community-based setting. A participant is eligible to receive transition services immediately following discharge from a qualified institution after residing within that institution for a minimum of forty-five (45) Medicaid-reimbursed days. (4-11-19)

a. Qualified Institutions include the following: (4-11-19)

i. Skilled, or Intermediate Care Facilities; (4-11-19)

ii. Nursing Facility; (4-11-19)

iii. Licensed Intermediate Care Facility for the Persons with Intellectual Disabilities (ICF/ID); (4-11-19)

iv. Hospitals; and (4-11-19)

v. Institutions for Mental Diseases (IMD). (4-11-19)

b. Transition services may include the following goods and services: (4-11-19)

i. Security deposits that are required to obtain a lease on an apartment or home; (4-11-19)

ii. Cost of essential household furnishings, including furniture, window coverings, food preparation items, and bed/bath linens; and (4-11-19)

iii. Set-up fees or deposits for utility or service access, including telephone, electricity, heating and water; (4-11-19)

iv. Services necessary for the individual's health and safety such as pest eradication and one-time cleaning prior to occupancy; (4-11-19)

v. Moving expenses; and (4-11-19)

vi. Activities to assess need, arrange for and procure transition services. (4-11-19)

c. Excluded goods and services. Transition services do not include ongoing expenses, real property, ongoing utility charges, décor, or diversion/recreational items such as televisions, DVDs, and computers. (4-11-19)

d. Service limitations. Transition services are limited to a total cost of two thousand dollars ($2,000) per participant and can be accessed every two (2) years, contingent upon a qualifying transition from an institutional setting. Transition services are furnished only to the extent that the person is unable to meet such expense or when the support cannot be obtained from other sources. (4-11-19)

327. AGED AND DISABLED WAIVER SERVICES: PLACE OF SERVICE DELIVERY.

01. Place of Service Delivery. Waiver services may be provided in the participant's: (3-19-07)

a. Personal residence; (3-19-07)

b. Employment program; or (3-19-07)

c. Community. (3-19-07)

02. Excluded Living Situations. Living situations specifically excluded as a personal residence are: (3-19-07)

a. Skilled, or Intermediate Care Facilities; (3-19-07)

b. Nursing Facility; (3-19-07)

c. Licensed Intermediate Care Facility for the Persons with Intellectual Disabilities (ICF/ID); and (3-19-07)

d. Hospitals. (3-19-07)

328. AGED AND DISABLED WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

01. Role of the Department. The Department or its contractor will provide for the administration of the UAI, and the development of the initial individual service plan. This will be done either by Department staff or a contractor. The Department or its contractor will review and approve all individual service plans, and will authorize Medicaid payment by type, scope, and amount. (4-4-13)

a. Services that are not in the individual service plan approved by the Department or its contractor are not eligible for Medicaid payment. (4-4-13)

b. Services in excess of those in the approved individual service plan are not eligible for Medicaid payment. (3-19-07)

c. The earliest date that services may be approved by the Department or its contractor for Medicaid payment is the date that the participant's individual service plan is signed by the participant or their designee. (4-4-13)

02. Pre-Authorization Requirements. All waiver services must be pre-authorized by the Department. Authorization will be based on the information from: (3-19-07)

a. The UAI; (3-19-07)

b. The individual service plan developed by the Department or its contractor; and (3-19-07)

c. Any other medical information that verifies the need for nursing facility services in the absence of the waiver services. (3-19-07)

03. UAI Administration. The UAI will be administered, and the initial individual service plan developed, by the Department or its contractor. (4-4-13)

04. Individual Service Plan. All waiver services must be authorized by the Department or its contractor in the Region where the participant will be residing and services provided based on a written individual service plan. (4-4-13)

a. The initial individual service plan is developed by the Department or its contractor, based on the UAI, in conjunction with: (4-4-13)

i. The waiver participant (with efforts made by the Department or its contractor to maximize the participant's involvement in the planning process by providing them with information and education regarding their rights); (4-4-13)

ii. The guardian, when appropriate; (3-30-07)

iii. The supervising nurse or case manager, when appropriate; and (3-19-07)

iv. Others identified by the waiver participant. (3-19-07)

b. The individual service plan must include the following: (3-19-07)

i. The specific type, amount, frequency, and duration of Medicaid reimbursed waiver services to be provided; (3-30-07)

ii. Supports and service needs that are to be met by the participant's family, friends, neighbors, volunteers, church, and other community services; (3-30-07)

iii. The providers of waiver services when known; (3-30-07)

iv. Documentation that the participant has been given a choice between waiver services and institutional placement; and (3-19-07)

v. The signature of the participant or their legal representative, agreeing to the plan. (3-19-07)

c. The individual service plan must be revised and updated at least annually, based upon treatment results or a change in the participant's needs. (3-19-07)

d. All services reimbursed under the Aged and Disabled Waiver must be authorized by the Department or its contractor prior to the payment of services. (4-4-13)

e. The individual service plan, which includes all waiver services, is monitored by the Personal Assistance Agency, participant, family, and the Department or its contractor. (4-4-13)

05. Service Delivered Following a Written Plan of Care. All services that are provided must be based on a written plan of care. (3-30-07)

a. The plan of care is developed by the plan of care team that includes: (3-30-07)

i. The waiver participant with efforts made to maximize their participation on the team by providing them with information and education regarding their rights; (3-30-07)

ii. The guardian when appropriate; (3-30-07)

iii. Service provider identified by the participant or guardian; and (3-30-07)

iv. May include others identified by the waiver participant. (3-30-07)

b. The plan of care must be based on an assessment process approved by the Department. (3-30-07)

c. The plan of care must include the following: (3-30-07)

i. The specific types, amounts, frequency and duration of Medicaid reimbursed waiver services to be provided; (3-30-07)

ii. Supports and service needs that are to be met by the participant's family, friends and other community services; (3-30-07)

iii. The providers of waiver services; (3-30-07)

iv. Goals to be addressed within the plan year; (3-30-07)

v. Activities to promote progress, maintain functional skills, or delay or prevent regression; and (3-30-07)

vi. The signature of the participant or their legal representative. (3-30-07)

vii. The signature of the agency or provider indicating that they will deliver services according to the authorized service plan and consistent with home and community-based requirements. (7-1-16)

d. The plan must be revised and updated by the plan of care team based upon treatment results or a change in the participant's needs. A new plan must be developed and approved annually. (3-30-07)

e. The Department's Nurse Reviewer monitors the plan of care and all waiver services. (7-1-16)

f. The plan of care may be adjusted during the year with an addendum to the plan. These adjustments

must be based on changes in a participant's need or demonstrated outcomes. Additional assessments or information may be clinically necessary. Adjustment of the plan of care is subject to prior authorization by the Department. (3-30-07)

06. Individual Service Plan and Written Plan of Care. The development and documentation of the individual service plan and written plan of care must meet the person-centered planning requirements described in Sections 316 and 317 of these rules. (7-1-16)

07. Provider Records. Records will be maintained on each waiver participant. (3-19-07)

a. Each service provider must document each visit made or service provided to the participant, and will record at a minimum the following information: (3-19-07)

i. Date and time of visit; (3-19-07)

ii. Services provided during the visit; (3-19-07)

iii. Provider observation of the participant's response to the service, if appropriate to the service provided, including any changes in the participant's condition; and (3-19-07)

iv. Length of visit, including time in and time out, if appropriate to the service provided. Unless the Department or its contractor determines that the participant is unable to do so, the service delivery will be verified by the participant as evidenced by their signature on the service record. (4-4-13)

b. The provider is required to keep the original service delivery record. A copy of the service delivery record will be maintained in the participant's living arrangement unless authorized to be kept elsewhere by the Department. Failure to maintain documentation according to these rules will result in the recoupment of funds paid for undocumented services. (4-4-13)

c. The individual service plan initiated by the Department or its contractor must specify which waiver services are required by the participant. The plan will contain all elements required by Subsection 328.04.a. of these rules and a copy of the most current individual service plan will be maintained in the participant's home and will be available to all service providers and the Department. A copy of the current individual service plan and UAI will be available from the Department or its contractor to each individual service provider with a release of information signed by the participant or legal representative. (4-4-13)

d. Record requirements for participants in residential care or assisted living facilities are described in IDAPA 16.03.22, "Residential Assisted Living Facilities." (4-4-13)

e. Record requirements for participants in certified family homes are described in IDAPA 16.03.19, "Certified Family Homes." (4-4-13)

08. Provider Responsibility for Notification. The service provider is responsible to notify the Department or its contractor, physician or authorized provider, or case manager, and family if applicable, when any significant changes in the participant's condition are noted during service delivery. Such notification will be documented in the service record. (4-4-13)

09. Records Retention. Personal Assistance Agencies, and other providers are responsible to retain their records for five (5) years following the date of service. (3-19-07)

10. Requirements for an Fiscal Intermediary (FI). Participants of PCS will have one (1) year from the date that services begin in their geographic region to obtain the services of an FI and become an employee in fact or to use the services of an agency. Provider qualifications are in accordance with Section 329 of these rules. (3-19-07)

329. AGED AND DISABLED WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
Each provider must have a signed provider agreement with the Department for each of the services it provides.

(3-19-07)

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

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

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

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

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

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

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

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

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

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

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

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

03. Provider Qualifications. All providers of homemaker services, respite care, adult day health, transportation, chore services, companion services, attendant care, adult residential care, and home delivered meals must meet, either by formal training or demonstrated competency, the training requirements contained in the provider training matrix and the standards for direct care staff and allowable tasks or activities in the Department's Aged and Disabled waiver as approved by CMS. (4-4-13)

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

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

c. Individuals who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, “Criminal History and Background Checks.” (4-4-13)

04. Quality Assurance. Providers of Aged and Disabled waiver services are responsible for ensuring that they provide quality services in compliance with applicable rules. (7-1-16)

a. The results of a quality assurance review conducted by the Department must be transmitted to the provider within forty-five (45) days after the review is completed. (7-1-16)

b. The provider must respond to the quality assurance review within forty-five (45) days after the results are received from the Department. If problems are identified, the provider must implement a quality improvement plan and report the results to the Department upon request. (7-1-16)

c. The Department may take enforcement actions as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, if the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation. (7-1-16)

05. HCBS Setting Compliance. Providers of Aged and Disabled waiver services are responsible for ensuring that they meet the person-centered planning and setting quality requirements described in Sections 311 through 318 of these rules, as applicable, and must comply with associated Department quality assurance activities. (7-1-16)

06. Specialized Medical Equipment and Supplies. Providers of specialized medical equipment and supplies must be enrolled in the Medicaid program as participating medical vendor providers. Providers must ensure all items meet applicable standards of manufacture, design and installation. Preference will be given to equipment and supplies that are the most cost-effective option to meet the participant's needs. (4-4-13)

07. Skilled Nursing Service. Skilled nursing service providers must be licensed in Idaho as a licensed registered nurse or licensed practical nurse in good standing, or must be practicing on a federal reservation and be licensed in another state. Skilled nursing providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-4-13)

08. Consultation Services. Consultation services must be provided through a Personal Assistance Agency by a person who has demonstrated skills in training participants/family members in hiring, firing, training, and supervising their own care providers. (4-4-13)

09. Adult Residential Care. Adult residential care providers will meet all applicable state laws and regulations. In addition, the provider must ensure that adequate staff are provided to meet the needs of the participants accepted for admission. Adult residential care providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.03.19, "Certified Family Homes," or IDAPA 16.03.22, "Residential Assisted Living Facilities." (4-4-13)

10. Home Delivered Meals. Providers of home delivered meals must be a public agency or private business, and must exercise supervision to ensure that: (4-4-13)

a. Each meal meets one-third (1/3) of the Recommended Daily Allowance, as defined by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; (4-4-13)

b. Meals are delivered in accordance with the service plan, in a sanitary manner, and at the correct temperature for the specific type of food; (4-4-13)

c. Documentation is maintained demonstrating that the meals served are made from the highest USDA grade for each specific food served; (4-4-13)

d. The agency or business is inspected and licensed as a food establishment under IDAPA 16.02.19, "Idaho Food Code"; (4-4-13)

e. A Registered Dietitian documents the review and approval of menus, menu cycles, and any changes or substitutions; and (4-4-13)

f. Either by formal training or demonstrated competency, the training requirements contained in the Idaho provider training matrix and the standards for direct care staff in accordance with Subsection 329.03 of this rule have been met. (4-4-13)

11. Personal Emergency Response Systems. Personal emergency response system providers must

demonstrate that the devices installed in a waiver participant's home meet Federal Communications Standards, or Underwriter's Laboratory Standards, or equivalent standards. (4-4-13)

12. Adult Day Health. Providers of adult day health must meet the following requirements: (4-4-13)

a. Services provided in a facility must be provided in a facility that meets the building and health standards identified in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." (4-4-13)

b. Services provided in a home must be provided in a home that meets the standards of home certification identified in IDAPA 16.03.19, "Certified Family Homes." (4-4-13)

c. Services provided in a residential adult living facility must be provided in a residential adult living facility that meets the standards identified in IDAPA 16.03.22, "Residential Assisted Living Facilities." (4-4-13)

d. Adult day health providers who provide direct care or services must satisfactorily complete a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-4-13)

e. Providers of adult day health must notify the Department on behalf of the participant, if the adult day health is provided in a certified family home other than the participant's primary residence. The adult day health provider must provide care and supervision appropriate to the participant's needs as identified on the plan. (4-4-13)

f. Adult day health providers who provide direct care or services must be free from communicable disease. (4-4-13)

g. All providers of adult day health services must meet, either by formal training or demonstrated competency, the training requirements contained in the Idaho provider training matrix and the standards for direct care staff in accordance with Subsection 329.03 of this rule. (4-4-13)

13. Non-Medical Transportation Services. Providers of non-medical transportation services must: (4-4-13)

a. Possess a valid driver's license; (4-4-13)

b. Possess valid vehicle insurance; and (4-4-13)

c. Meet, either by formal training or demonstrated competency, the training requirements contained in the Idaho provider training matrix and the standards for direct care staff in accordance with Subsection 329.03 of this rule. (4-4-13)

14. Attendant Care. Attendant care providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." All providers of attendant care must meet, either by formal training or demonstrated competency, the training requirements contained in the Idaho provider training matrix and the standards for direct care staff in accordance with Subsection 329.03 of this rule. (4-4-13)

15. Homemaker Services. The homemaker must be an employee of record or fact of an agency. Homemaker service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." All providers of homemaker services must meet, either by formal training or demonstrated competency, the training requirements contained in the Idaho provider training matrix and the standards for direct care staff in accordance with Subsection 329.03 of this rule. (4-4-13)

16. Environmental Accessibility Adaptations. All services must be provided in accordance with applicable state or local building codes and meet state or local building, plumbing, and electrical requirements for certification. (4-4-13)

17. Residential Habilitation Supported Living. When residential habilitation services are provided

by an agency, the agency must be certified by the Department as a residential habilitation agency under IDAPA 16.04.17, "Residential Habilitation Agencies," and supervise the direct services provided. Individuals who provide residential habilitation services in the home of the participant (supported living) must be employed by a residential habilitation agency. Providers of residential habilitation services must meet the following requirements: (4-4-13)

a. Direct service staff must meet the following minimum qualifications: (3-30-07)

i. Be at least eighteen (18) years of age; (3-30-07)

ii. Be a high school graduate, or have a GED, or demonstrate the ability to provide services according to a plan of service; (4-4-13)

iii. Have current CPR and First Aid certifications; (3-30-07)

iv. Be free from communicable disease; (4-4-13)

v. Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. (3-30-07)

vi. Residential habilitation service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks;" (4-4-13)

vii. Have appropriate certification or licensure if required to perform tasks that require certification or licensure. Direct service staff must also have taken a traumatic brain injury training course approved by the Department. (3-30-07)

b. The provider agency is responsible for providing direct service staff with a traumatic brain injury training course approved by the Department, and training specific to the needs of the participant. (4-4-13)

c. Prior to delivering services to a participant, agency direct service staff must complete an orientation program. The orientation program must include the following subjects: (4-4-13)

i. Purpose and philosophy of services; (3-30-07)

ii. Service rules; (3-30-07)

iii. Policies and procedures; (3-30-07)

iv. Proper conduct in relating to waiver participants; (3-30-07)

v. Handling of confidential and emergency situations that involve the waiver participant; (3-30-07)

vi. Participant rights; (3-30-07)

vii. Methods of supervising participants; (3-30-07)

viii. Working with individuals with traumatic brain injuries; and (3-30-07)

ix. Training specific to the needs of the participant. (3-30-07)

d. Additional training requirements must be completed within six (6) months of employment with the residential habilitation agency and include at a minimum: (3-29-12)

i. Instructional techniques: Methodologies for training in a systematic and effective manner; (3-30-07)

ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (3-30-07)

iii. Feeding; (3-30-07)

iv. Communication; (3-30-07)

v. Mobility; (3-30-07)

vi. Activities of daily living; (3-30-07)

vii. Body mechanics and lifting techniques; (3-30-07)

viii. Housekeeping techniques; and (3-30-07)

ix. Maintenance of a clean, safe, and healthy environment. (3-30-07)

e. The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed. (4-4-13)

18. Day Habilitation. Providers of day habilitation services must have a minimum of two (2) years of experience working directly with persons with a traumatic brain injury, must provide documentation of standard licensing specific to their discipline, and must have taken a traumatic brain injury course approved by the Department. Day habilitation providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-4-13)

19. Respite Care. Providers of respite care services must meet the following minimum qualifications: (4-4-13)

a. Have received care giving instructions in the needs of the person who will be provided the service; (4-4-13)

b. Demonstrate the ability to provide services according to a plan of service; (4-4-13)

c. Be free of communicable disease; and (4-4-13)

d. Respite care service providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-4-13)

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

21. Chore Services. Providers of chore services must meet the following minimum qualifications: (4-4-13)

a. Be skilled in the type of service to be provided; and (4-4-13)

b. Demonstrate the ability to provide services according to a plan of service. (4-4-13)

c. Chore service providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-4-13)

d. Meet, either by formal training or demonstrated competency, the training requirements in the Idaho provider training matrix and the standards for direct care staff in accordance with Subsection 329.03 of this rule. (4-4-13)

22. Transition Services. Transition managers as described in Section 350.01 of these rules are responsible for administering transition services. (4-11-19)

330. AGED AND DISABLED WAIVER SERVICES: PROVIDER REIMBURSEMENT.
The criteria used in reimbursing providers for waiver services are listed in Subsections 330.01 through 330.03 of these rules. (3-19-07)

01. Fee for Services. Waiver service providers will be paid on a fee for service basis as established by the Department, or as agreed upon by the Department's contractor and the provider, depending on the type of service provided. Adult residential care will be paid on a per diem basis, based on the number of hours and types of assistance required by the participant as identified in the UAI. (4-4-13)

02. Provider Claims. Provider claims for payment will be submitted on claim forms provided or approved by the Department or its contractor. Billing instructions will be provided by the Department's payment system contractor. (4-4-13)

03. Calculation of Fees. The fees calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided waiver or state plan transportation. (3-19-07)

331. -- 349. (RESERVED)

350. TRANSITION MANAGEMENT.
Transition management provides relocation assistance and intensive service coordination activities to assist nursing facility, hospital, IMD and ICF/ID residents to transition to community settings of their choice. Transition managers provide oversight and coordination activities for participants during a transitional period up to twelve (12) months following a return to the community. This provider type will function as a liaison between the participant, institutional or facility discharge staff, other individuals as designated by the participant and the Department to support a successful and sustainable transition to the community. A participant is eligible to receive transition management when planning to discharge from a qualifying institution after residing within that institution for a minimum of forty-five (45) Medicaid-reimbursed days. (4-11-19)

01. Provider Qualifications. Transition managers must: (4-11-19)

a. Satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; (4-11-19)

b. Have documented successful completion of the Department approved Transition Manager training prior to providing any transition management and transition services; (4-11-19)

c. Have a Bachelor's Degree in a human services field from a nationally accredited university or college; or three (3) years' supervised work experience with the population being served; and (4-11-19)

d. Be employed with a provider type approved by the Department. (4-11-19)

02. Service Description. Transition management includes the following activities: (4-11-19)

a. A comprehensive assessment of health, social, and housing needs; (4-11-19)

b. Development of housing options with each participant, including assistance with housing choices, applications, waitlist follow-up, roommate selection, and introductory visits; (4-11-19)

c. Assistance with tasks necessary to accomplish a move from the institutional setting; (4-11-19)

d. Securing Transition Services in accordance with Subsection 326.17 or Subsection 703.15 of these rules in order to make arrangements necessary to move, including: (4-11-19)

i. Obtaining durable medical equipment, assistive technology, and medical supplies, if needed; (4-11-19)

ii. Arranging for home modifications, if needed; (4-11-19)

iii. Applying for public assistance, if needed; (4-11-19)

iv. Arranging household preparations including scheduling moving and/or cleaning services, utility set-up, purchasing furniture, and household supplies, if needed; (4-11-19)

e. Coordinating with others involved in plan development for the participant to ensure successful transition and establishment in a community setting; (4-11-19)

f. Providing post-transition support, including assistance with problem solving, dependency and isolation concerns, consumer-directed services and supports, Post Secondary Educational Institutions & Proprietary Schools when applicable, and community inclusion. (4-11-19)

03. Service Limitations. Transition management is limited to seventy-two (72) hours per participant per qualifying transition. (4-11-19)

351. -- 449. (RESERVED)

SUB AREA: HOSPICE
(Sections 450 - 459)

450. HOSPICE.
Medical assistance will provide payment for hospice services for eligible participants. Reimbursement will be based on Medicare program coverage as set out in Sections 450 through 456 of these rules. (3-19-07)

451. HOSPICE: DEFINITIONS.
The following definitions apply to Sections 450 through 456 of these rules. (3-19-07)

01. Attending Physician. A physician who: (3-19-07)

a. Is a doctor of medicine or osteopathy; and (3-19-07)

b. Is identified by the participant, at the time they elect to receive hospice care, as having the most significant role in the determination and delivery of the participant's medical care. (3-19-07)

02. Benefit Period. A period of time that begins on the first day of the month the participant elects hospice and ends on the last day of the eleventh successive calendar month. (3-19-07)

03. Bereavement Counseling. Counseling services provided to the participant's family after the participant's death. (3-19-07)

04. Cap Amount. The maximum amount of reimbursement the Idaho Medicaid Program will pay a designated hospice for providing services to Medicaid participants per Section 459 of these rules. (3-19-07)

05. Cap Period. The twelve (12) month period beginning November 1 and ending October 31 of the

next year. See overall hospice reimbursement cap referred to in Section 459 of these rules. (3-19-07)

06. Election Period. One (1) of eight (8) periods within the benefit period that an participant may elect to receive Medicaid coverage of hospice care. Each period consists of any calendar month, or portion thereof, chosen within the benefit period. (3-19-07)

07. Employee. An individual serving the hospice or, if the hospice is a subdivision of an agency or organization, an employee of the agency or organization that is appropriately trained and assigned to the hospice unit. Employee also refers to a volunteer under the jurisdiction of the hospice. (3-19-07)

08. Freestanding Hospice. A hospice that is not part of any other type of participating provider. (3-19-07)

09. Hospice. A public agency or private organization or a subdivision that: (3-19-07)

a. Is primarily engaged in providing care to terminally ill participants; and (3-19-07)

b. Meets the conditions specified for certification for participation in the Medicare and Medicaid programs and has a valid provider agreement. (3-19-07)

10. Independent Physician. An attending physician who is not an employee of the hospice. (3-19-07)

11. Representative. A person who is, because of the participant's mental or physical incapacity, legally authorized in accordance with state law to execute or revoke an election for hospice care or terminate medical care on behalf of the terminally ill participant. (3-19-07)

12. Social Worker. A person who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education. (3-19-07)

13. Terminally Ill. When a participant has a certified medical prognosis that life expectancy is six (6) months or less per Subsection 454.01 of these rules. (3-19-07)

452. HOSPICE: ELIGIBILITY.
Inherent in the Hospice program is that a participant understands the nature and basis for eligibility for hospice care without an inappropriate and explicit written statement about how the impending death will affect care. Though only written acknowledgment of the election periods is mandated, it is required that the participant or their representative be fully informed by a hospice before the beginning of a participant's care about the reason and nature of hospice care. The following are the eligibility requirements for Hospice: (3-19-07)

01. Certification. A certification that the participant is terminally ill must have been completed in accordance with Section 454.01 of these rules. (3-19-07)

02. Medically Necessary. Hospice services must be reasonable and necessary for the palliation and management of the terminal illness and related conditions. (3-19-07)

03. Election of Services.The participant must elect hospice care in accordance with Section 454.02 of these rules**.** (3-19-07)

453. HOSPICE: COVERAGE REQUIREMENTS AND LIMITATIONS.
The following services are required: (3-19-07)

01. Nursing Care. Nursing care provided by or under the supervision of a licensed registered nurse. (3-19-07)

02. Medical Social Services. Medical social services provided by a social worker who has at least a bachelor's degree from a school accredited or approved by the Council on Social Work Education, and who is working under the direction of a physician. (3-19-07)

03. Physician Services. Physician's services performed by a physician as defined in Subsection 451.01 of these rules. (3-19-07)

04. Counseling Services. Counseling services provided to the terminally ill participant and the family members or other persons caring for the participant at home. Counseling, including bereavement and dietary counseling, are core hospice services provided both for the purpose of training the participant's family or other care-giver to provide care, and for the purpose of helping the participant and those caring for them to adjust to the participant's approaching death. (3-19-07)

05. Inpatient Care. Short-term inpatient care provided in a participating hospice inpatient unit, or a participating hospital, or a nursing facility that additionally meets the hospice standards regarding staff and patient areas. Services provided in an inpatient setting must conform to the written plan of care. General inpatient care may be required for procedures necessary for pain control or acute or chronic symptom management that cannot be provided in other settings. Inpatient care may also be furnished to provide respite for the participant's family or other persons caring for the participant at home. (3-19-07)

06. Medical Equipment and Supplies. Medical equipment and supplies include drugs and biologicals. Only drugs as defined in Subsection 1861(t) of the Social Security Act and that are used primarily for the relief of pain and symptom control related to the patient's terminal illness are required. Appliances include durable medical equipment as well as other self-help and personal comfort items related to the palliation or management of the patient's terminal illness. Equipment is provided by the hospice for use in the patient's home while they are under hospice care. Medical supplies include only those that are part of the written plan of care. (3-19-07)

07. Home Health Services. Home health aide and homemaker services furnished by qualified aides. Home health aides will provide personal care services and will also perform household services necessary to maintain a safe and sanitary environment in areas of the home used by the patient. Aide services must be provided under the general supervision of a licensed registered nurse. Homemaker services include assistance in maintenance of a safe and healthy environment and services to enable the participant to carry out the plan of care. (3-19-07)

08. Therapies. Physical therapy, occupational therapy and speech-language pathology services provided for purposes of symptom control or to enable the participant to maintain activities of daily living and basic functional skills. (3-19-07)

09. Core Services. Nursing care, physician's services, medical social services, and counseling are core hospice services and must be routinely provided by hospice employees. Supplemental core services may be contracted for during periods of peak patient loads and to obtain physician specialty services. (3-19-07)

454. HOSPICE: PROCEDURAL REQUIREMENTS.

01. Physician Certification. The hospice must obtain the certification that a participant is terminally ill in accordance with the following procedures: (3-19-07)

a. For the first period of hospice coverage, the hospice must obtain, no later than two (2) calendar days after hospice care is initiated, written certification statements signed by the medical director of the hospice or the physician member of the hospice interdisciplinary group and the participant's attending physician (if the participant has one). The certification must include the statement that the participant's medical prognosis is that their life expectancy is six (6) months or less and the signature(s) of the physician(s). In the event the participant's medical prognosis or the appropriateness of hospice care is questionable, the Department has the right to obtain another physician's opinion to verify a participant's medical status. (3-19-07)

b. For any subsequent election period, the hospice must obtain, no later than two (2) calendar days after the beginning of that period, a written certification statement prepared by the medical director of the hospice or the physician member of the interdisciplinary group. The certification must include the statement that the participant's medical prognosis is that their life expectancy is six (6) months or less and the signature(s) of the physician(s). (3-19-07)

c. The hospice must maintain the monthly certification statements for review. (3-19-07)

d. The hospice will submit a physician listing with their provider application and update changes in the listing of physicians that are hospice employees, including physician volunteers, to the Bureau of Facility Standards. The designated hospice must also notify the Medicaid program when the designated attending physician of a participant in their care is not a hospice employee. (3-19-07)

02. Election Procedures. If an participant elects to receive hospice care, they must file an election statement with a particular hospice. An election statement may also be filed by a legal representative or guardian per Section 15-5-312, Idaho Code. (3-19-07)

a. An election to receive hospice care will be automatically renewed after the initial election period and through any subsequent election periods without a break in care as long as the participant remains in the care of a designated hospice and does not revoke the election. (3-19-07)

b. A participant who elected less than eight (8) monthly election periods within the benefit period may request the availability of the remaining election periods. When the following conditions are met, the request will be granted. (3-19-07)

i. The hospice days available did not exceed two hundred ten (210) days in the benefit period due to the loss of financial eligibility. (3-19-07)

ii. The participant or the legal representative did not change hospices excessively per Subsection 454.05 of these rules. (3-19-07)

iii. The participant or the legal representative did not revoke hospice election periods more than eight (8) times per Subsection 454.04 of these rules. (3-19-07)

c. A participant may receive hospice services from the first day of hospice care or any subsequent day of hospice care, but a participant cannot designate an effective date that is earlier than the date that the election is made. (3-19-07)

d. A participant must waive all rights to Medicaid payments for the duration of the election period of hospice care, with the following exceptions: (3-19-07)

i. Hospice care and related services provided either directly or under arrangements by the designated hospice to the participant. (3-19-07)

ii. Any Medicaid services that are not related or equivalent to the treatment of the terminal condition or a related condition for which hospice care was elected. (3-19-07)

iii. Physician services provided by the participant's designated attending physician if that physician is not an employee of the designated hospice or receiving compensation from the hospice for those services. (3-19-07)

03. Election of Hospice. The election statement must include the following items of information: (3-19-07)

a. Identification of the particular hospice that will provide care to the participant. (3-19-07)

b. The participant's or representative's acknowledgment that they have been given a full understanding of hospice care. (3-19-07)

c. The participant's or representative's acknowledgment that they understand that all Medicaid services except those identified in Subsection 454.02.d. of these rules, are waived by the election during the hospice benefit period. (3-19-07)

d. The effective date of the election. (3-19-07)

e. The signature of the participant or the representative and the date of that signature. (3-19-07)

04. Revocation of Hospice Election. A participant or representative may revoke the election of hospice care at any time. (3-19-07)

a. To revoke the election of hospice care, the participant must file a signed statement with the hospice that includes that the participant revokes the election for Medicaid coverage of hospice care effective as of the date of the revocation. (3-19-07)

b. Upon revocation of the hospice election, other Medicaid coverage is reinstated. (3-19-07)

05. Change of Hospice. A participant may at any time change their designated hospice during election periods for which they are eligible. (3-19-07)

a. A participant may change designated hospices no more than six (6) times during the hospice benefit period. (3-19-07)

b. The change of the designated hospice is not considered a revocation of the election. To change the designation of hospice programs, the participant must file during the monthly election period, with the hospice from which they have received care and with the newly designated hospice, a dated and signed statement that includes the following information: (3-19-07)

i. The name of the hospice from which the participant has received care; (3-19-07)

ii. The name of the hospice from which they plan to receive care; and (3-19-07)

iii. The effective date of the change in hospices. (3-19-07)

c. A change in ownership of a hospice is not considered a change in the patient's designation of a hospice, and requires no action on the patient's part. (3-19-07)

06. Plan of Care. A plan of care must be established and reviewed at least monthly. To be covered, services must be consistent with the plan of care. (3-19-07)

a. In establishing the initial plan of care, the member of the basic interdisciplinary group who assesses the patient's needs must meet or call at least one (1) other group member (nurse, physician, medical social worker, or counselor) before writing the initial plan of care. (3-19-07)

b. At least one (1) of the persons involved in developing the initial plan must be a nurse or a physician. This plan must be established on the same day as the assessment if the day of assessment is to be a covered day of hospice care. (3-19-07)

c. The other two (2) members of the basic interdisciplinary group must review the initial plan of care and provide their input to the process of establishing the plan of care within two (2) calendar days following the day of assessment; input may be provided by telephone. (3-19-07)

455. HOSPICE: PROVIDER QUALIFICATIONS AND DUTIES.

All services must be performed by appropriately qualified personnel, but it is the nature of the service, rather than the qualification of the person who provides it, that determines the category of the service. (3-19-07)

456. HOSPICE: PROVIDER REIMBURSEMENT.

With the exception of payment for physician services under Section 458 of these rules, Medicaid reimbursement for hospice care will be made at one (1) of five (5) predetermined rates for each day in which a participant receives the respective type and intensity of the services furnished under the care of the hospice. The five (5) rates are prospective rates; there will be no retroactive rate adjustments other than the application of the "cap" on overall payments, the service intensity add-on, and the limitation on payments for inpatient care, if applicable. A description of the payment

for each level of care is described in Subsections 456.01 through 456.04 of these rules. (3-29-17)

01. Routine Home Care. The hospice provider will be paid one (1) of two (2) routine home care rates for each day the patient is in residence, under the care of the hospice, and not receiving continuous home care. The rate is paid without regard to the volume or intensity of routine home care services provided on any given day. The two-rate payment methodology will result in a higher based payment for days one (1) through sixty (60) of hospice care and a reduced rate for days sixty-one (61) to end-of-care. If a participant leaves hospice care and then later is placed back on hospice care, regardless of hospice provider, a minimum of a sixty (60) day gap in hospice services is required in order for the routine home care rate to be paid at the higher base payment rate. If there is not a minimum of a sixty (60) day gap in hospice services being provided, the hospice provider will be paid at the rate for which the participant is qualified. (3-29-17)

02. Continuous Home Care. Continuous home care is to be provided only during a period of crisis. A period of crisis is a period in which a patient requires continuous care that is primarily nursing care to achieve palliation and management of acute medical symptoms. Care must be provided by either a licensed registered nurse or a licensed practical nurse and a nurse must provide care for at least half the total period of care. A minimum of eight (8) hours of care must be provided during a twenty-four (24) hour day that begins and ends at midnight. This care need not be continuous and uninterrupted. If less skilled care is needed on a continuous basis to enable the person to remain at home, this is covered as routine home care. For every hour or part of an hour of continuous care furnished, the hourly rate will be reimbursed to the hospice up to twenty-four (24) hours per day. (3-19-07)

03. Inpatient Respite Care. The hospice will be paid at the inpatient respite care rate for each day that the participant is in an approved inpatient facility and is receiving respite care. Payment for respite care may be made for a maximum of five (5) days at a time including the date of admission but not counting the date of discharge in any monthly election period. Payment for the sixth and any subsequent day is to be made at the appropriate rate routine, continuous, or general inpatient rate. (3-19-07)

04. General Inpatient Care. Payment at the inpatient rate will be made when general inpatient care is provided. No other fixed payment rates will be applicable for a day on which the participant receives hospice general inpatient care except as described in Section 458 of these rules. (3-19-07)

a. Date of discharge. For the day of discharge from an inpatient unit, the appropriate home care rate is to be paid unless the patient dies as an inpatient. When the patient is discharged as deceased, the inpatient rate, either general or respite, is to be paid for the discharge date. (3-19-07)

b. Hospice payment rates. The Medicaid hospice payment rates are the same as the Medicare hospice rates, adjusted to disregard cost offsets attributable to Medicare coinsurance amounts. Under the Medicaid hospice benefit, no cost sharing may be imposed with respect to hospice services rendered to Medicaid participants. (3-19-07)

c. Obligation of continuing care. After the participant's hospice benefit expires, the patient's Medicaid hospice benefits do not expire. The hospice must continue to provide that participant's care until the patient expires or until the participant revokes the election of hospice care. (3-19-07)

05. Service Intensity Add-On. For hospice services with dates of service on and after January 1, 2016, a service intensity add-on payment will be made for a visit by a licensed registered nurse (RN) or social worker when provided in the last seven (7) days of life. Payment for the service intensity add-on is in addition to the routine home care rate and is calculated by multiplying the continuous home care rate per fifteen (15) minutes by the number of units for the combined visits for the day. Payment must not exceed sixteen (16) units per day, and is adjusted for geographic differences in wages. Phone time for a provider's social worker is not eligible for a service intensity add-on payment. (3-29-17)

457. HOSPICE: LIMITATION ON PAYMENTS FOR INPATIENT CARE.

Payments to a hospice for inpatient care must be limited according to the number of days of inpatient care furnished to Medicaid patients. During the twelve (12) month period beginning November 1st of each year and ending October 31st of the next year, the aggregate number of inpatient days (both general inpatient days and inpatient respite care) may not exceed twenty percent (20%) of the total number of days of hospice care provided to all Medicaid

participants during the same period by the designated hospice or its contracted agent(s). (3-19-07)

01. For Purposes of Computation. If it is determined that the inpatient rate should not be paid, any days for which the hospice receives payment at a home care rate will not be counted as inpatient days. The limitations on payment for inpatient days are as follows: (3-19-07)

a. The maximum number of allowable inpatient days will be calculated by multiplying the total number of a provider's Medicaid hospice days by twenty percent (20%). (3-19-07)

b. If the total number of days of inpatient care to Medicaid hospice patients is less than or equal to the maximum number of inpatient days computed in Subsection 457.01 of these rules then no adjustment is made. (3-19-07)

c. If the total number of days of inpatient care exceeds the maximum number of allowable inpatient days computed in Subsection 457.01 of these rules then the payment limitation will be determined by: (3-19-07)

i. Calculating the ratio of the maximum allowable inpatient days to the number of actual days of inpatient care, and multiplying this ratio by the total reimbursement for inpatient care that was made. (3-19-07)

ii. Multiplying excess inpatient care days by the routine home care rate. (3-19-07)

iii. Adding the amounts calculated in Subsections 457.01.c.i. and 457.01.c.ii. of these rules. (3-19-07)

iv. Comparing the amount in Subsection 457.01.c.iii. of these rules with interim payments made to the hospice for inpatient care during the "cap period." (3-19-07)

02. The amount by which interim payments for inpatient care exceeds the amount calculated as in Section 459 of these rules is due from the hospice. (3-19-07)

458. HOSPICE: PAYMENT FOR PHYSICIAN SERVICES.

The basic rates for hospice care represent full reimbursement to the hospice for the costs of all covered services related to the treatment of the participant's terminal illness, including the administrative and general activities performed by physicians who are employees of or working under arrangements made with the hospice. These activities would generally be performed by the physician serving as the medical director and the physician member of the hospice interdisciplinary group. Group activities include participation in the establishment of plans of care, supervision of care and services, periodic review and updating of plans of care, and establishment of governing policies. The costs for these services are included in the reimbursement rates for routine home care, continuous home care, and inpatient respite care. (3-19-07)

01. Hospice Employed Physician Direct Patient Service. Reimbursement for a hospice employed physician's direct patient services that are not rendered by a hospice volunteer is made in accordance with the usual Idaho Medicaid reimbursement methodology for physician services. These services will be billed by the hospice under the hospice provider number and, the related payments will be counted in determining whether the overall hospice cap amount per Section 459 of these rules has been exceeded. The only physician services to be billed by a hospice for such services are direct patient care services. Laboratory and X-ray services are included in the hospice daily rate. (3-19-07)

02. Volunteer Physician Services. Volunteer physician services are excluded from Medicaid reimbursement with the following exceptions: (3-19-07)

a. A hospice may be reimbursed on behalf of a volunteer physician for specific direct patient care services that are not rendered on a volunteer basis. The hospice must have a liability to reimburse the physician for those services rendered. In determining whether a service is provided on a volunteer basis, a physician must not distinguish which services are provided voluntarily on the basis of the patient's ability to pay. (3-19-07)

b. Reimbursement for an independent physician's direct patient services that are not rendered by a hospice volunteer is made in accordance with the usual Idaho Medicaid reimbursement methodology for physician

services. These services will not be billed by the hospice under the hospice provider number and they will not be counted in determining whether the overall hospice cap amount per Section 459 of these rules has been exceeded. The only services to be billed by an attending physician are the physician's personal professional services. Costs for services such as laboratory or X-rays are not to be included on the attending physician's billed charges to the Medicaid program. The aforementioned charges are included in the daily rates paid and are expressly the responsibility of the hospice. (3-19-07)

459. HOSPICE: CAP ON OVERALL REIMBURSEMENT.
Aggregate payments to each hospice will be limited during a hospice cap period per Subsection 451.05 of these rules. The total payments made for services furnished to Medicaid participants during this period will be compared to the "cap amount" for this period. Any payments in excess of the cap must be refunded by the hospice. (3-19-07)

01. Overall Cap. The overall cap will be compared to reimbursement after the inpatient limitation is computed and subtracted from total reimbursement due the hospice. (3-19-07)

02. Total Payment for Services. Total payment made for services furnished to Medicaid participants during this period means all payments for services rendered during the cap year, regardless of when payment is actually made. (3-19-07)

03. Calculation of Cap Amount. The "cap amount" is calculated by multiplying the number of participants electing certified hospice care during the period by six thousand five hundred dollars ($6,500). This amount will be adjusted for each subsequent cap year beginning November 1, 1983, to reflect the percentage increase or decrease in the medical care expenditure category of the Consumer Price Index (CPI) for all urban consumers as published by the Bureau of Labor Statistics. It will also be adjusted as per Subsection 459.07 of these rules.(3-19-07)

04. Computation and Application of Cap Amount. The computation and application of the "cap amount" is made by the Department after the end of the cap period. (3-19-07)

05. Report Number of Medicaid Participants. The hospice must report the number of Medicaid participants electing hospice care during the period to the Department. (3-19-07)

a. This must be done within thirty (30) days after the end of the cap period: and (3-19-07)

b. If the participant is transferred to a non-certified hospice no payment to the non-certified hospice will be made and the certified hospice may count a complete participant benefit period in their cap amount. (3-19-07)

06. Certified in Mid-Month. If a hospice certifies in mid-month, a weighted average cap amount based on the number of days falling within each cap period would be used. (3-19-07)

07. Adjustment of the Overall Cap. Cap amounts in each hospice's cap period will be adjusted to reflect changes in the cap periods and designated hospices during a participant's election period. The proportion of each hospice's days of service to the total number of hospice days rendered to the participant during their election period will be multiplied by the cap amount to determine each hospice's adjusted cap amount. (3-19-07)

a. After each cap period has ended, the Department will calculate the overall cap within a reasonable time for each hospice participating in the Idaho Medicaid Program. (3-19-07)

b. Each hospice's cap amount will be computed as follows: (3-19-07)

i. The share of the "cap amount" that each hospice is allowed will be based on the proportion of total covered days provided by each hospice in the "cap period." (3-19-07)

ii. The proportion determined in Section 457 of these rules for each certified hospice will be multiplied by the "cap amount" specified for the "cap period" in which the participant first elected hospice.(3-19-07)

c. The participant must file an initial election during the period beginning September 28 of the

previous year through September 27 of the current cap year in order to be counted as an electing Medicaid participant during the current cap year. (3-19-07)

08. Additional Amount for Nursing Facility Residents. An additional per diem amount will be paid for "room and board" of hospice residents in a certified nursing facility receiving routine or continuous care services. In this context, the term "room and board" includes all assistance in the activities of daily living, in socializing activities, administration of medication, maintaining the cleanliness of a resident's room, and supervision and assisting in the use of durable medical equipment and prescribed therapies. The additional payments and the related days are not subject to the caps specified in Sections 457 and 459 of these rules. The room and board rate will be ninety-five percent (95%) of the per diem interim reimbursement rate assigned to the facility for those dates of service on which the participant was a resident of that facility. (3-19-07)

460. HOSPICE: POST-ELIGIBILITY TREATMENT OF INCOME.
Where a participant is determined eligible for medical assistance participation in the cost of long term care, the Department will reduce its payments for all costs of the hospice benefit, including the supplementary amounts for room and board, by an amount determined according to Section 227 of these rules. (3-19-07)

461. -- 499. (RESERVED)

SUB PART: ENHANCED DEVELOPMENTAL DISABILITY SERVICES
(Sections 500 - 719)

500. DEVELOPMENTAL DISABILITY DETERMINATION STANDARDS.
Prior to receiving developmental disability services as provided in Sections 507 through 719 of these rules, the participant must be determined to have a developmental disability. (3-19-07)

501. DEVELOPMENTAL DISABILITY DETERMINATION STANDARDS: ELIGIBILITY.
The definitions and standards in the table below must be used to determine whether a participant meets criteria as a person with a developmental disability under Section 66-402, Idaho Code.

TABLE 501 - DEVELOPMENTAL DISABILITY DETERMINATION STANDARDS

Definition	Standards
"Developmental Disability" means a chronic disability of a person that appears before the age of 22 years and:	Age of 22 means through the day before the individual's 22nd birthday. AND
(a) is attributable to an impairment, such as an intellectual disability;	"Is attributable to an impairment" means that there is a causal relationship between the presence of an impairing condition and the developmental disability. **Age 5 through Adult:** There is a presumption that an intellectual disability exists when a full scale IQ score up to 75 exists. (IQ of 70 with a standard error of measurement of 5 points.) **Birth to Age 5:** An IQ test score is not required below the age of 5. In these cases it may be necessary to rely on the results of a functional assessment. There is a presumption that an intellectual disability exists when there is a standard score of 75 or below or a delay of 30% overall.
cerebral palsy;	Medical Diagnosis that requires documentation.
epilepsy;	Medical Diagnosis that requires documentation. On medication controlled or uncontrolled. Does not include a person who is seizure-free and not on medication for 3 years.

TABLE 501 - DEVELOPMENTAL DISABILITY DETERMINATION STANDARDS	
Definition	**Standards**
autism;	Includes the diagnosis of pervasive developmental disorder.
or other condition found to be closely related to or similar to one of these impairments that requires similar treatment or services;	For related or similar conditions, documentation must be present to show the causal relationship between the impairing condition and the developmental disability. (Does not include mental illness) **Intellectual Disability:** A full scale IQ score above 75 can in some circumstances be considered a related or similar condition to an intellectual disability when additional supporting documentation exists showing how the individual's functional limitations make their condition similar to an intellectual disability. **Cerebral Palsy:** Conditions related or similar to cerebral palsy include disorders that cause a similar disruption in motor function. **Epilepsy:** Conditions related or similar to epilepsy include disorders that interrupt consciousness.
or is attributable to dyslexia resulting from such impairments; and	AND
(b) results in substantial functional limitations in three (3) or more of the following major life activities:	"Results in" means that the substantial limitation must be because of the impairment. A "substantial" limitation is one in which the total effect of the limitation results in the need for a "combination and sequence of special interdisciplinary, or generic care, treatment or other services that need to be individually planned and coordinated." Listed below are standards for substantial functional limitations in each major life area. **Age 3 through Adult:** A score of 2 standard deviations below the mean creates a presumption of a functional limitation. **Birth to Age 3:** The following criteria must be utilized to determine a substantial functional limitations for children under 3: **a.** The child scores 30% below age norm; or **b.** The child exhibits a 6 month delay; or **c.** The child scores 2 standard deviations below the mean.
self care;	**Adult:** A substantial functional limitation is manifest when the person requires physical or non-physical assistance in performing eating, hygiene, grooming, or health care skills, or when the time required for a person to perform these skills him/her self is so substantial as to impair their ability to conduct other activities of daily living or retain employment. **Birth to Age 21:** A functional limitation is manifest when the child's skills are limited according to age-appropriate responses such that the parent, caregiver, or school personnel is required to provide care that is substantially beyond that typically required for a child of the same age (such as excessive time lifting, diapering, supervision).

TABLE 501 - DEVELOPMENTAL DISABILITY DETERMINATION STANDARDS	
Definition	**Standards**
receptive and expressive language;	**Age 3 through Adult:** A substantial functional limitation is manifest when a person is unable to communicate effectively without the aid of a third person, a person with special skills, or without an assistive device (such as sign language). **Birth to Age 3:** A substantial functional limitation is manifest when they have been diagnosed by a qualified professional who determines that the child performs 30% below age norm (adjusted for prematurity up to 2 years) or demonstrates at least 2 standard deviations below the mean in either area or 1 1/2 below in both areas of language development.
learning;	**Birth through Adult:** A substantial functional limitation is manifest when cognition, retention, reasoning, visual or aural communications, or other learning processes or mechanisms are impaired to the extent that special (interventions that are beyond those that an individual normally needs to learn) intervention is required for the development of social, self care, language, academic, or vocational skills.
mobility;	**Adult:** A substantial functional limitation is manifest when fine or gross motor skills are impaired to the extent that the assistance of another person or an assistive device is required for movement from place to place. **Birth to Age 21:** A substantial limitation would be measured by an age appropriate instrument that compares the child's skills for postural control and movement and coordinated use of the small muscles with those skills expected of children of the same age.
self-direction;	**Adult:** A substantial functional limitation is manifest when a person requires assistance in managing their personal finances, protecting their self interest, or making decisions that may affect their well being. **Birth to Age 21:** A substantial limitation is manifest when the child is unable to help themself or cooperate with others age appropriate assistance to meet personal needs, learn new skills, follow rules, and adapt to environments.
capacity for independent living; or	**Adult:** A substantial functional limitation is manifest when, for a person's own safety or well-being, supervision or assistance is required, at least on a daily basis, in the performance of health maintenance, housekeeping, budgeting, or leisure time activities and in the utilization of community resources. **Birth to Age 21:** A substantial limitation would be measured by an age-appropriate instrument that compares the child's personal independence and social responsibility expected of children of comparable age and cultural group.

TABLE 501 - DEVELOPMENTAL DISABILITY DETERMINATION STANDARDS	
Definition	**Standards**
economic self-sufficiency; and	**Adult:** A substantial functional limitation is manifest when a person is unable to perform the tasks necessary for regular employment or is limited in productive capacity to the extent that their earned annual income, after extraordinary expenses occasioned by the disability, is insufficient for self-support. **Age 5 to Age 21:** Use the pre-vocational area of a standardized functional assessment to document a limitation in this area. **Birth to Age 5:** A substantial limitation in this area is evidenced by the child's eligibility for SSI, early intervention, or early childhood special education under the Individuals with Disabilities Education Act (IDEA). AND
(c) reflects the needs for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of life-long or extended duration and individually planned and coordinated.	**Age 5 through Adult:** Life-long or extended duration means the developmental disability is one that has the reasonable likelihood of continuing for a protracted period of time, including a reasonable likelihood that it will continue throughout life. **Birth to Age 5:** The expected duration may be frequently unclear. Therefore, determination of eligibility by a multi-disciplinary team for early intervention services through SSI, an IFSP, child study team or early childhood special education services through an IEP will be an indicator of this criteria.

(3-19-07)

502. (RESERVED)

503. DEVELOPMENTAL DISABILITY DETERMINATION: TEST INSTRUMENTS.
A variety of standardized test instruments are available. Tests used to determine a developmental disability must reflect the current functional status of the individual being evaluated. Tests over one (1) year old must be verified to reflect the current status of the individual by an appropriate professional. Instruments designed only for screening purposes must not be used to determine eligibility. (3-19-07)

01. Test Instruments For Adults. A Department-approved assessment tool for conducting cognitive and functional assessments must be used to determine eligibility. (7-1-18)

02. Test Instruments for Children. The assessments utilized to determine eligibility must be based on age appropriate criteria. Evaluations must be performed by qualified personnel with experience and expertise with children; selected evaluation tools and practices should be age appropriate, based on consideration of the child's language and motor skills. A Department-approved assessment tool for conducting cognitive and functional assessments must be used with children. (7-1-18)

504. -- 506. (RESERVED)

507. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION (PA).
The purpose of adult developmental disability services prior authorization is to assure the provision of the right care, in the right place, at the right price, and with the right outcomes in order to enhance health and safety, and to promote participants' rights, self-determination, and independence. Prior authorization involves the assessment of the need for services, development of a budget, development of a plan of services, prior approval of services, and a quality improvement program. Services are reimbursable if they are identified on the authorized plan of service and are consistent with the purpose and rule for prior authorization as well as rules for the specific service. (3-29-12)

508. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: DEFINITIONS.
For the purposes of these rules the following terms are used as defined below. (3-29-12)

01. **Adult**. A person who is eighteen (18) years of age or older. (3-29-10)

02. **Assessment**. A process that is described in Section 509 of these rules for program eligibility and in Section 512 of these rules for plan of service. (3-19-07)

03. **Clinical Review**. A process of professional review that validates the need for continued services. (3-19-07)

04. **Community Crisis Support**. Intervention for participants who are at risk of losing housing, employment or income, or who are at risk of incarceration, physical harm, family altercations or other emergencies. (3-19-07)

05. **Concurrent Review**. A clinical review to determine the need for continued prior authorization of services. (3-19-07)

06. **Department-Approved Assessment Tool**. Any standardized assessment tool approved by the Department for use in determining developmental disability eligibility, waiver eligibility, skill level to identify the participant's needs for the plan of service, and for determining the participant's budget. (7-1-18)

07. **Exception Review**. A clinical review of a plan that falls outside the established standards. (3-19-07)

08. **Interdisciplinary Team**. For purposes of these rules, the interdisciplinary team is a team of professionals, determined by the Department, that reviews requests for reconsideration. (3-19-07)

09. **Level of Support**. An assessment score derived from a Department-approved assessment tool that indicates types and amounts of services and supports necessary to allow the individual to live independently and safely in the community. (7-1-18)

10. **Person-Centered Planning Process**. A meeting facilitated by the participant or plan developer, comprised of family and individuals significant to the participant who collaborate with the participant to develop the plan of service. (7-1-16)

11. **Person-Centered Planning Team**. The group who develops the plan of service. This group includes, at a minimum, the participant and the service coordinator or plan developer chosen by the participant. The person-centered planning team may include others identified by the participant or agreed upon by the participant and the Department as important to the process. (3-19-07)

12. **Plan Developer**. A paid or non-paid person identified by the participant who is responsible for developing one (1) plan of service and subsequent addenda that cover all services and supports, based on a person-centered planning process. (3-19-07)

13. **Plan Monitor**. A person who oversees the provision of services on a paid or non-paid basis. (3-19-07)

14. **Plan of Service**. An initial or annual plan that identifies all services and supports based on a person-centered planning process. Plans are authorized annually every three hundred sixty-five (365) days. (3-19-07)

15. **Prior Authorization (PA)**. A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by these rules. (3-19-07)

16. **Provider Status Review**. The written documentation that identifies the participant's progress

toward goals defined in the plan of service. (3-19-07)

17. Right Care. Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. (3-19-07)

18. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (3-19-07)

19. Right Price. The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. (3-19-07)

20. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (3-19-07)

21. Service Coordination. Service coordination is an activity which assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of an individual. (3-19-07)

22. Service Coordinator. An individual who provides service coordination to a Medicaid-eligible participant, is employed by a service coordination agency, and meets the training, experience, and other requirements under Sections 729 through 732 of these rules. (3-19-07)

23. Services. Services paid for by the Department that enable the individual to reside safely and effectively in the community. (3-19-07)

24. Supports. Formal or informal services and activities, not paid for by the Department, that enable the individual to reside safely and effectively in the setting of their choice. (3-19-07)

509. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: ELIGIBILITY DETERMINATION.

The Department will make the final determination of an individual's eligibility, based upon the assessments and evaluations administered by the Department. Initial and annual assessments will be performed by the Department. The purpose of the assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402, Idaho Code, and Sections 500 through 506 of these rules and for ICF/ID level of care for waiver services in accordance with Section 584 of these rules. (3-29-12)

01. Initial Assessment. For new applicants, an assessment will be completed within thirty (30) days from the date a completed application is submitted. (3-19-07)

02. Annual Assessments. Assessments will also be completed for current participants at the time of their annual eligibility redetermination. The assessor will evaluate whether assessments are current and accurately describe the status of the participant. At least sixty (60) days before the expiration of the current plan of service: (3-19-07)

a. The assessment process will be completed; and (3-19-07)

b. The assessor will provide the results of the assessment to the participant. (3-19-07)

03. Determination of Developmental Disability Eligibility. The evaluations or assessments that are required for determining developmental disabilities for a participant's eligibility for developmental disabilities services will include a medical/social history and a functional assessment. Participants must provide the results of psychometric testing if eligibility for developmental disabilities services is based on an intellectual disability and they have no prior testing or prior testing is inconclusive. Documentation of diagnosis is required for participants whose eligibility is based on developmental disabilities other than an intellectual disability. A Department-approved assessment tool will be administered by the Department for use in this determination. (7-1-18)

04. ICF/ID Level of Care Determination for Waiver Services. The assessor will determine ICF/ID level of care for adults in accordance with Section 584 of these rules. (3-19-07)

510. (RESERVED)

511. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: COVERAGE AND LIMITATIONS.
The scope of these rules defines prior authorization for the following Medicaid developmental disability services for adults: (3-29-12)

01. DD Waiver Services. DD Waiver services as described in Sections 700 through 719 of these rules; and (3-29-10)

02. Developmental Therapy. Developmental therapy as described in Sections 649 through 657 of these rules and IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)"; and (7-1-13)

03. Service Coordination. Service Coordination for persons with developmental disabilities as described in Sections 720 through 779 of these rules. (3-19-07)

512. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: PROCEDURAL REQUIREMENTS.

01. Assessment for Plan of Service. The assessment for a plan of service is required for all participants prior to the development of the plan of service. This assessment must include the following in Subsections 512.02 through 512.06 of these rules. (3-19-07)

02. Physician's History and Physical. The history and physical must include a physician's referral for nursing services under the DD waivers and for developmental disabilities agencies' services, if they are anticipated to be part of the plan of service. A physician's history and physical is required within the year prior to the initiation of service and thereafter on a frequency determined by the physician. For participants in Healthy Connections: (3-29-10)

a. The Healthy Connections physician may delegate to the Department the authority to approve developmental disability services. (3-19-07)

b. The Healthy Connections physician must conduct the history and physical, and may refer the participant for other evaluations. (3-19-07)

03. Medical, Social, and Developmental History. The medical, social and developmental history is used to document the participant's medical social and developmental history information. A current medical social and developmental history must be evaluated prior to the initiation of developmental therapy and must be reviewed annually to assure it continues to reflect accurate information about the participant's status. (7-1-13)

a. A medical, social and developmental history for each adult participant is completed by the Department or its contractor. (7-1-13)

b. Providers should obtain and utilize the medical, social developmental history documents generated by the Department or its contractor when one is necessary for adult program or plan development. (7-1-13)

04. Department-Approved Assessment Tool. The results of a Department-approved assessment tool are used to determine the level of support for the participant. A current Department-approved assessment will be evaluated prior to the initiation of service and reviewed annually to assure it continues to reflect the functional status of the participant. A department-approved assessment tool for adults is completed by the Department or its contractor. Providers must obtain and utilize the document generated by the Department or its contractor when one is necessary for program or plan development. (7-1-18)

05. Medical Condition. The participant's medical conditions, risk of deterioration, living conditions,

and individual goals. (3-19-07)

06. Behavioral or Psychiatric Needs. Behavioral or psychiatric needs that require special consideration. (3-19-07)

513. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: PLAN OF SERVICE.

In collaboration with the participant, the Department will assure that the participant has one (1) plan of service. This plan of service is based on the individualized participant budget referred to in Section 514 of these rules and must identify all services and supports. Participants may develop their own plan or designate a paid or non-paid plan developer. In developing the plan of service, the plan developer and the participant must identify services and supports available outside of Medicaid-funded services that can help the participant meet desired goals. Authorized services must be delivered by providers who are selected by the participant. (3-29-12)

01. Qualifications of a Paid Plan Developer. Neither a provider of direct service to the participant nor the assessor may be chosen to be the paid plan developer. Family members and all others who wish to be paid for plan development must be employed as a service coordinator as defined in Sections 729 through 732 of these rules. (3-19-07)

02. Plan Development. All participants must direct the development of their service plan through a person-centered planning process. Individuals invited to participate in the person-centered planning process will be identified by the participant and may include family members, guardian, or individuals who are significant to the participant. In developing the plan of service, the plan developer and participant must identify any services and supports available outside of Medicaid-funded services that can help the participant meet desired goals and outcomes. (7-1-16)

a. The plan of service must be submitted within forty-five (45) days prior to the expiration of the existing plan of service unless delayed because of participant unavailability due to extenuating circumstances. If the plan is not submitted within this time period, authorization for provider payments may be terminated. (7-1-16)

b. The plan development process must meet the person-centered planning requirements described in Section 316 of these rules. (7-1-16)

c. The participant may facilitate their own person-centered planning meeting, or designate a paid or non-paid plan developer to facilitate the meeting. Individuals responsible for facilitating the person-centered planning meeting cannot be providers of direct services to the participant. (7-1-16)

03. Prior Authorization Outside of These Rules. The plan developer must ensure that all services that require prior authorization outside of these rules are submitted to the appropriate unit of the Department. These services include: (3-19-07)

a. Durable Medical Equipment (DME); (3-19-07)

b. Transportation; and (3-19-07)

c. Physical therapy, occupational therapy, and speech-language pathology services. (7-1-13)

04. No Duplication of Services. The plan developer will ensure that there is no duplication of services. Duplicate services will not be authorized. (3-29-12)

05. Plan Monitoring. The participant, service coordinator or plan monitor must monitor the plan. The plan developer is the plan monitor unless there is a service coordinator, in which case the service coordinator assumes the roles of both service coordinator and plan monitor. The planning team must identify the frequency of monitoring, which must be at least every ninety (90) days. Plan monitoring must include the following: (3-19-07)

a. Review of the plan of service in a face-to-face contact with the participant to identify the current status of programs and changes if needed; (3-19-07)

b. Contact with service providers to identify barriers to service provision; (3-19-07)

c. Discuss with participant satisfaction regarding quality and quantity of services; and (3-19-07)

d. Review of provider status reviews. (3-29-12)

e. The provider will immediately report all allegations or suspicions of mistreatment, abuse, neglect, or exploitation, as well as injuries of unknown origin to the agency administrator, the Department, the adult protection authority, and any other entity identified under Section 39-5303, Idaho Code, or federal law. (3-29-12)

06. Provider Status Reviews. Service providers, with exceptions identified in Subsection 513.09 of these rules, must report the participant's progress toward goals to the plan monitor on the provider status review when the plan has been in effect for six (6) months and at the annual person-centered planning meeting. The semi-annual and annual reviews must include: (7-1-16)

a. The status of supports and services to identify progress; (3-19-07)

b. Maintenance; or (3-19-07)

c. Delay or prevention of regression. (3-19-07)

07. Content of the Plan of Service. The plan of service must identify the type of service to be delivered, goals to be addressed within the plan year, frequency of supports and services, and identified service providers. The plan of service must include activities to promote progress, maintain functional skills, or delay or prevent regression. (3-19-07)

a. The written plan of service must meet the person-centered planning requirements described in Section 317 of these rules. (7-1-16)

b. The written plan of service must be finalized and agreed to according to procedural requirements described in Section 704 of these rules. (7-1-16)

c. The Department will distribute a copy of the plan of service to adult DD service providers defined in Section 317 of these rules. Additionally, the plan developer will be responsible to distribute a copy of the plan of service, in whole or part, to any other developmental disability service provider identified by the participant during the person-centered planning process. (7-1-16)

08. Informed Consent. Unless the participant has a guardian who retains full decision-making authority, the participant must make decisions regarding the type and amount of services required. Prior to plan development, the plan developer must document that they have provided information and support to the participant to maximize their ability to make informed choices regarding the services and supports they receive and from whom. During plan development and amendment, planning team members must each indicate whether they believe the plan meets the needs of the participant, and represents the participant's choice. If there is a conflict that cannot be resolved among person-centered planning members or if a member does not believe the plan meets the participant’s needs or represents the participant’s choice, the plan or amendment may be referred to the Bureau of Developmental Disability Services to negotiate a resolution with members of the planning team. (7-1-16)

09. Provider Implementation Plan. Each provider of Medicaid services must develop an implementation plan that complies with home and community-based setting requirements and identifies specific objectives that relate to goals finalized and agreed to in the participant’s authorized plan of service. These objectives must demonstrate how the provider will assist the participant to meet the participant's goals, desired outcomes, and needs identified in the plan of service. (7-1-16)

a. Exceptions. An implementation plan is not required for waiver providers of: (3-19-07)

i. Specialized medical equipment; (3-19-07)

ii. Home delivered meals; (3-19-07)

iii. Environmental accessibility adaptations; (7-1-16)

iv. Non-medical transportation; (3-19-07)

v. Personal emergency response systems (PERS); (3-19-07)

vi. Respite care; and (3-19-07)

vii. Chore services. (3-19-07)

b. Time for Completion. Implementation plans must be completed within fourteen (14) days of receipt of the authorized plan of service or the service start date, whichever is later. (7-1-16)

i. If the authorized plan of service is received after the service start date, service providers must support billing by documenting service provision as agreed to by the participant and consistent with Section 704 of these rules. (7-1-16)

ii. Implementation plan revision must be based on changes to the needs of the participant. (7-1-16)

c. Documentation of Changes. Documentation of Implementation Plan changes will be included in the participant's record. This documentation must include, at a minimum, the reason for the change, documentation of coordination with other service providers (where applicable), the date the change was made, the signature of the person making the change complete with the date and title. (3-19-07)

10. Home and Community-Based Services Plan of Service Signature. Upon receipt of the authorized plan of service, HCBS providers responsible for the implementation of the plan as identified in Section 317 of these rules must sign the plan indicating they will deliver services according to the finalized and authorized plan of service, and consistent with home and community-based requirements. Each HCBS provider responsible for the implementation of the plan must maintain their signed plan in the participant's record. Documentation of signature must include the signature of the professional responsible for service provision complete with their title and the date signed. Provider signature will be completed each time an initial or annual plan of service is implemented. (7-1-16)

11. Addendum to the Plan of Service. (7-1-16)

a. A plan of service may be adjusted during the year with an addendum to the plan. These adjustments must be based on a change to a cost, addition of a service or increase to a service, or a change of provider. Additional assessments or information may be clinically necessary. Adjustment of the plan of service is subject to prior authorization by the Department. (7-1-16)

b. When a service plan has been adjusted, the Department will distribute a copy of the addendum to HCBS providers responsible for the implementation of the plan of service as identified in Section 317 of these rules. (7-1-16)

c. Upon receipt of the addendum, the HCBS provider must sign the addendum indicating they have reviewed the plan adjustment and will deliver services accordingly. Documentation must include the signature of the professional responsible for service provision complete with their title and the date signed, and must be maintained in the participant's record. Provider signature will be completed each time an addendum is authorized. (7-1-16)

12. Annual Reauthorization of Services. A participant's plan of service must be reauthorized annually. The Department will review and authorize the new plan of service prior to the expiration of the current plan. (3-19-07)

a. Plan Developer Responsibilities for Annual Reauthorization. A new plan of service must be

provided to the Department by the plan developer at least forty-five (45) days prior to the expiration date of the current plan. Prior to this, the plan developer must: (3-19-07)

i. Notify the providers who appear on the plan of service of the annual review date. (3-19-07)

ii. Obtain a copy of the current annual provider status review from each provider for use by the person-centered planning team. Each provider status review must meet the requirements in Subsection 513.06 of these rules. (7-1-16)

iii. Convene the person-centered planning team to develop a new plan of service; inviting individuals to participate that have been identified by the participant. (7-1-16)

b. Evaluation and Prior Authorization of the Plan of Service. The plan of service will be evaluated and prior authorized in accordance with the requirements in Sections 507 and 513 of these rules. (3-19-07)

c. Adjustments to the Annual Budget and Services. The annual budget and services may be adjusted by the Department based on demonstrated outcomes, progress toward goals and objectives, and benefit of services. (3-29-12)

d. Annual Status Reviews Requirement. If the provider's annual status reviews are not submitted with the annual plan, services will not be authorized at the time of the annual reauthorization. These services may be added to the plan of service only by means of an addendum to the plan in accordance with Subsection 513.10 of these rules. (7-1-16)

e. Reapplication After a Lapse in Service. For participants who are re-applying for service after a lapse in service, the assessor will evaluate whether assessments are current and accurately describe the status of the participant. (3-19-07)

f. Annual Assessment Results. An annual assessment will be completed in accordance with Section 512 of these rules. (3-19-07)

13. Complaints and Administrative Appeals. (3-29-12)

a. Participant complaints about the assessment process, eligibility determination, plan development, quality of service, and other relevant concerns may be referred to the Division of Medicaid. (3-29-12)

b. A participant who disagrees with a Department decision regarding program eligibility and authorization of services under these rules may file an appeal. Administrative appeals are governed by provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-29-12)

514. ADULT DEVELOPMENTAL DISABILITY SERVICES PRIOR AUTHORIZATION: PROVIDER REIMBURSEMENT.

Providers are reimbursed on a fee for service basis based on a participant budget. (3-29-12)

01. Individualized Budget Beginning on October 1, 2006. Beginning October 1, 2006, for DD waiver participants, and beginning January 1, 2007, for all other adult DD participants, the Department sets an individualized budget for each participant according to an individualized measurement of the participant's functional abilities, behavioral limitations, and medical needs, related to the participant's disability. Using these specific participant factors, the budget-setting methodology will correlate a participant's characteristics with the participant's individualized budget amount, so participants with higher needs will be assigned a higher individualized budget amount. (3-29-12)

a. The Department notifies each participant of their set budget amount as part of the eligibility determination process or annual redetermination process. The notification will include how the participant may appeal the set budget amount. (3-29-12)

b. Individualized budgets will be re-evaluated annually. At the request of the participant, the

Department will also re-evaluate the set budget amount when there are documented changes in the participant's condition resulting in a need for services that meet medical necessity criteria, and this is not reflected on the current inventory of individual needs. (3-29-12)

02. Residential Habilitation - Supported Living Acuity-Based Levels of Support. Reimbursement for residential habilitation - supported living is based on the participant's assessed level of support need. All plans of service that include supported living must include community integration goals that provide for maintained or enhanced independence, quality of life, and self-determination. As a participant's independence increases and they are less dependent on supports, they must transition to less intense supports. (3-19-07)

a. High support is for those participants who require twenty-four (24) hour per day supports and supervision as determined by a Department-approved assessment tool. High support allows for a blend of one-to-one and group staffing. Participants authorized at the high support daily rate will not be authorized to receive developmental therapy services, adult day care, or non-medical transportation. These services are included in the high support daily rate. (7-1-18)

b. Intense support is for those exceptional participants who require intense, twenty-four (24) hour per day supports and supervision. This support level typically requires one-on-one staffing, but requests for a blend of one-on-one and group staffing will be reviewed on a case-by-case basis. Participants authorized at the intense support daily rate will not be authorized to receive developmental therapy services, adult day care, or non-medical transportation. These services are included in the intense support daily rate. To qualify for this level of support, participants must be evaluated to meet one or more of the following criteria: (3-19-07)

i. Recent felony convictions or charges for offenses related to the serious injury or harm of another person. These participants must have been placed in a supported living setting directly from incarceration or directly after being diverted from incarceration. (3-19-07)

ii. History of predatory sexual offenses and are at high risk to re-offend based on a sexual offender risk assessment completed by an appropriate professional. (3-19-07)

iii. Documented, sustained history of serious aggressive behavior showing a pattern of causing harm to themselves or others. The serious aggressive behavior must be such that the threat or use of force on another person makes that person reasonably fear bodily harm. The participant must also have the capability to carry out such a threat. The frequency and intensity of this type of aggressive behavior must require continuous monitoring to prevent injury to themselves or others. (3-19-07)

iv. Chronic or acute medical conditions that are so complex or unstable that one-to-one staffing is required to provide frequent interventions and constant monitoring. Without this intervention and monitoring the participant would require placement in a nursing facility, hospital, or ICF/ID with twenty-four (24) hour on-site nursing. Verification of the complex medical condition and the need for this level of service requires medical documentation. (3-19-07)

c. Hourly support is for those individuals that do not meet criteria for either high or intense supports or those individuals who qualify for a daily rate but whose needs can be met with less than twenty-four (24) per day support. The combination of hourly supported living, developmental therapy, community supported employment, and adult day care will not be authorized to exceed the maximum set daily amount established by the Department except when all of the following conditions are met: (3-19-07)

i. The participant is eligible to receive the high support daily rate; (3-19-07)

ii. Community supported employment is included in the plan and is causing the combination to exceed the daily limit; (3-19-07)

iii. There is documentation that the Person-Centered Planning team has explored other options including using lower cost services and natural supports; and (3-19-07)

iv. The participant's health and safety needs will be met using hourly services despite having been

assessed to qualify for twenty-four (24) hour care. (3-19-07)

515. ADULT DEVELOPMENTAL DISABILITY SERVICES: QUALITY ASSURANCE AND IMPROVEMENT.

01. Quality Assurance. Quality Assurance consists of audits and reviews to assure compliance with the Department's rules and regulations. If problems are identified during the review or audit, the provider must implement a corrective action plan within forty-five (45) days after the results are received. The Department may take enforcement actions as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, if the provider fails to comply with the corrective action plan, any term or provision of the provider agreement, or any applicable state or federal regulation. (7-1-16)

02. Quality Improvement. The Department may gather and utilize information from providers to evaluate customer satisfaction, participant satisfaction, participant experience related to home and community-based setting qualities, outcomes monitoring, care management, quality assurance, quality improvement activities, and health and safety. These findings may lead to quality improvement activities to improve provider processes and outcomes for participants. (7-1-16)

03. Exception Review. The Department will complete an exception review of plans or addendums requesting services that exceed the assigned budget authorized by the assessor. Requests for these services will be authorized when one (1) of the following conditions are met: (4-11-15)

a. Services are needed to assure the health or safety of participants and the services requested on the plan or addendum are required based on medical necessity as defined in Section 012 of these rules. (3-28-18)

b. Supported employment services as defined in Section 703 of these rules are needed for the participant to obtain or maintain employment. The request must be submitted on the Department-approved Exception Review Form and is reviewed and approved based on the following: (4-11-15)

i. A supported employment service recommendation must be submitted that includes: recommended amount of service, level of support needed, employment goals, and a transition plan. When the participant is transitioned from the Idaho Division of Vocational Rehabilitation (IDVR) services, the recommendation must be completed by IDVR. When a participant is in an established job, the recommendation must be completed by the supported employment agency identified on the plan of service or addendum; (4-11-15)

ii. The participant's plan of service was developed by the participant and their person-centered planning team and includes a goal for supported employment services. Prior to the submission of an exception review with an addendum, a comprehensive review of all services on the participant's plan must occur. The participant's combination of services must support the increase or addition of supported employment services; and (4-11-15)

iii. An acknowledgment signed by the participant and their legal guardian, if one exists, that additional budget dollars approved to purchase supported employment services must not be reallocated to purchase any other Medicaid service. (4-11-15)

04. Concurrent Review. The Department will obtain the necessary information to determine that participants continue to meet eligibility criteria, participant rights are maintained services continue to be clinically necessary, services continue to be the choice of the participant, services support participant integration, and services constitute appropriate care to warrant continued authorization or need for the service. (7-1-16)

05. Abuse, Fraud, or Substandard Care. Reviewers finding suspected abuse, fraud, or substandard care must refer their findings for investigation to the Department and other regulatory or law enforcement agencies for investigation. (3-19-07)

516. -- 519. (RESERVED)

SUB-PART: CHILDREN'S DEVELOPMENTAL DISABILITIES PRIOR AUTHORIZATION (Sections 520 - 528)

520. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA).
The purpose of the children's DD Prior Authorization is to ensure the provision of the right care, in the right place, at the right price, and with the right outcomes in order to enhance health and safety, and to promote participants' rights, self-determination, and independence. Prior authorization involves the assessment of the need for services, development of a budget, development of a plan of service, prior approval of services, and a quality improvement program. Prior authorization is intended to help ensure the provision of necessary and appropriate services and supports. Services are reimbursable if they are identified on the authorized plan of service and are consistent with the purpose and rule for prior authorization as well as rules for HCBS as described in Section 310 through 317 of these rules, and for the specific services included on the plan. Delivery of each service identified on the plan of service cannot be initiated until after the plan has been signed by the provider agency professional responsible for service provision. (7-1-16)

521. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): DEFINITIONS.
For the purposes of Sections 520 through 528 of these rules, the following terms are used as defined below. (7-1-11)

01. Assessment. A process that is described in Section 522 of these rules for program eligibility and in Section 526 of these rules for plan of service. (7-1-11)

02. Baseline. A participant's skill level prior to intervention written in measurable, behaviorally-stated terms. (7-1-11)

03. Child. A person who is under the age of eighteen (18) years. (7-1-11)

04. Family. The participant and his parent(s) or legal guardian. (7-1-11)

05. Family-Centered Planning Process. A participant-focused planning process directed by the participant or the participant's decision-making authority and facilitated by the paid or non-paid plan developer. The family-centered planning team discusses the participant's strengths, needs, and preferences, including the participant's safety and the safety of those around the participant. This discussion helps the participant or the participant's decision-making authority make informed choices about the services and supports included on the plan of service. (7-1-16)

06. Family-Centered Planning Team. The planning group who helps inform the participant about available services and supports in order to develop the participant's plan of service. This group includes, at a minimum, the child participant, the participant's decision-making authority, and the plan developer. If the participant is unable to attend the family-centered planning (FCP) meeting, the Plan of Service must contain documentation to justify the participant's absence. The family-centered planning team must include people chosen by the participant and the family, or agreed upon by the participant and the family as important to the process. (7-1-16)

07. ICF/ID. Intermediate care facility for persons with intellectual disabilities. (7-1-11)

08. Individualized Family Service Plan (IFSP). An initial or annual plan of service for providing early intervention services to children from birth to three (3) years of age (thirty-six (36) months old). The plan is developed by the family-centered planning team that includes the child participant, the participant's decision-making authority and other planning team members chosen by the participant's decision-making authority, and the Department or its designee. The IFSP must meet the provisions of the Individuals with Disabilities Education Act (IDEA), Part C, and must be developed in accordance with Sections 316 through 317 of these rules. The IFSP may serve as the plan of service if it meets all of the components of the plan of service. The IFSP may also serve as a program implementation plan. (7-1-16)

09. Level of Support. The amount of services and supports necessary to allow the individual to live independently and safely in the community. (7-1-11)

10. Medical, Social, and Developmental Assessment Summary. A form used by the Department to gather a participant's medical, social and developmental history and other summary information. It is required for all participants receiving home and community-based services under a plan of service. The information is used in the assessment and authorization of a participant's services. (7-1-11)

11. Plan Developer. A paid or non-paid person who, under the direction of the participant or the participant's decision-making authority, is responsible for developing a single plan of service and subsequent addenda. The service plan must that cover all services and supports identified during the family-centered planning process and must meet the HCBS person-centered plan requirements as described in Section 317 of these rules. (7-1-16)

12. Plan Monitor. A person who oversees the provision of services on a paid or non-paid basis and is identified on the participant's person-centered plan of service. (7-1-16)

13. Plan of Service. An initial or annual plan of service, developed by the participant, the participant's decision-making authority, and the family-centered planning team, that identifies all services and supports that were determined through a family-centered planning process. The plan development is required in order to provide DD services to children from birth through seventeen (17) years of age. This plan must be developed in accordance with Sections 316 and 317 of these rules. (7-1-16)

14. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. (7-1-11)

15. Prior Authorization (PA). A process for determining a participant's eligibility for services and medical necessity prior to the delivery or payment of services as provided by Sections 520 and 528 these rules. (7-1-11)

16. Provider Status Review. The written documentation that identifies the participant's progress toward goals defined in the plan of service, and demonstrates the continued need for the service. (7-1-11)

17. Right Care. Accepted treatment for defined diagnosis, functional needs and abilities to achieve the desired outcome. The right care is consistent with best practice and continuous quality improvement. (7-1-11)

18. Right Place. Services delivered in the most integrated setting in which they normally occur, based on the participant's choice to promote independence. (7-1-11)

19. Right Price. The most integrated and least expensive services that are sufficiently intensive to address the participant's needs. The amount is based on the individual's needs for services and supports as identified in the assessment. (7-1-11)

20. Right Outcomes. Services based on assessed need that ensure the health and safety of the participant and result in progress, maintenance, or delay or prevention of regression for the participant. (7-1-11)

21. Services. Evaluation, diagnostic, therapy, training, assistance, and support services that are provided to persons with developmental disabilities. (7-1-11)

522. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): ELIGIBILITY DETERMINATION.

The Department will make the final determination of a child's eligibility, based upon the assessments administered by the Department. Initial and annual assessments must be performed by the Department or its contractor. The purpose of the eligibility assessment is to determine a participant's eligibility for developmental disabilities services in accordance with Section 66-402, Idaho Code, and Sections 500 through 506 of these rules, to determine a participant's eligibility for children's home and community-based state plan option services in accordance with Section 662 of these rules, and to determine a participant's eligibility for ICF/ID level of care for children's waiver services in accordance with Section 682 of these rules. (7-1-11)

01. Initial Eligibility Assessment. For new applicants, an assessment must be completed by the

Department or its contractor within thirty (30) calendar days from the date a complete application is submitted. (7-1-11)

02. Annual Eligibility Determination. Eligibility determination must be completed annually for current participants. The assessor must reassess the participant, or establish and document that the existing assessments reflect the participant's current level of care needs. At least sixty (60) calendar days before the expiration of the current plan of service: (7-1-11)

a. The eligibility determination process must be completed to determine level of care needs; and (7-1-11)

b. The assessor must provide the results of the eligibility determination to the participant. (7-1-11)

03. Determination of Developmental Disability Eligibility. (7-1-11)

a. The assessments that are required and completed by the Department or its contractor for determining a participant's eligibility for developmental disabilities services must include: (7-1-11)

i. Medical, Social, and Developmental Assessment Summary; (7-1-11)

ii. A functional assessment that reflects the participant's current functioning. The Department or its contractor will administer a functional assessment for use in initial eligibility determination of developmental disability eligibility. Thereafter, a new functional assessment will be required if the assessor determines that additional documentation is necessary to determine the participant's level of care criteria. (7-1-11)

b. The Department or its contractor must obtain the following: (7-1-11)

i. A medical assessment that contains medical information that accurately reflects the current status of the participant or establishes categorical eligibility in accordance with Section 66-402(5)(a), Idaho Code; or (7-1-11)

ii. The results of psychometric testing if eligibility for developmental disabilities services is based on intellectual disability and there is no prior testing, or prior testing is inconclusive or invalid. Initial eligibility determinations also require documentation of diagnosis for participants whose eligibility is based on developmental disabilities other than intellectual disability. (7-1-11)

04. ICF/ID Level of Care Determination for Waiver Services. The Department or its contractor will determine ICF/ID level of care for children in accordance with Section 584 of these rules. (7-1-11)

05. Determination for Children's Home and Community Based State Plan Option. The Department or its contractor will determine if a child meets the established criteria necessary to receive children's home and community based state plan option services in accordance with Section 662 of these rules. (7-1-11)

523. (RESERVED)

524. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): COVERAGE AND LIMITATIONS.
The scope of these rules defines prior authorization for the following Medicaid developmental disabilities services for children included in Section 310 of these rules: (7-1-16)

01. Children's Home and Community Based State Plan Option Services. Children's home and community based state plan option services as described in Sections 660 through 666 of these rules; and (7-1-11)

02. Children's DD Waiver Services. Children's DD waiver services as described in Sections 680 through 686 of these rules. (7-1-11)

525. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): PROCEDURAL REQUIREMENTS.

Prior to the development of the plan of service, the plan developer will gather and make referrals for the following information to facilitate the family-centered planning process: (7-1-16)

01. Eligibility Determination Documentation. Eligibility determination documentation completed by the Department or its contractor as defined in Subsection 522.03 of these rules. (7-1-11)

02. History and Physical. A current history and physical completed by a practitioner of the healing arts is required at least annually or more frequently as determined by the practitioner. For participants in Healthy Connections, the Healthy Connections physician must conduct the history and physical, and may refer the participant for other evaluations. (7-1-11)

03. Discipline-Specific Assessments. Participants must be referred for an occupational therapy, physical therapy, or speech-language pathology assessment when the participant has a targeted need in one of these disciplines. The assessment is used to guide the provision of services identified on the plan of service. (7-1-11)

04. Additional Information. Gather assessments and information related to the participant's medical conditions, risk of deterioration, living conditions, individual goals, and behavioral or psychiatric needs. (7-1-11)

526. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): PLAN OF SERVICE PROCESS.

In collaboration with the participant, the Department must ensure that the participant has one (1) plan of service. This plan of service is developed within the individualized participant budget referred to in Section 527 of these rules and must identify all services and supports. The participant and his parent or legal guardian may develop their own plan or use a paid or non-paid plan developer to assist with plan development. The plan of service must identify services and supports if available outside of Medicaid-funded services that can help the participant meet desired goals. (7-1-11)

01. Plan Development. Paid plan development must be provided by the Department or its contractor in accordance with Section 316 of these rules. Non-paid plan development may be provided by the family, or a person of their choosing, in accordance with the Home and Community Based Services (HCBS) regulations in Section 316 of these rules, when this person is not a paid provider of services identified on the child's plan of service. (7-1-16)

a. The plan developer is responsible for the documentation of the developed plan and any subsequent plan changes as determined by the family-centered planning team. (7-1-16)

b. Individuals responsible for facilitating the person-centered planning meeting and developing the plan of service cannot be providers of direct services to the participant. (7-1-16)

02. Plan of Service Development. The plan of service must meet the requirements described in Section 317 of these rules. The service plan must be developed with the child participant, the participant's decision-making authority, and facilitated by the Department or its designee. If the participant is unable to attend the family-centered planning (FCP) meeting, the Plan of Service must contain documentation to justify the participant's absence. With the decision-making authority's consent, the family-centered planning team may include other family members or individuals who are significant to the participant. (7-1-16)

a. In developing the plan of service, the family-centered planning team must identify any services and supports available outside of Medicaid-funded services that can help the participant meet desired goals. The development of the service plan must be conducted in accordance with the Home and Community Based Services requirements in Section 317 of these rules. (7-1-16)

b. The plan of service must identify, at a minimum, the type of service to be delivered, goals and desired outcomes to be addressed within the plan year, strengths and preferences of the participant, including the participant's safety and the safety of those around the participant, target dates, and methods for collaboration. (7-1-16)

03. No Duplication of Services. The plan developer must ensure that there is no duplication of services. (7-1-11)

04. Plan Monitoring. The family-centered planning team must identify the frequency of monitoring, which must be at least every six (6) months, and document the plan monitor's name along with the monitoring frequency on the plan. The plan developer is considered the plan monitor and must meet face-to-face with the participant and the participant's decision-making authority at least annually. Plan monitoring must include the following: (7-1-16)

a. Review of the plan of service with the participant and the participant's decision-making authority to identify the current status of programs and changes if needed; (7-1-16)

b. Maintain contact with service providers to identify and remediate barriers to service provision; (7-1-16)

c. Discuss with the participant and his decision-making authority their satisfaction regarding quality and quantity of services; and (7-1-16)

d. Review of provider status reviews for compliance with the plan of service. (7-1-16)

05. Provider Status Reviews. The service providers in Sections 664 and 684 of these rules must report to the plan monitor the participant's progress toward goals. The provider must complete a six (6) month and annual provider status review. The provider status review must be submitted to the plan monitor within forty-five (45) calendar days prior to the expiration of the existing plan of service. (7-1-11)

06. Informed Consent. The participant and the participant's decision-making authority must make decisions regarding the type and amount of services required. (7-1-16)

a. Prior to plan development, the plan developer must document that they have provided information and support to the participant and the participant's decision-making authority to maximize their ability to make informed choices regarding the services and supports they receive and from whom. (7-1-16)

b. During plan development and amendments, planning team members must document whether they believe the plan is in accordance with the participant's choices of the services and supports identified in the meeting and whether they believe the plan meets the needs of the participant. (7-1-16)

c. If there is a conflict that cannot be resolved among the family-centered planning members or if the participant or the participant's decision-making authority does not believe the plan meets the participant's needs or represents the participant's choice, the plan or amendment may be referred to the Bureau of Developmental Disability Services to negotiate a resolution with the planning team. (7-1-16)

07. Program Implementation Plan. Providers of children's waiver services listed under Section 684 of these rules must develop an implementation plan that identifies specific objectives that demonstrate how the provider will assist the participant to meet the participant's goals and needs identified in the plan of service. (7-1-13)

a. The implementation plan must be completed within fourteen (14) calendar days after the initial provision of service, and revised whenever participant needs change. (7-1-11)

b. Documentation of implementation plan changes will be included in the participant's record. This documentation must include, at a minimum, the reason for the change, documentation of coordination with other service providers (where applicable), the date the change was made, and the signature of the person making the change complete with his title and the date signed. (7-1-11)

08. Addendum to the Plan of Service. A plan of service may be adjusted during the year with an addendum to the plan. These adjustments must be based on changes in a participant's need or demonstrated outcomes that result in the need for an addition or reduction of a service, or a change in a provider. Additional assessments or information may be clinically necessary. Adjustment of the plan of service requires the decision-making authority's

signature and prior authorization by the Department. The Department will distribute the addendum to the providers involved in the addendum's implementation. Upon receipt by the provider, the addendum must be reviewed, signed, and returned to the Department, with a copy maintained in the participant's record. (7-1-16)

09. Annual Reauthorization of Services. A participant's plan of service must be reauthorized annually. The Department must review and authorize the new plan of service prior to the expiration of the current plan. (7-1-11)

a. Annual Eligibility Determination Results. An annual determination must be completed in accordance with Section 522 of these rules. (7-1-11)

b. Plan Developer Responsibilities for Annual Reauthorization. A new plan of service must be provided to the Department by the plan developer at least ten (10) calendar days prior to the expiration date of the current plan. Prior to this, the plan developer must: (7-1-13)

i. Notify the providers who appear on the plan of service of the annual review date. (7-1-11)

ii. Obtain a copy of the current annual provider status review from each provider for use by the family-centered planning team. Each provider status review must meet the requirements in Subsection 526.06 of these rules. (7-1-11)

iii. Convene the family-centered planning team to develop a new plan of service. (7-1-11)

c. Evaluation and Prior Authorization of the Plan of Service. The plan of service must be evaluated and prior authorized in accordance with the requirements in Sections 520 and 526 of these rules. (7-1-11)

d. Adjustments to the Annual Budget and Services. The annual budget may be adjusted when there are documented changes that may support placement in a different budget category as identified in Section 527 of these rules. Services may be adjusted at any time during the plan year. (7-1-13)

e. Reapplication After a Lapse in Service. For participants who are re-applying for service after at least a thirty (30) calendar day lapse in service, the assessor must evaluate whether assessments are current and accurately describe the status of the participant. (7-1-11)

527. CHILDREN'S DEVELOPMENTAL DISABILITY PRIOR AUTHORIZATION (PA): PROVIDER REIMBURSEMENT.

Providers are reimbursed on a fee-for-service basis for services identified on the participant's plan of service and within the participant's individualized budget. The Department will monitor the budget setting methodology on an ongoing basis to ensure that participant needs are accurately reflected in the methodology. (7-1-11)

01. Individualized Budget Methodology. The following five (5) categories are used when determining individualized budgets for children with developmental disabilities: (7-1-11)

a. HCBS State Plan Option. Children meeting developmental disabilities criteria. (7-1-11)

b. Children's DD Waiver - Level I. (7-1-11)

i. Children meeting ICF/ID level of care criteria who qualify based on functional limitations when their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; or (7-1-11)

ii. Children who have an overall age equivalency up to fifty-three percent (53%) of their chronological age when combined with a General Maladaptive Index between minus seventeen (-17), and minus twenty-one (-21) inclusive. (7-1-11)

c. Children's DD Waiver - Level II. (7-1-11)

i. Children meeting ICF/ID level of care criteria who qualify based on functional limitations when their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; and (7-1-11)

ii. Have an autism spectrum disorder diagnosis. (7-1-11)

d. Children's DD Waiver - Level III. Children meeting ICF/ID level of care criteria who qualify based on maladaptive behaviors when their General Maladaptive Index is minus twenty-two (-22) or less. (7-1-11)

e. Act Early Waiver. (7-1-11)

i. Children age three (3) through six (6) meeting ICF/ID level of care criteria who qualify based on maladaptive behaviors when their General Maladaptive Index is minus twenty-two (-22) or less, and their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; or (7-1-11)

ii. Children age three (3) through six (6) meeting ICF/ID level of care criteria who have an autism spectrum disorder diagnosis. (7-1-11)

02. Participant Notification of Budget Amount. The Department notifies each participant of his set budget amount as part of the eligibility determination process. The notification will include how the participant may appeal the set budget amount. (7-1-11)

03. Annual Re-Evaluation. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category as identified in this rule. (7-1-13)

528. CHILDREN'S DEVELOPMENTAL DISABILITIES PRIOR AUTHORIZATION (PA): DEPARTMENT'S QUALITY ASSURANCE AND IMPROVEMENT PROCESSES.

01. Quality Assurance. Quality Assurance consists of audits and reviews to ensure compliance with the Department's rules and regulations. If problems are identified during the review or audit, the provider must implement a corrective action plan within forty-five (45) calendar days after the results are received. The Department may terminate authorization of service or the provider agreement for providers who do not comply with the corrective action plan. If the Department finds a provider's deficiency or deficiencies immediately jeopardize the health or safety of its participants, the Department may immediately terminate the provider agreement. (7-1-11)

02. Quality Improvement. The Department may gather and utilize information from participants and providers to evaluate customer satisfaction, participant satisfaction, outcomes monitoring, care management, quality assurance, quality improvement activities, and health and safety. These findings lead to quality improvement activities to improve provider processes and outcomes for participants. (7-1-11)

03. Plan of Service Review. The Department will obtain the necessary information to determine that participants continue to meet eligibility criteria, services continue to be clinically necessary, services continue to be the choice of the participant, and services constitute appropriate care to warrant continued authorization or need for the service. (7-1-11)

04. HCBS Compliance. Providers of children's developmental disability services are responsible for ensuring that they meet the setting quality requirements described in Section 313 of these rules, as applicable, and must comply with associated Department quality assurance activities. The Department may take enforcement actions as described in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 205, if the provider fails to comply with any term or provision of the provider agreement, or any applicable state or federal regulation. (7-1-16)

529. -- 579. (RESERVED)

580. INTERMEDIATE CARE FACILITIES FOR PERSONS WITH INTELLECTUAL DISABILITIES (ICF/ID).
The Department will pay for services in an ICF/ID. An ICF/ID is an intermediate care facility whose primary purpose

is to provide habilitative services and maintain optimal health status for individuals with intellectually disabilities or persons with related conditions. (3-19-07)

581. ICF/ID: ELIGIBILITY.
Entitlement to medical assistance participation in the cost of long-term care exists when the individual is eligible for medical assistance and the Department has determined that the individual meets the criteria for ICF/ID services. Entitlement will be determined prior to authorization of payment for such care for an individual who is either a participant of or an applicant for medical assistance. (3-29-12)

582. ICF/ID: DETERMINATION OF ENTITLEMENT FOR MEDICAID PAYMENT.
Applications for Medicaid payment of an individual with an intellectual disability or related condition, in an ICF/ID will be through the Department. All required information necessary for a medical entitlement determination must be submitted to the Department before a determination and approval for payment is made. The effective date of Medicaid payment will be no earlier than the physician's signed and dated certification for ICF/ID level of care. (3-29-12)

583. ICF/ID: INFORMATION REQUIRED FOR DETERMINATION.
Required information includes a medical evaluation, an initial plan of care, social evaluation, psychological evaluation, and initial plan of care by ICF/ID. (3-19-07)

01. Medical Evaluation. A complete medical evaluation, current within ninety (90) days of admission, signed and dated by the physician, an electronic physician's signature is permissible, that includes: (3-19-07)

a. Diagnosis (primary and secondary); (3-19-07)

b. Medical findings and history; (3-19-07)

c. Mental and physical functional capacity; (3-19-07)

d. Prognosis; mobility status; and (3-19-07)

e. A statement by the physician certifying the level of care needed as ICF/ID for a specific participant. (3-19-07)

02. Initial Plan of Care by Physicians. An initial plan of care, current within ninety (90) days of admission and signed and dated by the physician that includes: (3-19-07)

a. Orders for medications and treatments; (3-19-07)

b. Diet; and (3-19-07)

c. Professional rehabilitative and restorative services and special procedures, where appropriate. (3-19-07)

03. Social Evaluation. A social evaluation, current within ninety (90) days of admission, that includes : (3-19-07)

a. Condition at birth; (3-19-07)

b. Age at onset of condition; (3-19-07)

c. Summary of functional status, such as skills level, activities of daily living; and (3-19-07)

d. Family social information. (3-19-07)

04. Psychological Evaluation. A psychological evaluation conducted by a psychologist current within ninety (90) days of admission, that includes: (3-19-07)

a. Diagnosis; (3-19-07)

b. Summary of developmental findings. Instead of a psychological, infants under three (3) years of age may be evaluated by a developmental disability specialist utilizing the developmental milestones congruent with the age of the infant; (3-19-07)

c. Mental and physical functioning capacity; and (3-19-07)

d. Recommendation concerning placement and primary need for active treatment. (3-19-07)

05. Initial Plan of Care by ICF/ID. An initial plan of care developed by the admitting ICF/ID. (3-19-07)

584. ICF/ID: CRITERIA FOR DETERMINING ELIGIBILITY.
Individuals who have intellectual disabilities or a related condition as defined in Section 66-402, Idaho Code, and Sections 500 through 503 of these rules, must be determined by an interdisciplinary team to need the consistent, intense, frequent services including active treatment provided in an ICF/ID or receive services under one of Idaho's programs to assist individuals with intellectual disabilities or a related condition to avoid institutionalization in an ICF/ID, as indicated in Section 584.02 of these rules. To meet Title XIX and Title XXI entitlement for ICF/ID level of care and be eligible for services provided in an ICF/ID. The following must be met in Subsections 584.01 through 584.08 of these rules. (3-19-07)

01. Diagnosis. Persons must be financially eligible for Medicaid; must have a primary diagnosis of being intellectually disabled or have a related condition defined in Section 66-402, Idaho Code and Section 500 through 506 of these rules; and persons must qualify based on functional assessment, maladaptive behavior, a combination of both, or medical condition. (3-19-07)

02. Active Treatment. Persons living in an ICF/ID, must require and receive intensive inpatient active treatment as defined in Section 010 of these rules, to advance or maintain their functional level. (3-19-07)

a. Active treatment does not include: parenting activities directed toward the acquisition of age-appropriate developmental milestones; services to maintain generally independent individuals who are able to function with little supervision or in the absence of a continuous active treatment program or services; interventions that address age-appropriate limitations; or general supervision of children whose age is such that such supervision is required by all children of the same age. (3-19-07)

b. The following criteria/components will be utilized when evaluating the need for active treatment: (3-19-07)

i. Evaluation. Complete medical, social, and psychological evaluations. These evaluations must clearly indicate the functional level of the participant and the interventions needed; and (3-19-07)

ii. Plan of Care. A written plan of care which sets forth initial goals and objectives, specifies further evaluations to be done, and training programs to be developed. (3-19-07)

03. Require Certain Level of Care. Persons living in the community must require the level of care provided in an ICF/ID, including active treatment, and in the absence of available intensive alternative services in the community, would require institutionalization, other than services in an institution for mental disease, in the near future. (3-19-07)

04. Care for a Child. The department may provide Medicaid to a child eighteen (18) years of age or younger, who would be eligible for Medicaid if they were in a medical institution and who are receiving, while living at home, medical care that would be provided in a medical institution, if the Department determines that the child requires the level of care provided in an ICF/ID. (3-19-07)

05. Functional Limitations. (3-19-07)

a. Persons Sixteen Years of Age or Older. Persons sixteen (16) years of age or older may qualify based on their functional skills. Persons with an age equivalency composite score of eight (8) years and zero (0) months or less on a full scale functional assessment using a Department-approved assessment tool would qualify; or (7-1-18)

b. Persons Under Sixteen Years of Age. Persons under sixteen (16) years of age qualify if their composite full scale functional age equivalency is less than fifty percent (50%) of their chronological age; or(7-1-18)

06. Maladaptive Behavior. (3-19-07)

a. A Minus Twenty-Two (-22) or Below Score. Individuals may qualify for ICF/ID level of care based on maladaptive behavior. Persons will be eligible if their General Maladaptive Index on a Department-approved assessment tool is minus twenty-two (-22) or less; or (7-1-18)

b. Above a Minus Twenty-Two (-22) Score. Individuals who score above minus twenty-two (-22) may qualify for ICF/ID level of care if they engage in aggressive or self injurious behaviors of such intensity that the behavior seriously endangers the safety of the individual or others, the behavior is directly related to developmental disability, and the person requires active treatment to control or decrease the behavior; or (3-19-07)

07. Combination Functional and Maladaptive Behaviors. Persons may qualify for ICF/ID level of care if they display a combination of criteria as described in Subsections 584.05 and 584.06 of these rules at a level that is significant and it can been determined they are in need of the level of services provided in an ICF/ID, including active treatment services. Significance would be defined as: (3-19-07)

a. Persons Sixteen Years of Age or Older. For persons sixteen (16) years of age or older, an overall age equivalency up to eight and one-half (8 1/2) years is significant in the area of functionality when combined with a General Maladaptive Index on a Department-approved assessment tool up to minus seventeen (-17), minus twenty-two (-22) inclusive; or (7-1-18)

b. Persons Under Sixteen Years of Age. For persons under sixteen (16) years of age, an overall age equivalency up to fifty-three percent (53%) of their chronological age is considered significant when combined with a General Maladaptive Index on a Department-approved assessment tool between minus seventeen (-17), and minus twenty-one (-21) inclusive; or (7-1-18)

08. Medical Condition. Individuals may meet ICF/ID level of care based on their medical condition if the medical condition significantly affects their functional level/capabilities and it can be determined that they are in need of the level of services provided in an ICF/ID, including active treatment services. (3-19-07)

09. Annual Redetermination for ICF/ID Level of Care for Community Services. The *BLTC* staff will redetermine the participant's continuing need for ICF/ID level of care for community services. Documentation will consist of the completion of a redetermination statement on the "Level of Care" form HW0083. Such documentation will be accomplished no later than every three hundred sixty-five (365) days from the most recent determination. *( )*

a. Home Care for Certain Disabled Children (HCDC). Persons receiving HCDC Medicaid services through ICF/ID eligibility, will receive services until the end of the month in which the redetermination was made. These individuals must receive ten (10) days notification of termination of services. If the redetermination is made less than ten (10) days from the end of the month, payment continues until the end of the following month. (3-19-07)

b. Developmentally Disabled Waiver. Individuals receiving developmentally disabled waiver services will have thirty (30) days from the time of the determination to transition to other community supports. (3-19-07)

585. ICF/ID: COVERAGE REQUIREMENTS AND LIMITATIONS.
The minimum content of care and services for ICF/ID must include the services listed below and social and recreational activities. (3-19-07)

01. Care and Services Provided. (3-19-07)

a. The minimum content of care and services for ICF/ID participants must include the following: (3-19-07)

i. Room and board; and (3-19-07)

ii. Bed and bathroom linens; and (3-19-07)

iii. Nursing care, including special feeding if needed; and (3-19-07)

iv. Personal services; and (3-19-07)

v. Supervision as required by the nature of the participant's illness; and (3-19-07)

vi. Special diets as prescribed by a participant's physician; and (3-19-07)

vii. All common medicine chest supplies that do not require a physician's prescription including mouthwashes, analgesics, laxatives, emollients, burn ointments, first aid cream, protective creams and liquids, cough and cold preparations, and simple eye preparations; and ( )

viii. Dressings; and (3-19-07)

ix. Administration of intravenous, subcutaneous, or intramuscular injections and infusions, enemas, catheters, bladder irrigations, and oxygen; and (3-19-07)

x. Application or administration of all drugs; and (3-19-07)

xi. All medical supplies including gauzes, bandages, tapes, compresses, cottons, sponges, hot water bags, ice bags, disposable syringes, thermometers, cellucotton or any other type of pads used to save labor or linen, and disposable gloves; and ( )

xii. Social and recreational activities; and (3-19-07)

xiii. Items that are utilized by individual participants but that are reusable and expected to be available, such as bed rails, canes, crutches, walkers, wheel chairs, traction equipment, and other durable medical equipment. (3-19-07)

02. Wheelchairs. DHW authorized purchases of specialized wheelchair and seating systems, and any authorized repairs related to the seating system, that are paid to a medical vendor directly by DHW will not be included in the content of care of ICFs/ID. The specialized wheelchairs and seating systems must be designed to fit the needs of a specific ICF/ID resident and cannot be altered to fit another participant cost effectively. (3-19-07)

586. ICF/ID: PROCEDURAL RESPONSIBILITIES.
Each long term care facility administrator, or their authorized representative, must report to the appropriate Field Office within three (3) working days of the date the facility has knowledge of the following. (3-19-07)

01. Readmissions or Discharges. Any readmission or discharge of a participant, and any temporary absence of a participant due to hospitalization or therapeutic home visit. (3-19-07)

02. Changes to Participant's Income. Any changes in the amount of a participant's income. (3-19-07)

03. Participant's Account Exceeds Limitations. When a participant's account has exceed the following amount; (3-19-07)

a. For a single individual, one thousand eight hundred dollars ($1,800);or (3-19-07)

b. For a married couple, two thousand eight hundred dollars ($2,800). (3-19-07)

04. Other Financial Information for Participant. Other information about a participant's finances that may potentially affect eligibility for medical assistance. (3-19-07)

05. Annual Recertification Requirement. It is the responsibility of the ICF/ID to assure that the recertification is accomplished by the physician, physician's assistant or nurse practitioner no later than every three hundred sixty-five (365) days. (3-19-07)

a. Should the Medicaid Program receive a financial penalty from the Department of Health and Human Services due to the lack of appropriate recertification on the part of an ICF/ID, then such amount of money will be withheld from facility payments for services provided to Medicaid participants. For audit purposes, such financial losses are not reimbursable as a reasonable cost of participant care. Such losses cannot be made the financial responsibility of the Department's participant. (3-19-07)

b. Persons living in an ICF/ID will be transitioned to a less restrictive environment within thirty (30) days of the determination that the participant does not meet ICF/ID level of care. (3-19-07)

06. Level of Care Change. If during an on-site review of a resident's medical record and an interview with or observation of the resident an IOC/UC reviewer determines there is a change in the resident's status and the resident no longer meets criteria for ICF/ID care, the tentative decision is: (3-19-07)

a. Discussed with the facility administrator or the director of nursing services; (3-19-07)

b. The resident's physician is notified of the tentative decision; (3-19-07)

c. The case is submitted to the Regional Review Committee for a final decision; and (3-19-07)

d. The effective date of loss of payment will be no earlier than ten (10) days following the date of mailing of notice to the participant by the Eligibility Examiner. (3-19-07)

07. Appeal of Determinations. The resident or their representative may appeal the decisions under IDAPA 16.05.03, “Contested Case Proceedings and Declaratory Rulings.” (3-19-07)

08. Supplemental On-Site Visit. The Regional Nurse Reviewer may conduct utilization control supplemental on-site visits in an ICF/ID when indicated. Some indications may be: (3-19-07)

a. Follow-up activities; (3-19-07)

b. A verification of a participant's appropriateness of placement or services; and (3-19-07)

c. Conduct complaint investigations at the Department's request. (3-19-07)

09. Determination of Entitlement to Long-Term Care. Entitlement to medical assistance participation in the cost of long-term care exists when the individual is eligible for medical assistance and the Regional Nurse Reviewer has determined that the individual meets the criteria for ICF/ID care and services. Entitlement will be determined prior to authorization of payment for such care for an individual who is either a participant of or an applicant for medical assistance. (3-19-07)

a. The criteria for determining a Participant's need for intermediate care for the intellectually disabled is described in Sections 583 and 584 of these rules. In addition, the IOC/UC nurse must determine whether a Participant's needs could be met by non-participant inpatient alternatives including remaining in an independent living arrangement or residing in a room and board situation. (3-19-07)

b. The participant can select any certified facility to provide the care required. (3-19-07)

c. The final decision as to the level of care required by a participant must be made by the IOC/UC

Nurse. (3-19-07)

d. The final decision as to the need for DD or MI active treatment will be made by the appropriate Department staff as a result of the Level II screening process. (3-19-07)

e. No payment will be made by the Department on behalf of any eligible participant to any long-term care facility that, in the judgment of the Inspection Of Care/Utilization Control Team is admitting individuals for care or services that are beyond the facility's licensed level of care or capability. (3-19-07)

10. Authorization of Long-Term Care Payment. If it has been determined that a person eligible for medical assistance is entitled to medical assistance participation in the cost of long-term care, and that the facility selected by the participant is licensed and certified to provide the level of care the participant requires, the Field Office will forward to such facility an "Authorization for Long-Term Care Payment" form HW 0459. (3-19-07)

587. ICF/ID: PROVIDER QUALIFICATIONS AND DUTIES.

01. Provider Application and Certification. A facility must apply to participate as an ICF/ID facility. (3-19-07)

02. Licensure and Certification. (3-19-07)

a. Upon receipt of an application from a facility, the Licensing and Certification Agency will conduct a survey to determine the facility's compliance with certification standards for the type of care the facility proposes to provide to participants. (3-19-07)

b. If the Licensing and Certification Agency determines that a facility meets Title XIX certification standards for ICF/ID, the Department will certify to the appropriate branch of government that the facility meets the standards for ICF/ID types of care. (3-19-07)

c. Upon receipt of the certification from the Licensing and Certification Agency, the Bureau may enter into a provider agreement with the long-term care facility. (3-19-07)

d. After the provider agreement has been executed by the Facility Administrator and by the *bureau c*hief, one (1) copy *will* be sent by certified mail to the facility and the original is to be retained by the Bureau. *( )*

03. Direct Care Staff. Direct Care staff in an ICF/ID are defined as the present on-duty staff calculated over all shifts in a twenty-four (24) hour period for each defined residential living unit. Direct care staff in an ICF/ID include those employees whose primary duties include the provision of hands-on, face-to-face contact with the participants of the facility. This includes both regular and live-in/sleep-over staff. It excludes professionals such as psychologists, nurses, and others whose primary job duties are not the provision of direct care, as well as managers/ supervisors who are responsible for the supervision of staff. (3-19-07)

04. Direct Care Staffing Levels. The reasonable level of direct care staffing provided to a participant in an ICF/ID setting will be dependent upon the level of involvement and the need for services and supports of the participant as determined by the Department. Level of involvement relates to the severity of a participant's intellectual disability. Those levels, in decreasing level of severity, are: profound, severe, moderate, and mild. Staffing levels will be subject to the following constraints: (3-19-07)

a. Direct care staffing for a severely and profoundly intellectually disabled participant residing in an ICF/ID must be a maximum of sixty-eight point twenty five (68.25) hours per week. (3-19-07)

b. Direct care staffing for a moderately intellectually disabled participant residing in an ICF/ID must be limited to a maximum of fifty-four point six (54.6) hours per week. (3-19-07)

c. Direct care staffing for a mildly intellectually disabled participant residing in an ICF/ID must be limited to a maximum of thirty four point one two five (34.125) hours per week. (3-19-07)

05. Direct Care Staff Hours. The annual sum total level of allowable direct care staff hours for each residential living unit will be determined in the aggregate as the sum total of the level of staffing allowable for each resident residing in that residential living unit as determined in Subsection 587.04 of these rules. (3-19-07)

06. Phase-In Period. If enactment of Subsection 587.04 of these rules requires a facility to reduce its level of direct care staffing, a six (6) month phase-in period will be allowed from the date of the enactment of this section, without any resulting disallowances. Should disallowances result, the hourly rate of direct care staff used in determining disallowances will be the weighted average of the hourly rates paid to a facility's direct care staff, plus the associated benefits, at the end of the phase-in period. (3-19-07)

07. Exceptions. Should a provider be able to show convincing evidence documenting that the annual aggregate direct care hours as allowed under this section will compromise their ability to supply adequate care to the participants, as required by federal regulations and state rules, within an ICF/ID residential living unit and that other less costly options would not alleviate the situation, the Department will approve an additional amount of direct care hours sufficient to meet the extraordinary needs. This adjustment will only be available up through September 30, 1996. (3-19-07)

588. ICF/ID: PROVIDER REIMBURSEMENT.

01. Payment Methodology. ICF/ID facilities will be reimbursed in accordance with the methodology listed in Sections 588 through 633 of these rules. (3-19-07)

02. Date of Discharge. Payment by the Department for the cost of ICF/ID care is to include the date of the participant's discharge only if the discharge occurred after 3 p.m. and is not discharged to a related provider. If a Medicaid patient dies in an ICF/ID, their date of death is covered regardless of the time of occurrence. If an admission and a discharge occur on the same date, then one (1) day of care will be deemed to exist. (3-19-07)

589. ICF/ID: REASONABLE COST PRINCIPLES.

To be allowable, costs must be reasonable, ordinary, necessary and related to patient care. It will be expected that providers will incur costs in such a manner that economical and efficient delivery of quality health care to beneficiaries will result. (3-19-07)

01. Application of Reasonable Cost Principles. (3-19-07)

a. Reasonable costs of any services are determined in accordance with rules found in the Provider Reimbursement Manual (PRM), Sections 100 through 2600, as modified by the exceptions contained herein, is used to identify cost items to be included on Idaho's Uniform Cost Report. (3-19-07)

i. Reasonable cost takes into account both direct and indirect costs of providers of services, including normal standby costs. (3-19-07)

ii. The objectives of these methods are that: first, the costs with respect to individuals covered by the program will not be borne by others not so covered. Second, the costs with respect to individuals not covered will not be paid by the program. (3-19-07)

b. Costs may vary from one institution to another because of a variety of factors. It is the intent of the program that providers will be reimbursed the actual operating costs of providing high quality care, unless such costs exceed the applicable maximum base rate developed pursuant to provisions of Title 56, Chapter 1, Idaho Code, or are unallowable by application of promulgated regulation. (3-19-07)

c. Implicit in the intention that actual operating costs be paid to the extent they are reasonable is the expectation that the provider seeks to minimize its costs and that its actual operating costs do not exceed what a prudent and cost-conscious buyer pays for a given item or service. (3-19-07)

d. If costs are determined to exceed the level that such buyers incur, in the absence of clear evidence that the higher costs were unavoidable, the excess costs are not reimbursable. (3-19-07)

02. Costs Related to Patient Care. These include all necessary and proper costs in developing and maintaining the operation of patient care facilities. Necessary and proper costs related to patient care are usually costs that are common and accepted occurrences in the field of the provider's activity. They include costs such as depreciation, interest expense, nursing costs, maintenance costs, administrative costs, costs of employee pension plans, normal standby costs, and others. ( )

03. Costs Not Related to Patient Care. Costs not related to patient care are costs that are not appropriate or necessary and proper in developing and maintaining the operation of patient care facilities and activities. Such costs are not allowable in computing reimbursable costs. ( )

04. Form and Substance. Substance of transactions will prevail over the form. Financial transactions will be disallowed to the extent that the substance of the transaction fails to meet reasonable cost principles or comply with rules and policy. ( )

590. ICF/ID: ALLOWABLE COSTS.
The following definitions and explanations apply to allowable costs: (3-19-07)

01. Accounts Collection. The costs related to the collection of past due program related accounts, such as legal and bill collection fees, are allowable. (3-19-07)

02. Auto and Travel Expense. Maintenance and operating costs of a vehicle used for patient care purposes and travel expense related to patient care are reimbursable. The allowance for mileage reimbursement cannot exceed the amount determined reasonable by the Internal Revenue Service for the period being reported. Meal reimbursement is limited to the amount that would be allowed by the state for a state employee. (3-19-07)

03. Bad Debts. Payments for efforts to collect past due Title XIX and Title XXI accounts are reimbursable. This may include the fees for lawyers and collection agencies. Other allowances for bad debt and bad debt write-off are not allowable. However, Title XIX and Title XXI coinsurance amounts are one hundred percent (100%) reimbursable as provided in PRM, Section 300. (3-19-07)

04. Bank and Finance Charges. Charges for routine maintenance of accounts are allowable. Penalties for late payments, overdrafts, etc., are not allowable. (3-19-07)

05. Compensation of Owners. An owner may receive reasonable compensation for services subject to the limitations in this chapter, to the extent the services are actually performed, documented, reasonable, ordinary, necessary, and related to patient care. Allowable compensation cannot exceed the amount necessary to attract assistance from parties not related to the owner to perform the same services. The nature and extent of services must be supported by adequate documentation including hours performing the services. Where an average industry wide rate for a particular function can be determined, reported allowable owner compensation cannot exceed the average rate. Compensation to owners, or persons related to owners, providing administrative services is further limited by provisions in Section 597 of these rules. In determining the reasonableness of compensation for services paid to an owner or a person related to an owner, compensation is the total of all benefits or remuneration paid to or primarily for the benefit of the owner regardless of form or characterization. It includes, but is not limited to, the following: (3-19-07)

a. Salaries wages, bonuses and benefits that are paid or are accrued and paid for the reporting period within one (1) month of the close of the reporting period. (3-19-07)

b. Supplies and services provided for the owner's personal use. (3-19-07)

c. Compensation paid by the facility to employees for the sole benefit of the owner. (3-19-07)

d. Fees for consultants, directors, or any other fees paid regardless of the label. (3-19-07)

e. Keyman life insurance. (3-19-07)

f. Living expenses, including those paid for related persons. (3-19-07)

06. Contracted Service. All services that are received under contract arrangements are reimbursable to the extent that they are related to patient care or the sound conduct and operation of the facility. (3-19-07)

07. Depreciation. Depreciation on buildings and equipment is an allowable property expense subject to Section 630 of these rules. Depreciation expense is not allowable for land. Lease-hold improvements may be amortized. Generally, depreciation and amortization must be calculated on a straight line basis and prorated over the estimated useful life of the asset. (3-19-07)

08. Dues, Licenses and Subscriptions. Subscriptions to periodicals related to patient care and for general patient use are allowable. Fees for professional and business licenses related to the operation of the facility are allowable. Dues, tuition, and educational fees to promote quality health care services are allowable when the provisions of PRM, Section 400, are met. (3-19-07)

09. Employee Benefits. Employee benefits including health insurance, vacation, and sick pay are allowable to the extent of employer participation. See PRM, Chapter 21 for specifics. (3-19-07)

10. Employee Recruitment. Costs of advertising for new employees, including applicable entertainment costs, are allowable. (3-19-07)

11. Entertainment Costs Related to Patient Care. Entertainment costs related to patient care are allowable only when documentation is provided naming the individuals and stating the specific purpose of the entertainment. (3-19-07)

12. Food. Costs of raw food are allowable. The provider is only reimbursed for costs of food purchased for patients. Costs for nonpatient meals are nonreimbursable. If the costs for nonpatient meals cannot be identified, the revenues from these meals are used to offset the costs of the raw food. ( )

13. Home Office Costs. Reasonable costs allocated by related entities for home office services are allowable in their applicable cost centers. (3-19-07)

14. Insurance. Premiums for insurance on assets or for liability purposes, including vehicles, are allowable to the extent that they are related to patient care. (3-19-07)

15. Interest. Interest on working capital loans is an allowable administrative expense. When property is reimbursed based on cost, interest on related debt is allowable. However, interest payable to related entities is not normally an allowable expense. Penalties are not allowable. (3-19-07)

16. Lease or Rental Payments. Payments for the property cost of the lease or rental of land, buildings, and equipment are allowable according to Medicare reasonable cost principles when property is reimbursed based on cost for leases entered into before March 30, 1981. Such leases entered into on or after March 30, 1981, will be reimbursed in the same manner as an owned asset. The cost of leases related to home offices and ICF/ID day treatment services will not be reported as property costs and will be allowable based on reasonable cost principles subject to other limitations contained herein. (3-19-07)

17. Malpractice or Public Liability Insurance. Premiums for malpractice and public liability insurance must be reported as administrative costs. (3-19-07)

18. Payroll Taxes. The employer's portion of payroll taxes is reimbursable. (3-19-07)

19. Property Costs. Property costs related to patient care are allowable subject to other provisions of this chapter. Property taxes and reasonable property insurance are allowable for all facilities. For ICFs/ID, the property rental rate is paid as described in Section 630 of these rules. (3-19-07)

a. Amortization of leasehold improvements will be included in property costs. (3-19-07)

i. Straight line depreciation on fixed assets is included in property costs. (3-19-07)

ii. Depreciation of moveable equipment is an allowable property cost. (3-19-07)

b. Interest costs related to the purchase of land, buildings, fixtures or equipment related to patient care are allowable property costs only when the interest costs are payable to unrelated entities. (3-19-07)

20. Property Insurance. Property insurance per licensed bed is limited to no more than two (2) standard deviations above the mean of the most recently reported property insurance costs, as used for rate setting purposes, per licensed bed of all facilities in the reimbursement class of the end of a facility's fiscal year. (3-19-07)

21. Repairs and Maintenance. Costs of maintenance and minor repairs are allowable when related to the provision of patient care. (3-19-07)

22. Salaries. Salaries and wages of all employees engaged in patient care activities or operation and maintenance are allowable costs. However, non-nursing home wages are not an allowable cost. (3-19-07)

23. Supplies. Cost of supplies used in patient care or providing services related to patient care is allowable. (3-19-07)

24. Taxes. The cost of property taxes on assets used in providing patient care are allowable. Other taxes are allowable costs as provided in the PRM, Chapter 21. Tax penalties are nonallowable costs. (3-19-07)

591. ICF/ID: NONALLOWABLE COSTS.
The following definitions and explanations apply to nonallowable costs: (3-19-07)

01. Accelerated Depreciation. Depreciation in excess of calculated straight line depreciation, except as otherwise provided is nonallowable. (3-19-07)

02. Acquisitions. Costs of corporate acquisitions, such as purchase of corporate stock as an investment, are nonallowable. (3-19-07)

03. Charity Allowances. Cost of free care or discounted services are nonallowable. (3-19-07)

04. Consultant Fees. Costs related to the payment of consultant fees in excess of the lowest rate available to a facility are nonallowable. It is the provider's responsibility to make efforts to obtain the lowest rate available to that facility. The efforts may include personally contacting possible consultants or advertising. The lowest rate available to a facility is the lower of the actual rate paid by the facility or the lowest rate available to the facility, as determined by departmental inquiry directly to various consultants. Costs in excess of the lowest rate available will be disallowed effective thirty (30) days after a facility is notified, unless the provider shows by clear and convincing evidence it would have been unable to comply with state and federal standards had the lowest rate consultant been retained or that it tried to but was unable to retain the lowest rate consultant. This subsection in no way limits the Department's ability to disallow excessive consultant costs under other sections of this chapter, such as Section 589 or 595 of these rules, when applicable. (3-19-07)

05. Fees. Franchise fees are nonallowable, see PRM, Section 2133.1. (3-19-07)

06. Fund Raising. Certain fund raising expenses are nonallowable, see PRM, Section 2136.2. (3-19-07)

07. Goodwill. Costs associated with goodwill as defined in Section 011 of these rules are nonallowable. (3-19-07)

08. Holding Companies. All home office costs associated with holding companies are nonallowable see PRM, Section 2150.2A. (3-19-07)

09. Interest. Interest to finance nonallowable costs are nonallowable. (3-19-07)

10. **Medicare Costs**. All costs of Medicare Part A or Part B services incurred by Medicare certified facilities, including the overhead costs relating to these services are nonallowable. (3-19-07)

11. **Nonpatient Care Related Activities**. All activities not related to patient care are nonallowable. (3-19-07)

12. **Organization**. Organization costs are nonallowable, see PRM, Section 2134. (3-19-07)

13. **Pharmacist Salaries**. Salaries and wages of pharmacists are nonallowable. (3-19-07)

14. **Prescription Drugs**. Prescription drug costs are nonallowable. (3-19-07)

15. **Related Party Interest**. Interest on related party loans are nonallowable, see PRM, Sections 218.1 and 218.2. (3-19-07)

16. **Related Party Nonallowable Costs**. All costs nonallowable to providers are nonallowable to a related party, whether or not they are allocated. (3-19-07)

17. **Related Party Refunds**. All refunds, allowances, and terms, will be deemed to be allocable to the members of related organizations, on the basis of their participation in the related purchases, costs, etc. (3-19-07)

18. **Self-Employment Taxes**. Self-employment taxes, as defined by the Internal Revenue Service, that apply to facility owners are nonallowable. (3-19-07)

19. **Telephone Book Advertising**. Telephone book advertising costs in excess of the base charge for a quarter column advertisement for each telephone book advertised in are nonallowable. (3-19-07)

20. **Vending Machines**. Costs of vending machines and cost of the product to stock the machine are nonallowable costs. (3-19-07)

592. ICF/ID: HOME OFFICE COST PRINCIPLES.
The reasonable cost principles will extend to the home office costs allocated to individual providers. In addition, the home office, through the provider, will provide documentation as to the basis used to allocate its costs among the various entities it administers or otherwise directs. (3-19-07)

593. ICF/ID: RELATED PARTY TRANSACTIONS.

01. Principle. Costs applicable to services, facilities and supplies furnished to the provider by organizations or persons related to the provider by common ownership, control, etc., are allowable at the cost to the related party. Such costs are allowable to the extent that they relate to patient care, are reasonable, ordinary, and necessary, and are not in excess of those costs incurred by a prudent cost-conscious buyer. (3-19-07)

02. Cost Allowability - Regulation. Allowability of costs is subject to the regulations prescribing the treatment of specific items as outlined in 42 CFR 413.17, et al, and the Providers Reimbursement Manual, PRM Chapter 10 and other applicable chapters of the PRM. (3-19-07)

594. ICF/ID: APPLICATION OF RELATED PARTY TRANSACTIONS.

01. Determination of Common Ownership or Control in the Provider Organization and Supply Organization. In determining whether a provider organization is related to a supplying organization, the tests of common ownership and control are to be applied separately. If the elements of common ownership or control are not present in both organizations, the organizations are deemed not to be related to each other. (3-19-07)

a. A determination as to whether an individual(s) possesses ownership or equity in the provider organization and the supplying organization, so that the organizations will be considered to be related by common ownership, will be made on the basis of the facts and circumstances in each case. (3-19-07)

b. The term "control" includes any kind of control whether or not it is legally enforceable and however it is exercisable or exercised. It is the reality of the control that is decisive, not its form or the mode of its exercise. (3-19-07)

02. Cost to Related Organizations. The charges to the provider from related organizations may not exceed the billing to the related organization for these services. (3-19-07)

03. Costs Not Related to Patient Care. All home office costs not related to patient care are not allowable under the program. (3-19-07)

04. Interest Expense. Generally, interest expense on loans between related entities will not be reimbursable. See the PRM, Chapters 2, 10, and 12 for specifics. (3-19-07)

595. ICF/ID: COMPENSATION OF RELATED PERSONS.
Compensation paid to persons related to owners or administrators is allowable only to the extent that services are actually performed and are necessary and adequately documented and the compensation for the services is reasonable. (3-19-07)

01. Compensation Claimed. Compensation claimed for reimbursement must be included in compensation reported for tax purposes and be actually paid. (3-19-07)

a. Where such persons perform services without pay, no cost may be imputed. (3-19-07)

b. Time records documenting actual hours worked are required in order that the compensation be allowable for reimbursement. (3-19-07)

c. Compensation for undocumented hours worked will not be a reimbursable cost. (3-19-07)

02. Related Persons. A related person is defined as having one (1) of the following relationships with the provider: (3-19-07)

a. Husband or wife; (3-19-07)

b. Son or daughter or a descendant of either; (3-19-07)

c. Brother, sister, stepbrother, stepsister or descendant thereof; (3-19-07)

d. Father, mother, stepfather, stepmother, an ancestor thereof, or a brother or sister thereof; (3-19-07)

e. Son-in-law, daughter-in-law, father-in-law, mother-in-law, brother-in-law or sister-in-law; (3-19-07)

f. A descendant of a brother or sister of the provider's father or mother; (3-19-07)

g. Any other person with whom the provider does not have an arms length relationship. (3-19-07)

596. ICF/ID: INTEREST EXPENSE.
Generally interest on loans between related entities is not an allowable expense. The loan will usually be considered invested capital. See PRM, Chapter 2 for specifics. (3-19-07)

597. ICF/ID: IDAHO OWNER-ADMINISTRATIVE COMPENSATION.
Allowable compensation to owners and persons related to owners who provide any administrative services will be limited based on the schedule in this **s**ection. (3-19-07)

01. Allowable Owner Administrative Compensation. The following schedule will be used in determining the maximum amount of owner administrative compensation allowable for the calendar year ending

December 31, 2002.

Licensed Bed Range	Upper limit
51 - 100	86,951
101 - 150	95,641
151 - 250	129,878
251 - up	186,435

(3-19-07)

02. The Administrative Compensation Schedule. The administrative compensation schedule in this Section will be adjusted annually based upon the change in average hourly earnings in nursing and personal care facilities as published by Data Resources Incorporated, its successor organization or, if unavailable, another nationally recognized forecasting firm. (3-19-07)

03. The Maximum Allowable Compensation. The maximum allowable compensation for an owner providing administrative services is determined from the schedule in Subsection 597.01. of these rules. Allowable compensation will be determined as follows: (3-19-07)

a. In determining the number of beds applicable on the schedule, all licensed beds for which the individual provides administrative services will be counted, regardless of whether they are in the same facility. (3-19-07)

b. For an owner providing services to more than fifty (50) beds, the amounts shown on the schedule for the applicable number of beds will determine the upper limit for allowable compensation. (3-19-07)

c. For owners providing services to less than fifty-one (51) beds, such services related to administrative duties will be reimbursed at the hourly rate allowable if the owner was providing services to fifty-one (51) beds. Additionally, services other than administrative services may be performed by the owner and will be allowable at the reasonable market rate for such services. To be allowable, hours for each type of service will be documented. In no event will the total compensation for administrative and non-administrative duties paid to an owner or related party to an owner of a facility or facilities with fifty (50) licensed beds or less exceed the limit that would be applicable to an owner with the same number of points providing administrative services to facilities with fifty-one (51) beds as set forth in the schedule of Subsection 597.01 of these rules. (3-19-07)

04. Compensation for Persons Related to an Owner. Compensation for persons related to an owner will be evaluated in the same manner as for an owner. (3-19-07)

05. When an Owner Provides Services to More Than One Provider. When an owner provides services to more than one (1) provider compensation will be distributed on the same basis as costs are allocated for non-owners. (3-19-07)

06. More Than One Owner or Related Party May Receive Compensation for Hours Actually Worked. Services must be actually performed, documented and necessary. Total compensation must be reasonable, and not greater than the amount for which the same services could be obtained on the open market. The standard by which full time compensation is measured will be two thousand eighty (2,080) hours. Compensation of an owner or a party related to an owner is subject to other provisions of this chapter, and will not exceed the compensation determined from the Administrative Compensation Schedule, and, on an hourly basis, will not exceed the compensation determined in the Administrative Compensation Schedule divided by two thousand eighty (2,080). (3-19-07)

598. -- 599. (RESERVED)

600. ICF/ID: OCCUPANCY ADJUSTMENT FACTOR.

In order to equitably allocate fixed costs to the Medicaid patients in cases where a facility is not maintaining reasonable occupancy levels, an adjustment will be made. No occupancy adjustment will be made against the costs that are used to calculate the property rental rate; however adjustment will be made against all other property costs. The adjustment will be made as follows: (3-19-07)

01. Occupancy Levels. If a facility maintains an average occupancy of less than eighty percent (80%) of a facility's capacity, the total property costs not including cost paid under the property rental rate, will be prorated based upon an eighty percent (80%) occupancy rate. Property costs and property rental rates are defined in Section 013 of these rules. The facility's average occupancy percentage will be subtracted from eighty percent (80%) and the resultant percentage will be taken times the total fixed costs to determine the nonallowable fixed costs. (3-19-07)

02. Occupancy Adjustment. For purposes of an occupancy adjustment, facility capacity will be computed based upon the greater of the largest number of beds for which the facility was licensed during the period being reported on or the largest number of beds for which the facility was licensed during calendar year 1981, except where a portion of the facility has been converted to use for nonroutine nursing home activities or the facility is newly constructed and has entered the Medicaid Program subsequent to January 1, 1982. If the facility's designed capacity has been changed, the number of beds used to determine occupancy will be lowered by the amount of capacity being converted to nonroutine nursing home activities. Facility capacity for a new facility will be based on the number of beds approved by the certificate of need process less any capacity converted to nonroutine nursing home activities. (3-19-07)

03. Fixed Costs. For purposes of an occupancy adjustment fixed costs will be considered all allowable and reimbursable costs reported under the property cost categories. (3-19-07)

04. Change in Designed Capacity. In cases where a provider changes the designed capacity of a facility, the average occupancy for the period prior to the change and subsequent to the change will be computed and each period will be adjusted separately. If the designed capacity is increased, the increased number of beds will not be subject to this adjustment for the first six (6) months following their licensure. (3-19-07)

05. New Facility. In the case of a new facility being licensed and occupied, the first six (6) months occupancy level will not be subject to this adjustment. (3-19-07)

601. ICF/ID: RECAPTURE OF DEPRECIATION.
Where depreciable assets that were reimbursed based on cost and were used in the Medicaid Program by a facility subsequent to January 1, 1982, and for which depreciation has been reimbursed by the Program, are sold for an amount in excess of their net book value, depreciation so reimbursed will be recaptured from the buyer of the facility in an amount equal to reimbursed depreciation after January 1, 1982, or gain on the sale, whichever is less. (3-19-07)

01. Amount Recaptured. Depreciation will be recaptured in full if a sale of a depreciated facility takes place within the first five (5) years of a seller's ownership. Credit will be given for the period of ownership prior to January 1, 1982. For every year the asset is held beyond the first five (5) years, the total depreciation recaptured will be reduced by ten percent (10%) per year of the total depreciation taken. (3-19-07)

02. Time Frame. Depreciation will be recaptured by the Medicaid Program from the buyer of the facility over a period of time not to exceed five (5) years from the date of sale, with not less than one-fifth (1/5) of the total amount being recaptured for each year after such date. (3-19-07)

602. ICF/ID: REPORTING SYSTEM.
The objective of the reporting requirements is to provide a uniform system of periodic reports that will allow: (3-19-07)

01. Basis for Reimbursement. A basis of provider reimbursement approximating actual costs. (3-19-07)

02. Disclosure. Adequate financial disclosure. (3-19-07)

03. Statistical Resources. Statistical resources, as a basis for measurement of reasonable cost and

comparative analysis. (3-19-07)

04. **Criteria**. Criteria for evaluating policies and procedures. (3-19-07)

603. ICF/ID: REPORTING SYSTEM PRINCIPLE AND APPLICATION.
The provider will be required to file mandatory annual cost reports. (3-19-07)

01. **Cost Report Requirements**. The fiscal year end cost report filing must include: (3-19-07)

a. Annual income statement (two (2) copies); (3-19-07)

b. Balance sheet; (3-19-07)

c. Statement of ownership; (3-19-07)

d. Schedule of patient days; (3-19-07)

e. Schedule of private patient charges; (3-19-07)

f. Statement of additional charges to residents over and above usual monthly rate; and (3-19-07)

g. Other schedules, statements, and documents as requested. (3-19-07)

02. **Special Reports**. Special reports may be required. Specific instructions will be issued, based upon the circumstance. (3-19-07)

03. **Criteria of Reports**. All reports must meet the following criteria: (3-19-07)

a. State-approved formats are used. (3-19-07)

b. Presented on accrual basis. (3-19-07)

c. Prepared in accordance with generally accepted accounting principles and principles of reimbursement. (3-19-07)

d. Appropriate detail is provided on supporting schedules or as requested. (3-19-07)

04. **Preparer**. It is not required that any statement be prepared by an independent, licensed or certified public accountant. (3-19-07)

05. **Reporting by Chain Organizations or Related Party Providers**. PRM, Section 2141.7, prohibits the filing of combined or consolidated cost reports as a basis for cost reimbursement. Each facility so related must file a separate set of reports. These cost reports will be required for each level of organization that allocates expenses to the provider. Consolidated financial statements will be considered supplementary information and are not acceptable as fulfilling the primary reporting requirements. (3-19-07)

06. **Change of Management or Ownership**. To properly pay separate entities or individuals when a change of management or ownership occurs, the following requirements will be met: (3-19-07)

a. Outgoing management or administration will file an adjusted-period cost report if it is necessary. This report will meet the criteria for annual cost reports, except that it will be filed not later than sixty (60) days after the change in management or ownership. (3-19-07)

b. The Department may require an appraisal at the time of a change in ownership. (3-19-07)

07. **Reporting Period**. When required for establishing rates, new ICF/ID providers will be required to submit cost projections for the first year of operations. Thereafter, the normal reporting period coincides with the

provider's standard fiscal year. If a provider withdraws from the program and subsequently re-enters, the new provider reporting requirements will apply. (3-19-07)

604. (RESERVED)

605. ICF/ID: FILING DATES.

01. Deadlines. Deadlines for annual cost reports will be the last day of the third month following the fiscal year end or the deadline imposed by Medicare if the provider is required to file a Medicare cost report. (3-19-07)

02. Waivers. A delay of thirty (30) days may be granted for annual cost reports in unusual circumstances. Requests for such deferrals and reasons therefore must be in writing and should be made prior to the deadline. A written decision will be rendered in writing within ten (10) days. (3-19-07)

606. ICF/ID: FAILURE TO FILE.
Failure to submit timely reports may result in a reduction in the interim rate. Failure to file the required cost reports, including required supplemental information, unless a waiver is granted, may result in a reduction of ten percent (10%) in the provider's interim rate(s) the first day of the month following the deadline date. Continued failure to comply will result in complete payment suspension on the first day of the following month. When suspension or reduction has occurred and the provider has filed the required cost reports, amounts accruing to the provider during the period of suspension or reduction will be restored. Loss of license or certification will result in immediate termination of reimbursement, full scope audit and settlement for the cost period. (3-19-07)

607. ICF/ID: ACCOUNTING SYSTEM.
Reports must be filed using the accrual basis and conform with generally accepted accounting principles or within provisions of the guidelines as specified. In any case, the recorded transaction must be capable of verification by Departmental audit. (3-19-07)

608. -- 609. (RESERVED)

610. ICF/ID: AUDITS.
All financial reports are subject to audit by Departmental representatives. (3-19-07)

01. Accuracy of Recording. To determine whether the transactions recorded in the books of record are substantially accurate and reliable as a basis for determining reasonable costs. (3-19-07)

02. Reliability of Internal Control. To determine that the facilities internal control is sufficiently reliable to disclose the results of the to the provider's operations. (3-19-07)

03. Economy and Efficiency. To determine if Title XIX and Title XXI participants have received the required care on the a basis of economy and efficiency. (3-19-07)

04. Application of GAAP. To determine if GAAP is applied on a consistent basis in conformance with applicable federal and state regulations. (3-19-07)

05. Patient Trust Fund Evaluation. To evaluate the provider's policy and practice regarding their fiduciary responsibilities for patients, funds and property. (3-19-07)

06. Enhancing Financial Practices. To provide findings and recommendations aimed at better financial practices to allow the most economical delivery of patient care. (3-19-07)

07. Compliance. To provide recommendations that will enable the provider to conform more closely with state and federal regulations in the delivery of health care to program participants. (3-19-07)

08. Final Settlement. To effect final settlement when required by Sections 587 through 632 of these rules. (3-19-07)

611. ICF/ID: AUDIT APPLICATION.

01. Annual Audits. Normally, all annual statements will be audited within the following year. (3-19-07)

02. Limited Scope Audit. Other statements and some annual audit recommendations may be subject to limited scope audits to evaluate provider compliance. (3-19-07)

03. Additional Audits. In addition, audits may be required where: (3-19-07)

a. A significant change of ownership occurs. (3-19-07)

b. A change of management occurs. (3-19-07)

c. An overpayment of twenty-five percent (25%) or more has resulted for a completed cost period. (3-19-07)

04. Audit Appointment. Annual field audits will be by appointment. Auditors will identify themselves with a letter of authorization or Departmental I.D. cards. (3-19-07)

612. ICF/ID: AUDIT STANDARDS AND REQUIREMENTS.

01. Review of New Provider Fiscal Records. Before any program payments can be made to a prospective provider the intermediary will review the provider's accounting system and its capability of generating accurate statistical cost data. Where the provider's record keeping capability does not meet program requirements the intermediary will offer limited consultative services or suggest revisions of the provider's system to enable the provider to comply with program requirements. (3-19-07)

02. Requirements. Providers Reimbursement Manual (PRM), Section 2404.3 states: “Examination of Pertinent Data and Information -- Providers asking to participate as well as those currently participating must permit the intermediary to examine such records and documents as are deemed necessary. (3-19-07)

03. Examination of Records. Examination of records and documents may include: (3-19-07)

a. Corporate charters or other documents of ownership including those of a parent or related companies. (3-19-07)

b. Minutes and memos of the governing body including committees and its agents. (3-19-07)

c. All contracts. (3-19-07)

d. Tax returns and records, including workpapers and other supporting documentation. (3-19-07)

e. All insurance contracts and policies including riders and attachments. (3-19-07)

f. Leases. (3-19-07)

g. Fixed asset records (see audit section - Capitalization of Assets). (3-19-07)

h. Schedules of patient charges. (3-19-07)

i. Notes, bonds and other evidences of liability. (3-19-07)

j. Capital expenditure records. (3-19-07)

k. Bank statements, cancelled checks, deposit slips and bank reconciliations. (3-19-07)

l. Evidence of litigations the facility and its owners are involved in. (3-19-07)

m. Documents of ownership including attachments that describe the property. (3-19-07)

n. All invoices, statements and claims. (3-19-07)

o. Providers Accounting Firm. Where a provider engages an accounting firm to maintain its fiscal records, the financial audit work papers prepared by the accounting firm are considered to be the property of the provider and must be made available to the intermediary upon request, under PRM, paragraph 2404.4(Q). (3-19-07)

p. Ledgers, journals, all working papers, subsidiary ledgers, records and documents relating to financial operation. (3-19-07)

q. All patient records, including trust funds and property. (3-19-07)

r. Time studies and other cost determining information. (3-19-07)

s. All other sources of information needed to form an audit opinion. (3-19-07)

04. Adequate Documentation. (3-19-07)

a. Adequate cost information as developed by the provider must be current, accurate, and in sufficient detail to support payment made for services rendered to participants. This includes all ledgers, books, records and original evidences of cost including purchase requisitions, purchase orders, vouchers, requisitions for material, inventories, labor time cards, payrolls, bases for apportioning costs, and other documentation that pertains to the determination of reasonable cost, capable of being audited under PRM, Section 2304. (3-19-07)

b. Adequate expenses documentation including an invoice, or a statement with invoices attached that support the statement. All invoices should meet the following standards: (3-19-07)

i. Date of service or sale; (3-19-07)

ii. Terms and discounts; (3-19-07)

iii. Quantity; (3-19-07)

iv. Price; (3-19-07)

v. Vendor name and address; (3-19-07)

vi. Delivery address if applicable; (3-19-07)

vii. Contract or agreement references; and (3-19-07)

viii. Description, including quantity, sizes, specifications brand name, services performed. (3-19-07)

c. Capitalization of assets for major movable equipment will be capitalized. Minor movable equipment cannot be capitalized. The cost of fixed assets and major movable equipment must be capitalized and depreciated over the estimated useful life of the asset under PRM, Section 108.1. This rule applies except for the provisions of PRM, Section 106 for small tools. (3-19-07)

d. Completed depreciation records must meet the following criteria for each asset: (3-19-07)

i. Description of the asset including serial number, make, model, accessories, and location. (3-19-07)

ii. Cost basis should be supported by invoices for purchase, installation, etc. (3-19-07)

iii. Estimated useful life. (3-19-07)

iv. Depreciation method such as straight line, double declining balance, etc. (3-19-07)

v. Salvage value. (3-19-07)

vi. Method of recording depreciation on a basis consistent with accounting policies. (3-19-07)

vii. Report additional information, such as additional first year depreciation, even though it isn't an allowable expense. (3-19-07)

viii. Reported depreciation expense for the year and accumulated depreciation will tie to the asset ledger. (3-19-07)

e. Depreciation methods such as straight line depreciation is always acceptable. Methods of accelerated depreciation are acceptable only upon authorization by the Office of Audit or its successor organization. Additional first year depreciation is not allowable. (3-19-07)

f. The depreciable life of any asset may not be shorter than the useful life stated in the publication, Estimated Useful Lives of Depreciable Hospital Assets, 2004 revised edition. Guidelines Lives, that is hereby incorporated by reference into these rules. Deviation from these guidelines will be allowable only upon authorization from the Department. This document may be obtained from American Hospital Publishing, Inc., 211 E. Chicago Ave., Chicago, IL. 60611. (3-19-07)

g. Lease purchase agreements may generally be recognized by the following characteristics: (3-19-07)

i. Lessee assumes normal costs of ownership, such as taxes, maintenance, etc.; (3-19-07)

ii. Intent to create security interest; (3-19-07)

iii. Lessee may acquire title through exercise of purchase option that requires little or no additional payment or, such additional payments are substantially less than the fair market value at date of purchase; (3-19-07)

iv. Non-cancelable or cancelable only upon occurrence of a remote contingency; and (3-19-07)

v. Initial loan term is significantly less than the useful life and lessee has option to renew at a rental price substantially less than fair rental value. (3-19-07)

h. Assets acquired under such agreements will be viewed as contractual purchases and treated accordingly. Normal costs of ownership such as depreciation, taxes and maintenance will be allowable as determined in this chapter. Rental or lease payments will not be reimbursable. (3-19-07)

i. Complete personnel records containing the following: (3-19-07)

i. Application for employment. (3-19-07)

ii. W-4 Form. (3-19-07)

iii. Authorization for other deductions such as insurance, credit union, etc. (3-19-07)

iv. Routine evaluations. (3-19-07)

v. Pay raise authorization. (3-19-07)

vi. Statement of understanding of policies, procedures, etc. (3-19-07)

vii. Fidelity bond application (where applicable). (3-19-07)

05. Internal Control. (3-19-07)

a. A system of internal control is intended to provide a method of handling all routine and nonroutine tasks for the purpose of: (3-19-07)

i. Safeguarding assets and resources against waste, fraud, and inefficiency. (3-19-07)

ii. Promoting accuracy and reliability in financial records. (3-19-07)

iii. Encouraging and measuring compliance with company policy and legal requirements. (3-19-07)

iv. Determining the degree of efficiency related to various aspects of operations. (3-19-07)

b. An adequate system of internal control over cash disbursements would normally include: (3-19-07)

i. Payment on invoices only, or statements supported by invoices. (3-19-07)

ii. Authorization for purchase such as a purchase order. (3-19-07)

iii. Verification of quantity received, description, terms, price, conditions, specifications, etc. (3-19-07)

iv. Verification of freight charges, discounts, credit memos, allowances, and returns. (3-19-07)

v. Check of invoice accuracy. (3-19-07)

vi. Approval policy for invoices. (3-19-07)

vii. Method of invoice cancellation to prevent duplicating payment. (3-19-07)

viii. Adequate separation of duties between ordering, recording, and paying. (3-19-07)

ix. System separation of duties between ordering, recording, and paying. (3-19-07)

x. Signature policy. (3-19-07)

xi. Pre-numbered checks. (3-19-07)

xii. Statement of policy regarding cash or check expenditures. (3-19-07)

xiii. Adequate internal control over the recording of transactions in the books of record. (3-19-07)

xiv. An imprest system for petty cash. (3-19-07)

06. Accounting Practices. Sound accounting practices normally include the following: (3-19-07)

a. Written statement of accounting policies and procedures, including policies of capitalization, depreciation and expenditure classification criteria. (3-19-07)

b. Chart of accounts. (3-19-07)

c. A budget or operating plan. (3-19-07)

613. ICF/ID: PATIENT FUNDS.
The safekeeping of patient funds, under the program, is the responsibility of the provider. Accordingly, the

administration of these funds requires scrupulous care in recording all transactions for the patient. (3-19-07)

01. Use. Generally, funds are provided for personal needs of the patient to be used at the patient's discretion. The provider agrees to manage these funds and render an accounting but may not use them in any way. (3-19-07)

02. Provider Liability. The provider is subject to legal and financial liabilities for committing any of the following acts. This is only a partial listing of the acts contrary to federal regulations: (3-19-07)

a. Management fees may not be charged for managing patient trust funds. These charges constitute double payment as management is normally performed by an employee of the provider and their salary is included in reasonable cost reimbursement. (3-19-07)

b. Nothing is to be deducted from these funds, unless such deductions are authorized by the patient or their agent in writing. (3-19-07)

c. Interest accruing to patient funds on deposit is the property of the patients and is part of the personal funds of each patient. The interest from these funds is not available to the provider for any use, including patient benefits. (3-19-07)

03. Fund Management. Proper management of such funds would include the following as minimum: (3-19-07)

a. Savings accounts, maintained separately from facility funds. (3-19-07)

b. An accurate system of supporting receipts and disbursements to patients. (3-19-07)

c. Written authorization for all deductions. (3-19-07)

d. Signature verification. (3-19-07)

e. Deposit of all receipts of the same day as received. (3-19-07)

f. Minimal funds kept in the facility. (3-19-07)

g. As a minimum these funds must be kept locked at all times. (3-19-07)

h. Statement of policy regarding patient's funds and property. (3-19-07)

i. Periodic review of these policies with employees at training sessions and with all new employees upon employment. (3-19-07)

j. System of periodic review and correction of policies and financial records of patient property and funds. (3-19-07)

614. (RESERVED)

615. ICF/ID: POST-ELIGIBILITY TREATMENT OF INCOME.

01. Treatment of Income. Where an individual is determined eligible for medical assistance participation in the cost of their long term care, the Department will reduce its payment to the long term care facility by the amount of their income considered available to meet the cost of his care. This determination is made in accordance IDAPA 16.03.05, “Eligibility for Aid for the Aged, Blind, and Disabled (AABD),” Sections 721 through 725. (3-19-07)

02. SSA Income. The amount that the Participant receives from SSA as reimbursement for their payment of the premium for Part B of Title XVIII (Medicare) is not considered income for participant liability in

accordance with IDAPA 16.03.05, "Eligibility for Aid for the Aged, Blind, and Disabled (AABD)." (3-19-07)

616. -- 619. (RESERVED)

620. ICF/ID: PAYMENTS FOR PERIODS OF TEMPORARY ABSENCE.
Payments may be made for reserving beds in ICFs/ID for participants during their temporary absence if the facility charges private paying participants for reserve bed days, subject to the following limitations: (3-19-07)

01. Prior Approval for Absence. Therapeutic home visits for ICF/ID residents of up to thirty-six (36) days per calendar year so long as the days are part of a written treatment plan ordered by the attending physician. Prior approval from the *BLTC* must be obtained for any home visits exceeding fourteen (14) consecutive days.*( )*

02. Limits on Amount of Payments. Payment for reserve bed days will be lesser of the following: (3-19-07)

a. One hundred percent (100%) of the audited allowable costs of the facility; or (3-19-07)

b. The rate charged to private paying participants for reserve bed days. (3-19-07)

621. ICF/ID: PAYMENT PROCEDURES.
Each ICF/ID must submit its claims to the Department in accordance with the procedures established by the Department. The Department will not pay for a claim in behalf of a Participant unless the information on the claim is consistent with the information in the Department's computer eligibility file. (3-19-07)

622. ICF/ID: PRINCIPLE PROSPECTIVE RATES.
Providers of ICF/ID facilities will be paid a per diem rate that, with certain exceptions, is not subject to an audit settlement. The per diem rate for a fiscal period will be based on audited historical costs adjusted for inflation. The provider must report these cost items in accordance with other provisions of this chapter or the applicable provisions of PRM consistent with this chapter. Sections 622 through 628 of these rules provide procedures and specifications necessary to implement the provisions and accomplish the objectives of the payment system for ICF/ID providers. Total payment will include the following components: Property reimbursement, capped costs, exempt costs, and excluded costs. Except as otherwise provided in this section, rates calculated for state fiscal year 2012 (July 1, 2011 through June 30, 2012) will be calculated by using finalized cost reports ended in calendar year 2009 with no cost or cost limit adjustments for inflation to the rate period of July 1, 2011, through June 30, 2012. Rates effective July 1, 2012, and every July 1 thereafter, will be calculated by using audited cost reports ended in the calendar year two (2) years prior to each July 1 (July 1, 2012, rates will use cost reports ended in calendar year 2010 and so forth), with no cost or cost limit adjustments for inflation. (4-4-13)

623. ICF/ID: PROPERTY REIMBURSEMENT.
Beginning October 1, 1996, ICF/ID property costs are reimbursed by a rental rate or based on cost. The following will be reimbursed based on cost as determined by the provisions of this chapter and applicable provisions of PRM to the extent not inconsistent with this chapter: ICF/ID living unit property taxes, ICF/ID living unit property insurance, and major movable equipment not related to home office or day treatment services. Reimbursement of other property costs is included in the property rental rate. Any property cost related to home offices and day treatment services are not considered property costs and will not be reported in the property cost portion of the cost report. These costs will be reported in the home office and day treatment section of the cost report. Property costs, including costs that are reimbursed based on a rental rate, will be reported in the property cost portion of the cost report. The Department may require and utilize an appraisal to establish those components of property costs that are identified as an integral part of an appraisal. Property costs include the following components: (3-19-07)

01. Depreciation. Allowable depreciation based on straight line depreciation. (3-19-07)

02. Interest. All allowable interest expense that relates to financing depreciable assets. Interest on working capital loans is not a property cost and is subject to the cap. (3-19-07)

03. Property Insurance. All allowable property insurance. Malpractice insurance, workmen's compensation and other employee-related insurances are not property costs. (3-19-07)

04. Lease Payments. All allowable lease or rental payments. (3-19-07)

05. Property Taxes. All allowable property taxes. (3-19-07)

06. Costs of Related Party Leases. Costs of related party leases are to be reported in the property cost categories based on the owner's costs. (3-19-07)

624. ICF/ID: CAPPED COST.
Beginning October 1, 1996, this cost area includes all allowable costs except those specifically identified as property costs in Section 623 of these rules and exempt costs or excluded costs in Section 627 or 628 of these rules. This Section defines items and procedures to be followed in determining allowable and exempt costs and provides the procedures for extracting cost data from historical cost reports, applying a cost forecasting market basket to project cost forward, procedures to be followed to project costs forward, and procedures for computing the median of the range of costs and the ICF/ID cap. (3-19-07)

01. Costs Subject to the Cap. Items subject to the cap include all allowable costs except property costs identified in Section 623 of these rules and exempt costs or excluded costs identified in Section 627 or 628 of these rules. Property costs related to a home office are administrative costs, will not be reported as property costs, and are subject to the cap. (3-19-07)

02. Per Diem Costs. Costs to be included in this category will be divided by the total participant days for the facility for the cost reporting period to arrive at allowable per diem costs. If costs for services provided some or all non-Medicaid residents are not included in the total costs submitted, the provider must determine the costs and combine them with the submitted costs in order that a total per diem cost for that facility can be determined both for both the purposes of determining the ICF/ID cap and of computing final reimbursement. (3-19-07)

03. Cost Data to Determine the Cap. Cost data to be used to determine the cap for ICF/ID facilities will be taken from each provider's most recent final cost report available sixty (60) days before the beginning of the period for which the cap is being set. Cost reports are final when the final audit report is issued, or earlier if the Department informs the facility the report is final for rate setting purposes. The selected final cost report will be used to establish the facility's prospective reimbursement rate. However, the final cost reports covering a period of less than twelve (12) months will be included in the data for determining the cap at the option of the Department. (3-19-07)

04. Projection. Per diem allowable costs will be inflated forward using a cost forecasting market basket and forecasting indices according to the same table as used for free standing facilities. (3-19-07)

a. The projection method used in Section 624 of these rules to set the cap will also be used to set non property portions of the prospective rate that are not subject to the cap. (3-19-07)

b. Forecasting indices as developed by Data Resources, Incorporated, will be used unless they are unavailable. In such case, indices supplied by some other nationally recognized forecaster will be used. (3-19-07)

05. Costs That Can be Paid Directly by the Department to Non ICF/ID Providers. Costs that can be paid directly by the Department to non ICF/ID providers are excluded from the ICF/ID prospective rates and ICF/ID cap: (3-19-07)

a. Direct physician care costs. Physicians who provide these services must bill the Medicaid program directly using their own provider numbers. (3-19-07)

b. Costs of services covered under the Early and Periodic Screening Diagnosis and Treatment (EPSDT) portion of the Medicaid Program. Items such as eyeglasses and hearing aids are covered under IDAPA 16.03.09, “Medicaid Basic Plan Benefits.” The cost of these services is not included as a part of ICF/ID costs. Reimbursement can be made to a professional providing these services through their billing the Medicaid Program on their own provider number. (4-11-19)

c. Costs of services covered by other parts of the Medicaid Program. Examples of these items include legend drugs and ambulance transportation. These items must be billed to the Medicaid Program directly by the provider using their own provider number. (3-19-07)

06. Cost Projection. Allowable per diem costs will be projected forward from the midpoint of the Base Period to the midpoint of the Target Period. "Base Period" is defined as the last available final cost report period. "Target Period" is defined as the effective period of the prospective rate. Procedures for inflating these costs are as follows: (3-19-07)

a. The percentage change for each cost category in the market basket will be computed from the beginning to the end of the Base Period. These percentages will then be divided by two (2) and the resultant percentages will be used to project forward allowable per diem costs for each cost category from the midpoint to the end of the Base Period. (3-19-07)

b. The percentage change for each cost category in the market basket will be computed for the period from the end of the Base Period to the beginning of the Target Period. These percentages will then be used to project forward the allowable per diem costs for each cost category, as determined in Subsection 624.06.a. of these rules, from the end of the Base Period to the beginning of the Target Period. (3-19-07)

c. The percentage change for each cost category in the market basket will be computed for the beginning to the end of the Target Period. These percentages will then be divided by two (2) and the resultant percentages will be used to project forward the allowable per diem costs as determined in Subsection 624.06.b. of these rules from the beginning to the midpoint of the Target Period. (3-19-07)

07. Cost Ranking. Prior to October 1st of each year the Director will determine the that percent above the median that will assure aggregate payments to ICF/ID providers will approximate but not exceed amounts that would be incurred using Medicare cost principles of reimbursement. That percentage will apply to caps and rates set after September 30th of each year. Projected per diem costs as determined in this section and subject to the cap will be ranked from the highest to the lowest. The cap will be set at a percent of the bed-weighted median for each rate period. The initial cap will be set as of October 1, 1996. (3-19-07)

a. The median of the range will be computed based on the available data points being considered as the total population of data points. (3-19-07)

b. The cap for each ICF/ID facility with a fiscal year beginning October 1, 1996, will be computed prior to the beginning of that year. For those facilities with a fiscal year ending on a date other than September 30th, the first cap will be computed for the period beginning October 1, 1996, and ending on the fiscal year end date. (3-19-07)

c. Facilities with cost reports that transcend the period from October 1, 1996, through September 30, 1997, will be retrospectively settled using the previous reimbursement system for the period of the report up to September 30, 1996. There will not be a retrospective settlement on the portion of these cost reports attributed to October 1, 1996 through the end of the cost report period unless provisions of Section 626 of these rules apply. (3-19-07)

d. Cost reports for periods beginning on or after October 1, 1996, will not be subject to retrospective settlement except as required by other provisions of this chapter. (3-19-07)

e. A new cap and rate will be set on an annual basis for each facility the first of July every year. (3-19-07)

f. The cap and prospective rate will be determined and set on an annual basis for each facility July first of every year and will not be changed by any subsequent events or information with the exception that if the computations were found to contain mathematical or clerical errors, these errors will be corrected and the cap will be adjusted using the corrected figures. (3-19-07)

g. Payment of costs subject to the cap will be limited to the cap unless the Department determines the

exclusions found in Section 628 of these rules apply. (3-19-07)

h. A facility that commences to offer participant care services as an ICF/ID on or after October 1, 1996, will be subject to retrospective settlement until the first prospective rate is set. Such facility will be subject to the ICF/ID cap as determined in this chapter. The first prospective rate for this provider will be set by the Department based on quarterly cost statements and final cost reports submitted for periods following the first three (3) months of operation. This first prospective rate may be set after the beginning of the second fiscal year of the provider. For the second year the provider will be paid a rate to be settled retrospectively unless both the Department and the provider agree to a prospective rate or rates covering that fiscal period. (3-19-07)

625. (RESERVED)

626. ICF/ID: RETROSPECTIVE SETTLEMENT.
When retrospective settlement is applicable, it is based on allowable reimbursement in accordance with this chapter and based on an audit report. Retrospective settlement will be subject to the same caps and limits determined for prospective payments. (3-19-07)

01. A Provider's Failure to Meet Any of the Conditions. A provider's failure to meet any of the conditions of participation set forth in 42 CFR 483, Subpart I, may subject that provider to retrospective reimbursement for the fiscal year, or any portion thereof, during which the condition is not met. The provider's projected per diem rate may be adjusted to reflect actual reimbursable costs subject to cost limits. (3-19-07)

02. A First Time Provider. A first time provider operating a new ICF/ID living unit will be subject to a retrospective settlement for the first fiscal year and until the first subsequent period wherein a prospective rate is set in accordance with Sections 603, 605, and 606 of these rules and this chapter. A budget based on the best available information is required prior to opening for participant care so an interim rate can be set. (3-19-07)

03. New ICF/ID Living Unit. A new ICF/ID living unit for an existing operator is subject to first time facility requirements if the new living unit reflects a net increase in licensed beds, otherwise the Department may set a prospective rate with the non-property rate components based on similar components of rates most recently paid for the participants moving into the facility. The property rental rate will be set according to applicable provisions of this chapter. (3-19-07)

04. Change of Ownership of Existing ICF/ID Living Unit. Where there is a change of ownership of an existing ICF/ID living unit, the provider operating the ICF/ID living unit will not receive an adjustment of the provider's prospective rate except that the property rental portion of the rate will be adjusted subject to property rental provisions of this chapter. However, new facility reporting requirements and the cap will apply. (3-19-07)

05. Fraudulent or False Claims. Providers who have made fraudulent or false claims are subject to retrospective settlement as determined by the Department. (3-19-07)

06. Excluded Costs. Excluded costs may be retrospectively settled according to the provisions of Section 247 of these rules. (3-19-07)

627. ICF/ID: EXEMPT COSTS.
Exempt costs are not subject to the ICF/ID cap. (3-19-07)

01. Day Treatment Services. As specified in this Section, the cost of day treatment services may be reimbursed in this category and may not be subject to the ICF/ID cap. (3-19-07)

a. This category includes the direct costs of labor, benefits, contracted services, property, utilities and supplies for such services up to the limitations provided in this Subsection. (3-19-07)

b. When a school or another agency or entity is responsible for or pays for services provided to a participant regularly during normal working hours on weekdays, no costs will be assigned to this category for such services. The Department will not reimburse for the cost of services that are paid for or should be paid for by an other agency. (3-19-07)

c. When ICF/ID day treatment services are performed for participants in a licensed Developmental Disability Center, the allowable cost of such services will be included in this category, but not more than the amount that would be paid according to the Department's fee schedule for individual or group therapy for similar services. Amounts incurred or paid by the ICF/ID in excess of what would be paid according to the Department's fee schedule for like services are not allowable costs and will be reported as non-reimbursable. (3-19-07)

d. For day treatment services provided in a location other than a certified developmental disability center, the maximum amount reportable in this category will also be limited. Total costs for such services reported by each provider in this category will be limited to the number of hours, up to thirty (30) hours per week per participant, of individual or group developmental therapy times the hourly rate that would be paid according to the most recent Department fee schedule for the same services if provided in a developmental disability center. Costs in excess of the limits determined in this Subsection will be classified and reported as subject to the ICF/ID cap. Initial rates established under the prospective system effective October 1, 1996, and not later than October 1, 1997, will not include a limitation of day treatment costs based on the hourly rate, when the hours of individual or group therapy were not obtained or audited by the Department at the time the rate was published. However, if a provider believes that the day treatment cost used to establish the day treatment portion of its prospective rate was misstated for rates set for periods beginning October 1, 1996, through rates beginning October 1, 1997, revisions to the prospective rate may be made to the extent the provider demonstrates, to the satisfaction of the Department, that the cost used was misstated. Such a revision will be considered only if the provider requests a revision and provides adequate documentation within sixty (60) days of the date the rate was set. At the option of the Department it may negotiate fixed rates for these day treatment services. Such rates will be set so the aggregate related payments are lower than would be paid with a limitation based on schedules used for licensed Developmental Disability Centers. (3-19-07)

e. Financial data including expenses and labor hours incurred by or on behalf of the provider in providing day treatment services, must be identifiable and separate from the costs of other facility operations. Reasonable property costs related to day treatment services and not included in the property rental rate, will be separately identified, will be reported as day treatment services costs, and will not include property costs otherwise reimbursed. Property costs related to day treatment services will be separately identified as not related to living unit costs by a final audit determination issued prior to October 1, 1996, or will be separate and distinct from any property used for ICF/ID services that are or were day treatment services. (3-19-07)

f. In the event a provider has a change in the number of participants requiring day treatment services, the prospective rate may be adjusted by the Department to reflect a change in costs related to such a change. Providers receiving such changes may be required to provide added documentation to the Department to assure that further changes can be identified and the prospective rate adjusted accordingly. (3-19-07)

02. Major Movable Equipment. Costs related to major movable equipment, as defined in this chapter will be exempt from the ICF/ID cap and will be reimbursed prospectively based on Medicare principles of cost reimbursement. (3-19-07)

628. ICF/ID: COSTS EXCLUDED FROM THE CAP.

Certain costs may be excluded from the ICF/ID cap, may be subject to retrospective settlement at the discretion of the Department, and may result in changes to the prospective rate as provided in this Section to assure equitable reimbursement: (3-19-07)

01. Increases of More Than One Dollar Per Participant Day in Costs. Increases of more than one dollar ($1) per participant day in costs otherwise subject to the cap incurred by a facility as a result of changes in State or Federal laws or rules will be reported separately on the cost report for reports filed less than thirty (30) months, or a greater length of time if so directed by the Department, from the date such increases were first required. Such costs will be subdivided into the component parts of wages, benefits, contracted services and other costs in the amounts equal to costs removed from the respective cost categories subject to the cap. The Department may adjust the forecasted rate to include the projected per diem related to such costs. (3-19-07)

a. The provider will report these costs on a separate schedule or by notations on the cost report so that these costs can be identified and reconciled to the provider's general ledger. (3-19-07)

b. If more than one (1) increase occurs as a result of one (1) or more law or rule change, the costs from each event are to be reported separately. (3-19-07)

c. The computation of the cost increase amount or amounts is to be presented in detail on a supplementary schedule or schedules unless the Department states otherwise. (3-19-07)

d. For interim rate purposes the provider's prospective rate may be granted an increase to cover such cost increases. A cost statement covering a recent period may be required with the justification for the increased costs. The actual amount related to such increases will be determined at audit and may be retrospectively settled. (3-19-07)

e. After the initial deadline has passed for all providers to file cost reports for reporting periods beginning on or after the date certain cost increases were first required, the Department will, at it's option, include all of the previously excluded costs related to those increases with costs subject to the cap when setting rates or increase the cap and individual facility prospective rates following such cost increases. If a cap is set with these particular costs included in the cap category, providers subject to that cap will not have these costs excluded from the cap for prospective rate purposes. The intent of this provision is for costs to be exempt from the cap until these costs are able to be fully and equitably incorporated in the data base used to project the cap and for these costs to be exempt only when they are not included in the data base. In those cases, when costs are not incurred immediately after a change in rule or law, delays in incorporating the new costs in the cap are warranted. (3-19-07)

f. When cost increases that have been excluded from the cap are incorporated in the inflation indices used to set the cap, the cost indices will be adjusted to exclude the influence of such changes if the amount is included in the index is identified. When the cap is set to include previously excluded amounts, any adjustments previously made to the indexes related to the previously excluded costs will be removed. (3-19-07)

02. Excess Inflation. Reimbursement of costs subject to the cap will be limited to the cap unless the Department determines the inflation indices used to set the prospective rates for a reporting period understated actual inflation by more than seven (7%) percentage points. In such case, prospective rates and the cap will be increased by the amount that actual inflation indices exceeded projected inflation indices and may be retrospectively adjusted by the department. (3-19-07)

03. Cost Increases Greater Than Three Percent. When cost increases of greater than three percent (3%) of the projected interim rate that result from disasters such as fire, flood, or earthquake, epidemic or similar unusual and unpredictable circumstances over which a provider has no control. Prospective rates will be increased and they will not be subject to the cap. However, they may be retrospectively adjusted by the Department. For the purposes of this Subsection, disaster does not include personal or financial problems. (3-19-07)

04. Decreases. In the event of state or federal law, rule, or policy changes that result in clearly identifiable reductions in required services, the Department may reduce the prospective rate to reflect the identified per diem amount related to such reductions. (3-19-07)

05. Prospective Negotiated Rates. Notwithstanding the provisions of Section 622 of these rules, the Director will have the authority to negotiate prospective rates for providers who would otherwise be subject to accept retrospective settlement. Such rates will not exceed the projected allowable rate that would otherwise be reimbursed based on provisions of this chapter. (3-19-07)

629. ICF/ID: LEGAL CONSULTANT FEES AND LITIGATION COSTS.

Costs of legal consultant fees and litigation costs incurred by the provider will be handled in accordance with the following: (3-19-07)

01. In General. Legal consultant fees unrelated to the preparation for or the taking of an appeal of an audit performed by the Department of Health and Welfare, or litigation costs incurred by the provider in an action unrelated to litigation with the Department of Health and Welfare, will be allowed as a part of the total per diem costs of which the Medicaid Program will reimburse a portion according to the percentage of Medicaid patient days. (3-19-07)

02. Administrative Appeals. In the case of the provider contesting in administrative appeal the findings of an audit performed by the Department of Health and Welfare, the costs of the provider's legal counsel will be reimbursed by the Medicaid Program only to the extent that the provider prevails on the issues involved. The determination of the extent that the provider prevails will be based on the ratio of the total dollars at issue for the audit period at issue in the hearing to the total dollars ultimately awarded to the provider for that audit period by the hearing officer or subsequent adjudicator. (3-19-07)

03. Other. All other litigation costs incurred by the provider in actions against the Department of Health and Welfare will not be reimbursable either directly or indirectly by the Medicaid Program except where specifically ordered by a court of law. (3-19-07)

630. ICF/ID: PROPERTY RENTAL RATE REIMBURSEMENT.
ICFs/ID will be paid a property rental rate. Property taxes, property insurance, and depreciation expense or major moveable equipment will be reimbursed as costs exempt from limitations. The property rental rate does not include compensation for minor movable equipment. The property rental rate is paid in lieu of payment for amortization, depreciation, and interest for financing the cost of land and depreciable assets. See Sections 56-108 and 56-109, Idaho Code, for further clarification. (3-19-07)

01. Property Rental Rate. The property rental rate is based upon current construction costs, the age of the facility, the type of facility, and major expenditures made to improve the facility, or a rate based upon property costs as of January 1, 1985. The amount paid for each Medicaid day of care will be phased in according to the following: (3-19-07)

a. R = "Property Base" x 40 - "Age" / 40 x "change in building costs" where: (3-19-07)

b. "R" = the property rental rate. (3-19-07)

c. "Property Base" = eleven dollars and twenty-two cents ($11.22) except for ICF/ID living units not able to accommodate residents requiring wheelchairs beginning October 1, 1996. Property base = seven dollars and twenty-two cents ($7.22) for ICF/ID living units not able to accommodate residents requiring wheelchairs. (3-19-07)

d. "Change in building costs" = 1.0 from October 1, 1996, through December 31, 1996. For ICF/ID facilities, the most recent index available when it is first necessary to set a prospective rate for a period that includes all or part of the calendar year, will be used. (3-19-07)

e. "Age" of facility - The effective age of the facility in years will be set by subtracting the year in which the facility, or portion thereof, was constructed from the year in which the rate is to be applied. No facility or portion thereof will be assigned an age of more than thirty (30) years, however: (3-19-07)

i. If adequate information is not submitted by the facility to document that the facility, or portion thereof, is newer than thirty (30) years, the age will be set at thirty (30) years. Adequate documentation will include, but not be limited to, such documents as copies of building permits, tax assessors' records, receipts, invoices, building contract, and original notes of indebtedness. An age will be determined for each building. A weighted average using the age and square footage of the buildings will become the effective age of the facility. The age of each building will be based upon the date when construction on that building was completed. This age will be adjusted to reflect major building expansion or remodeling prior to April 1, 1985, if that expenditure was large enough to reduce the age of the facility by two (2) or more years according to the following formula:

$$r = A \times E / S \times C$$

Where:

r	=	Reduction in the age of the facility in years.
A	=	Age of the building at the time when construction was completed.
E	=	Actual expenses for the construction provided that the total costs must have been incurred within twenty-four (24) months of the completion of the construction.

S	=	The number of square feet in the building at the end of construction.
C	=	The cost of construction for the buildings in the year when construction was completed according to the schedule in Subsection 630.01.d.ii.

If the result of this calculation, "r" is equal to or greater than two point zero (2.0), the age of the building in years will be reduced by this number, rounded to the nearest whole number for rate setting purposes. In no case will the age be less than zero (0). (3-19-07)

ii. For rates paid after June 30, 1989, the effective age of a facility will be further adjusted when the cost of major repairs, replacement, remodeling, or renovation of a building initiated after April 1, 1985, results in the change in age by at least one (1) year when applied to the formula in Subsection 630.01.d.i. However, such change will not decrease the effective age of a facility beyond the point where the increase in the property rental rate is greater than three-fourths (3/4) of the difference between the property rental rate "r" for a new facility at the time of the proposed rate revision and the property rental rate for which the facility was eligible immediately before the adjustment. The cost used for "C" will be adjusted according to costs published by Marshall Swift Valuation Service to reflect current construction costs for average Class D convalescent hospitals. It is the provider's responsibility to notify the Department and document costs. The Department will adjust the age after documentation of costs. (3-19-07)

iii. In the event that new requirements are imposed by state or federal agencies, the Department will reimburse the expenditures directly related to these requirements as an increase in the property rental rate if the expense is in excess of one hundred dollars ($100) per bed. If the cost related to the requirement is less than one hundred dollars ($100) per bed, the Department will, within twelve (12) months of verification of expenditure, reimburse the Medicaid share of the entire cost of such new requirements, as a one (1) time payment to the facility. (3-19-07)

iv. At no time will the property rental rate paid to a facility be less than the greater of the rate allowable to that facility on December 31, 1988, the rate allowable immediately following the first opening of a new facility after December 31, 1988, or the rate allowable immediately following the last, if any, age revision after December 31, 1988. However, subsequent to the application of this provision, before any property rental rate increase may be made for current or successor operators, the final settlement amount of any increase in the property rental rate will first be offset by an amount equal to the impact on final settlement of any rate decrease that would have occurred if the provisions of Subsections 630.01.d.iii. and 630.01.d.iv. of these rules had not been applied. This is intended to allow the postponement of the financial burden to providers of property rental rate decreases and to allow an equal offset of the financial burden to the state of subsequent property rate increases for a current or successor provider. (3-19-07)

v. Effective October 1, 1996, for ICF/ID facilities, "age of facility" will be a revised age that is the lesser of the age established under other provisions of this Section or the age that most closely yields the rate allowable to existing facilities as of September 30, 1996, under Subsection 630.01 of these rules. This revised age will not increase over time. (3-19-07)

02. Sale of a Facility. In the event of the sale of a facility, or asset of a facility, the buyer will receive the property rental rate of Subsection 630.01 of these rules. (3-19-07)

631. ICF/ID: PROPERTY REIMBURSEMENT LIMITATIONS.
Beginning October 1, 1996, property costs of an ICF/ID will be reimbursed in accordance with Section 630 of these rules except as follows: (3-19-07)

01. Restrictions. No grandfathered rates or lease provisions other than lease provisions in Section 630 of these rules will apply to ICF/ID facilities. (3-19-07)

02. Home Office and Day Treatment Property Costs. Distinct parts of buildings containing ICF/ID living units may be used for home office or day treatment purposes. Reimbursement for the property costs of such distinct parts may be allowed if these areas are used exclusively for home office or day treatment services. The portion of property cost attributed to these areas may be reimbursed as part of home office or day treatment costs without a reduction in the property rental rate. Reimbursement for home office and day treatment property costs will

not include costs reimbursed by, or covered by the property rental rate. Such costs will only be reimbursed as property cost if the facility clearly included space in excess of space normally used in such facilities. At a minimum to qualify for such reimbursement, a structure would have square feet per licensed bed in excess of the average square feet per licensed bed for other ICF/ID living units within four (4) licensable beds. (3-19-07)

03. Leases for Property. Beginning October 1, 1996, ICF/ID facilities with leases will be reimbursed as follows: (3-19-07)

a. The property costs related to ICF/ID living units other than costs for major movable equipment will be paid by a property rental rate in accordance with Section 630 of these rules. (3-19-07)

b. Leases for property other than ICF/ID living units will be allowable based on lease cost to the facility not to exceed a reasonable market rate, subject to other provisions of this chapter, and PRM principles including principles associated with related party leases. (3-19-07)

632. ICF/ID: SPECIAL RATES.

Section 56-117, Idaho Code, provides that the Department may pay facilities a special rate for care given to consumers who have medical or behavior long-term care needs beyond the normal scope of facility services. These individuals must have one (1) or more of the following behavior needs; additional personnel for supervision, additional behavior management, or additional psychiatric or pharmacology services. A special rate may also be given to consumers having medical needs that may include individuals needing ventilator assistance, certain medical pediatric needs, or individuals requiring nasogastric or intravenous feeding devices. These medical and behavior needs are not adequately reflected in the rates calculated pursuant to the principles set in Section 56-265, Idaho Code. The payment for such specialized care will be in addition to any payments made in accordance with other provisions of this chapter and will be based on a per diem rate applicable to the incremental additional costs incurred by the facility. Payment for special rates will start with approval by the Department and be and reviewed at least yearly for continued need. The incremental cost to a facility that exceeds the rate for services provided pursuant to the provisions of Section 632 of these rules, will be excluded from the computation of payments or rates under other provisions of Section 56-265, Idaho Code, IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." ( )

01. Determinations. A determination to approve or not approve a special rate will be made on a consumer-by-consumer basis. No rate will be allowed if reimbursement for these needs is available from a non-Medicaid source. (3-19-07)

02. Approval. Special rates will not be paid unless prior authorized by the Department. A special rate may be used in the following circumstances: (3-19-07)

a. New admissions to a community ICF/ID; (3-19-07)

b. For individuals currently living in a community ICF/ID when there has been a significant change in condition not reflected in the current rate; or (3-19-07)

c. The facility has altered services to achieve and maintain compliance with state licensing or federal certification requirements that have resulted in additional cost to the facility not reflected in their current rate. (3-19-07)

d. For the purpose of this rule, an emergency exists when the facility must incur additional behavioral or medical costs to prevent a more restrictive placement. (3-19-07)

03. Reporting. Costs equivalent to payments at the special rate will be removed from the cost components subject to limits, and will be reported separately. (3-19-07)

04. Limitations. The reimbursement rate paid will not exceed the provider's charges to other participants for similar services. (3-19-07)

633. REIMBURSEMENT PROVISIONS FOR STATE OWNED OR OPERATED ICF/ID FACILITIES.

Provisions of these rules do not apply to ICF/ID facilities owned or operated by the state of Idaho. Reimbursement of such facilities will be governed by the principles set forth in the PRM, with the exception of depreciation. Assets of such facilities need not be depreciated if they have an acquisition or historical cost of less than five thousand dollars ($5,000). (3-19-07)

634. (RESERVED)

YOUTH EMPOWERMENT SERVICES (YES) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN OPTION (Sections 635-638)

YOUTH EMPOWERMENT SERVICES (YES) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN OPTION (Sections 635-638)

635. YOUTH EMPOWERMENT SERVICES (YES) HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN OPTION.
Home and community-based services are provided through the HCBS State Plan option, as allowed in Section 1915(i) of the Social Security Act, for children who are YES program participants. HCBS state plan option services must be delivered in accordance with Sections 635 through 638 of these rules. (3-28-18)

636. YOUTH EMPOWERMENT SERVICES (YES) HCBS STATE PLAN OPTION: DEFINITIONS.
For the purposes of Sections 635 through 638 of these rules, the following terms are used as defined below. (3-28-18)

01. Idaho Behavioral Health Plan (IBHP). The Idaho Behavioral Health Plan is defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 011. (3-28-18)

02. Independent Assessment. A comprehensive clinical diagnostic assessment and a Department-approved assessment tool to identify the child's needs, strengths, and degree of functional impairment, administered by a Department-designated independent assessor. The assessment process also includes the following activities: (3-28-18)

a. Evaluation of the child's current behavioral health, living situation, relationships, and family functioning; (3-28-18)

b. Contacts, as necessary, with significant individuals such as family and teachers; and (3-28-18)

c. A review of information regarding the child's clinical, educational, social, and behavioral health, and juvenile/criminal justice history. (3-28-18)

03. Person-centered Service Plan. The person-centered service plan identifies the participant's physical and behavioral health services and supports needs. The person-centered service plan will be reviewed and updated by the Department or its designated representative at least every twelve (12) months, upon the participant's request, when new services are needed, or when there is a significant change in the participant's condition. (3-28-18)

04. Serious Emotional Disturbance (SED). The term "serious emotional disturbance" is defined in Section 16-2403, Idaho Code. (3-28-18)

05. YES Program Participant. A YES program participant is an Idaho resident under eighteen (18) years of age with a serious emotional disturbance as determined by an independent assessment. (3-28-18)

637. YOUTH EMPOWERMENT SERVICES (YES) HCBS STATE PLAN OPTION: ELIGIBILITY REDETERMINATION.
YES program participant eligibility will be redetermined by an independent assessment every twelve (12) months. The Department may extend participant eligibility to allow for redetermination if the independent assessment is

unavoidably delayed. (3-28-18)

638. YOUTH EMPOWERMENT SERVICES (YES) HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.
The following services are covered for YES participants: (3-28-18)

01. Respite Care. Respite care provides supervision to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver of a YES program participant. Respite care is available in response to a family emergency or crisis, or may be used on a regular basis to provide relief to the caregiver. Payment and administration of respite care services will be done through the IBHP and will be established by the Department in the IBHP contract. (3-28-18)

02. Person-Centered Planning. A person-centered planning team, comprised of the participant, family members, and other support persons significant to the participant, will direct the development of the person-centered service plan through a process approved by the Department. The process will include support necessary to enable the participant and their family to make informed choices and decisions concerning the person-centered service plan. (3-28-18)

639. -- 644. (RESERVED)

**ADULT DEVELOPMENTAL DISABILITIES HOME AND COMMUNITY BASED SERVICES (HCBS) STATE PLAN OPTION
(Sections 645 - 659)**

645. HOME AND COMMUNITY-BASED SERVICES (HCBS) STATE PLAN OPTION.
Home and community-based services are provided through the HCBS State Plan option as allowed in Section 1915(i) of the Social Security Act for adults with developmental disabilities who do not meet the ICF/ID level of care. HCBS state plan option services must comply with Sections 310 through 319, and Sections 645 through 657 of these rules. (4-11-19)

646. COMMUNITY CRISIS SUPPORTS.
Community crisis supports are interventions for participants who have been determined eligible for developmental disability services and who are at risk of losing housing, employment, or income, or are at risk of incarceration, physical harm, family altercation, or other emergencies. (7-1-16)

647. COMMUNITY CRISIS SUPPORTS: ELIGIBILITY.
Prior to receiving community crisis supports, an individual must be determined by the Department or its contractor to have a developmental disability under Sections 500 through 506 of these rules and Section 66-402, Idaho Code, be eighteen (18) years of age or older, and live in the community. (7-1-16)

648. COMMUNITY CRISIS SUPPORTS COVERAGE AND LIMITATIONS.
Community crisis support may be authorized the following business day after the intervention if there is a documented need for immediate intervention, no other means of support are available, and the services are appropriate to rectify the crisis. Community crisis support is limited to a maximum of twenty (20) hours during any consecutive five (5) day period. (7-1-16)

01. Emergency Room. Crisis services may be provided in an emergency room during the ER evaluation process if the goal is to prevent hospitalization and return the participant to the community. (7-1-16)

02. Before Plan Development. Community crisis support may be provided before or after the completion of the assessment and plan of service. If community crisis support is provided before the completion of the assessment and plan of service, the plan of service must include an identification of the factors contributing to the crisis and a strategy for addressing those factors in the future. (7-1-16)

03. Crisis Resolution Plan. After community crisis support has been provided, the provider of the community crisis support service must complete a crisis resolution plan and submit it to the Department for approval

within seventy-two (72) hours of providing the service. (7-1-16)

649. DEVELOPMENTAL THERAPY.
The Department will pay for developmental therapy provided by facilities that have entered into a provider agreement with the Department and are certified as developmental disabilities agencies by the Department. (7-1-13)

650. DEVELOPMENTAL THERAPY: ELIGIBILITY.
Prior to receiving developmental therapy in a DDA an individual must be determined by the Department or its contractor to have a developmental disability under Sections 500 through 506 of these rules and Section 66-402, Idaho Code be eighteen (18) years of age or older, and live in the community. (7-1-13)

651. DEVELOPMENTAL THERAPY: COVERAGE REQUIREMENTS AND LIMITATIONS.
Developmental therapy must be recommended by a physician or other practitioner of the healing arts. (7-1-13)

01. Requirements to Deliver Developmental Therapy. Developmental therapy may be delivered in a developmental disabilities agency center-based program, the community, or the home of the participant. Participants living in a certified family home must not receive home-based developmental therapy in a certified family home. Developmental therapy includes individual developmental therapy and group developmental therapy. Developmental therapy must be delivered by Developmental Specialists or paraprofessionals qualified in accordance with these rules, based on an assessment completed prior to the delivery of developmental therapy. (7-1-13)

a. Areas of Service. These services must be directed toward the rehabilitation or habilitation of physical or developmental disabilities in the areas of self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency. (7-1-13)

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

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

d. Settings for Developmental Therapy. Developmental Therapy may be provided in home and community-based settings as described in Section 312 of these rules. Developmental therapy, in both individual and group formats, must be available in both community-based and home-based settings, and be based on participant needs, interests, or choices. (7-1-16)

e. Staff-to-Participant Ratio. When group developmental therapy is center-based, there must be a minimum of one (1) qualified staff, who may be a paraprofessional or a Developmental Specialist, providing direct services for every twelve (12) participants. The community-based services must occur in integrated, inclusive settings and with no more than three (3) participants per qualified staff at each session. Additional staff must be added, as necessary, to meet the needs of each individual served. (7-1-13)

02. Excluded Services. The following services are excluded for Medicaid payments: (7-1-11)

a. Vocational services; (7-1-11)

b. Educational services; and (7-1-11)

c. Recreational services. (7-1-11)

03. Limitations on Developmental Therapy. Developmental therapy may not exceed the limitations as specified below. (7-1-13)

a. Developmental therapy must not exceed twenty-two (22) hours per week. (7-1-13)

b. Developmental therapy provided in combination with Community Supported Employment services under Subsection 703.04 of these rules, must not exceed forty (40) hours per week. (7-1-13)

c. When a participant receives adult day health as provided in Subsection 703.12 of these rules, the combination of adult day, health and developmental therapy must not exceed thirty (30) hours per week. (7-1-13)

d. Only one (1) type of therapy will be reimbursed during a single time period by the Medicaid program. Developmental therapy will not be reimbursed during periods when the participant is being transported to and from the agency. (7-1-13)

652. DEVELOPMENTAL THERAPY: PROCEDURAL REQUIREMENTS FOR INDIVIDUALS WITH AN ISP.

01. Eligibility Determination. Prior to the delivery of developmental therapy, the person must be determined by the Department or its contractor to be eligible as defined under Section 66-402, Idaho Code, be eighteen (18) years of age or older, and live in the community. (7-1-13)

02. Intake. Prior to the delivery of developmental therapy: (7-1-13)

a. A DDA will obtain a participant's current medical, social, and developmental information from the Department or its designee. (7-1-13)

b. The participant must have an ISP that is authorized in accordance with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 507 through 515. Developmental therapy provided by the DDA must be included on the plan of service and be prior authorized by the Department or its designee before a participant can receive the service from the agency. (7-1-13)

03. Documentation of Plan Changes. Documentation of changes in the required plan of service or Program Implementation Plan must be included in the participant's record. This documentation must include, at a minimum, the reason for the change, the date the change was made, and the signature of the professional making the change complete with date, credential, and title. If there are changes to a Program Implementation Plan that affect the type or amount of service on the plan of service, an addendum to the plan of service must be completed. (7-1-11)

653. DEVELOPMENTAL THERAPY: PROCEDURAL REQUIREMENTS FOR INDIVIDUALS WITH AN IPP.

01. Eligibility Determination. Prior to the delivery of developmental therapy, the person must be determined by the Department or its contractor to be eligible as defined under Section 66-402, Idaho Code, be eighteen (18) years of age or older, and live in the community. (7-1-13)

02. Intake. Individuals using the Home and Community-Based Services (HCBS) waiver for the Aged and Disabled (A&D) or State Plan Personal Care Services and only requesting DDA services, have the option to access services through an Individual Program Plan. Individuals who select this option are not required to have a developmental disability plan developer. Services delivered through an Individual Program Plan must be authorized by the Department or its contractor and be based on the Aged and Disabled written Individual Service Plan as defined in Section 328 of these rules. Prior to the delivery of developmental therapy, a DDA must complete an Individual Program Plan (IPP) that meets the standards described below. (7-1-16)

03. Individual Program Plan (IPP) Definitions. The delivery of developmental therapy on a written plan of care must be defined in terms of the type, amount, frequency, and duration of the service. (7-1-16)

a. Type of service refers to the kind of service described in terms of: (7-1-11)

i. Group, individual, or family; and (7-1-11)

ii. Whether the service is home, community, or center-based. (7-1-11)

b. Amount of service is the total number of service hours during a specified period of time. This is typically indicated in hours per week. (7-1-11)

c. Frequency of service is the number of times service is offered during a week or month. (7-1-11)

d. Duration of service is the length of time. This is typically the length of the plan year. For ongoing services, the duration is one (1) year; services that end prior to the end of the plan year must have a specified end date. (7-1-11)

04. Individual Program Plan (IPP). (7-1-13)

a. The IPP must be developed following obtainment or completion of all applicable assessments consistent with the requirements of this chapter. (7-1-11)

b. The planning process must include the participant, their legal guardian if one exists, and others the participant or their legal guardian chooses. The participant and their legal guardian if one exists must sign the IPP indicating they directed the person-centered planning process. The participant and their legal guardian if one exists must be provided a copy of the completed IPP by the DDA. A physician or other practitioner of the healing arts, the participant, and their legal guardian if one exists, must sign the IPP prior to initiation of any services identified within the plan. (7-1-16)

c. The planning process must occur at least annually, or more often if necessary, to review and update the plan to reflect any changes in the needs or status of the participant. Revisions to the IPP requiring a change in type, amount, or duration of the service provided must be recommended by the physician or other practitioner of the healing arts prior to implementation of the change. Such recommendations require written authorization by the participant, their legal guardian if one exists, and must be maintained in the participant's file. (7-1-13)

d. The IPP must be supported by the documentation required in the participant's record in accordance with IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)" record requirements. (7-1-11)

e. The IPP must promote self-sufficiency, the participant's choice in program objectives and activities, encourage the participant's participation and inclusion in the community, and contain objectives that are age-appropriate. The IPP must include: (7-1-11)

i. The participant's name and medical diagnosis; (7-1-11)

ii. The name of the assigned Developmental Specialist, the date of the planning meeting, and the names and titles of those present at the meeting; (7-1-11)

iii. The dated signature of the physician or other practitioner of the healing arts indicating their recommendation of the services on the plan; (7-1-11)

iv. The type, amount, frequency, and duration of therapy to be provided. For developmental therapy, the total hours of services provided cannot exceed the amount recommended on the plan. The amount and frequency of the type of therapy must not deviate from the IPP more than twenty percent (20%) over a period of a four (4) weeks, unless there is documentation of a participant-based reason; (7-1-11)

v. A list of the participant's current personal goals and desired outcomes, interests, and choices; (7-1-16)

vi. An accurate, current, and relevant list of the participant's specific developmental and behavioral strengths and needs. The list will identify which needs are priority based on the participant's choices and preferences. An IPP objective must be developed for each priority need; (7-1-11)

vii. A list of measurable behaviorally stated objectives that correspond to the list of priority needs. A Program Implementation Plan must be developed for each objective; (7-1-11)

viii. The Developmental Specialist responsible for each objective; (7-1-13)

ix. The target date for completion of each objective; (7-1-11)

x. The review date; and (7-1-11)

xi. A transition plan. The transition plan is designed to facilitate the participant's independence, personal goals, and interests. The transition plan must specify criteria for participant transition into less restrictive, more integrated settings. These settings may include community-based organizations and activities, vocational training, supported or independent employment, volunteer opportunities, or other less restrictive settings. The implementation of some components of the plan may necessitate decreased hours of service or discontinuation of services from a DDA. (7-1-13)

05. Documentation of Plan Changes. Documentation of required Program Implementation Plan changes must be included in the participant's record. This documentation must include, at a minimum: (7-1-13)

a. The reason for the change; (7-1-11)

b. Documentation of coordination with other services providers, where applicable; (7-1-11)

c. The date the change was made; and (7-1-11)

d. The signature of the professional making the change complete with date, credential, and title. Changes to the IPP require documented notification of the participant and their legal guardian if one exists. Changes in type, amount, or duration of services must be recommended by a physician or other practitioner of the healing arts. Such recommendations require written authorization by the participant and their legal guardian if one exists prior to the change. If the signatures of the participant or their legal guardian cannot be obtained, then the agency must document in the participant's record the reason the signatures were not obtained. (7-1-13)

06. Home and Community-Based Person-Centered Planning. Individual Program Plans completed by a DDA must meet the person-centered planning requirements described in Sections 316 and 317 of these rules and must be included in the participant's individual service plan as described in Section 328 of these rules. (7-1-16)

654. DEVELOPMENTAL THERAPY: PROCEDURAL REQUIREMENTS.

01. Assessment and Diagnostic Services. DDAs must obtain assessments required under Sections 507 through 515 of these rules. Four (4) hours is the maximum Medicaid reimbursable time allowed for the combination of all assessment, evaluation, or diagnostic services provided in any calendar year. The following assessment and diagnostic services are reimbursable when provided in accordance with these rules: (7-1-13)

a. Comprehensive Developmental Assessment; and (7-1-13)

b. Specific Skill Assessment. (7-1-13)

02. Comprehensive Developmental Assessments. Assessments must be conducted by qualified professionals defined under Section 655 of these rules. (7-1-13)

a. Comprehensive Assessments. A comprehensive assessment must: (7-1-11)

i. Determine the necessity of the service; (7-1-11)

ii. Determine the participant's needs; (7-1-11)

iii. Guide treatment; (7-1-11)

iv. Identify the participant's current and relevant strengths, needs, and interests when these are applicable to the respective discipline; and (7-1-11)

b. Date, Signature, and Credential Requirements. Assessments must be signed and dated by the professional completing the assessment and include the appropriate professional credential or qualification of that person. (7-1-11)

c. Requirements for Current Assessments. Assessments must accurately reflect the current status of the participant. To be considered current, assessments must be completed or updated at least every two (2) years for service areas in which the participant is receiving services on an ongoing basis. (7-1-13)

d. Comprehensive Developmental Assessment. A comprehensive developmental assessment must reflect a person's developmental status in the following areas: (7-1-13)

i. Self-care; (7-1-11)

ii. Receptive and expressive language; (7-1-11)

iii. Learning; (7-1-11)

iv. Gross and fine motor development; (7-1-11)

v. Self-direction; (7-1-11)

vi. Capacity for independent living; and (7-1-11)

vii. Economic self-sufficiency. (7-1-11)

03. Specific Skill Assessments. Specific skill assessments must: (7-1-13)

a. Further assess an area of limitation or deficit identified on a comprehensive assessment. (7-1-13)

b. Be related to a goal on the IPP or ISP. (7-1-13)

c. Be conducted by qualified professionals. (7-1-13)

d. Be conducted for the purposes of determining a participant’s skill level within a specific domain. (7-1-13)

e. Be used to determine baselines and develop the program implementation plan. (7-1-13)

04. DDA Program Documentation Requirements. Each DDA must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. (7-1-11)

a. General Requirements for Program Documentation. For each participant the following program documentation is required: (7-1-11)

i. Daily entry of all activities conducted toward meeting participant objectives. (7-1-11)

ii. Sufficient progress data to accurately assess the participant's progress toward each objective; and (7-1-11)

iii. A review of the data, and, when indicated, changes in the daily activities or specific implementation procedures by the qualified professional. The review must include the qualified professional’s dated initials. (7-1-11)

iv. Documentation of six (6) month and annual reviews by the Developmental Specialist that includes a written description of the participant's progress toward the achievement of therapeutic goals, and the reason(s) why they continue to need services. (7-1-13)

v. Signed, authorized plan as described in Section 513 of these rules. (7-1-16)

b. DDAs must also submit provider status reviews to the plan monitor in accordance with Sections 507 through 515 of these rules. (7-1-13)

05. DDA Program Implementation Plan Requirements. For each participant, the DDA must develop a Program Implementation Plan for each DDA objective included on the participant's required plan of service. All Program Implementation Plans must be related to a goal or objective on the participant's plan of service. The Program Implementation Plan must be developed within fourteen (14) days from the plan of service start date or receipt of the authorized plan of service and be revised whenever participant needs change. If the Program Implementation Plan is not completed within this time frame, the participant's records must contain participant-based documentation justifying the delay. If consistent with the timeframes above, a participant's annual Program Implementation Plan is completed after the start date of the annual plan of service, the provider will address goals and objectives as agreed to by the participant until the annual Program Implementation Plan is complete and must document service provision related to these interim goals and objectives consistent with Section 654 of these rules. The Program Implementation Plan must include the following requirements: (7-1-16)

a. Name. The participant's name. (7-1-11)

b. Baseline Statement. A baseline statement addressing the participant's skill level and abilities related to the specific skill to be learned. (7-1-11)

c. Objectives. Measurable, behaviorally-stated objectives that correspond to those goals or objectives authorized and agreed to in the required plan of service. (7-1-16)

d. Written Instructions to Staff. These instructions may include curriculum, interventions, task analyses, activity schedules, type and frequency of reinforcement, and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward the stated objective. (7-1-11)

e. Service Environments. Identification of the type of environment(s) where services will be provided. (7-1-11)

f. Target Date. Target date for completion. (7-1-11)

g. Results of the Psychological or Psychiatric Assessment. When a participant has had a psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to ensure therapies provided in the DDA accommodate the participant's mental health needs and to ensure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant's mental health status. (7-1-11)

h. Home and Community-Based Services Requirements. All program implementation plans must meet home and community-based setting qualities defined in Section 313 of these rules. (7-1-16)

655. DEVELOPMENTAL THERAPY: PROVIDER QUALIFICATIONS AND DUTIES.

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

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

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

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

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

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

02. Developmental Therapy Paraprofessionals. Paraprofessionals, such as aides or therapy technicians, may be used by an agency to provide developmental therapy if they are under the supervision of a Developmental Specialist. A developmental therapy paraprofessional must be at least seventeen (17) years of age. (7-1-13)

03. Requirements for Collaboration with Other Providers. When participants are receiving rehabilitative or habilitative services from other providers, each DDA must coordinate each participant's DDA program with these providers to maximize skill acquisition and generalization of skills across environments, and to avoid duplication of services. The DDA must maintain documentation of this collaboration. This documentation includes other plans of services such as the Individual Education Plan (IEP), Personal Care Services (PCS) plan, Residential Habilitation plan, and the outpatient behavioral health service plan. The participant's file must also reflect how these plans have been integrated into the DDA's plan of service for each participant. (3-20-14)

656. GENERAL STAFFING REQUIREMENTS.

01. Standards for Paraprofessionals Providing Developmental Therapy. When a paraprofessional provides developmental therapy, the agency must ensure adequate supervision by a qualified professional during its service hours. All paraprofessionals must meet the training requirements under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," Section 410 and must meet the qualifications under Section 655 of these rules. A paraprofessional providing developmental therapy must be supervised by a Developmental Specialist. For paraprofessionals to provide developmental therapy in a DDA, the agency must adhere to the following standards: (7-1-13)

a. Limits to Paraprofessional Activities. The agency must ensure that paraprofessionals do not conduct participant assessments, establish a plan of service or develop a Program Implementation Plan. These activities must be conducted by a professional qualified to provide the service. (7-1-13)

b. Frequency of Supervision. The agency must ensure that a professional qualified to provide the service must, for all paraprofessionals under their supervision, on a weekly basis or more often if necessary: (7-1-11)

i. Give instructions; (7-1-11)

ii. Review progress; and (7-1-11)

iii. Provide training on the program(s) and procedures to be followed. (7-1-11)

c. Professional Observation. The agency must ensure that a professional qualified to provide the service must, on a monthly basis or more often if necessary, observe and review the work performed by the paraprofessional under their supervision, to ensure the paraprofessional has been trained on the program(s) and demonstrates the necessary skills to correctly implement the program(s). (7-1-11)

02. General Staffing Requirements for Agencies. Each DDA must have an agency administrator who is accountable for all service elements of the agency and who must be employed on a continuous and regularly scheduled basis. The agency administrator is accountable for the overall operations of the agency including ensuring compliance with this chapter of rules, overseeing and managing staff, developing and implementing written policies and procedures, and overseeing the agency's quality assurance program. (7-1-13)

a. When the administrator is not a Developmental Specialist as defined in these rules, the DDA must employ a Developmental Specialist on a continuous and regularly scheduled basis who is responsible for the service elements of the agency; and (7-1-11)

b. The Developmental Specialist responsible for the service elements of the agency must have two (2) years of supervisory or management experience providing developmental disabilities services to individuals with developmental disabilities. (7-1-11)

657. DEVELOPMENTAL THERAPY: PROVIDER REIMBURSEMENT.
Payment for developmental therapy provided by a DDA must be in accordance with rates established by the Department. (7-1-13)

658. -- 659. (RESERVED)

CHILDREN'S HOME AND COMMUNITY BASED SERVICES (HCBS) STATE PLAN OPTION (Sections 660 - 669)

660. CHILDREN'S HOME AND COMMUNITY BASED SERVICES (HCBS) STATE PLAN OPTION.
In accordance with Section 1915i of the Social Security Act, the Department will pay for home and community based services provided by individuals or agencies that have entered into a provider agreement with the Department. Services provided by a developmental disabilities agency to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary assessments, evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements. (7-1-18)

661. CHILDREN'S HCBS STATE PLAN OPTION: DEFINITIONS.
For the purposes of these rules, the definitions in Section 521 of these rules apply. Additionally, the following terms apply to the Children's Home and Community Based Services State Plan Option: (7-1-11)

01. Agency. A developmental disabilities agency (DDA) as defined in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." (7-1-11)

02. Annual. Every three hundred sixty-five (365) days except during a leap year which equals three hundred sixty-six (366) days. (7-1-11)

03. Clinical Supervisor. For the purposes of these rules, the clinical supervisor is the professional responsible for the supervision of DDA staff as outlined in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." (7-1-18)

04. Community. Natural, integrated environments outside of the home, school, or DDA center-based settings. (7-1-11)

05. Developmental Disabilities Agency (DDA). A DDA is an agency that is: (7-1-11)

a. A type of developmental disabilities facility, as defined in Section 39-4604(7), Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-11)

b. Certified by the Department to provide home and community based services to people with developmental disabilities, in accordance with these rules; (7-1-11)

c. A business entity, open for business to the general public; and (7-1-11)

d. Primarily organized and operated to provide home and community based services and the corresponding assessments to people with developmental disabilities. DDA services include evaluations, diagnostic, treatment, and support services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. (7-1-11)

06. Home and Community Based Services State (HCBS) Plan Option. The federal authority under section 1915(i) of the Social Security Act that allows a state to provide through a state plan amendment, medical assistance for home and community-based services for elderly and individuals with disabilities, without determining that without the provision of services the individuals would require institutional level of care. (7-1-11)

07. Human Services Field. A particular area of academic study in health care, social services, education, behavioral science or counseling. (7-1-11)

08. Integration. The process of promoting a life for individuals with developmental disabilities that is as much as possible like that of other citizens of the community, including living in the community and having access to community resources. A further goal of this process is to enhance the social image and personal competence of individuals with developmental disabilities. (7-1-11)

09. Paraprofessional. A person qualified to provide direct support services which include respite and habilitative supports. (7-1-11)

10. Professional. A person qualified to provide direct intervention services which include habilitative intervention, therapeutic consultation, family education, family training, interdisciplinary training, and crisis intervention. (7-1-11)

11. Support Services. Support services may provide supervision for a participant, as well as may provide assistance to a participant by facilitating integration into the community. (7-1-11)

662. CHILDREN'S HCBS STATE PLAN OPTION: PARTICIPANT ELIGIBILITY.
Children's Home and Community Based State Plan Option eligibility will be determined by the Department as described in Section 520 of these rules. HCBS state plan option participants must meet the following requirements: (7-1-11)

01. Age of Participants. Participants eligible to receive children's HCBS must be birth through seventeen (17) years of age. (7-1-11)

02. Eligibility Determinations. The Department must determine that prior to receiving children's HCBS state plan option services, an individual must be determined to have a developmental disability under Sections 500 through 506 of these rules and Section 66-402, Idaho Code, and have a demonstrated need for Children's HCBS state plan option services. (7-1-11)

03. Financial Eligibility. The Department must determine that prior to receiving children's HCBS state plan option services, the individual is in an eligibility group covered under the Title XIX Medicaid State plan, and has an income that does not exceed one hundred fifty percent (150%) of the Federal Poverty Level (FPL). (7-1-13)

663. CHILDREN'S HCBS STATE PLAN OPTION: COVERAGE AND LIMITATIONS.
All children's home and community based services must be identified on a plan of service developed by the family-centered planning team, and must be recommended by a physician or other practitioner of the healing arts. The following services are reimbursable when provided in accordance with these rules: (7-1-16)

01. Respite. Respite provides supervision to the participant on an intermittent or short-term basis because of the need for relief of the primary unpaid caregiver. Respite is available in response to a family emergency or crisis, or may be used on a regular basis to provide relief to the caregiver. Respite may be provided in the participant's home, the private home of the respite provider, a DDA, or in the community. Payment for respite services are not made for room and board. (7-1-11)

a. Respite must only be offered to participants living with an unpaid caregiver who requires relief. (7-1-11)

b. Respite cannot exceed fourteen (14) consecutive days. (7-1-11)

c. Respite must not be provided at the same time other Medicaid services are being provided. (7-1-11)

d. Respite must not be provided on a continuous, long-term basis as a daily service that would enable an unpaid caregiver to work. (7-1-11)

e. The respite provider must not use restraints on participants, other than physical restraints in the case of an emergency. Physical restraints may be used in an emergency to prevent injury to the participant or others, and must be documented in the participant's record. (7-1-11)

f. When respite is provided as group respite, the following applies: (7-1-11)

i. When group respite is center-based, there must be a minimum of one (1) qualified staff providing direct services to every six (6) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly. (7-1-11)

ii. When group respite is community-based, there must be a minimum of one (1) qualified staff providing direct services to every three (3) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff-to-participant ratio must be adjusted accordingly. (7-1-11)

g. Respite cannot be provided as group- or center-based respite when delivered by an independent respite provider. (7-1-11)

h. For Act Early waiver participants, the cost of respite services cannot exceed ten (10) percent of the child's individualized budget amount to ensure the child receives the recommended amount of intervention based on evidence-based research. (7-1-11)

02. Habilitative Supports. Habilitative Supports provides assistance to a participant with a disability by facilitating the participant's independence and integration into the community. This service provides an opportunity for participants to explore their interests, practice skills learned in other therapeutic environments. and learn through interactions in typical community activities. Integration into the community enables participants to expand their skills related to activities of daily living and reinforces skills to achieve or maintain mobility, sensory-motor, communication, socialization, personal care, relationship building, and participation in leisure and community activities. Habilitative Supports must: (7-1-11)

a. Not supplant services provided in school or therapy, or supplant the role of the primary caregiver; (7-1-11)

b. Ensure the participant is involved in age-appropriate activities and is engaging with typical peers according to the ability of the participant; and (7-1-11)

c. Have a minimum of one (1) qualified staff providing direct services to every three (3) participants when provided as group habilitative supports. As the number and severity of the participants with functional impairments increases, the staff participant ratio shall be adjusted accordingly. (7-1-11)

03. Family Education. Family education is professional assistance to families to help them better meet the needs of the participant. It offers education to the parent or legal guardian that is specific to the individual needs of the family and child as identified on the plan of service. Family education is delivered to families to provide an orientation to developmental disabilities and to educate families on generalized strategies for behavioral modification and intervention techniques specific to their child's diagnoses. (7-1-11)

a. Family education may also provide assistance to the parent or legal guardian in educating other unpaid caregivers regarding the needs of the participant. (7-1-11)

b. The family education providers must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the plan of service. (7-1-11)

c. Family education may be provided in a group setting not to exceed five (5) participants' families. (7-1-11)

04. Family-Directed Community Supports. Families of participants eligible for the children's home and community based state plan option may choose to direct their individualized budget rather than receive the traditional services described in Subsections 663.01 through 663.03 of this rule when the participant lives at home with his parent or legal guardian. The requirements for this option are outlined in IDAPA 16.03.13 "Consumer-Directed Services." (7-1-11)

05. Limitations. (7-1-11)

a. HCBS state plan option services are limited by the participant's individualized budget amount. (7-1-11)

b. For the children's HCBS state plan option services listed in Subsections 663.01, 663.02, and 663.04 of this rule, the following are excluded for Medicaid payment: (7-1-11)

i. Vocational services; and (7-1-11)

ii. Educational services. (7-1-11)

664. CHILDREN'S HCBS STATE PLAN OPTION: PROCEDURAL REQUIREMENTS.

01. General Requirements for Program Documentation. The provider must maintain records for each participant served. Each participant's record must include documentation of the participant's involvement in and response to the services provided. For each participant, the following program documentation is required: (7-1-11)

a. Direct service provider information that includes written documentation of the service provided during each visit made to the participant, and contains, at a minimum, the following information: (7-1-11)

i. Date and time of visit; and (7-1-11)

ii. Intervention and support services provided during the visit; and (7-1-11)

iii. A statement of the participant's response to the service; and (7-1-11)

iv. Length of visit, including time in and time out; and (7-1-11)

v. Specific place of service. (7-1-11)

vi. A copy of the above information will be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-11)

02. Habilitative Supports Documentation. In addition to the general requirements listed in Subsection 664.01 of this rule, the following must be completed: (7-1-11)

a. On a monthly basis, the habilitative support staff must complete a summary of the participant's response to the support service and submit the monthly summary to the clinical supervisor. (7-1-11)

b. The clinical supervisor reviews the summary on a monthly basis and when recommendations for changes to the type and amount of support are identified, submits the recommendations to the plan developer.

(7-1-11)

03. Family Education Documentation. In addition to the general requirements listed in Subsection 664.01 of this rule, the DDA must survey the parent or legal guardian's satisfaction of the service immediately following a family education session. (7-1-18)

04. Reporting Requirements. The clinical supervisor must complete at a minimum, six- (6) month and annual provider status reviews for habilitative support services provided. These provider status reviews must be completed more frequently, when so required on the plan of service. (7-1-11)

a. Documentation of the six- (6) month and annual reviews must be submitted to the plan monitor. (7-1-11)

b. The provider must use Department-approved forms for provider status reviews. (7-1-11)

665. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER QUALIFICATIONS AND DUTIES. All providers of HCBS state plan option services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (7-1-11)

01. Respite. Respite services may be provided by an agency that is certified as a DDA and is capable of supervising the direct services provided, by an independent respite provider. An independent respite provider is an individual who has entered into a provider agreement with the Department. Providers of respite services must meet the following minimum qualifications: (7-1-18)

a. Must be at least sixteen (16) years of age when employed by a DDA; or (7-1-18)

b. Must be at least eighteen (18) years of age and be a high school graduate, or have a GED, to act as an independent respite provider; and (7-1-11)

c. Meet the qualifications prescribed for the type of services to be rendered, or must be an individual selected by the participant, the family, or the participant's guardian; and (7-1-11)

d. Have received instructions in the needs of the participant who will be provided the service; and (7-1-11)

e. Demonstrate the ability to provide services according to a plan of service; and (7-1-11)

f. Must satisfactorily complete a criminal history background check in accordance with IDAPA 16.05.06 "Criminal History and Background Checks"; and (7-1-11)

g. When employed by a DDA, must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)." Independent respite providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. (7-1-18)

02. Habilitative Support Staff. Habilitative supports must be provided by an agency certified as a DDA with staff who are capable of supervising the direct services provided. Providers of habilitative supports must meet the following minimum qualifications: (7-1-18)

a. Must be at least eighteen (18) years of age; (7-1-11)

b. Must be a high school graduate or have a GED; (7-1-11)

c. Have received instructions in the needs of the participant who will be provided the service; (7-1-11)

d. Demonstrate the ability to provide services according to a plan of service; (7-1-11)

e. Must have six (6) months supervised experience working with children with developmental disabilities. This can be achieved in the following ways: (7-1-11)

i. Have previous work experience gained through paid employment, university practicum experience, or internship; or (7-1-11)

ii. Have on-the-job supervised experience gained through employment at a DDA with increased supervision. Experience is gained by completing at least six (6) hours of job shadowing prior to the delivery of direct support services, and a minimum of weekly face-to-face supervision with the clinical supervisor for a period of six (6) months while delivering services. (7-1-18)

f. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative supports. (7-1-11)

g. In addition to the habilitative support qualifications listed in Subsections 665.02.a. through f. of this rule, habilitative support staff serving infants and toddlers from birth to three (3) years of age must meet the following qualifications: (7-1-11)

i. Have transcripted courses for a minimum of a Child Development Associate degree (CDA) or the equivalent through completion of twelve (12) semester credits from an accredited college or university in child development, special education, or closely-related coursework; or (7-1-11)

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

03. Family Education. Family education must be provided by an agency certified as a DDA and with staff who are capable of supervising the direct services provided. Providers of family education must meet the following minimum qualifications: (7-1-18)

a. Must hold at least a bachelor's degree in a human services field from a nationally-accredited university or college, and has: (7-1-11)

i. One (1) year experience providing care to children with developmental disabilities; (7-1-11)

ii. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide family education; or (7-1-11)

b. Individuals working as Developmental Specialists for children ages birth through three (3) or three (3) through seventeen (17), and individuals certified as Intensive Behavioral Interventionist professionals prior to July 1, 2011, are qualified to provide family education until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain his certification. (7-1-11)

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

04. Family Education for Children Birth to Three. In addition to the family education qualifications listed in Subsections 665.03.a. through 665.03.c. of this rule, family education staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following: (7-1-11)

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

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

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

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

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

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

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

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

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

d. Electives closely related to the content under Subsection 665.04.c.iii. of this rule may be approved by the Department with a recommendation from an institution of higher education. (7-1-11)

e. Developmental specialists who possess a bachelor's or master's degree listed above under Subsection 665.04.c.ii. of this rule, have completed a minimum of twenty (20) semester credits in EC/ECSE, and with Department approval are serving children under three (3) years of age as of July 1, 2005, will be allowed to continue providing services in accordance with their approved, conditional hiring agreement. (7-1-11)

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

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

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

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

05. Requirements for Clinical Supervision. All DDA services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in Section 685 of these rules. Clinical supervisor(s) are professionals employed by a DDA on a continuous and regularly scheduled basis. (7-1-18)

a. The clinical supervisor is responsible for the oversight and supervision of service and support

elements of the agency, including face-to-face supervision of agency staff providing direct services. (7-1-11)

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

c. Each DDA must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. (7-1-18)

06. Requirements for Collaboration. Providers of home and community based services must coordinate with the family-centered planning team as specified on the plan of service. (7-1-11)

07. Requirements for Quality Assurance. Providers of children's home and community based state plan option services must demonstrate high quality of services through an internal quality assurance review process. (7-1-11)

08. DDA Services. In order for a DDA to provide respite, habilitative supports, and family education the DDA must be certified to provide support services. Each DDA is required to provide habilitative supports. (7-1-11)

666. CHILDREN'S HCBS STATE PLAN OPTION: PROVIDER REIMBURSEMENT.

01. Reimbursement. The statewide reimbursement rate for children's HCBS state plan option services listed in Subsections 663.01 through 663.03 of these rules was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 666.02 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. (7-1-11)

02. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (7-1-11)

03. Claim Forms. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (7-1-11)

04. Rates. The reimbursement rates calculated for children's HCBS include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. (7-1-11)

667. -- 679. (RESERVED)

CHILDREN'S WAIVER SERVICES
(Sections 680 - 699)

680. CHILDREN'S WAIVER SERVICES.

01. Purpose of and Eligibility for Waiver Services. Under 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible children to prevent unnecessary institutional placement, provide for the greatest degree autonomy and of independence possible, enhance the quality of life, encourage individual choice, and achieve and maintain community integration. For a participant to be eligible, the Department must find that the participant requires services due to a developmental disability that impairs his mental or physical function or independence, is capable of being maintained safely and effectively in a non-institutional setting, and would, in the absence of such services, need to reside in an ICF/ID. (7-1-16)

02. Waiver Services Provided by a DDA. Services provided by a developmental disabilities agency to children birth to three (3) years of age must meet the requirements and provisions of the Individuals with Disabilities Education Act (IDEA), Part C; the Family Education Rights and Privacy Act; Sections 16-101, et seq., Idaho Code, regarding early intervention services; and the Idaho State Plan for Early Intervention Services under IDEA, Part C. These requirements include adherence to procedural safeguards and time lines, multi-disciplinary assessments, evaluations, individualized family service plans, provision of early intervention services in the natural environment, transition planning, and enrollment and reporting requirements. (7-1-18)

681. CHILDREN'S WAIVER SERVICES: DEFINITIONS.

For the purposes of Sections 680 through 686 of these rules, the following terms are used as defined below; in addition, the definitions in Sections 521 and 661 of these rules apply. (7-1-11)

01. Crisis. An unanticipated event, circumstance, or life situation that places a participant at risk of at least one of the following: (7-1-11)

a. Hospitalization; (7-1-11)

b. Loss of housing; (7-1-11)

c. Loss of employment; (7-1-11)

d. Incarceration; or (7-1-11)

e. Physical harm to self or others, including family altercation or psychiatric relapse. (7-1-11)

02. Intervention Services. Intervention services include outcome-based therapeutic services, professional consultation services, and education and training for families caring for participants with developmental disabilities. (7-1-11)

03. Objective. A behavioral outcome statement developed to address a particular need identified for a participant. An objective is written in measurable terms that specify a target date for completion, no longer than one (1) year in duration, and include criteria for successful attainment of the objective. (7-1-11)

04. Probe. A probe is data gathered on an intermittent basis, after a baseline is established, to measure a participant's level of independent performance as related to an identified objective. (7-1-11)

05. Program Implementation Plan. A plan that details how intervention goals from the plan of service will be accomplished. (7-1-11)

06. Specific Skill Assessment. A type of assessment used to determine the baseline or the need for further supports or intervention for the discipline area being assessed. (7-1-11)

07. Telehealth. Telehealth is an electronic real-time synchronized audio-visual contact between a consultant and participant related to the treatment of the participant. The consultant and participant interact as if they were having a face-to-face service. (7-1-11)

08. Treatment Fidelity. Accurately and consistently administering a program or intervention from a manual, protocol, or model. (7-1-11)

682. CHILDREN'S WAIVER SERVICES: ELIGIBILITY.

Waiver eligibility will be determined by the Department as described in Section 522 of these rules. Children's waiver participants must meet the following requirements: (7-1-11)

01. Age of Participants. The following waiver programs are available for children: (7-1-11)

a. Children's DD Waiver. Children's DD waiver participants must be birth through seventeen (17) years of age. (7-1-11)

b. Act Early Waiver. Act Early waiver participants must be three (3) through six (6) years of age. (7-1-11)

02. Eligibility Determinations. The Department must determine that: (7-1-11)

a. The participant would qualify for ICF/ID level of care as set forth in Section 584 of these rules, if the waiver services listed in Section 683 of these rules were not made available; and (7-1-11)

b. The participant could be safely and effectively maintained in the requested or chosen community residence with appropriate waiver services. This determination must: be made by a team of individuals with input from the family-centered planning team. Prior to any denial of services, it must be determined by the plan developer that services to correct the concerns of the team are not available. (7-1-11)

c. The average annual cost of waiver services and other medical services to participants would not exceed the average annual cost to Medicaid of ICF/ID care and other medical costs. (7-1-11)

d. Following the approval by the Department for services under the waiver, the participant must receive and continue to receive a waiver service as described in these rules. A participant who does not use a waiver service for thirty (30) consecutive days will be terminated from the waiver program. (7-1-11)

03. Additional Act Early Waiver Requirements. In addition to the requirements listed in Subsections 682.01 and 682.02 of this rule, a participant must have the following characteristics to qualify for Act Early waiver services: (7-1-11)

a. An autism spectrum diagnosis; or (7-1-11)

b. Self-injurious, aggressive, or severely maladaptive behavior as evidenced by a General Maladaptive Index score of minus twenty-two (-22) or below on a Department-approved assessment tool or other behavioral assessment indicators identified by the Department and a severe deficit, defined as having a composite full scale functional age equivalency of fifty percent (50%) or less of the participant's chronological age. (7-1-18)

04. Children's Waiver Eligible Participants. A participant who is determined by the Department to be eligible for services under the children's waivers may elect not to use waiver services, but may choose admission to an ICF/ID. (7-1-11)

05. Home and Community-Based Waiver Participant Limitations. The number of Medicaid participants to receive waiver services under the children's waivers for participants with developmental disabilities will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after June 30th of each new waiver year. (7-1-11)

683. CHILDREN'S WAIVER SERVICES: COVERAGE AND LIMITATIONS.
All children's DD waiver services must be identified on a plan of service developed by the family-centered planning team, and must be recommended by a physician or other practitioner of the healing arts. In addition to the children's home and community based state plan option services described in Section 663 of these rules, the following services are available for waiver eligible participants and are reimbursable services when provided in accordance with these rules: (7-1-16)

01. Family Training. Family training is professional one-on-one (1 on 1) instruction to families to help them better meet the needs of the waiver participant receiving intervention services. (7-1-11)

a. Family training is limited to training in the implementation of intervention techniques as outlined in the plan of service. (7-1-11)

b. Family training must be provided to the participant's parent or legal guardian when the participant is present. (7-1-11)

c. The family training provider must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the plan of service. (7-1-11)

d. The parent or legal guardian of the waiver participant is required to participate in family training when the participant is receiving habilitative interventions. The following applies for each waiver program: (7-1-11)

i. For participants enrolled in the Children's DD Waiver, the amount, duration, and frequency of the training must be determined by the family-centered planning team and the parent or legal guardian, and must be listed as a service on the plan of service. (7-1-11)

ii. For participants enrolled in the Act Early Waiver, the parent or legal guardian will be required to be present and actively participate during the intervention service session for at least twenty percent (20%) of the intervention time provided to the child. (7-1-11)

02. Interdisciplinary Training. Interdisciplinary training is professional instruction to the direct service provider. Interdisciplinary training must only be provided during the provision of a support or intervention service. Interdisciplinary training is provided to assist the direct provider to meet the needs of the waiver participant. (7-1-11)

a. Interdisciplinary training includes: (7-1-11)

i. Health and medication monitoring; (7-1-11)

ii. Positioning and transfer; (7-1-11)

iii. Intervention techniques; (7-1-11)

iv. Positive Behavior Support; (7-1-11)

v. Use of equipment; (7-1-11)

b. Interdisciplinary training must only be provided to the direct service provider when the participant is present. (7-1-11)

c. The interdisciplinary training provider must maintain documentation of the training in the participant's record documenting the provision of activities outlined in the plan of service. (7-1-11)

d. Interdisciplinary training between a habilitative interventionist and a therapeutic consultant is not a reimbursable service. (7-1-11)

e. Interdisciplinary training between employees of the same discipline is not a reimbursable service. (7-1-11)

03. Habilitative Intervention Evaluation. The purpose of the habilitative intervention evaluation is to guide the formation of developmentally-appropriate objectives and intervention strategies related to goals identified through the family-centered planning process. The habilitative interventionist must complete an evaluation prior to the initial provision of habilitative intervention services. The evaluation must include: (7-1-11)

a. Specific skills assessments for deficit areas identified through the eligibility assessment; (7-1-11)

b. Functional behavioral analysis; (7-1-11)

c. Review of all assessments and relevant histories provided by the plan developer; and (7-1-11)

d. Clinical Opinion. Professional summary that interprets and integrates the results of the testing. This summary includes functional, developmentally appropriate recommendations to guide treatment. (7-1-11)

04. Habilitative Intervention. Habilitative intervention services must be consistent, aggressive, and continuous and are provided to improve a child's functional skills and minimize problem behavior. Services include individual or group behavioral interventions and skill development activity. Habilitative intervention must be based upon the well-known and widely regarded principles of evidence-based treatment. Evidence-based treatment (EBT) refers to the use of mental and behavioral health interventions for which systematic empirical research has provided evidence of statistically significant effectiveness as treatments for specific problems. As "promising practices" meet statistically significant effectiveness, they could be included as approved approaches. (7-1-11)

a. Habilitative intervention must be provided to meet the intervention needs of the participant by developing adaptive skills for all participants, and addressing maladaptive behaviors for participants who exhibit them. (7-1-11)

i. When goals to address maladaptive behavior are identified on the plan of service, the intervention must include the development of replacement behavior rather than merely the elimination or suppression of maladaptive behavior that interferes with the child's overall general development, community, and social participation. (7-1-11)

ii. When goals to address skill development are identified on the plan of service, the intervention must provide for the acquisition of skills that are functional. (7-1-11)

b. Habilitative intervention must be provided in the participant's home or community setting, and in addition may be provided in a center-based setting. (7-1-11)

c. Group intervention may be provided in the community and center. When habilitative intervention is provided as group intervention, the following applies: (7-1-11)

i. There must be a minimum of one (1) qualified staff providing direct services for every three (3) participants. As the number and severity of the participants with functional impairments or behavioral issues increases, the staff participant ratio must be adjusted accordingly. (7-1-11)

ii. When group intervention is community-based, the child must be integrated in the community in a natural setting with typically developing peers. (7-1-11)

iii. Group intervention must be directly related to meeting the needs of the child, and be identified as an objective in accordance with a plan of service goal. (7-1-11)

05. Therapeutic Consultation. Therapeutic consultation provides a higher level of expertise and experience to support participants who exhibit severe aggression, self-injury, and other dangerous behaviors. Therapeutic consultation is provided when a participant receiving habilitative intervention has been assessed as requiring a more advanced level of training and assistance based on the participant's complex needs. A participant requires therapeutic consultation when interventions are not demonstrating outcomes and it is anticipated that a crisis event may occur without the consultation service. (7-1-11)

a. The therapeutic consultant assists the habilitative interventionist by: (7-1-11)

i. Performing advanced assessments as necessary; (7-1-11)

ii. Developing and overseeing the implementation of a positive behavior support plan; (7-1-11)

iii. Monitoring the progress and coordinating the implementation of the positive behavioral support plan across environments; and (7-1-11)

iv. Providing consultation to other service providers and families. (7-1-11)

b. Telehealth resources may be used by a therapeutic consultant to provide consultation as appropriate and necessary. (7-1-11)

c. Therapeutic consultation providers are subject to the following limitations: (7-1-11)

i. Therapeutic consultation cannot be provided as a direct intervention service. (7-1-11)

ii. Participants must be receiving habilitative intervention services prior to accessing therapeutic consultation, with the exception of crisis situations. (7-1-11)

iii. Therapeutic consultation is limited to eighteen (18) hours per year per participant. (7-1-11)

iv. Therapeutic consultation must be prior authorized by the Department. (7-1-11)

06. Crisis Intervention. Crisis intervention services provide direct consultation and clinical evaluation of participants who are currently experiencing or may be expected to experience a psychological, behavioral, or emotional crisis. The need for crisis intervention must meet the definition of crisis in Section 681 of these rules. This service may provide training and staff development related to the needs of a participant, and also provides emergency back-up involving the direct support of the participant in crisis. Children's crisis intervention services: (7-1-11)

a. Are provided in the home and community. (7-1-11)

b. Are provided on a short-term basis typically not to exceed thirty (30) days. (7-1-11)

c. Cannot exceed fourteen (14) days of out-of-home placement. (7-1-11)

d. Must be prior authorized by the Department. (7-1-11)

i. Authorization for crisis intervention may be requested retroactively as a result of a crisis, defined in Section 681 of these rules, when no other means of support is available to the participant. In retroactive authorizations, the crisis intervention provider must submit a request for crisis intervention to the Department within seventy-two (72) hours of providing the service. (7-1-11)

ii. If staying in the home endangers the health and safety of the participant, the family, or both, the provider may request short-term out of home placement for the participant. Out of home placement must be prior authorized by the Department. (7-1-11)

e. Must use positive behavior interventions prior to and in conjunction with the implementation of any restrictive intervention. (7-1-11)

f. Telehealth resources may be used by a crisis interventionist to provide consultation in a crisis situation. (7-1-11)

07. Family-Directed Community Supports. Families of participants eligible for the children's DD waiver may choose to direct their individualized budget rather than receive the traditional services described in Subsections 683.01 through 683.06 of this rule when the participant lives at home with the parent or legal guardian. The requirements for selecting and participating in this option are outlined in IDAPA 16.03.13 "Consumer Directed Services." Act Early Waiver participants do not have the option to choose the family-directed services path. The Act Early Waiver is intended to be a more structured program that requires increased involvement from families, and ensures children receive an intense amount of services based on evidence-based research. (7-1-11)

08. Service limitations. Children's waiver services are subject to the following limitations: (7-1-11)

a. Place of Service Delivery. Waiver services may be provided in the participant's personal residence, community, or DDA. The following living situations are specifically excluded as a place of service for waiver services: (7-1-11)

i. Licensed skilled or intermediate care facilities, certified nursing facility (NF) or hospital; and (7-1-11)

ii. Licensed Intermediate Care Facility for persons with Intellectual Disabilities (ICF/ID); and (7-1-11)

iii. Residential Assisted Living Facility; (7-1-11)

iv. Additional limitations to specific services are listed under that service definition. (7-1-11)

b. According to 42 CFR 440.180, Medicaid Waiver services cannot be used to pay for special education and related services that are included in a child's Individual Educational Plan (IEP) under the provisions of Individuals with Disabilities Education Improvement Act of 2004 (IDEA), that are otherwise available through a local educational agency. (7-1-11)

c. Children's waiver services are limited by the participant's individualized budget amount, excluding crisis intervention. (7-1-11)

d. For the children's waiver services listed in Subsections 683.01 through 683.07 of these rules, the following are excluded for Medicaid payment: (7-1-11)

i. Vocational services; (7-1-11)

ii. Educational services; and (7-1-11)

iii. Recreational services. (7-1-11)

684. CHILDREN'S WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

01. Authorization of Services on a Written Plan. All children's waiver services must be identified on the plan of service and authorized by the Department. The plan of service must be reviewed by a plan developer at least every six (6) months or at a frequency determined by the family-centered planning team. (7-1-11)

02. General Requirements for Program Documentation. Children's waiver providers must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. For each participant the following program documentation is required: (7-1-11)

a. Direct service provider information which includes written documentation of each visit made or service provided to the participant, and will record at a minimum the following information: (7-1-11)

i. Date and time of visit; and (7-1-11)

ii. Services provided during the visit; and (7-1-11)

iii. A statement of the participant's response to the service, including any changes in the participant's condition; and (7-1-11)

iv. Length of visit, including time in and time out; and (7-1-11)

v. Specific place of service. (7-1-11)

b. A copy of the above information must be maintained by the independent provider or DDA. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (7-1-18)

03. Program Implementation Plan Requirements. For each participant receiving intervention and family training services, the DDA must develop a program implementation plan to determine objectives to be included on the participant's required plan of service. (7-1-18)

a. All program implementation plan objectives must be related to a goal on the participant's plan of service. (7-1-11)

b. The program implementation plan must be written, implemented, and submitted to the plan developer within fourteen (14) days after the first day of ongoing programming and be revised whenever participant needs change. If the program implementation plan is not completed within this time frame, the participant's records must contain documented participant-based justification for the delay. (7-1-13)

c. The program implementation plan must be completed by the habilitative interventionist, and must include the following requirements: (7-1-11)

i. The participant's name. (7-1-11)

ii. A baseline statement. (7-1-11)

iii. Measurable, behaviorally-stated objectives that correspond to those goals or objectives previously identified on the required plan of service. (7-1-11)

iv. Written instructions to the staff that may include curriculum, interventions, task analyses, activity schedules, type and frequency of reinforcement and data collection including probe, directed at the achievement of each objective. These instructions must be individualized and revised as necessary to promote participant progress toward the stated objective. (7-1-11)

v. Identification of the type of environment(s) and specific location(s) where services will be provided. (7-1-11)

vi. A description of the evidence-based treatment approach used for the service provided. (7-1-11)

vii. When the child has a current positive behavior support plan, it must be incorporated into the program implementation plan. (7-1-11)

viii. When interdisciplinary training is provided, identification of the type of interdisciplinary training and the objectives related to the training must be included on the program implementation plan. (7-1-11)

ix. Target date for completion, not to exceed one (1) year. (7-1-11)

x. The program implementation plan must be reviewed and approved by the clinical supervisor, as indicated by signature, credential, and date on the plan. (7-1-13)

04. Reporting Requirements. The clinical supervisor must complete, at a minimum, six- (6) month and annual provider status reviews for habilitative intervention and family training services provided. These provider status reviews must be completed more frequently when so required on the plan of service. (7-1-11)

a. Documentation of the six (6) month and annual reviews must be submitted to the plan developer. (7-1-11)

b. The provider must use Department-approved forms for provider status reviews. (7-1-11)

05. Provider Responsibility for Notification. It is the responsibility of the service provider to notify the plan developer when any significant changes in the participant's condition, as defined by the family-centered planning team, are noted during service delivery. Such notification will be documented in the service record. (7-1-11)

06. Records Maintenance. When a participant leaves the waiver services program, the records will be retained by the Department as part of the participant's closed case record. Provider agencies will be responsible to retain their participant's records for five (5) years following the date of service. (7-1-11)

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

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

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

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

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

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

d. Practitioner of the healing arts; (7-1-11)

e. Habilitative intervention provider as defined in Subsections 685.03 and 685.04 of this rule; or (7-1-11)

f. Therapeutic consultation provider as defined in Subsection 685.05 of this rule. (7-1-11)

03. Habilitative Intervention. Habilitative intervention must be provided by a DDA certified to provide both support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." The DDA must be capable of supervising the direct services provided. Providers of habilitative intervention must meet the following minimum qualifications: (7-1-18)

a. Must hold at least a bachelor's degree in a human services field from a nationally-accredited university or college; (7-1-11)

b. Must be able to provide documentation of one (1) year's supervised experience working with children with developmental disabilities. Experience must be gained through paid employment or university practicum experience or internship; (7-1-11)

c. Must complete competency coursework approved by the Department to demonstrate competencies related to the requirements to provide habilitative intervention; or (7-1-11)

d. Individuals working as Developmental Specialists for children age birth through three (3) or three (3) through 17, and individuals certified as Intensive Behavioral Intervention professionals prior to July 1, 2011, are qualified to provide habilitative intervention until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013 to maintain his certification. (7-1-11)

04. Habilitative Intervention for Children Birth to Three. In addition to the habilitative intervention qualifications listed in Subsections 685.03.a. through d. of this rule, habilitative intervention staff serving infants and toddlers from birth to three (3) years of age must have a minimum of two hundred forty (240) hours of professionally-supervised experience with young children who have developmental disabilities and one (1) of the following: (7-1-11)

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

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

c. A bachelor's or master's degree in special education, elementary education, speech-language pathology, early childhood education, physical therapy, occupational therapy, psychology, social work, or nursing

plus a minimum of twenty-four (24) semester credits in Early Childhood/Early Childhood Special Education (EC/ECSE) from an accredited college or university. Courses taken must appear on college or university transcripts and must cover the following standards in their content: (7-1-11)

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

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

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

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

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

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

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

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

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

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

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

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

05. Therapeutic Consultation. Therapeutic consultation may be provided by a DDA certified to provide both supports and intervention services under IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," or by an independent Medicaid provider under agreement with the Department. Providers of therapeutic consultation must meet the following minimum qualifications: (7-1-18)

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

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

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

Checks." (7-1-11)

d. Therapeutic consultation providers employed by a DDA must be certified in CPR and first aid in accordance with the general training requirements under IDAPA 16.03.21 "Developmental Disabilities Services (DDA)." Independent therapeutic consultation providers must be certified in CPR and first aid prior to delivering services, and must maintain current certification thereafter. (7-1-18)

06. Crisis Intervention. Crisis intervention may be provided by a DDA certified to provide support and intervention services under IDAPA 16.03.21, "Developmental Disabilities Services (DDA)," by an independent Medicaid provider under agreement with the Department. Providers of crisis intervention must meet the following minimum qualifications: (7-1-18)

a. Crisis Intervention professionals must meet the minimum therapeutic consultation provider qualifications described in Subsection 685.05 of this rule. (7-1-11)

b. Emergency intervention technician providers must meet the minimum habilitative support provider qualifications described under Subsection 665.02 of these rules. (7-1-11)

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

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

08. Requirements for Clinical Supervision. All DD services must be provided under the supervision of a clinical supervisor. The clinical supervisor must meet the qualifications to provide habilitative intervention as defined in this rule. Clinical supervisor(s) are professionals employed by a DDA on a continuous and regularly scheduled basis. (7-1-18)

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

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

c. Each DDA must employ an adequate number of clinical supervisors to ensure quality service delivery and participant satisfaction. (7-1-18)

09. Requirements for Collaboration with Other Providers. Providers of waiver services must coordinate with the family-centered planning team as specified on the plan of service. When a participant has had a psychological or psychiatric assessment, the results of the psychological or psychiatric assessment must be used when developing objectives to ensure therapies provided accommodate the participant's mental health needs and to ensure that none of the therapeutic methods are contra-indicated or delivered in a manner that presents a risk to the participant's mental health status. (3-20-14)

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

11. DDA Services. In order for a DDA to provide waiver services, the DDA must be certified to

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

686. CHILDREN'S WAIVER SERVICES: PROVIDER REIMBURSEMENT.

01. Reimbursement. The statewide reimbursement rate for children's HCBS state plan option services listed in Subsections 683.01 through 683.06 of these rules was derived by using Bureau of Labor Statistics mean wage for the direct care staff providing the service, adjusted for employment-related expenditures, program-related costs, and general and administrative costs based on a cost survey as described in Subsection 686.02 of this rule. Reimbursement rates are set at a percentage of the statewide target reimbursement rate. The Department will take into consideration the factors of efficiency, economy, quality of care, and access to care when determining rates. (7-1-11)

02. Cost Survey. The Department will conduct a cost survey every five (5) years from a statistically appropriate number of provider association representatives in order to obtain cost data for employment-related expenditures, program-related costs, and general and administrative costs. (7-1-11)

03. Claim Forms. Provider claims for payment will be submitted on claim forms provided by or approved by the Department. Billing instructions will be provided by the Department. (7-1-11)

04. Rates. The reimbursement rates calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. (7-1-11)

687. -- 699. (RESERVED)

ADULTS WITH DEVELOPMENTAL DISABILITIES WAIVER SERVICES (Sections 700 - 719)

700. ADULTS WITH DEVELOPMENTAL DISABILITIES WAIVER SERVICES.
Under 42 CFR Section 440.180, it is the intention of the Department to provide waiver services to eligible adult participants to prevent unnecessary institutional placement, provide for the greatest degree of independence possible, enhance the quality of life, encourage individual choice, and achieve and maintain community integration. For an adult participant to be eligible, the Department must find that the participant requires services due to a developmental disability that impairs their mental or physical function or independence, is capable of being maintained safely and effectively in a non-institutional setting, and would, in the absence of such services, need to reside in an ICF/ID. (7-1-11)

701. (RESERVED)

702. ADULT DD WAIVER SERVICES: ELIGIBILITY.
Waiver eligibility will be determined by the Department as described in Section 509 of these rules. The participant must be financially eligible for Medical Assistance as described in IDAPA 16.03.05, "Eligibility for Aid for the Aged, Blind, and Disabled (AABD)," Section 787. The cited chapter implements and is in accordance with the Financial Eligibility Section of the Idaho State Plan. In addition, waiver participants must meet the following requirements: (7-1-11)

01. Age of Participants. DD waiver participants must be eighteen (18) years of age or older. (3-29-10)

02. Eligibility Determinations. The Department must determine that: (3-19-07)

a. The participant would qualify for ICF/ID level of care as set forth in Section 584 of these rules, if the waiver services listed in Section 703 of these rules were not made available; and (3-19-07)

b. The participant could be safely and effectively maintained in the requested or chosen community

residence with appropriate waiver services. This determination must: be made by a team of individuals with input from the person-centered planning team; and prior to any denial of services on this basis, be determined by the plan developer that services to correct the concerns of the team are not available. (3-19-07)

c. The average annual cost of waiver services and other medical services to the participant would not exceed the average annual cost to Medicaid of ICF/ID care and other medical costs. (7-1-06)

03. Home and Community-Based Services Waiver Eligible Participants. A participant who is determined by the Department to be eligible for services under the Home and Community-Based Services Waivers for DD may elect not to utilize waiver services but may choose admission to an ICF/ID. (3-29-10)

04. Processing Applications. The participant's self-reliance staff will process the application in accordance with IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," as if the application was for admission to an ICF/ID, except that the self-reliance staff will forward potentially eligible applications immediately to the Department for review. The Medicaid application process cited above conforms to all statutory and regulatory requirements relating to the Medicaid application process. (3-19-07)

05. Transmitted Decisions to Self-Reliance Staff. The decisions of the Department regarding the acceptance of the participants into the waiver program will be transmitted to the self-reliance staff. (3-19-07)

06. Case Redetermination. (3-19-07)

a. Financial redetermination will be conducted pursuant to IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." Medical redetermination will be made at least annually by the Department, or sooner at the request of the participant, the self-reliance staff, provider agency, or physician. The sections cited implement and are in accordance with Idaho's approved State Plan with the exception of deeming of income provisions. (3-19-07)

b. The redetermination process will assess the following factors: (3-19-07)

i. The participant's continued need and eligibility for waiver services; and (3-19-07)

ii. Discharge from the waiver services program. (3-19-07)

07. Home and Community-Based Waiver Participant Limitations. The number of Medicaid participants to receive waiver services under the home and community-based waiver for developmentally disabled participants will be limited to the projected number of users contained in the Department's approved waiver. Individuals who apply for waiver services after the waiver maximum has been reached will be placed on a waiting list and will have their applications processed after September 30th for the DD waiver of each new waiver year. (3-29-10)

703. ADULT DD WAIVER SERVICES: COVERAGE AND LIMITATIONS.

01. Residential Habilitation. Residential habilitation services consist of an integrated array of individually tailored services and supports furnished to eligible participants. These services and supports are designed to assist the participants to reside successfully in their own homes, with their families, or in certified family homes. The services and supports that may be furnished consist of the following: (4-4-13)

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

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

ii. Money management including training or assistance in handling personal finances, making

purchases, and meeting personal financial obligations; (3-19-07)

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

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

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

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

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

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

02. Chore Services. Chore services include the following services when necessary to maintain the functional use of the home or to provide a clean, sanitary, and safe environment. (4-4-13)

a. Intermittent Assistance may include the following: (4-4-13)

i. Yard maintenance; (4-4-13)

ii. Minor home repair; (4-4-13)

iii. Heavy housework; (4-4-13)

iv. Sidewalk maintenance; and (4-4-13)

v. Trash removal to assist the participant to remain in the home. (4-4-13)

b. Chore activities may include the following: (4-4-13)

i. Washing windows; (4-4-13)

ii. Moving heavy furniture; (4-4-13)

iii. Shoveling snow to provide safe access inside and outside the home; (4-4-13)

iv. Chopping wood when wood is the participant's primary source of heat; and (4-4-13)

v. Tacking down loose rugs and flooring. (4-4-13)

c. These services are only available when neither the participant, nor anyone else in the household, is capable of performing or financially providing for them, and where no other relative, caregiver, landlord, community volunteer, agency, or third-party payer is willing to provide them, or is responsible for their provision. (4-4-13)

d. In the case of rental property, the landlord's responsibility under the lease agreement will be examined prior to any authorization of service. Chore services are limited to the services provided in a home rented or owned by the participant. (4-4-13)

03. Respite Care. Respite care includes short-term breaks from care giving responsibilities to non-paid caregivers. The caregiver or participant is responsible for selecting, training, and directing the provider. While receiving respite care services, the waiver participant cannot receive other services that are duplicative in nature. Respite care services provided under this waiver do not include room and board payments. Respite care services may be provided in the participant's residence, the private home of the respite provider, the community, a developmental disabilities agency, or an adult day health facility. (4-4-13)

04. Supported Employment. Supported employment consists of competitive work in integrated work settings for individuals with the most severe disabilities for whom competitive employment has not traditionally occurred; or for whom competitive employment has been interrupted or intermittent as a result of a severe disability. Because of the nature and severity of their disability, these individuals need intensive supported employment services or extended services in order to perform such work. (4-4-13)

a. Supported employment services rendered under the waiver are not available under a program funded by either the Rehabilitation Act of 1973, as amended, or the Individuals with Disabilities Education Act (IDEA). Documentation must be maintained in the file of each individual receiving this service verifying that the service is not otherwise available or funded under the Rehabilitation Act of 1973 as amended, or the IDEA. (4-4-13)

b. Federal Financial Participation (FFP) cannot be claimed for incentive payments, subsidies, or unrelated vocational training expenses such as the following: incentive payments made to an employer of waiver participants to encourage or subsidize the employers' participation in a supported employment program; payments that are passed through to beneficiaries of supported employment programs; or payments for vocational training that are not directly related to a waiver participant's supported employment program. (4-4-13)

05. Non-Medical Transportation. Non-medical transportation enables a waiver participant to gain access to waiver and other community services and resources. (4-4-13)

a. Non-medical transportation is offered in addition to medical transportation required in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and will not replace it. (4-4-13)

b. Whenever possible, family, neighbors, friends, or community agencies who can provide this service without charge or public transit providers will be utilized. (4-4-13)

06. Environmental Accessibility Adaptations. Environmental accessibility adaptations include minor housing adaptations that are necessary to enable the participant to function with greater independence in the home, or without which, the participant would require institutionalization or have a risk to health, welfare, or safety. Such adaptations may include: (4-4-13)

a. The installation of ramps and lifts, widening of doorways, modification of bathroom facilities, or installation of electric and plumbing systems that are necessary to accommodate the medical equipment and supplies necessary for the welfare of the waiver participant, but must exclude those adaptations or improvements to the home that are not of direct medical or remedial benefit to the participant, such as carpeting, roof repair, or central air conditioning. (4-4-13)

b. Unless otherwise authorized by the Department, permanent environmental modifications are limited to a home that is the participant's principal residence, and is owned by the participant or the participant's non-paid family. (4-4-13)

c. Portable or non-stationary modifications may be made when such modifications can follow the participant to their next place of residence or be returned to the Department. (4-4-13)

07. Specialized Medical Equipment and Supplies. (4-4-13)

a. Specialized medical equipment and supplies include: (4-4-13)

i. Devices, controls, or appliances that enable a participant to increase their abilities to perform activities of daily living, or to perceive, control, or communicate with the environment in which they live; and (4-4-13)

ii. Items necessary for life support, ancillary supplies and equipment necessary for the proper functioning of such items, and durable and non-durable medical equipment not available under the Medicaid State Plan. (4-4-13)

b. Items reimbursed with waiver funds are in addition to any medical equipment and supplies furnished under the Medicaid State Plan and exclude those items that are not of direct medical or remedial benefit to the participant. (4-4-13)

08. Personal Emergency Response System (PERS). PERS is an electronic device that enables a waiver participant to secure help in an emergency. The participant may also wear a portable "help" button to allow for mobility. The system is connected to the participant's phone and programmed to signal a response center once a "help" button is activated. The response center is staffed by trained professionals. This service is limited to participants who: (4-4-13)

a. Rent or own a home, or live with unpaid caregivers; (4-4-13)

b. Are alone for significant parts of the day; (4-4-13)

c. Have no caregiver for extended periods of time; and (4-4-13)

d. Would otherwise require extensive, routine supervision. (4-4-13)

09. Home Delivered Meals. Home delivered meals are meals that are delivered to a participant's home to promote adequate participant nutrition. One (1) to two (2) meals per day may be provided to a participant who: (4-4-13)

a. Rents or owns a home; (4-4-13)

b. Is alone for significant parts of the day; (4-4-13)

c. Has no caregiver for extended periods of time; and (4-4-13)

d. Is unable to prepare a meal without assistance. (4-4-13)

10. Skilled Nursing. Skilled nursing includes intermittent or continuous oversight, training, or skilled care that is within the scope of the Nurse Practice Act. Such care must be provided by a licensed registered nurse, or licensed practical nurse under the supervision of a licensed registered nurse licensed to practice in Idaho. (4-4-13)

11. Behavior Consultation/Crisis Management. Behavior Consultation/Crisis Management services that provide direct consultation and clinical evaluation of participants who are currently experiencing or may be expected to experience, a psychological, behavioral, or emotional crisis. This service may provide training and staff development related to the needs of a participant. These services also provide emergency back-up involving the direct support of the participant in crisis. (3-19-07)

12. Adult Day Health. Adult day health is a supervised, structured service generally furnished four (4)

or more hours per day on a regularly scheduled basis, for one (1) or more days per week. It is provided outside the home of the participant in a non-institutional, community-based setting, and it encompasses health services, social services, recreation, supervision for safety, and assistance with activities of daily living needed to ensure the optimal functioning of the participant. Adult day health services provided under this waiver will not include room and board payments. Adult day health cannot exceed thirty (30) hours per week, either alone or in combination with developmental therapy and occupational therapy. (4-4-13)

13. Self-Directed Community Supports. Participants eligible for the DD Waiver may choose to self-direct their individualized budget rather than receive the traditional waiver services described in this section of rule. The requirements for this option are outlined in IDAPA 16.03.13, "Consumer-Directed Services." (3-19-07)

14. Place of Service Delivery. Waiver services may be provided in home and community settings as described in Section 312 of these rules. Approved places of services include the participant's personal residence, a certified family home, day habilitation/supported employment program, or community. The following living situations are specifically excluded as a place of service for waiver services: (7-1-16)

a. Licensed skilled, or intermediate care facilities, certified nursing facility (NF) or hospital; and (3-19-07)

b. Licensed Intermediate Care Facility for Persons with Intellectual Disabilities (ICF/ID); and (3-19-07)

c. Residential Assisted Living Facility. (3-19-07)

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

15. Transition Services. Transition Services include goods and services that enable a participant residing in a nursing facility, hospital, IMD, or ICF/ID to transition to a community-based setting. A participant is eligible to receive transition services immediately following discharge from a qualified institution after residing within that institution for a minimum of forty-five (45) Medicaid-reimbursed days. (4-11-19)

a. Qualified Institutions include the following: (4-11-19)

i. Skilled, or Intermediate Care Facilities; (4-11-19)

ii. Nursing Facility; (4-11-19)

iii. Licensed Intermediate Care Facility for the Persons with Intellectual Disabilities (ICF/ID); (4-11-19)

iv. Hospitals; and (4-11-19)

v. Institutions for Mental Diseases (IMD). (4-11-19)

b. Transition services may include the following goods and services: (4-11-19)

i. Security deposits that are required to obtain a lease on an apartment or home; (4-11-19)

ii. Cost of essential household furnishings, including furniture, window coverings, food preparation items, and bed/bath linens; and (4-11-19)

iii. Set-up fees or deposits for utility or service access, including telephone, electricity, heating and water; (4-11-19)

iv. Services necessary for the individual's health and safety such as pest eradication and one-time cleaning prior to occupancy; (4-11-19)

v. Moving expenses; and (4-11-19)

vi. Activities to assess need, arrange for and procure transition services. (4-11-19)

c. Excluded goods and services. Transition services do not include ongoing expenses, real property, ongoing utility charges, décor, or diversion/recreational items such as televisions, DVDs, and computers. (4-11-19)

d. Service limitations. Transition services are limited to a total cost of two thousand dollars ($2,000) per participant and can be accessed every two (2) years, contingent upon a qualifying transition from an institutional setting. Transition services are furnished only to the extent that the person is unable to meet such expense or when the support cannot be obtained from other sources. (4-11-19)

704. ADULT DD WAIVER SERVICES: PROCEDURAL REQUIREMENTS.

01. Authorization of Services on a Written Plan. All waiver services must be identified on the plan of service and authorized by the process described in Sections 507 through 520 of these rules. The plan of service must be reviewed by a plan monitor or targeted service coordinator at a frequency determined by the person-centered planning team, but at least every ninety (90) days. (3-19-07)

02. Provider Records. Three (3) types of record information will be maintained on all participants receiving waiver services: (3-19-07)

a. Direct Service Provider Information that includes written documentation of each visit made or service provided to the participant, and will record at a minimum the following information: (3-19-07)

i. Date and time of visit; and (3-19-07)

ii. Services provided during the visit; and (3-19-07)

iii. A statement of the participant's response to the service, if appropriate to the service provided, including any changes in the participant's condition; and (3-19-07)

iv. Length of visit, including time in and time out, if appropriate to the service provided. Unless the participant is determined by the Service Coordinator to be unable to do so, the delivery will be verified by the participant as evidenced by their signature on the service record. (3-19-07)

v. A copy of the above information will be maintained in the participant's home unless authorized to be kept elsewhere by the Department. Failure to maintain such documentation will result in the recoupment of funds paid for undocumented services. (3-19-07)

b. The plan of service developed by the plan developer and the person-centered planning team must specify which services are required by the participant. The plan of service must contain all elements required by Subsection 704.01 of these rules and a copy of the most current plan of service must be maintained in the participant's home and must be available to all service providers and the Department. (3-19-07)

c. In addition to the plan of service, all providers, with the exception of chore, non-medical transportation, and enrolled Medicaid vendors, must submit a provider status review six (6) months after the start date of the plan of service and annually to the plan monitor as described in Sections 507 through 520 of these rules. (3-19-07)

03. Provider Responsibility for Notification. It is the responsibility of the service provider to notify the service coordinator or plan developer when any significant changes in the participant's condition are noted during service delivery. Such notification will be documented in the service record. (3-19-07)

04. Records Maintenance. In order to provide continuity of services, when a participant changes service providers, plan developers, or service coordinators, all of the foregoing participant records will be delivered to and held by the Department until a replacement service provider, plan developer, or service coordinator is selected

by the participant. When a participant leaves the waiver services program, the records will be retained by the Department as part of the participant's closed case record. Provider agencies will be responsible to retain their participant's records for five (5) years following the date of service. (3-19-07)

705. ADULT DD WAIVER SERVICES: PROVIDER QUALIFICATIONS AND DUTIES.
All providers of waiver services must have a valid provider agreement with the Department. Performance under this agreement will be monitored by the Department. (3-19-07)

01. Residential Habilitation -- Supported Living. When residential habilitation services are provided by an agency, the agency must be certified by the Department as a Residential Habilitation Agency under IDAPA 16.04.17, "Residential Habilitation Agencies," and must supervise the direct services provided. Individuals who provide residential habilitation services in the home of the participant (supported living) must be employed by a Residential Habilitation Agency. Providers of residential habilitation services must meet the following requirements: (4-4-13)

a. Direct service staff must meet the following minimum qualifications: (3-19-07)

i. Be at least eighteen (18) years of age; (3-19-07)

ii. Be a high school graduate, or have a GED, or demonstrate the ability to provide services according to a plan of service; (4-4-13)

iii. Have current CPR and First Aid certifications; (3-19-07)

iv. Be free from communicable disease; (4-4-13)

v. Each staff person assisting with participant medications has successfully completed the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing or other Department-approved training. (4-4-13)

vi. Residential habilitation service providers who provide direct care or services satisfactorily completed a criminal background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-2-08)

vii. Have appropriate certification or licensure if required to perform tasks that require certification or licensure. (3-19-07)

b. All skill training for agency direct service staff must be provided by a Qualified Intellectual Disabilities Professional (QIDP) who has demonstrated experience in writing skill training programs. (3-29-12)

c. Prior to delivering services to a participant, agency direct service staff must complete an orientation program. The orientation program must include the following subjects: (3-29-12)

i. Purpose and philosophy of services; (3-19-07)

ii. Service rules; (3-19-07)

iii. Policies and procedures; (3-19-07)

iv. Proper conduct in relating to waiver participants; (3-19-07)

v. Handling of confidential and emergency situations that involve the waiver participant; (3-19-07)

vi. Participant rights; (3-19-07)

vii. Methods of supervising participants; (3-19-07)

viii. Working with individuals with developmental disabilities; and (3-19-07)

ix. Training specific to the needs of the participant. (3-19-07)

d. Additional training requirements must be completed within six (6) months of employment with the residential habilitation agency and include at a minimum: (3-29-12)

i. Instructional techniques: Methodologies for training in a systematic and effective manner; (3-19-07)

ii. Managing behaviors: Techniques and strategies for teaching adaptive behaviors; (3-19-07)

iii. Feeding; (3-19-07)

iv. Communication; (3-19-07)

v. Mobility; (3-19-07)

vi. Activities of daily living; (3-19-07)

vii. Body mechanics and lifting techniques; (3-19-07)

viii. Housekeeping techniques; and (3-19-07)

ix. Maintenance of a clean, safe, and healthy environment. (3-19-07)

e. The provider agency will be responsible for providing on-going training specific to the needs of the participant as needed. (3-19-07)

02. Residential Habilitation -- Certified Family Home (CFH). (3-29-12)

a. An individual who provides direct residential habilitation services in their own home must be certified by the Department to operate a certified family home under IDAPA 16.03.19, "Certified Family Homes," and must receive residential habilitation program coordination services provided through the Department, or its contractor, for the residential habilitation services they provide. (3-29-12)

b. CFH providers providing residential habilitation services as a DD Waiver provider must meet the following minimum qualifications: (3-29-12)

i. Be at least eighteen (18) years of age; (3-29-12)

ii. Be a high school graduate, have a GED, or demonstrate the ability to provide services according to a plan of service; (3-29-12)

iii. Have current CPR and First Aid certifications; (3-29-12)

iv. Be free from communicable disease; (4-4-13)

v. Each CFH provider of residential habilitation services assisting with participant medications has successfully completed the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing, or other Department-approved training. (3-29-12)

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

vii. Have appropriate certification or licensure if required to perform tasks that require certification or

licensure. (3-29-12)

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

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

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

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

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

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

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

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

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

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

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

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

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

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

iii. Feeding; (3-29-12)

iv. Communication; (3-29-12)

v. Mobility; (3-29-12)

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

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

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

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

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

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

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

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

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

04. Respite Care. Providers of respite care services must meet the following minimum qualifications: (4-4-13)

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

b. Demonstrate the ability to provide services according to a plan of service; (4-4-13)

c. Be free of communicable disease; and (4-4-13)

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

05. Supported Employment. Supported employment services must be provided by an agency that supervises the direct service and is accredited by the Commission on Accreditation of Rehabilitation Facilities or other comparable standards, or meets State requirements to be a State-approved provider. Supported employment service providers who provide direct care or services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-4-13)

06. Non-Medical Transportation. Providers of non-medical transportation services must: (4-4-13)

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

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

07. Environmental Accessibility Adaptations. All services must be provided in accordance with applicable state or local building codes and meet state or local building, plumbing, and electrical requirements for certification. (4-4-13)

08. Specialized Medical Equipment and Supplies. Providers of specialized medical equipment and supplies must be enrolled in the Medicaid program as participating medical vendor providers. Providers must ensure all items meet applicable standards of manufacture, design, and installation. Preference will be given to equipment and supplies that are the most cost-effective option to meet the participant's needs. (4-4-13)

09. Personal Emergency Response System. Personal emergency response system providers must demonstrate that the devices installed in a waiver participant's home meet Federal Communications Standards, or Underwriter's Laboratory standards, or equivalent standards. (4-4-13)

10. Home Delivered Meals. Providers of home-delivered meals must be a public agency or private business, and must exercise supervision to ensure that: (4-4-13)

a. Each meal meets one-third (1/3) of the Recommended Daily Allowance, as defined by the Food and Nutrition Board of the National Research Council of the National Academy of Sciences; (4-4-13)

b. Meals are delivered in accordance with the service plan, in a sanitary manner, and at the correct temperature for the specific type of food; (4-4-13)

c. A Registered Dietitian documents the review and approval of menus, menu cycles, and any

changes or substitutions; and (4-4-13)

d. The agency or business is inspected and licensed as a food establishment under IDAPA 16.02.19, "Idaho Food Code." (4-4-13)

11. Skilled Nursing. Skilled nursing service providers must be licensed in Idaho as a licensed registered nurse or licensed practical nurse in good standing, or must be practicing on a federal reservation and be licensed in another state. Skilled nursing providers who provide direct care and services must satisfactorily complete a criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (4-4-13)

12. Behavior Consultation or Crisis Management. Behavior Consultation or Crisis Management Providers must meet the following: (3-19-07)

a. Work under the direct supervision of a licensed psychologist or Ph.D. in Special Education, with training and experience in treating severe behavior problems and training and experience in applied behavior analysis; and (4-4-13)

b. Have a Master's Degree in a behavioral science such as social work, psychology, psychosocial rehabilitation counseling, psychiatric nursing, special education or a closely related course of study; or (3-19-07)

c. Be a licensed pharmacist; or (3-19-07)

d. Be a Qualified Intellectual Disabilities Professional (QIDP). (3-19-07)

e. Emergency back-up providers must meet the minimum residential habilitation provider qualifications described under IDAPA 16.04.17, "Residential Habilitation Agencies." (3-19-07)

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

13. Adult Day Health. Providers of adult day health must meet the following requirements: (4-4-13)

a. Services provided in a facility must be provided in a facility that meets the building and health standards identified in IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)"; (4-4-13)

b. Services provided in a home must be provided in a home that meets the standards of home certification identified in IDAPA 16.03.19, "Certified Family Homes"; (4-4-13)

c. Adult day health providers who provide direct care or services must satisfactorily complete a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; (4-4-13)

d. Providers of adult day health must notify the Department on behalf of the participant, if the adult day health is provided in a certified family home other than the participant's primary residence. The adult day health provider must provide care and supervision appropriate to the participant's needs as identified on the plan. (4-4-13)

e. Adult day health providers who provide direct care or services must be free from communicable disease. (4-4-13)

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

15. Transition Services. Transition managers as described in Section 350.01 of these rules are responsible for administering transition services. (4-11-19)

706. ADULT DD WAIVER SERVICES: PROVIDER REIMBURSEMENT.

01. Fee for Service. Waiver service providers will be paid on a fee for service basis based on the type of service provided as established by the Department. (3-19-07)

02. Claim Forms. Provider claims for payment will be submitted on claim forms provided or approved by the Department. Billing instructions will be provided by the Department. (3-19-07)

03. Rates. The reimbursement rates calculated for waiver services include both services and mileage. No separate charges for mileage will be paid by the Department for provider transportation to and from the participant's home or other service delivery location when the participant is not being provided transportation. (3-19-07)

707. -- 719. (RESERVED)

SUB AREA: SERVICE COORDINATION SERVICES
(Sections 720 - 779)

720. SERVICE COORDINATION.
The Department will purchase service coordination for persons eligible for Enhanced Benefits who are unable, or have limited ability to gain access, coordinate or maintain services on their own or through other means. These rules are not applicable to behavioral health service coordination, also known as case management services, provided under the Idaho Behavioral Health Plan (IBHP) included in IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-20-14)

721. SERVICE COORDINATION: DEFINITIONS.
The following definitions apply for Sections 721 through 736 of these rules. (5-8-09)

01. Agency. An agency is a business entity that provides management, supervision, and quality assurance for service coordination and includes at least two (2) individuals, one (1) supervisor and a minimum of one (1) service coordinator. (5-8-09)

02. Brokerage Model. Referral or arrangement for services identified in an assessment. This model does not include the provision of direct services. (3-19-07)

03. Conflict of Interest. A situation in which an agency or person directly or indirectly influences. or appears to influence the direction of a participant to other services for financial gain. (5-8-09)

04. Crisis. An unanticipated event, circumstance or life situation that places a participant at risk of at least one (1) of the following: (3-19-07)

a. Hospitalization; (3-19-07)

b. Loss of housing; (3-19-07)

c. Loss of employment or major source of income; (3-19-07)

d. Incarceration; or (3-19-07)

e. Physical harm to self or others, including family altercation or psychiatric relapse. (3-19-07)

05. Human Services Field. A particular area of academic study in health care, social services, education, behavioral science or counseling. (5-8-09)

06. Paraprofessional. An adult with a high school diploma or equivalency who has at least twelve (12) months supervised work experience with the population to whom they will be providing services. (5-8-09)

07. Person-Centered Planning. A planning process facilitated by the service coordinator that includes the participant and individuals significant to the participant, to collaborate and develop a plan based on the expressed needs and desires of the participant. For children, this planning process must involve the child's family. (5-8-09)

08. Practitioner of the Healing Arts. For purposes of this rule, a nurse practitioner, physician assistant or clinical nurse specialist. (3-19-07)

09. Service Coordination. Service coordination is a case management activity that assists individuals eligible for Medicaid in gaining and coordinating access to necessary care and services appropriate to the needs of the individual. Service coordination is a brokerage model of case management. (5-8-09)

10. Service Coordination Plan. The service coordination plan, also known in these rules as the "plan," includes two components: (5-8-09)

a. An assessment that identifies the participant's need for service coordination as described in Section 730 of these rules; and (5-8-09)

b. A plan that documents the supports and services required to meet the service coordination needs of the participant as described in Section 731 of these rules. (5-8-09)

11. Service Coordination Plan Development. An assessment and planning process performed by a service coordinator using person-centered planning principles that results in a written service coordination plan. The plan must accurately reflect the participant's need for assistance in accessing and coordinating supports and services. (5-8-09)

12. Service Coordinator. An individual, excluding a paraprofessional, who provides service coordination to a Medicaid eligible participant, is employed by or contracts with a service coordination agency, and meets the training, experience, and other requirements in Section 729 of these rules. (5-8-09)

13. Supports. Formal and informal services and activities that are not paid for by the Department and that enable an individual to reside safely in the setting of their choice. (3-19-07)

722. SERVICE COORDINATION SERVICES: ELIGIBILITY.
Participants identified in Sections 723 through 726 of these rules, who do not receive hospice services or live in hospitals, nursing facilities, or intermediate care facilities for persons with intellectual disabilities, are eligible for service coordination. (3-19-07)

723. TARGETED SERVICE COORDINATION: ELIGIBILITY: INDIVIDUALS WITH A DEVELOPMENTAL DISABILITY.
An individual is eligible to receive targeted service coordination if they meet the following requirements in this rule. (7-1-16)

01. Age. An adult eighteen (18) years of age or older. (3-29-10)

02. Diagnosis. Is diagnosed with a developmental disability, defined in Section 66-402, Idaho Code and Section 500 through 506 of these rules, that: (5-8-09)

a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism or other condition found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; (5-8-09)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (3-19-07)

c. Reflects the need for a combination and sequence of special, interdisciplinary or generic care,

treatment or other services that are of lifelong or extended duration and individually planned and coordinated. (5-8-09)

03. Need Assistance. Requires and chooses assistance to access services and supports necessary to maintain their independence in the community. (5-8-09)

724. -- 725. (RESERVED)

726. SERVICE COORDINATION: ELIGIBILITY: INDIVIDUALS UP TO THE AGE OF TWENTY-ONE.
To be eligible for children's service coordination, a participant must meet the following requirements in Subsections 726.01 through 726.03. Eligibility is determined initially and annually by the Department based on information provided by the service coordination agency or the family. All information necessary to make the eligibility determination must be received by the Department twenty (20) business days prior to the anticipated start date of any service coordination services. The eligibility determination will be made by the Department prior to the initiation of initial and ongoing plan development and services. (3-20-14)

01. Age. From the age of thirty-seven (37) months through the month in which their twenty-first birthday occurs. (5-8-09)

02. Diagnosis. Must have special health care needs requiring medical and multidisciplinary rehabilitation services identified by a physician or other practitioner of the healing arts to prevent or minimize a disability. (3-20-14)

03. Need Assistance. Medicaid-reimbursed service coordination services are not available for participants whose needs can be met by other service coordination or case management resources, including paid and non-paid sources. The participant must have needs for service coordination for one (1) or more of the following problems: (3-20-14)

a. The condition has resulted in a level of functioning below normal age level in one (1) or more life areas such as school, child care setting, family, or community; (5-8-09)

b. The child is at risk of placement in a more restrictive environment or the child is returning from an out of home placement as a result of the condition; (5-8-09)

c. There is danger to the health or safety of the child or the parent is unable to meet the needs of the child; (5-8-09)

d. Further complications may occur as a result of the condition without provision of service coordination services; or (3-19-07)

e. The child requires multiple service providers and treatments. (3-19-07)

727. SERVICE COORDINATION: COVERAGE AND LIMITATIONS.
Service coordination consists of services provided to assist individuals in gaining access to needed services. Service coordination includes the following activities described in Subsections 727.01 through 727.10 of this rule. (3-20-14)

01. Plan Assessment and Periodic Reassessment. Activities that are required to determine the participant's needs by development of a plan assessment and periodic reassessment as described in Section 730 of these rules. These activities include: (5-8-09)

a. Taking a participant's history; (5-8-09)

b. Identifying the participant's needs and completing related documentation; and (5-8-09)

c. Gathering information from other sources such as family members, medical providers, social workers, and educators, to form a complete assessment of the participant. (5-8-09)

02. Development of the Plan. Development and revision of a specific plan, described in Section 731 of these rules that includes information collected through the assessment and specifies goals and actions needed by the participant. The plan must be updated at least annually and as needed to meet the needs of the participant. (3-20-14)

03. Referral and Related Activities. Activities that help link the participant with service providers that are capable of providing needed services to address identified needs and achieve goals specified in the service coordination plan. (3-20-14)

04. Monitoring and Follow-Up Activities. Monitoring and follow-up contacts that are necessary to ensure the plan is implemented and adequately addresses the participant's needs. These activities may be with the participant, family members, providers, or other entities or individuals and conducted as frequently as necessary. These activities must include at least one face-to-face contact with the participant at least every ninety (90) days, to determine whether the following conditions are met: (5-8-09)

a. Services are being provided according to the participant's plan; (5-8-09)

b. Services in the plan are adequate; and (5-8-09)

c. Whether there are changes in the needs or status of the participant, and if so, making necessary adjustments in the plan and service arrangements with providers. (5-8-09)

05. Crisis Assistance. Crisis assistance is service coordination used to assist a participant to access community resources in order to resolve a crisis. Crisis service coordination does not include crisis counseling, transportation to emergency service providers, or direct skill-building services. The need for all crisis assistance hours must meet the definition of crisis in Section 721 of these rules. (5-8-09)

a. Crisis Assistance for Children's Service Coordination. Crisis hours are not available until four and a half (4.5) hours of service coordination have already been provided in the month. Crisis hours for children's service coordination must be authorized by the Department. (5-8-09)

b. Crisis Assistance for Adults With a Developmental Disability. Crisis hours are not available until four and a half (4.5) hours of service coordination have already been provided in the month. Crisis assistance for adults with a developmental disability must be authorized by the Department and is based on community crisis supports as found in Section 646 through 648 of these rules. (7-1-16)

c. Authorization for crisis assistance hours may be requested retroactively as a result of a crisis, defined in Section 721 of these rules, when a participant's service coordination benefits have been exhausted and no other means of support is available to the participant. In retroactive authorizations, the service coordinator must submit a request for crisis services to the Department within seventy-two (72) hours of providing the service. (5-8-09)

06. Contacts for Assistance. Service coordination may include contacts with non-eligible individuals only when the contact is directly related to identifying the needs and supports to help the participant access services. (5-8-09)

07. Exclusions. Service coordination does not include activities that are: (5-8-09)

a. An integral component of another covered Medicaid service; (5-8-09)

b. Integral to the administration of foster care programs; (5-8-09)

c. Integral to the administration of another non-medical program for which a participant may be eligible. This exclusion does not apply to case management provided as part of the individualized education program or individualized family service plan required by the Individuals with Disabilities Education Act. (5-8-09)

08. Limitations on the Provision of Direct Services. Providers of service coordination services may only provide both service coordination and direct services to the same Medicaid participant when the participant is receiving children's service coordination. The service coordination provider must document that the participant has made a free choice of service coordinators and direct service providers. (3-20-14)

09. Limitations on Service Coordination. Service coordination is limited to four and a half (4.5) hours per month. (3-20-14)

10. Limitations on Service Coordination Plan Assessment and Plan Development. Reimbursement for the annual assessment and plan development cannot exceed six (6) hours per year. (3-20-14)

728. SERVICE COORDINATION: PROCEDURAL REQUIREMENTS.

01. Prior Authorization for Service Coordination Services. Services must be prior authorized by the Department according to the direction provided in the Medicaid Provider Handbook available at www.idmedicaid.com. (3-20-14)

02. Service Coordination Plan Development. (5-8-09)

a. A written plan, described in Section 731 of these rules, must be developed and implemented within sixty (60) days after the participant chooses a service coordinator. (3-20-14)

b. The plan must be updated at least annually and amended as necessary. (5-8-09)

c. The plan must address the service coordination needs of the participant as identified in the assessment described in Section 730 of these rules. (5-8-09)

d. The plan must be developed prior to ongoing service coordination being provided. (5-8-09)

03. Documentation of Service Coordination. Agencies must maintain records that contain documentation describing the services provided, review of the continued need for service coordination, and progress toward each service coordination goal. Documentation must be completed as required in Section 56-209(h), Idaho Code. All active records must be immediately available. Documentation must include all of the following: (3-19-07)

a. The name of the eligible participant. (5-8-09)

b. The name of the provider agency and the person providing the services. (5-8-09)

c. The date, time, duration, and place the service was provided. (5-8-09)

d. The nature, content, units of the service coordination received and whether goals specified in the plan have been achieved. (5-8-09)

e. Whether the participant declined any services in the plan. (5-8-09)

f. The need for and occurrences of coordination with any non-Medicaid case managers. (5-8-09)

g. The timeline for obtaining needed services. (5-8-09)

h. The timeline for re-evaluation of the plan. (5-8-09)

i. A copy of the assessment or prior authorization from the Department that documents eligibility for service coordination services, and a dated and signed plan. (5-8-09)

j. Agency records must contain documentation describing details of the service provided signed by the person who delivered the service. (5-8-09)

k. Documented review of participant's continued need for service coordination and progress toward each service coordination goal. A review must be completed at least every one hundred eighty (180) days after the plan development or update. Progress reviews must include the date of the review, and the signature of the service coordinator completing the review. (5-8-09)

l. Documentation of the participant's, family's, or legal guardian's satisfaction with service. (5-8-09)

m. A copy of the informed consent form signed by the participant, parent, or legal guardian that documents that the participant has been informed of the purposes of service coordination, their rights to refuse service coordination, and their right to choose their service coordinator and other service providers. (5-8-09)

n. A plan that is signed by the participant, parent, or legal guardian, and the service coordinator. The plan must reflect person-centered planning principles and document the participant's inclusion in the development of the plan. The service coordinator must also document that a copy of the plan was given to the participant or their legal representative. The plan must be updated and authorized when required, but at least annually. Children's service coordination plans cannot be effective before the date that the child's parent or legal guardian has signed the plan. (3-20-14)

04. Documentation Completed by a Paraprofessional. Each entry completed by a paraprofessional must be reviewed by the participant's service coordinator and include the date of review and the service coordinator's signature on the documentation. (5-8-09)

05. Participant Freedom of Choice. A participant must have freedom of choice when selecting from the service coordinators available to them. The service coordinator cannot restrict the participant's choice of other health care providers. (5-8-09)

06. Service Coordinator Contact and Availability. The frequency of contact, mode of contact, and person or entity to be contacted must be identified in the plan and must meet the needs of the participant. The contacts must verify the participant's well being and whether services are being provided according to the written plan. At least every ninety (90) days, service coordinators must have face-to-face contact with each participant. (3-20-14)

a. When it is necessary for the children's service coordinator to conduct a face-to-face contact with a child participant without the parent or legal guardian present, the service coordinator must notify the parent or legal guardian prior to the face-to-face contact with the participant. Notification must be documented in the participant's file. (5-8-09)

b. Service coordinators do not have to be available on a twenty-four (24) hour basis, but must include an individualized objective on the plan describing what the participant, families, and providers should do in an emergency situation. The individualized objective must include how the service coordinator will coordinate needed services after an emergency situation. (5-8-09)

07. Service Coordinator Responsibility Related to Conflict of Interest. Service coordinators have a primary responsibility to the participant whom they serve, to respect and promote the right of the participant to self-determination, and preserve the participant's freedom to choose services and providers. In order to assure that participant rights are being addressed, service coordinators must: (5-8-09)

a. Be alert to and avoid conflicts of interest that interfere with the exercise of professional discretion and impartial judgment. (5-8-09)

b. Inform the participant parent, or legal guardian when a real or potential conflict of interest arises and take reasonable steps to resolve the issue in a manner that makes the participant's interests primary and protects the participant's interests to the greatest extent possible. (5-8-09)

08. Agency Responsibility Related to Conflict of Interest. To assure that participants are protected from restrictions to their self-determination rights because of conflict of interest, the agency must guard against conflict of interest, and inform all participants and guardians of the risk. Each agency must have a document in each

participant's file that contains the following information: (5-8-09)

a. The definition of conflict of interest as defined in Section 721 of these rules; (5-8-09)

b. A signed statement by the agency representative verifying that the concept of conflict of interest was reviewed and explained to the participant parent, or legal guardian; and (5-8-09)

c. The participant's, parent's, or legal guardian's signature on the document. (5-8-09)

729. SERVICE COORDINATION: PROVIDER QUALIFICATIONS.
Service coordination services must be provided by an agency as defined in Section 721 of these rules. (5-8-09)

01. Provider Agreements. Service coordinators must be employees or contractors of an agency that has a valid provider agreement with the Department. (3-19-07)

02. Supervision. The agency must provide supervision to all service coordinators and paraprofessionals. The agency must clearly document: (5-8-09)

a. Each supervisor's ability to address concerns about the services provided by employees and contractors under their supervision, and (5-8-09)

b. That a paraprofessional is not a supervisor. (5-8-09)

03. Agency Supervisor Required Education and Experience. (5-8-09)

a. Master's Degree in a a human services field from a nationally accredited university or college, and have twelve (12) months supervised work experience with the population being served; or (5-8-09)

b. Bachelor's degree in a human services field from a nationally accredited university or college, and have twenty-four (24) months supervised work experience with the population being served. (5-8-09)

c. Be a licensed registered nurse (RN) and have twenty-four (24) months supervised work experience with the population being served. (5-8-09)

04. Service Coordinator Education and Experience. (5-8-09)

a. Minimum of a Bachelor's degree in human services field from a nationally accredited university or college and have twelve (12) months supervised work experience with the population being served; or (5-8-09)

b. Be a licensed registered nurse (RN) and have twelve (12) months work experience with the population being served. (5-8-09)

c. When an individual meets the education or licensing requirements in Subsections 729.04.a. or 729.04.b. of this rule, but does not have the required supervised work experience, the individual must be supervised by a qualified service coordinator while gaining the required work experience. (5-8-09)

05. Paraprofessional Education and Experience. Under the supervision of a qualified service coordinator, a paraprofessional may be used to assist in the implementation of the plan. Paraprofessionals must have the following qualifications: (5-8-09)

a. Be at least eighteen (18) years of age and have a minimum of a high school diploma or equivalency; (5-8-09)

b. Be able to read and write at an appropriate level to process the required paperwork and forms involved in the provision of the service; and (5-8-09)

c. Have twelve (12) months supervised work experience with the population being served. (5-8-09)

06. Limitations on Services Delivered by Paraprofessionals. Paraprofessionals must not conduct assessments, evaluations, person-centered planning meetings, ninety (90) day face-to-face contacts described in Section 728.06 of these rules, one hundred eighty (180) day progress reviews, plan development, or plan changes. Paraprofessionals cannot be identified as the service coordinator on the plan and they cannot supervise service coordinators or other paraprofessionals. (3-20-14)

07. Criminal History Check Requirements. Service coordination agencies must verify that each service coordinator and paraprofessional they employ or with whom they contract has complied with IDAPA 16.05.06, "Criminal History and Background Checks." (5-8-09)

08. Health, Safety and Fraud Reporting. Service coordinators are required to report any concerns about health and safety to the appropriate governing agency and to the Department. Service coordinators must also report fraud, including billing of services that were not provided, to the Department unit responsible for authorizing the service; and to the Surveillance and Utilization Review Unit (SUR) within the Department or its toll-free Medicaid fraud hotline. (3-19-07)

09. Individual Service Coordinator Case Loads. The total caseload of a service coordinator must assure quality service delivery and participant satisfaction. (5-8-09)

730. SERVICE COORDINATION: PLAN DEVELOPMENT -- ASSESSMENT.

01. Assessment Process. The service coordination assessment must be completed by a service coordinator as part of the person-centered planning process. The focus of the assessment is to identify the participant's need for assistance in gaining and coordinating access to care and services. The participant must be included in the assessment process. The parent or legal guardian, when appropriate, and pertinent service providers as identified by the participant must also be included during the assessment process. The assessment component is used to determine the prioritized needs and services of the participant and must be documented in the plan. When the participant is a child, the assessment must include identification of the family's needs to ensure the child's needs are met. (5-8-09)

02. Components of an Assessment. The components in the assessment of a participant's service coordination needs must document the following information; (5-8-09)

a. Basic needs; (5-8-09)

b. Medical needs; (5-8-09)

c. Health and safety needs; (5-8-09)

d. Therapy needs; (5-8-09)

e. Educational needs; (5-8-09)

f. Social and integration needs; (5-8-09)

g. Personal needs; (5-8-09)

h. Family needs and supports; (5-8-09)

i. Long range planning; (5-8-09)

j. Legal needs; and (3-20-14)

k. Financial needs. (3-20-14)

731. SERVICE COORDINATION: PLAN DEVELOPMENT -- WRITTEN PLAN.

The service coordination plan is developed using information collected through the assessment of the participant's service coordination needs. The plan must specify the goals and actions to address the service coordination needs of the participant identified in the assessment process. The plan must include goals developed using the person-centered planning process. (5-8-09)

01. Plan Implementation. The plan must identify activities required to respond to the assessed needs of the participant. (5-8-09)

02. Plan Content. Plans must include the following: (5-8-09)

a. A list of problems and needs identified during the assessment; (5-8-09)

b. Identification of each and any potential risk or substantiation that there are no potential risks. The plan must identify services and actions that will be implemented in case of a participant crisis situation. (5-8-09)

c. Concrete, measurable goals and objectives to be achieved by the participant; (5-8-09)

d. Reference to all services and contributions provided by the participant's supports including the actions, if any, taken by the service coordinator to develop the support system; (5-8-09)

e. Documentation of who has been involved in the service planning, including the participant's involvement; (5-8-09)

f. Schedules for service coordination monitoring, progress review, and reassessment; (5-8-09)

g. Documentation of unmet needs and service gaps including goals to address these needs or gaps; (5-8-09)

h. References to any formal services arranged including costs, specific providers, schedules of service initiation, frequency or anticipated dates of delivery; and (5-8-09)

i. Time frames for achievement of the goals and objectives. (5-8-09)

03. Adult Developmental Disability Service Coordination Plan. The plan for adults with developmental disabilities must comply with and be incorporated into the participant's developmental disability plan of service identified in Section 513 of these rules. (7-1-16)

732. -- 735. (RESERVED)

736. SERVICE COORDINATION: PROVIDER REIMBURSEMENT.

01. Duplication. Participants are only eligible for one (1) type of service coordination. If they qualify for more than one (1) type, the participant must choose one (1). Service coordination payment must not duplicate payment made to public or private sector entities under other program authorities for this same purpose. (3-19-07)

02. Payment for Service Coordination. Subject to the service limitations in Subsection 736.06 of this rule, only the following services are reimbursable: (5-8-09)

a. Service coordination plan development defined in Section 721 of these rules. (5-8-09)

b. Face-to-face contact required in Subsection 728.06 of these rules. (3-20-14)

c. Two-way communication between the service coordinator and the participant, participant's service providers, family members, primary care givers, legal guardian, or other interested persons. (5-8-09)

d. Face-to-face contact between the service coordinator and the participant's family members, legal

representative, primary caregivers, providers, or other interested persons. (3-19-07)

e. Referral and related activities associated with obtaining needed services as identified in the service coordination plan. (5-8-09)

03. Service Coordination During Institutionalization. Service coordination is reimbursable on the day a participant is admitted to a medical institution if the service is provided prior to admission. Service coordination is reimbursable on the day of discharge from a medical institution if the service is provided after discharge. (5-8-09)

a. Service coordination for reintegration into the community, can only be provided by and reimbursed to a service coordination agency when the following applies: (5-8-09)

i. During the last fourteen (14) days of an inpatient stay that is less than one hundred eighty (180) days in duration; or (5-8-09)

ii. During the last sixty (60) days of an inpatient stay of one hundred eighty (180) days or more. (5-8-09)

b. Service coordination providers may not file claims for reimbursement until the participant is discharged and using community services; (5-8-09)

c. Service coordination must not duplicate activities provided as part of admission or discharge planning activities of the medical institution. (5-8-09)

04. Incarceration. Service coordination is not reimbursable when the participant is incarcerated. (3-19-07)

05. Services Delivered Prior to Assessment. Payment for on-going service coordination will not be made prior to the completion of the service coordination plan. (5-8-09)

06. Payment Limitations. Reimbursement is not allowed for missed appointments, attempted contacts, travel to provide the service, leaving messages, scheduling appointments with the Medicaid service coordinator, transporting participants, or documenting services. (5-8-09)

a. Service coordination providers are paid in unit increments of fifteen (15) minutes each. A service coordinator can only be reimbursed for the amount of time worked and must not bill for more than four (4) billing units per hour. The following table is an example of minutes to billing units. (5-8-09)

Services Provided Are More Than Minutes	Services Provided Are Less Than Minutes	Billing Units
8	23	1
22	38	2
37	53	3
52	68	4
67	83	5
82	98	6
97	113	7

(5-8-09)

b. Direct delivery of medical, educational, psychiatric, social, early intervention, or other service to which a participant has been referred is not reimbursable as service coordination. (5-8-09)

c. Activities that are an integral component of another covered Medicaid service are not reimbursable as service coordination. (5-8-09)

d. Activities that are integral to the administration of foster care programs are not reimbursable as service coordination. (5-8-09)

e. Activities that are integral to the administration of another non-medical program are not reimbursable as service coordination. This exclusion does not apply to case management provided as part of the individualized education program or individualized family service plan required by the Individuals with Disabilities Education Act. (5-8-09)

07. Group Service Coordination. Payment is not allowed for service coordination provided to a group of participants. (3-19-07)

737. -- 779. (RESERVED)

SUB AREA: BREAST AND CERVICAL CANCER PROGRAM
(Sections 780 - 799)

780. BREAST OR CERVICAL CANCER PROGRAM THROUGH THE WOMEN'S HEALTH CHECK.
Women who are determined eligible for Medicaid through the Women's Health Check program are eligible for enhanced Medicaid benefits until it is determined that cancer treatment has ended. (3-19-07)

781. BREAST OR CERVICAL CANCER PROGRAM: DEFINITIONS.

01. Primary Treatment. The initial action of treating a patient medically or surgically for cancer using conventional treatment modalities. (3-19-07)

02. Adjuvant Therapy. Treatment that includes either radiation or systemic chemotherapy, or both, as part of the plan of care. (3-19-07)

03. End of Treatment. Cancer treatment ends: (3-19-07)

a. When the woman's plan of care reflects a status of surveillance, follow-up, or maintenance mode; or (3-19-07)

b. If the woman's treatment relies on an unproven procedure, as referred to in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 390 in lieu of primary or adjuvant treatment. (3-19-07)

782. BREAST OR CERVICAL CANCER PROGRAM: ELIGIBILITY.
Women eligible for Medical Assistance, as provided for in IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 802, will be covered while receiving either primary or adjuvant cancer treatment, or both. (3-19-07)

783. BREAST OR CERVICAL CANCER PROGRAM: PROCEDURAL REQUIREMENTS.
The Division of Medicaid, or its successor, is responsible for determining when a woman's treatment has ended. (3-19-07)

784. -- 999. (RESERVED)

APPENDIX A

IDAHO MEDICAID HANDICAPPING MALOCCLUSION INDEX

OVERBITE:	MEASUREMENT/POINTS:	SCORE:
Lower incisors: striking lingual of uppers at incisal	1/3 = 0	
Striking lingual of uppers at middle	1/3 = 1	
Striking lingual of uppers at gingival	1/3 = 2	
OPENBITE: (millimeters) *a,b		
Less than……	2 mm = 0	
	2-4 mm = 1	
	4+ mm = 2	
OVERJET: (millimeters) *a		
Upper…….	2-4 mm = 0	
Measure horizontally parallel to occlusal plane.	5-9 mm = 1	
	9+ mm = 2	
Lower……	0-1 mm = 0	
	2 mm = 1	
	3+ mm = 2	
POSTERIOR X-BITE: (teeth) *b		
Number of teeth in x-bite:	0-2 = 0	
	3 = 1	
	4 = 2	
TOOTH DISPLACEMENT: (teeth) *c, d, e		
Number of teeth rotated 45 degrees or displaced 2mm from normal position in arch.	0-2 = 0 3-6 = 1 7+ = 2	
BUCCAL SEGMENT RELATIONSHIP:		
One side distal or mesial ½ cusp	= 0	
Both sides distal or mesial or one side full cusp	= 1	
Both sides full cusp distal or mesial	= 2	

OVERBITE:	MEASUREMENT/POINTS:	SCORE:
		TOTAL SCORE:_____

Scoring Definitions:

Impacted or blocked cuspids are scored 1 open bite and 1 over jet for two teeth. Score 2 for open bite and 2 for over jet for 4 blocked cuspids.

a) Cross bites are scored for the teeth in cross bite, not the teeth in the opposing arch.
b) Missing teeth count as 1, if the space is still present.
c) Do not score teeth that are not fully erupted.
d) Displaced teeth are based on where they are in their respective arch line, not their relationship with the opposing arch.

16.03.11 – INTERMEDIATE CARE FACILITIES FOR PEOPLE WITH INTELLECTUAL DISABILITIES (ICFS/IID)

000. LEGAL AUTHORITY.

The Board of Health and Welfare is authorized under Sections 39-1301 through 39-1314, Idaho Code, to adopt, amend, and enforce rules, regulations, and standards for licensure that promote safe and adequate treatment, and to protect the health and safety of individuals being cared for in intermediate care facilities for people with intellectual disabilities defined in Section 39-1301(c), Idaho Code. The Department is authorized under 42 CFR Part 483 to set conditions of participation for intermediate care facilities for individuals with intellectual disabilities (ICFs/IID). Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, 56-1007, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. (7-1-15)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.11, "Intermediate Care Facilities for People with Intellectual Disabilities (ICFs/IID)." (7-1-15)

02. Scope. These rules include the licensing standards and requirements for the administration of intermediate care facilities for the active treatment of individuals with intellectual disabilities and related conditions. This service delivery system provides care through small community-based facilities with the least restrictive alternatives including deinstitutionalization, normalization, and individual programming to enhance each individual's self-sufficiency for personal development and health needs. (7-1-15)

002. WRITTEN INTERPRETATIONS.

*T*he Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. *( )*

003. (RESERVED)

004. INCORPORATION BY REFERENCE.

The following are incorporated by reference in this chapter of rules: (7-1-15)

01. Code of Federal Regulations (CFR). The Board has adopted by reference certain Codes of Federal Regulations (CFR), Standards and Certification, Part 483, in this chapter. 42 CFR Part 483 may be found online at: http://www.ecfr.gov/cgi-bin/text-idx?SID=f030c6d2c3e752bba7d12ce1015a4e7a&node=42:5.0.1.1.2.9&rgn=div6. Modifications and additions to the "Conditions of Participation for Intermediate Care Facilities for Individuals with Intellectual Disabilities" are made in Subsections 004.02 through 004.13 of this rule. (7-1-15)

02. 42 CFR 483.400 - Basis and Purpose. No additions or modifications have been adopted for this subpart. (7-1-15)

03. 42 CFR 483.405 - Relationship to Other Health and Human Services (HHS) Regulations. No additions or modifications have been adopted for this subpart. (7-1-15)

04. 42 CFR 483.410 - Condition of Participation: Governing Body and Management. Additions and modifications for this subpart are found in Sections 100-199 of these rules. (7-1-15)

05. 42 CFR 483.420 - Condition of Participation: Client Protections. Additions and modifications for this subpart are found in Sections 200-299 of these rules. (7-1-15)

06. 42 CFR 483.430 - Condition of Participation: Facility Staffing. Additions and modifications for this subpart are found in Sections 300-399 of these rules. (7-1-15)

07. 42 CFR 483.440 - Condition of Participation: Active Treatment Services. No additions or modifications have been adopted for this subpart. (7-1-15)

08. 42 CFR 483.450 - Condition of Participation: Client Behavior and Facility Practices. Additions and modifications for this subpart are found in Sections 500-599 of these rules. (7-1-15)

09. 42 CFR 483.460 - Condition of Participation: Health Care Services. No additions or

modifications have been adopted for this subpart. (7-1-15)

10. 42 CFR 483.470 - Condition of Participation: Physical Environment. Additions and modifications for this subpart are found in Sections 700-799 of these rules. (7-1-15)

11. 42 CFR 483.480 - Condition of Participation: Dietetic Services. Additions and modifications for this subpart are found in Sections 800-899 of these rules. (7-1-15)

12. 42 CFR 1001.1301 - Failure to Grant Immediate Access. No additions or modifications have been adopted for this subpart. (7-1-15)

13. 42 CFR 442.101 - Obtaining Certification. No additions or modifications have been adopted for this subpart. (7-1-15)

14. IDAPA 07.03.01, Rules of Building Safety. IDAPA 07.03.01, "Rules of Building Safety," as adopted by the Division of Building Safety, Building Code Advisory Board. The rules are available online at: http://adminrules.idaho.gov/rules/current/07/070301.pdf. The Building Safety rules adopt The International Building Code that may be obtained from the International Code Council, Western Regional Office, 5360 Workman Mill Road, Whittier, CA 90601-2298, phone: (888) 422-7233, and online at http://www.iccsafe.org. (7-1-15)

15. National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, (edition 2000). The following document is incorporated by reference in these rules: National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, (2000), published by the National Fire Protection Association, 1 Batterymarch Park, Quincy, MA 02169-7471. A copy is available for review at the Department's Division of Licensing and Certification located at 3232 Elder Street, Boise, Idaho 83705. The NFPA 101: Life Safety Code may be accessed online at: http://www.nfpa.org/codes-and-standards/document-information-pages?mode=code&code=101. (7-1-15)

005. (RESERVED)

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

01. Confidentiality of Records. Any disclosure of confidential information used or disclosed in the course of the Department's business is subject to the restrictions in state or federal law, and must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (7-1-15)

02. Public Records Act. The Department will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (7-1-15)

03. Disclosure of an Individual's Identity. Under Section 39-1310, Idaho Code, information received by the Department through filed reports, inspections, or as required by law, will not be disclosed publicly in such a manner as to identify individuals except as necessary in a proceeding involving a question of licensure. (7-1-15)

04. Public Availability of Survey Reports. The Department will post on the Division of Licensing and Certification's website, survey reports and findings of complaint investigations relating to a facility at http://www.facilitystandards.idaho.gov. (7-1-15)

007. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. An intermediate care facility for people with intellectual disabilities (ICF/ID) must comply with the Department's criminal history and background check rules in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-15)

02. Individuals Subject to Criminal History Checks. Owners, administrators, employees, and contractors, hired or contracted with after October 1, 2007, who have direct access to individuals residing in an ICF/ID must complete and receive a Department criminal history and background check clearance as provided in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-15)

010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.
For the purposes of this chapter of rules, the following terms apply. (7-1-15)

01. Active Treatment. Aggressive, consistent implementation of a program of specialized and generic training, treatment, health, and related services directed toward the acquisition of skills necessary for the individual to function with as much self-determination and independence as possible. It includes the prevention or deceleration of regression or loss of current optimal functional status. (7-1-15)

02. Administrator. The person delegated the responsibility for management of a facility. (7-1-15)

03. Advocate. A person who assists the individual in exercising their rights within the facility and as a citizen of the United States. (7-1-15)

04. Alteration. Any change or modification to the building or property that does affect Life Safety Code compliance or a change in space usage or utilization of the facility, including additions, remodeling or systems modifications. (7-1-15)

05. Board. The Idaho State Board of Health and Welfare. (7-1-15)

06. Certification. Federal program approval (Medicare, Medicaid, etc.) of the facility to participate in the delivery of program care to eligible individuals under applicable federal requirements. (7-1-15)

07. Client. A term used in the Code of Federal Regulations (CFR) for an "individual" residing in an intermediate care facility for individuals with intellectual disabilities who requires active treatment. A "client" is synonymous with the terms "individual" and "resident" in this chapter. (7-1-15)

08. Department. The Idaho Department of Health and Welfare. (7-1-15)

09. Director. The Director of the Idaho Department of Health and Welfare, or their designee. (7-1-15)

10. Discharge. The permanent movement of an individual to another facility or setting that operates independently from the ICF/ID. (7-1-15)

11. Enclosure. Any barrier designed, constructed, or used to contain an individual within a designated area for the purposes of behavior modification, and does not meet the definition of a "time out" room as stated in 42 CFR 483.450(c)(1). (7-1-15)

12. Governmental Unit. The State of Idaho, any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. (7-1-15)

13. Individual. A term used in the Code of Federal Regulations (CFR) for an "individual" residing in an intermediate care facility for individuals with intellectual disabilities who requires active treatment. An "individual" is synonymous with the terms "client" and "resident" in this chapter. (7-1-15)

14. Individual Program Plan (IPP). A written plan developed by the interdisciplinary team for each individual in the ICF/ID. The IPP is based on a completed, thorough review of the individual's preferences, lifestyle, cultural background, strengths, needs, and capabilities in all major life areas essential to increasing independence and ensuring rights. Each individual's IPP addresses what an individual needs in order to function with as much independence as possible by stating: (7-1-15)

a. The desired outcomes the individual is trying to achieve; (7-1-15)

b. The specific steps and actions that will be taken to reach the desired outcomes; and (7-1-15)

c. Any additional adaptive equipment, assistive technology, services, and supports required to meet the individual's needs. (7-1-15)

15. Initial License. The first license issued to a facility. (7-1-15)

16. Interdisciplinary Team (IDT). Professionals, paraprofessionals, and non-professionals who possess the knowledge, skills, and expertise necessary to accurately identify the comprehensive array of the individual's needs and design a program which is responsive to those needs. The IDT must include the individual unless inability or unwillingness is documented, their parent, guardian, or representative unless documented to be inappropriate or unobtainable, a physician, a social worker, and other appropriate professional and non-professional staff, at least one (1) of whom is a Qualified Intellectual Disabilities Professional. (7-1-15)

17. Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID). An institution that meets federal conditions of participation and has as its primary purpose the provision of health or rehabilitation services to individuals with intellectual disabilities or related conditions receiving care and services under the Medicaid program, which is organized and operated to provide services to four (4) or more individuals, not related to the owner. (7-1-15)

011. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.
For the purposes of this chapter of rules, the following terms apply. (7-1-15)

01. Legal Guardian. A court-appointed surrogate designated to advocate on behalf of the individual. The guardian's role is to encourage self-reliance and independence as well as make decisions on behalf of the individual. (7-1-15)

02. Licensee. Any person, firm, partnership, corporation, company, association, joint stock association, governmental unit, legal entity, legal successor thereof, or organization to whom a license is issued. (7-1-15)

03. National Fire Protection Association (NFPA). The National Fire Protection Association, from whom copies of applicable safety standards referenced herein are available at cost. Requests should be addressed to NFPA Publication Department, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471 or www.NFPA.org. (7-1-15)

04. Noxious Stimuli. A startling, unpleasant, or painful action used in response to an individual's behavior that has a potentially aversive or harmful effect. (7-1-15)

05. On Duty. Personnel are considered "on duty" when working with, or available to meet an individual's needs. (7-1-15)

06. Outside Service. Any service provided at a location other than the premises for which the license was issued, pursuant to Section 39-1305, Idaho Code. Includes off-site treatment locations regardless of ownership or operating party, schools, vocational programs, and separately licensed Developmental Disabilities Agencies per Section 39-4605, Idaho Code. (7-1-15)

07. Owner. Any recognized legal entity, governmental unit, or person having legal ownership of an ICF/ID. (7-1-15)

08. Parent. A person who by birth, through adoption, or through fostering is considered legally responsible for a child under the age of eighteen (18), unless otherwise ordered by a court of competent jurisdiction. (7-1-15)

09. Participate. To provide input through whatever means necessary to ensure an individual's IPP is responsive to the individual's needs. (7-1-15)

10. Physician. An individual licensed to practice medicine and surgery by the Idaho State Board of Medicine or the Idaho State Board of Podiatry under Section 39-1301(h), Idaho Code. (7-1-15)

11. Provisional License. A license issued to a facility that conforms substantially with these rules, during which time the facility is to correct deficiencies, or to implement administrative or major structural changes. (7-1-15)

12. Qualified Intellectual Disabilities Professional (QIDP). An individual who has at least one (1) year of experience working directly with individuals with intellectual disabilities or developmental disabilities; and meets the requirements in 42 CFR 483.430 (a). (7-1-15)

13. Related to Owner. An individual who is related to an owner of an intermediate care facility by blood, marriage, adoption, fostering, or legal guardianship. (7-1-15)

14. Renovations, Minor. Changes or modifications to the building or property that do not affect the structural integrity of the building, the fire safety, the physical spaces within the building, or the functional operation for which the facility is licensed. (7-1-15)

15. Resident. A term used in the International Building Code for an "individual" residing in an intermediate care facility for individuals with intellectual disabilities who requires active treatment. A "resident" is synonymous with the terms "individual" and "client" in this chapter. (7-1-15)

16. Sufficient Staff. Sufficient numbers of staff to meet each individual's needs and to implement the active treatment program defined in each individual's IPP. (7-1-15)

17. Transfer. A transfer means any of the following: (7-1-15)

a. The temporary movement of an individual between facilities; (7-1-15)

b. The temporary movement from an ICF/ID to a psychiatric or medical hospital for medical reasons; (7-1-15)

c. The permanent movement of an individual between living units of the same facility; or (7-1-15)

d. The permanent movement of an entire facility to a new location, including individuals served, staff and records. (7-1-15)

18. Waiver. Provision by the Department to allow for an exception to rule on a case-by-case basis. (7-1-15)

012. -- 019. (RESERVED)

020. LICENSE REQUIRED.

An intermediate care facility for people with intellectual disabilities (ICF/ID) cannot be established, maintained, or operated within Idaho without obtaining a license from the Department as required in Sections 39-1301 through 39-1314, Idaho Code. An ICF/ID must be in compliance with Idaho statutes, federal regulations, and this chapter of rules in order to hold a license. (7-1-15)

021. ICF/ID LICENSURE REQUIREMENTS.

01. Facility Name. Each ICF/ID must use a distinctive name for the facility which is registered with the Secretary of State of Idaho. The facility cannot change its name without written notification to the Department at least thirty (30) days prior to the date the proposed name change is to be effective. (7-1-15)

02. Physical Location. Each ICF/ID must meet the requirements under Sections 67-6530 through 67-6532, Idaho Code, for local planning and zoning laws or ordinances. Facilities serving eight (8) or fewer individuals with intellectual disabilities are not required to secure conditional use permits, zoning variances, or zoning clearance. (7-1-15)

03. Size Limitations. The maximum size of an ICF/ID must be no more than fifteen (15) beds. An ICF/ID that has continuously operated under current ownership since July 1, 1980, or before, and continues to operate under that ownership, is exempt from this requirement. (7-1-15)

04. Compliance with Water and Sanitation Rules. Each ICF/ID must have a statement from the Public Health District indicating that the water supply and sewage disposal systems meet the Department requirements in Sections 700 through 799 of these rules. (7-1-15)

05. Approval of Facility Construction Plans. Each ICF/ID must obtain written Department approval prior to any proposed construction of a facility or alterations to an ICF/ID. Construction or alteration plans must be provided to the Department prior to licensing of the facility. (7-1-15)

022. INSPECTION OF FACILITY.

01. Representatives of the Department. The Department is authorized to enter an ICF/ID, or its buildings associated with its operation, at all reasonable times for the purpose of inspection. The Department may, at its discretion, utilize the services of any legally qualified person or organization, either public or private, to examine and inspect any ICF/ID for licensing requirements. (7-1-15)

02. Accessible With or Without Prior Notification. The Department or its representatives may enter a facility for the purpose of inspections with or without prior notification to the facility. (7-1-15)

03. Inspection of Records. For the purposes of these rules, the Department is authorized to inspect all records required by the Department to be maintained by the facility. (7-1-15)

04. Inspection of Outside Services. The Department is authorized to inspect any outside services that a licensed facility uses for its individuals. (7-1-15)

023. -- 024. (RESERVED)

025. INITIAL APPLICATION FOR LICENSURE.
Each person or entity planning to operate an ICF/ID must apply to the Department for an initial license. (7-1-15)

01. Form of Application. The applicant must complete an initial application form provided by the Department. The application and documents required in Subsection 025.02 of this rule must be submitted to the Department at least ninety (90) days prior to the planned opening date. (7-1-15)

02. Documents Required. In addition to the application form, the following documents must be submitted with the application prior to approval of a license: (7-1-15)

a. A certificate of occupancy from the local building and fire authority. (7-1-15)

b. Acceptable policies and procedures governing the facility, including a sample of an individual record, as required by the Department. (7-1-15)

c. If the facility is owned by a corporation, the names and addresses of all officers and stockholders having more than five percent (5%) ownership. (7-1-15)

026. CHANGE OF OWNERSHIP (CHOW).
A new owner must submit a new application for licensure, and receive the license from the Department before operating the facility. A "change in ownership" is a change in the person or legal organization that has final decision-making authority over the daily operation of an existing ICF/ID. (7-1-15)

01. CHOW of ICF/ID. An ICF/ID must apply for a change of ownership when: (7-1-15)

a. The form of legal organization of the facility changes, such as when a sole proprietorship becomes a partnership or corporation; (7-1-15)

b. Title of the ICF/ID is transferred from the current licensee to another party; (7-1-15)

c. The ICF/ID is leased to another party, or the facility's existing lease is terminated; (7-1-15)

d. An event occurs that terminates or dissolves a partnership or sole proprietorship; or (7-1-15)

e. The licensee is a corporation; and (7-1-15)

i. The corporation is dissolved; or (7-1-15)

ii. A new corporation is formed through consolidation or merger with one (1) or more other corporations, and the licensed corporation no longer exists. (7-1-15)

02. No CHOW. Ownership does not change when: (7-1-15)

a. The licensee contracts with another party to manage the facility and to act as the licensee's agent. The licensee must retain final decision-making authority over daily operating decisions; or (7-1-15)

b. When the licensee is a corporation, some or all of its corporate stock is transferred, and the corporation continues to exist. (7-1-15)

03. Application for Change of Ownership. An ICF/ID must apply to the Department for a change of ownership at least ninety (90) days prior to the proposed date of the change, using an initial licensing application form. (7-1-15)

027. -- 029. (RESERVED)

030. ISSUANCE OF LICENSE.
An ICF/ID license is issued when the Department finds that the applicant has demonstrated compliance with the requirements in Idaho statutes and these rules. (7-1-15)

01. License Issued Only to Named Applicant and Location. Each license is issued only for the premises and persons or governmental units named in the application, as required in Section 39-1305, Idaho Code. (7-1-15)

02. License Specifies Maximum Allowable Beds. Each license specifies the maximum allowable number of beds in each facility, which may be exceeded only on an emergency basis, for the minimum amount of time required to address the emergency. This emergency exception must be authorized by the Department. (7-1-15)

03. Initial License. When the Department determines that all required application information has been received and demonstrates compliance, a license is issued. The initial license expires at the end of the calendar year in which the license was issued. (7-1-15)

04. Provisional License. A provisional license issued to an ICF/ID is valid for a period not to exceed six (6) months from the date of issuance by the Department. A provisional license may be issued in order for the facility to: (7-1-15)

a. Implement administrative changes; (7-1-15)

b. Implement structural changes to a facility's premises; or (7-1-15)

c. Work on correcting deficiencies to bring the facility into compliance with statutory requirements and these rules. (7-1-15)

031. EXPIRATION AND RENEWAL OF LICENSE.
An ICF/ID license issued by the Department is valid until the end of the calendar year in which it is issued. The

license is renewed annually unless the license is revoked or suspended. (7-1-15)

032. -- 039. (RESERVED)

040. DISPLAY OF LICENSE.
Under Section 39-1305, Idaho Code, an ICF/ID must post its license in a conspicuous place on the premises visible to the general public. (7-1-15)

041. -- 049. (RESERVED)

050. DENIAL OR REVOCATION OF LICENSE.
Under Section 39-1306, Idaho Code, the Department may deny an application for an ICF/ID license or revoke an existing license. (7-1-15)

01. Notice to Deny or Revoke. The Department will send a written notice to the applicant or licensee by certified mail, registered mail, or personal delivery service, to deny or revoke a license or application. The notice will inform the applicant or licensee of the opportunity to request a hearing as provided in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (7-1-15)

02. Major Deficiency. The Department may deny an application for a license or revoke an existing license if a major deficiency exists in the compliance of the ICF/ID with the provisions of Idaho Code, federal regulations, or of these rules. A major deficiency is: (7-1-15)

a. Any violation of ICF/ID requirements contained in Idaho Code, federal regulations, or these rules that would endanger the health, safety, or welfare of any individual; (7-1-15)

b. Any repeated violations of any requirements in Idaho Code, federal regulations, or these rules; or (7-1-15)

c. The accumulation of minor violations at the facility that, taken as a whole, would endanger the health, safety, or welfare of any individual. (7-1-15)

03. Prior Record Related to Licensure. The Department may deny an application for a license or revoke an existing license when the owner or administrator has: (7-1-15)

a. Had any health or personal care license denied or revoked; (7-1-15)

b. Been found to have operated any health or personal care facility without a license; or (7-1-15)

c. Been enjoined from operating any health or personal care facility in an action related to improper operation of a facility. (7-1-15)

04. Personnel Inadequacies. The Department may deny an application for a license or revoke an existing license when the owner or administrator lacks sufficient staff in number or qualification to properly care for the proposed or actual number and needs of individuals. (7-1-15)

05. Inadequate or False Disclosure. The Department may deny an application for a license or revoke an existing license when the owner or administrator has misrepresented, or failed to fully disclose, any facts or information or any items in any application or any other document requested by the Department, when such facts and information were required to have been disclosed. (7-1-15)

06. Prior Criminal Record. The Department may deny an application for a license or revoke an existing license when the owner or administrator has been convicted of any crime or infraction associated with the operation of a licensed health or personal care facility. (7-1-15)

051. -- 059. (RESERVED)

060. SUMMARY SUSPENSION OF LICENSE.
The Director may summarily suspend any ICF/ID license in the event of any emergency endangering the health, safety, or welfare of an individual in the facility. The Director will provide an opportunity for a contested case hearing under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (7-1-15)

061. -- 069. (RESERVED)

070. RETURN OF SUSPENDED, REVOKED, OR RELINQUISHED LICENSE.
Each ICF/ID license is the property of the State of Idaho and must be returned to the Department immediately upon its suspension, revocation, or the voluntary closure of the facility. (7-1-15)

071. -- 079. (RESERVED)

080. WAIVER.
Under Section 39-1306, Idaho Code, a temporary or permanent waiver to these rules and minimum standards, either in whole or in part, may be granted by the Department to an ICF/ID on a case-by-case basis under the following conditions: (7-1-15)

01. Waiver for Good Cause. The Department finds good cause to grant a waiver and no individual's health, safety, or welfare is endangered by the waiver being granted. (7-1-15)

02. No Precedent. Precedent will not be set by granting the requested waiver, and such waiver will have no force or effect in any other proceeding. (7-1-15)

081. -- 099. (RESERVED)

100. GOVERNING BODY AND MANAGEMENT.
The requirements of Sections 100 through 199 of these rules are modifications and additions to the requirements in 42 CFR 483.410 - 483.410(e), Condition of Participation: Governing Body and Management incorporated in Section 004 of these rules. (7-1-15)

101. GOVERNING BODY DUTIES.

01. Unrelated to Owner. The governing body of each ICF/ID must ensure that individuals residing at the ICF/ID are unrelated to the owner. (7-1-15)

02. Appointment of Administrator. The governing body of each licensed ICF/ID must appoint an administrator. (7-1-15)

102. ADMINISTRATOR.

01. Administrator Requirements. Each ICF/ID must have an administrator who: (7-1-15)

a. Is at least twenty-one (21) years of age; (7-1-15)

b. Is responsible and accountable for implementation of the policies established by the governing body; (7-1-15)

c. Has a minimum three (3) years direct experience working in an ICF/ID setting; and (7-1-15)

d. Meets all other qualifications required by the facility's governing body. (7-1-15)

02. Administrator Duties. The administrator's responsibilities and duties are to: (7-1-15)

a. Implement and monitor written policies and procedures for each service of the ICF/ID and the operation of its physical plant. The administrator must see that these policies and procedures are adhered to and make them available to authorized representatives of the Department. (7-1-15)

b. Implement and monitor written policies and procedures for the recruitment and employment of sufficient staff and personnel in number and qualification to perform each service and for the operation of the ICF/ID. The administrator must see that the policies and procedures for administration of personnel requirements in Section 120 of these rules are adhered to and available to authorized representatives of the Department. (7-1-15)

c. Compile, complete, and submit all reports and records required by the Department. (7-1-15)

d. Notify the Department immediately of an anticipated or actual termination of any service vital to the continued safe operation of the ICF/ID or the health, safety, and welfare of its individuals and personnel. (7-1-15)

e. When not on duty, delegate the necessary authority to an administrator designee who is competent to handle the administrator's duties. Delegation of authority must occur according to the ICF/ID policies and procedures set by the facility's governing body. In the event of an emergency, the administrator designee must know how to contact the administrator. (7-1-15)

103. -- 109. (RESERVED)

110. FACILITY RECORDS.

01. Records Available Upon Request. Each ICF/ID must be able to print and provide paper copies of electronic records upon the request of the individual who is the subject of the requested records, the individual's legal guardian, payer, or the Department. (7-1-15)

02. Census Register. Each ICF/ID must maintain a census register that lists: (7-1-15)

a. The name of each individual residing in the facility; (7-1-15)

b. The individual's date of admission and discharge; and (7-1-15)

c. A daily census of each individual who is in the facility on any given day. (7-1-15)

111. -- 119. (RESERVED)

120. ADMINISTRATIVE REQUIREMENTS -- PERSONNEL.
Each ICF/ID must employ personnel sufficient in number and qualifications to meet, at a minimum, the quality of care mandated by law and these rules for all individuals' needs in the facility. (7-1-15)

01. Job Descriptions. Current job descriptions outlining the authority, responsibilities, and duties of all personnel in the facility, including the administrator, must be established and maintained as required by the governing body. A copy of an employee's particular job description must be provided to each employee. (7-1-15)

02. Policies and Procedures. The facility must ensure that explicit and uniform policies and procedures are established for each employment position concerning hours of work, overtime, and related personnel matters. A statement of these policies must be provided to each employee. (7-1-15)

03. Daily Work Schedules. Daily work schedules must be maintained that show the personnel on duty at any given time for the previous three (3) month period. These schedules must be kept up to date and identify the employee as follows: (7-1-15)

a. First and last names; (7-1-15)

b. Professional designations such as registered nurse (RN), licensed practical nurse, (LPN), QIDP; and (7-1-15)

c. Employment position in the facility. (7-1-15)

04. Organizational Chart. A current organizational chart that clearly indicates lines of authority within the facility's organizational structure must be available at the facility to be viewed by all employees, or kept in each employee's possession while on duty. (7-1-15)

05. Personnel Records. A separate personnel record must be maintained for each employee of the facility that contains the following information: (7-1-15)

a. The employee's name, current address, and telephone number; (7-1-15)

b. The employee's Social Security Number; (7-1-15)

c. The employee's educational background; (7-1-15)

d. The employee's work experience; (7-1-15)

e. The employee's other qualifications to provide ICF/ID care. If licensure is required to provide a service the employee was hired to provide, the facility must have written verification of the original license number and date the current license expires; (7-1-15)

f. The employee's criminal history and background check (CHC) clearance must be printed and on file, when a CHC is required; (7-1-15)

g. The employee's date of employment; (7-1-15)

h. The employee's date of termination including the reason for termination; (7-1-15)

i. The employee's position in the facility and a description of that position; and (7-1-15)

j. The employee's hours and work schedule, paydays, overtime, and related personnel matters. (7-1-15)

06. Health and Age Requirements. All personnel employed by an ICF/ID must meet and observe the following requirements: (7-1-15)

a. Each employee must be free of communicable disease and infected skin lesions while on duty; and (7-1-15)

b. At the time of employment, each employee must have a tuberculin skin test consistent with current tuberculosis control procedures. (7-1-15)

c. No employee who is less than eighteen (18) years of age can provide direct individual care in an ICF/ID. (7-1-15)

07. Training Requirements. Each ICF/ID must have and follow structured written training programs designed to train each employee in the responsibilities specified in the written job description, and to provide for quality of care and compliance with these rules. Signed evidence of personnel training, indicating dates, hours, and topic, must be retained at the facility. This training must include at a minimum: (7-1-15)

a. Initial orientation for new employees; and (7-1-15)

b. Continuing in-service training designed to, at a minimum, meet the quality of care mandated by law and these rules for individuals residing in the facility. (7-1-15)

121. -- 199. (RESERVED)

200. CLIENT PROTECTIONS.
The requirements of Sections 200 through 299 of these rules are modifications and additions to the requirements in 42

CFR 483.420 - 483.420(d)(4), Condition of Participation: Client Protections incorporated in Section 004 of these rules. (7-1-15)

201. INDIVIDUAL ADVOCATE.
An individual advocate is a person whose primary responsibility is to help ensure the individual's rights are not violated and to act in the best interest of the individual. (7-1-15)

202. APPOINTED ADVOCATE.
The administrator of an ICF/ID must appoint an advocate for an individual with input from the individual's IDT when the following exists: (7-1-15)

01. Parent or Legal Guardian Unable to Participate. The individual's parent or legal guardian is unable or unwilling to participate, or is unavailable after reasonable efforts to contact them for participation have been made. (7-1-15)

02. Individual Unable to Make Informed Decisions. An individual "lacks capacity to make informed decisions" as defined in Section 66-402(9), Idaho Code. The IDT must determine and document in the individual's record the specific impairment that has rendered the individual incapable of understanding their own rights. (7-1-15)

03. Requested by Individual, Parent, or Guardian. An advocate is requested by the individual, their parent, or their guardian. (7-1-15)

04. Advise Individual of Rights. The fact that an individual has been determined to be incompetent or incapable does not absolve the facility from advising the individual of their rights to the extent that the individual is able to understand them. (7-1-15)

05. Advocate Selection. The administrator must ensure that all individuals are represented only by persons who are not employed by the facility. The priority for selection of advocates will be in the following order: (7-1-15)

a. Parent(s); (7-1-15)

b. An interested family member; or (7-1-15)

c. Other interested parties. (7-1-15)

203. ADVOCATES' RIGHTS.
Each advocate has the following rights: (7-1-15)

01. Be Informed. To be informed of activities related to the individual that may be of interest to them or of significant changes in the individual's condition. (7-1-15)

02. Visitation Rights. To visit the individual and all parts of the facility that provide services to the individual at any reasonable hour and without prior notice, unless contraindicated by the individual's needs or such practice infringes upon the privacy and rights of others. (7-1-15)

03. Prompt Communications. To receive prompt replies to any communication sent to the facility regarding the individual. (7-1-15)

04. Written Interpretation of Evaluations. To be given within thirty (30) days of admission to the facility, a written interpretation of the evaluation that is conducted for the individual. The administrator of the facility must provide a written interpretation of any and all subsequent evaluations. (7-1-15)

05. Discharge Counseling. To be counseled as to the advantages and disadvantages of discharging the individual from the facility, including admission to another facility. (7-1-15)

06. Prompt Notification of Significant Events. To be notified promptly in the event of any unusual

occurrence, including serious illness or accident, impending death, and/or death; and in the case of death, to be told of autopsy findings if an autopsy is performed. (7-1-15)

07. Access to Individual's Records. To be given access to all of the individual's records that pertain to their active treatment, subject to the requirements specified in IDAPA 16.05.01, "Use and Disclosure of Department Records." (7-1-15)

204. -- 299. (RESERVED)

300. FACILITY STAFFING.
The requirements of Sections 300 through 399 of these rules are modifications and additions to the requirements in 42 CFR 483.430 - 483.430(e)(4), Condition of Participation: Facility Staffing incorporated in Section 004 of these rules. (7-1-15)

301. INTERNS AND VOLUNTEERS.
Volunteers and interns must be under the direct supervision of facility staff during all times of direct contact with individuals. (7-1-15)

302. -- 399. (RESERVED)

400. ACTIVE TREATMENT SERVICES.
The requirements of Sections 400 through 499 of these rules are modifications and additions to the requirements in 42 CFR 483.440 - 483.440(f)(4), Condition of Participation: Active Treatment Services incorporated in Section 004 of these rules. (7-1-15)

401. -- 499. (RESERVED)

500. CLIENT BEHAVIOR AND FACILITY PRACTICES.
The requirements of Sections 500 through 599 of these rules are modifications and additions to the requirements in 42 CFR 483.450 - 483.450(e)(4)(iii), Condition of Participation: Client Behavior and Facility Practices incorporated in Section 004 of these rules. (7-1-15)

501. MANAGEMENT OF INAPPROPRIATE INDIVIDUAL BEHAVIOR.
The application of painful or noxious stimuli and the use of enclosures are prohibited. (7-1-15)

502. -- 599. (RESERVED)

600. HEALTH CARE SERVICES.
The requirements of Sections 600 through 699 of these rules are for modifications and additions to the requirements in 42 CFR 483.460 - 483.460(n)(2), Condition of Participation: Health Care Services incorporated in Section 004 of these rules. (7-1-15)

601. -- 699. (RESERVED)

700. PHYSICAL ENVIRONMENT.
The requirements of Sections 700 through 799 of these rules are modifications and additions to the requirements in 42 CFR 483.470 - 483.470(1)(4), Condition of Participation: Physical Environment, incorporated in Section 004 of these rules. Other documents incorporated in Section 004 of these rules related to an ICF/ID physical environment are the NFPA's Life Safety Code and IDAPA 07.03.01, "Rules of Building Safety." (7-1-15)

701. ENVIRONMENTAL SANITATION STANDARDS.
Each ICF/ID must ensure that its environment promotes the health, safety, independence, and learning of each individual in the facility. (7-1-15)

702. ENVIRONMENTAL STANDARDS -- WATER, SEWER, AND GARBAGE.

01. Water Supply. Each ICF/ID must have a water supply that is adequate, safe, and of a sanitary

quality. The water supply must: (7-1-15)

a. Be from an approved public or municipal water supply; or (7-1-15)

b. Be from a private water supply that meets the standards approved by the Department, when an approved public or municipal water supply is not available. (7-1-15)

02. Private Water Supply. An ICF/ID using a private water supply must: (7-1-15)

a. Submit water samples to the local Public Health District Laboratory for bacteriological examination at least once every three (3) months; and (7-1-15)

b. Keep copies of the Public Health District laboratory reports on file at the facility and available to authorized representatives of the Department. (7-1-15)

03. Adequate Water Supply. Each ICF/ID must have a sufficient amount of water under adequate pressure to meet sanitary and fire sprinkler system requirements of the facility at all times, according to the requirements in IDAPA 07.02.06, "Rules Concerning Idaho State Plumbing Code," and the NFPA Life Safety Code incorporated in Section 004 of these rules. (7-1-15)

04. Sewage Disposal. Each ICF/ID must discharge all sewage and liquid wastes into a municipal sewage system where such a system is available. Where a municipal sewage system is not available, sewage and liquid wastes must be collected, treated, and disposed of in a manner approved by the Department. (7-1-15)

05. Garbage and Refuse Disposal. Each ICF/ID must provide garbage and refuse disposal at its facility that meets the following requirements: (7-1-15)

a. The premises and all buildings must be kept free from accumulation of weeds, trash, and rubbish; (7-1-15)

b. Materials not directly related to the maintenance and operation of the facility must not be stored on the premises; (7-1-15)

c. All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material, and cannot leak. Containers must be provided with tight-fitting lids unless stored in a vermin-proof room or enclosure; (7-1-15)

d. Garbage containers must be maintained in a sanitary manner. Sufficient containers must be afforded to hold all garbage and refuse that accumulates between periods of removal from the facility; and (7-1-15)

e. Storage areas must be kept clean and sanitary. (7-1-15)

703. ENVIRONMENTAL STANDARDS -- CHEMICALS AND PESTICIDES.

01. Rodent and Pest Control. Each ICF/ID must be maintained free from insects, rodents, vermin, and other pests. (7-1-15)

a. Chemicals and pesticides must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer that is registered with the Idaho Department of Agriculture; and (7-1-15)

b. Chemicals and pesticides used in the facility's pest control program must be used and stored to meet local, state, and federal requirements. (7-1-15)

02. Chemical Storage. All toxic chemicals must be properly labeled and stored according to the manufacturer's instructions. Toxic chemicals must not be stored in individual areas, with drugs, or in any area where food is stored, prepared, or served. (7-1-15)

704. ENVIRONMENTAL STANDARDS -- LINENS AND LAUNDRY SERVICES.

01. Linens Provided. Each ICF/ID must have available at all times a quantity of linens sufficient for the proper care and comfort of its individuals. The linens must: (7-1-15)

a. Be of good quality, not thread-bare, torn, or badly stained; and (7-1-15)

b. Be handled, processed, and stored in an appropriate manner that prevents contamination. (7-1-15)

02. Laundry Facilities. Unless a laundry service is used as described in Subsection 704.03 of this rule, each ICF/ID must have adequate laundry facilities for the sanitary washing and drying of the linens and other washable goods laundered in the facility. An individual's personal laundry must be collected, sorted, washed, and dried in a sanitary manner, and cannot be washed with the general linens. The laundry area must: (7-1-15)

a. Be situated in an area separate and apart from where food is stored, prepared, or served; (7-1-15)

b. Be well-lighted and ventilated; (7-1-15)

c. Be adequate in size for the needs of the facility; (7-1-15)

d. Be maintained in a sanitary manner; and (7-1-15)

e. Be kept in good repair. (7-1-15)

03. Laundry Services. When an ICF/ID sends its linens and individuals' personal laundry out for laundry services, the facility must ensure that: (7-1-15)

a. Soiled linens and clothing are handled in a proper manner to prevent cross-contamination and material damage prior to sending out; (7-1-15)

b. Clean linens and clothing received from a laundry service are stored in a proper manner to prevent potential re-contamination or material damage; and (7-1-15)

c. Each individual's personal laundry is collected, transported, sorted, washed, and dried in a sanitary manner and is not washed with general linens. (7-1-15)

705. ENVIRONMENTAL STANDARDS -- HOUSEKEEPING SERVICES.
Each ICF/ID must have sufficient housekeeping and maintenance personnel and equipment to maintain the interior and exterior of the facility in a safe, clean, orderly, and attractive manner. (7-1-15)

01. Facility Interior. Floors, walls, ceilings, and other interior surfaces, equipment, and furnishings must be maintained in a clean and sanitary manner. (7-1-15)

02. Housekeeping Procedures. Each ICF/ID must have written procedures for cleaning surfaces and equipment that is explained to each person engaged in housekeeping duties. An individual in the facility who is engaged in facility housekeeping duties as part of their training program must be supervised by the facility's program personnel according to the individual's assessed needs. (7-1-15)

03. Requirements After Individual Discharged. After discharge of an individual the facility must ensure that the individual's room is thoroughly cleaned, including the bed, bedding, linens, and furnishings. (7-1-15)

04. Deodorizers. Deodorizers and other products must not be used to cover odors caused by poor housekeeping or unsanitary conditions. (7-1-15)

05. Housekeeping Equipment. All housekeeping equipment must be in good repair and maintained in a clean and sanitary manner. (7-1-15)

706. -- 709. (RESERVED)

710. PHYSICAL FACILITY STANDARDS -- EXISTING GENERAL REQUIREMENTS.
Each ICF/ID must meet the minimum standards related to physical construction and maintenance for all of its buildings used for ICF/ID services as required in Sections 711 through 712 of these rules. All buildings are subject to approval by the Department. (7-1-15)

711. PHYSICAL FACILITY STANDARDS -- EXISTING CONSTRUCTION.
Each ICF/ID must use buildings that are of such character and quality to be suitable for the services and usage provided in its buildings. Other requirements for existing buildings are: (7-1-15)

01. Good Repair. Each building used by the ICF/ID and its equipment must be in good repair. (7-1-15)

a. The walls and floors must be of such character as to permit frequent cleaning. (7-1-15)

b. Walls and ceilings in kitchens, bathrooms, and utility rooms must have smooth, cleanable surfaces. (7-1-15)

c. The building must be kept clean and sanitary, and every reasonable precaution taken to prevent the entrance of insects and rodents. (7-1-15)

02. Stairways. Each stairway in an ICF/ID must have sturdy handrails on both sides of the stairs, and all open stairwells protected with guardrails. Each stairway must have a nonskid tread covering the entire surface of the stair. (7-1-15)

03. Porches and Verandas. Each open porch and veranda must be protected by sturdy guardrails of a height measuring a minimum of forty-two (42) inches. (7-1-15)

04. Telephone. Each ICF/ID must have telephone access that provides a reliable means of communication to each individual in the facility for private conversations and to contact emergency services. (7-1-15)

05. Dining Areas. Each ICF/ID must provide one (1) or more attractively furnished, multi-purpose areas of an adequate size for individuals' dining, diversional, and social activities. Each area must be: (7-1-15)

a. Well-lighted; (7-1-15)

b. Ventilated; and (7-1-15)

c. Equipped with tables and chairs that have easily cleanable surfaces. (7-1-15)

06. Storage Areas. Each ICF/ID must provide general storage areas and medical storage areas. (7-1-15)

a. For each licensed bed in the facility there must be a minimum of ten (10) square feet of general storage area; (7-1-15)

b. In addition, each individual's bedroom must have suitable storage for personal clothing, possessions, and individual adaptive equipment; and (7-1-15)

c. The facility must provide safe and adequate storage space for medical supplies and an area appropriate for the preparation of medications. (7-1-15)

07. Lighting. Each ICF/ID must meet the following lighting requirements: (7-1-15)

a. In addition to natural lighting, artificial lighting is required to provide an average illumination of ten (10) foot-candles (107 lux) over the area of a room at thirty (30) inches (standard household lighting level) above

the floor level. (7-1-15)

b. With the exception of emergency egress lighting, all artificial lighting must be controllable by switches. (7-1-15)

c. Task lighting and reading lights must be available to meet each individual's needs. (7-1-15)

08. Ventilation. Each ICF/ID must be ventilated and precautions taken to prevent offensive odors. (7-1-15)

09. Heating and Air Conditioning. Each ICF/ID must provide heating and air conditioning systems throughout each building that are capable of maintaining a temperature range between sixty-eight (68°F) degrees and eighty-one (81°F) degrees Fahrenheit in all weather conditions. An ICF/ID cannot use any of the following: oil space heaters, recessed gas wall heaters, or floor furnaces. (7-1-15)

10. Plumbing. Each ICF/ID must meet the following plumbing requirements: (7-1-15)

a. All plumbing fixtures must be clean and in good repair. (7-1-15)

b. Vacuum breakers must be installed where necessary to prevent backsiphonage. (7-1-15)

c. The temperature of hot water at plumbing fixtures used by individuals in the facility must be between one hundred (100°F) degrees and one hundred twenty (120°F) degrees Fahrenheit. (7-1-15)

712. PHYSICAL FACILITY STANDARDS -- INDIVIDUAL ACCOMMODATIONS FOR EXISTING CONSTRUCTION.

Each ICF/ID must provide accommodations for each individual that meet the following requirements: (7-1-15)

01. Multi-Bedroom. No more than two (2) individuals can be housed in any multi-bedroom. (7-1-15)

02. Windows. Each individual's room window area must be no less than one-eighth (1/8) of the floor area and able to open. (7-1-15)

a. Suitable window shades or drapes must be provided to control lighting in the room. (7-1-15)

b. Windows must be located to permit an individual to have a view through the windows from a sitting position, allow for natural light, and room ventilation. (7-1-15)

c. Windows must be constructed to prevent any drafts when closed. (7-1-15)

03. Location of Bedroom. Each individual's bedroom must be an approved room that is not located: (7-1-15)

a. In a way that its outside walls are below grade; (7-1-15)

b. In any attic story; (7-1-15)

c. In any trailer house; (7-1-15)

d. In any other room not approved; or (7-1-15)

e. In a way that it can only be reached by passing through another individual's room, a utility room, or any other similar rooms. (7-1-15)

04. Room Size. Each individual's room must have dimensions that allow for no less than three (3) feet between beds. (7-1-15)

05. Ceilings. Each individual's room must have a ceiling height of seven and one-half (7 1/2) feet or more. (7-1-15)

06. Bathrooms. Each ICF/ID must have toilet rooms and hand washing facilities that are constructed as follows: (7-1-15)

a. Toilet rooms and bathrooms for individuals and personnel must not open directly into any room in which food, drink, or utensils are handled or stored. Toilet rooms or bathrooms may open into great rooms containing kitchen and dining areas if the doors are equipped with self-closures and ventilation is activated automatically with lighting. (7-1-15)

b. Toilet rooms and bathrooms must be separated from all rooms by solid walls or partitions. Adequate provisions to insure an individual's privacy must be made. (7-1-15)

c. Toilet rooms and bathrooms must be constructed for ease of cleaning. (7-1-15)

d. When an individual in an ICF/ID requires the use of a wheelchair, there must be at least one (1) toilet room and one (1) bathing area large enough to accommodate wheelchairs. (7-1-15)

e. Inside bathrooms and toilet rooms with no exterior window, must have forced ventilation to the outside. (7-1-15)

f. Toilet rooms must be so arranged that it is not necessary for an individual to pass through another individual's room to reach the toilet facilities. (7-1-15)

g. When an ICF/ID serves an individual with physical impairments, handrails or grab-bars must be provided in the individual's toilet rooms and bathrooms, and located so as to be functionally adequate. (7-1-15)

07. Bath Linens. Each individual must be provided with an individual towel and washcloth. (7-1-15)

08. Beds. Each individual must be provided with their own bed that is thirty-six (36) inches wide or more, substantially constructed, and in good repair. Roll-away beds, cots, and folding beds cannot be used. Each individual's bed must be clean and: (7-1-15)

a. Have satisfactory springs in good repair; (7-1-15)

b. Have a comfortable mattress that is standard in size for the bed; and (7-1-15)

c. Each mattress must be maintained, and for individuals known to be incontinent, water repellent. (7-1-15)

09. Interior Design. The interior design of each ICF/ID must provide the functional arrangement of a home to encourage a personalized atmosphere for its individuals. (7-1-15)

10. Furnishings and Equipment. Each ICF/ID must have furniture and equipment that is maintained in a sanitary manner, kept in good repair, and is located to permit convenient use by its individuals. (7-1-15)

11. Corridors and Hallways. Each ICF/ID must ensure corridors and hallways are free of accessory equipment that projects into such areas or otherwise poses a hazard or impedes easy passage. (7-1-15)

713. -- 729. (RESERVED)

730. PHYSICAL FACILITY STANDARDS -- NEW CONSTRUCTION.
Each ICF/ID must comply with IDAPA 07.03.01, "Rules of Building Safety," incorporated in Section 004 of these rules, or with locally adopted code when more stringent. In addition to the construction and the physical facility standards for new construction, a facility must also comply with Sections 730 through 732 of these rules. Additions to existing facilities, conversions of an existing building to a facility, and portions of facilities undergoing remodeling or alterations other than repairs, must meet these required standards. (7-1-15)

731. PHYSICAL FACILITY STANDARDS -- NEW CONSTRUCTION REQUIREMENTS.

01. New Facility Life Safety Code Requirements. Each new ICF/ID must meet the provisions of the National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, as incorporated in Section 004 of these rules, applicable to an ICF/ID, as specified below: (7-1-15)

a. Each new facility housing sixteen (16) individuals or less on the first floor only, must meet the requirements of Chapter 32, New Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capabilities, specifically the sections found within 32.1, 32.2 and 32.7, and the applicable provisions of chapters 1 through 10. (7-1-15)

b. Each new facility housing individuals on other than the first floor must meet the requirements of NFPA 101, the Life Safety Code, Chapter 18, New Health Care Occupancies, Limited Care Facility. (7-1-15)

02. Plans, Specifications, and Inspections. Plans, specifications, and inspections of each new ICF/ID construction or any addition, alteration, conversion, or remodeling of an existing structure are governed by the following rules: (7-1-15)

a. Plans for new construction of an ICF/ID must be prepared by an architect licensed in the state of Idaho; (7-1-15)

b. Employment of an architect can be waived by the Department in connection with certain minor alterations. (7-1-15)

03. Approved by Department. Each ICF/ID must submit plans and specifications to the Department prior to beginning any work on the construction of new buildings, additions, or structural changes to existing facilities, or conversion of existing buildings to be used as an ICF/ID. The Department will review and approve plans and specifications to ensure compliance with the applicable construction standards, codes, rules, and regulations. (7-1-15)

04. Preliminary Plans. Preliminary plans must be submitted and include: (7-1-15)

a. The assignment of all spaces, size of areas and rooms, and indication in outline of the fixed and movable equipment and furniture; (7-1-15)

b. Drawings of each floor, attic, and basement; (7-1-15)

c. The total floor area and number of beds; (7-1-15)

d. Drawings of approaches or site plans, roads, parking areas, and sidewalks; (7-1-15)

e. An outline describing the general construction, including interior finishes, acoustical materials, heating, electrical, and ventilation systems; and (7-1-15)

f. Plans drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to one (1) foot. (7-1-15)

05. Working Drawings. Each ICF/ID must develop working drawings in close cooperation with the Department and other appropriate agencies and receive written Department approval prior to beginning construction. The drawings and specifications must: (7-1-15)

a. Be well-prepared with accurate dimensions; (7-1-15)

b. Include all necessary explanatory notes, schedules, and legends; (7-1-15)

c. Be complete and adequate for contract purposes; and (7-1-15)

d. Be stamped with the architect's seal. (7-1-15)

06. Inspection. Each ICF/ID must be inspected and approved by the Department prior to occupancy. The Department must be notified at least six (6) weeks prior to completion of construction to schedule a final inspection. (7-1-15)

07. ICF/ID Regulations. Each ICF/ID being constructed must meet or exceed construction features that are applicable for all local, state, and national codes. In the event of a conflict in requirements between codes, the most restrictive will apply. (7-1-15)

08. Site Requirements. Each ICF/ID site location must: (7-1-15)

a. Be served by an all-weather road kept open to motor vehicles at all times of the year; (7-1-15)

b. Be accessible to physician, professional, and habilitation services, medical facilities, shopping centers, and population centers where employees may be recruited and retained; (7-1-15)

c. Be remote from railroads, factories, airports, and similar noise, odor, smoke, dust, or other nuisances; (7-1-15)

d. Be accessible to public utilities and services such as electrical power, telephone service, and fire protection; (7-1-15)

e. Have adequate off-street parking available; and (7-1-15)

f. Comply with homeowner association covenants, conditions, and restrictions. (7-1-15)

732. PHYSICAL FACILITY STANDARDS -- INDIVIDUAL ACCOMMODATIONS FOR NEW CONSTRUCTION.
Each ICF/ID must provide accommodations for each individual that meets the following requirements: (7-1-15)

01. Bedrooms. Each individual bedroom must be of sufficient size to allow for the following: (7-1-15)

a. Eighty (80) square feet or more of usable floor space per bed in a multiple-occupancy bedroom; and (7-1-15)

b. One hundred (100) square feet or more of usable floor space for a single occupancy bedroom. (7-1-15)

02. Multi-Bedrooms. No more than two (2) individuals can be housed in any multi-bedroom. (7-1-15)

03. Windows. Each individual's room window area must be no less than eight percent (8%) of the floor area and able to open. (7-1-15)

a. Suitable window shades or drapes must be provided to control lighting in the room. (7-1-15)

b. Windows must be located to permit an individual to have a view through the windows from a sitting position, allow for natural light, and room ventilation. (7-1-15)

c. Windows must be constructed to prevent any drafts when closed. (7-1-15)

04. Location of Bedroom. Each individual's bedroom must be an approved room that is not located: (7-1-15)

a. In a way that its outside walls are below grade; (7-1-15)

b. In any attic story; (7-1-15)

c. In any trailer house; (7-1-15)

d. In any other room not approved; or (7-1-15)

e. In a way that it can only be reached by passing through another individual's room, a utility room, or any other similar rooms. (7-1-15)

05. Bathrooms. Each ICF/ID must have one (1) toilet, one (1) tub or shower, and one (1) lavatory bowl for every four (4) licensed beds in the facility. Tubs, showers, and lavatory bowls must be connected to hot and cold running water. Toilet and bathing rooms must not be accessed through another individual's sleeping room. (7-1-15)

06. Living and Dining Areas. Each ICF/ID must provide a minimum of thirty (30) square feet per licensed bed for living, dining, and recreational activities. This area must be for the sole use of individuals, and under no circumstances can these rooms be used as bedrooms by an individual or personnel. A hall or entry is not acceptable as a living room or recreation room. (7-1-15)

07. Closets. Each individual must have closet space provided in their bedroom that is four (4) square feet or more per licensed bed. When a common closet is used for two (2) individuals, there must be a physical separation for the clothing of each individual. (7-1-15)

733. -- 739. (RESERVED)

740. FIRE AND LIFE SAFETY STANDARDS -- EXISTING FACILITY.
All buildings on the premises of an ICF/ID must meet all the requirements of local, state, and national codes concerning fire and life safety standards that are applicable to ICFs/ID. (7-1-15)

01. General Requirements. Each ICF/ID must meet the following general requirements for the fire and life safety standards: (7-1-15)

a. The facility must be structurally sound and maintained and equipped to ensure the safety of the individuals who reside there, employees, and the public. (7-1-15)

b. On the premises of each facility where natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect the individuals who reside there, employees, and the public. (7-1-15)

02. Existing Life Safety Code Requirements. Each ICF/ID must meet provisions of the National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, incorporated in Section 004 of these rules, applicable to an ICF/ID, as specified below: (7-1-15)

a. Each existing facility housing sixteen (16) or fewer individuals on a single story must meet the requirements of Chapter 33, Existing Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capabilities, specifically the sections found within 33.1, 33.2 and 33.7, and the applicable provisions of Chapters 1 through 10 of the NFPA Standard 101, The Life Safety Code. (7-1-15)

b. Existing fire sprinkler systems in a facility are permitted to continue in service until building footprint modifications are made, or a change of ownership, provided the lack of conformity with these standards does not present a serious hazard to the occupants as determined by the authority having jurisdiction. (7-1-15)

c. Sprinkler systems for a facility must be connected to the building fire alarm system and be supervised. (7-1-15)

d. Sprinkler systems installed in a newly constructed or converted facility must be designed to the standards of NFPA 13, NFPA 13-R or NFPA 13-D. Multipurpose sprinkler and domestic piping systems are prohibited. (7-1-15)

03. Existing Licensed Facilities. Each existing ICF/ID housing seventeen (17) or more individuals, or any number of individuals residing in multiple story buildings, must meet the requirement of Chapter 19, Existing Health Care Occupancies, Limited Care Facilities, and the applicable provision of Chapters 1 through 10 of the NFPA Standard 101, The Life Safety Code, incorporated in Section 004 of these rules. (7-1-15)

04. Portable Fire Extinguishers. Each ICF/ID must have portable fire extinguishers installed throughout the facility in accordance with applicable provisions of NFPA Standard 10, "Portable Fire Extinguishers." (7-1-15)

05. Portable Comfort Space Heating Devices Prohibited. The use of portable comfort space heating devices of any kind is prohibited in an ICF/ID. (7-1-15)

06. Emergency Battery Operated Lighting. Each ICF/ID must provide emergency battery-operated lighting for at least the exit passageway lighting, hall lighting, and the fire alarm system, in accordance with NFPA 101, The Life Safety Code, Section 7.9, as incorporated in Section 004 of these rules. (7-1-15)

741. FIRE AND LIFE SAFETY STANDARDS -- EMERGENCY PLANS.

01. Emergency Plans for Protection and Evacuation of Individuals. In cooperation with the local fire authority, the administrator of each ICF/ID must develop a prearranged written plan for employee response for protection of the individuals who reside there and for orderly evacuation of these individuals in case of an emergency. These plans must include procedures to meet all potential emergencies and disasters relevant to the facility, such as fire, severe weather, and missing individuals. (7-1-15)

a. The written emergency plan for each facility must contain a diagram of the building showing emergency protection equipment, evacuation routes, and exits. This diagram must be conspicuously posted in a common area within the facility. An outline of emergency instructions must be posted with the diagram. (7-1-15)

b. The facility must communicate the written emergency plan to staff and train staff in the use of the written emergency plan. (7-1-15)

c. The facility must periodically review the written emergency plan and thoroughly test it to ensure rapid and efficient function of the plan. (7-1-15)

d. The facility must hold unannounced evacuation drills at least quarterly for each shift of personnel for a total of no less than twelve (12) per year. The evacuation drills must be irregularly scheduled throughout all shifts and under varied conditions. At least one (1) drill per shift must be held on a Sunday or holiday. The facility must actually evacuate individuals during at least one (1) drill each year on each shift. (7-1-15)

e. The facility must document evacuation drills, cite the problems investigated, and take the appropriate corrective action for the identified problems. (7-1-15)

02. Report of Fire. Each ICF/ID must submit to the Department a separate report of each fire incident that occurs within the facility within thirty (30) days of the occurrence. The facility must use the Department's reporting form, "Facility Fire Incident Report," available online at: http://www.facilitystandards.idaho.gov. The facility must provide all specific data concerning the fire including the date, origin, extent of damage, method of extinguishment, and injuries, if any, for each fire incident. A reportable fire incident is when a facility has an incident: (7-1-15)

a. That causes staff to activate the facility emergency plan in whole or in part; (7-1-15)

b. That causes an alarm throughout, causing staff or residents to activate the facility emergency plan, in whole, or in part; (7-1-15)

c. That causes a response by the fire department or emergency services to investigate an alarm or incident; (7-1-15)

d. That is unplanned in which residents are evacuated, prepared to evacuate, partially evacuated, or

protected in place, due to smoke, fire, unknown gases/odors, or other emergency; or (7-1-15)

e. That results in an injury, burn, smoke inhalation, death, or other fire or emergency-related incident. (7-1-15)

03. Maintenance of Equipment. Each ICF/ID must establish routine test, check, and maintenance procedures for alarm systems, extinguishment systems, and all essential electrical systems. Each facility must meet the following requirements: (7-1-15)

a. The use of any defective equipment on the premises of any facility is prohibited. (7-1-15)

b. The administrator of the ICF/ID must have all newly acquired equipment and appliances inspected for safe condition and function prior to use by any individual residing there, employee, or visitor to the facility. (7-1-15)

c. The administrator of the ICF/ID must show written evidence of adequate preventive maintenance procedures for equipment directly related to the health and safety of the individuals who reside there. (7-1-15)

d. The facility must have the fire alarm system and smoke detection system serviced at least annually by an authorized servicing agency. Servicing must be in accordance with the applicable provision of NFPA Standard 72, The National Fire Alarm Code. (7-1-15)

e. The facility's automatic sprinkler systems, if installed, must be serviced at least annually by an authorized servicing agency. Servicing must be in accordance with the applicable provisions of NFPA Standard 25, "Standard for the Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems." Facilities protected by an NFPA 13D sprinkler system must be serviced and tested annually by an authorized servicing agency to include a visual inspection of all heads, testing of all water flow and tamper devices at a minimum. (7-1-15)

f. The facility must have all portable fire extinguishers serviced annually in accordance with the applicable provisions of NFPA Standard 10, "Portable Fire Extinguishers." (7-1-15)

g. The facility must establish routine in-house test and check procedures covering alarm systems, extinguishment systems, and essential electrical systems. (7-1-15)

742. -- 749. (RESERVED)

750. VEHICLES.
Each ICF/ID that transports individuals must have a vehicle safety policy that meets the following: (7-1-15)

01. Vehicle Safety Policy Content. Each ICF/ID must develop, implement, monitor, and maintain a written vehicle safety policy for each vehicle owned, leased, or used that includes: (7-1-15)

a. The establishment of a preventative maintenance program for each vehicle; (7-1-15)

b. Vehicle inspections and other regular maintenance needed to ensure individuals' safety; and (7-1-15)

c. Inspection of wheelchair lifts, securing devices, and other devices necessary to ensure individuals' safety. (7-1-15)

02. Motor Vehicle Licensing Requirements. Each ICF/ID must meet and adhere to all laws, rules, and regulations, including licensing, registration, and insurance requirements applicable to drivers and vehicles for each vehicle type used. (7-1-15)

751. -- 799. (RESERVED)

800. DIETETIC SERVICES.

The requirements of Sections 800 through 899 of these rules are modifications and additions to the requirements of 42 CFR 483.480 - 483.480(d)(5), Condition of Participation: Dietetic Services incorporated in Section 004 of these rules. (7-1-15)

801. PURCHASING AND STORAGE OF FOOD.
Each ICF/ID must purchase and store food as follows: (7-1-15)

01. Food Source. Each ICF/ID must obtain all food and drink from an approved source identified in IDAPA 16.02.19, "Idaho Food Code." (7-1-15)

02. Record of Food Purchases. At a minimum, each ICF/ID must keep a record of food purchases that includes invoices for the preceding thirty-day (30) period. (7-1-15)

03. Food Supply. Each ICF/ID must maintain on its premises the following food supplies: (7-1-15)

a. Staple food items sufficient for a one-week (1) period; and (7-1-15)

b. Perishable food items sufficient for a two-day (2) period. (7-1-15)

04. Temperature Requirements. Each refrigerator and freezer must be equipped with a reliable, easily read thermometer to ensure the following guidelines are met: (7-1-15)

a. Refrigerators must be maintained at forty-one (41°F) degrees Fahrenheit or below; and (7-1-15)

b. Freezers must be maintained at ten (10°F) degrees Fahrenheit or below. (7-1-15)

802. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Sections 56-202, 56-203, Sections 56-250 through 257, and Sections 56-260 through 56-266, Idaho Code, the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules for the provision of consumer-directed services. (3-29-12)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.13, "Consumer-Directed Services." (3-29-10)

02. Scope. Consumer-Directed Community Supports (CDCS) is a flexible program option for participants eligible for the Children's Home and Community Based Services (HCBS) State Plan Option, and Adult and Children's Developmental Disabilities (DD) waivers. CDCS is not a covered option for participants enrolled in the Children's Act Early Waiver. The CDCS option allows the eligible participant to: choose the type and frequency of supports they want, negotiate the rate of payment, and hire the person or agency they prefer to provide those supports. (7-1-11)

002. WRITTEN INTERPRETATIONS.
*T*his agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection. *( )*

003. -- **007. (RESERVED)**

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-30-07)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History Check. The fiscal employer agent must verify that each support broker and community support worker, whose criminal history check has not been waived by the participant, has complied with IDAPA 16.05.06, "Criminal History and Background Checks." When a participant chooses to waive the criminal history check requirement for a community support worker, the waiver must be completed in accordance with Section 150 of these rules. (3-30-07)

02. Availability to Work or Provide Service. Participants, at their discretion, may review the completed application and allow the community support worker to provide services on a provisional basis if no disqualifying offenses listed in IDAPA 16.05.06, "Criminal History and Background Checks," are disclosed. (3-30-07)

03. Additional Criminal Convictions. Once criminal history clearances have been received, any additional criminal convictions must be immediately reported by the worker to the participant and by the participant to the Department. (3-30-07)

04. Notice of Pending Investigations or Charges. Once criminal history clearances have been received, any charges or investigations for abuse, neglect or exploitation of any vulnerable adult or child, criminal charges, or substantiated adult protection or child protection complaints, must be immediately reported by the worker to the participant and by the participant to the Department. (3-30-07)

05. Providers Subject to Criminal History Check Requirements. A community support worker, who has not had the requirement waived by the participant, and a support broker as defined in Section 010 of these rules. (3-30-07)

010. DEFINITIONS.

01. Circle of Supports. People who encourage and care about the participant and provide unpaid supports. (3-30-07)

02. Community Support Worker. An individual, agency, or vendor selected and paid by the

participant to provide community support worker services. (3-30-07)

03. Community Support Worker Services. Community support worker services are those identified supports listed in Section 110 of these rules. (3-30-07)

04. Consumer-Directed Community Supports (CDCS). For the purposes of this chapter, consumer-directed supports include Self-Directed Community Supports (SDCS) and Family-Directed Community Supports (FDCS). (7-1-11)

05. Family-Directed Community Supports (FDCS). A program option for children eligible for the Children's Developmental Disabilities (DD) Waiver and the Children's Home and Community Based Services State Plan Option described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-11)

06. Financial Management Services (FMS). Services provided by a fiscal employer agent that include: (3-29-10)

a. Financial guidance and support to the participant by tracking individual expenditures and monitoring overall budgets; (3-30-07)

b. Performing payroll services; and (3-30-07)

c. Handling billing and employment related documentation responsibilities. (3-30-07)

07. Fiscal Employer Agent (FEA). An agency that provides financial management services to participants who have chosen the CDCS option. The fiscal employer agent (FEA) is selected by the participant. The duties of the FEA are defined under Section 3504 of the Internal Revenue Code (26 USC 3504). (7-1-11)

08. Goods. Tangible products or merchandise that are authorized on the support and spending plan. (3-30-07)

09. Guiding Principles for the CDCS Option. Consumer-Directed Community Supports is based upon the concept of self-determination and has the following guiding principles: (7-1-11)

a. Freedom for the participant to make choices and plan their own life; (3-30-07)

b. Authority for the participant to control resources allocated to them to acquire needed supports; (3-30-07)

c. Opportunity for the participant to choose their own supports; (3-30-07)

d. Responsibility for the participant to make choices and take responsibility for the result of those choices; and (3-30-07)

e. Shared responsibility between the participant and their community to help the participant become an involved and contributing member of that community. (3-30-07)

10. Home and Community Based Services (HCBS). HCBS are those long-term services and supports that assist eligible participants to remain in their home and community. (7-1-16)

11. Participant. A person eligible for and enrolled in the Consumer-Directed Services Programs. (7-1-11)

12. Readiness Review. A review conducted by the Department to ensure that each fiscal employer agent is prepared to enter into and comply with the requirements of the provider agreement and this chapter of rules. (3-29-10)

13. Self-Directed Community Supports (SDCS). A program option for adults eligible for the Adult

Developmental Disabilities (DD) Waiver described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-11)

14. Support and Spending Plan. A support and spending plan is a document that functions as a participant's plan of care when the participant is eligible for and has chosen a consumer-directed service option. This document identifies the goods or services, or both, selected by a participant, including those goods, services, and supports available outside of Medicaid-funded services that can help the participant meet desired goals, and the cost of each of the identified goods and services. The participant uses this document to manage their individualized budget. (3-29-12)

15. Supports. Services provided for a participant, or a person who provides a support service. A support service may be a paid service provided by a community support worker, or an unpaid service provided by a natural support, such as a family member, a friend, neighbor, or other volunteer. A person who provides a support service for pay is a paid support. A person who provides a volunteer support service is a natural support. (3-30-07)

16. Support Broker. An individual who advocates on behalf of the participant and who is hired by the participant to provide support broker Services. (3-30-07)

17. Support Broker Services. Services provided by a support broker to assist the participant with planning, negotiating, and budgeting. (3-30-07)

18. Traditional Adult DD Waiver Services. A program option for participants eligible for the Adult Developmental Disabilities (DD) Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-11)

19. Traditional Children's DD Waiver Services. A program option for children eligible for the Children's Developmental Disabilities (DD) Waiver consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-11)

20. Traditional Children's HCBS State Plan Option Services. A program option for children eligible for the Children's Home and Community-Based Services (HCBS) State Plan Option consisting of the specific Medicaid Enhanced Plan Benefits described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-11)

21. Waiver Services. A collective term that refers to services provided under a Medicaid Waiver program. (3-29-10)

011. -- 019. (RESERVED)

020. RESPONSIBILITY FOR DECISION-MAKING.
Under this chapter of rules, decisions are to be made as follows: (7-1-11)

01. Children. The parent or legal guardian is responsible for decisions made on behalf of a child participant. (7-1-11)

02. Adults. The participant, or legal guardian if one exists, is responsible for decisions made on behalf of an adult participant. (7-1-11)

021. -- 099. (RESERVED)

100. CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS) OPTION.
The CDCS option requires the participant to have a support broker to assist the participant to make informed choices, participate in a person-centered planning process, and become skilled at managing their own supports. The participant must use a fiscal employer agent to provide Financial Management Services (FMS) for payroll and reporting functions. (7-1-11)

101. ELIGIBILITY.

01. Determination of Medicaid and Home and Community Based Services - DD Requirements. In order to choose the CDCS option, the participant must first be determined Medicaid-eligible and determined to meet existing DD waiver programs or HCBS State Plan Option requirements as outlined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (7-1-11)

02. Participant Agreement Form. The participant, and their legal representative, if one exists, must agree in writing using a Department-approved form to the following: (3-30-07)

a. Accept the guiding principles for the CDCS option, as defined in Section 010 of these rules; (7-1-11)

b. Agree to meet the participant responsibilities outlined in Section 120 of these rules; (3-30-07)

c. Take responsibility for and accept potential risks, and any resulting consequences, for their support choices; and (7-1-16)

d. Acknowledge and follow the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 310 through 317. (7-1-16)

03. Legal Representative Agreement. The participant's legal representative, if one exists, must agree in writing to honor the choices of the participant as required by the guiding principles for the CDCS option. (7-1-11)

102. -- 109. (RESERVED)

110. PAID CONSUMER-DIRECTED COMMUNITY SUPPORTS.
The participant must purchase Financial Management Services (FMS) and support broker services to participate in the CDCS option, except for under the family-directed services option where the qualified parent or legal guardian may act as an unpaid support broker. The participant must purchase goods and community supports through the fiscal employer agent who is providing the FMS. (7-1-11)

01. Financial Management Services. The Department will enter into a provider agreement with a qualified fiscal employer agent, as defined in Section 010 of these rules, to provide financial management services to a participant who chooses the consumer-directed option. (7-1-11)

02. Support Broker. Support broker services are provided by a qualified support broker. (3-30-07)

03. Community Support Worker. The community support worker provides identified supports to the participant. If the identified support requires specific licensing or certification within the state of Idaho, the identified community support worker must obtain the applicable license or certification. Identified supports include activities that address the participant's preference for: (3-30-07)

a. Job support to help the participant secure and maintain employment or attain job advancement; (3-30-07)

b. Personal support to help the participant maintain health, safety, and basic quality of life; (3-30-07)

c. Relationship support to help the participant establish and maintain positive relationships with immediate family members, friends, spouse, or others in order to build a natural support network and community; (3-30-07)

d. Emotional support to help the participant learn and practice behaviors consistent with their goals and wishes while minimizing interfering behaviors; (3-30-07)

e. Learning support to help the participant learn new skills or improve existing skills that relate to their identified goals; (3-30-07)

f. Transportation support to help the participant accomplish their identified goals; (3-30-07)

g. Adaptive equipment identified in the participant's plan that meets a medical or accessibility need and promotes their increased independence; and (3-30-07)

h. Skilled nursing support identified in the participant's plan that is within the scope of the Nurse Practice Act and is provided by a licensed registered nurse (RN) or licensed practical nurse (LPN) under the supervision of an RN, licensed to practice in Idaho. (3-30-07)

111. UNPAID COMMUNITY SUPPORTS AND SERVICES.
The Department requires that participants and their support broker identify and prioritize the use of any goods, services and supports available through an unpaid volunteer support or service, or those goods, services, and supports that can be provided by a natural support such as a family member, a friend, a neighbor or other volunteer. (3-29-12)

112. -- 119. (RESERVED)

120. PARTICIPANT RESPONSIBILITIES.
With the assistance of the support broker and the legal representative, if one exists, the participant is responsible for the following: (3-30-07)

01. Guiding Principles. Accepting and honoring the guiding principles for the CDCS option found in Section 010 of these rules. (7-1-11)

02. Person-Centered Planning. Directing the person-centered planning process in order to identify and document paid and unpaid support and service needs, wants, and preferences. (7-1-16)

03. Rates. Negotiating payment rates for all paid community supports they want to purchase, ensuring rates negotiated for supports and services do not exceed the prevailing market rate, and that are cost-effective when comparing them to reasonable alternatives, and including the details in the employment agreements. (3-29-12)

04. Agreements. Completing and implementing agreements for the fiscal employer agent, the support broker and community support workers and submitting the agreements to the fiscal employer agent. These agreements must be submitted on Department-approved forms. (3-30-07)

05. Agreement Detail. Ensuring that employment agreements specifically identify the type of support being purchased, the rate negotiated for the support, and the frequency and duration of the scheduled support or service. The participant is responsible for ensuring that each employment agreement: clearly identifies the qualifications needed to provide the support or service; includes a statement signed by the hired worker that they possess the needed skills; and the signature of the participant that verifies the same. Additionally, each employment agreement will include statements that: the participant is the employer even though payment comes from a third party; employees are under the direction and control of the participant; services must be delivered consistent with the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 311 through 317; and no employer-related claims will be filed against the Department. (7-1-16)

06. Plan. Developing a comprehensive support and spending plan based on the information gathered during the person-centered planning. (3-30-07)

07. Time Sheets and Invoices. Reviewing and verifying that supports being billed were provided and indicating that they approve of the bill by signing the timesheet or invoice. (3-29-10)

08. Quality Assurance and Improvement. Providing feedback to the best of their ability regarding their satisfaction with the supports they receive and the performance of their workers. (3-30-07)

121. -- 129. (RESERVED)

130. FISCAL EMPLOYER AGENT REQUIREMENTS AND LIMITATIONS.

01. Requirements. The fiscal employer agent must meet the requirements outlined in its provider

agreement with the Department, and Section 3504 of the Internal Revenue Code (26 USC 3504). (3-29-10)

02. Limitations. The fiscal employer agent must not: (3-30-07)

a. Provide any other direct services to the participant, to ensure there is no conflict of interest; or (3-30-07)

b. Employ the guardian, parent, spouse, payee or conservator of the participant or have direct control over the participant's choice. (3-30-07)

131. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES.
The fiscal employer agent performs Financial Management Services for each participant. Prior to providing Financial Management Services the participant and the fiscal employer agent must enter into a written agreement. Financial Management Services include: (3-30-07)

01. Payroll and Accounting. Providing payroll and accounting supports to participants that have chosen the Consumer-Directed Community Supports option; (7-1-11)

02. Financial Reporting. Performing financial reporting for employees of each participant. (3-30-07)

03. Information Packet. Preparing and distributing a packet of information, including Department-approved forms for agreements, for the participant hiring their own staff. (3-30-07)

04. Time Sheets and Invoices. Processing and paying time sheets for community support workers and support brokers, as authorized by the participant, according to the participant's Department-authorized support and spending plan. (3-30-07)

05. Taxes. Managing and processing payment of required state and federal employment taxes for the participant's community support worker and support broker. (3-30-07)

06. Payments for Goods and Services. Processing and paying invoices for goods and services, as authorized by the participant, according to the participant's support and spending plan. (3-30-07)

07. Spending Information. Providing each participant with reporting information that will assist the participant with managing the individualized budget. (3-30-07)

08. Quality Assurance and Improvement. Participating in Department quality assurance activities. (3-30-07)

132. -- 134. (RESERVED)

135. SUPPORT BROKER REQUIREMENTS AND LIMITATIONS.

01. Initial Application to Become a Support Broker. Individuals interested in becoming a support broker must complete the Department-approved application to document that they: (3-30-07)

a. Is eighteen (18) years of age or older; (3-30-07)

b. Has skills and knowledge typically gained by completing college courses or community classes or workshops that count toward a degree in the human services field; and (3-30-07)

c. Has at least two (2) years verifiable experience with the target population and knowledge of services and resources in the developmental disabilities field. (3-30-07)

02. Application Exam. Applicants that meet the minimum requirements outlined in this section will receive training materials and resources to prepare for the application exam. Under Family-Directed Community Supports (FDCS), children's support brokers must attend the initial training. Applicants must earn a score of seventy

percent (70%) or higher to pass. Applicants may take the exam up to three (3) times. After the third time, the applicant will not be allowed to retest for twelve (12) months from the date of the last exam. Applicants who pass the exam, and meet all other requirements outlined in these rules, will be eligible to enter into a provider agreement with the Department. (7-1-11)

03. Required Ongoing Training. All support brokers must document a minimum of twelve (12) hours per year of ongoing, relevant training in the provision of support broker services. Up to six (6) hours of the required twelve (12) hours may be obtained through independent self-study. The remaining hours must consist of classroom training. (3-30-07)

04. Termination. The Department may terminate the provider agreement when the support broker: (3-30-07)

a. Is no longer able to pass a criminal history background check as outlined in Section 009 of these rules. (3-30-07)

b. Puts the health or safety of the participant at risk by failing to perform job duties as outlined in the employment agreement. (3-30-07)

c. Does not receive and document the required ongoing training. (3-30-07)

05. Limitations. The support broker must not: (3-30-07)

a. Provide or be employed by an agency that provides paid community supports under Section 150 of these rules to the same participant; and (3-30-07)

b. For Self-Directed Community Supports (SDCS), be the guardian, parent, spouse, payee, or conservator of the participant, or have direct control over the participant's choices. Additionally, the support broker must not be in a position to both influence a participant's decision making and receive undue financial benefit from the participant's decisions. (7-1-11)

136. SUPPORT BROKER DUTIES AND RESPONSIBILITIES.

01. Support Broker Initial Documentation. Prior to beginning employment for the participant, the support broker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. This packet must include documentation of: (3-30-07)

a. Support broker application approval by the Department; (3-30-07)

b. A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; and (3-30-07)

c. A completed employment agreement with the participant that identifies the specific tasks and services that are required of the support broker. The employment agreement must include the negotiated hourly rate for the support broker, and the type, frequency, and duration of services. The negotiated rate must not exceed the maximum hourly rate for support broker services established by the Department. (3-30-07)

02. Required Support Broker Duties. Support broker services may include only a few required tasks or may be provided as a comprehensive service package depending on the participant's needs and preferences. At a minimum, the support broker must: (3-30-07)

a. Assist in facilitating the person-centered planning process as directed by the participant and consistent with the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 313, 316, and 317; (7-1-16)

b. Develop a written support and spending plan with the participant that includes the paid and unpaid supports that the participant needs and wants, related risks identified with the participant's wants and preferences, and

a comprehensive risk plan for each potential risk that includes at least three (3) backup plans should a support fail. This plan must be authorized by the Department; (3-29-12)

c. Assist the participant to monitor and review their budget; (3-30-07)

d. Submit documentation regarding the participant's satisfaction with identified supports as requested by the Department; (3-30-07)

e. Participate with Department quality assurance measures, as requested; (3-30-07)

f. Assist the participant to complete the annual re-determination process as needed, including updating the support and spending plan and submitting it to the Department for authorization; (3-30-07)

g. Assist the participant, as needed, to meet the participant responsibilities outlined in Section 120 of these rules and assist the participant, as needed, to protect their own health and safety; (7-1-11)

h. Complete the Department-approved criminal history check waiver form when a participant chooses to waive the criminal history check requirement for a community support worker. Completion of this form requires that the support broker provide education and counseling to the participant and their circle of support regarding the risks of waiving a criminal history check and assist with detailing the rationale for waiving the criminal history check and how health and safety will be protected; and (7-1-11)

i. Assist children enrolled in the Family-Directed Community Supports (FDCS) Option as they transition to adult DD services. (7-1-11)

j. Sign the written support and spending plan as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 317. (7-1-16)

03. Additional Support Broker Duties. In addition to the required support broker duties, each support broker must be able to provide the following services when requested by the participant: (3-30-07)

a. Assist the participant to develop and maintain a circle of support; (3-30-07)

b. Help the participant learn and implement the skills needed to recruit, hire, and monitor community supports; (3-30-07)

c. Assist the participant to negotiate rates for paid community support workers; (3-30-07)

d. Maintain documentation of supports provided by each community support worker and participant's satisfaction with these supports; (3-30-07)

e. Assist the participant to monitor community supports; (3-30-07)

f. Assist the participant to resolve employment-related problems; (7-1-16)

g. Assist the participant to identify and develop community resources to meet specific needs; and (7-1-16)

h. Assist the participant in distributing the support and spending plan to community support workers or vendors as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 317. (7-1-16)

04. Termination of Support Broker Services. If a support broker decides to end services with a participant, they must give the participant at least thirty (30) days' written notice prior to terminating services. The support broker must assist the participant to identify a new support broker and provide the participant and new support broker with a written service transition plan by the date of termination. The transition plan must include an updated support and spending plan that reflects current supports being received, details about the existing community support workers, and unmet needs. (3-30-07)

137. -- 139. (RESERVED)

140. COMMUNITY SUPPORT WORKER LIMITATIONS.
A paid community support worker must not be the spouse of the participant, and, for FDCS, must not be the parent or legal guardian of the participant, and must not have direct control over the participant's choices, must avoid any conflict of interest, and must not receive undue financial benefit from the participant's choices. (7-1-11)

01. Self-Directed Community Supports (SDCS). A legal guardian can be a paid community support worker but must not be paid from the individualized budget for the following: (7-1-11)

a. The legal guardian must not be paid to perform or to assist the participant in meeting the participant responsibilities outlined in Section 120 of these rules. (7-1-11)

b. The legal guardian must not be paid to fulfill any obligations they are legally responsible to fulfill as outlined in the guardianship or conservator order from the court. (7-1-11)

02. Family-Directed Community Supports (FDCS). A parent or legal guardian cannot be a paid community support worker. A paid community support worker: (7-1-11)

a. Must not supplant the role of the parent or legal guardian; (7-1-11)

b. Cannot be paid to fulfill any obligations that the parent or legal guardian is legally responsible to fulfill for their child. (7-1-11)

141. -- 149. (RESERVED)

150. PAID COMMUNITY SUPPORT WORKER DUTIES AND RESPONSIBILITIES.

01. Initial Documentation. Prior to providing goods or services to the participant, the community support worker must complete the packet of information provided by the fiscal employer agent and submit it to the fiscal employer agent. When the community support worker will be providing services, this packet must include documentation of: (3-30-07)

a. A completed criminal history check, including clearance in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," or documentation that this requirement has been waived by the participant. This documentation must be provided on a Department-approved form and include the rationale for waiving the criminal history check and describe how health and safety will be ensured in lieu of a completed criminal history check. Individuals listed on a state or federal provider exclusion list must not provide paid supports; (3-30-07)

b. A completed employment agreement with the participant that specifically defines the type of support being purchased, the negotiated rate, and the frequency and duration of the support to be provided. If the community support worker is provided through an agency, the employment agreement must include the specific individual who will provide the support and the agency's responsibility for tax-related obligations; (3-30-07)

c. Current state licensure or certification if identified support requires certification or licensure; and (3-30-07)

d. A statement of qualifications to provide supports identified in the employment agreement. (3-30-07)

02. Employment Agreement. The community support worker must deliver supports as defined in the employment agreement. (3-30-07)

03. Documentation of Supports. The community support worker must track and document the time required to perform the identified supports and accurately report the time on the time sheets provided by the

participant's fiscal employer agent or complete an invoice that reflects the type of support provided, the date the support was provided, and the negotiated rate for the support provided, for submission to the participant's fiscal employer agent. (3-30-07)

04. Time Sheets and Invoices. The community support worker must obtain the signature of the participant or their legal representative on each completed timesheet or invoice prior to submitting the document to the fiscal employer agent for payment. Time sheets or invoices that are not signed by the community support worker and the participant or their legal representative will not be paid. (3-29-10)

151. -- 159. (RESERVED)

160. SUPPORT AND SPENDING PLAN DEVELOPMENT.

01. Support and Spending Plan Requirements. The participant, with the help of their support broker, must develop a comprehensive support and spending plan based on the information gathered during the person-centered planning. The support and spending plan is not valid until authorized by the Department and must include the following: (3-30-07)

a. The participant's preferences and interests by identifying all the supports and services, both paid and non-paid, the participant wants and needs to live successfully in their community. (3-30-07)

b. Paid or non-paid consumer-directed community supports that focus on the participant's wants, needs, and goals in the following areas: (7-1-11)

i. Personal health and safety including quality of life preferences; (3-30-07)

ii. Securing and maintaining employment; (3-30-07)

iii. Establishing and maintaining relationships with family, friends and others to build the participant's circle of supports; (3-30-07)

iv. Learning and practicing ways to recognize and minimize interfering behaviors; and (3-30-07)

v. Learning new skills or improving existing ones to accomplish set goals. (3-30-07)

c. Support needs such as: (3-30-07)

i. Medical care and medicine; (3-30-07)

ii. Skilled care including therapies or nursing needs; (3-30-07)

iii. Community involvement; (3-30-07)

iv. Preferred living arrangements including possible roommate(s); and (3-30-07)

v. Response to emergencies including access to emergency assistance and care. This plan should reflect the wants, preferences, and needs of the whole person, regardless of payment source, if any. (3-30-07)

d. Risks or safety concerns in relation to the identified support needs on the participant's plan. The plan must specify the supports or services needed to address the risks for each issue listed, with at least three (3) backup plans for each identified risk to implement in case the need arises; (3-30-07)

e. Sources of payment for the listed supports and services, including the frequency, duration, and main task of the listed supports and services; (7-1-16)

f. The budgeted amounts planned in relation to the participant's needed supports. Community support worker employment agreements submitted to the fiscal employer agent must identify the negotiated rates agreed upon

with each community support worker along with the specific support being purchased, the frequency and duration that the support will be provided, and the payment increment; that is, hourly or daily. The fiscal employer agent will compare and match the employment agreements to the appropriate support categories identified on the initial spending plan prior to processing time sheets or invoices for payment; and (7-1-16)

g. Additional HCBS person-centered plan requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 313, 316, and 317. (7-1-16)

02. Support and Spending Plan Limitations. Support and spending plan limitations include: (3-30-07)

a. Traditional Medicaid waiver and traditional rehabilitative or habilitative services must not be purchased under the CDCS option. Because a participant cannot receive these traditional services and consumer-directed services at the same time, the participant, the support broker, and the Department must all work together to ensure that there is no interruption of required services when moving between traditional services and the CDCS option; (7-1-11)

b. Paid community supports must not be provided in a group setting with recipients of traditional Medicaid waiver, rehabilitative or habilitative services. This limitation does not preclude a participant who has selected the consumer-directed option from choosing to live with recipients of traditional Medicaid services; (7-1-11)

c. All paid community supports must fit into one (1) or more types of community supports described in Section 110 of these rules. The support and spending plan must not include supports or services that are illegal, that adversely affect the health and safety of the participant, that do harm, or that violate or infringe on the rights of others; (3-29-12)

d. Support and spending plans that exceed the approved budget amount will not be authorized; and (3-30-07)

e. Time sheets or invoices that are submitted to the fiscal employer agent for payment that exceed the authorized support and spending plan amount will not be paid by the fiscal employer agent. (3-30-07)

161. -- 169. (RESERVED)

170. PERSON-CENTERED PLANNING.

01. Direction of the Person-Centered Planning Process. The participant agrees to direct the person-centered planning process in order to identify and document their support and service needs, wants, and preferences. (7-1-16)

02. Participant Choice. The participant decides who they want to participate in the planning sessions in order to ensure the participant's choices are honored and promoted. (3-30-07)

03. Facilitation of Person-Centered Planning Meetings. The participant may facilitate their person-centered planning meetings, or these meetings may be facilitated by the chosen support broker. (7-1-16)

04. Focus of Person-Centered Planning. The person-centered planning should focus on identifying strengths, capacities, preferences, needs, and desired goals of the participant for all life areas. (3-30-07)

05. Timeframes of Person-Centered Planning. The person-centered planning should be completed as timely as possible in order to provide the necessary information required to develop the participant's support and spending plan. Time limitations are not currently mandated in order to allow for extensive, comprehensive planning and thoughtful support and spending plan development. (3-30-07)

06. HCBS Person-Centered Planning Requirements. The person-centered planning process must meet all HCBS requirements as defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 316. (7-1-16)

171. -- 179. (RESERVED)

180. CIRCLE OF SUPPORTS.
The circle of support is a means of natural supports for the participant and consists of people who encourage and care about the participant. Work or duties the circle of supports performs on behalf of the participant are not paid. (3-29-10)

01. Focus of the Circle of Support. The participant's circle of support should be built and operate with the primary goal of working in the interest of the participant. The group's role is to give and get support for the participant and to develop a plan of action, along with and on behalf of the participant, to help the participant accomplish their personal goals. (3-30-07)

02. Members of the Circle of Support. A circle of support may include family members, friends, neighbors, co-workers, and other community members. For the SDCS, when the participant's legal guardian is selected as a community support worker, the circle of support must include at least one (1) non-family member that is not the support broker. For the purposes of this chapter a family member is anyone related by blood or marriage to the participant or to the legal guardian. (7-1-11)

03. Selection and Duties of the Circle of Support. Members of the circle of support are selected by the participant and commit to work within the group to: (3-30-07)

a. Help promote and improve the life of the participant in accordance with the participant's choices and preferences; and (3-30-07)

b. Meet on a regular basis to assist the participant to accomplish their expressed goals. (3-30-07)

04. Natural Supports. A natural support may perform any duty of the support broker as long as the support broker still completes the required responsibilities listed in Subsection 136.02 of these rules. Additionally, any community support worker task may be performed by a qualified natural support person. Supports provided by a natural support person must be identified on the participant's support plan, but time worked does not need to be recorded or reported to the fiscal employer agent. (3-30-07)

181. -- 189. (RESERVED)

190. INDIVIDUALIZED BUDGET.
The Department sets an individualized budget for each participant according to an individualized measurement of the participant’s functional abilities, behavioral limitations, medical needs, and other individual factors related to the participant’s assessed needs. Using these specific participant factors, the budget-setting methodology will correlate a participant's characteristics with the participant's individualized budget amount, so participants with higher needs will be assigned a higher individualized budget amount. The participant must work within the identified budget and acknowledge that they understand the budget figure is a fixed amount. (3-29-10)

01. Budget Amount Notification. The Department notifies each participant of their set budget amount as part of the eligibility determination or annual redetermination process. The notification will include how the participant may appeal the set budget amount. (3-29-12)

02. Annual Re-Evaluation of Adult Individualized Budgets. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes in the participant's condition that results in a need for services that meet medical necessity criteria, and that is not reflected on the current inventory of individual needs. (3-29-12)

03. Annual Re-Evaluation of Children’s Individualized Budgets. Individualized budgets will be re-evaluated annually. At the request of the participant, the Department will also re-evaluate the set budget amount when there are documented changes that may support placement in a different budget category as identified in IDAPA 16.03.10, “Medicaid Enhanced Plan Benefits,” Section 527. (3-29-12)

191. -- 199. (RESERVED)

200. QUALITY ASSURANCE.
The Department will implement quality assurance processes to ensure: access to consumer-directed services, participant direction of plans and services, participant choice and direction of providers, safe and effective environments, and participant satisfaction with services and outcomes. (7-1-11)

01. Participant Experience Survey (PES). Each participant will have the opportunity to provide feedback to the Department about their satisfaction with consumer-directed services utilizing the PES. (7-1-11)

02. Participant Experience Outcomes. Participant experience information will be gathered at least annually in an interview by the Department, and will address the following participant outcomes: (3-30-07)

a. Access to care; (3-30-07)

b. Choice and control; (3-30-07)

c. Respect and dignity; (3-30-07)

d. Community integration; and (3-30-07)

e. Inclusion. (3-30-07)

03. Fiscal Employer Agent Quality Assurance Activities. The fiscal employer agent must participate in quality assurance activities identified by the Department such as readiness reviews, periodic audits, maintaining a list of criminal history check waivers, and timely reporting of accounting and satisfaction data. (3-30-07)

04. Community Support Workers and Support Brokers Quality Assurance Activities. Community support workers and support brokers must participate and comply with quality assurance activities identified by the Department including performance evaluations, satisfaction surveys, quarterly review of services provided by a legal guardian, if applicable, and spot audits of time sheets and billing records. (3-30-07)

05. Participant Choice of Paid Community Support Worker. Paid community support workers must be selected by the participant, or their chosen representative, and meet the qualifications identified in Section 150 of this rule. (3-30-07)

06. Complaint Reporting and Tracking Process. The Department will maintain a complaint reporting and tracking process to ensure participants, workers, and other supports have the opportunity to readily report instances of abuse, neglect, exploitation, or other complaints regarding the HCBS program. (3-30-07)

07. Quality Oversight Committee. A Quality Oversight Committee consisting of participants, family members, community providers, and Department designees will review information and data collected from the quality assurance processes to formulate recommendations for program improvement. (3-30-07)

08. Quarterly Quality Assurance Reviews. On a quarterly basis, the Department will perform an enhanced review of services for those participants who have waived the criminal history check requirement for a community support worker or who have their legal guardian providing paid services. These reviews will assess ongoing participant health and safety and compliance with the approved support and spending plan. (3-30-07)

09. Home and Community Based Service Specific Reviews. The Department will implement quality assurance and improvement activities to ensure compliance with the rules in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Sections 310 through 317. (7-1-16)

201. -- 209. (RESERVED)

210. CONTINUATION OF THE CONSUMER-DIRECTED COMMUNITY SUPPORTS (CDCS) OPTION.

The following requirements must be met or the Department may require the participant to discontinue the CDCS option: (7-1-11)

01. Required Supports. The participant is willing to work with a support broker and a fiscal employer agent. (3-30-07)

a. The participant can only change FEA services by providing a written request to their current FEA provider at least sixty (60) days in advance, and this change must occur at the end of a fiscal quarter. The request must include the name of the new FEA chosen by the participant and provide the specific date the change will occur. (3-29-10)

b. When a participant provides a written request to their current FEA provider to change to a different FEA provider, the current FEA provider must notify the participant of the specific date that the last payroll run will occur at the end of the fiscal quarter. (3-29-10)

02. Support and Spending Plan. The participant's support and spending plan is being followed. (3-30-07)

03. Risk and Safety Back-Up Plans. Back-up plans to manage risks and safety are being followed. (3-30-07)

04. Health and Safety Choices. The participant's choices do not directly endanger their health, welfare and safety or endanger or harm others. (3-30-07)

211. -- 299. (RESERVED)

FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES (Sections 300 - 314)

300. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: DEFINITIONS.
For purposes of Sections 300 through 314, the following definitions apply: (3-29-10)

01. Employee. A community support worker employed by a participant receiving services under the CDCS option. (7-1-11)

02. Employer. A participant receiving services under the CDCS option. (7-1-11)

03. Provider. The term “provider” specifically refers to the fiscal employer agent providing financial management services to individuals participating in consumer-direction. (7-1-11)

04. SFTP. Secure File Transfer Protocol. A secure means of transferring data that allows certain Department staff to access information regarding consumer-direction participants. (7-1-11)

05. Vendor. Provides goods and services rendered by agencies and independent contractors in accord with a participant’s support and spending plan. (3-29-10)

06. Medicaid Billing Report. A report generated every payroll period by the provider; it provides a list and count of unduplicated participants and payroll expenditures by service code, based on the date of service time frame specified by the user. (3-29-10)

301. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: CONSUMER-DIRECTED COMMUNITY SUPPORTS.

01. Federal Tax ID Requirement. The fiscal employer agent must obtain a separate Federal Employer Identification Number (FEIN) specifically to file tax forms and to make tax payments on behalf of program participants under Section 3504 of the Internal Revenue Code (26 USC 3504). In addition, the provider must:

(3-29-10)

a. Maintain copies of the participant's FEIN, IRS FEIN notification letter, and Form SS-4 Request for FEIN in the participant's file. (3-29-10)

b. Retire participant's FEIN when the participant is no longer an employer under consumer-directed community supports (CDCS). (7-1-11)

02. Requirement to Report Irregular Activities or Practices. The provider must report to the Department any facts regarding irregular activities or practices that may conflict with federal or state rules and regulations; (3-29-10)

03. Procedures Restricting FMS to Adult and Children's DD Waiver and Children's HCBS State Plan Option Participants. The provider must not act as a fiscal employer agent and provide fiscal management services to a DD waiver or Children's HCBS State Plan Option participant for whom it also provides any other services funded by the Department. (7-1-11)

04. Policies and Procedures. The provider must maintain a current manual containing comprehensive policies and procedures. The provider must submit the manual and any updates to the Department for approval. (3-29-10)

05. Key Contact Person. The provider must provide a key contact person and at least (2) two other people for backup who are responsible for answering calls and responding to e-mails from Department staff and ensure these individuals respond to the Department within one (1) business day. (3-29-10)

06. Face-to-Face Transitional Participant Enrollment. The provider must conduct face-to-face transitional participant enrollment sessions in group settings or with individual participants in their homes or other designated locations. The provider must work with the regional Department staff to coordinate and conduct enrollment sessions. (3-29-10)

07. SFTP Site. The provider must provide an SFTP site for the Department to access. The site must have the capability of allowing participants and their employees to access individual specific information such as time cards and account statements. The site must be user name and password protected. The provider must have the site accessible to the Department upon commencement of the readiness review. (3-29-10)

08. Required IRS Forms. The provider must prepare, submit, and revoke the following IRS forms in accordance with IRS requirements and must maintain relevant documentation in each participant's file including: (3-29-10)

a. IRS Form 2678; (3-29-10)

b. IRS Approval Letter; (3-29-10)

c. IRS Form 2678 revocation process; (3-29-10)

d. Initial IRS Form 2848; and (3-29-10)

e. Renewal IRS Form 2848. (3-29-10)

09. Requirement to Obtain Power of Attorney. The provider must obtain an Idaho State Tax Commission Power of Attorney (Form TC00110) from each participant it represents and maintain the relevant documentation in each participant's file. (3-29-10)

10. Requirement to Revoke Power of Attorney. The provider must revoke the Idaho State Tax Commission Power of Attorney (Form TC00110) when the provider no longer represents the participant and maintain the relevant documentation in the participant's file. (3-29-10)

11. Home and Community Based Person-Centered Service Plan Requirements. The provider must sign the written support and spending plan as required in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 317. (7-1-16)

302. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: CUSTOMER SERVICE.

01. Customer Service System. The provider must provide a customer service system to respond to all inquiries from participants, employees, agencies, and vendors. The provider must: (3-29-10)

a. Provide staff with customer service training with an emphasis on consumer-direction. (7-1-11)

b. Ensure staff are trained and have the skills to assist participants with enrollment and to help them understand their account statements. (3-29-10)

c. Ensure that fiscal employer agent personnel are available during regular business hours, 8 a.m. to 5 p.m. Mountain Time, Monday through Friday, excluding state holidays. (3-29-10)

d. Provide translation and interpreter services (i.e., American Sign Language and services for persons with limited English proficiency). (3-29-10)

e. Provide prompt and consistent response to verbal and written communication. Specifically: (3-29-10)

i. All voice mail messages must be responded to within one (1) business day; and (3-29-10)

ii. All written and electronic correspondence must be responded to within five (5) business days. (3-29-10)

f. Maintain a toll-free phone line where callers speak to a live person during business hours and are provided the option to leave voice mail at any time, all day, every day. (3-29-10)

g. Maintain a toll-free fax line that is available all day, every day, exclusively for participants and their employees. (3-29-10)

02. Complaint Resolution and Tracking System. The provider is responsible for receiving, responding to, and tracking all complaints from any source under this agreement. A complaint is defined as a verbal or written expression of dissatisfaction about fiscal employer agent services. The provider must: (3-29-10)

a. Respond to all written and electronic correspondence within five (5) days. (3-29-10)

b. Respond to verbal complaints within one (1) business day. (3-29-10)

c. Maintain an electronic tracking system and log of complaints and resolutions. The electronic log of complaints and resolutions must be accessible for Department review through the SFTP site. (3-29-10)

d. Log and track complaints received from the Department pertaining to fiscal employer agent services. (3-29-10)

e. Compile a summary report and analyze complaints received on a quarterly basis to determine the quality of services to participants and to identify any corrective action necessary. (3-29-10)

f. Post the complaint to the SFTP site within twenty-four (24) hours any day a complaint is received Monday through Friday. Saturday and Sunday complaints must be posted to the SFTP site by close of business the following Monday. Failure to comply will result in a fifty dollar ($50) penalty payable to Medicaid within ninety (90) days of incident. (3-29-10)

303. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: PERSONAL AND CONFIDENTIAL INFORMATION.

The provider must implement and enforce policies and procedures regarding documents that are mailed, faxed, or e-mailed to and from the provider to ensure documents are tracked and that confidential information is not compromised, is stored appropriately and not lost, and is traceable for historical research purposes. (3-29-10)

304. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: ENROLLMENT PROCESS.

01. Submission of Participant Enrollment and Employee Packets for Department Approval. The provider must submit the following for participant enrollment and employee packets to the Department for approval. (3-29-10)

a. The participant enrollment packet must include: (3-29-10)

i. Fiscal employer agent authorization form; (3-29-10)

ii. Employer Appointment of Agent - IRS Form; (3-29-10)

iii. Tax Information Form; and (3-29-10)

iv. Employer information. The employer information must include: (3-29-10)

(1) Instructions for completing forms; (3-29-10)

(2) Payroll schedule, including deadlines for submission of time cards; (3-29-10)

(3) Sample employment agreements; (3-29-10)

(4) Sample Request for Vendor Payment form; (3-29-10)

(5) Sample independent provider agreement; and (3-29-10)

(6) Other sample employment agreements as needed. (3-29-10)

b. The employee enrollment packet must contain: (3-29-10)

i. Employee Information Form; (3-29-10)

ii. I-9 Employment Eligibility Form; (3-29-10)

iii. W-4 Employee Withholding Allowance Certificate; (3-29-10)

iv. Pay selection agreement; (3-29-10)

v. Direct deposit authorization (optional); (3-29-10)

vi. Sample time sheets and instructions for completion; and (3-29-10)

vii. IRS Form W-5. (3-29-10)

02. Distribution of Participant Enrollment and Employee Packets to Participant after Department Approval. The provider must distribute Department-approved participant enrollment packets and employment packets to the participant within two (2) business days after the participant requests the packets. (3-29-10)

a. To enroll a participant, the provider must: (3-29-10)

i. Enroll the participant within two (2) business days of receipt of completed paperwork; and (3-29-10)

ii. Log and maintain an electronic record of all enrollment paperwork, which includes participant

support and spending plan cost and authorization sheets. (3-29-10)

b. To enroll an employee, the provider must: (3-29-10)

i. Enroll the employee within two (2) business days of receipt of completed paperwork; and (3-29-10)

ii. Log and maintain an electronic record of all the employee's paperwork that includes the employment agreements. (3-29-10)

305. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: PAYMENT PROCESS.

01. Process Payroll. The provider must process payroll, including time sheets and taxes, in accordance with the participant's support and spending plan. The payroll process must include: (3-29-10)

a. Payment of employer and withholding taxes to State Tax Commission and Internal Revenue Service. (3-29-10)

b. Payment of invoices to vendors. (3-29-10)

c. Management of participant budget funds as per authorized support and spending plan. (3-29-10)

d. Garnishment of wages as per court orders. (3-29-10)

e. Preparation of year-end federal and state tax forms. (3-29-10)

f. Payment of worker's compensation insurance premiums. (3-29-10)

02. Requirement to Track and Log Time Sheet Billing Errors. The provider must track and log time sheet billing errors or time sheets that cannot be paid due to late arrival, missing, or erroneous information. The provider must notify the employee and participant within one (1) business day of when errors are identified on the time sheets. (3-29-10)

03. Requirement to Track and Log Improperly Cashed or Improperly Issued Checks. The provider must track and log occurrences of improperly cashed or improperly issued checks and stop payment on checks when necessary. The provider must reissue lost, stolen, or improperly issued checks at no expense to the participant or the Department within fourteen (14) calendar days of when the error occurred. (3-29-10)

04. Process Employee Payments. The provider must verify employees' documentation and process employees' payments via check, direct deposit, or pay cards as per preference of employees. The employee payment process includes: (3-29-10)

a. Receipt of time cards from employees via mail, fax, or website by specified due dates. (3-29-10)

b. Review time cards for accuracy and verify that timecards contain the following information: (3-29-10)

i. Employer name and ID number. (3-29-10)

ii. Employee name and ID number. (3-29-10)

iii. Hours of work. (3-29-10)

iv. Code for service. (3-29-10)

c. Match codes to employment agreement to verify rate of pay. (3-29-10)

d. Verify that rate of pay multiplied by the hours worked per each pay period is equal to the gross pay.

(3-29-10)

e. Calculate all taxes and other withholding. (3-29-10)

f. Pay employees every two (2) weeks or semi-monthly. (3-29-10)

g. Contact participant and representative if there are problems with timecards or other documents in order to resolve issues prior to pay-date, if possible. (3-29-10)

h. Maintain an electronic complaint log of payroll issues and resolutions. (3-29-10)

i. The provider must verify there is money remaining in each participant's budget and specific service category prior to issuing a check. (3-29-10)

05. Process Vendor Payments. When participants submit requests for payment to vendors, the provider must: (3-29-10)

a. Review, and maintain on file, the vendor payment request with attached voided vendor receipt submitted by the participant. (3-29-10)

b. Ensure item or payment is authorized on the participant's support and spending plan. (3-29-10)

c. Issue a check made out to the vendor and mail to participant for distribution. Vendor payments are made on the same schedule as payroll. (3-29-10)

06. Process Independent Contractor or Outside Agency Payments. When the participant hires an independent contractor or outside agency, in accordance with the support and spending plan, the provider must: (3-29-10)

a. Obtain a W-9 from the contractor or agency. (3-29-10)

b. Review, and maintain on file, the independent contractor or agency agreement submitted by the participant. (3-29-10)

c. Review, and maintain on file, the independent contractor or agency invoice for services submitted by the participant. (3-29-10)

d. Ensure service or payment is authorized on the support and spending plan. (3-29-10)

e. Issue payment directly to the independent contractor or agency. (3-29-10)

07. End-of-Year Processing. For purposes of end-of-year processing, the provider must maintain relevant documentation and must: (3-29-10)

a. Refund over-collected Federal Insurance Contributions Act tax (FICA) to applicable employees, or to state government; (3-29-10)

b. Prepare, file, and distribute IRS Form W-2 for each employee; (3-29-10)

c. Prepare and file IRS Form W-3 for each participant represented; (3-29-10)

d. Prepare and file State Form 957 for state income taxes for each employer; (3-29-10)

e. Report and pay any Unclaimed Property per Idaho State Tax Commission rules; and (3-29-10)

f. Report and pay all state and federal unemployment insurance premiums. (3-29-10)

08. Transition to New FEA. The following items must be addressed if a participant transitions to a new FEA provider. For the purposes of a smooth transition between FEA providers, the two providers must work closely with one another to transfer the participant from the services one is no longer providing to the services the other is providing. The following items must be transferred: (3-29-10)

a. Participant's Federal Employer Identification Number (FEIN). (3-29-10)

b. Mailing address for FEIN. (3-29-10)

c. IRS Form 2678 Agent/Payer Authorization. (3-29-10)

d. Depositing taxes and filing report. This includes Federal and State tax withholdings and Federal Unemployment Tax Act tax (FUTA). (3-29-10)

e. Participant's FUTA Liability Status. (3-29-10)

f. FICA Exemption Status of Participant Employees. (3-29-10)

g. FUTA Exemption Status of Participant Employees. (3-29-10)

h. Unemployment Insurance (U/I). (3-29-10)

i. Unemployment Insurance Experience Rate and Taxable Wage Base. (3-29-10)

j. Unemployment Insurance Taxable Wage Base. (3-29-10)

k. State Unemployment Insurance Liability Status of the Participant. (3-29-10)

l. State Unemployment Insurance Liability Status of Exempt Employees. (3-29-10)

m. Unemployment Insurance Filing and Depositing. (3-29-10)

n. State Income Tax - Account Number. (3-29-10)

o. State Income Tax - Agent Authorization. (3-29-10)

p. State Income Tax - Filing and Depositing. (3-29-10)

q. Budget Authorization - authorized services. (3-29-10)

r. Budget Authorization - spent and remaining. (3-29-10)

s. Budget Authorization - authorized providers. (3-29-10)

t. Budget Authorization - authorized provider rates. (3-29-10)

u. Participant's Demographic information. (3-29-10)

v. Participant's Representative demographic information. (3-29-10)

w. Participant's Employee and provider demographic information. (3-29-10)

x. Participant's Employee tax and other information. (3-29-10)

y. Participant's Independent contract and other information. (3-29-10)

z. Participant's Employee New Hire Reporting. (3-29-10)

aa. Participant's Employee Liens and Garnishments. (3-29-10)

306. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: ANNUAL PARTICIPANT SURVEY.

01. Requirement to Conduct Annual Participant Satisfaction Survey. Starting October 1 of each calendar year, each provider who has been providing services for at least six (6) months must conduct an annual participant satisfaction survey. (3-29-10)

a. Three (3) weeks prior to the survey launch, the provider must present the questions to the Department staff for approval. (3-29-10)

b. Once the questions are approved by the Department, the provider can send out the survey. (3-29-10)

c. The provider must survey its participants who receive services under consumer-directed services, such as participants with disabilities, family members of participants, and participants whose primary language is other than English. (3-29-10)

d. The provider must provide options for participants to respond to the surveys, other than by mail, for those participants who may not be able to respond by that method. (3-29-10)

02. Requirement to Provide Results of Annual Participant Satisfaction Survey. The provider must provide the results of the surveys to the Department in a comprehensive report, along with the completed surveys, by the 15th of December of each calendar year. (3-29-10)

307. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: QUALITY ASSURANCE.

01. Required Elements of Quality Insurance Process. The provider must provide a quality assurance process that includes: (3-29-10)

a. Implementation of a quality management plan; (3-29-10)

b. Preparation of a quarterly, quality management analysis report; (3-29-10)

c. Distribution, collection, and analysis of an annual participant satisfaction survey; and (3-29-10)

d. A review of the monthly complaint summary and resolutions, monitoring of standards, and implementation of program improvements as needed. (3-29-10)

02. Requirement for Formal Quality Assurance Review. Every two (2) years, the provider must participate in a formal quality assurance review conducted in collaboration with the Department. (3-29-10)

308. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: DISASTER RECOVERY PLAN.

01. Disaster Recovery Plan. The provider must develop and maintain a Disaster Recovery Plan for electronic and hard copy files that includes restoring software and data files, and hardware backup if management information systems are disabled or servers are inoperative. The results of the Disaster Recovery Plan must ensure the continuation of payroll and invoice payment systems. The provider must submit the Disaster Recovery Plan for Department approval during the readiness review. (3-29-10)

02. Requirement to Report a Disaster. The provider must report to the Department if management information systems are disabled or servers are inoperative within twenty-four (24) hours of the event. (3-29-10)

309. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: TRANSITION PLAN.

01. Transition Plan Objectives. The provider must provide a transition plan to the Department within ninety (90) days after successful completion of the readiness review. The objectives of the transition plan are to minimize the disruption of services and provide an orderly and controlled transition of the provider's responsibilities to a successor at the conclusion of the agreement period or for any other reason the provider cannot complete responsibilities described in this chapter of rules. (3-29-10)

02. Transition Plan Requirements. The transition plan must: (3-29-10)

a. Be updated at least ninety (90) days prior to termination of the provider agreement. (3-29-10)

b. Include tasks, and subtasks for transition, a schedule for transition, operational resource requirements, and training to be provided. (3-29-10)

c. Provide for transfer of data, documentation, files, and other records relevant to the agreement in an electronic format accepted by the Department. (3-29-10)

d. Provide for the transfer of any current, Idaho-specific policy and procedure manuals, brochures, pamphlets, and all other written materials developed in support of agreement activity to the Department. (3-29-10)

310. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: PERFORMANCE METRICS.

01. Readiness Review. The provider must complete a readiness review conducted by the Department with the provider prior to providing fiscal employer agent services. (3-29-10)

a. Required Level of Expectation: The provider must complete one hundred percent (100%) of the readiness review. (3-29-10)

b. Method of Monitoring: The Department will access SFTP site for review of provider documents and conduct an onsite review. (3-29-10)

02. Compliance with Tax Regulations and Labor Laws. The provider must ensure each participant's compliance with regulations for both federal taxes and state taxes, as well as all applicable labor laws. (3-29-10)

03. Fiscal Support and Financial Consultation. (3-29-10)

a. The provider must provide each participant with fiscal support and financial consultation. (3-29-10)

b. Required Level of Expectation: The provider must respond to ninety-five percent (95%) of participant calls within two (2) business days and to e-mails within five (5) days. (3-29-10)

04. Federal and State Forms Submitted. The provider must ensure each participant's compliance with regulations for both federal taxes and state taxes, including preparation and submission of all federal and state forms for each participant and their employees. (3-29-10)

05. Mandatory Reporting, Withholding, and Payment. The provider must perform all mandatory reporting, withholding, and payment actions according to the compliance requirements of the state and federal agencies. (3-29-10)

06. Payroll Checks. The provider must issue payroll checks within the two (2) week or semi-monthly payroll cycle, after receipt of completed, approved time sheets. (3-29-10)

07. Adherence to Support and Spending Plan. The provider must distribute payments to each participant employee in accordance with participant's support and spending plan. (3-29-10)

08. Record Activities. The provider must record all activities in an individual file for each participant and their employees. (3-29-10)

09. Records in Participant File. The provider must maintain complete records in each participant's file. (3-29-10)

10. Manage Phone, Fax, and E-Mail for Fiscal and Financial Questions. (3-29-10)

a. The provider must manage toll-free telephone line, fax, and e-mail related to participant fiscal and financial questions. (3-29-10)

b. Required Level of Expectation: The provider must respond to ninety-five percent (95%) of participant queries within two (2) business days. (3-29-10)

11. Tracking of Complaints and Complaint Resolution. (3-29-10)

a. The provider must maintain a register of complaints from participants, participant employees, and others, with corrective action implemented by the provider within one (1) day of the complaint. (3-29-10)

b. Required Level of Expectation: The provider must respond to ninety-five percent (95%) of complaints within one (1) business day. (3-29-10)

12. Web Access to Electronic Time Sheet Entry. The provider must maintain web access to electronic time sheet entry for participants. (3-29-10)

13. Participant Enrollment Packets and Employment Packets. The provider must prepare and distribute participant enrollment packets and employment packets to each participant. (3-29-10)

14. Payroll Spending Summaries. The provider must provide each participant with payroll spending summaries and information about how to read the payroll spending summary each time payroll is executed. (3-29-10)

15. Quarterly Reconciliation. Each fiscal quarter after initiating service, the provider must reconcile its Medicaid Billing Report to a zero dollar ($0) balance with the Medicaid Bureau of Financial Operations. The provider has ninety (90) days to comply with reconciling each participant's spending plan balance to a zero dollar ($0) balance with Medicaid's reimbursements. (3-29-10)

a. Required Level of Expectation: The provider must have one hundred percent (100%) compliance with the required quarterly reconciliation of the Medicaid Billing Report. (3-29-10)

b. Strategy for Correcting Noncompliance: The provider must notify the Department immediately if an issue is identified that may result in the provider not reconciling the Medicaid Billing Report. The Department will notify the provider when a performance issue is identified. The Department may require the provider to submit a written corrective action plan for Department approval within two (2) business days after notification. If the provider fails to reconcile within ninety (90) days after the end of each quarter, the provider will be penalized fifty dollars ($50) each week until the provider has reconciled with Medicaid to a zero dollar ($0) balance. (3-29-10)

16. Cash Management Plan. Each provider's cash management plan must equal one point five (1.5) times the monthly payroll cycle amount. The cash management plan can be forms of liquid cash and lines of credit. For example, in the case that the a provider's current payroll minimum has averaged one hundred thousand dollars ($100,000) per payroll cycle, the provider would be required to have one hundred fifty thousand dollars ($150,000) in a cash management plan. The Department must be listed on the notification list if any lines of credit are decreased in the amount accessible or terminated. The expectation is to provide a seamless payroll cycle to the participant, without loss of pay to their employees. (3-29-10)

311. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: REPORTS.

01. Account Summary Statements. This report provides an overview of each participant account and includes the services accessed and the remaining dollar amount in the budget. In addition to the provider providing this report each month, a participant may request this report for a specified timeframe. Each month, the provider must mail a hard copy of the report to each participant and also make the report available on a secure website for those who prefer to access the information electronically. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. (3-29-10)

a. Report Format: The provider must provide the account summary statement in Microsoft Excel. (3-29-10)

b. Report Due Date: The provider must post the account summary statement by the 10th day of each month. (3-29-10)

02. Medicaid Billing Report. This report provides a detailed breakdown of community support worker services rendered by service date per employee, per employer. Each line on this report must provide, at a minimum, the following information: employee name, employee ID number, hours worked, period start, period end, pay rate, service date, check number, check date, participant's name, participant's date of birth, participant's ID number, service code, taxes, and billing amount. This report collects information based on the timeframe specified by the user. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. (3-29-10)

a. Report Format: The provider must provide the Medicaid Billing Report in Microsoft Excel. (3-29-10)

b. Report Due Date: The provider must post the Medicaid Billing Report by the 10th day of each month. (3-29-10)

03. Demographic Report. This report provides general client demographics in the region and the employee count per participant for each participant in the database. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. (3-29-10)

a. Report Format: The provider must provide the demographic report in Microsoft Excel. (3-29-10)

b. Report Due Date: The provider must post the demographic report by the 10th day of each month. (3-29-10)

04. Criminal History Check Report. This report provides a breakdown, by participant, of which employees the participant waived the background check, which employees passed or failed the background check, the criminal history reference number, and the date the background check was submitted. This report does not include support brokers. The provider must generate the report after every payroll and post it on a secure SFTP site for the Department to access. This SFTP site must have a user name and password protection. (3-29-10)

a. Report Format: The provider must provide the criminal history report in Microsoft Word, Microsoft Excel, or PDF. (3-29-10)

b. Report Due Date: The provider must post the criminal history report by the 10th day of each month. (3-29-10)

05. Medicaid Billing Report. This report provides a list and count of the unduplicated participants and expenditures by services code based on the time frame specified by the user. The provider must generate the report after every payroll and post it on a SFTP site. Additionally, the provider must provide a quarterly Medicaid Billing Report that can been reconciled quarterly and work with the Department to reconcile the annual report. (3-29-10)

a. Report Format: The provider must provide the Medicaid Billing Report in Microsoft Excel. (3-29-10)

b. Report Due Date: The provider must post the Medicaid Billing Report by 10th day of each month. (3-29-10)

06. Complaint and Resolution Summary Report. The provider must analyze complaints received on a quarterly basis to determine the quality of services to participants and identify any corrective actions and program improvements needed and implemented. The provider must post the report on a secure SFTP site for Department review. (3-29-10)

a. Report Format: The provider must provide the complaint and resolution summary report in Microsoft Word, Microsoft Excel, or PDF. (3-29-10)

b. Report Due Date: The provider must post the complaint and resolution summary report by the 10th day of the month following the end of each annual quarter. (3-29-10)

07. Customer Satisfaction Survey Report. The provider must provide a comprehensive report summarizing the results of the customer satisfaction survey completed by each participant. (3-29-10)

a. Report Format: The provider must provide the customer satisfaction survey report in Microsoft Word, Microsoft Excel, or PDF. (3-29-10)

b. Report Due Date: The provider must post the customer satisfaction survey report by December 1 of each year. (3-29-10)

08. Quarterly Financial Statements. The provider must provide the Department a quarterly balance sheet and income statement that shows the provider's quarterly financial status and cash management plan cash reserve. (3-29-10)

a. Report Format: The provider must provide the quarterly balance sheet and income statement in Microsoft Word, Microsoft Excel, or PDF. (3-29-10)

b. Report Due Date: The provider must provide the quarterly balance sheet and income statement on the 25th day of the month following the end of each annual quarter. (3-29-10)

312. FISCAL EMPLOYER AGENT DUTIES AND RESPONSIBILITIES: PAYMENT REQUIREMENTS.

01. Requirement to Accept a Per Member Per Month (PMPM) Payment. The Department will pay, and the provider must accept a per member per month (PMPM) payment that covers a comprehensive set of fiscal employer agent services. The Department will set allowable reimbursement rates for PMPM based on a methodology approved by CMS in the DD HCBS Waiver. The provider can only bill the PMPM rate for the months services are actually provided for participants, The provider must provide transition, training, and closeout services during the active agreement, at no additional cost to the Department. (3-29-10)

02. PMPM Payment Process Requirements. The payment (PMPM) must include all administrative costs, travel, transition, training, and closeout services. The Department will not pay for participants who do not have a support and spending plan. For the purposes of PMPM payment, one (1) month must include all payroll batch dates within that specific calendar month. (3-29-10)

03. Requirement to Complete a Readiness Review. The provider must complete a readiness review prior to billing for services. (3-29-10)

313. TERMINATION OF FISCAL EMPLOYER AGENT PROVIDER AGREEMENTS.

01. Termination of the Provider Agreement. The following must occur in the event of termination of the provider agreement: (3-29-10)

a. The provider must ensure continuation of services to participants for the period in which a Per Member per Month (PMPM) payment has been made, and submit the information, reports and records, including the Medicaid Billing Report (reconciliation) as specified in Section 310 of these rules. (3-29-10)

b. The provider must provide to the Department a written notice ninety (90) days in advance and the change notification must occur at the end of the next calendar quarter. (3-29-10)

02. Termination of Service to Participant. In the event of termination of the provider agreement, the provider must provide to the participant a written notice ninety (90) days in advance. The change notification must occur at the end of the next calendar quarter. (3-29-10)

314. REMEDIES TO NONPERFORMANCE OF A FISCAL EMPLOYER AGENT SERVICE PROVIDER.

01. Remedial Action. If any of the services do not comply with the performance metrics under Section 310 of these rules, the Department will consult with the provider and may, at its sole discretion, require any of the following remedial actions, taking into account the scope and severity of the noncompliance, compliance history, the number of noncompliances, the integrity of the program, and the potential risk to participants. (3-29-10)

a. Require the provider to take corrective action to ensure that performance meets the performance metrics under Section 310 of these rules; (3-29-10)

b. Reduce payment to reflect the reduced value of services received; (3-29-10)

c. Require the provider to subcontract all or part of the service at no additional cost to the Department; or (3-29-10)

d. Terminate the provider agreement with notice. (3-29-10)

02. Direct Monetary Action. If any of the performance metrics under Section 310 of these rules are not met, the Department will enforce a fifty dollar ($50) a week penalty for each performance metric not met. The penalty will be captured prior to any payment from the Department to the provider. (3-29-10)

315. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho legislature has delegated to the Board of Health and Welfare the power to promulgate rules governing hospitals, pursuant to Section 39-1307, Idaho Code. (10-14-88)

001. TITLE AND PURPOSE.

01. Title. These rules are titled Idaho Department of Health and Welfare Rules, IDAPA 16.03.14, "Hospitals." *( )*

02. Purpose. The purpose of the rules is to provide for the development, establishment and enforcement of standards for the care and treatment of individuals in hospitals and for the construction, maintenance and operation of hospitals that, in the light of advancing knowledge, will promote safe and adequate treatment of such individuals in hospitals. (10-14-88)

002. WRITTEN INTERPRETATIONS.
*T*he Department may have written statements that pertain to the interpretation of this chapter, or to the documentation of compliance with these rules. *( )*

***003*. -- 009. (RESERVED)**

010. DEFINITIONS AND ABBREVIATIONS – A THROUGH M.
For the purposes of this chapter, the following terms and definitions apply.

01. Anesthesiologist. A physician who meets the requirements for certification by the American Board of Anesthesiology or the American Osteopathic Board of Anesthesiology. (10-14-88)

02. Anesthetist. A person who is: (12-31-91)

a. A dentist who has successfully completed a three (3) year residency in anesthesiology approved by the American Medical Association. (10-14-88)

b. A physician whose competence in the practice of anesthesiology is approved by the medical staff, of the hospital in which he works. (10-14-88)

c. A licensed registered nurse who meets the requirements for certification (CRNA) by the Council on Certification of the American Association of Nurse Anesthetists. (10-14-88)

03. Approved Drugs and Biologicals. Only such drugs and biologicals as are: (10-14-88)

a. Included (or approved for inclusion) in the United States Pharmacopoeia, National Formulary, or United States Homoeopathic Pharmacopoeia. (10-14-88)

b. Approved by the pharmacy and therapeutics committee (or equivalent) of the hospital that approves such drugs and biologicals for use in the hospital. (10-14-88)

c. Those drugs approved by the State Title XIX Agency. (10-14-88)

04. Board. The Idaho State Board of Health and Welfare. (12-31-91)

05. Chief Executive Officer or Administrator. The person appointed by the governing body to act in its behalf in the overall management of the hospital. (10-14-88)

06. Clinical Privileges. Permission to render patient care, granted by the hospital governing body on recommendation of the medical staff, within well defined limits based upon the applicant's professional license, experience, competence, and judgment. (10-14-88)

07. Dentist. A person currently licensed by the state of Idaho to practice dentistry. (10-14-88)

08. Department. The Department of Health and Welfare of the state of Idaho. (12-31-91)

09. Dietetic Service Supervisor. A person who: (12-31-91)

a. Is a licensed dietitian; or (7-1-19)

b. Is a graduate of a dietetic technician or dietetic assistant educational program class or correspondence school accredited by the Academy of Nutrition and Dietetics, formerly the American Dietetic Association; or (7-1-19)

c. Is a graduate of a state-approved education program that provides ninety (90) or more hours of classroom instruction in food service management and has at least three (3) months supervisory experience in a health care institution with consultation from a dietitian; or (10-14-88)

d. Has training and experience in food service management in a military program equivalent in content to the requirements in Subsections 010.09.b. or 010.09.c. of this rule; or (7-1-19)

e. Has training and experience in food service management equivalent to requirements in Subsections 010.09.b. or 010.09.c. of this rule; or (7-1-19)

10. Dietitian. A person who meets the requirements of Title 54, Chapter 35, Idaho Code, and is licensed by the Board of Medicine as a licensed dietitian (LD). (7-1-19)

11. Director of Nursing Service. A licensed registered nurse who is licensed by the state of Idaho, and has been so designated by the facility. (10-14-88)

12. Director of Psychiatric Nursing Service. A licensed registered nurse licensed by the state of Idaho who has training and experience in psychiatric nursing and has been so designated by the facility. (10-14-88)

13. Drug Administration. An act in which a single dose of a prescribed drug or biological is given to a patient by an authorized person in accordance with laws and regulations governing such acts. The complete act of administration entails the removal of an individual dose from a previously dispensed, properly labeled container (including a unit dose container), verifying the drug and dosage with the practitioner's orders, administering dose to the proper patient, and immediately recording the time and amount given. (10-14-88)

14. Governmental Unit. The state, any county, municipality, or other subdivision, department, division, board, or agency thereof. (10-14-88)

15, Grievance. A grievance is a formal or informal, written or verbal complaint that is made to the hospital by a patient, or the patient's representative, regarding the patient's care, alleged abuse or neglect, or issues related to the hospital's compliance with Idaho state licensure rules. (7-1-19)

16. Hospital. A facility that: (10-14-88)

a. Is primarily engaged in providing, by or under the daily supervision of physicians; (10-14-88)

i. Concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; or (10-14-88)

ii. Diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; or (10-14-88)

iii. Rehabilitation services for injured, disabled, or sick persons; or (10-14-88)

iv. Obstetrical care. (10-14-88)

b. Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours. (10-14-88)

c. Is staffed to provide professional nursing care on a twenty-four (24) hour basis. (10-14-88)

d. Any hospital licensed under the provisions of these rules must be deemed a "facility" as defined at and for the purposes of Section 66-317(7), Idaho Code. (7-1-19)

17. Hospital Licensing Act. The law referred to in Sections 39-1301 through 39-13l4, Idaho Code, as amended. (10-14-88)

18. Hospital for the Treatment of Alcohol and Drug Abuse. A facility for the diagnosis, care, and treatment of patients suffering from chronic alcoholism. (10-14-88)

19. Infectious Wastes. Infectious wastes are defined as set out in Subsections 010.19.a. through 010.19.f. of this rule. Infectious wastes must be handled within specific rules as prescribed in Section 550 of these rules. Except as otherwise provided in these rules, infectious wastes must be handled and disposed of in accordance with the most current guidelines and recommendations of the Centers for Disease Control. (7-1-19)

a. Cultures and stocks of infectious agents and associated biologicals including: (1-13-90)

i. Specimens from medical and pathology laboratories. (1-13-90)

ii. Wastes from production of biologicals (by-products from the production of vaccines, reagents in the laboratory, etc.). (1-13-90)

iii. Cultures and stocks from clinical, research and industrial laboratories, such as disposable culture dishes and devices used to transfer, inoculate and mix cultures. (1-13-90)

b. Human blood and blood products (fluid form) and their containers, and liquid body wastes (fluid form) and their containers. (1-13-90)

c. Pathologic waste including tissue, organs, body parts, autopsy and biopsy materials, unless such waste has been treated with formaldehyde or other preservative agents. (1-13-90)

d. "Sharps" including needles, syringes, scalpel blades, pipettes, lancets or glass tubes that could be broken during handling. (1-13-90)

e. Animal carcasses that have been exposed to pathogens, their bedding and other waste from such animals. (1-13-90)

f. Items contaminated with blood or body fluids from patients known to be infected with diseases transmitted by body fluid contact. (1-13-90)

20. Licensed Independent Practitioner (L.I.P.). A person who is: (7-1-19)

a. A licensed physician or physician assistant under Section 54-1803, Idaho Code; or (7-1-19)

b. A licensed advance practice registered nurse under Section 54-1402, Idaho Code. (7-1-19)

21. Licensed Practical Nurse (L.P.N.). A person currently licensed by the Idaho State Board of Nursing to practice as a licensed practical nurse. (10-14-88)

22. Licensee. The person or entity to whom a license is issued. (10-14-88)

23. Licensing Agency. The Idaho Department of Health and Welfare. (10-14-88)

24. Maternity Hospital. A facility, the primary purpose of which is to provide services and facilities for obstetrical care. (10-14-88)

24. Medical Record Practitioner (Qualified Consultant). A person who: (12-31-91)

a. Meets the requirements for certification as a registered record administrator (RRA) or as an accredited record technician (ART) by the American Medical Record Association; or (10-14-88)

b. Is a graduate of a school of medical record science that is accredited jointly by the Council on Medical Education of the American Medical Association and the American Medical Record Association. (10-14-88)

25. Medical Staff Members. Those licensed physicians, dentists, podiatrists and other professionals granted the privilege to practice in the hospital by the governing authority of a hospital. (10-14-88)

011. DEFINITIONS AND ABBREVIATIONS – N THROUGH Z.
For the purposes of this chapter, the following terms and definitions apply. (7-1-19)

01. New Construction or New Hospitals. Includes the following: (12-31-91)

a. New buildings to be used as hospitals; and (10-14-88)

b. Additions to existing hospitals; and (10-14-88)

c. Conversion of existing buildings or portions thereof for use as a hospital; and (10-14-88)

d. Remodeling, alteration, addition or upgrading of a hospital or hospital building system that affects the structural integrity of the building, that changes functional operation, that affects fire safety or that adds beds, departments or services over those for which the hospital is currently licensed. (10-14-88)

02. Nuclear Medicine Physician. A physician who: (12-31-91)

a. Meets the requirements for certification by the American Board of Nuclear Medicine or the American Osteopathic Board of Nuclear Medicine; or (10-14-88)

b. Meets the requirement for certification by the American Board of Radiology, the American Board of Pathology, or the American Board of Internal Medicine, and whose competence in the practice of nuclear medicine is approved by the medical staff. (10-14-88)

03. Nursing Graduate. A new graduate practicing on a temporary license must be provided direct supervision by a licensed registered nurse and may not assume charge responsibilities according to the rules of the Idaho State Board of Nursing. (10-14-88)

04. Nurse Practitioner. A licensed registered nurse having specialized skill, knowledge and experience authorized, by rules and regulations jointly promulgated by the Idaho State Board of Medicine and the Idaho Board of Nursing and implemented by the Idaho Board of Nursing, to perform designated acts of medical diagnosis, prescription of medical, therapeutic and corrective measures and delivery of medications. (10-14-88)

05. Nursing Unit. A separate and distinct service area constructed, equipped, and staffed to function independently of other nursing units and having its own related service facilities. (10-14-88)

06. Occupational Therapist. A person who is licensed by the Idaho State Board of Medicine to practice occupational therapy. (10-14-88)

07. Occupational Therapist Assistant. A person who: (12-31-91)

a. Is a graduate of an occupational therapy assistant educational program accredited by the American Occupational Therapy Association; or (10-14-88)

b. Meets the requirements for certification (COTA) by the American Occupational Therapy

Association under its requirements in effect on the effective date of these rules. (10-14-88)

08. Operating Room Technician. A person who: (12-31-91)

a. Has successfully completed a one (1) year education program for operating room technicians accredited by the Committee on Allied Health Education and Accreditation of the American Medical Association in cooperation with the Joint Review Committee on Education for the Operating Room Technician, or meets the requirements for certification (CST) by the Association of Surgical Technologists; or (10-14-88)

b. Is licensed as a practical (vocational) nurse in the state of Idaho and meets the training requirements of the Idaho State Board of Nursing. (10-14-88)

09. Patient. Any individual admitted to a hospital for diagnosis, treatment, and/or care. (10-14-88)

10. Person. Any individual, firm, partnership, corporation, company, association, or joint stock association, and the legal successor thereof. (10-14-88)

11. Pharmacist. A person who is licensed by the state of Idaho and has training or experience in the specialized functions of institutional pharmacy, such as residences in hospital pharmacy, seminars in institutional pharmacy, and other related training programs. (10-14-88)

12. Physiatrist. A physician licensed by the Idaho State Board of Medicine and who meets the requirements for certification by the American Board of Physical Medicine and Rehabilitation. (10-14-88)

13. Physical Therapist. A person who meets all requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and engages in the practice of physical therapy in Idaho. (7-1-19)

14. Physical Therapist Assistant. A person who meets the requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. (7-1-19)

15. Physician. A person currently licensed under the Idaho Medical Practice Act to practice medicine and surgery in the state of Idaho. (10-14-88)

16. Physician's Assistant. A person employed by a physician who: (12-31-91)

a. Is a graduate of an approved program; and (10-14-88)

b. Is qualified by general education, training, experience and personal character; and (10-14-88)

c. Has been authorized by the Hospital Board to render patient services under the direction of a supervising physician who is not required to be physically present on the premises when the physician's assistant is rendering patient services, unless so required by the Hospital Board. (10-14-88)

17. Podiatrist. A person who is licensed by the state of Idaho and is a doctor of podiatric medicine (D.P.M.) or doctor of podiatry (D.P.). (10-14-88)

18. Provisional License. A license issued to a hospital that is in substantial compliance with the regulations but that is temporarily unable to meet all of the requirements. A provisional license can be issued for a specified period of time, not to exceed six (6) months, while corrections are being completed. (10-14-88)

19. Psychiatric Hospital. A facility for the diagnosis and treatment of persons with mental illness. (10-14-88)

20. Psychiatric Nurse. A licensed registered nurse, licensed by the state of Idaho and qualified by training or experience in psychiatric nursing. (10-14-88)

21. **Psychiatric Unit**. A specialized unit within a general hospital for the diagnosis and treatment of the mentally ill. (10-14-88)

22. **Psychiatrist**. A physician who meets the requirements for certification in psychiatry by the American Board of Psychiatry and Neurology or the American Osteopathic Board of Neurology and Psychiatry. (10-14-88)

23. **Radiologic Service Director**. A person who: (12-31-91)

a. Is a radiologist; or (10-14-88)

b. Is a radiotherapist; or (10-14-88)

c. In a geographic area where the services of a radiologist or radiotherapist are not available, is a physician who meets the requirements for certification in a medical specialty in which he has become qualified by experience and training in the use of radiographs, and whose competence in the practice of radiology is approved by the medical staff. (10-14-88)

24. **Radiologic Technologist (Diagnostic)**. A person who meets at least one (1) of the following criteria: (10-14-88)

a. Is a graduate of a two (2) year education program for radiologic technologists accredited by the Council on Medical Education of the American Medical Association in cooperation with the Joint Review Committee on Education in Radiologic Technology; or (10-14-88)

b. Meets the requirements for registration by the American Registry of Radiologic Technologists or by the American Registry of Clinical Radiography Technologists, and has one (1) year of experience as a radiologic technologist within the last three (3) years; or (10-14-88)

c. Has successfully completed an educational program in radiologic technology in a military service, and has one (1) year of experience in radiologic technology within the last three (3) years; or (10-14-88)

d. Has two (2) years of pertinent radiologic equipment experience within the last five (5) years, and has achieved a satisfactory grade on a proficiency examination in radiologic technology approved by the Secretary of Health and Human Services, except that such determination of proficiency will not apply with respect to persons initially licensed by a state or seeking initial qualification as a radiologic technologist after December 21, 1977. (10-14-88)

25. **Radiologist**. A physician who meets the requirements for certification by the American Board of Radiology or the American Osteopathic Board of Radiology. (10-14-88)

26. **Radiotherapist**. A physician who: (12-31-91)

a. Meets the requirements for certification as a radiotherapist by the American Board of Radiology; or (10-14-88)

b. Meets the requirements for certification as a radiologist by the American Board of Radiology or the American Osteopathic Board of Radiology, and whose competence in the practice of radiation therapy is approved by the medical staff of the hospital in which he practices. (10-14-88)

27. **Registered Nurse (R.N.)**. A person licensed by the Idaho State Board of Nursing to practice professional nursing, also known as a licensed registered nurse. (10-14-88)

28. **Rehabilitation Hospital**. A facility operated for the primary purpose of assisting with the rehabilitation of disabled persons through an integrated program of medical, psychological, social, and vocational evaluation and services under competent professional supervision. (10-14-88)

29. Respiratory Therapist. A person who meets the requirements for registration by the American Registry of Respiratory Technicians (ARRT). (10-14-88)

30. Respiratory Therapy Technician. A person who meets the requirements for certification as a Certified Respiratory Therapy Technician (CRTT) by the National Board for Respiratory Therapy. (10-14-88)

31. Restraints. A restraint is (1) any manual method, physical or mechanical device, material, or equipment that immobilizes or reduces the ability of a patient to move his or her arms, legs, body, or head freely; or (2) a drug or medication when it is used as a restriction to manage the patient's behavior or restrict the patient's freedom of movement and is not a standard treatment or dosage for the patient's condition. (7-1-19)

a. A restraint does not include devices, such as orthopedically prescribed devices, surgical dressings or bandages, protective helmets, or other methods that involve the physical holding of a patient for the purpose of conducting routine physical examinations or tests, or to protect the patient from falling out of bed, or to permit the patient to participate in activities without the risk of physical harm. (7-1-19)

b. Side rails: Side rails are considered a restraint when they restrict the patient's freedom to exit the bed. Side rails may not be considered a restraint when they protect the patient. Examples include raising the side rails when a patient is: on a stretcher, recovering from anesthesia, sedated, experiencing involuntary movement, or on certain types of therapeutic beds. (7-1-19)

c. Physically escorting a patient from one area to another against the patient's will is a restraint. (7-1-19)

d. Physically holding a patient to administer a medication against the patient's will is a restraint. (7-1-19)

e. Placing a patient in a chair or recliner that prevents him or her from getting out of the chair safely and easily, is a restraint. (7-1-19)

f. Age or developmentally appropriate protective safety interventions (such as stroller safety belts, swing safety belts, high chair lap belts, and raised crib rails) that a safety-conscious child care provider outside a health care setting would utilize to protect an infant, toddler, or preschool-aged child would not be considered restraint or seclusion for the purposes of this rule. The use of these safety interventions needs to be addressed in the hospital's policies or procedures. (7-1-19)

32. Seclusion. Seclusion is the involuntary confinement of a patient in a room or area, such as an activity center, from which the patient is physically prevented from leaving. Physically prevented from leaving includes threats by staff, if the patient attempts to leave, including the threat of restraint or seclusion. Confinement on a locked unit or ward does not constitute seclusion. (7-1-19)

33. Skilled Nursing Facility. A facility whose design and function must provide area, space and equipment to meet the health needs of two (2) or more individuals who, at a minimum, require inpatient care and services for twenty-four (24) or more consecutive hours for unstable chronic health problems requiring daily professional nursing supervision and licensed nursing care on a twenty-four (24) hour basis, restorative, rehabilitative care, and assistance in meeting daily living needs. Medical supervision is necessary on a regular, but not daily basis. (7-1-19)

34. Social Worker. An individual who is licensed by the state of Idaho to practice social work. (10-14-88)

35. Special Hospital. A facility that provides primarily one (1) type of care. The specialized hospital must meet the applicable regulations for general hospitals. All medical and related health services in these facilities must be prescribed by or must be under the general direction of persons licensed to practice medicine in Idaho. (10-14-88)

36. Speech Pathologist or Audiologist. A person who: (12-31-91)

a. Meets the current requirements for a certificate of clinical competence in the appropriate area (speech pathology or audiology) granted by the American Speech and Hearing Association; or (10-14-88)

b. Meets the educational requirements for certification, and is in the process of accumulating the supervised clinical experience required for certification. (10-14-88)

37. Substantial Compliance. Substantial compliance means a facility is in substantial compliance with these rules when there are no deficiencies that would endanger the health, safety or welfare of residents. (10-14-88)

38. Supervision. Authoritative procedural guidance by a qualified person for the accomplishment of a function within his sphere of competence, with initial direction and periodic inspection of the actual act of accomplishing the function. Unless otherwise stated in the rules, the supervisor must be on the premises to perform supervisory duties. (10-14-88)

39. Temporary License. A license issued for a period not to exceed six (6) months and issued initially upon application when the Department determines that all application information is acceptable. A temporary license allows the Department time to evaluate the Facility's on-going capability to provide services and to meet these rules. (10-14-88)

40. Tuberculosis Hospital. A facility for the diagnosis and treatment of patients with tuberculosis or other pulmonary disease. (10-14-88)

41. Video Monitoring. Close observation of a person for the purpose of protecting them and/or gathering information. The observation is made from a distance by means of electronic equipment, such as closed-circuit television cameras. (7-1-19)

42. Video and/or Audio Recording. Saving video and audio information on an electronic medium that can be viewed and/or listened to at a later time. (7-1-19)

43. Waiver or Variance. Waiver or variance means a waiver or variance to these rules and minimum standards in whole or in part that may be granted under the following conditions: (10-14-88)

a. Good cause is shown for such waiver and the health, welfare or safety of patients/residents will not be endangered by granting such a waiver; (10-14-88)

b. Precedent is not set by granting of such waiver. The waiver may be renewed annually if sufficient written justification is presented to the licensing agency. (7-1-19)

012. -- 099. (RESERVED)

100. LICENSURE.

Pursuant to Section 39-1303, Idaho Code, no person or governmental unit, acting separately or jointly with any other person or governmental unit shall establish, conduct or maintain a hospital in this state without a license issued pursuant to Sections 39-1301 through 39-1314, Idaho Code. (10-14-88)

01. Application for License. Pursuant to Section 39-1304, Idaho Code, an application for a license shall be made to the licensing agency upon forms provided it and shall contain such information as the licensing agency reasonably requires, that shall include affirmative evidence of ability to comply with such reasonable standards, rules and regulations as are lawfully prescribed herein, and to include evidence of a request for a determination of review ability if a program providing prospective review for hospitals is in effect. (10-14-88)

02. Issuance and Renewal of License. Pursuant to Section 39-1305, Idaho Code, upon receipt of an application for license, the licensing agency shall issue a license if the applicant and hospital facilities meet the requirements established in these rules. (10-14-88)

a. A license, unless suspended or revoked, shall be renewable annually upon filing by the licensee and approval by the licensing agency of an annual report upon such uniform dates and containing such information in such form as the licensing agency prescribes. (10-14-88)

b. Each license will be issued only for the premises and persons or governmental units named in the application and shall not be transferable or assignable except with the written approval of the licensing agency. (10-14-88)

03. Posting of License. Licenses must be framed and posted in a conspicuous place on the licensed premises. (10-14-88)

101. -- 104. (RESERVED)

105. DENIAL OR REVOCATION OF LICENSE.
Pursuant to Section 39-1306, Idaho Code, relating to hearings and review, after notice and opportunity for hearing to the applicant or licensee, the licensing agency is authorized to deny, or revoke a license in any case in which it finds that conditions exist that endanger the health or safety of any patient. (10-14-88)

106. -- 109. (RESERVED)

110. COMPLIANCE DEADLINE.
Pursuant to Section 39-1308, Idaho Code, any hospital that is in operation at the time of implementation of any applicable regulations will be given a reasonable time under the particular circumstances, not to exceed one (1) year from the date of implementation, within which to comply with the applicable rules and regulations. (10-14-88)

111. -- 119. (RESERVED)

120. INSPECTIONS AND CONSULTATIONS.

01. Inspections. Pursuant to Section 39-1309, Idaho Code, the licensing agency will make or cause to be made such inspections and investigations as it deems necessary. Any licensee or applicant desiring to alter, add to or remodel its existing facility, or to construct new facilities or convert an existing structure to hospital use, is referred to Subsection 002.26 and Section 600, for construction standards and review procedures that must occur prior to commencing such structural changes. (12-31-91)

02. Consultations. Consultations may be provided at the option of the licensing agency. (10-14-88)

121. -- 129. (RESERVED)

130. CONFIDENTIALITY.
Pursuant to Section 39-1310, Idaho Code, information received by the licensing agency through filed reports, inspections, or as otherwise authorized under this law, will not be disclosed publicly in such a manner as to identify individuals except in a proceeding involving the question of licensure. (10-14-88)

131. -- 139. (RESERVED)

140. PENALTIES.

01. Penalty for Operating Hospital Without License. Any person establishing, conducting, managing, or operating a hospital, as defined, without a license shall be guilty of a misdemeanor punishable by imprisonment in a county jail for a period of time not exceeding six (6) months, or by a fine not exceeding three hundred dollars ($300), or by both, and each day of continuing violations shall constitute a separate offense. (10-14-88)

02. Injunction to Prevent Operation Without License. Notwithstanding the existence or pursuit of any other remedy, the licensing agency may in the manner provided by law maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment,

conduct, management or operation of a hospital as defined, without a license. (10-14-88)

141. -- 149. (RESERVED)

150. LICENSING PROVISIONS.

01. General License Requirements. (10-14-88)

a. Before any person can directly or indirectly operate a hospital, he must make application and receive a valid license for the operation of the hospital. No patient will be admitted until a valid license is issued. (10-14-88)

b. Applicants for license and licensees must conform to the rules and minimum standards for hospitals in Idaho. (10-14-88)

c. Facilities making an initial application for a license shall be issued a temporary license when the licensing agency determines that all application information is acceptable and that the facility is at least in substantial compliance with these rules and standards. The temporary license provides the Department time to determine the facility's on-going capability to provide services and to meet these rules. A temporary license may not be issued for a period that exceeds six (6) months. (10-14-88)

d. If a hospital that is required to be licensed under these rules does not normally provide a particular service or department, the section or sections of these regulations relating to such service or department will not be applicable. (10-14-88)

e. The licensing agency can upon written application submitted by the hospital allow the substitution of procedures, equipment, or facilities for those specified in these rules, when such procedure, equipment, or facility has been demonstrated to be at least equivalent to those prescribed. Such substitution shall be in writing and placed on file with the licensing agency and the hospital. The foregoing provision shall not apply to new construction. (10-14-88)

f. No facility can create the impression it is a hospital, unless it does in fact meet the legal definition of a hospital and is so licensed by the Board. (12-31-91)

g. A provisional license may be issued to a hospital that is in substantial compliance with the rules but is temporarily unable to meet all requirements. (10-14-88)

02. Application for License. (10-14-88)

a. All persons contemplating the operation of a hospital must apply to the licensing agency for a license on a form provided by the licensing agency. The application shall be submitted to the licensing agency at least three (3) months prior to the opening date. In addition to the application form the proposed hospital shall include evidence of a request for determination of reviewability if a program providing prospective review of hospitals is in effect. (10-14-88)

b. When a hospital is leased by the owner to a second party for the operation of the facility, a copy of the lease agreement showing clearly in its context the responsibilities of both parties shall be filed with the application for a license. (10-14-88)

03. Issuance of License. (10-14-88)

a. Every hospital shall be designated by a distinctive name in applying for a license and the name shall not be changed without first notifying the licensing agency in writing. (10-14-88)

b. Each license shall specify the maximum allowable number of permanent beds in a facility whether set up for use or not, exclusive of labor and recovery beds, that number shall not be exceeded. (10-14-88)

04. Expiration and Renewal of License. (10-14-88)

a. Each license for the operation of a hospital will expire one (1) year from the date issued unless otherwise dated, revoked or suspended prior to that date. (10-14-88)

b. Each application for renewal of a license shall be submitted prior to expiration of the license on a form prescribed by the licensing agency. (10-14-88)

c. A report shall be submitted annually on a form prescribed by the licensing agency giving such information as contained within said form. A report for the preceding year shall be on file with the licensing agency prior to renewal of a license. (10-14-88)

05. License Certificate. Each license certificate in the licensee's possession must be destroyed immediately upon suspension or revocation of the license or if the operation of the hospital is discontinued by voluntary action. (10-14-88)

06. Change of Ownership or Operator. (10-14-88)

a. When a change of ownership, lessee or management firm for any hospital is contemplated, the owner shall notify the licensing agency at least thirty (30) days prior to the proposed date of transfer. (10-14-88)

b. A new application for licensure shall be submitted where there is a change of ownership or operator. (10-14-88)

151. -- 199. (RESERVED)

200. GOVERNING BODY AND ADMINISTRATION.
There shall be an organized governing body, or equivalent, that has ultimate authority and responsibility for the operation of the hospital. (10-14-88)

01. Bylaws. The governing body shall adopt bylaws in accordance with Idaho Code, community responsibility, and identify the purposes of the hospital and that specify at least the following: (10-14-88)

a. Membership of Governing Body, that consists of: (12-31-91)

i. Basis of selecting members, term of office, and duties; and (10-14-88)

ii. Designation of officers, terms of office, and duties. (10-14-88)

b. Meetings: (12-31-91)

i. Specify frequency of meetings; (10-14-88)

ii. Meet at regular intervals, and there is an attendance requirement; (10-14-88)

iii. Minutes of all governing body meetings shall be maintained. (10-14-88)

c. Committees: (12-31-91)

i. The governing body officers shall appoint committees as appropriate for the size and scope of activities in the hospitals; (10-14-88)

ii. Minutes of all committee meetings shall be maintained, and reflect all pertinent business. (10-14-88)

d. Medical Staff Appointments and Reappointments: (12-31-91)

i. A formal written procedure shall be established for appointment to the medical staff; (10-14-88)

ii. Medical staff appointments shall include an application for privileges, signature of applicant to abide by hospital bylaws, rules, and regulations, and delineation of privileges as recommended by the medical staff. The same procedure shall apply to nonphysician practitioners who are granted clinical privileges; (10-14-88)

iii. The procedure for appointment and reappointment to the medical staff shall involve the administrator, medical staff, and the governing body. Reappointments shall be made at least biannually; (10-14-88)

iv. The governing body bylaws shall approve medical staff authority to evaluate the professional competence of applicants, appointments and reappointments, curtailment of privileges, and delineation of privileges; (10-14-88)

v. Applicants for appointment, reappointment or applicants denied to the medical staff privileges shall be notified in writing; (10-14-88)

vi. There shall be a formal appeal and hearing mechanism adopted by the governing body for medical staff applicants who are denied privileges, or whose privileges are reduced. (10-14-88)

e. The bylaws shall provide a mechanism for adoption, and approval of the organization bylaws, rules and regulations of the medical staff. (10-14-88)

f. The bylaws shall specify an appropriate and regular means of communication with the medical staff. (10-14-88)

g. The bylaws shall specify departments to be established through the medical staff, if appropriate. (10-14-88)

h. The bylaws shall specify that every patient be under the care of a physician licensed by the Idaho State Board of Medicine. (10-14-88)

i. The bylaws shall specify that a physician be on duty or on call at all times. (10-14-88)

j. The bylaws shall specify to whom responsibility for operations, maintenance, and hospital practices can be delegated and how accountability is established. (10-14-88)

k. The governing body shall appoint a chief executive officer or administrator, and shall designate in writing who will be responsible for the operation of the hospital in the absence of the administrator. (10-14-88)

l. Bylaws shall be dated and signed by the current governing body. (10-14-88)

m. Patients being treated by nonphysician practitioners shall be under the general care of a physician. (10-14-88)

02. Administration. The governing body, through the administrator, shall provide appropriate physical facilities and personnel required to meet the needs of the patients and the community. (10-14-88)

03. Chief Executive Officer or Administrator. The governing body through the chief executive officer shall establish the following policies, procedures or plans: (10-14-88)

a. The hospital shall adopt a written personnel policy concerning qualification, responsibility, and condition of employment for each category of personnel. The policy and/or procedures shall contain the following elements: (10-14-88)

i. Documentation of orientation of all employees to policies, procedures and objectives of the hospital. (10-14-88)

ii. Job descriptions for all categories of personnel. (10-14-88)

iii. Documentation of continuing education (inservice) for all patient care personnel. (10-14-88)

b. There shall be a personnel record for each employee that shall contain at least the following: (10-14-88)

i. Current licensure and/or certification status. (10-14-88)

ii. The results of a Tuberculin Skin Test that shall be determined either by history of a prior positive, or by the application of a skin test prior to or within thirty (30) days of employment. If the skin test is positive, either by history or by current test, a chest X-ray shall be taken, or a report of the result of a chest X-ray taken within three (3) months preceding employment, shall be accepted. The Tuberculin Skin Test status shall be known and recorded and a chest X-ray alone is not a substitute. No subsequent annual chest X-ray or skin test is required for routine surveillance. (10-14-88)

c. There shall be regularly scheduled departmental and interdepartmental meetings, appropriate to the needs of the hospital, and documentation of such meetings shall be available. (10-14-88)

d. The chief executive officer shall serve as liaison between the governing body, medical staff and the nursing staff, and all other departments of the hospital. (10-14-88)

e. Written policies and procedures shall be reviewed as needed. (10-14-88)

04. Discharge Planning. Administration shall provide a procedure to screen each patient for discharge planning needs. If discharge planning is necessary, a qualified person shall be designated responsible for such planning. The hospital shall have a transfer agreement with a Medicare and/or Medicaid skilled nursing home. If there is a common governing board for a hospital and a skilled nursing home, a policy statement concerning transfers will be sufficient. (10-14-88)

05. Institutional Planning. The governing body through the chief executive officer shall provide for institutional planning by means of a committee composed of members of the governing body, administration, and medical staff. The plan shall include at least these elements: (10-14-88)

a. Annual budgeting; and (10-14-88)

b. A protocol for coordinating the hospital services with other health care facilities and community resources. (10-14-88)

06. Disclosure of Ownership. The governing body and administration of hospitals required to be licensed under these rules shall fully disclose to the licensing agency the names and addresses of all persons owning or controlling five percent (5%) interest in the hospital. (10-14-88)

07. Compliance with Laws and Regulations. The governing body through the chief executive officer will be responsible for meeting all applicable laws and regulations pertaining to hospitals, and acting promptly upon reports and reviews of regulatory and inspecting agencies. (10-14-88)

08. Use of Outside Resources. If a hospital does not employ a required professional person to render a specific service, there shall be a written agreement for such service to meet the requirements of these rules. The agreement shall specify the following: (10-14-88)

a. Responsibilities of both parties, with the hospital retaining responsibility for services rendered. (10-14-88)

b. All services to be performed by outside resources including reports, frequency of visits, and services rendered. (10-14-88)

09. Substantial Change in Services. Any hospital proposing to offer a new service or a new department under these rules or proposing to implement a substantial change in an existing service or department shall provide to the licensing agency evidence of a request for a determination of reviewability if a program providing prospective review of hospitals is in effect. (10-14-88)

10. Quality Assurance. Through administration and medical staff, the governing body shall ensure that there is an effective, hospital-wide quality assurance program to evaluate the provision of care. The hospital must take and document appropriate remedial action to address deficiencies found through the program. The hospital must document the outcome of the remedial action. (10-14-88)

201. -- 219. (RESERVED)

220. PATIENT RIGHTS.
A hospital must protect and promote each patient's rights. Patient rights are provided for and described in Sections 220 through 234 of these rules. (7-1-19)

01. Informed in Advance of Patient Care. A hospital must inform each patient, or when appropriate, the patient's representative or caregiver, of the patient's rights in advance of furnishing or discontinuing patient care whenever possible. (7-1-19)

02. Identify Who Is Responsible for Medical Decisions. The hospital must identify who is responsible for making medical decisions and representing the patient if the patient is unable to make those decisions. (7-1-19)

03. Specify Procedures to Inform Patient of Patient Rights. (7-1-19)

a. The hospital must specify a procedure to inform patients, their representative, or caregiver of their rights before providing care. (7-1-19)

b. In an emergency, rights may be provided after emergent care is provided. (7-1-19)

c. The procedure must include a method to document that patients were informed of their rights or the reasons they were not informed before care was provided. (7-1-19)

04. Informed in Format Understandable to Patient/Patient's Representative. The patient and/or the patient's representative has the right to be informed of the patient's rights in a language or format that the patient and/or legal representative understands. (7-1-19)

05. Make Informed Decisions. The patient or patient's representative has the right to make informed decisions regarding patient's care. (7-1-19)

06. Informed and Involved in Care Plan.The patient has the right to be informed of health status, be involved in care planning and treatment, and to request or refuse treatment. This right must not be construed as a mechanism to demand the provision of treatment or services deemed medically unnecessary or inappropriate. (7-1-19)

a. The hospital must obtain written consent for general treatment at the hospital. If the hospital is not able to obtain this consent, the reasons must be documented. (7-1-19)

b. The hospital must obtain an informed written consent from each patient or the patient's representative for the provision of specific medical and/or surgical care, except in medical emergencies. The consent must include an explanation of risks, benefits, and alternatives for high-risk procedures, sedation, and other procedures or services as defined by the governing body. (7-1-19)

07. Formulate Advance Directives. The patient has the right to formulate advance directives and to have hospital staff and practitioners who provide care in the hospital comply with these directives. The hospital must document whether the patient has an advance directive. If the patient has an advance directive, the hospital must

document what it includes. If the patient does not have an advance directive, the hospital must offer the patient assistance to create one and document the patient's response. (7-1-19)

08. Privacy. The patient has the right to meet privately with an attorney, a physician, a licensed independent practitioner, a representative of the state protection and advocacy group, and adult/child protection agency. (7-1-19)

09. Personal Privacy. The patient has the right to personal privacy, including the right to privacy during all personal care, including hygiene activities such as bathing, dressing, and toileting. This right includes the right to treatment with dignity during personal care. (7-1-19)

a. A patient's right to privacy may be limited in situations when a treatment team determines a person must be continuously observed to ensure his or her safety. A decision to continuously observe a patient, either in person or by video and audio monitoring, must be based on an individualized assessment of the patient's needs and it must be part of the patient's individualized plan of care. (7-1-19)

b. When patients are video monitored, the hospital must turn the camera off or utilize an electronic privacy option during personal care and activities of daily living where the patient may be exposed, such as bathing, dressing, and toileting. Monitoring during these times must be done by staff members in person. Video and audio monitoring and recording must also be turned off during meetings with the patient and an attorney, a physician, a licensed independent practitioner, a representative of the state protection and advocacy group, and adult/child protection agency. (7-1-19)

c. When the hospital utilizes the continuous observation of patients, and/or video recording of patients, it must develop policies and procedures to direct staff in these activities. (7-1-19)

d. The hospital must obtain the patient's or patient’s legal representative’s written consent for video or audio recording except in common areas. (7-1-19)

e. Video or audio recordings of a patient for any reason must be included as part of the patient's medical record except in common areas. (7-1-19)

f. Monitors used for observing patients must not be visible or audible to unauthorized persons. (7-1-19)

10. Video Monitoring of Common Areas. Closed circuit television may be used to monitor common areas when signs are clearly posted that video monitoring or video recording is occurring. Patient consent is not required for common areas. Video recordings of common areas are not part of the patient's medical record. (7-1-19)

11. Safe Setting. The patient has the right to receive care in a safe setting. (7-1-19)

12. Free From Abuse, Neglect, and Harassment. The patient has the right to be free from all forms of abuse, neglect, and harassment. If hospital staff become aware of potential abuse or neglect of a patient, the hospital must protect the patient from future harm and report the suspicions to the appropriate legal entity. (7-1-19)

13. Confidentiality. The patient has the right to the confidentiality of his or her clinical records. (7-1-19)

14. Access to Patient’s Own Records. The patient has the right to access information contained in his or her clinical records within three business days. The patient may request clinical record information as a paper copy or in an electronic format. (7-1-19)

a. The hospital may not charge the patient a rate for copies that is higher than that of the local library. (7-1-19)

b. When the patient requests the information electronically, the hospital must provide it on a currently popular media storage device. The information must be provided in a coherent format. (7-1-19)

15. State Agency Contact Information. The hospital must provide patients with contact information for the Idaho state survey agency, including the agency's physical and mailing addresses and telephone number. (7-1-19)

221. -- 224. (RESERVED)

225. PATIENT GRIEVANCES.
The hospital must establish a clearly explained process for the prompt resolution of patient grievances. (7-1-19)

01. Grievance by Patient or Patient's Representative. A patient's grievance is a formal or informal, written or verbal complaint that is made to the hospital by a patient, or the patient's representative, regarding the patient's care, alleged abuse or neglect, or issues related to the hospital's compliance with Idaho state licensure rules. When a complaint is resolved at the time of the complaint by staff present, it is not considered a grievance and does not require investigation. (7-1-19)

02. Grievance Process. The grievance process must include: (7-1-19)

a. The hospital must inform each patient how to submit a grievance. Grievances may be submitted to any professional staff member. (7-1-19)

b. Grievances must be investigated. The grievance process must specify time frames for review of the grievance and the provision of a response. (7-1-19)

c. The hospital must document the steps taken to investigate the grievance and the results of the grievance process. (7-1-19)

03. Written Notice of Decision. The hospital must provide the patient with written notice of its decision that contains: (7-1-19)

a. The name of the hospital contact person; (7-1-19)

b. The steps taken to investigate the grievance; and (7-1-19)

c. The results of the grievance process. (7-1-19)

226. -- 228. (RESERVED)

229. LAW ENFORCEMENT RESTRAINTS.
The use of law enforcement restraint devices are not considered safe, appropriate health care restraint interventions for use by hospital staff to restrain patients. (7-1-19)

01. Law Enforcement Use of Restraint Devices. The use of handcuffs, manacles, shackles, other chain-type restraint devices, or other restrictive devices applied by non-hospital employed or contracted law enforcement officials for custody, detention, and public safety reasons are not governed by these rules. (7-1-19)

02. Law Enforcement Maintains Custody and Direct Supervision. When a law enforcement officer applies handcuffs, manacles, shackles, other chain-type restraint devices to a patient, the law enforcement officer must maintain custody and direct supervision of the prisoner who is the hospital's patient. (7-1-19)

a. The law enforcement officer is responsible for the use, application, and monitoring of these restrictive restraint devices in accordance with state law. (7-1-19)

b. The hospital is responsible for an appropriate patient assessment and the provision of safe, appropriate care to its patient who is in the custody of a law enforcement officer. (7-1-19)

230. RESTRAINT AND SECLUSION.

The hospital must establish a clearly explained process for restraint and/or seclusion. The hospital must follow its restraint and seclusion policies. (7-1-19)

01. Patient's Right to be Free From Restraint and Seclusion. All patients have the right to be free from restraint or seclusion, of any form, imposed as a means of coercion, discipline, convenience, or retaliation by staff. (7-1-19)

02. Use of Restraint or Seclusion. Restraint and/or seclusion may only be imposed to ensure the physical safety of the patient, a staff member, or others. Restraint and/or seclusion must be discontinued at the earliest possible time, when the patient no longer presents an immediate risk of harm to self or others. (7-1-19)

03. Policy and Procedures. Restraint and seclusion policies and procedures must include: (7-1-19)

a. Definitions for restraint and seclusion as defined in these rules. (7-1-19)

b. Specification of: (7-1-19)

i. Which personnel may assess patients to determine the need for restraint and/or seclusion; (7-1-19)

ii. Which personnel may perform formal face-to-face evaluations for episodes of restraint and/or seclusion; and (7-1-19)

iii. Which personnel may evaluate patients for the need to continue restraint and/or seclusion. (7-1-19)

c. How patients will be assessed for the need for restraint and/or seclusion, including the types of restraint to be used and time frames for reassessment. (7-1-19)

d. How patients will be monitored while in restraints and/or seclusion to ensure their well-being. (7-1-19)

e. A requirement that restraint and/or seclusion may only be used when less restrictive interventions have been determined to be ineffective to protect the patient, staff members, or others from harm. (7-1-19)

f. A requirement that the type or technique of restraint used must be the least restrictive intervention that will be effective to protect the patient, staff members, or others from harm. (7-1-19)

g. How services will be provided to patients while in restraint and/or seclusion, including time frames for general assessments, taking vital signs, offering fluids and nourishment, toileting/elimination, systematic release of restrained limbs to provide range of motion and exercise of those limbs, and other care as needed. (7-1-19)

h. A requirement that specifies when restraint or seclusion is applied, the patient's plan of care is changed to direct staff on how to care for the patient while in restraint or seclusion and how to prevent further episodes. (7-1-19)

i. The training requirements for staff who participate in the use of restraints and/or seclusion, including training requirements for persons who may order restraints and for persons who perform face-to-face examinations. Policies must address initial and ongoing training requirements. (7-1-19)

j. A requirement that restraint or seclusion must be discontinued when the patient no longer presents an immediate risk of harm to themselves or others. (7-1-19)

k. Documentation requirements for staff caring for patients in restraint and/or seclusion, including the documentation of assessments and behaviors following episodes of restraint or seclusion. (7-1-19)

04. Investigation of Injuries. A procedure for the hospital to investigate injuries that occur during the application or use of restraint or seclusion. The investigation procedure must include recommendations for the prevention of future injuries from restraint or seclusion. (7-1-19)

231. RESTRAINT AND SECLUSION ORDERS.
The use of restraint or seclusion must be in accordance with the order of a physician or other licensed independent practitioner, who has been granted privileges by the governing body to order restraint and seclusion. (7-1-19)

01. Orders. Orders for the use of restraint or seclusion must never be written as a standing order or on an as needed basis (PRN). (7-1-19)

02. Attending Physician.The attending physician must be consulted as soon as practical if the attending physician did not order the restraint or seclusion. (7-1-19)

03. Time Limits on Orders. Each order for restraint or seclusion used for the management of violent or self-destructive behavior that jeopardizes the immediate physical safety of the patient, a staff member, or others may only be renewed according to the following limits up to a total of twenty-four (24) hours: (7-1-19)

a. Four (4) hours for adults eighteen (18) years of age or older; (7-1-19)

b. Two (2) hours for children and adolescents nine (9) to seventeen (17) years of age; or (7-1-19)

c. One (1) hour for children under nine (9) years of age. (7-1-19)

d. The original restraint or seclusion order may only be renewed within the required time limits for up to a total of twenty-four (24) hours. After the original order expires, a physician or other licensed independent practitioner must see and assess the patient before issuing a new order. (7-1-19)

e. Seclusion may only be ordered for the management of violent or self-destructive behavior. (7-1-19)

f. Each order for restraint used to ensure the physical safety of a non-violent or non-self-destructive patient may be renewed as allowed by hospital policies. (7-1-19)

g. Restraint or seclusion must be discontinued at the earliest possible time when the patient no longer presents an immediate risk of harm to self or others. The risk of harm must be assessed by a physician or licensed independent practitioner, or a registered nurse prior to releasing the patient. (7-1-19)

232. RESTRAINT AND SECLUSION IMPLEMENTATION AND MONITORING.
The use of restraint or seclusion must be implemented in accordance with safe and appropriate restraint and seclusion techniques as determined by hospital policy. (7-1-19)

01. Written System. The hospital must adopt a written system for the use of restraints and seclusion, including techniques to identify staff and patient behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion. (7-1-19)

02. Observation of Patients Who Are Not Violent or Self-Destructive. Patients who are restrained but who are not violent or self-destructive, must be observed at intervals not greater than fifteen (15) minutes. (7-1-19)

03. Management of Violent or Self-Destructive Behavior. Patients who are restrained or secluded for violent or self-destructive behaviors must be continuously observed by trained staff assigned to observe the patient. Staff must observe the patient either directly or using both video and audio equipment. Staff observing the patient must be physically close enough to protect the patient in an emergency. (7-1-19)

04. Face-to-Face by Physician or Other Licensed Independent Practitioner. Patients who are restrained or secluded for the management of violent or self-destructive behavior, must be seen face-to-face within one (1) hour after the initiation of the intervention by a physician or other licensed independent practitioner or by a registered nurse who has been trained to conduct face-to-face examinations. The face-to-face examination must evaluate: (7-1-19)

a. The patient's immediate situation; (7-1-19)

b. The patient's reaction to the intervention; (7-1-19)

c. The patient's medical and behavioral condition; and (7-1-19)

d. The need to continue or terminate the restraint or seclusion. (7-1-19)

e. When the face-to-face evaluation is conducted by a trained registered nurse, the trained registered nurse must consult the attending physician or other licensed independent practitioner who is responsible for the care of the patient, as soon as possible after the completion of the one (1) hour face-to-face evaluation. (7-1-19)

233. RESTRAINT AND SECLUSION DOCUMENTATION.
The clinical record for each patient that is restrained or secluded must contain comprehensive documentation of the episode. (7-1-19)

01. Patient's Behavior. A description of the patient's behavior that led to the use of restraint or seclusion. (7-1-19)

02. Interventions Used Prior to Restraint or Seclusion. Alternatives or other less restrictive interventions attempted prior to the use of restraint or seclusion. (7-1-19)

03. Type of Intervention. The type of interventions used, including the date and time the interventions were initiated. (7-1-19)

04. Assessments. Initial and ongoing assessments of the need for restraint or seclusion by medical and nursing staff. (7-1-19)

05. Patient's Response. The patient's response to the use of restraint or seclusion, including ongoing behaviors. (7-1-19)

06. Monitoring Activities. Monitoring activities by staff. (7-1-19)

07. Restraint and Seclusion Log. Each hospital must maintain a log of restraint and/or seclusion use that must include: (7-1-19)

a. The name of the patient; (7-1-19)

b. The type of restraints and/or seclusion used; (7-1-19)

c. The date and time restraints and/or seclusion were applied and discontinued; and (7-1-19)

d. Any injury or adverse consequence to the patient incurred during the restraint and/or seclusion. (7-1-19)

234. RESTRAINT AND SECLUSION TRAINING.
All staff involved with the ordering, application, and monitoring of restraints and seclusion must be trained. (7-1-19)

01. Training Requirements. Training must include an overview of the hospital's system for the use of restraints and seclusion, including techniques to identify staff and patient behaviors, events, and environmental factors that may trigger circumstances that require the use of a restraint or seclusion. Training must also include: (7-1-19)

a. De-escalation techniques; (7-1-19)

b. Use of least restrictive interventions; (7-1-19)

c. The safe application of restraints; (7-1-19)

d. Monitoring patients in restraint or seclusion; and (7-1-19)

e. Providing care for a patient in restraint or seclusion. (7-1-19)

02. Training Related to Job Responsibilities. All hospital staff members who participate in restraint or seclusion must be trained in relation to their job responsibilities. (7-1-19)

03. Hospital's Policy Training. Physicians and licensed independent practitioners, who order restraints and seclusion and monitor those patients, must be trained in the hospital's policies for ordering restraints and seclusion and assessing patients who are restrained or secluded. (7-1-19)

04. Ongoing Training. Staff must receive ongoing restraint and/or seclusion training in accordance with hospital policies. (7-1-19)

235. -- 249. (RESERVED)

250. MEDICAL STAFF.
The hospital must have an active medical staff organized under bylaws approved by the governing body and responsible to the governing body for the quality of all medical care provided the patients, and for the professional practices and ethical conduct of the members. (7-1-19)

01. Medical Staff Qualifications and Privileges. All medical staff members must be qualified legally and professionally for the privileges that they are granted. (7-1-19)

a. Privileges must be granted only on the basis of individual training, competence, and experience. (7-1-19)

b. The medical staff, with governing body approval, must develop and implement a written procedure for determining qualifications for medical staff appointment, and for determining privileges. (7-1-19)

c. The governing body must approve medical staff privileges within the limits of the hospital's capabilities for providing qualified support staff and equipment in specialized areas. (7-1-19)

02. Authority to Admit Patients. A hospital may grant to physicians, physician assistants, and advanced practice nurses the privilege to admit patients, provided that admitting privileges be granted only if the privileges are: (7-1-19)

a. Recommended by the medical staff at the hospital; (7-1-19)

b. Approved by the governing body of the hospital; and (7-1-19)

c. Within the scope of practice conferred by the license of the physician, physician assistant, or advanced practice nurse. (7-1-19)

d. A hospital must specify in its bylaws the process by which its governing body and medical staff oversee those practitioners granted admitting privileges. Such oversight must include credentialing and competency review. (7-1-19)

03. Medical Staff Appointments and Reappointments. Medical staff appointments and reappointments must be made by the governing body upon the recommendation of the active medical staff, or a committee of the active staff. (7-1-19)

a. Appointments to the medical staff must include a written delineation of all privileges including surgical procedures, and governing body approval must be documented. (7-1-19)

b. Reappointments to the medical staff must be made at least every two (2) years with appropriate documentation indicating governing body approval. (7-1-19)

c. Reappointment procedures must include a means of increasing or decreasing privileges after consideration of the member's physical and mental capabilities. (7-1-19)

d. The medical staff and administration with approval of the governing body must develop a written procedure for temporary or emergency medical staff privileges. (7-1-19)

04. Required Hospital Functions. Each hospital must have a mechanism in place to perform the following functions: (7-1-19)

a. Coordinate all activities of the medical staff; (7-1-19)

b. Develop a hospital formulary and procedures for the choice and control of all drugs used in the hospital; (7-1-19)

c. Establish procedures to prevent and control infections in the hospital; (7-1-19)

d. Develop and monitor standards of medical records contents; (7-1-19)

e. Maintain communications between medical staff and the governing body of the hospital; and (10-14-88)

f. Review clinical work of the medical staff. (10-14-88)

05. Documentary Evidence of Medical Staff Activities. The medical staff or any committees of the staff must meet as often as necessary, but at least twice annually, to assure implementation of the required functions in Subsection 250.04 of this rule. Minutes of all meetings of the medical staff or any committees of the staff must be maintained. (7-1-19)

06. Medical Staff Bylaws, Rules, and Regulations. These must specify at least the following: (7-1-19)

a. A description of the medical staff organization that includes: (10-14-88)

i. Officers and their duties; (7-1-19)

ii. Staff committees and their responsibilities; (7-1-19)

iii. Frequency of staff and committee meetings; and (10-14-88)

iv. Agenda for all meetings and the type of records to be kept. (10-14-88)

b. A statement of the necessary qualifications for appointment to the staff, and the duties and privileges of each category of medical staff. (10-14-88)

c. A procedure for appointment, granting and withdrawal of privileges. (10-14-88)

d. A mechanism for hearings and appeals of decisions regarding medical staff membership and privileges. (10-14-88)

e. A statement regarding attendance at staff meetings. (10-14-88)

f. A statement of qualifications and a procedure for delineation of clinical privileges for all categories of nonphysician practitioners. (10-14-88)

g. A requirement for keeping accurate and complete medical records. (10-14-88)

h. A requirement that all tissue surgically removed will be delivered to a pathologist for a report on such specimens, unless the medical staff, in consultation with the pathologist, adopts uniform exceptions to sending tissue specimens to the laboratory for analysis. (10-14-88)

i. A statement requiring a medical history and physical examination be performed no more than seven (7) days before or within forty-eight (48) hours after admission. The findings from this history and physical examination, including a provisional diagnosis, must be included in the medical record prior to surgery, except in emergencies. (5-3-03)

j. A requirement that consultation is necessary with unusual cases, except in emergencies. Unusual cases must be defined by the hospital medical staff. (7-1-19)

07. Review of Policies and Procedures. The medical staff must review and approve all policies and procedures directly related to medical care. (7-1-19)

08. Dentists and Podiatrists. If dentists and podiatrists are appointed to the medical staff, the bylaws must specifically refer to services performed by such professionals, and must specify at least the following: (7-1-19)

a. Patients admitted for dental or podiatry service must be under the general care of a physician member of the active staff. (7-1-19)

b. All medical staff requirements and procedure for privileges must be followed for dentists and podiatrists. (7-1-19)

09. Dating of Bylaws. Bylaws must be dated and signed by the current officers of the medical staff or the committee of the whole. (7-1-19)

10. Medical Orders. Written, verbal and telephone orders from persons authorized to give medical orders under Idaho law must be accepted by those health care practitioners empowered to do so under Idaho law and written hospital policies and procedures. Verbal and telephone orders must contain the name of the person giving the order, the first initial and last name and professional designation of the health care practitioners receiving the order. The order(s) must be promptly signed or otherwise authenticated by the prescribing practitioner in a timely manner in accordance with the hospital's policy. (7-1-19)

251. -- 309. (RESERVED)

310. NURSING SERVICE.
There shall be an organized nursing department with a plan that delineates authority, responsibility and duties of each category of nursing personnel, and a functional structure for cooperative planning and cooperation. An organizational chart shall be in the nursing service office and in all policy manuals. Job descriptions shall be available and in use that delineate responsibilities, functions or duties, and qualifications for each category of nursing positions. (10-14-88)

01. Director of Nursing Services. The nursing service shall be under the overall direction of a qualified licensed registered nurse with education and experience commensurate with size and complexity of the hospital whose duties are as follows: (10-14-88)

a. To organize, coordinate, and evaluate nursing service functions and staff; and (10-14-88)

b. To be responsible for development and implementation of policies and procedures as they relate to care of patients; and (10-14-88)

c. To select, promote, and terminate nursing staff; and (10-14-88)

d. To establish a procedure to insure staff licenses are valid and current. (10-14-88)

02. Records. Nurses shall maintain records that document patient status, progress and care given using descriptive measurable data. This documentation shall include but not be limited to: (10-14-88)

a. Admission note; and (10-14-88)

b. Vital signs; and (10-14-88)

c. Medication record; and (10-14-88)

d. Rationale for and results of PRN drug administration; and (10-14-88)

e. Patient teaching; and (10-14-88)

f. Adverse drug or blood reaction; and (10-14-88)

g. Discharge note. (10-14-88)

03. Patient Care Plans. Individual patient care plans shall be developed, implemented and kept current for each inpatient. Each patient care plan shall include but is not limited to: (10-14-88)

a. Nursing care treatments required by the patient; and (10-14-88)

b. Medical treatment ordered for the patient; and (10-14-88)

c. A plan devised to include both short-term and long-term goals; and (10-14-88)

d. Patient and family teaching plan both for hospital stay and discharge; and (10-14-88)

e. A description of socio-psychological needs of the patient and a plan to meet those needs. (10-14-88)

04. Nursing Department Meetings. The nursing service department or appropriate committee shall meet monthly to review and evaluate the activities and programs of the nursing service and related departments. All meetings shall be documented to include: (10-14-88)

a. Subject matter; and (10-14-88)

b. Who and how presented; and (10-14-88)

c. A record of attendance. (10-14-88)

05. New Employee Orientation. An orientation shall be given to all new employees of the nursing service. (10-14-88)

06. Inservice/Continuing Education. An ongoing educational program shall be developed, implemented and evaluated for nursing service. (10-14-88)

07. Policies and Procedures. Written policies supported by written procedures shall be available for all nursing staff that includes all areas for delivery of nursing services and shall be consistent with generally accepted nursing practice. The following shall be included with all other policies and procedures for nursing services: (10-14-88)

a. There shall be a written procedure for reporting and processing incidents/accidents to patients; and (10-14-88)

b. There shall be a written procedure for reporting and processing medication errors. (10-14-88)

08. Staffing. The following rules apply to the nursing staff: (12-31-91)

a. There shall be adequate nursing personnel to plan, administer, and evaluate individual bedside nursing care; and (10-14-88)

b. A licensed registered nurse shall be on duty on the premises twenty-four (24) hours a day. (10-14-88)

09. Monthly Staffing Patterns. Monthly staffing patterns indicating daily staff, staff titles, and patient census shall be kept. (10-14-88)

10. Staff Assignments. Licensed registered nurses shall make assignments for nursing care. 10-14-88)

a. In the absence of the Director of Nursing Services, an RN shall be designated to assume the director's duties. (10-14-88)

b. There shall be a licensed registered nurse on duty at all times. (10-14-88)

c. There shall be twenty-four (24) hour licensed registered nurse coverage in critical care areas in accordance with Subsection 420.02.d. Exception: small hospitals may have an available licensed registered nurse on call to the critical care unit, when there are no patients in the critical care unit. (12-31-91)

d. No person will be assigned nursing duties (aides and orderlies included) who has been on duty in the facility during the preceding twelve (12) hours, except in an emergency. (10-14-88)

e. There shall be sufficient numbers of nursing personnel in all categories to ensure quality of patient care. (10-14-88)

f. Personnel who have a communicable disease, infectious wound or other transmittable conditions and who provide care or services to patients shall be required to implement protective infection control techniques approved by administration; or be required not to work until the infectious stage is corrected; or be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent; or seek other remedy to avoid spreading the employees infection. (10-14-88)

g. A licensed registered nurse shall make assignments of nursing care to nursing assistants. (10-14-88)

h. Private duty nurses shall be currently licensed in Idaho and shall comply with all hospital rules and regulations, and be under the general direction of the appropriate DNS. (10-14-88)

i. Private duty nurses shall not be assigned to critical care areas unless properly oriented and fully trained to the policies and procedures of the hospital. (10-14-88)

311. -- 319. (RESERVED)

320. DIETARY SERVICE.
Dietetic services shall be organized and function in a manner to meet the nutritional needs of all patients admitted to the hospital. (12-31-91)

01. Dietary Supervision. The dietary service in each hospital shall be under the supervision of a person who by education or specialized training and experience is knowledgeable in food service management. (10-14-88)

a. This person shall be responsible for management of the food service, and represent the department in interdepartmental meetings. (10-14-88)

b. The nutritional aspects of patient care shall be supervised by a qualified dietitian. (10-14-88)

c. The dietitian shall correlate and integrate the dietary aspects of patient care with the patient, patient's chart and the patient's care plan. (10-14-88)

d. When the dietitian serves as a consultant only, she shall train and instruct the food service supervisor and/or nurses to take diet histories, instruct patients, and transmit dietary information to the charts. (10-14-88)

02. Dietary Personnel. There shall be a sufficient number of supervisors and personnel employed, and their hours shall be scheduled to meet the dietary needs of the patients. (10-14-88)

03. Inservice Training. Inservice training shall be provided for all dietary employees as appropriate to their level of responsibility. (10-14-88)

04. General Menu. The general menu shall meet the nutrition needs of patients in accordance with the current recommended dietary allowances of the Food and Nutrition Board, National Research Council, and shall be planned at least one (1) week in advance, approved by the dietitian, and posted in the kitchen. (10-14-88)

05. Records of Menus. Records of menus "as served" shall be kept on file for at least thirty (30) days. (10-14-88)

06. Modified Diets. All diets, including general diets, shall be ordered by the attending physician. (10-14-88)

a. The nursing service shall transmit the diet order to the dietary department on a written form that includes at least the patient's name, age, physician and room number. Additional information pertinent to the dietary department shall be included. (10-14-88)

b. A diet manual for all modified diets, approved jointly by the dietitian and the medical staff, shall be available to all staff. (10-14-88)

c. Modified diets shall be planned in writing, conform with the principles of the diet manual, approved by the dietitian, and served as planned. (10-14-88)

07. Food Preparation and Service. (10-14-88)

a. The dietary department shall have adequate space, equipment and utensils for the preparation, storage and serving of food and drink to the patient. (10-14-88)

b. Foods shall be stored, prepared and served following procedures that shall ensure the retention of their nutritive value. (10-14-88)

08. Dietary Policies and Procedures. (10-14-88)

a. Written policies and procedures shall be developed for all areas of the dietary Department. They shall be reviewed at least once a year, revised if necessary, and dated at time of review. (10-14-88)

b. Policies and procedures that involve another department shall be developed in cooperation with that department's personnel. Copies shall be available in each department involved. These policies and procedures shall include, but are not limited to: (10-14-88)

i. Serving of trays; and (10-14-88)

ii. Serving of nourishments; and (10-14-88)

iii. Procedures for hold or late trays; and (10-14-88)

iv. Exchange of information when patient is not eating or is not accepting a diet. (10-14-88)

09. Dietary Sanitation. Sanitary standards for hospitals shall be those found in Idaho Department of Health and Welfare Rules, IDAPA 16.02.19, "Idaho Food Code." (12-31-91)

10. Meetings. Departmental staff meetings shall be held at regular intervals. (10-14-88)

321. -- 329. (RESERVED)

330. PHARMACY SERVICE.
The hospital shall provide an organized pharmaceutical service that is administered in accordance with accepted professional principles and appropriate federal, state, and local laws. (10-14-88)

01. Organization and Supervision. Pharmacy services shall be under the overall direction of a pharmacist who is licensed in Idaho and is responsible for developing, coordinating, and supervising all pharmaceutical services in the hospital. (10-14-88)

a. The director of the pharmaceutical service, whether a full, part-time or a consultant member of the staff, shall be responsible to the chief executive officer or his designee. (10-14-88)

b. The pharmacist shall be responsible for the supervision of the hospital drug storage area in which drugs are stored and from which drugs are distributed. (10-14-88)

c. If trained pharmacy assistants, pharmacy students, or pharmacy interns are employed, they shall work under the direct supervision of a pharmacist. (10-14-88)

d. If the director of the pharmaceutical service is part-time, sufficient time shall be provided by the pharmacist to fulfill the responsibilities of the director of pharmaceutical services. (10-14-88)

e. The director of the pharmaceutical service shall be responsible for maintaining records of the transactions of the pharmacy as required by law and as necessary to maintain adequate control and accountability of all drugs. This includes a system of control and records for the requisitioning and dispensing of drugs and supplies to nursing units and to other department/services of the hospital, as well as records of all prescription drugs dispensed to the patient. (10-14-88)

f. The pharmacist shall periodically check drugs and drug records in all locations in the hospital where drugs are stored, including but not limited to nursing stations, emergency rooms, outpatient departments, operating suites. (10-14-88)

02. Staffing. The pharmaceutical service shall be staffed by a sufficient number of qualified personnel in keeping with the size and scope of services offered by the hospital. (10-14-88)

a. The services of a pharmacist shall be sufficient to meet the needs of the patients and to ensure that the established medication distribution system is functioning according to hospital policy. (10-14-88)

b. A pharmacist shall be available on premises or on call at all times. (10-14-88)

03. Scope of Services. The scope of pharmaceutical service shall be consistent with the needs of the patients and include a program for the control and accountability of drug products throughout the hospital. A pharmacy and therapeutics committee or its equivalent composed of members of the medical staff, the director of pharmaceutical services, the director of nursing services, hospital administration and other health disciplines as necessary, shall develop written policies and procedures for drug selection, preparation, dispensing, distribution, administration, control, and safe and effective use. Refer to Subsections 250.03 and 250.04. (12-31-91)

04. Policies and Procedures. Written policies and procedures shall be developed by the pharmacy and therapeutics committee or its equivalent to govern the pharmaceutical services provided by the hospital. (10-14-88)

a. Policies and procedures shall be reviewed revised and amended as necessary, and dated to indicate the time of last review. (10-14-88)

b. Written policies and procedures that are essential for patient safety, and for the control and accountability of drugs, shall be in accordance with acceptable professional practices and applicable federal, state and local laws. (10-14-88)

c. Policies and procedures shall include, but are not limited to the following: (10-14-88)

i. There shall be a drug recall procedure that can be readily implemented; and (10-14-88)

ii. All medications not specifically prescribed as to time or number of doses shall be controlled by automatic stop orders or other methods; and (10-14-88)

iii. Drugs shall be dispensed and administered only upon written or verbal order of a member of the medical staff authorized to prescribe. Verbal orders for drugs shall be given only to those health care practitioners empowered to accept orders under Idaho law and written hospital policies and procedures. Verbal or telephone orders shall be signed or otherwise authenticated in a timely manner by the prescriber in accordance with the hospital's policy. The person accepting the verbal or telephone orders shall meet the procedures set forth in Subsection 250.09; and (3-15-02)

iv. If patients bring their own drugs into the hospital, these drugs shall not be administered unless they are identified by the pharmacist and a physician’s order is written to administer these specific drugs. If the drug(s) that the patient brought to the hospital is (are) not to be used while he is hospitalized, it (they) shall be packaged, sealed, stored, and returned to the patient at the time of discharge; and (10-14-88)

v. Self-administration of medications by patients shall not be permitted unless specifically ordered by the physician; and (10-14-88)

vi. Investigational drugs shall be used only under the supervision of the principal investigator and after approval for use by the pharmacy and therapeutics committee; and (10-14-88)

vii. Acts of drug compounding, packaging, labeling, and dispensing, shall be restricted to the pharmacist or to his designee under supervision; and (10-14-88)

viii. The labeling of drugs and biologicals shall be based on currently accepted professional principles, applicable federal, state, and local laws, and include the appropriate accessory and cautionary instructions, as well as the expiration date when applicable. Only the pharmacist or authorized pharmacy personnel under the supervision of the pharmacist shall make labeling changes; and (10-14-88)

ix. Discontinued drugs, outdated drugs, or containers with worn, illegible, or missing labels shall be returned to the pharmacy for proper disposition; and (10-14-88)

x. Only approved drugs and biologicals shall be used. (See definition.) A list or formulary of approved drugs shall be maintained in the hospital. (10-14-88)

05. Space, Equipment, and Facilities. Space, equipment and supplies provided for the professional and administrative functions of the pharmaceutical service shall be appropriate to ensure patient safety through proper storage, compounding, and dispensing of drugs. (10-14-88)

a. The organized pharmaceutical service of the hospital shall have the necessary equipment and physical facilities for compounding and dispensing drugs, and where indicated, radiopharmaceuticals and parenteral preparations. (10-14-88)

b. There shall be special storage areas throughout the hospital for photosensitive and thermolabile products, and for controlled substances requiring special security. (10-14-88)

c. Up-to-date pharmaceutical reference materials shall be provided to furnish the medical and nursing staffs with current information concerning drugs. (10-14-88)

06. Safe Handling of Drugs. In addition to the rules listed below, written policies and procedures that govern the safe dispensing and administration of drugs shall be developed by the pharmacy and therapeutics committee with the cooperation and the approval of the medical staff. (10-14-88)

a. The pharmacist shall review the prescriber's original order or a direct copy thereof; and (10-14-88)

b. The pharmacist shall develop a procedure for the safe mixture of parenteral products; and (10-14-88)

c. All medications shall be administered by trained personnel in accordance with accepted professional practices and any laws and regulations governing such acts; and (10-14-88)

d. Each dose of medication administered shall be properly recorded as soon as administered in the patient's medication record that is a separate and distinct part of the patient's medical record; and (10-14-88)

e. Drug reactions and medication errors shall be reported to the attending physician and pharmacist in accordance with hospital policy. (10-14-88)

07. Inservice/Continuing Education. The pharmacist shall provide inservice/continuing education for medical and nursing staff at least once quarterly. (10-14-88)

08. Security. The pharmacist is responsible for the drug storage security elements of the designated areas. Access to the pharmacy shall be gained only by him and by individuals designated by him. All prescribed medications shall be under lock and schedule II drugs shall be double-locked. (10-14-88)

09. Unit Dose Drug Distribution. Unit dose procedures, if employed, shall be practiced in accordance with accepted standards of labeling, quality control, and accountability. (10-14-88)

331. -- 339. (RESERVED)

340. RADIOLOGY SERVICE.
The hospital shall provide diagnostic radiological service, equipment, and facilities according to the size of the hospital and the scope of services rendered. (10-14-88)

01. Radiological Requests. Radiological services shall be performed only on the request of a person legally authorized to diagnose, treat and prescribe. (10-14-88)

02. Radiation Control and Safety. All hospitals shall comply with Idaho Department of Health and Welfare Rules, IDAPA 16.02.27, "Idaho Radiation Control Rules." (12-31-91)

03. Personnel. There shall be sufficient qualified personnel to meet the needs of services being offered. Minimum requirements are as follows: (10-14-88)

a. A physician eligible or certified by the American Board of Radiology shall have overall direction for the service. In small hospitals this requirement can be accomplished by a consulting physician who meets the definition found in Subsection 002.51 and is a member of the medical staff. (12-31-91)

b. There shall be sufficient radiologic technologists to meet the needs of the patients and services offered, and not less than one (1) available or on call at all times. If a hospital is unable to employ sufficient radiologic technologists to meet its needs, that hospital may use other hospital personnel who have documented, on-the-job training in radiologic technology and who are certified as being able to perform safely the duties assigned within the radiology services by the persons with overall direction of the radiology service under Subsection 340.03.a. Such certification shall be documented and updated annually. (12-31-91)

c. The physician director of the department or service, or the medical staff shall determine if radiologic technologists are qualified by education and experience. Such determination shall be documented. (10-14-88)

d. An ongoing educational program shall be developed, implemented and evaluated for personnel in radiology service. (10-14-88)

e. An orientation shall be given to all new employees of the radiology department. (10-14-88)

04. Records and Reports. All radiology reports (readings) shall be signed and filed with the inpatient's medical record. (10-14-88)

a. Requests for services shall be in writing and contain a statement of the reason for the request; and (10-14-88)

b. Reports of examinations shall be written and signed by the appropriate physician; and (10-14-88)

c. Reports and films (or reproductions) shall be preserved pursuant to Section 39-1394, Idaho Code. (10-14-88)

05. Policies and Procedures. There shall be written policies concerning the use of radiology services together with supporting procedures to include at least the following: (10-14-88)

a. Safety precautions against electrical, mechanical, and fire hazards; and (10-14-88)

b. Infection control procedure for patients, personnel, and procedures for decontamination of equipment; and (10-14-88)

c. Written authority and procedure for all nonphysicians who administer diagnostic agents parenterally; and (10-14-88)

d. There shall be written procedures for proper collimation, shielding and monitoring to minimize exposure to ionizing radiation to both patients and personnel. (10-14-88)

341. -- 349. (RESERVED)

350. LABORATORY SERVICE.
The hospital shall maintain a clinical laboratory with the necessary space, personnel and equipment to meet the needs of the services offered. Contractual services shall also meet the requirements of Subsection 200.08. (12-31-91)

01. Laboratory Services. Basic laboratory service necessary for routine tests shall be maintained in the hospital. Clinical laboratory tests shall be performed, or arranged for, and shall include the following: (10-14-88)

a. Chemistry; and (10-14-88)

b. Microbiology; and (10-14-88)

c. Hematology; and (10-14-88)

d. Serology; and (10-14-88)

e. Clinical microscopy; and (10-14-88)

f. Immunohematology; and (10-14-88)

g. Urinalysis. (10-14-88)

02. Availability. Clinical laboratory services needed to meet medical needs shall be available at all times. Where services are provided outside the hospital, the conditions, procedures, and availability of work done must be written and available. (10-14-88)

03. Clinical Laboratories. All hospital laboratories and other clinical laboratories shall comply with Idaho Department of Health and Welfare Rules, IDAPA 16.02.06, "Quality Assurance for Idaho Clinical Laboratories." (12-31-91)

04. Personnel. The clinical laboratory shall be under the overall direction of a physician. If that physician is not a pathologist on a full-time or part-time basis, then a Board Certified Pathologist shall be available for consultation to assure performance by the staff. (10-14-88)

a. There shall be sufficient technologists to meet the needs of the patients and medical staff. (10-14-88)

b. The laboratory medical director shall be responsible for the qualifications and performance of the laboratory staff. (10-14-88)

05. Education Programs. An ongoing educational program shall be developed, implemented and evaluated for laboratory personnel. Documentation of all orientation and education programs for each employee shall be maintained at the facility. (10-14-88)

06. Routine Examinations. Any routine examinations that are required on all admissions shall be determined by the medical staff and there shall be a written policy regarding such tests. (10-14-88)

07. Orders and Reports. Orders for tests shall be made only by those practitioners legally authorized to diagnose, treat and prescribe. The signed reports of all tests shall be made a part of the patient's medical record. (10-14-88)

08. Tissues and Reports. A specimen of all tissue surgically removed will be sent to a pathologist for a report on such specimens, unless the medical staff, in consultation with the pathologist, adopts uniform exceptions to sending tissue specimens to the laboratory for analysis. All tissue reports shall be signed by the examining pathologist, contain findings and a diagnosis, and shall be on file. (10-14-88)

09. Blood and Blood Products. Facilities for procurement, proper storage, and transfusion of blood and products shall be readily available. The blood program shall include at least the following: (10-14-88)

a. A means of acquiring blood for emergencies; and (10-14-88)

b. Written agreement on blood supply by outside resource; and (10-14-88)

c. A written procedure for prompt typing and crossmatching, and transfusion reaction investigation; and (10-14-88)

d. Blood storage shall be in a refrigerator with a recording thermometer and audible and visual alarms for temperature variance. There shall also be a mercury thermometer inside, and temperatures recorded daily; and (10-14-88)

e. Records shall be kept of receipt and disposition of all blood; and (10-14-88)

f. Samples of each unit of blood shall be kept seven (7) days in the event of a reaction; and (10-14-88)

g. The medical staff or an appropriate committee shall review all transfusions, all reactions, and is responsible for establishing policies and procedures for the blood service. (10-14-88)

10. Policies and Procedures. These shall be written and approved by the medical director, the medical

staff (or appropriate committee) and the administration. Procedures shall cover at least the following: (10-14-88)

a. A complete description of each test; and (10-14-88)

b. Ordering of tests; and (10-14-88)

c. Procedures for collection, storage, and preservation of all specimens; and (10-14-88)

d. Procedures for patient and test identification, storage and preservation of specimens; and (10-14-88)

e. There shall be written safety procedures for all potentially hazardous tests, specimens, cultures, or materials, including the disposal of such hazardous items, materials or equipment. (10-14-88)

351. -- 359. (RESERVED)

360. MEDICAL RECORDS SERVICE.
The hospital shall maintain medical records that are documented accurately and timely, and that are readily accessible and retrievable. (12-31-91)

01. Facilities. The hospital shall provide a medical record room, equipment, and facilities for the retention of medical records. Provision shall be made for the safe storage of medical records. (10-14-88)

02. Policies and Procedures. There shall be written policies and procedures for the operation of the medical records service. (10-14-88)

03. Maintenance of Records. A medical record shall be maintained for every person who is evaluated or treated as an inpatient, outpatient, emergency patient or a home care patient. (10-14-88)

04. Access to Records. Only authorized personnel shall have access to the record. (10-14-88)

05. Release of Medical Information. No release of medical information shall be made without written consent of the patient or by official court order except to legally authorized entities such as third party payors, peer review organizations, licensing agency, etc. (10-14-88)

06. Removal of Medical Records. Medical records shall only be removed from the hospital in accordance with written hospital procedures. (10-14-88)

07. Retention. Records shall be retained to conform with Section 39-1394, Idaho Code. (10-14-88)

08. Personnel. The medical records service shall be under the overall direction of a Registered Health Information Administrator or a Registered Health Information Technician. If the person in charge of records is not so trained, the facility shall retain an R.H. I.A. or R.H.I.T. on a regular consulting basis. (10-14-88)

09. Identification and Filing. A system of identifying and filing to ensure prompt retrieval of patient's records shall be maintained as follows: (10-14-88)

a. Any system shall bear at least the name, address, birthdate, medical record number, dates of admission and discharge; and (10-14-88)

b. Each record shall be maintained so that both in and outpatient records for treatment are readily retrievable. (10-14-88)

10. Centralizing and Completion of Records and Reports. All (clinical) information pertinent to the patient's stay shall be centralized in the record as follows: (10-14-88)

a. All reports shall be filed with the record. Copies of reports are acceptable; and (10-14-88)

b. All reports and records shall be completed and filed within thirty (30) days following discharge. (10-14-88)

11. Indexing of Records. Records shall be indexed as follows: (10-14-88)

a. According to disease, operation, and physician; and (10-14-88)

b. Any recognized system can be used. As additional indices become appropriate (due to medical advance), their use shall be adopted; and (10-14-88)

c. The card index or other record for disease or operation shall list all essential data; and (10-14-88)

d. Records of diagnoses and operations shall be expressed in terminology that describes the morbid condition by site, etiology, or method of procedure; and (10-14-88)

e. Indexing shall be current within six (6) months following discharge of the patient. (10-14-88)

12. Record Content. The medical records shall contain sufficient information to justify the diagnosis, warrant the treatment and end results. The medical record shall also be legible, shall be written with ink or typed, and shall contain the following information: (10-14-88)

a. Admission date; and (10-14-88)

b. Identification data and consent forms; and (10-14-88)

c. History, including chief complaint, present illness, inventory of systems, past history, family history, social history and record of results of physical examination and provisional diagnosis that was completed no more than seven (7) days before or within forty-eight (48) hours after admission; and (5-3-03)

d. Diagnostic, therapeutic and standing orders; and (10-14-88)

e. Records of observations, that shall include the following: (10-14-88)

i. Consultation written and signed by consultant that includes his findings; and (10-14-88)

ii. Progress notes written by the attending physician; and (10-14-88)

iii. Progress notes written by the nursing personnel; and (10-14-88)

iv. Progress notes written by allied health personnel. (10-14-88)

f. Reports of special examinations including but not limited to: (10-14-88)

i. Clinical and pathological laboratory findings; and (10-14-88)

ii. X-ray interpretations; and (10-14-88)

iii. E.K.G. interpretations. (10-14-88)

g. Conclusions that include the following: (10-14-88)

i. Final diagnosis; and (10-14-88)

ii. Condition on discharge; and (10-14-88)

iii. Clinical resume and discharge summary; and (10-14-88)

iv. Autopsy findings when applicable. (10-14-88)

h. Informed consent forms. (10-14-88)

i. Anatomical donation request record (for those patients who are at or near the time of death) containing: (3-1-90)

i. Name and affiliation of requestor; and (3-1-90)

ii. Name and relationship of requestee; and (3-1-90)

iii. Response to request; and (3-1-90)

iv. Reason why donation not requested, when applicable. (3-1-90)

13. Signature on Records. Signatures on medical records shall be noted as follows: (10-14-88)

a. Every physician shall sign and date the entries that that physician makes or directs to be made. (10-14-88)

b. A single signature on the face sheet record does not authenticate the entire record. (10-14-88)

c. Any person writing in a medical record shall sign his name to enable positive identification by name and title. (10-14-88)

d. If initials are used, an identifying signature shall appear on each page. (10-14-88)

e. Rubber stamp signatures can be used only by the person whose signature the stamp represents. A signed statement to this effect shall be placed on file with the hospital administrator. (10-14-88)

14. Administrative Records. The following hospital records shall be maintained: (10-14-88)

a. Daily census register; and (10-14-88)

b. Record of admissions and discharges; and (10-14-88)

c. Register of live births and still births; and (10-14-88)

d. Death register; and (10-14-88)

e. Register of surgical procedures; and (10-14-88)

f. Register of outpatients; and (10-14-88)

g. Emergency room admissions; and (10-14-88)

h. Narcotic and barbiturate record; and (10-14-88)

i. Annual report. Each year the hospital shall file with the licensing agency an Application for License and Annual Report form furnished by the agency; and (10-14-88)

j. Vital statistics. Hospitals licensed under these rules shall comply with the provisions of Idaho Department of Health and Welfare Rules, IDAPA 16.02.08, "Vital Statistics Rules." (12-31-91)

15. Availability of Records. The entire medical record of any person who is a patient, or who has been a patient in any hospital in Idaho, shall be available to the state licensing agency or authorized representatives of the

agency, during the survey process or a complaint investigation. (10-14-88)

16. Standing Orders. There shall be an annual review and approval of standing orders, and a current signed and dated copy of approved orders shall be available. This review shall be done by the medical staff or appropriate staff committee and there shall be evidence of the review, signed and dated by the designated authority. (10-14-88)

361. -- 369. (RESERVED)

370. EMERGENCY SERVICE.
All hospitals who provide emergency medical care in a specific area of the facility shall have an organized plan for emergency care based upon current community needs and the capability of the hospital. (10-14-88)

01. Policies and Procedures. The emergency room of every hospital shall have written policies and procedures. These shall be in conformance with state and local laws. The procedures shall be approved by the hospital administration, medical staff, and nursing service. The policies shall be approved by the governing body. The policies and procedures shall include but are not limited to, the following: (10-14-88)

a. Policies and procedures for handling accident victims, rape victims, contagious disease, persons suspected of criminal acts, abused children or adults, emotionally disturbed persons, persons under the influence of drugs and/or alcohol, persons contaminated by radioactive materials, and patients dead on arrival; and (10-14-88)

b. Medical responsibility shall be delineated regarding emergency care (including levels of care relating to clinical privileges and specialty areas) and shall specify a method to insure staff coverage; and (10-14-88)

c. Procedures that can/cannot be performed in the emergency room; and (10-14-88)

d. Policies and supporting procedures for referral and/or transfer to another facility; and (10-14-88)

e. Policies regarding instructions to be given patients requiring follow-up services; and (10-14-88)

f. Policies and supporting procedures for storage of equipment, medication, and supplies; and (10-14-88)

g. Policy and supporting procedures for care of emergency equipment; and (10-14-88)

h. Instructions for procurement of drugs, equipment, and supplies; and (10-14-88)

i. Policy and supporting procedures involving toxicology; and (10-14-88)

j. Policy and supporting procedures devised for notification of patient's physician and transmission of reports; and (10-14-88)

k. Policy involving instructions relative to disclosure of patient information; and (10-14-88)

l. A policy for integration of the emergency room into a disaster plan. (10-14-88)

02. Staffing. There shall be adequate medical and nursing personnel to care for patients arriving at the emergency room. Minimum personnel and qualifications of such personnel shall be as follows: (10-14-88)

a. A physician in the hospital or on call twenty-four (24) hours a day and available to see emergency patients as needed. (10-14-88)

b. A qualified licensed registered nurse shall be on duty in the facility and available to the emergency room at all times. (10-14-88)

03. Staff Roster. A written roster shall be available with the names of all physicians on call and where

they can be located if there is no physician on duty. (10-14-88)

04. Records. Medical records shall be kept on every patient who presents himself for treatment in the emergency room of the hospital. (10-14-88)

a. The record shall contain at least the following: (10-14-88)

i. Patient identification; and (10-14-88)

ii. Time of arrival; and (10-14-88)

iii. Description of illness or injury; and (10-14-88)

iv. Clinical, laboratory and x-ray findings as appropriate; and (10-14-88)

v. Diagnosis, physician orders, medication, and treatment given; and (10-14-88)

vi. Condition of patient on discharge or transfer; and (10-14-88)

vii. Final disposition and time of day; and (10-14-88)

viii. Instructions for follow-up care; and (10-14-88)

ix. Signature of attending physician and nurse for all treatments and medications provided. (10-14-88)

b. Emergency room records shall be filed with inpatient records when appropriate. (10-14-88)

05. Retention, Filing, and Indexing Records. The retention, indexing and filing of emergency room records shall be the responsibilities of the medical records service. (10-14-88)

06. Emergency Room Register. There shall be an emergency room register containing name of patient, age, physician, and diagnosis. (10-14-88)

07. Equipment and Supplies. (10-14-88)

a. Parenterals, drugs, instruments, equipment, and supplies shall be readily available to the emergency room for use. (10-14-88)

b. Emergency drugs shall be available based upon a formulary designed by medical staff and pharmacy staff. (10-14-88)

08. Minor Elective Surgical Procedures. A record shall be maintained for all patients seen in the emergency room for minor elective surgical procedures. The record shall contain the following: (10-14-88)

a. Short medical history and record of physical; and (10-14-88)

b. Reports of diagnostic tests; and (10-14-88)

c. Tissue report; and (10-14-88)

d. Description of procedure performed; and (10-14-88)

e. Discharge instructions for patient. (10-14-88)

371. -- 373. (RESERVED)

374. FREESTANDING EMERGENCY DEPARTMENT (FSED) - DEFINITION.

A freestanding emergency department (FSED) means a facility that provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis, is physically separate from a hospital, and meets the staffing and service requirements of Section 376 of these rules. A FSED is located within thirty-five (35) miles of the hospital that owns or controls it. An FSED is owned by a hospital with a dedicated emergency department that also meets the staffing and service requirements found in Section 376 of these rules. (5-8-09)

375. FREESTANDING EMERGENCY DEPARTMENT (FSED): STANDARDS.

01. Capability of Receiving Ground Ambulance Patients. An FSED must be capable of receiving patients transported via ground ambulance within the protocols established by a licensed Emergency Medical Services (EMS) Agency Medical Director. Provisions must be made to communicate any reduction or increase in the capability of the FSED to receive specific levels of patients to the local EMS director. (5-8-09)

02. Transfer to Inpatient Hospital. An FSED must transfer each patient requiring inpatient hospital services as soon as a bed is available. (5-8-09)

03. Extension of the Main Hospital. An FSED as an extension of the main hospital must comply with all applicable rules of IDAPA 16.03.14, "Hospitals," and Section 39-1307, Idaho Code (5-8-09)

04. Availability of Resources and Staffing for Main Hospital and FSED. Resources and staff available at the main hospital are likewise available to individuals seeking care at the FSED within the capability of the hospital. (5-8-09)

05. Prohibited Transfers. Transferring a patient to a different provider type for surgery, with the intent of returning the patient to the FSED or main hospital for recovery, is prohibited. (5-8-09)

06. Written Transfer Agreements. The hospital that owns and operates the FSED must have written transfer agreements with one (1) or more hospitals that provide the basis for effective working arrangements in which inpatient hospital care or other hospital departments are promptly available to patients when needed. (5-8-09)

07. FSED Accreditation. Each hospital granted deemed status by the Centers for Medicare/Medicaid Services as a result of accreditation must ensure the FSED is included under the same accreditation. (5-8-09)

376. FREESTANDING EMERGENCY DEPARTMENT (FSED): STAFFING AND SERVICES.
The FSED must be integrated into the main hospital. This integration must be defined in the hospital's policies and procedures, and practices. Additional requirements are as follows: (5-8-09)

01. Staffing. An FSED must be staffed twenty-four (24) hours per day, seven (7) days per week with: (5-8-09)

a. A board certified physician, or board eligible emergency department physician, approved by the governing board as described under Section 200, "Governing Body and Administration," and the medical staff as described under Section 250, "Medical Staff," of these rules; (5-8-09)

b. A qualified licensed registered nurse certified in Advanced Cardiac Life Support and Pediatric Advanced Life Support; and (5-8-09)

c. Additional medical, nursing, and other personnel necessary to meet the needs of patients. (5-8-09)

02. An FSED Must Provide or Arrange for: (5-8-09)

a. At least one (1) ambulance licensed to the Critical Care Transport level by the EMS Bureau in accordance with: Title 56, Chapter 10, Idaho Code; IDAPA 16.02.02, "Idaho Emergency Medical Services Physician Commission"; and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." If the ambulance service is not provided directly by the FSED or main hospital, a contract must be in place including a provision that requires a maximum response time of thirty (30) minutes to the FSED. (5-8-09)

b. A communications system that is fully integrated with the main hospital and that is capable of two (2) way radio communications with local EMS agencies in accordance with IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements." (5-8-09)

03. Nursing Service. Nursing service at the FSED is a nursing unit as described under Subsection 002.31 of these rules. (5-8-09)

04. Dietary Service. The FSED must provide dietary services consistent with the needs of each patient. (5-8-09)

05. Laboratory Service. Basic laboratory service necessary for routine tests, as described under Subsection 350.01 of these rules, must be maintained at the FSED; and (5-8-09)

a. The FSED must be able to perform emergency (stat) laboratory tests on-site necessary to meet the needs of patients served. (5-8-09)

b. Laboratory services must be available twenty-four (24) hours per day, seven (7) days per week; and (5-8-09)

c. Facilities for the procurement, proper storage, and transfusion of blood and blood products must be readily available at the FSED. (5-8-09)

06. Radiology Service. The FSED must maintain and provide radiology services sufficient to perform and interpret the radiological examinations necessary for the diagnosis and treatment of patients twenty-four (24) hours per day, seven (7) days per week. (5-8-09)

07. Pharmacy Service. Pharmacy services must be available at the FSED as follows: (5-8-09)

a. The FSED must provide a pharmacy or drug and medicine service for the care and treatment of patients, consistent with the size and scope of the FSED; and (5-8-09)

b. A pharmacist must be available on the premises, or on call, at all times. (5-8-09)

377. NOTIFICATION REQUIREMENTS TO LICENSED EMERGENCY MEDICAL SERVICES (EMS) AGENCIES.

01. Required Notifications to Licensed EMS Agencies. (5-8-09)

a. On an annual basis, the FSED must send written notice containing the information described in Section 377.01.c of this rule, to all area EMS services and EMS services' medical directors, licensed by the Department's EMS Bureau, that transport to the facility, (5-8-09)

b. Within three (3) business days of any change in capability, the FSED must send written notice containing the information described in Section 377.01.c of this rule, to all area EMS services and EMS services' medical directors, licensed by the Department's EMS Bureau, that may transport to the facility. (5-8-09)

c. The written notice must include the following information: (5-8-09)

i. A list of capabilities that are not available at the FSED but are available at the main hospital emergency department; (5-8-09)

ii. A description of the preferred and alternate means by which an ambulance service must make a notification to the FSED that it intends to transport to the FSED. (5-8-09)

d. The EMS Bureau will identify and provide, upon request from the FSED, the names and mailing addresses of all EMS services and medical directors that must receive notification. (5-8-09)

02. Emergency Medical Services Physical Requirements. (5-8-09)

a. Ambulance bays must be located close to the emergency suite and the designated treatment rooms holding patients requiring transfer to a hospital for treatment after stabilization. (5-8-09)

b. If the FSED exists greater than thirty (30) road miles from the main hospital it must include a helicopter landing area inspected and approved for EMS helicopter landing by the Federal Aviation Administration (FAA). (5-8-09)

c. Where appropriate, features such as garages, landing pads, approaches, lighting, and fencing required to meet state and local codes, rules, and statutes that govern the placement, safety features, and elements required to accommodate helicopter(s) and ambulance(s), must be provided on the campus of the freestanding emergency department. (5-8-09)

378. FREESTANDING EMERGENCY DEPARTMENT (FSED): PLANT, EQUIPMENT AND PHYSICAL ENVIRONMENT.

01. Building Construction Standards. General requirements for construction of an FSED are as follows: (5-8-09)

a. All new construction of an FSED must comply with any and all state and local building, fire, electrical, plumbing, zoning, heating, or other applicable codes adopted by the jurisdiction in which the FSED is located and that are in effect when construction is begun. Where a conflict in code requirements occurs, both requirements must be met, or at the discretion of the licensing agency, the most restrictive will apply. (5-8-09)

b. The FSED must be structurally sound and must be maintained and equipped to assure the safety of patients, employees, and the public. (5-8-09)

c. On the premise of an FSED where natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect patients, employees, and the public. (5-8-09)

d. Minimum construction standards must be in accordance with the following standards incorporated by reference: (5-8-09)

i. The 2006 Edition of National Fire Protection Association (NFPA) 101, the Life Safety Code, Chapter 18, New Health Care Occupancies, and the applicable provisions of chapters 1 through 11, as published by the NFPA. The NFPA documents referenced in these regulations are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908; 1-800-344-3555; and online at http://www.nfpa.org; and (5-8-09)

ii. The 2006 Edition of the American Institute of Architects (AIA) Guidelines for Design and Construction of Health Care Facilities applicable to a Freestanding Emergency Department and General Hospital. The AIA documents referenced in these regulations are available from the American Institute of Architects, 1735 New York Avenue N.W., Washington, D.C. 20006; 1-800-242-3837; and online at http://www.aia.org. (5-8-09)

e. The FSED must provide a Type 1 Essential Electrical System (generator and transfer switch) in accordance with NFPA 99, 2005 Edition. (5-8-09)

f. The FSED must provide a Level 1 Medical Gas and Vacuum System (piped gas system) in accordance with NFPA 99, 2005 Edition. (5-8-09)

02. Plans, Specifications, and Inspections. Plans, specifications, and inspections of any new facility construction or any addition, conversion, or remodeling of an existing structure are governed by the following: (5-8-09)

a. Plans for new construction, additions, conversions, and remodels must be prepared by or executed under the supervision of an architect or engineer licensed in the state of Idaho. This requirement may be waived by

the Department in connection with minor alterations provided the alterations comply with all construction requirements. (5-8-09)

b. Prior to commencing work pertaining to construction of a new building, any addition or structural changes to existing facilities, or conversion of existing buildings to be used as an FSED, plans and specifications must be submitted to, and approved by, the Department. (5-8-09)

c. Preliminary plans must be submitted and must include at least the following: (5-8-09)

i. A functional program description as defined in 2006 Edition of AIA Guidelines for Design and Construction of Health Care Facilities; (5-8-09)

ii. The assignment of all spaces, size of areas and rooms, and indicate in dashed outline the fixed equipment; (5-8-09)

iii. Drawings of each floor including, but not limited to, the basement, approach or site plan, roads, parking areas, and sidewalks; (5-8-09)

iv. The total floor area and number of beds; (5-8-09)

v. Outline specifications describing the general construction, including interior finishes, acoustical materials, and HVAC; (5-8-09)

vi. The plans must be drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to one (1) foot; (5-8-09)

vii. Before commencement of construction, working drawings must be developed in close cooperation and with approval of the Department and other appropriate agencies; (5-8-09)

viii. The drawings and specifications must be well prepared and of accurate dimensions and must include all necessary explanatory notes, schedules, and legends. They must be stamped with the architect's or engineer's seal; and (5-8-09)

ix. The drawings must be complete and adequate for contract purposes. (5-8-09)

d. Prior to occupancy, the construction must be inspected and approved by the Department. The Department must be notified at least four (4) weeks prior to completion in order to schedule a timely final inspection. (5-8-09)

e. Buildings used as a FSED must meet all the requirements of local, state, and national codes concerning fire and life safety that are applicable to hospitals. (5-8-09)

03. Electrical Safety. (5-8-09)

a. A preventative maintenance program must ensure an electrically safe environment within the FSED. Written policies and procedures must be established and implemented to ensure compliance with NFPA 99 Health Care Facilities, 2005 Edition. (5-8-09)

b. Specific restrictions on the use of extension cords and adapters are: extension cords must be used in emergency situations only, be of the grounded type, and have wire gauge compatible to the piece of equipment being used; and (5-8-09)

c. Prohibition of the use of personal electrical equipment by patients and employees. Specific items may be allowed if the hospital adopts formal policies for defining and inspecting them. (5-8-09)

04. Smoking. Because smoking has been acknowledged to be a fire hazard, a continuous effort must be made to reduce its presence in all health care facilities. Written policy governing smoking must be conspicuously

posted and made known to all freestanding emergency department personnel, patients, and the public. The policy must include provisions for compliance with Title 39, Chapter 55, Idaho Code "Clean Indoor Air" and Section 18.7 of NFPA 101, 2006 Edition. (5-8-09)

05. Emergency Plans for Protection and Evacuation of Patients. (5-8-09)

a. The FSED must develop a prearranged written plan for employee response for protection of patients and for orderly evacuation and relocation of occupants in case of an emergency in accordance with Section 18.7 of the Life Safety Code, 2006 Edition. (5-8-09)

b. Fire drills must be planned by key personnel and conducted on an unannounced basis. Fire drills must be held as required by Section 18.7 of the Life Safety Code, 2006 Edition. (5-8-09)

06. Report of Fire. A separate report on each fire incident occurring within the FSED must be submitted to the Department within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report" is provided by the Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. (5-8-09)

09. Maintenance of Equipment. The FSED must establish routine test, check, and maintenance procedures for alarm systems, extinguishment systems, and all essential electrical systems. Frequency of testing, checks, and maintenance must be in accordance with applicable National Fire Protection Association Standards referenced in Chapter 2 of the 2006 "Life Safety Code" or as adopted by the Idaho State Fire Marshal. (5-8-09)

10. Disaster Plans. (5-8-09)

a. The FSED must have written plans for the care of casualties from both external and internal disasters. (5-8-09)

b. The plans must be developed with the assistance of the local emergency planning committee and all appropriate community resources. (5-8-09)

c. The plan must be reviewed and revised at least annually. (5-8-09)

d. The plan must be a part of the overall community emergency response plan. (5-8-09)

e. As part of the disaster and mass casualty program, a plan for the emergency supply of water must be available. This plan must include at least written contracts with any outside firms, a listing of procedures to be followed, the amounts of water needed by different departments, the means of dispensing water within the facility, and procedures for sanitizing in the case of contamination. Plans utilizing existing piping are recommended. (5-8-09)

11. External Disaster Plan. (5-8-09)

a. The hospital and FSED must conduct a hazard vulnerability analysis and develop a plan for external disasters for the geographic area served and within the capability of each physical location. (5-8-09)

b. The plan must consider the performance of structural and critical non-structural building systems and the likelihood of loss of externally supplied power, gas, water, sanitary sewer, and communications under local or regional disaster situations. (5-8-09)

c. The plan must contain the following elements: (5-8-09)

i. Storage or a functional contingency plan to obtain; food, sterile supplies, pharmacy supplies, linen, and water for sanitation, sufficient for four (4) days; (5-8-09)

ii. A procedure for notifying and assigning personnel; (5-8-09)

iii. Unified medical command; (5-8-09)

iv. Space and procedure for decontamination and triage; (5-8-09)

v. Procedure for casualty transfer to an appropriate facility; (5-8-09)

vi. Agreement with other agencies for communications. (5-8-09)

d. The External Disaster Plan for the FSED may be an annex or appendix to the Hospital Plan, copies of which must be maintained onsite at the FSED. (5-8-09)

12. Internal Disaster Plans. (5-8-09)

a. The hospital and FSED must conduct a hazard vulnerability analysis and develop a plan for internal disasters for the building and personnel assigned to function in each physical location. The plan must consider the performance of the facility in dealing with an internal emergency such as the loss of building systems, supplied power, gas, vacuum, domestic water, blocked sanitary sewer, and loss of building communications. The plan must contain the following elements: (5-8-09)

i. Those listed in Subsections 378.11. a. through 378.11.d., of these rules; (5-8-09)

ii. Back up communications; (5-8-09)

iii. Building security and lockdown; (5-8-09)

iv. Internal traffic and crowd control; (5-8-09)

v. Loss of, or isolation of, other related departments; and (5-8-09)

vi. Evacuation or relocation security. (5-8-09)

b. Drills. The plans must be exercised annually at the FSED. (5-8-09)

c. The Internal Disaster Plan for the FSED may be an annex or appendix to the Hospital Plan, copies of which must be maintained on site at the freestanding emergency department. (5-8-09)

13. Preventative Maintenance. The FSED must be equipped and maintained to protect the health and safety of the patient, personnel, and visitors. The FSED must have a written preventive maintenance program to include at least the following elements: (5-8-09)

a. Designation of person responsible for maintaining the facility; (5-8-09)

b. Written preventive maintenance procedures and appropriate inspection intervals in accordance with NFPA 99 and additional mandatory references listed in NFPA 101, 2006 Edition must be made for at least the following: (5-8-09)

i. Heating systems; (5-8-09)

ii. Air conditioning and mechanical systems; (5-8-09)

iii. Electrical systems; (5-8-09)

iv. Vacuum systems and gas systems; (5-8-09)

v. All air filters in heating, air conditioning and ventilating systems; and (5-8-09)

vi. Equipment related directly and indirectly to patient care, and any other equipment deemed essential under the emergency plan. (5-8-09)

c. Maintenance and testing of Essential Electrical System, Vacuum, and Gas Systems must be in accordance with National Fire Protection Association 99; Health Care Facilities, 2005 Edition. (5-8-09)

14. Safety. The FSED and hospital must have a safety committee and must be responsible for at least the following: (5-8-09)

a. There must be comprehensive written safety procedures for all areas of the FSED that must include the safe use of equipment and handling of patients; (5-8-09)

b. Safety orientation of new employees; and (5-8-09)

c. Establishment of an incident or accident system for all patients, personnel, and visitors, that includes: (5-8-09)

i. Reporting procedure; (5-8-09)

ii. Investigation of incidents or accident; (5-8-09)

iii. Documentation of investigation and disposition; and (5-8-09)

iv. Evaluation of incidents or accidents and implementation of mitigation efforts. (5-8-09)

379. (RESERVED)

380. SURGICAL SERVICE.
A hospital that provides surgical service shall have equipment, facilities and personnel according to the needs of the type of patients served. (10-14-88)

01. Location of Surgical Department. The surgical department shall be segregated from the remainder of the hospital so as to prevent traffic through the area to any other part of the hospital. (10-14-88)

02. Physical Facilities. The facilities of each surgical department shall have the following: (12-31-91)

a. Scrub sinks with goose neck spout and knee, elbow or foot action water control; and (10-14-88)

b. Operating rooms, that shall have floors, walls and ceilings with easily cleanable surfaces; and (10-14-88)

c. A housekeeping closet shall be provided for the sole use of the surgical department; and (10-14-88)

d. A utility room for the cleaning of contaminated equipment and supplies; and (10-14-88)

e. Separate space for the storage of sterile and non-sterile supplies. (10-14-88)

03. Policies and Procedures. Written policies and procedures concerning surgical service shall be approved by the medical staff, appropriate nursing staff and the administration. They shall include, but not be limited to, the following: (10-14-88)

a. Specific delineation of surgical privileges shall be made for each physician or practitioner performing surgery. Privileges for each physician shall be available to the operating room supervisor; and (10-14-88)

b. A policy and procedure for all persons admitted for surgery, and shall include the following: (10-14-88)

i. Verification of patient identity; and (10-14-88)

ii. Site and side of body to be operated upon; and (10-14-88)

c. Written procedures for infection control including aseptic techniques for patients and personnel during preoperative, operative and postoperative periods in the surgery suite; and (10-14-88)

d. When appropriate, a procedure for accountability of all instruments, sponges, needles used in surgery; and (10-14-88)

e. A procedure for the safe handling and transportation of patients. (10-14-88)

04. Records. Prior to surgery patient records shall contain the following: (10-14-88)

a. A properly executed informed consent; and (10-14-88)

b. Medical history and record of physical examination performed and recorded no more than seven (7) days before or within forty-eight (48) hours after admission; and (5-3-03)

c. Appropriate screening tests, based on patient needs, completed and recorded prior to surgery. (10-14-88)

d. Record requirements may be modified in emergency surgery cases to the extent necessary under the circumstances. (10-14-88)

05. Records Following Surgery. Patient records following surgery shall contain the following: (10-14-88)

a. Operative report of techniques and findings shall be recorded directly after surgery; and (10-14-88)

b. All tissues and foreign bodies shall be sent to a pathologist in accordance with Subsection 350.08; and (12-31-91)

c. Sponge and needle count, if appropriate. (10-14-88)

06. Operating Room Registry. Operating room registry shall contain the following: (10-14-88)

a. Name, age, sex, and hospital admitting number of patient; and (10-14-88)

b. Date and time of surgery; and (10-14-88)

c. Preoperative and postoperative diagnosis; and (10-14-88)

d. Names of surgeons, assistants, anesthetists, scrub and circulating assistants; and (10-14-88)

e. Surgical procedure performed; and (10-14-88)

f. Complications, if any, during surgery. (10-14-88)

07. Surgical Staff. The surgical staff of a hospital shall consist of the following personnel: (10-14-88)

a. A licensed registered nurse with experience in operating room techniques who acts as supervisor; and (10-14-88)

b. Sufficient numbers of personnel to assure there is a licensed registered nurse serving as circulating nurse for each separate operating room where surgery is being performed; and (10-14-88)

c. A surgical team of one (1) or more physicians and licensed registered nurses on call at all times; and (10-14-88)

d. A physician of the active medical staff shall provide overall direction for the surgical service. (10-14-88)

08. Staff Training and Education. There shall be evidence of continuing education and training for the staff. (10-14-88)

09. Surgical Service Supplies and Equipment. (10-14-88)

a. Parenterals, drugs, instruments, equipment and supplies necessary for the scope of services provided shall be readily available to the surgical suite; and (10-14-88)

b. Emergency IV fluids and medications as approved by the pharmacy and therapeutics committee shall be available; and (10-14-88)

c. There shall be a written procedure for the use, care, and maintenance of all supplies, instruments and equipment, and responsibility for such maintenances. (10-14-88)

381. -- 389. (RESERVED)

390. ANESTHESIA SERVICES.
These services shall be available when the hospital provides surgery or obstetrical services with C-section capacity and shall be integrated with other services of the hospital and shall include at least the following: (10-14-88)

01. Policies and Procedures. Policies and procedures shall be approved by the medical staff and the administration of the hospital. These written policies and procedures shall include at least the following: (10-14-88)

a. Designation of persons permitted to give anesthesia, types of anesthetics, preanesthesia, and post anesthesia responsibilities; and (10-14-88)

b. Preanesthesia physical evaluation of a patient by an anesthetist, with the recording of pertinent information prior to surgery together with the history and physical and preoperative diagnosis of a physician; and (10-14-88)

c. Review of patient condition immediately prior to induction; and (10-14-88)

d. Safety of the patient during anesthetic period; and (10-14-88)

e. Record of events during induction, maintenance, and emergence from anesthesia including: (10-14-88)

i. Amount and duration of agents; and (10-14-88)

ii. Drugs and IV fluids; and (10-14-88)

iii. Blood and blood products. (10-14-88)

f. Record of post-anesthetic visits and any complications shall be made within three (3) to forty-eight (48) hours following recovery; and (10-14-88)

g. There shall be a written infection control procedure including aseptic techniques, and disinfection or sterilizing methods. (10-14-88)

02. Anesthesia Service Staff. Anesthesia service shall be under the overall direction of a physician. The medical staff or appropriate committee shall approve all persons granted anesthesia privileges. (10-14-88)

a. All general anesthetics shall be given by a physician or certified nurse anesthetist; and (10-14-88)

b. Responsibility shall be assigned for the development of procedures concerning patient safety, including a record of equipment inspection and maintenance. The procedures shall be approved by the physician director of the anesthesia service. (10-14-88)

03. Anesthesia Equipment and Supplies. There shall be at least the following immediately available: (10-14-88)

a. Cardiac monitor; and (10-14-88)

b. Defibrillator; and (10-14-88)

c. Positive pressure breathing apparatus; and (10-14-88)

d. Crash cart or equivalent with appropriate cardiopulmonary resuscitation equipment. (10-14-88)

391. RESPIRATORY CARE SERVICES.
These services shall be under the supervision of a physician, organized and integrated with other services of the hospital. (10-14-88)

01. Policies and Procedures. Respiratory care policies and procedures shall include the following: (10-14-88)

a. Responsibility of the service to the medical staff; and (10-14-88)

b. Clear protocol as to who can perform specific procedures; and (10-14-88)

c. A written procedure for each type of therapeutic or diagnostic procedure; and (10-14-88)

d. A written procedure for the care of all equipment; and (10-14-88)

e. Written procedures for the cleaning, disinfection, or sterilizing of all equipment that is not disposable; and (12-31-91)

f. Written procedures for infection control; and (12-31-91)

g. A procedure for the control of all water used for respiratory therapy where applicable. (10-14-88)

02. Records. All treatments involving respiratory care shall be recorded in the patient record by the person rendering the service, and shall include the following: (10-14-88)

a. Type of therapy; and (10-14-88)

b. Date and time of treatments; and (10-14-88)

c. Practitioners order recapitulation; and (10-14-88)

d. Any adverse reactions to treatments; and (10-14-88)

e. Records of periodic physician evaluations. (10-14-88)

03. Staff. All treatments shall be given by a respiratory therapist, a respiratory therapy technician or a licensed nurse. If a hospital is unable to employ sufficient respiratory therapists, respiratory therapy technicians or licensed nurse personnel to meet its needs, that hospital may use other hospital personnel who have documented on-the-job training in respiratory therapy and who are certified as being able to perform safely the duties assigned within the respiratory care service by the person with overall direction of the respiratory care service under Section 391. Such certification shall be documented and updated annually. (12-31-91)

392. -- 399. (RESERVED)

400. MATERNITY AND NEWBORN SERVICE.
If a hospital offers maternity and newborn service, care shall be provided during pregnancy, labor, delivery, postpartum and neonatal periods with appropriate staff, space and equipment. (10-14-88)

01. Area Requirements. If the hospital offers maternity and newborn service, it shall be located in such a manner as to minimize traffic to and from other patient care areas. (10-14-88)

02. Delivery/Birthing Room Facilities. The delivery/birthing room shall be located in such a manner as to prevent traffic to and from other areas, and meet the following: (10-14-88)

a. At least one (1) delivery room shall be provided; and (10-14-88)

b. Scrub-up facilities shall be provided for the delivery room. Each sink shall have a soap dispenser, elbow, knee, or foot action water control, and gooseneck spout. Disposable brushes or brushes capable of withstanding sterilization shall be provided; and (10-14-88)

c. A separate space shall be provided for the cleanup of non-sterile and contaminated material; and (10-14-88)

d. Walls, ceilings and floors shall be of a waterproof, washable surface; and (10-14-88)

e. Space shall be available for the storage of sterile and non-sterile supplies; and (10-14-88)

f. A janitor's closet shall be provided within or adjacent to the delivery suite and be used only for the delivery suite; and (10-14-88)

g. There shall be provided a source of oxygen with a mechanism for controlling the concentration of oxygen and with a suitable device for administering oxygen to both infants and adults; and (10-14-88)

h. There shall be provided a safe and suitable type of suction device for both infants and adults; and (10-14-88)

i. A properly heated bassinet shall be provided; and (10-14-88)

j. Functional obstetrical equipment and supplies shall be provided to assure safe and aseptic treatment of mothers and infants; and (10-14-88)

k. There shall be immediately available all cardiopulmonary resuscitation equipment for both adults and infants; and (10-14-88)

l. The delivery and birthing rooms shall not be used for purposes other than obstetrical care, except in a disaster or life threatening emergency. (10-14-88)

03. Alternate Birthing Services. If the facility so desires, it may establish birthing services as an alternate to traditional delivery services that meet currently accepted professional practices and the following is provided: (10-14-88)

a. Patients requesting use of alternate birthing services shall meet pre-established criteria as developed and approved by the medical staff and be identified as low risk maternity patients prior to admission. (10-14-88)

b. Birthing facilities shall be as follows: (10-14-88)

i. The alternate birthing service shall be so located as to have ready accessibility to emergency services, including surgical and/or traditional delivery facilities; and (10-14-88)

ii. The birthing area shall be of sufficient size to adequately provide for staff, equipment, supplies, support personnel and emergency procedures during labor, delivery and the immediate postpartum period; and (10-14-88)

iii. There shall be immediately available oxygen, suction, linen, instruments, supplies, medications and equipment to meet the needs of both mother and infant. (10-14-88)

04. Rooming-In. Rooming-in care of newborn infants is permissible provided the following requirements are met: (10-14-88)

a. The room shall have a lavatory equipped with hot and cold running water, soap, soap dispenser, approved disposable towel, and waste receptacle; and (10-14-88)

b. Mother and infant shall have individual equipment and supplies; and (10-14-88)

c. Individual self-closing containers shall be provided for the infant's soiled linen. (10-14-88)

05. Nursery Facilities. The newborn nursery in each hospital shall meet the following requirements: (10-14-88)

a. An existing nursery shall provide a minimum of twelve (12) square feet per bassinet. A nursery established by new construction or a new hospital (see Subsection 002.26) shall provide a minimum of twenty-four (24) square feet per bassinet or as required under Section 600, whichever is more restrictive; and (12-31-91)

b. Bassinets shall be spaced at least twenty-four (24) inches apart; and (10-14-88)

c. Each bassinet shall be mounted on a single stand and be removable to facilitate cleaning; and (10-14-88)

d. Each bassinet shall be fully equipped to give individualized routine care to babies. A common bathing table or dressing table shall not be used; and (10-14-88)

e. Handwashing facilities shall be provided and equipped with soap, soap dispenser, disposable towel, and waste receptacle; and (10-14-88)

f. Each nursery shall have at least one (1) mechanical unit approved by Underwriters' Laboratories, Inc., capable of providing a temperature, humidity, and oxygen controlled environment; and (10-14-88)

g. Space and facilities for the care of premature infants shall be provided; and (10-14-88)

h. Scales and examining tables shall be provided and be protected to prevent cross infection; and (10-14-88)

i. Sufficient separation between well infants and infants that are suspected of harboring some infectious disease to avoid transmission of the disease causing organisms. (10-14-88)

06. Patient Accommodations. Maternity patient accommodations shall meet the following requirements: (10-14-88)

a. Postpartum nursing facilities shall meet the requirements of nursing units outlined in these rules; and (10-14-88)

b. Isolation capability shall be available at all times for an obstetrical or newborn patient showing any evidence of infection that requires isolation; and (10-14-88)

c. At least one (1) labor/birthing room shall be provided in the facility for examinations and preparation of patients for delivery unless alternative services are utilized as described in Subsection 400.03.

(12-31-91)

07. Practices and Procedures. Practices and Procedures for the nursery and delivery room shall be as follows: (10-14-88)

a. All health care personnel in the delivery/birthing room or alternative birthing area during a delivery shall observe appropriate sterile or aseptic techniques as the case requires, including established dress requirements; and (10-14-88)

b. All persons entering the newborn nursery shall dress in such a manner to protect the newborn from cross contamination; and (10-14-88)

c. A safe means of identifying both the infant and mother shall be employed before the infant is removed from the delivery room or alternate birthing area. This shall be of a type that cannot be removed during routine care of the infant; and (10-14-88)

d. Infants found to have an infectious condition (skin lesions, inflammation of the eye, diarrhea, or other evidence of infection or born of a mother with an identified infectious condition) shall be transferred promptly to an isolation area outside the general nursery. Those infants whose eyes have not received prophylactic treatment, due to the religious opposition of parents or for any other reason, shall be cared for during their stay in the hospital in accordance with Subsection 400.05.i. (12-31-91)

08. Obstetrical Records. All obstetrical records shall include, in addition to the requirements for medical records, the following: (10-14-88)

a. Report of antenatal blood serology, and RH factor determination; and (10-14-88)

b. Past obstetrical history of patient's previous pregnancies, prior to onset of labor whenever possible; and (10-14-88)

c. Obstetrical assessment report describing conditions of mother and fetus on admission; and (10-14-88)

d. If fetal monitoring is used, all fetal monitoring records; and (10-14-88)

e. Complete description of progress of labor including reasons for induction and operative procedures, if any, signed by the attending physician; and (10-14-88)

f. Records of anesthesia, analgesia, and medications given in the course of labor and delivery; and (10-14-88)

g. Signed report of obstetrical consultant when such service has been obtained; and (10-14-88)

h. Names of assistants present during delivery; and (10-14-88)

i. Progress notes including descriptions of involution of uterus, type of lochia, condition of breasts and nipples; and (10-14-88)

j. Report of condition of infant following delivery. (10-14-88)

09. Newborn Records. Records of newborn infants shall include, in addition to the requirements for medical records set forth in Section 2-1360, the following information: (10-14-88)

a. Date and hour of birth, birth weight and length, period of gestation, sex; and (10-14-88)

b. Parents' names and address; and (10-14-88)

c. Type of identification placed on infant in delivery room; and (10-14-88)

d. Description of complications of pregnancy or delivery including premature rupture of membranes, condition at birth including color, quality of cry, method and duration of resuscitation; and (10-14-88)

e. Record of instillation into each eye at delivery of prophylactic remedy; and (10-14-88)

f. Report of initial physical examination, including any abnormalities, signed by the attending physician; and (10-14-88)

g. Record of metabolic screening blood tests; and (10-14-88)

h. Progress notes including: temperature, weight and feeding charts; number, consistency, and color of stools; condition of eyes and umbilical cord; condition and color of skin; motor behavior; and condition upon discharge. (10-14-88)

10. Policies and Procedures. Written policies and procedures involving maternity and newborn service shall be reviewed and revised at least once yearly. They shall be approved by the medical staff, nursing department, and hospital administration. Policies shall govern personnel, patients, and visitors to be admitted to the obstetrical area. Policies and procedures shall include at least the following: (10-14-88)

a. A policy for infection control supported by specific procedures, including all appropriate aseptic techniques, housekeeping procedures and isolation procedures. These policies and procedures shall be approved by the infection control committee; and (10-14-88)

b. Policies and supporting procedures for transporting or admitting infants born outside the hospital and/or born outside the obstetrical unit. These procedures shall be approved by the infection control committee; and (10-14-88)

c. Written policies and supporting procedures shall govern nursing care of the patient during labor, delivery, and postpartum; and (10-14-88)

d. Written policies and supporting procedures shall govern nursing care of the newborn infant; and (10-14-88)

e. Written policies and supporting procedures to govern “rooming-in” services; and (10-14-88)

f. A procedure for identification of the infant upon delivery and discharge; and (10-14-88)

g. An admission policy indicating types of high risk mothers or infants admitted; and (10-14-88)

h. A policy and procedure for consultation with and/or transfer to a newborn intensive care unit for high risk infants; and (10-14-88)

i. A policy and supporting procedure for the care and maintenance of all movable and fixed equipment, including electrical and mechanical equipment; and (10-14-88)

j. Additional policies and procedures for the alternate birthing service that shall include at least the following: (10-14-88)

i. Definition of the low-risk maternity patient; and (10-14-88)

ii. Written screening process for evaluating maternity patients; and (10-14-88)

iii. Written criteria that, if met, would necessitate the transfer of a laboring mother to traditional labor and delivery setting. (10-14-88)

11. Staffing. The maternity and newborn service shall be staffed as follows: (10-14-88)

a. The service shall be under the supervision of a licensed registered nurse on a twenty-four (24) hour basis; and (10-14-88)

b. A licensed registered nurse shall be in attendance during labor and delivery. (10-14-88)

12. Capability. The hospital shall have the capability for operative delivery including cesarean section. (10-14-88)

13. Waiver of Capability. A hospital offering maternity and newborn services without C-section capability upon the effective date of these rules may apply in writing to the licensing agency for waiver of the requirement of Subsection 400.12. Waiver will not be granted without a showing by the hospital that: (12-31-91)

a. There is an existing hospital policy that requires its medical staff in advance of admission to inform their patients of the percentage of C-section deliveries in the United States, the likelihood that a C-section will be required in the instant case, the risks of delivery in a hospital without C-section capability and the location of the nearest hospital with C-section capability; and (10-14-88)

b. The hospital has adopted for use a form of informed consent to be signed by the patient in advance of admission. Such form shall make on its face a detailed showing that the items in Subsection 400.13.a. have been presented to the patient; and (12-31-91)

c. There is an existing hospital policy for emergency transport with a physician in attendance to a C-section capable hospital in the event of an unforeseen emergency; and (10-14-88)

d. The hospital has in place a medical record system to document the informed consent of each patient admitted to the maternity and newborn service. (10-14-88)

401. -- 409. (RESERVED)

410. CENTRAL SERVICE.
The hospital shall provide an area for the cleaning, disinfection, packaging, sterilization, storing and distribution of medical/surgical patient care supplies. (10-14-88)

01. Service Areas. The service shall be separated into the following areas: (10-14-88)

a. Receiving and cleaning of contaminated supplies; and (10-14-88)

b. Assembly area (packaging); and (10-14-88)

c. Sterilization area; and (10-14-88)

d. Sterile and nonsterile storage area. (10-14-88)

02. Equipment and Supplies. Autoclaves, sterilizers, and other equipment shall be available to meet the needs of the hospital. (10-14-88)

03. Policies and Procedures. Policies and procedures established for processing and reprocessing of all instruments and supplies shall be approved by the infection control committee and must include the following: (10-14-88)

a. Method of cleaning all equipment; and (10-14-88)

b. A listing of contents of package and material to be used for all items autoclaved or sterilized; and (10-14-88)

c. Procedure for operation of autoclaves and sterilizers; and (10-14-88)

d. Policy regarding shelf life of all types of packages; and (10-14-88)

e. Policy regarding expiration dates of packages; and (10-14-88)

f. Procedure for conducting daily check of thermometers, and recordings; and (10-14-88)

g. Determination of temperature, time, pressures, and humidity for autoclaves and sterilizers; and (10-14-88)

h. Procedure for recall and disposal or reprocessing; and (10-14-88)

i. Policy regarding maximum size and weight of packs; and (10-14-88)

j. Procedure for biological (spore) check of gas sterilizers, each load; and (10-14-88)

k. Procedure for biological (spore) check of autoclave at least monthly; and (10-14-88)

l. Policy establishing aeration periods for various kinds of materials that are gas sterilized; and (10-14-88)

m. Procedure for cleaning and disinfection of all items that are not sterilized; and (10-14-88)

n. Procedure for cleaning and sanitizing equipment and surfaces (housekeeping); and (10-14-88)

o. Policy establishing that all water issued for respiratory therapy shall be sterile; and (10-14-88)

p. Written infection control procedure; and (10-14-88)

q. Procedure for the control of water used for respiratory therapy if that service is not responsible. (10-14-88)

04. Inservice/Continuing Education. Documentation of all orientation and educational programs for each employee shall be present at the facility. (10-14-88)

411. -- 419. (RESERVED)

420. CRITICAL CARE UNITS.
If appropriate for the hospital, these units may be established for patients requiring extraordinary care. (10-14-88)

01. Policies and Procedures. If the hospital has critical care units then written policies and procedures shall be developed and implemented by the medical staff, appropriate nursing staff, and administration. The physician or committee responsible for the overall medical direction of the unit, shall also participate in the development of the written policies and procedures and approve them. Policies and procedures shall include at least the following: (10-14-88)

a. A policy statement regarding the responsibility of the units to the medical staff including the working relationship between the unit director and the patient's physician; and (10-14-88)

b. Admission criteria, priorities, discharge and transfer policies and procedures; and (10-14-88)

c. Staffing requirements including training and experience; and (10-14-88)

d. Emergency procedures; and (10-14-88)

e. Infection control procedure including isolation procedures; and (10-14-88)

f. Policies and procedures including standing orders for medical emergencies when a physician is not present. These shall include the procedure for the use of drugs and equipment, and specify who can do the procedure. (10-14-88)

02. Critical Care Staff. The staff of a hospital critical care unit shall be composed of the following: (10-14-88)

a. A physician shall have overall medical direction and responsibility for the unit. The physician, with concurrence from the medical staff and administration, shall provide direction for: (10-14-88)

i. Implementation of policies and procedures involving critical care service; and (10-14-88)

ii. Determination of qualifications of all other personnel serving the unit; and (10-14-88)

iii. Development of a system to assure physician coverage; and (10-14-88)

iv. Criteria for admission and discharge; and (10-14-88)

v. Assuring continuing education for medical and nursing staff. (10-14-88)

b. There shall be sufficient licensed registered nurses with training and experience in critical care on duty on a twenty-four (24) hour basis for nursing care and nursing management. (10-14-88)

c. Licensed registered nurses who work in the unit must have training or experience in that type of nursing care. (10-14-88)

d. If there is only one (1) patient in the critical care unit there shall be one (1) licensed registered nurse who shall be available to observe the patient. If there are two (2) or more patients in the unit, a licensed registered nurse shall be present in the unit at all times. (12-31-91)

03. Equipment and Supplies. There shall be sufficient equipment and supplies to meet the needs of the patients treated; and (10-14-88)

a. There shall be a call signal at each bed to a continuously staffed station; and (10-14-88)

b. There shall be an alarm system or other method of calling assistance for special teams. (10-14-88)

04. Area Requirements. Critical care unit requirements are as follows: (10-14-88)

a. There shall not be more than twelve (12) patient beds in each unit. (10-14-88)

b. Each bed area shall be one hundred thirty-two (132) square feet. (10-14-88)

c. There shall be a minimum of eight (8) feet between beds with at least four (4) feet at the foot and sides of the bed. (10-14-88)

05. Maintenance Program. There shall be a regularly scheduled preventive maintenance program with emphasis on electrical safety, and there shall be written evidence of such a program (refer to Subsection 510.03, Electrical Safety). (12-31-91)

421. -- 429. (RESERVED)

430. NUCLEAR MEDICINE SERVICES.
If appropriate for the hospital the use of internal radionuclides for diagnosis and treatment of patients may be established. (10-14-88)

01. Nuclear Medicine Staffing. If the hospital has nuclear medical service, medical care shall be under the overall direction of a qualified nuclear medicine physician. The physician shall provide direction for: (10-14-88)

a. Determination of qualifications of all other personnel in the service; and (10-14-88)

b. Organizational structure and personnel needed; and (10-14-88)

c. Establishing a procedure for assuring physician coverage; and (10-14-88)

d. Continuing education for all staff. (10-14-88)

02. Policies and Procedures. Written policies and procedures, approved by the physician director in consultation with other appropriate professionals and administration, shall be developed and implemented. Policies and procedures shall include but shall not be limited to: (10-14-88)

a. Policies and procedures for the preparation, use, storage, disposition, and labeling of all radioactive materials; and (10-14-88)

b. Quality control procedures to ensure proper identity, strength, and purity of all radiopharmaceutical agents; and (10-14-88)

c. Procedures for the testing, use, calibration, and preventive maintenance of all equipment; and (10-14-88)

d. A policy stating the responsibility of the nuclear medicine staff to the medical staff. (10-14-88)

03. Facilities. Nuclear medicine services shall be provided in an area that is appropriately equipped for the scope of services, and is safe for both patients and personnel. (10-14-88)

04. Radiation Control. The nuclear medicine service shall comply with Sections 39-3001 through 39-3019, Idaho Code. (10-14-88)

05. Records. Signed and dated requests, reports, and records of diagnostic and therapeutic procedures shall be incorporated into the patient's medical record, and copies shall be kept on file in the nuclear medicine department. Records shall contain at least the following: (10-14-88)

a. Patient identification; and (10-14-88)

b. Reason for diagnostic or treatment request; and (10-14-88)

c. A record of all radiopharmaceuticals that shall include: (10-14-88)

i. Date; and (10-14-88)

ii. Identity; and (10-14-88)

iii. Supplies and lot number; and (10-14-88)

iv. Amounts administered. (10-14-88)

d. All records of equipment or monitor testing, repair, and calibration. (10-14-88)

06. Nuclear Medicine Reviews. The medical staff or a committee of the staff shall review nuclear medicine services as needed, but not less than annually. (10-14-88)

431. -- 439. (RESERVED)

440. REHABILITATION SERVICES FOR HOSPITALS.
If this service is offered the ill or injured patient shall be rehabilitated to the highest level of self-sufficiency possible. (10-14-88)

01. Rehabilitation Service. If the hospital offers rehabilitation services, they shall be provided in accordance with orders of practitioners who are authorized by the medical staff to order the services and shall be given by qualified therapists and shall include at least the following services for inpatients and outpatients: (10-14-88)

a. Physical therapy; and (10-14-88)

b. Occupational therapy; and (10-14-88)

c. Speech pathology and audiology. (10-14-88)

02. Rehabilitation Service Staff. Rehabilitation service shall be under the overall medical direction of a physician with qualified therapists and qualified nursing staff. (10-14-88)

03. Facilities. The hospital shall provide adequate space, supplies, and equipment to provide for patient care and safety. (10-14-88)

04. Organization. Each service or program offered shall have a written organizational plan. (10-14-88)

05. Policies and Procedures. Policies and procedures shall be developed by the physician director, nursing service, administration, and other personnel representing each service offered. (10-14-88)

06. Services and Records. There shall be a written plan of treatment and record for each inpatient or outpatient that includes at least the following information relating to rehabilitation potential: (10-14-88)

a. Type, amount, frequency, and duration of treatments and response; and (10-14-88)

b. Contraindications; and (10-14-88)

c. Discharge planning; and (10-14-88)

d. Patient progress by all personnel involved in care. (10-14-88)

07. Other Requirements. In addition to special rehabilitation requirements, the hospital shall conform to all other applicable sections of these hospital rules. (10-14-88)

441. -- 449. (RESERVED)

450. SOCIAL SERVICES.
If the hospital offers this service, the patient and his family shall be assisted to understand and cope with social problems that affect health. (10-14-88)

01. Provision of Social Services. If the hospital provides these services, it can be provided by the following methods: (10-14-88)

a. An organized service within the hospital under the overall direction of a social worker; or (10-14-88)

b. A social worker employed part time; or (10-14-88)

c. Consultation from a social worker from an outside resource. (10-14-88)

02. Organization and Staffing. An organizational plan of services shall be developed by those

providing the service, medical staff, and administration. (10-14-88)

03. Policies and Procedures. Policies and procedures shall be developed to include the following: (10-14-88)

a. Services offered; and (10-14-88)

b. Identification of relationship with other hospital and community services; and (10-14-88)

c. Definition of other support personnel for patient care; and (10-14-88)

d. Procedure for discharge planning; and (10-14-88)

e. Procedure for referral and consultation. (10-14-88)

04. Records. Pertinent social data shall be incorporated into the patient's medical record. (10-14-88)

451. -- 459. (RESERVED)

460. OUTPATIENT SERVICE.
If the hospital has such service it shall meet the nonemergency health needs of patients who remain in the hospital less than twenty-four (24) hours. (10-14-88)

01. Staffing. When a hospital maintains a formally organized clinic service distinct from the emergency service, the outpatient service shall be under the overall medical direction of a physician whose authority and responsibilities are defined in writing and approved by the governing body. There shall be adequate personnel to meet the needs of the patients, and a licensed registered nurse shall be on duty at all times. All practitioners shall be members of the active medical staff. (10-14-88)

02. Outpatient Surgery. If outpatient surgery is performed, the requirements found in Section 380 shall be met. (12-31-91)

03. Policies and Procedures. There shall be written policies and procedures for at least the following: (10-14-88)

a. Services offered, including types of surgeries performed; and (10-14-88)

b. Procedure for evaluation, treatment and referral of patients; and (10-14-88)

c. Responsibility and accountability to other hospital services or departments, and to the medical staff and administration. (10-14-88)

04. Medical Record. A medical record shall be maintained for every patient utilizing out patient services. The record shall contain all applicable requirements of Section 360. (12-31-91)

461. -- 469. (RESERVED)

470. PSYCHIATRIC SERVICE.
If the hospital offers psychiatric service it must be organized, staffed and equipped to provide inpatient and outpatient treatment to the mentally ill. (7-1-19)

01. Staffing. If the hospital offers psychiatric service, it must be directed and evaluated by a psychiatrist and staffed by adequate numbers of qualified personnel to meet patient needs. (7-1-19)

a. A licensed registered nurse qualified by training or experience in psychiatric nursing must supervise the nursing care rendered in the psychiatric service. (7-1-19)

b. Psychiatric service staff must collaborate with medical, nursing, and other professional personnel in patient care planning, and provide consultation to staff of other services regarding the psychiatric problems of patients. (7-1-19)

02. Patient Treatment Plan. Patient's records must reflect that an individualized plan of treatment is developed for each patient that is specific and appropriate to individual problems and takes into consideration strengths as well as disabilities. The plan must designate the persons responsible for each component of care and must be reviewed, evaluated, and updated at regularly scheduled intervals by all professional personnel involved in the patient's care. (7-1-19)

03. Policies and Procedures. Policies and procedures governing the service must be developed by appropriate representatives of each discipline and in collaboration with other appropriate services. (7-1-19)

04. Examination to Assess Mental Status. All examinations to assess the patient's mental status must be recorded, signed and dated as soon as possible after admission and must include a description of the patient's physical and emotional state and intellectual functions. There must be an initial patient history and report of the patient's mental status within twenty-four (24) hours after admission that may be based on the results of prior examinations by the reporting physician. (7-1-19)

05. Records. Adequate and comprehensive records must be retained for assessment, evaluation and treatment purposes. Admitting and subsequent psychiatric diagnoses must be recorded in currently accepted terminology; and (7-1-19)

a. The patient's psychiatric history and social evaluation must provide information regarding the patient's background, the onset and development of the illness, including factors and precipitating circumstances that led to the patient's admission, and data useful for patient care and discharge planning; and (7-1-19)

b. A properly executed consent form must be obtained and incorporated into the record in any case of treatment approach that carries significant risks, and shows that the patient, his family, or other legally responsible person is informed of available alternative approaches; (7-1-19)

c. Documentation must show that the patient, his family, or other legally responsible person is informed of the treatment to be given; and (7-1-19)

d. Documentation must show that planning for continued care and treatment in the community are coordinated with the patient's family and others in his social environment. (7-1-19)

06. Special Medical Record Requirements for Psychiatric Hospitals or Services. In addition to meeting all the requirements contained in Section 360 of these rules, patient medical records maintained by a psychiatric hospital or service unit must clearly reflect the types and intensity of treatment provided to patients in the hospital. The records must contain the following: (7-1-19)

a. Information essential for identifying the patient's problems, for developing treatment objectives, and other information necessary for psychiatric evaluation and diagnosis; (7-1-19)

b. A record of the treatment received by the patient, including records of all treatment related to short-term and long-term goals, including discharge planning; (7-1-19)

c. The medical record must provide information regarding the management of the patient's condition and of changes in treatment and patient status. Progress notes must reflect that care provided in accordance with the treatment plan is recorded at least weekly for the first two (2) months after admission and at least monthly thereafter; and (7-1-19)

d. Every safeguard must be employed to preserve confidentiality of the patient-therapist relationship and to prevent revelation of information that would be harmful or embarrassing to the patient, his family, or others. (7-1-19)

07. Discharge Planning. Consideration for continued care and services in the community after discharge, placement alternatives, and utilization of community resources must be initiated on admission and carried out to ensure that each patient has a documented plan for continuing care that meets his individual needs. Provision must be made for exchange of appropriate information with outside resources. (7-1-19)

08. Physician Services. A board certified or board eligible psychiatrist must provide the overall direction of the service including monitoring and evaluating the quality and appropriateness of psychiatric services rendered. Physicians must be available at all times to provide medical and surgical diagnosis and treatment services. (7-1-19)

09. Nursing Service. The nursing service must be under the overall direction of a psychiatric nurse qualified by training or experience in psychiatric nursing, who monitors and evaluates nursing care provided. (7-1-19)

a. A licensed registered nurse must be on duty twenty-four (24) hours a day, seven (7) days a week to provide direct patient care, and to assign and supervise nursing care activities performed by other nursing personnel. (7-1-19)

b. There must be adequate numbers of qualified licensed registered nurses, licensed practical (vocational) nurses, psychiatric technicians, and other supportive nursing personnel to carry out the nursing aspects of the individual treatment plan for each patient and capable of maintaining progress notes on all patients. (7-1-19)

10. Psychological Services. The director of the psychological services must be a clinical psychologist who continually monitors and evaluates the quality and appropriateness of psychological services rendered (in accordance with standards of practice, service objectives, and established policies and procedures). (7-1-19)

11. Social Services. The director of social services must be a social worker who monitors and evaluates the quality and appropriateness of social services (in accordance with service objectives, standards of practice, and established policies and procedures). (7-1-19)

12. Therapeutic Activities. The hospital must provide a therapeutic activities program appropriate to meet the needs and interests of patients that is directed toward rehabilitation to and maintenance of optimal levels of physical and psychosocial functioning, and toward attaining a life style appropriate for each patient. (7-1-19)

a. If occupational therapy services are offered, they must be under the supervision of an occupational therapist. (7-1-19)

b. Adequate numbers of qualified therapists, supportive personnel, and consultants must be available to provide comprehensive therapeutic activities in conjunction with each patient's treatment plan. (7-1-19)

c. Therapeutic recreational activities must be under the supervision of a designated member of the staff who has demonstrated competence in therapeutic recreational activities programs. (7-1-19)

d. The supportive staff of the occupational therapy and therapeutic recreational activities services must be provided formal orientation and inservice training to enable them to carry out assigned functions. (7-1-19)

e. If volunteers are utilized in the therapeutic activities program, they must be provided appropriate orientation, training, and supervision by qualified professional staff. (7-1-19)

13. Physical Therapy Service. If physical therapy services are offered, the director of the service must be a physical therapist who monitors the quality and appropriateness of services rendered. (7-1-19)

14. Psychiatric Unit Space. After the effective date of these rules, any psychiatric unit not free standing must be separated and able to be secured form the general hospital with which it is associated. Each psychiatric service unit, free standing or not, must include the following: (7-1-19)

a. Consultation room or rooms; (7-1-19)

b. Facilities for examination and a treatment room for medical procedures; (7-1-19)

c. At least one (1) observation room for acutely disturbed patients, with facilities for visual observation; (7-1-19)

d. Facilities for dining; and (10-14-88)

e. Indoor and outdoor facilities for therapeutic activities. (10-14-88)

15. Construction of Psychiatric Hospitals. New construction, alterations, or modifications must not be made until plans and specifications have been approved by the licensing agency. (7-1-19)

471. -- 499. (RESERVED)

500. PHYSICAL ENVIRONMENT AND SANITATION.
The provisions contained in Sections 510 through 550 specify physical environment and sanitation standards for hospitals. (12-31-91)

501. -- 509. (RESERVED)

510. FIRE AND LIFE SAFETY STANDARDS.
Buildings on the premises used as a hospital shall meet all the requirements of local, state, and national codes concerning fire and life safety that are applicable to hospitals. (10-14-88)

01. General Requirements. General requirements for the fire and life safety standards for a hospital are that: (10-14-88)

a. The hospital shall be structurally sound and shall be maintained and equipped to assure the safety of patients, employees, and the public. (10-14-88)

b. On the premises of all hospitals where natural or man-made hazards are present, suitable fences, guards, and railings shall be provided to protect patients, employees, and the public. (10-14-88)

02. Life Safety Code Requirements. The hospital shall meet such provisions of the "Life Safety Code," 1985 Edition, of the National Fire Protection Association as are applicable to Health Care Occupancies that is incorporated by reference. (10-14-88)

a. Any hospital in compliance with either the 1967 Edition of the "Life Safety Code" or the 1981 Edition of the "Life Safety Code" prior to the effective date of these rules is considered to be in compliance with this section so long as the hospital continues to remain in compliance with that Edition of the "Life Safety Code." Life Safety Codes are available in the licensing agency of the Department. (10-14-88)

b. Remodelings, additions, and/or upgrading of building systems in existing hospitals shall meet the minimum standards set forth in the 1985 Edition of the "Life Safety Code" for new construction. (10-14-88)

c. In the event of a conflict between the applicable edition of the Life Safety Code and applicable state or local building, fire, electrical, plumbing, zoning, heating, sanitation or other applicable codes, the most restrictive shall govern. (10-14-88)

03. Electrical Safety. A continued effort shall be made to provide an electrically safe environment within the hospital. Written policies and procedures shall be established for, but not limited to, the following: (10-14-88)

a. Methods and frequency of testing, verification of performance, and use specifications for all hospital electrical patient care equipment. All new equipment shall be tested prior to use and in no case shall the retesting interval exceed one (1) year; and (10-14-88)

b. Periodic evaluation of the electrical distribution system and all nonpatient care equipment. Inspection and testing of nonclinical equipment shall be performed at regular intervals to be determined by the chief maintenance engineer; and (10-14-88)

c. Specific restrictions on the use of extension cords and adapters. Extension cords shall be used in emergency situations only, be of the grounded type and have wire gauge compatible to the piece of equipment being used; and (10-14-88)

d. Prohibition of the use of personal electrical equipment by patients and employees. Specific items may be allowed if the hospital adopts formal policies for defining and inspecting them. (10-14-88)

04. Smoking. Because smoking has been acknowledged to be a fire hazard, a continuous effort shall be made to reduce its presence in the hospital. Written regulations governing smoking shall be conspicuously posted and made known to all hospital personnel, patients, and the public. These regulations shall include provisions for compliance with the "Idaho Clean Indoor Air Act" and at least the following provisions: (10-14-88)

a. Smoking shall be prohibited in any area of the hospital where flammable liquids, gases or oxygen is in use or stored. These areas shall be posted with appropriate signage; and (10-14-88)

b. Patients shall not be permitted to smoke in bed unless a responsible person is in attendance; and (10-14-88)

c. Unsupervised smoking by patients classified as not mentally or physically responsible shall be prohibited. This shall also include patients so affected by medications; and (10-14-88)

d. Smoking shall be prohibited in areas where combustible materials and supplies are stored; and (10-14-88)

e. Designated areas shall be provided for employee and visitor smoking. This requirement need not be complied with in any hospital that has established, by policy, that smoking is prohibited within the hospital. (10-14-88)

05. Emergency Plans for Protection and Evacuation of Patients. The hospital shall develop a prearranged written plan for employee response for protection of patients and for orderly evacuation of residents in case of an emergency. (10-14-88)

a. A diagram of the building noting the locations of exits, extinguishers, and fire alarm pull stations along with written emergency instructions shall be available within each department of the hospital. (10-14-88)

b. Emergency plans shall be thoroughly tested and used as necessary to assure rapid and efficient function. (10-14-88)

c. Fire drills shall be planned by key personnel and conducted on an unannounced basis. Fire drills shall be held as required by the "Life Safety Code." (10-14-88)

06. Report of Fire. A separate report on each fire incident occurring within the hospital shall be submitted to the Department within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," shall be issued by the Department to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. (10-14-88)

07. Maintenance of Equipment. The hospital shall establish routine test, check, and maintenance procedures for alarm systems, extinguishment systems, and all essential electrical systems. Frequency of testing, checks, and maintenance shall be in accordance with applicable National Fire Protection Association Standards referenced in Appendix B of the 1985 "Life Safety Code" or as adopted by the Idaho State Fire Marshal. (10-14-88)

511. -- 519. (RESERVED)

520. DISASTER PLANS.
The hospital shall have written plans for the care of casualties from both external and internal disasters. The plans shall be developed with the assistance of all appropriate community resources. The plan shall be reviewed and/or revised at least annually. (10-14-88)

01. External Disaster Plan. The hospital shall develop a plan for external disasters for the area served and within the capability of the facility. The plan shall contain the following elements: (10-14-88)

a. Availability of basic utilities, including food, water, and essential medical supplies; and (10-14-88)

b. A procedure for notifying and assigning personnel; and (10-14-88)

c. Unified medical command; and (10-14-88)

d. Space and procedure for triage; and (10-14-88)

e. Procedure for casualty transfer to appropriate facility; and (10-14-88)

f. Agreement with other agencies for communications; and (10-14-88)

02. Drills. The plan shall be rehearsed annually. (10-14-88)

521. -- 529. (RESERVED)

530. MAINTENANCE AND SAFETY.
The hospital shall be equipped and maintained to protect the health and safety of the patient, personnel, and visitors. (10-14-88)

01. Maintenance. The hospital shall have a written preventive maintenance program to include at least the following elements: (10-14-88)

a. Designation of person responsible for maintaining the hospital; and (10-14-88)

b. Written preventive maintenance procedure and appropriate inspection interval shall be made for at least the following: (10-14-88)

i. Heating systems; and (10-14-88)

ii. Air conditioning/mechanical systems; and (10-14-88)

iii. Electrical systems; and (10-14-88)

iv. Vacuum systems and gas systems; and (10-14-88)

v. All air filters in heating, air conditioning and ventilating systems; and (10-14-88)

vi. Equipment related directly and indirectly to patient care, and any other equipment. (10-14-88)

02. Safety. The hospital shall have a safety committee and shall be responsible for at least the following: (10-14-88)

a. There shall be comprehensive written safety procedures for all areas of the hospital that shall include the safe use of equipment and handling of patients; and (10-14-88)

b. Safety orientation of new employees; and (10-14-88)

c. Establishment of an incident/accident system for all patients, personnel and visitors, to include:

(10-14-88)

i. Reporting procedure; and (10-14-88)

ii. Investigation of incidents; and (10-14-88)

iii. Documentation of investigation and disposition. (10-14-88)

531. GENERAL PATIENT ACCOMMODATIONS.
Hospitals licensed prior to the effective date of these rules shall provide for the comfort and safety of all patients as follows: (10-14-88)

01. General Requirements. The hospital shall comply with the following minimums: (10-14-88)

a. Minimum floor area exclusive of toilet rooms, closets, lockers, wardrobes, alcoves, and/or vestibules shall be one hundred (100) square feet in single-bed rooms and eighty (80) square feet per bed in multi-bed rooms. (10-14-88)

b. A minimum distance of three (3) feet shall be provided between beds in multi-bed rooms. (10-14-88)

c. Adequate storage space shall be provided for clothing, toilet articles, and other personal belongings of each patient. (10-14-88)

d. Cubicle curtains or drapes shall be provided in multi-bed rooms for patient privacy. (10-14-88)

e. A staff calling system shall be provided at each patient bed and in each patient toilet, bath, and/or tub room. All calls shall register at the staff station and must activate a visual signal in the corridor at the patient room door. (10-14-88)

f. Tubs (or showers), toilets, and lavatories shall be provided at the rate of one (1) each for every ten (10) licensed beds. (10-14-88)

532. -- 539. (RESERVED)

540. INFECTION CONTROL.
The hospital shall develop a plan for the prevention and control of infection with special emphasis on hospital acquired infection. (10-14-88)

01. Infection Control Committee. The hospital shall establish an infection control committee composed of representatives of the medical staff, administration, nursing service, pharmacy services and laboratory. Other appropriate department heads shall be members as needed. (10-14-88)

02. Infection Control Program. The program shall include at least the following elements: (10-14-88)

a. Definition of nosocomial infection, as opposed to community acquired infections; and (10-14-88)

b. A procedure for hospital surveillance of and for nosocomial infections; and (10-14-88)

c. A procedure for reporting and evaluating nosocomial infections. The procedure must enable the hospital to establish the following on at least a quarterly basis: (10-14-88)

i. Level or rate of nosocomial infections; and (10-14-88)

ii. Site of infection; and (10-14-88)

iii. Microorganism involved. (10-14-88)

03. Infection Control and Prevention Procedures. There shall be a written infection control procedure that shall include aseptic techniques, cleaning, sanitizing, and disinfection of all instruments, equipment and surfaces, for all departments and services of the hospital where patient care is rendered. (10-14-88)

04. Infection Control Committee Responsibilities. The infection control committee shall be responsible for at least the following: (10-14-88)

a. Designate one (1) person to act as the surveillance officer; and (10-14-88)

b. Evaluating antibiotic susceptibility/resistance trends; and (10-14-88)

c. Review of all infection control procedures for all departments, including housekeeping and laundry procedures, at least annually; and (10-14-88)

d. Development of procedures for defining and controlling hazardous and infectious wastes; and (10-14-88)

e. Continuing education for all appropriate personnel. (10-14-88)

541. -- 549. (RESERVED)

550. ENVIRONMENTAL SANITATION.
The hospital shall be responsible for the prevention of disease and the maintenance of sanitary conditions. (10-14-88)

01. Water Supply. The water supply of a hospital shall meet the following requirements: (10-14-88)

a. An approved public or municipal water supply shall be used whenever available; and (10-14-88)

b. In areas where an approved public or municipal water supply is not available, a private water supply shall be provided, and it shall meet the standards approved by the Department; and (10-14-88)

c. Public or private water supplies shall meet the Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; and (12-31-91)

d. If water is from a private supply, water samples shall be submitted to an approved laboratory for bacteriological examination at least quarterly. Copies of the laboratory reports shall be kept on file in the facility; and (10-14-88)

e. There shall be a sufficient amount of water under adequate pressure to meet the sanitary requirements of the facility at all times. (10-14-88)

02. Sewage Disposal. All sewage and liquid wastes shall be discharged into a municipal sewerage system where such a system is available. Where a municipal sewerage system is not available, sewage and liquid wastes shall be collected, treated, and disposed of in a manner approved by the Department. (10-14-88)

03. Garbage and Refuse Disposal. All garbage from the hospital shall be disposed of as follows: (10-14-88)

a. All garbage and refuse shall be collected, stored, and disposed of in a manner that shall not permit the transmission of communicable disease, create a nuisance or fire hazard, or provide a breeding place for insects or rodents; and (10-14-88)

b. When municipal garbage collection and disposal services are not available, garbage shall be disposed of by garbage grinders, incineration, burial sanitary fill, or other methods approved by the Department. (10-14-88)

04. Garbage Containers. Hospital garbage containers shall meet the following requirements: (10-14-88)

a. All containers used for storage of garbage and refuse shall be constructed of durable nonabsorbent material and shall not leak or absorb liquids. Containers shall be provided with tight-fitting lids unless stored in vermin-proof rooms or enclosures; and (10-14-88)

b. Garbage containers outside the facility shall be stored at least twelve (12) inches above the ground, if not stored in a dumpster. (10-14-88)

c. Garbage containers shall be maintained in a sanitary manner. (10-14-88)

05. Insect and Rodent Control. Every hospital shall have a pest control program in effect at all times. (10-14-88)

a. This program shall effectively prevent insects, rodents and other pests from entrance to, or infestation of, the facility. (10-14-88)

b. Chemicals (pesticides) used in the control program shall be selected, used, and stored, in the following manner: (10-14-88)

i. The chemical shall be selected on the basis of the pest involved and used only in the manner described by the manufacturer, who shall be registered with the Idaho Department of Agriculture; and (10-14-88)

ii. All toxic chemicals shall be properly labeled and stored under lock and key; and (10-14-88)

iii. No toxic chemicals shall be stored in patient areas, with drugs, or in any area where food is stored, prepared, or served; and (10-14-88)

iv. The storage and use of pesticides shall be in accordance with local, state, or federal directives. (10-14-88)

06. Storage, Transportation, Treatment and Disposal of Infectious Waste. (1-13-90)

a. For purposes of this section, the following definitions shall apply: (1-13-90)

i. Storage shall mean the containment of infectious waste in such a manner as not to constitute treatment of such waste. (1-13-90)

ii. Transport shall mean the movement of infectious waste from the point of generation to any intermediate point and finally to the point of treatment and such waste must be transported by haulers knowledgeable in handling of infectious waste. (1-13-90)

iii. Treatment shall mean any method, technique or process used to change the character or composition of any infectious waste so as to render such waste noninfectious. Effective treatment may include, but is not limited to, one (1) of the following methods: (1-13-90)

(1) Incineration in an incineration facility approved and permitted in accordance with the current requirements of the Idaho Air Quality Bureau. Incinerators shall be capable of providing proper temperatures and residence time to ensure destruction of all pathogenic organisms. (1-13-90)

(2) Sterilization by heating in a steam sterilizer utilizing saturated steam within a pressure vessel (known as a steam sterilizer, autoclave or retort) at time lengths and temperatures sufficient to kill infectious agents within the waste. Operating procedures shall include, but are not limited to, standards for temperature settings, residence times, recording or operational procedures and results, and periodic testing by treatment indicators. (1-13-90)

(3) Discharge of liquid or semi-solid waste into a sanitary sewer that provides secondary treatment of waste. (1-13-90)

(4) One (1) of several less commonly used methods such as chemical disinfection, thermal inactivation, gas/vapor sterilization or irradiation. Efficacy of the method shall be demonstrated by the development of a biological testing program, e.g., spore strips. Monitoring shall be conducted on a periodic basis using appropriate indicators. (1-13-90)

iv. Disposal shall mean the final placement of treated waste in a properly permitted landfill. (1-13-90)

b. Storage and transport of infectious waste. The following shall apply: (1-13-90)

i. Containment of infectious waste shall be in a manner and location that affords protection from animals, rain and wind; does not provide a breeding place or a food source for insects and rodents; and minimizes exposure to the waste by the public. Enclosures used for containment of infectious waste shall be secured so as to deny access by unauthorized persons and shall be marked with prominent warning signs. (1-13-90)

ii. Infectious waste, except for sharps, shall be contained in disposable containers/bags that are impervious to moisture and have a strength sufficient to preclude ripping, tearing or busting under normal conditions of use. The bags shall be securely tied so as to prevent leakage or expulsion of solid or liquid waste during storage, handling or transport. The containment system shall have a tight-fitting cover and be kept clean and in good repair. (1-13-90)

iii. Sharps shall be disposed of in impervious, rigid, puncture-resistant containers immediately after use. Needles shall not be bent, clipped or broken by hand. (1-13-90)

iv. All bags used for containment of infectious waste shall be clearly identified by label or color, or both. Rigid containers of discarded sharps shall be labeled in the same way or placed in the disposable bags used for other infectious waste. (1-13-90)

v. Reusable containers for infectious waste shall be thoroughly washed and decontaminated each time they are emptied by an approved method for decontamination as described in Subsection 550.06.b.v.(1), unless the surfaces of the containers have been protected from contamination by disposable liners, bags or other devices removed with the waste except for that waste outlined in Subsection 550.06.b.ii. (12-31-91)

(1) Approved methods of decontamination include, but are not limited to, agitation to remove visible soil combined with exposure to hot water of at least one hundred eighty (180) degrees Fahrenheit for a minimum of fifteen (15) seconds; or exposure to a chemical sanitizer by rinsing with or immersion in one (1) of the following for a minimum of three (3) minutes: hypochlorite solution (five hundred (500) ppm available chlorine), phenolic solution (five hundred (500) ppm active agent), iodophor solution (one hundred (100) ppm available iodine), or quaternary ammonium solution (four hundred (400) ppm active agent). (12-31-91)

(2) Reusable pails, drums, dumpsters or bins used for containment of infectious waste shall not be used for containment of waste to be disposed of as noninfectious waste or for other purposes except after being decontaminated by procedures as described in Subsection 550.06. (12-31-91)

vi. Trash chutes shall not be used to transfer infectious waste between locations where the waste is contained. (1-13-90)

vii. Storage of infectious waste shall not exceed seven (7) days unless stored at a temperature below thirty-two (32) degrees Fahrenheit, but no longer than ninety (90) days. (12-31-91)

c. Treatment and disposal of infectious waste. Except as otherwise provided in these rules, infectious waste shall be treated prior to disposal using a process defined in Subsection 550.06. (12-31-91)

d. Alternate Methods. Where on-site treatment of infectious waste is demonstrated to be economically or technically unfeasible, by petition to the licensing agency, alternate methods of on-site or off-site treatment or

disposal may be used with the approval of the licensing agency. (1-13-90)

07. Plumbing. The hospital plumbing system shall be free from cross-connections and interconnections between a safe water supply and one that is subject to contamination. (10-14-88)

08. Heating and Ventilation. The heating and ventilation system in a hospital shall meet the following: (10-14-88)

a. The systems shall be so designed and maintained as to provide sufficient capacity for the demands of the hospital; and (10-14-88)

b. Patient's rooms shall be so ventilated by natural or mechanical means to assure a fresh air supply. (10-14-88)

09. Housekeeping. Each hospital shall establish an organized housekeeping service with sufficient personnel to maintain and provide a pleasant, safe, and sanitary environment. (10-14-88)

a. The service shall be under the supervision of a person competent in environmental sanitation and management; and (10-14-88)

b. There shall be specific written procedures for appropriate cleaning of all service areas in the hospital, giving special emphasis to procedures applying to infection control; and (10-14-88)

c. All mop heads shall be removable and changed daily; and (10-14-88)

d. Suitable equipment and supplies shall be provided for cleaning of all surfaces. Such equipment shall be maintained in a safe, sanitary condition; and (10-14-88)

e. Selection of germicides shall be under the supervision of the infection committee; and (10-14-88)

f. Solutions, cleaning compounds, and hazardous substances shall be labeled properly and stored in safe places; and (10-14-88)

g. Dry dusting and sweeping are prohibited; and (10-14-88)

h. Surgeries, nurseries, delivery rooms, dietary, and laundry shall have separate housekeeping equipment; and (10-14-88)

i. There shall be evidence of orientation training for all new employees and continuing education for all employees. (10-14-88)

10. Laundry. Where laundry facilities are provided within the hospital, the following shall apply: (10-14-88)

a. There shall be space provided for the processing of laundry. Isolation linens shall be processed separately. All linens and garments used for newborn infants shall be processed separately from other hospital laundry; and (10-14-88)

b. Space separate from the laundry processing area shall be provided for the storing and mending of clean linen; and (10-14-88)

c. Handwashing facilities with hot and cold running water, soap, soap dispenser, disposable towels, and waste receptacles shall be provided for laundry personnel; and (10-14-88)

d. Carts, bags, hampers, or other devices for the transporting and handling of soiled laundry shall not be used to distribute clean linen; and (10-14-88)

e. All soiled laundry or clean linens shall be covered during transportation throughout the hospital; and (10-14-88)

f. Isolation linen shall be bagged and identified separately; and (10-14-88)

g. Provisions shall be made for mechanical ventilation in the laundry area. Special care shall be taken to prevent the recirculation of air from these areas through the heating and/or air conditioning system of the hospital; and (10-14-88)

h. Soiled linen carts shall be constructed of impervious material and cleaned after each use; and (10-14-88)

i. There shall be evidence of continuing education related to infection control. (10-14-88)

551. -- 599. (RESERVED)

600. NEW CONSTRUCTION AND NEW HOSPITAL STANDARDS.
The standards set forth in this section together with the standards set out in the Section 510 (entitled Fire and Life Safety Standards), shall apply to all new construction or new hospitals begun after the effective date of these rules (see Subsection 002.26). These standards are intended to specify the minimum essential facilities that shall be included in a hospital. (12-31-91)

01. Additions, Conversions, Remodelings, Etc. Additions to existing hospitals, conversions of existing buildings or portions thereof for use as a hospital, and portions of a hospital undergoing remodeling, alteration, addition or upgrading of a hospital or hospital building system that affects the structural integrity of the building, that changes functional operation, that affects fire safety or that adds beds, departments or services over those for which the hospital is currently licensed (herein simply "remodeling or remodels") shall be required to meet these standards. (10-14-88)

02. General Requirements of Constructions. General requirements for construction of a hospital are that: (10-14-88)

a. All new construction or new hospitals (see Subsection 002.26) shall comply with any and all state and local building, fire, electrical, plumbing, zoning, heating, or other applicable codes adopted by the jurisdiction in which the hospital is located and that are in effect when construction is begun. Where a conflict in code requirements occurs, the most restrictive shall govern. (12-31-91)

b. Minimum construction standards shall be in accordance with the DHHS Publication No. (HRS-M-HF)84-1, "Construction and Equipment of Hospitals and Medical Facilities" as are applicable to a hospital and is incorporated herein by reference, available in the licensing agency of the Department. (10-14-88)

03. Plans, Specifications, and Inspections. Plans, specifications, and inspections of any new facility construction or any addition, conversion, or remodeling of an existing structure shall be governed by the following: (10-14-88)

a. Plans for new construction, additions, conversions, and/or remodels shall be prepared by or executed under the supervision of an architect or engineer licensed in the state of Idaho. This requirement can be waived by the Department in connection with minor alterations provided the alterations comply with all construction requirements. (10-14-88)

b. Prior to commencing work pertaining to construction of a new building, any addition or structural changes to existing facilities, or conversion of existing buildings to be used as a hospital, plans and specifications shall be submitted to, and approved by, the Department. (10-14-88)

c. Preliminary plans shall be submitted and shall include at least the following: (10-14-88)

i. The assignment of all spaces, size of areas and rooms, and indicate in out line the fixed equipment;

and (10-14-88)

ii. Drawings of each floor including, but not limited to, the basement, approach or site plan, roads, parking areas, and sidewalks; and (10-14-88)

iii. The total floor area and number of beds; and (10-14-88)

iv. Outline specifications describing the general construction, including interior finishes, acoustical materials, and HVAC; and (10-14-88)

v. The plans shall be drawn to scale of sufficient size to clearly present the proposed design, but not less than a scale of one-eighth (1/8) inch to one (1) foot. (10-14-88)

d. Before commencement of construction, working drawings shall be developed in close cooperation and with approval of the Department and other appropriate agencies, and: (10-14-88)

i. The drawings and specifications shall be well prepared and of accurate dimensions and shall include all necessary explanatory notes, schedules, and legends. They shall be stamped with the architect's or engineer's seal; and (10-14-88)

ii. The drawings shall be complete and adequate for contract purposes. (10-14-88)

e. Prior to occupancy, the construction shall be inspected and approved by the Department. The Department shall be notified at least two (2) weeks prior to completion in order to schedule a final inspection. (10-14-88)

601. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Department is authorized to promulgate these rules under Sections 56-202(b), 56-251(2)(c), and 56-255(4), Idaho Code, the Medicare Prescription Drug Improvement and Modernization Act of 2003, P.L. 108-173, Section 231, and Section 1937 of the Social Security Act. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.17, "Medicare/Medicaid Coordinated Plan Benefits." (4-2-08)

02. Scope. These rules cover the Medicaid benefit plan option that coordinates and integrates health plan benefits for individuals who are eligible for and enrolled in both Medicare and Medicaid. This package of benefits is referred to as the Medicare/Medicaid Coordinated Plan (MMCP). These rules cover eligibility, participant responsibility, general provider requirements, and the range of services covered under the MMCP. (4-2-08)

002. WRITTEN INTERPRETATIONS.
*T*his agency may have written statements that pertain to the interpretations of the rules of this chapter. *( )*

003. -- 007. (RESERVED)

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate, and take enforcement action under the provisions of IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." (4-2-08)

009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter of rules, the following definitions are used: (4-2-08)

01. Capitated Payment. The amount paid to a Medicare Advantage Organization for Medicare/Medicaid Coordinated Plan services as expressed in a per member per month amount. (4-2-08)

02. Department. The Idaho Department of Health and Welfare or a person authorized to act on behalf of the Department. (4-2-08)

03. Dual-Eligible. Individuals who meet all the eligibility requirements under Section 100 of these rules. (4-2-08)

04. Evidence of Coverage. The Medicare Advantage Plan contract the MAO has with the participant. This document explains the covered services, including services included in Medicare Parts A, B, and D. It also defines the Medicare Advantage Plan obligations, and explains the participant's rights and responsibilities. (4-11-15)

05. Medicare. Medicare is a federal health insurance program for people age sixty-five (65) or older, people under age sixty-five (65) with certain disabilities, and people of all ages with End-Stage Renal Disease. It has three (3) types of coverage: Part A Hospital Insurance, Part B Medical Insurance, and Prescription Drug Coverage. It is administered under Title XVIII of the Social Security Act. (4-2-08)

06. Medicare Advantage Organizations (MAOs). Insurance companies approved by the Centers for Medicare/Medicaid Services to offer Medicare Advantage Plans in accordance with Title XVIII, Part C, of the Social Security Act and 42 CFR, Part 422, which include those services available under Medicare Parts A, B, and D, and who are Medicaid providers authorized to enroll participants in the Medicare/Medicaid Coordinated Plan. (4-11-15)

07. Medicare Advantage Plan. A health plan approved by Medicare but offered by a private company that contracts with Medicare to provide Medicare Part A, Part B, and Part D benefits. The Medicare Advantage Plan under this chapter is a special integrated plan offered by participating MAOs that includes a benefit package in its "Evidence of Coverage" approved by CMS. (4-11-15)

08. Medicare/Medicaid Coordinated Plan (MMCP). Medical assistance in which Medicaid purchases services from an MAO and provides other Medicaid-only services covered under the Medicaid Basic Plan or the Medicaid Enhanced Plan in accordance with these rules. (4-11-15)

09. Medicaid. Idaho's Medical Assistance program administered under Title XIX of the Social Security Act. (4-2-08)

10. Medicaid Basic Plan. The medical assistance benefits included under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (4-2-08)

11. Medicaid Enhanced Plan. The medical assistance benefits included under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (4-2-08)

12. Medical Assistance. Payments made by Medicaid. (4-2-08)

011. -- 099. (RESERVED)

GENERAL PARTICIPANT PROVISIONS
(Sections 100 - 199)

100. MEDICARE/MEDICAID COORDINATED PLAN (MMCP): PARTICIPANT ELIGIBILITY.
To be eligible to select the MMCP, the participant must meet the following criteria. (4-2-08)

01. Medicare Eligibility. The participant must be eligible for and enrolled in both Medicare Part A and Medicare Part B, and not have Medicare eligibility due to End-Stage Renal Disease (ESRD). (4-2-08)

02. Medicaid Eligibility. The participant must be eligible for medical assistance under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." The individual's Medicaid eligibility must not be based solely on the requirements found under IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 802, "Women Diagnosed With Breast or Cervical Cancer." (4-2-08)

03. Age. The participant must be age twenty-one (21) or older. (4-2-08)

101. MEDICARE/MEDICAID COORDINATED PLAN (MMCP): PARTICIPANT ENROLLMENT.
To receive services under the MMCP, the participant must select and enroll with an MAO. (4-2-08)

102. MEDICARE/MEDICAID COORDINATED PLAN (MMCP): PARTICIPANT RESPONSIBILITIES.
Participants who select the MMCP must comply with the following requirements: (4-2-08)

01. Selecting the Medicare/Medicaid Coordinated Plan. The participant must contact a participating MAO and request to sign up for the MMCP. Participation in the MMCP begins the month following the month the participant signs an application for the Medicare Advantage Plan that includes MAO-covered services in its "Evidence of Coverage." (4-11-15)

02. Compliance with Medicare Advantage Organization Requirements. The participant must comply with all of the requirements of the participating MAO, including the requirement to pay for services provided by out-of-network providers. Out-of-network providers are those who do not have a contract with the MAO with which the participant is enrolled. (4-2-08)

03. Notification to the Provider. (4-2-08)

a. The participant must present their Medicare Advantage card when seeking any of the services listed in the MAO's "Evidence of Coverage." (4-11-15)

b. The participant must present their Medicaid card when seeking any of the Medicaid-covered services in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," or IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (4-11-15)

04. Termination of the Medicare/Medicaid Coordinated Plan. The participant can terminate their MMCP at any time. Coverage will continue until the end of the month in which the termination date falls. The

participant will subsequently be automatically reenrolled in the Medicaid benefit plan, either Basic or Enhanced, in which they were initially enrolled. (4-2-08)

103. -- 199. (RESERVED)

MAO CONTRACT REQUIREMENT
(Sections 200 Through 299)

200. CONTRACT WITH MEDICAID.
Any MAO seeking to offer MMCP services must have a contract with the State Medicaid agency. An MAO retains responsibility under the contract for providing benefits, or arranging for benefits to be provided, for individuals entitled to receive medical assistance under Title XIX. (4-11-15)

201. -- 299. (RESERVED)

COVERED SERVICES
(Sections 300 Through 301)

300. MEDICARE/MEDICAID COORDINATED PLAN (MMCP): COVERAGE AND LIMITATIONS.
Medicare Advantage Plans and Medicaid are subject to applicable federal managed care requirements that provide participant protections regarding acceptable marketing activities, information regarding cost sharing, quality assurance, grievance systems, and participant rights. (4-2-08)

01. MMCP-Covered Services. The MMCP-covered services include the following: (4-2-08)

a. MAO-Covered Services. Services covered by the MAO as listed in its "Evidence of Coverage." The MAO may limit or expand the scope of services as defined in the "Evidence of Coverage." MAO-covered services, including Medicare Parts A, B, and D benefits, are detailed in the MMCP contract. (4-11-15)

b. Medicaid-Only Services. Services listed under IDAPA 16.03.09, "Medicaid Basic Plan Benefits," or IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," provided by Medicaid providers that are not MAOs. Medicaid may cover additional services that are not included in the MAO's "Evidence of Coverage." (4-11-15)

02. Services Excluded from the MMCP. Services not included in the MAO "Evidence of Coverage" or listed under the IDAPA 16.03.09, "Medicaid Basic Plan Benefits," or IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," are not covered under the MMCP. (4-11-15)

03. Premiums and Cost-Sharing. The participant will not pay for any premiums or cost-sharing when covered under the MMCP, except as provided under Subsection 102.02 of these rules. (4-2-08)

301. MEDICARE/MEDICAID COORDINATED PLAN BENEFITS: PROVIDER REIMBURSEMENT.
Each provider must apply for and be approved as a Medicaid provider under the MMCP before it can be reimbursed. (4-2-08)

01. Medicaid-Only Service Providers. Medicaid-only service providers are reimbursed according to the reimbursement methodology in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," related to the Medicaid-only service. Medicaid-only service providers are also subject to the General Provider Provisions under IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (4-2-08)

02. Medicare Advantage Organizations. Each MAO will be paid a monthly per member per month (PMPM) rate that is defined in the MAO contract. The MAO is responsible for submitting a monthly invoice to the Department in the Department-specified electronic format. This invoice must include the name of the Medicaid participant, the Medicaid ID number, and the time frame of coverage. The PMPM rate paid to the MAO includes the participant's Medicare premium, any cost-sharing required by the MAO, and the services listed in its "Evidence of Coverage. (4-11-15)

302. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under the "Idaho Developmental Disabilities Services and Facilities Act," Section 39-4605, Idaho Code, to adopt rules governing Developmental Disabilities Agencies in Idaho. (7-1-11)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)." (7-1-11)

02. Scope. These rules govern: (7-1-11)

a. The certification of Developmental Disabilities Agencies that provide services to persons with developmental disabilities; and (7-1-11)

b. The provision for services to individuals who meet minimum eligibility criteria under Section 66-402, Idaho Code. (7-1-11)

c. All agencies that meet the definition of a Developmental Disabilities Agency (DDA) in Section 010 of these rules must be certified by the Department in accordance with the requirements in this chapter of rules. (7-1-11)

***002*. -- 008. (RESERVED)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Verification of Compliance. The agency must verify that all employees, subcontractors, agents of the agency, and volunteers delivering DDA services have complied with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-11)

02. Requirement to Report Additional Criminal Convictions, Pending Investigations, or Pending Charges. Once an employee, subcontractor, agent of the agency, or volunteer delivering DDA services has received a criminal history clearance, any additional criminal convictions, pending investigations, or pending charges must be reported to the Department or its designee when the agency learns of the convictions, investigations, or charges. (7-1-11)

010. DEFINITIONS -- A THROUGH Z.
For the purposes of this chapter of rules, the following terms apply. (7-1-11)

01. ADA. The "Americans with Disabilities Act Accessibility Guidelines," under 28 CFR Part 36, Appendix A. (7-1-11)

02. Adult. A person who is eighteen (18) years of age or older. (7-1-11)

03. Agency. A developmental disabilities agency (DDA) as defined in Section 010 of this rule. (7-1-11)

04. Board. The Idaho State Board of Health and Welfare. (7-1-11)

05. Clinical Supervision. Initial direction and procedural guidance by a professional and periodic inspection of the actual work performed at the service delivery site. (7-1-11)

06. Communicable Disease. A disease that may be transmitted from one (1) person or an animal to another person either by direct contact or through an intermediate host, vector, inanimate object, or other means that may result in infection, illness, disability, or death. (7-1-11)

07. Deficiency. A determination of non-compliance with a specific rule or part of rule. (7-1-11)

08. Department. The Idaho Department of Health and Welfare. (7-1-11)

09. Developmental Disabilities Agency (DDA). A DDA is an agency that is: (7-1-11)

a. A type of developmental disabilities facility, defined in Section 39-4604, Idaho Code, that is non-residential and provides services on an outpatient basis; (7-1-11)

b. Certified by the Department to provide services to people with developmental disabilities, according to this chapter of rules; and (7-1-11)

c. A business entity, open for business to the general public. (7-1-11)

10. Developmental Disability. A developmental disability, defined in Section 66-402, Idaho Code, means a chronic disability of a person which appears before the age of twenty-two (22) years of age and: (7-1-11)

a. Is attributable to an impairment, such as intellectual disability, cerebral palsy, epilepsy, autism, or other condition found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (7-1-11)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity: self-care, receptive and expressive language, learning, mobility, self-direction, capacity for independent living, or economic self-sufficiency; and (7-1-11)

c. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services which are of lifelong or extended duration and individually planned and coordinated. (7-1-11)

11. Human Services Field. A particular area of academic study in health care, social services, education, behavioral science or counseling. (7-1-11)

12. Measurable Objective. A statement in specific and concrete terms that describes the observable results of the skill to be acquired. (7-1-11)

13. Paraprofessional. A person delivering support services who meets the qualifications required in Section 400 of these rules. (7-1-11)

14. Participant. A person who has been identified as having a developmental disability defined in Section 010 of this rule, and who is receiving services through a DDA. (7-1-11)

15. Plan of Service. An initial or annual plan that identifies all services and supports. (7-1-11)

16. Practitioner of the Healing Arts, Licensed. A licensed physician, physician assistant, or nurse practitioner. (7-1-11)

17. Professional. A professional delivering services within the scope of their practice and who meets the qualifications required in Section 400 of these rules. (7-1-11)

18. Program Implementation Plan. A plan that details how intervention goals from the plan of service will be accomplished. (7-1-11)

19. Provider. An agency, or an individual working for an agency, that furnishes DDA services under the provisions of these rules. (7-1-11)

20. Provisional Certificate. A certificate issued by the Department to a DDA with deficiencies that do not adversely affect the health or safety of participants. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with an agreed-upon plan. A provisional certificate is issued for a specific period of time, up to, but not to exceed, six (6) months. (7-1-11)

21. Repeat Deficiency. A violation or deficiency found on a resurvey or revisit to a DDA that was also found during the previous survey or visit. (7-1-11)

22. Staff. Employees or contractors of an agency who deliver services. (7-1-11)

23. Survey. A review conducted by the Department to determine compliance with statutes and rules. (7-1-11)

011. -- 074. (RESERVED)

SERVICES PROVIDED BY DEVELOPMENTAL DISABILITIES AGENCIES (Sections 075 - 099)

075. DDA SERVICES.
A DDA provides services that include evaluation, diagnostic, training, treatment, and support services that are provided on an outpatient basis to persons with developmental disabilities and may be community-based, home-based, or center-based in accordance with the requirements of this chapter. A DDA may provide the following services as specified on its certificate under Section 120 of these rules. (7-1-11)

01. Support Services. Support services may include supervision for a participant, as well as assisting and facilitating the participant's integration into the community. (7-1-11)

02. Intervention Services. Intervention services include outcome-based therapeutic services, professional consultation services, as well as education and training for families caring for participants with developmental disabilities. (7-1-11)

076. -- 099. (RESERVED)

CERTIFICATION REQUIREMENTS FOR DEVELOPMENTAL DISABILITIES AGENCIES (Sections 100 - 199)

100. DDA CERTIFICATION.

01. Certification Required. Before any agency can operate as a DDA, it must obtain DDA certification from the Department. No agency may provide services until the Department has approved the application for certification. No agency may provide services without a current certificate. (7-1-11)

02. Application for Certification. All DDAs must apply for certification under Section 101 of these rules. (7-1-11)

03. Restriction on Certification. A business entity established by a parent for the sole purpose of providing DDA services to their own child cannot be certified as a DDA. (7-1-11)

04. Effect of Previous Revocation or Denial of a Certificate or License. The Department is not required to consider the application of any operator, administrator, or owner of an agency who has had their license or certification denied or revoked until five (5) years have lapsed from the date of denial or revocation. (7-1-11)

101. APPLICATION FOR INITIAL CERTIFICATION.

01. Open Application. An application for certification from new agencies will be accepted on an open and continuous basis. (7-1-11)

02. Content of Application for Certification. Application for certification must be made on the Department-approved form available by contacting the Department. The application and supporting documents must be received by the Department at least sixty (60) days prior to the planned opening date and include all of the

following: (7-1-11)

a. Name, address, and telephone number of the agency; (7-1-11)

b. Types of services to be provided by the agency and the anticipated capacity of each service; (7-1-11)

c. The geographic service area of the agency as indicated by counties that will be served; (7-1-11)

d. The anticipated date for the initiation of services; (7-1-11)

e. An accurate and complete statement of all business names of the agency as filed with the Secretary of State, whether an assumed business name, partnership, corporation, limited liability company or other entity, that identifies each owner with more than five percent (5%) interest in the agency, and the management structure of the agency; (7-1-11)

f. A statement that the agency is in compliance with these rules and all other applicable local, state and federal requirements, including an assurance that the agency complies with pertinent state and federal requirements governing equal opportunity and nondiscrimination; (7-1-11)

g. A written code of ethics policy adopting a code of ethics relevant to professional activities with participants and colleagues, in practice settings. The policy must articulate basic values, ethical principles and standards for confidentiality, conflict of interest, exploitation, and inappropriate boundaries in an agency's relationship with participants, relatives, or with other agencies. This code of ethics must reflect nationally-recognized standards of practice; (7-1-11)

h. A copy of the proposed organizational chart or plan for staffing of the agency; (7-1-11)

i. Staff qualifications including resumes, job descriptions, evidence of compliance with criminal history and background check requirements in Section 009.01 through 009.03 of these rules, and copies of state licenses and certificates for staff when applicable; (7-1-11)

j. Written policies and procedures that address professionals entering the field are being provided, or have completed, increased supervision for a period of six (6) months; (7-1-11)

k. Written transportation safety policies and procedures required in Section 501 of these rules; (7-1-11)

l. Staff and participant illness policy, communicable disease policy, and other health-related policies and procedures required in Section 510 of these rules; (7-1-11)

m. Written policies and procedures that address special medical or health care needs of participants required in Section 510 of these rules; (7-1-11)

n. Written medication policies and procedures to meet requirements in Section 511 of these rules; (7-1-11)

o. Written admission, transfer, and transition policies and procedures; (7-1-11)

p. Written description of the agency's quality assurance program developed to meet requirements in Section 900 of these rules; (7-1-11)

q. Written participant grievance policies and procedures to meet requirements in Section 905 of these rules; (7-1-11)

r. Written policies and procedures for reporting incidents to the adult or child protection authority and to the Department to meet requirements in Section 910 of these rules; (7-1-11)

s. Written policies and procedures that address the development of participants' social skills and the management of participants' inappropriate behavior to meet requirements in Section 915 of these rules; (7-1-11)

t. Written description of the program records system including a completed sample of a plan of service for participants, program implementation plan, and a monitoring record; (7-1-11)

u. Written description of the fiscal record system including a sample of program billing; and (7-1-11)

v. Any other information requested by the Department for determining the agency's compliance with these rules or the agency's ability to provide the services for which certification is requested. (7-1-11)

w. When center-based services are to be provided, the following are also required for each service location: (7-1-11)

i. A site review must be completed by the Department prior to the initiation of center based services; (7-1-11)

ii. Address and telephone number for each service location; (7-1-11)

iii. A checklist that verifies compliance with the ADA requirements under Section 500 of these rules; (7-1-11)

iv. Evidence of a local fire safety inspection; (7-1-11)

v. Evidence of compliance with local building and zoning codes, including occupancy permit; (7-1-11)

vi. Written policies and procedures covering the protection of all persons in the event of fire and other emergencies under Section 500 of these rules; and (7-1-11)

vii. Written policies and procedures regarding emergency evacuation procedures. (7-1-11)

102. -- 109. (RESERVED)

110. DEPARTMENT REVIEW OF APPLICATION FOR CERTIFICATION.
Upon receipt of the application form and initial application materials, the Department will review the materials to determine if the agency has systems in place, that if properly implemented, would result in regulatory compliance. (7-1-11)

111. DEPARTMENT'S WRITTEN DECISION REGARDING APPLICATION FOR CERTIFICATION.
The Department will provide to the agency, within thirty (30) days of the date the completed application packet is received, a written decision regarding certification. An application is considered completed when all required documents are received and in compliance with these rules. (7-1-11)

112. -- 114. (RESERVED)

115. CHANGES EACH DDA IS REQUIRED TO REPORT.

01. Change of Ownership or Physical Location. (7-1-11)

a. The DDA must notify the Department at least thirty (30) days prior to any anticipated change in ownership or physical location. In order to continue operation after any such anticipated change, the DDA must receive an updated certificate from the Department that reflects the change. An agency that fails to notify the Department of such changes is operating without a certificate. (7-1-11)

b. When an agency plans to provide center-based services in a new physical location, on a temporary

or permanent basis, the Department will conduct a site review within thirty (30) days after the agency has relocated. Included with the notification required under Subsection 115.01.a. of this rule, the agency must provide: (7-1-11)

i. Evidence of review and approval by the local fire and building authorities, including issuance of occupancy permit; and (7-1-11)

ii. A checklist that verifies compliance with the ADA requirements under Section 500 of these rules. (7-1-11)

02. Change in Geographic Service Area. The DDA must notify the Department at least thirty (30) days prior to any anticipated change(s) in the geographic service area including counties served. In order to continue operation after any such anticipated change, the DDA must receive an updated certificate from the Department that reflects the change(s). An agency that fails to notify the Department of such changes is operating without a certificate. (7-1-11)

116. -- 119. (RESERVED)

120. INITIAL ISSUANCE OF CERTIFICATE.

01. Initial Certification. When the Department determines that all application requirements have been met, a certificate is issued for a period of up to six (6) months from the initiation of services. During this period, the Department evaluates the agency's ongoing capability to provide services and to comply with these rules. The Department will resurvey the agency prior to the end of the initial certification period. (7-1-11)

02. Return of Certificate. The certificate is the property of the state and must be returned to the state if it is revoked or suspended. (7-1-11)

03. Certificate Not Transferable. The certificate is issued only to the agency named thereon, only for the period specified on the certificate, and only to the owners and operators as expressed on the application submitted to the Department, and may not be transferred or assigned to any other person or entity. (7-1-11)

04. Availability of Certificate. The certificate must be posted in a conspicuous location in the DDA where it may be seen readily by the participants and members of the public. (7-1-11)

05. Service Specific Certification. The certificate must indicate the type of service the agency is qualified to provide prior to the delivery of service. Types of certificates include: (7-1-11)

a. Support Services; (7-1-11)

b. Intervention Services; or (7-1-11)

c. Intervention and Support Services. (7-1-11)

121. -- 124. (RESERVED)

125. RENEWAL AND EXPIRATION OF THE CERTIFICATE.
An agency must request renewal of its certificate no less than ninety (90) days before the expiration date of the certificate, to ensure there is no lapse in certification. The request must contain any changes in optional services provided and outcomes of the internal quality assurance processes required under Section 900 of these rules. (7-1-11)

01. Issuance of Certificate. The Department issues certificates that are in effect for a period of no longer than three (3) years. (7-1-11)

a. The Department will survey each agency seeking renewal of its certificate. (7-1-11)

b. The Department will renew the certificate of an agency it finds to be in substantial compliance with statutes and these rules. (7-1-11)

02. Renewal of Certificate. A certificate may be renewed by the Department when it determines the agency requesting recertification is in substantial compliance with the provisions of this chapter of rules. A certificate issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. (7-1-11)

03. Expiration Without Timely Request for Renewal. Expiration of a certificate without a timely request for renewal automatically rescinds the agency's certificate to deliver services under these rules. (7-1-11)

04. National Accreditation. The Department may accept national accreditation in lieu of state certification for developmental disabilities agencies. (7-1-11)

05. DDA Enrolled Prior to July 1, 2011. Agencies certified prior to July 1, 2011, are qualified to provide DDA services under the Intervention and Support Services Certification. Developmental Therapy and Intensive Behavioral Intervention services delivered by an agency are not subject to the requirements listed in Subsection 400.06 of these rules. (7-1-11)

126. TYPES OF CERTIFICATES ISSUED.

01. Provisional Certificate. When a DDA is found to be out of substantial compliance with these rules but does not have deficiencies that jeopardize the health or safety of participants, a provisional certificate may be issued by the Department for up to a six- (6) month period. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. Before the end of the provisional certification period, the Department will determine whether areas of concern have been corrected and whether the agency is in substantial compliance with these rules. If so, then certification will be granted. If not, the certificate will be denied or revoked. (7-1-11)

02. One-Year Certificate. A one- (1) year certificate is issued by the Department when it determines the agency is in substantial compliance with these rules, but there may be areas of deficient practice which would impact the agency's ability to provide effective care. An agency is prohibited from receiving consecutive one- (1) year certificates. (7-1-11)

03. Three-Year Certificate. A three- (3) year certificate is issued by the Department when it determines the agency requesting certification is in substantial compliance with these rules and has no areas of deficient practice that would impact safe and effective care. (7-1-11)

127. -- 299. (RESERVED)

RULE ENFORCEMENT PROCESS AND REMEDIES
(Sections 300 - 399)

300. ENFORCEMENT PROCESS.
The Department may impose a remedy or remedies, when it determines a DDA has not met the requirements in this chapter of rules. (7-1-11)

01. Determination of Remedy. In determining which remedy or remedies to impose, the Department will consider the DDA's compliance history, change of ownership, the number of deficiencies, the scope and severity of the deficiencies, and the potential risk to participants. Subject to these considerations, any of the following remedies, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal: (7-1-11)

a. Require the DDA to submit a plan of correction that must be approved in writing by the Department; (7-1-11)

b. Issue a provisional certificate with a specific date for correcting deficient practices; (7-1-11)

c. Ban enrollment of all participants with specified diagnoses; (7-1-11)

d. Ban any new enrollment of participants; (7-1-11)

e. Summarily suspend the certificate and transfer participants; or (7-1-11)

f. Revoke the DDA's certificate. (7-1-11)

02. Immediate Jeopardy. If the Department finds a DDA's deficiency or deficiencies immediately jeopardize the health or safety of its participants, the Department may summarily suspend the DDA's certificate. (7-1-11)

03. Repeat Deficiencies. If the Department finds a repeat deficiency in a DDA, it may impose any of the remedies listed in Subsection 300.01 of this rule,. The Department may monitor the DDA on an "as needed" basis, until the DDA has demonstrated to the Department's satisfaction that it is in compliance with these rules. If so, then certification will be granted. If not, the certificate will be denied or revoked. (7-1-11)

04. Failure to Comply. If after three (3) months from the date of survey, the DDA has not implemented the Plan of Correction as approved by the Department and remains out of compliance with the identified rule, the Department may impose one (1) or more of the remedies specified in Subsection 300.01 of this rule. (7-1-11)

301. REVOCATION OF CERTIFICATE.

01. Revocation of the DDA's Certificate. The Department may revoke a DDA's certificate when persuaded by the preponderance of the evidence that the DDA is not in substantial compliance with the requirements in this chapter of rules. (7-1-11)

02. Causes for Revocation of the Certificate. The Department may revoke any DDA's certificate for any of the following causes: (7-1-11)

a. The certificate holder has willfully misrepresented or omitted information on the application for certification or other documents pertinent to obtaining a certificate; (7-1-11)

b. When persuaded by existing conditions in the agency that endanger the health or safety of any participant; (7-1-11)

c. Any act adversely affecting the welfare of participants is being permitted, performed, or aided and abetted by the person or persons supervising the provision of services in the agency. Such acts include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (7-1-11)

d. The provider has demonstrated or exhibited a lack of sound judgment that jeopardizes the health, safety, or well-being of participants; (7-1-11)

e. The agency has failed to comply with any of the conditions of a provisional certificate; (7-1-11)

f. The agency has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health, safety, or welfare of any participant; (7-1-11)

g. An accumulation of minor deficiencies that, when considered as a whole, indicate the agency is not in substantial compliance with these rules; (7-1-11)

h. Repeat deficiencies by the agency of any requirement of these rules or of the Idaho Code; (7-1-11)

i. The agency lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of participants served at the agency; (7-1-11)

j. The agency is not in substantial compliance with the provisions for services required in these rules or with the participants' rights under Section 905 of these rules; (7-1-11)

k. The agency is delivering services outside the scope of its certificate; or (7-1-11)

l. The certificate holder refuses to allow the Department or protection and advocacy agencies full access to the agency environment, agency records, or the participants. (7-1-11)

302. -- 309. (RESERVED)

310. NOTICE OF ENFORCEMENT REMEDY.
The Department will notify the following of the imposition of any enforcement remedy on a DDA: (7-1-11)

01. Notice to DDA. The Department will notify the DDA in writing, transmitted in a manner that will reasonably ensure timely receipt. (7-1-11)

02. Notice to Public. The Department will notify the public by sending the DDA printed notices to post. The DDA must post all the notices on the premises of the DDA in plain sight in public areas where they will readily be seen by participants and their representatives, including exits and common areas. The notices must remain in place until all enforcement remedies have been officially removed by the Department. (7-1-11)

03. Notice to the Professional Licensing Boards. The Department will notify professional licensing boards, as appropriate. (7-1-11)

311. HEARING RIGHTS.
A DDA may request a hearing following any enforcement action taken by the Department, under Section 003 of these rules. (7-1-11)

312. -- 399. (RESERVED)

STAFFING REQUIREMENTS AND PROVIDER QUALIFICATIONS (Sections 400 - 499)

400. GENERAL STAFFING REQUIREMENTS FOR AGENCIES.
Each DDA is accountable for all operations, policy, procedures, and service elements of the agency. (7-1-11)

01. Agency Administrator Duties. The agency administrator is accountable for the overall operations of the agency including ensuring compliance with this chapter of rules, overseeing and managing staff, developing and implementing written policies and procedures, and overseeing the agency's quality assurance program. (7-1-11)

02. Agency Administrator Qualifications. An agency administrator must have two (2) years of supervisory or management experience in a developmental disabilities services setting. (7-1-11)

03. Clinical Supervisor Duties. A clinical supervisor must be employed by the DDA on a continuous and regularly scheduled basis and be readily available on-site to provide for: (7-1-11)

a. The supervision of service elements of the agency, including face to face supervision of agency staff providing direct care services; and (7-1-11)

b. The observation and review of the direct services performed by all paraprofessional and professional staff on at least a monthly basis, or more often as necessary, to ensure staff demonstrate the necessary skills to correctly provide the DDA services. (7-1-11)

04. Clinical Supervisor Qualifications. A person qualified to act as clinical supervisor of a DDA must meet the following requirements: (7-1-11)

a. Hold at least a bachelor's degree in a human services field from a nationally accredited university or college; and (7-1-11)

b. Provide documentation of one (1) year's supervised experience working with the population served; and (7-1-11)

c. Demonstrate competencies related to the requirements to provide intervention services as required by the Department; and (7-1-11)

d. Complete additional coursework as required by the Department; or (7-1-11)

e. Individuals working as Developmental Specialists or as Intensive Behavioral Interventionists prior to July 1, 2011, are qualified to provide clinical supervision until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain their certification. (7-1-11)

f. The agency administrator and clinical supervisor can be the same individual. (7-1-11)

05. Limitations. If an agency administrator or a clinical supervisor also works as a professional delivering direct services, the agency must have policies and procedures demonstrating how the agency will continue to meet agency staffing requirements in Subsections 400.01 through 400.04 of this rule. (7-1-11)

06. Professionals. The agency must ensure that staff providing intervention services have the appropriate licensure or certification required to provide services. A person qualified to provide intervention services must also meet the following minimum requirements: (7-1-11)

a. Hold at least a bachelor's degree in a human services field from a nationally accredited university or college; (7-1-11)

b. Provide documentation of one (1) year's supervised experience working with participants with developmental disabilities; (7-1-11)

c. Demonstrate competencies related to the requirements to provide intervention services as required by the Department; and (7-1-11)

d. Complete a supervised practicum and additional coursework as required by the Department; or (7-1-11)

e. Individuals working as Developmental Specialists or as Intensive Behavioral Interventionists prior to July 1, 2011, are qualified to provide intervention services until June 30, 2013. The individual must meet the requirements of the Department-approved competency coursework by June 30, 2013, to maintain their certification. (7-1-11)

07. Paraprofessionals. A person qualified to provide support services must meet the following minimum requirements: (7-1-11)

a. Meet the qualifications prescribed for the type of services to be rendered; (7-1-11)

b. Have received instructions in the needs of the participant who will be provided the service; and (7-1-11)

c. Demonstrate the ability to provide services according to a plan of service. (7-1-11)

08. Records of Licenses or Certifications. The agency must maintain documentation of the staff qualifications, including copies of applicable licenses and certificates. (7-1-11)

09. Parent or Legal Guardian of Participant. A DDA may not hire the parent or legal guardian of a

participant to provide services to the parent's or legal guardian's child. (7-1-11)

401. -- 409. (RESERVED)

410. GENERAL TRAINING REQUIREMENTS FOR DDA STAFF.
Each DDA must ensure that all training of staff specific to service delivery to the participant is completed as follows: (7-1-11)

01. Yearly Training. The DDA must ensure that staff or volunteers who provide DDA services complete a minimum of twelve (12) hours of formal training each calendar year. Each agency staff providing services to participants must: (7-1-11)

a. Participate in fire and safety training upon employment and annually thereafter; and (7-1-11)

b. Be certified in CPR and first aid within ninety (90) days of hire and maintain current certification thereafter; and (7-1-11)

i. The agency must ensure that CPR and first-aid trained staff are present or accompany participants when services or DDA-sponsored activities are being provided. (7-1-11)

ii. Each agency staff person must have age appropriate CPR and first aid certification for the participants they serve. (7-1-11)

c. Be trained to meet any special health or medical requirements of the participants they serve. (7-1-11)

02. Sufficient Training. Training of all staff must include the following as applicable to their work assignments and responsibilities: (7-1-11)

a. Optimal independence of all participants is encouraged, supported, and reinforced through appropriate activities, opportunities, and training; (7-1-11)

b. Correct and appropriate use of assistive technology used by participants; (7-1-11)

c. Accurate record keeping and data collection procedures; (7-1-11)

d. Adequate observation, review, and monitoring of staff, volunteer, and participant performance to promote the achievement of participant goals and objectives; (7-1-11)

e. Participant's rights, advocacy resources, confidentiality, safety, and welfare; and (7-1-11)

f. The proper implementation of all policies and procedures developed by the agency. (7-1-11)

03. Additional Training for Professionals. Training of all professional staff must include the following as applicable to their work assignments and responsibilities: (7-1-11)

a. Correct and consistent implementation of all participants' individual program plans and implementation plans, to achieve individual objectives; (7-1-11)

b. Consistent use of behavioral and developmental programming principles and the use of positive behavioral intervention techniques. (7-1-11)

411. -- 419. (RESERVED)

420. VOLUNTEER WORKERS IN A DDA.
If volunteers are utilized by a DDA, the agency must establish written policies and procedures governing the screening, training, and utilization of volunteer workers. (7-1-11)

421. -- 499. (RESERVED)

FACILITY, SAFETY, AND HEALTH STANDARDS
(Sections 500 - 599)

500. FACILITY STANDARDS FOR AGENCIES PROVIDING CENTER-BASED SERVICES.
The requirements in Section 500 of this rule, apply when an agency is providing center-based services. (7-1-11)

01. Accessibility. Agencies designated under these rules must be responsive to the needs of persons receiving services and accessible to persons with disabilities as defined in Section 504 of the federal Rehabilitation Act, the Americans with Disabilities Act (ADA) Accessibility Guidelines, and the uniform federal accessibility standard. The DDA must submit a completed checklist to the Department *with the application for certification* to verify compliance with the ADA requirements. *( )*

02. Environment. The facilities of the agency must be designed and equipped to meet the needs of each participant including factors such as sufficient space, equipment, lighting, and noise control. (7-1-11)

03. Fire and Safety Standards. (7-1-11)

a. Buildings on the premises must meet all local and state codes concerning fire and life safety that are applicable to a DDA. The owner or operator of a DDA must have the center inspected at least annually by the local fire authority and as required by local city or county ordinances. In the absence of a local fire authority, such inspections must be obtained from the Idaho State Fire Marshall's office. A copy of the inspection must be made available to the Department upon request and include documentation of any necessary corrective action taken on violations cited; (7-1-11)

b. There must be written policies and procedures covering the protection of all persons in the event of fire and other emergencies; (7-1-11)

c. On the premises where natural or man-made hazards are present, suitable fences, guards, or railings must be provided to protect participants; (7-1-11)

d. The premises must be kept free from the accumulation of weeds, trash, and rubbish; and (7-1-11)

e. Portable heating devices are prohibited except those units that have heating elements that are limited to not more than two hundred twelve degrees Fahrenheit (212°F). The use of unvented, fuel-fired heating devices of any kind is prohibited. All portable space heaters must be approved by Underwriters Laboratories as well as approved by the local fire or building authority and covered in the local fire or building inspections; and (7-1-11)

f. All hazardous or toxic substances must be properly labeled and stored under lock and key; and (7-1-11)

g. Water temperatures in areas accessed by participants must not exceed one hundred twenty degrees Fahrenheit (120°F); and (7-1-11)

h. There must be a telephone available on the premises for use in the event of an emergency. Emergency telephone numbers must be posted near the telephone. (7-1-11)

04. Evacuation Plans. Evacuation plans must be posted throughout the center. Plans must indicate point of orientation, location of all fire extinguishers, location of all fire exits, and designated meeting area outside of the building. (7-1-11)

a. The DDA must conduct quarterly fire drills. At least two (2) times each year these fire drills must include complete evacuation of the building. The DDA must document the amount of time it took to evacuate the building; and (7-1-11)

b. A brief summary of each fire drill conducted must be written and maintained on file. The summary must indicate the date and time the drill occurred, participants and staff participating, problems encountered, and corrective action(s) taken. (7-1-11)

05. Food Safety and Storage. (7-1-11)

a. When the agency provides food service for participants and meets the definition of a "food establishment," in Section 39-1602, Idaho Code, the agency must comply with IDAPA 16.02.19, "Idaho Food Code." Compliance is verified through inspection by the local District Health Department. (7-1-11)

b. When the agency does not provide food service for participants, it must keep refrigerators and freezers used to store participant lunches and other perishable foods in good repair and equipped with an easily readable thermometer. Refrigerators must be maintained at forty-one degrees Fahrenheit (41°F) or below. Freezers must be maintained at ten degrees Fahrenheit (10°F) or below. (7-1-11)

c. When medicines requiring refrigeration are stored in a food refrigerator, medicines must be stored in a package and kept inside a covered, leak-proof container that is clearly identified as a container for the storage of medicines. (7-1-11)

06. Housekeeping and Maintenance Services. (7-1-11)

a. The interior and exterior of the center must be maintained in a clean, safe, and orderly manner and must be kept in good repair; (7-1-11)

b. Deodorizers cannot be used to cover odors caused by poor housekeeping or unsanitary conditions; (7-1-11)

c. The center must be maintained free from infestations of insects, rodents, and other pests; and (7-1-11)

d. The center must maintain the temperature and humidity within a normal comfort range by heating, air conditioning, or other means. (7-1-11)

501. VEHICLE SAFETY REQUIREMENTS.
Each DDA that transports participants must: (7-1-11)

01. Preventative Maintenance Program. Establish a preventive maintenance program for each agency-owned or leased vehicle, including vehicle inspections and other regular maintenance to ensure participant safety. (7-1-11)

02. Transportation Safety Policy. Develop and implement a written transportation safety policy. (7-1-11)

03. Licenses and Certifications for Drivers and Vehicles. Obtain and maintain licenses and certifications for drivers and vehicles required by public transportation laws, regulations, and ordinances that apply to the agency to conduct business and to operate the types of vehicles used to transport participants. Agencies must maintain documentation of appropriate licensure for all employees who operate vehicles. (7-1-11)

04. Applicable Laws, Rules, and Regulations. Adhere to all laws, rules, and regulations applicable to drivers and vehicles of the type used. (7-1-11)

05. Liability Insurance. Continuously maintain liability insurance that covers all passengers and meets the minimum liability insurance requirements under Idaho law. If an agency employee transports participants in the employee's personal vehicle, the agency must ensure that adequate liability insurance coverage is carried to cover those circumstances. (7-1-11)

502. -- 509. (RESERVED)

510. HEALTH REQUIREMENTS.

01. Required Health Policies and Procedures. Each DDA must develop policies and procedures that: (7-1-11)

a. Describe how the agency will ensure that each staff person is free from communicable disease; (7-1-11)

b. Describe how the agency will protect participants from exposure to individuals exhibiting symptoms of illness. (7-1-11)

c. Address any special medical or health care needs of particular participants being served by the agency. (7-1-11)

02. Services that Require Licensed Professionals. Some services are of such a technical nature that they must always be performed by, or under the supervision of, a licensed nurse or other licensed health professional. The agency must ensure all such care is provided within the scope of the care provider's training and expertise. These limitations are outlined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-11)

03. Employees. Each employee who has direct contact with participants must be free of communicable disease and infected skin lesions while on duty. (7-1-11)

04. Incident Reports. Each DDA must complete incident reports for all accidents, injuries, or other events that endanger a participant or require the participant to be hospitalized. Each report must document the adult participant's legal guardian, if they have one, or, in the case of a minor, the minor's parent or legal guardian, has been notified or that the participant's care provider has been notified if the participant or the participant's parent or legal guardian has given the agency permission to do so. A documented review by the agency of all incident reports must be completed at least annually with written recommendations. These reports must be retained by the agency for five (5) years. (7-1-11)

05. Reporting Incidents as Mandatory Reporters. DDA's must notify appropriate authorities of any health- and safety-related incident they are obligated to report to adult or child protection authorities, or law enforcement as mandatory reporters as required in Section 910 of these rules. (7-1-11)

06. Reporting Incidents to the Department. If a DDA reports a health- and safety-related incident to protective or legal authorities, they must also notify the Department of this incident within twenty-four (24) hours. (7-1-11)

511. MEDICATION STANDARDS AND REQUIREMENTS.

01. Medication Policy. Each DDA must develop written medication policies and procedures that outline in detail how the agency will ensure appropriate handling and safeguarding of medications. An agency that chooses to assist participants with medications must also develop specific policies and procedures to ensure this assistance is safe and is delivered by qualified, fully-trained staff. Documentation of training must be maintained in the staff personnel file. (7-1-11)

02. Handling of Participant's Medication. (7-1-11)

a. The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a licensed nurse and be appropriately labeled with the name of the medication, dosage, time to be taken, route of administration, and any special instructions. Each medication must be packaged separately, unless in a Mediset, blister pack, or similar system. (7-1-11)

b. Evidence of the written or verbal order for the medication from the physician or other practitioner of the healing arts must be maintained in the participant's record. Medisets filled and labeled by a pharmacist or licensed nurse can serve as written evidence of the order. An original prescription bottle labeled by a pharmacist

describing the order and instructions for use can also serve as written evidence of an order from the physician or other practitioner of the healing arts. (7-1-11)

c. The agency is responsible to safeguard the participant's medications while the participant is at the agency or in the community. (7-1-11)

d. Medications that are no longer used by the participant must not be retained by the agency or agency staff for longer than thirty (30) calendar days. (7-1-11)

03. Self-Administration of Medication. When the participant is responsible for administering their own medication without assistance, a written approval stating that the participant is capable of self-administration must be obtained from the participant's primary physician or other practitioner of the healing arts. The participant's record must also include documentation that a physician or other practitioner of the healing arts, or a licensed nurse has evaluated the participant's ability to self-administer medication and has found that the participant: (7-1-11)

a. Understands the purpose of the medication; (7-1-11)

b. Knows the appropriate dosage and times to take the medication; (7-1-11)

c. Understands expected effects, adverse reactions or side effects, and action to take in an emergency; and (7-1-11)

d. Is able to take the medication without assistance. (7-1-11)

04. Assistance with Medication. An agency may choose to assist participants with medications; however, only a licensed nurse or other licensed health professional may administer medications. Prior to unlicensed agency staff assisting participants with medication, the following conditions must be in place: (7-1-11)

a. Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Professional Technical Education Program, a course approved by the Idaho State Board of Nursing, or other Department-approved training; (7-1-11)

b. The participant's health condition is stable; (7-1-11)

c. The participant's health status does not require nursing assessment, as outlined in IDAPA 23.01.01, "Rules for the Idaho Board of Nursing," before receiving the medication or nursing assessment of the therapeutic or side effects after the medication is taken; (7-1-11)

d. The medication is in the original pharmacy-dispensed container with proper label and directions, or in an original over-the-counter container, or the medication has been placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container; (7-1-11)

e. Written and oral instructions from a licensed physician or other practitioner of the healing arts, pharmacist, or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency have been reviewed by the staff person; (7-1-11)

f. Written instructions are in place that outline required documentation of assistance and who to call if any doses are not taken, overdoses occur, or actual or potential side effects are observed; (7-1-11)

g. Procedures for disposal or destruction of medications must be documented and consistent with procedures outlined in the "Assistance with Medications" course. (7-1-11)

05. Administration of Medications. Only a licensed nurse or another licensed health professional working within the scope of their license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-11)

512. -- 519. (RESERVED)

520. SETTING REQUIREMENTS FOR AGENCIES DELIVERING COMMUNITY-BASED SERVICES.
The requirements in Section 520 of these rules apply when a DDA is providing community-based services. (7-1-11)

01. Accessibility. The community-based setting must be accessible, safe, and appropriate for each participant. (7-1-11)

02. Environment. The community-based setting must be designed and equipped to meet the needs of each participant including factors such as sufficient space, equipment, lighting, and noise control. (7-1-11)

03. Service Group Size. The community-based services must occur in integrated, inclusive settings and with no more than three (3) participants per qualified staff at each session. (7-1-11)

04. Image Enhancement. The community-based services must enhance each participant's social image and personal competencies. (7-1-11)

05. Promote Inclusion. The community-based services must promote the participant's inclusion in the natural community. (7-1-11)

06. Natural Environment. The environment where an activity or behavior naturally occurs that is typical for peers of the participant's age, such as the home and community where the participant lives or participates in activities, and according to the service environment indicated. (7-1-11)

521. -- 599. (RESERVED)

PROGRAM REQUIREMENTS
(Sections 600 - 699)

600. PROGRAM DOCUMENTATION REQUIREMENTS.
Each DDA must maintain records for each participant the agency serves. Each participant's record must include documentation of the participant's involvement in and response to the services provided. (7-1-11)

01. Requirements for Participants Seven Through Sixteen. For participants ages seven (7) through sixteen (16), the DDA must document that the child has been referred to the local school district. (7-1-11)

02. Requirements for Participants Three to Twenty-One. For participants ages three (3) to twenty-one (21), the following applies: (7-1-11)

a. For participants who are children enrolled in school, the local school district is the lead agency as required under Individuals with Disabilities Education Act (IDEA), Part B. The DDA must inform the child's home school district if it is serving the child during the hours that school is typically in session. (7-1-11)

i. The DDA participant's record must contain an Individualized Education Plan (IEP), including any recommendations for an extended school year. (7-1-11)

ii. The DDA must document that it has provided a current copy of the child's plan of service to the child's school. (7-1-11)

iii. The DDA may provide additional services beyond those the school is obligated to provide during regular school hours. (7-1-11)

b. For participants of mandatory school attendance age, seven (7) though sixteen (16), who are not enrolled in school, the DDA must document that it has referred the child to the local school district for enrollment in

educational and related services under the provisions of the Individuals with Disabilities Education Act (IDEA). (7-1-11)

601. RECORD REQUIREMENTS.
Each DDA certified under these rules must maintain accurate, current, and complete participant and administrative records. These records must be maintained for at least five (5) years. Each participant record must support the individual's choices, interests, and needs that result in the type and amount of each service provided. Each participant record must clearly document the date, time, duration, and type of service, and include the signature of the individual providing the service, for each service provided. Each signature must be accompanied both by credentials and the date signed. Each agency must have an integrated participant records system to provide past and current information and to safeguard participant confidentiality under these rules. (7-1-11)

01. General Records Requirements. Each participant record must contain the following information: (7-1-11)

a. Authorized plan of service as required for the participant. (7-1-11)

b. Program implementation plans that include participant's name, baseline statement, measurable objectives, written instructions to staff, service environments, target date, and corresponding program documentation and monitoring records when intervention services are delivered to the participant. (7-1-11)

c. When a participant has had a psychological or psychiatric assessment, the results of the assessment must be maintained in the participant's record. (7-1-11)

d. Profile sheet containing the identifying information reflecting the current status of the participant, including residence and living arrangement, contact information, emergency contacts, physician, current medications, allergies, special dietary or medical needs, and any other information required to provide safe and effective care; (7-1-11)

e. Medical, social, and developmental information and assessments that reflect the current status of the participant; and (7-1-11)

f. Intervention evaluation. An evaluation must be completed or obtained by the agency prior to the delivery of the intervention service. The evaluation must include the results, test scores, and narrative reports signed with credentials and dated by the respective evaluators. (7-1-11)

02. Status Review. Written documentation that identifies the participant's progress toward goals defined on their plan, and includes why the participant continues to need the service. (7-1-11)

03. Case Record Organization. The case record must be divided into program and discipline areas identified by tabs, including plan of service, medical, social, psychological, speech, and developmental, as applicable. (7-1-11)

602. -- 609. (RESERVED)

610. ACCESSIBILITY OF AGENCY RECORDS.
The DDA and records required under these rules must be accessible to the Department during normal operations of the agency for the purpose of inspection and copying, with or without prior notification, under Section 39-4605(4), Idaho Code. (7-1-11)

611. -- 899. (RESERVED)

QUALITY ASSURANCE, PARTICIPANT RIGHTS, REQUIRED POLICIES, ETC. (Sections 900 - 999)

900. REQUIREMENTS FOR AN AGENCY'S QUALITY ASSURANCE PROGRAM.

Each DDA defined under these rules must develop and implement a quality assurance program. (7-1-11)

01. Purpose of the Quality Assurance Program. The quality assurance program is an ongoing, proactive, internal review of the DDA designed to ensure: (7-1-11)

a. Services provided to participants produce measurable outcomes, are high quality, and are consistent with individual choices, interests, needs, and current standards of practice; (7-1-11)

b. Sufficient staff and material resources are available to meet the needs of each person served; (7-1-11)

c. The environment in which services are delivered is safe and conducive to learning; (7-1-11)

d. Skill training activities are conducted in the natural setting where a person would commonly learn and utilize the skill, whenever appropriate; and (7-1-11)

e. The rights of a person with disabilities are protected and each person is provided opportunities and training to make informed choices. (7-1-11)

02. Quality Assurance Program Components. Each DDA's written quality assurance program must include: (7-1-11)

a. Goals and procedures to be implemented to achieve the purpose of the quality assurance program as described in Subsection 900.01 of this rule; (7-1-11)

b. Person, discipline, or department responsible for each goal; (7-1-11)

c. A system to ensure the correction of problems identified within a specified period of time; (7-1-11)

d. A method for assessing participant satisfaction annually including minimum criteria for participant response and alternate methods to gather information if minimum criteria is not met; (7-1-11)

e. An annual review of the agency's code of ethics, identification of violations, and implementation of an internal plan of correction; (7-1-11)

f. An annual review of agency's policy and procedure manual to specify date and content of revisions made; and (7-1-11)

g. Ongoing review of participant progress to ensure revisions to daily activities or specific implementation procedures are made when progress, regression, or inability to maintain independence is identified. (7-1-11)

03. Additional Requirements. The quality assurance program must ensure that DDA services provided to participants: (7-1-11)

a. Are developed with each participant, parent, or legal guardian, where applicable, and actively promote the participation, personal choice, and preference of the participant; (7-1-11)

b. Are age appropriate; (7-1-11)

c. Promote integration; (7-1-11)

d. Provide opportunities for community participation and inclusion; (7-1-11)

e. Offer opportunities for participants to exercise their rights; and (7-1-11)

f. Are observable in practice. (7-1-11)

901. -- 904. (RESERVED)

905. PARTICIPANT RIGHTS.
Each DDA must ensure the rights provided under Sections 66-412 and 66-413, Idaho Code, as well as the additional rights listed in Subsection 905.02 of this rule, for each participant receiving DDA services. (7-1-11)

01. Participant Rights Provided Under Idaho Code. Section 66-412, Idaho Code, provide the following rights for participants: (7-1-11)

a. Humane care and treatment; (7-1-11)

b. Not be put in isolation; (7-1-11)

c. Be free of mechanical restraints, unless necessary for the safety of that person or for the safety of others; (7-1-11)

d. Be free of mental and physical abuse; (7-1-11)

e. Voice grievances and recommend changes in policies or services being offered; (7-1-11)

f. Practice their own religion; (7-1-11)

g. Wear their own clothing and retain and use personal possessions; (7-1-11)

h. Be informed of their medical and habilitative condition, of services available at the agency, and the charges for the services; (7-1-11)

i. Reasonable access to all records concerning himself; (7-1-11)

j. Refuse services; and (7-1-11)

k. Exercise all civil rights, unless limited by prior court order. (7-1-11)

02. Additional Participant Rights. The agency must also ensure the following rights for each participant: (7-1-11)

a. Privacy and confidentiality; (7-1-11)

b. Receive courteous treatment; (7-1-11)

c. Receive a response from the agency to any request made within a reasonable time frame; (7-1-11)

d. Receive services that enhance the participant's social image and personal competencies and, whenever possible, promote inclusion in the community; (7-1-11)

e. Refuse to perform services for the agency. If the participant is hired to perform services for the agency the wage paid must be consistent with state and federal law; (7-1-11)

f. Review the results of the most recent survey conducted by the Department and the accompanying plan of correction; (7-1-11)

g. All other rights established by law; and (7-1-11)

h. Be protected from harm. (7-1-11)

03. Method of Informing Participants of Their Rights. Each DDA must ensure and document that

each person receiving services is informed of their rights in the following manner: (7-1-11)

a. Upon initiation of services, provide each participant and their parent or guardian, where applicable, with a packet of information which outlines rights, access to grievance procedures, and the names, addresses, and telephone numbers of protection and advocacy services. This packet must be written in easily understood terms. (7-1-11)

b. When providing center-based services, prominently post a list of the rights contained in this chapter. (7-1-11)

c. Provide each participant and their parent or guardian, where applicable, with a verbal explanation of their rights in a manner that will best promote individual understanding of these rights. (7-1-11)

d. Parents of infants and toddlers under three (3) years of age must be provided with a copy of their parental rights consistent with the requirements of 34 CFR 303.400 through 303.460, and 303.510 through 303.512. (7-1-11)

906. -- 909. (RESERVED)

910. OBLIGATION TO REPORT ABUSE, NEGLECT, EXPLOITATION, AND INJURIES.
Each agency must report all confirmed or suspected incidents of mistreatment, neglect, exploitation, or abuse of participants to the adult or child protection authority in accordance with the "Child Protective Act," Section 16-1619, Idaho Code, and the "Adult Abuse, Neglect and Exploitation Act," Section 39-5303, Idaho Code, or law enforcement as mandatory reporters. (7-1-11)

911. -- 914. (RESERVED)

915. POLICIES AND PROCEDURES REGARDING DEVELOPMENT OF SOCIAL SKILLS AND MANAGEMENT OF MALADAPTIVE BEHAVIOR.
Each DDA must develop and implement written policies and procedures that address the development of participants' social skills and management of maladaptive behavior. These policies and procedures must include statements that address: (7-1-11)

01. Adaptive and Maladaptive Behaviors. For intervention services, ensure an evaluation of participants' adaptive and maladaptive behaviors is completed. (7-1-11)

02. Social Skills Development. Focus on developing or increasing participants' social skills. (7-1-11)

03. Prevention Strategies. Ensure and document the use of positive approaches to increase social skills and decrease maladaptive behavior while using least restrictive alternatives and consistent, proactive responses to behaviors. (7-1-11)

04. Function of Behavior. Address the possible underlying causes or function of a behavior and identify what participants may be attempting to communicate by the behavior. (7-1-11)

05. Behavior Replacement. For intervention services, ensure that programs to assist participants with managing maladaptive behavior include teaching of alternative adaptive skills to replace the maladaptive behavior. (7-1-11)

06. Protected Rights. Ensure the safety, welfare, and human and civil rights of participants are adequately protected. (7-1-11)

07. Objectives and Plans. For intervention services, ensure that objectives and intervention techniques are developed or obtained and implemented to address self-injurious behavior, aggressive behavior, inappropriate sexual behavior, and any other behaviors which significantly interfere with participants' independence or ability to participate in the community. Ensure that reinforcement selection is individualized and appropriate to the task and not contraindicated for medical reasons. (7-1-11)

08. Participant Involvement. Ensure plans developed by the DDA involve the participants, whenever possible, in developing the plan to increase social skills and to manage maladaptive behavior. (7-1-11)

09. Written Informed Consent. Ensure programs developed by an agency to assist participants with managing maladaptive behavior are conducted only with the written informed consent of a participant, parent, or legal guardian, where applicable. When programs used by the agency are developed by another service provider the agency must obtain a copy of the informed consent. (7-1-11)

10. Review and Approval. Ensure programs developed by an agency to manage maladaptive behavior are only implemented after the review and written approval of the professional. If the program contains restrictive or aversive components, a licensed individual working within the scope of their license, must also review and approve, in writing, the plan prior to implementation. When programs implemented by the agency are developed by another service provider, the agency must obtain a copy of these reviews and approvals. (7-1-11)

11. Appropriate Use of Interventions. Ensure interventions used to manage participants' maladaptive behavior are never used: (7-1-11)

a. For disciplinary purposes; (7-1-11)

b. For the convenience of staff; (7-1-11)

c. As a substitute for a needed training program; or (7-1-11)

d. By untrained or unqualified staff. (7-1-11)

916. -- 919. (RESERVED)

920. ANNUAL PLAN.
Each agency is required, as needed, to participate in the development of the state developmental disabilities plan by completing an annual needs assessment survey regarding services for Idahoans with developmental disabilities. (7-1-11)

921. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 39-3308, 39-3508 and 56-202(b), Idaho Code, mandate the Department to develop uniform assessment criteria to assess the functional and cognitive ability of persons who seek state-funded supported living services. (4-5-00)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.23, "Uniform Assessments for State-Funded Clients." *( )*

02. Scope. These rules contain the minimum requirements and applied standards for uniform assessment of the functional and cognitive ability of persons who seek state-funded supported living services. (4-5-00)

002. WRITTEN INTERPRETATIONS.
This agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection. *( )*

***003*. -- 009. (RESERVED)**

010. DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: (4-2-08)

01. Activities of Daily Living. Bathing, dressing, toileting, transferring, eating, and walking. (4-5-00)

02. Client. A person for whom the State of Idaho, or a program administered by the State of Idaho, pays all or any part of the cost of the person's care. (4-5-00)

03. Department. The Idaho Department of Health and Welfare. (4-5-00)

04. Instrumental Activities of Daily Living. Meal preparation, money management, transportation, shopping, using the telephone, medication management, heavy housework, and light housework. (4-5-00)

05. Service Plan. A plan that describes the type and quantity of services that will be provided to a client, whether called a plan of care, plan for care, negotiated services agreement, individual support plan, or by some other name. (4-5-00)

06. Significant Change in Client's Condition. A major change in the client's status that affects more than one area of the client's functional or health status, and requires review or revision of the care plan or negotiated service agreement. (4-5-00)

07. Supported Living Services. Assistance with activities of daily living, instrumental activities of daily living, and supervision to enable a client to reside safely in the setting of the client's choice. (4-5-00)

08. Supported Living Services Provider. A facility or person that provides supported living services. Such facilities and persons include residential care and assisted living facilities, certified family homes, specialized family homes, personal care service providers, semi-independent facilities, intermediate care facilities for persons with intellectual disabilities, and home and community-based services waiver providers. (4-2-08)

09. Uniform Assessment. A set of standardized criteria adopted by the Department of Health and Welfare to assess functional and cognitive abilities. For participants using the Developmental Disabilities and Southwest Idaho Treatment Center services, and adults using Developmental Disabilities Agency services or Targeted Service Coordinator services, or both, the requirement for a uniform assessment is met by the assessment and history required under IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 512. (3-20-04)

011. COMPLETION OF THE UNIFORM ASSESSMENT INSTRUMENT.

01. Department's Responsibility for the Uniform Assessment of Clients. The Department will assess or direct the uniform assessment of clients age eighteen (18) or older who seek supported living services.

(4-2-08)

02. Qualifications of Persons Making Uniform Assessments. The uniform assessment must be conducted by persons who are trained by the Department in the use of the uniform assessment instrument. (4-2-08)

03. Payment Conditioned on Completion of Assessment. A uniform assessment must be completed as a condition of state payment for supported living services. The Department will not authorize payment for services to a client if the services were rendered prior to the completion of a uniform assessment instrument for that client, unless the Department determines it was beyond the control of the supported living services provider and it is justified by the individual circumstances. In addition, other Department payment requirements must be met. (4-5-00)

04. Time Period for Completing the Assessment. The Department will prioritize pending assessments, and expedite assessments that, in its discretion, it considers emergencies, including reassessments of clients whose needs have changed. (4-5-00)

05. Reassessments. A client must be reassessed if there is a significant change in the client's condition, or annually, whichever occurs first. (4-2-08)

012. USE OF THE UNIFORM ASSESSMENT INSTRUMENT IN DEVELOPING THE CLIENT'S SERVICE PLAN.
The client's unmet needs as identified by the uniform assessment instrument must be used to develop a service plan. (4-2-08)

013. USE OF THE UNIFORM ASSESSMENT INSTRUMENT IN DETERMINING FACILITY STAFFING RATIOS.
A supported living services provider must have sufficient numbers and types of staff to carry out each client's service plan based on the uniform assessment instrument and to comply with all other rules governing the provider. (4-2-08)

014. USE OF THE UNIFORM ASSESSMENT INSTRUMENT FOR DETERMINING THE ABILITY OF THE SUPPORTED LIVING SERVICES PROVIDER TO MEET CLIENTS' NEEDS.
The information from the uniform assessment instrument will be used to determine the ability of a supported living services provider to meet the identified needs of the client. The information from the uniform assessment instrument will also be used to determine the need for special training or licenses that may be required in caring for certain clients. (4-2-08)

015. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Section 31-3503C, Idaho Code, the Idaho Legislature has authorized the Department of Health and Welfare to adopt and enforce rules governing requests for Medicaid eligibility determination for persons who may be medically indigent. (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.24, "The Medically Indigent Program." *( )*

02. Scope. (4-7-11)

a. The Idaho Legislature has declared that the County Medically Indigent Program and the Catastrophic Health Care Cost Program are payers of last resort. These programs are only a partial solution to the health care costs of Idaho's medically indigent citizens. Therefore, hospitals, providers, applicants, and third-party applicants seeking financial assistance under the County Medically Indigent Program and the Catastrophic Health Care Cost Program are subject to the limitations and requirements in this chapter of rules. (4-7-11)

b. In accordance with Section 31-3503E(7), Idaho Code, the denial of Medicaid eligibility is not a determination of medical indigency under the County Medically Indigent Program or the Catastrophic Health Care Cost Program. Title 31, Chapter 35, Idaho Code, provides that under the County Medically Indigent Program and the Catastrophic Health Care Cost Program eligibility for financial assistance will be determined by the respective counties and the Board. The respective counties and the Board may, limit or prioritize eligibility for financial assistance based upon such factors as availability of funding, degree of financial need, degree of clinical need, or other factors. (4-7-11)

c. In accordance with Title 31, Chapter 35, Idaho Code, these rules provide for and establish policies, procedures, requirements, and appeal processes applicable to requests for Medicaid eligibility determination for persons who may be medically indigent. This chapter is not intended to, and does not establish an entitlement for or to receive financial assistance under Title 31, Chapter 35, Idaho Code. (4-7-11)

d. Individuals who may be eligible for Medicaid must comply with requirements in Title XIX and Title XXI of the Social Security Act, and the following Department rules: (4-7-11)

i. IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (4-7-11)

ii. IDAPA 16.03.05, "Eligibility for the Aged, Blind, and Disabled (AABD)." (4-7-11)

iii. IDAPA 16.03.06, "Refugee Medical Assistance." (4-7-11)

002. -- 005. (RESERVED)

006. CONFIDENTIALITY OF RECORDS AND PUBLIC RECORDS.

01. Confidential Records. The use or disclosure of records or information covered by these rules must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (4-7-11)

02. Public Records. The Department will comply with Title 74, Chapter 1, Idaho Code, when requests for the examination and copying of public records are made. Unless otherwise exempted, all public records in the custody of the Department are subject to disclosure. (4-7-11)

03. Authorization for Disclosure. An application for financial assistance and request for Medicaid eligibility determination constitutes authorization for hospitals, providers, the Board, the Department, and the respective counties of the State of Idaho to copy, transmit, share, and exchange information pertaining to an applicant's health and finances for the purpose of determining Medicaid eligibility or medical indigency. (4-7-11)

007. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter of rules, the following terms apply. (4-7-11)

01. Application. An application for financial assistance under Section 31-3504, Idaho Code, and the uniform form used for the initial review and the Department's Medicaid eligibility determination under Section 31-3503E, Idaho Code. An application under Title 31, Chapter 35, Idaho Code, for financial assistance is not an application for Medicaid. (4-7-11)

02. Clerk. The clerk of the respective counties or their designee. (4-7-11)

03. Counties. The respective counties described in Title 31, Chapter 1, Idaho Code. (4-7-11)

04. Department. The Idaho Department of Health and Welfare. (4-7-11)

05. HIPAA. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) under 42 USC Section 12204, and federal regulations at 45 CFR Parts 160, 162, and 164. (4-7-11)

06. Hospital. A facility *as defined* in *IDAPA 16.03.14, "Hospitals."* ( )

07. Medicaid. The federally funded program for medical care (Title XIX, Social Security Act) also known as Idaho's *Healthcare* Assistance Program. ( )

08. Obligated Person. The person or persons who are legally responsible for an applicant. (4-7-11)

09. Third-Party Applicant. A person other than an obligated person who completes, signs, and files an application on behalf of a patient. (4-7-11)

011. -- 109. (RESERVED)

110. REQUESTS FOR MEDICAID ELIGIBILITY DETERMINATION.
Requests for Medicaid eligibility determination for persons who may be medically indigent may only be accessed by a hospital or a county through a request for Medicaid eligibility determination addressed to the Department. By signing a request for Medicaid eligibility determination, each hospital or county requesting a Medicaid eligibility determination agrees to comply with these rules. (4-7-11)

01. Form of Request. Each hospital or county requesting a Medicaid eligibility determination under these rules must apply to the Department on a form provided by the Department and must provide all information required by the Department. (4-7-11)

02. Filing Request. Each request for Medicaid eligibility determination submitted to the Department under these rules must be signed by an authorized representative of the hospital or the county. ( )

03. Application for Financial Assistance Required. A completed and signed application for financial assistance under Title 31, Chapter 35, Idaho Code, must be submitted and transmitted to the Department along with the request for Medicaid eligibility determination. (4-7-11)

04. Other Information as Requested. Each hospital or county requesting a Medicaid eligibility determination by the Department under these rules must provide all other information that may be requested by the Department for the proper administration and enforcement of the provisions of these rules. (4-7-11)

05. Cooperation of Applicant, Third-Party Applicant, and Obligated Person. Each applicant, third-party applicant, and obligated person must cooperate with the Department and provide documentation necessary to complete the Department's determination of Medicaid eligibility. (4-7-11)

111. -- 129. (RESERVED)

130. ELIGIBILITY DETERMINATION.
Each request for Medicaid eligibility determination submitted to the Department under this chapter of rules will be processed by the Department in accordance with the following rules: (4-7-11)

01. Medicaid. IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (4-7-11)

02. AABD. IDAPA 16.03.05, "Eligibility for the Aged, Blind and Disabled (AABD)." (4-7-11)

03. Refugee. IDAPA 16.03.06, "Refugee Medical Assistance." (4-7-11)

04. Time Limits on Determinations. The Department will process each request for Medicaid eligibility determination within forty-five (45) days of receiving the request, unless prevented by events beyond the Department's control. (4-7-11)

131. -- 139. (RESERVED)

140. NOTICE OF DECISION ON ELIGIBILITY FOR MEDICAID.

01. Denial on Request Submitted by a Hospital. If the Department determines that an applicant is not eligible for Medicaid, the Department will promptly notify the applicant and the hospital of its determination. The Department will transmit a copy of its determination and a copy of the application to the respective county clerk. The clerk will treat the copy of the Department's determination and the copy of the application as an application for financial assistance under Title 31, Chapter 35, Idaho Code. Denial of Medicaid eligibility is not a determination of medical indigency or eligibility for financial assistance under the county Medically Indigent Program or the Catastrophic Health Care Cost Program. (4-7-11)

02. Denial on Request Submitted by a County. If the Department determines that an applicant is not eligible for Medicaid, the Department will promptly notify the applicant and the respective county clerk of its determination. Denial of Medicaid eligibility is not a determination of medical indigency or eligibility for financial assistance under the County Medically Indigent Program or the Catastrophic Health Care Cost Program. (4-7-11)

03. Approval of Medicaid Eligibility. If the Department determines that an applicant is eligible for Medicaid, the Department will act on the request and application as an application for Medicaid and notify the applicant, according to provisions in IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," and IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD). (4-7-11)

141. -- 149. (RESERVED)

150. ADDITIONAL DUTIES AND RESPONSIBILITIES OF HOSPITALS *AND COUNTIES*.

01. Additional Duties and Responsibilities. Each hospital *or respective county* submitting an application and request for Medicaid eligibility determination under these rules must: *( )*

a. Cooperate with the Department, the Board, and the respective counties of the state and contractors retained by the Board or the respective County Commissioners. (4-7-11)

b. Assist applicants in completing an application form and request for Medicaid eligibility determination. (4-7-11)

02. Comply with Confidentiality Laws and Rules. Each hospital *or respective county* must comply with IDAPA 16.05.01, "*Use* and Disclosure of Department Records," and all applicable state and federal laws, rules, and regulations pertaining to the confidentiality of, and the disclosure of, information and records. *( )*

03. Comply with HIPPA. Each hospital must comply with the Health Insurance Portability and Accountability Act (HIPAA). (4-7-11)

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

000. LEGAL AUTHORITY.

01. Rulemaking Authority. Under Sections 56-202, 56-203, and 56-1054, Idaho Code, the Department has the authority to adopt rules regarding the *Idaho Medicaid Promoting Interoperability (PI) Program. This program was formerly known as the "*Idaho Medicaid Electronic Health Record (EHR) Incentive Program.*"* *( )*

02. General Administrative Authority. The American Reinvestment and Recovery Act of 2009 (ARRA), Section 4201, and 42 CFR Part 495, provide the basic authority for administration of this federal program. (4-4-13)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.25, "Idaho Medicaid *Promoting Interoperability (PI)* Program." *( )*

02. Scope. These rules: (4-4-13)

a. Establish the Medicaid Electronic Health Record (EHR) Incentive Program for Idaho covered under 42 CFR Part 495. (4-4-13)

b. Provide the Medicaid EHR Incentive Program criteria for participation of qualified eligible professionals and hospitals that adopt, implement, or upgrade to become meaningful users of certified electronic health record systems in accordance with the American Recovery and Reinvestment Act of 2009 (ARRA), Section 4201. (4-4-13)

c. Provide for the audit of providers receiving incentive payments. (4-4-13)

002. WRITTEN INTERPRETATIONS.

*T*his agency may have written statements that pertain to the interpretations of the rules of this chapter. These documents are available for public inspection. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

For the purposes of this chapter of rules the following terms apply: (4-4-13)

01. Acute Care Hospital. A health care facility, including a critical access hospital, with a CMS Certification Number that ends in 0001-0879 or 1300-1399. An acute care hospital: (4-4-13)

a. Must have ten percent (10%) Medicaid patient discharges; (4-4-13)

b. Is a primary health care facility where the average length of patient stay is twenty-five (25) days or fewer. (4-4-13)

02. Adopt, Implement, or Upgrade (AIU). (4-4-13)

a. Acquire, purchase, or secure access to certified EHR technology; (4-4-13)

b. Install or commence utilization of certified EHR technology capable of meeting meaningful use requirements; or (4-4-13)

c. Expand the available functionality of certified EHR technology capable of meeting meaningful use requirements at the practice site, including staffing, maintenance, and training, or upgrade from existing EHR technology to certified EHR technology. (4-4-13)

03. Attestation. Signature as a witness by each professional or hospital who applies to the *PI P*rogram signifying the information they have provided is true and genuine and affirms that they meet the incentive payment eligibility criteria. *( )*

04. **Border States**. The border states for Idaho are: Washington, Oregon, Nevada, Utah, Wyoming, and Montana. (4-4-13)

05. **Certified EHR Technology**. As defined in 42 CFR Section 495.4 and 45 CFR Section 170.102, in accordance with the Office of the National Coordinator for Health Information Technology EHR certification criteria. ( )

06. **Children's Hospital**. As referenced in 42 CFR Section 495.302, a separately certified hospital, either freestanding or hospital-within-hospital, that has a CMS Certification Number that ends in 3300–3399 and predominantly treats individuals under twenty-one (21) years of age. (4-4-13)

07. **CMS**. Centers for Medicare and Medicaid Services. (4-4-13)

08. **Critical Access Hospital (CAH)**. A small, generally geographically remote facility that provides outpatient and inpatient hospital services to people in rural areas. The designation was established by law, for special payments under the Medicare program. A critical access hospital: (4-4-13)

a. Is located in a rural area and provides 24-hour emergency services; (4-4-13)

b. Has an average length-of-stay for its patients of ninety-six (96) hours or less; (4-4-13)

c. Is located more than thirty-five (35) miles (or more than fifteen (15) miles in areas with mountainous terrain) from the nearest hospital or is designated by the State as a "necessary provider"; and (4-4-13)

d. Has no more than twenty-five (25) beds. (4-4-13)

09. **CY**. Calendar Year. (4-4-13)

10. **Dentist**. A person who meets all the applicable requirements to practice as a licensed dentist under IDAPA 19.01.01, "Rules of the Idaho State Board of Dentistry." (4-4-13)

11. **Department**. The Idaho Department of Health and Welfare. (4-4-13)

12. **EHR**. Electronic Health Record. (4-4-13)

13. **Eligible Hospital**. An acute care hospital with at least ten percent (10%) Medicaid patient volume or a children's hospital. (4-4-13)

14. **Eligible Professional**. A physician, dentist, nurse practitioner (including a nurse-midwife nurse practitioner), or a physician assistant practicing in a Federally Qualified Health Center (FQHC) or a Rural Health Clinic (RHC) that is led by a physician assistant and meets patient volume requirements described in 42 CFR Section 495.306. (4-4-13)

15. **Eligible Provider**. Eligible hospital or eligible professional. (4-4-13)

16. **Eligible Provider, Hospital-Based**. In accordance with 42 CFR Section 495.4, an eligible provider who furnishes ninety (90) percent or more of their covered professional services in a hospital setting in the CY preceding the payment year. A setting is considered a hospital setting if it is a site of service that would be identified by the codes used in the HIPAA standard transactions as an inpatient hospital, or emergency room setting. (4-4-13)

17. **Encounter**. (4-4-13)

a. For an eligible hospital either may apply: (4-4-13)

i. Services rendered to an individual per inpatient discharge; or (4-4-13)

ii. Services rendered to an individual in an emergency department on any one (1) day; (4-4-13)

b. For an eligible professional, services rendered to an individual on any one (1) day. (4-4-13)

18. Enrolled Provider. A hospital or health care practitioner who is actively registered with the *PI* Program. *( )*

19. Federal Fiscal Year (FFY). The federal fiscal year is from October 1 to September 30. (4-4-13)

20. Federally Qualified Health Center (FQHC). A federal designation for a medical entity that meets the requirements of 42 U.S.C. Section 1395x(aa)(4). The FQHC may be located in either a rural or urban area designated as a shortage area or in an area that has a medically underserved population. (4-4-13)

21. Hospital-Based. An eligibility criterion that excludes an eligible professional from participating in the *PI* Program when an eligible professional furnishes 90 percent (90%) or more of the eligible professional's Medicaid covered services in a hospital emergency room (place of service code 23), or inpatient hospital (place of service code 21) in the CY preceding the payment year. *( )*

22. Meaningful EHR User. An eligible provider that, for an EHR reporting period for a payment year, demonstrates meaningful use of certified EHR technology by meeting the applicable objectives and associated measures in 42 CFR Part 495. *( )*

23. Nurse Practitioner (NP). A licensed registered nurse (RN) who meets all the applicable requirements to practice as nurse practitioner under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," and as defined in 42 CFR Section 440.166. (4-4-13)

24. Payment Year. (4-4-13)

a. The CY for an eligible professional; or (4-4-13)

b. The FFY for an eligible hospital. (4-4-13)

25. Physician. A person possessing a Doctorate of Medicine degree or a Doctor of Osteopathy degree and licensed to practice medicine by a State or United States territory, and who performs services as defined in 42 CFR Section 440.50. (4-4-13)

26. Physician Assistant. A person who meets all the applicable requirements to practice as licensed physician assistant under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," and who performs services as defined in 42 CFR Section 440.60. (4-4-13)

011. -- 099. (RESERVED)

ELIGIBILITY DETERMINATION
(Sections 100 - 399)

100. *PROMOTING INTEROPERABILITY (PI)* PROGRAM ELIGIBILITY.

01. Providers and Hospitals Eligible to Participate in the *PI* Program. The Department administers the federal *PI* Program that pays incentive payments to eligible providers and eligible hospitals that adopt, implement, upgrade, and meaningfully use certified EHR technology in accordance with the provisions of 42 CFR Part 495. Providers and hospitals eligible to participate in the *PI P*rogram are identified in 42 CFR Section 495.304. *( )*

02. Department Reviewing and Auditing of *PI* Program Participants. As authorized by 42 CFR Part 495, the Department reviews and *may* audit all professionals and hospitals participating in the *PI P*rogram. The Department reviews all practice, documentation, and data related to the EHR technology to determine whether

professionals and hospitals participating in the *PI P*rogram are eligible and complying with the state and federal rules and regulations. The Department *uses a defined audit strategy for* auditing the *PI P*rogram. *PI P*rogram participants must meet the following requirements: *( )*

a. Patient volume thresholds and calculations, as outlined in 42 CFR Sections 495.304 and 495.306. (4-4-13)

b. Eligibility criteria and payment limitations, as outlined in 42 CFR Sections 495.10, 495.304, 495.306, 495.308, and 495.310. (4-4-13)

c. Attestations and compliance demonstrations including, at a minimum: (4-4-13)

i. Attestations that certified EHR technology has been adopted, implemented, or upgraded; and (4-4-13)

ii. Demonstrations of meaningful use, as outlined in 42 CFR Sections *495.20, 495.22, 495.24,* 495.6, and 495.8. *( )*

d. The payment process and incentive payment amounts, as outlined in 42 CFR Sections 495.310, 495.312, 495.314, and 495.316. (4-4-13)

e. Additional issues regarding *PI P*rogram eligibility, participation, documentation, and compliance as outlined in 42 CFR Part 495. *( )*

101. -- 199. (RESERVED)

200. EHR: FEDERALLY INITIATED PROGRAM.

01. Voluntary Federal Program. The *PI* Program is a federal program, using federal funding, and is voluntary for providers. The Department has no obligation to pay incentive payments to the provider once federal funding is exhausted. *( )*

02. Idaho Sanctions/Outstanding Debt. (4-4-13)

a. To be eligible for incentive payments, providers must be free of both state and federal level sanctions and exclusions as provided in Section 56-209h, Idaho Code, IDAPA 16.05.07, and 42 CFR Part 455. Providers who are on either the Idaho Medicaid Provider Exclusion List or on the federal List of Excluded Individuals/Entities (http://exclusions.oig.hhs.gov/) are not eligible to participate in the *PI* Program. *( )*

b. The Department will reference the Idaho State Sanctions and the Outstanding Debt-Termination Exclusion Lists. Federal level checks with the Office of the Inspector General (OIG) will be conducted through the Idaho Incentive Management System (IIMS) and CMS interface. (4-4-13)

c. Detection for improper payment will be conducted both at the state program level and at the federal level, as referenced in 42 CFR Sections 495.368(a)(1)(i) & (ii). (4-4-13)

201. -- 299. (RESERVED)

300. *PI*: ADDITIONAL PROVIDER QUALIFICATIONS.

01. Out-of-State Professionals and Hospitals. *I*ncentive payments will be made only to Idaho Medicaid providers (professionals with an Idaho Medicaid Provider Agreement), unless they predominantly practice in an RHC or FQHC that is an Idaho Medicaid provider. *( )*

02. Patient Volume Calculation. Encounters for out-of-state Medicaid members (Border States only) may be included in the patient volume calculation only if needed to meet patient volume threshold. Out-of-state encounters must then be included in the numerator and the denominator of the patient volume calculation. (4-4-13)

03. Eligible Professionals (EP) Licensure. The Department will consider a provisional license the same as licenses. (4-4-13)

301. -- 399. (RESERVED)

400. STATE OPTIONS ELECTIONS UNDER THE *PI* PROGRAM.
In addition to the federal provisions in the ARRA, Section 4201, the *PI P*rogram is governed by federal regulations at 42 CFR Part 495. In compliance with the requirements of federal law, the Department establishes the following State options under the *PI P*rogram: *( )*

01. Calculating Patient Volume. For purposes of calculating patient volume as required by 42 CFR Section 495.306, the Department has elected eligible professionals and eligible hospitals to use 42 CFR Section 495.306(c). (4-4-13)

02. Patient Volume Methodology. For eligible professionals who use a group proxy patient volume methodology outlined in 42 CFR Section 495.306(h), the EP must see at least one (1) Medicaid or medically underserved patient before he may apply for a Medicaid incentive payment. *( )*

03. Hospital Fiscal Year. The twelve (12) month period defined by a hospital for financial reporting purposes that will be used to comply with 42 CFR Section 495.310(g)(1)(i)(B). (4-4-13)

04. Determination of Hospital-Based. In accordance with 42 CFR Section 495.4, in order to distinguish "hospital-based eligible professional" from "eligible professional (EP)" during the program year, the Department reviews the quantity and place of services rendered for the CY preceding the program year to which the payment will apply. *( )*

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This program is authorized by the Low-Income Home Energy Assistance Act of 1981, 42 U.S.C Sections 8621 to 8629, and by provisions of Section 56-202 Idaho Code. (3-30-07)

001. TITLE, SCOPE, AND LIMITATIONS.

01. Title. These rules are titled IDAPA 16.04.14, "Low-Income Home Energy Assistance Program," and may also be known as LIHEAP. *( )*

02. Scope. The intent of the program is to provide assistance to eligible low income households particularly those with the lowest incomes, that pay the highest proportion of their income for home energy, primarily in meeting their immediate home energy needs. (7-1-99)

03. Program Limitation. This federally funded program does not entitle any household to a certain amount or form of assistance. An eligible participant household will receive one (1) benefit payment from the standard program funding each program year. (3-30-07)

002. – 009. **(RESERVED)**

010. DEFINITIONS.
For purposes of this chapter of rules, the following terms apply. (3-25-16)

01. Crisis Assistance. Energy assistance provided to an eligible participant household to reduce or eliminate an energy related health threatening situation to the household. (3-30-07)

02. Department. The Department of Health and Welfare or its designee. (3-30-07)

03. Federal Poverty Guidelines (FPG). The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS). *( )*

04. Fraud. *A* deliberate attempt to conceal or misrepresent pertinent information which could affect eligibility or grant amounts. *( )*

05. Head of Participant Household. The person designated by the household members to receive energy assistance benefit on behalf of the household and in whose favor the energy assistance warrant is written. (7-1-99)

06. Income. *T*he gross amount of moneys received *by* the participant household from all sources. *( )*

0*7*. Participant. An individual or group of individuals who has *applied* for the Low-Income Home Energy Assistance Program from the state of Idaho. *( )*

0*8*. Participant Household. A participant household is one (1) of the following: (3-30-07)

a. An individual who lives alone; or (3-30-07)

b. A group of individuals who are living together as one (1) economic unit where residential energy is customarily purchased in common or they make undesignated payments for energy in the form of rent. (3-30-07)

0*9*. Primary Fuel. The type of fuel declared by the participant household to be the major source of their home heating. (7-1-99)

1*0*. Undocumented Resident. Individuals who enter the United States illegally and who have not obtained legal resident status. (3-30-07)

1*1*. Vendor. A utility company or other provider of fuel utilized for home heating. (3-29-12)

011. -- 099. (RESERVED)

100. PARTICIPANT CASE RECORD.

The participant case record is the documentary basis justifying the expenditure of LIHEAP funds. All material pertinent to a participant household will be retained for a permanent record. Each *eligibility determination* must be supported by information in the permanent record showing that each eligibility requirement is met, or that one (1) or more eligibility requirements are not met. *( )*

101. ELIGIBLE ACTIVITIES.
Funds made available through the LIHEAP grant will be used as follows: (7-1-99)

01. Home Utility and Bulk Fuel Costs. These costs include those incurred by the eligible participant household for electricity, natural gas and bulk fuel for home energy needs, but does not include costs incurred for telephone, water, trash or sewer. (7-1-99)

02. Governor Declared Emergency or Disaster. A portion of the LIHEAP grant funds may be used for home heating supply shortages experienced by the participant household or a weather-related emergency which threatens the health or lives of an area's inhabitants such that the Governor declares a state of emergency. (3-15-02)

03. Catastrophic Illness Costs. Households with income exceeding eligibility guidelines may be eligible due to catastrophic illness. The household's unreimbursed medical expenses from the previous twelve (12) months are subtracted from the household's gross income for the same period. If the household then meets income guidelines, the Department makes a final eligibility determination. (3-30-01)

102. PARTICIPANT RIGHTS.
The Department must inform participant*s* of the *following* rights during the application and eligibility determination *process*: *( )*

01. Right to Apply. Any participant household wishing to apply must be given the opportunity, without delay, to apply for LIHEAP benefits. All participants must apply in writing. (7-1-99)

02. Right to a Hearing. Rules governing hearing rights are contained in Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-30-01)

03. Civil Rights. The rights of participant households must be respected under the U.S. and Idaho Constitutions, the Social Security Act, Title VI of the Civil Rights Act of 1964, the Rehabilitation Act of 1973, and all other relevant provisions of federal and state law, including the avoidance of practices which violate a person's privacy or subjection to harassment. (7-1-99)

103. PARTICIPANT RESPONSIBILITIES.
Each participant applying for LIHEAP benefits must, to the extent permitted by their physical and mental condition, provide all necessary and reasonable verification to establish eligibility, and must otherwise cooperate in the eligibility determination process. (7-1-99)

104. RELATIONSHIP TO OTHER PROGRAMS.
LIHEAP benefits paid to eligible participant households must not be counted as income or resources for any purpose under any federal or state law, including any law relating to taxation, public assistance, or welfare programs. (7-1-99)

***105*. -- 149. (RESERVED)**

150. ELIGIBILITY REQUIREMENTS AND COLLATERAL CONTACTS.
All participant households assisted through LIHEAP must provide proof of both financial eligibility requirements and non-financial eligibility requirements. (7-1-99)

01. Failing to Meet the Financial and Non-Financial Eligibility. Participant households failing to meet the financial and non-financial eligibility requirements will be denied LIHEAP assistance. (7-1-99)

02. Participant's Signature. A participant's signature on the application is their consent for the Department to contact collateral sources for verification of the eligibility requirement(s). (7-1-99)

151. INCOME ELIGIBILITY REQUIREMENTS.

01. Households Receiving SSI or Food Stamps. Households in which one (1) or more individuals are receiving one (1) of the following are eligible for LIHEAP: (3-29-12)

a. Supplemental Security Income (SSI) under Title XVI of the Social Security Act; or (3-29-12)

b. Food Stamps under the Food Stamp Act of 1977, under 7 USC 2011 through 2027. (3-29-12)

02. Income Not Counted. Income listed in Subsections 151.02.a. through 151.02.t. is not counted in determining LIHEAP eligibility or benefit level. All other income is counted in determining LIHEAP eligibility and benefit level. (3-29-12)

a. Benefit payments from Medicare Insurance. (4-5-00)

b. Private loans made to the participant or the household. (4-5-00)

c. Assets withdrawn from a personal bank account. (4-5-00)

d. Sale of real property, if the funds are reinvested within three (3) calendar months. (3-15-02)

e. Income tax refunds. (4-5-00)

f. Infrequent, irregular or unpredictable income from gifts or lottery winnings of less than thirty dollars ($30) during the three (3) month period before application for LIHEAP. (4-5-00)

g. Wages or allowances for attendant care when the attendant resides in the household of the disabled member. (4-5-00)

h. Interest income of thirty dollars ($30) or less received during the three (3) month period before application for LIHEAP. (4-5-00)

i. Legal fees or settlements from Workman's Compensation paid in a lump sum. (4-5-00)

j. Monies received for educational purposes from NSDL, College work-study programs, State Student Incentive grants, SEOG, Pell, Guaranteed Student Loans and Supplemental grants funded under Title IV, A-2. (3-15-02)

k. Monies from VA-GI Bill for Education. (4-5-00)

l. Department of Health and Welfare Adoption subsidies. (4-5-00)

m. Compensation provided volunteers in the Older American Act or Foster Grandparent Program, including Green Thumb and Vista volunteers, Title V Senior Employment Program. (4-5-00)

n. Third party payments made by a non-household member on behalf of the household. Third party payments include child care, energy assistance funds, shelter, food and clothing assistance. (4-5-00)

o. Value of food stamps or donated food to household. (4-5-00)

p. Utility allowance. (4-5-00)

q. TAFI lump sum payments. (3-15-02)

r. Tribal crop or land payments. (3-15-02)

s. AmeriCorps stipend. (3-15-02)

t. Child support income. (3-29-10)

152. NONFINANCIAL ELIGIBILITY REQUIREMENTS.

01. Residence. *When* the application is completed, the *household* must reside in the state of Idaho. LIHEAP benefits are not transferable to an out-of-state residence. *( )*

02. Living Situations. The household must reside in housing where they are responsible for home energy costs and incur the costs either directly or as an undesignated portion of their rent. *( )*

03. Native Americans. Native American households whose tribe has entered into a separate agreement with the federal funding agency and the Department to receive LIHEAP grant funds, are not entitled to benefits under this program unless: (7-1-99)

a. Tribal funds are not available. (7-1-99)

b. Funds are depleted and an emergency exists. (7-1-99)

04. Resident Status. As part of the application process, participants must sign a declaration, under penalty of perjury, attesting to the residency or citizenship status of all household members. *At least one (1) household member must be a citizen or legal resident of the United States.* *( )*

153. -- 199. (RESERVED)

200. *(RESERVED)*

201. APPLICATION PROCESS.
A participant must be provided a prompt opportunity to complete an application for assistance. Application forms must contain a statement which clearly explains participant's civil and criminal liability for the truthfulness of the information included on the forms; and their right to a hearing according to Idaho Department of Health and Welfare Rules, IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Rulings." (7-1-99)

01. Date of Application. The participant application process begins the date the completed and signed application and all supporting forms are received by the Department. (3-25-16)

02. Participant Representation. A participant household may be assisted by a person or persons of their choice and, when accompanied by such persons, may be represented by them. (7-1-99)

03. Signature. The application must be signed by the participant designated as the head of household, or their designee. *Electronic signatures are acceptable.* *( )*

a. Applications signed by a designee must have a letter of authorization or power of attorney from the participant included in the file. (3-15-02)

b. Employees of the Department must not be designated to sign the application. (3-25-16)

04. Signature by Mark. A signature by mark requires two (2) witnesses. The signatures and addresses of the witnesses must appear on the application, followed by the word "witness." (7-1-99)

05. Assistance with Application. When completing the application forms or obtaining required documentation, *the Department will assist limited or non-English speaking applicants by providing interpreter services*. *( )*

202. APPLICATION TIME LIMITS AND DISPOSAL ACTIONS.
Unless circumstances beyond the control of the Department prohibit it, each application is to be acted upon within thirty (30) days from the date the application is completed and signed by the participant. An application for LIHEAP assistance must be disposed of by one (1) of the following three (3) methods: (7-1-99)

01. Approval. A determination the participant household is eligible for LIHEAP benefits. (7-1-99)

02. Denial. A determination the participant household is ineligible for LIHEAP benefits or that eligibility could not be determined due to lack of necessary information or verification. (7-1-99)

03. Withdrawal. The participant household voluntarily requests that no further consideration be given to their application or the participant becomes deceased. (7-1-99)

203. NOTIFICATION OF DECISION.
Each participant household must be notified, in writing, of the decision made with regard to their LIHEAP application for assistance. (7-1-99)

01. Approvals. At the time the application is completed, the participant household will receive a copy of their preliminary approval notification. The Department issuance of the benefit payment or denial notice will be the participant household's formal eligibility notification. (7-1-99)

02. Denials or Withdrawals. The LIHEAP Notice of Denial will be provided to participant households denied assistance and include the reason for the denial and an explanation of the participant household's right to appeal the eligibility decision. (7-1-99)

***204*. -- 299. (RESERVED)**

300. CONDITION OF PAYMENT ENDORSEMENT.
When an eligible participant household receives a LIHEAP benefit payment directly, they must endorse it and take it to their designated energy supplier. Two-party payments will have the name of the energy supplier imprinted on the face of the warrant. When an eligible participant and their energy supplier endorse the LIHEAP benefit payment, they certify that to the best of their knowledge, the funds are being used to provide home energy for the eligible participant household. (7-1-99)

301. VENDOR AGREEMENTS.
All participating energy suppliers must enter into a vendor agreement with the Department to provide home energy assistance to eligible participant households. (7-1-99)

302. OVERPAYMENTS.
Payments issued on behalf of a participant household that is not eligible must be repaid to the Department. (3-29-12)

303. RECOUPMENT OF OVERPAYMENT.

01. Recoupment of Overpayment. The Department may recoup or recover the amount issued on behalf of a LIHEAP participant. Interest will accrue on overpayments at the statutory rate set under Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for services. Recoupment of an overpayment based on Department error may be collected from a vendor or participant when the overpayment is one hundred dollars ($100), or more. Interest will not accrue on overpayments made due to Department error. An overpayment due to vendor or participant error, intentional program violations (IPV), or fraud must be recovered in full. (3-29-12)

02. Repayment Requirement. A vendor or participant must repay any overpayment, but may negotiate a repayment schedule with the Department. Failure to comply with the negotiated repayment agreement will result in revocation of that agreement and may result in the revocation of the vendor agreement. (3-29-12)

304. -- 309. (RESERVED)

310. INTENTIONAL PROGRAM VIOLATIONS (IPV).
An IPV is an intentionally false or misleading action or statement. An IPV is established when a vendor or participant admits the IPV in writing and waives the right to an administrative hearing, or when determined by an administrative hearing, a court decision, or through deferred adjudication. Deferred adjudication exists when the court defers a determination of guilt because the accused vendor or participant meets the terms of a court order or an agreement with the prosecutor. *The following are IPVs:* *( )*

01. False Statement. *Made to the Department by a*n individual or vendor orally or in writing, to participate in LIHEAP. *( )*

02. Misleading Statement. *Made to the Department by a*n individual or vendor orally or in writing, to participate in LIHEAP. *( )*

03. Misrepresentation of Fact. *Made to the Department by a*n individual or vendor orally or in writing, to participate in LIHEAP. *( )*

04. Conceal*ed* Fact. *Concealed or withheld from the Department by a*n individual or vendor to participate in LIHEAP. *( )*

05. Non-Compliance with Rules and Regulations. *( )*

06. Violation of Vendor Agreement. *( )*

07. Failure to Repay. *( )*

311. PENALTIES FOR AN IPV.
When the Department determines an IPV was committed, the participant or vendor who committed the IPV loses eligibility to participate in LIHEAP. If an individual in a LIHEAP household has committed an IPV, the entire household is ineligible for LIHEAP. If a vendor has committed an IPV, the vendor is ineligible to receive payments. The period of ineligibility for each offense, for both a participant or a vendor, is as follows: (3-29-12)

01. First Offense. Twelve (12) months, for the first IPV or fraud offense, or the length of time specified by the court. (3-29-12)

02. Second Offense. Twenty-four (24) months for the second IPV or fraud offense, or the length of time specified by the court. (3-29-12)

03. Third Offense. Permanent ineligibility for the third or subsequent IPV or fraud offense, or the length of time specified by the court. (3-29-12)

312. -- 319. (RESERVED)

320. DENIAL OF PAYMENT.
The Department may deny payment to the vendor or participant for the *following* reasons: *( )*

01. Services Not Provided. Any or all claims for vendor services the Department determines were not provided. (3-29-12)

02. Contrary to Rules or Provider Agreement. Vendor services provided contrary to these rules or the vendor agreement. (3-29-12)

03. Failure to Provide Immediate Access to Records. The vendor does not allow immediate access by the Department to LIHEAP records. (3-29-12)

04. Willful Misrepresentation or Concealment of Facts. The vendor or participant willfully misrepresents or conceals facts relating to LIHEAP. (3-29-12)

321. -- 349. (RESERVED)

350. TERMINATION OF VENDOR STATUS.
Under Section 56-209h, Idaho Code, the Department may terminate the vendor agreement of, or otherwise deny vendor status for up to five (5) years from *when* the Department's action becomes final to any individual or entity providing LIHEAP. *The following are bases for the Department to terminate vendor status: ( )*

01. ***Knowing Submission of*** **an Incorrect Claim**. ( )

02. ***Submission of a*** **Fraudulent Claim**. ( )

03. **False Statement*s***. Knowingly mak*ing* a false statement or representation of material facts in any document required to be maintained or submitted to the Department. ( )

04. ***Failure to Provide*** **Immediate Access to** ***Required*** **Documentation** ***Upon the Department's Written Request***. ( )

05. **Non-Compliance With Rules and Regulations**. ( )

06. **Violation of Material Term or Condition** ***of the Vendor Agreement***. ( )

07. **Failure to Repay**. *Failure by* a managing employee or *one with* an ownership or control interest in any entity to repay overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or vendor agreement. ( )

08. **Fraudulent or Abusive Conduct** ***in Connection with the Delivery of LIHEAP-Funded Services***. *Being* found, or *being* a managing employee in any entity *who is* found, to have engaged in fraudulent or abusive conduct. ( )

351. REFUSAL TO ENTER INTO AN AGREEMENT.
The Department may refuse to enter into a vendor agreement for the *following* reasons: ( )

01. **Convicted of a Felony**. The vendor has been convicted of a felony relating to their involvement in a public assistance program. (3-29-12)

02. **Failed to Repay**. The vendor has failed to repay the Department monies which had been previously determined to have been owed to the Department. (3-29-12)

03. **Investigation Pending**. The vendor has a pending investigation for program fraud or abuse. (3-29-12)

04. **Terminated Vendor Agreement**. The vendor was the managing employee, officer, or owner of an entity whose vendor agreement was terminated under Section 350 of these rules. (3-29-12)

05. **Excluded Individuals**. The vendor has a current exclusion from participation in federal programs by the Office of Inspector General List of Excluded Individuals and Entities. (3-29-12)

352. VENDOR OR PARTICIPANT NOTIFICATION.
When the Department determines any actions defined in Sections 303 through 351 of these rules are appropriate, it will send written notice of the decision to the vendor or participant. The notice will state the basis for the action, the length of the action, the effect of the action on the participant or the vendor's ability to provide services under state and federal programs, and appeal rights. (3-29-12)

353. -- 994. (RESERVED)

995. PROVISIONS CONTINGENT UPON FEDERAL FUNDING.
The provisions in Sections 000 through 999 inclusive, are contingent upon availability and receipt of funds appropriated through federal legislation. When federal funds are not available to the state of Idaho, these provisions or any part therein *are* considered dormant*;* there may be no advance notice of termination or reduction of benefits. I*f* additional funds are available*,* a supplemental payment *may* be made, in an equitable manner, to each eligible household at the discretion of the Director. (7-1-99)

996. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under the Developmental Disabilities Services and Facilities Act, Sections 39-4601 et seq., Idaho Code, and under Section 56-1003, Idaho Code, to adopt and enforce rules, standards, and certification criteria for Residential Habilitation Agencies and provide for the delivery of appropriate services of habilitation and rehabilitation to the eligible population. (7-1-18)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.04.17, "Residential Habilitation Agencies." *( )*

02. Scope. These rules govern: (7-1-18)

a. The certification of residential habilitation agencies; and (7-1-18)

b. Establish standards and minimum requirements for agencies that provide residential habilitation services. The provisions are intended to regulate agencies so that services to participants will optimize participant opportunities for independence and self-determination while assuring adequate supports, services, participant satisfaction, and health and safety. Residential habilitation agencies will provide individualized services and supports encouraging participant choice, providing the greatest degree of independence possible, enhancing the quality of life, and maintaining community integration and participation. Services provided by such agencies are intended to be person-centered and participant-driven, and based on a person-centered plan to meet each participant's needs for self-sufficiency, medical care, and personal development with goals that safely encourage each participant to become a productive member of the community in which they live. Access to these services must be authorized in accordance to the procedures of the paying entity. (7-1-18)

002. **-- 008. (RESERVED)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Verification of Compliance. The agency must verify that all employees and subcontractors delivering residential habilitation agency services have complied with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-18)

02. Requirement to Report Additional Criminal Convictions, Pending Investigations, or Pending Charges. Once an employee or subcontractor delivering residential habilitation agency services has received a criminal history clearance, any additional criminal convictions, pending investigations, or pending charges must be reported to the Department or its designee by the close of the next business day when the agency learns of the convictions, investigations, or charges. (7-1-18)

010. DEFINITIONS -- A THROUGH N.
For the purposes of these rules the following terms are used as defined below: (7-1-18)

01. Abuse. The non-accidental act of sexual, physical, verbal, or mental mistreatment, or injury of a resident through the action or inaction of another individual. (7-1-18)

02. Administrator. The individual who has primary responsibility for the direction and control of an agency. (7-1-18)

03. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a person with developmental disabilities. A participant may act as their own advocate. (7-1-18)

04. Agency. Any business entity that directly provides residential habilitation services. (7-1-18)

05. Board. The Idaho Board of Health and Welfare. (7-1-18)

06. Certificate. A permit to operate a residential habilitation agency. (7-1-18)

07. Complaint. A formal expression of dissatisfaction, discontent, or unhappiness by or on behalf of a

participant concerning the services provided by the agency. This expression can be oral, in writing, or by alternative means of communication. (7-1-18)

08. Complaint Investigation. An investigation of an agency to determine the validity of allegations of non-compliance with applicable state rules. (7-1-18)

09. Deficiency. A determination of non-compliance with a specific rule, or part of a rule. (7-1-18)

10. Department. The Idaho Department of Health and Welfare, or a person authorized to act on behalf of the Department. (7-1-18)

11. Direct Service Staff. Any individual employed by the agency that provides direct services and supports to the participant. (7-1-18)

12. Director. Director of the Idaho Department of Health and Welfare, or their designee. (7-1-18)

13. Exploitation. An action that may include, but is not limited to, the unjust or improper use of a vulnerable participant's financial power of attorney, funds, property, or resources by another person for profit or advantage. (7-1-18)

14. Functional Assessment. An evaluation of the participant's strengths, needs, and interests that guides the development of program plans or plan of care. (7-1-18)

15. Governing Authority. The designated person or persons (i.e., board) who assume full responsibility for the conduct and operations of the residential habilitation services agency. (7-1-18)

16. Guardian. A legally-appointed person who has decision-making responsibility for the care or property of another, under Section 15-5-301, et seq., Idaho Code, or Section 66-404, Idaho Code. (7-1-18)

17. Habilitation services. Service aimed at assisting the individual to acquire, retain, or improve their ability to reside as independently as possible in the community or maintain family unity. Habilitation services include training in one (1) or more of the following areas: self-direction, money management, daily living skills, socialization, mobility, and behavior-shaping and management. (7-1-18)

18. Immediate Jeopardy. A situation in which the provider's non-compliance with one (1) or more requirements in this chapter of rules has caused, or is likely to cause, serious injury, harm, impairment, or death to a participant. (7-1-18)

19. Inadequate Care. The failure to provide the services required to meet the terms of the plan of service. (7-1-18)

011. DEFINITIONS -- M THROUGH Z.
For the purposes of these rules the following terms are used as defined below: (7-1-18)

01. Measurable Objective. A statement that specifically describes the skill to be acquired or the service or support to be provided, includes quantifiable criteria for determining progress towards and attainment of the service, support or skill, and identifies a projected date of attainment. (7-1-18)

02. Medication. Any substance or drug used to treat a disease, condition, or symptoms that may be taken orally, injected, or used externally, and is available through prescription or over-the-counter. (7-1-18)

03. Neglect. The failure to provide food, clothing, shelter, or medical care reasonably necessary to sustain the life and health of a vulnerable adult. (7-1-18)

04. Owner. Any person or entity, having legal ownership of the agency as an operating business, regardless of who owns the real property. (7-1-18)

05. **Participant**. An adult who is receiving residential habilitation services. (7-1-18)

06. **Physical Restraint**. Any manual method that restricts the free movement of, normal functioning of, or normal access to, a portion or portions of an individual's body. Excluded are physical guidance and prompting techniques of brief duration utilized to assist a participant with completing a desired action for himself. (7-1-18)

07. **Physician**. Any person licensed as required by Title 54, Chapter 18, Idaho Code. (7-1-18)

08. **Plan of Service**. An initial or annual plan that identifies all services and supports based on a planning process. Plans are authorized annually. (7-1-18)

09. **Program Plan**. The participant's plan that details how the participant's individualized goals will be addressed. (7-1-18)

10. **Progress Note**. A written notation, recording participant response to program objective, date, time, duration, and type of service signed and dated by the staff that provided services. (7-1-18)

11. **PRN (Pro Re Nata) Medication**. A medication that is given "as needed" or "as the circumstances warrant" to treat a symptom of a medical or psychiatric condition that has a periodic, episodic, or breakthrough presentation. The assistance with PRN medications must be provided as outlined in IDAPA 23.01.01.490, "Rules for the Idaho Board of Nursing-Unlicensed Assistive personnel (UAP)." (7-1-18)

12. **Provisional Certificate**. A certificate issued by the Department to a residential habilitation agency with deficiencies that do not adversely affect the health or safety of participants. A provisional certificate is issued contingent upon the correction of deficiencies in accordance with an agreed-upon plan. A provisional certificate is issued for a specific period of time, up to, but not to exceed, six (6) months. (7-1-18)

13. **Quarterly**. For the purpose of these rules, quarterly is defined as every three (3) months. (7-1-18)

14. **Residential Habilitation**. Services consisting of an integrated array of individually tailored services and supports furnished to an eligible participant that are designed to assist them to reside successfully in their own home, with their family, or alternate family home. Residential habilitation includes habilitation services, personal care services, and skill training. Individuals who provide residential habilitation services must be employed by a residential habilitation agency. (7-1-18)

15. **Residential Habilitation Professional**. An individual who has at least one (1) year of experience working directly with individuals with intellectual disabilities or developmental disabilities, and meets the requirements in 42 CFR 483.430 (a). (7-1-18)

16. **Self-Neglect**. The failure of a vulnerable adult to provide food, clothing, shelter, or medical care reasonably necessary to sustain the life and health for himself. (7-1-18)

17. **Services**. Paid services authorized on the plan of service that enable the individual to reside safely and effectively in their own home. (7-1-18)

18. **Skill Training**. To train direct service staff to teach the participant how to perform activities with greater independence and to carry out or reinforce habilitation training. Services are focused on training and are not designed to provide substitute task performance. Skills training is provided to encourage and accelerate development in independent daily living skills, self-direction, money management, socialization, mobility, and other therapeutic programs. (7-1-18)

19. **Substantial Compliance**. An agency is in substantial compliance with these rules when none of the following issues have been cited against the agency: (7-1-18)

a. Abuse; (7-1-18)

b. Neglect; (7-1-18)

c. Exploitation; (7-1-18)

d. Inadequate care; (7-1-18)

e. A situation in which the agency has operated more than thirty (30) days without an administrator or a residential habilitation professional; or (7-1-18)

f. Surveyors denied access to records, participants, or agency premises. (7-1-18)

20. Supervision. Initial and ongoing oversight of service and support elements by the residential habilitation professional or designee. The designee will report directly to the residential habilitation professional. (7-1-18)

21. Survey. A review conducted by a surveyor to determine an agency's compliance with statutes and rules. (7-1-18)

22. Surveyor. A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. (7-1-18)

012. -- 099. (RESERVED)

100. TYPES OF CERTIFICATES ISSUED.
The Department issues certificates that are in effect for a period of no longer than three (3) years. The types of certificates issued are as follow: (7-1-18)

01. Initial Certificate. When the Department determines that all application requirements have been met, an initial certificate is issued for a period of up to six (6) months from the initiation of services. The Department will survey the agency prior to the certificate expiration date to ensure the agency's ongoing capability to provide services and is in substantial compliance with these rules. When the agency is determined to be in substantial compliance, a one (1) year certificate will be granted. (7-1-18)

02. One-Year Certificate. A one (1) year certificate is issued by the Department when it determines the agency is in substantial compliance with these rules, following an initial or provisional certificate, or when there may be areas of deficient practice which would impact the agency's ability to provide adequate care. An agency is prohibited from receiving consecutive one (1) year certificates. (7-1-18)

03. Three-Year Certificate. A three (3) year certificate is issued by the Department when it determines the agency requesting certification is in substantial compliance with these rules. (7-1-18)

04. Provisional Certificate. When an agency is found to be out of substantial compliance with these rules, but does not have deficiencies that jeopardize the health or safety of participants, a provisional certificate may be issued by the Department for up to a six (6) month period. A provisional certificate is issued contingent upon the correction of deficiencies in accordance to a plan developed by the agency and approved by the Department. Before the end of the provisional certification period, the Department will determine whether areas of concern have been corrected and whether the agency is in substantial compliance with these rules. If the Department determines the agency is in compliance, a one (1) year certificate will be issued. If the agency is determined to be out of compliance, the certificate will be revoked. (7-1-18)

101. CERTIFICATION – GENERAL REQUIREMENTS FOR AGENCIES.

01. Certificate Required. (7-1-18)

a. No agency may provide services within this state until the Department has approved the application for certification and issued the agency a certificate. No agency may provide services within this state without a current certificate. (7-1-18)

b. The Department is not required to consider the application of any operator, administrator, or owner of an agency whose license or certification has been revoked until five (5) years have lapsed from the date of revocation. (7-1-18)

02. Application. An application for a certificate must be made to the Department on forms provided by the Department at: www.ddacertification.dhw.idaho.gov. The application must contain the following to be considered complete: (7-1-18)

a. Application form that contains the name, address, and telephone number of the agency, type of services to be provided, the geographic service area of the agencies, and the anticipated date for the initiation of services; (7-1-18)

b. An accurate and complete statement of all business names of the agency as filed with the Secretary of State, whether an assumed business name, partnership, corporation, limited liability company, or other entity, that identifies each owner of the agency, and the management structure of the agency; (7-1-18)

c. A statement that the agency will comply with these rules and all other applicable local, state, and federal requirements, including an assurance that the agency complies with pertinent state and federal requirements governing equal opportunity and nondiscrimination; (7-1-18)

d. A copy of the proposed organizational chart or plan for staffing of the agency; (7-1-18)

e. Staff qualifications including resumes, job descriptions, verification of satisfactory completion of criminal history checks in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," and copies of state licenses and certificates for staff, when applicable; (7-1-18)

f. Written policies and procedures for the development and implementation of staff training to meet the requirements of Section 204 of these rules. (7-1-18)

g. Staff and participant illness policy, communicable disease policy, and other health-related policies and procedures required in Section 300 of these rules; (7-1-18)

h. Written policies and procedures that address special medical or health care needs of participants required in Section 300 of these rules; (7-1-18)

i. Written transportation safety policies and procedures required in Section 300 of these rules; (7-1-18)

j. Written participant grievance policies and procedures to meet requirements in Section 300 of these rules; (7-1-18)

k. Written medication policies and procedures to address medication standards and requirements to meet requirements in Section 302 of these rules; (7-1-18)

l. Written policies and procedures that address the development of participants' social skills and the management of participants' maladaptive behavior to meet requirements in Section 303 of these rules; (7-1-18)

m. Written termination policies and procedures in accordance with Section 400 of these rules;(7-1-18)

n. Written policies and procedures for reporting incidents to the adult protection authority and to the Department to meet requirements in Section 404 of these rules; (7-1-18)

o. Written description of the program records system including a completed sample of a program plan, and a monitoring record; (7-1-18)

p. Written description of the fiscal record system including a sample of program billing; (7-1-18)

q. Written description of the agency's quality assurance program developed to meet requirements in Section 405 of these rules; (7-1-18)

r. Any other policies, procedures, or requirements as outlined in these rules; and (7-1-18)

s. All referenced forms. (7-1-18)

03. ***Completed*** **Applications**. *Applications must be complete.* Incomplete applications will not be considered and will be returned to the applicant. An applicant may submit an application up to three (3) times within a three hundred sixty-five (365) day period starting on the date of the first submission. If the application is incomplete upon a third submission, the application will be denied. The applicant may not resubmit an application for six (6) months from the date of the denial notice. *( )*

04. Conformity. Applicants for certification and certified residential habilitation agencies must conform to all applicable rules of the Department. (7-1-18)

05. Inspection of Residential Habilitation Records. The agency and all records required under these rules must be accessible at any reasonable time to authorized representatives of the Department for the purpose of inspection with or without prior notice. Refusal to allow such access may result in revocation of the agency's certificate. (7-1-18)

102. DENIAL OF AN APPLICATION.
The Department may deny any application. (7-1-18)

01. Causes for Denial. Causes for denial of an application may include: (7-1-18)

a. The application does not meet all rule requirements; or (7-1-18)

b. The agency does not meet requirements for certification to the extent that it hinders its ability to provide quality services that comply with the rules for residential habilitation agencies; or (7-1-18)

c. The application is incomplete; or (7-1-18)

d. The applicant, owner, operator, or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (7-1-18)

e. The applicant, owner, operator, or provider has been denied or has had revoked any license or certificate for a health facility, residential assisted living facility, certified family home, or residential habilitation agency; or *( )*

f. The applicant, owner, operator, or provider has been convicted of operating a health facility, residential assisted living facility, certified family home, or residential habilitation agency without a license or certificate; or *( )*

g. A court has ordered that the applicant, owner, operator, or provider must not operate a health facility, residential assisted living facility, certified family home, or residential habilitation agency. *( )*

h. The Department will not review an application of an applicant who has an action, either current or in process, against a certificate held by the applicant either in Idaho or any other state or jurisdiction. (7-1-18)

02. Before Denial is Final. Before denial is final, the Department will advise the individual or provider in writing of the denial and their right and method to appeal. Contested case hearings, including denial and revocation, must be conducted under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." *( )*

103. RENEWAL AND EXPIRATION OF CERTIFICATE.
An agency must request, through a Department-approved process, renewal of its certificate no less than ninety (90)

days before the expiration date of the certificate, to ensure there is no lapse in certification. (7-1-18)

01. Renewal of Certificate. A certificate may be renewed by the Department when it determines the agency requesting recertification is in substantial compliance with the provisions of this chapter of rules. A certificate issued on the basis of substantial compliance is contingent upon the correction of deficiencies in accordance with a plan developed by the agency and approved by the Department. (7-1-18)

02. Expiration of Certificate Without Timely Request for Renewal. Expiration of a certificate without a timely request for renewal automatically rescinds the agency's certification to deliver services under these rules. (7-1-18)

03. Availability of Certificate. The certificate must be available upon request by the Department, a participant, their guardian, and members of the public. (7-1-18)

104. CERTIFICATE NOT TRANSFERABLE.
The certificate is issued only to the agency named in the application, only for the period specified, only for the location indicated in the application, and only to the owners or operators as expressed on the application submitted to the Department. The certificate may not be transferred or assigned to any other person or entity. The certificate is nontransferable from one (1) location to another. (7-1-18)

105. RETURN OF CERTIFICATE.
The certificate is the property of the state and must be returned to the state if it is revoked or suspended or voluntarily closed. (7-1-18)

106. CHANGE OF OWNERSHIP, ADMINISTRATOR, OR LOCATION.

01. Notification to Department. When a change of ownership, or locations is contemplated, the agency must be recertified and implement the same procedure as an agency that has never been certified. When a change of a certified agency's ownership, administrator, or address is contemplated, the owner or designee must notify the Division of Licensing and Certification in writing through the Department-approved process. (7-1-18)

02. New Application Required. In the instance of a change of ownership or lessee the new owner must submit a new application to the Department at least sixty (60) days prior to the proposed date of change. The new application must be submitted to the Division of Licensing and Certification through the Department-approved process and must contain the required information under Section 101.02 of these rules. (7-1-18)

107. -- 199. (RESERVED)

200. AGENCY GOVERNING AUTHORITY.
Each agency must be organized and administered under one governing (1) authority. The governing authority may be a named individual or a number of individuals that will assume full legal responsibility for the overall conduct of the agency. (7-1-18)

01. Structure. The agency must document an organizational chart that identifies the individuals acting as its governing authority, the administrator, the residential habilitation professional, and all other agency employees with administrative responsibilities. This organizational chart must be provided at the time of the application, updated at least annually or upon significant change to the agency's organizational structure, and available to the Department upon request. (7-1-18)

02. Responsibilities. The governing authority must assume responsibility for: (7-1-18)

a. Adopting appropriate organizational bylaws and policies and procedures; (7-1-18)

b. Appointing an administrator qualified to carry out the agency's overall responsibilities in relation to written policies and procedures and applicable state and federal laws. The administrator must participate in deliberation of policy decisions concerning all services; (7-1-18)

c. Ensuring the agency administrator fulfills the duties and obligations outlined in Section 201 of these rules. Any failure on part of the Administrator is the ultimate responsibility of the agency and its governing body. (7-1-18)

d. Conducting and documenting that it performed an annual review of the agency for compliance with these rules; (7-1-18)

e. Developing and implementing written administrative policies and procedures that comply with applicable state and federal rules; and (7-1-18)

f. Developing and implementing policies and procedures *under* these rules. *These are to* be reviewed at least annually and revised as necessary. *( )*

201. AGENCY ADMINISTRATOR.
An administrator for an agency is accountable for the overall operations of the agency including ensuring compliance with these rules, overseeing and managing staff, and administering the agency's policies and procedures, and quality assurance program. (7-1-18)

01. Administrator Qualifications. Each agency must employ a designated administrator who: (7-1-18)

a. Is at least twenty-one (21) years of age; (7-1-18)

b. Has satisfactorily completed a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks"; and (7-1-18)

c. Has a minimum of three (3) years of experience in service delivery with the population served with at least one (1) year having been in an administrative role. (7-1-18)

02. Absences. The administrator must designate, in writing, a qualified employee to perform the functions of the administrator to act in their absence. This document must be available upon request. (7-1-18)

03. Responsibilities. The administrator must: (7-1-18)

a. Document and review the overall program and general participant needs on at least a quarterly basis, or more often as necessary, to plan and implement appropriate strategies for meeting those needs; (7-1-18)

b. Make all records available to the Department for review or audit; (7-1-18)

c. Implement all policies addressing safety measures for the protection of participants and staff as mandated by state and federal rules; (7-1-18)

d. Ensure agency personnel, including those providing services, practice within the scope of their certificate or license; (7-1-18)

e. Conduct satisfaction surveys at least annually with each participant or guardian, as applicable. (7-1-18)

f. Assure training, support services, and equipment for agency staff are provided to carry out assigned responsibilities; (7-1-18)

g. Schedule coverage to assure compliance with the Plan of Service and Program Plans. Work schedules reflecting the daily adjustments of employees must be maintained to show the personnel on duty for the scheduled shift. The agency must specify provisions and procedures to assure back-up coverage for those work schedules; and (7-1-18)

h. Coordinate with other service providers to assure continuity of the delivery of residential

habilitation services in the plan of service. (7-1-18)

202. QUALIFICATIONS AND RESPONSIBILITIES OF A RESIDENTIAL HABILITATION PROFESSIONAL.

01. Education and Experience. To be qualified as a residential habilitation professional, a person must: (7-1-18)

a. Have at least one (1) year of experience professionally supervised with the population served; and (7-1-18)

b. Meet the qualifications of a Qualified Intellectual Disabilities Professional (QIDP) as described in 42 CFR 483.430(a). (7-1-18)

c. Experience writing and implementing behavior and skill training program plans; or (7-1-18)

i. *P*rovide documentation the employee received such training from an experienced residential habilitation professional; and *( )*

ii. Demonstrate the ability to write and implement behavior and skill training program plans. (7-1-18)

02. Criminal History and Background Check. A residential habilitation professional must have satisfactorily completed a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-18)

03. First Aid and CPR Certification. A residential habilitation professional must be certified in first aid and Cardio-Pulmonary Resuscitation (CPR) appropriate for the age of participants they serve prior to providing direct service to participants and maintain current certification thereafter. (7-1-18)

04. Responsibilities of a Residential Habilitation Professional. A residential habilitation professional must be employed by the agency on a continuous and regularly scheduled basis. A residential habilitation professional must perform the following: (7-1-18)

a. Provide all skill training to agency direct service staff necessary to fulfill each participant's plan of service; (7-1-18)

b. Complete or obtain an age appropriate functional assessment for participants served within thirty (30) days of initiation of the service; (7-1-18)

c. Develop participant program plans according to the current authorized plan of service for each participant; and (7-1-18)

d. Supervise habilitation services of the agency at least quarterly or more often as necessary to include: (7-1-18)

i. The review of direct services performed by direct service staff to ensure that staff are implementing the programs as written and demonstrate the necessary skills to correctly provide the services; and (7-1-18)

ii. Monitoring participant progress and documenting changes when necessary to ensure revisions are made for progress, regression, or inability to maintain independence. (7-1-18)

05. Direct Service Qualifications. If a residential habilitation professional is providing any type of direct service, they must meet the qualifications of direct service staff as defined in Section 203 of these rules. (7-1-18)

203. DIRECT SERVICE STAFF.

Each direct service staff person for an agency must meet all of the following minimum qualifications: (7-1-18)

01. **Age**. Be at least eighteen (18) years of age. (7-1-18)

02. **Education**. Be a high school graduate, or have a GED or demonstrate the ability to provide services according to a plan of service. (7-1-18)

03. **First Aid and CPR Certification**. Be certified in first aid and Cardio-Pulmonary Resuscitation (CPR) appropriate for the age of participants they serve prior to providing direct care or services to participants and maintain current certification thereafter. (7-1-18)

04. **Health**. Have signed a statement maintained by the agency that they are free from communicable disease, understands universal precautions, and follows agency policies and procedures regarding communicable disease. (7-1-18)

05. **"Assistance with Medications" Course**. Each staff person assisting with participant medications must successfully have completed and follow the "Assistance with Medications" course available through the Idaho Division of Career-Technical Education, or other Department-approved training. A copy of the certificate or other verification of successful completion must be maintained by the agency in the employee record. (7-1-18)

06. **Criminal History Check**. Have satisfactorily completed a criminal history check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-18)

07. **Documentation of Job Description**. Have signed and received a copy of their job description from the agency stating that the requirements of their position have been explained. (7-1-18)

08. **Documentation of Training Requirements**. Have documentation maintained by the agency showing they have met all training requirements as outlined in Section 204 of these rules. (7-1-18)

204. DIRECT SERVICE STAFF TRAINING.
Each agency must ensure that all staff who provide direct services have completed training in accordance with these rules. (7-1-18)

01. **Training Documentation**. (7-1-18)

a. Training documentation must include the following: (7-1-18)

i. Direct service staff receiving the training; (7-1-18)

ii. Individual conducting the training; (7-1-18)

iii. Name of the participant; (7-1-18)

iv. Description of the content trained; and (7-1-18)

v. Date and duration of the training. (7-1-18)

b. Documentation of training must be available for review by the Department, and retained in each employee's record. (7-1-18)

02. **Orientation Training**. Orientation training must be completed prior to working with participants. The orientation training must include: (7-1-18)

a. Purpose and philosophy of services; (7-1-18)

b. Policies and procedures; (7-1-18)

c. Proper conduct in working with participants; (7-1-18)

d. Handling of confidential and emergency situations that involve the participant; (7-1-18)

e. Participant rights to include personal, civil, and human rights; (7-1-18)

f. Universal Precautions; (7-1-18)

g. Body mechanics and lifting techniques; (7-1-18)

h. Housekeeping techniques; (7-1-18)

i. Maintenance of a clean, safe, and healthy environment; and (7-1-18)

j. Skills training specific to the needs of each participant served must be provided by a residential habilitation professional and include the following: (7-1-18)

i. Instructional techniques including correct and consistent implementation of the participant's program plan or plan of care; (7-1-18)

ii. Managing behaviors including techniques and strategies for teaching adaptive behaviors; and (7-1-18)

iii. Accurate record keeping procedures. (7-1-18)

03. Ongoing Training. The residential habilitation professional must provide and document ongoing training of direct service staff when changes are made to the participant's plan of service and corresponding program plans. Additionally, the agency will be responsible for providing on-going training to direct service staff when there are changes to the participant's physical, medical, and behavioral status. (7-1-18)

205. -- 299. (RESERVED)

300. AGENCY POLICIES AND PROCEDURES.
A policy and procedure manual must be developed by the agency to effectively implement its objectives. It must be approved by the governing authority. The manual must, at a minimum, include policies and procedures reflecting the following: (7-1-18)

01. Scope of Services and Area Served. The agency must define the scope of services offered and the geographic area served by the agency. (7-1-18)

02. Acceptance Standards. The agency must develop and implement written policies and procedures that specify the agency will only accept and retain participants for whom the agency is adequately equipped to provide appropriate services according to the participant's plan of care. The agency will not accept or retain participants when the agency does not have the personnel appropriate in number and with appropriate knowledge and skill to provide the services needed by each participant according to each participant's plan of care. (7-1-18)

03. Participant Records. Each agency must develop and implement written policies and procedures that describe the content, maintenance, and storage of participant records. Each agency must maintain accurate, current, and complete participant records. These records must be maintained for at least five (5) years following the participant's termination of services, or to the extent required by other federal or state requirements. Each agency must have a participant records system to include past and current information and to safeguard participant confidentiality under these rules. (7-1-18)

04. Required Services. Each agency must develop and implement written policies and procedures that describe how the agency will assess and provide residential habilitation services. Residential habilitation services consist of an integrated array of individually tailored services and supports. These services and supports are designed to assist the participants to reside in their own homes. Residential habilitation includes habilitation services aimed at assisting the individual to acquire, retain, or improve their ability to reside as independently as possible in the

community or maintain family unity, and include training in one (1) or more of the following areas: (7-1-18)

a. Self-direction, including the identification of and response to dangerous or threatening situations, making decisions and choices affecting the individual's life, and initiating changes in living arrangements or life activities; (7-1-18)

b. Money management, including training or assistance in handling personal finances, making purchases, and meeting personal financial obligations; (7-1-18)

c. Daily living skills, including training in accomplishing routine housekeeping tasks, meal preparation, dressing, personal hygiene, self-administration of medications, and other areas of daily living including proper use of adaptive and assistive devices, appliances, home safety, first aid, and emergency procedures; (7-1-18)

d. Socialization, including training or assistance in participation in general community activities and establishing relationships with peers with an emphasis on connecting the participant to their community. (7-1-18)

i. Socialization training associated with participation in community activities includes assisting the participant to identify activities of interest, working out arrangements to participate in such activities, and identifying specific training activities necessary to assist the participant to continue to participate in such activities on an on-going basis. (7-1-18)

ii. Socialization training does not include participation in non-therapeutic activities that are merely diversional or recreational in nature; (7-1-18)

e. Mobility, including training or assistance aimed at enhancing movement within the person's living arrangement, mastering the use of adaptive aids and equipment, accessing and using public transportation, independent travel, or movement within the community; (7-1-18)

f. Behavior shaping and management includes training and assistance in appropriate expressions of emotions or desires, assertiveness, acquisition of socially appropriate behaviors; or extension of therapeutic services, which consist of reinforcing physical, occupational, speech and other therapeutic programs. (7-1-18)

g. Personal Assistance Services necessary to assist the individual in daily living activities, household tasks, and such other routine activities as the participant or the participant's primary caregiver(s) are unable to accomplish on their own behalf. (7-1-18)

h. Skills training conducted by direct service staff to teach the participant how to perform activities with greater independence and to carry out or reinforce habilitation training. Services are focused on training and are not designed to provide substitute task performance. Skills training is provided to encourage and accelerate development in independent daily living skills, self-direction, money management, socialization, mobility, and other therapeutic programs. (7-1-18)

05. Participant Safety. Each residential habilitation agency must develop and implement a policy and procedure for assessing each individual participant's safety. The assessment must include environmental and structural risks to the participant served and how those risks will be reduced or eliminated. (7-1-18)

06. Disaster/Emergency Care. Each agency must develop and implement emergency planning and care policies and procedures that include situational and environmental emergencies. The policy and procedure must include an emergency preparedness plan to follow in the event of an emergency. (7-1-18)

07. Administrative Records. Each agency must maintain all administrative records, including all written policies and procedures, for at least five (5) years or to the extent necessary to meet any other federal or state requirements. Administrative records must include, at a minimum: (7-1-18)

a. Administrative structure must include an organizational chart; (7-1-18)

b. Legal authority must be identified in organizational bylaws and other documentation of legal

authority of ownership; (7-1-18)

c. Fiscal records must verify service delivery prior to request for payment. (7-1-18)

08. Personnel. Each agency must develop and implement written personnel policies and procedures. The agency is responsible for the recruitment, hiring, training, supervision, scheduling, and payroll for its employees. Written personnel policies that describe the employee's rights, responsibilities, and agency's expectations must be on file and provided to employees. The record must contain documentation supporting staff qualifications. A record for each employee must be maintained from date of hire for not less than five (5) year(s) after the employee is no longer employed by the agency or as necessary to meet other requirements. (7-1-18)

09. Participant Rights. Each agency must develop and implement written policies that include a clear definition of personal, civil, and human rights. Upon initiation of services, the agency must provide each participant and guardian, if applicable, with written and verbal information outlining participant rights. This information must be in easily understood terms. The policy and procedure must include the following rights: (7-1-18)

a. Humane care and treatment; (7-1-18)

b. Not be put in isolation; (7-1-18)

c. Be free of restraints, unless necessary for the safety of that person or for the safety of others; (7-1-18)

d. Be free of mental and physical abuse; (7-1-18)

e. Voice grievances and recommend changes in policies or services being offered; (7-1-18)

f. Have the opportunity to participate in social, religious, and community activities of their choice; (7-1-18)

g. Wear their own clothing and retain and use personal possessions; (7-1-18)

h. Be informed of their habilitative condition, services available at the agency; (7-1-18)

i. Reasonable access to all records concerning himself; (7-1-18)

j. Choose or refuse services; (7-1-18)

k. Exercise all civil rights, unless limited by prior court order; (7-1-18)

l. Privacy and confidentiality; (7-1-18)

m. Receive courteous treatment; (7-1-18)

n. Receive a response from the agency to any request made within (14) business days; (7-1-18)

o. Receive services that enhance the participant's personal competencies and, whenever possible, promote inclusion in the community; (7-1-18)

p. Refuse to perform services for the agency. If the participant is hired to perform services for the agency, the wage paid must be consistent with state and federal law; (7-1-18)

q. Review the results of the most recent survey conducted by the Department and the accompanying plan of correction; (7-1-18)

r. All other rights established by law; (7-1-18)

s. Be protected from harm; (7-1-18)

t. Choose one's roommate; (7-1-18)

u. Reside in the environment or setting that is least restrictive of personal liberties in which appropriate treatment can be provided; (7-1-18)

v. Communicate by sealed mail, telephone, or otherwise with persons inside or outside of their residence, to have access to reasonable amounts of letter writing material and postage and to have access to private areas to make telephone calls and receive visitors; (7-1-18)

w. Receive visitors at all reasonable times and to associate freely with persons of their own choice; (7-1-18)

x. Keep and be allowed to spend a reasonable sum of their own money for personal expenses and small purchases, and have access to individual storage space for their own use; and (7-1-18)

y. Unless limited to prior court order, exercise all civil rights, including the right to dispose of property, execute instruments, make purchases, enter into contractual arrangements, and vote. (7-1-18)

10. Health. Each agency must develop and implement written policies and procedures that: (7-1-18)

a. Define how the agency will train each direct service staff on procedures to follow for communicable diseases or infected skin lesions; (7-1-18)

b. Describe how the agency will protect participants from exposure to individuals exhibiting symptoms of illness; (7-1-18)

c. Address any special medical or health care needs specific to each participant; and (7-1-18)

d. Implement medication standards and requirements in accordance to Section 302 of these rules. (7-1-18)

11. Transportation. Each agency must develop and implement transportation policies that include the following: (7-1-18)

a. Preventative Maintenance Program. Establish a preventive maintenance program, including vehicle inspections and other regular maintenance, for all agency-owned vehicles used to transport participants to ensure participant safety. (7-1-18)

b. Transportation Safety Policy. Develop and implement a written transportation safety policy. The policy must include procedures for ensuring adequate staffing of participants who require additional supervision during transportation to ensure safety of all vehicle occupants. (7-1-18)

c. Licenses and Certifications for Drivers and Vehicles. Obtain and maintain licenses and certifications for drivers and vehicles required by public transportation laws, regulations, and ordinances that apply to the agency to conduct business and to operate the types of vehicles used to transport participants. Agencies must maintain documentation of appropriate licensure for all employees who operate vehicles. (7-1-18)

d. Applicable Laws, Rules, and Regulations. Adhere to all laws, rules, and regulations applicable to drivers and vehicles of the type used. (7-1-18)

e. Liability Insurance. Continuously maintain liability insurance that covers all passengers and meets the minimum liability insurance requirements under Idaho law. If an agency employee transports participants in the employee's personal vehicle, the agency must ensure that adequate liability insurance coverage is carried to cover those circumstances. (7-1-18)

12. Quality Assurance. Each agency must develop and implement policies and procedures that describe the Purpose of the Quality Assurance Program that, at minimum, address the components of Section 405 of these rules. (7-1-18)

13. Grievance. Each agency must develop and implement policies and procedures that describe the agencies methodology for accepting and responding to grievances presented by participants or their guardians. (7-1-18)

301. PERSONNEL RECORDS.
The record for each employee must contain at least the following: (7-1-18)

01. Name, Current Address, and Phone Number of the Employee; (7-1-18)

02. Social Security Number; (7-1-18)

03. Education and Experience; (7-1-18)

04. Other Qualifications. If licensed in Idaho, the original license number and the date the current registration expires, or if certificated, a copy of the certificate; (7-1-18)

05. Date of Employment; (7-1-18)

06. Job Description. Documentation that the employee signed and received a copy of their job description stating that the requirements of their position have been explained to them; (7-1-18)

07. Date of Termination of Employment and Reason for Termination, If Applicable; (7-1-18)

08. Documentation of the Employee's Initial Orientation and Required Training; (7-1-18)

09. Evidence of Current Age-Appropriate CPR and First Aid Certifications; (7-1-18)

10. Current Assistance With Medications Certification, If Applicable; and (7-1-18)

11. Criminal History Check. Verification of satisfactory completion of criminal history checks in accordance with IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-18)

302. AGENCY MEDICATION STANDARDS AND REQUIREMENTS.
The agency must develop and implement written policy and procedures describing the program's system for handling participant medications that is in compliance with the IDAPA 23.01.01, "Rules of the Board of Nursing." (7-1-18)

01. Medication Policy. Each agency must develop written medication policies and procedures that outline in detail how the agency will ensure appropriate handling and safeguarding of medications. An agency that chooses to assist participants with medications to include PRN medications must also develop specific policies and procedures to ensure this assistance is safe and is delivered by qualified, fully-trained staff. Documentation of training must be maintained in the staff personnel record. (7-1-18)

02. Handling of Participant's Medication. (7-1-18)

a. The medication must be in the original pharmacy-dispensed container, or in an original over-the-counter container, or placed in a unit container by a licensed nurse and be appropriately labeled with the name of the medication, dosage, time to be taken, route of administration, and any special instructions. Each medication must be packaged separately, unless in a Mediset, blister pack, or similar system. (7-1-18)

b. Evidence of the written order for the medication from the physician or other practitioner of the healing arts must be maintained in the participant's record. Medisets, blister pack, or similar system filled and labeled by a pharmacist or licensed nurse can serve as written evidence of the order. An original prescription bottle labeled by a pharmacist describing the order and instructions for use can also serve as written evidence of an order from the

physician or other practitioner of the healing arts. (7-1-18)

c. The agency is responsible to safeguard the participant's medications when assuming the responsibility for assisting with medications. (7-1-18)

d. Medications that are expired or no longer used by the participant must not be retained by the agency or agency staff for longer than thirty (30) calendar days. (7-1-18)

03. Self-Administration of Medication. When the participant is responsible for administering their own medication without assistance, a written approval stating that the participant is capable of self-administration must be obtained from the participant's primary physician or other practitioner of the healing arts. The participant's record must also include documentation that a physician or other practitioner of the healing arts, or a licensed nurse has evaluated the participant's ability to self-administer medication and has found that the participant: (7-1-18)

a. Understands the purpose of the medication; (7-1-18)

b. Knows the appropriate dosage and times to take the medication; (7-1-18)

c. Understands expected effects, adverse reactions or side effects, and action to take in an emergency; and (7-1-18)

d. Is able to take the medication without assistance. (7-1-18)

04. Assistance with Medication. An agency may choose to assist participants with medications; however, only a licensed nurse or other licensed health professional may administer medications. Prior to unlicensed agency staff assisting participants with medication, the following conditions must be in place: (7-1-18)

a. Each staff person assisting with participant medications must successfully complete and follow the "Assistance with Medications" course available through the Idaho Division of Career-Technical Education, or other Department-approved training; (7-1-18)

b. The participant's health condition is stable; (7-1-18)

c. The participant's health status does not require nursing assessment, as outlined in IDAPA 23.01.01, "Rules for the Idaho Board of Nursing," before receiving the medication or nursing assessment of the therapeutic or side effects after the medication is taken; (7-1-18)

d. The medication is in the original pharmacy-dispensed container with proper label and directions, or in an original over-the-counter container, or the medication has been placed in a unit container by a licensed nurse. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container; (7-1-18)

e. Written and oral instructions from a licensed physician or other practitioner of the healing arts, pharmacist, or nurse concerning the reason(s) for the medication, the dosage, expected effects, adverse reactions or side effects, and action to take in an emergency have been reviewed by the staff person; (7-1-18)

f. Written instructions are in place that outline required documentation of assistance and who to call if any doses are not taken, overdoses occur, or actual or potential side effects are observed; (7-1-18)

g. Procedures for disposal or destruction of medications must be documented and consistent with procedures outlined in the "Assistance with Medications" course or local medication destruction programs. (7-1-18)

05. Administration of Medications. Only a licensed nurse or another licensed health professional working within the scope of their license may administer medications. Administration of medications must comply with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-18)

303. AGENCY POLICIES AND PROCEDURES REGARDING DEVELOPMENT OF SOCIAL SKILLS AND MANAGEMENT OF MALADAPTIVE BEHAVIOR.
Each agency must develop and implement written policies and procedures that address the development of participants' social skills and management of maladaptive behavior. These policies and procedures must include statements that address: (7-1-18)

01. Adaptive and Maladaptive Behavior. The agency must address possible underlying causes or function of a behavior and identify what the participant may be attempting to communicate by the behavior. (7-1-18)

02. Behavior Intervention. Positive behavior interventions must be used prior to and in conjunction with, the implementation of any restrictive intervention. Interventions must address the following: (7-1-18)

a. Social Skills Development. Focus on developing or increasing participants' social skills. (7-1-18)

b. Prevention Strategies. Ensure and document the use of positive approaches to increase social skills and decrease maladaptive behavior while using least restrictive alternatives and consistent, proactive responses to behaviors. (7-1-18)

c. Behavior replacement. Ensure that programs to assist participants with managing maladaptive behavior include teaching of alternative adaptive skills to replace the maladaptive behavior. (7-1-18)

d. Protected Rights. Ensure the safety, welfare, and human and civil rights of participants are adequately protected. (7-1-18)

e. Objectives and Programs. Ensure that objectives and intervention techniques are developed or obtained and implemented to address self-injurious behavior, aggressive behavior, inappropriate sexual behavior, and any other behaviors that significantly interfere with participants' independence or ability to participate in the community. Ensure that reinforcement selection is individualized and appropriate to the task and not contraindicated for medical reasons. (7-1-18)

f. Participant Involvement. Ensure programs developed by the agency involve the participants, to the best of their ability, in developing the plan to increase social skills and to manage maladaptive behavior. (7-1-18)

g. Written Informed Consent. Ensure programs developed by an agency to assist participants with managing maladaptive behaviors are conducted only with the written informed consent of the participant, or legal guardian, where applicable. When programs used by the agency are developed by another service provider the agency must obtain a copy of the informed consent. (7-1-18)

h. Review and Approval. Programs developed by an agency to manage maladaptive behavior are implemented after the review and written approval of the residential habilitation professional. If the program contains restrictive or aversive components, an individual working within the scope of their license or certification must also review and approve, in writing, the program prior to implementation. When programs implemented by the agency are developed by another service provider, the agency must obtain a copy of these reviews and approvals. (7-1-18)

03. Appropriate Use of Interventions. Employees of the agency must not use physical, verbal, sexual, or psychological abuse, or punishment. For the purposes of these rules, punishment is any procedure in which an adverse consequence is presented that is designed to produce a decrease in the rate, intensity, duration, or probability of the occurrence of a behavior; or, the administration of any noxious or unpleasant stimulus or deprivation of a participant's rights or freedom for the purpose of reducing the rate, intensity, duration, or probability of a particular behavior. Employees of the agency must not withhold food or hydration that contributes to a nutritionally adequate diet. The agency must ensure that interventions used to manage participants' maladaptive behavior are never used: (7-1-18)

a. For disciplinary purposes; (7-1-18)

b. For the convenience of staff; (7-1-18)

c. As a substitute for a needed training program; or (7-1-18)

d. By untrained or unqualified staff. (7-1-18)

04. Use of Restraint on Participants. No restraints, other than physical restraint in an emergency, must be used on participants prior to the use of positive behavior interventions. The following requirements apply to the use of physical restraint on participants: (7-1-18)

a. Physical restraint. (7-1-18)

i. Physical restraint may be used in an isolated emergency to prevent injury to the participant or others and must be documented and reviewed in the participant's record by the direct service staff and the residential habilitation professional. Documentation must include a debrief with the participant and staff involved focusing on strategies to avoid the occurrence of future physical restraints. (7-1-18)

ii. Physical restraint may be used in a non-emergency setting when a written behavior change plan is developed by the participant and their guardian, if applicable, their team, and a qualified residential habilitation professional. Informed participant consent is required. (7-1-18)

304. -- 399. (RESERVED)

400. AGENCY PARTICIPANT RECORD REQUIREMENTS.
Each agency certified under these rules must maintain accurate, current, and complete participant and administrative records. Each participant record must clearly document the date, time, duration, and type of service, and include the signature of the individual providing the service, for each service provided. Each participant record must contain the following information: (7-1-18)

01. Profile Sheet. Each participant record must include a profile sheet containing the following: (7-1-18)

a. Name, current address, and current phone number of the participant; (7-1-18)

b. Medicaid ID number; (7-1-18)

c. Gender and marital status; (7-1-18)

d. Date of birth; (7-1-18)

e. Names, addresses, and current phone numbers of legal guardian if applicable, family, advocates, friends, and persons to be contacted in case of an emergency; (7-1-18)

f. Names, addresses, and current phone number of physician, pharmacy, dentist, and other health care providers as applicable; (7-1-18)

g. A list, or an attached list, of current medications, diet, and all other treatments prescribed for the participant; and (7-1-18)

h. Current diagnoses or reference to a current history and physical. (7-1-18)

02. Authorized Plan of Service. The agency must obtain a current authorized plan of service from the paying entity. (7-1-18)

03. Participant Rights. Each agency must document upon initiation of services, that each participant and their guardian, where applicable, have been informed of their rights, access to grievance procedures, and the names, addresses, and telephone numbers of protection and advocacy services. This information must be provided in easily understood terms both verbally and in writing. (7-1-18)

04. History and Physical. Results of a most current history and physical. (7-1-18)

05. Functional Assessment. An age-appropriate functional assessment must be completed or obtained by the agency within thirty (30) days of the initiation of service. The functional assessment must be used for the development of program plans and include: (7-1-18)

a. An assessment reflecting the person's functional abilities in the following areas: self-direction, money management, daily living skills, socialization, mobility, behavior shaping, and other therapeutic programs; and (7-1-18)

b. The results and summary signed with credentials and dated by the qualified residential habilitation professional. (7-1-18)

06. Psychological or Psychiatric Assessment. When a participant has had a psychological or psychiatric assessment for the purpose of treatment, the results of the assessment must be maintained in the participant's record and used when developing program objectives. (7-1-18)

07. Program Plan. Each participant must have a program plan that includes goals and objectives specific to their authorized residential habilitation program. Program plans that include participant's name, baseline statement, measurable objectives, start date, written instructions to staff, service environments, and target date. (7-1-18)

08. Record of Significant Incidents, Accidents, Illnesses, and Treatments. (7-1-18)

09. Daily Medication Log, When Applicable. (7-1-18)

10. Daily Record of the Date, Time, Duration, and Type of Service Provided. (7-1-18)

11. Service Delivery and Progress Notes. Documentation of service delivery and progress notes that correspond with the program plans when services are delivered to the participant. (7-1-18)

12. Status Review. Residential habilitation agencies must review each participant's progress to ensure revisions are made for progress, regression, or inability to maintain independence. The review of progress must be documented on a status review document. The status review document identifies the participant's progress toward goals defined in the plan of service. (7-1-18)

13. Termination Procedures. The agency must develop and implement termination policies and procedures that address how the agency will ensure safety of the participant and community to the extent possible in the event that emergency conditions exist or the participant no longer in need of or desires services. (7-1-18)

a. Emergency conditions warranting termination of services include: (7-1-18)

i. A change in the participant's condition resulting in an increased level of care beyond the scope of the agency's ability to provide care for the participant. (7-1-18)

ii. Significant behavior concerns including physical aggression by the participant that puts the health and safety of the agency's staff or other participants in jeopardy and behavior management techniques have failed to reduce the risk to staff or others. (7-1-18)

b. In the instance where the participant is no longer in need of or desires services, the agency must ensure that the procedures include written notice of no less than thirty (30) days for termination, include a transition plan, and a copy of the agency's grievance process. For the purposes of this chapter, a transition plan is an interim plan developed by the agency defining activities to assist the participant to transition out of residential habilitation services from that agency. (7-1-18)

c. Services may be terminated prior to thirty (30) days if both parties agree in writing to the termination conditions. The agency may not terminate services when to do so would pose a threat of endangerment to

the participant or others. The participant is entitled to appeal the termination utilizing the agency's grievance process regardless of the reason for termination. (7-1-18)

d. The agency must notify the participant and their guardian, if applicable, no less than thirty (30) days prior to a change of ownership to ensure informed choice in the services they receive. (7-1-18)

401. -- 402. (RESERVED)

403. PARTICIPANT FINANCES.

01. Written Policy and Procedure. Each agency must develop and implement a written policy and procedure that describes the management of participant funds. In order for an agency to manage participant's funds, they must have written designation as a payee by either Social Security Administration or the participant's guardian or conservator if they are not a recipient of Social Security funds. (7-1-18)

02. Participant's Personal Finance Records. When the agency, or its employees or contractors, are designated as the payee on behalf of the participants, the agency must establish and maintain an accounting system that assures a full and complete accounting of participants' personal funds entrusted to the agency, its employees, or contractors on behalf of participants. Records of financial transactions must be sufficient to allow a thorough audit of the participant's funds. An agency that manages participant funds must: (7-1-18)

a. Not commingle of participant funds with agency funds. Borrowing between participant accounts is prohibited; (7-1-18)

b. Document any financial transactions. A separate transaction record *is to* be maintained for each participant, including receipts for each expenditure paid for using the participant funds, except for purchases made with participant's personal funds; *( )*

c. Restore funds to the participant if the agency cannot produce proper accounting records of participant's funds or property; and (7-1-18)

d. Provide access to the participant's funds to the participant or their legal guardian or conservator. (7-1-18)

e. Document dispersion of participant personal spending money. Documentation *is to* include the date and amount of the money given to the participant. The participant must acknowledge in writing receipt of the spending money at the time it is dispersed. *( )*

404. AGENCY REPORTING AND COMMUNICATION REQUIREMENTS.
Each agency must develop and implement written policies and procedures outlining how the agency will document reporting and other communications for the following: (7-1-18)

01. Reciprocal Communication. Communication with the legal guardian and other authorized individuals; and (7-1-18)

02. Reporting Requirements. Any agency employee or contractor must report all incidents and allegations of mistreatment, abuse, neglect, injuries of unknown origin, or exploitation to the administrator and to adult protection and law enforcement officials, as required by law under Section 39-5304, Idaho Code. (7-1-18)

a. The agency administrator must investigate and document in the participant's records their investigation of all alleged violations. The agency must protect the participant from the possibility of abuse while the investigation is in progress. The administrator must ensure the events and the agency response to the events are documented in the participant record. (7-1-18)

b. If the agency administrator verifies the alleged violation, appropriate corrective action must be taken and reported to law enforcement, the Department, and adult protection as required by law under Section 39-5304, Idaho Code. (7-1-18)

03. Participant's Condition. The agency administrator must notify the participant's legal guardian within twenty-four (24) hours, if one exists, of any significant incidents, or changes in participant's condition including serious illness, accident, death, or abuse. (7-1-18)

04. Notification to Department of a Participant's Condition. Through a Department-approved process, the agency administrator must notify the Department by the close of the next business day of any significant incidents including: death, hospitalization, or if the participant is arrested or incarcerated. The Department will investigate or cause to be investigated any such incident that indicates there was a violation of the rules or statute. (7-1-18)

405. AGENCY QUALITY ASSURANCE PROGRAM.

Each agency must develop and implement a quality assurance program. (7-1-18)

01. What the Quality Assurance Program Verifies. The quality assurance program is an ongoing, proactive, internal review of the agency designed to verify: (7-1-18)

a. Services are provided in accordance with these rules; (7-1-18)

b. Sufficient staff are available to meet the needs of each person served; (7-1-18)

c. Skill training activities are conducted as written in the program plans. (7-1-18)

d. The rights of a person with disabilities are protected and each person is provided opportunities and training to make informed choices. (7-1-18)

02. Quality Assurance Program Components. Each agency's written quality assurance program must include: (7-1-18)

a. Goals and procedures to be implemented to achieve the purpose of the quality assurance program; (7-1-18)

b. Person, discipline, or department responsible for each goal; (7-1-18)

c. A system to ensure the correction of problems identified within a specified period of time; (7-1-18)

d. A method for assessing participant satisfaction at least annually including minimum criteria for participant response and alternate methods to gather information if minimum criteria is not met; (7-1-18)

e. An annual review of agency's policy and procedure manual signed and dated by the administrator that specifies content of revisions made; and (7-1-18)

f. An annual review of participant and employee records for complete and current content to meet rules. (7-1-18)

406. COMPLAINTS AND INVESTIGATIONS.

01. Filing a Complaint. Any person who believes that the agency has failed to meet any provision of the rules or statute may file a complaint with the Division of Licensing and Certification. All complaints must have a basis in rule or statutory requirements. In the event that it does not, the complainant will be referred to the appropriate entity or agency. (7-1-18)

02. Investigation Survey. The Division of Licensing and Certification will investigate, or cause to be investigated the following: (7-1-18)

a. Any complaint alleging a violation of the rules or statute; and (7-1-18)

b. Any reportable incident which indicates there was a violation of the rules or statute. (7-1-18)

03. Disclosure of Complaint Information. The Division of Licensing and Certification will not disclose the name or identifying characteristics of a complainant unless: (7-1-18)

a. The complainant consents in writing to the disclosure; (7-1-18)

b. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (7-1-18)

c. The disclosure is essential to prosecution of a violation. The complainant is given the opportunity to withdraw the complaint before disclosure. (7-1-18)

04. Method of Investigation. The nature of the complaint will determine the method used to investigate the complaint. (7-1-18)

05. Statement of Deficiencies. If violations of these rules are identified, depending on the severity, the Department may send the agency a statement of deficiencies. (7-1-18)

06. Public Disclosure. Information received by the Division of Licensing and Certification through filed reports, inspection, or as otherwise authorized under the law, must not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification. (7-1-18)

07. List of Deficiencies. A current list of deficiencies including plans of correction will be available to the public upon request in accordance with IDAPA 16.05.01, "Use and Disclosure of Department Records." (7-1-18)

08. Notification to Complainant. The Division of Licensing and Certification will inform the complainant of the results of the investigation survey when the complainant has provided a name and address. (7-1-18)

407. -- 499. (RESERVED)

500. ENFORCEMENT PROCESS.
The Department may impose a remedy or remedies when it determines an agency is not in compliance with these rules. (7-1-18)

01. Determination of Remedy. In determining which remedy or remedies to impose, the Department will consider the agency's compliance history, change of ownership, the number of deficiencies, the scope and severity of the deficiencies, and the potential risk to participants. Subject to these considerations, the Department may impose any of the remedies in Subsection 500.02 of this rule, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal. (7-1-18)

02. Enforcement Remedies. If the Department determines that an agency is out of compliance with these rules, it may impose any of the following remedies according to Section 500.01 of this rule. (7-1-18)

a. Require the agency to submit a plan of correction that must be approved in writing by the Department; (7-1-18)

b. Issue a provisional certificate with a specific date for correcting deficient practices; (7-1-18)

c. Ban enrollment of all participants with specified diagnoses; (7-1-18)

d. Ban any new enrollment of participants; (7-1-18)

e. Revoke the agency's certificate; or (7-1-18)

f. Summarily suspend the certificate and transfer participants. (7-1-18)

03. Immediate Jeopardy. If the Department finds an agency's deficiency or deficiencies immediately jeopardize the health or safety of its participants, the Department may summarily suspend the agency's certificate. (7-1-18)

04. No Immediate Jeopardy. If the Department finds that the agency's deficiency or deficiencies do not immediately jeopardize participant health or safety, the Department may impose one (1) or more of the remedies specified in Subsections 500.02.a. through 500.02.e. of this rule. (7-1-18)

05. Repeat Deficiencies. If the Department finds a repeat deficiency in an agency, it may impose any of the remedies listed in Subsection 500.02 of this rule as warranted. The Department may monitor the agency on an "as needed" basis, until the agency has demonstrated to the Department's satisfaction that it is in compliance with requirements governing residential habilitation agencies and that it is likely to remain in compliance. (7-1-18)

06. Failure to Comply. The Department may impose one (1) or more of the remedies specified in Subsection 500.02 of this rule if: (7-1-18)

a. The agency has not complied with any requirement in these rules within three (3) months after the date it was notified of its failure to comply with such requirement; or (7-1-18)

b. The agency has failed to correct the deficiencies stated in the agency's accepted plan of correction and as verified by the Department, via resurveys. (7-1-18)

501. REVOCATION OF CERTIFICATE.

01. Revocation of the Agency's Certificate. The Department may revoke an agency's certificate when persuaded by the preponderance of the evidence that the agency is not in substantial compliance with the requirements in this chapter of rules. (7-1-18)

02. Causes for Revocation of the Certificate. The Department may revoke any agency's certificate for any of the following causes: (7-1-18)

a. The certificate holder has willfully misrepresented or omitted information on the application for certification or other documents pertinent to obtaining a certificate; (7-1-18)

b. Conditions exist in the agency that endanger the health or safety of any participant; (7-1-18)

c. Any act adversely affecting the welfare of participants is being permitted, performed, or aided and abetted by the person or persons supervising the provision of services in the agency. Such acts include neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (7-1-18)

d. The provider has demonstrated or exhibited a lack of sound judgment that jeopardizes the health, safety, or well-being of participants; (7-1-18)

e. The agency has failed to comply with any of the conditions of a provisional certificate; (7-1-18)

f. The agency has one (1) or more major deficiencies. A major deficiency is a deficiency that endangers the health, safety, or welfare of any participant; (7-1-18)

g. An accumulation of minor deficiencies that, when considered as a whole, indicate the agency is not in substantial compliance with these rules; (7-1-18)

h. Repeat deficiencies by the agency of any requirement of these rules or of the Idaho Code; (7-1-18)

i. The agency lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of participants served at the agency; (7-1-18)

j. The agency is not in substantial compliance with the provisions for services required in these rules

or with the participants' rights under Subsection 300.09 of these rules; or (7-1-18)

k. The certificate holder refuses to allow the Department or protection and advocacy agencies full access to the agency environment, agency records, or the participants. (7-1-18)

502. NOTICE OF ENFORCEMENT REMEDY.
The Department will notify the following of the imposition of any enforcement remedy on an agency: (7-1-18)

01. Notice to the Agency. The Department will notify the agency in writing, transmitted in a manner that will reasonably ensure timely receipt. (7-1-18)

02. Notice to Public. The Department will notify the public by sending the agency printed notices to post. The agency must post all the notices on their premises in plain sight in public areas where they will readily be seen by participants and their representatives, including exits and common areas. The notices must remain in place until all enforcement remedies have been officially removed by the Department. (7-1-18)

03. Notice to the Professional Licensing Boards. The Department will notify professional licensing boards, as appropriate. (7-1-18)

503. -- 509. (RESERVED)

510. EMERGENCY POWERS OF THE DIRECTOR.
In the event of an emergency endangering the life or safety of a participant receiving services from an agency, the Director may summarily suspend or revoke any residential habilitation certificate. As soon thereafter as practicable, the Director must provide an opportunity for a hearing. (7-1-18)

511. INJUNCTION TO PREVENT OPERATION WITHOUT CERTIFICATE.
Notwithstanding the existence or pursuit of any other remedy, the Department may in the manner provided by law, maintain an action in the name of the state for injunction or other process against any person or governmental unit to restrain or prevent the establishment, conduct, management, or operation of an agency without a certificate required under this chapter. For the purposes of these rules, a governmental unit is the state, or any county, municipality, or other political subdivision, or any department, division, board, or other agency thereof. (7-1-18)

512. -- 599. (RESERVED)

600. WAIVERS.
Waivers to these rules may be granted by the Department as needed provided that granting the waiver does not endanger the health or safety or rights of any participant. The decision to grant a waiver is not precedent or given any force or effect of law in any other proceeding. Any waiver granted by the Department may be renewed annually if sufficient written justification is presented to the Department. Waivers granted by the Department must be given in writing and signed by the Department's Licensing and Certification program manager. (7-1-18)

601. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare and the Board of Health and Welfare have authority to promulgate rules governing the use and disclosure of Department records, according to Sections 39-242, 56-221, 56-222, 56- 1003, and 56-1004, Idaho Code. (3-20-04)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.05.01, "Use and Disclosure of Department Records." (3-20-04)

02. Scope. These rules govern the use and disclosure of information maintained by the Department, in compliance with applicable state and federal laws, and federal regulations. (3-20-04)

a. These rules apply to all Department employees, contractors, providers of services, and other individuals or entities who request or use that information. (3-20-04)

b. These rules apply to all use and disclosure information, regardless of the form in which it is retained or disclosed. (3-20-04)

c. All individuals and entities must comply with any standards in state or federal law or regulation that contain additional requirements, or are more restrictive than the requirements of these rules. (3-20-04)

002. -- 006. (RESERVED)

007. DISTRICT COURT APPEALS, COMPLAINTS AND REQUESTS FOR RECONSIDERATION.
The confidentiality of health information is defined in part by the Health Insurance Portability and Accountability Act (HIPAA), Sections 262 and 264 of Public Law 104-191, 42 USC 1320d, 110 Statutes at Large 2033-4, and 45 CFR Sections 160 and 164. (3-20-04)

01. Appeals to District Court. Anyone who is aggrieved by a denial of disclosure or amendment of a public record may file an appeal in the appropriate district court in compliance with the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-20-04)

02. Complaints to Privacy Officer. Individuals who are dissatisfied with a Department decision regarding confidential information may file a written complaint with the Department's Privacy Officer. Complaints must be submitted to the Department's Privacy Officer at the mailing address for the Department's business office. The Privacy Officer determines if a complaint is valid and makes a recommendation for its resolution to the Department within twenty-eight (28) days after the complaint is received. (3-20-04)

a. Secretary of Health and Human Services (HHS). Complaints that involve the use and disclosure of health information may also be submitted to the Secretary of Health and Human Services at the following address: The U.S. Department of Health and Human Services, 200 Independence Avenue, S.W., Washington, DC 20201. (3-20-04)

b. Time for filing complaints. Complaints must be filed within one hundred eighty (180) days from the date of the alleged violation. (3-20-04)

03. Request for Reconsideration to Access Health Information. The individual or legal representative may submit a written request for reconsideration to the Privacy Officer if access to health information is denied. (3-20-04)

a. The request for reconsideration must be postmarked no later than twenty-eight (28) days after notice of the denial was mailed. (3-20-04)

b. The reconsideration will be conducted by another licensed health care professional who did not participate in the original decision. (3-20-04)

c. The Department will notify the individual of the outcome of the review within twenty-eight (28) days after the request is received. (3-20-04)

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. Authorization. A time-limited written consent for the disclosure of confidential information to a specific individual or entity outside the Department, and outside of normal business processes for providing Department services. (3-20-04)

02. Confidential Information. Information that may only be used or disclosed as provided by state or federal law, federal regulation, or state rule. (3-20-04)

03. Consent. Permission to use or disclose confidential information. Consent may be inferred from the circumstances. (3-20-04)

04. Department. The Idaho Department of Health and Welfare. (3-20-04)

05. Guardian ad Litem. The person appointed by the court, according to law, to protect the interest of a minor or an incompetent in a case before the court. (3-20-04)

06. Health Information. Identifying information about the past, present or future: (3-20-04)

a. Physical or mental health or condition of an individual; (3-20-04)

b. Provision of health care to an individual; or (3-20-04)

c. Payment for health care for an individual. (3-20-04)

07. Identifying Information. The name, address, social security number, or other information by which an individual could be identified. Information may also be identifying without a name, based on the context or circumstances of a disclosure. (3-20-04)

08. Informal Representative. A person who is not a legal representative, but who is a relative, friend, or other person permitted to communicate with the Department on behalf of an individual. The individual or legal representative may give such permission verbally, in writing, or through their conduct. (3-20-04)

09. Legal Representative. The parent of a minor, a guardian, conservator, attorney, or an individual who has an appropriate power of attorney. (3-20-04)

10. Minimally Necessary. The information that is essential to provide benefits or services, and to perform normal business processes of the Department. (3-20-04)

11. Need-to-Know. Confidential information that is necessary to provide benefits or services, and to perform normal business processes of the Department. (3-20-04)

12. Psychotherapy Notes. Notes recorded in any format by a mental health professional that documents or analyzes the content of individual or group counseling sessions, and that are separated from the rest of the individual's medical record. The term "psychotherapy notes" excludes: (3-20-04)

a. Medication prescription and monitoring; (3-20-04)

b. Counseling session start and stop times; (3-20-04)

c. Types and frequencies of treatment furnished; (3-20-04)

d. Results of clinical tests; and (3-20-04)

e. Any summary of diagnosis, functional status, the treatment plan, symptoms, prognosis and progress to date. (3-20-04)

011. DEFINITIONS FOR VITAL STATISTICS.
The definitions provided in Subsection 011 of these rules apply to Vital Statistics and to the disclosure provisions of Section 39-270, Idaho Code. (3-20-04)

01. Authorized Representative. An attorney, physician, funeral director, a legally designated agent, or an entity whose purpose for obtaining a vital record is to pay direct benefits to a person with a direct and tangible interest defined in Subsection 011.03 of this rule. (3-20-04)

02. Certificate. A certificate of birth, death, stillbirth, *miscarriage,* marriage, or divorce, filed pursuant to law, excluding information contained in the statistical section of any record. *( )*

03. Individuals with a Direct and Tangible Interest. Individuals who have a direct and tangible interest in a vital record are: (3-20-04)

a. The registrant and that person's spouse, children, parents, grandparents, grandchildren, siblings, or guardian; (3-20-04)

b. Any other person who demonstrates that the record is needed for the determination or protection of that person's property right; (3-20-04)

c. An authorized representative of any of these individuals; (3-20-04)

d. The surviving next-of-kin if a deceased registrant has no other surviving family member listed in this subsection; (3-20-04)

e. The Idaho Attorney General, and state and federal prosecuting attorneys, if such attorney submits an affidavit affirming that the record is necessary in the furtherance of the attorney's official law enforcement duties, is not reasonably available from another source, and that reasonable steps will be taken to preserve the confidentiality of the record; (7-1-16)

f. Any person, upon the order of an Idaho court of competent jurisdiction, where the court finds that disclosure of the record is necessary in the interests of justice; and (7-1-16)

g. Any person with the right to control the disposition of remains of a deceased person or to determine provisions not clearly covered in a prearranged funeral plan as authorized in Section 54-1142(1) Idaho Code, in accordance with Section 39-270(b), Idaho Code. (7-1-16)

04. Parent. Does not include a biological parent whose parental rights have been terminated. (3-20-04)

05. Public Health. The science and art of: (3-20-04)

a. Preventing disease, prolonging life, or promoting health and efficiency through organized community effort for the sanitation of the environment; (3-20-04)

b. The control of communicable infections; (3-20-04)

c. The education of the individual in personal hygiene; (3-20-04)

d. The organization of medical and nursing services for the early diagnosis and preventive treatment of disease; and (3-20-04)

e. The development of the social machinery to ensure everyone a standard of living adequate for the maintenance of health, so organizing these benefits as to enable every citizen to realize their birthright of health and longevity. (3-20-04)

06. Putative Father. The biological father of a child as identified by himself, the natural mother, an adoption agency, or a court. (3-20-04)

07. Registrar. The state Registrar as defined in Section 39-241(18), Idaho Code. The mailing and street address for the state Registrar is Bureau of Vital Records and Health Statistics, 450 W. State St., 1st Floor, PO Box 83720, Boise, Idaho 83720-0036. (3-20-04)

08. Research. Organized scientific inquiry or examination of data in order to discover and interpret facts. (3-20-04)

09. Statistical Purposes. The collection, analysis, interpretation and presentation of masses of non-identifying numerical information. (3-20-04)

012. -- 049. (RESERVED)

GENERAL CONSENT AND DISCLOSURE REQUIREMENTS
(Sections 050 - 199)

050. CONSENT TO GATHER, USE AND DISCLOSE INFORMATION.
When individuals, legal representatives or informal representatives sign an application, they consent for the Department to gather, use and disclose information as needed for an individual to receive Department benefits or services. If none of these individuals provides a consent on an application, service may be denied. An informal representative may only consent to the disclosure of confidential information when permitted by these rules. (3-20-04)

051. AUTHORIZATION FOR THE USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION.
An authorization for the use and disclosure of confidential information must be in writing, and identify the individual who is the subject of the record. (4-2-08)

01. Content of Authorization. An authorization must be dated and signed by the individual or legal representative, and: (3-20-04)

a. Identify the specific information involved; (3-20-04)

b. State the duration of the authorization, defined by a specific date or the description of an event; (3-20-04)

c. Identify the recipient of the information; and (4-2-08)

d. State the purpose for the authorization, or state that it is, “At the request of the individual,” or similar wording. (4-2-08)

02. Defective Authorization. An authorization must not be acted upon if the authorization has expired or has been revoked, or if any essential information is omitted or is false. (3-20-04)

03. Authorization for the Use and Disclosure of Health Information. An authorization for the use and disclosure of health information must contain the content listed in Subsection 051.01 and the statements required by 45 CFR 164.508(c)(2). (4-2-08)

04. Psychotherapy Notes. Psychotherapy notes that are separate from the rest of an individual’s record may not be used or disclosed without an authorization except to the originator of the notes for treatment or to defend the Department in a legal action brought by the individual. (3-20-04)

05. Revocation of an Authorization. An individual or legal representative may revoke an authorization at any time by submitting a written request at any Department office. (3-20-04)

06. Effect on Benefits and Services. An individual's refusal to provide an authorization does not affect the receipt of benefits or services the individual would otherwise receive. (3-20-04)

07. Copy of Authorization. The Department will provide a copy of the signed authorization to the individual or legal representative. (3-20-04)

052. -- 074. (RESERVED)

075. USE AND DISCLOSURE OF CONFIDENTIAL INFORMATION.
Without a consent or an authorization, no one may use or disclose health or other confidential information except as provided in Section 100 of this chapter. With a consent or an authorization, confidential information will be used or disclosed only on a need-to-know basis and to the extent minimally necessary for the conduct of the Department's business and the provision of benefits or services, subject to law and the exceptions listed in these rules. Recipients of information must protect against unauthorized disclosure or use of the information for purposes that are not specified in a consent or an authorization. Access to an individual's own records is governed by Section 125 of this chapter. Specific consent and disclosure requirements are identified in Sections 200 through 283 of these rules. (3-20-04)

01. Identity. Any individual who requests to review, copy, restrict or amend confidential information, or to sign an authorization, must provide verification of identity, and where appropriate, present proof that the individual is a legal representative of the subject of the record. Except for verifications or requests for certified copies of vital records, requests submitted by mail must be notarized if necessary to identify the individual's signature. (3-20-04)

02. Order of Court or Hearing Officer. If information is subpoenaed in a civil, criminal or administrative action, the Department will provide such information as would be disclosed with a public records request, without an order from the court or hearing officer. Alternatively, the Department may submit the record with a request for a review solely by the judge or hearing officer, and an order appropriately limiting its use by the parties. If Department staff have reason to believe that release of a record through a public records request may be detrimental to any individual, the Department may seek a protective order. (3-20-04)

03. Referent. Unless the individual is a witness in litigation, identifying information must not be disclosed about an individual who reported concerns relating to any Department responsibility, including: (4-2-08)

a. Fraud; (3-20-04)

b. Abuse, neglect or abandonment of a child; (3-20-04)

c. Abuse, neglect or abandonment of a vulnerable adult; (4-2-08)

d. Concerns about the mental health of another; and (4-2-08)

e. Certified family homes, unless the complainant consents to disclosure in writing or disclosure is required in any administrative or judicial proceeding, in compliance with Section 74-105(16), Idaho Code. (4-2-08)

04. Collateral Contact. Identifying information must not be disclosed about individuals who are not the subject of the record and who provide information to the Department in the ordinary course of business. (3-20-04)

05. Alternative Communication. The Department, contractors and providers must comply with an individual's request that confidential information be communicated by alternative means of delivery unless it is administratively difficult to do so or the request is unreasonable. If approved, all information from a Department program will use the same alternative means of delivery after the request is received and recorded. (3-20-04)

06. Restriction on Disclosure of Health Information. (3-20-04)

a. An individual may request in writing that use or disclosure of health information be restricted. The

Department will respond in writing, and may deny the request if: (3-20-04)

i. Disclosure is required; (3-20-04)

ii. Necessary for the safety of the individual or others; (3-20-04)

iii. Necessary for the provision of services, benefits or payment; or (3-20-04)

iv. The restriction is unreasonable. (3-20-04)

b. The uses and disclosures of confidential information are subject to a restriction after it is received and recorded by the Department. Department employees, contractors, and the individual may request the Department to terminate the restriction. The Department will notify the individual of its response to a request to terminate a restriction. (3-20-04)

07. Discovery. Records will be provided only in response to valid discovery in any federal or state criminal, civil or administrative proceeding, as required by the Public Records Act, Section 74-115(3), Idaho Code. (3-20-04)

076. -- 099. (RESERVED)

100. EXCEPTIONS TO REQUIREMENT FOR AUTHORIZATION.
Confidential information will be released without an authorization to individuals and entities in compliance with a court order, or if they are legally authorized to receive it. The following are exceptions to the requirement for an authorization: (3-20-04)

01. Advocates and Guardians. Federally-recognized protection and advocacy agencies or duly appointed guardians ad litem have access to an individual's file as necessary to perform their legal functions. Guardians ad litem have access to records as provided in Section 16-1634, Idaho Code, except for: (3-20-04)

a. Drug abuse and sickle cell anemia records maintained by the Veteran's Administration (VA), as required by 38 USC Section 7332; (3-20-04)

b. Claims under laws administered by the VA as required by 38 USC Section 3301; and (3-20-04)

c. Drug abuse prevention programs that receive federal assistance, as required by 42 USC Section 290ee - 3. (3-20-04)

02. Licensure. In compliance with Section 74-106(9), Idaho Code, records will be released if they are part of an inquiry into an individual's or organization's fitness to be granted or retain a license, certificate, permit, privilege, commission or position. These records will otherwise be provided in redacted form as required by law or rule. (4-2-08)

03. Fugitives and Missing Persons. (3-20-04)

a. A state or local law enforcement officer may receive the current address of any cash assistance recipient who is a fugitive felon, in compliance with Section 56-221, Idaho Code. (3-20-04)

b. The following health information may be disclosed to a law enforcement officer for the purpose of identifying or locating a suspect, fugitive, material witness or missing person: (3-20-04)

i. Name and address; (3-20-04)

ii. Date and place of birth; (3-20-04)

iii. Social security number; (3-20-04)

iv. Blood type and rh factor; (3-20-04)

v. Type of injury; (3-20-04)

vi. Date and time of treatment or death, if applicable; and (3-20-04)

vii. Distinguishing physical characteristics. (3-20-04)

c. DNA, dental records, or typing, samples or analysis of body fluids or tissue must not be disclosed. (3-20-04)

04. Duty to Warn or Report. Confidential information may be released without an authorization if necessary under a legal duty to warn or to report. (3-20-04)

05. Department Business, Monitoring and Legal Functions. Department employees and contractors may use and disclose records as necessary to perform normal business functions, including health treatment, audit and quality improvement, investigation of fraud and abuse, establishment of overpayments and recoupment, public health, or other functions authorized by law. Information will be made available to state and federal auditors and compliance monitors. Confidential information will be provided to counsel as needed to evaluate, prepare for and represent the Department in legal actions. (3-20-04)

06. Emergencies. Confidential information may be disclosed to qualified medical personnel to the extent necessary to respond to a medical emergency that requires immediate attention. (3-20-04)

07. Multidisciplinary Staffing. Confidential information may be disclosed to employees of the Department, law enforcement, and other appropriate individuals to participate in a multidisciplinary team evaluation of child protection cases under Section 16-1617, Idaho Code, or interdisciplinary Department staffing of services for an individual. All individuals who participate in such staffing must not redisclose the information and must comply with any other pertinent statute, rule or regulation. (3-20-04)

08. Collaborative Staffing. Confidential information may be disclosed in staffing by the Department and other individuals or entities if all participants are involved with the same or similar populations and have an equal obligation or promise to maintain confidentiality. Disclosure of information in inter-agency staffing must be necessary to coordinate benefits or services, or to improve administration and management of the services. Confidential information may be disclosed only on a need-to-know basis and to the extent minimally necessary for the conduct of the staffing. All individuals who participate in such staffing must not redisclose the information except in compliance with any other pertinent statute, rule or regulation. (3-20-04)

09. Elected State Official. As provided by Section 16-1629(6), Idaho Code, any duly elected state official carrying out their official functions may have access to child protection records of the Department, and must not redisclose the information. (3-20-04)

10. Child Protection Agency. A legally mandated child protection agency may provide information necessary to investigate a report of known or suspected child abuse or neglect, or to treat a child and family who are the subjects of the record. (3-20-04)

11. Legally Authorized Agency. An agency will be provided appropriate information if the agency is legally responsible for or authorized to care for, treat or supervise a child who is the subject of the record. (3-20-04)

12. Informal Representatives. Informal representatives may be permitted to receive and deliver information on behalf of an individual, and may be given health information if the informal representative is directly involved with the individual's care. Confidential information may be withheld in whole or part if professional staff determines that disclosure is not in the best interest of the individual, based on the circumstances and their professional judgment. The Department will not disclose information that is prohibited from being disclosed by these rules or any other legal requirement. (3-20-04)

13. Law Enforcement. Any federal, state, or local law enforcement agency, or any agent of such

agency, may be permitted access to information as needed in order to carry out its responsibilities under law to protect children from abuse, neglect, or abandonment. (3-29-12)

101. ABUSE, NEGLECT, OR DOMESTIC VIOLENCE.
Health information may be disclosed to a law enforcement officer if the victim of abuse, neglect, or domestic violence agrees to the disclosure. (3-20-04)

01. Incapacity of Victim. If the victim is unable to agree because of incapacity, health information will be disclosed if the officer states: (3-20-04)

a. That the information is not intended to be used against the victim; and (3-20-04)

b. That immediate enforcement activity would be materially and adversely affected by waiting for the victim's agreement. (3-20-04)

02. Judgment of Professional Staff. The victim must be promptly informed that a report to law enforcement has been or will be made unless in the judgment of professional staff: (3-20-04)

a. Informing the victim would place them at risk of serious harm; or (3-20-04)

b. The probable perpetrator of the abuse, neglect or domestic violence would be the recipient of the report, and disclosure would not be in the victim's best interest. (3-20-04)

102. VICTIM OF OTHER CRIME.
Health information may be disclosed in response to a law enforcement official's request about a victim or suspected victim of a crime other than those listed in Section 101 of these rules, if the individual agrees to the disclosure. (3-20-04)

01. Incapacity of Victim or Emergency Circumstance. If the individual is unable to agree because of incapacity or emergency circumstance, health information will be disclosed if the official states that the information is needed to determine whether a violation of law has occurred, and that it is not intended to be used against the individual. (3-20-04)

02. Best Interest of the Individual. The officer must also represent that immediate enforcement activity would be materially and adversely affected by waiting for the individual's agreement. Professional staff must agree that disclosure is in the best interest of the individual. (3-20-04)

103. SERIOUS THREAT TO HEALTH OR SAFETY.
Subject to the restrictions in this rule, health information may be used or disclosed if necessary to prevent or lessen a serious and imminent threat to the health and safety of a person or the public. Disclosure must be based on actual knowledge or credible information from a person with apparent knowledge or authority. Disclosure will be made only to a person or persons reasonably able to prevent or lessen the threat, including the target of the threat. (3-20-04)

01. Apprehension by Law Enforcement. Health information may be disclosed as necessary to law enforcement to identify or apprehend an individual. Disclosure is limited to an admission that an individual participated in a violent crime if it is reasonable to believe that serious physical harm has been caused to the victim. (3-20-04)

02. Escape From Law Enforcement. Health information may be disclosed as necessary for law enforcement to identify or apprehend an individual where it appears from all the circumstances that the individual has escaped from a correctional institution or lawful custody. (3-20-04)

03. Prohibition on Disclosure. Disclosure of an admission of participation in a violent crime is prohibited if the information is learned in the course of treatment to affect the individual's tendency to commit the criminal conduct, or through a request by the individual to initiate such treatment. (3-20-04)

104. REPORTING OF CRIME ON PREMISES.

Health information may be disclosed to a law enforcement official if the information constitutes evidence of criminal conduct that occurred on the Department's premises. (3-20-04)

105. REPORTING CRIME IN EMERGENCIES.
If a Department employee is providing emergency health care off the Department's premises, health information may be disclosed if necessary to alert law enforcement to a crime; the location of the crime or victim; and the identity, description and location of the perpetrator. If the crime involves abuse, neglect or domestic violence, the requirements of Section 101 of this chapter apply. (3-20-04)

106. -- 124. (RESERVED)

125. ACCESS TO AN INDIVIDUAL'S OWN RECORD.
An individual who is at least fourteen (14) years old, or a legal representative, may review and obtain a copy of Department records that pertain to the individual, subject to the exceptions listed in Subsections 125.01 through 125.04 of these rules. Requests must be in writing, identifying the individual whose record is sought, and the record or information requested. The principles of disclosing only minimally necessary information on a need-to-know basis do not apply to a request for an individual's own records. The following information must not be disclosed:(3-20-04)

01. Children's Mental Health. Records of a child's mental health services must not be disclosed to the child when a physician or other mental health professional has noted that disclosure would be damaging to the child, unless access is ordered by a court according to Section 16-2428, Idaho Code. (3-20-04)

02. Legal Action. No disclosure will be made to an individual of information compiled in an ongoing investigation, that is exempt from disclosure, or that relates to adoption. Information compiled in reasonable anticipation of litigation that is not otherwise discoverable must not be disclosed. Information compiled for use in a civil, criminal, or administrative proceeding to which the individual is a party must not be disclosed except in compliance with valid discovery. (3-20-04)

03. Clinical Laboratories. There will be no disclosure of information maintained by a clinical laboratory except as authorized by the provider who ordered the test or study, in compliance with 42 USC 263a. (4-2-08)

04. Confidential Information. Health and other confidential information will not be disclosed to the individual if a licensed professional in an appropriate discipline determines that disclosure is likely to endanger the life or physical safety of the individual or another person. Disclosure to a legal representative will be denied if there is a professional determination that access by the representative is likely to cause substantial harm to the subject of the record or another person. (3-20-04)

126. -- 149. (RESERVED)

150. AMENDMENT OF RECORD.
Unless otherwise provided by law, individuals may request in writing to amend the content of a record created by the Department. The Department will respond in writing within ten (10) days, granting or denying the amendment. A record created by a third party will not be amended by the Department. (3-20-04)

01. Amendment of Health Information. Once an amendment regarding health information is approved and recorded, the Department will provide the amended health information when the record is disclosed in the future. If an amendment of health information is denied, the individual may provide a written response, which the Department may rebut in writing to the individual. Upon request, documentation of all the records involved in the denial will be provided whenever that information is disclosed in the future. (3-20-04)

02. Updating Identifying Information. Name and address changes, and similar updates of information in Department files will be made without using the amendment process. (3-20-04)

151. -- 174. (RESERVED)

175. REPORT OF DISCLOSURES OF HEALTH INFORMATION.

01. Documented Disclosures. The following disclosures of identifying health information for a purpose other than providing health treatment, payment or operations will be documented: (3-20-04)

a. Required by law; (3-20-04)

b. Public health activities; (3-20-04)

c. Related to victims of abuse, neglect or domestic violence; (3-20-04)

d. Health care oversight; (3-20-04)

e. Judicial and administrative proceedings; (3-20-04)

f. Correctional institutions or custodial law enforcement situations; (3-20-04)

g. Coroners, medical examiners, and funeral directors; (3-20-04)

h. Organ or tissue donations; (3-20-04)

i. Research; (3-20-04)

j. To avert a serious threat of health and safety; and (3-20-04)

k. Specialized government functions such as national security or intelligence. (3-20-04)

02. Documentation of Disclosure. Documentation will identify when the disclosure occurred, to whom, what information was disclosed and for what purpose. (3-20-04)

03. Maintenance of Documentation. The Department maintains documentation of these disclosures of health information for six (6) years. (3-20-04)

04. Request for Report of Disclosures. An individual or legal representative may receive one (1) free report of disclosures per calendar year for six (6) years beginning April 14, 2003. Additional requests for a report of disclosures are processed as public record requests, and may be subject to fees. (3-20-04)

05. Pending Investigation. The Department must suspend reporting of a disclosure of health information at the request of any federal, state or local entity that is conducting an investigation related to the oversight of health care, illegal discrimination, licensing, certification or accreditation. If the request is verbal, the suspension will terminate after thirty (30) days unless the request is renewed in writing. (3-20-04)

176. -- 189. (RESERVED)

190. RECORDS OF DECEDENTS.
Records of decedents are confidential for as long as the Department maintains the records, except as needed by: (4-2-08)

01. Law Enforcement. If there is suspicion that the death was the result of criminal conduct. (4-2-08)

02. Coroners and Medical Examiners. Information may be given to a coroner or medical examiner for the purpose of identifying a deceased person, determining a cause of death, or other duties as authorized by law. (4-2-08)

03. Funeral Directors. Confidential information may be given to funeral directors, consistent with applicable law, as necessary to carry out their duties with respect to the decedent. If necessary to carry out their duties, confidential information may be disclosed to funeral directors prior to and in reasonable anticipation of the individual's death. (4-2-08)

04. Personal Representatives. While records are maintained, the same confidentiality requirements apply to the personal representative of the estate or other legal representative of the deceased individual. Information may be disclosed to such representatives only to the extent necessary to perform their legal function, (4-2-08)

05. Family Members and Others. The Department may disclose health information to a family member, other relative, a close personal friend of the deceased individual, or any other person identified by the deceased individual. Information provided must be directly related to such person's involvement with the individual's care or payment for health care prior to the individual's death, unless doing so is inconsistent with any prior expressed preference of the individual that is known to the Department. (7-1-14)

191. DATA FOR RESEARCH OR OTHER PURPOSES.
Records that contain non-identifying information may be disclosed for Department-approved research or other purposes without a written authorization. (3-20-04)

192. -- 199. (RESERVED)

SPECIFIC CONSENT AND DISCLOSURE REQUIREMENTS
(Sections 200 - 283)

200. ABORTION FOR MINORS.
Consent for an abortion for a minor is governed by Section 18-609A, Idaho Code. (3-20-04)

201. ABUSE, NEGLECT OR DOMESTIC VIOLENCE.
Abuse, abandonment or neglect of a minor is required to be reported in compliance with Section 16-1605, Idaho Code. Abuse, neglect or exploitation of adults is governed by Section 39-5303, Idaho Code. An exception to the physician/patient privilege for domestic violence is contained in Section 9-203, Idaho Code. (3-20-04)

202. ADOPTION.
Disclosure of adoption records is governed by the provisions of Sections 74-105(6), 16-1501, 39-258, 39-259A, and 39-7501 through 39-7905, Idaho Code. Consent to adoption by children who are more than twelve (12) years old, by parents and by others, is governed by Section 16-1504, Idaho Code. (3-20-04)

203. -- 209. (RESERVED)

210. CHILD PROTECTION.
Unless allowed by these rules or other provision of law, the Department will disclose information from child protection records in its possession upon a court order obtained in compliance with Subsection 075.02 of these rules. Disclosure of Department records under the Child Protective Act is governed by Section 16-1629(6), Idaho Code. Court records of Child Protective Act proceedings are governed by Section 16-1626, Idaho Code. Pertinent federal laws and regulations include 42 USC 5106a. Information regarding child fatalities or near fatalities may be made public. (4-4-13)

01. Child Fatalities. In accordance with 42 USC 5106a(b)(2)(B)(x), the Department will disclose non-identifying summary information to the Statewide Child Fatality Review Team, established by the Governor's Task Force on Children at Risk, regarding child fatalities that were determined to be the result of abuse, neglect, or abandonment. (4-4-13)

02. Public Disclosure. The Department has the discretion to disclose child-specific information under this rule when the disclosure is not in conflict with the child's best interests and one (1) or more of the following applies: (4-4-13)

a. Identifying information related to child-specific abuse, neglect, or abandonment has been previously published or broadcast through the media; (4-4-13)

b. All or part of the child-specific information has been publicly disclosed in a judicial proceeding; or (4-4-13)

c. The disclosure of information clarifies actions taken by the Department on a specific case. (4-4-13)

211. CHILDREN'S MENTAL HEALTH.
Consent to voluntary treatment for a minor with serious emotional disturbance, emergency and involuntary treatment are governed by the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code. Section 16-2428, Idaho Code, describes requirements for confidentiality. (3-20-04)

212. -- 219. (RESERVED)

220. HARD TO PLACE CHILDREN.
The Department disseminates information to prospective adoptive families and families who wish to be appointed legal guardians of a child in the state's custody, as to the availability of hard-to-place children, adoption and guardianship procedures, and the existence of financial aid to adoptive families and guardians of hard-to-place children, in compliance with Section 56-804, Idaho Code. (3-20-04)

221. HOSPITAL RECORDS.
Records of hospitalization in a state facility are governed by Sections 39-1392b, 39-1392e and 39-1394, Idaho Code. (3-20-04)

222. HUMAN RESOURCES.
Disclosure of employee information is governed by Section 74-106(1), Idaho Code. (3-20-04)

223. INFANT/TODDLER PROGRAM.
Consent to early intervention services and confidentiality of records that relate to the Infant/Toddler program are governed by the Individuals with Disabilities Education Act (IDEA), 20 USC 1414(a)(1)(C) and (c)(3), and 20 USC 1415(b)(3); the Family Educational Rights and Privacy Act (FERPA), 20 USC 1232g; and 34 CFR 303.400, 34 CFR 303.500 and 34 CFR part 99. (3-20-04)

224. -- 229. (RESERVED)

230. MEDICAL CARE.
Consent to apply for services or treatment is governed by Title 39, Chapter 45, Idaho Code, for hospital, medical, dental or surgical care, treatment or procedure. (4-2-08)

231. -- 239. (RESERVED)

240. MENTAL ILLNESS.
Records of assessment, treatment, and commitment or hospitalization of individuals with mental illness are governed by Sections 66-318, 66-348, 66-355, 66-329(9), and 66-337, Idaho Code. (3-20-04)

241. MINOR'S CONSENT REGARDING INFECTIOUS, CONTAGIOUS OR COMMUNICABLE DISEASE.
Section 39-3801, Idaho Code, governs consent to treatment for infectious, contagious or communicable disease by a minor who is at least fourteen (14) years of age. (3-20-04)

242. SPECIFIC REQUIREMENTS - PROTECTION AND ADVOCACY AGENCIES.
A protection and advocacy system for individuals who have a developmental disability is created by 42 USC 15042 et seq.; for individuals with mental illness, by 42 USC 10801. Advocacy for adult protection is governed by Sections 39-5307 and 39-5308, Idaho Code. (4-2-08)

243. -- 249. (RESERVED)

250. SUBSTANCE ABUSE.
Consent to treatment and confidentiality of alcohol and drug abuse patient records are governed by 42 CFR 2.12

through 2.67, and Sections 37-2743, 37-3102, 39-307, and 39-308, Idaho Code. (3-20-04)

01. Drug Abuse. A medical practitioner will not disclose identifying information, treatment or request for treatment, to any law enforcement officer or agency or in any proceeding, in compliance with Sections 37-2743 and 37-3102, Idaho Code. (3-20-04)

02. Age Sixteen and Over. Information regarding substance abuse treatment of an individual who is at least age sixteen (16) years old will not be disclosed to a parent or guardian unless authorized by the individual, in compliance with Section 37-3102, Idaho Code, and 42 CFR 2.14. Individuals who are at least sixteen (16) years old may consent to substance abuse treatment. (3-20-04)

251. -- 259. (RESERVED)

260. TERMINATION OF PARENTAL RIGHTS.
Disclosure of information regarding the termination of parental rights is governed by Section 16-2013, Idaho Code. (3-20-04)

261. -- 269. (RESERVED)

270. VENEREAL DISEASES.
Disclosures of health information pertaining to the control of venereal diseases, including Human Immunodeficiency Virus (HIV), is governed by Title 39, Chapter 6, Idaho Code. (3-20-04)

271. -- 279. (RESERVED)

280. VITAL STATISTICS -- VERIFICATION OF DATA.

01. Verifications. The Registrar will confirm or deny the presence and accuracy of data already known to a governmental agency that requests information from a vital record. Such verifications may be conducted by telephone for Idaho state agencies. Other requests for verification require a signed application on forms provided or approved by the Registrar, and a copy of the front and back of signed photo identification or such other information as the Registrar requests. Verifications may also be conducted via Department automated systems approved by the Registrar. (4-11-15)

02. Administrative Fact of Death Verifications. Upon agreement in writing to such conditions as the Registrar may impose, the Registrar may compare Idaho state agency administrative data to Idaho death data and return an indication of death, also known as fact of death verification, for administrative purposes only. (4-11-15)

03. Verifications to Protect a Person's Property Right. The State Registrar may approve electronic fact of death verification by entities seeking to determine or protect a person's property right. (4-11-15)

281. VITAL STATISTICS: DISCLOSURE FOR RESEARCH, PUBLIC HEALTH OR STATISTICAL PURPOSES.
Upon agreement in writing to such conditions as the Registrar may impose, the Registrar may permit the use of data from vital statistics records for research, public health or statistical purposes. The Registrar may deny a request for access to identifying information if the Registrar determines that the benefits would be outweighed by the possible adverse consequences to those individuals whose records would be used. (3-20-04)

282. VITAL STATISTICS: REGISTRY OF PUTATIVE FATHERS.
Except by Idaho court order or in accordance with the provisions of Section 16-1513, Idaho Code, information acquired by the confidential registry of putative fathers will not be disclosed. (3-20-04)

283. VITAL STATISTICS: PROCEDURES FOR REQUESTING INFORMATION.
Individuals who request access to, information from, or copies of vital records must present a signed application on forms provided or approved by the Registrar, and a copy of the front and back of signed photo identification or such other information as the Registrar requests. Minors who are less than fourteen (14) years old may receive certified copies of vital records that pertain to them if they present the required information. (3-20-04)

01. Expedited Copy. An expedited certified copy of a vital record may be issued using *Department automated systems*. *( )*

02. Certified Copy. When a certified copy is issued, it is certified as a true copy or abstract of the original vital record by the officer who has custody of the record. The certified copy will include the date issued, the Registrar's signature or an authorized facsimile thereof, and the seal of the issuing office. Full or short form certified copies of vital records may be made by mechanical, electronic or other reproduction processes. (3-20-04)

284. WOMEN, INFANTS AND CHILDREN (WIC) PROGRAM.
WIC information may be used and disclosed only for the purpose of establishing the eligibility of WIC applicants and participants for health and welfare programs. (3-20-04)

285. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has granted the Director of the Department of Health and Welfare and the Board of Health and Welfare the power and authority to conduct contested case proceedings and issue declaratory rulings, and to adopt rules governing such proceedings under Sections 16-107, 56-133, 56-135, 56-202, 56-204A, 56-216, 56-1003, 56-1004, and 56-1005, Idaho Code. (5-8-09)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (5-8-09)

02. Scope. These rules establish standards for petitions for rulemaking and declaratory rulings, and the conduct of contested cases. (5-8-09)

002. ACCESS TO RECORDS OF INDIVIDUALS WITH DEVELOPMENTAL OR MENTAL DISABILITIES.
The state Protection and Advocacy System established under 42 USC 15041, et seq., and 42 USC 10801 et seq., 29 USC 794e, et seq., and 42 USC 300d as designated by the Governor has access to records of individuals who are clients of the system maintained by any program or institution of the Department if the individual has authorized or is unable to authorize the system to have such access, or does not have a legal guardian, conservator or other legal representative. (3-28-18)

003. -- **009. (RESERVED)**

010. DEFINITIONS AND ABBREVIATIONS.
For the purposes of this chapter, the following definitions and abbreviations apply. (3-28-18)

01. Administrative Review. An informal review by a Division Administrator or designee, to determine whether a Department decision is correct. (5-8-09)

02. Appellant. A person or entity who files an appeal of Department action or inaction. (3-30-01)

03. Board. The Idaho Board of Health and Welfare. (3-30-01)

04. Complainant. A person or individual who has a grievance regarding Youth Empowerment Services (YES). (3-28-18)

05. Cost Report. A fiscal year report of provider costs required by the Medicare program and any supplemental schedules required by the Department. (3-28-18)

06. Cost Settlement. Final determinations of payment, based on cost reports, to a Medicaid-enrolled provider. (3-28-18)

07. Department. The Idaho Department of Health and Welfare. (3-30-01)

08. Director. The Director of the Department of Health and Welfare. (3-30-01)

09. Hearing Officer. The person designated to preside over a particular hearing and any related proceedings. (3-30-01)

10. IPV. Intentional program violation. (3-30-01)

11. Intervenor. Any person, other than an appellant or the Department, who requests to be admitted as a party in an appeal. (3-30-01)

12. Managed Care Entity (MCE). An entity contracted by Medicaid to administer Medicaid services, which may be a Prepaid Ambulatory Health Plan (PAHP), Prepaid Inpatient Health Plan (PIHP), or other Managed Care Organization (MCO) as defined in 42 CFR 438.2. As used in these rules, the term does not include service brokers or entities providing non-emergency medical transportation (NEMT) services. (3-28-18)

13. **Party**. An appellant, the Department and an intervenor, if intervention is permitted. (3-30-01)

14. **Youth Empowerment Services (YES) Program Participant**. A YES program participant, is an Idaho resident with a Serious Emotional Disturbance who: (3-28-18)

a. Is under the age of eighteen (18); (3-28-18)

b. Has a mental health condition described in the current Diagnostic and Statistical Manual of Mental Disorders (DSM) and diagnosable by a qualified professional operating within the scope of their practice as defined by Idaho state law; and (3-28-18)

c. Has a substantial functional impairment that is measured by and documented through the use of a standardized instrument conducted or supervised by a qualified clinician. (3-28-18)

d. A substance use disorder or development disorder alone does not constitute an eligible diagnosis, although one (1) or more of these conditions may coexist with an eligible mental health diagnosis. (3-28-18)

011. -- 039. (RESERVED)

040. PETITION FOR ADOPTION OF RULES.
Under Section 67-5230, Idaho Code, any person may file a written petition with the Administrative Procedures Section requesting the promulgation, amendment, or repeal of a rule. The petition must include a name, address, and phone number to which the Department may respond; list the rule in question and explain the reasons for the petition; and include the suggested language of the rule. The Director will initiate rulemaking proceedings or deny the petition in writing within twenty-eight (28) days. (4-11-06)

041. -- 049. (RESERVED)

050. PETITION FOR DECLARATORY RULING.
Under Section 67-5232, Idaho Code, any person may file a written petition to the Director through the Administrative Procedures Section for a declaratory ruling as to the applicability of any statute or rule of the Department to an actual set of facts involving that person. (4-11-06)

051. CONTENTS OF PETITION FOR DECLARATORY RULING.
A petition for a declaratory ruling must identify that it is a request for a declaratory ruling under this section of rule; the specific statute, or rule with respect to which the declaratory ruling is requested; a complete description of the situation for which the declaratory ruling is requested; and the specific ruling requested. The petition must include the date of the petition, the name, address, and phone number of the petitioner and whether the petition is made on behalf of a corporation or organization. The petition must identify the manner by which the statute or rule interferes with, impairs, or threatens to interfere with or impair the legal rights, duties, licenses, immunities, interests, or privileges of the petitioner. (4-11-06)

052. DISPOSITION OF PETITION FOR DECLARATORY RULING.
The Director will issue a final declaratory ruling in writing within seventy (70) days after receipt of the petition or within such additional time as may be required. The Director may decline to issue a declaratory ruling in the following circumstances: (4-11-06)

01. **Incomplete**. When a petition fails to meet the requirements set forth in Section 051 of these rules; (3-30-01)

02. **Contested Case**. When the issue set forth in the petition would be more properly addressed as a contested case, such as where there is a reasonable dispute as to the relevant facts, or where witness credibility is an issue; (3-30-01)

03. **No Legal Interest**. When the petition fails to state a sufficient or cognizable legal interest to confer standing; (3-30-01)

04. Others Affected. When the issue presented would substantially affect the legal rights, license, privileges, immunities, or interests of parties other than petitioners; or (3-30-01)

05. Beyond Authority. When the ruling requested is beyond the authority of the Department. (3-30-01)

053. -- 099. (RESERVED)

100. DEPARTMENT RESPONSIBILITY.
When a decision is appealable, the Department will advise the individual or provider in writing of the right and method to appeal and the right to be represented. (4-11-06)

101. FILING OF APPEALS.

01. Appeals. Appeals must be filed in writing and state the appellant's name, address, and phone number, and the remedy requested, unless otherwise provided in these rules. Appeals should be accompanied by a copy of the decision notice that is the subject of the appeal and state the reason for disagreement with the Department's action. (3-28-18)

02. Time Limits for Filing Appeal. Unless otherwise provided by statute or these rules, individuals who are aggrieved by a Department decision have twenty-eight (28) days from the date the decision is mailed to file an appeal. An appeal is filed when it is received by the Department or postmarked within the time limits provided in the decision notice, or in these rules. (3-28-18)

102. NOTICE OF HEARING.
All parties in an appeal will be notified of a hearing at least ten (10) days in advance, or within such time period as may be mandated by law. The hearing officer may provide a shorter advance notice upon request of a party or for good cause. The notice will identify the time, place and nature of the hearing; a statement of the legal authority under which the hearing is to be held; the particular sections of any statutes and rules involved; the issues involved; and the right to be represented. The notice must identify how and when documents for the hearing will be provided to all parties. (4-11-06)

103. PREHEARING CONFERENCE.

01. Prehearing Conference. The hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference. The purpose of the prehearing conference is to: (3-28-18)

a. Formulate or simplify the issues; (3-28-18)

b. Obtain admissions or stipulations of fact and documents; (3-28-18)

c. Identify whether there is any additional information that had not been presented to the Department with good cause; (3-28-18)

d. Arrange for exchange of proposed exhibits or prepared expert testimony; (3-28-18)

e. Limit the number of witnesses; (3-28-18)

f. Determine the procedure at the hearing; and (3-28-18)

g. Determine any other matters that may expedite the orderly conduct and disposition of the proceeding. (3-28-18)

02. Exception to Prehearing Conference. The prehearing conference cannot be mandatory for any Division of Welfare or Division of Medicaid benefit programs. The following apply: (3-28-18)

a. Participation in the prehearing conference is optional for individuals seeking to appeal for any benefit through the Division of Welfare or Division of Medicaid; and (3-28-18)

b. A default order may not be entered for cases in which an individual does not participate in the prehearing conference involving benefits through the Division of Welfare, or Division of Medicaid. (3-28-18)

104. SUBPOENAS.
At the request of a party, the hearing officer may issue subpoenas for witnesses or documents, consistent with Sections 120 and 134 of these rules. (3-30-01)

105. DISPOSITION OF CASE WITHOUT A HEARING.
Any contested case may be resolved without a hearing on the merits of the appeal by stipulation, settlement, motion to dismiss, summary judgment, default, withdrawal, or for lack of jurisdiction. The hearing officer must dismiss an appeal that is not filed within the time limits set forth in these rules. (4-11-06)

106. DEFAULT.
Unless otherwise provided by statute or rule, if a party fails to appear at a scheduled hearing or at any stage of a contested case, the hearing officer must enter a proposed default order against that party. The default order must be set aside if, within fourteen (14) days of the date of mailing, that party submits a written explanation for not appearing, which the hearing officer finds substantial and reasonable. (3-28-18)

107. INTERVENTION.
Persons other than the original parties to an appeal who are directly and substantially affected by the proceeding may participate if they first secure an order from the hearing officer granting leave to intervene. The granting of leave to intervene is not to be construed as a finding or determination that the intervenor is or may be a party aggrieved by any ruling, order or decision of the Department for purposes of judicial review. (4-11-06)

108. CONSOLIDATED HEARING.
When there are multiple appeals or a group appeal involving the same change in law, rules, or policy, the hearing officer will hold a consolidated hearing. (5-8-09)

109. -- 119. (RESERVED)

120. DISCOVERY.
Except for hearings involving Section 56-1005(5), Idaho Code, prehearing discovery is limited to obtaining the names of witnesses and copies of documents the opposing party intends to offer as exhibits. The hearing officer may order production of this information if a party refuses to comply after receiving a written request. The hearing officer will issue such other orders as are needed for the orderly conduct of the proceeding. Nothing in Section 120 limits the authority of the Director provided in Section 56-227C, Idaho Code. (4-11-06)

121. BRIEFING SCHEDULE.
A hearing officer may require briefs to be filed by the parties, and establish a reasonable briefing schedule. (3-30-01)

122. FILING OF DOCUMENTS IN AN APPEAL.
All documents intended to be used as exhibits must be filed with the hearing officer. Such documents will be provided to every party at the time they are filed with the hearing officer, in person, by first class mail, or as otherwise ordered by the hearing officer. Service by mail is complete when the document, properly addressed and stamped, is deposited in the United States or Statehouse mail. A certificate showing delivery to all parties will accompany all documents when they are filed with the hearing officer. (3-28-18)

123. REPRESENTATION.
Any party in a contested case proceeding may be represented by legal counsel, at the party's own expense. An individual in an appeal involving benefits may also be represented by a non-attorney. (3-30-01)

124. RESERVED.

125. INTERPRETERS.

If necessary, an interpreter will be provided by the Department. (4-11-06)

126. -- 129. (RESERVED)

130. OPEN HEARINGS.
All contested case hearings are open to the public, unless ordered closed in the discretion of the hearing officer due to the sensitive nature of the hearing. The hearing officer can order that individuals be identified by initials or an alias if necessary to protect their privacy. At the discretion of the hearing officer, witnesses may testify by telephone or other electronic means, provided the examination and responses are audible to all parties. (5-8-09)

131. AUTHORITY OF HEARING OFFICER.
The hearing officer will consider only information that was available to the Department at the time the decision was made. If appellant shows that there is additional relevant information that was not presented to the Department with good cause, the hearing officer will remand the case to the Department for consideration. No hearing officer has the jurisdiction or authority to invalidate any federal or state statute, rule, regulation, or court order. The hearing officer must defer to the Department's interpretation of statutes, rules, regulations or policy unless the hearing officer finds the interpretation to be contrary to statute or an abuse of discretion. The hearing officer will not retain jurisdiction on any matter after it has been remanded to the Department. (4-11-06)

132. BURDEN OF PROOF -- INDIVIDUAL BENEFIT CASES.
The Department has the burden of proof if the action being appealed is to limit, reduce or terminate services or benefits; establish an overpayment or disqualification; revoke or limit a license; or to contest a tobacco violation under Sections 39-5705 and 39-5708, Idaho Code. In a child support matter, the Department must first establish that arrearages are sufficient for child support enforcement action. The appellant has the burden of proof on all other issues, including establishing eligibility for a program, service or license; seeking an exemption required due to criminal history or abuse registry information; or seeking to avoid license suspension, asset seizure, or other enforcement actions for failure to pay child support. (5-8-09)

133. BURDEN OF PROOF -- PROVIDER CASES.
The Department has the burden of proof if the action being appealed is to revoke or limit a license, certification, or provider agreement; or to impose a penalty. The appellant has the burden of proof on all other issues, including establishing entitlement to payment. (3-30-01)

134. EVIDENCE.
Under Section 67-5251, Idaho Code, the hearing is informal and technical rules of evidence do not apply, except that irrelevant, immaterial, incompetent, unduly repetitious evidence, evidence excludable on constitutional or statutory grounds, or evidence protected by legal privilege is excluded. Hearsay evidence will be received if it is relevant to a matter in dispute and is sufficiently reliable that prudent persons would commonly rely on it in the conduct of their affairs, or corroborates competent evidence. Any part of the evidence may be received in written form if doing so will expedite the hearing without substantially prejudicing the interest of any party. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Unless otherwise stated in statute, rule, or regulation, the evidentiary standard is proof by a preponderance of the evidence. (4-11-06)

135. DISCRETIONARY JUDICIAL NOTICE.
Notice may be taken of judicially cognizable facts by the hearing officer or authority on its own motion or on motion of a party. In addition, notice may be taken of generally recognized technical or scientific facts within the Department's specialized knowledge. Parties will be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed including any staff memoranda or data, and the parties will be afforded an opportunity to contest the material so noticed. The Department's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. (4-11-06)

136. MANDATORY JUDICIAL NOTICE.
The hearing officer will take judicial notice, on its own motion or on the motion of any party, of the following admissible, valid and enforceable materials: Rules of the Department and other state agencies; Federal regulations; State plans of the Department; The Constitutions and statutes of the United States and Idaho; Public records; and Such other materials that a court of law must judicially notice. (4-11-06)

137. HEARING RECORD.
The hearing officer must arrange for a record to be made of a hearing. The hearing must be recorded unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of hearing. The record must be transcribed at the expense of the party requesting a transcript and prepayment or guarantee of payment may be required. Once a transcript is requested, any party may obtain a copy at the party's own expense. The Department must maintain the complete record of each contested case for a period of not less than six (6) months after the expiration of the last date for judicial review, unless otherwise provided by law. (4-11-06)

138. DECISION AND ORDER.
A preliminary order must be issued by the hearing officer not later than thirty (30) days after the case is submitted for decision. The order must include specific findings on all major facts at issue; a reasoned statement in support of the decision; all other findings and recommendations of the hearing officer; a preliminary decision affirming, reversing or modifying the action or decision of the Department, or remanding the case for further proceedings; and the procedures and time limits for filing requests for review of the order. Unless otherwise provided by a statute governing a particular program, motions for reconsideration of a preliminary order will not be accepted. (4-11-06)

139. -- 149. (RESERVED)

150. REVIEW OF PRELIMINARY ORDERS BY DEPARTMENT.
Unless otherwise provided in these rules, in cases under the jurisdiction of the Department, either party may file a request for review with the Administrative Procedures Section not later than fourteen (14) days from the date the preliminary order was mailed. The request must identify all legal and factual bases of disagreement with the preliminary order. The Director or designee must allow for briefing by the parties and determines whether oral argument will be allowed. The Director or designee determines whether a transcript of the hearing is needed and if so, one will be provided by the party who requests review of the preliminary order. The Director or designee must exercise all of the decision-making power they would have had if they had presided over the hearing. (3-28-18)

151. PETITION FOR REVIEW BY BOARD OF HEALTH AND WELFARE.
In cases under the jurisdiction of the Board, either party may file a petition for review with the Administrative Procedures Section not later than fourteen (14) days from the date the preliminary order was mailed. The request must identify all legal and factual bases of disagreement with the preliminary order. The Administrative Procedures Section will establish a schedule for the submission of briefs and if allowed, oral argument. The Board chair or designee will determine whether a transcript of the hearing is needed and, if so, one will be provided by the party who requests review of the preliminary order. Board members will exercise all of the decision-making power they would have had if they had presided over the hearing. (5-8-09)

152. FINAL ORDER.
The Board, Director or designee may affirm, modify, or reverse the order, or remand the matter to the hearing officer for further proceedings. The decision informs the parties of the procedure and time limits for filing appeals with the district court. Motions for reconsideration of a final order will not be accepted. (4-11-06)

153. SERVICE OF PRELIMINARY AND FINAL ORDERS.
Orders will be deemed to have been served when copies are mailed to all parties of record or their attorneys. (4-11-06)

154. MAINTENANCE OF ORDERS.
All final orders of the Board or the Director will be maintained by the Administrative Procedures Section and made available for public inspection for at least six (6) months, or until all appeals are concluded, whichever is later. (4-11-06)

155. EFFECT OF PETITION FOR JUDICIAL REVIEW.
The filing of a petition for judicial review will not stay compliance with a final order or suspend the effectiveness of the order, unless otherwise ordered or mandated by law. (4-11-06)

156. -- 198. (RESERVED)

199. SPECIFIC CONTESTED CASE PROVISIONS.

The following sections of this chapter provide special requirements of various Department divisions or programs that supersede the general provisions of these rules to the extent that they are different. (3-28-18)

200. DIVISION OF WELFARE: APPEALS.
The provisions of Sections 200 through 299 of these rules govern the conduct of individual benefit hearings to determine eligibility for benefits or services in the Division of Welfare and its programs. (3-28-18)

01. Division of Welfare Programs. The following programs are covered under the following chapter of rules: (3-28-18)

a. IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children"; (3-28-18)

b. IDAPA 16.03.03, "Child Support Services"; (3-28-18)

c. IDAPA 16.03.04, "Idaho Food Stamp Program"; (3-28-18)

d. IDAPA 16.03.05, "Eligibility for Aid to the Aged, Blind, and Disabled (AABD)"; (3-28-18)

e. IDAPA 16.03.08, "Temporary Assistance for Families in Idaho (TAFI) Program"; (3-28-18)

f. IDAPA 16.04.14, "Low-Income Home Energy Assistance Program"; (3-28-18)

g. IDAPA 16.06.12, "Idaho Child Care Program (ICCP)." (3-28-18)

02. Methods for Filing Appeals. Requests for appeals may be made with the Division of Welfare using any one (1) of the following listed in this subsection: ( )

a. Via the Department's internet website: (3-28-18)

b. By telephone; (3-28-18)

c. Via mail; (3-28-18)

d. In person; and (3-28-18)

e. Other commonly available electronic means. (3-28-18)

201. DIVISION OF WELFARE: TIME FOR FILING APPEAL.
A decision issued by the Department in a Division of Welfare benefit program will be final and effective unless an individual or representative appeals within thirty (30) days from the date the decision was mailed, except that a recipient or applicant for Food Stamps has ninety (90) days to appeal. An individual or representative may also appeal when the Department delays in making an eligibility decision or making payment beyond the limits specified in the particular program within thirty (30) days after the action would have been taken if the Department had acted in a timely manner. (3-28-18)

202. DIVISION OF WELFARE: INFORMAL CONFERENCE.
An appellant or representative has the right to request an informal conference with the Department or Community Action Agency before the hearing date. This conference may be used to resolve the issue informally or to provide the appellant with information about the hearing or actions. The conference will not affect the appellant's right to a hearing or the time limits for the hearing. After the conference, the hearing will be held unless the appellant withdraws the appeal, or the Department withdraws the action contested by the appellant. (5-8-09)

203. DIVISION OF WELFARE: WITHDRAWAL OF AN APPEAL.
An appellant or representative may withdraw an appeal upon request to the hearing officer using any one (1) of the methods listed in Section 200 of these rules. (3-28-18)

204. DIVISION OF WELFARE: TIME LIMITS FOR COMPLETING HEARINGS.

The Department must conduct the hearing relating to an individual's benefits and take action within ninety (90) days from the date the hearing request is received, unless as provided in Subsections 204.01 through 204.03 of this rule. (3-28-18)

01. Community Spouse Resources Allowance. When the hearing request concerns the computed amount of the Community Spouse Resource Allowance, the hearing will be held within thirty (30) days from the date the hearing request is received. (3-28-18)

02. Food Stamps. When the hearing relates to Food Stamps, the hearing, the decision of the hearing, and the notice regarding the outcome of the hearing will be completed within sixty (60) days from the date the hearing request is received. (3-28-18)

03. Expedited Hearings. The Department will expedite hearing requests from appellants for the following reasons: (3-28-18)

a. Migrant farm workers who are planning to move before the hearing decision would normally be reached; or (3-28-18)

b. Individuals requesting an expedited fair hearing will be provided a hearing as required according to 42 CFR 431.224. (3-28-18)

205. DIVISION OF WELFARE: APPEAL OF AUTOMATIC ADJUSTMENTS.
An appeal will be dismissed if the hearing officer determines that the sole issue is an automatic grant adjustment, change in rule that affects benefit amount or eligibility, or reduction of Medicaid services under state or federal law. (5-8-09)

206. (RESERVED)

207. DIVISION OF WELFARE: POSTPONEMENT OF FOOD STAMP HEARINGS.
An appellant may request, and be granted a postponement of a hearing, not to exceed thirty (30) days. The time limit for the Department's response will be extended for as many days as the hearing is postponed. (5-8-09)

208. -- 249. (RESERVED)

250. DIVISION OF WELFARE: FOOD STAMPS DISQUALIFICATION HEARINGS.
A disqualification hearing will be scheduled when the Department has evidence that an individual has allegedly committed one (1) or more acts of intentional program violations (IPV). (5-8-09)

251. DIVISION OF WELFARE: COMBINING DISQUALIFICATION HEARING AND BENEFIT HEARING.
The hearing officer must consolidate a hearing regarding benefits or overpayment and a disqualification hearing if the issues are the same or related. The appellant must be notified that the hearings will be combined. (5-8-09)

252. DIVISION OF WELFARE: RIGHT NOT TO TESTIFY.
The hearing officer must advise the appellant that they may refuse to answer questions during a disqualification hearing. (5-8-09)

253. DIVISION OF WELFARE: FAILURE TO APPEAR.
If an appellant or representative fails to appear at a disqualification hearing or cannot be located, the hearing will be conducted in their absence. The Department must present proof that advance notice of the hearing was mailed to the appellant's last known address. The hearing officer must consider the evidence and determine if an IPV occurred based solely on the information provided by the Department. The appellant has ten (10) days from the date of the scheduled hearing to show good cause for failure to appear. If an IPV had been established, but the hearing officer determines the appellant had good cause for not appearing, the previous decision will be void and a new hearing will be conducted. The previous hearing officer may conduct the new hearing. (5-8-09)

254. DIVISION OF WELFARE: STANDARD FOR DETERMINING INTENTIONAL PROGRAM VIOLATIONS.
The determination that an intentional program violation has been committed must be established by clear and convincing evidence that the appellant committed or intended to commit an IPV. (5-8-09)

255. -- 297. (RESERVED)

298. DIVISION OF WELFARE: CHILD SUPPORT SERVICES.
In a child support enforcement proceeding, an individual or a representative may request a hearing after being served notice of license suspension or notice of an asset withholding order from the Financial Institution Data Match (FIDM) process. (3-28-18)

01. Time Limits for Requesting a Hearing. (3-28-18)

a. License Suspension. The licensee has twenty-one (21) days from the date of service of the notice either by personal service or certified mail, to request a hearing by filing with the Department to contest the suspension of license or licenses. A timely request for a hearing stays the suspension of the license or licenses through the issuance of the order by the Department. The Department will notify the licensing authority if the suspension is vacated or stayed. (3-28-18)

b. Financial Institution Data Match (FIDM). The obligor or co-owner has fourteen (14) days from the date of mailing the notice of asset withholding order to request a hearing in writing to contest the asset being withheld. Upon receiving a timely request for hearing, the Department will notify the financial institution that it must continue to hold the asset until an order is issued and the Department provides instructions for the disposition of the asset. If the obligor or co-owner does not file a timely request for hearing, the Department will notify the financial institution to promptly surrender the amount of the asset that has been frozen to the Department. (3-28-18)

02. Time Limits for Completing Hearings. The Department will hold an administrative hearing within thirty (30) days from the day the Department receives the request for hearing to contest asset withholding from the FIDM process. (3-28-18)

03. Default. (3-28-18)

a. Licensing Authority. If the licensee fails to make a timely request for a hearing or fails to appear at the hearing without good cause, the Department will issue an order of Default suspending the license or licenses. On receipt of the final order from the Department, the licensing authority will suspend the license effective the date the order became final, without additional review or hearing. (3-28-18)

b. Financial Institution. If the obligor or co-owner of the asset fails to appear at the hearing without good cause, the Department will issue an order of Default upholding the asset withholding order. On receipt of the final order from the Department, the financial institution will promptly surrender the amount of the asset that has been frozen to the Department. (3-28-18)

04. Time for Filing an Appeal. An order of suspension or asset withholding order issued by a hearing officer of the Department will be final and conclusive between the parties unless a petition for review is filed within twenty-eight (28) days with the district court. (3-28-18)

299. (RESERVED)

300. DIVISION OF MEDICAID: ADMINISTRATIVE REVIEWS FOR PROVIDERS AND FACILITIES.

01. Written Request. An action relating to audited cost reports or Medicaid cost settlement calculations required by administrative rule is final and effective unless the provider or facility requests in writing an administrative review within thirty (30) days after the notice is mailed. The request must: (3-28-18)

a. Be signed by the licensed administrator of the facility or by the provider; (3-28-18)

b. Identify the challenged decision; (3-28-18)

c. State specifically the grounds for its contention that the decision was erroneous; and (3-28-18)

d. Include copies of any documentation on which the facility or provider intends to rely to support its position. (3-28-18)

02. Review Conference. The parties must clarify and attempt to resolve the issues at the review conference, which must be held within thirty (30) days after the request for the administrative review is received. The thirty (30) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled within thirty (30) days of the initial conference. This second session date may be extended when both parties agree in writing to a specified later date. (3-28-18)

03. Department Decision. The Department will provide a written decision to the facility or provider. (3-28-18)

301. DIVISION OF MEDICAID: SCOPE OF APPEAL HEARING.
If the Department's decision after the administrative review is appealed, only issues and documentation that were presented in the administrative review will be admissible in the appeal hearing. (3-28-18)

302. DIVISION OF MEDICAID: APPEALS PROCESS FOR MEDICAID PARTICIPANTS.

01. Medicaid Participant Appeals. Medicaid participants whose appeals are not related to services delivered through a Managed Care Entity (MCE), as defined in Section 010 of these rules, must use the appeals process provided in Sections 101 through 199 of these rules. (3-28-18)

02 Medicaid Participant Appeals Related to Services Delivered Through Managed Care Entity. (3-28-18)

a, Participants whose appeals are related to services delivered through a managed care entity must utilize the complaint, grievance, and appeal process required by the Department and the managed care contractor. (3-28-18)

b. Participants whose appeals are related to services delivered through a Managed Care Entity (MCE) must follow the appeals process in 42 CFR 438.402 through 42 CFR 438.408. (3-28-18)

03. Expedited Fair Hearings for Medicaid Participants. The Department will provide a process for expedited fair hearings for Medicaid participants in accordance with 42 CFR Part 438 or 431, as applicable. (3-28-18)

303. -- 399. (RESERVED)

400. DIVISION OF HEALTH: LABORATORIES.
A notice of grounds for denial, suspension, revocation or renewal becomes final and effective unless the applicant or responsible party files a written appeal by registered or certified mail within fourteen (14) days of receipt of the notice. A hearing will be held not more than twenty-eight (28) days from receipt of the appeal. The applicant or responsible person will receive at least fourteen (14) days of notice of the hearing date. If the Department finds that the public health, safety or welfare imperatively requires emergency action, and incorporates the findings to that effect in its notice of denial, suspension or revocation, summary suspension of the approval may be ordered. (4-11-06)

401. DIVISION OF HEALTH: REPORTABLE DISEASES.
An order for isolation or quarantine is a final agency action as set forth in Section 56-1003(7), Idaho Code. Other orders or restrictions as specified in IDAPA 16.02.10, "Idaho Reportable Diseases," become final and effective unless an appeal is filed within five (5) working days after the effective date of the order or restriction. (5-8-09)

01. Conduct of Hearing. The Department may take whatever precautions and make whatever arrangements are necessary for the conduct of such hearing to insure that the health of participants and the public is not jeopardized. (3-30-01)

02. Review. Any person directly affected by an order or restriction may file exceptions to the Director's determination, which will be reviewed by the Board. The order or restriction remains effective unless rescinded by the Board. (4-11-06)

402. DIVISION OF HEALTH: FOOD ESTABLISHMENTS.
Appeal procedures will be as provided under IDAPA 16.02.19, "Idaho Food Code," Section 861. (5-8-09)

403. -- 499. (RESERVED)

500. DIVISION OF FAMILY AND COMMUNITY SERVICES: CHILD PROTECTION CENTRAL REGISTRY ADMINISTRATIVE REVIEW.
A substantiated incident of child abuse, neglect, or abandonment will automatically become effective and be placed on the Child Protection Central Registry unless the individual identified in the notification files a request for an administrative review within twenty-eight (28) days from the date on the notification. The request for an administrative review must be mailed to the Family and Community Services (FACS) Division Administrator. (5-8-09)

01. Content of Request. The request for an administrative review must identify the notification being protested and explain the reasons for disagreement. Additional information may be provided for the Administrator's consideration. (5-8-09)

02. Administrative Review. The FACS Division Administrator will consider all available information and determine whether the incident was erroneously determined to be "substantiated." The Administrator will furnish a written decision to the individual. (5-8-09)

501. DIVISION OF FAMILY AND COMMUNITY SERVICES: INTENSIVE BEHAVIORAL INTERVENTION (IBI) ADMINISTRATIVE REVIEW.

01. Request for Administrative Review. An action relating to certification, billing, or reimbursement is final and effective unless the provider requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must be signed by the provider, identify the challenged decision, and state specifically the grounds for its contention that the decision was erroneous. The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. The Department will provide a written decision to the facility or provider. (5-8-09)

02. Scope of Appeal Hearing. If the Department's decision after the administrative review is appealed, only issues and documentation that were presented in the administrative review will be admissible in the appeal hearing. (5-8-09)

502. DIVISION OF FAMILY AND COMMUNITY SERVICES: INFANT TODDLER PROGRAM - INDIVIDUAL CHILD COMPLAINTS.

01. Individual Child Complaints. Parents or providers may request a hearing if they disagree with decisions regarding the identification, evaluation, or placement of a child, or, with the provision of appropriate early intervention services. A request must be filed with the *Department's* Administrative Procedures Section within twenty-eight (28) days from the date the decision is issued. The request for a hearing must identify: *( )*

a. The child's name, home address, and the early intervention program serving the child; (5-8-09)

b. A statement identifying the facts and the reason for disagreement with the decision; (5-8-09)

c. The name of the provider who is serving the child; (5-8-09)

d. A proposed resolution; and (5-8-09)

e. A dated signature of the person who is submitting the request. (5-8-09)

02. Mediation. The Department must offer mediation services at Department expense, which must be held within thirty (30) days after the request for a hearing. A qualified and impartial mediator who is trained in effective mediation techniques will meet at a location convenient to both parties to help them find a solution to the complaint in an informal, non-adversarial atmosphere. (5-8-09)

a. The parties must sign a confidentiality agreement before these discussions. Information discussed in the mediation cannot be used in any subsequent proceeding. (5-8-09)

b. If there is a resolution, both parties must sign a mediation agreement, which is enforceable in state or federal court. (5-8-09)

03. Due Process Hearings. The hearing must be held and a written decision mailed within thirty (30) days from the receipt of the request for a hearing, whether or not mediation occurs. The hearing officer may bar any party from introducing a relevant evaluation or recommendation that has not been disclosed at least five (5) calendar days before the hearing, unless the other party consents. (5-8-09)

a. Current Services. Appropriate early intervention services that are being provided at the time of the decision will continue unless the parties agree otherwise. (5-8-09)

b. Initial Application. If the decision involves an application for initial services, any services that are not in dispute must be provided. (5-8-09)

503. DIVISION OF FAMILY AND COMMUNITY SERVICES: INFANT TODDLER PROGRAM - ADMINISTRATIVE COMPLAINTS.

01. Filing of Complaint. An individual or organization, including those from another State, may file a written, signed complaint against any public or private service provider, alleging a violation of the Part C program and regulations at 34 CFR Part 303. The complaint must identify what requirement has been violated and the facts upon which the complaint is based. Complaints can include an allegation that a provider failed to implement the decision after a hearing. The complaint must be filed with the *Department's* Administrative Procedures Section within one (1) year of the alleged violation, except in the following circumstances: *( )*

a. If there is a continuing violation for that child or other children; or (5-8-09)

b. If the complaint requests reimbursement or corrective action for a violation that occurred not more than three (3) years prior to the date the complaint is received by the public agency. (5-8-09)

02. Investigation and Decision. Upon receipt, the Department has sixty (60) days, unless exceptional circumstances exist, to: (5-8-09)

a. Investigate the complaint, including conducting an independent, on-site investigation if necessary; (5-8-09)

b. Receive additional information about the complaint; (5-8-09)

c. Make an independent determination whether a violation occurred; (5-8-09)

d. Issue a written decision with findings, conclusions, and an explanation for the decision. (5-8-09)

03. Resolution. If the Department concludes that appropriate services were or are not being provided,

the decision must address remedial action including, if appropriate, the award of monetary reimbursement or corrective action appropriate to the needs of the child and family, technical assistance, and negotiation. The Department must also address appropriate future services for all infants and toddlers with disabilities and their families. (5-8-09)

04. Extent of Review. No issue that is being addressed in an active hearing process can be dealt with in an administrative complaint until the conclusion of the hearing. Any issue that is not part of the hearing must be resolved within the sixty (60) day review time. Issues that have already been decided in the hearing are final and binding on the complainant. (5-8-09)

504. -- 599. (RESERVED)

600. DIVISION OF LICENSING AND CERTIFICATION: REQUEST FOR ADMINISTRATIVE REVIEW.

01. Written Request. An action relating to licensure or certification is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: (3-28-18)

a. Be signed by the licensed administrator of the facility, or by the provider; (3-28-18)

b. Identify the challenged decision; and (3-28-18)

c. State specifically the grounds for its contention that the decision was erroneous. (3-28-18)

02. Review Conference. An administrative review conference must be held within twenty-eight (28) days of receipt of the request for the administrative review. The twenty-eight (28) day requirement may be extended when both parties agree in writing to a specified later date. The parties must clarify and attempt to resolve the issues during the administrative review conference. If the Department determines additional documentation is needed to resolve the issues, a second session of the review conference may be scheduled. (3-28-18)

03. Department Decision. The Department will provide a written decision to the facility or provider within thirty (30) days of the conclusion of the administrative review conference. (3-28-18)

601. -- 699. (RESERVED)

700. DIVISION OF BEHAVIORAL HEALTH: REQUEST FOR ADMINISTRATIVE REVIEW.

01. Written Request. An action relating to program approval is final and effective unless the provider or facility requests in writing an administrative review within twenty-eight (28) days after the notice is mailed. The request must: (3-28-18)

a. Be signed by the program administrator of the facility; (3-28-18)

b. Identify the challenged decision; and (3-28-18)

c. State specifically the grounds for its contention that the decision was erroneous. (3-28-18)

02. Review Conference. The parties must clarify and attempt to resolve the issues at the review conference, which must be held within twenty-eight (28) days after the request for the administrative review. The twenty-eight (28) day requirement may be extended when both parties agree in writing to a specified later date. If the Department determines that additional documentation is needed to resolve the issues, a second session of the conference may be scheduled. (3-28-18)

03. Department Decision. The Department will provide a written decision to the facility or provider within thirty (30) days of the conclusion of the administrative review conference. (3-28-18)

701. -- 749. (RESERVED)

750. DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES).
Contested case proceedings for non-Medicaid Youth Empowerment Services (YES) are governed by the general provisions of this chapter, unless otherwise specified in Section 751 of these rules. (3-28-18)

751. DIVISION OF BEHAVIORAL HEALTH: YOUTH EMPOWERMENT SERVICES (YES) GRIEVANCE PROCESS.

01. Grievance. Individuals, family members, or legal guardians may choose to submit a written request to participate in this grievance process regarding non-Medicaid matters related to YES services. A grievance is a statement of dissatisfaction about any matter other than an adverse benefit determination. (3-28-18)

02. Grievance Content. A grievance must include: (3-28-18)

a. The full name, mailing address, phone numbers, and e-mail contact for the individual who is the complainant using YES services; (3-28-18)

b. The full name, mailing address, phone numbers, and e-mail contact of the person submitting the grievance on behalf of the complainant; (3-28-18)

c. A detailed explanation of the decision or non-Medicaid matter related to YES services that is being contested from the perspective of the complainant; and (3-28-18)

d. Any steps that have already been taken to resolve the issue. (3-28-18)

03. Department Response to Grievance. The Department will respond to the complainant within sixty (60) days of receipt of the grievance on its findings. The grievance process may include gathering additional information from involved parties and may run concurrent to the fair hearing process. (3-28-18)

a. The Department will address concerns related to dissatisfaction with a process or a provider at the lowest or most appropriate organizational level possible. (3-28-18)

b. The Department will document the filing of the grievance and the outcome in its response to the complainant. (3-28-18)

04. Expedited Hearings. When the Division of Behavioral Health determines that an expedited fair hearing is needed using the same standards described in Section 302 of these rules, the Department will provide an expedited fair hearing for non-Medicaid eligible YES individuals in compliance with time limits for an agency found in 42 CFR 431 for YES inpatient services, or the time limits for a PAHP found in 42 CFR 438, for outpatient YES services. (3-28-18)

752. -- 999. (RESERVED)

IDAPA 16
TITLE 05
CHAPTER 04

16.05.04 – RULES OF THE IDAHO COUNCIL ON DOMESTIC VIOLENCE AND VICTIM ASSISTANCE GRANT FUNDING

000. LEGAL AUTHORITY.
Under Section 39-5209, Idaho Code, the Council on Domestic Violence and Victim Assistance is authorized to promulgate, adopt, and amend rules to implement the provisions of the Domestic Violence Project Grants Act, as contained in Title 39, Chapter 52, Idaho Code. (3-30-11)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.05.04, "Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding." (3-30-11)

02. Scope. These rules define the application process, eligibility determination, and other requirements for the grants administered by the Idaho Council on Domestic Violence and Victim Assistance. (3-30-11)

03. Relationship to the Department of Health and Welfare. The Council on Domestic Violence and Victim Assistance is attached to the Department of Health and Welfare for fiscal and administrative purposes, and any grant awards, disbursement of funds, and other procedural matters must be in compliance with Department requirements. Programmatically the Council is independent of the Department. (5-3-03)

002. INCORPORATION BY REFERENCE.

01. Documents Incorporated by Reference. In accordance with Section 67-5229, Idaho Code, the following documents are incorporated by reference into this chapter of rules: (7-1-14)

a. "Service Standards for ICDVVA-Funded Programs," Edition 2014-1, published by the Idaho Council on Domestic Violence and Victim Assistance, effective July 1, 2014. (7-1-14)

b. "Minimum Standards for Domestic Violence Offender Intervention Programs," published by the Idaho Council on Domestic Violence and Victim Assistance, edition 2019-1, effective July 1, 2019. (7-1-19)

02. Availability of Reference Material. Copies of the documents incorporated by reference into these rules are available: (7-1-14)

a. At the Idaho Council on Domestic Violence and Victim Assistance, 304 North 8th Street, Suite 140, P.O. Box 83720, Boise, Idaho 83720-0036. (7-1-14)

b. On the internet at: http://www.icdv.idaho.gov. (7-1-14)

003. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of these rules, the following terms are defined herein: (3-12-90)

01. Conflict of Interest. No member of the Council on Domestic Violence and Victim Assistance may vote on any matter before the Council in which he has any substantial ownership, fiduciary, contractual, consultative, creditor, or directly competitive relationship and any such relationship shall be made publicly known. (5-3-03)

a. Appearance. In the use of grantor agency project funds, officials or employees of state or local units of government and nongovernmental grantees/subgrantees shall avoid any action which might result in, or create the appearance of: (3-12-90)

i. Using his official position for private gain; (3-12-90)

ii. Giving preferential treatment to any person; (3-12-90)

iii. Losing complete independence or impartiality; (3-12-90)

iv. Making an official decision outside official channels; or (3-12-90)

v. Adversely affecting the confidence of the public in the integrity of government or the program. (3-12-90)

b. Fiduciary. Exercising a position of trust on behalf of an organization or entity, including any trustee, member of the Board of Directors, officer, legal counsel, or any other person with a legal obligation to act in the best interest of such an organization or entity. (3-12-90)

02. Contract. The grant contract between the program and the Council which results from a Council on Domestic Violence and Victim Assistance grant award. (5-3-03)

03. Council. The Idaho Council on Domestic Violence and Victim Assistance as outlined in Section 39-5201, et seq., Idaho Code. (5-3-03)

04. Department. The Department of Health and Welfare. (3-12-90)

05. Domestic Violence. The physical injury, sexual abuse, or forced imprisonment or threat thereof of a family or household member. (3-12-90)

06. Family or Household Member. One who is related by blood or marriage or who resides or has resided with, or who has been married to the person committing the domestic violence. (3-12-90)

07. Region(s). One (1) or the seven (7) regions of the Idaho Department of Health and Welfare as set out in Subsections 005.04.a. through 005.04.g. (3-12-90)

011. -- 014. (RESERVED)

015. GRANTS.

01. Family Violence Grant. Money awarded to a program pursuant to the Family Violence Prevention and Services Act, Title III of the Child Abuse Amendments of 1984 P.L. 98-457,42 U.S.C. 10401, and any applicable rules and regulations. (3-12-90)

02. State Domestic Violence Grant. Money awarded to a program pursuant to Sections 39-5201 through 39-5213, Idaho Code (domestic violence project grants), and any applicable rules and regulations. (3-12-90)

03. VOCA Grant. Money awarded to a program pursuant to Victims of Crime Act of 1984, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. and any applicable rules and regulations. (3-12-90)

04. Regions. The seven (7) regions of the Department of Health and Welfare are as follows: (3-12-90)

a. REGION I -- Benewah County, Bonner County, Boundary County, Kootenai County, Shoshone County. (3-12-90)

b. REGION II -- Clearwater County, Idaho County, Latah County, Lewis County, Nez Perce County. (3-12-90)

c. REGION III -- Adams County, Canyon County, Gem County, Owyhee County, Payette County, Washington County. (3-12-90)

d. REGION IV -- Ada County, Boise County, Elmore County, Valley County. (3-12-90)

e. REGION V -- Blaine County, Camas County, Cassia County, Gooding County, Jerome County, Lincoln County, Minidoka County, Twin Falls County. (3-12-90)

f. REGION VI -- Bannock County, Bear Lake County, Bingham County, Caribou County, Franklin County, Oneida County, Power County. (3-12-90)

g. REGION VII -- Bonneville County, Butte County, Clark County, Custer County, Fremont County, Jefferson County, Lemhi County, Madison County, Teton County. (3-12-90)

05. Grant Applications. Applications for grant funding which are obtained from the Council. These will have eligibility, legal and paperwork requirements for the grants administered by the Council. (5-3-03)

016. COUNCIL.
The Council shall: (3-12-90)

01. Membership. Pursuant to Section 39-5204, Idaho Code, consist of seven (7) members appointed by the Governor of Idaho. At least one (1) member shall reside in one of the seven (7) Department of Health and Welfare regions. Members shall be representative of persons who have been victims of domestic violence, care providers, law enforcement officials, medical and mental health personnel, counselors, and interested and concerned members of the general public. (3-12-90)

02. Purpose. Be the advisory body for programs and services affecting victims of crime. For budgetary purposes and for administrative support purposes, the Council is assigned by the Governor to the Department. (3-12-90)

03. Grants Awards Process. Award available state and federal grant money to eligible victims' services programs within the state of Idaho. The current available grants are: (3-12-90)

a. State domestic violence; (3-12-90)

b. Federal family violence; (5-3-03)

c. Federal VOCA; and (5-3-03)

d. State batterer treatment program grants. (5-3-03)

04. Other Grants. The Council may establish other state or federal grants which are authorized under Executive Orders and pursuant to Section 39-5208(2), Idaho Code. (3-12-90)

017. ELIGIBILITY.

01. State Domestic Violence Grants. To be eligible for a state domestic violence grant, a program must comply with all the applicable requirements of Title 39, Chapter 52, Idaho Code, as specified in Appendix A. A program must also comply with these rules and with any additional requirements in the grant applications, or that the Council may require. (3-12-90)

02. Federal Family Violence Grant. To be eligible for a federal family violence grant, a program must comply with all the applicable sections of the Family Violence and Services Act; and other federal rules and regulations and any additional requirements in the grant applications, or that the Council may require. (5-3-03)

03. Federal VOCA Grant. To be eligible for a federal VOCA grant, a program must comply with all the applicable sections of the Victims of Crime Act, any other federal rules and regulations which apply, these rules and any additional requirements listed in the grant applications, or that the Council may require. (5-3-03)

04. Application Process. The application process for grants under the grants including time frames for both submission and disposition of applications and the form and contents of applications for annual or supplemental

funding, is described in Section 018. (5-3-03)

018. TIME FRAMES.

01. Grant Applications for Annual Grants from the Council. (5-3-03)

a. No less than once a year, the Department will publish a "Grant Applications" (GA) at least two (2) times (once a week for two (2) consecutive weeks, on the same day of the week) in a major daily newspaper in each service area. The GA will specify the deadline for submission of proposals. In no event will the deadline be less than sixty (60) days from the date of first publication of the GA. (3-12-90)

b. A copy of each GA will also be sent to current grantees and to persons and organizations who have requested timely notification of such announcement. Requests for advance notification of the solicitation of grant proposals should be directed to the Executive Director of the Council on Domestic Violence and Victim Assistance, P.O. Box. 83720, 450 West State Street, Boise, Idaho 83720 - 0036. (5-3-03)

c. Applications for annual grants must be postmarked or hand-delivered not later than the date designated in the "Grant Applications." (5-3-03)

02. Proposals or Supplemental Grants. Applications for supplemental grants may be submitted for consideration at any time during the effective period of a grant. (5-3-03)

019. DISPOSITION OF APPLICATIONS.
The Council shall act to deny or grant funding as specified below, and all applicants will be notified in writing as to the disposition of their application. (3-12-90)

01. Annual Applications. The Council shall act to deny or grant funding for an annual application within ninety (90) days of the GA deadline. (5-3-03)

02. Supplemental Applications. Allocation of supplemental funding shall be made based upon the availability of funds. (3-12-90)

03. Late Applications. An application for annual funding received after the deadline specified in any GA will be acted upon at a regularly-scheduled meeting of the Council, following consideration of all timely initial and renewal applications for the service area. (5-3-03)

020. EVALUATION OF APPLICATIONS.
Applications from each region shall be evaluated according to the following criteria: (3-12-90)

01. Threshold Factors. Before an application is evaluated and ranked, an affirmative determination must be made that: (3-12-90)

a. The applicant meets eligibility requirements as specified in Section 017; and (5-3-03)

b. The applicant has the administrative capacity, or has adequately described how provisions for that capacity will be made if not present at the time of application, to administer a grant including having, contracting for, or obtaining staff and expertise to: (3-12-90)

i. Provide proper management and maintain the proper records; and (3-12-90)

ii. Assure fiscal control and efficient disbursement of grant funds; and (3-12-90)

iii. Fulfill grant requirements including meeting reporting requirements; and (3-12-90)

iv. Provide the proposed services. (3-12-90)

02. Conflict of Interest. Under the following circumstances, a Council member shall declare a conflict

of interest in writing to the Executive Director and subsequently refrain from evaluating or ranking, or casting a vote to award a grant to: (3-12-90)

a. An applicant on whose board of directors or advisory board the Council member or a member of her immediate family serves; or (3-12-90)

b. An applicant employing the Council member or a member of her immediate family; and (3-12-90)

03. Evaluation Criteria. The Council shall use the following criteria to evaluate applications: (5-3-03)

a. Assessment of existing victim services in the community and demonstrated need for proposed services in the area. (3-12-90)

b. Scope of services or number of eligible activities to be provided. (3-12-90)

c. Estimated number of clients to be served and expansion potential, if any. (3-12-90)

d. Knowledge and use of other available funding sources or fund-raising activities. (3-12-90)

e. Involvement and coordination with community resources including identification of sources of victim access. (3-12-90)

f. Recruitment efforts for volunteers to meet the specific needs of the program and the community. (3-12-90)

g. Performance record of past activities, if any, including: (3-12-90)

i. Creative use of volunteers; (3-12-90)

ii. Training of volunteers; (3-12-90)

iii. Fund-raising activities; (3-12-90)

iv. Administrative performance; (3-12-90)

v. Degree of incorporation of self-help activities into program; and (3-12-90)

vi. Education service to community. (3-12-90)

h. Cooperation with other area domestic violence and victim assistance programs to insure services to all areas and victims without duplicating services. (3-12-90)

021. ON-SITE EVALUATIONS.

01. Initial Evaluation. Prior to the awarding of an initial grant, the Department is authorized to conduct an on-site evaluation of the program to ensure that the program is in substantial compliance with these rules and to determine the capability of the program to provide the services for which funding is requested. The program must provide for review of any and all client records, program records, financial statements, and other documents needed by the Council to make its determination, including any information that may have changed since the time the application was submitted. (5-3-03)

02. Follow-Up Evaluations. In addition to any initial on-site evaluation, the Council is authorized, upon reasonable notice to the program, to conduct such on-site evaluations of the program: (5-3-03)

a. To determine continued compliance with these rules and other applicable requirements; or (3-12-90)

b. To determine the continued capability of the program to provide the services for which funding has been granted. (3-12-90)

022. DOMESTIC VIOLENCE GRANT DISTRIBUTION.
Domestic violence project grants will be awarded in the following manner: (3-12-90)

01. Distribution of Domestic Violence Grants to Regions. On an annual basis, following determination by the Council of the total funds available for domestic violence grant awards for the following fiscal year, the Council shall establish and announce the base level of funding available for each region. (5-3-03)

a. In accordance with Section 39-5212, Idaho Code, not less than fifty-one percent (51%) of available grant funds will be allocated to programs within the seven (7) regions in the proportion that marriage licenses are filed in each region, based on statistics compiled by the state registrar of Vital Statistics. (3-12-90)

b. The allocation of the remaining percentage of available grant funds shall be established and announced annually in varying percentages based on consideration of the following and in the order of priority shown below: (3-12-90)

i. Identification of critical needs and evidence of relative distribution of victim population within the state. (3-12-90)

ii. Calculation of a population/area factor, using current U.S. census data and employing the following formula: (3-12-90)

(1) Multiply the population of a region by two (2) and divide the product by the total state population; and (3-12-90)

(2) Divide the square miles for a region by the total square miles for the state and add the resulting figure to the figure determined by calculating the amount as set out in Subsection 022.01.b.i.(1). (5-3-03)

(3) Divide the sum by three (3), yielding a percentage figure which represents the population/area factor for the region. (3-12-90)

iii. Identification of programs with statewide applicability. (3-12-90)

c. In the event that proposals received from eligible applicants within a given region are insufficient and/or inadequate or that grants awarded are not accepted or grant agreements finalized on a timely basis, or a grant is terminated prior to the completion date, the Council shall solicit qualified new or supplemental proposals from the region and will hold the funds available for the region for a period of six (6) months. (5-3-03)

d. Any domestic violence grant funds not obligated or expended during any award period will be apportioned by the Council at its discretion. (3-12-90)

02. Distribution of Domestic Violence Grants Within the Regions. (3-12-90)

a. Programs shall be selected through a comparative application process; and (3-12-90)

b. Applicants shall be compared only with other applicants from the same region; and (3-12-90)

c. The Council is not obligated to select or approve any proposal received. (5-3-03)

03. Timing and Duration of Grant Awards. Grant awards under the domestic violence grants project shall be made for a period not to exceed one (1) year unless revoked. Actual funds shall be distributed in accordance with the schedule of payments established for each grant. (3-12-90)

023. VICTIM ASSISTANCE GRANT DISTRIBUTION.
Victim assistance grants will be awarded in the following manner: (3-12-90)

01. Distribution of Victim Assistance Grants to Priority Categories and Regions. On an annual basis, following the Council's receipt of an award letter from the U.S. Justice Department announcing the amount available for victim assistance grants for the following fiscal year, the Council shall establish and announce the base level of funding available for the priority categories and for each region. Determination of the actual percentage and amount of funds to be allocated for the priority and other categories for the regions, and for statewide projects will be based on data available to the Council. (5-3-03)

a. Allocations for Priority and Other Categories. The Council shall allocate the federal crime victim assistance funds awarded to Idaho to programs by complying with regulations of the Victims of Crime Act of 1989, P.L. 98-473, Title II, Chapter XIV, 42 U.S.C. 10601, et seq. (3-12-90)

b. Allocations for Service Areas. (3-12-90)

i. The Council shall allocate the victim assistance funds by region based on a population/area factor, as outlined in Subsection 022.01.b.ii. (5-3-03)

ii. At its discretion, the Council may reserve a portion of the victim assistance grant funds for programs with statewide applicability. (3-12-90)

c. Any victim assistance grant funds not obligated or expended during any award period shall be apportioned by the Council at its discretion, within the established federal limits governing use of the funds. (3-12-90)

02. Distribution of Victim Assistance Grants Within Priority Categories and Regions. Grants shall be awarded through comparison and consideration of applications within a region according to the category of victim services being proposed. The Council is not obligated to select or approve any proposal received. (3-12-90)

03. Timing and Duration of Grant Awards. Grant awards made under the victim assistance grants project shall be made for a period not to exceed one (1) year unless revoked. Actual funds shall be distributed in accordance with the schedule of payments established for each grant. (3-12-90)

024. FAMILY VIOLENCE GRANT DISTRIBUTION.
Family violence grants shall be awarded on an annual basis, following receipt of an award letter from the United States Department of Health and Human Services, announcing the amount available for family violence grants for the following fiscal year. The Council shall establish and announce the funding available for each region based upon the following allocation. (3-12-90)

01. Allocation. If all seven (7) regions have qualified and eligible applicants, the amount available shall be divided by seven (7). If not all regions have qualified and eligible applicants, the amount available shall be divided by the number of regions that have qualified and eligible applicants. The Council is not obliged to accept or approve any proposal received. (3-12-90)

02. Timing and Duration of Grant Awards. Grant awards made under the family violence grant project will be made for a period not to exceed one (1) year, unless revoked by the Council. Actual funds shall be distributed in accordance with the payment scheduled for each grant. (3-12-90)

025. -- 030. (RESERVED)

031. AWARDING OF GRANTS.
Notification of grant awards shall be accomplished through preparation and issuance of a contract specifying, at a minimum, the eligible activities for which the grant is to be awarded, including the beginning and termination dates of the grant; the amount of the grant award; the schedule of payments; and any terms and conditions additional to these rules which are agreed to by the parties. (3-12-90)

01. Acceptance of Grant Award by Grantee. Acceptance of the grant award is to be accomplished by returning two (2) copies of the contract bearing the original, signature of the duly authorized representative of the grantee. The copies of the signed contract are to be returned to the Council within fifteen (15) days of the date of the letter transmitting the agreement to the grantee. (5-3-03)

02. Approval or Grant Agreement. The agreement will be deemed approved and the grant effective upon the effective date specified in the agreement when signed by the authorized official for the Council. If more than sixty (60) days have elapsed between the stated effective date and the date the agreement is signed for the Council: (5-3-03)

a. There will be no penalty or reduction of funding if the delay was attributable to the Council. (5-3-03)

b. The program may face a reduction in funding and renegotiation of the agreement if the delay was attributable to the program. (3-12-90)

032. DENIAL, SUSPENSION, OR TERMINATION OF GRANT.

01. Compliance Issues. A grant may be suspended pending investigation to determine compliance with these rules. An application for a grant may be denied or a grant terminated if the program is not in compliance with these rules. (3-12-90)

02. Disincorporation. In the event a legal entity which is the recipient of a grant disincorporates, the Council must be informed in writing within twenty (20) days and the grant terminated. Grant funds for all but the portion of the fiscal year during which services required under the grant were performed must be recovered by the Council. Reallocation of remaining grant funds will be in accordance with applicable law. (3-12-90)

03. Internal Take-Over. If the governing board of one (1) of an agency's programs takes over the agency, with the program's board actually becoming the new board of the agency, the Council must be notified in writing within twenty (20) days. The grant may continue in effect without interruption. (3-12-90)

033. APPEAL OF GRANT AWARD DECISION.
No later than fifteen (15) days from the date of written notification from the Council to a program announcing denial of its grant application or suspension or termination of its grant, a program may file a written request for reconsideration of the Council's decision. All requests for reconsideration must be addressed and submitted to the executive director of the Council. (3-12-90)

01. Contents of Request for Reconsideration. Any request for reconsideration must contain all pertinent facts supporting the program's request for the Council to reconsider its grant award decision. (3-12-90)

02. Disposition of Request for Reconsideration. Upon notification of a timely request for reconsideration, the chairperson of the Council will appoint a panel composed of three (3) Council members to review the contents of the request and all pertinent data upon which the Council based its original decision. (3-12-90)

03. Disposition of Funds for Service Area Pending Reconsideration. While a timely and valid request for reconsideration received from a program is pending, fifty percent (50%) of the funds allocated to the service area in which the program is located will be held. (3-12-90)

04. Issuance of Decision. Following consideration of all data pertinent to the issue, the appointed panel will prepare a written report of its deliberations and issue a dated decision concerning the recommended resolution of the dispute. Copies of the report and the decision will be transmitted to the full Council and to the program submitting the request. (3-12-90)

05. Appeal of the Council's Decision. If the program is unsatisfied by the decision of the Council, a written appeal setting out the basis for the appeal may be filed. It must be received by the executive director of the Council no later than fifteen (15) days from the date of the Council's written decision. (3-12-90)

06. Hearing on Appeal. Upon notification of receipt of a timely appeal, the chairperson of the Council will appoint a hearing officer to convene a hearing in accordance with the Idaho Administrative Procedure Act, Sections 67-5201, et seq., Idaho Code. (3-30-11)

034. PAYMENT PROCEDURES.
Procedures for payment will be set out in the contract issued by the Council. (5-3-03)

035. STATE AND FEDERAL DOMESTIC VIOLENCE GRANT -- RECORD KEEPING REQUIREMENTS.
Each program receiving a grant(s) from the Department must maintain accurate, current and complete client, administrative and fiscal records, including accurate records of the receipt, obligation and disbursement of funds. Records must be accessible to authorized state officials during normal operating hours for purposes of inspection and/or audit, with or without prior notification, pursuant to Section 39-108, Idaho Code. The fiscal and program record requirements required for each grant are in the contract. (3-12-90)

036. AUDITS.
Projects selected for funding by the Council will be subject to audit. Pursuant to the U.S. Office of Management and Budget (OMB) Circular A-128, "Audits of State and Local Governments," grantees have the responsibility to provide for an audit of their activities. These audits shall be made annually. Grantees as well as their contractors or other organizations under cooperative agreements or purchase of service contracts are to arrange for examination in the form of independent audits in conformance with OMB Circular A-128. (3-12-90)

01. Audit Requirement. These audits shall be made by an independent auditor in accordance with generally accepted governmental auditing standards governing financial and compliance audits. The required audits are to be performed on an organization-wide basis. The audit reports must include: (3-12-90)

a. The auditor's report on financial statements of the recipients organization and a schedule of financial assistance showing the total expenditures for each assistance program; (3-12-90)

b. The auditor's report on compliance containing: (3-12-90)

i. A statement of positive assurance with respect to those items tested for compliance, including compliance with law and regulations pertaining to financial reports and claims for advances and reimbursements; (3-12-90)

ii. A negative assurance of those items not tested and a summary of all instances of noncompliance; and (3-12-90)

iii. The auditor's report on the study and evaluation of internal control systems, which must identify accounting controls, and those controls designed to provide reasonable assurance that federal programs are being managed in compliance with applicable laws and regulations. It must also identify the controls that were not evaluated, and the material weaknesses identified as a result of that identification. (3-12-90)

02. Audit Objectives. Grants and other agreements are awarded subject to conditions of fiscal, program and general administration to which the recipient expressly agrees. Accordingly, the audit objective is to renew the recipient's administration of grant funds and required non-federal contributions for the purpose of determining whether the recipient has: (3-12-90)

a. Financial statements of the government, department, agency, or establishment that present fairly its financial position and the results of financial operations in accordance with generally accepted accounting principles; (3-12-90)

b. The organization has internal accounting and other control systems to provide reasonable assurance that it is managing federal financial assistance programs in compliance with applicable laws and regulations; and (3-12-90)

c. The organization has complied with laws and regulations that may have material effect on its financial statements and on each federal assistance program. (3-12-90)

037. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare has the authority to establish and enforce rules to protect the integrity of the public assistance programs against fraud, abuse, and other misconduct under Sections 56-202(b), 56-203(1), 56-203(2), 56-209, 56-209h, 56-227, 56-227A through D, 56-1001, and 56-1003, Idaho Code, and under federal regulations. (3-30-07)

001. TITLE, SCOPE AND POLICY.

01. Title. These rules are titled IDAPA 16.05.07, "The Investigation and Enforcement of Fraud, Abuse, and Misconduct." (3-30-07)

02. Scope. This chapter is intended to protect the integrity of the public assistance programs by identifying instances of fraud, abuse, and other misconduct by providers and their employees, participants, and by providing that appropriate action is taken to correct the problem. (3-30-07)

03. Policy. Action will be taken to protect both program participants and the financial resources of the public assistance programs. Where minimum federal requirements are exceeded, it is the Department's intent to provide additional protections. Nothing contained within this chapter *will* limit the Department from taking any other action authorized by law, including seeking damages under Section 56-227B, Idaho Code. *( )*

002. WRITTEN INTERPRETATIONS.
This agency has written statements which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. The document is available for public inspection and copying at cost in the main office of this agency. *( )*

003. (RESERVED)

004. INCORPORATION BY REFERENCE.
42 CFR 455-23(b) is incorporated by reference into this chapter of rules. It is available from the Centers for Medicare and Medicaid Services (CMS), 7500 Security Blvd, Baltimore, MD, 21244-1850 or on the Code of Federal Regulations internet site at https://www.ecfr.gov/cgi-bin/text-idx?SID=70b7c477b1a5b3977331204c2ad5161e&mc=true&node=pt42.4.455&rgn=div5#se42.4.455_123. (3-30-07)

***005.* -- 009. (RESERVED)**

010. DEFINITIONS AND ABBREVIATIONS.
For purposes of this chapter of rules, the following terms apply. (3-20-14)

01. Abuse or Abusive. Provider practices that are inconsistent with sound fiscal, business, child care, or medical practices, and result in an unnecessary cost to a public assistance program, in reimbursement for services that are not medically necessary or that fail to meet professionally recognized standards for health care, or in physical harm, pain or mental anguish to a medical assistance recipient. (3-20-14)

02. Access to Documentation and Records. To review and copy records at the time a written request is made during normal business hours. Documentation includes all materials as described in Section 101 of these rules. (3-30-07)

03. Claim. Any request or demand for payment, or document submitted to initiate payment, for items or services provided under a public assistance program, whether under a contract or otherwise. (3-20-14)

04. Conviction. An individual or entity is considered to have been convicted of a criminal offense: (3-30-07)

a. When a judgment of conviction has been entered against the individual or entity by a federal, state, or local court, regardless of whether there is an appeal pending or whether the judgment of conviction or other record relating to criminal conduct has been expunged; (3-30-07)

b. When there has been a finding of guilt against the individual or entity by a federal, state, or local court; (3-30-07)

c. When a plea of guilty or nolo contendere by the individual or entity has been accepted by a federal,

state, or local court; or (3-30-07)

d. When the individual or entity has entered into participation in a first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. (3-30-07)

05. Department. The Idaho Department of Health and Welfare, its authorized agent or designee. (3-30-07)

06. Exclusion. A specific person or provider will be precluded from directly or indirectly providing services and receiving reimbursement under Medicaid. (3-30-07)

07. Fraud or Fraudulent. An intentional deception or misrepresentation made by a person with the knowledge that the deception could result in some unauthorized benefit to himself or some other person. (3-30-07)

08. Knowingly, Known, or with Knowledge. A person, with respect to information or an action, who: (3-20-14)

a. Has actual knowledge of the information or an action; (3-20-14)

b. Acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or (3-20-14)

c. Acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (3-20-14)

09. Managing Employee. A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an institution, organization, or agency. (3-30-07)

10. Medicaid. Idaho's Medical Assistance Program. (3-30-07)

11. Medical Assistance. Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-30-07)

12. Ownership or Control Interest. A person or entity that: (3-20-14)

a. Has an ownership interest totaling five percent (5%) or more in an entity; (3-28-18)

b. Is an officer or director of an entity that is organized as a corporation; (3-20-14)

c. Is a partner in an entity that is organized as a partnership; or (3-20-14)

d. Is a managing member in an entity that is organized as a limited liability company. (3-20-14)

13. Participant. An individual or recipient who is eligible and enrolled in any public assistance program. (3-20-14)

14. Person. An individual, trust or estate, partnership, corporation, professional association or corporation, or other entity, public or private. (3-30-07)

15. Program. Any public assistance program, including the Medicaid program and Idaho's State Plan, or any parts thereof. (3-20-14)

16. Provider. An individual, organization, agency, or other entity providing items or services under a public assistance program. (3-20-14)

17. Provider Agreement. A written agreement between the Department and a provider or group of

providers of supplies or services. This agreement contains any terms or conditions deemed appropriate by the Department. (3-30-07)

18. Public Assistance Program. Assistance for which provision is made in any federal or state law existing, or hereafter enacted, by the state of Idaho or the congress of the United States by which payments are made from the federal government to the state in aid, or in respect to payment by the state for welfare purposes to any category of needy person, and any other program of assistance for which provision for federal or state funds for aid may from time to time be made. (3-20-14)

19. Recoup and Recoupment. The collection of funds for the purpose of recovering overpayments made to providers for items or services the Department has determined should not have been paid. The recoupment may occur through the collection of future claims paid or other means. (3-30-07)

20. Sanction. Any abatement or corrective action taken by the Department which is appealable under Section 003 of these rules. (3-30-07)

21. State Plan. The contract between the state and federal government under 42 U.S.C. section 1396a(a). (3-30-07)

22. Title XIX. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-30-07)

23. Title XXI. Title XXI of the Social Security Act, known as the Children's Health Insurance Program (CHIP). This is a program that primarily pays for medical assistance for low-income children. (3-20-14)

011. -- 019. (RESERVED)

020. DEPARTMENT ACTIONS.
When an instance of fraud, abuse, or other misconduct is identified, the Department will take action to correct the problem as provided in this section. Such corrective action may include, denial of payment, recoupment, payment suspension, provider agreement suspension, termination of provider agreement, imposition of civil monetary penalties, exclusion, participant lock-in, referral for prosecution, or referral to state licensing boards. (3-20-14)

021. - 099. (RESERVED)

100. INVESTIGATION AND AUDITS.
Investigation and audits of provider fraud, abuse, or misconduct conducted by the Department's Bureau of Audits and Investigations or its successor are governed under this chapter of rules. (3-30-07)

01. Investigation Methods. Under Section 56-227(5), Idaho Code, the Department will investigate and identify potential instances of fraud, abuse, or other misconduct by any person related to or involved in public assistance programs administered by the Department. Methods may include: review of computerized reports, referrals to or from other agencies, health care providers or persons, or conducting audits and interviews, probability sampling and extrapolation, and issuing subpoenas to compel testimony or the production of records. Reviews may occur on either pre-payment or post-payment basis. (3-20-14)

02. Probability Sampling. Probability sampling will be done in conformance with generally accepted statistical standards and procedures. "Probability sampling" means the standard statistical methodology in which a sample is selected based on the theory of probability, a mathematical theory used to study the occurrence of random events. (3-30-07)

03. Extrapolation. Whenever the results of a probability sample are used to extrapolate the amount to be recovered, the demand for recovery will be accompanied by a clear description of the universe from which the sample was drawn, the sample size and method used to select the sample, the formulas and calculation procedures used to determine the amount to be recovered, and the confidence level used to calculate the precision of the extrapolated overpayment. "Extrapolation" means the methodology whereby an unknown value can be estimated by

projecting the results of a probability sample to the universe from which the sample was drawn with a calculated margin of error. (3-30-07)

101. DOCUMENTATION OF SERVICES AND ACCESS TO RECORDS.

01. Documentation of Services. Providers must generate documentation at the time of service sufficient to support each claim or service, and as required by rule, statute, or contract. Documentation must be legible and consistent with professionally recognized standards. Documentation must be retained for a period of five (5) years from the date the item or service was provided. Documentation to support claims for services includes, but is not limited to, medical records, treatment plans, medical necessity justification, assessments, appointment sheets, patient accounts, financial records or other records regardless of its form or media. (3-30-07)

02. Immediate Access to Records. Providers must grant to the Department and its agents, the U.S. Department of Health and Human Services and its agents, immediate access to records for review and copying during normal business hours. These records are defined in Subsection 101.01 of these rules. (3-30-07)

03. Copying Records. The Department and its authorized agents may copy any record as defined in Subsection 202.01 of these rules. They may request in writing to have copies of records supplied by the provider. The requested copies must be furnished within twenty (20) working days after the date of the written request, unless an extension of time is granted by the Department for good cause. Failure to timely provide requested copies will be a refusal to provide access to records. (3-30-07)

04. Removal of Records From Provider's Premises. The Department and its authorized agents may remove from the provider's premises copies of any records as defined in Subsection 101.01 of these rules. (3-30-07)

102. -- 199. (RESERVED)

200. DENIAL OF PAYMENT.
The following are reasons the Department may deny payment. (3-30-07)

01. Billed Services Not Provided or Not Medically Necessary. The Department may deny payment for any and all claims it determines are for items or services: (3-30-07)

a. Not provided or not found by the Department to be medically necessary. (3-30-07)

b. Not documented to be provided or medically necessary. (3-30-07)

c. Not provided in accordance with professionally recognized standards of health care. (3-30-07)

d. Provided as a result of a prohibited physician referral under 42 CFR Part 411, Subpart J. (3-30-07)

02. Contrary to Rules or Provider Agreement. The Department may deny payment when services billed are contrary to Department rules or the provider agreement. (3-30-07)

03. Failure to Provide Immediate Access to Records. The Department may deny payment when the provider does not allow immediate access to records as defined in Section 101 of these rules. (3-30-07)

201. -- 204. (RESERVED)

205. RECOUPMENT.
The Department may recoup the amount paid for items or services listed in Section 200 of these rules. If recoupment is impracticable, the Department may pursue any available legal remedies it may have. Interest will accrue on overpayments at the statutory rate set forth in Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for items or services until the date of recovery. (3-30-07)

206. -- 209. (RESERVED)

210. SUSPENSION OF PAYMENTS PENDING INVESTIGATION.
The Department may suspend public-assistance payments in whole or part in a suspected case of fraud or abuse pending investigation and conclusion of legal proceedings related to the provider's alleged fraud or abuse. When payments have been suspended under this section of rule, the Department will provide for a hearing within thirty (30) days of receipt of any timely filed notice of appeal. (3-20-14)

01. Basis for Suspension of Payments. When the Department through reliable evidence suspects fraud or abuse, or when a provider fails to provide immediate access to records, public-assistance payments may be withheld or suspended. (3-20-14)

02. Notice of Suspension of Payments. The Department may withhold public-assistance payments without first notifying the provider of its intention to do so when the Department is suspending payments of a Medicaid provider. The Department will send written notice within five (5) days of taking such action in accordance with 42 CFR 455.23(b). All other public assistance providers will be notified prior to the suspension of payments. (3-28-18)

03. Duration of Suspension of Payments. The withholding of payment actions under this section of rule will be temporary and will not continue after: (3-30-07)

a. The Department or the prosecuting authorities determine there is insufficient evidence of fraud or willful misrepresentation by the provider; or (3-30-07)

b. Legal proceedings related to the provider's alleged fraud or abuse are completed. (3-30-07)

211. -- 219. (RESERVED)

220. PROVIDER AGREEMENT SUSPENSION.
In the event the Department identifies a suspected case of fraud or abuse, it may summarily suspend the provider agreement when such action is necessary to prevent or avoid immediate danger to the public health or safety. This provider agreement suspension temporarily bars the provider from participation in the medical assistance program, pending investigation and Department action. The Department will notify the provider of the suspension. The suspension is effective immediately upon written, electronic, or oral notification. When a provider agreement is suspended under this section of rule, the Department will provide for a hearing within thirty (30) days of receipt of any timely filed notice of appeal (3-30-07)

221. -- 229. (RESERVED)

230. TERMINATION OF PROVIDER STATUS.
Under Section 56-209h, Idaho Code, the Department may terminate the provider agreement of, or otherwise deny provider status for a period of five (5) years from the date the Department's action becomes final to, any individual or entity who: (3-30-07)

01. Submits an Incorrect Claim. Submits a claim with knowledge that the claim is incorrect, including reporting costs as allowable which were known to be disallowed in a previous audit, unless the provider clearly indicates that the item is being claimed to establish the basis for an appeal and each disputed item or amount is specifically identified. (3-30-07)

02. Fraudulent Claim. Submits a fraudulent claim. (3-30-07)

03. Knowingly Makes a False Statement. Knowingly makes a false statement or representation of material fact in any document required to be maintained or submitted to the Department. (3-30-07)

04. Medically Unnecessary. Submits a claim for an item or service known to be medically unnecessary. (3-30-07)

05. Immediate Access to Documentation. Fails to provide, upon written request by the Department, immediate access to documentation required to be maintained. (3-30-07)

06. Non-Compliance With Rules and Regulations. Fails repeatedly or substantially to comply with the rules and regulations governing medical assistance payments or other public assistance program payments. (3-20-14)

07. Violation of Material Term or Condition. Knowingly violates any material term or condition of its provider agreement. (3-30-07)

08. Failure to Repay. Has failed to repay, or was a managing employee or had an ownership or control interest in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or provider agreement. (3-30-07)

09. Fraudulent or Abusive Conduct. Has been found, or was a managing employee in any entity which has been found, to have engaged in fraudulent conduct or abusive conduct in connection with the delivery of health care or public assistance items or services. (3-20-14)

10. Failure to Meet Qualifications. Fails to meet the qualifications specifically required by rule or by any applicable licensing board. (3-30-07)

231. -- 234. (RESERVED)

235. CIVIL MONETARY PENALTIES.
Under Section 56-209h, Idaho Code, the Department may assess civil monetary penalties against a provider, any officer, director, owner, and managing employee for conduct identified in Subsections 230.01 through 230.09 of these rules. The amount of penalties may be up to one thousand dollars ($1,000) for each item or service improperly claimed, except that in the case of multiple penalties the Department may reduce the penalties to not less than ten percent (10%) of the amount of each item or service improperly claimed if an amount can be readily determined. Each line item of a claim, or cost on a cost report is considered a separate claim. These penalties are intended to be remedial, at a minimum recovering costs of investigation and administrative review, and placing the costs associated with non-compliance on the offending provider. (3-29-17)

236. CIVIL MONETARY PENALTY PERCENTAGES.
The Department will determine the percentage of each penalty by the type of conduct, the frequency, and knowledge of the conduct. When more than one (1) type of conduct described in Section 230 of these rules is found per line item, the penalty percentage will be based on the most significant conduct. (3-29-17)

01. Conduct Resulting in No Overpayment. The Department determines civil monetary penalties to be assessed for the following types of conduct violations that did not result in an overpayment. (3-29-17)

a. Participant Fees. The provider collected or attempted to collect fees from participants that the provider was not entitled to collect. Violations for this type of conduct will result in a ten percent (10%) penalty. (3-29-17)

b. Minor Rule Violations. Services were provided and properly paid but violated rule, policy, or provider agreement. Minor rule violations will result in a ten percent (10%) penalty. Minor rule violations include, but are not limited to: (3-29-17)

i. Incorrect date spanning; (3-29-17)

ii. Failure to list required provider credentials; or (3-29-17)

iii. Failure to obtain required client signatures. (3-29-17)

c. Significant Rule Violations. Services were provided but violated rule, policy, or provider agreement. Significant rule violations will result in a fifteen percent (15%) penalty. Significant rule violations include, but are not limited to: (3-29-17)

i. Incomplete physician referrals; or (3-29-17)

ii. Failure to maintain documentation once valid Healthy Connections referral is obtained. (3-29-17)

02. Conduct Resulting in Overpayment. The Department determines the civil monetary penalties to be assessed for the following types of conduct violations resulting in overpayment. Civil monetary penalties will not be assessed when a provider self-reports an overpayment and the Department receives the report prior to the initiation of a Department audit. (3-29-17)

a. Significant Rule Violations. Services were provided but violated rule, policy, or provider agreement. Significant rule violations will result in a fifteen percent (15%) penalty. Significant rule violations include, but are not limited to: (3-29-17)

i. Billing more services than allowed; (3-29-17)

ii. Billing non-physician services as physician services; (3-29-17)

iii. Billing incorrect codes (such as Physician's Current Procedural Terminology (CPT), diagnosis, revenue, etc.) or modifiers; or (3-29-17)

iv. Inadequate documentation to support services billed. (3-29-17)

b. Significant Rule Violations Related to Participant Care. Services were provided but violated rule, policy, or provider agreement related to participant care. Significant rule violations related to participant care will result in a twenty percent (20%) penalty. Significant rule violations include, but are not limited to: (3-29-17)

i. Failure to obtain required Healthy Connections referrals or failure to list required core elements, such as the start and end dates on the referral; (3-29-17)

ii. No required physician or practitioner signatures; (3-29-17)

iii. No orders or inadequate orders, assessments, plans or evaluations prior to delivery of service or items; (3-29-17)

iv. Services or items provided by unqualified staff; (3-29-17)

v. Services or items provided by excluded individual; or (3-29-17)

vi. Services or items not covered by program. (3-29-17)

c. Significant Rule Violations for No Service or Refusal of Immediate Access to Documentation. Services were not provided, were not documented, or refusal to provide immediate access to documentation upon written request as required in Section 230.05 of these rules. Violations will result in a twenty-five percent (25%) penalty. Significant rule violations include, but are not limited to: (3-29-17)

i. Billing and receiving payment multiple times for the same service or item; (3-29-17)

ii. No documentation; (3-29-17)

iii. Cloned documentation; (3-29-17)

iv. Service not provided; (3-29-17)

v. More units billed than provided; (3-29-17)

vi. Billing laboratory services provided by independent laboratory, unless an exception applies, such as an independent laboratory that can bill for a reference laboratory; or (3-29-17)

vii. Missing required pre-authorization. (3-29-17)

03. Penalty Enhancements. (3-29-17)

a. Error Rates. The Department determines which error rate applies by comparing the number of violations to the number of similar line items audited, or to all audited line items. Penalty percentages identified in Subsections 236.01 and 236.02 of this rule may be increased by: (3-29-17)

i. Five percent (5%) when the error percentage of audited services is greater than twenty-five percent (25%); and (3-29-17)

ii. Ten percent (10%) when the error percentage of audited services is greater than thirty-five percent (35%). (3-29-17)

b. Fraudulently or Knowingly. When the Department determines the conduct was committed fraudulently or knowingly as defined in Subsections 010.07 and 010.08 of these rules, the penalty percentages may be increased by fifteen percent (15%). (3-29-17)

237. CIVIL MONETARY PENALTIES FOR CRIMINAL HISTORY BACKGROUND CHECK VIOLATIONS.
The Department may assess civil monetary penalties against a provider, any officer, director, owner, or managing employee for failing to perform required background checks or failing to meet required time lines for completion of background checks as required by rule. The amount of the penalty is five hundred dollars ($500) for each month worked for each staff person or contractor for whom the background check was not performed or not performed timely. The maximum amount that may be assessed for criminal history background check violations is five thousand dollars ($5,000) per month. A partial month is considered a full month for purposes of determining the amount of the penalty. (3-29-17)

238. -- 239. (RESERVED)

240. MANDATORY EXCLUSIONS FROM THE MEDICAID PROGRAM.
The Department will exclude from the Medicaid program any provider, entity or person that: (3-30-07)

01. Conviction of a Criminal Offense. Has been convicted of a criminal offense related to the delivery of an item or service under a federal or any state health care program, including the performance of management or administrative services relating to the delivery of items or services under any such program. (3-30-07)

02. Conviction of a Criminal Offense Related to Patient Neglect or Abuse. Has been convicted, under federal or state law, of a criminal offense related to the neglect or abuse of a patient, in connection with the delivery of a health care item or service, including any offense that the Department concludes entailed, or resulted in, neglect or abuse of patients. The conviction need not relate to a patient who is a program beneficiary. (3-30-07)

03. Other Exclusions. Is identified by the Centers for Medicare and Medicaid Services (CMS) as having been excluded by another state or the Office of Inspector General or any person CMS directs the Department to exclude. (3-30-07)

241. -- 244. (RESERVED)

245. TERMS OF MANDATORY EXCLUSIONS FROM THE MEDICAID PROGRAM.
Mandatory exclusions from the Medicaid program imposed under Subsections 240.01 and 240.02 of these rules, will be for not less than ten (10) years. The exclusion may exceed ten (10) years if aggravating factors are present. In the case of any mandatory exclusion of any person, if the individual has been convicted on two (2) or more previous occasions of one (1) or more offenses for which an exclusion may be effected under this section, the period of exclusion will be permanent. (3-30-07)

246. -- 249. (RESERVED)

250. PERMISSIVE EXCLUSIONS FROM THE MEDICAID PROGRAM.
The Department may exclude any person or entity from the Medicaid program for a period of not less than one (1) year: (3-30-07)

01. Endangerment of Health or Safety of a Patient. Where there has been a finding by a governmental agency against such person or entity of endangering the health or safety of a patient, or of patient abuse, neglect or exploitation. (3-30-07)

02. Failure to Disclose or Make Available Records. That has failed or refused to disclose, make available, or provide immediate access to the Department, or its authorized agent, or any licensing board, any records maintained by the provider or required of the provider to be maintained, which the Department deems relevant to determining the appropriateness of payment. (3-30-07)

03. Other Exclusions. For any reason for which the Secretary of Health and Human Services, or their designee, could exclude an individual or entity. (3-30-07)

251. -- 259. (RESERVED)

260. AGGRAVATING FACTORS.
For purposes of lengthening the period of mandatory exclusions and permissive exclusions from the Medicaid program, the following factors may be considered. This is not intended to be an exhaustive list of factors which may be considered: (3-30-07)

01. Financial Loss. The acts resulted in financial loss to the program of one thousand five hundred dollars ($1,500) or more. The entire amount of financial loss to such program will be considered, including any amounts resulting from similar acts not adjudicated, regardless of whether full or partial restitution has been made to the program. (3-30-07)

02. Time Acts Were Committed. The acts were committed over a period of one (1) year or more. (3-30-07)

03. Adverse Impact. The acts had a significant adverse physical, mental, or financial impact on one (1) or more program participants or other individuals. (3-30-07)

04. Length of Sentence. The length of any sentence imposed by the court related to the same act. (3-30-07)

05. Prior Record. The excluded person has a prior criminal, civil, or administrative sanction record. (3-30-07)

261. REINSTATEMENT AFTER EXCLUSION FROM MEDICAID PROGRAM.
An individual or entity who has been excluded from the Medicaid Program is not automatically reinstated at the end of the exclusion period. An individual or entity excluded by the Department must submit a written application for reinstatement to the Department. An applicant excluded by the Department must receive written notice of reinstatement from the Department before reinstatement is complete. (4-11-15)

01. Conditions for Reinstatement. In order to be reinstated, the applicant for reinstatement must meet all criteria in Subsections 261.01.a. through 261.01.i. of this rule. The applicant must be an individual or entity: (4-11-15)

a. Who is not currently excluded from the Medicaid program by the federal government or by any state Medicaid agency; (4-11-15)

b. Whose Medicaid provider number is not currently terminated by any state Medicaid agency; (4-11-15)

c. Whose debts to the Department are paid in full; (4-11-15)

d. Who is not the subject of any civil, criminal, or state licensing authority investigation; (4-11-15)

e. Who has not been convicted of any crime during the exclusion period; (4-11-15)

f. Who has all the required, valid licensure and credentials necessary to provide services; (4-11-15)

g. Who has met and continues to meet all terms and conditions of any court-ordered probation; (4-11-15)

h. Who did not work in any capacity as an employee or contractor for any individual or entity receiving Medicaid funds during the applicant's exclusion period; and (4-11-15)

i. Who did not submit claims or cause claims to be submitted for Medicaid reimbursement for services or supplies provided, ordered, or prescribed by an excluded individual or entity during the applicant's exclusion period. (4-11-15)

02. Applying for Reinstatement. An individual or entity may not begin the process of reinstatement earlier than one hundred twenty (120) days before the end of the exclusion period specified in the exclusion notice. The Department will not consider a premature application. An applicant that appears on the federal or any state exclusion list may apply for reinstatement, but consideration of the application will not start until after the excluding agency has reinstated the individual or entity. (4-11-15)

03. Request for Reinstatement. An excluded individual or entity must request an application form in writing from the Department and specifically request reinstatement. The request for reinstatement must include: (4-11-15)

a. The applicant's name, address, and phone number; and (4-11-15)

b. Copies of any required license, credentials, and provider number, if they exist. (4-11-15)

04. Complete Application for Reinstatement. The applicant must complete the reinstatement application form and return the fully executed and notarized form to the Department. (4-11-15)

05. Department Decision. The Department will issue a written decision to grant or deny a request for reinstatement. (4-11-15)

06. Reinstatement Denied. When an application for reinstatement is denied, the applicant is ineligible to reapply for one (1) year from the date the decision of denial becomes final. (4-11-15)

262. -- 264. (RESERVED)

265. REFUSAL TO ENTER INTO AN AGREEMENT.
The Department may refuse to enter into a provider agreement for the reasons described in Subsections 265.01 through 265.05 of this rule. (3-30-07)

01. Convicted of a Felony. The provider has been convicted of a felony under federal or state law. (3-30-07)

02. Committed an Offense or Act Not in Best Interest of Medicaid Participants. The provider has committed an offense or act which the Department determines is inconsistent with the best interests of Medicaid participants. (3-30-07)

03. Failed to Repay. The provider has failed to repay the Department monies which had been previously determined to have been owed to the Department. (3-30-07)

04. Investigation Pending. The provider has a pending investigation for program fraud or abuse. (3-30-07)

05. Terminated Provider Agreement. The provider was the managing employee, officer, or owner of an entity whose provider agreement was terminated under Section 230 of these rules. (3-30-07)

266. -- 269. (RESERVED)

270. MISCELLANEOUS CORRECTIVE ACTIONS.
The Department may take lesser action to investigate, monitor and correct suspected instances of fraud, abuse, over utilization, and other misconduct as provided in Subsections 270.01 through 270.03 of this rule. (3-30-07)

01. Issuance of a Warning. Issuance of a warning letter describing the nature of suspected violations, and requesting an explanation of the problem and a warning that additional action may be taken if the action is not justified or discontinued. (3-30-07)

02. Review. Prepayment review of all or selected claims submitted by the provider with notice that claims failing to meet written guidelines will be denied. (3-30-07)

03. Referral. Referral to state licensing boards for review of quality of care and professional and ethical conduct. (3-30-07)

271. -- 274. (RESERVED)

275. DISCLOSURE OF CERTAIN PERSONS.
Prior to entering into or renewing a provider agreement, or at any time upon written request by the Department, a provider must disclose to the Department the identity of any person described at 42 CFR 1001.1001. The Department may refuse to enter into or renew an agreement with any provider associated with any person so described. The Department may also refuse to enter into, or terminate, a provider agreement if it determines that the provider did not fully and accurately make any disclosure required under this chapter of rule. (3-30-07)

276. -- 279. (RESERVED)

280. PROVIDER NOTIFICATION.
When the Department determines actions defined in Sections 200 through 250 of these rules are appropriate, it will send written notice of the decision to the provider or person. The notice will state the basis for the action, the length of the action, the effect of the action on that person's ability to provide services under state and federal programs, and the person's appeal rights. (3-30-07)

281. -- 284. (RESERVED)

285. NOTICE TO STATE LICENSING AUTHORITIES.
The Department will promptly notify all appropriate licensing authorities having responsibility for licensing or certification of a Department action, and the facts and circumstances of that action. The Department may request certain action be taken and that the Department be informed of actions taken. (3-30-07)

286. -- 289. (RESERVED)

290. PUBLIC NOTICE.
The Department will give notice of the action taken and the effective date to the public, appropriate beneficiaries, and may give notice as appropriate to related providers, the Quality Improvement Organization (QIO), institutional providers, professional organizations, contractors, other health insurance payors, and other agencies or Departmental divisions. (3-30-07)

291. -- 299. (RESERVED)

300. DEPARTMENT OF HEALTH AND HUMAN SERVICES.
The Department will notify the Office of Inspector General within fifteen (15) days after a final action in which a person has been excluded, convicted of a criminal offense related to participation in the delivery of health care items or services under the Medicaid program, or reinstated from a prior exclusion. (4-11-15)

301. -- 999. (RESERVED)

16.06.05 – ALLEGED MEDICAL NEGLECT OF DISABLED INFANTS

000. LEGAL AUTHORITY.
The legal authority for promulgation of these rules is in accordance with the following provisions: (12-26-90)

01. Federal Authority. Federal authority for promulgation of rules governing activities involving alleged medical neglect of *disabled* infants in health care settings is provided in 42 USC 5101 et seq., the federal "Child Abuse Prevention and Treatment Act." *( )*

02. State Authority. State authority is provided in: (12-26-90)

a. Section 56-202(b), Idaho Code, which requires the Director to promulgate, adopt, and enforce such rules, regulations, and methods of administration as may be necessary and proper to carry out the provisions of the Public Assistance Law, Section 56-201 et seq., Idaho Code, including services for children in accordance with Section 56-204A, Idaho Code, except where such authority is granted to the Board; and (12-26-90)

b. Section 16-1623, Idaho Code, which empowers the Department to do all things reasonably necessary to carry out the purpose of the "Child Protective Act." (12-26-90)

001. TITLE, SCOPE, *AND PURPOSE*.

01. Title. These rules are titled IDAPA 16.06.05, "Alleged Medical Neglect of *Disabled* Infants." *( )*

02. Scope. These rules are established to ensure protection of, and attention to, the needs of infants in health care facilities throughout the state who have been continuously hospitalized since birth, who were born extremely prematurely, or who have a long-term disability. (12-26-90)

***03. Purpose**. The purpose of these rules is to ensure coordinated response to reports of alleged medical neglect of infants who are in health care facilities throughout the state and who have been continuously hospitalized since birth, who were born extremely prematurely, or who have a long-term disability. ( )*

002. -- 009. (RESERVED)

***010*. DEFINITIONS.**
The following terms are used in this chapter as defined below: (12-26-90)

01. Central Office. The state-level administrative office of the Department of Health and Welfare located in Boise, Idaho. (12-26-90)

02. Department. The Idaho Department of Health and Welfare. (12-26-90)

03. Director. The Director of the Idaho Department of Health and Welfare or their designee. (12-31-91)

04. Family and Children's Services (FACS). Those programs and services directed to families and children, administered by the Department of Health and Welfare. (12-31-91)

05. Field Office. A Department of Health and Welfare service delivery site. (12-26-90)

06. Infant. An infant less than one (1) year of age or older than one (1) year of age but less than two (2) years of age who has been continuously hospitalized since birth, who was born extremely prematurely, or who has a long-term disability. (12-26-90)

07. Infant -- Extremely Premature. An infant born before the twenty-seventh week or weighing less than one thousand (1,000) grams or having a crown-heel length that is less than forty-seven (47) centimeters or with occipito-frontal diameter less than eleven and one-half (11.5) centimeters. (12-31-91)

08. Reasonable Medical Judgment. A medical judgment that would be made by a reasonably prudent physician, knowledgeable about the case and the treatment possibilities with respect to the medical conditions involved. Such a judgment may not take into account the future extent of the infant's disability or social or economic factors related to the infant or family. (12-26-90)

09. Regional Office. An Idaho Department of Health and Welfare office located in one (1) of seven (7) areas of the state that comprises a geographically defined service area for the administration and delivery of the Department's services. (12-26-90)

10. Withholding of Medically Indicated Treatment. (12-26-90)

a. The failure to respond to the infant's life-threatening conditions by providing treatment, including appropriate nutrition, hydration and medication which, in the treating physician's reasonable medical judgment, will most likely be effective in ameliorating or correcting all such conditions. (12-26-90)

b. The term does not include the failure to provide treatment, other than appropriate nutrition, hydration, or medication, to an infant when, in the treating physician's reasonable medical judgment, any of the following circumstances apply: (12-26-90)

i. The infant is chronically and irreversibly comatose; or (12-26-90)

ii. The provision of such treatment would merely prolong dying, would not be effective in ameliorating or correcting all of the infant's life-threatening conditions, or would otherwise be futile in terms of the survival of the infant; or (12-26-90)

iii. The provision of such treatment would be virtually futile in terms of the survival of the infant, and the treatment itself under such circumstances would be inhumane. (12-26-90)

011. **-- *014.*** **(RESERVED)**

015. **COMMUNICATION WITH HEALTH CARE FACILITIES.**

01. Annual Check of Health Care Facilities. Regional FACS managers or their designees will make an annual check by October 1st each year of health care facilities in their regions to obtain: (12-31-91)

a. The name, address, and telephone number of the health care facility designated contact person; or (12-26-90)

b. If no individual is appointed the designated contact person, the name, address, and telephone number of the health care facility or hospital administrator. (12-26-90)

02. List of Contact Persons to Be Maintained. Regional FACS managers or their designees will maintain a complete list of the health care facility contact persons or administrators for their regions. (12-31-91)

a. Copies of the list will be distributed to all field offices within the regions within fourteen (14) working days of October 1st each year. (12-26-90)

b. At the same time, copies will be sent to the Department: (12-31-91)

i. Chief of the Bureau of Family Services; (12-31-91)

ii. Chief of the Bureau of Maternal and Child Health; and (12-31-91)

iii. Chief of the Bureau of Developmental Disabilities. (12-31-91)

03. Information to Be Provided to Facilities. *Within fourteen (14) working days of October 1st each year, r*egional FACS managers or their designees *will* provide each health care facility*,* hospital contact person*,* or administrator in their regions a list *that* includ*es*: *( )*

a. The names and telephone numbers of the regional director and the Regional FACS manager; (12-31-91)

b. The addresses and telephone numbers of Department field offices in their regions; and (12-31-91)

c. The twenty-four (24) hour child abuse and neglect reporting "hot-line" numbers. (12-26-90)

04. Notification of Changes. (12-31-91)

a. The health care facility, hospital contact person, or administrator *must* notify the Regional FACS manager of any changes in the names and telephone numbers of the health care facility designated contact person or hospital administrator within five (5) working days of the change. *( )*

b. The Regional FACS manager will notify the health care facility, hospital contact persons, and administrators in the region of any changes in the Department personnel, addresses, or telephone numbers identified above within five (5) working days of the change. (12-31-91)

016. -- 019. (RESERVED)

020. INVESTIGATIONS OF ALLEGED MEDICAL NEGLECT OR WITHHOLDING OF MEDICALLY INDICATED TREATMENT FROM DISABLED INFANTS WITH LIFE-THREATENING CONDITIONS.

01. Reports of Suspected Medical Neglect. The Department must receive notification from health care facility and hospital contact persons and administrators, and from any other individual reporting in accordance with provisions of the Child Protective Act, Section 16-1601 et seq., Idaho Code, of cases of suspected medical neglect, including instances of withholding of medically indicated treatment from disabled infants with life-threatening conditions. (12-26-90)

a. Reports of suspected medical neglect must be received during regular office hours at any office of the Department. (12-26-90)

b. After regular business hours, weekends, or holidays, reports must be received through the twenty-four (24) hour child abuse and neglect reporting "hot-line" numbers in the local telephone directories. (12-26-90)

02. Investigation. (12-26-90)

a. The Department will begin an investigation of a report of suspected withholding of medically indicated treatment in accordance with the provisions of the current FACS policy "Referral Response Priority Guide." When appropriate, the investigation will include an on-site investigation of such reports. (12-31-91)

b. The investigation must be conducted under the authority granted under Sections 16-1619, 16-1623 and 16-1625, Idaho Code. (12-31-91)

c. The family services worker for the Department must obtain: (12-26-90)

i. The name and address of the health care facility or hospital; (12-26-90)

ii. The administrator's name and address; (12-26-90)

iii. The infant's name and date of birth; (12-26-90)

iv. The name, address, and telephone number of the infant's parents; (12-26-90)

v. The attending physician's name; (12-26-90)

vi. The health care facility or hospital contact person's name if the report came from someone other than the health care facility or hospital; (12-26-90)

vii. The infant's medical condition, prognosis, and any indication that treatment, including nutrition, hydration, or medication, is being withheld; (12-26-90)

viii. The participation of any treatment review committee in the infant's case; and (12-26-90)

ix. The extent of counseling provided to the parents. (12-26-90)

03. Unsubstantiated Reports. Should the report be unsubstantiated because the infant is not at the health care facility or hospital, or because the pediatric consultant for the Department's Bureau of Maternal and Child Health or designee, or the regional or central office committee deems the report to be unsubstantiated because there is no withholding of medically indicated treatment as defined in Section 010 of these rules, written documentation will be made of: (12-31-91)

a. The investigative steps taken by the Department to determine the validity of the report; and (12-26-90)

b. The Department's disposition of the report. (12-26-90)

04. Verification. If the medically *disabled* infant is a patient at the health care facility or hospital: *( )*

a. The Department will verify with the health care facility, hospital contact person, hospital administrator, attending physician, or the infant's parents the information obtained through the investigation in accordance with Subsection 020.02.c. of this rule. (12-31-91)

b. The family services worker will interview the infant's parents to assess their understanding of the infant's condition, treatment, and prognosis with and without treatment. (12-26-90)

c. The family services worker will also interview the attending physician to obtain information about the infant's condition, treatment, and prognosis with and without treatment. (12-26-90)

d. The family services worker will also obtain a copy of the infant's medical treatment record from the health care facility or hospital, as a function of the investigation process under Section 16-1625, Idaho Code. (12-26-90)

05. Findings. (12-31-91)

a. Family services workers will notify their immediate supervisor or the Regional FACS manager, within four (4) hours of receipt of a report, indicating if a *disabled* infant does reside within a health care facility or hospital and the circumstances of the case. *( )*

b. The regional director, the Regional FACS manager, or the family services worker will report all complaints and information gathered to the pediatric consultant, the Department's Bureau of Maternal and Child Health, or designee. (12-31-91)

c. The initial determination that withholding of medically indicated treatment as defined in Section 010 of these rules is occurring or is being prescribed by the infant's physician will be made, with or without an independent medical evaluation, by the pediatric consultant, the Department's Bureau of Maternal and Child Health, or designee. (12-31-91)

021. REVIEW OF ALLEGED MEDICAL NEGLECT OR WITHHOLDING OF MEDICALLY INDICATED TREATMENT FROM DISABLED INFANTS WITH LIFE-THREATENING CONDITIONS.

01. Regional Committee Review. *A* regional committee *must* consist of the Department's regional director, the Regional FACS manager or family services worker, and the pediatric consultant, the Department's Bureau of Maternal and Child Health, or designee. *( )*

a. The pediatric consultant or designee *must* immediately inform the regional committee of the determination made *in accordance with* Subsection 020.05.c. *of these rules.* *( )*

b. If the pediatric consultant or designee determined that indicated medical treatment is being withheld, the regional committee must attempt to resolve the matter informally, if possible, in an expeditious manner. (12-26-90)

c. The regional committee must ensure that the parents of the infant are fully informed of: (12-26-90)

i. The existence and function of any infant care review committee, chaplain services, or other counseling services within the health care facility or hospital; and (12-26-90)

ii. The existence, function, and opportunity to consult with parent support groups or other organizations that include parents of children with disabilities. (12-26-90)

d. If resolution is possible and the infant receives necessary treatment, the matter will not be referred for any further legal action. (12-26-90)

i. The Department's regional director will verbally notify the administrator of the Division of FACS or the chief of the Bureau of Family Services, the health care facility or hospital contact person or administrator, the attending physician, the individual who reported the concern, and the parents of the infant that no legal action will be taken by the Department. (12-31-91)

ii. The Department's regional director will provide written confirmation that no legal action will be taken by the Department within five (5) working days to the health care facility or hospital contact person or administrator. (12-31-91)

e. If informal resolution is not possible, the regional director will notify the administrator of the Division of FACS or the chief of the Bureau of Family Services of the concern within four (4) hours of the receipt of the report. (12-31-91)

02. Central Office Committee Review. The administrator of the Division of FACS will convene a central office committee within twenty-four (24) hours of the receipt of notice from the regional committee. (12-31-91)

a. The central office committee will consist of the Department's chief of the Bureau of Family Services, the pediatric consultant for the Bureau of Maternal and Child Health, the chief of the Bureau of Developmental Disabilities, a deputy attorney general or their designees; and other individuals deemed appropriate. (12-31-91)

i. The regional director, the Regional FACS manager and the family services worker will be available, by telephone, to provide investigation information. (12-31-91)

ii. The county prosecuting attorney should be requested to participate, when appropriate. (12-26-90)

b. The committee will make appropriate contacts, which may include the attending physician, the health care facility or hospital contact person or administrator, the parents of the infant, and other persons deemed appropriate to gather information and work toward resolution of the matter. (12-26-90)

c. Efforts will be made to resolve the matter on an informal basis. If informal resolution is not possible: (12-26-90)

i. The county prosecuting attorney or deputy attorney general will determine, within four (4) hours of the committee meeting, the need for legal intervention. Such intervention might include obtaining temporary legal custody of the infant until such time as the court can determine the appropriate disposition of the matter under Sections 16-1614 and 16-1616, Idaho Code. (12-26-90)

ii. Failure to provide treatment including appropriate nutrition, hydration, or medication that is determined by the committee to be necessary to maintain the infant's life will be considered grounds to initiate legal proceedings. (12-26-90)

022. CONTINUING CONSULTATION AND INVESTIGATION.

01. Further Consultation and Investigation. At any time during the decision-making or resolution process, as deemed appropriate and as time and agency resources permit, the pediatric consultant or designee, the regional committee, or the central office committee may seek additional information or technical assistance from the physician, health care facility or hospital contact person or administrator, any treatment review committee, the parents of the infant, or other persons or agencies. (12-26-90)

a. If any independent medical examination is necessary, the family services worker will seek voluntary compliance for such an examination. (12-26-90)

b. If consent to an independent medical examination is not expeditiously provided, the family services worker will contact the county prosecuting attorney or a deputy attorney general to initiate legal proceedings to obtain an order under the "Child Protective Act," or other applicable law mandating such examination. (12-26-90)

02. Decision-Making Landmarks. At each stage of the decision-making and resolution process, the pediatric consultant or designee, the regional committee, and the central office committee will consider the following elements of the case: (12-26-90)

a. The extent of the counseling offered and received by the parents of the infant; (12-26-90)

b. The knowledge and experience of the attending physician in the diagnosis and treatment of the infant's life-threatening conditions; (12-26-90)

c. The existence within the health care facility or hospital of an infant care review committee, or like agent, and its participation in the infant's case; (12-26-90)

d. Any independent medical consultation or examination; (12-26-90)

e. Conformity with current Department of Health and Human Services guidelines regarding "Services and Treatment for Disabled Infants"; and (12-31-91)

f. The consistency of the medical treatment provided with the information available through the computer-based neonatal information clearing house maintained by the Department of Health and Human Services. (12-26-90)

023. RESPONSIBILITIES OF THE DEPARTMENT RELEVANT TO INFANTS WITH LIFE-THREATENING CONDITIONS.

01. Report to the Court. The family services worker must prepare and submit a written report of investigation that may be ordered by the court on the matter under Section 16-1609, Idaho Code. The report must include copies of the medical information obtained regarding the matter. (12-26-90)

02. Case Staffing. If legal custody of the infant is granted to the Department, the family services worker, the Regional FACS manager, the regional director, the pediatric consultant for the Bureau of Maternal and Child Health, the chief of the Bureau of Family Services, the chief of the Bureau of Developmental Disabilities, the administrator of the Division of FACS, a deputy attorney general, the parents of the infant, and other individuals deemed appropriate will: (12-31-91)

a. Staff the case in person or through telephone conference call; and (12-26-90)

b. Develop a service plan within ten (10) days of adjudication. The staffing may be conducted by telephone. (12-26-90)

024. **-- 999. (RESERVED)**

000. LEGAL AUTHORITY.
Under Section 56-202, Idaho Code, the Director of the Department of Health and Welfare is authorized to promulgate, adopt, and enforce rules for the administration of public assistance programs. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.06.12, "Idaho Child Care Program (ICCP)." *( )*

02. Scope. These rules provide the requirements for determining participant and provider eligibility for the Idaho Child Care Program (ICCP) and issuing child care benefit payments. (4-2-08)

002. -- 007. (RESERVED)

008. AUDIT, INVESTIGATION AND ENFORCEMENT.
In addition to any actions specified in these rules, the Department may audit, investigate and take enforcement action under the provisions of IDAPA 16.05.07, "Investigation and Enforcement of Fraud, Abuse or Misconduct." (7-1-09)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History and Background Check. Criminal history and background checks are required for ICCP providers. Providers who are required to have a criminal history check must comply with IDAPA 16.05.06, "Criminal History and Background Checks." (4-9-09)

02. ICCP Provider is Approved. The ICCP provider must have completed a criminal history and background check, and received a clearance, prior to becoming an ICCP provider. (4-9-09)

03. Availability to Work or Provide Service. (4-9-09)

a. Those individuals licensed or certified by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is completed and a clearance issued by the Department. (4-9-09)

b. Individuals living in the home who have direct contact with children are allowed contact after the criminal history application and self-disclosure is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a disqualifying crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." (4-9-09)

04. Applicants, Providers, and Other Individuals Subject to Criminal History Check Requirements. The following applicants, providers, and other individuals listed below must submit evidence to the Department that the following individuals have successfully completed and received a Department criminal history and background check clearance: (3-2-17)

a. All child care centers group, family, relative, and in-home providers including owners, operators, and staff, who have direct contact with children; (3-2-17)

b. All individuals thirteen (13) years of age or older who have direct contact with children; and (3-2-17)

c. All individuals thirteen (13) years of age or older who are regularly on the premises. (3-2-17)

05. Renewal of Criminal History and Background Check Requirement. Applicants, providers, employees, volunteers, and individuals thirteen (13) years of age or older who have direct contact with or provide care to children eligible for ICCP benefits must comply with these requirements and receive a clearance as provided in IDAPA 16.05.06, "Criminal History and Background Checks," every five (5) years. (3-2-17)

06. Criminal History and Background Check at Any Time. The Department can require a criminal history and background check at any time on any individual providing child care to an ICCP eligible child. (4-9-09)

07. Additional Criminal Convictions. Once an individual has received a criminal history clearance,

any additional criminal convictions must be reported by the child care provider to the Department when the provider learns of the conviction. (4-9-09)

010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH L.
The following definitions and abbreviations apply to this chapter: (4-2-08)

01. AABD. Aid to the Aged, Blind, and Disabled. (4-2-08)

02. Abuse or Abusive. Provider practices that are inconsistent with sound fiscal, business, or child care practices and result in an unnecessary cost to the Idaho Child Care Program, in reimbursement that is not necessary, or that fail to meet professional recognized standards for child care, or result in physical harm, pain, or mental anguish to children. (7-1-09)

03. Child. Any person under age eighteen (18) who is under the care of a parent, relative, or someone acting in loco parentis. (3-28-18)

04. Child Care. Care, control, supervision, or maintenance of a child provided for compensation by an individual, other than a parent, for less than twenty-four (24) hours in a day. (4-2-08)

05. Claim. Any request or demand for payment, or document submitted to initiate payment, for items or services provided under the Idaho Child Care Program. (7-1-09)

06. Department. The Idaho Department of Health and Welfare or its designee. (7-1-09)

07. Earned Income. Income received by a person as wages, tips, or self-employment income before deductions for taxes or any other purposes. (4-2-08)

08. Employment. A job paying wages or salary at federal or state minimum wage, whichever is applicable, including work paid by commission or in-kind compensation. Full or part-time participation in a VISTA or AmeriCorps program is also employment. (4-2-08)

09. Foster Care. The twenty-four (24) hour substitute care of children in the legal custody of the state of Idaho provided in a state licensed foster home by persons who may or may not be related to a child. Foster care is provided in lieu of parental care and is arranged through a private or public agency. (3-2-17)

10. Foster Child. A child in the legal custody of the state of Idaho placed for twenty-four (24) hour substitute care by a private or public agency. (3-2-17)

11. Foster Home. The private home of an individual or family licensed under the state of Idaho and providing twenty-four (24) hour substitute care to six (6) or fewer children. (3-2-17)

12. Fraud or Fraudulent. An intentional deception or misrepresentation made by a person with knowledge that the deception could result in some unauthorized benefit to himself or some other person. (7-1-09)

13. Good Cause. The conduct of a reasonably prudent person in the same or similar circumstances, unless otherwise defined in these rules. (7-1-99)

14. In Loco Parentis. Acting "in loco parentis" means a person who acts in place of a parent, assuming care and custody of a child by legal guardianship. (3-28-18)

15. Intentional Program Violation (IPV). An intentional false or misleading action, omission, or statement made in order to qualify as a provider or recipient in the Idaho Child Care program or to receive program benefits or reimbursement. (7-1-09)

16. Job Training and Education Program. A program designed to provide job training or education. Programs may include high school, junior college, community college, college or university, general equivalency diploma (GED), technical school, and vocational programs. To qualify as a Job Training and Education Program, the

program must prepare the trainee for employment. (4-2-08)

17. Infant/Toddler. A child less than forty-eight (48) months of age. (3-2-17)

18. Incapacitated Parent. A parent who is determined by a licensed practitioner of the healing arts to be unfit, incapable, or significantly limited in their ability to provide adequate care for their child or ward. (3-2-17)

19. Knowingly, Known, or With Knowledge. With respect to information or an action about which a person has actual knowledge of the information or action; acts in deliberate ignorance of the truth or falsity of the information or the correctness or incorrectness of the action; or acts in reckless disregard of the truth or falsity of the information or the correctness or incorrectness of the action. (7-1-09)

20. Legal Guardian. A court-appointed individual who acts as the primary caretaker of a child or minor. (3-28-18)

21. Licensed Practitioner of the Healing Arts. A licensed physician, physician assistant, nurse practitioner, or clinical nurse specialist. (4-2-08)

011. DEFINITIONS AND ABBREVIATIONS -- M THROUGH Z.
The following definitions and abbreviations apply to this chapter of rules: (4-2-08)

01. Managing Employee. A general manager, business manager, administrator, director, or other individual who exercises operational or managerial control over, or who directly or indirectly conducts the day-to-day operation of an organization or entity. (7-1-09)

02. Minor Parent. A parent under the age of eighteen (18). (4-2-08)

03. Non-Recurring Lump Sum Income. Income received by a family in a single payment, not expected to be available to the family again. (7-1-99)

04. Parent. A person responsible for a child because of birth, adoption, marriage, legal guardianship, foster care; or a person acting in loco parentis. (3-28-18)

05. Preventive Services. Services needed to reduce or eliminate the need for protective intervention. Preventive services permit families to participate in activities designed to reduce or eliminate the need for out-of-home placement of a child by the Department. (4-2-08)

06. Prospective Income. Income a family expects to receive within a given time. This can be earned or unearned income. (7-1-99)

07. Provider. An individual, organization, agency, or other entity providing child care. (7-1-99)

08. Relative Provider. Grandparent, great-grandparent, aunt, uncle, or adult sibling by blood or current marriage who provides child care. (4-2-08)

09. SSI. Supplemental Security Income. (4-2-08)

10. Special Needs. Any child with physical, mental, emotional, behavioral disabilities, or developmental delays identified on an Individual Education Plan (IEP) or an Individualized Family Service Plan (IFSP). (4-2-08)

11. State Median Income (SMI). State Median Income Estimates in the Code of Federal Regulations are available on the U.S. Government Publishing Office website at https://www.gpo.gov/fdsys. (3-2-17)

12. TAFI. Temporary Assistance for Families in Idaho. (4-2-08)

13. Unearned Income. Unearned income includes retirement, interest child support, and any income

received from a source other than employment or self-employment. (4-2-08)

012. -- 049. (RESERVED)

APPLICATION REQUIREMENTS
(Sections 050 - 069)

050. ICCP APPLICATION FOR BENEFITS.
A family applying for child care benefits must submit a completed and signed application to the Department. (5-1-11)

01. Application Received. The Department will date stamp the application on the day the application is received. The applicant has thirty (30) days from the date the application is received by the Department to complete the application process by providing all required verifications. (5-1-11)

02. New Application Required. A new application is required if all requested verification is not provided within thirty (30) days from the date the application was received by the Department. The time limit can be extended by the Department for events beyond the Department's control. (5-1-11)

03. Notification. The Department will act on applications for child care benefits within thirty (30) days of receipt. The applicant will be notified in writing of the approval or denial of the application and of the applicant's right to appeal. (5-1-11)

051. SIGNATURES.
An individual who is applying for benefits, receiving benefits, or providing additional information as required by this chapter, may do so with the depiction of the individual's name either handwritten, electronic, or recorded telephonically. Such signature serves as intention to execute or adopt the sound, symbol, or process for the purpose of signing the related record. (3-29-12)

052. -- 069. (RESERVED)

FINANCIAL CRITERIA FOR ICCP ELIGIBILITY
(Sections 070 - 099)

070. INCOME LIMITS.
To be eligible for child care assistance, a family's countable income must meet the following guidelines using the published Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at http://aspe.hhs.gov/poverty. (3-2-17)

01. Income at Application. At the time of application, a family's income cannot exceed one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) for a family of the same size. (3-2-17)

02. Income During Eligibility Period. During the eligibility period, when a family's countable income exceeds eighty-five percent (85%) of the State Median Income (SMI) for a family of the same size, the family becomes ineligible for child care assistance. (3-2-17)

03. Income at Time of Redetermination. At the time of redetermination, if a family's income exceeds one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) for a family of the same size, the family may be eligible to receive a graduated phase out of child care assistance. (3-28-18)

071. COUNTABLE INCOME.
All gross earned and unearned income is counted in determining eligibility and the child care benefit amount, unless specifically excluded under Section 072 of these rules. (5-1-11)

072. EXCLUDED INCOME.

The following sources of income are not counted as family income. (4-2-08)

01. Earned Income of a Dependent Child. Income earned by a dependent child under age eighteen (18) is not counted, unless the child is a parent who is seeking or receiving child care benefits. (4-2-08)

02. Income Received for Person Not Residing With the Family. Income received on behalf of a person who is not living in the home. (4-2-08)

03. Educational Funds. All educational funds including grants, scholarships, an AmeriCorps Education Award, and federal and state work-study income. (4-2-08)

04. Assistance. Assistance to meet a specific need from other organizations and agencies. (4-2-08)

05. Lump Sum Income. Non-recurring lump sum income is excluded. (3-28-18)

06. Loans. A loan is money received that is to be repaid. (3-2-17)

07. TAFI and AABD Benefits. (4-4-13)

08. Foster Care Payments. (4-4-13)

09. AmeriCorps/VISTA Volunteers. Living allowances, wages and stipends paid to AmeriCorps or VISTA volunteers under 42 U.C.S. 5044, P.L. 93-113, Title IV, Section 404(g) are excluded as income. (4-2-08)

10. Income Tax Refunds and Earned Income Tax Credits. Income tax refunds and earned income tax credits are excluded as income. (4-2-08)

11. Travel Reimbursements. Reimbursements from employers for work-related travel. (4-2-08)

12. Tribal Income. Income received from a tribe for any purpose other than direct wages. (4-2-08)

13. Foster Parents' Income. Income of licensed foster parents is excluded when determining eligibility for a foster child. Income is counted when determining eligibility for the foster parent's own child(ren). (4-2-08)

14. Adoption Assistance. Adoption assistance payments are excluded from income. (4-2-08)

15. Temporary Census Income. All wages paid by the Census Bureau for temporary employment related to U.S. Census activities are excluded for a time period not to exceed six (6) months during the regularly scheduled ten-year U.S. Census. (4-7-11)

16. Office of Refugee Resettlement Assistance. (4-4-13)

17. Workforce Investment Act (WIA) Benefits or Workforce Innovation and Opportunity Act (WIOA) Benefits. (3-2-17)

073. INCOME DEDUCTIONS.

Court-ordered child support payments made by a parent who receives child care benefits are deducted from income when determining eligibility. The actual amount paid and the amount of the legal obligation for child support must be verified. (3-2-17)

074. AVERAGING SELF-EMPLOYMENT INCOME.

01. Annual Self-Employment Income. When self-employment income is considered annual support by the household, the Department averages the self-employment income over a twelve-month (12) period, even if: (5-8-09)

a. The income is received over a shorter period of time than twelve (12) months; and (5-8-09)

b. The household receives income from other sources in addition to self-employment. (5-8-09)

02. Seasonal Self-Employment Income. A seasonally self-employed individual receives income from self-employment during part of the year. When self-employment income is considered seasonal, the Department averages self-employment income for only the part of the year the income is intended to cover. (5-8-09)

075. CALCULATION OF SELF-EMPLOYMENT INCOME.
The Department calculates self-employment income by adding monthly income to capital gains and subtracting a deduction for expenses as determined in Subsection 075.03 of this rule. (3-2-17)

01. How Monthly Income is Determined. If no income fluctuations are expected, the average monthly income amount is projected for the certification period. If past income does not reflect expected future income, a proportionate adjustment is made to the expected monthly income. (5-8-09)

02. Capital Gains Income. Capital gains include profit from the sale or transfer of capital assets used in self-employment. The Department calculates capital gains using the federal income tax method. If the household expects to receive any capital gains income from self-employment assets during the certification period, this amount is added to the monthly income as determined in Subsection 075.01 of this rule to determine the gross monthly income. (3-2-17)

03. Self-Employment Expense Deduction. The Department uses the standard self-employment deduction in Subsection 075.03.a. of this rule, unless the applicant claims that their actual allowable expenses exceed the standard deduction and provides proof of the expenses described in Subsection 075.03.b. of this rule. (3-2-17)

a. The self-employment standard deduction is determined by subtracting fifty percent (50%) of the gross monthly self-employment income as determined in Subsections 075.01 and 075.02 of this rule; or (3-2-17)

b. The self-employment actual expense deduction is determined by subtracting the actual allowable expenses from the gross monthly self-employment income. The following items are not allowable expenses and may not be subtracted from the gross monthly self-employment income: (5-8-09)

i. Net losses from previous tax years; (5-8-09)

ii. Federal, state, and local income taxes; (5-8-09)

iii. Money set aside for retirement; (5-8-09)

iv. Work-related personal expenses such as transportation to and from work; and (5-8-09)

v. Depreciation. (5-8-09)

076. PROJECTING MONTHLY INCOME.
Income is projected for each month. Past income may be used to project future income. Changes expected during the certification period will be considered. Criteria for projecting monthly income is listed below: (5-1-11)

01. Income Already Received. Count income already received by the household during the month. If the actual amount of income from any pay period is known, use the actual pay period amounts to determine the total month's income. Convert the actual income to a monthly amount if a full month's income has been received or is expected to be received. If no changes are expected, use the known actual pay period amounts for the past thirty (30) days to project future income. (5-1-11)

02. Anticipated Income. Count income the household and the Department believe the household will get during the remainder of the certification period. If the income has not changed and no changes are anticipated, use the income received in the past thirty (30) days as one indicator of anticipated income. If changes in income have occurred or are anticipated, past income cannot be used as an indicator of anticipated income. If income changes and

income received in the past thirty (30) days does not reflect anticipated income, the Department can use the household income received over a longer period to anticipate income. If income changes seasonally, the Department can use the household income from the last season, comparable to the certification period, to anticipate income. (5-1-11)

a. Full Month's Income. If income will be received for all regular pay dates in the month, it is considered a full month of income. (5-1-11)

b. If income will not be received for all regular pay dates in the month, it is not considered a full month of income and it is not converted. (5-1-11)

c. Income Paid on Salary. Income received on salary, rather than an hourly wage, is counted at the expected monthly salary rate. (5-1-11)

d. Income Paid at Hourly Rate. Compute anticipated income paid on an hourly basis by multiplying the hourly pay by the expected number of hours the client will work in the pay period. Convert the pay period amount to a monthly amount. (5-1-11)

e. Fluctuating Income. When income fluctuates each pay period and the rate of pay remains the same, average the income from the past thirty (30) days to determine the average pay period amount. Convert the average pay period amount to a monthly amount. (5-1-11)

077. CONVERTING INCOME TO A MONTHLY AMOUNT.
If a full month's income is expected, but is received on other than a monthly basis, convert the income to a monthly amount using one of the formulas below: (5-1-11)

01. Weekly Amount. Multiply weekly amounts by four point three (4.3). (5-1-11)

02. Bi-Weekly Amount. Multiply bi-weekly amounts by two point one five (2.15). (5-1-11)

03. Semi-Monthly Amount. Multiply semi-monthly amounts by two (2). (5-1-11)

04. Monthly Amount. Use the exact monthly income if it is expected for each month of the certification period. (3-28-18)

078. ASSET CAP.
A family must not be in possession of assets exceeding one million dollars ($1,000,000). (3-2-17)

079. -- 099. (RESERVED)

NON-FINANCIAL CRITERIA
(Sections 100 - 199)

100. (RESERVED)

101. PARENTAL CHOICE OF CHILD CARE PROVIDER.
Eligible parents may choose among the following types of child care providers available under ICCP: (4-2-08)

01. Child Care Center. A child care center cares for thirteen (13) or more children. (4-2-08)

02. Group Child Care. Group child care is for seven (7) to twelve (12) children. (4-2-08)

03. Family Child Care. Family child care is for six (6) or fewer children. (4-2-08)

04. Relative Child Care. Relative child care is for six (6) or fewer related children. (4-2-08)

05. In-Home Child Care. In-home child care is provided by a relative or non-relative in the home of the child. Eligibility for in-home child care is determined in accordance with Section 400 of these rules. (4-2-08)

102. RESIDENCY.
The family must live in the state of Idaho, and have no immediate intention of leaving. (4-2-08)

103. COOPERATION IN ESTABLISHMENT OF PATERNITY AND OBTAINING SUPPORT.
A natural or adoptive parent, or other individual who lives with and exercises parental control over a minor child who has an absent parent, must cooperate in establishing paternity for the child and obtaining child support. (3-28-18)

01. Providing All Information. "Cooperation" includes providing all information to identify and locate the non-custodial parent, unless good cause for non-cooperation exists. (3-28-18)

02. Established Case for Custodial Parent. After Child Support Services (CCS) has established a case for a custodial parent, all child support payments must be sent directly to CSS. If the custodial parent receives child support directly from the non-custodial parent, the custodial parent must forward the payment to CSS for receipting. (3-26-08)

03. Failure to Cooperate. (3-26-08)

a. Failure to cooperate includes failure to complete the non-custodial or alleged parent information or filiation affidavit as requested, failure to sign the limited power of attorney, or evidence of failure to cooperate provided by Child Support Services (CSS). (3-2-17)

b. When a parent or individual fails to cooperate in establishing paternity and obtaining support, the family is not eligible to participate in the Idaho Child Care Program. (3-26-08)

04. Exemptions From Cooperation Requirement. The parent or individual will not be required to provide information about the non-custodial or alleged parent or otherwise cooperate in establishing paternity or obtaining support if good cause for not cooperating exists. Good cause for failure to cooperate must be provided. (3-26-08)

a. Good cause for failure to cooperate in obtaining support is: (3-26-08)

i. Proof the child was conceived as a result of incest or forcible rape; (3-26-08)

ii. Proof the non-custodial parent may inflict physical or emotional harm to the children, the custodial parent or individual exercising parental control. This must be supported by medical evidence, police reports, or as a last resort, an affidavit from a knowledgeable source; and (3-26-08)

iii. Substantial and credible proof is provided indicating the custodial parent cannot provide the minimum information regarding the non-custodial parent. (3-26-08)

b. A parent or individual claiming good cause for failure to cooperate must submit a notarized statement to the Department identifying the child for whom the exemption is claimed. The statement must list the reasons for the good cause claim. (3-26-08)

c. The cooperation requirement will be waived if good cause exists. No further action will be taken to establish paternity or obtain support. If good cause does not exist the parent will be notified that they are not eligible to receive Idaho Child Care program benefits, until child support cooperation as been obtained. (3-26-08)

104. FAMILY COMPOSITION.
A family is a group of individuals living in a common residence, whose combined income is considered in determining eligibility and the child care benefit amount. No individual may be considered a member of more than one (1) family in the same month. The following individuals are included in determining the family composition: (4-2-08)

01. Married Parents. Married parents living together in a common residence, includes biological, adoptive, step-parent, guardian, and foster parent. (3-28-18)

02. Unmarried Parents. Unmarried parents who live in the same home and who have a child in common living with them. (4-2-08)

03. Dependents. Individuals who are dependents of a parent, guardian, or caretaker relative and living in the home at the primary residence. (3-28-18)

04. Minor Parent. A minor parent and child are considered a separate family when they apply for child care benefits, even if they live with other relatives. (4-2-08)

05. Individual Acting In Loco Parentis. An individual acting in loco parentis who is eligible to apply for child care benefits, and the child's natural or adoptive parents are not living in the home. (3-2-17)

06. Citizenship or Alien Status Requirement. Family members who are not citizens or living lawfully in the United States will not be counted in the family size. The income of those non-counted family members will be counted when determining the household's income according to Sections 070 through 099 of these rules. (3-2-17)

105. ELIGIBLE CHILD.

A family can only receive child care benefits for eligible children. A child is eligible for child care benefits under the following conditions: (4-2-08)

01. Immunizations Requirements. A child must be immunized in accordance with IDAPA 16.02.11, "Immunization Requirements for Licensed Daycare Facility Attendees." Child care benefits can continue during a reasonable period necessary for the child to be immunized. Parents must provide evidence that the child has been immunized unless the child is attending school. (4-2-08)

02. Citizenship or Alien Status Requirement. A child must be one (1) of the following: (4-2-08)

a. A citizen; (4-2-08)

b. Living lawfully in the United States. (4-2-08)

03. Child's Age Requirement. A child must be under thirteen (13) years of age to be eligible for child care benefits, unless they meet one (1) or more of the following criteria: (3-2-17)

a. A child is eligible for child care benefits until the month of their nineteenth birthday if they are physically or mentally incapable of self-care, as verified by a licensed mental health professional or licensed practitioner of the healing arts. (3-2-17)

b. A child may be eligible for child care benefits until the month of their nineteenth birthday if a court order, probation order, child protection, or mental health case plan requires constant supervision. (3-2-17)

04. Child Custody. A child may move from one (1) parent's home to the other parent's home on a regular basis. The child may be a member of either household, but not both households. If the parents cannot agree on the child's household for the child care benefit, the child is included in the household with primary custody. Primary custody is determined by where the child is expected to spend fifty-one percent (51%) or more of the nights during a benefit period. When only one (1) parent applies for ICCP benefits, the child may be included in that parent's household even though they do not have primary physical custody of the child. (3-20-14)

106. INCAPACITATED PARENT.

An incapacitated parent, unable to adequately care for the children in a two (2) parent family, is not required to have any qualifying activities as listed under Section 200 of these rules, as long as the other parent is participating in qualifying activities. A single parent family in which the parent is incapacitated is not eligible for ICCP. A parent

with a disability does not automatically qualify as an incapacitated parent. (4-2-08)

107. -- 199. (RESERVED)

QUALIFYING ACTIVITIES
(Sections 200 - 299)

200. QUALIFYING ACTIVITIES FOR CHILD CARE BENEFITS.
To be eligible for child care benefits, each parent included in the household must need child care because they are engaged in one (1) of the qualifying activities listed in Subsections 200.01 through 200.05 of this rule. (5-1-11)

01. Employment. The parent is currently employed. (4-2-08)

02. Self-Employment. The parent is currently self-employed in a business that is a sole proprietorship. A sole proprietorship is a business owned by one (1) person. Restrictions apply for self-employment as follows: (5-8-09)

a. For the first twelve (12) months of self-employment benefits, actual activity hours are used. (3-2-17)

b. At month thirteen (13), the number of activity hours will be limited. To calculate the activity hours, the net monthly self-employment income is divided by the current federal minimum wage. The qualifying activity hours are the lesser of the calculated activity hours or actual activity hours. (3-28-18)

03. Training or Education. The parent is attending an accredited education or training program. The following restrictions apply to training or education activities: (4-2-08)

a. On-line classes cannot be counted as a qualifying activity for child care. (4-2-08)

b. Persons who are attending post-baccalaureate classes with no other qualifying activity, do not qualify for child care benefits. (3-2-17)

c. More than forty-eight (48) months of post-secondary education has been used as a qualifying activity. (3-2-17)

04. Preventive Services. The parent is receiving preventive services as defined in Section 011 of these rules. The Department will verify the continued need for preventive services at least every three (3) months. (4-2-08)

05. Personal Responsibility Contract (PRC) or Other Negotiated Agreement. The parent is completing Personal Responsibility Contract (PRC) or other self-sufficiency activities negotiated between the Department and the parent. (4-4-13)

201. PROJECTING QUALIFYING ACTIVITY HOURS.

01. Activity Hours. Activity hours are projected for each month to determine if payment is made on a full-time or part-time basis. Past activity hours may be used to project future activity hours if the employer and number of hours worked are the same and are expected to remain the same throughout the certification period. Hours for each qualifying activity must be projected individually and converted to a monthly amount. (4-4-13)

01. Weekly Hours. Multiply weekly amounts by four point three (4.3). (5-1-11)

02. Bi-weekly Hours. Multiplying bi-weekly amounts by two point one five (2.15). (5-1-11)

03. Semi-Monthly Hours. Multiplying semi-monthly amounts by two (2). (5-1-11)

04. Monthly Hours. Use the exact monthly hours if it is expected for each month of the certification

period. (5-1-11)

202. CESSATION OF QUALIFYING ACTIVITIES.
An eligible family who loses or ceases its qualifying activity, may continue to receive assistance for up to three (3) months to engage in a job search and resume work, or resume attendance at a job training or educational program. (3-2-17)

203. -- 399. (RESERVED)

400. REQUIREMENTS FOR IN-HOME CARE UNDER ICCP.
Parents must contact the Department to request approval of in-home child care. Only parents who have qualified activities outside their home will be considered for in-home care approval. The Department limits the approval of all in-home child care under ICCP to the following circumstances: (4-2-08)

01. Three or More Children in the Home. There are three (3) or more ICCP eligible children in the home who are not in school at any time during the day and require child care. (5-1-11)

02. Fewer Than Three Children in the Home. If there are fewer than three (3) children in the home who are eligible for ICCP and require child care, in-home care will be approved by the Department only when one (1) of the following special circumstances are met: (4-2-08)

a. Parents' qualifying activity occurs during times when out-of-home care is not available. If child care is needed during any period when out-of home care is not available, in-home care will be approved for the entire time care is needed. A family is not expected to change between out-of-home and in-home care. (4-2-08)

b. The family lives in an area where out-of-home care is not available. (4-2-08)

c. A child has a verified illness or disability that would place the child or other children in an out-of-home facility at risk. (4-2-08)

401. IN-HOME CARE HEALTH AND SAFETY REQUIREMENTS.
Each in-home care provider is responsible to ensure that health and safety requirements are met for children being cared for in the children's own home. (3-20-14)

01. Health and Safety Inspections. In-home health and safety inspections, described in Section 802 of these rules, are not required for in-home care providers caring for children in the children's own home. (3-20-14)

02. Health and Safety Training. Because in-home care providers are exempt from health and safety inspections, each in-home care provider must annually complete health and safety training provided by the local Health District covering requirements listed in Section 802 of these rules. (3-2-17)

402. -- 499. (RESERVED)

PAYMENT INFORMATION
(Sections 500 - 599)

500. ALLOWABLE CHILD CARE COSTS.
Care provided to an eligible child by an eligible child care provider is payable subject to the following conditions: (4-2-08)

01. Payment for Employment, Training, Education, or Preventive Service Hours. Child care must be reasonably related to the hours of the parent's qualifying activities. (5-1-11)

02. One-Time Registration Fees. One-time fees for registering a child in a child care facility are payable above the local market rate, if the fee is charged to all who enroll in the facility. Reimbursement can not exceed two hundred fifty dollars ($250) and must be usual and customary rates charged to all families. Registration

fees are separate from local market rates. (3-28-18)

501. NON-ALLOWABLE CHILD CARE COSTS.
Care provided to an eligible child is not payable under the following conditions: (3-2-17)

01. Family Member or Guardian Providing Child Care. A parent, step-parent, or guardian will not be paid for providing child care to their own child or ward. (3-28-18)

02. Provider Living at Same Address as Child. ICCP will not pay for in-home child care if the provider lives at the same address as the child. (3-2-17)

03. School Tuition, Academic Credit, or Tutoring. ICCP payments will not be made for school tuition, academic credit, or tutoring for school age children; this includes: (3-2-17)

a. Any services provided to such students during the regular school day, including kindergarten; (3-2-17)

b. Any services for which such students receive academic credit toward graduation; or (3-2-17)

c. Any instructional services which supplant or duplicate the academic program of any public or private school. (3-2-17)

502. AMOUNT OF PAYMENT.
Child care payments will be based on Subsections 502.01 through 502.04 of this rule. (3-2-17)

01. Payment Rate. Payment will be based on the lower of the provider's usual and customary rates or the Local Market Rate (LMR). (3-2-17)

a. The local market rates for child care are the maximum monthly amounts that ICCP will pay for any given category of child care in a geographic area designated by the Department. The local market rates for child care are established based on a comprehensive survey of child care providers. Using information gathered in the survey, including the age of child, the type of child care, and the designated area where the provider does business, a local market rate is specified for each category of child care. The rate survey is conducted triennially. (3-2-17)

b. Payment rates will be determined by the location of the child care facility. (3-2-17)

c. If the child care facility is not in Idaho, the local market rate will be the rate where the family lives. (4-2-08)

02. Usual and Customary Rates. Rates charged by the child care provider must not exceed the usual and customary rates charged for child care to persons not entitled to receive benefits under ICCP. (7-1-09)

03. In-Home Care. Parents are responsible to pay persons providing care in the child's home the minimum wage, as required by the Fair Labor Standards Act (29 U.S.C. 206a) and other applicable state and federal requirements. (3-28-18)

04. Payments. Payments will be issued directly to eligible providers. (3-2-17)

503. COPAYMENTS.
Eligible families, except TAFI families participating in non-employment TAFI activities and guardians of foster children, must pay part of their child care costs. Providers are responsible for ensuring families pay the determined child care costs and must not waive these costs. (3-2-17)

01. Poverty Rates. Poverty rates will be one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) available on the U.S. Health and Human Services website at http://aspe.hhs.gov/poverty. The monthly rate will be calculated by dividing the yearly rate by twelve (12). (4-4-13)

02. Calculating Family Payment. Family income and activity for the month of the child care will determine the family share of child care costs. The payment made by the Department will be the allowable local market rate or billed costs, whichever is lower, less the co-payment. (4-4-13)

03. Changes to Copayments. A family's share of child care costs will not increase due to a change in income only. (4-11-19)

504. STUDENT CO-PAYMENT REQUIREMENTS.

01. Post-Secondary Student. (4-11-15)

a. A post-secondary student who works less than ten (10) hours per week will be required to pay a co-payment. (4-11-15)

b. A post-secondary student who works ten (10) hours or more per week will have a co-payment based on family income. (4-11-15)

02. High School or GED Student. A student who is in high school, or who is taking GED courses will have a co-payment based on family income. (4-11-15)

505. INTERIM CHILD CARE PAYMENT.
If child care arrangements would otherwise be lost, child care may be paid when a child temporarily stops attending child care for no longer than (1) calendar month and plans to return. (3-2-17)

506. -- 599. (RESERVED)

CHANGE REPORTING REQUIREMENTS FOR THOSE RECEIVING CHILD CARE BENEFITS (Sections 600 - 699)

600. CHANGE REPORTING REQUIREMENTS.
A family who receives child care benefits must report the following permanent changes by the tenth day of the month following the month in which the change occurred. (4-4-13)

01. Change in Full-time or Part-time Activity Hours. (3-28-18)

02. Change in Permanent Address. (3-28-18)

03. Change in Household Composition. (4-4-13)

04. Change in Income. When the household's total gross income for family of the same size exceeds any of the following: (4-11-19)

a. One hundred and thirty percent (130%) of the Federal Poverty Guidelines (FPG); (4-11-19)

b. Eighty-five percent (85%) of the State Median Income (SMI); or (4-11-19)

c. The graduated phase-out income limit as defined in the Idaho Child Care State Plan. (4-11-19)

05. Change in Child Care Provider. (5-1-11)

601. REQUIRED ACTION ON REPORTED CHANGES.
The Department will take the actions listed below on changes that are reported within the time frame listed in Section 600 of these rules. (5-1-11)

01. Change in Income or Hours of Activity. (5-1-11)

a. If a change in income or hours of qualifying activity results in a decrease in the amount of the child care benefit, the Department will make the change effective the month following the month the change is reported. (4-2-08)

b. If a change results in an increase in the amount of the child care benefit, the Department will make the change effective in the month the change was reported. (5-1-11)

02. Change in Billed Amount. If the billed amount of child care changes, the Department will make the change effective for the month the change is reported. (5-1-11)

602. REDETERMINATION OF ELIGIBILITY FOR CHILD CARE BENEFITS.

01. Redetermination. The Department will redetermine eligibility for child care benefits at least every twelve (12) months. (3-2-17)

02. Graduated Phase Out. At the time of redetermination, if a household's income exceeds one hundred thirty percent (130%) of the Federal Poverty Guidelines (FPG) for a family of the same size eligible children may receive a graduated phase out benefit. Graduated phase out benefits are limited to twelve (12) months following the completion of a redetermination as defined in the Idaho Child Care State Plan. (4-11-19)

603. -- 699. (RESERVED)

PAYMENT ADJUSTMENTS AND PENALTIES
(Sections 700 - 704)

700. UNDERPAYMENT OF CHILD CARE BENEFITS.
When the Department has underpaid a family's child care benefits, a supplemental payment will be made. (4-2-08)

701. RECOUPMENT OF OVERPAYMENTS.
The Department may recoup or recover the amount paid for child care services from a provider or a parent. Interest will accrue on these overpayments at the statutory rate set under Section 28-22-104, Idaho Code, from the date of the final determination of the amount owed for services. Interest will not accrue on overpayments made due to Department error. An overpayment due to family, agency, or provider error, IPV or fraud must be recovered in full. A parent or provider may negotiate a repayment schedule with the Department. (3-28-18)

702. INTENTIONAL PROGRAM VIOLATIONS (IPV).
An IPV is an intentionally false or misleading action or statement as identified below in Subsections 702.01 through 702.08 of this rule. An IPV is established when a family member or the child care provider admits the IPV in writing and waives the right to an administrative hearing, or when determined by an administrative hearing, a court decision, or through deferred adjudication. Deferred adjudication exists when the court defers a determination of guilt because the accused family member or child care provider meets the terms of a court order or an agreement with the prosecutor. (4-2-08)

01. False Statement. An individual makes a false statement to the Department, either orally or in writing, in order to participate in the Idaho Child Care Program. (4-2-08)

02. Misleading Statement. An individual makes a misleading statement to the Department, either orally or in writing, to participate in the Idaho Child Care Program. (4-2-08)

03. Misrepresentation of Fact. An individual misrepresents one (1) or more facts to the Department, either orally or in writing, to participate in the Idaho Child Care Program. (4-2-08)

04. Concealing Fact. An individual conceals or withholds one (1) or more facts to participate in the Idaho Child Care Program. (4-2-08)

05. Non-Compliance With Rules and Regulations. An individual fails repeatedly or substantially to comply with this chapter of rules. (4-2-08)

06. Violation of Provider Agreement. An individual knowingly violates any term of their provider agreement. (4-2-08)

07. Failure to Meet Qualifications. A provider fails to meet the qualifications specifically required by this chapter of rules or by any applicable licensing board. (4-2-08)

703. PENALTIES FOR AN IPV.
When the Department determines an IPV was committed, the party who committed the IPV loses eligibility for ICCP. If an individual has committed an IPV, the entire family is ineligible for child care benefits. If a child care provider has committed an IPV, the provider is ineligible to receive payments. The period of ineligibility for each offense, for both participants and providers, is as follows: (4-2-08)

01. First Offense. Twelve (12) months, for the first IPV or fraud offense, or the length of time specified by the court. (4-2-08)

02. Second Offense. Twenty-four (24) months for the second IPV or fraud offense, or the length of time specified by the court. (4-2-08)

03. Third Offense. Permanent ineligibility for the third or subsequent IPV or fraud offense, or the length of time specified by the court. (4-2-08)

704. DENIAL OF PAYMENT.
The Department may deny payment for the reasons described in Subsections 704.01 through 704.05 of this rule. (4-11-19)

01. Services Not Provided. Any or all claims for child care services it determines were not provided. (7-1-09)

02. Services Not Documented. Child care services not documented by the provider as required in Subsection 810.01 of these rules. (7-1-09)

03. Contrary to Rules or Provider Agreement. Child care services provided contrary to these rules or the provider agreement. (7-1-09)

04. Failure to Provide Immediate Access to Records. The Department may deny payment when the provider does not allow immediate access to records as provided in Subsection 810.02 of these rules. (7-1-09)

05. Paying for Attendance. Payment will be denied if an eligible provider pays directly or indirectly, overtly or covertly, for a child to attend the provider's child care facility. (4-11-19)

705. FUNDING RESTRICTIONS.
If a funding shortfall is projected, the Department may reduce child care benefits to ensure that ICCP operates within its financial resources. (4-2-08)

706. -- 749. (RESERVED)

ENFORCEMENT REMEDIES
(Sections 750 - 799)

750. TERMINATION OF PROVIDER STATUS.
Under Section 56-209h, Idaho Code, the Department may terminate the provider agreement of, or otherwise deny provider status for a period up to five (5) years from the date the Department's action becomes final to any individual or entity providing ICCP. (7-1-09)

01. Submits an Incorrect Claim. Submits a claim with knowledge that the claim is incorrect. (7-1-09)

02. Fraudulent Claim. Submits a fraudulent claim. (7-1-09)

03. Knowingly Makes a False Statement. Knowingly makes a false statement or representation of material facts in any document required to be maintained or submitted to the Department. (7-1-09)

04. Immediate Access to Documentation. Fails to provide, upon written request by the Department, immediate access to documentation required to be maintained. (7-1-09)

05. Non-Compliance With Rules and Regulations. Fails repeatedly or substantially to comply with the rules and regulations governing Idaho child care payments. (7-1-09)

06. Violation of Material Term or Condition. Knowingly violates any material term or condition of the provider agreement. (7-1-09)

07. Failure to Repay. Has failed to repay, or was a managing employee or had an ownership or control interest in any entity that has failed to repay, any overpayments or claims previously found to have been obtained contrary to statute, rule, regulation, or provider agreement. (7-1-09)

08. Fraudulent or Abusive Conduct. Has been found, or was a managing employee in any entity which has been found, to have engaged in fraudulent conduct or abusive conduct. (3-2-17)

09. Failure to Meet Qualifications. Fails to meet the qualifications specifically required by rule or by any applicable licensing entity. (7-1-09)

751. REFUSAL TO ENTER INTO AN AGREEMENT.
The Department may refuse to enter into a provider agreement for the reasons described in Subsections 751.01 through 751.06 of this rule. (7-1-09)

01. Convicted of a Felony. The provider has been convicted of a felony or is under investigation for the commission of a felony. (3-2-17)

02. Committed an Offense or Act Not in Best Interest of Child Care Participants. The provider has committed an offense or act which the Department determines is inconsistent with the best interests of ICCP participants. (7-1-09)

03. Failed to Repay. The provider has failed to repay the Department monies which had been previously determined to have been owed to the Department. (7-1-09)

04. Investigation Pending. The provider has a pending investigation for program fraud or abuse. (7-1-09)

05. Terminated Provider Agreement. The provider was the managing employee, officer, owner, or spouse, partner, or relative of an owner of an entity, whose provider agreement was terminated under Section 750 of these rules. (3-2-17)

06. Excluded Individuals. The provider has a current exclusion from participation in federal programs by the Office of Inspector General List of Excluded Individuals and Entities. (7-1-09)

752. PROVIDER NOTIFICATION.
When the Department determines actions defined in Sections 701 through 705, 750, and 751 of these rules are appropriate, it will send written notice of the decision to the provider or person. The notice will state the basis for the action, the length of the action, the effect of the action on that person's ability to provide services under state and federal programs, and the person's appeal rights. (7-1-09)

753. NOTICE TO STATE LICENSING AUTHORITIES.
The Department will promptly notify all appropriate licensing authorities having responsibility for licensing of a Department action, and the facts and circumstances of that action. The Department may request certain actions be taken and that the Department be informed of actions taken. (7-1-09)

754. -- 799. (RESERVED)

PROVIDER ELIGIBILITY
(Sections 800 - 808)

800. CHILD CARE PROVIDER LICENSING.
All providers of child care who receive a Department subsidy must be licensed or must comply with: applicable State Daycare licensing requirements in Title 39, Chapter 11, Idaho Code; these rules; local licensing ordinances; or tribal ordinances. If both state requirements and ordinances apply to a provider, the provider must comply with the stricter requirement. A provider operating outside Idaho must comply with the licensing laws of their state or locality. (4-2-08)

801. HEALTH AND SAFETY TRAINING.
All child care providers must complete a series of health and safety trainings during an orientation period of not more than ninety (90) days, in addition to ongoing annual training that address each of the following topics: (3-2-17)

01. Infectious Diseases. The prevention and control of infectious diseases (including immunization). (3-2-17)

02. Sudden Infant Death Syndrome. The prevention of sudden infant death syndrome and use of safe sleeping practices. (3-2-17)

03. Medication. The administration of medication, consistent with standards for parental consent. (3-2-17)

04. Allergic Reactions. The prevention of and response to emergencies due to food and allergic reactions. (3-2-17)

05. Environmental Safety. Building and physical premises safety, including identification of and protection from hazards, bodies of water, and vehicular traffic. (3-2-17)

06. Child Abuse Prevention. Prevention of shaken baby syndrome and abusive head trauma. (3-2-17)

07. Emergency Preparedness. Emergency preparedness and response planning for emergencies resulting from a natural disaster, or a man-caused event. (3-2-17)

08. Hazardous Substances. Proper handling, storage, and disposal of medicines, cleaning supplies, and other hazardous substances, including biocontaminants. (3-2-17)

09. Transportation. Appropriate precautions in transporting children, including the use of child safety restraints and seat belts. (3-2-17)

802. HEALTH AND SAFETY REQUIREMENTS.
All providers must comply with the health and safety requirements listed in Subsections 802.01 through 802.13 of this rule. All providers must agree to an annual, unannounced health and safety inspection, with the exception of in-home child care described in Section 401 of these rules. Compliance with these standards does not exempt a provider from complying with stricter health and safety standards under state law, tribal law, local ordinance, or other applicable law. (3-2-17)

01. Age of Provider. All child care providers providing services must be eighteen (18) years old or older. Persons sixteen (16) or seventeen (17) years old may provide child care if they have direct, on-site supervision

from a licensed child care provider who is at least eighteen (18) years old. (4-2-08)

02. Sanitary Food Preparation. Food for use in child care facilities must be prepared and served in a sanitary manner. Utensils and food preparation surfaces must be cleaned and sanitized before using to prevent contamination. (4-2-08)

03. Food Storage. All food served in child care facilities must be stored to protect it from potential contamination. (4-2-08)

04. Hazardous Substances. Medicines, cleaning supplies, and other hazardous substances must be handled safely and stored out of the reach of children. Biocontaminants must be disposed of appropriately. (3-2-17)

05. Emergency Communication. A telephone or some type of emergency communication system is required. (4-2-08)

06. Smoke Detectors, Fire Extinguishers, and Exits. A properly installed and operational smoke detector must be on the premises where child care occurs. Adequate fire extinguishers and fire exits must be available on the premises. (4-2-08)

07. Hand Washing. Each provider must wash his hands with soap and water at regular intervals, including before feeding, after diapering or assisting children with toileting, after nose wiping, and after administering first aid. (4-2-08)

08. CPR/First Aid. Providers must insure that at all times children are present at least one (1) adult on the premises has current certification in pediatric rescue breathing (CPR) and pediatric first aid treatment from a certified instructor. (3-2-17)

09. Health of Provider. Each provider must certify that he does not have a communicable disease or any physical or psychological condition that might pose a threat to the safety of a child in his care. (4-2-08)

10. Child Abuse. Providers must report suspected child abuse to the appropriate authority. (4-2-08)

11. Transportation. Providers who transport children as part of their child care operations must operate safely and legally, using child safety restraints and seat belts as required by state and local statutes. (3-2-17)

12. Disaster and Emergency Planning. Providers must have documented policies and procedures planning for emergencies resulting from a natural disaster, or man-caused event that include: (3-2-17)

a. Evacuation, relocation, shelter-in-place, and lock-down procedures, and procedures for communication and reunification with families, continuity of operations, and accommodation of infants and toddlers, children with disabilities, and children with chronic medical conditions. (3-2-17)

b. Procedures for staff and volunteer emergency preparedness training and practice drills. (3-2-17)

c. Guidelines for the continuation of child care services in the period following the emergency or disaster. (3-2-17)

13. Environmental Safety. Building and physical premises must be safe, including identification of and protection from hazards that can cause bodily injury including electrical hazards, bodies of water, and vehicular traffic. (3-2-17)

14. Safe Sleep. Providers must place newborn infants to twelve (12) months in a safe sleep environment. Safe sleep practices include, alone, on their backs, and in a Consumer Product Safety Commission (CPSC) certified crib. (3-28-18)

803. CHILD CARE PROVIDER TRAINING REQUIREMENTS.
Each child care provider must receive and ensure that each staff member who provides child care receives and

completes twelve (12) hours of ongoing training every twelve (12) months after the staff member's date of hire. (3-2-17)

01. Training Contents. Training must be related to continuing education in child development, teaching and curriculum, health and safety, and business practices. Pediatric rescue breathing (CPR) and pediatric first aid treatment training will not count towards the required twelve (12) hours of annual training. (3-28-18)

02. Documented Training. It is the responsibility of the child care provider to ensure that each staff member who provides child care has completed twelve (12) hours of training each year. The training must be documented in the staff member's record. (3-2-17)

03. Staff Training Records. Each child care provider is responsible for maintaining documentation of staff's training and must produce this documentation when the provider agreement is renewed annually. (3-2-17)

804. CHILD CARE PROVIDER AGREEMENT.

01. Compliance. All providers must sign and comply with a provider agreement. (3-2-17)

02. Provide Direct Care. Except for Child Care Centers described in Subsection 101.01 of these rules, the individual who signs the provider agreement must provide the majority of direct care to the children in that child care facility. (3-2-17)

805. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENT.
Applicants, providers, employees, volunteers, and all other individuals age thirteen (13) or older who have direct contact with or provide care to children eligible for ICCP benefits must comply with the requirements and receive clearance as provided in IDAPA 16.05.06, "Criminal History and Background Checks," every five (5) years. (3-2-17)

806. PURVIEW OF CHILD PROTECTIVE ACT OR JUVENILE JUSTICE REFORM ACT.
Providers must certify that they are not, through stipulation or adjudication, under the purview of the Child Protective Act, Section 16-1600, Idaho Code, or the Juvenile Corrections Act, Section 20-501 through 20-547, Idaho Code. Any person who has a substantiated child protection complaint cannot be a provider. (4-2-08)

807. PARENT OR CARETAKER ACCESS TO CHILD CARE PREMISES.
Providers serving families who receive a child care subsidy must allow parents or caretakers unlimited access to their children and to persons giving care, except that access to children will not be required if prohibited by court order. (3-2-17)

808. REPORTING REQUIREMENTS FOR PROVIDERS.
A child care provider must report any of the following changes within ten (10) days: (4-2-08)

01. Change in Provider Charges. The provider changes any rate for child care services. (4-2-08)

02. Child Stops Attending Care. A child covered under ICCP stops attending child care, or is taken to another child care provider. (4-2-08)

03. Change of Provider Address. The provider changes the location where child care is provided. (4-2-08)

04. Change in Who Lives in Home. An individual who provides child care in their home must report when any other person moves into the home. (4-2-08)

05. Intent Not to Renew License. The provider intends not to renew their license, or other required certifications. (4-2-08)

06. Death or Serious Injury. Providers must report when a child sustains a serious injury or dies while at the location of, or as a result of participating in child care. (3-2-17)

809. CONSUMER EDUCATION INFORMATION.
The Department will make public by electronic means, in an easily accessible format: (3-2-17)

01. Monitoring and Inspection Reports. The results of all child care monitoring and inspection reports. (3-2-17)

02. Substantiated Complaints. Substantiated complaints about failure to comply with child care laws, rules, and policies, that include information on the date of such an inspection, and where applicable, information on corrective action taken. (3-2-17)

03. Death and Serious Injury. The total number of deaths, serious injuries, and instances of substantiated child abuse that occurred in child care settings each year. (3-2-17)

810. DOCUMENTATION OF SERVICES AND ACCESS TO RECORDS.

01. Documentation of Services. Providers must generate documentation at the time of service sufficient to support the reimbursement for child care services. Documentation must be legible and retained for a period of three (3) years from the date the child care was provided. Documentation to support child care services includes: (7-1-09)

a. Records of attendance, including signatures of a parent or guardian; (4-11-19)

b. Immunization records, conditional admittance form, or exemption form according to IDAPA 16.02.11, "Immunization Requirements for Licensed Daycare Facility Attendees." (4-4-13)

c. Billing records and receipts; (7-1-09)

d. Policies regarding sign-in procedures, and others as applicable; and (7-1-09)

e. Sign-in records, electronic or manual, or the Child and Adult Food Care Program records. (7-1-09)

02. Immediate Access to Records. Providers must grant to the Department and its agents, immediate access to records for review and copying during normal business hours. These records are defined in Subsection 810.01 of this rule. (7-1-09)

03. Copying Records. The Department and its authorized agents may copy any record as defined in Subsection 810.01 of this rule. The Department may request in writing to have copies of records supplied by the provider. The requested copies must be furnished within twenty (20) working days after the date of the written request, unless an extension of time is granted by the Department for good cause. Failure to timely provide requested copies will be a refusal to provide access to records. (7-1-09)

04. Removal of Records From Provider's Premises.The Department and its authorized agents may remove from the provider's premises copies of any records defined in Subsection 810.01 of this rule. (7-1-09)

811. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Department of Health and Welfare is authorized by the Idaho Legislature to adopt and enforce rules for the administration of the public assistance programs according to Sections 56-201, 56-202(b), Idaho Code, and Title IV-A of the Social Security Act. (3-20-04)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.06.13, "Emergency Assistance for Families and Children." *( )*

02. Scope. The purpose of these rules is to establish statewide provisions of emergency assistance to families with children or youth eligible to receive assistance through Title IV-A funds in order to meet the family's emergency conditions. (3-20-04)

002. **-- 009. (RESERVED).**

010. DEFINITIONS AND ABBREVIATIONS.

01. Adult Relatives. Any non-parent individual over the age of eighteen (18) years, who is related to the eligible child in any of the following ways: (5-8-09)

a. Brother, sister, aunt, uncle, nephew, niece, first cousin or first cousin once removed, or one (1) of these relationships prefixed by "grand" or "great," or: (5-8-09)

b. One (1) of the following relationships by half-blood: a step-parent, step-sibling, or the spouse of a relative by marriage, even if the marriage has ended. (5-8-09)

02. Authorization Assessment. A standardized assessment conducted by the Department within the first thirty (30) days following the date of application for emergency assistance. (3-20-04)

03. Child. An individual less than eighteen (18) years of age. (5-8-09)

04. Child Protection Services. Authorities to whom an individual reports the potential, alleged or actual abuse, abandonment, or neglect of a child, in accordance with the provisions of Title 16, Chapter 16, Idaho Code, known as the "Child Protective Act." (3-20-04)

05. Department. The Idaho Department of Health and Welfare, or its designee. (3-20-04)

06. Designated Staff. Department staff who provide direct services to families and children. (3-20-04)

07. Destitution. A state of being in extreme need from lacking possessions or resources. (5-8-09)

08. Emergency Assistance. Funding through Title IV-A for social services, emergency payments, and placement payments authorized by the Department and designed to meet short-term, non-recurrent emergency needs of families with children. (3-20-04)

09. Federal Poverty Guideline. Poverty guidelines issued each year in the Federal Register by the Department of Health and Human Services used to determine financial eligibility for certain state and federal programs. These guidelines may be accessed at the Internet website at http://aspe.hhs.gov/poverty. (3-20-04)

10. Needy Family. Two hundred percent (200%) of poverty as defined in the Federal Poverty Guidelines, or insufficient resources immediately available to meet the child's basic needs and which threatens the child's safety, stability, or well-being. (3-20-04)

11. Respite Care. Time-limited care provided to children. Respite care is utilized in circumstances that require short-term, temporary placement of a child from the home of their usual caregiver to that of another licensed or agency-approved family. In general, the duration of a respite placement is from one (1) to fourteen (14) days. (3-20-04)

12. **Service Period**. The thirty (30) day authorization assessment period and up to ninety (90) days following the assessment period. (5-8-09)

13. **Youth**. An individual between eighteen (18) and twenty-one (21) years of age. (5-8-09)

011. -- 099. (RESERVED)

100. EMERGENCY CONDITION.

01. **Reporting or Referral of an Emergency Condition**. A family is assessed for an emergency condition when the Department receives a report, referral, or service request indicating an emergency condition exists as described in Subsection 100.02 of this rule. (3-20-04)

02. **Emergency Condition**. A family has an emergency condition when any of the following exists: (3-20-04)

a. A child is in immediate danger of a life-threatening or emergency situation. See IDAPA 16.06.01, "Child and Family Services," Subsection 554.01. (3-20-04)

b. A child is suspected of being abused, including physical or sexual, or serious physical or medical neglect has been reported. See IDAPA 16.06.01, "Child and Family Services," Subsection 554.01. (3-20-04)

c. A child or youth has unmet short-term basic needs affecting the child's health, safety, or well-being that place the child at risk of destitution as defined in Section 010 of these rules. (5-8-09)

101. -- 149. (RESERVED)

150. APPLICATION FOR SERVICES.

01. **To Apply for Emergency Assistance**. An application must be completed and signed by one (1) of the following individuals on behalf of the eligible child in order for emergency assistance to be given: (3-20-04)

a. A parent or parents. (3-20-04)

b. An adult relative may sign on behalf of the child, when the child is residing with them and they are responsible for the child's care. (3-20-04)

c. Designated staff may sign the application on behalf of a child in the legal custody of the Department. The Department will notify the family of the emergency assistance funding being used because the expenditure will affect the family's eligibility for emergency assistance benefits for a twelve-(12) month period from the date the application is signed. (3-20-04)

d. A youth, who has lived with a parent or relative within six (6) months prior to the month of the application, may sign the application on their own behalf. (3-20-04)

02. **Individual Not Related to the Child**. Except as stated in Subsection 150.01.c. of this rule, an individual not related to the child may not apply for emergency assistance on behalf of the child. (3-20-04)

151. -- 159. (RESERVED)

160. ELIGIBILITY REQUIREMENTS.
The following requirements in Subsections 160.01 through 160.05 of this rule must be met before a family is eligible for emergency assistance. (3-20-04)

01. **Child or Youth**. There must be a child or youth in the household for the family to be eligible. (3-20-04)

02. Citizenship. To be eligible for emergency assistance, an individual must meet the citizenship requirements in IDAPA 16.03.08, "Temporary Assistance for Families in Idaho (TAFI)," Section 131. (3-20-04)

03. Income Guidelines. The family is determined as needy when the household income is below two hundred percent (200%) of the current Federal Poverty Guideline, or is unable to meet the emergency condition because of circumstances beyond their control. When both parents are absent, refuse to cooperate in supporting the child or youth, and are unwilling to apply on *their* behalf, *the child or youth's* income alone is considered. *( )*

04. Residence. The child or youth must have lived with one (1) or both parents or an adult relative, within six (6) months prior to the month of application for emergency assistance. A child or youth may move from one (1) household to another and be eligible to receive emergency assistance in either household. (3-20-04)

05. Work Program Compliance. An individual who is required to participate in a work program must not have refused, without good cause, to accept employment or training for employment. (3-20-04)

161. -- 199. (RESERVED)

200. ASSESSMENT AND AUTHORIZATION FOR EMERGENCY ASSISTANCE.

01. Authority to Assess Needs for Emergency Assistance. Contractors may conduct assessments and make referrals for authorization. (3-20-04)

02. Authority to Authorize Emergency Assistance. Emergency assistance payments and services may only be authorized by the Department's designated staff. (3-20-04)

03. Authorization and Assessment Period. The thirty (30) day authorization and assessment period begins the date the applicant signs the application. Services may be provided during this authorization and assessment period. (3-20-04)

04. Service Period. A service period may continue for a maximum of ninety (90) days following the assessment period in Subsection 200.03 of this rule. (3-20-04)

05. Total Number of Days for Emergency Assistance. The total number of days a family may receive emergency assistance is one hundred twenty (120) consecutive days in a twelve (12) month period from the date the application is signed. (3-20-04)

06. Assessment Content. The Department or its designee must describe in the assessment the following: (3-20-04)

a. The emergency condition; (3-20-04)

b. The family's issues that caused the emergency condition; and (3-20-04)

c. A family service plan. (3-20-04)

07. Family Service Plan Content. The Department or its designee must develop a family service plan that has been signed by the applicant. The plan must include a description of the following: (3-20-04)

a. The types of services and the reason the services are needed; (3-20-04)

b. The specific period each service will be covered; (3-20-04)

c. Who is providing the service; (3-20-04)

d. A list of resources and contacts made on behalf of the family; and (3-20-04)

e. How the needs of the family will be met in the future. (3-20-04)

201. -- 209. (RESERVED)

210. DURATION FOR EMERGENCY ASSISTANCE.
Emergency assistance may be provided to a family one (1) time during a twelve (12) month period counted from the date the application is signed, unless the original application was denied or withdrawn. The emergency assistance can not exceed a total of one hundred and twenty (120) consecutive days. (3-20-04)

01. Subsequent Emergency Conditions. (3-20-04)

a. If more than one (1) emergency condition occurs within the thirty (30) day authorization assessment period, all emergency conditions are considered to be the same emergency and additional funds may be authorized to cover additional services needed. (3-20-04)

b. If a second emergency condition occurs after the thirty (30) day authorization assessment period, it is considered a separate emergency condition and emergency assistance can not be used to provide services or payment of additional funds. (3-20-04)

02. Out-of-Home Placement for Child. If the Department places a child in out-of-home care and pays for the placement with emergency assistance funds, the family's emergency assistance benefit for the following twelve (12) months is used from the date the application is signed. (3-20-04)

211. -- 299. (RESERVED)

300. EMERGENCY ASSISTANCE PAYMENTS.
Emergency assistance payments are short-term benefits for specific emergency conditions that are provided to assist a family with an eligible child or youth. These payments are not intended to meet ongoing and recurrent needs that will extend beyond the one hundred twenty (120) day service period. (5-8-09)

01. Emergency Payments. Emergency payments will be made to purchase goods and services relating to the emergency condition. (3-20-04)

02. Non-Allowable Payments. Emergency assistance funds may not be used to pay for the following: (3-20-04)

a. Medical services reimbursable by Medicaid regardless of whether the individual is receiving or eligible for Medicaid. (3-20-04)

b. Services provided to meet a family's on going basic needs including housing, food, clothing, transportation, and household goods that extend beyond the one hundred twenty (120) days. (3-20-04)

c. Services available through other community resources. (3-20-04)

d. Child care that is not considered respite care. (3-20-04)

e. Medical or automobile insurance. (3-20-04)

f. Down payment or purchases of vehicles or real property. (3-20-04)

03. Funding Restrictions. The Department may take action to reduce emergency assistance payments when available funding is insufficient. (3-20-04)

301. -- 399. (RESERVED)

400. CHILD WELFARE SOCIAL SERVICES.

01. Child Welfare Social Services. Designated staff may provide services to families with an

emergency condition as described in Subsections 100.02.a. and 100.02.b. of these rules. The types of services that may be provided are: (3-20-04)

a. Information and referrals; (3-20-04)

b. Service coordination; (3-20-04)

c. Court-related activities; (3-20-04)

d. Intensive in-home services; (3-20-04)

e. Day treatment; (3-20-04)

f. Counseling; (3-20-04)

g. Companion services; (3-20-04)

h. Non-residential substance abuse treatment; (3-20-04)

i. Community-based assessments; and (3-20-04)

j. Respite and shelter care. (3-20-04)

02. Additional Services. Additional services may be purchased to meet the needs related to the family's emergency condition as described in Subsections 100.02.a. and 100.02.b. of these rules, in order to avoid out-of-home placement for the child or to expedite family reunification. (3-20-04)

401. -- 409. (RESERVED)

410. CHILD WELFARE EMERGENCY ASSISTANCE PROGRAM ADMINISTRATION.

01. Assistance Program. Designated staff will engage in activities incidental and necessary for the proper and efficient administration of the child welfare emergency assistance program relating to families who meet emergency conditions described in Section 100 of these rules. (3-20-04)

02. Administrative Duties. Administrative duties will include the following: (3-20-04)

a. Complete the eligibility process including receiving reports and referrals indicating emergency conditions, taking applications, and any documentation necessary to administer the emergency assistance program. (3-20-04)

b. Complete risk assessments; (3-20-04)

c. Court-related activities as needed; (3-20-04)

d. Develop family plans to help stabilize the family by authorizing needed services; (3-20-04)

e. Make payments, complete reporting and documentation required to provide services for the emergency conditions of the family; (3-20-04)

f. Provide training to Department staff and service providers; and (3-20-04)

g. Provide other administrative activities as needed. (3-20-04)

411. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has delegated to the Department and the Board of Health and Welfare, the responsibility to establish and enforce rules for a comprehensive and coordinated program for the treatment of substance use disorders. This authority is found in the Alcoholism and Intoxication Treatment Act, Title 39, Chapter 3. The Director of the Department is authorized to administer rules to promote health, safety, and services dealing with substance use disorders under Sections 56-1003, 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code. (7-1-18)

001. TITLE, SCOPE, AND PURPOSE.

01. Title. These rules are titled IDAPA 16.07.17, "Substance Use Disorders Services." (7-1-16)

02. Scope. This chapter sets the standards for providing substance use disorders services administered under the Department's Division of Behavioral Health. (7-1-16)

03. Purpose. The purpose of these rules is to: (7-1-16)

a. Provide participant eligibility criteria, application requirements, and appeals process for services administered under the Department's Division of Behavioral Health; and (7-1-16)

b. Establish requirements for quality of substance use disorders treatment, care, and services provided by behavioral health and recovery support services programs. (7-1-16)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

01. Appeal of Denial Based on Eligibility Requirements. Administrative appeals from a denial of substance use disorder services based on eligibility requirements are governed by the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (7-1-16)

02. Appeal of Decision Based on Clinical Judgment. Decisions involving clinical judgment, including the category of services, the particular provider of services, or the duration of services, are reserved to the Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (7-1-16)

004. INCORPORATION BY REFERENCE.
The following are incorporated by reference in this chapter of rules: (5-8-09)

01. ASAM. American Society of Addiction Medicine (ASAM) Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions, Third Edition, 2013. A copy of this manual is available by mail at the American Society of Addiction Medicine, 4601 North Park Ave., Suite 101, Chevy Chase, MD 20815; by telephone and fax, (301) 656-3920 and (301) 656-3815 (fax); or on the internet at http://www.asam.org. (7-1-16)

02. DSM-5. American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5) Washington, DC, American Psychiatric Association, 2000. Copies of the manual are available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington VA 22209-3901. (7-1-16)

03. Guidelines for the Accreditation of Opioid Treatment Programs (OTP). Substance Abuse and Mental Health Services Administration, Office of Pharmacological and Alternative Therapies. Attention: OTP Certification Program, Room 2-1086, 1 Choke Cherry Road, Rockville, MD 20857; or on the internet at https://www.samhsa.gov/medication-assisted-treatment/opioid-treatment-programs for an overview of certification regulations, and http://www.dpt.samhsa.gov/pdf/OTPAccredGuidelines-2007.pdf for specific guidelines dated July 20, 2007. (7-1-16)

***005.* -- 008. (RESERVED)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. All providers of substance use disorder recovery

support services may be subject to the Department enhanced clearance as defined in IDAPA 16.05.06, "Criminal History and Background Checks," Section 010. (7-1-18)

a. Recovery Support Services providers that are subject to the Department enhanced clearance must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," Section 126, for applicants receiving a Department enhanced clearance. (7-1-18)

b. For the purpose of processing background checks for these individuals, a recovery support services program will be considered a Behavioral Health Program as that class of individuals is described in IDAPA 16.05.06, "Criminal History and Background Checks," Section 126. (7-1-18)

02. Availability to Work or Provide Service. An individual listed in Subsection 009.01 of this rule is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted their criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting their criminal history and background check. (7-1-18)

a. An individual is allowed to work or have access to participants only under supervision until the criminal history and background check is completed. (7-1-18)

b. An individual, who does not receive a criminal history and background check clearance or have a Behavioral Health waiver granted under the provisions in Subsection 009.03 of this rule, must not provide direct care or services, or serve in a position that requires regular contact with participants. (7-1-18)

03. Waiver of Criminal History and Background Check Denial. A certified or uncertified individual who is seeking to provide Peer Support Specialist, Family Support Partner, or Recovery Coach services that receives an unconditional denial or a denial after an exemption review by the Department's Criminal History Unit, may apply for a Behavioral Health waiver. (7-1-18)

010. DEFINITIONS - A THROUGH F.

For the purposes of these rules, the following terms are used as defined below: (5-8-09)

01. Adolescent. An individual under the age of eighteen (18) years. (7-1-16)

02. Adult. An individual eighteen (18) years or older. (5-8-09)

03. Applicant. An adult or adolescent individual who is seeking alcohol or substance use disorders services through the Department who has completed or had completed on their behalf an application for alcohol or substance use disorder services. (5-8-09)

04. ASAM. Refers to the third edition manual of the patient placement criteria for the treatment of substance-related disorders, published by the American Society of Addiction Medicine, incorporated by reference in Section 004 of these rules. (7-1-16)

05. Clinical Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify an individual's strengths, weaknesses, problems, needs, and determine priorities so that a service plan can be developed. (7-1-16)

06. Clinical Judgment. Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and substance use disorders service needs. (7-1-16)

07. Clinical Necessity. Substance use disorder services are deemed clinically necessary when the Department, in the exercise of clinical judgment, would recommend services to an applicant for the purpose of evaluating, diagnosing, or treating substance use disorders that are: (7-1-16)

a. Clinically appropriate, in terms of type, frequency, extent, site and duration, and considered effective for treating the applicant's substance use disorder; and (7-1-16)

b. Not primarily for the convenience of the applicant or service provider and not more costly than an alternative service or sequence of services and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's substance use disorder. (7-1-16)

08. Department. The Idaho Department of Health and Welfare or its designee. (7-1-16)

09. Eligibility Screening. The collection of data, analysis, and review, which the Department uses to screen and determine whether an applicant is eligible for adult or adolescent substance use disorder services available through the Department. (7-1-16)

10. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: http://aspe.hhs.gov/poverty/. (5-8-09)

011. DEFINITIONS - G THROUGH Z.
For the purposes of these rules, the following terms are used as defined below: (7-1-14)

01. Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC). A board affiliated with the International Certification Reciprocity Consortium/Alcohol and Other Drug Abuse (ICRC). The IBADCC is the certifying entity that oversees credentialing of Idaho Student of Addiction Studies (ISAS), and Certified Alcohol/ Drug Counselors (CADC) in the state of Idaho. The IBADCC may be contacted at: PO Box 1548, Meridian, ID 83680; phone (208) 468-8802; Fax: (208) 466-7693; e-mail: IBADCC@ibadcc.org; http://ibadcc.org/. (7-1-16)

02. Idaho Student of Addiction Studies (ISAS). An entry-level certification for substance use disorder treatment granted by the Idaho Board of Alcohol/Drug Counselor Certification. (7-1-16)

03. Individualized Service Plan. A written action plan based on an eligibility screening and clinical assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives and the criteria for terminating the specified interventions. (7-1-16)

04. Intensive Outpatient Services. Educational classes and individual or group counseling consisting of regularly scheduled sessions within a structured program, for a minimum of nine (9) hours of treatment per week for adults and six (6) hours of treatment per week for adolescents. (7-1-16)

05. Medication Assisted Treatment (MAT). MAT is the use of medications, in combination with counseling and behavioral therapies, to provide a whole-patient approach to the treatment of substance use disorders. (7-1-16)

06. Network Treatment Provider. A treatment provider who has approval through the Department and is contracted with the Department's Management Service Contractor. A list of network providers can be found at the Department's website. The list is also available by calling these telephone numbers: 1 (800) 922-3406; or dialing 211. (7-1-16)

07. Opioid Treatment Program. This program is specifically offered to a participant who has opioids as their substance use disorder. Services are offered under the guidelines of a federally accredited program. (7-1-16)

08. Outpatient Services. Educational classes and individual or group counseling consisting of regularly scheduled sessions within a structured program for up to eight (8) hours of treatment per week for adults and five (5) hours of treatment per week for adolescents. (7-1-16)

09. Priority Population. Priority populations are populations who receive services ahead of other persons and are determined yearly by the Department. A current list of the priority population is available from the Department. (7-1-16)

10. **Recovery Support Services**. Non clinical services designed to initiate, support, and enhance recovery. These services may include: safe and sober housing that is staffed; transportation; child care; life skills education; drug testing; peer to peer mentoring; and case management. (7-1-16)

11. **Residential Treatment Services**. A planned and structured regimen of treatment provided in a 24-hour residential setting. Residential programs serve individuals who, because of function limitations need safe and stable living environments and 24-hour care. (7-1-16)

12. **Substance-Related Disorders**. Substance-related disorders include disorders related to the taking of alcohol or another addictive drug, to the side effects of a medication, and to toxin exposures. They include substance use disorders, and substance intoxication, substance withdrawal, and substance-induced disorders as defined in the DSM5. (7-1-16)

13. **Substance Use Disorder**. A substance use disorder is evidenced by a cluster of cognitive, behavioral, and physiological symptoms indicating that the individual continues using a substance despite significant substance-related problems. According to the DSM-5, diagnosis of a substance use disorder is based on a pathological pattern of behaviors related to use of the substance. (7-1-16)

14. **Withdrawal Management**. Services necessary to monitor and manage the process of withdrawing a person from a specific psychoactive substance in a safe and effective manner. (7-1-16)

012. -- 099. (RESERVED)

PARTICIPANT ELIGIBILITY
(Sections 100 - 199)

100. ACCESSING SUBSTANCE USE DISORDERS SERVICES.
The Department's adult and adolescent substance use disorders services may be accessed by eligible applicants completing an application for services and eligibility screening. (7-1-16)

101. ELIGIBILITY SCREENING AND CLINICAL ASSESSMENT.

01. Eligibility Screening. A screening for eligibility substance use disorders services through the Department is based on the eligibility requirements under Section 102 of these rules. When an applicant meets eligibility screening criteria they may be eligible for substance use disorders services through the Department. An applicant not meeting eligibility screening criteria will be referred to other appropriate community services. Each applicant is required to complete an application for Substance Use Disorders Services. When an applicant refuses to complete the application, the Department reserves the right to discontinue the screening process for eligibility. The eligibility screening must be directly related to the applicant's substance-related disorder and level of functioning, and will include: (7-1-16)

a. Application for Substance Use Disorders Services; (7-1-16)

b. Notice of Privacy Practice; and (7-1-16)

c. Authorization for Disclosure. (5-8-09)

02. Clinical Assessment. When the applicant is found eligible for a substance use disorders services assessment after completion of the eligibility screening, the applicant will be authorized to receive a clinical assessment with a Department's network treatment provider. (7-1-16)

102. ELIGIBILITY DETERMINATION.

01. Determination of Eligibility for Substance Use Disorders Services. The Department may limit or prioritize adult and adolescent substance use disorder services, impose income limits, define eligibility criteria, and establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the

degree of financial need, the degree of clinical need, or other factors. (7-1-16)

02. Eligibility Requirements. To be eligible for substance use disorders services through a voluntary application to the Department, the applicant must: (7-1-16)

a. Be an adult or adolescent with family income at or below two hundred percent (200%) of federal poverty guidelines; (5-8-09)

b. Be a resident of the state of Idaho; (5-8-09)

c. Be a member of a priority population; (7-1-16)

d. Meet diagnostic criteria for a substance-related disorder as described in the DSM-5; and (7-1-16)

e. Meet specifications in each of the ASAM dimensions required for the recommended level of care. (7-1-16)

103. NOTICE OF CHANGES IN ELIGIBILITY FOR SUBSTANCE USE DISORDERS SERVICES.
The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for substance use disorders services. (7-1-16)

104. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. Within two (2) business days of receiving a completed eligibility screening or assessment, or both, the Department will notify the applicant or the applicant's designated representative of its eligibility determination. When the applicant is not eligible for services through the Department, the applicant or the applicant's designated representative will be notified in writing. The written notice will include: (7-1-16)

a. The applicant's name and identifying information; (5-8-09)

b. A statement of the decision; (5-8-09)

c. A concise statement of the reasons for the decision; and (5-8-09)

d. The process for pursuing an administrative appeal regarding eligibility determinations. (5-8-09)

02. Right to Accept or Reject Substance Use Disorders Services. When the Department determines that an applicant is eligible for substance use disorders services through the Department, an individual has the right to accept or reject substance use disorders services offered by the Department, unless imposed by law or court order. (7-1-16)

03. Reapplication for Substance Use Disorders Services. If the Department determines that an applicant is not eligible for substance use disorders services through the Department, the applicant may reapply at any time upon a showing of a change in circumstances. (7-1-16)

105. -- 119. (RESERVED)

120. FINANCIAL RESPONSIBILITY FOR SUBSTANCE USE DISORDERS SERVICES.
An individual receiving substance use disorders services through the Department is responsible for paying for the services received. The financial responsibility for each service is based on the individual's ability to pay as determined in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (7-1-16)

121. -- 149. (RESERVED)

150. SELECTION OF SERVICE PROVIDERS.
A participant who is eligible for substance use disorders services administered by the Department can choose a

substance use disorders service provider from the approved list of Network Treatment Providers for services needed. Treatment services must be within the recommended level of care according to ASAM based on the individual's needs identified in the assessment and resulting individualized service plan. A participant within the criminal justice system may have a limited number of providers from which to choose. (7-1-16)

151. -- 199. (RESERVED)

SUBSTANCE USE DISORDER SERVICES
(Sections 200 - 600)

200. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL PERSONNEL REQUIRED. Each behavioral health program providing substance use disorders services must employ the number and variety of staff needed to provide the services and treatments offered by the program as a multidisciplinary team. The program must employ at least one (1) qualified substance use disorders professional for each behavioral health program location. (7-1-16)

01. Qualified Substance Use Disorders Professional. A qualified substance use disorders professional includes individuals with the following qualifications: (7-1-16)

a. Idaho Board of Alcohol/Drug Counselor Certification - Certified Alcohol/Drug Counselor; (7-1-16)

b. Idaho Board of Alcohol/Drug Counselor Certification - Advanced Certified Alcohol/Drug Counselor; (7-1-16)

c. Northwest Indian Alcohol/Drug Specialist Certification - Counselor II or Counselor III; (7-1-16)

d. National Board for Certified Counselors (NBCC) - Master Addictions Counselor (MAC); (7-1-16)

e. "Licensed Clinical Social Worker" (LCSW) or a "Licensed Masters Social Worker" (LMSW) licensed under Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners"; (7-1-16)

f. "Marriage and Family Therapist" or "Associate Marriage and Family Therapist," licensed under Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (7-1-16)

g. "Nurse Practitioner" licensed under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing"; (7-1-16)

h. "Clinical Nurse Specialist" licensed under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing"; (7-1-16)

i. "Physician Assistant" licensed under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants"; (7-1-16)

j. "Licensed Professional Counselor" (LPC) or a "Licensed Clinical Professional Counselor" (LCPC) licensed under Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists"; (7-1-16)

k. "Psychologist" or "Psychologist Extender" licensed under Title 54, Chapter 23, Idaho Code, and IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners"; (7-1-16)

l. "Physician" licensed under Title 54, Chapter 18, Idaho Code; and (7-1-16)

m. "Licensed Registered Nurse (RN)" licensed under Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-16)

02. Qualified Substance Use Disorders Professional Prior to May 1, 2010. When an individual was recognized by the Department as a qualified professional in a substance use disorders services program prior to May 1, 2010, and met the requirements at that time, they will continue to be recognized by the Department as a qualified substance use disorders professional. (7-1-16)

201. -- 209. (RESERVED)

210. QUALIFIED SUBSTANCE USE DISORDERS PROFESSIONAL TRAINEE.
Each qualified substance use disorders professional trainee practicing in the provision of substance use disorders services must meet the requirements in these rules. (7-1-16)

01. Informed of Qualified Substance Use Disorders Professional Trainee Providing Treatment. All behavioral health program staff, participants, their families, or guardians must be informed when a qualified substance use disorders professional trainee is providing treatment services to participants. (7-1-16)

02. Work Qualifications for Qualified Substance Use Disorders Professional Trainee. A qualified substance use disorders professional trainee must meet one (1) of the following qualification to begin work: (7-1-16)

a. Idaho Student in Addiction Studies (ISAS) certification; (7-1-16)

b. Formal documentation as a Northwest Indian Alcohol/Drug Specialist Counselor I; or (7-1-16)

c. Formal documentation of current enrollment in a program for qualifications in Section 200 of these rules. (7-1-16)

03 Continue as Qualified Substance Use Disorders Professional Trainee. An individual who has completed a program listed in Section 200 of these rules and is awaiting licensure can continue as a qualified substance use disorders professional trainee at the same agency for a period of six (6) months from the date of program completion. (7-1-16)

211. -- 299. (RESERVED)

300. SERVICES FOR ADOLESCENTS.
Behavioral health programs providing substance use disorders treatment to adolescents must comply with the following requirements: (7-1-16)

01. Separate Services From Adults. Each program providing adolescent program services must provide the services separate from adult program services. The program must ensure the separation of adolescent participants from adult participants except as required in Subsections 300.03 and 300.04 of this rule. (7-1-16)

02. Residential Care as an Alternative to Parental Care. Any program that provides care, control, supervision, or maintenance of adolescents for twenty-four (24) hours per day as an alternative to parental care must meet the following criteria: (7-1-16)

a. Be licensed under the "Child Care Licensing Act," Title 39, Chapter 12, Idaho Code, according to IDAPA 16.06.02, "Child Care Licensing"; or (7-1-16)

b. Be certified by the Department of Juvenile Corrections according to IDAPA 05.01.02, "Rules and Standards for Secure Juvenile Detention Centers." (7-1-16)

03. Continued Care of an Eighteen-Year-Old. An adolescent who turns the age of eighteen (18), and is receiving outpatient or intensive outpatient treatment in a state-approved behavioral health program, may remain in the program under continued care described in Subsection 300.03 of this rule. The individual may remain in the program for: (7-1-16)

a. Up to ninety (90) days after their eighteenth birthday; or (7-1-16)

b. Until the close of the current school year for an individual attending school. (7-1-16)

04. Documentation Requirements for Continued Care. Prior to accepting an individual into continued care, the program must assure and document the following; (7-1-16)

a. A signed voluntary agreement to remain in the program or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. (7-1-16)

b. Clinical staffing for appropriateness of continued care with clinical documentation; (7-1-16)

c. Verification the individual in continued care was in the care of the program prior to their eighteenth birthday. (7-1-16)

d. Verification that the individual needs to remain in continued care in order to complete treatment, education, or other similar needs. (7-1-16)

05. Licensed Hospital Facilities. Facilities licensed as hospitals under Title 39, Chapter 13, Idaho Code, are exempt from the requirements in Subsections 300.01 through 300.04 of this rule. (7-1-16)

301. -- 349. (RESERVED)

350. RECOVERY SUPPORT SERVICES.
Each program must meet the minimum requirements in these rules to provide recovery support services for the following services. (7-1-16)

01. Case Management. (7-1-16)

02. Alcohol and Drug Screening. (7-1-16)

03. Child Care. (7-1-16)

04. Transportation. (7-1-16)

05. Life Skills. (7-1-16)

06. Staffed Safe and Sober Housing for Adolescents. (7-1-16)

07. Staffed Safe and Sober Housing for Adults. (7-1-16)

351. -- 354. (RESERVED)

355. CASE MANAGEMENT SERVICES.
Each program providing case management services must comply with the *following* requirements. *( )*

01. No Duplication of Services. Case management services cannot duplicate services currently provided under another program. (7-1-16)

02. Based on Assessment. Case management services are based on an assessment of participant's needs. (7-1-16)

03. Required Service Plan. Case management services are included on the participant's service plan. (7-1-16)

356. -- 359. (RESERVED)

360. ALCOHOL AND DRUG SCREENING.

Each program providing alcohol and drug screenings must comply with the requirements in this rule. (7-1-16)

01. Drug Testing Policies and Procedures. The program must have policies and procedures regarding the collection, handling, testing, and reporting of drug-testing specimens. Policies and procedures must include elements contributing to the reliability and validity of the screening and testing process. (7-1-16)

a. Direct observation of specimen collection; (7-1-16)

b. Verification temperature and measurement of creatinine levels in urine samples to determine the extent of water loading; (7-1-16)

c. Specific, detailed, written procedures regarding all aspects of specimen collection, specimen evaluation, and result reporting; (7-1-16)

d. A documented chain of custody for each specimen collected; (7-1-16)

e. Quality control and quality assurance procedures for ensuring the integrity of the process; and (7-1-16)

f. Procedures for verifying accuracy when drug test results are contested. (7-1-16)

02. Release of Results. The program must have a policy and procedures for releasing the results of an alcohol and drug screening. (7-1-16)

03. On-site Testing. A program performing on-site testing must use alcohol and drug screening tests approved by the U.S. Food and Drug Administration. (7-1-16)

04. Laboratory Used for Testing. Each laboratory used for lab-based confirmation or lab-based testing must meet the requirements in and be approved under IDAPA 16.02.06, "Quality Assurance for Idaho Clinical Laboratories." (7-1-16)

361. -- 364. (RESERVED)

365. CHILD CARE SERVICES.
Each program providing child care services must comply with the requirements in this rule. (7-1-16)

01. Documentation of Child Care. A program must maintain documentation of current daycare license or written documentation that child care is provided while parent is on-site. (7-1-16)

02. Policies and Procedures for Child Care Services. The program must have policies and procedures that ensure the well-being and safety of children receiving child care services. (7-1-16)

366. -- 369. (RESERVED)

370. TRANSPORTATION SERVICES.
Each program providing transportation services must comply with the requirements in this rule. (7-1-16)

01. Documentation of Driver's License. A program that provides transportation to participants must maintain documentation of a valid driver's license for each individual who provides the service. (7-1-16)

02. Transportation Vehicles and Drivers. A program must adhere to all state and federal laws, rules, and regulations applicable to drivers and types of vehicles used. (7-1-16)

03. Insurance Liability Coverage. A behavioral health provider must carry at least the minimum insurance coverage required by Idaho law for each vehicle used. When the program permits an employee to transport participants in an employee's personal vehicle, the program must ensure that insurance coverage is carried to cover those services. (7-1-16)

04. Direct Routes. A program must provide transportation by the most direct route practical. (7-1-16)

05. Safety of Participants. A program must ensure the safety and well-being of all participants transported. This includes maintaining and operating vehicles in a manner that ensures protection of the health and safety of each participant transported. The program must meet the following requirements: (7-1-16)

a. Prohibit the driver from using a cell phone while transporting a participant; (7-1-16)

b. Prohibit smoking in the vehicle; (7-1-16)

c. All vehicles must be equipped with a first aid kit and fire extinguisher; (7-1-16)

d. All vehicles must be equipped with appropriate safety restraints; and (7-1-16)

e. All vehicles must be in good working order. (7-1-16)

06. Driver Must be Eighteen. The driver of a motor vehicle who transports program participants must be at least eighteen (18) years of age. (7-1-16)

371. -- 374. (RESERVED)

375. LIFE SKILLS SERVICES.
Each program that provides life skills services must comply with the requirements in this rule. (7-1-16)

01. Personal and Family Life Skills. A program for life skills services must be non-clinical and designed to enhance personal and family skills for each participant's needs. Life skills services for work and home, reduce marriage and family conflict, and develop attitudes and capabilities that support the adoption of healthy, recovery-oriented behaviors and healthy re-engagement with the community for the participant. (7-1-16)

02. Individual and Group Activities. A program providing life skills services may be provided on an individual basis or in a group setting and can include activities that are culturally, spiritually, or gender-specific. (7-1-16)

03. No Duplication of Services. Life skills services provided by a program must not duplicate services currently provided under another program. (7-1-16)

376. -- 379. (RESERVED)

380. STAFFED SAFE AND SOBER HOUSING FOR ADOLESCENTS.
Each program that provides staffed safe and sober housing for adolescents must comply with the requirements in this rule. (7-1-16)

01. Licensed. A program providing staffed safe and sober housing services for adolescents must be licensed as a Children's Residential Care Facility under IDAPA 16.06.02, "Child Care Licensing." (7-1-16)

02. Policies and Procedures. A program providing safe and sober housing for adolescents must have written policies and procedures that establish house rules and requirements and include procedures for monitoring participant compliance and consequences for violating house rules and requirements. (7-1-16)

03. Safe and Sober Recovery Skills. Safe and sober housing services are directed toward applying recovery skills, preventing relapse, improving social functioning and ability for self-care, promoting personal responsibility, developing a social network supportive of recovery, and reintegrating the each adolescent into the worlds of school, work, family life, and preparing for independent living. (7-1-16)

381. -- 384. (RESERVED)

385. STAFFED SAFE AND SOBER HOUSING SERVICES FOR ADULTS.
Each program that provides staffed safe and sober housing for adults must comply with the requirements in this rule. (7-1-16)

01. Policies and Procedures. A program providing safe and sober housing must have written policies and procedures that establish house rules and requirements and include procedures for monitoring participant compliance and consequences for violating house rules and requirements. (7-1-16)

02. Staff Required. A staff person must be available to residents twenty-four (24) hours per day, seven (7) days a week, and conduct daily site visits: At a minimum, staff must include: (7-1-16)

a. A house manager who is on-site at a minimum of twenty (20) hours a week; or (7-1-16)

b. A housing coordinator who is off-site, but monitors house activities on a daily basis. (7-1-16)

03. Certified Home Inspection. Each staffed safe and sober housing for adults program must have a certified home inspection for each location. There must be documentation that any major health and safety issues identified in the certified home inspection are corrected. (7-1-16)

04. Safety Inspection. Each staffed safe and sober housing location must be inspected weekly by staff to determine if hazards or potential safety issues exist. A record of the inspection must be maintained that includes the date and time of the inspection, problems encountered, and recommendation for improvement. (7-1-16)

386. -- 389. (RESERVED)

390. THERAPEUTIC ENVIRONMENT OF RESIDENTIAL TREATMENT.
Each program providing twenty-four (24) hours per day residential treatment must provide a therapeutic environment that enhances the participants positive self-image, preserves their human dignity, and meets the minimum standards in these rules. (7-1-16)

01. Living Conditions. A residential treatment program must meet the following requirements regarding each participant's therapeutic environment: (7-1-16)

a. Each participant *is* allowed to wear *their* own clothing. If clothing is provided by the program, it *is* be appropriate and not demeaning. *( )*

b. Each participant *is* allowed to keep and display personal belongings, and to add personal touches to the decoration of own room. *( )*

c. A residential treatment program *has* policies and procedures for storage, availability, and use of personal possessions, personal hygiene items, and other belongings. *( )*

d. The residential treatment program *has* ample closet and drawer space for the storage of personal property and property provided for each participant's use. *( )*

02. Resident Sleeping Rooms. A residential treatment program must assure that: (7-1-16)

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (7-1-16)

b. Sufficient window space *is* provided for natural light and ventilation. Emergency egress or rescue windows comply with the state-adopted Uniform Building Code. This code is available from the International Code Council, 4051 West Fossmoor Rd. Country Club Hills, IL 60478-5795, phone:1-888-422-7233 and online at http://www.iccsafe.org; *( )*

c. Square footage requirements for resident sleeping rooms provide at least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there *is* at least forty-five (45)

square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. ( )

d. Window screens *are* provided on operable windows; ( )

e. Doorways to sleeping areas *are* provided with doors in order to provide privacy; and ( )

f. Separate bedrooms and bathrooms *are* provided for men and women. ( )

03. Contributions of Therapeutic Environment. The environment of the residential treatment program must *meet the following requirements*: ( )

a. Areas *are* available for a full range of social activities for all participants, from two (2) person conversations to group activities; ( )

b. Furniture and furnishings *are* comfortable and maintained in clean condition and good repair; and ( )

c. All equipment and appliances *are* maintained in good operating order. ( )

391. -- 394. (RESERVED)

395. RESIDENTIAL WITHDRAWAL MANAGEMENT SERVICES.
Each program providing substance use disorders residential withdrawal management services must comply with the requirements in this rule. (7-1-16)

01. Residential Withdrawal Management Services. (7-1-16)

a. Residential withdrawal management programs must provide living accommodations in a structured environment for individuals who require twenty-four (24) hour per day, seven (7) days a week, supervised withdrawal management services. (7-1-16)

b. Withdrawal management services must be available continuously twenty-four (24) hours per day, seven (7) days per week. (7-1-16)

c. Each withdrawal management program must have clear written policies and procedures for the withdrawal management of participants. The policies and procedures must be reviewed and approved by a medical consultant with specific knowledge of best practices for withdrawal management. (7-1-16)

d. The level of monitoring of each participant or the physical restrictions of the environment must be adequate to prevent a participant from causing serious harm to self or others. (7-1-16)

e. Each withdrawal management program must have provisions for any emergency care required. (7-1-16)

f. Each withdrawal management program must have written policies and procedures for the transfer of participants from one (1) withdrawal management program to another, when necessary. (7-1-16)

g. Each withdrawal management program must have written policies and procedures for dealing with a participant who leaves against professional advice. (7-1-16)

02. Residential Withdrawal Management Staffing. Each withdrawal management program must have twenty-four (24) hour per day, seven (7) days a week, trained personnel staff coverage. (7-1-16)

a. A minimum staff to participant ratio of one (1) trained staff to six (6) participants must be maintained twenty-four (24) hours per day, seven (7) days a week. (7-1-16)

b. Each staff member responsible for direct care during withdrawal management must have completed CPR training, a basic first-aid training course, and additional training specific to withdrawal management prior to being charged with the responsibility of supervising participants. (7-1-16)

03. Transfer to an Outside Program From Residential Withdrawal Management. The residential treatment program must have policies and procedures established for transferring a participant to another program. (7-1-16)

396. -- 399. (RESERVED)

400. RESIDENTIAL TREATMENT SERVICES FOR ADOLESCENTS.
A behavioral health program providing adolescent residential treatment for substance use disorders must comply with the requirements in this rule. (7-1-16)

01. Licensed for Adolescent Residential Treatment. Each residential treatment program must be licensed as a Children's Residential Care Facility under IDAPA 16.06.02, "Child Care Licensing." ( )

02. Admission Criteria for Adolescent Residential Treatment. A behavioral health program providing adolescent residential treatment for substance use disorders must only admit adolescents with a primary substance use disorder diagnosis. (7-1-16)

03. Focus of Adolescent Residential Treatment Services. Adolescent residential treatment services for substance use disorders must focus primarily on substance use disorders diagnosed problems. Care must include hours specific to substance use disorders treatment provided by clinical staff, including planned and structured education, individual and group counseling, family counseling, and motivational counseling. An adolescent residential treatment program must provide: (7-1-16)

a. Individual and group counseling sessions; (7-1-16)

b. Family treatment services; and (7-1-16)

c. Substance use disorders education sessions; (7-1-16)

04. Staff Training in Adolescent Residential. Annual staff training must include: (7-1-16)

a. Cultural sensitivity and diversity; (7-1-16)

b. Behavior management; and (7-1-16)

c. Adolescent development issues appropriate to the population served. (7-1-16)

05. Residential Care Provided to Adolescents and Adults. A behavioral health program providing residential treatment services to adolescents and adults must ensure the separation of adolescent participants from adult participants. This includes not sharing the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Adolescents must not dine with adult residents. Adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults except under continued care in compliance with IDAPA 16.06.02, "Child Care Licensing," and Subsections 300.03 and 300.04 of these rules. (7-1-16)

06. After Care Plan for Adolescent in Residential. An adolescent's residential care facility that provides substance use disorders treatment must develop a written plan of after care services for each adolescent that includes procedures for reintegrating the adolescent into the family and community as appropriate, and outpatient and other continued care services recommended. (7-1-16)

401. -- 404. (RESERVED)

405. RESIDENTIAL TREATMENT SERVICES FOR ADULTS.

A behavioral health program providing adult residential treatment for substance use disorders must comply with the requirements in this section. (7-1-16)

01. Residential Treatment Services for Adults. (7-1-16)

a. A residential treatment program provides living accommodations in a structured environment for adults who require twenty-four (24) hour per day, seven (7) days a week, supervision. (7-1-16)

b. Services must include assessment, treatment, and referral components. (7-1-16)

c. The residential treatment program must have policies and procedures for medical screening, care of participants requiring minor treatment or first aid, and handling of medical emergencies. These provisions must be approved by the staff and consulting physician. (7-1-16)

d. The residential treatment program must have written provisions for referral or transfer to a medical facility for any person who requires nursing or medical care. (7-1-16)

e. Recreational activities must be provided for the participants. (7-1-16)

02. Staffing Adult Residential. The residential treatment program must have qualified staff to maintain appropriate staff to participant ratios. (7-1-16)

a. The program must have one (1) qualified substance use disorders professional staff member for every ten (10) participants. (7-1-16)

b. The program must have other staff sufficient to meet the ratio of one (1) staff person to twelve (12) participants continuously, twenty-four (24) hours per day. (7-1-16)

03. Residential Care Provided to Adolescents and Adults. A behavioral health program providing residential care to adolescents and adults must ensure the separation of adolescent participants from adult participants. Adults and adolescents can not share the same wing, or the same floor for recreation, living, sleeping, and restroom facilities. Adolescents must not dine with adult residents. Adolescents must not share treatment groups, recreation, counseling sessions, educational programs, or treatment programs with adults unless there is a documented therapeutic reason. (7-1-16)

406. -- 409. (RESERVED)

410. OUTPATIENT TREATMENT SERVICES FOR ADOLESCENTS AND ADULTS.
A behavioral health program providing outpatient or intensive outpatient substance use disorder services must comply with the requirements in this section. (7-1-16)

01. Treatment Services. (7-1-16)

a. Counseling services must be provided through the outpatient program on an individual, family, or group basis; (7-1-16)

b. Services must include educational instruction and written materials on the nature and effects of alcohol and substance use disorders and the recovery process. (7-1-16)

c. The behavioral health program must provide adjunct services or refer the participant to adjunct services as indicated by participant need. (7-1-16)

02. Staffing Ratios. The behavioral health program must have qualified staff to maintain appropriate staff to participant ratios as required in Subsections 410.02.a. through 410.02.c. of this rule. (7-1-16)

a. An outpatient program must employ at a minimum one (1) qualified substance use disorders professional staff person for every fifty (50) participants. (7-1-16)

b. An intensive outpatient program must employ at a minimum one (1) qualified substance use disorders professional staff person for every thirty (30) participants. (7-1-16)

c. The maximum caseload for one (1) qualified substance use disorders professional in any outpatient or intensive outpatient program is fifty (50) participants. (7-1-16)

03. Off-site Treatment Service Delivery Settings. Provision of outpatient or intensive outpatient treatment services outside of an approved behavioral health program location: (7-1-16)

a. Services must be provided by qualified substance use disorders professional. (7-1-16)

b. Services must be provided in a setting that is safe and appropriate to the participant and participant's needs. (7-1-16)

c. Confidentiality according to 42 CFR and HIPAA regulations must be adhered to. (7-1-16)

d. The need and appropriateness of providing off-site treatment is documented. (7-1-16)

411. -- 414. (RESERVED)

415. MEDICATION ASSISTED TREATMENT.

01. Medication Assisted Treatment Services. A behavioral health program providing medication assisted treatment for substance use disorders must make counseling and behavioral therapies available in combination with medication assisted treatment services. (7-1-16)

02. Opioid Treatment Program. An Opioid Treatment Program (OTP) must meet all requirements established under 42 CFR, Section 8.12, Federal Opioid Treatment Standards. These standards are incorporated by reference under Section 004 of these rules including how access the standards. (7-1-16)

416. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Title 39, Chapter 31, Idaho Code, the Idaho Legislature has delegated to the Department of Health and Welfare as the state behavioral health authority the establishment, maintenance, and oversight of the state of Idaho's behavioral health services. Section 39-3140, Idaho Code, authorizes the Department to promulgate and enforce rules to carry out the purposes and intent of the Regional Behavioral Health Services Act. Under Sections 56-1003, 56-1004, Idaho Code, the Director of the Department is authorized to adopt and enforce rules to supervise and administer mental health programs. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.07.19, "Certification of Peer Support Specialists and Family Support Partners." (3-29-17)

02. Scope. These rules establish the minimum qualifications and requirements for certification of peer support specialists and family support partners in Idaho including enforcement actions. (3-29-17)

002. **-- 009. (RESERVED)**

010. DEFINITIONS.
For the purposes of these rules, the following terms apply. (3-29-17)

01. Behavioral Health Program. A behavioral health program refers to an organization offering mental health or substance use disorders treatment services that includes the organization's facilities, management, staffing patterns, treatment, and related activities. (3-29-17)

02. Certificate. A certificate issued by the Department to an individual who is a behavioral health peer support specialist or a family support partner who the Department deems to be in compliance with these rules. (3-29-17)

03. Department. The Idaho Department of Health and Welfare, or its designee. (3-29-17)

04. Director. The Director of the Department of Health and Welfare, or designee. (3-29-17)

05. Family Support Partner. An individual who has lived experience raising a child who has a behavioral health disorder diagnosis, mental illness, or mental illness with a co-occurring substance use disorder, has specialized training related to such care, and who has successfully navigated the various systems of care. (3-29-17)

06. Family Support Partner Services. Family-to-family services are non-clinical support services provided by family support partners who have participated in mental health services, and who have received training in how to share their experiences with others facing similar challenges. (3-29-17)

07. Lived Experience. Life experiences of an individual who has received behavioral health services or has raised a child who is living with a behavioral health diagnosis, mental illness, or mental illness with a co-occurring substance use disorder, and has at least one (1) year of lived experience navigating the behavioral health systems. (3-29-17)

08. Peer Support Services. Non-clinical services are provided by peer support specialists who are on their own recovery journey, and who have received training in supporting others who are actively involved in their own recovery process. (3-29-17)

09. Peer Support Specialist. An individual in recovery from mental illness or mental illness with a co-occurring substance use disorder who uses lived experience and specialized training to assist other individuals in recovery. (3-29-17)

011. -- 099. (RESERVED)

100. APPLICATION FOR CERTIFICATION.
An applicant for any certification by the Department must furnish the following information prior to any certification being issued. (3-29-17)

01. Completed Application. Each applicant must complete and sign an application for certification on forms approved by the Department. (3-29-17)

02. Verification of Education, Training, and Experience. Each applicant must provide verification to the Department of the following: (3-29-17)

a. A copy of their high school diploma, GED certificate, or a Bachelor's degree in a human services field; (3-29-17)

b. Documentation of successful completion of training required for the certification being sought according to the requirements in Sections 200 and 300 of these rules; and (3-29-17)

c. A summary of work or volunteer experience, including documentation of supervised hours. (3-29-17)

03. Code of Ethics Acknowledgment. Each applicant must submit a signed and dated Code of Ethics Acknowledgment. (3-29-17)

101. -- 109. (RESERVED)

110. TYPES OF CERTIFICATION.

01. Peer Support Specialist. (3-29-17)

02. Family Support Partner. (3-29-17)

111. DURATION OF CERTIFICATION.

01. Six-Month Certification. A six (6) month certification applies to an applicant that has completed the requirements in Sections 200 and 300 of these rules for initial certification, but may be lacking work or volunteer experience and supervised hours. (3-29-17)

02. Full Certification. A full certification applies to an applicant that has completed all requirements in Sections 200 and 300 of these rules for certification, including work or volunteer experience and supervised hours. Full certification is valid for one (1) year. (3-29-17)

112. RENEWAL OF CERTIFICATION.

01. Submit Renewal Application. Each certified peer support specialist or certified family support partner who is seeking certification renewal must submit a completed renewal application prior to expiration of current certificate. (3-29-17)

02. Continuing Education. Each certified peer support specialist or certified family support partner must provide documentation of a minimum of ten (10) hours of continuing education as follows: (3-29-17)

a. Continuing education obtained in competency areas listed in training requirements germane to the type of certification being renewed; and (3-29-17)

b. At least one (1) hour of continuing education for each renewal period must be in ethics. (3-29-17)

03. Code of Ethics Acknowledgment. Each certified peer support specialist or certified family support partner must submit a signed and dated Code of Ethics Acknowledgment. (3-29-17)

113. -- 119. (RESERVED)

120. RECIPROCITY.
An applicant for a peer support specialist or a family support partner certificate must be a holder of a current and

active license or certificate at the level for which certification is sought, and be in good standing in the profession, and with the other state who is the authorizing regulatory entity for licensure or certification. (3-29-17)

01. Completed Application. Each applicant must complete and sign an application for reciprocity on forms approved by the Department. (3-29-17)

02. Provide Verification of Education, Training, and Experience. Each applicant seeking reciprocity must provide the Department with the following: (3-29-17)

a. Education experience summary; (3-29-17)

b. Continuing education/training hours received since certification; (3-29-17)

c. Statement of personal experience; and (3-29-17)

d. Work or volunteer experience summary form with documentation of supervised hours. (3-29-17)

03. Code of Ethics Acknowledgment. Each applicant seeking reciprocity must submit a signed and dated Code of Ethics Acknowledgment. (3-29-17)

04. Documentation From Other State. Documentation of licensure or certification must be received from the other state's issuing regulatory agency. The other state's licensing or certification requirements must be substantially equivalent to, or higher than, those required in this chapter of rules. (3-29-17)

121. -- 149. (RESERVED)

150. INACTIVE STATUS.
A certified peer specialist or certified family support partner, in good standing, may request an inactive status due to an inability to meet recertification requirements related to a decline in physical, mental health, or extenuating circumstances. (3-29-17)

01. Request for Inactive Status. An individual who is certified must submit a request in writing to the Department asking for inactive status. (3-29-17)

02. Inactive Certification Status. The Department may grant inactive status to a certified individual for up to one (1) year. (3-29-17)

03. Reactivation of Certification. When the individual desires to reactivate status, a new application and documentation of fulfillment of continuing education requirements for the previous twelve (12) months must be submitted to the Department. (3-29-17)

151. -- 199. (RESERVED)

200. PEER SUPPORT SPECIALIST -- CERTIFICATION QUALIFICATIONS AND REQUIREMENTS.
Each applicant must be at least eighteen (18) years of age and meet the minimum qualifications and requirements listed below to be certified as a Peer Support Specialist in Idaho. (3-29-17)

01. Educational Requirements. Each applicant for a peer support specialist certification must have a high school diploma or GED certificate. *( )*

02. Training Requirements. Each applicant must complete forty (40) hours of training that includes the following Peer Support Specialist competency areas: *( )*

a. Motivation and empowerment; (3-29-17)

b. The stages of recovery and the role peers play within it; (3-29-17)

c. The state behavioral health system and the role peers play within it; (3-29-17)

d. Advocacy for recovery programs and for the peers they serve; (3-29-17)

e. The practice of recovery values: authenticity, self-determination, diversity, and inclusion; (3-29-17)

f. How to tell your recovery story and use your story to help others; (3-29-17)

g. Ethics; (3-29-17)

h. The awareness of risk factors in participants' behaviors and the ability to access appropriate services; (3-29-17)

i. The use of interpersonal and professional communication skills; (3-29-17)

j. Stages of change; (3-29-17)

k. Work place dynamics and processes; (3-29-17)

l. The Certified Peer Support Specialist's roles and duties on the job; (3-29-17)

m. Relationship building; (3-29-17)

n. Family dynamics; (3-29-17)

o. The effects of trauma and use of a trauma informed approach; (3-29-17)

p. Wellness and natural supports; (3-29-17)

q. Boundaries and self-care; (3-29-17)

r. Cultural sensitivity; (3-29-17)

s. Recovery plans; and (3-29-17)

t. Local, state, and national resources. (3-29-17)

03. Work or Volunteer Experience Requirements. Each applicant must obtain supervised experience providing peer support services. A six-month (6) certification may be granted according to Section 111 of these rules to an applicant who lacks the required experience. (3-29-17)

a. An applicant who holds a bachelor's degree in a human services field must document one hundred (100) hours of peer support specialist experience. (3-29-17)

b. An applicant who does not hold a bachelor's degree in a human support services field must document two hundred (200) hours of peer support specialist experience. (3-29-17)

c. An applicant must document at a minimum twenty (20) hours of supervised peer support services work or volunteer experience. (3-29-17)

04. Supervision Requirements. A six-month (6) certification may be granted according to Section 111 of these rules to an applicant who lacks the required work or volunteer supervision hours required in Subsection 200.03 of this rule. (3-29-17)

05. Person Self-Identified with Lived Experience. Each applicant must identify as an individual with lived experience in recovery from mental illness or mental illness with a co-occurring substance use disorder. (3-29-17)

201. -- 249. (RESERVED)

250. PEER SUPPORT SPECIALISTS -- CODE OF ETHICS AND PROFESSIONAL CONDUCT.

01. Peer Support. Peer Support is a helping relationship between mental health clients and Certified Peer Support Specialists. The primary responsibility of Certified Peer Support Specialists is to help those they serve achieve self-directed recovery. They believe that every individual has strengths and the ability to learn and grow. (3-29-17)

02. Certified Peer Support Specialists. Certified peer support specialists are committed to providing and advocating for effective recovery-based services for the people they serve in order for these individuals to meet their own needs, desires, and goals. (3-29-17)

03. Certified Peer Support Specialist Professional Conduct. A certified peer support specialist must: (3-29-17)

a. Seek to role-model recovery; (3-29-17)

b. Respect the rights and dignity of those they serve; (3-29-17)

c. Respect the privacy and confidentiality of those they serve; (3-29-17)

d. Openly share their personal recovery stories with colleagues and those they serve; (3-29-17)

e. Maintain high standards of personal conduct and conduct themselves in a manner that fosters their own recovery; (3-29-17)

f. Never intimidate, threaten, or harass those they serve; never use undue influence, physical force, or verbal abuse with those they serve; and never make unwarranted promises of benefits to those they serve; (3-29-17)

g. Not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of ethnicity, race, gender, sexual orientation, age, religion, national origin, marital status, political belief, or mental or physical disability; (3-29-17)

h. Never engage in sexual/intimate activities with colleagues or those they serve; (3-29-17)

i. Not accept gifts of significant value from those they serve; (3-29-17)

j. Not enter into dual relationships or commitments that conflict with the interests of those they serve; (3-29-17)

k. Not abuse substances under any circumstances while they are employed as a Certified Peer Support Specialist; (3-29-17)

l. Work to equalize the power differentials that may occur in the peer support/client relationship; (3-29-17)

m. Ensure that all information and documentation provided is true and accurate to the best of their knowledge; (3-29-17)

n. Keep current with emerging knowledge relevant to recovery, and openly share this knowledge with their colleagues and those they serve; (3-29-17)

o. Remain aware of their skills and limitations, and do not provide services or represent themselves as expert in areas for which they do not have sufficient knowledge or expertise; and (3-29-17)

p. Not hold a clinical role nor offer primary treatment for mental health issues, prescribe medicine, act as a legal representative or provide legal advice, participate in the determination of competence, or provide counseling, therapy, social work, drug testing, or diagnosis of symptoms and disorders. (3-29-17)

04. Ethics Training. A certified peer support specialist must complete ethics training at least once per year, and maintain personal documentation of completed ethics training. (3-29-17)

05. Comply with Code of Ethics. A certified peer support specialist must understand and comply with these rules and Idaho's Certified Peer Support Specialists Code of Ethics and Professional Conduct. (3-29-17)

251. -- 299. (RESERVED)

300. FAMILY SUPPORT PARTNER -- CERTIFICATION QUALIFICATIONS AND REQUIREMENTS.
Each applicant must be at least eighteen (18) years of age and meet the minimum qualifications and requirements listed below to be certified as a family support partner in Idaho. (3-29-17)

01. Educational Requirements. Each applicant for a family support partner certification must have, at a minimum, a high school diploma or GED certificate. (3-29-17)

02. Training Requirements. Each applicant must complete a minimum of forty (40) hours of training that includes, at a minimum, the following Family Support Partner competency areas: (3-29-17)

a. Overview of mental illness and substance use disorders and their effects on the brain; (3-29-17)

b. Advocacy skills used in multiple systems (children's behavioral health system, education and special education system, child welfare system, and juvenile court system); (3-29-17)

c. Ethics; (3-29-17)

d. The awareness of risk factors in participants' behaviors and the ability to access appropriate services; (3-29-17)

e. The use of interpersonal and professional communication skills; (3-29-17)

f. Stages of change; (3-29-17)

g. Motivation and empowerment; (3-29-17)

h. Parenting special needs children and family dynamics; (3-29-17)

i. The recovery process; (3-29-17)

j. The effects of trauma and use of a trauma-informed approach; (3-29-17)

k. Wellness and natural supports; (3-29-17)

l. Family-centered planning; (3-29-17)

m. Boundaries and self-care; (3-29-17)

n. Cultural sensitivity; (3-29-17)

o. The children's mental health system; (3-29-17)

p. How to tell your story and use your story to help others; (3-29-17)

q. The child and family team and how to be a team player; (3-29-17)

r. Work place dynamics and process; (3-29-17)

s. The Certified Family Support Partner's role and duties on the job; (3-29-17)

t. Relationship building; (3-29-17)

u. Recovery plans; and (3-29-17)

v. Local, state, and national resources. (3-29-17)

03. Work or Volunteer Experience Requirements. Each applicant must obtain supervised experience providing family support services. A six (6) month certification may be granted according to Section 111 of these rules to an applicant who lacks required experience. (3-29-17)

a. An applicant that holds a bachelor's degree in a human services field must document one hundred (100) hours of family support partner experience. (3-29-17)

b. An applicant that does not hold a bachelor's degree in a human support services field must document two hundred (200) hours of family support partner experience. (3-29-17)

c. An applicant must document at a minimum twenty (20) hours of supervised family support services work or volunteer experience. (3-29-17)

04. Supervision Requirements. A six (6) month certification may be granted according to Section 111 of these rules to an applicant who lacks the required work or volunteer supervision hours required in Subsection 300.03 of this rule. (3-29-17)

05. Person Self-Identified with Lived Experience. Each applicant must identify as an individual with lived experience as a parent or adult caregiver who is raising a child or has raised a child who lives with a mental illness or mental illness with a co-occurring substance use disorder. (3-29-17)

301. -- 349. (RESERVED)

350. FAMILY SUPPORT PARTNERS -- CODE OF ETHICS AND PROFESSIONAL CONDUCT.

01. Family Support Principles. These family support principles are intended to serve as a guide for certified family support partners and those who are working toward full certification in their everyday professional conduct that includes various roles, relationships, and levels of responsibilities within their jobs. (3-29-17)

02. Certified Family Support Partner Integrity. In order to maintain high standards of competency and integrity, a certified family support partner must: (3-29-17)

a. Apply the principles of resiliency, wellness and recovery, or both, family-driven approach, youth-guided or youth-driven approach, consumer-driven approach, and peer-to-peer mutual-learning principles in every day interactions with family members; (3-29-17)

b. Promote the family member's ethical decision-making and personal responsibility consistent with that family member's culture, values, and beliefs; (3-29-17)

c. Promote the family members' voices and the articulation of their values in planning and evaluating children's behavioral health related issues; (3-29-17)

d. Teach, mentor, coach, and support family members to articulate goals that reflect each family member's current needs and strengths; (3-29-17)

e. Demonstrate respect for the cultural-based values of the family members engaged in peer support; (3-29-17)

f. Communicate information in ways that are both developmentally and culturally appropriate; (3-29-17)

g. Empower family members to be fully informed in preparing to make decisions and understand the implications of these decisions; (3-29-17)

h. Maintain high standards of professional competence and integrity; (3-29-17)

i. Abstain from discriminating against or refusing services to anyone on the basis of race, ethnicity, gender, gender identity, religion/spirituality, culture, national origin, age, sexual orientation, marital status, language preference, socioeconomic status, or disability; (3-29-17)

j. Only assist family members whose concerns are within one's competency as determined by one's education, training, experience, and on-going supervision or consultation; (3-29-17)

k. Abstain from establishing or maintaining a relationship for the sole purpose of financial remuneration to self or the agency with which one is associated; and (3-29-17)

l. Terminate a relationship when it becomes reasonably clear that the peer relationship is no longer the desire of the family member. (3-29-17)

03. Certified Family Support Partner Safety. In order to maintain the safety of all family members involved with family support services, a certified family support partner must: (3-29-17)

a. Comply with all laws and regulations applicable to the jurisdiction in which the peer support services are provided, including confidentiality; (3-29-17)

b. Maintain confidentiality in personal and professional communication and ensure that family members have authorized the use or release of any and all information about themselves or family members for whom they have legal authority, including verbal statements, writings, or re-release of documents; (3-29-17)

c. Respect the privacy of partner agencies and not distribute internal or draft documents or share private, internal conversations; (3-29-17)

d. When complying with laws and regulations involving mandatory reporting of harm, abuse, or neglect, make every effort to involve the family members in the planning for services and ensure that no further harm is done to family members as the result of the reporting; (3-29-17)

e. Discuss and explain to family members the rights, roles, expectations, benefits, and limitations of the peer support process; (3-29-17)

f. Avoid ambiguity in the relationship with family members and ensure clarity of the certified family support partner's role at all times; (3-29-17)

g. Maintain a positive relationship with family members, refraining from premature or unannounced ceasing of the relationship until a reasonable alternative arrangement is made for continuation of similar peer support services; (3-29-17)

h. Abstain from engaging in intimate, emotional, or physical relationships with family members engaged in a peer support relationship; (3-29-17)

i. Neither offer nor accept gifts, other than token gifts, related to the professional service of peer support, including personal barter services, payment for referrals, or other remunerations; and (3-29-17)

j. Abstain from engaging in personal financial transactions with family members engaged in a peer support relationship. (3-29-17)

04. Certified Family Support Partner Professional Responsibility. Through educational activities, supervision and personal commitment, a certified family support partner must: (3-29-17)

a. Stay informed and up-to-date with regard to the research, policy, and developments in the field of parent/peer support and children's emotional, developmental, behavioral (including substance use), or mental health which relates to one's own practice area and children's general health and wellbeing; (3-29-17)

b. Engage in helping relationships that include skills-building, not exceeding one's scope of practice, experience, training, education, or competence; (3-29-17)

c. Perform or hold oneself out as competent to perform only peer services not beyond one's education, training, experience, or competence; (3-29-17)

d. Seek appropriate professional supervision/consultation or assistance for one's personal problems or conflicts that may impair or affect work/volunteer performance or judgment; (3-29-17)

e. File a complaint with the certification body for Family Support Partners when one has reason to believe that another family support partner is, or has been, engaged in conduct that violates the law or these rules. Making a complaint to the certification body for Family Support Partners is an additional requirement, not a substitute for, or alternative to, any duty of filing reports required by statute or regulation; (3-29-17)

f. Refrain from distorting, misusing, or misrepresenting one's experience, knowledge, skills, or research findings; (3-29-17)

g. Refrain from financially or professionally exploiting a colleague or representing a colleague's work, associated with the provision of peer support or the profession of peer support, as one's own; (3-29-17)

h. In the role of a supervisor/consultant, be responsible for maintaining the quality of one's own supervisory/consultation skills and obtaining supervision/consultation for work as a supervisor/consultant; (3-29-17)

i. In the role of a researcher, be aware of and comply with federal and state laws and regulations, agency regulations, and professional standards governing the conduct of research, including ensuring the participants' complete informed consent for participating or declining to participate in a study; and (3-29-17)

j. In the role as a volunteer, member, or employee of an organization, give credit to persons for published or unpublished original ideas, take reasonable precautions to ensure that one's employer or affiliate organization promotes and advertises materials accurately and factually. (3-29-17)

05. Ethics Training. A certified family support partner must complete ethics training at least once per year, and maintain personal documentation of completed ethics training. (3-29-17)

06. Comply with Code of Ethics. A certified family support partner must understand and comply with these rules and Idaho's Certified Family Support Partners Code of Ethics. (3-29-17)

351. -- 399. (RESERVED)

400. SUPERVISOR FOR PEER SUPPORT SPECIALIST OR FAMILY SUPPORT PARTNER -- QUALIFICATIONS AND REQUIREMENTS.
An individual must meet the following requirements to provide supervision to a peer support specialist or family support partner. (3-29-17)

01. Bachelor's Degree or Higher. In order to supervise a peer support specialist or family support partner, an individual must hold a bachelor's degree or higher in a human services field. (3-29-17)

02. Supervisory Position. An individual must be in a supervisory position and work in that capacity within the agency. (3-29-17)

401. -- 499. (RESERVED)

500. COMPLAINTS.
A complaint is an informal process to address the concerns of an individual. Any individual may file a written complaint or concern with the Department regarding a certified peer support specialist, certified family support partner, or a behavioral health program. (3-29-17)

01. Complaint Content. A complaint must include: (3-29-17)

a. The full name, mailing address, phone number, and email contact for the person reporting the complaint; (3-29-17)

b. A description of the nature of the complaint, including the desired outcome. (3-29-17)

02. Department Response to Complaint. The Department will respond to the complaint within thirty (30) days of receipt of the complaint. This process may include gathering additional information from involved parties, including the complainant. (3-29-17)

501. -- 509. (RESERVED)

510. GRIEVANCES.
A grievance is a type of complaint about the certification decision that has been made following application to the Department. When an applicant is denied certification, questions the results of the application review process, or is subject to an action that they deem unjustified, the applicant may submit a written grievance to the Department. (3-29-17)

01. Grievance Content. The grievance must include: (3-29-17)

a. The full name, mailing address, phone number, and email contact for the person reporting the grievance; and (3-29-17)

b. A detailed explanation of the decision that is being contested, from the perspective of the complainant, including any steps already taken to resolve the issue. (3-29-17)

02. Department Response to Grievance. The Department will respond within sixty (60) days of receipt of the grievance. This process may include gathering additional information from involved parties. (3-29-17)

511. -- 519. (RESERVED)

520. DENIAL, REVOCATION, OR SUSPENSION OF CERTIFICATION.
The Department may deny, suspend, or revoke an individual's application, certification, or recertification as a peer support specialist or family support partner for noncompliance with these rules. (3-29-17)

521. -- 524. (RESERVED)

525. IMMEDIATE DENIAL, REVOCATION, OR SUSPENSION.
The Department may deny, revoke, or suspend a certification or recertification, without prior notice, when conditions exist that endanger the health and safety of any participant. (3-29-17)

526. -- 529. (RESERVED)

530. REASONS FOR DENIAL, REVOCATION, OR SUSPENSION.
An individual may have a certification denied, revoked, or suspended for any one (1) of the reasons listed below. (3-29-17)

01. Failure to Comply. Failure to comply with these rules and the code of ethics described in Sections 250 and 350 of these rules. (3-29-17)

02. Failure to Provide Information. Failure to provide information requested by the Department. (3-29-17)

03. Failure to Perform. Inadequate knowledge or performance that is demonstrated by repeated substandard peer or quality assurance reviews. (3-29-17)

04. Misrepresentation of Information Provided. Misrepresentation by the applicant in an application, or in documents required by the Department for certification. (3-29-17)

05. Conflict of Interest. Conflict of interest in which a certified individual exploits their position as a Certified Peer Support Specialist or a Certified Family Support Partner for personal benefit. (3-29-17)

06. Negligent Performance or Fraud. A criminal, civil, or administrative determination that a certified individual has committed fraud or gross negligence in their capacity as a Certified Peer Support Specialist or Certified Family Support Partner. (3-29-17)

07. Failure to Correct. Failure to correct within thirty (30) days of written notice, any unacceptable conduct, practice, or condition as determined by the Department. (3-29-17)

531. -- 534. (RESERVED)

535. APPEAL OF DEPARTMENT DECISION.
An applicant or certificate holder may appeal a Department decision to deny, suspend, or revoke a certification according to IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-29-17)

536. -- 539. (RESERVED)

540. REAPPLICATION FOR CERTIFICATION.
Following a denial, suspension, or revocation of certification or recertification, the same applicant may not reapply for certification for a period of six (6) months after the effective date of the action. (3-29-17)

541. -- 999. (RESERVED)

16.07.25 – PREVENTION OF MINORS' ACCESS TO TOBACCO PRODUCTS

000. LEGAL AUTHORITY.
Under Section 39-5704, Idaho Code, the Department of Health and Welfare is authorized to promulgate rules in compliance with Title 39, Chapter 57 for the prevention of minors' access to tobacco products. (5-8-09)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.07.25, "Prevention of Minors' Access to Tobacco Products." (5-8-09)

02. Scope. This rule implements provisions of Section 39-5701 et seq., Idaho Code. The Code defines the following: (5-8-09)

a. Possession, distribution, or use of tobacco products by a minor; (5-8-09)

b. Permit process for tobacco product retailers; (5-8-09)

c. Sale or distribution of tobacco products to a minor; (5-8-09)

d. Vendor-assisted sales; (5-8-09)

e. Opened packages and samples; (5-8-09)

f. Civil and criminal penalties for sales violations; and (5-8-09)

g. Conduct of enforcement actions. (5-8-09)

002. **-- 009. (RESERVED)**

010. DEFINITIONS.
The terms used in this rule are defined as follows: (5-8-09)

01. Business. Any company, partnership, firm, sole proprietorship, association, corporation, organization, or other legal entity, or a representative of the foregoing entities that sells or distributes tobacco products. Wholesalers' or manufacturers' representatives in the course of their employment are not included in the scope of these rules. (5-8-09)

02. Delivery Sale. The distribution of tobacco products to a consumer in a state where either: (5-8-09)

a. The individual submits the order for a purchase of tobacco products by a telephone call or other voice transmission method; data transfer via computer networks, including the internet and other online services; or by use of a facsimile machine transmission or use of the mails; or (5-8-09)

b. When tobacco products are delivered by use of the mails or a delivery service. (5-8-09)

03. Delivery Service. Any person who is engaged in the commercial delivery of letters, packages, or other containers. This includes permittees who take an order for tobacco products and then deliver the tobacco products without using a third party delivery service. (5-8-09)

04. Department. The Department of Health and Welfare (DHW) or its duly authorized representative. (5-8-09)

05. Direct Sale. Any face to face, or in person sale, of a tobacco product by a permittee, or their employee, to an individual. (5-8-09)

06. Distribute. To give, deliver, sell, offer to give, offer to deliver, offer to sell, or cause any person to do the same or hire any person to do the same. (5-8-09)

07. Effective Training. Training must include, at a minimum, the provisions of the law regarding

minors' access to tobacco products as indicated on the suggested Employee Training form that is included with the permit provided by the Department and found in Appendix A of these rules. Such training will be presumed effective for purposes of civil penalty actions in the first, second, and third violations within a two (2) year period. (5-8-09)

08. Evidence of Effective Training. Documentation provided by a permittee in response to a violation of this chapter clearly identifying that the permittee had a training program meeting the definition for effective training in place at the time of the violation and had on file a form signed by the employee prior to the violation stating understanding of the tobacco laws dealing with minors and the unlawful purchase of tobacco. (5-8-09)

09. Location. The street address and building in which the tobacco products are sold. (5-8-09)

10. Minor. A person under eighteen (18) years of age. (5-8-09)

11. Permit. A permit issued by the Department for the sale or distribution of tobacco products. (5-8-09)

12. Permit Endorsement. An endorsement identifies a sale or delivery method used by a permittee to sell tobacco products. There are three (3) types of endorsements that may be included on a permit. The three (3) endorsement types are: (5-8-09)

a. Delivery Sales; (5-8-09)

b. Delivery Service; and (5-8-09)

c. Direct Sales. (5-8-09)

13. Permittee. The holder of a valid permit for the sale or distribution of tobacco products. (5-8-09)

14. Photographic Identification. In all cases the identification must bear a photograph and a date of birth. Verification is not required by these rules if the buyer is known to the seller to be age eighteen (18) or older. Types of identification include: (5-8-09)

a. State, district, territorial, possession, provincial, national, or other equivalent government driver's license; or (5-8-09)

b. State identification card or military identification card; or (5-8-09)

c. A valid passport. (5-8-09)

15. Purchaser. An individual who seeks to buy or who buys a tobacco product. (5-8-09)

16. Random Unannounced Inspection. An inspection of business by a law enforcement agency or by the Department, with or without the assistance of a minor, to monitor compliance of this chapter. (5-8-09)

a. Random. At any time, without a schedule or frequency. (5-8-09)

b. Unannounced. Without previous notification. (5-8-09)

17. Retail Sales Minor-Exempt Permit. A permit that is issued to retail locations whose revenues from the sale of alcoholic beverages for on-site consumption are at least fifty-five percent (55%) of total revenues, or whose products and services are primarily obscene, pornographic, profane, or sexually oriented. A permittee issued this type of permit is exempt from minor-assisted inspections where minors are not allowed on the premises and such prohibition is clearly posted at all entrances. (5-8-09)

18. Seller. The person who physically sells or distributes tobacco products. (5-8-09)

19. Tobacco Product. Any substance that contains tobacco including: (5-8-09)

a. Cigarettes; (5-8-09)

b. Cigars; (5-8-09)

c. Pipes; (5-8-09)

d. Snuff; (5-8-09)

e. Smoking Tobacco; (5-8-09)

f. Tobacco Paper; and (5-8-09)

g. Smokeless Tobacco. (5-8-09)

20. Vending Machine. Any mechanical, electronic, or other similar device which, upon the insertion of tokens, money, or any other form of payment, dispenses tobacco products. (5-8-09)

21. Vendor Assisted Sales. Any sale or distribution in which the customer has no access to the product except through the assistance of the seller. The seller must physically dispense the tobacco product to the purchaser. (5-8-09)

22. Violation. An action contrary to Title 39, Chapter 57, Idaho Code, or IDAPA 16.07.25, "Prevention of Minors' Access to Tobacco Products." (5-8-09)

23. Without a Permit. A business that has failed to obtain a permit or a business whose permit is suspended or revoked. (5-8-09)

011. -- 019. (RESERVED)

020. APPLICATION FOR PERMIT.
All businesses that sell or distribute tobacco products to the public must obtain a permit issued annually by the Department of Health and Welfare. (5-8-09)

01. Where to Obtain an Application for Permit. A hard-copy application can be obtained, at no cost to the applicant, from the Department of Health and Welfare, Division of Behavioral Health, PO Box 83720, Boise, Idaho 83720-0036. A permit may also be obtained, at no cost to the applicant, via the internet at http://www.tobaccopermits.com/Idaho. (5-8-09)

02. Permits. A separate permit must be obtained for each business location. The permit is non-transferable to another person, business, or location. The applicant must request endorsements for each method of sale or delivery it uses. If a place of business sells or distributes tobacco by more than one (1) method, it must have an endorsement for each type. (5-8-09)

a. Issuance of a Permit. A permit may be issued when a new tobacco retail outlet has been established, when a currently permitted business is sold to new owners, or when a currently permitted business is moved to a different physical location. Permits may be issued to tobacco retailers established in a permanent location. Permits may not be issued for a retailer doing business in a temporary location. (5-8-09)

b. Closure of a Permit. A permit may be closed when the permittee closes the business, no longer sells tobacco products, moves to a different physical location, or sells the business to a new owner. (5-8-09)

c. Revocation of a Permit. A permit may be revoked by the Department of Health and Welfare when: (5-8-09)

i. It is determined a new permit was fraudulently obtained to avoid penalties accrued on an existing permit; or (5-8-09)

ii. The holder of a permit, suspended as established in Section 39-5708(5), has failed to provide an effective training plan to the Department. (5-8-09)

d. Temporary Permit. Temporary permits are not allowed under 39-5704, Idaho Code. (5-8-09)

e. Expiration of a Permit. All permits expire annually at midnight on December 31 of each calendar year. (5-8-09)

03. Renewal of Permit. All permits must be renewed annually and are valid for twelve (12) calendar months. (5-8-09)

a. The Department will mail notices of renewal for permits no later than ninety (90) days prior to the expiration date on the permit. (5-8-09)

b. An application for renewal must be submitted annually for each business location through written application or online services, where available. (5-8-09)

c. A business with multiple locations may submit a single written application to renew the permit at each site, so long as the application is accompanied by a list of business permit numbers, locations, and addresses. (5-8-09)

d. A permit will not be renewed for any location until any past due fines for violations are paid in full. Fines are considered past due when not paid within ten (10) days of the citation date, or within ten (10) days after notification that the fine is upheld upon appeal, whichever is later. Violation fines under appeal are not considered past due. (5-8-09)

04. Application for Exemption. Businesses seeking exemption from vendor assisted sales must submit information to the Department to establish compliance with the following criteria: (5-8-09)

a. Tobacco products comprise at least seventy-five percent (75%) of total merchandise as determined by sales reported to the Idaho State Tax Commission; (5-8-09)

b. Minors are not allowed in exempt businesses and there is a sign on all entrances prohibiting minors; and (5-8-09)

c. There must be a separate entrance to the outside air or to a common area not under shared ownership by the exempt business. (5-8-09)

021. PERMITTEE RESPONSIBILITIES.
The permittee is responsible for the following: (5-8-09)

01. Possession of Permit. Each business location must have a permit. (5-8-09)

02. Visibility. The permit must be available upon request at each site. (5-8-09)

03. Display of Sign. Each business may display, at each business site, a sign that states: "State Law Prohibits the Sale of Tobacco Products to Persons Under the Age of Eighteen (18) Years. Proof of Age Required. Anyone Who Sells or Distributes Tobacco to a Minor is Subject to Strict Fines and Penalties. Minors are Subject to Fines and Penalties." (5-8-09)

04. Effective Training. Each permittee is responsible to train employees as to the requirements of Title 39, Chapter 57, Idaho Code, and these rules. (5-8-09)

a. Unless the permittee has its own training program as described in Subsection 021.04.b. of this rule, the employer must, at a minimum, read to the seller or prospective seller who may be responsible for sale or distribution of tobacco products, or assure the seller or prospective seller has read the information contained on the

Employee Training form found in Appendix A of these rules and have them initial each statement, and sign and date the form indicating an understanding of the provisions of the law governing minors' access to tobacco products. (5-8-09)

b. Permittee may have *their* own training program, but it must contain *all* of the elements listed in the Employee Training form found in Appendix A of these rules. The seller or prospective seller who may be responsible for sale or distribution of tobacco products must affirm in writing *their* acknowledgment of such training. *( )*

05. Permit Requirements. All permittees are required to be familiar with and comply with the requirements of Title 39, Chapter 57, Idaho Code as that act pertains to the permittee's sales of tobacco products. (5-8-09)

022. DELIVERY SALE ADDITIONAL REQUIREMENTS.
In addition to the requirements of Title 39, Chapter 57, Idaho Code, all permittees holding a Delivery Sale Endorsement, who mail or ship tobacco products must: (5-8-09)

01. Shipping Package Requirements. Imprint in clearly legible, black ink letters, that are no less than one (1) inch tall, the words "TOBACCO PRODUCT, MUST BE 18 YEARS OF AGE TO ACCEPT" on the exterior top and bottom of the shipping package. (5-8-09)

02. Delivery Requirements. Require that tobacco products only be delivered in a face-to-face delivery to the address on the original shipping label. The individual receiving the delivery must be verified to be at least eighteen (18) years of age and have the same address as on the original shipping label. (5-8-09)

023. -- 050. (RESERVED)

051. CIVIL PENALTIES FOR VIOLATION OF PERMIT.

01. Violations by the Seller. (5-8-09)

a. The seller will receive a one hundred dollar ($100) fine for each violation. (5-8-09)

b. Each violation will be recorded with the Department and may be accessed by potential employers upon the written consent of the seller as a portion of the training permit documentation. (5-8-09)

02. Violations by the Permittee. (5-8-09)

a. First violation. The permittee will be notified in writing of the violation and penalties to be levied for further violations. No fine will be imposed. (5-8-09)

b. Second violation in a two (2) year period. (5-8-09)

i. The permittee will be fined two hundred dollars ($200). (5-8-09)

ii. If the permittee provides evidence of effective training, provided to the seller prior to the second violation, within ten (10) business days from the date of violation, the Department will waive the fine. (5-8-09)

iii. The permittee will be notified in writing of the penalties to be levied for further violations. (5-8-09)

c. Third violation in a two (2) year period. (5-8-09)

i. The permittee will be fined two hundred dollars ($200). (5-8-09)

ii. The permit will be suspended for up to seven (7) days beginning upon a date set by the Department following the third violation. Evidence of effective employee training will be a mitigating factor in determining the length of the permit suspension. (5-8-09)

iii. The permittee must remove all tobacco products from public sight for the duration of the revocation of the permit. (5-8-09)

iv. If the violation is by an employee, at the same location, who was involved in any previous citation for violation, the permittee will be fined four hundred dollars ($400). (5-8-09)

d. Fourth or subsequent violation in a two (2) year period. (5-8-09)

i. The permittee will be fined four hundred dollars ($400). (5-8-09)

ii. The permit will be revoked until such time as the permittee demonstrates an effective training program to the Department, but in no case will the revocation be less than thirty (30) days. (5-8-09)

iii. The permittee must remove all tobacco products from public sight for the duration of the revocation of the permit. (5-8-09)

03. Payment of Fines. All fine payments must be received by the Department within ten (10) days of the date of the citation. Fine payments should be mailed to, Tobacco Project Office, 450 West State Street, 3rd Floor, Boise, ID 83720-0036. (5-8-09)

052. CRIMINAL PENALTIES.

01. Selling or Distributing Without a Permit. Criminal penalties apply to any business or individual(s) *who* sells or distributes tobacco products to the public without a permit. *( )*

02. Department Notified of Violation. If the Department is notified of a violation of Section 39-5709 et seq., Idaho Code, the Department will contact the appropriate law enforcement authority. (5-8-09)

053. -- 100. (RESERVED)

101. INSPECTIONS.

01. Random and Unannounced Inspections. The total number of random and unannounced inspections under Section 101 of this rule will be determined by: (5-8-09)

a. The number of permittees on the last day of each calendar year multiplied by the percentage of violations for the preceding year multiplied by a factor of ten (10). A calculation checklist is provided under Appendix B; (5-8-09)

b. In no instance will the total number of inspections be less than the number of permittees, or exceed twice the number of permittees. (5-8-09)

c. The Department and the Idaho State Police must conduct at least one (1) unannounced inspection per year at every known business location identified as a retailer of tobacco products to the public. All additional inspections required to meet the total number specified under Section 101 of this rule must be conducted in a random manner. (5-8-09)

02. Who Will Inspect. Inspections will be conducted for all minor-exempt permit locations by an adult enforcement officer. For all other permit locations, inspections will be conducted by an adult enforcement officer accompanied by a minor. (5-8-09)

03. Law Enforcement Agency Inspections. (5-8-09)

a. In addition to the inspections set forth in Subsection 101.01 of this rule, any law enforcement agency may conduct inspections consistent with agency policy and procedure with or without a minor at any business location, at any time, where tobacco products are sold or distributed to the public. (5-8-09)

b. Law enforcement agencies conducting inspections under Subsection 101.03.a. of this rule will report the results from their inspections to the Department. All citations will become part of the permittee's permanent record. (5-8-09)

04. Complaint Investigation. (5-8-09)

a. The Department must refer all written complaints concerning the sale of tobacco products to minors to the appropriate agency, as determined by the Department, for investigation. (5-8-09)

b. Inspections conducted as part of the investigation of a written complaint are not included in the overall number of inspections identified under Subsections 101.01 and 101.03 of this rule. Citations issued during the investigation of a written complaint must be added to the permittee's permanent record. (5-8-09)

05. Issuance of Citation or Report. For inspections conducted under Subsection 101.01 of this rule, a representative of the business will be provided with a report, within two (2) business days, after the inspection. The date the Department provides notification of the citation must be used for determination of timely payment of fines and all other administrative actions including requests for waivers and request for appeals. (5-8-09)

102. -- 999. (RESERVED)

APPENDIX A
EMPLOYEE TRAINING FORM

The following may be used for training of employees to assure that they are aware of the current law regarding youth access to tobacco products in the state of Idaho. This would constitute "minimum" training required by the employer as indicated in Section 39-5701 et seq., Idaho Code.

Have the employee initial each section and sign at the bottom.

_____ I understand the state law prohibits the sale of ANY tobacco products to persons under 18 years of age and that verification of age is required for any sale of tobacco products.

_____ I understand that I am to ask for photo identification from any persons whom I do not personally know to be at least 18 years of age and verify their age before a sale of tobacco products.

_____ I understand that sales to anyone under the age of 18 can result in a personal fine to me of $100 for the first offense.

_____ I understand that "tobacco products" includes any substance that contains tobacco including, but not limited to, cigarettes, cigars, pipes, snuff, smoking tobacco, tobacco papers, or smokeless tobacco. (Section 39-5702 (13), Idaho Code)

_____ I understand that this store may be inspected at any time for compliance with the state law regarding "youth access to tobacco products."

_____ I understand that all sales must be "vendor assisted" unless the store in which I work has 75% of the total merchandise available for sale as tobacco products. This store is _____ is not _____ exempted from the vendor assisted requirement. (check one)

_____ I understand that cigarettes **must** be sold only in their original sealed package from the manufacturer. (Section 39-5707, Idaho Code)

_____ I have been given a copy of Section 39-5701 et seq., Idaho Code, and IDAPA 16.07.25, "Prevention of Minor's Access to Tobacco Products."

I have read and agree to these statements and have had all my questions answered regarding my responsibilities as a seller of tobacco products in the state of Idaho.

By signing this agreement, I consent to having a current or potential employer contact the Department of Health and Welfare to determine if I have received citations for violation Title 39, Chapter 57, Idaho Code.

_____ _____
Printed Name of Employee Employee's Signature

_____ _____
Witnessed Date

(5-8-09)

APPENDIX B
RANDOM AND UNANNOUNCED INSPECTION CHECKLIST

Inspection Year _____

1. Overall Violation Rate for Prior Year (20__) (Percentage)_____x__._____

2. Number of Permittees as of December 31, 20____:_____

3. Multiply the Overall Violation Rate for Prior Year by the Number of Permittees: _____

4. Multiply the results of Step 3 by 10: _____

5. The Result of Step 4 is the Total of Random and Unannounced Inspections:_____

(5-8-09)

000. LEGAL AUTHORITY.
The Idaho Legislature has delegated to the Department of Health and Welfare, as the state mental health authority, the responsibility to ensure that mental health services are available throughout the state of Idaho to individuals who need such care and who meet certain eligibility criteria under the Regional Mental Health Services Act, Title 39, Chapter 31, Idaho Code. Under Section 39-3140, Idaho Code, the Department is authorized to promulgate rules to carry out the purposes and intent of the Regional Mental Health Services Act. Under Sections 56-1003(3)(c), 56-1004, 56-1004A, 56-1007, and 56-1009, Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. (7-1-18)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.07.33, "Adult Mental Health Services." (7-1-15)

02. Scope. This chapter defines the scope of services, eligibility criteria, application requirements, individualized treatment plan requirements, and appeal process for the provision of adult mental health services administered under the Department's Division of Behavioral Health. (7-1-15)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

01. Appeal of Denial Based on Eligibility Criteria. Administrative appeals from a denial of mental health services based on the eligibility criteria under Section 102 of these rules are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (5-8-09)

02. Appeal of Decision Based on Clinical Judgment. All decisions involving clinical judgment, including the category of services, the particular provider of services, or the duration of services, are reserved to Department, and are not subject to appeal, administratively or otherwise, in accordance with *Maresh v. State,* 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (5-8-09)

004. INCORPORATION BY REFERENCE.
American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5) Washington, DC, American Psychiatric Association, 2013, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, Va. 22209-3901. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (7-1-15)

***005.* -- 008. (RESERVED)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance With Department Criminal History and Background Check. All owners, operators, employees, transfers, reinstated former employees, student interns, contractors, and volunteers, who provide direct care or services, or whose position requires regular contact with clients, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-14)

02. Availability to Work or Provide Service. An individual listed in Subsection 009.01 of these rules is available to work on a provisional basis at the discretion of the employer or agency once the individual has submitted their criminal history and background check application, it has been signed and notarized, reviewed by the employer or agency, and no disqualifying crimes or relevant records are disclosed on the application. An individual must be fingerprinted within twenty-one (21) days of submitting their criminal history and background check application. (7-1-14)

a. An individual is allowed to work or have access to clients only under supervision until the criminal history and background check is completed. (7-1-14)

b. An individual, who does not receive a criminal history and background check clearance or a waiver granted under the provisions in this chapter, may not provide direct care or services, or serve in a position that requires regular contact with clients accessing adult mental health services through the Department. (7-1-14)

03. Waiver of Criminal History and Background Check Denial. A certified or uncertified individual who is seeking to provide Peer Support Specialist, Family Support Partner, or Recovery Coach services that receives an unconditional denial or a denial after an exemption review by the Department's Criminal History Unit, may apply for a Behavioral Health waiver. ( )

010. DEFINITIONS - A THROUGH F.
For the purposes of these rules, the following terms are used as defined below: (5-8-09)

01. Adult. An individual eighteen (18) years of age or older. (5-8-09)

02. Adult Mental Health Services. Adult mental health services are listed in Section 301 of these rules. These services are provided in response to the mental health needs of adults eligible for services required in Title 39, Chapter 31, Idaho Code, the Regional Behavioral Health Service Act, and under Section 102 of these rules. (7-1-15)

03. Applicant. An adult individual who is seeking mental health services through the Department who has completed, or had completed on their behalf, an application for mental health services. (5-8-09)

04. Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify a client's mental health issues, strengths, and service needs. (7-1-15)

05. Assertive Community Services. Comprehensive, intensive, and long-term rehabilitative services provided to clients who suffer from serious and persistent mental illness (SPMI) who have not benefited from traditional outpatient programs. (7-1-15)

06. Behavioral Health. An integrated system for evaluation and treatment of mental health and substance use disorders. (7-1-15)

07. Behavioral Health Center. State-operated community-based centers located in each of the seven (7) geographical regions of Idaho that provide or arrange for adult mental health services listed under Section 301 of these rules. (7-1-15)

08. Case Management. A change-oriented service provided to clients that assures and coordinates the provision of an assessment, treatment planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (7-1-15)

09. Client. A person receiving mental health services through the Department. The term "client" is synonymous with the following terms: patient, participant, resident, consumer, or recipient of treatment or services. (5-8-09)

10. Clinical Judgment. Refers to observations and perceptions based upon education, experience, and clinical assessment. This may include psychometric, behavioral, and clinical interview assessments that are structured, integrated, and then used to reach decisions, individually or collectively, about an individual's functional, mental, and behavioral attributes and mental health service needs. (5-8-09)

11. Clinical Necessity. Adult mental health services are deemed clinically necessary when the Department, in the exercise of clinical judgment, recommends services to an applicant for the purpose of evaluating, diagnosing, or treating a mental illness and that are: (5-8-09)

a. Clinically appropriate, in terms of type, frequency, extent, site, and duration, and considered effective for treating the applicant's mental illness; and (5-8-09)

b. Not primarily for the convenience of the applicant or service provider, not more costly than an alternative service or sequence of services, and at least as likely to produce equivalent therapeutic or diagnostic results as to the diagnosis or treatment of the applicant's mental illness. (5-8-09)

12. Clinical Team. A proposed client's clinical team may include: qualified clinicians, behavioral health professionals, professionals other than behavioral health professionals, behavioral health technicians, and any other individual deemed appropriate and necessary to ensure that the treatment is comprehensive and meets the needs of the proposed client. (5-8-09)

13. Crisis Intervention Services. A set of planned activities designed to reduce the risk of life-threatening harm to self or another person. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. (7-1-15)

14. Department. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Mental Health Authority under Section 39-3124, Idaho Code. (5-8-09)

15. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found at: http://aspe.hhs.gov/poverty/. (5-8-09)

16. Functional Impairment. Difficulties that substantially impair or limit role functioning with an individual's basic daily living skills, or functioning in social, family, vocational, or educational contexts including psychiatric, health, medical, financial, and community or legal area, or both. (5-8-09)

011. DEFINITIONS - G THROUGH Z.
For the purposes of these rules, the following terms are used as defined below: (7-1-15)

01. Good Cause. A valid and sufficient reason for not complying with the time frame set for submitting a written request for a waiver by an individual who does not receive a criminal history and background check clearance. (7-1-14)

02. Gravely Disabled. An adult who, as a result of mental illness, is in danger of serious physical harm due to the person's inability to provide for any of their basic needs for nourishment, essential medical care, shelter, or safety. (5-8-09)

03. Individualized Treatment Plan. A written action plan based on an intake eligibility assessment, that identifies the applicant's clinical needs, the strategy for providing services to meet those needs, treatment goals and objectives, and the criteria for terminating the specified interventions. (5-8-09)

04. Medication Management. The in-depth management of medications for psychiatric disorders for relief of a client’s signs and symptoms of mental illness, provided by a physician or mid-level practitioner. (7-1-15)

05. Mental Health Crisis. A mental health crisis occurs when a sudden loss of an adult individual’s ability to use effective problem-solving and coping skills leads to an imminent risk of harm to self or others, or decompensation to the point of the individual’s inability to protect himself or herself. (7-1-15)

06. Outpatient Services. Mental health services provided to a client who is not admitted to a psychiatric hospital or in a residential care setting. (7-1-15)

07. Psychiatric Services. Medically necessary outpatient and inpatient services provided to treat and manage psychiatric disorders. (7-1-15)

08. Rehabilitative and Community-Based Services. Skill-building services that foster rehabilitation and recovery provided to client recovering from a mental illness. (7-1-15)

09. Residential Care. A setting for the treatment of mental health that provides twenty-four (24) hours per day, seven (7) days a week, living accommodations for clients. (7-1-15)

10. Serious Mental Illness (SMI). Means any of the following psychiatric illnesses as defined by the American Psychiatric Association in the Diagnostic and Statistical Manual of Mental Disorders, (DSM-5),

incorporated in Section 004 of these rules: (7-1-15)

a. Schizophrenia spectrum and other psychotic disorders; (7-1-15)

b. Bipolar disorders (mixed, manic and depressive); (5-8-09)

c. Major depressive disorders (single episode or recurrent); (5-8-09)

d. Obsessive-compulsive disorders. (5-8-09)

11. Serious and Persistent Mental Illness (SPMI). A primary diagnosis under DSM-5 of Schizophrenia, Schizoaffective Disorder, Bipolar I Disorder, Bipolar II Disorder, Major Depressive Disorder Recurrent Severe, Delusional Disorder, or Psychotic Disorder Not Otherwise Specified (NOS) for a maximum of one hundred twenty (120) days without a conclusive diagnosis. The psychiatric disorder must be of sufficient severity to cause a substantial disturbance in role performance or coping skills in at least two (2) of the following functional areas in the last six (6) months: (7-1-15)

a. Vocational or educational, or both. (5-8-09)

b. Financial. (5-8-09)

c. Social relationships or support, or both. (5-8-09)

d. Family. (5-8-09)

e. Basic daily living skills. (5-8-09)

f. Housing. (5-8-09)

g. Community or legal, or both. (5-8-09)

h. Health or medical, or both. (5-8-09)

12. Sliding Fee Scale. A scale used to determine an individual's financial obligation for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (5-8-09)

13. Substantial Material Change in Circumstances. A substantial and material change in circumstances which renders the Department's decision denying mental health services arbitrary and capricious. (5-8-09)

012. -- 099. (RESERVED)

100. ACCESSING ADULT MENTAL HEALTH SERVICES.
Adult mental health services may be accessed either through an application for services, or through a court order for services. (7-1-15)

101. ELIGIBILITY SCREENING AND MENTAL HEALTH ASSESSMENT.

01. Eligibility Screening. A screening for eligibility for adult mental health services through the Department is based on the eligibility criteria under Section 102 of these rules. If an applicant meets the eligibility criteria, they may be eligible for adult mental health services through the Department. If an applicant does not meet the eligibility criteria, they may be referred to other appropriate services. All applicants are required to complete an Application for Mental Health Services. If an applicant refuses to complete the Application for Mental Health Services, the Department reserves the right to discontinue the screening process for eligibility. The eligibility screening must be directly related to the applicant's mental illness and level of functioning and will include: (7-1-15)

a. Application for Mental Health Services; (7-1-15)

b. Notice of Privacy Practice; and (7-1-15)

c. Authorization for Disclosure. (7-1-15)

02. Mental Health Assessment. Once a signed application or court order has been received for adult mental health services, the Department will schedule and conduct a mental health assessment. Each mental health assessment will be completed by a Department clinician and will be documented using the Department's Idaho Standard Mental Health Assessment Report. (7-1-15)

102. ELIGIBILITY DETERMINATION.

01. The Department Determines Eligibility for Mental Health Services. The total number of adults who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (5-8-09)

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

a. Be an adult; and (5-8-09)

b. Be a resident of the state of Idaho; and (5-8-09)

c. Have a primary diagnosis of SMI or SPMI; or (7-1-15)

d. Be determined eligible under the waiver provisions in Section 400 of these rules. (5-8-09)

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services according to Sections 18-212, 19-2524, and 66-329, Idaho Code. (7-1-15)

04. Ineligible Conditions. An applicant who has epilepsy, an intellectual disability, dementia, a developmental disability, physical disability, or who is aged or impaired by chronic alcoholism or drug abuse, is not eligible for mental health services, unless, in addition to such condition, they have a primary diagnosis of SMI or SPMI or is determined eligible under the waiver provisions in Section 400 of these rules. (7-1-15)

103. NOTICE OF CHANGES IN ELIGIBILITY FOR MENTAL HEALTH SERVICES.

The Department may, upon ten (10) days' written notice, reduce, limit, suspend, or terminate eligibility for mental health services. (5-8-09)

104. CRISIS INTERVENTION SERVICES.

Crisis intervention services are available twenty-four (24) hours per day, seven (7) days per week to adults experiencing a mental health crisis as defined under Section 011 of these rules. Crisis intervention services include evaluation, assessment, intervention, stabilization, and follow-up planning. (7-1-15)

01. Determination of the Need for Crisis Intervention Services. The Department will assess an adult experiencing a mental health crisis to determine whether services are needed to alleviate the crisis. (7-1-15)

02. Identification of the Crisis Intervention Services Needed. If crisis intervention services are clinically necessary, as determined by the Department, the Department will: (7-1-15)

a. Identify the services needed to stabilize the crisis; (7-1-15)

b. Arrange for the provision of the crisis intervention services; and (7-1-15)

c. Document in the individual's record the crisis services that are to be provided to the individual. (7-1-15)

03. Immediate Intervention. If the Department determines that a mental health crisis exists necessitating immediate intervention, crisis services will be arranged immediately. (7-1-15)

105. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. Within fourteen (14) calendar days of receiving a signed application, the Department will notify the applicant or the applicant's designated representative in writing of its eligibility determination. The written notice will include: (7-1-15)

a. The applicant's name and identifying information; (5-8-09)

b. A statement of the decision; (5-8-09)

c. A concise statement of the reasons for the decision; and (5-8-09)

d. The process for pursuing an administrative appeal regarding eligibility determinations. (5-8-09)

02. Right to Accept or Reject Mental Health Services. If the Department determines that an applicant is eligible for mental health services through the Department, an individual has the right to accept or reject mental health services offered by the Department, unless imposed by law or court order. (5-8-09)

03. Reapplication for Mental Health Services. If the Department determines that an applicant is not eligible for mental health services through the Department, the applicant may reapply after six (6) months or at any time upon a showing of a substantial material change in circumstances. (5-8-09)

106. -- 119. (RESERVED)

120. CLIENT'S RIGHTS AND RESPONSIBILITIES.
Each individual client receiving adult mental health services through the Department must be notified of their rights and responsibilities prior to the delivery of adult mental health services. (7-1-15)

01. Client to Be Informed of Rights and Responsibilities. The Department must inform each client of their rights and responsibilities. Each client must be given a written statement of client rights and responsibilities, which includes who the client may contact with questions, concerns, or complaints regarding services provided. (7-1-15)

02. Content of Client's Rights. The Department must assure and protect the fundamental human, civil, constitutional, and statutory rights of each client. The written client rights statement must, at a minimum, address the following: (7-1-15)

a. The right to impartial access to treatment and services, regardless of race, creed, color, religion, gender, national origin, age, or disability; (7-1-15)

b. The right to a humane treatment environment that ensures protection from harm, provides privacy to as great a degree as possible with regard to personal needs and promotes respect and dignity for each individual; (7-1-15)

c. The right to communication in a language and format understandable to the individual client; (7-1-15)

d. The right to be free from mental, physical, sexual, and verbal abuse, as well as neglect and exploitation; (7-1-15)

e. The right to receive services within the least restrictive environment possible; (7-1-15)

f. The right to an individualized treatment plan, based on assessment of current needs; (7-1-15)

g. The right to actively participate in planning for treatment and recovery support services; (7-1-15)

h. The right to have access to information contained in one's record, unless access to particular identified items of information is specifically restricted for that individual client for clear treatment reasons in the client's treatment plan; (7-1-15)

i. The right to confidentiality of records and the right to be informed of the conditions under which information can be disclosed without the individual client's consent; (7-1-15)

j. The right to refuse to take medication unless a court of law has determined the client lacks capacity to make decisions about medications and is an imminent danger to self or others; (7-1-15)

k. The right to be free from restraint or seclusion unless there is imminent risk of physical harm to self or others; (7-1-15)

l. The right to refuse to participate in any research project without compromising access to program services; (7-1-15)

m. The right to exercise rights without reprisal in any form, including the ability to continue services with uncompromised access; (7-1-15)

n. The right to have the opportunity to consult with independent specialists or legal counsel, at one's own expense; (7-1-15)

o. The right to be informed in advance of the reason(s) for discontinuance of any service provision, and to be involved in planning for the consequences of that event; (7-1-15)

p. The right to receive an explanation of the reasons for denial of service. (7-1-15)

121. -- 199. (RESERVED)

200. INDIVIDUALIZED TREATMENT PLAN.
The Department will prepare an individualized treatment plan for every client that addresses the mental health effects on the major life areas and is based on an assessment of the client's mental health needs. (5-8-09)

01. Individualized Treatment Plan. Overall responsibility for development and implementation of the plan will be assigned to a qualified clinician. A detailed individualized treatment plan will be developed within thirty (30) calendar days from the date of the Department's eligibility determination or date of any court order for services. (7-1-15)

02. Individualized Treatment Plan Requirements. The individualized treatment plan must include the following: (7-1-15)

a. The services deemed necessary to meet the client's mental health needs; (7-1-15)

b. A prioritized list of problems and needs; (7-1-15)

c. Referrals for needed services not provided by the program; (7-1-15)

d. Goals that are based on the client's unique strengths, preferences, and needs; (7-1-15)

e. Specific objectives that relate to the goals written in simple, measurable, attainable, realistic terms with expected achievement dates; (7-1-15)

f. Interventions that describe the kinds of services, frequency of services, activities, supports, and resources the client needs to achieve short-term changes described in the objectives; (7-1-15)

g. *G*oals and objectives *that are* individualized and reflect the choices of the client; *( )*

h. Documentation of who participated in the development of the individualized treatment plan; (7-1-15)

i. The client or legal guardian must sign the treatment plan indicating their agreement with service needs identified and their participation in its development. If these signatures indicating participation in the development of the treatment plan are not obtained, then it must be documented in the client's record the reason the signatures were not obtained, including the reason for the client's refusal to sign. A copy of the treatment plan must be given to the client and legal guardian. (7-1-15)

ii. The treatment plan must be based on the findings of the assessment process. (7-1-15)

i. A specific plan for including the family or significant others; and (7-1-15)

j. Discharge criteria and aftercare plans. (7-1-15)

03. One Hundred Twenty Day Review. Treatment plans are to be reviewed with the client and updated as needed at least every one hundred twenty (120) days. (7-1-15)

a. The treatment plan review must assess and process the status, applicability, obstacles, and possible solutions of the client's goals, objectives, interventions, and timeframes of the treatment plan. (7-1-15)

b. Treatment plans for "medication management only" clients are not subject to a one hundred twenty (120) day review. *( )*

04. Treatment Plan Renewals. A new treatment plan will be developed with the client every twelve (12) months. (7-1-15)

201. -- 299. (RESERVED)

300. FINANCIAL RESPONSIBILITY FOR MENTAL HEALTH SERVICES.
Individuals receiving adult mental health services through the Department are responsible for paying for the services they receive. The financial responsibility for each service will be based on the individual's ability to pay as determined under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Sections 300 and 400. (7-1-15)

301. ADULT MENTAL HEALTH SERVICES.
The Department is the lead agency in establishing and coordinating community supports, services, and treatment for adults eligible for services under Section 102 of these rules. The following services, as defined under Section 010 of these rules are provided by, or arranged for the delivery of by, the behavioral health center in each region: (7-1-15)

01. Assessment. (7-1-15)

02. Assertive Community Services. (7-1-15)

03. Case Management. (7-1-15)

04. Crisis Intervention. (7-1-15)

05. Medication Management. (7-1-15)

06. Psychiatric Services. (7-1-15)

07. Outpatient Services. (7-1-15)

08. Rehabilitative and Community-Based Services. (7-1-15)

09. Residential Care. (7-1-15)

302. -- 399. (RESERVED)

400. WAIVERS.

01. Waiver of Certain Eligibility Criteria. Subject to funding, availability of adult mental health services or adult mental health providers, and the number of clients receiving adult mental health services through the Department, the Department may consider waiving, in its sole discretion, the eligibility requirement that applicants have a primary diagnosis of SPMI. (5-8-09)

02. A Waiver Decision Does Not Establish a Precedent. The Department's decision to grant a waiver, or not, to an applicant neither establishes a precedent nor is it applicable to any other applicant for a waiver. (5-8-09)

03. Waiver Decisions Are Not Subject to Review or Appeal. The Department's actions and decisions pertaining to waivers are not subject to review or appeal, administratively or otherwise, in accordance with *Maresh v. State*, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). Waivers are not admissible in administrative hearings or proceedings under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (5-8-09)

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Sections 16-2404, 16-2406, 16-2423, 16-2433, 56-202(b), 56-203B, 56-204A, 56-1003, 56-1004, and 56-1004A, Idaho Code, the Idaho Legislature has delegated to the Department the responsibility to establish and enforce rules and methods of administration needed to provide children's mental health services in accordance with the Children's Mental Health Services Act. (5-8-09)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.07.37, "Children's Mental Health Services." (5-8-09)

02. Scope. This chapter defines the appeal process, scope of services, eligibility criteria, and application requirements for the provision of children's mental health services by the Department. (5-8-09)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.

01. Appeal from a Denial Based on Eligibility Criteria. Administrative appeals from a denial of children's mental health services based on the eligibility criteria under Section 107 of these rules are governed by the provisions of IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (7-1-17)

02. Grievances and Expedited Hearings. Grievances and expedited hearings related to non-Medicaid Youth Empowerment Services (YES) will be provided as described in IDAPA 16.05.03 "Rules Governing Contested Case Proceeding and Declaratory Ruling," Sections 750 and 751. (3-28-18)

03. Appeal of Decision Based on Clinical Judgment. All decisions involving clinical judgment, which may include the category of services, the particular provider of services, or the duration of services, are reserved to the Department, and are not subject to appeal, administratively or otherwise, in accordance with Maresh v. State, 132 Idaho 221, 970 P.2d 14 (Idaho 1999). (5-8-09)

004. INCORPORATION BY REFERENCE.
American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, Fifth Edition, (DSM-5), Washington, D.C., American Psychiatric Association, 2013, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, 1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. (7-1-17)

***005*. -- 008. (RESERVED)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History and Background Check. Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as defined under Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (5-8-09)

02. Availability to Work or Provide Service. Certain individuals are allowed to provide services after the criminal history and background check is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history and background check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. (5-8-09)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.
For the purposes of these rules, the following terms apply: (5-8-09)

01. Alternate Care. Temporary living arrangements outside the family home *that* may include licensed foster care, residential treatment, and other facilities licensed by the state to provide twenty-four (24) hour care for children in accordance with IDAPA 16.06.02, "Child Care Licensing," or IDAPA 16.03.14, "Hospitals."
( )

02. Alternate Care Plan. A component of the treatment plan for children in alternate care. The alternate care plan contains elements related to the justification of the need for Alternate Care Placement, the provision of treatment while in Alternate Care Placement, the child's alternate care provider, education, immunization, medical and other information important to the day-to-day care of the child. (7-1-17)

03. Area(s) of Concern. A circumstance or circumstances that brought a child and family to the attention of the Department. (5-8-09)

04. Assessment. The gathering of historical and current clinical information through a clinical interview and from other available resources to identify the child's mental health issues, the child's strengths, the family's strengths, and the service needs. (5-8-09)

05. Behavioral Health. An integrated system for evaluation and treatment of mental health and substance use disorders. (7-1-17)

06. Case Management. A change-oriented service provided to families that assures and coordinates the provision of an assessment, treatment planning, treatment and other services, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (5-8-09)

07. Case Record. Compilation of all electronic and hard copy documentation relating to a child who is receiving or has received children's mental health services including legal documents, identifying information, and assessments. (5-8-09)

08. Child. An individual who is under the age of eighteen (18) years. (5-8-09)

09. Children's Mental Health Services. The children's mental health services are listed under Section 100 of these rules. These services are provided in response to the mental health needs of children eligible for services under Section 107 of these rules and their families in accordance with the provisions of the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code. (7-1-17)

10. Clinician. Any of the direct service personnel with a Master's degree working in regional Children's Mental Health programs, including master's level social workers, psychologists, counselors, and family therapists. (5-8-09)

11. Crisis Intervention. A set of planned activities for a child eligible for services under Section 107 of these rules designed to reduce the risk of life-threatening harm to self or another person. (7-1-17)

12. Crisis Plan. As part of the treatment plan, the individualized crisis plan is developed to prevent a crisis or prepare for a crisis situation and to keep the child and others safe. The crisis plan may include the child's trigger behaviors, preferred strategies for resolving a crisis, interventions to be avoided, and contact information of community resources and natural supports. (7-1-17)

13. Crisis Response. A service for a child that involves immediate actions taken to assess risk or intervene in an emergency as defined in Section 16-2403(6), Idaho Code. A determination of eligibility under Section 107 of these rules is not required for crisis response. (7-1-17)

14. Day Treatment Services. Intensive nonresidential services that include an integrated set of educational, clinical, social, vocational, and family interventions provided on a regularly scheduled, typically daily, basis. (5-8-09)

15. Department. The Idaho Department of Health and Welfare or its designee. The Department is designated as the State Behavioral Health Authority under Section 39-3123, Idaho Code. (7-1-17)

16. Desired Result. Behaviorally-specific description of the child's and family's circumstances when the factors that brought the child and family to the Department's attention, either no longer exist or are significantly reduced. (5-8-09)

17. **Director**. The Director of the Idaho Department of Health and Welfare or their designee. (5-8-09)

18. **Emergency**. Emergency, as defined in Section 16-2403(6), Idaho Code, means a situation in which the child's condition, as evidenced by recent behavior, poses a significant threat to the health or safety of the child, their family or others, or poses a serious risk of substantial deterioration in the child's condition that cannot be eliminated by the use of supportive services or intervention by the child's parents, or mental health professionals, and treatment in the community while the child remains in their family home. (5-8-09)

19. **Extended Family Member of an Indian Child**. As defined by the law or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (5-8-09)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.
For the purposes of these rules, the following terms apply: (5-8-09)

01. **Face-to-Face Contact**. An interaction between Department staff and another individual. The interaction may occur in-person or by electronic means that includes both audio and visual technology that comply with HIPAA and 42 CFR Part 2. (7-1-17)

02. **Family**. A family is two (2) or more persons related by blood, marriage, or adoption. (5-8-09)

03. **Family Support Services**. Assistance provided to a family to assist them in caring for a child eligible for services under Section 107 of these rules. The purpose of family support services is to strengthen adults in their role as parents through the provision of services including: assistance with transportation, family counseling services, training, education, and emergency assistance funds in accordance with IDAPA 16.06.13, "Emergency Assistance for Families and Children." Family support services must be on the treatment plan. (7-1-17)

04. **Federal Poverty Guidelines**. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found online at http://aspe.hhs.gov/poverty/. (5-8-09)

05. **Guardian**. (5-8-09)

a. As set forth under Title 15, Chapter 5, Part 2, Idaho Code, an individual who has been appointed by a court of law to have and exercise the powers and responsibilities of a parent who has not been deprived of custody of their minor and unemancipated child; or (5-8-09)

b. The Department, an agency, or an individual, other than a parent, who is acting in the place of a parent (in loco parentis) or, has assumed legal responsibility for, legal custody of, or control of a child. (5-8-09)

06. **Indian**. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 USC 1606. (5-8-09)

07. **Indian Child**. Any unmarried person who is under the age of eighteen (18) who is: (5-8-09)

a. A member of an Indian tribe; or (5-8-09)

b. Eligible for membership in an Indian tribe and the biological child of a member of an Indian tribe. (5-8-09)

08. **Indian Child Welfare Act (ICWA)**. The Indian Child Welfare Act, 25 USC 1901, et seq. (5-8-09)

09. **Indian Child's Tribe**. (5-8-09)

a. The Indian tribe in which an Indian child is a member or eligible for membership; or (5-8-09)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (5-8-09)

10. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 USC 1602(c). (5-8-09)

11. Inpatient Services. Mental health and medical services provided to a child admitted to a psychiatric hospital. (5-8-09)

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.
For the purposes of these rules, the following terms apply: (5-8-09)

01. Licensed. Facilities or programs that are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing," or hospitals licensed in accordance with IDAPA 16.03.14, "Hospitals." (5-8-09)

02. Medicaid. Idaho's Medical Assistance Program administered under Title XIX of the Social Security Act. (5-8-09)

03. Outpatient Services. Mental health services provided to a child who is not admitted to a psychiatric hospital or in a residential treatment setting. (5-8-09)

04. Parent. A person who, by birth or through adoption, is considered legally responsible for a child. The term "guardian" is not included in the definition of parent. (5-8-09)

05. Placement Agreement. A standardized, written agreement, signed by the Department and a parent or guardian, that outlines specific responsibilities of each party regarding the child's placement in alternate care. (7-1-17)

06. Residential Treatment. A treatment facility licensed as a children's residential care facility that provides twenty-four (24) hour care in a highly-structured setting delivering substitute parental care and mental health services. (5-8-09)

07. Respite Care. Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a caregiver different from the child's usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. (7-1-17)

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.
For the purposes of these rules, the following terms apply: (5-8-09)

01. Sliding Fee Scale. A scale used to determine an individual's cost for services based on Federal Poverty Guidelines and found in IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (5-8-09)

02. Teens at Risk. Individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. (7-1-17)

03. Teen Early Intervention Specialist. A person with a master's degree in social work, psychology, marriage and family therapy, counseling, chemical dependency, addictive studies, psychiatric nursing, or very closely-related field of study contracted to work with teens at risk. (5-8-09)

04. Title XIX (Medicaid). Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (5-8-09)

05. Treatment Foster Care. A service that provides clinical intervention for children eligible for

services under Section 107 of these rules within the private homes of trained, licensed foster families. (7-1-17)

06. Treatment Plan. The individualized treatment plan describes the child's strengths and needs, short and long-term treatment goals, desired outcomes, and the roles, strategies, resources, and timeframes for coordinated implementation of services and supports. The plan is developed with the child, when possible, and the child's parent or guardian. The treatment plan includes a crisis plan and plans for transitioning out of services or to adult services. The treatment plan also includes the alternate care plan, if the child is in alternate care. (7-1-17)

07. Wraparound. Wraparound is a planning process that brings together a team of professionals and citizens working together to support children eligible for services under Section 107 of these rules and their families. Members of the team include the child, family members, representatives of public and private agencies, civic groups, and other community members. The services and supports focus on the strengths of the child and family, are provided in the local community, and are customized to fit the individual culture of the family. (7-1-17)

014. -- 099. (RESERVED)

CHILDREN'S MENTAL HEALTH SERVICES
(Sections 100-199)

100. CHILDREN'S MENTAL HEALTH SERVICES.
The Department is the lead agency in establishing and coordinating community supports, services, and treatment for children eligible for services under Section 107 of these rules and their families. The following services, as defined under Sections 010 through 013 of these rules, are provided by or through Children's Mental Health field offices in each region: (7-1-17)

01. Assessment. (5-8-09)

02. Case Management. (5-8-09)

03. Crisis Response. (5-8-09)

04. Day Treatment Services. (5-8-09)

05. Family Support Services. (5-8-09)

06. Inpatient Services. (5-8-09)

07. Outpatient Services. (5-8-09)

08. Residential Treatment. (5-8-09)

09. Respite Care. (5-8-09)

10. Treatment Foster Care. (5-8-09)

11. Wraparound. (5-8-09)

101. TEENS AT RISK PROGRAM.
The Teens at Risk program is for individuals attending Idaho secondary public schools who have been identified by school personnel or their designee as expressing or exhibiting indications of depression, suicidal inclination, emotional trauma, substance use, or other behaviors or symptoms that indicate the existence of, or that may lead to, the development of mental illness or a substance use disorder. The Department may enter into contracts for Teens at Risk programs in cooperation with Idaho public school districts subject to Department appropriations and available funding for this program. The Department reserves the right to make the final determination to award a school district a Teens at Risk contract. (5-8-09)

01. Application. School districts may apply to the Department through a competitive application process. The Department will provide written information to the State Department of Education and interested school districts on the amount of funding available, closing date for submission of applications, and information on how to obtain application forms and instructions by July 1 of each year that funding is available. Only applications submitted on the prescribed forms and consistent with Department instructions will be considered for evaluation. (5-8-09)

02. Contracting Process. (5-8-09)

a. A team comprised of at least one (1) Department staff person, a representative from the state Department of Education, a representative from the local school district, and a parent, will evaluate the applications from school districts for contracts for Teens at Risk programs. The evaluation criteria will include the demonstrated need for the program in the school district and the contribution the school district is providing to the program, with a preference for rural school districts. The Department will consider the team recommendations and make the final determination of contracts for Teens at Risk programs. (5-8-09)

b. The number of school districts awarded a Teens at Risk program will depend upon the amount of specific funding appropriated by the legislature for this program. (5-8-09)

c. The Department will enter into a written contract with each school district awarded a Teens at Risk program. The contract will set forth the terms, services, data collecting, funding, and other activities prior to the implementation of the program. (5-8-09)

03. Services. Teen early intervention specialists hired or under contract with the school district will be available to serve teens at risk within the school setting and offer group counseling, recovery support, suicide prevention and other mental health and substance use disorder counseling services as needed. Teens at risk who are not enrolled in public schools may only participate in services if assigned by a judge and with the permission of the local school administrator who administers the Teens at Risk program. Parents of teens participating in the Teens at Risk program will not incur a financial obligation for services provided by the program. (5-8-09)

04. Outcomes. The Department will gather data and evaluate the effectiveness of the Teens at Risk program. In accordance with Section 16-2404A(7), Idaho Code, the Department may contract with state universities or colleges to assist in the identification of appropriate data elements, data collection, and evaluation. Data elements used to evaluate the program may include: (5-8-09)

a. Teen arrests, detention, and commitments to state custody; (5-8-09)

b. Teen suicide rates; (5-8-09)

c. Impacts on juvenile mental health and drug courts; (5-8-09)

d. Access to mental health services; and (5-8-09)

e. Academic achievement and school disciplinary actions. (5-8-09)

102. -- 104. (RESERVED)

105. ACCESSING CHILDREN'S MENTAL HEALTH SERVICES.
Children's mental health services may be accessed either through an application for services or through a court order for services. An application for services must be signed by a child's parent or guardian. (5-8-09)

106. MENTAL HEALTH ASSESSMENT.
Once an application has been signed or a court order has been received for children's mental health services, the Department will schedule and conduct a mental health assessment. Each mental health assessment will be documented using the Department's Idaho Standard Mental Health Assessment Report at http://www.healthandwelfare.idaho.gov. A Department clinician will either complete a mental health assessment, or, at the Department's discretion, accept an assessment completed by another mental health professional. In order to be considered, assessments completed by other mental health professionals must have occurred within ninety (90) days

prior to the date of application or court order. The Department clinician will gather additional information, as needed, in order to complete the assessment process. (5-8-09)

107. ELIGIBILITY DETERMINATION.

01. The Department Determines Eligibility for Mental Health Services. The total number of children who are eligible for mental health services through the Department will be established by the Department. The Department may, in its sole discretion, limit or prioritize mental health services, define eligibility criteria, or establish the number of persons eligible based upon such factors as court-ordered services, availability of funding, the degree of financial need, the degree of clinical need, or other factors. (4-7-11)

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

a. Be under eighteen (18) years of age; (5-8-09)

b. Reside within the state of Idaho; (5-8-09)

c. Have a DSM-5 mental health diagnosis. A substance use disorder alone, or developmental disorder alone, does not constitute an eligible mental health diagnosis, although one (1) or more of these conditions may co-exist with an eligible mental health diagnosis; and (7-1-19)

d. Have a substantial functional impairment as assessed by using the Department's approved tool. (7-1-17)

03. Court-Ordered Assessment, Treatment, and Services. The court may order the Department to provide assessment, treatment, and services under the Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code and the Juvenile Corrections Act, Title 20, Chapter 5, Idaho Code. Subject to court approval, the Department will make efforts to include parents and guardians in the assessment, treatment, and service planning process. Parents or guardians retain custody of the child. (7-1-17)

04. Ineligible Conditions. A child who does not meet the requirements under Subsections 107.02 or 107.03 of this rule is not eligible for children's mental health services, other than crisis response. A child with a diagnosis of substance use disorder alone, or developmental disorder alone, may be eligible for Department services under IDAPA 16.07.17, "Substance Use Disorders Services" or IDAPA 16.04.11, "Developmental Disabilities Agencies," for substance use or developmental disability services. (7-1-17)

108. -- 109. (RESERVED)

110. NOTICE OF DECISION ON ELIGIBILITY.

01. Notification of Eligibility Determination. The Department will determine the child's eligibility for children's mental health services, in accordance with Section 107 of these rules, within thirty (30) calendar days of receipt of a signed application for services. Within five (5) working days of the determination of eligibility, the Department will send written notification to the child's parent or guardian of the eligibility determination. The written notice will include: (7-1-17)

a. The child's name and identifying information; (5-8-09)

b. A statement of the decision; (5-8-09)

c. A concise statement of the reasons for the decision; and (5-8-09)

d. The process for pursuing an administrative appeal regarding eligibility determinations. (5-8-09)

02. Parental Rights. If the Department determines that an applicant is eligible for children's mental health services through the Department, the Department clinician must inform the child's parent or guardian that they

have the right to reject the services offered by the Department, unless imposed by court order. (5-8-09)

03. Other Information that Must be Provided to the Parent. The clinician must also inform the parent that fees may be incurred for certain services, in accordance with IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," and that a parent has financial responsibility for the child. (5-8-09)

04. Reapplication for Mental Health Services. If the Department determines that a child is not eligible for children's mental health services through the Department, the child's parent or guardian may reapply after six (6) months or at any time upon a showing of a substantial, material change in circumstances. (5-8-09)

111. -- 114. (RESERVED)

115. TREATMENT PLAN.
A treatment plan will be developed by the Department, a parent or guardian, and the child, if appropriate, and may include the service provider or service providers. This plan will be specific, measurable, and realistic in the identification of the goal(s), relevant areas of concern, and desired results. (7-1-17)

01. Development of Treatment Plan. A treatment plan will be completed within fifteen (15) days of the date the child was determined eligible for children's mental health services. The parent or guardian must be given the opportunity to participate in the development of the treatment plan and sign it. The parent or guardian must sign the treatment plan indicating their agreement with service needs identified and their participation in its development. If these signatures, indicating participation in the development of the treatment plan are not obtained, the reason the signatures were not obtained must be documented in the record, including the reason for the parent's or guardian's refusal to sign. If the services are court-ordered and the parent or guardian refuses to sign the plan, the refusal must also be documented on the plan. If the services are voluntary and the parent or guardian refuses to sign the plan, the Department may close the case. (7-1-17)

02. Annual Development of Treatment Plan. The Department will develop a plan at least annually. The parent or guardian will be given the opportunity to participate in the annual development of the treatment plan and to sign it. (7-1-17)

03. One Hundred Twenty Day Review. Treatment plans are to be reviewed with the family at least once every one hundred twenty (120) days. (7-1-17)

04. Goals and Tasks. Treatment plans must include a long-term goal that identifies specific behavior changes, have measurable desired results, and have specific tasks that identify by whom, how, and when the tasks will be completed. (7-1-17)

116. OUTCOMES FOR CHILDREN'S MENTAL HEALTH SERVICES.
Outcomes for children's mental health services are measured through the administration of a satisfaction survey and the Department-approved standardized functional assessment tool. (7-1-17)

117. CASE RECORDS.

01. Electronic and Physical Files. The Department must maintain an electronic file and a physical file containing information on each child receiving children's mental health services. The physical file may include non-electronic documentation such as originals or copies of all court orders, birth certificates, social security cards, and assessment information that originates outside the Department. (7-1-17)

02. Storage of Records. All physical case records must be stored in a secure file storage area away from public access, and retained not less than five (5) years after the case is closed, after which they may be destroyed. (7-1-17)

a. Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. (7-1-17)

b. Exception for Case Records Involving an Indian Child. A case record involving an Indian child

must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (7-1-17)

118. USE OF PUBLIC FUNDS AND BENEFITS.
Public funds and benefits will be used to provide services for children eligible for services under Section 107 of these rules and their families. Services should be planned and implemented to maximize the support of the family's ability to provide adequate safety and well-being for the child at home. If the child cannot receive adequate services within the family home, the Department will arrange services to minimize the need for institutional or alternate care placement. Services will be individually planned with the family to meet the unique needs of each child and family. The Department will not require a parent or guardian to relinquish custody of the child in order to receive Department-funded services. (7-1-17)

119. FINANCIAL RESPONSIBILITY OF PARENT(S).
Parent(s) of a child eligible for services under Section 107 of these rules who is receiving outpatient services either directly from the Department, or through Department contracts with private providers, are financially responsible for services provided to their child and to their family, including court-ordered children's mental health services. The financial responsibility for each service will be in accordance with the ability of parent(s) to pay as determined under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." Parent(s) will not incur a financial obligation for services provided to their child through a Teens at Risk program. (7-1-17)

120. SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.
The fee charged to parents for outpatient children's mental health services is determined using the sliding fee schedule under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 300. (5-8-09)

121. FEE DETERMINATION FOR CHILDREN'S MENTAL HEALTH OUTPATIENT SERVICES.
Prior to the delivery of outpatient services, a "Fee Determination" form must be completed by a child's parent when requesting children's mental health services. The fee determination process includes the considerations found under IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules," Section 400. (5-8-09)

122. -- 199. (RESERVED)

ALTERNATE CARE PLACEMENT
(Sections 200 - 299)

200. AUTHORITY FOR ALTERNATE CARE PLACEMENT.
The Department may place a child into alternate care under either of the following conditions in Subsection 200.01 or 200.02 of this rule: (7-1-17)

01. Court Order. The Department may place a child into alternate care when the Department has been ordered by the Court to provide alternate care for a child. *( )*

a. A placement agreement must be developed by the Department and the parent or guardian prior to the child's placement in alternate care. *( )*

b. The treatment plan will identify areas of concern, goals, desired outcomes, time frames, tasks, and task responsibilities. *( )*

c. The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian. If notice is given by the parent or guardian, the Department will notify the court. *( )*

02. Voluntary Placement. The Department may place a child into alternate care with the Department when a parent or guardian is no longer able to maintain a child eligible for services under Section 107 of these rules in the child's home and the Department determines that the child would benefit from alternate care and treatment services. *( )*

a. A treatment plan, alternate care plan, and a placement agreement must be developed by the

Department and the parent or guardian prior to the child's placement in alternate care. The treatment plan will identify areas of concern, goals, desired outcomes, time frames, tasks and task responsibilities. ( )

b. The placement agreement entered into between the Department and a parent or guardian may be revoked with a twenty-four (24) hour notice by the child's parent or guardian. ( )

201. PROTECTIONS FOR CHILDREN IN ALTERNATE CARE.

01. Statutory Requirements. The Department must arrange alternate care in accordance with the protections established in: (5-8-09)

a. The Children's Mental Health Services Act, Title 16, Chapter 24, Idaho Code; (5-8-09)

b. The Child Protective Act, Title 16, Chapter 16, Idaho Code; and (5-8-09)

c. The Indian Child Welfare Act, 25 USC 1901, et seq. (5-8-09)

02. Requirement for Licensure. A child that is placed in alternate care must be placed in a licensed foster home, licensed residential care facility, or in a licensed hospital. (5-8-09)

03. Out-of-State Placement. Placement of a child in an alternate care setting outside the state of Idaho requires that the Department comply with the Interstate Compact on the Placement of Children, in accordance with Section 16-2102, Idaho Code. (5-8-09)

04. Least Restrictive Setting. Whenever possible, the Department will arrange placement: (7-1-17)

a. In the least restrictive setting available that will meet the child's mental health treatment needs; and (7-1-17)

b. That is in close proximity to the parent or guardian. (7-1-17)

c. If the placement does not meet the requirements of Subsections 201.04.a. and 201.04.b. of this rule, the Department will provide written justification to the child's parent or guardian by way of the Alternate Care Plan that the placement is in the best interests of the child. (7-1-17)

05. Visitation for Child's Parent or Guardian. Visitation arrangements will be documented in the alternate care plan. (7-1-17)

06. Notification to Parents or Guardians of Change in Placement. (7-1-17)

a. The Department will provide written notification to the child's parent or guardian no later than seven (7) days after a child's change of placement. (7-1-17)

b. If an Indian child under jurisdiction of the court is relocated to another alternate care setting, similar notice must be sent to the child's Indian custodian, and the child's tribe. Wherever these rules require notice to the parent or custodian and tribe of an Indian child, notice must also be provided to the Secretary of the Interior by certified mail with return receipt requested to Department of the Interior, Bureau of Indian Services, Division of Social Services, Code 450, Mail Stop 310-SIB, 1849 C Street, N.W., Washington, D.C. 20240. In addition, under 25 CFR Section 23.11, copies of such notices must be sent by certified mail with return receipt requested to the Portland Area Director, Bureau of Indian Affairs, 911 NE 11th Avenue, Portland, OR 97232. If the identity or location of the parent or Indian custodian and the tribe cannot be determined, notice of the proceeding must be given to the Secretary, who will provide notice to the parent or Indian custodian and tribe. (7-1-17)

202. (RESERVED)

203. DATE A CHILD ENTERED ALTERNATE CARE.
A child is considered to have entered alternate care on the date the child is actually placed in an alternate care setting.

All alternate care benefits, eligibility determinations, and required reviews are based on the date the child entered alternate care. (5-8-09)

204. TITLE XIX ELIGIBILITY.
Children placed in alternate care through the Department are eligible for Title XIX, if they meet the eligibility requirements as defined in IDAPA 16.06.01, "Child and Family Services." Application for these programs will be made by Department clinicians on the forms and in the manner prescribed by the Department's Division of Family and Community Services. (7-1-17)

205. ALTERNATE CARE LICENSURE.
All private homes and facilities in Idaho providing alternate care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "Child Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed, approved, or specified by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. (5-8-09)

206. ALTERNATE CARE CASE MANAGEMENT.
Case management must continue while the child is in alternate care and include the following: (5-8-09)

01. Preparation for Placement. Preparing a child for placement in alternate care is the joint responsibility of the child's parent or guardian, the child (when appropriate), the clinician and the alternate care provider. (5-8-09)

02. Information for Alternate Care Provider. The Department and the child's parent or guardian must inform the alternate care provider of the alternate care provider's roles and responsibilities in meeting the needs of the child and provide the following information to the alternate care provider: (5-8-09)

a. Any medical, health, and dental needs of the child including the names and addresses of the child's doctor, dentist, and other health providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (5-8-09)

b. The child's current functioning and behaviors; (5-8-09)

c. The child's history, past experiences, and reasons for placement into alternate care; (5-8-09)

d. The child's cultural and racial identity; (5-8-09)

e. Any educational, developmental, or special needs of the child; (5-8-09)

f. Names and addresses of the child's current or last school attended, including homeschool or alternate school, if applicable; (5-8-09)

g. The child's interests and talents; (5-8-09)

h. The child's attachment to current caretakers; (5-8-09)

i. The individualized and unique needs of the child; (5-8-09)

j. Procedures to follow in case of emergency; and (5-8-09)

k. Any additional information that may be required to meet the needs of the child. (5-8-09)

03. Consent for Medical Care. A parent or guardian must sign a Departmental form of consent for medical care and keep the clinician advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the case record. (5-8-09)

04. Financial Arrangements. The Department is responsible for explaining the financial and payment arrangements to the alternate care provider and must complete the documentation required for payment to the

alternate care provider. (7-1-17)

05. Contact Requirements. The child's parent or guardian, the clinician, the alternate care provider, and the child, if of appropriate developmental age, must establish a schedule for frequent and regular visits between the child and the family and the clinician or their designee. (5-8-09)

a. Face-to-face contact between the child and the clinician must occur at least monthly. An in-person visit must occur within the first thirty (30) days of placement and then the in-person visits must occur at a minimum of quarterly thereafter. (7-1-17)

b. Face-to-face contact between the child's parent or guardian and the clinician must occur at least monthly. (5-8-09)

c. Face-to-face contact between the alternate care provider and the clinician must occur at least monthly. (7-1-17)

d. Frequent and regular contact between the child, the child's parent or guardian, and other family members will be encouraged and facilitated unless it is specifically determined by the Department not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (5-8-09)

e. When a child is placed in alternate care in another state, a Department clinician must maintain at least monthly contact with the child, the child's family, and the alternate care provider with whom they have been placed as long as the state of Idaho has the placement responsibility for the child, in accordance with Section 200 of these rules. The supervising agency in the state where the child is living will be requested to maintain monthly, face-to-face contact with the child and make quarterly reports to the Department in accordance with arrangements made through the Interstate Compact on the Placement of Children. (7-1-17)

06. Transition Planning. Planning for transition from alternate care will be developed with all concerned parties. Transition planning will be initiated at the time of placement and completed prior to the child's return home or to another living arrangement. A written Transition Plan is part of the Alternate Care Plan and the Treatment Plan. As part of transition planning, efforts are coordinated by the Department and the parents or guardians to expedite access to community and Department services. (7-1-17)

207. -- 221. (RESERVED)

222. ALTERNATE CARE PLANNING.
Alternate care planning is mandated by the provisions of Sections 471(a)(15) and 475, P.L. 96-272. (5-8-09)

01. Alternate Care Plan Required. Each child receiving alternate care under the supervision of the state must have a standardized written alternate care plan. (5-8-09)

a. The purpose of the plan is to facilitate the provision of mental health treatment services and the safe return of the child to their own home as expeditiously as possible, or to make other permanent arrangements for the child if such return is not feasible. (5-8-09)

b. The alternate care plan must be included as part of the treatment plan. (5-8-09)

02. Written Alternate Care Plan. The Department must have completed a written alternate care plan within thirty (30) days after a child has been placed in alternate care. (5-8-09)

a. A parent or guardian and the child, to the extent possible, are to be involved in planning, selecting, and arranging the alternate care placement and any subsequent changes in placement. (5-8-09)

b. The alternate care plan must include documentation that a parent or guardian has been provided written notification of: (5-8-09)

i. Visitation arrangements made with the alternate care provider, including any changes in their visitation schedule; (5-8-09)

ii. Any change of placement, when the child is relocated to another alternate care or institutional setting as soon as possible, but no later than seven (7) days after placement; and (5-8-09)

iii. Their right to discuss any changes and to seek recourse if they disagree with any changes in visitation or other alternate care arrangements. (5-8-09)

c. All parties involved in developing the alternate care plan, including the alternate care provider, parent or guardian, and the child, if of appropriate developmental age: (5-8-09)

i. Will be asked by the Department to sign the alternate care plan that includes a statement indicating that they have read and understood the alternate care plan; and (5-8-09)

ii. Will receive a copy of the alternate care plan from the Department. (5-8-09)

223. -- 235. (RESERVED)

236. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.
In accordance with Sections 56-203B and 16-2406, Idaho Code, parent(s) are responsible for costs associated with the care of their child in alternate care. (5-8-09)

01. Notice of Parental Responsibility. The Department will provide the parent(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs. (5-8-09)

02. Financial Arrangements with Parent(s). Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. Parents are expected to contribute to the cost of their child's care, but parents will not be asked to pay more than the actual cost of care, including clothing, medical, incidental, and educational costs. (7-1-19)

237. SUPPORT AGREEMENTS AND SUPPORT ORDERS.

01. Support Agreement for Voluntary Placement. If the placement is voluntary, a parent must sign a support agreement that specifies the amount of support to be paid to the Department, when it is to be paid, and the address to which it is to be paid. (5-8-09)

02. Support Order for Payment of Involuntary Placement Costs. In the case of a court-ordered placement, if no support agreement has been reached with a parent prior to the court hearing, the Department may request the Court hold a support hearing to establish a support order for payment of involuntary placement costs. (5-8-09)

238. -- 239. (RESERVED)

240. INSURANCE COVERAGE.
The parent or guardian must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage is available for the child, the parent must acquire and maintain such insurance. (5-8-09)

241. MEDICAL CARD FOR CHILDREN IN ALTERNATE CARE.
The Department will issue a medical card to cover medical expenses for each child placed in alternate care. (5-8-09)

242. - 243. (RESERVED)

244. MEDICAL EMERGENCIES.

In case of serious illness, the alternate care provider must immediately seek medical attention for the child and notify the Department as soon as possible. A parent or guardian, the court in an emergency, or the Department, if it is the guardian of the child, has the authority to consent to major medical care or hospitalization in accordance with Section 39-4504, Idaho Code. (5-8-09)

245. DENTAL CARE.
Each child age three (3) years or older, who is placed in alternate care, must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist. (5-8-09)

01. Costs Paid by Medicaid. If dental care not included in the state medical assistance program is recommended, a request for payment will be submitted to the state Medicaid dental consultant. (5-8-09)

02. Emergencies. Emergency dental services will be provided for children in alternate care and paid for by the Department, if there are no other financial resources available. (5-8-09)

246. COSTS OF PRESCRIPTION DRUGS.
The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacies. (5-8-09)

247. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.
Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (5-8-09)

248. -- 250. (RESERVED)

251. DRIVERS' TRAINING AND LICENSES FOR CHILDREN IN ALTERNATE CARE.
Only a parent or guardian of a child in alternate care may authorize drivers' training, provide payment, and sign for drivers' licenses and permits. (5-8-09)

252. -- 282. (RESERVED)

283. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.
Monthly payments for care provided by family alternate care providers are paid according to IDAPA 16.06.01, "Child and Family Services." (3-28-18)

01. Gifts. Additional payments for Christmas gifts and birthday gifts will be paid in the appropriate months. (3-28-18)

02. Clothing. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (5-8-09)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the foster parents, based upon the Department's determination of the child's needs. (5-8-09)

284. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.
For those children who, as determined by the Department, require additional care above room, board, shelter, daily supervision, school supplies, and personal incidentals, the Department may pay the family alternate care provider an additional amount to that paid according to IDAPA 16.06.01, "Child and Family Services." The family alternate care rate is based upon a continuous ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. (3-28-18)

01. Lowest Level of Need. A child requiring a mild degree of care for documented conditions receives the lowest level of additional payments for the following: (3-28-18)

a. Chronic medical problems; (5-8-09)

b. Frequent, time-consuming transportation needs; (5-8-09)

c. Behaviors requiring extra supervision and control; and (5-8-09)

d. Need for preparation for independent living. (5-8-09)

02. Moderate Level of Need. A child requiring a moderate degree of care for documented conditions receives the moderate level of additional payments for the following: (3-28-18)

a. Ongoing major medical problems; (5-8-09)

b. Behaviors that require immediate action or control; and (5-8-09)

c. Alcohol or other substance use disorder. (5-8-09)

03. Highest Level of Need. A child requiring an extraordinary degree of care for documented conditions receives the highest level of additional payments for the following: (3-28-18)

a. Serious emotional or behavioral disorder that requires continuous supervision; (5-8-09)

b. Severe developmental disability; and (5-8-09)

c. Severe physical disability such as quadriplegia. (5-8-09)

04. Reportable Income. Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (5-8-09)

285. -- 599. (RESERVED)

600. TREATMENT FOSTER CARE.
A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children eligible for services under Section 107 of these rules is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgment of the Department. (7-1-17)

01. Qualifications. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-29-10)

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Child Care Licensing"; (5-8-09)

b. Complete Department-approved treatment foster care initial training; and (5-8-09)

c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-29-10)

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (3-29-10)

ii. Demonstrated cooperation and a positive working relationship with families and providers of mental health services. (3-29-10)

02. Continuing Education. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. (3-29-10)

03. Availability. At least one (1) treatment foster parent in each treatment family home must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-29-10)

04. Payment. The Department will pay treatment foster parents up to one thousand eight hundred ($1,800) dollars per month per child, which includes the monthly payment rate specified in Sections 283 and 284 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department. The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the treatment plan referenced in Subsection 600.06 of this rule. (7-1-17)

05. Payment to Contractors. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. (5-8-09)

06. Treatment Plan. The treatment foster parent(s) must implement the portions of the Department-approved treatment plan for which they are designated as responsible for each child in their care. This plan is incorporated as part of the treatment plan identified in Section 115 of these rules. (7-1-17)

601. -- 699. (RESERVED)

700. RESIDENTIAL CARE FACILITIES.
Residential care facilities provide a more intensive setting than treatment foster care. Residential care facilities in Idaho are licensed under IDAPA 16.06.02, "Child Care Licensing" to provide residential care for children and staffed by employees who cover assigned shifts. Children placed in residential care facilities receive services that may include the following: assessment, supervision, treatment plan development and implementation, documentation, behaviorally focused skill building, service coordination or clinical case management, consultation, psychotherapy, psychiatric care, and twenty-four (24) hour crisis intervention. Placement into a residential care facility for children eligible for services under Section 107 of these rules is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. (7-1-17)

01. Prior Authorization. Prior authorization must be obtained from an authorized representative in the Department's Division of Behavioral Health for placement of a child in a residential care facility where the Division of Behavioral Health is making full or partial payment. (5-8-09)

02. Payment. When care is purchased from private providers, payment will be made in accordance with a contract authorized by the Department, based on the needs of each child being placed and the services to be provided. (5-8-09)

701. -- 799. (RESERVED)

800. SIX MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENTS.
A review is to occur at the end of a six (6) month period for any child in an alternate care placement. The Department will conduct a case review to assure compliance with all applicable state and federal laws, and to ensure the treatment plan focuses on the goals of safety, permanency, effectiveness of treatment, and well-being of the child. The Department may request the court hold a review hearing for the child in accordance with Section 16-2407(3), Idaho Code. (7-1-17)

01. Notice of Six Month Review. The parent or guardian, foster parent of a child, or relative providing care for the child is to be provided with notice of their right to be heard in the six (6) month review. In the case of an Indian child, the child's tribe and any Indian custodian must also be provided with notice. This must not be construed to require that any foster parent, or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice. (7-1-17)

02. Procedure in the Six Month Review. The parties who received notice will be given the opportunity to participate in the case review. (5-8-09)

03. Members of Six Month Review Panel. The six (6) month review panel must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent or guardian. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes, and citizens qualified by experience, professional background, or training. Members of the panel will be chosen by and receive instructions from an authorized representative in the Department's Division of Behavioral Health, to enable them to understand the review process and their roles as participants. (5-8-09)

04. Considerations in Six Month Review. Whether conducted by the court in a review hearing or a Department review panel, under state law, federal law and regulation, each of the following must be addressed in a six (6) month review: (5-8-09)

a. Determine the extent of compliance with the treatment plan; (5-8-09)

b. Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (5-8-09)

c. Review compliance with the Indian Child Welfare Act, when applicable; (5-8-09)

d. Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and (5-8-09)

e. Project a date by which the child may be returned and safely maintained at home or placed for adoption, guardianship, or other permanent placement. (5-8-09)

05. Recommendations and Conclusions of Six Month Review Panel. Following the six (6) month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights. (5-8-09)

801. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Sections 16-2403 and 66-317, Idaho Code, the Department is authorized to promulgate rules regarding who may be appointed as a designated examiner, a designated dispositioner, or both. Under Sections 56-1003 and 56-1004, Idaho Code, the Director is authorized to adopt rules to supervise and administer a mental health program. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.07.39, "Designated Examiners and Dispositioners." *( )*

02. Scope. This chapter of rules sets forth the qualifications, appointment requirements, appointment process, duration of appointment, revocation of appointment, and requirements for reappointment for designated examiners and designated dispositioners in Idaho. (3-29-10)

002. INCORPORATION BY REFERENCE.
American Psychiatric Association: Diagnostic and Statistical Manual of Mental Disorders, *Fifth* Edition, (DSM-*5*) Washington, DC, American Psychiatric Association, 20*13*, is hereby incorporated by reference under this chapter of rules. Copies of the manual are available from the American Psychiatric Association, *1000 Wilson Boulevard, Suite 1825, Arlington, VA 22209-3901*. A copy of the manual is also available for public review at the Department of Health and Welfare, 450 West State Street, Boise, Idaho, 83702. *( )*

003. **-- 008. (RESERVED)**

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.
Each individual who works directly with children or vulnerable adults as described in Section 39-5302, Idaho Code, and who is seeking appointment as a designated examiner or designated dispositioner, or both, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (3-29-10)

01. Criminal History And Background Check Requirement -- Initial Appointment. The criminal history and background check requirements for applicants seeking consideration for an initial appointment as a designated examiner, designated dispositioner, or both, are found under Subsection 400.02 of these rules. (3-29-10)

02. Criminal History And Background Check Requirement -- Reappointment. The criminal history and background check requirements for applicants seeking consideration for reappointment as a designated examiner, designated dispositioner, or both, are found under Subsection 600.02 of these rules. (3-29-10)

010. DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: (3-29-10)

01. Clinical Nurse Specialist, Licensed. An individual licensed as a Clinical Nurse Specialist in accordance with Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-29-10)

02. Clinical Professional Counselor, Licensed (LCPC). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-29-10)

03. Clinical Social Worker, Licensed (LCSW). An individual licensed in accordance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (3-29-10)

04. Department. The Idaho Department of Health and Welfare. (3-29-10)

05. Designated Dispositioner. In accordance with Section 66-317, Idaho Code, the practice of a designated dispositioner is professional in nature and requires specialized knowledge, training, and experience determining the appropriate location for care and treatment of involuntary patients. A designated dispositioner is a designated examiner employed by or under contract with the Department and designated by the Director. (3-29-10)

06. Designated Examination. An evaluation by an appointed mental health professional to determine if an individual is mentally ill and if the individual is either likely to injure himself or others or is gravely disabled due to mental illness. (3-29-10)

07. Designated Examiner. In accordance with Sections 16-2403 and 66-317, Idaho Code, the practice of a designated examiner is professional in nature and requires specialized knowledge, training, and experience in the diagnosis and treatment of mental illness. A designated examiner is a psychiatrist, psychologist, psychiatric nurse, social worker, or such other mental health professional as may be designated in accordance with these rules.(3-29-10)

08. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-29-10)

09. Division. The Department's Division of Behavioral Health. (3-29-10)

10. Marriage and Family Therapist, Licensed (LMFT). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-29-10)

11. Masters of Social Work, Licensed (LMSW). An individual licensed in accordance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (3-29-10)

12. Nurse Practitioner, Licensed. An individual licensed as a Nurse Practitioner in accordance with Title 54, Chapter 14, Idaho Code, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-29-10)

13. Physician, Licensed. An individual licensed to practice medicine, under Title 54, Chapter 18, Idaho Code, and IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Surgery and Osteopathic Medicine and Surgery in Idaho." (3-29-10)

14. Professional Counselor, Licensed (LPC). An individual licensed in accordance with Title 54, Chapter 34, Idaho Code, and IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-29-10)

15. Psychologist, Licensed. An individual licensed to practice psychology in Idaho under Title 54, Chapter 23, Idaho Code, and as outlined by IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (3-29-10)

011. -- 199. (RESERVED)

200. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED EXAMINER.
To be appointed and practice as a designated examiner in Idaho, an applicant must meet the following minimum qualifications and requirements: (3-29-10)

01. Required License. Each applicant maintains their professional licensure for the duration of their appointment and be one (1) of the following: (3-29-10)

a. Licensed Physician; (3-29-10)

b. Licensed Psychologist; (3-29-10)

c. Licensed Clinical Nurse Specialist; (3-29-10)

d. Licensed Nurse Practitioner; (3-29-10)

e. Licensed Clinical Professional Counselor (LCPC); (3-29-10)

f. Licensed Professional Counselor (LPC); (3-29-10)

g. Licensed Clinical Social Worker (LCSW); (3-29-10)

h. Licensed Masters Social Worker (LMSW) with a supervision plan approved by the licensing board in accordance with IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners," Subsection 201.02; (3-29-10)

i. Licensed Marriage and Family Therapist (LMFT). (3-29-10)

02. Required Experience and Abilities. The Division will determine whether an applicant meets and demonstrates the following experience and abilities, based on the documentation provided by the applicant as required under Subsection 400.02 of these rules: (3-29-10)

a. At least two (2) years of post-master's degree experience in a clinical mental health setting which includes: (3-29-10)

i. Assessment of the likelihood of danger to self or others, grave disability, capacity to give informed consent, and capacity to understand legal proceedings; (3-29-10)

ii. Use of DSM-*5* diagnostic criteria; *( )*

iii. Treatment of mental health disorders including knowledge of treatment modalities and experience applying treatment modalities in a clinical setting; and (3-29-10)

iv. An understanding of the differences between behavior due to mental illness which poses a substantial likelihood of serious harm to self or others or which may result in grave disability from behavior which does not represent such a threat or risk. (3-29-10)

b. Knowledge of and experience applying Idaho mental health law. This must include: (3-29-10)

i. Experience that demonstrates understanding of the judicial process, including the conduct of commitment hearings. (3-29-10)

ii. Experience preparing reports for the court and testifying before a court of law. Experience must demonstrate an ability to provide the court with a thorough and complete oral and written evaluation that addresses the standards and questions set forth in the law; and (3-29-10)

iii. Knowledge of a client's legal rights. (3-29-10)

03. Required Training. Each applicant must have completed: (3-29-10)

a. A minimum of six (6) hours of training, provided by a Department-approved trainer, on the role of designated examiners and the processes used in fulfilling the responsibilities of designated examiners. (3-29-10)

b. A minimum of four (4) additional hours observing a designated examiner conducting a designated examination. (3-29-10)

201. -- 299. (RESERVED)

300. MINIMUM QUALIFICATIONS AND REQUIREMENTS FOR APPOINTMENT AS A DESIGNATED DISPOSITIONER.
To be appointed as a designated dispositioner in Idaho, an applicant must meet the following minimum qualifications and requirements. (3-29-10)

01. Appointment as a Designated Examiner. Applicants for designated dispositioner are also appointed as a designated examiner by the Director. (3-29-10)

02. Required Experience and Abilities. Each applicant has and demonstrates specific knowledge of available treatment alternatives in Idaho, types of treatment available for appropriate placement in Idaho, and level of care requirements in Idaho. (3-29-10)

301. -- 399. (RESERVED)

400. PROCESS AND PROCEDURE FOR APPLICANTS SEEKING CONSIDERATION FOR AN INITIAL APPOINTMENT AS A DESIGNATED EXAMINER, DESIGNATED DISPOSITIONER, OR BOTH.

Each applicant seeking an initial appointment as a designated examiner or designated dispositioner, or both, must submit the following information to the Regional Behavioral Health Program Manager of the region where they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice. (3-29-10)

01. Complete an Application. Each applicant must complete and sign an application using Department form HW-0790. (3-29-10)

02. Provide Verification of Education, Training, Experience, and Criminal Background Check. Each applicant must provide the Department with the following: (3-29-10)

a. A current resume that documents: (3-29-10)

i. The applicant's degree, the date the degree was awarded, and the school from which the degree was received; and (3-29-10)

ii. How the applicant meets the requirements under Subsection 200.02 of these rules. (3-29-10)

b. A copy of the applicant's license. If the applicant is an LMSW, they must also provide a copy of the supervision plan approved by the Board of Social Work Examiners; (3-29-10)

c. Evidence of completion of the required ten (10) hours of training within sixty (60) days prior to the date of application in accordance with Subsection 200.03 of these rules showing the date(s), place(s), number of hours of training and the qualifications of the person(s) providing the training; (3-29-10)

d. Documentation of a criminal history and background check clearance completed within ninety (90) days of the date of the application. (3-29-10)

03. Regional or Hospital Recommendation. (3-29-10)

a. To be eligible for consideration and appointment as a designated examiner or designated dispositioner, or both, each applicant must receive a favorable recommendation from the Regional Behavioral Health Program Manager of the region where they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice. (3-29-10)

b. Within thirty (30) days of the receipt of a completed and signed application, the Regional Behavioral Health Program Manager or the State Hospital Administrative Director will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with all the information provided by the applicant as required under Subsection 400.02 of this rule. (3-29-10)

04. Final Decision on Appointment. (3-29-10)

a. Upon receiving a favorable recommendation in accordance with Subsection 400.03 of these rules, the Division will review each application for completeness and compliance with these rules. The review of the application will include such factors as the availability of funding, the degree of need in the regions and the state, and other factors, including the requirements under this rule. (3-29-10)

b. Upon completion of this review, the Division will make recommendations to the Director regarding appointments as designated examiner or designated dispositioner, or both. (3-29-10)

c. In accordance with Sections 66-317(5), 66-317(f), and 54-2303(a), Idaho Code, the Director has the authority to appoint applicants for designated examiner or designated dispositioner, or both, who meet the requirements under these rules. (3-29-10)

d. The Division will notify each applicant in writing of the Department's decision within sixty (60) days of the date the application was received by the Division. Written notification of the Department's decision will also be sent to the Regional Behavioral Health Program Manager or State Hospital Administrative Director that rendered a favorable recommendation in accordance with Subsection 400.03 of these rules. (3-29-10)

401. -- 499. (RESERVED)

500. DURATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.

01. Initial Appointment. Initial appointment of a designated examiner or a designated dispositioner, or both, expires one (1) year from the date of appointment, unless the designated examiner or designated dispositioner applies for, and is granted, reappointment in accordance with Section 600 of these rules. (3-29-10)

02. Reappointment. Reappointment of an individual as a designated examiner or designated dispositioner, or both, expires two (2) years from the date of such appointment, unless the designated examiner or designated dispositioner applies for, and is granted, reappointment. (3-29-10)

03. Expiration of Appointment Upon Leaving Department Employment. When an individual serving as a designated examiner, designated dispositioner, or both, leaves the employ of the Department, their appointment(s) expires the date their employment ends. They may reapply as a contractor under Section 600 of these rules. (3-29-10)

501. -- 599. (RESERVED)

600. PROCESS AND PROCEDURE FOR APPLICANTS SEEKING CONSIDERATION FOR REAPPOINTMENT AS A DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.
Each applicant seeking reappointment as a designated examiner or designated dispositioner, or both, must submit the following information to the Regional Behavioral Health Program Manager of the region where they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice. (3-29-10)

01. Complete an Application. Each applicant for reappointment must complete and sign an application using Department form HW-0790. (3-29-10)

02. Criminal History and Background Check Requirement for Individuals Appointed as a Designated Examiner or Designated Dispositioner Prior to January 1, 2009. Each individual appointed as a designated examiner or designated dispositioner, or both, prior to January 1, 2009, must show documentation of a criminal history and background check clearance completed within ninety (90) days prior to the date of their application for reappointment. (3-29-10)

03. Regional or Hospital Recommendation. (3-29-10)

a. To be eligible for consideration and reappointment as a designated examiner or designated dispositioner, or both, each applicant must receive a favorable recommendation from the Regional Behavioral Health Program Manager of the region where they intend to practice or the State Hospital Administrative Director of the hospital at which they intend to practice. (3-29-10)

b. Within thirty (30) days of the receipt of a completed and signed application, the Regional Behavioral Health Program Manager or the State Hospital Administrative Director will review the applicant's qualifications and, if satisfied, sign the application and forward it to the Division along with a copy of the applicant's current license. (3-29-10)

04. Final Decision on Reappointment. (3-29-10)

a. The request for reappointment must be received by the Division at least sixty (60) days prior to the expiration date of the previous appointment of the designated examiner or designated dispositioner. (3-29-10)

b. The Division will notify each applicant in writing of the Department's decision within sixty (60) days of the date the application for reappointment was received by the Division. Written notification of the Department's decision will also be sent to the Regional Behavioral Health Program Manager or State Hospital Administrative Director that submitted the request for reappointment. (3-29-10)

c. If a designated examiner or designated dispositioner allows their appointment to expire, the applicant must reapply in accordance with the initial appointment requirements under Section 400 of this rule. (3-29-10)

601. -- 699. (RESERVED)

700. REVOCATION OF APPOINTMENT AS DESIGNATED EXAMINER OR DESIGNATED DISPOSITIONER, OR BOTH.
The Department may deny, suspend, or revoke the appointment or reappointment of designated examiners and designated dispositioners, or both, in accordance with the following procedures: (3-29-10)

01. Emergency Denial, Suspension, Revocation of Appointment or Reappointment. The Department will deny, suspend, or revoke appointment or reappointment, without prior notice, when conditions exist as to endanger the health or safety of any client. (3-29-10)

02. Written Request for Denial, Suspension, or Revocation of Appointment or Reappointment. In the absence of an emergency, a written request from the Regional Behavioral Health Program Manager or State Hospital Administrative Director must be made to the Division. The request must state the reason(s) for the requested denial, suspension, or revocation of an appointment or reappointment. (3-29-10)

03. Grounds for Revocation of Appointment or Reappointment. The Department may deny, suspend, or revoke an appointment or reappointment for any of the following reasons: (3-29-10)

a. Failure to comply with these rules. (3-29-10)

b. Failure to furnish data, information, or records as requested by the Department. (3-29-10)

c. Revocation or suspension of the applicant's professional license. (3-29-10)

d. Refusal to participate in a quality assurance process as requested by the Department. (3-29-10)

e. Inadequate knowledge or performance as demonstrated by repeated substandard peer or quality assurance reviews. (3-29-10)

f. Misrepresentation by the applicant in their application, or in documents required by the Department, or by an appointee in which there is a criminal, civil, or administrative determination that they have misrepresented the facts or the law to the court or administrative agency. (3-29-10)

g. Conflict of interest in which an appointee exploits their position as a designated examiner or designated dispositioner for personal benefit. (3-29-10)

h. A criminal, civil, or administrative determination that an appointee has committed fraud or gross negligence in their capacity as a designated examiner or designated dispositioner. (3-29-10)

i. Substantiated disposition of a child protection referral or adult protection referral. (3-29-10)

j. Failure to correct within thirty (30) days of written notice, any unacceptable conduct, practice, or condition as determined by the Department to be detrimental to public health or safety. (3-29-10)

04. Appeal of Department Decision. Applicants may appeal a Department decision to deny, suspend, or revoke an appointment in accordance with IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (3-29-10)

05. Reapplication for Appointment. Following denial, suspension, or revocation of appointment or reappointment, the same appointee may not reapply for appointment for a period of one (1) year after the effective date of the action. (3-29-10)

701. -- 999. (RESERVED)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

DOCKET NO. 16-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 7-1206, 16-1629, 16-2102, 16-2433, 19-2524, 20-511A, 32-1207, 32-1209, 32-1214G, 32-1217, 39-242, 39-309, 39-1105, 39-1107, 39-1111, 39-1209 through 1211, 39-1210(10), 39-1211(4), 39-1213, 39-3137, 39-3305, 39-3505, 39-3520, 39-5403, 39-5603, 39-5604, 39-7501, 39-9109, 56-202(b), 56-203(2), 56-203A, 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, 56-1005, 56-1005(8), 56-1007, 56-1009 56-1023, 56-1028, 56-1041, 56-1043, 66-404(7), 15-5-308(4), 15-5-311(5), 15-5-316(5), Title 39, Chapters 3 and 31, Title 66, Chapters 1 and 3, and Title 67, Chapter 52, Idaho Code, and 42 USC Section 9858f.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 16, rules of the Idaho Department of Health and Welfare:

- IDAPA 16.01.07, *Emergency Medical Services (EMS) – Personnel Licensing Requirements*
- IDAPA 16.02.01, *Rules of the Idaho Time Sensitive Emergency System Council*
- IDAPA 16.02.08, *Vital Statistics Rules*
- IDAPA 16.02.13, *State of Idaho Drinking Water Laboratory Certification Program*
- IDAPA 16.02.14, *Rules Governing Construction and Operation of Public Swimming Pools in Idaho*
- IDAPA 16.02.25, *Fees Charged by the State Laboratory*
- IDAPA 16.02.26, *The Idaho Children's Special Health Program*
- IDAPA 16.02.27, *Idaho Radiation Control Rules*
- IDAPA 16.03.03, *Rules Governing Child Support Services*
- IDAPA 16.03.18, *Medicaid Cost-Sharing*
- IDAPA 16.03.19, *Rules Governing Certified Family Homes*
- IDAPA 16.03.22, *Residential Care or Assisted Living Facilities in Idaho*
- IDAPA 16.04.07, *Rules Governing Fees for State Hospital North*
- IDAPA 16.05.06, *Criminal History and Background Checks*
- IDAPA 16.06.01, *Child and Family Services*
- IDAPA 16.06.02, *Rules Governing Standards for Child Care Licensing*
- IDAPA 16.07.01, *Behavioral Health Sliding Fee Schedules*

This pending rule vacates the following proposed rules previously promulgated as part of the omnibus proposed rulemaking under IDAPA 16, rules of the Idaho Department of Health and Welfare:

- **(VACATED)** *IDAPA 16.04.08, Rules Governing Fees for State Hospital South Services*
- **(VACATED)** *IDAPA 16.07.15, Behavioral Health Programs*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019, Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 3142 - 3584**.

- IDAPA 16.01.07, Emergency Medical Services (EMS) -- Personnel Licensing Requirements - This includes the update of chapter titles and minor corrections.

- IDAPA 16.02.01, Idaho Time Sensitive Emergency System Council - This chapter title will change to "Idaho Time Sensitive Emergency System Council." - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.08, Vital Statistics Rules - There were changes to reduce restrictive language, removed obsolete language, update of chapter titles, and make minor corrections.
- IDAPA 16.02.13, State of Idaho Drinking Water Laboratory Certification Program - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.25, Fees Charged by the State Laboratory - This includes the update of chapter titles and minor corrections.
- IDAPA 16.02.26, The Idaho Children's Special Health Program - This contains strikeouts of obsolete or redundant language, updates to titles, minor edits, and reduction of restrictive language.
- IDAPA 16.02.27, Idaho Radiation Control Rules - This includes the update of chapter titles and minor corrections.
- IDAPA 16.03.03, Rules Governing Child Support Services - This chapter title will change to "Child Support Services." This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.18, Medicaid Cost-Sharing - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.03.19, Rules Governing Certified Family Homes - This chapter title will change to "Certified Family Homes." - This includes the update of chapter titles and minor corrections.
- IDAPA 16.03.22, Residential Care or Assisted Living Facilities in Idaho - This chapter title will change to "Residential Assisted Living Facilities." - There is no change from the Proposed text.
- IDAPA 16.04.07, Rules Governing Fees for State Hospital North - This chapter title will change to "Fees for State Hospital North and State Hospital South." It will add the rules from IDAPA 16.04.08, Rules Governing Fees for State Hospital South Services.
- **IDAPA 16.04.08, Rules Governing Fees for State Hospital South Services* - The proposed rule is being vacated and the chapter is being combined with IDAPA 16.04.07. (See previous entry)
- IDAPA 16.05.06, Criminal History and Background Checks - This includes the update of chapter titles and minor corrections.
- IDAPA 16.06.01, Child and Family Services - This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.06.02, Rules Governing Standards for Child Care Licensing - This chapter title will change to "Child Care Licensing." This removes obsolete or redundant language, updates to titles, minor edits, and reduces use of restrictive language.
- IDAPA 16.07.01, Behavioral Health Sliding Fee Schedules - This includes the update of chapter titles and minor corrections.
- **IDAPA 16.07.15, Behavioral Health Programs* - The proposed rules is being vacated.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This fee or charge is being imposed pursuant to Sections 56-1023, 56-1007, 56-1003, 56-264, 32-1207, 56-203A, 66-327, 66-118, 56-354, 39-1107, 16-2433, 19-2524, 20-511A, 39-3137, 56-253, 56-257, 39-3358, and Title 39, Chapter 2, Idaho Code.

Licensing, Certification, Permit, or Registration Fees:

- IDAPA 16.01.07, Emergency Medical Services (EMS) -- Personnel Licensing Requirements -- Fees paid by emergency medical personnel, for licensure and renewal of licensure.
- IDAPA 16.02.13, State of Idaho Drinking Water Laboratory Certification Program -- Fees paid by laboratories for certification to test drinking water.
- IDAPA 16.02.14, Construction and Operation of Public Swimming Pools -- Establishes reasonable fees for services for all public swimming pools.
- IDAPA 16.02.27, Idaho Radiation Control Rules -- Establishes licensing fees for all radiation producing machines in the State.
- IDAPA 16.03.19, Certified Family Homes -- Fees paid by Certified Family Homes for application and certification.
- IDAPA 16.06.02, Child Care Licensing -- Fees paid by childcare providers for licensing.

Designation Fees:
- IDAPA 16.02.01, Idaho Time Sensitive Emergency System Council -- Fees paid by hospitals for designation under the Idaho Time Sensitive Emergency System.

Records Fees:
- IDAPA 16.02.08, Vital Statistics Rules -- Fees paid to the Department for copies of vital records, searches, and other services.

Fee for Service:
- IDAPA 16.02.25, Fees Charged by the State Laboratory -- Fees paid to the Department for laboratory testing and services.
- IDAPA 16.02.26, The Idaho Children's Special Health Program -- Fees paid by Children's Special Health Program clients for program services.
- IDAPA 16.03.03, Child Support Services -- Fees paid by clients of the Department's child support program.
- IDAPA 16.03.22, Residential Assisted Living Facilities -- Fees paid by providers for building evaluation and survey services.
- IDAPA 16.04.07, Fees for State Hospital North and State Hospital South -- Fees for services provided at State Hospitals.
- IDAPA 16.05.06, Criminal History and Background Checks -- Fees charged by the Department for criminal history and background checks.
- IDAPA 16.06.01, Child and Family Services -- Fees charged by the Department for child protection central registry checks.
- IDAPA 16.07.01, Behavioral Health Sliding Fee Schedules -- Sliding fee schedules for behavioral health services.

Premiums:
- IDAPA 16.03.18, Medicaid Cost-Sharing -- Establishes premium fee schedule for Youth Empowerment Services (YES) program participants.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule, contact the Administrative Rules Unit, **dhwrules@dhw.idaho.gov**, 450 W. State Street, 10 Floor, Boise, ID, 83720.

Dated this 16th day of October, 2019.

Tamara Prisock
DHW – Administrative Rules Unit
450 W. State Street – 10th Floor
P.O. Box 83720
Boise, ID 83720-0036
Phone: (208) 334-5500
Fax: (208) 334-6558
E-mail: **dhwrules@dhw.idaho.gov**

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 56-1023, Idaho Code, to adopt rules and standards concerning the administration of the Idaho Emergency Medical Services Act, Sections 56-1011 through 56-1023, Idaho Code. The Director is authorized under Section 56-1003, Idaho Code, to supervise and administer an emergency medical service program. (3-29-12)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.01.07, "Emergency Medical Services (EMS) – Personnel Licensing Requirements." (3-29-12)

02. Scope. These rules include requirements and standards for certification and licensure of emergency medical personnel, the establishment of fees for licensure, renewals of licensure, and education criteria for needed skills to perform duties of specific types of licensure. Emergency medical personnel licensed under these rules work or provide EMS services for agencies licensed by the state. (3-29-12)

002. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.
Licensed EMS personnel must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," to include: (3-29-12)

01. Initial Licensure. An individual applying for initial licensure described in Section 110 of these rules. (3-29-12)

02. Reinstatement of Licensure. An individual applying for reinstatement of licensure described in Section 131 of these rules. (3-29-12)

03. Certificate of Eligibility. An individual applying for a certificate of eligibility described in Section 150 of these rules. (3-29-12)

04. Additional Criminal Background Check. The EMS Bureau may require an updated or additional criminal background check at any time, without expense to the candidate, if there is cause to believe new or additional information will be disclosed. (3-29-12)

010. DEFINITIONS.
For the purposes of this chapter, the definitions in IDAPA 16.01.02, "Emergency Medical Services (EMS) -- Rule Definitions" apply. (7-1-14)

011. -- 074. (RESERVED)

075. INVESTIGATION OF COMPLAINTS FOR PERSONNEL LICENSING VIOLATIONS.
Investigation of complaints and disciplinary actions for personnel licensing are provided under IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (7-1-16)

076. ADMINISTRATIVE ACTION IMPOSED FOR LICENSE OR CERTIFICATION.
Any license or certification may be suspended, revoked, denied, or retained with conditions for noncompliance with any standard or rule. Administrative license or certification actions imposed by the EMS Bureau for any action, conduct, or failure to act which is inconsistent with the professionalism, or standards, or both, are provided under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.12, "Emergency Medical Services (EMS) -- Complaints, Investigations, and Disciplinary Actions." (7-1-16)

077. STANDARDS OF PROFESSIONAL CONDUCT FOR EMS PERSONNEL.

01. Method of Treatment. EMS personnel must practice medically acceptable methods of treatment and must not endeavor to extend their practice beyond their competence and the authority vested in them by the medical director. EMS personnel must not perform any medical procedure or provide medication that deviated from or exceeds the scope of practice for the corresponding level of licensure established under IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission." *( )*

02. Knowledge and Proficiency. EMS personnel must maintain standards of knowledge and

proficiency as required by this chapter of rules and IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission." ( )

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

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

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

06. Professionalism. EMS personnel must uphold the dignity and honor of the profession and abide by its ethical principles and must be familiar with existing laws governing the practice of emergency medical services and comply with those laws. EMS personnel must never perform duties of the profession while under the influence of alcohol, illegal substances, or legal drugs or medication causing impairment of function. (7-1-16)

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

08. Ethical Responsibility. EMS personnel must refuse to participate in unethical procedures, and assume the responsibility to expose incompetence or unethical conduct of others to the appropriate authority in a proper and professional manner. Misrepresentation in an application or documentation for licensure by means of concealment of a material fact is a violation of ethical responsibility. (7-1-16)

09. Integrity. EMS personnel must act with honesty and integrity and assure that reports, applications and documentation for which they are responsible are free of fraudulent and false information. (7-1-16)

078. -- 089. (RESERVED)

090. ADVANCE DO NOT RESUSCITATE (DNR) DIRECTIVES.
Licensed EMS personnel must follow the DNR protocol established by the Department. (7-1-16)

091. -- 099. (RESERVED)

PERSONNEL LICENSURE REQUIREMENTS
(Sections 100 - 199)

100. PERSONNEL LICENSURE REQUIRED.
Any individual who provides emergency medical care must obtain and maintain a current EMS personnel license issued by the EMS Bureau, or recognition by the EMS Bureau described under Section 140 of these rules. The levels of Idaho personnel licensure are: (3-29-12)

01. Emergency Medical Responder (EMR). (3-29-12)

02. Emergency Medical Technician (EMT). (3-29-12)

03. Advanced Emergency Medical Technician (AEMT). (3-29-12)

04. Paramedic. (3-29-12)

101. AFFILIATION REQUIRED TO PRACTICE.
Licensed EMS personnel must be affiliated with an EMS agency, and only practice under the supervision of the

agency medical director as required in IDAPA 16.02.02, "Idaho *Emergency Medicaid Services (*EMS*)* Physician Commission." *( )*

102. (RESERVED)

103. RECOGNITION OF EMS PERSONNEL LICENSURE INTERSTATE COMPACT (REPLICA).

01. Licensed EMS Personnel from a REPLICA State. Licensed EMS personnel from a REPLICA state whose primary affiliation is an Idaho-licensed EMS agency must apply for Idaho EMS licensure within ninety (90) days of affiliation with an Idaho EMS agency. (3-29-17)

02. Out-of-State Primary Affiliation. If EMS personnel licensed in another REPLICA state and they claim an EMS agency in that state as their primary affiliation, Idaho licensure is not required. (3-29-17)

104. (RESERVED)

105. APPLICATION AND INSTRUCTIONS FOR EMS PERSONNEL LICENSURE.
A personnel license or certificate of eligibility application and instructions may be obtained from the EMS Bureau, *see* online at: http://www.idahoems.org. *( )*

106. TIME FRAME FOR PERSONNEL LICENSURE AFTER SUCCESSFUL COMPLETION OF EDUCATION COURSE.
An individual who has successfully completed an EMS education course is eligible to attempt the standardized examination for the appropriate level of licensure. (7-1-16)

01. Complete Standardized Examination. A candidate must successfully complete all components of the standardized examination in a twelve (12) month period within twenty-four (24) months of completing an EMS training course in order to be eligible for an Idaho EMS personnel license. (7-1-16)

02. Standardized Examination Not Completed. If all components of the standardized examination are not successfully completed in a twelve (12) month period within twenty-four (24) months of course completion, the candidate must repeat the initial training course and all components of the standardized examination in order to be eligible for an Idaho EMS personnel license. (7-1-16)

107. -- 109. (RESERVED)

110. INITIAL PERSONNEL LICENSURE.
Upon successful completion of an approved education course recognized by the EMS Bureau under IDAPA 16.01.05, "Emergency Medical Services -- Education, Instructor, and Examination Requirements," an individual may apply to the EMS Bureau for licensure. The candidate must meet the following: (7-1-16)

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

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

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

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

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

04. Provide Current Affiliation with EMS Agency. A candidate must declare all organizations in

which they are allowed to practice as licensed personnel. A candidate must have a current affiliation with a licensed EMS agency that functions at, or above, the level of licensure being sought by the candidate. (3-29-12)

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

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

07. Pass Standardized Examination. A candidate must successfully complete the standardized examination for the level of licensure on the application required under IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." (7-1-16)

a. A candidate for EMR licensure must have successfully completed the standardized examination at the EMR level or higher within the preceding thirty-six (36) months. (7-1-16)

b. A candidate for EMT licensure must have successfully completed the standardized examination at the EMT level or higher within the preceding thirty-six (36) months. (7-1-16)

c. A candidate for AEMT licensure must have successfully completed the standardized examination at the AEMT level or higher within the preceding twenty-four (24) months. (7-1-16)

d. A candidate for Paramedic licensure must have successfully completed the standardized examination at the Paramedic level within the preceding twenty-four (24) months. (7-1-16)

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

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

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

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

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

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

111. APPLICATION FEES FOR PERSONNEL LICENSURE.

01. Initial Licensure. A candidate applying for an initial personnel license must submit the following license fee at time of application: (3-21-12)

a. EMR and EMT have no license fee. (3-21-12)

b. AEMT and Paramedic license fee is thirty-five dollars ($35). (3-21-12)

02. Renewal. A candidate applying for personnel license renewal must submit the following amount at

the time of application: (3-21-12)

a. EMR and EMT have no license renewal fee. (3-21-12)

b. AEMT and Paramedic license renewal fee is twenty-five dollars ($25). (3-21-12)

03. Reinstatement. A candidate applying for a personnel license reinstatement must pay the following amount at the time of application: (3-21-12)

a. EMR and EMT have no reinstatement fee. (3-21-12)

b. AEMT and Paramedic reinstatement fee is thirty-five dollars ($35). (3-21-12)

112. -- 114. (RESERVED)

115. EMS PERSONNEL LICENSE DURATION.
Duration of a personnel license is determined using the following specified time intervals. (3-29-12)

01. Initial License Duration for EMR and EMT Level Licensure. EMR and EMT personnel licenses expire on March 31 or September 30. Expiration dates for EMR and EMT initial licenses are set for not less than thirty-six (36) months and not more than forty-two (42) months from the date of successful certification examination completion in order to establish an expiration date of March 31 or September 30. (3-29-12)

02. Initial License Duration for AEMT and Paramedic Level Licensure. AEMT and Paramedic personnel licenses expire on March 31 or September 30. Expiration dates for AEMT and Paramedic initial licenses are set for not less than twenty-four (24) months and not more than thirty (30) months from the date of successful certification examination completion in order to establish an expiration date of March 31 or September 30. (3-29-12)

03. EMS Personnel License Renewal Duration for EMR and EMT Level Licensure. An EMR and EMT level personnel license is renewed for three (3) years. (3-29-12)

04. EMS Personnel License Renewal Duration for AEMT and Paramedic Level Licensure. An AEMT and Paramedic level personnel license is renewed for two (2) years. (3-29-12)

05. EMS REPLICA Licensure Duration. EMS personnel from another REPLICA state who become licensed in Idaho will have their Idaho EMS license expire March 31 or September 30 following the expiration of their EMS license from the original state. (3-29-17)

116. PERSONNEL LICENSE TRANSITION.
Personnel licensed at the AEMT level can opt to either transition to the AEMT-2011 level, or they may remain at the AEMT-1985 level. (3-29-17)

117. (RESERVED)

118. REPLICA EXPIRATION.
EMS personnel from another REPLICA state who become licensed in Idaho will have their Idaho license expire in March or September following the expiration of their license in the original state. (3-29-17)

119. (RESERVED)

120. PERSONNEL LICENSE RENEWAL.
Licensed personnel must provide documentation that they meet the following requirements: (3-29-12)

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

02. Documentation of Continuing Education for Level of Licensure Renewal. A candidate for renewal of licensure must provide documentation of continuing education consistent with the license holder's level of licensure. All continuing education and skill proficiency requirements must be completed under the provisions in Sections 300 through 325 of these rules. The time frame for continuing education courses must meet the following requirements: (7-1-16)

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

i. For EMR or EMT, within the thirty-six (36) months preceding expiration. (7-1-16)

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding expiration. (7-1-16)

b. All continuing education and skill proficiency requirements for successive licenses must be completed between the effective and expiration dates of the license being renewed, or according to Section 116 or 125 of these rules. (7-1-16)

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

i. For EMR or EMT, within the thirty-six (36) months preceding expiration. (7-1-16)

ii. For AEMT and Paramedic, within the twenty-four (24) months preceding expiration. (7-1-16)

d. A licensee certified by a national EMS certification body may petition the Department to review the certification standards under which the licensee was certified. The Department may waive specific duplicated continuing educational requirements where appropriate. When an external education requirement is found to be more rigorous than these rules, the Department may elect to renew a license based on that education. (7-1-16)

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

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

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

121. -- 124. (RESERVED)

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

01. Early Submission for License Renewal. (7-1-16)

a. Licensed EMS personnel may submit renewal application and documentation to the EMS Bureau up to six (6) months prior to the current license expiration date. (7-1-16)

b. Continuing education (CE) taken after early submission of a renewal application may be counted as CE for the next licensure cycle. Prior to the expiration date of the current license, the licensee must submit written notification to the EMS Bureau of the intention to use those CE hours for the next licensure cycle. (7-1-16)

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

126. -- 129. (RESERVED)

130. LAPSED LICENSE.
Licensed personnel who fail to submit a complete renewal application prior to the expiration date of their license cannot practice or represent themselves as licensed EMS personnel. (3-29-12)

01. Failure to Submit an Application and Renewal Documentation. No grace periods or extensions to an expiration date may be granted. After the expiration date the EMS personnel license will no longer be valid. (3-29-12)

02. Application Under Review by the EMS Bureau. Provided the license renewal candidate submitted the renewal application to the EMS Bureau prior to the application deadline, a personnel license does not lapse while under review by the EMS Bureau. (3-29-12)

03. Failure to Provide Application Information Requested by the EMS Bureau. After the expiration date of a license, a candidate for license renewal who does not provide the information requested by the EMS Bureau within twenty-one (21) days from the date of notification to the last known address, will be considered to have a lapsed license. (3-29-12)

04. Reinstatement of Lapsed EMS Personnel License. In order to reinstate at lapsed license, a candidate must submit an application for license reinstatement to the EMS Bureau within twenty-four (24) months of the expiration date of the lapsed license. (3-29-12)

05. Reinstatement of an EMS Personnel License Lapsed for More Than Twenty-Four Months. An individual whose license has been lapsed for more than twenty-four (24) months must retake and successfully complete an initial education course for the level of licensure for reinstatement. The individual must then meet all requirements in Section 110 of these rules for an initial personnel license. (3-29-12)

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

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

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

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

04. Documentation of Continuing Education for Lapsed License Reinstatement. A candidate for reinstatement of a lapsed license must provide documentation of continuing education consistent with the license holder's lapsed license. Continuing education requirements are provided in Sections 300 through 325 of these rules. The time frame for meeting the continuing education requirements for reinstatement are as follows: (7-1-16)

a. The candidate must meet continuing education requirements under Sections 320 through 325 of these rules for the last valid licensure cycle; and (7-1-16)

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

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

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

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

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

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

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

07. Pass Standardized Examination for Reinstatement. A reinstatement candidate must successfully complete the standardized examination for the lapsed level of licensure required under IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements." A candidate for reinstatement must successfully complete the standardized examination within the time period during which the license was lapsed. (7-1-16)

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

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

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

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

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

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

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

132. -- 139. (RESERVED)

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

01. EMS Personnel Licensed or Certified in Other States. An individual, possessing an EMS personnel license or certification from a state other than Idaho, must have prior recognition or reciprocity granted by

the EMS Bureau prior to providing emergency medical care in Idaho. The following applies: (3-29-12)

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

b. An individual who is currently licensed or certified by another state to provide emergency medical care can apply to the EMS Bureau for limited recognition to practice in Idaho as provided in Subsection 140.02 of this rule. (7-1-16)

02. Limited Recognition in Idaho. An individual, who is currently licensed or certified by another state to provide emergency medical care and applies to practice EMS within the confines of a specific incident, may be granted limited recognition by the EMS Bureau. Limited recognition allows an individual to practice EMS in Idaho only within the confines of the specific incident for which it was issued and only for a specified period of time not to exceed the duration of the incident for which it was issued. (7-1-16)

03. Personnel with NREMT Registration or Current EMS Certification. An individual, possessing a current NREMT registration or a current EMS certification or license from another state at or above the level of licensure they are seeking in Idaho, is eligible for an Idaho EMS personnel licensure if they satisfy the requirements in Section 110 of these rules. (7-1-16)

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

141. -- 144. (RESERVED)

145. CHANGES TO AN EXISTING LICENSE.

01. Surrender of a Current EMS Personnel License. An individual who possesses a current EMS personnel license may surrender that license at any time by submitting a letter of intent and their license to the EMS Bureau. (3-29-12)

02. Surrender of License to Prevent Investigation or Disciplinary Action. Surrendering or expiration of a license does not prevent an investigation or disciplinary action against the individual. (3-29-12)

03. Relinquish a Current EMS Personnel License for a Lower Level License. An individual who possesses a current license may relinquish that license and receive a license at a lower level with the same expiration date as the original license. The individual must have current affiliation with a licensed EMS agency which functions at, or higher than, the level of licensure being sought. (3-29-12)

04. Relinquishment of a License to a Lower Level License to Prevent Investigation or Disciplinary Action. Relinquishing a personnel license does not prevent an investigation or disciplinary action against the individual. (3-29-12)

05. Reporting Requirements for Changes in Status. Licensed personnel must notify the EMS Bureau within thirty (30) days of a change in name, mailing address, telephone number or agency affiliation. (3-29-12)

06. Personnel License Duration Shortened. The EMS Bureau will issue a license with a shortened licensure duration upon the request of the license holder. (3-29-12)

146. MULTIPLE LICENSES.
An individual may hold more than one (1) level of personnel licensure in Idaho, but can only renew one (1) personnel license at one (1) level. (3-29-12)

147. -- 149. (RESERVED)

150. CERTIFICATE OF ELIGIBILITY REQUIREMENTS.

01. Personnel Licensure Requirements are Met. An individual, who has successfully completed an approved course, and meets all requirements for EMS personnel licensure required in Section 110 of these rules, except for obtaining an agency affiliation provided in Subsection 110.04 of these rules, may apply to the EMS Bureau for a certificate of eligibility. (3-29-12)

02. Certificate of Eligibility Duration. Duration of a certificate of eligibility is determined using the specified time intervals of the personnel licensure level requirements in Section 115 of these rules. (3-29-12)

03. Criminal History and Background Check. An individual applying for a certificate of eligibility must successfully complete a criminal history and background check within the six (6) months prior to the issuance or renewal of a certificate of eligibility, according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." Denial without the grant of an exemption under the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," will result in denial of a certificate of eligibility. (3-29-12)

04. Renewal of Certificate of Eligibility. An individual must provide documentation that the following requirements have been met in order to renew a certificate of eligibility: (3-29-12)

a. Continuing education requirements for the level of licensure listed under the license renewal requirements in Section 120 of these rules have been met; and (3-29-12)

b. Successful completion of the standardized examination designated by the EMS Bureau for the certificate of eligibility. (3-29-12)

05. Revocation of Certificate of Eligibility. The EMS Bureau will revoke a certificate of eligibility if the certificate holder is determined to no longer meet eligibility requirements or has obtained a personnel license. (3-29-12)

151. AMBULANCE CERTIFICATION.

01. Ambulance Certification is Required. In order for a licensed EMR to serve as the sole patient care provider who is delivering patient care, the EMR must possess a current ambulance certification issued by the EMS Bureau. (4-11-19)

02. Ambulance Certification Requirements. A licensed EMR applying for and meeting the requirements defined in this section of rule will be issued an ambulance certification. The requirements for ambulance certification are: (4-11-19)

a. Have a valid, unrestricted EMR license; (4-11-19)

b. Have successfully completed an ambulance certification training program, examination, and credentialing; (4-11-19)

03. Duration of Certification. Ambulance certifications are valid as long as the license holder is continually licensed. (4-11-19)

04. Disciplinary and Corrective Action. The Department may impose disciplinary and corrective actions on an ambulance certification based on the procedures for administrative license actions described in IDAPA 16.01.12, "Emergency Medical Services (EMS) – Complaints, Investigations, and Disciplinary Actions." (4-11-19)

152. -- 174. (RESERVED)

175. EMS BUREAU REVIEW OF APPLICATIONS.

01. Review of License Applications. The EMS Bureau reviews each application for completeness and accuracy. Random applications are selected for audit by the EMS Bureau. Applications will also be audited when information declared on the application appears incomplete, inaccurate, or fraudulent. (3-29-12)

02. EMS Bureau Review of Renewal Application. A personnel license does not expire while under review by the EMS Bureau, provided the license renewal candidate submitted the renewal application to the EMS Bureau prior to the application deadline required under Section 130 of these rules. (3-29-12)

176. -- 299. (RESERVED)

CONTINUING EDUCATIONAL AND SKILLS PROFICIENCY REQUIREMENTS FOR PERSONNEL LICENSURE (Sections 300 - 399)

300. CONTINUING EDUCATION AND SKILLS PROFICIENCY.

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

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

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

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

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

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

b. Education must be completed during a single license duration. (3-29-12)

301. CONTINUING EDUCATION RECORDS ARE SUBJECT TO AUDIT.

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

01. Documentation Record. All documentation for continuing education hours must include: (7-1-16)

a. Name of attendee; (7-1-16)

b. Date education was completed; and (7-1-16)

c. Education sponsor or instructor. (7-1-16)

02. Proof of Completion. The following are acceptable formats for proof of completion of continuing education: (7-1-16)

a. Signed course roster; (7-1-16)

b. Certificate of completion; (7-1-16)

c. Electronic verification of completion of on-line course; (7-1-16)

d. Verification of attendance from EMS conference; (7-1-16)

e. Verification or proof of providing instruction; or (7-1-16)

f. Agency training record validated by agency administrator. (7-1-16)

302. -- 304. (RESERVED)

305. CONTINUING EDUCATION CATEGORIES FOR PERSONNEL LICENSURE RENEWAL.

01. Airway. (7-1-16)

02. Cardiovascular. (7-1-16)

03. Trauma. (7-1-16)

04. Medical. (7-1-16)

05. Operations. (7-1-16)

06. Pediatrics. (7-1-16)

306. -- 309. (RESERVED)

310. VENUES OF CONTINUING EDUCATION FOR PERSONNEL LICENSURE RENEWAL.
Continuing education for all personnel must include at least two (2) of the venues described in Subsections 310.01 through 310.12 of this rule for each licensure period. (7-1-16)

01. Structured Classroom Sessions. (3-29-12)

02. Refresher Programs. Refresher programs that revisit the original curriculum and have an evaluation component (3-29-12)

03. Nationally Recognized Courses. (3-29-12)

04. Regional and National Conferences. (3-29-12)

05. Teaching Continuing Education Topics. The continuing education topics being taught must fall under the categories in Section 305 of these rules. (3-29-12)

06. Agency Medical Director-Approved Self-Study or Directed Study. This venue is not allowed to be used for a certificate of eligibility continuing education requirement. (7-1-16)

07. Case Reviews and Grand Rounds. (3-29-12)

08. Distributed Education. This venue includes distance and blended education using computer, video, audio, Internet, and CD resources (3-29-12)

09. Journal Article Review with an Evaluation Instrument. (3-29-12)

10. Author or Co-Author an EMS-Related Article in a Nationally Recognized Publication. (7-1-16)

11. Simulation Training. (7-1-16)

12. Evaluator at a State or National Psychomotor Exam. (7-1-16)

311. -- 319. (RESERVED)

320. LICENSE RENEWAL CONTINUING EDUCATION REQUIREMENTS.
A license renewal candidate must provide documentation of the following continuing education hours provided in the table below during each licensure period. (7-1-16)

TABLE 320
LICENSE RENEWAL CONTINUING EDUCATION (CE) REQUIREMENTS

CE CATEGORIES	EMR 24 TOTAL CE Hours	EMT 48 TOTAL CE Hours	AEMT 54 TOTAL CE Hours	PARAMEDIC 72 TOTAL CE Hours
An individual must complete at least 1 hour of continuing education in each category.				
Airway, Respiration, and Ventilation	No more than 7 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 14 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 16 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.	No more than 22 CE hours in any single category may be counted toward the total number of CE Hours needed for renewal.
Cardiovascular				
Trauma				
Medical				
Operations: Landing Zone & Extrication Awareness				
Pediatrics	2 hours	4 hours	6 hours	8 hours

(7-1-16)

321. -- 324. (RESERVED)

325. LICENSE RENEWAL SKILLS PROFICIENCY REQUIREMENTS.
A license renewal candidate must demonstrate proficiency in the skills necessary to provide safe and effective patient care at the licensure level consistent with the scope of practice provided in IDAPA 16.02.02, "Idaho Emergency Medical Services (EMS) Physician Commission." ( )

326. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Time Sensitive Emergency System Council (TSE) is authorized under Section 56-1028, Idaho Code, to promulgate rules for the purpose of establishing standards and for the administration of a voluntary time sensitive emergency system of care. Sections 56-1024 through 56-1030, Idaho Code, provide requirements for the TSE Council, its membership, duties, regional TSE committees, standards criteria, and the designation of centers. The Department is authorized to charge and collect fees established by rule under Section 56-1007, Idaho Code, and to establish and collect data for a Time Sensitive Emergency (TSE) Registry under Section 57-2003, Idaho Code. (3-24-16)

001. TITLE, SCOPE, AND INTENT.

01. Title. The title of these rules is IDAPA 16.02.01, "Idaho Time Sensitive Emergency System Council." *( )*

02. Scope. These rules provide for the administration and establishment of standards for a voluntary statewide time sensitive emergency system of care that includes procedures and requirements for designation of trauma, stroke, and heart attack centers including data reporting, fees, appeal process and enforcement procedures, determination of regions to provide an effective access to the TSE system within the state, and operational procedures for regional TSE committees. (3-24-16)

03. Intent. With the maturation of the Time Sensitive Emergency System (TSE), the intent is for the state to have the ability to designate TSE centers without reliance on national accreditation bodies. The TSE Council, upon review of appropriate documentation, may provide reciprocity for facilities in Idaho that also choose to operate under a designation in a neighboring state's system. (3-24-16)

002. INCORPORATION BY REFERENCE.
The Time Sensitive Emergency System Standards Manual, Edition 2019-1, is incorporated by reference in this chapter of rules. Copies of the manual may be obtained online at https://tse.idaho.gov/ or from the Bureau of Emergency Medical Services and Preparedness located at 2224 East Old Penitentiary Road, Boise, ID 83712-8249. (7-1-19)

003. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter, the following terms and definitions apply. (3-24-16)

01. American College of Surgeons (ACS). The American College of Surgeons (ACS) is a national body that sets standards and verifies compliance with published standards. (3-24-16)

02. Department. The Idaho Department of Health and Welfare. (3-24-16)

03. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-24-16)

04. Division. The Division of Public Health, Idaho Department of Health and Welfare. (3-24-16)

05. EMS Agency. Any organization licensed by the Department under Sections 56-1011 through 56-1023, Idaho Code, and IDAPA 16.01.03, "Emergency Medical Services (EMS) - Agency Licensing Requirements," that operates an air medical service, ambulance service, or non-transport service. (3-24-16)

06. EMS Bureau. The Bureau of Emergency Medical Services (EMS) & Preparedness of the Idaho Department of Health and Welfare. (3-24-16)

07. Facility. A health care organization that is voluntarily seeking designation from the Idaho Time Sensitive Emergency Council. A facility may be any of the following: (3-24-16)

a. Center. A facility designated by the Idaho Time Sensitive Emergency Council is known as a center. (3-24-16)

b. Freestanding emergency department: (3-24-16)

i. Is owned by a hospital with a dedicated emergency department; (3-24-16)

ii. Is located within thirty-five (35) miles of the hospital that owns or controls it; (3-24-16)

iii. Provides emergency services twenty-four (24) hours per day, seven (7) days per week on an outpatient basis; (3-24-16)

iv. Is physically separate from a hospital; and (3-24-16)

v. Meets the staffing and service requirements in IDAPA 16.03.14, "Hospitals." ( )

c. Hospital. As defined in Section 39-1301, Idaho Code, is a facility primarily engaged in providing, by or under the daily supervision of physicians: ( )

i. Concentrated medical and nursing care on a twenty-four (24) hour basis to inpatients experiencing acute illness; (3-24-16)

ii. Diagnostic and therapeutic services for medical diagnosis and treatment, psychiatric diagnosis and treatment, and care of injured, disabled, or sick persons; (3-24-16)

iii. Rehabilitation services for injured, disabled, or sick persons; (3-24-16)

iv. Obstetrical care; (3-24-16)

v. Provides for care of two (2) or more individuals for twenty-four (24) or more consecutive hours; and (3-24-16)

vi. Is staffed to provide nursing professional nursing care on a twenty-four (24) hour basis. (3-24-16)

d. Rural Clinic. A health care clinic in a rural area that is located more than thirty-five (35) miles from a hospital via maintained roads and is capable of providing emergency care to patients. (3-24-16)

08. Heart Attack. STEMI, a common name for ST-elevation myocardial infarction, is a more precise definition for a type of heart attack caused by a prolonged period of blocked blood supply that affects a large area of the heart and has a substantial risk of death or disability calling for a quick response. ( )

09. Idaho Time Sensitive Emergency (TSE) System Council. The Idaho Time Sensitive Emergency System Council established in Section 56-1027, Idaho Code. (3-24-16)

10. National Accrediting Body. An organization whose standards criteria is recognized by the Idaho Time Sensitive Emergency System Council and verifies compliance with those standards. (3-24-16)

11. Regional Time Sensitive Emergency (TSE) Committee. An Idaho regional TSE committee established under Section 56-1030, Idaho Code. (3-24-16)

12. STEMI. STEMI is an ST segment elevation myocardial infarction that is a particular type of heart attack, or MI (myocardial infarction), that is caused by a prolonged period of blocked blood supply. It affects a large area of the heart muscle, and so causes changes on the ECG as well as in blood levels of key chemical markers. This is considered a major heart attack and is referred to in medical shorthand as a STEMI. (3-24-16)

13. Stroke. An interruption of blood flow to the brain causing paralysis, slurred speech, or altered brain function usually caused by a blockage in a blood vessel that carries blood to the brain (ischemic stroke) or by a blood vessel bursting (hemorrhagic stroke). (3-24-16)

14. Time Sensitive Emergency (TSE). Time sensitive emergencies specifically for this chapter of rules are trauma, stroke, and heart attack. (3-24-16)

15. Trauma. The result of an act or event that damages, harms, or hurts a human being resulting in

intentional or unintentional damage to the body resulting from acute exposure to mechanical, thermal, electrical, or chemical energy, or from the absence of such essentials as heat or oxygen. (3-24-16)

16. **TSE-Designated Center**. A facility that has voluntarily applied for TSE designation, met and is in compliance with the designation criteria and standards of these rules, and that the TSE Council has designated as one (1) or more of the following: (3-24-16)

a. Level I Trauma Center; (3-24-16)

b. Level II Trauma Center; (3-24-16)

c. Level III Trauma Center; (3-24-16)

d. Level IV Trauma Center; (3-24-16)

e. Level V Trauma Center; (3-24-16)

f. Pediatric Level I Trauma Center; (3-24-16)

g. Pediatric Level II Trauma Center; (3-24-16)

h. Level I Stroke Center (Comprehensive); (3-24-16)

i. Level II Stroke Center (Primary); (3-24-16)

j. Level III Stroke Center (Acute Stroke Ready); (3-24-16)

k. Level I STEMI Center (Heart Attack Receiving); or (3-24-16)

l. Level II STEMI Center (Heart Attack Referring). (3-24-16)

17. **TSE Registry**. The population-based data system defined under Section 57-2003, Idaho Code. (3-24-16)

18. **TSE System**. An organized statewide approach to treating trauma, stroke, and heart attack patients that establishes and promotes standards for patient transportation, equipment, and information analysis for effective and coordinated TSE care. (3-24-16)

011. -- 074. (RESERVED)

075. TSE COUNCIL.
Under Section 56-1027, Idaho Code, the TSE Council will consist of members appointed by the Governor of Idaho and the chair of each regional TSE committee. (3-24-16)

076. TSE COUNCIL -- RESPONSIBILITIES AND DUTIES.
The TSE Council is responsible for the duties described under Section 56-1028, Idaho Code. (3-24-16)

077. -- 079. (RESERVED)

080. TSE REGIONS.
Under Section 56-1028, Idaho Code, the TSE Council is required to establish TSE regions that provide more effective access to the Idaho TSE system through education, but not for the purpose of promoting competition, restricting, or directing patient referrals within the region. The TSE Council has established six (6) regions in Idaho described in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-24-16)

081. TSE REGIONS -- REALIGNMENT OF REGION.
The TSE Council may realign a region by initiation of the TSE Council, or at the request of a regional TSE

committee, a county or local government entity within the region, a TSE-designated center, or a licensed EMS agency within the region. (3-24-16)

01. Requesting Entity. The requesting entity must forward correspondence to the TSE Council specifying the reason for the realignment request. The correspondence must include: (3-24-16)

a. Existing patient routing patterns used by both EMS agencies and health care centers; (3-24-16)

b. Distances and transport times involved in patient routing patterns; (3-24-16)

c. A list of all entities affected by the request; (3-24-16)

d. A list of all other licensed health care facilities and licensed EMS agencies in the county; and (3-24-16)

e. Documentation that all affected regional TSE committees are agreeable to the realignment. (3-24-16)

02. Copies of Request for Realignment. The entity requesting the TSE Council for realignment must provide copies of the correspondence to all affected regional TSE committees, county and local governments, licensed health care facilities, and EMS agencies in the requesting entity's county. (3-24-16)

03. TSE Decision for Realignment. The TSE Council will evaluate the request based on the impact to patient care and will notify all parties of the council's decision. (3-24-16)

082. REGIONAL TSE COMMITTEES -- ORGANIZATION AND RESPONSIBILITIES.
The regional TSE committees' organization and responsibilities are described under Section 56-1030, Idaho Code. (3-24-16)

083. -- 099. (RESERVED)

100. DESIGNATION OF TSE CENTERS -- CRITERIA.
Under Section 56-1029, Idaho Code, the TSE Council will designate a hospital as a trauma, stroke, or STEMI (heart attack) center when such hospital, upon proper application and verification, is found by the TSE Council to meet an applicable designation level for trauma, stroke, or STEMI (heart attack) designation criteria established in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-24-16)

101. -- 104. (RESERVED)

105. TRAUMA DESIGNATION CENTERS.
To be an Idaho TSE-designated Level I, II, III, IV, V, or a Pediatric Level I or Level II Trauma Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-24-16)

106. -- 109. (RESERVED)

110. STROKE DESIGNATION CENTERS.
To be an Idaho TSE-designated Level I, II, or III Stroke Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. (3-24-16)

111. -- 114. (RESERVED)

115. STEMI (HEART ATTACK) DESIGNATION CENTERS.
To be an Idaho TSE-designated Level I or II STEMI (Heart Attack) Center, a facility must meet or exceed required standards published for state designation in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-24-16)

116. -- 119. (RESERVED)

120. DESIGNATION OF CENTERS -- GENERAL REQUIREMENTS.

01. Application. A facility applying for initial TSE designation must submit an application along with applicable fees for each designation it is requesting. Application process and requirements are provided in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. Fee requirements are provided in Section 200 of these rules. (3-24-16)

02. Initial Designation. Initial designation requires completion of appropriate application, submission of appropriate fees, and completion of an appropriate on-site survey based on the Time Sensitive Emergency System Standards Manual incorporated by reference under Section 004 of these rules. (3-24-16)

121. -- 189. (RESERVED)

190. TSE DESIGNATION -- LENGTH OF DESIGNATION.
A TSE center will be designated for a period of three (3) years, unless the designation is rescinded by the TSE Council for non-compliance with the designation standards of these rules or adjusted to coincide with applicable external verification timetables. (3-24-16)

191. RENEWAL OF TSE DESIGNATION.
A TSE center must submit its renewal application and applicable fees no later than six (6) months prior to the center's designation expiration date. Designation will not lapse due to a delay in scheduling the on-site survey, if the delay is through no fault of renewing center. (3-24-16)

192. -- 194. (RESERVED)

195. NOTIFICATION OF LOSS OF CERTIFICATION OR LICENSURE.
Any TSE-designated center that has a loss of certification or licensure must immediately notify the TSE Council by contacting TSE program staff. (3-24-16)

196. -- 199. (RESERVED)

200. DESIGNATION AND TSE ON-SITE SURVEY FEES.

01. Application With National Verification. An applicant applying for a TSE designation that is verified by a national accrediting body must submit the appropriate designation fees with its application for initial designation and renewal. The designation fees are for a three (3) year designation and are payable on an annual basis. TSE designation fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. (3-24-16)

02. Application Without National Verification. An applicant who requires a TSE on-site survey prior to designation is required to pay the applicable on-site survey fee at the time of application. TSE designation and on-site survey fees are not to exceed those listed in Subsections 200.03 through 200.05 of this rule. (3-24-16)

03. Trauma Designation and TSE On-Site Survey Fees.

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	$45,000 / $15,000	$3,000 / Not applicable with ACS verification
LEVEL II	$36,000 / $12,000	$3,000 / Not applicable with ACS verification

TRAUMA DESIGNATIONS 200.03	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL III	$24,000 / $8,000	$,3000 / Not applicable with ACS verification
LEVEL IV	$12,000 / $4,000	$1,500 / Not applicable with ACS verification
LEVEL V	$3,000 / $1,000	$1,500
PEDIATRIC LEVEL I and LEVEL II	$36,000 / $12,000	$3000 / Not applicable with ACS verification

(3-24-16)

04. Stroke Designation and TSE On-Site Survey Fees.

STROKE DESIGNATIONS 200.04	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	$21,000 / $7,000	$3,000 / Not applicable with national or acceptable state verification
LEVEL II	$12,000 / $4,000	$3,000 / Not applicable with national or acceptable state verification
LEVEL III	$1,500 / $500	$3,000 / Not applicable with national or acceptable state verification

(7-1-19)

05. STEMI (Heart Attack) Designation and TSE On-Site Survey Fees.

STEMI (HEART ATTACK) DESIGNATIONS 200.05	DESIGNATION FEE 3-year / Annual (Not to exceed)	TSE ON-SITE SURVEY FEE (Not to exceed)
LEVEL I	$21,000 / $7,000	$3,000 / Not applicable with national or acceptable state verification
LEVEL II	$1,500 / $500	$3,000 / Not applicable with national or acceptable state verification

(7-1-19)

06. Designation Fee Payment. After completion of the TSE on-site survey, the TSE Council will notify the applicant facility of the designation determination by letter. The applicant facility must then pay either the annual designation fee or the entire three (3) year designation fee. After designation notification and upon the Department's receipt of the designation fee, designation is effective. The TSE Council will send a certificate of designation and confirmation of the designation period. Annual designation fees for those facilities paying yearly are

due to the Department within thirty (30) days of the date of the invoice in order to maintain designation. Failure to meet this deadline will result in suspension or revocation of designation as provided in Section 285 of these rules. (7-1-19)

201. -- 249. (RESERVED)

250. TSE ON-SITE SURVEY.
The TSE Council will conduct an on-site survey of each TSE-designated center at least once every three (3) years, unless the center has been verified by a national accrediting body to meet or exceed the standards set in these rules. The TSE Council will schedule the on-site survey with the designated center in a timely manner. (3-24-16)

251. TSE ON-SITE SURVEY -- GENERAL REQUIREMENTS.
The TSE on-site survey will consist of and consider each facility's application and compliance with the standards published for state designation and incorporated under Section 004 of these rules for the specific type of designation being requested. The general requirements in Subsections 251.01 through 251.06 of this rule apply: (3-24-16)

01. Survey Team Member Requirements. Survey team members will meet the following inclusion criteria: (3-24-16)

a. A physician surveyor must: (3-24-16)

i. Be certified by the American Board of Medical Specialties or the American Board of Osteopathic Medicine; (3-24-16)

ii. Be board-certified in the specialty area being represented on the review team; (3-24-16)

iii. Be currently active*, or active in the last twelve (12) months,* in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; *( )*

iv. Have no conflict of interest with the facility under review; (3-24-16)

v. Be from another state when performing a survey for Level I or Level II Trauma Center designations; and (3-24-16)

vi. Be from outside the region of the center being verified. (3-24-16)

b. A nurse surveyor or program manager must: (3-24-16)

i. Be currently active*, or active in the last twelve (12) months,* in trauma, stroke, or emergency cardiac care at a center that is at or above the level being reviewed; and *( )*

ii. Have no conflict of interest with the facility under review; (3-24-16)

iii. Be from another state when performing a survey for Level I or Level II Trauma Center designations; and (3-24-16)

iv. Be from outside the region of the center being verified. (3-24-16)

02. Communication Between Surveyors and Facilities. In order to standardize ethical practice, all communication between surveyors and facilities prior to the survey must be facilitated by TSE program staff. (3-24-16)

03. Survey Team Member Notification of Potential Conflict of Interest. Upon being assigned to an on-site survey team, a potential team member must notify the TSE Council of any potential conflict of interest regarding any financial, professional, or personal bias that may affect the survey of the applicant's facility. (3-24-16)

04. Notification to Applicant of Survey Team Members. The TSE Council will provide the applicant

with the names of the on-site survey team once they have been selected and at least thirty (30) calendar days prior to the scheduled survey. (3-24-16)

05. Facility Notification to TSE Council of Potential Conflict of Interest. If the applicant believes that a potential surveyor has a financial, professional, or personal bias that may affect the survey, the applicant must notify the TSE Council in writing no later than seven (7) calendar days after the applicant receives the TSE Council's notification of the proposed survey team. (3-24-16)

06. Notification of Decision for Conflict of Interest. The TSE Council will consider the conflict of interest notice and make a decision concerning replacement of the survey team member in question. No person who has a substantial conflict of interest in the operation of any facility under review will participate in the on-site survey of the applicant. (3-24-16)

252. TSE ON-SITE SURVEY -- SURVEY TEAM COMPOSITION.
The TSE Council will select an on-site survey team based on the applicant's designation application and specifications provided in these rules and the standards published in the Time Sensitive Emergency System Standards Manual incorporated under Section 004 of these rules. (3-24-16)

253. ON-SITE SURVEY -- ADDITIONAL SURVEYS.
The TSE Council may conduct additional, announced or unannounced, full or partial, on-site reviews of TSE designated centers or applicants when there is reason to believe that the center is not in compliance with the designation criteria standards of these rules. (3-24-16)

254. -- 259. (RESERVED)

260. DESIGNATION DECISION.

01. Summary Report. The survey team will present a verbal summary of the survey results to the applicant. The survey team will submit in writing to the TSE Council its recommendation on the center's designation at the completion of the site survey. (3-24-16)

02. Written Report. The TSE Council will consider all evidence and notify the applicant in writing of its decision within thirty (30) calendar days of receiving the survey team's recommendation. (3-24-16)

03. Final Determination. The TSE Council's final determination regarding each application will be based upon consideration of: (3-24-16)

a. The application; (3-24-16)

b. The evaluation and recommendations of the on-site survey team; (3-24-16)

c. The best interests of patients; and (3-24-16)

d. Any unique attributes or circumstances that make the facility capable of meeting special community needs. (3-24-16)

04. Provisional Designation. The TSE Council may grant a provisional designation to a facility with deficiencies it deems correctable. A facility receiving a provisional designation must: (3-24-16)

a. Resolve the deficiencies within the time period specified by the TSE Council; (3-24-16)

b. Submit documentation that the deficiency has been resolved; and (3-24-16)

c. If necessary, submit to an additional focused on-site survey and pay the applicable survey fees. (3-24-16)

05. Denial. If the TSE Council denies an applicant a designation, the provisions of IDAPA 16.05.03,

"Contested Case Proceedings and Declaratory Rulings," will apply. ( )

261. -- 269. (RESERVED)

270. WAIVERS.

01. Granting a Waiver. The TSE Council may grant a waiver from one (1) or more designation criteria for a center applying for TSE designation. (3-24-16)

02. Waiver Application. A center requesting a waiver must submit a completed TSE Waiver Application Form. The TSE Council may require the applicant to provide additional information, and the application will not be considered complete until all required information is provided. (3-24-16)

03. Post Notice. A center requesting a waiver must post a notice of the waiver application at all public entrances to the center and in at least one (1) area that is commonly used by the patients. The notice must: (3-24-16)

a. Include a meaningful description of the reason for the waiver; (3-24-16)

b. Be posted on the date the waiver application is submitted; (3-24-16)

c. Remain posted for a minimum of thirty (30) calendar days; and (3-24-16)

d. Describe where and to whom comments may be submitted during the thirty (30) calendar days. (3-24-16)

04. Notice Distribution. When the notice is posted, the center must also distribute copies of the notice to prehospital emergency medical service agencies active in the community served by the center. (3-24-16)

05. Waiver Application Submission. The completed waiver application must be submitted to the TSE Council at least thirty (30) calendar days before a TSE Council meeting in order to be placed on the agenda. Applications submitted less than thirty (30) calendar days in advance of a TSE Council meeting will be placed on the next agenda. (3-24-16)

06. Waiver Application Distribution. The TSE Council will make available the public notice of the TSE Council meeting regarding the waiver application to all TSE-designated centers. (3-24-16)

07. Waiver Application Review. The regional TSE committee must review the request and make recommendations to the TSE Council. The TSE Council must make a decision and notify the facility administrator in writing within thirty (30) calendar days of the TSE Council meeting during which the waiver decision is made. (3-24-16)

08. Waiver Conditions. When a waiver is granted, the TSE Council must: (3-24-16)

a. Specify the terms and conditions of the waiver; (3-24-16)

b. Specify the duration of the waiver; duration will not exceed the designation period for that center or three (3) years, whichever is shorter; and (3-24-16)

c. Require the submission of progress reports from the center that was granted a waiver. (3-24-16)

09. Waiver Renewal. A center that plans to maintain a waiver beyond its expiration must submit a new waiver application to the TSE Council no less than thee (3) months prior to the expiration of the waiver. (3-24-16)

10. Waiver Revocation. The TSE Council may revoke or suspend a waiver when it determines: (3-24-16)

a. That continuation of the waiver jeopardizes the health, safety, or welfare of the patients; (3-24-16)

b. The applicant has provided false or misleading information in the waiver application; (3-24-16)

c. The applicant has failed to comply with conditions of the waiver; or (3-24-16)

d. That a change in federal or state law prohibits continuation of the waiver. (3-24-16)

11. Notification and Appeal. When the TSE Council denies, revokes, or suspends a waiver, the TSE Council must provide the center with a written notification of the action and the basis for the action. The notice will inform the facility of the right to appeal and the procedure to appeal the waiver action under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Notification will be made in writing within thirty (30) calendar days of the TSE Council meeting during which the appeal decision is made. ( )

271. -- 279. (RESERVED)

280. DENIAL AND MODIFICATION.

01. Denial. The TSE Council may deny an initial or renewal application for a center's designation when a center: (3-24-16)

a. Does not meet the criteria for designation required in these rules; (3-24-16)

b. Application or accompanying documents contain false statements of material facts; (3-24-16)

c. Refuses to allow any part of an on-site survey; (3-24-16)

d. Fails to comply with or to successfully complete a plan of correction, or (3-24-16)

e. Is substantially out of compliance with any TSE rules. (3-24-16)

02. Modification. When a center fails to meet the criteria at the level of designation for which it applied or opts to surrender its designation, the TSE Council may recommend a designation at a lesser level described in Section 290 of these rules, or a complete revocation of state designation. This action, unless agreed to by the applicant, will represent a denial of the application. (3-24-16)

03. Notification and Appeal. When the TSE Council denies an application for designation, the TSE Council must provide the center with a written notification of the denial and the basis for the denial. The notice will inform the facility of the right to appeal and the procedure to appeal the denial under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

281. -- 284. (RESERVED)

285. REVOCATION AND SUSPENSION.

01. Revocation. The TSE Council may revoke the designation of a center or a waiver when an owner, officer, director, manager, or other employee: (3-24-16)

a. Fails or refuses to comply with the provisions of these rules; (3-24-16)

b. Fails to make annual designation fee payment for those facilities paying yearly; (7-1-19)

c. Makes a false statement of material fact about the center's capabilities or other pertinent circumstances in any record or matter under investigation for any purposes connected with these rules; (3-24-16)

d. Prevents, interferes with, or attempts to impede in any way, the work of a representative of the TSE Council in implementing or enforcing these rules; (3-24-16)

e. Falsely advertises, or in any way misrepresents the facility's ability to care for patients based on its designation status; (3-24-16)

f. Is substantially out of compliance with these rules and has not rectified such noncompliance; (3-24-16)

g. Fails to provide reports required by the TSE registry or the Department in a timely and complete fashion; or (3-24-16)

h. Fails to comply with or complete a plan of correction in the time or manner specified. (3-24-16)

02. Suspension. The TSE Council may suspend a center's designation or waiver when it finds, after investigation, that the center has engaged in a deliberate and willful violation of these rules, or that the public's health, safety, or welfare is endangered. (3-24-16)

03. Notification and Appeal. When the TSE Council revokes or suspends a center's designation or waiver, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

286. -- 289. (RESERVED)

290. DESIGNATION AT A LESSER LEVEL.

01. Inability to Meet Criteria. The TSE Council may opt to redesignate a center at a lesser level due to the center's inability to meet current designation criteria, without regard to any waiver previously granted. (3-24-16)

02. Notification and Appeal. When the TSE Council decides to redesignate a center, it must provide the center with a written notification of the action and the basis for the action. The notice will inform the center of the right to appeal and the procedure to appeal the action under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

291. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 39-242, Idaho Code, to adopt rules that carry out the provisions of Title 39, Chapter 2, Idaho Code, related to vital statistics. ( )

001. TITLE.
These rules are titled IDAPA 16.02.08, "Vital Statistics Rules." (3-30-07)

002. -- 049. (RESERVED)

050. TERMS AND DEFINITIONS.
For the purpose of vital statistics administration, the following definitions are applicable to this chapter: (12-31-91)

01. Assistant Local Registrar. An individual, appointed by the State Registrar of Vital Statistics, who carries out the prescribed functions of the local registrar in the same location as the local registrar, either as an assistant to, or in the absence of, the local registrar. (11-20-87)

02. Attendant at Birth or Stillbirth. Any physician, midwife, or other person who assists in the delivery of a live born infant or stillborn fetus. (12-26-83)

03. Birth Out of Wedlock. A birth occurring when the mother was not married at the time of either conception or birth, or between conception and birth. (12-26-83)

04. Confidential Registry. A file of all notices of putative fathers' claims to paternity for their child(ren) born out of wedlock and intent to support such child(ren), that is established in the office of the State Registrar of Vital Statistics. (1-10-86)

05. Current Registration. The filing of a certificate less than one (1) year after the event occurs. (12-26-83)

06. Delayed Registration. The filing of a certificate one (1) year or more after the event occurs. (12-26-83)

07. Department. The Idaho Department of Health and Welfare. (12-26-83)

08. Director. The Director of the Idaho Department of Health and Welfare or designated individual. (12-31-91)

09. Expedited Certified Copy. A certified copy of a vital record that has been *given priority status for processing and issuance* or issued by a local deputy state registrar. *( )*

10. Local Deputy State Registrar. The local registration officer designated by the Director to serve in a single health district for limited purposes. (11-20-87)

11. Local Registrar. The local registration officer identified in Section 39-247, Idaho Code, appointed by the State Registrar of Vital Statistics to collect certificates of birth, death, and stillbirth, and to carry out duties incidental to registration within a specified territory. (12-26-83)

12. Mortician or Funeral Director. Any person who makes a business of disposing of dead bodies. The term "mortician or person acting as such" refers to any person having charge of the burial, cremation, or other disposition of a dead body. This includes stillborn fetuses. (12-26-83)

13. Nurse Midwife. A nurse practitioner who is certified by the Idaho Board of Nursing to practice midwifery. (12-26-83)

14. Putative Father. The biological father of a child as identified by himself, the natural mother, an adoption agency, or a court. (1-10-86)

15. Registration District. The district (area of land) specified in the letter of appointment to the local registrar over which the local registrar exercises exclusive local control for the purpose of vital record registration.

(12-26-83)

16. Relatives of Deceased Qualified Adult Adoptees. The adoptive parents or grandparents of the adult adoptee. (1-10-86)

17. Relatives of Deceased Qualified Birth Parents. The parents or grandparents of birth parents. (1-10-86)

051. -- 099. (RESERVED)

100. CERTIFICATES, RECORDS, AND FORMS.

01. Form and Content. The Director will prescribe the form and content of official vital records and certificates. (12-26-83)

02. Official Nature of Forms. Other forms and reports may be prescribed and distributed by the State Registrar for reporting vital statistics. These forms and reports may be used only for official purposes. *( )*

03. Requirements for Preparation of Certificates. All certificates and records relating to vital statistics must be printed legibly in dark, unfading ink. All signatures required must be entered in dark, unfading ink. Unless otherwise directed by the State Registrar, no certificate will be complete and correct and acceptable for registration *that*: *( )*

a. Does not have the certifier's name typed or printed legibly under the certifier's signature; (12-26-83)

b. Does not supply all items of information called for thereon or satisfactorily account for their omission; (12-26-83)

c. Contains alterations or erasures; (12-26-83)

d. Does not contain signatures as required; (12-26-83)

e. Is marked "copy" or "duplicate"; (12-26-83)

f. Is a photographic or a carbon copy; (12-26-83)

g. Is prepared on an improper form; (12-26-83)

h. Contains improper or inconsistent data; (12-26-83)

i. Contains an indefinite cause of death that denotes only symptoms of disease or conditions resulting from disease; and (12-26-83)

j. Is not prepared in conformity with statutes, regulations, or with instructions issued by the State Registrar. (12-26-83)

04. Certificates with Defects. Certificates with defects as cited in Subsections 100.03.a. through 100.03.j. *of this rule* may be withheld from certification until the defect is remedied by persons who have the knowledge and authority to do so. *( )*

101. -- 149. (RESERVED)

150. ADDITIONAL OFFICES.

01. Determination. The State Registrar will determine whether offices other than the Vital Statistics Unit are needed in this state to aid in the efficient administration of the system of vital statistics. Such determination

will be based on the identification of the most efficient method to meet the needs of the people of this state with respect to the establishment and operation of the system of vital statistics. If the State Registrar determines that additional offices are necessary, such offices will be designated with the approval of the Director. The duties and responsibilities may be assigned to currently existing offices or special branch offices of the Vital Statistics Unit may be established in those areas where they are deemed necessary, or a combination of existing offices and branch offices may be used. In all cases where existing offices are utilized, the employees of such offices are subject to the control of the State Registrar when they are performing functions relating to the system of vital statistics. (12-26-83)

02. Assignment of Duties. The State Registrar, with the approval of the Director, will determine the specific responsibilities and duties of each office. The State Registrar will assign to such offices such duties and responsibilities as may be deemed necessary to ensure the efficient operation of the system of vital statistics. These may include any or all of the following: (12-26-83)

a. Receiving and processing birth, death, and stillbirth records. This would include the receipt of these records from the person responsible for filing the records, checking the records for accuracy and completeness, and forwarding them to the Vital Statistics Unit at intervals prescribed by the State Registrar. (12-26-83)

b. Issuing certified copies of birth, death, or stillbirth records. The records from which the certified copies are issued will be maintained by the Vital Statistics Unit. All forms and procedures used to issue the copies will be provided or approved by the State Registrar. If it is deemed appropriate and feasible, any such office may be provided access to all birth, death, or stillbirth records filed in this state. (12-26-83)

c. Acting as the agent of the State Registrar in their designated area and providing assistance to physicians, coroners, hospitals, morticians, and others in matters related to the system of vital statistics. (12-26-83)

03. Copies of Original Certificates. (12-31-91)

a. Copies from the original certificate will not be made or certified by any firm or person other than the State Registrar of Vital Statistics except *under* Subsection 150.02.b. *of this rule.* *( )*

b. If the State Registrar finds evidence that a certificate was registered through misrepresentation or fraud, the State Registrar has authority to withhold the issuance of a certified copy of such certificate until a determination of the facts has been made. (12-26-83)

151. LOCAL REGISTRATION OFFICERS.

The State Registrar will contract for the services of local registrars who collect certificates of birth, death, and stillbirth, carry out duties incidental to registration within a specified territory (registration district), and perform other duties as assigned by the State Registrar. (12-26-83)

01. Qualifications of Local Registrar. To be and remain eligible for the office of local registrar a person must meet the following minimum qualifications: (12-26-83)

a. Be sufficiently mature and responsible to carry out the duties of the office; and (12-26-83)

b. Be physically able to perform the duties of the office; and (12-26-83)

c. Be able to read, to comprehend what is read, and to write legibly; and (12-26-83)

d. *Work* in the registration district and be readily accessible. *( )*

02. Removal of Local Registrar. (12-26-83)

a. If a local registrar *does* not meet all qualifications as listed in these rules or in the contract, the local registrar may be removed from office upon written notification by the State Registrar. *( )*

b. When any local registrar fails to perform any of the duties imposed by law, rule, or by the instructions of the State Registrar, the local registrar may be summarily removed from office by the State Registrar.

( )

03. Local Deputy State Registrars. The Director may officially deputize local registrars for the purpose of expediting certified copies of death or stillbirth certificates and other purposes as may be deemed necessary by the Director. (11-20-87)

152. -- 199. (RESERVED)

200. TRANSMITTAL OF CERTIFICATES AND LOCAL RECORDS -- REPORTS.

01. Transmittal of Certificates of Death and Stillbirth. Certificates of death and stillbirth must be transmitted by the local registrar to the State Registrar of Vital Statistics within one (1) working day from the date they were received by the local registrar, except when certificates are to be used for expedited copies, in which case they must be transmitted to the State Registrar on the sixth working day from the date they were received by the local registrar. (3-30-07)

02. Expedited Certified Copies of Certificates of Death or Stillbirth. No certified copies of certificates of death or stillbirth can be issued by a local deputy state registrar until the registrar is satisfied that the requesting person(s) has "direct and tangible interest" in the certificate as defined in IDAPA 16.05.01, "Use and Disclosure of Department Records," Subsections 011.01 and 011.03 and Section 283. (3-30-07)

03. Transmittal of Certificates of Birth. All certificates of birth must be transmitted by the local registrar to the State Registrar of Vital Statistics within five (5) working days from the date they are received by the local registrar. (3-30-07)

201. COMPLETION AND CORRECTION OF CERTIFICATES.

01. Correction of Minor Errors on Certificates During the First Year. Except as otherwise provided in these rules, correction of obvious errors or transposition of letters in words of common knowledge, may be made by the State Registrar or an authorized agent within the first year after the date of the event either upon individual observation or query or upon request of any person with a direct and tangible interest as defined in IDAPA 16.05.01, "Use and Disclosure of Department Records," Subsections 011.01 and 011.03, or any person listed in Subsection 201.07.d. of these rules. The method of correction will be determined by the State Registrar, and is not subject to the requirements of Subsection 201.09 of these rules. When such minor corrections are made by the State Registrar, a notation as to the source of the information, together with the date the change was made and the initials of the authorized agent making the change must be made on the certificate in such a way as not to become a part of any certification issued. The certificate must not be marked as amended. (3-30-07)

02. Amendment of Registrant's Given Names or Surname on Birth Certificates Within the First Year. (12-26-83)

a. Until the registrant's first birthday, given names or surname may be amended upon written notarized request of: (11-20-87)

i. Both parents; (12-26-83)

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate; (4-5-00)

iii. The father in the case of the death or incapacity of the mother; (12-26-83)

iv. The mother in the case of the death or incapacity of the father; or (12-26-83)

v. The legal guardian or agency having legal custody of the registrant. (12-26-83)

b. The certificate must be marked as amended. (3-30-07)

03. Amendment of Registrant's Given Name on Birth Certificate After the First Year. (12-26-83)

a. After one (1) year from the date of birth, the provisions of Subsection 201.07 of these rules must be followed to amend the given name if the name was entered in error at the time of the preparation of the birth certificate. (3-30-07)

b. In all other cases, a legal change of name order from a court of competent jurisdiction must be submitted to change a given name after one (1) year. (12-26-83)

04. Addition of Given Names on Birth Certificates. (12-26-83)

a. Until the registrant's seventh birthday, given names, for a child whose birth was recorded without given names, may be added to the certificate upon written notarized request of: (12-26-83)

i. Both parents; (12-26-83)

ii. The mother in the case of a child born out of wedlock and the father's name is not shown on the certificate; (4-5-00)

iii. The father in the case of the death or incapacity of the mother; (12-26-83)

iv. The mother in the case of the death or incapacity of the father; or (12-26-83)

v. The legal guardian or agency having legal custody of the registrant. (12-26-83)

b. The certificate shall be marked as amended. (12-26-83)

c. After the registrant's seventh birthday, the provisions of Subsection 201.07 of these rules must be followed to add a given name. (3-30-07)

05. Acknowledgment of Paternity. (12-26-83)

a. Subject to the provisions of Subsection 201.05.b. of these rules, a new certificate of birth will be prepared by the State Registrar for a child born out of wedlock in this state upon receipt of an affidavit of paternity signed by both parents and a written request by both parents. The child's surname will be changed on the certificate to that of the father if both parents so request. (3-30-07)

b. If another man is shown as the father of the child on the original certificate, a new certificate may be prepared only when a determination of paternity is made by a court of competent jurisdiction, or following adoption. (12-26-83)

c. The certificate must not be marked as amended. (3-30-07)

06. Amendment of Indicator of Gender. (4-11-19)

a. The State Registrar must issue an amended Idaho certificate of live birth for the change of the indicator of sex upon receipt of the following: (4-11-19)

i. For a registrant eighteen (18) years of age and older, a completed and notarized application on a form approved by the State Registrar that includes the following information: (4-11-19)

(1) The identity of the applicant; (4-11-19)

(2) The Idaho certificate of live birth to be amended; (4-11-19)

(3) A declaration that the registrant's indicator of sex on the Idaho certificate of live birth does not match the registrant's gender identity; and (4-11-19)

(4) The gender indicator as it should appear on the amended certificate of live birth. (4-11-19)

ii. For a registrant under the age of eighteen (18), a completed and notarized application on a form approved by the State Registrar that includes the following information: (4-11-19)

(1) The identity of the applicant; (4-11-19)

(2) The Idaho certificate of live birth to be amended; (4-11-19)

(3) A declaration that the registrant's indicator of sex on the Idaho certificate of live birth does not match the registrant's gender identity; (4-11-19)

(4) The gender indicator as it should appear on the amended certificate of live birth; and (4-11-19)

(5) The consent of all parents listed on the certificate of live birth or the consent of the registrant's legal guardian. If a parent is deceased, a copy of the death certificate must be submitted with the application. If a parent cannot be located, the applicant must also submit a certified copy of an order from an Idaho court of competent jurisdiction ordering that the consent of only one (1) parent is required. (4-11-19)

b. The amended certificate of live birth issued under this rule must not be marked amended, must not refer to the original certificate of live birth sex, and must show the amended gender as requested. The certificate of live birth being amended, application, and court order if required, must be placed in a sealed file which may only be opened by an order from an Idaho court of competent jurisdiction. (4-11-19)

c. A one-time name change made under an amendment of sex on the certificate of live birth, whether made prior to, at the time of, or subsequent to a change of indicator of gender on a certificate of live birth must not be marked amended and must not refer to the original birth certificate name or indicator of sex. Any additional name changes are governed by Subsections 201.08 and 201.09 of this rule. (4-11-19)

07. All Other Amendments. Unless otherwise provided in these rules or in Section 39-250, Idaho Code, all other amendments to vital records must be supported by: (3-30-07)

a. An affidavit setting forth: (12-26-83)

i. Information to identify the certificate; (12-26-83)

ii. The incorrect data as it is listed on the certificate; and (3-30-07)

iii. The correct data as it should appear. (12-26-83)

b. If one (1) year has elapsed since the date the event occurred, one (1) or more items of documentary evidence which support the alleged facts and which were established at least five (5) years prior to the date of application for amendment or within seven (7) years of the date of the event. (12-26-83)

c. Any item of a medical nature can be amended only upon receipt of an affidavit from the person certifying such item, except that queries originating in the vital statistics office and subsequently completed and signed by the certifier may be used to complete or modify the reported cause of death. The State Registrar may require documentary evidence to substantiate the requested amendment. (3-30-07)

d. Applications to amend a specific vital record will be accepted as follows: (12-26-83)

i. An application to amend a birth certificate may only be made by one (1) or both of the parents, the legal guardian, the registrant if eighteen (18) years of age or older, or the individual responsible for filing the certificate. (12-26-83)

ii. An application to amend a death certificate may only be made by the informant, the next of kin, the

funeral director or person acting as such who signed the death certificate, or the certifying physician or coroner. (12-26-83)

iii. An application to amend a stillbirth certificate may only be made by a person listed in Subsections 201.07.d.i. or 201.07.d.ii. of these rules. (3-30-07)

iv. An application to amend a marriage or divorce certificate may only be made by the custodian of the official record from which the certificate was prepared, either of the parties to the marriage or divorce, or the individual responsible for filing the certificate. (12-26-83)

e. The State Registrar will evaluate the evidence submitted in support of any amendment, or require additional documentation. The State Registrar's decision and determination will be based upon serving the objectives of the vital statistics statutes and the best interests of the public. In the event the application is rejected or additional information is required, the State Registrar must advise the applicant of the reason for the action and the right to appeal pursuant to Section 39-250(5), Idaho Code. (3-30-07)

08. Amendment of the Same Item More Than Once. Once an item is amended on a vital record, that item can not be amended again except upon receipt of a court order from an Idaho court of competent jurisdiction. (3-30-07)

09. Methods of Amending Certificates. (12-26-83)

a. Certificates of birth, death, stillbirth, marriage, and divorce may only be amended by the State Registrar as follows: (12-26-83)

i. Preparing a new certificate showing the correct information when the State Registrar deems that the nature of the amendment so requires. The new certificate may be prepared on the form used for registering current events at the time of amendment. Except as provided elsewhere in these rules, the item number of the entry that was amended must be identified on the new certificate. In every case, except as provided elsewhere in these rules or the Idaho Code, the new certificate must show the date the amendment was made and be given the same state file number as the existing certificate. Signatures appearing on the existing certificate must be typed on the new certificate. (3-30-07)

ii. Completing the item in any case where the item was left blank on the existing certificate. (12-26-83)

iii. Drawing a single line through the item to be amended and inserting the correct data immediately above or to the side. The line drawn through the original entry must not obliterate such entry. (3-30-07)

iv. A certificate of birth amended in accordance with the provisions of Section 39-250(4), Idaho Code, must be amended as prescribed in Subsection 201.09.a.iii. of these rules. The fact that the name was changed in accordance with a court order must be stated on the certificate. (3-30-07)

b. Unless prohibited by statute or rule, there must be inserted on the face of the certificate the date the amendment was made and the initials of the person making the change; the certificate must be marked as amended. (3-30-07)

202. -- 2*50*. (RESERVED)

251. FEES FOR COPIES, SEARCHES, AND OTHER SERVICES.

01. Certified Copies. The fee for the issuance of a certified copy of a certificate of death is sixteen dollars ($16) per copy. This fee incorporates the additional one dollar ($1) coroner training and education fund fee in accordance with Section 39-252(2), Idaho Code. The fee for the issuance of a certified copy of any other vital record is sixteen dollars ($16) per copy. (7-1-15)

02. Searches. The fee for a search of the files for a record of any vital event when no record is found,

no copy is made, or a special document search is requested, is sixteen dollars ($16). (7-1-15)

03. Verifications. (7-1-15)

a. Except for Idaho state agencies and public health districts, the fee for manual or written verification of data from a certificate is ten dollars ($10). (7-1-15)

b. The fees for electronic verification by the Department's automated systems of data from a certificate of any vital event are based on the national pricing model as follows:

Fees for Electronic Verification	
National Monthly Transaction Volume	**Charge per Verification Match Provided to Vital Records Agency**
1 - 100,000	$1.35
100,000 - 500,000	$1.15
500,000 - 1,200,000	$1.03
1,200,000+	$0.87

(7-1-15)

04. Statistical, Research, or Public Health Services. The State Registrar assesses the fee for statistical, research or public health services. The costs are calculated based upon the costs of retrieving the data and the costs of compiling, organizing, and printing the data. Cost may be reduced on a prorated basis to reflect the number of expected requests for the same information or service. (4-7-11)

05. Fees for Other Services. (4-7-11)

a. The fee for filing a report, certificate, or decree of adoption is twenty dollars ($20). (7-1-15)

b. The fee for establishing a delayed certificate of any vital event is twenty-five dollars ($25). (7-1-15)

c. For any vital event, the fee for establishing a new certificate due to a court order, a replacement certificate, or an amended certificate is twenty dollars ($20), except as specified under Subsection 251.05.g.ii. of this rule. (4-11-19)

d. A service fee of three dollars ($3), in addition to the sixteen dollars ($16) for a certified copy of a death or stillbirth certificate, must be paid to the local deputy state registrar for securing each expedited certified copy of a vital record. (7-1-15)

e. The fee for a copy of a certificate of any vital event provided upon written request to local, states other than Idaho, or federal government agencies in accordance with Section 39-270(b), Idaho Code, is sixteen dollars ($16). (7-1-15)

f. Fees for correction of a certificate of any vital event. (7-1-15)

i. The fee for a replacement certified copy of a certificate of any vital event when the incorrect certified copy is returned for exchange within sixty (60) days of a correction of an error is five dollars ($5) per certified copy. (7-1-15)

ii. There is no charge for a correction of an error or errors on a certificate of any vital event when the required documentation is received within the first year after the date of the event. (7-1-15)

iii. The fee for correction of an error or errors on a certificate of any vital event, when the required documentation is received one (1) year or more after the date of the event, is twenty dollars ($20) per submitted correction request. (7-1-15)

g. Fees for priority processing or special handling. (7-1-15)

i. A service fee of ten dollars ($10) per certificate or document will be added for priority processing or special handling of a request for a certified copy or copies of a certificate of any vital event, a request for a disinterment permit, a request to file a registry form, or a request regarding another vital event related form or document, other than those identified in Subsection 251.05.*g*.ii. of this rule. This fee will be in addition to the current fee or fees for each certified copy, search, or filing requested, or any combination thereof. This fee is forfeited and a new service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information, or documentation, or both. *( )*

ii. A service fee of twenty-five dollars ($25) per certificate will be added for priority processing to establish a new or amended certificate of any vital event due to a report, certificate or decree of adoption, delayed certificate filing, a court order, a paternity affidavit or rescission, a subsequent marriage affidavit or a correction of a certificate. This fee is in addition to the current fee or fees for the legal amendment processing or request for a certified copy or copies, or both. This fee is forfeited and a new legal amendment service fee must be paid for priority processing or special handling in the event that the requester takes longer than ninety (90) days to respond to a request for additional information or documentation or both. (4-11-19)

06. Waiver of Fee Requirement. Fees may be waived for Idaho state agency and public health district administrative use requests. Statistical information prepared for public health planning purposes may be published and distributed without charge whenever the Director determines that the publication and distribution is in the public interest. (7-1-15)

252. -- 299. (RESERVED)

300. REGISTRATION OF BIRTHS.

01. Certifier's Signature. The person certifying the facts of birth according to Section 39-255, Idaho Code, must sign the birth certificate. No stamps or other types of facsimile signatures may be used. The State Registrar may require additional evidence of the birth when the birth did not occur in an institution and was not attended by a person who regularly attends births. (11-20-87)

02. Signature of Certifier. When a birth occurs in an institution, the signature of the certifier on the medical record of birth may satisfy the requirements of Section 39-255(a), Idaho Code. (11-20-87)

03. Signature of the Informant. When a birth occurs in an institution and the institution maintains a working paper (worksheet) signed by either parent (named on the birth certificate) as informant, and the working paper (worksheet) is part of the medical record, the signature of the informant on the working paper (worksheet) may satisfy the requirements of Section 39-255(c), Idaho Code. (11-20-87)

301. REGISTRATION OF FOUNDLINGS.

01. Form of Certificate. A special foundling certificate must be filed for any infant of unknown parentage. It must include, as a minimum, the following items: (12-26-83)

a. The name designated for the infant; (12-26-83)

b. The estimated date of birth; (12-26-83)

c. The sex and race of the infant; (12-26-83)

d. The address where the infant was found; (12-26-83)

e. The name and address of the person or agency assuming custody of the infant; (12-26-83)

f. A short description of the circumstances surrounding the finding of the infant, including the date of the finding; and (12-26-83)

g. The signature of the informant and the date the certificate was signed. (12-26-83)

02. Responsibility for Filing. The person or authorized representative of the agency assuming custody of the infant must sign the certificate and file it within fifteen (15) days of the finding with the *State R*egistrar. *( )*

302. -- 399. (RESERVED)

400. NEW CERTIFICATES OF BIRTH FOLLOWING MARRIAGE OF NATURAL PARENTS.

01. Requirements. If the natural parents marry after the birth of a child born in this state, a new certificate of birth will be prepared for the child by the State Registrar upon receipt of an affidavit of paternity signed by the natural parents of said child, together with a certified copy of the parents' marriage record. However, if another man is shown as the father of the child on the original certificate, a new certificate will be prepared only when a determination of paternity is made by a court of competent jurisdiction, or following adoption. (12-26-83)

02. Common-Law Marriage. If the natural parents establish a marriage by common law after the birth of a child, an affidavit of common-law marriage, provided by the Vital Statistics Unit and signed by the natural parents, may be substituted for the certified copy of the parents' marriage record required in Subsection 400.01 *of this rule*. *( )*

401. ADOPTION OF PERSONS BORN IN IDAHO.

01. Examination of Adoptive Child Born in Idaho for Whom No Original Certificate of Birth Can Be Located. (12-26-83)

a. The physician's report of the physical examination of the adoptive child, conducted under Section 39-258, Idaho Code, must indicate the sex, the estimated age, the race, and the existence or absence of obvious congenital malformations or anomalies of the child. (12-26-83)

b. The State Registrar may require the adoptive parents to furnish a court order that identifies natural parents, date of birth, place of birth, and those facts found by the physician's physical examination. (12-26-83)

02. Corrections on Adoptive Certificates. (12-26-83)

a. Minor corrections may be made within one (1) year after the establishment of the adoptive birth certificate in accordance with Subsection 201.01 *of these rules*. *( )*

b. Change of name amendments may be made by a court order amending the original adoption order or by a new order of a court, according to Subsection 201.09 *of these rules*. *( )*

c. All other amendments (except the registrant's name) will be made according to Subsections 201.07 through 201.09 *of these rules*. *( )*

d. In order to protect the confidential nature of adoptive births, the State Registrar may elect not to mark the record amended when carrying out amendments under Section 401 *of this rule*, when the indication of amendment would not be in the best interest of the registrant. *( )*

402. REGISTRATION SYSTEM FOR ADULT ADOPTEES.

01. Search for "the Other Birth Parent." The State Registrar will not participate in the search for "the other birth parent." The adoption service units of the Department may participate in such searches when requested to do so by a birth parent or the adult adoptee. Costs of the search will be provided by the birth parent or

adult adoptee seeking the match. Such service costs will be set by the adoption service unit and are based upon the actual cost of the search and cost of notification of the registrant(s). (1-10-86)

02. Completion of Match. When dated evidence of a completed search is presented to the State Registrar and "the other birth parent" has not been found, then and only then will a match be completed as cited in Section 39-259A(e) and (f), Idaho Code. (1-10-86)

a. When one (1) of the birth parents cannot be found according to Section 39-259A(b)(3), Idaho Code, no information about the missing birth parent will be released to either registrant. (1-10-86)

b. When one (1) birth parent is deceased, proof of death must be established by a certified copy of the death certificate or a verification of the fact of death from the Vital Statistics official of the state where death occurred. Such proof is the responsibility of the registered birth parent. (1-10-86)

03. Siblings of Adult Adoptee. When it appears that there is a match between siblings, the State Registrar may confirm the match from the sealed adoption record on file in the Vital Statistics Office and make appropriate notification to the siblings. However, if the birth parent(s) has not also voluntarily registered, no identifying information about the birth parent(s) will be provided to the adult adoptee or the sibling, except where proof of death of the birth parent(s) is found. (1-10-86)

04. Notification. When it appears to the State Registrar that a match has occurred, the State Registrar will notify the registrants by certified mail of the opportunity to withdraw from the register prior to proceeding with full notification of the registrants. Such withdrawal must be made by written notarized request and must be received by the State Registrar within thirty (30) days of the date of registrant's receipt of notification from the State Registrar. Such withdrawal is exempt from the usual withdrawal fee. (1-10-86)

05. Registration Time. Birth parents or relatives of qualified birth parents may register at any time after an adoption has taken place, whether prior to or after the adoptive person reaches the age of eighteen (18). Adopted persons may register after they have reached their eighteenth birthday. (1-10-86)

06. Fees. An initial filing fee of ten dollars ($10) is paid by or on behalf of each registrant and must be submitted with the registration form. An update fee of ten dollars ($10) is charged whenever a registrant requests in writing a revision, update, or withdrawal of a previous registration. (12-31-91)

07. Release of Information. When it appears there is a match between registered adult siblings and no birth parent information has been registered, before release of identifying information to any registered adult sibling, the State Registrar will require proof from the registrant(s) of the identity and the relationship of the registrant to other registrants. At least two (2) documents providing such proof must be viewed and recorded by the State Registrar. Such documents may include sworn statements, court decrees, copies of birth certificates, marriage licenses, school records, and voter registration cards. *( )*

403. -- 449. (RESERVED)

450. REGISTRATION OF DEATHS AND STILLBIRTHS.

01. Acceptance of Incomplete Death Certificate. If all the information necessary to complete a death certificate is not available within five (5) days after the date the death occurred, the person in charge of interment or removal of the body from the district in which the death occurred must file the certificate as prescribed by the State Registrar with all information that is available, provided that the medical certification of the cause of death has been signed by the person responsible for such certification. If the cause of death is unknown or undetermined, the cause of death must be shown as unknown or undetermined on the certificate. The person responsible for the medical certification of the cause of death must also sign the authorization for final disposition of the body. If the body is to be cremated, the coroner must also give additional authorization. (4-2-08)

a. A supplemental report providing the cause of death information missing from the original certificate must be filed by the person responsible for medical certification of the cause of death with the State Registrar within fifteen (15) days of the filing of the death certificate on a form provided or approved by the State

Registrar. (4-2-08)

b. A supplemental report providing all other information missing from the original certificate must be filed with the State Registrar by the person responsible for filing the certificate within thirty (30) days of the date the death occurred or as otherwise authorized by the State Registrar on a form provided or approved by the State Registrar. (4-2-08)

c. The State Registrar will make the information on the supplemental report(s) a part of the existing death certificate and will file the supplemental report(s) with the death certificate. The State Registrar will also mark the death certificate to show that supplemental information was added. (4-2-08)

02. Signatures Required on Death Certificates. (12-26-83)

a. The mortician, or person acting as such, must sign the death certificate. No stamps or other types of facsimile signatures may be used. (4-2-08)

b. The responsible person must sign the medical certification of the cause of death. Failure to do so will invalidate the record as a legal document. No stamps or other types of facsimile signatures may be used.(4-2-08)

03. Signatures Required on Stillbirth Certificates. (12-26-83)

a. The mortician's signature must meet the following criteria: (12-26-83)

i. The mortician, or person acting as such, must sign the certificate. No stamps or other types of facsimile signatures may be used. (4-2-08)

ii. When a hospital disposes of a stillborn fetus, in accordance with Section 39-268(3), Idaho Code, the hospital authority must complete and sign the certificate as mortician. (4-2-08)

b. The person responsible according to Section 39-260, Idaho Code, for the attendant or medical certification, must sign the certificate. No stamps or other types of facsimile signatures may be used. (12-26-83)

451. INDUCED ABORTION REPORTING FORMS -- COMPILATIONS.

01. Form of Report. The contents of the report of induced abortion must comply with Section 39-261, Idaho Code. (12-26-83)

02. Nature of Reports. The completed forms submitted to the Vital Statistics Unit are statistical reports, not certificates. Copies of the reports will not be issued. (12-26-83)

03. Patient Identification. No information will be collected that would identify the woman who had the abortion. (12-26-83)

04. Compilations. No compilations will be released for public use that identify the institution where the induced abortion was performed, the physician who performed the induced abortion procedure, or the person completing the report of induced abortion. (12-26-83)

452. -- *500*. (RESERVED)

501. MARRIAGE LICENSE RECORDING FEES.
The county recorders will charge a recording fee of two dollars ($2) for each marriage certificate. (12-31-91)

502. -- 599. (RESERVED)

600. DIVORCE CERTIFICATE FILING FEE.
Effective July 1, 1985, the Clerk of the Court will charge a fee of one dollar ($1) for each divorce certificate filed in accordance with Section 39-266, Idaho Code. (12-31-91)

601. -- 649. (RESERVED)

650. LATE OR DELAYED REGISTRATION OF BIRTH.

01. Late Registration -- Fifteen Days to One Year. (12-26-83)

a. Certificates of birth filed after fifteen (15) days, but within one (1) year from the date of birth, will be registered on the standard form of live birth certificate in the manner prescribed in Section 39-255, Idaho Code. Such certificate will not be marked as delayed. (12-26-83)

b. In any case where the certificate is signed by someone other than the attendant or person in charge of the institution where birth occurred, a notarized statement setting forth the reason must be attached to the certificate. The State Registrar may require additional evidence in support of the facts of birth. (12-26-83)

02. Form of Delayed Certificate of Birth. All certificates registered one (1) year or more after the date of birth will be registered on a delayed certificate of birth form prescribed by the Director. (12-26-83)

03. Who May Request the Registration of and Sign a Delayed Certificate of Birth. (12-26-83)

a. Any person born in this state whose birth is not recorded in this state, or the parent, guardian, next of kin of that person, or older person acting for the registrant and having personal knowledge of the facts of birth, may request the registration of a delayed certificate of birth, subject to these rules and instructions issued by the State Registrar. (12-26-83)

b. Each delayed certificate of birth must be signed and sworn to before a notary public by the person whose birth is to be registered if such person is eighteen (18) years of age or older and is competent to sign and swear to the accuracy of the facts stated therein; otherwise, the certificate must be signed and sworn to by one (1) of the following in the indicated order of priority: (12-26-83)

i. One (1) of the parents of the registrant; or (12-26-83)

ii. The guardian of the registrant; or (12-26-83)

iii. The next of kin of the registrant; or (12-26-83)

iv. Any older person over eighteen (18) years of age having personal knowledge of the facts of birth. (12-26-83)

04. Facts to be Established for a Delayed Registration of Birth. The minimum facts that must be established by documentary evidence are the following: (12-26-83)

a. The original full name of the registrant; (12-26-83)

b. The date of birth and place of birth; (12-26-83)

c. The full maiden name of the mother; and (12-26-83)

d. The full name of the father, unless the registrant was born out of wedlock, in which case the name of the father will not be entered on the delayed certificate except as provided in Sections 39-250, 39-255, or 39-257, Idaho Code, and rules adopted *in accordance with these statutes*. *( )*

05. Delayed Registration Following a Legal Change of Status. (12-26-83)

a. When evidence is presented reflecting a legal change of status by adoption, legitimation, paternity determination, acknowledgment of paternity, or a court-ordered change of name, a new delayed certificate may be established to reflect such change. (1-10-86)

b. In such cases changing legal status, when no birth certificate is found, the delayed certificate may be filed reflecting the information established by the legal change. (12-26-83)

06. Documentary Evidence -- Requirements. (12-26-83)

a. To be acceptable for filing, the name of the registrant and the date and place of birth entered on a delayed certificate of birth must be supported by at least: (12-26-83)

i. Two (2) pieces of documentary evidence, only one (1) of which may be an affidavit of personal knowledge, if the record is filed within seven (7) years after the date of birth. (12-26-83)

ii. Three (3) pieces of documentary evidence, only one (1) of which may be an affidavit of personal knowledge, if the record is filed seven (7) years or more after the date of birth. One (1) document must be dated within seven (7) years after the date of birth. (11-20-87)

b. Facts of parentage must be supported by at least one (1) document. This document may be one (1) of the documents above other than an affidavit of personal knowledge. (12-26-83)

07. Documentary Evidence -- Acceptability. (12-26-83)

a. The State Registrar may establish a priority of best evidence. (12-26-83)

b. Documents presented, such as census, hospital, church, and school records, must be from independent sources and must be in the form of the original record or a certified copy of the original or a notarized statement from the custodian of the record or document. (12-26-83)

c. All documents submitted in evidence, other than an affidavit of personal knowledge, must have been established at least ten (10) years prior to the date of application or have been established prior to the applicant's seventh birthday. (11-20-87)

d. An affidavit of personal knowledge, to be acceptable, must be made by a parent of the applicant or an older person other than a parent, who is over eighteen (18) years of age and must be signed before a notary public. In all cases, the affiant must be at least ten (10) years older than the applicant and have personal knowledge of the facts of birth. (11-20-87)

08. Abstraction of Documentary Evidence. (12-26-83)

a. The State Registrar, or a designated representative, will abstract on the delayed certificate of birth a description of each document submitted to support the facts shown on the delayed birth certificate. This description will include: (12-26-83)

i. The title or description of the document; (12-26-83)

ii. The name and address of the affiant, if the document is an affidavit of personal knowledge, or of the custodian, if the document is an original or certified copy of a record or a notarized statement from the custodian; (12-26-83)

iii. The date of the original filing of the document being abstracted; and (12-26-83)

iv. The information regarding the birth facts contained in the document. (12-26-83)

b. All documents submitted in support of the delayed birth registration will be returned to the applicant after review, provided, however, that the State Registrar may make and keep on file abstracts or photocopies of any such documents. (12-26-83)

09. Certification by the State Registrar. The State Registrar, or a designated representative, will by

signature certify: (12-26-83)

a. That no prior birth certificate is on file for the person whose birth is to be recorded; (12-26-83)

b. That the State Registrar or a designated representative has reviewed the evidence submitted to establish the facts of birth; and (12-26-83)

c. That the abstract of the evidence appearing on the delayed certificate of birth accurately reflects the nature and content of the documents. (12-26-83)

10. Dismissal After One Year. Applications for delayed certificates that have not been completed within one (1) year from the date of application may be dismissed at the discretion of the State Registrar. Upon dismissal, the State Registrar will so advise the applicant, and all documents submitted in support of such registration will be returned to the applicant. (12-26-83)

651. LATE OR DELAYED REGISTRATION OF DEATHS.
The registration of death after the time prescribed by statute or rule must be made on the standard certificate of death form in the following manner: (12-26-83)

01. Minimum Evidence Required. (7-1-93)

a. If the person responsible for the medical certification of death, according to Section 39-260, Idaho Code, and the attending mortician or person who acted as such are available and they do complete and sign the certificate of death; and (12-26-83)

i. If the certificate is filed within one (1) year after the date of death or finding of the body, the certificate of death may be completed without additional evidence and filed with the State Registrar; or (12-26-83)

ii. If the certificate is filed one (1) year or more after the date of death or finding of the body, the medical certifier and the mortician or person who acted as such must state in accompanying affidavits that the information on the certificate is based on records kept in their files. (12-26-83)

b. If either the medical certifier or the attending mortician, or person acting as such (or both), is unavailable, the certificate may be filed by the next of kin of the deceased and must be accompanied by: (12-26-83)

i. An affidavit of the person filing the certificate, swearing to the accuracy of the information on the certificate; and (12-26-83)

ii. Two (2) documents that identify the name of the deceased and the date and place of death. (12-26-83)

02. Additional Evidence. In all cases, the State Registrar may require additional documentary evidence to prove the facts of death. (12-26-83)

03. Summary Statement. A summary statement of the evidence submitted in support of the delayed registration will be entered on the certificate, and the certificate will be marked as delayed. (12-26-83)

652. -- 699. (RESERVED)

700. LATE AND DELAYED REGISTRATION OF MARRIAGE.

01. Late Registration. Until one (1) year has elapsed from the date of the ceremony, marriage certificates will be accepted for filing by the State Registrar in accordance with Section 39-262, Idaho Code, and will not be marked as delayed. (12-26-83)

02. Delayed Registration. The registration of a marriage after one (1) year must be made on the regular certificate of marriage form in the following manner: (12-26-83)

a. The certificate must be filed with the county recorder where the marriage license was originally issued. (12-26-83)

b. To be acceptable for registration by the State Registrar, the delayed certificate of marriage must be supported by a notarized statement from two (2) people other than the bride and groom who know that a marriage ceremony was performed and the date and place of the marriage ceremony. One (1) of these statements must be from an actual witness to the marriage ceremony. (1-10-86)

c. When the officiant is not available to sign the delayed certificate of marriage, the delayed certificate of marriage must be signed by an actual witness to the marriage ceremony, other than the bride and groom. (1-10-86)

03. Additional Evidence. In all cases, the State Registrar may require additional documentary evidence to prove the facts of marriage. (12-26-83)

04. Summary Statement. A summary statement of the evidence submitted in support of the delayed registration will be entered on the certificate, and the certificate will be marked as delayed. (12-26-83)

701. LATE AND DELAYED REGISTRATION OF DIVORCE.

01. Late Registration. Until one (1) year has elapsed from the date of the divorce decree, divorce certificates will be accepted for filing by the State Registrar in accordance with Section 39-265, Idaho Code, and will not be marked as delayed. (12-26-83)

02. Delayed Registration. The registration of a divorce after one (1) year must be made on the regular certificate of divorce form in the following manner: (12-26-83)

a. The divorce certificate must be filed by the court directly with the State Registrar; and (12-26-83)

b. The certificate must be accompanied by a certified copy of the final decree of divorce. (12-26-83)

03. Additional Evidence. In all cases, the State Registrar may require additional documentary evidence to prove the facts of divorce. (12-26-83)

04. Summary Statement. A summary statement of the evidence submitted in support of the delayed registration will be entered on the certificate, and the certificate will be marked as delayed. (12-26-83)

702. -- 799. (RESERVED)

800. DELAYED REGISTRATION OF STILLBIRTH.
The requirements for filing a delayed certificate of stillbirth are the same as those for a delayed certificate of death, except that the section on paternity is governed by Section 39-260, Idaho Code. (12-26-83)

801. -- 849. (RESERVED)

850. REMOVAL OF DEAD BODY OR FETUS FROM PLACE OF DEATH OR STILLBIRTH.
Before removing a dead body or fetus from the place of death or stillbirth, the funeral director, or person acting as such, must, in accordance with Section 39-268, Idaho Code: (4-2-08)

01. Obtain Assurance That Death Is from Natural Causes.
Obtain assurance from the attending physician, physician assistant, advanced practice *registered* nurse, or their designated associate, responsible for medical certification of the cause of death or stillbirth: *( )*

a. That the death or stillbirth is from natural causes; and (4-2-08)

b. That the attending physician, physician assistant, advanced practice *registered* nurse, or their

designated associate, will assume responsibility for certification of the cause of death or stillbirth; or ( )

02. Notify the Coroner. Notify the coroner when: (4-2-08)

a. The case falls within the jurisdiction of the coroner in accordance with Section 39-260, Idaho Code; or (4-2-08)

b. The death or stillbirth is due to natural causes; and (4-2-08)

i. There was no attending physician, physician assistant, or advanced practice *registered* nurse during the last illness; or ( )

ii. There was no physician, physician assistant, or advanced practice *registered* nurse in attendance at the stillbirth; or ( )

iii. When the attending physician, physician assistant, advanced practice *registered* nurse, or their designated associate, is not available or is physically incapable of providing assurance that the death or stillbirth is from natural causes or providing permission to remove the dead body or fetus from the place of death or stillbirth. ( )

03. Receive Permission to Remove the Dead Body or Fetus. Receive permission to remove the dead body or fetus from the place of death or stillbirth from: (4-2-08)

a. The attending physician, physician assistant, advanced practice *registered* nurse, or their designated associate, if the death is from natural causes and all assurances in Subsection 850.01 of this rule have been met; or ( )

b. The coroner, if the case falls within the jurisdiction of the coroner, in accordance with Section 39-260, Idaho Code, or if the death or stillbirth is due to natural causes and one (1) of the conditions listed in Subsections 850.02.b.i. through 850.02.b.iii. of this rule has been met. (4-2-08)

851. AUTHORIZATION FOR DISINTERMENT AND REINTERMENT.

01. Disinterment and Reinterment of a Dead Body or Fetus. Upon receipt of a notarized application, or an order of a court of record of this state, the State Registrar will issue a permit for the disinterment and reinterment of a dead body or fetus. The permit will be issued only to the mortician who is identified on the application or order as the mortician in charge of the disinterment. The application for the permit must be signed by the applicant and the mortician in charge of the disinterment. The applicant for the permit must be either: (3-30-07)

a. The person or persons who have the highest authority under the provisions of Section 54-1142, Idaho Code; or (3-30-07)

b. A person authorized by Section 39-269, Idaho Code, to request a special disinterment for legal purposes, in which case the application must state facts showing that the ends of justice require disinterment. (3-30-07)

02. Mass Disinterment and Reinterment. Upon receipt of a notarized application, or an order of a court of record of this state, the State Registrar may issue a single permit for the disinterment and reinterment of all remains included in a mass disinterment. The permit will be issued only to the mortician who is identified on the application or order as the mortician in charge of the disinterment. The application or order for the permit must identify the remains of each body to the extent possible and specify the place of disinterment and reinterment. The application for the permit must be signed by the applicant and the mortician in charge of the disinterment. The applicant for the permit must be either: (3-30-07)

a. The person or persons who have the highest authority under the provisions of Section 54-1142, Idaho Code, for each of the deceased; or (3-30-07)

b. A person authorized by Section 39-269, Idaho Code, to request a special disinterment for legal purposes, in which case the application must state facts showing that the ends of justice require disinterment. (3-30-07)

03. Nature of Permit. The authorization issued in accordance with the statutes and rules governing disinterment is permission for disinterment, transportation and reinterment. (3-30-07)

852. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Section 56-1003, Idaho Code, the Idaho Legislature has delegated to the Board of Health and Welfare the authority to set standards for laboratories in the State of Idaho. Under Section 56-1007, Idaho Code, the Department is authorized to charge and collect fees for services rendered by the Department. (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.02.13, "State of Idaho Drinking Water Laboratory Certification Program." (4-7-11)

02. Scope. These rules establish a process for certification and standards of operation for laboratories certified by the State of Idaho to test drinking water. (4-7-11)

002. INCORPORATION BY REFERENCE.

01. Selected Sections from the Code of Federal Regulations, Title 40, Part 141 -- National Primary Drinking Water Regulations, July 1, 2010 Edition. 40 CFR 141 and 143 may be accessed in electronic format at https://ecfr.io/Title-40/cfrv25#0. The following sections from the Code of Federal Regulations are hereby incorporated by reference: (4-7-11)

a. 40 CFR 141.6 (h), effective dates; (4-7-11)

b. 40 CFR 141.27, alternate testing program; (4-7-11)

c. 40 CFR 141.21(f)(3), total coliform rule; (4-7-11)

d. 40 CFR 141.23, inorganic methods; (4-7-11)

e. 40 CFR 141.24, organic methods; (4-7-11)

f. 40 CFR 141.25, methods for radioactivity; (4-7-11)

g. 40 CFR 141.131, disinfection by-products; (4-7-11)

h. 40 CFR 141.74(a), surface water treatment rule; (4-7-11)

i. 40 CFR 141.89, lead and copper; (4-7-11)

j. 40 CFR 141.402(c)(2), ground water; (4-7-11)

k. 40 CFR 141.704, long-term surface water treatment rule 2; (4-7-11)

l. 40 CFR 141.803, aircraft drinking water rules; (4-7-11)

m. 40 CFR 141, Appendix A to Subpart C, expedited method approval; and (4-7-11)

n. 40 CFR 143.4, secondary contaminants. (4-7-11)

02. Manual for the Certification of Laboratories Analyzing Drinking Water EPA 815-R-05-004, Fifth Edition, January 2005. The Manual for the Certification of Laboratories Analyzing Drinking Water EPA 815-R-05-004, Fifth Edition, January 2005, including Supplement 1 EPA 815-F-08-006, June 2008, is hereby incorporated by reference. It may be accessed in electronic format at https://www.epa.gov/dwlabcert/laboratory-certification-manual-drinking-water. (4-7-11)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Analyst. A person responsible for testing, quality control, and reporting of analytical results. (4-7-11)

02. **Board**. The Idaho Board of Health and Welfare. (4-7-11)

03. **Certification Authority for the State of Idaho (CA)**. The CA has signature authority for all certification decisions as required for primacy in 40 CFR 142.10 (b)(3)(i). The Bureau Chief of the Idaho Bureau of Laboratories is the certification authority for the State of Idaho. (4-7-11)

04. **Certification Officer (CO)**. The CO is the person responsible for on-site evaluations and providing technical support and guidance to a certified drinking water laboratory (CDWL). (4-7-11)

05. **Certified Drinking Water Laboratory (CDWL)**. A facility that examines drinking water for the purpose of identifying or measuring microbiological, chemical, radiological, or physical parameters, and is certified by the State of Idaho. (4-7-11)

06. **Department**. The Idaho Department of Health and Welfare. (4-7-11)

07. **Department of Environmental Quality (DEQ)**. The state agency that has primacy and is primarily responsible for administrating and enforcing regulations related to environmental quality. (4-7-11)

08. **Director**. The Director of the Idaho Department of Health and Welfare, or their designee. (4-7-11)

09. **Discipline**. Areas of certification for the testing of drinking water, i.e., microbiology, radiochemistry, inorganic chemistry, and organic chemistry. (4-7-11)

10. **Drinking Water Coordinator (DWC)**. The drinking water coordinator is an Environmental Health Specialist at a public health district assigned to monitor public water systems. (4-7-11)

11. **Idaho Bureau of Laboratories (IBL)**. The IBL is a bureau in the Division of Public Health in the Idaho Department of Health and Welfare. (4-7-11)

12. **LIMS**. Laboratory Information Management System. (4-7-11)

13. **Laboratory Supervisor**. A person who directs the day-to-day activities of a CDWL. (4-7-11)

14. **Maximum Contaminant Level (MCL)**. The maximum permissible level of a contaminant in water that is delivered to any user of a public water system. (4-7-11)

15. **On-Site Evaluation**. The physical, quality control, and data audit of a laboratory, including all aspects of operation related to the testing of drinking water samples. (4-7-11)

16. **Primacy**. The responsibility for ensuring that Safe Drinking Water Act (SDWA) laws are implemented and the authority to enforce a law and related regulations (40 CFR 142.2) applicable to public water systems within the state. (4-7-11)

17. **Proficiency Test (or Testing) (PT)**. Sample(s) provided to demonstrate that a laboratory can successfully analyze the sample(s) within the acceptance limits specified in the regulations. The qualitative or quantitative composition of the reference material is unknown to the laboratory at the time of the analysis. (4-7-11)

18. **Public Water System (PWS)**. A system for the provision to the public of water for human consumption through pipes or other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. (4-7-11)

19. **Quality Assurance (QA)**. An integrated system of management activities that involves planning, quality control, quality assessment, reporting, and quality improvement to ensure a product or service meets defined standards of quality with a stated level of confidence. (4-7-11)

20. **Quality Control (QC)**. The overall system of technical activities whose purpose is to measure and

control the quality of a product or service so that it meets the needs of the users. QC also includes operational techniques and activities that are used to fulfill the requirement of quality. (4-7-11)

21. Quality Assurance Plan (QA Plan). A comprehensive plan detailing the aspects of quality assurance required to adequately fulfill the needs of a program. This document is required before a laboratory can be certified or reciprocity is granted. (4-7-11)

22. Reciprocity. An extension of certification by the CA to an accredited or certified out-of-state laboratory based upon satisfactory review of documentation that demonstrates compliance with these rules. (4-7-11)

23. Regulatory Agency. The Idaho Department of Environment Quality (DEQ). (4-7-11)

24. Regulatory Authority (RA). The assigned drinking water Analyst III at a regional DEQ office. (4-7-11)

25. Standard Operating Procedure (SOP). A written document that describes the method of an operation, analysis, or action whose techniques and procedures are thoroughly prescribed and that is officially approved as the method for performing a routine or repetitive test. (4-7-11)

26. Standard Methods (SM). SM refers to a standard method of water testing published in the Standard Methods for the Examination of Water and Wastewater, as incorporated by reference under Section 004 of these rules. (4-7-11)

27. Subcontracting. The procedure whereby a laboratory certified by the State of Idaho may send samples to another laboratory that is certified or has been granted reciprocity by the State of Idaho for analysis. (4-7-11)

011. -- 099. (RESERVED)

REQUIREMENTS FOR CERTIFICATION OF DRINKING WATER LABORATORIES (Sections 100 - 199)

100. APPLICATION FOR CERTIFICATION.

01. Required Information on Application. An application for first-time certification for microbiology, inorganic chemistry, organic chemistry, or radiochemistry must be submitted to the CA on a form provided by the IBL. The following information must be included: name, location, and contact information of the drinking water laboratory, name of the owner, listing of methods/analytes for which certification is requested, documentation of the education, experience, and training of the laboratory supervisor for each discipline for which certification is being requested. (4-7-11)

02. Time Frame for Renewal of Application for Reciprocity. Applications for renewal of reciprocity must be received by the IBL at least thirty (30) days before the current certificate expires. (4-7-11)

03. Reapplication for Additional Analytes or to Change Methods. An in-state laboratory seeking to change methods or to add analytes utilizing the same method for which the laboratory is currently certified must submit a written application requesting the change in certification and include a copy of the SOP with QC requirements specific to the method. (4-7-11)

04. Reapplication for Certification. A laboratory that has been downgraded to provisional or has been decertified for an analyte or method, or both, must provide written documentation to the CO of the corrective actions within the specified period. A laboratory that has been decertified in entirety must re-apply following the same procedure as a laboratory applying for first-time certification. (4-7-11)

05. Reciprocity for Out-State-Laboratories. Each out-of state laboratory seeking reciprocity with Idaho must submit the same information as an in-state drinking water laboratory applying for first-time certification. (4-7-11)

101. CERTIFICATION FEES.

01. Annual Base Fee. All CDWLs must pay an annual base fee of fifty dollars ($50) per discipline and twenty dollars ($20) per analyte per method for which certification is requested. Certification is valid for one (1) year from the date of issuance. (4-7-11)

02. Non-Refundable Application Fee. Each new laboratory that is seeking certification or reciprocity must include a non-refundable application fee of two hundred dollars ($200) per discipline with the application. (4-7-11)

102. TYPES OF CERTIFICATION.

01. Certified. A certified laboratory meets the regulatory performance criteria described in these rules. (4-7-11)

02. Provisionally Certified. A provisionally certified laboratory has deficiencies, but demonstrates the ability to consistently produce valid data within the acceptance limits in these rules. (4-7-11)

03. Not Certified. A laboratory with the status of "not certified" can not produce consistently valid data, or is not following method protocol, or both. Such laboratories cannot analyze compliance samples. (4-7-11)

04. Interim Certification. The CA may grant interim certification to a laboratory if the laboratory has appropriate instrumentation, is using approved methods, has adequately trained personnel to perform the analyses, and has satisfactorily analyzed PT samples for the contaminants involved. The CO will review the laboratory's quality control data before granting this type of certification and will conduct an on-site evaluation as soon as possible. (4-7-11)

05. Reciprocity. Reciprocity may be granted by the CA to out-of-state laboratories if such laboratories are certified or accredited by an approved regulatory agency and meet the regulatory performance criteria described in these rules. (4-7-11)

103. SUBCONTRACTING.

01. List of Subcontractors. Laboratories who subcontract work must maintain a list of subcontractors and documentation of the subcontracting laboratories' certification or reciprocity with the State of Idaho. (4-7-11)

02. Identification Requirements for Subcontracting Laboratory. The laboratory performing the subcontracted analysis must be identified by name and EPA identification number on the final report. (4-7-11)

03. Availability of the Report from the Subcontracting Laboratory. The report from the subcontracting laboratory must be available to the client upon request. (4-7-11)

04. Availability of all Subcontracting Laboratory Records. All subcontracting laboratory records must be available to the COs. (4-7-11)

104. -- 109. (RESERVED)

110. ON-SITE EVALUATION.

01. On-Site Audits and Evaluations. COs will perform audits of the premises and operations of new laboratories or laboratories requesting continuing certification for the purpose of determining if there is enough security to maintain the integrity of the samples and data. The frequency of the on-site evaluation is at the discretion of the CA or a minimum of every three (3) years. In addition, the CO will evaluate the: (4-7-11)

a. Physical set up of the laboratory; (4-7-11)

b. Quality assurance program; (4-7-11)

c. Personnel qualifications; (4-7-11)

d. Equipment considerations; and (4-7-11)

e. Adequacy of data handling. (4-7-11)

02. Written Report of Findings from the On-Site Evaluation. The CO will generate a written report of findings from the on-site evaluation. The report will detail areas requiring a written response and specify the length of time the laboratory has to respond. The length of time for the laboratory to respond will be proportional the number and severity of deviations. If the conditions observed during an on-site evaluation are such that an immediate down grade or decertification is warranted the laboratory will be notified by certified mail within thirty (30) days by the CA. (4-7-11)

111. -- 119. (RESERVED)

120. PERSONNEL QUALIFICATIONS.

01. General Supervisor Qualifications. (4-7-11)

a. A supervisor must be on-site frequently enough to satisfactorily perform the required duties outlined below. The CO must be notified if the supervisor is unable to be on-site for a period greater than three (3) consecutive weeks. (4-7-11)

b. Supervisors are responsible for ensuring that all laboratory personnel have demonstrated proficiency for assigned functions and that all data reported by the laboratory meet the required quality assurance criteria and regulatory requirements. (4-7-11)

c. If a formal complaint is received from the regulatory agency, then the CO will notify the responsible laboratory supervisor and request a report describing the incident, the probable cause, and the corrective action to be taken to ensure the situation is resolved. The incident report must be received by the CA within thirty (30) days of the laboratory being notified of the problem. The CO in conjunction with the CA will evaluate the response and if found to be acceptable, no further action will be required of the laboratory. If the response is incomplete, the CO will provide in writing the additional steps that must be completed for certification status to remain uninterrupted. (4-7-11)

d. No drinking water supervisor will be responsible for the supervision of more than two (2) certified drinking water laboratories unless specifically approved by the CA. (4-7-11)

e. If a microbiology supervisor is not available, a consultant having the same qualifications may be utilized. The laboratory must submit the academic qualifications and work experience of the potential consultant to the CA. In addition, the laboratory must define and submit a list of the specific functions the consultant will be performing along with a schedule of routine visits. If the information is found to be acceptable, the CA will notify the laboratory director or owner in writing. A record of all consultant visits and communications must be maintained and be available for review during the on-site evaluation. The record must include a brief description of on-site findings and include any telephone or electronic consultation. Each entry must be dated and signed by the consultant. (4-7-11)

02. Supervisor Qualifications by Discipline. (4-7-11)

a. The supervisor of a microbiology laboratory must have a bachelor's degree from an accredited college in microbiology, biology, or equivalent. Supervisors who have a degree in a subject other than microbiology must have had at least two (2) college-level microbiology courses in which environmental microbiology was part of the curriculum. In addition, the supervisor must have a minimum of two (2) weeks training at a federal agency, state agency, or academic institution in the microbiological analysis of drinking water or eighty (80) hours of on-the-job-training in water microbiology at a certified laboratory, or other comparable training acceptable to the CA. (4-7-11)

b. The supervisor of a chemistry laboratory must have at least a bachelor's degree from an accredited college with a major in chemistry or equivalent and at least one (1) year of experience in the analysis of drinking water. In addition, the supervisor must have a working knowledge of quality assurance principles. (4-7-11)

c. The supervisor of a radiochemistry laboratory must have at least a bachelor's degree from an accredited college with a major in chemistry, or equivalent, and should have at least one (1) year of experience in the measurement of radioactive analytes in drinking water. In addition, the supervisor must have a working knowledge of QA and QC principles as applied to all radiochemical practices and procedures conducted in the laboratory. (4-7-11)

03. Analyst or Equivalent Job Title. (4-7-11)

a. An analyst performing microbiological testing must have a minimum of a high school education or equivalent, at least three (3) months of bench experience in environmental microbiological testing, and thirty (30) days on-the-job training in drinking water microbiology under the direction of an experienced analyst. If an analyst has a bachelor's degree in microbiology, or related field, the three (3) month bench training may be shortened to thirty (30) hours at the discretion of the laboratory supervisor. Before analyzing compliance samples, the analyst must demonstrate competency by successfully completing a PT. ( )

b. Analysts in each of the chemical disciplines should have at least a bachelor's degree with a major in chemistry, or equivalent, and at least one (1) year of experience in the analysis of drinking water for the discipline in which they are working. If the analyst is responsible for the operation of analytical instrumentation, they must have completed specialized training offered by the manufacturer or another qualified training facility or have successfully served an apprenticeship under an experienced analyst. The duration of this apprenticeship should be proportional to the sophistication of the instrument. Data produced by analysts and instrument operators while in the process of obtaining the required training or experience are acceptable only when reviewed and validated by a fully qualified analyst or the laboratory supervisor. Documentation of training must be maintained for each analyst and available for evaluation by the CO. (4-7-11)

04. Chemistry Technician. Technicians in each of the chemical disciplines must have at least a high school diploma or equivalent, have completed a method-training program under an experience analyst, and have six (6) months bench experience in the analysis of drinking water. The method-training record for each analyst should be recorded in a training file and available for evaluation by the CO. (4-7-11)

121. -- 129. (RESERVED)

130. REPORTING, NOTIFICATION, AND DISTRIBUTION OF LABORATORY RESULTS.

01. Submission of Test Results in Approved Format. The drinking water supervisor in each of the disciplines of certification is responsible for submission of all test results performed on samples submitted by PWSs, including subcontracted samples, in a format approved by the DEQ Drinking Water Program. Reports must be submitted to the appropriate regulatory authority or drinking water coordinator in a timely manner not to exceed ten (10) business days after the completion of testing or upon receipt of results from subcontract laboratories. (4-7-11)

02. Notification of High Contaminant Levels. The chemistry supervisor or designee must notify the appropriate regulatory agency or drinking water coordinator by phone as soon as feasible of any nitrate and nitrite level exceeding the current MCL including subcontracted samples. Notification must also be made when any other regulated chemical or radiological contaminant exceeds four (4) times the MCL. (4-7-11)

03. Notification of Positive Microbiological Results. The microbiological supervisor or designee is responsible for an immediate telephone notification to the appropriate regulatory agency in the case of a positive result for a microbiological test. If the RA or DWC is not available, the results must be given to the person designated by the RA or DWC to take the information. (4-7-11)

131. -- 139. (RESERVED)

140. LABORATORY QUALITY ASSURANCE.

01. The QA Plan. Each laboratory certified or having reciprocity with the State of Idaho must have and adhere to a QA plan. Laboratories seeking certification will be required to submit such a plan for review as part of the application process. (4-7-11)

02. Required Items for the QA Plan. The EPA Manual for the Certification of Laboratories Analyzing Drinking Water lists the items that must be included: (4-7-11)

a. Laboratory organization and responsibility; (4-7-11)

b. SOPs with dates of last revision; (4-7-11)

c. Laboratory sample receipt and handling procedure; (4-7-11)

d. Instrument calibration procedures; (4-7-11)

e. Analytical procedures; (4-7-11)

f. Data reduction, validation, reporting and verification; (4-7-11)

g. Type of quality control (QC) checks and frequency of use; (4-7-11)

h. List of schedules of internal and external system and data quality audits and inter laboratory comparisons; (4-7-11)

i. Preventive maintenance procedures and schedules; (4-7-11)

j. Corrective action contingencies; and (4-7-11)

k. Record-keeping procedures. (4-7-11)

03. Chain-of-Custody Procedures. Each laboratory must have a procedure in place in the event the submitter requires an evidence chain-of-custody. (4-7-11)

04. Maintenance of Records. *Each laboratory must:* *( )*

a. *M*aintain a record keeping system that allows the history of the sample and associated data to be readily understood through documentation. This would include access to LIMS, both present and prior systems, all electronic data including backup, QC documents and all associated calculations, maintenance records including replacement history of instruments, submission forms, submission forms to subcontracting laboratories, final reports from subcontracting laboratories, and final reports generated by the certified laboratory. *( )*

b. *R*etain all records for a minimum of five (5) years from generation of the last entry in the records. *( )*

c. *N*otify public water system clients before disposing of records. *( )*

d. *B*e aware of and adhere to specific record retention as required for specific analytes or disciplines. *( )*

05. Proficiency Testing (PT). Proficiency test samples must be successfully analyzed annually per analyte per method for which the laboratory is certified. All PT samples must be obtained from an approved supplier, and must be analyzed in the same manner as routine samples by the primary analyst assigned to the specific analysis. If testing is rotated among a number of analysts the supervisor will be responsible for determining who completes the PT. Records must include the name of the analyst who completed the testing. The results of the PT must be sent directly from the supplier to the CO. The methods listed on the laboratory's certificate must be the methods used for PT samples. (4-7-11)

141. -- 149. (RESERVED)

150. EVALUATION.

01. Documentation of Corrective Action. If a CDWL is found to be noncompliant, it will be notified in writing by the CA of the number and seriousness of the deviations. The noncompliant laboratory will be required to submit documentation of correction to the CA or their designee within the time limit specified by the CA. (4-7-11)

02. Adequacy of Corrective Action. Upon receipt of documentation of corrective action, the CO in conjunction with the CA will review the response to determine the adequacy of the corrective action taken. The laboratory will be eligible for certification if the response is found to be complete. If the response is incomplete or inadequate, the laboratory will be notified in writing of the additional changes required along with a specified time for completion. (4-7-11)

03. Unacceptable PT Result. In the event of an unacceptable PT, the laboratory must submit an incident report to the CO that includes a description of the incident and corrective action taken. A second PT must be completed within sixty (60) days of the laboratory being notified of the failure. If the second PT is successfully analyzed no further action will be taken. If a second PT is not analyzed or if the second PT is also unacceptable, the laboratory will be downgraded in accordance with Section 210 of these rules. (4-7-11)

04. Continued Certification of Other Tests. A CDWL that has an unacceptable PT result per analyte per method may remain certified for performance of all tests for which satisfactory performance has been demonstrated through the annual successful PT testing. (4-7-11)

151. -- 199. (RESERVED)

REQUIREMENTS FOR DRINKING WATER LABORATORIES TO MAINTAIN, DOWNGRADE, OR REVOKE CERTIFICATION (Sections 200 - 299)

200. MAINTENANCE OF CERTIFICATION.
In order to maintain certification, drinking water laboratories must be able to demonstrate they continue to meet all of the following requirements. (4-7-11)

01. Successful Completion of PT Samples. Each year, each laboratory must successfully complete a PT per analyte per method for which the laboratory is seeking to maintain certification. (4-7-11)

02. Use of Specified Methods. Each laboratory must be able to demonstrate it is using the methods specified in the drinking water regulations. (4-7-11)

03. Maintain Required Standard of Quality. The CO must be satisfied the laboratory is maintaining the required standard of quality for certification. This is based on the results of the PT testing, on-site evaluations, and any feedback from regulatory agencies. (4-7-11)

04. Notification of Major Changes. The laboratory must notify the CA in writing within thirty (30) days of major changes that could affect the accuracy and precision of testing. A major change includes the loss of a laboratory supervisor, equipment failure or breakdown, or change in location or ownership. ( )

201. -- 209. (RESERVED)

210. CRITERIA AND PROCEDURES FOR DOWNGRADING OR REVOKING CERTIFICATION STATUS.

01. Reasons a Laboratory May be Downgraded to Provisionally Certified Status. A laboratory may be downgraded to provisionally certified status for an analyte or method for any of the following reasons: (4-7-11)

a. Failure to analyze a PT annually within acceptance limits specified in the regulations as demonstrated by a failure of a second PT; (4-7-11)

b. Failure to submit an incident report after failing a PT or to analyze a second PT; (4-7-11)

c. Failure to notify the CA within thirty (30) days of major changes; (4-7-11)

d. Failure to maintain the required standard of quality based upon observations made by the CO during an on-site evaluation; or (4-7-11)

e. Failure to report compliance data to the regulatory agency in a timely manner. (4-7-11)

02. Procedure for Downgrading to Provisionally Certified Status. (4-7-11)

a. The CA will notify the laboratory director or owner by certified mail of the intent to downgrade the laboratory to provisional certification per analyte per method within thirty (30) days of learning of any of the items listed under Subsection 210.01 of this rule. The laboratory will be given be given thirty (30) days from the date of receipt to develop a written corrective action plan and submit it with all supporting documentation to the CA. This information will be reviewed and evaluated for adequacy. The laboratory will be notified by certified mail if the response is acceptable or if additional corrective action must be taken. The CO will document that the corrective action plan has been implemented during the next on-site evaluation. (4-7-11)

b. If a laboratory fails a second PT, the CA will downgrade the laboratory to provisionally certified status for that analyte or method and notify the laboratory by certified mail. (4-7-11)

c. A provisionally certified laboratory has three (3) months to correct the problem in a manner that is acceptable to the CA. If the downgrading of certification is based on the results of PT testing, the reason for the error must be identified and corrected. A third PT must be successfully analyzed. A provisionally certified laboratory may continue to analyze samples for compliance purposes, but must notify its clients of the downgraded status of certification and provide that information in writing on all reports. (4-7-11)

d. An out-of-state laboratory that has reciprocity with Idaho and is downgraded to provisional status by either the accreditation agency or certification authority of the home state must notify the CA of the change within thirty (30) days of the downgrade. (4-7-11)

03. Criteria for Revoking Certification Status. (4-7-11)

a. A laboratory must be downgraded from certified, provisionally certified, or interim certified status to "not certified" for a particular analyte or method for the following reasons: (4-7-11)

i. Reporting PT data from another laboratory as its own; (4-7-11)

ii. Falsification of data or other deceptive practices; (4-7-11)

iii. Failure to use the analytical methodology specified in the regulations; and (4-7-11)

iv. For provisionally certified laboratories, failure to correct the identified deficiencies that lead to the downgrading of certification status. (4-7-11)

b. Reciprocity of out-of-state laboratories who do not notify the CA of any changes in the status of certification or accreditation will automatically be revoked. (4-7-11)

04. Procedure for Revocation. (4-7-11)

a. The CA will notify the laboratory in writing of the intent to revoke certification. The laboratory will have thirty (30) days from the time of the notification to provide a written response. (4-7-11)

b. If the laboratory responds with an acceptable written corrective action plan, including documentation of implementation, the revocation will be suspended. (4-7-11)

c. If the response is unacceptable, incomplete, or both, certification will be revoked. If the laboratory does not respond, certification will be revoked. The laboratory will be notified in writing of the revocation. (4-7-11)

05. Upgrading or Reinstatement of Certification. A laboratory seeking an upgrade of certification must request this change in writing and provide documentation that the deficiencies that led to the provisional certification have been corrected. In addition, an on-site evaluation and successful completion of an additional PT may be required. A laboratory seeking certification after a revocation must follow the same procedure as a new laboratory seeking initial certification. (4-7-11)

211. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 56-1003 and 56-1007, Idaho Code, grant authority to the Director *of the* Department of Health and Welfare, to enforce minimum standards of health, safety and sanitation and to establish reasonable fees for services for all public swimming pools within the *s*tate *of Idaho*. *( )*

001. TITLE*,* SCOPE*, AND INTENT*.

01. Title. These rules are titled IDAPA 16.02.14, "Construction and Operation of Public Swimming Pools." *( )*

02. Scope. The provisions of these rules apply to all public swimming pools *and related* facilities. The purpose of these rules is to control and regulate the design, construction, operation*,* and maintenance of *public* pools to protect public health and safety. *( )*

***03. Intent**. To prevent the spread of communicable disease and to assure a clean and safe environment in public swimming pools.* *( )*

00*2*. APPLICABILITY.
All public swimming pools, as defined, must be constructed and operated in conformance with these rules. Public swimming pools constructed prior to 1982 that can meet the requirement of Sections 190 through 198 and Sections 230 and 231 *of these rules are* not be required to meet the structural aspects of these rules. These rules apply to all public swimming pools. *( )*

00*3*. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of these rules, the following words and phrases are used, as defined below: (4-5-00)

01. Bather. A person who becomes partially or totally immersed in water in a pool. (4-5-00)

02. Board. Idaho Board of Health and Welfare. *( )*

03. Break in Grade. Where the slope of the bottom of pool exceeds a uniform slope greater than one (1) foot in twelve (12) feet horizontally. (4-5-00)

04. Department. Idaho Department of Health and Welfare. (4-5-00)

05. Director. Director of the *Idaho* Department of Health and Welfare. *( )*

06. Director's Designee. The seven Public Health Districts. (4-5-00)

07. Geothermal Water. Water derived from and heated exclusively from the natural heat energy from the earth. (4-5-00)

08. Geothermal Pool. A flow-through public pool, which uses water solely derived from and heated exclusively by the natural heat energy from the earth. (4-5-00)

09. Flow-Through Pool. A pool fed by a continuous supply of acceptable water that causes an equal volume of water to overflow to waste. (4-5-00)

10. Lifeguard. A person who holds a current lifeguard training certificate and basic life support cardiopulmonary resuscitation (CPR) certificate from the American Red Cross, YMCA, Ellis & Associates, or any other equivalent certifying agency approved by the Director's Designee. (4-5-00)

11. Lifeguard Chair. An elevated stand erected for use by a lifeguard while superintending the safety of bathers in a pool. The height and location must afford the user an unobstructed view of all bathers within the pool enclosure. (4-5-00)

12. Operator. An individual eighteen (18) years of age or older, who is familiar with the operation of the pool and is responsible for the health and safety of the public using the pool and for operating the pool in compliance with these rules. The operator must have an approved certification of competency from a Certified Pool

Operator (CPO), National Swimming Pool Foundation Certification; an Aquatic Facility Operator (AFO), National Recreation and Parks Association Certification; a National Swimming Pool Institute (NSPI Tech 1), National Spa and Pool Institute Certification Program, District Health Department Certification, or other certification programs approved by the Director designee. The operator must also have a basic life support cardiopulmonary resuscitation (CPR) certificate and current first aid certification as stated in Subsection 010.10 of these rules. (4-5-00)

13. **Person**. A person, firm, partnership, association, corporation, company, governmental agency, club or organization of any kind. (4-5-00)

14. **Pool**. An artificial structure containing water and its *related elements* used or intended to be used for swimming, diving, or recreation. *( )*

15. **Private Pool**. Any pool constructed in connection with or appurtenant to single-family dwellings or condominiums used solely by the persons maintaining their residence within such dwellings and the guests of such persons. (4-5-00)

16. **Public Swimming Pool**. Herein referred to as public pool. A pool, and its *related elements*, that contains water more than two (2) feet deep, is used or intended to be used for swimming, diving, or recreational bathing, and is for the use of any segment of the public *under* a general invitation but not an invitation to a specific occasion or occasions. *( )*

17. **Remodel**. To replace all or part of any structure, circulation system*,* or *related element* of a pool facility, or to modify to the extent its design, configuration, or operating characteristics differ from those of the original. The term does not include normal maintenance, repair, or replacement of equipment or similar equipment that has previously been approved. Only that which is being remodeled needs to meet current specifications. *( )*

18. **Spa**. An artificial structure containing water no more than four (4) feet deep and a recirculation system primarily designed for relaxation or therapeutic use where the user is sitting, reclining, or at rest. (4-5-00)

19. **Special-Use Pool**. A pool used exclusively for rehabilitating, curing, or treating a disease or disorder. This term also includes geothermal flow-through pools used exclusively for relaxation or therapeutic use where the user is sitting, reclining, or at rest. (4-5-00)

20. **Wading Pool**. A public pool with water less than two (2) feet deep used mainly by non-swimming children and those supervising the children. (4-5-00)

011. -- 019. **(RESERVED)**

020. **SUBMISSION OF PLANS AND SPECIFICATIONS.**

01. **Plans**. No person may construct or remodel any public pool until plans, specifications, and a plan review fee have been submitted, and the Director's designee has issued a letter of acceptance. Plans and specifications must be prepared by an architect or engineer licensed to practice in the state of Idaho. The architect or engineering plans, specifications and reports, must contain information sufficient to demonstrate the proposed pool is in compliance with these rules and certify the same. (4-5-00)

02. **Construction Compliance Certificate**. The operator must submit, prior to public use of new facilities, a construction compliance certificate to the Director's designee. This certificate must: *( )*

a. *B*e prepared and signed by a professional engineer or architect licensed to practice in the state of Idaho*; and* *( )*

b. *I*nclude a statement that the pool and the *related elements* have been constructed in accordance with approved plans and specifications. *( )*

03. **Stability**. Pools must be designed and constructed to withstand all anticipated loadings for both full and empty conditions. A hydrostatic relief valve or other suitable means must be provided in areas having a high

water table. The designing architect or engineer is responsible for certifying the structural stability and safety of the pool. (4-5-00)

021. -- 029. (RESERVED)

030. PERMITS.
No public pool may be open to the public unless the operator has applied for and received a permit. Permits expire on December 31 of each year, unless earlier revoked or suspended for violation of these rules. Exempt pools may voluntarily request to obtain a permit and be inspected. Only persons who comply with these rules are entitled to receive and retain a permit. Permits are not transferable. (4-5-00)

031. APPLICATION.
An application for permit must be made on forms obtained from the Director's designee. (4-5-00)

032. PERMIT FEE AND PLAN REVIEW FEE.
All applications must be accompanied by payment of the permit fee of fifty dollars ($50) annually for each swimming pool. A plan review fee per unit for each swimming pool is one hundred dollars ($100). ( )

033. WAIVER OF FEES.
Upon written application to the Director, a waiver of a specific fee may be granted to an applicant who is required by these rules to pay the fee. ( )

01. Determination of Good Cause. Good cause for a waiver must be shown before it is granted by the Director. Good cause may include hardship or extenuating circumstances, as determined by the Director. (3-16-04)

02. Duration of Waiver. If the fee sought to be waived becomes due periodically, the fee may be waived for a designated period of time. (3-16-04)

03. Limitations. Granting of a waiver will not be considered as precedent or be given any force or effect in any other proceeding. (3-16-04)

034. -- 039. (RESERVED)

040. INSPECTIONS.
The Director's designee is authorized to conduct inspections as deemed necessary to insure compliance with all provisions of these rules and will have right of entry at any time the pool is in operation. (4-5-00)

041. NOTICE OF VIOLATION.
If a violation of any provision of these rules is found during an inspection, the inspector will provide a written notice of such violation to the operator, which will establish a time frame for correction. (4-5-00)

042. REINSPECTION.
A reinspection will be made to determine if the violation has been corrected. If upon reinspection the violation has been corrected, the pool will be allowed to remain open. If upon reinspection the violation still remains, the permit may be temporarily suspended and the pool closed until such time the violation has been corrected and approved by the Director, or the Director's designee. (4-5-00)

043. -- 049. (RESERVED)

050. TEMPORARY SUSPENSION AND REVOCATION OF PERMITS.

01. Cause. The Director or the Director's designee may temporarily suspend, or revoke a permit for failure to comply with these rules or in cases where the permit has been obtained through nondisclosure, misrepresentation, or misstatement of a material fact. ( )

02. Suspension. If the Director or the Director's designee determines that conditions at a public pool constitutes a serious danger to the health or safety of the public, a written order stating the particular reason for

suspension will be given to the operator; the permit will be immediately suspended and the pool closed until such time the condition is corrected. If the violation to these rules has not been corrected and a reinspection shows the violation still remains, a written order stating the particular reason for suspension will be given to the operator and the permit will be temporarily suspended and the pool closed until such time the condition is corrected. In the event a permit is suspended, the person to whom the permit was issued has the right to appeal under Section 003 of these rules. (4-5-00)

03. Revocation. If an operator fails to comply with the orders of a temporary suspension, the permit will be revoked unless the operator immediately closes the pool. Before a permit is revoked, the person to whom the permit was issued will receive notice in writing indicating items that fail to comply with this chapter. The permit holder will be advised of his right to appeal. *( )*

04. Reissue. The permit may be reissued upon proper application and upon presentation of evidence that the deficiencies or abuses causing revocation have been corrected. *( )*

051. -- 059. (RESERVED)

060. PENALTY.
Any person who willfully violates, disobeys, or disregards the provisions of these rules is guilty of a misdemeanor under the provisions of Section 56-1008, Idaho Code. (4-5-00)

061. -- 069. (RESERVED)

070. CONSTRUCTION REQUIREMENTS: PLUMBING CODES.
All plumbing must conform with and meet the provisions of IDAPA 07.02.06, "Rules Concerning *the Idaho State* Plumbing Code." *( )*

071. CONSTRUCTION REQUIREMENTS: ELECTRICAL CODE.
All electrical appliances and wiring must conform with and meet the provisions of IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code." *( )*

072. CONSTRUCTION REQUIREMENTS: UNIFORM BUILDING CODE.
All buildings must conform with and meet the provisions of IDAPA 07.03.0*1*, "Rules of Building *Safety*." *( )*

073. CONSTRUCTION REQUIREMENTS: MATERIALS.
Pools and all *related elements* must be constructed of materials that are inert, nontoxic to *hu*man*s*, impervious, permanent, and enduring; can withstand the design stresses; and will provide a tight tank with a smooth and easily cleanable surface, or to which an easily cleaned surface finish can be applied. *( )*

074. CONSTRUCTION REQUIREMENTS: CORNERS.
Corners formed by intersection of walls and floors must be rounded. (4-5-00)

075. CONSTRUCTION REQUIREMENTS: FINISH.
Pool finish, including bottom and sides, must be of light colored material, nontoxic to humans, with a smooth and easily cleanable surface. (4-5-00)

076. -- 079. (RESERVED)

080. DESIGN DETAIL: DIMENSIONS.
No limits are specified for length and width of pools except any pool in which diving is allowed must be at least sixteen (16) feet wide. (4-5-00)

081. DESIGN DETAIL: CIRCULATION.
Provisions must be made for complete, continuous circulation of water throughout all parts of the pool. Pools with a recirculation system must have the necessary treatment and filtration equipment as required. Flow-through pools that can meet the bacterial and clarity requirements of Sections 230 and 231 will not be required to meet Sections 250 through 256 and Sections 260 and 261 of these rules. (4-5-00)

082. DESIGN DETAIL: SHAPE.
The shape of any pool must be such that the circulation of water and the safety of bathers are not impaired. (4-5-00)

083. DESIGN DETAIL: WADING POOLS.
*All w*ading pools must have a maximum depth of two (2) feet, be physically separated from any pool, have a turnover rate of at least once every two (2) hours, have separate equipment for water recirculation and disinfection *with* no cross connections between a wading pool and any other pool, *and* be equipped with anti-vortex drains to avoid any possibility of entrapment. *( )*

084. DESIGN DETAIL: NO DIVING SIGN.
If a pool is not designed for diving, a conspicuous sign must be posted *and* state "NO DIVING," *and* contain lettering no less than six (6) inches high. Pools allowing diving must be at least eight (8) feet six (6) inches deep and meet manufacturer's installation criteria. *( )*

085. DESIGN DETAIL: SAFETY LINE.
A safety line must provide a visual and physical indicator of the separation between the shallow and deep portions of a pool *and* be in place when the pool is open to the general public, except during periods of lap swimming, competitive swimming or supervised training. It must be located in the shallow area no closer than one (1) foot nor any further than two (2) feet away from the break in grade line or five (5) foot depth, be securely fastened to wall anchors of corrosion-resistant material and of the type that is recessed or has no projections that *would* constitute a hazard when the line is removed, *and* be marked with visible floats. *( )*

086. -- 089. (RESERVED)

090. SLOPE OF FLOOR: SHALLOW AREA.
Any portion of the pool floor with a depth less than five (5) feet must be uniform, slope to drain, and must not exceed a slope of more than one (1) foot in twelve (12) feet horizontally. (4-5-00)

091. SLOPE OF FLOOR: DEEP AREA.
The slope of the pool floor at a water depth of five (5) feet or more must be uniform, sloped to drain, and must not exceed a slope of one (1) foot in three (3) feet horizontally. (4-5-00)

092. -- 099. (RESERVED)

100. SIDE WALLS.
Walls of a swimming pool must be either: vertical for water depth of at least six (6) feet; or vertical to a depth of three (3) feet below the water surface and then curved to join the bottom with a radius not greater than the difference between the depth at that point and three (3) feet, provided vertical is interpreted to permit slopes not greater than one (1) foot horizontally for each five (5) feet of sidewall depth (eleven (11) degrees from vertical). (4-5-00)

101. ILLUSTRATION OF POOL SIDE WALL.

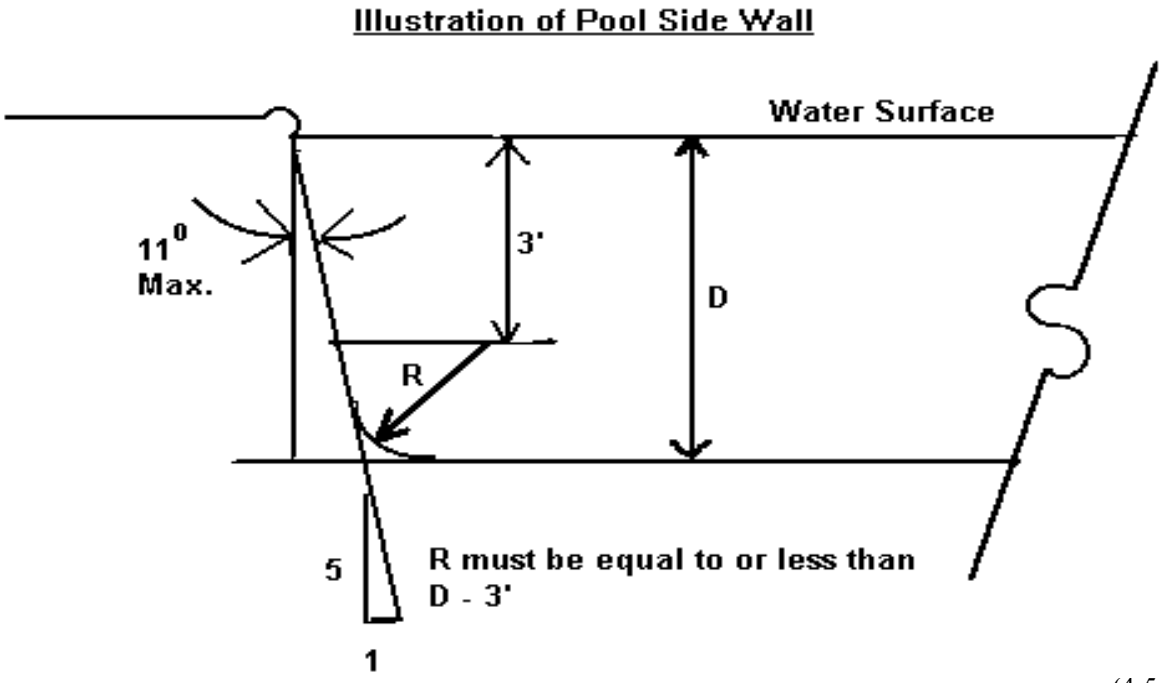

(4-5-00)

102. -- 109. (RESERVED)

110. WIDTH OF DECKS AND WALKWAYS.

01. ***Pool Deck****. A pool* must *have:* *( )*

a. A continuous deck, a minimum of eight (8) feet wide, that extend*s* completely around the pool *if it has one thousand eight hundred (1,800) square feet of surface area, or more;* *( )*

b. *A* continuous deck a minimum of four (4) feet wide *if it has less than one thousand eight hundred (1,800) square feet of surface area; and* *( )*

c. A minimum of three (3) feet at the rear of any diving equipment or slide. *( )*

02. ***Spa****.* A spa may be constructed adjacent to a pool provided*:* *( )*

a. *T*he spa has one hundred twenty (120) square feet of water surface area or less; *( )*

b. *T*he spa is separated from the pool by a common wall no more than twelve (12) inches wide; *( )*

c. *T*he common wall is constructed to prevent its use as a walkway; and *( )*

d. *A* continuous deck a minimum of four (4) feet wide extends completely around the pool and the spa. *( )*

111. SLOPE OF DECKS AND WALKWAYS.

Decks must have a nonslip surface and be sloped to remove any surface drainage from entering the pool water. Drainage must be conducted from the deck in a manner that will not create hazardous or objectionable conditions *and* not be returned to the recirculation system. *( )*

112. -- 119. (RESERVED)

120. LADDERS, RECESSED STEPS, AND STAIRS REQUIREMENTS.
Recessed steps, stairs, or ladders must be provided at the shallow and deepest end of a pool. If the pool is over thirty (30) feet wide, such steps, ladders, or stairs must be installed on each side. (4-5-00)

121. RECESSED STEPS.
Recessed steps must be readily cleanable and must be arranged to drain into the pool. The steps must have a minimum tread of five (5) inches and a minimum width of fourteen (14) inches. (4-5-00)

122. STAIRS.
Where stairs are provided, they must be equipped with a handrail, *have w*alking surfaces and treads *that are* of nonslip design *with* the leading edge in contrasting color, *have s*teps *with* a minimum tread of twelve (12) inches and a maximum rise of ten (10) inches, *and have* no abrupt drop-off or submerged projections into the pool, unless guarded by handrails. *( )*

123. LADDERS.
*All l*adders must be corrosion-resistant, equipped with nonslip treads, designed to provide a handhold, be rigidly installed, *and have* a clearance of not more than five (5) inches or less than three (3) inches between any ladder and the pool wall. *( )*

124. HANDRAILS.
Where recessed steps or ladders are provided within the pool, handrail*s* must *be positioned* at the top of both sides that extend over the coping or edge of the deck *and* be tight and secure. *( )*

125. ACCESS TO DIVING BOARDS.
Platforms and steps for diving boards must be of sufficient structural strength to safely carry the maximum anticipated loads. Steps must be of corrosion-resistant material, easily cleanable, and of nonslip design. Handrails must be provided at all steps and ladders leading to diving boards more than one (1) meter above the water. Platforms and diving boards over one (1) meter high must be protected with guard railings. (4-5-00)

126. -- 129. (RESERVED)

130. DIVING AREA: HEADROOM.
All pools must have at least thirteen (13) feet of unobstructed area above each diving board as measured from the front end of the board, and this unobstructed area must extend horizontally at least sixteen (16) feet forward of the plummet, at least eight (8) feet behind the plummet, and at least eight (8) feet to both sides of the plummet. (4-5-00)

131. DIVING AREA: WATER DEPTH.
The dimensions of the diving area on public pools must conform to the following:

Minimum Dimensions					
Height of the diving board above the water level		Depth of water at the plummet	Distance ahead of plummet	Depth of water at the distance L From plummet	Overhang of diving board beyond edge of pool
H		D-1	L	D-2	O-H
Meters	Feet	Feet	Feet	Feet	Feet
0.00 to 0.50	0'0" to 1.7"	8'6"	11'6"	8'6"	3'0"
0.51 to 0.75	1'8" to 2'6"	9'3"	11'6"	9'3"	4'0"
0.76 to 1.00	2'7" to 3'3"	10'0"	14'0"	10'0"	5'0"

Minimum Dimensions					
Height of the diving board above the water level		Depth of water at the plummet	Distance ahead of plummet	Depth of water at the distance L From plummet	Overhang of diving board beyond edge of pool
1.01 to 3.00	3'4" to 10'0"	13'0"	20'0"	13'0"	6'0"
*Diving boards and platforms in excess of three (3) meters or ten (10) feet in height are not allowed in a pool without special provisions, controls, and definite limitation on their use, which has been approved by the Director's designee.					

(4-5-00)

132. ILLUSTRATION OF DIMENSIONS OF DIVING AREA.

Illustration of Dimensions of Diving Area

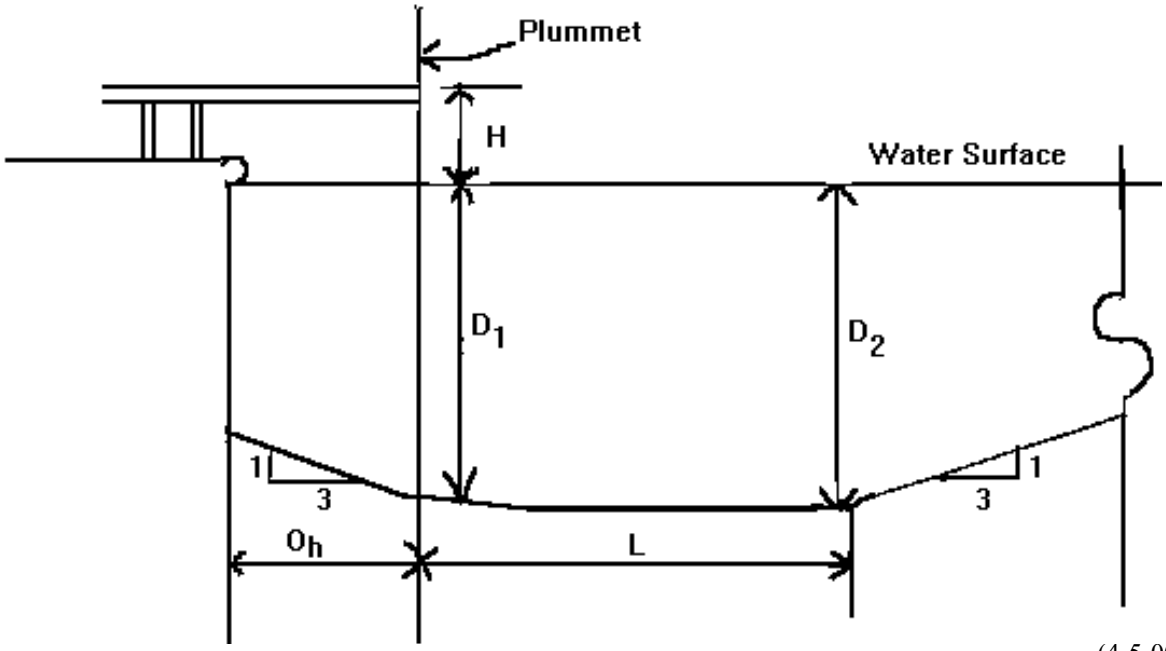

(4-5-00)

133. SEPARATION OF LOW DIVING BOARDS.
All diving boards installed on pools at heights not greater than three (3) feet three (3) inches or one (1) meter above the water level must be separated from adjacent diving boards of the same or less height by a distance of not less than eight (8) feet, and must be located not less than ten (10) feet from the side wall of the pool. (4-5-00)

134. SEPARATION OF HIGH DIVING BOARDS.
All diving boards installed on pools at heights greater than three (3) feet three (3) inches or one (1) meter above the water level must be separated from adjacent diving boards of the same or less height by a distance of not less than ten (10) feet, and must be located not less than twelve (12) feet from the side wall of the pool. (4-5-00)

135. ANCHORING OF DIVING BOARDS.
All installed equipment must be firmly anchored. (4-5-00)

136. -- 139. (RESERVED)

140. LIGHTING AND ELECTRICAL REQUIREMENTS.
All electrical appliances and wiring must conform with and meet the provisions of IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code." Defects in the electrical system, including underwater lights, overhead lights, and their respective lenses, must be immediately repaired. *( )*

141. PORTABLE ELECTRICAL DEVICES.
Portable electrical devices such as announcing systems and radios, unless battery operated, are prohibited within the pool enclosure. (4-5-00)

142. OVERHEAD WIRING.
There *may not* be *any* overhead electrical wiring within twenty (20) feet horizontal distance of the pool enclosure. *( )*

143. UNDERWATER LIGHTING.
Where underwater lighting is used, the lights must be spaced to provide illumination so all portions of the pool, including the bottom, may be readily seen without glare. (4-5-00)

144. -- 149. (RESERVED)

150. VENTILATION.
All indoor pools, bathhouses, dressing rooms, shower rooms, and toilet spaces must be ventilated either by natural or mechanical means to prevent corrosion or the build-up of mold or mildew. (4-5-00)

151. -- 159. (RESERVED)

160. DRESSING ROOMS, TOILETS, AND SHOWERS.
Dressing rooms, toilets, and showers must be made available to all users of a pool. Dressing rooms must be finished in light colors and planned so good sanitation can be maintained throughout the buildings at all times. No glass containers are permitted. (4-5-00)

161. LOCATION OF DRESSING ROOMS.
Dressing rooms must be located near toilets and showers, and should be adjacent to the locker or checkroom*, and have a* layout such that bathers, on leaving the dressing room, should pass the toilet and shower en route to the pool. *( )*

162. FLOORS IN DRESSING ROOMS, TOILETS, AND SHOWERS.
Floors must be constructed of non-absorbent materials with non-slip finishes*,* slope to properly located drains*, and have a* sufficient number of drains installed to prevent water from collecting on the floor. *( )*

163. CONSTRUCTION OF DRESSING ROOMS.
The material used for walls, partitions, and furniture must be such that it can be easily cleaned and will not be damaged by frequent hosing, wetting, or disinfection. (4-5-00)

164. TOILETS.
Toilet facilities must be provided for both men and women*,* be accessible to disabled persons, and be kept clean and properly maintained. (4-5-00)

165. SHOWERS.
The following must *be provided:* *( )*

01. ***Showers.*** Showers for both men and women *that are* accessible to disabled persons. *( )*

02. ***Fixtures.*** Fixtures *that are* kept clean and properly maintained. *( )*

03. ***Water Temperature.*** *H*ot water for showers *that is* no less than ninety (90) degrees and no more

than one hundred twenty (120) degrees. ( )

04. ***Scald Prevention.*** Thermostatic tempering, or mixing valves, to prevent scalding of bathers. ( )

05. ***Soap.*** ( )

166. HAND SINKS.
A minimum of one (1) hand wash sink with hot and cold running water *and soap* must be provided in each toilet room. ( )

167. EXCEPTION.
The requirements of Section*s* 160 through 166 *of these rules* do not apply to any pool operated solely for and in conjunction with a hotel, motel*,* or other place of lodging or other facility containing multiple dwellings. However, dressing rooms, toilets, and showers must be in compliance with *S*ection*s 160 through 166 of these rules,* if provided in the pool area of hotels, motels, or other facilities containing multiple dwellings. ( )

168. -- 169. (RESERVED)

170. WATER SUPPLY.
The water supply serving a pool must meet the water quality requirements of the Director's designee for potable water except the Director's designee may approve the use of geothermal waters. Drinking water must be approved and, if applicable, meet the provisions of IDAPA 58.01.08, "Idaho Rules For Public Drinking Water Systems." All portions of the water distribution system must be protected against backflow and cross connections. (4-5-00)

171. -- 179. (RESERVED)

180. SEWER SYSTEM.
A sewer system must be provided and be adequate to serve the facility, including bathhouse, locker room, and related accommodations. The sanitary sewer serving the pool and auxiliary facilities must discharge to a public sewer system wherever possible. Where no such sewer is available, the connection must be made to a suitable disposal system designed, constructed, and operated in accordance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (4-5-00)

181. -- 189. (RESERVED)

190. HEALTH AND SAFETY: POOL CLOSURE.
The operator must immediately close the pool when a pool is in violation of Sections 191, 192, 198, and 230 *of these rules*, or when ordered by the Director or the Director's designee*, and keep t*he pool closed until such time as conditions are brought into compliance or the order has been rescinded. ( )

191. HEALTH AND SAFETY: OPERATOR.
All pools must have an operator. (4-5-00)

192. HEALTH AND SAFETY: LIFEGUARD REQUIREMENT.

01. ***When Lifeguards Are Required.*** Lifeguard(s) *are* required at any public swimming pool when*:* ( )

a. *T*he numbers of bathers within the pool enclosure exceed thirty-five (35)*; and* ( )

b. *C*hildren under the age of thirteen (13) *are allowed* to swim without adult supervision. ( )

02. ***When Lifeguards Are Not Required.*** When lifeguard services are not required, a warning sign must*:* ( )

a. *B*e placed in plain view for all swimmers*;* ( )

b. *S*tate, "WARNING NO LIFEGUARD ON DUTY" with clearly legible letters at least four (4) inches in height*; and* *( )*

c. *Also* state, "CHILDREN UNDER 13 YEARS OLD SHALL NOT USE THE FACILITY WITHOUT AN ADULT IN ATTENDANCE," and "DO NOT SWIM ALONE." *( )*

193. HEALTH AND SAFETY: LIFEGUARD CHAIRS.
If lifeguard chairs are provided, they must be located and constructed to provide a clear, unobstructed view of the pool bottom in the area under surveillance. *( )*

194. HEALTH AND SAFETY: LIFESAVING EQUIPMENT.

01. Rescue Tube. Each lifeguard on duty must have a rescue tube. *( )*

02. Shepherd's Crook, Backboard, and First Aid Kit. Every pool must have*:* *( )*

a. *A*t least one (1) shepherd's crook or life-saving pole, having blunted ends, at least twelve (12) feet in length*;* *( )*

b. *A* readily accessible full-length backboard that compl*ies* with American Red Cross specifications or equivalent*; and* *( )*

c. *A* readily accessible first aid kit and a pocket face mask to assist with CPR. *( )*

03. Equipment Accessibility and Condition*. Equipment must be readily accessible, be mounted in a conspicuous place, and be kept in good repair and ready condition.* *( )*

195. HEALTH AND SAFETY: SAFETY AND SANITATION.
A lifeguard or operator must be in full charge of bathers and have authority and responsibility to enforce all rules of safety and sanitation. Suitable placards embodying sanitation requirements are to be conspicuously posted in the pool enclosure. Safety and sanitation requirements are as follows: (4-5-00)

01. Shower. A cleansing shower should be taken before swimming. (4-5-00)

02. Disease. Persons having an infectious or communicable disease that may be transmitted through water *are* excluded from swimming. *( )*

03. Running and Roughhousing. No running or rough play are permitted. (4-5-00)

04. Contamination. Contamination of water, walkways, or dressing room floors in any way is prohibited. (4-5-00)

05. Glass. Glass containers are prohibited in the pool area. (4-5-00)

196. HEALTH AND SAFETY: ACCESS.
When the pool is not open for use, access must be restricted. (4-5-00)

197. HEALTH AND SAFETY: EMERGENCY COMMUNICATION.
A means of contacting emergency medical services must be readily accessible and be provided on the premises. (4-5-00)

198. CLARITY.
Water must have sufficient clarity at all times so the main drain can be clearly visible from the deck. Failure to meet this requirement *is* grounds for immediate closure of the pool. It is the responsibility of the operator to close the pool when conditions exist that the main drain is not visible from the deck. *( )*

199. (RESERVED)

200. SUPERVISION.
Every pool must be operated under the supervision of an operator who assumes responsibility for compliance with all parts of these rules. The operator is responsible for operating the pool in a safe and healthful manner. (4-5-00)

201. OPERATIONS MANUAL.
Each pool must have a *readily accessible* pool operations manual to ensure proper operation and maintenance. The operations manual should include instructions for such items as maintenance schedules, records and reports, water chemistry, accidents, emergency procedures, care of filters, operation of pumps and other equipment, and proper handling and storage of all chemicals used. *( )*

202. RECORD KEEPING.
The following information must be recorded each day the pool is open, and be kept on the premises and available for review: (4-5-00)

01. Disinfectant Levels; (4-5-00)

02. pH Readings; (4-5-00)

03. Clarity Readings; (4-5-00)

04. Amount and Type of Chemicals Used; and (4-5-00)

05. Accidents Requiring Professional Medical Treatment. Accidents requiring professional medical treatment, including drownings or near drownings. (4-5-00)

203. REPORTABLE ACCIDENTS.
Accidents requiring professional medical treatment, including drownings or near drownings, must be reported within twenty-four (24) hours of occurrence to the Director's designee. (4-5-00)

204. -- 209. (RESERVED)

210. DEPTH MARKING LOCATIONS.

01. Water Depth. Water depth must be plainly marked at or above the water surface on the vertical wall of the pool and on the horizontal edge of the deck or walk next to the pool. *( )*

02. Depth Markers. Depth markers must be placed at*:* *( )*

a. *M*aximum and minimum depths; *( )*

b. *T*he five (5) foot break between the deep and shallow portions; *( )*

c. *I*ntermediate one (1) foot increments of depth, where the water depth is five (5) feet or less; and *( )*

d. *R*egular intervals around the pool, not more than twenty-five (25) feet apart. *( )*

211. DEPTH MARKERS.
Depth markers must be numerals a minimum of four (4) inches high of a color contrasting with the background*, and plainly visible to persons both in and out of the pool*. Where depth markers cannot be placed on the vertical walls above the water level, other means must be used. *( )*

212. -- 219. (RESERVED)

220. WATER QUALITY STANDARDS.
Pools must be designed to provide for continuous disinfection of the pool water with a chemical that has an effective disinfectant and imparts an easily measured, active residual. A test kit for measuring the accurate concentration of the disinfectant must be provided at each pool. (4-5-00)

221. CHLORINE DISINFECTION.
When chlorine is used, a minimum free available chlorine residual of not less than one (1) part per million (ppm) with a maximum of five (5) parts per million (ppm) must be maintained whenever a pool is in use. (4-5-00)

222. BROMINE DISINFECTION.
When bromine is used, a minimum residual of not less than one (1) part per million (ppm) with a maximum of five (5) parts per million (ppm) must be maintained whenever a pool is in use. (4-5-00)

223. CHLORINATED ISOCYANURATES DISINFECTION.
If chlorinated isocyanurates are used, the maximum allowable concentration must be one hundred (100) parts per million (ppm). When isocyanurates are used, a test kit for measuring the concentration of the stabilizer must be provided. (4-5-00)

224. ORP OR HRR DISINFECTION.
If a pool uses an oxidation reduction potential (ORP) controller or a high resolution redox (HRR) controller as a method of measuring an effective index of disinfection, the chemical used should be introduced in quantities needed to maintain levels at a minimum of six hundred and fifty (650) millivolts (mV). (4-5-00)

225. OTHER DISINFECTION METHODS.
Other disinfecting methods may be used when it can be demonstrated to the Director's designee that a pool provides a satisfactory residual effect that is easily measured. Other disinfection methods may also be allowed if demonstration and analysis provide assurance that results are effective and not dangerous to public health, create objectionable physiological effects, or impart toxic properties to the water. (4-5-00)

226. ACID BASED CHEMISTRY.
Pool water must be maintained in an alkaline condition as indicated by a pH of not less than seven and two-tenths (7.2) and not over seven and eight-tenths (7.8). The total alkalinity of the water should be within the acceptable range of eighty (80) parts per million (ppm) to two hundred (200) parts per million (ppm). An accurate pH testing kit must be provided at each pool. (4-5-00)

227. OTHER CHEMICALS.
Any chemical must be used in accordance with the manufacturer's recommendations and not cause irritation to the eyes or skin of the bathers, or have other objectionable physiological effects on bathers. (4-5-00)

228. CHEMICAL STORAGE.
All chemicals must be kept from the reach of the general public, be stored in original containers, and be stored in accordance with the instructions of the manufacturer or, in the absence of such instructions, as directed by the Director's designee. ( )

229. CLEANING.

01. Pools. Pools must be maintained and operated in a clean, safe, and sanitary manner at all times. Pool walls and bottom should be vacuumed or brushed as needed to remove visible material. ( )

02. Decks. Decks must be kept clean, safe, and maintained in good condition. ( )

03. Bathrooms, Showers, and Dressing Rooms. Bathrooms, showers, and dressing rooms must be kept clean, safe, and sanitary at all times. ( )

230. BACTERIOLOGICAL QUALITY OF POOL WATERS.
The water in public pools must not contain the presence of fecal coliform bacteria. If fecal coliform bacteria are present in any sample, a confirmation sample must be taken within twenty-four (24) hours. Should any two (2) consecutive water samples taken show the presence of fecal coliform bacteria, the pool must be closed *immediately* until the bacterial quality of the water is found absent for the presence of fecal coliform bacteria. ( )

231. MONTHLY SAMPLING.
Pools not required to have a disinfection system, or those pools having a disinfection system but do not meet the requirements of Sections 220 through 225 *of these rules, are* required to sample the water for the presence of fecal coliform bacteria on a monthly basis. Sampling must be done during hours of peak bather loads. ( )

232. -- 239. (RESERVED)

240. DISINFECTANT AND CHEMICAL FEEDERS.

01. Feeder. Pools must be equipped with a disinfectant feeder or feeders that meet the following requirements. *Equipment* must *be*: *( )*

a. *C*apable of being easily disassembled for cleaning or repair and be constructed of corrosion-resistant materials*;* *( )*

b. *C*onstructed to permit repeated adjustments without loss of output rate accuracy and be constructed to minimize stoppage from debris that may be contained in aid chemicals used*;* *( )*

c. *D*esigned specifically for the type of disinfectant used*; and* *( )*

d. *P*rovided with controls for adjusting the flow rate of disinfectant. *( )*

02. Backflow Prevention. When the disinfectant is introduced at the suction side of the pump, a device or method must be provided to prevent air lock of the pump or recirculation system. (4-5-00)

03. Chlorine Gas Equipment. When compressed chlorine gas is used, the following additional features must be provided: (4-5-00)

a. Chlorine rooms must have a ventilating fan with an airtight duct beginning near the floor and terminating at a safe point of discharge to the outdoors, away from any occupied area or any fresh air intake. A louvered air intake must be provided near the ceiling. The ventilating fan must provide one (1) air change per minute and operate from a switch located outside the door. (4-5-00)

b. Chlorinator equipment must be designed to withstand wear without developing leaks. (4-5-00)

c. Chlorine cylinders must be anchored in an upright position to prevent falling over. A valve stem wrench must be maintained on the chlorine cylinder so the supply can be shut off quickly in the case of an emergency. Empty chlorine gas cylinders must be tagged as such. Full and empty gas cylinders must be stored only in the chlorine room and have protective hoods in place when not in use. (4-5-00)

d. A new washer or gasket approved for use on chlorine gas must be used each time a chlorine cylinder is connected to the chlorinator. Spare washers/gaskets must be kept on site. (4-5-00)

e. A self-contained breathing apparatus designed for use in a chlorine atmosphere must be provided, and be located in an area outside the chlorination room easily accessible to pool employees. (4-5-00)

f. An automatic chlorine leak detector or commercial twenty-six (26) degrees Baume Aqua Ammonia must be provided for chlorine gas leak detection. (4-5-00)

g. Installation of chlorinator equipment, and operation thereof, must be carried out by or under the supervision of personnel trained in the installation and operation of such equipment. (4-5-00)

04. Hypochlorite Equipment. When a hypochlorite solution is fed through hypochlorinator equipment, such equipment must also provide the following additional features: (4-5-00)

a. *P*ositive *feed* under all conditions of pressure in the circulating system, without artificial constriction of the pump suction line whether this line is under vacuum or pressure head*;* *( )*

b. *C*onstant feed with varying supply or back pressure*;* *( )*

c. Prevent backflow from the circulation system to the solution container*; and* *( )*

d. Prevent siphoning of hypochlorite solution when recirculation pump and hypochlorinator are both turned off. (4-5-00)

241. -- 249. (RESERVED)

250. RECIRCULATION SYSTEM: FLOW RATE.
A recirculation system, consisting of pumps, piping, skimmers, filters, water disinfection equipment, and other accessory equipment must be so designed and sized as to completely recirculate the pool volume of water at least once every eight (8) hours. (4-5-00)

251. RECIRCULATION SYSTEM: SIZING.
All equipment and connecting piping must be designed to reduce friction losses, and for the piping to carry the required quantity of water at a velocity not to exceed six (6) feet per second for suction side pipe, and not more than ten (10) feet per second for filter discharge pipe. Piping must be of non-toxic material, resistant to corrosion, and able to withstand normal operating pressures. It is recommended all plastic pipes conform with NSF Standard 14 for potable water applications of the National Sanitation Foundation (NSF) and bear the NSF seal. (4-5-00)

252. RECIRCULATION SYSTEM: CLEANING.

01. ***Cleaning System.*** A cleaning system must be provided to remove dirt from the bottom of the pool. *( )*

02. ***Integral Vacuum.*** When a vacuum is used as an integral part of the recirculation system*:( )*

a. *C*onnections must be located in the walls of the pool, at least eight (8) inches below waterline, and at such point the floor of pool can be cleaned*; and* *( )*

b. *T*he vacuum system must also be designed to preclude any possible entrapment.*( )*

253. RECIRCULATION SYSTEM: FLOW INDICATOR.
A functioning rate-of-flow indicator must be installed and located so the recirculation rate will be accurately measured, be accurate within five percent (5%) of true flow, and be located in a position that is easy to read. (4-5-00)

254. RECIRCULATION SYSTEM: CLEANING.
A pump and motor unit must be provided for the recirculation of water that has been selected to meet the quantity of water required for filtering, and cleaning the filter, with the total dynamic head developed by the complete system. It is recommended the pump comply with requirements of NSF Standard 50, "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," of the National Sanitation Foundation (NSF) and bear the NSF seal. (4-5-00)

255. RECIRCULATION SYSTEM: THERMOMETERS.
Pools equipped with heaters must have a minimum of one (1) fixed thermometer located between the heating outlet and the pool. (4-5-00)

256. RECIRCULATION SYSTEM: STRAINER.
The recirculation system must include a corrosion-resistant strainer, readily accessible for frequent cleaning. (4-5-00)

257. -- 259. (RESERVED)

260. *FILTRATION SYSTEM AND* FILTERS.

01. ***Filtration System.*** All pools must be equipped with a filtration system for the purpose of clarifying the water so it meets or exceeds the minimum clarity requirement. *( )*

02. ***Filters****. All f*ilters must*:* *( )*

a. *B*e designed and sized to achieve the proper turnover rate without exceeding the maximum flow rate*;* *( )*

b. *B*e equipped with pressure or vacuum gauges*; and* *( )*

c. *C*omply with all applicable requirements of NSF Standard 50, "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," or in the absence of applicable requirements, be approved by the Director's designee. *( )*

261. DISPOSAL OF WASTE.
Provisions must be made to dispose of material cleaned from filters and backwash water in a manner that will not create a nuisance. If drainage to a sanitary sewer or storm drain is permitted, an air gap must be provided that will positively preclude against surge or backflow introducing contaminated water into the pool or recirculation system. (4-5-00)

262. -- 269. (RESERVED)

270. WALL INLETS.

01. General Inlet Requirements. Except as otherwise provided in this *rule*, inlets must*:* *( )*

a. *B*e rounded and smooth and installed not less than eighteen (18) inches below the normal operating level and located to produce a uniform circulation, without the existence of dead spots*; and* *( )*

b. *N*ot extend from the pool wall or floor so as to create a hazard. *( )*

02. Wall Inlet Requirements. If wall inlets are used, there must*:* *( )*

a. *B*e at a minimum of one (1) per each six hundred (600) square feet of pool surface area. *( )*

b. *B*e a minimum of two (2) inlets. In case of a shallow pool, the Director's *d*esignee may grant an exception to this requirement if inlets cannot be installed at the depth otherwise required. *( )*

271. FLOOR INLETS.
Any pool having a width greater than forty (40) feet must have floor inlets or a combination of wall and floor inlets that meet the requirements of Section 260 *of these rules and are* located so they provide general circulation and *do* not direct flow to floor drains. *( )*

272. -- 279. (RESERVED)

280. OVERFLOW SYSTEMS.
All pools must be designed to provide continuous skimming*, have o*verflow gutters or surface skimmers*, and have an* overflow system designed and installed so the water level of the pool is maintained at the operating level of the rim or weir device. *( )*

281. OVERFLOW GUTTERS.
The gutter, drains, and return piping to the surge system must be designed to rapidly remove overflow water caused by recirculation displacement, wave action, or other causes produced from the maximum pool bathing load. *( )*

01. General Requirements. Overflow gutters must*:* *( )*

a. *E*xtend around the entire perimeter of the pool except at steps or recessed ladders*;* *( )*

b. *Have t*he gutter lip be level within three-tenths (.3) inch*;* *( )*

c. *B*e capable of continuously removing fifty percent (50%) of the recirculated water and returning it to the recirculation system*; and* *( )*

d. *Be designed to prevent entrance or entrapment of bathers.* *( )*

02. Overflow Gutters Connected to the Recirculation System. All overflow gutters connected to the recirculation system must be connected in an approved manner, such as a surge tank. *( )*

282. SKIMMERS: REQUIREMENT.

01. Minimum Requirements. *There* must *be provided:* *( )*

a. A minimum of one (1) skimmer for each four hundred (400) square feet of water surface area or fraction thereof*; and* *( )*

b. *N*o fewer than two (2) skimmers in every pool. *( )*

02. Standard Requirements. Any skimmer used in a pool must comply with all applicable requirements of NSF Standard 50 "Circulation System Components and Related Materials for Swimming Pools, Spas/Hot Tubs," of the NSF International or in the absence of applicable requirements, be approved by the Director's designee. *( )*

283. SKIMMERS: CAPACITY.

01. Total Capacity. The total capacity of all skimmers used must be a minimum of two-thirds (2/3) of the required filter flow. *( )*

02. Piping. Piping for skimmers used must be designed for a capacity of not less than eighty (80) percent of the required filter flow of the recirculation system, and in no case less than thirty (30) gallons per minute per eight (8) inches of weir. *( )*

284. SKIMMERS: EQUALIZERS.

01. Equalizer Valve and Line. All skimmers used must be equipped with an approved equalizer valve and an equalizer line with an inside diameter of not less than two (2) inches, installed not less than twelve (12) inches below the normal operating level of the water. *( )*

02. Inlet to the Equalizer Line. The inlet to the equalizer line or lines must*:* *( )*

a. *B*e designed to prevent the creation of a holding force whenever the body or limb of a bather comes into contact with the inlet*; and* *( )*

b. *B*e protected by a grill or shroud that will prevent a bather or any limb of a bather from entering the inlet. *( )*

285. SKIMMERS: LOCATION.
All inlets must be spaced at least five (5) feet away from any skimmer. One (1) skimmer must be placed at a point in the pool opposite the direction of the prevailing winds. (4-5-00)

286. -- 289. (RESERVED)

290. LOCATION OF DRAINS.
Every pool must have a tandem main drain located in the deepest section of the pool and have the ability to empty the pool through this drain. (4-5-00)

291. MULTIPLE DRAINS.
Multiple drains must be provided. Outlet drains must not be further apart than twenty (20) feet on center. (4-5-00)

292. DRAIN GRATING.
The main drain outlet grating must*:* *( )*

01. Area of Openings. *H*ave an area of openings four (4) times the area of the discharge pipe or provide sufficient area so the maximum velocity of water passing through the grate will not exceed six (6) feet per second*;* *( )*

02. Maximum Width of Openings. *Have* grate openings *with a maximum width of* not more than one-half (1/2) inch*; and* *( )*

03. Securely Fastened. *B*e securely fastened in such a way that they cannot be removed without the use of tools. *( )*

293. -- 299. (RESERVED)

300. FENCE AND BARRIERS.

01. For Pools Under 1,800 Square Feet. A fence or barrier a minimum of four (4) feet high to exclude unauthorized persons from the pool area must enclose each public pool with less than one thousand eight hundred (1,800) square feet of surface area. *( )*

02. For Pools 1,800 Square Feet or Greater. A fence or barrier a minimum of eight (8) feet high to exclude unauthorized persons from the pool area must enclose each public pool with one thousand eight hundred (1,800) square feet of surface area*,* or greater. *( )*

301. -- 309. (RESERVED)

310. GEOTHERMAL POOL EXEMPTIONS.

01. Exemptions. *Geothermal pools are hereby exempt from the following rules:* *( )*

a. If a *geothermal* pool can meet the bacterial requirements of Section 230 *of these rules* and the clarity requirements of Section 198 *of these rules*, it will not be required to meet any requirements of Sections 220 through 225*,* and Sections 240, 250, and 260 *of these rules*. *( )*

b. Section 226 *of these rules*, "Acid Base Chemistry." *( )*

c. If an existing *geothermal* pool has a gravel bottom, Sections 075, 271, and Sections 290 through 292 *of these rules*. *( )*

02. Remodeling. Remodeling of an existing geothermal pool will not change exemptions. (4-5-00)

311. -- 319. (RESERVED)

320. TECHNICAL WAIVERS OR MODIFICATIONS.

01. Director Waiver. The Director or the Director's designee may waive or modify the requirements of these rules as a condition of the permit to operate a pool, except no technical waiver or modification will be granted from the health and safety portion of these rules. *( )*

02. Waiver Requirements. The person requesting a technical waiver or modification must submit a written request to the Director's designee specifying*:* *( )*

a. *T*he section number of these rules and the rationale for considering a modification or waiver of the requirements; *( )*

b. *A*n analysis of the potential public health, safety hazards*,* and issues associated with the proposed action; and *( )*

c. *S*cientific data or other information, as appropriate, showing safety or public health will not be compromised by the proposed action. *( )*

321. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Section 56-1003, Idaho Code, the Department of Health and Welfare is responsible for the supervision and administration of laboratories and administration of standards of tests for environmental pollution, chemical analyses, and communicable diseases. Authority to set fees and establish charges for laboratory services is vested in the Director, under Section 56-1007, Idaho Code. (3-29-10)

001. TITLE, SCOPE, AND POLICY.

01. Title. These rules are titled IDAPA 16.02.25, "Fees Charged by the State Laboratory." (3-29-10)

02. Scope. The intent of these rules is to standardize all fees levied by the Bureau of Laboratories for the services it provides. The Bureau of Laboratories is also known as the "State Laboratory." (3-29-10)

03. Policy. The primary purpose of the Bureau of Laboratories of the Idaho Department of Health and Welfare is to provide laboratory services to support the various programs carried out by the Department, district health departments, and other agencies. Since it is not economically feasible for all departments of state governments to develop their own laboratories, the Department laboratories provide services, as appropriate, to other state agencies. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of these rules, the following terms are used as defined below: (3-29-10)

01. Clinical Laboratory Tests. Microbiological analysis for diagnosis of infectious diseases affecting human health. (3-29-10)

02. Department. Idaho Department of Health and Welfare. (3-29-10)

03. Director. The Director of the Idaho Department of Health and Welfare or designee. (3-29-10)

04. Environmental Laboratory Tests. Analysis of various samples from air, microbiological, organic, or inorganic sources. (3-29-10)

05. State Health Official. Administrator of the Department's Division of Public Health. (3-29-10)

011. -- 099. (RESERVED)

100. FEES FOR CLINICAL LABORATORY TESTS.

Fees for Clinical Laboratory Tests	
Clinical Test Name	**Fee**
Agglutination - Not Otherwise Specified	$9.00
Bacterial Primary Culture - Not Otherwise Specified	$51.00
Bordetella pertussis, Culture	$27.00
Bordetella pertussis, PCR	$42.00
Chlamydia trachomatis and *Neisseria gonorrhoeae* by Nucleic Acid Amplification	$16.00
Cryptosporidium/Giardia, IFA	$69.00
Disk Diffusion Test	$17.00
Enteric Pathogens, Primary Culture	$68.00
Enterovirus Isolation	$95.00
Enzyme-Linked Immunoassay (EIA) - Not Otherwise Specified	15.00

Fees for Clinical Laboratory Tests	
Clinical Test Name	**Fee**
Fluorescent Antibody (FA) - Not Otherwise Specified	$53.00
Hantavirus, IGG & IGM Antibody, EIA	$167.00
Hepatitis B, Core Total Antibody, EIA	$15.00
Hepatitis B, Surface Antibody, EIA	$15.00
Hepatitis B, Surface Antigen Confirmation, EIA	$127.00
Hepatitis B, Surface Antigen, EIA	$15.00
Hepatitis C, Antibody, EIA	$20.00
Herpes Simplex Type 1 & Type 2, IGG Antibody, EIA	$35.00
Herpes Simplex Virus Isolation	$53.00
HIV-1/2 Plus O, Antibody, EIA	$15.00
HIV-1, Western Blot	$311.00
Influenza Virus, RT-PCR	$69.00
Legionella, Culture, Clinical	$120.00
Microsphere Immunoassay (MIA) - Not Otherwise Specified	$64.00
Mumps, IGG Antibody, EIA	$15.00
Mumps, IGM Antibody, IFA	$56.00
Mumps, Virus Isolation	$88.00
Mycobacteria, AFS-Fluorochrome	$98.00
Mycobacteria, Drug Susceptibility	$373.00
Mycobacteria, Primary Culture	$57.00
Mycobacteria, Reference Culture	$130.00
Mycobacteria, Tuberculosis Quantiferon -TB Gold In Tube	$85.00
Neisseria gonorrhoeae, Primary Culture	$37.00
Norovirus, RT-PCR	$66.00
Parasite Exam, Concentrate & Trichrome Stain	$94.00
Plaque Reduction Neutralization Test (PRNT) - Not Otherwise Specified	$260.00
Polymerase Chain Reaction (PCR) - Not Otherwise Specified	$62.00
Pulsed Field Gel Electrophoresis	$90.00
Rabies, FA	$50.00
rDNA Sequence Analysis	$113.00
Reference Culture, Aerobe	$49.00
Reference Culture, Anaerobe	$81.00
Respiratory Virus Isolation	$94.00

Fees for Clinical Laboratory Tests	
Clinical Test Name	**Fee**
Rubella, IGG Antibody, EIA	$15.00
Rubella, IGM Antibody, EIA	$47.00
Rubeola (Measles), IGG Antibody, EIA	$15.00
Rubeola (Measles), IGM Antibody, EIA	$37.00
Serotyping	$73.00
Shiga Toxin, Immunoassay	$21.00
Staphylococcus aureus, Methicillin Resistant (MRSA), Identification/Confirmation	$96.00
Staphylococcus aureus, Methicillin Resistant (MRSA), PCR	$78.00
Syphilis, Treponema Pallidum Passive Agglutination	$43.00
Syphilis, Venereal Disease Research Laboratory (VDRL)	$9.00
Syphilis, Venereal Disease Research Laboratory (VDRL), Quantitative	$6.00
Vancomycin Resistant *Enterococcus* (VRE)	$119.00
Vancomycin-Intermediate/Resistant *Staphylococcus aureus* (VISA)	$119.00
Varicella Zoster, IGG Antibody, EIA	$15.00
Varicella Zoster, IGM Antibody, IFA	$56.00
Varicella Zoster, Virus Isolation	$91.00
Viral Culture - Not Otherwise Specified	$67.00
West Nile Virus, IGG Antibody Screen, EIA	$73.00
West Nile Virus, IGM Antibody Screen, EIA	$78.00
West Nile Virus/St. Louis Encephalitis Virus IGM Antibody, Microsphere Immunoassay	$65.00
West Nile Virus/St. Louis Encephalitis Virus Plaque Reduction Neutralization Test (PRNT)	$278.00
West Nile Virus/St. Louis Encephalitis Virus/Western Equine Encephalitis, RT-PCR	$156.00

(3-21-12)

101. -- 199. (RESERVED)

200. FEES FOR ENVIRONMENTAL LABORATORY TESTS.

01. Environmental Laboratory Tests, Air -- Table.

Fees for Environmental Laboratory Tests -- Air	
Air Test Name	**Fee**
PM 10 Filter, Air	$13.00
PM 25 Filter, Air	$20.00

(3-21-12)

02. Environmental Laboratory Tests, Microbiology -- Table.

Fees for Environmental Laboratory Tests -- Microbiology	
Microbiology Test Name	**Fee**
Escherichia coli O157:H7	$100.00
Heterotrophic Plate Count	$25.00
Identification System, Water, Food or Vegetation	$50.00
Legionella, Water	$100.00
Pathogen Screen, Water, Food, or Vegetation	$23.00
Pseudomonas aeruginosa, Water	$25.00
Salmonella Confirmation, Water	$75.00
Total Coliform/E. coli, Presence/Absence	$18.00
Total Coliform/E. coli, Quantitative	$20.00
Total Coliform/Fecal Coliform/E. coli (MPN)	$28.00

(3-21-12)

03. Environmental Laboratory Tests, Inorganic -- Table.

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	**Fee**
5-Day BOD, Water	$45.00
Alkalinity ($CaCO_3$), Water	$14.00
Ammonia as N, Water	$18.00
Arsenic, Water	$21.00
Bromate, Water	$100.00
Bromide, Water	$32.00
Chemical Oxygen Demand, Water	$29.00
Chlorate, Water	$100.00
Chloride, Water	$19.00
Chlorite, Water	$150.00

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	**Fee**
Chlorophyll A and Pheophytin A, Water	$75.00
Conductivity, Water	$11.00
Corrosivity, Calculation, Water	$59.00
Cyanide, Total, Water or Soil	$33.00
Cyanide, WAD, Water or Soil	$33.00
Direct Mercury Analysis	$44.00
Fluoride, Water	$19.00
Hardness, Water	$22.00
Lead, Water	$21.00
Mercury, Water	$34.00
Metals Digestion, Water, Soil, or Solids	$19.00
Metals each (Aluminum, Antimony, Barium, Beryllium, Boron, Cadmium, Calcium, Chromium, Cobalt, Copper, Iron, Magnesium, Manganese, Molybdenum, Nickel, Potassium, Selenium, Silicon, Silver, Sodium, Strontium, Thallium, Tin, Vanadium, Zinc)	$13.00
Metals Speciation	$150.00
Nitrate + Nitrite as N, Water	$19.00
Nitrate as N, Water	$19.00
Nitrite as N, Water	$19.00
Orthophosphate as P, Water	$17.00
pH, Water	$10.00
Settleable Solids, Water	$16.00
Sulfate, Water	$19.00
Sulfide as H_2S, Water	$19.00
TCLP Extraction	$165.00
Total Dissolved Solids, Water	$15.00
Total Kjeldahl Nitrogen, Soil	$53.00
Total Kjeldahl Nitrogen, Water	$34.00
Total Phosphorus, Water	$24.00
Total Solids, Water	$13.00
Total Suspended Sediment, Water	$14.00
Total Suspended Solids, Water	$14.00
Turbidity, Water	$13.00
Uranium, Water	$44.00

Fees for Environmental Laboratory Tests -- Inorganic	
Inorganic Test Name	**Fee**
Volatile Solids, Water	$24.00

(3-21-12)

04. Environmental Laboratory Tests, Organic -- Table.

Fees for Environmental Laboratory Tests -- Organic	
Organic Test Name	**Fee**
1,2-dibromo-3-chloropropane/ethylene dibromide (DBCP/EDB/TCP), Water	$100.00
Benzene, Toluene, Ethylbenzene and Xylenes (BTEX)	$97.00
Carbamates, Water	$169.00
Chlorinated Herbicides, Water	$162.00
Diquat, Water	$117.00
ELISA, Water (Submitter provides test kit; cost is for the analysis of each sample)	$12.00
Endothall, Water	$144.00
Glyphosate, Water	$142.00
Haloacetic Acids, Water	$150.00
Oil and Grease, Water	$44.00
Organochlorine Pesticides, Water	$135.00
Polychlorinated Biphenyls (PCBs)	$117.00
Polycyclic aromatic hydrocarbons (PAHs), Soil	$200.00
Semi-volatile Compounds, Water	$182.00
Semi-volatile, GC-MS Screen (Qualitative Results)	$125.00
Total Trihalomethanes (TTHMs)	$100.00
Trichloroethylene (TCE) Tetrachloroethylene (PCE), Air	$50.00
Unknown Identification	$100.00
Volatile Organic Compounds (VOC), Water and Soil	$187.00

(3-21-12)

201. -- 899. (RESERVED)

900. WAIVER OF FEES.
Upon demonstration of good cause, any fee levied under this chapter may be suspended or waived, in full or in part, by the State Health Official. (3-29-10)

901. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Section 56-1003, Idaho Code, directs the Department of Health and Welfare to establish rules as may be necessary to deal with problems related to personal health. The Children's Special Health Program (CSHP) provides medical and rehabilitative services to persons age birth to eighteen (18) years who meet the diagnostic eligibility criteria defined in Sections 101 through 108 of these rules. The Omnibus Budget Reconciliation Act (OBRA) of 1989 requires that thirty percent (30%) of the Maternal and Child Health Block Grant to each state be committed to programs for children with special health care needs. *( )*

001. TITLE AND SCOPE.

01. Title. These rules apply to the administration of the Idaho Children's Special Health Program and are titled IDAPA 16.02.26, "The Idaho Children's Special Health Program." (4-9-09)

02. Scope of Services. The scope of activities provided by CSHP contractors and private providers such as diagnosis, case management, and treatment. The types of services for which reimbursement is made are related directly to program fiscal resources. Funds available for CSHP are limited in amount. Changes in the scope of services and in rates of reimbursement may be made by administrative decision should budgetary reductions or cost overruns occur. (4-9-09)

002. WRITTEN INTERPRETATION.
*T*his agency has written statements that pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. These documents are available for public inspection and copying at cost in the main office and each regional or district office of this agency. *( )*

00*3*. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of these rules, the following terms are used: (7-1-97)

01. Applicant. A person under age eighteen (18) seeking services provided by CSHP. *( )*

02. Care Coordinator. A Department employee or contractor responsible for receiving and processing CSHP applications and supporting documentation from current and potential CSHP clients. A care coordinator issues authorization memos for services authorized by CSHP. (4-9-09)

03. Children's Special Health Program (CSHP). The program section within the Idaho Department of Health and Welfare, Division of Health, which is responsible for the administration of services leading to the identification, diagnosis, and aftercare of children with special health care needs. (7-1-97)

04. Client. A person under age eighteen (18) with a chronic physically disabling condition which meets one *(1)* of the diagnostic categories of CSHP. *( )*

05. Department. The Idaho Department of Health and Welfare. (7-1-97)

06. Diagnosis. The act of identifying a disease from its signs or symptoms. (7-1-97)

07. Division. The Division of Health, a division of the Idaho Department of Health and Welfare, and where CSHP is housed administratively. (7-1-97)

08. Medical Food. A food which is formulated to be consumed or administered enterally (i.e., passing through the stomach and digested in the intestine), under the supervision of a physician and metabolic nutritionist, and which is intended for the specific dietary management of PKU. (4-9-09)

09. Patient. The term "patient" is synonymous with the term "client" as defined in Subsection 101.04 of this rule. (4-9-09)

011. -- 050. (RESERVED)

051. DIAGNOSTIC/CONSULTATIVE SERVICES.
Clinical examination of a CSHP client to confirm or determine the extent of their condition and recommend treatment options. Physician specialists under contract to CSHP may continue to serve in consultative roles to clients' primary

care physicians following clinical examination. (7-1-97)

052. TREATMENT SERVICES.
Following the diagnostic process, individuals may be closed to further service as having "no eligible condition found." Program-eligible clients are accepted for continuing service coordination under CSHP. Care is provided through clinics where treatment schedules are planned and periodic review of cases are conducted, and through private medical providers. An individual client's treatment plan may cover a variety of related services. (4-9-09)

053. FOLLOW UP AND CASE MANAGEMENT.
CSHP will contract with care coordinators to follow-up on CSHP clients receiving treatment through the program to assure that a treatment plan is outlined. These staff will also implement timely scheduling of medical habilitative and rehabilitative services. (4-9-09)

054. HOSPITAL IN-PATIENT SERVICES.
If diagnostic evaluation requires hospitalization, a maximum of three (3) days inpatient care may be authorized. No inpatient hospital services are paid for emergency, acute or chronic medical care. (7-1-97)

055. -- 099. (RESERVED)

100. DIAGNOSTIC CATEGORIES.
CSHP will serve clients in eight (8) general diagnostic categories: Cardiac, Cleft Lip and Palate, Craniofacial, Cystic Fibrosis, Neurological, Orthopedic, Phenylketonuria (PKU) and Plastic/Burn. These categories are explained further in Sections 101 through 108 of these rules. (7-1-97)

101. CARDIAC.

01. Eligible Conditions. Eligible conditions include congenital heart disease or defects, acquired heart disease and dysrhythmia. (7-1-97)

02. Excluded Conditions. The following conditions are excluded from care under CSHP: patent ductus arteriosus (PDA) in premature neonates, inpatient care for non-diagnostic and non-surgical admissions. Acute care, despite its potential relationship to an underlying covered condition. (7-1-97)

03. Spending Limit. Services provided to eligible patients under the Cardiac Program are subject to a per patient, annual spending limit of twenty five thousand dollars ($25,000) for each fiscal year, July 1 through June 30. (7-1-97)

102. CLEFT LIP AND PALATE.

01. Eligible Conditions. Eligible conditions include cleft lip, cleft palate, cleft palate with cleft lip, cleft nose, Pierre Robin syndrome, choanal atresia, palatal incompetence, severe malocclusions resulting from disease or trauma, severe structural deformities involving the growth and development of the mandible or maxilla. (7-1-97)

02. Excluded Conditions. The following conditions are specifically excluded from care under the CSHP Cleft Lip/Palate Program: isolated hyper/hyponasality, non-cleft-related malocclusions, mild familial malocclusions. (7-1-97)

03. Spending Limits. Services provided to eligible patients under the CSHP Cleft Lip and Palate program are subject to a per patient, annual spending limit of fifteen thousand dollars ($15,000) for each fiscal year, July 1 through June 30. (7-1-97)

103. CRANIOFACIAL.

01. Eligible Conditions. Eligible conditions include congenital anomalies of the skull and face, acrocephalosyndactyly, craniosynostosis, Crouzon's Disease, hyperterlorism (severe), platybasia, hemifacial microsomia, including associated microtia. (7-1-97)

02. Excluded Conditions. The following conditions are excluded from care under the Idaho CSHP

Craniofacial Program: isolated microtia, temporal mandibular joint disease (TMJ), simple hemangioma not affecting other organ systems. (7-1-97)

03. Spending Limits. Services provided to eligible patients under the CSHP Craniofacial Program are subject to a per patient, annual spending limit of eighteen thousand dollars ($18,000) for each fiscal year, July 1 through June 30. (7-1-97)

104. CYSTIC FIBROSIS.

01. Eligible Conditions. In addition to cystic fibrosis, services are also provided under this program to clients eighteen (18) years of age and under who have Kartagener's Syndrome or immotile cilia. (4-9-09)

02. Services Provided. Services available include Physician's office visits or clinic visits, laboratory, x-ray and other tests ordered by physician, medications and drugs prescribed in connection with treatment of cystic fibrosis, transportation to out-of-state medical centers based on physician referral, and home therapy equipment prescribed by the physician. Genetic counseling clinics are available through the state or contractors, and cystic fibrosis patients and their families are encouraged to make use of this service. (4-9-09)

03. Excluded Services. Inpatient hospital care is not paid for under the CSHP Cystic Fibrosis Program, consistent with CSHP policy of not paying acute care. (7-1-97)

04. Spending Limit. Services provided to eligible patients under the CSHP Cystic Fibrosis Program are subject to a per patient, annual spending limit of eighteen thousand dollars ($18,000) for each fiscal year, July 1 through June 30. (7-1-97)

105. NEUROLOGIC.

01. Eligible Conditions. Eligible conditions include cerebral palsy, seizures/epilepsy, metabolic and storage diseases, central nervous system (CNS) degenerative disorders, congenital CNS anomalies, chronic encephalopathy and CNS injury (near drowning, birth asphyxia), neurocutaneous and neuromuscular syndromes, chronic residua of CNS infections, neuromuscular disorders, attention deficit hyperactive disorder (ADHD) (limited to two (2) visits per year after diagnosis), Tourette's Syndrome, rehabilitation services associated with tumors, infections, trauma and cerebral vascular disease (CVD). (7-1-97)

02. Excluded Conditions. The following conditions are excluded from care under the CSHP Neurologic Program: speech problems without associated CSHP eligibility, primary intellectual disabilities, autism, acute head and spinal cord injuries, primary psychiatric and emotional disorders, headache, and night terrors. (7-1-97)

03. Spending Limit. Services for eligible patients under the CSHP Neurologic Program are subject to a per patient, annual spending limit of twelve thousand dollars ($12,000) for each fiscal year, July 1 through June 30. (7-1-97)

106. ORTHOPEDIC.

01. Eligible Conditions. Eligible conditions include juvenile rheumatoid arthritis (JRA), developmental dysplasia of the hip, cerebral palsy, neuromuscular dystrophies and atrophies, spinal column defects and deformities causing functional impairment, congenital anomalies of the extremities causing functional impairment, chronic conditions resulting from trauma, limb deficiencies and length discrepancies, chronic infections and inflammations of bones and joints, congenital developmental hip conditions, skeletal dysplasia and other forms of dwarfism, fractures associated with bracing or other long-term care, rehabilitation services associated with tumors and malignancies, metatarsus varus and adductus, polydactyly. (7-1-97)

02. Excluded Conditions. The following conditions are excluded from care: simple fractures and other trauma without handicapping residual, acute infections of bone or joint, simple flat feet (painless), acute care for amputations, acute care for fractures or other injuries, benign genu valgum (knock knee), benign genu varum (bow legs), tibial torsion/femoral version, growth hormone therapy for short stature. (7-1-97)

03. Spending Limits. Services provided to eligible patients under the CSHP Orthopedic Program are

subject to a per patient, annual spending limit of fifteen thousand dollars ($15,000) for each fiscal year, July 1 through June 30. (7-1-97)

107. PHENYLKETONURIA (PKU).
Under this program eligible patients are provided treatment services which include nutritional assessment, dietary counseling, and provision of medical foods, including formula, in compliance with the patient's treatment plan. *PKU patients under eighteen (18) years of age may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying the appropriate percentage, if any, of CSHP's cost. The percentage of cost is based on the sliding fee scale in Section 157 of these rules. ( )*

01. PKU Patients Under Eighteen Years of Age. PKU patients under eighteen (18) years of age may purchase medical foods from CSHP or CSHP's contractor(s) by pre-paying the appropriate percentage, if any, of CSHP's cost. The percentage of cost is based on the sliding fee scale in Section 157 of these rules. (4-9-09)

108. PLASTIC/BURN.

01. Eligible Conditions. Eligible conditions include hemangioma and lymphangioma depending on severity, location and effect on function; cystic hygroma; and hemifacial microsomia, including associated microtia. (7-1-97)

02. Excluded Conditions. The following conditions are excluded from care under the Idaho CSHP Plastic/Burn program: acute burn care, cosmetic surgery, hemangioma, including port wine stain, not affecting physical function. (7-1-97)

03. Spending Limit. Services provided to eligible patients under the CSHP Plastic/Burn Program are subject to a per patient, annual spending limit of fifteen thousand dollars ($15,000) for each fiscal year, July 1 through June 30. (7-1-97)

109. -- 148. (RESERVED)

149. PROGRAM ELIGIBILITY.
Eligibility for participation in CSHP is based on age, diagnosis, legal residence, insurance status, and financial criteria. Eligibility criteria is explained further in Sections 150 through 158 of these rules. (4-9-09)

150. INSURANCE STATUS.
Any person with creditable medical insurance as determined by the Department is not eligible for this program, with the exception of CF and PKU participants. Creditable insurance is determined by using IDAPA 16.03.01, "Eligibility For Health Care Assistance For Families and Children." (4-6-05)

151. AGE.
Applications may be accepted on persons up to age eighteen (18). CSHP will pay for no services after the patient's 18th birthday unless the person is receiving active inpatient treatment at the time of the birthday. In that case CSHP will pay for services until discharge if they fall within the guidelines described in Section 054 of these rules. *( )*

152. DIAGNOSIS.
Eligible persons are those born with or who acquire physical disabilities or special health care needs as defined under the various programs in Sections 101 through 108 and who require long-term multi-disciplinary care to improve their ability to function. (7-1-97)

153. RESIDENCE.
Applicants must be legal residents of the state of Idaho to receive services from CSHP. Legal residents of neighboring states are not eligible for services. Non-citizens who are legal residents of Idaho are eligible to receive services but undocumented aliens are not. (7-1-97)

154. (RESERVED)

155. INCOME.
Income for a family is defined as "adjusted taxable income" from the family's most recent tax return. Financial eligibility is redetermined annually and may be redetermined more often if family circumstances change during the

year. (7-1-97)

156. FAMILY SIZE.
Family is defined as a "group of related or non-related individuals who are not residents of an institution, but who are living together as one (1) economic unit." Family size is the number of individuals included in that unit. (7-1-97)

157. SLIDING FEE SCALE.
The sliding fee scale in Table 157 of this rule is used to determine the family's percentage of financial participation for a CSHP client's treatment. Each percentage category includes an annual per-client maximum for which a family would be responsible in any given year. The percentage amount applies to all costs incurred for services provided to the client up to the annual maximum indicated.

TABLE 157 - SLIDING FEE SCALE FOR CSHP SERVICES

Percent of Federal Poverty Level	Percentage of Cost Sharing Responsibility for Responsible Party	Annual Maximum Responsibility Per Client
0% - 185%	0%	$0
186% -199%	10%	$1,800
200% - 224%	20%	$3,600
225% -249%	30%	$5,400
250% -274%	50%	$9,000
275% -299%	75%	$13,500
300% and above	100%	$18,000

( )

158. APPLICATION FOR OTHER RESOURCES.
CSHP applicants are required to apply for benefits from other programs for which they may be eligible and which would reduce the costs to CSHP. The use of all available other resources is required in order to supplement program dollars to the greatest degree possible. For new applicants and during redetermination there will be a review for possible eligibility for other programs and appropriate referrals will be made. Families who refuse to obtain benefits for which they are eligible or do not complete the application process will be closed to the program. (7-1-97)

159. -- 199. (RESERVED)

200. APPLICATIONS.
An application for services from CSHP must, at a minimum, consist of a completed Application Form. A copy of the family's most recent tax return will also be required in order to determine financial eligibility. CSHP may require additional forms such as a Request for Services, Consent for the Release of Information and an Authorization to Release Information. Applications are processed by CSHP staff and contractors. Applicants are notified as to their acceptance or denial by a CSHP Care Coordinator. (4-9-09)

201. -- 249. (RESERVED)

250. PAYMENTS TO PROVIDERS.
CSHP payments are made on the basis of fee schedules or set allowances; where applicable, Idaho Medicaid rates are used. (7-1-97)

251. PRIOR AUTHORIZATION.
To qualify for payment by CSHP, services other than diagnostic/consultative and follow-up/case management must be preauthorized by the CSHP Care Coordinator or designee. A CSHP Authorization Memo, obtained from the

District CSHP Care Coordinator, must be issued for any service authorized under CSHP. (4-9-09)

252. MAXIMUM ON HOSPITAL IN-PATIENT PAYMENTS.
There is a twelve thousand dollar ($12,000) maximum payment, per hospitalization, for inpatient hospital expenses, exclusive of surgeon, anesthesiologist or other physician costs related to the hospitalization. These costs are applied toward the annual program cap. (7-1-97)

253. BILLING THIRD PARTIES FIRST.
Providers must bill all other sources of direct third party payment before submitting their claims to CSHP for payment. Private insurance must be billed and benefits, or the denial of benefits, ascertained before the CSHP will consider payment. Typically either an Explanation of Benefits (EOB) from the third party payor or a letter stating that the service is not covered will be required before CSHP payment will be made. (7-1-97)

254. THIRD PARTY PAYMENTS IN EXCESS OF CSHP LIMITS.
CSHP will not reimburse providers for services rendered when the amount received by the provider from the third party payor is equal to or exceeds the level of reimbursement allowed by CSHP for those particular services. (7-1-97)

255. MEDICAID ELIGIBILITY.
Any person who may be eligible for Medicaid is required to apply before CSHP services are authorized. CSHP is always last payor to Medicaid. (7-1-97)

256. OUT-OF-STATE-CARE.
CSHP will not pay for care out-of-state that is available in-state. Any exceptions to this rule will be determined by the state office of the CSHP. All out-of-state care must be preauthorized through a CSHP clinic or other regular program mechanism. (7-1-97)

257. DURABLE MEDICAL EQUIPMENT.
The CSHP will always be payor of last resort for all durable medical equipment provided to clients. (7-1-97)

258. -- 349. (RESERVED)

350. PROGRAM EXCLUSIONS.
The following is a list of additional conditions, services and items not covered or paid for by CSHP: (7-1-97)

01. Excluded Conditions, Services and Items. (7-1-97)

a. Acute care, such as hospitalization for congestive heart failure or complications of cystic fibrosis. (7-1-97)

b. Ambulance/air ambulance charges. (7-1-97)

c. Behavior problems. (7-1-97)

d. Brain tumors. (7-1-97)

e. Biofeedback equipment. (7-1-97)

f. Routine dental care. (7-1-97)

g. Congenital defects of the gastrointestinal or genitourinary tracts. (7-1-97)

h. Cancer care. (7-1-97)

i. Cosmetic surgery. (7-1-97)

j. Diabetes care. (7-1-97)

k. Prescription medicine -- except those prescribed for eligible cystic fibrosis patients. (7-1-97)

l. Educational services. (7-1-97)

m. Eye care except as related to an eligible condition such as cerebral palsy or juvenile rheumatoid arthritis. (7-1-97)

n. Eyeglasses. (7-1-97)

o. Fractures. (7-1-97)

p. Growth Hormone. (7-1-97)

q. Hearing problems, except as related to cleft lip and palate. (7-1-97)

r. Hernias. (7-1-97)

s. Home health/home nursing services. (7-1-97)

t. Infectious diseases. (7-1-97)

u. Legal services. (7-1-97)

v. Minor foot and leg deformities: flat feet, bow legs, knock knees, pigeon toes, tibial torsion and mild femoral anteversion. (7-1-97)

w. Neonatal intensive care in the newborn period. (7-1-97)

x. Orthoptics - visual training therapy. (7-1-97)

y. Routine pediatric care. (7-1-97)

z. Prematurity. (7-1-97)

aa. Pseudohermaphroditism. (7-1-97)

bb. Psychological or psychiatric care or counseling. (7-1-97)

cc. Respiratory or pulmonary problems except as related to cystic fibrosis. (7-1-97)

dd. Respite care. (7-1-97)

ee. Shoes (corrective or orthopedic). (7-1-97)

ff. Sleep Apnea Monitors. (7-1-97)

gg. Spinal disc lesions. (7-1-97)

hh. Transplants. (7-1-97)

ii. Transportation to in-town clinics or other regular services. (7-1-97)

02. Individual Consideration. Conditions not specifically identified within these rules as included or excluded by CSHP will be considered on a case by case basis that may include review by a medical advisor. (4-9-09)

351. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature, under the following Sections of statute has granted authority to the Board of Health and Welfare and the Director of the Department to adopt rules related to x-ray producing machines in order to protect the health of the people of Idaho. Sections 56-1041 and 56-1043, Idaho Code, grant authority to the Board of Health and Welfare to adopt radiation control rules. Section 56-1041, Idaho Code, establishes the Department as the designated agency to regulate, license, and control radiation associated with x-ray machines. Section 56-1044, Idaho Code, requires that radiation machines for mammography be registered with the Department, as provided in rule. Section 56-1046, Idaho Code, grants authority to the Department to establish record-keeping and reporting requirements for those who possess or use an x-ray machine. Section 56-1003, Idaho Code, grants authority to the Director to supervise and administer laboratories. Section 56-1007, grants authority to the Department to charge and collect fees established by rule. (4-6-15)

001. TITLE *AND SCOPE*.

01. Title. These rules are titled IDAPA 16.02.27, "Idaho Radiation Control Rules." *( )*

02. Scope. Except as otherwise specifically provided, these rules apply to all persons who possess, use, transfer, own, or acquire any radiation machine. *( )*

002. INCORPORATION BY REFERENCE.
The documents referenced in Subsections 004.01 through 004.03 of this rule are used as a means of further clarifying these rules. These documents are incorporated by reference and are available online as provided, or may be reviewed at the Department of Health and Welfare, Idaho Bureau of Laboratories at 2220 Old Penitentiary Road, Boise, Idaho 83712-8299. (4-6-15)

01. National Council of Radiation Protection (NCRP) Report No. 147. National Council of Radiation Protection (NCRP) Report No. 147, entitled: "Structural Shielding Design and Evaluation for Medical Use of X-rays and Gamma Rays of Energies up to Ten (10) MeV," issued November 19, 2004, by the National Council on Radiation Protection and Measurement. This document may be obtained from: NCRP Publications, 7910 Woodmont, Bethesda, MD 20814, e-mail: NCRPpubs@NCRPonline.org, phone: 1-301-657-2652, Ext. 14. (4-6-15)

02. Mammography Quality Standards Act Regulations, Part 900. The Mammography Quality Standards Act Regulations, Part 900, located at 21 CFR 900.12 as authorized by 21 U.S.C. 360i, 360nn, 374(e); and 42 U.S.C. 263b. A copy of these regulation may be ordered from the U.S. Food and Drug Administration, 10903 New Hampshire Avenue, Silver Spring, MD 20993, phone: 1-888-INFO-FDA (1-888-463-6332). These regulations are available online at http://www.fda.gov/Radiation-EmittingProducts/MammographyQualityStandardsActandProgram/Regulations/ucm110906.htm#s9001. (4-6-15)

03. Suggested State Regulations for Control of Radiation, Volume 1. This publication is being adopted with the exclusions, modifications, and additions listed below in Subsections 004.03.a through 004.03.k of this rule. Suggested State Regulations for Control of Radiation, Volume 1, is published by the Conference of Radiation Control Program Directors, Inc., 1030 Burlington Lane, Suite 4B, Frankfort, Kentucky 40601. It is also available online at https://www.crcpd.org/page/SSRCRs. (4-6-15)

a. Part A -- General Provisions (March 2003). Modifications have been made to this Part. See Sections 100 - 199 of these rules. (4-6-15)

b. Part B -- Registration [Licensure] of Radiation Machine Facilities, [Services] - And Associated Healthcare Professionals (February 2009). Exclusions and modifications have been made to this Part. See Sections 200 - 299 of these rules. (4-6-15)

c. Part C -- Licensing of Radioactive Material (March 2010). This Part is excluded from incorporation. (4-6-15)

d. Part D -- Standards for Protection Against Radiation (March 2003). The following Sections of this Part are incorporated: 1101a, 1101b, 1101c, 1201a, 1201b, 1201c, 1201f, 1206, 1207, 1208, 1301, 1501, 1502, 1503, 1601, 1602, 1901, 1902, 1903, 1904c, 2102, 2103a, 2104, 2105, 2106, 2107a, 2110, 2201, 2202, 2203, 2204, 2205, and 2207b. (4-6-15)

e. Part E -- Radiation Safety Requirements for Industrial Radiographic Operations (February 1999). Exclusions have been made to this Part. See Sections 400 - 499 of these rules. (4-6-15)

f. Part F -- Diagnostic X-rays and Imaging Systems in the Healing Arts (May 2009). This Part is incorporated with no exclusions, modifications, or additions. (4-6-15)

g. Part G -- Use of Radionuclides in the Healing Arts (March 2003). This Part is excluded from incorporation. (4-6-15)

h. Part H -- Radiation Safety Requirements for Analytical X-ray Equipment (January 1991). This Part is incorporated with no exclusions, modifications, or additions. (4-6-15)

i. Part I -- Radiation Safety Requirements For Particle Accelerators (January 1991). This Part is excluded from incorporation. (4-6-15)

j. Part J -- Notices, Instructions and Reports to Workers; Inspections (March 2003). This Part is incorporated with no exclusions, modifications, or additions. (4-6-15)

k. Parts M through Z. These Parts are excluded from incorporation. (4-6-15)

003. -- 049. (RESERVED)

050. LICENSING.
Sections 050 through 099 *of these rules* provide for the licensing of radiation machines. *( )*

051. *MACHINES REQUIRED TO BE LICENSED*.
Radiation producing machines, unless exempt under Section B.4 of the Suggested State Regulations for Control of Radiation incorporated under Section 004 of these rules, must be licensed with the Radiation Control Agency in accordance with the requirements of Sections B.6 through B.9, of the Suggested State Regulations for Control of Radiation, as applicable. *( )*

052. FEES.

01. Radiation Licensing Fees. Radiation facility fees apply to each person or facility owning, leasing, storing, or using radiation-producing machines. This fee is assessed on the same cycle as inspections and consists of a base licensing fee and a per tube charge. Fees are due within thirty (30) calendar days of the renewal date. A late charge of fifty ($50) dollars will be assessed at thirty-one (31) days past the renewal date. If the fees are not paid by day ninety-one (91) past the renewal date, licensure will be terminated.

X-Ray Renewal Cycle and Facility Fees			
Facility Type	**Renewal Cycle**	**Facility Fee**	**Per Tube Fee**
Hospital, Clinic, Medical Practice	2 Years	$50	$25
Dental, Chiropractic, Podiatric, Veterinary Practice	4 Years	$50	$25
Industrial, research, academic/ educational, or security	10 Years	$50	$25

(4-6-15)

02. X-Ray Shielding Plan Review and Fee. Facilities housing X-ray producing devices and regulated under these rules must obtain a review of their shielding plan by a qualified expert. A copy of this review, to include a floor plan and site specific shielding calculations, must be submitted to the Radiation Control Agency within thirty (30) days of receipt. Facilities may request a departmental review of the X-ray shielding calculations and floor plan by the Radiation Control Agency. A three hundred fifty dollar ($350) fee will be charged for this service. (4-6-15)

03. Radiation Safety Program Fee. If a facility or group of facilities under one administrative control employs one (1) or more full-time individuals whose positions are entirely devoted to in-house radiation safety, the facility may pay a flat annual facility fee of one thousand dollars ($1,000) instead of the licensing fees required in Subsection 052.01 of this rule. In addition, annual submittal of documentation of evidence of an ongoing and functioning quality control program must be submitted for review and approval. (4-6-15)

053. APPLICATION FOR LICENSE.
In addition to the requirements detailed in the incorporated reference, Section B, the following is required with application for use of x-ray producing devices. (4-6-15)

01. Responsible Authority. All applications must be signed by the responsible authority (RA) over the x-ray producing device. Required qualifications of the RA can be found in Section B.6c of the SSRCR. (4-6-15)

02. Application For License. Application for license must be on forms furnished by the Radiation Control Agency and must contain: (4-6-15)

a. Name of the owner, organization or person having administrative control and responsibility for use (responsible authority); and (4-6-15)

b. Address and telephone number where the machine is located; and if the radiation producing machine is used as a mobile device, a central headquarters must be used. (4-6-15)

c. A designation of the general category of use, such as dental, medical, industrial, veterinary, and research; and (4-6-15)

d. The manufacturer, model number, and type of machine; and (4-6-15)

e. Name of the radiation machine supplier, installer, and service agent. (4-6-15)

f. Name of an individual to be responsible for radiation protection, when applicable. (4-6-15)

03. Qualifications for Authorized Operation, Service, and Repair of X-ray Machines. The responsible authority must prohibit any person from operating, performing maintenance, or furnishing servicing or services to an x-ray producing machine under their authority that is not properly trained, certified, or licensed to do so. The responsible authority must obtain and retain documentation for a minimum of two (2) years that all operation, service, repair, and maintenance of x-ray producing machine(s) under their authority are done so by a qualified individual or entity. (4-6-15)

04. Operator Qualifications. No individual will be permitted to act as an operator of a particular machine until such individual has received an acceptable amount of training in radiation safety as it applies to that machine and is approved by the Radiation Protection Supervisor or Radiation Safety Officer. Operators will be responsible for: (4-6-15)

a. Keeping radiation exposure to himself and to others as low as is practical; (4-6-15)

b. Being familiar with safety procedures as they apply to each machine; (4-6-15)

c. Wearing of personnel monitoring devices, if applicable; and (4-6-15)

d. Notifying the Radiation Protection Supervisor or Radiation Safety Officer of known or suspected excessive radiation exposures to himself or others. (4-6-15)

05. Minimum Safety Requirements. Unless otherwise specified within these or the incorporated rules, the following are the minimum safety requirements for personnel acting as radiographers or radiographers assistants. (4-6-15)

a. Licensees must not permit any individuals to act as radiographers as defined in these rules until such individuals: (4-6-15)

i. Have received copies of and instructions in the licensee's operating and emergency procedures; and have demonstrated understanding thereof; and (4-6-15)

ii. Have been instructed in the subjects outlined in Subsection 053.06 of this rule, and have demonstrated understanding thereof; and (4-6-15)

iii. Have received copies of and instruction in the correct execution of these rules and have demonstrated understanding thereof; and (4-6-15)

iv. Have demonstrated competence to use the specific radiation machine(s), related handling tools, and survey instruments that will be employed in their assignment. (4-6-15)

v. Have demonstrated an understanding of the instructions in this section by successful completion of a written test and a field examination on the subjects covered. (4-6-15)

b. Licensees must not permit any individuals to act as a radiographer's assistant as defined in these rules until such individuals: (4-6-15)

vi. Have received copies of and instructions in the licensee's operating and emergency procedures; and have demonstrated understanding thereof; and (4-6-15)

vii. Have demonstrated competence to use under the personal supervision of the radiographer the radiation machine(s) and radiation survey instrument(s) that will be employed in their assignment. (4-6-15)

viii. Have demonstrated an understanding of the instructions in this section by successfully completing a written or oral test and a field examination on the subjects covered. (4-6-15)

c. Records of the above training, including copies of written tests and dates of oral tests and field examinations, must be maintained for inspection by the Radiation Control Agency for three (3) years following termination of employment. (4-6-15)

d. Each licensee must conduct an internal audit program to ensure that the Radiation Control Agency's conditions and the licensee's operating and emergency procedures are followed by each radiographer and radiographer's assistant. These internal audits must be performed at least quarterly, and each radiographer must be audited at least annually. Records of internal audits must be maintained for inspection by the Agency for two (2) years from the date of the audit. (4-6-15)

06. Subjects to Be Covered During the Instruction of Radiographers. (4-6-15)

a. Fundamentals of Radiation Safety, to include at least: (4-6-15)

i. Characteristics of gamma and x-radiation; (4-6-15)

ii. Units of radiation dose (millirem); (4-6-15)

iii. Bioeffects of excessive exposure of radiation; (4-6-15)

iv. Levels of radiation from radiation machines; (4-6-15)

v. Methods of controlling radiation dose, including: (4-6-15)

(1) Working time; (4-6-15)

(2) Working distances; and (4-6-15)

(3) Shielding; (4-6-15)

vi. Radiation Protection Standards; (4-6-15)

b. Radiation Detection Instrumentation, to include at least: (4-6-15)

i. Use of radiation surveys instruments, including: (4-6-15)

(1) Operation; (4-6-15)

(2) Calibration; and (4-6-15)

(3) Limitations; (4-6-15)

ii. Survey techniques; (4-6-15)

iii. Use of Personnel Monitoring Equipment, including: (4-6-15)

(1) Film badges, TLDs; (4-6-15)

(2) Pocket dosimeters; and (4-6-15)

(3) Pocket chambers; (4-6-15)

c. Radiographic Equipment, to include *o*peration and control of x-ray equipment; *( )*

d. The Requirements of Pertinent Federal regulations and State rules; (4-6-15)

e. The Licensee's Written Operating and Emergency Procedures; and (4-6-15)

f. Case histories of radiography accidents. (4-6-15)

07. Modification, Revocation, and Termination of Licensees. *In accordance with* amendments to the Act, departmental rules or regulations, or orders issued by the Radiation Control Agency, the terms and conditions of all licenses are subject to amendment, revision, or modification, and are subject to suspension or revocation. *( )*

a. Any license can be revoked, suspended, modified, or denied, in whole or in part. (4-6-15)

i. For any materially false statement: (4-6-15)

(1) In the application; or (4-6-15)

(2) In any statement of fact required under provisions of the Act or under these rules; or (4-6-15)

ii. Because of conditions revealed: (4-6-15)

(1) Within the application; any report, record, or inspection; or (4-6-15)

(2) By any other means that would warrant the Radiation Control Agency to refuse to grant a license on an original application; or (4-6-15)

iii. For violations of or failure to observe any of the terms and conditions: (4-6-15)

(1) Of the Act; or (4-6-15)

(2) Of the license; or (4-6-15)

(3) Of any rule; or (4-6-15)

(4) Of any regulation; or (4-6-15)

(5) Of an order of the Radiation Control Agency. (4-6-15)

b. Except in cases of willful violation or in which the public health, interest or safety requires otherwise, no license can be modified, suspended, or revoked unless such issues have been called to the attention of the licensee in writing and the licensee afforded the opportunity to demonstrate or achieve compliance with all lawful requirements. (4-6-15)

08. Emergency Action. If the Radiation Control Program Director finds the public health, safety or welfare requires emergency action, the Director will incorporate findings in support of such action in a written notice of emergency revocation issued to the licensee. Emergency revocation is effective upon receipt by the licensee. Thereafter, if requested by the licensee in writing, the Director will provide the licensee a revocation hearing and prior notice thereof. Such hearings are conducted in accordance with IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." (4-6-15)

054. -- 099. (RESERVED)

100. GENERAL PROVISIONS.
Sections 100 through 199 of these rules will be used for exclusions, modifications, and additions to Part A of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. (4-6-15)

101. SCOPE.
Modification to Part A, Section A.1. Except as otherwise specifically provided, these regulations apply to all persons who receive, possess, use, transfer, own, or acquire any source of radiation; provided that nothing in these regulations applies to any person to the extent such person is subject to regulation by the Nuclear Regulatory Commission. (4-6-15)

102. DEFINITIONS.
Additions to Part A, Section A.2. (4-6-15)

01. Act. "Act" means Section 56-1053, Idaho Code. (4-6-15)

02. Agency. "Agency" means the Idaho Department of Health and Welfare. (4-6-15)

103. VIOLATIONS.
Modification to Part A, Section A.8. Any person who willfully violates any provision of the Act is subject to penalties under Section 56-1053, Idaho Code. (4-6-15)

104. IMPOUNDING.
Modification to Part A, Section A.9. Sources of radiation are subject to impounding under Section 56-1052, Idaho Code. (4-6-15)

105. COMMUNICATIONS.
Modification to Part A, Section A.12. All communications and reports concerning these rules, and applications filed under these rules, must be addressed to the Agency at Radiation Control Section, Idaho Department of Health and Welfare, Bureau of Laboratories, 2220 Old Penitentiary Road, Boise, Idaho 83712-8299. (4-6-15)

106. -- 199. (RESERVED)

200. LICENSURE OF RADIATION MACHINE FACILITIES, (SERVICES) - AND ASSOCIATED HEALTHCARE PROFESSIONALS.
Sections 200 through 299 of these rules will be used for exclusions, modifications, and additions to Part B of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. (4-6-15)

201. LICENSURE OF RADIATION MACHINE FACILITIES.
Exclusion to Part B, Section B.6. Subsection B.6.b is excluded from incorporation. (4-6-15)

202. RECIPROCAL RECOGNITION OF OUT-OF-STATE RADIATION MACHINES.
Modifications and additions to Part B, Section B.16. (4-6-15)

01. Modification to Part B, Section B.16.a.iv. States in which this machine is registered or licensed. (4-6-15)

02. Addition to Part B, Section B.16 -- New Subsection d. The owner or person having possession of any radiation producing machine registered or licensed by a federal entity or state other than Idaho, or both, planning to establish regular operations in Idaho, must complete registration of the machine with the Agency within thirty (30) days after taking residence and prior to operation of the machine. Thirty (30) days prior to the expiration date of any out-of-state license for any radiation producing machine, the owner must apply to the Agency for a machine license. (4-6-15)

203. -- 400. (RESERVED)

400. RADIATION SAFETY REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHIC OPERATIONS.
Sections 400 through 499 of these rules will be used for exclusions, modifications, and additions to Part E of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. (4-6-15)

401. LICENSING AND REGISTRATION REQUIREMENTS FOR INDUSTRIAL RADIOGRAPHY OPERATIONS.
Exclusions to Part E, Section E.5. Subsections E.5.b.i and E.5.b.ii, are excluded from incorporation. (4-6-15)

402. LEAK TESTING AND REPLACEMENT OF SEALED SOURCES.
Part E, Section E.10 is excluded from incorporation. (4-6-15)

403. QUARTERLY INVENTORY.
Part E, Section E.11 is excluded from incorporation. (4-6-15)

404. LABELING, STORAGE, AND TRANSPORTATION.
Exclusions to Part E, Section E14. Subsections E.14.a, E.14.b, and E.14.d, are excluded from incorporation. (4-6-15)

405. CONDUCTING INDUSTRIAL RADIOGRAPHIC OPERATIONS.
Exclusion to Part E, Section E.15. Subsection E.15.d is excluded from incorporation. (4-6-15)

406. RECORDS OF LEAK TESTING OF SEALED SOURCES AND DEVICES CONTAINING DU.
Part E, Section E.27 is excluded from incorporation. (4-6-15)

407. RECORDS OF QUARTERLY INVENTORY.
Part E, Section E.28 is excluded from incorporation. (4-6-15)

408. UTILIZATION LOGS.
Part E, Section E.29 is excluded from incorporation. (4-6-15)

409. LOCATION OF DOCUMENTS AND RECORDS.
Exclusions to Part E, Section E37. Subsections E.37.b.iii, E.37.b.xi, and E.37.b.xii are excluded from incorporation. (4-6-15)

410. NOTIFICATIONS.
Exclusions to Part E, Section E38. Subsections E.38.a.i, and E.38.a.ii are excluded from incorporation. (4-6-15)

411. APPLICATION AND EXAMINATIONS.
Part E, Section E.39 is excluded from incorporation. (4-6-15)

412. CERTIFICATION IDENTIFICATION (ID) CARD.
Part E, Section E.40 is excluded from incorporation. (4-6-15)

413. RECIPROCITY.
Part E, Section E.41 is excluded from incorporation. (4-6-15)

414. SPECIFIC REQUIREMENTS FOR RADIOGRAPHIC PERSONNEL PERFORMING INDUSTRIAL RADIOGRAPHY.
Part E, Section E.42 is excluded from incorporation. (4-6-15)

415. -- 599. (RESERVED)

600. NOTICES, INSTRUCTIONS AND REPORTS TO WORKERS; INSPECTIONS.
Sections 600 through 699 of these rules will be used for exclusions, modifications, and additions to Part J of the Suggested State Regulations for Control of Radiation, Volume 1, as incorporated in Section 004 of these rules. (4-6-15)

601. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Department of Health and Welfare is authorized to promulgate these rules under Sections 7-1206, 32-1207, 32-1209, 32-1214G, 32-1217, 56-203A, and 56-1004, Idaho Code. (4-11-15)

001. TITLE, SCOPE, AND GOAL.

01. Title. These rules are titled IDAPA 16.03.03, "Child Support Services." *( )*

02. Scope. These rules provide the requirements for the administration of the Department's child support program. (5-8-09)

03. Goal. The goal of child support services is to ensure that both parents provide the financial support necessary to provide for their children. This program requires cooperation between families, employers, and the community. (5-8-09)

002. -- 049. (RESERVED)

050. **DISTRIBUTION OF SUPPORT COLLECTED IN TITLE IV-E FOSTER CARE MAINTENANCE CASES.**

01. Payment of Support Obligation. The amount collected as current support shall first be retained by the State to reimburse itself for the foster care assistance payment for that month. Any amount collected in excess of the current month's foster care assistance payment, but less than the monthly support obligation, shall be paid to the state agency responsible for the child's placement and care. Any amount collected in excess of the monthly support obligation shall be retained by the State to reimburse any previous foster care assistance payments. The State is limited to reimbursement for past foster care assistance by the amount of the total support obligation owed. Any excess collected after the State has been reimbursed for past foster care assistance payments shall be paid to the state agency responsible for the child's placement and care. Collections shall be applied to future payments only after all current support and arrears have been satisfied. (7-1-98)

02. Termination of Foster Care Payments. When a state stops providing foster care assistance under Title IV-E, the assignment of support rights ends except as to unpaid support which accrued prior to or during the assignment. (7-1-98)

051. – 074. (RESERVED)

075. **FEES.**

01. Application Fee. At the time of application for child support services, a written application must be completed and a fee of twenty-five dollars ($25) must be paid. The fee must be paid in advance of any services to be provided and is not refundable. (7-1-98)

02. Income Tax Offset Fees. A fee of twenty-five dollars ($25) will be deducted each time child support is collected as a result of an income tax offset. (7-1-98)

03. Internal Revenue Service (IRS) Referral Fees. A fee of one hundred twenty-two dollars and fifty cents ($122.50) shall be charged for a referral to the IRS for full collection of the child support obligation. (7-1-98)

04. Locate Fees. Child Support Services may charge an applicant/recipient a fee of ten dollars ($10) for referral to FPLS for location of a non-custodial parent when no other child support services are being provided. Child Support Services may also charge a fee of four dollars ($4) for referral to the FPLS for a social security number search. Child Support Services may charge a fee of seventy cents ($.70) for referral to FPLS for location of a non-custodial parent. (7-1-98)

05. Federally Mandated Annual Service Fees. Child Support Services must charge an annual fee of thirty-five dollars ($35) for each support enforcement case in which it has collected and disbursed at least five hundred fifty dollars ($550) of support in the federal fiscal year. The fee will be billed to the parent ordered to pay support, but will not be assessed on any case in which an individual has ever received benefits under the Temporary Assistance for Needy Families program. (4-1-19)

076. – 099. (RESERVED)

100. LEGAL COSTS.

An applicant/recipient will be notified at the time of the application that legal costs incurred by Child Support Services will be deducted from any child support collected to reimburse the State. The applicant/recipient will be notified as to the legal costs being incurred. No more than twenty percent (20%) of any collection will be deducted for reimbursement of these costs. Child Support Services will attempt to obtain an order against the non-custodial parent in favor of the applicant/recipient for reimbursement of the legal costs incurred by Child Support Services. (7-1-98)

101. -- 199. (RESERVED)

200. SECURING AND ENFORCING MEDICAL SUPPORT.

Medical support enforcement services must be provided in any case for which an assignment of medical support is in effect, including: (3-20-04)

01. Petition. Petitioning the court to include health insurance that is available to either parent at reasonable cost in new or modified court orders for support. Health insurance is considered reasonable in cost if it is available through employment or other group health benefit plan. (3-20-04)

02. Enforcement. Taking any necessary action to ensure that one (1) parent secures and maintains medical insurance required by the support order. (3-20-04)

201. ADMINISTRATIVE REVIEW FOR ENFORCEMENT OF MEDICAL SUPPORT.

01. Request. An obligor may request an administrative review within twenty (20) days after a notice of intent to enroll one (1) or more children in a health benefit plan is mailed by the Department. (3-20-04)

02. Scope of Administrative Review. The Department will cancel a notice of intent to enroll or a National Medical Support Notice (NMSN) if: (3-20-04)

a. The parent does not owe medical support. (3-20-04)

b. The parent is no longer obligated to provide medical support. (3-20-04)

c. Medical support, excluding Medicaid, is already being provided by either parent. (3-20-04)

202. -- 299. (RESERVED)

300. REVIEW AND MODIFICATION OF SUPPORT ORDERS.

01. Notice. Each parent subject to a child support order in effect in the State that is being enforced by Child Support Services must be notified of the right of the parent to request a review of the order by Child Support Services every thirty-six (36) months. Reviews are not to be done more frequently unless there has been a substantial and material change in circumstances. (5-8-09)

02. Review. A support order will be reviewed for possible modification: (5-8-09)

a. If requested by either parent; (5-8-09)

b. If requested by any state, tribal, or foreign child support services agency; or (5-8-09)

c. Automatically, at least every thirty-six (36) months, in any case where the custodial parent or other custodian of the child or children is receiving benefits under Title IV-A of the Social Security Act, either in Idaho or elsewhere. (5-8-09)

03. After the Review. Each parent will be notified of the proposed adjustment or of the determination that there should be no change in the amount of child support. (7-1-98)

04. Adjustment. A modification of a support order will only be sought if the review conducted under Subsection *300*.02 of this rule results in an obligation under the Child Support Guidelines which differs from the existing order by at least fifteen percent (15%), but not less than fifty dollars ($50) per month. The following criteria will be applied by Child Support Services to determine whether there has been a substantial and material change of circumstances: *( )*

a. Whether there has been an increase or decrease in the income, as the term is defined in the Child Support Guidelines, of either parent or other person legally obligated for the support of a child; (7-1-98)

b. Whether there has been a substantial increase or decrease in the assets of either parent or other person legally obligated for the support of a child; (7-1-98)

c. Whether there has been a substantial change in the needs of the child; (7-1-98)

d. Whether there has been a change in the custody or visitation rights of the non-custodial parent; and (7-1-98)

e. Whether other factors exist indicating a substantial and material change in circumstances since the entry or modification of the support order. (7-1-98)

3*01*. CONSUMER REPORTING AGENCIES.

01. Consumer Reporting Agency. Any person who for monetary fees, dues or on a cooperative basis, regularly engages in whole or in part in the practice of assembling or evaluating consumer credit information or other information on consumers for the purpose of furnishing consumer reports to third parties, and who uses any means or facility of interstate commerce for the purpose of preparing or furnishing consumer reports. (7-1-98)

02. Reports. Reports are made to consumer reporting agencies of any non-custodial parent who owes overdue support exceeding two thousand dollars ($2,000) and is at least three (3) months in arrears after the court order is finalized. Notice will be provided to the non-custodial parent prior to the report being made available to the agencies and will inform the non-custodial parent of the methods available for contesting the accuracy of the information. (3-29-17)

302. GOOD CAUSE DETERMINATION IN LICENSE SUSPENSION PROCEEDINGS.

01. Definitions. The following definitions apply for this section of rules: (4-11-15)

a. "Obligor" means an individual who is ordered to pay child support under an order issued by a court or authorized administrative authority. (4-11-15)

b. "Obligee" means an individual who is ordered to receive child support under an order issued by a court or authorized administrative authority. (4-11-15)

c. "Motor Vehicle License" means a license required to operate any type of motor vehicle. (4-11-15)

d. "Occupational or Professional License" means a license issued to allow a person to practice or engage in any business, occupation, or profession. (4-11-15)

e. "Recreational License" means a license, certificate, or permit authorizing an individual to engage in any recreational activity including, but not limited to, hunting, fishing, and trapping. (4-11-15)

02. Res Judicata. No issues that have been previously litigated may be considered at the license suspension hearing. (7-1-98)

03. Good Cause in Motor Vehicle and Occupational License Suspension Proceedings. The license suspension will be denied or stayed if the obligor proves one (1) of the following conditions exist: (4-11-15)

a. The obligor has been declared physically disabled by Social Security, workman's compensation, or another competent authority that works with disabled individuals, and that the disability has directly resulted in the current inability to pay the child support obligation; (4-11-15)

b. The obligor is experiencing the effects of an extended illness or accident that has directly resulted in the current inability to pay the child support obligation; (4-11-15)

c. The obligor is a student whose enrollment is a result of a referral from Vocational Rehabilitation, workman's compensation, or other competent authority working with disabled individuals; (4-11-15)

d. The obligor is incarcerated in any county, state, or federal correctional facility, and proves that they have no assets. (4-11-15)

e. The obligor is receiving *Temporary Assistance for Families in Idaho (*TAFI*)* or Supplemental Security Income benefits; *( )*

f. The obligor has court-ordered physical custody of all of the children listed in the order or orders for support; (4-11-15)

g. Child support is being collected directly from the obligor's income through an income withholding order issued by the Department to the obligor's employer or other income source. (7-1-99)

04. Not Good Cause in Motor Vehicle and Occupational License Suspension Proceedings. Any factor not defined as good cause in Subsection *302*.03 *of this rule* is not good cause for a denial or stay of a license suspension, including but not limited to the following: *( )*

a. The obligor is unemployed, underemployed, or has difficulty maintaining consistent employment; (7-1-98)

b. The obligor claims to be disabled but has not applied for disability or other benefits, or has been refused benefits; (4-11-15)

c. The obligor asserts that the child support obligation is too high; (7-1-98)

d. The obligor has been denied full visitation with the child or children; or (7-1-98)

e. The obligor alleges the obligee misuses the child support. (7-1-98)

05. Good Cause in Recreational License Suspension Proceedings. The license suspension will only be stayed if the obligor proves one (1) of the following conditions exist: (4-11-15)

a. The obligor is receiving TAFI or Supplemental Security Income benefits; or (4-11-15)

b. The obligor has court-ordered physical custody of all of the children listed in the order or orders for support. (4-11-15)

***303*. -- 999. (RESERVED)**

APPENDIX A - ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT

ORDER/NOTICE TO WITHHOLD INCOME FOR CHILD SUPPORT

State _____ Original Order/Notice

Co./City/Dist. of _____ _____
Amended Order/Notice

Date of Order/Notice _____ _____
Terminate Order/Notice

Court/Case Number _____ _____

Employer/Withholder's Federal EIN Number) RE: *
) Employee/Obligor's Name (Last, First, MI)
) Employee/Obligor's Social Security Number
Employer/Withholder's Name) *
Employer/Withholder's Name) Employee/Obligor's Case Identifier
) Custodial Parent's Name (Last, First, MI)
)

Child(ren)'s Name(s): **DOB** **Child(ren)'s Name(s):** **DOB**

ORDER INFORMATION: This is an Order/Notice to Withhold Income for Child Support based upon an order for support from _____. By law, you are required to deduct these amounts from the above-named employee's/obligor's income until _____ even if the Order/Notice is not issued by your State.

_ If checked, you are required to enroll the child(ren) identified above in any health insurance coverage available through the employee's/obligor's employment. _____

$_____ per_____ in current support
$_____ per_____ in past-due support Arrears 12 weeks or greater? _ yes _ no
$_____ per_____ in medical support
$_____ per_____ in other (specify)
$_____ per_____ in other (specify)

for a total of $_____ per_____ to be forwarded to the payee below.

You do not have to vary your pay cycle to be in compliance with the support order. If your pay cycle does not match the ordered support payment cycle, use the following to determine how much to withhold:
$_____ per weekly pay period. $_____ per semimonthly pay period (twice a month).
$_____ per biweekly pay period (every two weeks). $_____ per monthly pay period.

REMITTANCE INFORMATION: Follow the laws and procedures of the employee's/obligor's principal place of employment even if such laws and procedures are different from this paragraph:

You must begin withholding no later than the first pay period occurring _____ working days after the date of this Order/Notice. Send payment within _____ working days of the paydate date of withholding. You are entitled to deduct a fee of _____ to defray the cost of withholding. The total withheld amount, including your fee, cannot exceed _____% the employee/obligor's aggregate disposable weekly earnings. For the purpose of the limitation on withholding, the following information is needed (see #9 below):

When remitting payment provide the paydate/date of withholding and the case identifier _____.
If remitting by EFT/EDI, use this FIPS code: *; _ _ _ _ _ _; Bank routing code:*_____;
Bank account number:*_____.

Make it payable to: **Payee and case identifier**

Send check to: **Payee's Address**

Authorized by _____

Print Name _____

ADDITIONAL INFORMATION TO EMPLOYERS AND OTHER WITHHOLDERS
____ If checked you are required to provide a copy of this form to your employee.

1. **Priority:** Withholding under this Order/Notice has priority over any other legal process under State law against the same income. Federal tax levies in effect before receipt of this order have priority. If there are Federal tax levies in effect please contact the requesting agency listed below.

2. **Combining Payments:** You can combine withheld amounts from more than one employee/ obligor's income in a single payment to each agency requesting withholding. You must, however, separately identify the portion of the single payment that is attributable to each employee/obligor.

3. **Reporting the Paydate/Date of Withholding:** You must report the paydate/date of withholding when sending the payment. The paydate/date of withholding is the date on which the employee is paid and controls the income, i.e. the date the income check or cash is given to the employee, or the date in which the income is deposited directly in his/her account.

4. **Employee/Obligor with Multiple Support Withholdings:** If you receive more than one Order/ Notice against this employee/obligor and you are unable to honor them all in full because together they exceed the withholding limit of the State of the employee's principal place of employment (see #9 below), you must allocate the withholding based on the law of the State of the employee's principal place of employment. If you are unsure of that State's allocation law, you must honor all Orders/Notices' current support withholdings before you withhold for any arrearages, to the greatest extent possible under the withholding limit. You should immediately contact the last agency that sent you an Order/Notice to find the allocation law of the state of the employee's principal place of employment.

5. **Termination Notification:** You must promptly notify the payee when the employee/obligor is no longer working for you. Please provide the information requested and return a copy of this order/notice to the agency identified below.

EMPLOYEE'S/OBLIGOR'S NAME: _____
EMPLOYEE'S CASE IDENTIFIER: _____DATE OF SEPARATION: _____.
LAST KNOWN HOME ADDRESS _____.
NEW EMPLOYER'S ADDRESS _____.

6. **Lump Sum Payments:** You may be required to report and withhold from lump sum payments such as bonuses, commissions, or severance pay. If you have any questions about lump sum payments, contact the person or authority below.

7. **Liability:** If you fail to withhold income as the Order/Notice directs, you are liable for both the accumulated amount you should have withheld from the employee/obligor's income and any other penalties set by State law.

_____
_____

8. **Anti-discrimination:** You are subject to a fine determined under State law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against any employee/obligor because of a child support withholding.

_____
_____

9. **Withholding Limits:** You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 U.S.C. Section 1673(b)); or 2) the amounts allowed by the State of the employee's/obligor's principal place of employment. The Federal limit applies to the aggregate disposable weekly earnings (ADWE). ADWE is the net income left after making mandatory deductions such as: State, Federal, local taxes; Social Security taxes; and Medicare taxes. The Federal CCPA limit is 50% of the ADWE for child support and alimony, which is increased by: 1) 10% if the employee does not support a second family; and/or 2) 5% if arrears are more than 12 weeks old. (see boxes on front)

10. _____
_____
_____

Requesting Agency_____
_____
_____
_____

If you or your employee/obligor have any questions, contact:

by telephone at _____ or
by FAX at _____ or
by Internet _____.

(7-1-98)

000. LEGAL AUTHORITY.
Under Section 56-202(b), Idaho Code, the Legislature has delegated to the Department of Health and Welfare the responsibility to establish and enforce such rules as may be necessary or proper to administer public assistance programs within the state of Idaho. Under Sections 56-253 and 56-257, Idaho Code, the Department of Health and Welfare is to establish enforceable cost-sharing requirements within the limits of federal Medicaid law and regulations. Furthermore, the Idaho Department of Health and Welfare is the designated agency to administer programs under Title XIX and Title XXI of the Social Security Act. (3-21-12)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 16.03.18, "Medicaid Cost-Sharing." (3-19-07)

02. Scope. These rules describe the general requirements regarding the administration of the cost-sharing provisions for participation in a medical assistance program providing direct benefits in Idaho. (3-21-12)

002. WRITTEN INTERPRETATIONS.
*T*his agency may have written statements which pertain to the interpretation of the rules of this chapter. These documents are available for public inspection. *( )*

00*3*. -- 009. (RESERVED)

010. DEFINITIONS.

01. Copayment (Copay). The amount a participant is required to pay to the provider for specified services. (3-19-07)

02. Cost-Sharing. A payment the participant or the financially responsible adult is required to make toward the cost of the participant's health care. Cost-sharing includes both copays and premiums. (3-29-10)

03. Creditable Health Insurance. Creditable health insurance is coverage that provides benefits for inpatient and outpatient hospital services and physicians' medical and surgical services. Creditable coverage excludes liability, limited scope dental, vision, specified disease or other supplemental-type benefits. (3-29-10)

04. Department. The Idaho Department of Health and Welfare, or a person authorized to act on behalf of the Department. (3-19-07)

05. Family Income. The gross income of all financially responsible adults who reside with the participant, as calculated under IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (3-29-10)

06. Family Size. Family size is the number of people living in the same home as the child. This includes relatives and other optional household members. (3-29-10)

07. Federal Poverty Guidelines (FPG). The federal poverty guidelines issued annually by the U. S. Department of Health and Human Services (HHS). The federal poverty guidelines are available on the U.S. Health and Human Services website at http://aspe.hhs.gov/poverty. (3-29-10)

08. Financially Responsible Adult. An individual who is the biological or adoptive parent of a child and is financially responsible for the participant. (3-29-10)

09. Medical Assistance. Payments for part or all of the cost of services funded by Titles XIX or XXI of the federal Social Security Act, as amended. (3-19-07)

10. Participant. A person eligible for and enrolled in the Idaho Medical Assistance Program. (3-19-07)

11. Physician Office Visit. Services performed by a physician, nurse practitioner or physician's assistant at the practitioner's place of business, including Federally Qualified Health Centers (FQHCs) and Rural Health Clinics (RHCs). Indian Health Clinic/638 Clinics providing services to individuals eligible for Indian Health Services are not included. (3-21-12)

12. **Premium**. A regular and periodic charge or payment for health coverage. (4-6-05)

13. **Social Security Act**. 42 U.S.C. 101 et seq., authorizing, in part, federal grants to the states for medical assistance to eligible low-income individuals. (3-19-07)

14. **State**. The state of Idaho. (4-6-05)

15. **Title XIX**. Title XIX of the Social Security Act, known as Medicaid, is a medical benefits program jointly financed by the federal and state governments and administered by the states. This program pays for medical assistance for certain individuals and families with low income and limited resources. (3-29-10)

16. **Title XXI**. Title XXI of the Social Security Act, known as the State Children's Health Insurance Program (SCHIP). This is a program that primarily pays for medical assistance for low-income children. (3-29-10)

011. -- 024. (RESERVED)

025. PARTICIPANTS EXEMPT FROM COST-SHARING.
Native American and Alaskan Native participants are exempt from the cost-sharing provisions of Sections 200, 205, 215, and 320 of these rules. The participant must declare his race to the Department to receive this exemption. (3-21-12)

026. -- 049. (RESERVED)

050. GENERAL COST-SHARING.

01. **Cost-Sharing Maximum Amount**. A family will be required to pay out of pocket costs not to exceed five percent (5%) of the family's anticipated gross monthly income unless an exception is made as provided in Subsection 050.02 of this rule. (3-21-12)

02. **Exception to Cost-Sharing Maximum**. A family will be required to pay cost-sharing amounts as provided in Sections 215 and 400 of these rules. These cost-sharing amounts may exceed the family's five percent (5%) of anticipated gross monthly income. (3-21-12)

03. **Proof of Cost-Sharing Payment**. If a participant believes that their cost-sharing exceeded the five percent (5%) cost-sharing of the family's anticipated gross monthly income, they must provide proof to the Department of the copay amounts that were paid. (3-21-12)

04. **Excess Cost-Sharing**. A family that establishes proof of payment for cost-sharing that exceeds the five percent (5%) of the family's anticipated gross monthly income will be reimbursed by the Department for the amount paid that exceeds the five percent (5%), except as provided in Subsection 050.02 of this rule. (3-21-12)

05. **Cost-Sharing Suspended**. A family that exceeds the five percent (5%) maximum amount for cost-sharing will not be required to pay a cost-sharing portion for any family participant for the remainder of the calendar month in which proof of payment is established. (3-21-12)

051. - 199. (RESERVED)

200. PREMIUMS FOR PARTICIPATION UNDER THE STATE CHILDREN'S HEALTH INSURANCE PROGRAM (SCHIP).

01. **Family Income Above 133% of FPG**. Each SCHIP participant with family income above one hundred thirty-three percent (133%) and equal to or less than one hundred fifty percent (150%) of the current FPG must pay a monthly premium of ten dollars ($10) to the Department. (3-29-10)

02. **Family Income Above 150% of FPG**. Each SCHIP participant with family income above one hundred fifty percent (150%) and equal to or less than one hundred eighty-five percent (185%) of the current FPG must pay a monthly premium of fifteen dollars ($15) to the Department. (3-29-10)

201. -- 204. (RESERVED)

205. PREMIUMS FOR PARTICIPATION UNDER HOME CARE FOR CERTAIN DISABLED CHILDREN (HCCDC).

01. Family Income Above 150% and Equal to or Less Than 185% of FPG. Each HCCDC participant with a family income above one hundred fifty percent (150%) and equal to or less than one hundred eighty-five percent (185%) of the current FPG must pay a monthly premium of fifteen dollars ($15) to the Department. The maximum monthly premium a family must pay is limited to thirty dollars ($30). (3-29-10)

02. Family Income Above 185% of FPG. Each HCCDC family with income above one hundred eighty-five percent (185%) of the current FPG must pay a monthly premium to the Department. The monthly premium is a fixed percent of the family's income as provided in the table below. (3-29-10)

TABLE 205.02
SLIDING FEE SCHEDULE FOR MONTHLY PREMIUMS FOR HCCDC PARTICIPATION

Family Income Above 185% of Current FPG		Premium Based on % of Family Income
ABOVE	LESS THAN OR EQUAL TO	
185%	250%	1.0%
250%	300%	1.5%
300%	400%	2.0%
400%	500%	2.5%
500%	600%	3.0%
600%	700%	3.5%
700%	800%	4.0%
800%	900%	4.5%
900%	No Upper Limit	5.0%

(3-29-10)

03. Reduction of Premium for Creditable Health Insurance. A family who purchases creditable health insurance for the participant may receive a twenty-five percent (25%) reduction of the required monthly premium. (3-29-10)

04. Failure to Provide Information. Failure to provide the Department with information needed to determine family income and household size may subject the participant to a monthly premium equal to the average monthly cost of coverage for participants receiving Medicaid Enhanced Plan Benefits through HCCDC. (3-29-10)

05. Failure to Pay Premium. Failure to pay the premium for an HCCDC participant will not cause the participant to lose coverage or eligibility for services. A participant eligible through HCCDC is exempt from the provisions of Section 250 of these rules. (3-29-10)

06. Waiver of Premium. The premium may be waived if the Department determines that payment of the premium would cause undue hardship on the family. Undue hardship exists when an unexpected expense would cause the family to forgo basic food or shelter in order to make a premium payment. Detailed documentation of the family's living and insurance expenses demonstrating such hardship must be provided to the Department. (3-29-10)

07. Premium Recalculation. The premium amount is recalculated at each annual eligibility renewal. If a financially responsible adult reports a reduction in family income prior to renewal, the premium will be reduced to the appropriate level upon verification of the reduction to the family's income. When the family income is at a level that does not require premium payments, the premium will no longer be assessed. (3-29-10)

206. (RESERVED)

207. PREMIUMS FOR PARTICIPATION UNDER THE YOUTH EMPOWERMENT SERVICES (YES) PROGRAM.

01. Premium Fee Schedule. Each YES program participant, as that individual is defined in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 636, is subject to assessment of a premium based on family income. The Department will establish a premium fee schedule at rates not to exceed maximums set forth in federal law and regulations governing state Medicaid programs. The fee schedule will be published on the Department's website and provided to families participating in the YES program who are subject to premiums. (3-22-18)

02. Enforcement of Premiums. Payment of premiums will be enforced within the limitations of federal laws and regulations governing state Medicaid programs. (3-22-18)

03. Waiver of Premium. The monthly premium described in Subsection 207.01 of this rule may be waived if the Department determines that the family is unable to participate in the cost of care. (3-22-18)

04. Premium Recalculation. The premium amount is recalculated at each annual eligibility redetermination. If a financially responsible adult reports a reduction in family income prior to eligibility redetermination, the premium will be reduced to the appropriate level upon verification of the reduction in the family's income. When the family income is reduced to a level that does not require premium payments, the premium will no longer be assessed. (3-22-18)

208. -- 209. (RESERVED)

210. DEPARTMENT RESPONSIBILITIES.

01. Assessed Premiums. A participant will not be assessed premiums during the time initial eligibility is determined. Obligation for premium payments does not begin for at least sixty (60) days after receipt of application, except for workers with disabilities under Section 215 of these rules. (3-29-10)

02. Premiums Not Assessed Due to Late Review. A participant can not be assessed premiums for extra months of eligibility received due solely to the Department's late review of continuing eligibility, except for workers with disabilities under Section 215 of these rules. (3-29-10)

03. No Retroactive Premiums Assessed. A participant can not be assessed premiums for months of retroactive eligibility. (3-29-10)

04. Notification of Premiums. The Department is required to routinely notify a participant of their premium payment obligations including any delinquencies, if applicable. (3-29-10)

211. -- 214. (RESERVED)

215. PREMIUMS FOR PARTICIPATION IN MEDICAID ENHANCED PLAN.

01. Workers with Disabilities. A participant in the Medicaid for Workers with Disabilities coverage group must share in the cost of Medicaid coverage, if required. Countable income is determined under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." A participant's premium for his share of Medicaid costs under this coverage group is determined in Subsections 215.02 through 215.04 of this rule. (3-19-07)

02. Countable Income at or Below 133%. A participant who has countable income at or below one hundred thirty-three percent (133%) of the current federal poverty guideline is not required to pay a premium for Medicaid. (3-19-07)

03. Countable Income Above 133% to 250%. A participant who has countable income above one hundred thirty-three percent (133%) to two hundred fifty percent (250%) of the current federal poverty guideline is required to pay a monthly premium of ten dollars ($10) to the Department. (3-19-07)

04. Countable Income in Excess of 250%. A participant who has countable income in excess of two hundred fifty percent (250%) of the current federal poverty guideline is required to pay a monthly premium to the Department. The amount due is the greater of ten dollars ($10); or seven and one-half percent (7.5%) of the participant's income above two hundred fifty percent (250%) of the current federal poverty guideline. (3-19-07)

05. Recomputed Premium Amount. Premium amounts are recomputed when changes to a participant's countable income result in a different percentage premium calculation as determined in Subsections 215.02 through 215.04 of this rule, and at the annual re-determination. (3-19-07)

216. -- 249. (RESERVED)

250. DELINQUENT PREMIUM PAYMENTS.
If the participant is sixty (60) days or more past due on its premium payments, the participant is contacted to determine the reason for the delinquency. If the participant's countable income is less than the amount used for the most recent eligibility determination, the participant is offered a new eligibility determination. If a participant's family income is at a level that does not require premium payments, the premium will no longer be assessed. The change is effective the month after the participant becomes eligible for such benefits. The following Subsections 250.01 through 250.03 of this rule apply to delinquent premium payments. (3-19-07)

01. Delinquent Payments. A participant must not be approved for or renewed for coverage that requires premium payments, if their premium payments are sixty (60) days or more delinquent as of the last working day of their twelve (12) month eligibility period. (3-19-07)

02. Reestablishing Eligibility. A participant can reestablish eligibility by paying the premium debt in full, unless one (1) of the conditions listed in Subsection 250.03 applies. (3-19-07)

03. Premium Debt. Any premium debt assessed, but not paid, will be forgiven if one (1) of the following applies: (3-19-07)

a. The participant reports and the Department determines that the participant's family income is below one hundred and thirty-three percent (133%) FPG. This may occur at any time during the eligibility period; or (3-19-07)

b. A participant in the Medicaid Basic Plan has a medical condition that requires the participant to receive the benefits provided in IDAPA 16.03.10 "Medicaid Enhanced Plan Benefits." (3-19-07)

251. -- 299. (RESERVED)

300. PARTICIPANTS EXEMPT FROM COPAYMENT.

01. Exempt Participants. Certain participants are exempt from copayments for services described in Section 320.03 through 320.10 of these rules. Exempt participants include: (3-21-12)

a. A child under the age of nineteen (19) with family income less than or equal to one hundred and thirty-three percent (133%) of the current federal poverty guidelines (FPG); (3-26-08)

b. An individual age of nineteen (19) or older with family income less than or equal to one hundred percent (100%) of the current federal poverty guidelines (FPG); (3-21-12)

c. A pregnant or post-partum woman when the services provided are related to the pregnancy; (3-21-12)

d. An inpatient in a hospital, nursing facility, intermediate care facility for persons with intellectual disabilities (ICF/ID), or other medical institution, who is required to pay all but a nominal amount of their income to the institution for their care; (3-26-08)

e. An adult participant who receives services provided under a waiver of Section 1915c of the Social Security Act (SSA); (3-21-12)

f. A participant who has other health care coverage that is the primary payor for the services provided; (3-21-12)

g. A participant receiving hospice care; (3-26-08)

h. A child in foster care receiving aid or assistance under the Social Security Act (SSA), Title IV, Part B; (3-26-08)

i. A participant receiving adoption or foster care assistance under the Social Security Act (SSA), Title IV, Part E, regardless of age; and (3-26-08)

j. A woman eligible under the breast and cervical cancer eligibility group. (3-26-08)

02. Notification of Copayment. The Department will provide notification to each participant who is not exempt from the copayment requirements in Subsections 320.03 through 320.10 of these rules. (3-21-12)

301. -- 309. (RESERVED)

310. COPAYMENT FEE AMOUNTS.

01. Nominal Amount. The amount of the copayment must be a nominal amount as provided in 42 CFR 447.54. This nominal amount is set by the U.S. Department of Health and Human Services. (3-26-08)

02. Fee Amount. Beginning on November 1, 2011, the nominal fee amount required to be paid by the participant as a copayment is three dollars and sixty-five cents ($3.65). This copayment amount will be adjusted annually as determined by the Secretary of Human Services. (3-21-12)

03. Annual Increase. The nominal fee amount will be increased annually by an adjusted percentage rate determined by the Secretary of Health and Human Services as set in the Social Security Act Section 1916. (3-26-08)

311. -- 319. (RESERVED)

320. MEDICAID OUTPATIENT SERVICES SUBJECT TO COPAYMENTS.
Medicaid participants are responsible for making copayments for the outpatient services described in Subsections 320.01 through 320.10 of this rule, unless exempted. The amount of the copayment is provided in Section 310 of these rules. (3-21-12)

01. Accessing Hospital Emergency Department for Non-Emergency Medical Conditions. A participant who seeks care at a hospital emergency department for services that do not meet the definition of an emergency medical condition as defined in IDAPA 16.03.09, "Medicaid Basic Plan Benefits," may be required to pay a copayment to the provider. A participant who must access a hospital emergency department in order to receive routine services for their medical condition is exempt from this provision. (3-21-12)

02. Accessing Emergency Transportation Services for Non-Emergency Medical Conditions. A participant who accesses emergency transportation services for a condition that is determined by the Department to be a non-emergency medical condition may be required to pay a copayment to the provider of the service. (3-21-12)

03. Chiropractic Services. Those services for spinal manipulation performed by a chiropractor. (3-21-12)

04. Occupational Therapy. (3-21-12)

05 Optometric Services. Those services performed by a optometrist that fall into the "General Ophthalmological Services" category of Current Procedural Terminology (CPT). (3-21-12)

06. Outpatient Hospital Services. Any of the services included in Subsections 320.03 through 320.05 and Subsections 320.07 through 320.10 of this rule performed in an outpatient hospital setting. Services performed in a Hospital Emergency Department are excluded, except as provided for in Subsection 320.01 of this rule. (3-21-12)

07. Physical Therapy. (3-21-12)

08. Podiatry Services. Services provided by a podiatrist during an office visit. (3-21-12)

09. Physician Office Visit. Each physician office visit, unless: (3-21-12)

a. The visit is for a preventive wellness exam, immunizations, or family planning: (3-21-12)

b. The visit is for urgent care provided at a clinic billing as an urgent care facility. (3-21-12)

10. Speech Therapy. (3-21-12)

321. -- 324. (RESERVED)

325. EXCEPTION TO CHARGING A COPAYMENT.
In order for a copay to be charged by the provider, the Medicaid payment amount for the services rendered during a visit must be equal to or greater than ten (10) times the amount of the copay described in Section 310 of these rules. The Medicaid payment amount is determined by the Department and published in the Medicaid Fee Schedule. (3-21-12)

326. -- 329. (RESERVED)

330. COLLECTION OF COPAYMENTS.

01. Responsibility for Collection. The provider of services is responsible for collection of the copayment from the participant. (3-21-12)

02. Denial of Services. The provider may require payment of an applicable copay prior to rendering services. (3-21-12)

03. Waiver of Copayment. The provider may choose to waive payment of any copay. The provider must have a written policy describing the criteria for enforcing collection of copayments and when the copay may be waived. (3-21-12)

04. Reduction in Reimbursement.When a copay is applicable, the provider's reimbursement will be reduced by the amount of the copay regardless of whether or not a copay was charged or collected by the provider. (3-21-12)

331. -- 399. (RESERVED)

400. PARTICIPATION IN THE COST OF HOME AND COMMUNITY-BASED WAIVER SERVICES.
Medicaid participants required to participate in the cost of Home and Community-Based Waiver (HCBS) services as described in IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," must have their share of cost determined as described in Subsections 400.01 through 400.10 of this rule. (3-19-07)

01. Excluded Income. Income excluded under the provisions of IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Sections 723 and 725, is excluded in determining participation. (3-19-07)

02. Base Participation. Base participation is income available for participation after subtracting all allowable deductions, except for the incurred medical expense deduction in Subsection 400.07 of this rule. Base participation is calculated by the participant's Self Reliance Specialist. The incurred medical expense deduction is calculated by Medicaid. ( )

03. Community Spouse. Except for the elderly or physically disabled participant's personal needs allowance, base participation for a participant with a community spouse is calculated under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 725. A community spouse is the spouse of an HCBS participant who is not an HCBS participant and is not institutionalized. The HCBS personal needs allowance for a participant living in adult residential care equals the federal Supplemental Security Income (SSI) benefit rate for an individual living independently. (3-19-07)

04. Home and Community Based Services (HCBS) Spouse. Except for the elderly or physically disabled participant's personal needs allowance (PNA), base participation for a participant with an HCBS spouse is calculated and specified under IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)," Section 723. An HCBS spouse is the spouse of a participant who also receives HCBS. (3-19-07)

05. Personal Needs Allowance. The participant's personal needs allowance depends on his marital status and legal obligation to pay rent or mortgage. The participant's personal needs allowance is deducted from his income after income exclusions and before other allowable deductions. To determine the amount of the personal needs allowance, use Table 400.05 of this rule:

TABLE 400.05 - PERSONAL NEEDS ALLOWANCE

Amount of Personal Needs Allowance (PNA) for Participation

Not Responsible for Rent or Mortgage		**Responsible for Rent or Mortgage**	
Marital Status	**PNA**	**Marital Status**	**PNA**
No Spouse	One hundred percent (100%) of the federal SSI benefit for a person with no spouse	No Spouse	One hundred and eighty percent (180%) of the Federal SSI benefit for a person with no spouse
Married with Community Spouse	One hundred and fifty percent (150%) of the Federal SSI benefit for a person with no spouse	Married with Community Spouse	One hundred and eighty percent (180%) of the Federal SSI benefit for a person with no spouse
Married with HCBS Spouse	One hundred percent (100%) of the Federal SSI benefit for a person with no spouse. Each spouse receives this amount as his PNA.	Married with HCBS Spouse	One hundred and eighty percent (180%) of the Federal SSI benefit for a single person. Each spouse receives this amount as his PNA.

(3-29-17)

06. Developmentally Disabled Participants. These allowances are specified in IDAPA 16.03.05, "Rules Governing Eligibility for Aid to the Aged, Blind, and Disabled (AABD)." The HCBS personal needs allowance for adult participants receiving waiver services under the Developmentally Disabled Waiver is three (3) times the federal SSI benefit amount to an individual in his own home. (3-19-07)

07. Incurred Medical Expenses. Amounts for certain limited medical or remedial services not covered by the Idaho Medicaid Plan and not paid by a third party may be deducted from the base participation amount. The Department must determine whether a participant's incurred expenses for such limited services meet the

criteria for deduction. The participant must report such expenses and provide verification in order for an expense to be considered for deduction. Costs for over-the-counter medications are included in the personal needs allowance and will not be considered a medical expense. Deductions for necessary medical or remedial expenses approved by the Department will be deducted at application, and changed, as necessary, based on changes reported to the Department by the participant. (3-19-07)

08. Remainder After Calculation. Any remainder after the calculation in Subsection 400.05 of this rule is the maximum participation to be deducted from the participant's provider payments to offset the cost of services. The participation amount will be collected from the participant by the provider. The provider and the participant will be notified by the Department of the amount to be collected. (3-19-07)

09. Recalculation of Participation. The participant's participation amount must be recalculated annually at redetermination or whenever a change in income or deductions becomes known to the Department. (3-19-07)

10. Adjustment of Participation Overpayment or Underpayment Amounts. The participant's participation amount is reduced or increased the month following the month the participant overpaid or underpaid the provider. (3-19-07)

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Sections 56-1005 and 39-3505, Idaho Code, to adopt and enforce rules and standards for Certified Family Homes. The Department is authorized under Sections 56-264 and 56-1007, Idaho Code, to adopt and develop application and certification criteria, and to charge and collect application and certification fees. Under Sections 56-1002, 56-1003, 56-1004, 56-1004A, 56-1005, and 56-1009, Idaho Code, the Department and the Board of Health and Welfare have prescribed powers and duties to provide for the administration and enforcement of Department programs and rules. (7-1-18)

001. TITLE, SCOPE, AND EXCEPTIONS.

01. Title. These rules are titled IDAPA 16.03.19, "Certified Family Homes." *( )*

02. Scope. These rules set the minimum standards and administrative requirements for any care provider who is paid to care for an adult living in the care provider's home, when the adult is elderly or has a developmental disability, mental illness, or physical disability, and needs assistance with activities of daily living. (7-1-18)

03. Exceptions to These Rules. These rules do not apply to the following: (4-11-06)

a. Any individual who provides only housing, meals, transportation, housekeeping or recreational and social activities. (7-1-18)

b. Any health facility defined by Title 39, Chapter 13, Idaho Code. (4-11-06)

c. Any residential care or assisted living facility defined by Title 39, Chapter 33, Idaho Code. (4-11-06)

d. Any arrangement for care in a relative's home that is not compensated through a publicly-funded program. (7-1-18)

e. Any home approved by the Department of Veterans Affairs as a "medical foster home" described in 38 CFR Part 17 and Sections 39-3502 and 39-3512, Idaho Code. Care providers who provide care to both veterans and non-veterans living in a "medical foster home" are not exempt from these rules. (7-1-18)

04. State Certification to Supersede Local Regulation. These rules will supersede any program of any political subdivision of the state which certifies or sets standards for certified family homes. These rules do not supersede any other local regulations. (4-11-06)

002. INCORPORATION BY REFERENCE.
The Americans with Disabilities Act Accessibility Guidelines, 28 CFR Part 36 - 2010 ADA Standards for Accessible Design, is incorporated by reference. The internet website is http://www.ada.gov/2010ADAstandards_index.htm. (7-1-18)

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Department Criminal History and Background Check Clearance. The provider, substitute caregivers, and all adults living in the home are required to complete a Department criminal history and background check and receive a clearance in compliance with IDAPA 16.05.06, "Criminal History and Background Checks." The resident is exempt from criminal history check requirements. (7-1-18)

02. When Certification Can Be Granted. Prior to certification being granted: (7-1-18)

a. The provider must have a completed criminal history check, including clearance; and (7-1-18)

b. Any other adult living in the home must have completed a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." (7-1-18)

03. New Adults in the Home After Certification Is Granted. A new adult who plans to live in the

home must complete a self-declaration form, must be fingerprinted, and must not have any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," before moving into the home. Any adult who is a visitor in the home and leaves within thirty (30) days is not required to have a criminal history check but must not have unsupervised contact with the resident. (7-1-18)

04. Minor Child Turns Eighteen. A minor child turning eighteen (18) and living in the home must complete a self-declaration form, must be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," within thirty (30) days following the month of his eighteenth birthday. (4-11-06)

05. Substitute Caregiver. A substitute caregiver must complete a self-declaration form, be fingerprinted, and must not have disclosed any designated crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks," prior to any unsupervised contact with the resident. (4-11-06)

06. Additional Criminal Convictions, Pending Investigations, or Charges. Once criminal history clearances have been received, the provider must report to the Department any additional criminal convictions, pending investigation or charges for himself, any other adult living in the home or a substitute caregiver as described in Section 210 of these rules. (7-1-18)

010. DEFINITIONS AND ABBREVIATIONS -- A THROUGH K.
For the purposes of these rules, the following definitions apply: (7-1-18)

01. Abuse. A nonaccidental act of sexual, physical, or mental mistreatment or injury of the resident through the action or inaction of another individual. (4-11-06)

02. Activities of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain them in a daily living environment, including bathing, washing, dressing, toileting, grooming, eating, communication, mobility, and associated tasks. (7-1-18)

03. Adult. A person who has attained the age of eighteen (18) years. (4-11-06)

04. Alternate Caregiver. A certified family home provider approved by the Department to care for a resident from another certified family home for up to thirty (30) consecutive days when the original provider is temporarily absent or unable to care for the resident. (4-11-06)

05. Assessment. The conclusions reached through evaluation of functional and cognitive ability using uniform criteria that identifies the resident's strengths, weaknesses, risks and needs, and includes functional needs, medical needs and behavioral needs. (7-1-18)

06. Certificate. A permit issued by the Department to operate a certified family home. (4-11-06)

07. Certified Family Home. A home certified by the Department to provide a family-styled living environment and care to one (1) or two (2) adults who are not able to reside in their own home and who require care, help with activities of daily living, help with instrumental activities of daily living, protection and security, supervision, personal assistance or encouragement toward independence. The certified family home is referred to as "the home" in these rules. (7-1-18)

08. Certified Family Home Care Provider. The adult member of the certified family home living in the home who is responsible for providing care to the residents and maintaining the home. The certified family home care provider is referred to as "the provider" in these rules. (7-1-18)

09. Certifying Agent. A person acting under the authority of the Department to participate in the certification, inspection, and regulation of a certified family home. (7-1-18)

10. Chemical Restraint. The use of any medication that results or is intended to result in the modification of behavior for the purposes of discipline or convenience and not required to treat the resident's medical condition or symptoms. (7-1-18)

11. Core Issue. Abuse, neglect, exploitation, inadequate care, inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system, and situations in which advocates, representatives, and certifying agents are denied access to records, residents, or the home according to their respective authority. (7-1-18)

12. Criminal Offense. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2 (o), and 18 U.S.C. Sections 1001 through 1027. (4-11-06)

13. Critical Incident. Any actual or alleged event or situation that creates a significant risk of substantial or serious harm to the physical or mental health, safety or well being of a resident. (7-1-18)

14. Department. The Idaho Department of Health and Welfare. (4-11-06)

15. Director. The Director of the Idaho Department of Health and Welfare or their designee. (4-11-06)

16. Exploitation. The misuse of a vulnerable adult's funds, property, or resources by another person for profit or advantage. (4-11-06)

17. Health Care Professional. An individual licensed to provide health care within their respective discipline and scope of practice. (7-1-18)

18. Immediate Jeopardy. An immediate or substantial danger to a resident. (4-11-06)

19. Inadequate Care. The provider fails to provide services required to meet the terms of the negotiated plan of service or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services or a safe living environment, or engages in violations of residents' rights or takes residents who have been admitted in violation of the provisions of Section 39-3507, Idaho Code. (7-1-18)

20. Incident. An actual or alleged minor event or situation that has impacted or has the potential to impact the resident's health or safety, but does not rise to the level of a critical incident. (7-1-18)

21. Incidental Supervision. Supervision provided by an individual approved by the provider to supervise the resident, not to exceed four (4) hours per week. (4-11-06)

22. Instrumental Activities of Daily Living. The performance of secondary level activities that enable a person to live independently in the community, including preparing meals, accessing transportation, shopping, laundry, money management, housework, medication management, using tools and technology, and other associated tasks. (7-1-18)

011. DEFINITIONS AND ABBREVIATIONS -- L THROUGH Z.
For the purposes of these rules, the following definitions apply: (7-1-18)

01. Level of Care. A categorical assessment of the resident's functional ability in any given activity of daily living, instrumental activity of daily living or self-preservation and the degree of care required in that area to sustain the resident in a daily living environment. (7-1-18)

02. Neglect. The failure to provide food, clothing, shelter or medical care to sustain the life and health of a resident. (7-1-18)

03. Negotiated Service Agreement. The agreement between the resident or their representative, and the provider based on the resident’s assessment, health care professional's orders, admission records, and desires of the resident, that outlines services to be provided and the obligations of the provider and the resident. This agreement is also known as a plan of service. (7-1-18)

04. Personal Assistance. The provision of care to the resident by the provider of one (1) or more of the

following services: (7-1-18)

a. Assisting the resident with activities of daily living; (7-1-18)

b. Assisting the resident with instrumental activities of daily living; (7-1-18)

c. Arranging for supportive services; (7-1-18)

d. Being aware of the resident's general whereabouts; and (7-1-18)

e. Monitoring the activities of the resident while on the premises of the home to ensure the resident's health, safety and well-being. (7-1-18)

05. Plan of Service. The generic term used in these rules to refer to the Negotiated Service Agreement, Personal Care Plan, Plan of Care, Individual Support Plan, Support and Spending Plan, or any other comprehensive service plan. (7-1-18)

06. PRN (Pro Re Nata). PRN is an abbreviation meaning "when necessary" used for medication or treatment ordered by a health care professional to an individual allowing the medication or treatment to be given as needed. (7-1-18)

07. Relative. A person related by birth, adoption, or marriage to the third degree, including spouses, parents, children, siblings, grandparents, grandchildren, aunts, uncles, nephews, nieces, great-grandparents, great-grandchildren, great-aunts, great-uncles, and first cousins. (7-1-18)

08. Resident. An adult who lives in a certified family home and who requires personal assistance or supervision. (7-1-18)

09. Substitute Caregiver. An adult designated by the provider to provide care, services and supervision to the resident in the provider's certified family home for up to thirty (30) consecutive days. (7-1-18)

10. Supervision. An administrative activity which provides the following: protection, guidance, knowledge of the resident's whereabouts and monitoring activities. (7-1-18)

11. Supportive Services. The specific services that are provided to the resident in the community and that are required by the plan of service or reasonably requested by the resident. (7-1-18)

12. Variance. A temporary exception not to exceed twelve (12) months issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the variance does not endanger the health and safety of any resident. (7-1-18)

13. Vulnerable Adult. A person eighteen (18) years of age or older who is unable to protect himself from abuse, neglect, or exploitation due to physical or mental impairment that affects the person's judgment or behavior to the extent that they lack sufficient understanding or capacity to make or communicate or implement decisions regarding their person as defined in Section 39-5302(10), Idaho Code. (7-1-18)

14. Waiver. A permanent exception issued by the Department to a certified family home allowing noncompliance with a specific standard required under these rules when the provider has shown good cause for such an exception and the waiver does not endanger the health and safety of any resident. (7-1-18)

012. -- 099. (RESERVED)

100. CERTIFICATION REQUIREMENTS.
Certification is required in order to operate a certified family home in the State of Idaho. The Department will issue a certificate to a provider when all certification requirements are met. (7-1-18)

01. Certificate Issued in the Name of Provider. The certificate is issued in the name of the provider applying for certification, and only to the address of the home stated in the application. A new certificate is required if the provider or the location of the certified family home changes. (4-11-06)

02. Accessibility to the Home. The home, physical premises, and all records required under these rules must be accessible at all times to the Department for the purposes of inspection, with or without prior notification. (7-1-18)

03. Number of Residents in the Home. The home cannot be certified for more than two (2) residents. A variance may be granted by the Department as described in Section 140 of these rules. (7-1-18)

04. Certification Limitations. (4-11-06)

a. A home cannot be certified if it also provides room or board to any person who is not a resident or relative of the provider as defined by these rules. A variance may be granted by the Department when the individual receiving room or board is the spouse of the resident and does not require certified family home care or any higher level of care. (7-1-18)

b. A home cannot be certified as a certified family home and a children's foster home at the same time, unless a variance is granted by the Department. (7-1-18)

c. The provider, provider's relatives, and other adults living in the home must not be the legal guardian of the resident unless the provider, provider's relative, or other adult living in the home is a relative of the resident. A variance may be granted by the Department when determined the guardianship is in the best interest of the resident. (7-1-18)

d. The provider may not be absent from the certified family home for more than thirty (30) consecutive days when the home has an admitted resident. Appropriate care and supervision must be provided to the resident in the provider's absence as described in Section 300 of these rules. (7-1-18)

e. The provider's primary residence must be the certified family home. (7-1-18)

05. Certification Study Required. Following receipt of an acceptable application and other required documents, the Department will begin a certification study within thirty (30) days. The certification study, along with the application and other required material, will serve as the basis for issuing or denying a certificate. The study will include the following: (4-11-06)

a. A review of all material submitted; (4-11-06)

b. A home inspection; (7-1-18)

c. An interview with the proposed provider; (4-11-06)

d. An interview with the provider's relatives or other members of the household, when deemed necessary; (7-1-18)

e. A review of the number, age, and sex of children or other adults in the home to evaluate the appropriateness of a placement to meet the needs of the resident; (4-11-06)

f. A medical or psychological examination of the provider or other members of the household, when the Department determines it is necessary, including a statement from a health care professional that the provider has the ability to provide adequate care to the resident and ensure a safe living environment; (7-1-18)

g. Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; and (7-1-18)

h. Other information necessary to verify that the home is in compliance with these rules. (4-11-06)

06. Provider Training Requirements. As a condition of initial certification, the provider must receive training in the following areas: (7-1-18)

a. Resident rights; (4-11-06)

b. Certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) which must be kept current and include hands-on skills training; (7-1-18)

c. Emergency procedures; (4-11-06)

d. Fire safety, including use and maintenance of fire extinguishers, smoke alarms, and carbon monoxide alarms; (7-1-18)

e. Completion of an approved "Assistance with Medications" course available through an Idaho Professional Technical Education Program or other course approved by the Department; and (7-1-18)

f. Complaint investigation and inspection procedures. (7-1-18)

07. Effect of Previous Revocation or Denial of Certificate or License. The Department is not required to consider the application of any applicant who has had a health care certificate or license denied or revoked until five (5) years have elapsed from the date of denial or revocation according to Section 39-3525, Idaho Code. (4-11-06)

101. APPLICATION FOR CERTIFICATION.

The applicant must apply for certification on forms provided by the Department, pay the application fee, and provide information required by the Department. (3-21-12)

01. Completed and Signed Application. A completed application form signed by the applicant. (4-11-06)

02. Statement to Comply. A written statement that the applicant has thoroughly read and reviewed this chapter and is prepared to comply with all of its provisions. (4-11-06)

03. Criminal History and Background Checks. Satisfactory evidence that the applicant and all adults living in the home are of reputable and responsible character, including criminal history and background checks as provided in Section 009 of these rules. (7-1-18)

04. Statement Disclosing Revocation or Disciplinary Actions. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a care provider in Idaho or any other jurisdiction, or a statement from the applicant stating they have never been involved in any such action. (4-11-06)

05. Electrical Inspection. A current statement from a licensed electrician or the local/state electrical inspector that all wiring in the home complies with applicable local code. (4-11-06)

06. Environmental Sanitation Inspection. If the home is not on a municipal water supply or sewage disposal system, a current statement is needed from the local environmental health agency that the water supply and sewage disposal system meet the legal standards. If the local environmental health agency cannot provide this information, the applicant must obtain a statement to that effect. In addition, the applicant must provide a signed statement from a person in the business of servicing these systems that the water supply and sewage disposal system are in good working order. (7-1-18)

07. Proof of Insurance. Proof of homeowner's or renter's insurance on the applicant's home. For continued certification, the provider must ensure that insurance is kept current. (7-1-18)

08. List of Individuals Living in the Home. A list of all individuals living in the home at the time of

application and their relationship to the applicant. (4-11-06)

09. Payment of Application Fee. Payment of the application fee required in Section 109 of these rules. (3-21-12)

10. Other Information as Requested. Other information that may be requested by the Department for the proper administration and enforcement of the provisions of these rules. (7-1-18)

11. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process will result in the termination of the application process. Failure to cooperate means that the information described in Section 101 of these rules is not provided in a timely manner, or not provided in the form requested by the Department, or both. (4-11-06)

102. -- 108. (RESERVED)

109. APPLICATION AND CERTIFICATION FEES FOR CERTIFIED FAMILY HOMES.

01. Application Fee Amount. An applicant is required to pay to the Department at the time of application a one-time non-refundable application fee of one hundred fifty ($150) dollars. (7-1-18)

02. Payment of Application Fees. The application fee is required for the following: (7-1-18)

a. Upon application to become a certified family home care provider; (7-1-18)

b. When an application is terminated or the home closes, the applicant must pay the application fee again to reapply for certification; or (7-1-18)

c. When the home will be operated by a new care provider. (7-1-18)

03. Certification Fees. The provider is required to pay to the Department a certification fee of twenty-five ($25) dollars per month. This amount is billed to the provider quarterly, and is due and payable within thirty (30) days of date of the invoice. (7-1-18)

a. Failure of the provider to pay certification fees when due may cause the Department to take enforcement action described in Section 913 of these rules. (7-1-18)

b. Monthly certification fees paid in advance for the home will be refunded when the provider operates the home for less than fifteen (15) days during any given month for which payment was received by the Department. An advanced payment refund may be paid when the provider voluntarily closes the home as provided in Section 115 of these rules, or involuntarily closes the home due to an enforcement remedy imposed by the Department. (7-1-18)

110. ISSUANCE OF CERTIFICATE.

01. Certificate. A certificate is valid for no more than twelve (12) months from the date of approval. The certificate expires at the end of the stated period unless it is continued in effect by the Department as provided in Section 111. of these rules. (7-1-18)

a. The initial certificate requires a scheduled home inspection by a certifying agent. (7-1-18)

b. The certificate is valid only for the location and person named in the application and is not transferable or assignable. (7-1-18)

c. The certificate must be available at the home upon request. (7-1-18)

02. Temporary Certificate. A temporary certificate may be issued to allow time for the provider to meet all certification requirements without a lapse in certification when the provider plans to relocate to a residence

within the state and plans to continue operation of a certified family home. A temporary certificate is valid for no more than sixty (60) days from the date of approval. (7-1-18)

a. At least thirty (30) days prior to moving into a new residence, the provider must notify the certifying agent for the region in which the new home will be located. Prior to moving into the new residence, the provider must submit to the certifying agent the following: (7-1-18)

i. A completed application form as required in Section 101 of these rules. An application fee is not required for only a change of location of the home; (7-1-18)

ii. An electrical inspection for the new residence as required in Section 101 of these rules; (7-1-18)

iii. Inspection and approval of any fuel-fired heating system in the new residence as required in Section 600 of these rules; and (7-1-18)

iv. Other information requested by the Department to ensure the new residence is appropriate for use as a certified family home and safe for occupation. (7-1-18)

b. The Department will issue a temporary certificate upon review and approval of the information required under Subsection 110.02 of this rule. (7-1-18)

c. The provider must coordinate with the certifying agent an inspection of the new residence to occur prior to the expiration of the temporary certificate and be prepared to demonstrate compliance with this chapter of rules during the home inspection. (7-1-18)

d. The Department will issue a certificate as described in Subsection 110.01 of this rule when it determines that the home is in compliance with these rules. (7-1-18)

03. Provisional Certificate. A provisional certificate may be issued to the home as provided in Section 909 of these rules when it is not in substantial compliance with these rules and the deficiencies do not adversely affect the health or safety of the resident and are not likely to continue beyond six (6) months. (7-1-18)

a. A provisional certificate may be issued for up to six (6) months and is contingent on compliance with the conditions for the provisional certificate and implementation of an approved plan to correct all deficiencies prior to the expiration of the provisional certificate. (7-1-18)

b. A provisional certificate may be replaced with a certificate when the Department has determined the home is in substantial compliance with these rules prior to the expiration of the provisional certificate. (7-1-18)

c. A certified family home will not be issued more than one (1) provisional certificate in any twelve (12) month period. (7-1-18)

111. RENEWAL OF CERTIFICATE.

The provider must submit a written request on a form provided by the Department to renew the home's certificate at least thirty (30) days prior to the expiration of the existing certificate. The completed renewal application form and any required documentation must be returned to the regional certifying agent where the home is located. ( )

01. Home Inspection. A home inspection by a certifying agent is required the year after the initial home certification study and at least every twenty-four (24) months thereafter. The home inspection will consist of the elements of the certification study as required in Section 100 of these rules. (7-1-18)

02. Desk Review. When the Department determines a home inspection is not required to renew the certificate, the Department may conduct a desk review by written notification to the provider. The provider must submit the renewal application to the certifying agent and copies of the following documentation: (7-1-18)

a. Current first aid and adult CPR cards; (7-1-18)

b. Furnace, well, and fireplace inspection reports, as applicable; (4-11-06)

c. Septic system inspection or pumping report, as applicable, when the previous inspection is older than five (5) years; (7-1-18)

d. Annual fire extinguisher inspection reports, or sales receipts for fire extinguishers that comply with Section 600 of these rules that are less than twelve (12) months old; (7-1-18)

e. Log of smoke and carbon monoxide alarm tests, fire extinguisher examinations, emergency plan reviews, and fire drill and evacuation summaries; (7-1-18)

f. Training logs; (4-11-06)

g. List of individuals currently living in the home and individuals who moved in and out of the home during the year; (4-11-06)

h. Proof that the provider or provider's spouse is listed on the deed, mortgage, or lease of the home; (7-1-18)

i. Proof of homeowner's or renter's insurance; (4-11-06)

j. Request for a waiver, variance, or renewal of a variance that meets the requirements in Sections 120 through 140 of these rules as applicable; and (7-1-18)

k. Other information as requested by the Department. (4-11-06)

03. Validity of Existing Certificate. The existing certificate, unless suspended or revoked, remains valid until the Department has acted on the renewal application when the application and supporting documentation is filed in a timely manner with the certifying agent. (7-1-18)

112. CHANGE OF PROVIDER OR LOCATION.

01. Change of Provider. Certificates are not transferable or assignable from one (1) individual to another. The home must be certified using the same procedure as a new home that has never been certified when a change of care provider occurs. (7-1-18)

02. Change of Location. Certificates are not transferable or assignable from one (1) location to another. When a change of location occurs, the provider's new home must be: (7-1-18)

a. Certified using the same procedure as required in Section 100 of these rules for a new home that has never been certified; or (7-1-18)

b. Temporarily certified by the procedure described in Section 110 of these rules. (7-1-18)

113. DENIAL OF APPLICATION FOR CERTIFICATE.

The Department may deny the application for issuance of a certificate when conditions exist that endanger the health, safety, or welfare of any resident or when the home is not in substantial compliance with these rules. Additional causes for denial of an application for a certificate include the following: (7-1-18)

01. False or Incomplete Information. The applicant or provider has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a certificate; (7-1-18)

02. Convictions. The applicant or provider has been convicted of fraud, gross negligence, abuse, assault, battery or exploitation; (7-1-18)

03. Other Criminal Offense. The applicant or provider has been convicted of a criminal offense within the past five (5) years, other than a minor traffic violation or similar minor offense; (7-1-18)

04. Denial or Revocation of Health Care License. The applicant or provider has been denied or has had revoked any health facility license, residential care or assisted living facility license, or certified family home certificate; (7-1-18)

05. Operation Without a License.The applicant or provider has been found to have operated a health facility, residential care or assisted living facility, or certified family home without a license or certificate; (7-1-18)

06. Court Ordered. A court has ordered that the applicant or provider must not operate a health facility, residential care or assisted living facility, or certified family home; (7-1-18)

07. Registries or Exclusion List. The applicant or provider is listed on the statewide Child Abuse Registry, Adult Protection Registry, Sexual Offender Registry, or Medicaid exclusion lists; or (7-1-18)

08. Control or Influence.The applicant or provider is directly under the control or influence of any person who is described in Subsections 113.01 through 113.07of this rule. (7-1-18)

09. Procedure for Appeal of Denial of a Certificate. (7-1-18)

a. Immediately upon denial of any application for a certificate, the Department will notify the applicant or provider in writing by certified mail or by personal service of its decision, the reason for its decision, and how to appeal the decision. (7-1-18)

b. The appeal is subject to the hearing provisions in IDAPA 16.05.03, "Rules Governing Contested Case Proceedings and Declaratory Rulings." (4-11-06)

114. FAMILY HOME OPERATING WITHOUT A CERTIFICATE.

01. Operating Without Certificate. A person found to be operating a family home without first obtaining a certificate may be referred for criminal prosecution. (7-1-18)

02. Placement or Transfer of Resident. Upon discovery of a family home operating without a certificate, the Department may transfer residents to the appropriate placements or refer to the local adult protective services agency when: (7-1-18)

a. There is an immediate threat to any resident's health and safety; or (4-11-06)

b. The individual operating the home does not cooperate with the Department to apply for certification, meet certification standards and obtain a valid certificate. (7-1-18)

115. VOLUNTARY CLOSURE OF THE HOME.

When choosing to voluntarily close the home, the provider must provide written notice to the certifying agent in the region where the home is located. The notification must include the following: ( )

01. Date of Notification. (7-1-18)

02. Provider's Certificate. A copy of the certificate, or information from the certificate that includes: (7-1-18)

a. Provider's name; (7-1-18)

b. Address of the home; and (7-1-18)

c. Certificate number. (7-1-18)

03. Closure Date. The written notice must include the planned closure date. The Department will not refund or prorate prepaid certification fees on retroactive closures. (7-1-18)

04. Discharge Plans. If applicable, discharge plans for current residents must accompany the written notice. (7-1-18)

116. REQUIRED ONGOING TRAINING.
The provider must document a minimum of eight (8) hours per year of ongoing, relevant training in the provision of supervision, services, and care. (7-1-18)

01. Initial Provider Training. The initial provider training required in Section 100 of these rules satisfies the eight (8) hour training requirement for the first year of certification. (7-1-18)

02. Type of Training. (7-1-18)

a. Interactive training means the provider is able to ask questions of a live instructor and receive answers in real time. The instructor must be a professional or a recognized authority in their subject matter. At least half of the required ongoing training hours each year must consist of interactive training. (7-1-18)

b. Independent study means any training not provided by a live instructor. The remaining required training hours may be independent study through books, articles, videos, online courses, and other resources. (7-1-18)

03. Content of Training. (7-1-18)

a. Resident specific. At least half of the required ongoing training hours each year must be devoted to the specific conditions, diagnoses and needs of admitted residents, when residents are admitted. (7-1-18)

b. General topics. The remaining hours may be devoted to other topics related to care giving, health or safety. Up to two (2) hours of first aid or adult CPR training will count toward the annual requirement. (7-1-18)

04. Documentation of Training. The provider must document ongoing training. The documentation must include: (7-1-18)

a. Topic of the training with a brief description; (7-1-18)

b. Source of training, including the name of the instructor or author; (7-1-18)

c. Number of hours; (7-1-18)

d. Type and content of training: (7-1-18)

i. Interactive or independent; and (7-1-18)

ii. Resident specific or general. (7-1-18)

117. -- 119. (RESERVED)

120. WAIVERS.
The Department may grant permanent waivers. The decision to grant a waiver for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. (7-1-18)

01. Written Request. The provider must submit a written request for a waiver to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a waiver is determined by the Department. The request must include the following: ( )

a. Reference to the section of the rules for which the waiver is requested; (4-11-06)

b. Reasons that show good cause for granting the waiver, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the waiver, such as additional floor space or additional staffing; and (7-1-18)

c. A signed statement from the provider that assures the resident's health and safety will not be jeopardized if the waiver is granted. The statement must include an agreement to implement any special conditions the Department requires. (7-1-18)

02. Special Conditions. When granting a waiver, the Department may require the provider to meet special conditions while the waiver is in effect to ensure the health and safety of residents. (7-1-18)

03. Waiver Not Transferable. A waiver granted under Section 120 of this rule is not transferable to any other provider, home, or resident. (7-1-18)

121. GENERAL VARIANCES.
The Department may grant temporary variances that may be effective for up to twelve (12) months at a time. The decision to grant a variance for a home or provider is not a precedent or applicable to any other home or provider and has no force of effect in any other proceeding. (7-1-18)

01. Written Request. The provider must submit a written request for a variance to the regional certifying agent where the home is located prior to any planned noncompliance with any rule under this chapter. The appropriateness of granting a variance is determined by the Department. The request must include the following: ( )

a. Reference to the section of the rules for which the variance is requested; (7-1-18)

b. Reasons that show good cause for granting the variance, including any extenuating circumstances and any compensating factors or conditions that may have bearing on the variance, such as additional floor space or additional staffing; and (7-1-18)

c. A signed statement from the provider that assures resident health and safety will not be jeopardized if the variance is granted, including an agreement to implement any special conditions the Department may require. (7-1-18)

02. Special Conditions. When granting a variance, the Department may require the provider to meet special conditions while the variance is in effect to ensure the health and safety of residents. (7-1-18)

03. Variance Renewal. To renew a variance, the provider must submit a written request to the regional certifying agent where the home is located at least thirty (30) days prior to expiration of the variance. The request for renewal must include the information required in Subsection 121.01 of this rule. The appropriateness of renewing a variance is determined by the Department. ( )

04. Variance Not Transferable. A variance granted under Section 121 of this rule is not transferable to any other provider, home, or resident. (7-1-18)

122. REVOKING A WAIVER OR VARIANCE.
The Department may revoke a waiver or variance. (7-1-18)

01. Causes for Revocation. Revocation of a waiver or variance may occur when: (7-1-18)

a. The provider has not met the special conditions associated with granting the exception; (7-1-18)

b. Conditions within the home have changed such that an exception is no longer prudent; or (7-1-18)

c. The health and safety of residents have otherwise been compromised. (7-1-18)

02. Written Notice. The Department will provide written notice to the provider when a waiver or

variance is revoked, including the reason for the revocation. (7-1-18)

03. Time Frame to Comply. The provider must comply with the rule for which the waiver or variance is revoked according to the following time frames: (7-1-18)

a. Immediately upon notification, when there is a threat to the life or safety of residents; or (7-1-18)

b. Within thirty (30) days of notification, when there is no threat to the life or safety of residents. (7-1-18)

123. -- 129. (RESERVED)

130. NURSING FACILITY LEVEL OF CARE VARIANCE.
A certified family home may care for one (1) resident who requires nursing facility level of care as defined in Section 39-1301(b), Idaho Code, without obtaining a variance. A home seeking to provide care to two (2) residents who require nursing facility level of care must request a variance in writing from the Department as required in Section 121 of these rules. (7-1-18)

01. Conditions for a Variance. The Department may issue a written variance permitting the arrangement when: (7-1-18)

a. Each of the residents provides a written statement to the Department requesting the arrangement; (4-11-06)

b. Each of the residents making the request is competent, informed, and has not been coerced; (4-11-06)

c. The Department finds the arrangement safe and effective. (4-11-06)

02. Revoking a Variance. The Department will revoke the variance when: (7-1-18)

a. There is a threat to the life or safety of either resident; (4-11-06)

b. One (1) of the residents leaves the home permanently; (4-11-06)

c. One (1) of the residents notifies the Department in writing that they do not wish to live in the home with the other resident; or (4-11-06)

d. The Department finds the arrangement is no longer safe and effective. (4-11-06)

03. Variance Not Transferable. A variance granted under Subsection 130.01 of this rule is not transferable to any other provider, home, or resident. (7-1-18)

131. -- 139. (RESERVED)

140. VARIANCE TO THE TWO RESIDENT LIMIT.

01. Application for Variance. The provider may apply on forms provided by the Department for a variance to the two (2) resident limit in order to care for three (3) or four (4) residents on a per resident basis prior to any new admissions. The application must be submitted to the certifying agent where the home is located. The appropriateness of granting the variance is determined by the Department. ( )

02. Criteria for Determination. The Department will determine if safe and appropriate care can be provided based on residents' needs. The Department will consider, at a minimum, the following factors in making its determination: (7-1-18)

a. Each current or prospective resident's physical, mental and behavioral status and history; (4-11-06)

b. The household composition including the number of adults, children and other family members requiring care from the provider; (4-11-06)

c. The training, education, and experience of the provider to meet each resident's needs; (4-11-06)

d. Potential barriers that might limit egress from and ingress to the home; (7-1-18)

e. The number and qualifications of care givers in the home; (4-11-06)

f. The desires of the prospective and current residents; (4-11-06)

g. The individual and collective hours of care needed by the residents; (4-11-06)

h. The physical layout of the home and the square footage available to meet the needs of all persons living in the home; and (4-11-06)

i. If a variance to the two (2) resident limit would result in two (2) or more residents who require nursing facility level of care living in the home, then the application for the variance must also include the information required in Section 130 of these rules. (7-1-18)

03. Other Employment. A provider who is granted a variance to admit three (3) or four (4) residents must not have other gainful employment outside the home unless: (7-1-18)

a. The total direct care time for all residents as reflected by their plans of service and assessments or, if not indicated by these documents for a publicly-funded program, the time that the program bases its payment, does not exceed eight (8) hours per day; (7-1-18)

b. The provider is immediately available to meet resident needs as they arise; and (4-11-06)

c. Each resident is supervised at all times unless the assessment or plan of service indicates the resident may be left unattended for designated periods of time. (4-11-06)

04. Additional Training. A provider who is granted a variance to admit three (3) or four (4) residents must obtain additional training to meet the needs of the residents as follows: (7-1-18)

a. A provider who cares for three (3) residents must obtain twelve (12) hours per year of ongoing relevant training as required in Section 116 of these rules. (7-1-18)

b. A provider who cares for four (4) residents must obtain sixteen (16) hours per year of ongoing relevant training as required in Section 116 of these rules. (7-1-18)

05. Variance Nontransferable. A variance to care for more than two (2) residents is not transferable to another provider, home, or resident. (7-1-18)

06. Reassessment of Variance. A variance to care for more than two (2) residents must be reassessed at least annually and when either of the following occurs: (7-1-18)

a. Each time a new admission is considered; or (4-11-06)

b. When there is a significant change in any of the factors specified in Subsection 140.02 of this rule. (7-1-18)

07. Annual Home Inspection. A certified family home with a variance to care for more than two (2) residents must have a home inspection by a certifying agent at least annually. (7-1-18)

08. Shared Sleeping Rooms. In addition to the requirements in Section 700 of these rules, the provider must not allow more than two (2) residents to share any one (1) sleeping room. (7-1-18)

09. Fire Drill Frequency. A provider who is granted a variance to admit three (3) or four (4) residents must conduct fire drills as described in Section 600 of these rules, except the frequency of the fire drills must be at least monthly. (7-1-18)

141. -- 149. (RESERVED)

150. INSPECTIONS OF HOMES.
The Department will inspect each certified family home at least every twenty-four (24) months, calculated from the first month of the most recent certification. Inspections may occur more frequently as the Department deems necessary. The Department may consider the results of previous inspections, history of compliance with rules, and complaints to determine the frequency of inspections. (7-1-18)

01. Notice of Inspection. All inspections, except for the initial certification study, may be made unannounced and without prior notice. (7-1-18)

02. Inspection by Department or Certifying Agent. The Department may use the services of any qualified person or organization, either public or private, to examine and inspect any home requesting certification. The inspector has the authority to have full access to the home and the authority to: (7-1-18)

a. Examine quality of care and service delivery; (7-1-18)

b. Examine home records, resident records, and any records or documents pertaining to any financial transactions between residents and the home, including resident accounts; (7-1-18)

c. Examine the physical premises, including the condition of the home, grounds and equipment, food service, water supply, sanitation, maintenance, and housekeeping practices; (7-1-18)

d. Examine any other areas necessary to determine compliance with these rules and standards; (7-1-18)

e. Interview the provider, any adults living in the home, the resident and the resident's relatives, substitute caregivers, persons who provide incidental supervision, and any other person who is familiar with the home or its operation. Interviews with residents are confidential and conducted privately unless otherwise specified by the resident; and (7-1-18)

f. Inspect the entire home, including the personal living quarters of members of the household, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on the operation of the home. The provider, substitute caregiver, or any other adult living in the home may accompany the inspector. (7-1-18)

03. Statement of Deficiencies. When violations of these rules are identified through the course of an investigation or inspection, depending on the severity, the Department may send a statement of deficiencies to the provider within thirty (30) days of the completed inspection or investigation. The statement of deficiencies will include the findings of the investigation or inspection and any rules the home was found to have violated. (7-1-18)

04. Plan of Correction. When a statement of deficiencies is issued, the provider must develop a plan of correction and submit it to the Department for review and approval. (7-1-18)

a. Depending on the severity of the deficiency, the provider may be given up to fourteen (14) calendar days to develop a written plan of correction and to return the plan of correction to the regional certifying agent where the home is located. ( )

b. An acceptable plan of correction must include: (7-1-18)

i. How each deficiency identified in the statement of deficiencies was corrected or how it will be corrected; (7-1-18)

ii. What steps have been taken to assure that the deficiency does not recur; (7-1-18)

iii. Acceptable time frames for correction of the deficiency; and (7-1-18)

iv. Signature of the provider. (7-1-18)

c. Follow-up inspections may be conducted to determine whether corrections to deficiencies are being made according to the Department approved plan of correction. (7-1-18)

d. The Department may provide consulting services to the provider, upon request, to assist in identifying and correcting deficiencies and upgrading the quality of care in the home. (7-1-18)

05. List of Deficiencies. A current list of deficiencies, including plans of correction, are available to the public upon request at the home or by written request to the Department according to Section 006 of these rules. (7-1-18)

151. -- 159. (RESERVED)

160. COMPLAINT PROCEDURE.
Any person who believes that any rule in this chapter has been violated by a certified family home may file a complaint with the Department. ( )

01. Investigation. (7-1-18)

a. The Department will investigate any complaint alleging a violation of these rules. Any complaint involving abuse, neglect, or exploitation of a vulnerable adult will also be referred to adult protective services according to Section 39-5303, Idaho Code. (7-1-18)

b. The Department will investigate or cause to be investigated any reported critical incident affecting health and safety or change in a resident's condition, including the death of a resident, that indicates there was a violation of these rules. (7-1-18)

02. Investigation Method. The nature of the complaint will determine the method used to investigate the complaint. On-site investigations at the home can be unannounced and without prior notice. (7-1-18)

03. Written Report. Following completion of an investigation, the Department will provide a written report to the provider within thirty (30) days. The report will include the findings of the investigation. (7-1-18)

04. Statement of Deficiencies. When violations of these rules are identified through the course of an investigation, depending on the severity, the Department may send the home a statement of deficiencies as described in Section 150 of these rules. When the Department issues a statement of deficiencies, the provider must prepare and submit a plan of correction as described in Section 150 of these rules. (7-1-18)

05. Public Disclosure. Information received by the Department through filed reports, inspections, or as otherwise authorized under the law, must not be disclosed publicly in such a manner as to identify individual residents except in a proceeding involving a question of certification. (7-1-18)

161. -- 169. (RESERVED)

170. MINIMUM STANDARDS OF CARE.
The provider must adequately care for each resident as follows: (7-1-18)

01. Plan of Service. Provide the services required to meet the terms of the resident's plan of service as described in Section 250 of these rules, including development and implementation of the plan of service for private-pay residents and implementation of the plan of service for publicly-funded residents. (7-1-18)

02. Supervision. **Provide** appropriate and adequate supervision for twenty-four (24) hours each day

according to the resident's plan of service. (7-1-18)

03. Daily Living Activities. Provide assistance to the resident at the level of care indicated on the resident's plan of service in the areas of activities of daily living and instrumental activities of daily living. (7-1-18)

04. Medication Management. Provide assistance and monitoring of medications as described in Sections 400 through 402 of these rules, as applicable. (7-1-18)

05. Emergency Services. Provide immediate and appropriate interventions on behalf of the resident in response to an emergency, including the following: (7-1-18)

a. Developing plans in advance of an emergency as described in Section 600 of these rules and executing those plans when necessary; (7-1-18)

b. Evacuating the resident from the home; (7-1-18)

c. Providing first aid to the resident when seriously injured; (7-1-18)

d. Administering CPR to the resident unless the resident has an order not to resuscitate; (7-1-18)

e. Arranging for emergency transportation; and (7-1-18)

f. Contacting 9-1-1 for involvement of law enforcement officers or the fire department when necessary for the protection of the resident. (7-1-18)

06. Supportive Services. Coordinate paid services for the resident outside the home, including: (7-1-18)

a. Medical appointments; (7-1-18)

b. Dental appointments; (7-1-18)

c. Other services in the community as identified in the plan of service or reasonably requested by the resident; and (7-1-18)

d. Arrange transportation to the service location and return to the home. (7-1-18)

07. Resident Rights. Protect the resident's rights as listed in Section 200 of these rules. (7-1-18)

08. Safe Living Environment. Provide a physical living environment that complies with Sections 500 through 710 of these rules. (7-1-18)

171. -- 173. (RESERVED)

174. ACTIVITIES AND COMMUNITY INTEGRATION.
Section 39-3501, Idaho Code, requires that a certified family home provide a homelike, family-styled living environment with a focus on integrated community living. The provider must offer the following: (7-1-18)

01. Activities. Recreational activities, provisions for trips to social functions, and daily activities. (7-1-18)

02. Activity Supplies. Activity supplies in reasonable amounts, that reflect the interests of the resident. (7-1-18)

03. Transportation. Arrangement of transportation to and from community, recreational, and religious activities within twenty-five (25) miles of the home when requested by the resident at least twenty-four (24) hours in advance. (7-1-18)

175. ROOM, UTILITIES AND MEALS.
The home must provide room, utilities and three (3) daily meals to the resident. The charge for room, utilities and three (3) daily meals must be established in the admission agreement. The following are included in the charge for room, utilities and meals: (7-1-18)

01. Sleeping Room. The resident sleeping room must meet the requirements of Section 700 of these rules, must be equipped with a dresser, and when requested by the resident a chair, that are both substantially constructed and in good repair. (7-1-18)

02. Bed. The resident must be provided with their own bed that is at least thirty-six (36) inches wide, substantially constructed, and in good repair. Roll-away type beds, cots, folding beds, or double bunks must not be used. The bed must have box springs kept in good repair, a clean and comfortable mattress, bedspread, sheets and pillow cases, and pillow that are standard for the size of the bed. (7-1-18)

03. Monitoring or Communication System. A monitoring or communication system must be provided when necessary due to the size or design of the home or the needs of the resident. The provider must hold a written agreement with the resident or resident's representative prior to using a monitoring system that may violate the resident's right to privacy. (7-1-18)

04. Secure Storage. On request, each sleeping room must be equipped with a lockable storage cabinet or drawer for personal items for each resident, in addition to the required storage in resident sleeping rooms. (7-1-18)

05. Bathroom. Access to bathing and toilet facilities that meet the requirements of Section 700 of these rules. (7-1-18)

06. Common Areas. Access to a common living area that contains reading lamps, tables, comfortable chairs or sofas, and basic television. The resident must be allowed to eat with the other members of the household if they so choose. (7-1-18)

07. Supplies. Bath and hand towels; wash cloths; a reasonable supply of soap, shampoo, toilet paper, and facial tissue; and first aid supplies. (7-1-18)

08. Housekeeping Service. Housekeeping and maintenance as required in Section 500 of these rules, including laundering of linens and clothing. (7-1-18)

09. Water. Potable water that meets the requirements of Section 500 of these rules. (7-1-18)

10. Sewer. A sewage disposal system that meets the requirements of Section 500 of these rules. (7-1-18)

11. Trash. Disposal of garbage that meets the requirement of Section 500 of these rules. (7-1-18)

12. Heating and Cooling. Sufficient heating and cooling to meet the requirements of Section 700 of these rules. (7-1-18)

13. Electricity. Sufficient electricity to power common household and personal devices. (7-1-18)

14. Telephone. Access to a telephone that meets the requirements of Section 700 of these rules. (7-1-18)

15. Meals. The provider must offer breakfast, lunch, and dinner to the resident. (7-1-18)

a. Food must be prepared in safe and sanitary methods that conserve nutritional value, flavor and appearance, when prepared by the provider or other member of the household. (7-1-18)

b. Meals offered by the home must meet the dietary requirements or restrictions of the resident when so ordered by a health care professional. (7-1-18)

176. -- 179. (RESERVED)

180. HOURLY ADULT CARE.
Hourly adult care, also referred to as adult day health, is a supervised, structured, paid service that may be provided in the home for up to fourteen (14) hours in any twenty-four (24) hour period to adult participants who are not residents of the home. Hourly adult care encompasses health and social services, recreation, supervision, and assistance with activities of daily living needed to ensure the optimal functioning of the participant. The standards in this section do not apply if the service does not include a payment component to the provider, or the hourly adult care participant is a relative of the provider whose care is not publicly funded. Hourly adult care may be offered in the home when the following requirements are met: (7-1-18)

01. Participants. No individual will be admitted to the home for hourly adult care who requires ongoing skilled nursing care or for whom the provider cannot adequately provide services and supervision. (7-1-18)

02. Records. All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service. (7-1-18)

03. Enrollment Contract. The provider maintains an enrollment contract with each hourly adult care participant that contains the following: (7-1-18)

a. Full name of the participant; (7-1-18)

b. The participant's date of birth; (7-1-18)

c. Primary address of the participant; (7-1-18)

d. Names and telephone numbers of the participant's responsible party and other emergency contacts; (7-1-18)

e. Name and telephone number of the participant's primary physician; (7-1-18)

f. List of medications, diets, allergies, services, and treatments prescribed for the participant and other pertinent health information regarding the participant's needs; (7-1-18)

g. Services the provider must provide to the participant while in the home, which may include: activities, meals, supervision, assistance with medications, and assistance with activities of daily living, and the level of care required for each service; (7-1-18)

h. The rate charged by the provider for hourly adult care services if the participant is private pay; (7-1-18)

i. The number of days the provider will give written notice to the participant's primary contact in advance of terminating the enrollment contract; (7-1-18)

j. The date on which hourly adult day services will commence; and (7-1-18)

k. The printed name, signature, and contact information of the individual who completed the enrollment contract and the provider's printed name, signature, and contact information. Upon entering into the contract, a copy of the enrollment information must be provided to each party. (7-1-18)

04. Service Logs. Service logs that identify, on a per day basis when hourly adult care services are provided in the home, the name of each participant who received services, the times of arrival to and departure from the home for each participant, and the names of staff who provided services and their arrival and departure times. (7-1-18)

05. Space and Accommodations. The provider must only accept hourly adult care participants for

whom the home can provide reasonable accommodations. The home must provide the following for hourly adult care participants: (7-1-18)

a. Seating on cushioned chairs or sofas positioned at least thirty-two (32) inches apart in common living areas such that all residents and participants in the home may comfortably enjoy the space; (7-1-18)

b. A rest area away from the common living areas to permit privacy and to isolate participants who become ill or require rest and is equipped with furniture for napping, such as a bed, lounge chair, couch, or recliner; (7-1-18)

c. Access to a bathroom that meets the requirements of Section 700 of these rules; and (7-1-18)

d. When caring for participants with physical or sensory impairments, a physical environment that meets the requirements of Section 700 of these rules, as applicable. (7-1-18)

06. Resident's Personal Space. The personal living space of the resident, including their sleeping room and on-suite bathroom, if equipped, must not be used by hourly adult care participants at any time. (7-1-18)

07. Staffing. The provider must only accept hourly adult care participants for whom they can safely provide the level and types of service required. The provider must ensure that all staff providing hourly adult care services have been sufficiently trained in and follow universal infection control precautions and each participant's specific care plan as documented in the enrollment contract. In addition: (7-1-18)

a. Each caregiver providing hourly adult care services must meet the qualifications of a substitute caregiver as described under Section 300 of these rules. (7-1-18)

b. The provider must employ sufficient staff to assure safe and proper care for both residents and hourly adult care participants. Staffing must be based on: (7-1-18)

i. The functional and cognitive status of each hourly adult care participant and resident; (7-1-18)

ii. The size and layout of the home; and (7-1-18)

iii. Staffing ratios must not fall below one (1) caregiver to four (4) residents and hourly adult care participants, combined. (7-1-18)

08. Medications. Assistance with medications to hourly adult care participants must meet the requirements in Sections 400 through 402 of these rules. (7-1-18)

a. The provider is responsible for safeguarding the participant's medications while the participant is receiving services at the home. (7-1-18)

b. The participant's medications must not be stored at the home during hours in which the participant is not receiving hourly adult care services at the home. (7-1-18)

09. Fire and Life Safety. The provider must ensure the home adheres to fire and life safety standards described in Section 600 of these rules. For fire and life safety purposes, the hourly adult care participant is considered a "resident" when that term is used in Section 600 of these rules. When offering hourly adult care, the provider must: (7-1-18)

a. Prohibit smoking or unsupervised smoking in accordance with Section 600 of these rules. (7-1-18)

b. Review emergency preparedness plans as required under Section 600 of these rules with the individual who completed the enrollment contract and provide a written copy of the plans to that individual. (7-1-18)

c. Conduct fire drills as required in Section 600 of these rules, except that the frequency of the drills must be at least monthly. (7-1-18)

181. -- 199. (RESERVED)

200. RESIDENT RIGHTS POLICY.
The provider must possess, annually review, and implement a written policy designed to protect and promote the rights of each resident as provided in this section. The written resident rights policy must include a statement that the resident or any other individual may file a complaint with the Department as described in Section 160 of these rules, when they believe that any resident's right has been violated. Resident rights policies must include the following: (7-1-18)

01. Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits and meetings of family and resident groups, including: (4-11-06)

a. The right to send and receive mail unopened, either by postal service, electronically, or by other means, unless the resident's plan of service specifically calls for the provider to monitor the correspondence in order to protect the resident from abuse or exploitation; (7-1-18)

b. If the resident is married, privacy for visits by their spouse. If both are residents in the home, they are permitted to share a room unless medically inadvisable, as documented by the resident's health care professional; (7-1-18)

c. The right to control the use of pictures and videos containing the resident's image. (7-1-18)

02. Humane Care. Each resident has the right to humane care and a humane environment, including the following: (4-11-06)

a. The right to a diet which is consistent with any religious or health-related restrictions; (4-11-06)

b. The right to refuse a restricted diet; (7-1-18)

c. The right to a safe and sanitary living environment; and (7-1-18)

d. The right to an environment free of illicit drug use or possession and other criminal activities. (7-1-18)

03. Respectful Treatment. Each resident has the right to be treated with dignity and respect, including: (4-11-06)

a. The right to be treated in a courteous manner by the provider and other individuals in the home; (7-1-18)

b. The right to receive a response from the provider to any request of the resident within a reasonable time; (7-1-18)

c. Freedom from discrimination on the basis of race, color, national origin, sex, religion, age, disability, or veteran status; (7-1-18)

d. Freedom from intimidation, manipulation, and coercion; (7-1-18)

e. The right to wear their own clothing; and (7-1-18)

f. The right to determine their own dress and hair style. (7-1-18)

04. Basic Needs Allowance. Each resident whose care is paid for by publicly-funded assistance must retain, for their personal use, the difference between their total monthly income and the Certified Family Home basic allowance established by IDAPA 16.03.05. "Eligibility for Aid to the Aged, Blind, and Disabled," Section 513. ( )

05. Resident Funds and Property. Each resident has the right to manage their personal funds and use their personal property. (7-1-18)

a. The provider must not require the resident to deposit their personal funds into an account controlled by any other person. (7-1-18)

b. Upon accepting written authorization from the resident, or the resident's representative, allowing the provider, provider's relative, or other member of the provider's household to manage the resident's personal funds, the provider must hold, safeguard, and account for the resident's personal funds as required in Section 275 of these rules. (7-1-18)

c. The resident has the right to retain and use their own personal property in their own living area in order to maintain their individuality and personal dignity. The storage and use of these items by the resident must not present a fire or life safety hazard. (7-1-18)

06. Access to Resident. Each provider and individuals living in the home must permit immediate access to any resident by any representative of the Department, by the state ombudsman for the elderly or their designee, by an adult protection investigator or by the resident's personal health care professional. Each home must also permit the following: (7-1-18)

a. Immediate access to a resident by their relatives, subject to the resident's right to deny or withdraw consent at any time; (7-1-18)

b. Immediate access to a resident by others who are visiting with the consent of the resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time; (4-11-06)

c. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time; and (7-1-18)

d. Reasonable access to the resident's records, medications and treatments by the resident's health care professional subject to the resident's permission. (7-1-18)

07. Freedom From Harm.The resident has the right to be free from: (7-1-18)

a. Physical, mental, or sexual abuse; (7-1-18)

b Neglect; (7-1-18)

c. Exploitation; (7-1-18)

d. Corporal punishment; (7-1-18)

e. Involuntary seclusion; and (7-1-18)

f. Any physical or chemical restraints imposed for purposes of discipline or convenience and not required to treat a medical condition. (7-1-18)

08. Health Services. The resident has the right to control their health-related services, including: (4-11-06)

a. The right to retain the services of their own personal physician and dentist; (4-11-06)

b. The right to select the pharmacy or pharmacist of their choice; (4-11-06)

c. The right to confidentiality and privacy concerning their medical or dental condition and treatment; (4-11-06)

d. The right to participate in the formulation of their plan of service; (7-1-18)

e. The right to decline treatment for any medical condition; and (7-1-18)

f. When the resident is unable to give medical consent, the provider will give the name and contact information of the person holding guardianship or power of attorney for health care to any health care provider upon request. (7-1-18)

09. Grievance. (7-1-18)

a. The resident has the right to voice or file a grievance with respect to care or service that is or fails to be furnished, without discrimination or reprisal for voicing the grievance and the right to prompt efforts by the provider to resolve grievances the resident may have, including those with respect to the behavior of other residents. (7-1-18)

b. The provider must provide a written response to the resident or resident's representative describing how they resolved or attempted to resolve the grievance, and maintain a copy of this written response in the resident record. (7-1-18)

10. Advance Notice. The resident must receive written advance notice at least thirty (30) calendar days prior to their non-emergency transfer or discharge unless the transfer or discharge is for a reason described in Section 260, including the following: (7-1-18)

a. The resident is transferred or discharged only for medical reasons; (7-1-18)

b. To protect their welfare or the welfare of other members of the household; (7-1-18)

c. Nonpayment for their stay; (7-1-18)

d. The resident violates any condition mutually established between the resident and the provider at the time of admission; or (7-1-18)

e. The resident engages in unlawful delivery, production, or use of a controlled substance on the premises of the home. (7-1-18)

11. Other Rights. In addition to the rights outlined in Subsections 200.01 through 200.10 of this rule, the resident has the following rights: (4-11-06)

a. The resident has the right to refuse to perform services for the home except as contracted between the resident and the provider. The provider agrees to pay the resident for such services, and the provider pays the resident a wage consistent with state and federal law; (7-1-18)

b. The resident must have access to their personal records, including those described in Section 270 of these rules, and must have the right to confidentiality of personal, medical, and clinical records; (7-1-18)

c. The resident has the right to practice the religion of their choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others; (4-11-06)

d. The resident has the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the home; (4-11-06)

e. The resident has the right to examine, upon reasonable request, the results of the most recent inspection of the home conducted by the Department with respect to the home and any plan of correction in effect with respect to the home; (4-11-06)

f. The resident has the right to review a list of other certified family homes that may be available to meet their needs in case of transfer; (7-1-18)

g. The resident has the right to refuse routine care of a personal nature from any person whom the resident is uncomfortable receiving such care; (7-1-18)

h. The resident has the right to be informed, in writing, regarding the formulation of advance directives as described in Title 39, Chapter 45, Idaho Code; and (4-11-06)

i. The resident must have any other right established by law. (4-11-06)

201. NOTICE OF RESIDENT RIGHTS.

01. Resident Rights Notice. The provider must inform the resident or their representative, verbally and in writing, at the time of admission to the home, of their legal rights during the stay at the home acknowledged by date and signatures. These rights are found in Section 200 of these rules. The provider must supply a copy of the resident rights policy to the resident or the resident's representative. (7-1-18)

02. Annual Review of Resident Rights. The provider must review the resident rights policy with the resident or their representative at least annually including date and signature. (7-1-18)

03. Documentation of Review. The provider must retain the signed and dated copy of the policy in the resident's record indicating that the resident or resident's representative has had the opportunity to review the policy. (7-1-18)

202. ACCESS BY ADVOCATES AND REPRESENTATIVES.
The provider, substitute caregivers and adult members of the household must permit advocates and representatives of community and legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the home at reasonable times. Advocates and representatives may observe all common areas of the home. Access must be permitted in order for advocates and representatives to provide the following: (7-1-18)

01. Inform Residents of Services. Visit, talk with and make personal, social and legal services available to all residents. (7-1-18)

02. Inform Residents of Rights. Inform residents of their rights and entitlements, their corresponding obligations under state, federal, and local laws by distribution of educational materials or discussion in groups and with individuals. (4-11-06)

03. Assist Residents to Secure Rights. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance, and social security benefits, as well as in other matters in which residents are aggrieved. This assistance may be provided individually or in a group basis, and may include organizational activity, counseling, and litigation. (4-11-06)

04. Advise and Represent. Engage in other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights. (4-11-06)

05. Communicate Privately. Communicate privately and without restrictions with any resident who consents to the communication. (4-11-06)

203. -- 209. (RESERVED)

210. REPORTING REQUIREMENTS.
The provider must report to the regional certifying agent where the home is located or appropriate agency or individual for the following: ( )

01. Serious Physical Injury or Death. The provider must report to the appropriate law enforcement agency within four (4) hours when there is reasonable cause to believe that abuse, neglect, or sexual assault has resulted in death or serious physical injury jeopardizing the life, health, or safety of a resident according to Sections 39-5303 and 39-5310, Idaho Code. (7-1-18)

02. Abuse, Neglect, or Exploitation. When the provider has reasonable cause to believe that a vulnerable adult is being or has been abused, neglected, or exploited, they must immediately report this information to the Idaho Commission on Aging or its Area Agencies on Aging, according to Section 39-5303, Idaho Code. (7-1-18)

03. Critical Incidents. The provider must notify the certifying agent when a critical incident affects the health or safety of the resident or leads to a change in the resident's condition, including serious illness, accident, elopement, death, or adult protective services or law enforcement contact and investigation. Reporting requirements are as follows: (7-1-18)

a. Within twenty-four (24) hours of the resident's death or disappearance; and (7-1-18)

b. Within three (3) business days following: (7-1-18)

i. Contact from adult protective services or law enforcement in conjunction with an investigation; (7-1-18)

ii. A visit to an urgent care clinic or emergency room; or (7-1-18)

iii. Admission to a hospital. (7-1-18)

04. Report of Fire. A separate report on each fire incident occurring within the home, for which a fire extinguisher was discharged or 9-1-1 was contacted, must be submitted to the certifying agent within three (3) business days of the occurrence. The report must include: (7-1-18)

a. Date of the incident; (7-1-18)

b. Origin of the fire; (7-1-18)

c. Extent of damage; (7-1-18)

d. How and by whom the fire was extinguished; and (7-1-18)

e. Injuries or deaths, if any. (7-1-18)

05. Additional Criminal Convictions. The provider must immediately report any additional criminal convictions for himself, any other adult living in the home or a substitute caregiver to the certifying agent. (7-1-18)

06. Notice of Investigations. The provider must immediately report to the certifying agent when they, any other adult living in the home, or a substitute caregiver is charged with or under investigation by law enforcement, adult protection services, or child protection services for: (7-1-18)

a. Abuse, neglect, or exploitation of any vulnerable adult or child; (7-1-18)

b. Other criminal conduct; or (7-1-18)

c. When an adult protection or child protection complaint is substantiated. (7-1-18)

07. Reporting of Funds Managed by the Provider for a Deceased Resident. For funds managed under Section 275 of these rules, the following is required: (7-1-18)

a. On the death of a private-pay resident, the provider must convey the resident's funds, with a final accounting of those funds, to the individual administering the resident's estate within thirty (30) days. (7-1-18)

b. On the death of a publicly funded resident, the provider must convey the resident's funds, with a final accounting of those funds, to the Department within thirty (30) days. (7-1-18)

08. Discharge of a Resident. The provider must immediately notify the certifying agent upon the discharge of any resident from the home. (7-1-18)

211. -- 224. (RESERVED)

225. UNIFORM ASSESSMENT REQUIREMENTS.

01. State Responsibility for Publicly Funded Residents. The Department will assess residents accessing services through a publicly funded program according to uniform criteria developed to assess all participants within that respective program. Assessment criteria may vary from one program to another, but must be uniform within the same program. (7-1-18)

02. Provider Responsibility for Private-Pay Residents. The provider will develop, identify, assess, or direct a uniform needs assessment of each private-pay resident. The uniform needs assessment: (7-1-18)

a. Must be completed no later than fourteen (14) calendar days after admission; (7-1-18)

b. Must be reviewed when there is a change in condition, or every twelve (12) months, whichever occurs first; (7-1-18)

c. Must include: (7-1-18)

i. Identification and background information; (7-1-18)

ii. Medical diagnosis; (7-1-18)

iii. Medical and health needs; (7-1-18)

iv. Prescriptions, including route of administration, and all over-the-counter medications, supplements, treatments, and special diets, if applicable; (7-1-18)

v. Historical and current behavior patterns; (7-1-18)

vi. Cognitive function; (7-1-18)

vii. Psychosocial and physical needs of the resident; (7-1-18)

viii. Functional status; (7-1-18)

ix. Assessed level of care; and (7-1-18)

x. A statement from the resident's health care professional indicating the resident is appropriate for certified family home care. (7-1-18)

d. May be the Department's Uniform Assessment Instrument (UAI) as described in IDAPA 16.03.23, "Uniform Assessments for State-Funded Clients," for a private-pay resident's uniform needs assessment. Upon request by the provider, the Department will provide training in conducting uniform needs assessments. ( )

03. Results of Assessment. The results of the assessment for both publicly funded and private-pay residents are used to evaluate the ability of the provider to meet the identified resident's needs. The results of the assessment may also be used to determine the need for special training or licenses or certificates that may be required to care for certain residents. (7-1-18)

226. -- 249. (RESERVED)

250. PLAN OF SERVICE.
The resident must have a plan of service. The plan must identify the resident, describe the services to be provided,

and describe how the services will be delivered. (4-11-06)

01. Core Elements. A resident's plan of service must be based on the orders of the resident's health care professionals, and: (7-1-18)

a. Assessment; (4-11-06)

b. Service needs for activities of daily living; (4-11-06)

c. Need for limited nursing services; (4-11-06)

d. Need for medication assistance; (4-11-06)

e. Frequency of needed services; (4-11-06)

f. Level of care; (7-1-18)

g. Habilitation and training needs; (4-11-06)

h. Behavioral management needs, including identification of situations that trigger inappropriate behavior; (4-11-06)

i. Dated history and physical from the resident's health care professional reflecting the resident's current health status and conducted no earlier than twelve (12) months prior to admission; (7-1-18)

j. Admission records; (4-11-06)

k. Community supportive services; (7-1-18)

l. Resident's desires; (4-11-06)

m. Resident’s need for supervision, including the degree; (7-1-18)

n. Transfer and discharge requirement; and (4-11-06)

o. Other identified needs. (4-11-06)

02. Signature and Approval. The provider and the resident or the resident’s representative must sign and date the plan of service upon its completion, within fourteen (14) days after the resident's admission. (7-1-18)

03. Developing the Plan. The provider will consult the resident and other individuals identified by the resident in developing the plan of service. Professional staff must be involved in developing the plan if required by another program. (4-11-06)

04. Resident Choice. A resident must be given the choice and control of how and what services the provider or external vendors will provide to the extent the resident can make choices. (4-11-06)

05. Copy of the Plan. Signed copies of the plan of service must be placed in the resident's file, given to the resident, and given to their representative, if applicable, no later than fourteen (14) days after admission. For a resident receiving services through a publicly-funded program, the copy of the plan must indicate that it has been approved by the Department. (7-1-18)

06. Changes to the Plan. A record must be made of any changes to the plan or when the provider is unable to provide services outlined in the plan of service. When changes to the plan are made, the resident or resident's representative and the provider must sign and date the changes. (7-1-18)

07. Periodic Review. The next scheduled date of review must be documented in the plan of service.

The plan of service should be reviewed as necessary but must be reviewed at least every twelve (12) months. (4-11-06)

251. – 259. (RESERVED)

260. ADMISSIONS.
According to Section 39-3507, Idaho Code, the provider must only admit or retain residents in the home for whom they have the training, appropriate skills, and time to provide adequate care. The provider must be able to provide the levels of service or types of service required for each resident admitted to the home. (7-1-18)

01. Prior Approval Required. The provider must obtain approval from the Department for each admission prior to the prospective resident moving into the home. The following must be provided to the regional certifying agent where the home is located to aid the Department in making its determination: ( )

a. Name, gender and date of birth of the prospective resident; (7-1-18)

b. The contemplated date of admittance of the prospective resident into the home; (7-1-18)

c. The prospective resident's history and physical from their health care professional, conducted within the previous twelve (12) month period reflecting their current health status; (7-1-18)

d. A list of the resident's current medications and treatments from their health care professional; (7-1-18)

e. Contact information for the resident's health care professionals; (7-1-18)

f. Contact information for the prospective resident's representative, if applicable; (7-1-18)

g. The resident's plan of service from another health care setting, or any such plan of service conducted for the resident within the previous six (6) months, if one exists, when the resident transfers to the home from another health care setting; and (7-1-18)

h. Other information requested by the Department relevant to the appropriateness of the admission and the provider's ability to provide adequate care. (7-1-18)

02. Notification. Within five (5) business days of receipt of the documents listed in Subsection 260.01 of this rule, the Department will notify the provider verbally or in writing whether the proposed admission is approved or denied. When verbal notification is given, the Department will provide follow-up written communication to the provider stating the approval or denial within ten (10) business days. (7-1-18)

03. Emergency Admission. The provider may not accept an emergency admission without prior approval from the Department except under the following conditions: (7-1-18)

a. The provider may make a conditional admission when they reasonably believe they have the ability to provide adequate care to the resident when the request for an emergency placement occurs after normal business hours and the provider is unable to contact the Department for prior approval. The provider must notify the resident or their representative that the admission is conditional upon Department approval. (7-1-18)

b. The provider must notify the regional certifying agent where the home is located the next business day after making a conditional admission. ( )

c. The provider must follow the regular admission process described in Subsection 260.01 of this rule within two (2) business days of making a conditional admission. The Department may deny the placement and require the resident to transfer when there is reasonable cause to believe the provider lacks the ability to provide adequate care. (7-1-18)

04. Admission Agreement. At the time of admission to a certified family home, the provider and the

resident or resident's representative, if applicable, must enter into an admission agreement. The agreement must be in writing and must be signed and dated by both parties. The agreement must, in itself or by reference to the resident's plan of service, include at least the following: (7-1-18)

a. Whether or not the resident will assume responsibility for their own medication; (7-1-18)

b. The provider must have a plan in place for steps the provider will take if the resident is not able to carry out their own self-preservation. (7-1-18)

c. Whether or not the provider will accept responsibility for the resident's funds; (4-11-06)

d. How a partial month's refund will be managed; (4-11-06)

e. Responsibility for valuables belonging to the resident and provision for the return of a resident's valuables should the resident leave the home; (4-11-06)

f. Amount of liability coverage provided by the homeowner's or renter's insurance policy and whether the insurance policy covers the resident's personal belongings; (7-1-18)

g. Written notice of at least thirty (30) calendar days as agreed to in the admission agreement prior to discharge on the part of either party or transfer, when the transfer is not for medical reasons or for the resident's welfare or the welfare of others, or when the discharge is not for a situation described in Subsection 260.05.b. of this rule; (7-1-18)

h. Conditions under which an emergency temporary placement will be made as described under Subsection 260.06 of this rule; (7-1-18)

i. Signed permission to provide pertinent information from the resident's record to a hospital, nursing home, residential and assisted living facility, or other certified family home; (7-1-18)

j. Responsibility to obtain consent for medical procedures including the name, address, and telephone number of the guardian or power of attorney for health care for any resident who is unable to make their own medical decisions; (7-1-18)

k. Resident responsibilities as appropriate; (4-11-06)

l. Amount the provider will charge the resident for room, utilities and three (3) daily meals on a monthly basis, and if the resident is private-pay or has a share of cost, a separately listed amount the provider will charge for care on a monthly basis; (7-1-18)

m. Written notice of at least fifteen (15) calendar days as agreed to in the admission agreement prior to the provider changing the charges to the resident as described in Subsection 260.04.l. of this rule; (7-1-18)

n. Protections that address eviction processes and appeals comparable to those provided under Idaho landlord tenant law. The admission agreement must either: (7-1-18)

i. Adopt the eviction and appeal processes as described in Title 6, Chapter 3, Idaho Code; or (7-1-18)

ii. Adopt the eviction and appeal processes as described in the version of the admission agreement provided by the Department; and (7-1-18)

o. Additional conditions as agreed upon by both parties but consistent with the requirements of these rules. (7-1-18)

05. Termination of Admission Agreement. The admission agreement must only be terminated under the following conditions: (7-1-18)

a. The provider or the resident, or the resident's representative, if applicable, provides the other party at least thirty (30) calendar days' written notice as agreed to in the admission agreement; or (7-1-18)

b. A three (3) day written notice may be given by the provider to the resident or the resident's representative, if applicable, when any of the following occur, subject to the appeal process required under Subsection 260.04.n. of this rule: (7-1-18)

i. Nonpayment of the resident's bill identified in Subsection 260.04.l. of this rule; (7-1-18)

ii. The resident violates written conditions as mutually established between the resident and the provider at the time of admission; or (7-1-18)

iii. The resident engages in the unlawful delivery, production, or use of a controlled substance on the premises of the home. (7-1-18)

06. Emergency Temporary Placement. The admission agreement will remain in force and effect, excluding the provider's responsibility for care and the charge to the resident for such care as identified in Subsection 260.04.l. of this rule, while the resident is temporarily transferred from the home to another care setting on an emergency basis unless either party terminates the agreement as described in Subsection 260.05 of this rule. An emergency temporary placement must only occur when: (7-1-18)

a. The resident's mental or physical condition deteriorates to a level requiring evaluation or services that cannot be met by the provider or reasonably accommodated by the home; or (7-1-18)

b. Emergency conditions requiring the resident to transfer out of the home without thirty (30) calendar days' written notice to protect the resident or other residents, the provider, or other individuals living in the home from harm. (7-1-18)

07. Discharge Procedure. The provider must immediately notify the Department upon the transfer or discharge of the resident according to Section 210 these rules. (7-1-18)

08. Return of Resident's Possessions. The provider must document the return of the resident's personal possessions to the resident or resident's representative as agreed in the admission agreement according to Subsection 260.04.e. of this rule: (7-1-18)

a. Return immediately upon discharge: (7-1-18)

i. All personal funds belonging to the resident; and (7-1-18)

ii. Any medication, supplement, or treatment belonging to the resident; (7-1-18)

b. Return within three (3) business days: (7-1-18)

i. If the provider, their relative, or any other member of the household was managing the resident's funds, a copy of the final accounting of the resident's funds; (7-1-18)

ii. All resident belongings as indicated on their belongings inventory; and (7-1-18)

iii. Any other items belonging solely to the resident, including personal documents. (7-1-18)

261. -- 269. (RESERVED)

270. RESIDENT RECORDS.
The provider must maintain records for each resident admitted to the home as provided in this rule. (7-1-18)

01. Admission Records. Records required for admission to the home must be maintained, updated, and kept confidential. The availability of the records without the consent of the resident, subject to IDAPA 16.05.01,

"Use and Disclosure of Department Records," is limited to the resident and resident's representative, the provider, substitute caregivers, the resident's health care professionals, and representatives of the Department including certifying agents. All entries must be accurate and reflect updated information as changes occur, recorded legibly in ink, signed and dated, and must include: (7-1-18)

a. The resident's full legal name; (7-1-18)

b. The resident's permanent address if other than the home; (7-1-18)

c. The resident's marital status and sex; (7-1-18)

d. The resident's place and date of birth; (7-1-18)

e. The name, address, and telephone number of an individual identified by the resident or the resident's representative who should be contacted in the event of an emergency or death of the resident; (7-1-18)

f. The resident's personal health care professionals; (7-1-18)

g. Admission date and name of the person who completed the admission form; (7-1-18)

h. Results of a history and physical examination performed by a health care professional reflecting the resident's current health status and conducted no earlier than twelve (12) months prior to admission; (7-1-18)

i. A list of medications, treatments, and special diets, if any, prescribed for the resident and signed and dated by their health care professional; (7-1-18)

j. Religious affiliation if the resident so chooses to disclose; (7-1-18)

k. Social information, obtained by the provider from the resident or resident's relatives, service coordinator, legal guardian or conservator, or other knowledgeable individuals to include the resident's social history, hobbies, and interests; (7-1-18)

l. The written admission agreement as described in Section 260 of these rules; (7-1-18)

m A signed copy of the resident rights policy as described in Section 200 of these rules; (7-1-18)

n. A copy of the resident's assessment as described in Section 225 of these rules; (7-1-18)

o. A copy of the resident's signed and dated plan of service as described in Section 250 of these rules; (7-1-18)

p. An inventory of the resident's belongings that may consist of photographs or a written descriptive list. The resident or the resident's representative may inventory any personal possession they so choose and expect returned upon the resident's transfer or discharge from the home. The belongings inventory may be updated at any time but must be updated at least annually; (7-1-18)

q. Information about any specific health problems of the resident that may be useful in a medical emergency; (7-1-18)

r. Any other health-related, emergency, or pertinent information that the resident requests the provider to keep on record; (7-1-18)

s. If the resident has a representative, a copy of the document giving the representative legal authority to act on behalf of the resident, including guardianship or power of attorney for healthcare decisions; (7-1-18)

t. Contact name, address, and telephone number of any individual or agency providing supportive services to the resident; and (7-1-18)

u. Signed copy of any care plan that is prepared for the resident by an outside service provider. (7-1-18)

02. Ongoing Resident Records. Records must be kept by the provider for services to the resident showing accurate and updated information as services are rendered, including: (7-1-18)

a. Any incident or accident occurring while the resident is living in the home and the provider's response. If the incident or accident occurs while the resident is receiving supportive services, the provider must obtain a written report of the event from the service provider; (7-1-18)

b. The provider's written response to any grievance as described in Section 200 of these rules; (7-1-18)

c. Notes from the licensed nurse, home health agency, physical therapist, or any other service providers, documenting the services provided to the resident at each visit to the home; (7-1-18)

d. Documentation of significant changes in the resident's physical or mental status, and the provider's response; (7-1-18)

e. When the provider, a relative of the provider, or an individual living in the home other than the resident manages the resident's funds, financial accounting records for such funds as described in Section 275 of these rules; and (7-1-18)

f. Medication records as required in Sections 400 through 402 of these rules, as applicable. (7-1-18)

03. Maintenance of Resident Records. All records of services delivered by the provider must be maintained in the home for at least five (5) years from the date of service. (4-11-06)

271. -- 274. (RESERVED)

275. RESIDENT FUNDS AND FINANCIAL RECORDS.

01. Resident Funds Policy. Each provider must possess and implement a policy and procedure outlining how the resident's funds will be managed. This policy and procedure must include the following: (7-1-18)

a. Statement of whether the provider will or will not manage resident funds. (7-1-18)

b. When the resident leaves the home under any circumstances, the provider must: (7-1-18)

i. Only retain room and board funds prorated to the last day of the notice period as specified in the admission agreement, or upon the resident moving from the home, whichever is later; (7-1-18)

ii. Immediately return all remaining resident funds to the resident or to the resident's representative as specified in the admission agreement according to Section 260 of these rules; and (7-1-18)

iii. Only use the resident's funds for that resident's expenses until a new payee is appointed. (7-1-18)

c. Prohibit personal loans to the resident from the provider, provider's relatives, and other members of the household unless the loan is from a relative of the resident. When such a loan is made, the provider must: (7-1-18)

i. Ensure the terms of the loan are described in a written contract signed by the resident or resident's representative; (7-1-18)

ii. Maintain a copy of the loan contract in the resident's record; and (7-1-18)

iii. Immediately update documentation of repayments towards the loan. (7-1-18)

02. Managing Resident Funds. When the resident's funds are turned over to the provider for any purpose other than payment for services allowed under these rules, or if the provider, their relative, or an individual living in the home acts as the resident's payee, the provider is deemed to be managing the resident's funds. The provider who manages a resident's funds must: (7-1-18)

a. Establish a separate account at a financial institution for each resident to which use of the resident's funds may be reconciled by means of a financial statement; (7-1-18)

b. Prohibit commingling of the resident's funds with the funds of any other person, including borrowing funds from the resident; (7-1-18)

c. Upon request, notify the resident or the resident's representative the amount of the resident's funds in their account that are available for their use; (7-1-18)

d. Charge the resident the amount agreed upon in the admission agreement as described in Section 260 of these rules for their certified family home services on a monthly basis from their funds; (7-1-18)

e. Maintain accounting documentation, including financial statements, receipts and ledgers, for all financial transactions in excess of five dollars ($5) in which the resident's funds were used. A separate transaction record must be maintained for each resident; (7-1-18)

f. Restore funds to the resident if the provider cannot produce proper accounting records of resident's funds or property, including receipts for purchases made using the resident's personal funds. Restitution of the funds to the resident is a condition for continued operation of the home; (7-1-18)

g. Not require the resident to purchase goods or services from or for the home other than those designated in Section 260 of these rules; (7-1-18)

h. Provide the resident, their legal guardian, their representative with financial power of attorney, and conservator access to the resident's funds; (7-1-18)

i. On the death of a private-pay resident, convey the resident's funds with a final accounting of those funds to the individual administering the resident's estate; within thirty (30) days as described in Section 210 of these rules; (7-1-18)

j. On the death of a publicly-funded resident, convey the resident's funds, with a final accounting of those funds, to the Department within thirty (30) days as described in Section 210 of these rules. (7-1-18)

276. -- 299. (RESERVED)

300. SHORT-TERM CARE AND SUPERVISION.
When the provider is temporarily unavailable to provide care or supervision to the resident, they may designate another adult to provide care and supervision, or only supervision to the resident. The provider must assure that this short-term arrangement meets the needs of the resident and protects the resident from harm. (7-1-18)

01. Alternate Caregiver. An alternate caregiver must be a certified family home provider. An alternate caregiver provides care and supervision in their home to a resident from another certified family home according to the resident's original plan of service and admission agreement. The following applies to an alternate care placement: ( )

a. The Department must approve an alternate care placement using the process described in Section 260 of these rules. The alternate caregiver must: (7-1-18)

i. Not exceed the number of residents for which their home is certified to provide care; (7-1-18)

ii. Comply with Section 140 of these rules when the resident receiving alternate care will be the third or fourth resident in the alternate caregiver's home; (7-1-18)

iii. Comply with Section 130 of these rules when the resident receiving alternate care requires nursing facility level of care and any other resident in the alternate caregiver's home requires nursing facility level of care. (7-1-18)

b. Upon approval from the Department, alternate care may be provided for up to thirty (30) consecutive days; and (7-1-18)

c. The provider must provide or arrange for resident-specific training to the alternate caregiver, including supplying copies of the resident's current assessment, plan of service, and admission agreement. (7-1-18)

02. Substitute Caregiver. A substitute caregiver must be an adult designated by the provider to provide care and supervision to the resident in the provider's certified family home. The following apply to the designation of a substitute caregiver: (7-1-18)

a. The provider is responsible to provide or arrange for resident-specific training for the substitute caregiver including reviewing copies of each resident's current assessment, plan of service, and admission agreement; (7-1-18)

b. Staffing levels in the home must be maintained at the same level as when the provider is available to provide care and supervision; (7-1-18)

c. Substitute care can be provided for up to thirty (30) consecutive days; and (7-1-18)

d. The substitute caregiver must have the following qualifications: (7-1-18)

i. Current certification in first aid and adult Cardio-Pulmonary Resuscitation (CPR) that meets the standards under Section 100 of these rules; (7-1-18)

ii. A criminal history check as provided in Section 009 of these rules; and (4-11-06)

iii. Completion of the "Assistance with Medications" course or other Department-approved training as provided in Section 100 of these rules. (7-1-18)

03. Incidental Supervision. An individual providing incidental supervision must be approved by the provider to supervise the resident. Incidental supervision must not include resident care. Incidental supervision may be provided for up to four (4) hours per week. (4-11-06)

301. -- 399. (RESERVED)

400. MEDICATION POLICY.
The provider must possess and implement written medication policies and procedures that outline in detail how the home will assure appropriate assistance with and handling of and safeguarding of medications. These policies and procedures must be maintained in the home, and include the following: (7-1-18)

01. Following Orders. Assistance given by the provider must only be as directed by the resident's health care professionals. (7-1-18)

02. Evidence of Orders. Evidence of each resident's orders must be maintained in the home, regardless of whether the resident is able to self-administer, and may consist of the following: (7-1-18)

a. Written instructions from the health care professional for the medication including the dosage, expected effects, potential adverse reactions or side effects, and actions to take in an emergency; (7-1-18)

b. Medisets filled and appropriately labeled by a pharmacist or licensed nurse with the name of the medications, dosage, time to be taken, route of administration, and any special instructions; (7-1-18)

c. An original prescription bottle labeled by a pharmacist describing the order and instructions for

use; and (7-1-18)

d. If the medication, supplement, or treatment is without a prescription, it will be listed among over-the-counter medications approved by the resident's health care professional as indicated by a signed statement. Over-the-counter medications will be given as directed on the packaging. (7-1-18)

03. Alteration of Orders. The provider must not alter dosage, discontinue or add medications, including over-the-counter medications and supplements, or discontinue, alter, or add treatments or special diets without first consulting the resident's prescribing health care professional and obtaining an order for the change as required under Subsection 400.02 of this rule. (7-1-18)

04. Allergies. The provider must list any known food or drug allergies for each resident and take precautions to guard against the resident ingesting such allergens. (7-1-18)

05. Training. Each adult assisting with resident medications must have successfully completed the "Assistance with Medications" course, or other Department-approved training as described in Section 100 of these rules. Additionally: (7-1-18)

a. Each resident's orders must be reviewed by each staff person assisting residents with medications prior to offering assistance; and (7-1-18)

b. Written instructions must be in place that outline who to notify if any of the following occur: (7-1-18)

i. Doses are not taken; (7-1-18)

ii. Overdoses occur; or (7-1-18)

iii. Side effects are observed. (7-1-18)

c. The provider must ensure any staff assisting with medications has reviewed each resident's known allergies and takes precautions against the resident ingesting such allergens. (7-1-18)

06. Self-administration. When the provider cares for a resident who self-administers their own medications, the provider must follow the standards described under Section 401 of these rules. (7-1-18)

07. Assistance with Medication. When the provider cares for a resident who needs assistance with medications, the provider must follow the standards described under Section 402 of these rules. (7-1-18)

401. SELF-ADMINISTRATION OF MEDICATION.

If the resident is responsible for administering their own medication without assistance, the provider must ensure the following: (7-1-18)

01. Approval. The provider must obtain written approval stating that the resident is capable of self-administration from the resident's health care professional; otherwise, the provider must comply with the standards in Section 402 of these rules. (7-1-18)

02. Evaluation.The resident's record must include documentation that the resident's health care professional has evaluated the resident's ability to safely self-administer medication. The evaluation must include verification of the following: (7-1-18)

a. The resident understands the purpose of each medication; (7-1-18)

b. The resident is oriented to time and place and knows the appropriate dosage and times to take the medication; (7-1-18)

c. The resident understands the expected effects, adverse reactions, or side effects, and knows what

actions to take in case of an emergency; and (7-1-18)

d. The resident is able to take the medication without assistance or reminders. (7-1-18)

03. Change in Condition. Should the condition of the resident change such that it brings into question their ability to safely continue self-administration of medications, the provider must have a reevaluation and approval of the resident to self-administer as required in Subsections 401.01 and 401.02 of this rule. (7-1-18)

04. Safeguarding Medication. The provider must ensure that the medications of a resident who self-administers are safeguarded, including providing a lockable storage cabinet or drawer to the resident as described in Section 175 of these rules. Notwithstanding, the resident must be allowed to maintain their medications under their own control and possession. (7-1-18)

402. ASSISTANCE WITH MEDICATION.
The provider must offer assistance with medications to residents who need assistance; however, only a health care professional may administer medications. Prior to assisting residents with medication, the provider must ensure the following conditions are in place: (7-1-18)

01. Training. Each person assisting with resident medications must be an adult who successfully completed and follows the "Assistance with Medications" course available through the Idaho Professional Technical Education Program approved by the Idaho State Board of Nursing, or other Department-approved training. (7-1-18)

02. Condition of the Resident. The resident's health condition is stable. (7-1-18)

03. Nursing Assessment. The resident's health status does not require nursing assessment before receiving the medication nor nursing assessment of the therapeutic or side effects after the medication is taken, unless the provider is a health care professional. (7-1-18)

04. Containers and Labels. The medication is in the original pharmacy-dispensed container with proper label and directions or in an original over-the-counter container. (7-1-18)

a. Each medication must be packaged separately unless in a Mediset, blister pack, or similar system. (7-1-18)

b. Medication may be placed in a unit container by a licensed nurse when the container is appropriately labeled with the name of the medications, dosage, time to be taken, route of administration, and any special instructions. (7-1-18)

c. Proper measuring devices must be available for liquid medication that is poured from a pharmacy-dispensed container. (7-1-18)

05. Safeguarding Medications. The provider must take adequate precautions to safeguard the medications of each resident for whom they provide assistance. Safeguarding consists of the following: (7-1-18)

a. Storing each resident's medications in an area or container designated only for that particular resident including a label with the resident's name, except for medications that must be refrigerated or over-the-counter medications; (7-1-18)

b. Keeping the designated area or container for the resident's medications under lock and key when either of the following apply: (7-1-18)

i. The resident's medications include a controlled substance; or (7-1-18)

ii. Any resident in the home or other member of the household has drug-seeking behaviors. (7-1-18)

c. Ensuring each resident's designated medication area or container is clean and kept free of contamination, including disposal of loose pills in accordance with Subsection 402.08 of this rule; (7-1-18)

d. Dispensing only one (1) resident's set of medications from its designated area or container at one (1) time, so as to mitigate medication errors; and (7-1-18)

e. On at least a monthly basis, document an inventory of narcotic medications. (7-1-18)

06. Administration of Medications. Only a health care professional working within the scope of their license may administer medications. Administration of medications must comply with the Administrative Rules of the Board of Nursing, IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." Some procedures are of such a technical nature that they must always be performed by, or under the direct supervision of, a health care professional. These procedures are outlined in IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Section 490. (7-1-18)

07. Documentation of Assistance. Documentation of assistance with medications must be maintained by the provider. The documentation must: (7-1-18)

a. Be logged concurrent with the time of assistance; (7-1-18)

b. Contain at least the following information: (7-1-18)

i. The name of the resident receiving the medication; (7-1-18)

ii. The name of the medication given; (7-1-18)

iii. The dosage of the medication given; and (7-1-18)

iv. The time and date the medication was given. (7-1-18)

c. Indicate the reason for assisting with any PRN medication, including both over-the-counter and prescription medication. (7-1-18)

08. Disposal of Medication. Medication that has been discontinued as ordered by the resident's health care professional, or has expired, must be disposed of by the provider within thirty (30) days of the order or expiration date. A written record of all disposal of drugs must be maintained in the home and must include: (7-1-18)

a. The name of the medication; (7-1-18)

b. The amount of the medication, including the number of pills at each dosage, if applicable; (7-1-18)

c. The name of the resident for whom the medication was prescribed; (7-1-18)

d. The reason for disposal; (4-11-06)

e. The date on which the medication was disposed; (7-1-18)

f. The method of disposal; and (4-11-06)

g. A signed statement from the provider and a credible witness confirming the disposal of the medication. (7-1-18)

403. -- 499. (RESERVED)

500. ENVIRONMENTAL SANITATION STANDARDS.
The provider is responsible for disease prevention and maintenance of sanitary conditions in the home. (7-1-18)

01. Water Supply. The water supply for the home must be adequate, safe, and sanitary. (4-11-06)

a. The home must use a public or municipal water supply or a Department-approved private water supply; (4-11-06)

b. If water is from a private supply, water samples must be submitted to an accredited laboratory and show an absence of bacterial contamination at least annually, or more frequently if deemed necessary by the Department. Copies of the laboratory reports must be kept on file at the home; and (7-1-18)

c. There must be adequate water pressure to meet sanitary requirements at all times. (7-1-18)

02. Sewage Disposal. The sewage disposal system must be in good working order. All sewage and liquid wastes must be discharged, collected, treated, and disposed of in a manner approved by the local municipality or the Department. (7-1-18)

03. Nonmunicipal Sewage Disposal. (7-1-18)

a. For homes with nonmunicipal sewage disposal, at the time of the initial certification and at least every five (5) years thereafter, the provider must obtain proof that the septic tank has been pumped or that pumping was not necessary, or that the system is otherwise in good working condition. (7-1-18)

b. The Department may require the provider to obtain a statement from the local or area health district indicating that the sewage disposal system meets local requirements. The statement must be kept on file at the home. (7-1-18)

04. Garbage and Refuse Disposal. Garbage and refuse disposal must be provided by the home. (4-11-06)

a. Garbage containers outside the home used for storage of garbage and refuse must be constructed of durable, nonabsorbent materials and be provided with tight-fitting lids. (7-1-18)

b. Garbage containers must be maintained in good repair and must not leak or absorb liquids.(7-1-18)

c. Sufficient containers must be available to hold all garbage and refuse that accumulates between periods of removal from the premises. (7-1-18)

d. Storage areas must be kept free of excess refuse and debris. (7-1-18)

05. Insect and Rodent Control. The home must be maintained free from infestations of insects, rodents and other pests. Pesticides used in the control program must be selected, stored, and used safely. (7-1-18)

a. The pesticide must be selected on the basis of the pest involved and used only in the manner prescribed by the manufacturer; (7-1-18)

b. The provider must take necessary precautions to protect the resident from obtaining toxic chemicals, as appropriate for their functional and cognitive ability. (7-1-18)

06. Yard. The yard surrounding the home must be safe and maintained. (4-11-06)

07. Laundry Facilities and Services. A washing machine and dryer must be readily available for the proper and sanitary washing of linen and other washable goods. Laundry services must be offered on at least a weekly basis, or more frequently when soiled linens or clothing create a noticeable odor. (7-1-18)

08. Housekeeping and Maintenance. Sufficient housekeeping and maintenance must be provided to maintain the interior and exterior of the home in a clean, safe, and orderly manner. (4-11-06)

a. Resident sleeping rooms must be thoroughly cleaned including the bed, bedding, furnishings, walls, and floors. Cleaning must occur on at least a weekly basis and immediately before being occupied by a new resident. (7-1-18)

b. Deodorizers must not be used to cover odors caused by poor housekeeping or unsanitary conditions. (4-11-06)

c. Cleaners and chemicals must be stored and used appropriately and safely. The provider must take necessary precautions to protect the resident from obtaining toxic chemicals, as appropriate for their functional and cognitive ability. (7-1-18)

501. -- 599. (RESERVED)

600. FIRE AND LIFE SAFETY STANDARDS.
Each home must meet all applicable requirements of local and state codes concerning fire and life safety. (7-1-18)

01. General Requirements. General requirements for the fire and life safety standards for a certified family home are: (4-11-06)

a. The home must be structurally sound and equipped and maintained to assure the safety of residents; and (4-11-06)

b. When natural or man-made hazards are present, suitable fences, guards, and railings must be provided to protect the residents according to their need for supervision as documented in the plan of service; and (4-11-06)

c. The exterior and interior of the home must be kept free from the accumulation of weeds, trash, debris, rubbish, and clutter. (7-1-18)

02. Fire and Life Safety Requirements. (4-11-06)

a. Smoke alarms must be installed in sleeping rooms, hallways, on each level of the home, and as recommended by the local fire district. (7-1-18)

b. Carbon monoxide (CO) alarms must be installed as recommended when: (7-1-18)

i. The home is equipped with gas or other fuel-burning appliances or devices; or (7-1-18)

ii. An enclosed garage is attached to the home. (7-1-18)

c. Unvented combustion devices of any kind are prohibited from use inside the home. (7-1-18)

d. Any locks installed on exit doors must be easily opened from the inside without the use of keys or any special knowledge. (7-1-18)

e. An electric portable heating device must only be used under the following conditions: (7-1-18)

i. The unit is maintained in good working order and without obvious damage or fraying of the cord; (7-1-18)

ii. The heating element does not exceed two hundred twelve degrees Fahrenheit (212°F); (7-1-18)

iii. The user complies with safety labels, which are to remain on the unit; (7-1-18)

iv. The unit is equipped with automatic shut-off protection when tipped over; and (7-1-18)

v. The unit is operated under direct supervision and at least thirty-six (36) inches away from combustibles including furnishings, bedding, and blankets. (7-1-18)

f. Homes that use fuel-fired stoves must provide adequate railings or other approved protection designed to prevent the resident from coming into contact with the stove surfaces, as appropriate for their functional and cognitive ability. (7-1-18)

g. Each resident's sleeping room must have at least one (1) door or window that can be easily opened from the inside and leads directly to the outside. If a window is used as a means of egress/ingress, the following

conditions must be met: (7-1-18)

i. The window sill height must not be more than forty-four (44) inches above the finished floor; (7-1-18)

ii. The window opening must be at least twenty (20) inches in width and twenty-four (24) inches in height; and (7-1-18)

iii. If the sleeping room is in a below-ground basement, the window must open into a window well through which the resident can easily exit. (7-1-18)

h. Flammable or highly combustible materials must be stored safely. The provider must take necessary precautions to protect the resident from obtaining flammable materials as appropriate for their functional and cognitive ability. (7-1-18)

i. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves. (7-1-18)

j. A portable fire extinguisher must be mounted on each level of the home. The location of fire extinguishers is subject to Department approval. All extinguishers must be at least five (5) pound dry chemical multipurpose 2A:10B:C type. (7-1-18)

k. Electrical installations and equipment must comply with the applicable local and state electrical codes. (7-1-18)

l. Fuel-fired heating devices must be approved by the local heating/venting/air conditioning (HVAC) board. (7-1-18)

m. Exits must be free from obstruction. (7-1-18)

n. Paths of travel to exits and all exit doorways must be at least twenty-eight (28) inches wide. (7-1-18)

o. The door into each bathroom and sleeping room must unlock from both sides, if equipped with a lock, in case of an emergency. (7-1-18)

03. Smoking. Smoking is a fire hazard. The provider may choose to allow or not allow smoking. If the provider chooses to allow smoking, they must reduce the risk of fire by: (7-1-18)

a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (4-11-06)

b. Prohibiting residents from smoking in bed; and (4-11-06)

c. Prohibiting unsupervised smoking by the resident unless unsupervised smoking is specifically allowed in their plan of service. (7-1-18)

04. Emergency Preparedness. Each provider must develop and implement a written emergency preparedness plan. The provider must review the emergency plan with the resident(s), or their representative, at admission and at least every six (6) months thereafter. The plan must address the following: (7-1-18)

a. Evacuation of the home, including: (7-1-18)

i. A floor plan of the home depicting at least two (2) routes of escape from each room; (7-1-18)

ii. A designated meeting area indicated on the floor plan where all members of the household will congregate upon evacuation of the home; and (7-1-18)

iii. The person responsible to take a head-count at the designated meeting area and relay information to firefighters regarding the probable whereabouts in the home of missing individuals. (7-1-18)

b. Emergency situations in which people are confined to the home for a period of at least seventy-two (72) hours and considering adequate food, water, and medications during that time; (7-1-18)

c. Emergency situations in which people are ordered evacuated from the home, including pre-arranged plans to shelter within the local community and in a town outside the local community, and considering the necessary supplies that will be kept in a state of preparedness for quick evacuation; and (7-1-18)

d. Procedures for any situation in which the provider is incapacitated and unable to provide services. (7-1-18)

05. Fire Drills. The provider must conduct and document fire drills at least quarterly. (7-1-18)

a. The provider must demonstrate the ability to evacuate all persons from the home to a point of safety outside the home within three (3) minutes. (7-1-18)

b. Residents who are medically unable to exit unassisted are exempt from physical participation in the drill if the provider has an effective evacuation plan for such residents and discusses the plan with the resident at the time of the drill. (7-1-18)

c. Documentation, which may consist of video recordings or written logs, must include the following: (7-1-18)

i. The date and time of the drill; (7-1-18)

ii. The length of time for all persons able to participate in the drill to evacuate from the home; (7-1-18)

iii. The name or likeness of each caregiver who participated in the drill; and (7-1-18)

iv. The name or likeness of each resident and whether the resident participated in the drill. (7-1-18)

06. Report of Fire. A report on each fire incident occurring within the home must be submitted to the Department as described in Section 210 of these rules. (7-1-18)

07. Maintenance of Equipment. The provider must assure that all equipment is properly maintained. (7-1-18)

a. Smoke and carbon monoxide alarms must be tested at least monthly and a written record of the test results maintained on file. (7-1-18)

b. If the smoke or carbon monoxide alarm has replaceable batteries, replacement of the batteries must occur at least every six (6) months or as indicated by a low battery, whichever occurs first. (7-1-18)

c. A smoke or carbon monoxide alarm must be replaced at the end of its useful life as indicated by the manufacturer. (7-1-18)

d. Portable fire extinguishers must be serviced every twelve (12) months by an outside servicing agency or when the quarterly examination reveals issues with the extinguisher as described under Subsection 600.07.e. of this rule, whichever occurs first. Fire extinguishers purchased in the last twelve (12) months must be serviced within twelve (12) months from the dated receipt on file. (7-1-18)

e. All portable fire extinguishers must be examined at least quarterly by the provider or a knowledgeable member of the household, as indicated by their initials and date on a log, to determine that: (7-1-18)

i. The extinguisher is in its designated location; (4-11-06)

ii. Seals or tamper indicators are not broken and the safety pin is in place; (7-1-18)

iii. The extinguisher has not been physically damaged; (4-11-06)

iv. The extinguisher does not have any obvious defects, such as leaks; (7-1-18)

v. The nozzle is unobstructed; and (7-1-18)

vi. Chemicals are prevented from settling and clumping by repeatedly tipping the extinguisher upside down and right-side up. (7-1-18)

f. Fuel-fired heating systems must be inspected for safe operation, serviced if necessary, and approved at least annually by person(s) in the business of servicing these systems. The inspection records must be maintained on file in the home. (7-1-18)

601. -- 699. (RESERVED)

700. HOME CONSTRUCTION AND PHYSICAL HOME STANDARDS.

01. General Requirements. Any residence used as a certified family home must be suitable for that use. Certified family homes must only be located in buildings intended for residential use. (7-1-18)

a. Remodeling or additions to the home must be consistent with residential use of the property and must conform to local building standards including obtaining building permits as required by the local jurisdiction. (7-1-18)

b. All homes are subject to Department approval. (4-11-06)

02. Walls and Floors. Walls and floors must withstand frequent cleaning. Walls in sleeping rooms must extend from floor to ceiling. (4-11-06)

03. Telephone. There must either be a telephone or an enhanced 911-compliant cell phone available to the resident. (7-1-18)

a. If the home provides a cell phone for the resident's use, the provider must obtain documentation from the service carrier that the cell phone is enhanced 911-compliant. (7-1-18)

b. The telephone or cell phone must: (7-1-18)

i. Be immediately available in case of an emergency; (7-1-18)

ii. Be functional and operational at all times, including having dependable service; (7-1-18)

iii. Be programmed with general emergency phone numbers and the emergency contacts for the resident, or alternatively, such numbers must be posted near the telephone; and (7-1-18)

iv. Be accessible to the resident throughout the day, including night hours, with unlimited usage and adequate privacy. (7-1-18)

04. Toilet Facilities and Bathrooms. The home must contain: (7-1-18)

a. At least one (1) flush toilet, one (1) tub or shower, and one (1) sink with a mirror; (7-1-18)

b. Toilet and shower or bathing facilities must be separated from all rooms by solid walls or partitions;

(7-1-18)

c. Each room containing a toilet, shower, or bath must have either a window that is easily opened to the outside, or forced ventilation to the outside; (7-1-18)

d. Tubs, showers, and sinks must be connected to hot and cold running water; and (7-1-18)

e. Access to toilet facilities and bathrooms designated for the resident's use must not require them to pass through another person's sleeping room. (7-1-18)

05. Accessibility for Residents with Physical and Sensory Impairments. A provider choosing to provide services to a resident who has difficulty with mobility or who has sensory impairments must assure the physical environment meets the needs of the resident and maximizes independent mobility and use of appliances, bathroom facilities, and living areas. The home must provide necessary accommodations that meet the "American With Disabilities Act Accessibility Guidelines--Standards for Accessible Design (SFAD)," as incorporated by reference in Section 004 of these rules and as described below according to the individual resident's needs: (7-1-18)

a. A ramp that complies with Section 405 of the SFAD. Elevators or lifts that comply with Sections 409 and 410, respectively, may be utilized in place of a ramp; (7-1-18)

b. Doorways large enough to allow easy passage of a wheelchair and that comply with Subsection 404.2.3 of the SFAD; (7-1-18)

c. Toilet and bathing facilities that comply with Sections 603 and 604 of the SFAD; (7-1-18)

d. Sinks that comply with Section 606 of the SFAD; (7-1-18)

e. Grab bars in resident toilet facilities and bathrooms that comply with Section 609 of the SFAD; (7-1-18)

f. Bathtubs or shower stalls that comply with Sections 607 and 608 of the SFAD, respectively; (7-1-18)

g. Non-retractable faucet handles that comply with Subsection 309.4 of the SFAD. Self-closing valves are not allowed; (7-1-18)

h. Suitable handrails on both sides of all stairways leading into and out of the home that comply with Section 505 of the SFAD; and (7-1-18)

i. Smoke and carbon monoxide alarms that comply with Section 702 of the SFAD. (7-1-18)

06. Storage Areas. Adequate storage must be provided in addition to the required storage in resident sleeping rooms. (4-11-06)

07. Lighting. Adequate lighting must be provided in all resident sleeping rooms and any other rooms accessed by the resident. (4-11-06)

08. Ventilation. The home must be well ventilated and the provider must take precautions to prevent offensive odors. (4-11-06)

09. Heating and Cooling. The temperature in the home must be maintained between sixty-five degrees Fahrenheit (65°F) and eighty degrees Fahrenheit (80°F) when residents or adult hourly care participants are at home. The thermostat for the primary source of heat must be located away from the wood stove, if applicable. (7-1-18)

10. Plumbing. All plumbing in the home must be in good working order and comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. (7-1-18)

11. Resident Sleeping Rooms. (7-1-18)

a. The sleeping room must not be in an attic, stairway, hall, or any room commonly used for other than bedroom purposes. (7-1-18)

b. The sleeping room may be in a below-ground basement or a room located on the second story or higher only if the following conditions are met: (7-1-18)

i. The resident is able to independently recognize an emergency and self-evacuate from their sleeping room without physical assistance or verbal cueing as assessed and indicated in their plan of service; or (7-1-18)

ii. The provider's sleeping room or the sleeping room of another responsible and able-bodied individual living in the home is located on the same level with the resident's sleeping room; and (7-1-18)

iii. The level of the home on which the resident's sleeping room is located has floors, ceilings, and walls that are finished to the same degree as the rest of the home. (7-1-18)

c. Walls must run from floor to ceiling and doors must be solid. (7-1-18)

d. The resident must not occupy the same bedroom as the provider. The resident must not occupy the same bedroom as a relative of the provider unless the relative is a sibling of the resident. (7-1-18)

e. The ceiling height in the sleeping room must be at least seven feet, six inches (7'6"). (7-1-18)

f. The sleeping room must have a closet that must be equipped with a door if the resident so chooses. (7-1-18)

i. Closet space shared by two (2) residents must have a substantial divider separating each resident's space. (7-1-18)

ii. Free-standing closet space must be deducted from the square footage in the sleeping room.(7-1-18)

g. The sleeping room must have at least one hundred (100) square feet of floor space in a one (1) person sleeping room and at least one hundred and sixty (160) square feet of floor space in a two (2) person sleeping room. (7-1-18)

701. MANUFACTURED HOMES AND MODULAR BUILDINGS.

01. Use of Manufactured Homes and Modular Buildings. Idaho Division of Building Safety (DBS) approved modular buildings or U.S. Department of Housing and Urban Development (HUD) approved buildings may be approved for use as a certified family home when the home meets the following requirements: (7-1-18)

a. The manufactured or modular home meets the requirements of HUD or DBS requirements in accordance with state and federal regulations as of the date of manufacture. (7-1-18)

b. The manufactured or modular home meets the adopted standards and requirements of the local jurisdiction in which the home is located. (7-1-18)

c. Recreational vehicles, commercial coaches, unregulated or unapproved modifications or additions to approved manufactured housing or modular buildings will not be approved by the Department. (7-1-18)

d. Manufactured housing constructed prior to June 15, 1976, is prohibited for use as a certified family home without assessment and approval by the Department. (7-1-18)

02. Previously Certified. A manufactured home approved for use as a certified family home before July 1, 2001, may continue to be certified when evaluated on a case-by-case basis. (4-7-11)

702. -- 709. (RESERVED)

710. SITE REQUIREMENTS FOR CERTIFIED FAMILY HOMES.
In addition to the requirements of Section 700 of these rules, the home must comply with the following site requirements: (7-1-18)

01. Fire District. The home must be in a lawfully constituted fire district. (4-11-06)

02. Accessible Road. The home must be served by an all-weather road kept open to motor vehicles at all times of the year. (4-11-06)

03. Emergency Medical Services. The home must be accessible to emergency medical services. (7-1-18)

04. Accessible to Services. The home must be accessible to necessary social, medical, and rehabilitation services. (7-1-18)

05. House Number. The house number must be prominently displayed and plainly visible from the street. (7-1-18)

711. -- 899. (RESERVED)

900. EMERGENCY POWERS OF THE DIRECTOR.
In the event of an emergency endangering the life or safety of a resident, the Director may summarily suspend or revoke any certified family home certificate. As soon thereafter as practical, the Director will provide an opportunity for a hearing in accordance with the provisions of IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

901. ENFORCEMENT PROCESS.
If the Department finds that the provider does not meet, or did not meet, a rule governing certified family homes, it may impose a remedy, independently or in conjunction with others, subject to the provisions of these rules for notice and appeal. (7-1-18)

01. Recommendation of Remedy. In determining which remedy to recommend, the Department will consider the provider's compliance history, complaints, and the number, scope, and severity of the deficiencies. Subject to these considerations, the Department may impose any of the following remedies: (7-1-18)

a. Ban on all admissions in accordance with Section 910 of these rules; (7-1-18)

b. Ban on admissions of residents with certain diagnosis in accordance with Section 911 of these rules; (7-1-18)

c. Summarily suspend the certificate and transfer residents in accordance with Section 912 of these rules; (7-1-18)

d. Issue a provisional certificate in accordance with Section 909 of these rules; and (7-1-18)

e. Revoke the home's certificate in accordance with Section 913 of these rules. (7-1-18)

02. Notice of Enforcement Remedy. The Department will give the provider written notice of an enforcement remedy by certified mail or by personal service upon its decision. The notice will include the decision, the reason for the Department's decision, and how to appeal the decision subject to the hearing provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." ( )

902. FAILURE TO COMPLY.
The Department may revoke the provider's certificate when it determines any of the following conditions exist: (7-1-18)

01. Out of Compliance. The provider has not complied with any part of these rules within thirty (30)

days of the date the home is found out of compliance with that requirement. (7-1-18)

02. Lack of Progress. The provider has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted the provider's plan of correction. (7-1-18)

903. REPEATED NONCOMPLIANCE.
When the Department determines that a provider has repeated noncompliance with any of these rules, it may impose any of the enforcement remedies listed in Sections 909 through 913 of these rules. (7-1-18)

904. -- 908. (RESERVED)

909. ENFORCEMENT REMEDY OF PROVISIONAL CERTIFICATION.
When the Department finds that the provider is unable to meet a standard required under these rules because of conditions that are not anticipated to continue beyond six (6) months and do not jeopardize the health or safety of the residents, the Department may grant a provisional certificate to the provider as described under Section 110 of these rules. (7-1-18)

01. Conditions of Provisional Certification. The Department, at its discretion, may impose conditions upon the provider, which will be included with the notice of provisional certification, if so imposed. Conditions are imposed to ensure the provider achieves compliance with the requirements of these rules and to aid the Department in monitoring the provider's performance during the provisional certification period. (7-1-18)

02. Failure to Meet Conditions of Provisional Certification. Failure by the provider to meet the conditions of a provisional certificate is cause for the Department to revoke the provider's certificate. (7-1-18)

03. Certification or Revocation. The Department, upon review of the provider's performance during the course of the provisional certification period, may either issue a certificate to the provider when the Department finds that the provider has achieved substantial compliance with these rules, or revoke the provider's certificate if the provider has failed to comply. (7-1-18)

910. ENFORCEMENT REMEDY OF BAN ON ALL ADMISSIONS.
All admissions to the home are banned pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the provider has achieved full compliance with all requirements of these rules, or until a substitute remedy is imposed. (7-1-18)

911. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS OF RESIDENT WITH SPECIFIC DIAGNOSIS.
The Department may ban admission into the home any resident with a specific diagnosis when the Department has determined the provider lacks the skill to provide adequate care to such a resident. A ban may be imposed for all prospective residents, both publicly and privately funded, and will prevent the home from admitting residents with a specific diagnosis for whom the provider has shown an inability to provide adequate care as described in Section 170 of these rules. (7-1-18)

912. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENT.
The Department may summarily suspend the provider's certificate and transfer the resident when convinced by a preponderance of the evidence that the resident's health and safety are in immediate jeopardy. (7-1-18)

913. ENFORCEMENT REMEDY OF REVOCATION OF CERTIFICATE.

01. Revocation of the Certificate. The Department may institute a revocation action when persuaded by a preponderance of the evidence that the provider is not in substantial compliance with these rules. (7-1-18)

02. Causes for Revocation of the Certificate. The Department may revoke any certificate for any of the following causes: (7-1-18)

a. The provider has willfully misrepresented or omitted any of the following: (7-1-18)

i. Information pertaining to their certification; or (7-1-18)

ii. Information obstructing an investigation. (7-1-18)

b. The home is not in substantial compliance with these rules; (4-11-06)

c. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (4-11-06)

d. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the home. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, or exploitation; (4-11-06)

e. The provider has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a certified family home; (7-1-18)

f. The provider has violated any of the conditions of a provisional certificate; (4-11-06)

g. The provider has one (1) or more core issues; (7-1-18)

h. An accumulation of minor violations that, when taken as a whole, constitute inadequate care; (7-1-18)

i. Repeat violations of any requirement of these rules or of the Idaho Code; (4-11-06)

j. The provider lacks the ability to properly care for the resident, as required by these rules, or as directed by the Department; (7-1-18)

k. The provider is not in substantial compliance with the provisions for services, resident rights, or admissions; (7-1-18)

l. The provider refuses to allow the certifying agent or other representative of the Department or protection and advocacy agencies full access to the home, records, or the residents; (7-1-18)

m. The provider fails to pay the certification fee as specified in Section 109 of these rules. The certification fee is considered delinquent if not paid within thirty (30) days of due date on the invoice. (7-1-18)

914. (RESERVED)

915. TRANSFER OF RESIDENT.
The Department may require transfer of a resident from a certified family home to an alternative placement on the following grounds: (7-1-18)

01. Violation of Rules. As a result of a violation of a provision of these rules or standards, the provider is unable or unwilling to provide an adequate level of meals, lodging, personal assistance, or supervision of a resident. (7-1-18)

02. Violation of Resident's Rights. A violation of a resident's rights provided in Section 39-3516, Idaho Code, or Section 200 of these rules. (4-11-06)

03. Immediate Jeopardy. A violation of a provision of these rules, or applicable rules or standards, results in conditions that present an immediate jeopardy. (4-11-06)

916. -- 949. (RESERVED)

950. RIGHT TO SELL.
Nothing contained in these rules limits the right of any home owner to sell, lease, mortgage, or close any certified family home in accordance with all applicable laws. (7-1-18)

951. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 39-3305, Idaho Code, to adopt and enforce rules to protect the health, safety, and the individual's rights for residents in residential care or assisted living facilities. (3-30-06)

001. TITLE, SCOPE, AND RESPONSIBILITIES.

01. Title. These rules are titled IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (3-30-06)

02. Scope. The purpose of a residential care or assisted living facility in Idaho is to provide choice, dignity and independence to residents while maintaining a safe, humane, and home-like living arrangement for individuals needing assistance with daily activities and personal care. These rules set standards for providing services that maintain a safe and healthy environment. (3-30-06)

03. General Provider Responsibilities. The facility must assure quality services by providing choices, dignity and independence to residents. The facility must have an administrator and staff who have the knowledge and experience required to provide safe and appropriate services to all residents of the facility. The facility must be operated consistent with the rules and statutes as it conducts its work. (3-30-06)

04. General Department Responsibilities. The Department is responsible for monitoring and enforcing the provisions of the statute and this chapter to protect residents in these facilities by providing information, education and evaluating providers to assure compliance with statute and these rules. This responsibility includes: licensing facilities and monitoring the condition of the facility. (3-30-06)

05. Exemptions. The provisions of these rules do not apply to any of the following: (3-30-06)

a. Health Facility. The provisions of these rules do not apply to hospitals, nursing facilities, intermediate care facilities for persons with intellectual disabilities, or any other health facility as defined by Title 39, Chapter 13, Idaho Code. (3-30-06)

b. Alternate Living Arrangements. The provisions of these rules do not apply to any house, institution, hotel, congregate housing project, retirement home, or other similar place that is limited to providing one (1) or more of the following: housing, meals, transportation, housekeeping, or recreational and social activities, or that have residents independently accessing supportive services from an entity approved to provide such services in Idaho and holding no legal ownership interest in the entity operating the facility. (3-30-06)

c. Relatives. The provisions of these rules do not apply to any arrangement for the receiving and care of persons by a relative, except when the caretaker is paid for the care through a state or federal program, in which case the caretaker relative and the care setting must meet all applicable requirements. (3-30-06)

002. INCORPORATION BY REFERENCE.
The documents, referenced in Subsection 004.01 through 004.08 of these rules, are incorporated by reference as provided by Section 67-5229 (a), Idaho Code. These incorporated documents are available for public review upon request at the Department of Health and Welfare, 450 West State Street, Boise, Idaho 83702, or when available on line at the websites provided in these rules. (3-30-06)

01. National Fire Protection Association (NFPA) Documents. The NFPA documents referenced in these regulations are available from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322-9908; 1-800-344-3555; and online at http://www.nfpa.org. (3-30-06)

02. Idaho Diet Manual. This manual is available from the Idaho Dietetic Association, Ninth Edition, 2005, online at http://eatrightidaho.org. (3-30-06)

03. Idaho Food Code. IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." These rules are available online at http://adminrules.idaho.gov/rules/current/16/160219.pdf. (3-30-06)

04. Americans with Disabilities Act Accessibility Guidelines. 28 CFR Part 36, Appendix A. This code is available online at http://www.ada.gov/publicat.htm. Contact phone number is 1-800-514-0301. (3-30-06)

05. Idaho Board of Nursing Rules. IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." These rules are available online at http://adminrules.idaho.gov/rules/current/23/. (3-30-06)

06. Idaho Board of Pharmacy Rules. IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy." These rules are available online at http://adminrules.idaho.gov/rules/current/27/. (3-30-06)

07. International Building Code. Edition 2003. This code is available from the International Code Council, 4051 West Flossmoor Rd., Country Club Hills, IL 60478-5795, phone: 888-422-7233 and online at http://www.iccsafe.org. (3-30-06)

08. Idaho Medical Assistance Program Rules. IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Section 665. These rules may be found online at http://adminrules.idaho.gov/rules/current/16/160309.pdf. (3-30-06)

00*3*. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Criminal History and Background Check. A residential care or assisted living facility must complete a criminal history and background check on employees and contractors hired or contracted with after October 1, 2007, who have direct patient access to residents in the residential care or assisted living facility. The Department check conducted under IDAPA 16.05.06, "Criminal History and Background Checks," satisfies this requirement. Other criminal history and background checks may be acceptable provided they meet the criteria in Subsection 009.02 of this rule and the entity conducting the check issues written findings. The entity must provide a copy of these written findings to both the facility and the employee. (3-26-08)

02. Scope of a Criminal History and Background Check. The criminal history and background check must, at a minimum, be fingerprint-based and include a search of the following record sources: (3-26-08)

a. Federal Bureau of Investigation (FBI); (3-26-08)

b. Idaho State Police Bureau of Criminal Identification; (3-26-08)

c. Sexual Offender Registry; (3-26-08)

d. Office of Inspector General List of Excluded Individuals and Entities; and (3-26-08)

e. Nurse Aide Registry. (3-26-08)

03. Availability to Work. Any direct patient access individual hired or contracted with on or after October 1, 2007, must self-disclose all arrests and convictions before having access to residents. (7-1-15)

a. The individual is allowed to only work under supervision until the criminal history and background check is completed, unless: (7-1-15)

i. The individual has completed an alternative criminal history and background check that includes a search of the record sources listed in Subsections 009.02.b. through 009.02.e. of this rule; and (7-1-15)

ii. The facility determines there is no potential danger to residents. (7-1-15)

b. This alternative criminal history and background check is only in effect until the Department has issued a clearance or denial based on the Department's completed fingerprint based background check. (7-1-15)

c. If a disqualifying crime as described in IDAPA 16.05.06, "Criminal History and Background Checks," is disclosed, the individual cannot have access to any resident. (7-1-15)

04. Submission of Fingerprints. The individual's fingerprints must be submitted to the entity conducting the criminal history and background check within twenty-one (21) days of his date of hire. (3-26-08)

05. New Criminal History and Background Check. An individual must have a criminal history and background check when: (3-26-08)

a. Accepting employment with a new employer; and (3-26-08)

b. His last criminal history and background check was completed more than three (3) years prior to his date of hire. (3-26-08)

06. Use of Previous Criminal History and Background Check. Any employer may use a previous criminal history and background check obtained under these rules if: (3-26-08)

a. The individual has received a criminal history and background check within three (3) years of his date of hire; (3-26-08)

b. The employer has documentation of the criminal history and background check findings; (3-26-08)

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification; and (3-26-08)

d. No disqualifying crimes are found. (3-26-08)

07. Employer Discretion. The new employer, at its discretion, may require an individual to complete a criminal history and background check at any time, even if the individual has received a criminal history and background check within three (3) years of his date of hire. (3-26-08)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.

01. Abuse. The non-accidental act of sexual, physical or mental mistreatment, or injury of a resident through the action or inaction of another individual. (3-30-06)

02. Accident. An unexpected, unintended event that can cause a resident injury. (3-30-06)

03. Activities. All organized and directed social and rehabilitative services a facility provides, arranges, or cooperates with. (3-30-06)

04. Activities of Daily Living. The performance of basic self-care activities in meeting an individual's needs to sustain him in a daily living environment, including bathing, washing, dressing, toileting, grooming, eating, communicating, continence, and mobility. (3-30-06)

05. Administrator. An individual, properly licensed by the Bureau of Occupational Licensing, who is responsible for day to day operation of a residential care or assisted living facility. (3-30-06)

06. Administrator's Designee. An administrator's designee is a person authorized to act in the absence of the administrator and who is knowledgeable of facility operations, the residents and their needs, emergency procedures, the location and operation of emergency equipment and how the administrator can be reached in the event of an emergency. (7-1-15)

07. Adult. A person who has attained the age of eighteen (18) years. (3-30-06)

08. Advance Directive. A written instruction, such as a living will or durable power of attorney for health care, recognized under State Law, whether statutory or as recognized by the courts of the State, and relates to the provision of medical care when the individual is unable to communicate. (3-30-06)

09. Advocate. An authorized or designated representative of a program or organization operating under federal or state mandate to represent the interests of a population group served by a facility. (3-30-06)

10. Ambulatory Person. A person who, unaided by any other person, is physically and mentally capable of walking a normal path to safety, including the ascent and descent of stairs. (3-30-06)

11. **Assessment**. The conclusion reached using uniform criteria which identifies resident strengths, weaknesses, risks and needs, to include functional, medical and behavioral needs. (3-30-06)

12. **Authentication**. Proof of authorship. (3-30-06)

13. **Authorized Provider**. An individual who is a nurse practitioner or clinical nurse specialist or physician assistant. (3-30-06)

14. **Basement**. That portion of a building that is partly or completely below grade plane. A basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) More than six (6) feet (1829 mm) above grade plane; (2) More than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) More than twelve (12) feet (3658 mm) above the finished ground level at any point. International Building Code-2003. (3-30-06)

15. **Behavioral Plan**. A written plan which decreases the frequency or intensity of maladaptive behaviors and increases the frequency of adaptive behaviors and introduces new skills. (3-30-06)

16. **Call System**. A signaling system whereby a resident can contact staff directly from their sleeping room, toilet room, and bathing area. The system may be voice communication; an audible or visual signal; and, may include wireless technology. The call system cannot be configured in such a way as to breach a resident's right to privacy at the facility. including but not limited to, the resident's living quarters, common areas, medical treatment and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups. (3-29-10)

17. **Chemical Restraint**. A medication used to control behavior or to restrict freedom of movement and is not a standard treatment for the resident's condition. (3-30-06)

18. **Client of the Department**. Any person who receives financial aid, or services, or both from an organized program of the Department. (3-30-06)

19. **Complaint**. A formal expression of dissatisfaction, discontent, or unhappiness by or on behalf of a resident concerning the care or conditions at the facility. This expression could be oral, in writing, or by alternative means of communication. (3-30-06)

20. **Complaint Investigation**. A survey to investigate the validity of allegations of noncompliance with applicable state requirements. (3-30-06)

21. **Core Issue**. A core issue is any one (1) of the following: abuse; neglect; exploitation; inadequate care; a situation in which the facility has operated for more than thirty (30) days without a licensed administrator designated the responsibility for the day to day operations of the facility; inoperable fire detection or extinguishing systems with no fire watch in place pending the correction of the system; or surveyors denied access to records, residents or facilities. (3-30-06)

22. **Criminal Offense**. Any crime as defined in Section 18-111, Idaho Code, in 18 U.S.C. Section 4A1.2(o), and 18 U.S.C. Sections 1001 through 1027. (3-30-06)

23. **Deficiency**. A determination of non-compliance with a specific rule or part of a rule. (3-30-06)

24. **Dementia**. A chronic deterioration of intellectual function and other cognitive skills severe enough to interfere with the ability to perform activities of daily living and instrumental activities of daily living. (3-30-06)

25. **Department**. The Idaho Department of Health and Welfare. (3-30-06)

26. **Developmental Disability**. A developmental disability, as defined in Section 66-402, Idaho Code, means chronic disability of a person which appears before the age of twenty-two (22) years of age and: (3-30-06)

a. Is attributable to an impairment, such as an intellectual disability, cerebral palsy, epilepsy, autism,

or other conditions found to be closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from such impairments; and (3-30-06)

b. Results in substantial functional limitations in three (3) or more of the following areas of major life activity; self-care, receptive and expressive language, learning, mobility, self-direction, capacity of independent living, or economic self-sufficiency; and (3-30-06)

c. Reflects the need for a combination and sequence of special, interdisciplinary or direct care, treatment or other services which are of life-long or extended duration and individually planned and coordinated. (3-30-06)

27. Director. The Director of the Idaho Department of Health and Welfare or his designee. (3-30-06)

28. Electronic Signature, E-Signature. The system for signing electronic documents by entering a unique code or password that verifies the identity of the person signing and creates an individual "signature" on the record. (3-30-06)

29. Exit Conference. A meeting with the facility administrator or designee to: (1) provide review, discussion and written documentation of non-core issues (Punch List), and (2) to provide preliminary findings of core issues. (3-30-06)

30. Exploitation. The misuse of a resident's funds, property, resources, identity or person for profit or advantage, for example: (3-29-10)

a. Charging a resident for services or supplies not provided; or (3-29-10)

b. Charging a resident for services or supplies not disclosed in the written admission agreement between the resident and the facility. (3-29-10)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH M.

01. Follow-Up Survey. A survey conducted to confirm that the facility is in compliance and has the ability to remain in compliance. (3-30-06)

02. Functional Abilities Assessment. An assessment of the resident's degree of independence with which the resident performs activities of daily living and instrumental activities of daily living. (3-30-06)

03. Governmental Unit. The state, any county, municipality, or other political subdivision or any Department, division, board, or other agency thereof. (3-30-06)

04. Grade Plane. A reference plane representing the average of finished ground level adjoining the building at exterior walls. Where the finished ground level slopes away from the exterior walls, the reference plane will be established by the lowest points within the area between the building and the lot line or, where the lot line is more than six (6) feet (1829 mm) from the building, between the building and a point six (6) feet (1829 mm) from the building. International Building Code - 2003. (3-30-06)

05. Hands On. Physical assistance to the resident beyond verbal prompting. (3-30-06)

06. Hourly Adult Care. Nonresident daily services and supervision provided by a facility to individuals who are in need of supervision outside of their personal residence for a portion of the day. (3-30-06)

07. Immediate Danger. Any resident is subject to an imminent or substantial danger. (3-30-06)

08. Inadequate Care. When a facility fails to provide the services required to meet the terms of the Negotiated Service Agreement, or provide for room, board, activities of daily living, supervision, first aid, assistance and monitoring of medications, emergency intervention, coordination of outside services, a safe living environment, or engages in violations of resident rights or takes residents who have been admitted in violation of the provisions of Section 39-3307, Idaho Code. (3-30-06)

09. Incident. An event that can cause a resident injury. (3-30-06)

10. Incident, Reportable. A situation when a facility is required to report information to the Licensing and Certification Unit. (3-29-10)

a. Resident injuries of unknown origin. This includes any injury, the source of which was not observed by any person or the source of the injury could not be explained by the resident; or the injury includes severe bruising on the head, neck, or trunk, fingerprint bruises anywhere on the body, laceration, sprains, or fractured bones. Minor bruising and skin tears on the extremities need not be reported. (3-30-06)

b. Resident injury resulting from accidents involving facility-sponsored transportation. Examples: falling from the facility's van lift, wheel chair belt coming loose during transport, or an accident with another vehicle. (3-30-06)

c. Resident elopement of any duration. Elopement is when a resident who is unable to make sound decisions physically leaves the facility premises without the facility's knowledge. (3-30-06)

d. An injury due to resident-to-resident incident. (3-30-06)

e. An incident that results in the resident's need for hospitalization, treatment in a hospital emergency room, fractured bones, IV treatment, dialysis, or death. (3-30-06)

11. Independent Mobility. A resident's ability to move about freely of their own choice with or without the assistance of a mobility device such as a wheelchair, cane, crutches, or walker. (3-30-06)

12. Instrumental Activities of Daily Living. The performance of secondary level of activities that enables a person to live independently in the community, including preparing meals, access to transportation, shopping, laundry, money management, housework, and medication management. (3-30-06)

13. Legal Guardian or Conservator. A court-appointed individual who manages the affairs or finances or both of another who has been found to be incapable of handling his own affairs. (3-30-06)

14. License. A permit to operate a facility. (3-30-06)

15. Licensing and Certification Unit. The Department's Division of Licensing and Certification is responsible for licensing and surveying residential care or assisted living facilities. In this chapter of rules, "Licensing and Certification Unit" and "Licensing and Survey Agency" are synonymous. (7-1-15)

16. Medication. Any substance or drug used to treat a disease, condition, or symptom, which may be taken orally, injected, or used externally and is available through prescription or over-the-counter. (3-30-06)

17. Medication Administration. It is a process where a prescribed medication is given to a resident by one (1) of several routes by licensed nurses. (3-30-06)

18. Medication Assistance. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a person who cannot independently self-administer medications. IDAPA 23.01.01. "Rules of the Idaho State Board of Nursing," Section 010. (3-30-06)

19. Medication Dispensing. The act of filling, labeling and providing a prescribed medication to a resident. (3-30-06)

20. Medication, Self-Administration. The act of a resident taking a single dose of his own medication from a properly labeled container and placing it internally in, or externally on, his own body as a result of an order by a authorized provider. (3-30-06)

21. Mental Disorders. Health conditions that are characterized by alterations in thinking, mood or

behavior (or some combination thereof), that are all mediated by the brain and associated with distress and or impaired functioning. (3-30-06)

22. **Mental Illness**. Refers collectively to all diagnosable mental disorders. (3-30-06)

23. **Monitoring Visit**. A visit by a representative of the Licensing and Certification Unit for the purpose of assuring residents are not in immediate danger. (3-29-10)

24. **Neglect**. Failure to provide food, clothing, shelter, or medical care necessary to sustain the life and health of a resident. (3-30-06)

25. **Negotiated Service Agreement**. The plan reached by the resident and/or their representative and the facility based on the assessment, physician or authorized provider's orders, admission records, and desires of the resident, and which outlines services to be provided and the obligations of the facility and the resident. (3-30-06)

26. **Non-Core Issue**. Any finding of deficiency that is not a core issue. (3-30-06)

012. DEFINITIONS AND ABBREVIATIONS O THROUGH Z.

01. **Owner**. Any person or entity, having legal ownership of the facility as an operating business, regardless of who owns the real property. (3-30-06)

02. **Personal Assistance**. The provision by the staff of the facility of one (1) or more of the following services as outlined in the Negotiated Service Agreement: (3-30-06)

a. Assisting the resident with activities of daily living and instrumental activities of daily living. (3-30-06)

b. Arranging for supportive services. (3-30-06)

c. Being aware of the resident's general whereabouts and supervision. (3-30-06)

d. Monitoring the activities of the resident while on the premises of the facility to assure the resident's health, safety, and well-being. (3-30-06)

e. Assisting residents with self-administration of medication. (3-30-06)

03. **Personnel**. Paid individuals assigned the responsibility of providing care and supervision and services to the facility and its residents. (3-30-06)

04. **Physical Restraint**. Any device or physical force that restricts the free movement of, normal functioning of, or normal access to a portion or portions of an individual's body except for treatment of a medical condition. (3-30-06)

05. **Portable Heating Device**. Any device designed to provide heat on a temporary basis; is not designed as part of a building's heating system; is not permanently affixed to the building; and, if electrical, is not hardwired to the building's electrical service. This does not include the therapeutic devices of heating pads, heated mattress pads and electric blankets which require a physician or authorized provider’s order. (3-30-06)

06. **PRN**. Indicates that a medication or treatment prescribed by a medical professional to an individual may be given as needed. (3-30-06)

07. **Pressure Ulcer**. Any lesion caused by unrelieved pressure that results in damage to the underlying tissue(s). Although friction and shear are not primary causes of pressure ulcers, friction and shear are important contributing factors to the development of pressure ulcers. (3-30-06)

08. **Provisional License**. A license which may be issued to a facility not in compliance with the rules

pending the satisfactory correction of all deficiencies. (3-30-06)

09. Psychosocial History. A combined summary of psychological and social histories of an individual designed to inform a care giver of a person's abilities and limitations which will assist in identifying appropriate resources. (3-30-06)

10. Publicly Funded Programs. Any program funded in whole or in part by an appropriation of the U.S. Congress, the Idaho Legislature, or other governmental body. (3-30-06)

11. Punishment. Any action in which an adverse consequence is presented to a resident that is designed to produce a decrease in the rate, intensity, duration or probability of the occurrence of a behavior; or the administration of any noxious or unpleasant stimulus or deprivation of a resident's rights or freedom for the purpose of reducing the rate, intensity, duration, or probability of a particular behavior. (3-30-06)

12. Relative. A person related by birth, adoption, or marriage to the first degree and grandparent and grandchild. (3-30-06)

13. Repeat Deficiency. A deficiency found on a resurvey, complaint investigation, or follow-up survey that was also found on the previous survey or visit. (3-30-06)

14. Resident. An adult, other than the owner, administrator, their immediate families, or employees, who lives in a residential care or assisted living facility. (3-30-06)

15. Residential Care or Assisted Living Facility. A facility or residence, however named, operated on either a profit or nonprofit basis for the purpose of providing necessary supervision, personal assistance, meals, and lodging to three (3) or more adults not related to the owner. In this chapter, Residential Care or Assisted Living Facilities are referred to as “facility.” Distinct segments of a facility may be licensed separately, provided each segment functions independently and meets all applicable rules. (3-30-06)

16. Room and Board. Lodging, meals, and utilities. (3-30-06)

17. Scope. The frequency or extent of the occurrence of a deficiency in a facility. (3-30-06)

18. Self-Evacuating Resident. A resident who is able to leave the building without one-on-one (1 on 1) or hands-on assistance and can remain at a designated location. (3-30-06)

19. Self Preservation. The ability of a person to independently avoid situations and circumstances in which he might be easily taken advantage of, and to protect themselves and property. (3-30-06)

20. Short Term. A treatment window designed to allow a resident to receive treatment for a short term acute episode, usually fourteen (14) days or less, as determined by a licensed registered nurse. (3-30-06)

21. Story. That portion of a building included between the upper surface of a floor and the upper surface of the floor or roof next above. It is measured as the vertical distance from top to top of two (2) successive tiers of beams or finished floor surfaces and, for the topmost story, from the top of the floor finish to the top of the ceiling joists or, where there is not a ceiling, to the top of the roof rafters. (3-30-06)

22. Story Above Grade Plane. Any story having its finished floor surface entirely above grade plane, except that a basement will be considered as a story above grade plane where the finished surface of the floor above the basement is: (1) more than six (6) feet (1829 mm) above grade plane, (2) more than six (6) feet (1829 mm) above the finished ground level for more than fifty percent (50%) of the total building perimeter; or (3) more than twelve (12) feet (3658 mm) above the finished ground level at any point. (3-30-06)

23. Substantial Compliance. A facility is in substantial compliance with these rules when no core issues have been cited as a deficiency during any survey. (3-30-06)

24. Substantial Evening Meal. An offering of three (3) or more menu items at one-time, one (1) of

which includes a high-quality protein such as meat, fish, eggs, or cheeses. The meal should represent no less than twenty percent (20%) of the day's total nutritional requirements. (3-30-06)

25. Supervision. A critical watching and directing activity which provides protection, guidance, knowledge of the resident's general whereabouts, and assistance with activities of daily living. The administrator is responsible for providing appropriate supervision based on each resident's Negotiated Service Agreement or other legal requirements. (3-30-06)

26. Supportive Services. Services provided to the resident in the community. (3-30-06)

27. Survey. A review conducted by a surveyor to determine compliance with statutes and rules. There are two (2) components to a survey, health care and fire life safety and sanitation. (3-30-06)

28. Surveyor. A person authorized by the Department to conduct surveys or complaint investigations to determine compliance with statutes and rules. (3-30-06)

29. Syringe -- Oral Feeding. Use of a syringe to deliver liquid or pureed nourishment directly into the mouth. (3-30-06)

30. Therapeutic Diet. A diet ordered by a physician or authorized provider as part of treatment for a clinical condition or disease, or to eliminate or decrease specific nutrients in the diet, (e.g. sodium) or to increase specific nutrients in the diet (e.g. potassium) or to provide food the resident is able to eat (e.g. mechanically altered diet). (3-30-06)

31. Traumatic Brain Injury (TBI). An acquired injury to the brain caused by an external physical force, resulting in total or partial functional disability or psychosocial impairment, or both. The term applies to open or closed head injuries resulting in impairments in one (1) or more areas, such as cognition; language; memory; attention; reasoning; abstract thinking; judgment; problem-solving; sensory, perceptual, and motor abilities; psychosocial behavior; physical functions; information processing; and speech. (3-30-06)

32. Trust Account. An account maintained by the facility separate from its own accounts, to deposit, hold, or disburse monies belonging to a resident. The facility is the trustee of such accounts and the residents are the beneficiaries. (3-30-06)

33. Uniform Assessment Instrument (UAI). A set of standardized criteria to assess functional and cognitive abilities of the resident. (3-30-06)

34. Unlicensed Assistive Personnel (UAP). Unlicensed assistive personnel (UAP) employed to perform nursing care services under the direction and supervision of licensed nurses. UAP also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. (3-30-06)

35. Variance. Permission by the Department to do something contrary to rule. (3-30-06)

36. Waiver Services. Home and Community Based (HCBS) Services. (3-30-06)

37. Waivered Level Three Small Facility. An existing facility, licensed prior to July 1, 1992, that: (3-30-07)

a. Serves residents who require extensive assistance with mobility; (3-30-07)

b. Houses nine (9) or fewer residents on the first story only; and (3-30-07)

c. Complies with the requirements of Chapter 21, Residential Board and Care Section for Prompt Evacuation Capability, of the National Fire Protection Association (NFPA), Life Safety Code, 1988 Edition. (3-30-07)

013. -- 049. (RESERVED)

050. VARIANCES.

The Licensing and Survey Agency may grant a variance provided the following criteria in Subsection 050.01 of these rules are met. (3-30-06)

01. Written Request. A written request for a variance must be sent to the Licensing and Survey Agency. The request must include the following: (3-30-06)

a. Reference to the section of the rules for which the variance is requested; (3-30-06)

b. Reasons that show good cause why the variance should be granted, the extenuating circumstances which caused the need for the variance, any compensating factors or conditions that may have bearing on the variance such as additional floor space or additional staffing; and (3-30-06)

c. Written documentation that assures residents' health and safety will not be jeopardized if a variance is granted. (3-30-06)

02. Temporary Variance. A temporary variance may be granted for a specific resident or situation. The variance expires when the resident no longer lives at the facility or when the situation no longer exists. (3-30-06)

03. Continuing Temporary Variance. The Licensing and Survey Agency reviews the appropriateness of continuing a variance during the survey process. If the facility administrator wishes to continue the variance, an annual request must be submitted to the Licensing and Survey Agency in writing. (3-30-06)

04. Permanent Variance. A permanent variance may be granted provided the provisions of Subsections 050.01.a. through 050.01.c. of these rules are met. (3-30-06)

05. Decision to Grant a Variance. The decision to grant a variance will not be considered as a precedent or be given any force or effect in any other proceeding. (3-30-06)

06. Revocation of Variance. The Licensing and Survey Agency may revoke a variance if circumstances identify a risk to resident health and safety. (3-30-06)

051. -- 099. (RESERVED)

100. REQUIREMENTS FOR A LICENSE.

01. Current License. No person, firm, partnership, association, corporation, or governmental unit can operate, establish, manage, conduct, or maintain a residential care or assisted living facility in Idaho without a license issued by the Department. (3-30-06)

02. Issuance of License. Upon completion of the application process requirements the Department will issue: (3-30-06)

a. A residential care or assisted living license, in the name of the licensee applying for the license and to the address of the facility stated in the application; (3-30-06)

b. The residential care or assisted living license will specify the maximum allowable number of beds. All occupants other than the owner, administrator, immediate family, or employees will be included in the licensed bed capacity of the facility. (3-30-06)

03. Distinctive Business Name. Every facility must use a distinctive name, which is registered with the Secretary of State of Idaho. If a facility decides to change its name, it will only be changed upon written notification to the Licensing and Survey Agency confirming the registration of the name change with the Secretary of State of Idaho. This notification needs to be received by the Licensing and Survey Agency at least thirty (30) calendar days prior to the date the proposed name change is to be effective. (3-30-06)

04. Licensed Administrator. Each facility must have an administrator, licensed by the Bureau of Occupational Licensing, who is responsible for the day-to-day operation of the facility. (3-30-06)

05. Display of Facility License. The current facility license must be posted in the facility and clearly visible to the general public. (3-30-06)

06. Change in Corporate Shares. When there is a significant change in shares held by a corporate licensee of a residential care or assisted living facility, which does not alter the overall ownership or operation of the business, that change must be communicated to the Licensing and Survey Agency within (60) days of the effective date of change. (3-30-06)

07. Licensee Responsibility. The licensee of the facility is responsible for the operation of the residential care or assisted living facility, even when a separate administrator is employed. (3-30-06)

101. -- 104. (RESERVED)

105. CHANGE OF OWNERSHIP.

01. Non-Transfer of Facility License. A facility license is not transferable from one (1) individual to another, from one (1) business entity to another, or from one (1) location to another. When a change of licensee, ownership, lease or location occurs, the facility must be re-licensed. The new licensee must follow the application procedures, and obtain a license, before commencing operation as a facility. (3-30-06)

02. Application for Change of Ownership. The application for a change of ownership must be submitted to the Licensing and Survey Agency at least ninety (90) days prior to the proposed date of change. (3-30-06)

03. Change of Ownership for a Facility In Litigation. An application for change of ownership of a facility from a person who is in litigation for failure to meet licensure standards, or who has had a license revoked, must include evidence that there is a bona fide, arms-length agreement and relationship between the two (2) parties. An entity purchasing a facility with an enforcement action acquires the enforcement action. (3-30-06)

106. -- 109. (RESERVED)

110. FACILITY LICENSE APPLICATION.

01. Facility License. License application forms are available upon written request or online at the Licensing and Survey Agency's website at http://www.assistedliving.dhw.idaho.gov/. The applicant must provide the following information: (3-30-06)

a. A written statement that the applicant has thoroughly read and reviewed the statute, Title 39, Chapter 33, Idaho Code, and IDAPA 16.03.22, "Rules for Residential Care or Assisted Living Facilities in Idaho," and is prepared to comply with both; (3-30-06)

b. The applicant must provide a written statement and documentation that demonstrate no license revocation or other enforcement action has been taken or is in the process of being taken, against a license held or previously held by the applicant in Idaho or any other state or jurisdiction; (7-1-15)

c. When the applicant is a firm, association, organization, partnership, business trust, corporation, government entity, or company, the administrator and other members of the organization who directly influence the facility's operation must provide the information contained in Subsections 110.01.a. and 110.01.b. of these rules. (7-1-15)

d. Each shareholder or investor holding ten percent (10%) or more interest in the business must be listed on the application; (3-30-06)

e. A copy of the Certificate of Assumed Business Name from Secretary of State of Idaho; (3-30-06)

f. A statement from the local fire authority that the facility is located in a lawfully constituted fire district or affirmation that a lawfully constituted fire authority will respond to a fire at the facility; (3-30-06)

g. A statement from a licensed electrician or the local or state electrical inspector that all wiring in the facility complies with current electrical codes; (3-30-06)

h. When the facility does not use an approved municipal water or sewage treatment system, a statement from a local environmental health specialist with the public health district indicating that the water supply and sewage disposal system meet the Department's requirements and standards; (3-30-06)

i. A complete set of printed operational policies and procedures as described in Sections 150 through 162 of these rules. (3-30-06)

j. A detailed floor plan of the facility, including measurements of all rooms, or a copy of architectural drawings must be submitted for evaluation by the Licensing and Survey Agency. See Sections 250-260, 400-410, and 430 of these rules. (3-30-06)

k. A copy of the Purchase Agreement, Lease Agreement, or Deed. (3-30-06)

l. For facilities with nine (9) beds or more, signatures must be obtained from the following: (3-30-06)

i. The local zoning official documenting that the facility meets local zoning codes for occupancy; (3-30-06)

ii. The local building official documenting that the facility meets local building codes for occupancy; and (3-30-06)

iii. The local fire official documenting that the facility meets local fire codes for occupancy. (3-30-06)

02. Written Request for Building Evaluation. The applicant must request in writing to the Licensing and Survey Agency for a building evaluation of existing buildings. The request must include the physical address of the building that is to be evaluated; the name, address, and telephone number of the person who is to receive the building evaluation report. (3-30-06)

03. Building Evaluation Fee. This application and request must be accompanied by a five hundred dollar ($500) initial building evaluation fee. (3-30-06)

04. Identification of the Licensed Administrator. The applicant must provide the following information for the licensed administrator: (3-30-06)

a. A copy of the administrator license; (3-30-06)

b. A current primary residence of the administrator. (3-30-06)

05. Failure to Complete Application Process. Failure of the applicant to complete the Licensing and Survey Agency's application process within six (6) months, of the original date of application, may result in a denial of the application. If the application is denied the applicant is required to initiate a second licensing process. (3-30-06)

111. -- 114. (RESERVED)

115. EXPIRATION AND RENEWAL OF LICENSE.

01. Application for License Renewal. The facility must submit a Licensing and Survey Agency application for renewal of a license at least thirty (30) days prior to the expiration of the existing license. (3-30-06)

02. Existing License. The existing license, unless suspended, surrendered, or revoked, remains in force and effect until the Licensing and Survey Agency has acted upon the application renewal, when such application for renewal has been filed. (7-1-15)

116. -- 119. (RESERVED)

120. FACILITY OPERATING WITHOUT A LICENSE.

01. Facility Without a License. An operation is considered an unlicensed facility if it meets the definition of a facility stated in these rules, or is represented to provide care and serve the population of a residential or assisted living facility, is not licensed and is not exempt from licensure. (3-30-06)

02. Residents in Facility Without a License. Upon discovery of a facility operating without a license, the Department will refer residents to an appropriate placement or adult protective services agency if either of the following conditions exist: (3-30-06)

a. There is an immediate threat to the resident's health and safety; or (3-30-06)

b. The unlicensed facility does not cooperate with the Department to apply for a license and meet licensing standards requirements. (3-30-06)

03. **Operator of a Facility Operating Without a License**. A person found to be operating a facility without a license is guilty of a misdemeanor punishable by imprisonment in a county jail not to exceed six (6) months, or by a fine not to exceed five thousand dollars ($5000), according to Section 39-3352(4), Idaho Code. (3-30-06)

04. **Prosecution of Violators**. In the event the county attorney in the county where the alleged violation occurred fails or refuses to act within thirty (30) days of notification of the violation, the Attorney General is authorized to prosecute violations under the provisions of Section 39-3352(5), Idaho Code. (3-30-06)

121. -- 125. (RESERVED)

126. EFFECT OF ENFORCEMENT ACTION AGAINST A LICENSE.
The Department will not review an application of an applicant who has an action, either current or in process, against a license held by the applicant either in Idaho or any other state or jurisdiction. (7-1-15)

127. -- 129. (RESERVED)

130. LICENSURE SURVEYS.

01. Surveys of Facilities. The Licensing and Survey Agency will assure that surveys are conducted at specified intervals in order to determine compliance with this chapter and applicable rules and statutes. The intervals of surveys will be: (3-30-06)

a. Within ninety (90) days from initial licensure followed by a survey within fifteen (15) months. Facilities receiving no core issue deficiencies during both the initial and the subsequent survey will then enter the three (3) year survey cycle. (3-30-06)

b. Once every twelve (12) months, or more frequently at the discretion of the Licensing and Survey Agency for those facilities receiving core issue deficiencies during any survey. Surveys will be conducted until the facility attains two (2) consecutive surveys, excluding follow-up surveys, without a core issue deficiency. (3-30-06)

c. At least every thirty-six (36) months, for those facilities having attained no core issue deficiencies for two (2) or more consecutive surveys, regardless of survey type. (3-30-06)

d. Complaint investigation survey based on the potential severity of the complaint. (3-30-06)

02. Unannounced Surveys. Surveys are made unannounced and without prior notice at the discretion of the Department. (3-30-06)

03. Inspection or Survey Services. The Department may use the services of any qualified person or organization, either public or private, to examine, survey or inspect any entity requesting or holding a facility license. (3-30-06)

04. Access and Authority to Entire Facility. A surveyor must have full access and has the authority to examine: quality of care, services delivery, resident records, facility's records including any records or documents pertaining to any financial transactions between residents and the facility or any of its employees, resident accounts, physical premises, including the condition of buildings, grounds and equipment, food service, water supply, sanitation, maintenance, housekeeping practices, and any other areas necessary to determine compliance with applicable statute, rules, and standards. (3-30-06)

05. Interview Authority. A surveyor has the authority to interview any individual associated with the facility or the provision of care, including the license holder, administrator, staff, residents, residents' families, service providers, authorized provider or physician or other legally responsible person. Interviews are confidential and conducted privately unless otherwise specified by the interviewee. (3-30-06)

06. Access to Staff Living Quarters. The surveyor has full authority to inspect the facility, including personal living quarters of operators, administrator, or staff living in the facility, to check for inappropriate storage of combustibles, faulty wiring, or other conditions that may have a direct impact on compliance with these rules. (3-30-06)

07. Written Report of Deficiencies. The Licensing and Survey Agency will provide a written report to support any deficiencies found. (3-30-06)

a. Core Issue Deficiency. The Licensing and Survey Agency will provide, within ten (10) business days from the exit conference or from the last day of receipt of additional material, a written Statement of Deficiencies and Plan of Correction form to the facility when core deficiencies are identified during the survey. (3-30-06)

b. Non-Core Issue Deficiency. The Licensing and Survey Agency will provide the facility a written report specifying the non-core issue deficiencies at the time of the exit conference. (3-30-06)

08. Plan of Correction for Core Issue Deficiencies. The facility must develop a plan of correction and return an acceptable plan of correction to the Licensing and Survey Agency, for all core-issue deficiencies, within ten (10) calendar days of receipt of the Statement of Deficiencies and Plan of Correction form. An acceptable plan of correction must include: (3-30-06)

a. A plan to assure correction of each deficient practice and to assure ongoing compliance; (3-30-06)

b. Describe how and the frequency that the corrective actions will be monitored to assure that each deficient practice is corrected and will not recur, such as what program will be put into place to monitor the continued effectiveness of the systemic change; (3-30-06)

c. State the completion date for correcting each deficiency, except in unusual circumstances, and only with the written approval of the Licensing and Survey Agency. No correction date may be more than sixty (60) days from the inspection exit date as printed on the "Statement of Deficiencies and Plan of Correction" form; and (3-30-06)

d. The administrator's signature and the date submitted. (3-30-06)

09. Evidence of Resolution for Non-Core Deficiencies. The facility must provide evidence of resolution of non-core issues to the Licensing and Survey Agency, within thirty (30) calendar days of the exit conference. The facility may show evidence of resolution by providing receipts, pictures, and completed policies,

training, schedules, and other records. If there are non-core issues that the facility is unable to resolve due to extenuating circumstances, a written request for the delay must be submitted for Licensing and Survey Agency approval within thirty (30) days of the exit conference. The request must contain the following information: (3-30-06)

a. The reason for the delay; (3-30-06)

b. A plan for resolution; (3-30-06)

c. The date of the expected resolution, which may not exceed six (6) months; and (3-30-06)

d. A plan for assuring the safety of the residents until resolution. (3-30-06)

10. Follow-Up Survey. The Licensing and Survey Agency will conduct follow-up surveys to ascertain corrections to core issue and non-core issue deficiencies are made according to time frames established in the plan of correction and evidence of resolution. (3-30-06)

131. -- 139. (RESERVED)

140. COMPLAINTS AND INVESTIGATIONS.

01. Filing a Complaint. Any person who believes that the facility has failed to meet any provision of the rules or statute may file a complaint with the Department. All complaints must have a basis in rule or statutory requirements. In the event that it does not, the complainant will be referred to the appropriate entity or agency. (3-30-06)

02. Investigation Survey. The Licensing and Survey Agency will investigate, or cause to be investigated the following: (3-30-06)

a. Any complaint alleging a violation of the rules or statute; and (3-30-06)

b. Any reportable incident which indicates there was a violation of the rules or statute. (3-30-06)

03. Disclosure of Complaint Information. The Department will not disclose the name or identifying characteristics of a complainant unless: (3-30-06)

a. The complainant consents in writing to the disclosure; (3-30-06)

b. The investigation results in a judicial proceeding and disclosure is ordered by the court; or (3-30-06)

c. The disclosure is essential to prosecution of a violation. The complainant is given the opportunity to withdraw the complaint before disclosure. (3-30-06)

04. Method of Investigation. The nature of the complaint will determine the method used to investigate the complaint. (3-30-06)

05. Notification to Complainant. The Licensing and Survey Agency will inform the complainant of the results of the investigation survey when the complainant has provided a name and address. (3-30-06)

141. -- 149. (RESERVED)

150. POLICIES AND PROCEDURES.
Each facility must develop a written set of policies and procedures which are available to all staff at all times and include the facility policies described in Sections 151 through 162 of these rules. (3-30-06)

151. ACTIVITY POLICIES.

01. Policy and Plan. Each facility must develop a written activity policy that assists, encourages and promotes residents to maintain and develop their highest potential for independent living through their participation in planned recreational and other activities. (3-30-06)

02. Activity Opportunities. The policy must include opportunities from the following activities: (3-30-06)

a. Socialization through group discussion, conversation, recreation, visiting, arts and crafts, music; (3-30-06)

b. Daily living activities to foster and maintain independent functioning; (3-30-06)

c. Physical activities such as games, sports, and exercises which develop and maintain strength, coordination, and range of motion; (3-30-06)

d. Education through special classes or activities; and (3-30-06)

e. Leisure time so residents may engage in activities of their own choosing. (3-30-06)

03. Community Resources for Activities. The facility will utilize community resources to promote resident participation in integrated activities of their choice both in and away from the facility. (3-30-06)

152. ADMISSION POLICIES.

01. Admissions. Each facility must develop written admission policies and procedures. The written admission policy must include; (3-30-06)

a. The purpose, quantity and characteristics of available services; (3-30-06)

b. Any restrictions or conditions imposed because of religious or philosophical reasons. (3-30-06)

c. Limitations concerning delivery of routine personal care by persons of the opposite gender. (3-30-06)

d. Notification of any residents who are on the sexual offender registry and who live in the facility. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html. (3-30-06)

e. Appropriateness of placement to meet the needs of the resident, when there are non resident adults or children residing in the facility. (3-30-06)

02. Fee Description. A written description of how fees will be handled by the facility. (3-30-06)

03. Resident Funds Policies. When a resident's funds are deposited with the facility or administrator, the facility must manage the residents' funds as provided in Sections 39-3316 (1), (5) & (6), Idaho Code, and Section 505 and Subsections 550.05 and 550.06 of these rules. Each facility must develop written policies and procedures outlining how residents' funds will be handled. (3-30-06)

a. A statement if the facility does not manage resident funds. (3-30-06)

b. If the facility manages resident funds, how funds are handled and safeguarded. (3-30-06)

04. Resident Admission, Discharge, and Transfer. The facility must have policies addressing admission, discharge, and transfer of residents to, from, or within the facility. (3-30-06)

05. Policies of Acceptable Admissions. Written descriptions of the conditions for admitting residents to the facility must include: (3-30-06)

a. A resident will be admitted or retained only when the facility has the capability, capacity, and services to provide appropriate care, or the resident does not require a type of service for which the facility is not licensed to provide or which the facility does not provide or arrange for, or if the facility does not have the personnel, appropriate in numbers and with appropriate knowledge and skills to provide such services; (3-30-06)

b. No resident will be admitted or retained who requires ongoing skilled nursing or care not within the legally licensed authority of the facility. Such residents include: (3-30-06)

i. A resident who has a gastrostomy tube, arterial-venous (AV) shunts, or supra-pubic catheter inserted within the previous twenty-one (21) days; (3-30-06)

ii. A resident who is receiving continuous total parenteral nutrition (TPN) or intravenous (IV) therapy; (3-30-06)

iii. A resident who requires physical restraints, including bed rails, an exception is a chair with locking wheels or chair in which the resident cannot get out of; (3-30-06)

iv. A resident who is comatose, except for a resident who has been assessed by a physician or authorized provider who has determined that death is likely to occur within fourteen (14) to thirty (30) days; (3-30-06)

v. A resident who is on a mechanically supported breathing system, except for residents who use positive airway pressure devices only for sleep apnea, such as CPAP or BiPAP; (7-1-15)

vi. A resident who has a tracheotomy who is unable to care for the tracheotomy independently; (3-30-06)

vii. A resident who is fed by a syringe; (3-30-06)

viii. A resident with open, draining wounds for which the drainage cannot be contained; (3-30-06)

ix. A resident with a Stage III or IV pressure ulcer; (3-30-06)

x. A resident with any type of pressure ulcer or open wound that is not improving bi-weekly; (3-30-06)

c. For any resident who has needs requiring a nurse, the facility must assure a licensed nurse is available to meet the needs of the resident. (3-30-06)

d. A resident will not be admitted or retained who has physical, emotional, or social needs that are not compatible with the other residents in the facility; (3-30-06)

e. A resident that is violent or a danger to himself or others; (3-30-06)

f. Any resident requiring assistance in ambulation must reside on the first story unless the facility complies with Sections 401 through 404 of these rules; (3-30-06)

g. Residents who are not capable of self evacuation must not be admitted or retained by a facility which does not comply with the NFPA Standard #101, "Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Impracticable Evacuation Capability;" and (3-30-06)

153. ADDITIONAL POLICIES REQUIRED.

01. Response of Staff to Abuse, Neglect or Exploitation of Residents. The facility must develop policies and procedures to assure that allegations of abuse, neglect and exploitation are identified, reported, investigated, followed up with interventions to prevent reoccurrence and assure protection, and documented. (3-30-06)

02. Response of Staff to Emergencies. How staff are to respond to emergency situations: (3-30-06)

a. Medical and psychiatric emergencies; (3-30-06)

b. Resident absence; (3-30-06)

c. Criminal situations; and (3-30-06)

d. Presence of law enforcement officials at the facility. (3-30-06)

03. Notification of Changes to Resident Health or Mental Status. Who and how staff are to notify of any changes in residents' health or mental status. (3-30-06)

04. Provided Care and Services by Staff. How staff are to provide care and services to residents in the following areas: (3-30-06)

a. Activities of daily living; (3-30-06)

b. Dietary and eating, including when a resident refuses to eat or follow a prescribed diet; (3-30-06)

c. Dignity; (3-30-06)

d. Assuring each individual's rights; (3-30-06)

e. Medication assistance; (3-30-06)

f. Provision of privacy; (3-30-06)

g. Social activities; (3-30-06)

h. Supervision; (3-30-06)

i. Supporting resident independence; and (3-30-06)

j. Telephone access. (3-30-06)

05. Resident Property Identified and Safe. Identification of resident property and assuring that personal items are kept safe and used only by the resident. (3-30-06)

06. Intervention Procedures to Assure Safety of Residents and Staff. How to intervene to assure resident and staff safety in unsafe situations-physical or behaviorally caused. (3-30-06)

07. Behavior Management for Residents. The facility must have policies and procedures to assure timely assessment, plan development which implements the least restrictive intervention to address the behavior and document the effect of interventions. (3-30-06)

08. Staff Procedures for Accidents, Incidents, and Complaints. The facility must develop policies and procedures to assure that accidents and incidents are identified, reported, investigated, and followed up with interventions to prevent reoccurrence and assure protection, and documented. (3-30-06)

09. Facility Operations, Inspections, Maintenance, and Testing. Plans and procedures for the operation, periodic inspection, and testing of the physical plant, which includes utilities, fire safety and plant maintenance for all areas of the facility's campus. (3-30-06)

10. Hazardous Materials. Policies and procedures for handling of hazardous materials. (3-30-06)

11. Mechanical Equipment. Policies and procedures for handling potentially dangerous mechanical equipment. (3-30-06)

154. EMERGENCY PREPAREDNESS POLICIES.

01. Emergency Preparedness Plan. Each facility must develop and implement an emergency preparedness plan to follow in the event of fire, explosion, flood, earthquake, high wind, or other emergency. (3-30-06)

02. Written Procedures. The facility must have written procedures outlining steps to be taken in the event of an emergency including: (3-30-06)

a. Who is to respond; (3-30-06)

b. Each person's responsibilities; (3-30-06)

c. Where and how residents are to be evacuated; and (3-30-06)

d. Notification of emergency agencies. (3-30-06)

155. HOURLY ADULT CARE POLICIES.
Facilities offering hourly adult care must develop written policies and procedures which include the following: (3-30-06)

01. Services Offered for Hourly Adult Care. A description of services offered, including: transportation services if offered, meals, activities, and supervision. (3-30-06)

02. Acceptable Hourly Care Individuals. Types of individuals who may or may not be accepted for hourly care. (3-30-06)

03. Cost of Program. Cost of program to individual. (3-30-06)

04. Health and Other Individual Needs. Health and other pertinent information regarding the individual's needs. (3-30-06)

05. Emergency Information. Emergency telephone numbers of family members and physician or authorized provider, and other identification information. (3-30-06)

06. Hours for Care. Time periods of program not to exceed fourteen (14) consecutive hours in a twenty-four (24) hour period. (3-30-06)

156. INFECTION CONTROL POLICIES.
Each facility must develop policies and procedures consistent with recognized standards which control and prevent infections for both staff and residents. (3-30-06)

157. MEDICATION POLICIES.

01. Medication. Each facility must develop written medication policies and procedures that detail the following: (3-30-06)

a. Receiving of medications; (3-30-06)

b. Storage of medications; (3-30-06)

c. Medication distribution system to be used; (3-30-06)

d. How staff are to respond if: (3-30-06)

i. A resident refuses a medication; (3-30-06)

ii. A resident misses a medication and the reason; (3-30-06)

iii. A resident medication is not available; (3-30-06)

iv. Medications are missing; (3-30-06)

v. A resident receives an incorrect medication; (3-30-06)

e. The process for determining who can self-administer medication; (3-30-06)

f. Unused medications: (3-30-06)

i. Destruction; (3-30-06)

ii. Return of medications to the pharmacy; (3-30-06)

g. Documentation requirements: (3-30-06)

i. Taken; (3-30-06)

ii. Refused; (3-30-06)

iii. Missed; (3-30-06)

iv. Not available; and (3-30-06)

v. For residents self-medicating. (3-30-06)

02. **Nurse Delegation**. The process the nurse will use to delegate assistance with medication and how it will be documented. (3-30-06)

158. FOOD AND NUTRITIONAL CARE POLICIES.
Each facility must develop written policies and procedures for providing proper nutritional care for each resident which includes procedures to follow if the resident refuses food or to follow the prescribed diet. (3-30-06)

159. RECORDS POLICIES.

01. **Complete and Accurate Records**. Each facility must develop written policies and procedures to assure complete, accurate, and authenticated records. (3-30-06)

02. **Electronic Records**. Facilities that implement an electronic record or signature must have written policies in place to assure the following: (3-30-06)

a. Proper security measures to protect the use of an electronic signature by anyone other than the person to which the electronic signature belongs; (3-30-06)

b. The privacy and integrity of the record; (3-30-06)

c. Includes which records will be maintained and signed electronically; (3-30-06)

d. How an e-signature code is assigned and the code and associated staff identities are protected; (3-30-06)

e. How passwords are assigned and the frequency for which they are changed; (3-30-06)

f. Allows resident access to his records within one (1) business day of the request; and (3-30-06)

g. Allows immediate access to records by surveyors, and others who are authorized by law; (3-30-06)

160. RESIDENT RIGHTS POLICIES.
Each facility must develop written policies and procedures which assure that resident rights will be promoted and protected in the facility. (3-30-06)

161. SMOKING POLICIES.

01. **Policy on Smoking**. The facility must develop written rules governing smoking. These rules must be made known to all facility personnel, residents, and the visiting public. (3-30-06)

02. **Smoking Prohibited**. Nothing in this section requires that smoking be permitted in a facility whose admission policies prohibit smoking. (3-30-06)

03. **Policy Content**. The policy must include: (3-30-06)

a. Prohibiting smoking in any area where flammable liquids, gases, or oxidizers are in use or stored; (3-30-06)

b. Prohibiting smoking in bed by anyone; (3-30-06)

c. Prohibiting unsupervised smoking by residents classified as not mentally or physically responsible, and residents affected by medication; (3-30-06)

d. Prohibiting smoking in areas where combustible supplies or materials are stored; and (3-30-06)

e. Designating areas where smoking is permitted. (3-30-06)

162. STAFFING POLICIES.
The facility must develop written staffing policies and procedures based on the numbers of residents, resident needs, and configuration of the facility. (3-30-06)

163. -- 209. (RESERVED)

210. REQUIREMENTS FOR ACTIVITIES.
The facility must provide an ongoing program of activities that is consistent with the facility's policies and procedures as described in Section 151 of these rules. (3-30-06)

211. -- 214. (RESERVED)

215. REQUIREMENTS FOR A FACILITY ADMINISTRATOR.
Each facility must be organized and administered under one (1) licensed administrator assigned as the person responsible for the operation of the facility. Multiple facilities under one (1) administrator may be allowed by the Department based on an approved plan of operation described in Section 216 of these rules. (7-1-15)

01. Administrator Responsibility. The administrator is responsible for assuring that policies and procedures required in Title 39, Chapter 33, Idaho Code and IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho" are implemented. (3-30-06)

02. Availability of Administrator. The facility's administrator must be on site sufficiently to provide for safe and adequate care of the residents to meet the terms in the Negotiated Service Agreement. The facility's administrator or his designee must be available to be on-site at the facility within two (2) hours. (3-30-06)

03. Thirty Day Operation Limit. The facility may not operate for more than thirty (30) days without a licensed administrator. (3-30-06)

04. Representation of Residents. The owner or administrator, their relatives, or employees cannot act as or seek to become the legal guardian of, or have power of attorney for any resident. Specific limited powers of attorney to address emergency procedures where competent consent cannot otherwise be obtained are permitted. (7-1-15)

05. Responsibility for Acceptable Admissions. The administrator must assure that no resident is knowingly admitted or retained who requires care as defined in Section 39-3307, Idaho Code, and Subsection 152.05 of these rules. (3-30-06)

06. Sexual Offender. The administrator must assure that a non-resident on the sexual offender registry is not allowed to live or work in the facility. The registry may be accessed online at http://isp.idaho.gov/sor_id/search.html. (3-30-06)

07. Notification of Adult Protection and Law Enforcement. The administrator must assure that adult protection and law enforcement are notified in accordance with Section 39-5310, Idaho Code. (3-30-06)

08. Procedures for Investigations. The administrator must assure the facility procedures for investigation of incidents, accidents, and allegations of abuse, neglect, or exploitation are implemented to assure resident safety. (3-30-06)

09. Identify and Monitor Patterns of Incidents and Accidents. The administrator must identify and monitor patterns related to incidents and accidents and develop interventions to prevent recurrences. (7-1-15)

10. Notification of Reportable Incidents. The administrator must assure notification to the Licensing and Certification Unit of reportable incidents. (3-29-10)

11. Administrator's Designee. A person authorized in writing to act in the absence of the administrator. An administrator's designee may act in the absence of the administrator for no longer than thirty (30) consecutive days when the administrator: (7-1-15)

a. Is on vacation; (7-1-15)

b. Has days off; (7-1-15)

c. Is ill; or (7-1-15)

d. Is away for training or meetings. (7-1-15)

12. Ability to Reach Administrator or Designee. The administrator or his designee must be reachable and available at all times. (3-30-06)

13. Minimum Age of Personnel. The administrator will assure that no personnel providing hands-on care or supervision services will be under eighteen (18) years of age unless they have completed a certified nursing assistant (CNA) certification course. (3-30-06)

14. Notification to Licensing and Certification Unit. The facility must notify the Licensing and Certification Unit, in writing, within three (3) business days of a change of administrator. (3-29-10)

216. REQUIREMENTS FOR A MULTIPLE FACILITY ADMINISTRATOR.

Each facility must have a Department approved plan of operation to have one (1) administrator assigned as the person responsible for the operation of multiple facilities. (7-1-15)

01. Approved Plan of Operation. Under Section 39-3321, Idaho Code, multiple facilities under one (1) administrator may be approved when the following is provided in the plan of operation: (7-1-15)

a. The multiple facility administrator must provide proof of a current license in Idaho with no actions

or pending actions taken against licensee; (7-1-15)

b. The plan must provide for full-time on-site supervision by trained and experienced staff, including: (7-1-15)

i. Who is responsible for on-site management of each facility when administrator is not on-site; and (7-1-15)

ii. How each individual responsible for on-site management of each facility is qualified to perform those duties. (7-1-15)

02. Facility Change To An Approved Plan of Operation. A new plan of operation must be submitted to the Department and approved before any facility in the plan is changed. (7-1-15)

03. Number of Facilities or Beds Allowed Under One Administrator. Based on an approved plan of operation, the Department will allow one (1) licensed administrator to oversee: (7-1-15)

a. Up to three (3) facilities when each of the facilities has sixteen (16) beds or fewer; (7-1-15)

b. Two (2) facilities when either of the facilities has more than sixteen (16) beds but less than fifty (50) beds, and the combined number of beds for both facilities cannot exceed eighty (80) beds; or (7-1-15)

c. One (1) facility with fifty (50) beds or more. A plan of operation for a multiple facility administrator will not be approved for a facility with fifty (50) beds or more. (7-1-15)

04. No Unresolved Core Issues. None of the multiple facilities operated under one (1) administrator can have any unresolved core issue deficiencies described in Section 010 of these rules. The administrator approved to oversee more than one (1) facility must have an established record of compliance, which includes: (7-1-15)

a. No repeat deficiencies; (7-1-15)

b. No enforcement actions; (7-1-15)

c. A history of submitting acceptable plans of corrections within the time frame established in Subsection 130.08 of these rules; (7-1-15)

d. A history of submitting acceptable evidence of resolution of deficiencies within the time frame established in Subsection 130.09 of these rules; and (7-1-15)

e. The administrator's record must show that he has two (2) years or more of experience working as a licensed residential care administrator in Idaho. (7-1-15)

05. Administrator Hours On-site in Each Facility. The administrator must be on-site at each facility for at least: (7-1-15)

a. Ten (10) hours per week in facilities with fewer than sixteen (16) beds; (7-1-15)

b. Fifteen (15) hours per week in facilities with more than (16) beds; and (7-1-15)

c. Each facility's record must include documentation of the number of hours per week the administrator is on-site. For each week the Administrator is not on-site, the documentation must include the reasons for his absence such as illness, vacation, or training. (7-1-15)

06. Administrator Response Time for Each Facility. A multiple facility administrator must not have a primary residence more than seventy-five (75) miles from any of the facilities. Each facility with a multiple facility administrator must be within two (2) hours driving distance from each other. (7-1-15)

07. On-Site Supervision in Each Facility. The plan of operation must include full-time on-site supervision by trained and experienced staff. (7-1-15)

08. Dually Licensed Administrator. A skilled nursing facility and an assisted living facility with less than fifty (50) beds may have a multiple facility administrator with an approved plan of operation. A dually licensed administrator, who is licensed in Idaho as both a Nursing Home Administrator and a Residential Care Facility Administrator, may be approved as a multiple facility administrator only when the two (2) facilities are on the same property or campus. (7-1-15)

217. RESCIND APPROVAL FOR MULTIPLE FACILITY ADMINISTRATOR.

01. Rescind Plan of Operation Approval. When the conditions in the approved plan of operation are not met, the ability to have one (1) administrator for multiple facilities will be rescinded by the Department. (7-1-15)

02. Reasons for Rescission or Denial of a Multiple Facility Administrator. Any and all facilities with a multiple facility administrator included in its approved plan of operation that receives repeat deficiencies, enforcement actions, or fails to submit acceptable plans of correction and evidence of resolution within the time frames established in Subsections 130.08 and 130.09 of these rules, may have its multiple facility administrator approval rescinded. (7-1-15)

03. Rescission Review of Department Action. When the facility disagrees with the reasons for the rescission of the ability to have a multiple facility administrator, the administrator can request a rescission review. This request does not stay the rescission. The request must: (7-1-15)

a. Be in writing; (7-1-15)

b. Be received within fourteen (14) days of the date the Department's rescission letter was issued; and (7-1-15)

c. State the specific reasons for disagreement with the Department's rescission action. (7-1-15)

04. Review Decision. Within thirty (30) days from the date the review request is received, the Department will review and issue a decision. This decision is not appealable. (7-1-15)

218. (RESERVED)

219. REQUIREMENTS FOR ADMISSION AGREEMENTS FOR DEPARTMENT CLIENTS.

01. Initial Resident Assessment. Prior to or on the day of admission each resident must be assessed by the facility to ensure the resident is appropriate for placement in a residential care or assisted living facility.(3-29-10)

02. Interim Care Plan. The facility must develop an interim care plan to guide services until the Department’s assessment outlined in Section 660 of these rules is complete. The Department will complete a resident assessment within twelve (12) business days of receiving notification that the participant is financially eligible for waiver services. The result of the assessment will determine the need for specific services and supports and establish the reimbursement rate for those services. (3-29-10)

03. Written Agreement. The admission agreement may be integrated within the Negotiated Service Agreement, provided that all requirements for the Negotiated Service Agreement in Section 320 of these rules are met. (3-29-10)

220. REQUIREMENTS FOR ADMISSION AGREEMENTS FOR PRIVATE-PAY RESIDENTS.

01. Initial Resident Assessment and Care Plan. Prior to or on the day of admission, each private-pay resident must be assessed by the facility to ensure the resident is appropriate for placement in their residential care or assisted living facility. The facility must develop an interim care plan to guide services until the facility can complete the resident assessment process outlined in Section 650 of these rules. The result of the assessment will determine the

need for specific services and supports. (3-29-10)

02. Written Agreement. Prior to or on the day of admission, the facility and each resident or the resident's legal guardian or conservator must enter into a written admission agreement that is transparent, understandable, and is translated into a language the resident or his representative understands. The admission agreement will provide a complete reflection of the facility's charges, commitments agreed to by each party, and the actual practices that will occur in the facility. The agreement must be signed by all involved parties, and a complete copy provided to the resident and the resident's legal guardian or conservator prior to or on the day of admission. The admission agreement may be integrated within the Negotiated Service Agreement, provided that all requirements for the Negotiated Service Agreement in Section 320 of these rules and the admission agreement are met. Admission agreements must include all items described under Subsections 220.03 through 220.18 of this rule. (3-29-10)

03. Services, Supports, and Rates. The facility must identify the following services, supports, and applicable rates: (3-29-10)

a. Unless otherwise negotiated with the resident, the resident's legal guardian or conservator, basic services must, at a minimum, include: (3-29-10)

i. Rent; (3-29-10)

ii. Utilities; (3-29-10)

iii. Food; (3-29-10)

iv. Activities of daily living services; (3-29-10)

v. Supervision; (3-29-10)

vi. First aid; (3-29-10)

vii. Assistance with and monitoring of medications; (3-29-10)

viii. Laundering of linens owned by the facility; (3-29-10)

ix. Emergency interventions and coordination of outside services; (3-29-10)

x. Routine housekeeping and maintenance of common areas; and (3-29-10)

xi. Access to basic television in common areas. (3-29-10)

b. The resident's monthly charges must be specific and describe the services that are included in the basic services rate and the charged rate. (3-29-10)

c. The facility must disclose all prices, formulas, and calculations used to determine the resident's basic services rate including: (3-29-10)

i. Service packages; (3-29-10)

ii. Fee-for-service rates; (3-29-10)

iii. Assessment forms; (3-29-10)

iv. Price per assessment point; (3-29-10)

v. Charges for levels of care determined with an assessment; and (3-29-10)

vi. Move-in fees or other similar charges. (3-29-10)

d. Services or amenities that are not contained in the description of basic services are considered additional services. The facility must describe the services and rates charged for additional or optional services, supplies, or amenities that are available through the facility or arranged for by the facility for which the resident will be charged additional fees. (3-29-10)

e. Services or rates that are impacted by an updated assessment of the resident must be identified, as well as the assessment tool, the assessor, and the frequency of the assessment, when the facility uses this assessment to determine rate changes. (3-29-10)

f. The facility may charge residents for the use of personal furnishings, equipment, and supplies provided by the facility for private-pay residents. The facility must provide a detailed itemization of furnishings, equipment, supplies, and the rate for those items the resident will be charged. (3-29-10)

04. Staffing. The facility must identify staffing patterns and qualification of staff on duty during a normal day. (3-29-10)

05. Notification of Liability Insurance Coverage. The administrator of a residential care or assisted living facility must disclose in writing at the time of admission or before a resident's admission if the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance all residents must be notified of the change in writing. (3-30-06)

06. Medication Responsibilities. The facility's and resident's roles and responsibilities relating to assistance with medications including the reporting of missed doses or those taken on a PRN basis. (3-30-06)

07. Resident Personal Fund Responsibilities. Who is responsible for the resident's personal funds. (3-30-06)

08. Resident Belongings Responsibility. The agreement must identify responsibility for protection and disposition of all valuables belonging to the resident and provision for the return of resident's valuables if the resident leaves the facility. (3-29-10)

09. Emergency Transfers. The agreement must identify conditions under which emergency transfers will be made as provided in Section 152 of these rules. (3-29-10)

10. Billing Practices, Notices, and Procedures for Payments and Refunds. The facility must provide a description of the facility's billing practices, notices, and procedures for payments and refunds. The following procedures must be included: (3-29-10)

a. Arrangement for payments; (3-30-06)

b. Under what circumstances and time frame a partial month's resident fees are to be refunded when a resident no longer resides in the facility; (3-29-10)

c. Written notice to vacate the facility must be given thirty (30) calendar days prior to transfer or discharge on the part of either party except in the case of the resident's emergency discharge or death the facility may charge up to fifteen (15) days prorated rent from the date of the resident's emergency discharge or death. (3-29-10)

11. Resident Permission to Transfer Information. The agreement must clarify permission to transfer information from the resident's records to any facility to which the resident transfers. (3-29-10)

12. Resident Responsibilities. Resident responsibilities, as appropriate. (3-30-06)

13. Restrictions on Choice of Care or Service Providers. Any restriction on choice of care or service providers, such as pharmacy, home health agency, hospice agency, physician or authorized provider. (3-30-06)

14. Advance Directive. The agreement must identify written documentation of the resident's

preference regarding the formulation of an Advance Directive in accordance with Idaho state law. When a resident has an Advanced Directive, a copy must be immediately available for staff and emergency personnel. (3-29-10)

15. Notification of Payee Requirements. Notification if the facility requires as a condition of admission that the administrator or an employee of the facility be named as payee. (3-29-10)

16. Contested Charges. The facility must provide the methods by which a resident may contest charges or rate increases that include contacting the Ombudsman for the Elderly. The facility must respond as provided under Section 711.02 of these rules. (3-29-10)

17. Transition to Publicly-Funded Program. The facility must disclose the conditions under which the resident can remain in the facility, if payment for the resident shifts to a publicly-funded program. (3-29-10)

18. Other Information. The agreement must identify other information that the facility may deem appropriate. (3-29-10)

221. REQUIREMENTS FOR TERMINATION OF ADMISSION AGREEMENT.

01. Conditions for Termination of the Admission Agreement. The admission agreement cannot be terminated, except under the following conditions: (3-30-06)

a. Giving the other party thirty (30) calendar days written notice for any reason; (3-30-06)

b. The resident's death; (3-30-06)

c. Emergency conditions that requires the resident to be transferred to protect the resident or other residents in the facility from harm; (3-30-06)

d. The resident's mental or medical condition deteriorates to a level requiring care as described in Section 33-3307, Idaho Code, and Subsection 152.05 of these rules; (3-30-06)

e. Nonpayment of the resident's fees; (3-30-06)

f. When the facility cannot meet resident needs due to changes in services, in house or contracted, or inability to provide the services; or (3-30-07)

g. Other written conditions as may be mutually established between the resident, the resident's legal guardian or conservator and the administrator of the facility at the time of admission. (3-30-06)

02. Facility Responsibility During Resident Discharge. The facility is responsible to assist the resident with transfer by providing a list of skilled nursing facilities, other residential care or assisted living facilities, and certified family homes that may meet the needs of the resident. (3-30-06)

03. Resident's Appeal of Involuntary Discharge. A resident may appeal all discharges with the exception of an involuntary discharge in the case of non-payment, emergency conditions that require the resident to be transferred to protect the resident or other residents in the facility from harm. (3-30-06)

a. Before a facility discharges a resident, the facility must notify the resident, and if known, a family member, or his legal representative of the discharge and the reasons for the discharge. (3-30-06)

b. This notice must be in writing and in a language and manner the resident or his representative can understand. (3-30-06)

04. Written Notice of Discharge. The written notice of discharge must include the following: (3-30-06)

a. The reason for the discharge; (3-30-06)

b. Effective date of the discharge; (3-30-06)

c. A statement that the resident has the right to appeal the discharge to the Department within thirty (30) calendar days of receipt of written notice of discharge; (3-30-06)

d. The name and address of where the appeal must be submitted; (3-30-06)

e. The name, address, and telephone number of the local ombudsman, for residents sixty (60) years of age or older; and (3-30-06)

f. The name, address and telephone number of Disability Rights Idaho, for residents with developmental disabilities or mental illness. (7-1-15)

g. If the resident fails to pay fees to the facility, as agreed to in the admission agreement, during the discharge appeal process, the resident's appeal of the involuntary discharge becomes null and void and the discharge notice applies. (3-30-06)

h. When the notice does not contain all the above required information, the notice is void and must be reissued. (3-30-06)

05. Receipt of Appeal. Request for an appeal must be received by the Department within thirty (30) calendar days of the resident's or resident's representative's receipt of written notice of discharge to stop the discharge before it occurs. (3-30-06)

222. -- 224. (RESERVED)

225. REQUIREMENTS FOR BEHAVIOR MANAGEMENT.
The facility must identify and evaluate behavioral symptoms that are distressing to the resident or infringe on other residents' rights. (3-30-06)

01. Evaluation for Behavior Management. The facility evaluation must include the following; (3-30-06)

a. Identification if the resident behavior is transitory or permanent; (3-30-06)

b. Review of the resident's previous behaviors and activities; (3-30-06)

c. Review of baseline data including intensity, duration and frequency of the resident behavior; (3-30-06)

d. Identification of recent changes in the resident's life, such as death in the family, change in resident's daily routine, or changes in the Resident's Negotiated Service Agreement; (3-30-06)

e. Identification of environmental causes that could contribute to the resident's behavior such as excessive heat, noise, overcrowding, hunger, staffing; (3-30-06)

f. Rule out possible medical causes such as pain, constipation, fever, infection, or medication side effects; and (3-30-06)

g. Identification of events that trigger behavioral symptoms. (3-30-06)

02. Intervention. The facility must develop an intervention for each behavioral symptom. (3-30-06)

a. All staff must be aware of and consistently implement each behavioral symptom intervention; (3-30-06)

b. The intervention needs to be the least restrictive; and (3-30-06)

c. Each intervention needs to be reviewed within seventy-two (72) hours of implementation, and from then on as appropriate, to evaluate the continued need for the intervention. (3-30-06)

03. Prescribing Provider. The resident's medication regime must be evaluated every six (6) months to assure that medications used to treat behavioral symptoms are necessary and at the lowest possible dose. (3-30-06)

226. -- 249. (RESERVED)

250. REQUIREMENTS FOR BUILDING CONSTRUCTION AND PHYSICAL STANDARDS.

01. Building Character. All buildings utilized as residential care or assisted living facilities must be of such character as to be suitable for such use. Facilities must be of such character as to enhance normalization and integration of residents into the community. (3-30-06)

02. Plans and Specifications. Plans and specifications for any proposed new facility construction, any addition or remodeling are governed by the following: (3-30-06)

a. Plans must be prepared by an architect or engineer licensed in the state of Idaho. A variance of this requirement may be granted by the Licensing and Survey Agency when the size of the project does not necessitate involvement of an architect or engineer; (3-30-06)

b. Plans and specifications must be submitted to the Licensing and Survey Agency to assure compliance with applicable construction standards, codes, and regulations; (3-30-06)

c. Newly constructed or converted buildings housing seventeen (17) or more residents must submit professionally prepared drawings or plans of the kitchen and a listing of all kitchen equipment for review and approval prior to construction. (3-29-10)

03. Remodeling or Additions. Remodeling of or additions to a facility will be consistent with all applicable fire and life safety requirements. (3-30-06)

04. Approval. All buildings, additions and remodeling are subject to approval by the Licensing and Survey Agency and must meet applicable requirements. (3-30-06)

05. Walls and Floor Surfaces. Walls and floors must be of such character to permit cleaning. Walls and ceilings in kitchens, bathrooms, and utility rooms must have washable surfaces. (3-30-06)

06. Toilet and Bathrooms. Each facility must provide: (3-30-06)

a. A toilet and bathroom for resident use so arranged that it is not necessary for an individual to pass through another resident's room to reach the toilet or bath; (3-30-06)

b. Solid walls or partitions to separate each toilet and bathroom from all adjoining rooms; (3-30-06)

c. Mechanical ventilation to the outside from all inside toilets and bathrooms not provided with an operable exterior window; (3-30-06)

d. Each tub, shower, and lavatory with hot and cold running water; (3-30-06)

e. At least one (1) flush toilet for every six (6) residents; (3-30-06)

f. At least one (1) tub or shower for every eight (8) residents; (3-30-06)

g. At least one (1) lavatory with a mirror for each toilet; and (3-30-06)

h. At least one (1) toilet, tub or shower, and lavatory in each building in which residents sleep, with additional units if required by the number of persons. (3-30-06)

07. Accessibility for Persons With Mobility and Sensory Impairments. For residents with mobility or sensory impairments, the facility must provide a physical environment which meets the needs of the person for independent mobility and use of appliances, bathroom facilities, and living areas. New construction must meet the requirements of the Americans with Disabilities Act Accessibility Guidelines (ADAAG). Existing facilities must comply, to the maximum extent feasible, with 28 CFR Sections 36.304 and 36.305 regarding removal of barriers under the Americans with Disabilities Act, without creating an undue hardship or burden on the facility, and must provide as required, the necessary accommodations: (3-30-06)

a. Ramps for residents who require assistance with ambulation shall comply with the requirements of the ADAAG 4.8; (3-30-06)

b. Bathrooms and doors large enough to allow the easy passage of a wheelchair as provided for in the ADAAG 4.13; (3-30-06)

c. Grab bars in resident toilet and bathrooms in compliance with ADAAG 4.26; (3-30-06)

d. Toilet facilities in compliance with ADAAG 4.16 and 4.23; (3-30-06)

e. Non-retractable faucet handles in compliance with ADAAG 4.19, with the exception of self-closing valves under 4.19.5, and 4.27; and (3-30-06)

f. Suitable hand railing must be provided on both sides of all stairs leading into and out of a building for residents who require the use of crutches, walkers, or braces. (3-30-06)

08. Lighting. The facility must provide adequate lighting in all resident sleeping rooms, dining rooms, living rooms, recreation rooms, and hallways. (3-30-06)

09. Ventilation. The facility must be ventilated, and precautions shall be taken to prevent offensive odors. (3-30-06)

10. Plumbing. All plumbing in the facility must comply with local and state codes. All plumbing fixtures must be easily cleanable and maintained in good repair. The temperature of hot water at plumbing fixtures used by residents must be between one hundred five degrees (105°F) Fahrenheit and one hundred twenty degrees (120°F) Fahrenheit. (3-30-06)

11. Heating. A heating system must be provided for the facility that is capable of maintaining a minimum temperature of seventy degrees (70°F) Fahrenheit during the day and a minimum of sixty-two degrees (62°F) Fahrenheit during the night. Wood stoves are not be permitted as the sole source of heat and the thermostat for the primary source of heat must be remotely located away from any wood stove. (3-30-06)

12. Dining, Recreation, Shower, Bathing and Living Space. The total area set aside for these purposes must be no less than thirty (30) square feet per licensed bed. A hall or entry cannot be included as living or recreation space. (3-30-06)

13. Resident Sleeping Rooms. The facility must assure that: (3-30-06)

a. Resident sleeping rooms are not in attics, stairs, halls, or any other room commonly used for other than bedroom purposes; (3-30-06)

b. A room with a window that opens into an exterior window well cannot be used for a resident sleeping room; (3-30-06)

c. Not more than four (4) residents can be housed in any multi-bed sleeping room in facilities licensed prior to July 1, 1991. New facilities or building converted to a licensed facility after July 1, 1992, cannot have more

than two (2) residents in any multi-bed sleeping room. When there is any change in ownership of the facility, the maximum number of residents allowed in any room is two (2); (3-30-06)

d. Square footage requirements for resident sleeping rooms must provide for not less than one hundred (100) square feet of floor space per resident in a single-bed sleeping room and not less than eighty (80) square feet of floor space per resident in a multi-bed sleeping room; (3-30-06)

e. Each resident's sleeping room must be provided with an operable exterior window. An operable window is not required where there is a door directly to the outside from the sleeping room; (3-30-06)

f. The operable window sill height must not exceed thirty-six (36) inches above the floor in new construction, additions, or remodeling; (3-30-06)

g. The operable window sill height must not exceed forty-four (44) inches above the floor in existing buildings being converted to a facility; (3-30-06)

h. Each resident sleeping room must provide a total window space that equals at least eight percent (8%) of the room's total square footage; (3-30-06)

i. Window screens must be provided on operable windows; (3-30-06)

j. Resident sleeping rooms must have walls that run from floor to ceiling; have doors that will limit the passage of smoke; and provide the resident(s) with privacy; (3-30-06)

k. Ceiling heights in sleeping rooms must be at least seven (7) feet, six (6) inches; and (3-30-06)

l. Closet space in each resident sleeping room must provide at least four (4) usable square feet per resident. Common closets used by two (2) or more residents must have substantial dividers for separation of each resident's clothing. All closets must be equipped with doors. Free-standing closets are deducted from the square footage of the sleeping room. (3-30-06)

14. Secure Environment. If the facility accepts and retains residents who have cognitive impairment, the facility must provide an interior environment and exterior yard which is secure and safe. (3-30-06)

15. Call System. The facility must have a call system available for each resident to call for assistance and still be assured a resident’s right to privacy at the facility, including but not limited to, the resident’s living quarters, common areas, medical treatment and other services, written and telephonic communications, or in visits with family, friends, advocates, and resident groups. The call system cannot be a substitute for supervision. For facilities licensed prior to January 1, 2006, when the current system is no longer operational or repairable the facility must install a call system as defined in Section 010 of these rules. (3-29-10)

16. Dietary Standards. Each facility must have a full service kitchen to meet the needs of the residents. Any satellite kitchen must meet all applicable requirements. (3-30-06)

251. -- 254. (RESERVED)

255. REQUIREMENTS FOR ADDITIONAL PHYSICAL STANDARDS.

01. Fire District. The facility site must be in a lawfully constituted fire district. (3-30-06)

02. Roads. The facility must be served by an all-weather road and kept open to motor vehicles at all times of the year. (3-30-06)

03. Medical Accessibility. The facility site must be accessible to authorized providers, or emergency medical services within thirty (30) minutes driving time. (3-30-06)

04. Service Accessibility. The facility site must be accessible within thirty (30) minutes driving time to

necessary social, medical, and rehabilitation services. (3-30-06)

256. -- 259. (RESERVED)

260. REQUIREMENTS FOR ENVIRONMENTAL SANITATION.

01. Water Supply. The facility must have an adequate water supply that is safe and of a sanitary quality. It must be from: (3-30-06)

a. An approved private, public, or municipal water supply; (3-30-06)

b. Water from a private supply, must have water samples submitted annually to either a private accredited laboratory or to the Public Health District Laboratory for bacteriological examination. The Department may require more frequent examinations if warranted; and (3-30-06)

c. There must be a sufficient amount of water under adequate pressure to meet sanitary and fire sprinkler system requirements of the facility at all times. (3-30-06)

02. Sewage Disposal. All sewage and liquid waste must be discharged, into a municipal sewage system where such a system is available. If a municipal sewage system is not available sewage and liquid waste must be collected, treated, and disposed of in a manner approved by the Department. (3-30-06)

03. Garbage and Refuse Disposal. All garbage and refuse disposal must be provided by the facility. (3-30-06)

a. The premises and all buildings must be kept free from accumulation of weeds, trash and rubbish. (3-30-06)

b. Material not directly related to the maintenance and operation of the facility must not be stored on the premises. (3-30-06)

c. All containers used for storage of garbage and refuse must be constructed of durable, nonabsorbent material and must not leak or absorb liquids. Containers must be provided with tight fitting lids unless stored in a vermin-proof room(s) or enclosures. (3-30-06)

d. Garbage containers must be maintained in a sanitary manner. Sufficient containers must be afforded to hold all garbage and refuse which accumulates between periods of removal from the facility. Storage areas must be clean and sanitary. (3-30-06)

04. Insect and Rodent Control. A pest control program must be in effect at all times. This program must effectively prevent insects, rodents and other pests from entrance to, or infestation of the facility. (3-30-06)

a. All toxic chemicals must be properly labeled and stored under lock and key; and (3-30-06)

b. No toxic chemicals must be stored in resident areas, where drugs are stored, or in any area where food is stored, prepared or served. (3-30-06)

05. Linen and Laundry Facilities and Services. (3-30-06)

a. The facility must have available at all times a quantity of linen essential to the proper care and comfort of residents; (3-30-06)

b. Linen must be of good quality, not thread-bare, torn or badly stained; (3-30-06)

c. Linens must be handled, processed and stored in a appropriate manner that prevents contamination; (3-30-06)

d. Adequate facilities must be provided for the proper and sanitary washing and drying of linen and other washable goods laundered in the facility; (3-30-06)

e. The laundry must be situated in an area separate and apart from where food is stored, prepared or served; (3-30-06)

f. The laundry must be well lighted and ventilated, adequate in size for the needs of the facility, maintained in a sanitary manner and kept in good repair; (3-30-06)

g. When the facility sends linen and personal laundry out for laundry services, care must be taken that soiled linen and clothing are properly handled before sending out. Clean linen and clothing received from a laundry service must be stored in a proper manner; and (3-30-06)

h. Residents' and personnel's personal laundry must be collected, transported, sorted, washed, and dried in a sanitary manner and cannot be washed with general linens (towels, sheets). (3-30-06)

06. Housekeeping Services and Equipment. Housekeeping, maintenance personnel, and equipment must be provided to maintain the interior and exterior of the facility in a clean, safe, and orderly manner. Prior to occupancy of any sleeping room by a new resident, the room must be thoroughly cleaned including the bed, bedding, and furnishings. (3-30-06)

261. -- 299. (RESERVED)

300. REQUIREMENTS FOR NURSING SERVICES.
Nursing services must be performed in accordance with IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." The facility must have on staff or under contract the nursing personnel listed in Subsections 300.01 and 300.02 of these rules to provide nursing service requirements. (3-30-06)

01. Licensed Registered Nurse (RN). A licensed registered nurse (RN) must visit the facility at least once every ninety (90) days or when there is a change in the resident's condition. The licensed registered nurse is responsible for delegation of all nursing functions, according to IDAPA 23.01.01, "Idaho Board of Nursing Rules." (3-30-06)

02. Licensed Registered Nurse. The facility must assure that a licensed registered nurse is available to address changes in the resident's health or mental status and to review and implement new orders prescribed by the resident's health care provider. (3-30-06)

301. -- 304. (RESERVED)

305. LICENSED REGISTERED NURSE RESPONSIBILITY REQUIREMENTS.
The licensed registered professional nurse must assess and document, including date and signature, for each resident as described in Subsections 305.01 through 305.08 of these rules. (3-30-06)

01. Resident Response to Medications and Therapies. Conduct a nursing assessment of each resident's response to medications and prescribed therapies. (3-30-06)

02. Current Medication Orders and Treatment Orders. Assure the residents' medication and treatment orders are current by verifying: (7-1-15)

a. That the medication listed on the medication distribution container, including over-the-counter-medications as appropriate, are consistent with physician or authorized provider orders: (7-1-15)

b. That the physician or authorized provider orders related to therapeutic diets, treatments, and medications for each resident are followed; and (7-1-15)

c. A copy of the actual written, signed and dated orders are present in each resident's care record. (7-1-15)

03. Resident Health Status. Conduct a nursing assessment of the health status of each resident by identifying symptoms of illness, or any changes in mental or physical health status. (3-30-06)

04. Recommendations. Make recommendations to the administrator regarding any medication needs, other health needs requiring follow up, or changes needed to the Negotiated Service Agreement. (3-30-06)

05. Progress of Previous Recommendations. Conduct a review and follow-up of the progress on previous recommendations made to the administrator regarding any medication needs or other health needs that require follow up. Report to the attending physician or authorized provider and state agency if recommendations for care and services are not implemented that have affected or have the potential to affect the health and safety of residents. (3-30-06)

06. Self-Administered Medication. Conduct an initial nursing assessment on each resident participating in a self-administered medication program as follows: (3-30-06)

a. Before the resident can self-administer medication to assure resident safety; and (3-30-06)

b. Evaluate the continued validity of the assessment to assure the resident is still capable to safely continue the self-administered medication for the next ninety (90) days. (3-30-06)

07. Medication Interactions and Usage. Conduct a review of the resident's use of all prescribed and over-the-counter medications for side effects, interactions, abuse or a combination of these adverse effects. The nurse must notify the resident's physician or authorized provider of any identified concerns. (3-30-06)

08. Resident and Facility Staff Education. Assess, document and recommend any health care related educational needs, for both the resident and facility staff, as the result of the assessment or at the direction of the resident's health care provider. (3-30-06)

306. -- 309. (RESERVED)

310. REQUIREMENTS FOR MEDICATION.

01. Medication Distribution System. Each facility must use medi-sets or blister packs for prescription medications. The facility may use multi-dose medication distribution systems that are provided for resident's receiving medications from the Veterans Administration or Railroad benefits. The medication system must be filled by a pharmacist and appropriately labeled in accordance with pharmacy standards and physician or authorized provider instructions. A licensed nurse may fill medi-sets, blister packs, or other Licensing and Survey Agency approved system as provided in Section 39-3326, Idaho Code and Section 157 of these rules. (7-1-15)

a. All medications will be kept in a locked area such as a locked box or room; (3-30-06)

b. Poisons, toxic chemicals, and cleaning agents will be stored in separate locked areas apart from medications, such as a locked medication cart, locked box or room; (3-30-06)

c. Biologicals and other medications requiring cold storage will be refrigerated. A covered container in a home refrigerator will be considered to be satisfactory storage if the temperature is maintained at thirty-eight to forty-five degrees (38-45°F) Fahrenheit. The temperature will be monitored and documented on a daily basis; (3-30-06)

d. Assistance with medication must comply with the Board of Nursing requirements; (3-30-06)

e. Each prescription medication must be given to the resident directly from the medi-set, blister pack or medication container; and (7-1-15)

f. Each resident must be observed taking the medication. (3-30-06)

02. Unused Medication. Unused, discontinued, or outdated medications cannot accumulate at the facility for longer than thirty (30) days. The unused medication must be disposed of in a manner that assures it cannot be retrieved. The facility may enter into agreement with a pharmacy to return unused, unopened medications to the pharmacy for proper disposition and credit. See IDAPA 16.03.09, "Medicaid Basic Plan Benefits," Sections 664 and 665, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy." A written record of all drug disposals must be maintained in the facility and include: (3-30-06)

a. A description of the drug, including the amount; (3-30-06)

b. Name of resident for prescription medication; (3-30-06)

c. The reason for disposal; (3-30-06)

d. The method of disposal; (3-30-06)

e. The date of disposal; and (3-30-06)

f. Signatures of responsible facility personnel and witness. (3-30-06)

03. **Controlled Substances**. The facility must track all controlled substances entering the facility in accordance with Title 37, Chapter 27, Idaho Code, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy," Section 495, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing Rules," Section 490. (3-30-06)

04. Psychotropic or Behavior Modifying Medication. (3-30-06)

a. Psychotropic or behavior modifying medication intervention must not be the first resort to address behaviors. The facility must attempt non-drug interventions to assist and redirect the resident's behavior. (3-30-06)

b. Psychotropic or behavior modifying medications must be prescribed by a physician or authorized provider. (3-30-06)

c. The facility will monitor the resident to determine continued need for the medication based on the resident's demonstrated behaviors. (3-30-06)

d. The facility will monitor the resident for any side effects that could impact the resident's health and safety. (3-30-06)

e. The use of psychotropic or behavior modifying medications must be reviewed by the physician or authorized provider at least every six (6) months. The facility must provide behavior updates to the physician or authorized provider to help facilitate an informed decision on the continuing use of the psychotropic or behavior modifying medication. (3-30-06)

311. -- 319. (RESERVED)

320. REQUIREMENTS FOR THE NEGOTIATED SERVICE AGREEMENT.
The Negotiated Service Agreement must be completed and signed no later than fourteen (14) calendar days from the date of admission. A written interim plan must be developed and used while the Negotiated Service Agreement is being completed. (3-30-06)

01. Use of Negotiated Service Agreement. Each resident, regardless of the source of funding, must enter into a Negotiated Service Agreement. The Negotiated Service Agreement provides for coordination of services and instruction to the facility staff. Upon completion, the agreement must clearly identify the resident; describe services to be provided, the frequency of such services, and how such services are to be delivered. The Negotiated Service Agreement must be implemented. (3-30-06)

02. Key Elements of the Negotiated Service Agreement. A resident's agreement must be based on the following: (3-30-06)

a. Resident's uniform assessment or assessment based on the uniform assessment criteria; (3-30-06)

b. Level of support in activities of daily living; (3-30-06)

c. Health services; (3-30-06)

d. Level of assistance for medications; (3-30-06)

e. Frequency of needed services; (3-30-06)

f. Scope of needed assistance; (3-30-06)

g. Habilitation needs, to specify the program being used if applicable; (3-30-06)

h. Training needs, to specify the program being used if applicable; (3-30-06)

i. Identification of specific behavioral symptoms, situations that trigger the behavior symptoms and the specific interventions for each behavioral symptom; (3-30-06)

j. Physician or authorized provider's signed and dated orders; (3-30-06)

k. Admission records; (3-30-06)

l. Community support systems; (3-30-06)

m. Resident's desires; (3-30-06)

n. Transfer plans; (3-30-06)

o. Discharge plans; (3-30-06)

p. Identification of individual services being provided by other providers and who is providing the service; and (3-30-06)

q. Other identified needs. (3-30-06)

03. Signature, Date and Approval of Agreement. The administrator and resident, legal guardian, or conservator, must sign and date the service agreement upon its completion. (3-30-06)

04. Review Date. The Negotiated Service Agreement must include the next scheduled date of review. (3-30-06)

05. Development of the Service Agreement. The resident, and other relevant persons as identified by the resident, must be included in the development of the service agreement. Licensed and professional staff will be involved in the development of the service agreement as applicable. (3-30-06)

06. Provision of Copy of Agreement. Signed copies of the agreement must be given to the resident, legal guardian, or conservator, and a copy placed in the resident's record file, no later than fourteen (14) calendar days from admission. (3-30-06)

07. Resident Choice. A resident must be given the choice and control of how and what services the facility or external vendors will provide, to the extent the resident can make choices. The resident's choice must not violate the provisions of Section 39-3307(1), Idaho Code. (3-30-06)

08. Periodic Review. The Negotiated Service Agreement must be reviewed when there is a change in a diagnosis for the resident or other change in condition requiring different, additional, or replacement services or at least every twelve (12) months. (3-30-06)

321. -- 329. (RESERVED)

330. REQUIREMENTS FOR RECORDS.
The facility administrator is responsible for assuring that record policies and procedures are implemented in the facility. (3-30-06)

01. Individual Resident Care Record. An individual resident care record must be maintained for each admission with all entries kept current, dated and signed. All paper records must be recorded legibly in ink. (3-30-06)

02. Resident Record Retention. Records must be preserved in a safe location protected from fire, theft, and water damage for a period of not less than three (3) years. (3-30-06)

03. Resident Record Confidentiality. The facility must safeguard resident information against loss, destruction, and unauthorized use. (3-30-06)

04. Staff Access. Resident care records of current residents must be available to direct care staff at all times. (3-30-06)

05. Electronic Records. The facility must be able to print records maintained electronically in the facility. (3-30-06)

06. Accessibility of Records to Survey Staff. Survey staff must have complete and immediate access to resident and facility records. (3-30-06)

331. -- 334. (RESERVED)

335. REQUIREMENTS FOR INFECTION CONTROL.
The administrator is responsible for assuring that infection control policy and procedure are implemented. (3-30-06)

01. Implementation of Policies. Staff must implement facility policy and procedure. (3-30-06)

02. Staff With Infectious Disease. Staff with an infectious disease must not work until the infectious stage is corrected or must be reassigned to a work area where contact with others is not expected and likelihood of transmission of infection is absent. (3-30-06)

03. Standard Precautions. Standard precautions must be used in the care of residents to prevent transmission of infectious disease according to the Centers for Disease Control and Prevention (CDC) guidelines. These guidelines may be accessed on the CDC website at http://www.cdc.gov/hai/. (7-1-15)

04. Reporting of Individual With Infectious Disease. The name of any resident or facility personnel with a reportable disease listed in IDAPA 16.02.10, "Idaho Reportable Diseases," will be reported immediately to the local Health District authority and appropriate infection control procedures must be immediately implemented as directed by that local health authority. (3-30-06)

336. -- 339. (RESERVED)

340. REQUIREMENTS FOR MENTAL HEALTH CONTRACT BEDS.
A facility may enter into an agreement with the Department to provide short-term care to certain residents designated by the mental health program of the Department. These residents are temporarily distressed and unable to fully meet their basic needs. They require strong support, supervision, and while nonviolent nor a danger to self or others, could regress without these supports. (3-30-06)

01. License and Personnel. The facility must be on a full license and must be staffed with at least one (1) staff member up and awake at night to assure the safety of all residents. (3-30-06)

02. Written Contract. The facility must have a written contract with the Department outlining the

responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the residents' care. (3-30-06)

03. Resident Assessment. The facility must have on file the results of a Department assessment which clearly assures that the resident is not a danger to them self or others. (3-30-06)

04. Personnel Orientation and Training. Personnel providing direct resident care, including contract staff must have documented evidence on file at the facility of appropriate orientation and training in providing care for residents with mental illness. (3-30-06)

341. -- 344. (RESERVED)

345. REQUIREMENTS FOR HOURLY ADULT CARE.
If the facility provides hourly adult care, the administrator must assure that the facility's policies and procedures are implemented. (3-30-06)

01. Medication and Treatment Orders. All medications and treatments must be ordered by a physician or authorized provider. (3-30-06)

02. Assistance With Medication. Assistance with medication by unlicensed assistive personnel in the facility must follow IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (3-30-06)

a. Each hourly adult care individual is responsible for bringing appropriately labeled medications for the stay; and (3-30-06)

b. The facility is responsible for the safeguarding hourly adult care individual's medications while at the facility. (3-30-06)

03. Restrictions for Hourly Adult Care. The facility must assure that the restrictions for hourly adult care in Subsections 345.03.a. through 345.03.f. of these rules are followed. (3-30-06)

a. Hourly adult care services may be provided to such number of individuals that the facility can handle without interference with the normal activities of the facility; staffing must be based upon the needs of all residents in the facility to include full-time residents and hourly adult care individuals; (3-30-06)

b. Provision of time appropriate accommodations will be made available for the individual, to include, napping furniture for day time hours, 6 a.m. through 10 p.m., such as lounge chairs, recliners, and couches; (3-30-06)

c. The facility will have the ability to space napping furniture at least three (3) feet apart; (3-30-06)

d. Beds and bedrooms will be available for the sleeping hours when needed by the hourly adult care individual. This bed will not be counted as a licensed bed if the individual sleeps over; (3-30-06)

e. Beds, and bedrooms of non-hourly residents will not be utilized by hourly adult care individuals; and (3-30-06)

f. No individual will be admitted to the hourly adult care program that requires skilled nursing or for whom the facility cannot adequately provide services and supervision. (3-30-06)

346. -- 349. (RESERVED)

350. REQUIREMENTS FOR HANDLING ACCIDENTS, INCIDENTS, OR COMPLAINTS.
The administrator must assure that the facilities policies and procedures are implemented. (3-30-06)

01. Notification of Accidents, Incidents, and Complaints. The administrator or person designated by the administrator must be notified of all accidents, incidents, reportable, or complaints according to the facility's policies and procedures. (3-30-06)

02. Administrator or Designee Investigation Within Thirty Days. The administrator or designee must complete an investigation and written report of the finding within thirty (30) calendar days for each accident, incident, complaint, or allegation of abuse, neglect or exploitation. (3-30-06)

03. Resident Protection. Any resident involved must be protected during the course of the investigation. (3-30-06)

04. Written Response to Complaint Within Thirty Days. The person making the complaint must receive a written response from the facility of the action taken to resolve the matter or reason why no action was taken within thirty (30) days of the complaint. (3-30-06)

05. Facility Notification to Appropriate Agencies. The facility must notify the Idaho Commission on Aging or its Area Agencies on Aging, and law enforcement in accordance with Section 39-5303, Idaho Code. (3-30-06)

06. Corrective Action for Known Allegations. When an allegation of abuse, neglect or exploitation is known by the facility, corrective action must be immediately taken and monitored to assure the problem does not recur. (3-30-06)

07. Notification of Licensing and Survey Agency Within Twenty-Four Hours. When a reportable incident occurs, the administrator or designee must notify the Licensing and Survey Agency within twenty-four (24) hours of the incident. (3-30-06)

08. Identify and Monitor Patterns. The administrator or person designated by the administrator must identify and monitor patterns of accidents, incidents, or complaints to assure the facility's policies and procedures protect the safety of the residents. (7-1-15)

351. -- 399. (RESERVED)

400. REQUIREMENTS FOR FIRE AND LIFE SAFETY STANDARDS.
A facility's buildings must meet all requirements of the local and state codes that are applicable to residential care or assisted living facilities for fire and life safety standards. (3-30-06)

401. FIRE AND LIFE SAFETY STANDARDS FOR BUILDINGS HOUSING THREE THROUGH SIXTEEN RESIDENTS.
A newly constructed facility or a building converted to a residential care or assisted living facility after January 1, 2006, housing three (3) through sixteen (16) residents on the first story only must comply with one (1) of the following: (3-30-06)

01. NFPA, Standard #101. NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 32, New Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capability. Exceptions: (3-30-06)

a. The minimum water supply for a residential sprinkler system can be equal to the water demand rate times ten (10) minutes, and (3-30-06)

b. Section 32.7, Operational Features do not apply. (3-30-06)

02. NFPA, Standard 101A. NFPA Standard 101A, 2001 Edition, Fire Safety Evaluation System for Board and Care Occupancies, Chapter 7, Impractical Evacuation Capability. (3-30-06)

402. FIRE AND LIFE SAFETY STANDARDS FOR BUILDINGS HOUSING SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS.
A newly constructed facility or a building converted to a residential care or assisted living facility after January 1, 2006, housing seventeen (17) residents or more, or any building housing residents on stories other than the first story must comply with requirements of NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 18, New Health Care/Limited Care Occupancies. (3-30-06)

403. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR THREE THROUGH SIXTEEN RESIDENTS PRIOR TO JANUARY 1, 2006.

01. Existing Buildings Housing Three Through Nine Residents. Existing facilities licensed prior to January 1, 2006, and housing three (3) through nine (9) residents on the first story only, can continue to comply with the requirements of the NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care Occupancies, Small Facilities, Prompt Evacuation Capability. With the exception, of the requirement for a door closure on the sleeping room door, which will not apply. (3-30-06)

02. Existing Buildings Housing Ten Through Sixteen Residents for Facilities. Existing facilities licensed prior to January 1, 2006, and housing ten (10) through sixteen (16) residents on the first story only, can continue to comply with the requirements of the NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 21, Residential Board and Care Occupancies, Small Facilities, Impractical Evacuation Capability. With the exception, of the requirement for a door closure on the sleeping room door, which will not apply. (3-30-06)

03. Any Change in Ownership of Facility. When there is any change in ownership, existing buildings housing three (3) through sixteen (16) beds will be required to comply with NFPA Standard #101, Life Safety Code, 2000 Edition, Chapter 33, Existing Residential Board and Care Occupancies, Impractical Evacuation Capability. (3-30-06)

404. FIRE AND LIFE SAFETY STANDARDS FOR EXISTING BUILDINGS LICENSED FOR SEVENTEEN OR MORE RESIDENTS AND MULTI-STORY BUILDINGS PRIOR TO JANUARY 1, 2006.

01. Existing Buildings Housing Seventeen or More Residents and Multi-Story Buildings. Existing facilities with buildings housing seventeen (17) or more residents or any building housing residents on stories other than the first story licensed prior to January 1, 2006, can continue to comply with NFPA, Standard #101, Life Safety Code, 1988 Edition, Chapter 13, Existing Health Care/Limited Care Occupancies. (3-30-06)

02. Any Change in Ownership of Facility. When there is any change in ownership, existing buildings housing seventeen (17) residents or more or any building housing residents on stories other than the first story will be required to comply with NFPA, Standard #101, Life Safety Code, 2000 Edition, Chapter 19, Existing Health Care/ Limited Care Occupancies. (3-30-06)

405. ADDITIONAL FIRE AND LIFE SAFETY STANDARDS FOR BUILDINGS AND FACILITIES.

01. Electrical Installations and Equipment. Electrical installations and equipment must comply with applicable local or state electrical requirements to include the following: (3-30-06)

a. Equipment designed to be grounded must be maintained in a grounded condition; and (3-30-06)

b. Extension cords and multiple electrical adapters are prohibited, with the exception of approved grounded multiple electrical adapters with a built-in breaker. (3-30-06)

02. Fire Alarm Smoke Detection System. An electrically-supervised, manually-operated fire alarm smoke detection system must be installed throughout each building housing residents. The system must have a control panel, manual pull stations, smoke detectors, sounding devices, power backup and any sprinkler flow or alarm devices. The system, including devices, their location, and installation must be approved by the Licensing and Survey Agency prior to installation. (3-30-06)

03. Medical Gases. Handling, use and storage of medical gas must be according to NFPA Standard 99, Standard for Health Care Facilities, 2003 Edition. (3-30-06)

04. Solid Fuel Heating Devices. Solid fuel heating devices must be installed according to standards in NFPA Standard #211, Standard for Chimneys, Fireplaces, Vents, and Solid Burning Appliances, 2000 Edition. (3-30-06)

05. Structure, Maintenance, Equipment to Assure Safety. The facility must be structurally sound, maintained, and equipped to assure the safety of residents, personnel, and the public including: (3-30-06)

a. Furnishings, decorations, or other objects cannot be placed so as to obstruct exit access or exits; (3-30-06)

b. All ramps, open porches, sidewalks, and open stairs must be maintained free of snow and ice buildup; (3-30-06)

c. Wood stoves must have railings or other protection designed to prevent residents from coming into contact with the stove surfaces; (3-30-06)

d. All fireplaces must have heat tempered glass fireplace enclosures or its equivalent; (3-30-06)

e. Boilers, hot water heaters, and unfired pressure vessels must be equipped with automatic pressure relief valves; (3-30-06)

f. Portable heating devices of any kind are prohibited; Portable electric space heaters and moveable fuel-fired heaters are considered portable comfort heating devices. Exceptions: Heated mattress pads, electric blankets and heating pads when ordered by an authorized provider, physician; (3-30-06)

g. Flammable and highly combustible materials deemed hazardous by the Licensing and Survey Agency cannot be stored in the facility unless the building is protected throughout by an approved automatic fire extinguishing system. (3-30-06)

06. Natural or Man-Made Hazards. When natural or man-made hazards are present on the facility property or border the facility property, suitable fences, guards, railing, or a combination must be installed to provide protection for the residents. (3-30-06)

07. Exit Door Locks. Any locks on exit doors must be single action and easily operable from the inside without the use of keys or any special knowledge. Special locking arrangements as permitted in Chapter 7 of the NFPA, Standard 101, Life Safety Code, 2000 Edition, can be used. (3-30-06)

08. Portable Fire Extinguishers. Portable fire extinguishers must be installed throughout each building used as a facility. Each extinguisher must be installed according to the standards in NFPA Standard #10, Standard for Portable Fire Extinguishers, 2002 Edition. (3-30-06)

09. Resident Placement. Any resident requiring assistance in ambulation must reside on the first story, unless the facility complies with Sections 401 through 404 of these rules. (3-30-06)

10. Telephone. The facility must have a telephone on the premises available for staff use in the event of an emergency. Emergency telephone numbers must be posted near the telephone. (3-30-06)

11. Weeds and Trash. The premises and all buildings used as a facility must be maintained free from the accumulation of weeds and trash. (3-30-06)

406. -- 409. (RESERVED)

410. REQUIREMENTS FOR EMERGENCY PREPAREDNESS.
Each facility must implement its emergency preparedness plan in the event of fire, explosion, flood, earthquake, high wind, or other emergency. (3-30-06)

01. Written Agreement for Relocation. The facility must have a written agreement developed between the facility and the location to which residents would be relocated in the event the building cannot be reoccupied. (3-30-06)

02. Fire Drills. All personnel and residents must participate in a minimum of one (1) fire drill per shift per quarter. Fire drills must be unannounced. (3-30-06)

03. Report of Fire. A separate report on each fire incident occurring within the facility must be submitted to the Licensing and Survey Agency within thirty (30) days of the occurrence. The reporting form, "Facility Fire Incident Report," issued by the Licensing and Survey Agency is used to secure specific data concerning date, origin, extent of damage, method of extinguishment, and injuries, if any. A fire incident is considered any activation of the building's fire alarm system other than a false alarm, during testing of the fire alarm system, or during a fire drill. (3-30-06)

411. -- 414. (RESERVED)

415. MAINTENANCE OF EQUIPMENT AND SYSTEMS FOR FIRE AND LIFE SAFETY.

01. Maintenance of Equipment and Systems. The facility must assure that all equipment and systems are properly maintained to assure the safety of the residents. (3-30-06)

02. Fuel-Fired Heating. Fuel-fired heating devices and systems, including wood stoves, must be inspected/serviced/cleaned at least annually by a person professionally engaged in the business of servicing these devices or systems. (3-30-06)

03. Portable Fire Extinguisher Service and Testing. Portable fire extinguishers must be serviced in accordance with NFPA Standard #10, Standard for Portable Fire Extinguishers, 2002 Edition. In addition, portable fire extinguishers must be examined at least monthly by a designated person in the facility to determine that: (3-30-06)

a. Each extinguisher is in its designated location; (3-30-06)

b. Each extinguisher seal or tamper indicator is not broken; (3-30-06)

c. Each extinguisher has not been physically damaged; (3-30-06)

d. Each extinguisher gauge, if provided, shows a charged condition; and (3-30-06)

e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (3-30-06)

04. Fire Alarm Smoke Detection System Service and Testing. (3-30-06)

a. The facility's fire alarm smoke detection system must be inspected, tested, and serviced at least annually by a person or business professionally engaged in the servicing of such systems; and (3-30-06)

b. The fire alarm smoke detection system must be inspected and tested at least monthly by a designated facility employee. (3-30-06)

05. Automatic Fire Extinguishing System Service and Testing. All automatic fire extinguishing systems must be inspected, tested, and serviced at least annually by a sprinkler system contractor licensed by the Idaho State Fire Marshal's office. (3-30-06)

06. Fire Watch. The facility must institute a fire watch during any time the fire alarm, smoke detection, or sprinkler system is inoperable for greater than four (4) hours. (3-30-06)

416. -- 419. (RESERVED)

420. USE OF MODULAR (I.E., FACTORY BUILT) BUILDINGS AND MANUFACTURED HOMES.
Modular Buildings as defined in Section 39-4105, Idaho Code, must conform to the requirements of the International Building Code unless approved for use as a facility prior to July 1, 1999, and may continue to be licensed when evaluated on a case-by-case basis for fire and life safety issues. Manufactured Homes as defined in Section 39-4105, Idaho Code, that meet International Building Code requirements can be considered for use as residential care or assisted living facilities. (3-30-06)

421. -- 429. (RESERVED)

430. REQUIREMENTS FOR FURNISHINGS, EQUIPMENT, SUPPLIES, AND BASIC SERVICES.
Each facility must provide to the resident: (3-29-10)

01. Common Shared Furnishings. Appropriately designed and constructed furnishings to meet the needs of each resident, including reading lamps, tables, and comfortable chairs or sofas. All items must be in good repair, clean, safe, and provided at no additional cost to the resident. (3-29-10)

02. Resident Sleeping Room Furnishings. Comfortable furnishings and individual storage, such as a dresser, for personal items for each resident in each sleeping room. All items must be in good repair, clean, and safe. (3-29-10)

03. Resident Bed. Each resident must be provided his own bed, which will be at least thirty-six (36) inches wide, substantially constructed, clean, and in good repair. Roll-away beds, cots, futons, folding beds, or double bunks are prohibited. Bed springs must be in good repair, clean, and comfortable. Bed mattresses must be standard for the bed, clean, and odor free. A pillow must be provided. (3-29-10)

04. Resident Telephone Privacy. The facility must have at least one (1) telephone that is accessible to all residents, and provide local calls at no additional cost. The telephone must be placed in such a manner as to provide the resident privacy while using the telephone. (3-29-10)

05. Basic Services. The following are basic services to be provided to the resident by the facility within the basic services rate: (3-29-10)

a. Rent; (3-29-10)

b. Utilities; (3-29-10)

c. Food; (3-29-10)

d. Activities of daily living services; (3-29-10)

e. Supervision; (3-29-10)

f. First aid; (3-29-10)

g. Assistance with and monitoring of medications; (3-29-10)

h. Laundering of linens owned by the facility; (3-29-10)

i. Emergency interventions and coordination of outside services; (3-29-10)

j. Routine housekeeping and maintenance of common areas; and (3-29-10)

k. Access to basic television in common areas. (3-29-10)

06. Basic Supplies. The following are to be supplied by the facility at no additional cost to the resident: linens, towels, wash cloths, liquid hand soap, non-sterile exam gloves, toilet paper, and first aid supplies, unless the resident chooses to provide his own. (3-29-10)

07. Personal Supplies. Soap, shampoo, hair brush, comb, electric razor or other means of shaving, toothbrush, toothpaste, sanitary napkins, and incontinent supplies must be provided by the facility unless the resident chooses to provide his or her own. The facility may charge the resident for personal supplies the facility provides and must itemize each item being charged to the resident. (3-29-10)

08. Resident Supplies and Furnishings. If a resident chooses to provide his or her own supplies or furnishings, the facility must assure that the resident's supplies or furnishings meet the minimum standards as identified in Subsections 430.01 through 430.06 of this rule. (3-29-10)

431. -- 449. (RESERVED)

450. REQUIREMENTS FOR FOOD AND NUTRITIONAL CARE SERVICES.
The facility must meet the standards in the Idaho Food Code, IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments," as incorporated in Section 004 of these rules. The facility must also implement the operational policies as described in Section 158 of these rules. (3-30-06)

451. MENU AND DIET PLANNING.
The facility must provide each resident with at least the minimum food and nutritional needs in accordance with the Recommended Dietary Allowances established by the Food and Nutrition Board of the National Academy of Sciences. These recommendations are found in the Idaho Diet Manual incorporated by reference in Section 004 of these rules. The menu must be adjusted for age, sex, and activity as approved by a registered dietitian. (3-30-06)

01. Menu. The facility must have a menu planned or approved, signed and dated by a registered dietitian prior to being served to the resident. The planned menu must meet nutritional standards. (3-30-06)

a. Menus will provide a sufficient variety of foods in adequate amounts at each meal. (3-30-06)

b. Food selections must include foods that are served in the community, in season, as well as residents' preferences, food habits, and physical abilities. (3-30-06)

c. The menus must be prepared in advance and available to residents on request. (3-30-06)

d. The facility must serve the planned menu and if substitutions are made the menu must be corrected to reflect the substitutions. (3-30-06)

02. Snacks. Snacks must be available and offered to residents between meals and at bedtime.(3-30-06)

03. Therapeutic Diets. The facility must have a therapeutic diet menu planned or approved, signed and dated by a registered dietitian prior to being served to a resident. (3-30-06)

a. The therapeutic diet planned menu, to the extent it is possible, must meet nutritional standards; (3-30-06)

b. The therapeutic diet menu must be planned as close to a regular diet as possible; and (3-30-06)

c. The facility must have for each resident on a therapeutic diet, an order from a physician or authorized provider. (3-30-06)

04. Facilities Licensed for Sixteen Beds or Less. In facilities licensed for sixteen (16) beds or less, menus must be planned in writing at least one week in advance. (3-30-06)

05. Facilities Licensed for Seventeen Beds or More. Facilities licensed for seventeen (17) beds or more must: (3-30-06)

a. Develop and implement a cycle menu which covers a minimum of two (2) seasons and is four (4) to five (5) weeks in length; (3-30-06)

b. Follow standardized recipes; and (3-30-06)

c. Have available in the kitchen a current diet manual approved by the Licensing and Survey Agency. (3-30-06)

452. -- 454. (RESERVED)

455. FOOD SUPPLY.
The facility must maintain a seven (7) day supply of nonperishable foods and a two (2) day supply of perishable foods. The facility's kitchen must have the types and amounts of food to be served readily available to meet the planned menu. (3-30-06)

456. -- 459. (RESERVED)

460. FOOD PREPARATION AND SERVICE.

01. Food Preparation. Foods must be prepared by methods that conserve nutritional value, flavor, and appearance. (3-30-06)

02. Frequency of Meals. (3-30-06)

a. The facility must provide residents at least three (3) meals daily, at regular times comparable to normal mealtimes in the community; (3-30-06)

b. There must not be more than fourteen (14) hours between a substantial evening meal and breakfast; (3-30-06)

c. The facility must assure that residents who are not in the facility for the noon meal are offered a substantial evening meal; and (3-30-06)

d. The facility must offer evening snacks. (3-30-06)

03. Food Preparation Area. (3-30-06)

a. No live animals or fowl will be kept or maintained in the food service preparation or service area. (3-30-06)

b. Neither food preparation nor food service areas will be used as living quarters for staff. (3-30-06)

04. Disposable Items. The facility will not use single use items except in unusual circumstances for a short period of time or for outdoor outings. (3-30-06)

461. -- 499. (RESERVED)

500. REQUIREMENTS FOR NOTICE OF MONTHLY FEE INCREASE.
The resident or resident's legal guardian, or conservator must be notified in writing of an increase in the facility monthly rates at least thirty (30) calendar days prior to such a raise taking effect. (3-30-06)

501. -- 504. (RESERVED)

505. REQUIREMENTS FOR HANDLING OF RESIDENT FUNDS.

01. Separate Trust Account Established. If a facility agrees to handle resident funds, a separate trust account must be established for each resident and an accounting record maintained. There can be no commingling of resident funds with facility funds. Borrowing between resident accounts is prohibited. (3-30-06)

a. The facility cannot require a resident to purchase goods or services from the facility for other than those designated in the admission policies, or the admission agreement, or both; (3-30-06)

b. Each transaction must be documented at the time of the transaction, with facility personnel and resident signatures for the transaction; and (3-30-06)

c. The facility must assure that the resident has access to his personal funds during reasonable hours. (3-30-06)

02. Resident's Funds Upon Permanent Discharge. When the facility manages the resident's funds and the resident permanently leaves the facility, the facility can only retain room and board funds prorated to the last day of the thirty (30) day notice, except in situations described in Subsections 220.07.c.i. and 220.07.c.ii. of these rules. All remaining funds are the property of the resident. In the event of the resident's death, the resident's facility's fees cease accruing fifteen (15) days after death. (3-30-06)

506. -- 509. (RESERVED)

510. REQUIREMENTS TO PROTECT RESIDENTS FROM ABUSE.
The administrator must assure that policies and procedures are implemented to assure that all residents are free from abuse. (3-30-06)

511. -- 514. (RESERVED)

515. REQUIREMENTS TO PROTECT RESIDENTS FROM EXPLOITATION.
The administrator must assure that policies and procedures are implemented to assure that all residents are free from exploitation. (3-30-06)

516. -- 519. (RESERVED)

520. REQUIREMENTS TO PROTECT RESIDENTS FROM INADEQUATE CARE.
The administrator must assure that policies and procedures are implemented to assure that all residents are free from inadequate care. (3-30-06)

521. -- 524. (RESERVED)

525. REQUIREMENTS TO PROTECT RESIDENTS FROM NEGLECT.
The administrator must assure that policies and procedures are implemented to assure that all residents are free from neglect. (3-30-06)

526. -- 549. (RESERVED)

550. REQUIREMENTS FOR RESIDENTS' RIGHTS.
The administrator must assure that policies and procedures are implemented to assure that residents' rights are observed and protected. (3-30-06)

01. Resident Records. The facility must maintain and keep current a record of the specific information on each resident. Upon request a resident must be provided access to information in his record. (3-30-06)

a. A copy of the resident's current Negotiated Service Agreement and physician or authorized provider's order; (3-30-06)

b. Written acknowledgement that the resident has received copies of the rights; (3-30-06)

c. A record of all personal property and funds that the resident has entrusted to the facility, including copies of receipts for the property; (3-30-06)

d. Information about any specific health problems of the resident that may be useful in a medical emergency; (3-30-06)

e. The name, address, and telephone number of an individual identified by the resident who should be contacted in the event of an emergency or death of the resident; (3-30-06)

f. Any other health-related, emergency, or pertinent information which the resident requests the facility to keep on record; and (3-30-06)

g. The current admission agreement between the resident and the facility. (3-30-06)

02. Privacy. Each resident must be assured the right to privacy with regard to accommodations, medical and other treatment, written and telephone communications, visits, and meetings of family and resident groups. (3-30-06)

03. Humane Care and Environment. (3-30-06)

a. Each resident has the right to humane care and a humane environment, including the following: (3-30-06)

i. The right to a diet that is consistent with any religious or health-related restrictions; (3-30-06)

ii. The right to refuse a restricted diet; and (3-30-06)

iii. The right to a safe and sanitary living environment. (3-30-06)

b. Each resident has the right to be treated with dignity and respect, including: (3-30-06)

i. The right to be treated in a courteous manner by staff; (3-30-06)

ii. The right to receive a response from the facility to any request of the resident within a reasonable time; and (3-30-06)

iii. The right to be communicated with, orally or in writing, in a language they understand. If the resident's knowledge of English or the predominant language of the facility is inadequate for comprehension, a means to communicate in a language familiar to the resident must be available and implemented. There are many possible methods such as bilingual staff, electronic communication devices, family and friends to translate. The method implemented must assure the resident's right of confidentiality, if the resident desires. (3-30-06)

04. Personal Possessions. Each resident has the right to: (3-30-06)

a. Wear his own clothing; (3-30-06)

b. Determine his own dress or hair style; (3-30-06)

c. Retain and use his own personal property in his own living area so as to maintain individuality and personal dignity; and (3-30-06)

d. Be provided a separate storage area in his own living area and at least one (1) locked cabinet or drawer for keeping personal property. (3-30-06)

05. Personal Funds. Residents whose board and care is paid for by public assistance will retain, for their personal use, the difference between their total income and the applicable board and care allowance established by Department rules. (3-30-06)

a. A facility must not require a resident to deposit his personal funds with the facility; and (3-30-06)

b. Once the facility accepts the written authorization of the resident, it must hold, safeguard, and account for such personal funds under a system established and maintained by the facility in accordance with this paragraph. (3-30-06)

06. Management of Personal Funds. Upon a facility's acceptance of written authorization of a resident, the facility must manage and account for the personal funds of the resident deposited with the facility as follows: (3-30-06)

a. The facility must deposit any amount of a resident's personal funds in excess of five (5) times the personal needs allowance in an interest bearing account (or accounts) that is separate from any of the facility's operating accounts and credit all interest earned on such separate account to such account. The facility must maintain any other personal funds in a non-interest bearing account or petty cash fund; (3-30-06)

b. The facility must assure a full and complete separate accounting of each resident's personal funds, maintain a written record of all financial transactions involving each resident's personal funds deposited with the facility, and afford the resident (or a legal representative of the resident) reasonable access to such record; and (3-30-06)

c. Upon the death of a resident with such an account, the facility must promptly convey the resident's personal funds (and a final accounting of such funds) to the individual administering the resident's estate. For clients of the Department, the remaining balance of funds must be refunded to the Department. (3-30-06)

07. Access and Visitation Rights. Each facility must permit: (3-30-06)

a. Immediate access to any resident by any representative of the Department, by the state ombudsman for the elderly or his designees, or by the resident's individual physician; (3-30-06)

b. Immediate access to a resident, subject to the resident's right to deny or withdraw consent at any time, by immediate family or other relatives; (3-30-06)

c. Immediate access to a resident, subject to reasonable restrictions and the resident's right to deny or withdraw consent at any time, by others who are visiting with the consent of the resident; and (3-30-06)

d. Reasonable access to a resident by any entity or individual that provides health, social, legal, or other services to the resident, subject to the resident's right to deny or withdraw consent at any time. (3-30-06)

08. Employment. Each resident must have the right to refuse to perform services for the facility except as contracted for by the resident and the administrator of the facility. If the resident is hired by the facility to perform services as an employee of the facility, the wage paid to the resident must be consistent with state and federal law. (3-30-06)

09. Confidentiality. Each resident must have the right to confidentiality of personal and clinical records. (3-30-06)

10. Freedom from Abuse, Neglect, and Restraints. Each resident must have the right to be free from physical, mental or sexual abuse, neglect, corporal punishment, involuntary seclusion, and any physical or chemical restraints. (3-30-06)

11. Freedom of Religion. Each resident must have the right to practice the religion of his choice or to abstain from religious practice. Residents must also be free from the imposition of the religious practices of others. (3-30-06)

12. Control and Receipt of Health-Related Services. Each resident must have the right to control his receipt of health related services, including: (3-30-06)

a. The right to retain the services of his own personal physician, dentist, and other health care professionals; (3-30-06)

b. The right to select the pharmacy or pharmacist of his choice so long as it meets the statute and rules governing residential care or assisted living and the policies and procedures of the residential care or assisted living facility; (3-30-06)

c. The right to confidentiality and privacy concerning his medical or dental condition and treatment; and (3-30-06)

d. The right to refuse medical services based on informed decision making. Refusal of treatment does not relieve the facility of its obligations under this chapter. (3-30-06)

i. The facility must document the resident and his legal guardian have been informed of the consequences of the refusal; and (3-30-06)

ii. The facility must document that the resident's physician or authorized provider has been notified of the resident's refusal. (3-30-06)

13. Grievances. Each resident must have the right to voice grievances with respect to treatment or care that is (or fails to be) furnished, without discrimination or reprisal for voicing the grievances and the right to prompt efforts by the facility to resolve grievances the resident may have, including those with respect to the behavior of other residents. (3-30-06)

14. Participation in Resident and Family Groups. Each resident must have the right to organize and participate in resident groups in the facility and the right of the resident's family to meet in the facility with the families of other residents in the facility. (3-30-06)

15. Participation in Other Activities. Each resident must have the right to participate in social, religious, and community activities that do not interfere with the rights of other residents in the facility. (3-30-06)

16. Examination of Survey Results. Each resident must have the right to examine, upon reasonable request, the results of the most recent survey of the facility conducted by the Licensing and Certification Unit with respect to the facility and any plan of correction in effect with respect to the facility. (3-29-10)

17. Access by Advocates and Representatives. A residential care or assisted living facility must permit advocates and representatives of community legal services programs, whose purposes include rendering assistance without charge to residents, to have access to the facility at reasonable times in order to: (3-30-06)

a. Visit, talk with, and make personal, social, and legal services available to all residents; (3-30-06)

b. Inform residents of their rights and entitlements, and their corresponding obligations, under state, federal and local laws by distribution of educational materials and discussion in groups and with individuals; (3-30-06)

c. Assist residents in asserting their legal rights regarding claims for public assistance, medical assistance and social security benefits, and in all other matters in which residents are aggrieved, that may be provided individually, or in a group basis, and may include organizational activity, counseling and litigation; (3-30-06)

d. Engage in all other methods of assisting, advising, and representing residents so as to extend to them the full enjoyment of their rights; (3-30-06)

e. Communicate privately and without restrictions with any resident who consents to the communication; and (3-30-06)

f. Observe all common areas of the facility. (3-30-06)

18. Access by Protection and Advocacy System. A residential care or assisted living facility must permit advocates and representatives of the protection and advocacy system designated by the governor under 42 U.S.C. Section 15043 and 42 U.S.C. Section 10801 et seq., access to residents, facilities, and records in accordance with applicable federal statutes and regulations. (3-30-06)

19. Access by the Long Term Care Ombudsman. A residential care or assisted living facility must permit advocates and representatives of the long term care ombudsman program pursuant to 42 U.S.C. Section 3058, Section 67 5009, Idaho Code, and IDAPA 15.01.03, "Rules Governing the Ombudsman for the Elderly Program," access to residents, facilities and records in accordance with applicable federal and state law, rules, and regulations. (3-30-06)

20. Transfer or Discharge. Each resident must have the right to be transferred or discharged only for medical reasons, or for his welfare or that of other residents, or for nonpayment for his stay. In non-emergency conditions, the resident must be given at least thirty (30) calendar days notice of discharge. A resident has the right to appeal any involuntary discharge. (3-30-06)

21. Citizenship Rights. Each resident has a right to be encouraged and assisted to exercise rights as a citizen, including the right to be informed and to vote. (3-30-06)

22. Advanced Directives. Each resident has the right to be informed, in writing, regarding the formulation of an advanced directive as provided under Section 39-4510, Idaho Code. (3-29-10)

23. Fee Changes. Each resident has the right to written notice of any fee change not less than thirty (30) days prior to the proposed effective date of the fee change, except: (3-29-10)

a. When a resident needs additional care, services, or supplies, the facility must provide to the resident, the resident's legal guardian, or conservator written notice within five (5) days of any fee change taking place; and (3-29-10)

b. The resident, the resident's legal guardian, or conservator must be given the opportunity to agree to an amended negotiated service agreement. If the two parties do not reach an agreement on the proposed fee change, the facility is entitled to charge the changed rate after five (5) days have elapsed from the date of the facility's written notice. (3-29-10)

551. -- 559. (RESERVED)

560. NOTICE OF RESIDENTS' RIGHTS.
Each facility must; (3-30-06)

01. Inform Residents Orally and in Writing. Inform each resident, orally and in writing at the time of admission to the facility, of his legal rights during the stay at the facility. (3-30-06)

02. Written Statements. Make available to each resident, upon reasonable request, a written statement of such rights and when the rights change the resident is notified. (3-30-06)

03. Written Description of Rights. Assure the written description of legal rights under Section 560 must include a description of the protection of personal funds and a statement that a resident may file a complaint with the Department respecting resident abuse and neglect and misappropriation of resident property in the facility. (3-30-06)

04. Posting of Resident Rights. Conspicuously post the residents' rights in the facility at all times. (3-30-06)

561. -- 599. (RESERVED)

600. REQUIREMENTS FOR STAFFING STANDARDS.

01. On-Duty Staff During Residents' Sleeping Hours for Facilities of Fifteen Beds or Less. For facilities licensed for fifteen (15) beds or less, there must be at least one (1), or more qualified and trained staff, up, awake, and immediately available in the facility during resident sleeping hours. (7-1-15)

02. On-Duty Staff Up and Awake During Residents' Sleeping Hours for Facilities Licensed for Sixteen Beds or More. For facilities licensed for sixteen (16) beds or more, qualified and trained staff must be up and awake and immediately available, in the facility during resident sleeping hours. (3-30-06)

03. Detached Buildings or Units. Facilities with residents housed in detached buildings or units, must have at least one (1) staff present, and available in each building or unit when residents are present in the building or

unit. The facility must also assure that each building or unit complies with the requirements for on-duty staff during resident sleeping hours to be up, awake, and immediately available in accordance with the facility's licensed bed capacity as provided in Subsections 600.01 and 600.02 of these rules. The Licensing and Survey Agency will consider a variance based on the facility's written submitted plan of operation. (7-1-15)

04. Mental Health Bed Contract Facility. Facilities that have entered into a Mental Health Bed contract with the Department must be staffed with at least one (1) staff up and awake at night to assure the safety of all residents. (3-30-06)

05. Supervision. The administrator must provide supervision for all personnel to include contract personnel. Staff who have not completed the orientation training requirements must work under the supervision of a staff who has completed the orientation training. (3-30-06)

06. Sufficient Personnel. The facility will employ and the administrator will schedule sufficient personnel to: (3-30-06)

a. Provide care, during all hours, required in each resident's Negotiated Service Agreement, to assure residents' health, safety, comfort, and supervision, and to assure the interior and exterior of the facility is maintained in a safe and clean manner; and (3-30-06)

b. To provide for at least one (1) direct care staff with certification in first aid and cardio-pulmonary resuscitation (CPR) in the facility at all times. Facilities with multiple buildings or units will have at least one (1) direct care staff with certification in first aid and CPR in each building or each unit at all times. (3-30-06)

601. -- 619. (RESERVED)

620. REQUIREMENTS FOR TRAINING OF FACILITY PERSONNEL.
The facility must follow structured written training programs designed to meet the training needs of personnel in relation to responsibilities, as specified in the written job description, to provide for quality of care and compliance with these rules. Signed evidence of personnel training, indicating hours and topic, must be retained at the facility. (3-30-06)

621. -- 624. (RESERVED)

625. ORIENTATION TRAINING REQUIREMENTS.

01. Number of Hours of Training. A minimum of sixteen (16) hours of job-related orientation training must be provided to all new personnel before they are allowed to provide unsupervised personal assistance to residents. The means and methods of training are at the facility’s discretion. (3-30-06)

02. Timeline for Completion of Training. All orientation training must be completed within thirty (30) days of hire. (7-1-15)

03. Content for Training. Orientation training must include the following: (3-30-06)

a. The philosophy of residential care or assisted living and how it guides care giving; (3-30-06)

b. Resident Rights; (3-30-06)

c. Cultural awareness; (3-30-06)

d. Providing assistance with activities of daily living and instrumental activities of daily living; (3-30-06)

e. How to respond to emergencies; (3-30-06)

f. Documentation associated with resident care needs and the provision of care to meet those needs; (3-30-06)

g. Identifying and reporting changes in residents' health and mental condition or both; (3-30-06)

h. Documenting and reporting adverse outcomes (such as resident falls, elopement, lost items); (3-30-06)

i. Advance Directives and do not resuscitate (DNR) orders; (3-30-06)

j. Relevant policies and procedures; (3-30-06)

k. The role of the Negotiated Service Agreement; and (3-30-06)

l. All staff employed by the facility, including housekeeping personnel, or contract personnel, or both, who may come into contact with potentially infectious material, must be trained in infection control procedures for universal precautions. (3-30-06)

626. -- 629. (RESERVED)

630. TRAINING REQUIREMENTS FOR FACILITIES ADMITTING RESIDENTS WITH DIAGNOSIS OF DEMENTIA, MENTAL ILLNESS, DEVELOPMENTAL DISABILITY, OR TRAUMATIC BRAIN INJURY.

A facility admitting and retaining residents with diagnosis of dementia, mental illness, developmental disability, or traumatic brain injury must train staff to meet the specialized needs of these residents. Staff must receive specialized training within thirty (30) days of hire or of admission of a resident with one (1) of these conditions. The means and methods of training are at the facility's discretion. The training should address the following areas: (7-1-15)

01. Dementia: (3-30-06)

a. Overview of dementia; (3-30-06)

b. Symptoms and behaviors of people with memory impairment; (3-30-06)

c. Communication with people with memory impairment; (3-30-06)

d. Resident's adjustment to the new living environment; (3-30-06)

e. Behavior management; (3-30-06)

f. Activities of daily living; and (3-30-06)

g. Stress reduction for facility personnel and resident. (3-30-06)

02. Mental Illness: (3-30-06)

a. Overview of mental illnesses; (3-30-06)

b. Symptoms and behaviors specific to mental illness; (3-30-06)

c. Resident's adjustment to the new living environment; (3-30-06)

d. Behavior management; (3-30-06)

e. Communication; (3-30-06)

f. Activities of daily living; (3-30-06)

g. Integration with rehabilitation services; and (3-30-06)

h. Stress reduction for facility personnel and resident. (3-30-06)

03. Developmental Disability: (3-30-06)

a. Overview of developmental disabilities; (3-30-06)

b. Interaction and acceptance; (3-30-06)

c. Promotion of independence; (3-30-06)

d. Communication; (3-30-06)

e. Behavior management; (3-30-06)

f. Assistance with adaptive equipment; (3-30-06)

g. Integration with rehabilitation services; (3-30-06)

h. Activities of daily living; and (3-30-06)

i. Community integration. (3-30-06)

04. Traumatic Brain Injury: (3-30-06)

a. Overview of traumatic brain injuries; (3-30-06)

b. Symptoms and behaviors specific to traumatic brain injury; (3-30-06)

c. Adjustment to the new living environment; (3-30-06)

d. Behavior management; (3-30-06)

e. Communication; (3-30-06)

f. Integration with rehabilitation services; (3-30-06)

g. Activities of daily living; (3-30-06)

h. Assistance with adaptive equipment; and (3-30-06)

i. Stress reduction for facility personnel and resident. (3-30-06)

631. -- 639. (RESERVED)

640. CONTINUING TRAINING REQUIREMENTS.
Each employee must receive a minimum of eight (8) hours of job-related continuing training per year. (7-1-15)

641. ADDITIONAL TRAINING RELATED TO CHANGES.
When policies or procedures are added, modified, or deleted, staff must receive additional training relating to the changes. (7-1-15)

642. -- 644. (RESERVED)

645. ASSISTANCE WITH MEDICATION CERTIFICATION REQUIREMENT.
Before staff can begin assisting residents with medications, the staff must have successfully completed a Board of Nursing approved medication assistance course. This training is not included as part of the minimum of sixteen (16)

hours of orientation training or minimum of eight (8) hours of continuing training requirement per year. (3-30-06)

646. -- 649. (RESERVED)

650. REQUIREMENTS FOR UNIFORM ASSESSMENT CRITERIA FOR PRIVATE PAY RESIDENTS.

01. Facility Responsibility For Assessing Private-Pay Residents. The facility must develop, identify, assess, or direct a uniform assessment for private-pay residents who seek admission to the residential care or assisted living facility. The Department's uniform assessment tool may be used as the facility's identified uniform assessment. (3-30-06)

02. Information Included in a Uniform Assessment. The uniform assessment used by the facility will include, but not be limited to identification/background information, medical diagnosis, medical and health problems, prescription and over the counter medications, behavior patterns, cognitive function, and functional status. (3-30-06)

03. Qualifications of Person Making Uniform Assessment. The uniform assessment can only be conducted by persons who are trained and knowledgeable in administering the facility's identified uniform assessment. (3-30-06)

04. Time Frames for Completing the Uniform Assessment. The assessment must be completed no later than fourteen (14) calendar days after admission. The assessment will be reviewed when there is a change in the resident's medical condition or mental status or every twelve (12) months, whichever comes first. (3-30-06)

05. Use of Uniform Assessment for Determining the Ability of Facility to Meet Private-Pay Resident Needs. The results of the assessment must be used to evaluate the ability of an administrator and facility to meet the identified residents' needs. The results of the assessment must also be used to determine the need for special training in caring for certain residents. (3-30-06)

651. -- 654. (RESERVED)

655. USE OF THE UNIFORM ASSESSMENT CRITERIA IN DETERMINING FACILITY STAFFING.
A facility will have sufficient numbers and types of personnel to provide care and supervision to all residents within the facility's care in accordance with each resident's Negotiated Service Agreement based on the uniform assessment and in accordance with all rules and statutes governing the facility. The facility must include both private-pay and residents who are clients of the Department in the total number when determining staffing requirements. (3-30-06)

656. -- 659. (RESERVED)

660. REQUIREMENTS FOR UNIFORM ASSESSMENT CRITERIA FOR DEPARTMENT CLIENTS.
Department clients will be assessed by the Department in compliance with IDAPA 16.03.23, “Rules Governing Uniform Assessments for State-Funded Clients.” (3-30-06)

661. -- 699. (RESERVED)

700. RECORDS.
The administrator must assure that facility policies and procedures for record keeping are implemented and followed as described in Sections 700 through 750 of these rules. (3-30-06)

01. Records Information. Entries must include date, time, name, and title of the person making the entry. Staff must sign each entry made by him during his shift. (3-30-06)

02. Availability of Records. Resident care records must be available at all times to caregivers when on duty. (3-30-06)

03. Electronic Records. Electronic records must be able to be printed in the facility at the request of the resident, legal guardian, payer, or survey agency. (3-30-06)

701. -- 704. (RESERVED)

705. RESIDENT BUSINESS RECORDS.
Resident business records must contain the records described in Subsection 705.01 through 705.07 of these rules. (3-30-06)

01. Individual Responsible for Payment. Name, address, and telephone number of the individual responsible for payment. (3-30-06)

02. Written Admissions Agreement. Written admission agreement that is signed and dated by the administrator, the resident, or his legal guardian or conservator. (3-30-06)

03. Payment Schedule. A copy of the payment schedule and fee structure signed and dated by the resident, or his legal guardian or conservator, if such is separate from the admission agreement. (3-30-06)

04. Resident Rights. A signed copy of the resident's rights as identified in Section 550 of these rules or a signed and dated statement that the resident or his legal guardian or conservator has read and understands his rights as a resident of the facility. (3-30-06)

05. Completion of Admissions Process. Name, title of the facility representative who completed the admission process with the resident, legal guardian, or conservator. (3-30-06)

06. Agreement to Handle Resident's Funds. If the facility handles resident funds, there must be a signed and dated written agreement between the facility and the resident or the resident's legal guardian or conservator setting the terms. Documentation of each financial transaction at the time the transaction occurs with signatures by the administrator or his designee and the resident. (3-30-06)

07. Emergency Condition Advisory. Documentation indicating that the resident has been advised of actions required under emergency conditions. (3-30-06)

706. -- 709. (RESERVED)

710. RESIDENT CARE RECORDS.
The administrator must assure that the facility’s policies and procedures for resident care records are implemented and meet the requirements described in Subsections 710.01 through 710.08 of these rules. (3-30-06)

01. Resident Demographics. Records required for admission to the facility must include: (3-30-06)

a. Name; (3-30-06)

b. Permanent address, if other than the facility; (3-30-06)

c. Marital Status; (3-30-06)

d. Gender; (3-30-06)

e. Date and Place of Birth; (3-30-06)

f. Name and address of emergency contact(s); and (3-30-06)

g. Admission date and where admitted from. (3-30-06)

02. Providers of Choice. Providers of choice including address and telephone numbers; (3-30-06)

a. Physician or authorized provider; (3-30-06)

b. Dentist; (3-30-06)

c. Pharmacy; and (3-30-06)

d. Others; such as outside service providers, e.g., home health, hospice, psychosocial services rehabilitation specialist, case manager. (3-30-06)

03. Religious Affiliation. Religious affiliation, if the resident chooses to state. (3-30-06)

04. Prior History and Physical. Results of a history and physical examination performed by a physician or authorized provider within six (6) months prior to admission. (3-30-06)

05. Prescribed Medication and Treatment List. A list of medications, diet, treatments, and any limitations, prescribed for the resident that is signed and dated by a physician or authorized provider giving the order. (3-30-06)

06. Social Information. Social information, obtained by the facility through interviews with the resident, family, legal guardian, conservator or outside service provider. The information must include the resident's social history, hobbies, and interests. (3-30-06)

07. Initial Uniform Assessment. The resident's initial uniform assessment. (3-30-06)

08. Initial Interim Plan and Negotiated Service Agreement. The resident's initial signed and dated interim plan and Negotiated Service Agreement. (3-30-06)

711. ONGOING RESIDENT CARE RECORDS.
The administrator must assure that the facility's policies and procedures for ongoing resident care records are implemented and meet the requirements described in Subsections 711.01 through 711.14 of these rules. (3-30-06)

01. Behavior Management Records. The facility must have behavior management records for residents when applicable. These records must document requirements in Section 225 and Subsection 320.02 of these rules. The records must also include the following: (3-30-06)

a. The date and time a specific behavior was observed; (3-30-06)

b. What interventions were used; and (3-30-06)

c. The effectiveness of the intervention. (3-30-06)

02. Complaints. The facility must assure that the individual resident's record documents complaints and grievances, the date received, the investigation, outcome, and the response to the individual who made the compliant or grievance. (3-30-06)

03. Involuntary Discharge. The facility's records must maintain documentation of: (3-30-06)

a. The facility's efforts to resolve the situation; and (3-30-06)

b. A copy of the signed and dated notice of discharge. (3-30-06)

04. Refusal of Care Consequences. Documented evidence that if the resident refuses care or services, the resident has been informed of the consequences of the refusal and the notification of the resident's physician or authorized provider being notified. (3-30-06)

05. Assessments. The resident's uniform assessment, including the admission assessment, and all assessments for the prior eighteen (18) months after the admission to the facility. (3-30-06)

06. Negotiated Services Agreement. Signed and dated negotiated services agreements, including the

admission Negotiated Service Agreement, and any modification and new agreements for the prior eighteen (18) months. (3-30-06)

07. Care Plans. Signed and dated copies of all care plans prepared by outside service agencies, if appropriate, to include who is responsible for the integration of care and services. (3-30-06)

08. Care Notes. Care notes that are signed and dated by the person providing the care and services must include: (3-30-06)

a. When the Negotiated Service Agreement is not followed, such as resident refusal, and the facility's response; (3-30-06)

b. Delegated nursing tasks, such as treatments, wound care, and assistance with medications; (3-30-06)

c. Unusual events such as incidents, reportable incidents, accidents, altercations and the facility's response; (3-30-06)

d. Calls to the physician or authorized provider, reason for the call, and the outcome of the call; (3-30-06)

e. Notification of the licensed registered nurse of a change in the resident's physical or mental condition; and (3-30-06)

f. Notes of care and services provided by outside contract entities, such as nurses, home health, hospice, case managers, psychosocial rehabilitation specialists, or service coordinator. (3-30-06)

09. Current List of Medications, Diet and Treatments. A current list of medications, diet, treatments prescribed for the resident which is signed and dated by a physician or authorized provider giving the order. (3-30-06)

10. Six Month Review of Medications. Written documentation, signed and dated by the physician or authorized provider documenting their every six (6) month review, for possible dose reduction, of the resident's use of psychotropic or behavioral modifying medications. (3-30-06)

11. Medications Not Taken. Documentation of any medication refused by the resident, not given to the resident or not taken by the resident with the reason for the omission. (3-30-06)

12. PRN Medication. Documentation of all PRN medication with the reason for taking the medication. (3-30-06)

13. Nursing Assessments. Nursing assessments, signed and dated, from the licensed registered nurse documenting the requirements in Section 305 of these rules. (3-30-06)

14. Discharge Information. Date of discharge, location to where the resident was discharged, and disposition of the resident's belongings. (3-30-06)

712. -- 714. (RESERVED)

715. MENTAL HEALTH CONTRACT BED RECORDS.
The administrator must assure that the facility's records for mental health contract beds are maintained as described in Subsections 715.01 and 715.02, of these rules. (3-30-06)

01. Contract with Department. The facility must maintain on file a written contract with the Department outlining the responsibilities of both parties and lists the names and telephone numbers of individuals who may be contacted if questions arise regarding the resident's care. (3-30-06)

02. Department Assessment. Results of the Department assessment for each mental health contract resident, which clearly assures that the resident is not a danger to himself or others must be in the resident's care record. (3-30-06)

716. -- 719. (RESERVED)

720. ADULT HOURLY CARE RECORDS.
The administrator must assure that the facility's hourly adult care records are maintained as described in Subsections 720.01 and 720.02 of these rules. (3-30-06)

01. Required Records for Each Hourly Adult Care Individual. The facility must maintain a record for each hourly adult care individual which includes: (3-30-06)

a. Admission identification information including responsible party and emergency telephone numbers of family members and the physician or authorized provider; (3-30-06)

b. Pertinent health and social information relevant to the supervision of the individual; and (3-30-06)

c. Care and services provided to the individual including medication assistance. (3-30-06)

02. Length of Time Records Kept for Adult Hourly Care. The records for each adult hourly care individual must be maintained for three (3) years. (3-30-06)

721. -- 724. (RESERVED)

725. FACILITY ADMINISTRATIVE RECORDS FOR ADMISSIONS AND DISCHARGE REGISTER.
The administrator must assure that the facility's administrative records for admission and discharge are maintained as described in Subsections 725.01 through 725.02 of these rules. (3-30-06)

01. Admission and Discharge Register. Each facility must maintain an admission and discharge register listing the name of each resident, date admitted, date discharged. The admissions and discharge register must be produced as a separate document, apart from the individual resident records, and must be kept current. (3-30-06)

02. Hourly Adult Care Log. A log of hourly adult care individuals, including the dates of service, must be maintained and kept for three (3) years. (3-30-06)

726. -- 729. (RESERVED)

730. FACILITY ADMINISTRATIVE RECORDS FOR PERSONNEL AND STAFFING.
The administrator must assure that the facility's personnel and staffing records are maintained as described in Subsections 730.01 through 730.03 of these rules. (3-30-06)

01. Personnel. A record for each employee must be maintained and available which includes the following: (3-30-06)

a. Name, address, phone number, and date of hire; (3-30-06)

b. Job description that includes purpose, responsibilities, duties, and authority; (3-30-06)

c. Evidence that on or prior to hire, staff were notified in writing that the facility does not carry professional liability insurance. If the facility cancels the professional liability insurance, all staff must be notified of the change in writing; (3-30-06)

d. A copy of a current license for all nursing staff and verification from the Board of Nursing that the license is in good standing or identification of restrictions; (3-30-06)

e. Signed evidence of training; (3-30-06)

f. CPR, first aid, and assistance with medication certification; (3-30-06)

g. Criminal history clearance as required by Section 56-1004A, Idaho Code, and IDAPA 16.05.06, "Criminal History and Background Checks," and Section 009 of these rules; (7-1-15)

h. Documentation by the licensed registered nurse of delegation to unlicensed staff to assist residents with medications and other nursing tasks; (3-30-06)

i. A signed document authorizing by position title of, the individual responsible for acting on behalf of the administrator in his absence. (3-30-06)

02. Work Records. Work records must be maintained in writing for the previous three (3) years which reflect: (3-30-06)

a. Personnel on duty, at any given time; and (3-30-06)

b. The first and last names, of each employee, and their position. (3-30-06)

03. Contract Records. Copies of contracts with outside service providers and contract staff. (3-30-06)

731. -- 734. (RESERVED)

735. FACILITY ADMINISTRATIVE RECORDS FOR HANDLING OF MEDICATIONS AND CONTROLLED SUBSTANCES.
The administrator must assure that the facility's records for handling of medications and controlled substances are maintained as described in Subsections 735.01 through 735.04 of these rules. (3-30-06)

01. Documentation of Cold Storage Temperature. Daily monitoring documentation of the refrigerated temperature where biologicals and other medications requiring cold storage are stored to assure the temperature is maintained at thirty-eight to forty-five degrees (38-45 F) Fahrenheit for the previous twelve (12) months. (3-30-06)

02. Return Medication Agreement. If appropriate, the written agreement between the facility and the pharmacy to return unused, unopened medications to the pharmacy for proper disposition and credit. See IDAPA 16.03.09. "Medicaid Basic Plan Benefits," Sections 664 and 665, and IDAPA 27.01.01, "Rules of the Idaho Board of Pharmacy." (3-30-06)

03. Documentation of Medication Disposal. A written record of all drug disposals must be maintained in the facility and include: (3-30-06)

a. A description of the drug, including the amount; (3-30-06)

b. Name of resident for prescription medication; (3-30-06)

c. The reason for disposal; (3-30-06)

d. The method of disposal; (3-30-06)

e. The date of disposal; and (3-30-06)

f. Signatures of responsible facility personnel and witness. (3-30-06)

04. Tracking Controlled Substances Documentation. The facility must maintain a written record tracking all controlled substances entering the facility in accordance with Title 37, Chapter 27, Idaho Code, IDAPA 27.01.01 "Rules of the Idaho Board of Pharmacy," Section 495, and IDAPA 23.01.01, "Rules of the Idaho Board of Nursing," Section 490. (3-30-06)

736. -- 739. (RESERVED)

740. FACILITY ADMINISTRATIVE RECORDS FOR DIETARY.
The administrator must assure that the facility's records for dietary are maintained as described in Subsections 740.01 and 740.02 of these rules. (3-30-06)

01. Menu Plan Documentation. The facility must maintain copies of menus, including therapeutic menus planned, approved, signed, and dated by a dietitian in the facility. (3-30-06)

02. Length of Time Documentation Kept for Menu Plans. The facility must maintain three (3) months of as served menus, including therapeutic menus, corrected to reflect substitutions. (3-30-06)

741. -- 744. (RESERVED)

745. FACILITY ADMINISTRATIVE RECORDS FOR WATER SUPPLY.
The administrator must assure that the facility's records for water supply are maintained. Copies of the laboratory reports documenting the bacteriological examination of testing private water supply must be kept on file in the facility. (3-30-06)

746. -- 749. (RESERVED)

750. FACILITY ADMINISTRATIVE RECORDS FOR FIRE AND LIFE SAFETY.
The administrator must assure that the facility's records for fire and life safety are maintained as described in Subsections 750.01 through 750.06 of these rules. (3-30-06)

01. Fire Drill Documentation. Written documentation of each fire drill, one (1) per shift per quarter, must be maintained on file at the facility and must contain a description of each drill, the date and time of the drill, response of the personnel and residents, problems encountered and recommendations for improvement. (3-30-06)

02. Report of Fire Documentation. A copy of the reporting form, "Facility Fire Incident Report," must be completed and submitted to the Licensing and Survey Agency, The specific data must include, date of incident, origin, extent of damage, method of extinguishment, and injuries if any. (3-30-06)

03. Fuel-Fired Heating Inspection Documentation. The facility will maintain a copy of the annual results of the inspection in the facility. (3-30-06)

04. Portable Fire Extinguisher Examination Documentation. The facility must maintain records of the monthly examination of the Portable Fire Extinguishers documenting the following: (3-30-06)

a. Each extinguisher is in its designated location; (3-30-06)

b. Each extinguisher seal or tamper indicator is not broken; (3-30-06)

c. Each extinguisher has not been physically damaged; (3-30-06)

d. Each extinguisher gauge, if provided, shows a charged condition; and (3-30-06)

e. The inspection tag attached to the extinguisher shall show at least the initials of the person making the monthly examination and the date of the examination. (3-30-06)

05. Fire Alarm Smoke Detection System Service and Testing. The facility must maintain on file in the facility the following reports: (3-30-06)

a. The results of the annual inspection and test, by a person or business professionally engaged in the servicing of such systems; and (3-30-06)

b. The results of the monthly inspection and testing of the fire alarm, smoke detection system designated facility employee. (3-30-06)

06. Automatic Fire Extinguishing System Service and Testing. The facility must maintain on file in the facility the results of the annual inspection, testing and service, by a person or business professionally engaged in servicing of such systems. (3-30-06)

751. -- 899. (RESERVED)

900. ENFORCEMENT ACTIONS.
The Department will consider the facility's compliance history, change of ownership, the number of deficiencies, and scope and severity of the deficiencies when determining an enforcement action. The Department can impose any of the enforcement actions, independently or in conjunction with others, as described in Sections 900 through 940 of these rules. (3-30-06)

01. Immediate Danger to Residents. When the Department finds that the facility's deficiency(s) immediately places the health or safety of its residents in danger, the Director of the Department or his designee may impose one (1) or more of the following: (3-30-06)

a. Appoint temporary management; or (3-30-06)

b. Summarily suspend the facility's license and transfer residents (3-30-06)

02. Not an Immediate Danger to Residents. When the Department finds that the facility's deficiency does not immediately place the residents' health or safety in danger, the Department will initiate one (1) of the Enforcement Actions "A" through "C" described in Subsections 900.03 through 900.05 of these rules, or "Enforcement Remedy of Revocation of License" described in Section 940 of these rules. (3-30-06)

03. Enforcement Action "A." (3-30-06)

a. The facility has forty-five (45) days from the date the facility was found out of compliance with core issue requirements to comply; (3-30-06)

b. An acceptable Plan of Correction is required as described in Section 130.08 of these rules; and (3-30-06)

c. When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may take Enforcement Action "B." (3-30-06)

d. A follow-up survey for Enforcement Action "A" will be conducted after forty-five (45) days from the date the facility was found out of compliance with core issue requirements. During this survey, if the deficiency still exists or a new core issue deficiency is issued, Enforcement Action "B" will be taken. (3-30-06)

04. Enforcement Action "B." (3-30-06)

a. The facility has forty-five (45) days, from the date of the follow-up survey for Enforcement Action "A" in which the facility was found out of compliance with core issue requirements, to comply; (3-30-06)

b. An acceptable Plan of Correction for core issues is required as described in Section 130.08 of these rules; (3-30-06)

c. When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may take Enforcement Action "C." (3-30-06)

d. In addition the Department may impose the following enforcement actions: (3-30-06)

i. A provisional license may be issued; (3-30-06)

ii. Admissions to the facility may be limited; or (3-30-06)

iii. The facility may be required to hire a consultant who submits periodic reports to the Licensing and Survey Agency. (3-30-06)

e. A follow-up survey for Enforcement Action "B" will be conducted after forty-five (45) days from the date the facility was found out of compliance with core issue requirements. During this survey, if the deficiency still exists or a new core issue deficiency is issued, Enforcement Action "C" will be taken. (3-30-06)

05. Enforcement Action "C." (3-30-06)

a. The facility has forty-five (45) days, from the date of the follow-up survey for Enforcement Action "B" in which the facility was found out of compliance with core issue requirements to comply; (3-30-06)

b. An acceptable Plan of Correction for core issues is required as described in Section 130.08 of these rules; (3-30-06)

c. When an acceptable Plan of Correction is not submitted within thirty (30) days from the date the facility was found out of compliance with core issue requirements, the Department may initiate the remedy of revocation of license as described in Section 940 of these rules; (3-30-06)

d. In addition the Department may impose the following enforcement actions: (3-30-06)

i. The provisional license will be continued; (3-30-06)

ii. Limit on admissions; (3-30-06)

iii. Temporary management; (3-30-06)

iv. Civil monetary penalties as described in Section 925 of these rules; (3-30-06)

e. A follow-up survey for Enforcement Action "C" will be conducted after forty-five (45) days from the date the facility was found out of compliance with core issue requirements; and (3-30-06)

f. When the facility fails to comply with this enforcement action, the Department may initiate an enforcement remedy of revocation of license as described in Section 940 of these rules. (3-30-06)

901. -- 904. (RESERVED)

905. CORE ISSUES DEFICIENCY.
The Licensing and Survey Agency will issue a deficiency and appropriate agencies will be notified when core issue deficiencies are found during a survey. When the Department finds that the facility's deficiency does not immediately place the residents' health or safety in danger, the Department will initiate one (1) of the Enforcement Actions "A" through "C" described in Subsections 900.03 through 900.05 of these rules, or "Enforcement Remedy of Revocation of License" described in Section 940 of these rules. (3-30-06)

906. -- 909. (RESERVED)

910. NON-CORE ISSUES DEFICIENCY.
The Licensing and Survey Agency will issue a deficiency for non-core issues that are found during a survey. (3-30-06)

01. Evidence of Resolution. Acceptable evidence of resolution as described in Subsection 130.09 of these rules, must be submitted by the facility to the Licensing and Survey Agency. If acceptable evidence of

resolution is not submitted within sixty (60) days from when the facility was found to be out of compliance, the Department may impose enforcement actions as described in Subsection 910.02.a. through 910.02.c. of these rules. (3-30-06)

02. First Follow-Up Survey. When the Licensing and Survey Agency finds on the first follow-up survey that repeat non-core deficiencies exist, the Department may initiate any of the following enforcement actions: (3-30-06)

a. A provisional license may be issued; (3-30-06)

b. Admissions to the facility may be limited; or (3-30-06)

c. The facility may be required to hire a consultant who submits periodic reports to the Licensing and Survey Agency. (3-30-06)

03. Second Follow-Up Survey. When the Licensing and Survey Agency finds on the second follow-up survey that repeat non-core deficiencies still exist, the Department may initiate the "Enforcement Remedy of Civil Monetary Penalties," as described in Section 925 of these rules. (3-30-06)

911. -- 919. (RESERVED)

920. ENFORCEMENT REMEDY OF LIMIT ON ADMISSIONS.

01. Notification of Limit on Admissions. The Department will notify the facility limiting admissions or limiting admissions of residents with specific diagnosis to the facility pending correction of deficiencies. Limits of admissions to the facility remain in effect until the Department determines the facility has achieved full compliance with requirements or have received written evidence and statements from the outside consultant that the facility is in compliance. (3-30-06)

02. Reasons for Limit on Admissions. The Department may limit admissions for the following reasons: (3-30-06)

a. The facility is inadequately staffed or the staff is inadequately trained to handle more residents. (3-30-06)

b. The facility otherwise lacks the resources necessary to support the needs of more residents. (3-30-06)

c. Enforcement Action "B" or "C" is taken as described in Sections 900.04 and 900.05, of these rules. (3-30-06)

d. Enforcement Remedy for Revocation of License as described in Section 940 of these rules. (3-30-06)

921. -- 924. (RESERVED)

925. ENFORCEMENT REMEDY OF CIVIL MONETARY PENALTIES.

01. Civil Monetary Penalties. Civil monetary penalties are based upon one (1) or more deficiencies of noncompliance. Nothing will prevent the Department from imposing this remedy for deficiencies which existed prior to the survey or complaint investigation through which they are identified. Actual harm to a resident or residents does not need to be shown. A single act, omission or incident will not give rise to imposition of multiple penalties, even though such act, omission or incident may violate more than one (1) rule. (3-30-06)

02. Assessment Amount for Civil Monetary Penalty. When civil monetary penalties are imposed, such penalties are assessed for each day the facility is or was out of compliance. The amounts below are multiplied by the total number of occupied licensed beds according to the records of the Department at the time non-compliance is established. (3-30-06)

a. Initial deficiency is eight dollars ($8). Example below:

Number of Occupied Beds in Facility	Initial Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	$8.00	45 days	$3960

(3-30-06)

b. Repeat deficiency is ten dollars ($10). Example below:

Number of Occupied Beds in Facility	Repeat Deficiency	Times Number of Days Out of Compliance	Amount of Penalty
11	$10.00	30 days	$3300

(3-30-06)

c. In any ninety (90) day period, the penalty amounts may not exceed the limits shown in the following table:

Limits on Accruing Civil Monetary Amount.		
Number of Occupied Beds in Facility	Initial Deficiency	Repeat Deficiency
3-4 Beds	$1440	$2880
5-50 Beds	$3200	$6400
51-100 Beds	$5400	$10,800
101-150 Beds	$8800	$17,600
151 or More Beds	$14,600	$29,200

(3-30-06)

03. Notice of Civil Monetary Penalties and Appeal Rights. The Department will give written notice informing the facility of the amount of the penalty, the basis for its assessment and the facility's appeal rights. (3-30-06)

04. Payment of Penalties. The facility must pay the full amount of the penalty within thirty (30) calendar days from the date the notice is received, unless the facility requests an administrative review of the decision to assess the penalty. The amount of a civil monetary penalty determined through administrative review must be paid within thirty (30) calendar days of the facility's receipt of the administrative review decision unless the facility requests an administrative hearing. The amount of the civil monetary penalty determined through an administrative hearing must be paid within thirty (30) calendar days of the facility's receipt of the administrative hearing decision unless the facility files a petition for judicial review. Interest accrues on all unpaid penalties at the legal rate of interest for judgments. Such interest accruement will begin one (1) calendar day after the date of the initial assessment of the penalty; (7-1-15)

05. Failure to Pay. Failure of a facility to pay the entire penalty, together with any interest, is cause for revocation of the license or the amount will be withheld from Medicaid payments to the facility. (3-30-06)

926. -- 929. (RESERVED)

930. ENFORCEMENT REMEDY OF TEMPORARY MANAGEMENT.

01. Need for Temporary Management. The Department may impose the remedy of temporary management in situations where there is a need to oversee operation of the facility and to assure the health and safety of the facility's residents: (3-30-06)

a. During an orderly transfer of residents of the facility to other facilities; or (3-30-06)

b. Pending improvements to bring the facility into compliance with program requirements. (3-30-06)

02. Notice of Temporary Management. The Department will give written notice to the facility of the imposition of temporary management. (3-30-06)

03. Who May Serve as a Temporary Manager. The Department may appoint any person or organization that meets the following qualifications: (3-30-06)

a. The temporary manager must not have any pecuniary interest in or preexisting fiduciary duty to the facility to be managed; (3-30-06)

b. The temporary manager must not be related, within the first degree of kinship, to the facility's owner, manager, administrator, or other management principal; (3-30-06)

c. The temporary manager must possess sufficient training, expertise and experience in the operation of a facility as would be necessary to achieve the objectives of temporary management. If the temporary manager is to serve in a facility, the manager must possess an Idaho Residential Care Administrator's license; and (3-30-06)

d. The temporary manager must not be an existing competitor of the facility who would gain an unfair competitive advantage by being appointed as temporary manager of the facility. (3-30-06)

04. Powers and Duties of the Temporary Manager. The temporary manager has the authority to direct and oversee the management, hiring and discharge of any consultant or personnel, including the administrator of the facility. The temporary manager has the authority to direct the expenditure of the revenues of the facility in a reasonable and prudent manner, to oversee the continuation of the business and the care of the residents, to oversee and direct those acts necessary to accomplish the goals of the program requirements and to direct and oversee regular accounting. When the facility fails or refuses to carry out the directions of the temporary manager, the Department will revoke the facility's license. (3-30-06)

a. The temporary manager must observe the confidentiality of the operating policies, procedures, employment practices, financial information, and all similar business information of the facility, except that the temporary manager must make reports to the Department; (3-30-06)

b. The temporary manager may be liable for gross, willful or wanton negligence, intentional acts of omissions, unexplained shortfalls in the facility's fund, and breaches of fiduciary duty; (3-30-06)

c. The temporary manager does not have authority to cause or direct the facility, its owner, or administrator to incur debt, unless to bring the facility into compliance with these rules, or to enter into any contract with a duration beyond the term of the temporary management of the facility; (3-30-06)

d. The temporary manager does not have authority to incur, without the permission of the owner, administrator or the Department, capital expenditures in excess of two thousand dollars ($2,000), unless the capital expenditures are directly related to correcting the identified deficiencies; (3-30-06)

e. The temporary manager does not have authority to cause or direct the facility to encumber its assets or receivables; (3-30-06)

f. The temporary manager does not have authority to cause or direct a facility, which holds liability or casualty insurance coverage, to cancel or reduce its liability or casualty insurance coverage; and (3-30-06)

g. The temporary manager does not have authority to cause or direct the sale of the facility, its assets or the premises on which it is located. (3-30-06)

05. Responsibility for Payment of the Temporary Manager. All compensation and per diem costs of the temporary manager must be paid by the licensee. (3-30-06)

06. Termination of Temporary Management. A temporary manager may be replaced under the following conditions: (3-30-06)

a. The Department may require replacement of any temporary manager whose performance is deemed unsatisfactory by the Department. No formal procedure is required for such removal or replacement, but written notice of any action will be given to the facility. (3-30-06)

b. A facility subject to temporary management may petition the Department for replacement of a temporary manager whose performance it considers unsatisfactory. The petition must include why the replacement of a temporary manager is necessary or appropriate. (3-30-06)

931. -- 934. (RESERVED)

935. ENFORCEMENT REMEDY OF PROVISIONAL LICENSE.
A provisional license may be issued when a facility is cited with one (1) or more core issue deficiencies, or when non-core issues have not been corrected or become repeat deficiencies. The provisional license will state the conditions the facility must follow to continue to operate. See Subsections 900.04, 900.05 and 910.02 of these rules. (3-30-06)

936. -- 939. (RESERVED)

940. ENFORCEMENT REMEDY OF REVOCATION OF FACILITY LICENSE.

01. Revocation of Facility's License. The Department may revoke a license when the facility endangers the health or safety of residents, or when the facility is not in substantial compliance with the provisions of Title 39, Chapter 33, Idaho Code, or this chapter of rules. (3-30-06)

02. Reasons for Revocation or Denial of a Facility License. The Department may revoke or deny any facility license for any of the following reasons: (3-30-06)

a. The licensee has willfully misrepresented or omitted information on the application or other documents pertinent to obtaining a license; (3-30-06)

b. When persuaded by a preponderance of the evidence that such conditions exist which endanger the health or safety of any resident; (3-30-06)

c. Any act adversely affecting the welfare of residents is being permitted, aided, performed, or abetted by the person or persons in charge of the facility. Such acts may include, but are not limited to, neglect, physical abuse, mental abuse, emotional abuse, violation of civil rights, criminal activity, or exploitation; (3-30-06)

d. The licensee has demonstrated or exhibited a lack of sound judgment essential to the operation and management of a facility; (3-30-06)

e. The licensee has violated any of the conditions of a provisional license; (3-30-06)

f. The facility lacks adequate personnel, as required by these rules or as directed by the Department, to properly care for the number and type of residents residing at the facility; (3-30-06)

g. Licensee refuses to allow the Department or the Protection and Advocacy agencies full access to the facility environment, facility records, and the residents as described in Subsections 130.04 through 130.06, and 550.18 through 550.19 of these rules; (3-30-06)

h. The licensee has been guilty of fraud, gross negligence, abuse, assault, battery, or exploitation with respect to the operation of a health facility or residential care or assisted living facility or certified family home; (3-30-07)

i. The licensee is actively affected in his performance by alcohol or the use of drugs classified as controlled substances; (3-30-07)

j. The licensee has been convicted of a criminal offense other than a minor traffic violation within the past five (5) years; (3-30-07)

k. The licensee is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (3-30-07)

l. The licensee has been denied, or the licensee's wrong doing, has caused the revocation of any license or certificate of any health facility, residential care or assisted living facility, or certified family home; (3-30-07)

m. The licensee has previously operated any health facility or residential care or assisted living facility without a license or certified family home without a certificate; (7-1-15)

n. The licensee is directly under the control or influence of any person who has been the subject of proceedings as described in Subsection 940.02.m. of these rules; (4-11-06)

o. The licensee is directly under the control or influence of any person who is of poor moral and responsible character or has been convicted of a felony or defrauding the government; (4-11-06)

p. The licensee is directly under the control or influence of any person who has been convicted of a criminal offense other than a minor traffic violation in the past five (5) years; (4-11-06)

q. The licensee fails to pay civil monetary penalties imposed by the Department as described in Section 925 of these rules; (4-11-06)

r. The licensee fails to take sufficient corrective action as described in Sections 900, 905 and 910 of these rules; or (4-11-06)

s. The number of residents currently in the facility exceeds the number of residents the facility is licensed to serve. (4-11-06)

941. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Board of Health and Welfare is authorized under Section 66-118, Idaho Code, to adopt rules for establishing and charging fees for services provided at State Hospital North and State Hospital South. Under Section 56-1007, Idaho Code, the Department of Health and Welfare is authorized to charge and collect reasonable fees, established by rule, for such services. Section 66-354, Idaho Code, authorizes a state facility to cause an inquiry to be made and collect fees and charges for treatment. Under Sections 56-1003(3)(e), 66-116 and 66-118, Idaho Code, the Idaho Board of Health and Welfare and Director are jointly authorized to administer, manage, and control State Hospital North and State Hospital South. *( )*

001. TITLE AND SCOPE.
The scope of these rules is to establish fees for services provided at State Hospital North *(SHN) or State Hospital South (SHS)* and are titled IDAPA 16.04.07, "Fees for State Hospital North *and State Hospital South*." *( )*

002. POLICY.
Fees for services will be established and charged to all patients or responsible relatives. Further, *SHN and SHS must* not refuse service to any person because of race, color, religion, handicap, or ability or inability to pay. *( )*

003. -- 009 (RESERVED)

010. DEFINITIONS.

01. Charge. The dollar amount determined by costs per patient day for service received from *SHN or SHS for* specialized services. *( )*

02. Cost Per Patient Day. An accounting process of allocating all cost centers for the hospital to a twenty-four (24) hour period of time the patient occupies the hospital. (5-1-82)

03. Responsible Relatives. Relatives as defined by Section 66-354, Idaho Code. (5-1-82)

04. Services. *May include reasonable and customary services such as: medical, nursing, pharmacy, individual and group counseling, etc. Services covered may differ between SHN and SHS.* *( )*

05. Third Party Payor. A payor other than a patient or responsible relative who is legally liable for all or part of patient charge. (5-1-82)

011. -- 029 (RESERVED)

030. FEES.

01. *State Hospital North (SHN) -* Diagnostic and Treatment Unit Costs. Cost*s* per patient day for the *d*iagnostic and *t*reatment *u*nits will be determined by annual cost allocations and will be effective *the first day of* October of each calendar year. *( )*

***02. State Hospital South (SHS) - Nursing Facility and Treatment Unit Costs**. Costs per patient day for the nursing facility and individual treatment units will be determined by annual cost allocations and will be effective the first day of October of each calendar year.* *( )*

03. Specialized Service Costs. *Specialized services provided by the Hospital Mini Clinic will be billed in addition to the cost per patient day and receipts will be deducted from cost allocations.* Specialized services provided outside *SHN or SHS* will be billed in addition to cost per patient day. *( )*

031. -- 049 (RESERVED)

050. CHARGES.
Charges will be established and billed based on fees calculated for services provided. *The ability of a patient or responsible relative to pay charges will be determined from the following:* *( )*

01. Insurance. *( )*

a. *State Hospital North (SHN) -* Claims will be itemized by cost per patient day unless the insurance requires a claim itemized by cost per service. No insurance claim will be filed without an assignment of insurance

benefits to the hospital. All benefits from insurance must be made available in total to be applied toward payment of fees set forth herein. *( )*

b. *State Hospital South (SHS) - Patients with third-party insurance capability will be charged one hundred percent (100%) of cost. No insurance claims will be filed without an assignment of insurance benefits to SHS. All benefits from insurance must be made available in total to be applied toward payment of fees set forth herein.* *( )*

02. Other Benefits. All patient benefits from Social Security, Veterans Administration, retirement, trust accounts, and other periodic benefits and earnings *will* be made available in total to *SHN or SHS* to be applied toward payment of fees set forth in this chapter unless otherwise dictated by benefit sources. *( )*

051. -- 069 (RESERVED)

070. WAIVER.
Upon a showing of good cause, the Administrator*s* of *SHN or SHS* or *a* designee may waive a patient's fees for any given month or portion thereof. Also, the Administrator of State Hospital North or designee may increase or decrease the amount set aside for patient personal needs. *( )*

071. -- 089 (RESERVED)

090. PERSONAL NEEDS ALLOWANCE.

01. ***State Hospital North (SHN)***. *( )*

a. Set-Aside Amount. Excluded and set aside from all income or benefits for patients will be a personal needs allowance established by the hospital or as required by the benefit source. *( )*

b. *Use of Monies.* These moneys will not be applied toward payment of charges and will be accumulated and held for the patient to spend for his personal needs. *( )*

02. State Hospital South (SHS). *( )*

a. *Set Aside Amount -- Nursing Facility. Excluded and set aside from all income or benefits for each patient on the Nursing Facility will be the amount of forty dollars ($40) per month as a personal needs allowance.* *( )*

b. *Set Aside Amount -- Treatment Units. Excluded and set aside from all income or benefits for patients will be a personal needs allowance established by the hospital or as required by the benefit source.* *( )*

c. *Use of Monies. These monies will not be applied toward payment of charges and will be accumulated and held for the patient to spend for his personal needs.* *( )*

091. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has authorized the Department of Health and Welfare to promulgate rules to conduct criminal history and background checks under Sections 56-202(b), 56-203(2), 56-204A, 56-1004A, 56-1007, 39-1105, 39-1107, 39-1111, 39-1210(10), 39-1211(4), 39-3520, 39-5604, 39-9109, 66-404(7), 15-5-308(4), 15-5-311(5), and 15-5-316(5), Idaho Code. Under 42 USC Section 9858f, the Department is required to check certain records for federal child care programs. (7-1-17)

001. TITLE, SCOPE AND POLICY.

01. Title. These rules are titled IDAPA 16.05.06, "Criminal History and Background Checks." (3-26-08)

02. Scope. These rules assist the Department in the protection of children and vulnerable adults by providing requirements to conduct criminal history and background checks of individuals licensed or certified by the Department, or who provide care or services to children or vulnerable adults. Individuals requiring a criminal history check are identified in Department rules. (7-1-17)

03. Policy. It is the Department's policy to conduct fingerprint-based criminal history and background checks on individuals who have completed a criminal history application. The criminal history applicant is required to disclose any pertinent information regarding crimes or findings that would disqualify the individual from providing care or services to children or vulnerable adults. The Department may obtain information for these criminal history and background checks from the following sources: (7-1-17)

a. Federal Bureau of Investigation; (3-26-08)

b. National Crime Information Center; (3-26-08)

c. Idaho State Police Bureau of Criminal Identification; (3-26-08)

d. Any state or federal Child Protection Registry; (7-1-17)

e. Any state or federal Adult Protection Registry; (7-1-17)

f. Any state or federal Sexual Offender Registry; (7-1-17)

g. Office of Inspector General List of Excluded Individuals and Entities; (3-26-08)

h. Idaho Department of Transportation Driving Records; (3-26-08)

i. Nurse Aide Registry; (3-26-08)

j. Other states and jurisdictions records and findings. (7-1-17)

002. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.
For the purposes of this chapter of rules, the following terms apply: (7-1-12)

01. Agency. An administrative subdivision of government or an establishment engaged in doing business for another entity. This term is synonymous with the term employer. (7-1-12)

02. Application. An individual's request for a criminal history and background check in which the individual discloses any convictions, pending charges, or child or adult protection findings, and authorizes the Department to obtain information from available databases and sources relating to the individual. (3-26-08)

03. Clearance. A clearance is a document designated by the Department as the official result of a completed criminal history and background check with no disqualifying crimes or relevant records found. (7-1-17)

04. Conviction. An individual is considered to have been convicted of a criminal offense as defined in Subsections 010.03.a. through 010.03.d. of this rule: (3-26-08)

a. When a judgment of conviction, or an adjudication, has been entered against the individual by any federal, state, military, or local court; (3-26-08)

b. When there has been a finding of guilt against the individual by any federal, state, military, or local court; (3-26-08)

c. When a plea of guilty or nolo contendere by the individual has been accepted by any federal, state, military, or local court; (3-26-08)

d. When the individual has entered into or participated in first offender, deferred adjudication, or other arrangement or program where judgment of conviction has been withheld. This includes: (3-26-08)

i. When the individual has entered into participation in a drug court; or (3-26-08)

ii. When the individual has entered into participation in a mental health court. (3-26-08)

05. Criminal History and Background Check. A criminal history and background check is a fingerprint-based check of an individual's criminal record and other relevant records. (3-4-11)

06. Criminal History Unit. The Department's Unit responsible for processing fingerprint-based criminal history and background checks, conducting exemption reviews, and issuing clearances or denials according to these rules. (3-26-08)

07. Denial. A denial is issued by the Department when an individual has a relevant record or disqualifying crime. There are two (2) types of denials: (3-26-08)

a. Conditional Denial. A denial of an applicant because of a relevant record found in Section 230 of these rules. (3-26-08)

b. Unconditional Denial. A denial of an applicant because of a conviction for a disqualifying crime or a relevant record found in Sections 200 and 210 of these rules. (3-4-11)

08. Department. The Idaho Department of Health and Welfare or its designee. (3-26-08)

09. Disqualifying Crime. A disqualifying crime is a designated crime listed in Section 210 of these rules that results in the unconditional denial of an applicant. (3-26-08)

10. Employer. An entity that hires people to work in exchange for compensation. This term is synonymous with the term agency. (7-1-12)

11. Enhanced Clearance. An enhanced clearance is a clearance issued by the Department that includes a search of child protection registries in states or jurisdictions in which an applicant has resided during the preceding five (5) years. See Section 126 of these rules. (7-1-17)

12. Exemption Review. A review by the Department at the request of the applicant when a conditional denial has been issued. (3-26-08)

13. Federal Bureau of Investigation (FBI). The federal agency where fingerprint-based criminal history and background checks are processed. (3-26-08)

14. Good Cause. Substantial reason, one that affords a legal excuse. (3-4-11)

15. Idaho State Police Bureau of Criminal Identification. The state agency where fingerprint-based criminal history and background checks are processed. (3-26-08)

16. Relevant Record. A relevant record is a record that is found in a search of criminal records or registries checked by the Department as provided in Section 56-1004A, Idaho Code. (7-1-12)

011. -- 049. (RESERVED)

050. FEES AND COSTS FOR CRIMINAL HISTORY AND BACKGROUND CHECKS.
The fee for a Department fingerprint-based criminal history and background check is up to seventy dollars ($70) for an individual. The applicant is responsible for the cost of the criminal history and background check except where otherwise provided by Department rules. An applicant is responsible for any additional costs incurred by the Department paid to agencies, judicial, or law enforcement jurisdictions in other states. The Department will collect the additional funds to cover its costs. (7-1-17)

051. -- 059. (RESERVED)

060. EMPLOYER REGISTRATION.

01. Initial Registration. Employers required to have Department criminal history and background checks on their employees, contractors, or staff must register with the Department and receive an employer identification number before criminal history and background check applications can be processed or accessed. (7-1-14)

02. Change in Name or Ownership. When an agency or facility: (7-1-14)

a. Is acquired by another entity, the new ownership must register as a new employer and provide contact information to obtain a new employer identification number and website access within thirty (30) calendar days of acquisition. (7-1-14)

b. Changes its name or location, the employer must provide the new name, location, and contact information to the Department within thirty (30) calendar days of the change. (7-1-14)

061. EMPLOYER RESPONSIBILITIES.
The criminal history and background check clearance is not a determination of suitability for employment. The Department's criminal history and background check clearance means that an individual was found to have no disqualifying crime or relevant record. Employers are responsible for determining the individual’s suitability for employment as described in Subsections 061.01 through 061.03 of these rules. (3-26-08)

01. Screen Applicants. The employer should screen applicants prior to initiating a criminal history and background check in determining the suitability of the applicant for employment. If an applicant discloses a disqualifying crime or offense, or discloses other information that would indicate a risk to the health and safety of children and vulnerable adults, a determination of suitability for employment should be made during the initial application screening. (3-26-08)

02. Maintain Printed Copy of Application. The employer must maintain a copy of the printed, signed, and notarized criminal history and background check application for all individuals required to obtain a criminal history and background check. This copy must be readily available for inspection to verify compliance with this requirement. An employer who chooses to use a criminal history and background check obtained for a previous employer must comply with Section 300 of these rules and maintain copies of the records. (7-1-17)

03. Ensure Time Frames Are Met. The employer is responsible to ensure that the required time frames are met for completion and submission of the application and fingerprints to the Department as required in Section 150 of these rules. (3-26-08)

04. Employment Determination. The employer is responsible for reviewing the results of the criminal history and background check even if a clearance that resulted in no disqualifying crimes or offenses found is issued by the Department. The employer must then make a determination as to the ability or risk of the individual to provide care or services to children or vulnerable adults. (3-4-11)

062. -- 069. (RESERVED)

070. NON-COMPLIANCE WITH THESE RULES.
The Department will report an individual's or an employer's non-compliance with these rules to the applicable licensing or certification unit. (3-26-08)

071. -- 099. (RESERVED)

100. INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.
Individuals subject to a Department criminal history and background check are those persons or classes of individuals who are required by statute, or Department rules to complete a criminal history and background check. (3-4-11)

01. Adoptive Parent Applicants. Individuals who must comply with IDAPA 16.06.01, "Child and Family Services," and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

02. Behavioral Health Programs. Individuals who must comply with IDAPA 16.07.15, "Behavioral Health Programs." (3-24-17)

03. Certified Family Homes. Individuals who must comply with Section 39-3520, Idaho Code, IDAPA 16.03.19, "Rules Governing Certified Family Homes," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

04. Children's Residential Care Facilities. Individuals who must comply with Section 39-1210, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

05. Children's Therapeutic Outdoor Programs. Individuals who must comply with Section 39-1208, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

06. Citizen Review Panel Members. Public health district volunteers who must comply with Section 16-1647, Idaho Code, "Citizen Review Panels - Child Protection Legislative Review Panel." (1-1-19)T

07. Contracted Non-Emergency Medical Transportation Providers. Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (3-4-11)

08. Court Appointed Guardians and Conservators. Individuals who must comply with the requirements of Title 15, Chapter 5, Idaho Code, and Title 66, Chapter 4, Idaho Code. Court required guardian and conservator criminal history and background checks are not provided Department clearances described in Section 180.01 of these rules. (3-20-14)

09. Designated Examiners and Designated Dispositioners. Individuals who must comply with IDAPA 16.07.39, "Appointment of Designated Examiners and Designated Dispositioners." (3-4-11)

10. Developmental Disabilities Agencies. Individuals who must comply with IDAPA 16.03.21, "Developmental Disabilities Agencies (DDA)," and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

11. Emergency Medical Services (EMS). Individuals who must comply with IDAPA 16.01.05, "Emergency Medical Services (EMS) -- Education, Instructor, and Examination Requirements," and IDAPA 16.01.07, "Emergency Medical Services (EMS) -- Personnel Licensing Requirements." (3-24-17)

12. High Risk Providers of Medicaid. Individuals who must comply with IDAPA 16.03.09, "Medicaid Basic Plan Benefits," and the Medicaid Provider Handbook. (4-6-15)

13. Home and Community-Based Services (HCBS). Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," and IDAPA 16.04.17, "Rules Governing Residential Habilitation Agencies." (7-1-12)

14. Home Health Agencies. Individuals who must comply with IDAPA 16.03.07, "Home Health Agencies." (3-4-11)

15. Idaho Behavioral Health Plan (IBHP). Individuals who are contractors, contractor's employees, and subcontractors in accordance with IDAPA 16.03.09, "Medicaid Basic Plan Benefits." (4-6-15)

16. Idaho Child Care Program (ICCP). Individuals who must comply with IDAPA 16.06.12, "Rules Governing the Idaho Child Care Program." (3-4-11)

17. Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID). Individuals who must comply with IDAPA 16.03.11, "Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID)." (3-4-11)

18. Licensed Foster Care. Individuals who must comply with Section 39-1211, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

19. Licensed Day Care. Individuals who must comply with Sections 39-1105, 39-1113, and 39-1114, Idaho Code, and IDAPA 16.06.02, "Rules Governing Standards for Child Care Licensing." (3-4-11)

20. Mental Health Services. Individuals who must comply with IDAPA 16.07.33, "Adult Mental Health Services," and IDAPA 16.07.37, "Children's Mental Health Services." (4-6-15)

21. Personal Assistance Agencies. Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

22. Personal Care Service Providers. Individuals who must comply with Section 39-5604, Idaho Code, and IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

23. Residential Care or Assisted Living Facilities in Idaho. Individuals who must comply with IDAPA 16.03.22, "Residential Care or Assisted Living Facilities in Idaho." (3-4-11)

24. Service Coordinators and Paraprofessional Providers. Individuals who must comply with IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits." (3-4-11)

25. Skilled Nursing and Intermediate Care Facilities. Individuals who must comply with IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities." (3-4-11)

26. Substance Use Disorders Services. Individuals who must comply with IDAPA 16.07.17, "Substance Use Disorders Services." (4-11-19)

27. Support Brokers and Community Support Workers. Individuals who must comply with IDAPA 16.03.13, "Consumer-Directed Services." (3-4-11)

101. DEPARTMENT INDIVIDUALS SUBJECT TO A CRIMINAL HISTORY AND BACKGROUND CHECK.

The following Department employees, contractors, and volunteers are subject to criminal history and background checks. (7-1-12)

01. Employees, Contractors, and Volunteers. Employees, contractors, and volunteers, providing direct care services or who have access to children or vulnerable adults as defined in Section 39-5302(10), Idaho Code. (3-29-10)

02. Employees of Bureau of Audits and Investigations. (3-26-08)

a. Fraud Investigators; (3-26-08)

b. Utilization Review Analysts; and (3-26-08)

c. Criminal History Staff. (3-26-08)

03. Employees at State Institutions. All employees of the following state funded institutions; (3-26-08)

a. Southwest Idaho Treatment Center, Nampa, Idaho; (3-26-08)

b. State Hospital North, Orofino, Idaho; and (3-26-08)

c. State Hospital South, Blackfoot, Idaho. (3-26-08)

04. Emergency Medical Services (EMS) Employees. EMS communication specialists and managers. (3-26-08)

05. Other Employees. Other Department employees as determined by the Director. (3-26-08)

102. -- 119. (RESERVED)

120. APPLICATION FOR A CRIMINAL HISTORY AND BACKGROUND CHECK.
Individuals who are subject to a criminal history and background check must complete an application and have it notarized. The application must include disclosure of any disqualifying crimes, offenses, or relevant records. (3-26-08)

01. Application Form. The applicant must request a criminal history and background check by completing the Department's application form and submitting it on-line or by mail. The individual's application authorizes the Department to obtain information and release it as required in accordance with applicable state and federal law. The following information is required to complete the application: (3-26-08)

a. Name, current and former names, or aliases; (3-26-08)

b. Current and former addresses as requested in the application; (7-1-17)

c. Date of birth, that appears on a valid identification document issued by a governmental entity; (3-26-08)

d. State and country of birth; and (3-26-08)

e. Driver's license number, if licensed, state where licensed, and whether a license has ever been revoked or suspended. (3-26-08)

f. Other identifying information, including gender, race, height, weight, eye color, and hair color; (3-26-08)

g. Employer information; (3-26-08)

h. Any criminal record or criminal offense information; (3-26-08)

i. Any pending charges or outstanding warrants; (3-26-08)

j. Any child or adult protection involvement; (3-26-08)

k. Any Medicare or Medicaid Provider Exclusion; and (3-26-08)

l. Any other information requested on the application. (3-26-08)

02. Disclosures. The individual must disclose any conviction, pending charges or indictment for crimes, and furnish a description of the crime and the particulars on the application. The individual must also disclose any notice by a state or local agency of substantiated child or substantiated vulnerable adult abuse, neglect, exploitation, or abandonment complaint, and any other information as required. (3-26-08)

03. Failure to Disclose Information. (7-1-17)

a. An applicant who falsifies or fails to disclose information on the application, may be subject to a conditional denial under Section 230.01 and prosecution under Sections 18-3203, 18-5401, and 56-227A, Idaho Code. (3-26-08)

b. An applicant required to obtain a criminal history and background check under Section 126 of these rules that knowingly makes a materially false statement in connection to their background check will receive an unconditional denial as provided in Section 200 of these rules. (7-1-17)

121. -- 124. (RESERVED)

125. IDAHO CHILD PROTECTION CENTRAL REGISTRY CHECKS.
The Department will provide the results of a check of the Idaho Child Protection Central Registry to any agency that requires it to comply with the provisions of applicable federal or state law. The Department will process those requests as described in this rule. (7-1-17)

01. Request for an Idaho Child Protection Central Registry Check. A request for an Idaho Child Protection Central Registry check must be submitted by mail, facsimile transmission, or e-mail attachment on state or agency letterhead with the requesting authority contact information, and must include the following: (7-1-17)

a. Name of the subject of the check, and any aliases; (4-7-11)

b. Date of birth and Social Security Number of the subject of the check; and (4-7-11)

c. A notarized signature of the subject of the check authorizing the request. (4-7-11)

02. Fee Amount. The fee for an Idaho Child Protection Central Registry check is twenty dollars ($20) for each subject checked. (4-7-11)

03. Department Response. A response will be returned to the agency initiating the request for the check within fourteen (14) days of receipt of the request. The Department's contact information will be included along with the result of the check. (7-1-17)

126. APPLICANTS RECEIVING A DEPARTMENT ENHANCED CLEARANCE.
The following classes of individuals are required to provide their previous residence information for the preceding five (5) years in their application for a criminal history and background check. (7-1-17)

01. Adoptive Parent Applicants. Described in Subsection 100.01 of these rules. (7-1-17)

02. Behavioral Health Programs. Described in Subsection 100.02 of these rules. (7-1-17)

03. Children's Residential Care Facilities. Described in Subsection 100.04 of these rules. (7-1-17)

04 Children's Therapeutic Outdoor Programs. Described in Subsection 100.05 of these rules. (7-1-17)

05. Idaho Child Care Program (ICCP). Described in Subsection 100.16 of these rules. (7-1-17)

06. Licensed Foster Care. Described in Subsection 100.18 of these rules. (7-1-17)

07. Licensed Day Care. Described in Subsection 100.19 of these rules. (7-1-17)

08. Mental Health Services. Described in Subsection 100.20 of these rules. (7-1-17)

09. Substance Use Disorders Services. Described in Subsection 100.26 of these rules. (4-11-19)

127. -- 129. (RESERVED)

130. SUBMISSION OF APPLICATION.
An application for a criminal history and background check must be initiated, submitted, and received on the Department's website before a criminal history and background check can be processed. The application is pending until the Department issues a clearance or denial, or the individual withdraws the application. (7-1-14)

131. -- 139. (RESERVED)

140. SUBMISSION OF FINGERPRINTS.
The Department's criminal history and background check is a fingerprint-based check. Ten (10) rolled fingerprints must be collected from the individual and submitted to the Department within the time frame for submitting applications as provided in Section 150 of these rules in order for a criminal history and background check request to be processed. The Department obtains fingerprints electronically at each of its fingerprint locations, or the Department's fingerprint card must be used. A Department fingerprint card can be obtained by contacting the Criminal History Unit, described in Section 005 of these rules. (7-1-14)

01. Department Fingerprinting Locations. A fingerprint appointment is scheduled at designated Department locations where the Department will collect the individual's fingerprints. Locations for the closest Department fingerprint collection office where an individual may submit fingerprints are listed on the Department's website. The applicant may contact the Criminal History Unit as described in Section 005 of these rules for additional guidance. (7-1-17)

02. Submitting Fingerprints by Mail. When an individual elects to have fingerprints collected by a local law enforcement agency or by the applicant's employer, the Department's fingerprint card must be used. The fingerprint card must be completed in accordance with the instructions provided, signed, and mailed along with the completed notarized application and applicable fee to the address indicated on the Department's website. The notarized application and fees must be received by the Department in the time frame required in Section 150 of these rules. (7-1-14)

03. Submission of Reprints. In the event that an individual's submitted fingerprints are deemed unreadable by the Department, Idaho State Police, or the FBI, the applicant must comply with a request for reprints from the Department within fifteen (15) calendar days from the date of the notice. Failure to comply with the Department's reprint request will result in the applicant being unavailable to provide services. (7-1-14)

141. -- 149. (RESERVED)

150. TIME FRAME FOR SUBMITTING APPLICATION AND FINGERPRINTS.
The completed notarized application and fingerprints must be received by the Department within twenty-one (21) days from the date of notarization whether submitted by mail or at a Department fingerprinting location. (7-1-14)

01. Availability to Provide Services. The applicant: (7-1-14)

a. Is available to provide services on the day the application is signed and notarized, as long as the applicant has not disclosed any disqualifying crimes or relevant records. The applicant must provide the Department a copy of the signed and notarized application to validate the date of applicant's availability to provide services. (7-1-14)

b. Becomes unavailable to provide services or be licensed or certified when the notarized application is not received or the fingerprints have not been collected within this time frame. (7-1-14)

c. Who submits a complete application and fingerprints by mail, and the application is deemed inadequate or incomplete for processing by the Department, is unavailable to provide services until the application is received by the Department completed and corrected. (7-1-14)

02. Incomplete Application. The criminal history and background check is incomplete and will not be processed by the Department if this time frame is not met. (7-1-12)

03. No Extension of Time Frame. The Department will not extend the twenty-one (21) day time frame, unless the applicant or employer provides just cause. An applicant for employment or employer can not submit a new application for the same purpose, or repeatedly re-sign and re-notarize the original application. (7-1-12)

151. -- 159. (RESERVED)

160. WITHDRAWAL OF APPLICATION.
An individual may withdraw their application for a criminal history and background check at any time. An individual who withdraws their application cannot provide services, or receive licensure or certification. Fees paid for the cost of the criminal history and background check are non-refundable once the fingerprints have been submitted by the Department to the Idaho State Police. (3-26-08)

161. -- 169. (RESERVED)

170. AVAILABILITY TO PROVIDE SERVICES PENDING COMPLETION OF THE CRIMINAL HISTORY AND BACKGROUND CHECK.
An individual is available to provide services pending completion of the criminal history and background check as described in Subsections 170.01 and 170.02 of this rule. The individual must have submitted a signed notarized application and fingerprints in the time frame required in Section 150 of these rules, in order to provide services. (7-1-14)

01. Employees of Providers, Contractors, Emergency Medical Services (EMS), or the Department. An individual is available to provide services on a provisional basis at the discretion of the employer or EMS Bureau as long as no disqualifying crimes or relevant records are disclosed on the application. The employer must review the application for any disqualifying crimes listed in Section 210 of these rules or other relevant records listed in Sections 230 and 240 of these rules. The employer must determine whether the applicant poses a health or safety risk to vulnerable clients before allowing the individual to provide services until a clearance or denial is issued by the Department. (7-1-14)

02. Individuals Licensed or Certified by the Department. Individuals applying for licensure or certification by the Department are not available to provide services or receive licensure or certification until the criminal history and background check is complete and a clearance is issued by the Department. The following are individuals required to have a clearance prior to providing services: (3-26-08)

a. Adoption or foster care applicants and adults in the home; (3-26-08)

b. Certification or licensure applicants; (3-26-08)

i. Certified family homes; (3-26-08)

ii. Licensed child care providers; (3-26-08)

171. -- 179. (RESERVED)

180. CRIMINAL HISTORY AND BACKGROUND CHECK RESULTS.
The Department will issue a clearance or denial once the criminal history and background check is completed. (7-1-17)

01. Results of Criminal History and Background Checks. The results may be accessed by the individual on the Department's website. The employer may access the information that is provided by the applicant and information obtained from the state, county, or through registries. (7-1-17)

02. Findings for Court Required Criminal History and Background Checks. As required in Section 56-1004A(2)(b), Idaho Code, the Department will provide findings of a court ordered criminal history and background check to individuals appointed by the court according to Title 15, Chapter 5, or Title 66, Chapter 4, Idaho Code. (3-20-14)

181. APPLICATION STATUS.
An individual and their employer may check on the criminal history and background check status and the individual's availability to work on the Department website at https://chu.dhw.idaho.gov/. (3-26-08)

182. -- 189. (RESERVED)

190. CRIMINAL HISTORY AND BACKGROUND CHECK CLEARANCE.

01. Clearance. A criminal history and background check clearance is issued by the Department once all relevant records and findings have been reviewed and the Department has cleared the applicant. The clearance will be published on the Department's website and the individual may print copies of the clearance. The employer must print the clearance within fourteen (14) calendar days of the clearance being accessible on the Department's website, and maintain a copy readily available for inspection for a period consistent with the employer's own personnel documentation retention schedule. (7-1-17)

02. Clearance Types. An applicant required to pass a criminal history and background must receive a clearance as provided below: (7-1-17)

a. A clearance for an applicant who is not seeking an enhanced clearance for employment in classes listed in Section 126 of these rules, may receive a clearance for a criminal history and background check when a relevant record identified on any child protection registry is disclosed, but the applicant has no conviction of any crimes listed in Subsections 210.01 or 210.02 of these rules. (7-1-17)

b. An applicant who receives an enhanced clearance has met the criteria to have obtained a clearance as provided in Subsection 190.02.a. of this rule. An enhanced clearance is required for each of the classes listed in Section 126 of these rules and requires searches from states and jurisdictions where the applicant has resided in the previous five (5) years. A relevant record on any child protection registry will result in a denial under Subsection 200.01 of these rules and no clearance will be issued. An applicant who applies to work in any of these classes must receive or have an enhanced clearance. (7-1-17)

03. Revocation of Clearance. An individual's previously issued clearance may be revoked for the following: (7-1-17)

a. The individual fails to comply with the Department's request to submit to a new criminal history and background check according to Subsection 300.04 of these rules. (7-1-14)

b. The individual completes a new criminal history and background check and is found to have a criminal or relevant record that results in an inability to proceed action or in a denial as described in Sections 190 or 200 of these rules. (7-1-14)

c. The criminal history and background check fees are not paid, or are insufficient to cover the costs of the background check. (7-1-17)

191. -- 199. (RESERVED)

200. UNCONDITIONAL DENIAL.
An individual who receives an unconditional denial is not available to provide services, have access, or to be licensed or certified by the Department. (3-26-08)

01. Reasons for an Unconditional Denial. Unconditional denials are issued for: (3-4-11)

a. Disqualifying crimes described in Section 210 of these rules; (3-4-11)

b. A relevant record on any Child Protection Registry for the classes of individuals listed in Section 126 of these rules; (4-11-19)

c. A relevant record on the Idaho Child Protection Central Registry with a Level one (1) or Level two (2) designation for all other applicants covered by these rules; (4-11-19)

d. A relevant record on the Nurse Aide Registry; (7-1-14)

e. A relevant record on either the state or federal sex offender registries; (7-1-17)

f. A relevant record on the state or federal Medicaid Exclusion List, described in Section 240 of these rules; or (7-1-17)

g. A materially false statement made knowingly in connection to the Department's criminal history and background check application for the classes of individuals listed in Section 126 of these rules will result in a five-year disqualification period for the applicant. (7-1-17)

02. Issuance of an Unconditional Denial. The Department will issue an unconditional denial within fourteen (14) days of completion of a criminal history and background check. (3-26-08)

03. Challenge of Department's Unconditional Denial. An individual has twenty-eight (28) days from the date the unconditional denial is issued to challenge the Department's unconditional denial. The individual must submit the challenge in writing and provide court records or other information which demonstrates the Department's unconditional denial is incorrect. These documents must be filed with the Criminal History Unit described in Section 005 of these rules. (7-1-14)

a. If the individual challenges the Department's unconditional denial, the Department will review the court records, documents and other information filed by the individual. The Department will issue a decision within thirty (30) days of the receipt of the challenge. The Department's decision will be a final order under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. ( )

b. If the individual does not challenge the Department's unconditional denial within thirty (30) days, it becomes a final order of the Department under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 152. ( )

04. No Exemption Review. No exemption review, as described in Section 250 of these rules, is allowed for an unconditional denial. (3-26-08)

05. Appeal of an Unconditional Denial. Following a challenge of the Department's unconditional denial, an individual may appeal the Department's decision under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." The request to appeal an unconditional denial does not stay the action of the Department. ( )

201. -- 209. (RESERVED)

210. DISQUALIFYING CRIMES RESULTING IN AN UNCONDITIONAL DENIAL.
An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a conviction for a disqualifying crime on his record as described in Subsections 210.01 and 210.02 of this rule. (3-26-08)

01. Disqualifying Crimes. The disqualifying crimes, described in Subsections 210.01.a. through 210.01.cc. of this rule, or any substantially conforming foreign criminal violation, will result in an unconditional denial being issued. (7-1-17)

a. Crimes against vulnerable adults: (7-1-17)

i. Abuse, neglect, or exploitation of a vulnerable adult, as defined in Section 18-1505, Idaho Code; (3-26-08)

ii. Abandoning a vulnerable adult, as defined in Section 18-1505A, Idaho Code; (7-1-17)

iii. Sexual abuse and exploitation of a vulnerable adult, as defined in Section 18-1505B, Idaho Code. (7-1-17)

b. Aggravated, first-degree and second-degree arson, as defined in Sections 18-801 through 18-803, and 18-805, Idaho Code; (3-26-08)

c. Crimes against nature, as defined in Section 18-6605, Idaho Code; (3-26-08)

d. Forcible sexual penetration by use of a foreign object, as defined in Section 18-6608, Idaho Code; (3-26-08)

e. Hiring, employing, or using a minor to engage in certain acts, as defined in Section 18-1517A, Idaho Code; (7-1-17)

f. Human trafficking, as defined in Sections 18-8602 and 18-8603, Idaho Code; (7-1-17)

g. Incest, as defined in Section 18-6602, Idaho Code; (3-26-08)

h. Injury to a child, felony or misdemeanor, as defined in Section 18-1501, Idaho Code; (3-26-08)

i. Kidnapping, as defined in Sections 18-4501 through 18-4503, Idaho Code; (3-26-08)

j. Lewd conduct with a minor, as defined in Section 18-1508, Idaho Code; (3-26-08)

k. Mayhem, as defined in Section 18-5001, Idaho Code; (3-26-08)

l. Manslaughter: (7-1-12)

i. Voluntary manslaughter, as defined in Section 18-4006(1) Idaho Code; (7-1-12)

ii. Involuntary manslaughter, as defined in Section 18-4006(2), Idaho Code; (7-1-12)

iii. Felony vehicular manslaughter, as defined in Section 18-4006(3)(a) and (b), Idaho Code; (7-1-12)

m. Murder in any degree or assault with intent to commit murder, as defined in Sections 18-4001, 18-4003, and 18-4015, Idaho Code; (7-1-12)

n. Poisoning, as defined in Sections 18-4014 and 18-5501, Idaho Code; (3-26-08)

o. Rape, as defined in Section 18-6101, Idaho Code; (3-26-08)

p. Robbery, as defined in Section 18-6501, Idaho Code; (3-26-08)

q. Felony stalking, as defined in Section 18-7905, Idaho Code; (3-26-08)

r. Sale or barter of a child, as defined in Section 18-1511, Idaho Code; (3-26-08)

s. Ritualized abuse of a child, as defined in Section 18-1506A, Idaho Code; (7-1-17)

t. Sexual abuse or exploitation of a child, as defined in Sections 18-1506, Idaho Code; (7-1-17)

u. Felony sexual exploitation of a child, as defined in Section 18-1507, Idaho Code; (7-1-17)

v. Sexual battery of a minor child under sixteen (16) or seventeen (17) years of age, as defined in Section 18-1508A, Idaho Code; (7-1-17)

w. Video voyeurism, as defined in Section 18-6609, Idaho Code; (3-26-08)

x. Enticing of children, as defined in Sections 18-1509 and 18-1509A, Idaho Code; (3-26-08)

y. Inducing individuals under eighteen (18) years of age into prostitution or patronizing a prostitute, as defined in Sections 18-5609 and 18-5611, Idaho Code; (3-26-08)

z. Any felony punishable by death or life imprisonment; (7-1-17)

aa. Attempted strangulation, as defined in Section 18-923, Idaho Code; (7-1-17)

bb. Felony domestic violence, as defined in Section 18-918, Idaho; or (7-1-17)

cc. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying designated crimes. (3-29-10)

02. Disqualifying Five-Year Crimes. The Department will issue an unconditional denial for an individual who has been convicted of the following described crimes for five (5) years from the date of the conviction for the crimes listed in Subsections 210.02.a. through 210.02.n. of this rule, or any substantially conforming foreign criminal violation: (7-1-17)

a. Any felony not described in Subsection 210.01, of this rule; (3-4-11)

b. Misdemeanor domestic violence, as defined in Section 18-918, Idaho Code; (7-1-17)

c. Failure to report abuse, abandonment or neglect of a child, as defined in Section 16-1605, Idaho Code; (7-1-17)

d. Misdemeanor forgery of and fraudulent use of a financial transaction card, as defined in Sections 18-3123 through 18-3128, Idaho Code; (3-4-11)

e. Misdemeanor forgery and counterfeiting, as defined in Sections 18-3601 through 18-3620, Idaho Code; (3-4-11)

f. Misdemeanor identity theft, as defined in Section 18-3126, Idaho Code; (3-4-11)

g. Misdemeanor insurance fraud, as defined in Sections 41-293 and 41-294, Idaho Code; (3-4-11)

h. Public assistance fraud, as defined in Sections 56-227, 56-227A, 56-227D, 56-227E and 56-227F, Idaho Code; (7-1-17)

i. Sexual exploitation of a child by electronic means, felony or misdemeanor, as defined in Section 18-1507A, Idaho Code; (7-1-17)

j. Stalking in the second degree, as defined in Section 18-7906, Idaho Code; (7-1-12)

k. Misdemeanor vehicular manslaughter, as defined in Section 18-4006(3)(c), Idaho Code; (7-1-14)

l. Sexual exploitation by a medical care provider, as defined in Section 18-919, Idaho Code; (7-1-17)

m. Operating a certified family home without certification, as defined in Section 39-3528, Idaho Code; or (7-1-17)

n. Attempt, conspiracy, accessory after the fact, or aiding and abetting, as defined in Sections 18-205, 18-306, 18-1701, and 19-1430, Idaho Code, to commit any of the disqualifying five (5) year crimes. (3-29-10)

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and

circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (3-26-08)

a. A withheld judgment; (3-26-08)

b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-26-08)

c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (3-26-08)

d. A sealed record. (3-26-08)

211. -- 219. (RESERVED)

220. CONDITIONAL DENIAL.
The Department may issue a conditional denial within fourteen (14) days of the completion of a criminal history and background check. An individual who receives a conditional denial is not available to provide services or be licensed or certified by the Department. (3-26-08)

01. Reasons for a Conditional Denial Issuance. A conditional denial is issued when the criminal history and background check reveals a relevant record as described in Section 230 of these rules. (3-26-08)

02. Effective Date of a Conditional Denial. A conditional denial is effective immediately. An applicant may not reapply for a criminal history and background check for three (3) years from the date of the conditional denial. (3-26-08)

03. Request an Exemption Review. An individual may request an exemption review as described in Section 250 of these rules when a conditional denial has been issued. (3-26-08)

221. -- 229. (RESERVED)

230. RELEVANT RECORDS RESULTING IN A CONDITIONAL DENIAL.
An individual is not available to provide direct care or services when the individual discloses or the criminal history and background check reveals a relevant record on their record as described Subsections 230.01 and 230.02 of this rule. (3-26-08)

01. Individuals Licensed or Certified by the Department or a Department Employee. A conditional denial may be issued when an individual who is licensed or certified by the Department, or who is a Department employee discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.01.a. through 230.01.d. of this rule: (7-1-14)

a. A substantiated child protection complaint or a substantiated adult protection complaint; (3-26-08)

b. The Department determines there is a potential health and safety risk to vulnerable adults or children; (3-26-08)

c. The individual has falsified or omitted information on the application form; or (7-1-14)

d. The Department determines additional information is required. (3-26-08)

02. Employees of Providers or Contractors. A conditional denial may be issued when an individual who is employed by a provider or contractor discloses, or the criminal history and background check reveals, a relevant record as defined in Subsections 230.02.a. through 230.02.b. of this rule. (7-1-14)

a. A substantiated child protection complaint or a substantiated adult protection complaint; or (7-1-14)

b. The Department determines additional information is required. (3-26-08)

03. Underlying Facts and Circumstances. The Department may consider the underlying facts and circumstances of felony or misdemeanor conduct including a guilty plea or admission in determining whether or not to issue a clearance, regardless of whether or not the individual received one (1) of the following: (3-26-08)

a. A withheld judgment; (3-26-08)

b. A dismissal, suspension, deferral, commutation, or a plea agreement where probation or restitution was or was not required; (3-26-08)

c. An order according to Section 19-2604, Idaho Code, or other equivalent state law; or (3-26-08)

d. A sealed record. (3-26-08)

231. -- 239. (RESERVED)

240. MEDICAID EXCLUSION.
Individuals subject to these rules, who are excluded by the Office of the Inspector General, Department of Health and Human Services; or, are listed in the State of Idaho Medicaid Exclusion list, cannot provide Department funded services within the scope of these rules. At the expiration of the exclusion, the individual may reapply for a criminal history and background check. (7-1-12)

241. -- 249. (RESERVED)

250. EXEMPTION REVIEWS.
An individual cannot request an exemption review for an unconditional denial. An individual may request an exemption review within fourteen (14) days from the date of the issuance of a conditional denial by the Department, unless good cause is shown for a delay. Once the Department receives the request for an exemption review, the Department will initiate a review for crimes or actions not designated in Section 210 of these rules. The review may consist of examining documents and supplemental information provided by the individual, a telephone interview, an in-person interview, or any other review the Department determines is necessary. Exemption reviews are governed and conducted as provided in Subsections 250.01 through 250.05 of this rule. (3-26-08)

01. Scheduling an Exemption Review. Upon receipt of a request for an exemption review, the Department will determine the type of review and conduct the review within thirty (30) days from the date of the request. Where an in-person review is appropriate, the Department will provide the individual at least seven (7) days notice of the review date unless the time is waived by the individual. When an in-person review is scheduled, the individual is notified by the Department that they are able to bring witnesses and present evidence during the review. (3-26-08)

02. Factors Considered at the Exemption Review. The Department will consider the following factors or evidence during the exemption review: (3-26-08)

a. The severity or nature of the crime or other findings; (3-26-08)

b. The period of time since the incident under review occurred; (3-26-08)

c. The number and pattern of incidents; (3-26-08)

d. Circumstances surrounding the incident that would help determine the risk of repetition; (3-26-08)

e. Relationship of the incident to the care of children or vulnerable adults; (3-26-08)

f. Activities since the incident, such as continuous employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of rehabilitation; (3-26-08)

g. Granting of a pardon by the Governor or the President; and (3-26-08)

h. The falsification or omission of information on the application form and other supplemental forms submitted. (3-26-08)

03. Exemption Review Determination. The Department determines the individual's suitability based upon the information provided during the exemption review. The Department will issue a notice of decision within fifteen (15) business days of the close of the review. (3-26-08)

04. Exemption Review Decision Effective Dates. The Department's exemption review decision is effective for three (3) years from the date of the notice of decision. (3-26-08)

05. Exemption Review Appeal. Exemption reviews conducted under this section of rule may be appealed under IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Rulings." The filing of a notice of appeal does not stay the action of the Department. The individual who files an appeal must establish that the Department's denial was arbitrary and capricious. ( )

251. -- 259. (RESERVED)

260. PREVIOUS EXEMPTION REVIEW DENIALS.
The individual's current request for a criminal history and background check for any Department program when there has been a denial from an exemption review within the last three (3) years will automatically be denied. (3-26-08)

261. -- 269. (RESERVED)

270. CRIMINAL OR RELEVANT RECORD - ACTION PENDING.

01. Notice of Inability to Proceed. When the applicant is identified as having a pending criminal action for a crime or relevant record that may disqualify them from receiving a clearance for the criminal history and background check, the Department may issue a notice of inability to proceed. (7-1-12)

02. Availability to Provide Services. The applicant is not available to provide service when a notice of inability to proceed or denial is issued by the Department. Any previous clearance issued by the Department will be revoked as described in Section 190 of these rules. (7-1-14)

03. Reconsideration of Action Pending. In the case of an inability to proceed status, the applicant can submit documentation that the matter has been resolved to the Department for reconsideration within one hundred and twenty (120) calendar days from the date of notice. When the Department receives this documentation, the Department will notify the applicant of the reconsideration and issue a clearance or denial. When the Department's reconsideration results in a clearance after review, any previously revoked clearance will be restored as described in Section 190 of these rules. (7-1-14)

271. -- 299. (RESERVED)

300. UPDATING CRIMINAL HISTORY AND BACKGROUND CHECKS.
The employer is responsible for confirming that the applicant has completed a criminal history and background check as provided in Section 190 of these rules. Once a clearance is issued by the Department, verifiable continuous employment of the applicant with the same employer eliminates the requirement for a new background check. The provisions stipulated on Subsections 300.03 and 300.04 of this rule still apply. (7-1-12)

01. New Criminal History and Background Check. Any individual required to have a criminal history and background check under these rules must complete a new application, including fingerprints when: (3-26-08)

a. Accepting employment with a new employer; or (3-26-08)

b. Applying for licensure or certification with the Department; and (3-26-08)

c. His last Department criminal history and background check was completed more than three (3) years prior to his employment date or licensure application date. (3-26-08)

02. Use of Criminal History Check Within Three Years of Completion. Any employer may use a Department criminal history and background check clearance obtained under these rules if: (3-26-08)

a. The individual has received a Department's criminal history and background check clearance within three (3) years from the date of employment; (4-6-15)

b. Prior to allowing the individual to provide services, the employer must obtain access to the individual's background check results and clearance through the Department's website by having the employer's identification number added to the individual's background check results, and (4-6-15)

c. The employer completes a state-only background check of the individual through the Idaho State Police Bureau of Criminal Identification, and no disqualifying crimes are found. (3-26-08)

i. The action must be initiated by the employer within thirty (30) calendar days of obtaining access to the individual's criminal history and background check clearance issued by the Department; and (7-1-12)

ii. The employer must be able to provide proof of this action by maintaining a copy of the records required in Subsections 300.02.a. and 300.02.c. of this rule for a period consistent with the employer's own personnel documentation retention schedule. (7-1-17)

d. An employer not listed in Section 126 of these rules, may use an individual's Department clearance or enhanced clearance that was obtained within three (3) years from date of employment. (7-1-17)

e. An individual with a current clearance that is within three (3) years from date of employment, who applies to a new agency or employer identified in Section 126 of these rules, must submit an application for a new criminal history and background check to obtain an enhanced clearance. (7-1-17)

03. Employer Discretion. Any agency or employer, at its discretion, may require an individual to complete a Department criminal history and background check at any time, even if the individual has received a criminal history and background check clearance within three (3) years. (7-1-17)

04. Department Discretion. The Department may, at its discretion or as provided in program rules, require a criminal history and background check of any individual covered under these rules at any time during the individual's employment, internship, or while volunteering. Any individual required to complete a criminal history and background check under Sections 100 and 101 of these rules, must be fingerprinted within fourteen (14) days from the date of notification by the Department that a new criminal history and background check is required. (3-26-08)

301. -- 349. (RESERVED)

350. CRIMINAL HISTORY AND BACKGROUND CHECK RECORDS.
Criminal history and background checks done under this chapter become the property of the Department and are held confidential. (3-26-08)

01. Release of Criminal History and Background Check Records. A copy of the criminal history and background check as defined in Section 010 of these rules will be released: (3-26-08)

a. To the individual who has requested the criminal history and background check and upon receipt of a written request to the Department, provided the individual releases the state from all liability; (3-26-08)

b. In response to a subpoena issued by a court of competent jurisdiction; or (3-26-08)

c. As otherwise required by law. (3-26-08)

02. Retention of Records. (3-26-08)

a. If an exemption is granted, the criminal history and background record, supplemental documentation received, notes from the review, and the decision will be retained by the Department for a period of at least five (5) years after the criminal history and background check is completed. (3-26-08)

b. If an exemption is denied, the Department retains all records and electronic recordings pertaining to the review for five (5) years after the criminal history and background check is completed. (3-26-08)

03. Use and Dissemination Restrictions for FBI Criminal Identification Records. According to the provisions under 28 CFR 50.12, the Department will: (3-26-08)

a. Notify the individual fingerprinted that the fingerprints will be used to check the criminal history records of the FBI; (3-26-08)

b. In determining the suitability for licensing or employment, provide the individual the opportunity to complete or challenge the accuracy of the information contained in the FBI identification record; (3-26-08)

c. Notify the individual that they have fifteen (15) days to correct or complete the FBI identification record or to decline to do so; and (3-26-08)

d. Advise the individual who wishes to correct the FBI identification record that procedures for changing, correcting, or updating are provided in 28 CFR 16.34. (3-26-08)

351. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has delegated to the Department, or the Board of Health and Welfare, or both jointly, the responsibility to establish and enforce such rules and methods of administration as may be necessary or proper to administer social services to people who are in need, under the following Sections: 16-1629, *16-1623,* 16-2102, *16-2406, 16-2423, and 16-2433,* 39-1209 through 1211, 39-5603, 39-7501, 56-202(b), 56-204A, 56-803, 56-1003, 56-1004, 56-1004A, and 56-1007, Idaho Code. *( )*

001. TITLE, SCOPE, AND GOAL.

01. **Title**. These rules are titled IDAPA 16.06.01, "Child and Family Services." (5-8-09)

02. **Scope**. These rules are established to govern the statewide provision of: (3-18-99)

a. Services associated with child protection, alternate care, and adoption; and (5-8-09)

b. As resources are available, services aimed at preventing child abuse, neglect, and abandonment. (5-8-09)

03. **Goal**. The goal of all Child and Family Services programs is the safety, permanency, and well-being of children, as well as promoting the stability and security of Indian tribes and families. (5-8-09)

002. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. **Compliance With Department Criminal History and Background Check**. All current Department employees, applicants, transfers, reinstated former employees, student interns, contract employees, Certified Adoption Professionals, volunteers, and others assigned to programs that involve direct contact with children or vulnerable adults as described in Section 39-5302, Idaho Code, must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)

02. **Availability to Work or Provide Service**. Certain individuals are allowed to provide services after the self-declaration is completed as provided in Section 56-1004A, Idaho Code, except when they have disclosed a designated crime listed in IDAPA 16.05.06, "Criminal History and Background Checks." The criminal history check requirements applicable to each provider type are found in the rules that state the qualifications or certification of those providers. (3-30-07)

03. **Adoption**. An individual applying to the Department to be an adoptive parent or petitioning the court for the adoption of a child must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." (3-30-07)

010. DEFINITIONS AND ABBREVIATIONS A THROUGH E.
For the purposes of these rules, the following terms are used: (5-8-09)

01. **Adoption and Safe Families Act of 1997 (P.L. 105-89) (ASFA)**. Federal law whose purpose is to improve the safety of children, to promote adoption and other permanent homes for children who need them, and to support families. (4-7-11)

02. **Adoption Assistance**. Funds provided to adoptive parent(s) of a child who has special needs or who could not be adopted without financial or medical assistance. (5-8-09)

03. **Adoption Services**. Protective services through which a child is provided with a permanent home, under new legal parentage, including transfer of the mutual rights and responsibilities that prevail in the parent-child relationship. (5-8-09)

04. **Alternate Care**. Temporary living arrangements, when necessary for a child to leave their own home, through a variety of foster care, respite care, residential treatment, and institutional resources, under the protections established in Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980" as amended by Public Law 105-89, the Adoption and Safe Families Act of 1997, the Child Protective Act, Section 16-1601 et seq., Idaho Code, and the Indian Child Welfare Act, 25 U.S.C. Sections 1901-1963. (5-8-09)

05. **Alternate Care Plan**. A federally required component of the Family Plan for a child in alternate

care. The alternate care plan contains elements related to reasonable efforts, the family's plan, the child's alternate care provider, compelling reasons for not terminating parental rights, Indian status, education, immunization, medical, and other information important to the day-to-day care of the child. (5-8-09)

06. Board. The Idaho State Board of Health and Welfare. (3-18-99)

07. Case Management. A change-oriented service to families that ensures and coordinates the provision of family ongoing assessment, family service planning, treatment, planning for permanency, protection, advocacy, review and reassessment, documentation, and timely closure of a case. (4-7-11)

08. Certified Adoption Professional (formerly "qualified individual"). An individual certified by the Department who meets the qualifications specified in Section 889 of these rules for completion of pre-placement adoption home studies, reports to the court under the Termination of Parent and Child Relationship and Adoption of Children Acts, and placement supervision reports. (3-20-04)

09. Child and Family Services (CFS). Those programs and services provided to families and children, administered by the Department in accordance with these rules. (4-7-11)

10. Child Protection. All children under eighteen (18) who have been harmed or threatened with harm by a person responsible for their health or welfare through non-accidental physical or mental injury, sexual abuse (as defined by state law) or negligent treatment or maltreatment, including the failure to provide adequate food, clothing, or shelter must be served without regard to income. (3-30-07)

11. Child Protective Services. Services provided in response to potential, alleged, or actual abuse, neglect, or abandonment of individuals under the age of eighteen (18) in accordance with the provisions of Section 16-1601 et seq., Idaho Code, the "Child Protective Act." (5-8-09)

12. Compact Administrator. The individual designated to coordinate interstate transfers of persons requiring special services in accordance with the provisions of Section 16-1901 et seq., Idaho Code, "Interstate Compact for Juveniles"; Section 16-2101 et seq., Idaho Code, "Interstate Compact on the Placement of Children"; or Section 39-7501 et seq., Idaho Code, "Interstate Compact on Adoption and Medical Assistance." (5-8-09)

13. Daycare for Children. Care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood or marriage to the person or persons providing the care, in a place other than the child's or children's own home or homes. (3-18-99)

14. Department. The Idaho Department of Health and Welfare. (3-18-99)

15. Deprivation. One of the factors used in determining Aid to Families with Dependent Children -- Foster Care (AFDC-FC) eligibility for children in foster care. Deprivation is a lack of, or interruption in, the maintenance, physical care, and parental guidance a child ordinarily receives from one (1) or both parents. A child is deprived by the continued absence of a parent, incapacity of a parent, death of a parent, unemployment or underemployment of the principal wage earner parent. (3-30-07)

16. Director. The Director of the Idaho Department of Health and Welfare or their designee. (3-30-07)

17. Extended Family Member of an Indian Child. As defined by the law, or custom of an Indian child's tribe or, in the absence of such law or custom, a person who has reached the age of eighteen (18) and who is an Indian child's grandparent, aunt or uncle, brother or sister, brother-in-law or sister-in-law, niece or nephew, first or second cousin, or stepparent. (3-30-01)

011. DEFINITIONS AND ABBREVIATIONS F THROUGH K.
For the purposes of these rules, the following terms are used: (5-8-09)

01. Family. Parent(s), legal guardian(s), related individuals including birth or adoptive immediate family members, extended family members and significant other individuals, who are included in the family plan. (5-3-03)

02. Family Assessment. An ongoing process based on information gained through a series of meetings with a family to gain mutual perception of strengths and resources that can support them in creating long-term solutions related to identified service needs and safety threats to family integrity, unity, or the ability to care for their members. (3-30-07)

03. Family Case Record. Electronic and hard copy compilation of all documentation relating to a family, including legal documents, identifying information, and evaluations. (5-8-09)

04. Family (Case) Plan. Also referred to as a family service plan. A written document that serves as the guide for provision of services. The plan, developed with the family, clearly identifies who does what, when, how, and why. The family plan incorporates any special plans made for individual family members. If the family includes an Indian child, or child's tribe, tribal elders or leaders should be consulted early in the plan development. (3-30-07)

05. Family Services Worker. Any of the direct service personnel, including social workers, working in regional Child and Family Services Programs. (5-8-09)

06. Federally-Funded Guardianship Assistance for Relatives. Benefits described in Subsection 702.04 and Section 703 of these rules provided to a relative guardian for the support of a child who is fourteen (14) years of age or older, who, without guardianship assistance, would remain in the legal custody of the Department of Health and Welfare. (4-7-11)

07. Field Office. A Department of Health and Welfare service delivery site. (3-18-99)

08. Goal. A statement of the long term outcome or plan for the child and family. (3-18-99)

09. Independent Living. Services provided to eligible foster or former foster youth, ages fourteen (14) to twenty-one (21), designed to support a successful transition to adulthood. (3-29-17)

10. Indian. Any person who is a member of an Indian tribe or who is an Alaska Native and a member of a Regional Corporation as defined in 43 U.S.C. 1606. (3-18-99)

11. Indian Child. Any unmarried person who is under the age of eighteen (18) who is: (3-18-99)

a. A member of an Indian tribe; or (3-29-12)

b. Eligible for membership in an Indian tribe, and who is the biological child of a member of an Indian tribe. (3-29-12)

12. Indian Child Welfare Act (ICWA). The Indian Child Welfare Act, 25 U.S.C. 1901, et seq. (3-18-99)

13. Indian Child's Tribe. (3-18-99)

a. The Indian tribe in which an Indian child is a member or eligible for membership, or (3-18-99)

b. In the case of an Indian child who is a member of or eligible for membership in more than one (1) tribe, the Indian tribe with which the Indian child has the more significant contacts. (3-18-99)

14. Indian Tribe. Any Indian Tribe, band, nation, or other organized group or community of Indians recognized as eligible for the services provided to Indians by the Secretary because of their status as Indians, including any Alaska Native village as defined in 43 U.S.C. 1602(c). (3-18-99)

15. Intercountry Adoption Act of 2000 (P.L. 106-279). Federal law designed to protect the rights of, and prevent abuses against children, birth families, and adoptive parents involved in adoptions (or prospective adoptions) subject to the Convention on Protection of Children and Cooperation in Respect of Intercountry Adoption, and to insure that such adoptions are in the children's best interests; and to improve the ability of the federal government to assist U.S. citizens seeking to adopt children from abroad and residents of other countries party to the

Convention seeking to adopt children from the United States. (5-3-03)

16. Interethnic Adoption Provisions of 1996 (IEP). IEP prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color or national origin of the adoptive or foster parent(s), or the child involved. (4-7-11)

17. Interstate Compact on the Placement of Children (ICPC). Interstate Compact on the Placement of Children (ICPC) in Title 16, Chapter 21, Idaho Code, ensures that the jurisdictional, administrative, and human rights obligations of interstate placement or transfers of children are protected. (3-20-04)

18. Kin. Non-relatives who have a significant, family-like relationship with a child. Kin may include godparents, close family friends, clergy, teachers, and members of a child's Indian tribe. Also known as fictive kin. (3-30-01)

012. DEFINITIONS AND ABBREVIATIONS L THROUGH R.
For the purposes of these rules, the following terms are used: (5-8-09)

01. Legal Guardianship. A judicially-created relationship, in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including one made by a tribal court, between a child and a relative or non-relative. (4-7-11)

02. Licensed. Facilities or programs are licensed in accordance with the provisions of IDAPA 16.06.02, "Child Care Licensing." ( )

03. Licensing. See IDAPA 16.06.02, "Child Care Licensing," Section 100. ( )

04. Medicaid. See "Title XIX." (3-30-01)

05. Multiethnic Placement Act of 1994 (MEPA). MEPA prohibits states or public and private foster care and adoption agencies that receive federal funds from delaying or denying the placement of any child solely on the basis of race, color, or national origin. (3-18-99)

06. Parent. A person who, by birth or through adoption, is considered legally responsible for a child. The term "legal guardian" is not included in the definition of parent. (5-8-09)

07. Permanency Planning. A primary function of family services initiated in all cases to identify programs, services, and activities designed to establish permanent home and family relationships for children within a reasonable amount of time. (3-18-99)

08. Personal Care Services (PCS). Services to eligible Medicaid recipients that involve personal and medically-oriented tasks dealing with the physical or functional impairments of the individual. (3-18-99)

09. P.L. 96-272. Public Law 96-272, the federal "Adoption Assistance and Child Welfare Act of 1980." (3-30-01)

10. P.L. 105-89. Public Law 105-89, the federal "Adoptions and Safe Families Act of 1997," amends P.L. 96-272 and prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family. (3-30-01)

11. Planning. An orderly rational process that results in identification of goals and formulation of timely strategies to fulfill such goals, within resource constraints. (3-30-01)

12. Qualified Expert Witness--ICWA. An individual who is an expert regarding tribal customs pertaining to family organization and child rearing practice, and is qualified to render an opinion as to whether continued custody of the child by the parent(s), or Indian custodian(s), is likely to result in serious emotional or physical damage to the child. (3-29-12)

13. Relative. Person related to a child by blood, marriage, or adoption. (3-30-01)

14. Relative Guardian. A relative who is appointed a child's legal guardian in accordance with Title 15, Chapter 5, Part 2, Idaho Code, including a guardianship established by a tribal court. (4-7-11)

15. Reservation. A reservation is an area of land "reserved" by or for an Indian band, village, or tribe(s) to live on and use. Reservations were created by treaty, by congressional legislation, or by executive order. Since 1934, the Secretary of the Interior has had the responsibility of establishing new reservations or adding land to existing reservations. (3-29-12)

16. Respite Care. Time-limited care provided to children. Respite care is utilized in circumstances that require short term, temporary care of a child by a licensed or agency-approved caregiver different from their usual caregiver. The duration of an episode of respite care ranges from one (1) partial day up to fourteen (14) consecutive days. (5-8-09)

17. Responsible Party. A Department social worker, clinician, or contracted service provider who maintains responsibility and authority for case planning and case management. (4-7-11)

013. DEFINITIONS AND ABBREVIATIONS S THROUGH Z.
For the purposes of these rules, the following terms are used: (5-8-09)

01. SSI (Supplemental Security Income). Income maintenance grants for eligible persons who are aged, blind, or disabled. These grants are provided under Title VI of the Social Security Act and are administered by the Social Security Administration and local Social Security Offices. (3-18-99)

02. Safety Assessment. A process and standardized tool for contact between a family services worker and a family to objectively determine if safety threats, or immediate service needs exist that require further Child and Family Services response. (4-7-11)

03. Safety Plan. Plan developed by the Department and a family that assures the immediate safety of a child who has been determined to be conditionally safe or unsafe. (3-30-01)

04. Sibling. One (1) of two (2) or more persons who shares the same biological or adoptive mother or father, or both. Siblings may be full-siblings or half-siblings. Siblings include those children who would be considered a sibling if not for the disruption in parental rights due to termination of parental rights or the death of a parent. (3-25-16)

05. State-Funded Guardianship Assistance. Benefits described in Subsection 702.04 and Section 704 of these rules provided to a legal guardian for the support of a child who meets the eligibility criteria. (4-7-11)

06. TAFI. Temporary Assistance to Families in Idaho. (3-18-99)

07. Title IV-E. Title under the Social Security Act that provides funding for foster care maintenance and adoption assistance payments for certain eligible children. (3-20-04)

08. Title IV-E Foster Care. Child care provided in lieu of parental care in a foster home, children's agency, or institution eligible to receive Aid to Dependent Children under Title IV-E of the Social Security Act. (5-8-09)

09. Title XIX (Medicaid). Title under the Social Security Act that provides "Grants to States for Medical Assistance Programs." (3-18-99)

10. Title XXI. (Children's Health Insurance Program). Title under the Social Security Act that provides access to health care for uninsured children under the age of nineteen (19). (3-18-99)

11. Tribal Court. A court with jurisdiction over child custody proceedings *including* a Court of Indian Offenses, a court established and operated under the code or custom of an Indian tribe, or any other administrative body of a tribe vested with authority over child custody proceedings. *( )*

12. Unmarried Parents' Services. Services aimed at achieving or maintaining self-reliance or self-support for unmarried parents. These services include counseling for any unmarried parents who need such service in relation to their plans for their children and arranging for and paying for prenatal and confinement care for the well-being of the parent and infant. Services for unmarried parents are provided in accordance with Section 56-204A, Idaho Code. (5-8-09)

13. Voluntary Services Agreement. A written and executed agreement between the Department and parents or legal guardians regarding the goal, areas of concern, desired results, and task responsibility, including payment. (5-8-09)

014. -- 019. (RESERVED)

GENERAL REQUIREMENTS AND SERVICES
(Sections 020 - 239)

020. GENERAL REQUIREMENTS APPLICABLE TO ALL CHILD AND FAMILY SERVICES PROGRAMS.

01. Information, Referral and Screening. All residents of the state of Idaho, regardless of the duration of their residency or their income are entitled to receive, upon referral or request: (3-30-07)

a. Accurate and current information about services to children and families provided through the Department. (3-18-99)

b. Referral to other appropriate public or private services available in the community; and (3-18-99)

c. A screening to determine service needs and safety threats that can be addressed through Child and Family Services. (5-8-09)

02. Initiating Child and Family Services. Child and Family Services are initiated upon referral for services that the program is legally mandated to provide or after completion of a written voluntary request for services. Efforts will be made to identify any Indian children in the family and all possible tribes in which a child may be a member or eligible for membership. (5-8-09)

03. Individual Authorized to Request Voluntary Services. Requests for voluntary services must be made by a family member or by an authorized representative, or by someone acting on behalf of an incompetent or incapacitated person. (3-30-07)

04. Record of Request for Services. The date of referral or request for services will be documented in the records of the field office. (3-30-07)

05. Information to Be Provided to Family. Upon referral or application for services, the family services worker must inform the family that: (3-30-07)

a. They have the right to accept or reject services offered by the Department, except those services imposed by law or by a court order; (3-18-99)

b. Fees may be charged for certain services, and that the parent(s) has financial responsibility for the child in care; (5-8-09)

c. They have the right to pursue an administrative appeal of any decision of Child and Family Services relating to them, including any decision not to provide services or to discontinue planned services; the Department's failure to act upon a referral or request for services within thirty (30) days; or an decision to remove a child from an alternate care placement unless court-ordered or court-authorized. (5-8-09)

021. -- 029. (RESERVED)

030. CORE CHILD AND FAMILY SERVICES.
The following core services are the state and federally mandated services provided by or through regional Child and Family Services offices: (5-8-09)

01. Crisis Services. Crisis Services are an immediate response to ensure safety when a child is believed to be in imminent danger as a result of child abuse, neglect, or abandonment. Crisis services require immediate access to services, twenty-four (24) hours per day, seven (7) days per week to assess safety and place in alternate care, if necessary, to ensure safety for the child. (4-7-11)

02. Screening Services. Initial contact with families and children to gather information to determine whether or not the child meets eligibility criteria to receive child protection or adoption services. When eligibility criteria is not met for Department mandated services, appropriate community referrals are made. (5-8-09)

03. Assessment and Safety/Service Planning Services. Process in which the safety threats to the child, and the family's concerns, strengths, and resources are identified. Based on this assessment, a written plan is developed by the worker, together with the family and other interested parties. Each plan must have a long-term goal that identifies behaviorally-specific and measurable desired results and has specific tasks that identify who, how, and when the tasks will be completed. (4-7-11)

04. Preventative Services. Community-based services that support children and families and are designed to reduce the risk of child abuse, neglect, or abandonment. These services can involve direct services, but are primarily implemented through community education, and partnerships with other community agencies such as schools and courts. (5-8-09)

05. Court-Ordered Services. These services primarily involve court-ordered investigations or assessments of situations where children are believed to be at risk due to child abuse, neglect, or abandonment. (5-8-09)

06. Alternate Care (Placement) Services. Temporary living arrangements outside of the family home for children and youth who are victims of child abuse, neglect, or abandonment. These out-of-home placements are arranged for and financed, in full or in part, by the Department. Alternate care is initiated through either a court order or voluntarily through an out-of-home placement agreement. Payment will be made on behalf of a child placed in the licensed home of an individual or relative, a public or private child care institution, a home licensed or approved by an Indian child's tribe, or in a state-licensed public child care institution accommodating no more than twenty-five (25) children. Payments may be made to individuals or to a public or private child placement or child care agency. (3-29-12)

07. Community Support Services. Services provided to a child and family in a community-based setting designed to increase the strengths and abilities of the child and family and to preserve the family whenever possible. Services include respite care and family preservation. (5-8-09)

08. Interstate Compact on Out-of-State Placements. Where necessary to encourage all possible positive contacts with family, including extended family, placement with family members or others who are outside the state of Idaho will be considered. On very rare occasion the Department may contract with a residential facility out of state if it best serves the needs of the child and is at a comparable cost to facilities within Idaho. When out-of-state placement is considered in the permanency planning for a child, such placement will be coordinated with the respective interstate compact administrator according to the provisions of Section 16-2101, et seq., Idaho Code, the "Interstate Compact on the Placement of Children." Placements must be in compliance with all state and federal laws. (5-8-09)

09. Independent Living. Services, including assessment and planning, provided to eligible youth to promote self-reliance and successful transition to adulthood. (5-8-09)

a. Eligibility Requirements for Current Foster Youth. To be eligible for independent living services, a current foster youth must: (5-8-09)

i. Be fourteen (14) to nineteen (19) years of age; (3-29-17)

ii. Currently be under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or be under a voluntary agreement for continued care if the youth is between eighteen (18) and nineteen (19) years of age; and (5-8-09)

iii. Have been in foster care or similar eligible setting for a minimum of ninety (90) total days. (5-8-09)

b. Eligibility Requirements for Former Foster Youth. To be eligible for independent living services, a former foster youth must: (5-8-09)

i. Be a former foster youth who is currently under twenty-one (21) years of age; and (5-8-09)

ii. Have been under Department or tribal care and placement authority established by a court order or voluntary agreement with the youth's family, or under a voluntary agreement for continued care after the youth has reached eighteen (18) years of age; and (5-8-09)

iii. Have been placed in foster care or similar eligible setting for a minimum of ninety (90) days total after reaching fourteen (14) years of age; or (3-29-17)

iv. Be eighteen (18) to twenty-one (21) years of age, provide verification of meeting the Independent Living eligibility criteria in another state, and currently be a resident of Idaho. (5-8-09)

c. Eligibility Limit. Once established, a youth's eligibility is maintained up to their twenty-first birthday, regardless of whether they continue to be the responsibility of the Department, tribe, or be in foster care. (5-8-09)

10. Adoption Services. Department services designed to promote and support the permanency of children with special needs through adoption. This involves the legal and permanent transfer of all parental rights and responsibilities to the family assessed as the most suitable to meet the needs of the individual child. Adoption services also seeks to build the community's capacity to deliver adoptive services. (3-30-01)

11. Administrative Services. Regulatory activities and services that assist the Department in meeting the goals of safety, permanency, health and well-being for children and families. These services include: (5-8-09)

a. Child care licensing; (3-30-01)

b. Daycare licensing; (3-30-01)

c. Community development; and (5-8-09)

d. Contract development and monitoring. (5-8-09)

031. -- 049. (RESERVED)

050. PROTECTIONS AND SAFEGUARDS FOR CHILDREN AND FAMILIES.
The federal and state laws that are the basis for these rules include a number of mandatory protections and safeguards intended to ensure timely permanency for children and to protect the rights of children, their families, and their tribes. (4-7-11)

01. Reasonable Efforts. Services offered or provided to a family intended to prevent or eliminate the need for removal of the child from the family, to reunify a child with their family, and to finalize a permanent plan. The following efforts must be made and specifically documented by the Department in reports to the court. The court will make the determination of whether or not the Department's efforts were reasonable. (4-7-11)

a. Efforts to prevent or eliminate the need for a child to be removed from their home; (5-8-09)

b. Efforts to return a child home are not required due to a judicial determination of aggravated circumstances; and (5-3-03)

c. Efforts to finalize a permanent plan, so that each child in the Department's care will have a family with whom the child can have a safe and permanent home. (5-3-03)

02. Active Efforts. The efforts required under ICWA to provide remedial services and rehabilitative programs designed to prevent the breakup of an Indian family, or to reunify an Indian family. Active efforts must include contacts and work with an Indian child's tribe. (3-29-12)

03. ICWA Placement Preferences. (3-29-12)

a. When the Indian child's permanency goal is reunification, the preferences are described in Section 402 of these rules. (3-29-12)

b. When the Indian child's permanency goal is adoption or guardianship, the preferences are described in Subsection 800.01 of these rules. (3-29-12)

c. When the placement preferences are not followed, the court must determine that good cause exists for not following the preferences. (3-29-12)

04. Least Restrictive Setting. Efforts will be made to ensure that any child in the Department's care resides in the least restrictive, most family-like setting possible. Placement will be made in the least restrictive setting and in close proximity to the parent(s) or if not, written justification that the placement is in the best interest of the child. (3-29-12)

05. Legal Requirements for Indian Children. When there is reason to believe that a child is an Indian child, notice of the pending proceeding must be sent according to the notice provisions specified in Section 051 of these rules. Notice must also include notice of the tribe's right to intervene; their right to twenty (20) days additional time to prepare for the proceeding; the right to appointment of counsel if the parent(s) or Indian custodian(s) is indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-29-12)

06. Visitation for Child's Parent(s) or Legal Guardian(s). Visitation arrangements must be provided to the child's parent(s) or legal guardian(s) unless visitation is contrary to the child's safety. (3-30-07)

07. Notification of Change in Placement. Written notification must be made within seven (7) days of a change of placement of the foster child if a child is relocated to another foster care setting. Notification must be sent to the child's parent(s) or legal guardian(s). When the child is an Indian child, written notification must also be sent to the child's Indian custodian(s), if applicable, and to the child's tribe. (3-29-12)

08. Notification of Change in Visitation. Written notification to the child's parent(s) or legal guardian(s) if there is to be a change in their visitation schedule with their child or ward in foster care. (5-3-03)

09. Notification of Right to Participate and Appeal. Written notification to the child's parent(s) or legal guardian(s) must be made regarding their right to discuss any changes and the opportunity to appeal if they disagree with changes in placement or visitation. (3-30-07)

10. Qualified Expert Witness--ICWA. The testimony of an expert witness is required at the hearing in which a child is placed in state custody, typically the adjudicatory, and at the hearing for termination of parental rights. A person who is most likely to be a qualified expert witness in the placement of an Indian child is: (3-29-12)

a. A member of the Indian child's tribe who is recognized by the tribal community as knowledgeable in tribal customs pertaining to family organization and child rearing practices; (3-29-12)

b. An individual who is not a tribal member who has substantial experience in the delivery of child

and family services to Indians and extensive knowledge of prevailing social and cultural standards and child rearing practices within the Indian child's tribe; or (3-29-12)

c. A professional person who has substantial education and experience in a pertinent specialty area and substantial knowledge of prevailing social and cultural standards and child rearing practices within the Indian community. (3-29-12)

11. Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996. (4-7-11)

a. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program from delaying or denying a child's foster care or adoptive placement on the basis of the child's or the prospective foster or adoptive parent's race, color, or national origin. (4-7-11)

b. The Department prohibits entities that are involved in foster care or adoption placements and that receive federal financial assistance under Title IV-E, Title IV-B, or any other federal program, from denying to any individual the opportunity to become a foster or adoptive parent on the basis of the prospective foster or adoptive parent's or the child's race, color, or national origin; (4-7-11)

c. To remain eligible for federal assistance for their child welfare programs, the Department must diligently recruit foster and adoptive parents who reflect the racial and ethnic diversity of the children in the state who need foster and adoptive homes; (4-7-11)

d. A child's race, color, or national origin cannot be routinely considered as a relevant factor in assessing the child's best interests; (4-7-11)

e. Failure to comply with MEPA/IEP's prohibitions against discrimination is a violation of Title VI of the Civil Rights Act of 1964; and (4-7-11)

f. Nothing in MEPA/IEP is to be construed to affect the application of the Indian Child Welfare Act of 1978. (4-7-11)

12. Family Decision-Making and Plan Development. (3-30-01)

a. A family plan will be completed within thirty (30) days of the date the case was opened. (3-30-07)

b. Families will be given ample opportunity to participate in the identification of areas of concern, their strengths, and developing service goals and tasks. The family plan and any changes to it must be signed and dated by the family. If the family refuses to sign the plan, the reason for their refusal will be documented on the plan. (3-30-07)

c. Plans are to be reviewed with the family no less frequently than once every three (3) months. When there are major changes to the plan including a change in the long term goal, the family plan must be renegotiated by the Department and the family as well as signed by the family. A new plan must be negotiated at least annually. (3-30-01)

13. Compelling Reasons. Reasons why the parental rights of a parent of a child in the Department's care and custody should not be terminated when the child has been in the custody of the Department for fifteen (15) out of the most recent twenty-two (22) months. ( )

a. These reasons must be documented in the Alternate Care Plan, in a report to the court, and the court must make a determination if the reasons are sufficiently compelling. ( )

b. A compelling reason must be documented when a child's plan for permanency is not adoption, guardianship, or return home. ( )

c. When compelling reasons are not appropriate, the petition for termination of parental rights must be filed by the end of the child's fifteenth month in foster care. *( )*

14. ASFA Placement Preferences. The following placement preferences will be considered in the order listed below when recommending and making permanency decisions: (5-8-09)

a. Return home if safe to do so; (3-30-01)

b. Adoption or legal guardianship by a relative or kin; (5-8-09)

c. Adoption or legal guardianship by non-relative; (3-30-01)

d. Another planned permanent living arrangement such as long-term foster care. (5-8-09)

051. NOTICE REQUIREMENTS FOR ICWA.

01. Notice of Pending Proceedings -- Who *is* Notified. When there is reason to believe that a child is an Indian child, the initial and any subsequent Notice of Pending Proceedings must be sent to the Indian child's parent(s), custodian(s), and tribe. Notices of Pending Proceedings must be sent to the ICWA Designated Agent for the child's tribe via Registered Mail, Return Receipt Requested. All Notices of Pending Proceedings must be received by the child's parent(s), Indian custodian(s) and tribe at least 10 (ten) days before the proceeding is scheduled to occur. Returned receipts are to be kept in the child's file and made available for review by the court. *( )*

02. Rights Under a Notice of Pending Proceedings. Notices of Pending Proceedings must also include notice of the tribe's right to intervene; their right to twenty (20) additional days to prepare for the proceedings; the right to appointment of counsel if the parent(s) or Indian custodian(s) are indigent; and the right to examine all documents filed with the court upon which placement may be based. (3-29-12)

03. Notice of Pending Proceedings--When Identity or Location of Parent(s), Indian Custodian(s), or Tribe is Unknown. If the identity or location of the parent(s) or Indian custodian(s) or the tribe is unknown, the Notice of Pending Proceedings must be sent to the Secretary of the Interior by certified mail with a return receipt requested at the following address: Department of the Interior, Bureau of Indian Services, Division of Human Services, Code 450, Mail Stop, 1849 C Street N.W., Washington, D.C. 20240. (3-29-12)

052. -- 059. (RESERVED)

060. FAMILY CASE RECORDS.

01. Electronic and Physical Files. The Department will maintain an electronic file and a physical file containing information on each family receiving services. The physical file will contain non-electronic documentation such as originals or original copies of all court orders, birth certificates, social security cards, and assessment information that is original outside the Department. (5-8-09)

02. Storage of Records. All physical family case records must be stored in a secure file storage area, away from public access and retained not less than five (5) years after the case is closed, after which they may be destroyed. (5-8-09)

a. Exception for Adoption Records. Complete family case records involving adoptive placements must be forwarded to the Department's central adoption unit for permanent storage. (5-8-09)

b. Exception for Case Records Involving an Indian Child. A case record involving an Indian child must be available at any time at the request of an Indian child's tribe or the Secretary of the Interior. (5-8-09)

061. -- 239. (RESERVED)

REVIEWS AND HEARINGS
(Sections 240 - 399)

240. SIX-MONTH REVIEWS FOR CHILDREN IN ALTERNATE CARE PLACEMENT.

When a judicial review does not occur at the end of a six (6) month period for any child in alternate care placement, the Department will conduct a case review to assure compliance with all applicable state and federal laws, and to ensure the plan focuses on the goals of safety, permanency and well-being of the child. (5-8-09)

01. Notice of Six Month Review. The parent(s) or legal guardian(s), foster parent(s) of a child, and any preadoptive parent(s) or relative(s) providing care for the child, are to be provided with notice of their right to be heard in the six-month review. In the case of an Indian child, the child's tribe and any Indian custodian must also be provided with notice. This must not be construed to require that any foster parent, preadoptive parent, or relative providing care for the child be made a party to the review solely on the basis of the receipt of such notice. Participants have the right to be represented by the individual of their choice. (5-8-09)

02. Procedure in the Six Month Review. The parties who received notice will be given the opportunity to participate in the case review. (5-8-09)

03. Members of Six-Month Review Panel. The six-month review panel must include a Department employee who is not in the direct line of supervision in the delivery of services to the child or parent(s) or legal guardian(s) being reviewed. The review panel may include agency staff, staff of other agencies, officers of the court, members of Indian tribes, and citizens qualified by experience, professional background, or training. Members of the panel will be chosen by and receive instructions from the Department's Child and Family Services Program Manager or their designee, to enable them to understand the review process and their roles as participants. (5-8-09)

04. Considerations in Six-Month Review. Whether conducted by the court in a review hearing or a Department review panel, under State law, Federal law and regulation, each of the following must be addressed in a six-month review: (5-8-09)

a. Determine the extent of compliance with the family services plan; (5-3-03)

b. Determine the extent of progress made toward alleviating or mitigating the causes necessitating the placement; (5-3-03)

c. Review compliance with the Indian Child Welfare Act, when applicable; (5-3-03)

d. Determine the safety of the child, the continuing need for and appropriateness of the child's placement; and (5-3-03)

e. Project a date by which the child may be returned and safely maintained at home or placed for adoption, legal guardianship, or other permanent placement. (5-8-09)

05. Recommendations and Conclusions of Six-Month Review Panel. Following the six-month review, written conclusions and recommendations will be provided to all participants, subject to Department safeguards for confidentiality. The document containing the written conclusions and recommendations must also include appeal rights. (5-8-09)

251. -- 399. (RESERVED)

ALTERNATE (OUT-OF-HOME) CARE
(Sections 400 - 424)

400. AUTHORITY FOR ALTERNATE CARE SERVICES.

Upon approval of the regional Child and Family Services Program Manager or their designee, the Department may provide or purchase alternative care under the following conditions: (5-8-09)

01. Department Custody. When the child is in the legal custody or guardianship of the Department; or (3-18-99)

02. Voluntary Placement. Upon agreement with the parent(s) or legal guardian(s) when circumstances interfere with their provision of proper care or they are no longer able to maintain a child in their home and they can benefit from social work and treatment services. ( )

a. A service plan and an out-of-home placement agreement must be developed between the Department and the family. The service plan will identify areas of concern, goals, desired results, time frames, tasks and task responsibilities. The out-of-home placement agreement will include the terms for reimbursement of costs with any necessary justification for deviation from Child Support guidelines. ( )

b. A voluntary agreement for out-of-home placement entered into between the Department and the parent(s) or legal guardian(s) of a minor child may be revoked at any time by the child's parent(s) or legal guardian(s) and the child must be returned to the parent or legal guardian upon their request. ( )

c. A contract between the Department and the service provider, if applicable, must also be in effect. ( )

d. Voluntary out-of-home placements exceeding one hundred eighty (180) days without a judicial determination that it is in the best interests of the child to continue their current placement cannot be reimbursed by Title IV-E funds. (3-29-12)

401. CONSIDERATIONS FOR PLACEMENT IN ALTERNATE CARE.

The Department will make meaningful reasonable attempts, both verbally and in writing, to inform in priority order, individuals identified below of the potential imminent placement and the requirements for consideration as a placement resource. The Department will place children in a safe and trusted environment consistent with the best interest and special needs of the children as required by P.L.96-272, Section 475(5). Ideally, placement priority will be given in the following order: (a) Immediate family; (b) Extended family members; (c) Non-family members with a significant established relationship with the child; (d) other licensed foster parent(s). Upon immediate contact with persons in categories a) through d) above, and after preliminary screening, within seventy-two (72) hours of decision to place, Departmental staff will make reasonable attempts to inform immediate family members of the way to become a placement resource. Alternate care placement will in all cases include consideration of: (5-8-09)

01. Family Assessment. The family assessment conducted in accordance with the provisions of the CFS Practice Standards. (3-29-12)

02. Ability of Providers. The ability of potential alternate care providers to address and be sensitive to the unique and individual needs of the child and ability to comply and support the plan for the child and their family. (3-18-99)

03. Family Involvement. The involvement of the family in planning and selecting the placement. The Department will use a family unity meeting concept making reasonable efforts to gather immediate and extended family members and other significant supporters to identify family strengths relevant to creating a safe environment for the child. This process will be fully reported to the court along with resulting plans and commitments. (5-8-09)

402. INVOLUNTARY PLACEMENT OF INDIAN CHILDREN.

Involuntary placement of an Indian child in foster care must be based upon clear and convincing evidence, including information from qualified expert witnesses, that the continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child. In the absence of good cause to the contrary, a preference must be given to placement with: (3-29-12)

01. Extended Family. A member of the Indian child’s extended family; (3-18-99)

02. Foster Home Approved by Tribe. A foster home licensed or approved by the Indian child’s tribe; (3-29-12)

03. Licensed Indian Foster Home. An Indian foster home licensed or approved by an authorized non-Indian licensing authority; or (3-18-99)

04. Indian Institution. An institution for children approved by an Indian tribe or operated by an Indian organization that has a program suitable to meet the child's needs. (3-18-99)

403. DATE A CHILD ENTERED FOSTER CARE.
A child is considered to have entered foster care on the date the child is actually removed from their home. All foster care benefits and eligibility determinations must be based on this date. All periodic reviews, permanency hearings, and time frames for termination of parental rights must be based on the date the child entered foster care. (5-8-09)

404. FOSTER CARE GOAL.
It is the goal of the Department that not more than twenty-five percent (25%) of foster youth will be in foster care longer than twenty-four (24) months. The Department will monitor this goal annually. (5-8-09)

405. ALTERNATE CARE CASE MANAGEMENT.
Case management must continue while the child is in alternate care and must ensure the following: (3-30-07)

01. Preparation for Placement. Preparing a child for placement in alternate care is the joint responsibility of the child's family, the child (when appropriate), the family services worker, and the alternate care provider. (3-30-07)

02. Information for Alternate Care Provider. The Department and the family *have* inform*ed* the alternate care provider of their roles and responsibilities in meeting the needs of the child including: *( )*

a. Any medical, health and dental needs of the child including the names and address of the child's health and educational providers, a record of the child's immunizations, the child's current medications, the child's known medical problems, and any other pertinent health information concerning the child; (3-18-99)

b. The name of the child's doctor; (3-18-99)

c. The child's current functioning and behaviors; (3-18-99)

d. A copy of the child's portion of the service plan including any visitation arrangements; (4-4-13)

e. The case history of the child, including the reason the child came into foster care, the child's legal status, and the permanency goal for the child; (4-4-13)

f. A history of the child's previous placements and reasons for placement changes, excluding information that identifies or reveals the location of any previous alternate care providers without their consent; (4-4-13)

g. The child's cultural and racial identity; (3-18-99)

h. Any educational, developmental, or special needs of the child; (3-18-99)

i. The child's interest and talents; (3-18-99)

j. The child's attachment to current caretakers; (3-18-99)

k. The individualized and unique needs of the child; (3-18-99)

l. Procedures to follow in case of emergency; and (3-18-99)

m. Any additional information, that may be required by the terms of the contract with the alternate care provider. (3-18-99)

03. Consent for Medical Care. Parent(s) or legal guardian(s) *have* sign*ed* a Departmental form of

consent for medical care and keep the family services worker advised of where they can be reached in case of an emergency. Any refusal to give medical consent must be documented in the family case record. ( )

04. Financial Arrangements. The family services worker must assure that the alternate care provider understands the financial and payment arrangements and that necessary Department forms are completed and submitted. (3-30-07)

05. Contact with Child. The family, the family services worker, and the alternate care provider *have* establish*ed* a schedule for frequent and regular visits with the child by the family and by the family services worker or designee. ( )

a. Face-to-face contact with a child by the responsible party must occur at least monthly or more frequently depending on the needs of the child or the provider, or both, and the stability of the placement. Face-to-face contact may be made in settings other than where the child resides as long as contact between the responsible party and the child occurs where the child resides a minimum of once every sixty (60) days. (5-8-09)

b. The Department will have strategies in place to detect abuse, neglect, or abandonment of children in alternate care. (5-8-09)

c. Face-to-face contact between the responsible party and a child placed in an in-state group or residential care facility, located a significant distance from the responsible party's office is required a minimum of once every ninety (90) days. Communication by phone between the responsible party and the child must occur at least monthly. (5-8-09)

d. Frequent and regular contact between the child and parents and other family members will be encouraged and facilitated unless it is specifically determined not to be in the best interest of the child. Such contact will be face-to-face if possible, with this contact augmented by telephone calls, written correspondence, pictures, and the use of video and other technology as may be relevant and available. (3-30-07)

e. Children who are in out-of-state placements through the Interstate Compact on the Placement of Children (ICPC) must be contacted face-to-face no less frequently than every six (6) months, by either the responsible party in Idaho, by a representative of the state in which the child is placed, or by a private agency contracted by either. Idaho will request the state in which the child is placed to have face-to-face contact with the child on a monthly basis. If the policy of the state in which the child is placed allows only for face-to-face contact every six (6) months, the responsible party in Idaho will contact the child and the child's caregiver each month by phone to confirm the child's safety and well-being. (4-7-11)

06. Discharge Planning. Planning for discharge from alternate care *are* developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. ( )

07. Transition Planning. Planning for discharge from alternate care into a permanent placement *are* developed with all concerned parties. Discharge planning will be initiated at the time of placement and completed prior to the child's return home or to the community. ( )

08. Financial and Support Services. As part of the discharge planning, Departmental resources *are* coordinated to expedite access to Department financial and medical assistance and community support services. ( )

406. -- 421. (RESERVED)

422. ALTERNATE CARE PLANNING.
The elements of alternate care planning are mandated by the provisions of Title IV-E, Sections 471(a)(16), 475(1), and 475(5)(A) and (D) of the Social Security Act. (4-7-11)

01. Alternate Care Plan Required. Each child receiving alternate care under the supervision of the state must have a standardized written alternate care plan. (5-8-09)

a. The purpose of the alternate care plan is to facilitate the safe return of the child to their own home as expeditiously as possible or to make other permanent arrangements for the child if such return is not feasible. (4-7-11)

b. The alternate care plan must be included as part of the family service plan. (5-8-09)

02. Written Alternate Care Plan. The Department must complete a written alternate care plan within thirty (30) days after a child has been placed in alternate care and at least every six (6) months thereafter. A copy of the alternate care plan will be provided to the child's parent, legal guardian, foster parent, Indian custodian, tribe, and to the child if they are over twelve (12) years of age. (4-7-11)

423. -- 424. (RESERVED)

ELIGIBILITY AND FUNDING INFORMATION
(Sections 425 - 441)

425. TITLE IV-E ELIGIBILITY.
The state will claim Title IV-E funding for a foster child who meets the following criteria: (3-28-18)

01. Physical or Constructive Removal of the Child. The child was physically or constructively removed from the home: (3-28-18)

a. Under a voluntary placement agreement; or (3-28-18)

b. As the result of a judicial determination that: (3-28-18)

i. Remaining in the home would be contrary to the child's welfare; or (3-28-18)

ii. Placement in foster care would be in the best interest of the child. (3-28-18)

c. The determination that a situation is contrary to the child's welfare must be made in the first court ruling that sanctions, even temporarily, the removal of a child from the home. (3-28-18)

02. Child's Residence. The child has been living in the home of a parent or other relative specified at 45 CFR 233.90(c)(1)(v) either in the month of, or within six (6) months prior to the month: (3-28-18)

a. Removal court proceedings were initiated; or (3-28-18)

b. The voluntary placement agreement was signed. (3-28-18)

03. AFDC Eligibility. The child was AFDC (Aid to Families with Dependent Children) eligible in the removal home during the month of the initiation of court proceedings that initiated the removal or the month the voluntary placement agreement is signed. AFDC eligibility is based upon the standards found in the State's IV-A Plan on July 16, 1996. (3-28-18)

04. "Removal From" and "Living With" Requirements. The "removal from" (01. of this rule) and "living with" (*Subsection 425.*02. of this rule) requirements must be satisfied by the same specified relative who meets AFDC eligibility (*Subsection 425.*03. of this rule). *( )*

05. Judicial Determination. A judicial determination was obtained regarding reasonable efforts to prevent a child's removal from the home no later than sixty (60) days from the child's foster care entry date. When there is a judicial determination of "aggravated circumstances," the court order must state that no reasonable efforts to reunify the family are required. (3-28-18)

06. Agency with Placement Care and Responsibility. The IV-E agency, or another public agency or

Tribe that has a plan approved under 42 U.S.C. 671 in accordance with 42 U.S.C. 679c with which the Title IV-E agency has a written agreement in effect, has placement and care responsibility. (3-28-18)

07. Child in Foster Care or Childcare Institution. The child is in a fully licensed or approved foster family home, or childcare institution. (3-28-18)

08. Compliance with Safety Requirements. Compliance with the safety requirements was documented for the prospective foster family home or childcare institution. (3-28-18)

09. Child's Age. The child is under the age of eighteen (18), or up to age nineteen (19) if the youth is a full-time student in a secondary school or its equivalent level of vocational or technical training and is expected to complete the educational program before reaching age nineteen (19). (3-28-18)

10. Child's Citizenship Status. The child is a US citizen or qualified immigrant under Sections 403, 431, and 432 of the Personal Responsibility Work Opportunity Reconciliation Act (P.L. 104-193. (3-28-18)

426. (RESERVED)

427. DETERMINATION OF ELIGIBILITY FOR TITLE IV-E.
The family services workers must submit an application to the Child Welfare Funding Team to evaluate for Title IV-E eligibility. (3-28-18)

428. CUSTODY AND PLACEMENT.

01. Interstate Placements. In interstate placements, a child may be placed with an approved unlicensed relative when delaying the placement would be harmful to the child's well-being. In those cases, a subsequent request for foster care licensure will be made through the Interstate Compact on the Placement of Children. However, in these instances, a child is ineligible for Title IV-E until the placement is licensed. (3-28-18)

02. Intrastate Placements That Become Interstate Placements. If a foster care placement that was initially intrastate becomes an interstate placement because the family with whom the child is placed relocates to another state, a request for foster care licensure will be made through the Interstate Compact on the Placement of Children immediately upon the decision to move the child. If the state to which the family has moved accepts the family's Idaho foster care license as effective, the placement is considered licensed until a determination is made that the family is in compliance with the licensing and other applicable laws of the state to which the family has moved. (3-30-07)

429. EFFECTIVE DATE.
Claims for Title IV-E maintenance may begin as early as the first day of placement in the month in which all initial Title IV-E eligibility factors are met. A child cannot receive SSI and Title IV-E foster maintenance payments during the same time period. (3-28-18)

430. ONGOING ELIGIBILITY.
To continue eligibility for Title IV-E, a child must meet the following conditions: (3-28-18)

01. Child's Age. The child is under the age of eighteen (18), or up to age nineteen (19) if the youth is a full-time student in a secondary school or its equivalent level of vocational or technical training and is expected to complete the educational program before reaching age nineteen (19). (3-28-18)

02. Department Custody. The child remain*s* in the Department's custody through either a current court order or a voluntary placement agreement that has not been in effect more than one hundred and eighty (180) days. (3-28-18)

03. Child's Residence. The *child* continue*s* to live in a fully licensed or approved foster family home, or childcare institution, or on a court-ordered home visit. *( )*

04. Redetermination. A redetermination is used for a child who: (3-28-18)

a. Left foster care; (3-28-18)

b. Was placed in a Title IV-E ineligible living situation such as: unlicensed placement, a hospital, or a detention center; (3-28-18)

c. Exceeded one hundred eighty (180) days in a voluntary placement agreement in which there was no judicial determination of "best interests." The child's Title IV-E eligibility ceases on the 181st day; and (3-28-18)

d. Is on a home visit that exceeds the time specified in the court order signed by the Judge without a new judicial determination granting an extension. (3-28-18)

05. Annual Redetermination. Annual redetermination is required to assure that the court has determined that the Department has made reasonable efforts to finalize a permanency plan for the child within twelve (12) months of the date the child is considered to have entered foster care and at least once every twelve (12) months thereafter while the child is in foster care. (3-28-18)

431. (RESERVED)

432. TITLE XIX FOSTER CHILD.
For Title XIX Medicaid eligibility for a foster child, please refer to IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children," Section 536. (3-28-18)

433. INCOME, BENEFITS AND SAVINGS OF CHILDREN IN FOSTER CARE.
On behalf of the child and with the assistance of CWFT staff, family services workers are required to identify and apply for income or benefits from (one (1) or) every available source including Social Security, tribal benefits, or estates of deceased parents. The address of the payee must be DHW-FACS-CWFT, 450 West State Street, P. O. Box 83720 Boise, ID 83720-0036. (3-28-18)

434. FORWARDING OF BENEFITS.

01. Home Visit. If the Department is receiving benefits and the child is returned to the home of the parent(s) or legal guardian(s) or relatives for a trial visit, Child Support Services must be notified by a family services worker giving the name and address of the person in order to discontinue accrual of child support owed to the State. (3-28-18)

02. Return to Foster Care. If the child returns to foster care, the Department's Child Support Unit must be notified immediately of the correct payee. (3-28-18)

435. RESERVED

436. PARENTAL FINANCIAL SUPPORT FOR CHILDREN IN ALTERNATE CARE.
In accordance with Section 56-203B, Idaho Code, parents are responsible for costs associated with the care of their child in alternate care. (5-8-09)

01. Notice of Parental Responsibility. The Department will provide the parents(s) with written notification of their responsibility to contribute toward the cost of their child's support, treatment, and care, including clothing, medical, incidental, and educational costs. (5-8-09)

02. Financial Arrangements with Parent(s). Parent(s) are responsible to reimburse the Department for the costs of alternate care when their child is placed in alternate care in accordance with a court order or voluntary placement agreement. (5-8-09)

a. The amount of support is based on the parents' income, the costs of care for the child, and any unique circumstances affecting the parents' ability to pay. (5-8-09)

b. Every parent is expected to contribute to the cost of their child's care, but no parent will be asked to

pay more than the actual cost of care, including clothing, medical, incidental and educational costs. The cost of room and board must be paid by the parent(s) to the Department, and the Department will in turn reimburse the alternate care providers. (5-8-09)

437. ACCOUNTING AND REPORTING.
The Department's Division of Family and Community Services, Child Welfare Funding Team must account for the receipt of funds and develop reports showing how much money has been received and how it has been utilized. (3-28-18)

438. SUPPORT AGREEMENT FOR VOLUNTARY PLACEMENTS.
If the placement is voluntary, the parent(s) must sign an agreement that specifies the amount of support to be paid, when it is to be paid to the payee, and the address to which it is to be paid. (5-8-09)

439. SUPPORT IN COURT-ORDERED PLACEMENT.
In the case of a court-ordered placement, if no support agreement has been reached with the parent(s) prior to the custody or commitment hearing, the Department's report to the Court will indicate the necessity to hold a support hearing. (5-8-09)

440. INSURANCE COVERAGE.
The parent(s) or legal guardian(s) must inform the Department of all insurance policies covering the child, including names of carriers, and policy or subscriber numbers. If medical, health, and dental insurance coverage are available for the child, the parent(s) must acquire and maintain such insurance. (5-8-09)

441. REFERRAL TO CHILD SUPPORT SERVICES.
The Department will refer the parent(s) to the Bureau of Child Support Services for support payment arrangements. (5-8-09)

01. Assignment of Child Support. The Department through the Bureau of Child Support Services will secure assignment of any support due to the child while in alternate care. Social Security and Supplemental Security Income benefits are specifically aimed at meeting the child's needs and therefore will follow the child in placement and the Department must request to be named payee for all funds for placements extending over thirty (30) days. (5-8-09)

02. Collection of Child Support. The Department must take action to collect any child support ordered in a divorce decree. (5-8-09)

MEDICAL AND DENTAL FOR CHILDREN IN OUT-OF-HOME CARE
(Sections 442 - 479)

442. MEDICAID FOR CHILDREN IN ALTERNATE CARE.
Every child placed in alternate care will receive a medical card each month. (5-8-09)

443. EPSDT SCREENING.
Children in alternate care will receive the Early Periodic Screening, Diagnosis and Treatment (EPSDT) services allowable under Medicaid. Those children already receiving Medicaid at the time of placement will be screened within thirty (30) days after placement. Children not receiving Medicaid at the time of placement will receive a screening within thirty (30) days from the date Medicaid eligibility is established. (5-8-09)

444. MEDICAL EMERGENCIES.
In case of serious illness, the alternate care provider must notify the child's doctor and the Department immediately. The parent(s) or legal guardian(s) or the court in an emergency, or the Department if it is the guardian of the child, have the authority to consent to major medical care or hospitalization. (5-8-09)

445. DENTAL CARE.
Each child age three (3) who is placed in alternate care must receive a dental examination as soon as possible after placement, but not later than ninety (90) days, and thereafter according to a schedule prescribed by the dentist.

(3-30-07)

01. Costs Paid by Medicaid. If dental care not included in the state medical assistance program is recommended, a request for payment must be submitted to the state Medicaid dental consultant. (5-8-09)

02. Emergencies. For children in shelter care, emergency dental services will be provided for and paid for by the Department, if there are no other financial resources available. (5-8-09)

446. COSTS OF PRESCRIPTION DRUGS.
The Department will purchase prescribed drugs, at the Medicaid rate, for a child in alternate care through participating pharmacists, in excess of the Medicaid monthly maximum. (5-8-09)

447. MEDICAL EXAMINATION UPON ENTERING ALTERNATE CARE.
Within thirty (30) days of entering alternate care, each child will receive a medical examination to assess the child's health status, and thereafter according to a schedule prescribed by the child's physician or other health care professional. (5-3-03)

448. -- 450. (RESERVED)

451. DRIVERS' TRAINING, DRIVERS' LICENSES, AND PERMITS FOR CHILDREN IN ALTERNATE CARE.
No Department employee or foster parent is allowed to sign for any foster child's driver's license or permit without written authorization from the Child and Family Services Program Manager. Any Department employee or foster parent signing for a foster child's driver's license or permit without the approval of the Child and Family Services Program Manager assumes full personal responsibility and liability for any driving related damages that may be assessed against the child. Those damages will not be covered by the Department's insurance. (5-8-09)

01. Payments by Department. Subject to existing appropriations, the Department may make payments for driver's training, driver's license, and permits for a child in the Department's legal custody when driver's training or obtaining a driver's license or permit is part of the child's Independent Living Plan. In addition, subject to existing appropriations, the Department may reimburse a foster parent, licensed by the Department, for the cost of procuring owner's or operator's insurance listing a child residing in their home as a named insured with respect to the operation of a motor vehicle subject to the limits exclusive of interest and costs with respect to each motor vehicle as provided in Section 49-117, Idaho Code. (4-11-15)

02. Payment by Parent(s) or Legal Guardian(s). The parent(s) or legal guardian(s) of children in foster care may authorize drivers' training, provide payment and sign for drivers' licenses and permits. (5-3-03)

452. -- 479. (RESERVED)

LICENSURE AND REIMBURSEMENT OF ALTERNATE CARE PROVIDERS (Sections 480 - 549)

480. ALTERNATE CARE LICENSURE.
All private homes and facilities providing care for children under these rules must be licensed in accordance with IDAPA 16.06.02, "Child Care Licensing," unless foster care placement of an Indian child is made with a foster home licensed or approved by the Indian child's tribe, or an institution for children approved by an Indian tribe or operated by an Indian organization. *( )*

481. FACILITIES OPERATED BY THE STATE.
Facilities operated by the State and providing care for children under these rules must meet the standards for child care licensure. (5-8-09)

482. PAYMENT FOR SHELTER CARE.
Payment for placement of children requiring temporary, emergency alternate care is twenty dollars ($20) per day for children from birth through age seventeen (17), for a maximum of thirty (30) days of shelter care for each

uninterrupted placement. (3-18-99)

483. PAYMENT TO FAMILY ALTERNATE CARE PROVIDERS.
Monthly payments for care provided by family alternate care providers are:

Family Alternate Care Payments - Table 483			
Ages	0-5	6-12	13-18
Monthly Room and Board	$395	$439	$584

(3-28-18)

01. Gifts. An additional thirty dollars ($30) for Christmas gifts and twenty dollars ($20) for birthday gifts will be paid in the appropriate months. (5-8-09)

02. Clothing. Costs for clothing will be paid, based upon the Department's determination of each child's needs. All clothing purchased for a child in alternate care becomes the property of the child. (5-8-09)

03. School Fees. School fees due upon enrollment will be paid directly to the school or to the alternate care providers, based upon the Department's determination of the child's needs. (5-8-09)

484. ADDITIONAL PAYMENTS TO FAMILY ALTERNATE CARE PROVIDERS.
For those children who require additional care above room, board, shelter, daily supervision, school supplies, personal incidentals, the Department may pay the family alternate care provider an additional amount to the amount paid under Section 483 of these rules. This family alternate care rate is based upon a ongoing assessment of the child's circumstances that necessitate special rates as well as the care provider's ability, activities, and involvement in addressing those special needs. Additional payment will be made as follows: (5-8-09)

01. Lowest Level of Need. Ninety dollars ($90) per month for a child requiring a mild degree of care for documented conditions including: (5-8-09)

a. Chronic medical problems; (3-18-99)

b. Frequent, time-consuming transportation needs; (3-18-99)

c. Behaviors requiring extra supervision and control; and (3-30-01)

d. Need for preparation for independent living. (3-18-99)

02. Moderate Level of Need. One hundred fifty dollars ($150) per month for a child requiring a moderate degree of care for documented conditions including: (5-8-09)

a. Ongoing major medical problems; (3-18-99)

b. Behaviors that require immediate action or control; and (3-30-01)

c. Alcohol or other substance use disorder. (5-8-09)

03. Highest Level of Need. Two hundred forty dollars ($240) per month for a child requiring an extraordinary degree of care for documented conditions including: (5-8-09)

a. Severe emotional or behavioral disturbance; (5-8-09)

b. Severe developmental disability; and (3-30-01)

c. Severe physical disability such as quadriplegia. (3-18-99)

04. Reportable Income. Additional payments for more than ten (10) qualified children received during any calendar year must be reported as income to the Internal Revenue Service. (5-8-09)

485. TREATMENT FOSTER CARE.
A family home setting in which treatment foster parents provide twenty-four (24) hour room and board as well as therapeutic services and a high level of supervision. Services provided in treatment foster care are at a more intense level than provided in foster care and at a lower level than provided in residential care. Services may include the following: participation in the development and implementation of the child's treatment plan, behavior modification, community supports, crisis intervention, documentation of services and the child's behavior, participation as a member of a multi-disciplinary team, and transportation. Placement into a treatment foster home for children in the custody of the Department under the purview of the Child Protective Act, is based on the documented needs of the child, the inability of less restrictive settings to meet the child's needs, and the clinical judgement of the Department. (3-29-10)

01. Qualifications. Prior to being considered for designation and reimbursement as a treatment foster parent, each prospective treatment foster parent must accomplish the following: (3-29-10)

a. Meet all foster family licensure requirements as set forth in IDAPA 16.06.02, "Child Care Licensing"; ( )

b. Complete Department-approved treatment foster care initial training; and (3-29-10)

c. Provide a minimum of two (2) references in addition to those provided to be licensed to provide foster care. The additional references must be from individuals who have worked with the prospective treatment foster parent. The additional references must verify that the prospective treatment foster parent has: (3-29-10)

i. Training related to, or experience working with, children or youth with mental illness or behavior disorders; and (3-29-10)

ii. Demonstrated cooperation and a positive working relationship with families and providers of child welfare or mental health services. (3-29-10)

02. Continuing Education. Following designation as a treatment foster home, each treatment foster home parent must complete fourteen (14) hours of additional training per year as specified in an agreement developed between the treatment foster parents and the Department. (3-29-10)

03. Availability. At least one (1) treatment foster parent, in each treatment family home, must be available twenty-four (24) hours a day, seven (7) days a week to respond to the needs of the foster child. (3-29-10)

04. Payment. The Department will pay treatment foster parents up to one thousand eight hundred ($1,800) dollars per month, per child, which includes the monthly payment rate specified in Sections 483 and 484 of these rules. The payment will be made to treatment foster parents in accordance with a contract with the Department. The purpose of the contract is to make clear that the treatment foster parents must fulfill the requirements for treatment foster parents under the child's treatment plan referenced in Subsection 485.06 of this rule. (3-29-10)

05. Payment to Contractors. The Department may also provide treatment foster care through a contract with an agency that is a private provider of treatment foster care. The Department will specify the rate of payment in the contract with the agency. (3-29-10)

06. Treatment Plan. The treatment foster parent(s) must implement the portions of the Department-approved treatment plan for which they are designated as responsible, for each child in their care. This plan is incorporated as part of the family services plan identified in Section 011.05 of these rules. (3-29-10)

486. GROUP FOSTER CARE.
Group foster care is for children who generally require more structured activities and discipline than found in a family setting. Examples are intermediate residential treatment, short-term group care, and emancipation homes. (3-18-99)

01. Referral -- Group Foster Care. Any referral of a child to a group foster care facility where the Department would be making full or partial payment must be prior authorized by the Child and Family Services Program Manager or designee. (5-8-09)

02. Placement. Placement is based on the documented service needs of each child and the ability of the group care provider to meet those needs. (5-8-09)

03. Payment -- Group Foster Care. Payment will be in accordance with the contract authorized by the regional director or division administrator, based on the needs of the children being placed and the services to be provided. (5-8-09)

487. RESIDENTIAL CARE FACILITIES.
Placement into a residential care facility for children with a severe emotional or behavioral problems is based on the documented needs of the child and the inability of less restrictive settings to meet the child's needs. (5-8-09)

01. Referral. Any referral of a child to a residential care facility where the Department would be making full or partial payment must be prior authorized by the Child Services and Family Program Manager or designee. (5-8-09)

02. Payment. When care is purchased from private providers, payment must be made in accordance with a contract authorized by the Child Services and Family Program Manager, based on the needs of each child being placed and the services to be provided. When care is provided in facilities operated by the Department, payment will be arranged in cooperation with Department fiscal officers. (5-8-09)

488. -- 491. (RESERVED)

492. REIMBURSEMENT IN THE HOME OF A RELATIVE.
Relatives licensed as a foster family must be afforded the opportunity to receive foster care reimbursement for any child(ren) placed in their home through the Department. A relative foster family may choose not to accept a foster care reimbursement and apply for a TAFI grant or provide for the child’s care using their own financial resources. (3-30-01)

493. -- 549. (RESERVED)

CHILD PROTECTION SERVICES
(Sections 550 - 639)

550. CHILD PROTECTION SERVICES.
Sections 56-204A, 56-204B, 16-1601, 16-1629 and 16-2001, Idaho Code, make the Department an official child protection agency of state government dealing with situations of reported child abuse, neglect, or abandonment. A respectful, non-judgmental approach should be the policy for assessments, especially during the initial contact with the family. Training in communication would include multicultural and diversity issues and interest-based conflict resolution. (5-8-09)

551. REPORTING ABUSE, NEGLECT, OR ABANDONMENT.
Professionals and other persons identified in Section 16-1605, Idaho Code, have a responsibility to report abuse, neglect, or abandonment and are provided protection for reporters. (5-8-09)

01. Ministers. Duly ordained ministers of religion are exempt from reporting child abuse, neglect, or abandonment if: (5-8-09)

a. The church qualifies as tax-exempt under 26. U.S.C. 501(c)(3); (3-18-99)

b. The confession or confidential communication was made directly to the duly ordained minister of religion; and (3-18-99)

c. The confession was made in the manner and context that places the duly ordained minister of religion specifically and strictly under a level of confidentiality that is considered inviolate by canon law or church doctrine. (3-18-99)

02. Health and Welfare Employees. All Department of Health and Welfare personnel are responsible for recognizing and immediately reporting to Child and Family Services or to law enforcement any concern regarding abuse, neglect, or abandonment of a child or children. Failure to report as required by Section 16-1605, Idaho Code, is a misdemeanor. (5-8-09)

552. REPORTING SYSTEM.
Each region of the Department maintains a system for receiving and responding to reports or complaints on a twenty four (24) hour per day, seven (7) day per week basis throughout the entire region. The region will advertise the system to the public throughout the region and ensure the accurate recording of as many facts as possible at the time of the report. (5-8-09)

553. ASSIGNING REPORTS FOR SAFETY ASSESSMENT.
The Department must assign all reports of possible abuse, neglect, or abandonment of children for safety assessment, unless the field office has knowledge or information that discredits the report beyond a reasonable doubt. (4-7-11)

554. RESPONSE PRIORITIES.
The Department must use the following statewide standards for responding to allegations of abuse, neglect, or abandonment, using the determination of risk to the child as the primary criterion. Any variance from these response standards must be documented in the family's case file with a description of action taken, and must be reviewed and signed by the Child and Family Services Supervisor. (5-8-09)

01. Priority I. The Department must respond immediately if a child is in immediate danger involving a life-threatening or emergency situation. Emergency situations include sexual abuse when a child may have contact with the alleged perpetrator and circumstances indicate a need for immediate response. Law enforcement must be notified and requested to respond or to accompany a family services worker. Every attempt should be made to coordinate the Department's assessment with law enforcement's investigation. The child must be seen by a Department family services worker, law enforcement, and medical personnel if applicable, immediately unless written regional protocol agreements direct otherwise. All allegations of physical abuse of a child through the age of six (6) or with profound developmental disabilities should be considered under Priority I unless there is reason to believe that the child is not in immediate danger. (3-30-07)

02. Priority II. A child is not in immediate danger but allegations of abuse, including physical or sexual abuse, or serious physical or medical neglect are clearly defined in the referral. Law enforcement must be notified within twenty-four (24) hours. The child must be seen by the family services worker within forty-eight hours (48) of the Department's receipt of the referral. Law enforcement must be notified within twenty-four (24) hours of receipt of all Priority II referrals that involve concerns of abuse, neglect, or abandonment. (5-8-09)

03. Priority III. A child may be in a vulnerable situation because of services needs which, if left unmet, may result in harm, or a child is without parental care for safety, health and well being. The child and parent(s) or legal guardian(s) will be interviewed for substantiation of the facts, and to assure that there is no abuse, neglect, or abandonment by parent(s) or legal guardian(s). A family services worker must respond within three (3) calendar days and the child must be seen by the worker within five (5) calendar days of the Department's receipt of the referral. (5-8-09)

04. Notification of the Person Who Made the Referral. The Department must notify the person who made the child protection referral of the receipt of the referral within five (5) days. (3-30-07)

05. Disclosure of Information to Professionals. The Department has the discretion to disclose, on a need-to-know basis, minimally necessary information to individuals who are professionally involved in the ongoing care of the child who is the subject of a report of abuse, neglect, or abandonment. This includes information that the professional will need to know in order to fulfill their role in maintaining the child's safety and well-being. This provision applies to: (4-4-13)

a. Physicians, residents on a hospital staff, interns, and nurses; (4-4-13)

b. School teachers, school staff, and day care personnel; and (4-4-13)

c. Mental health professionals, including psychologists, counselors, marriage and family therapists, and social workers. (4-4-13)

555. SUPERVISORY REVIEW - CERTAIN PRIORITY I AND II CASES.
In all Priority I and II cases where the alleged victim of abuse, neglect, or abandonment is through the age of six (6), review by supervisory or team of all case documentation and other facts will be conducted within forty-eight (48) hours of initiation of the safety assessment. Such review will be documented in the file with the signature of the supervisor or team leader, time and date, whether additional safety-related issues will be pursued and by whom, and any planning for initiation of services. (4-7-11)

556. REPORTS INVOLVING INDIAN CHILDREN.
Possible abuse, neglect, or abandonment of a child who is known or believed to be Indian will be reported to appropriate tribal authorities immediately. If the reported incident occurs off a reservation, the Department will perform the investigation. The Department will also investigate incidents reported on a reservation if requested to do so by appropriate authorities of the tribe. A record of any response will be maintained in the case record and written documentation will be provided to the appropriate tribal authorities. (3-29-12)

557. REPORTS INVOLVING MILITARY FAMILIES.
Reports of possible child abuse, neglect, or abandonment involving a military family must be reported in accordance with the provisions of any agreement with the appropriate military family advocacy representative, in accordance with the provisions of Section 811 of Public Law 99-145. Child abuse, neglect, or abandonment of a child on a military reservation falls under federal jurisdiction. (5-8-09)

558. COMMUNITY RESOURCES.
The Department will provide information and referral to community resources or may offer preventative services to the family. Information and referral services enable individuals to gain access to human services through providing accurate, current information on community and Department resources. (3-30-07)

559. CHILD PROTECTION SAFETY AND COMPREHENSIVE ASSESSMENTS.
The Department's safety and comprehensive assessments must be conducted in a standardized format and utilize statewide assessment and multi-disciplinary team protocols. The assessment must include contact with the child(ren) involved and the immediate family and a records check for history with respect to child protection issues. (4-7-11)

01. *Assessment* of a Child. *The family services worker must make an assessment of every child of concern. When the child is interviewed as part of a safety and comprehensive assessment, t*he interview of a child concerning a child protection report must be conducted: *( )*

a. In a manner that protects all children involved from undergoing any unnecessary traumatic experience, including multiple interviews; (3-30-07)

b. By a professional with specialized training in using techniques that consider the natural communication modes and developmental stages of children; and (3-18-99)

c. In a neutral, non-threatening environment, such as a specially equipped interview room, if available. (3-18-99)

02. *Assessment* of *the* Family. The family services worker conducting the interview must: *( )*

a. Immediately notify the parent(s) or legal guardian(s) of the purpose and nature of the assessment. *( )*

b. *Provide a*t the initial contact the name and work phone numbers of the family services worker and their supervisor to ensure the family has a contact for questions and concerns that may arise following the visit;

( )

c. Inquire if the family is Indian, or has Indian heritage, for the purposes of ICWA; (3-29-12)

d. Interview siblings who are identified as being at risk; and (3-18-99)

e. Not divulge the name of the person making the report of child abuse or neglect. (3-30-07)

03. Collateral Interviews. Any assessment of an abuse or neglect report must include at least one (1) collateral interview with a person who is familiar with the circumstances of the child or children involved. Collateral interviews will be conducted with discretion and preferably with the parent(s)' or legal guardian(s)' permission. (3-30-07)

04. Completion of a Comprehensive Assessment. A Safety Assessment will be completed on each referral assigned for assessment of abuse or neglect, or both. When safety threats are identified in the safety assessment and the case remains open for services, a comprehensive assessment must be completed. (4-7-11)

05. Role of Law Enforcement. Section 16-1617, Idaho Code, specifies that the Department may enlist the cooperation of peace officers for phases of the safety assessment for which they have the expertise and responsibility and consistent with the relevant multidisciplinary team protocol. Such areas include: (3-30-07)

a. Interviewing the alleged perpetrator; (3-18-99)

b. Removing the alleged perpetrator from the child's home in accordance with Section 16-1608(b), Idaho Code, the "Domestic Violence Act"; and (3-18-99)

c. Taking a child into custody in accordance with Section 16-1608, Idaho Code, where a child is endangered and prompt removal from their surroundings is necessary to prevent serious physical or mental injury. (3-18-99)

06. Notification of the Person Who Made the Referral. The Department must notify the person who made the child protection referral when the safety assessment has been completed. (4-7-11)

560. DISPOSITION OF CHILD PROTECTION REPORTS.
Within five (5) days following completion of safety assessments, the Department will determine whether the reports are substantiated or unsubstantiated. All persons who are the subject of a child protection safety assessment will be notified of the disposition of the assessment. (4-7-11)

01. Substantiated. Child abuse, neglect, or abandonment reports are substantiated by one (1) or more of the following: (5-8-09)

a. Witnessed by a family services worker, as defined in Section 011 of these rules; (4-2-08)

b. A court determines, in an adjudicatory hearing, that a child comes within the jurisdiction of the Child Protective Act, Title 16, Chapter 16, Idaho Code; (5-8-09)

c. A confession; (4-2-08)

d. Corroborated by physical or medical evidence; or (4-2-08)

e. Established by evidence that it is more likely than not that abuse, neglect, or abandonment occurred. (5-8-09)

02. Unsubstantiated. Child abuse, neglect, or abandonment reports are unsubstantiated when they are not found to be substantiated under Subsection 560.01 of this rule. For intradepartmental statistical purposes, the Department will indicate whether the unsubstantiated disposition of the safety assessment was due to: (4-7-11)

a. Insufficient evidence; or (5-3-03)

b. An erroneous report. (4-2-08)

561. CHILD PROTECTION CENTRAL REGISTRY.
The Adam Walsh Child Protection and Safety Act of 2006, P.L. 109-248, July 27, 2006, 120 Stat. 587, has directed the states to establish a central registry for the purpose of sharing information about persons who have substantiated reports of abuse, neglect, or abandonment against children. The Child Protection Central Registry was established under the authority of Section 16-1629(3), Idaho Code. The primary purpose of the Child Protection Central Registry is to aid the Department in protecting children and vulnerable adults from individuals who have previously abused, neglected, or abandoned children. The Child Protection Central Registry maintained by the Department is separate and apart from the central registry for convicted sexual offenders maintained by the Idaho State Police under Title 18, Chapter 83, Idaho Code. The Child Protection Central Registry provisions in this chapter of rules apply to safety assessments conducted by the Department after October 1, 2007. (4-7-11)

562. CONFIDENTIALITY OF THE CHILD PROTECTION CENTRAL REGISTRY AND REQUESTS TO CHECK THE REGISTRY.

01. Confidentiality of Child Protection Central Registry. The names on the Child Protection Central Registry are confidential and may only be released with the written consent of the individual on whom a criminal history and background check is being conducted, unless otherwise required by federal or state law. No information is released regarding the severity or type of child abuse, neglect, or abandonment. (3-20-14)

02. Child Protection Central Registry Check Fee. The fee for requesting a name-based check of the Child Protection Central Registry is twenty ($20) dollars. The request must be accompanied with a signed written consent by the individual whose name is being checked. (3-20-14)

563. LEVELS OF RISK ON THE CHILD PROTECTION CENTRAL REGISTRY.
When an incident of abuse, neglect, or abandonment has been substantiated, a level of risk is assigned to the incident. The level of risk is determined by the severity and type of the abuse, neglect, or abandonment and the potential risk of future harm to a child. The highest level of risk is designated as Level One and the lowest level of risk is Level Three. (5-8-09)

01. Child Protection Level One. An individual with a Level One designation has been determined to pose a high to severe risk to children. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will remain permanently on the Child Protection Central Registry at Level One. (5-8-09)

a. Sexual Abuse as defined in Sections 16-1602(1)(b) and 18-1506, Idaho Code; (4-2-08)

b. Sexual Exploitation as defined in Sections 18-1507 and 18-1507A, Idaho Code; (4-2-08)

c. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, that causes life-threatening, disabling, or disfiguring injury or damage; (4-2-08)

d. Neglect as described in Section 16-1602(31), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (4-2-08)

e. Abandonment as described in Section 16-1602(2), Idaho Code, that results in life-threatening, disabling, or disfiguring injury or damage; (4-2-08)

f. Death of a child; (4-2-08)

g. Torture of a child as described in Section 18-4001, Idaho Code; (4-2-08)

h. Aggravated Circumstances as described in Section 16-1602(6), Idaho Code; or (4-2-08)

i. Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment,

each of which falls under the circumstances listed under Subsection 563.02 of this rule. (5-8-09)

02. Child Protection Level Two. An individual with a Level Two designation has been determined to pose a medium to high risk to children and will remain on the Child Protection Central Registry for a minimum of ten (10) years. After the end of the ten-year (10) period, an individual may petition the Department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following will be given the designation of Level Two. (5-8-09)

a. Prenatal use of any controlled substance as defined under Section 37-2701(e), Idaho Code, except as prescribed by a medical professional; (4-2-08)

b. Administering or knowingly allowing a child to absorb or ingest one (1) or more controlled substances as defined under Section 37-2701(e), Idaho Code, except in the amount prescribed for the child by a medical professional; (4-2-08)

c. Child exposed to: (5-8-09)

i. Drug paraphernalia, as defined in Section 37-2701(n), Idaho Code; (4-2-08)

ii. Manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code, and Section 37-2701(s), Idaho Code; or (4-2-08)

iii. Chemical components used in the manufacture of controlled substances, as defined under Section 37-2701(e), Idaho Code. (4-2-08)

d. Failure to thrive caused by abuse, neglect, or abandonment, as established by medical evidence; (5-8-09)

e. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, abandonment as described in Section 16-1602(2), Idaho Code, or neglect as described in Section 16-1602(31), Idaho Code, that results in neither disabling nor disfiguring injury or damage, but may require medical or other treatment; (4-2-08)

f. The restraint or confinement of a child that poses a substantial risk of causing life-threatening, disabling, or disfiguring injury or damage; (5-8-09)

g. Medical neglect as described in Section 16-1602(31), Idaho Code, that poses a substantial risk of resulting in life-threatening, disabling, or disfiguring injury or damage; (5-8-09)

h. Malnutrition as established by medical evidence; or (4-2-08)

i. Occurrence of two (2) or more separate, substantiated incidents of abuse, neglect, or abandonment, each of which falls under the circumstances listed under Subsection 563.03 of this rule. (5-8-09)

03. Child Protection Level Three. An individual with a Level Three designation has been determined to pose a mild to medium risk of harm to the health, safety, or well-being of a child. The name of that individual will remain on the Child Protection Central Registry for a minimum of five (5) years. After the end of the five-year (5) period, an individual may petition the Department to request their name be removed from the Child Protection Central Registry in accordance with Section 566 of these rules. Names of individuals for whom an incident of abuse, neglect, or abandonment has been substantiated for any of the following are given the designation of Level Three. (5-8-09)

a. Lack of supervision; (5-8-09)

b. Failure to protect from abuse, neglect, or abandonment as described in Section 16-1602, Idaho Code; (5-8-09)

c. Failure to discharge parental responsibilities described under Section 16-1602(31), Idaho Code; or (5-8-09)

d. Physical abuse as described in Section 16-1602(1)(a), Idaho Code, or neglect as described in Section 16-1602(31), Idaho Code, that causes minor injuries or damage that does not require medical treatment. (4-2-08)

564. NOTIFICATION OF A SUBSTANTIATED INCIDENT OF ABUSE, NEGLECT, OR ABANDONMENT, AND RELATED ADMINISTRATIVE REVIEW AND CONTESTED CASE APPEAL RIGHTS.

01. Notification of Substantiated Incident. Prior to placement on the Child Protection Central Registry, the Department will notify by certified mail, return receipt requested, each individual for whom an incident of abuse, neglect, or abandonment has been substantiated. The individual has twenty-eight (28) days from the date on the notification to file a request for an administrative review under the requirements in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." The Department's written notice will state: ( )

a. The risk level assigned to the incident; (5-8-09)

b. The basis for the Department's decision; (5-8-09)

c. The individual's right to request an administrative review by the Department's Family and Community Services (FACS) Division Administrator of the Department's decision; and (5-8-09)

d. The Department's contact information. ( )

02. Administrative Review Not Requested. If the individual does not request an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, their name will automatically be entered on the Child Protection Central Registry without further notice or right for appeal. (5-8-09)

03. Administrative Review Requested. If the individual requests an administrative review by the FACS Division Administrator within twenty-eight (28) days from the date on the notification, the incident will be reviewed by the FACS Division Administrator and a decision will be rendered to either affirm, reverse, or modify, the decision to substantiate the incident of abuse, neglect, or abandonment. The Department will notify the individual of the FACS Division Administrator's decision by mail. (5-8-09)

04. Reversal of Decision to Substantiate. When the FACS Division Administrator completes the administrative review and reverses the decision to substantiate the incident of abuse, neglect, or abandonment, and determines that the incident is not substantiated, then no further action is required by the individual. The individual's name will not be placed on the Child Protection Central Registry. (5-8-09)

05. Contested Case Appeal. When the FACS Division Administrator completes the administrative review and affirms the decision to substantiate the incident of abuse, neglect, or abandonment, the individual will be notified by mail that their name has been placed on the Child Protection Central Registry and informed of: (5-8-09)

a. The basis for the Department's decision; (5-8-09)

b. The procedures for filing a contested case appeal under IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings," Section 101; ( )

c. The procedures for filing a petition for removal from the Child Protection Central Registry after the applicable minimum time has passed under Section 566 of these rules; and (5-8-09)

d. The Department's contact information.

565. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME ON THE CHILD PROTECTION CENTRAL REGISTRY PRIOR TO OCTOBER 1, 2007.

After January 1, 2008, an individual whose name was placed on the Child Protection Central Registry prior to October 1, 2007, may file a petition to have their name removed from the registry in accordance with Subsection 566.01 of these rules. The petitioner will be assigned a child protection risk level in accordance with criteria under Section 563 of these rules and the case will be reviewed to determine if it meets the requirements for removal. (5-8-09)

566. PETITION FOR REMOVAL OF AN INDIVIDUAL'S NAME FROM THE CHILD PROTECTION CENTRAL REGISTRY.

Any individual whose name is on the Child Protection Central Registry and whose required minimum time on the registry has elapsed, may petition the Department to remove their name from the Registry. An individual whose name appears with a Level One designation on the Child Protection Central Registry is not eligible to petition for removal. (5-8-09)

01. Petition for Removal From the Child Protection Central Registry. Any individual whose name appears on the Child Protection Central Registry with a designation of either Level Two or Level Three, may petition to have their name removed from the Child Protection Central Registry after the minimum period of time has elapsed for the applicable level. The petition must include a written statement from the petitioner to the Department's FACS Division Administrator requesting that the petitioner's name be removed from the Child Protection Central Registry. ( )

02. Criteria for Granting Petition for Removal From the Child Protection Central Registry. The petition for removal from the Child Protection Central Registry will be granted if: (5-8-09)

a. There are no additional substantiated reports on the Child Protection Central Registry or that of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho; and (5-8-09)

b. There are no convictions, adjudications, or withheld judgments for any of the crimes listed under Subsection 566.03 of this rule: (5-8-09)

i. On Idaho's central repository of criminal history records as established and maintained by the Idaho State Police under Title 67, Chapter 30, Idaho Code; or (5-8-09)

ii. On the criminal history repository of other states in which the petitioner has resided since the last substantiated report of abuse, neglect, or abandonment in Idaho. (5-8-09)

03. Criminal History Checks. It is the responsibility of the petitioner to request, pay for, and obtain the criminal history checks and submit them to the Department. (5-8-09)

a. The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following, within five (5) years of the receipt of the petition: (4-2-08)

i. Physical Assault; (4-2-08)

ii. Battery; or (4-2-08)

iii. A drug-related offense. (4-2-08)

b. The Department will not remove a petitioner from the Child Protection Central Registry if a criminal history check reveals any of the following: (4-2-08)

i. Child abuse or neglect; (4-2-08)

ii. Spousal abuse; (4-2-08)

iii. A crime against children, including child pornography; or (4-2-08)

iv. A crime involving violence, including rape, sexual assault, or homicide, but not including other physical assault or battery. (4-2-08)

04. Granting or Denying Removal From the Child Protection Central Registry. The Department will issue a letter granting or denying removal of the petitioner's name from the Child Protection Central Registry within twenty-eight (28) days of receipt of the petition. (5-8-09)

05. Appeal of a Denial of Removal From the Child Protection Central Registry. The individual may appeal the denial of removal of their name from the Child Protection Central Registry under IDAPA 16.05.03, "Contested Cases Proceedings and Declaratory Ruling," Section 101. ( )

567. "SAFE HAVEN" EXEMPTION FOR PARENTS OF CERTAIN ABANDONED INFANTS.
No disposition will be made on the parent(s) and no information will be entered into the Child Protection Central Registry when a parent(s) relinquishes their infant within the first thirty (30) days of life to a "Safe Haven" according to Title 39, Chapter 82, Idaho Code, Idaho Safe Haven Act. (4-2-08)

568. COURT-ORDERED CHILD PROTECTION SAFETY ASSESSMENT.
When, in any divorce proceeding or upon request for modification of a divorce decree, an allegation of child abuse or child sexual abuse is made, implicating either party, the court may order that an investigation/safety assessment be conducted by the Department. Court orders for preliminary child protective safety assessment and for any subsequent assessment the court may deem necessary will be served on the Department supervisor for child protection services in the field office in which the court has geographical jurisdiction. The child protection supervisor must immediately initiate the safety assessment and consult with the court promptly if there are any obstacles preventing its completion. Immediately upon completing the report, the Department must make a written report to the court. (4-7-11)

569. PETITION UNDER THE CHILD PROTECTIVE ACT.
If any incident of child abuse, neglect, or abandonment is substantiated through a safety or comprehensive assessment, or both, or during the provision of services, and cannot be resolved through informal processes or voluntary agreement that is adequate for protection of the child, the Department will request the prosecuting attorney to file a Child Protective Act petition. (4-7-11)

570. COOPERATION WITH LAW ENFORCEMENT.
The Department will cooperate with law enforcement personnel in their handling of criminal investigations and the filing of criminal proceedings. (4-2-08)

571. CHILD CUSTODY INVESTIGATIONS FOR THE DISTRICT COURT.
Where no other community resources are available and when ordered by the district courts, the Department will, for a fee of thirty-five dollars ($35) per hour, conduct safety and comprehensive assessments and provide social information to assist the court in child custody actions, to assist the court to determine the most therapeutic placement for the child. (4-7-11)

01. Requests From Private Attorney. If a parent's attorney requests a safety or comprehensive assessment, or both, and a report of findings regarding the fitness of a parent, the attorney must be advised that such service is provided on behalf of a child but not on behalf of a litigant, and that any such assessment and report would be provided to the court pursuant to a court order. (4-7-11)

02. Conduct of the Assessment. In conducting the assessment, the family services worker must explain to the family the purpose for which the information is being obtained. If the judge intends to treat the report as evidence, the family must be informed that any information they provide will be brought out at the court hearing. If the family refuses to give information to the family services worker, the Department has no authority to require cooperation. However, the judge may issue an order directing the family to provide information to the family services worker for the purpose of making a report to the court. (3-30-07)

03. Report to Court. The family services worker will provide a report only to the Magistrate judge who ordered the assessment, and must use the Department's format for the assessment of need. The report must describe what was observed about the home conditions and the care of the child(ren). (3-30-07)

04. Department Clients. If the family is or has been a client of the Department, disclosure of

information must comply with IDAPA 16.05.01, "Use and Disclosure of Department Records." (4-7-11)

572. -- 699. (RESERVED)

ADOPTION SERVICES
(Sections 700 - 710)

700. ADOPTION SERVICES POLICY.
Where reasonable efforts to reunite or preserve a family are unsuccessful, or where relinquishment is requested by the parent(s), the Department will consider whether termination of parental rights is in the best interests of the child. The Department must make every effort to place any child legally free for adoption in an appropriate adoptive home. Each child will be placed with an adoptive family who can support the racial, ethnic or cultural identity of the child, and is able to cope with any forms of discrimination the child may experience. (5-8-09)

701. SERVICES TO BE PROVIDED IN ADOPTIONS.
In addition to the core services provided under these rules, the Department must assure provision of the following: (5-8-09)

01. Response to Inquiries. Written or personal inquiries from prospective adoptive families must be answered within two (2) weeks. (3-30-07)

02. Pre-Placement Child/Family Assessment. An assessment of the child's family of origin history, needs as an individual and as part of a family, and completion of a life story book for each child preparing for adoptive placement. (3-18-99)

03. Compliance with Multi-Ethnic Placement Act and Interethnic Adoption Provisions. Selection of the most appropriate adoptive family consistent with the Multi-Ethnic Placement Act and Interethnic Adoption Provisions, if the child is not an Indian. (3-30-01)

04. (Pre-Placement) Home Study. An adoptive home study to ensure selection of an appropriate adoptive home. (3-18-99)

05. Preparation for Placement. Preparation of the child by an assigned social worker who will assist the child in addressing anticipated grief and loss due to separation from their parents and assisting the child with the transition into an adoptive home. (5-3-03)

06. Technical Assistance. Assistance in completing the legal adoption, including compliance with the Indian Child Welfare Act. (3-18-99)

07. Adoption Assistance. A determination of eligibility for adoption assistance must be made for each child placed for adoption through the Department prior to the finalization of their adoption. Eligibility for adoption assistance is determined solely on the child's need. No means test may be applied to the adoptive family's income or resources. Once eligibility is established, the Division will negotiate a written agreement with the adoptive family. The agreement must be fully executed by all parties prior to the finalization of the adoption in order to be valid. (3-30-07)

08. Period of Support Supervision. Once a child is placed with an adoptive family, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. If the child has been a foster child placed with the family for a period of at least six (6) months, the family may submit a written request to the Department's Child and Family Services Program Manager to reduce the supervisory period to a minimum of three (3) months. (5-8-09)

09. Post Adoption Services. Services after an adoption is final are provided within available resources. Children with negotiated adoption assistance agreements, whether from Idaho or from another state, are eligible for any services available to Idaho children. International adoptees residing in Idaho are also eligible for any services available to Idaho children under the Inter-Country Adoption of 2000 (P.L.106-279). Children with either IV-

E or state adoption assistance agreements are eligible for Medicaid in Idaho. A referral from an Interstate Compact on Adoption and Medical Assistance member state will serve as a formal application for services in Idaho. Applications for Medicaid are made through the Department in accordance with IDAPA 16.03.01, "Eligibility for Health Care Assistance for Families and Children." (3-30-07)

702. CONDITIONS FOR GUARDIANSHIP ASSISTANCE.
The following conditions must be met for a child to be eligible for federally-funded or state-funded guardianship assistance. (4-7-11)

01. Assessment of Suitability. The Department or its contractor will determine the suitability of an individual to become a legal guardian for a specific child or sibling group through a guardianship study. (4-7-11)

02. Eligibility for Guardianship Assistance. The Department will determine eligibility for guardianship assistance for each child placed in the legal custody of the Department prior to the finalization of the guardianship. The child will first be considered for eligibility for a federally-funded subsidy. Should the child be found ineligible for a federally-funded subsidy, the child will then be considered for a state-funded subsidy. (4-7-11)

03. Guardianship and Foster Care Licensure. To receive guardianship assistance, a potential legal guardian must apply for and receive a foster care license. (4-7-11)

04. Guardianship Assistance Agreements and Payments. The Department and the prospective legal guardian must enter into a written agreement prior to the finalization of the guardianship. Benefits may include both a monthly cash payment and Medicaid benefits. The cash payment may not exceed the published foster care rate a child would receive if living in family foster care in Idaho. Eligibility for guardianship assistance is based on the child's needs. No means test may be applied to the prospective legal guardian family's income or resources in a determination of eligibility. The Department will provide the prospective legal guardian with a copy of the agreement. All Guardianship Assistance Agreements must contain the following: (4-7-11)

a. The amount and manner in which the guardianship assistance payment will be provided to the prospective legal guardian; (4-7-11)

b. The manner in which the payment may be adjusted periodically in consultation with the legal guardian, based on the circumstances of the legal guardian and the needs of the child; (4-7-11)

c. Any additional services and assistance for which the child and legal guardian will be eligible under the agreement; (4-7-11)

d. The procedure by which the legal guardian may apply for additional services; (4-7-11)

e. A statement that the agreement will remain in effect without regard to the state of residency of the legal guardian; (4-7-11)

f. The procedure by which the Department will make a mandatory annual evaluation of the need for continued assistance and the amount of the assistance; and (4-7-11)

g. Guardianship assistance payments are prospective only. There will be no retroactive benefits or payments. (4-7-11)

h. In Title IV-E Relative Guardianship Assistance Agreements, the prospective relative guardian may identify a successor legal guardian to be appointed guardianship of the child due to the death or incapacitation of the relative legal guardian. (3-25-16)

05. Termination of Guardianship Assistance. Federally-funded or state-funded guardianship assistance benefits and cash payments are automatically terminated when: (4-7-11)

a. A court terminates the legal guardianship or removes the legal guardian; (4-7-11)

b. The child no longer resides in the home of the legal guardian, and the legal guardian no longer provides financial support for the child; (4-7-11)

c. The child has reached the age of eighteen (18) years, regardless of the child's educational status or physical or developmental delays; or (4-7-11)

d. The child marries, dies, or enters the military. (4-7-11)

e. Title IV-E relative guardianship assistance benefits do not end upon the death or incapacitation of the relative legal guardian if the relative legal guardian identified a successor legal guardian in the child's Title IV-E Relative Guardianship Assistance Agreement and the successor legal guardian assumes legal responsibility for the child. (3-25-16)

06. Administrative Review for Guardianship Assistance. The prospective legal guardian has twenty-eight (28) days from the date of the Department's notification of the guardianship assistance determination, to request an administrative review. The determination will be reviewed by the FACS Division Administrator, and a decision will be rendered to either affirm, reverse, or modify, the decision. The Department will notify the individual, by mail, of the FACS Division Administrator's decision, of their right to appeal, and procedures for filing an appeal according to requirements in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." *( )*

703. FEDERALLY-FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENTS, AND BENEFITS.
In addition to Section 702 of these rules, the following requirements and benefits are applicable to a federally-funded guardianship assistance for an eligible child and a relative guardian. (4-7-11)

01. Eligibility. A child is eligible for a federally-funded guardianship if the Department determines the child meets the following: (4-7-11)

a. Is fourteen (14) years of age, or older, sometime during the consecutive six- (6) month residence with the prospective relative legal guardian as specified in Subsection 703.01.c. of this rule; (4-7-11)

b. Has been removed from their home under a voluntary placement agreement, or as a result of a judicial determination that continuation in the home would be contrary to the welfare of the child; (4-7-11)

c. Being returned home or adopted are not appropriate permanency options for the child; (4-7-11)

d. Has been eligible for Title IV-E foster care maintenance payments during at least six (6) consecutive months during which the child resided in the home of the prospective relative legal guardian who was licensed or approved as meeting the licensure requirements as a foster family home. While it is not required that Title IV-E foster care maintenance payments have been paid on behalf of the child during the six-month timeframe, it is required the child meet all Title IV-E foster care maintenance payment eligibility criteria in the home of the fully licensed or approved relative foster parent for a consecutive six- (6) month period to be eligible for Title IV-E guardianship assistance payment with that prospective relative legal guardian; (4-7-11)

e. Has been consulted regarding the legal guardianship arrangement; and (4-7-11)

f. Has demonstrated a strong attachment to the prospective relative legal guardian, and the relative legal guardian has a strong commitment to caring permanently for the child. (4-7-11)

g. When a successor legal guardian has been named in the child's most recent Title IV-E Relative Guardianship Assistance Agreement, the child remains eligible for guardianship assistance benefits upon the death or incapacitation of the relative legal guardian with any cash assistance paid to the successor legal guardian. (3-25-16)

02. Siblings of an Eligible Child. (4-7-11)

a. The Department may make guardianship assistance payments in accordance with a guardianship assistance agreement on behalf of each sibling of an eligible child, under the age of eighteen (18), who is placed with

the same relative under the same legal guardianship arrangement if the Department and the relative legal guardian agree that the placement is appropriate. (4-7-11)

b. Nonrecurring expenses associated with obtaining legal guardianship of the eligible child's siblings are available to the extent the total cost does not exceed two thousand dollars ($2,000). (4-7-11)

c. The agency is not required to place siblings with the relative legal guardian of the child at the same time with the eligible child for the siblings to qualify for a cash payment. (4-7-11)

d. A sibling of the eligible child does not have to meet the eligibility criteria for the relative legal guardian to receive a guardianship assistance payment or for the relative legal guardian to receive nonrecurring expenses. (4-7-11)

03. Medicaid. A child who is eligible for federally-funded relative guardianship assistance is eligible for Title XIX Medicaid in the state where the child resides. (4-7-11)

04. Case Plan Requirements. A child who is eligible for federally-funded relative guardianship assistance must have a case plan that includes: (4-7-11)

a. How the child meets the eligibility requirements; (4-7-11)

b. Steps the agency has taken to determine that return to the home or adoption is not appropriate; (4-7-11)

c. The efforts the agency has made to discuss adoption with the child's relative foster parent and the reason why adoption is not an option; (4-7-11)

d. The efforts the agency has made to discuss the legal guardianship and the guardianship assistance with the child's parent or parents, or the reason the efforts were not made; (4-7-11)

e. The reason why a permanent placement with a prospective relative legal guardian and receipt of a guardianship assistance payment is in the child's best interests; and (4-7-11)

f. If the child is not placed with siblings, a statement as to why the child is separated from their siblings. (4-7-11)

05. Criminal History and Background Checks. To be eligible for a federally-funded guardianship assistance payment, all prospective legal guardians and other adult members of the household must receive a criminal history and background check clearance, according to the provisions in IDAPA 16.05.06, "Criminal History and Background Checks." As a licensed foster parent, if the prospective relative legal guardian has already received a clearance, another check is not necessary. (4-7-11)

06. Nonrecurring Expenses. The Department will reimburse the cost, up to two thousand dollars ($2,000), of nonrecurring expenses associated with obtaining a federally-funded legal guardianship for an eligible child. (4-7-11)

704. STATE-FUNDED GUARDIANSHIP ASSISTANCE ELIGIBILITY, REQUIREMENT, AND BENEFITS.

In addition to Section 702 of these rules, the following requirements and benefits are applicable to a state-funded guardianship assistance for an eligible child and their legal guardian. (4-7-11)

01. Eligibility for State-Funded Guardianship Assistance. A child is eligible for a state-funded guardianship assistance if the Department determines the child meets the following: (4-7-11)

a. Assistance is based on the child's identified needs; (4-7-11)

b. The child's parents have had their parental rights legally terminated; and (4-7-11)

c. There is documentation of unsuccessful efforts to place the child for adoption. (4-7-11)

02. Limitations on State-Funded Guardianship Assistance. State-funded guardianship assistance is subject to state appropriations and availability of state general funds. (4-7-11)

03. Medicaid Benefits Under State-Funded Guardianship Assistance. State-funded guardianship assistance may include Medicaid benefits for the child(ren) receiving payment. These Medicaid benefits may only be used in Idaho. If the legal guardian moves to another state, they will be required to apply for Medicaid for the child(ren) in the new state of residency. (4-7-11)

04. Nonrecurring Expenses. In cases where state-funded guardianship assistance is being considered, if the potential legal guardian is not able to afford the attorney and court costs to obtain legal guardianship of a child in the legal custody of the Department of Health and Welfare, financial assistance may be available from the Department. Financial assistance for legal fees may be provided regardless of the legal guardian's state of residence. (4-7-11)

705. -- 709. (RESERVED)

710. FAMILY HISTORY.
If the family case plan is termination of parental rights and adoption is considered a part of the total planning for the child, the following information will be obtained and placed in the child's permanent adoption record: (5-8-09)

01. Informational Forms. Informational background forms regarding the birth mother, birth father, and the child. (3-18-99)

02. Hospital Records. Hospital birth records on child. (3-18-99)

03. Evaluations/Assessments. Evaluations/Assessments previously completed on child. (3-18-99)

04. Current Picture. Current picture of child. (3-18-99)

05. Narrative Social History. Child and family's narrative social history that addresses: (5-8-09)

a. Family dynamics and history; (3-18-99)

b. Child's current functioning and behaviors; (3-18-99)

c. Interests, talents, abilities, strengths; (3-18-99)

d. Child's cultural and racial identity needs. The ability to meet the cultural and racial needs of the child does not necessitate a family have the same culture or race as the child; (3-18-99)

e. Life story, moves, reasons, key people; (3-18-99)

f. Child's attachments to current caretakers, siblings and significant others; i.e., special friends, teachers, etc.; (3-18-99)

g. Medical, developmental and educational needs; (3-18-99)

h. Child's history, past experiences, and previous trauma; (3-18-99)

i. Membership or eligibility for membership in, and social and cultural contacts with parent's tribe, if any, including names and addresses of extended family; (3-29-12)

j. Indian child's Indian ancestry; (3-29-12)

k. Individualized recommendations regarding each child's need for permanency; and (3-18-99)

l. Reasons for requesting termination of parental rights. (3-18-99)

TERMINATION OF PARENT-CHILD RELATIONSHIP (Sections 711 - 749)

711. DECISION AND APPROVAL PROCESS FOR TERMINATION OF PARENT AND CHILD RELATIONSHIP (TPR).

Any recommendation to the Child and Family Services Program Manager regarding the termination of parental rights will be based on the outcome of a team decision-making process and must receive written approval by the program manager before a petition may be filed. (5-8-09)

712. -- 713. (RESERVED)

714. VOLUNTARY TERMINATION.

The Department becomes involved in voluntary terminations when a parent(s) requests the Department to place their special needs child or children for adoption and when voluntary termination is a goal in the family case plan. Parent(s) requesting placement of a potentially healthy unborn or healthy newborn child should be referred to the licensed private adoption agencies in Idaho. (3-20-04)

715. VOLUNTARY CONSENT.

In obtaining a parent's consent to terminate their parental rights through the Department, a Consent to Terminate Parental Rights and Waiver of Rights to Hearing must be signed before the Magistrate Judge. Once a parent's consent has been given before the court, a corresponding petition under the Termination of Parent and Child Relationship Act will be filed by legal counsel representing the Department. (5-8-09)

716. VOLUNTARY TERMINATION OF PARENTAL RIGHTS TO AN INDIAN CHILD.

Consent to voluntary termination of parental rights by the parent(s) or Indian custodian(s) of an Indian child is not valid unless executed in writing and recorded before a court of competent jurisdiction, which may be a tribal court. The written consent must be accompanied by the presiding judge's certificate that: (5-8-09)

01. Explanation of Consent. The terms and consequences of the consent were fully explained in detail and were fully understood by the parent(s) or Indian custodian(s); and (5-3-03)

02. Interpretation If Necessary. The parent(s) or Indian custodian(s) fully understood the explanation in English or it was interpreted into a language the parent(s) or Indian custodian(s) understood. (5-3-03)

717. FILING OF PETITION FOR VOLUNTARY TERMINATION.

The petition for a voluntary termination of parental rights may be filed by an authorized agency, by the guardian(s) of the person or the legal custodian of the child or the person standing in loco parentis to the child, or by any other person having a legitimate interest in the matter. (5-3-03)

718. REPORT TO COURT -- VOLUNTARY TERMINATION.

If a voluntary consent to termination has been signed by the parent(s) before the Magistrate Court, an investigation or Report to the Court under the Termination Act is at the court's discretion. If the petition has been filed by the Department of Health and Welfare, Division of Family and Community Services, a report is required to accompany the petition, under Section 16-2008(2), Idaho Code. (5-8-09)

719. INVESTIGATION.

An investigation of the allegations in the petition and a report recommending disposition of the petition under the Termination of Parent and Child Relationship Act will be completed and submitted to the court within thirty (30) days, unless an extension of time is granted by the court. The purpose of this investigation is to verify the allegations through all available sources, including the petitioner, parent(s) and possibly the extended family of the child. The Report to the Court under the Termination of Parent and Child Relationship Act, is to serve as an aid to the court in determining a disposition that complies with the Indian Child Welfare Act where applicable, or that will be in the best interest of the child. If a petition is filed by a party other than the Department, the court may order such an

investigation by the Department. The law also allows completion of an investigation by an authorized agency or a certified adoption professional, prior to adjudication and disposition. If the Department is the petitioner, the report will accompany the petition. Reports submitted under the Termination of Parent and Child Relationship Act based on a parent's voluntary consent will include: (5-8-09)

01. Description of Investigation. The circumstances of the petition and the facts determined from the investigation; and (3-18-99)

02. Child-Related Factors. Child related factors, including: (3-18-99)

a. Child's current functioning and behaviors; (3-18-99)

b. Medical, educational and developmental needs of the child; (3-18-99)

c. Child's history and past experiences; (3-18-99)

d. Child's identity needs; (3-18-99)

e. Child's interests and talents; (3-18-99)

f. Child's attachments to current caretakers and any absent parent; (3-18-99)

g. Child's current living situation; (3-18-99)

h. Indian child's membership or eligibility for membership in tribe(s); (3-18-99)

i. Indian child's contacts with tribe(s); (3-18-99)

j. The present circumstances, history, condition and desire of the parent whose rights are being terminated regarding plans for the child; (3-18-99)

k. Such other facts as may be pertinent to the parent and child relationship and this particular case; i.e., compliance with Interstate Compact Placement on Children; and (3-18-99)

l. A recommendation and reasons as to whether or not the termination of the parent and child relationship should be granted. (3-18-99)

720. FILING OF A PETITION FOR INVOLUNTARY TERMINATION OF PARENT AND CHILD RELATIONSHIP.
Unless there are compelling reasons it would not be in the interest of the child, the Department is required to file a Petition to Terminate the Parent and Child Relationship within sixty (60) days of a judicial determination that one (1) or more of the following has occurred: (5-8-09)

01. Abandonment. An infant has been abandoned; (3-30-01)

02. Reasonable Efforts to Reunify the Family Are Not Required. That reasonable efforts, as defined in Section 16-1610(2)(i)(iii), Idaho Code, are not required because the court determines the parent(s) has subjected a child or children to aggravated circumstances. (5-3-03)

721. REPORT TO THE COURT -- INVOLUNTARY TERMINATION.
If a petition for an involuntary termination of parental rights has been brought before the Magistrate Court, an investigation or report to the court under the Termination Act is required. If the petition has been filed by the Department, a report is required under Section 16-2008(2), Idaho Code. Reports submitted under the Termination Act based on an involuntary termination of parental rights must include: (5-8-09)

01. Allegations. The allegations contained in the petition. (3-30-01)

02. Investigation. The process of the assessment and investigation. (3-30-01)

03. Family Circumstances. The present condition of the child and parent(s), especially the circumstances of the parent(s) whose rights are being terminated and contact with the parent(s) of a minor parent, unless lack of contact is explained. (5-3-03)

04. Medical Information. The information forms regarding the child, birth mother, and birth father will be submitted with the Report to the Court. Reasonably known or available medical and genetic information regarding both birth parents and source of such information, as well as reasonably known or available providers of medical care and services to the birth parents. (5-8-09)

05. Efforts to Maintain Family. Other facts that pertain to the parent and child relationship including what reasonable efforts have been made to keep the child with the family, or what active efforts to prevent the breakup of the Indian family have been made. (3-29-12)

06. Absent Parent. Reasonable efforts made by the petitioner to locate an absent parent(s) and provision of notification to an unmarried father of the paternity registry requirement under Section 16-1513, Idaho Code. (5-8-09)

07. Planning. Proposed plans for the child consistent with: (3-30-01)

a. The Indian Child Welfare Act, including potential for placement with the Indian child's extended family, other members of the Indian child's tribe, or other Indian families; and (3-30-01)

b. The Adoption and Safe Families Act of 1997, which prohibits states from delaying or denying cross-jurisdictional adoptive placements with an approved family, and requires individualized documentation regarding the child's needs in permanent placement. (4-7-11)

08. Compliance with the Indian Child Welfare Act. Documentation of compliance with the Indian Child Welfare Act, including identification of whether the child is Indian and if so: (3-30-01)

a. Notification of the pending proceedings to the parent(s) or Indian custodian(s) and the Indian child's tribe, or to the Secretary of the Interior if their identity or location is unknown according to Section 051 of these rules; (3-29-12)

b. Notification of the right of the parent(s) or Indian custodian(s), and the Indian child's tribe, to intervene in the proceeding and their right to be granted up to twenty (20) additional days to prepare for the proceeding; (5-3-03)

c. Notification that if the court determines indigency, the parent(s) or Indian custodian(s) have the right to court-appointed counsel; (5-8-09)

d. Evidence, including identity and qualifications of expert witnesses, that continued custody of the child by the parent(s) or Indian custodian(s) is likely to result in serious emotional or physical damage to the child; (5-3-03)

09. Termination of Parent-Child Relationship. (3-29-12)

a. A recommendation and the reasons whether or not termination of the parent and child relationship is in the best interest of the child; and (3-29-12)

b. Upon the court's written decision to terminate parental rights, two certified copies of the "Findings of Fact, Conclusions of Law and Decree" are to be placed in the child's permanent record. (3-29-12)

722. -- 749. (RESERVED)

BECOMING AN ADOPTIVE PARENT
(Sections 750 - 850)

750. APPLICATION TO BE ADOPTIVE PARENT(S).

Each field office is responsible for compiling the names and addresses of adoptive applicant(s), along with the dates of inquiry and membership in an Indian tribe, if any. A database or register must be maintained in order to assure the orderly completion of home studies. (5-8-09)

01. Initial Application. Each adoptive applicant must: (3-21-12)

a. Cooperate with and allow the Department, or certified adoption professional, to determine compliance with these rules to conduct an adoption home study; (3-21-12)

b. Inform the Department, or certified adoption professional, if the applicant has previously applied to become a foster or adoptive parent, is currently licensed as a foster parent, or has been involved in the care and supervision of children or adults; (3-21-12)

c. Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) months period prior to application for adoption, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care of the adopted child; (3-21-12)

d. Provide the name of, and a signed release to obtain the following information about, each member of the household: (3-21-12)

i. Admission to, or release from, a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; (3-21-12)

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue. (3-21-12)

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant. Each applicant must provide additional references upon the request of the Department or certified adoption professional; (3-21-12)

f. All applicants for adoption and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks" and IDAPA 16.06.02, "Child Care Licensing," Section 404. ( )

02. Psychological Evaluation. An evaluation by a psychologist or a psychiatrist can be required by the family services worker or certified adoption professional when an applicant has received or is currently receiving treatment for psychological problems or mental illness or when the family services worker, or certified adoption professional, in consultation with their supervisor, determines that there appear to be emotional problems in the family that merit further evaluation. (3-21-12)

03. Orientation of Potential Applicants. Initial meetings with groups of applicants, or with individual families, must be scheduled promptly by the Department or the certified adoption professional, whichever received the inquiry and initial application from the family. These initial meetings must be used to explain policies and procedures regarding adoptive placement, the kinds of children available, and the nature of the home study. (3-21-12)

04. Denial of Application. Following an initial interview, an applicant who does not appear to meet the Department's requirements at the time of initial application may be denied a full home study. The family will be advised why they were ineligible for a full home study and notice provided to the applicant of their right to appeal this decision. Upon resolution of the factors leading to the denial, the applicant may again file an application and receive a home study. (3-21-12)

05. Application for Subsequent Adoptions. Following the finalization of an adoption, a family may

apply to be considered for another placement. (3-21-12)

a. Adoptive parents who have experienced a successful adoption and wish to reapply must complete an adoption application and financial statement, complete a Criminal History and Background Check, and submit medical reports and three (3) personal references. One (1) reference may be from a person related to the applicant. When requested by the Department, an applicant must provide additional references. (3-21-12)

b. The prospective adoptive family will assist in amending the original adoption study to include information concerning the acceptance and adjustment of the child previously placed in the home and their request for another placement. (3-21-12)

c. Prospective adoptive parent(s) applying for subsequent adoption with an agency with whom they have maintained a foster care license since their previous adoption may have the requirement for a new Criminal History and Background Check, medical reports and personal references waived by the agency. (3-21-12)

751. -- 761. (RESERVED)

762. COMPLETING THE ADOPTION HOME STUDY.
Upon application by a potential adoptive family, the family services worker or certified adoption professional will conduct the pre-placement adoptive home study and issue a recommendation. The home study must be completed prior to placement of any child for adoption in that home. (3-21-12)

01. Interviews. Family assessment interviews as well as individual interviews must be held with the prospective adoptive parent(s). (3-20-04)

02. Content. Adoption home studies for foster care, special needs, independent, relative, and step-parent adoptions must include an assessment of the following: (3-21-12)

a. Names, including maiden or other names used by the applicant(s); (3-21-12)

b. Legal verification that the person(s) adopting is at least fifteen (15) years older than the child, or twenty-five (25) years of age or older, except in cases where the adopting person is a spouse of the child's parent, must be accomplished by: (3-21-12)

i. Viewing a certified copy of the birth certificate filed with the Bureau of Vital Statistics; or (3-21-12)

ii. Viewing one (1) of the following documents for which a birth certificate was presumably required prior to its issuance, such as: armed services or other governmental identification, including a valid Idaho driver's license, passport, visa, alien identification cards, or naturalization papers. (3-21-12)

iii. If verifying documentation is not available, the report must indicate the date and place of birth and reason for lack of verification. (3-21-12)

c. Verification that the family has resided and maintained a dwelling within the State of Idaho for at least six (6) consecutive months prior to the filing of the petition; (3-21-12)

d. Adequacy of the family's house, property, and neighborhood for the purpose of providing adoptive care as determined by on-site observations; (3-21-12)

e. Educational background of the applicant(s); (3-21-12)

f. A statement of employment, family income, and financial resources, including access to health and life insurance and the family's management of these resources; (3-21-12)

g. Current and historical mental illness, drug or alcohol abuse, and medical conditions and how they may impact the adoptive parent(s) ability to care for an adopted child; (3-21-12)

h. Previous criminal convictions and history of child abuse and neglect; (3-21-12)

i. Family history, including childhood experience and the applicant(s) parents' methods of discipline and problem-solving; (3-21-12)

j. Verification of marriages and divorces; (3-21-12)

k. Decision-making, communication, and roles within the marital relationship, if applicable; (3-21-12)

l. The names, ages, and addresses of all biological and adopted children currently residing inside or outside the home. Information regarding the current adjustment and special needs of the applicant(s) children; (3-21-12)

m. The religious and cultural practices of the family, including their ability to nurture and validate a child's particular cultural, racial, religious, and ethnic background; (3-21-12)

n. For an Indian child, the study will also determine the prevailing social and cultural standards of the Indian community in which the parent(s) or extended family resides or maintains social and cultural ties. (3-21-12)

o. Individual and family functioning including inter-relationships with each member of the household and the family's ability to help a child integrate into the family; (3-21-12)

p. Activities, interests, and hobbies; (3-21-12)

q. Child care and parenting skills, including historical and current methods of discipline used in the home; (3-21-12)

r. Reasons for applying for adoption; (3-21-12)

s. The family's prior and current experiences with adoption, understanding of adoption, and ability to form relationships and bond with a specific child or general description of children; (3-21-12)

t. The attitudes toward adoption by immediate and extended members of the family and other persons who reside in the home; (3-21-12)

u. Specifications of the child preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional, and educational characteristics. The family's ability to accept the behavior and personality of a specific child (if known) or general description of children and their ability to meet the child's particular educational, developmental, and psychological needs; (3-21-12)

v. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into the applicant(s) home; (3-21-12)

w. The family's attitude about an adopted child's birth family including: (3-21-12)

i. Their ability to accept a child's background and help the child cope with their past; and (3-21-12)

ii. Their willingness to work with the child's family or tribe; (3-21-12)

x. Training needs of the applicant(s); and (3-21-12)

y. A recommendation regarding the family's ability to provide adoptive care to a specific child (if known) or general description of children. (3-21-12)

763. PRE-ADOPTIVE PARENT RESPONSIBILITIES.
The pre-adoptive parent is responsible to keep the agency or Certified Adoption Professional that completed the

home study informed of any changes in the family's circumstances, or of any subsequent decision against adoption. (3-21-12)

764. ADOPTIVE HOME STUDY.
An adoption home study is valid for the purposes of new adoptive placement for a period of one (1) year following the date of completion. Upon completion of an adoptive placement agreement, an adoption home study remains valid for a period of two (2) years from the date of completion for the purpose of finalizing the adoption of the child(ren) for whom the adoptive placement agreement was written. (3-21-12)

765. -- 769. (RESERVED)

770. CLOSURE OF ADOPTIVE HOME STUDIES.
Upon pre-adoptive placement of a child or children in the home of a pre-adoptive parent, the parent's adoption home study closes for the placement of an additional child or children for the purpose of adoption until a home study update is completed. (3-21-12)

771. HOME STUDY UPDATE.
An adoptive home study must be updated on an annual basis. A current home study is defined as a home study completed within the previous twelve (12) months. Home study updates must include the following: (3-21-12)

01. Initial Adoption Home Study and Subsequent Home Study Updates. All Changes to the Information Contained in the Initial Adoption Home Study and Subsequent Home Study Updates. (3-21-12)

02. Family Functioning and Inter-Relationships. All Information on any Changes in Family Functioning and Inter-Relationships. (3-21-12)

03. Circumstances Adversely Impacting Child Placed for Adoption. Any Information Regarding Circumstances Within the Family that may Adversely Impact a Child Placed for Adoption. (3-21-12)

04. A Home Study Update Completed for the Purpose of Adoptive Placement of an Additional Child or Children in the Home. A home study update completed for the purpose of adoptive placement of an additional child or children in the home where a child or children are already placed for adoption and that adoption has not yet finalized must include agreement for the placement of the additional child or children by the individual or agency responsible for the placement of the initial child or children, and the individual or agency responsible for the additional child or children. (3-21-12)

772. -- 789. (RESERVED)

790. FOSTER PARENT ADOPTIONS.
The procedure and requirements are the same for all adoptive applicants. This includes foster parents who want to be considered as adoptive parents for a child who has a plan of adoption. These requirements include compliance with the Indian Child Welfare Act, the Multi-Ethnic Placement Act of 1994 and the Interethnic Adoption Provisions of 1996. (3-30-01)

791. -- 799. (RESERVED)

800. PLACEMENT OF THE CHILD.
Adoptive placement of a child in the custody or guardianship of the Department will be determined as follows: (3-21-12)

01. Factors to be Considered in Determining Suitability of Adoptive Placements. (3-21-12)

a. For an Indian child, absent good cause to the contrary, the following preferences for placement under the Indian Child Welfare Act must be followed: (3-21-12)

i. Extended family; (3-21-12)

ii. Other members of the child's tribe; or (3-21-12)

iii. Other Indian families. (3-21-12)

b. The primary factor in the review of a prospective adoptive family's eligibility is the ability to protect and promote the best interests of a child to be placed in their home. (3-21-12)

c. The Department will not delay or deny the placement of a child with an approved family that is located outside of the jurisdiction responsible for the care and planning for the child. (3-21-12)

02. Selection of Adoptive Placement. The adoptive placement of a child in the custody or legal guardianship of the Department will be selected using a committee process of no less than three (3) individuals and be approved by a field program manager as described by the practice standards of the Department. (3-21-12)

03. Disclosure. The field office must provide full confidential background information and discuss the child's history fully with the prospective adoptive parent(s) prior to the placement. The disclosure of background information must be confirmed at the time of placement by a written statement from the family services worker to the prospective adoptive family, which they will be asked to acknowledge and sign. A copy of this statement must be provided to the adoptive family and one (1) copy will be kept in the child's permanent record. (3-21-12)

801. -- 829. (RESERVED)

830. ADOPTION APPLICATION FEE.
The adoption application fee covers the costs of processing the adoption application and does not guarantee that the applicant family will receive a child for adoption. The application fee is non-refundable. Money collected through the Department's adoption program may be utilized to pay state adoption assistance payments for children with special needs and pay the service fees, recruitment costs, and placement fees for private agencies serving children who have special needs. (3-30-07)

831. HOME STUDY, SUPERVISORY REPORTS, AND REPORTS OF THE COURT FEES.
A family who cares for a child, or children, with special needs who is in the custody of the Department is not required to pay the costs of the Department adoption services identified in Section 832 of these rules for the adoption of that child, or children. A relative or kin family being considered by the Department for adoption of a child from foster care who is their relative or kin, is not required to pay the costs referenced in Section 832 of these rules. If a family who did not pay the fee uses that home study to pursue adoption of a child not in the Department's custody, the family must pay the Department for the full cost of the study and any other applicable fees identified in Section 832 of these rules. (3-29-10)

832. FEE SCHEDULE - ADOPTIONS THROUGH DEPARTMENT.

TABLE 832

Service	Fee
General Information/Adoption Inquiries	No Charge
Health and Welfare Application: Couple Single Parent	 $50 $25
Second Placement or Reapplication	$25
Pre-placement Home Study - Payment due at time of study or per agreement	$450
Report to Court under the Adoption Act	$150
Second Placement	$150
Placement Supervision Fee - Charged at the time of placement	$300

TABLE 832	
Service	**Fee**
Closed Adoption Home Study/Court Report Retrieval Fee	$50
Report to the Court Under the Termination Act	$40 per hour

(3-30-07)

833. PLACEMENT SUPERVISION -- TRANSFER FROM OUT OF STATE PRIVATE AGENCY.
When a prospective adoptive parent(s) moves to Idaho, with a child who has been placed with them by a private agency in their former state of residency, the sending state agency must arrange through the Interstate Compact on the Placement of Children, services through one of Idaho's private, licensed adoption agencies, or a certified adoption professional. (5-8-09)

834. -- 849. (RESERVED)

850. INDEPENDENT, RELATIVE AND STEPPARENT ADOPTIONS.
Independent adoptive placements are handled under Section 16-1506, Idaho Code. (5-8-09)

851. -- 859. (RESERVED)

THE ADOPTIVE PLACEMENT
(Sections 860 - 888)

860. PROCEDURES FOLLOWING THE ADOPTIVE PLACEMENT.
Following the adoptive placement, a period of support and supervision by the Department lasting at least six (6) months must be completed prior to the finalization of the adoption. In situations where a foster family has a significant relationship with a child and the child has been placed in their home for at least the last six (6) months, the supervisory period may be reduced to a minimum of three (3) months.The family services worker will make scheduled visits to the home at least monthly during this period to assist the child and the family in their adjustment to each other and will update the child's permanent record by means of monthly progress reports. When completion of the adoption is recommended by the field office and approved by the Permanency Program Specialist, the Department will request the prospective adoptive parent(s) contact their attorney. The regional family services worker will provide the attorney with the necessary documentation to file the petition for adoption. (3-30-07)

861. PROGRESS REPORTS.
Progress reports will be prepared regularly and will be based on the family services worker's or certified adoption professional's findings. (3-21-12)

01. Initial and Subsequent Reports. Progress reports must be made at intervals not to exceed thirty (30) days. These reports will include the family services worker's or certified adoption professional's observation of each child and the prospective adopting parent(s), with emphasis on: (3-21-12)

a. Special needs, special circumstances, or both, of each child at time of placement; (3-29-10)

b. Services provided to each child and the family during the report period; (3-29-10)

c. Services to be provided to each child and the family; (3-29-10)

d. General appearance and adjustment of each child during the report period (may include eating, sleep patterns, responsiveness, bonding); (3-29-10)

e. Adjustment of each child to all of the following that apply: school, daycare, and day treatment program; (3-29-10)

f. Health and developmental progress, and medical practitioner information for each child; (3-29-10)

g. Whether each child has been accepted for coverage on the family's medical insurance, when coverage begins, and whether there will be any limitations, exclusions, or both; (3-29-10)

h. Family's adjustment to adoptive placement; (3-18-99)

i. Adoption assistance negotiation; (3-29-10)

j. Changes in family situation or circumstances; (3-18-99)

k. Areas of concern during the report period as addressed by each child and the adoptive parent(s); and (3-29-10)

l. The date of the next required six (6) month review or twelve (12) month permanency hearing. (3-29-10)

02. Monthly Foster Care Payments -- Pre-Adoptive Placement. To receive Title IV-E monthly foster care payments during the period pending completion of adoption, the prospective adoptive parent(s) must have a foster care license. (3-20-04)

862. PETITION TO ADOPT UNDER THE ADOPTION OF CHILDREN ACT.

01. Filing a Petition. When the family and the child who was placed for adoption in that home are ready to finalize the adoption, the family's attorney files a petition to adopt with the court. A copy of that petition is served upon the director of the Department. Upon receipt of a copy of the petition to adopt, the family services worker, licensed children's adoption agency worker or certified adoption professional verifies the allegations set forth in the petition and make a thorough investigation of the matter and report the findings in writing to the court within thirty (30) days. (5-8-09)

02. Registration and Acknowledgment. Upon receipt of the petition to adopt, the field office registers the petition and acknowledge receipt to the court and to the petitioner(s) or private adoption agency. If the licensed adoption agency or certified adoption professional who completed the pre-placement home study is not identified, the information should be obtained from the petitioner(s)' attorney. The register will indicate the date the petition was received, the date the study is due in court, the date the completed study was sent to the court, whether an Indian child is involved, and other pertinent data. (5-8-09)

863. INVESTIGATION OF PETITION TO ADOPT AND REPORT TO THE COURT.

According to Section 16-1506, Idaho Code, an investigation regarding the allegations stated in the petition and subsequent written report of findings must be filed with the court unless the investigation is waived by order of the court. The prospective adoptive family's pre-placement home study will be filed at the same time as the written report of investigation. If the family services worker, licensed child placing agency staff, or certified adoption professional is unable to complete the study within thirty (30) days, an extension of time must be requested in writing of the court, stating the reasons for the request. If the worker has reason to believe that the child may be an Indian child and the child's tribe or the Secretary of the Interior has not received written Notice of Pending Proceedings, the worker must inform the court and the petitioner's attorney and the independent agency of the need to comply with the Indian Child Welfare Act. This adoption report to the court must address the following: (3-21-12)

01. Legal Availability of the Child. It is the responsibility of the petitioners, through their attorney, to present documentary evidence to the court so the judge can examine it and be satisfied that the identity, birthdate, and parentage of the child are as represented in the petition. The family services worker or certified adoption professional will interview the family and any other person(s) having knowledge in the matter, review all documentary evidence presented by the petitioner(s), record the information and source of the information, noting any discrepancies. Such documentary evidence must include the following: (3-21-12)

a. The birth certificate of the child; (3-20-04)

b. The consent(s) of the child's parent(s) to terminate their parental rights, termination decrees for any parent(s) whose parental rights have been terminated involuntarily by the court, and documentation of marriage and divorce; (3-20-04)

c. If the child is an Indian child, a copy of the Notice of Pending Proceedings for Termination of Parental Rights, and the return receipts showing that the notice was received by the Indian child's parent(s) or Indian custodian(s), and the child's tribe; (3-21-12)

d. Consent to adoption has been secured for all persons from whom it is required, including a legal guardian(s), to make the child legally available for adoption; (3-21-12)

e. The death certificate of a deceased parent; (3-20-04)

f. Verification from the Bureau of Vital Statistics of the registry of any putative father; and (3-20-04)

g. The Interstate Compact on the Placement of Children Form 100-A, for a child born outside of the state of Idaho, to determine if required state authorizations have been given, or if the Compact does not apply. (3-20-04)

02. Needs of the Child. The report to the court must address the needs of the child, including but: (5-8-09)

a. The history of the child and the child's birth family; (3-18-99)

b. The family history for a child who has been previously adopted, should include information about the child's previous adoptive family and the circumstances of the disruption; (3-20-04)

c. A detailed description of the circumstances that brought about the placement with the prospective adoptive family; (3-20-04)

d. The state of Idaho Social, Medical, and Genetic History forms must be completed and submitted to the court, showing reasonably known or available medical and genetic information regarding both birth parents and the child, as well as reasonably known or available providers of medical care and services to birth parents and child; and (5-8-09)

e. The appropriateness of the prospective adoptive family for the particular child or children who are the subject of the petition. (3-20-04)

03. Degree of Relationship of the Child to Petitioners. In those cases where the court has ordered an investigation of petitions to adopt by relatives or step parents, the study must record such alleged relationship and specify the documentary evidence the petitioners have of that relationship. (5-8-09)

04. Evaluation and Recommendation. The family services worker or certified adoption professional must provide a brief summary of data presented in prior sections and the pre-placement home study, supporting the recommendation regarding the adoption. (3-21-12)

05. Medical Information. A copy of medical and genetic information compiled in the investigation must be made available to the prospective adoptive family by the family services worker or certified adoption professional prior to the final order of adoption. (5-8-09)

06. Confidentiality of Information. The family services worker must exercise caution in discussing identifying information and avoid revealing that information in the petition while attempting to secure the necessary facts for the study. (5-8-09)

07. Financial Accounting. A financial accounting must be approved by the court of any financial assistance given to the birth parent(s) that exceeds five hundred dollars ($500), in accordance with Section 18-1511, Idaho Code. (5-8-09)

864. -- 869. (RESERVED)

870. REMOVAL OF A CHILD FROM A PROSPECTIVE ADOPTIVE HOME.
Despite careful assessment of the child and the family prior to placement, circumstances may arise that make it necessary to remove the child from the prospective adoptive home prior to adoption. The child may manifest problems the family is unable to accept or to handle constructively; or changed circumstances may develop that make it inadvisable for the placement to continue. The final decision to remove a child from a prospective adoptive home will be made by the Department as the legal guardian of the child. (5-8-09)

871. TEMPORARY REPLACEMENT AFTER DISRUPTION.
When a disruption occurs and it becomes necessary to remove a child from a prospective adoptive home, the field office where the child has been placed is responsible for finding a temporary arrangement for the child until another permanent placement can be arranged. In the case of the adoption of an Indian child, the consent of the parent(s) may be withdrawn for any reason at any time prior to the entry of a final decree of adoption, and the child returned to the parent(s). (5-8-09)

872. -- 880. (RESERVED)

881. CLOSURE OF CASE.
The family services worker must request from the adopting parent(s)' attorney, a certified copy of the final order of adoption, and a copy of the family service worker's executed consent to adoption taken at the time of the adoption finalization. These documents are necessary to close the adoption file and initiate the child's adoption assistance benefits. (5-8-09)

882. RECORDS OF PLACEMENT.
Upon finalization of the adoption, the complete record from the local field office, regarding the child and family will be requested by the State Adoption Program Specialist for permanent storage. Records of adoption involving Indian children must be forwarded by the State Adoption Program Specialist to the Secretary of the Interior. (5-8-09)

883. POST-LEGAL ADOPTION SERVICES.
Upon finalization of the adoption, the Department can offer post-legal adoption services upon request, including case management services, referrals for counseling or other supportive services. (5-8-09)

884. OPENING SEALED RECORDS OF ADOPTIONS.
In addition to the exceptions noted in Section 16-1511, Idaho Code, a sealed adoption proceedings may be opened in the following circumstances according to the Indian Child Welfare Act: (3-20-04)

01. Motion of an Indian Individual. Upon motion of an Indian individual who has reached the age of eighteen (18) and was the subject of an adoption, the court must provide tribal affiliation, if any, of the individual's biological parent(s) and other information necessary to protect any rights flowing from the individual's tribal relationship. (5-8-09)

02. Request From the Secretary of the Interior or the Indian Child's Tribe. Upon request of the Secretary of the Interior or the Indian child's tribe, evidence of efforts to comply with the Indian Child Welfare Act must be made available to the parties requesting such information. (5-8-09)

885. -- 888. (RESERVED)

CERTIFIED ADOPTION PROFESSIONAL
(Sections 889 - 899)

889. CERTIFIED ADOPTION PROFESSIONAL REQUIREMENTS.
An applicant requesting to become a Certified Adoption Professional must meet the following criteria: (3-20-04)

01. College Degree. A minimum of a bachelor's degree in a field deemed related to adoptions by the

Department's Child and Family Services Program, such as social work, psychology, family counseling or other related behavioral science; (5-8-09)

02. Adoption Training. Must have completed a minimum of twenty (20) hours of training in adoption services within the last four (4) years; (3-21-12)

03. Department Criminal History and Background Clearance. Must complete a Department criminal history and background check in accordance with IDAPA 16.05.06, "Criminal History and Background Checks," and receive a clearance; (5-8-09)

04. License. A current license to practice social work in the state of Idaho; (3-21-12)

05. Experience. A minimum of two (2) years experience as a paid full-time employee providing adoption services with a licensed private or public children's agency; (3-21-12)

06. References. Three (3) satisfactory references, one (1) of which must be from a previous employer for whom the applicant worked providing adoption services; (3-21-12)

07. Insurance. Verification of malpractice insurance that will provide coverage for the applicant's work as a certified adoption professional; and (3-21-12)

08. Application Fee. An application fee of one hundred dollars ($100) to be reimbursed, less a twenty-five dollar ($25) processing fee, in the event the application is denied. (3-21-12)

890. TERMS OF CERTIFICATION FOR ADOPTION PROFESSIONALS.

01. Certification. Certification for adoption professionals will be completed through the Division of Family and Community Services and will be effective for a period of two (2) years. (3-21-12)

02. Types of Certification. Certified adoption professionals may be certified for any, some, or all of the following services: (3-21-12)

a. Adoption home studies for families seeking domestic infant adoption. (3-21-12)

b. Adoption home studies for families seeking domestic special needs adoption. (3-21-12)

c. Adoption home studies for families seeking step-parent or relative adoption. (3-21-12)

d. Court ordered investigations for termination of parental rights for domestic private or independent adoptions. (3-21-12)

e. Court reports for domestic private or independent adoptions. (3-21-12)

f. Supervision of adoptive placements for domestic private or independent adoptions. (3-21-12)

03. Limits of Certification. Certified adoption professionals may not provide the following services: (3-21-12)

a. Birth parent education or counseling. (3-21-12)

b. Services related to international adoption. (3-21-12)

04. Recertification. Certified adoption professionals must apply for renewal of their certificate every two (2) years and must provide the following: (3-21-12)

a. Documentation of ten (10) hours of adoption training taken during the previous two (2) years; (3-21-12)

b. Verification of malpractice insurance; (3-21-12)

c. A satisfactory recommendation from the Division of Family and Community Services designee responsible for the review of the certified adoption professional's work; (3-21-12)

d. Satisfactory recommendations from a minimum of two (2) families for whom the certified adoption professional has provided adoption services during the previous two (2) years; and (3-21-12)

e. A certification fee of one hundred dollars ($100) to be reimbursed, less a twenty-five dollar ($25) processing fee, in the event the recertification is denied. (3-21-12)

05. Lapse of Certification. If a certified adoption professional does not apply for recertification within two (2) years in accordance with Subsection 890.04 of this rule, this will result in a lapse of certification. Any lapse in certification will require completion of a new certified adoption professional application, documentation of ten (10) hours of adoption training during the two (2) years previous to this new application, and a new criminal history and background check. (3-21-12)

a. If the individual applying for certification has received a Department criminal history and background check clearance within three (3) years of the date of this application and has not lived outside the state of Idaho since their last criminal history and background check, all of the following must be conducted and no disqualifying crimes or appearance on a registry found: (5-8-09)

i. A name-based background check by the Idaho State Police; (5-8-09)

ii. A check of the Idaho Child Protection Central Registry; (5-8-09)

iii. A check of the Idaho Adult Protection Registry; and (5-8-09)

iv. A check of the Idaho Sexual Offender Registry. (5-8-09)

b. If the individual has lived outside the state of Idaho for any amount of time during the three (3) years since the previous Department criminal history and background check clearance was completed, they must get a new Department criminal history and background check clearance. (5-8-09)

06. Denial of Recertification. The Department may choose not to recertify a certified adoption professional. Notification of denial will be made by the Department by certified mail. The notice will state the specific grounds for denial of recertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for denial of recertification are one (1) or more of the following: ( )

a. Substandard quality of work following the development of a quality improvement plan; (3-30-01)

b. Failure to gain ten (10) additional hours of adoption continuing education required for recertification; or (3-21-12)

c. A demonstrated pattern of negligence or incompetence in performing the duties of a certified adoption professional. (3-20-04)

d. Failure to maintain malpractice insurance; (3-21-12)

e. Failure to maintain a license to practice social work in the state of Idaho. This requirement does not apply to a certified adoption professional who has maintained their initial certification that occurred prior to July 1, 2012. (3-21-12)

07. Decertification. A certified adoption professional can be decertified by the Department at any time during a two (2) year period of certification. Notification of decertification will be made by the Department by

certified mail. The notice will state the specific grounds for decertification. This decision may be appealed within twenty-eight (28) days of receipt of notification under the provisions in IDAPA 16.05.03, "Contested Case Proceedings and Declaratory Rulings." Grounds for decertification are one (1) or more of the following: ( )

a. Conviction for a felony; (3-30-01)

b. Negligence in carrying out the duties of a certified adoption professional; (3-20-04)

c. Misrepresentation of facts regarding their qualifications or the qualifications of a prospective adoptive family to adopt, or both; (3-21-12)

d. Failure to obtain Departmental review and approval of pre-placement homestudies and court reports or placement supervision reports, or both, on more than one (1) occasion; (3-21-12)

e. Failure to maintain malpractice insurance; (3-21-12)

f. Suspension or loss of a license to practice social work in Idaho; or (3-21-12)

g. Practice as a certified adoption professional outside the scope of the certification. (3-21-12)

891. CERTIFIED ADOPTION PROFESSIONAL'S CLIENT RELATIONSHIP.
A certified adoption professional may not assume a legal relationship with any child for whom they have been contracted to perform services and may not provide services for anyone with whom they have had a personal or professional relationship during the previous two (2) years. (3-21-12)

892. MINIMUM STANDARDS FOR SERVICE.
A certified adoption professional must meet the following service requirements: (3-21-12)

01. Description of Services Available. A written description of services will be provided to families by the certified adoption professional before any work is completed. The description of services must include information regarding Department oversight of the certified adoption professional and any limitations related to the use of the completed home study; (3-21-12)

02. Education. Provision of, or referral to, educational resources to adoptive applicants requesting non-relative adoption; (3-21-12)

03. Content. Standards for pre-placement home studies, home study updates, court reports, and supervisory reports must, at a minimum, meet the standards for adoption services established by the Department in these rules; (3-21-12)

04. Release of Information. A written release of information that gives consent to the exchange of information between the certified adoption professional and Child and Family Services must be obtained from a family that receives services from a certified adoption professional; and (3-21-12)

05. Disclosure of Non-Identifying Information. When providing adoption supervision or adoption finalization court report services, the certified adoption professional must provide disclosure of all known non-identifying information about the child, the child's birth parents, and the circumstances leading to the decision to place the child for adoption. (3-21-12)

893. RECORDS OF THE CERTIFIED ADOPTION PROFESSIONAL.
Records of the pre-placement home studies, court reports, and supervisory reports provided by the certified adoption professional must be made available to the Division of Family and Community Services designee two (2) weeks prior to the required court filing date. The designee will be responsible for monitoring of quality of the services provided. (3-21-12)

894. FEES CHARGED BY THE DEPARTMENT.

Monitoring fees will accompany the submission of each report and be paid directly to the Department through the Division of Family and Community Services as follows:

Table 894 - Qualified Individuals	
Home Study or Court Report	$50
Supervision Report or Home Study Update	$30

(3-21-12)

895. DEPARTMENT RESPONSIBILITY TO CERTIFIED ADOPTION PROFESSIONAL.
The Division of Family and Community Services is responsible for: (3-21-12)

a. Reviewing and responding to submitted reports within five (5) business days; (3-21-12)

b. Initiation of corrective action plans when the documentation of a certified adoption professional is determined to be incorrect or substandard; and (3-21-12)

c. Dissemination of information to certified adoption professionals that may impact provided services. (3-21-12)

896. -- 899. (RESERVED)

ADOPTION ASSISTANCE
(Sections 900 - 999)

900. ADOPTION ASSISTANCE.
The purpose of the adoption assistance program is to encourage the legal adoption of children with special needs who would not be able to have the security of a permanent home without support payments. Applications are made through the Division of Family and Community Services, Resource Development Unit for a determination of eligibility. Once an application for adoption assistance is submitted to the Division of Family and Community Services, the Division will respond with a determination of the child's eligibility within forty-five (45) days.
(3-30-07)

01. Determination of Eligibility for Title IV-E Adoption Assistance. Child and Family Services will determine whether a child is a child with special needs. Children applying for adoption assistance benefits must meet Idaho's definition of a child with special needs according to Section 473 (c) of P.L. 96-272 (The Adoption Assistance and Child Welfare Act of 1980). There are five (5) ways a child can be eligible for Title IV-E adoption assistance:
(5-8-09)

a. Child is Aid to Families with Dependent Children (AFDC) eligible, is in the custody or care of the public child welfare agency or an Indian tribe with whom the state has a IV-E agreement and meets the definition of a child with special needs. For children whose adoption assistance eligibility is based on the child's AFDC eligibility, the child must meet the AFDC criteria at the time of removal from their home. (5-8-09)

i. If the child is removed from their home in accordance with the first judicial determination, such determination must indicate that it was contrary to the welfare of the child to remain in the home. (5-8-09)

ii. If the child is removed from the home in accordance with a voluntary out-of-home placement agreement, the child must receive at least one (1) Title IV-E foster care payment to be eligible for Title IV-E adoption assistance. (5-8-09)

b. Child is eligible for Supplemental Security Income (SSI) benefits and meets the definition of a

child with special needs. (5-3-03)

i. A child is eligible for adoption assistance if, at the time the adoption petition is filed, the child has met the requirements for Title XVI (SSI) benefits; (5-3-03)

ii. The circumstances of a child's removal from their home or whether the public child welfare agency has responsibility for the child's placement and care are not relevant. (4-7-11)

c. Child has been voluntarily relinquished to a private non-profit adoption agency and meets the definition of a child with special needs. (5-3-03)

i. The child must meet the requirements, or would have met the requirements, of the AFDC program as such sections were in effect on July 16, 1996, in or for the month in which the relinquishment occurred, or court proceedings were held that led to the removal of the child from their home; (4-7-11)

ii. At the time of the voluntary relinquishment, the court must make a judicial determination that it would be contrary to the welfare of the child for the child to remain in the home. (5-8-09)

d. Child is eligible for Title IV-E adoption assistance as a child of a minor parent and at the time of the adoption petition the child meets the definition of a child with special needs. (5-3-03)

i. The child's parent is in foster care and receiving Title IV-E foster care maintenance payments that cover both the minor parent and child at the time the adoption petition is filed; and (5-3-03)

ii. The child continues to reside in the foster home with their minor parent until the adoption petition has been filed. If the child and minor parent have been separated in foster care prior to the time of the adoption petition, the child's eligibility for Title IV-E adoption assistance must be determined based on the child's current and individual circumstances. (5-3-03)

e. Child is eligible due to prior Title IV-E adoption assistance eligibility and meets the definition of a child with special needs. (5-3-03)

i. A child whose adoption later dissolves or the adoptive parent(s) die, may continue to be eligible for Title IV-E adoption assistance in a subsequent adoption. (5-3-03)

ii. The subsequent adoption of a child may be arranged through an independent adoption, private agency, or state agency. (5-3-03)

iii. No needs or eligibility redetermination is to be made upon a subsequent adoption. The child's need and eligibility remain unchanged from what they were prior to the initial adoption. (5-3-03)

iv. It is the responsibility of the placing state to determine whether the child meets the definition of special needs and to pay the subsidy in a subsequent adoption. (5-3-03)

02. Special Needs Criteria. The definition of special needs includes the following factors: (3-30-07)

a. The child cannot or should not be returned to the home of the parents as evidenced by an order from a court of competent jurisdiction terminating parents rights or its equivalent; and (3-29-10)

b. The child has a physical, mental, emotional, or medical disability, or is at risk of developing such disability based on the child’s experience of documented physical, emotional, or sexual abuse, or neglect; or (4-7-11)

c. The child’s age makes it difficult to find an adoptive home; or (3-18-99)

d. The child is being placed for adoption with at least one (1) sibling; and (4-7-11)

e. The State must make a reasonable but unsuccessful effort to place the child with special needs

without a subsidy, except in cases where it is not in the best interests of the child due to their significant emotional ties with the foster parent(s) or relative(s) who are willing to adopt the child. (4-7-11)

03. Determination of Eligibility for State Funded Adoption Assistance. Children in state custody who meet the special needs criteria found in Subsection 900.02 of these rules and do not meet any of the criteria for Title IV-E adoption assistance found at Subsection 900.01 in these rules, may be eligible for state-funded adoption assistance benefits. If the child is determined ineligible for Title IV-E adoption assistance, the application will be evaluated for a state-funded subsidy. (3-30-07)

04. Interjurisdictional Adoptions. When a child's adoption is arranged through the care and placement of a private non-profit adoption agency in another state and the adoptive family are residents of Idaho, the state of Idaho is responsible for the eligibility determination, negotiation, and payment of any subsequent Title IV-E adoption assistance benefits. (3-30-07)

05. International Adoptions and Adoption Assistance. A child who meets the criteria for special needs under Subsection 900.02 of this rule, who is not a citizen or resident of the United States, and who was adopted outside of the United States or was brought into the United States for the purpose of being adopted, is not eligible to receive adoption assistance. This restriction does not prohibit adoption assistance payments for a child described in this Subsection who is placed in foster care subsequent to the failure, as determined by the State, of the initial adoption of the child by the adoptive parents. (3-29-10)

901. ATTEMPT TO PLACE WITHOUT ADOPTION ASSISTANCE.
The Department is required to attempt to place all children for adoption without adoption assistance. However, all adoptive families are entitled to full information and disclosure regarding the adoption assistance program. Once the most suitable family is located for the child, the family will be informed of the needs and history of the child and asked if they can adopt the child without adoption assistance. If the family indicates that they need adoption assistance, the Department will begin the process of determining the amount and type of benefits for the child. (3-18-99)

902. -- 909. (RESERVED)

910. TYPES AND AMOUNTS OF ASSISTANCE.
The needs of the child and the family, including any other children in the family, will be considered in determining the amount and type of support to be provided. Assistance may include the following: (3-30-07)

01. Nonrecurring Adoption Reimbursement. Payment for certain one-time expenses necessary to finalize the adoption may be paid when a family adopts a special needs child. The child's eligibility must be determined and the contract for reimbursement must be fully executed prior to the finalization of the adoption. The reimbursement is paid only after the adoption finalizes. *( )*

a. The expenses are defined as reasonable and necessary adoption fees, court costs, attorney fees, and other expenses that are directly related to the legal adoption finalization of a child with special needs and which are not incurred in violation of state or federal law. They may include mileage and lodging involved in visiting the child before placement occurs. These expenses cannot be reimbursed if they are paid for the adoptive parents by other sources such as an employer. *( )*

b. Documentation of expenses must be submitted. *( )*

c. Costs are reimbursable up to two thousand dollars ($2,000) per child and are entered on the Adoption Assistance Program Agreement. *( )*

d. Children for whom the adoption has been finalized without a negotiated Nonrecurring Expenses Reimbursement Agreement are not eligible to apply for these benefits. *( )*

02. Monthly Cash Payment. Financial assistance in the form of a monthly cash payment may be established to assist the adoptive family in meeting the additional expenses of the child's special needs. The amount of the payment must be negotiated with the family by the adoption worker and based on the family's circumstances

and what additional resources are needed to incorporate the child into the adoptive family. ( )

a. The amount must not exceed the rate for family foster care found in Subsections 483 and 484 of these rules, which would be made if the child were in a family foster home in Idaho. ( )

b. Payments received for treatment foster care, gifts, clothing, and school fees are not considered part of the family foster care rate. ( )

c. For children who meet the definition of special needs at Subsection 900.02 of these rules, no monthly cash payment is allowable until such time as the specific disability for which the child is known to be at risk becomes evident. ( )

d. For children who are currently eligible for Personal Care Services (PCS), the treatment foster care rate of up to a maximum of one thousand dollars ($1,000) per month may be used in negotiating the adoption assistance upon prior approval of the Department's Family and Community Services (FACS) Division Administrator. ( )

e. Benefits will continue until the child reaches eighteen (18) years, based upon an annual determination of continuing need. ( )

03. Title XIX -- Medicaid Coverage. Any child with special needs who has an adoption assistance agreement in effect is also eligible for medical coverage. ( )

a. A Title IV-E adoption assistance agreement provides Medicaid coverage in the state of Idaho and in all other states. Under a state-funded adoption assistance agreement, a child living in Idaho is eligible for Medicaid. If the family moves to another state, Medicaid may or may not be available. If Medicaid is not available in the new state, provisions for medical coverage must be contained in the adoption assistance agreement or in an amendment to the agreement. ( )

b. Families enrolled in a group health plan who plan to request to use Medicaid as the child's primary health care coverage must apply to the Idaho Health Insurance Premium Payment (HIPP) program at the time of benefit negotiation. Medicaid provides secondary coverage after the family's health insurance has reached its benefit limit. ( )

c. All services reimbursed by Medicaid must be determined to be medically necessary. ( )

d. Prior authorization may be required for some Medicaid reimbursable services. ( )

e. Medicaid benefits are available until the child reaches the age of eighteen (18), based upon an annual determination of continuing need. ( )

04. Title XX -- Social Services. Any child with special needs who has an Adoption Assistance Agreement is also eligible for state-authorized Title XX - Federal Social Services Block Grant funded services. (3-30-07)

911. ADOPTION ASSISTANCE PROGRAM AGREEMENT.

A written agreement must be negotiated and fully executed between the Department and adopting family prior to the finalization of adoption and implementation of benefits. (5-8-09)

01. Agreement Specifications. The agreement specifies the following: (5-8-09)

a. The type and amount of assistance to be provided; (5-8-09)

b. That there will be an annual review of each agreement by the Department to evaluate the need for continued subsidy and the amount of the subsidy; (5-8-09)

c. That the agreed upon type and amount of assistance may be adjusted only with the concurrence of

the adoptive parent(s) based upon changes in the needs of the child or changes in the circumstances of the adoptive family; (5-8-09)

d. That the adoptive parent(s) are required to inform the Department of any circumstances that would make them ineligible for adoption assistance payments, or eligible for adoption assistance payments in a different amount. (5-8-09)

02. Termination of Adoption Assistance. Adoption assistance will be terminated if the adoptive parent(s) no longer have legal responsibility for the child as a result of termination of parental rights, the child is no longer receiving any financial support from the parents, or the child has reached the age of eighteen (18) years regardless of the child's educational status. (4-11-06)

03. Adoption Assistance Follows the Child. If the adoptive parents are located in a state other than Idaho, or move out of Idaho with the child, the adoption assistance payments initiated by Idaho will continue for the child. If the child is IV-E or state-funded adoption assistance eligible, referral for Medicaid or other state medical insurance and social service benefits will be forwarded to the new state of residence through the Interstate Compact on Adoption and Medical Assistance. Non IV-E eligible children receiving a state adoption subsidy, may not be eligible for Medicaid in a state other than Idaho. (5-3-03)

912. -- 919. (RESERVED)

920. REQUEST FOR RECONSIDERATION FOR ADOPTION ASSISTANCE.
Families who adopted a child, or children with special needs on or after April 1, 1982, through either the Department or a licensed Idaho children's adoption agency, may be eligible for benefits through the Adoption Assistance program. Persons who adopted their relative children, may also be eligible for these adoption assistance benefits. ( )

01. Adoption Assistance Agreement. Per Public Law 96-272, the adoptive family must sign an adoption assistance agreement prior to the finalization of the adoption in order for the child to receive benefits. Adoptive families who were not informed of these benefits or who were wrongly denied these benefits may submit an application to the Department prior to the eighteenth birthday of the adopted child for a determination of eligibility for these benefits. ( )

02. Eligibility Determination. The Division of Family and Community Services determines eligibility based on the eligibility factors determining a special needs child that were in effect at the time of the child's adoption. ( )

a. If the IV-E eligibility determination finds that a child was eligible for these benefits at the time of the child's adoption, and an agreement was not signed prior to the finalization, the Department is required to deny benefits to the child, since no contract was in effect at the time of the adoption finalization. ( )

b. The adoptive family may request a fair hearing for adoption assistance IV-E eligibility determination. ( )

i. The determinations to be made at this hearing are whether extenuating circumstances exist or whether the family was wrongly denied eligibility, *or both*. ( )

ii. The Division of Family and Community Services may not change its eligibility determination for a child eligible for IV-E adoption assistance benefits and provide adoption assistance based on extenuating circumstances without obtaining a favorable ruling from a fair hearing officer. ( )

921. BURDEN OF PROOF -- EXTENUATING CIRCUMSTANCES.
The family has the burden of proving extenuating circumstances at the fair hearing, although, if the state agency is in agreement that the family had erroneously been denied benefits, the agency may provide such facts to the family or present corroborating facts on behalf of the family to the fair hearing officer. Once the hearing officer rules in favor of a family that extenuating circumstance exist and that the child is eligible for IV-E adoption assistance benefits, the agency must negotiate an agreement with the adoptive family consistent with these rules. (3-18-99)

922. RETROACTIVE ADOPTION ASSISTANCE BENEFITS.
The Department of Health and Welfare, Division of Family and Community Services may negotiate retroactive adoption assistance benefits for a maximum of twenty-four (24) months from the date of adoption assistance application, identified in Section 920 of these rules. (3-20-04)

923. DISRUPTION OF INTERNATIONAL ADOPTIONS.
The Intercountry Adoption Act of 2000 (P.L. 106-279) requires that each state make an annual report of children who were adopted from other countries who enter state guardianship as a result of termination of the parental rights of the adoptive parent and the dissolution of the adoption. The report will include the name of the agency who handled the placement or the adoption, the plans for the child, and the reasons for the disruption or dissolution. Each region will collect this information and send it to the Department's Permanency Program Specialist in January of each year. (3-30-07)

924. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Sections *39-1107,* 39-1111, 39-1207, 39-1209, 39-1210, 39-1211, 39-1213, 56-1003, 56-1004A, 56-1005(8), *and 56-1007*, Idaho Code, the Idaho Legislature authorizes the Department of Health and Welfare and the Board of Health and Welfare to adopt and enforce rules governing standards and procedures for licensing daycare centers, group daycare facilities, family daycare homes, foster homes, children's agencies, children's residential care facilities, children's camps, and children's therapeutic outdoor programs that are maintained or operated within Idaho. *( )*

001. TITLE, SCOPE, POLICY, PURPOSE, EXCEPTIONS, AND EXEMPTIONS TO LICENSING.

01. Title. These rules are titled IDAPA 16.06.02, "Child Care Licensing." *( )*

02. Scope. These rules establish minimum standards and procedures for licensing, maintaining, and operating the following facilities or programs within Idaho: (4-7-11)

a. Daycare centers; (4-7-11)

b. Group daycare facilities; (4-7-11)

c. Family daycare homes, voluntarily; (4-7-11)

d. Foster homes; (4-7-11)

e. Children's agencies; (4-7-11)

f. Children's residential care facilities, including non-accredited residential schools; (4-7-11)

g. Children's camps providing child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period; (4-7-11)

h. Children's therapeutic outdoor programs; (4-7-11)

i. Alcohol-drug abuse treatment facilities for adolescents certified according to IDAPA 16.07.17, "Substance Use Disorders Services"; and (4-7-11)

j. Facilities specializing in maternity care for minors. (4-7-11)

03. Policy. It is the policy of the Department to assure that children of this state receive adequate substitute parental care in the event of absence, temporary or permanent inability of parents to provide care and protection for their children or the parents are seeking alternative twenty-four (24) hour long-term care for their children. This policy is based on the fact that children are vulnerable and not capable of protecting themselves. When parents, for any reason have relinquished their children's care to others, there arises the possibility of certain risks to those children's lives, health and safety which the community as a whole must protect against. This requires the offsetting statutory protection of review and, in certain instances, licensing or registration. (7-1-09)

04. Purpose. The Department issues a license to assure, as is reasonably practicable, that the care, services, and physical surroundings of each program or facility are in substantial compliance with these rules and minimum standards. (4-7-11)

a. According to Section 39-1117, Idaho Code, a daycare license does not constitute a representation affirming to any person that the program or facility is free from risk. A daycare license does not guarantee adequacy of care, services, safety, or the well-being of any child, staff, contractor, volunteer, or visitor of a daycare facility. It is the parent's primary responsibility for evaluation and selection of daycare services. (4-7-11)

b. The state, its employees or agents of the state or its political subdivisions, will not be liable for nor will a cause of action exist for any loss or damage based upon the failure of any daycare facility to meet the minimum standards contained in these rules. (4-7-11)

05. Exceptions and Exemptions to Daycare Licensing. Under Section 39-1103, Idaho Code, the minimum standards and licensing requirements in these rules do not apply to: (4-7-11)

a. Daycare facilities regulated, licensed, or certified by a city or county in accordance with local options under Section 39-1108, Idaho Code; (4-7-11)

b. The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily in the business of providing daycare; (4-7-11)

c. The operation of a private school or religious school for educational purposes for children over four (4) years of age, or a religious kindergarten; (4-7-11)

d. The provision of occasional care exclusively for children of parents who are simultaneously in the same building; (4-7-11)

e. The operation of day camps, programs and religious schools for less than twelve (12) weeks during a calendar year or not more often than once a week; or (4-7-11)

f. The provision of care for children of a family within the second degree of relationship as defined in Section 011 of these rules. (4-7-11)

06. Exceptions and Exemptions to Child Care Licensing. Under Sections 39-1206, 39-1213(b), and 39-1211, Idaho Code, the minimum standards and licensing requirements in these rules do not apply to: (4-7-11)

a. Foster homes that have been approved by a licensed children's agency provided the standards for approval by such agency are no less restrictive than the rules and standards established by the Board and that such agency is maintained, operated, and conforms with these rules and standards; (4-7-11)

b. The occasional or irregular care of a neighbor's, relative's, or friend's child or children by a person not ordinarily engaged in child care; or (4-7-11)

c. Children's camps which only provide child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period constitutes a children's residential care facility and is subject to the minimum standards and licensing requirements in these rules. (4-7-11)

002. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference in this chapter of rules. (7-1-09)

01. Occupational Safety Health Act (OSHA). A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. (3-30-01)

02. Crib Safety. Consumer Product Safety Commission, Crib Safety Tips can be found on the Internet at https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs. (3-30-01)

003. -- 008. (RESERVED)

009. CRIMINAL HISTORY AND BACKGROUND CHECK REQUIREMENTS.

01. Compliance with Department Criminal History and Background Check. Criminal history and background checks are required for individuals who are licensed under these rules. Individuals who are required to have a criminal history check must comply with IDAPA 16.05.06, "Criminal History and Background Checks," with the exception of those individuals described in Subsection 009.04 of this rule. (4-7-11)

02. When License is Granted. The applicant must have a completed criminal history and background check, including clearance, prior to licensure. Any other adult living in the home must complete a criminal history application, must be fingerprinted, and must not have any disqualifying crimes listed in IDAPA 16.05.06, "Criminal History and Background Checks." (4-7-11)

03. Individuals Subject to Criminal History Check Requirements. The following individuals must receive a criminal history and background check clearance prior to licensure: (4-7-11)

a. Adoptive Parents. The criminal history and background check requirements applicable to adoptive parents are found in Subsection 671.02 of these rules. (3-30-07)

b. Child Care Facility Staff. The criminal history and background check requirements applicable to a child care facility are found in Section 109 of these rules. (3-30-07)

c. Children's Agency Facility Staff. The criminal history and background check requirements for a children's agency facility are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. (3-30-07)

d. Children's Residential Care Facility and Children's Camp Staff. The criminal history and background check requirements for a children's residential care facility or children's camp are found in Section 109 of these rules and in Section 39-1210(10), Idaho Code. (4-7-11)

e. Children's Therapeutic Outdoor Program Staff. The criminal history and background check requirements for a children's therapeutic outdoor program are found in Section 810 of these rules and in Section 39-1208(8), Idaho Code. (3-30-07)

f. Daycare Center, Group Daycare Facility, and Family Day Care Home. The criminal history and background check requirements applicable to a daycare center, group daycare facility, and family daycare home are found in Section 309 of these rules and in Sections 39-1105, 39-1113, and 39-1114, Idaho Code. (4-7-11)

g. Licensed Foster Care Home. The criminal history and background check requirements applicable to licensed foster care are found in Section 404 of these rules and in Section 39-1211(4), Idaho Code. (3-30-07)

04. Exceptions to Criminal History and Background Checks for Certain Youths. Criminal history and background checks are optional for certain youth placed in licensed foster homes and licensed residential care facilities. (4-7-11)

a. Youth in foster care who reach the age of eighteen (18) and continue to reside in the same licensed foster home. (3-30-07)

b. Youth in a children's residential care facility who reach the age of eighteen (18) and continue to live in the same licensed residential facility. (3-30-07)

05. Criminal History and Background Check at Any Time. The Department can require a criminal history and background check at any time on any individual who: (4-7-11)

a. Is a resident or an adult living in a licensed foster home; (4-7-11)

b. Is a resident or adult living in, employee, contractor, volunteer, or staff member of a licensed residential facility; or (4-7-11)

c. Is an owner, operator, or staff of a daycare center, group daycare facility, family daycare home, and all other individuals who are thirteen (13) years of age or older who have unsupervised direct contact with children or who are regularly on the premises. (4-7-11)

010. DEFINITIONS A THROUGH M.

For the purposes of these rules, the following terms apply. (7-1-09)

01. Accredited Residential School. A residential school for any number of children subject to the jurisdiction of the Idaho Department of Education that has been certified as accredited according to the accrediting standards promulgated by the Idaho State Board of Education or a secular or religious accrediting association recognized by the Idaho Department of Education. (3-30-01)

02. Alcohol-Drug Abuse Treatment Facility. A children's residential care facility specializing in providing programs of treatment for children whose primary problem is alcohol or drug abuse, certified according to IDAPA 16.07.17, "Substance Use Disorders Services." (4-7-11)

03. Attendance. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, "attendance" means the number of children present at a daycare facility at any given time. (4-7-11)

04. Board. The Idaho State Board of Health and Welfare. (3-30-01)

05. Chief Administrator. The duly authorized representative of an organization responsible for day-to-day operations, management and compliance with these rules and Title 39, Chapter 12, Idaho Code. (7-1-09)

06. Child. (4-7-11)

a. For requirements of Title 39, Chapter 12, Idaho Code, and Sections 400 through 999 of these rules, "child" means an individual less than eighteen (18) years of age, synonymous with juvenile or minor. (4-7-11)

b. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, "child" means an individual less than thirteen (13) years of age. (4-7-11)

07. Child Care. The care, control, supervision or maintenance of children for twenty-four (24) hours a day which is provided as an alternative to parental care. (3-30-01)

08. Child-Staff Ratio. "Child-staff ratio" means the maximum number of children allowed under the care and supervision of one (1) staff person. (4-7-11)

09. Children's Agency. A person who operates a business for the placement of children in foster homes, children's residential care facilities or for adoption in a permanent home and who does not provide child care as part of that business. A children's agency does not include a licensed attorney or physician assisting or providing natural and adoptive parents with legal services or medical services necessary to initiate and complete adoptive placements. (3-30-01)

10. Children's Camp. A program of child care at a location away from the child's home, which is primarily recreational and includes the overnight accommodation of the child and is not intended to provide treatment, therapy or rehabilitation for the child. A children's camp which only provides child care for any one (1) child for less than nine (9) consecutive weeks in any one (1) year period is exempt from the licensure and disclosure provisions of this chapter. A children's camp which provides child care for any one (1) child for more than nine (9) consecutive weeks in any one (1) year period constitutes a children's residential care facility. (7-1-09)

11. Children's Institution. A person defined herein, who operates a residential facility for unrelated children, for the purpose of providing child care. Children's institutions include foster homes, children's residential care facilities, maternity homes, or any residential facility providing treatment, therapy or rehabilitation for children, or any children's therapeutic outdoor program. (5-3-03)

12. Children's Residential Care Facility. A facility that provides residential child care, excluding foster homes, residential schools, juvenile detention centers and children's camps that: (3-30-01)

a. Seeks, receives or enrolls children for treatment of special needs such as substance abuse, mental illness, emotional disturbance, developmental disability, mental retardation, or children who have been identified by the judicial system as requiring treatment, therapy, rehabilitation or supervision; (3-30-01)

b. Receives payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; or (3-30-01)

c. Represents to the payor of the child care services provided by the children's facility that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services; and (5-3-03)

d. May include a children's therapeutic outdoor program whether or not that program operates out of a standard facility. (5-3-03)

13. Children's Therapeutic Outdoor Program. A program which is designed to provide behavioral, substance abuse, or mental health services to minors in an outdoor setting and serves either adjudicated or non-adjudicated youth. Children's Therapeutic Outdoor programs do not include outdoor programs for minors that are primarily designed to be educational or recreational that may include Boy Scouts, Girl Scouts, 4-H and other youth organizations. (5-3-03)

14. Continued Care. The ongoing placement of an individual in a foster home, children's residential care facility, children's therapeutic outdoor program, or transitional living placement who reaches the age of eighteen (18) years but is less than twenty-one (21) years of age. (7-1-09)

15. Contraband. Goods or merchandise, the possession of which is prohibited, such as weapons and drugs. (3-30-01)

16. Daycare. The care and supervision provided for compensation during part of a twenty-four (24) hour day, for a child or children not related by blood, marriage, adoption, or legal guardianship to the person or persons providing the care, in a place other than the child's or children's own home or homes. (4-7-11)

17. Daycare Center. A place or facility providing daycare for compensation for thirteen (13) or more children. (4-7-11)

18. Department. The Idaho Department of Health and Welfare. (4-7-11)

19. Direct Care Staff. An employee who has direct personal interaction with children in the provision of child care and is included as staff in meeting the minimum staff-child ratio requirements. (3-30-01)

20. Director. Director of the Idaho Department of Health and Welfare or designee. (3-30-01)

21. Family Daycare Home. A home, place, or facility providing daycare for six (6) or fewer children. (4-7-11)

22. Foster Care. The twenty-four (24) hour substitute parental care of children by persons who may or may not be related to a child. (7-1-09)

23. Foster Home. The private home of an individual or family licensed or approved as meeting the standards for foster care and providing twenty-four (24) hour substitute parental care to six (6) or fewer children. (7-1-09)

24. Foster Parent. A person or persons residing in a private home under their direct control to whom a foster care license has been issued. (4-7-11)

25. Group Daycare Facility. A home, place, or facility providing daycare for seven (7) to twelve (12) children. (4-7-11)

26. Inter-Country Adoption. The placement of a child from one (1) country to another for the purpose of adoption. (3-30-01)

27. International Fire Code. The International Fire Code as outlined by Section 41-253, Idaho Code. The addition for the year prior to the issuance of the license will be used. Published by the International Code Council. A copy is available at any public library in Idaho.

28. International Building Code. The International Building Codes as outlined in Section 39-4109, Idaho Code. The addition for the year prior to the issuance of the license will be used. Published by the International Code Council. A copy is available at any public library in Idaho.

29. Mechanical Restraint. Devices used to control the range and motion of an individual, including handcuffs, restraint boards, restraint chairs, and restraint jackets. (3-30-01)

30. Medical Professionals. Persons who have received a degree in nursing or medicine and licensed registered nurse, licensed nurse practitioner, physician's assistant, and medical doctor. (3-30-01)

31. Member of the Household. Any person, other than a foster child, who resides in, or on the property of, a foster home. (3-30-01)

011. DEFINITIONS N THROUGH Z.
For the purposes of these rules, the following terms apply. (7-1-09)

01. Nonaccredited Residential School. A residential school for any number of children that is not certified or accredited pursuant to Section 39-1207, Idaho Code, or has lost accreditation and is subject to the jurisdiction of the Department as a children's residential care facility pursuant to Section 39-1210, Idaho Code, unless and until accreditation is certified by the Idaho Department of Education. (3-30-01)

02. Non-Compliance. Violation of, or inability to meet the requirements of, the act or a rule promulgated under the act, or terms of licensure. (3-30-01)

03. Operator. An individual who operates or maintains within Idaho a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp. (4-7-11)

04. Organization. A children's agency or a children's residential care facility. (3-30-01)

05. Person. Any individual, group of individuals, associations, partnerships or corporations. (3-30-01)

06. Physical Intervention. Physical restraint utilized to control the range and motion of an individual. (3-30-01)

07. Placement. The activities and arrangements related to finding a suitable licensed home or facility in which a child will reside for purposes of care, treatment, adoption, or other services. (3-30-01)

08. Plan of Correction. The detailed procedures and activities developed between the licensing authority and caregiver required to bring a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster family, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp into conformity with these licensing rules. (4-7-11)

09. Regularly on the Premises. For the purposes of Sections 009 and 309 of these rules, regularly on the premises means twelve (12) hours or more in any one (1) month, or daily during any hours of operation. (4-7-11)

10. Relative. Under Section 39-1202, Idaho Code, "relative" means a child's grandparent, great grandparent, aunt, great aunt, uncle, great uncle, brother-in-law, sister-in-law, first cousin, sibling, and half-sibling. (4-7-11)

11. Representative. An employee of the Department of Health and Welfare. (3-30-01)

12. Residential School. A residential facility for any number of children which: (3-30-01)

a. Provides a planned, scheduled, regular, academic or vocational program for students in the elementary, middle or secondary grades as defined in Section 33-1001, Idaho Code; and (3-30-01)

b. Provides services substantially comparable to those provided in nonresidential public schools where the primary purpose is the education and academic pursuits of the students; and (3-30-01)

c. Does not seek, receive or enroll students for treatment of such special needs as substance abuse, mental illness, emotional disturbance, developmental disability or mental retardation; and (3-30-01)

d. Does not receive payment, including payment from health insurance carriers, for identified treatment needs such as substance abuse, mental illness, emotional disturbance, developmental disability, or mental retardation; and (3-30-01)

e. Does not represent to the payor of child care services provided that such payment may qualify for health insurance reimbursement by the payor's carrier or may qualify for tax benefits relating to medical services. (3-30-01)

13. Restraint. Interventions to control the range and motion of a child. (3-30-01)

14. Seclusion. A room within a facility designed to temporarily isolate an individual in order to gain emotional or physical control by means of structure and minimal stimulation. (3-30-01)

15. Second Degree of Relationship. The second degree of relationship refers to persons related consanquineally ("blood relative") and affinially ("relative by marriage") and includes their spouses. The number of degrees between two (2) relatives is calculated by summing the number of ties between each relative and the common ancestor. (4-7-11)

16. Secure. A physically restrictive setting, as in a locked or guarded residential facility. (3-30-01)

17. Security Risk. An individual who presents the possibility by actions, behavior or emotional reaction that may result in harm to self or others, or escape from physical control. (3-30-01)

18. Service Worker. An employee of an organization who has obtained at a minimum, a Bachelor's degree in a behavioral science, including social work, sociology, psychology, criminal justice, counseling, or a related field, whose duties may include assessment, service planning, supervision and support. (7-1-09)

19. Shelter Care. The temporary or emergency out-of-home care of children in a foster home or residential facility. (3-30-01)

20. Social Worker. An individual licensed by the state of Idaho in compliance with Title 54, Chapter 32, Idaho Code, and IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (7-1-09)

21. Soft Restraints. Mechanical restraints made of leather, cloth or other combinations of fibers, utilized to control the range of motion of an individual. (3-30-01)

22. Staff. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, "staff" means a person who is sixteen (16) years of age or older and employed by a daycare owner or operator to provide care and supervision at a daycare facility. (4-7-11)

23. Supervision. For requirements of Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules, supervision is defined as within sight and normal hearing range of the child or children being cared for. (4-7-11)

24. Time-Out. Separation of a child from group activity as a means of behavior management. (3-30-01)

25. Training. The preparation, instruction and education related to child care that increases the knowledge, skill and abilities of a foster parent, agency and residential care facility staff or volunteers. (3-30-01)

26. Transitional Living. Living arrangements and aftercare services for children, or as continued care, to gain experience living on their own in a supportive and supervised environment prior to emancipation. (3-30-01)

27. Variance. The means of complying with the intent and purpose of a child care licensing rule in a manner acceptable to the Department other than that specifically prescribed in the rule. (7-1-09)

28. Waiver. The non-application of a child care licensing rule, except those related to safety, extended to a relative foster home by the licensing authority which serves to promote child health, well-being, and permanence while not compromising safety. (7-1-09)

012. -- 099. (RESERVED)

LICENSING AND CERTIFICATION
(Sections 100 - 299)

100. LICENSING.

The purpose of licensing is to set minimum standards and to monitor compliance. Persons applying for licensure need to be physically and emotionally suited to protect the health, safety and well-being of the children in their care. Physical surroundings must present no hazards to the children in care. (4-7-11)

01. Responsibilities of the Foster Parent or Operator. A foster parent or operator must conform to the terms of the license. (4-7-11)

02. Responsible for Knowledge of Standards. The foster parent or operator is responsible for knowing the standards and rules applying to the type of foster home, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, covered by the license, and for conforming to them at all times. (4-7-11)

03. Responsible for Agency Staff Knowledge. The operator of a child care facility or agency is responsible for ensuring that all staff members are familiar with the applicable rules governing the children's residential care facility, children's therapeutic outdoor program, children's agency, children's camp, daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department. A copy of these rules is available from the Office of the Administrative Rules Coordinator, 650 W. State Street, Boise ID 83720, or on the Office of the Administrative Rules Coordinator's website, http://adminrules.idaho.gov/. (4-7-11)

04. Return of License. The foster parent or operator must immediately return their license to the Department under any of the following circumstances: (4-7-11)

a. Changes of management or address; (4-7-11)

b. Upon suspension or revocation of the license by the Department; or (4-7-11)

c. Upon voluntary discontinuation of service. (3-30-01)

101. APPLICATIONS FOR LICENSE.

An application for a license must be submitted to the Department. Licensing studies will follow the format of these rules and will contain a specific recommendation regarding the terms of the license. All foster homes, children's agencies, children's therapeutic outdoor programs, children's camps, daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, and children's residential care facilities must also comply with applicable Idaho city and county ordinances. (4-7-11)

102. DISPOSITION OF APPLICATIONS.

The Department will initiate action on each completed application within thirty (30) days after receipt that addresses each requirement for the specific type of home, facility, or agency. Upon receipt of a completed application and study, the licensing authority will review the materials for conformity with these rules. (4-7-11)

01. Approval of Application. A license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules

governing the home or facility. The license is issued according to the terms specified in the licensing study and will be mailed to the applicant. (4-7-11)

02. Regular License. A regular license will be issued to any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency found to be in conformity with these rules governing the facility and will specify the terms of licensure, such as: (4-7-11)

a. Full time or daycare; (3-30-01)

b. The number of children who may receive care at any one (1) time; and (3-30-01)

c. Age range and gender, if there are conditions in the foster home or children's residential care facility making such limitations necessary; (3-30-01)

d. The regular license for a foster home, children's agency, children's residential care facility, children's therapeutic outdoor program, or children's camp is in effect for one (1) year from the date of issuance unless suspended or revoked earlier; (4-7-11)

e. A regular license for a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department is in effect for two (2) years from the date of issuance unless suspended or revoked earlier; and (4-7-11)

f. If the license for a foster home is for a specific child only, the name of that child will be shown on the foster home license. (3-30-01)

03. Waiver. A regular license may be issued to the foster home of a relative who has received a waiver of licensing rules provided: (4-7-11)

a. The waiver is considered on an individual case basis; (3-30-01)

b. The waiver is approved only for non-safety foster care rules; (7-1-09)

c. All other licensing requirements have been met; (4-7-11)

d. The approval of a waiver of any foster home rules requires the licensing authority to document a description of the reasons for issuing a waiver, the rules being waived, and assurance that the waiver will not compromise the child's safety; and (7-1-09)

e. The approved waiver must be reviewed for continued need and approval at regular intervals not to exceed six (6) months. (7-1-09)

04. Variance. A regular license will be issued to a foster home, children's residential care facility or children's agency approved for a variance of a licensing rule provided: (4-7-11)

a. The variance is considered on an individual case basis; (3-30-01)

b. The variance is approved for a non-safety licensing rules; (3-30-01)

c. The approval of a variance must have no adverse effect on the health, safety, and well-being of any child in care at the foster home or facility; (7-1-09)

d. The approval of a variance is documented by the licensing agency and includes a description of the reasons for issuing a variance and assurances that the variance will not compromise any child's health, safety, and well-being; and (7-1-09)

e. The approved variance must be reviewed for continued need and approval annually. (7-1-09)

05. Provisional License. A provisional license may be issued to a foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency when a licensing standard cannot be met but can be expected to be corrected within six (6) months, provided this does not affect the health, safety and well-being of any child in care at the home or facility. (3-21-12)

a. A provisional license will be in effect for not more than six (6) months. (4-7-11)

b. Only one (1) provisional license will be issued to a foster home, children's residential care facility, children's agency, children's therapeutic outdoor program, or children's camp in any twelve-month period of time under Section 39-1216, Idaho Code. (3-21-12)

06. Limited License. A limited license for a foster home may be issued for the care of a specific child in a home which may not meet the requirements for a license, provided that: (3-30-01)

a. The child is already in the home and has formed strong emotional ties with the foster parents; and (3-30-01)

b. It can be shown that the child's continued placement in the home would be more conducive to their welfare than would removal to another home. (3-30-01)

07. Denial of Application. In the event that an application is denied, a signed letter will be sent directly to the applicant by registered or certified mail, advising the applicant of the denial and stating the basis for such denial. An applicant whose application has been denied may not reapply until after one (1) year has elapsed from the date on the denial of application. (4-7-11)

08. Failure to Complete Application Process. (7-1-09)

a. Failure of the applicant to complete the application process within six (6) months of the original date of application will result in a denial of the application. (7-1-09)

b. An applicant whose application has been denied for being incomplete may not reapply until after one (1) year has elapsed from the date on the denial of application. (7-1-09)

103. RESTRICTIONS ON APPLICABILITY AND NONTRANSFER.

01. Issued License. A license applies only to the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's agency, children's therapeutic outdoor program, children's camp, or the person and premises designated. Each license is issued in the name of the individual, firm, partnership, association, corporation, or governmental unit identified on the application and only to a specified address of the facility or program stated in the application for the period and services specified. A license issued in the name of a foster parent, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's agency applies only to the services specified in the license. Any change in management or address renders the license null and void, and the foster parent or operator must immediately return the license to the licensing agency as required in Section 100 of these rules. (4-7-11)

02. Nontransferable. A license is nontransferable or assignable from one (1) individual to another, from one (1) business entity or governmental unit to another, or from one (1) location to another. (4-7-11)

03. Change in Ownership, Operator, or Location. When there is a change in ownership, operator, or a change in location occurs, the facility or program must reapply for a license as required in Section 101 of these rules. The new owner or operator must obtain a license before starting operations. (4-7-11)

104. MANDATORY VISITATIONS.

In accordance with Section 39-1217, Idaho Code, the Department or other licensing authority must visit, and must be given access to, the premises of each licensed foster home, licensed children's agency, licensed children's therapeutic

outdoor program, and licensed children's residential care facility as often as deemed necessary or desirable by the Department to assure conformity with the requirements in this chapter of rules but, in any event, at intervals not to exceed twelve (12) months. (4-11-06)

105. REVISIT AND RELICENSE.
Revisit and relicense studies will document how the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency continues to meet the standards for licensing. Consideration must be given to each point of the standards, including a review of the previous study and original application to determine what changes have occurred. An application for renewal of a license must be made by the operator on the form furnished by the Department, and filled out prior to the expiration date of the license currently in force. When such application for renewal has been made in the proper manner and form, the existing license will, unless officially revoked, remain in force until the Department has acted on the application for renewal. (4-7-11)

106. COMPLAINTS AGAINST DAYCARE CENTERS, GROUP DAYCARE FACILITIES, FAMILY DAYCARE HOMES, FOSTER HOMES, CHILDREN'S RESIDENTIAL CARE FACILITIES, CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS, CHILDREN'S CAMPS, AND CHILDREN'S AGENCIES.

01. Investigation. The Department will investigate complaints regarding daycare centers, group daycare facilities, family daycare homes voluntarily licensed by the Department, foster homes, children's residential care facilities, children's therapeutic outdoor programs, children's camps, or children's agencies. The investigation may include further contact with the complainant, scheduled or unannounced visits to the children's residential care facility, foster home, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's agency, collateral contacts including interviews with the victim, parents or guardian, children's residential care facility or children's agency administrator, operator, staff, consultants, children in care, other persons who may have knowledge of the complaint, and inspections by fire or health officials. (4-7-11)

02. Informed of Action. If an initial preliminary investigation indicates that a more complete investigation must be made, the foster parents, operator, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency will be informed of the investigation, and any action to be taken, including referral for civil or criminal action. (4-7-11)

107. SUSPENSION FOR CIRCUMSTANCES BEYOND CONTROL OF FOSTER PARENT OR OPERATOR.
When circumstances occur over which the foster parent or operator has no control including illness, epidemics, fire, flood, or contamination, which temporarily place the operation of the foster home, child care facility, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's residential care facility, children’s therapeutic outdoor program, children’s camp, or children's agency out of conformity with Idaho law or with these rules, the license must be suspended until the nonconformity is remedied. (4-7-11)

108. SUSPENSION OR REVOCATION FOR INFRACTIONS.
A license may be suspended for infractions of these rules. Such suspension may lead to revocation if the foster parent or operator fails to satisfy the Director that the infractions have been corrected sufficiently to assure conformity with the rules. (4-7-11)

109. NON-RENEWAL, DENIAL, REVOCATION, OR SUSPENSION OF LICENSE.
If, upon investigation, it is found that an applicant, foster parent, or operator has failed or refused to comply with any of the provisions of the Basic Daycare License Law, Sections 39-1101 through 39-1120, Idaho Code, or the Child Care Licensing Reform Act, Sections 39-1201 through 39-1224, Idaho Code, or with these rules, or with any provision of the license, the Director may deny, suspend, revoke, or not renew a license. The Department may also deny, suspend, revoke, or deny renewal of a license for any daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, child care facility, children's residential care facility, children's agency, children’s therapeutic outdoor program, children’s camp, or foster home when any of the following in Subsection 109.01 and 109.02 of this rule is determined. (4-7-11)

01. Criminal Conviction or Relevant Record. Anyone providing direct care or working onsite under these rules is denied clearance or refuses to comply with the requirements in IDAPA 16.05.06, "Criminal History and Background Checks." (4-7-11)

02. Other Misconduct. The applicant, foster parent, operator, or the person proposed as chief executive officer: (4-7-11)

a. Fails to furnish any data, statistics, records or information requested by the Department without good cause or provides false information; (3-30-01)

b. Has been found guilty of or is under investigation for fraud, deceit, misrepresentation or dishonesty associated with the operation of a children's residential care facility or children's agency; (3-30-01)

c. Has been found guilty of or is under investigation for the commission of any felony; (3-30-01)

d. Has failed to exercise fiscal accountability toward a client or the Department regarding payment for services; or (3-30-01)

e. Has knowingly permitted, aided or abetted the commission of any illegal act on the premises of the daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's residential care facility, children's therapeutic outdoor program, children's camp, or children's agency. (4-7-11)

110. ENFORCEMENT REMEDY OF BAN ON ADMISSIONS.
The Department may summarily ban admissions, in whole or in part, pending satisfactory correction of all deficiencies. Bans will remain in effect until the Department determines that the organization has achieved full compliance with all program requirements, or until a substitute remedy is imposed. (7-1-09)

111. ENFORCEMENT REMEDY OF SUMMARY SUSPENSION AND TRANSFER OF RESIDENTS OR CHILDREN.
The Department may summarily suspend a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, children's camp, or a children's residential care facility license and require the program to transfer residents or children when the Department has determined a resident's or child's health and safety are in immediate jeopardy. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. (4-7-11)

112. ENFORCEMENT REMEDY REVOCATION OF LICENSE AND TRANSFER OF RESIDENTS OR CHILDREN.
The Department may revoke the license of a daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, foster home, children's agency, children's therapeutic outdoor program, or children's residential care facility when the Department determines the operator is not in compliance with these rules. Children in a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, will not be transported from the facility, instead the parent or legal guardian will be contacted. Revocation and transfer of residents or children may occur under the following circumstances: (4-7-11)

01. Endangers Health or Safety. Any condition that endangers the health or safety of any resident or child. (4-7-11)

02. Not in Substantial Compliance. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility is not in substantial compliance with these rules. (4-7-11)

03. No Progress to Meet Plan of Correction. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has made little or no progress in correcting deficiencies within thirty (30) days from the date the Department accepted a plan of correction. (4-7-11)

04. Repeat Violations. Repeat violations of any requirement of these rules or provisions of Title 39, Chapters 11 and 12, Idaho Code. (4-7-11)

05. Misrepresented or Omitted Information. A foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility has knowingly misrepresented or omitted information on the application or other documents pertinent to obtaining a license. (4-7-11)

06. Refusal to Allow Access. Refusal to allow Department representatives full access to the foster home, children's agency, daycare center, group daycare facility, family daycare home voluntarily licensed by the Department, children's therapeutic outdoor program, children's camp, or children's residential care facility and its grounds facilities and records. (4-7-11)

07. Violation of Terms of Provisional License. A children's agency, foster home, children's therapeutic outdoor program, children's camp, or children's residential care facility that has violated any of the terms or conditions of a provisional license. (3-21-12)

113. EFFECT OF PREVIOUS REVOCATION OR DENIAL OF A LICENSE.
An organization cannot apply and the licensing authority will not accept an application from any person, corporation, or partnership, including any owner with a ten percent (10%) or more interest, who has had a license denied or revoked, until five (5) years has elapsed from the date of denial, revocation, or conclusion of a final appeal, whichever occurred last. (7-1-09)

114. -- 299. (RESERVED)

STANDARDS FOR DAYCARE
(Sections 300 - 399)

300. STANDARDS FOR DAYCARE.

01. Daycare Standards. In addition to meeting the rules and minimum standards required in Sections 000 through 199 of these rules, each owner, operator, or applicant seeking licensure from the Department as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must also meet the requirements under Title 39, Chapter 11, Idaho Code, and Sections 300 through 399 of these rules. (4-7-11)

02. Minimum Age of Applicant. An individual, submitting an application to the Department to be licensed for a daycare center, group daycare facility, or family daycare home, must be a minimum of eighteen (18) years of age. (4-7-11)

301. TYPES OF DAYCARE LICENSES.
Subject to meeting all requirements under Title 39, Chapter 11, Idaho Code, and the rules and minimum standards in this chapter, the Department will determine the type of daycare license required by an owner or operator providing daycare by counting each child in attendance, regardless of relationship to the person or persons providing the care. The following types of daycare licenses may be issued by the Department. (4-7-11)

01. Daycare Center License. A daycare center license is issued for a place or facility providing daycare, where thirteen (13) or more children, regardless of relationship to the person or persons providing the care, are in attendance. (4-7-11)

02. Group Daycare Facility. A group daycare facility license is issued for a place or facility providing daycare, where seven (7) to twelve (12) children, regardless of relationship to the person or persons providing the care, are in attendance. (4-7-11)

03. Family Daycare Home. A family daycare home is not required to be licensed. However, a family daycare home may voluntarily elect to be licensed by the Department. (4-7-11)

302. -- 308. (RESERVED)

309. CRIMINAL HISTORY AND BACKGROUND CHECK FOR DAYCARE STANDARDS.

01. Criminal History and Background Check for Daycare Centers and Group Daycare Facilities. Each owner, operator, or applicant seeking licensure for a daycare center, group daycare facility, or a family daycare home must submit evidence that is satisfactory to the Department that the following individuals have successfully completed and received a clearance for a Department criminal history and background check under the provisions of Sections 39-1105 and 39-1113, Idaho Code: (4-7-11)

a. Owners, operators, and staff; (4-7-11)

b. All other individuals thirteen (13) years of age or older who have unsupervised direct contact with children; or (4-7-11)

c. All other individuals thirteen (13) years of age or older who are regularly on the premises. (4-7-11)

02. Juvenile Justice Records. The criminal history and background check for any individual under eighteen (18) years of age, must include a check of the juvenile justice records, as authorized by the minor and their parent or guardian. Records must be checked for each jurisdiction in which the individual has resided since becoming thirteen (13) years of age through eighteen (18) years of age. Each owner, operator, or applicant is responsible for requesting a check of the juvenile justice record, paying for the costs of a check of the juvenile justice records, and submitting them to the Department for review. A check of the juvenile justice records must include the following: (4-7-11)

a. Juvenile justice records of adjudication of the magistrate division of the district court; (4-7-11)

b. County probation services; and (4-7-11)

c. Department records. (4-7-11)

03. Criminal History and Background Check for Family Daycare Homes. Under Section 39-1114, Idaho Code, any person providing daycare for four (4) or more children in a family daycare home is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code. (4-7-11)

04. Criminal History and Background Check for Private Schools and Private Kindergartens. Under Section 39-1105, Idaho Code, any person who owns, operates, or is employed by a private school for educational purposes for children four (4) through six (6) years of age or a private kindergarten is required to comply with the requirements of Sections 39-1105 and 39-1113, Idaho Code. (4-7-11)

05. Cost of Criminal History and Background Check and Juvenile Justice Records. Each individual who requests and obtains a Department criminal history and background check is responsible for the cost of the criminal history and background check and check of juvenile justice records. (4-7-11)

06. On-going Duty to Report Convictions. Following completion of a criminal history and juvenile justice background check and clearance, additional criminal convictions and juvenile justice adjudications for disqualifying crimes under Section 39-1113, Idaho Code, must be self-disclosed by the individual to the owner or operator of a daycare center, group daycare facility, or family daycare home. The owner or operator must report these additional convictions and adjudications to the Department within five (5) days of learning of the conviction or adjudication. (4-7-11)

310. -- 319. (RESERVED)

320. DAYCARE LICENSING MAXIMUM TOTAL FEES.
A nonrefundable licensing fee must be paid to the Department prior to the issuance or renewal of a daycare license. (3-21-12)

01. Daycare Licensing Maximum Total Fee Amounts. The maximum total fee for initial licensure or renewal of a daycare center, group daycare facility, or family daycare home voluntarily licensed must not exceed the following amounts: (3-21-12)

a. For a daycare center with more than twenty-five (25) children in attendance at any given time - three hundred twenty-five dollars($325). (3-21-12)

b. For a daycare center with thirteen (13) to twenty-five (25) children in attendance at any given time - two hundred fifty dollars ($250). (3-21-12)

c. For a group daycare facility - one hundred dollars ($100). (3-21-12)

d. For a family daycare home voluntary license - one hundred dollars ($100). (3-21-12)

02. Daycare Fire Inspection Fee. Daycare fire inspection fees are payable to the local fire department or fire district official. (3-21-12)

321. APPLICATION FOR DAYCARE LICENSE OR RENEWAL.
Any individual applying for licensure as a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must be at least eighteen (18) years of age. The applicant must apply on forms provided by the Department and must provide information required by the Department set forth in the following Subsections 321.01 through 321.10. (4-7-11)

01. Completed and Signed Application. A completed application form signed and dated by the applicant. (4-7-11)

02. Licensing Fee. The applicant must pay the appropriate licensing fee prior to the issuance of a daycare license by the Department. (4-7-11)

03. Inspection Reports. The following reports must be submitted to the Department with the application: (4-7-11)

a. Proof that the proposed facility meets local building code, where required; (4-7-11)

b. Proof that the proposed facility meets local electrical code, where required; (4-7-11)

c. Proof that the proposed facility meets fire code, where required; and (4-7-11)

d. Proof that the facility meets local planning and zoning requirements. (4-7-11)

04. Proof of Insurance. The applicant must provide proof of current fire and liability insurance coverage for the daycare facility. (4-7-11)

05. Criminal History and Background Clearance. Evidence that the applicant and all individuals required to have a criminal history and background check have received a clearance from the Department required in Section 309 of these rules. (4-7-11)

06. Statement to Comply. The applicant must provide a written statement that these rules have been thoroughly read and reviewed and the applicant is prepared to comply with all of its provisions. (4-7-11)

07. Statement Disclosing Revocation or Disciplinary Actions. A written statement that discloses any revocation or other disciplinary action taken or in the process of being taken against the applicant as a daycare provider in Idaho or any other jurisdiction, or a statement from the applicant stating he has never been involved in any such action. (4-7-11)

08. Other Information as Requested. The applicant must provide other information that may be

requested by the Department for the proper administration and enforcement of the provisions of this chapter. (4-7-11)

09. Additional Requirements for License Renewal. A daycare license must be renewed every two (2) years. The daycare operator must submit to the Department the renewal application, fee, and all required documentation in this section of rule at least forty-five (45) days prior to the expiration of the current daycare license. (4-7-11)

10. Termination of Application Process. Failure of the applicant to cooperate with the Department in the application process may result in the termination of the application process. Failure to cooperate means that the information requested is not provided within ninety (90) days, or not provided in the form requested by the Department, or both. (4-7-11)

322. -- 324. (RESERVED)

325. ISSUANCE OF LICENSE.

01. Department Action. The Department will order a health and safety inspection of the daycare facility once the application for licensure is complete and the licensing fee has been paid. (4-7-11)

02. Issuance of a Regular License. If the Department determines the applicant is in compliance with the rules and minimum standards set forth in these rules, the Department will, within sixty (60) days from the date the completed application is submitted, issue one (1) of the following licenses: (4-7-11)

a. Daycare Center License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect; (4-7-11)

b. Group Daycare Facility License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect; or (4-7-11)

c. Family Daycare Home License, stating the type of facility, the number of children who may be in attendance, and the length of time the license is in effect. (4-7-11)

03. Denial of Licensure. If the Department determines the applicant is not in compliance with the rules and minimum standards set forth in this chapter and further determines not to issue a regular license or provisional license, the Department will, within thirty (30) days from the date the completed application is submitted, issue a letter of denial of licensure stating the basis for the denial. (4-7-11)

04. Incomplete Application. The Department is not required to take any action on an application until the application is complete. (4-7-11)

05. Notification of License Renewal. The Department will notify the licensed daycare operator at least ninety (90) days prior to expiration of the license. (4-7-11)

06. List of Licensed Daycare Facilities. The Department will maintain a list of all licensed daycare facilities for public use. (4-7-11)

326. -- 329. (RESERVED)

330. STAFF AND OTHER INDIVIDUAL RECORD REQUIREMENTS.
Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must maintain a current list covering the previous twelve-month period of all staff and other individuals thirteen (13) years of age or older who have unsupervised direct contact with children, or are regularly on the premises. The list must specify, at a minimum, the following: (4-7-11)

01. Legal Name. (4-7-11)

02. Proof of Age. (4-7-11)

03. Phone Number. (4-7-11)

04. Record of Training. (4-7-11)

05. Verification of Criminal History and Background Check Clearance. (4-7-11)

06. Results of Juvenile Justice Records. The results of juvenile justice records, when applicable. (4-7-11)

07. Certification. Verification of Pediatric Rescue Breathing, Infant-Child CPR, and First Aid Treatment certification from a certified instructor, when applicable. (4-7-11)

08. Record of Hours. The times, dates, and records of hours on the premises each day. (4-7-11)

331. CHILD RECORD CONTENT REQUIREMENTS.
Each owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must maintain a record for each child in attendance covering the previous twelve-month period. The record must contain, at a minimum, the following: (4-7-11)

01. Child's Full Name. (4-7-11)

02. Date of Birth. (4-7-11)

03. Parent or Guardian's Name, Address. and Contact Information. (4-7-11)

04. Emergency Contact Information. (4-7-11)

05. Child's Health Information. (4-7-11)

a. Immunization record or waiver of exemption form or statement; (4-7-11)

b. Any medical conditions that could affect the care of the child; (4-7-11)

c. Medications the child is taking or may be allergic to. (4-7-11)

06. Record of Attendance. The times, dates, and record of attendance each day. (4-7-11)

332. -- 334. (RESERVED)

335. CHILD-STAFF RATIO.
Under Section 39-1109, Idaho Code, the Department determines the maximum allowable child-staff ratio based on a point system. (3-21-12)

01. Daycare Child-Staff Ratio Point System.
The maximum allowable points for each staff member is twelve (12), using the following point system which is based on the age of each child in attendance: (3-21-12)

a. Under the age of twenty-four (24) months, each child equals two (2) points. (3-21-12)

b. From the age of twenty-four (24) months to under the age of thirty-six (36) months, each child equals one and one-half (1 1/2) points. (3-21-12)

c. From the age of thirty-six (36) months to under the age of five (5) years, each child equals one (1) point. (3-21-12)

d. From the age of five (5) years to under the age of thirteen (13) years, each child equals one-half (1/2) point. (3-21-12)

02. Compliance with Child-Staff Ratios. Child-staff ratios must be maintained at all times during all hours of operation when children are in attendance and when transporting children. (3-21-12)

a. Each child in attendance is counted by the Department for the purposes of calculating maximum allowable points, counting the number of children in attendance, and for determining compliance with child-staff ratios; (3-21-12)

b. Each adult staff member who is providing direct care for a child or children is counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios; and (4-7-11)

c. Each staff member sixteen (16) and seventeen (17) years of age under the supervision of an adult staff member, when providing direct care for a child or children, may be counted by the Department as one (1) staff member for the purposes of counting the number of staff on-duty and determining compliance with child-staff ratios. (4-7-11)

03. Supervision of Children. The owner or operator and all staff are responsible for the direct care, protection, supervision, and guidance of children through active involvement or direct observation. In addition to meeting all of the minimum requirements of child-staff ratio, the owner or operator of a daycare center, group daycare facility, or family daycare home licensed by the Department must ensure that at least one (1) adult staff member is: (3-21-12)

a. Awake and on duty on the premises at all times during regular business hours or when children are in attendance, and (4-7-11)

b. Currently certified in pediatric rescue breathing, infant-child CPR, and first-aid treatment. (4-7-11)

04. Napping Children. Napping children who are not within sight of a staff member must be within easy hearing distance at all times. (4-7-11)

05. Overnight Daycare. For daycare operators providing overnight care of children, the following must apply: (4-7-11)

a. A sleeping child must sleep on the same level as the staff member who must be able to hear the child; and (4-7-11)

b. A staff member must be awake and on duty to release and receive a child. (4-7-11)

336. -- 339. (RESERVED)

340. DAYCARE CENTER TRAINING REQUIREMENTS.
Each owner or operator of a daycare center licensed by the Department must receive and ensure that each staff member receives and completes four (4) hours of ongoing training every twelve (12) months after the staff member's date of hire. (4-7-11)

01. Child Development Training. Training must be related to continuing education in child development. (4-7-11)

02. Documented Training. It is the responsibility of the owner or operator of the daycare center to ensure that each staff member has completed four (4) hours of training each year. The training must be documented in the staff member's record. (4-7-11)

03. Pediatric Rescue Breathing, Infant-Child CPR and First Aid Treatment Training. Pediatric rescue breathing, infant-child CPR, and first aid treatment training will not count towards the required four (4) hours of annual training. (4-7-11)

04. Staff Training Records. Each owner or operator of the daycare center is responsible for

maintaining documentation of staff's training and may be asked to produce documentation at the time of license renewal. (4-7-11)

341. -- 344. (RESERVED)

345. MANDATORY REPORTING OF ABUSE, ABANDONMENT, OR NEGLECT.
Under Section 16-1605, Idaho Code, daycare personnel, including the owners, operators, staff, and any other person who has reason to believe that a child has been abused, abandoned, or neglected or is being subjected to conditions or circumstances which would reasonably result in abuse, abandonment, or neglect, must report or cause to be reported within twenty-four (24) hours, such conditions or circumstances to the Department or the proper law enforcement agency. (4-7-11)

346. VISITATION AND ACCESS.

01. Visitation Rights. Parents and guardians have the absolute right to enter the daycare premises when their child is in the care of the daycare operator. Failure or refusal to allow parental or guardian entry to the daycare premises or access to their child may result in the suspension or revocation of a daycare license. (4-7-11)

02. Denied or Limited Visitation Rights by Court Order. If a parent or guardian has been granted limited or has been denied visitation rights by a court of competent jurisdiction, and the daycare operator has written documentation from the court, Subsection 346.01 of this rule does not confer a right to visitation upon the parent or guardian. (4-7-11)

03. Department Access. The owner or operator of a daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must allow the Department access to the premises for re-inspection at any time during the licensing period. (4-7-11)

347. -- 349. (RESERVED)

350. FIRE SAFETY STANDARDS.
Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire safety standards outlined in Subsections 350.01 and 350.02 of this rule. (4-7-11)

01. Inspections. Inspections must be completed by the local fire official or designee. For a daycare located outside of the area of authority outlined in Section 39-1109, Idaho Code, the Department can designate an approved inspector for daycare licensing purposes only. (4-7-11)

02. Unobstructed Exits. Required exits must be located in such a way that an unobstructed path outside the building is provided to a public way or area of refuge. (4-7-11)

a. Exit doors must open from the inside without the use of a key or any special knowledge or effort. (4-7-11)

b. There must be at least two (2) exits located a distance apart of not less than one-half (1/2) the diagonal dimension of the building or portion used for daycare, but not to exceed seventy-five (75) feet. An exception may be made for the following: (4-7-11)

i. The distance between exits may be extended to ninety (90) feet if the building is totally protected throughout with smoke detectors; or (4-7-11)

ii. The distance between exits may be increased to one hundred ten (110) feet if the building is equipped with an automatic fire sprinkler system. (4-7-11)

c. The required dimensions of exits must not be less than thirty-two (32) inches of clear exit width and not be less than six (6) feet, eight (8) inches in height. An exception for sliding patio doors will be accepted as a required second exit in a family daycare home and group daycare facilities only. (4-7-11)

d. Sleeping room exits must be provided with at least one (1) emergency egress window having at least a minimum single net clear opening of five point seven (5.7) square feet, minimum height twenty-four (24) inches, minimum width twenty (20) inches, and maximum finished sill height not over forty-four (44) inches. (4-7-11)

i. Approved egress windows from sleeping areas must be operable from the inside without the use of separate tools. (4-7-11)

ii. In lieu of egress windows, an approved exit door is acceptable. (4-7-11)

iii. An approved piece of furniture or platform, if anchored in place, may be approved to sit in front of a window if the sill height is over forty-four (44) inches. (4-7-11)

e. Where children are located on a story below the level of exit discharge (basement), there must be at least two (2) exits, one (1) of which must open directly to the outside. More than one (1) exit from the basement opening directly to the outside may be required, depending on the structure of the building, in order to ensure the safety of the occupants. (4-7-11)

f. Where children are located on a story above the level of exit discharge, there must be two (2) exits, one (1) of which must open directly to the outside and be in compliance with building codes. (4-7-11)

351. FACILITY CAPACITY AND DETERMINING OCCUPANT LOAD.
Occupant load is determined by the local fire official or designee. (4-7-11)

01. Area for Daycare Use Only. The local fire official or designee will only use those areas used for daycare purposes when determining the occupant load. (4-7-11)

02. Facilities with an Occupancy Load of Fifty or More. Facilities with an occupancy load of fifty (50) or more occupants must meet the requirements in Section 350 of these rules in addition to Subsections 351.01 through 351.03 of this rule. (4-7-11)

a. Exit doors must swing in the direction of egress. (4-7-11)

b. Exit doors from rooms, if provided with a latch, must have panic hardware installed. (4-7-11)

03. Exit Signs. Exit signs must be installed at required exit doorways and wherever else necessary to clearly indicate the direction of egress. (4-7-11)

352. FIRE EXTINGUISHERS AND SAFETY REQUIREMENTS.
Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the fire extinguisher and safety requirements in this section of rule as applicable for size and type of facility. (4-7-11)

01. Portable Fire Extinguisher. There must be an approved portable fire extinguisher (minimum 2A-10BC) mounted securely in a visible location not to exceed five (5) feet from the floor to the top of the extinguisher and not more than seventy five (75) feet travel distance to an extinguisher and maintained properly. (4-7-11)

02. Kitchen Area. An approved fire extinguisher must be present or a hood-type fire suppression system must be installed in the kitchen area. (4-7-11)

03. Fire Extinguishers. Approved fire extinguishers must be maintained properly. (4-7-11)

04. Facilities Over Three Thousand Square Feet. Each daycare facility over three thousand (3,000) square feet is required to have additional fire extinguishers as approved by the local fire official or designee. (4-7-11)

05. Fire Alarm System. Each daycare facility with over fifty (50) children, must have an approved fire

alarm system installed. (4-7-11)

06. **Smoke Detectors**. Smoke detectors must be installed and maintained in the following locations: (4-7-11)

a. On the ceiling or wall outside or each separate sleeping area in the immediate vicinity of bedrooms; (4-7-11)

b. In each room used for sleeping purposes; and (4-7-11)

c. In each story within a facility including basements. (4-7-11)

d. If there is a basement, there must be a smoke detector installed in the basement having a stairway which opens from the basement into the facility. Such detector must be connected to a sounding device or other detector to provide an alarm which is audible in the sleeping area. (4-7-11)

07. **Automatic Sprinkler Systems**. An automatic sprinkler system must be provided in all daycare facilities greater than twenty thousand (20,000) square feet in area or when the number of children under the age of eighteen (18) months exceeds one hundred (100). (4-7-11)

353. FIRE SAFETY AND EVACUATION PLANS.
Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must have an approved fire safety and evacuation plan prepared. Fire evacuation and safety plans must include the following: (4-7-11)

01. **Evacuation**. Procedures and policies for accounting for staff and children after an evacuation is completed. (4-7-11)

02. **Assembly Point**. Evacuation plan and assembly point for children and staff. (4-7-11)

03. **Locations of Facility Exits**. (4-7-11)

04. **Evacuation Routes**. (4-7-11)

05. **Location of Fire Alarms**. (4-7-11)

06. **Location of Fire Extinguishers**. (4-7-11)

07. **Annual Review**. Fire safety and evacuation plans must be reviewed or updated annually and available in the facility for reference and review. (4-7-11)

08. **Frequency of Fire and Emergency Evacuation Drills**. Fire and evacuation drills must be conducted on a routine schedule and all staff and children must participate. (4-7-11)

354. -- 359. (RESERVED)

360. HEALTH STANDARDS.
Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department, must comply with the health standards in Subsections 360.01 through 360.19 of this rule. Health inspections will be completed by a qualified inspector designated by the Department. (4-7-11)

01. **Food Source**. Food must be from an approved source as defined in IDAPA 16.02.19, "The Idaho Food Code." Food must not be served past expiration or "use by date." (4-7-11)

02. **Food Preparation**. Food for use in daycare facilities must be prepared and served in a sanitary manner with sanitized utensils and on surfaces that have been cleaned, rinsed, and sanitized prior to use to prevent cross-contamination. (4-7-11)

a. Frozen food must be thawed in the refrigerator, under cold running water, or as part of the cooking process. Food must be cooked to proper temperatures according to IDAPA 16.02.19, "The Idaho Food Code." (4-7-11)

b. Individuals preparing food must use proper hand-washing techniques, minimize bare hand contact with food, and wear clean clothes. (4-7-11)

03. Food Temperatures. Potentially hazardous foods must be kept refrigerated at forty-one degrees Fahrenheit (41°F) or below, held hot at one hundred thirty-five degrees Fahrenheit (135°F) or more, and reheated or cooled at safe temperatures according to IDAPA 16.02.19, "The Idaho Food Code." Refrigerators must be equipped with an accurate thermometer. (4-7-11)

04. Food Storage. All food that is served in daycare facilities must be stored in such a manner that protects it from potential contamination. There must be no evidence of pests present in the daycare facility. (4-7-11)

05. Food Contact Surfaces. Food contact surfaces must be kept clean and sanitized, including counters, serving tables, high chair trays, and cutting boards. (4-7-11)

06. Dishwashing Sanitizing. Dishes, glasses, utensils, silverware and all other objects used for food preparation and eating must be sanitized using appropriate sanitizing procedures. (4-7-11)

07. Utensil Storage. Clean utensils must be stored on clean shelves or drawers and not subject to recontamination. Sharp knives and other sharp objects must be kept out of reach of children. (4-7-11)

08. Garbage. Garbage must be kept covered or inaccessible to children. (4-7-11)

09. Hand Washing. Children and facility staff must be provided with individual or disposable towels for hand drying. The hand washing area must be equipped with soap and warm and cold running water. (4-7-11)

10. Diaper Changing. Diaper changing must be conducted in such a manner as to prevent the spread of communicable diseases. A diaper-changing area must be separate from food preparation and serving areas and have easy access to a hand-washing sink. (4-7-11)

11. Sleeping Areas. Children sleeping at the facility must have separate cots, mats, or beds and blankets. (4-7-11)

12. Restrooms, Water Supply, and Sewage. All daycare facilities must have restrooms. (4-7-11)

a. Each facility must have at least one (1) flushable toilet and at least one (1) hand washing sink with warm and cold water per restroom. (4-7-11)

b. Plumbing and bathroom fixtures must be in good condition. (4-7-11)

c. In addition, daycare centers must comply with requirements of the state-adopted International Building Code. (4-7-11)

13. Water Supply. The facility's water supply must meet one (1) of the following requirements: (4-7-11)

a. Be from a public water system which is maintained according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of initial application and application for license renewal; or (4-7-11)

b. Be from a private source, such as well or spring, and must be tested annually for bacteria and nitrate, and approved by the Department. (4-7-11)

c. Water used for consumption at a daycare facility must be from an acceptable source,. Temporary

use of bottled water or boiled water may be allowed for a period specified by the by the Department. (4-7-11)

14. Sewage Disposal. Facility sewage must be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 "Individual/ Subsurface Sewage Disposal Rules." (4-7-11)

15. Use of Alcohol and Illegal Drugs. Alcohol and illegal drugs must not be used by operators, children, staff, volunteers, or visitors at daycare facilities or in the presence of children during hours of operation or in vehicles while transporting children. (4-7-11)

a. Any individual under the influence of alcohol or drugs must not be permitted at or in the daycare facility. (4-7-11)

b. Illegal drugs are prohibited by law and therefore must not be allowed on the premises of a licensed daycare facility at anytime whether the facility is open or closed. (4-7-11)

16. Smoke Free Environment. Children must be afforded a smoke-free environment during all daycare hours, whether indoors or outdoors. While children are in care, the operator and all staff must ensure that no smoking or other tobacco use occurs within the facility, in outdoor areas, or in vehicles when children are present. (4-7-11)

17. Medication. No person can administer any medication to a child without it first being authorized by a parent or caretaker. All medications, refrigerated or unrefrigerated, must be in a locked box or otherwise inaccessible to children. (4-7-11)

18. Adequate Heat, Light and Ventilation. A daycare facility must have adequate heat, light and ventilation. Window and doors must be screened if used for ventilation. (4-7-11)

19. Immunizations. Daycare operators must comply with the immunizations requirements provided in IDAPA 16.02.11, "Immunization Requirements for Children Attending Licensed Day Care Facilities in Idaho." (4-7-11)

361. MISCELLANEOUS SAFETY REQUIREMENTS.

Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with the miscellaneous safety standards in Subsections 361.01 through 361.07 of this rule. (4-7-11)

01. Telephone. An operable telephone or cell phone must be available on the facility at all times and the following conditions must apply: (4-7-11)

a. The telephone number used to meet this standard must be made available to parents and guardians. (4-7-11)

b. Emergency phone numbers to include 911, an adult emergency substitute operator, as well as the address and phone number of the facility, must be posted by the telephone or in a location that is immediately visible at all times. (4-7-11)

02. Heat Producing Equipment. A furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment must be installed and maintained as recommended by the manufacturer and protected on all surfaces by screens or other means. ( )

03. Portable Heating Devices. Portable heating devices must be limited and approved for use and location by the Fire Inspector prior to use within a facility. (4-7-11)

04. Storage of Weapons, Firearms, and Ammunition. Firearms or other weapons which are stored at a daycare facility must be kept in a locked cabinet or other container that is inaccessible to children, including a locked gun safe, while children are in attendance. (4-7-11)

a. Ammunition must be stored in a locked container separate from firearms. (4-7-11)

b. Matches, lighters, and any other means of starting fires must be kept away from and out of the reach of children. (4-7-11)

c. Other weapons that could cause harm to children must be stored out of reach of children. (4-7-11)

05. Animals and Pets. Any pet or animal present at the facility, indoors or outdoors, must be in good health, show no evidence of carrying disease, and be a friendly companion of the children. The operator must maintain the animal's vaccinations and vaccination records. These records must be made available to the Department upon request. (4-7-11)

06. Storage of Hazardous Materials. Cleaning materials, flammable liquids, detergents, aerosol cans, pesticides, and other poisonous and toxic materials must be kept in their original containers and in a place inaccessible to children. They must be used in such a way that will not contaminate play surfaces, food, food preparation areas or constitute a hazard to the children. (4-7-11)

362. -- 364. (RESERVED)

365. BUILDINGS, GROUNDS, FURNISHINGS, AND EQUIPMENT.
Each daycare center, group daycare facility, or family daycare home voluntarily licensed by the Department must comply with these minimum standards in Subsections 365.01 through 365.08 of this rule. (4-7-11)

01. Appliances and Electrical Cords. All appliances, lamp cords, exposed light sockets and electrical outlets must be protected to prevent electrocution. (4-7-11)

02. Balconies and Stairways. Balconies and stairways accessible to children must have substantial railings as required by the state-adopted International Building Code. (4-7-11)

03. Stairway Protection. Where an operator cares for children less than three (3) years of age, stairways must be protected to prevent child access to stairs. (4-7-11)

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, any outdoor hazard area must be restricted to prevent easy access to the hazard. (4-7-11)

05. Fueled Equipment. Fueled equipment including, but not limited to, motorcycles, mopeds, lawn-care equipment and portable cooking equipment may not be stored or repaired in areas where children are present. (4-7-11)

06. Water Hazards. Above and below ground pools, hot tubs, ponds, and other bodies of water that are on the daycare facility premises must provide the following safeguards: (4-7-11)

a. The area surrounding the body of water must be fenced and locked in a manner that prevents access by children and meets the following requirements: (4-7-11)

i. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide and be designed so that a young child cannot climb or squeeze under or through the fence. The fence must surround all sides of the pool and have a self-closing gate that has a self latching mechanism in proper working order that is out of the reach of young children. (4-7-11)

ii. If the house forms one (1) side of the barrier for the pool, all doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the door is opened. (4-7-11)

b. Furniture or other large objects must not be left near the fence in a manner that would enable a child to climb on the furniture or other large object and gain access to the pool. If the area surrounding a pool, hot tub, pond or other body of water is not fenced and locked, there must be a secured protective covering that will prevent access by a child. (4-7-11)

c. Wading pools and buckets must be empty when not in use. (4-7-11)

d. Children must be under direct supervision of an adult staff member who is certified in pediatric rescue breathing, infant-child CPR, and first aid treatment while using a bath tub, pool, hot tub, pond, or other body of water. (4-7-11)

e. A minimum of a four (4) foot high fence must be present that prevents access from the daycare facility premises, if the daycare premises are adjacent to a body of water. (4-7-11)

07. Indoor Play Areas and Toys. The indoor play areas must be clean, reasonably neat and free from accumulation of dirt, rubbish or other health hazards. (4-7-11)

08. Outdoor Play Areas and Toys. Any outdoor play area must be maintained free from hazards such as wells, machinery and animal waste. (4-7-11)

a. If any part of the play area is adjacent to a busy roadway, drainage or irrigation ditch, stream, large holes, or other hazardous areas, the play area must be enclosed with a fence in good repair that is at least four (4) feet high without any holes or spaces greater than four (4) inches in diameter. (4-7-11)

b. Outdoor equipment, such as climbing apparatus, slides and swings, must be anchored firmly and placed in a safe location and in accordance with the manufacturer's instructions. (4-7-11)

c. Outdoor play areas must be designed so that all parts are always visible and are easily supervised by a staff member. (4-7-11)

d. Toys, play equipment, and any other equipment used by the children must be of substantial construction and free from rough edges and sharp corners. Unguarded ladders on slides must be kept in good repair and well maintained. (4-7-11)

e. Toys and objects with a diameter of less than one (1) inch (two point five (2.5) centimeters), objects with removable parts that have a diameter of less than one (1) inch (two point five (2.5) centimeters), plastic bags, styrofoam objects and balloons must not be accessible to children ages three (3) and under or children who are known to place such objects in their mouths. (4-7-11)

366. -- 389. (RESERVED)

390. CONTINUED COMPLIANCE, REPORTING CHANGES, AND CRITICAL INCIDENTS.
Each daycare owner or operator must remain in compliance at all times with fire, safety, and health requirements as required in this chapter of rules. (4-7-11)

01. Posting of License and Other Information. (4-7-11)

a. A daycare license issued by the Department to operators meeting the standards in these rules must be posted in plain view where it can be seen by parents and the public upon entering the facility. (4-7-11)

b. A daycare must post contact information of the Department and the statewide number to file daycare complaints. (4-7-11)

02. Reporting Changes. The Department must be notified of any changes that would affect the terms of licensure or could affect the health, well-being, or safety of children. (4-7-11)

03. Critical Incidents. A daycare operator must report any of the following to the Department within twenty-four (24) hours: (4-7-11)

a. Serious injury or death of a child at the facility; (4-7-11)

b. Any arrests, citations, withheld judgments, or criminal convictions of disqualifying crimes

associated with Section 39-1113, Idaho Code, of an operator or any other individual regularly on the premises of the facility and provide documentation that the individual is not working with children or is not on the premises. (4-7-11)

391. -- 394. (RESERVED)

395. FAILURE TO COMPLY.

01. Misdemeanors to Operate Without a License. It is a misdemeanor to operate a daycare center or group daycare facility within this state without first obtaining a daycare license from the Department or to operate a daycare center or group daycare facility without posting the license in a place easily seen by a parent or the general public. (4-7-11)

a. The Department may grant a grace period of no more than sixty (60) days to allow the daycare facility to come into compliance with the minimum standards in this chapter and with Title 39, Chapter 11, Idaho Code. (4-7-11)

b. The operator or owner must agree to begin the application process as described in Section 321 of these rules within one (1) business day of identification by the Department that a daycare owner or operator is not in compliance with Title 39, Chapter 11, Idaho Code or this chapter of rules. (4-7-11)

02. Misdemeanor to Operate a Family Daycare Home for Four or More Children Without Obtaining a Criminal History Check. It is a misdemeanor to operate a family daycare home caring for four (4) or more children without obtaining the required criminal history check in Section 39-1105, Idaho Code. In the event of an initial citation for violation of the provisions of Section 39-1115, if a person makes the applications required within twenty (20) days, the complaint will be dismissed. Operating a family daycare home for four (4) or more children after failure to pass the required criminal history check is a misdemeanor. (4-7-11)

03. Misdemeanor to Provide Daycare if Guilty of Certain Offenses. It is a misdemeanor to provide daycare services if found guilty of any offenses listed in Section 39-1113, Idaho Code. (4-7-11)

396. -- 399. (RESERVED)

STANDARDS FOR FOSTER HOMES
(Sections 400 - 499)

400. STANDARDS FOR FOSTER HOMES.
The standards for licensing foster homes are intended to insure that children of the state who must live away from their parents receive adequate substitute parental care to address their need for safety, health, and well being, that the persons providing this care are capable and suitable to meet the protection needs of children living in foster homes, and the physical environment in which these children reside is a safe setting. (3-30-01)

401. LICENSING PROVISIONS RELATED TO THE INDIAN CHILD WELFARE ACT.
These rules do not supercede the licensing authority of Indian tribes pursuant to the Indian Child Welfare Act, P.L. 95-608, 25 USC, Sections 1901 – 1963. (3-30-01)

402. FOSTER PARENT QUALIFICATIONS AND SUITABILITY.
Foster parents must be physically and emotionally suited to care for children and to deal with the problems presented by children placed away from their own parents, family and homes. An applicant for licensure as a foster parent must meet all of the following qualifications: (3-30-01)

01. Minimum Age. Be twenty-one (21) years of age or older. (3-30-01)

02. Character. Be of good character. (3-30-01)

03. Personal Attributes and Experiences. Have the maturity, interpersonal qualities, temperament and life experiences that prepare the foster parent to provide foster care. (3-30-01)

04. Availability for Child Placement. Express a willingness to provide care for the kind of children the children's agency has available for placement. (3-30-01)

05. Knowledge and Skill. Demonstrate an understanding of the care that must be provided to the children served by the children's agency or express a willingness to learn how to provide that care. (3-30-01)

06. Child Care and Supervision. Have adequate time to provide care and supervision for children. (3-30-01)

07. Income and Resources. Have a defined and sufficient source of income and be capable of managing that income to meet the needs of the foster family without relying on the payment made for the care of a foster child. (3-30-01)

08. Health. Have the physical, intellectual, and emotional health to assure appropriate care of children. (3-30-01)

09. Harmonious Home Life. Establish and maintain a harmonious home life to give children the emotional stability they need. No marital or personal problems may exist within the family that would result in undue emotional strain in the home or be harmful to the interest of children placed in the home. (3-30-01)

10. Acceptance of Foster Children. Express a willingness and demonstrate the ability to accept a child into the home as a member of the family. (3-30-01)

11. Family Supports. Express a willingness, and demonstrate the ability, to work with a foster child's legal family, future family, or Indian tribe. (3-30-01)

12. Compliance with Licensing Rules. Demonstrate a willingness and ability to comply with the licensing rules for foster homes. (3-30-01)

403. MEMBER OF HOUSEHOLD QUALIFICATIONS AND SUITABILITY.
To assure the safety and well-being of children, a member of the household must be in compliance with the requirements specified in these rules. (4-7-11)

404. CRIMINAL HISTORY AND BACKGROUND CHECKS FOR FOSTER CARE LICENSE.
All applicants for a foster care license and other adult members of the household must comply with the provisions in IDAPA 16.05.06, "Criminal History and Background Checks," and the following requirements: (3-30-07)

01. Required Procedures. Each applicant for a foster home license, and any other adult member of the household, must participate in a criminal history and background check as required by Section 39-1211(4), Idaho Code. (3-30-07)

02. Change in Household Membership. By the next working day after another adult begins residing in a licensed foster home, a foster parent must notify the children's agency of the change in household membership and assure that the new adult member of the household will participate in a criminal history and background check as required by Section 39-1211(4), Idaho Code. (3-30-07)

03. Foster Parent's Child Turns Eighteen. A foster parent's child who turns eighteen (18) and lives continuously in the home is not required to have a criminal history and background check except as specified in Subsection 404.03.c. of this rule. (4-7-11)

a. After turning eighteen (18) years of age, if the foster parent's adult child no longer lives in the foster parent's home and subsequently resumes living in the licensed foster home, he will be considered an adult member of the household and must complete a criminal history and background check within fifteen (15) days from the date he became an adult member of the household. (4-7-11)

b. If the adult child leaves the foster home for the purpose of higher education or military service, and periodically returns to the home for less than ninety (90) days, he is not considered to be an adult member of the

household and is not required to complete a criminal history and background check. While in the home, he cannot have any unsupervised direct care responsibilities for any foster children in the home. Should he remain in the foster home for more than ninety (90) days, he will immediately be considered an adult member of the household and must complete a criminal history and background check within fifteen (15) days from the date he became an adult member of the household. (4-7-11)

c. If the adult child continues to live in their parent's licensed foster home or on the same property, he must complete a criminal history and background check within fifteen (15) days of turning twenty-one (21), This requirement is not necessary if the adult child has completed a criminal history and background check between the ages of eighteen (18) and twenty-one (21). (3-30-07)

04. Criminal History and Background Check at Any Time. The Department retains the authority to require a criminal history and background check at any time on individuals who are residing in a licensed foster home or on the foster parent's property. (4-7-11)

405. INITIAL EVALUATION.
An applicant must participate in the process and tasks to complete an initial evaluation for foster care licensure. (3-30-01)

01. Applicant Participation. The applicant must do all of the following: (3-30-01)

a. Cooperate with and allow the children's agency to determine compliance with these rules to conduct an initial foster home study; (3-30-01)

b. Inform the children's agency if the applicant is currently licensed or has been previously licensed as a foster parent or the applicant has been involved in the care and supervision of children or adults; (3-30-01)

c. Provide a medical statement for each applicant, signed by a qualified medical professional, within the twelve (12) month period prior to initial licensure for family foster care, indicating the applicant is in such physical and mental health so as to not adversely affect either the health or quality of care for children placed in the home; (3-30-01)

d. Provide the name of, and a signed release to obtain the following information about, each member of the household: (3-30-01)

i. Admission to or release from a facility, hospital, or institution for the treatment of an emotional, intellectual, or substance abuse issue; (3-30-01)

ii. Outpatient counseling, treatment, or therapy for an emotional, intellectual, or substance abuse issue; and (3-30-01)

e. Provide three (3) satisfactory references, one (1) of which may be from a person related to the applicant(s). An applicant will provide additional references upon the request of the children's agency. (3-30-01)

02. Members of the Household Physical and Mental Health. All members of the household must be in such physical and mental health that the health, safety, or well-being of a foster child will not be adversely affected. A report of the member of the household's physical and mental health status may be required from a qualified medical professional if this appears advisable to the children's agency. (3-30-01)

03. Disclosure of Information. An applicant must provide the children's agency with the following information and any other information the children's agency deems necessary to complete the initial family home study: (3-30-01)

a. The names, including maiden or other names used, and ages of the applicant(s); (3-30-01)

b. Social security number; (3-30-01)

c. Education; (3-30-01)

d. Verification of marriages and divorces; (3-30-01)

e. Religious and cultural practices of the applicant including their willingness and ability to accommodate or provide care to a foster child of a different race, religion, or culture; (3-30-01)

f. A statement of income and financial resources and the family's management of these resources; (3-30-01)

g. Marital relationship, if applicable, including decision making, communication, and roles within the family; (3-30-01)

h. Individual and family functioning and inter-relationships with each member of the household; (3-30-01)

i. Any current family problems, including mental illness, drug and alcohol abuse, and medical conditions; (3-30-01)

j. Previous criminal convictions and valid incidents of child abuse and neglect; (3-30-01)

k. Family history, including childhood experiences and the applicant's parents' methods of discipline and problem solving; (3-30-01)

l. Child care and parenting skills; (3-30-01)

m. Current methods of discipline; (3-30-01)

n. The names, ages, and addresses of all biological and adopted children currently residing in or outside the home; (3-30-01)

o. Adjustment and special needs of the applicant's children; (3-30-01)

p. Interests and hobbies; (3-30-01)

q. Reasons for applying to be a foster parent; (3-30-01)

r. Understanding of the purpose and goals of foster care; (3-30-01)

s. Prior and current experiences with foster care; (3-30-01)

t. Emotional stability and maturity in dealing with the needs, challenges, and related issues associated with the placement of a child into applicant(s) home; (3-30-01)

u. The attitudes toward foster care by immediate and extended members of the family and other persons who reside in the home; (3-30-01)

v. The applicant’s attitudes about a foster child's family and the applicant’s willingness to work with the child's family and tribe; (3-30-01)

w. Specifications of the children preferred by the family that include the number of children, age, gender, race, ethnic background, social, emotional and educational characteristics of children preferred; (3-30-01)

x. Adequacy of the applicant's house, property, and neighborhood for the purpose of providing foster care as determined by on-site observations; (3-30-01)

y. The applicant(s) willingness to abide by the children's agency policies and procedures for discipline; (3-30-01)

z. Three (3) personal references, at least two (2) that are from persons not related to the applicants, reflecting the applicants to be of good character and habits; (3-30-01)

aa. Training needs of the applicant(s); and (3-30-01)

bb. The capacity and willingness to transport a foster child in a motor vehicle. (3-30-01)

406. SUBSEQUENT EVALUATIONS.
A foster parent must comply with the following requirements for the subsequent evaluation required for a foster care license: (3-30-01)

01. Reasonable Access. A foster parent will allow the children's agency reasonable access to the foster home, including interviewing each foster parent, each foster child and any member of the household to determine continued compliance with licensing standards, for child supervision purposes, and to conduct a re- certification study. (3-30-01)

02. Update Information. Provide all changes to the information contained in the initial evaluation and subsequent evaluations. (3-30-01)

03. Family Functioning. Provide information on any changes in family functioning and inter-relationships. (3-30-01)

04. Other Circumstances. Provide the children's agency with any information regarding circumstances within the family that may adversely impact the foster child. (3-30-01)

05. Written Plan of Correction. Cooperate with the children's agency in developing and carrying out a written plan required to correct any rule non-compliance identified by any evaluation conducted by the children's agency. (3-30-01)

407. FOSTER PARENT DUTIES.
A foster parent must carry out the following functions: (3-30-01)

01. Service Plan Implementation. Cooperate with, and assist the children's agency in, the implementation of the service plan for children and their families. (3-30-01)

02. Reporting Progress and Problems. Promptly and fully disclose to the children's agency information concerning a child's progress and problems. (3-30-01)

03. Termination of Placement by the Foster Family. Provide notification to the children's agency of the need for a child to be moved from the foster home not less than fourteen (14) calendar days before the move, except when a delay would jeopardize the child's care or safety or the safety of members of the foster family. (3-30-01)

04. Written Policies and Procedures for Foster Families. Maintain a copy of, be familiar with, and follow these rules and any other rules, policies, or procedures which an agency may require for foster parents and foster care. (3-30-01)

408. FOSTER PARENT TRAINING.
Each foster parent must comply with the following training requirements: (3-30-01)

01. Orientation. Each applicant for a foster home license will receive an orientation related to the children's agency foster care program and services. (3-30-01)

02. Initial Training. Complete not less than ten (10) hours of training no later than one (1) year following the issuance of an initial foster care license. (3-30-01)

03. Annual Training. Complete not less than ten (10) hours of training on an annual basis following

the initial training specified in these rules. (3-30-01)

04. Individualized Training. Complete training identified by the children's agency as meeting the individual needs of the foster parent(s). (3-30-01)

05. Required Training. Complete any additional training as required by the children's agency foster parent training plan. (3-30-01)

409. -- 429. (RESERVED)

430. CHILD CARE AND SAFETY REQUIREMENTS.
The property, structure, premises, and furnishings of a foster home must be constructed and maintained in good repair, in a clean condition, free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. (3-30-07)

01. Pools, Hot Tubs, Ponds, and Other Bodies of Water. Any licensed foster home with a body of water on or adjacent to their property must provide the following safeguards: (3-30-07)

a. Around any body of water, a foster child must have appropriate adult supervision consistent with the child's age, physical ability, and developmental level; (3-30-07)

b. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children; or (3-30-07)

c. If the area surrounding a body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child; (3-30-07)

i. Pool or hot tub covers must be completely removed when in use; (3-30-07)

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; (3-30-07)

iii. Covers must be kept locked at all times when the pool or hot tub is not in use; and (3-30-07)

iv. Exterior ladders on above ground pools must be removed when the pool is not in use. (3-30-07)

02. Access by Children Five Years of Age and Under. Any licensed foster home that cares for children five (5) years of age and under and chooses to prevent access to a body of water by fencing must provide a fence that meets the following requirements: (3-30-07)

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; (3-30-07)

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; (3-30-07)

c. If the house forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and (3-30-07)

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool. (3-30-07)

03. Irrigation Canals or Similar Body of Water. A licensed foster home caring for a child five (5) years of age and under or a child who is physically or developmentally vulnerable, whose property adjoins an irrigation canal or similar body of water, must have fencing that prevents access to the canal or similar body of water by the child. (3-30-07)

04. Other Safety Water Precautions. (3-30-07)

a. Wading pools must be empty when not being used; (3-30-07)

b. Children must be under direct supervision of an adult while using a wading pool; (3-30-07)

c. Toys that attract young children to the pool area must be kept picked up and away for the pool area when not in use; and (3-30-07)

d. A child who does not know how to swim must use an approved lifesaving personal flotation device. (3-30-07)

431. INSTALLATION, MAINTENANCE AND INSPECTION OF FLAME AND HEAT PRODUCING EQUIPMENT.
A foster parent must assure: (3-30-01)

01. Installation and Maintenance of Flame and Heat-Producing Equipment. That a furnace, fireplace, wood-burning stove, water heater and other flame or heat-producing equipment is installed and maintained as recommended by the manufacturer, and fireplaces are protected by screens or other means. (3-30-01)

02. Portable Heating Devices. That portable heating devices will not be used during sleeping hours. (3-30-01)

03. Fire Inspections. An inspection by a certified fire inspector may be required at the discretion of the children's agency. (3-30-01)

432. SMOKE AND CARBON MONOXIDE DETECTING DEVICES.
Each foster home must meet the following standards: (3-30-01)

01. Smoke Detecting Devices. That there will be at least one (1) single-station smoke detector (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer and as follows: (3-30-01)

a. One (1) smoke detector on each floor of the home, including the basement; (3-30-01)

b. One (1) smoke detector in each bedroom used by a foster child; and (3-30-01)

c. One (1) smoke detector in areas of the home that contain flame or heat-producing equipment other than domestic stoves and clothes dryers. (3-30-01)

02. Carbon Monoxide Detecting Devices. That there will be at least one (1) carbon monoxide detecting device (approved by a nationally recognized testing laboratory) that is installed and maintained as recommended by the manufacturer. A house that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. (3-30-01)

433. EXITS.
There must be at least two (2) exits from each floor level used by a family member that are remote from each other, one (1) of which provides a direct safe means of unobstructed travel to the outside at street or ground level. A window may be used as a second exit if it is in compliance with these rules. (3-30-01)

434. DANGEROUS AND HAZARDOUS MATERIALS.
Dangerous and hazardous materials, objects or equipment, including but not limited to poisonous, explosive or flammable substances that could present a risk to a child placed in a foster home, must be stored securely and out of reach of a child, as appropriate for the age and functioning level of the child. (3-30-01)

435. FIREARMS AND AMMUNITION.
Firearms at a foster home must be stored: (3-30-01)

01. Trigger Locks. Unloaded and equipped with a trigger lock; (3-30-01)

02. Unassembled and Inoperable. Unloaded, fully inoperable and incapable of being assembled and fired; (3-30-01)

03. Locked Cabinet or Container. Unloaded and locked in a cabinet or storage container that is inaccessible to children; or (3-30-01)

04. Gun Safe. Locked in a gun safe that is inaccessible to children. (3-30-01)

436. PETS AND DOMESTIC ANIMALS.
Any pet or domestic animal that is suspected or known to be dangerous must be kept in an area inaccessible to children. (3-30-01)

437. ADEQUATE HEAT, LIGHT, AND VENTILATION.
A foster home must have adequate heat, light, and ventilation and windows and doors will be screened if used for ventilation. (3-30-01)

438. BATHROOMS, WATER SUPPLY, AND SEWAGE DISPOSAL.
A foster home must meet the following standards: (3-30-01)

01. Toilet Facilities. A foster home will have a minimum of one (1) flush toilet, one (1) washbasin that has warm and cold running water, and one (1) bathtub or shower that has warm and cold running water, all of which are in good working order. (3-30-01)

02. Water Supply. The water supply will meet one (1) of the following requirements: (3-30-01)

a. That it is from a source approved for a private home by the health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses; or (3-30-01)

b. Water used for consumption at a foster home is from an acceptable source, bottled water from an acceptable source, or boiled for a period specified by the local health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (3-30-01)

03. Sewage Disposal. Sewage will be disposed of through a public system, or in the absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03 "Individual/ Subsurface Sewage Disposal Rules." (3-30-01)

439. TRANSPORTATION.
A foster parent must comply with the requirements related to child transportation that include: (3-30-01)

01. Legal Requirements for Transporting Children. A foster parent, or any person acting on behalf of a foster parent, that transports a child, will possess a valid Idaho driver's license, be insured in accordance with Idaho Law, and abide by all traffic laws including the requirement that all children are in proper safety restraints while being transported. (3-30-01)

02. Reliable Transportation. A foster parent will arrange for safe, reliable transportation of any foster child in their care to assure the child has access to school, community services, and the children's agency. (3-30-01)

03. Prohibitions of Foster Child Transportation. A foster parent will not transport a foster child while impaired by any substance including alcohol, prescription medication, or any illegal substances. (3-30-01)

440. TELEPHONE.
Unless previously approved by the licensing agency, there must be an operating telephone in a foster home. (3-30-01)

441. WHEELCHAIR ACCESS.

A foster home that provides care to a child who regularly requires the use of a wheelchair, must be wheelchair accessible. (3-30-01)

442. CHILD PLACEMENT REQUIREMENTS.
A foster family must accept the placement of children into the home within the terms of the foster home license or certification and the children's agency placement agreement. The following provisions will be considered *for determining placement*: *( )*

01. Determining Factors. The number and the age group of children placed in a foster home will be determined by all of the following: (3-30-01)

a. The accommodations and the space in the home; (3-30-01)

b. The interest of the foster family; and (3-30-01)

c. The experience or skill of the foster family. (3-30-01)

02. Maximum Number of Children. Except as specified, the maximum number of children in care at any time, including the foster family's own children, or daycare children, will be limited to not more than six (6) children. *( )*

03. Children Under Two Years of Age. Except as specified in Subsection 442.04 of these rules, the maximum number of children under two (2) years of age, including those of the foster family, will be limited to not more than two (2) children. (3-30-01)

04. Special Circumstances Regarding Maximum Numbers of Children. The maximum number of children in care at any time may be increased to not more than two (2) additional children, based on any of the following: (3-30-01)

a. The increased capacity would allow for siblings to remain together; or (3-30-01)

b. The increased capacity would allow a family to provide care to a child who has an established, meaningful relationship with the family; or (3-30-01)

c. The foster home offers unusual space, skill, or experience. (3-30-01)

05. Continued Care. A foster child who reaches the age of eighteen (18) years may continue in foster care placement until the age of twenty-one (21) years if the safety, health and well-being of other foster children residing in the home is not jeopardized. Not more than two (2) such individuals receiving continued care may reside in the foster home at the same time. (3-30-01)

443. INTERAGENCY PLACEMENT OF CHILDREN.
A foster family must only accept for placement children referred from the children's agency that licenses or certifies the foster home. A foster family may accept for placement a foster child from another children's agency only if that children's agency and the foster family have received prior approval for the placement of a child from the children's agency that licensed or certified the home. *( )*

444. SUBSTITUTE CARE PLACEMENT AND CHILDREN'S AGENCY NOTIFICATION.
A foster parent must: (3-30-01)

01. Substitute Care. Place a child in substitute care only with the prior knowledge and consent of the children's agency. (3-30-01)

02. Notification to Agency. Notify the children's agency before the beginning of any planned absence that requires substitute care of a child for a period of twenty-four (24) hours or more. (3-30-01)

445. BEDROOMS.

A foster parent must comply with the following rules: (3-30-01)

01. Sleeping Arrangements. A bedroom occupied by a foster child will: (3-30-01)

a. Provide an adequate opportunity for both rest and privacy for each child; (3-30-01)

b. Be readily accessible to adult supervision as appropriate for the age and functioning level of each child; (3-30-01)

c. Have sufficient floor space to provide two (2) feet of space between beds; (3-30-01)

d. Have sufficient space for the storage of clothing and personal belongings; (3-30-01)

e. Have a finished ceiling, permanently affixed floor-to-ceiling walls, and finished flooring; (3-30-01)

f. Have a latchable door that leads to an exit from the foster home; (3-30-01)

g. Have at least one (1) outside window that complies with the following: (3-30-01)

i. Is readily accessible to children and the foster parent; (3-30-01)

ii. Is readily opened from the inside of the room; and (3-30-01)

iii. Is of sufficient size and design to allow for the evacuation of children and caregivers. (3-30-01)

h. Is free of all of the following: (3-30-01)

i. Household heating equipment excluding baseboard heating systems; (3-30-01)

ii. Water heater; and (3-30-01)

iii. Clothes washer and dryer. (3-30-01)

02. Non-Ambulatory Child. A child who is non-ambulatory and cannot readily be carried by one (1) member of the household will sleep in a bedroom located at ground level. (3-30-01)

03. Sharing Bedroom with a Non-Parent Adult. A child will not share a bedroom with a non-parent adult unless the child and adult are of the same gender and there is not more than four (4) years difference in age between the adult and the youngest child in the bedroom. (3-30-01)

04. Sharing a Bedroom with a Foster Parent. A child three (3) years of age or older will not routinely share the bedroom with a foster parent unless the child has special health or emotional needs that require the attention of the foster parent(s) during sleeping hours. (3-30-01)

05. Maximum Number of Children in a Bedroom. No more than four (4) children will occupy a bedroom. The placement of more than any one (1) child in a bedroom will be based on the age, behavior, functioning, individual needs of each child, and sufficient available space. (3-30-01)

06. Children of the Opposite Gender. Children of the opposite gender, any of whom are more than five (5) years of age, will not share the same bedroom. (3-30-01)

07. Number of Children in a Bed. Each child will have an individual bed, except that two (2) brothers or two (2) sisters of comparable age may share a bed if they have previously shared a bed or when there are no health, behavioral or other factors indicating this is undesirable. (3-30-01)

08. Restrictions on Sleeping Arrangements. The following must not be used for sleeping purposes: (3-30-01)

a. A room or area of the foster home that is primarily used for purposes other than sleeping;(3-30-01)

b. A room or space, including an attic, that is accessible only by a ladder, folding stairway, or through a trapdoor; or (3-30-01)

c. A detached building, except in the case of an older child preparing for emancipation when it can be documented that the child's needs can best be met by that arrangement. (3-30-01)

09. Appropriate Bedding. A child will have a bed that is appropriate for the age and development of the child. Beds will be equipped with a clean and comfortable mattress, pillow, linens, and blankets appropriate for the weather. (3-30-01)

446. BEHAVIOR MANAGEMENT AND DISCIPLINE.
Methods of behavior management and discipline for children must be positive and consistent. These methods must be based on each child's needs, stage of development, and behavior. Discipline is to promote self-control, self-esteem, and independence. (3-30-01)

01. Prohibitions. All of the following types of punishment of a foster child are prohibited: (3-30-01)

a. Physical force or any kind of punishment inflicted on the body, including spanking; (3-30-01)

b. Cruel and unusual physical exercise or forcing a child to take an uncomfortable position; (3-30-01)

c. Use of excessive physical labor with no benefit other than for punishment; (3-30-01)

d. Mechanical, medical, or chemical restraint; (3-30-01)

e. Locking a child in a room or area of the home; (3-30-01)

f. Denying necessary food, clothing, bedding, rest, toilet use, bathing facilities, or entrance to the foster home; (3-30-01)

g. Mental or emotional cruelty; (3-30-01)

h. Verbal abuse, ridicule, humiliation, profanity, threats or other forms of degradation directed at a child or a child's family; (3-30-01)

i. Threats of removal from the foster home; (3-30-01)

j. Denial of visits or communication with a child's family unless authorized by a children's agency in its service plan for the child and family; and (3-30-01)

k. Denial of necessary educational, medical, counseling, or social services. (3-30-01)

02. Restraint. A foster parent who has received specific training in the use of child restraint may use reasonable restraint methods, approved by the children's agency, to prevent a child from harming himself, other persons or property, or to allow a child to gain control of himself. (3-30-01)

03. Authority. The authority for the discipline of a foster child must not be delegated by a foster parent to other members of the household. (3-30-01)

04. Agency Consultation. A foster parent must consult with the children's agency prior to using any behavior management or discipline technique that exceeds the scope of these rules. (3-30-01)

447. MEDICAL AND DENTAL CARE.

01. Health Care Services. A foster parent must follow and carry out the health or dental care plan for a child as directed by a qualified medical professional. (3-30-01)

02. Child Injury and Illness. Follow the children's agency approved policies for medical care of a child who is injured or ill. (3-30-01)

03. Dispensing of Medications. Provide prescription medication as directed by a qualified medical professional. A foster parent must not discontinue or in any way change the medication provided to a child unless directed to do so by a qualified medical professional. (3-30-01)

04. Storage of Medication. A foster parent must store medications in an area that is inaccessible to a child. (3-30-01)

448. PERSONAL CARE AND HYGIENE.
A foster parent must instruct the child in personal care, hygiene and grooming and provide the child with necessary personal care, hygiene and grooming products appropriate to the age, gender, and needs of the child. The foster parents will seek approval from the children's agency before altering a child's physical appearance including haircuts, body piercing and tattooing. *( )*

449. FOOD AND NUTRITION.
A foster parent must provide a foster child with meals that are nutritious, well-balanced, of sufficient quantity *and s*erve *the foster child* the same meals as other members of the household unless a special diet has been prescribed by a medical professional, or unless otherwise dictated by differing needs based on a child's age, medical condition, or cultural or religious beliefs. A foster child *is required to* eat with other members of the family, unless the child's medical condition dictates a different arrangement. Perishable foods must be refrigerated. Milk provided to foster children must be pasteurized, from a licensed dairy or come from an animal that is documented to be free from tuberculosis, brucellosis, or other conditions that could be injurious to a child's health. *( )*

450. NECESSARY CLOTHING.
A foster parent must provide a child with sufficient, clean, properly fitting clothing appropriate for the child's age, gender, individual needs, and season with clothing reflecting cultural and community standards. (3-30-01)

451. PERSONAL POSSESSIONS, ALLOWANCES, AND MONEY.
A foster parent must follow the children's agency policy regarding a child's personal possessions, allowance, and money and when a child moves from a foster home, the foster parent will provide the child or the children's agency with all of the child's possessions, including money. (3-30-01)

452. CHILD TASKS.
A parent must permit a child to perform only those routine tasks that are within the child's ability, are reasonable, and are similar to the routine tasks expected of other members of the household of similar age and ability. (3-30-01)

453. EDUCATION.
A foster parent must cooperate with the children's agency and applicable educational organizations to implement the education and training plan for each child. (3-30-01)

454. RELIGIOUS AND CULTURAL PRACTICES.
A foster parent must provide a child in care with opportunity for spiritual development and cultural practices in accordance with the wishes of the child and the child's parent or tribe. (3-30-01)

455. RECREATION.
A foster parent must provide or arrange access to a variety of indoor and outdoor recreational activities and encourage a child to participate in recreational activities that are appropriate for the child's age, interests, and ability. (3-30-01)

456. MAIL.
A foster parent must permit a child to send and receive mail in accordance with the mail policy of the children's agency. (3-30-01)

457. REASONABLE AND PRUDENT PARENT STANDARD.
A caregiver must follow the reasonable and prudent parent standard. (7-1-16)

01. Reasonable and Prudent Parent Standard Defined. The reasonable and prudent parent standard means the standard characterized by careful and sensible parental decisions that maintain the health, safety, and best interests of a child while at the same time encouraging the emotional and developmental growth of the child that a caregiver must use when determining whether to allow a child in foster care under the responsibility of the state to participate in extracurricular, enrichment, cultural, or social activities. (7-1-16)

a. "Caregiver" means a foster parent with whom a child in foster care has been placed or a designated official for a child care institution in which a child in foster care has been placed. (7-1-16)

b. "Age or developmentally appropriate" means: (7-1-16)

i. Activities or items that are generally accepted as suitable for children of the same chronological age or level of maturity or that are determined to be developmentally appropriate for a child, based on the development of cognitive, emotional, physical, and behavioral capacities that are typical for an age or age group; and (7-1-16)

ii. In the case of specific child, activities or items that are suitable for the child based on the developmental stages attained by the child with respect to the cognitive, emotional, physical, and behavioral capacities of the child. (7-1-16)

02. Training. Each caregiver will complete training to include knowledge and skills relating to the reasonable and prudent parent standard for the participation of the child in age or developmentally appropriate activities, including knowledge and skills relating to the developmental stages of the cognitive, emotional, physical, and behavioral capacities of a child, and applying the standard to decisions such as whether to allow the child to engage in social, extracurricular, enrichment, cultural, and social activities, including sports, field trips, and overnight activities lasting one (1) or more days, and involving the signing of permission slips and arranging transportation for the child to and from extracurricular enrichment and social activities. (7-1-16)

458. -- 469. (RESERVED)

470. RECORD MANAGEMENT AND REPORTING REQUIREMENTS.
A foster parent must maintain a record for each child in the home that will include all written material provided to the foster home by the children's agency and additional information gathered by the foster parent that includes the following: (3-30-01)

01. Personal Data. The child's name, gender, date of birth, religion, race and tribe, if applicable; (3-30-01)

02. History of Abuse and Neglect. Any known history of abuse or neglect of the child; (3-30-01)

03. Emotional and Psychological Needs. Any known emotional and psychological needs of the child; (3-30-01)

04. Health. Any information known about the child's health; and (3-30-01)

05. Behavioral Problems. Any known behavioral problems of the child; (3-30-01)

471. REPORTING FOSTER HOME CHANGES.
A foster parent must report to the children's agency any significant change in the foster home by the next working day from the time a foster parent becomes aware of a change, including the following: (3-30-01)

01. Illness, Injury, or Death. Serious illness, injury, or death of a foster parent or a member of the household. (3-30-01)

02. Arrests, Citations, Withheld Judgments, or Criminal Convictions. Any arrests, citations, withheld judgments, or criminal convictions of a foster parent or member of the household. (3-30-01)

03. Parole and Probation. Initiation of court-ordered parole or probation of a foster parent or member of the household. (3-30-01)

04. Admission or Release From Facilities. Admission to, or release from, a correctional facility, a hospital, or an institution for the treatment of an emotional, mental health, or substance abuse issue of a foster parent or member of the household. (3-30-01)

05. Employment. A change of employment status of a foster parent. (3-30-01)

06. Counseling, Treatment or Therapy. Counseling or other methods of therapeutic treatment on an outpatient basis for an emotional, mental, or substance abuse issue of a foster parent or member of the household. (3-30-01)

07. Change of Residence. A foster parent will inform the children's agency of any planned change in residence and submit an application for licensure at the new address not less than two (2) weeks prior to a change in residence. (3-30-01)

08. Additional Licensing Application. A foster parent will notify the children's agency within five (5) calendar days after filing an application for a certified family home, daycare, or group daycare license. (3-30-01)

472. CONFIDENTIALITY.
A foster parent must maintain the confidentiality of any information and records regarding a foster child and the child's parents and relatives, and a foster parent will release information about the foster child only to persons authorized by the children's agency responsible for the foster child. (3-30-01)

473. UNUSUAL INCIDENT NOTIFICATION.
The foster parent must immediately notify the responsible children's agency of any of the following incidents: (3-30-01)

01. Death. Death of a child in care. (3-30-01)

02. Suicide. Suicidal ideation, threats, or attempts to commit suicide by the foster child. (3-30-01)

03. Missing. When a foster child is missing from a foster home. (3-30-01)

04. Illness. Any illness or injury that requires hospitalization of a foster child. (3-30-01)

05. Law Enforcement Authorities. A foster child's detainment, arrest, or other involvement with law enforcement authorities. (3-30-01)

06. Removal of Child. Attempted removal or removal of a foster child from the foster home by any person who is not authorized by the children's agency. (3-30-01)

474. -- 499. (RESERVED)

CHILDREN'S AGENCIES AND CHILDREN'S RESIDENTIAL CARE FACILITIES (Sections 500 - 599)

500. GENERAL STANDARDS FOR ORGANIZATIONS KNOWN AS CHILDREN'S AGENCIES AND CHILDREN'S RESIDENTIAL CARE FACILITIES.
(Sections 500 through 599, see also Sections 000 through 299) (3-30-01)

501. ACCESS BY DEPARTMENT AUTHORIZED AGENTS.
The Department’s representatives must be provided access to the children's agency, children’s therapeutic outdoor program, or children’s residential care facility and its grounds, facilities, and records for determining compliance with applicable rules and investigation of complaints against the organization. (7-1-09)

502. COMPLIANCE REQUIRED.
Before being licensed as an organization, the applicant must comply with all applicable rules where compliance can be achieved prior to being licensed and must demonstrate intent to comply with the applicable rules where compliance can only be achieved once the program has become fully operational. (7-1-09)

503. NOTIFICATION TO THE LICENSING AUTHORITY.
An organization must notify the licensing authority a minimum of thirty (30) days prior to a change in the name of the organization, type of service, type of children being served, an increase in licensed capacity of a child care facility or children's residential care facility, or the organization closes, moves or changes ownership. ( )

504. NOTIFICATION TO THE LICENSING AUTHORITY NO LATER THAN ONE WORKING DAY.
An organization must notify the licensing authority no later than one (1) working day of any circumstance in Subsections 504.01 through 504.04 of this rule: ( )

01. Fire. There is a fire in a structure housing residents that requires the services of a fire company. (7-1-09)

02. Injured Child. A child is injured and requires in-patient hospital treatment. (7-1-09)

03. Change in Administrator. There is a change in chief administrator for the organization. (7-1-09)

04. Employee Investigated. An employee is the subject of an investigation for child abuse or neglect. (7-1-09)

505. UNAUTHORIZED ABSENCES.
Upon an unauthorized absence of a child in care, an organization must immediately notify the parent, guardian or placing children's agency and law enforcement. Clothing and other personal belongings must be secured immediately until the child returns or other arrangements are made, according to organization standards. (7-1-09)

506. DEATH OF A CHILD IN CARE NOTIFICATION.
An organization must immediately notify the parent, guardian or placing children's agency and the licensing authority upon the death of a child in care. In the event of a sudden death, or if the death occurs as a result of a crime or accident, the appropriate law enforcement agency must be contacted immediately by the organization. (7-1-09)

507. -- 519. (RESERVED)

520. WRITTEN BYLAWS.
Except for an organization operated by a governmental entity, an organization must have written bylaws defining the board structure, philosophy and program. (7-1-09)

521. GOVERNING BODY REQUIRED.
An organization must have an identifiable functioning governing body. The governing body must designate a person to function as the chief administrator of the organization, who is competent to administer the organization and delegate the overall day to day responsibility for the administration and operation of the organization. There must be a written plan for the delegation of authority in the absence of the chief administrator. (7-1-09)

522. DELINEATION OF JOB RESPONSIBILITIES.
An organization must delineate, in writing, the job responsibilities and functions of the chief administrator. The chief administrator must adopt and implement lines of responsibility that ensure the proper and effective supervision and monitoring of employees and volunteers. (7-1-09)

523. ORGANIZATIONAL CHART, POLICIES AND PROCEDURES.
An organization must have an organizational chart identifying the job positions, individuals in each position, and the lines of authority within the organization. (7-1-09)

524. INSURANCE COVERAGE.

An organization must secure and maintain on file copies of current motor vehicle, fire, comprehensive general liability, and professional liability insurance. (7-1-09)

525. QUALITY OF SERVICES ENVIRONMENT.
An organization must carry out its licensed programs in an environment that is safe, accessible, and appropriate for the needs of those served and with due regard for the rights and protections of those persons receiving services. (7-1-09)

01. Assess Compliance. The organization's administration must assess compliance with the applicable rules annually. (7-1-09)

02. Corrective Action for Non-Compliance. For each item of non-compliance, within thirty (30) days of notification by the licensing authority, the organization must have developed and implemented a plan approved by the licensing authority to correct each item within six (6) months. (7-1-09)

03. Expeditious Correction. The licensing authority may require a more expeditious correction when it determines there is a health and safety risk to children. Imminent risk to a child requires the corrective action be completed within twenty-four (24) hours of discovery of the non-compliance by the licensing authority. (7-1-09)

04. Assess Disrupted Placement. The organization must also assess all disrupted placements and unplanned removals of children from foster homes, transitional living, adoptive homes, children's therapeutic outdoor program, and children's residential care facilities. Corrective action must be implemented to correct causes of disrupted and unplanned removals. (7-1-09)

526. RESEARCH PROTECTIONS FOR PERSONS SERVED.
An organization must have a mechanism for reviewing and recommending approval and denial of research proposals involving past or present persons served. When an organization or another acting on its behalf participates in research involving its clients, the organization must maintain the privacy and right of refusal of any person to participate. (7-1-09)

527. CONFIDENTIALITY AND PRIVACY PROTECTIONS OF PERSONS SERVED.
An organization must have and follow written policies and procedures governing access to, use of, and release of information about a person served. The privacy of a child and their family must be protected. The identity of a child used in any form of publicity must be given only when written consent of the child's parent or guardian has been obtained prior to using or allowing to be used a child, picture of a child, or a child's name. Written consent is not required for publicity specifically used to locate an adoptive placement for a child. (7-1-09)

528. DESCRIPTION OF SERVICES.
An organization must have and follow a written description of the services and fees the organization charges including those provided by the licensee or arranged through other sources. This information must be factual and available to the public. The description must include policies governing eligibility for service, age, specific characteristics, and treatment needs of children served, accommodation of cultural sensitivity, and the geographic area served. (7-1-09)

529. INTAKE POLICY.
An organization must have and follow a written intake policy that sets forth the criteria for admitting children for care or services. The policy must be in keeping with the organization's purpose and services provided. Except for an emergency placement, the intake policy must include a requirement that sufficient information on each child admitted for care or services is obtained to determine that the child can be appropriately served by the organization. For an emergency placement the policy must require that the information needed to determine the appropriateness of continuing the placement or services is obtained within seven (7) days of the child's admission or placement. (7-1-09)

530. CONTINUED CARE.
Continued care is permitted as defined and authorized in the Idaho Child Care Licensing Reform Act Sections 39-1202 and 39-1213, Idaho Code, and Section 531 of these rules for individuals eighteen (18) to twenty-one (21) years of age. (7-1-09)

01. Department or Department of Juvenile Corrections (DJC) Placed Individuals. Continued care is permitted for individuals receiving services by, through, or with the authorization of the Department or the Department of Juvenile Corrections (DJC) prior to their eighteenth birthday. (7-1-09)

02. Individuals Not Placed by Department or DJC. Individuals who are in the care of a licensed child care program prior to turning eighteen (18) years of age may remain in the program for up to ninety (90) days after their eighteenth birthday, or, until the close of the current school year for individuals attending school. (7-1-09)

531. DOCUMENTATION REQUIREMENTS FOR CONTINUED CARE.
Prior to accepting an individual into continued care the following requirements must be met: (7-1-09)

01. Voluntary Agreement. A signed voluntary agreement to remain in the program, or a copy of a court order authorizing continued placement after the individual's eighteenth birthday. (7-1-09)

02. Assessment for Others Safety. An assessment to assure that an individual in continued care does not jeopardize the health, safety and well being of the children in care of the organization. (7-1-09)

03. Additional Continued Care Plans. A plan that prohibits individuals in continued care from sharing a bedroom or other sleeping quarters with a child as defined in Section 010 of these rules. (7-1-09)

04. Documentation of Care Prior to Eighteenth Birthday. Documentation verifying the individual in continued care was in the care of the organization prior to eighteenth birthday. (7-1-09)

05. Documentation of Need for Continued Care. Documentation verifying the individual in continued care needs to remain in order to complete treatment, education, or other similar needs. (7-1-09)

532. -- 534. (RESERVED)

535. SUFFICIENT FINANCIAL RESOURCES.
An organization must have sufficient financial resources to implement and deliver its programs. It must initially and annually develop and implement a plan of financing to carry out its programs, to ensure that children receive safe and appropriate care and needed services, and to ensure applicable licensing requirements are met. The plan of financing must include realistic projected income and expenditures. (7-1-09)

536. ANNUAL AUDIT.
An organization must provide the licensing authority a copy of an annual audit, an auditor's report, or a current federal tax return. (7-1-09)

537. -- 543. (RESERVED)

544. HUMAN RESOURCES NEEDED.
An organization must determine, organize and deploy the human resources needed to provide services subject to applicable rules and to promote optimum outcomes for persons served. An organization must have an adequate number of qualified administrative, supervisory, social service, direct care staff and other staff to perform the prescribed functions required by applicable rules to provide for the needs, safety, protection and supervision of children served. (7-1-09)

545. SERVICE WORKER OR SOCIAL WORKER.
An organization must employ, at a minimum, one (1) service or social worker, as defined in Section 011 of these rules, for a minimum of thirty-two (32) hours per week. (7-1-09)

546. STAFF RECRUITMENT, HIRING, SUPERVISION, TRAINING, EVALUATION, PROMOTION AND DISCIPLINE.
An organization must have and follow written policies and procedures governing recruitment, screening, hiring, supervision, training, evaluation, promotion, and discipline of employees and volunteers. An organization must

employ persons and use volunteers who have an understanding and respect for children and their needs, the child's family and culture; are physically and emotionally suited to provide, services to unrelated children and the problems they present; and are capable of performing activities related to their job. (7-1-09)

01. Job Descriptions. An organization must have and follow written job descriptions for every position identifying necessary qualifications, including education, experience, training, duties, and lines of authority. (7-1-09)

02. Personnel Records. An organization must have a personnel record for every employee and volunteer. The record must contain the following: (7-1-09)

a. Employment application; (3-30-01)

b. Name, date of birth, current address and home phone number; (3-30-01)

c. Documents verifying education, certification, and license when the person fills a position requiring a minimum level of education, applicable certification or license; (3-30-01)

d. Verification of child care work history; (7-1-09)

e. Three (3) references from persons who are unrelated to the employee or volunteer. For a job applicant who has worked for an organization which provides care or services to children, one (1) of the references must be from a prior child care provider for whom the employee or volunteer worked; (7-1-09)

f. Verified documentation of a complete criminal history record check as required by Section 39-1210, Idaho Code; (3-30-01)

g. Verification by the employee or volunteer of receipt of the organization's behavior management policy; (3-30-01)

h. Copy of the current job description and verification that the employee has been provided a copy of their current job description; (3-30-01)

i. The date the person was employed and the date they began their current job; (3-30-01)

j. For staff and volunteers who transport children, a copy of a valid driver's license for the type of vehicle used while transporting children. If they use their own vehicle to transport children, the record must include proof that the vehicle is properly insured. (7-1-09)

k. A performance evaluation within a probationary period and annual performance evaluations thereafter; and (3-30-01)

l. Documentation of any disciplinary actions. (3-30-01)

547. PERSON FILLING MORE THAN ONE POSITION.
A person filling more than one (1) position must meet the requirements for each position. (7-1-09)

548. (RESERVED)

549. TUBERCULOSIS SCREENING.
Staff and volunteers who have contact with children for four (4) or more hours per week for two (2) or more consecutive weeks must have documentation in their personnel file that they are free from communicable tuberculosis. The screening and documentation must be updated every three (3) years. (7-1-09)

550. VOLUNTEER SUPERVISION.
A designated employee of the organization must supervise a volunteer. (7-1-09)

551. EMPLOYEE AND VOLUNTEER ORIENTATION.
An organization must document that each new employee, contractor, and volunteer participates in an orientation that includes the information described as follows in Subsections 551.01 through 551.04 of this rule: (7-1-09)

01. Organization. The purpose of the organization. (3-30-01)

02. Job Function. The policies and procedures of the organization as they relate to their job function. (3-30-01)

03. Job Responsibilities. The employee's, contractor's, or volunteer's role and responsibilities. (7-1-09)

04. Child Abuse, Neglect, and Abandonment Reporting. The requirement to report suspected incidents of child abuse, neglect, and abandonment. (7-1-09)

552. EMPLOYEE AND VOLUNTEER TRAINING.
Except for a licensed professional under contract with the organization, an organization must document that each new employee and volunteer, and current employee and volunteer whose job function significantly changes, and whose primary role requires interaction with children, receive at least twenty-five (25) hours of planned training before working independently. Orientation cannot be counted toward the required training hours. The training must include specific instruction in job responsibilities, policies and procedures, emergency procedures, child safety, child abuse, neglect, or abandonment, and the applicable licensing requirements. (7-1-09)

553. -- 559. (RESERVED)

560. PERMANENT REGISTER.
Child agencies and child residential care facilities must maintain a permanent register of all children admitted into care. The permanent register must include each child's full name, gender, date and place of birth, parents or guardian, and address of the parent or guardian, who placed the child, the date of placement, date of discharge, and to whom the child was discharged. (7-1-09)

561. CONTENT OF CHILD'S RECORD.
At the time of a child's placement, the person admitting the child must document in the child's record the child's physical and emotional state at the time of placement. In addition, at the time of placement and if not available at the time of an emergency placement, then within seven (7) days, an organization must document complete biographical and identifying information on each child admitted into care. (7-1-09)

01. Minimum Information. The record must contain at a minimum the following: (7-1-09)

a. Child's full name; (3-30-01)

b. Date and place of birth; (3-30-01)

c. Gender; (3-30-01)

d. Height, weight, hair color, eye color, race, and identifying marks; (3-30-01)

e. Last known address and with whom the child lived; (3-30-01)

f. Last school attended including previous grade level, current grade level and scholastic performance; (7-1-09)

g. Parents' full names, marital status, and addresses and if known to be separated or divorced, proof of custody; (7-1-09)

h. Guardian's name and address; (3-30-01)

i. Date of admission; (3-30-01)

j. Name of the person who placed the child in care; (3-30-01)

k. For children's residential care facilities which provide treatment, the child's primary diagnosis; (3-30-01)

l. The nature of the child's problems or the reason for being served; (3-30-01)

m. Documentation of authority to accept and care for the child; (3-30-01)

n. Child's and parent's religious preference; (3-30-01)

o. Where it has been determined that a child is of applicable Indian heritage, compliance with the Indian Child Welfare Act; (3-30-01)

p. Evaluation of the child's physical, social and emotional development and any special problems and needs he has, including medical, surgical and dental care needs; (3-30-01)

q. Reports of psychological tests and psychiatric examinations and follow-up treatment if obtained; (3-30-01)

r. Record of the child's contacts with their family; (3-30-01)

s. Projected discharge date; (3-30-01)

t. Discharge date and after care plan summary; and (3-30-01)

u. The assigned social worker or service worker. (7-1-09)

02. Child's Health Record. There must be a health record for each child, available to appropriate staff for emergency use and to provide for the child's routine care. The record must contain at a minimum the following: (7-1-09)

a. The child's health history and initial health screening, including known allergies; (3-30-01)

b. A list of all medications the child is taking at the time of admission and any medication prescribed for the child while in care including the date prescribed and the prescribing physician; and (7-1-09)

c. A copy of the child's medical provider's name, address and telephone number. (7-1-09)

562. AUTHORIZATIONS REQUIRED.
Written authorization must be obtained from the parent, guardian or court of jurisdiction to obtain and provide routine medical care, emergency medical and surgical care, and mental health care for the child. (7-1-09)

563. SERVICE PLANS.
An organization must develop and follow a written service plan for a child admitted into care unless otherwise provided for in Sections 564, and 790 through 794 of these rules. (7-1-09)

01. Initial Service Plan. The initial service plan must be developed and recorded in the child's record within thirty (30) days after admission and must: (7-1-09)

a. Identify the needs of the child and family and provide goals and a time frame to achieve the goals; (7-1-09)

b. Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; (7-1-09)

c. Establish and document criteria for discharge; (7-1-09)

d. Demonstrate the service plan was developed in a process that included participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if he is under nine (9) years of age or not capable of understanding the purpose of the planned services; and (7-1-09)

e. Identify the persons responsible for coordinating and implementing the child's and family's treatment goals. (7-1-09)

02. Updated Service Plan. A service plan must be updated every ninety (90) days and must: (7-1-09)

a. Assess the appropriateness of continuing the current placement; (7-1-09)

b. Document services the organization will provide to assure the safety, health, permanency, and well-being of the child; (7-1-09)

c. Document progress towards achieving the goals in the service plan; (7-1-09)

d. Demonstrate the service plan was developed in a process that included participation of the child's parent, guardian, or legal custodian, and the child. A child may be excluded from participation in development of the service plan if he is under nine (9) years of age or not capable of understanding the purpose of the planned services. (7-1-09)

564. SHELTER CARE ADMISSION AND PLANS.
The organization must develop and follow a written plan within seven (7) days of admission to shelter care. The plan must assess the child's immediate and specific needs and identify the specific services to be provided by the organization and other resources to meet the needs. (7-1-09)

01. Shelter Care in Excess of Thirty Days. The organization must re-assess and update the written plan for each child remaining in shelter care for thirty (30) days and at forty-five (45) days. The plan must include: (7-1-09)

a. The reason for continued care; (3-30-01)

b. Plans for other placement; and (3-30-01)

c. Barriers to other placement and the plans to eliminate the barriers. (3-30-01)

02. Shelter Care More Than Sixty Days. The organization must develop and follow service plans that comply with these rules, except the initial service plan must be developed after sixty (60) days of admission. The service plan must be updated every ninety (90) days thereafter. (7-1-09)

565. MAINTENANCE OF RECORDS.
An organization must have and follow written policies and procedures for the maintenance and security of records. The policy and procedures must: (7-1-09)

01. Record Storage. Ensure that the records are stored in a secure manner. (3-30-01)

02. Record Confidentiality. Ensure confidentiality of and prevent unauthorized access to the records. (3-30-01)

03. Organization of Record. Require that similar type records be maintained in a uniform and organized manner. (3-30-01)

04. Record Storage for Closed Organizations. Before an organization ceases operations, it must arrange with the Department for the storage of all child and adoptive family records required to be maintained by rules. (3-30-01)

566. RECORD RETENTION.
Except for an adoptive record, records must be maintained for at least seven (7) years after the child has been released from the organization's care or until the child reaches the age of twenty-five (25), which ever is longer. A record for an adopted child and adoptive parent must be kept forever. The record for each applicant for a foster care license or certification or an application to adopt where there was no adoptive placement must be maintained for at least seven (7) years after provision of services has ended. (7-1-09)

567. -- 569. (RESERVED)

570. REPORTING OF CHILD ABUSE, NEGLECT, AND ABANDONMENT.
All suspected incidents of child abuse, neglect, or abandonment must be reported immediately to law enforcement or the Department as required by Section 16-1605, Idaho Code. The chief administrator or designee of the children's agency or facility must ensure the safety and protection of children when the allegation is against an organization's staff or volunteer and must initiate a thorough investigation and administer appropriate disciplinary action, when indicated. (7-1-09)

571. HEALTH SERVICES.
The organization must provide a physical exam within the last year by a licensed physician when the child has been in continuous care. If a child has not been in continuous care, a physical must be done within thirty (30) days of admission by a licensed physician. Annual physical exams must be provided for a child two (2) years of age and older, and on a schedule determined by a pediatrician for a child under two (2) years of age. Documentation must be maintained of current immunizations or provisions for immunizations as required by Section 39-4801, Idaho Code, within thirty (30) days of admission. The organization must provide documentation of medical care for the treatment of illnesses, carrying out corrective measures and treatment, and for the administration of medication as ordered by the physician. (7-1-09)

572. DENTAL SERVICES.
For children three (3) years of age and older, the organization must ensure and document the child has had a dental exam within the last nine (9) months or a dental exam within three (3) months of admission, a yearly dental exam and necessary dental treatment, including prophylaxis, extraction, repair and restoration. The organization must make provisions for appropriate dental care for a child under the age of three (3) when the child's dental needs indicate. Documentation of all medical treatment provided while the child is in care and documentation of applicable medical insurance provider, policy numbers and who holds the policy must be maintained. (7-1-09)

573. NON-VIOLENT PHYSICAL INTERVENTION.
An organization must have written policies and procedures governing the appropriate use of non-violent physical restraint intervention strategies. The policies and procedures must be according to non-violent physical restraint intervention strategies of a nationally recognized program. Non-violent physical restraint intervention strategies must include the following: (7-1-09)

01. Protection from Harm to Self or Others. Be used only when a child's behavior is out of control and could physically harm himself or others, or to prevent the destruction of property when the child fails to respond to non-physical behavior management interventions. (3-30-01)

02. Intervention Time Guidelines. Be used only until the child has regained control and must not exceed fifteen (15) consecutive minutes, include written documentation of attempts made to release the child from the restraint if more than fifteen (15) minutes is required. (7-1-09)

03. Intervention Training Requirements. Be used only by employees or volunteers documented to have been specifically trained in its use and authorized to apply such strategies. (3-30-01)

04. Conditions Limiting Restraint Use. Prohibit the application of a non-violent physical restraint intervention if a child has a documented physical condition that would contraindicate its use, unless a qualified

medical professional has previously and specifically authorized its use in writing. Documentation must be maintained in the child's record. (7-1-09)

05. Prohibition of Prone Restraints. Prohibit the use of prone restraints. (7-1-09)

06. Intervention Documentation. Require documentation of the behavior which required the non-violent physical restraint intervention strategy, the specific attempts to de-escalate the situation before using physical restraint, the length of time of the non-violent physical restraint intervention strategy was applied which includes documentation of the time started and completed, and the debriefing completed with the staff and child involved in the non-violent physical restraint intervention strategy. (7-1-09)

07. Subsequent Review. Require that whenever the non-violent physical intervention policy and procedures have been used on a child more than two (2) times in one (1) week, there is a review by the chief administrator or their designee. Appropriate action must be taken based on the findings of the review. (7-1-09)

574. CLIENT GRIEVANCE POLICY.
An organization must develop and follow a written grievance policy for clients that is written in simple and clear language, requires prompt investigation of the grievance by a person who can be objective, and provides at least one (1) level of appeal. Clients must be made aware of the grievance policy and this must be documented. The policy must be shared in a manner appropriate to the child's age and their ability to understand. The policy must require monitoring to ensure there is no retaliation against the child or the person who files a grievance. (7-1-09)

575. SUICIDE PREVENTION PLAN.
An organization must develop and follow a written suicide prevention plan that addresses the needs of the population the organization serves. (7-1-09)

576. CLOTHING.
An organization must ensure that each child in care has sufficient clean, properly fitting clothing, appropriate for the child's age, gender, individual needs, program and season. (7-1-09)

577. VISITATION POLICY.
An organization must have and follow a written visitation policy. The policy will encourage visits between a child in care and family members and others significant to the child except when visitation is contraindicated and is documented in the child's record or a court order. The policy must require the maintenance of a log of visitation for each child in residential care which includes the name of the person visiting and the date and time of the visit. (7-1-09)

578. CORRESPONDENCE POLICY.
An organization must have and follow a written correspondence policy that specifies the conditions under which the organization restricts the receipt of correspondence to or from a child. The conditions must require that the child and parent or guardian be informed of the restriction, the reason for the restriction, and that the restriction be documented in the child's record. The policy must prohibit staff and foster parents from reading children's correspondence except where there is a legitimate documented reason to do so. When staff or foster parents read a child's correspondence, the child must be present. Packages may be exempt from the prohibition against inspection. (7-1-09)

579. RELIGIOUS AND CULTURE POLICY.
An organization must have and follow a written policy regarding religious participation, religious training, cultural heritage, and cultural practices of children in its care. Before placement of any child with the organization, the child's parents or guardians must receive a copy of the religious and cultural policy and acknowledge receipt of the policy with their signature and date. (7-1-09)

01. Organizations That Accept State Placements. An organization providing services to a child placed by the state must include in its policy a requirement to provide reasonable attempts to accommodate the religious and cultural preferences of the child and the child’s parents. The organization will also commit in policy to assurances of respect for the religious and cultural beliefs and practices of all children placed in their program. (7-1-09)

02. Organizations That Accept Only Private Placements. An organization that accepts only private placements and requires each child to participate in specific religious practices must include this requirement in their written religious and cultural policy signed by the child's parents or guardians. (7-1-09)

580. EDUCATION POLICY.
An organization must have and follow an education policy. The policy will require that within five (5) school days after a child's placement, each child of school age, as defined by state law, be enrolled in an appropriate school program or document why the child was unable to enroll. (7-1-09)

581. PERSONAL POSSESSIONS, ALLOWANCE, AND MONEY POLICY.
An organization must have and follow a personal possessions, allowance and money policy. The policy will include: (7-1-09)

01. Financial Accounting. Payment of, and accounting for any allowance, social security benefits, and other financial benefits to a child in care. (3-30-01)

02. Child's Personal Possessions. Documented accounting for a child's personal possessions, including clothing with which the child came into care and items which were obtained while he is in care and documented return of all inventoried items, to the child, parent, or guardian at discharge from care, except illegal contraband and contraband prohibited by the organization in its policy which may be exempt from return. (3-30-01)

03. Signature Required. The organization must obtain the signature of the parent, guardian or child over eight (8) years of age who is capable of understanding the purpose of the inventory at the time of inventory and when the items are returned. (7-1-09)

582. EMERGENCY POLICIES.
An organization must have and follow an emergency policy and procedures. The policy must contain provisions for ensuring that a caregiver has and follows the organization's approved written procedures for the following emergencies: (7-1-09)

01. Fire. (7-1-09)

02. Natural Disasters. (7-1-09)

03. Serious Accident or Injury. (7-1-09)

04. Medical. (7-1-09)

05. Missing Child. (7-1-09)

06. Power Outage. (7-1-09)

07. Bomb Threat. (7-1-09)

08. Severe Weather. (7-1-09)

09. Hostage Taking. (7-1-09)

10. Other Dangers Unique to the Location of an Organization. (7-1-09)

583. REASONABLE AND PRUDENT PARENT STANDARD FOR AN ORGANIZATION PROVIDING SERVICES TO CHILDREN PLACED BY THE DEPARTMENT.
An organization providing services to children placed by the Department's Child and Family Service Program must designate at least one (1) on-site official who is authorized to apply the reasonable and prudent parent standard as described in Section 457 of these rules. (7-1-16)

584. -- 599. (RESERVED)

ADDITIONAL STANDARDS FOR CHILDREN'S AGENCIES (Sections 600 - 699)

600. ADDITIONAL STANDARDS FOR CHILDREN'S AGENCIES.
(Sections 600 through 699, see also Sections 500 through 599.) (3-30-01)

601. CHIEF ADMINISTRATOR POSITION AND QUALIFICATIONS.
The children's agency must employ or contract for a chief administrator who has at the time of appointment, at a minimum: (7-1-09)

01. Master's Degree. A Master's degree from an accredited college or university in a field related to behavioral science, two (2) years of experience working with families or children in a social services setting, and three (3) years of experience in staff supervision and administration; or (7-1-09)

02. Bachelor's Degree. A Bachelor's degree from an accredited college or university in a field related to behavioral science, five (5) years of experience working with families or children in a social services setting and three (3) years of experience in staff supervision and administration. (7-1-09)

602. SERVICE WORKER SUPERVISOR POSITION.
The children's agency may employ a service worker supervisor who possesses either: (7-1-09)

01. Master's Degree Provision. A Service Worker Supervisor must be a certified social worker or a person who possesses a Master's degree from an accredited college or university in a related field with appropriate licensure as required by state law, and have demonstrated experience of not less than five (5) years in adoptions or foster care; or (7-1-09)

02. Bachelor's Degree Provision. A Bachelor's degree from an accredited college or university in a behavioral science, or in another major where twenty-five percent (25%) of the course credits earned toward the degree are in behavioral sciences, and five (5) years of experience working with families or children in a social service setting and three (3) years in staff supervision and administration. (7-1-09)

603. (RESERVED)

604. SOCIAL WORKER POSITION AND QUALIFICATIONS.
A children's agency may employ or contract for a licensed social worker who possesses at least a bachelor's degree from an accredited college or university with a major in a social work. (7-1-09)

605. SERVICE WORKER POSITION AND QUALIFICATIONS.
A children's agency that does not employ or contract for a social worker must employ or contract for a service worker. (7-1-09)

01. Qualification. Qualifications of the service worker must be verified through written documentation of work experience and education. The service worker will have at a minimum: (7-1-09)

a. Twenty (20) hours of completed training in adoption or foster care services specific to the assigned duties; or (3-15-02)

b. One (1) year of full-time paid experience in adoption or foster care services specific to assigned duties. (3-15-02)

02. Training. Service Workers must document twenty (20) hours of completed training every four (4) years in adoption or foster care services specific to the assigned duties. (3-15-02)

606. SOCIAL WORKER OR SERVICE WORKER RESPONSIBILITIES.

The responsibilities of a social worker or service worker employed or contracted by a children's agency will include child assessment, service plan development, child placement, foster or adoptive home assessment, supportive services for children and families, and transitional living services. (7-1-09)

607. SELF-SUPERVISION PROHIBITED.
Neither a service worker supervisor nor a social worker is allowed to supervise their own work. (7-1-09)

608. STAFF WORKLOADS.
A children's agency must have identified workload standards for each staff member. (7-1-09)

01. Supervisor to Staff Ratio. Service Worker Supervisors must not supervise more than eight (8) workers made up of the following: social workers, service workers, and social service aides. (7-1-09)

02. Caseload Limitations. At the discretion of the supervisor, a social worker or service worker may be assigned a caseload of twenty (20) families with an adoption placement, active child foster care, or transitional living cases; or forty (40) adoptive families being studied or awaiting an adoptive placement or foster home certification cases, or a proportionate combination of these functions. (3-30-01)

609. -- 614. (RESERVED)

615. ADDITIONAL PROVISIONS FOR FOSTER HOME CERTIFICATION.
A children's agency that licenses or certifies foster homes must have policies to comply with foster care rules, Sections 400 through 499 of these rules and may require that additional foster care standards be met if the agency deems appropriate. (7-1-09)

616. PROGRAM DESCRIPTION.
A children's agency providing foster care must include information in their brochure and their licensing application of the types of foster care provided, the type and number of homes needed, and the type of support services provided to foster parents. (7-1-09)

617. LICENSING AND CERTIFICATION AGENCY POLICIES AND PROCEDURES FOR FOSTER HOMES.
In addition to meeting the general requirements for policies in Sections 500 through 616 of these rules, a children's agency which licenses or certifies foster homes must have policies and procedures for Sections 618 through 649 of these rules. (7-1-09)

618. APPLICATION REQUEST PROCESS.
A children's agency that licenses or certifies foster homes must document that a person who has requested an application has been given a copy of the foster care rules found in Sections 400 through 499 of these rules and has been provided a copy of the foster parent training requirements for children's agencies. (7-1-09)

619. (RESERVED)

620. INITIAL AND SUBSEQUENT FAMILY FOSTER HOME EVALUATION STUDY PROCESS AND CONTENTS.
The children's agency must conduct an appropriate home study based on the foster care Sections 400 through 499 of these rules, to determine if the family meets required licensing standards to be issued a foster care license, and must maintain a copy of the study on file. (7-1-09)

621. TRAINING.
The children's agency must have and follow a training policy that includes meeting the orientation and ongoing training requirements of Sections 400 through 499 of these rules, and must include additional information on the requirements unique to the particular agency program. All foster care training must be documented in the foster parents case file record. (7-1-09)

622. PLACEMENT AGREEMENT REQUIRED CONTENTS.
The children's agency must use a placement agreement that is signed by the foster parents and the children's agency

before placing a child in a foster home. The placement agreement must identify the responsibilities of the children's agency including supervision and support services for the foster family and the responsibilities of the foster family. The foster family must be informed and agree to follow the children's agency policies and procedures. A children's agency must review the agreement with the foster family at least annually and, when needed, develop a new agreement. The children's agency must provide the foster family with a copy of the signed current placement agreement and maintain a copy in the foster home record. (7-1-09)

623. COMPLAINT INVESTIGATION, BASIS, TIME REQUIREMENTS, NOTIFYING FOSTER PARENTS, CONTENTS, AND PROCESS.

When a complaint is received that relates to possible foster parent noncompliance with any provisions in Sections 400 through 499 of these rules, a children's agency must initiate a complaint investigation as soon as is indicated, based on seriousness of the allegation received, no later than seven (7) calendar days after receipt of the allegation. A children's agency must inform a foster parent that a complaint has been received, provide a clear description of the allegations, and allow a representative of the foster parent in interviews regarding the complaint before they are questioned or interviewed. (7-1-09)

01. Investigation Timeline and Extension. A children's agency must complete a complaint investigation within forty-five (45) calendar days after receipt of the allegation. If additional time is required, the children's agency must inform the foster parent, in writing, of the basis for the extension. (7-1-09)

02. Summary of Findings. Before completion of a written report, a children's agency must provide a verbal summary of the preliminary findings with the foster parent. (7-1-09)

03. Agency Written Report. Upon completion of the investigation, a children's agency must prepare a written report that includes date and report source, identification of the source of the allegation, unless anonymous or confidential, as specified in the Child Protective Act, Title 16, Chapter 16, Idaho Code. The report must also include: (7-1-09)

a. The specific allegations; (3-30-01)

b. Dates and places of contacts, names of persons interviewed, and names of the interviewers. If children are interviewed, their names must be coded in the report; (7-1-09)

c. Findings of fact, based on the investigation; (3-30-01)

d. Conclusions regarding compliance or noncompliance with Sections 400 through 499 of these rules, based on the findings of the investigation summarized in the report; (3-30-01)

e. Any changes in the children's agency decision regarding placement specifications that are based on the findings of the investigation summarized in the report; and (3-30-01)

f. Recommendations regarding licensing or certification action and any required corrective action. (3-30-01)

04. Conclusion of Investigation. A children's agency must provide a copy of the complaint investigation report, excluding the source of the allegation to the foster parent, within ten (10) calendar days of its completion. The foster parent must be allowed to attach their written response to the report. The children's agency must document any identified corrective action required of the foster family. (7-1-09)

624. RECORDS MANAGEMENT, MAINTENANCE, AVAILABILITY TO FOSTER PARENT, AND CONTENTS.

A children's agency must maintain a foster home record for each foster home and may make copies of a record available to the applicant or licensed or certified foster parent upon request except for medical documents specifically identified as confidential, pending complaint investigation reports and documents, records of privileged communications and criminal records, police reports, and child protective service information. Social security numbers from any source cannot be provided, except a social security number needed by a foster parent to provide needed services for a foster child. (7-1-09)

01. Record Contents. The record must contain all documents pertaining to licensing or certification of the home, any complaint investigation reports, and placement agreements between a foster parent and the children's agency. (7-1-09)

02. Placement Record. A complete record identifying all children placed in the foster home and removed from the home, including: full name, age, gender, and race of the child; date of the placement; date and reasons for a foster child's departure from the foster home; any written response from a foster parent to a complaint investigation or response to a cited rule compliance; and any corrective action plans. (3-30-01)

625. -- 629. (RESERVED)

630. ADDITIONAL PLACEMENT CONSIDERATIONS.
A children's agency must follow the provisions of Sections 400 through 499 of these rules and have a policy on the following placement considerations. (7-1-09)

01. Child Placement Preparation. Before the placement of a child, the children's agency must prepare the child for the placement consistent with the child's age, individual needs, the circumstances necessitating placement, and identified special problems presented. (7-1-09)

02. Placement Emergency Change. If an emergency change in placement is necessary, within fourteen (14) days of the placement change, documentation must be included in the child's record. (7-1-09)

03. Placement Service Termination. If a children's agency is no longer providing services to the child in a foster home, the following information must be documented within fourteen (14) days of the service termination that includes a summary of the services provided, the needs that remain, and provision for any continuing services with another children's agency. (7-1-09)

631. EMERGENCY EVACUATION PLAN.
A children's agency must have a policy to require and approve a written evacuation plan for a foster home. (7-1-09)

632. UNUSUAL INCIDENT POLICY.
The children's agency must have a policy to notify the state licensing authority within one (1) working day of the occurrence of an incident as outlined in Section 473 of these rules. The policy must require the children's agency to notify the Department immediately, the foster child's parents, and the responsible children's agency of the death of a foster child. (7-1-09)

633. SERVICE PLANS AND PARTICIPANTS.
A children's agency must develop initial and updated service plans on behalf of the child through a team approach which includes the child, the child's parents or legal guardian, the foster parents, the referring children's agency, others identified in providing needed placement services and the assigned social worker or service worker, as appropriate. A service plan must include behavioral management procedures with the placing agency, if appropriate, and with the foster parents and a copy must be maintained in the child's file. (7-1-09)

634. CHILDREN'S AGENCY SUPERVISION OF CHILD.
A children's agency must develop a plan of supervisory visits with a child in foster care consistent with the child's service plan, as required by these rules. The child's record must contain documentation that the assigned social worker or service worker personally visited the foster child at least once each month. A children's agency may reduce the number of social worker or service worker visits with a child to once every ninety (90) days if there is documentation and justification in the service plan that a child's placement in a foster home is a long-term planned placement. At least one-half (1/2) of the visits must occur in the foster home. (7-1-09)

635. -- 649. (RESERVED)

**ADDITIONAL PROVISIONS FOR TRANSITIONAL LIVING SERVICES
(Sections 650 - 659)**

650. ADDITIONAL PROVISIONS FOR TRANSITIONAL LIVING SERVICES.
(Sections 650 through 659, see also Sections 500 through 599) (3-30-01)

651. PROGRAM STATEMENT FOR TRANSITIONAL LIVING SERVICES.
A children's agency which provides transitional living services must develop a program statement describing the specific services it will provide to youth. Services are limited to those identified youth who are at least sixteen (16) years of age and for whom family reunification, placement with previous care givers or extended family, and adoption have been found and documented to be inappropriate. (3-30-01)

652. POLICIES AND PROCEDURES FOR TRANSITIONAL LIVING SERVICES.
In addition to the requirements for policies in Sections 500 through 651 of these rules. The children's agency must have policies and procedures for selecting youth for placement, orientation of youth before placement, approval and oversight of living arrangements, provision of support services or arranging for these services, and termination of services. (3-30-01)

653. RECORD MANAGEMENT.
In addition to the general record requirements in Section 561 of these rules, an agency record must be updated annually and include the youth's social security number, current address, telephone number, a photograph, and the names and addresses of known offspring. (3-30-01)

654. SERVICE COMPONENTS.
An agency licensed to provide transitional living services must provide or arrange for the following service components as appropriate to the youth's needs: (3-30-01)

01. Planning. Individualized, youth-centered placement planning. (3-30-01)

02. Counseling. Counseling and support groups as appropriate to individual needs. (3-30-01)

03. Skills. Life skills, self-care, daily living skills, money management, and housing. (3-30-01)

04. Training. Education, vocational, or technical training. (3-30-01)

05. Medical Care. Health and medical care. (3-30-01)

06. Legal. Legal services. (3-30-01)

07. Activities. Socialization, cultural, religious, and recreational activities. (3-30-01)

08. Aftercare. Aftercare following termination of transitional services. (3-30-01)

655. TRANSITIONAL LIVING PLACEMENT.
Before a youth is placed in a transitional living program, a children's agency must document in the youth's record: (3-30-01)

01. Basis. The basis for determining this is an appropriate program for the youth; (3-30-01)

02. Self-Care. That a youth exhibits self-care potential: (3-30-01)

03. Youths Need for Supervision. An evaluation of and a plan for a youth's need for supervision and support services; (3-30-01)

04. Living Arrangements. The assigned social worker or service worker has personally observed the living arrangement and determined it is safe and appropriate; and (3-30-01)

05. Essential Services. There are specific and essential services to provide for suitable social, physical, vocational and emotional needs of the youth as appropriate. (3-30-01)

656. SUPERVISION AND SUPPORT.
A children's agency must develop and follow a plan of supervision and support services for a youth in transitional living consistent with the youth's needs as follows: (3-30-01)

01. Plan of Supervision. The plan will include: (3-30-01)

a. Current documentation of financial support sufficient to meet the youth's housing, clothing, food, and miscellaneous expenses; and (3-30-01)

b. The date, location, documented purpose, and a summary of the findings of each contact between social worker or service worker and the youth describing the youth's adjustment, relationship with family members, and the children's agency efforts to resolve any conflicts. (3-30-01)

02. Written Contract and Reviews. A children's agency will have a mutually agreed upon contract between the youth and the children's agency that specifies the responsibilities of the children's agency and the youth, which is signed and dated by the youth and the assigned social worker. The contract will be reviewed and updated at least once every ninety (90) calendar days. A copy of the contract and any amendments to the contract will be maintained in the case record. (3-30-01)

03. Monthly Contact. There will be face-to-face contact at least monthly with the youth by the assigned social worker or service worker to assess that the youth is functioning at an acceptable level, is carrying out prescribed expectations, is managing their money, and is residing in a safe and acceptable environment. (3-30-01)

04. Contact Documentation. At least once every two (2) months there will be documentation of an on-site contact with the youth at their place of residence by the assigned social worker or service worker. (3-30-01)

05. Twenty-Four Hour Agency Telephone Access. Youth will have twenty-four (24) hour, seven (7) days-a-week telephone access to contact the children's agency. (3-30-01)

657. TERMINATION OF TRANSITIONAL LIVING SERVICES.
When a children's agency terminates its transitional living services for a youth, the reason for the termination, the youth's new location, a summary of the needs that have been addressed and remain to be met, and identified referral services must be documented in the youth's case record within thirty (30) days after the youth leaves the program. (3-30-01)

658. REQUIRED INFORMATION FOR YOUTH AT SERVICE TERMINATION.
A children's agency must document that each youth who ends transitional living services is provided with basic information on health care, housing, counseling services, and emergency resources, and will be provided their birth certificate, Social Security card, funds, and personal property held by the children's agency. (3-30-01)

659. (RESERVED)

ADDITIONAL PROVISIONS FOR ADOPTION SERVICES (Sections 660 - 679)

660. ADDITIONAL PROVISIONS FOR ADOPTION SERVICES.
(Sections 600 through 679, see also Sections 500 through 599) (3-30-01)

661. ADOPTION SERVICES - NONPROFIT STATUS.
A children's agency which provides adoptions services must provide documentation that it is incorporated as a non-profit corporation. (3-30-01)

662. PROGRAM STATEMENT.
A children's agency that provides adoption services must include in its program statement the following: (3-30-01)

01. Description of Services Available. A written description of services provided directly by the

children's agency or through another organization for a child, a birth parent, an adoptive applicant and an adoptive family. (3-30-01)

02. Eligibility. The general criteria by which the children's agency determines eligibility for adoptive parenthood. (3-30-01)

03. Delineation of Expenses. A clear delineation of fees, charges, and other consideration for adoption services. The delineation will include: (3-30-01)

a. Specific charges for expenses and services provided within the children's agency; (3-30-01)

b. Chronological itemization of fees for expenses and services provided by other identified sources; (3-30-01)

c. Identification of the charges that are refundable and the charges that are not refundable; and (3-30-01)

d. The manner and timing of payments. (3-30-01)

663. WRITTEN POLICIES AND PROCEDURES - ADOPTION.
A children's agency must have and follow written policies and procedures for the adoption services it provides or facilitates and *that these* cover services for children, birth parents, adoptive applicants and parents, post placement services, and post-finalization services. *( )*

664. SERVICES FOR CHILDREN AS THE PRIMARY CONSIDERATION.
A child in need of adoption must be the primary consideration of adoption services provided by a children's agency. The choice of adoptive placement will be in the best interest of the child and include consideration of previous caretakers. This will include the foster parents where a child has established a bonded relationship. For children under the supervision of the children's agency and are awaiting adoptive placement, there must be a review by the agency administrator, or their designee, every month for an infant one (1) year of age or younger, and every three (3) months for a child over one (1) year of age, to determine what needs to be done to locate an adoptive placement for the child. (3-30-01)

665. SERVICES FOR CHILD'S BIRTH PARENTS.
A children's agency that accepts custody of a child from a birth parent or parents must provide services for the parent or parents either directly or through cooperative arrangements. The children's agency must ensure that the legal rights of the birth parents are protected throughout the decision-making about release of records, as required by statutes governing Termination of Parental Rights and Adoptions (see Title 16, Chapter 15, Idaho Code, and Title 16, Chapter 20, Idaho Code). The children's agency will respect the expressed desires of either or both birth parents to provide for continuity of identity of the child's religious, cultural, racial, linguistic, and ethnic background, provided the desired request does not deny or delay placement of the child for adoption in accordance with the Multi-ethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, and such considerations are legal. (3-30-07)

666. SERVICES FOR ADOPTIVE APPLICANTS.
A children's agency must provide the following services to its adoptive applicant clients: (3-30-01)

01. Orientation. Orientation to adoption, its meaning, the children's agency adoption process and procedures, and the availability of children for adoption; (3-30-01)

02. Suitability Criteria. Information about the specific criteria by which the children's agency determines suitability as adoptive parents and the areas the children's agency assesses to determine the ability of the adoptive applicants to meet the needs of an adopted child; (3-30-01)

03. Termination of Services. The children's agency procedures for termination of services for an applicant found to be unsuited for adoptive parenthood or for an applicant found suited to adopt but for whom a child cannot be found; (3-30-01)

04. Selections and Services for a Specific Child. The children's agency procedures for selection of adoptive applicants to meet the needs of a specific child and, where indicated, assistance in obtaining resources and services to meet the continuing needs of the child; (3-30-01)

05. Legal Assessment. The children's agency procedures for assuring that a child placed is legally free for adoption or an explanation that the placement is a legal-risk placement of the child and what efforts are made to free the child; (3-30-01)

06. Preparation for Placement. The children's agency procedures for preparing an applicant for parenting and placement of a child; and (3-30-01)

07. Counseling. The children's agency may provide or arrange counseling for prospective adoptive parents including assistance in understanding a child's religion, culture, ethnic, or linguistic background and the impact of leaving familiar ties and surroundings, including attachment issues and living in an institution, as appropriate to the age of the child. (3-30-01)

667. RECRUITMENT OF ADOPTIVE APPLICANTS.
A children's agency must recruit adoptive applicants at a level that ensures the availability of a sufficient number and diversity of adoptive families to meet the needs of children available for adoption under the care of the children's agency. (3-30-01)

668. PAYMENT LIMITATIONS IN ADOPTION.
A children's agency must prohibit the actual or promised payment or other material consideration to any party directly or indirectly involved in the administration of an adoption service, whether acting as an employee or independent contractor, except for the performance of routine professional duties necessary to complete the adoption process. (3-30-01)

669. PROHIBITION OF CONTRIBUTIONS IN ADOPTIONS.
A children's agency must not accept contributions from adoptive applicants or from persons acting on the applicant's behalf during the period of application or before an adoption has been finalized, nor accept a commitment to make a contribution after an adoptive placement. (3-30-01)

670. PROHIBITION OF STAFF ADOPTIONS.
A children's agency must not do an adoption study or placement for its own staff, board member, or person with whom the children's agency contracts to provide services for the agency. (3-30-01)

672. SERVICES FOR ADOPTIVE PARENTS.
A children's agency must provide or arrange for the following services to adoptive parents served by the children's agency: (3-30-01)

01. Specific Training. The children's agency will provide or arrange specific training related to the culture and race of the child who is of a different culture or race from the adoptive parents. (3-30-01)

02. Disclosure of Non-Identifying Child Information. Disclosure of all non-identifying information known to the children's agency about the child, the child's birth parents, and the circumstances leading to the decision to place for adoption. (3-30-01)

03. Post-Placement Services. Post-placement services related to support to the family and supervision of the placement. (3-30-01)

04. Provision of Resources. Provision of resources or arranging for the provision of resources to effect a safe, stable and suitable placement for the child and the family, including information regarding the federal adoption assistance program. (3-30-01)

05. Adoption Finalization Assistance. Help in finalizing the legal adoption of the child. (3-30-01)

06. Post-Finalization Services. Upon request, the children's agency, either directly or by referral to a resource, will assist the family with any identified problems associated with the adoption. (3-30-01)

673. SELECTION OF AN ADOPTIVE PLACEMENT.
The factors listed are in random order and are not intended to reflect relative priority. A children's agency must consider the following factors in selecting suitable adoptive parents for a child: (3-30-07)

01. Child's Needs. The physical, emotional, medical, and educational needs of the child. (3-30-01)

02. Continued Contact. The child's needs for continued contact with the birth parent(s), siblings, relatives, foster parents, and other persons significant to the child. (3-30-01)

03. Racial, Ethnic, and Cultural Considerations. In accordance with the Multiethnic Placement Act (MEPA), P.L. 103-382 and P.L. 104-188, 42 USC, Section 622, the child's racial, ethnic, cultural identity, heritage, and background may only be considered if a written assessment of the child indicates that such consideration is in the best interest of the child. (3-30-07)

04. Authorized Placement on Approved Recommendations. The children's agency must require authorization by a chief administrator after the recommendations of approval are given by a service worker supervisor. The approval or denial must be documented in the case record. (3-30-07)

05. Placement. A children's agency will place a child with children's agency-approved adoptive parents consistent with the recommendations specified in the adoptive family study and the needs of the child identified in these rules. (3-30-07)

674. CONDITIONS FOR PLACEMENT IN AN ADOPTIVE HOME.
A children's agency may place a child in a home for the purposes of adoption if the adoptive parents have received orientation in accordance with the requirements of Sections 660 through 699 of these rules, an adoptive family study has been completed, supervisory approval of the placement has been obtained, and all applicable parties have signed the adoptive placement agreement. (3-30-01)

675. ADOPTIVE PARENT INFORMATION.
A children's agency must provide adoptive parents with the following information before the placement of a child: (3-30-01)

01. Name. Child's name as permitted by law or disclosure agreement. (3-30-01)

02. Date, Time, and Location of Birth. Date, time and place of birth, including hospital, city, state, and country. (3-30-01)

03. Racial, Ethnic, and Religious Considerations. Child's racial, ethnic, and religious background. (3-30-01)

04. Medical Records. Child's physical and mental health records and where applicable, special needs. (3-30-01)

05. Family of Origin. Description of the child's family of origin, including age and gender of each family member, their relationship to the child, and medical and mental health history, social, and education history of each member of the family. (3-30-01)

06. Circumstances of the Placement. Description of the circumstances necessitating placement of the child. (3-30-01)

07. Preparation for Placement. Child's preparation for placement and attitude towards adoption. (3-30-01)

08. Other Information. Any other information to enable the adoptive parent to provide a stable, safe, and healthy environment for the child. (3-30-01)

676. SUPERVISION.
A children's agency social worker or service worker must provide post placement supervision to the adoptive family at the family's home at least once every three (3) months after the placement of a child and before the final order of adoption. These supervisory contacts will include: (3-30-01)

01. Documentation of Adjustment. Assessment and documentation of the child's and adoptive family's adjustment and, where indicated, plans to assist the child and adoptive family. (3-30-01)

02. Results of Assessment. Keeping the adoptive parents informed of the results of the children's agency's continuing assessment of the placement at the conclusion of each supervisory contact. (3-30-01)

03. Special Needs Adoption. Supervision by the children's agency for at least six (6) month duration and as frequently as needed before finalization for special needs adoptions. (3-30-01)

677. -- 679. (RESERVED)

ADDITIONAL PROVISIONS FOR INTER-COUNTRY ADOPTION SERVICES
(Sections 680 - 699)

680. ADDITIONAL PROVISIONS FOR INTER-COUNTRY ADOPTION SERVICES.
(Sections 680 through 699, see also Sections 000 through 299) (3-30-01)

681. INTER-COUNTRY ADOPTION SERVICES.
A children's agency that provides inter-country adoption services must include in its program statement a description of inter-country adoptive placement services it provides either directly or through collaboration with other agencies or individuals with proper credentials. (3-30-01)

682. LEGAL REQUIREMENTS FOR INTER-COUNTRY ADOPTION SERVICES.
A children's agency that arranges or engages in inter-country adoption must provide the following: (3-30-01)

01. Legal Rights Protection. Provide protection of the legal rights for the child, the child's birth parents, adoptive applicants, and adoptive parents. (3-30-01)

02. Licensing Standard Compliance Requirement. Collaborate with and accept adoptive family studies and post-placement services only from other providers who comply with applicable state licensing standards and the laws from the child's country of origin. (3-30-01)

03. Children's Agency, Foreign Government Agreement Review. Maintain a file and provide for review to prospective adoptive families an English-translated copy of any agreement that exists between a foreign government and the children's agency. (3-30-01)

04. Adoptive Home Standards. Conduct adoptive family studies in accordance with these rules and the minimum standards established for international adoption studies by the United States Immigration and Naturalization Service. (3-30-01)

05. Citizenship. Inform families about how to obtain citizenship for a foreign born adopted child. (3-30-01)

683. FINANCIAL.
A children's agency must establish and follow a written schedule of fees, estimated or actual expenses of what a family will be charged for services, fees, and costs in the child's country of origin. (3-30-01)

684. INTER-COUNTRY ADOPTION SERVICES TO ADOPTIVE PARENTS.
A children's agency that provides or arranges for inter-country adoption services must: (3-30-01)

01. Inter-Country Adoption Orientation. Provide orientation to prospective adoptive families regarding inter-country adoption, its meaning, the adoption process, children's agency procedures, and the characteristics of children needing adoption. (3-30-01)

02. Eligibility Criteria Disclosure. Disclose the general criteria by which the children's agency determines eligibility for applicants for inter-country adoption. (3-30-01)

03. Determination of Adoptive Applicant's Ability. Determine the ability of adoptive applicants to meet the needs of an internationally adopted child and prepare an adoptive family study report. (3-30-01)

04. Documenting Child's Legal Status. Acquire documentation that, at placement, the child is legally free for inter-country adoption. (3-30-01)

05. Procedures for United States Placement. Follow Immigration and Naturalization procedures to ensure that the child is or will be authorized to enter and reside permanently in the United States. (3-30-01)

06. Information Disclosure. Fully disclose all information available to the children's agency, based on a diligent effort to obtain pertinent information regarding the child's medical and social history as part of the referral information. (3-30-01)

07. Post-Placement Supervision. Provide post-placement supervision as required by the adoptive child's country of origin. (3-30-01)

08. Adoption Finalization. Ensure that the adoption of the child is finalized. (3-30-01)

685. COLLECTING AND EXCHANGING INFORMATION ABOUT A CHILD.
A children's agency must collect and exchange information about the child's background with the prospective adoptive parents and ensure that information held by the children's agency regarding the child's origin, the identity of their birth parents, and medical history is retained. (3-30-01)

686. POST-PLACEMENT AND POST-FINALIZATION ADOPTION SERVICES.
A children's agency must provide or arrange for the following post-placement and post-finalization adoption services by persons with prior experience in post finalization services and who are knowledgeable about the legal, social, cultural, and emotional issues pertinent to adoption. (3-30-01)

01. Post-Placement Reports. Provide post-placement and post-finalization reports on the progress of a child when requested by the country of origin when not in conflict with laws or public policies of the United States or Idaho. (3-30-01)

02. Crisis Counseling. Counseling or referral for counseling for the adoptive parents and the adoptee, when a placement or an adoption is in crisis. (3-30-01)

03. Adoption Disruption Re-Placement. Re-placement of the child if the adoptive placement is disrupted before finalization. (3-30-01)

04. Child Origin Information Access. Procedures as permitted by law to ensure access by the child or their representative to information regarding the child's origins that is held by the children's agency. (3-30-01)

05. Post-Finalization Counseling. Post-finalization counseling when requested by the family. (3-30-01)

687. -- 699. (RESERVED)

ADDITIONAL STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES (Sections 700 - 769)

700. ADDITIONAL STANDARDS FOR CHILDREN'S RESIDENTIAL CARE FACILITIES.
(Sections 700 through 769, see also Sections 500 through 599.) (3-30-01)

701. -- 704. (RESERVED)

705. CHIEF ADMINISTRATOR QUALIFICATIONS.
A children's residential treatment care facility must employ or contract with a full time chief administrator. At the time of appointment, the chief administrator must, at a minimum, possess at least one (1) of the following in Subsection 705.01 or 705.02 of this rule. (7-1-09)

01. Bachelor's Degree. A Bachelor's degree in a relevant discipline, two (2) years of experience working with children, and three (3) years experience in staff supervision and administration. (7-1-09)

02. Career Development Program. Completed a career development program which includes work-related experience, training or college credits, or a combination of these, that provide a level of achievement equivalent to the Bachelor's degree. Work experience must include two (2) years of experience working with children, and three (3) years of experience in staff supervision and administration. (7-1-09)

706. SERVICE WORKER SUPERVISOR QUALIFICATIONS.
A service worker supervisor, at the time of appointment, must possess at least one (1) of the following in Subsection 706.01 or 706.02 of this rule. (7-1-09)

01. Master's Degree. A Master's degree from an accredited college or university in a behavioral science and one (1) year of experience as a service worker. (7-1-09)

02. Bachelor's Degree. Bachelor's degree from an accredited college or university in a behavioral science, including social work, sociology, psychology, criminal justice, counseling, or a related field, and four (4) years of experience working with children, of which two (2) years must have been as a service worker. (7-1-09)

707. DIRECT CARE STAFF SUPERVISOR QUALIFICATIONS.
A direct care staff supervisor, at the time of appointment, must possess at least one (1) of the following in Subsection 707.01 through 707.03 of this rule. (7-1-09)

01. Bachelor's Degree. A Bachelor's degree from an accredited college and one (1) year of full-time experience in a children's residential care facility. (7-1-09)

02. Associate's Degree. An Associate's degree or a minimum of forty-eight (48) credit hours from an accredited college and two (2) years of full-time experience in a children's residential care facility. (7-1-09)

03. Experience. A high school diploma or equivalent and three (3) years of full-time experience in a children's residential care facility. (3-30-01)

708. (RESERVED)

709. DIRECT CARE STAFF QUALIFICATIONS.
Direct care staff must be at least nineteen (19) years of age at the time of appointment and possess a high school diploma or equivalent. (7-1-09)

710. REQUIRED STAFF RATIOS.
There must be written staff ratios for direct care staff to children and service workers to children. Unless otherwise specified in these rules, staff ratios must be as described in Subsections 710.01 through 710.06 of this rule.
(7-1-09)

01. Supervisor-Staff Ratio. At least one (1) staff supervisor for every twenty (20) direct care staff or fraction thereof. (3-30-01)

02. Staff-Child Ratio-Daytime. At least one (1) direct care staff to every eight (8) children when

children are awake and present, unless the presenting problems of the children in care are such that a ratio of one (1) to eight (8) is not sufficient to provide for the safety and treatment needs of the children. In that case, the ratio of direct care staff to children ratio must be increased to ensure the safety and treatment needs of the children are met. (7-1-09)

03. Staff-Child Ratio-Sleeping Hours. At least one (1) awake direct care staff to twenty (20) children or fraction thereof during the children's normal sleeping hours in buildings housing children's sleeping quarters. If the presenting problems of the children in care are such that a ratio of one (1) to twenty (20) is not sufficient to provide for the safety and treatment needs of the children, then the ratio of direct care staff to children ratio must be increased to ensure the safety and treatment needs of the children are met. (7-1-09)

04. Medical Emergency. At least one (1) staff on duty in a children's residential care facility who is certified to provide cardiopulmonary resuscitation (CPR) and first aid for the age of the children in care. (3-30-01)

05. Emergency Staff Access. When only one (1) direct care worker is on duty, an additional staff person must be available within ten (10) minutes or if assistance from law enforcement is available within ten (10) minutes an additional staff person must be available within thirty (30) minutes to assist with an emergency. (7-1-09)

06. Service Worker or Social Worker Ratios. Except for non-accredited children's residential schools, at least one (1) service worker or social worker as defined in Section 011 of these rules needs to be available for every twenty (20) children in care or fraction thereof. (7-1-09)

711. HOUSE PARENT RELIEF STAFF.
Where house parents are used to provide direct care staff functions, they must be provided time off in accordance with the Idaho Department of Commerce and Labor requirements in Section 44-1202, Idaho Code. (7-1-09)

712. STAFF TRAINING.
Unless otherwise specified in these rules, an employee or volunteer whose primary job function requires interaction with children and who works twenty-four (24) or more hours a week must receive at least twenty (20) hours of training annually. An employee or volunteer whose primary job function requires interaction with children and who works less than twenty-four (24) hours a week must receive at least ten (10) hours of training annually. The training must include cultural sensitivity and diversity, behavior management, and child development issues appropriate to the population served. Training must also include instruction in administering cardiopulmonary resuscitation (CPR) and administering first aid appropriate to the age of the children in care within ninety (90) days after employment. (7-1-09)

713. -- 714. (RESERVED)

715. COMPLIANCE WITH APPLICABLE LAWS.
Children's residential care facilities must comply with the applicable Idaho state and local zoning, fire, health, construction laws, ordinances and regulations. (7-1-09)

01. Sanitation Inspection. The applicant must request and obtain a sanitation inspection and written report from the applicable Idaho Public Health District. (7-1-09)

02. Fire Inspection. The applicant must request and obtain a fire safety inspection and written report from the office of the Idaho State Fire Marshall, or local fire department. (7-1-09)

03. Corrective Action and Fees. The applicant must correct all deficiencies noted in the sanitation and fire reports (in order to provide documentation that the applicant has passed the inspections) and is responsible to pay any fees charged. (7-1-09)

04. Planning and Zoning. The applicant must provide documentation demonstrating it meets planning and zoning requirements of the applicable Idaho city or county. (7-1-09)

716. CHILDREN'S RESIDENTIAL CARE FACILITY BUILDING REQUIREMENTS.

A children's residential care facility building must meet the requirements in Subsection 716.01 through 716.03 of this rule: (7-1-09)

01. Access to Community Resources. The facility must have access to school facilities, hospitals, churches, recreational and other community resources. (7-1-09)

02. Occupancy Restrictions. The facility must house only the number of persons for which it is rated, given its type of construction and size. (7-1-09)

03. Location Restrictions. The facility must not be located within three hundred (300) feet of an aboveground storage tank containing flammable liquids or gases used in connection with a bulk plant, marine terminal, aircraft refueling or bottling plant of a liquefied gas installation, or similar hazard. (7-1-09)

717. NATIONAL ELECTRICAL CODE COMPLIANCE.
A building used to house children must comply with the National Electrical Code adopted by the Department of Building Safety in Section 54-1001, Idaho Code, or authorized local jurisdiction. (7-1-09)

718. FIRE SAFETY REQUIREMENTS.
A building that houses children must be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter for compliance with the applicable International Fire Code. A copy of the inspection must be maintained at the facility. (7-1-09)

01. Fire Extinguishers. Each building used to house children must have a minimum of one (1) 2-A-10BC type per floor, and if there is a kitchen on the floor, a fire extinguisher must be in or immediately adjacent to the kitchen. Each fire extinguisher must be inspected annually by a fire extinguisher service agency. (7-1-09)

02. Smoke Detecting Devices. There must be at least one (1) smoke detector on each floor of the facility, approved by a nationally recognized testing laboratory, installed and maintained as recommended by the manufacturer. (7-1-09)

03. Carbon Monoxide Detecting Devices. There must be at least one (1) carbon monoxide detecting device that is approved by a nationally recognized testing laboratory that is installed and maintained as recommended by the manufacturer. A facility that does not have equipment which produces carbon monoxide or does not have an attached garage is exempt from this requirement. (7-1-09)

719. EMERGENCY PROCEDURES.
A children's residential care facility must have and follow written policies and procedures governing the handling of emergencies which include emergency evacuation plans, telephone numbers for contacting ambulances, emergency medical personnel, fire departments, hospitals, poison control centers, police, location and use of first aid kits, and roster and telephone numbers of staff to be contacted during an emergency, and other emergency services as appropriate. (7-1-09)

720. EMERGENCY DRILLS.

01. Fire Drills. Fire drills must be conducted and recorded monthly, with each work shift participating in a drill a minimum of once every three (3) months. Emergency evacuation routes must be posted in conspicuous locations on each floor of a building housing children. (7-1-09)

02. Disaster Drill. A disaster drills must be conducted and recorded annually. The annual disaster drill cannot be a fire drill. (7-1-09)

721. PUBLIC HEALTH DISTRICT INSPECTION.
The facility must provide documentation of an initial and annual inspection and approval by the applicable Idaho Public Health District addressing the following health and safety standards before a license for a facility used to house children will be issued. A copy of the inspection must be maintained at the children's residential care facility. (7-1-09)

01. Food Safety and Sanitation Standards. The facility must comply with IDAPA 16.02.19, "Food Safety and Sanitation Standards for Food Establishments." (7-1-09)

02. Drinking Water Systems. The facility must comply with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (7-1-09)

722. BUILDINGS, GROUNDS, FURNISHINGS AND EQUIPMENT.
Buildings used to house children must be furnished with comfortable furniture, in good repair and appropriate to the age, size and capabilities of the children. (7-1-09)

723. MAINTENANCE.
Buildings, grounds, furnishings and equipment must be kept clean, free of clutter, and in good repair in a scheduled or routine manner. (7-1-09)

724. EQUIPMENT STORAGE.
All facility cleaning equipment must be stored separate from the kitchen, food preparation, serving, and storage areas. Kitchen and bathroom sinks must not be used for cleaning mops, emptying mop buckets, or for any other purpose not connected with food preparation, or personal hygiene. (7-1-09)

725. SERVICE SINK.
A building housing more than twelve (12) persons must have a service sink used for general maintenance purposes such as floor mopping and not used for food preparation or dish washing. (7-1-09)

726. HAZARDOUS MATERIALS OR TOXINS.
Buildings used to house children must be free from hazardous materials and toxins. An organization must provide documentation of testing for radon gas, materials containing asbestos, and lead paint. Documentation must be maintained at the facility confirming any hazardous material or toxins have been removed or do not pose a threat to the children served. Hazardous materials or toxins are not limited to lead paint, asbestos, and radon. (7-1-09)

727. LIGHTING.
All rooms used by children must be appropriately lighted for safety and comfort. (7-1-09)

728. HEATING.
Heating and ventilation equipment must be properly installed, inspected annually, and kept in good repair. Portable fuel burning and wood burning heating appliances are prohibited. Portable electric heaters must not be used in children's residential sleeping quarters. Local fire officials must approve portable heaters used in other areas. (7-1-09)

729. BATHROOM FACILITIES.
A building used to house children must have adequate, clean and easily accessible bathroom facilities. The number of toilets is one (1) per eight (8) females and one (1) per ten (10) males; bathtubs or showers is one (1) for each ten (10) individuals; washstands is one (1) for every five (5) individuals according to the International Building Code applicable for the type of building and its use. There must be separate use of bathroom facilities for boys and girls over six (6) years of age. There must be separate bathroom facilities for staff. (7-1-09)

730. SLEEPING ROOMS.
Sleeping rooms in a building used to house children must meet the requirements in Subsections 730.01 through 730.03 of this rule. (7-1-09)

01. Size. At least seventy (70) square feet, exclusive of closet space, in a single occupancy room. In a multiple occupancy room, there must be at least forty-five (45) square feet per occupant, exclusive of closet space. Existing multiple occupancy sleeping rooms, may be approved relative to square feet per occupant until the room is remodeled or the building is extensively remodeled. There must be a minimum of three (3) feet between the sides of beds and two (2) feet at the end of the beds. (7-1-09)

02. Window Space. There must be sufficient window space for adequate natural light and ventilation. Emergency egress or rescue windows must comply with the State-adopted International Building Code. (7-1-09)

03. Restrictions. A child and an adult cannot share a sleeping room except that a child under one (1) year of age may sleep in a room with an adult. A sleeping room must not be in a stairway, hallway, unfinished attic, unfinished basement, or in a separate building apart from staff supervision. There must be separate rooms for male and female residents. Sleeping rooms must be in close proximity to adult supervision. (7-1-09)

731. BEDS.
Each child must have their own bed that has substantial support, a comfortable non-neoprene mattress and seasonally appropriate non-neoprene bedding. The bed must be equipped with railings when used for children under two (2) years of age. Over-and-under bunk beds must not be used for children under eight (8) years of age. Cribs must meet Consumer Product Safety Commission, Crib Safety Tips available at: https://www.cpsc.gov/Regulations-Laws--Standards/Rulemaking/Final-and-Proposed-Rules/Full-Size-Cribs. (7-1-09)

732. STORAGE OF POISONOUS AND TOXIC MATERIALS.
Poisonous and toxic materials must be stored under lock and key and distinctly labeled as poisonous, toxic and stored so as not to contaminate food and not to be a hazard to children. (7-1-09)

733. FLAMMABLE LIQUIDS.
Flammable liquids, including gasoline and kerosene, must be stored only in appropriate containers and kept separate from any building housing children. (7-1-09)

734. FIREARMS.
Firearms are not allowed in a children's residential care facility. (7-1-09)

735. SUFFICIENT RECREATIONAL SPACE.
Sufficient indoor and outdoor recreational space is needed so the number of children in care can participate in a wide range of physical and individual activities. (3-30-01)

736. GENERAL SAFETY PROVISIONS.

01. Reasonable Precaution. Reasonable precautions must be taken to prevent children from having unauthorized access to machinery, tools, irrigation ditches, and hazardous materials. (7-1-09)

02. Balconies and Stairways. Balconies and stairways accessible to children must have substantial railings as required by the State-adopted International Building Code. (7-1-09)

03. Stairway Protection. Where a children's residential care facility provides care to children under three (3) years of age, stairways must be protected to prevent children from falling down the stairs. (7-1-09)

04. Hazard Areas Restrictions. Based on the age and functioning level of children in care and the type of hazard, an outdoor hazard area must be restricted to prevent easy access to the hazard. (7-1-09)

737. DIAPERING AND SANITATION.
A diaper-changing area must be separate from food preparation and serving areas and be easily accessible to a hand-washing sink. The area must have non-absorbent and washable surfaces, and must be disinfected between uses by different children or protected by a disposable covering discarded after each use. (7-1-09)

738. -- 744. (RESERVED)

745. EDUCATION PROGRAM.
Each child of school age must attend either an on-grounds or community-based education program that is approved by the Idaho Department of Education, excluding children in a non-accredited children's residential school. When the education program is provided directly by the children's residential care facility, the education program must meet the requirements in Subsections 745.01 through 745.08 of this rule. (7-1-09)

01. Teacher Ratio. At least one (1) Idaho certified teacher for every twenty (20) children or fraction thereof. (7-1-09)

02. Teacher Qualifications. Teachers must possess a current Idaho certification. (7-1-09)

03. Minimum Hours. Operate for at least as many school days and clock hours as are required by Section 33-512, Idaho Code. (3-30-01)

04. Core Curriculum. Provide core curriculum appropriate to the population served. (7-1-09)

05. Special Education. Provide special education services to a child in care who requires special education. (3-30-01)

06. Written Transcripts and an Individual Education Plan (IEP). Maintain transcripts and IEP's for each child as appropriate. (3-30-01)

07. Grading System. Use a uniform grading system. (3-30-01)

08. Release of Records. Process for transfer and release of education records to and from other schools and children's residential care facilities. (3-30-01)

746. WORK.
Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work must not be to substitute for paid labor. (7-1-09)

747. RECREATION, PHYSICAL EXERCISE, AND LEISURE TIME ACTIVITIES.
An organization must have a policy requiring children have the opportunity for daily participation in recreation, physical exercise and leisure time activities. The organization must document both individual and group activities, including one (1) hour of large muscle activity each day. Participation must be encouraged but not forced. (7-1-09)

748. SLEEP.
A children's residential care facility must have and follow policies and procedures governing time to be set aside so that each child is given the opportunity for at least eight (8) hours of uninterrupted rest at night and more time if the service plan or health needs of the child require. (7-1-09)

749. SWIMMING POOL, POND, OR OTHER BODY OF WATER.
An above-ground or in-ground swimming pool, pond, or other body of water on the premises of a children's residential care facility for use by children must comply with Section 56-1003(3)(d), Idaho Code, and applicable swimming pool construction, sanitation, water quality standards, water temperature, recreational bathing and life saving provisions of federal, state, county and municipal laws, regulations and ordinances. (3-30-07)

01. Staff Person with Lifesaving or Lifeguard Certificate. The facility must maintain at least one (1) staff person who has a valid lifesaving or lifeguard certificate issued by a nationally recognized organization. This certified staff person must be on duty at all times when children are in the water. (3-30-07)

02. Pools, Hot Tubs, Ponds, and Other Bodies of Water. The facility must maintain the pools, hot tubs, ponds, and other bodies of water on its property in good repair, in a clean condition, and free from safety hazards and dangerous machinery and equipment. Areas and equipment that present a hazard to children must not be accessible by children. The following safeguards must be provided: (3-30-07)

a. The area surrounding a body of water must be fenced and locked in a manner that prevents access by children; or (3-30-07)

b. If the area surrounding a body of water is not fenced and locked, there must be a secured protective covering that will not allow access by a child; (3-30-07)

i. Pool or hot tub covers must be completely removed when in use; (3-30-07)

ii. When the pool or hot tub cover is in place, the cover must be free from standing water; (3-30-07)

iii. Covers must be kept locked at all times when the pool or hot tub is not in use; and (3-30-07)

c. A reaching pole with a hook and a ring buoy must be accessible; and (3-30-07)

d. Exterior ladders on above ground pools must be removed when the pool is not in use. (3-30-07)

03. Access by Children Five Years of Age and Under. Any children's residential care facility that cares for children five (5) years of age and under, and chooses to prevent access to a body of water by fencing must provide a fence that meets the following requirements: (3-30-07)

a. The fence must be at least four (4) feet high with no vertical opening more than four (4) inches wide, be designed so that a young child cannot climb or squeeze under or through the fence, and surround all sides of the pool or pond; (3-30-07)

b. The gate must be self-closing and have a self-latching mechanism in proper working order out of the reach of young children; (3-30-07)

c. If a building forms one (1) side of the barrier for the pool, doors that provide unrestricted access to the pool must have alarms that produce an audible sound when the doors are opened; and (3-30-07)

d. Furniture or other large objects must not be left near the fence that would enable a child to climb on the furniture and gain access to the pool. (3-30-07)

04. Irrigation Canals or Similar Body of Water. A children's residential care facility caring for a child five (5) years of age and under or a child who is physically or developmentally vulnerable whose property adjoins an irrigation canal must have fencing that prevents access to the canal or similar body of water by the child. (3-30-07)

05. Other Water Safety Precautions. (3-30-07)

a. Wading pools must be empty when not being used; (3-30-07)

b. Children must be under the direct supervision of an adult while using a wading pool; (3-30-07)

c. Toys that attract young children to the pool area must be kept picked up and away from the pool area when not in use; and (3-30-07)

d. A child who does not know how to swim must use an approved lifesaving personal flotation device. (3-30-07)

750. WATER FRONT.
At a waterfront used for swimming, there must be available a whistle, an assist pole or other appropriate reaching device, a rope attached to a ring buoy or other appropriate throwing assist device, a backboard that has appropriate rigid cervical collars and a minimum of six (6) straps, a first aid kit and a rescue tube. (7-1-09)

751. SUPERVISION OF RECREATIONAL ACTIVITY.
Staff conducting or supervising a recreational activity must have knowledge of and enforce appropriate safety techniques for the activity as described in Subsections 751.01 through 751.05 of this rule. (7-1-09)

01. Instruction. Instruct each participant in the appropriate safety procedures. (3-30-01)

02. Safety Equipment. Ensure that each participant uses adequate and appropriate safety equipment for the activity and the child's ability. (3-30-01)

03. Rescue Equipment. Ensure that there is proper rescue equipment available and easily accessible. (3-30-01)

04. Cardiopulmonary Resuscitation (CPR) and First Aid. Ensure that at least one (1) staff has current cardiopulmonary resuscitation (CPR) and first aid certification appropriate to the age of the children in the facility. (3-30-01)

05. Staff Coverage. Ensure that there are adequate members of staff for the activity and children involved. (3-30-01)

752. MEDICATION STORAGE AND ADMINISTRATION.
A children's residential care facility must have and follow policies and procedures on the storage and administration of prescription and non-prescription medication. The policy must address the requirements in Subsections 752.01 through 752.06 of this rule. (7-1-09)

01. Medication Storage and Administration. Require prescription and over-the-counter medication be stored under lock and key and the keys safe guarded from children. For medications taken on field outings, storage of medication must be in the possession of a staff member qualified to administer medications. (7-1-09)

02. Trained Staff. Require that staff who administer and assist with self-administration of medications be trained by a qualified medical professional. (3-30-01)

03. Psychotropic Medication: (3-30-01)

a. Prohibit the administration of psychotropic medication unless a qualified medical professional determines that the medication is clinically indicated; and (3-30-01)

b. Prohibit the administration of psychotropic medications for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services; (3-30-01)

04. Documentation. Required documentation for all prescription medication issued by a qualified medical professional's valid order that includes the dosage to be given, and documentation of each dose given, including: (3-30-01)

a. The child's name; (3-30-01)

b. The date and time; (3-30-01)

c. The amount of dosage given and whether the child did not take the medication; and (3-30-01)

d. The person who administered or assisted in self-administration of the medication. (3-30-01)

05. Medication Changes. Require that prescribed medication not be stopped or changed in dosage or administration without consulting with a qualified medical professional and documenting the consultation and the change. (3-30-01)

06. Disposal of Unused Medication. Require that all unused and expired medication be disposed of so they are not available to children. (3-30-01)

753. UNIVERSAL PRECAUTIONS.
Universal precautions must be taken for spills of body fluids such as blood, blood containing body fluids, eye discharge, feces, body tissue discharge, nasal discharge, saliva, urine, vomit, contaminated material and diapers, which must be disposed of in a plastic bag that is secured with a tie. The disinfectant solution used to clean up body fluids must be a commercially prepared spill kit or a disinfectant solution made from one-fourth (1/4) cup of household bleach to one (1) gallon of water. A person doing the cleaning and disinfecting must wear non-porous disposable gloves. Mops and other cleaning devices and fluids used to clean up body fluid spills must be disinfected, properly dried and stored. Syringes must be disposed of in accordance with Occupational Safety and Health Act (OSHA) standards and not to be accessible to children. A copy of OSHA may be obtained at the Idaho Industrial Commission, 317 Main Street., P.O. Box 83720, Boise, Idaho, 83720-0041. (7-1-09)

754. FIRST AID KIT.
A first aid kit which is approved by a physician or nationally recognized accrediting body, must be readily available at all times, containing materials to sufficiently meet the needs of a child's medical needs until other medical treatment is obtained, if needed. The contents, location and use of first aid kits must be reviewed annually with all staff. The content of the kits must be inventoried monthly and restocked as needed. (7-1-09)

755. NUTRITION.
Children must be provided three (3) nutritionally balanced meals in appropriate intervals and in amounts appropriate to their size and age, and that are in accordance with the Dietary Reference Intakes (DRIs) of the National Research Council Dietary Reference Intakes Essential Guide Nutrient Requirements or its equivalent. A child must be provided a qualified medical professional prescribed diet or special diet based on religious beliefs. A nutritional or dietitian professional must approve menus annually. The current menu must be readily available and any change or substitution noted on the menu. Menus must be maintained on file for at least six (6) months. (7-1-09)

756. ANIMALS AND PETS.
Animals and household pets must be free from disease and cared for in a safe and clean manner. All domestic animals and pets must be vaccinated against rabies. Documentation of the vaccination against rabies must be kept on file at the children's residential care facility. (7-1-09)

757. USE OF TOBACCO PRODUCTS, ALCOHOL, AND ILLEGAL DRUGS PROHIBITED.
Tobacco products, alcohol and illegal drugs must not be used by children, staff, volunteers, or visitors in any building used to house children or in the presence of children or in vehicles used to transport children. (7-1-09)

758. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a children's residential care facility vehicle must be in a vehicle that is: (7-1-09)

a. Properly registered; (3-30-01)

b. Covered by insurance for personal injury and liability; (3-30-01)

c. Driven by a person with a valid driver's license for the type of vehicle who complies with all applicable traffic laws while transporting children; (3-30-01)

d. Maintained in a clean and safe condition; (3-30-01)

e. Equipped with a red triangular reflector device for use in emergency; (3-30-01)

f. Equipped with a first aid kit; and (3-30-01)

g. Equipped with a fire extinguisher that is properly secured and not readily available to children. (3-30-01)

02. Proper Seating of Children and Adults: (3-30-01)

a. A child must ride in an age appropriate vehicle restraint seat, properly secured, or if the child is large enough, in a vehicle manufactured seat and properly use the passenger restraint device; and (7-1-09)

b. Adults riding in the vehicle must occupy a manufactured seat and use the passenger restraint device. (7-1-09)

759. CONTRABAND.
A children's residential care facility must define prohibited contraband in a written policy. Contraband found in the possession of children or staff must be confiscated by staff and secured in a location inaccessible to children. Local law enforcement must be notified in the event that illegal contraband is confiscated. It is the responsibility of the

administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the children's residential care facility contraband policy. (7-1-09)

760. SEARCHES.

If a children's residential care facility conducts searches of children, the children's residential care facility, staff or visitors, it must have and follow written policies and procedures. Searches must be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with these rules. The policies and procedures at a minimum require the following procedures. (7-1-09)

01. Pat Down Searches. Pat down searches of children may only be conducted when the children's residential care facility feels it is necessary to discourage the introduction of contraband into the children's residential care facility, or to promote the safety of staff and other children. Pat down searches are conducted as follows: (3-30-01)

a. By staff trained in proper search techniques; (3-30-01)

b. By a staff member of the same sex as the child being searched, and must be in the presence of another staff member; (7-1-09)

c. The child is told he is about to be searched; (3-30-01)

d. The child should remove all outer clothing (gloves, coat, hat and shoes) and empty all pockets; (3-30-01)

e. The staff person must then pat the clothing of the child using only enough contact to conduct an appropriate search; (7-1-09)

f. If the staff detects anything unusual, the child must be asked to identify the item and appropriate steps taken to remove the item for inspection; (7-1-09)

g. If the child refuses to comply, the administrator or designee will be notified immediately and be responsible to resolve the matter; and (3-30-01)

h. All searches must be documented in writing. (7-1-09)

02. Strip Searches are Prohibited. (7-1-09)

03. Body Cavity Searches are Prohibited. (7-1-09)

761. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's residential care facility must have and follow a behavior management and discipline policy for children which identifies appropriate and specific methods of behavior management and discipline, and ensures that the methods of behavior management and discipline are positive and consistent. Individualized behavior management must be based on an assessment of the child's needs, stage of development and behavior to promote self control, self direction, self esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy must include the concept and application of least restrictive effective treatment and positive reinforcements and prohibits the following: (7-1-09)

a. Physical force, except as permitted under the restraint Sections 766 and 767 of these rules; (3-30-01)

b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into the wall, floor or other stationary object; (3-30-01)

c. Cruel and unusual physical exercise, including forcing the child to take an uncomfortable position; (3-30-01)

d. Verbal abuse, ridicule, humiliation, profanity and other forms of degradation directed at a child or a child's family; (3-30-01)

e. Locked confinement in an area except an area approved by the Department for confinement of a child as provided in these rules; (3-30-01)

f. Withholding of necessary food, clothing, bedding, rest, toilet use, bathing facilities, and entrance to a children's residential care facility housing a child; (3-30-01)

g. Denial of visits or communication with the child's family except as specified in the child's service plan or court order; (3-30-01)

h. Denial of necessary educational, medical, counseling, and social services; (3-30-01)

i. Disciplining a child or group of children for the actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised directly by staff; (3-30-01)

j. The placing of anything in or on a child's mouth; and (3-30-01)

k. A physical work assignment that produces unreasonable discomfort. (3-30-01)

02. Documentation. An organization must document that the policy has been provided to a resident capable of reading it or is explained to the resident appropriate to their age and level of understanding and is made available to parents, guardians, and referral sources. (7-1-09)

762. TIME-OUT.
A children's residential care facility must have and follow written policy and procedures governing the appropriate use of time-out, as required in Subsections 762.01 through 762.08 of this rule. (7-1-09)

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. (3-30-01)

02. Children Under Six Years of Age. For children under six (6) years of age, the period of time for time-out is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, but not a substitute for other developmentally appropriate positive methods of behavior management. (3-30-01)

03. Children Six Years of Age or Older. For children six (6) years of age and older the time duration cannot exceed sixty (60) consecutive minutes. (7-1-09)

04. Prohibited Locations. The time-out cannot be in a closet, bathroom, unfinished basement, or attic and cannot be in a locked area or box. (7-1-09)

05. Documentation. A description in sufficient detail to provide a clear understanding of the incident which resulted in the child being placed in time-out, and the staff's attempts to help the child avoid time-out. (3-30-01)

06. Observations. A staff person is designated to be responsible for visually observing the child at random intervals not to exceed fifteen (15) minutes. (7-1-09)

07. Re-Introduction to the Group. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as control is regained. (3-30-01)

08. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a review is conducted by the chief administrator or designee, to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan are warranted, or whether staff need additional training in alternative therapeutic behavior management techniques and appropriate action taken is based on the findings of the review. (3-30-01)

763. UNLOCKED SECLUSION.
If a children's residential care facility uses seclusion there must be written policies and procedures, which at a minimum requires: (7-1-09)

01. Use of Unlocked Seclusion. Unlocked seclusion must not be used as punishment or to substitute for other developmentally appropriate positive methods of behavior management. Seclusion may only be used as a means of intervention when the child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to self or others, and less restrictive and less punitive interventions have been applied without success. (7-1-09)

02. Time Needed. Seclusion must be used only for the time needed to change the behavior compelling it. (7-1-09)

03. Children Under Six Years of Age. For children under six (6) years of age, the period of time is not to exceed one (1) minute for each year of the child's age and is used as a supplement to, not a substitute for, other developmentally appropriate positive methods of behavior management. For children six (6) years of age and older the time duration cannot exceed sixty (60) consecutive minutes. (7-1-09)

04. Restrictions on Seclusion. The seclusion must not be in a box, closet, bathroom, unfinished basement or attic. (7-1-09)

05. Staff Supervision. A staff person is designated to be responsible for visually observing the child at random intervals, which are not to exceed fifteen (15) minutes throughout the period of seclusion, and must be recorded in a log. (7-1-09)

06. Supervisory Approval. Supervisory approval is required for a period of seclusion of one (1) child that exceeds two (2) hours, or the total seclusion time exceeds three (3) hours in a twenty-four (24) hour period, or more than four (4) separate seclusion incidents in a twenty-four (24) hour period. (3-30-01)

07. Documentation. Each seclusion must be documented in writing and include the child's name, reason for the seclusion, date and start and end time of the seclusion and the staff assigning the seclusion. (7-1-09)

08. Re-Introduction. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he can participate appropriately. (3-30-01)

09. Review. If there are more than ten (10) seclusion's for a child in a twenty-four (24) hour period, there must be a review by the chief administrator or their designee. The review is to determine whether modifications to the child's service plan are warranted and whether staff needs additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action must be taken based on the findings of the review. (7-1-09)

764. LOCKED SECLUSION.
Locked seclusion is used only when a child's behavior is so violent or disruptive that it presents a high risk of physical or emotional harm to the child or others and other less restrictive and less punitive interventions have been applied without success. Locked seclusion is prohibited for: non-violent and non-assaultive offenses and behaviors; practices designed to prevent children from running away; secluding a child who is ill; as a punishment; and facilitating supervision for the convenience of staff. No more than one (1) child can be in a locked seclusion room at a time. Supervisory staff must be notified at the time the locked seclusion begins. (7-1-09)

01. Duration. Locked seclusion must be used only for the time needed to change the behavior

compelling its use. Locked seclusion cannot exceed two (2) consecutive hours or a total of four (4) non-consecutive hours within any twenty-four (24) hour period, unless approved by a qualified medical professional. (7-1-09)

02. Potentially Harmful Objects. A child placed in locked seclusion must not be in possession of belts, matches, weapons or any other potentially harmful objects or materials that could present a risk of harm to the child. (7-1-09)

03. Observation. A child in locked seclusion must be observed by staff at random intervals, not to exceed every ten (10) minutes to assure that the child is safe. (7-1-09)

04. Locked Seclusion Log. A locked seclusion room log must be maintained and at a minimum includes: (7-1-09)

a. The child's name; (3-30-01)

b. The date and time of placement in locked seclusion; (3-30-01)

c. The name of the staff who requested the child's locked seclusion; (3-30-01)

d. The name of the supervisory staff notified and the time and date notified. (3-30-01)

e. A description in sufficient details, to provide a clear understanding, of the incident which resulted in the child being placed in locked seclusion and the staff's attempts to help the child avoid locked seclusion; (3-30-01)

f. A record of observations; and (3-30-01)

g. The date and time of removal from locked seclusion. (3-30-01)

05. Re-Introduction. The child must be re-introduced to the group in a sensitive and non-punitive manner as soon as he has re-gained control. (7-1-09)

06. Review. When a child is in locked seclusion for a total of two (2) cumulative hours or four (4) non-cumulative hours within a twenty-four (24) hour period, there must be a review by the chief administrator or their designee within one (1) working day. The review is to determine whether modifications to the child's service plan is warranted, and whether staff need additional training in alternative therapeutic behavior management techniques or disciplinary action. Appropriate action must be taken based on the findings of the review. (7-1-09)

765. LOCKED SECLUSION ROOM REQUIREMENTS.

Rooms used for locked seclusion must measure at least seventy-five (75) square feet with a ceiling height of at least seven (7) feet. They must have either natural or mechanical ventilation and be equipped with a break resistant window, or a mirror or camera that allows for full observation of the room. Locked seclusion rooms must have no hardware, equipment or furnishings that obstruct observing the child or that present a physical hazard or a suicide risk. Rooms used for locked seclusion must be inspected and approved by a fire inspector and the Department. (7-1-09)

766. MECHANICAL RESTRAINT.

If a children's residential care facility uses mechanical restraint, it must have and follow written mechanical restraint policies and procedures. The policies must at a minimum require those described in Subsections 766.01 through 766.13 of this rule. (7-1-09)

01. Mechanical Restraint Use as a Last Resort. Mechanical restraint must only be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found to be ineffective, and only after at least one (1) of the following has been determined: (7-1-09)

a. The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; (3-30-01)

b. The child is causing serious property damage; or (3-30-01)

c. An attempted escape is imminent and the child is out of control and poses a danger to self or others. (3-30-01)

02. Staff Training. All staff who apply mechanical restraints must be trained in the proper and safe use of the mechanical restraint device used and training must be current and documented. (7-1-09)

03. Intervention. Staff must inform the child that if their behavior continues, staff will have to intervene by placing them in mechanical restraint to help them regain control. (7-1-09)

04. Administrator Approval. The administrator or designee must approve the use of mechanical restraint for the specific child for the specific behavior before each application of mechanical restrain. (7-1-09)

05. Restraint Type. Restraints must be of a soft type when used to restrain the child's wrists to their side, secure the child's ankles together, or both; or be in or on a mechanical restraint device specifically designed for restraint which is recognized as safe and is made by a nationally recognized restraint device manufacturer. A restraint device must be used only in accordance with the manufacturer's written instructions for the device, except that handcuffs may not be used for more than five (5) minutes when it has been determined that the child may harm himself or others while the mechanical restraint is being applied. Handcuffs may only be used for the time needed to apply the mechanical restraints. (7-1-09)

06. Used Only Until Child Has Regained Control. A mechanical restraint is used only until the child has regained control. (7-1-09)

07. Prohibitions on Mechanical Restraints. Mechanical restraints are prohibited when there are specified medical reasons pursuant to a qualified medical professional's order. A child must not be mechanically restrained to a fixed object except one that was specifically designed for the purpose, meets nationally recognized standards and has been approved by the Department. Mechanical restraints must not be used for non-violent and non-assaultive offenses and behaviors as punishment to facilitate supervision for the convenience of staff or as a substitute for a treatment program. (7-1-09)

08. Monitoring. A staff assigned to monitor a child placed in mechanical restraint must have no other immediate responsibility and must be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. (7-1-09)

09. Professional Opinion. After one (1) hour has elapsed with the child in mechanical restraint, or if the child is released from mechanical restraint and has to be placed back in mechanical restraint, the supervisor must obtain a qualified medical or mental health professional's opinion regarding continuation of the restraint. The professional giving the opinion must be thoroughly familiar with the proper use of the mechanical restraint device being used. It is the qualified medical or mental health professional's responsibility to assess the problem requiring the use of restraint and amass any resources necessary to eliminate the problem. (7-1-09)

10. Mechanical Restraint Log. There must be a mechanical restraint log documenting each use of mechanical restraint that includes: (7-1-09)

a. The child's name; (3-30-01)

b. The date and time of placement in mechanical restraint; (3-30-01)

c. The name of the staff who requested the mechanical restraint of the child; (3-30-01)

d. The name of the administrator or designee who approved the use of mechanical restraint of the child; (3-30-01)

e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being placed in mechanical restraint and the staff's attempts to help the child avoid mechanical restraint; (3-30-01)

f. Detailed observation notes by the person assigned to monitor the child while in mechanical restraint; (3-30-01)

g. Documentation of the professional opinion required if a restraint lasts for more than one (1) hour or is returned to mechanical restraint; and (3-30-01)

h. The date and time of removal from mechanical restraint. (3-30-01)

11. Counsel. When the child has been released from mechanical restraint, staff must counsel with the child about the behavior and problems experienced that resulted in the mechanical restraint. (7-1-09)

12. Re-Introduction. The child must be re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. (7-1-09)

13. Review. When the child is in mechanical restraint there must be a review by the chief administrator or designee within twenty-four (24) hours. The review is to determine the suitability of the child remaining in the children's residential care facility, whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action must be taken based on the findings of the review. The person doing the review must be knowledgeable about the proper use of the mechanical restraint devise and its impact on the child. (7-1-09)

767. ALTERNATIVE FORMS OF RESTRAINT.
A children's residential facility must have and follow written policies and procedures governing the appropriate use of alternative forms of restraint. The policies and procedures must be in accordance with the restraint intervention strategies of a nationally recognized program and approved by the Department. The policies must at a minimum require those described in Subsections 767.01 through 767.11 of this rule. (7-1-09)

01. Restraint Used as a Last Resort. Restraint is only to be used as a last resort when other therapeutic techniques have not worked and less restrictive interventions have been tried and have been found not to be effective and only after one (1) of the following has been determined: (7-1-09)

a. The child is emotionally or physically uncontrollable and constitutes a serious and evident danger to self or others; (3-30-01)

b. The child is causing serious property damage; or (3-30-01)

c. An attempted escape is imminent and poses a serious and evident danger to self or to the community. (3-30-01)

02. Staff Training. All staff who apply restraints are trained in the proper and safe use of the restraint device used and the training is current and documented, including any special certification required to apply the restraint. (3-30-01)

03. Intervention. Staff informs the child that if their behavior continues, staff will have to intervene by use of restraint to help them gain control. (3-30-01)

04. Restraint Approval. Administrative or designee approves the restraint for the specific child for the specific behavior before each application of restraint. (3-30-01)

05. Used Only Until the Child Has Regained Control. Restraint must only be used until the child has regained control. (7-1-09)

06. Restraint Is Prohibited: (3-30-01)

a. When there are specific medical reasons pursuant to a medical professional's order; (3-30-01)

b. For non-violent and non-assaultive behaviors; (3-30-01)

c. As punishment; (3-30-01)

d. To facilitate supervision for the convenience of staff; and (3-30-01)

e. As a substitute for other more effective treatment methods. (3-30-01)

07. Monitoring. A staff assigned to monitor a child in restraint must have no other immediate responsibility and must be in visual and auditory contact with the child at all times to ensure that all personal needs of the child are met, including access to toilet facilities as needed. (7-1-09)

08. Restraint Log. A restraint log documenting each use of restraint which includes: (3-30-01)

a. The child's name; (3-30-01)

b. The time and date of initiation of the restraint; (3-30-01)

c. The name of the staff who requested the restraint of the child; (3-30-01)

d. The name of the administrator or designee who approved the use of the restraint of the child; (3-30-01)

e. A description in sufficient details to provide a clear understanding of the incident which resulted in the child being restrained and the staff's attempts to help avoid the restraint; (3-30-01)

f. Detailed observation notes by the person assigned to monitor the child while in restraint; and (3-30-01)

g. The time and date of termination of the restraint. (3-30-01)

09. Counsel. When a child has been released from restraint, staff must counsel with the child about behavior and problems experienced which resulted in the restraint use. (7-1-09)

10. Re-Introduction. The child is re-introduced to the group in a sensitive and non-punitive manner as soon as he has regained control. (3-30-01)

11. Review. When a child has been in restraint, there must be within twenty-four (24) hours a review by the chief administrator or their designee. The review is to determine the suitability of the child remaining in the children's residential care facility and whether modifications to the child's service plan is warranted and if staff need further training or disciplinary action. Appropriate action must be taken based on the findings of the review. The person doing the review must be knowledgeable about the proper use of the restraint device and its impact on the child. (7-1-09)

768. TRANSPORTATION OF CHILDREN IN RESTRAINTS PROHIBITED.
A children's residential facility or its agents are prohibited from transporting children in restraints. (7-1-09)

769. (RESERVED)

ADDITIONAL PROVISIONS FOR CHILDREN'S RESIDENTIAL MATERNITY CARE (Sections 770 - 779)

770. ADDITIONAL PROVISIONS FOR CHILDREN'S RESIDENTIAL MATERNITY CARE.
(Sections 770 through 779, see also Sections 500 through 599 and 700 through 769.) (3-30-01)

771. SERVICE WORKER AVAILABLE.

A service worker must be available to each pregnant minor and minor mother to provide information on options open to her and to assist her in making decisions that are in her best interest and her child. The decision for final plans for the minor mothers child rests with the minor parent. A pregnant minor is prohibited from signing a statement committing to any definitive plan prior to the birth of her child and must not be subject to coercion to release her child before or after the birth of her child. (3-30-01)

772. PRENATAL AND POSTPARTUM CARE.
Prenatal and postpartum care for residents and newborns must be performed only by a physician licensed to practice medicine in Idaho and include: (3-30-01)

01. Obstetric History. The obtaining of an obstetric history; (3-30-01)

02. Obstetrical Exam. Within ten (10) days of entering care, a complete obstetrical exam; (3-30-01)

03. Ongoing Medical Care. Ongoing medical care with examinations as prescribed by the physician; (3-30-01)

04. Infant Medical Care Plan. A planned program of medical and nursing care of all infants in care, approved by the physician; (3-30-01)

05. Hospital Delivery Required. Infants must only be delivered in a hospital licensed by the state of Idaho; and (3-30-01)

06. Prenatal and Postnatal Education. A pregnant resident must be provided educational information on prenatal and postnatal care as appropriate. (3-30-01)

773. DISCHARGE PLANS.
Discharge plans must be developed in a timely manner with the service worker and the new parent to ensure an infant does not remain in a children's residential maternity care facility apart from parental care and supervision. (3-30-01)

774. -- 779. (RESERVED)

ADDITIONAL PROVISIONS FOR CHILDREN'S ALCOHOL-DRUG ABUSE RESIDENTIAL CARE FACILITIES (Sections 780 - 789)

780. ADDITIONAL PROVISIONS FOR CHILDREN'S ALCOHOL-DRUG ABUSE RESIDENTIAL CARE FACILITIES.
In addition to complying with Sections 500 through 599, 700 through 769, and 800 through 899 of these rules, children's alcohol and drug abuse residential care facilities must be approved under IDAPA 16.07.17, "Substance Use Disorders Services"; and IDAPA 16.07.15, "Behavioral Health Programs." (7-1-09)

781. --789. (RESERVED)

ADDITIONAL PROVISIONS FOR NON-ACCREDITED CHILDREN'S RESIDENTIAL SCHOOLS (Sections 790 - 793)

790. ADDITIONAL PROVISIONS FOR NON-ACCREDITED CHILDREN'S RESIDENTIAL SCHOOLS.
(Sections 790 through 793, see also Sections 500 through 599 and 700 through 769.) (3-30-01)

791. APPLICATION PROCESS.
A non-accredited children's residential school must file with the Division of Family and Community Services of the Department, an affidavit addressing the following elements and the listed attachments: (3-30-01)

01. Affidavit Statement. Affiant will make this affidavit based upon their own personal knowledge and belief. (3-30-01)

02. Affiant Administrative Employees. Affiants state that they are the administrative employees responsible for operation of the school and the head of the governing body of the named school. (3-30-01)

03. School Administrative Description. The school is a non-accredited children's residential school as defined in this Chapter and as demonstrated by the attached by-laws or an attached organizational statement of purpose detailing organizational structure, philosophy, program, intake and enrollment policy, services, geographic area served, and children served according to their legal status, physical, intellectual, and behavioral characteristics. (3-30-01)

792. STAFF RATIOS REQUIRED.
Non-accredited children's residential schools must have at least one (1) staff member on duty and one (1) on call and available within (10) minutes for each twenty-five (25) children or fraction thereof, when children are awake and present. During normal sleeping hours, children in each sleeping quarters will be under close supervision and within easy call of a staff member, with one (1) on-call staff available within ten (10) minutes. The facility must at all times have a staff coverage plan to ensure the safety and needs of the children that is approved by the Department. (3-30-01)

793. CHILD'S RECORD.
The school must maintain a record on each child with the following: (3-30-01)

01. Content. The child's record will contain the following information: (3-30-01)

a. Child's full name; (3-30-01)

b. Birth date; (3-30-01)

c. Gender; (3-30-01)

d. Height, weight, hair color, eye color, race, and identifying marks; (3-30-01)

e. Name, address and telephone number of responsible parent, guardian or legal custodian of the child; (3-30-01)

f. Documentation of authority to accept and care for the child; (3-30-01)

g. Medical care authorizations; (3-30-01)

h. School reports including grades and adjustment; (3-30-01)

i. Reason for referral or placement; and (3-30-01)

j. Special problems and needs. (3-30-01)

02. Record Entries. For record entries by professional and clinical staff, the entries will be signed and dated by the person providing the service. (3-30-01)

794. -- 799. (RESERVED)

ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS (Sections 800 - 899)

800. ADDITIONAL STANDARDS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.
(See sections 800 through 899, also see Sections 500 through 599.) (5-3-03)

801. (RESERVED)

802. POLICIES AND PROCEDURES.
In addition to the requirements for policies in Sections 500 through 599 of these rules, a children's therapeutic outdoors program must have policies and procedures in place addressing the licensing standards required in Sections 800 through 899 of these rules. (7-1-09)

803. -- 804. (RESERVED)

805. BASE CAMP REQUIREMENTS.

01. Base Camp. A children's therapeutic outdoor program must have a base camp or field office in Idaho, here after referred to as a base camp. Base camp at a minimum must: (7-1-09)

a. Be staffed and monitored twenty-four (24) hours a day when there are children in care in the base camp or on expeditions; (5-3-03)

b. Have current staff personnel files; (5-3-03)

c. Have a current list of the names of staff and children in each field group; (5-3-03)

d. Have a master map of all activity areas used by the program; (5-3-03)

e. Have copies of each group's expeditionary route with its schedule and itinerary, copies of which must be provided to the Department and local law enforcement when requested; (7-1-09)

f. Maintain current logs of all communications with each field group away from the base camp; and (5-3-03)

g. Have an emergency response plan that is developed by the organization and updated annually. (7-1-09)

02. Proof of Compliance. A children's therapeutic outdoor program which operates in Idaho must comply with federal, state, and local regulations and must maintain proof of compliance at the base camp. (7-1-09)

806. HIGH ADVENTURE REQUIREMENTS.

01. High Adventure Activities. High adventure activities may include the following: (5-3-03)

a. Target sports; (5-3-03)

b. Aquatics; (5-3-03)

c. Hiking; (5-3-03)

d. Adventure challenge courses; (5-3-03)

e. Climbing and rappelling; (5-3-03)

f. Winter camping; (5-3-03)

g. Soloing; (5-3-03)

h. Spelunking; (5-3-03)

i. Expeditioning; (5-3-03)

j. Swimming in a river, stream, lake, or pond; (5-3-03)

k. White water activities; and (5-3-03)

l. Animal related activities. (5-3-03)

02. High Adventure Activity Policy and Procedures. For the high adventure activities identified in Subsection 806.01 of this rule and for any activity identified by the children's therapeutic outdoor program or the Department as a high adventure activity, there must be a written policy and procedure to be followed which include: (7-1-09)

a. Training, experience, and qualifications for leader and staff; (5-3-03)

b. Specific staff-to-participant ratios appropriate to the activity; (5-3-03)

c. Classification and limitations for each child's participation; (5-3-03)

d. Arrangement, maintenance, and inspection of the activity area; (5-3-03)

e. Appropriate equipment and the inspection and maintenance of the equipment; and (5-3-03)

f. Safety precautions to reduce the possibility of an accident or injury. (5-3-03)

03. High Adventure Activities Leader. An activity leader who is at least twenty-one (21) years of age and who has documented training and experience in conducting the activity must conduct high adventure activities. (7-1-09)

807. -- 809. (RESERVED)

810. STAFF QUALIFICATIONS FOR CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS. Qualifications of staff, interns, and volunteers must be verified through written verification of a completed criminal history and background check as required by IDAPA 16.05.06, "Criminal History and Background Checks," work experience, education, and classroom instruction. A program which provides children's therapeutic outdoor programs must have the following staff: (7-1-09)

01. Chief Administrator. A children's therapeutic outdoor program must have a chief administrator who is primarily responsible for ensuring that the program is at all times in compliance with applicable licensing rules and that staff are familiar with all program policies and procedures. The chief administrator may also function as the field director. The chief administrator must: (7-1-09)

a. Be at least twenty-five (25) years of age; (5-3-03)

b. Have two (2) years experience working with children and three (3) years experience in staff supervision and administration; and either; (5-3-03)

i. At the time of appointment, at a minimum, have a Bachelor's degree in a relevant discipline; or (5-3-03)

ii. Have completed a career development program which includes work related experience, training, or college credits that provide a level of achievement equivalent to the Bachelor's degree; and (5-3-03)

c. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; and (5-3-03)

d. Demonstrate or obtain proficiency in the required training criteria described in Subsection 812.02 of this rule. (7-1-09)

02. Field Director. A children's therapeutic outdoor program must have a field director who is

primarily responsible for the quality of the field activities, coordinates field operation, supervises direct care staff, and manages the field office. The field director is responsible for compliance with applicable licensing rules and ensure that staff are familiar with all program policies and procedures. The field director must: (7-1-09)

a. Be at least twenty-five (25) years of age; (5-3-03)

b. Have a minimum of thirty (30) semester hours or forty-five (45) quarter hours in recreational therapy or related experience, or one (1) year of outdoor youth program field experience; (5-3-03)

c. Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in their personnel file; and (5-3-03)

d. Demonstrate or obtain proficiency in the required training criteria described in Subsection 812.02 of these rules within ninety (90) days of assuming administrative responsibilities and prior to any provision of direct care to children; and (7-1-09)

e. Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. (5-3-03)

03. Senior Field Staff. A children's therapeutic outdoor program must have a senior field staff working directly with each group of program participants. Each senior field staff must: (7-1-09)

a. Be at least twenty-one (21) years of age; (5-3-03)

b. Have an associate degree or high school diploma or equivalent with thirty (30) semester hours or forty-five (45) quarter hours of education and training or comparable experience and training in a field related to recreation and adventure activities; (5-3-03)

c. Have a minimum of forty (40) twenty-four (24) hour field days of program experience or equivalent experience in outdoor programs documented in their personnel file; (5-3-03)

d. Demonstrate or obtain proficiency in the required training criteria described in Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (7-1-09)

e. Be Certified to provide cardiopulmonary resuscitation (CPR) and first aid. (5-3-03)

04. Field Staff. Each field staff must: (7-1-09)

a. Be at least twenty-one (21) years of age; (5-3-03)

b. Have a high school diploma or equivalent; (5-3-03)

c. Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (7-1-09)

d. Be certified to provide cardiopulmonary resuscitation (CPR) and first aid. (5-3-03)

05. Program Consultants. A children's therapeutic outdoor program must have a multidisciplinary staff or program consultants that have knowledge of the physical and emotional demands of the program and be available to program participants upon the recommendation of the field director or senior field staff. At a minimum the team must consist of: (7-1-09)

a. A licensed physician; and (5-3-03)

b. A licensed treatment professional including either a licensed psychologist, certified social worker, marriage and family counselor, or professional counselor. (5-3-03)

06. Intern. Each intern must: (7-1-09)

a. Be in a learning program to meet personal educational goals; (5-3-03)

b. Be at least nineteen (19) years of age; (5-3-03)

c. Have at least a high school diploma or its equivalent; (5-3-03)

d. Have completed staff training and field course work as required by Subsection 812.02 of these rules prior to assuming direct care responsibilities; and (5-3-03)

e. Be under the supervision of a licensed therapist if they are in a clinical internship pursuing a professional degree or license. (5-3-03)

07. Volunteers. Each volunteer must: (7-1-09)

a. Be at least eighteen (18) years of age; (5-3-03)

b. Be under the direct, constant supervision of qualified staff; and (5-3-03)

c. Have completed the staff training and course work required by Subsection 812.02 of these rules prior to assuming direct care responsibilities. (5-3-03)

811. STAFF HEALTH REQUIREMENTS.
Prior to engaging in any field activities with children, staff, interns, and volunteers must have a written statement from a licensed physician, physician's assistant or nurse practitioner verifying they are physically fit to perform the duties of the job. A new written physician's statement must be obtained at least every three (3) years. The medical professional who provides the written statement must be given a form to use which clearly describes the physical demands for the job and the environmental conditions the person being evaluated is required to work in. The administrator or designee must review the form and maintain it in the individual's personnel file. (7-1-09)

812. SKILLS AND TRAINING.
Skills and training for each staff, intern, and volunteer must be documented and kept on file at the base camp. (7-1-09)

01. Skills. Each staff must demonstrate specific skills to the administrator or designee, prior to assuming field supervision. The skill assessment procedures must be approved by the agency and results of the assessment must be documented and kept on file at the base camp. (7-1-09)

02. Training. Training must supplement any deficiencies. The curriculum will include at a minimum: (7-1-09)

a. Four (4) days of practicum field training; (5-3-03)

b. Supervision of program participants; (5-3-03)

c. Water, food, and shelter procurement, preparation and conservation; (5-3-03)

d. Low impact wilderness expedition and environmental conservation skills and procedures; (5-3-03)

e. Child management including containment control, safety, conflict resolution, and behavior management; (5-3-03)

f. Instruction in safety procedures and safe equipment use of fuel, fire, and life protection; (5-3-03)

g. Sanitation procedures related to food, water, and waste; (5-3-03)

h. Special instruction for staff who conduct and staff who supervise high adventure activities; (5-3-03)

i. Wilderness medicine, including health issues related to acclimation, exposure to the environment, and environmental elements; (5-3-03)

j. First aid kit contents and use; (5-3-03)

k. Navigation skills including map and compass use, contour and celestial navigation, and Global Positioning System (GPS); (5-3-03)

l. Local environmental precautions, including terrain, weather, insects, poisonous plants, wildlife, and proper response to adverse situations; (5-3-03)

m. Report writing, including development and maintenance of logs and journals; (5-3-03)

n. Federal, state, and local regulations including Idaho State Department of Health and Welfare, Idaho State Department of Fish and Game, Idaho Outfitters and Guides, and State and Federal land use agencies; and (5-3-03)

o. Ongoing training for direct care staff to upgrade their skills, including mandatory training to maintain skills, certifications and licenses. (5-3-03)

813. STAFF RATIOS AND GROUP SIZE.

01. Staffing Ratio. Each group of children must be staffed as follows: (7-1-09)

a. One (1) staff for every four (4) children or fraction thereof, but where there are less than four (4) children there must be at least two (2) staff; and (7-1-09)

b. Where the gender of a group is mixed, there must be at least one (1) female staff and one (1) male staff member. (7-1-09)

02. Interns and Volunteers. Interns and volunteers must never be counted in the staff ratio and never have sole responsibility to supervise the youth. (7-1-09)

814. STAFF USE OF ALCOHOL OR CONTROLLED SUBSTANCES PROHIBITED.
Staff engaging in field activities, whether on or off duty, are prohibited from using alcohol or controlled substances, or any other substance that impairs their ability to function and ensure the health and safety of the children in the program. (7-1-09)

815. -- 820. (RESERVED)

821. ASSESSMENTS.
Preadmission and subsequent assessments must be performed for each child. (7-1-09)

01. Preadmission Assessment. Admission assessments must be done for each child by a qualified treatment professional familiar with the children's therapeutic outdoor program prior to enrollment. This must include a review of the child's social and psychological history. (7-1-09)

02. Subsequent Assessments. Subsequent assessments must be done at least one (1) week before the child leaves for the field portion of the program away from the main base of operations. The assessment must include: (7-1-09)

a. An interview with the child by the senior field staff assigned to the child's field experience prior to entrance into the field; and (5-3-03)

b. A review of the child's health history and physical examination by a medically trained field staff assigned to the child's field experience. (5-3-03)

03. Psychological Problems. For a child with a history of psychological problems, a psychological evaluation must be obtained and reviewed by the multidisciplinary team prior to the child's entrance into the field portion of the program. (7-1-09)

822. PHYSICAL EXAMINATION.
A child must have a physical examination within thirty (30) days prior to entrance into the children's therapeutic outdoor program. (7-1-09)

01. Standard Physical Examination Requirements. The result of the physical exam must be recorded on a standard form provided by the program. The form must clearly document the type and extent of physical activity in which the child will be engaged. The exam must be completed by a licensed physician, physician's assistant, or nurse practitioner, who signs the form, and includes: (7-1-09)

a. A urinalysis; (5-3-03)

b. A pregnancy test for each female participant; (5-3-03)

c. A physical assessment to determine fitness given the climate and temperature in which the child will be participating, and the child's age, weight, and physical condition; and (5-3-03)

d. A determination whether detoxification is indicated for the child prior to entrance into the field portion of the program. (5-3-03)

02. Prior Physical Examination. A physical examination of a child who is coming into a children's therapeutic outdoor program directly from a children's residential care facility, must be acceptable provided the physical examination is current as required by Section 571 of these rules, meets the criteria provided in Subsection 822.01 of this rule, and occurred prior to entrance into the field. (7-1-09)

03. Medical Special Needs. If a child is currently taking or has been taking prescribed medication within the past six (6) months prior to placement in the children's therapeutic outdoor program, a specific notation must be made on the physical examination form by the medical professional. The medical professional must also include approval for the child's participation in an outdoor, high impact environment and a description of any possible special needs due to the use of medication in said environment. (5-3-03)

04. Physical Examination Availability. The physical examination form must be copied and the original maintained at the base camp and a copy carried by staff in a waterproof container when the child is away from the base camp. The physical examination form must be maintained in a manner that assures the confidentiality of all medical and identifying information. (7-1-09)

823. GROUPING BY AGE.
Children must be assigned to groups according to age and ability. (7-1-09)

01. Age. A child must be at least eleven (11) years of age and less than eighteen (18) years of age unless the individual meets the definition of continued care as provided in Sections 010, 530, and 531 of these rules. (7-1-09)

02. Placement. A licensed treatment professional familiar with the children's therapeutic outdoor program must determine whether children eleven (11) years of age through thirteen (13) years of age are to be placed in a younger program group or in an older program group. The decision must be based upon the child's needs and level of maturity, both physical and mental. The basis for the decision must be documented in the child's record. (7-1-09)

824. EXPEDITIONS.
Expeditions include any excursion that will take the children away from the base camp. (5-3-03)

01. Written Description. There must be a written description of expedition programming, approved by the organization's governing body and signed by the Chief Administrator. The expedition must not expose children to unreasonable risk. (7-1-09)

02. Group Size. For an expedition group, the number of participants must not exceed fifteen (15) children. (7-1-09)

03. Wilderness First Responder (WFR). At least one (1) staff member per expedition group must have a current WFR Certificate. (7-1-09)

04. Global Positioning System (GPS). Each group must be equipped with a GPS system for use on all expeditions. (7-1-09)

05. Staff Briefing. Staff must be briefed prior to any expedition. The briefing at a minimum must include: (7-1-09)

a. The expedition route, terrain, time schedule, weather forecast and any potential hazards; (5-3-03)

b. Any procedures unique to that expedition; and (5-3-03)

c. Participant backgrounds and any potential problems. (5-3-03)

06. Expedition Evaluations. Each expedition must be evaluated at least every seven (7) days, either in person by a field director or as detailed in the organization's approved policies and procedures. If the expedition is longer in duration than three (3) weeks, on-site visits by a field director must occur at minimum increments of three (3) weeks. (7-1-09)

07. Staff De-Briefing. Staff must be de-briefed after returning from any expedition. (7-1-09)

08. Participant De-Briefing. Children must be de-briefed after returning from any expedition. The de-briefing must include a written summary of the child's participation and progress achieved and be retained in the child's record. (7-1-09)

09. Expedition Summary. Results of the evaluation of the conditions of the children, interactions of children and staff, briefings, de-briefings, and compliance with program policies and procedures must be summarized, documented, and records retained for seven (7) years. (7-1-09)

825. SAFETY.

Each children's therapeutic outdoor program must have appropriate safety procedures and equipment. (7-1-09)

01. Environmental Hazards. Each program participant must have instruction on environmental hazards and precautions. (7-1-09)

02. First Aid Kit. There must be a first aid kit with sufficient supplies available at all times. The first aid kit must at a minimum: (7-1-09)

a. Meet the standards of an appropriate national organization for the activity being conducted and the location and environment being used; (5-3-03)

b. Be reviewed with new staff for contents and use; (5-3-03)

c. Be reviewed at least annually with all staff for contents and use; and (5-3-03)

d. Be inventoried after each expedition and restocked as needed. (5-3-03)

826. COMMUNICATIONS.

01. Communication Support System. There must be a communication system that includes: (7-1-09)

a. A reliable two (2) way radio communication with extra charged battery packs for each group away from the base camp; and (5-3-03)

b. A back up plan for re-establishing communication to be implemented in the event regular communication fails. (5-3-03)

02. Communication Requirements. There must be daily verbal communication between each field group and the base camp unless alternative arrangements have been made and documented in a communications log maintained at the base camp and must never exceed seventy-two (72) hours. (7-1-09)

03. Emergencies. The base camp support personnel must have immediate access to emergency telephone numbers, contact personnel and procedures for an emergency evacuation or field incident requiring emergency medical support. (7-1-09)

827. EMERGENCY PLAN.

A children's therapeutic outdoor program must have and follow a written emergency plan and specific procedures for evacuations, disasters, medical emergencies, hostage situations, casualties, and missing children. (7-1-09)

01. Written Plan. The plan must at a minimum include: (7-1-09)

a. Designation of authority and staff assignments; (5-3-03)

b. Transportation and relocation of program participants when necessary; (5-3-03)

c. Instruction to all participants on how to respond in the event of an emergency; (5-3-03)

d. Notification to the base camp of the nature of the emergency and an accounting of each participant's location and status; (5-3-03)

e. Supervision of program participants after an evacuation or a relocation; and (5-3-03)

f. Arrangements for medical care and notification of a child's physician and identified parent or guardian. (5-3-03)

02. Emergency Drills. Emergency plan drills must be conducted and recorded at least annually. (5-3-03)

828. EXPEDITION AND HIKING LIMIT REQUIREMENTS.

01. Physical Capability. Hiking must not exceed the physical capability of the weakest member of the group. (7-1-09)

02. Maximum Temperature. There must be no hiking when the temperature is above ninety-five (95) degrees Fahrenheit. (7-1-09)

03. Inability or Refusal to Hike. When a child cannot or refuses to hike, the group cannot continue hiking unless it is necessary for obvious safety reasons, and a contingency plan, based on preapproved polices and procedures, must be used. The contingency plan must ensure there is staff coverage for each group, if the group is split, and that communication between the groups is maintained. (7-1-09)

04. Maps and Itinerary. Copies of map routes, anticipated schedules including arrival and departure times must be maintained by the field staff and base camp when a group is on an outing away from the base camp. (7-1-09)

05. Acclimation to Environment. Staff must closely monitor children for acclimation to the temperature, climate, altitude, environment and situation. (7-1-09)

06. Log. There must be a common written log that is signed and dated by the participating staff immediately following the termination of an outing away from the base camp. The log must contain information on health problems, accidents, injuries, medications used, behavioral problems, and unusual occurrences. The log must be recorded in permanent ink with any corrections initialed and dated. (7-1-09)

829. WATER REQUIREMENTS.

01. Water. Children must have access to potable water while hiking. At a minimum the program must: (7-1-09)

a. Provide each child with six (6) quarts of potable water a day, unless a child's weight exceeds one hundred fifty (150) pounds, then one (1) additional quart of potable water will be provided for every twenty-five (25) pounds of body weight over one hundred fifty (150) pounds; and (5-3-03)

b. Encourage each child to consume at least three (3) quarts of potable water per day. (5-3-03)

02. Water for Cooling. When the temperature is eighty (80) degrees Fahrenheit or higher, adequate water must be available for coating each child's body for the purpose of cooling when needed. (7-1-09)

03. Water Caches. When water caches are used, each water cache must be placed at predetermined sites prior to the day the group leaves the camp. Field staff must verify the water cache locations before the group leaves the base camp each day. (7-1-09)

04. Aerial Water Drops. An expedition group must not depend on aerial drops for its water supply. Aerial water drops must be used only in the event of an emergency. (7-1-09)

05. Water From a Natural Source. Water from a natural source used for drinking or cooking must be treated to eliminate health hazards. (7-1-09)

06. Electrolyte Replacement. Each group must have a supply of electrolyte replacement, quantities to be determined by group size and environment conditions. (7-1-09)

830. NUTRITIONAL AND SANITARY REQUIREMENTS.

01. Menu. There must be a written menu approved annually by a professional nutritionist or dietitian with knowledge of program activity levels and environmental factors. The menu will list the necessary or recommended food supplies and caloric intake for each group. The current menu must be readily available and any change or substitution noted on the menu. Menus must be maintained on file for six (6) months. (7-1-09)

02. Food. Each child must be provided a sufficient amount of food and calories based on the approved menu. The food provided must include fresh fruit and vegetables at least twice a week. (7-1-09)

03. Special Needs. The menu must take into consideration a child's special nutritional needs, including food allergies or religious restrictions. (7-1-09)

04. Fasting. There must be no imposed food fasting. (7-1-09)

05. Cleansing of Hands. Cleansing of hands is required after each latrine use and prior to food preparation and food consumption. (7-1-09)

831. -- 834. (RESERVED)

835. HEALTH CARE.

01. First Aid. First aid treatment must be provided in as prompt a manner as the location and circumstances allow. (7-1-09)

02. Field Treatment. A child with an illness or physical complaint needing care or treatment beyond what can be provided in the field must be immediately transported to appropriate medical care. (7-1-09)

03. Documentation. Complaints or reports by a child of illness and injuries must be recorded in the daily log along with any treatment provided. (7-1-09)

04. Negative Consequences. There must be no negative consequences imposed on a child for reporting an injury or illness or for requesting to see a health care professional. (7-1-09)

05. Daily Physical Assessment. Children's hydration, skin condition, extremities, and general physical condition must be evaluated and recorded by field staff in the daily log on a daily basis. (7-1-09)

06. Weekly Physical Assessment. At least every seven (7) days, each child's physical condition must be assessed by a Wilderness First Responder (WFR), an Emergency Medical Technician (EMT), or a qualified medical professional. The results of the assessment must be recorded in the daily log and at a minimum includes: (7-1-09)

a. Blood pressure; (5-3-03)

b. Heart rate; (5-3-03)

c. Condition of extremities; (5-3-03)

d. Condition of skin; (5-3-03)

e. Hydration level; (5-3-03)

f. Allergies, if any; (5-3-03)

g. General physical condition; and (5-3-03)

h. Provision of appropriate medical treatment if needed. (5-3-03)

836. MEDICATION STORAGE AND ADMINISTRATION.
A children's therapeutic outdoor program must have and follow policies and procedures on the storage, administration, and disposal of prescription and nonprescription medication. (7-1-09)

01. Medication Storage and Administration. Prescription and over-the-counter medication must be stored under lock and key safeguarded from children. For medications taken on field outings, all medication must be in the possession of a staff member qualified to administer medications. (7-1-09)

02. Trained Staff. Staff who administer and assist with self-administration of medications must be trained by a qualified medical professional. (7-1-09)

03. Prescription Medication. All prescription medications must be issued by a qualified medical professional's valid order that includes the dosage to be given. (7-1-09)

04. Psychotropic Medication. The administration of psychotropic medication is prohibited unless a qualified medical professional determines that the medication is clinically indicated. Under no circumstances will psychotropic medication be administered for disciplinary purposes, for the convenience of staff, or as a substitute for appropriate treatment services. (7-1-09)

05. Documentation. There must be a written record of all medications given to the child. The record must include: (7-1-09)

a. The child's name; (5-3-03)

b. The name of the medication; (5-3-03)

c. The date and time the medication was given; (5-3-03)

d. The dosage given and whether the child did or did not take the medication; and (5-3-03)

e. The person who administered or assisted in self-administration of the medication. (5-3-03)

06. Medication Changes. Prescribed medication must not be stopped or changed in dosage or administration without consulting with the prescribing physician. If the prescribing physician is not available, a qualified medical professional must be consulted. Results of the consultation and any resulting medication changes must be recorded in the child's record. (7-1-09)

07. Disposal of Unused Medication. All unused and expired medication must be disposed of so it is not available to anyone. When medication is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. (5-3-03)

837. -- 839. (RESERVED)

840. PARTICIPANT CLOTHING, EQUIPMENT AND SUPPLIES.
Each program participant must have appropriate clothing, equipment and supplies appropriate for the types of activities and for the weather conditions likely to be encountered. (7-1-09)

01. Clothing, Equipment, and Supplies Requirements. Clothing, equipment and supplies include at a minimum: (7-1-09)

a. Sunscreen; (5-3-03)

b. Insect repellent; (5-3-03)

c. A commercially available backpack or the materials to construct a safe backpack or bedroll; (5-3-03)

d. Personal hygiene items necessary for cleansing; (5-3-03)

e. Appropriate feminine hygiene supplies; (5-3-03)

f. Wool blankets or an appropriate sleeping bag and a tarp or poncho when the average nighttime temperature is expected to be forty (40) degrees Fahrenheit or higher; (7-1-09)

g. Shelter, appropriate sleeping bag and ground pad when the average night time temperature is expected to be thirty-nine (39) degrees Fahrenheit or lower; (5-3-03)

h. Clothing appropriate for temperature changes generally expected for the area; (5-3-03)

i. Each child must be provided a clean change of clothing at least once a week or an opportunity to wash their clothes at least once a week; and (7-1-09)

j. Each child must be provided clean undergarments and a means to clean their body at least twice a week. Additional clean undergarments must be provided to a child as may be needed for health or sanitary reasons. (7-1-09)

02. Denial of Clothing, Equipment, and Supplies. Appropriate clothing, equipment, and supplies must not be removed, denied, or made unavailable for any reason. (7-1-09)

841. CONTRABAND.
A children's therapeutic outdoor program must define prohibited contraband in a written policy. (7-1-09)

01. Confiscation. Contraband found in the possession of children or staff must be confiscated by staff and secured in a location inaccessible to children. (7-1-09)

02. Law Enforcement Notification. Local law enforcement must be notified when illegal contraband is confiscated. (7-1-09)

03. Disposal. It is the responsibility of the administrator or designee to dispose of all contraband not confiscated by law enforcement, in accordance with the program's contraband policy. When contraband is disposed of, this must be witnessed by at least one (1) other staff member and the disposal documented in the child's record. (7-1-09)

842. SEARCHES.
If a children's therapeutic outdoor program conducts searches of children, staff or visitors, it must have and follow written policies and procedures. Searches must be completed in the least intrusive manner possible for the type of search being conducted. All contraband will be disposed of in accordance with Section 841 of these rules. All searches must be documented, including the reasons for the search, the persons conducting the search, and any results. The policies and procedures at a minimum must include those in Subsections 842.01 and 842.02 of this rule. (7-1-09)

01. Pat Down Searches. Pat down searches of children may only be conducted when the therapeutic outdoor program feels it is necessary to discourage the introduction of contraband or to promote the safety of staff and other children. Pat down searches must be conducted as follows: (7-1-09)

a. Staff must be trained in proper search techniques; (7-1-09)

b. There must be a staff member of the same sex as the child being searched and the presence of another staff member; (7-1-09)

c. The child must be told he is about to be searched; (7-1-09)

d. The child must remove all outer clothing (gloves, coat, hat, and shoes) and empty all pockets; (7-1-09)

e. The staff person must pat the clothing of the child using only enough contact to conduct an appropriate search; (7-1-09)

f. If the staff detects anything unusual, the child will be asked to identify the item and appropriate steps taken to remove the item for inspection; (7-1-09)

g. If the child refuses to comply, the administrator or designee must be notified immediately and is responsible for resolving the matter; and (7-1-09)

h. All searches must be documented in writing. (7-1-09)

02. Strip Searches are Prohibited. (7-1-09)

03. Body Cavity Searches are Prohibited. (7-1-09)

843. BEHAVIOR MANAGEMENT AND DISCIPLINE POLICY.

01. Behavior Management. A children's therapeutic outdoor program must have and follow a behavioral management and discipline policy which identifies appropriate methods of behavioral management and ensures that any discipline is positive and consistent. Individual behavioral management must be based on an assessment of the child's needs, behavior, and stage of development with the goal of promoting self-control, self-

direction, self-esteem, and an acceptable pattern of social behavior appropriate to the age and development level of the child. The policy must include the concept and application of least restrictive effective treatment and positive reinforcement and prohibit the following: (7-1-09)

a. Physical force, except as permitted under Section 573 of these rules; (5-3-03)

b. Any kind of punishment inflicted on the body, including spanking, hitting, slapping, spitting, kicking, shaking, pulling hair, pinching skin, twisting of an arm or leg in a way that would cause pain or injury to the child, kneeling and sitting on the chest of a child, placing a choke hold on a child, bending back a finger, and shoving or pushing a child into a stationary object; (5-3-03)

c. The placing of anything in or over a child's mouth; (5-3-03)

d. Cruel or excessive physical exercise, prolonged positions, or work assignments that produce unreasonable discomfort; (5-3-03)

e. Verbal abuse, ridicule, humiliation, profanity, and other forms of degradation directed at a child or a child's family; (5-3-03)

f. Locked seclusion as described under Section 764 of these rules; (5-3-03)

g. Mechanical restraint as described under Section 766 of these rules; (5-3-03)

h. Alternative forms of restraint as described in Section 767 of these rules; (5-3-03)

i. Withholding of necessary food, clothing, shelter, bedding, rest, medical care, and toilet use; (5-3-03)

j. Denial of visits or communication with the child's family except as specified in the child's plan or court order; and (5-3-03)

k. Disciplining a child or group of children for actions of one (1) child, unless the organization's policies and procedures for group behavior management and discipline are based on a nationally recognized peer group treatment model and clearly prescribe the circumstances and safeguards under which disciplining the group is allowed and is supervised by staff. (5-3-03)

02. Documentation. An organization must document that the policy has been provided to a child and is made available to parents, guardians, and referral sources. (7-1-09)

844. TIME-OUT.
A children's therapeutic outdoor program must have and follow written policy and procedures governing the appropriate use of time-out as required in Subsections 844.01 through 844.06 of this rule. (7-1-09)

01. Use. Time-out is only used when a child's behavior is disruptive to the child's ability to learn, to participate appropriately, or to function appropriately with other children or the activity. (5-3-03)

02. Duration. Time duration cannot exceed sixty (60) consecutive minutes. (7-1-09)

03. Observation. A staff person is designated to be responsible for visually observing the child at random intervals at least every fifteen (15) minutes. (7-1-09)

04. Documentation. A written description in sufficient detail to provide a clear understanding of the incident or behavior which resulted in the child being placed in time-out, and staff's attempts to help the child avoid time-out, and observations by staff maintained in the child's file. (5-3-03)

05. Reintroduction to the Group. The child is reintroduced to the group in a sensitive and nonpunitive manner as soon as control is regained. (5-3-03)

06. Review. If there are more than ten (10) time-outs for a child in a twenty-four (24) hour period, a

review is conducted by the chief administrator or designee to determine the suitability of the child remaining in the program, whether modification to the child's plan is warranted, whether staff need additional training in alternative therapeutic behavior management techniques, and to ensure that appropriate action is taken as a result of the review. (5-3-03)

845. WORK.
Children may be given a non-vocational work assignment as a constructive experience in compliance with child labor laws, which are age appropriate and within the child's capabilities. The primary purpose of work cannot be used as a substitute for paid labor. (7-1-09)

846. ANIMALS AND PETS.
Animals, including pets, must be free from disease and cared for in a safe and clean manner. All domestic animals and pets must be vaccinated against rabies. Documentation of the vaccination against rabies will be kept on file at the base camp. (7-1-09)

847. TRANSPORTING CHILDREN.

01. Vehicle. Transportation of children in a therapeutic outdoor program must be in a vehicle that is: (7-1-09)

a. Properly registered; (5-3-03)

b. Covered by insurance for personal injury and liability; (5-3-03)

c. Driven by a person with a valid driver's license for the type of vehicle and who complies with all applicable traffic laws while transporting children; (5-3-03)

d. Maintained in a safe condition; (5-3-03)

e. Equipped with a red triangle reflector device for use in an emergency; (5-3-03)

f. Equipped with a first aid kit; and (5-3-03)

g. Equipped with a fire extinguisher that is properly secured and not readily available to children. (5-3-03)

02. Proper Seating of Children and Adults. The driver and all passengers must ride in a vehicle manufactured seat and properly use a passenger restraint device. (7-1-09)

848. FIREARMS.
Firearms are not allowed in children's therapeutic outdoor programs. (7-1-09)

849. (RESERVED)

850. PROGRAM SUMMARY.
The organization must provide the child's parent or guardian a written summary of the child's participation and progress upon completion of the therapeutic outdoor program. The parents or guardian and child must be given the opportunity and encouraged to submit a written evaluation of the therapeutic outdoor experience. (7-1-09)

851. -- 859. (RESERVED)

ADDITIONAL STANDARDS FOR SOLO EXPERIENCES IN CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS
(See also Sections 500 - 599, Rules Governing General Standards for Organizations Known as Children's Agencies and Children's Residential Care Facilities, and Sections 800 - 859, Rules Governing Standards for Children's Therapeutic Outdoor Pro grams)

860. STANDARDS FOR SOLO EXPERIENCES IN CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.
If a children's therapeutic outdoor program conducts a solo component for children as part of the therapeutic process during expeditions, they must have and follow written policies and procedures. Every children's therapeutic outdoor program that includes a solo component will include a written description of the solo component as required in Section 528 of these rules. (5-3-03)

861. PLAN.
For a children's therapeutic outdoor program that conducts a solo component as part of the therapeutic process there must be a plan for the solo component, as well as an individual solo plan for each child. The plans will be documented and approved by the senior field staff to ensure that the children are not exposed to unreasonable risks. The plans must include the following: (5-3-03)

01. Individual Solo Plan. The goals, methods, techniques to be used, and time frames will be listed for each participant and each individual plan will be reviewed with the child and signed and dated by the child and the designated staff member. (5-3-03)

02. Ability. There will be consideration of the maturity level, health, physical ability, and emotional state of the child. (5-3-03)

03. Preparation. The child will be instructed on the solo experience, including expectations, restrictions, communication, environment, and emergency procedures. (5-3-03)

04. Back Up Plan. There will be documented instructions for a back up plan in case the child's plan does not work. (5-3-03)

05. Responsible Staff. A designated staff member will be responsible for coordination and implementation of the plan. (5-3-03)

862. SOLO SITES.
Staff must be familiar with the site chosen to conduct solos. The following requirements apply: (5-3-03)

01. Pre-Site Investigation. A pre-site investigation will be conducted and mapped prior to the solo. The site will be checked at the time the child is placed to assure that no changes in the environment have taken place since the pre-site investigation that may put the child at risk. (5-3-03)

02. Hazardous Conditions. Any hazardous conditions, including terrain, are to be considered prior to the selection of a solo site, taking into account the age, physical, developmental and psychological issues of the children served in the solo experience. (5-3-03)

03. Mapping and Site Coordinates. The site selected for the solo will be mapped and the site coordinates will be recorded. The map and the site coordinates will be maintained at the solo site and communicated to the base camp prior to leaving for the solo component. (5-3-03)

04. Supplies. Arrangements will be made prior to the solo for medication, food, and water drop offs if needed. (5-3-03)

863. SUPERVISION.
Plans for supervision must be in place during the solo, and at a minimum require the following: (5-3-03)

01. Assigned Staff. The assignment of a specific staff member to be responsible for the supervision of each solo participant. (5-3-03)

02. Observation. A predetermined procedure for observation, that ensures the health, safety, and well being of the child at all times, that includes: (5-3-03)

a. Placing children at a distance from each other and the central staff site to allow for appropriate supervision and emergency communication; (5-3-03)

b. Placing children requiring special attention closer to the central staff site; (5-3-03)

c. Clearly defining physical boundaries and any other restrictions; (5-3-03)

d. Instructing children to not participate in potentially dangerous activities; (5-3-03)

e. Notification and check in systems; (5-3-03)

f. Visual checks; and (5-3-03)

g. Checking the participant's emotional and physical condition daily. (5-3-03)

864. EMERGENCY PROCEDURES.
In addition to the requirements of Section 827 of these rules, solo emergency plans must include: (5-3-03)

01. Instruction. Instructing the participant on the safety and emergency procedures, including evacuation routes. (5-3-03)

02. Communication. Providing each participant with signaling capabilities, including a whistle, for emergency notification. (5-3-03)

03. Participant Response. Instruction to all participants on how to respond if the emergency notification system is put into use, including each participants requirement to check in to the central staff site. (5-3-03)

04. Check In. Provide a check-in system should an emergency occur, which includes notification to the base camp and an accounting of each participant's whereabouts and safety. (5-3-03)

865. -- 869. (RESERVED)

ADDITIONAL STANDARDS FOR STATIONARY CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS
(Sections 870 - 872, see also Sections 500 - 599 and 800 - 869.)

870. ADDITIONAL PROVISIONS FOR STATIONARY CHILDREN'S THERAPEUTIC OUTDOOR PROGRAMS.
A children's therapeutic outdoor program that maintains a designated location for the housing of children is considered stationary and must be subject to additional fire, health, and safety standards. (5-3-03)

871. FIRE SAFETY REQUIREMENTS.
A stationary children's therapeutic outdoor camp must be inspected by a state certified fire inspector before being occupied and on an annual basis thereafter, and a copy of the inspection will be maintained at the children's therapeutic outdoor camp. The inspection requires: (5-3-03)

01. Fire Extinguishers. One (1) 2-A-10BC type fire extinguisher must, at minimum, be in each of the following locations: (5-3-03)

a. On each floor in any building that houses children; (5-3-03)

b. In any room where cooking or heating takes place; (5-3-03)

c. In a group of tents within a seventy-five (75) foot travel distance; and (5-3-03)

d. Each fire extinguisher will be inspected annually by a fire extinguisher service agency. (5-3-03)

02. **Smoke Detectors**. A smoke detector will be in buildings where children sleep. (5-3-03)

03. Escape Routes. A minimum of two (2) escape routes from buildings where children sleep. (5-3-03)

04. Flammable Liquids. Flammable liquids will not be used to start fires, be stored in structures that house children, or be stored near ignition sources. If generators are used, they will only be refueled by staff when the generator is not running and cool to the touch. (5-3-03)

05. Electrical. Wiring will be properly attached and fused to prevent overloads. (5-3-03)

872. HEALTH SAFETY REQUIREMENTS.
A stationary children's therapeutic outdoor camp must be inspected by the District Health Department before being occupied and on an annual basis, and a copy of the inspection maintained at the site of the camp. The inspection requires the following: (5-3-03)

01. Food. Food be stored, prepared, and served in a manner that is protected from contamination. (5-3-03)

02. Water Supply. The water supply will be from a source that is accepted by the local health authority according to IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," at the time of application and for annual renewal of such licenses. (5-3-03)

03. Sewage Disposal. Sewage will be disposed of through a public system, or in absence of a public system, in a manner approved by the local health authority, according to IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (5-3-03)

873. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Sections 16-2433, 19-2524, 20-511A, and 39-3137, Idaho Code, the Director is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. Under Section 39-309, Idaho Code, the Board of Health and Welfare is authorized to promulgate, adopt, and enforce rules for the charging of fees for services provided by mental health and substance use disorders providers. (7-1-16)

001. TITLE AND SCOPE.

01. **Title**. These rules are titled IDAPA 16.07.01, "Behavioral Health Sliding Fee Schedules." (4-9-09)

02. **Scope**. These rules provide the sliding fee schedules, based on federal poverty guidelines, and fee determination process for the adult mental health, children's mental health, and substance use disorders programs within the Department. This chapter of rules applies both to voluntary and court-ordered recipients. (4-9-09)

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of this chapter, the following definitions apply. (4-9-09)

01. **Ability to Pay**. The financial capacity that is available to pay for the program services after allowable deductions in relation to gross income and family size exclusive of any liability of third party payor sources. (4-9-09)

02. **Adjusted Gross Income**. Total family annual income less allowable annual deductions. (4-9-09)

03. **Adult**. An individual eighteen (18) years of age or older. (4-9-09)

04. **Adult Mental Health Program**. A program administered by the Idaho Department of Health and Welfare to serve seriously mentally ill and severely and persistently mentally ill adults. (7-1-16)

05. **Allowable Annual Deductions**. In determining the family's ability to pay for behavioral health services, the following are allowable annual deductions: (4-9-09)

a. Court-ordered obligations; (4-9-09)

b. Dependent support; (4-9-09)

c. Child care payments necessary for parental employment; (4-9-09)

d. Medical expenses; (4-9-09)

e. Transportation; (4-9-09)

f. Extraordinary rehabilitative expenses; and (4-9-09)

g. State and federal tax payments, including FICA taxes. (4-9-09)

06. **Behavioral Health Services**. Services offered by the Department to improve mental health and substance use disorders issues. (7-1-16)

07. **Child**. An individual who is under the age of eighteen (18) years. (4-9-09)

08. **Children's Mental Health Program**. A program as defined in IDAPA 16.07.37, "Children's Mental Health Services," administered by the Idaho Department of Health and Welfare. (4-9-09)

09. **Court-Ordered Obligations**. Financial payments which have been ordered by a court of law. (4-9-09)

10. **Court-Ordered Recipient**. A person receiving behavioral health services under Sections 19-2524, 20-520(i), and 20-511A, Idaho Code. (4-9-09)

11. Department. The Idaho Department of Health and Welfare. (4-9-09)

12. Dependent Support. An individual that is dependent on their family's income for over fifty percent (50%) of his financial support. (4-9-09)

13. Extraordinary Rehabilitative Expenses. Those payments incurred as a result of the disability needs of the person receiving services. They include annual costs for items including wheelchairs, adaptive equipment, medication, treatment, or therapy which were not included in the medical payments deduction and the annual estimate of the cost of services received. ( )

14. Family. A family is an adult, or married adults, or adult(s) with children, living in a common residence. (4-9-09)

15. Family Household. Persons in a family related by blood, marriage, or adoption. Adult siblings who are not claimed as dependents and individuals receiving Supplemental Security Income (SSI) or Supplemental Security Disability Income (SSDI) are excluded from consideration as a member of the household for income and counting purposes. Income from minor siblings is excluded from household income. The term "family household" is synonymous with the term "family unit." (3-29-10)

16. Federal Poverty Guidelines. Guidelines issued annually by the Federal Department of Health and Human Services establishing the poverty income limits. The federal poverty guidelines for the current year may be found online at http://aspe.hhs.gov/poverty. (4-9-09)

17. Management Service Contractor (MSC). An independent contractor with whom the Department contracts to manage a statewide network of Department-approved facilities and programs to deliver substance use disorders treatment and recovery support services. (7-1-13)

18. Parent. The person who, by birth or through adoption, is legally responsible for a child. (4-9-09)

19. Recipient. The person receiving services. The term "recipient" is synonymous with the terms: "patient," "participant," "resident," "consumer," or "client." (4-9-09)

20. Sliding Fee Scale. A scale used to determine an individual's financial obligation for services based on Federal Poverty Guidelines and the number of persons in the family household. (4-9-09)

21. Substance Use Disorders Program. A program administered by the Idaho Department of Health and Welfare to serve adolescents and adults with alcohol or substance use disorders. (4-9-09)

22. Third-Party Payor. A payor other than a person receiving services or a responsible party who is legally liable for all or part of the person's care. (7-1-16)

011. -- 099. (RESERVED)

100. FINANCIAL RESPONSIBILITY OF PARENTS FOR CHILDREN'S MENTAL HEALTH SERVICES.

Parents of children eligible for services under IDAPA 16.07.37, "Children's Mental Health Services," Section 407 who receive services either directly from the Department's Children's Mental Health program or through Department contracts with private providers are responsible for paying for services provided to their child and to their family. Financial responsibility of the child's parent(s) for each service not covered by third party liable resources or payments, including private insurance and Medicaid will be established in accordance with the child's parent(s) ability to pay as determined by the sliding fee scale in Section 300 of these rules. (4-9-09)

101. -- 199. (RESERVED)

200. FINANCIAL RESPONSIBILITY FOR ADULT MENTAL HEALTH SERVICES.

Adults receiving services either directly from the Department's Adult Mental Health program or through Department contracts with private providers are responsible for paying for services they receive. Financial responsibility for each

service not covered by third party liable resources or payments, including private insurance and Medicaid will be established in accordance with the individual's ability to pay as determined by the sliding fee scale in Section 300 of these rules. (4-9-09)

201. -- 299. (RESERVED)

300. SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH, ADULT MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES.
Following is the sliding fee schedule for children's mental health, adult mental health, and substance use disorders services:

TABLE 300 - SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH, ADULT MENTAL HEALTH, AND SUBSTANCE USE DISORDERS SERVICES.

Percent Federal of Poverty Guidelines	Percentage of Cost Sharing Responsibility of a Parent, or Adult Services Recipient
0% - 99%	0%
100%-109%	5%
110%-119%	10%
120%-129%	15%
130%-139%	20%
140%-149%	25%
150%-159%	30%
160%-169%	35%
170%-179%	40%
180%-189%	45%
190%-199%	50%
200% - 209%	55%
210% - 219%	60%
220% - 229%	65%
230% - 239%	70%
240% - 249%	75%
250% - 259%	80%
260% - 269%	85%
270% - 279%	90%
280% - 289%	95%
290% - and above	100%

(7-1-16)

301. -- 399. (RESERVED)

400. CALCULATING INCOME TO APPLY THE SLIDING FEE SCHEDULE FOR CHILDREN'S MENTAL HEALTH AND ADULT MENTAL HEALTH SERVICES.
The fee determination process includes consideration of the following subsections in this rule. (7-1-16)

01. Application and Fee Determination Form. Prior to the delivery of behavioral health services, an application for services and a "Fee Determination" form must be completed. (7-1-16)

a. A child's parent(s) must complete the application and fee determination form when requesting Children's Mental Health services. (7-1-16)

b. An adult requesting Adult Mental Health services must complete the application and fee determination form. (7-1-16)

02. Ability to Pay. Financial obligations are based upon the number of persons in the family household and the adjusted gross income of those persons as determined using the following: (4-9-09)

a. An ability to pay determination will be made at the time of the voluntary request for services or as soon as possible, thereafter. (4-9-09)

b. Redetermination of ability to pay will be made at least annually or upon request or at any time changes occur in family size, income, or allowable deductions. (7-1-16)

c. In determining the family's ability to pay for services, the Department will deduct annualized amounts for the following: (4-9-09)

i. Court-ordered obligations; (4-9-09)

ii. Dependent support; (4-9-09)

iii. Child care expenses necessary for parental employment; (4-9-09)

iv. Medical expenses; (4-9-09)

v. Transportation; (4-9-09)

vi. Extraordinary rehabilitative expenses; and (4-9-09)

vii. State and federal tax payments, including FICA taxes. (4-9-09)

03. Required Information. Information regarding third-party payors and other resources, including Medicaid or private insurance, must be identified and developed in order to fully determine the child's parent(s) or adult individual's ability to pay and to maximize reimbursement for the cost of services provided. It is the responsibility of the parents, legal guardian, or adult individual to obtain and provide information not available at the time of the initial financial interview whenever that information becomes available. (7-1-16)

04. Time of Payment. Payment for services will be due upon delivery of services unless other arrangements are made. (4-9-09)

05. Financial Obligation. A financial obligation for each service not covered by third party liable resources or payments, including private insurance and Medicaid, will be established in accordance with Section 300 and Subsection 400.01 of these rules but in no case will the amount owed exceed the cost of the service. In no case will the annual financial obligation exceed five percent (5%) of adjusted gross income of the family household. (4-9-09)

06. Fees Established by the Department. The maximum hourly fees or flat fees charged for Behavioral Health services are established by the Department of Health and Welfare. (7-1-16)

a. The fees for Children's Mental Health Services and Adult Mental Health Services are based on the cost for services set in Department contracts with service providers. Current information regarding services and fee charges can be obtained from regional Children's Mental Health and Adult Mental Health offices specified online. (7-1-16)

b. The fees for Substance Use Disorders Services are based on the cost for services set in Department contracts with the Management Services Contractor. Current information regarding services and fee charges can be obtained from the Department office described in Section 005 of these rules. (7-1-16)

401. -- 999. (RESERVED)

IDAPA 17 – INDUSTRIAL COMMISSION

DOCKET NO. 17-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 72-1004, 72-1013, and 72-1104, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 17, rules of the Industrial Commission:

IDAPA 17
- 17.10.01, *Administrative Rules Under Crime the Victims Compensation Act*
- 17.11.01, *Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of theses proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 3587–3595**.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kamerron Monroe, Commission Secretary, (208) 334-6017.

Dated this 9th day of October, 2019.

Mindy Montgomery, Director
Industrial Commission
11321 W. Chinden Blvd.
Boise, Idaho 83714
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 72-1004 and 72-1013, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Administrative Rules Under the Crime Victims Compensation Act" IDAPA 17, Title 10, Chapter 01. ( )

02. Scope. This chapter includes the Industrial Commission's procedures for administering the Crime Victim's Compensation Act. ( )

002. ADMINISTRATIVE APPEALS.
Chapter 1, Section 11, Subsection 5, provides for appeals to the Commission from decisions of the Crime Victims Compensation Bureau. ( )

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Commission. The Idaho Industrial Commission. ( )

02. Crime Victim's Compensation Program. The program administered by the Crime Victim's Bureau of the Idaho Industrial Commission under the Crime Victim's Compensation Act. ( )

03. Employer. The employer at the time of the criminally injurious conduct on which the Application for Compensation is based. ( )

04. Medical Services. Words and terms used for determining the allowable payment for medical services under these rules are defined in Subsections 010.04.a. through 010.04.h. ( )

a. "Allowable payment" means the lower of the charge for medical services calculated in accordance with this rule or as billed by the provider. ( )

b. "Ambulatory Surgery Center (ASC)" means a facility providing surgical services on an outpatient basis only. ( )

c. "Hospital" is any acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. ( )

i. Large Hospital means any hospital with more than one hundred (100) acute care beds. ( )

ii. Small Hospital means any hospital with one hundred (100) acute care beds or less. ( )

d. "Provider" means any person, firm, corporation, partnership, association, agency, institution, or other legal entity providing any kind of medical service related to the treatment of a claimant for benefits under the Idaho Crime Victims Compensation Act. ( )

e. "Medical Service" means medical, surgical, dental, mental health, or other attendance or treatment, nurse and hospital service, medicine, apparatus, appliance, prostheses and related service, facility, equipment and supply. ( )

f. "Reasonable" means a charge does not exceed the Provider's "usual" charge and does not exceed the "customary" charge, as defined in Paragraph 010.04.h. ( )

g. "Usual" means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. ( )

h. "Customary" means a charge that has an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ( )

***05. Wages**. Means the wages at the time of the criminally injurious conduct on which the Application for Compensation is based and includes non-cash remuneration such as lodging and meals provided by the Employer and gratuities such as tips, which are not paid by the employer, but that are received by the victim in the normal course of his employment. ( )*

011. APPLICATIONS FOR COMPENSATION.

***01. Claim for Benefits**. To claim benefits under the Crime Victims Compensation Act, the claimant shall file an Application for Compensation with the Crime Victim's Compensation Bureau of the Commission. Applications for Compensation shall be made using the form approved by the Commission. An Application for Compensation shall be deemed filed when it is received at the Commission's office in Boise. ( )*

***02. Providing Information**. Before paying benefits to any claimant, the Commission shall gather sufficient information to establish that the claimant is eligible for benefits. The Commission may require the claimant to assist the Commission in obtaining that information. ( )*

***03. Employment Verification**. To verify information concerning a victim's employment, the Commission may require the victim's Employer or Employers to complete an Employment Verification form or the Commission may obtain such information from an Employer by telephone. ( )*

***04. Order**. After sufficient information has been gathered pursuant to Subsection 011.02 of this rule, the Commission may enter an award granting or partially granting benefits or an order denying benefits. The Commission may also enter orders necessary to further the purposes of the Act. (4-7-11)*

***05. Finality of Order**. An award or order issued by the Commission shall be final and conclusive as to all matters considered in the award or order; provided that within twenty (20) days from the date that such an award or order is issued, the claimant may file a request that the Crime Victim's Compensation Program reconsider the order, or the Crime Victim's Compensation Program may reconsider the matter on its own motion, and the order of the Crime Victim's Compensation Program shall be final upon issuance of the order on reconsideration; and provided further that, within forty five (45) days from the date that any order is issued by the Crime Victim's Compensation Program, a claimant may file a Request for Hearing before the Commission. The Hearing shall be held in accordance with the procedures set out in Section 012 of these rules. Requests for Hearing before the Commission and requests that the Crime Victim's Compensation Program reconsider an order is deemed filed when received at the Commission's office in Boise. ( )*

***06. Recipients of Payments for Medical Services**. If, pursuant to any order of the Commission or the Crime Victims Bureau, it is determined that a claimant is entitled to payment of medical expenses as provided in Section 72-1019(2), Idaho Code, or funeral or burial expenses as provided in Section 72-1019(4), Idaho Code, payment shall be made directly to the medical provider or the provider of funeral or burial services unless the claimant has already paid the provider; if the claimant has already paid the provider, payment shall be made to the claimant. ( )*

***07. Allowable Payments for Medical Services**. The Commission shall pay providers the allowable payment for medical services under these rules adopted in accordance with Section 72-1026, Idaho Code. ( )*

***a.** Adoption of Standard. The Commission hereby adopts the Resource-Based Relative Value Scale (RBRVS), published by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services, as amended, as the standard to be used for determining the allowable payment under the Crime Victims Compensation Act for medical services provided by providers other than hospitals and ASCs. The standard for determining the allowable payment for hospitals and ASCs shall be: ( )*

i. For large hospitals: Eighty-five percent (85%) of the reasonable inpatient charge. ( )

ii. For small hospitals: Ninety percent (90%) of the reasonable inpatient charge. ( )

iii. For ambulatory surgery centers (ASCs) and hospital outpatient charges: Eighty percent (80%) of

the reasonable charge. ( )

iv. Surgically implanted hardware shall be reimbursed at the rate of actual cost plus fifty percent (50%). ( )

v. Paragraph 011.07.e. of this rule, shall not apply to hospitals or ASCs. The Commission shall determine the allowable payment for hospital and ASC services based on all relevant evidence. ( )

b. *Conversion Factors. The following conversion factors shall be applied to the fully-implemented facility or non-facility Relative Value Unit (RVU) as determined by place of service found in the latest RBRVS, as amended, that was published before December 31 of the previous calendar year for a medical service identified by a code assigned to that service in the latest edition of the Physicians' Current Procedural Terminology (CPT), published by the American Medical Association, as amended:*

MEDICAL FEE SCHEDULE		
DESCRIPTION	**CODE RANGE(S)**	**CONVERSION FACTOR**
Anesthesia	00000 - 09999	$60.05
Surgery - Group One	22000 - 22999 Spine 23000 - 24999 Shoulder, Upper Arm, & Elbow 25000 - 27299 Forearm, Wrist, Hand, Pelvis & Hip 27300 - 27999 Leg, Knee, & Ankle 29800 - 29999 Endoscopy & Arthroscopy 61000 - 61999 Skull, Meninges & Brain 62000 - 62259 Repair, Neuroendoscopy & Shunts 63000 - 63999 Spine & Spinal Cord	$144.48
Surgery - Group Two	28000 - 28999 Foot & Toes 64550 - 64999 Nerves & Nervous System	$129.00
Surgery - Group Three	13000 - 19999 Integumentary System 20650 - 21999 Musculoskeletal System	$113.52
Surgery - Group Four	20000 - 20615 Musculoskeletal System 30000 - 39999 Respiratory & Cardiovascular 40000 - 49999 Digestive System 50000 - 59999 Urinary System 60000 - 60999 Endocrine System 62260 - 62999 Spine & Spinal Cord 64000 - 64549 Nerves & Nervous System 65000 - 69999 Eye & Ear	$87.72
Surgery - Group Five	10000 - 12999 Integumentary System 29000 - 29799 Casts & Strapping	$69.14
Radiology	70000 - 79999 Radiology	$87.72
Pathology & Laboratory	80000 - 89999 Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90749 Immunization, Injections, & Infusions 94000 - 94999 Pulmonary / Pulse Oximetry 97000 - 97799 Physical Medicine & Rehabilitation 97800 - 98999 Acupuncture, Osteopathy, & Chiropractic	$46.44

MEDICAL FEE SCHEDULE		
DESCRIPTION	CODE RANGE(S)	CONVERSION FACTOR
Medicine - Group Two	90750 - 92999 Psychiatry & Medicine 96040 - 96999 Assessments & Special Procedures 99000 - 99607 E / M & Miscellaneous Services	$66.56
Medicine - Group Three	93000 - 93999 Cardiography, Catheterization, & Vascular Studies 95000 - 96020 Allergy / Neuromuscular Procedures	$72.24

( )

c. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the Anesthesia Base Units assigned to that CPT Code by the Centers for Medicare and Medicaid Services of the U.S. Department of Health and Human Services as of December 31 of the previous calendar year, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. ( )

d. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY), starting with FY 2012, as determined by the Commission. ( )

e. Services Without a CPT Code, RVU or Conversion Factor. The allowable payment for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Subsection 011.07.b. of this rule, determine the allowable payment for that service, based on all relevant evidence. ( )

f. Coding. The Commission will generally follow the coding guidelines published by the Centers for Medicare and Medicaid Services and by the American Medical Association, including the use of modifiers. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form. Modifiers will be reimbursed as follows: ( )

i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. ( )

ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. ( )

iii. Modifier 80: Twenty-five percent (25%) of coded procedure. ( )

iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. ( )

08. Wage Loss Benefits. For the purpose of determining compensation benefits under Sections 72-1019(1) and 72-1019(3), Idaho Code, "wages received at the time of the criminally injurious conduct" shall be the victim's gross weekly wage; which shall be determined under Section 72-419(1)-(3), Idaho Code, if applicable, and if not, as follows: ( )

a. If the Wages were fixed by the hour, and the victim worked or was scheduled to work the same number of hours each week, the weekly wage shall be the hourly rate times the number of hours that the victim worked or was scheduled to work each week, plus one-half (1/2) the hourly wage times the number of hours worked or scheduled each week in excess of forty (40) hours if the victim was paid time-and-a-half for work in excess of forty (40) hours per week. ( )

b. *If the Wages were fixed by the hour and the victim did not work the same number of hours each week, or if the victim was paid on a piecework or commission basis, the weekly wage shall be computed by averaging the amounts that the victim was paid during his last four completed pay periods prior to the criminally injurious conduct and converting that amount to a weekly basis using a method consistent with 72-419(1)-(3); provided that, if the victim was employed for less than four (4) pay periods before the criminally injurious conduct, the average shall be computed based upon the time period that he worked. ( )*

c. *If none of the above methods are applicable, the weekly wage shall be computed in a manner consistent with the above methods. ( )*

09. Treating Physician. *A victim may choose his own treating physician. If, after filing an Application for Compensation, a victim changes physicians without prior approval of the Commission, or if, without prior approval of the Commission, he seeks treatment or examination by a physician to whom he was referred by his treating physician, the Commission may deny payment for such treatment or examination. ( )*

10. Overpayment. *If the Commission erroneously makes payments, the Commission may reduce future payments by an amount equal to the overpayment or request a refund when overpayments are made to either the claimant or the provider. ( )*

11. Weekly Compensation Benefits If Victim Employable But Not Employed. *If a victim is qualified under Section 72-1019(7)(a), Idaho Code, the following provisions apply: ( )*

a. *If at the time of the injurious conduct the victim was receiving unemployment benefits and as a result of that conduct the victim becomes ineligible for those benefits, the claimant's weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars ($150) or his weekly benefit amount under the Employment Security Law. ( )*

b. *If at the time of the criminally injurious conduct the victim was unemployed, but scheduled to begin employment on a date certain and if he was unable to work for one (1) week as a result of that conduct, weekly benefits under the Crime Victims Compensation Act shall be the lesser of one hundred fifty dollars ($150) or two-thirds (2/3) of the amount that he would have earned at his scheduled employment, and those benefits shall be payable beginning on the date that his employment was scheduled to begin. ( )*

c. *If prior to the criminally injurious conduct the victim was performing necessary household duties which he is disabled from performing as a result of that conduct and it is necessary to employ a person who does not reside in the victim's house to perform those duties, the victim shall receive weekly benefits under the Crime Victims Compensation Act equal to the amount paid to the person so employed, but not exceeding one hundred fifty dollars ($150) per week. ( )*

d. *In other circumstances, the Commission may award an amount it deems appropriate. ( )*

12. Reimbursement for Transportation Expenses. *If the claimant utilizes a private vehicle, reimbursement shall be at the mileage rate allowed by the State Board of Examiners for state employees. Reimbursement shall be provided only if services are not available in the local area and is limited to one (1) round trip per day. The claimant shall not be reimbursed for the first fifteen (15) miles of any round trip, nor for traveling any round trip of fifteen (15) miles or less. Such distance shall be calculated by the shortest practical route of travel. The mileage reimbursement amount shall be credited to the medical benefit. ( )*

13. Payment of Bills. *Bills for treatment and sexual assault forensic examinations must be submitted within two (2) years from the date of treatment or the date of eligibility, whichever is later, to be compensable. ( )*

012. HEARING PROCEDURES.

01. Request for Hearing. *If a Request for Hearing is filed, an informal hearing shall be held. The Commission may conduct the hearing or it may assign the matter to a Commissioner or Referee. If the matter is assigned to a Commissioner or a Referee, the Commissioner or Referee shall submit recommended findings and*

decision to the Commission for its review. ( )

***02. Recommendations**. If the Commission does not approve the recommendations of a member or Referee, the Commission may: ( )*

***a.** Review the record and enter its own findings and decision; ( )*

***b.** Conduct another informal hearing and issue a decision based upon the record of both hearings; or ( )*

***c.** Assign the matter to another member or Referee to conduct another informal hearing and make recommendations pursuant to Subsection 012.01 above based upon the record of both hearings. ( )*

***03. Notice of Hearing**. The Commission shall give the claimant at least ten (10) days' advance written notice of the time and place of hearing and of the issues to be heard, either by personal service or certified mail. Service by mail shall be deemed complete when a copy of such notice is deposited in the United States post office, with postage prepaid, addressed to a party at his last known address as shown in the records and files of the Commission. Evidence of service by certificate or affidavit of the person making the same shall be filed with the Commission. ( )*

***04. Transcript of Hearing**. All hearings shall be tape-recorded. In addition, the Commission may arrange for a stenographic or machine transcription of any hearing. ( )*

***05. Record**. At the hearing the Application for Compensation filed by the claimant and any other documents in the Commission's file that contain information relevant to the issues in the case shall be admitted into the record. Such documents shall be marked for identification and the record shall specify that those documents are admitted. The Commission, member, or Referee conducting the hearing shall give those documents the weight that is appropriate under the circumstances of the particular case. ( )*

***06. Evidence**. At the hearing; after the claimant has presented his evidence, the Commission, or the Commissioner or Referee conducting the hearing shall allow an employee of the Commission to present evidence. After the presentation of evidence by an employee of the Commission, the Commission, or the Commissioner or Referee conducting the hearing may, in its or his discretion, allow any other person to testify. ( )*

***07. Finality of Decision**. After a hearing, the decision of the Commission shall be final and conclusive as to all matters adjudicated. Within twenty (20) days from the date that such decision is issued, the claimant may file a Motion for Reconsideration or the Commission may reconsider the matter on its own motion. ( )*

***08. Crime Victim's Compensation Program Review**. At the request of the claimant or on its own motion the Crime Victim's Compensation Program may review and amend any final order or award, within three (3) years of the date of issue of such order or award: ( )*

***a.** If there is a change in circumstances that affects the claimant's entitlement to benefits; ( )*

***b.** To correct a manifest injustice; ( )*

***c.** If the order or award is based upon facts which were misrepresented or that were not fully disclosed; or ( )*

***d.** To comply with the annual review requirements of Section 72-1021, Idaho Code. ( )*

***09. Subpoenas**. Subpoenas shall be served in the manner provided by the Idaho Rules of Civil Procedure. Witness fees and mileage shall be in the amounts provided by the Idaho Rules of Civil Procedure and the Claimant shall pay the fees of any witness who is subpoenaed to testify in his behalf. ( )*

013. -- 999. (RESERVED)

17.11.01 – ADMINISTRATIVE RULES OF PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY ACT

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 72-1104, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act," IDAPA 17, Title 11, Chapter 01. ( )

02. Scope. This chapter includes the Industrial Commission's rules regarding the Peace Office Temporary Disability Fund. ( )

002. -- 009. (RESERVED)

010. DEFINITIONS.
The definitions set forth at Section 72-1103, Idaho Code apply to this chapter. ( )

011. RULE GOVERNING APPLICATIONS FOR REIMBURSEMENT FROM THE PEACE OFFICER AND DETENTION OFFICER TEMPORARY DISABILITY FUND.

01. Eligibility. An employer who has paid the full base salary due to a peace officer or detention officer, as defined in Section 72-1103, Idaho Code, may apply for reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund under the provisions of Section 72-1104, Idaho Code, for the amount of that salary not covered by the workers' compensation income benefit payments remitted to the employer during the time that such officer is: ( )

a. Temporarily incapacitated and unable to perform employment duties; ( )

b. Is otherwise eligible to receive workers' compensation benefits; and ( )

c. Is one whose incapacitating injury was incurred in the performance of employment duties on or after July 1, 2008, either: ( )

i. When responding to an emergency; or ( )

ii. When in the pursuit of an actual or suspected violator of the law; or ( )

iii. The injury was caused by the actions of another person after July 1, 2012. ( )

02. Application. An employer eligible to seek reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall make application on the form provided by the Commission, available online. ( )

03. Payments. Payments to employers requesting reimbursement from the Peace Officer and Detention Officer Temporary Disability Fund shall be made within thirty (30) days of receipt of an approved request for reimbursement, subject to the availability of money in that fund. ( )

04. Disputes. Disputes regarding eligibility for reimbursement from The Peace Officer and Detention Officer Temporary Disability Fund will be decided by the Commission upon written request by the employer. There is no appeal from the reimbursement dispute decisions of the Commission under this section. Disputes regarding eligibility of an injured peace officer or detention officer for workers' compensation benefits, including the continuation of salary benefit set out in Section 72-1104, Idaho Code, will be decided in accordance with the Commission's current rules and procedures governing disputes in all other workers' compensation claims. ( )

012. -- 999. (RESERVED)

IDAPA 17 – INDUSTRIAL COMMISSION

DOCKET NO. 17-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 17, rules of the Industrial Commission:

IDAPA 17
- 17.01.01, *Administrative Rules Under the Worker's Compensation Law*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 3598–3627**. The Industrial Commission has made minor changes in the pending rules from the proposed rules to clarify their expectations.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The application fees charged to employers seeking approval to become self-insured is needed to defray added costs incurred by the Commission in evaluating these applications. This fee or charge is being imposed pursuant to Section 72-301, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Kamerron Monroe, Commission Secretary, (208) 334-6017.

Dated this 9th day of October, 2019.

Mindy Montgomery, Director
Industrial Commission
11321 W. Chinden Blvd
Boise, Idaho 83714
P.O. Box 83720
Boise, Idaho 83720-0041
Phone: (208) 334-6000
Fax: (208) 334-2321

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of 72-301, 72-301A, 72-304, 72-327, 72-432, 72-508, 72-528, 72-602, 72-803, and 72-806, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is "Administrative Rules Under the Worker's Compensation Law" IDAPA 17, Title 01, Chapter 01. ( )

02. Scope. This chapter includes the Industrial Commission's worker's compensation rules. ( )

002. WRITTEN INTERPRETATIONS.
The Industrial Commission uses the following guidelines for implementing the EDI reporting requirements set out in this Chapter: ( )

01. EDI Guide and Tables. The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables ("EDI Guide and Tables"). The Idaho Industrial Commission Claims EDI Implementation Guide and Trading Partner Tables are available on the Commission's website at https://iic.idaho.gov/. ( )

02. EDI Implementation Guide. International Association of Industrial Accidents Boards and Commissions (IAIABC) EDI Claims Release 3.0 Implementation Guide ("EDI Implementation Guide"). The IAIABC Claims Release 3.0 Implementation Guide is available at the IAIABC website at **https://www.iaiabc.org**. ( )

003 -- 009. (RESERVED)

010. DEFINITIONS.
The definitions set forth in Chapter 72, Idaho Code apply to these rules. In addition, the following terms have the meaning set forth below: ( )

01. Adjustor. Means an individual who adjusts worker's compensation claims. ( )

02. Ambulatory Payment Classification. Means the payment system adopted by CMS for outpatient services ( )

03. Available Funds. Means a sum of money to which a Charging Lien may attach. It does not include any compensation paid or not disputed to be owed prior to Claimant's agreement to retain the attorney. ( )

04. Ambulatory Surgery Center. Means a facility providing medical services on an outpatient basis only. ( )

05. Approval by Commission. Means the Commission has approved attorney fees in conjunction with an award of compensation or an LSS or otherwise in accordance with Section 802 of this rule upon a proper showing by the attorney seeking to have the fees approved. ( )

06. Average Wholesale Price. Means the average wholesale price for medicine obtained from pricing data provided by the original manufacturer of that medicine to industry-wide compilers of drug prices, e.g., Red Book and Medi-Span. ( )

07. Charge. Means the expense or cost. For hospitals and ASCs, "charge" means the total charge. ( )

a. Acceptable charge. Means a charge calculated in compliance with Section 803 of this rule or as billed by the Provider, whichever is lower, or the charge agreed to pursuant to a written contract. ( )

b. Customary charge. Means a charge that has an upper limit no higher than the 90th percentile, as determined by the Commission, of usual charges made by Idaho Providers for a given medical service. ( )

c. Reasonable charge. Means a charge that does not exceed the Provider's "usual" charge and does not exceed the "customary" charge. ( )

d. Usual charge. Means the most frequent charge made by an individual Provider for a given medical service to non-industrially injured patients. ( )

*08. **Charging Lien**. Means a lien against a Claimant's right to any compensation under the Worker's Compensation Law, which may be asserted by an attorney who is able to demonstrate that: ( )*

a. There are compensation benefits available for distribution on equitable principles; ( )

b. The services of the attorney operated primarily or substantially to secure the fund out of which the attorney seeks to be paid; ( )

c. It was agreed that counsel anticipated payment from compensation funds rather than from the client; ( )

d. The Claim is limited to costs, fees, or other disbursements incurred in the case through which the fund was raised; and ( )

e. There are equitable considerations that necessitate the recognition and application of the Charging Lien. ( )

*09. **Claim**. Means filing for worker's compensation benefits through a Form 1A-1, First Report of Injury or Illness (FROI) or an application for hearing, referred to as a Complaint, with the Commission. ( )*

*10. **Claims Administrator**. Means an organization, including insurers, third party administrators, independent adjusters, or self-insured employers, that services worker's compensation claims. ( )*

*11. **Claimant**. Means a person who has filed a Claim for worker's compensation benefits and includes their agents, such as attorneys. ( )*

*12. **Commission**. Means the Idaho Industrial Commission. ( )*

*13. **Critical Access Hospital**. Means a hospital currently designated as a critical access hospital by CMS. ( )*

*14. **Current Procedural Terminology**. Means the medical code published by the American Medical Association. ( )*

*15. **Death Claim**. Means a Claim arising from the death of a worker as a result of a work-related injury or occupational disease. ( )*

*16. **Electronic Data Interchange**. Means a computer to computer exchange of data in a standardized format. ( )*

*17. **Fee Agreement**. Means a written agreement between a worker and an attorney in conformity with the Idaho Rules of Professional Conduct. ( )*

a. Reasonable, as used in Section 802 of this rule, means that an attorney's fees are consistent with the fee agreement and are to be satisfied from Available Funds, subject to the element of reasonableness contained in Idaho Rules of Professional Conduct 1.5. ( )

*18. **First Degree of Consanguinity**. Means the relationship between parents and their children whether related by blood or affinity. Adopted or step children and their adoptive or step parents are deemed to be within the first degree of consanguinity. ( )*

*19. **First Report of Injury**. Means the first filing of information with the Industrial Commission that a reportable workplace injury has occurred or an occupational disease has been manifested, as required by Section 72-*

602(1), Idaho Code; filed in accordance with these rules. ( )

***20. Gross Direct Premiums Written**. Means the gross sum of premiums on policies written, without any deduction for refunds or repayments resulting from cancellations. It does not include premiums on contracts between insurers or reinsurers. For all policies written, gross direct premiums written may reflect experience modifications, deviations, and retrospective rating. ( )*

***21. Healthcare Common Procedure Coding System**. Means the set of healthcare procedure codes based on the American Medical Association's Current Procedural Terminology. ( )*

***22. Hospital**. Means an acute care facility providing medical or rehabilitation services on an inpatient and outpatient basis. ( )*

***23. IAIABC EDI Release 3.0**. Means the IAIABC authored EDI Release 3.0 standards that cover the transmission of claims (FROI and SROI) information through electronic reporting. ( )*

***24. Impairment Rated Claim**. Means those claims in which the Provider establishes an impairment rating for the injured worker. ( )*

***25. Implantable Hardware**. Means objects or devices that are made to support, replace, or act as a missing anatomical structure or to support or manage proper biological functions or disease processes and where surgical or medical procedures are needed to insert or apply such devices and surgical or medical procedures are required to remove such devices. The term also includes equipment necessary for the proper operation of the implantable hardware, even if not implanted in the body. ( )*

***26. Indemnity Benefits**. Means payments made to or on behalf of worker's compensation Claimants, including temporary or permanent total or partial disability benefits, death benefits paid to dependents, retraining benefits, and any other type of income benefits, but excluding medical and related benefits. ( )*

***27. Indemnity Claim**. Means any claim made for the payment of indemnity benefits. ( )*

***28. Legacy Claim**. Means a FROI that was filed prior to the EDI implementation. ( )*

***29. Litigated Case**. Means a case in which a complaint has been filed. ( )*

***30. Medical Only Claim**. Means the injured worker will not suffer a disability lasting more than five (5) calendar days as a result of a job-related injury or occupational disease, nor be admitted to a hospital as an inpatient. ( )*

***31. Medical Report**. Means and includes without limitation, all bills, chart notes, surgical records, testing results, treatment records, hospital records, prescriptions, and medication records. ( )*

***32. Medicare Severity - Diagnosis Related Group**. Means a system adopted by CMS that groups hospital admissions based on diagnosis codes, surgical procedures, and patient demographics. ( )*

***33. Net Premiums Written**. Means the amount of gross direct premiums on policies written less returned premiums and premiums on policies not taken. Paid dividends shall not be deducted for the purposes of calculating net premiums written. ( )*

***34. Payor**. Means the entity that is responsible for making payment to a Provider for services rendered to treat an industrially injured patient and includes self-insured employers, sureties, adjusters, and their agents. ( )*

***35. Payroll**. Means the gross amount paid by an employer for salaries, wages, or commissions earned by its own direct employees, but not including any money paid to another entity or received from another entity for leased employees. ( )*

*36. **Pharmacy**. Means a facility as defined in Section 54-1705(29), Idaho Code. ( )*

*37. **Supplemental or Subsequent Report of Injury**. Means the filing of additional information with the Industrial Commission, regarding benefits paid or changes in the status or condition of an injured worker, of a Claim for benefits, as required by Sections 72-602(2), (3), and (4), Idaho Code; filed in accordance with these rules. ( )*

*38. **Termination of Disability**. Means the date upon which the obligation of the Employer/Surety becomes certain as to duration and amount whether by settlement, decision, or periodic payments in the ordinary course of claims processing. If resolved by LSS, the termination of disability shall occur on the date the LSS is approved and an order approving is filed by the Industrial Commission. If resolved by decision, the termination of disability shall occur on the date the decision resolving all issues becomes final. ( )*

*39. **Time Loss Claim**. Means the injured worker will suffer, or has suffered, a disability that lasts more than five (5) calendar days as a result of a job-related injury or occupational disease, or the injured worker requires, or required, in-patient treatment as a result of such injury or disease. ( )*

*40. **Trading Partner**. Means an insurance carrier, self-insured employer, or Claims Administrator that has entered into a Trading Partner Agreement with the Industrial Commission. ( )*

*41. **Trading Partner Agreement**. Means an agreement between the Industrial Commission and a Trading Partner that sets out the terms and conditions for the electronic reporting of information to the Commission. ( )*

011. ABBREVIATIONS.

The following abbreviations have the meaning set forth below: ( )

*01. **APC**. Means Ambulatory Payment Classification. ( )*

*02. **ASC**. Means Ambulatory Surgery Center. ( )*

*03. **AWP**. Means Average Wholesale Price. ( )*

*04. **CMS**. Means Centers for Medicare and Medicaid Services. ( )*

*05. **CPT**. Means Current Procedural Terminology. ( )*

*06. **EDI**. Means Electronic Data Interchange. ( )*

*07. **FROI**. Means First Report of Injury. ( )*

*08. **HCPCS**. Means Healthcare Common Procedure Coding System. ( )*

*09. **IAIABC**. Means International Association of Industrial Accident Boards and Commissions. ( )*

*10. **ISIF**. Means the Industrial Special Indemnity Fund, which is commonly referred to as the Second Injury Fund. ( )*

*11. **LSS**. Means Lumps Sum Settlement. ( )*

*12. **MSDRG**. Means Medicare Severity Diagnosis Related Group. ( )*

*13. **NCCI**. Means National Council on Compensation Insurance. ( )*

*14. **NDC**. Means National Drug Code. ( )*

*15. **RBRVS**. Means Resource-Based Relative Value Scale. ( )*

16. ***RVU****. Means Relative Value Unit.* ( )

17. ***SROI****. Means Supplemental or Subsequent Report of Injury.* ( )

012. LIBERAL CONSTRUCTION.
Rulemaking before the Industrial Commission should be just, speedy, and economical; unless prohibited by statute, the Industrial Commission may permit deviation from these rules when it finds compliance with them is impracticable, unnecessary, or not in the public interest. ( )

013. -- 200. (RESERVED)

201. RULE GOVERNING 72-212(5) EXEMPTIONS.

01. ***Exemptions****. Each person who elects to exempt themselves from coverage or revoke their exemption under Section 72-212(5), Idaho Code, must file an IC53 Declaration form with the Industrial Commission. The form is available on the Commission's website.* ( )

02. ***Form****. The form must be signed by both the employee and the employer. An original and one (1) copy of the IC53 form shall be filed with the Commission. Upon approval by the Commission, the copy will be returned to the employee filing for an exemption or revocation of an exemption.* ( )

03. ***Approval by Commission****. The Commission must approve the exemption or revocation of exemption. The Commission may require verification of information submitted. Fraud or misrepresentation in the information provided will void the exemption or revocation.* ( )

04. ***IC53 Form****. If the employer is insured, it is the employer's responsibility to file a copy of the IC53 form with the employer's insurance company.* ( )

05. ***Effective Date****. The effective date of the exemption or revocation of exemption shall be the date the properly completed form is received by the Commission.* ( )

06. ***Exemption Effective****. The exemption shall remain in effect until a revocation of exemption is filed with the Commission, or, termination of employment with the designated employer, or upon the death of the employee, whichever occurs first.* ( )

202. -- 300. (RESERVED)

301. RULES GOVERNING QUALIFICATIONS TO WRITE INSURANCE OR SELF-INSURE.

01. ***Insurance Carriers****. In order to gain approval from the Industrial Commission to underwrite worker's compensation insurance under Section 72-301, Idaho Code, an insurance carrier shall comply with the following requirements:* ( )

a. *Deposit With State Treasurer. The carrier must receive approval from the Director of the Idaho Department of Insurance to underwrite casualty and surety insurance under Sections 41-506 and 41-507, Idaho Code, and shall initially deposit security in the amount of two hundred fifty thousand dollars ($250,000) with the State Treasurer, under the provisions of Section 72-302, Idaho Code.* ( )

b. *Application. To receive approval from the Industrial Commission, an insurance carrier must supply an application with:* ( )

i. *A statement from the Director of the Idaho Department of Insurance documenting compliance with Paragraph 01.a, above;* ( )

ii. *The latest audited financial statement of said carrier;* ( )

iii. The name and address of the agent for service of process in Idaho; ( )

iv. The name and address of the Claims Administrator employing an Idaho licensed resident adjuster or the insurance carrier's own in-house Idaho adjusting staff with authority to make compensation payments and adjustments of claims arising under the Act. Each Claims Administrator shall have only one (1) mailing address on record at the Commission for claims adjusting purposes. If more than one (1) Claims Administrator is utilized in Idaho, a list of every such Claims Administrator and all corresponding policyholders shall be provided; ( )

v. A statement that the carrier will distribute blank forms that are prescribed by the Commission to its insured; ( )

vi. A statement that all surety bonds covering the payment of compensation will be filed with the Idaho State Treasurer for all employers insured. All carriers will use the continuous bond form set out on the Commission's website. ( )

vii. A statement that renewal certificates on said bonds will be issued and filed with the Industrial Commission immediately, when and if renewed; ( )

viii. A statement that all surety contract cancellations will be canceled in compliance with Section 72-311, Idaho Code; ( )

ix. A statement that said carrier will deposit, in addition to other security required by this rule, further security equal to all unpaid outstanding awards of compensation; ( )

x. A statement that said carrier will comply with the statutes of the state of Idaho and rules of the Industrial Commission and that payments of compensation shall be sure and certain and not unnecessarily delayed; and ( )

xi. A statement that the carrier will make reports to the Commission as are required. ( )

***02. Self-Insured Employers**. In order to gain approval from the Industrial Commission to self-insure under Section 72-301, Idaho Code, an employer shall comply with the following requirements: ( )*

***a.** Payroll. Have an average annual Idaho Payroll over the preceding three (3) years of at least four million dollars ($4,000,000). ( )*

***b.** Application. Submit a completed application, available from the Industrial Commission's Fiscal Department, along with the application fee of two hundred fifty dollars ($250), to the Idaho Industrial Commission, Attention: Fiscal Department. ( )*

***c.** Documentation. Submit documentation demonstrating the sound financial condition of the employer, such as the most recent CPA reviewed or, if available, audited, financial statement. ( )*

***d.** Claims Adjusting. Designate in writing a Claims Administrator employing an Idaho licensed resident adjuster including name and address. Each Claims Administrator shall have only one (1) mailing address on record at the Commission for claims adjusting purposes. ( )*

***e.** Previous Claims. Provide a history of all worker's compensation claims filed with the employer or the employer's worker's compensation carrier, as well as all compensation paid, during the previous five (5) calendar years. ( )*

***f.** Excess Insurance. Provide an insurance plan that must include excess insurance coverage and copies of all proposed policies of excess worker's compensation insurance coverage. ( )*

***g.** Actuarial Study. Provide an actuarial study prepared by a qualified actuary determining adequate rates for the proposed self-funded worker's compensation plan based upon a fifty percent (50%) confidence level. ( )*

h. *Feasibility Study. Provide a self-insurance feasibility study that includes an analysis of the advantages and disadvantages of self insurance as compared to current coverage, and the related costs and benefits.* *( )*

i. *Custodial Agreement. Set up a custodial agreement with the State Treasurer for securities required to be deposited under Sections 72-301 and 72-302, Idaho Code.* *( )*

j. *Supplemental Information. Provide supplemental information as requested.* *( )*

k. *Initial Security Deposit. Prior to final approval, deposit an initial security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, or a self-insurer's bond in substantially the form as the Commission's self-insurer's compensation bond, available on the Commission's website, in the amount of one hundred fifty thousand dollars ($150,000), plus five percent (5%) of the first ten million dollars ($10,000,000) of the employer's average annual Payroll in the state of Idaho for the three (3) preceding years; along with such additional security as may be required by the Commission based on prior claims history.* *( )*

l. *Initial Guaranty Agreement. The Commission may allow or, where financial reports or other factors such as the high risk industry of the employer indicate the need, require an employer that is organized as a joint venture or a wholly owned subsidiary to provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho worker's compensation claims of employees of that joint venture or subsidiary employer. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement and, as applicable, the companion Consent of the Board of Directors, available on the Commission's website.* *( )*

m. *Written Approval. Obtain written approval from the Industrial Commission.* *( )*

n. *Idaho National Laboratory. An employer meeting the requirements of Section 72-301A, Idaho Code, does not have to comply with the requirements of Paragraphs 302.02.a., 02.f., 02.i., and 02.k., above.* *( )*

302. RULES GOVERNING CONTINUING REQUIREMENTS TO UNDERWRITE INSURANCE OR SELF-INSURE.

01. Insurance Carriers*. An insurance carrier approved under IDAPA 17.01.01.301.01 shall comply with the following requirements:* *( )*

a. *Maintain Statutory Security Deposits with the State Treasurer.* *( )*

i. Each insurance carrier shall maintain with the Idaho State Treasurer a security deposit in the amount of twenty-five thousand dollars ($25,000) if approved by the Commission prior to July 15, 1988, or two hundred and fifty thousand dollars ($250,000) if approved subsequently. *( )*

ii. In addition to the security required in Subsection 01.a.i, of this rule, each insurance carrier shall deposit an amount equal to the total unpaid outstanding awards of said insurance carrier. Such deposit shall be in the form permitted by Section 72-301, Idaho Code. Surety bonds shall be in the form available on the Commission's website. If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. A partial release of security deposited hereunder must be requested in writing and approved by the Commission. *( )*

iii. Securities which are maintained to satisfy the requirements of this rule may be held in the federal reserve book-entry system, as defined in Section 41-2870(4), Idaho Code, and interests in such securities may be transferred by bookkeeping entry in the federal reserve book-entry system without physical delivery of certificates representing such securities. *( )*

b. *Appoint Agent for Service of Process. Each insurance carrier shall appoint the Director of the*

Department of Insurance as its agent to receive service of legal process. ( )

c. *Maintain Resident Idaho Office. Each insurance carrier shall maintain a Claims Administrator employing an Idaho licensed resident adjuster or the carrier's own adjusting offices or officers residing in Idaho. ( )*

i. Each authorized insurance carrier shall notify the Commission Secretary in writing of any change of the designated resident adjuster(s) for every insured Idaho employer within fifteen (15) days of such change. ( )

ii. Each authorized insurance carrier will ensure that every in-state adjuster can classify and identify all claims adjusted on behalf of said insurance carrier, and that the in-state adjuster will provide such information to the Industrial Commission upon request. Further each in-state Adjustor must have full authority to: ( )

(1) Investigate and adjust all claims for compensation; ( )

(2) Pay all compensation benefits due; ( )

(3) Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Worker's Compensation Law; ( )

(4) Enter into compensation agreements and LSSs with Claimants; ( )

(5) Provide at the employer's expense necessary forms to any employee who wishes to file a Claim under the Worker's Compensation Law. ( )

d. *Supply Forms. Each insurance carrier shall distribute the required forms prescribed by the Commission to all employers it insures. A list of required forms is available on the Commission's website. ( )*

e. *Comply with Industrial Commission Reporting Requirements. Each insurance carrier shall, within the time prescribed, file such reports and respond to such information requests as the Commission may require from time to time concerning matters under the Worker's Compensation Law. ( )*

f. *Report Proof of Coverage. ( )*

i. Each insurance carrier shall report all proof of coverage to NCCI. NCCI is the designated agent to receive, process, and forward the proof of coverage information required by these rules to the Commission. The address of the Commission's designated agent is available on the Commission's website. ( )

ii. The Industrial Commission adopts the IAIABC's electronic proof of coverage record layout and transaction standards as the required reporting mechanism for new policies, renewal policies, endorsements, cancellations, and non-renewals of policies. A copy of the record layout, data element requirements, and transaction standards is available on the Commission's website. Each insurance carrier shall report data for all mandatory elements in the current IAIABC proof of coverage record layout and transaction standards on each policy reported. ( )

iii. The most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining the insurance carrier providing coverage. ( )

g. *Report New Policy, Renewal Policy, and Endorsement Information Within Thirty Days. Each insurance carrier shall report the issuance of any new worker's compensation policy, renewal policy, or endorsement to the Industrial Commission or its designated agent within thirty (30) days of the effective date of the transaction. ( )*

h. *Report Cancellation and Non-Renewal of Policy Within Time Prescribed by Statute. Each insurance carrier shall report the cancellation and/or nonrenewal of any worker's compensation insurance policy to*

the Industrial Commission or its designated agent within the time frames prescribed by Section 72-311, Idaho Code. Receipt of cancellation or nonrenewal notices by the Commission's designated agent shall be deemed to have been received by the Commission. ( )

i. *Report Election of Coverage on Form IC52 or Similar Format. Each insurance carrier shall report election of coverage or revocation of election of coverage on or in a format substantially the same as Form IC52, "Election of Coverage," available on the Commission's website. ( )*

j. *Report Deductible Policy. On or before March 3rd of each year, every insurance carrier shall submit a report of all deductible policies that were issued and in effect during the previous calendar year. That report shall be submitted in a form substantially similar to the current "Deductible Policy Report" available on the Commission's website. The report shall include the following information: insured name, policy number, effective and expiration dates, deductible amount, the premium charged for the policy before credit for the deductible, and the final premium after credit for the deductible. ( )*

k. *Report Outstanding Awards. Each insurance carrier shall report to the Industrial Commission at the end of each calendar quarter, or more often as required by the Commission, any outstanding award. ( )*

i. The report of outstanding awards shall be filed with the Industrial Commission by the end of the month following the end of each calendar quarter. ( )

ii. The report shall be filed even if there are no outstanding awards. In that event, the carrier shall certify the fact that there are no outstanding awards to be reported. ( )

iii. The report shall be submitted on or in a format that is substantially the same as the current Form IC36A, "Report of Outstanding Awards - Insurance Carriers" available on the Commission's website. The report may be produced as a computerized spreadsheet or database printout. ( )

iv. The report shall be signed and certified to be correct by a corporate officer. If an insurance carrier has designated more than one adjuster for worker's compensation claims in Idaho, a corporate officer of the insurance carrier shall prepare, certify, and file a consolidated report of outstanding awards. ( )

v. The report shall list all outstanding awards, commencing with the calendar quarter during which the award is made or benefits are first paid, whichever occurs earlier. ( )

l. *Comply with Law and Rules. Each insurance carrier shall comply with the statutes of the state of Idaho and the rules of the Industrial Commission to ensure that payments of compensation shall be sure and certain and not unnecessarily delayed. ( )*

02. Self-Insured Employers*. A self-insured employer approved under Subsection 301.02 shall comply with the following requirements: ( )*

a. *Payroll Requirements. Maintain an average annual Idaho Payroll over the preceding three (3) years of at least four million dollars ($4,000,000). Any self-insured employer that does not meet the Payroll requirement of this rule for two consecutive semi-annual premium tax reporting periods shall be allowed to maintain their self-insured status for six (6) months from the end of the last reporting period in order to permit them time to increase their Payroll or obtain worker's compensation coverage with an insurance carrier authorized to write worker's compensation insurance in the state of Idaho. ( )*

b. *Security Deposit with Treasurer. ( )*

i. Maintain a primary security deposit with the Idaho State Treasurer in the form permitted by Section 72-301, Idaho Code, a self-insurer's bond form available on the Commission's website, or in substantially the same form, or in such other form approved by the Commission, in the amount of one hundred fifty thousand dollars ($150,000), plus five percent (5%) of the employers' average annual Payroll in the state of Idaho for the three (3) preceding years, not in excess of ten million dollars ($10,000,000). If a surety bond is deposited, the surety company shall be completely independent of the principal and authorized to transact such business in the state of Idaho. In

addition thereto, the self-insured employer shall deposit additional security in such amount as the Commission determines is necessary to secure the self-insured employer's total unpaid liability for compensation under the Worker's Compensation Law. No approved security shall be accepted for deposit above its par value. Additional deposits of approved security may be required semi-annually if the market value of an approved investment falls below its par value or if the total value of the employer's security deposit falls below the total security required to be maintained on deposit when calculated in accordance with this rule. ( )

ii. Self-insured employers shall receive a credit for the primary security deposit against the self-insured employer's obligation to post the additional security required by Subparagraph 302.02.b.i. of this rule. ( )

iii. Excess insurance coverage approved by the Commission may apply as a credit against the self-insured employer's obligation to post the additional security required by Subparagraph 302.02.b.i. of this rule. The Commission must be provided with thirty (30) days advance written notice of any change or cancellation of an approved excess insurance policy. No credit will be given for any excess insurance coverage provided by a surplus lines carrier, as described in Chapter 12, Title 41, Idaho Code. ( )

iv. All security deposited by the self-insured employer shall be maintained as provided by Section 72-302, Idaho Code. ( )

v. Any withdrawal or partial release of security deposited hereunder must be requested in writing and approved by the Commission. ( )

***c.** Continue or Provide Guaranty Agreement. ( )*

i. A self-insured employer that is organized as a joint venture or a wholly owned subsidiary shall continue in effect any guaranty agreement that the Commission has previously allowed or required, until termination is permitted by the Commission. ( )

ii. Where an adverse change in financial condition or other relevant factors such as claims history or industry risk indicates the need, a self-insured employer that is organized as a joint venture or a wholly owned subsidiary may be allowed to, or shall upon request, provide a guaranty agreement from each member of the joint venture or the parent company. This guaranty agreement confirms the continuing agreement of each of the joint venture members or the parent company to guarantee the payment of all Idaho worker's compensation claims of employees of that joint venture or subsidiary self-insured employer. The guaranty agreement shall be in substantially the same form as the current sample Indemnity and Guaranty Agreement, and as applicable, the companion Consent of the Board of Directors, available on the Commission's website. ( )

***d.** Maintain a Licensed Resident Adjuster. Maintain an Idaho licensed, resident claims adjuster located within the state of Idaho who shall have full authority to make decisions and to authorize the payment of all compensation on said claims on behalf of the employer including, but not limited to, the following: ( )*

i. Investigate and adjust all claims for compensation; ( )

ii. Pay all compensation benefits due; ( )

iii. Accept service of claims, applications for hearings, orders of the Commission, and all process which may be issued under the Worker's Compensation Law; ( )

iv. Enter into compensation agreements and LSSs with Claimants; ( )

v. Provide at the employer's expense necessary forms to any employee who wishes to file a Claim under the Worker's Compensation Law. ( )

***e.** File Reports. Report to the Industrial Commission semi-annually, or more often as required by the Commission, total unpaid liability on all open claims. ( )*

i. The semi-annual report of total unpaid liability shall be filed with the Industrial Commission by the end of the months of January and July. ( )

ii. The report shall provide the aggregate number of open claims, including indemnity with medical and Medical Only Claims, along with the amount of any compensation paid on open claims, as of the end of each June and December. ( )

iii. The report shall be filed even if there are no open claims. In that event, the employer shall certify the fact that there are no open claims to be reported. ( )

iv. The report shall be submitted on or in a format that is substantially the same as the current Form IC-211, "Self-Insured Employer Report of Total Unpaid Liability," available on the Commission's website. The report may be produced as a computerized spreadsheet or database printout. ( )

v. The report shall be signed and certified to be correct by a corporate officer. If an employer has designated more than one adjuster for worker's compensation claims in Idaho, a corporate officer of the employer shall prepare, certify, and file a consolidated report of all unpaid liability. ( )

vi. A self-insured employer shall also make, within the time prescribed, such other reports and respond to such information requests as the Commission may require from time to time concerning matters under the Worker's Compensation Law. ( )

***f.** Submit to Audits by Industrial Commission. Each year a self-insured employer shall provide the Industrial Commission with a copy of its annual financial statements, or other acceptable documentation. Each self-insured employer shall submit to audit by the Commission or its designee at any time and as often as it requires to verify the amount of premium such self-insured employer would be required to pay as premium to the State Insurance Fund, and to verify compliance with the provisions of these rules and the Idaho Worker's Compensation Law. For the purpose of determining such premium for uninsured contractors of a self-insured employer, the most recent proof of coverage information contained in the Industrial Commission's database shall be presumed to be correct for the purpose of determining such coverage. ( )*

***g.** Comply with Law and Rules. Comply with the statutes of the state of Idaho and the rules of the Industrial Commission to the end that payment of compensation shall be sure and certain and not unnecessarily delayed. The Commission may withdraw its approval of any employer to operate as a self-insurer if it shall appear to the Commission that workers secured by said self-insured employer are not adequately protected and served, or the employer is failing to comply with the provisions of these rules or the Worker's Compensation Law. ( )*

***h.** Idaho National Laboratory. An employer meeting the requirements of Section 72-301A, Idaho Code, does not have to comply with Paragraph 303.02.a. and 302.02.b., above. ( )*

303. RULE GOVERNING THE COLLECTION OF PREMIUM TAX ON WORKER'S COMPENSATION INSURANCE POLICIES.

This rule governs the collection of premium tax on worker's compensation insurance policies. This procedure applies to all worker's compensation policies. ( )

***01. Procedure for Submitting Premium Tax Forms**. The form IC 4008, available on the Commission's website, shall be used to report numbers of policies and the total gross premiums written. The original shall be sent to the Commission; a copy shall also be attached to the reporting entity's annual premium tax statement that is filed with the Idaho Department of Insurance. This form is due to the Commission by July 31 for the reporting period of January 1 through June 30; it is due by March 3 for the reporting period of July 1 through December 31. ( )*

304. RULE GOVERNING PREMIUM TAX COMPUTATION FOR SELF-INSURED EMPLOYERS.

***01. Payroll Reports**. No later than March 3rd and July 31st, self-insured employers shall file a semi-annual premium tax report with the Fiscal Department of the Commission. Self-insured employers shall use the Commission's current report form IC 4010, along with the accompanying computation form IC 4010a, available on the Commission's website. The premium tax payment due from a self-insured employer shall be based upon the*

manual premium calculated for each reporting period, as modified by an experience modification factor calculated by NCCI and submitted to the Commission in accordance with Subsection 304.02 of this rule. No other rating factor shall be allowed. If the self-insured employer elects to not provide such experience modification factor, the premium tax will be computed based upon the manual premium only. ( )

***02. Experience Modification**. A self-insured employer that elects to use an experience modification factor in computing premium tax shall make an annual application to NCCI for an experience modification factor using the NCCI form ERM-6 and paying to NCCI any fees charged for providing that calculation. An NCCI experience modification factor may only be based on the employer's Idaho operations for which self-insured status is authorized. In order to have an experience modification factor considered for any reporting period, an employer must timely submit to the Commission's Fiscal Department: ( )*

***a.** A copy of the completed form ERM-6 filed with NCCI; ( )*

***b.** The resulting experience modification factor received from NCCI; and ( )*

***c.** The completed IC 4010 Semi-Annual Premium Tax Form for Self-Insurers and IC 4010a Computation Form. ( )*

***305. REQUIREMENTS FOR MAINTAINING IDAHO WORKER'S COMPENSATION CLAIMS FILES.** All insurance carriers, self-insured employers, and licensed adjusters servicing Idaho worker's compensation claims shall comply with the following requirements: ( )*

***01. Idaho Office**. ( )*

***a.** All insurance carriers, self-insured employers, and licensed adjusters servicing Idaho worker's compensation claims shall maintain an office within the state of Idaho. The offices shall be staffed by adequate personnel to conduct business. ( )*

***b.** The insurance carrier or self-insured employer shall authorize and require a member of its in-state staff or an Idaho licensed resident adjuster to service and make decisions regarding claims pursuant to Section 72-305, Idaho Code. ( )*

***c.** As staffing changes occur and, at least annually, the insurance carrier, self-insured employer, or licensed adjuster shall submit to the Commission Secretary the names of those authorized to make decisions regarding claims pursuant to Section 72-305, Idaho Code. Each authorized insurance carrier shall designate only one (1) Claims Administrator for each policy of worker's compensation insurance. ( )*

***02. Claim Files**. All Idaho worker's compensation claim files shall be maintained within the state of Idaho in either hard copy or immediately accessible electronic format. Claim files shall include, but are not limited to: ( )*

***a.** FROI and Claim for Benefits; ( )*

***b.** Copies of bills for medical care; ( )*

***c.** Copy of lost-time computations, if applicable; ( )*

***d.** Correspondence reflecting reasons for any delays in payments, the resolution of such delays, and acceptance or denial of compensability; ( )*

***e.** Employer's Supplemental Report; and ( )*

***f.** Medical reports. ( )*

***03. Correspondence**. All original correspondence involving adjusting decisions regarding Idaho worker's compensation claims shall be authorized from and maintained at in-state offices. ( )*

04. ***Date Stamp***. *Each of the documents listed in Subsections 305.02 and 305.03, above, shall be date-stamped with the name of the receiving office on the day received, and by each receiving agent or vendor acting on behalf of the claims office.* ( )

05. ***Notice and Claim***. *All First Reports of Injury, Claims for Benefits, notices of occupational illnesses, and fatalities shall be sent directly to the in-state adjuster for the insurance carrier or self-insured employer. The original copy of the FROI, Claim for Benefits, and notices of occupational illness and fatality shall be sent directly to the Industrial Commission.* ( )

06. ***Compensation Payments - Generally***. ( )

a. *All compensation, as defined by Section 72-102, Idaho Code, must be issued from the in-state office.* ( )

b. *Except as ordered otherwise by the Commission, the insurance carrier or self-insured employer may make compensation payments by either:* ( )

i. *Check or other readily negotiable instrument;* ( )

ii. *When requested by the Claimant, electronic transfer payment to an account designated by the Claimant in accordance with the requirements of Subsection 305.07; or* ( )

iii. *When requested by the Claimant, electronic transfer payments made through an access card; if that option is made available by the carrier or self-insured employer, in accordance with the requirements of Subsection 305.08.* ( )

c. *If the Claimant is represented by an attorney who may have an attorney's lien for fees due on such compensation payments, the attorney must agree to payment by electronic transfer to Claimant's account or payment through an access card before such compensation may be paid other than by a check made payable to the Claimant and the attorney.* ( )

07. ***Electronic Transfer Payments***. ( )

a. *A Claimant may request that the insurance carrier or self-insured employer make compensation payments by electronic transfer to a personal bank account by providing the insurance carrier or self-insured employer in writing: the name and routing transit number of the financial institution and the account number and type of account to which the Claimant wants to have the compensation electronically transferred. The insurance carrier or self-insured employer shall provide the Claimant with a written form to fill out the required information by this subsection within seven (7) days of receiving a request for electronic transfer of payments from the Claimant unless the Claimant has already completed an on-line electronic form provided by the carrier or employer.* ( )

b. *The insurance carrier or self-insured employer may make compensation payments to the Claimant by electronic transfer to an account designated by the Claimant if the Claimant:* ( )

i. *Requests in writing that payment be made by electronic transfer;* ( )

ii. *Provides the information required by Paragraph 305.07.a. above; and* ( )

iii. *Is reasonably expected to be entitled to receive compensation payments for a period of eight (8) weeks or more from the point that Subparagraphs 305.07.b.i. and 07.b.ii. are satisfied.* ( )

c. *The insurance carrier or self-insured employer shall initiate payment by electronic transfer starting with the first benefit payment due on or after the twenty first day after the requirements of Paragraph 305.07.b., above are met, but shall continue to make timely payments by check until the insurance carrier or self-insured employer initiates benefit payment delivery by electronic transfer.* ( )

d. *If the Claimant has previously been receiving benefit payments by electronic transfer and wants to receive benefits by check, the insurance carrier or self-insured employer shall initiate benefit payment delivery by check starting with the first benefit payment due to the Claimant on or after the seventh day after receiving a written request for such payments.* ( )

08. Access Card Payments. ( )

a. *Access card means any card or other payment method that may be used by a Claimant to initiate electronic fund transfer from an insurance carrier's or a self-insured employer's bank account. The term "access card" does not include stored value cards or prepaid cards that store funds directly on the card and that are not linked to an insurance carrier's or a self-insured employer's bank account.* ( )

b. *An insurance carrier or a self-insured employer may pay compensation through an access card to a Claimant if there is written mutual agreement signed by the insurance carrier or self-insured employer and the Claimant. The insurance carrier or self-insured employer shall maintain accurate records of the mutual agreement for, at a minimum, four hundred and one (401) weeks from the date of injury. The written agreement shall contain an acknowledgment that the Claimant received and agreed to the written disclosure required by Paragraph 305.08.d.* ( )

c. *An insurance carrier or a self-insured employer providing compensation payments to a Claimant through an access card shall:* ( )

i. Permit the Claimant to withdraw the entire amount of the balance of an access card in one transaction; ( )

ii. Not reduce compensation payments paid to a Claimant through an access card for the following fees, surcharges, and adjustments: ( )

(1) Overdraft services under which a financial institution pays a transaction (including a check or other item) when the Claimant has insufficient or unavailable funds in the account; ( )

(2) ATM withdrawal or point of sale purchase for more than the card holds and the transaction is denied; ( )

(3) ATM balance inquiries; ( )

(4) Withdrawing money from network ATMs; ( )

(5) Withdrawing money from a teller; ( )

(6) Customer service calls; ( )

(7) Activating the card; ( )

(8) Fees for card inactivity; ( )

(9) Closing account; ( )

(10) Access card replacement through standard mail; ( )

(11) Withdrawing the entire payment in one transaction; ( )

(12) Point of sale purchases, or ( )

(13) Any other fees or charges that are not authorized under Subparagraph 305.08.c.iii., and ( )

iii. Only permit a Claimant to be charged for the following: ( )

(1) Fees for access card replacement through an expedited mail service; ( )

(2) International transaction fees, and ( )

(3) Out-of-network ATM fees. ( )

d. *Insurance carriers or self-insured employers shall provide a written disclosure to the Claimant contemporaneously with the written mutual agreement required under Paragraph 305.08.b. that includes: ( )*

i. A summary of the Claimant's liability for unauthorized electronic fund transfers; ( )

ii. The telephone number and address of the person or office to be notified when the Claimant believes that an unauthorized electronic fund transfer has been or may be made; ( )

iii. The type of electronic fund transfers that the Claimant may make and any limitations on the frequency of transfers; ( )

iv. Any fees imposed for electronic fund transfers or for the right to make transfers, including a statement that fees may be imposed by an ATM operator that is out-of-network; ( )

v. Fees for expedited card replacement or international transaction fees will be removed from the balance maintained in the bank account linked to the access card; ( )

vi. A summary of the Claimant's right to receipts and periodic statements; ( )

vii. All bank locations and network ATMs in the United States where the Claimant may access his or her funds at no cost; ( )

viii. A statement informing the Claimant that they have a right to receive payments directly into their personal bank account through direct deposit or by check. ( )

e. *An insurance carrier or a self-insured employer shall provide the written disclosure and any notice of term or condition changes required under Paragraph 305.08.d. that: ( )*

i. Are printed in not less than twelve (12) point font; ( )

ii. Include the full text to communicate all terms and conditions; ( )

iii. Are written in a clear and coherent manner and wherever practical, words with common and everyday meaning shall be used to facilitate readability; and ( )

iv. Are appropriately divided and captioned in a meaningful sequence such that each section contains an underlined, boldfaced, or otherwise conspicuous title or caption at the beginning of the section that indicates the nature of the subject matter included in or covered by the section. ( )

f. *An access card issued to a Claimant under this Subsection 305.08 shall: ( )*

i. Not bear any information that could reasonably identify the Claimant as a participant in the worker's compensation system; and ( )

ii. Include on the front or back of the access card a toll-free customer service number and website address. Customer service personnel shall be available by phone Monday through Friday during normal business hours (9 a.m. to 6 p.m. Mountain Time). ( )

g. *The insurance carrier or self-insured employer shall provide a written notice to the Claimant at least twenty one (21) days before the effective date of any change in a term or condition of the mutual agreement or*

disclosure, including terminating the access card program, increased fees, or liability for unauthorized electronic fund transfers. Any terms or conditions that violate the requirements of this Subsection 305.08 are null and void and may result in administrative action against the carrier or employer. An insurance carrier or employer shall provide a written notice of term or condition changes that: ( )

i. Provides a comparison of the current terms and the changes; and ( )

ii. References the Claimant's ability to request a change in method of payment to electronic fund transfer to his or her personal bank account in accordance with Subsection 305.07 or to payment by check. ( )

h. *An insurance carrier or a self-insured employer may close the access card account by issuing a check to the Claimant with the remaining balance of the access card if the account has been inactive for twelve (12) months or longer. ( )*

i. *The insurance carrier or self-insured employer shall not remove money from the Claimant's account or access card except to remove permitted fees under Subparagraph 305.08.c.iii. or to close the account for inactivity of a period of twelve (12) months or more. An insurance carrier or a self-insured employer seeking to recoup overpayments shall follow the requirements of section 72-316, Idaho Code. ( )*

j. *An insurance carrier or a self-insured employer is considered to have made a compensation payment the date the payment is available on the Claimant's access card. ( )*

09. Checks and Drafts*. Checks must be signed and issued within the state of Idaho; drafts are prohibited. ( )*

a. *The Commission may, upon receipt of a written Application for Waiver, grant a waiver from the provisions of Subsections 305.06 and 305.09 of this rule to permit an insurance carrier or a self-insured employer to sign and issue checks outside the state of Idaho. ( )*

b. *An Application for Waiver must be accompanied by an affidavit signed by an officer or principal of the insurance carrier or self-insured employer, attesting to the fact that the insurance carrier or self-insured employer is prepared to comply with all statutes and rules pertaining to prompt payments of compensation. ( )*

c. *All waivers shall be effective from the date the Commission issues the order granting the waiver. A waiver shall remain in effect until revoked by the Industrial Commission. At least annually, staff of the Industrial Commission may review the performance of any insurance carrier or self-insured employer for which a waiver under this rule has been granted to assure that the insurance carrier or self-insured employer is complying with all statutes and rules pertaining to prompt payments of compensation. ( )*

d. *If at any time after the Commission has granted a waiver, the Commission receives information permitting the inference that the insurance carrier or self-insured employer has failed to provide timely benefits to any Claimant, the Commission may issue an order to show cause why the Commission should not revoke the waiver; and, after affording the insurance carrier or self-insured employer an opportunity to be heard, may revoke the waiver and order the insurance carrier or self-insured employer to comply with the requirements of Subsections 305.06 and 305.09 of this rule. ( )*

10. Copies of Checks*. Copies of checks and/or electronically reproducible copies of the information contained on the checks must be maintained in the in-state files for Industrial Commission audit purposes. A copy of the first income benefit check, showing signature and date, shall be sent to the Industrial Commission the same day of issuance. ( )*

11. Prompt Claim Servicing*. Prompt claim servicing includes, but is not limited to: ( )*

a. *Making an initial decision to accept or deny a Claim for an injury or occupational disease within thirty (30) days of the date the Claims Administrator receives knowledge of the same. The worker shall be given notice of that initial decision in accordance with Section 72-806, Idaho Code. Nothing in this rule shall be construed*

as amending the requirement to start payment of income benefits no later than four (4) weeks or twenty-eight (28) days from the date of disability under the provisions of Section 72-402, Idaho Code. ( )

b. *Payment of medical bills in accordance with the provisions of Section 803 of these rules. ( )*

c. *Payment of income benefits on a weekly basis, unless otherwise approved by the Commission. ( )*

i. The first payment of income benefits under Section 72-408, Idaho Code, shall constitute application by the insurance carrier or self-insured employer for a waiver to pay Temporary Total Disability (TTD) benefits on a bi-weekly basis, Temporary Partial Disability (TPD) benefits on other than a weekly basis, Permanent Partial Disability (PPD) benefits based on permanent impairment and Permanent Total Disability (PTD) benefits every twenty-eight (28) days, rather than on a weekly basis. ( )

ii. Such waiver application shall be granted upon receipt and remain in effect unless revoked by the Industrial Commission in accordance with Subparagraph 305.11.c.iii. ( )

iii. If at any time after a waiver has been granted pursuant to this section the Commission receives information permitting the inference that the insurance carrier or self-insured employer has failed to service claims in accordance with Idaho law, or that such waiver has created an undue hardship on a Claimant, the Commission may issue an order to show cause why the Commission should not revoke that waiver, and after affording the insurance carrier or employer an opportunity to be heard, may revoke the waiver with respect to all or certain Claimants and order the insurance carrier or self-insured employer to comply with the requirements of Subsection 305.11.c. of this rule. ( )

d. *Payment of the first Permanent Partial Disability (PPD) benefit based on permanent impairment no later than fourteen (14) days after receipt of the Medical Report providing the impairment rating. The first payment shall include payment of benefits retroactive to the date of medical stability. ( )*

e. *Temporary Partial Disability (TPD) payments shall be calculated using the employee's pay period, whether weekly, bi-weekly, or semi-monthly. For employees paid pursuant to any other schedule, TPD benefits shall be calculated semi-monthly. TPD payments owed for a particular pay period shall issue no later than seven (7) days following the date on which employee is ordinarily paid for that pay period. ( )*

12. Audits*. The Industrial Commission will perform periodic audits to ensure compliance with the above requirements. ( )*

13. Non-Compliance*. Non-compliance with the above requirements may result in the revocation of the authority of an insurance carrier to write worker's compensation insurance or self-insured employer to self-insure its worker's compensation insurance obligations in the state of Idaho, or such lesser sanctions as the Industrial Commission may impose. ( )*

306. RULE PROHIBITING USE OF SICK LEAVE OR OTHER ALTERNATIVE COMPENSATION.

01. Employee Not Required to Take Sick Leave in Lieu of Compensation*. No employer obligated to pay worker's compensation benefits to an employee as provided by the Worker's Compensation Law may require an employee to accept "sick leave" or other comparable benefit in lieu of the worker's compensation benefits provided by law. Section 72-318(2), Idaho Code, specifically provides that no agreement by an employee to waive his rights to compensation under the Worker's Compensation Law shall be valid. ( )*

02. Election of Sick Leave or Alternative Compensation Prohibited*. Further, an employee may not elect to accept "sick leave" or other comparable benefit from an employer in lieu of worker's compensation benefits to which the employee is entitled under the Worker's Compensation Law. ( )*

307. RULE GOVERNING REPORTING INDEMNITY AND MEDICAL PAYMENTS AND MAKING PAYMENT OF INDUSTRIAL SPECIAL INDEMNITY FUND ASSESSMENT.

Pursuant to Section 72-327, Idaho Code, the state insurance fund, every authorized insurance carrier, and self-insured employer in Idaho shall report annually to the Industrial Commission the total gross amount of medical only and Indemnity Benefits paid on Idaho worker's compensation claims during the applicable reporting period. This report is used to calculate the pro rata share of the annual assessment for the ISIF, under Section 72-327, Idaho Code. *( )*

***01. Filing**. The report of indemnity and medical payments shall be filed with the Industrial Commission simultaneously with the first Semi-Annual Premium Tax Report; which, pursuant to Section 72-523, Idaho Code, is due each year on March 3rd.* *( )*

***02. Form**. The report of indemnity and medical payments shall be submitted in writing on, or in a format substantially the same as the current Form IC2-327, available on the Commission's website.* *( )*

***03. Report Required When No Indemnity Paid**. If an entity required to report under this rule has no claims against which indemnity or medical payments have been made during the reporting period, a report shall be filed so indicating.* *( )*

***04. Penalty for Late Filing**. A penalty shall be assessed by the Commission for filing the report of indemnity and medical payments later than March 3rd each year.* *( )*

***a.** A penalty of two hundred dollars ($200) for late filing of seven (7) days or less.* *( )*

***b.** A penalty of one hundred dollars ($100) per day for late filing of more than seven (7) days.* *( )*

c. A penalty assessed by the Commission shall be payable to the Industrial Commission and be submitted with the April 1 payment of the ISIF assessment, following notice by the Commission of the penalty assessment. *( )*

***05. Estimating Indemnity Payments for Entities That Fail to Report Timely**. If an entity required to report indemnity payments under these rules fails to report within the time allowed in these rules, the Commission will estimate the indemnity payments for that entity by using the indemnity amount reported for the preceding reporting period and adding twenty percent (20%).* *( )*

***06. Adjustment for Overpayments or Underpayments**. Overpayments or underpayments, including those resulting from estimating the indemnity payments of entities that fail to report timely, will be adjusted on the billing for the subsequent period.* *( )*

308. – 400. (RESERVED)

401. RULE GOVERNING COMPUTATION OF AVERAGE WEEKLY WAGE.

***01. Amounts Paid over Base Rate**. Sums paid by an employer to an employee, over and above the base rate of compensation agreed upon by the employer and the employee in a contract of hire, which are contingent and dependent upon the employee's increased physical exertion and/or efficiency shall be included in computing the employee's average weekly wage pursuant to Section 72-419(4)(a), Idaho Code. Said sums shall not be considered premium pay.* *( )*

***02. Fringe Benefits**. Also, in computing the average weekly wage, it shall be presumed that wages include, but are not limited to, cost of living increases, vacation pay, holiday pay, and sick leave.* *( )*

***03. Premium Pay**. Further, in computing the average weekly wage, it shall be presumed that premium pay includes, but is not limited to, shift differential pay and overtime pay.* *( )*

***04. Examples Not Exclusive**. The above-listed examples shall not be taken as exclusive in computing the average weekly wage.* *( )*

402. RULE GOVERNING CONVERSION OF IMPAIRMENT RATINGS TO "WHOLE MAN" STANDARD.

***01. Converting Single Rating of Body Part to Whole Person Rating**. Impairment ratings shall be converted in accordance with the Industrial Commission Schedule, Section 72-428, Idaho Code, with the base of five hundred (500) weeks for the whole man. ( )*

***02. Averaging Multiple Ratings**. Where more than one (1) evaluating physician has given ratings, these shall be converted to the statutory percentage of the whole man, and averaged for the applicable rating. ( )*

***03. Correcting Manifest Injustice**. In the event that the Commission deems a manifest injustice would result from the above ruling, it may at its discretion take steps necessary to correct such injustice. ( )*

403. RULE GOVERNING COMPENSATION FOR DISABILITY DUE TO LOSS OF TEETH.

***01. Compensation for Disability**. A Claimant under the Worker's Compensation Law shall be entitled to compensation for permanent disability for the loss of each tooth other than wisdom teeth at the rate of one tenth of one percent (.1%) of the whole man. The loss of wisdom teeth shall not constitute any permanent disability. Compensation hereunder shall be in addition to payments for medical services including dental appliances and bridgework necessitated by the injury and any income benefits during the period of Claimant's recovery to which the Claimant be entitled. ( )*

***02. Prima Facie Evidence**. This rule and schedule shall be prima facie evidence of the percentage of permanent disability to be attributed to the loss of teeth. ( )*

404. SUBMISSION OF MEDICAL REPORTS FROM PROVIDERS

This procedure applies to all open worker's compensation claims where medical services are provided and which have not been denied by the Payor. ( )

***01. Procedure**. In all cases in which a particular injury or occupational disease results in a worker's compensation Claim, the Provider shall submit written Medical Reports for each medical visit to the Payor. Payers and Providers may contract with one another to identify specific records that will be provided in support of billings. The Provider shall also submit the same written Medical Reports to the Claimant upon request. These reports shall be submitted within fourteen (14) days following each evaluation, examination, and/or treatment. The first copy of any such reports shall be provided to the Payor and the Claimant at no charge. If duplicate copies of reports already provided are requested by either the Payor or the Claimant, the Provider may charge the requesting party a reasonable charge to provide the additional reports. Whenever possible, billing information shall be coded using CPT. In the case of Hospitals, reports shall include a Uniform Billing Form 04. In the case of physicians and other Providers supplying outpatient services, this reporting requirement shall include a CMS 1500 form. ( )*

***a.** If an injury or occupational disease results in a Claim, the Employer/Surety or Provider shall submit written reports to the Commission upon request. Such request may either be in writing or telephonic. If a Claim is referred to the Rehabilitation Division, Medical Reports shall be furnished by the Payor or Provider directly to the office that requests such reports. The Payor or Provider shall consider this an on-going request until notice is received that the reports are no longer required. ( )*

***b.** If the injury or occupational disease results in a time-loss Claim, the Payor shall submit copies of medical records containing information regarding the beginning and ending of disability, releases to work whether light duty or regular duty, impairment ratings, physical restrictions to the Commission. Other Medical Reports shall be submitted to the Commission only upon request. ( )*

***c.** ISIF shall receive all copies of Medical Reports, without charge, from either the Claimant or the Payor, depending upon who seeks to join it as a party to a worker's compensation Claim. ( )*

***d.** If the Commission requests Medical Reports from the Payor or Provider, the information shall be provided within a reasonable time period without charge. If information is received for which the Commission has no need, the information may be discarded or destroyed. ( )*

***02. Report Form and Content**. Upon approval of the Commission, Medical Reports may be submitted in electronic or other machine-readable form usable to all parties. ( )*

***03. Timely Response Requirement**. When the Commission requests a Medical Report from a Payor or Provider for use in monitoring a worker's compensation Claim, the Payor or Provider shall provide the requested information promptly. ( )*

***04. Forfeiture of Payment**. If a Provider fails to give records to the Payor or Claimant, the Payor or Claimant may petition the Commission for an order requiring the Provider to provide the requested information. The petition shall set forth the Petitioner's efforts to obtain the information, the responses to those efforts, and why the Petitioner believes that the Provider has the information. In response to the petition, the Commission may enter an order requiring the Provider to furnish the requested records or demonstrate that the records are not available. If a Provider fails to provide records when ordered by the Commission, the Commission may enter an Order of Forfeiture. In the event such an order is entered, the Provider will forfeit its right to payment from both the Payor and Claimant, until such time as the records are provided. ( )*

405. RULE GOVERNING REIMBURSEMENT FOR TRAVEL EXPENSES.

***01. Mileage Rate**. If Claimant has access to, and is able to operate, a vehicle for transportation covered by Sections 72-432(13) or 72-433(3), Idaho Code, employer shall reimburse Claimant at the mileage rate then allowed by the State Board of Examiners for State employees. Such rate shall be published annually by the Industrial Commission, together with the average state wage for the upcoming period. All such miles shall be reimbursed, with fractions of a mile greater than one-half (1/2) mile rounded to the next higher mile and fractions of a mile below one-half (1/2) mile disregarded. ( )*

***02. Commercial Transportation**. If Claimant has no vehicle, or has access to a vehicle and is reasonably unable to utilize the vehicle for transportation covered by Sections 72-432(13) or 72-433(3), Idaho Code, Claimant's employer shall reimburse Claimant the actual cost of commercial transportation as evidenced by actual receipts. Notwithstanding the above provision, no Claimant shall be eligible for reimbursement of the actual cost of commercial transportation where such Claimant is unable to operate a motor vehicle due to the revocation or suspension of driving privileges because Claimant was under the influence of alcohol and/or drugs. ( )*

***03. Request for Reimbursement**. It shall be Claimant's responsibility to submit a travel reimbursement request to the employer. Such request shall be made on a form substantially the same as Industrial Commission Form IC 432(1), posted on the Commission's website. The Claimant must attach to the form a copy of a bill or receipt showing that the visit occurred. The employer shall furnish the Claimant with copies of this form. ( )*

***04. Frequency of Requests**. Claimant shall not request transportation reimbursement more frequently than once every thirty (30) days. However, notwithstanding this provision, should a Claimant request transportation reimbursement more frequently than every thirty (30) days, employer need not issue more than one reimbursement check in any thirty-day (30) period. ( )*

406. -- 500. (RESERVED)

501. RULE GOVERNING PROTECTION AND DISCLOSURE OF REHABILITATION DIVISION RECORDS.

***01. Request for Disclosure**. Pursuant to Section 74-105(10), Idaho Code, a party requesting rehabilitation records shall do so in writing and identify which provision of 74-105(10), Idaho Code, authorizes their request. ( )*

***02. Requests from Other Agencies**. If records are in the possession of the Rehabilitation Division by reason of an agreement to comply with valid confidentiality regulations of any agency of the state of Idaho, or agency of the United States, then disclosure shall be requested from the source agency, and not from the Rehabilitation Division. ( )*

502. RULE GOVERNING REPORTS OF ATTORNEY COSTS AND FEES IN LITIGATED CASES.
When requested by the Commission, parties to a Litigated Case shall provide the Commission the information

required by Section 72-528, Idaho Code. The form for Sureties is Form 1022 and the form for Claimant's attorneys is Form 1023; both are available on the Commission's website. ( )

529. -- 600. (RESERVED)

601. SUBMISSION OF FROI AND SROI.

***01. Purpose**. Pursuant to Sections 72-602(1)-(2), Idaho Code, employers must submit a FROI and/or SROI in accordance with these rules. ( )*

***02. EDI Reporting**. The Commission requires electronic submission of FROIs and SROIs in accordance with the most current versions of the IAIABC EDI Release 3.0 and the Commission's EDI Guides and Tables from any employer not otherwise exempt by these rules. Each FROI and SROI must comply with formatting requirements and must contain the information identified as mandatory or mandatory conditional, as applicable. ( )*

***03. Trading Partner Agreements**. Before commencing with electronic reporting, Trading Partners shall sign a Trading Partner Agreement with the Commission, which the Commission must approve prior to submitting reports. This agreement must provide the effective date to send and receive electronic reports, the acceptable data to be sent and received, the method of transmission to be used, and other pertinent elements. This agreement will identify the insurance carrier, the Claims Administrator, the sender of the electronic files, and the electronic filing method. To ensure the accuracy of reported data, the Trading Partner must maintain their profile to reflect changes as they occur and the Commission may make periodic audits of Trading Partner files. In the event that a Trading Partner Agreement is entered into by a Claims Administrator, notice to the Trading Partner of a FROI shall be deemed to be notice to the underlying insurance carrier or self-insured employer. ( )*

***04. Report Form and Content for Parties Exempt from EDI Requirements**. ( )*

***a.** Individual injured workers, injured worker's legal counsel, and employers that are not insured are not required to comply with EDI requirements for FROIs and SROIs. SROIs filed on Legacy Claims will not be accepted via EDI. ( )*

***b.** Parties exempt from EDI requirements must submit FROIs on a form 1A-1 and SROIs on a form SROI-1, or in a format substantially similar. Both forms are available on the Commission's website. ( )*

***05. Retaining Claims Files.** Upon request of the Commission, insurance carriers, Claims Administrators, or employers shall provide to the Commission, in whole or in part according to the request, a copy of the claim file at no cost to the Commission. All insurance carriers, Claims Administrators, or employers shall retain complete copies of claims files for the life of the Claim and a minimum of five (5) years from the date of closure. ( )*

***06. Filing Not an Admission**. Filing a FROI is not an admission of liability and is not conclusive evidence of any fact stated therein. If a Claim is submitted electronically, no signatures are required. ( )*

***07. Filing Considered Authorization**. Filing of a Claim shall be considered an authorization for the release of medical records that are relevant to or bearing upon the particular injury or occupational disease for which the Claimant is seeking compensation. ( )*

***08. Timely Response Requirement**. When the Commission requests additional information in order to process the Claim, the Claimant or employer shall provide the requested information promptly. The Commission request may be either in writing or telephonic. ( )*

602. SUMMARIES OF PAYMENTS.

***01. Summaries Requirement**. A summary of payment shall be filed, in duplicate, by the surety or self-insured employer within one hundred twenty (120) days of Termination of Disability for all legacy indemnity claims upon which a surety or self-insured employer has made payments, except for those claims which are resolved by LSS.*

If all claim information has been provided via EDI as prescribed by Commission rules, an electronic summary of payment transaction must be filed within one hundred twenty (120) days of Termination of Disability for all Indemnity Claims. In the case of medical-only claims, no summaries of payment need to be filed. In the context of Death Claims and permanent total disability claims, interim summaries of payments shall be filed annually within the first quarter of each calendar year. Interim summaries shall be submitted setting forth substantially the same information required by Final Summaries of Payment, including the balance of payments made to the beginning of the current calendar year, payments during the calendar year, and a total of payments made. This total balance shall be carried forward as the amount of payments made to the beginning of the current year. The Final Summary shall be so designated. Supporting documentation shall be attached to any Legacy Claim summary of payment filed with the Commission. If all claim information has been filed electronically, supporting documentation must be provided upon Commission request. ( )

***02. Form**. The summary of payment for Legacy Claims shall be submitted in a format substantially similar to IC Form 6, available on the Commission's website. The final SROI transaction shall be reported electronically for non-Legacy Claims. ( )*

***03. Approval**. Within ninety (90) days of receipt of the Legacy Claim Summary of Payment or SROI electronic transaction as set forth above, the Industrial Commission shall notify the surety or self-insured employer of any inability to reconcile the summary to its records and request additional information. If the surety or self-insured employer does not receive a request for additional information within the ninety (90) day period, the surety or self-insured employer may proceed with closure. In the event the Commission requests additional information, whether in writing or telephonic, the surety or self-insured employer shall submit the requested information within fifteen (15) working days. If the surety or self-insured employer is unable to furnish the requested information, the surety or self-insured employer shall notify the Commission, in writing, of its inability to respond and the reasons therefor within the fifteen (15) working days. The Commission may schedule a show cause hearing to determine whether or not the surety or self-insured employer should be allowed to continue its status under the worker's compensation laws, including whether the employer should be allowed to continue self-insured status. ( )*

***04. Change in Status of Employer**. In case of any default by the Employer or in the event the Employer shall fail to pay any final award or awards, by reason of insolvency or because a receiver has been appointed, the Employer shall submit a summary of payments for every time-loss and Death Claim within one hundred twenty (120) days of the default, insolvency, or appointment of a receiver. This summary will be designated as an interim summary and does not relieve the Employer, successor or receiver from continued reporting requirements. The receiver or successor shall continue to report to the Commission, including the submission of summaries of payments and schedules of outstanding awards. ( )*

6*03. -- 800. (RESERVED)*

801. RULE GOVERNING CHANGE OF STATUS NOTICE TO CLAIMANTS.

***01. Notice of Change of Status**. As required and defined by Section 72-806, Idaho Code, a worker shall receive written notice within fifteen (15) days of any change of status or condition, including, but not limited to, whenever there is an acceptance, commencement, denial, reduction, or cessation of medical or monetary compensation benefits to which the worker might presently or ultimately be entitled. Such notice is required when benefits are curtailed to recoup any overpayment of benefits in accordance with the provisions of Section 72-316, Idaho Code. ( )*

***02. By Whom Given**. Any notice to a worker required by Section 72-806, Idaho Code, shall be given by: the surety if the employer has secured Worker's Compensation Insurance; or the employer if the employer is self-insured; or the employer if the employer carries no Worker's Compensation Insurance. ( )*

***03. Form of Notice**. Any notice to a worker required by Section 72-806, Idaho Code, shall be mailed within ten (10) days by regular United States Mail to the last known address of the worker, as shown in the records of the party required to give notice as set forth above. The Notice shall be given in a format substantially similar to IC Form 8, available on the Commission's website. ( )*

***04. Medical Reports**. As required by Section 72-806, Idaho Code, if the change is based on a Medical*

Report, the party giving notice shall attach a copy of the report to the notice. ( )

***05. Copies of Notice**. The party giving notice pursuant to Section 72-806, Idaho Code, shall send a copy of any such notice to the Industrial Commission, the employer, and the worker's attorney, if the worker is represented, at the same time notice is sent to the worker. The party giving notice may supply the copy to the Industrial Commission in accordance with the Commission's rule on electronic submission of documents. ( )*

802. RULE GOVERNING APPROVAL OF ATTORNEYS FEES

***01. Purpose**. The Industrial Commission promulgates this rule to govern the approval of attorney fees. ( )*

***02. Charges Presumed Reasonable**: ( )*

***a.** In a case in which no hearing on the merits has been held, twenty-five percent (25%) of Available Funds shall be presumed reasonable; or ( )*

***b.** In a case in which a hearing has been held and briefs submitted (or waived) under Judicial Rules of Practice and Procedure (JRP), Rules X and XI, thirty percent (30%) of Available Funds shall be presumed reasonable; or ( )*

***c.** In any case in which compensation is paid for total permanent disability, fifteen percent (15%) of such disability compensation after ten (10) years from date such total permanent disability payments commenced. ( )*

***03. Statement of Charging Lien**. ( )*

***a.** All requests for approval of fees shall be deemed requests for approval of a Charging Lien. ( )*

***b.** An attorney representing a Claimant in a Worker's Compensation matter shall in any proposed LSS, or upon request of the Commission, file with the Commission, and serve the Claimant with a copy of the Fee Agreement, and an affidavit or memorandum containing: ( )*

i. The date upon which the attorney became involved in the matter; ( )

ii. Any issues which were undisputed at the time the attorney became involved; ( )

iii. The total dollar value of all compensation paid or admitted as owed by employer immediately prior to the attorney's involvement; ( )

iv. Disputed issues that arose subsequent to the date the attorney was hired; ( )

v. Counsel's itemization of compensation that constitutes Available Funds; ( )

vi. Counsel's itemization of costs and calculation of fees; and ( )

vii. Counsel's itemization of medical bills for which Claim was made in the underlying action, but which remain unpaid by employer/surety at the time of LSS, along with counsel's explanation of the treatment to be given such bills/claims following approval of the LSS. ( )

viii. The statement of the attorney identifying with reasonable detail his or her fulfillment of each element of the Charging Lien. ( )

***c.** Upon receipt and a determination of compliance with this Rule by the Commission by reference to its staff, the Commission may issue an Order Approving Fees without a hearing. ( )*

***04. Procedure if Fees Are Determined Not to Be Reasonable**. ( )*

***a.** Upon receipt of the affidavit or memorandum, the Commission will designate staff members to determine reasonableness of the fee. The Commission staff will notify counsel in writing of the staff's informal determination, which shall state the reasons for the determination that the requested fee is not reasonable. Omission of any information required by Paragraph 802.02.b may constitute grounds for an informal determination that the fee requested is not reasonable. ( )*

***b.** If counsel disagrees with the Commission staff's informal determination, counsel may file, within fourteen (14) days of the date of the determination, a Request for Hearing for the purpose of presenting evidence and argument on the matter. Upon receipt of the Request for Hearing, the Commission shall schedule a hearing on the matter. A Request for Hearing shall be treated as a motion under Rule III(e), JRP. ( )*

***c.** The Commission shall order an employer to release any Available Funds in excess of those subject to the requested Charging Lien and may order payment of fees subject to the Charging Lien which have been determined to be reasonable. ( )*

***d.** The proponent of a fee which is greater than the percentage of recovery stated in Subsection 802.02 shall have the burden of establishing by clear and convincing evidence entitlement to the greater fee. The attorney shall always bear the burden of proving by a preponderance of the evidence his or her assertion of a Charging Lien and reasonableness of his or her fee. ( )*

***05. Disclosure Statement**. Upon retention, the attorney shall provide to Claimant a copy of a disclosure statement. No fee may be taken from a Claimant by an attorney on a contingency fee basis unless the Claimant acknowledges receipt of the disclosure by signing it. Upon request by the Commission, an attorney shall provide a copy of the signed disclosure statement to the Commission. The terms of the disclosure may be contained in the Fee Agreement, so long as it contains the following text: ( )*

***a.** In worker's compensation matters, attorney's fees normally do not exceed twenty-five percent (25%) of the benefits your attorney obtains for you in a case in which no hearing on the merits has been completed. In a case in which a hearing on the merits has been completed, attorney's fees normally do not exceed thirty percent (30%) of the benefits your attorney obtains for you. ( )*

***b.** Depending upon the circumstances of your case, you and your attorney may agree to a higher or lower percentage which would be subject to Commission approval. Further, if you and your attorney have a dispute regarding attorney fees, either of you may petition the Industrial Commission, PO Box 83720, Boise, ID 83720-0041, to resolve the dispute. ( )*

803. MEDICAL FEES.

***01. General Provisions for Medical Fees**. The following provisions shall apply to Commission approval of claims for medical benefits. ( )*

***a.** Acceptable Charge. Payors shall pay Providers the acceptable charge for medical services. ( )*

***b.** Coding. The Commission will generally follow the coding guidelines published by CMS and by the American Medical Association, including the use of modifiers. ( )*

***c.** Disputes. Disputes between Providers and Payors are governed by Subsection 803.06 of this rule and JRP 19. ( )*

***d.** Outside of Idaho. Reimbursement for medical services provided outside the state of Idaho may be based upon the agreement of the parties. If there is no agreement, services shall be paid in accordance with the worker's compensation fee schedule in effect in the state in which services are rendered. If there is no fee schedule in effect in such state, or if the fee schedule in that state does not allow reimbursement for the services rendered, reimbursement shall be paid in accordance with these rules. ( )*

02. Acceptable Charges For Medical Services Provided By Physicians Under The Idaho Worker's Compensation Law. *( )*

a. *The Commission adopts the RBRVS, published by CMS, as amended, as the standard to be used to determine acceptable charges by physicians.* *( )*

b. *Modifiers. Modifiers for physicians will be reimbursed as follows:* *( )*

i. Modifier 50: Additional fifty percent (50%) for bilateral procedure. *( )*

ii. Modifier 51: Fifty percent (50%) of secondary procedure. This modifier will be applied to each medical or surgical procedure rendered during the same session as the primary procedure. *( )*

iii. Modifier 80: Twenty-five percent (25%) of coded procedure. *( )*

iv. Modifier 81: Fifteen percent (15%) of coded procedure. This modifier applies to MD and non-MD assistants. *( )*

c. *Conversion Factors. The standard for determining the acceptable charge for a medical service, identified by a code assigned to that service in the latest edition of the Physician's CPT, published by the American Medical Association, as amended, is calculated by the application of the total facility or non-facility RVU for services as determined by place of service in the latest RBRVS in effect on the first day of January of the current calendar year, to the following corresponding conversion factors. The procedure with the largest RVU will be the primary procedure and will be listed first on the claim form.* *( )*

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	**CODE RANGE(S)**	**DESCRIPTION**	**CONVERSION FACTOR**
Anesthesia	00000 - 09999	Anesthesia	$60.33
Surgery - Group One	22000 - 22999 23000 - 24999 25000 - 27299 27300 - 27999 29800 - 29999 61000 - 61999 62000 - 62259 63000 - 63999	Spine Shoulder, Upper Arm, & Elbow Forearm, Wrist, Hand, Pelvis & Hip Leg, Knee, & Ankle Endoscopy & Arthroscopy Skull, Meninges & Brain Repair, Neuroendoscopy & Shunts Spine & Spinal Cord	$135.00
Surgery - Group Two	28000 - 28999 64550 - 64999	Foot & Toes Nerves & Nervous System	$124.00
Surgery - Group Three	10000 - 19999 20000 - 21999 29000 - 29799 30000 - 39999 40000 - 49999 50000 - 59999 60000 - 60999 62260 - 62999 64000 - 64549 65000 - 69999	Integumentary System Musculoskeletal System Casts & Strapping Respiratory & Cardiovascular Digestive System Urinary System Endocrine System Spine & Spinal Cord Nerves & Nervous System Eye & Ear	$88.54
Radiology	70000 - 79999	Radiology	$88.54

MEDICAL FEE SCHEDULE			
SERVICE CATEGORY	CODE RANGE(S)	DESCRIPTION	CONVERSION FACTOR
Pathology & Laboratory	80000 - 89999	Pathology & Laboratory	To Be Determined
Medicine - Group One	90000 - 90749 94000 - 94999 97000 - 97799 97800 - 98999	Immunization, Injections, & Infusions Pulmonary / Pulse Oximetry Physical Medicine & Rehabilitation Acupuncture, Osteopathy, & Chiropractic	$49.00
Medicine - Group Two	90750 - 92999 93000 - 93999 95000 - 96020 96040 - 96999 99000 - 99607	Psychiatry & Medicine Cardiography, Catheterization, Vascular Studies Allergy / Neuromuscular Procedures Assessments & Special Procedures E / M & Miscellaneous Services	$70.00

( )

d. Anesthesiology. The Conversion Factor for the Anesthesiology CPT Codes shall be multiplied by the current Anesthesia Base Units assigned to that CPT Code by CMS, plus the allowable time units reported for the procedure. Time units are computed by dividing reported time by fifteen (15) minutes. Time units will not be used for CPT Code 01996. ( )

e. Services Without CPT Code, RVU or Conversion Factor. The acceptable charge for medical services that do not have a current CPT code, a currently assigned RVU, or a conversion factor will be the reasonable charge for that service, based upon the usual and customary charge and other relevant evidence, as determined by the Commission. Where a service with a CPT Code, RVU, and conversion factor is, nonetheless, claimed to be exceptional or unusual, the Commission may, notwithstanding the conversion factor for that service set out in Paragraph 02.c, above, determine the acceptable charge for that service, based on all relevant evidence in accordance with the procedures set out in Subsection 06, below. ( )

f. Medicine Dispensed by Physicians. Reimbursement to physicians for any medicine shall not exceed the acceptable charge calculated for that medicine as if provided by a Pharmacy under Subsection 04 of this rule without a dispensing or compounding fee. Reimbursement to physicians for repackaged medicine shall be the AWP for the medicine prior to repackaging, identified by the NDC reported by the original manufacturer. Reimbursement may be withheld until the original manufacturer's NDC is provided by the physician. ( )

g. Adjustment of Conversion Factors. The conversion factors set out in this rule may be adjusted each fiscal year (FY) by the Commission to reflect changes in inflation or market conditions in accordance with Section 72-803, Idaho Code. ( )

03. Acceptable Charges For Medical Services Provided By Hospitals And Ambulatory Surgery Centers Under The Idaho Worker's Compensation Law. The following standards shall be used to determine the acceptable charge for Hospitals and ASCs. ( )

a. Critical Access Hospitals. The standard for determining the acceptable charge for inpatient and outpatient services provided by a Critical Access Hospital is ninety percent (90%) of the reasonable charge. Implantable hardware charges shall be reimbursed at the rate of the actual cost plus fifty percent (50%). ( )

b. Hospital Inpatient Services. The standard for determining the acceptable charge for inpatient services provided by Hospitals, other than Critical Access Hospitals, is calculated by multiplying the base rate by the current MS-DRG weight for that service. The base rate for inpatient services is ten thousand two hundred dollars ($10,200). Inpatient services that do not have a relative weight shall be paid at eighty-five percent (85%) of the reasonable charge; however, Implantable Hardware charges billed for services without an MS-DRG weight shall be

reimbursed at the rate of actual cost plus fifty percent (50%). ( )

c. *Hospital Outpatient and ASC Services. The standard for determining the acceptable charge for outpatient services provided by Hospitals (other than Critical Access Hospitals) and for services provided by ASCs is calculated by multiplying the base rate by the Medicare Hospital Outpatient Prospective Payment System APC weight in effect on the first day of January of the current calendar year. The base rate for Hospital outpatient services is one hundred forty dollars and seventy-five cents ($140.75). The base rate for ASC services is ninety-one dollars fifty cents ($91.50). ( )*

i. Medical services for which there is no APC weight listed shall be reimbursed at seventy-five percent (75%) of the reasonable charge. ( )

ii. Status code N items or items with no CPT or HCPCS code shall receive no payment except as provided in Subparagraph 803.03.c.ii.(1) or 803.03.c.ii.(2) of this rule. ( )

(1) Implantable Hardware may be eligible for separate payment under Subparagraph 03.d.iii. of this rule. ( )

(2) Outpatient laboratory tests provided with no other Hospital outpatient service on the same date, or outpatient laboratory tests provided on the same date of service as other Hospital outpatient services that are clinically unrelated may be paid separately if billed with modifier L1. Payment shall be made in the same manner that services with no APC weight are paid under Subparagraph 803.03.c.i. of this rule. ( )

iii. When no medical services with a status code J1 appears on the same Claim, two (2) or more medical procedures with a status code T on the same Claim shall be reimbursed with the highest weighted code paid at one hundred percent (100%) of the APC calculated amount and all other status code T items paid at fifty percent (50%). When a medical service with a status code J1 appears on the same Claim, all medical services with a status code T shall be paid at fifty percent (50%). ( )

iv. When no medical services with a status code J1 appears on the same Claim, status code Q items with an assigned APC weight will not be discounted. When a medical service with a status code J1 appears on the same Claim, status code Q items shall be paid at fifty percent (50%). ( )

d. *Additional Hospital Payments. When the charge for a medical service provided by a Hospital (other than a Critical Access Hospital) meets the following standards, additional payment shall be made for that service, as indicated. ( )*

i. Inpatient Threshold Exceeded. When the charge for a Hospital inpatient MS-DRG coded service exceeds the sum of thirty thousand dollars ($30,000) plus the payment calculated under the provisions of Paragraph 03.b. of this rule, then the total payment for that service shall be the sum of the MS-DRG payment and the amount charged above that threshold multiplied by seventy-five percent (75%). Implantable charges shall be excluded from the calculation for an additional inpatient payment under this Subparagraph. ( )

ii. Inpatient Implantable Hardware. Hospitals may seek additional reimbursement beyond the MSDRG payment for invoiced Implantable Hardware where the aggregate invoice cost is greater than ten thousand dollars ($10,000). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed three thousand dollars ($3,000). Handling and freight charges shall be included in invoice cost. ( )

iii. Outpatient Implantable Hardware. Hospitals and ASCs may seek additional reimbursement beyond the APC payment for invoiced Implantable Hardware where the aggregate invoice cost is greater than five hundred dollars ($500). Additional reimbursement shall be the invoice cost plus an amount which is equal to ten percent (10%) of the invoice cost, but which does not exceed one thousand dollars ($1,000). Handling and freight charges shall be included in invoice cost. ( )

e. *Adjustment of Hospital and ASC Base Rates. The Commission may periodically adjust the base rates set out in Paragraphs 803.03.b. and 803.03.c. of this rule to reflect changes in inflation or market conditions. ( )*

***04. Acceptable Charges For Medicine Provided By Pharmacies**. The following standards shall be used to determine the acceptable charge for medicine provided by pharmacies. ( )*

***a.** Brand/Trade Name Medicine. The standard for determining the acceptable charge for brand/trade name medicine shall be the AWP, plus a five dollar ($5) dispensing fee. ( )*

***b.** Generic Medicine. The standard for determining the acceptable charge for generic medicine shall be the AWP, plus an eight dollar ($8) dispensing fee. ( )*

***c.** Compound Medicine. The standard for determining the acceptable charge for compound medicine shall be the sum of the AWP for each drug included in the compound medicine, plus a five dollar ($5) dispensing fee and a two dollar ($2) compounding fee. All components of the compound medicine shall be identified by their original manufacturer's NDC when submitted for reimbursement. Payors may withhold reimbursement until the original manufacturer's NDC assigned to each component of the compound medicine is provided by the Pharmacy. Components of a compound medicine without an NDC may require medical necessity confirmation by the treating physician prior to reimbursement. ( )*

***d.** Prescribed Over-the Counter Medicine. The standard for determining the acceptable charge for prescribed over-the-counter medicine filled by a Pharmacy shall be the reasonable charge plus a two dollar ($2) dispensing fee. ( )*

***05. Acceptable Charges For Medical Services Provided By Other Providers Under The Idaho Worker's Compensation Law**. The standard for determining the acceptable charge for Providers other than physicians, Hospitals or ASCs shall be the reasonable charge. ( )*

***06. Billing And Payment Requirements For Medical Services And Procedures Preliminary To Dispute Resolution**. This rule governs billing and payment requirements for medical services provided under the Worker's Compensation Law and the procedures for resolving disputes between Payors and Providers over those bills or payments. ( )*

***a.** Time Periods. None of the periods herein shall begin to run before the Notice of Injury/Claim for Benefits has been filed with the Employer as required by law. ( )*

***b.** Provider to Furnish Information. A Provider, when submitting a bill to a Payor, shall inform the Payor of the nature and extent of medical services furnished and for which the bill is submitted. This information shall include, but is not limited to, the patient's name, the employer's name, the date the medical service was provided, the diagnosis, if any, and the amount of the charge or charges. Failure to submit a bill complying with this Paragraph 06.b to the Payor within one hundred twenty (120) days of the date of service will result in the ineligibility of the Provider to utilize the dispute resolution procedures of the Commission set out in Paragraph 803.06.i. of this rule for that service. ( )*

i. A Provider's bill shall, whenever possible, describe the Medical Service provided, using the American Medical Association's appropriate CPT coding, including modifiers, the appropriate HCPCS code, the diagnostic and procedure code set version required by CMS and the original NDC for the year in which the service was performed. ( )

ii. The bill shall also contain the name, address and telephone number of the individual the Payor may contact in the event the Payor seeks additional information regarding the Provider's bill. ( )

iii. If requested by the Payor, the bill shall be accompanied by a written report as defined by Subsection 010.31 and required by Section 404 of these rules. Where a bill is not accompanied by such Report, the periods expressed in Paragraphs 803.06.c and 803.06.e. of this rule, shall not begin to run until the Payor receives the Report. ( )

***c.** Prompt Payment. Unless the Payor denies liability for the Claim or, pursuant to Paragraph 803.06.e. of this rule, sends a Preliminary Objection, a Request for Clarification, or both, as to any charge, the Payor shall pay the charge within thirty (30) calendar days of receipt of the bill or upon acceptance of liability, if made after*

bill is received from Provider. ( )

d. *Partial Payment. If the Payor acknowledges liability for the Claim and, pursuant to Paragraph 803.06.e. of this rule, sends a Preliminary Objection, a Request for Clarification, or both, as to only part of a Provider's bill, the Payor must pay the charge or charges, or portion thereof, as to which no Preliminary Objection or Request for Clarification has been made, within thirty (30) calendar days of receipt of the bill. ( )*

e. *Preliminary Objections and Requests for Clarification. ( )*

i. Whenever a Payor objects to all or any part of a Provider's bill on the ground that such bill contains a charge or charges that do not comport with the applicable administrative rule, the Payor shall send a written Preliminary Objection to the Provider within thirty (30) calendar days of the Payor's receipt of the bill explaining the basis for each of the Payor's objections. ( )

ii. Where the Payor requires additional information, the Payor shall send a written Request for Clarification to the Provider within thirty (30) calendar days of the Payor's receipt of the bill, and shall specifically describe the information sought. ( )

iii. Each Preliminary Objection and Request for Clarification shall contain the name, address, and phone number of the individual located within the state of Idaho that the Provider may contact regarding the Preliminary Objection or Request for Clarification. ( )

iv. Where a Payor does not send a Preliminary Objection to a charge set forth in a bill or a Request for Clarification within thirty (30) calendar days of receipt of the bill, or provide an in-state contact in accord with Subparagraph 06.e.iii., it shall be precluded from objecting to such charge as failing to comport with the applicable administrative rule. ( )

f. *Provider Reply to Preliminary Objection or Request for Clarification. ( )*

i. Where a Payor has timely sent a Preliminary Objection, Request for Clarification, or both, the Provider shall send to the Payor a written Reply, if any it has, within thirty (30) calendar days of the Provider's receipt of each Preliminary Objection or Request for Clarification. ( )

ii. If a Provider fails to timely reply to a Preliminary Objection, the Provider shall be deemed to have acquiesced in the Payor's objection. ( )

iii. If a Provider fails to timely reply to a Request for Clarification, the period in which the Payor shall pay or issue a Final Objection shall not begin to run until such clarification is received. ( )

g. *Payor Shall Pay or Issue Final Objection. The Payor shall pay the Provider's bill in whole or in part or send to the Provider a written Final Objection, if any it has, to all or part of the bill within thirty (30) calendar days of the Payor's receipt of the Reply. ( )*

h. *Failure of Payor to Finally Object. Where the Payor does not timely send a Final Objection to any charge or portion thereof to which it continues to have an objection, it shall be precluded from further objecting to such charge as unacceptable. ( )*

i. *Dispute Resolution Process. If, after completing the applicable steps set forth above, a Payor and Provider are unable to agree on the appropriate charge for any Medical Service, a Provider which has complied with the applicable requirements of this rule may move the Commission to resolve the dispute as provided in the Judicial Rule Re: Disputes Between Providers and Payors, as referenced in Paragraph 803.01.c. of this rule. If Provider's motion disputing CPT or MS-DRG coded items prevails, Payor shall pay the amount found by the Commission to be owed, plus an additional thirty percent (30%) of that amount to compensate Provider for costs and expenses associated with using the dispute resolution process. For motions filed by a Provider disputing items without CPT or MS-DRG codes, the additional thirty percent (30%) shall be due only if the Payor does not pay the amount found due within thirty (30) days of the administrative order. ( )*

804. – 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

DOCKET NO. 18-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 41-211, 41-254, 41-515, 41-612, 41-1013, 41-1025, 41-1037, 41-1232, 41-1334, 41-1940, 41-1965, 41-2314, 41-3817, 41-4207, 41-4409, 41-4609, 41-4715, 41-5211, 41-6404, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 18, rules of the Idaho Department of Insurance:

IDAPA 18
All Lines:
- 18.01.01, Rule to Implement the Privacy of Consumer Financial Information

Property, Casualty, Automobile Insurance:
- 18.02.01, Insurance Rates and Credit Rating; All ***rules except Section 300***
- 18.02.02, Automobile Insurance Policies; All rules ***except Appendix A (relocated to DOI website)***
- 18.02.03, Certificate of Liability Insurance for Motor Vehicles; All rules ***except Exhibits A, B, C (relocated to DOI website)***

Life & Annuity:
- 18.03.01, Suitability in Annuity Transactions; All rules ***except Subsections 015.04.a.ii. - 04.a.iv., 015.04.b., 015.06.a.ii., 015.06.c., 016.02.b., 016.02.h., 021.01 and Section 025***
- 18.03.02, Life Settlements
- 18.03.03, Variable Contracts; All rules ***except Subsections 011.01, 011.03, 012.02, 012.04, 014.01, 014.05, and Section 019***
- 18.03.04, Replacement of Life Insurance and Annuities; All rules ***except Section 016 and Exhibit A (relocated to DOI website)***
- 18.03.05, Credit Life and Credit Disability Insurance; All rules ***except Section 012***

Health & Disability Insurance:
- 18.04.01, Health Carrier External Review; All rules ***except Appendices (relocated to DOI website)***
- 18.04.02, Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children
- 18.04.03, Advertisement of Disability (Accident and Sickness) Insurance; All rules ***except Subsections 012.02, and 013.01.a.***
- 18.04.04, The Managed Care Reform Act Rule
- 18.04.05, Self-Funded Health Care Plans Rule
- 18.04.06, Governmental Self-Funded Employee Health Care Plans
- 18.04.07, Restrictions on Discretionary Clauses; All rules ***except Subsection 011.02***
- ***(*VACATED)*** *18.04.08, Individual Disability and Group Supplementary Disability Insurance Minimum Standards Rule*; ***(*This chapter is being repromulgated under Docket No. 18-0408-1901 and published as a proposed rule in the October 2, 2019 Administrative Bulletin, Vol.19-10.***
- 18.04.09, Complications of Pregnancy

- 18.04.10, The Medicare Supplement Insurance Minimum Standards Model Act; All rules ***except Sections 020, 021, 023, Subsection 051.01.e., and Appendix A***
- 18.04.11, Long-Term Care Insurance Minimum Standards
- 18.04.12, The Small Employer Health Insurance and Availability Act; All rules ***except Section 081 and incorporates provisions of 18.04.13, Rules Governing Small Employer Health Insurance Availability Act Plan Design***
- ***(*VACATED)*** *18.04.13, Rules Governing Small Employer Health Insurance Availability Act Plan Design*
- 18.04.13,* The Individual Health Insurance Availability Act; All rules ***except Subsection 075.02, and Section 081, with the addition of Sections for Policy Definitions, Banned Policy Provisions, General Minimum Standards and Requisite Disclosure Provisions; (*Renumbered and re-designated as IDAPA 18.04.13 - originally promulgated under IDAPA 18.04.14)***
- 18.04.14,* Coordination of Benefits; ***(*Renumbered and re-designated as IDAPA 18.04.14 - originally promulgated under IDAPA 18.04.15)***

Title Insurance:
- 18.05.01, Rules for Title Insurance Regulation; All rules - ***incorporates provisions of 18.05.02 and 18.05.03***
- ***(*VACATED)*** *18.05.02, Title Insurance and Title Insurance Agents and Escrow Officers*
- ***(*VACATED)*** *18.0503, Rebates and Illegal Inducements to Obtaining Title Insurance Business Rules*

Agents & Licensing:
- 18.06.01, Rules Pertaining to Bail Agents
- 18.06.02, Producers Handling of Fiduciary Funds; All rules ***except Sections 020, 021 and 023***
- 18.06.03, Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees; All rules ***except Section 012***
- 18.06.04, Continuing Education; All rules ***except Subsections 014.01.c., 019.05, 020.03 and 020.04***
- 18.06.05, Managing General Agents; All rules ***except Sections 012, 016, and Subsections 011.02.a. and 011.02.b.***
- ***(*VACATED)****18.06.06, Rules for the Surplus Line Brokers;* ***(*This chapter is being repromulgated under Docket No. 18-0606-1901 and published as a proposed rule in the October 2, 2019 Administrative Bulletin, Vol.19-10.)***

Company Operations & Solvency:
- 18.07.01, Rules Pertaining to Acquisitions of Control, Insurance Holding Company Systems and Mutual Insurance Holding Companies; All rules ***except Sections 057, and Forms (relocated to DOI website), and incorporating provisions of 18.07.11***
- 18.07.02, Reserve Liabilities and Minimum Valuations for Annuities and Pure Endowment Contracts; All rules ***except Subsection 014.02, Section 015 and Appendices***
- 18.07.03, Valuation of Life Insurance Policies Including the Use of Select Mortality Factors
- 18.07.04, Annual Financial Reporting; All rules ***except Subsections 011.03, 024.02-04, and incorporating provisions of 18.07.07***
- 18.07.05, Director's Authority for Companies Deemed to be in Hazardous Financial Condition
- 18.07.06, Rules Governing Life and Health Reinsurance Agreements; All rules ***with the addition of Section 013***
- ***(*VACATED)*** *18.07.07, Minimum Reserve Standards for Individual and Group Health Insurance Contracts*
- 18.07.07,* Credit for Reinsurance Rules; All rules ***with the addition of Section 151; (*Renumbered and re-designated as IDAPA 18.07.07 - originally promulgated under IDAPA 18.07.08)***
- 18.07.08*, Property and Casualty Actuarial Opinion Rule; All rules ***except Subsections 022.03; (*Renumbered and re-designated as IDAPA 18.07.08 - originally promulgated under IDAPA 18.07.09)***
- 18.07.09*, Life and Health Actuarial Opinion and Memorandum Rule; All rules ***except Subsections 022.02; (hereby re-designated as IDAPA 18.07.09)***
- ***(*VACATED)*** *18.07.11, Mutual Insurance Holding Company Rules*
- 18.07.10*, Corporate Governance Annual Disclosure; ***(*Renumbered and re-designated as IDAPA 18.07.10 - originally promulgated under IDAPA 18.07.12)***

State Fire Marshal:
- 18.08.01, Adoption of the International Fire Code

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 3628–3631**. In preparation for adopting the pending rule, in addition to the specific changes per chapter noted above, each chapter has undergone cleanup for technical and housekeeping language to support the

Governor's Red Tape Reduction Act. For example, sections on Written Interpretations and Office Hours / Address, etc., have been removed as well as definitions, etc., found in statute.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler, (208)334-4214, **weston.trexler@doi.idaho.gov**.

Dated this 11th day of October, 2019.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

000. LEGAL AUTHORITY.
Title 41, Chapter 13, Section 41-1334, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.01.01, "Rule to Implement the Privacy of Consumer Financial Information." (5-3-03)

02. Scope. This rule describes the conditions under which a licensee may disclose nonpublic personal financial information about individuals to affiliates and nonaffiliated third parties and provides methods for individuals to prevent a licensee from disclosing that information. (5-3-03)

03. Applicability. This rule applies to nonpublic personal financial information about individuals who obtain or are beneficiaries of products or services primarily for personal, family, or household purposes from licensees. This rule does not apply to information about companies or individuals who obtain products or services for business, commercial, or agricultural purposes. (5-3-03)

002. -- 009. (RESERVED)

010. DEFINITIONS.
All terms defined in Title 41, Chapters 1 and 13, Idaho Code, that are used in this rule have the same meaning as used in those chapters. In addition, the following terms are defined as used in this chapter. ( )

01. Clear and Conspicuous. (5-3-03)

a. A notice is reasonably understandable and designed to call attention to the nature and significance of the information in the notice *if it*: ( )

i. Presents the information in clear, concise sentences, paragraphs, and sections; (5-3-03)

ii. Uses short explanatory sentences or bullet lists whenever possible; (5-3-03)

iii. Uses definite, concrete, everyday words and active voice whenever possible; (5-3-03)

iv. Avoids multiple negatives; (5-3-03)

v. Avoids legal and highly technical business terminology whenever possible; (5-3-03)

vi. Avoids explanations that are imprecise and readily subject to different interpretations. (5-3-03)

*v*ii. Uses a*n easy-to-read* typeface and type size*, and uses boldface or italics for key words; and* ( )

v*iii. When i*n a form that combines the licensee's notice with other information, uses distinctive type size, style, and graphic devices. ( )

b. If a licensee provides a notice on a web page, the notice needs to call attention to the nature and significance of the information in the notice and place the notice on a screen that consumers frequently access, or place a link on a screen that consumers frequently access that connects directly to the notice. ( )

02. Collect. To obtain information that the licensee organizes or can retrieve by the name of an individual or by identifying number, symbol or other ident*ifiers* assigned to the individual. ( )

03. Company. A corporation, limited liability company, business trust, general or limited partnership, association, sole proprietorship, or similar organization. (5-3-03)

04. Consumer. An individual who seeks to obtain, obtains, or has obtained an insurance product or service from a licensee used primarily for personal, family, or household purposes. Examples: ( )

a. An individual who provides nonpublic personal information to a licensee in connection with an insurance product or service is a consumer regardless of whether the licensee establishes an ongoing advisory relationship. ( )

b. An individual who is a consumer of another financial institution is not a licensee's consumer solely because the licensee is acting as agent for or provides processing or other services to *the* financial institution. ( )

c. If the licensee provides the initial, annual, and revised notices under Sections 100, 150, and 300 of this rule to the plan sponsor, group or blanket insurance policyholder, or group annuity contract holder, and if the licensee does not disclose to a nonaffiliated third party nonpublic personal financial information about an individual other than as permitted under Sections 450, 451, and 452 of this rule, an individual is not the consumer of the licensee solely because he is: (5-3-03)

i. A participant or a beneficiary of an employee benefit plan the licensee administers or sponsors or for which the licensee acts as a trustee, insurer, or fiduciary; or (5-3-03)

ii. Covered under a group or blanket insurance policy or group annuity contract issued by the licensee. (5-3-03)

iii. A beneficiary in a workers' compensation plan. (5-3-03)

d. An individual is not a licensee's consumer solely because he is: ( )

i. A beneficiary of a trust for which the licensee is a trustee; or ( )

ii. Designated the licensee as trustee for a trust. ( )

0*5*. Consumer Reporting Agency. Is the same meaning as found in Section 603(f) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(f)). (5-3-03)

0*6*. Control: (5-3-03)

a. Ownership, control, or power to vote twenty-five percent (25%) or more of the outstanding shares of any class of voting security of the company, directly or indirectly, or acting through one (1) or more other persons; (5-3-03)

b. Control in any manner over the election of a majority of the directors, trustees, or general partners (or individuals exercising similar functions) of the company; or (5-3-03)

c. The power to exercise, directly or indirectly, a controlling influence over the management or policies of the company, as the director determines. (5-3-03)

0*7*. Customer. A consumer who has a customer relationship with a licensee. (5-3-03)

0*8*. Customer Relationship. A continuing relationship between a consumer and a licensee under which the licensee provides one (1) or more insurance products or services to the consumer to be used primarily for personal, family, or household purposes. ( )

a. A consumer does not have a continuing relationship with a licensee if: (5-3-03)

i. The licensee sells the consumer travel insurance in an isolated transaction; (5-3-03)

ii. The individual is no longer a current policyholder of an insurance product or no longer obtains insurance services with or through the licensee; (5-3-03)

i*ii.* The consumer is a beneficiary or claimant under a policy and has submitted a claim under a policy choosing *either a lump sum settlement option or* a settlement option involving an ongoing relationship with the

licensee;

( )

*i*v. The individual is an insured or an annuitant under an insurance policy or annuity, respectively, but is not the policyholder or owner of the insurance policy or annuity; or (5-3-03)

0*9*. Financial Institution. Any institution engag*ing* in activities that are financial in nature. Financial institution does not include: ( )

a. Any person or entity with respect to any financial activity that is subject to the jurisdiction of the Commodity Futures Trading Commission under the Commodity Exchange Act (7 U.S.C. 1 et seq.); (5-3-03)

b. The Federal Agricultural Mortgage Corporation or any entity charged and operating under the Farm Credit Act of 1971 (12 U.S.C. 2001 et seq.); or (5-3-03)

c. Institutions chartered by Congress specifically to engage in securitizations, secondary market sales (including sales of servicing rights) or similar transactions related to a transaction of a consumer, as long as the institutions do not sell or transfer nonpublic personal information to a nonaffiliated third party. (5-3-03)

***1*0. Financial Product or Service**. A product or service that a financial holding company could offer includ*ing* a financial institution's evaluation or brokerage of information that the financial institution collects in connection with a request or an application from a consumer for a financial product or service. ( )

***11*. Licensee**. ( )

a. A licensee is not subject to the notice and opt out requirements for nonpublic personal financial information set forth in this rule if the licensee is an employee, agent, or other representative of another licensee ("the principal") and: (5-3-03)

i. The principal complies with, and provides the notices *prescribed* by this rule; and ( )

ii. The licensee does not disclose any nonpublic personal information to any person other than the principal or its affiliates in a manner permitted by this rule. (5-3-03)

b. A licensee also includes an unauthorized insurer that accepts business placed through a licensed surplus lines broker in this state, but only in regard to the surplus lines placements placed pursuant to Title 41, Chapter 12, Idaho Code. ( )

***12*. Nonpublic Personal Information**. ( )

a. Means *p*ersonally identifiable financial information; *including a*ny list, description or other grouping of consumers (*see archived 18.01.48*) derived using any personally identifiable financial information not publicly available. ( )

b. Nonpublic personal financial information does not include: (5-3-03)

i. Health information; (5-3-03)

ii. Publicly available information, except as included on a list described in Subparagraph *010.11.a.*, of this rule; or (5-3-03)

iii. Any list, description or other grouping of *consumers* derived without using any personally identifiable financial information that is not publicly available. ( )

***13*. Opt Out**. A direction by the consumer that the licensee not disclose nonpublic personal financial information about *the* consumer to a nonaffiliated third party. ( )

14. **Personally Identifiable Financial Information**. (5-3-03)

a. Any information: (5-3-03)

i. A consumer provides to a licensee to obtain an insurance product or service from the licensee; (5-3-03)

ii. About a consumer resulting from a transaction involving an insurance product or service between a licensee and a consumer. (5-3-03)

b. Examples of personally identifiable financial information: (5-3-03)

i. Account balance information and payment history; (5-3-03)

ii. The fact that an individual is or has been one (1) of the licensee's customers or has obtained an insurance product or service from the licensee; (5-3-03)

i*ii*. *I*nformation about the licensee's consumer if it is disclosed in a manner that indicates the individual is or has been the licensee's consumer; (5-3-03)

*i*v. *I*nformation *provided by* a consumer *to* a licensee or that the licensee or its agent obtains in connection with collecting on a loan or servicing a loan; *( )*

v. *I*nformation the licensee collects through an Internet cookie (an information-collecting device from a web server); and (5-3-03)

vi. Information from a consumer report. (5-3-03)

c. Personally identifiable financial information does not include: (5-3-03)

i. Health information; (5-3-03)

ii. A list of names and addresses of customers of an entity *of* a *non*-financial institution; and *( )*

iii. Information that does not identify a consumer, such as aggregate information or blind data that does not contain personal identifiers such as account numbers, names or addresses. (5-3-03)

15. **Publicly Available Information**. (5-3-03)

a. Any information that a licensee has a reasonable basis to believe is lawfully made available to the general public. *( )*

01*1*. -- 099. (RESERVED)

100. INITIAL PRIVACY NOTICE TO CONSUMERS.

01. Initial Notice Requirement. A licensee will provide a clear and conspicuous notice that accurately reflects its privacy policies and practices to: (5-3-03)

a. *A c*ustomer *no* later than when the licensee establishes a customer relationship, except as provided in Subsection 100.03 of this rule; and *( )*

b. A consumer, before the licensee discloses any nonpublic personal financial information about the consumer to any nonaffiliated third party, if the licensee makes a disclosure other than as authorized by Sections 451 and 452. (5-3-03)

02. **Existing Customers**. When an existing customer obtains a new insurance product or service from a licensee, *which* is used primarily for personal, family, or household purposes, the licensee satisfies the initial notice requirements of Subsection 100.01 of this rule *i*f the notice that the licensee most recently provided to that customer was accurate with respect to the new insurance product or service, the licensee does not need to provide a new privacy notice under Subsection 100.01 of this rule. *( )*

03. **Exceptions Allowing Subsequent Delivery of Notice**. A licensee may provide the initial notice *prescribed* in Paragraph 100.01.a. of this rule in a reasonable time after the licensee establishes a customer relationship if: *( )*

a. Establishing the customer relationship is not at the customer's election; or (5-3-03)

b. *It would avoid* substantially delay*ing* the customer's transaction and the customer agrees to receive the notice at a later time. *( )*

101. -- 149. (RESERVED)

150. ANNUAL PRIVACY NOTICE TO CUSTOMERS.

01. **General Rule**. A licensee will provide a clear and conspicuous notice to customers that accurately reflects its privacy policies and practices not less than annually during the continuation of the customer relationship. *( )*

02. **Exceptions: Termination of Customer Relationship and Duplicate Notices**. (3-29-17)

a. A licensee is not *obligated* to provide an annual notice to a former customer. A former customer is an individual with whom a licensee no longer has a *customer* relationship. *( )*

i. In the case of providing real estate settlement services, at the time the customer completes execution of all documents related to the real estate closing, payment for those services has been received, or the licensee has completed all of its responsibilities with respect to the settlement, including filing documents on the public record, whichever is later. (5-3-03)

c. Notwithstanding Subsection 150.01, a licensee is not *obligated* to provide the annual privacy notice to a current customer if the licensee: *( )*

i. Provides nonpublic personal information to nonaffiliated third parties only in accordance with Sections 450, 451, and 452; and (3-29-17)

ii. Has not changed its policies and practices with regard to disclosing nonpublic personal information from the policies and practices that were disclosed in the most recent disclosure sent to consumers in accordance with Section 100 or Section 150. (3-29-17)

151. -- 199. (RESERVED)

200. INFORMATION TO BE INCLUDED IN PRIVACY NOTICES.
The initial, annual and revised privacy notices a licensee provides, under Sections 100, 150, and 300, needs to include each of the following items of information, in addition to any other information the licensee wishes to provide: *( )*

01. **Information Licensee Collects *or Discloses***. The categories of nonpublic personal financial information the licensee collects *or discloses*. *( )*

02. **Parties to Whom Licensee Discloses**. The categories of third parties to whom the licensee discloses nonpublic personal financial information, other than those parties to whom the licensee discloses information under Sections 451 and 452. *( )*

03. Disclosures of Information About Former Customers. The categories of nonpublic personal financial information about the licensee's former customers the licensee discloses, and the categories of third parties to whom the licensee discloses nonpublic personal financial information about the licensee's former customers, other than those parties to whom the licensee discloses information under Sections 451 and 452. ( )

04. Disclosures Under Section 450. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party under Section 450 (and no other exception in Sections 451 and 452 applies to that disclosure), a separate description of the categories of information the licensee discloses and the categories of third parties with whom the licensee has contracted is to provided. (5-3-03)

05. Explanation of Right to Opt Out. An explanation of the consumer's right under Subsection 400.01 to opt out of the disclosure of nonpublic personal financial information to nonaffiliated third parties, including the methods by which the consumer may exercise *their* right at that time. ( )

06. Disclosures Under Federal Law. Any disclosures the licensee makes under Section 603(d)(2)(A)(iii) of the federal Fair Credit Reporting Act (15 U.S.C. 1681a(d)(2)(A)(iii)) (notices regarding the ability to opt out of disclosures of information among affiliates); *and t*he licensee's policies and practices with respect to protecting the confidentiality and security of nonpublic personal information. ( )

201. DESCRIPTION OF PARTIES SUBJECT TO EXCEPTIONS.

If a licensee discloses nonpublic personal financial information as authorized under Sections 451 and 452, the licensee is not *obligated* to list those exceptions in the initial or annual privacy notices *prescribed* by Sections 100 and 150. When describing the categories of parties to whom disclosure is made, the licensee *will* state only that it makes disclosures to other third parties. ( )

202. SATISFYING THE PRIVACY NOTICE INFORMATION REQUIREMENTS.

01. Categories of Nonpublic Personal Financial Information That the Licensee Collects. A licensee satisfies the requirement to categorize the nonpublic personal financial information it collects if the licensee categorizes it according to the source of the information, as applicable: (5-3-03)

a. Information from the consumer; (5-3-03)

b. Information about the consumer's transactions with the licensee, its affiliates, *or third parties*; ( )

c. Information from a consumer reporting agency. (5-3-03)

02. Categories of Nonpublic Personal Financial Information a Licensee Discloses. (5-3-03)

a. A licensee satisfies the requirement to categorize nonpublic personal financial information it discloses if the licensee categorizes *it* according to *the* source, as described in Subsection 202.01 of this rule, and provides a few examples to illustrate the types of information in each category. ( )

b. If a licensee reserves the right to disclose all of the nonpublic personal financial information about consumers that it collects, the licensee may simply state that fact without describing the categories or examples of nonpublic personal information the licensee discloses. (5-3-03)

03. Categories of Affiliates and Nonaffiliated Third Parties to Whom the Licensee Discloses. A licensee satisfies the requirement to categorize the third parties to which the licensee discloses nonpublic personal financial information about consumers if the licensee identifies the types of businesses in which they engage. Types of businesses may be described by general terms only if the licensee uses a few illustrative examples of significant lines of business. ( )

04. Disclosures Under Exception for Service Providers and Joint Marketers. If a licensee discloses nonpublic personal financial information under the exception in Section 450 to a nonaffiliated third party to market products or services it offers alone or jointly with another financial institution, the licensee satisfies the disclosure

requirement of Subsection 200.04 of this rule if it: (5-3-03)

a. Lists the categories of nonpublic personal financial information it discloses, using the same categories and examples the licensee used to meet the requirements of Subsection 200.01 of this rule; and ( )

b. States whether the third party is: (5-3-03)

i. A service provider that performs marketing services on the licensee's behalf or on behalf of the licensee and another financial institution; or (5-3-03)

ii. A financial institution with whom the licensee has a joint marketing agreement. (5-3-03)

05. Simplified Notices. If a licensee does not disclose and does not wish to reserve the right to disclose nonpublic personal financial information about customers or former customers to third parties except as authorized under Sections 451 and 452, the licensee may simply state that fact, in addition to the information it provides under Subsections 200.01, 200.07, and Section 201 of this rule. ( )

06. Confidentiality and Security. A licensee describes its policies and practices with respect to protecting the confidentiality and security of nonpublic personal financial information if it does both of the following: (5-3-03)

a. Describes in general terms who is authorized to have access to the information; and (5-3-03)

b. States whether the licensee has security practices and procedures in place to ensure the confidentiality of the information in accordance with the licensee's policy. ( )

203. SHORT-FORM INITIAL NOTICE WITH OPT OUT NOTICE FOR NON-CUSTOMERS.

01. Short-Form Initial Notice Allowed. A licensee may satisfy the initial notice requirements for a consumer who is not a customer, by providing a short-form initial notice at the same time the licensee delivers an opt out notice as *prescribed* in Section 250. ( )

02. Short-Form Initial Notice Requirements. A short-form initial notice will: (5-3-03)

a. Be clear and conspicuous; (5-3-03)

b. State that the licensee's privacy notice is available upon request; and (5-3-03)

c. Explain a reasonable means by which the consumer may obtain the notice. (5-3-03)

03. Delivery of Short-Form Initial Notice. The licensee is not *obligated* to deliver its privacy notice with its short-form initial notice *but* may simply provide the consumer a reasonable means to obtain its privacy notice. If a consumer who receives the licensee's short-form notice requests the licensee's privacy notice, the licensee will deliver its privacy notice according to Section 350. ( )

04. Examples of Obtaining Privacy Notice. The licensee provides a reasonable means by which a consumer may obtain a copy of its privacy notice if the licensee:

a. Provides a toll-free telephone number the consumer may call to request the notice; ( )

b. *M*aintains copies of the notice on hand *at the licensee's office and* provides *it* to the consumer immediately upon request; or ( )

c. *Posts it on their website.* ( )

204. -- 249. (RESERVED)

250. FORM OF OPT OUT NOTICE TO CONSUMERS.

01. Opt Out Notice Form. If a licensee is *prescribed* to provide an opt out notice under Subsection 400.01, it will provide a clear and conspicuous notice to each of its consumers that accurately explains the right to opt out under Section 400. The notice will state: *( )*

a. The licensee discloses or reserves the right to disclose nonpublic personal financial information about its consumer to a nonaffiliated third party; (5-3-03)

b. The consumer has the right to opt out of that disclosure; and (5-3-03)

c. A reasonable means by which the consumer may exercise the opt out right. (5-3-03)

02. Adequate Opt Out Notice. A licensee provides adequate notice that the consumer can opt out of the disclosure of nonpublic personal financial information to a nonaffiliated third party if the licensee: (5-3-03)

a. Identifies all of the categories of nonpublic personal financial information that it discloses or reserves the right to disclose, and all of the categories of nonaffiliated third parties to which the licensee discloses the information, and states that the consumer can opt out of the disclosure of that information; and (5-3-03)

b. Identifies the insurance products or services that the consumer obtains from the licensee to which the opt out direction would apply. *( )*

03. Reasonable Means to Exercise an Opt Out Right. A licensee provides a reasonable means to exercise an opt out right if it: (5-3-03)

a. Designates check-off boxes in a prominent position on the relevant forms with the opt out notice; (5-3-03)

b. Includes a reply form together with the opt out notice; (5-3-03)

c. Provides an electronic means to opt out, if the consumer agrees to the electronic delivery of information; or *( )*

d. Provides a toll-free telephone number that consumers may call to opt out. (5-3-03)

251. PROVIDING OPT OUT NOTICE TO CONSUMERS AND COMPLYING WITH OPT OUT DIRECTION.

01. Joint Relationships. If two (2) or more consumers jointly obtain an insurance product or service from a licensee, the licensee may provide a single opt out notice *providing a*ny of the joint consumers to exercise the right to opt out. The licensee may either: *( )*

a. Treat an opt out direction by a joint consumer as applying to all of the associated joint consumers; or (5-3-03)

b. Permit each joint consumer to opt out separately. (5-3-03)

c. A licensee *can*not require all joint consumers to opt out before it implements any opt out direction. *( )*

02. Time to Comply with Opt Out. A licensee will comply with a consumer's opt out direction as soon as reasonably practicable after the licensee receives it. (5-3-03)

03. Continuing Right to Opt Out. A consumer may exercise the right to opt out at any time. (5-3-03)

04. Duration of Consumer's Opt Out Direction. (5-3-03)

a. A consumer's direction to opt out under Sections 250 and 251 is effective until the consumer revokes it in writing or, if the consumer agrees, electronically. (5-3-03)

b. If the individual subsequently establishes a new customer relationship with the licensee, the opt out direction that applied to the former relationship does not apply to the new relationship. *( )*

05. Delivery. When a licensee is *prescribed* to deliver an opt out notice by Section 250, the licensee will deliver it according to Section 350. *( )*

252. -- 299. (RESERVED)

300. REVISED PRIVACY NOTICES.

01. General Rule. *A* licensee will not disclose any nonpublic personal financial information other than as described in the initial notice that the licensee provided to that consumer under Section 100, unless: *( )*

a. The licensee has provided to the consumer a clear and conspicuous revised notice that accurately describes its policies and practices; (5-3-03)

b. The licensee has provided to the consumer a new opt out notice; (5-3-03)

c. The licensee has given the consumer a reasonable opportunity, before the licensee discloses the information to the nonaffiliated third party, to opt out of the disclosure; and (5-3-03)

d. The consumer does not opt out. (5-3-03)

301. -- 349. (RESERVED)

350. DELIVERY.

01. How to Provide Notices. A licensee *will make available* any notices that this rule requires so that each consumer can reasonably be expected to receive actual notice in writing or, if the consumer agrees, electronically. *( )*

02. Reasonable Expectation of Notice. A licensee may reasonably expect that a consumer will receive actual notice if the licensee: *( )*

a. Hand-delivers a printed copy of the notice to the consumer; (5-3-03)

b. Mails a printed copy of the notice to the last known address of the consumer separately, or in a policy, billing or other written communication; *or* *( )*

c. For a consumer who conducts transactions electronically, *or an isolated transaction with a consumer, such as the licensee providing an insurance quote or selling the consumer travel insurance,* posts the notice on the electronic site and requires the consumer to acknowledge receipt of the notice as a necessary step to obtaining a particular insurance product or service. *( )*

03. Annual Notices Only. A licensee may reasonably expect that a customer will receive actual notice of the licensee's annual privacy notice if: (5-3-03)

a. The customer uses the licensee's web site to access insurance products and services electronically and agrees to receive notices at the web site and the licensee posts its current privacy notice continuously in a clear and conspicuous manner on the web site; or (5-3-03)

b. The customer has requested that the licensee refrain from sending any information regarding the customer relationship, and the licensee's current privacy notice remains available to the customer upon request.

(5-3-03)

04. Oral Description of Notice Insufficient. A licensee *can*not provide any notice *prescribed* by this rule solely by orally explaining the notice. *( )*

05. Retention or Accessibility of Notices for Customers. (5-3-03)

a. For customers only, a licensee will provide *all* notice*s* so that the customer can retain them or obtain them later in writing or, if the customer agrees, electronically. *( )*

b. Examples of retention or accessibility. A licensee provides a privacy notice to the customer so that the customer can retain it or obtain it later if the licensee: (5-3-03)

i. Hand-delivers a printed copy of the notice to the customer; (5-3-03)

ii. Mails a printed copy of the notice to the last known address of the customer; or (5-3-03)

iii. Makes its current privacy notice available on a web site (or a link to another web site) for the customer who obtains an insurance product or service electronically and agrees to receive the notice at the web site. (5-3-03)

06. Joint Notice with Other Financial Institutions. A licensee may provide a joint notice from the licensee and one (1) or more of its affiliates or other financial institutions, as identified in the notice, as long as the notice is accurate with respect to the licensee and the other institutions. A licensee also may provide a notice on behalf of another financial institution. (5-3-03)

351. -- 399. (RESERVED)

400. LIMITS ON DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION TO NONAFFILIATED THIRD PARTIES.

01. Conditions for Disclosure. (5-3-03)

a. Except as authorized in this rule, a licensee will not, directly or through any affiliate, disclose any nonpublic personal financial information about a consumer to a nonaffiliated third party unless: *( )*

i. The licensee has provided to the consumer an initial notice as *prescribed* under Section 100;*( )*

ii. The licensee has provided to the consumer an opt out notice as *prescribed* in Sections 250 and 251; *( )*

iii. The licensee has given the consumer a reasonable opportunity *to opt out of the disclosure* before it discloses the information to the nonaffiliated third party; and *( )*

iv. The consumer does not opt out. (5-3-03)

b. If a consumer opts out, the licensee *can*not disclose nonpublic personal financial information about that consumer to a nonaffiliated third party, other than as permitted by Sections 450, 451, and 452. *( )*

c. Examples of *a* reasonable opportunity to opt out. A licensee provides a consumer with a reasonable opportunity to opt out if *t*he licensee mails the notices *prescribed* in Subsection 400.01 of this rule to the consumer and allows the consumer to opt out by mailing a form, calling a toll-free telephone number, or any other reasonable means in thirty (30) days *from the date of mailing*. *( )*

02. Application of Opt Out to All Consumers and All Nonpublic Personal Financial Information. (5-3-03)

a. A licensee will comply with Section 400, regardless of whether the licensee and the consumer have established a customer relationship. (5-3-03)

b. Unless a licensee complies with Section 400, the licensee will not disclose any nonpublic personal financial information about a consumer that the licensee has collected, regardless of whether the licensee collected it before or after receiving the direction to opt out from the consumer. *( )*

03. Partial Opt Out. A licensee may allow a consumer to select certain nonpublic personal financial information or certain nonaffiliated third parties with respect to which the consumer wishes to opt out. (5-3-03)

401. LIMITS ON REDISCLOSURE AND REUSE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Information the Licensee Receives Under an Exception. If a licensee receives nonpublic personal financial information from a nonaffiliated financial institution, *the licensee may disclose the information only*: *( )*

a. To the affiliates of the financial institution from which the licensee received the information; *and* *( )*

b. To its affiliates, but its affiliates may, in turn, disclose the information only to the extent that the licensee may disclose the information. (5-3-03)

02. Information a Licensee Discloses Under an Exception. If a licensee discloses nonpublic personal financial information to a nonaffiliated third party, *the third party may disclose that information only:* *( )*

a. To the licensee's affiliates; (5-3-03)

b. To the third party's affiliates, but the third party's affiliates, in turn, may disclose the information only to the extent the third party can disclose the information; and (5-3-03)

c. To any other person, if the disclosure would be lawful if the licensee made it directly to that person. (5-3-03)

402. LIMITS ON SHARING ACCOUNT NUMBER INFORMATION FOR MARKETING PURPOSES. A licensee will not, directly or through an affiliate, disclose, other than to a consumer reporting agency, a policy number or similar form of access number or access code for a consumer's policy or transaction account to any nonaffiliated third party for use in telemarketing, direct mail marketing or other marketing through electronic mail to the consumer. *( )*

403. -- 449. (RESERVED)

450. EXCEPTION TO OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR SERVICE PROVIDERS AND JOINT MARKETING.

01. General Rule. (5-3-03)

a. The opt out requirements in Sections 250, 251 and 400 do not apply when a licensee provides nonpublic personal financial information to a nonaffiliated third party to perform services for the licensee or functions on the licensee's behalf, if the licensee: (5-3-03)

i. Provides the initial notice in accordance with Section 100; and (5-3-03)

ii. Enters into a contractual agreement with the third party that prohibits the third party from disclosing or using the information other than to carry out the purposes for which the licensee disclosed the information, including use under an exception in Section 451 or 452 in the ordinary course of business to carry out those purposes. (5-3-03)

451. EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION FOR PROCESSING AND SERVICING TRANSACTIONS.

01. Exceptions. The requirements for initial notice in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply if the licensee discloses nonpublic personal financial information as necessary to effect, administer or enforce a transaction that a consumer requests or authorizes, or in connection with: ( )

a. Servicing or processing an insurance product or service that a consumer requests or authorizes; (5-3-03)

b. Maintaining or servicing the consumer's account with a licensee, or with another entity as part of a private label credit card program or other extension of credit on behalf of such entity; (5-3-03)

c. A proposed or actual securitization, secondary market sale (including sales of servicing rights) or similar transaction related to a transaction of the consumer; or (5-3-03)

d. Reinsurance or stop loss or excess loss insurance. (5-3-03)

452. OTHER EXCEPTIONS TO NOTICE AND OPT OUT REQUIREMENTS FOR DISCLOSURE OF NONPUBLIC PERSONAL FINANCIAL INFORMATION.

01. Exceptions to Opt Out Requirements. The requirements for initial notice to consumers in Paragraph 100.01.b., the opt out in Sections 250, 251, and 400, and service providers and joint marketing in Section 450 do not apply when a licensee discloses nonpublic personal financial information: (5-3-03)

a. With the consent or at the direction of the consumer; ( )

b. To protect the confidentiality or security of a licensee's records pertaining to the consumer, service, product or transaction; (5-3-03)

c. To protect against or prevent actual or potential fraud or unauthorized transactions; (5-3-03)

d. For *prescribed* institutional risk control or for resolving consumer disputes or inquiries; ( )

e. To persons holding a legal or beneficial interest relating to the consumer; or (5-3-03)

f. To persons acting in a fiduciary or representative capacity on behalf of the consumer; (5-3-03)

g. To provide information to insurance rate advisory organizations, guaranty funds or agencies, agencies rating a licensee, persons assessing the licensee's compliance with industry standards, and the licensee's attorneys, accountants and auditors; ( )

h. To the extent specifically permitted or *prescribed* under other provisions of law and in accordance with the federal Right to Financial Privacy Act of 1978 (12 U.S.C. 3401 et seq.), to law enforcement agencies (including the Federal Reserve Board, Office of the Comptroller of the Currency, Federal Deposit Insurance Corporation, Office of Thrift Supervision, National Credit Union Administration, the Securities and Exchange Commission, the Secretary of the Treasury, and the Federal Trade Commission), with respect to 31 U.S.C. Chapter 53, Subchapter II (Records and Reports on Monetary Instruments and Transactions) and 12 U.S.C. Chapter 21 (Financial Recordkeeping), a state insurance authority, self-regulatory organizations or for an investigation on a matter related to public safety; ( )

i. To a consumer reporting agency in accordance with the federal Fair Credit Reporting Act (15 U.S.C. 1681 et seq.); or from a consumer report reported by a consumer reporting agency; (5-3-03)

j. In connection with a proposed or actual sale, merger, transfer, or exchange of all or a portion of a business or operating unit if the disclosure of nonpublic personal financial information concerns solely consumers of the business or unit; (5-3-03)

k. To comply with federal, state or local laws, rules, and other applicable legal requirements; to comply with a properly authorized civil, criminal, or regulatory investigation, or subpoena or summons by federal, state or local authorities; or to respond to judicial process or government regulatory authorities having jurisdiction over a licensee for examination, compliance, or other purposes as authorized by law; (5-3-03)

l. For purposes related to the replacement of a group benefit plan, a group health plan, a group welfare plan or a workers' compensation plan; or (5-3-03)

m. With the consent of or at the direction of a liquidator or rehabilitator appointed pursuant to Chapter 33, Title 41, Idaho Code. (5-3-03)

453. -- 499. (RESERVED)

500. NONDISCRIMINATION.
A licensee will not unfairly discriminate against any consumer or customer because that consumer or customer has opted out from the disclosure of their nonpublic personal financial information pursuant to the provisions of this rule. (5-3-03)

501. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Sections 41-211 and 41-1843, Idaho Code. (3-20-04)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.02.01, "Insurance Rates and Credit Rating." (3-20-04)

02. Scope. Implements Section 41-1843, Idaho Code, relating to the use of credit rating or credit history by insurers subject to said section. *( )*

002. – 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter, the following words have the following meanings: *( )*

01. Consumer Report. Any written, oral, or other communication of any information by a consumer reporting agency regulated under the federal Fair Credit Reporting Act (15 U.S.C. 1681) that bears on a consumer's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics, or mode of living. (3-20-04)

02. Credit Factor. A factor or criterion that consists of or is derived from information obtained from a consumer report*, and* is used by an insurer in determining policy premium rates or in determining whether to issue, cancel, or nonrenew a policy. *( )*

03. Noncredit Factor. Any factor other than a credit factor reasonably expected to affect the risk assumed by an insurer and used by the insurer in determining policy premium rates, or in determining whether to issue, cancel or nonrenew a policy. (3-20-04)

04. Weight. The consideration given by an insurer to a particular credit or noncredit factor relative to other factors considered in the underwriting or rating process. (3-20-04)

011. -- 099. (RESERVED)

100. USE OF CREDIT FACTORS.

01. *Banned* Acts. An insurer will not charge a higher premium than would otherwise be charged, or cancel, nonrenew or decline to issue a policy, based in any part upon credit factors unless: *( )*

a. The decision is also based on a noncredit factor or factors; and (3-20-04)

b. The aggregate weight given to the noncredit factors considered in making the decision is at least as great as *that* given to the credit factors considered in making the decision. (3-20-04)

02. Application of Rule. To determine whether a decision to issue, nonrenew or cancel a policy, or to charge a higher rate than would otherwise be charged, is not improperly based primarily upon a credit factor or factors, the Department will apply the following criteria: (4-4-13)

a. If an insurer declines to issue, nonrenews or cancels a policy based in any part upon a credit factor, *then* the insurer *needs* to show it also relied upon a noncredit factor or combination of noncredit factors in making the decision and the noncredit factor(s) played at least as great a role in the decision as did the credit factor. *( )*

b. If an insurer relies in any part upon a credit factor in establishing an initial rate for new business or to impose an increase in premium rate for a customer, *then* the insurer *needs* to show that it also considered noncredit factors in establishing the initial rate and that not more than one-half (½) of the initial or renewal premium rate is attributable to the credit factor. To satisfy this requirement, an insurer *may* do one (1) of the following: *( )*

i. *Demonstrate that t*he difference in the premium rate *using* the highest *credit factor* and *the* lowest *credit factor, all noncredit factors being unchanged, does not exceed* one-half (½) the highe*r* premium rate; or *( )*

ii. *Demonstrate that t*he premium rate calculated without using credit *is* equal to or greater than one-half (½) of the premium rate calculated using the highest credit factor. The premium rate without using credit, *means the premium rate with* all the noncredit factors *unchanged* and replac*ing* the *highest* credit factor with the average credit factor. The average credit factor *needs to* be calculated from the actual distribution of Idaho business by credit factor. *( )*

03. Information Used in Reviewing Insurer's Decision. To evaluate whether an underwriting or rating decision was based primarily upon credit factors, the Department may require the insurer to explain in detail the insurer's underwriting or rating process, identify all factors considered in the process, and describe how the process was applied in the case under review. The Department may also require the insurer to apply its underwriting or rating process to hypothetical cases submitted to the insurer by the Department. (3-20-04)

101. -- 199. (RESERVED)

200. OTHER LAWS OR RULES.
Nothing in this chapter limit*s* or modif*ies* any other law or rule imposing restrictions regarding rating, issuing, canceling or nonrenewing a policy. *( )*

***201*. RETENTION OF RECORDS.**
Insurers subject to this rule will document the factors and criteria considered in underwriting and rating decisions and will retain the documentation for at least five (5) years. *( )*

***202*. VIOLATIONS.**
A failure to comply with this rule is a violation of Section 41-1843, Idaho Code. (3-20-04)

203. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 25, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.02.02, "Automobile Insurance Policies." (3-28-18)

02. Purpose. Provide*s* guidelines *to* assist in the implementation and uniform interpretation of the following Sections 41-2502, 41-2506, 41-2507, 41-2508, and 41-2509 of the Idaho Code. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
The Idaho Department of Insurance adopts the definitions set forth in Title 41, Chapter 25, Idaho Code. In addition, the following terms are defined as used in this chapter. (3-28-18)

01. The Act. For the purpose of this Rule, the term "the Act," unless otherwise noted, refers to Sections 41-2506, 41-2507, 41-2508, 41-2509, 41-2510, 41-2511, 41-2512, Idaho Code. *( )*

02. Non-Payment of Premium. The time and date of cancellation *of a policy for non-payment of premium will* be no earlier than ten (10) days after the date such notice was mailed or delivered, the date of mailing *is* the first day and the tenth day end*s* at midnight, standard time, at the last known address of the named insured. Nothing in this rule *is* construed to permit any agent or other representative of the insurer to cancel any policy without the *agreement* of the insurer or for any private debt between the agent and the insured. Also, nothing in the section *is* construed to prohibit a policy from being canceled effective as of any date mutually acceptable to the insured, the insurer and the lienholder, if any. Furthermore, a prior existing policy will terminate on the effective date of any other policy procured by the insured with respect to any automobile designated in both policies and containing duplicate insurance coverage. *( )*

03. Sixty Day Period. Should an insurer, after *the sixty (60) day period referred to in Section 41-2506, Idaho Code, find that after* investigation of a particular risk, conclude that it does not wish to remain on the risk, it may decline to continue such policy in force. Therefore, an insurer may deliver notice of cancellation or mail notice of cancellation concerning any new automobile policy on or before the sixtieth (60th) day after *the effective* date of the policy. The policy will remain in force from the date the notice of cancellation is mailed to the usual date the cancellation is effective as *prescribed* by the terms and conditions of the policy, without the policy being subject to the provisions of the Act. *( )*

011. ERRORS OR MISREPRESENTATIONS IN THE APPLICATION.

01. Material Misrepresentation. An insurer may cancel or refuse to renew a policy after giving the insured proper notice if the insurer has evidence the named insured, or legal representative, made fraudulent or material misrepresentations, omissions, concealment of facts or incorrect statements in obtaining the policy and if the insurer in good faith would not have issued the policy *or* provided coverage with respect to a particular hazard if the true facts had been made known to the insurer as *prescribed* in the application. *( )*

02. Prohibitions. Nothing in this rule is construed to allow the insurer to void the policy back to its *effective* date or rescind coverage under the policy to prevent a recovery under the policy in the event of a loss otherwise insured by the policy. *( )*

012. ALLOWABLE CONVICTIONS FOR TRAFFIC VIOLATIONS.

01. Grounds and Requests for Cancellation Due to Traffic Violation Convictions. For purposes of Section 41-2507*, Idaho Code,* the term "conviction" mean*s* a final conviction by any court having competent jurisdiction over violations of laws regulating the operation of motor vehicles. *( )*

02. Conviction Exception. For the purposes of the Act, an overtime parking violation is not *considered* a conviction. *( )*

013. NOTICE OF PREMIUM DUE AS WILLINGNESS OF INSURER TO RENEW.

Mailing by the insurer of the renewal premium notice constitute*s* willingness by the insurer to renew. If the insured fails to pay the renewal premium when due, the policy will terminate in accordance with its terms. No further notice to the insured by the insurer of an intention not to renew for non-payment of premium is necessary. *( )*

014. ACCEPTABLE FORMS FOR NOTICE OF CANCELLATION, REFUSAL TO RENEW, AND AVAILABILITY OF IDAHO AUTOMOBILE INSURANCE PLAN.

01. Notice Forms. *The* insurer will prepare *forms of* notice to use and submit to the Director for approval. *( )*

02. Acceptable Language. As a guide, the Department *may* accept the following language, or language substantially similar, as satisfying the indicated notice requirements of the Act: *( )*

a. Right of Insured to Request Reasons for Cancellation by Insurer: *U*pon your written request, mailed or delivered to (Name of Insurer) not less than ten (10) days prior to the effective date of this cancellation, (Name of Insurer) will supply to you the reason or reasons why your policy has been canceled." *( )*

b. Right of Insured to Request Reasons for Refusal to Renew by Insurer: *U*pon your written request, mailed or delivered to (Name of Insurer) not less than fifteen (15) days prior to the expiration date of your policy, which is the date coverage ceases under your policy unless it is renewed, the (Name of Insurer) will supply to you the reason or reasons why your policy will not be renewed." *( )*

c. Notification to Insured of Coverage Available Under Idaho Automobile Insurance Plan: "Should you experience difficulty in obtaining automobile liability insurance, please contact your agent or company representative for full particulars concerning your possible eligibility for insurance through the Idaho Automobile Insurance Plan." (7-1-93)

015. STANDARD STATEMENT REGARDING UNINSURED AND UNDERINSURED MOTORIST COVERAGE.

The form set forth *on the Department's website* is the standard statement approved by the Director pursuant to Section 41-2502, Idaho Code, and carriers *are to* us*e* the form for all new policies and those existing policies where UM or UIM coverage is added or removed. Carriers may make non-substantive changes to this form, for example, including inserting company letterhead, and carriers *need to* file their standard statement forms with the Director prior to use. This rule does not create new requirements for the types of UIM coverage carriers offer beyond what existed as of the effective date of this rulemaking. *( )*

016. -- 999. (RESERVED)

18.02.03 – CERTIFICATE OF LIABILITY INSURANCE FOR MOTOR VEHICLES

000. LEGAL AUTHORITY.
Title 41, Chapter 49, Sections 49-1229, 49-1231, and 49-1608A, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.02.03, "Certificate of Liability Insurance for Motor Vehicles." (3-30-07)

02. Scope. To identify requirements for a certificate of liability insurance for motor vehicles pursuant to Sections 49-1229, 49-1231 and 49-1608A, Idaho Code. (3-30-07)

002. -- 010. (RESERVED)

011. CONTRACT OF INSURANCE, OR COPY THEREOF -- CERTIFICATE OF LIABILITY INSURANCE.
The original contract of liability insurance, or *a* copy, that demonstrates the current existence of liability insurance against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person caused by accident and arising out of the operation, maintenance or use of a motor vehicle or motor vehicles described, in an amount not less than *prescribed* by Sections 49-117(*20*), 49-1212, and 49-1608A, Idaho Code, and also demonstrates the current existence of any other coverage *prescribed* by Title 41, Idaho Code, is a form of a certificate of liability insurance prescribed as such by the Director, provided said contract of liability insurance is issued by an insurer or surety authorized to do business in this state. For the purpose of this rule a written binder qualifies as a contract of liability insurance provided it binds coverage in an amount not less than *prescribed* by Section 49-117(*20*), Idaho Code, and demonstrates the existence of any other coverage *prescribed* by this rule.*( )*

012. MINIMUM SPECIFICATIONS FOR A CERTIFICATE OF LIABILITY INSURANCE IN LIEU OF THE CONTRACT OF INSURANCE, OR *A* COPY.
A document that meets the minimum specifications provided in this rule is *considered* a certificate of liability insurance in a form prescribed by the Director, which is acceptable in lieu of an original contract of liability insurance or *a* copy, demonstrating the current existence of liability insurance as described in Section 011 of this rule. The minimum requirements of a document *considered* a certificate of liability insurance, or *a* copy *are*: *( )*

01. Individual-Owned Motor Vehicles. (3-30-07)

a. The document *identifies* the insurer or surety company authorized to do business in this state. *( )*

b. The document *provides* the name and address of the owner of the *insured* motor vehicle. *( )*

c. The document *describes* the motor vehicle including identification number, the last three digits of the *vehicle* identification number, *or* the words "all owned vehicles" if more than one vehicle is insured. *( )*

d. The document *shows* the effective date the liability insurance coverage begins. *( )*

e. The document may *show* "Certificate of Liability Insurance" or "Liability Insurance Identification Card." The words "State of Idaho" may be added to the title at the insurer's option. *( )*

f. The document may *show* the date the liability insurance coverage ceases, or may state "not valid beyond _____," provided the phrase is completed to indicate termination of coverage at the end of a fixed period, or "not valid for more than one year," or "continuous until cancelled." *( )*

g. The number of the insurance policy or the document is suggested, but optional. *( )*

h. The sentence "KEEP THIS CERTIFICATE IN YOUR AUTOMOBILE AT ALL TIMES" is suggested, but optional. *( )*

02. Dealer and Manufacturer Vehicles. (3-30-07)

a. The document *identifies* the insurer or surety company authorized to do business in this state. *( )*

b. The document *provides* the name and address of the dealership and identifi*ies* the owner(s) (name*(s)* of dealer, partners, corporation or LLC members) of the *insured* motor vehicle. *( )*

c. The document *shows* the effective date the liability insurance coverage *begins*. *( )*

d. The document may *show* "Certificate of Liability Insurance" or "Liability Insurance Identification Card." The words "State of Idaho" may be added to the title. *( )*

e. The document *shows* the date the liability insurance coverage ceases or may state "not valid beyond _____," provided the phrase is completed to indicate termination of coverage at the end of a fixed period, or "not valid for more than one year," or "continuous until cancelled." *( )*

f. The number of the insurance policy or the document is suggested, but optional. *( )*

013. EXAMPLE*S* OF A NONEXCLUSIVE FORMAT FOR A DOCUMENT.
Examples of a nonexclusive format for a document that meets the requirements of a certificate of liability insurance in a form prescribed by the Director may be found on the Department website. *( )*

014. EXAMPLE OF CERTIFICATE OF LIABILITY INSURANCE TO BE ISSUED BY THE DIRECTOR *MAY BE FOUND ON THE DEPARTMENT WEBSITE*.
The Director will issue a certificate of liability insurance to the owner(s) of a motor vehicle who posts an indemnity bond in a form approved by the Director pursuant to Section 49-1229(2), Idaho Code. *( )*

015. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 19, Sections 41-211 and 41-1940, Idaho Code. (4-4-13)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.03.01, "Suitability in Annuity Transactions." (4-4-13)

02. Scope *and Purpose*. This rule applies to any recommendation to purchase or exchange an annuity made to a consumer by a producer, or an insurer where no producer is involved, that results in the purchase or exchange recommended. The purpose of this rule is to require insurers to establish a system to supervise recommendations and to set forth standards and procedures for recommendations to consumers that result in transactions involving annuity products so that the insurance needs and financial objectives of consumers at the time of the transaction are appropriately addressed. *( )*

002. INCORPORATION BY REFERENCE.

01. Incorporated Documents. IDAPA 18.03.01, "Suitability in Annuity Transactions," adopts and incorporates by reference parts of the following documents: (4-4-13)

a. United States Code, Title 29 - Labor, Chapter 18 - Employee Retirement and Income Security Act (ERISA). (4-4-13)

b. United States Code, Title 26 - Internal Revenue Code. (4-4-13)

c. FINRA Rule 2111, effective July 9, 2012. (4-4-13)

02. Availability of Referenced Documents. (4-4-13)

a. Printed copies of the documents described in Subsections 002.01.a. and 002.01.b. are available from the Superintendent of Documents, U.S. Government Printing Office, P.O. Box 371954, Pittsburgh, PA 15250-7954 as well as from the Department; the telephone number is (202) 512-1800, and electronic copies are available online at https://www.govinfo.gov/content/pkg/USCODE-2011-title29/pdf/USCODE-2011-title29-chap18.pdf and http://www.law.cornell.edu/uscode/text/26. *( )*

b. A printed copy of the document described in 005.01.c. is available from FINRA, Two Union Square, 601 Union Street, Suite 1616, Seattle, WA 98101-2327, telephone (206) 624-0790, as well as from the Department, and an electronic copy is available online at https://www.finra.org/rules-guidance/rulebooks/finra -rules/2111?element_id=9859&rbid=2403. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Annuity. An insurance product under State law that is individually solicited, whether classified as individual or group. *( )*

02. FINRA. The Financial Industry Regulatory Authority or a succeeding agency. (4-4-13)

03. Recommendation. Advice provided by a producer or an insurer to an individual consumer that results in a purchase, exchange or replacement of an annuity in accordance with that advice. (4-4-13)

04. Replacement. A transaction in which a new policy or contract is purchased, and it is known or should be known to the proposing producer or insurer that by reason of the transaction, an existing policy or contract has been or is to be: *( )*

a. Lapsed, forfeited, surrendered or partially surrendered, assigned to the replacing insurer or terminated; *( )*

b. Converted to reduced paid-up insurance, continued as extended term insurance, or reduced in value

by the use of nonforfeiture benefits or other policy values; ( )

c. Amended to effect either a reduction in benefits or in the term for which coverage would remain in force or for which benefits would be paid; ( )

d. Reissued with any reduction in cash value; or (4-4-13)

e. Used in a financed purchase. (4-4-13)

05 Suitability Information. Information reasonably appropriate to determine the suitability of a recommendation, including the following: ( )

a. Age; (4-4-13)

b. Annual income; (4-4-13)

c. Financial situation and needs, including the financial resources used for the funding of the annuity; (4-4-13)

d. Financial experience; (4-4-13)

e. Financial objectives; (4-4-13)

f. Intended use of the annuity; (4-4-13)

g. Financial time horizon; (4-4-13)

h. Existing assets, including investment and life insurance holdings; (4-4-13)

i. Liquidity needs; (4-4-13)

j. Liquid net worth; (4-4-13)

k. Risk tolerance; and (4-4-13)

l. Tax status. (4-4-13)

011. TRANSACTION EXEMPTIONS.
Unless specifically included, this rule does not apply to transactions involving: (4-4-13)

01. Direct Response Solicitations. A response to a direct solicitation where there is no recommendation made based on information collected from the consumer pursuant to this rule; (4-4-13)

02. Contracts Used to Fund: ( )

a. An employee pension or welfare benefit plan covered by the Employee Retirement and Income Security Act (ERISA); (4-4-13)

b. A plan described by Sections 401(a), 401(k), 403(b), 408(k), or 408(p) of the Internal Revenue Code (IRC), as amended, if established or maintained by an employer; (4-4-13)

c. A government or church plan defined in Section 414 of the IRC, as amended, a government or church welfare benefit plan, or a deferred compensation plan of a state or local government or tax-exempt organization under Section 457 of the IRC, as amended; (4-4-13)

d. A nonqualified deferred compensation arrangement established or maintained by an employer or plan sponsor; (4-4-13)

e. Settlements or assumptions of liabilities associated with personal injury litigation or any dispute or claim resolution process; (4-4-13)

f. Formal prepaid funeral contracts; or (4-4-13)

g. Prepaid contracts used to fund funeral and related funeral expenses governed by Sections 54-1131 et seq., Idaho Code. (4-4-13)

012. -- 014. (RESERVED)

015. DUTIES OF INSURERS AND OF PRODUCERS.

01. General Rule. In recommending to a consumer the purchase or exchange of an annuity that results in another insurance transaction or series of insurance transactions, the producer or insurer have a reasonable basis to believe that the recommendation is suitable for the consumer based on the facts disclosed by the consumer the seller *needs to* have a reasonable basis to believe all of the following: *( )*

a. The consumer has been reasonably informed of various features of the annuity, including: (4-4-13)

i. The potential surrender period and surrender charge; (4-4-13)

ii. The potential tax penalty if the consumer sells, exchanges, surrenders or annuitizes the annuity; (4-4-13)

iii. Mortality and expense fees; (4-4-13)

iv. Investment advisory fees; (4-4-13)

v. Potential charges for and features of riders; (4-4-13)

vi. Limitations on interest returns; (4-4-13)

vii. Insurance and investment components; and (4-4-13)

viii. Market risk; (4-4-13)

b. The consumer would benefit from certain features of the annuity; *( )*

c. The particular annuity as a whole, the underlying subaccounts to which funds are allocated at the time of purchase or exchange of the annuity, and riders and similar product enhancements, if any, are suitable for the particular consumer based on *the* suitability *of the* information *provided*; and *( )*

d. In the case of an exchange or replacement of an annuity, the exchange or replacement is suitable and the producer or insurer has considered whether the consumer: (4-4-13)

i. Will incur a surrender charge, be subject to the commencement of a new surrender period, lose existing benefits, or be subject to increased fees, investment advisory fees or charges for riders and similar product enhancements; or *( )*

ii. Would benefit from product enhancements and improvements; or (4-4-13)

iii. Has had another annuity exchange or replacement and, in particular, an exchange or replacement *in* the preceding thirty-six (36) months. *( )*

02. Collection of Information. Prior to the execution of a purchase, exchange or replacement of an annuity resulting from a recommendation, a producer, or insurer when no producer is involved, will make reasonable

efforts to obtain the consumer's suitability information. (4-4-13)

03. Reasonable Basis. Except as permitted under Subsection 015.04, an insurer *can*not issue an annuity recommended to a consumer unless there is a reasonable basis to believe the annuity is suitable based on the consumer's suitability information. *( )*

04. Exceptions. (4-4-13)

a. Except as provided *in Title 41*, neither a producer nor an insurer will have any obligation to a consumer under Subsection 015.01 or 015.03 related to any annuity transaction if: *( )*

i. No recommendation is made; or (4-4-13)

ii. A recommendation was made and was later found to have been prepared based on materially inaccurate information provided by the consumer. *( )*

05. Record Keeping. A producer or, when no producer is involved, the responsible insurer representative, will at the time of sale: (4-4-13)

a. Make a record of any recommendation subject to Subsection 015.01; (4-4-13)

b. Obtain a customer signed statement documenting a customer's refusal to provide suitability information, if any; and (4-4-13)

c. Obtain a customer signed statement that acknowledges that an annuity transaction is not recommended if a customer decides to enter into an annuity transaction not based on the producer's or insurer's recommendation. (4-4-13)

06. Supervision for Compliance. (4-4-13)

a. An insurer will establish a supervision system reasonably designed to achieve the insurer's and its producers' compliance with this rule. This includes, but is not limited to, the following: (4-4-13)

i. Establishing and maintaining reasonable procedures to inform its producers of the requirements of this rule and incorporating the requirements of this rule into relevant producer training manuals; (4-4-13)

ii. Providing product-specific training and training materials that explain all material features of its annuity products to its producers; (4-4-13)

iii. Establishing and maintaining procedures for review of each recommendation, prior to issuance of an annuity, that are designed to ensure there is a reasonable basis to determine a recommendation is suitable. *( )*

iv. Establishing and maintaining procedures to detect recommendations that are not suitable. *( )*

v. Annually providing a report to senior management, including those responsible for audit functions, that details a review, with appropriate testing designed to determine the effectiveness of the supervision system, and includes any exceptions found and any corrective actions taken or recommended. (4-4-13)

b. Contracting. (4-4-13)

i. Nothing in this subsection restricts an insurer from contracting for performance of a function (including establishing and maintaining procedures) *prescribed* under Paragraph 015.06.a. of this rule. An insurer is responsible for taking appropriate corrective action and may be subject to sanctions and penalties. *( )*

ii. An insurer's supervision system under Paragraph 015.01.a. of this rule *needs to* include supervision of contractual performance under Subsection 015.06. This supervision of performance includes, but is not limited to, the following: *( )*

(1) Monitoring and, as appropriate, conducting audits to assure that the contracted function is properly performed; and (4-4-13)

(2) Annually obtaining a certification from a senior manager who has responsibility for the contracted function that the manager has a reasonable basis to represent, and does represent, that the function is properly performed. (4-4-13)

07. ***Banned Actions***. A producer *can*not dissuade, or attempt to dissuade, a consumer from: *( )*

a. Truthfully responding to an insurer's request for confirmation of suitability information; (4-4-13)

b. Filing a complaint; or (4-4-13)

c. Cooperating with the investigation of a complaint. (4-4-13)

08. Compliance With FINRA. (4-4-13)

a. Sales made in compliance with FINRA requirements pertaining to suitability and supervision of annuity transactions as reflected in FINRA Rule 2111 will satisfy the requirements under this rule. This subsection applies to FINRA broker-dealer sales of variable annuities and fixed annuities if the suitability and supervision is similar to those applied to variable annuity sales. However, nothing in this subsection limits the Director's ability to enforce the provisions of this rule or investigate for compliance. (4-4-13)

b. For Paragraph 015.08.a. to apply, an insurer *needs to*: *( )*

i. Monitor the FINRA member broker-dealer using information collected in the normal course of an insurer's business; and (4-4-13)

ii. Provide to the FINRA member broker-dealer information and reports that are reasonably appropriate to assist the FINRA member broker-dealer to maintain its supervision system. (4-4-13)

016. PRODUCER TRAINING.

01. General Rule. A producer will not solicit the sale of an annuity product unless the producer has adequate knowledge of the product to recommend the annuity and the producer is in compliance with the insurer's standards for product training. A producer may rely on insurer-provided, product-specific training standards and materials to comply with this subsection. (4-4-13)

02. Requisite Producer Training Courses and Education. *( )*

a. A producer who engages in the sale of annuity products will complete a one-time, four-credit training course approved by the Department and provided by the Department-approved education provider. (4-4-13)

b. The minimum length of the training *prescribed* under this subsection *is* sufficient to qualify for at least four (4) CE credits, but may be longer. *( )*

c. The training *prescribed* under this subsection will include information on the following topics: *( )*

i. The types of annuities and various classifications of annuities; (4-4-13)

ii. Identification of the parties to an annuity; (4-4-13)

iii. How fixed, variable and indexed annuity contract provisions affect consumers; (4-4-13)

iv. The application of income taxation of qualified and non-qualified annuities; (4-4-13)

v. The primary uses of annuities; and (4-4-13)

vi. Appropriate sales practices, replacement and disclosure requirements. (4-4-13)

d. Providers of courses intended to comply with this subsection will cover all topics listed in the prescribed outline and *will* not present any marketing information or provide training on sales techniques or provide specific information about a particular insurer's products. Additional topics may be offered in conjunction with and in addition to the *prescribed* outline. *( )*

e. A provider of an annuity training course intended to comply with this subsection will register as a CE provider in this State and comply with the rules and guidelines applicable to producer continuing education courses as set forth in IDAPA 18.06.04. (4-4-13)

f. Annuity training courses may be conducted and completed by classroom or self-study methods in accordance with IDAPA 18.06.04. (4-4-13)

g. Training requirements of another State substantially similar to the provisions of this subsection will satisfy the training requirements of this subsection in this State. *( )*

h. An insurer *needs to* verify that a producer has completed the annuity training course *prescribed* under this subsection before allowing the producer to sell an annuity product for that insurer. *( )*

017. -- 020. (RESERVED)

021. RECORDKEEPING.

01. Termination. If the producer's appointment with the insurer is terminated or license suspended or revoked, the producer *needs to* remit copies of all records to the insurer in twenty-one (21) days of termination or change in license status. *( )*

03. Form. Records *prescribed* to be maintained by this rule may be maintained on any media and by any process that accurately reproduces the original document. *( )*

022. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 19, Sections 41-211 and 41-1965, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. 18.03.02, "Life Settlements." (3-29-10)

02. Scope. This rule sets forth requirements regarding the sale and settlement of life insurance contracts where the owner of the contract is an Idaho resident. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Advertising Materials. (3-29-10)

a. Printed and published material, audio visual material, and descriptive literature of a broker or provider used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other internet displays or communications, other forms of electronic communications, billboards and similar displays; (3-29-10)

b. Descriptive literature and sales aids of all kinds issued by a provider or broker for presentation to members of the insurance buying public, including but not limited to circulars, leaflets, booklets, depictions, illustrations, and form letters; and (3-29-10)

c. Prepared sales talks, presentations and material for use by providers and brokers. (3-29-10)

02. Affiliation. Any contractual relationship outside of the proposed life settlement contract, any ownership interest or relation, any familial relation, an employment relation, any relationship creating financial dependency, any arrangement that provides one party the ability to control or influence the actions of another party, or any other arrangement or relationship that might reasonably result in parties treating one another in a less than arm's length manner. *( )*

03. Operating as a Broker. As defined in Section 41-1951(6), Idaho Code. *( )*

04. Operating as a Provider. As defined in Section 41-1951(8), Idaho Code. *( )*

011. REGISTRATION TO OPERATE AS LIFE SETTLEMENT PROVIDER OR LIFE SETTLEMENT BROKER.

01. Registration. Not later than ten (10) days after first operating as a provider or broker a person will notify the Director that *they are* acting as a provider or broker by registering with the Department and paying applicable fees as set forth at IDAPA 18.01.02, "Schedule of Fees, Licenses and Miscellaneous Charges". Registration include*s* information as *prescribed* by the Director along with a certification from the applicant that *they have* read and familiarized *themselves* with the requirements of Sections 41-1950 through 41-1965, Idaho Code, and these rules. *( )*

02. Renewal of Registration. Registration as a broker or provider continues until the next renewal date of the person's producer license. If the initial registration takes place within ninety (90) calendar days from the producer license expiration date, registration will continue until the following producer license renewal date. Registration may be renewed by payment of the applicable renewal fee as set forth at IDAPA 18.01.02. An insurance producer who allows *their* registration as a broker or provider to lapse may, within twelve (12) months from the renewal due date, reinstate the registration by paying a penalty in the amount of double the unpaid renewal fee. If a registration is allowed to lapse for more than twelve (12) months without reinstatement, a producer wishing to act a broker or provider will re-register with the Department and pay the applicable registration fee prior to operating as a broker or provider. *( )*

012. FILING OF FORMS.

01. Filing of Life Settlement Contracts and Disclosure Forms. No person may use a life settlement contract or disclosure form in Idaho unless the form is first filed with the Department along with a certification that

the form meets the requirements of Sections 41-1950 through 41-1965, Idaho Code. The certification will be in the form as prescribed by the Director and signed by a person registered as a provider or broker. (3-29-10)

02. Filing of Advertising Materials. No person may use advertising materials promoting or advertising the availability of life settlements or life settlement services in Idaho unless the materials are first filed with the Department. If the advertising is not in written form, a written script will be filed. All advertising relating to the business of life settlements will have a unique identifying form number in the lower left-hand corner of the advertising piece and needs to comply the following standards: (3-29-10)

a. Be truthful and not misleading in fact and implication. All information is set out conspicuously and in close conjunction with the statements and *will not* be minimized, rendered obscure, ambiguous, or intermingled with the context of the advertisement so as to be confusing or misleading. *( )*

b. Reference the complete form number of any life settlement contract being advertised and clearly identify the full and complete name of the provider or broker using the promotional material. Advertising materials *can*not use a trade name, any insurance group designation, name of the parent company of the provider or broker, name of a particular division of the provider or broker, service mark, slogan, symbol or other device which would have the capacity and tendency to mislead or deceive as to the true identity of the provider or broker without disclosing the name of the actual provider or broker using the advertising material. *( )*

c. No advertisement will omit information or use words, phrases, statements, references or illustrations if the omission of such information or use of such words, phrases, statements, references or illustrations has the capacity, tendency or effect of misleading or deceiving sellers or prospective sellers as to the nature or extent of any policy benefit payable. The fact that the contract offered is made available to a prospective seller for inspection prior to consummation of the sale or an offer is made to rescind the life settlement contract if the seller is not satisfied, does not remedy misleading statements. (3-29-10)

d. Advertising materials *can*not use words or phrases in a manner which exaggerates any benefits beyond the terms of the life settlement contract and fairly and accurately describe the negative features as well as the positive features of the life settlement contract and life settlement program. An advertisement *can*not represent or imply that life settlements by the provider are "liberal" or "generous," or use words of similar import, or that benefits of a life settlement are or will be beyond the actual terms of the life settlement contract. *( )*

e. Advertising materials *can*not be designed to encourage or promote the purchase of life insurance for the purpose of transferring ownership to third party investors who lack an insurable interest in the in the life of the insured. *( )*

f. An advertisement *can*not create the impression directly or indirectly that a provider, a broker, its financial condition or status, a life settlement contract or program, or the payment of life settlement benefits is approved, endorsed, or accredited by any division or agency of this state or the United States Government. *( )*

g. Testimonials used in advertisements *needs to* be genuine, represent the current opinion of the author, be applicable to the life settlement contract advertised and be accurately reproduced. A provider or broker using a testimonial makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of these rules. If the person making a testimonial, an endorsement or an appraisal has a financial interest in the provider or broker, or a related entity as a stockholder, director, officer, employee, or otherwise, such fact is disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact *will be* disclosed in the advertisement by language substantially as follows: "Paid Endorsement." *( )*

h. The source of any statistics used in an advertisement are identified in the advertisement. (3-29-10)

03. Font Size for Printed Materials. Pertinent text of all printed materials *needs* to be filed with the director under the Life Settlement Act, including, but not limited to, notices, disclosure forms, contract forms, and advertising material, is to be formatted using at least a twelve (12) point font. Signature blocks, footnotes or text not relevant to the understanding of the printed material may be printed in a smaller font, but in no case smaller than a ten (10) point font. *( )*

04. Disapproval of Noncompliant Forms. The Director may disapprove any form *needed* to be filed pursuant to this Section if, the form does not comply with any part of Title 41, Idaho Code, or these rules, or the form is unreasonable in its terms, contrary to the interests of the public, misleading to the public, unfair to the owner, or is printed or provided in a manner making any part of the form substantially illegible. *( )*

013. ANNUAL REPORTING REQUIREMENTS.
All persons registered with the Director as a provider will file *an annual statement* with the Director, on or before March 1st of each year. An annual report is *needed* regardless of whether any life settlement contracts with Idaho owners were executed during the year. *( )*

014. EXAMINATION AND RECORDS.
Brokers and providers are subject to examination by the Director in accordance with Title 41, Chapter 2, Idaho Code, and pay, at the direction of the Director, the actual travel expenses, reasonable living expense allowance, and reasonable compensation incurred on account of the examination upon presentation of a detailed account of the charges and expenses. (3-29-10)

015. DISCLOSURES TO OWNER.

01. Disclosure to Owner Upon Application. A broker or provider will not provide an owner with an application for a life settlement contract unless the owner has also been provided a disclosure form containing all the information *requisite* by Idaho Code, 41-1956 and in substantially the same form as the sample form found on the Department website. The disclosures are provided in a separate document in at least twelve (12) point font. Each page of the disclosure document is initialed by the owner indicating that it has been received and read by the owner, and the final page is dated and signed by the owner and the broker or provider that delivered the disclosure document to the owner. *( )*

02. Disclosures to Owner by Provider Upon Settlement. Prior to the time an owner signs a life settlement contract, the provider will provide the owner a disclosure form containing all the information *prescribed* by Idaho Code 41-1957 and in substantially the same form as the sample form found on the Department website. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, *they are* conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font and with a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract is initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document *will* be initialed by the owner and the final page *needs to* be dated and signed by the owner and the provider. *( )*

03. Disclosure to Owner by Broker Upon Settlement. Prior to the time an owner signs a life settlement contract, the broker will provide the owner a disclosure form containing all the information *prescribed in* Idaho Code 41-1958 and in substantially the same form as the sample form found on the Department website. The disclosures may be made by a separate document or included as a part of the life settlement contract. If the disclosures are included in the life settlement contract, they *are* conspicuously displayed in the contract by segregating the disclosures from the rest of the contract on a separate page or as a separate section using at least twelve (12) point font, and a heading in bold font stating: "Important Disclosures Required by Law." Each disclosure page of the life settlement contract is initialed by the owner indicating that the owner has read the page. If the disclosures are provided in a separate document, each page of the document *needs to* be initialed by the owner and the final page dated and signed by the owner and the broker. *( )*

04. Affiliations Disclosed. As a part of the disclosures in this Section, a provider discloses in writing to the owner any affiliation between the provider and the issuer of the insurance policy to be settled, and a broker discloses in writing any affiliation or contractual arrangement between the broker and any person making an offer in connection with a proposed life settlement contract. *( )*

016. ADDITIONAL REQUIREMENTS.

01. Owner's Statement. (3-29-10)

a. Prior to entering into a life settlement contract, the provider obtains from each owner a written statement in substantially the following form: "I, [owners name], have freely and voluntarily consented to the life settlement contract that accompanies this statement. I have carefully read my insurance policy that is the subject of the life settlement contract and I understand the benefits that are available under the policy. I further understand that by entering into the life settlement contract, the right to benefits under the insurance policy will be sold to another party and I, my heirs or former beneficiaries will no longer have any right to receive those policy benefits."(3-29-10)

b. If the owner has a terminal or chronic illness, the following wording *is* also *to* be included in the owner's statement: "I am currently suffering from a terminal or chronic illness that was not diagnosed until after the policy that is the subject of the life settlement contract was issued." *( )*

c. The statement of the owner *needs to* also be acknowledged by a notary public. *( )*

02. Owner's Right to Rescind Life Settlement Contract. (3-29-10)

a. The life settlement contract *is to* conspicuously inform the owner in bold type of at least twelve (12) point font that the owner has an absolute right to rescind a life settlement contract within twenty (20) calendar days of the date the contract is executed and set*s* forth the manner in which notice is given. *( )*

b. Upon being informed of the owner's intention or desire to rescind a life settlement contract, the provider immediately provide*s* the owner with a full accounting of the amount that *will* be repaid by the owner in to rescind the policy. The amount due include*s* only amounts actually paid to and received by the owner pursuant to the terms of the life settlement contract along with any premiums, loans and loan interest paid by or on behalf of the provider in connection with or as a direct consequence of the life settlement contract. An owner *is* not *obligated* to pay any financial penalties, liquidated damages or other punitive fees or charges in connection with rescission of a life settlement contract. *( )*

c. Until the owner receives from the provider an accounting of the full and correct repayment amount needed to rescind the life settlement contract, a tender of payment by the owner of amounts actually received and reasonably believed to be due upon rescission will be deemed in substantial compliance with the requirement of notice and repayment of proceeds within the twenty (20) day rescission period. (3-29-10)

03. Life Settlements Occurring Within Two Years of Policy Origination. (3-29-10)

a. No broker or provider may solicit, arrange for, or enter into a life settlement contract within two (2) years of the date of issuance of the life insurance policy or certificate being settled unless one (1) or more of the conditions identified in Section 41-1961, Idaho Code, applies. If one (1) or more of the conditions is present, the provider obtain*s* from the owner a written statement sworn before a notary public setting forth in detail the circumstances permitting the early settlement of the contract. The sworn statement also include*s* the following or substantially similar wording: "I hereby affirm that there was no plan or arrangement in place or under discussion, or any promises made, regarding the settlement of this life insurance policy at the time the policy was purchased." *( )*

b. In addition to the sworn statement, the provider will obtain and retain as a part of its records independent documentation of the circumstances permitting early settlement of the life insurance policy along with all documentation relating to any premium financing arrangements made in connection with the policy being settled. (3-29-10)

c. The sworn statement and copies of all supporting documentation will be provided to the insurer at the time a request for verification of coverage is submitted to the insurer. A request for verification of coverage relating to a policy or certificate that has been in effect for two (2) years or less will be considered incomplete if it is not accompanied by the owner's sworn statement and supporting documentation. An insurer that determines a request for verification of coverage is incomplete *will immediately* inform the broker or provider in writing that the verification is incomplete and identify all items needed to complete the request. *( )*

017. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 19, Idaho Code. (7-1-93)

001. PURPOSE.
To provide a comprehensive plan: for the qualification and licensing of insurers to write policies or contracts on a variable basis; for establishment of separate accounts and the investment of assets contained therein; for the filing and approval of policy and contract forms; for reports to contract holders; for the qualification, examination and licensing of agents and other persons; providing for the establishment and preservation of certain records and the establishment of other standards pertaining to the offering and sale of such contracts. *( )*

002. -- 009. (RESERVED).

010. DEFINITIONS.

01. Variable Contracts. Any policy or contract that provides for insurance or annuity benefits which vary according to the investment experience of any separate account or accounts maintained by the insurer as to such policy or contract. *( )*

02. Agent. Any person, corporation, partnership, or other legal entity which under the laws of this state is licensed as a life insurance agent. *( )*

03. Variable Contract Agent. An agent who sells or offers to sell any contract on a variable basis. *( )*

04. Satisfactory Alternative Examination. Part I of the written examination includes any securities examination that is declared by the Director to be an equivalent examination. The following are satisfactory alternative examinations: *( )*

a. The *Financial Industry Regulatory Authority (FINRA)*, Examination for Principals, or Examination for Qualification as a Registered Representative; *( )*

b. The various securities examinations *needed* by the New York Stock Exchange, the American Stock Exchange, or the Pacific Coast Stock Exchange; *( )*

c. The Securities and Exchange Commission test given pursuant to Section 15(b)(8) of the Securities Exchange Act of 1934, as amended; (7-1-93)

d. The examination recommended for the testing of variable contract agents by the National Association of Insurance Commissioners, when adopted by the Insurance Department of any State or Territory of the United States and approved for use by such Department by the Securities and Exchange Commission; and (7-1-93)

e. Any State Securities Sales Examination accepted by the Securities and Exchange Commission. (7-1-93)

011. QUALIFICATIONS OF INSURANCE COMPANIES TO ISSUE VARIABLE CONTRACTS.

01. Parent or Affiliated Insurer. An insurer that issues variable contracts and that is a subsidiary of, or affiliated through common management or ownership with, another life insurer authorized to transact such insurance in this state *meets* the provisions of this Section if either it or the parent or affiliated insurer meets the *provisions* hereof. *( )*

02. Delivery. Before any insurer delivers or issues for delivery variable contracts in this state, *it will* submit to the Director a general description of the kinds of variable contracts it intends to issue; *( )*

012. SEPARATE ACCOUNTS.

01. Domestic Life Insurer. A domestic life insurer issuing variable contracts *and* establish*ing* one *(1)* or more separate accounts pursuant to Sections 41-1936 and 41-734 of the Idaho Insurance Code *is* subject to the following provisions: *( )*

a. *T*o the extent that the company's reserve liability with regard to: (a) benefits guaranteed as to dollar amount and duration, and (b) funds guaranteed as to principal amount or stated rate of interest is maintained in any separate account, a portion of the assets of such separate account at least equal to such reserve liability *are* invested in accordance with the laws of this state governing the investments of life insurance companies. *( )*

b. With respect to seventy-five percent (75%) of the market value of the total assets in a separate account no insurer *may* purchase or otherwise acquire the securities of any issuer, other than securities issued or guaranteed as to principal or interest by the United States, if immediately after such purchase or acquisition the market value of such investment, together with prior investments of such separate account in such security taken at market value, would exceed ten percent (10%) of the market value of the assets of said separate account. *T*he Director may waive such limitation if such waiver will not render the operation of such separate account hazardous to the public or the policyholders in this state. *( )*

c. Unless otherwise permitted by law or approved by the Director, no insurer *may* purchase or acquire for its separate accounts the voting securities of any issuer if as a result of such acquisition the insurance company and its separate accounts, in the aggregate, will own more than ten percent (l0%) of the total issued and outstanding voting securities of such issuer. *T*he foregoing *does* not apply with respect to securities held in separate accounts with voting rights exercisable only in accordance with instructions from persons having interests in such accounts. *( )*

d. The limitations provided in Subsections 012.01.b. and 012.01.c. above *do* not apply to the investment with respect to a separate account in the securities of an investment company registered under the Investment Company Act of 1940, provided that the investments of such investment company comply in substance with Subsections 012.01.b. and 012.01.c. *( )*

02. Chargeability of Assets with Liabilities. That portion of the assets of any such separate account equal to the reserves and other contract liabilities with respect to such account is not chargeable with liabilities arising out of any other business the insurer may conduct. Notwithstanding any other provisions of law an insurer may: (7-1-93)

a. With respect to any separate account registered with the Securities and Exchange Commission as a unit investment trust, exercise voting rights in connection with any securities of a regulated investment company registered under the Investment Company Act of 1940 and held in such separate accounts in accordance with instructions from persons having interests in such accounts ratably as determined by the insurer, or (7-1-93)

b. With respect to any separate account registered with the Securities and Exchange Commission as a management investment company, establish for such account a committee, board, or other body, the members of which may or *can*not be affiliated with such company and may be elected to such membership by the vote of persons having interests in such account ratably as determined by the insurer. Such committee, board or other body may have the power, exercisable alone or in conjunction with others, to manage such separate account and the investment of its assets. An insurer, committee, board or other body, may make such other provisions in respect to any such separate account *which are* appropriate to facilitate compliance with requirements of any Federal or State law, provided that the Director approves such provisions as not hazardous to the public or the company's policyholders in this state. *( )*

03. Assets Equal to Reserves and Liabilities. The company will maintain in each such separate account assets with a value at least equal to the reserves and other contract liabilities with respect to such account. (7-1-93)

04. Officers and Directors. Rules under any provision of the Insurance Law of this state of any rule applicable to the officers and directors of insurance companies with respect to conflicts of interest also apply to members of any separate account's committee, board or other similar body. No officer or director of such company nor any member of the committee, board or body of a separate account will receive directly or indirectly any commission or any other compensation with respect to the purchase or sale of assets of such separate account. (7-1-93)

013. FILING OF CONTRACTS.

*E*ach insurer *will submit to* the Director a copy of each prospectus adopted by it for use in conjunction with the sale of

any contract offered for sale in this state. ( )

014. CONTRACTS PROVIDING FOR VARIABLE BENEFITS.

01. Illustrations. Illustrations of benefits payable under any variable contract providing benefits payable in variable amounts cannot include projections of past investment experience into the future or attempted predictions of future investment experience. ( )

02. Payment of Periodic Stipulated Payments. No individual variable annuity contract calling for the payment of periodic stipulated payments will be delivered or issued for delivery unless it contains in substance the following provisions or provisions which are more favorable to the holders of such contracts: ( )

a. The grace period is for one (1) month, but not less than thirty (30) days, in which any stipulated payment to the insurer falling due after the first may be made, during which period of grace the contract will continue in force. The contract may include a statement of the basis for determining the date that any such payment received during the period of grace is applied to produce the values under the contract; ( )

b. At any time within one (1) year from the date of default in making periodic stipulated payments to the insurer during the life of the annuitant, unless the cash surrender value has been paid, the contract may be reinstated upon payment to the insurer of such overdue payments as prescribed by the contract, and payment or reinstatement of all indebtedness to the insurer on the contract, including interest. The contract may include a statement of the basis for determining the date which the amount to cover such overdue payments and indebtedness is applied to produce the values under the contract; ( )

c. Specifying the options available in the event of default in a periodic stipulated payment, which may include an option to surrender the contract for a cash value as determined by the contract, and will include an option to receive a paid-up annuity if the contract is not surrendered for cash, the amount of such paid-up annuity being determined by applying the value of the contract at the annuity commencement date in accordance with the terms of the contract. ( )

03. Investment Increment Factor. Any individual variable annuity contract delivered or issued for delivery in this state will stipulate the investment increment factor to be used in computing the dollar amount of variable benefits or other contractual payments or values thereunder, and may guarantee that expense and/or mortality results do not adversely affect such dollar amounts. If not guaranteed, the expense and mortality factors are also to be stipulated in the contract. In computing the dollar amount of variable benefits or other contractual payments or values under an individual variable contract: ( )

a. The annual net investment increment assumption will not exceed five percent (5%), except with the approval of the Director. (7-1-93)

b. To the extent that the level of benefits may be affected by future mortality results, the mortality factor is to be determined from the Annuity Mortality Table for 1949, Ultimate, or any modification of that table not having a higher mortality rate at any age, or, if approved by the Director, from another table. ( )

c. "Expense," as used in this subsection, may exclude part or all taxes, as stipulated in the contract. ( )

04. Reserve Liability. The reserve liability for variable contracts is to be established pursuant to the requirements of the standard valuation law in accordance with actuarial procedures that recognize the variable nature of the benefits provided, and any mortality guarantees. ( )

015. REQUISITE REPORTS.

01. Statement Reporting the Investments. Any insurer issuing individual variable contracts providing benefits in variable amounts will mail to the contract holder at least once in each contract year after the first at the last address known to the company, a statement or statements reporting the investments held in the separate account and, in the case of contracts under which payments have not yet commenced, a statement reporting as of a

date not more than four (4) months previous to the date of mailing, (a) the number of accumulation units credited to such contracts and the dollar value of a unit, or (b) the value of the contract holder's account. (7-1-93)

02. Statement of Business to Director. The insurer will submit annually to the Insurance Director a statement of the business of its separate account or accounts in such form as may be prescribed by the National Association of Insurance Commissioners. (7-1-93)

016. FOREIGN INSURERS.

If the law or rule in the place of domicile of a foreign insurer provides a degree of protection to the policyholders and the public which is substantially equal to that provided by these rules, the Director, *at their* discretion, may consider compliance with such law or rule as compliance with these rules. *( )*

017. -- 999. (RESERVED).

18.03.04 – REPLACEMENT OF LIFE INSURANCE AND ANNUITIES

000. LEGAL AUTHORITY.
Title 41, Chapter 13, Sections 1305 and 1327, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
This rule regulates the activities of insurers, agents and brokers with respect to the replacement of existing life insurance and annuities, and establishes minimum standards of conduct. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Conservation. *A*ny attempt by the existing insurer or its agent or broker to dissuade a policy owner from the replacement of existing life insurance or annuity. Conservation does not include such routine administrative procedures such as late payment reminders, late payment offers or reinstatement offers. *( )*

02. Direct-Response Sales. *A*ny sale of life insurance or annuity where the insurer does not utilize an agent in the sale or delivery of the policy. *( )*

03. Existing Insurer. *T*he insurance company whose policy is or will be changed or terminated in such a manner as described in the definition of "replacement." *( )*

04. Existing Life Insurance or Annuity. *A*ny life insurance or annuity in force, including life insurance under a binding or conditional receipt or a life insurance policy or annuity that is in an unconditional refund period. *( )*

05. Replacement. Any transaction by which new life insurance or a new annuity is to be purchased, and it is known or should be known to the proposing agent or broker, or to the proposing insurer if there is no agent, that existing life insurance or an annuity has been or is to be: *( )*

a. Termination. Lapsed, forfeited, surrendered, or otherwise terminated. *( )*

b. Conversion or Continuance. Converted to reduced paid-up insurance, continued as extended term insurance, or reduced in value by the use of nonforfeiture benefits or other policy values. *( )*

c. Amendment. Amended so as to effect either a reduction in benefits or in the term for which coverage would remain in force or for which benefits would be paid. *( )*

d. Reissuance. Reissued with any reduction in cash value. *( )*

e. Loans. Pledged as collateral or subjected to borrowing, whether in a single loan or under a schedule of borrowing over a period of time for amounts in the aggregate exceeding twenty-five percent (25%) of the loan value set forth in the policy. *( )*

06. Replacing Insurer. *T*he insurance company that issues or proposes to issue a new policy *or contract* which is a replacement of existing life insurance or annuity. *( )*

011. EXEMPTIONS.
Unless specifically included, this rule does not apply to transactions involving: *( )*

01. Credit Life Insurance. (7-1-93)

02. Group Life Insurance or Group Annuities. (7-1-93)

03. Existing Insurer. An application to the insurer that issued the existing life insurance and a contractual change or conversion privilege being exercised; (7-1-93)

04. Binding or Conditional Receipt Issued by Same Company. Proposed life insurance that is to replace life insurance under a binding or conditional receipt issued by the same company. (7-1-93)

05. Common Ownership or Control. Transactions where the replacing insurer and the existing

insurer are the same, or are subsidiaries or affiliates under common ownership or control. Provided, however, agents or brokers proposing replacement will comply with the requirements of Subsection 012.01. (7-1-93)

012. DUTIES OF AGENTS AND BROKERS.

01. Statement Submitted to Insurer. Each agent or broker who initiates the application submits to the insurer to which an application for life insurance or annuity is presented, with or as part of each application: (7-1-93)

a. A statement signed by the applicant as to whether replacement of existing life insurance or annuity is involved in the transaction; and (7-1-93)

b. A signed statement as to whether the agent or broker knows replacement is or may be involved in the transaction. (7-1-93)

02. Notice to Applicant. Where a replacement is involved, the agent or broker will: (7-1-93)

a. Present to the applicant, not later than at the time of taking the application, a "Notice Regarding Replacement" in the form as described *on the DOI website*, or other substantially similar form approved by the Director. The notice is signed by both the applicant and the agent or broker and left with the applicant. *( )*

b. Obtain with or as part of each application a list of all existing life insurance and/or annuities replaced and properly identified by name of insurer, the insured and contract number. If a contract number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, is listed. *( )*

c. Leave with the applicant the original or a copy of written or printed communications used for presentation to the applicant. (7-1-93)

d. Submit to the replacing insurer with the application a copy of the replacement notice provided pursuant to Subsection 012.02.a. (7-1-93)

03. Conservation. Each agent or broker who uses written or printed communications in a conservation will leave with the applicant the original or a copy of such materials used. (7-1-93)

013. DUTIES OF ALL INSURERS.
Each insurer will: (7-1-93)

01. Notice to Representatives of Rule. Informs its field representatives or other personnel responsible for compliance with this rule of the requirements of this rule. (7-1-93)

02. Application. Requires with or as a part of each completed application for life insurance or annuity a statement signed by the applicant as to whether such proposed insurance or annuity will replace existing life insurance or annuity. (7-1-93)

014. DUTIES OF INSURERS THAT USE AGENTS OR BROKERS.
Each insurer that uses an agent or broker in a life insurance or annuity sale: (7-1-93)

01. Statement by Agent or Broker. *W*ith or as part of each completed application for life insurance or annuity, *obtains* a statement signed by the agent or broker as to whether he or she knows if replacement is involved in the transaction. *( )*

02. Replacement Notice and List of Existing Insurance. Where a replacement is involved: (7-1-93)

a. *W*ith the application for life insurance or annuity, *obtains* a list of all of the applicant's existing life insurance or annuities replaced and a copy of the replacement notice provided the applicant pursuant to Section 012. Such existing life insurance or annuity is identified by name of insurer, insured and contract number. If a number has not been assigned by the existing insurer, alternative identification, such as an application or receipt number, is listed. *( )*

b. Send to each existing insurer a written communication advising of the replacement or proposed replacement and the identification information obtained pursuant to Subsection 014.02.a. and a policy summary or ledger statement containing policy data on the proposed life insurance or annuity as *prescribed* by the model life insurance solicitation rule and/or the model annuity and deposit fund disclosure rule. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary or ledger statement. This written communication *is* made *in* five (5) working days of the date the application is received in the replacing insurer's home or regional office, or the date the proposed policy or contract is issued, whichever is sooner. *( )*

c. Each existing insurer, agent, or broker that undertakes a conservation *furnishes* the policy owner with a policy summary for the existing life insurance or a ledger statement containing policy data on the existing policy and/or annuity *within twenty (20) days from the date the written communication and the materials described in Subsections 014.02.a. and 014.02.b. are received.* Such policy summary or ledger statement is completed in accordance with information relating to premiums, cash values, death benefits and dividends, if any, and is computed from the current policy year of the existing life insurance. The policy summary includes the amount of any outstanding indebtedness, the sum of any dividend accumulations or additions, and may include any other information that is not in violation of any rule or statute. Life insurance cost index and equivalent level annual dividend figures need not be included in the policy summary. When annuities are involved, the disclosure information *is requisite* in a contract summary under the annuity and deposit fund disclosure rule. The replacing insurer may request the existing insurer to furnish it with a copy of the summaries. *( )*

03. Maintenance of Records. The replacing insurer maintains evidence of the "Notice Regarding Replacement," the policy summary, the contract summary and any ledger statements used, and a replacement register, cross indexed, by replacing agent and existing insurer to be replaced. The existing insurer maintains evidence of policy summaries, contract summaries or ledger statements used in any conservation. Evidence that all requirements were met *are* maintained for at least three (3) years or until the conclusion of the next succeeding regular examination by the insurance department of its state of domicile, whichever is later. *( )*

04. Refund. The replacing insurer provides in its policy or in a separate written notice which is delivered with the policy that the applicant has a right to an unconditional refund of all premiums paid, which right may be exercised *in* a period of twenty (20) days commencing from the date of delivery of the policy. *( )*

015. DUTIES OF INSURERS WITH RESPECT TO DIRECT RESPONSE SALES.

01. Insurer Did Not Propose Replacement. If in the solicitation of a direct response sale, the insurer did not propose the replacement, and a replacement is involved, the insurer *will propose* to send to the applicant with the policy a Replacement Notice as described *on the DOI website* or other substantially similar form approved by the Director. *( )*

02. Insurer Proposed Replacement. If the insurer proposed the replacement it will: (7-1-93)

a. Provide to applicants or prospective applicants with or as part of the application a replacement notice as described *on the DOI website* or other substantially similar form approved by the Director. *( )*

b. Request from the applicant with or as part of the application, a list of all existing life insurance or annuities replaced and properly identified by name of insurer and insured. (7-1-93)

c. Comply with the requirements of Subsection 014.02.b., if the applicant furnishes the names of the existing insurers, and the requirements of Subsection 014.03, except that it need not maintain a replacement register. (7-1-93)

016. PENALTIES.
Failure by an insurer, agent, representative, officer, or employee of such insurer to comply with the requirements of this rule is subject to such penalties as may be appropriate under the Idaho Code, including Section 41-1327, Idaho Code. (7-1-93)

017. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 23, Sections 41-211 and 41-2314, Idaho Code. *( )*

001. TITLE AND SCOPE.
*IDAPA 18.03.05, "Credit Life and Credit Disability Insurance." P*rotects the interests of debtors and the public in this state by providing a system of rate, policy form, and operating standards for the transaction of credit life and credit disability insurance. *Nothing in this rule chapter applies to insurance for which no identifiable charge is made to the debtor.* *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
The definitions set forth in Chapters 2 and 23 are applicable to these rules. In addition, the following terms have the meanings set forth below. *( )*

01. Closed-End Credit. *A* credit transaction that is not open-end credit. (7-1-93)

02. Compensation. *M*oney or anything else of value. (7-1-93)

03. Credit Insurance. Means credit life insurance and credit disability insurance. *( )*

04. Credit Transaction. *A*ny transaction by the terms of which the repayment of money loaned or loan commitment made, or payment for goods, services or properties sold or leased, is to be made at a future date or dates. *( )*

05. Identifiable Charge. The amount the debtor is charged for insurance which is disclosed in the credit or other instrument furnished the debtor which sets out the financial elements of the credit transactions, and including any differential in finance, interest, service or other similar charge made to debtors who are in like circumstances, except for their insured or noninsured status. *( )*

06. Net Written Premium. *A* gross written premium minus refunds on terminations. *( )*

07. Open-End Credit. *A*n arrangement as defined in Section 28-41-301(26), Idaho Code, including revolving charge accounts. *( )*

08. Pre-existing Condition. *A* health condition, including sickness or injury, for which there has been medical advice, diagnosis or treatment within six (6) months preceding the effective date of the debtor's coverage and which exists prior to the effective date of the coverage. *( )*

011. RIGHTS AND TREATMENT OF DEBTORS.

01. Multiple Plans of Insurance. If a creditor makes available to the debtors more than one plan of credit life insurance or more than one plan of credit disability insurance, all debtors are to be informed of all such plans for which they are eligible. (7-1-93)

02. Substitution. When a creditor requires credit life insurance, credit disability insurance, or both, as additional security for an indebtedness, the debtor will be given the option of furnishing the amount of insurance through existing policies of insurance owned or controlled by the debtor or by procuring and furnishing the coverage through any insurer authorized to transact insurance business in this state. If this subsection is applicable, the debtor will be informed by the creditor of the right to provide alternative coverage before the transaction is completed. *( )*

03. Evidence of Coverage. (7-1-93)

a. All credit insurance will be evidenced by an individual policy, or, in the case of group insurance, by a certificate of insurance. The individual policy or certificate of insurance will be delivered to the debtor in accordance with Section 41-2311, Idaho Code. (7-1-93)

b. Each individual policy or certificate of insurance will set forth such information *per* Section 41-

2308, Idaho Code, and any other appropriate sections of the Idaho Insurance Code. ( )

04. Claims Processing. All credit insurance claims will be processed in accordance with Sections 41-1329 and 41-2312, Idaho Code. (7-1-93)

05. Termination of Group Credit Insurance Policy. (7-1-93)

a. If a debtor is covered by a group credit insurance policy providing for the payment of single premiums to the insurer, then provision will be made by the insurer that in the event of termination of the policy for any reason, insurance coverage with respect to any debtor insured under such policy *is to* be continued for the entire period for which the single premium has been paid. ( )

b. If a debtor is covered by a group credit insurance policy providing for the payment of premiums to the insurer on a monthly outstanding balance basis, then the policy will provide that, in the event of termination of such policy for whatever reason, termination notice will be given to the insured debtor at least thirty (30) days prior to the effective date of termination except where replacement of the coverage by the same or another insurer in the same or greater amount takes place without lapse of coverage. The *requisite* notice is given by the insurer or, at the option of the insurer, by the creditor. ( )

06. Interest on Premiums. If any direct or indirect finance, carrying, credit or service charge is made to the debtor on such insurance charges or premiums, the creditor will remit and the insurer will collect such premium within sixty (60) days after it is added to the indebtedness. (7-1-93)

07. Renewal or Refinancing of the Indebtedness. If the indebtedness is discharged due to renewal or refinancing prior to the scheduled maturity date, the insurance in force will be terminated before any new insurance may be issued in connection with the renewed or refinanced indebtedness. In all cases of such termination prior to scheduled maturity, a refund *is to* be paid or credited to the debtor as provided in Section 017. In any renewal or refinancing of the indebtedness, the effective date of the coverage as respects any policy provision *is* deemed to be the first date on which the debtor became insured under the policy covering the indebtedness which was renewed or refinanced, at least to the extent of the amount and term of the indebtedness outstanding at the time of renewal and refinancing of the debt. In addition, the policy will provide that, in the event the debtor becomes disabled while insured, credit disability insurance benefits will be payable during continued disability regardless of any termination of the insurance by renewal or refinancing, unless a different provision not less favorable to the debtor is approved by the Director. ( )

08. Maximum Aggregate Provisions. A provision in a policy or certificate that sets a maximum limit on total payments applies only to that policy or certificate except as may be provided for in Section 41-2005(4), Idaho Code. (7-1-93)

09. Voluntary Prepayment of Indebtedness. If a debtor prepays the indebtedness other than as a result of death or through a lump sum disability payment: (7-1-93)

a. Any credit life insurance covering such indebtedness will be terminated and an appropriate refund of the credit life insurance premium will be paid to the debtor in accordance with Section 017; and (7-1-93)

b. Any credit disability insurance covering such indebtedness will be terminated and an appropriate refund of the credit disability insurance premium will be paid to the debtor in accordance with Section 017. If a claim under such coverage is in progress at the time of prepayment, the amount of refund may be determined as if the prepayment did not occur until the payment of benefits terminates. No refund need be paid during any period of disability for which credit disability benefits are payable. A refund will be computed as if prepayment occurred at the end of the disability period. (7-1-93)

10. Involuntary Prepayment of Indebtedness. If an indebtedness is prepaid by the proceeds of a credit life insurance policy covering the debtor or by a lump sum payment of a disability claim under a credit insurance policy covering the debtor, then it is the responsibility of the insurer to see that the following are paid to the insured debtor, if living, or the beneficiary, other than the creditor, named by the debtor or to the debtor's estate: (7-1-93)

a. In the case of prepayment by the proceeds of a credit life insurance policy, or by the proceeds of a lump sum total and permanent disability benefit under credit life coverage, an appropriate refund of the credit disability insurance premium in accordance with Section 017; (7-1-93)

b. In the case of prepayment by a lump sum disability claim, an appropriate refund of the credit life insurance premium in accordance with Section 017; (7-1-93)

c. In either case, the amount of the benefits in excess of the amount *needed* to repay the indebtedness after crediting any unearned interest or finance charges. *( )*

11. Amounts to be Insured: (7-1-93)

a. Credit life insurance benefits *are to* be consistent with the premium charge. Credit life insurance may provide benefits in amounts which do not exceed, but may be less than, the initial amount of indebtedness, including unearned interest or finance charges, or the actual amount of unpaid indebtedness, whichever is greater. *( )*

b. Credit disability insurance may provide benefits not exceeding an amount according to Section 41-2306(2), Idaho Code. (7-1-93)

c. If benefits to be provided are less than the scheduled amount of indebtedness, the insurer will notify the insured of such benefit in the policy or certificate. (7-1-93)

12. Total Disability. The policy *is* not *to* restrict coverage to those periods of total disability when the debtor is under the regular and continuing care of a physician, osteopath or chiropractor; provided, the insurer may retain the right to *request* medical evidence of actual total disability at reasonable intervals to justify the commencement and continued payment of benefits. *( )*

13. Permanent Disabilities. Credit disability insurance will not restrict coverage to permanent disabilities, where the debtor is in fact totally disabled for the period *dictated* by the policy, although such disability may be of a temporary nature. *( )*

14. Statement by Debtor. No statement made by a debtor will be used by the insurer as a basis for denying eligibility for coverage unless such statement is contained in a written application for insurance signed by the debtor. (7-1-93)

15. Acceptable Insurance Constituting Waiver. Acceptance of insurance by the insurer will constitute a waiver of any conditions for issuance of insurance that the debtor's application revealed as breached on the date the application was made, unless a refund of all insurance charges to the debtor is actually made within thirty (30) days of the *effective* date *of* coverage. *( )*

012. (RESERVED)

013. DETERMINATION OF REASONABLENESS OF BENEFITS IN RELATION TO PREMIUM CHARGE.

01. General Standard. Benefits provided by credit insurance policies *need to* be reasonable in relation to the premium charged. This requirement is satisfied if the premium rate charged develops or is expected to develop a loss ratio of not less than fifty percent (50%). The Department of Insurance has established prima facie rates as a means to achieve the loss ratio benchmark. With the exception of deviations approved under Section 019, prima facie rates filed in accordance with Section 014 as adjusted pursuant to Section 018, may be conclusively presumed to satisfy this general standard. *( )*

02. Nonstandard Coverage. If any insurer files for approval of any form, providing coverage more restrictive than that described in Section 014, the insurer will demonstrate to the satisfaction of the director that the premium rates to be charged for such restricted coverage will develop or may reasonably be expected to develop a

loss ratio not less than that contemplated for standard coverage at the premium rates described in these sections. (7-1-93)

014. PRIMA FACIE RATES.

01. Credit Life Insurance Prima Facie Rates. (7-1-93)

a. *Prima facie* rates for credit life insurance *are as follows:* *( )*

i. Eighty-six cents per month per one thousand dollars (*$0.86/month/*$1,000) of outstanding insured indebtedness if premiums are payable on a monthly outstanding balance basis. *( )*

ii. Decreasing term: Fifty-four cents *per year* per one hundred dollars of initial insured indebtedness ($0.54/year/$100) if premiums are payable on a single premium basis and the amount of the insurance decreases in equal monthly amounts. *( )*

iii. Level term: One dollar *per year* per one hundred dollars of initial insured indebtedness ($1/year/$100) if premiums are payable on a single premium basis for an amount of insurance that remains constant throughout the period of coverage. *( )*

iv. Joint coverage *at* one hundred sixty-five percent (165%) of the specified *single life* rate for that type of coverage. *( )*

v. A*n appropriate* combination of the rate for level term and the rate for decreasing term (with equal decrements), if coverage provided is a combination of level term and decreasing term (with equal decrements). *( )*

b. If the benefits provided are other than those described in Paragraph 014.01.a., premium rates for such benefits will be actuarially consistent with the rates provided in Paragraph 014.01.a. *( )*

c. If the policy provisions are other than those that correspond to the use of rates provided for in *this subsection*, those other provisions will not be unfair, unjust, inequitable, misleading, or deceptive; encourage misrepresentation of the coverage; or be contrary to statute or administrative rule. *( )*

02. Credit Disability Insurance Prima Facie Rates. (7-1-93)

a. Credit disability insurance *prima facie* rates *are as follows:* *( )*

i. If payable on a single-premium basis for the duration of the coverage, the premium rates for one hundred dollars ($100) of initial indebtedness repayable *is* as set forth in the following table utilizing straight line interpolation for the intervening months*:*

No. Months Indebtedness Is Repayable	Non-Retroactive Benefits		Retroactive Benefits		
	14 Day - 30 Day		7 Day	14 Day	30 Day
6	$1.00	$ .40	$2.60	$1.80	$1.30
2	1.40	.80	3.00	2.20	1.70
24	2.20	1.60	4.00	3.00	2.50
36	3.00	2.40	5.00	3.80	3.30
48	3.50	2.90	5.70	4.30	3.80

No. Months Indebtedness Is Repayable	Non-Retroactive Benefits		Retroactive Benefits		
	14 Day - 30 Day		7 Day	14 Day	30 Day
60	3.90	3.30	6.30	4.70	4.20
72	4.30	3.70	NA	5.10	4.60
84	4.70	4.10	NA	5.50	5.00
96	5.10	4.50	NA	5.90	5.40
108	5.50	4.90	NA	6.30	5.80
120	5.90	5.30	NA	6.70	6.20

NA: Not Available

( )

ii. If premiums *are payable* per month per thousand *dollars ($1,000)* of outstanding insured indebtedness, *the* premiums *are* computed according to the following formula or according to a formula approved by the Director which produces rates actuarially consistent to the single premium rates:

$$Op(n) = \frac{20Sp(n)}{n+1}$$

Where Sp = Single Premium Rate per one hundred dollars ($100) of initial insured indebtedness repayable in n equal monthly installments.

Op = Monthly Outstanding Balance Premium Rate per one thousand dollars ($1,000).

n = Original repayment period, in months. *( )*

iii. The actuarial equivalent of *Subparagraphs* 014.02.a.i. and ii. if the coverage provided is a constant maximum indemnity for a given period of time. *( )*

iv. An appropriate combination of the premium rate for a constant maximum indemnity for a given period of time and the premium rate for a maximum indemnity which decreases in even amounts per month, if the coverage provided is a combination of a constant maximum indemnity for a given period of time after which the maximum indemnity begins to decrease in even amounts per month. (7-1-93)

b. If the benefits provided are other than those described in *Paragraph* 014.02.a., rates for such benefits *need to* be actuarially consistent with rates provided in Sub*paragraphs* 014.02.a.i., ii., iii., and iv. *( )*

c. The outstanding balance rate for credit disability insurance may be either a term-specified rate or may be a single composite term outstanding balance rate applicable to all loans. (7-1-93)

d. If the policy provisions are other than those that correspond to the use of rate provided for in this *Subsection*, those other provisions are not to be unfair, just, inequitable, misleading, or deceptive; encourage misrepresentations of the coverage; or be contrary to statute or administrative rule. *( )*

015. CREDIT LIFE INSURANCE.

Premium rates in conformance with Section 014 apply to policies providing credit life insurance to be issued with or without evidence of insurability, to be offered to all debtors, and containing: (7-1-93)

01. Exclusions. No exclusions other than suicide within six (6) months of the incurred indebtedness; and (7-1-93)

02. Age Restrictions. Either no age restrictions or age restrictions making ineligible for coverage debtors sixty-five (65) or over at the time the indebtedness is incurred or debtors having attained age seventy (70) or over on the maturity date of the indebtedness. (7-1-93)

03. Open-End Credit Plan. Insurance written in connection with an open-end credit plan may exclude from the classes eligible for insurance, classes of debtors determined by age, and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of not less than age sixty-five (65). (7-1-93)

04. Closed-End Credit Plans. On insurance written in connection with closed-end credit plans and open-end credit plans where the amount of insurance is based on or limited to the outstanding unpaid balance, no provision excluding or denying a claim for death resulting from a pre-existing condition except for those conditions for which the insured debtor received medical advice, diagnosis or treatment within six (6) months preceding the effective date of coverage and which caused or substantially contributed to the death of the insured debtor within six (6) months following the effective date of coverage. The effective date of coverage for each part of the insurance attributable to a different advance or charge to the plan account is the date on which the advance or charge is posted to the plan account. Other more restrictive provisions may be used subject to appropriate rate adjustment approved by the director. (7-1-93)

05. Other Provisions. If the policy provisions are other than those that correspond to the use of rates provided for in Section 014, those other provisions are not to be unfair, unjust, inequitable, misleading, or deceptive; encourage misrepresentation of the coverage; or be contrary to statute or administrative rule. (7-1-93)

016. CREDIT DISABILITY INSURANCE.
Premium rates in conformance with Section 014 apply to policies providing credit disability insurance to be issued with or without evidence of insurability, to be offered to all eligible debtors, and containing: (7-1-93)

01. Pre-existing Conditions. No provision excluding or denying a claim for disability resulting from preexisting conditions except for those conditions for which the insured debtor received medical advice, diagnosis or treatment within six (6) months preceding the effective date of the debtor's coverage and which caused loss within the six (6) months following the effective date of coverage. (7-1-93)

02. Other Exclusions or Restrictions. No other provision which excludes or restricts liability in the event of disability caused in a specific manner except that it may contain provisions excluding or restricting coverage in the event of normal pregnancy and intentionally self-inflicted injuries or disability arising out of the commission of felony acts. (7-1-93)

03. Actively-at-Work Requirement. No actively-at-work requirement more restrictive than one (1) requiring that the debtor be actively at work at a full-time gainful occupation on the effective date of coverage. "Full time" means a regular work week of not less than thirty (30) hours. A debtor *is* actively at work if absent from work due solely to regular day off, holiday or paid vacation. *( )*

04. Age Restrictions. No age restrictions, or only age restrictions making ineligible for coverage debtors sixty-five (65) or over at the time the indebtedness is incurred or debtors who will have attained age sixty-six (66) or over on the maturity date of the indebtedness. (7-1-93)

05. Daily Benefit. A daily benefit equal in amount to one thirtieth (1/30) of the monthly benefit payable under the policy for the indebtedness. (7-1-93)

06. Definition of Disability. A definition of "disability" which provides that during the first twelve (12) months of disability the insured *is* unable to perform the substantial and material duties of his occupation at the time the disability occurred, and thereafter the duties of any occupation for which the insured is reasonably fitted by education, training or experience. This *does* not apply to lump sum disability coverage. *( )*

07. Open-End Credit Plan. Insurance written in connection with an open-end credit plan may exclude from the classes eligible for insurance classes of debtors determined by age, and provide for the cessation of insurance or reduction in the amount of insurance upon attainment of not less than age sixty-five (65). (7-1-93)

08. Other Provisions. If the policy provisions are other than those that correspond to the use of rates provided for in Section 014, those other provisions are not to be unfair, unjust, inequitable, misleading, or deceptive; encourage misrepresentation of the coverage; or be contrary to statute or administrative rule. (7-1-93)

09. Effective Date of Coverage. For the purposes of Subsections 016.01 and 016.03, the effective date of coverage for each part of the insurance attributable to a different advance or charge to an open-end credit plan account is the date on which the advance or charge is posted to the plan account. (7-1-93)

017. REFUND FORMULAS.

01. Filing and Approval by the Director. Any refund formula that is at least as favorable to the insured debtor as the "sum of the digits" formula, or the "Rule of 78," for single premium decreasing or disability plans or pro-rata for other plans, will be deemed acceptable. Refund formulas *need to* be filed with and approved by the director prior to use in accordance with Section 41-2310 (2), Idaho Code. *( )*

02. Termination. In the event of termination, no charge for credit insurance may be made for the first fifteen (15) days of a loan month and a full month may be charged for sixteen (16) days or more of a loan month. (7-1-93)

03. Minimum Refund. No refund of five dollar ($5) or less need be made. (7-1-93)

018. EXPERIENCE REPORTS AND ADJUSTMENT OF PRIMA FACIE RATES.

01. Report of Credit Life and Credit Disability Business Written. Each insurer doing credit insurance business in this state will annually file with the Director and the NAIC Support and Services Office a report of credit life and credit disability business written on a calendar year basis. Such report will utilize the Credit Insurance Supplement-Annual Statement Blank as approved by the National Association of Insurance Commissioners. Such filing will be made in accordance with and no later than the due date in the Instructions to the Annual Statement. (7-1-93)

02. Review of Loss Ratio Standards. *O*n a triennial basis *beginning i*n 1995, the director will review the loss ratio standards set forth in Section 013 and the prima facie rates set forth in Section 014 and determine therefrom the rate of expected claims on a statewide basis, compare such rate of expected claims with the rate of actual claims for the preceding three years determined from the incurred claims and earned premiums at prima facie rates reported in the Annual Statement Supplement, and may, if deemed necessary, revise the actual statewide prima facie rates to be used by insurers during the next three (3) years. Such rates will reflect the difference between (a) actual claims based on experience; and (b) expected claims based on the loss ratio standards set forth in Section 013 applied to the prima facie rates set forth in Section 014. *( )*

019. USE OF RATES - DIRECT BUSINESS ONLY.

01. Use of Prima Facie Rates. An insurer that files rates or has rates on file not in excess of the prima facie rates shown in Section 014, to the extent adjusted pursuant to Section 018, may use those rates without further proof of their reasonableness. *( )*

02. Use of Rates Higher Than Prima Facie Rates. An insurer may file for approval of and use rates higher than the prima facie rates established pursuant to Section 018, to the extent adjusted, if it can be expected that the use of such higher rates will result in a ratio of claims incurred to premiums earned (assuming the use of such higher rates) not less than fifty percent (50%) for those accounts to which such higher rates apply and that such upward deviations will not result on a statewide basis for that insurer of a ratio of claims incurred to premiums earned of less than the expected loss ratio underlying the current prima facie rate developed or adjusted pursuant to Section 018. If rates higher than the prima facie rates shown in Section 014, to the extent adjusted pursuant to Section 018, are filed for approval, the filing will specify the accounts to which such rates apply. Such rates may be: *( )*

a. Applied uniformly to all accounts of the insurer; or (7-1-93)

b. Applied on an equitable basis approved by the Director to only one (1) or more accounts of the

insurer for which the experience has been less favorable than expected; or (7-1-93)

c. Applied according to a case-rating procedure on file with the director. (7-1-93)

03. Approval Period of Deviated Rates. (7-1-93)

a. A deviated rate will be in effect for a period of time not longer than the experience period used to establish such rate (i.e. one (1) year, two (2) years or three (3) years). An insurer may file for a new rate before the end of a rate period, but not more often than once during any twelve-month (12) period. (7-1-93)

b. Notwithstanding Subsection 019.01, if an account changes insurers, that rate approved to be used for the account by the prior insurer is the maximum rate that may be used by the succeeding insurer for the remainder of the rate approval period approved for the prior insurer or until a new rate is approved for use on such account, if sooner. *( )*

04. Use of Rates Lower Than Filed Rates. An insurer may at any time use a rate for an account lower than its filed rate without prior notice, justification and approval by the director. *( )*

05. Terms and Definitions *Applicable to This* Section. *( )*

a. "Experience" means "earned premiums" and "incurred claims" during the experience period. (7-1-93)

b. "Experience Period" means the most recent period of time for which experience is reported, but not for a period longer than three (3) full years. (7-1-93)

c. "Incurred Claims" means total claims paid during the experience period, adjusted for the change in claim reserve. (7-1-93)

020. SUPERVISION OF CREDIT INSURANCE OPERATIONS.

01. Responsibilities of Insurer. Each insurer transacting credit insurance in this state is responsible for the settlement, adjustment and payment of all claims and is responsible for conducting a thorough periodic review of creditors with respect to their credit insurance business with such creditors, to assure compliance with the insurance laws of this state and the rules promulgated by the Director. Such review needs to include, but not be limited to, a verification of the accuracy of premium payments or other identifiable charges, premium refunds, and claims incurred. (7-1-93)

02. Maintenance of Records. Records of such reviews will be maintained for four (4) years for review by the director. (7-1-93)

021. *BANNED* TRANSACTIONS.

The following practices, when engaged in by insurers in connection with the sale or placement of credit insurance, or as an inducement thereto, constitute unfair methods of competition and are subject to the Unfair Trade Practices Act of this State as outlined in Title 41, Chapter 13, Idaho Code. *( )*

01. Special Advantages or Services. The offer or grant by an insurer to a creditor of any special advantage or any service not set out in either the group insurance contract or in the agency contract, other than the payment of producer commissions. (5-8-09)

02. Deposit by Insurer of Money or Securities *for* Creditor. Agreement by an insurer to deposit with a bank or financial institution money or securities of the insurer with the design or intent that the same affect*s* or take*s* the place of a deposit of money or securities which would be *needed* of the creditor by such bank or financial institution as a compensating balance or offsetting deposit for a loan or other advancement. *( )*

03. Deposit by an Insurer Without Interest or at a Lessor Rate of Interest. Deposit by an insurer of money or securities without interest or at a lesser rate of interest than is currently being paid by the creditor, bank or

financial institution to other depositors of like amounts and terms. This paragraph *is* not be construed to *ban* the maintenance by an insurer of such demand deposits or premium deposit accounts as are reasonably necessary for use in the ordinary course of the insurer's business. *( )*

022. PRODUCER'S LICENSE *NEEDED*.

01. Life and Disability Insurance License or Limited License. To solicit credit life and credit disability insurance as provided in Title 41, Chapter 23, Idaho Code, and in this chapter, a producer *is*: *( )*

a. *L*icensed to sell life and disability insurance in compliance with Title 41, Chapter 10, Idaho Code; or *( )*

b. *I*ssued a "Limited License" as defined in Section 41-1003(4), Idaho Code, covering only credit life and credit disability insurance, and so licensed *individuals will not,* during the same period, hold a license as a producer as to any other or additional major line of insurance. *( )*

02. Individual, Firm or Corporation. Sections 41-1004, 41-1005, 41-1007, Idaho Code, provide that a limited producer's limited license for credit life and credit disability insurance is issued to individuals, firms or corporations qualifying for such license. Any individual who sells, solicits or negotiates with debtors to purchase individual credit life or credit disability insurance, or who explains such coverage, is to be licensed as an insurance producer. Any firm or corporation offering such individual coverage complies with the provisions of Section 41-1007(2) by having a designated licensed producer, who is an individual responsible for the business entity's compliance with the insurance laws and rules of this state. (5-8-09)

03. Administration of Group Policy. Under Section 41-1005(2)(b), Idaho Code, the issuance of group certificates of credit life insurance and credit disability insurance and the performance of other ministerial duties in connection with group insurance policy administration does not need the person doing such acts to be licensed as a producer provided that no commission is paid for such services. A group policyholder may be reimbursed its expense of administering a group policy without being licensed as a producer, and such reimbursement will not be considered a commission provided it is reasonably computed to equate to the actual administrative expenses. It will be presumed that an amount of reimbursement not exceeding ten percent (10%) of the net written prima facie premium for the group policy is reasonably computed to equate to the administrative expenses of the group policyholder. Amounts exceeding ten percent (10%) of the net written prima facie premium will be presumed to exceed actual administrative expenses unless prior approval to pay such greater amount is secured pursuant to the insurer demonstrating to the director's satisfaction that such higher amount does not exceed the policyholder's actual administrative expenses. For purposes of this subsection, "prima facie premium" means premiums at the rates set forth in Section 014 without adjustment pursuant to Section 018. (5-8-09)

04. Dividends and Other Compensation Permitted by Law. *This section* do*es* not apply to compensation that is otherwise permitted by law, such as the payment of dividends on participating policies. *( )*

023. DISCLOSURE.

When a premium or identifiable charge is payable by a debtor for credit insurance coverage offered by a creditor, at the time such insurance is applied for, disclosures will be made to the principal debtor and copies given and retained, in accordance with State and Federal law. The creditor will also disclose the optional nature of the coverage, premium or identifiable charge separately by type of coverage, eligibility requirements, and policy limitations and exclusions. These disclosures need to be made prominently above the space for the signature indicating election to obtain such coverage. These disclosures may be made in conjunction with either (1) the Federal Truth-in-Lending disclosure, (2) a Notice of Proposed Insurance, or (3) the insurance policy or certificate. (7-1-93)

024. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 59, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.01, "Health Carrier External Review." (4-7-11)

02. Scope. This rule sets forth uniform requirements to be followed by health carriers and independent review organizations in implementing external review procedures in accordance with Title 41, Chapter 59, Idaho Code. (4-7-11)

002. -- 009. (RESERVED)

010. DEFINITIONS.
T*he definitions set forth in Title 41, Chapter 2 and 59 are applicable to these rules. In addition,* the following terms have the following meanings: *( )*

***01*. URAC**. The nationally recognized private health care accreditation organization based in Washington, D.C., that accredits independent review organizations. The website for URAC is https://www.urac.org. (4-7-11)

011. FONT SIZE FOR PRINTED MATERIALS.
Pertinent text of all printed materials to be filed with the Director, including, but not limited to, notices, disclosure forms and contract forms, is to be formatted using at least a ten (10) point font. *( )*

012. -- 019. (RESERVED)

020. NOTICE OF RIGHT TO EXTERNAL REVIEW.

01. Disclosure to Covered Persons. Each health carrier *is to* provide a summary description of external review procedures in or attached to the policy, certificate, membership booklet, outline of coverage or other evidence of coverage the health carrier provides to covered persons. Health carriers will use the summary description *posted on the Department's website* or one that in the discretion of the Director is substantially identical. Health carriers *need to* submit summary description forms to the Director for review. *( )*

02. Notice to Covered Person. When a health carrier sends written notice to a covered person of a final adverse benefit determination, the health carrier *will include* written notice at the same time of the covered person's right to request an external review. *( )*

a. The written notice of the covered person's right to request an external review *is to* use the form *posted on the Department's website* or one that in the discretion of the Director is substantially identical. Health carriers *are to* submit notice forms to the Director for review. *( )*

b. The written notice sent by the health carrier as *prescribed* by this subsection *is to* include an authorization form to disclose protected health information in compliance with the federal regulation 45 CFR section 164.508. Health carriers *need to* submit authorization forms to the Director for review. *( )*

021. REQUEST FOR EXTERNAL REVIEW.

01. Request Form. The form for a covered person to request an external review will be available from the department and will be posted on the department's web site. (4-7-11)

02. Authorization Form. The covered person's request for an external review *is to* include an authorization form to disclose protected health information *prescribed* in Paragraph 020.02.b. *( )*

03. Appointment of an Authorized Representative. A covered person may name another person, including the treating health care provider, to act as the covered person's authorized representative for an external review request. (4-7-11)

022. HEALTH CARRIER NOTICE OF INITIAL DETERMINATION OF AN EXTERNAL REVIEW REQUEST.

Health carriers *are to* use the form *posted on the Department's website* or one that in the discretion of the Director is substantially identical for notice of initial determination by a health carrier for a standard external review and for an expedited external *review*. Health carriers *need to* submit notice forms to the Director for review. *( )*

023. APPROVAL OF INDEPENDENT REVIEW ORGANIZATIONS.

01. Accreditation. An independent review organization *should* be accredited by a nationally recognized private accrediting entity to be approved to perform reviews under Title 41, Chapter 59, Idaho Code, and this rule. *( )*

02. Application for Registration. Independent review organizations *need to* apply to the department and pay the applicable fees, as set forth at IDAPA 18.01.02, to be registered to perform external reviews. The application for registration is posted on the department's web site. The application *needs to* include the independent review organization's schedule of costs and fees for performing external reviews. *( )*

03. Notice to Director. (4-7-11)

a. An independent review organization will notify the Director in writing within thirty (30) days of the date the independent review organization is no longer accredited by a nationally recognized private accrediting entity or no longer satisfies the minimum requirements established under Title 41, Chapter 59, Idaho Code and this rule. (4-7-11)

b. Any change in the independent review organization's schedule of costs and fees for performing external reviews *need to* be submitted to the Director at least sixty (60) days before the effective date of the change. *( )*

04. Termination of Approval. The Director may immediately terminate approval of an independent review organization if the independent review organization no longer satisfies the requirements of Title 41, Chapter 59, Idaho Code, and this rule. Notice of termination will be in writing to the independent review organization and such organization will be deleted from the list of organizations approved to perform external reviews. If the independent review organization is performing an external review at the time of termination, the independent review organization will cease performing that review and immediately forward all information and documentation to the Director. *( )*

024. VOLUNTARY ELECTION BY ERISA PLAN ADMINISTRATOR.

01. Written Notice and Compliance. If a single employer self-funded ERISA employee benefit plan administrator or designee voluntarily elects to comply with Title 41, Chapter 59, Idaho Code, the administrator or designee will: (3-29-12)

a. Provide timely and appropriate written notice to the Director of such election. The written notice needs to include the name of the administrator or designee, the contact name and title of the person to receive correspondence for the administrator or designee, that person's email address, voice and facsimile numbers, and the name of the employer or plan; (3-29-12)

b. Provide written notice to the plan beneficiary of any final adverse benefit determination and of the beneficiary's right to an external review pursuant to Title 41, Chapter 59, Idaho Code, as *prescribed* by Subsection 020.02 of this rule; and *( )*

c. Comply with all other provisions of Title 41, Chapter 59, Idaho Code, and this rule, as if it were a health carrier, except the administrator or designee *need not* submit for the Director's review the forms *posted on the Department's website*. *( )*

02. Single Plan Beneficiary. The written notice to the Director *prescribed* in Subsection 024.01 of this rule for a single plan beneficiary *is* included with the notice of initial determination of an external review request in

Section 022. The notice *needs to* include the plan beneficiary's name and identification number. The administrator or designee *can*not request *from* the Director *to* terminate an external review for a single plan beneficiary while the review is in progress unless the administrator or designee has reversed the final adverse benefit determination and has notified the beneficiary it will pay benefits for the disputed service or supply. *( )*

03. Specific Period of Time. The written notice to the Director *prescribed* in Subsection 024.01 for a specific period of time *needs to* include the start date and end date for that period of time *and* be received by the Director at least thirty (30) days in advance of the date the specific period of time will begin. Any change in the start or end date for a specific period of time on file with the Director *needs to* be received in writing at least thirty (30) days in advance of the date the change will take effect. The termination of the specific period of time will not terminate an external review in progress unless the administrator or designee has reversed the final adverse benefit determination and has notified the beneficiary it will pay benefits for the disputed service or supply. *( )*

04. Effect of Election. Any single employer self-funded ERISA employee benefit plan administrator or designee that voluntarily elects to comply with Title 41, Chapter 59, Idaho Code, and this chapter of rules, does not, solely by such election and/or compliance, waive any rights, remedies, duties, causes of action, or defenses it has under ERISA or other applicable law. *( )*

025. -- 999. (RESERVED)

18.04.02 – RULE TO IMPLEMENT UNIFORM COVERAGE FOR NEWBORN AND NEWLY ADOPTED CHILDREN

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.02, "Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children." (4-2-08)

02. Scope. This rule sets forth uniform requirements to be followed by health plans providing coverage to newborn and newly adopted children in accordance with Sections 41-2140, 41-2210, 41-3437, 41-3923, 41-4023 and 41-4123, Idaho Code. (4-2-08)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter the following terms have the following meanings. (4-2-08)

01. Congenital Anomaly. *A* condition existing at or from birth that is a significant deviation from the common form or function of the body, *impairing the function of the body,* whether caused by a hereditary or developmental defect or disease. *( )*

02. Health Plan. *A*ny type of benefit plan or contract of coverage subject to the requirements of Sections 41-2140, 41-2210, 41-3437, 41-3923, 41-4023 or 41-4123, Idaho Code. *( )*

03. Health Plan Member. *A* person entitled to benefits as a member, subscriber or insured under a health plan and who, under the terms of the health plan contract, may add dependents for coverage under the health plan. *( )*

04. Newborn Child. (4-2-08)

a. A child born to a health plan member and added to the health plan as a newborn dependent; or *( )*

b. An adopted newborn child placed with the adopting health plan member within sixty (60) days of birth and added to the adopting health plan member's health plan as a newborn dependent. *( )*

05. Newly Adopted Child. *A* child under the age of *eighteen (*18*)* who is placed with the adopting health plan member more than sixty (60) days after the child's birth and added to the adopting health plan member's health plan as a dependent. *( )*

06. Placed. *P*hysical placement in the care of the adopting health plan member. If physical placement is prevented due to the medical needs of the child, the date the adopting health plan member signs an agreement for adoption of the child and assumes financial responsibility for the child. *( )*

011. COVERAGE REQUIREMENTS.

01. Coverage of Newborn and Newly Adopted Children. A health plan subject to this chapter will provide coverage to: (4-2-08)

a. A newborn child of a health plan member from the moment of birth; *and* *( )*

b. A newly adopted child of a health plan member from the date the child is placed with the adopting health plan member. (4-2-08)

02. Coverage Requirements. Coverage of newborn and newly adopted children will be at least equivalent to the coverage afforded other health plan members under the health plan and include coverage for the medically necessary care and treatment of congenital anomalies. *( )*

03. Pre-Existing Conditions. A health plan *can*not apply a pre-existing condition exclusion to a newborn or newly adopted child. *( )*

04. Cosmetic Surgery. A health plan *will* not exclude as cosmetic surgery reconstructive surgery for congenital anomalies. *( )*

05. Limitations on Coverage for Congenital Anomalies. A health plan may apply exclusions, requirements or benefit limitations, including cost sharing requirements, to coverage for congenital anomalies that are consistent with the requirements of this chapter and no more restrictive than exclusions, requirements or benefit limitations applied to coverage for similar treatments, conditions and services provided under the health plan. (4-2-08)

012. NOTIFICATION AND PAYMENT REQUIREMENTS.

01. Notification and Payment. (4-2-08)

a. If notice and payment of additional premium are *needed* for dependent coverage under the health plan contract, the contract may *request* notice of birth, placement or adoption and payment of *associated* premium as a condition of coverage for newborn and newly adopted children. The notification period *cannot be* less than sixty (60) days from the date of birth for a newborn child or, for newly adopted children, sixty (60) days from the earlier of the date of adoption or placement for adoption. The due date for payment of any additional premium, if *requested*, *can*not be not less than thirty-one (31) days following receipt by the health plan member of a billing for the premium. *( )*

b. All requirements for notice and payment of premium applied by the health plan for the enrollment of newborn or newly adopted children *are to* be clearly set forth in the health plan contract and provided to the health plan members in a manner reasonably calculated to provide notice to the members of the requirements. *( )*

c. If the health plan member fails to provide the *requested* notification, or make the *associated* premium payment, the health plan may decline to enroll a dependent child as a newborn or newly adopted child, but will treat a newborn or newly adopted child no less favorably than it treats other applicants who seek coverage at a time other than when first eligible for coverage. *( )*

d. For self-funded health care plans subject to Title 41, Chapter 40 or 41, Idaho Code, any references to premium in this chapter should be recognized to be applying to contributions. (4-11-19)

013. PORTABILITY.

The coverage provided by this chapter applies to any subsequent health plan*s* providing coverage to the newborn or newly adopted child. If there is a break in coverage that exceeds sixty-three (63) days, the health plan may treat a congenital anomaly as a pre-existing condition and apply pre-existing condition exclusions as allowed under the applicable state and federal laws. *( )*

014. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 13, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.03, "Advertisement of Disability (Accident and Sickness) Insurance." (3-30-07)

02. Scope. To protect consumers by assuring truthful and adequate disclosure of all material and relevant information in the advertising of accident and sickness insurance, including Medicare supplement accident and sickness insurance and long-term care insurance. This is accomplished by the establishment of, and adherence to, certain minimum standards and guidelines of conduct in the advertising of disability (accident and sickness) insurance in a manner that prevents unfair competition among insurers and promotes an accurate presentation and description to the insurance buying public. ( )

002. APPLICABILITY.

01. Disability and Medicare Supplement Insurance. Any disability (accident and sickness) insurance "advertisement," including Medicare supplement and long-term care insurance "advertisement," as that term is defined, intended for presentation, distribution or dissemination in this state when such presentation, distribution or dissemination is made either directly or indirectly by or on behalf of an insurer or producer. ( )

02. Control over Advertisement. Every insurer will establish and at all times maintain a system of control over the content, form and method of dissemination of all advertisements of its policies. All such advertisements created, designed or presented, are the responsibility of the insurer whose policies are so advertised. ( )

008. -- 009. (RESERVED)

010. DEFINITIONS.

01. Advertisement. Includes: ( )

a. Printed and published material, audio visual material, and descriptive literature of an insurer used in direct mail, newspapers, magazines, radio scripts, TV scripts, web sites and other internet displays or communications, other forms of electronic communications, billboards and similar displays; ( )

b. Descriptive literature and sales aids of all kinds issued by an insurer or producer for presentation to members of the insurance buying public; and ( )

c. Prepared sales talks, presentations and material for use by producers whether prepared by the insurer or the producer. (3-30-07)

02. Policy. Any policy, plan, certificate, contract, agreement, statement of coverage, rider or endorsement that provides accident or sickness benefits, or medical, surgical or hospital expense benefits, whether on an indemnity, reimbursement, service or prepaid basis, except when issued in connection with another kind of insurance other than life, and except disability, waiver of premium and double indemnity benefits included in life insurance and annuity contracts. The term includes contracts for Medicare supplement insurance and long-term care insurance. ( )

03. Insurer. Includes any individual, corporation, association, partnership, reciprocal exchange, inter-insurer, Lloyds, fraternal benefit society, health maintenance organization, and any other legal entity defined as an "insurer" in the Insurance Code of this state and is engaged in the advertisement of a policy as "policy" is herein defined. ( )

04. Exception. Any provision in a policy where coverage for a specified hazard is entirely eliminated; it is a statement of a risk not assumed under the policy. ( )

05. Reduction. Any provision that reduces the amount of the benefit; a risk of loss is assumed but payment upon the occurrence of such loss is limited to some amount or period less than would be payable had such

reduction not been used. ( )

06. Limitation. Any provision that restricts coverage under the policy other than an exception or a reduction. ( )

011. METHOD OF DISCLOSURE OF *REQUISITE* INFORMATION.
All information *needed* to be disclosed by these rules will be set out conspicuously and close*ly associated* with the statements to which such information relates or under appropriate captions of such prominence that it will not be minimized, rendered obscure or presented in an ambiguous fashion or intermingled with the context of the advertisement so as to be confusing or misleading. ( )

012. FORM AND CONTENT OF ADVERTISEMENTS.
The format and content of an advertisement of an accident or sickness insurance policy will be sufficiently complete, *not misleading,* and clear to avoid deception. ( )

013. ADVERTISEMENTS OF BENEFITS PAYABLE, LOSSES COVERED OR PREMIUMS PAYABLE.

01. Prohibitions. Deceptive words, phrases or illustrations *banned*: ( )

a. No advertisement will contain or use words or phrases such as, "all"; "full"; "complete"; "comprehensive"; "unlimited"; "up to"; "as high as"; "this policy will help pay your hospital and surgical bills"; "this policy will help fill some of the gaps that Medicare and your present insurance leave out"; "this policy will help to replace your income" or similar words and phrases, in a manner that exaggerates any benefits beyond the terms of the policy. ( )

b. An advertisement will not contain descriptions of a policy limitation, exception, or reduction, worded in a positive manner to imply that it is a benefit. Words and phrases used in an advertisement to describe such policy limitations, exceptions and reductions *should* fairly and accurately describe the negative features of such limitations, exceptions and reductions of the policy offered. ( )

c. No advertisement of a benefit for which payment is conditional upon confinement in a hospital or similar facility will use words or phrases *that* have the capacity, tendency or effect of misleading the public into believing that the policy advertised will, in some way, enable them to make a profit from being hospitalized. ( )

d. No advertisement of a hospital or other similar facility benefit will advertise that the amount of the benefit is payable on a monthly or weekly basis when, in fact, the amount of the benefit payable is based upon a daily pro - rata basis relating to the number of days of confinement. When the policy contains a limit on the number of days of coverage provided, such limit *needs to* appear in the advertisement. ( )

e. No advertisement of a policy covering only one (1) disease or a list of specified diseases will imply coverage beyond the terms of the policy. ( )

f. An advertisement for a policy providing benefits for specified illnesses only, or for specified accidents only, will clearly and conspicuously in prominent type, state the limited nature of the policy. The statement will be in language identical to, or substantially similar to the following: "THIS IS A LIMITED POLICY"; "THIS IS A CANCER ONLY POLICY"; "THIS IS AN AUTOMOBILE ACCIDENT ONLY POLICY." ( )

g. *No* advertisement of a direct response insurance product will imply that because "no insurance agent will call and no commissions will be paid to agents" that it is a "low cost plan," or use other similar words. ( )

h. No advertisement will contain or use words or phrases such as, "Medicare supplement"; "Medigap"; "this policy will help fill some of the gaps that Medicare leaves out"; or similar words and phrases, unless the policy is issued in compliance with IDAPA 18.04.10. ( )

i. An advertisement will clearly state the type of insurance coverage being offered. (3-30-07)

02. Exceptions, Reductions and Limitations. (7-1-93)

a. When an advertisement refers to either a dollar amount, or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the 1oss for which such benefit is payable, it will also disclose those exceptions, reductions and limitations affecting the basic provisions of the policy. *( )*

b. When a policy contains a waiting, elimination, probationary or similar time period between the effective date of the policy and the effective date of coverage under the policy or a time period between the date a loss occurs and the date benefits begin to accrue for such loss, an advertisement that is subject to the requirements of the preceding paragraph will disclose the existence of such periods. (7-1-93)

c. An advertisement will not use the words "only"; "just"; "merely"; "minimum"; or similar words or phrases to describe the applicability of any exceptions and reductions. *( )*

03. Pre-Existing Conditions. (7-1-93)

a. An advertisement subject to the requirements of Subsection 013.02 will, in negative terms, disclose the extent to which any loss is not covered if the cause of such loss is traceable to a condition existing prior to the effective date of the policy. The term "pre-existing condition" without an appropriate definition or description will not be used. (3-30-07)

b. When a policy does not cover losses resulting from pre-existing conditions, no advertisement of the policy will state or imply that the applicant's physical condition or medical history will not affect the issuance of the policy or payment of a claim thereunder. This rule does not prohibit explaining "automatic issue." If an insurer requires a medical examination for a specified policy, the advertisement will disclose that a medical examination is *needed*. *( )*

c. When an advertisement contains an application form to be completed by the applicant and returned by mail for a direct response insurance product, such application form will contain a question or statement that reflects the pre-existing condition provisions of the policy immediately preceding the blank space for the applicant's signature. *( )*

014. NECESSITY FOR DISCLOSING POLICY PROVISIONS RELATING TO RENEWABILITY, CANCELLATION AND TERMINATION.
When an advertisement refers to either a dollar amount or a period of time for which any benefit is payable, or the cost of the policy, or specific policy benefit, or the loss for which such benefit is payable, it will disclose the provisions relating to renewability, cancellation and termination and any modification of benefits, losses covered or premiums because of age or for other reasons, in a manner that will not minimize or render obscure the qualifying conditions. (7-1-93)

015. TESTIMONIALS OR ENDORSEMENTS BY THIRD PARTIES.

01. Testimonials. Testimonials used in advertisements *will* be genuine, represent the current opinion of the author, be applicable to the policy advertised and be accurately reproduced. The insurer, in using a testimonial, makes as its own all of the statements contained therein, and the advertisement, including such statement, is subject to all the provisions of *this chapter*. *( )*

02. Disclosure of Financial Interest. If the person making a testimonial, an endorsement or an appraisal has a financial interest in the insurer or a related entity as a stockholder, director, officer, employee, or otherwise, such fact will be disclosed in the advertisement. If a person is compensated for making a testimonial, endorsement or appraisal, such fact will be disclosed in the advertisement by language substantially as follows: "Paid Endorsement." This *chapter* does not require disclosure of union "scale" wages *set* by union rules if the payment is actually for such "scale" for TV or radio performances. The payment of substantial amounts, directly or indirectly, for "travel and entertainment" for filming or recording of TV or radio advertisements require*s* disclosure of such compensation. *( )*

03. Limitations and Restrictions. An advertisement *will* not state or imply that an insurer or a policy has been approved or endorsed by any individual, group of individuals, society, association or other organizations, unless such is the fact, and unless any proprietary relationship between an organization and the insurer is disclosed. If the entity making the endorsement or testimonial has been formed by the insurer or is owned or controlled by the insurer or the person or persons who own or control the insurer, such fact will be disclosed in the advertisement.
( )

04. Retention of Data. When a testimonial refers to benefits received under a policy, the specific claim data, including claim number, date of loss, and other pertinent information *is* retained by the insurer for inspection for a period of four (4) years or until the filing of the next regular report on examination of the insurer, whichever is the longer period of time. *( )*

016. USE OF STATISTICS.

01. Requests for Use of Statistical Information. An advertisement relating to the dollar amounts of claims paid, the number of persons insured, or similar statistical information relating to any insurer or policy *can*not use irrelevant facts, and *can*not be used unless it accurately reflects all relevant facts. Such an advertisement will not imply that such statistics are derived from the policy advertised unless such is the fact, and when applicable to other policies or plans will specifically so state. *( )*

02. Restrictions on Representations. An advertisement will not represent or imply that claim settlements by the insurer are "liberal" or "generous," or use words of similar import, or that claim settlements are or will be beyond the actual terms of the contract. An unusual amount paid for a unique claim for the policy advertised is misleading and *can*not be used. *( )*

03. Source of Statistics. The source of any statistics used in an advertisement will be identified in such advertisement. (7-1-93)

017. IDENTIFICATION OF PLAN OR NUMBER OF POLICIES.

01. Disclosure Requirements. When a choice of the amount of benefits is referred to, an advertisement will disclose that the amount of benefits provided depends upon the plan selected and that the premium will vary with the amount of the benefits selected. (7-1-93)

02. Disclosure Based on Combination of Policies. When an advertisement refers to various benefits that may be contained in two (2) or more policies, other than group master policies, the advertisement will disclose that such benefits are provided only through a combination of such policies. (7-1-93)

018. DISPARAGING COMPARISONS AND STATEMENTS.
An advertisement will not directly or indirectly make unfair or incomplete comparisons of policies or benefits or comparisons of non-comparable policies of other insurers, and will not disparage competitors, their policies, services or business methods, and will not disparage or unfairly minimize competing methods of marketing insurance.
(7-1-93)

019. JURISDICTION LICENSING AND STATUS OF INSURER.

01. Restrictions on Licensing Jurisdiction. An advertisement intended to be seen or heard beyond the limits of the jurisdiction in which the insurer is licensed will not imply licensing beyond those limits. *( )*

02. Restrictions on Endorsements. An advertisement will not create the impression directly or indirectly that the insurer, its financial condition or status, or the payment of its claims, or the merits, desirability, or advisability of its policy forms or kinds or plans of insurance are approved, endorsed, or accredited by any division or agency of this state or the United States Government. (7-1-93)

020. IDENTITY OF INSURER.

01. Name of Insurer to Be Identified. The name of the actual insurer *is* clearly identified and the

policy or policies advertised *is* identified by form number or otherwise described. An advertisement will not use a trade name, any insurance group designation, name of the parent company of the insurer, name of a particular division of the insurer, service mark, slogan, symbol or other device that, without disclosing the name of the actual insurer. *( )*

02. Identity of Insurer Not to Be Misrepresented. No advertisement *can* use any combination of words, symbols, or physical materials that by their content, phraseology, shape, color or other characteristics are so similar to combinations of words, symbols, or physical materials used by agencies of the federal government or of this state, or appear to be of such a nature that it tends to confuse or mislead prospective insureds into believing that the solicitation is in some manner connected with an agency of the municipal, state, or federal government. *( )*

021. GROUP OR QUASI-GROUP IMPLICATIONS.
An advertisement of a particular policy will not state or imply that prospective insureds become group or quasi-group members covered under a group policy and as such enjoy special rates or underwriting privileges, unless such is the fact. (7-1-93)

022. INTRODUCTORY, INITIAL OR SPECIAL OFFERS.

01. Restrictions on Introductory, Initial or Special Offers. (7-1-93)

a. An advertisement of an individual policy will not represent that a contract or combination of contracts is an introductory, initial or special offer, or that applicants will receive substantial advantages not available at a later date, or that the offer is available only to a specified group of individuals, unless such is the fact. An advertisement *can*not contain phrases describing an enrollment period as "special," "limited," or similar words. *( )*

b. An enrollment period during which a particular insurance product may be purchased on an individual basis *can*not be offered within this state unless there has been a lapse of not less than three (3) months between the close of the immediately preceding enrollment period for the same product and the opening of the new enrollment period. The advertisement will indicate the date by which the applicant *need* mail the application, *which is* not less than ten (10) days and not more than forty (40) days from the date that such enrollment period is advertised for the first time. This *chapter* applies to all advertising media, i.e., mail, newspapers, radio, television, magazines and periodicals, by any one (1) insurer. It is inapplicable to solicitations of employees or members of a particular group or association that would be eligible under specific provisions of the Insurance Code for group, blanket or franchise insurance. The phrase "any one (1) insurer" includes all the affiliated companies of a group of insurance companies under common management or control. *( )*

c. This *chapter* prohibits any statement or implication to the effect that only a specific number of policies will be sold, or that a time is fixed for the discontinuance of the sale of the particular policy advertised because of special advantages available in the policy, unless such is the fact. *( )*

d. The phrase "a particular insurance product" in paragraph(s) of this Section means an insurance policy that provides substantially different benefits than those contained in any other policy. Different terms of renewability; and increase or decrease in the dollar amounts of benefits; and increase or decrease in any elimination period or waiting period from those available during an enrollment period for another policy will not be sufficient to constitute the product being offered as a different product eligible for concurrent or overlapping enrollment periods. (7-1-93)

02. Restrictions on Reduced Initial Premium. When an insurer charges an initial premium that differs in amount from the amount of the renewal premium payable on the same mode, the advertisement will not display the amount of the reduced initial premium either more frequently or more prominently than the renewal premium. *( )*

03. Restriction on Special Awards. Special awards, such as a "safe drivers' award" will not be used in connection with advertisements of accident or accident and sickness insurance. (7-1-93)

023. STATEMENTS ABOUT AN INSURER.

An advertisement will not contain statements that are untrue in fact, or by implication misleading, with respect to the assets, corporate structure, financial standing, age or relative position of the insurer in the insurance business. An advertisement will not contain a recommendation by any commercial rating system unless it clearly indicates the purpose of the recommendation and the limitations of the scope and extent of the recommendation. (7-1-93)

024. ENFORCEMENT PROCEDURES.
Each insurer will maintain at its home or principal office a complete file containing every printed, published or prepared advertisement of its individual policies and typical printed, published or prepared advertisements of its blanket, franchise and group policies hereafter disseminated in this or any other state whether or not licensed in such other state, with a notation attached to each such advertisement that will indicate the manner and extent of distribution and the form number of any policy advertised. Such file is subject to regular and periodical inspection by this Department. All such advertisements will be maintained in said file for a period of either four (4) years or until the filing of the next regular report on examination of the insurer, whichever period is longer. (3-30-07)

025. FILING FOR PRIOR REVIEW.
The Director may, at *their* discretion, require the filing of any accident and sickness insurance advertising material for review prior to use. *( )*

026. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 39, Idaho Code. (7-1-98)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.04, "The Managed Care Reform Act *Rule*." *( )*

02. Scope. The Act and this *chapter* define procedures to be followed in establishing and operating a Managed Care Organization. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

***01*. Balance Billing**. *T*he practice whereby a provider bills an individual covered under the benefit plan for the difference between the amount the provider normally charges for a service and the amount the plan, policy, or contract recognizes as the allowable charge or negotiated price for the service delivered. *( )*

***02*. MCO**. Managed Care Organizations is abbreviated to MCO in this rule. (7-1-98)

***03*. MCO Provider**. MCO provider means any provider owned, managed, employed by, or under contract with an MCO to provide health care services to MCO members. An MCO provider includes a physician, hospital, or other person licensed or authorized to furnish health care services. *( )*

011. APPLICATION FOR CERTIFICATE OF AUTHORITY.

01. Certificate of Authority. Any person offering a managed care plan on a predetermined and prepaid basis is transacting the business of insurance and *needs to* be authorized under a Certificate of Authority issued by the Director of Insurance. *( )*

***02*. Application Requirements**. The application for a Certificate of Authority will include the affidavits, statements, and other information as enumerated in Idaho Code, Sections 41-319, 41-3904, 41-3905, and 41-3906. After receiving these completed documents, the Director has the authority to request any supplemental information before final approval or disapproval is given. *( )*

***03*. Capital Surplus and Deposit Requirements**. *( )*

a. The Director has established the following minimum capital fund requirements as per Section 41-3905(8), Idaho Code, based on the number of enrolled members:

Enrolled Members	Capital Funds
0-100	200,000
101-300	300,000
301-500	400,000
501-700	500,000
701-1,000	1,000,000
1,001-2,000	1,500,000
2,001-3,000	2,000,000

(7-1-98)

b. In no event will the organization's capital funds be less than the following:

One year after the organization becomes subject to *the Act*	$1,000,000

Two years after the date the organization becomes subject to *the Act*	$1,500,000
Three years after the date the organization becomes subject to *the Act*	$2,000,000

( )

c. Immediately upon becoming subject to *the Act*, the *MCO's* minimum statutory deposit requirements *is* calculated as fifty percent (50%) of the amount of the organization's Capital funds as calculated above up to a maximum of one million dollars ($1,000,000), but not less than two hundred thousand dollars ($200,000). The amount of the deposit so held by the Department *is* adjusted based on the organization's December 31st and June 30th financial statement filings each year. In no event will the minimum *prescribed* statutory deposit amount be reduced. Upon notification by the Department of the necessary increase in the deposit amount, the organization will have no more than thirty (30) days to come into compliance with the *prescribed* amount. Failure to increase the deposit as *prescribed* will subject the organization to suspension or revocation of its certificate of authority pursuant to Section 41-326, Idaho Code. *( )*

012. SOLICITATION PRIOR TO ISSUANCE OF CERTIFICATE OF AUTHORITY.

01. Permission for Solicitation Requisite. In accordance with Section *41-3904, Idaho Code*, a proposed MCO, after filing its application for a Certificate of Authority, may request permission from the Director to inform potential enrollees concerning its proposed managed care services. *( )*

02. Solicitation Materials. Before contacting potential enrollees or subscribers, the proposed MCO will submit its request for permission to the Director in writing, with copies of brochures, advertising or solicitation materials, sales talks or any other procedures or methods to be used. (7-1-98)

03. Methods of Solicitation. Advertising and solicitation materials used by a proposed MCO need to meet the following minimum requirements: (7-1-98)

a. The prospective enrollee will clearly be advised that: (7-1-98)

i. The proposed MCO is not as yet authorized to offer health care services in this state; (7-1-98)

ii. Coverage for health care services is not being provided at the time of the solicitation; (7-1-98)

iii. The solicitation is not a guarantee that any services will be provided at a future date. (7-1-98)

b. The format and content of any material offered *will conform* with the MCO Act. Such material will contain but not be limited to the following information: *( )*

i. Complete description of the proposed MCO services and other benefits to which the enrollee would be entitled; (7-1-98)

ii. The location of all facilities, the hours of operation, and the services which would be provided in each facility; (7-1-98)

iii. The predetermined periodic rate of payment for the proposed services; (7-1-98)

iv. All exclusions and limitations on the proposed services, including any copayment feature, and all restrictions relating to pre-existing conditions. (7-1-98)

c. *No* person *will* solicit enrollment or inform prospective enrollees concerning proposed MCO services unless compensated solely as a salaried employee of the proposed MCO. *( )*

013. ANNUAL DISCLOSURE, FILING WITH DIRECTOR.
The annual disclosure material *prescribed* to be filed with the Director pursuant to Section 41-3914, Idaho Code, *is* filed with the reports to the Director on or before March 1 each year. *( )*

014. ANNUAL REPORT TO THE DIRECTOR.
In accordance with Sections 41-3910 and 41-335, Idaho Code, every managed care organization will annually on or before the first day of March, file with the Director a full and true statement of its financial condition, transactions and affairs as of the preceding December 31. Unless otherwise *prescribed* by the Director, the statement is to be prepared in accordance with the annual statement instructions and the accounting practices and procedures manual adopted by the National Association of Insurance Commissioners (NAIC) and is to be submitted on the NAIC annual convention blank form. The managed care organization will also file its annual audited financial report in accordance with IDAPA 18.07.04, "Annual Audited Financial Reports." *( )*

015. PERSONNEL AND FACILITIES LISTING.

01. Current Listing. The MCO will at all times keep a current list of all personnel, providers and facilities employed, retained or under contract to furnish health care services to enrollees. This list *is to be made* available to the Director *upon* request. *( )*

02. Allowable Expense -- No Balance Billing. No MCO provider or other provider accepting a referral from an MCO, who treats or provides services to an individual covered by the MCO, *may* charge to or collect from any member or other beneficiary any amount in excess of that amount of compensation determined or allowed for a particular service by the MCO or by the administrator for the MCO. Nothing in this section prevent*s* the collection of any copayments, coinsurance, or deductibles allowed for in the plan design. *( )*

03. Procedures for Basic Care and Referrals. The MCO will provide basic health care to enrollees through an organized system of health care providers. In plans in which referrals to specialty physicians and ancillary services are *prescribed*, the MCO provider or the MCO will initiate the referrals. The MCO will inform its providers of their responsibility to provide written referrals and any specific procedures that *need to* be followed in providing referrals, including prohibition of balance billing. *( )*

04. Health Care Services to Be Accessible. The MCO, either directly or through its organized system of health care providers, will arrange for covered health care services, including referrals to providers within the organized system of health care providers and noncontracting providers, to be accessible to enrollees on a timely basis in accordance with medically appropriate guidelines consistent with generally accepted practice parameters. (7-1-98)

05. Out of Network Services. In the case of provider care which is delivered outside of the organized system of health care providers or defined referral system, the MCO will alert those covered under health benefit plans to the fact that providers which are not MCO providers, or have not accepted written referrals, may balance bill the customer for amounts above the MCO's maximum allowance. Consumers should be encouraged to discuss the issue with their providers (7-1-98)

016. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.05, "Self-Funded Health Care Plans Rule." (3-25-16)

02. Scope. *T*his rule supplement*s* the provisions of Title 41, Chapter 40, Idaho Code, Self-Funded Health Care Plans. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. "All Contributions to Be Paid in Advance." *A*ll contributions are to be paid in advance of the period of time for which the contribution is made. *( )*

02. "Deposited in and Disbursed from a Trust Fund." *A*ll contributions based on calculated rates in accordance with Section 028 of this rule *are* deposited into the trust fund and all expenses *are* paid out of the trust fund. *( )*

011. -- 020. (RESERVED)

021. QUALIFICATION OF PLAN.
In order for a plan to qualify under Title 41, Chapter 40, Idaho Code, the plan's trust will be established by agreement between the employer or employers or a postsecondary education institution and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the employer or employers or to students of the postsecondary educational institution. (3-25-16)

022. REGISTRATION.

01. Registration Requisite. No self-funded plan, unless exempted from registration by Section 41-4003, Idaho Code, will be organized and permitted to operate in the state of Idaho without securing a Certificate of Registration from the Director. *( )*

02. Specific Plans. Any plans covering the employees of a common employer *are* a single plan in respect to the exemption for registration allowed in Section 41-4003, Idaho Code. Any combinations of plans under the effective control of a single administrator, trustee, and/or employer, or group of administrators, trustees and/or employers utilizing or attempting to utilize the exempt dollar amounts permitted under Section 41-4003, Idaho Code in order to avoid registration of any such plans *are* deemed to be contrary to the intent of Title 41, Chapter 40, Idaho Code, and *are* expressly *banned* by this rule. *( )*

03. Beneficiary Within State. Registration is *mandatory* of plans that cover any beneficiary working or residing within this state, unless the plans are otherwise exempted by Section 41-4003(2), Idaho Code. *( )*

023. (RESERVED)

024. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.
The Director may make an investigation of matters accompanying the application for registration including an examination specified in Section 41-4013, Idaho Code. Costs of any investigation or examination, or both, will be borne by the trust fund of the plan. *( )*

025. CONTRIBUTIONS RECEIVABLE.
The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (7-1-93)

026. TRUST FUND RESERVES AND SURPLUS.

01. Reserve Requirements. The trust fund of the plan is to continuously maintain reserves sufficient, as certified by a qualified actuary as being necessary, to fully fund payment of all benefits in effect at the time a claim

arises. This reserve needs to adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. (3-25-16)

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits *cannot be less than* the Minimum Reserve Standards for Group Health Insurance Contracts set forth the in the NAIC's Accounting Practices and Procedures Manual unless it can be proven to the satisfaction of the Director that a lower reserve can be actuarially justified. *( )*

03. Certification by Actuary. Reserves needs to be certified annually by a qualified actuary. Such certification needs to be accompanied by a statement describing bases used in reserve determination. The certification will be in a form acceptable to the Director. (3-25-16)

04. Insolvent Condition. If determination of surplus reveals a deficiency in surplus, the Director may allow the plan *up to* ninety (90) days to accumulate *prescribed* surplus. The plan is deemed insolvent when it is either unable to pay its obligations or its assets do not exceed all its liabilities, including *prescribed* reserves. *( )*

027. BONDING.

01. Certified Copy of Bond. *The plan will submit to the Director a* certified copy of the fidelity bond or equivalent coverage, as *prescribed* under Section 41-4014(3), Idaho Code. *( )*

02. Scope of Coverage. The fidelity bond or equivalent coverage will cover every trustee, officer, director, and employee of the plan. (3-25-16)

03. Cancellation of Bond Requirements. The fidelity bond or equivalent coverage needs to contain language stating that it is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the Director. A copy of any notice cancelling a bond *prescribed* under Title 41, Chapter 40, Idaho Code, is to be forwarded to the Director by the surety at the same time it is forwarded to the trustee. *( )*

04. Third Party Administrator. Any party that provides any one of the following services to the plan needs to be licensed as a third party administrator: *( )*

a. Directly or indirectly underwrites; (3-25-16)

b. Collects or handles charges or contributions; or (3-25-16)

c. Adjusts or settles claims on members or beneficiaries of the plan. (3-25-16)

028. CONTRIBUTION RATES.

01. Contribution Rate Calculation. Contribution rates will be calculated at least annually by a qualified actuary. The contribution rate calculations should *break* down and designate the rate for the employer and the rate per employee, or the rate for the postsecondary educational institution and the rate per student. *( )*

02. Employer Contributions. Employer contributions will be based on filed rates, paid in advance on a periodic basis during the period of coverage or at the beginning of the period of coverage. (3-25-16)

03. Annual Filing of Rates. The annual filing of rates with the Director will include a breakdown as *prescribed* under Subsection 028.01. *( )*

029. CONTRACTS AND SERVICES.

01. Affiliated Contracts. All contracts for goods or services provided to the plan by any plan sponsor, employer, third party administrator, or other affiliated entity or employee or agent thereof, will be in writing, setting forth in detail the rights and duties of each party to the writing; regardless of whether compensation, fees, or other consideration is paid or exchanged directly or indirectly. (3-25-16)

02. Contracts for Services. All contracts for services *directly affecting the plan* including, but not limited to, accounting services, legal services, custodial agreements, and agreements for lease, rent, or insurance coverage to be performed or entered into on behalf of the plan will be agreed to by the board of trustees and the other party. *( )*

03. Recordkeeping and Writing. Contracts and agreements valued at greater than five hundred dollars ($500.00) entered into by the plan, will be in writing and approved by resolution of the board of trustees, and placed in the minutes and records of the plan. (3-25-16)

04. Fiduciary Duty. By entering into contracts and agreements, the trustees are not permitted to transfer or avoid their statutory fiduciary responsibilities. (3-25-16)

030. RECORDS.

01. Board Actions. Any and all acts, resolutions, appointments, or delegations, or other decisions of the board of trustees will be in writing and placed in the minutes and records of the plan. (3-25-16)

02. Complete Records. The full and accurate records and accounts of the plan include, but are not limited to, minutes of the meetings of the board of trustees that document the acts, resolutions, appointments or delegations of the trustees; any and all correspondence between the board of trustees and contractors; accounting and actuarial records; and any and all records, correspondence, minutes, or statements as *prescribed* by law or the trust agreement. *( )*

031. ANNUAL STATEMENT.
The trustee will file an annual statement within ninety (90) days after the close of each fiscal year of the Plan and at such other time as may be determined by the Director. A quarterly statement will be filed with the Director within sixty (60) days of the end of each quarter in a form acceptable to the Director. (3-30-07)

032. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.06, "Governmental Self-Funded Employee Health Care Plans Rule." (3-30-07)

02. Scope. The purpose of this rule is to supplement the provisions of Title 41, Chapter 41, Idaho Code, Joint Public Agency Self-Funded Health Care Plans by providing: (3-30-07)

a. Dates of application for registration; (3-30-07)

b. Requirements for application for registration; (3-30-07)

c. Rules regarding investigation of applications; (3-30-07)

d. Definition of *needed* liabilities; and establishment of reserve bases; and *( )*

e. To provide an effective date. (3-30-07)

002. -- 020. (RESERVED)

021. QUALIFICATION OF PLAN.
In order to qualify under Title 41, Chapter 41, Idaho Code, the plan's trust *needs to* be established by agreement between the public agency employers or joint powers entity and the trustee of the trust, for the sole purpose of providing health care benefits to employees of the public agency employer or employers. *( )*

022. REGISTRATION.

01. Registration *Requisite*. No joint public agency self-funded plan, unless exempted from registration by Section 41-4103, Idaho Code, will be organized and permitted to operate in the state of Idaho without securing a certificate of registration from the Director of insurance. *( )*

02. Beneficiary Within State. Registration is *mandatory* of plans that cover any beneficiary working or residing within this state, unless the plans are exempted by Section 41-4103, Idaho Code. *( )*

023. APPLICATION FOR REGISTRATION.

01. Application. The application *needs to* include each of the requirements set out in Section 41-4105, Idaho Code. The projected income and disbursement statement referenced in Section 41-4105(2)(d), Idaho Code, *needs to* be certified by an actuary meeting the qualifications of Section 41-4105(2)(d), Idaho Code, and accompanied by a description of assumptions used in projecting income and disbursements together with bases used to estimate amounts reserved for claims. *( )*

02. Joint Powers Agreement. The joint powers agreement *needs to* comply with Title 41, Chapter 41 and, to the extent not in conflict with Title 41, the joint powers agreement *needs to* also comply with Title 67, Chapter 23, Idaho Code. The joint powers agreement *needs to* contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. *( )*

03. Trust Agreement. (3-30-07)

a. The trust agreement *will* comply with Title 41, Chapter 41, Idaho Code, and, to the extent not in conflict with Title 41, the trust agreement *needs to* also comply with Title 68, Idaho Code, and Title 15, Chapter 7, Idaho Code. The trust agreement *will* contain, at a minimum, the conditions set forth in Section 41-4104, Idaho Code. *( )*

b. The term irrevocable as used in Section 41-4104(1), Idaho Code, means that the plan sponsor cannot retain a power to alter, amend, revoke or terminate the transfer in trust. The trustee may, pursuant to the terms of the trust agreement, amend the terms of the trust agreement for the purpose of complying with applicable law. (3-30-07)

04. Biographical Affidavit. The application *needs to* be accompanied by a biographical affidavit for each trustee on a form acceptable to Director. *( )*

024. INVESTIGATION OF PROPOSED APPLICATION FOR REGISTRATION.
The Director may make an investigation of matters accompanying the application for registration as deemed necessary including an examination specified in Section 41-4113, Idaho Code. (3-30-07)

025. CONTRIBUTIONS RECEIVABLE.
The trust fund may take credit in any financial statement for contributions receivable which are not in excess of ninety (90) days past due. (3-30-07)

026. TRUST FUND RESERVES.

01. Reserve Requirements. The trust fund of a plan *needs to* continuously maintain reserves, pursuant to Section 41-4110, Idaho Code, from inception of the plan, sufficient to fully fund payment of all benefits at the time a claim arises. This reserve *needs to* adequately provide for all reasonably estimated future claim payments, adjustment expenses, and litigation expenses on claims which have arisen, including claims incurred but not reported, extended benefits and maternity benefits, if any. *( )*

02. Reserves for Disability Income Benefits. Reserves established for disability income benefits *cannot* be less than reserves determined by the Minimum Reserve Standards for Group Health Insurance Contracts set forth the in the NAIC's Accounting Practices and Procedures Manual unless it can be proven to the satisfaction of the Director that a lower reserve can be actuarially justified. *( )*

03. Certification by Actuary. Reserves *needs to* be certified annually by an actuary who meets the requirements of Section 41-4105(2)(d), Idaho Code, and such certification *needs to* be accompanied by a statement describing bases used in reserve determination. The certification will be in a form acceptable to the Director. *( )*

04. Insolvent Condition. (3-30-07)

a. *Insolvency means that the plan is unable to pay its obligations when they are due, or when its admitted assets do not exceed its liabilities, including needed reserves.* *( )*

b. *I*f the determination of reserves reveals an insolvent condition, the Director may allow the plan a period of time not exceeding ninety (90) days to accumulate *needed* reserves. (3-30-07)

027. BONDING OR DISHONESTY INSURANCE.

01. Certified Copy of Bond. A certified copy of the fidelity bond or dishonesty policy, as *prescribed* under Section 41-4114(3), Idaho Code, will be furnished to the Director by the plan. *( )*

02. Cancellation of Bond Requirements. The bond or dishonesty policy *will* contain language stating that the bond or policy is noncancellable except upon not less than thirty (30) days advance notice in writing to the trustee and the Director. A copy of any notice cancelling a bond or dishonesty policy *prescribed* under Chapter 41 is to be forwarded to the Director by the surety or policy provider at the same time it is forwarded to the board. *( )*

028. ANNUAL STATEMENT.
The trustee will file an annual statement within ninety (90) days after the close of each fiscal year of the plan and at such other time as may be determined by the Director. A quarterly statement will be filed with the Director within sixty (60) days of the end of each quarter in a form acceptable to the Director. (3-30-07)

029. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2, 13 and 18, Idaho Code. (5-8-09)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.07, "Restrictions on Discretionary Clauses in Health Insurance Contracts." (5-8-09)

02. Scope. This rule sets forth uniform requirements regarding the use of discretionary clauses to be followed by health carriers transacting insurance in Idaho. *This chapter does not apply to a health insurance contract for group coverage offered by or through an employer to its employees.* *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Discretionary Clause. *A*ny health insurance contract provision that provides the health carrier with sole discretionary authority to determine eligibility for benefits or to interpret the terms and provisions of the health insurance contract. *( )*

03. Health Care Services. *S*ervices for the diagnosis, prevention, treatment, cure or relief of a health condition, illness, injury, or disease. *( )*

04. Health Carrier. *A*n entity subject to regulation under Title 41, Chapters 21, 22, 32, 34, 39, 40, 41, 47, 52 or 55, Idaho Code. *( )*

05. Health Insurance Contract. *A*ny policy, contract, certificate, agreement, or other form or document providing, defining, or explaining coverage for health care services offered, delivered, issued for delivery, continued, or renewed in this state by a health carrier. *( )*

011. DISCRETIONARY CLAUSES.
No health insurance contract may contain a discretionary clause. (5-8-09)

012. GROUNDS FOR DISAPPROVAL.
Any health insurance contract containing terms inconsistent with the provisions of this rule is misleading, inequitable and unfairly prejudicial to the policyholder and the insurance-buying public. In addition to any other sanction or remedy afforded by Title 41, Idaho Code, the use of provisions inconsistent with this rule in a health insurance contract is grounds for the Director to disapprove the health insurance contract in accordance with Section 41-1813, Idaho Code. (5-8-09)

013. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 41-2140, 41-2210, 41-3438, 41-3932, *and* 41-4023, Idaho Code. *( )*

001. TITLE AND SCOPE.
IDAPA 18.04.09, "Complications of Pregnancy." *The chapter* define*s* the intent of the provisions pertaining to involuntary complications of pregnancy under *Title 41,* Chapters 21, 22, 34, 39, and 40, Idaho Code. *( )*

002. -- 010. (RESERVED)

011. COVERAGE.

01. Applicability. *This chapter* appl*ies* to all contracts regulated by *Title 41,* Chapters 21, 22, 34, 39, and 40*, Idaho Code,* which provide maternity benefits for a person covered continuously from conception. When the contract does not provide maternity benefits, the provisions of this chapter do not apply. *( )*

02. Involuntary Complications of Pregnancy. Involuntary complications of pregnancy, as that term is used in Sections 4l-2140(2), 41-2210(2), 41-3438, 41-3932, and 41-4023, Idaho Code, includes but is not limited to:
(7-1-93)

a. Conditions, requiring hospital confinement (when the pregnancy is not terminated), whose diagnoses are distinct from pregnancy but are adversely affected by pregnancy or are caused by pregnancy, such as acute nephritis, nephrosis, cardiac decompensation, missed abortion and similar medical and surgical conditions of comparable severity, but not false labor, occasional spotting, physician prescribed rest during the period of pregnancy, morning sickness, hyperemesis qravidarum, preeclampsia and similar conditions associated with the management of a difficult pregnancy not constituting a nosologically distinct complication of pregnancy; and *( )*

b. *E*ctopic pregnancy which is terminated, spontaneous termination of pregnancy which occurs during a period of gestation in which a viable birth is not possible, puerperal infection, eclampsia and toxemia. *( )*

012. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 44, Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.10, "*T*he Medicare Supplement Insurance Minimum Standards Model Act." *( )*

02. Scope. (4-5-00)

a. Except as specifically provided in Sections 046, 051, 066, and 077, this *chapter* applies to: *( )*

i. All Medicare supplement policies delivered or issued for delivery in this state; and *( )*

ii. All certificates issued under group Medicare supplement policies, which certificates have been delivered or issued for delivery in this state. (4-5-00)

b. This chapter does not apply to a policy or contract of one (1) or more employers or labor organizations, or of the trustees of a fund established by one (1) or more employers or labor organizations, or combination thereof, for employees or former employees, or a combination thereof, or for members or former members, or a combination thereof, of the labor organization. (4-5-00)

002. INCORPORATION BY REFERENCE.
This *chapter* incorporates by reference Appendixes A (Refund Calculation and Calculation of Benchmark forms Model Regulation 651 pages 651-94 to 651-97), B (Form for Reporting Medicare Supplement Policies, page 651-98), and C (Disclosure Statements pages 651-99 to 651-108), and all other outlines of coverage and specific plan designs of the National Association of Insurance Commissioners (NAIC) Model Regulation 651 (pages 651-42 to 651-85) implementing the Medicare supplement insurance minimum standards (2018). The Model Regulation is available from the National Association of Insurance Commissioners and from the Idaho Department of Insurance. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Applicant. (4-5-00)

a. In the case of an individual Medicare supplement policy, the person who seeks to contract for insurance benefits; and (4-5-00)

b. In the case of a group Medicare supplement policy, the proposed certificate holder. (4-5-00)

02. Bankruptcy. A Medicare Advantage organization that is not an issuer has filed, or has had filed against it, a petition for declaration of bankruptcy and has ceased doing business in the state. (4-11-06)

***03*. Continuous Period of Creditable Coverage**. The period during which an individual was covered by creditable coverage, if during the period of the coverage the individual had no breaks in coverage greater than sixty-three (63) days. (4-5-00)

***04*. Creditable Coverage**. (4-5-00)

a. With respect to an individual, coverage of the individual provided under any of the following: (4-5-00)

i. A group health plan; (4-5-00)

ii. Health insurance coverage; (4-5-00)

iii. Part A or Part B of Title XVIII of the Social Security Act (Medicare); (4-5-00)

iv. Title XIX of the Social Security Act (Medicaid), other than coverage consisting solely of benefits

under Section 1928; (4-5-00)

v. *Title 10,* Chapter 55, United States Code (CHAMPUS); *( )*

vi. A medical care program of the Indian Health Service or of a tribal organization; (4-5-00)

vii. A state health benefits risk pool; (4-5-00)

viii. A health plan offered under *Title 5, C*hapter 89, United States Code (Federal Employees Health Benefits Program); *( )*

ix. A public health plan as defined in federal regulation; and (4-5-00)

x. A health benefit plan under Section 5(e) of the Peace Corps Act (22 United States Code 2504(e)). (4-5-00)

b. Creditable coverage *does* not include one (1) or more, or any combination of, the following: (4-5-00)

i. Coverage only for accident or disability income insurance, or any combination thereof; (4-5-00)

ii. Coverage issued as a supplement to liability insurance; (4-5-00)

iii. Liability insurance, including general liability insurance and automobile liability insurance; (4-5-00)

iv. Workers' compensation or similar insurance; (4-5-00)

v. Automobile medical payment insurance; (4-5-00)

vi. Credit-only insurance; (4-5-00)

vii. Coverage for on-site medical clinics; and (4-5-00)

viii. Other similar insurance coverage, specified in federal regulations, under which benefits for medical care are secondary or incidental to other insurance benefits. (3-29-10)

c. Creditable coverage *does* not include the following benefits if they are provided under a separate policy, certificate or contract of insurance or are not an integral part of the plan: *( )*

i. Limited scope dental or vision benefits; (4-5-00)

ii. Benefits for long-term care, nursing home care, home health care, community-based care, or any combination thereof; and (4-5-00)

iii. Such other similar, limited benefits as are specified in federal regulations. (4-5-00)

d. Creditable coverage *does* not include the following benefits if offered as independent, non-coordinated benefits: *( )*

i. Coverage only for a specified disease or illness; and (4-5-00)

ii. Hospital indemnity or other fixed indemnity insurance. (4-5-00)

e. Creditable coverage *does* not include the following if it is offered as a separate policy, certificate, or contract of insurance: *( )*

i. Medicare supplemental health insurance as defined under Section 1882(g)(1) of the Social Security Act; (3-29-10)

ii. Coverage supplemental to the coverage provided under *Title 10, C*hapter 55, United States Code; and *( )*

iii. Similar supplemental coverage provided to coverage under a group health plan. (4-5-00)

f. The Health Insurance Portability and Accountability Act of 1996 (HIPAA) specifically addressed separate, noncoordinated benefits in the group market at PHSA Section 2721(d)(2) and the individual market at Section 2791(c)(3). HIPAA also references excepted benefits at PHSA Sections 2701(c)(1), 2721(d), 2763(b) and 2791(c). In addition, credible coverage has been addressed in an interim final rule (62 Fed. Reg. At 16960-16962 (April 8, 1997)) issued by the Secretary of Health and Human Services, pursuant to HIPAA, and may be addressed in subsequent regulations. (4-1-06)

05. **Employee Welfare Benefit Plan**. A plan, fund, or program of employee benefits as defined in 29 U.S.C. Section 1002 (Employee Retirement Income Security Act). (4-5-00)

06. **Insolvency**. When an issuer, licensed to transact the business of insurance in this state, has had a final order of liquidation entered against it with a finding of insolvency by a court of competent jurisdiction in the issuer's state of domicile. (4-5-00)

07. **Medicare Advantage Plan**. A plan of coverage for health benefits under Medicare Part C as defined in 42 U.S.C. 1395w-28 (b)(1), and includes: (4-11-06)

a. Coordinated care plans which provide health care services, including but not limited to managed care organization (with or without a point-of-service option), plans offered by provider-sponsored organizations, and preferred provider organization plans; (4-5-00)

b. Medical savings account plans coupled with a contribution into a Medicare Advantage medical savings account; and (4-11-06)

c. Medicare Advantage private fee-for-service plans. (4-11-06)

08. **Medicare Supplement Policy**. *As defined in Section 41-4402 and in addition,* "Medicare Supplement Policy" does not include Medicare Advantage plans established under Medicare Part C. Outpatient Prescription Drug plans established under Medicare Part D, or any Health Care Prepayment Plan (HCPP) that provides benefits pursuant to an agreement under Section 1833(a)(1)(A) of the Social Security Act; provided, however, that under Section 104(c) of the Medicare Improvements for Patients and Providers Act of 2008 (MIPPA), policies that are advertised, marketed or designed primarily to cover out-of-pocket costs under Medicare Advantage Plans (established under Medicare Part C) *need to* comply with the Medicare supplement requirements of Section 1882(o) of the Social Security Act. *( )*

09. **Pre-Standardized Medicare Supplement Benefit Plan**. A group or individual policy of Medicare supplement insurance issued prior to July 1, 1992. (3-29-10)

10. **1990 Standardized Medicare Supplement Benefit Plan**. A group or individual policy of Medicare supplement insurance issued on or after July 1, 1992 and with an effective date for coverage prior to June 1, 2010 and includes Medicare supplement insurance policies and certificates renewed on or after that date which are not replaced by the issuer at the request of the insured. (3-29-10)

11. **2010 Standardized Medicare Supplement Benefit Plan**. A group or individual policy of Medicare supplement insurance with an effective date for coverage issued on or after June 1, 2010. (3-29-10)

12. **Secretary**. The Secretary of the United States Department of Health and Human Services. (4-5-00)

011. POLICY DEFINITIONS AND TERMS.

No policy or certificate may be advertised, solicited or issued for delivery in this state as a Medicare supplement policy or certificate unless the policy or certificate contains definitions or terms which conform to the requirements of this section. (4-5-00)

01. Accident, Accidental Injury, or Accidental Means. To employ "result" language and does not include words that establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization. (3-29-10)

a. The definition will not be more restrictive than the following: "Injury or injuries for which benefits are provided means accidental bodily injury sustained by the insured person which is the direct result of an accident, independent of disease or bodily infirmity or any other cause, and occurs while insurance coverage is in force." (4-5-00)

b. The definition may provide that injuries *can*not include injuries for which benefits are provided or available under any workers' compensation, employer's liability or similar law, or motor vehicle no-fault plan, unless *banned* by law. *( )*

02. Benefit Period or Medicare Benefit Period. Will not be defined more restrictively than as defined in the Medicare program. (4-5-00)

03. Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility. Will not be defined more restrictively than as defined in the Medicare program. (4-5-00)

04. Health Care Expenses. For purposes of Section 051, expenses of managed care organizations associated with the delivery of health care services, which expenses are analogous to incurred losses of insurers. (4-11-19)

05. Hospital. *D*efined in relation to its status, facilities, and available services or to reflect its accreditation by the Joint Commission on Accreditation of Hospitals, but not more restrictively than as defined in the Medicare program. *( )*

06. Medicare. *Is* defined in the policy and certificate*,* substantially as "The Health Insurance for the Aged Act, Title XVIII of the Social Security Amendments of 1965 as then constituted or later amended," or "Title I, Part I of Public Law 89-97, as Enacted by the Eighty-Ninth Congress of the United States of America and popularly known as the Health Insurance for the Aged Act, as then constituted and any later amendments or substitutes thereof." *( )*

07. Medicare Eligible Expenses. Expenses of the kinds covered by Medicare Parts A and B, to the extent recognized as reasonable and medically necessary by Medicare. (4-11-06)

08. Physician. Will not be defined more restrictively than as defined in the Medicare program. (4-5-00)

09. Sickness. Will not be defined to be more restrictive than the following: "Sickness means illness or disease of an insured person which first manifests itself after the effective date of insurance and while the insurance is in force." The definition may be further modified to exclude sicknesses or diseases for which benefits are provided under any workers' compensation, occupational disease, employer's liability, or similar law. (4-5-00)

012. POLICY PROVISIONS.

01. Medicare Supplement Policy. Except for permitted preexisting condition clauses as described in Paragraph 022.01.a., no policy or certificate may be advertised, solicited, or issued for delivery in this state as a Medicare supplement policy if the policy or certificate contains limitations or exclusions on coverage that are more restrictive than those of Medicare. (3-29-10)

02. Waivers. No Medicare supplement policy or certificate may use waivers to exclude, limit or reduce coverage or benefits for specifically named or described preexisting diseases or physical conditions. (4-5-00)

03. Duplicate Benefits. No Medicare supplement policy or certificate in force in *this* state *may* contain benefits which duplicate benefits provided by Medicare. *( )*

04. Outpatient Prescription Drugs. (4-11-06)

a. A Medicare supplement policy with benefits for outpatient prescription drugs *can*not be issued after December 31, 2005. *( )*

b. After December 31, 2005, a Medicare supplement policy with benefits for outpatient prescription drugs *will* not be renewed after the policyholder enrolls in Medicare Part D unless: *( )*

i. The policy is modified to eliminate outpatient prescription coverage for expenses of outpatient prescription drugs incurred after the effective date of the individual's coverage under a Part D plan; and (4-11-06)

ii. Premiums are adjusted to reflect the elimination of outpatient prescription drug coverage at the time of Medicare Part D enrollment, accounting for any claims paid, if applicable. (4-11-06)

013. -- *021*. (RESERVED)

022. BENEFIT STANDARDS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010.
The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered, or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit standards. No issuer may offer any 1990 Standardized Medicare supplement benefit plan for sale on or after June 1, 2010. Benefit standards applicable to Medicare supplement policies and certificates issued with an effective date for coverage prior to June 1, 2010 remain *in effect*. *( )*

01. General Standards. The following standards apply to Medicare supplement policies and certificates and are in addition to all other requirements of this regulation. (3-29-10)

a. A Medicare supplement policy or certificate *can*not exclude or limit benefits for losses incurred more than six (6) months from the effective date of coverage because it involved a preexisting condition. The policy or certificate will not define a preexisting condition more restrictively than a condition for which medical advice was given or treatment was recommended by or received from a physician within six (6) months before the effective date of coverage. (3-29-10)

b. A Medicare supplement policy or certificate will not indemnify against losses resulting from sickness on a different basis than losses resulting from accidents. (3-29-10)

c. A Medicare supplement policy or certificate provides that benefits designed to cover cost sharing amounts under Medicare will be changed automatically to coincide with any changes in the applicable Medicare deductible, copayment, or coinsurance amounts. Premiums may be modified to correspond with such changes. (3-29-10)

d. No Medicare supplement policy or certificate *may* provide for termination of coverage of a spouse solely because of the occurrence of an event specified for termination of coverage of the insured, other than the nonpayment of premium. *( )*

e. Each Medicare supplement policy is guaranteed renewable. (3-29-10)

i. The issuer *can*not cancel or nonrenew the policy solely on the ground of health status of the individual. (3-29-10)

ii. The issuer *can*not cancel or nonrenew the policy for any reasons other than nonpayment of

premium or material representation. ( )

iii. If the Medicare supplement policy is terminated by the group policyholder and is not replaced as provided under Subparagraph 022.01.e.v., the issuer offers certificateholders an individual Medicare supplement policy which (at the option of the certificateholder): ( )

(1) Provides for continuation of the benefits contained in the group policy; or (3-29-10)

(2) Provides for benefits that meet the requirements of this Subsection. ( )

iv. If an individual is a certificateholder in a group Medicare supplement policy and the individual terminates membership in the group, the issuer: (3-29-10)

(1) Offers the certificateholder the conversion opportunity described in Subparagraph 022.01.e.iii.; or (3-29-10)

(2) At the option of the group policyholder, offers the certificate holder continuation of coverage under the group policy. (3-29-10)

v. If a group Medicare supplement policy is replaced by another group Medicare supplement policy purchased by the same policyholder, the issuer of the replacement policy offers coverage to all persons covered under the old group policy on its date of termination. Coverage under the new policy *cannot exclude* preexisting conditions that would have been covered under the group policy being replaced. ( )

f. Terminations of a Medicare supplement policy or certificate *need to* be without prejudice to any continuous loss that commenced while the policy was in force. *Such* extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. Receipt of Medicare Part D benefits will not be considered in determining a continuous loss. ( )

g. A Medicare supplement policy or certificate provides that benefits and premiums under the policy or certificate *may* be suspended at the request of the policyholder or certificateholder for the period (not to exceed twenty-four (24) months) in which the policyholder or certificateholder has applied for and is determined to be entitled to medical assistance under Title XIX of the Social Security Act, but only if the policyholder or certificateholder notifies the issuer of the policy or certificate within ninety (90) days after the date the individual becomes entitled to assistance. ( )

i. If suspension occurs and if the policyholder or certificateholder loses entitlement to medical assistance, the policy or certificate is automatically reinstituted (effective as of the date of termination of entitlement) as of the termination of entitlement if the policyholder or certificateholder provides notice of loss of entitlement within ninety (90) days after the date of loss and pays the premium attributable to the period, effective as of the date of termination of entitlement. (3-29-10)

ii. Each Medicare supplement policy provides that benefits and premiums under the policy *may* be suspended (for any period that may be provided by federal regulation) at the request of the policyholder if the policyholder is entitled to benefits under Section 226 (b) of the Social Security Act and is covered under a group health plan (as defined in Section 1862 (b)(1)(A)(v) of the Social Security Act). If suspension occurs and if the policyholder or certificateholder loses coverage under the group health plan, the policy is automatically reinstituted (effective as of the date of loss of coverage) if the policyholder provides notice of loss of coverage within (90) days after the date of the loss and pays the premium attributed to the period, effective as of the date of termination of enrollment in the group health plan. ( )

iii. Reinstitution of coverages as described in Subparagraphs 022.01.g.i. and 022.01.g.ii.; (3-29-10)

(1) Does not provide for any waiting period with respect to treatment of preexisting conditions; (3-29-10)

(2) Provides for resumption of coverage that is substantially equivalent to coverage in effect before the date of suspension; and (3-29-10)

(3) Provides for classification of premiums on terms at least as favorable to the policyholder or certificateholder as the premium classification terms that would have applied to the policyholder or certificateholder had the coverage not been suspended. (3-29-10)

02. Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M, and N. Every issuer of Medicare supplement insurance benefit plans makes available a policy or certificate including only the following basic "core" package of benefits to each prospective insured. An issuer may make available to prospective insureds any of the other Medicare Supplement Insurance Benefit Plans in addition to the basic core package, but not in lieu of it. (3-29-10)

a. Coverage of Part A Medicare eligible expenses for hospitalization to the extent not covered by Medicare from the sixty-first day through the ninetieth day in any Medicare benefit period; (3-29-10)

b. Coverage of Part A Medicare eligible expenses incurred for hospitalization to the extent not covered by Medicare for each Medicare lifetime inpatient reserve day used; (3-29-10)

c. Upon exhaustion of the Medicare hospital inpatient coverage including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider will accept the issuer's payment as payment in full and will not bill the insured for any balance; (3-29-10)

d. Coverage under Medicare Parts A and B for the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations; (3-29-10)

e. Coverage for the coinsurance amount, or in the case of hospital outpatient department services paid under a prospective payment system, the copayment amount, of Medicare eligible expenses under Part B regardless of hospital confinement, subject to the Medicare Part B deductible; (3-29-10)

f. Hospice Care. Coverage of cost sharing for all Part A Medicare eligible hospice care and respite care expenses. (3-29-10)

03. Standards for Additional Benefits. The following additional benefits are included in Medicare supplement benefit Plans B, C, D, F, F with High Deductible, G, M, and N as provided by Section 024. (3-29-10)

a. Medicare Part A Deductible. Coverage for one hundred percent (100%) of the Medicare Part A inpatient hospital deductible amount per benefit period. (3-29-10)

b. Medicare Part A Deductible. Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period. (3-29-10)

c. Skilled Nursing Facility Care. Coverage for the actual billed charges up to the coinsurance amount from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A. (3-29-10)

d. Medicare Part B Deductible. Coverage for one hundred percent (100%) of the Medicare Part B deductible amount per calendar year regardless of hospital confinement. (3-29-10)

e. One Hundred Percent (100%) of the Medicare Part B Excess Charges. Coverage for all the difference between the actual Medicare Part B charges as billed, not to exceed any charge limitation established by the Medicare program or state law, and the Medicare-approved Part B charge. (3-29-10)

f. Medically Necessary Emergency Care in a Foreign Country. Coverage to the extent not covered by

Medicare for eighty percent (80%) of the billed charges for Medicare-eligible expenses for medically necessary emergency hospital, physician and medical care received in a foreign country, which care would have been covered by Medicare if provided in the United States and which care began during the first sixty (60) consecutive days of each trip outside the United States, subject to a calendar year deductible of two hundred fifty dollars ($250), and a lifetime maximum benefit of fifty thousand dollars ($50,000). For purposes of this benefit, "emergency care" means care needed immediately because of an injury or an illness of sudden and unexpected onset. (3-29-10)

023. (RESERVED)

024. STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 2010 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES WITH AN EFFECTIVE DATE FOR COVERAGE ON OR AFTER JUNE 1, 2010.

01. General Standards. The following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state with an effective date for coverage on or after June 1, 2010. No policy or certificate may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate unless it complies with these benefit plan standards. Benefit*s and* standards applicable to Medicare supplement policies and certificates with an effective date *of* coverage before June 1, 2010 *do not change*. *( )*

a. An issuer makes available to each prospective policyholder and certificateholder a policy form or certificate form containing only the basic (core) benefits, as defined in Subsection 022.02. (3-29-10)

b. If an issuer makes available any of the additional benefits described in Subsection 022.03, or offers standardized benefit Plans K or L (as described in Paragraphs 024.02.h. and 024.02.i.), then the issuer makes available to each prospective policyholder and certificateholder, in addition to a policy form or certificate form with only the basic (core) benefits as described in Paragraph 024.01.a., a policy form or certificate form containing either standardized benefit Plan C (as described in Paragraph 024.02.c.) or standardized benefit Plan F (as described in Paragraph 024.02.e.). (3-29-10)

c. No groups, packages or combinations of Medicare supplement benefits other than those listed in this section are offered for sale in this state, except as may be permitted in Subsection 024.03 and in Section 031. (4-11-19)

d. Benefit plans are uniform in structure, language, designation and format to the standard benefit plans listed in this Subsection and conform to the definitions in Section 010. Each benefit *is* structured in accordance with the format provided in Subsections 022.02 and 022.03; or, in the case of plans K or L, in Paragraphs 024.02.h. and 024.02.i. and list the benefits in the order shown. For purposes of this section, "structure, language, and format" means style, arrangement and overall content of benefit. *( )*

e. In addition to the benefit plan designations *prescribed* in Paragraph 024.01.d., an issuer may use other designations to the extent permitted by law. *( )*

02. Make-up of 2010 Standardized Benefit Plans. (3-29-10)

a. Standardized Medicare supplement benefit Plan A includes only the following: The basic (core) benefits as defined in Subsection 022.02. (3-29-10)

b. Standardized Medicare supplement benefit Plan B includes only the following: The basic (core) benefit as defined in Subsection 022.02, plus one hundred percent (100%) of the Medicare Part A deductible as defined in Paragraph 022.03.a. (3-29-10)

c. Standardized Medicare supplement benefit Plan C includes only the following: The basic (core) benefit as defined in Subsection 022.02, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., 022.03.c., 022.03.d., and 022.03.f., respectively. (3-29-10)

d. Standardized Medicare supplement benefit Plan D includes only the following: The basic (core) benefit (as defined in Subsection 022.02), plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., 022.03.c., and 022.03.f., respectively. (3-29-10)

e. Standardized Medicare supplement [regular] Plan F includes only the following: The basic (core) benefit as defined in Subsection 022.02, plus one hundred percent (100%) of the Medicare Part A deductible, the skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., and 022.03.c., through 022.03.f., respectively. (3-29-10)

f. Standardized Medicare supplement Plan F with High Deductible includes only the following: One hundred percent (100%) of covered expenses following the payment of the annual deductible set forth in Subparagraph 024.02.f.ii. (3-29-10)

i. The basic (core) benefit as defined in Subsection 022.02, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B deductible, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., and 022.03.c., through 022.03.f., respectively. (3-29-10)

ii. The annual deductible in Plan F with High Deductible consists of out-of-pocket expenses, other than premiums, for services covered by [regular] Plan F, and is in addition to any other specific benefit deductibles. The basis for the deductible is one thousand five hundred dollars ($1,500) and is adjusted annually from 1999 by the Secretary to reflect the change in the Consumer Price Index for all urban consumers for the twelve-month period ending with August of the preceding year, and rounded to the nearest multiple of ten dollars ($10). ( )

g. Standardized Medicare supplement benefit Plan G includes only the following: The basic (core) benefit as defined in Subsection 022.02, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, one hundred percent (100%) of the Medicare Part B excess charges, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.a., 022.03.c., 022.03.e., and 022.03.f., respectively. Effective January 1, 2020, the standardized benefit plans described in Paragraph 025.01.d. (Redesignated Plan G High Deductible) may be offered to any individual who was eligible for Medicare prior to January 1, 2020. (4-11-19)

h. Standardized Medicare supplement Plan K is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and includes only the following: (3-29-10)

i. Part A Hospital Coinsurance sixty-first through ninetieth days: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each day used from the sixty-first through the ninetieth day in any Medicare benefit period. (3-29-10)

ii. Part A Hospital Coinsurance ninety-first through one hundred fiftieth day: Coverage of one hundred percent (100%) of the Part A hospital coinsurance amount for each Medicare lifetime inpatient reserve day used from the ninety-first through the one hundred fiftieth day in any Medicare benefit period; (3-29-10)

iii. Part A Hospitalization After One Hundred Fiftieth Day: Upon exhaustion of the Medicare hospital inpatient coverage, including the lifetime reserve days, coverage of one hundred percent (100%) of the Medicare Part A eligible expenses for hospitalization paid at the applicable prospective payment system (PPS) rate, or other appropriate Medicare standard of payment, subject to a lifetime maximum benefit of an additional three hundred sixty-five (365) days. The provider accepts the issuer's payment as payment in full and will not bill the insured for any balance; (3-29-10)

iv. Medicare Part A Deductible: Coverage for fifty percent (50%) of the Medicare Part A inpatient hospital deductible amount per benefit period until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (3-29-10)

v. Skilled Nursing Facility Care: Coverage for fifty percent (50%) of the coinsurance amount for each day used from the twenty-first day through the one hundredth day in a Medicare benefit period for post-hospital skilled nursing facility care eligible under Medicare Part A until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (3-29-10)

vi. Hospice Care: Coverage for fifty percent (50%) of cost sharing for all Part A Medicare eligible expenses and respite care until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (3-29-10)

vii. Blood: Coverage for fifty percent (50%), under Medicare Part A or B, of the reasonable cost of the first three (3) pints of blood (or equivalent quantities of packed red blood cells, as defined under federal regulations) unless replaced in accordance with federal regulations until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (3-29-10)

viii. Part B Cost Sharing: Except for coverage provided in Subparagraph 024.02.h.ix., coverage for fifty percent (50%) of the cost sharing otherwise applicable under Medicare Part B after the policyholder pays the Part B deductible until the out-of-pocket limitation is met as described in Subparagraph 024.02.h.x. (3-29-10)

ix. Part B Preventive Services: Coverage of one hundred percent (100%) of the cost sharing for Medicare Part B preventive services after the policyholder pays the Part B deductible; and (3-29-10)

x. Cost Sharing After Out-of-Pocket Limits: Coverage of one hundred percent (100%) of all cost sharing under Medicare Parts A and B for the balance of the calendar year after the individual has reached the out-of-pocket limitation on annual expenditures under Medicare Parts A and B of four thousand dollars ($4,000) in 2006, indexed each year by the appropriate inflation adjustment specified by the Secretary. (3-29-10)

i. Standardized Medicare supplement Plan L is mandated by the Medicare Prescription Drug, Improvement and Modernization Act of 2003, and includes only the following: (3-29-10)

i. The benefits described in Subparagraphs 024.02.h.i. through 024.02.h.iii., and 024.02.h.ix. (3-29-10)

ii. The benefits described in Subparagraphs 024.02.h.iv. through 024.02.h.viii. but substituting seventy-five percent (75%) for fifty percent (50%); and (3-29-10)

iii. The benefit described in Subparagraph 024.02.h.x. but substituting two thousand dollars ($2,000) for four thousand dollars ($4,000). (3-29-10)

j. Standardized Medicare supplement Plan M includes only the following: The basic (core) benefit as defined in Subsection 022.02, plus fifty percent (50%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in a foreign country as defined in Paragraphs 022.03.b., 022.03.c., and 022.03.f., respectively. (3-29-10)

k. Standardized Medicare supplement Plan N includes only the following: The basic (core) benefit as defined in Subsection 022.02, plus one hundred percent (100%) of the Medicare Part A deductible, skilled nursing facility care, and medically necessary emergency care in foreign country as defined in Paragraphs 022.03.a., 022.03.c., and 022.03.f., respectively, with copayments in the following amounts: (3-29-10)

i. The lesser of twenty dollars ($20) or the Medicare Part B coinsurance or copayment for each covered health care provider office visit (including visits to medical specialists); and (3-29-10)

ii. The lesser of fifty dollars ($50) or the Medicare Part B coinsurance or copayment for each covered emergency room visit, however, this copayment is waived if the insured is admitted to any hospital and the emergency visit is subsequently covered as a Medicare Part A expense. (3-29-10)

03. New or Innovative Benefits. An issuer may, with the prior approval of the director, offer policies or certificates with new or innovative benefits, in addition to the standardized benefits provided in a policy or

certificate that otherwise complies with the applicable standards. The new or innovative benefits include only benefits that are appropriate to Medicare supplement insurance, are new or innovative, are not otherwise available, and are cost-effective. Approval of new or innovative benefits *cannot* adversely impact the goal of Medicare supplement simplification. New or innovative benefits *cannot* include an outpatient prescription drug benefit. New or innovative benefits *cannot* be used to change or reduce benefits, including a change of any cost-sharing provision, in any standardized plan. *( )*

025. STANDARD MEDICARE SUPPLEMENT BENEFIT PLANS FOR 2020 STANDARDIZED MEDICARE SUPPLEMENT BENEFIT PLAN POLICIES OR CERTIFICATES ISSUED FOR DELIVERY TO INDIVIDUALS NEWLY ELIGIBLE FOR MEDICARE ON OR AFTER JANUARY 1, 2020.
The Medicare Access and CHIP Reauthorization Act of 2015 (MACRA) requires the following standards are applicable to all Medicare supplement policies or certificates delivered or issued for delivery in this state to individuals newly eligible for Medicare on or after January 1, 2020. No policy or certificate that provides coverage of the Medicare Part B deductible may be advertised, solicited, delivered or issued for delivery in this state as a Medicare supplement policy or certificate to individuals newly eligible for Medicare on or after January 1, 2020. All policies *need to* comply with the following benefit standards. Benefit plan standards applicable to Medicare supplement policies and certificates issued to individuals eligible for Medicare before January 1, 2020, remain subject to the requirements of Section 024. (4-11-19)

01. Benefit Requirements. The standards and requirements of Section 024 apply to all Medicare supplement policies or certificates delivered or issued for delivery to individuals newly eligible for Medicare on or after January 1, 2020, with the following exceptions: (4-11-19)

a. Standardized Medicare supplement benefit Plan C is redesignated as Plan D and provides the benefits contained in Paragraph 024.02.c. but will not provide coverage for one hundred percent (100%) or any portion of the Medicare Part B deductible. (4-11-19)

b. Standardized Medicare supplement benefit Plan F is redesignated as Plan G and provides the benefits contained in Paragraph 024.02.e. but will not provide coverage for one hundred percent (100%) or any portion of the Medicare Part B deductible. (4-11-19)

c. Standardized Medicare supplement benefit plans C, F, and F with High Deductible will not be offered to individuals newly eligible for Medicare on or after January 1, 2020. (4-11-19)

d. Standardized Medicare supplement benefit Plan F With High Deductible is redesignated as Plan G With High Deductible and provides the benefits contained in Paragraph 024.02.f., but will not provide coverage for one hundred percent (100%) or any portion of the Medicare Part B deductible; provided further that, the Medicare Part B deductible paid by the beneficiary is considered an out-of-pocket expense in meeting the annual high deductible. (4-11-19)

e. The reference to Plans C or F contained in Paragraph 024.01.b. is deemed a reference to Plans D or G for purposes of this section. (4-11-19)

02. Applicability to Certain Individuals. This section applies only to individuals that are newly eligible for Medicare on or after January 1, 2020: (4-11-19)

a. By reason of attaining age sixty-five (65) on or after January 1, 2020; or (4-11-19)

b. By reason of entitlement to benefits under part A pursuant to section 226(b) or 226A of the Social Security Act, or who is deemed eligible for benefits under section 226(a) of the Social Security Act on or after January 1, 2020. (4-11-19)

03. Guaranteed Issue for Eligible Persons. For purposes of Subsection 041.05, in the case of any individual newly eligible for Medicare on or after January 1, 2020, any reference to a Medicare supplement policy C or F (including F With High Deductible) is deemed a reference to Medicare supplement policy D or G (including G With High Deductible) respectively that meet the requirements of Subsection 025.01. (4-11-19)

04. Offer of Redesignated Plans to Individuals Other Than Newly Eligible. On or after January 1, 2020, the standardized benefit plans described in Paragraph 025.01.d. may be offered to any individual who was eligible for Medicare prior to January 1, 2020 in addition to the standardized plans described in Subsection 024.02. (4-11-19)

026. -- 030. (RESERVED)

031. MEDICARE SELECT POLICIES AND CERTIFICATES.
This section applies to Medicare Select policies and certificates, as defined in this section. No policy or certificate may be advertised as a Medicare Select policy or certificate unless it meets the requirements of this section. (3-29-10)

01. Definitions. For the purposes of Section 031: (4-11-19)

a. Complaint. Any dissatisfaction expressed by an individual concerning a Medicare Select issuer or its network providers. (4-5-00)

b. Grievance. Dissatisfaction expressed in writing by an individual insured under a Medicare Select policy or certificate with the administration, claims practices, or provision of services concerning a Medicare Select issuer or its network providers. (4-5-00)

c. Medicare Select issuer. An issuer offering, or seeking to offer, a Medicare Select policy or certificate. (4-5-00)

d. Medicare Select policy or Medicare Select certificate. Respectively a Medicare supplement policy or certificate that contains restricted network provisions. (4-5-00)

e. Network provider. A provider of health care, or a group of providers of health care, which has entered into a written agreement with the issuer to provide benefits insured under a Medicare Select policy. (4-5-00)

f. Restricted network provision. Any provision which conditions the payment of benefits, in whole or in part, on the use of network providers. (4-5-00)

g. Service area. The geographic area approved by the director within which an issuer is authorized to offer a Medicare Select policy. (4-5-00)

02. Authorization to Issue Medicare Select Policy or Certificate. The director may authorize an issuer to offer a Medicare Select policy or certificate, pursuant to Section 031 *of this chapter* and Section 4358 of the Omnibus Budget Reconciliation Act (OBRA) of 1990, if the director finds that the issuer has satisfied all of the requirements of this chapter. *( )*

03. Filing Requirements. A Medicare Select issuer will not issue a Medicare Select policy or certificate in this state until its plan of operation has been approved by the director. (4-5-00)

04. Proposed Plan of Operation. A Medicare Select issuer files a proposed plan of operation with the director in a format prescribed by the director. The plan of operation contains at least the following information: (4-5-00)

a. Evidence that all covered services that are subject to restricted network provisions are available and accessible through network providers, including a demonstration that: (4-5-00)

i. Services can be provided by network providers with reasonable promptness with respect to geographic location, hours of operation, and after-hour care. The hours of operation and availability of after-hour care reflects usual practice in the local area. Geographic availability reflects the usual travel times within the community. (4-5-00)

ii. The number of network providers in the service area is sufficient, with respect to current and

expected policyholders, either to deliver adequately all services that are subject to a restricted network provision or to make appropriate referrals. (4-5-00)

iii. There are written agreements with network providers describing specific responsibilities. (4-5-00)

iv. Emergency care is available twenty-four (24) hours per day and seven (7) days per week. (4-5-00)

v. In the case of covered services that are subject to a restricted network provision and are provided on a prepaid basis, there are written agreements with network providers prohibiting the providers from billing or otherwise seeking reimbursement from or recourse against any individual insured under a Medicare Select policy or certificate. This subparagraph does not apply to supplemental charges or coinsurance amounts as stated in the Medicare Select policy or certificate. (3-29-10)

b. A statement or map providing a clear description of the service area. (4-5-00)

c. A description of the grievance procedure to be utilized. (4-5-00)

d. A description of the quality assurance program, including: (4-5-00)

i. The formal organizational structure; (4-5-00)

ii. The written criteria for selection, retention, and removal of network providers; and (4-5-00)

iii. The procedures for evaluating quality of care provided by network providers, and the process to initiate corrective action when warranted. (4-5-00)

e. A list and description, by specialty, of the network providers. (4-5-00)

f. Copies of the written information proposed to be used by the issuer to comply with Subsection 031.08. (4-11-19)

g. Any other information requested by the director. (4-5-00)

05. Proposed Changes to the Plan of Operation. A Medicare Select issuer files any proposed changes to the plan of operation, except for changes to the list of network providers, with the director prior to implementing the changes. Changes are considered approved by the director after thirty (30) days unless specifically disapproved. An updated list of network providers is filed with the director at least quarterly. (4-5-00)

06. Restrictions. A Medicare Select policy or certificate *can*not restrict payment for covered services provided by non-network providers if: *( )*

a. The services are for symptoms requiring emergency care or are immediately *needed* for an unforeseen illness, injury or a condition; and *( )*

b. It is not reasonable to obtain services through a network provider. (4-5-00)

07. Payment for Full Coverage. A Medicare Select policy or certificate provide*s* payment for full coverage under the policy for covered services that are not available through network providers. *( )*

08. Full and Fair Disclosure. A Medicare Select issuer makes full and fair disclosure in writing of the provisions, restrictions and limitations of the Medicare Select policy or certificate to each applicant. This disclosure includes at least the following: (4-5-00)

a. An outline of coverage sufficient to permit the applicant to compare the coverage and premiums of the Medicare Select policy or certificate with: (4-5-00)

i. Other Medicare supplement policies or certificates offered by the issuer; and (4-5-00)

ii. Other Medicare Select policies or certificates. (4-5-00)

b. A description (including address, phone number and hours of operation) of the network providers, including primary care physicians, specialty physicians, hospitals and other providers. (4-5-00)

c. A description of the restricted network provisions, including payments for coinsurance and deductibles when providers other than network providers are utilized. Except to the extent specified in the policy or certificate, expenses incurred when using out-of-network providers do not count toward the out-of-pocket annual limit contained in plans K and L. (4-11-06)

d. A description of coverage for emergency and urgently needed care and other out-of-service area coverage. (4-5-00)

e. A description of limitations on referrals to restricted network providers and to other providers. (4-5-00)

f. A description of the policyholder's rights to purchase any other Medicare supplement policy or certificate offered by the issuer. (4-5-00)

g. A description of the Medicare Select issuer's quality assurance program and grievance procedure. (4-5-00)

09. Medicare Select Policy or Certificate. Prior to the sale of a Medicare Select policy or certificate, a Medicare Select issuer obtains from the applicant a signed and dated form stating that the applicant has received the information provided pursuant to Subsection 031.08 and that the applicant understands the restrictions of the Medicare Select policy or certificate. (4-11-19)

10. Complaints and Grievances. A Medicare Select issuer has and uses procedures for hearing complaints and resolving written grievances from the subscribers. The procedures will be aimed at mutual agreement for settlement and may include arbitration procedures. (4-5-00)

a. The grievance procedure is described in the policy and certificates and in the outline of coverage. (4-5-00)

b. At the time the policy or certificate is issued, the issuer provides detailed information to the policyholder describing how a grievance may be registered with the issuer. (4-5-00)

c. Grievances will be considered in a timely manner and transmitted to appropriate decision-makers who have authority to fully investigate the issue and take corrective action. (4-5-00)

d. If a grievance is found to be valid, corrective action is taken promptly. (4-5-00)

e. All concerned parties are notified about the results of a grievance. (4-5-00)

f. The issuer reports no later than each March 31 to the director regarding its grievance procedure in a format prescribed by the director containing the number of grievances filed in the past year and a summary of the subject, nature and resolution of such grievances. (4-5-00)

11. Initial Purchase. At the time of initial purchase, a Medicare Select issuer makes available to each applicant for a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the issuer. (4-5-00)

12. Comparable or Lesser Benefits. (4-5-00)

a. At the request of an individual insured under a Medicare Select policy or certificate, a Medicare Select issuer makes available to the individual insured the opportunity to purchase a Medicare supplement policy or

certificate offered by the issuer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer makes the policies or certificates available without requiring evidence of insurability after the Medicare Select policy or certificate has been in force for six (6) months. (4-5-00)

b. For the purposes of Subsection 031.12, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges. (4-11-19)

13. Continuation of Coverage. Medicare Select policies and certificates provides for continuation of coverage in the event the Secretary determines that Medicare Select policies and certificates issued pursuant to this section should be discontinued due to either the failure of the Medicare Select program to be re-authorized under law or its substantial amendment. (3-29-10)

a. Each Medicare Select issuer makes available to each individual insured under a Medicare Select policy or certificate the opportunity to purchase any Medicare supplement policy or certificate offered by the insurer which has comparable or lesser benefits and which does not contain a restricted network provision. The issuer makes the policies and certificates available without requiring evidence of insurability. (4-5-00)

b. For the purposes of Subsection 031.13, a Medicare supplement policy or certificate will be considered to have comparable or lesser benefits unless it contains one (1) or more significant benefits not included in the Medicare Select policy or certificate being replaced. For the purposes of this Paragraph, a significant benefit means coverage for the Medicare Part A deductible, coverage for at-home recovery services or coverage for Part B excess charges. (4-11-19)

14. Requests for Data. A Medicare Select issuer complies with reasonable requests for data made by state or federal agencies, including the United States Department of Health and Human Services, for the purpose of evaluating the Medicare Select Program. (4-5-00)

032. -- 035. (RESERVED)

036. OPEN ENROLLMENT.

01. Offer of Coverage. (3-29-17)

a. An issuer cannot deny or condition the issuance or effectiveness of any Medicare supplement policy or certificate available for sale in this state, nor discriminate in the pricing of a policy or certificate because of the health status, claims experience, receipt of health care, or medical condition of an applicant in the case of an application for a policy or certificate that is submitted prior to or during the six (6) month period beginning with: (3-29-17)

i. The first day of the first month in which an individual is both sixty-five (65) years of age or older and is enrolled for benefits under Medicare Part B. (3-29-17)

ii. January 1, 2018 or the first day of the first month of Medicare Part B eligibility due to disability or end stage renal disease, whichever is later, for an individual that is both under sixty-five (65) years of age and enrolled for benefits under Medicare Part B; or (3-29-17)

iii. The first day of the first month after the individual receives written notice of retroactive enrollment under Medicare Part B due to a retroactive eligibility decision made by the Social Security Administration. (3-29-17)

b. Each Medicare supplement policy and certificate currently available from an issuer is made available to all applicants who qualify under Paragraph 036.01.a. without regard to age. (4-11-19)

02. Treatment of Preexisting Conditions. (3-29-17)

a. If an applicant qualifies under Subsection 036.01 and *applies* during the time period referenced in Subsection 036.01 and, as of the date of application, has had a continuous period of creditable coverage of at least six (6) months, the issuer cannot exclude benefits based on a preexisting condition. *( )*

b. If the applicant qualifies under Subsection 036.01 and submits an application during the time period referenced in Subsection 036.01 and, as of the date of application, has had a continuous period of creditable coverage that is less than six (6) months, the issuer reduces the period of any preexisting condition exclusion by the aggregate of the period of creditable coverage applicable to the applicant as of the enrollment date. The Secretary specifies the manner of the reduction under this Subsection. (4-11-19)

c. Except as provided in Paragraphs 036.02.a. and 02.b., and Sections 041 and 081, nothing in this chapter prevent*s* the exclusion of benefits under a policy, during the first six (6) months, based on a preexisting condition for which the policyholder or certificateholder received treatment or was diagnosed during the six (6) months before the coverage became effective. *( )*

03. Discrimination in Pricing. An issuer cannot discriminate in the pricing of a Medicare supplement policy or certificate issued pursuant to Subsection 036.01, except on the basis of the following criteria: (4-11-19)

a. Issue age; and (3-29-17)

b. Smoking or tobacco use. (3-29-17)

037. -- 040. (RESERVED)

041. GUARANTEED ISSUE FOR ELIGIBLE PERSONS.

01. Guaranteed Issue. (4-5-00)

a. Eligible persons are those individuals described in Subsection 041.02 who seek to enroll under the policy during the period specified in Subsection 041.03, and who submit evidence of the date of termination or disenrollment or Medicare Part D enrollment with the application for a Medicare supplement policy. (4-11-19)

b. With respect to eligible persons, an issuer cannot deny or condition the issuance or effectiveness of a Medicare supplement policy described in Subsection 041.05 that is offered and is available for issuance to new enrollees by the issuer, cannot discriminate in the pricing of such a Medicare supplement policy because of health status, claims experience, receipt of health care, or medical condition, and will not impose an exclusion of benefits based on a preexisting condition under such a Medicare supplement policy. (4-11-19)

02. Eligible Persons. An eligible person is an individual described here in any part of Subsection 041.02: (4-11-19)

a. The individual is enrolled under an employee welfare benefit plan that provides health benefits that supplement the benefits under Medicare; and the plan terminates, or the plan ceases to provide all such supplemental health benefits to the individual; or the individual is enrolled under an employee welfare benefits plan that is primary to Medicare and the plan terminates or the plan ceases to provide all health benefits to the individual because the individual leaves the plan; (4-5-00)

b. The individual is enrolled with a Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, and any of the following circumstances apply, or the individual is sixty-five (65) years of age or older and is enrolled with a Program of All-Inclusive Care for the Elderly (PACE) provider under Section 1894 of the Social Security Act, and there are circumstances similar to those described below that would permit discontinuance of the individual's enrollment with such provider if such individual were enrolled in a Medicare Advantage plan: (4-11-06)

i. The certification of the organization or plan under this part has been terminated; (4-11-06)

ii. The organization has terminated or discontinued providing the plan in the area in which the

individual resides; (4-11-06)

iii. The individual is no longer eligible to elect the plan because of a change in the individual's place of residence or other change in circumstances specified by the Secretary, but not including termination of the individual's enrollment on the basis described in Section 1851(g)(3)(B) of the federal Social Security Act (where the individual has not paid premiums on a timely basis or has engaged in disruptive behavior as specified in standards under Section 1856), or the plan is terminated for all individuals within a residence area; (4-11-06)

iv. The individual demonstrates, in accordance with guidelines established by the Secretary: (3-29-10)

(a) That the organization offering the plan substantially violated a material provision of the organization's contract under this part in relation to the individual, including the failure to provide an enrollee on a timely basis medically necessary care for which benefits are available under the plan or the failure to provide such covered care in accordance with applicable quality standards; or (3-29-10)

(b) The organization, or agent, or other entity acting on the organization's behalf, materially misrepresented the plan's provisions in marketing the plan to the individual; or (3-29-10)

(c) The individual meets such other exceptional conditions as the Secretary may provide. (3-29-10)

c. The individual is enrolled with: (4-5-00)

i. An eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost); (5-3-03)

ii. A similar organization operating under demonstration project authority, effective for periods before April 1, 1999; (4-5-00)

iii. An organization under an agreement under Section 1833(a)(1)(A) of the Social Security Act (health care prepayment plan); or (5-3-03)

iv. An organization under a Medicare Select policy; and (4-5-00)

d. The enrollment ceases under the same circumstances that would permit discontinuance of an individual's election of coverage under Paragraph 041.02.b. (4-11-19)

e. The individual is enrolled under a Medicare supplement policy and the enrollment ceases because: (4-5-00)

i. Of the insolvency of the issuer or bankruptcy of the non-issuer organization; or (4-5-00)

ii. Of other involuntary termination of coverage or enrollment under the policy; (4-5-00)

iii. The issuer of the policy substantially violated a material provision of the policy; or (4-5-00)

iv. The issuer, or an agent or other entity acting on the issuer's behalf, materially misrepresented the policy's provisions in marketing the policy to the individual. (4-5-00)

f. The individual was enrolled under a Medicare supplement policy and terminates enrollment and subsequently enrolls, for the first time, with any Medicare Advantage organization under a Medicare Advantage plan under Part C of Medicare, any eligible organization under a contract under Section 1876 of the Social Security Act (Medicare cost), any similar organization operating under demonstration project authority, any PACE provider under Section 1894 of the Social Security Act, or a Medicare Select policy; and (4-11-06)

g. The subsequent enrollment under Paragraph 041.02.f. is terminated by the enrollee during any period within the first twelve (12) months of such subsequent enrollment (during which the enrollee is permitted to terminate such subsequent enrollment under Section 1851(e) of the federal Social Security Act); or (4-11-19)

h. The individual, upon first becoming eligible for benefits under Part A of Medicare, enrolls in a Medicare Advantage plan under Part C of Medicare, or with a PACE provider under Section 1894 of the Social Security Act, and disenrolls from the plan or program by not later than twelve (12) months after the effective date of enrollment. (4-11-06)

i. The individual enrolls in a Medicare Part D plan during the initial enrollment period and at the time of enrollment in Part D, was enrolled under Medicare supplement policy that covers outpatient prescription drugs and the individual terminates enrollment in the Medicare supplement policy and submits evidence of enrollment in Medicare Part D along with the application for a policy described in Paragraph 041.05.e. (4-11-19)

03. Guaranteed Issue Time Periods. (5-3-03)

a. In the case of an individual described in Paragraph 041.02.a., the guaranteed issue period begins on the later of the date the individual receives a notice of termination or cessation of all supplemental health benefits (or, if a notice is not received, notice that a claim has been denied because of a termination or cessation); or the date that the applicable coverage terminates or ceases; and ends sixty-three (63) days thereafter; (4-11-19)

b. In the case of an individual described in Paragraphs 041.02.b., 041.02.c., 041.02.f., or 041.02.h., whose enrollment is terminated involuntarily, the guaranteed issue period begins on the date that the individual receives a notice of termination and ends sixty-three (63) days after the date the applicable coverage is terminated; (4-11-19)

c. In the case of an individual described in Paragraph 041.02.e., the guaranteed issue period begins on the earlier of: (4-11-19)

i. The date that the individual receives a notice of termination, a notice of the issuer's bankruptcy or insolvency, or other such similar notice if any; and (5-3-03)

ii. The date that the applicable coverage is terminated, and ends on the date that is sixty-three (63) days after the date the coverage is terminated; (5-3-03)

d. In the case of an individual described in Paragraph 041.02.b. and Subparagraph 041.02.e.iii., and Subparagraph 041.02.e.iv., Paragraph 041.02.f., or 041.02.h., who disenrolls voluntarily, the guaranteed issue period begins on the date that is sixty (60) days before the effective date of the disenrollment and ends on the date that is sixty-three (63) days after the effective date; and (4-11-19)

e. In the case of an individual described in Paragraph 041.02.i., the guaranteed issue period begins on the date the individual receives notice pursuant to Section 1882(v)(2)(B) of the Social Security Act from the Medicare supplement issuer during the sixty-day (60) period immediately preceding the initial Part D enrollment period and ends on the date that is sixty-three (63) days after the effective date of the individual's coverage under Medicare Part D; and (4-11-19)

f. In the case of an individual described in Subsection 041.02 but not described in the preceding provisions of Subsection 041.03, the guaranteed issue period begins on the effective date of disenrollment and ends on the date that is sixty-three (63) days after the effective date. (4-11-19)

04. Extended Medigap Access for Interrupted Trial Periods. (5-3-03)

a. In the case of an individual described in Paragraph 041.02.f. (or so described, pursuant to this paragraph) whose enrollment with an organization or provider described in Paragraph 041.02.f. is involuntarily terminated within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls with another such organization or provider, the subsequent enrollment *is* deemed an initial enrollment described in Paragraph 041.02.f.; *( )*

b. In the case of an individual described in Paragraph 041.02.h. (or so described, pursuant to this paragraph) whose enrollment with a plan or in a program described in Paragraph 041.02.h. is involuntarily terminated

within the first twelve (12) months of enrollment, and who, without an intervening enrollment, enrolls in another such plan or program, the subsequent enrollment is deemed an initial enrollment described in Paragraph 041.02.h.; and ( )

c. For purposes of Paragraphs 041.02.f. and 041.02.h., no enrollment of an individual with an organization or provider described in Paragraph 041.02.f. or with a plan or in a program described in Paragraph 041.02.h. may be deemed an initial enrollment under this paragraph after the two-year period beginning on the date on which the individual first enrolled with such an organization, provider, plan or program. ( )

05. Products to Which Eligible Persons are Entitled. The Medicare supplement policy to which eligible persons are entitled under: (4-11-06)

a. Paragraphs 041.02.a. through 041.02.e. is a Medicare supplement policy which has a benefit package classified as Plan A, B, C, or F (including F with a high deductible), K or L offered by any issuer. (4-11-19)

b. Subject to Paragraph 041.05.c., Paragraph 041.02.g. is the same Medicare supplement policy in which the individual was most recently previously enrolled, if available from the same issuer, or, if not so available, a policy described in Paragraph 041.05.a. (4-11-19)

c. After December 31, 2005, if the individual was most recently enrolled in a Medicare supplement policy with an outpatient prescription drug benefit, a Medicare supplement policy described in Subsection 041.05 is: (4-11-19)

i. The policy available from the same issuer but modified to remove outpatient prescription drug coverage; or (4-11-06)

ii. At the election of the policyholder, an A, B, C, F (including F with a high deductible), K or L policy that is offered by any issuer; (4-11-06)

d. Paragraph 041.02.h. includes any Medicare supplement policy offered by any issuer. (4-11-19)

e. Paragraph 041.02.i. is a Medicare supplement policy that has a benefit package classified as Plan A, B, C, F (including F with a high deductible), K, or L and that is offered and is available for issuance to new enrollees by the same issuer that issued the individual's Medicare supplement policy with outpatient prescription drug coverage. (4-11-19)

06. Notification Provisions. (4-5-00)

a. At the time of an event described in Subsection 041.02 because of which an individual loses coverage or benefits due to the termination of a contract or agreement, policy, or plan, the organization that terminates the contract or agreement, the issuer terminating the policy, or the administrator of the plan being terminated, respectively, notifies the individual of *the individual's* rights under this Section, and of the obligations of issuers of Medicare supplement policies under Subsection 041.01. Such notice is communicated contemporaneously with the notification of termination. ( )

b. At the time of an event described in Subsection 041.02 because of which an individual ceases enrollment under a contract or agreement, policy, or plan, the organization that offers the contract or agreement, regardless of the basis for the cessation of enrollment, the issuer offering the policy, or the administrator of the plan, respectively, notifies the individual of *the individual's* rights under this section, and of the obligations of issuers of Medicare supplement policies under Subsection 041.01. Such notice is communicated within ten (10) working days of the issuer receiving notification of disenrollment. ( )

07. Discrimination in Pricing. With respect to eligible persons, an issuer cannot discriminate in the pricing of a Medicare supplement policy or certificate issued pursuant to Subsection 041.01, except on the basis of the following criteria: (4-11-19)

a. Issue age; and (3-29-17)

b. Smoking or tobacco use. (3-29-17)

042. -- 045. (RESERVED)

046. STANDARDS FOR CLAIMS PAYMENT.

01. Compliance. An issuer *will* comply with Section 1882(c)(3) of the Social Security Act (as enacted by Section 4081(b)(2)(C) of the Omnibus Budget Reconciliation Act of 1987 (OBRA) 1987, Pub. L. No. 100-203) by: *( )*

a. Accepting a notice from a Medicare carrier on dually assigned claims submitted by participating physicians and suppliers as a claim for benefits in place of any other claim form *needed* and making a payment determination on the basis of the information contained in that notice; *( )*

b. Notifying the participating physician or supplier and the beneficiary of the payment determination; (4-5-00)

c. Paying the participating physician or supplier directly; (4-5-00)

d. Furnishing, at the time of enrollment, each enrollee with a card listing the policy name, number and a central mailing address to which notices from a Medicare carrier may be sent; (4-5-00)

e. Paying user fees for claim notices; and *( )*

f. Providing to the Secretary, at least annually, a central mailing address to which all claims may be sent by Medicare carriers. (4-5-00)

02. Certification. Compliance with the requirements set forth in Subsection 046.01 is certified on the Medicare supplement insurance experience reporting form. (4-11-19)

047. -- 050. (RESERVED)

051. LOSS RATIO STANDARDS AND REFUND OR CREDIT OF PREMIUM.

01. Loss Ratio Standards. (4-5-00)

a. A Medicare supplement policy form or certificate form will not be delivered or issued for delivery unless the policy form or certificate form can be expected, as estimated for the entire period for which rates are computed to provide coverage, to return to policyholders and certificateholders in the form of aggregate benefits (not including anticipated refunds or credits) provided under the policy form or certificate form. (4-5-00)

i. At least seventy-five percent (75%) of the aggregate amount of premiums earned in the case of group policies; or (4-5-00)

ii. At least sixty-five percent (65%) of the aggregate amount of premiums earned in the case of individual policies; (4-5-00)

b. Calculated on the basis of incurred claims experience or incurred health care expenses where coverage is provided by a managed care organization on a service rather than reimbursement basis and earned premiums for the period and in accordance with accepted actuarial principles and practices. Incurred health care expenses where coverage is provided by a managed care organization will not include: (4-11-06)

i. Home office and overhead costs; (4-11-06)

ii. Advertising costs; (4-11-06)

iii. Commissions and other acquisition costs; (4-11-06)

iv. Taxes; (4-11-06)

v. Capital costs; (4-11-06)

vi. Administrative costs; and (4-11-06)

vii. Claims processing costs. (4-11-06)

c. All filings of rates and rating schedules demonstrate that expected claims in relation to premiums comply with the requirements of this section when combined with actual experience to date. Filings of rate revisions also demonstrate that the anticipated loss ratio over the entire future period for which the revised rates are computed to provide coverage can be expected to meet the appropriate loss ratio standards. Demonstrations, at a minimum, account for: (3-29-17)

i. Lapse rates; (3-29-17)

ii. Medical trend and rationale for trend; (3-29-17)

iii. Assumptions regarding future premium rate revisions; and (3-29-17)

iv. Interest rates for discounting and accumulating. (3-29-17)

d. For purposes of applying Paragraphs 051.01.a. and 056.05.b., only, policies issued as a result of solicitations of individuals through the mails or by mass media advertising (including both print and broadcast advertising) are individual policies. (4-11-19)

02. Refund or Credit Calculation. (4-5-00)

a. An issuer collects and files with the director by May 31 of each year the data contained in the applicable reporting form as defined by NAIC Model Regulation (Attachments) and accessible on the *Department* website for each type in a standard Medicare supplement benefit plan. *( )*

b. If on the basis of the experience as reported the benchmark ratio since inception (ratio one (1)) exceeds the adjusted experience ratio since inception (ratio three (3)), then a refund or credit calculation is *needed*. The refund calculation is done on a statewide basis for each type in a standard Medicare supplement benefit plan. For purposes of the refund or credit calculation, experience on policies issued within the reporting year is excluded. *( )*

c. For policies or certificates issued prior to July 1, 1992, the issuer makes the refund or credit calculation separately for all individual policies (including all group policies subject to an individual loss ratio standard when issued) combined and all other group policies combined for experience after July 1, 1992. *( )*

d. A refund or credit is made only when the benchmark loss ratio exceeds the adjusted experience loss ratio and the amount to be refunded or credit exceeds a de minimis level. The refund includes interest from the end of the calendar year to the date of the refund or credit at a rate specified by the Secretary, but in no event less than the average rate of interest for thirteen (13) week Treasury notes. A refund or credit against premiums due is made by September 30 following the experience year upon which the refund or credit is based. *( )*

03. Annual Filing of Premium Rates. An issuer of Medicare supplement policies and certificates in this state *annually* file*s* its rates, rating schedule, and supporting documentation including ratios of incurred losses to earned premiums by policy duration for approval by the director in accordance with the filing requirements and procedures prescribed by the director. The supporting documentation demonstrates in accordance with actuarial standards of practice using reasonable assumptions that the appropriate loss ratio standards can be expected to be met over the entire period for which rates are computed. The demonstration excludes active life reserves. An expected third-year loss ratio which is greater than or equal to the applicable percentage is demonstrated for policies or

certificates in force less than three (3) years. As soon as practicable, but prior to the effective date of enhancements in Medicare benefits, every issuer of Medicare supplement policies or certificates in this state files with the director, in accordance with the applicable filing procedures of this state: (4-5-00)

a. Appropriate premium adjustments necessary to produce loss ratios as anticipated for the current premium for the applicable policies or certificates. The supporting documents *accompanying the filing need* to justify the adjustment. *( )*

i. An issuer*'s* adjustments *need to* produce an expected loss ratio under the policy or certificate *that* conform*s* to minimum loss ratio standards for Medicare supplement policies and which are expected to result in a loss ratio at least as great as that originally anticipated in the rates used to produce current premiums by the issuer for the Medicare supplement policies or certificates. No premium adjustment which would modify the loss ratio experience under the policy other than the adjustments described herein is made with respect to a policy at any time other than upon its renewal date or anniversary date. *( )*

ii. If an issuer fails to make premium adjustments acceptable to the director, the director may order premium adjustments, refunds, or premium credits deemed necessary to achieve the loss ratio *prescribed* by Section 051. *( )*

b. Any appropriate riders, endorsements, or policy forms needed to accomplish the Medicare supplement policy or certificate modifications necessary to eliminate benefit duplications with Medicare. The riders, endorsements, or policy forms provides a clear description of the Medicare supplement benefits provided by the policy or certificate. (4-5-00)

04. Public Hearings. The director may conduct a public hearing to gather information concerning a request by an issuer for an increase in a rate for a policy form or certificate form issued before or after the effective date of July 1, 1992 if the experience of the form for the previous reporting period is not in compliance with the applicable loss ratio standard. The determination of compliance is made without consideration of any refund or credit for the reporting period. Public notice of the hearing is furnished in a manner deemed appropriate by the director. (4-5-00)

052. -- 055. (RESERVED)

056. FILING AND APPROVAL OF POLICIES AND CERTIFICATES AND PREMIUM RATES.

01. Filing of Policy Forms. (3-29-10)

a. An issuer cannot deliver or issue for delivery a policy or certificate to a resident of this state unless the policy form or certificate form has been filed with and approved by the director in accordance with filing requirements and procedures prescribed by the director. (3-29-10)

b. An issuer *would* file any riders or amendments to policy or certificate forms to delete outpatient prescription drug benefits as *prescribed* by the Medicare Prescription Drug, Improvement, and Modernization Act of 2003 only with the director in the state in which the policy or certificate was issued. *( )*

02. Filing of Premium Rates. (3-29-10)

a. An issuer cannot use or change premium rates for a Medicare supplement policy or certificate unless the rates, rating schedule, and supporting documentation have been filed with and approved by the director in accordance with the filing requirements and procedures prescribed by the director. (3-29-10)

b. Except as provided in Subsection 051.03, the insured cannot receive more than one (1) rate increase in any twelve (12) month period. (4-11-19)

03. Except as provided in Paragraph 056.03.a., an issuer will not file for approval more than one (1) form of a policy or certificate of each type for each standard Medicare supplement benefit plan. (4-11-19)

a. An issuer may offer, with the approval of the director, up to three (3) additional policy forms or certificate forms of the same type for the same standard Medicare supplement benefit plan, one (1) or each of the following cases: (3-29-17)

i. The inclusion of new or innovative benefits; (4-5-00)

ii. The addition of either direct response or agent marketing methods; (4-5-00)

iii. The addition of either guaranteed issue or underwritten coverage; (4-5-00)

b. For the purposes of Section 056, "type" means an individual policy, a group policy, an individual Medicare Select policy, or a group Medicare Select policy. (4-11-19)

04. Availability of Policy Form or Certificate. Except as provided in Paragraph 056.04.a., an issuer *continuously* make*s* available for purchase any policy form or certificate form. A policy form or certificate form *would* not be considered available for purchase unless the issuer has actively offered it for sale *continuously during* the previous twelve (12) months. *( )*

a. An issuer may discontinue the availability of a policy form or certificate form if the issuer provides to the director in writing its decision at least thirty (30) days prior to discontinuing the availability of the form of the policy or certificate. After receipt of this notice by the director, the issuer no longer offers for sale the policy form or certificate form in this state. (4-5-00)

b. An issuer that discontinues the availability of a policy form or certificate form pursuant to Paragraph 056.04.a. will not file for approval a new policy form or certificate form of the same type for the same standard Medicare supplement benefit plan as the discontinued form for a period of five (5) years after the issuer provides notice to the director of the discontinuance. The period of discontinuance may be reduced if the director determines that a shorter period is appropriate. (4-11-19)

c. The sale or other transfer of Medicare supplement business to another issuer is considered a discontinuance for the purposes of Subsection 056.04. (4-11-19)

d. A change in the rating structure or methodology is considered a discontinuance under this Subsection 056.04 unless the issuer complies with the following requirements: (4-11-19)

i. The issuer provides an actuarial memorandum, in a form and manner prescribed by the director, describing the manner in which the revised rating methodology and resultant rates differ from the existing rating methodology and existing rates. (4-5-00)

ii. The issuer does not subsequently put into effect a change of rates or rating factors that would cause the percentage differential between the discontinued and subsequent rates as described in the actuarial memorandum to change. The director may approve a change to the differential which is in the public interest. (4-5-00)

05. Experience of Policy Forms. (4-5-00)

a. Except as provided in Paragraph 056.05.b., the experience of all policy forms or certificate forms of the same type in a standard Medicare supplement benefit plan is combined for purposes of the refund or credit calculation prescribed in Section 051. (4-11-19)

b. Forms assumed under an assumption reinsurance agreement are not combined with the experience of other forms for purposes of the refund or credit calculation. (4-5-00)

c. The experience of all policy forms or certificate forms for standardized Medicare supplement benefit plans of the same type is combined for purposes of the rate change filing. Generally, any applicable percentage increase is filed and applied uniformly across all standardized plans within the same type, unless doing so would violate the federal lifetime loss ratio standards for specific forms within the same type. (3-29-17)

06. Attained Age Rating. With respect to Medicare supplement policies that conform to the Standard Benefit Plans under IDAPA 18.04.10, it is an unfair practice and an unfair method of competition for any issuer, insurer, or licensee to use the increasing age of an insured, subscriber or participant as the basis for increasing premiums or prepayment charges for policyholders who initially purchase a policy after January 1, 1995. This chapter explicitly authorizes both issue age ratings and community ratings consistent with the prohibition of attained age ratings and allows companies to resubmit for approval issue age ratings previously rejected. *( )*

07. Rating by Area and Gender. With respect to Medicare supplement policies that conform to the Standard Benefit Plans under IDAPA 18.04.10, it is an unfair practice and an unfair method of competition for any issuee, issuer, or licensee to use area or gender for rating purpose. *( )*

08. Other Rating Requirements. With respect to Medicare supplement policies that conform to the Standard Benefit Plans under this chapter, sold to residents of this State on or after January 1, 2018: (3-29-17)

a. Any rate adjustments are uniform between 1990 Standardized and *later* Standardized plans throughout the lifetime of the policies, unless doing so would violate the federal lifetime loss ratio standards for specific forms within the same type. *( )*

b. No discount or underwriting factor of less than 1.0 will be available to policies issued outside of open enrollment, per Section 036, or guaranteed issue, per Section 041, unless the greatest discount or lowest underwriting factor is automatically applied to all policies issued under open enrollment and guaranteed issue. (4-11-19)

c. For issue-ages sixty-five (65) and greater, the filed rate for any given age will not exceed the rate for any higher issue-age, similarly rated individual. (3-29-17)

d. For issue-ages sixty-four (64) or less, the premium cannot exceed one hundred fifty percent (150%) of the premium for an issue-age sixty-five (65), similarly rated individual, while the individual's attained age is less than sixty-five (65). Upon attaining age sixty-five (65), a policyholder with an issue-age less than sixty-five (65) is charged the same premium rate as an issue-age sixty-five (65), similarly rated individual. (3-29-17)

e. For any given age, the rating by the issuer does not differentiate on the basis of the reason for eligibility for Medicare Part B. (3-29-17)

057. -- 060. (RESERVED)

061. PERMITTED COMPENSATION ARRANGEMENTS.

01. Commissions. An issuer or other entity may provide commission or other compensation to an agent or other representative for the sale of a Medicare supplement policy or certificate only if the first-year commission or other first-year compensation is no more than two hundred percent (200%) of the commission or other compensation paid for selling or servicing the policy or certificate in the second year or period. (4-5-00)

02. Compensation in Subsequent Years. The commission or other compensation provided in subsequent renewal years needs to be the same as that provided in the second year or period and be provided for no fewer than five (5) renewal years. *( )*

03. Renewal Compensation. No issuer or other entity provides compensation to its agent or other producers and no agent or producer receives compensation greater than the renewal compensation payable by the replacing issuer on renewal policies or certificates if an existing policy or certificate is replaced. (4-5-00)

04. Compensation. For purposes of Section 061, compensation includes pecuniary or non-pecuniary remuneration of any kind relating to the sale or renewal of the policy or certificate, including but not limited to bonuses, gifts, prizes, awards, and finder's fees. (4-11-19)

062. -- 065. (RESERVED)

066. DISCLOSURE PROVISIONS.

01. General Rules. (4-5-00)

a. Medicare supplement policies and certificates includes a renewal or continuation provision. The language or specifications of the provision is consistent with the type of contract issued. The provision is appropriately captioned and appears on the first page of the policy, and includes any reservation by the issuer of the right to change premiums. (3-29-10)

b. Except for riders or endorsements by which the issuer effectuates a request made in writing by the insured, exercises a specifically reserved right under a Medicare supplement policy, or is *needed* to reduce or eliminate benefits to avoid duplication of Medicare benefits, all riders or endorsements added to a Medicare supplement policy after date of issue or at reinstatement or renewal which reduce or eliminate benefits or coverage in the policy requires a signed acceptance by the insured. After the date of policy or certificate issue, any rider or endorsement which increases benefits or coverage with a concomitant increase in premium during the policy term is agreed to in writing and signed by the insured, unless the benefits are *prescribed* by the minimum standards for Medicare supplement policies, or if the increased benefits or coverage is *prescribed* by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge is set forth in the policy. *( )*

c. Medicare supplement policies or certificates do not provide for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import. (4-5-00)

d. If a Medicare supplement policy or certificate contains any limitations with respect to preexisting conditions, such limitations appear as a separate paragraph of the policy and be labeled as "Preexisting Condition Limitations." (4-5-00)

e. Medicare supplement policies and certificates have a notice prominently printed on the first page of the policy or certificate or attached thereto, stating in substance that the policyholder or certificateholder has the right to return the policy or certificate within thirty (30) days of its delivery and to have the premium refunded if, after examination of the policy or certificate, the insured person is not satisfied for any reason. (3-29-10)

f. Issuers of accident and sickness policies or certificates that provide hospital or medical expense coverage on an expense incurred or indemnity basis to persons eligible for Medicare provide to those applicants a "Guide to Health Insurance for People with Medicare" in the form developed jointly by the National Association of Insurance Commissions and the Centers for Medicare & Medicaid Services and in a type size no smaller than twelve (12) point type. Delivery of the Guide is made whether or not the policies or certificates are advertised, solicited or issued as Medicare supplement policies or certificates. Except in the case of direct response issuers, delivery of the Guide will be made to the applicant at the time of application and acknowledgment of receipt of the Guide is obtained by the issuer. Direct response issuers deliver the Guide to the applicant upon request but not later than at the time the policy is delivered. (4-11-06)

g. For the purposes of Section 066, "form" means the language, format, type size, type proportional spacing, bold character, and line spacing. (4-11-19)

02. Notice Requirements. (4-5-00)

a. As soon as practicable, but no later than thirty (30) days prior to the annual effective date of any Medicare benefit changes, an issuer notifies its policyholders and certificateholders of modifications it has made to Medicare supplement insurance policies or certificates in a format acceptable to the director. The notice *will*: *( )*

i. Include a description of revisions to the Medicare program and a description of each modification made to the coverage provided under the Medicare supplement policy or certificate, and (4-5-00)

ii. Inform each policyholder or certificateholder as to when any premium adjustment is to be made due to changes in Medicare. (4-5-00)

b. The notice of benefit modifications and any premium adjustments is in outline form and in clear and simple terms so as to facilitate comprehension. (4-5-00)

c. The notices cannot contain or be accompanied by any solicitation. (4-5-00)

03. Medicare Prescription Drug, Improvement, and Modernization Act of 2003 Notice Requirements. Issuers comply with any notice requirements of the Medicare Prescription Drug, Improvement, and Modernization Act of 2003. (4-11-06)

04. Outline of Coverage Requirements for Medicare Supplement Policies. (4-5-00)

a. Issuers provide an outline of coverage to all applicants at the time application is presented to the prospective applicant and, except for direct response policies, obtain an acknowledgment of receipt of the outline from the applicant; and (4-5-00)

b. If an outline of coverage is provided at the time of application and the Medicare supplement policy or certificate is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy or certificate accompanies the policy or certificate when it is delivered and contain the following statement, in no less than twelve (12) point type, immediately above the company name:

"NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon application and the coverage originally applied for has not been issued." (4-5-00)

c. The outline of coverage provided to applicants pursuant to this section consists of four (4) parts: a cover page, premium information, disclosure pages, and charts displaying the features of each benefit plan offered by the issuer. The outline of coverage is in the language and format prescribed below in no less than twelve (12) point type. All plans are shown on the cover page, and the plans that are offered by the issuer are prominently identified. Premium information for plans that are offered are shown on the cover page or immediately following the cover page and is prominently displayed. The premium and mode is stated for all plans that are offered to the prospective applicant. All possible premiums for the prospective applicant are illustrated. (3-29-10)

05. Notice Regarding Policies or Certificates Which Are Not Medicare Supplement Policies. (3-29-10)

a. Any accident and sickness insurance policy or certificate other than Medicare supplement policy and policy issued pursuant to a contract under Section 1876 of the Federal Social Security Act (42 U.S.C. Section 1395 et seq.), disability income policy; or other policy identified in Paragraph 001.02.b., issued for delivery in this state to persons eligible for Medicare notifies insureds under the policy that the policy is not a Medicare supplement policy or certificate. The notice is either printed or attached to the first page of the outline of coverage delivered to insureds under the policy, or if no outline of coverage is delivered, to the first page of the policy, or certificate delivered to insureds. The notice is no less than twelve (12) point type and contains the following language:

"THIS [POLICY OR CERTIFICATE] IS NOT A MEDICARE SUPPLEMENT [POLICY OR CONTRACT]. If you are eligible for Medicare, review the Guide to Health Insurance for People with Medicare available from the company." (3-29-10)

b. Applications provided to persons eligible for Medicare for the health insurance policies or certificates described in Paragraph 066.04.a. disclose, using the applicable NAIC Model Regulation as incorporated by reference in Section 002 and referenced as Appendix C. The disclosure statement is provided as a part of, or together with, the application for the policy or certificate. (4-11-19)

067. -- 070. (RESERVED)

071. REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.

01. Application Forms. Application forms include the following questions designed to elicit information as to whether, as of the date of the application, the applicant currently has another Medicare supplement,

Medicare Advantage, Medicaid coverage, or another health insurance policy or certificate in force or whether a Medicare supplement policy or certificate is intended to replace any other accident and sickness policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and agent containing such questions and statements may be used. (4-11-06)

02. Statements. (4-5-00)

a. You do not need more than one (1) Medicare supplement policy. (4-5-00)

b. If you purchase this policy, you may want to evaluate your existing health coverage and decide if you need multiple coverages. (4-5-00)

c. You may be eligible for benefits under Medicaid and not need a Medicare supplement policy. (4-5-00)

d. If, after purchasing this policy, you become eligible for Medicaid, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, during your entitlement to benefits under Medicaid for twenty-four (24) months. You need to request this suspension within ninety (90) days of becoming eligible for Medicaid. If you are no longer entitled to Medicaid, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstituted if requested within ninety (90) days of losing Medicaid eligibility. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension. (4-11-06)

e. If you are eligible for and have enrolled in a Medicare supplement policy by reason of disability and you later become covered by an employer or union-based group health plan, the benefits and premiums under your Medicare supplement policy can be suspended, if requested, while you are covered under the employer or union-based group health plan. If you suspend your Medicare supplement policy under these circumstances, and later lose your employer or union-based group health plan, your suspended Medicare supplement policy (or, if that is no longer available, a substantially equivalent policy) will be reinstituted if requested within ninety (90) days of losing your employer or union-based health plan. If the Medicare supplement policy provided coverage for outpatient prescription drugs and you enrolled in Medicare Part D while your policy was suspended, the reinstituted policy will not have outpatient prescription drug coverage, but will otherwise be substantially equivalent to your coverage before the date of the suspension. (4-11-06)

f. Counseling services are available through the Senior Health Insurance Benefit Advisors program (SHIBA), to provide advice concerning your purchase of Medicare supplement insurance and concerning medical assistance through the state Medicaid program, including benefits as a Qualified Medicare Beneficiary (QMB) and a Specified Low-Income Medicare Beneficiary (SLMB). (4-11-06)

03. **Agents**. Agents will list any other health insurance policies they have sold to the applicant. (4-5-00)

a. List policies sold which are still in force. (4-5-00)

b. List policies sold in the past five (5) years which are no longer in force. (4-5-00)

04. **Direct Response Issuer**. In the case of a direct response issuer, a copy of the application or supplemental form, signed by the applicant, and acknowledged by the insurer, is returned to the applicant by the insurer upon delivery of the policy. (4-5-00)

05. **Notice Regarding Replacement of Medicare Supplement Coverage**. Upon determining that a sale will involve replacement of Medicare supplement coverage, any issuer, other than a direct response issuer, or its agent, furnishes the applicant, prior to issuance or delivery of the Medicare supplement policy or certificate, a notice regarding replacement of Medicare supplement coverage. One (1) copy of the notice signed by the applicant and the agent, except where the coverage is sold without an agent, is provided to the applicant and an additional signed copy

is retained by the issuer. A direct response issuer delivers to the applicant at the time of the issuance of the policy the notice regarding replacement of Medicare supplement coverage. (4-5-00)

06. **SHIBA and Consumer Assistance Link**. The notice *prescribed* in Subsection 071.05 for an issuer is provided in the NAIC Model Regulation as incorporated by reference in Section 002 of this rule, which includes NAIC Appendixes A, B, and C and all other outlines of coverage and specific plan designs which can be accessed on the Idaho Department of Insurance website. To obtain a copy of the NAIC Model Regulation, contact SHIBA at the Idaho Department of Insurance. *( )*

072. FILING REQUIREMENTS FOR ADVERTISING.
An issuer provides a copy of any Medicare supplement advertisement intended for use in this state whether through written, radio, or television medium to the director for review or approval by the director. (4-5-00)

073. STANDARDS FOR MARKETING.

01. Issuer. An issuer, directly or through its producers: (4-5-00)

a. Establishes marketing procedures to assure that any comparison of policies by its agents or other producers will be fair and accurate. (4-5-00)

b. Establishes marketing procedures to assure excessive insurance is not sold or issued. (4-5-00)

c. Displays prominently by type, stamp, or other appropriate means, on the first page of the policy the following: **"Notice to buyer: This policy may not cover all of your medical expenses."** (4-5-00)

d. Inquires and makes every reasonable effort to identify whether a prospective applicant or enrollee for Medicare supplement insurance already has accident and sickness insurance and the types and amounts of any such insurance. (4-5-00)

e. Establishes auditable procedures for verifying compliance with this Subsection 073.01. (4-11-19)

02. ***Banned*** **Acts and Practices**. In addition to the practices *banned* in Title 41, Chapter 13,Idaho Code, the following acts and practices are *banned*: *( )*

a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on, or convert an insurance policy or to take out a policy of insurance with another insurer. (4-5-00)

b. High pressure tactics. Employing any method of marketing having the effect of or tending to induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (4-5-00)

c. Cold lead advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance agent or insurance company. (4-5-00)

03. ***Banned*** **Terms**. The terms "Medicare supplement," "Medigap," "Medicare wrap-around," and words of similar import cannot be used unless the policy is issued in compliance with this chapter. *( )*

074. -- 075. (RESERVED)

076. APPROPRIATENESS OF RECOMMENDED PURCHASE AND EXCESSIVE INSURANCE.
In recommending the purchase or replacement of any Medicare supplement policy or certificate, an agent makes reasonable efforts to determine the appropriateness of a recommended purchase or replacement. Any sale of Medicare supplement policy or certificate that will provide an individual more than one Medicare supplement policy or certificate is *banned*. An issuer cannot issue a Medicare supplement policy or certificate to an individual enrolled

in Medicare Part C unless the effective date of the coverage is after the termination date of the individual's Part C coverage. ( )

077. REPORTING OF MULTIPLE POLICIES.

01. Reporting. On or before March 1 of each year, an issuer reports the following information for every individual resident of this state for which the issuer has in force more than one (1) Medicare supplement policy or certificate: (4-5-00)

a. Policy and certificate number, and (4-5-00)

b. Date of issuance. (4-5-00)

02. Grouping by Individual Policyholder. The items set forth above need to be grouped by individual policyholder. (4-5-00)

078. -- 080. (RESERVED)

081. PROHIBITION AGAINST PREEXISTING CONDITIONS, WAITING PERIODS, ELIMINATION PERIODS AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES.

01. Waiving of Time Periods. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate, the replacing issuer waives any time periods applicable to preexisting conditions, waiting periods, elimination periods and probationary periods in the new Medicare supplement policy or certificate for similar benefits to the extent such time was spent under the original policy. (4-5-00)

02. Replacing Policy. If a Medicare supplement policy or certificate replaces another Medicare supplement policy or certificate which has been in effect for at least six (6) months, the replacing policy does not provide any time period applicable to preexisting conditions, waiting periods, elimination periods, and probationary periods for benefits similar to those contained in the original policy or certificate. (4-5-00)

082. PROHIBITION AGAINST USE OF GENETIC INFORMATION AND REQUESTS FOR GENETIC TESTING.
This section applies to all policies with policy years beginning on or after May 21, 2009. (3-29-10)

01. ***Banned*** **Provisions**. An issuer of a Medicare supplement policy or certificate: (3-29-10)

a. *Does* not deny or condition the issuance of effectiveness of the policy or certificate (including the imposition of any exclusion of benefits under the policy based on a preexisting condition) on the basis of the genetic information with respect to such individual; and (3-29-10)

b. *Does* not discriminate in the pricing of the policy or certificate (including the adjustment of premium rates) of an individual on the basis of the genetic information with respect to such individual. (3-29-10)

02. Denial of Coverage. Nothing in Subsection 082.01 is construed to limit the ability of an issuer, to the extent otherwise permitted by law, from: (4-11-19)

a. Denying or conditioning the issuance or effectiveness of the policy or certificate or increasing the premium for a group based on the manifestation of a disease or disorder of an insured or applicant; or (3-29-10)

b. Increasing the premium for any policy issued to an individual based on the manifestation of a disease or disorder of an individual who is covered under the policy (in such case, the manifestation of a disease or disorder in one individual will not also be used as genetic information about other group members and to further increase the premium for the group). (3-29-10)

03. Genetic Testing. An issuer of a Medicare supplement policy or certificate cannot request or require an individual or a family member of such individual to undergo a genetic test. (3-29-10)

04. Payment. Subsection 082.03 does not preclude an issuer of a Medicare supplement policy or certificate from obtaining and using the results of a genetic test in making a determination regarding payment (as defined for the purposes of applying the regulations promulgated under part C of title XI and Section 264 of the Health Insurance Portability and Accountability Act of 1996, as may be revised from time to time) and consistent with Subsection 082.01. ( )

05. Information. For purposes of carrying out Subsection 082.04, an issuer of a Medicare supplement policy or certificate may request only the minimum amount of information necessary to accomplish the intended purpose. (4-11-19)

06. Allowed Genetic Testing. Notwithstanding Subsection 082.03, an issuer of a Medicare supplement policy may request, but not require, that an individual or a family member of such individual undergo a genetic test if each of the following conditions is met: (4-11-19)

a. The request is made pursuant to research that complies with part 46 of title 45, Code of Federal Regulations, or equivalent Federal regulations, and any applicable State or local law or rules for the protection of human subjects in research. (3-29-10)

b. The issuer clearly indicates to each individual, or in the case of a minor child, to the legal guardian of such child, to whom the request is made that: (3-29-10)

i. Compliance with the request is voluntary; and (3-29-10)

ii. Non-compliance will have no effect on enrollment status or premium or contribution amounts. (3-29-10)

c. No genetic information collected or acquired under Subsection 082.06 is used for underwriting, determination of eligibility to enroll or maintain enrollment status, premium rates, or the issuance, renewal, or replacement of a policy or certificate. (4-11-19)

d. The issuer notifies the Secretary in writing that the issuer is conducting activities pursuant to the exception provided for under Subsection 082.06, including a description of the activities conducted. (4-11-19)

e. The issuer complies with such other conditions as the Secretary may by regulation require for activities conducted under Subsection 082.06. (4-11-19)

f. An issuer of a Medicare supplement policy or certificate cannot request, require, or purchase genetic information for underwriting purposes. (3-29-10)

g. An issuer of a Medicare supplement policy or certificate cannot request, require or purchase genetic information with respect to any individual prior to such individual's enrollment under the policy in connection with such enrollment. (3-29-10)

h. If an issuer of Medicare supplement policy or certificate obtains genetic information incidental to the requesting, requiring, or purchasing of other information concerning an individual, such request, requirement, or purchase is not considered a violation of Paragraph 082.06.g. if such request, requirement, or purchase is not in violation of Paragraph 082.06.f. (4-11-19)

07. Definitions. For the purposes of this section only; (3-29-10)

a. "Issuer of a Medicare supplement policy or certificate" includes third-party administrator, or other person acting for or on behalf of such issuer. (3-29-10)

b. "Family member" means, with respect to an individual, any other individual who is a first-degree, second-degree, third-degree, or fourth-degree relative of such individual. (3-29-10)

c. "Genetic information" means, with respect to any individual, information about such individual's genetic tests, the genetic tests of family members of such individual, and the manifestation of a disease or disorder in family members of such individual. Such term includes, with respect to any individual, any request for, or receipt of, genetic services, or participation in clinical research which includes genetic services, by such individual or any family member of such individual. Any reference to genetic information concerning an individual or family member of an individual who is a pregnant woman, includes genetic information of any fetus carried by such pregnant woman, or with respect to an individual or family member utilizing reproductive technology, includes genetic information of any embryo legally held by an individual or family member. The term "genetic information" does not include information about the sex or age of any individual. (3-29-10)

d. "Genetic services" means a genetic test, genetic counseling (including obtaining, interpreting, or assessing genetic information), or genetic education. (3-29-10)

e. "Genetic test" means an analysis of human DNA, RNA, chromosomes, proteins, or metabolites, that detect genotypes, mutations, or chromosomal changes. The term "genetic test" does not mean an analysis of proteins or metabolites that does not detect genotypes, mutations, or chromosomal changes; or an analysis of proteins or metabolites that is directly related to a manifested disease, disorder, or pathological condition that could reasonably be detected by a health care professional with appropriate training and expertise in the field of medicine involved. (3-29-10)

f. "Underwriting purposes" means: (3-29-10)

i. Rules for, or determination of, eligibility (including enrollment and continued eligibility) for benefits under the policy; (3-29-10)

ii. The computation of premium or contribution amounts under the policy; (3-29-10)

iii. The application of any preexisting condition exclusion under the policy; and (3-29-10)

iv. Other activities related to the creation, renewal, or replacement of a contract of health insurance or health benefits. (3-29-10)

083. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 46, Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.11, "Long-Term Care Insurance Minimum Standards." (4-5-00)

02. Purpose. The purpose of this chapter is to promote the public interest, to promote the availability of long-term care insurance coverage, to protect applicants for long-term care insurance, as defined, from unfair or deceptive sales or enrollment practices, to facilitate public understanding and comparison of long-term care insurance coverages, and to facilitate flexibility and innovation in the development of long-term care insurance. (4-5-00)

03. Scope and Applicability. Except as specifically provided, this chapter applies to all long-term care insurance policies including qualified long-term care insurance contracts and life insurance policies that accelerate benefits for long-term care delivered or issued for delivery in this state; certain provisions of this chapter apply only to qualified long-term care insurance. Additionally, this chapter is intended to apply to policies having indemnity benefits that are triggered by activities of daily living and sold as disability income insurance, if: *( )*

a. The benefits of the disability income policy are dependent upon or vary in amount based on the receipt of long-term care services; (3-30-01)

b. The disability income policy is advertised, marketed or offered as insurance for long-term care services; or (3-30-01)

c. Benefits under the policy may commence after the policyholder has reached Social Security's normal retirement age unless benefits are designed to replace lost income or pay for specific expenses other than long-term care services. (3-30-01)

002. INCORPORATION OF DOCUMENTS BY REFERENCE.

01. Forms. Documents incorporated by reference may be obtained from the Idaho Department of Insurance website. (3-25-16)

02. Documents Incorporated by Reference. This chapter incorporates by reference the following documents, appendices, and attachments of the National Association of Insurance Commissioners (NAIC) Long-Term Care Model Regulation. The Model Regulation is available from the *NAIC* and from the Idaho Department of Insurance. *( )*

a. Rescission Reporting Form for Long-Term Care, Appendix A. (3-25-16)

b. Personal Worksheet, Appendix B. (3-25-16)

c. Things You Should Know Before You Buy Long-Term Care Insurance, Appendix C. (3-25-16)

d. Suitability Letter, Appendix D. (3-25-16)

e. Claims Denial Reporting Form, Appendix E. (3-25-16)

f. Instructions, Appendix F. (3-25-16)

g. Replacement and Lapse Reporting Form, Appendix G. (3-25-16)

h. Outline of Coverage. (3-25-16)

i. Notice to Applicant Regarding Replacement of Individual Accident and Sickness or Long-Term Care Insurance, Attachment I. (3-25-16)

j. Notice to Applicant Regarding Replacement of Accident and Sickness or Long-Term Care Insurance, Attachment II. (3-25-16)

003. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of this rule, *the following definitions apply in addition to those found in Title 41, Chapter 46, Idaho Code.* *( )*

01. Exceptional Increase. Means only those increases filed by an insurer as exceptional for which the director determines the need for the premium rate increase is justified due to changes in Idaho laws or rules applicable to long-term care coverage, or due to increased and unexpected utilization that affects the majority of insurers of similar products. (3-30-01)

a. Except as provided in Section 025, Premium Rate Schedule Increases, exceptional increases are subject to the same requirements as other premium rate schedule increases. (3-30-07)

b. The director may request a review by an independent actuary or a professional actuarial body of the basis for a request that an increase be considered an exceptional increase. (3-30-01)

c. The director, in determining that the necessary basis for an exceptional increase exists, will determine any potential offsets to higher claims costs. (3-30-01)

02. **Incidental**. As used in Subsection 025.10, the value of the long-term care benefits provided is less than ten percent (10%) of the total value of the benefits provided over the life of the policy. These values are measured as of the date of issue. (3-30-07)

03. **Qualified Actuary**. Means a member in good standing of the American Academy of Actuaries. (3-30-01)

011. POLICY DEFINITIONS.
For the purpose of this rule, no long-term care insurance policy delivered or issued for delivery in this state may use the terms set forth below, unless the terms are defined in the policy. In relation to the Qualified Long-Term Care plans, such definitions are to satisfy definitions as amended by the U.S. Treasury Department and the following requirements. *( )*

01. **Activities of Daily Living**. At least bathing, continence, dressing, eating, toileting, and transferring. (4-5-00)

02. **Acute Condition**. The individual is medically unstable. Such an individual requires frequent monitoring by medical professionals, such as physicians and registered nurses, to maintain *the individual's* health status. *( )*

03. **Adult Day Care**. A program for six (6) or more individuals, of social and health-related services provided during the day in a community group setting for the purpose of supporting frail, impaired elderly or other disabled adults who can benefit from care in a group setting outside the home. (4-5-00)

04. **Bathing**. Washing oneself by sponge bath; or in either a tub or shower, including the task of getting into or out of the tub or shower. (4-5-00)

05. **Cognitive Impairment**. A deficiency in a person's short or long-term memory, orientation as to person, place and time, deductive or abstract reasoning, or judgment as it relates to safety awareness. (4-5-00)

06. **Continence**. The ability to maintain control of bowel and bladder function; or, when unable to maintain control of bowel or bladder function, the ability to perform associated personal hygiene (including caring for catheter or colostomy bag). (4-5-00)

07. **Dressing**. Putting on and taking off all items of clothing and any necessary braces, fasteners, or artificial limbs. (4-5-00)

08. **Eating**. Feeding oneself by getting food into the body from a receptacle (such as a plate, cup, or table) or by a feeding tube or intravenously. (4-5-00)

09. **Hands-On Assistance**. Physical assistance (minimal, moderate, or maximal) without which the individual would not be able to perform the activity of daily living. (4-5-00)

10. **Home Health Care Services**. Medical and non-medical services, provided to ill, disabled, or infirm persons in their residences. Such services may include homemaker services, assistance with activities of daily living, and respite care services. (4-5-00)

11. **Mental or Nervous Disorder**. *Limited to* neurosis, psychoneurosis, psychopathy, psychosis, or mental or emotional disease or disorder. *( )*

12. **Personal Care**. The provision of hands-on services to assist an individual with activities of daily living. (4-5-00)

13. **Similar Policy Forms**. Means all of the long-term care insurance policies and certificates issued by an insurer in the same long-term care benefit classification as the policy form being considered. Certificates of groups that meet the definition in Section 41-4603(4)(a), Idaho Code, are not considered similar to certificates or policies issued as long-term care insurance, but are similar to other comparable certificates with the same long-term care benefit classifications. For purposes of determining similar policy forms, long-term care benefit classifications are defined as follows: (3-30-01)

a. Institutional long-term care benefits only; (3-30-01)

b. Non-institutional long-term care benefits only; or (3-30-01)

c. Comprehensive long-term care benefits. (3-30-01)

14. **Skilled Nursing Care, Personal Care, Home Care, Specialized Care, Assisted Living Care and Other Services**. Defined in relation to the level of skill *prescribed*, the nature of the care and the setting in which care *need* be delivered. *( )*

15. **Toileting**. Getting to and from the toilet, getting on and off the toilet, and performing associated personal hygiene. (4-5-00)

16. **Transferring**. Moving into or out of a bed, chair, or wheelchair. (4-5-00)

17. **All Providers of Services**. All providers of services including but not limited to Skilled Nursing Facility, Extended Care Facility, Convalescent Nursing Home, Personal Care Facility, Specialized Care Providers, Assisted Living Facility, and Home Care Agency is defined in relation to the services and facilities *prescribed* to be available and the licensure, certification, registration or degree status of those providing or supervising the services. When the definition requires that the provider be appropriately licensed, certified or registered, it also state*s* what requirements a provider need meet in lieu of licensure, certification or registration when the state in which the service is to be furnished does not require a provider of these services to be licensed, certified or registered, or when the state licenses, certifies or registers the provider of services under another name. *( )*

012. POLICY PRACTICES AND PROVISIONS.

01. **Renewability**. The terms “guaranteed renewable” and “noncancellable” *can*not be used in any individual long-term care insurance policy without further explanatory language in accordance with the disclosure requirements of Section 014 of this rule. *( )*

a. A policy issued to an individual *can*not contain renewal provisions other than “guaranteed renewable” or “noncancellable.” *( )*

b. The term “guaranteed renewable” may be used only when the insured has the right to continue the

long-term care insurance in force by the timely payment of premiums and when the insurer has no unilateral right to make any change in any provision of the policy or rider while the insurance is in force, and cannot decline to renew, except that rates may be revised by the insurer on a class basis. (4-5-00)

c. The term "noncancellable" may be used only when the insured has the right to continue the long-term care insurance in force by the timely payment of premiums during which period the insurer has no right to unilaterally make any change in any provision of the insurance or in the premium rate. (4-5-00)

d. The term "level premium" may only be used when the insurer does not have the right to change the premium for a specified period for the life of the policy. (3-30-01)

e. In addition to the other requirements of Subsection 011.01, a qualified long-term care insurance contract is guaranteed renewable, within the meaning of Section 7702B(b)(1)(C) of the Internal Revenue Code of 1986 as amended. (3-30-07)

02. Limitations and Exclusions. A policy cannot be delivered or issued for delivery in this state as long-term care insurance if the policy limits or excludes coverage by type of illness, treatment, medical condition or accident, except as follows: (4-5-00)

a. Preexisting conditions or diseases; (4-5-00)

b. Mental or nervous disorders; however, this does not permit exclusion or limitation of benefits on the basis of Alzheimer's Disease; (4-5-00)

c. Alcoholism and drug addiction; (4-5-00)

d. Illness, treatment, or medical condition arising out of: (4-5-00)

i. War or act of war (whether declared or undeclared); (4-5-00)

ii. Participation in a felony, riot, or insurrection; (4-5-00)

iii. Service in the armed forces or units auxiliary thereto; (4-5-00)

iv. Suicide (sane or insane), attempted suicide, or intentionally self-inflicted injury; or (4-5-00)

v. Aviation (this exclusion applies only to non-fare-paying passengers). (4-5-00)

e. Treatment provided in a government facility (unless *prescribed* by law), services for which benefits are available under Medicare or other governmental program (except Medicaid), any state or federal workers' compensation, employer's liability or occupational disease law, or any motor vehicle no-fault law, services provided by a member of the covered person's immediate family, and services for which no charge is normally made in the absence of insurance; *( )*

f. Expenses for services or items available or paid under another long-term care insurance or health insurance policy; or (4-5-00)

g. In the case of a qualified long-term care insurance contract, expenses for services or items to the extent that the expenses are reimbursable under Title XVIII of the Social Security Act or would be so reimbursable but for the application of a deductible or coinsurance amount. (4-5-00)

h. Subsection 011.02 is not intended to prohibit exclusions and limitations by type of provider. However, no long-term care issuer may deny a claim because services are provided in a state other than the state of policy issue under the following conditions: (3-30-07)

i. When the state other than the state of policy issue does not have the provider licensing, certification or registration *prescribed* in the policy, but where the provider satisfies the policy requirements outlined for providers

in lieu of licensure, certification or registration; or ( )

ii When the state other than the state of policy issue licenses, certifies or registers the provider under another name. For purposes of this Subsection 011.02.h. "state of policy issue" means the state in which the individual policy or certificate was originally issued. (3-30-07)

iii. Subsection 011.02 is not intended to prohibit territorial limitations. (3-30-07)

03. Extension of Benefits. Termination of long-term care insurance is without prejudice to any benefits payable for institutionalization if the institutionalization began while the long-term care insurance was in force and continues without interruption after termination. The extension of benefits beyond the period the long-term care insurance was in force may be limited to the duration of the benefit period, if any, or to payment of the maximum benefits and may be subject to any policy waiting period, and all other applicable provisions of the policy. (4-5-00)

04. Continuation or Conversion. (4-5-00)

a. Group long-term care insurance issued in this state on or after the effective date of Section 011 provides covered individuals with a basis for continuation or conversion of coverage. (3-30-07)

b. For the purposes of Section 011, "a basis for continuation of coverage" means a policy provision that maintains coverage under the existing group policy when the coverage would otherwise terminate and which is subject only to the continued timely payment of premium when due. Group policies that restrict provision of benefits and services to, or contain incentives to use certain providers or facilities, may provide continuation benefits that are substantially equivalent to the benefits of the existing group policy. The director makes a determination as to the substantial equivalency of benefits, and in doing so, takes into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. (3-30-07)

c. For the purposes of Section 011, "a basis for conversion of coverage" means a policy provision that an individual whose coverage under the group policy would otherwise terminate or has been terminated for any reason, including discontinuance of the group policy in its entirety or with respect to an insured class, and who has been continuously insured under the group policy (and any group policy which it replaced) for at least six (6) months immediately prior to termination, is entitled to the issuance of a converted policy by the insurer under whose group policy he or she is covered, without evidence of insurability. (3-30-07)

d. For the purposes of Section 011, "converted policy" means an individual policy of long-term care insurance providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided under the group policy from which conversion is made. Where the group policy from which conversion is made restricts provision of benefits and services to, or contains incentives to use certain providers or facilities, the director, in making a determination as to the substantial equivalency of benefits, takes into consideration the differences between managed care and non-managed care plans, including, but not limited to, provider system arrangements, service availability, benefit levels and administrative complexity. (3-30-07)

e. Written application for the converted policy is made and the first premium due, if any, is paid as directed by the insurer not later than thirty-one (31) days after termination of coverage under the group policy. The converted policy is issued effective on the day following the termination of coverage under the group policy and is renewable annually. ( )

f. Unless the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy is calculated on the basis of the insured's age at inception of coverage under the group policy from which conversion is made. Where the group policy from which conversion is made replaced previous group coverage, the premium for the converted policy is calculated on the basis of the insured's age at inception of coverage under the group policy replaced. (4-5-00)

g. Continuation of coverage or issuance of a converted policy is mandatory, except where: (4-5-00)

i. Termination of group coverage resulted from an individual's failure to make any *prescribed*

payment of premium or contribution when due; or ( )

ii. The terminating coverage is replaced not later than thirty-one (31) days after termination, by group coverage effective on the day following the termination of coverage: (4-5-00)

(1) Providing benefits identical to or benefits determined by the director to be substantially equivalent to or in excess of those provided by the terminating coverage; and (4-5-00)

(2) The premium for which is calculated in a manner consistent with the requirements of Subsection 011.04.f. (3-30-07)

h. Notwithstanding any other provision of Section 011, a converted policy issued to an individual who at the time of conversion is covered by another long-term care insurance policy that provides benefits on the basis of incurred expenses, may contain a provision that results in a reduction of benefits payable if the benefits provided under the additional coverage, together with the full benefits provided by the converted policy, would result in payment of more than one hundred percent (100%) of incurred expenses. The provision is only included in the converted policy if the converted policy also provides for a premium decrease or refund which reflects the reduction in benefits payable. (3-30-07)

i. The converted policy may provide that the benefits payable under the converted policy, together with the benefits payable under the group policy from which conversion is made, cannot exceed those that would have been payable had the individual's coverage under the group policy remained in force and effect. (4-5-00)

j. Notwithstanding any other provision of Section 011, an insured individual whose eligibility for group long-term care coverage is based upon *the individual's* relationship to another person is entitled to continuation of coverage under the group policy upon termination of the qualifying relationship by death or dissolution of marriage. ( )

k. For the purposes of Section 011 a "managed-care plan" is a health care or assisted living arrangement designed to coordinate patient care or control costs through utilization review, case management or use of specific provider networks. (3-30-07)

05. Discontinuance and Replacement. If a group long-term care policy is replaced by another group long-term care policy issued to the same policyholder, the succeeding insurer offers coverage to all persons covered under the previous group policy on its date of termination. Coverage provided or offered to individuals by the insurer and premiums charged to persons under the new group policy: (4-5-00)

a. Will not result in an exclusion for preexisting conditions that would have been covered under the group policy being replaced; and (4-5-00)

b. Cannot vary or depend on the individual's health or disability status, claim experience or use of long-term care services. (4-5-00)

06. Premium Changes. (4-5-00)

a. The premium charged to an insured cannot increase due to either: (4-5-00)

i. The increasing age of the insured at ages beyond sixty-five (65); or (4-5-00)

ii. The duration the insured has been covered under the policy. (4-5-00)

b. The purchase of additional coverage is not considered a premium rate increase, but for purposes of the calculation *prescribed* under Section 032, the portion of the premium attributable to the additional coverage is added to and considered part of the initial annual premium. (3-30-07)

c. A reduction in benefits is not considered a premium change, but for purpose of the calculation *prescribed* under Section 032, the initial annual premium is based on the reduced benefits. (3-30-07)

07. Electronic Enrollment for Group Policies. (4-5-00)

a. In the case of a group defined in Section 41-4603(4)(a), Idaho Code, any requirement that a signature of an insured be obtained by a producer or insurer is satisfied if: (3-30-07)

i. The consent is obtained by telephonic or electronic enrollment by the group policyholder or insurer. A verification of enrollment information is provided to the enrollee; (4-5-00)

ii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure the accuracy, retention, and prompt retrieval of records; and (4-5-00)

iii. The telephonic or electronic enrollment provides necessary and reasonable safeguards to assure that the confidentiality of individually identifiable information, "privileged information," is maintained. (4-5-00)

b. The insurer makes available, upon request of the director, records that will demonstrate the insurer's ability to confirm enrollment and coverage amounts. (4-5-00)

013. UNINTENTIONAL LAPSE.

01. Notice Before Lapse or Termination. Each insurer offering long-term care insurance, as a protection against unintentional lapse, complies with the following: (4-5-00)

a. No individual long-term care policy or certificate is issued until the insurer has received from the applicant either a written designation of at least one (1) person, in addition to the applicant, who is to receive notice of lapse or termination of the policy or certificate for nonpayment of premium, or a written waiver dated and signed by the applicant electing not to designate additional persons to receive notice. The applicant has the right to designate at least one (1) person who is to receive the notice of termination, in addition to the insured. Designation cannot constitute acceptance of any liability on the third party for services provided to the insured. The form used for the written designation will provide space clearly designated for listing at least one (1) person. The designation includes each person's full name and home address. In the case of an applicant who elects not to designate an additional person, the waiver states: "Protection against unintended lapse. I understand that I have the right to designate at least one (1) person other than myself to receive notice of lapse or termination of this long-term care insurance policy for nonpayment of premium. I understand that notice will not be given until thirty (30) days after a premium is due and unpaid. I elect NOT to designate a person to receive this notice." The insurer notifies the insured of the right to change this written designation, no less often than once every two (2) years. (4-5-00)

b. When the policyholder or certificate holder pays premium for a long-term care insurance policy or certificate through a payroll or pension deduction plan, the requirements contained in Subsection 013.01.a. need not be met until sixty (60) days after the policyholder or certificate holder is no longer on such a payment plan. The application or enrollment form for such policies or certificates clearly indicates the payment plan selected by the applicant. (3-30-07)

c. Lapse or termination for nonpayment of premium. No individual long-term care policy or certificate can lapse or be terminated for nonpayment of premium unless the insurer, at least thirty (30) days before the effective date of the lapse or termination, has given notice to the insured and to those persons designated pursuant to Subsection 013.01.a., at the address provided by the insured for purposes of receiving notice of lapse or termination. Notice is given by first class United States mail, postage prepaid; and notice cannot be given until thirty (30) days after a premium is due and unpaid. Notice is *deemed* to have been given as of five (5) days after the date of mailing. *( )*

02. Reinstatement. In addition to the requirement in Subsection 013.01, a long-term care insurance policy or certificate includes a provision that provides for reinstatement of coverage, in the event of lapse if the insurer is provided proof that the policyholder or certificate holder was cognitively impaired or had a loss of functional capacity before the grace period contained in the policy expired. This option is available to the insured if requested within five (5) months after termination and allows for the collection of past due premium, where appropriate. The standard of proof of cognitive impairment or loss of functional capacity cannot be more stringent

than the benefit eligibility criteria on cognitive impairment or the loss of functional capacity contained in the policy and certificate. (3-30-07)

014. REQUISITE DISCLOSURE PROVISIONS.

01. Renewability. Individual long-term care insurance policies will contain a renewability provision. (3-30-01)

a. The provision is appropriately captioned, appears on the first page of the policy, and clearly states that the coverage is guaranteed renewable or noncancellable. This provision cannot apply to policies that do not contain a renewability provision, and under which the right to nonrenew is reserved solely to the policyholder. (3-30-01)

b. A long-term care insurance policy or certificate, other than one where the insurer does not have the right to change the premium, includes a statement that the premium rates may change. (3-30-01)

02. Riders and Endorsements. Except for riders or endorsements by which the insurer effectuates a request made in writing by the insured under an individual long-term care insurance policy, all riders or endorsements added to an individual long-term care insurance policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy requires signed acceptance by the individual insured. After the date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term is agreed to in writing signed by the insured, except if the increased benefits or coverage are *prescribed* by law. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge is set forth in the policy, rider or endorsement. *( )*

03. Payment of Benefits. A long-term care insurance policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import includes a definition of these terms and an explanation of the terms in its accompanying outline of coverage. (4-5-00)

04. Limitations. If a long-term care insurance policy or certificate contains any limitations with respect to preexisting conditions, the limitations appears as a separate paragraph of the policy or certificate and is labeled as "Preexisting Condition Limitations." (4-5-00)

05. Other Limitations or Conditions on Eligibility for Benefits. A long-term care insurance policy or certificate containing any limitations or conditions for eligibility other than those *banned* in Section 41-4605(4)(b)(i), Idaho Code, sets forth a description of the limitations or conditions, including any *prescribed* number of days of confinement, in a separate paragraph of the policy or certificate and labels such paragraph "Limitations or Conditions on Eligibility for Benefits." *( )*

06. Disclosure of Tax Consequences. With regard to life insurance policies that provide an accelerated benefit for long-term care, a disclosure statement is *prescribed* at the time of application for the policy or rider and at the time the accelerated benefit payment request is submitted that receipt of these accelerated benefits may be taxable, and that assistance should be sought from a personal tax advisor. The disclosure statement is prominently displayed on the first page of the policy or rider and any other related documents. Subsection 014.06 cannot apply to qualified long-term care insurance contracts. *( )*

07. Benefit Triggers. Activities of daily living and cognitive impairment is used to measure an insured's need for long-term care and is described in the policy or certificate in a separate paragraph and is labeled "Eligibility for the Payment of Benefits." Any additional benefit triggers *need to* be explained. If these triggers differ for different benefits, explanation of the trigger accompanies each benefit description. If an attending physician or other specified person *needs to* certify a certain level of functional dependency to be eligible for benefits*, this too needs to be specified*. *( )*

08. Qualified Contracts. A qualified long-term care insurance contract includes a disclosure statement in the policy and in the outline of coverage as contained in Section 035 that the policy is intended to be a qualified long-term care insurance contract under Section 7702B (b) of the Internal Revenue Code of 1986, as amended. (3-30-07)

09. Non-Qualified Contracts. A non-qualified long-term care insurance contract includes a disclosure statement in the policy and in the outline of coverage as contained in Section 035 that the policy is not intended to be a qualified long-term care insurance contract. (3-30-07)

10. Requisite Disclosure of Rating Practices to Consumers. (3-30-01)

a. Subsection 014.10 applies as follows: (3-30-07)

i. Except as provided in Subsection 014.10.a.ii., Subsection 014.10 applies to any long-term care policy or certificate issued in this state on or after July 1, 2001. (3-30-07)

ii. For certificates issued on or after the effective date of this amended rule under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force at the time this amended rule became effective, the provisions of Subsection 014.10 applies on the policy anniversary following January 1, 2002. (3-30-07)

b. Other than policies for which no applicable premium rate or rate schedule increases can be made, insurers provide all of the information listed in Subsection 014.10.b. to the applicant at the time of application or enrollment, unless the method of application does not allow for delivery at that time. In such a case, an insurer provides all information listed in Subsection 014.10.b. to the applicant no later than at the time of delivery of the policy or certificate. (3-30-07)

i. A statement that the policy may be subject to rate increases in the future; (3-30-01)

ii. An explanation of potential future premium rate revisions, and the policyholder's or certificateholder's option in the event of a premium rate revision; (3-30-01)

iii. The premium rate or rate schedules applicable to the applicant that will be in effect until a request is made for an increase; and (3-30-01)

iv. A general explanation for applying premium rate or rate schedule adjustments that includes a description of when premium rate or rate schedule adjustments will be effective (e.g., next anniversary date, next billing date, etc.); and the right to a revised premium rate or rate schedule as provided in Subsection 014.10.b.ii., if the premium rate or rate schedule is changed. (3-30-07)

c. Information regarding each premium rate increase on this policy form or similar forms over the past ten (10) years for this state or any other state that, at a minimum, identifies: (3-30-01)

i. The policy forms for which premium rates have been increased; (3-30-01)

ii. The calendar years when the form was available for purchase; and (3-30-01)

iii. The amount or percent of each increase. The percentage may be expressed as a percentage of the premium rate prior to the increase, and may also be expressed as minimum and maximum percentages if the rate increase is variable by rating characteristics. (3-30-01)

d. The insurer may, in a fair manner, provide additional explanatory information related to the rate increases. (3-30-01)

e. An insurer has the right to exclude from the disclosure premium rate increases that only apply to blocks of business acquired from other nonaffiliated insurers or the long-term care policies acquired from other nonaffiliated insurers when those increases occurred prior to acquisition. (3-30-01)

f. If an acquiring insurer files for a rate increase on a long-term care policy form acquired from nonaffiliated insurers or a block of policy forms acquired from nonaffiliated insurers on or before the later of the effective date of Subsection 014.10 or the end of a twenty-four (24) month period following the acquisition of the

block of policies, the acquiring insurer may exclude that rate increase from the disclosure. However, the nonaffiliated selling company includes the disclosure of that rate increase in accordance with Subsection 014.10.c. (3-30-07)

g. If the acquiring insurer in Subsection 014.10.f. above files for a subsequent rate increase, even within the twenty-four (24) month period, on the same policy form acquired from nonaffiliated insurers or block of policy forms acquired from insurers referenced in Subsection 014.10.f., the acquiring insurer will make all disclosures *prescribed* by Subsection 014,10.c., including disclosure of the earlier rate increase referenced in Subsection 014.10.f. *( )*

h. An applicant signs an acknowledgement at the time of application, unless the method of application does not allow for signature at that time, that the insurer made the disclosure *prescribed* under Subsections 014.10.b. and 014.10.c. If because of the method of application the applicant cannot sign an acknowledgement at the time of application, the applicant signs no later than at the time of delivery of the policy or certificate. *( )*

i. An insurer uses the forms in Appendices B and F to comply with the disclosure requirements of Subsection 014.10.b. and Subsection 014.10.h. (3-25-16)

j. An insurer provides notice of an upcoming premium rate schedule increase to all policyholders or certificateholders, if applicable, at least thirty (30) days prior to the implementation of the premium rate schedule increase by the insurer. The notice includes the information *prescribed* by Subsection 014.10.b., when the increase is implemented. *( )*

015. PROHIBITION AGAINST POST-CLAIMS UNDERWRITING.

01. Health Conditions. All applications for long-term care insurance policies or certificates except those that are guaranteed issue contains clear and unambiguous questions designed to ascertain the health condition of the applicant. (4-5-00)

02. Medication. If an application for long-term care insurance contains a question that asks whether the applicant has had medication prescribed by a physician, it will also ask the applicant to list the medication that has been prescribed. If the medications listed in the application were known by the insurer, or should have been known at the time of application, to be directly related to a medical condition for which coverage would be denied, then the policy or certificate cannot be rescinded for that condition. (4-5-00)

03. Non-Guaranteed Issue. Except for policies or certificates which are guaranteed issue: (4-5-00)

a. The following language is set out conspicuously and in close conjunction with the applicant's signature block on an application for a long-term care insurance policy or certificate: Caution: If your answers on this application are incorrect or untrue, (company) has the right to deny benefits or rescind your policy. (4-5-00)

b. The following language, or language substantially similar to the following, is set out conspicuously on the long-term care insurance policy or certificate at the time of delivery:

"Caution: The issuance of this long-term care insurance (policy) (certificate) is based upon your responses to the questions on your application. A copy of your (application) (enrollment form) (is enclosed) (was retained by you when you applied). If your answers are incorrect or untrue, the company has the right to deny benefits or rescind your policy. The best time to clear up any questions is now, before a claim arises! If, for any reason, any of your answers are incorrect, contact the company at this address: (insert address)." (4-5-00)

c. Prior to issuance of a long-term care policy or certificate to an applicant age eighty (80) or older, the insurer obtains one (1) of the following: (4-5-00)

i. A report of a physical examination; (4-5-00)

ii. An assessment of functional capacity; (4-5-00)

iii. An attending physician's statement; or (4-5-00)

iv. Copies of medical records. (4-5-00)

04. Delivery of Application or Enrollment and Form. A copy of the completed application or enrollment form (whichever is applicable) is delivered to the insured no later than at the time of delivery of the policy or certificate unless it was retained by the applicant at the time of application. (4-5-00)

05. Record of Rescissions. Every insurer or other entity selling or issuing long-term care insurance benefits maintains a record of all policy or certificate rescissions, both state and countrywide, except those that the insured voluntarily effectuated and annually furnishes this information to the insurance director in the format prescribed by the National Association of Insurance Commissioners in Appendix A. (3-25-16)

016. MINIMUM STANDARDS FOR HOME HEALTH AND COMMUNITY CARE BENEFITS IN LONG-TERM CARE INSURANCE POLICIES.

01. Limitations or Exclusions. A long-term care insurance policy or certificate cannot, if it provides benefits for home health care or community care services, limit or exclude benefits: (4-5-00)

a. By requiring that the insured or claimant would need care in a skilled nursing facility if home health care services were not provided; (4-5-00)

b. By requiring that the insured or claimant first or simultaneously receive nursing or therapeutic services, or both, in a home, community, or institutional setting before home health care services are covered; (4-5-00)

c. By limiting eligible services to services provided by registered nurses or licensed practical nurses; (4-5-00)

d. By requiring that a nurse or therapist provide services covered by the policy that can be provided by a home health aide, or other licensed or certified home care worker acting within the scope of their licensure or certification; (4-5-00)

e. By excluding coverage for personal care services provided by a home health aide; (4-5-00)

f. By requiring that the provision of home health care services be at a level of certification or licensure greater than that *prescribed* by the eligible service; *( )*

g. By requiring that the insured or claimant have an acute condition before home health care services are covered; (4-5-00)

h. By limiting benefits to services provided by Medicare-certified agencies or providers; or (4-5-00)

i. By excluding coverage for adult day care services. (4-5-00)

02. Coverage Equivalency. A long-term care insurance policy or certificate, if it provides for home health or community care services, provides total home health or community care coverage that is a dollar amount equivalent to at least one-half (1/2) of one (1) year's coverage available for nursing home benefits under the policy or certificate, at the time covered home health or community care services are being received. This requirement cannot apply to policies or certificates issued to residents of continuing care retirement communities. (4-5-00)

03. Maximum Coverage. Home health care coverage may be applied to the non-home health care benefits provided in the policy or certificate when determining maximum coverage under the terms of the policy or certificate. (4-5-00)

017. REQUIREMENT TO OFFER INFLATION PROTECTION.

01. Inflation Protection Offer. No insurer may offer a long-term care insurance policy unless the

insurer also offers to the policyholder in addition to any other inflation protection the option to purchase a policy that provides for benefit levels to increase with benefit maximums or reasonable durations which are meaningful to account for reasonably anticipated increases in the costs of long-term care services covered by the policy. Insurers will offer to each policyholder, at the time of purchase, the option to purchase a policy with an inflation protection feature no less favorable than one (1) of the following: (4-5-00)

a. Increases benefit levels annually in a manner so that the increases are compounded annually at a rate not less than five percent (5%); (4-5-00)

b. Guarantees the insured individual the right to periodically increase benefit levels without providing evidence of insurability or health status as long as the option for the previous period has not been declined. The amount of the additional benefit is no less than the difference between the existing policy benefit and that benefit compounded annually at a rate of at least five percent (5%) for the period beginning with the purchase of the existing benefit and extending until the year in which the offer is made; or (4-5-00)

c. Covers a specified percentage of actual or reasonable charges and does not include a maximum specified indemnity amount or limit. (4-5-00)

d. With respect to inflation protection for a Partnership policy only: (3-30-07)

i. If the policy is sold to an individual who has not attained age sixty-one (61) as of the date of purchase, the policy will provide some level of automatic compound annual inflation protection; (3-25-16)

ii. If the policy is sold to an individual who has attained age sixty-one (61) but has not attained age 76 as of the date of purchase, the policy will provide some level of automatic annual inflation protection; and (3-25-16)

iii. If the policy is sold to an individual who has attained age seventy-six (76) as of the date of purchase, the policy may (but is not *prescribed* to) provide some level of inflation protection. *( )*

02. Group Offer. Where the policy is issued to a group, the *prescribed* offer in Subsection 017.01 is made to the group policyholder; except, if the policy is issued to a group defined in Section 41-4603(4)(d), Idaho Code, other than to a continuing care retirement community, the offering is made to each proposed certificateholder. *( )*

03. Requirements for Life Insurance Policies. The offer in Subsection 017.01 above is not *prescribed* of life insurance policies or riders containing accelerated long-term care benefits. *( )*

04. Outline of Coverage. Insurers include the following information in or with the outline of coverage: (4-5-00)

a. A graphic comparison of the benefit levels of a policy that increases benefits over the policy period with a policy that does not increase benefits. The graphic comparison shows benefit levels over at least a twenty (20) year period. (4-5-00)

b. Any expected premium increases or additional premiums to pay for automatic or optional benefit increases. (4-5-00)

c. An insurer may use a reasonable hypothetical, or a graphic demonstration, for the purposes of this disclosure. (4-5-00)

05. Continuation of Inflation Protection. Inflation protection benefit increases under a policy which contains these benefits continue without regard to an insured's age, claim status or claim history, or the length of time the person has been insured under the policy. (4-5-00)

06. Premium Disclosures. An offer of inflation protection that provides for automatic benefit increases includes an offer of a premium which the insurer expects to remain constant. The offer discloses in a conspicuous manner that the premium may change in the future unless the premium is guaranteed to remain constant

. (4-5-00)

07. Rejection of Offer. Inflation protection as provided in Subsection 017.01 is included in a long-term care insurance policy unless an insurer obtains a rejection of inflation protection signed by the policyholder as *prescribed* in Subsection 017.07. The rejection may be either in the application or on a separate form. The rejection is considered a part of the application and states: "I have reviewed the outline of coverage and the graphs that compare the benefits and premiums of this policy with and without inflation protection. Specifically, I have reviewed Plans _____, and I reject inflation protection (signature line: _____)." *( )*

018. REQUIREMENTS FOR APPLICATION FORMS AND REPLACEMENT COVERAGE.

01. Application Forms. Application forms include the following questions designed to elicit information as to whether, as of the date of the application, the applicant has another long-term care insurance policy or certificate in force or whether a long-term care policy or certificate is intended to replace any other accident and sickness or long-term care policy or certificate presently in force. A supplementary application or other form to be signed by the applicant and producer, except where the coverage is sold without a producer, containing the questions may be used. With regard to a replacement policy issued to a group defined by Section 41-4603(a), Idaho Code, the following questions may be modified only to the extent necessary to elicit information about health or long-term care insurance policies other than the group policy being replaced, provided that the certificateholder has been notified of the replacement. (3-30-07)

a. Do you have another long-term care insurance policy or certificate in force (including insurance, Fraternal Benefit Societies, Managed Care Organization) or other similar organizations? (4-5-00)

b. Did you have another long-term care insurance policy or certificate in force during the last twelve (12) months? (4-5-00)

i. If so, with which company? (4-5-00)

ii. If that policy lapsed, when did it lapse? (4-5-00)

c. Are you covered by Medicaid? (4-5-00)

d. Do you intend to replace any of your medical or health insurance coverage with this policy (certificate)? (4-5-00)

02. Other Policy Disclosures. Producers list any other health insurance policies they have sold to the applicant. (3-30-07)

a. List policies sold that are still in force. (4-5-00)

b. List policies sold in the past five (5) years that are no longer in force. (4-5-00)

03. Solicitations Other Than Direct Response. Upon determining that a sale will involve replacement, an insurer, other than an insurer using direct response solicitation methods, or its producer furnishes the applicant, prior to issuance or delivery of the individual long-term care insurance policy, a notice regarding replacement of accident and sickness or long-term care coverage. One (1) copy of the notice is retained by the applicant and an additional copy signed by the applicant is retained by the insurer. The *prescribed* notice is in a form based on the NAIC Model Regulation Attachment I. *( )*

04. Direct Response Solicitations. Insurers using direct response solicitation methods deliver a notice regarding replacement of accident and sickness or long-term care coverage to the applicant upon issuance of the policy. The *prescribed* notice is in a form based on the NAIC Model Regulation Attachment II. *( )*

05. Notice of Replacement. Where replacement is intended, the replacing insurer *notifies*, in writing, the existing insurer of the proposed replacement. The existing policy is identified by the insurer, name of the insured and policy number or address including zip code. Notice is made within five (5) working days from the date the

application is received by the insurer or the date the policy is issued, whichever is sooner. ( )

06. Life Insurance Policy Replacement. Life insurance policies that accelerate benefits for long-term care comply with Section 018 if the policy being replaced is a long-term care insurance policy. If the policy being replaced is a life insurance policy, the insurer complies with the replacement requirements of IDAPA 18.03.04, "Replacement of Life Insurance and Annuities." If a life insurance policy that accelerates benefits for long-term care is replaced by another such policy, the replacing insurer complies with both the long-term care and the life insurance replacement requirements. (3-30-07)

019. REPORTING REQUIREMENTS.

01. Maintenance of Producer Records. Every insurer maintains records for each producer of that producer's amount of replacement sales as a percent of the producer's total annual sales and the *number* of lapses of long-term care insurance policies sold by the producer as a percent of the producer's total annual sales, in the format of Appendix G. ( )

02. Producers Experiencing Lapses and Replacements. Every insurer reports annually by June 30 the ten percent (10%) of its producers with the greatest percentages of lapses and replacements as measured by Subsection 019.01. (3-30-07)

03. Purpose of Reports. Reported replacement and lapse rates do not alone constitute a violation of insurance laws or necessarily imply wrongdoing. The reports are for the purpose of reviewing more closely producer activities regarding the sale of long-term care insurance. (3-30-07)

04. Lapsed Policies. Every insurer reports annually by June 30 the number of lapsed policies as a percent of its total annual sales and as a percent of its total number of policies in force as of the end of the preceding calendar year. (4-5-00)

05. Replacement Policies. Every insurer reports annually by June 30 the number of replacement policies sold as a percent of its total annual sales and as a percent of its total number of policies in force as of the preceding calendar year. (4-5-00)

06. Claims Denied. Every insurer reports annually by June 30, for qualified long-term care insurance contracts, the number of claims denied for each class of business, expressed as a percentage of claims denied, other than claims denied for failure to meet the waiting period or because of an applicable preexisting condition, in the format of Appendix E. (3-25-16)

07. Policies and Reports. For purposes of Section 019, "policy" means only long-term care insurance and "report" means on a statewide basis. (3-30-07)

a. Policy means only long-term care insurance; (4-5-00)

b. Claim means any request for payment of benefits under a policy regardless of whether the benefit claimed is covered under the policy or any terms or conditions of the policy have been met; (4-5-00)

c. Denied means the insurer refused to pay a claim for any reason; and (4-5-00)

d. Report means on a statewide basis. (4-5-00)

08. Filing. Reports *prescribed* under Section 019 *are* filed with the Director. ( )

020. LICENSING.
No producer is authorized to sell, solicit, or negotiate with respect to long-term care insurance except as authorized by Title 41, Chapter 10, Producer Licensing. (3-30-07)

021. DISCRETIONARY POWERS OF DIRECTOR.
The director may upon written request and after an administrative hearing, issue an order to modify or suspend a

specific provision or provisions of this rule with respect to a specific long-term care insurance policy or certificate upon a written finding that: (4-5-00)

01. General Requirement. The modification or suspension would be in the best interest of the insureds; the purposes to be achieved could not be effectively or efficiently achieved without the modification or suspension; and the modification or suspension is necessary to the development of an innovative and reasonable approach for insuring long-term care; or (4-5-00)

02. Residential Care Community. The policy or certificate is to be issued to residents of a life care or continuing care retirement community or some other residential community for the elderly and the modification or suspension is reasonably related to the special needs or nature of such a community; or (4-5-00)

03. Other Insurance Products. The modification or suspension is necessary to permit long-term care insurance to be sold as part of, or in conjunction with, another insurance product. (4-5-00)

022. RESERVE STANDARDS.

01. Acceleration of Benefits Under Life Policies. When long-term care benefits are provided through the acceleration of benefits under group or individual life policies or riders to such policies, policy reserves for the benefits are determined in accordance with Section 41-612, Idaho Code, Standard Valuation Law – Life Insurance. Claim reserves will also be established in the case when the policy or rider is in claim status. (4-5-00)

02. Decrement Models. Reserves for policies and riders subject to Section 022 should be based on the multiple decrement model utilizing all relevant decrements except for voluntary termination rates. Single decrement approximations are acceptable if the calculation produces essentially similar reserves, if the reserve is clearly more conservative, or if the reserve is immaterial. The calculations may take into account the reduction in life insurance benefits due to the payment of long-term care benefits. However, in no event *can* the reserves for the long-term care benefit and the life insurance benefit be less than the reserves for the life insurance benefit assuming no long-term care benefit. *( )*

03. Considerations Impacting Projected Claim Costs. Any applicable valuation morbidity table is certified as appropriate as a statutory valuation table by a member of the American Academy of Actuaries. In the development and calculation of reserves for policies and riders subject to Section 022, due regard is given to the applicable policy provisions, marketing methods, administrative procedures and all other considerations which have an impact on projected claim costs, including, but not limited to, the following: (3-30-07)

a. Definition of insured events; (4-5-00)

b. Covered long-term care facilities; (4-5-00)

c. Existence of home convalescence care coverage; (4-5-00)

d. Definition of facilities; (4-5-00)

e. Existence or absence of barriers to eligibility; (4-5-00)

f. Premium waiver provision; (4-5-00)

g. Renewability; (4-5-00)

h. Ability to raise premiums; (4-5-00)

i. Marketing method; (4-5-00)

j. Underwriting procedures; (4-5-00)

k. Claims adjustment procedures; (4-5-00)

l. Waiting period; (4-5-00)

m. Maximum benefit; (4-5-00)

n. Availability of eligible facilities; (4-5-00)

o. Margins in claim costs; (4-5-00)

p. Optional nature of benefit; (4-5-00)

q. Delay in eligibility for benefit; (4-5-00)

r. Inflation protection provisions; and (4-5-00)

s. Guaranteed insurability option. (4-5-00)

04. Benefits Not Covered in Section 022. When long-term care benefits are provided other than as in Subsection 022.01 above, reserves are determined in accordance with Section 41-608, Idaho Code, "Reserve for Disability Insurance." (3-30-07)

023. LOSS RATIO.
Section 023 applies to all (group and individual) long-term care insurance policies or certificates except those covered under Sections 024 and 025 of this chapter. (3-30-07)

01. Expected Loss Ratios. Benefits under long-term care insurance policies are reasonable in relation to premiums provided the expected loss ratio is at least sixty percent (60%), calculated in a manner which provides for adequate reserving of the long-term care insurance risk. In evaluating the expected loss ratio, due consideration is given to all relevant factors, including: ( )

a. Statistical credibility of incurred claims experience and earned premiums; (4-5-00)

b. The period for which rates are computed to provide coverage; (4-5-00)

c. Experienced and projected trends; (4-5-00)

d. Concentration of experience within early policy duration; (4-5-00)

e. Expected claim fluctuation; (4-5-00)

f. Experience refunds, adjustments or dividends; (4-5-00)

g. Renewability features; (4-5-00)

h. All appropriate expense factors; (4-5-00)

i. Interest; (4-5-00)

j. Experimental nature of the coverage; (4-5-00)

k. Policy reserves; (4-5-00)

l. Mix of business by risk classification; and (4-5-00)

m. Product features such as long elimination periods, high deductibles and high maximum limits. (4-5-00)

02. Policies That Accelerate Benefits. Subsection 023.01 cannot apply to life insurance policies that accelerate benefits for long-term care. A life insurance policy that funds long-term care benefits entirely by accelerating the death benefit is considered to provide reasonable benefits in relation to premiums paid, if the policy complies with all of the following provisions: (3-30-07)

a. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy; (4-5-00)

b. The portion of the policy that provides life insurance benefits meets the nonforfeiture requirements of Section 41-1927, Idaho Code, Standard Nonforfeiture Law – Life Insurance. (4-5-00)

c. The policy meets the disclosure requirements of Sections 41-4605(9), 41-4605(10), and 41-4605(11), Idaho Code. (4-5-00)

i. Any policy illustration that meets the applicable requirements of the NAIC Life Insurance Illustrations Model Regulation. (3-30-07)

d. An actuarial memorandum is filed with the insurance department that includes: (4-5-00)

i. A description of the basis on which the long-term care rates were determined; (4-5-00)

ii. A description of the basis for the reserves; (4-5-00)

iii. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance; (4-5-00)

iv. A description and a table of each actuarial assumption used. For expenses, an insurer will include percent of premium dollars per policy and dollars per unit of benefits, if any; (4-5-00)

v. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives; (4-5-00)

vi. The estimated average annual premium per policy and the average issue age; (4-5-00)

vii. A statement as to whether underwriting is performed at the time of application. The statement indicates whether underwriting is used and, if used, the statement includes a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement indicates whether the enrollee or any dependent will be underwritten and when underwriting occurs; and (4-5-00)

viii. A description of the effect of the long-term care policy provision on the *prescribed* premiums, nonforfeiture values and reserves on the underlying life insurance policy, both for active lives and those in long-term care claim status. *( )*

024. FILING REQUIREMENT.
Prior to an insurer or similar organization offering group long-term care insurance to a resident of this state pursuant to Section 41-4604, Idaho Code, Extraterritorial Jurisdiction – Group Long-Term Care Insurance, it files with the director evidence that the group policy or certificate thereunder has been approved by a state having statutory or regulatory long-term care insurance requirements substantially similar to those adopted in this state. (4-5-00)

01. Initial Filing Requirements. (3-30-01)

a. Subsection 024.01 applies to any long-term care policy issued in this state on or after July 1, 2001. (3-30-07)

b. An insurer will provide the information listed in Subsection 024.01 to the director thirty (30) days

prior to making the long-term care insurance form available for sale. (3-30-07)

c. A copy of the disclosure documents *prescribed* in Section 014. *( )*

d. An actuarial certification consisting of at least the following: (3-30-01)

i. A statement that the initial premium rate schedule is sufficient to cover anticipated costs under moderately adverse experience and that the premium rate schedule is reasonably expected to be sustainable over the life of the form with no future premium increases anticipated; (3-30-01)

ii. A statement that the policy design and coverage provided have been reviewed and taken into consideration; (3-30-01)

iii. A statement that the underwriting and claims adjudication processes have been reviewed and taken into consideration. (3-30-01)

e. A complete description of the basis for contract reserves that are anticipated to be held under the form, to include: (3-30-01)

i. Sufficient detail or sample calculations provided so as to have a complete depiction of the reserve amounts to be held; (3-30-01)

ii. A statement that the assumptions used for reserves contain reasonable margins for adverse experience; (3-30-01)

iii. A statement that the net valuation premium for renewal years does not increase (except for attained-age rating where permitted; and (3-30-01)

iv. A statement that the difference between the gross premium and the net valuation premium for renewal years is sufficient to cover expected renewal expenses; or if such a statement cannot be made, a complete description of the situations where this does not occur; (3-30-01)

v. An aggregate distribution of anticipated issues may be used as long as the underlying gross premiums maintain a reasonably consistent relationship; (3-30-01)

vi. If the gross premiums for certain age groups appear to be inconsistent with this requirement, the director may request a demonstration under Subsection 024.02 based on a standard age distribution; and (3-30-07)

vii. A statement that the premium rate schedule is not less than the premium rate schedule for existing similar policy forms also available from the insurer except for reasonable differences attributable to benefits; or, (3-30-01)

viii. A comparison of the premium schedules for similar policy forms that are currently available from the insurer with an explanation of the differences. (3-30-01)

02. Actuarial Demonstration. The director may request an actuarial demonstration that benefits are reasonable in relation to premiums. The actuarial demonstration includes either premium and claim experience on similar policy forms, adjusted for any premium or benefit differences, relevant and credible data from other studies, or both. (3-30-01)

a. In the event the director requests additional information under this provision, the period referred to in Subsection 024.01.b. of this section does not include the period of time during which the insurer is preparing the requested information. (3-30-07)

025. PREMIUM RATE SCHEDULE INCREASES.

01. Premium Rate Increase *Notice*. An insurer provides notice of a pending premium rate schedule

increase, including an exceptional increase, to the director at least thirty (30) days prior to the notice to the policyholders and includes: ( )

a. Information *prescribed* by Section 014. ( )

b. Certification by a qualified actuary that: (3-30-01)

i. If the requested premium rate schedule increase is implemented and the underlying assumptions, which reflect moderately adverse conditions, are realized, no further premium rate schedule increases are anticipated; and (3-30-01)

ii. The premium rate filing is in compliance with the provisions of this Section 025. (3-30-07)

02. Actuarial Memorandum. *The* actuarial memorandum justifying the rate schedule change request includes: ( )

a. Lifetime projections of earned premiums and incurred claims based on the filed premium rate schedule increase; and the method of assumptions used in determining the projected values, including reflection of any assumptions that deviate from those used for pricing other forms currently available for sale: (3-30-01)

i. Annual values for the past five (5) years preceding and the three (3) years following the valuation date are provided separately; (3-30-01)

ii. The projections include the development of the lifetime loss ratio, unless the rate of increase is an exceptional increase; (3-30-01)

iii. The projections demonstrate compliance with Subsection 025.03; and (3-30-07)

iv. For exceptional increases; (3-30-01)

(1) The projected experience should be limited to the increases in claims expenses attributable to the approved reasons for the exceptional increase; and (3-30-01)

(2) In the event the director determines as provided in Subsection 010.09.c. that offsets may exist, the insurer uses appropriate net projected experience. (3-30-07)

b. Disclosure of how reserves have been incorporated in this rate increase will trigger contingent benefit upon lapse. (3-30-01)

c. Disclosure of the analysis performed to determine why a rate adjustment is necessary, which pricing assumptions were not realized and why, and what other actions taken by the company have been relied on by the actuary. (3-30-01)

d. A statement that policy design, underwriting and claims adjudication practices have been taken into consideration; and in the event that it is necessary to maintain consistent premium rates for new certificates and certificates receiving a rate increase, the insurer will need to file composite rates reflecting projections of new certificates. (3-30-01)

e. A statement that renewal premium rate schedules are not greater than new business premium rate schedules except for differences attributable to benefits, unless sufficient justification is provided to the director; and sufficient information for review of the premium rate schedule increase by the director. (3-30-01)

03. Premium Rate Schedule Increases. All premium rate schedule increases are determined in accordance with the following requirements: (3-30-01)

a. Exceptional increases provide that seventy percent (70%) of the present value of projected additional premiums from the exceptional increase will be returned to policyholders in benefits. (3-30-01)

b. Premium rate schedule increases are calculated such that the sum of the accumulated value of incurred claims, without the inclusion of active life reserves, and the present value of future projected incurred claims, without the inclusion of active life reserves, will not be less than the sum of the following: (3-30-01)

i. The accumulated value of the initial earned premium times fifty eight percent (58%); (3-30-01)

ii. Eighty-five percent (85%) of the accumulated value of prior premium rate schedule increases on an earned basis; (3-30-01)

iii. The present value of future projected initial earned premiums times fifty-eight percent (58%); and (3-30-01)

iv. Eighty-five percent (85%) of the present value of future projected premiums not in Subsection 025.03.b.iii. on an earned basis. (3-30-07)

c. In the event that a policy form has both exceptional and other increases, the values in Subsections 025.03.b.ii. and 025.03.b.iv., will also include seventy percent (70%) for exceptional rate increase amounts. (3-30-07)

d. All present and accumulated values used to determine rate increases use the maximum valuation interest rate for contract reserves as specified in IDAPA 18.07.07, "Minimum Reserve Standards For Individual And Group Health Insurance Contracts," Appendix A, IIA. The actuary discloses as part of the actuarial memorandum the use of any appropriate averages. (3-30-01)

04. Projections Filed for Review. For each rate increase that is implemented, the insurer files for review by the director updated projections, as defined in Subsection 025.02.a., annually for the following three (3) years and include a comparison of actual results to projected values. The director may extend the period to greater than three (3) years if actual results are not consistent with projected values from prior projections. For group insurance policies that meet the conditions in Subsection 025.13, the projections *prescribed* by this Subsection 025.04 are provided to the policyholder in lieu of filing with the director. *( )*

05. Revised Premium Rate. If any premium rate in the revised premium rate schedule is greater than 200 percent (200%) of the comparable rate in the initial premium schedule, lifetime projections, as defined in Subsection 025.02.a., are filed for review by the director every five (5) years following the end of the *prescribed* period in Subsection 025.04. For group insurance policies that meet the conditions in Subsection 025.13, the projections *prescribed* by Subsection 025.05 are provided to the policyholder in lieu of filing with the director. *( )*

06. Actual and Projected Experience. If the director has determined that the actual experience following a rate increase does not adequately match the projected experience and that the current projections under moderately adverse conditions demonstrate that incurred claims will not exceed proportions of the premium specified in Subsection 025.03, the director may require the insurer to implement any of the following: (3-30-07)

a. Premium rate schedule adjustments; or (3-30-01)

i. Other measures to reduce the difference between the projected and actual experience. (3-30-01)

b. In determining whether the actual experience adequately matches the projected experience, consideration should be given to Subsection 025.02.d. and 025.02.e., if applicable. (3-30-07)

07. Contingent Benefit upon Lapse. If the majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse, the insurer files: (3-30-01)

a. A plan, subject to director approval, for improved administration or claims processing designed to eliminate the potential for further deterioration of the policy form requiring further premium rate schedule increases, or both, or to demonstrate that appropriate administration and claims processing have been implemented or are in

effect. If the director should determine that such appropriate administration and claims processing functions have not been addressed, provisions of Subsection 025.08 may be applied; and (3-30-07)

b. The original anticipated lifetime loss ratio, and the premium rate schedule increase that would have been calculated according to Subsection 025.03 had the greater of the original anticipated lifetime loss ratio or fifty-eight percent (58%) been used in the calculations described in Subsections 025.03.b.i. and 025.03.b.iii. (3-30-07)

08. Additional Rate Increase Filings. For a rate increase filing that meets the following criteria, the director reviews, for all policies included in the filing, the projected lapse rates and past lapse rates during the twelve (12) months following each increase to determine if significant adverse lapse has occurred or is anticipated: (3-30-01)

a. The rate increase is not the first rate increase requested for the specific policy form or forms; (3-30-01)

b. The rate increase is not an exceptional increase; and (3-30-01)

c. The majority of the policies or certificates to which the increase is applicable are eligible for the contingent benefit upon lapse. (3-30-01)

d. In the event significant adverse lapse has occurred, is anticipated in the filing or is evidenced in the actual results as presented in the updated projections provided by the insurer following the requested rate increase, the director may determine that a rate spiral exists. Following the determination that a rate spiral exists, the director may require the insurer to offer, without underwriting, to all in force insureds subject to the rate increase option to replace existing coverage with one or more reasonably comparable products being offered by the insurer or its affiliates. The offer *will*; *( )*

i. Be subject to the approval of the director; (3-30-01)

ii. Be based on actuarially sound principles, but not be based on attained age; and (3-30-01)

iii. Provide that the maximum benefits under any new policy accepted by an insured is reduced by comparable benefits already paid under the existing policy. (3-30-01)

e. The insurer maintains the experience of all the replacement insureds separate from the experience of insureds originally issued the policy forms. In the event of a request for a rate increase on the policy form, the rate increase is limited to the lesser of: (3-30-01)

i. The maximum rate increase determined based on the combined experience; and (3-30-01)

ii. The maximum rate increase determined based only on the experience of the insureds originally issued the form plus ten percent (10%). (3-30-01)

09. Persistent Practice of Inadequate Rate Filings. If the director determines that the insurer has exhibited a persistent practice of filing inadequate initial premium rates for long-term care insurance, the director may, in addition to the provisions of Subsection 025.08 of this section, prohibit the insurer from either of the following:

a. Filing and marketing comparable coverage for a period of up to five (5) years; or (3-30-01)

b. Offering all other similar coverages and limiting marketing of new applications to the products subject to recent premium rate schedule increases. (3-30-01)

10. Exceptions. Subsection 025.01 and 025.09 does not apply to policies for which the long-term care benefits provided by the policy are incidental, as defined in Subsection 010.12, if the policy complies with all of the following provisions: (3-30-07)

a. The interest credited internally to determine cash value accumulations, including long-term care, if any, are guaranteed not to be less than the minimum guaranteed interest rate for cash value accumulations without long-term care set forth in the policy; (3-30-01)

b. The portion of the policy that provides insurance benefits other than long-term care coverage meets the nonforfeiture requirements as applicable in any of the following: (3-30-01)

i. Section 41-1927, Idaho Code, Standard Nonforfeiture Law-Life Insurance; (3-30-01)

ii. Section 41-1927A, Idaho Code, Standard Nonforfeiture Law for Individual Deferred Annuities; (3-30-01)

iii. IDAPA 18.03.03, Subsection 018.02, "Variable Contracts." (3-30-01)

11. Exceptions for Disclosure and Performance Standards. The policy meets the disclosure requirements of Sections 41-4605(9), 41-4605(10) and 41-4605(11), Idaho Code, pertaining to the Disclosure and Performance Standards for Long-term Care Coverage. (3-30-01)

12. Exception If Actuarial Memorandum Filed Which Includes Defined Information. An actuarial memorandum is filed with the Department of Insurance that includes: (3-30-01)

a. A description of the basis on which the long-term care rates were determined; (3-30-01)

b. A description of the basis for the reserves; (3-30-01)

c. A summary of the type of policy, benefits, renewability, general marketing method, and limits on ages of issuance; (3-30-01)

d. A description and a table of each actuarial assumption used. For expenses, an insurer will include percent of premium dollars per policy and dollars per unit of benefits, if any; (3-30-01)

e. A description and a table of the anticipated policy reserves and additional reserves to be held in each future year for active lives; (3-30-01)

f. The estimated average annual premium per policy and the average issue age; (3-30-01)

g. A statement as to whether underwriting is performed at the time of application. The statement indicates whether underwriting is used and, if used, the statement includes a description of the type or types of underwriting used, such as medical underwriting or functional assessment underwriting. Concerning a group policy, the statement indicates whether the enrollee or any dependent will be underwritten and when underwriting occurs; and (3-30-01)

h. A description of the effect of the long-term care policy provision on the *prescribed* premiums, nonforfeiture values and reserves on the underlying insurance policy, both for active lives and those in long-term care claims status. *( )*

13. Exceptions for Association Plans. Premium Rate Schedule Increases Subsections 025.06 and 025.08 cannot apply to group insurance policies as defined in Section 41-4603(4)(a), Idaho Code, where: (3-30-07)

a. The policies insure two hundred fifty (250) or more persons and the policyholder has five thousand (5,000) or more eligible employees of a single employer; or (3-30-01)

b. The policyholder, and not the certificateholders, pay a material portion of the premium, which cannot be less than twenty percent (20%) of the total premium for the group in the calendar year prior to the year a rate increase is filed. (3-30-01)

026. FILING REQUIREMENTS FOR ADVERTISING.

01. Filing and Retention. Every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization providing long-term care insurance or benefits in this state provides a copy of any long-term care insurance advertisement intended for use in this state whether through written, radio, or television medium to the Director of Insurance of this state for review and approval by the Director. In addition, all advertisements are retained by the insurer or other entity for at least five (5) years from the date the advertisement was first used; or until the filing of the next regular report of examination of the insurer, whichever is the longer period of time. (4-5-00)

02. Exemptions. The director may exempt from these requirements any advertising form or material when, in the director's opinion, this requirement cannot be reasonably applied. (4-5-00)

027. STANDARDS FOR MARKETING AND PRODUCER TRAINING.

01. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance coverage in this state, directly or through its producers, *will*: *( )*

a. Establish marketing procedures and producer training requirements to assure that any marketing activities, including any comparison of policies by its producers will be fair and accurate. (3-30-07)

b. Establish marketing procedures to assure excessive insurance is not sold or issued. (4-5-00)

c. Display prominently by type, stamp or other appropriate means, on the first page of the outline of coverage and policy the following: "Notice to buyer: This policy cannot cover all of the costs associated with long-term care incurred by the buyer during the period of coverage. The buyer is advised to review carefully all policy limitations." (4-5-00)

d. Provide copies of the disclosure forms *prescribed* in Subsection 014.10. *( )*

e. Provide an explanation of contingent benefit upon lapse as provided for in Subsection 032.04.b. and if applicable, the additional contingent benefit upon lapse provided to policies with fixed or limited premium paying period in Subsection 032.04.c. (3-30-07)

f. Inquire and make every reasonable effort to identify whether a prospective applicant or enrollee for long-term care insurance already has accident and sickness or long-term care insurance and the types and amounts of any such insurance, except that in the case of qualified long-term care insurance contracts, an inquiry into whether a prospective applicant or enrollee for long-term care insurance has accident and sickness insurance is not *prescribed*. *( )*

g. Establish auditable procedures for verifying compliance with Subsection 027.01. (3-30-07)

h. At solicitation, provide written notice to the prospective policyholder and certificateholder that Senior Health Insurance Benefits Advisors/SHIBA the program is available and the name, address and telephone number of the program. (3-30-01)

i. For long-term care insurance policies and certificates, use the terms "noncancellable" or "level premium" only when the policy or certificate conforms to Subsection 011.01.c. of this chapter. (3-30-07)

02. *Banned* Practices. In addition to the practices *banned* in Title 41, Chapter 13, Idaho Code, Trade Practices and Frauds, the following acts and practices are *banned*: *( )*

a. Twisting. Knowingly making any misleading representation or incomplete or fraudulent comparison of any insurance policies or insurers for the purpose of inducing, or tending to induce, any person to lapse, forfeit, surrender, terminate, retain, pledge, assign, borrow on or convert any insurance policy, or to take out a policy of insurance with another insurer. (4-5-00)

b. High Pressure Tactics. Employing any method of marketing having the effect of or tending to

induce the purchase of insurance through force, fright, threat, whether explicit or implied, or undue pressure to purchase or recommend the purchase of insurance. (4-5-00)

c. Cold Lead Advertising. Making use directly or indirectly of any method of marketing which fails to disclose in a conspicuous manner that a purpose of the method of marketing is solicitation of insurance and that contact will be made by an insurance producer or insurance company. (3-30-07)

d. Misrepresentation. Misrepresenting a material fact in selling or offering to sell a long-term care insurance policy. (4-5-00)

03. Associations. With respect to the obligations set forth in Subsection 027.03, the primary responsibility of an association, as defined in Section 41-4603(4)(b), Idaho Code, when endorsing or selling long-term care insurance is to educate its members concerning long-term care issues in general so that its members can make informed decisions. Associations provide objective information regarding long-term care insurance policies or certificates endorsed or sold by such associations to ensure that members of such associations receive a balanced and complete explanation of the features in the policies or certificates that are being endorsed or sold. (3-30-07)

a. The insurer files with the insurance department the following material: (4-5-00)

i. The policy and certificate; (4-5-00)

ii. A corresponding outline of coverage; and (4-5-00)

iii. All advertisements to be utilized. (4-5-00)

b. The association discloses in any long-term care insurance solicitation: (4-5-00)

i. The specific nature and amount of the compensation arrangements (including all fees, commissions, administrative fees and other forms of financial support) that the association receives from endorsement or sale of the policy or certificate to its members; and (4-5-00)

ii. A brief description of the process under which the policies and the insurer issuing the policies were selected. (4-5-00)

c. If the association and the insurer have interlocking directorates or trustee arrangements, the association discloses that fact to its members. (4-5-00)

d. The board of directors of associations selling or endorsing long-term care insurance policies or certificates reviews and approves the insurance policies as well as the compensation arrangements made with the insurer. (4-5-00)

e. The association also *will*: *( )*

i. At the time of the association's decision to endorse, engage the services of a person with expertise in long-term care insurance not affiliated with the insurer to conduct an examination of the policies, including its benefits, features, and rates, and update the examination thereafter in the event of material change; (4-5-00)

ii. Actively monitor the marketing efforts of the insurer and its producers; and (3-30-07)

iii. Review and approve all marketing materials or other insurance communications used to promote sales or sent to members regarding the policies or certificates. (4-5-00)

iv. Subsections 027.03.e.i. through 027.03.e.iii. cannot apply to qualified long-term care insurance contracts. (3-30-07)

f. No group long-term care insurance policy or certificate may be issued to an association unless the insurer files with the state insurance department the information *prescribed* in Section 027. *( )*

g. The insurer cannot issue a long-term care policy or certificate to an association or continue to market such a policy or certificate unless the insurer certifies annually that the association has complied with the requirements set forth in Section 027. (3-30-07)

h. Failure to comply with the filing and certification requirements of Section 027 constitutes an unfair trade practice in violation of Title 41, Chapter 13, Idaho Code, Trade Practices and Frauds. (3-30-07)

04. Producer Training Requirements. An individual cannot sell, solicit or negotiate long-term care insurance unless the individual is licensed as an insurance producer for life and disability (accident and health insurance) and has completed a one-time training course and ongoing training every twenty-four (24) months thereafter. The training meets the requirements set forth in this Subsection 027.04. Such training requirements may be approved as continuing education course under IDAPA 18.06.04, "Continuing Education." (4-2-08)

a. The one-time training course *prescribed* by this section is no less than eight (8) hours. In addition to the one-time training course, an individual who sells, solicits, or negotiates long-term care insurance completes the ongoing training *prescribed* by this Subsection 027.04, which is no less than four (4) hours every twenty four (24) months. *( )*

b. The training *prescribed* under Subsection 027.04.a. consists of topics related to long-term care insurance, long-term care services and qualified state long-term care insurance partnership program, including, but not limited to: *( )*

i. State and federal regulations and requirements and the relationship between qualified state long-term care insurance partnership programs and other public and private coverage of long-term care services, including Medicaid; (3-30-07)

ii. Available long-term care services and providers; (3-30-07)

iii. Changes or improvements in long-term care services or providers; (3-30-07)

iv. Alternatives to the purchase of private long-term care insurance; (3-30-07)

v. The effect of inflation on benefits and the importance of inflation protection; and (3-30-07)

vi. Consumer suitability standards and guidelines. (3-30-07)

c. The training *prescribed* by Subsection 027.04. cannot include any sales or marketing information, materials, or training, other than those *prescribed* by state and federal law. *( )*

d. Insurers subject to this rule obtain verification that a producer receives training *prescribed* by Subsection 027.04 before a producer is permitted to sell, solicit or negotiate the insurer's long-term care insurance products, maintain records subject to the state's record retention requirements, and make that verification available to the director upon request. An insurer maintains records with respect to the training of its producers concerning the distribution of its long-term care Partnership policies that will allow the Department of Insurance to provide assurance to the Division of Medicaid that the producers have received the training as *prescribed* by Subsection 027.04 and that producers have demonstrated an understanding of the Partnership policies and their relationship to public and private coverage of long-term care including Medicaid in this state. These records are maintained in accordance with the state's record retention requirements and made available to the director upon request. *( )*

e. The satisfaction of these training requirements in any state satisfy the training requirements of this state. *( )*

028. SUITABILITY.

01. Life Insurance Policies That Accelerate Benefits. Section 028 cannot apply to life insurance policies that accelerate benefits for long-term care. (3-30-07)

02. General Provisions. Every Insurer, Fraternal Benefit Society, Managed Care Organization or other similar organization marketing long-term care insurance (the "issuer") *will*: *( )*

a. Develop and use suitability standards to determine whether the purchase or replacement of long-term care insurance is appropriate for the needs of the applicant; (4-5-00)

b. Train its producers in the use of its suitability standards; and (3-30-07)

c. Maintain a copy of its suitability standards and make them available for inspection upon request by the director. (4-5-00)

03. Determination of Standards. To determine whether the applicant meets the standards developed by the issuer; (4-5-00)

a. The producer and issuer develop procedures that take the following into consideration: (3-30-07)

i. The ability to pay for the proposed coverage and other pertinent financial information related to the purchase of the coverage; (4-5-00)

ii. The applicant's goals or needs with respect to long-term care and the advantages and disadvantages of insurance to meet these goals or needs; and (4-5-00)

iii. The values, benefits, and costs of the applicant's existing insurance, if any, when compared to the values, benefits and costs of the recommended purchase or replacement. (4-5-00)

b. The issuer and producer, if involved, make reasonable efforts to obtain the information set out in Subsection 028.03. The efforts include presentation to the applicant, at or prior to application, the "Long-Term Care Insurance Personal Worksheet." The personal worksheet used by the issuer contains, at a minimum, the information in the format contained in the NAIC Model Regulations in Appendix B, in not less than twelve (12) point type. The issuer may request the applicant to provide additional information to comply with its suitability standards. A copy of the issuer's personal worksheet is filed with the director. (3-25-16)

i. Copies of NAIC Model Regulations for Long-Term Care Insurance Minimum Standards Appendixes B, C, and D can be found at the Idaho Department of Insurance website. (3-25-16)

c. A completed personal worksheet is returned to the issuer prior to the issuer's consideration of the applicant for coverage, except the personal worksheet need not be returned for sales of employer group long-term care insurance to employees and their spouses. (4-5-00)

d. The sale or dissemination outside the company or agency by the issuer or producer of information obtained through the personal worksheet in the NAIC Model Regulations, Appendix B is *banned*. *( )*

04. Appropriateness. The issuer uses the suitability standards it has developed pursuant to Section 028 in determining whether issuing long-term care insurance coverage to an applicant is appropriate. (3-30-07)

05. Use of Standards. Producers use the suitability standards developed by the issuer in marketing long-term care insurance. (3-30-07)

06. Disclosure Form. At the same time as the personal worksheet is provided to the applicant, the disclosure form entitled "Things You Should Know Before You Buy Long-Term Care Insurance" is provided. The form is in the format contained in the NAIC Model Regulations, Appendix C, in not less than twelve (12) point type. (4-5-00)

07. Rejection and Alternatives. If the issuer determines that the applicant does not meet its financial suitability standards, or if the applicant has declined to provide the information, the issuer may reject the application. In the alternative, the issuer sends the applicant a letter similar to the NAIC Model Regulations, Appendix D.

However, if the applicant has declined to provide financial information, the issuer may use some other method to verify the applicant's intent. Either the applicant's returned letter or a record of the alternative method of verification is made part of the applicant's file. (4-5-00)

08. Reporting. The issuer reports annually to the director the total number of applications received from residents of this state, the number of those who declined to provide information on the personal worksheet, the number of applicants who did not meet the suitability standards, and the number of those who chose to confirm after receiving a suitability letter. (4-5-00)

029. PROHIBITION AGAINST PREEXISTING CONDITIONS AND PROBATIONARY PERIODS IN REPLACEMENT POLICIES OR CERTIFICATES.

If a long-term care insurance policy or certificate replaces another long-term care policy or certificate, the replacing insurer waives any time periods applicable to preexisting conditions and probationary periods in the new long-term care policy for similar benefits to the extent that similar exclusions have been satisfied under the original policy. (4-5-00)

030. AVAILABILITY OF NEW SERVICES OR PROVIDERS.

01. Notification to Policyholder. An insurer notifies the policyholder of the availability of a new long-term care policy that provides coverage for new long-term care services or providers material in nature and not previously available through the insurer to the general public. The notice is provided within twelve (12) months of the date the new policy is made available for sale in this state. (3-30-07)

02. Exceptions to Notification Requirements. Notwithstanding Subsection 030.01, notification is not *prescribed* for any policy issued prior to the effective date of this Section 030 or to any policyholder who is currently eligible for benefits, within an elimination period or on claim, or who previously has been in claim status, or who would not be eligible to apply for coverage due to issue age limitations under the new policy. The insurer may require that policyholders meet all eligibility requirements, including underwriting and payment of the *prescribed* premium to add such new services or providers. *( )*

03. New Coverage. The insurer makes the new coverage available in one of the following ways: (3-30-07)

a. By adding a rider to the existing policy and charging a separate premium for the new rider based on the insured's attained age; (3-30-07)

b. By exchanging the existing policy or certificate for one with an issue age based on the present age of the insured and recognizing past insured status by granting premium credits toward the premiums for the new policy or certificate. The premium credits are based on premiums paid or reserves held for the prior policy or certificate. (3-30-07)

c. By exchanging the existing policy or certificate for a new policy or certificate in which consideration for past insured status is recognized by setting the premium for the new policy or certificate at the issue age of the policy or certificate being exchanged. The cost of the new policy or certificate may recognize the difference in reserves between the new policy or certificate and the original policy or certificate; or (3-30-07)

d. By an alternative program developed by the insurer that meets the intent of Section 030 if the program is filed with and approved by the Director. (3-30-07)

04. Proprietary Policy. An insurer is not *prescribed* to notify policyholders of a new proprietary policy created and filed for use in a limited distribution channel. For purposes of this Subsection 030.04, "limited distribution channel" means through a discrete entity, such as a financial institution or brokerage, for which specialized products are available that are not available for sale to the general public. Policyholders that purchased such a proprietary policy are notified when a new long-term care policy that provides coverage for new long-term care services or providers material in nature is made available to that limited distribution channel. *( )*

05. Exchanges and Not Replacements. Policies issued pursuant to this Section 030 are considered

exchanges and not replacements. These exchanges are not subject to Section 018, and Section 028, and the reporting requirements of Section 019.01. through 019.05. of this rule. (3-30-07)

06. Employer Sponsored Plan. Where the policy is offered through an employer, labor organization, professional, trade or occupational association, the *prescribed* notification in Subsection 030.01 is made to the offering entity. However, if the policy is issued to a group defined in Section 41-4603 (04) (d), Idaho Code, Long Term Care Insurance Act, the notification is made to each certificateholder. (3-30-07)

07. Nothing Prohibits an Insurer From Offering Coverage. Nothing in this Section 030 prohibits an insurer from offering any policy, rider, certificate or coverage change to any policyholder or certificate-holder. However, upon request any policyholder may apply for currently available coverage that includes the new services or providers. The insurer may require that policyholders meet eligibility requirements, including underwriting and payment of the *prescribed* premium to add such new services or providers. *( )*

08. Not Applicable to Life Insurance Policies. This Section 030 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (3-30-07)

031. RIGHT TO REDUCE COVERAGE AND LOWER PREMIUMS.

01. Reduction of Coverage. Every long-term care insurance policy and certificate includes a provision that allows the policyholder or certificateholder to reduce coverage and lower the policy or certificate premium in at least one of the following ways: (3-30-07)

a. Reducing the maximum benefit; or (3-30-07)

b. Reducing the daily, weekly or monthly benefit amount. (3-30-07)

c. The insurer may also offer other reduction options that are consistent with the policy or certificate design or the carrier's administrative processes. (3-30-07)

02. Implementing a Reduction in Coverage. The provision includes a description of the ways in which coverage may be reduced and the process for requesting and implementing a reduction in coverage. (3-30-07)

03. Determination of Premium for Reduced Coverage. The age to determine the premium for the reduced coverage is based on the age used to determine the premiums for the coverage currently in force. (3-30-07)

04. Limitations for the Reduction of Coverage. The insurer may limit any reduction in coverage to plans or options available for that policy form and to those for which benefits will be available after consideration of claims paid or payable. (3-30-07)

05. Notification in Regard to the Possible Lapse of Policy. If a policy or certificate is about to lapse, the insurer provides a written reminder to the policyholder or certificateholder of their right to reduce coverage and premiums in the notice *prescribed* by Subsection 013.01.c. of this rule. *( )*

06. Not Applicable to Life Insurance Policies or Riders Containing Accelerated Benefits. This Section 031 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (3-30-07)

07. Compliance Requirements. The requirements of this Section 031 apply to any long-term care policy issued in this state on or after November 1, 2007. Compliance with this Section 031 may be accomplished by policy replacement, exchange or by adding the *prescribed* provision via amendment or endorsement to the policy. *( )*

032. NONFORFEITURE BENEFIT REQUIREMENT.

01. Life Insurance Policies That Accelerate Benefits. Section 032 does not apply to life insurance policies or riders containing accelerated long-term care benefits. (3-30-07)

02. Nonforfeiture Benefits. To comply with the requirement to offer a nonforfeiture benefit pursuant to the provisions of Section 41-4607, Idaho Code, every Insurer, Fraternal Benefit Society, Managed Care Organization, or other similar organization marketing long-term care insurance coverage in this state satisfies the following: (4-5-00)

a. A policy or certificate offered with nonforfeiture benefits will have coverage elements, eligibility, benefit triggers and benefit length that are the same as coverage to be issued without nonforfeiture benefits. The nonforfeiture benefit included in the offer is the benefit described in Subsection 032.04.e. (3-30-07)

b. The offer is in writing if the nonforfeiture benefit is not described in the Outline of Coverage or other materials given to the prospective policyholder. (4-5-00)

03. Contingent Benefit. If the offer *prescribed* under Section 41-4607, Idaho Code, is rejected, the insurer provides the contingent benefit upon lapse described in Section 032. Even if this offer is accepted for a policy with a fixed or limited premium paying period, the contingent benefit on lapse in Subsection 032.04.b.i. still applies. *( )*

04. Rejection of Offer. After rejection of the offer *prescribed* under Section 41-4607, Idaho Code, as it pertains to nonforfeiture benefits, for individual and group policies without nonforfeiture benefits issued after the effective date of Section 032, the insurer provides a contingent benefit upon lapse. (3-30-07)

a. In the event a group policyholder elects to make the nonforfeiture benefit an option to the certificate holder, a certificate provides either the nonforfeiture benefit or the contingent benefit upon lapse. (4-5-00)

b. A contingent benefit on lapse is triggered every time an insurer increases the premium rates to a level which results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth within Subsection 032.04 based on the insured's issue age, and the policy or certificate lapses within one hundred twenty (120) days of the due date of the premium so increased. Unless otherwise *prescribed*, policyholders are notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Table: Issue Age - Percent Increase Over Initial Premium

Issue Age	Percent Increase Over Initial Premium	Issue Age	Percent Increase Over Initial Premium
29 and under	200%	72	36%
30-34	190%	73	34%
35-39	170%	74	32%
40-44	150%	75	30%
45-49	130%	76	28%
50-54	110%	77	26%
55-59	90%	78	24%
60	70%	79	22%
61	66%	80	20%
62	62%	81	19%
63	58%	82	18%
64	54%	83	17%

Table: Issue Age - Percent Increase Over Initial Premium				
Issue Age	Percent Increase Over Initial Premium		Issue Age	Percent Increase Over Initial Premium
65	50%		84	16%
66	48%		85	15%
67	46%		86	14%
68	44%		87	13%
69	42%		88	12%
70	40%		89	11%
71	38%		90 and over	10%

(3-30-07)

i. A contingent benefit on lapse is also triggered for policies with a fixed or limited premium paying period every time an insurer increases the premium rates to a level that results in a cumulative increase of the annual premium equal to or exceeding the percentage of the insured's initial annual premium set forth below based on the insured's issue age, the policy or certificate lapses within one hundred twenty (120) days of the due date of the premium so increased, and the ratio in Subsection 032.04.d.ii. is forty percent (40%) or more. Unless otherwise *prescribed*, policyholders are notified at least thirty (30) days prior to the due date of the premium reflecting the rate increase.

Triggers For A Substantial Premium Increase

Issue Age	Percent Increase Over Initial Premium
Under 65	50%
65-80	30%
Over 80	10%

This provision is in addition to the contingent benefit provided by Subsection 032.04.b. and where both are triggered, the benefit provided is at the option of the insured. *( )*

c. On or before the effective date of a substantial premium increase as defined in Subsection 032.04.b., the insurer: (3-30-07)

i. Offers to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that premium payments are not increased; *( )*

ii. Offers to convert the coverage to a paid-up status with a shortened benefit period in accordance with the terms of Subsection 032.04.e. This option may be elected at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b.; and (3-30-07)

iii. Notifies the policyholder or certificate holder that a default or lapse at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b. is the election of the offer to convert in Subsection 032.04.c.ii. unless the automatic option in Subsection 032.04.d.iii. applies. (3-30-07)

d. On or before the effective date of a substantial premium increase as defined in Subsection 032.04.b.i., the insurer: (3-30-07)

i. Offers to reduce policy benefits provided by the current coverage without the requirement of additional underwriting so that premium payments are not increased; *( )*

ii. Offers to convert the coverage to a paid-up status where the amount payable for each benefit is ninety percent (90%) of the amount payable in effect immediately prior to lapse times the ratio of the number of completed months of paid premiums divided by the number of months in the premium paying period. This option may be elected at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b.i.; and (3-30-07)

iii. Notifies the policyholder or certificateholder that a default or lapse at any time during the one hundred twenty (120) day period referenced in Subsection 032.04.b.i. is the election of the offer to convert in Subsection 032.04.d.ii. above if the ratio is forty percent (40%) or more. (3-30-07)

e. Benefits continued as nonforfeiture benefits, including contingent benefits upon lapse, in accordance with Subsection 032.04.b. but not Subsection 032.04.b.i. are described in Subsection 032.04.e. (3-30-07)

i. For purposes of this Subsection 032.04.e., attained age rating is defined as a schedule of premiums starting from the issue date which increases age at least one percent (1%) per year prior to age fifty (50), and at least three percent (3%) per year beyond age fifty (50); (3-30-07)

ii. For purposes of Subsection 032.04.e., the nonforfeiture benefit is of a shortened benefit period providing paid-up long-term care insurance coverage after lapse. The same benefits (amounts and frequency in effect at the time of lapse but not increased thereafter) will be payable for a qualifying claim, but the lifetime maximum dollars or days of benefits are determined as specified in Subsection 032.04.e.iii.; (3-30-07)

iii. The standard nonforfeiture credit will be equal to one hundred percent (100%) of the sum of all premiums paid, including the premiums paid prior to any changes in benefits. The insurer may offer additional shortened benefit period options, as long as the benefits for each duration equal or exceed the standard nonforfeiture credit for that duration. However, the minimum nonforfeiture credit cannot be less than thirty (30) times the daily nursing home benefit at the time of lapse. In either event, the calculation of the nonforfeiture credit is subject to the limitation of Subsection 032.04.f.; (3-30-07)

iv. The nonforfeiture benefit begins not later than the end of the third year following the policy or certificate issue date. The contingent benefit upon lapse is effective during the first three (3) years as well as thereafter. (3-30-01)

v. Notwithstanding Subsection 032.04.e.iv. for a policy or certificate with attained age rating, the nonforfeiture benefit begins on the earlier of: (3-30-07)

(1) The end of the tenth year following the policy or certificate issue date; or (4-5-00)

(2) The end of the second year following the date the policy or certificate is no longer subject to attained age rating. (4-5-00)

vi. Nonforfeiture credits may be used for all care and services qualifying for benefits under the terms of the policy or certificate, up to the limits specified in the policy or certificate. (4-5-00)

f. All benefits paid by the insurer while the policy or certificate is in premium paying status and in the paid-up status will not exceed the maximum benefits which would be payable if the policy or certificate had remained in premium paying status. (4-5-00)

g. There is no difference in the minimum nonforfeiture benefits as *prescribed* under Section 032 for group and individual policies. *( )*

h. For certificates issued on or after the effective date of this Section 032, under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which policy was in force at the time this rule became effective, the provisions of Section 032 cannot apply. (3-30-07)

i. The last sentence Subsection 032.03 and Subsection 032.04.b. and Subsection 032.04.d. applies to

any long-term care insurance policy defined in Section 41-4603(4)(a), Idaho Code one (1) year after adoption. (3-30-07)

i. Premiums charged for a policy or certificate containing nonforfeiture benefits or a contingent benefit on lapse are subject to the loss ratio requirements of Section 023 or Section 025, whichever is applicable, treating the policy as a whole. (3-30-07)

j. To determine whether contingent nonforfeiture upon lapse provisions are triggered under Subsection 032.04.b. or 032.04.b.i., a replacing insurer that purchased or assumed a block or blocks of long-term care insurance policies from another insurer calculates the percentage increase based on the initial annual premium paid by the insured when the policy was first purchased from the original insurer. (3-30-07)

k. A nonforfeiture benefit for qualified long-term care insurance contracts that are level premium contracts is offered that meets the following requirements: (3-30-07)

i. The nonforfeiture provision is appropriately captioned; (4-5-00)

ii. The nonforfeiture provision provides a benefit available in the event of a default on the payment of any premiums and states that the amount of the benefit may be adjusted subsequent to being initially granted only as necessary to reflect changes in claims, persistency and interest as reflected in changes in rates for premium paying contracts filed for review with the Director for the same contract form; and (3-30-07)

iii. The nonforfeiture provision provides at least one (1) of the following: (4-5-00)

(1) Reduced paid-up insurance; (4-5-00)

(2) Extended term insurance; (4-5-00)

(3) Shortened benefit period; or (4-5-00)

(4) Other similar offerings approved by the Director. (4-5-00)

033. STANDARDS FOR BENEFIT TRIGGERS.

01. Conditions of Benefits Payment. A long-term care insurance policy conditions the payment of benefits on a determination of the insured's ability to perform activities of daily living and on cognitive impairment. Eligibility for the payment of benefits is not more restrictive than requiring either a deficiency in the ability to perform not more than three (3) of the activities of daily living or the presence of cognitive impairment. (4-5-00)

02. Activities of Daily Living. Insurers may use activities of daily living to trigger covered benefits in addition to those contained in Subsection 033.02 as long as they are defined in the policy. Activities of daily living includes at least the following as defined in Section 010 and in the policy. (3-30-07)

a. Bathing; (4-5-00)

b. Continence; (4-5-00)

c. Dressing; (4-5-00)

d. Eating; (4-5-00)

e. Toileting; and (4-5-00)

f. Transferring. (4-5-00)

03. Additional Provisions. An insurer may use additional provisions for the determination of when benefits are payable under a policy or certificate; however the provisions cannot restrict, and are not in lieu of, the

requirements contained in Subsections 033.01 and 033.02. (3-30-07)

04. Determinations of Deficiency. For purposes of Section 033 the determination of a deficiency cannot be more restrictive than: (3-30-07)

a. Requiring the hands-on assistance of another person to perform the prescribed activities of daily living; or (4-5-00)

b. If the deficiency is due to the presence of a cognitive impairment, supervision or verbal cueing by another person is needed to protect the insured or others. (4-5-00)

05. Assessments. Assessments of activities of daily living and cognitive impairment are performed by licensed or certified professionals, such as physicians, nurses or social workers. (4-5-00)

06. Appeals. Long-term care insurance policies include a clear description of the process for appealing and resolving benefit determinations. (4-5-00)

07. Effective Date. The requirements set forth in Section 033 are effective within twelve (12) months of the effective date of the rule and apply as follows: (3-30-07)

a. Except as provided in Subsection 033.07.b. the provisions of Section 033 apply to a long-term care policy issued in this state on or after the effective date of the rule. (3-30-07)

b. For certificates issued on or after the effective date of Section 033, under a group long-term care insurance policy as defined in Section 41-4603(4)(a), Idaho Code, which was in force at the time this rule became effective, the provisions of Section 033 do not apply. (3-30-07)

034. ADDITIONAL STANDARDS FOR BENEFIT TRIGGERS FOR QUALIFIED LONG-TERM CARE INSURANCE CONTRACTS.

01. Definitions. For purposes of Section 034 the following definitions apply: (3-30-07)

a. Qualified long-term care services means services that meet the requirements of Section 7702B(a)(1) of the Internal Revenue Code of 1986, as amended, as follows: necessary diagnostic, preventive, therapeutic, curative, treatment, mitigation, and rehabilitative services and maintenance or personal care services which are *prescribed* by a chronically ill individual, and are provided pursuant to a plan of care prescribed by a licensed health care practitioner. *( )*

b. Chronically ill individual has the meaning prescribed for this term by Section 7702B(c)(2) of the Internal Revenue Code of 1986, as amended. Under this provision, a chronically ill individual means any individual who has been certified by a licensed health care practitioner as: (4-5-00)

i. Being unable to perform (without substantial assistance from another individual) at least two (2) activities of daily living for a period of at least ninety (90) days due to a loss of functional capacity; or (4-5-00)

ii. Requiring substantial supervision to protect the individual from threats to health and safety due to severe cognitive impairment. (4-5-00)

c. The term chronically ill individual cannot include an individual meeting these requirements unless within the preceding twelve (12) month period a licensed health care practitioner has certified that the individual meets these requirements. (4-5-00)

d. Licensed health care practitioner means a physician, as defined in Section 1861(r)(1) of the Social Security Act, and a registered professional nurse, licensed social worker, or other individual who meets requirements prescribed by the Secretary of the Treasury. (4-5-00)

e. Maintenance or personal care services means any care, the primary purpose of which is the

provision of needed assistance with any of the disabilities, the existence of which leads to the conclusion that the individual is a chronically ill individual (including the protection from threats to health and safety due to severe cognitive impairment). (4-5-00)

02. The Chronically Ill. A qualified long-term care insurance contract pays for qualified long-term care services received by a chronically ill individual provided pursuant to a plan of care prescribed by a licensed health care practitioner. (4-5-00)

03. Payments and Conditions. A qualified long-term care insurance contract conditions the payment of benefits on a determination of the insured's inability to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity; or to severe cognitive impairment. (3-30-07)

04. Certifications by Professionals. Certifications regarding activities of daily living and cognitive impairment *prescribed* pursuant to Subsection 034.03 are performed by licensed or certified professionals, such as physicians, registered professional nurses, licensed social workers, or other individuals who meet requirements prescribed by the Secretary of the Treasury. *( )*

05. Certifications by Carrier. Certification *prescribed* pursuant to Subsection 034.03 may be performed by a licensed health care professional at the direction of the carrier as is reasonably necessary with respect to a specific claim, except that when a licensed health care practitioner has certified that an insured is unable to perform activities of daily living for an expected period of at least ninety (90) days due to a loss of functional capacity and the insured is in claim status, the certification cannot be rescinded and additional certifications cannot be performed until after the expiration of the ninety (90) day period. *( )*

06. Appeals. Qualified long-term care contracts include a clear description of the process for appealing and resolving benefit determinations. (4-5-00)

035. STANDARD FORMAT OUTLINE OF COVERAGE.
Section 035 of the rule implements, interprets and makes specific, the provisions of Section 41-4605(7)(a), Idaho Code, in prescribing a standard format and the content of an outline of coverage. (3-30-07)

01. Format. The outline of coverage is a freestanding document, using no smaller than ten (10) point type. Text that is capitalized or underscored in the standard format outline of coverage may be emphasized by other means that provide prominence equivalent to the capitalization or underscoring. (4-5-00)

02. Content. The outline of coverage contains no material of an advertising nature. (4-5-00)

03. Standard Form. Use of the text and sequence of text of the standard format outline of coverage is mandatory, unless otherwise specifically indicated. Format for the outline of coverage is published on the Department of Insurance website. (3-25-16)

036. REQUIREMENT TO DELIVER SHOPPER'S GUIDE.

01. Approved Format. A long-term care insurance shopper's guide in the format developed by the National Association of Insurance Commissioners, or a guide developed or approved by the director, is provided to all prospective applicants of a long-term care insurance policy or certificate. (4-5-00)

a. In the case of producer solicitations, a producer will deliver the shopper's guide prior to the presentation of an application or enrollment form. (3-30-07)

b. In the case of direct response solicitations, the shopper's guide will be presented in conjunction with any application or enrollment form. (4-5-00)

02. Exceptions. Life insurance policies or riders containing accelerated long-term care benefits are not *obligated* to furnish the above-referenced guide, but furnish the policy summary *prescribed* under Section 41-4605(9), Idaho Code, Disclosure and Performance Standards for Long-Term Care Insurance. *( )*

037. PENALTIES.

In addition to any other penalties provided by the laws of this state any insurer and any producer found to have violated any requirement of this state relating to the marketing of such insurance or of IDAPA 18.04.11, "Long-Term Care Insurance Minimum Standards," is subject to an administrative penalty of up to three (3) times the amount of any commissions paid for each policy involved in the violation or up to ten thousand dollars ($10,000), whichever is greater. (3-30-07)

038. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 47, Idaho Code. (1-25-95)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.12, "*The* Small Employer Health Insurance *and Availability Act*." *( )*

02. Scope. The Act and this chapter are intended to promote broader spreading of risk in the small employer marketplace and to regulate all health benefit plans sold to small employers, whether sold directly or through associations or other groupings of small employers. Carriers that provide health benefit plans to small employers are intended to be subject to all of the provisions of the Act and this chapter. (1-25-95)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (1-25-95)

01. Associate Member. Any individual who participates in an employee benefit plan (as defined in 29 U.S.C. Section 1002(1)) that is a multi-employer plan (as defined in 29 U.S.C. Section 1002(37A)), other than the following: *( )*

a. An individual (or the beneficiary of such individual) who is employed by a participating employer within a bargaining unit covered by at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained; or (1-25-95)

b. An individual who is a present or former employee (or a beneficiary of such employee) of the sponsoring employee organization, of an employer who is or was a party to at least one (1) of the collective bargaining agreements under or pursuant to which the employee benefit plan is established or maintained, or of the employee benefit plan (or of a related plan). (1-25-95)

***02. Expense**. The cost incurred for a covered service or supply. A physician or other licensed practitioner orders or prescribes the service or supply. Expense is considered incurred on the date the service or supply is received. Expense does not include any charge: ( )*

***a.** For a service or supply that is not medically necessary; or ( )*

***b.** That is in excess of reasonable and customary charge for a service or supply. ( )*

***03.* Geographic Area**. *A sector of land, as designated by the health carrier, which employers situsedwithin receive a specified rating factor*. Geographic areas are limited to no more than six (6) designated areas, with no area being smaller than a county. *( )*

***04. Medically Necessary Service or Supply**. One that is ordered by a physician and that the small employer carrier or a qualified party determines is: ( )*

***a.** Provided for the diagnosis or direct treatment of an injury or sickness; ( )*

***b.** Appropriate and consistent with the symptoms and findings of diagnosis and treatment of the insured persons injury or sickness; ( )*

***c.** Is not considered experimental or investigative; ( )*

***d.** Provided in accord with generally accepted medical practice; ( )*

***e.** The most appropriate supply or level of service which can be provided on a cost-effective basis. The fact that the insured person's physician prescribes services or supplies does not automatically mean such service or supply are medically necessary and covered by the policy. ( )*

***05.* New Entrant**. An eligible employee, or the dependent of an eligible employee, who becomes part of an employer group after the initial period for enrollment in a health benefit plan. (1-25-95)

06. Pre-Existing Condition. *( )*

a. A condition, whether physical or mental, regardless of the cause of the condition, for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; *( )*

b. A condition for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or *( )*

c. A pregnancy existing on the effective date of coverage. *( )*

d. Genetic information will not be considered as a condition described in this definition in the absence of a diagnosis of the condition related to such information. *( )*

07. **Risk Characteristic**. The health status, claims experience, duration of coverage, or any similar characteristic related to the health status or claims experience of a small employer group or of any member of a small employer group. Such characteristics can include family composition, group size, industry. (7-1-98)

08. **Risk Load**. The percentage above the applicable base premium rate that is charged by a small employer carrier to the rates of the small employer group, to reflect the risk characteristics of the small employer group. (1-25-95)

011. ASSESSMENTS.
Prior to March 1st of each year the Board determines and files with the Director an estimate of the assessments needed to fund the losses incurred by the Idaho Small Employer Reinsurance Program in the previous calendar year. This interim assessment is based on the assessment formula set forth in Section 41-4711(12)(c), Idaho Code. Initial or interim assessments paid will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known. *( )*

012. -- 014. (RESERVED)

015. APPLICABILITY.

01. Applicability. This chapter applies to any health benefit plan provided on a group basis, that: (4-5-00)

a. Meets one (1) or more of the conditions set forth in Section 41-4704, Idaho Code; *and* *( )*

b. Offers coverage to two (2) or more eligible employees of a small employer located in this state, without regard to whether the policy or certificate was issued in this state. *( )*

02. Group Policy or Trust Arrangement. The provisions of the Act and this chapter applies to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group unless such health benefit plan(s) are subject to Title 41, Chapter 52, Idaho Code. (4-5-00)

03. Group Policy or Trust Arrangement. The provisions of the Act and this chapter applies to a health benefit plan provided to a small employer or to the eligible employees of a small employer without regard to whether the health benefit plan is offered under or provided through a group policy or trust arrangement of any size sponsored by an association or discretionary group. (1-25-95)

04. Subsequent Employment of More Than Fifty Eligible Employees. If a small employer is issued a health benefit plan under the terms of the Act, the provisions of the Act and this chapter continue to apply to the health benefit plan in the case that the small employer subsequently employs more than fifty (50) eligible employees. A carrier providing coverage to such an employer, within sixty (60) days of becoming aware that the employer has

more than fifty (50) eligible employees but no later than the anniversary date of the employer's health benefit plan, notifies the employer that the protections provided under the Act and this chapter cease to apply to the employer if such employer fails to renew its current health benefit plan or elects to enroll in a different health benefit plan. (7-1-98)

05. Employer Subsequently Becomes a Small Employer. If a health benefit plan is issued to an employer that is not a small employer as defined in the Act, but subsequently the employer becomes a small employer (due to the loss or change of work status of one or more employees), the terms of the Act do not apply to the health benefit plan. The carrier providing a health benefit plan to such an employer does not become a small employer carrier under the terms of the Act solely because the carrier continues to provide coverage under the health benefit plan to the employer. (1-25-95)

06. Time Period for Notification of Options to Employer. A carrier providing coverage to an employer described in Subsection 015.05, within sixty (60) days of becoming aware that the employer has fifty (50) or fewer eligible employees, notifies the employer of the options and protections available to the employer under the Act, including the employer's option to purchase a small employer health benefit plan from any small employer carrier. (3-15-02)

07. Employees in More Than One State. If a small employer has employees in more than one (1) state, the provisions of the Act and this chapter apply to a health benefit plan issued to the small employer if: (1-25-95)

a. The majority of eligible employees of such small employer are employed in this state; or (1-25-95)

b. If no state contains a majority of the eligible employees of the small employer, the primary business location of the small employer is in this state. (1-25-95)

08. Laws of This State or Another State. In determining whether the laws of this state or another state apply to a health benefit plan issued to a small employer described in Subsection 015.07, the provisions of the paragraph is applied as of the date the health benefit plan was issued to the small employer for the period that the health benefit plan remains in effect. (3-15-02)

09. Health Benefit Plan Subject to The Act and This Chapter. If a health benefit plan is subject to the Act and this chapter, the provisions of the Act and this chapter applies to all individuals covered under the health benefit plan, whether they reside in this state or in another state. (1-25-95)

10. When Is a Small Employer Carrier Not Subject to the Act and This Chapter. A carrier that is not operating as a small employer carrier in this state does not become subject to the provisions of the Act and this chapter solely because a small employer that was issued a health benefit plan in another state by that carrier moves to this state. (1-25-95)

016. -- 020. (RESERVED)

021. ESTABLISHMENT OF CLASSES OF BUSINESS.

01. Supporting Documentation for Establishment of Classes of Business. A small employer carrier that establishes more than one class of business pursuant to the provisions of Section 41-4705, Idaho Code, maintains on file for inspection by the Director the following information with respect to each class of business so established: (1-25-95)

a. A description of each criterion employed by the carrier (or any of its agents) for determining membership in the class of business; (1-25-95)

b. A statement describing the justification for establishing the class as a separate class of business and documentation that the establishment of the class of business is intended to reflect substantial differences in expected claims experience or administrative costs related to the reasons set forth in Section 41-4705, Idaho Code; and (1-25-95)

c. A statement disclosing that, if any, health benefit plans are currently available for purchase in the class and any significant limitations related to the purchase of such plans. (1-25-95)

02. Group Size Is Not a Class of Business. A carrier will not directly or indirectly use group size as a criterion for establishing eligibility for a health benefit plan or for a class of business. *( )*

022. -- 027. (RESERVED)

028. TRANSITION FOR ASSUMPTIONS OF BUSINESS FROM ANOTHER CARRIER.

01. Conditions for Transfer or Assumption of Entire Insurance Obligation. A small employer carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless: (1-25-95)

a. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the assuming carrier; (1-25-95)

b. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the ceding carrier; and, (1-25-95)

c. The transaction meets the *other* requirements of *this* Section. *( )*

02. Time Frame for Filing Plan to Assume or Cede Entire Insurance Obligation. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation and/or risk of one or more small employer health benefit plans from another carrier makes a filing for approval with the Director at least sixty (60) days prior to the date of the proposed assumption. The Director may approve the transaction if the Director finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this chapter. The Director will not approve the transaction until at least thirty (30) days after the date of the filing; except that, if the ceding carrier is in hazardous financial condition, the Director may approve the transaction as soon as the Director deems reasonable. *( )*

03. Filing Requirements. The filing *for* Subsection 028.02 *will*: *( )*

a. Describe the class of business (including any eligibility requirements) of the ceding carrier from which the health benefit plans will be ceded; (1-25-95)

b. Describe whether the assuming carrier will maintain the assumed health benefit plans as a separate class of business (pursuant to Subsection 028.08 or will incorporate them into an existing class of business (pursuant to Subsection 028.09). If the assumed health benefit plans will be incorporated into an existing class of business, the filing will describe the class of business of the assuming carrier into which the health benefit plans will be incorporated; (1-25-95)

c. Describe whether the health benefit plans being assumed are currently available for purchase by small employers; (1-25-95)

d. Describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed; (1-25-95)

e. Describe the potential effect of the assumption, if any on the premiums for the health benefit plans to be assumed; (1-25-95)

f. Describe any other potential material effects of the assumption on the coverage provided to the small employers covered by the health benefit plans to be assumed; and (1-25-95)

g. Include any other information *prescribed* by the Director. *( )*

04. Informational Filings in *Other* States. A small employer carrier *prescribed* to make a filing under Subsection 028.02 will also make an informational filing with the Insurance Supervisory Official of each state in which there are small employer health benefit plans that would be included in the transaction. The informational filing to each state will be made concurrently with the filing made under Subsection 028.02 and will include at least the information specified in Subsection 028.03 for the small employer health benefit plans in that state. *( )*

05. Other *Considerations* in the Transfer and Assumption of the Entire Insurance Obligation. A small employer carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering a small employer in this state unless it complies with the following provisions: *( )*

a. The carrier has provided notice to the Director at least sixty (60) days prior to the date of the proposed assumption. The notice contains the information specified in Subsection 028.03 for the health benefit plans covering small employers in this state. (1-25-95)

b. If the assumption of a class of business would result in the assuming small employer carrier being out of compliance with the limitations related to premium rates contained in Section 41-4706(1)(a), Idaho Code, the assuming carrier makes a filing with the Director pursuant to Section 41-4706(3), Idaho Code, seeking suspension of the application of Section 41-4706(1)(a), Idaho Code. (1-25-95)

c. An assuming carrier seeking suspension of the application of Section 41-4706(1)(a), Idaho Code, will not complete the assumption of health benefit plans covering small employers in this state unless the Director grants the suspension requested pursuant to Paragraph 028.05.b. (1-25-95)

d. Unless a different period is approved by the Director, a suspension of the application of Section 41-4706(1)(a), Idaho Code, with respect to an assumed class of business, is for no more than fifteen (15) months and, with respect to each individual small employer, lasts only until the anniversary date of such employer's coverage (except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of assumption of the class of business). (1-25-95)

06. Exceptions to Ceding or Assumption of Business. Except as provided in Subsection 028.02, a small employer carrier will not cede or assume the entire insurance obligation and/or risk for a small employer health benefit plan unless the transaction includes the ceding to the assuming carrier of the entire class of business within Idaho which includes such health benefit plan. (1-25-95)

07. Requirements for Ceding Less Than an Entire Class of Business. A small employer carrier may cede less than an entire class of business to an assuming carrier if: (1-25-95)

a. One (1) or more small employers in the class have exercised their right under contract to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction includes each health benefit plan in the class of business except those health benefit plans for which a small employer has rejected the proposed cession; or (1-25-95)

b. After a written request from the transferring carrier, the Director determines that the transfer of less than the entire class of business is in the best interests of the small employers insured in that class of business. (1-25-95)

08. Separate Class of Business. Except as provided in Subsection 028.09, a small employer carrier that assumes one (1) or more health benefit plans from another carrier will maintain such health benefit plans as a separate class of business. (1-25-95)

09. Provisions for Exceeding the Maximum Number of Classes of Business. A small employer carrier that assumes one or more health benefit plans from another carrier may exceed the limitation contained in Section 41-4705(2), Idaho Code, (relating to the maximum number of classes of business a carrier may establish) due solely to such assumption for a period of up to fifteen (15) months after the date of the assumption, provided that the carrier complies with the following provisions: (1-25-95)

a. Upon assumption of the health benefit plans, such health benefit plans are maintained as a separate class of business. During the fifteen-month (15) period following the assumption, each of the assumed small employer health benefit plans are transferred by the assuming small employer carrier into a single class of business operated by the assuming small employer carrier. The assuming small employer carrier selects the class of business into which the assumed health benefit plans will be transferred in a manner such that the transfer results in the least possible change to the benefits and rating method of the assumed health benefit plans. (1-25-95)

b. The transfers authorized in Paragraph 028.09.a. occurs with respect to each small employer on the anniversary date of the small employer's coverage, except that the period with respect to an individual small employer may be extended beyond its first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of assumption of the class of business. (1-25-95)

c. A small employer carrier making a transfer pursuant to Paragraph 028.09.a. may alter the benefits of the assumed health benefit plans to conform to the benefits currently offered by the carrier in the class of business into which the health benefit plans have been transferred. (1-25-95)

d. The premium rate for an assumed small employer health benefit plan is not modified by the assuming small employer carrier until the health benefit plan is transferred pursuant to Paragraph 028.09.a. Upon transfer, the assuming small employer carrier calculates a new premium rate for the health benefit plan from the rate manual established for the class of business into which the health benefit plan is transferred. In making such calculation, the risk load applied to the health benefit plan is no higher than the risk load applicable to such health benefit plan prior to the assumption. (1-25-95)

e. During the fifteen-month (15) period provided in this Subsection, the transfer of small employer health benefit plans from the assumed class of business in accordance with this subsection is considered a violation of Section 41-4706(2), Idaho Code. *( )*

10. Restrictions to Apply Eligibility Requirements by Assuming Carrier. An assuming carrier will not apply eligibility requirements, including minimum participation and contribution requirements, with respect to an assumed health benefit plan (or with respect to any health benefit plan subsequently offered to a small employer covered by such an assumed health benefit plan) that are more stringent than the requirements applicable to such health benefit plan prior to the assumption. (1-25-95)

11. Request for Extension of the Transition Period. The Director may approve a longer period of transition upon application of a small employer carrier. The application is made within sixty (60) days *from* assumption of the class of business and clearly states the justification for a longer transition period. *( )*

12. Additional Information. Nothing in *this* Section or in the Act is intended to: *( )*

a. Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Section 41-511, Idaho Code, of the ceding or assuming carrier related to the transaction; (1-25-95)

b. Authorize a carrier not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or (1-25-95)

c. Reduce or diminish the protections related to an assumption reinsurance transaction provided in Section 41-511, Idaho Code, or otherwise provided by law. (1-25-95)

029. -- 035. (RESERVED)

036. RESTRICTIONS RELATING TO PREMIUM RATES.
The following provisions are applicable for all small employer health benefit plans. *( )*

01. Separate Rate Manual for Each Class of Business. A small employer carrier develops a separate rate manual for each class of business. Base premium rates and new business premium rates charged to small employers by the small employer carrier are computed solely from the applicable rate manual developed pursuant to this Section. To the extent that a portion of the premium rates charged by a small employer carrier is based on the

carrier's discretion, the manual specifies the criteria and factors considered by the carrier in exercising such discretion. (1-25-95)

02. Requirements for Adjustments to Rating Method. A small employer carrier will not modify the rating method used in the rate manual for a class of business until the change has been approved as provided in this Section. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this chapter. (1-25-95)

03. Information for Review of Modification of Rating Method. A carrier may modify the rating method for a class of business only with prior approval of the Director. A carrier requesting to change the rating method for a class of business makes a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing contains at least the following information: *( )*

a. The reasons the change in rating method is being requested; (1-25-95)

b. A complete description of each of the proposed modifications to the rating method; (1-25-95)

c. A description of how the change in rating method would affect the premium rates currently charged to small employers in the class of business, including an estimate from a qualified actuary of the number of groups or individuals (and a description of the types of groups or individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all small employers in a health benefit plan); (1-25-95)

d. A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (1-25-95)

e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for small employers that would be in violation of Section 41-4706, Idaho Code. (1-25-95)

04. Change in Rating Method. For the purpose of this Section, a change in rating method means: (1-25-95)

a. A change in the number of case characteristics used by a small employer carrier to determine premium rates for health benefit plans in a class of business (a small employer *will* not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); *( )*

b. A change in the manner or procedures by which insureds are assigned into categories for the purpose of applying a case characteristic to determine premium rates for health benefit plans in a class of business; (1-25-95)

c. A change in the method of allocating expenses among health benefit plans in a class of business; or (1-25-95)

d. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any small employer that exceeds ten percent (10%). (1-25-95)

e. For the purpose of this Subsection, a change in a rating factor means the cumulative change with respect to such factor considered over a twelve (12) month period. If a small employer carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier considers the cumulative effect of all such changes in applying the ten percent (10%) test. (1-25-95)

05. Rate Manual to Specify Case Characteristics and Rate Factors to Be Applied. The rate manual developed pursuant to Subsection 036.01 specifies the case characteristics and rate factors to be applied by the small employer carrier in establishing premium rates for the class of business. (1-25-95)

06. *Uniform Application of* Case Characteristics. A small employer carrier uses the same case characteristics as defined in Section 41-4706(1)(h), Idaho Code, in establishing premium rates for each health benefit

plan in a class of business and applies them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics are applied without regard to the risk characteristics of a small employer. ( )

07. Base Premium Rates and Any Difference in New Business Rate. The rate manual developed pursuant to Subsection 036.01 clearly illustrates the relationship among the base premium rates charged for each health benefit plan in the class of business. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual illustrates the difference. ( )

08. Reasonable and Objective *Rate* Differences. Differences among base premium rates for health benefit plans are based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and will not be based in any way on the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. A small employer carrier applies case characteristics and rate factors within a class of business in a manner that assures that premium differences among health benefit plans for identical small employer groups vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the small employer groups that choose or are expected to choose a particular health benefit plan. ( )

09. Two-Step Process. The rate manual developed pursuant to Subsection 036.01 provides for premium rates to be developed in a two-step process. In the first step, a base premium rate is developed for the small employer group without regard to any risk characteristics of the group. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-4706, Idaho Code, to reflect the risk characteristics of the group. ( )

10. Exception to Application Fee, Underwriter Fee, or Other Fees. Except as provided in Subsection 036.11, a premium charged to a small employer for a health benefit plan will not include a separate application fee, underwriting fee, or any other separate fee or charge. (3-15-02)

11. Uniform Application of Fees. A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to every health benefit plan in a class of business. All such fees are premium and are included in determining compliance with the Act and this chapter. (1-25-95)

12. Uniform Allocation of Administration Expenses. The rate manual developed pursuant to Subsection 036.01 describes the method of allocating administrative expenses to the health benefit plans in the class of business for which the manual was developed. (4-5-00)

13. Rate Manual to be Maintained for a Period of Six Years. Each rate manual developed pursuant to Subsection 036.01 is maintained by the carrier for a period of six (6) years. Updates and changes to the manual are maintained with the manual. (3-15-02)

14. Guidelines Issued by Director. The rate manual and rating practices of a small employer carrier will comply with any guidelines issued by the Director. (1-25-95)

15. Application of Restrictions Related to Changes in Premium Rates. The restrictions related to changes in premium rates are set forth in Section 41-4706(1)(c), Idaho Code, and are applied as follows: (1-25-95)

a. A small employer carrier revises its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (1-25-95)

b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate is the change in the base premium rate for the purposes of Sections 41-4706(1)(c)(i), Idaho Code. (3-15-02)

c. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan is considered a health benefit plan into which the small employer carrier is no longer enrolling new small employers for the

purposes of Section 41-4706(1)(c)(i), Idaho Code. (3-15-02)

d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan in the same class of business by more than twenty percent (20%), the carrier makes a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing is made within thirty (30) days of the beginning of the rating period. (1-25-95)

e. A small employer carrier keeps on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (1-25-95)

16. Change in Premium Rate. Except as provided in Subsection 036.17, a change in premium rate for a small employer produces a revised premium rate that is no more than the following: (3-15-02)

a. The base premium rate for the small employer, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by; (1-25-95)

b. One (1) plus the sum of: (1-25-95)

i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

17. Plans No Longer Enrolling New Business. In the case of a health benefit plan into which a small employer carrier is no longer enrolling new small employers, a change in premium rate for a small employer will produce a revised premium rate that is no more than the base premium rate for the small employer (given its present composition and as shown in the rate manual in effect for the small employer at the beginning of the previous rating period), multiplied by Paragraphs 036.17.a. and 036.17.b. ( )

a. One (1) plus the lesser of: (1-25-95)

i. The change in the base rate; or (1-25-95)

ii. The percentage change in the new business premium for the most similar health benefit plan into which the small employer carrier is enrolling new small employers. (1-25-95)

b. One (1) plus the sum of: (1-25-95)

i. The risk load applicable to the small employer during the previous rating period; and (1-25-95)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (1-25-95)

18. Limitations on Revised Premium Rate. Notwithstanding the provisions of Subsections 036.16 and 036.17, a change in premium rate for a small employer will not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-4706(1)(b), Idaho Code. (3-15-02)

19. Waiver Request for a Taft-Hartley Trust. A representative of a Taft-Hartley trust (including a carrier upon the written request of such a trust) may file a written request with the Director for the waiver of application of the provisions of Section 41-4706(1), Idaho Code, with respect to such trust. (1-25-95)

20. Provisions for Which Trust Is Seeking Waiver. A request made under Subsection 036.19 identifies the provisions for which the trust is seeking the waiver and describes, with respect to each provision, the extent to which application of such provision would: (3-15-02)

a. Adversely affect the participants and beneficiaries of the trust; and (1-25-95)

b. Require modifications to one (1) or more of the collective bargaining agreements under or pursuant to which the trust was or is established or maintained. (1-25-95)

21. Waiver Not *for an* Individual or Associate Member. A waiver granted under this provision will not apply to an individual who participates in the trust because the individual is an associate member of an employee organization or the beneficiary of such an individual. (1-25-95)

037. -- 045. (RESERVED)

046. REQUIREMENT TO INSURE ENTIRE GROUPS.

01. Offer of Coverage. A small employer carrier that offers coverage to a small employer will offer to provide coverage to each eligible employee and to each dependent of an eligible employee. Except as provided in Subsection 046.02, the small employer carrier provides the same health benefit plan to each such employee and dependent. (1-25-95)

02. Choice of Health Benefit Plans. A small employer carrier may offer the employees of a small employer the option of choosing among one (1) or more health benefit plans, provided that each eligible employee may choose any of the offered plans. The choice among benefit plans will not be limited, restricted or conditioned based upon the risk characteristics of the eligible employees or their dependents. *( )*

03. Participation Requirement. The small employer carrier may impose reasonable minimum participation requirements for issuance of coverage to small employers, subject to prior approval from the Director. (1-25-95)

04. Employer Census and Supporting Documentation. A small employer carrier will require each small employer that applies for coverage, as part of the application process, to prepare or provide an employer census of dependents and eligible employees as defined in Sections 41-4703(11) and 41-4703(13), Idaho Code. The small employer carrier may require the small employer to provide appropriate supporting documentation (such as the W-2 Summary Wage and Tax Form) or a certification of information by a Small Employer as to the current census information. (3-15-02)

05. Waiver for Documentation of Coverage. A small employer carrier will secure a waiver with respect to each eligible employee and each dependent of such an eligible employee who declines an offer of coverage under a health benefit plan provided to a small employer. The waiver is signed by the eligible employee (on behalf of such employee or the dependent of such employee) and certifies that the individual who declined coverage was informed of the availability of coverage under the health benefit plan. The waiver form requires that the reason for declining coverage be stated on the form, and includes a statement informing the eligible employee of the special enrollment rights provided within the Section 41-4703(17)(d) and (e), Idaho Code, and includes a written warning of the penalties imposed on late enrollees. Waivers are maintained by the small employer carrier for a period of six (6) years. (3-15-02)

06. Refusal to Provide Information. A small employer carrier will not issue coverage to a small employer that refuses to provide the list *prescribed* under Subsection 046.04 or a waiver *prescribed* under Subsection 046.05, except *if* the excluded individual has coverage under a health benefit plan or other health benefit arrangement that provides benefits similar to or exceeding benefits provided under the basic health benefit plan. *( )*

07. *Induced Declinations*. A small employer carrier will not issue coverage to a small employer if the carrier, or an agent for such carrier, has reason to believe that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to a health status related factor of the individual. *( )*

08. Agent Notification to Small Employer Carrier. An agent will notify a small employer carrier, prior to submitting an application for coverage with the carrier on behalf of a small employer, of any circumstances that would indicate that the small employer has induced or pressured an eligible employee (or dependent of an eligible employee) to decline coverage due to the individual's risk characteristics. (1-25-95)

09. New Entrants. New entrants to a small employer group are offered an opportunity to enroll in the health benefit plan currently held by such group based upon the provisions of Section 41-4708, Idaho Code. A new entrant that does not exercise the opportunity to enroll in the health benefit plan within the period provided by the small employer carrier may be treated as a late enrollee by the carrier, provided that the period provided to enroll in the health benefit plan extends at least thirty (30) days after the date the new entrant is notified of their opportunity to enroll. The period of continuous coverage will not include any waiting period for the effective date of the new coverage applied by the employer to all new enrollees under the Employee Benefit Plan. If a small employer carrier has offered more than one health benefit plan to a small employer group pursuant to Subsection 046.02, the new entrant is offered the same choice of health benefit plans as the other members of the group. *( )*

10. Waiting Period. A small employer carrier will not apply a waiting period, elimination period or other similar limitation of coverage (other than an exclusion for pre-existing medical conditions consistent with Section 41-4708(3), Idaho Code). *( )*

11. Risk Characteristics. New entrants to a group are accepted for coverage by the small employer carrier without any restrictions or limitations on coverage related to the risk characteristics of the employees or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-4708(3), Idaho Code. *( )*

12. Risk Load. A small employer carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-4706, Idaho Code. The risk load is the same risk load charged to the small employer group immediately prior to acceptance of the new entrant into the group. (1-25-95)

13. Rescission Employer Misstatements. When material application misstatements are found, rescission action by the carrier may be taken at the carrier's option against the coverage of an entire small employer (including employees and dependents) and is limited to circumstances under which the application misstatements have been made by the small employer. When rescission action is taken, per Section 41-4707(1)(b), Idaho Code, premiums are refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier may seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage is considered null and void. (4-5-00)

047. -- 054. (RESERVED)

055. APPLICATION TO REENTER STATE.
Restrictions on offering small group health insurance. A carrier that has been *banned* from writing coverage for small employers in this state pursuant to Section 41-4707(2), Idaho Code, will not resume offering health benefit plans to small employers in this state until the carrier has made a petition to the Director to be reinstated as a small employer carrier and the petition has been approved by the Director. In reviewing a petition, the Director may ask for such information and assurances as the Director finds reasonable and appropriate. *( )*

056. -- 059. (RESERVED)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) is considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-4703(17), 41-4703(23), and 41-4708(3)(c), Idaho Code, a small employer carrier interprets the Act no less favorably to an insured individual than the following: (3-15-02)

a. A health benefit plan, certificate, or other health benefit arrangement is considered employer-based if an employer sponsors the plan or arrangement or makes a contribution to the plan or arrangement. (3-15-02)

02. Source of Previous or Existing Coverage. A small employer carrier will ascertain the source of previous or existing coverage of each eligible employee and each dependent of an eligible employee at the time such employee or dependent initially enrolls into the health benefit plan provided by the small employer carrier. The small employer carrier has the responsibility to contact the source of such previous or existing coverage to resolve any questions about the benefits or limitations related to such previous or existing coverage. (1-25-95)

03. Certification of Creditable Coverage. Small employer carriers will provide written certification of creditable coverage to individuals in accordance with this Subsection. ( )

a. A small employer carrier satisfies the certification requirements if another person provides the certificate, but only to the extent that information relating to the individual's creditable coverage and waiting or affiliation period has been provided by another person. ( )

b. To the extent coverage under a health benefit plan consists of group coverage, the plan satisfies the certification requirements if the small employer carrier offering the coverage is *prescribed* to provide the certificates of creditable coverage to individuals pursuant to an agreement between the plan and the carrier. ( )

c. A small employer carrier is not *obligated* to provide information regarding health benefit plan coverage provided to an individual by another person. ( )

i. If an individual's coverage under a policy ceases before the individual's coverage under the group health plan ceases, the entity that issued the policy provides sufficient information to the small employer carrier, or to another person designated by the carrier, to enable the carrier, or other person, to provide a certificate that reflects the period of coverage under the policy, after the individual's coverage under the group health plan ceases. (3-15-02)

ii. The provision of the information pursuant to Subparagraph 060.03.c.i. to the new carrier satisfies the entity's obligation to provide an automatic certificate. ( )

iii. The carrier providing the information about creditable coverage cooperates with other carriers in responding to any request for additional information. ( )

iv. If the individual's coverage under a group health plan ceases, the carrier that issued the group policy provides an automatic certificate of coverage. (3-15-02)

d. A small employer carrier provides a certification of creditable coverage, without charge, to participants or dependents who are or were covered under the group health benefit plan. (3-15-02)

e. A small employer carrier provides a certificate at the time a request is made on behalf of an individual if the request is made not later than twenty-four (24) months after the date the individual's coverage ceased under the plan. (3-15-02)

i. Each small employer carrier establishes a procedure for individuals to request and receive certificates. Upon a receipt of the request, the small employer carrier provides the certificate by the earliest date that the carrier, acting in a reasonable and prompt fashion, can provide the certificate. (3-15-02)

f. *The* certificate provided includes: ( )

i. The date the certificate was issued; (3-15-02)

ii. The name of the group health plan that provided the coverage described in the certificate;(3-15-02)

iii. The name of the participant or dependent with respect to whom the certificate applies, and any other information necessary for the plan providing the coverage specified in the certificate to identify the individual, such as the individual's identification number under the plan; (3-15-02)

iv. The name, address, and telephone number of the plan administrator *prescribed* to provide the certificate; ( )

v. The telephone number to call for further information regarding the certificate; (3-15-02)

vi. Either a statement that the individual has at least twelve (12) months of creditable coverage, disregarding days of creditable coverage before a significant break in coverage; or *t*he date any waiting period or

affiliation period, if applicable, began and the date creditable coverage began; and ( )

vii. The date creditable coverage ended, unless the certificate indicates that the creditable coverage is continuing as of the date of the certificate. (3-15-02)

g. Small employer carriers may provide a certificate by first-class mail, at the participant's last known address. ( )

h. The model for the certification of coverage may be found on the Department of Insurance Internet website. ( )

061. -- 066. (RESERVED)

067. RESTRICTIVE RIDERS.
Except as permitted in Section 41-4708(3), Idaho Code, a small employer carrier will not modify or restrict any health benefit plan with respect to any eligible employee or dependent of an eligible employee, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such employee or dependent for specific diseases, medical conditions, including but not limited to pregnancy, or services otherwise covered by the plan. (3-15-02)

068. -- 074. (RESERVED)

075. RULES RELATED TO FAIR MARKETING.

01. Small Employer Carrier to Actively Market. A small employer carrier actively markets each of its health benefit plans to small employers in this state. ( )

02. Marketing *Mandated* Plans. In marketing the *mandated* health benefit plans to small employers, a small employer carrier uses at least the same sources and methods of distribution that it uses to market other health benefit plans to small employers. Any producer authorized by a small employer carrier to market health benefit plans to small employers in the state is also authorized to market the *mandated* health benefit plans. ( )

03. Offer in Writing. A small employer carrier offers all small group health benefit plans to any small employer that applies for or makes an inquiry regarding health insurance coverage from the small employer carrier. *The offer may be provided directly to the small employer or delivered through a producer.* The offer is in writing and includes at least the following information: ( )

a. A general description of the benefits and base rates contained in all actively marketed, including but not limited to the mandated, health benefit plans; and (3-15-02)

b. Information describing how the small employer may enroll in the plans. ( )

04. Timeliness of Price Quote. A small employer carrier provides a price quote to a small employer (directly or through an authorized producer) within ten (10) working days of receiving a request for a quote and such information as is necessary to provide the quote. A small employer carrier notifies a small employer (directly or through an authorized producer) within five (5) working days of receiving a request for a price quote of any additional information needed by the small employer carrier to provide the quote. (1-25-95)

05. Toll-Free Telephone Service. A small employer carrier establishes and maintains a toll-free telephone service to provide information to small employers regarding the availability of small employer health benefit plans in this state. The service provides information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information reasonably designed to assist the caller to locate an authorized producer or to apply for coverage. (1-25-95)

06. Restrictions as to Contribution to Association. The small group carrier will not require a small employer to join or contribute to any association or group as a condition of being accepted for coverage by the small

employer carrier, except that, if membership in an association or other group is a requirement for accepting a small employer into a particular health benefit plan, a small employer carrier may apply such requirement, subject to the requirements of Section 41-4708, Idaho Code. (3-15-02)

07. No Requirement to Qualify for Other Insurance Product. A small employer carrier will not require, as a condition to the offer of sale of a health benefit plan to a small employer, that the small employer purchase or qualify for any other insurance product or service. (1-25-95)

08. Plans Subject to Requirements. Carriers offering group health benefit plans in this state are responsible for determining whether the plans are subject to the requirements of the Act and this chapter. *( )*

09. Annual Filing Requirement. A small employer carrier files annually the following information with the Director related to health benefit plans issued by the small employer carrier to small employers in this state on forms prescribed by the Director: (1-25-95)

a. The number of small employers that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (1-25-95)

b. The number of small employers that were covered under the *each mandated* health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). *( )*

c. The number of small employer health benefit plans in force in each county (or by five (5) digit zip code) of the state as of December 31 of the previous calendar year; (1-25-95)

d. The number of small employer health benefit plans that were voluntarily not renewed by small employers in the previous calendar year; (1-25-95)

e. The number of small employer health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (1-25-95)

f. The number of health benefit plans that were issued to residents that were uninsured for at least sixty-three (63) days prior to issue. (7-1-98)

10. Total Number of Residents. All carriers file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under reinsurance by way of excess loss or stop loss plans. (3-15-02)

11. Filing Date. The information described in Subsections 075.09 and 075.10 is filed no later than March 15, each year. *( )*

12. Specific Data. For purposes of this section, health benefit plan information includes policies or certificates of insurance for specific disease, hospital confinement indemnity and stop loss coverages. (1-25-95)

076. -- 080. (RESERVED)

081. LIMITATIONS AND EXCLUSIONS.

***01. Allowances**. A health benefit plan will not limit or exclude coverage by type of illness, accident, treatment, or medical condition, except as follows: ( )*

***a.** Any service not medically necessary or appropriate unless specifically included within the coverage provisions. ( )*

***b.** Custodial, convalescent or intermediate level care or rest cures. ( )*

***c.** Services that are experimental or investigational. ( )*

d. Services eligible for coverage by Workers' Compensation, Medicare or CHAMPUS. ( )

e. Services for which no charges are made or for which no charges would be made in the absence of insurance or for which the insured has no legal obligation to pay. ( )

f. Services for weight control, nutrition, and smoking cessation, including self-help and training programs as well as prescription drugs, used in conjunction with such programs and services. ( )

g. Cosmetic surgery and services, except for treatment or surgery for congenital anomaly and mastectomy reconstruction as described in the Women's Health and Cancer Rights Act. ( )

h. Artificial insemination, infertility treatment, and the treatment of sexual dysfunction not related to organic disease. ( )

i. Services for reversal of elective, surgically or pharmaceutically induced infertility. ( )

j. Vision therapy, tests, glasses, contact lenses and other vision aids. Radial keratotomy, myopic keratomileusis and any surgery involving corneal tissue to alter or correct myopia, hyperopia or stigmatic error. Vision tests and glasses will be covered for children under the age of twelve (12), except in catastrophic health benefit plans. ( )

k. For treatment of weak, strained, or flat feet, including orthopedic shoes or other supportive devices, or for cutting, removal, or treatment of corns, calluses, or nails other than corrective surgery, or for metabolic or peripheral vascular disease. ( )

l. One thousand dollars ($1,000) per year limit, subject to the policy deductible, coinsurance, or copayment, on manipulative therapy and related treatment, including heat treatments and ultrasound, of the musculoskeletal structure for other than fractures and dislocations of the extremities. ( )

m. Dental care or treatment, except for injury sustained while insured under this policy, or as a result of nondental disease covered by the policy. ( )

n. Hearing or speech tests without illness being suspect. ( )

o. Hearing aids, auditory osseointegrated (bone conduction) devices, cochlear implants and examination for or fitting of them, except for congenital or acquired hearing loss that without intervention may result in cognitive or speech development deficits of a covered dependent child, covering not less than one (1) device every thirty-six (36) months per ear with loss and not less than forty-five (45) language/speech therapy visits during the first twelve (12) months after delivery of the covered device. ( )

p. Private room accommodation charges in excess of the institution's most common semi-private room charge except when prescribed as medically necessary. ( )

q. Services performed by a member of the insured's family or of the insured's spouse's family. Family includes parents or grandparents of the insured or spouse and any descendants of such parents or grandparents. ( )

r. Care incurred before the effective date of the person's coverage. ( )

s. Immunizations and medical exams and tests of any kind not related to treatment of covered injury or disease, except as specifically stated in the policy. ( )

t. Injury or sickness caused by war or armed international conflict. ( )

u. Sex change operations and treatment in connection with transsexualism. ( )

v. Marriage and family and child counseling except as specifically allowed in the policy. ( )

w. Acupuncture. ( )

x. Private duty nursing except as specifically allowed in the policy. ( )

y. Services received from a medical or dental department maintained by or on behalf of an employer, a mutual benefit association, labor union, trust, or similar person or group. ( )

z. Services incurred after the date of termination of a covered person's coverage except as allowed by any extension of benefits provision of the policy. ( )

aa. Expenses for personal hygiene and convenience items such as air conditioners, humidifiers, and physical fitness equipment. ( )

bb. Charges for failure to keep a scheduled visit, charges for completion of any form, and charges for medical information. ( )

cc. Charges for screening examinations except as otherwise provided in the policy. ( )

dd. Charges for wigs or cranial prostheses, hair analysis, hair loss and baldness. ( )

ee. Pre-existing conditions, except as provided specifically in the policy. ( )

i. A health benefit plan will not deny, exclude or limit benefits for a covered individual for covered expenses incurred more than twelve (12) months following the effective date of the individual's coverage due to a pre-existing condition. ( )

ii. A health benefit plan waives any time period applicable to a pre-existing condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage that provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage. This provision does not preclude application of any waiting period applicable to all new enrollees under the health benefit plan. ( )

iii. A health benefit plan may exclude coverage for late enrollees for the greater of twelve (12) months or for a twelve (12) months pre-existing condition exclusion; provided that if both a period of exclusion from coverage and a pre-existing condition exclusion are applicable to a late enrollee, the combined period will not exceed twelve (12) months from the date the individual enrolls for coverage under the health benefit plan. ( )

082. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2, 52, and 55, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.13, "The Individual Health Insurance Availability Act." *( )*

02. Scope. The Act and this chapter are intended to promote broader spreading of risk in the individual marketplace. The Act and chapter are intended to regulate all health benefit plans sold to eligible individuals. Carriers that provide health benefit plans to eligible individuals are intended to be subject to all of the provisions of the Act and this chapter. (7-1-98)

002. INCORPORATION BY REFERENCE.
The Outline of Coverage for Individual Major Medical Expense Coverage is incorporated by reference into this chapter from the April 1999 version of the National Association of Insurance Commissioners Model Regulation to Implement the Accident and Sickness Insurance Minimum Standards Act. ( )

003. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (7-1-98)

01. Geographic Area. Geographic areas are limited to six (6) designated areas, with no area being smaller than a county. (7-1-98)

02. Risk Characteristic. Risk Characteristic means the health status, claims experience, duration of coverage, or any similar characteristic related to the health status or claims experience of an individual. Such characteristics can include family composition. (7-1-98)

03. Risk Load. Risk Load means the percentage above the applicable base premium rate that is charged by an individual carrier to the rates of the eligible individual, to reflect the risk characteristics of the eligible individual. (7-1-98)

04. Idaho Resident. Idaho resident means a person who is able to provide satisfactory proof of having resided in Idaho, as their place of domicile for a continuous six (6) month period, for purposes of being an eligible individual pursuant to Section 41-5203(10), Idaho Code. The six (6) month residency requirements would be waived for eligible individuals based on the Health Insurance Portability and Accountability Act of 1996. (3-15-02)

011. POLICY DEFINITIONS.
An insurance policy subject to this chapter will not apply definitions more restrictive than the following: ( )

***01. Accident**. "Accident," "accidental injury," and "accidental" is to employ "result" language and does not include words that establish an accidental means test or use words such as "external, violent, visible wounds" or similar words of description or characterization. ( )*

***a.** "Injury" or "injuries" means accidental bodily injury sustained by the insured person that is the direct cause of the condition for which benefits are provided, independent of disease or bodily infirmity or any other cause, and that occurs while the insurance is in force. ( )*

***b.** It may exclude injuries for which benefits are provided: ( )*

i. Under workers' compensation, employers' liability, or similar law; or ( )

ii. Under a motor vehicle no-fault plan, unless the motor vehicle no-fault plan provides for coordination of benefits; or ( )

iii. For injuries occurring while the insured person is engaged in any activity pertaining to a trade, business, employment or occupation for wage or profit. ( )

***02. Convalescent Nursing Home**. Includes "extended care facility," or "skilled nursing facility." Is to*

be defined in relation to its status, facility and available services. ( )

a. *Such home or facility is to: ( )*

i. Be operated pursuant to law; ( )

ii. Be approved for payment of Medicare benefits or be qualified to receive approval for payment of Medicare benefits, if so requested; ( )

iii. Be primarily engaged in providing, in addition to room and board accommodations, skilled nursing care under the supervision of a duly licensed physician; ( )

iv. Provide continuous twenty-four (24) hours per day nursing service by or under the supervision of a registered nurse; and ( )

v. Maintain a daily medical record of each patient. ( )

b. *Such home or facility definition may exclude: ( )*

i. A home, facility or part of a home or facility used primarily for rest; ( )

ii. A home or facility for the aged or for the care of drug addicts or alcoholics; or ( )

iii. A home or facility primarily used for the care and treatment of mental or nervous disorders, or for custodial or educational care. ( )

03. Home Health Care Agency*. An agency approved under Medicare, or that is licensed to provide home health care under applicable state law. ( )*

04. Hospice*. A facility licensed, certified or registered in accordance with state law that provides a formal program of care that is: ( )*

a. *For terminally ill patients whose life expectancy is less than six (6) months; ( )*

b. *Provided on an inpatient or outpatient basis; and ( )*

c. *Directed by a physician. ( )*

05. Hospital*. Is defined in relation to its status, facilities and available services or to reflect its accreditation by the Joint Commission on Accreditation of Healthcare Organizations, Accreditation of Rehabilitation Facilities or by Medicare. ( )*

a. *The term "hospital" may: ( )*

i. Be an institution licensed to operate as a hospital pursuant to law; ( )

ii. Be primarily and continuously engaged in providing or operating, either on its premises or in facilities available to the hospital on a prearranged basis and under the supervision of a staff of licensed physicians, medical, diagnostic and major surgical facilities for the medical care and treatment of sick or injured persons on an inpatient basis for which a charge is made; and ( )

iii. Provide twenty-four (24) hour nursing service by or under the supervision of registered nurses. ( )

b. *The term "hospital" may exclude, unless the facility otherwise meets the requirements: ( )*

i. Convalescent homes or, convalescent, rest, or nursing facilities; ( )

ii. Facilities affording primarily the care and treatment of mental or nervous disorders, or for custodial educational, or rehabilitative care; ( )

iii. Facilities for the aged, drug addicts, or alcoholics; or ( )

iv. A military or veterans' hospital, a soldiers' home or a hospital contracted for or operated by any national government or government agency for the treatment of members or ex-members of the armed forces, except for services rendered on an emergency basis where a legal liability for the patient exists for charges made to the individual for the services. ( )

***06. Mental or Nervous Disorders**. Neurosis, psychoneurosis, psychosis, or mental or emotional disease or disorder of any kind. ( )*

***07. Pre-existing Condition**. ( )*

***a.** A condition or disease that would have caused an ordinarily prudent person to seek medical advice, diagnosis, care or treatment during the six (6) months immediately preceding the effective date of coverage; ( )*

***b.** A condition or disease for which medical advice, diagnosis, care or treatment was recommended or received during the six (6) months immediately preceding the effective date of coverage; or ( )*

***c.** A pregnancy existing on the effective date of coverage. ( )*

***08. Sickness or Illness**. A sickness or disease of an insured person that first manifests itself after the effective date of insurance and while the insurance is in force. It may be further modified to exclude sickness or disease for which benefits are provided under a worker's compensation, occupational disease, employers' liability or similar law. ( )*

***09. Total Disability**. An individual not engaged in any employment or occupation for which the individual is or becomes qualified by reason of education, training or experience, and is not in fact engaged in any employment or occupation for wage or profit. ( )*

***a.** It may be defined in relation to the inability of the person to perform duties but will not be based solely upon an individual's inability to: ( )*

i. Perform "any occupation whatsoever," "any occupational duty," or "any and every duty of his occupation"; or ( )

ii. Engage in a training or rehabilitation program. ( )

***b.** An insurer may require the complete inability of the person to perform all of the substantial and material duties of his or her regular occupation or words of similar import. An insurer may require care by a provider other than the insured or a member of the insured's immediate family. ( )*

012. ASSESSMENTS.
The Board, prior to March 1st of each year, determines and files with the Director an estimate of the assessments needed to fund the losses incurred by the Idaho Small Employer and Individual Health Reinsurance Program. The March 1, 2001 assessment anticipated by Section 41-4711, Idaho Code, will consist of the amounts needed to cover the claims cost of the individual policies issued on or before June 30, 2000. This interim assessment is based on the assessment formula set forth in Section 41-4711(12)(c), Idaho Code. Initial or interim assessments paid, on behalf of the Idaho Individual High Risk Reinsurance Pool, will be credited to each carrier's account when the amounts needed to fund losses and pay program expenses are known. (3-15-02)

013. -- 027. (RESERVED)

028. TRANSITION FOR ASSUMPTIONS OF BUSINESS FROM ANOTHER CARRIER.

01. Conditions for Transfer or Assumption of Entire Insurance Obligation. An individual carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering an individual in this state unless: (7-1-98)

a. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the assuming carrier; (7-1-98)

b. The transaction received any necessary approval of the insurance supervisory official of the state of domicile of the ceding carrier; and, (7-1-98)

c. The transaction meets the *other* requirements of this Section. *( )*

02. Time Frame for Filing Plan to Assume or Cede Entire Insurance Obligation. A carrier domiciled in this state that proposes to assume or cede the entire insurance obligation and/or risk of one or more individual health benefit plans from another carrier makes a filing for approval with the Director at least sixty (60) days prior to the date of the proposed assumption. The Director may approve the transaction if the Director finds that the transaction is in the best interests of the individuals insured under the health benefit plans to be transferred and is consistent with the purposes of the Act and this chapter. The Director will not approve the transaction until at least thirty (30) days after the date of the filing; except that, if the ceding carrier is in hazardous financial condition, the Director may approve the transaction as soon as the Director deems reasonable. (7-1-98)

03. Filing Requirements. The filing for Subsection 028.02 will: (7-1-98)

a. Describe the health benefit plan (including any eligibility requirements) of the ceding carrier from which the health benefit plans will be ceded; (7-1-98)

b. Describe whether the assuming carrier will maintain the assumed health benefit plans (pursuant to Subsection 028.08) or will incorporate them into existing business (pursuant to Subsection 028.09). If the assumed health benefit plans will be incorporated into existing business, the filing will describe the business of the assuming carrier into which the health benefit plans will be incorporated; (7-1-98)

c. Describe whether the health benefit plans being assumed are currently available for purchase by eligible individuals; (7-1-98)

d. Describe the potential effect of the assumption, if any, on the benefits provided by the health benefit plans to be assumed; (7-1-98)

e. Describe the potential effect of the assumption, if any, on the premiums for the health benefit plans to be assumed; (7-1-98)

f. Describe any other potential material effects of the assumption on the coverage provided to the eligible individuals covered by the health benefit plans to be assumed; and (7-1-98)

g. Include any other information *prescribed* by the Director. *( )*

04. Informational Filings in *Other* States. An individual carrier *prescribed* to make a filing under Subsection 028.02 will also make an informational filing with the Insurance Supervisory Official of each state in which there are individual health benefit plans that would be included in the transaction. The informational filing to each state will be made concurrently with the filing made under Subsection 028.02 and will include at least the information specified in Subsection 028.03 for the individual health benefit plans in that state. *( )*

05. *Considerations* in the Transfer and Assumption of the Entire Insurance Obligation. An individual carrier will not transfer or assume the entire insurance obligation and/or risk of a health benefit plan covering an eligible individual in this state unless it complies with the following provisions: *( )*

a. The carrier has provided notice to the Director at least sixty (60) days prior to the date of the proposed assumption. The notice contains the information specified in Subsection 028.03 for the health benefit plans covering eligible individuals in this state. (7-1-98)

b. If the assumption of a health benefit plan would result in the assuming individual carrier being out of compliance with the limitations related to premium rates contained in Section 41-5206(1)(a), Idaho Code, the assuming carrier makes a filing with the Director pursuant to Section 41-5206(2), Idaho Code, seeking suspension of the application of Section 41-5206(1)(a), Idaho Code. (7-1-98)

c. An assuming carrier seeking suspension of the application of Section 41-5206(1)(a), Idaho Code, will not complete the assumption of health benefit plans covering eligible individuals in this state unless the Director grants the suspension requested pursuant to Paragraph 028.05.b. (7-1-98)

d. Unless a different period is approved by the Director, a suspension of the application of Section 41-5206(1)(a), Idaho Code, with respect to assumed one (1) or more health benefit plans, is for no more than fifteen (15) months and, with respect to each individual, lasts only until the anniversary date of such individual's coverage (except that the period with respect to an individual may be extended beyond such individual first anniversary date for a period of up to twelve (12) months if the anniversary date occurs within three (3) months of the date of assumption of the health benefit plan). (7-1-98)

06. Exceptions to Ceding or Assumption of Business. Except as provided in Subsection 028.02, an individual carrier will not cede or assume the entire insurance obligation or risk for an individual health benefit plan unless the transaction includes the ceding to the assuming carrier of all business within Idaho which includes such health benefit plan. (7-1-98)

07. Requirements for Ceding Less Than Entire Business. An Individual carrier may cede less than an entire health benefit plan to an assuming carrier if: (7-1-98)

a. One (1) or more eligible individuals in the health benefit plan have exercised their right under contract to reject, either directly or by implication, the ceding of their health benefit plans to another carrier. In that instance, the transaction includes each health benefit plan with the exception of those health benefit plans for which an eligible individual has rejected the proposed cession; or (7-1-98)

b. After a written request from the transferring carrier, the Director determines that the transfer of less than all health benefit plans is in the best interests of the eligible individuals insured. (7-1-98)

08. Separate Health Benefit Plans. Except as provided in Subsection 028.09, an individual carrier that assumes one (1) or more health benefit plans from another carrier may maintain such health benefit plans as a separate health benefit plan. (7-1-98)

09. Restrictions to Apply Eligibility Requirements by Assuming Carrier. An assuming carrier will not apply eligibility requirements, with respect to an assumed health benefit plan (or with respect to any health benefit plan subsequently offered to an eligible individual covered by such an assumed health benefit plan) that are more stringent than the requirements applicable to such health benefit plan prior to the assumption. (7-1-98)

10. Request for Extension of the Transition Period. The Director may approve a longer period of transition upon application of an individual carrier. The application is made within sixty (60) days *from assumption of* the health benefit plan and clearly states the justification for a longer transition period. *( )*

11. Additional Information. Nothing in this Section or in the Act is intended to: (7-1-98)

a. Reduce or diminish any legal or contractual obligation or requirement, including any obligation provided in Section 41-511, Idaho Code, of the ceding or assuming carrier related to the transaction; (7-1-98)

b. Authorize a carrier not admitted to transact the business of insurance in this state to offer or insure health benefit plans in this state; or (7-1-98)

c. Reduce or diminish the protections related to an assumption reinsurance transaction provided in Section 41-511, Idaho Code, or provided by law. (7-1-98)

029. -- 035. (RESERVED)

036. RESTRICTIONS RELATING TO PREMIUM RATES.
The following provisions are applicable for all individual health benefit plans. *( )*

01. Rate Manual. An individual carrier develops a rate manual for all individual business. Base premium rates and new business premium rates charged to eligible individuals by the individual carrier are computed solely from the applicable rate manual developed pursuant to this Section. To the extent that a portion of the premium rates charged by an individual carrier is based on the carrier's discretion, the manual specifies the criteria and factors considered by the carrier in exercising such discretion. (7-1-98)

02. Requirements for Adjustments to Rating Method. An individual carrier will not modify the rating method used in the rate manual for its individual business until the change has been approved as provided in this Section. The Director may approve a change to a rating method if the Director finds that the change is reasonable, actuarially appropriate, and consistent with the purposes of the Act and this chapter. (7-1-98)

03. Information for Review of Modification of Rating Method. A carrier may modify the rating method for its individual business only with prior approval of the Director. A carrier requesting to change the rating method for its individual business makes a filing with the Director at least thirty (30) days prior to the proposed date of the change. The filing contains at least the following information: *( )*

a. The reasons the change in rating method is being requested; (7-1-98)

b. A complete description of each of the proposed modifications to the rating method; (7-1-98)

c. A description of how the change in rating method would affect the premium rates currently charged to eligible individuals in the health benefit plan, including an estimate from a qualified actuary of the number of individuals (and a description of the types of individuals) whose premium rates may change by more than ten percent (10%) due to the proposed change in rating method (not generally including increases in premium rates applicable to all individuals in a health benefit plan); (7-1-98)

d. A certification from a qualified actuary that the new rating method would be based on objective and credible data and would be actuarially sound and appropriate; and (7-1-98)

e. A certification from a qualified actuary that the proposed change in rating method would not produce premium rates for eligible individuals that would be in violation of Section 41-5206, Idaho Code. (7-1-98)

04. Change in Rating Method. For the purpose of this Section a change in rating method means: (7-1-98)

a. A change in the number of case characteristics used by an individual carrier to determine premium rates for health benefit plans in its individual business (an individual carrier will not use case characteristics other than age, individual tobacco use, geography or gender without prior approval of the Director); (7-1-98)

b. A change in the method of allocating expenses among health benefit plans; or (7-1-98)

c. A change in a rating factor with respect to any case characteristic if the change would produce a change in premium for any individual that exceeds ten percent (10%). (7-1-98)

d. For the purpose of this Subsection, a change in a rating factor means the cumulative change with respect to such factor considered over a twelve (12) month period. If an individual carrier changes rating factors with respect to more than one case characteristic in a twelve (12) month period, the carrier considers the cumulative effect of all such changes in applying the ten percent (10%) test. (7-1-98)

05. Rate Manual to Specify Case Characteristics and Rate Factors. The rate manual developed pursuant to Subsection 036.01 specifies the case characteristics and rate factors to be applied by the individual carrier in establishing premium rates for the health benefit plans. (7-1-98)

06. *Prior Approval of* Case Characteristics. An individual carrier will not use case characteristics other than those specified in Section 41-5206(1)(f), Idaho Code, without the prior approval of the Director. An individual carrier seeking such an approval makes a filing with the Director for a change in rating method under Subsection 036.02. *( )*

07. *Uniform Application of* Case Characteristics. An individual carrier uses the same case characteristics in establishing premium rates for each health benefit plan and appl*ies* them in the same manner in establishing premium rates for each such health benefit plan. Case characteristics are applied without regard to the risk characteristics of an eligible individual. *( )*

08. Base Premium Rate*s* and Any Difference in New Business Rate. The rate manual developed pursuant to Subsection 036.01 clearly illustrates the relationship among the base premium rates charged for each health benefit plan. If the new business premium rate is different than the base premium rate for a health benefit plan, the rate manual illustrates the difference. (7-1-98)

09. Reasonable and Objective *Rate* Differences. Differences among base premium rates for health benefit plans are based solely on the reasonable and objective differences in the design and benefits of the health benefit plans and cannot be based in any way on the actual or expected health status or claims experience of the eligible individual or groups that choose or are expected to choose a particular health benefit plan. An individual carrier applies case characteristics and rate factors within its health benefit plans in a manner that assures that premium differences among health benefit plans for identical individuals vary only due to reasonable and objective differences in the design and benefits of the health benefit plans and are not due to the actual or expected health status or claims experience of the individuals that choose or are expected to choose a particular health benefit plan. *( )*

10. Two-Step Process. The rate manual developed pursuant to Subsection 036.01 provides for premium rates to be developed in a two (2) step process. In the first step, a base premium rate is developed for the eligible individual without regard to any risk characteristics. In the second step, the resulting base premium rate may be adjusted by a risk load, subject to the provisions of Section 41-5206, Idaho Code, to reflect the risk characteristics of the individual. *( )*

11. Exception to Application Fee, Underwriter Fee or Other Fees. Except as provided in Subsection 036.12, a premium charged to an individual for a health benefit plan will not include a separate application fee, underwriting fee, or any other separate fee or charge. (7-1-98)

12. Uniform Application of Fees. A carrier may charge a separate fee with respect to a health benefit plan provided the fee is applied in a uniform manner to all health benefit plans. All such fees are premium and are included in determining compliance with the Act and this chapter. (7-1-98)

13. Uniform Allocation of Administration Expenses. The rate manual developed pursuant to Subsection 036.01 describes the method of allocating administrative expenses to the health benefit plans for which the manual was developed. *( )*

14. Rate Manual to be Maintained for a Period of Six Years. Each rate manual developed pursuant to Subsection 036.01 is maintained by the carrier for a period of six (6) years. Updates and changes to the manual are maintained with the manual. (7-1-98)

15. Guidelines Issued by Director. The rate manual and rating practices of an individual carrier comply with any guidelines issued by the Director. *( )*

16. Application of Restrictions Related to Changes in Premium Rates. The restrictions related to changes in premium rates are set forth in Section 41-5206(1)(b), Idaho Code, and are applied as follows: (7-1-98)

a. An individual carrier revises its rate manual each rating period to reflect changes in base premium rates and changes in new business premium rates. (7-1-98)

b. If, for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate is less than or the same as the percentage change in the base premium rate, the change in the new business premium rate is the change in the base premium rate for the purposes of Sections 41-5206(1)(b)(i) and 41-5206(1)(d)(i), Idaho Code. *( )*

c. If for any health benefit plan with respect to any rating period, the percentage change in the new business premium rate exceeds the percentage change in the base premium rate, the health benefit plan is considered a health benefit plan into which the individual carrier is no longer enrolling new eligible individuals for the purposes of Section 41-5206(1)(b)(i), Idaho Code. (3-15-02)

d. If, for any rating period, the change in the new business premium rate for a health benefit plan differs from the change in the new business premium rate for any other health benefit plan by more than twenty percent (20%), the carrier makes a filing with the Director containing a complete explanation of how the respective changes in new business premium rates were established and the reason for the difference. The filing is made within thirty (30) days of the beginning of the rating period. (7-1-98)

e. An individual carrier keeps on file for a period of at least six (6) years the calculations used to determine the change in base premium rates and new business premium rates for each health benefit plan for each rating period. (7-1-98)

17. Change in Premium Rate. Except as provided in Subsection 036.18, a change in premium rate for an eligible individual produces a revised premium rate that is no more than the following: (4-5-00)

a. The base premium rate for the eligible individual, given its present composition, (as shown in the rate manual as revised for the rating period), multiplied by: (7-1-98)

b. One (1) plus the sum of: (7-1-98)

i. The risk load applicable to the eligible individual during the previous rating period; and (7-1-98)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (7-1-98)

18. Plans No Longer Enrolling New Business. In the case of a health benefit plan into which an Individual carrier is no longer enrolling new Individuals, a change in premium rate for an Individual *will* produce a revised premium rate that is no more than the base premium rate for the Individual (given its present composition and as shown in the rate manual in effect for the Individual at the beginning of the previous rating period), multiplied by Paragraphs 036.18.a. and 036.18.b.; *( )*

a. One (1) plus the lesser of: (7-1-98)

i. The change in the base rate; or (7-1-98)

ii. The percentage change in the new business premium for the most similar health benefit plan into which the Individual carrier is enrolling new Individuals. (7-1-98)

b. One (1) plus the sum of: (7-1-98)

i. The risk load applicable to the Individual during the previous rating period; and (7-1-98)

ii. Fifteen percent (15%) (prorated for periods of less than one (1) year). (7-1-98)

19. Limitations on Revised Premium Rate. Notwithstanding the provisions of Subsections 036.17 and 036.18, a change in premium rate for an Individual will not produce a revised premium rate that would exceed the limitations on rates provided in Section 41-5206, Idaho Code. (7-1-98)

037. -- 045. (RESERVED)

046. REQUIREMENT TO INSURE INDIVIDUALS.

01. Offer of Coverage. An individual carrier that offers coverage to an individual will offer to provide coverage to each eligible individual and to each eligible dependent of an eligible individual. (7-1-98)

02. Risk Characteristics. Individuals are accepted for coverage by the individual carrier without any restrictions or limitations on coverage related to the risk characteristics of the Individual or their dependents, except that a carrier may exclude or limit coverage for pre-existing medical conditions, consistent with the provisions provided in Section 41-5208(3), Idaho Code. (7-1-98)

03. Risk Load. An individual carrier may assess a risk load to the premium rate associated with a new entrant, consistent with the requirements of Section 41-5206, Idaho Code. The risk load is the same risk load charged to the Individual immediately prior to acceptance of the new entrant into the health benefit plan. (7-1-98)

04. Rescission. When material application misstatements are found, rescission action by the carrier may be taken at the carrier's option. When rescission action is taken, premiums are refunded less any claims which had been paid prior to the date the rescission was initiated. At the carrier's option, the carrier may seek to recover any amounts of claims paid in excess of premiums paid. The applicable contract or coverage is considered null and void. (7-1-98)

05. Coverage Rescinded for Fraud or Misrepresentation. Any individual whose coverage is subsequently rescinded for fraud or misrepresentation will not be an "eligible individual" for a period of twelve (12) months from the effective date of the termination of the individual coverage and cannot be deemed to have "qualifying previous coverage" under Title 41, Chapter 22, 47, 52, or 55, Idaho Code; provided such limitations are not in conflict with the Health Insurance Portability and Accountability Act of 1996. *( )*

06. Certification of Creditable Coverage. (3-15-02)

a. Individual carriers will provide written certification of creditable coverage to individuals in accordance with this Subsection. (3-15-02)

b. The certification of creditable coverage is provided: (3-15-02)

i. At the time an individual ceases to be covered under the health benefit plan or otherwise becomes covered under a COBRA continuation provision; (3-15-02)

ii. In the case of an individual who becomes covered under a COBRA continuation provision, at the time the individual ceases to be covered under that provision; and (3-15-02)

iii. Such certification is automatically provided by the individual carrier or at the time a request is made on behalf of an individual if the request is made not later than twenty-four (24) months after the date of cessation of coverage described in Paragraphs 046.06.b.i. and 046.06.b.ii., whichever is later. (3-15-02)

c. The certificate of creditable coverage contains: (3-15-02)

i. Written certification of the period of creditable coverage of the individual under the health benefit plan; and (3-15-02)

ii. The waiting period, if any, and if applicable, affiliation period imposed with respect to the individual for any coverage under the health benefit plan. (3-15-02)

047. -- 054. (RESERVED)

055. APPLICATION TO REENTER STATE.

01. Restrictions on Offering Individual Health Insurance. An individual carrier that has been *banned* from writing coverage for individuals in this state pursuant to Section 41-5207(2), Idaho Code, will not resume offering health benefit plans to individuals in this state until the carrier has made a petition to the Director to be reinstated as an individual carrier and the petition has been approved by the Director. In reviewing a petition, the Director may ask for such information and assurances as the Director finds reasonable and appropriate. *( )*

02. Geographic Service Areas. In the case of an individual carrier doing business in an established geographic service area of the state, if the individual carrier elects to non-renew a health benefit plan under Section 41-5207(3), Idaho Code, the individual carrier is *banned* from offering health benefit plans to individuals in that service area for a period of five (5) years. *( )*

056. -- 059. (RESERVED)

060. QUALIFYING PREVIOUS AND QUALIFYING EXISTING COVERAGES.

01. Previous Coverage or Existing Coverage. In determining whether a health benefit plan or other health benefit arrangement (whether public or private) is considered qualifying previous coverage or qualifying existing coverage for the purposes of Sections 41-5203(20), and 41-5208(3), Idaho Code, an individual carrier interprets the Act no less favorably to an insured individual than the following: (3-15-02)

a. An individual carrier ascertains the source of previous or existing coverage of each eligible individual and each dependent of an eligible individual at the time such individual or dependent initially enrolls into the health benefit plan provided by the individual carrier. (3-15-02)

061. -- 066. (RESERVED)

067. RESTRICTIVE RIDERS.
Except as permitted in Section 41-5208(3), Idaho Code, an individual carrier will not modify or restrict any health benefit plan with respect to any eligible individual or dependent of an eligible individual, through riders, endorsements or otherwise, for the purpose of restricting or excluding the coverage or benefits provided to such individual or dependent for specific diseases, medical conditions or services otherwise covered by the plan.(3-15-02)

068. -- 074. (RESERVED)

075. RULES RELATED TO FAIR MARKETING.

01. Individual Carrier *to* Actively Market. An individual carrier actively markets each of its health benefit plans to individuals in this state. *( )*

02. **Offer**. An individual carrier offers *all* health benefit plans to any individual that applies for or makes an inquiry regarding health insurance coverage from the individual carrier. *The offer may be provided directly to the individual or delivered through a producer.* The offer is in writing and includes at least the following information: *( )*

a. A general description of the benefits contained in the *all actively marketed* health benefit plans; and *( )*

b. Information describing how the individual may enroll in the plans. (7-1-98)

04. Timeliness of Price Quote. An individual carrier provides a price quote to an individual (directly or through an authorized producer) within fifteen (15) working days of receiving a request for a quote and such information as is necessary to provide the quote. An individual carrier notifies an individual (directly or through an authorized producer) within ten (10) working days of receiving a request for a price quote of any additional information needed by the individual carrier to provide the quote. (7-1-98)

05. Restrictions as to Application Process. An individual carrier will not apply more stringent or

detailed requirements related to the application process for the *mandated* health benefit plans than are applied for other health benefit plans offered by the carrier. *( )*

06. Denial of Coverage. If an individual carrier denies coverage under a health benefit plan to an individual on the basis of a risk characteristic, the denial is in writing and maintained in the individual carrier's office. This written denial states with specificity the risk characteristic(s) of the individual that made it ineligible for the health benefit plan it requested (for example, health status). The denial is accompanied by a written explanation of the availability of *any mandated* health benefit plans from the individual carrier. The explanation includes at least the following: *( )*

a. A general description of the benefits contained in each such plan; (7-1-98)

b. A price quote for each such plan; and (7-1-98)

c. Information describing how the individual may enroll in such plans. (7-1-98)

d. The written information described in this paragraph may be provided within the time periods provided in Subsection 075.04 directly to the individual or delivered through an authorized producer. (7-1-98)

07. Premium Rate Charged. The price quote *prescribed* under Paragraph 075.06.b. is for the lowest premium rate charged under the rating system for a health benefit plan for which the individual is eligible. *( )*

08. Toll-Free Telephone Service. An individual carrier establishes and maintains a toll-free telephone service to provide information to individuals regarding the availability of individual health benefit plans in this state. The service provides information to callers on how to apply for coverage from the carrier. The information may include the names and phone numbers of producers located geographically proximate to the caller or such other information reasonably designed to assist the caller to locate an authorized producer or to apply for coverage. (7-1-98)

09. No Requirement to Qualify for Other Insurance Product. An individual carrier will not require, as a condition to the offer of sale of a health benefit plan to an individual, that the individual purchase or qualify for any other insurance product or service. (7-1-98)

10. Plans Subject to Requirements. Carriers offering individual health benefit plans in this state are responsible for determining whether the plans are subject to the requirements of the Act and this chapter. *( )*

11. Annual Filing Requirement. An individual carrier files annually the following information with the Director related to health benefit plans issued by the individual carrier to individuals in this state on forms prescribed by the Director: (7-1-98)

a. The number of individuals that were covered under health benefit plans in the previous calendar year (separated as to newly issued plans and renewals); (7-1-98)

b. The number of individuals that were covered under *each mandated* health benefit plan in the previous calendar year (separated as to newly issued plans and renewals). *( )*

c. The number of individual health benefit plans in force in each county (or by five (5) digit zip code) of the state as of December 31 of the previous calendar year; (7-1-98)

d. The number of individual health benefit plans that were voluntarily not renewed by Individuals in the previous calendar year; (7-1-98)

e. The number of individual health benefit plans that were terminated or non renewed (for reasons other than nonpayment of premium) by the carrier in the previous calendar year; and (7-1-98)

f. The number of health benefit plans that were issued to residents that were uninsured for at least the sixty-three (63) days prior to issue. (7-1-98)

12. Total Number of Residents. All carriers file annually with the Director, on forms prescribed by the Director, the total number of residents, including spouses and dependents, covered during the previous calendar year under all health benefit plans issued in this state. This includes residents covered under reinsurance by way of excess loss and stop loss plans. (3-15-02)

13. Filing Date. The information described in Subsections 075.11 and 075.12 is filed no later than March 15, each year. (7-1-98)

14. Specific Data. For purposes of this section, health benefit plan information includes policies or certificates of insurance for specific disease, hospital confinement indemnity, reinsurance by way of excess loss, and stop loss coverages. (3-15-02)

076. -- 080. (RESERVED)

081. BANNED POLICY PROVISIONS.

***01. Probationary or Waiting Period**. Except as provided in Subsection 081.02 for a pre-existing condition, a policy cannot contain provisions establishing a probationary or waiting period during which no coverage is provided under the policy. ( )*

***02. Pre-existing Conditions**. A policy will not deny, exclude or limit benefits for covered expenses incurred more than twelve (12) months following the effective date of the coverage due to a pre-existing condition. ( )*

***a.** A policy waives any time period applicable to a pre-existing condition exclusion or limitation period with respect to particular services for the period of time an individual was previously covered by qualifying previous coverage to the extent such previous coverage provided benefits with respect to such services, provided that the qualifying previous coverage was continuous to a date not more than sixty-three (63) days prior to the effective date of the new coverage. ( )*

***b.** A carrier will not modify a policy with respect to an individual or dependent through riders, endorsements, or otherwise, to restrict or exclude coverage for specifically named pre-existing conditions otherwise covered by the policy. ( )*

***03. Exclusions**. A policy cannot limit or exclude coverage by type of illness, accident, treatment or medical condition, except that a policy may include one or more of the following limitations or exclusions: ( )*

***a.** Pre-existing conditions, except for congenital anomalies of a covered dependent child; ( )*

***b.** Mental or nervous disorders, alcoholism and drug addiction; ( )*

***c.** Pregnancy, except for complications of pregnancy; ( )*

***d.** Illness, treatment or medical condition arising out of: ( )*

i. War or act of war (whether declared or undeclared); participation in a felony, riot or insurrections; service in the armed forces or units auxiliary to it; ( )

ii. Suicide (sane or insane), attempted suicide or intentionally self-inflicted injury; and ( )

iii. Professional aviation for wage or profit; ( )

***e.** Cosmetic surgery, except that "cosmetic surgery" cannot include reconstructive surgery when the service is incidental to or follows surgery resulting from trauma, infection or other diseases of the involved part; reconstructive surgery because of congenital disease or anomaly of a covered dependent child; or involuntary complications related to a cosmetic procedure; ( )*

f. Foot care in connection with corns, calluses, flat feet, fallen arches, weak feet, chronic foot strain or symptomatic complaints of the feet; ( )

g. Care in connection with the detection and correction by manual or mechanical means of structural imbalance, distortion, or subluxation in the human body for purposes of removing nerve interference and the effects of it, where the interference is the result of or related to distortion, misalignment or subluxation of, or in the vertebral column; ( )

h. Benefits in excess of Medicare eligible expense, if enrolled in Medicare or other governmental program (except Medicaid), or benefits provided under a state or federal worker's compensation law, employers liability or occupational disease law, or motor vehicle no-fault law unless the motor vehicle no-fault plan provides for coordination of benefits; services performed by a member of the covered person's immediate family; and services for which no charge is normally made in the absence of insurance; ( )

i. Dental care or treatment; ( )

j. Eye glasses and the examination for the prescription or fitting of them; ( )

k. Rest cures, custodial care, transportation, and routine physical examinations; ( )

l. Territorial limitations; ( )

m. Hearing aids, auditory osseointegrated (bone conduction) devices, cochlear implants and examination for or fitting of them, except for congenital or acquired hearing loss that without intervention may result in cognitive or speech development deficits of a covered dependent child, covering not less than one (1) device every thirty-six (36) months per ear with loss and not less than forty-five (45) language/speech therapy visits during the first twelve (12) months after delivery of the covered device; ( )

n. Missed or cancelled appointments; completion of claim forms or records copying; failure to vacate a room on or before the facility's established discharge hour; educational and training services except as provided by the policy; over the counter medical supplies, consumable or disposable supplies, including but not limited to elastic stockings, ace bandages, gauze, alcohol swabs or dressings; ( )

o. Treatment, services or supplies not prescribed by or upon the direction of a licensed provider, acting within the scope of his or her license; ( )

p. Services rendered prior to the effective date of coverage or after termination of coverage, except as provided by an extension of benefits provision; and ( )

q. The reversal of an elective sterilization procedure, including but not limited to vasovasostomy or salpingoplasty. ( )

082. GENERAL MINIMUM STANDARDS.

An insurance policy subject to this chapter cannot be offered, delivered or issued for delivery, continued or renewed in this state unless it meets the following minimum standards. ( )

*01. **Outline of Coverage**. An insurer will deliver an outline of coverage to an applicant or enrollee with the sale, which complies with the model outline of coverage established by the National Association of Insurance Commissioners ("NAIC"), incorporated herein in Section 002. ( )*

a. If an outline of coverage was delivered at the time of application or enrollment and the policy is issued on a basis which would require revision of the outline, a substitute outline of coverage properly describing the policy will accompany the policy when it is delivered and contain the following statement in no less than twelve (12) point type, immediately above the company name: "NOTICE: Read this outline of coverage carefully. It is not identical to the outline of coverage provided upon (application) (enrollment), and the coverage originally applied for has not been issued." ( )

b. *In any case where the prescribed outline of coverage is inappropriate for the coverage provided by the policy, an alternate outline of coverage is to be submitted to the Director for prior written approval. ( )*

02. Coverage of Dependents*. A policy will consider as an eligible dependent a child who is chiefly dependent on the insured for support and maintenance and who is incapable of self-sustaining employment due to intellectual disability or physical disability on the date that the child's coverage would otherwise terminate under the policy due to the attainment of a specified age for children. The policy may require that within thirty-one (31) days of such date the company receives due proof of the incapacity in order for the insured to elect to continue the policy in force with respect to the child, or that a separate converted policy be issued at the option of the insured or policyholder. ( )*

03. Limitation on Termination of Coverage of Dependent*. A policy cannot provide for termination of coverage of a covered dependent solely because of the occurrence of an event specified for termination of coverage of the insured, other than nonpayment of premium. In addition, the policy will provide that in the event of the insured's death, the spouse or dependent of the insured, if covered under the policy, will become the insured. ( )*

04. Continuous Loss Extension*. Termination of the policy will be without prejudice to a continuous loss that commenced while the policy was in force. Such extension of benefits beyond the period during which the policy was in force may be conditioned upon the continuous total disability of the insured, limited to the duration of the policy benefit period, if any, or payment of the maximum benefits. ( )*

05. Pregnancy Benefit Extension*. In the event the insurer cancels or refuses to renew, policies providing pregnancy benefits will provide for an extension of benefits as to pregnancy commencing while the policy is in force and for which benefits would have been payable had the policy remained in force. ( )*

06. Expenses of Live Donor*. A policy providing coverage for the recipient in a transplant operation also provides reimbursement of any medical expenses of a live donor to the extent that benefits remain and are available under the recipient's policy or certificate, after benefits for the recipient's own expenses have been paid. ( )*

07. Fractures or Dislocations*. A policy providing coverage for fractures or dislocations will not provide benefits only for "full or complete" fractures or dislocations. ( )*

08. Coinsurance*. Except for out-of-network benefits offered as part of a managed care plan, a coinsurance percentage will not exceed fifty percent (50%) of covered charges. A coinsurance percentage for out-of-network benefits offered as part of a managed care plan will not exceed sixty percent (60%) of covered charges. ( )*

083. -- 100. (RESERVED)

101. DISCLOSURE PROVISIONS.

01. Requisite Provisions. *Each policy will include a renewal, continuation or nonrenewal provision. The language or specification of the provision will be consistent with the type of contract to be issued. The provision will be appropriately captioned, will appear on the first page of the policy, and will clearly state the duration, where limited, of renewability and the duration of the term of coverage for which the policy is issued and for which it may be renewed. ( )*

02. Added Riders or Endorsements*. Riders or endorsements added to a policy after date of issue or at reinstatement or renewal that reduce or eliminate benefits or coverage in the policy require signed acceptance by the policyholder. After date of policy issue, any rider or endorsement that increases benefits or coverage with a concomitant increase in premium during the policy term will be agreed to in writing and signed by the policyholder, except if the increased benefits or coverage is prescribed by law. ( )*

03. Separate Additional Premium*. Where a separate additional premium is charged for benefits provided in connection with riders or endorsements, the premium charge is set forth in the policy. ( )*

*04. **Requisite Definition of Terms**. A policy that provides for the payment of benefits based on standards described as "usual and customary," "reasonable and customary," or words of similar import will include a definition of the terms and an explanation of the terms in its accompanying outline of coverage. ( )*

*05. **Pre-existing Conditions Limitations**. If a policy contains any limitations with respect to pre-existing conditions, the limitations will appear as a separate paragraph of the policy and be labeled as "Pre-existing Condition Limitations." ( )*

*06. **Requisite Notice**. All policies will have a notice prominently printed on the first page of the policy stating in substance that the policyholder has the right to return the policy within ten (10) days of its delivery and have the premium refunded if, after examination of the policy, the policyholder holder is not satisfied for any reason. ( )*

102. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2, 21, 22 and 34, Idaho Code. (7-1-98)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.04.14, "Coordination of Benefits." (7-1-98)

02. Scope. *This chapter applies to all plans, as defined. It allows* plans to include a coordination of benefits (COB) provision unless *banned* by federal law; establish a uniform order of benefit determination under which plans pay claims; provide authority for the orderly transfer of necessary information and funds between plans; reduce duplication of benefits by permitting a reduction of the benefits to be paid by plans that, pursuant to these rules, do not pay their benefits first; reduce claims payment delays; and require that COB provisions be consistent with this rule; and provide greater efficiency in the processing of claims when a person is covered under more than one (1) plan. *( )*

002. INCORPORATION BY REFERENCE.
This rule incorporates by reference the full text of the National Association of Insurance Commissioners *(NAIC)* Model Coordination of Benefits Contract Provisions *(Appendix A)* and the *NAIC* Consumer Explanatory Booklet *(Appendix B)*, published as part of the *NAIC* 2013 *Coordination of Benefits* model *regulation* and available on the Idaho Department of Insurance website. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this *chapter*, these words and terms have the following meanings, unless the context clearly indicates otherwise: *( )*

01. Allowable Expense. *A*ny health care expense including coinsurance or copayments, and without reduction for any applicable deductible that is covered in full or in part by any of the plans covering the person. If a plan is advised by a covered person that all plans covering the person are high-deductible health plans and the person intends to contribute to a health savings account established in accordance with Section 223 of the Internal Revenue Code of 1986, the primary high-deductible health plan's deductible is not an allowable expense, except for any health care expense incurred that will not be subject to the deductible as described in Section 223 (c) (2) (C) of the Internal Revenue Code of 1986. An expense that a provider by law or in accordance with contractual agreement is *banned* from charging a covered person is not an allowable expense. An expense or a portion of an expense that is not covered by any of the plans is not an allowable expense. *( )*

a. The following are examples of expenses or services that are not an allowable expense: (3-30-07)

i. If a covered person is confined in a private hospital room, the difference between the cost of a semi-private room in the hospital and the private room (unless the patient's stay in the private hospital room is medically necessary in terms of generally accepted medical practice, or one of the plans provides coverage for private hospital rooms) is not an allowable expense. (3-30-07)

ii. If a person is covered by two (2) or more plans that compute their benefit payments on the basis of usual and customary fees, or relative value schedule reimbursement or other similar reimbursement methodology, any amount charged by the provider in excess of the highest reimbursement amount for a specified benefit is not an allowable expense. (3-30-07)

iii. If a person is covered by two (2) or more plans that provide benefits or services on the basis of negotiated fees, any amount in excess of the highest of the negotiated fees is not an allowable expense. (7-1-98)

iv. If a person is covered by one plan that calculates its benefits or services on the basis of usual and customary fees or relative value schedule reimbursement or other similar reimbursement methodology and another plan that provides its benefits or services on the basis of negotiated fees, the primary plan's payment arrangement is the allowable expense for all plans. However, if the provider has contracted with the secondary plan to provide the benefit or service for a specific negotiated fee or payment amount that is different than the primary plan's payment arrangement and if the provider's contract permits, that negotiated fee or payment is the allowable expense used by the secondary plan to determine its benefits. (3-30-07)

b. The definition of the "allowable expense" may exclude certain types of coverage or benefits such as dental care, vision care, prescription drug or hearing aids. A plan that limits the application of COB to certain coverages or benefits may limit the definition of Allowable Expenses in its contract to expenses that are similar to the expenses that it provides. When COB is restricted to specific coverages or benefits in a contract the definition of "Allowable Expense" includes similar expenses to which COB applies. (3-30-07)

c. When a plan provides benefits in the form of service, the reasonable cash value of each service will be considered as an allowable expense and a benefit paid. (7-1-98)

d. The amount of the reduction may be excluded from allowable expense when a covered person's benefits are reduced under a primary plan: (7-1-98)

i. Because the covered person does not comply with the plan provisions concerning second surgical opinions or precertification of admissions or services: or (3-30-07)

ii. Because the covered person has a lower benefit because the covered person did not use a preferred provider. (3-30-07)

02. Birthday. *R*efers only to month and day in a calendar year and does not include the year in which the individual is born. *( )*

03. Claim. *A* request that benefits of a plan be provided or paid. The benefits claimed may be in the form of: *( )*

a. Services (including supplies); (7-1-98)

b. Payment for all or a portion of the expenses incurred; (7-1-98)

c. A combination of Paragraphs 010.03.a. and 010.03.b. of this chapter; or (3-30-07)

d. An indemnification. (7-1-98)

04. Closed Panel Plan. *A* plan that provides health benefits to covered persons primarily in the form of services through a panel of providers that have contracted with or are employed by the plan, and that excludes benefits for services provided by other providers, except in cases of emergency or referral by a panel member. *( )*

05. Consolidated Omnibus Budget Reconciliation Act of 1985 *or "COBRA"*. *C*overage provided under a right of continuation pursuant to federal law. *( )*

06. Coordination of Benefits *(COB)*. *A* provision establishing an order in which plans pay their claims, and permitting secondary plans to reduce their benefits so that the combined benefits of all plans do not exceed total allowable expenses. *( )*

07. Custodial Parent. *T*he parent awarded custody by a court decree. In the absence of a court decree, the parent with whom the child resides more than one half of the calendar year without regard to any temporary visitation. *( )*

08. Group-Type Contract. *A* contract that is not available to the general public and is obtained and maintained only because of membership in or a connection with a particular organization or group, including blanket coverage. Group-type contract does not include an individually underwritten and issued guaranteed renewable policy even if the policy is purchased through payroll deduction at a premium savings to the insured since the insured would have the right to maintain or renew the policy independently of continued employment with the employer. (3-30-07)

09. High-Deductible Health Plan. *Has t*he meaning given the term under Section 223 of the Internal Revenue Code of 1986, as amended by the Medicare Prescription Drug, Improvement and Modernization Act of 2003. *( )*

10. Hospital Indemnity Benefits. *T*he benefits not related to expenses incurred. The term does not include reimbursement-type benefits even if they are designed or administered to give the insured the right to elect indemnity-type benefits at the time of claim. *( )*

11. Plan. *A* form of coverage with which coordination is allowed. Separate parts of a plan for members of a group that are provided through alternative contracts that are intended to be part of a coordinated package of benefits are considered one plan and there is no COB among the separate parts of the plan. If a plan coordinates benefits, its contract states the types of coverage that will be considered in applying the COB provision of that contract. Whether the contract uses the term "plan," or some other term such as "program," the contractual definition may be no broader than *this* definition. The definition of "plan" in *the incorporated Appendix A* is an example.*( )*

a. Plan includes: (3-30-07)

i. Group and nongroup insurance contracts and subscriber contracts; (3-30-07)

ii. Uninsured group or group-type coverage arrangements; (3-30-07)

iii. Group and nongroup coverage through closed panel plans; (3-30-07)

iv. Group-type contracts; (3-30-07)

v. The medical care components of long-term care contracts, such as skilled nursing care; (3-30-07)

vi. Medicare or other governmental benefits, except as provided in Subparagraph 010.11.b.ix. of this chapter. That part of the definition of plan may be limited to the hospital, medical and surgical benefits of the governmental program. (3-30-07)

vii. The medical benefits coverage in automobile "no fault" and traditional automobile "fault" type contracts. No plan is *prescribed* to coordinate benefits provided that it pays benefits as a primary plan. If a plan coordinates benefits, it will do so in compliance with the provisions of this chapter. *( )*

viii. Group and nongroup insurance contracts and subscriber contracts that pay or reimburse for the cost of dental or vision care. *( )*

b. Plan *does* not include: *( )*

i. Hospital indemnity coverage or other fixed indemnity coverage; (3-30-07)

ii. School accident-type coverages, such as contracts that cover students for accidents only, including athletic injuries, either on a twenty-four (24) hour basis or on a "to and from school" basis; (3-30-07)

iii. Specified disease or specified accident coverage; (3-30-07)

iv. Accident only coverage; (3-30-07)

v. Benefits provided in long-term care insurance policies for non-medical service; for example, personal care, adult daycare, homemaker services, assistance with activities of daily living, respite care, and custodial care or for contracts that pay a fixed daily benefit without regard to expenses incurred or the receipt of services; (3-30-07)

vi. Limited benefit health coverage as defined in IDAPA 18.04.08, "Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule." *( )*

vii. Medicare supplement policies; (3-30-07)

viii. A state plan under Medicaid; or (3-30-07)

ix. A governmental plan which, by law, provides benefits that are in excess of those of any private insurance plan or other nongovernmental plan. (7-1-98)

12. Policyholder. *T*he primary insured named in a non-group insurance policy. *( )*

13. Primary Plan. *A* plan whose benefits for a person's health care coverage *needs to* be determined without taking the existence of any other plan into consideration. A plan is a primary plan if; *( )*

a. The plan either has no order of benefit determination rules, or its rules differ from those permitted by this rule; or (3-30-07)

b. All plans that cover the person use the order of benefit determination *prescribed* by this rule, and under those rules the plan determines its benefits first. *( )*

14. Secondary Plan. *A* plan that is not a primary plan. *( )*

011. -- 020. (RESERVED)

021. *USE OF MODEL* COB CONTRACT PROVISION.

01. Coordination of Benefits. The *incorporated by reference Appendix A* contains a model COB provision for use in contracts. The use of this model COB provision is subject to the provisions of Subsections 021.02 through 021.04 and the provisions of Section 022. *( )*

02. Coordination of Benefits Attachment. The *incorporated by reference Appendix B* is a plain language description of the COB process that explains to the covered person how health plans will implement coordination of benefits. It is not intended to replace or change the provisions that are set forth in the contract. Its purpose is to explain the process by which two (2) or more plans will pay for or provide benefits. *( )*

03. Application of Requirements. The COB provision contained in the *incorporated by reference Appendix A* and the plain language explanation in the *incorporated by reference Appendix B* do not have to use the specific words and format *as* shown. Changes may be made to fit the language and style of the rest of the contract or to reflect differences among plans that provide services, that pay benefits for expenses incurred and that indemnify. No substantive changes are permitted. *( )*

04. Limits on COB Provisions. A COB provision will not be used that permits a plan to reduce benefits on the basis that: (7-1-98)

a. Another plan exists and the covered person did not enroll in that plan; (7-1-98)

b. A person is or could have been covered under another plan, except with respect to Part B of Medicare; or (7-1-98)

c. A person has elected an option under another plan providing a lower level of benefits than another option that could have been elected. (7-1-98)

05. "Always Excess" or "Always Secondary." No plan may contain a provision that its benefits are "always excess" or "always secondary" except in accordance with this rule. (3-30-07)

06. Closed Panel Provider. Under the terms of a closed panel plan, benefits are not payable if the covered person does not use the services of a closed panel provider. In most instances, COB does not occur if a covered person is enrolled in two (2) or more closed panel plans and obtains services from a provider in one of the closed panel plans because the other closed panel plan (the one whose providers were not used) has no liability. However, COB may occur during the plan year when the covered person receives emergency services that would have been covered by both plans; the secondary plan will use the provisions of Section 023 of this chapter to determine the amount it should pay for the benefit. (3-30-07)

07. Plan Requirements. No plan may use a COB provision, or any other provision that allows it to reduce its benefits with respect to any other coverage its insured may have that does not meet the definition of plan under Subsection 010.11 of this rule. (3-30-07)

022. RULES FOR COORDINATION OF BENEFITS.

01. Order of Benefit Payments. When a person is covered by two (2) or more plans, the rules for determining the order of benefit payments are as follows: (7-1-98)

a. The primary plan pays or provides its benefits as if the secondary plan or plans did not exist. (3-30-07)

b. If the primary plan is a closed panel plan and the secondary plan is not a closed panel plan, the secondary plan pays or provides benefits as if it were the primary plan when a covered person uses a non-panel provider, except for emergency services or authorized referrals that are paid or provided by the primary plan. (3-30-07)

c. When multiple contracts providing coordinated coverage are treated as a single plan under this rule, Section 022 of this chapter applies only to the plan as a whole, and coordination among the component contracts is governed by the terms of the contracts. If more than one (1) carrier pays or provides benefits under the plan, the carrier designated as primary within the plan is responsible for the plan's compliance with this rule. (3-30-07)

d. If a person is covered by more than one (1) secondary plan, the order of benefit determination requirements of this rule decide the order in which secondary plan benefits are determined in relation to each other. Each secondary plan takes into consideration the benefits of the primary plan or plans and the benefits of any other plan, which, under the requirements of this rule, has its benefits determined before those of that secondary plan. (3-30-07)

02. Consistent Order of Benefit Provisions. Except as provided in Paragraph 022.02.a. of this chapter, a plan that does not contain order of benefit determination provisions that are consistent with this rule is always the primary plan unless the provisions of both plans, regardless of the provisions of Subsection 022.02 of this chapter, state that the complying plan is primary. (3-30-07)

a. Coverage that is obtained by virtue of membership in a group and designed to supplement a part of a basic package of benefits may provide that the supplementary coverage is excess to any other parts of the plan provided by the contract holder. Examples of these types of situations are major medical coverages that are superimposed over base plan hospital and surgical benefits, and insurance type coverages that are written in connection with a closed panel plan to provide out-of-network benefits. (7-1-98)

b. A plan may take into consideration the benefits paid or provided by another plan only when, under the requirements of this rule, it is secondary to that other plan. (3-30-07)

03. Order of Benefit Determination. Each plan determines its order of benefits using the first of the following rules that applies. (3-30-07)

a. The plan that covers the person other than as a dependent, for example, as an employee, member, subscriber, policyholder or retiree, is the primary plan and the plan that covers the person as a dependent is the secondary plan. However, if the person is a Medicare beneficiary and, as a result of the provisions of Title XVIII of the Social Security Act and implementing rules, Medicare is: ( )

i. Secondary to the plan covering the person as a dependent; and (7-1-98)

ii. Primary to the plan covering the person as other than a dependent (e.g. a retired employee), then the order of benefits is reversed so that the plan covering the person as an employee, member, subscriber, policyholder or retiree, is the secondary plan and the other plan covering the person as a dependent is the primary plan. (3-30-07)

b. Unless there is a court decree stating otherwise, plans covering a dependent child determine the order of benefits as follows: ( )

i. For a dependent child whose parents are married or are living together, whether or not they have ever been married: (3-30-07)

(1) The plan of the parent whose birthday falls earlier in the calendar year is primary plan; or(3-30-07)

(2) If both parents have the same birthday, the plan that has covered the parent longest is the primary plan. (3-30-07)

ii. For a dependent child whose parents are divorced or separated or are not living together, whether or not they have ever been married: (3-30-07)

(1) If a court decree states that one of the parents is responsible for the dependent child's health care expenses or health care coverage and the plan of that parent has actual knowledge of those terms, that plan is primary. If the parent with responsibility has no health care coverage for the dependent child's health care expenses, but that parent's spouse does, that parent's spouse's plan is the primary plan. This does not apply with respect to any plan year during which benefits are paid or provided before the entity has actual knowledge of the court decree provisions; (3-30-07)

(2) If a court decree states that both parents are responsible for the dependent child's health care expenses or health care coverage, the provisions of Subparagraph 022.03.b.i. of this chapter determine the order of benefits; (3-30-07)

(3) If a court decree states that the parents have joint custody without specifying that one (1) parent has responsibility for the health care expenses or health care coverage of the dependent child, the provisions of Subparagraph 022.03.b.i. of this chapter determine the order of benefits; or (3-30-07)

(4) If there is no court decree allocating responsibility for the child's health care expenses or health care coverage, the order of benefits for the child are as follows: (3-30-07)

(a) The plan covering the custodial parent; (3-30-07)

(b) The plan covering the custodial parent's spouse; (3-30-07)

(c) The plan covering the noncustodial parent; and then (3-30-07)

(d) The plan covering the noncustodial parent's spouse. (3-30-07)

(5) For a dependent child covered under more than one plan of individuals who are not the parents of the child, the order of benefits is determined, as applicable under Subparagraph 022.03.b.i. or 022.03.b.ii. of this chapter as if those individuals were parents of the child. (3-30-07)

(6) For a dependent child who has coverage under either or both parents' plans and also has their own coverage as a dependent under a spouse's plan, the provisions of Paragraph 022.02.e. apply. In the event the dependent child's coverage under the spouse's plan began on the same date as the dependent child's coverage under either or both parents' plans, the order of benefits is determined by applying the birthday rule in Subparagraph 022.02.b.i. to the dependent child's parent(s) and the dependent's spouse. ( )

c. The plan that covers a person as an active employee; that is, an employee who is neither laid-off nor retired or as a dependent of an active employee is the primary plan. The plan covering that same person as a retired or laid-off employee or as a dependent of a retired or laid-off employee is the secondary plan. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. Coverage provided an individual as a retired worker and as a dependent of that individual's spouse as an active worker will be determined under Paragraph 022.03.a. of this chapter. ( )

d. If a person whose coverage is provided pursuant to COBRA or under a right of continuation pursuant to federal or state law is covered under another plan, the plan covering the person as an employee, member, subscriber or retiree or covering the person as a dependent of an employee, member, subscriber or retiree is the primary plan and the plan covering that same person pursuant to COBRA or under a right of continuation pursuant to state or other federal law is the secondary plan. If the other plan does not have this rule and if, as a result, the plans do not agree on the order of benefits, this rule is ignored. This provision does not apply if the rule in Paragraph 022.03.a. of this chapter can determine the order of benefits. ( )

e. If the preceding rules do not determine the order of benefits, the plan that covered the person for the longer period of time is the primary plan and the plan that covered the person for a shorter period of time is the secondary plan. ( )

i. To determine the length of time a person has been covered under a plan, two (2) successive plans are treated as one (1) if the covered person was eligible under the second plan within twenty-four (24) hours after the coverage under the first plan ended. (3-30-07)

ii. The start of a new plan does not include: (7-1-98)

(1) A change in the amount or scope of a plan's benefits; (3-30-07)

(2) A change in the entity that pays, provides or administers the plan's benefits; or (7-1-98)

(3) A change from one type of plan to another such as from a single employer plan to a multiple employer plan. (3-30-07)

iii. The person's length of time covered under a plan is measured from the person's first date of coverage under that plan. If that date is not readily available for a group plan, the date the person first became a member of the group is used as the date from which to determine the length of time the person's coverage under the present plan has been in force. (7-1-98)

f. If none of the preceding rules determines the order of benefits, the allowable expenses are shared equally between the plans. (3-30-07)

023. PROCEDURE TO BE FOLLOWED BY SECONDARY PLAN.
In determining the amount to be paid by the secondary plan on a claim, should the plan wish to coordinate benefits, the secondary plan calculates the benefits it would have paid on the claim in the absence of other health care coverage and apply that calculated amount to any allowable expense under its plan that is unpaid by the primary plan. The secondary plan may reduce its payment by the amount so that, when combined with the amount paid by the primary plan, the total benefits paid or provided by all plans for the claim do not exceed one hundred percent (100%) of the total allowable expense for that claim. In addition, the secondary plan credits to its plan deductible any amounts it would have credited to its deductible in the absence of other benefit care coverage. ( )

024. NOTICE TO COVERED PERSONS.
A plan, in its explanation of benefits provided to covered persons, includes the following language: "If you are covered by more than one (1) health benefit plan, you should file all your claims with each plan." ( )

025. MISCELLANEOUS PROVISIONS.

01. Benefits in the Form of Services. A secondary plan that provides benefits in the form of services may recover the reasonable cash value of the services from the primary plan, to the extent that benefits for the services are covered by the primary plan and have not already been paid or provided by the primary plan. Nothing in this provision requires a plan to reimburse a covered person in cash for the value of services provided by a plan which provides benefits in the form of services. ( )

02. Complying Plan Versus Noncomplying Plan. A plan with order of benefit determination rules that comply with this rule (complying plan) may coordinate its benefits with a plan that is "excess" or "always secondary" or that uses order of benefit determination rules that are inconsistent with those contained in this rule

(noncomplying plan) on the following basis: (7-1-98)

a. If the complying plan is the primary plan, it pays or provides its benefits first; (7-1-98)

b. If the complying plan is the secondary plan, it pays or provides its benefits first, but the amount of the benefits payable is determined as if the complying plan were the secondary plan. In such a situation, the payment is the limit of the complying plan's liability; and (3-30-07)

c. If the noncomplying plan does not provide the information needed by the complying plan to determine its benefits within a reasonable time after it is requested to do so, the complying plan assumes that the benefits of the noncomplying plan are identical to its own and pays its benefits accordingly. If, within two (2) years of payment, the complying plan receives information as the actual benefits of the noncomplying plan, it adjusts payments accordingly. (7-1-98)

i. If the noncomplying plan reduces its benefits so that the covered person receives less in benefits than the covered person would have received had the complying plan paid or provided its benefits as the secondary plan and the noncomplying plan paid or provided its benefits as the primary plan, and governing state law allows the right of subrogation set forth below, then the complying plan advances to the covered person or on behalf of the covered person an amount equal to the difference. (3-30-07)

ii. In no event does the complying plan advance more than the complying plan would have paid had it been the primary plan less any amount it previously paid for the same expense or services. In consideration of the advance, the complying plan is subrogated to all rights of the covered person against the noncomplying plan. The advance by the complying plan is to be without prejudice to any claim it may have against the noncomplying plan in the absence of such subrogation. (7-1-98)

03. COB Versus Subrogation. COB differs from subrogation. Provisions for one may be included in health care benefits contracts without compelling the inclusion or exclusion of the other. (3-30-07)

04. Timely Payment of Benefits. If the plans cannot agree on the order of benefits within thirty (30) calendar days after the plans have received all of the information needed to pay the claim, the plans immediately pay the claim in equal shares and determine their relative liabilities following payment, except that no plan *is obligated* to pay more than it would have paid had it been primary. *( )*

026. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Section 41-211, Idaho Code, to aid in the effectuation of *Title 41, Chapter 27 and* Section 41-*1314*, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. IDAPA 18.05.01, "*Rules for* Title Insurance *Regulation*." ( )

***02. Purpose**. This rule applies to all title insurers and title insurance agents and:* ( )

***a.** Defines and clarifies the meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code.* ( )

***b.** Provides procedural rules as to the way title insurers, title insurance agents and escrow officers are to perform certain actions, charge rates for various services, and provide insurability on certain matters.* ( )

***c.** Clarifies consumer protection on title insurance products.* ( )

***d.** Preserves the financial stability of title insurers and title insurance agents.* ( )

***e.** Defines certain fair trade practice standards for title insurance, the violation of which will constitute rebates and/or illegal inducements by Sections 41-2708(3) and 41-1314, Idaho Code. This rule does not limit the Director's authority to determine that other title insurance trade practices constitute violations of Title 41, Chapter 27 and 41-1314, Idaho Code.* ( )

002. -- 009. (RESERVED)

010. DEFINITIONS
All terms defined in Title 41, Chapters 1, 13, and 27, Idaho Code, which are used in this rule will have the same meaning as used in those chapters. ( )

***01. Applicant**. A party to a real estate transaction who may be the buyer, seller and/or a proposed or named insured on a title commitment, policy, guaranty or other title insurance product.* ( )

***02. Financial Interest**. Any interest that entitles the holder in any manner to two and one-half percent (2.5%) or more of the profits or net worth of the title entity in which the interest is held.* ( )

***03. Policy**. Any contract or form of title insurance which prior to its issuance has been filed with the Director of Insurance.* ( )

***04. Preliminary Report**. A binder of insurance, a commitment to insure, a preliminary report of title, and litigation reports including quiet title action, foreclosure actions of contracts of sale, deeds of trust or mortgages where a policy of title insurance will be issued on the successful completion thereof. Excluded are miscellaneous reports which do not insure title, such as judgment reports, lot book reports or property search reports which are governed by Subsection 012.01.* ( )

***05. Producer of Title Business**. Includes any person engaged in this state in the trade, business, occupation or profession of:* ( )

***a.** Buying or selling interest in real property; or* ( )

***b.** Making loans secured by interest in real property; and* ( )

***c.** May include but not be limited to real estate agents, real estate brokers, mortgage brokers, lending or financial institutions, builders, attorneys, developers, sub-dividers, auctioneers engaged in the sale of real property, consumers, and the employees, agents, representatives, or solicitors of any of the foregoing; and* ( )

***d.** Will include any legal entity whose ownership is, directly or indirectly, comprised fifty-one percent (51%) or more by entities or individuals described in Paragraph 010.05.c of this rule.* ( )

***06. Title Examination**. A search and examination of the title and a determination of insurability of the title in accordance with sound title underwriting practices. Such examination of the public records will be made only for the purpose of determining insurability of the described property and not be a report on the condition of the record. ( )*

***07. Issuance of a Policy**. The preparation, execution and delivery of a title insurance policy which is deemed to be only a contract of insurance up to the face amount of such policy and will in no way create a tort liability as to the condition of the record insured from. The same will include any necessary investigation just prior to actual issuance of a policy to determine if there has been proper execution, acknowledgement and delivery of any conveyances, mortgage papers, and other title instruments which may be necessary for the issuance of a policy. It will also include determination of the status of taxes based on the latest available information and a final search of the title and that all necessary papers have been filed for record. Issuance of the policy will not include services which are essentially escrow or closing services, such as receiving and disbursing money, prorating insurance and taxes, etc., for which an escrow fee will be charged. The issuer of the policy may specify requirements necessary for the issuance of the title insurance, but it is the responsibility of the applicant to meet such requirements and the title insurance agent will not act for the applicant to satisfy the same. It is not the responsibility of the policy issuer to cure defects of title or remove liens or encumbrances. Title insurers and title insurance agents issuing title insurance policies will not do any acts which constitute the practice of law and the premium will not include the cost of legal services to be performed for the benefit of anyone other than the company. A title insurance agent who is also a licensed lawyer rendering any legal services in the transaction insured will render a separate legal billing and the escrow fees will not include such legal services. ( )*

***08. Self-Promotional**. A promotional function conducted by a single entity or a promotional item intended for distribution by a single entity. All benefits from the promotional function or item will accrue to the entity promoting itself. ( )*

***09. Items of Value**. Anything that has a monetary value and includes, but is not limited to, tangible objects, services, use of facilities, monetary advances, extension of lines of credit, creation of compensating balances, and all other forms of consideration. ( )*

***10. Trade Association**. An association of persons, a majority of whom are producers of title business, or persons whose primary activity involves real property. ( )*

***12. Title Entity**. Includes both title insurance agents and title insurers and their employees, agents, or representatives. ( )*

***13. Definitions Pertaining To Collected Funds**: ( )*

***a.** Business Day means a calendar day other than Saturday or Sunday, and also excluding most major holidays. If January 1, July 4, November 11, or December 25 fall on a Sunday, the next Monday is also excluded from the definition of a business day. ( )*

***b.** Collected Funds means (i) cash (currency); (ii) wired funds when unconditionally received by the escrow agent; (iii) when identified as such, (1) cashier's check; (2) certified check; or (3) teller's check (official check) when any of the above are unconditionally received by the escrow agent; (iv) U.S. Treasury checks, postal money orders, federal reserve bank checks, federal home loan bank checks, State of Idaho and local government checks, local or Idaho on-us checks, or local third party checks on the next business day after deposit; (v) local personal or corporate checks on the second business day after deposit; and (vi) non-local State and government checks, non-local on-us checks, non-local personal or corporate checks or non-local third party checks on the fifth business day after deposit. For purposes of this section a deposit is considered made on (1) the same day the item is delivered in person to an employee of a federally insured financial institution, or (2) the first business day following an after business hours deposit of an item to a federally insured financial institution. ( )*

***c.** Cashier's Check, Certified Check and Teller's Check (Official Check) as identified above in Subsection 010.13.b. means checks issued by a federally insured financial institution. ( )*

***d.** Local Checks: Checks drawn against a federally insured financial institution located in the same*

check processing region as the title agent's depositary federally insured financial institution. ( )

e. *On-us checks: Checks drawn against the same federally insured financial institution or branch as the title agent's own depositary federally insured financial institution. ( )*

f. *Collection or Long-Term Escrow means an escrow established for the purpose of receiving two (2) or more periodic payments over a total period of time after establishment in excess of thirty (30) days. ( )*

g. *Escrow includes any agreement (express, implied in fact or at law) pursuant to which funds or documents are delivered to an escrow agent for holding until the happening of a contingency or until the performance of a condition, and then delivered by the escrow agent to another or recorded by the escrow agent. ( )*

h. *Escrow Agent includes any person or entity described in Section 41-2704, Idaho Code, (and the rules promulgated thereunder), which accepts funds or documents for the purpose described in Subsection 010.13.g. ( )*

i. *Incidental Expenses: Direct expenses that are the obligation of one or more of the parties to an escrow transaction but are not the purchaser's principal obligation. Incidental expenses would include, but not be limited to, advances to cover unexpected recording fees and additional interest caused by delays in closings or miscalculations. ( )*

011. TRACT INDEXES OR ABSTRACT RECORDS.

For clarification and guidance, the following is considered to be the correct definition or meaning of "a complete set of tract indexes or abstract records" as used in Section 41-2702, Idaho Code: A set of indexes from which the record ownership and condition of title to all land within a particular county can be traced and ascertained. *Tract indexes and abstract records will be maintained and posted to current date and will include adequate maps that will enable a person working the title plant to locate a tract of land that is the subject of the title examination. The basic component parts of such a set of indexes are: ( )*

01. **Basic Component Parts**. An index or indexes, to be complete from the inception of title from the United States of America, in which the reference is to geographic subdivisions of land, classified according to legal description, (as distinguished from an index or indexes in which the reference is to the name of the title holder, commonly called a grantor-grantee index) wherein notations of or references to: *( )*

a. All filed or recorded instruments legally affecting title to particularly described parcels of real property and which impart constructive notice under the recording laws; and *( )*

b. All judicial proceedings in the particular county legally affecting title to particularly described parcels of real property are posted, filed, entered or otherwise included in that part of the indexing system which designates the particular parcel of real property; provided, no reference need be made in such index to any judicial proceeding which is referred to or noted in the name index defined in Subsection 011.02 of these rules. *( )*

c. No requirement is made for taxes and assessments, water or otherwise, or for water and mineral rights, land use regulations, and zoning ordinances to be made a part of the plant records. *( )*

02. Name Index or Indexes. A name index or indexes wherein notations of or references to all instruments, proceedings and other matters of record in the particular county which legally affects or may legally affect title to all real property (as distinguished from particularly described parcels of real property) of the person, partnership, corporation or other entity named and affected, including guardianships, absentee, bankruptcies, receiverships, divorces and mental illness matters, if available, are posted, filed, entered or otherwise included in that part of the indexing system which designates the same. *( )*

03. **Index Maintenance**. The indexes prescribed in Subsection 011.01 may be maintained in bound books, looseleaf books, jackets or folders, on card files, or in any other form or system, whether manual, mechanical, electronic or otherwise; or in any combination of such forms or systems. (7-1-93)

04. **Subdivision or Refinement**. The extent to which the prescribed indexes are subdivided or refined

is dependent upon all relevant circumstances. The population of the particular county, the extent to which land within the particular county has been subdivided and passed into separate ownerships, and all other factors which are reasonably related to the purpose of the statutory requirements are entitled to consideration in such determination.
(7-1-93)

05. **Discarding or Destroying**. Any requirement *established* in this rule to the contrary notwithstanding, it *is* permissible to discard and destroy prior index books, jackets, folders, cards, photoprints or files pertaining to recorded instruments affecting title to particularly described parcels of real property once the titles to such particularly described parcels have been searched, examined and a policy of owner's title insurance issued thereon. The discarding and destruction of prescribed index components is applicable only when a permanent copy of the search notes, examiner's opinion and issued policy is retained in lieu of the discarded and destroyed index components. *( )*

012. PROCEDURAL RULES.

01. ***Miscellaneous Reports****. Where an insurer or its agent issues judgment reports, lot book reports or property search reports, each such report will specifically contain the following statement: "This report is based on a search of our tract indexes of the county records. This is not a title or ownership report and no examination of the title to the property described has been made. For this reason, no liability beyond the amount paid for this report is assumed hereunder, and the company is not responsible beyond the amount paid for any errors and omissions contained herein." ( )*

02. ***Special Exceptions****. An insurer may insert such special exception(s) as may develop from an examination of the title. A special exception will specifically describe the item excepted to and will not be general in terms. The printed provisions of a filed policy form, including exclusions from coverage, exceptions not insured against and stipulations and conditions will not be deemed special exceptions. ( )*

03. ***Liens and Encumbrances, Standards of Insurability and Insuring Around****. The determination of insurability as to liens and encumbrances under Sections 41-2708(1) and the risk disallowed under 41-2708(2), Idaho Code, intentionally omitting an outstanding enforceable recorded lien or encumbrance, are interpreted by the insurance director to mean: ( )*

a. *"Intentionally" omitting an outstanding enforceable recorded lien or encumbrance is the issuance of the policy with the intent to conceal information from any person by suppressing or withholding title information, the consequence of which could result in a monetary loss either to the title insurance company or to the insured under the policy or binder. ( )*

b. *"Outstanding enforceable recorded lien or encumbrance" and/or "determination of insurability" as to possible liens and encumbrances will not be construed as preventing an insurer from issuing a policy without taking exception to a specific recorded, inchoate, or death tax item when sound underwriting standards and practices allow insurance against the item. Defects of title are not regulated by this provision. Specifically, a policy may be issued without taking exception to the following items on the conditions set out: ( )*

i. Where a lien securing an obligation, though not released of record, to the satisfaction of the insurer has been discharged and the insurer or its agent has documentary evidence in its file that the obligation has been paid in full. ( )

ii. Where funds are in escrow to pay said item and a recordable release in form for filing is available for recording in the ordinary course of business. ( )

iii. Where liens, in the opinion of counsel, are barred by the statute of limitations. ( )

iv. Where inchoate liens may arise from improvements to the described property and may have priority over a mortgage being insured and a sufficient indemnity defined has been delivered to and accepted by the insurer, or sufficient funds, including short term treasury bills and notes, have been deposited with the insurer or its agent to assure ultimate payment and release of such liens; provided, an exception as to such inchoate liens will be shown on the policy with a provision insuring against enforcement. Sufficient indemnity as used herein will mean a direct

obligation to pay such liens in an amount judged adequate by the insurer executed by a financial institution regulated by the state or federal government or executed by a responsible person as hereinafter defined. This subsection will also apply to recorded liens being contested if the indemnity is one hundred and fifty percent (150%) of the claim and is by such financial institution or in said funds. ( )

v. Where the insurer has previously issued a policy without taking exception to the specific item and is called upon to issue an additional policy where it is already obligated under such prior policy and where the new policy will not increase its liability or exposure; provided, an exception as to such item will be shown on the policy with a provision insuring against the enforcement thereof. ( )

vi. When the mortgage policy issued insures validity and priority of a lien, the insurer need not itemize liens which are subordinate to the lien insured, whether by express subordination or operation of law, unless such subordinated matters are shown to comply with a policy provision, or unless requested by the insured to do so; provided, when issuing a preliminary report, commitment or a binder for a mortgagee's policy all subordinate liens will be shown but a statement may be made that they are subordinate. ( )

vii. With reference to federal estate taxes and state inheritance taxes which have not been paid, where the insurer has examined a balance sheet of the estate and determined more than adequate funds are on hand to pay such taxes, and the insurer has taken an indemnity from a responsible person protecting itself against such unpaid taxes, or where sufficient moneys or other securities to pay such taxes have been placed in escrow pending the payment thereof or pending receipt of waiver of lien from the taxing authority. ( )

viii. "Responsible person" is one (1), or more than one (1) if they are jointly and severally liable, each of whose current verified balance sheet upon examination is determined by the insurer to be sufficient for the purpose of the indemnity given. Verified copies of all statements will be retained by the insurer or its agent. ( )

***04. Mechanics' Liens, Disallowed Risk**. Under the provisions of Section 41-2708, Idaho Code, the Insurance Director has determined under standards of insurability, disallowed risks and rebates, that under all forms of mortgage policies the risk insured will not include unrecorded liens and encumbrances, including contractors', subcontractors' professional services, materialmen's and mechanics' liens, unless: ( )*

***a.** The mortgage will have been placed of record prior to commencement of any improvement on the premises and the insurer is satisfied that the mortgage and related documents with reference to such priority; or ( )*

***b.** Unless the provisions of Subsections 012.03.b.ii., 012.03.b.iii. or 012.03.b.iv., and 012.03.b.viii. as applicable have been complied with; or ( )*

***c.** Unless the insurer has satisfied itself and documented its file that construction has been completed and the time for filing liens has expired. ( )*

***05. Usury, Truth in Lending Disclosures**. Protection against usury, or disclosures prescribed in consumer credit protection acts, truth in lending acts, or similar acts imposing duties on lenders, do not constitute a part of the issuance of title insurance policies. Title insurers and their agents will not prepare or pass judgment on documents as to usury nor on disclosure documents and notice of right of rescission documents demanded by any such acts or make any computations as essential therein, in the issuance of title insurance policies; provided, an endorsement to a mortgage policy insuring that the loan is one by definition of the Truth in Lending Act exempt from rescission is permissible. Nothing herein will prevent such title insurers or their agents from performing closing or escrow services involving such matters when a proper fee is obtained therefor. ( )*

***06. Filing, Approval, Unique Contract or Rate**. Whenever a title insurer is requested to insure a unique kind or class of risk for which a premium rate or form of policy or endorsement has not been filed, neither of which lends itself to an advance filing and determination of said rate or form, pursuant to Section 41-2706(4), such title insurer may make a written application to the Director of Insurance for approval of said special rate or form without complying with the filing notice and thirty (30) day waiting provisions of Section 41-2707 upon complying with the following requirements: ( )*

a. *The insurer has not agreed to the special rates, nor agreed to issue the special policy or endorsement, prior to making an application to the Director of Insurance. ( )*

b. *The insurer will make a written application to the Director of Insurance, requesting approval of the applicable special rate or special insurance policy or endorsement, wherein the insurer will set forth why the particular rate or policy or endorsement is unique as to the risk or form, that such item has or has not ever arisen in the past five (5) years to the knowledge of said insurer, and the circumstances if it has previously arisen in said period, and the circumstances which now arise which necessitate said rate, policy or endorsement and an analysis comparing said unique rate, policy or endorsement to the nearest comparable filed rate, policy or endorsement and justifying the difference on the basis of Sections 41-2706(1) and (2), Idaho Code. Such application will have attached to it the proposed policy or endorsement form. The Director of Insurance will have ten (10) working days after the date of receipt of such application to disapprove the same, and the filing will be deemed effective if the same is not disapproved within such time. The burden is upon the insurer to make inquiry after the expiration after said ten (10) days to determine whether a disapproval has been made, whether or not mailed notice of such disapproval has not yet been received by said insurer. ( )*

c. *These provisions are only applicable to rates, policies and endorsements, which by reason of the rarity of the event, or the peculiarity of the circumstances, do not lend themselves to a general advance determination and filing of said item. Applications under this rule and the applicable statute will not be approved if it appears either that said application does not meet the standards of the statute or is such a deviation from the usual policy form or rate most nearly applicable thereto as to be an unsound underwriting practice or an inadequate premium. ( )*

013. PREMIUM RATES AND THEIR APPLICATION.

01. Schedule of Premium Rates. *Each title insurer will file its schedule of premium rates (including both the taxable risk portion and the service portion) for title insurance charged the public for all policies, which premium rates commence with the lowest rate and advance by one thousand dollars ($1,000) increments. The rate schedule will include owner's, standard mortgagee and extended coverage mortgagee policies, and may include other rates. In addition, any charges made for special endorsements will be listed and the type of policy to which applicable. Filed rates will provide that where a preliminary report is issued, the order for the policy may be canceled prior to closing. The applicant may be requested to pay a cancellation fee. The premium rates for policies will only include title examination and issuance of title insurance which will be deemed to include any preliminary report, commitment to insure, binder or similar report (herein collectively called preliminary report) and the policy subsequently issued thereon. If more than one (1) chain of title is involved, an additional charge will be made for each additional chain. An additional chain is one involving property in a different block or section or under a different ownership within the last five (5) years. ( )*

02. Issuing Binders, Commitments or Preliminary Reports. *No title insurer or title insurance agent will issue a title insurance binder, commitment or preliminary report without an order. ( )*

03. Amount of Owner's Policy. *An owner's policy will be issued for not less than (a) the amount of the current sales price of the land and any existing improvements appurtenant thereto, or (b) if no sale is being made, the amount equal to the value of the land and any existing improvements at the time of the issuance of the policy. If improvements are contemplated, the amount may include the cost of such improvements immediately contemplated to be erected thereon with a following pending improvement clause set forth in Schedule B of said policy and the full premium collected, which clause reduces the policy amount to the extent the improvements are not completed. The amount of policies covering leasehold estates for a term of fifty years or more will be for the full value of the land and existing improvements, and for less than fifty years will be for an amount at the option of the insured based on either the total amount of the rentals payable for the primary term but not less than five (5) years, or the full value of the land and existing improvements together with any improvements immediately contemplated to be erected thereon. The amount of policies insuring contract purchasers will be for the full value of the principal payments. Insurance of lesser estates will be written for the amount of the value of the estate at the time the policy is issued. ( )*

04. Amount of Mortgagee Policies. *A mortgagee's policy will be for not less than the full principal debt of the loan insured and at insured's request may include up to twenty percent (20%) in excess of the principal debt to cover interest, foreclosure costs, etc. Where the land covered represents only part of the security for the loan, the policy will be written for the amount of the unencumbered value of the land or the amount of the loan, whichever*

is the lesser. ( )

***05. Simultaneous Issuance of Owner's and Mortgagee's Policy**. When an owner's policy and a mortgage policy covering identical land are simultaneously issued, the owner's policy will bear the regular owner's rate. Premium for the mortgagee policy simultaneously issued may be for an amount less than the full mortgagee rate for the amount of insurance not in excess of the owner's policy. ( )*

***06. Double Sale and Reissue**. No order will be held open to cover a double sale and the premium will be charged and the policy issued on each sale, unless the conveyance on resale is recorded at the same time as the original transaction. A title insurer may file an owner's reissue rate of not less than fifty percent (50%) of the basic rate which will be applicable to any policy ordered within two (2) years of the effective date of a prior owner's or purchaser's policy naming applicant as the insured provided that the following conditions are met: ( )*

***a.** The prior policy or a copy thereof is presented to the issuing company and will be retained in the issuing company's file, or in the absence thereof, reasonable proof of issuance is provided the issuing company. ( )*

***b.** The reissue premium will be based on the schedule of fees in effect at the time of reissue. ( )*

***c.** Increased liability is to be computed in accordance with the basic schedule of fees in the applicable brackets. ( )*

***07. Amount on Litigation and Foreclosure Reports**. Where a preliminary report is made for an owner's policy to be issued after a quiet title action or after a foreclosure of contracts of sale, deeds of trust or mortgages, the premium charge will be that on an owner's policy and the policy will be issued following the successful completion of the litigation or the foreclosure. A cancellation fee may be charged if the action is unsuccessful. Each such preliminary report will bear on its face as the limit of liability of the insurer, the value upon which the premium charge is based. ( )*

014. DISCLOSURE BY PRODUCER OF TITLE BUSINESS.

***01. Disclosure of Financial Interest**. No title entity may accept any order to issue a title commitment, guarantee, title insurance policy for, or provide services including, but not limited to, escrow closing and foreclosure services, to an applicant if it knows or has reason to believe that the applicant was referred by a producer of title business, where the producer of title business has a financial interest in the title entity to which the business is referred unless the producer of title business has disclosed to the applicant the financial interest of the producer of title business. The disclosure will be made in writing and contain the items prescribed in Subsection 014.02 of this rule. ( )*

***02. Disclosure Provided to Applicant**. The disclosure will be provided to the applicant at the time the sale and/or purchase contract is entered into. A signed copy of the disclosure will be maintained by the producer of title business and provided to the title entity prior to, or simultaneously with, the placing or the order for a title insurance commitment or guarantee or escrow closing services. The title entity will maintain a copy of said disclosure for a minimum period of five (5) years. The disclosure will contain the following: ( )*

***a.** A heading, in bold face, all caps, type font 14 or higher that states: "NOTICE OF FINANCIAL INTEREST IN TITLE ENTITY BY PRODUCER OF TITLE BUSINESS." ( )*

***b.** A statement in type 12 font or higher: "We call this interest to your attention for disclosure purposes. (Provide name of Producer of Title Business) has a financial interest in this title entity (provide title entity name). This financial interest may result in a conflict of interest in our representation of you. Accordingly, you are free to choose any other title entity which is licensed by the Idaho Department of Insurance in the county in which the property is located. A list of title insurers and title agents licensed in the county in which the property is located may be found by contacting the Idaho Department of Insurance." ( )*

***c.** A statement that the Applicant has read the aforementioned disclosure and chooses to have their transaction served by the Title Entity referred by the Producer of Title Business. The disclosure will contain the*

signature of all applicants along with the date the signature(s) was accomplished. ( )

015. FINANCIAL INTEREST NOTICE.

***01. Financial Interest Notice to Director**. A title entity will notify the Director of the Department the names and addresses of all producers of title business that have a financial interest in the title entity, including the financial interest held by the producer of title business and the date the financial interest was acquired. ( )*

***02. Notice Filing**. The title entity will provide the financial interest notice to the Director of the Department prior to the granting of a title agent license and upon request for renewal of a title agent license. ( )*

016. - 020. (RESERVED)

021. TITLE INSURANCE AGENTS AND EMPLOYEES ACTING AS ESCROW AGENTS.

***01. Written Instructions**. An escrow agent will not accept funds or papers into escrow without dated written instructions signed by the parties or their authorized representatives adequate to administer the escrow account and without receiving, at the time provided with the escrow instructions, sufficient funds and documents to carry out terms of the escrow instructions. Funds and documents deposited will be used only in accordance with such written instructions. If additional instructions are needed, the agent will obtain the consent of both parties, their representatives to the escrow or an order of a court of competent jurisdiction at the expense of the escrow parties. ( )*

***02. Notice of Conflict of Interest**. An escrow agent will act without partiality to any of the parties to the escrow. An escrow agent cannot close a transaction where he has, directly or indirectly, a monetary interest in the subject property either as buyer or seller. If an escrow agent has a business interest in the escrow transaction other than as escrow agent, the relationship or interest will be disclosed in the written escrow instructions. After noting such interest, an additional statement will appear as follows: "We call this interest to your attention for disclosure purposes. This interest will not, in our opinion, prevent us from being a fair and impartial escrow agent in this transaction, but you are, nevertheless, free to request the transaction be closed by some other escrow agent." ( )*

***03. Closing Statement**. On completion of an escrow transaction, the agent will deliver to each principal a written closing statement signed by the agent of each principal's account. The same will show all receipts and disbursements. Any charge made by and disbursements to the escrow agent will be clearly noted. A copy will be retained. ( )*

***04. Control of Funds**. An escrow agent will maintain one or more trust accounts in a federally insured financial institution into which all escrow funds received will be deposited and from which there will be drawn escrow payments. No other funds will be commingled with such trust account. Escrow fees will not be drawn until the escrow is completely ready to close in accordance with the escrow instructions and will be withdrawn not later than the day on which the final disbursements are made for the escrow closing. ( )*

***05. Escrow Accounting Procedures**. An escrow agent will maintain on a current basis (a) an escrow ledger with a separate numbered sheet for each escrow agreement and (b) an escrow liability control account. Disbursements will be posted from checks or other vouchers and each item, not the total of items, will be entered. Escrow liability control account will balance with the escrow ledger at all times and will equal the balance of funds in the trust accounts for escrows at the bank. Checks cannot be drawn against an escrow account without sufficient credit balance for the particular escrow existing at the time. Funds will not be transferred between escrow agents except by writing checks and receipts which are charged and credited respectively to accounts with the reason noted and the authority therefor. All services will be performed and the escrow account ready to close before any service or escrow fees may be charged and drawn from an escrow account (unless an escrow is a long term collection, and fees are payable monthly or annually). The escrow funds will be placed in the trust accounts for escrows and no other funds commingled therewith. All entries in any escrow account will be posted the date of the entry without regard of the date of posting, but all entries will be posted daily. ( )*

***06. Escrow Records**. Each escrow agent will maintain in each escrow transaction: ( )*

a. Evidence of all funds received including copies of all instruments, which will include pre-numbered cash receipts, copies of cashier's checks, wire transfer confirmations or evidence of unconditional payment of checks, as applicable; ( )

b. Complete evidence of all funds disbursed which will include check stubs or check copies, and wire instructions for all disbursements as applicable; and ( )

c. A final ledger sheet for each escrow transaction listing all items received and disbursed. All records will be available for audit, inspection and examination by the Director upon demand, and all records will be preserved for not less than six (6) years from the closing date of the escrow. ( )

*07. **Bond**. Before a license will be issued to a title insurance agent, such agent will comply with the requirements for a bond pursuant to Section 41-2711. Such bond may be in the form that continues from year to year until canceled. In lieu of a bond, cash or securities as herein defined may be deposited with the Director of Insurance. The Director of Insurance approves the following securities which are eligible for deposit in place of the bond: Cash in the form of a cashier's check, any public obligation as defined in Sections 41-707 and 41-708, Idaho Code, and the assignment of any savings deposits or certificates of deposit as defined in Section 41-720, Idaho Code. In each case, such deposit will be accompanied by a statement that such deposit is made to meet the compliance of Section 41-2710, Idaho Code, and may be liquidated to meet the obligations of said section. Said cash or security in lieu of the bond will be deposited with the director pursuant to Section 41-804, Idaho Code, except that the cash will be deposited with the state treasurer for the account of the bond of said depositing agent. ( )*

*08. **Cancellation of Bond**. A title insurance agent's bond may provide for cancellation thereof upon notice of not less than thirty days to the Insurance Director and to the licensed agent. Upon such notice being received, the licensed title insurance agent will provide a new bond in place thereof before the cancellation of the current bond, and in the event of failure to do so, the license of the title insurance agent will be deemed suspended on the date of the expiration of such bond, and until a replacement bond has been issued and delivered to the Director of Insurance. ( )*

*09. **Disbursement of Funds or Documents From Escrow -- Requirement for Collected Funds**. ( )*

a. Notwithstanding any agreement to the contrary, no disbursement of funds or delivery of documents from an escrow for recording or otherwise may be made unless the escrow contains a credit balance consisting of collected funds, other than funds of the escrow agent or its affiliates, sufficient to discharge all monetary conditions of the escrow. The requirement of collected funds does not apply to collection or long term escrows. ( )

b. Notwithstanding any other provision of Section 021, an escrow agent may advance its own funds in an aggregate amount not to exceed one thousand dollars ($1000) to pay incidental expenses incurred with respect to the escrow. ( )

022. ESCROW FEES.

Title insurers and title insurance agents will not charge less than the fees filed with the Department of Insurance for a specified escrow service, as such service is defined in the title insurer's or title insurance agent's filed schedule of fees. Each title insurer and title insurance agent will file its schedule of escrow fees charged for all escrow and closing services rendered on a yearly basis due March 15 reflecting experience from the previous calendar year. Fees should include a title entity's basic rate, minimum rate and negotiable rate with respect to different types of closings and should not reflect credits of any kind with regard to different classifications of customers. The fee will be based upon the full sales price in the event of a sale, or the amount of the loan in the event of a mortgage and will not be less than the title entity's cost for providing that service. Fees for escrow and closing services will not include preparation of instruments. Property in different ownerships always, and noncontiguous properties generally, are rated separately. Additional fees will be charged where the minimum fee is inadequate because of the unusual complications of the transactions. Fees may also be filed throughout the year as often as necessary as determined by the title entity. Fee filings in these instances will be filed at least thirty (30) days prior to implementation of the fees. ( )

023. -- 030. (RESERVED)

031. REBATES AND ILLEGAL INDUCEMENTS.

***01. Items of Value**. A title entity will not provide items of value to a producer of title business, consumer or member of the general public except as permitted in Sections 031.02, 031.03, 031.04 and 031.05 of this chapter. If a providing of things of value does not clearly fit into the rules in Sections 031.02, 031.03, 031.04, and 031.05, then it is not allowed. Exhibit 1, located on our website at https://doi.idaho.gov/, is a partial, but not all-inclusive, list of acts and practices that are considered illegal inducements disallowed by Title 41, Idaho Code.( )*

***02. Permitted Consumer Information**. To facilitate the listing and sale of Idaho property, certain consumer information may be provided without charge to licensed real estate agents and brokers or to a person who owns the property for which the request is made, but is limited to the following information: ( )*

***a.** Listing Package is a single copy of a listing package, property profile, or similarly named packet of information and will consist of information relating to the ownership and status of title to real property, and may include a single copy of only the following seven (7) items: ( )*

i. The last deed appearing of record; ( )

ii. Deeds of trust or mortgages which appear to be in full force and effect; ( )

iii. A plat map reproduction and/or a locater map; ( )

iv. A copy of applicable restrictive covenants; ( )

v. Tax information; ( )

vi. Property characteristics such as number of rooms, square footage and year built; and ( )

vii. Photographs, including aerial, of the property. ( )

***b.** A listing package may include no more than the seven (7) above described items of information and will not include market value information, demographics, or additions, addenda, or attachments which may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances. Photographs may be provided, but only if the title entity does not pay a separate fee or provide any other consideration to a person for that product or service. The title entity may provide any photographs that are acquired through normal subscriptions or licensing fees associated with obtaining access to county records for tax information, property characteristics, or plat maps, as long as there is no additional charge to the title entity for the production, reproduction or delivery of the photographs. A generic cover letter with the printed standard letterhead of the title entity may be attached to the listing package. The cover letter may include a brief statement identifying by name only, which of the seven (7) permitted items of information are attached thereto. The cover letter may also contain a disclaimer as to conclusions of marketable ownership or encumbrances. The content of the cover letter or listing package is strictly limited to the foregoing and will specifically not include any advertising or marketing for the benefit of the recipient. ( )*

***c.** Market value information, demographics, additions, addenda, photographs (other than as described in Paragraph 031.02.b) or other attachments, which attachments may be construed as conclusions reached by the title entity regarding matters of marketable ownership or encumbrances, may be provided, but only upon receipt of a charge commensurate with the actual cost of the work performed and the material furnished. ( )*

***d.** A title entity may provide to licensed attorneys and licensed appraisers only the following documents without charge; ( )*

i. A plat map reproduction; ( )

ii. A copy of applicable restrictive covenants; ( )

iii. The last deed appearing of record; and ( )

iv. A cover letter as described in Paragraph 031.02.b. ( )

***03. Advertising With Trade Associations**. ( )*

***a.** No advertisement may be placed in a publication that is published or distributed by, or on behalf of, a producer of title business. Advertising in a trade association publication is only permitted if the publication is an official publication, published or distributed by, or on behalf of the trade association with at least regular annual publications. The publications should be nonexclusive (any title entity will have an equal opportunity to advertise in the publication and at a standard rate). The title entity's ad will be purely self-promotional. ( )*

***b.** A title entity is permitted to donate time to serve on a trade association committee and may also serve as an officer or director for the trade association. A title entity may also donate, contribute or otherwise sponsor a trade association event if the event is a recognized association event that generally benefits all members and affiliated members in an equal manner. The donation cannot benefit selected producer of title business members of the association unless through random process. Solicitation for the donation should be made of all members and affiliated members in an equal manner. Donations are per agent license or insurer and are limited to a cumulative donation value of two thousand dollars ($2,000) or equivalent things of value collectively to all trade associations per year. In addition, a title entity is allowed to participate in or attend trade association events as long as the title entity pays a fee commensurate with fees paid by other participants in the events. These events include, but are not limited to, conventions, award banquets, symposiums, breakfasts, lunches, dinners, open houses, sporting activities and all other similar activities. ( )*

***04. Self-Promotional Advertising**. ( )*

***a.** A title entity may distribute self-promotional items having an acquisition value of less than twenty-five dollars ($25) to producers of title business, consumers, and members of the general public. These self-promotional items are limited to novelty gifts, advertising novelties, and generic business forms and specifically do not include food, beverages, gift certificates, gift cards, or other items that have a specific monetary value on their face or that may be exchanged for any other item having a specific monetary value. Self-promotional items will not contain the name, logo or any reference to a producer of title business, trade association or donee. ( )*

***b.** Self-promotional functions are limited to the following two (2) types of functions: ( )*

i. A title entity is permitted to conduct educational programs. The education programs will only address title insurance and escrow and other topics related thereto. A title entity is permitted to expend no more than twenty dollars ($20) per person at an educational program. For purposes of determining the maximum permitted expenditure, all costs associated with the delivery of the educational program is considered, including but not limited to, costs paid by the entity for travel, refreshments, instructor or speaking fees and facility rental. A title entity may participate in or make presentations at educational programs which are conducted or presented by other entities. The title entity is not permitted to expend any money to sponsor or cosponsor these programs, unless the educational program is a trade association event in which case Subsection 031.03.b of this chapter will apply. ( )

ii. A title entity is permitted to have two (2) open houses per year. An open house is a self-promotional function at the title entity's owned or occupied facility (i.e. a Christmas party or any party, an open house for remodeling of its facility, an open house for a new building to become the title entity's facility). It is nonexclusive (all producers of title business are invited). A title entity will not expend more than fifteen dollars ($15) per guest per open house. A title entity cannot combine permitted expenditures for two (2) open houses to be used for one (1) open house. A title entity also cannot accumulate left over or unused expenditures from one (1) open house and use those expenditures for a second open house. ( )

***05. Permitted Business Entertainment**. A title entity will not expend more than one hundred dollars ($100) per person per day for all meals and/or events. Meals and events will include, but not be limited to, breakfast, brunch, lunch, dinner, cocktails, sporting events, sporting activities, trips and music and art events. These meals or events may occur on or off the title entity's premises. In addition, a title entity may entertain no more than four (4) persons who are employed by or agents of any single producer of title business in a single day. Spouses and/or guests of the producers of title business or employees or agents are included in the count for purposes of determining the*

four (4) person maximum. In addition, a person cannot be entertained by a title entity more than three (3) days during any ten (10) day period of time. For purposes of determining the maximum permitted expenditure, all costs associated with any meals or events will be considered. This will include, but not be limited to, costs paid by the title entity for travel, transportation, hotel, equipment or facility rental, meals, cocktails, refreshments, registration or entry fees and event tickets. Entertainment permitted under this rule cannot be conditional upon or compensation for forwarding or directing title business to the title entity. ( )

***06. Locale of the Title Insurer or Title Insurance Agent Employees**. A title entity will not have any of its employees working in a work space location owned or leased by a producer of title business unless: ( )*

***a.** The space is secured by a bona fide written lease or rental agreement. ( )*

***b.** The space is separate from and can be secured against access by other occupants of the premises. ( )*

***c.** The rental paid for the workspace is consistent with prevailing rental payments for similar space in the market area of the location of the work space. ( )*

***d.** The rental is not dependent on volume of business and is paid only in cash (rental cannot be paid by trade or barter). ( )*

***e.** The space is open to the conduct of business with any producer of title business or consumer. ( )*

***f.** There is no sharing of employees. ( )*

***g.** There is no common usage of space or equipment between the title entity and the producer of title business without a proportionate share of cost, rent, or expense paid by each party. ( )*

***07. Penalty**. This Section emphasizes and restates the general penalties authorized pursuant to Title 41, Idaho Code, for violations of the anti-rebate and anti-illegal inducement laws. ( )*

***a.** Section 41-2708(3), Idaho Code, provides that each person and entity giving or receiving a rebate, illegal inducement, or a reduction in rate is liable for three (3) times the amount of such rebate, illegal inducement, or reduced rate. In addition to this penalty, a title entity may also be subject to an administrative penalty as outlined below. ( )*

***b.** Section 41-327, Idaho Code, provides that the Director may impose an administrative penalty not to exceed five thousand dollars ($5,000) and/or suspend or revoke an insurer's certificate of authority if the Director finds, after a hearing thereon, that the insurer has either violated or failed to comply with the Insurance Code.( )*

***c.** Section 41-1016, Idaho Code, provides that the Director may impose an administrative penalty not to exceed one thousand dollars ($1,000) and/or suspend or revoke an agent's license if the Director finds, after a hearing thereon, that the agent has either violated or failed to comply with the Insurance Code. ( )*

032. DISSEMINATION.
All title entities are instructed to distribute a copy of this rule to every employee that may be engaged in activities requiring knowledge of its contents, and to instruct all employees in its scope and operation. ( )

***033*. -- 999. (RESERVED)**

000. LEGAL AUTHORITY.
Title 41, Sections 41-211 and 41-1037 through 41-1045, Idaho Code. (4-7-11)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.06.01, "Rules Pertaining to Bail Agents." (4-7-11)

02. Scope. The provisions of this rule apply to all bail agents, as defined by Section 41-1038, Idaho Code. This rule is supplementary to other rules and laws regulating insurance producers, and all other rules of the Department and provisions of Title 41, Idaho Code, applicable to insurance producers apply to bail agents. (4-7-11)

002. -- 011. (RESERVED).

012. NOTIFICATION REQUIREMENTS.

01. Notice of Changes. A bail agent licensed pursuant to Section 41-1039, Idaho Code, will immediately notify the Department in writing of any the following: *( )*

a. Change of bail agent's name, current business address, or current business phone number or business e-mail address, if any; *( )*

b. Change of name or address of any surety insurance company for which the bail agent has an active appointment; (4-7-11)

c. Cancellation by a surety insurance company of a bail agent's authority to write bonds for that company; (4-7-11)

d. Any new affiliation with a bail bond agency; (4-7-11)

e. Cancellation of a bail agent's affiliation with a bail agency; (4-7-11)

02. Notice of Legal Proceedings. A bail agent will provide immediate written notice to the *Department* of the filing of any criminal charges against the bail agent. *A* bail agent *will also* provide immediate written notice to the *Department* of any material change in circumstances that would require a different answer than previously provided by the bail agent on the background information section of the Uniform Application for Individual Insurance Producer License/Registration. *( )*

013. CRIMINAL HISTORY CHECKS.

01. Criminal History Check Requisite. All licensed bail agents will obtain a criminal history records check in connection with the renewal of a bail agent's license and will bear all costs associated with the records check. (4-7-11)

02. Grounds for Immediate Suspension. For the purpose of determining whether grounds for immediate suspension of a bail agent's license exist under Section 41-1039(4), Idaho Code, a withheld judgment or a plea of nolo contendere is considered the same as a conviction or guilty plea. (4-7-11)

014. STACKING OF BONDS.
A bail agent may submit only one (1) power of attorney with each bail bond submitted to any Idaho court. The face value or face amount of the power is equal to or greater than the amount of the bail or bond set by the court in the case for which the bond and power are being submitted. *( )*

015. NOTIFICATION TO SURETY OF FORFEITURE.
A bail agent will notify the surety insurance company of any forfeiture, as defined in Section 19-2905, Idaho Code, within ten (10) days of receiving the notice from the court. (4-7-11)

016. (RESERVED)

017. BAIL AGENT FINANCING OF BAIL BOND PREMIUMS.

01. Written Agreement. No credit may be extended by any bail agent or surety insurance company for the payment of any bail bond premium without entering into a written agreement. The written agreement for the extension of credit to finance premium need to contain at a minimum the following: (4-7-11)

a. The name, signatures*, and dates of signatures of all* parties to the credit agreement; *( )*

b. The amount of premium financed; (4-7-11)

c. The per annum rate of interest; *and* *( )*

d. The scheduled premium payment dates. (4-7-11)

02. Early Surrender for Failure to Pay. If failure to pay premiums due under a credit arrangement may result in the early surrender of the defendant, that fact needs to be clearly set forth in the written credit agreement. Early surrender for failure to make premium or interest payments when due is to be handled in accordance with Section 41-1044, Idaho Code, and neither the bail agent nor the surety is entitled to seek recovery of any amounts unpaid as of the date of surrender. (4-7-11)

03. Collateral for Credit Agreement. If the credit agreement is to be collateralized, the collateral will not be excessive in relation to the amount of premium financed, will be separate and apart from any collateral used in the bail bond transaction, will be described in the credit agreement or in an attachment to the agreement, and will be handled in accordance with Section 41-1043, Idaho Code. (4-7-11)

018. PAYMENT OF FORFEITURE.
It is a violation of Section 41-1329(6), Idaho Code, for a bail surety to fail to pay a claim for forfeiture after liability for payment has become reasonably clear. Liability for payment upon forfeiture is reasonably clear when a defendant has not appeared or has not been brought before the court within one hundred eighty 180 days after the entry of the order of forfeiture, or a motion to set aside the forfeiture, in whole or in part, has not been filed with the court within five (5) business days after the expiration of the one hundred eighty (180) day period following the order of forfeiture pursuant to the Idaho Bail Act. *( )*

019. -- 999. (RESERVED)

18.06.02 – PRODUCERS HANDLING OF FIDUCIARY FUNDS

000. LEGAL AUTHORITY.
Title 41, Chapter 2 and 10, Sections 41-211, 41-1024, and 41-1025, Idaho Code. (3-29-17)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.06.02, "Producers Handling of Fiduciary Funds." (4-11-06)

02. Scope. This rule will affect "producers," including bail agents who handle funds held in a fiduciary capacity. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Cash Collateral. All funds received as collateral by a producer in connection with a bail bond transaction in the form of cash, check, money order, other negotiable instrument, debit or credit card payment, or other electronic funds transfer, given as security to obtain a bail bond, as referenced in Section 41-1043, Idaho Code. (3-29-17)

02. Fiduciary Fund Account. A financial account established to hold fiduciary funds as provided in Section 016. (4-11-06)

03. Fiduciary Funds. All premiums, return premiums, premium taxes, funds as collateral, and fees received by a producer. Fiduciary funds include: (3-29-17)

a. All funds paid to a producer for selling, soliciting or negotiating policies of insurance except for those fees recognized by statute as earned by the producer upon receipt which are payable to the producer and not the insurance company, pursuant to Section 41-1030, Idaho Code. *( )*

b. All funds received by a producer from or on behalf of a client or premium finance company that are to be paid to an insurance company, its agents, or to the producer's employer. (4-11-06)

c. All funds provided to a producer by an insurance company or its agents that are to be paid to a policyholder or claimant pursuant to a contract of insurance. (4-11-06)

d. All checks or other negotiable instruments collected by the producer and made payable to the insurer. *( )*

e. Cash collateral. (3-29-17)

04. Receive. To collect or take actual or constructive possession of fiduciary funds. Receiving, includes but is not limited to, taking possession of money, checks, or other negotiable instruments. If fiduciary funds are in the form of a credit or offset on an account or other liability for the benefit of the consumer, without the producer actually taking possession of the funds, then constructive receipt *is presumed* to have occurred on the due date to the insurer. *( )*

011. -- 013. (RESERVED)

014. FIDUCIARY FUND ACCOUNT.

01. Payable to an Insurer. Fiduciary funds that are in the form of a check or another negotiable instrument that is made payable to an insurer as described in Subsection 010.03 are to be remitted to the insurer within the time period set forth in the *insurer's* terms and conditions, or if not specified, then within twenty-one (21) days of receipt. *( )*

02. Payable to a Policyholder. Fiduciary funds that are in the form of a check or another negotiable instrument made payable to a policyholder or claimant as described in Subsection 010.02.c. are to be remitted to the policyholder or claimant within fourteen (14) days of receipt or as *specified* by the terms of the policy of insurance, the insurer, or applicable law. *( )*

03. All Other Fiduciary Funds. All other fiduciary funds received by the producer, except as described under Subsections 014.01 and 014.02 are to be deposited into a fiduciary fund account according to the following schedule: (4-11-06)

a. If in the form of cash, within seven (7) days of receipt, except that, when a producer holds fiduciary funds in the form of cash that exceed two thousand dollars ($2,000), such funds will be deposited within three (3) business days. (4-11-06)

b. If in the form of checks, money orders, other negotiable instruments, debit or credit card payments, or other electronic funds transfer, received or collected by the producer, within seven (7) days of receipt, except that the producer may remit such funds to the following: (3-29-17)

i. Another licensed producer or licensed business entity, subject to Subsection 014.03.b.; or *( )*

ii. A person designated by the insurer who has the obligation to remit the fiduciary funds to the insurer subject to Subsection 014.03.b. *( )*

04. Document the Receipt of Fiduciary Funds. A producer who receives fiduciary funds will document the receipt of those funds in sufficient detail to determine, at a minimum, the date received, the name of the payee, and the amount received. If the producer receives cash, including cash collateral, the producer will give the payer a detailed receipt at the time of payment. The receipt *needs to indicate* that cash was received, the date received, the amount received, the payer's name, the payee's name, the purpose of payment, and any other information important to the transaction. The producer will maintain the receipt for a period of at least five (5) years. *( )*

015. DEPOSIT OF OTHER FUNDS IN ACCOUNT.
A producer may deposit other additional funds for the sole purpose of: (4-11-06)

01. Reserves for Return Premiums. Establishing reserves for payment of return premiums. (3-29-17)

02. Funds to Pay Bank Charges. Advancing funds sufficient to pay bank charges. (3-29-17)

03. Contingencies. For any contingencies that may arise in the business of receiving and transmitting premium or return premium funds or cash collateral (any such deposit is hereinafter referred to as "voluntary deposit"). (3-29-17)

016. TYPES OF ACCOUNTS PERMITTED.

01. Accounts in Federally Insured Financial Institutions. *A producer will maintain the fiduciary funds only in c*hecking accounts, demand accounts, savings accounts or other accounts in a federally insured financial institution. *( )*

02. Exceed the Federally Insured Limits. If such funds held exceed the federally insured limits, then in addition to Subsection 016.01, those funds that exceed the federally insured limits may be deposited into the following: (4-11-06)

a. An investment account that invests monies in United States government bonds, United States Treasury certificates or in federally guaranteed obligations; (4-11-06)

b. Money market mutual funds registered with the SEC which are rated AAA by Moody's or AAA by S&P. (4-11-06)

03. Separate Fiduciary Funds Account. Nothing in this rule *obligates* a producer to maintain and hold fiduciary funds in his, her, or its, own separate fiduciary funds account. *E*ach producer is responsible for compliance with the provisions of this rule even if fiduciary funds are maintained in a fiduciary funds account established by another affiliated producer. *( )*

017. ACCOUNT DESIGNATION.

01. Designation of a Fiduciary Fund. A fiduciary fund account is so designated on the records of the financial institution. The account has a separate account number, a separate check register and its own checks. (4-11-06)

02. Trust Fund Account. The phrase, "Trust Fund Account" is displayed on the face of each check drawn on a fiduciary fund account or other similar designation as permitted by the financial institution to identify the checks as being from a fiduciary fund account. (4-11-06)

018. INTEREST EARNINGS.
A fiduciary fund account may be interest-bearing or an investment account in accordance with Section 016. The producer will maintain records establishing the existence and amount of interest accrued. *( )*

019. PERMISSIBLE DISTRIBUTION OF FIDUCIARY FUNDS.
Distributions from a fiduciary fund account are to only be made for the following purposes, and in the manner stated: (4-11-06)

01. Remit Premiums. To remit premiums to an insurer or an insurer's designee pursuant to a contract of insurance; (4-11-06)

02. Return Premiums. To return premiums to an insured or other person or entity entitled to the premiums; (4-11-06)

03. Remit Surplus Lines Taxes and Stamping Fees. To remit surplus lines taxes and stamping fees collected to the appropriate state; (4-11-06)

04. Reimburse Voluntary Deposits. To reimburse voluntary deposits made by the producer to the extent that the funds in the fiduciary account exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous voluntary deposit. (4-11-06)

05. Transfer or Withdraw Accrued Interest. To transfer or withdraw accrued interest to the extent that fiduciary fund account funds exceed the amount necessary to meet all fiduciary obligations, only if the reimbursement can be matched and identified with the previous interest deposit by the financial institution. (4-11-06)

06. Transfer or Withdraw Actual Commissions. To transfer or withdraw actual commissions and those earned fees recognized as earned by the producer, upon receipt, which are payable to the producer, only if the commissions and fees can be matched and identified with funds previously deposited in the fiduciary account. (4-11-06)

07. Pay Charges Imposed. To pay charges imposed by the financial institution that directly relate to the operation and maintenance of the fiduciary funds account. *( )*

08. Transfer Funds. To transfer funds from one (1) fiduciary fund account to another fiduciary fund account. (4-11-06)

09. Return Cash Collateral. To return cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, has been discharged. (3-29-17)

10. Convert Cash Collateral. To convert cash collateral where the defendant or other responsible party fails to satisfy the obligation of the bail bond and the bail or obligation was not exonerated by the court but instead executed by the court, provided such conversion is compliant with the contract between the producer and the person who deposited the cash collateral. (3-29-17)

020. -- 021. (RESERVED)

022. TIMELY DISBURSEMENT OF FIDUCIARY FUNDS.
In addition to the requirements of Section 014, after receiving fiduciary funds, a producer: (4-11-06)

01. Remits Premiums. Remits premiums directly to an insurer or an insurer's designee within the time period set forth in the *insurer's* terms and conditions, or if not specified, within fourteen (14) days of receipt; *( )*

02. Returns Money Received. Returns to the payer the money received as a premium deposit which is retained by the producer or returned to the producer by the insurer to the payer by the earlier of: (4-11-06)

a. Fourteen (14) days from the date the premium is received by the producer from the insurer, or (4-11-06)

b. Fourteen (14) days from the date the insurer notifies the insurance applicant that coverage has been denied if the producer retained the premium deposit. (4-11-06)

03. Refund Received from the Insurer. Issues a refund received from the insurer within fourteen (14) days by disbursing money to the insured or other party entitled thereto by notifying the insured that the refund is being applied to an outstanding amount owed or to be owed by the insured. If the producer is applying the refund to an outstanding amount owed by the insured, the producer obtains the insured's permission and provide the insured a detailed description of the amount owed to which the refund is being applied. (4-11-06)

04. Dispute of Entitlement of Funds. If there is a dispute as to entitlement of funds under Subsections 022.01 or 022.03, *a producer notifies* the parties of the dispute, seek*s* to resolve *it,* and document*s* the steps taken to resolve *it*. *( )*

05. Funds Held for More Than Ninety Days. If fiduciary funds within the scope of Subsections 022.01 or 022.03 are held for more than ninety (90) days, *the producer* investigate*s* to determine the entitlement to fiduciary funds and pays those fiduciary funds when due to the appropriate person in accordance with this section. *( )*

06. Return Cash Collateral. Returns cash collateral to the person who deposited the cash collateral with the producer within fourteen (14) days of the date notice is received that the obligation, the satisfaction of which was secured by the cash collateral, is discharged. (3-29-17)

023. - 999. (RESERVED)

18.06.03 – RULES GOVERNING DISCLOSURE REQUIREMENTS FOR INSURANCE PRODUCERS WHEN CHARGING FEES

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Section 41-211, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.06.03, "Rules Governing Disclosure Requirements For Insurance Producers When Charging Fees." (5-3-03)

02. Scope. This chapter applies to all resident and non-resident insurance producers who charge a fee to consumers as authorized by Section 41-1030, Idaho Code. (5-3-03)

002. -- 010. (RESERVED)

011. DISCLOSURE REQUIREMENTS.

01. Before Charging a Fee. Before charging a fee to a consumer, a retail producer will furnish to each consumer a written disclosure statement containing at least the following information: (5-3-03)

a. A description of the nature of the work to be performed by the insurance producer. (5-3-03)

b. The fee schedule and any other expenses that the insurance producer charges, and whether fees may be negotiated. (5-3-03)

02. Prior Information Disclosure. A retail producer will disclose information *prescribed* under this chapter to each consumer to whom a fee will be charged prior to engaging in any act for or on behalf of the consumer. *( )*

03. Fee for Intended Services. A retail producer may charge a fee for those services intended to be provided and that are not contingent upon a future event occurring outside of the terms of the insurance contract. (5-3-03)

04. Non-Chargeable Fee. A retail producer will not charge a fee for services in connection with statutorily mandated insurance coverage. (5-3-03)

012. -- 999. (RESERVED)

IDAPA 18
TITLE 06
CHAPTER 04

18.06.04 – CONTINUING EDUCATION

000. LEGAL AUTHORITY.
Title 41, Chapters 2, 10, 11, and 58, Sections 41-211, 41-1013, 41-1108, 41-5813, and 41-5820, Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.06.04, "Continuing Education." (4-11-15)

02. Scope. To maintain and improve the insurance skills and knowledge of producers, adjusters, and public adjusters licensed by the Department by prescribing a minimum education in approved subjects that a licensee needs to periodically complete, procedures and standards for the approval of such education, and a procedure for establishing that continuing education requirements have been met. ( )

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Licensee. As used in this rule a "licensee" means an individual holding a license as a producer, adjuster, or public adjuster pursuant to Title 41, Chapters 10, 11, or 58, Idaho Code. (4-11-15)

011. APPLICABILITY.

01. Applicability to Certain Insurance Professionals. This rule applies to all resident licensees except for producers licensed to sell only "limited lines insurance." ( )

02. High Standards for Programs. The Department expects that licensees will maintain high standards of professionalism in selecting quality education programs to fulfill the continuing education requirements set forth herein. ( )

012. BASIC REQUIREMENTS.

01. Proof of Completion. As a condition for the continuation of a license, a licensee needs to furnish the Director of the Department ("Director"), on or before the licensing renewal date, proof of satisfactory completion of approved subjects or courses meeting the following requirements: (4-5-00)

a. Twenty-four (24) hours of continuing education credit during each licensing period, which licensing period is for two (2) years. (3-20-04)

b. At least three (3) hours of continuing education credit in ethics needs to be earned each licensing period. (4-7-11)

c. No more than four (4) hours of continuing education credit from courses approved for adjusters or public adjusters can apply toward the continuation of a producer license. (4-11-15)

02. Relicensing Procedures After Voluntary Termination of License. A licensee who voluntarily terminates their license can apply to be relicensed without testing if the application is received by the Department within twelve (12) months after the termination and if the continuing education requirements were completed during the licensing period prior to voluntary termination. Non-resident licensees who were former resident licensees and who wish to obtain a resident license once again will be subject to the continuing education requirements on a pro-rata basis. (4-11-15)

03. Completion Within Two Years. Each course to be applied toward satisfaction of the continuing

education requirement needs to have been completed within the two (2) year period immediately preceding renewal of the license. Courses cannot have been duplicated in the same renewal period. The date of completion for a self-study course is the date of successful completion of exam. (3-20-04)

013. EXCEPTIONS/EXTENSIONS.

01. Exceptions and Extensions. The following exceptions and extensions may be made to the continuing education rules: (7-1-93)

a. Licensees on extended active duty with the Armed Forces of the United States for the period of such duty and all other exceptions allowed under Section 41-1008(4), Idaho Code. (5-3-03)

b. Persons which hold a temporary license as provided in Section 41-1015, Idaho Code. (5-3-03)

c. Other exceptions and extensions, where good cause exists, as approved by the Continuing Education Advisory Committee or the Director. (4-5-00)

02. Age Exception or Extension. No exception or extension *may* be made solely because of age. *( )*

03. Application for Exception or Extension *Requisite*. Licensees requesting exceptions and extensions pursuant to this Rule needs to apply prior to the renewal date to the Director, in writing, and set forth the basis for the exception or extension. *( )*

014. CONTINUING EDUCATION ADVISORY COMMITTEE.

01. Continuing Education Advisory Committee. An eleven (11) member Continuing Education Advisory Committee *("Committee")* comprised of representatives from each segment of the insurance industry, is appointed by the Director. The Committee is appointed as follows: *( )*

a. Five (5) of the members to serve a term of two (2) years and six (6) of the members to serve a term of three (3) years. (7-1-98)

b. Subsequent Committee members will serve a term of three (3) years. (7-1-98)

02. Duties of the Committee. The Committee performs the following duties at the discretion of the Director: *( )*

a. Approve or disapprove programs as per the standards of this rule; (7-1-93)

b. Assign the number of continuing education hours to be awarded to *approved* programs; *( )*

c. Consider applications for exceptions and extensions as permitted under Section 013 of this rule; and (7-1-93)

d. Consider other related matters as the Director may assign. (7-1-93)

03. Quorum. Those present at any meeting of the Committee *are* a quorum for purposes of acting to perform the duties of the Committee pursuant to this rule. Matters before the Committee may be decided by a majority of those members present. In the event of a tie vote, the Chairman votes to break the tie. *( )*

04. Decisions or Rulings. Decisions or rulings of the Committee in its performance of the duties set forth herein will have the effect of decisions or rulings of the Director. Such decisions are in the discretion of the Director, subject to review and approval or rejection. *( )*

015. PROGRAM REQUIREMENTS.
All continuing education programs are subject to review and approval by the Committee and certification by the

Director. They need to be submitted to the Committee in accordance with Section 021 of this rule on forms promulgated by the Director. Any course provider that resides in, and has had their continuing education program(s) approved by, a state in which the insurance department has signed the Midwest Zone Declaration Regarding Continuing Education Course Approval or has signed a separate reciprocity agreement with the Idaho Department, need not have their continuing education program(s) reviewed and approved by the Idaho Committee. However, prior to offering the course for continuing education credit, all courses need to be filed with the department on a form approved by the director and course application fees paid. ( )

016. PROGRAMS WHICH QUALIFY.

01. Requirements of Acceptable Program. A specific program will qualify as an acceptable continuing education program if it is a formal program of learning which contributes directly to the professional competence of a licensee. It will be left to each individual licensee to determine the course of study to be pursued. All programs need to meet the standards outlined in Section 018. (7-1-93)

02. Subjects Which Qualify. (7-1-93)

a. The following general subjects are acceptable for producers as long as they contribute to the knowledge and professional competence of an individual licensee as a producer and demonstrate a direct and specific application to insurance. (4-11-15)

i. Insurance, annuities, and risk management. (7-1-93)

ii. Insurance laws and rules. (7-1-93)

iii. Mathematics, statistics, and probability. (7-1-93)

iv. Economics. (7-1-93)

v. Business law. (7-1-93)

vi. Finance. (7-1-93)

vii. Taxes, trusts, estate planning. (4-5-00)

viii. Business environment, management, or organization. (7-1-93)

ix. Securities. (7-1-98)

b. The following general subjects are acceptable for adjusters and public adjusters as long as they contribute to the knowledge and professional competence of an individual licensee as an adjuster or public adjuster and demonstrate a direct and specific application to adjusting. (4-11-15)

i. Insurance. (3-19-10)

ii. Insurance laws and rules. (3-19-10)

iii. Mathematics, statistics, and probability. (3-19-10)

iv. Economics. (3-19-10)

v. Business law. (3-19-10)

vi. Restoration. (3-19-10)

vii. Communications. (3-19-10)

viii. Arbitration. (3-19-10)

ix. Mitigation. (3-19-10)

x. Glass replacement and/or repair. (3-19-10)

c. Areas other than those listed above may be acceptable if the licensee can demonstrate that they contribute to professional competence and meet the standards set forth in this rule. The responsibility for substantiating that a particular program meets the requirements of this rule rests solely upon the licensee. *( )*

017. PROGRAMS WHICH DO NOT QUALIFY.

01. Any Course Used to Prepare for Taking an Insurance Licensing Examination. (7-1-93)

02. Committee Service of Professional Organizations. (7-1-93)

03. Computer Science Courses. (7-1-93)

04. Motivation, Psychology, or Selling Skills Courses. (7-1-93)

05. Reviews, Quizzes and/or Examinations. (7-1-93)

06. Any Program Not in Accordance with This Rule. (7-1-93)

018. STANDARDS FOR CONTINUING EDUCATION PROGRAMS.
To qualify for credit, the following standards need to be met by all continuing education programs: (7-1-93)

01. Program Development. (7-1-93)

a. The program *provides* significant intellectual or practical content to enhance and improve the insurance knowledge and professional competence of participants. (7-1-93)

b. The program *is* developed by persons who are qualified in the subject matter and instructional design. *( )*

c. The program content *is* current or up to date. *( )*

02. Program Presentation. (7-1-93)

a. Instructors *are* qualified, both with respect to program content and teaching methods. Instructors will be considered qualified if, through formal training or experience, they have obtained sufficient knowledge to instruct the course competently. *( )*

b. The number of participants and physical facilities *is* consistent with the teaching method specified. *( )*

c. All programs *will* include some means for evaluating quality. *( )*

019. MEASUREMENT OF CREDIT.

01. Credits Measured in Full Hours. Professional education courses are credited for continuing education purposes in full hours only. The number of hours is equivalent to the actual number of contact hours which need to include at least fifty (50) minutes of instruction or participation. As an example, a program will be granted eight (8) hours of credit if the total lapsed time is approximately eight (8) hours and the contact time is at least four hundred (400) minutes. The approved credit hours assigned a course determines the number of hours participants are to complete. No credit will be given for partial attendance. *( )*

02. College Courses. University or college upper division credit or noncredit courses are evaluated as follows: (7-1-93)

a. Credit courses -- each semester system credit hour cannot exceed fifteen (l5) hours toward the requirement; each quarter system credit hour cannot exceed ten (l0) hours. The final number of credits are determined by the Committee. (7-1-93)

b. Non-credit courses -- number of credits to be determined by the Committee. (7-1-93)

03. Internet Courses. Internet self-study courses will be credited one (1) hour of continuing education for every fifty (50) minutes of study material, excluding exams. Credit will be given based on the information received in accordance with Section 021 of these rules. (3-19-10)

04. Webinar Courses. Webinars will be credited as classroom instruction or participation. In the event one (1) course encompasses multiple webinars and self-study is *necessary* between webinars, the self-study material need to be submitted to the Committee to be evaluated for additional credit in accordance with Section 021of these rules. *( )*

020. CONTROLS AND REPORTING.

01. Course List *Submitted With* Renewal. The application for renewal of a license is accompanied by a form designated and furnished by the Director, listing the courses that have been taken and are in compliance with this rule. *( )*

02. Licensee to Retain Original Certificate as Evidence. The original certificate of completion received for each educational program or course is retained by the licensee as evidence of completion of the program or course for the most recent two (2) year renewal period. The certificate of completion is on a form promulgated by the Director. (7-1-93)

***03*. Sign-In and Sign-Out Sheets**. Sign-in and sign-out sheets are to be used and monitored to ensure attendance for the full length of the seminar. No certificate of completion is to be given to anyone arriving late or leaving prior to the conclusion of the seminar. Failure to comply with these requirements will result in loss of certification *of the provider* in accordance with Section 023. *( )*

021. APPROVED PROGRAMS OF STUDY - CERTIFICATION BY DIRECTOR.

01. Requirements of Course Approval. All courses are approved by the Committee and certified by the Director, except as noted under program requirements pursuant to Section 015. If a course is not approved in advance of presentation, an application for credit *may* be submitted to the Committee within sixty (60) days of completion of the course on forms promulgated by the Director, with the exception of an individual licensee who may submit an application for courses completed within one hundred eighty (180) days of the course completion date and at least thirty (30) days prior to the license expiration date. All correspondence courses or individual study programs will be approved and certified in accordance with Section 024 prior to being offered to licensees for continuing education credit. *( )*

02. Nonrefundable Application Fee. Each course application is accompanied by a nonrefundable application fee (as set forth in IDAPA 18.01.02, "Schedule of Fees, Licenses and Miscellaneous Charges"). (7-1-93)

03. Course Approval Procedures. Any individual, school, insurer, industry association, or other organization intending to provide classes, seminars, or other forms of instruction as approved subjects applies for such approval to the Director on forms approved by the Director or on other forms which provide information including but not limited to the following: (5-3-03)

a. A specific outline and/or course material; (7-1-93)

b. Time schedule; (7-1-93)

c. Method of presentation; (7-1-93)

d. Qualifications of instructor; and (7-1-93)

e. Other information supporting the request for approval. (7-1-93)

04. Method to Determine Completion. The submission includes a statement of the method used to determine the satisfactory completion of an approved subject. Such method may be a written examination, a written report by the agent, certification by the providing organization of the agent's program attendance or completion, or other methods approved by the Director as appropriate for the subject. *( )*

05. Final Acceptance/Rejection of Program. Except as noted under Section 015, all continuing education course material received will be submitted to the Committee who will approve or deny the course or program as qualifying for credit, indicate the number of hours that will be awarded for approved subjects, and refer the class, seminar, or program to the Director for certification. In cases of denial, the Committee will furnish a written explanation of the reason for such action. (5-3-03)

06. List of Programs Certified Acceptable. The Director will provide *an electronic* list of all programs currently available that the Department has certified. *( )*

07. Certification of Program. Certification of a program may be effective for a period of time not to exceed two (2) years or until such time as any material changes are made in the program, after which it *may* be resubmitted to the Committee for its review and approval. *( )*

08. Advertising Programs Prior to Certification. If any course has not been approved and certified by the Director before the date on which it is to be presented, the course may be advertised or presented as "continuing education credits have been applied for" but cannot be represented or advertised in any manner as "approved" for continuing education credit. (5-3-03)

022. PROOF OF COMPLETION.
An authorized representative of the sponsoring organization will, within thirty (30) days of completion of the course, *p*rovide a certificate of completion to each individual who satisfactorily completes the class, program, or course of study and *c*ertify to the Director electronically a list of all such individuals. *( )*

023. APPROVED SUBJECTS - LOSS OF CERTIFICATION.

01. Program Suspension. The certification of a program may be suspended by the Director if it has been determined that: (7-1-93)

a. The program teaching method or program content no longer meets the standards of this rule, or have been significantly changed without notice to the Director for recertification; or (7-1-93)

b. The program certified to the Director that an individual had completed the program in accordance with the standards furnished for certification or completion of the program, when in fact the individual had not done so; or (7-1-93)

c. Individuals who have satisfactorily completed the program of study in accordance with the standards furnished for certification or completion were not so certified by the program; or (7-1-93)

d. The instructor or sponsoring organization is not qualified as per the standards of this rule or lacks education or experience in the subject matter of the proposed course; or (5-3-03)

e. The instructor, sponsoring organization, or any company or affiliate of a sponsoring organization has had a license revoked or suspended in any jurisdiction. This includes any firm or organization where a revoked or suspended individual has a substantial ownership interest, or other control in a firm or organization; or (5-3-03)

f. There is other good and just cause why certification should be suspended. (7-1-93)

02. Reinstatement of a Suspended Certification. Reinstatement of a suspended certification will be made upon the furnishing of proof satisfactory to the Committee or the Director, in the case of courses approved per Section 015, that the conditions responsible for the suspension have been corrected. (5-3-03)

024. CREDIT FOR INDIVIDUAL STUDY PROGRAMS.

01. Requirements for Credit of Independent Study Programs. All approved correspondence courses or independent study programs needs to include an examination which requires a score of seventy percent (70%) or better to earn a certificate of completion. For each approved course, the sponsoring organization will maintain multiple tests (two (2) or more) sufficient to maintain the integrity of the testing process. A written explanation of test security and administration methods will accompany the course examination materials. Each unit and/or chapter of a course will contain review questions that can be answered with a score of seventy percent (70%) or better before access to the following unit/chapter is allowed. (4-7-11)

02. Completed Tests. The examinations are administered, graded, and the results recorded by the organization to which approval was originally granted. Completed tests are retained by the sponsoring organization and will not be returned to any licensee. (4-7-11)

03. Prior Approval *Needed* for Independent Study Programs. All correspondence courses or individual study programs needs be submitted for approval and approved prior to being offered to licensees for continuing education credit. *( )*

025. CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, OR SPEAKER.
Only one (l) hour of continuing education credit will be awarded for each hour completed as an instructor or discussion leader. *( )*

026. CREDIT FOR BREAKFAST, LUNCHEON, OR DINNER MEETINGS.
Courses, seminars, or programs presented in connection with breakfast, lunch, or dinner meetings may qualify for continuing education credit only if they are meetings of recognized insurance organizations and meet the requirements of Sections 015 and 016. (7-1-93)

027. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Managing General Agent Act (MGA Act), Title 41, Chapters 15 *and 2*, Idaho Code. *( )*

001. TITLE AND SCOPE.
IDAPA 18.06.05, "Managing General Agents." This chapter implements and administers provisions of the MGA Act. *( )*

002. -- *009*. (RESERVED)

***010*. DEFINITIONS.**

01. Applicability of Statutory Definitions. The definitions contained in the MGA Act as set forth in Section 41-1502, Idaho Code, apply. *( )*

011. NOTICE PROVISIONS.

01. Notice by MGA. *Upon licensure and, thereafter, on or before July 1 of each year,* any person, firm, association or corporation acting in the state of Idaho in the capacity of an MGA as defined in Section 41-1502(3), Idaho Code, provides notice to the Director of the Department *which* includes: *( )*

a. A certified copy of the surety bond *prescribed* by Subsection 013.01. *( )*

b. Proof of insurance coverage as *prescribed* by Subsection 013.02. *( )*

c. The appropriate nonrefundable designation fee *prescribed* by IDAPA 18.01.02. *( )*

d. A list of all names and addresses of insurers doing business in the State of Idaho or Idaho domestic insurers with which the MGA has a contract and a verified statement on a form provided by the Department that the contract(s) contain the provisions *prescribed* by Section 41-1504, Idaho Code. *( )*

02. Notice by Insurer. In addition to those items specified in 41-1505(5), notice by the insurer will include: *( )*

a. The name and address of the MGA; (7-1-93)

b. Proof that the MGA has met the bonding and insurance requirements of Section 013; (7-1-93)

c. Procedures and timetable for conducting an onsite review of the underwriting and claims processing operation of the MGA as *prescribed* by Section 41-1505(3), Idaho Code; and *( )*

d. The name of an officer of the insurer responsible for the contract. (7-1-93)

012. (RESERVED)

013. SECURITY PAYMENTS.

01. Bond. All MGAs acquire a surety bond for the protection of the insurer and insureds. The bond will be in the amount of fifty thousand dollars ($50,000) or ten percent (10%) of the amount of total funds handled within the preceding year, whichever is greater. The bond amount will be adjusted accordingly on or before July 1 of each year. Coverage cannot be written by the insurer or an affiliate of the insurer employing the MGA. *( )*

02. Errors and Omissions Policy. All MGAs acquire and maintain an errors and omissions insurance policy *providing for claims arising out of the MGA's negligent acts, errors or omission*. The policy coverage limit is set at two hundred fifty thousand dollars ($250,000) or twenty-five percent (25%) of the gross amount of direct written premiums received by an insurer for the previous calendar year that are attributable to the MGA, whichever is greater. The policy coverage limit will be adjusted accordingly on or before July 1 of each year. Unless approved by the director, coverage will not be written by the insurer or an affiliate of the insurer employing the MGA. *( )*

014. INDEPENDENT AUDIT OR EXAMINATION.

01. Annual Independent Audit of MGA. An independent audit by a certified public accountant is conducted annually for MGAs currently under contract, and is to be contracted for by the insurer. The independent audit will include the following: (7-1-93)

a. Report of independent certified public accountant; (7-1-93)

b. Balance sheet; (7-1-93)

c. Statement of income; (7-1-93)

d. Statement of cash flow; (7-1-93)

e. Statement of income and retained earnings; (7-1-93)

f. Notes on financial statements - these notes are those *prescribed* by General Accepted Accounting Principals; and *( )*

g. A copy of a management letter or a narrative statement setting forth what would have been the content of the management letter had such letter been completed. (7-1-93)

***02*. Examination of MGA**. The Department retains authority to examine an MGA notwithstanding the termination of the MGA's contractual authority. Pursuant to the provisions of Title 41, Chapter 2, Idaho Code, the expense of such examination is to be reimbursed to the Department by the insurer employing the MGA. *( )*

015. TERMINATION OF CONTRACT.

01. Notice to the Department. *Notice* of the termination of an agreement between an MGA and an insurer for which the MGA was conducting business in the state of Idaho will include the name of the person, firm, association or corporation acting as an MGA under the terms of the contract and the basis for the termination. *( )*

02. Delivery of Records to Insurer upon Termination of Contract. If the contract between an insurer and an MGA is terminated for any reason, the MGA will, upon request by the insurer, deliver all records to the insurer within ninety (90) days of the request. (7-1-93)

016. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 38, Sections 41-211 and 41-3817, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.07.01, "Rules Pertaining to Acquisitions of Control, Insurance Holding Company Systems *and Mutual Insurance Holding Companies*." *( )*

02. Scope. These rules set forth procedural requirements necessary to *administer* the Idaho Acquisitions of Control and Insurance Holding Company Systems Regulatory Act, Title 41, Chapter 38, Idaho Code, *including those provisions related to mutual insurance holding companies under Section 41-3824, Idaho Code, which is a distinct form of insurance holding company system.* *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions set forth in Chapter 38, Title 41, Idaho Code, the following definitions apply: *( )*

01. Affiliated Person. *( )*

a. *Any person directly or indirectly owning, controlling, or holding with power to vote, five percent (5%) or more of the outstanding voting securities of such other person; or* *( )*

b. *Any person, five percent (5%) or more of whose outstanding voting securities are directly or indirectly owned, controlled, or held with power to vote, by such other person; or* *( )*

c. *Any person directly or indirectly controlling, controlled by, or under common control with, such other person; or* *( )*

d. *Any officer, director, partner, copartner, or employee of such other person.* *( )*

02. Domestic Mutual Insurance Company. *A mutual insurer as defined in Section 41-302, Idaho Code, that is incorporated under Idaho law.* *( )*

03. Executive Officer. *Chief executive officer, chief operating officer, chief financial officer, treasurer, secretary, controller, and any other individual performing functions corresponding to those performed by the foregoing officers under whatever title.* *( )*

04. Interested Person. Interested person of another person means: *( )*

a. *An affiliated person of such person or company; or* *( )*

b. *A member of the immediate family of any natural person who is an affiliated person of such company; or* *( )*

c. *Any person, partner or employee of any person who at any time since the beginning of the last two completed fiscal years of such company has acted as acted as legal counsel for such company; or* *( )*

d. *Any natural person whom the Director by order has determined to be an interested person by reason of having had, at any time since the beginning of the last two completed fiscal years of such company, a material business or professional relationship with such company or with the principal executive officer of such company.* *( )*

05. Intermediate Holding Company. *A holding company subsidiary of a mutual insurance holding company or part of a holding company system controlled by a mutual insurance holding company.* *( )*

06. Limited Application. *An application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which will hold, at all times, one hundred percent (100%) of the stock of its insurance subsidiaries.* *( )*

07. ***Member of the Immediate Family****. Any parent, spouse of a parent, child, spouse of a child, spouse, brother or sister, and includes step and adoptive relationships.* ( )

08. ***Mutual Insurance Holding Company or MHC****. A holding company formed pursuant to Section 41-3824, Idaho Code, and this chapter.* ( )

09. ***Plan of Reorganization****. A plan to reorganize a domestic mutual insurance company by forming a mutual insurance holding company.* ( )

10. ***Standard Application****. An application by a domestic mutual insurance company for reorganization to a mutual insurance holding company which may sell interests in its subsidiaries to third parties.* ( )

12. ***Stock****. Any security evidencing an equity interest in the issuing entity.* ( )

13. ***Stock Offering****. Any proposed sale, exchange, transfer or other change of ownership of stock or of securities convertible into or exchangeable or exercisable for stock. "Stock offering" does not mean:* ( )

a. *An offering of preferred stock which is not convertible or exchangeable into common stock and which has no ordinary voting rights; or* ( )

b. *A transfer of stock between any of the following:* ( )

i. *A mutual insurance holding company; or* ( )

ii. *An insurance company subsidiary of a mutual insurance holding company; or* ( )

iii. *An intermediate holding company subsidiary of a mutual insurance holding company; or* ( )

iv. *An insurance company subsidiary of an intermediate holding company subsidiary to a mutual insurance holding company.* ( )

14. ***Ultimate Controlling Person****. That person who is not controlled by any other person.* ( )

011. FORMS -- GENERAL REQUIREMENTS.

01. Forms Intended to Be Guides. Forms A, B, C, D, E, and F *included on the Department's website* are guides in the preparation of statements *prescribed* by *Title 41, Chapter 38,* Idaho Code*, and* not intended *as fillable* blank forms. *S*tatements *need to* contain the numbers and captions of all items. *T*he text of the items may be omitted if the answers indicate clearly the*ir* scope and coverage. All instructions are to be omitted. *I*f any item is inapplicable or the answer is in the negative, an appropriate statement *should be* made *unless otherwise provided*. ( )

02. Filings. Each statement, including exhibits and all other papers and documents *are to* be filed with the Director electronically with one (1) hard copy *filed* by personal delivery or mail. At least one (1) of the copies is to be signed in the manner *noted* on the form. Unsigned copies will be conformed. If *a* signature is affixed pursuant to a power of attorney or similar authority, a copy of *the* power of attorney or other authority *should* be filed with the statement. ( )

03. Format. Statements should be prepared electronically, easily readable and suitable for review and reproduction. Debits in credit categories and credits in debit categories *should* be clearly distinguishable on photocopies. *T*he English language *is to be used* and monetary values stated in United States currency. If any exhibit or other paper or document filed with the statement is in a foreign language, a translation into the English language *is to be included* and monetary value shown in a foreign currency be converted into United States currency. ( )

04. Hearing. If an applicant requests a hearing on a consolidated basis under Section 41-3806(3), Idaho Code, in addition to filing the Form A with the Director, the applicant *will electronically* file a copy of Form A

with the NAIC (National Association of Insurance Commissioners). ( )

012. FORMS -- INCORPORATION BY REFERENCE, SUMMARIES AND OMISSIONS.

01. Incorporation by Reference. Information *prescribed* by any item of *a Form needed by law or this rule* may be incorporated by reference in answer or partial answer to any other item. Information contained in any financial statement, annual report, proxy statement, statement filed with a governmental authority, or other document may be incorporated by reference in answer or partial answer to any item *if the* document or paper is filed as an exhibit to the statement. Excerpts of documents may be filed as exhibits.Documents file*d* with the Director within *the* three (3) years *prior to the statement* need not be attached as exhibits. References to information contained in exhibits or in documents already on file *need to* clearly identify the material and specifically indicate that *the* material is incorporated by reference. Matter cannot be incorporated by reference *when* incorporation would *make* the statement incomplete, unclear or confusing. ( )

02. Summaries or Outlines. *A* brief statement *need* be made as to the pertinent provisions of *a* document *when an item requires a summary or outline of a document*. *T*he summary or outline may incorporate by reference parts of any exhibit or document file*d* with the Director within *the* three (3) *prior* years and qualified by *this* reference. *I*f two (2) or more documents *need* to be filed as exhibits are substantially identical in all material respects except as to parties, the dates of execution, or other details, one (1) of *the* documents *should* be filed with a schedule identifying the omitted documents and *indicating any* material details in which *the omitted* documents differ from the *filed* documents. ( )

013. FORMS -- INFORMATION UNKNOWN OR UNAVAILABLE AND EXTENSION OF TIME TO FURNISH.

If any *necessary* information, document or report *cannot be furnished* at the time it *needs* to be filed, *a person needs to*: *i*dentify the information, document or report in question; **s**tate why the filing at the time *prescribed* is impractical; and request an extension of time for filing to a specified date. The request for extension is deemed granted unless the Director *issues an order denying the request* within twenty-eight (28) days *of* receipt. ( )

014. FORMS -- ADDITIONAL INFORMATION AND EXHIBITS.

In addition to the information expressly *prescribed* to be included *on necessary* Form*s*, the Director may request *additional* information necessary *for clarification*. The filer may file exhibits in addition to those expressly *necessary* by the statement, clearly indicating clearly the *referred* subject matter. Changes to *content in necessary* Forms include *the following phrase* on the top of the cover page "Change No. [insert number] to" and date of the change. ( )

015. SUBSIDIARIES OF DOMESTIC INSURERS.

The authority to invest in subsidiaries under Section 41-3803, Idaho Code, is in addition to authority to invest in subsidiaries contained in any other provision of Title 41, Idaho Code. ( )

016. ACQUISITION OF CONTROL -- STATEMENT FILING.

A person *obligated* to file a statement pursuant to Section 41-3804, Idaho Code, *needs to* furnish the *prescribed* information on Form A, *found on the Department's website*. *The* person will also furnish the *prescribed* information on Form E, *also found on the Department's website*. ( )

017. AMENDMENTS TO FORM A.

The applicant needs to promptly advise the Director of any changes in the *Form A* information arising *after* the date *when* the information was furnished, but prior to the Director's disposition of the application. ( )

018. ACQUISITION OF SECTION 41-3804(1)(D) INSURERS.

01. Name of the Domestic Insurer. If the person being acquired is deemed to be a "domestic insurer" *under* Section 41-3804(1)(d), Idaho Code, the name of the domestic insurer on the cover page *is stated* as: "ABC Insurance Company, a subsidiary of XYZ Holding Company." ( )

02. References to Insurer. Where a Section 41-3804(1)(d) insurer is acquired, references to "the insurer" contained in Form A refers to both the domestic subsidiary insurer and the *acquired* person. ( )

019. PRE-ACQUISITION NOTIFICATION.

01. Pre-Acquisition Notification. If a domestic insurer, including any *controlling* person, is proposing a merger or acquisition pursuant to Section 41-3802(1)(a), Idaho Code, *they need to* file a *Form E* pre-acquisition notification form. *If a licensed non-domiciliary insurer is proposing a merger or acquisition pursuant to Section 41-3808, Idaho Code, they need to file a Form E pre-acquisition notification form, unless the filing is exempted under Section 41-3808(2), Idaho Code.* *( )*

02. **Expert Opinion**. *T*he director may *request the filing of* an expert opinion *regarding* the competitive impact of the proposed acquisition. *( )*

020. ANNUAL REGISTRATION OF INSURERS -- STATEMENT FILING.
An insurer *obligated* to file a statement pursuant to Section 41-3809, Idaho Code, will furnish *prescribed* information on Form B, *found on the Department's website*. *( )*

021. SUMMARY OF REGISTRATION -- STATEMENT FILING.
An insurer *obligated* to file an annual registration statement pursuant to section 41-3809, Idaho Code, is also *obligated* to furnish information *prescribed* on Form C, *found on the Department's website*. *( )*

022. AMENDMENTS TO FORM B.

01. Amendment to Form B. Amendment*s* to Form B will be filed within fifteen (15) days after the end of any month in which there is a material change to the information provided in the annual registration statement. *( )*

02. Form B Format. Amendments are filed in the Form B format with only *amended* items reported. Each amendment will include at the top of the cover page "Amendment No. [insert number] to Form B for [insert year]" and indicate the date of the change, not the date of the original filings. *( )*

023. ALTERNATIVE AND CONSOLIDATED REGISTRATIONS.

01. Filing on Behalf of Affiliated Insurers. Any authorized insurer may file a registration statement on behalf of any affiliated insurer or insurers *obligated* to register. A registration statement may include information regarding any insurer in the holding system, even if *the* insurer is not authorized to do business in this state. *An* authorized insurer may*, in lieu of Form B,* file a copy of the registration statement or similar report *prescribed* to *be* file*d* in its state of domicile, provided: *( )*

a. The statement or report contains substantially similar information *prescribed* on Form B; and *( )*

b. The filing insurer is the principal insurance company in the insurance holding company system. (3-20-14)

02. Statement That Filing Insurer Is the Principal Insurer. *A*n insurer filing a registration statement or report in lieu of Form B on behalf of an affiliated insurer, will *provide* a statement of facts substantiat*ing* the filing insurer's claim that it is the principal insurer in the insurance holding system. *( )*

03. Unauthorized Insurer. With the *Director's* prior approval, an unauthorized insurer may follow any procedures under Subsection 023.01 of this rule. *( )*

04. Consolidated Registration Statements. *An* insurer may *follow* the provisions of Section 41-3809(8), or 41-3809(9), Idaho Code, without *the Director's* prior approval. The Director reserves the right to *obligate* individual filings if *such are* necessary *for* clarity, ease of administration or the public good. *( )*

024. DISCLAIMERS AND TERMINATION OF REGISTRATION.

01. Information *Requisite*. A disclaimer of affiliation or a request for termination of registration, *on*

the basis that a person does not, or will not, upon the taking of some proposed action, control another person (hereinafter referred to as the "subject") will contain the following information: *( )*

a. The number of authorized, issued and outstanding voting securities of the subject; (12-24-93)

b. With respect to the person whose control is denied and all affiliates of such person, the number and percentage of shares of the subject's voting securities which are held of record or known to be beneficially owned, and the number of shares concerning which there is a right to acquire, directly or indirectly; (12-24-93)

c. All material relationships and bases for affiliation between the subject and the person whose control is denied and all affiliates of such person: (12-24-93)

d. A statement explaining why such person should not be considered to control the subject. (12-24-93)

02. Request Deemed Granted. A request for termination of registration is deemed granted unless the Director *notifies the filer otherwise* within thirty (30) days after *the request is* receive*d*. *( )*

025. TRANSACTIONS SUBJECT TO PRIOR NOTICE - NOTICE FILING.

01. Form D. An insurer *prescribed* to give notice of a proposed transaction pursuant to section 41-3810, Idaho Code, will furnish the *needed* information in Subsection 025.02 on Form D. *( )*

02. Agreements. Agreements for cost sharing services and management services are at a minimum and as applicable: (3-20-14)

a. Identify the person providing services and the nature of such services; (3-20-14)

b. Set forth the methods to allocate costs; (3-20-14)

c. *Prescribe* timely settlement, *at least* on a quarterly basis, and compliance with the requirements in the Accounting Practices and Procedures Manual; (3-20-14)

d. *Bar* advancement of funds by the insurer to the affiliate except to pay for services specified in the agreement; (3-20-14)

e. State that the insurer will maintain oversight for functions provided to the insurer by the affiliate and that the insurer will monitor services annually for quality assurance; (3-20-14)

f. Define books and records of the insurer to include all books and records developed or maintained under or related to the agreement; (3-20-14)

g. Specify that all books and records of the insurer are and remain the property of the insurer and are subject to control of the insurer; (3-20-14)

h. State that all funds and invested assets of the insurer are the exclusive property of the insurer, held for the benefit of the insurer and are subject to the control of the insurer; (3-20-14)

i. Include standards for termination of the agreement with and without cause; (3-20-14)

j. Include provisions for indemnification of the insurer in the event of gross negligence or willful misconduct on the part of the affiliate providing the services; (3-20-14)

k. Specify that, if the insurer is placed in receivership or seized by the Director under Title 41, Chapter 33, Idaho Code: (3-20-14)

i. All of the rights of the insurer under the agreement extend to the Director; and (3-20-14)

ii. All books and records will immediately be made available to the Director, and will be turned over to the Director immediately upon the Director's request; (3-20-14)

l. Specify that the affiliate has no automatic right to terminate the agreement if the insurer is placed in receivership pursuant to Title 41, Chapter 33, Idaho Code; and (3-20-14)

m. Specify that the affiliate will continue to maintain any systems, programs, or other infrastructure notwithstanding a seizure by the Director under Title 41, Chapter 33, Idaho Code, and will make them available to the Director, for so long as the affiliate continues to receive timely payment for services rendered. (3-20-14)

026. ENTERPRISE RISK REPORT.
The ultimate controlling person of an insurer *needs* to file an enterprise risk report pursuant to Section 41-3809(12), Idaho Code, will furnish the *prescribed* information on Form F, *found on the Department's website*. *( )*

027. EXTRAORDINARY DIVIDENDS AND OTHER DISTRIBUTIONS.

01. Request for Approval. Requests for approval of extraordinary dividends or any other extraordinary distribution to shareholders will include the following: (3-20-14)

a. The amount of the proposed dividend; (12-24-93)

b. The date established for payment of the dividend; (12-24-93)

c. A statement whether the dividend is in cash or other property and, if in property, a description thereof, its cost, its fair market value, and an explanation of the valuation basis; *( )*

d. *T*he calculations determining that the proposed dividend is extraordinary. The work paper *needs to* include the following information: *( )*

i. The amounts, dates, and form of payment of all dividends or distributions (including regular dividends but excluding distributions of the insurer's own securities) paid within the period of twelve (12) consecutive months ending on the date fixed for payment of the proposed dividend for which approval is sought and commencing on the day after the same day of the same month in the last preceding year; (3-20-14)

ii. Surplus as regards policyholders (total capital and surplus) as of the 31st day of December next preceding; (12-24-93)

iii. If the insurer is a life insurer, the net gain from operations for the twelve (12) month period ending the 31st day of December next preceding; and (4-11-19)

iv. If the insurer is not a life insurer, the net income less net realized capital gains for the twelve (12) month period ending the 31st day of December next preceding. (4-11-19)

e. A balance sheet and statement of income for the period intervening from the last annual statement filed with the Director and the end of the month preceding the month in which the request for dividend approval is submitted; and (3-20-14)

f. A statement of the effect of the proposed dividend on the insurer's surplus and the reasonableness of surplus in relation to the insurer's outstanding liabilities and the adequacy of surplus relative to the insurer's financial needs. (12-24-93)

02. Other Dividends. Subject to Section 41-3812, Idaho Code, each registered insurer reports to the Director all dividends and other distributions to shareholders within fifteen (15) business days following the declaration thereof, including the same information *prescribed* by Subsections 027.01.d. (3-20-14)

028. ADEQUACY OF SURPLUS.

Factors in Section 41-3811, Idaho Code, are not an exhaustive list and no single factor is controlling. The Director will consider the net effect of all factors and other factors bearing on the insurer's financial condition. Comparing other insurers' surplus, the Director will consider the extent to which each factor varies among companies. The Director's determination of the quality and liquidity of investments in subsidiaries will include a consideration of the individual subsidiary and may discount or disallow its valuation to the extent individual investments warrant. ( )

029. -- 050. (RESERVED)

051. MUTUAL HOLDING COMPANY APPLICATION - CONTENT - PROCESS.

***01. Designation of Application as Limited or Standard**. An application a limited application or a standard application. Filing a limited application does not preclude the later filing of an application for approval of an initial sale of stock as provided in this chapter. ( )*

***02. Information to Be Contained in Application**. The application is filed in duplicate and will includes: ( )*

***a.** Designation as limited or standard; ( )*

***b.** A Plan of Reorganization ("Plan"); ( )*

***c.** A plan for policyholder approval in accordance with the applicant's articles of incorporation and bylaws, with at least twenty (20) days notice to the policyholders of any such plan; ( )*

***d.** A copy of the MHC's proposed articles of incorporation and bylaws specifying all membership rights; ( )*

***e.** The names, addresses and occupations of all corporate officers and members of the MHC's board of directors; ( )*

***f.** Information sufficient to demonstrate that the applicant's financial condition will not be diminished upon reorganization; ( )*

***g.** A copy of the proposed articles of incorporation and bylaws for any insurance company subsidiary or intermediate holding company subsidiary; ( )*

***h.** A Form A filing; ( )*

***i.** An application index; and ( )*

***j.** Any other information requested by the Director. ( )*

052. NOTICE OF HEARING.

***01. Scheduling**. A hearing will be held after receipt and review by the Director of the application. ( )*

***02. Evidence to Be Presented at Hearing**. The applicant will provide evidence that the application is complete, complies with Idaho law, and the requirements for reorganization have been fulfilled. ( )*

***03. Notice of Hearing**. The Department will provide notice of the hearing to known interested parties at least twenty (20) days prior to the hearing. ( )*

053. PLAN OF REORGANIZATION.

***01. Plan of Reorganization**. The plan of reorganization or "Plan" needs to preserve property and protect policyholders' interest, be fair and equitable to policyholders, and not diminish the applicant's financial*

condition. ( )

***02. Limited Application**. A limited application plan of reorganization needs to include: ( )*

***a.** Establishing an MHC with at least one (1) stock insurance company subsidiary or one (1) intermediary stock holding company with a stock insurance company subsidiary, the share of which is held exclusively by the mutual insurance holding company; ( )*

***b.** Protection of existing policyholders' interests; ( )*

***c.** Providing existing and future policyholder membership in the MHC; ( )*

***d.** The number of policyholder members of the board of directors of the MHC; ( )*

***e.** Demonstrating that, if there are proceedings under Title 41, Chapter 33, Idaho Code, involving a stock insurance company subsidiary of the MHC, the assets of the MHC will be available to satisfy the policyholder obligations of the stock insurance company; ( )*

***f.** How any accumulation or prospective accumulation of earnings by the MHC in excess of that determined by the board of directors to be necessary will invoke to the exclusive benefit of the MHC's member policyholders; ( )*

***g.** The nature and content of the annual report and financial statement sent to each member; and ( )*

***h.** Other matters the applicant deems appropriate. ( )*

***03. Standard Application**. A standard application Plan includes: ( )*

***a.** Establishing an MHC with at least one (1) stock insurance company subsidiary or one (1) wholly-owned intermediate stock holding company with a stock insurance company subsidiary, the shares of which are held exclusively by the wholly- owned intermediate holding company; ( )*

***b.** Protection of existing policyholders' interests; ( )*

***c.** Providing existing and future policyholder membership in the MHC; ( )*

***d.** The number of policyholder members of the board of directors of the MHC mutual; ( )*

***e.** Demonstrating that, if there are proceedings under Title 41, Chapter 33, Idaho Code, involving a stock insurance company subsidiary of the MHC, the assets of the MHC will be available to satisfy the policyholder obligations of the stock insurance company; ( )*

***f.** How any accumulation or prospective accumulation of earnings by the MHC excess of that determined by the MHC's board of directors to be necessary will inure to the exclusive benefit of the MHC's member policyholders; ( )*

***g.** The nature and content of the annual report and financial statement sent to each member; and ( )*

***h.** The plan for a stock offering in accordance with this rule; and ( )*

***i.** Other matters the applicant deems appropriate. ( )*

054. DUTIES OF THE DIRECTOR.

***01. Jurisdiction**. The Director will retain jurisdiction over the MHC and any intermediate holding*

company subsidiaries with stock insurance company subsidiaries. ( )

***02. Approval or Denial of Application**. The Director will, by order, approve, conditionally approve, or deny an application. ( )*

***a.** Modifications. The Director may prescribe modifications of the proposed plan of reorganization. Prescribed modifications are accepted by filing amendments to the proposed plan of reorganization with the Director within thirty (30) days after the Director's order is issued. Failure to file the prescribed amendments will result in denial of the plan. ( )*

***b.** Expiration. An approval or conditional approval of a Plan expires if the reorganization is not completed within one hundred eighty (180) days unless such time period is extended by the Director upon a showing of good cause. ( )*

***c.** Revocation of approval. The Director may revoke approval or conditional approval of an applicant's plan of reorganization in the event the Director finds the applicant has failed to comply with the plan of reorganization. The Director may compel completion of a plan of reorganization unless the plan is abandoned in its entirety, in accordance with the applicant's provisions for governance. The Director retains jurisdiction over the applicant until a plan of reorganization has been completed. ( )*

***d.** Notice of completion. Upon completion of all elements of a plan of reorganization, the applicant provides a notice of completion to the Director. ( )*

055. REGULATION - COMPLIANCE.

***01. Wavier of Compliance**. No regulatory standards are waived during the pendency of a Plan application. ( )*

***02. Merger or Acquisition**. MHC mergers and acquisitions are subject to approval by the Director. The acquisition of more than fifty percent (50%) of a stock insurance company by an MHC is subject to the filing of a plan describing the insurer's policyholders' membership interests in the MHC. ( )*

***03. Annual Financial Statement**. An MHC Each will annually file a financial statement by June 1 including: ( )*

***a.** An income statement; ( )*

***b.** A balance sheet; ( )*

***c.** A cash flow statement; ( )*

***d.** The status of any closed block formed as a result of the Plan; ( )*

***e.** An asset investment plan; and ( )*

***f.** A statement disclosing any intention to pledge, borrow against, alienate, hypothecate, or in any way encumber the assets of the MHC. ( )*

***04. Subsidiary Investment Obligations**. At least fifty percent (50%) of the generally accepted accounting practices (GAAP) basis net worth of an MHC will be invested in insurance company subsidiaries. ( )*

***05. Distributions to Policyholders**. Payment of policy credits, dividends or other distributions to policyholder members of a MHC needs to be fair and equitable, and are subject to the Director's approval and the public hearing process under Chapter 38, Title 41, Idaho Code. ( )*

056. REORGANIZATION OF MUTUAL INSURER WITH MUTUAL INSURANCE HOLDING COMPANY.
Domestic mutual insurance companies may merge their policyholders' interests into an MHC by filing with the

Director a joint application with the MHC that complies with the provisions of this chapter. This provision also applies to foreign mutual insurance companies or a foreign health service corporation, which, if a domestic corporation, would be organized under Title 41, Chapter 28, Idaho Code. ( )

057. MERGERS OF MUTUAL INSURANCE HOLDING COMPANIES.
Two (2) or more MHCs may merge by filing with the Director a plan of merger in compliance with this chapter. ( )

058. STOCK OFFERINGS.

***01. Prior Approval**. A stock offering by a MHC or any direct or indirect insurance company subsidiary or intermediate holding company subsidiary of a MHC is subject to the prior approval of the Director through the application and hearing process described in this section. ( )*

***02. Application for Stock Offering Contents**. ( )*

***a.** A description of the stock intended to be offered by the applicant and all shareholder rights; ( )*

***b.** The total number of shares authorized to be issued, the estimated number requested to offer, and the intended date or range of dates for the offer; ( )*

***c.** A justification for a uniform planned offering price or a justification of the method by which the offering price will be determined; ( )*

***d.** The name or names of any underwriter, syndicate member or placement agent involved and, if known, the names of each entity, person, or group of persons to whom the stock offering is to be made who will control five percent (5%) of the total outstanding class of shares, and the manner in which the offer is to be tendered. If any such entity or person is a corporation or business organization, the name of each member of its board of directors or equivalent management will be provided with the name of each member of the board of directors of the offeror. Copies of Securities and Exchange Commission filings disclosing intended acquisitions of the stock will be included; ( )*

***e.** A description of stock subscription rights afforded to members of the MHC in conjunction with the stock offering; ( )*

***f.** A detailed description of all expenses to be incurred in the stock offering; ( )*

***g.** How funds raised by the stock offering will be used; and ( )*

***h.** Any other information requested by the Director. ( )*

***03. Prescribed Provisions**. The stock offering plan needs to include the following provisions: ( )*

***a.** Officers, directors, and insiders of the MHC and its direct or indirect subsidiaries and affiliates are restricted from purchasing or owning shares of the stock offering, or issuance of stock options to or for the benefit of such officers, directors and insiders, for at least six (6) months following the first public offering date and regularly trading of the stock. Officers, directors and insiders are not barred from exercising subscription rights accorded to members of the MHC, except that, pursuant to those rights, the officers, directors, and insiders of the MHC and its direct or indirect subsidiaries and affiliates cannot purchase or own, in the aggregate, more than five percent (5%) of the stock offering for at least six (6) months following the first date of the public offering and regular trading of the stock; ( )*

***b.** A majority of the members of the board of directors of the MHC cannot be an interested persons of the MHC or of an affiliated person of the MHC. The Director may waive this requirement upon a showing of good cause; ( )*

***c.** The MHC will to adopt articles of incorporation barring any waiver of dividends from stock*

subsidiaries except under conditions specified in the articles and after approval of the waiver by the board of directors of the MHC and the Director; ( )

d. *After the initial stock offering by a direct or indirect insurance company or intermediate insurance company subsidiary of a MHC, the boards of directors of each such insurance company or intermediate holding company will include at least three (3) directors who are not interested persons of the MHC; and ( )*

e. *The board of directors of the corporation offering stock need to establish, a pricing committee consisting exclusively of directors who are interested persons. The committee's responsibility is to evaluate and approve the price of any stock offering. ( )*

04. More Than One Class of Stock*. A direct or indirect n insurance company or intermediate insurance holding company subsidiary of an MHC may issue more than one (1) class of stock. However, at all times a majority of the voting stock is will be held by the MHC or its subsidiary and, no class of common stock may possess greater dividend or other rights than the class held by the MHC or its subsidiary. ( )*

05. Experts. *The Director may hire experts to assist in the review of the application, at the applicant's expense. ( )*

06. Public Hearing*. A public hearing may be held regarding any stock offering application. A stock offering including an initial offering of stock is expressly subject to a public hearing. The applicant will provide Director-approved notice of the hearing to MHC members at least twenty (20) days prior to the hearing. ( )*

07. Approval*. The stock offering plan may be approved if: ( )*

a. *The method for establishing the stock offering price is consistent with generally accepted market or industry practices for establishing stock offering prices in similar transactions; and ( )*

b. *The offering will not unfairly impact the interests of MHC members. ( )*

08. Concurrent Filing with SEC*. The filing of a registration statement with the Securities and Exchange Commission prior to or concurrently with notice to the MHC members is not banned. ( )*

09. Subsequent Offerings of Publicly Traded Stock. ( )

a. *Notwithstanding the provisions of Section 013 of this chapter, stock offerings other than an initial stock offering, through which stock offered is regularly traded on the New York Stock Exchange, the American Stock Exchange, or another exchange approved by the Director, or designated on the national association of securities dealers automated quotations - national market system (NASDAQ), is subject to the following procedure: If an MHC or direct or indirect insurance company or intermediate insurance company subsidiary thereof intends to make a stock offering governed by the provisions of this section, the entity will provide notice to the Director, not less than thirty (30) days prior to the offering regarding: ( )*

i. The total number of shares intended to be offered; ( )

ii. The intended date of sale; ( )

iii. Evidence the stock is regularly traded on one of the public exchanges noted above; and ( )

iv. A record of the trading pace and trading volume of the stock during the prior fifty-two (52) weeks. ( )

b. *The Director may object to the offering within thirty (30) days following receipt of the notice. Upon an objection, the procedures Subsection 059.02 of this chapter will be followed to determine approval. ( )*

10. Expiration of Approval*. Approval of a stock offering under Subsection 059.06, 059.07, or 059.08 expires ninety (90) days following the date of the approval, except as provided by the Director's order. ( )*

***11. Representation of Director's Approval**. A prospectus, information, sales material or sales presentation by the applicant, or a representative, agent or affiliate of the applicant, will not contain a representation that the Director's approval constitutes an endorsement of the price, price range, or any other information relating to the stock. ( )*

059. BANNED MHC - PRACTICES.

***01. Borrowing Funds**. Borrowing funds from the MHC, or its subsidiaries and affiliates, to finance the purchase of any portion of a stock offering. ( )*

***02. Payment of Commissions**. Payment of commissions, "special fees" or any other special payments or extraordinary compensation to officers, directors, interested persons and affiliates, for arranging, promoting, aiding or assisting in reorganization or for arranging promoting, aiding assisting or participating in the structuring and placement of a stock offering. ( )*

***03. Avoidance of Provisions of Chapter**. Transferring legal or beneficial ownership of stock to another person not in compliance with of this chapter. ( )*

060. REGULATION OF HOLDING COMPANY SYSTEM.
All material transactions between subsidiaries and affiliates of the MHC need to be approved by a majority of the directors of the MHC as fair and reasonable, on terms and conditions not less favorable than those available from unaffiliated third parties. ( )

061. REPORTING OF STOCK OWNERSHIP AND TRANSACTIONS.

***01. Acquisition of Ownership Interest**. Any director or officer of an MHC or its direct or indirect subsidiaries or affiliates, who directly or indirectly acquires the beneficial ownership of any security issued by any member of the MHC system will, within fifteen (15) days following the transaction, file a statement of the transaction in a format prescribed by the Director. ( )*

***02. Filing of SEC Forms**. An MHC and its direct or indirect subsidiaries and affiliates, will file with the Director copies of Form 3, Form 4 and Schedule 13D, or any equivalent filings, made under the Securities and Exchange Act of 1934, as amended, within fifteen (15) days of receipt thereof. ( )*

***062.* -- 999. (RESERVED)**

18.07.02 – RESERVE LIABILITIES AND MINIMUM VALUATIONS FOR ANNUITIES AND PURE ENDOWMENT CONTRACTS

000. LEGAL AUTHORITY.
Title 41, *Chapters 2 and 6*, Sections 41-211 and 41-612, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.07.02, "Reserve Liabilities *and Minimum Valuations* for Annuities and Pure Endowment Contracts." *( )*

02. Scope. To determine minimum standard valuation for annuity and pure endowment contracts. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. 1983 Table 'a'. *The* mortality table developed by the Society of Actuaries Committee for Individual Annuity Valuation in 1981 and in June 1982 by the National Association of Insurance Commissioners. *( )*

02. 1983 GAM Table. *The* mortality table developed by the Society of Actuaries Committee on Annuities and adopted as a recognized mortality table for annuities in December 1983 by the National Association of Insurance Commissioners. *( )*

03. 1994 GAR Table. *The* mortality table developed by the Society of Actuaries Group Annuity Valuation Table Task Force and shown on pages 866-867 of Volume 47 of the Transactions of Society of Actuaries 1995. *( )*

04. 2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table. *T*he Period table containing loaded mortality rates for calendar year 2012. This table contains rates, q_x^{2012}, developed by the Society of Actuaries Committee on Life Insurance Research. *( )*

05. 2012 Individual Annuity Reserving (2012 IAR) Table. *T*he generational mortality table developed by the Society of Actuaries Committee on Life Insurance Research and containing rates, q_x^{2012+n} derived from a combination of the 2012 IAM Period table and Projection Scale G2, using the methodology stated in Section 014. *( )*

06. Annuity 2000 Mortality Table. *The* mortality table developed by the Society of Actuaries Committee on Life Insurance Research. *( )*

07. Generational Mortality Table. A mortality table containing a set of mortality rates that decrease for a given age from one year to the next based on a combination of a period table and a projection scale containing rates of mortality improvement. *( )*

08. Period Table. A a table of mortality rates applicable to a given calendar year (the Period). *( )*

09. Projection Scale G2 (Scale G2). A table of annual rates, $G2_x$, of mortality improvement by age for projecting future mortality rates beyond calendar year 2012. This table was developed by the Society of Actuaries Committee on Life Insurance Research. *( )*

011. INDIVIDUAL ANNUITY OR PURE ENDOWMENT CONTRACTS.

01. Individual Annuity Mortality Table. Except as provided in Subsections 011.02 and 011.03, of this rule, the 1983 Table 'a' is recognized and approved as an individual annuity mortality table for valuation and, at the company's option, may be used for purposes of determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after July 1, 1982. (3-29-12)

02. Minimum Standard for Valuation. Except as provided in Subsection 011.03 of this rule, either the 1983 Table 'a' or the Annuity 2000 Mortality Table is used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 1987. (3-29-12)

03. The Annuity 2000 Mortality Table. Except as provided in Subsection 011.04 of this rule, the Annuity 2000 Mortality Table is used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after March 29, 2012. (4-11-15)

04. The 2012 IAR Mortality Table. Except as provided in Subsection 011.05 of this rule, the 2012 IAR Mortality Table is used for determining the minimum standard of valuation for any individual annuity or pure endowment contract issued on or after January 1, 2015. (4-11-15)

05. The 1983 Table 'a.' The 1983 Table 'a' without projection is to be used for determining the minimum standards of valuation for an individual annuity or pure endowment contract issued on or after March 29, 2012, solely when the contract is based on life contingencies and issued to fund periodic benefits arising from: (4-11-15)

a. Settlements of various forms of claims pertaining to court settlements or out of court settlements from tort actions; (3-29-12)

b. Settlements involving similar actions such as workers' compensation claims; or (3-29-12)

c. Settlements of long-term disability claims where a temporary or life annuity has been used in lieu of continuing disability payments. (3-29-12)

012. GROUP ANNUITY OR PURE ENDOWMENT CONTRACTS.

01. Group Annuity Mortality Tables. Except as provided in Subsections 012.02 and 012.03 of this rule, the 1983 GAM Table, the 1983 Table 'a' and the 1994 GAR Table are recognized and approved as group annuity mortality tables for valuation and, at the option of the company, any one (1) of these tables may be used for purposes of valuation for any annuity or pure endowment purchased on or after July 1, 1982, under a group annuity or pure endowment contract. (3-29-12)

02. Minimum Standard of Valuation. Except as provided in Subsection 012.03 of this rule, either the 1983 GAM Table or the 1994 GAR Table is used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after January 1, 1987, under a group annuity or pure endowment contract. (3-29-12)

03 1994 GAR Table. The 1994 GAR Table will be used for determining the minimum standard of valuation for any annuity or pure endowment purchased on or after the effective date of Subsection 012.03 under a group annuity or pure endowment contract. (3-29-12)

013. FORMULA.

In using the 1994 GAR table, the mortality rate for a person age x in year (1994 + n) is calculated as follows:

$$q_x^{1994+n} = q_x^{1994} (1\text{-}AAx)^n$$

Where the q_x^{1994} and AA_xs are specific in the 1994 GAR table. (3-29-12)

014. APPLICATION OF THE 2012 IAR MORTALITY TABLE.

01. Mortality Rate Formula. In using the 2012 IAR Mortality Table, the mortality rate for a person age x in year (2012 + n) is calculated as follows: (4-11-15)

a. $q_x^{2012+n} = q_x^{2012}(1 - G2_x)^n$ (4-11-15)

b. The resulting q_x^{2012+n} *is to* be rounded to three (3) decimal places per one thousand (1,000), e.g., 0.741 deaths per one thousand (1,000). The rounding *is to* occur according to the formula above, starting at the 2012 period table rate. *( )*

02. **Mortality Rate Formula Example**. For a male age 30, q_x^{2012}=0.741: (4-11-15)

a. q_x^{2013}=0.741 * (1 - 0.010) ^ 1 = 0.73359, which is rounded to 0.734. (4-11-15)

b. q_x^{2014}=0.741 * (1 - 0.010) ^ 2 = 0.7262541, which is rounded to 0.726. (4-11-15)

c. A method leading to incorrect rounding would be to calculate q_x^{2014} as q_x^{2013} * (1 - 0.010), or 0.734 * 0.99 = 0.727. It is incorrect to use the already rounded q_x^{2013} to calculate q_x^{2014}. (4-11-15)

015. -- 999. (RESERVED)

18.07.03 – VALUATION OF LIFE INSURANCE POLICIES INCLUDING THE USE OF SELECT MORTALITY FACTORS

000. LEGAL AUTHORITY.
Title 41, *Chapters 2 and 6,* Sections 41-211 and 41-612, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.07.03, "Valuation of Life Insurance Policies Including the Use of Select Mortality Factors." *( )*

02. Purpose. To provide: *( )*

a. Tables of select mortality factors and rules for their use; (3-30-01)

b. Rules concerning a minimum standard for the valuation of plans with nonlevel premiums or benefits; and (3-30-01)

c. Rules concerning a minimum standard for the valuation of plans with secondary guarantees. (3-30-01)

03. Method. The method for calculating basic reserves defined in this chapter will constitute the commissioners' reserve valuation method for policies to which this chapter is applicable. (3-30-01)

04. Applicability. This chapter applies to all life insurance policies, with or without nonforfeiture values, issued on or after March 30, 2001,subject to the following exceptions and conditions. *( )*

a. Exceptions: (3-30-01)

i. This chapter does not apply to any individual life insurance policy issued on or after March 30, 2001, if the policy is issued in accordance with and as a result of the exercise of a reentry provision contained in the original life insurance policy of the same or greater face amount, issued before March 30, 2001, that guarantees the premium rates of the new policy. This chapter also does not apply to subsequent policies issued as a result of the exercise of such a provision, or a derivation of the provision, in the new policy. *( )*

ii. This chapter does not apply to a universal life policy that meets all the following requirements: (3-30-01)

(1) Secondary guarantee period, if any, is five (5) years or less; (3-30-01)

(2) Specified premium for the secondary guarantee period is not less than the net level reserve premium for the secondary guarantee period based on the CSO valuation tables as defined in Subsection 010.06 and the applicable valuation interest rate; and (4-7-11)

(3) The initial surrender charge is not less than one hundred percent (100%) of the first year annualized specified premium for the secondary guarantee period. (3-30-01)

iii. This chapter does not apply to a variable life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. (3-30-01)

iv. This chapter does not apply to a variable universal life insurance policy that provides for life insurance, the amount or duration of which varies according to the investment experience of any separate account or accounts. (3-30-01)

v. This chapter does not apply to a group life insurance certificate unless the certificate provides for a stated or implied schedule of maximum gross premiums needed in order to continue coverage in force for a period in excess of one (1) year. (3-30-01)

b. Conditions: (3-30-01)

i. Calculation of the minimum valuation standard for policies with guaranteed nonlevel gross

premiums or guaranteed nonlevel benefits (other than universal life policies), or both, is in accordance with the provisions of Section 012. (4-7-11)

ii. Calculation of the minimum valuation standard for flexible premium and fixed premium universal life insurance policies, that contain provisions resulting in the ability of a policyholder to keep a policy in force over a secondary guarantee period will be in accordance with the provisions of Section 013. (4-7-11)

002. INCORPORATION BY REFERENCE.
The tables of select mortality factors are incorporated by reference into IDAPA 18.07.03, "Valuation of Life Insurance Policies Including the Introduction and Use of the New Select Mortality Factors" that are the bases to which the respective percentage of Subsections 011.01.b., 011.02.b., and 011.02.c. are applied. ( )

01. Types of Tables. The six (6) tables of select mortality factors incorporated by reference include: (3-30-01)

a. Male aggregate; (3-30-01)

b. Male nonsmoker; (3-30-01)

c. Male smoker; (3-30-01)

d. Female aggregate; (3-30-01)

e. Female nonsmoker; and (3-30-01)

f. Female smoker. (3-30-01)

02. Age Basis. These tables apply to both age last birthday and age nearest birthday mortality tables. (3-30-01)

03. Computation for Sex-Blended Mortality Tables. For sex-blended mortality tables, compute select mortality factors in the same proportion as the underlying mortality. For example, for the 1980 CSO-B Table, the calculated select mortality factors are eighty percent (80%) of the appropriate male table as referenced in Section 004, plus twenty percent (20%) of the appropriate female table, as referenced in Section 004. (4-7-11)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Basic Reserves. Reserves calculated in accordance with Section 41-612(5), Idaho Code. (3-30-01)

02. Contract Segmentation Method. Method of dividing the period from issue to mandatory expiration of a policy into successive segments, with the length of each segment being defined as the period from the end of the prior segment (from policy inception, for the first segment) to the end of the latest policy year as determined below. All calculations are made using the 1980 CSO valuation tables, as defined in this chapter, (or any other valuation mortality table adopted by the National Association of Insurance Commissioners (NAIC) after the effective date of this chapter or promulgated by rule by the Director for this purpose), and, if elected, the optional minimum mortality standard for deficiency reserves set forth in Subsection 011.02. The length of a particular contract segment will be set equal to the minimum of the value t for which G_t is greater than R_t (if G_t never exceeds R_t the segment length is deemed to be the number of years from the beginning of the segment to the mandatory expiration date of the policy), where G_t and R_t are defined as follows:

- Formulas -

$$G_t = \frac{GP_{x+k+t}}{GP_{x+k+t-1}}$$

where:

x = original issue age;

k = the number of years from the date of issue to the beginning of the segment;

t = 1, 2, ...; *t* is reset to 1 at the beginning of each segment;

$GP_{x+k+t-1}$= Guaranteed gross premium per thousand of face amount for year *t* of the segment, ignoring policy fees only if level for the premium paying period of the policy.

$R_t = \frac{q_{x+k+t}}{q_{x+k+t-1}}$, However, R_t may be increased or decreased by one percent (1%) in any policy year, at the company's option, but R_t cannot be less than one (1);

where:

x, k and t are as defined above, and

$q_{x+k+t-1}$= valuation mortality rate for deficiency reserves in policy year k+t but using the mortality of Paragraph 011.02.b. if Paragraph 011.02.c. is elected for deficiency reserves.

However, if GP_{x+k+t} is greater than 0 and $GP_{x+k+t-1}$ is equal to 0, G_t *is presumed* to be 1000. If GP_{x+k+t} and $GP_{x+k+t-1}$ are both equal to 0, G_t *is presumed* to be 0.

( )

03. Deficiency Reserves. Excess, if greater than zero (0), of (3-30-01)

a. Minimum reserves calculated in accordance with Section 41-612(10), Idaho Code, over (3-30-01)

b. Basic reserves. (3-30-01)

04. Guaranteed Gross Premiums. Premiums under a policy of life insurance that are guaranteed and determined at issue. (3-30-01)

05. Maximum Valuation Interest Rates. Interest rates defined in Section 41-612(4b), Idaho Code (Computation of Minimum Standard by Calendar Year of Issue) used in determining the minimum standard for the valuation of life insurance policies. (3-30-01)

06. 1980 CSO Valuation Tables. Commissioners' 1980 Standard Ordinary Mortality Table (1980 CSO Table) without ten (10) year selection factors, incorporated into the 1980 amendments to the NAIC Standard Valuation Law, and variations of the 1980 CSO Table approved by the NAIC, such as the smoker and nonsmoker versions approved in December 1983. (3-30-01)

07. Scheduled Gross Premium. Smallest illustrated gross premium at issue for other than universal life insurance policies. For universal life insurance policies, scheduled gross premium means the smallest specified premium described in Paragraph 013.01.c., if any, or else the minimum premium described in Paragraph 013.01.d. (4-7-11)

08. Segmented Reserves. (3-30-01)

a. Reserves calculated using segments produced by the contract segmentation method, equal to the present value of all future guaranteed benefits less the present value of all future net premiums to the mandatory expiration of a policy, where the net premiums within each segment are a uniform percentage of the respective guaranteed gross premiums within the segment. The uniform percentage for each segment is such that, at the beginning of the segment, the present value of the net premiums within the segment equals: (3-30-01)

i. The present value of the death benefits within the segment, plus (3-30-01)

ii. The present value of any unusual guaranteed cash value (see Subsection 012.04) occurring at the end of the segment, less (4-7-11)

iii. Any unusual guaranteed cash value occurring at the start of the segment, plus (3-30-01)

iv. For the first segment only, the excess of the Item one (1) over Item two (2), as follows: (3-30-01)

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for in the first segment after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary within the first segment on which a premium falls due. However, the net level annual premium will not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. (3-30-01)

(2) A net one (1) year term premium for the benefits provided for in the first policy year. (3-30-01)

b. The length of each segment is determined by the "contract segmentation method," as defined in this chapter. (3-30-01)

c. The interest rates used in the present value calculations for any policy cannot exceed the maximum valuation interest rate, determined with a guarantee duration equal to the sum of the lengths of all segments of the policy. (3-30-01)

d. For both basic reserves and deficiency reserves computed by the segmented method, present values will include future benefits and net premiums in the current segment and in all subsequent segments. (3-30-01)

09. Tabular Cost of Insurance. The net single premium at the beginning of a policy year for one (1) year term insurance in the amount of the guaranteed death benefit in that policy year. (3-30-01)

10. Ten Year Select Factors. The select factors adopted with the 1980 amendments to the NAIC Standard Valuation Law. (3-30-01)

11. Unitary Reserves. (3-30-01)

a. The present value of all future guaranteed benefits less the present value of all future modified net premiums, where: (3-30-01)

i. Guaranteed benefits and modified net premiums are considered to the mandatory expiration of the policy; and (3-30-01)

ii. Modified net premiums are a uniform percentage of the respective guaranteed gross premiums, where the uniform percentage is such that, at issue, the present value of the net premiums equals the present value of all death benefits and pure endowments, plus the excess of Item one (1) over Item two (2), as follows: (3-30-01)

(1) A net level annual premium equal to the present value, at the date of issue, of the benefits provided for after the first policy year, divided by the present value, at the date of issue, of an annuity of one (1) per year payable on the first and each subsequent anniversary of the policy on which a premium falls due. However, the net

level annual premium will not exceed the net level annual premium on the nineteen (19) year premium whole life plan of insurance of the same renewal year equivalent level amount at an age one (1) year higher than the age at issue of the policy. (3-30-01)

(2) A net one (1) year term premium for the benefits provided for in the first policy year. (3-30-01)

b. The interest rates used in the present value calculations for any policy will not exceed the maximum valuation interest rate, determined with a guarantee duration equal to the length from issue to the mandatory expiration of the policy. (3-30-01)

12. Universal Life Insurance Policy. Any individual life insurance policy under the provisions of which separately identified interest credits (other than in connection with dividend accumulations, premium deposit funds, or other supplementary accounts) and mortality or expense charges are made to the policy. (3-30-01)

011. GENERAL CALCULATION REQUIREMENTS FOR BASIC RESERVES AND PREMIUM DEFICIENCY RESERVES.

01. Basic Reserves. At the company's election for any one (1) or more specified plans of life insurance, the minimum mortality standard for basic reserves may be calculated using the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after the effective date of this chapter and promulgated by rule by the Director for this purpose). If select mortality factors are elected, they may be:

(3-30-01)

a. The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; (3-30-01)

b. The select mortality factors in the tables as referenced in Section 004; or (4-7-11)

c. Any other table of select mortality factors adopted by the NAIC after *March 30, 2001,* promulgated by rule for the purpose of calculating basic reserves. *( )*

02. Deficiency Reserves. Deficiency reserves, if any, are calculated for each policy as the excess, if greater than zero (0), of the quantity A over the basic reserve. The quantity A is obtained by recalculating the basic reserve for the policy using guaranteed gross premiums instead of net premiums when the guaranteed gross premiums are less than the corresponding net premiums. At the company's election for any one or more specified plans of insurance, the quantity A and the corresponding net premiums used in the determination of quantity A may be based upon the 1980 CSO valuation tables with select mortality factors (or any other valuation mortality table adopted by the NAIC after *March 30, 2001,* and promulgated by rule). If select mortality factors are elected, they may be one (1) of the following: (3-30-01)

a. The ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law; (3-30-01)

b. The select mortality factors in the tables as referenced in Section 004; (4-7-11)

c. For durations in the first segment, X percent of the select mortality factors in the tables as referenced in Section 004, subject to the following: (4-7-11)

i. X may vary by policy year, policy form, underwriting classification, issue age, or any other policy factor expected to affect mortality experience; (3-30-01)

ii. X is such that, when using the valuation interest rate used for basic reserves, Item one (1) is greater than or equal to Item two (2); (3-30-01)

(1) The actuarial present value of future death benefits, calculated using the mortality rates resulting from the application of X; (3-30-01)

(2) The actuarial present value of future death benefits calculated using anticipated mortality experience without recognition of mortality improvement beyond the valuation date; (3-30-01)

iii. X is such that the mortality rates resulting from the application of X are at least as great as the anticipated mortality experience, without recognition of mortality improvement beyond the valuation date, in each of the first five (5) years after the valuation date; (3-30-01)

iv. The appointed actuary will increase X at any valuation date where it is necessary to continue to meet all the requirements of Paragraph 011.02.c.; (4-7-11)

v. The appointed actuary may decrease X at any valuation date as long as X continues to meet all the requirements of Paragraph 011.02.c.; and (4-7-11)

vi. The appointed actuary will specifically take into account the adverse effect on expected mortality and lapsation of any anticipated or actual increase in gross premiums. (3-30-01)

vii. If X is less than one hundred percent (100%) at any duration for any policy, the following requirements are to be met: (3-30-01)

(1) The appointed actuary will annually prepare an actuarial opinion and memorandum for the company in conformance with the requirements of the Actuarial and Memorandum Rule, IDAPA 18.07.10, Section 022, "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis"; (4-7-11)

(2) The appointed actuary will disclose, in the Regulatory Asset Adequacy Issues Summary, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one (1) or more interim periods; and (4-7-11)

(3) The appointed actuary will annually opine for all policies subject to this chapter as to whether the mortality rates resulting from the application of X meet the requirements of Paragraph 011.02.c. This opinion will be supported by an actuarial report, subject to appropriate Actuarial Standards of Practice promulgated by the Actuarial Standards Board of the American Academy of Actuaries. The X factors will reflect anticipated future mortality, without recognition of mortality improvement beyond the valuation date, taking into account relevant emerging experience. (4-7-11)

d. Any other table of select mortality factors adopted by the NAIC after *March 30, 2001,* and promulgated by rule for the purpose of calculating deficiency reserves. *( )*

03. Applicability. Subsection 011.03 applies to both basic reserves and deficiency reserves. Any set of select mortality factors may be used only for the first segment. However, if the first segment is less than ten (10) years, the appropriate ten (10) year select mortality factors incorporated into the 1980 amendments to the NAIC Standard Valuation Law may be used thereafter through the tenth policy year from the date of issue. (4-7-11)

04. Gross Premiums. In determining basic reserves or deficiency reserves, guaranteed gross premiums without policy fees may be used where the calculation involves the guaranteed gross premium but only if the policy fee is a level dollar amount after the first policy year. In determining deficiency reserves, policy fees may be included in guaranteed gross premiums, even if not included in the actual calculation of basic reserves. (3-30-01)

05. Changes in Guarantees. Reserves for policies that have changes to guaranteed gross premiums, guaranteed benefits, guaranteed charges, or guaranteed credits that are unilaterally made by the insurer after issue and that are effective for more than one (1) year after the date of the change will be the greatest of the following: (3-30-01)

a. Reserves calculated ignoring the guarantee; (3-30-01)

b. Reserves assuming the guarantee was made at issue; and (3-30-01)

c. Reserves assuming that the policy was issued on the date of the guarantee. (3-30-01)

06. Reserve Adequacy. The Director may require that the company document the extent of the adequacy of reserves for specified blocks, including but not limited to policies issued prior to the effective date of this chapter. This documentation may include a demonstration of the extent to which aggregation with other non-specified blocks of business is relied upon in the formation of the appointed actuary opinion pursuant to and consistent with the requirements of the Actuarial and Memorandum Rule, IDAPA 18.07.10, Section 022, "Statement of Actuarial Opinion Based on an Asset Adequacy Analysis." (4-7-11)

012. CALCULATION OF MINIMUM VALUATION STANDARD FOR POLICIES WITH GUARANTEED NONLEVEL GROSS PREMIUMS OR GUARANTEED NONLEVEL BENEFITS (OTHER THAN UNIVERSAL LIFE POLICIES).

01. Basic Reserves. Basic reserves are be calculated as the greater of the segmented reserves and the unitary reserves. Both the segmented reserves and the unitary reserves for any policy will use the same valuation mortality table and selection factors. At the option of the insurer, in calculating segmented reserves and net premiums, either of the adjustments described below may be made: (3-30-01)

a. Treat the unitary reserve, if greater than zero (0), applicable at the end of each segment as a pure endowment and subtract the unitary reserve, if greater than zero (0), applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment; or (3-30-01)

b. Treat the guaranteed cash surrender value, if greater than zero (0), applicable at the end of each segment as a pure endowment; and subtract the guaranteed cash surrender value, if greater than zero (0), applicable at the beginning of each segment from the present value of guaranteed life insurance and endowment benefits for each segment. (3-30-01)

02. Deficiency Reserves. (3-30-01)

a. The deficiency reserve at any duration will be calculated: (3-30-01)

i. On a unitary basis if the corresponding basic reserve determined by Subsection 012.01 is unitary; (4-7-11)

ii. On a segmented basis if the corresponding basic reserve determined by Subsection 012.01 is segmented; or (4-7-11)

iii. On the segmented basis if the corresponding basic reserve determined by Subsection 012.01 is equal to both the segmented reserve and the unitary reserve. (4-7-11)

b. Subsection 012.02 applies to any policy for which the guaranteed gross premium at any duration is less than the corresponding modified net premium calculated by the method used in determining the basic reserves, but using the minimum valuation standards of mortality (specified in Subsection 011.02 and rate of interest). (4-7-11)

c. Deficiency reserves, if any, are be calculated for each policy as the excess if greater than zero (0), for the current and all remaining periods, of the quantity A over the basic reserve, where A is obtained as indicated in Subsection 011.02. (4-7-11)

d. For deficiency reserves determined on a segmented basis, the quantity A is determined using segment lengths equal to those determined for segmented basic reserves. (3-30-01)

03. Minimum Value. Basic reserves will not be less than the tabular cost of insurance for the balance of the policy year, if mean reserves are used. Basic reserves will not be less than the tabular cost of insurance for the balance of the current modal period or to the paid-to-date, if later, but not beyond the next policy anniversary, if mid-terminal reserves are used. The tabular cost of insurance will use the same valuation mortality table and interest rates as that used for the calculation of the segmented reserves. However, if select mortality factors are used, they will be

the ten (10) year select factors incorporated into the 1980 amendments of the NAIC Standard Valuation Law. In no case may total reserves (including basic reserves, deficiency reserves and any reserves held for supplemental benefits that would expire upon contract termination) be less than the amount that the policyowner would receive (including the cash surrender value of the supplemental benefits, if any, referred to above), exclusive of any deduction for policy loans, upon termination of the policy. (3-30-01)

04. Unusual Pattern of Guaranteed Cash Surrender Values. (3-30-01)

a. For any policy with an unusual pattern of guaranteed cash surrender values, the reserves actually held prior to the first unusual guaranteed cash surrender value will not be less than the reserves calculated by treating the first unusual guaranteed cash surrender value as a pure endowment and treating the policy as an *n* year policy providing term insurance plus a pure endowment equal to the unusual cash surrender value, where *n* is the number of years from the date of issue to the date the unusual cash surrender value is scheduled. (3-30-01)

b. The reserves actually held subsequent to any unusual guaranteed cash surrender value will not be less than the reserves calculated by treating the policy as an *n* year policy providing term insurance plus a pure endowment equal to the next unusual guaranteed cash surrender value, and treating any unusual guaranteed cash surrender value at the end of the prior segment as a net single premium, where: (3-30-01)

i. *n* is the number of years from the date of the last unusual guaranteed cash surrender value prior to the valuation date to the earlier of: (3-30-01)

(1) The date of the next unusual guaranteed cash surrender value, if any, that is scheduled after the valuation date; or (3-30-01)

(2) The mandatory expiration date of the policy; and (3-30-01)

ii. The net premium for a given year during the *n* year period is equal to the product of the net to gross ratio and the respective gross premium; and (3-30-01)

iii. The net to gross ratio is equal to Item One (1) divided by Item Two (2) as follows: (3-30-01)

(1) The present value, at the beginning of the *n* year period, of death benefits payable during the *n* year period plus the present value, at the beginning of the *n* year period, of the next unusual guaranteed cash surrender value, if any, minus the amount of the last unusual guaranteed cash surrender value, if any, scheduled at the beginning of the *n* year period. (3-30-01)

(2) The present value, at the beginning of the *n* year period, of the scheduled gross premiums payable during the *n* year period. (3-30-01)

c. For purposes of Subsection 012.04, a policy is considered to have an unusual pattern of guaranteed cash surrender values if any future guaranteed cash surrender value exceeds the prior year's guaranteed cash surrender value by more than the sum of: (4-7-11)

i. One hundred ten percent (110%) of the scheduled gross premium for that year; (3-30-01)

ii. One hundred ten percent (110%) of one (1) year's accrued interest on the sum of the prior year's guaranteed cash surrender value and the scheduled gross premium using the nonforfeiture interest rate used for calculating policy guaranteed cash surrender values; and (3-30-01)

iii. Five percent (5%) of the first policy year surrender charge, if any. (3-30-01)

05. Optional Exemption for Yearly Renewable Term (YRT) Reinsurance. At the option of the company, the following approach for reserves on YRT reinsurance may be used: (3-30-01)

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year; (3-30-01)

b. Basic reserves will never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection 012.03; (4-7-11)

c. Deficiency reserves. (3-30-01)

i. For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. (3-30-01)

ii. Deficiency reserves will never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph 012.05.c.i.; (4-7-11)

d. For purposes of Subsection 012.05, the calculations use the maximum valuation interest rate and the 1980 CSO mortality tables with or without ten (10) year select mortality factors, or any other table adopted after the effective date of this chapter by the NAIC and promulgated by rule by the Director for this purpose; (4-7-11)

e. A reinsurance agreement will be considered YRT reinsurance for purposes of Subsection 012.05 if only the mortality risk is reinsured; and (4-7-11)

f. If the assuming company chooses this optional exemption, the ceding company's reinsurance reserve credit will be limited to the amount of reserve held by the assuming company for the affected policies. (3-30-01)

06. Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies. At the company's option, the following approach for reserves for attained-age-based YRT life insurance policies may be used: (3-30-01)

a. Calculate the valuation net premium for each future policy year as the tabular cost of insurance for that future year. (3-30-01)

b. Basic reserves will never be less than the tabular cost of insurance for the appropriate period, as defined in Subsection 012.03. (4-7-11)

c. Deficiency reserves: (3-30-01)

i. For each policy year, calculate the excess, if greater than zero (0), of the valuation net premium over the respective maximum guaranteed gross premium. (3-30-01)

ii. Deficiency reserves will never be less than the sum of the present values, at the date of valuation, of the excesses determined in accordance with Subparagraph 012.06.c.i. (4-7-11)

d. For purposes of Subsection 012.06, the calculations use the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after *March 30, 2001,* by the NAIC and promulgated by rule for this purpose. *( )*

e. A policy is considered an attained-age-based YRT life insurance policy for purposes of Subsection 012.06 if: (4-7-11)

i. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are based upon the attained age of the insured such that the rate for any given policy at a given attained age of the insured is independent of the year the policy was issued; and (3-30-01)

ii. The premium rates (on both the initial current premium scale and the guaranteed maximum premium scale) are the same as the premium rates for policies covering all insureds of the same sex, risk class, plan of insurance and attained age. (3-30-01)

f. For policies that become attained-age-based YRT policies after an initial period of coverage, the

approach of Subsection 012.06 may be used after the initial period if: (4-7-11)

i. The initial period is constant for all insureds of the same sex, risk class and plan of insurance; or (3-30-01)

ii. The initial period runs to a common attained age for all insureds of the same sex, risk class, and plan of insurance; and (3-30-01)

iii. After the initial period of coverage, the policy meets the conditions of Paragraph 012.06.e.; and (4-7-11)

g. If this election is made, this approach will be applied in determining reserves for all attained-age-based YRT life insurance policies issued on or after the effective date of this chapter. (3-30-01)

07. Exemption from Unitary Reserves for Certain n-Year Renewable Term Life Insurance Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met: (3-30-01)

a. The policy consists of a series of *n*-year periods, including the first period and all renewal periods, where *n* is the same for each period, except that for the final renewal period, *n* may be truncated or extended to reach the expiry age, provided that this final renewal period is less than ten (10) years and less than twice the size of the earlier *n*-year periods, and for each period, the premium rates on both the initial current premium scale and the guaranteed maximum premium scale are level; (3-30-01)

b. The guaranteed gross premiums in all *n*-year periods are not less than the corresponding net premiums based upon the 1980 CSO Table with or without the ten (10) year select mortality factors; and (3-30-01)

c. There are no cash surrender values in any policy year. (3-30-01)

08. Exemption From Unitary Reserves for Certain Juvenile Policies. Unitary basic reserves and unitary deficiency reserves need not be calculated for a policy if the following conditions are met, based upon the initial current premium scale at issue: (3-30-01)

a. At issue, the insured is age twenty-four (24) or younger; (3-30-01)

b. Until the insured reaches the end of the juvenile period, which will occur at or before age twenty-five (25), the gross premiums and death benefits are level, and there are no cash surrender values; and (3-30-01)

c. After the end of the juvenile period, gross premiums are level for the remainder of the premium paying period, and death benefits are level for the remainder of the life of the policy. (3-30-01)

013. CALCULATION OF MINIMUM VALUATION STANDARD FOR FLEXIBLE PREMIUM AND FIXED PREMIUM UNIVERSAL LIFE INSURANCE POLICIES THAT CONTAIN PROVISIONS RESULTING IN THE ABILITY OF A POLICY OWNER TO KEEP A POLICY IN FORCE OVER A SECONDARY GUARANTEE PERIOD.

01. General. *( )*

a. Policies with a secondary guarantee include: (3-30-01)

i. A policy with a guarantee that the policy will remain in force at the original schedule of benefits, subject only to the payment of specified premiums; (3-30-01)

ii. A policy in which the minimum premium at any duration is less than the corresponding one (1) year valuation premium, calculated using the maximum valuation interest rate and the 1980 CSO valuation tables with or without ten (10) year select mortality factors, or any other table adopted after *March 30, 2001,* by the NAIC and promulgated by rule for this purpose; or *( )*

iii. A policy with any combination of Subparagraphs 013.01.a.i. and 013.01.a.ii. (4-7-11)

b. A secondary guarantee period is the period for which the policy is guaranteed to remain in force subject only to a secondary guarantee. When a policy contains more than one secondary guarantee, the minimum reserve will be the greatest of the respective minimum reserves at that valuation date of each unexpired secondary guarantee, ignoring all other secondary guarantees. Secondary guarantees that are unilaterally changed by the insurer after issue will be considered to have been made at issue. Reserves described in Subsections 013.02 and 013.03 below will be recalculated from issue to reflect these changes. (4-7-11)

c. Specified premiums mean the premiums specified in the policy, the payment of which guarantees that the policy will remain in force at the original schedule of benefits, but which otherwise would be insufficient to keep the policy in force in the absence of the guarantee if maximum mortality and expense charges and minimum interest credits were made and any applicable surrender charges were assessed. (3-30-01)

d. For purposes of Section 013, the minimum premium for any policy year is the premium that, when paid into a policy with a zero (0) account value at the beginning of the policy year, produces a zero (0) account value at the end of the policy year. The minimum premium calculation will use the policy cost factors (including mortality charges, loads and expense charges) and the interest crediting rate, which are all guaranteed at issue. (4-7-11)

e. The one (1) year valuation premium means the net one (1) year premium based upon the original schedule of benefits for a given policy year. The one (1) year valuation premiums for all policy years are calculated at issue. The select mortality factors defined in Paragraphs 011.02.b., 011.02.c., and 011.02.d. cannot be used to calculate the one (1) year valuation premiums. (4-7-11)

f. The one (1) year valuation premium should reflect the frequency of fund processing, as well as the distribution of deaths assumption employed in the calculation of the monthly mortality charges to the fund. (3-30-01)

02. Basic Reserves for the Secondary Guarantees. Basic reserves for the secondary guarantees will be the segmented reserves for the secondary guarantee period. In calculating the segments and the segmented reserves, the gross premiums will be set equal to the specified premiums, if any, or otherwise to the minimum premiums, that keep the policy in force and the segments will be determined according to the contract segmentation method as defined in Subsection 010.02. (4-7-11)

03. Deficiency Reserves for the Secondary Guarantees. Deficiency reserves, if any, for the secondary guarantees will be calculated for the secondary guarantee period in the same manner as described in Subsection 012.02 with gross premiums set equal to the specified premiums, if any, or otherwise to the minimum premiums that keep the policy in force. (4-7-11)

04. Minimum Reserves. The minimum reserves during the secondary guarantee period are the greater of: (3-30-01)

a. The basic reserves for the secondary guarantee plus the deficiency reserve, if any, for the secondary guarantees; or (3-30-01)

b. The minimum reserves *prescribed* by other rules or rules governing universal life plans. *( )*

014. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 *and 6*, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.07.04, "Annual Financial Reporting." (5-8-09)

02. Scope. To improve the Department's surveillance of the financial condition of insurers by requiring: (1) an annual audit of the financial statements reporting the financial position and the results of operations of insurers by independent certified public accountants; (2) Communication of Internal Control Related Matters Noted in an Audit; and (3) Management's Report of Internal Control over Financial Reporting. Insurers having direct premiums written in this state of less than one million dollars ($1,000,000) in any calendar year and less than one thousand (1,000) policyholders or certificate holders of direct written policies nationwide at the end of such calendar year are exempt from this rule for such year (unless the Director makes a specific finding that compliance is necessary for the Director to carry out statutory responsibilities) except that insurers having assumed premiums pursuant to contracts or treaties of reinsurance of one million dollars ($1,000,000) or more, or both, will not be exempt. Foreign or alien insurers filing the audited financial report in another state, pursuant to that other state's requirement for filing of audited financial reports found by the Director to be substantially similar to the requirements herein, are exempt from Section 011 through Section 020 of this rule if conditions of Subsection 001.02.a. or 001.02.b., of this rule apply: *( )*

a. A copy of the Audited financial report, Communication of Internal Control Related Matters Noted in an Audit, and the Accountant's Letter of Qualifications that are filed with the other state are filed with the Director in accordance with the filing dates in Sections 011, 018, and 019 respectively (Canadian insurers may submit accountants' reports as filed with the Office of the Superintendent of Financial Institutions, Canada). *( )*

b. A copy of any Notification of Adverse Financial Condition Report filed with the other state is filed with the Director pursuant to Section 017. *( )*

c. Foreign or alien insurers need to file Management's Report of Internal Control over Financial Reporting in another state are exempt from filing the Report in this state provided the other state has substantially similar reporting requirements and the Report is filed with the Director of the other state within the time specified. (5-8-09)

d. This rule does not prohibit, preclude or in any way limit the Director from ordering, conducting or performing examinations of insurers pursuant to the provisions of Title 41, Idaho Code, and the rules*, practices and procedures* of the Department. *( )*

002. INCORPORATION BY REFERENCE.
This rule incorporates by reference the full text of the National Association of Insurance Commissioners Financial Condition Examiners Handbook and the National Association of Insurance Commissioners Annual Statement Instructions and Accounting Practices and Procedures Manual, pursuant to Sections 41-223 and 47-335, Idaho Code. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.

***01*. Affiliate**. *I*s a person that directly, or indirectly through one (1) or more intermediaries, controls, or is controlled by, or is under common control with, the person specified. *( )*

***02*. Audit Committee**. *A* committee (or equivalent body) established by the board of directors of an entity for the purpose of overseeing the accounting and financial reporting processes of an insurer or group of insurers, and audits of financial statements of the insurer or group of insurers. The Audit committee of any entity that controls a group of insurers may be deemed to be the Audit committee for one (1) or more of these controlled insurers solely for the purposes of this rule at the election of the controlling person. Refer to Subsection 021.05 of this rule, for exercising this election. If an Audit committee is not designated by the insurer, the insurer's entire board of directors constitutes the Audit committee. *( )*

***03*. Audited Financial Report**. *I*ncludes those items specified in Section 012 of this rule. *( )*

04. **Indemnification**. *A*n agreement of indemnity or a release from liability where the intent or effect is to shift or limit in any manner the potential liability of the person or firm for failure to adhere to applicable auditing or professional standards, whether or not resulting in part from knowing or other misrepresentations made by the insurer or its representatives. *( )*

05. **Group of Insurers**. *T*hose licensed insurers included in the reporting requirements of Title 41, Chapter 38, Idaho Code, or a set of insurers as identified by management, for the purpose of assessing the effectiveness of Internal control over financial reporting. *( )*

06. **Internal Control over Financial Reporting**. *A* process effected by an entity's board of directors, management and other personnel *providing* reasonable assurance *of* the reliability of the financial statements, such as those items specified in Subsections 012.02 through 012.07 of this rule, and includes those policies and procedures that: *( )*

a. Pertain to the maintenance of records that, in reasonable detail, accurately and fairly reflect the transactions and dispositions of assets; (5-8-09)

b. Provide reasonable assurance that transactions are recorded as necessary to permit preparation of the financial statements, such as those items specified in Subsections 012.02 through 012.07 of this rule, and that receipts and expenditures are being made only in accordance with authorizations of management and directors; and (5-8-09)

c. Provide reasonable assurance regarding prevention or timely detection of unauthorized acquisition, use or disposition of assets that could have a material effect on the financial statements, such as those items specified in Subsections 012.02 through 012.07 of this rule. (5-8-09)

07. **Section 404**. Section 404 of the Sarbanes-Oxley Act of 2002 and the SEC's rules and regulations promulgated thereunder. *( )*

08. **Section 404 Report**. *M*anagement's report on "internal control over financial reporting" as defined by the SEC and the related attestation report of the independent certified public accountant as described in Section 3A. *( )*

13. SOX Compliant Entity. *A*n entity that *needs* to be compliant with, or voluntarily is compliant with, the following provisions of the Sarbanes-Oxley Act of 2002: *( )*

a. The preapproval requirements of Section 201 (Section 10A(i) of the Securities Exchange Act of 1934); (5-8-09)

b. The Audit committee independence requirements of Section 301 (Section 10A(m)(3) of the Securities Exchange Act of 1934); and (5-8-09)

c. The Internal control over financial reporting requirements of Section 404 (Item 308 of SEC Regulation S-K). (5-8-09)

011. GENERAL REQUIREMENTS RELATED TO FILING AND EXTENSIONS FOR FILING OF ANNUAL AUDITED FINANCIAL REPORTS AND AUDIT COMMITTEE APPOINTMENT.

01. Annual Audit Filing Date. All insurers will have an annual audit by an independent certified public accountant and file an audited financial report with the Director on or before June 1 for the year ended December 31 immediately preceding. The Director may require an insurer to file an audited financial report earlier than June 1 with ninety (90) days advance notice. *( )*

02. Request for Extension. Extensions of the June 1 filing date may be granted by the Director for thirty (30) day periods upon a showing by the insurer and its independent certified public accountant of the reasons for *the request* and *a* determination by the Director of good cause for an extension. The request for extension needs to

be submitted in writing *at least* ten (10) days prior to the due date in sufficient detail to permit the Director to make an informed decision with respect to the extension. *If an extension is granted, an extension of thirty (30) days is also granted to the filing of Management's Report of Internal Control over Financial Reporting.* ( )

03. **Designation of Audit Committee**. Every insurer *needs* to file an annual audited financial report pursuant to this chapter will designate *an* Audit committee, as defined in Section 010. The Audit committee of an entity *controlling* an insurer may be deemed to be the insurer's Audit committee for purposes of this rule at the *controlling person's* election. ( )

012. CONTENTS OF ANNUAL AUDITED FINANCIAL REPORT.

01. ***Contents of Report***. The annual audited financial report will report the financial position of the insurer as of the end of the most recent calendar year and the results of its operations, cash flows and changes in capital and surplus for the year then ended in conformity with statutory accounting practices prescribed, or otherwise permitted, by the Department of Insurance of the state of domicile. The annual Audited financial report will include the following: ( )

a. Report of independent certified public accountant; ( )

b. Balance sheet reporting admitted assets, liabilities, capital and surplus; ( )

c. Statement of operations; ( )

d. Statement of cash flow; ( )

e. Statement of changes in capital and surplus; ( )

f. Notes to financial statements*, which* will those *prescribed* by the appropriate NAIC Annual Statement Instructions and NAIC Accounting Practices and Procedures Manual. The notes will include a reconciliation of differences, if any, between the audited statutory financial statements and the annual statement filed pursuant to Section 41-335, Idaho Code, or other applicable section of Idaho Code with a written description of the nature of these differences. ( )

g. The financial statements included in the audited financial report will be prepared in a form and using language and groupings substantially the same as the relevant sections of the annual statement of the insurer filed with the Director. *T*he financial statement will be comparative, presenting the amounts as of December 31 of the current year and the amounts as of the immediately preceding December 31. (*I*n the first year in which an insurer *needs* to file an audited financial report, the comparative data may be omitted.) ( )

013. DESIGNATION OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

01. Registration with the Director. Each insurer *prescribed* by this rule to file an annual audited financial report *needs,* within sixty (60) days after becoming subject to the requirement, *to* register with the Director in writing the name and address of the independent certified public accountant or accounting firm retained to conduct the annual audit. Insurers not retaining an independent certified public accountant on the effective date of this rule will register the name and address of their retained independent certified public accountant not less than six (6) months before the date when the first audited financial report is to be filed. ( )

02. Letter of Awareness. The insurer will obtain a letter from the accountant, and file a copy with the Director stating that the accountant is aware of the provisions of the Insurance Code and the *Department's r*ules of the state of domicile that relate to accounting and financial matters and affirming that *they* will express his opinion on the financial statements in terms of their conformity to the statutory accounting practices prescribed or otherwise permitted by that Department, specifying *appropriate* exceptions. ( )

03. Dismissal or Resignation. If an accountant who was the accountant for the immediately preceding filed audited financial report is dismissed or resigns, the insurer will within five (5) business days notify the Department. The insurer will also furnish the Director with a separate letter within ten (10) business days *after* the

above notification stating whether in the twenty-four (24) months preceding such event there were any disagreements with the former accountant on any matter of accounting principles or practices, financial statement disclosure, or auditing scope or procedure; which disagreements, if not resolved to the satisfaction of the former accountant, would have caused *the accountant* to make reference to the subject matter of the disagreement in connection with *the* opinion. The disagreements *need* to be reported in response to this rule include those resolved to the former accountant's satisfaction and not resolved to the former accountant's satisfaction. Disagreements contemplated by this section occur at the decision-making level, such as between personnel of the insurer responsible for presentation of financial statements and personnel of the accounting firm responsible for rendering *the* report. The insurer will also in writing request the former accountant to furnish a letter addressed to the insurer stating whether the accountant agrees with the statements contained in the insurer's letter and, if not, stating the reasons for which *the accountant* does not agree; and the insurer will furnish such responsive letter from the former accountant to the Director with its own. *( )*

014. QUALIFICATIONS OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.

01. In Good Standing. The Director will not recognize any person or firm as a qualified independent certified public accountant that is not in good standing with the AICPA in all states in which the accountant is licensed to practice, or, for a Canadian or British company, that is not a chartered accountant; or has either directly or indirectly entered into an agreement of indemnity or release from liability ("indemnification") with respect to the *insurer's* audit. *( )*

02. Conformance with Ethical and Professional Standards. Except as otherwise provided in this rule, the Director will recognize an independent certified public accountant as qualified *if the accountant* conforms to the standards contained in the Code of Professional Ethics of the AICPA and Rules and Regulations and Code of Ethics and Rules of Professional Conduct of the Idaho Board of Public Accountancy, or similar code. *( )*

03. Resolution of Disputes and Delinquency Proceedings. A qualified independent certified public accountant may enter into an agreement with an insurer to have *audit-related* disputes resolved by mediation or arbitration. *I*n the event of a delinquency proceeding commenced against the insurer under Title 41, Chapter 33, the mediation or arbitration provisions operates at the option of the statutory successor. *( )*

04. Capacity to Render Report for Consecutive Years. The lead (or coordinating) audit partner (*primarily responsible* for the audit) cannot act in the capacity for more than five (5) consecutive years. The person will be disqualified from acting in that or a similar capacity for the same company or its insurance subsidiaries or affiliates for a period of five (5) consecutive years. An insurer may make application to the Director for relief from the above requirement *due to* unusual circumstances. *A*pplication should be made at least thirty (30) days before the end of the calendar year. The Director may consider the following factors in determining if the relief should be granted: *( )*

a. Number of partners, expertise of the partners or the number of insurance clients in the currently registered firm; (7-1-93)

b. Premium volume; or (7-1-93)

c. Number of jurisdictions in which the insurer transacts business. (5-8-09)

05. Relief from Limitation on Consecutive Appointment of Lead Partner. The insurer will file, with its annual statement filing, the approval for relief from Subsection 014.04 of this rule, with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer will file the approval in an electronic format acceptable to the NAIC. (5-8-09)

06. Grounds for Not Recognizing as Qualified. The Director will neither recognize as a qualified independent certified public accountant, nor accept any annual Audited financial report, prepared in whole or in part by, any natural person who: (5-8-09)

a. Has been convicted of fraud, bribery, a violation of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. Sections 1961 to 1968, or any dishonest conduct or practices under federal or state law;

(5-8-09)

b. Has been found to have violated the insurance laws of this state with respect to any previous reports submitted under this rule; or (5-8-09)

c. Has demonstrated a pattern or practice of failing to detect or disclose material information in previous reports filed under the provisions of this rule. (5-8-09)

07. Hearings. The Director of insurance may, as provided in Chapter 52, Title 67 and Chapter 2, Title 41, Idaho Code and IDAPA 04.11.01, hold a hearing to determine whether an independent certified public accountant is qualified and, considering the evidence presented, may rule that the accountant is not qualified for purposes of expressing his opinion on the financial statements in the annual Audited financial report made pursuant to this rule and require the insurer to replace the accountant with another whose relationship with the insurer is qualified within the meaning of this rule. (5-8-09)

08. *Banned* Services. The Director will not recognize as a qualified independent certified public accountant, nor accept an annual audited financial report, prepared in whole or in part by an accountant who provides to an insurer, contemporaneously with the audit, the following non-audit services: *( )*

a. Bookkeeping or other services related to the accounting records or financial statements of the insurer; (5-8-09)

b. Financial information systems design and implementation; (5-8-09)

c. Appraisal or valuation services, fairness opinions, or contribution-in-kind reports. (5-8-09)

d. Actuarially-oriented advisory services involving the determination of amounts recorded in the financial statements. The accountant may assist an insurer in understanding the methods, assumptions and inputs used in the determination of amounts recorded in the financial statement only if it is reasonable to conclude that the services provided will not be subject to audit procedures during an audit of the insurer's financial statements. An accountant's actuary may also issue an actuarial opinion or certification ("opinion") on an insurer's reserves if the following conditions have been met: (5-8-09)

i. Neither the accountant nor the accountant's actuary has performed any management functions or made any management decisions; (5-8-09)

ii. The insurer has competent personnel (or engages a third party actuary) to estimate the reserves for which management takes responsibility; and (5-8-09)

iii. The accountant's actuary tests the reasonableness of the reserves after the insurer's management has determined the amount of the reserves; (5-8-09)

e. Internal audit outsourcing services; (5-8-09)

f. Management functions or human resources; (5-8-09)

g. Broker or dealer, investment adviser, or investment banking services; (5-8-09)

h. Legal services or expert services unrelated to the audit; or (5-8-09)

i. Any other services that the Director determines, by rule, are impermissible. (5-8-09)

09. Principles of Independence. In general, the principles of independence with respect to services provided by the qualified independent certified public accountant are largely predicated on three (3) basic principles, violations of which would impair the accountant's independence. The principles are that the accountant: (5-8-09)

a. Cannot function in the role of management; (5-8-09)

b. Cannot audit his own work; and (5-8-09)

c. Cannot serve in an advocacy role for the insurer. (5-8-09)

10. Exemption from *Banned* Services. Insurers having direct written and assumed premiums of less than one hundred million dollars ($100,000,000) in any calendar year may request an exemption from Subsection 014.08 of this rule. The insurer will file with the Director a written statement discussing the reasons why the insurer should be exempt from these provisions. If the Director finds, upon review of this statement, that compliance with this regulation would constitute a financial or organizational hardship upon the insurer, an exemption may be granted. *( )*

11. Permitted Non-Audit Services. A qualified independent certified public accountant who performs the audit may engage in other non-audit services, including tax services, that are not described in Subsection 014.08 of this rule, or that do not conflict with Subsection 014.09 of this rule, only if the activity is approved in advance by the Audit committee, in accordance with Subsection 014.12 of this rule. (5-8-09)

12. Preapproval *Requisite* by Audit Committee. All auditing services and non-audit services provided to an insurer by the qualified independent certified public accountant of the insurer will be preapproved by the Audit committee. The preapproval requirement is waived with respect to non-audit services if the insurer is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity; or *( )*

a. The aggregate amount of all such non-audit services provided to the insurer constitutes not more than five percent (5%) of the total amount of fees paid by the insurer to its qualified independent certified public accountant during the fiscal year in which the non-audit services are provided; (5-8-09)

b. The services were not recognized by the insurer at the time of the engagement to be non-audit services; and (5-8-09)

c. The services are promptly brought to the attention of the Audit committee and approved prior to the completion of the audit by the Audit committee or by one (1) or more members of the Audit committee who are the members of the board of directors to whom authority to grant such approvals has been delegated by the Audit committee. (5-8-09)

13. Delegation by Audit Committee. The Audit committee may delegate to one (1) or more designated members of the Audit committee the authority to grant the preapprovals *prescribed* by Subsection 014.12 of this rule. The decisions of any member to whom this authority is delegated will be presented to the full Audit committee at each of its scheduled meetings. *( )*

14. Prior Employment *Banned*. The Director will not recognize an independent certified public accountant as qualified for a particular insurer if a member of the board, president, chief executive officer, controller, chief financial officer, chief accounting officer, or any person serving in an equivalent position for that insurer, was employed by the independent certified public accountant and participated in the audit of that insurer during the one (1) year period preceding the date that the most current statutory opinion is due. Subsection 014.14 of this rule, will only apply to partners and senior managers involved in the audit. (5-8-09)

a. An insurer may make application to the Director for relief from Subsection 014.14 of this rule, on the basis of unusual circumstances. (5-8-09)

b. The insurer will file, with its annual statement filing, the approval for relief from Subsection 014.14 of this rule, with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer will file the approval in an electronic format acceptable to the NAIC. (5-8-09)

015. CONSOLIDATED OR COMBINED AUDITS.
An insurer may make written application to the Director for approval to file audited consolidated or combined financial statements in lieu of separate annual audited financial statements if the insurer is part of a group of insurance

companies that utilizes a pooling or one hundred percent (100%) reinsurance agreement that affects the solvency and integrity of the insurer's reserves and such insurer cedes all of its direct and assumed business to the pool. In such cases, a columnar consolidating or combining worksheet will be filed with the report, as follows: (5-8-09)

01. Worksheet. Amounts shown on the consolidated or combined Audited financial report will be shown on the worksheet; (5-8-09)

02. Separate Amounts. Amounts for each insurer subject to this section will be stated separately; (5-8-09)

03. Noninsurance Operations. Noninsurance operations may be shown on the worksheet on a combined or individual basis; (5-8-09)

04. Explanations of Consolidating and Eliminating Entries. Explanations of consolidating and eliminating entries will be included; and (5-8-09)

05. Reconciliation. A reconciliation will be included of any differences between the amounts shown in the individual insurer columns of the worksheet and comparable amounts shown on the annual statement of the insurers. (5-8-09)

016. SCOPE OF AUDIT AND REPORT OF INDEPENDENT CERTIFIED PUBLIC ACCOUNTANT.
Financial statements furnished pursuant to Section 012 hereof will be examined by the independent certified public accountant. The audit of the insurer's financial statements will be conducted in accordance with generally accepted auditing standards. The independent certified public accountant should obtain an understanding of internal control sufficient to plan the audit. To the extent *prescribed* by the standards of his profession, for those insurers *prescribed* to file a Management's Report of Internal Control over Financial Reporting pursuant to Section 023, the independent certified public accountant should consider (as that term is defined in generally accepted auditing standards) the most recently available report in planning and performing the audit of the statutory financial statements. Consideration will be given to the other procedures illustrated in the Financial Condition Examiner's Handbook promulgated by the National Association of Insurance Commissioners as the independent certified public accountant deems necessary. *( )*

017. NOTIFICATION OF ADVERSE FINANCIAL CONDITION.
The insurer *needed* to furnish the annual Audited financial report will require the independent certified public accountant to report, in writing, within five (5) business days to the board of directors or its Audit committee any determination by the independent certified public accountant that the insurer has materially misstated its financial condition as reported to the Director as of the balance sheet date currently under audit or that the insurer does not meet the minimum capital and surplus requirements of Title 41, Idaho Code, as of that date. An insurer that has received a report pursuant to this paragraph will forward a copy of the report to the Director within five (5) business days of receipt of the report and will provide the independent certified public accountant making the report with evidence of the report being furnished to the Director. If the independent certified public accountant fails to receive such evidence within the *mandatory* five (5) business day period, the independent certified public accountant will furnish to the Director a copy of its report within the next five (5) business days. No independent certified public accountant will be liable in any manner to any person for any statement made in connection with Section 017 if the statement is made in good faith in compliance with Section 017. If the accountant, subsequent to the date of the Audited financial report filed pursuant to this rule, becomes aware of facts which might have affected his report, the Director notes the obligation of the accountant to take action as prescribed by the standards of his profession. *( )*

018. COMMUNICATION OF INTERNAL CONTROL RELATED MATTERS NOTED IN AN AUDIT.
In addition to the annual audited financial report, each insurer will furnish the Director with a written communication as to any unremediated material weaknesses in its Internal control over financial reporting noted during the audit. Such communication will be prepared by the accountant within sixty (60) days after the filing of the annual audited financial report, and will contain a description of any unremediated material weakness (as the term material weakness is defined by the standards of his profession) as of December 31 immediately preceding (so as to coincide with the audited financial report discussed in Subsection 011.01, of this rule) in the insurer's Internal control over financial reporting noted by the accountant during the course of their audit of the financial statements. If no unremediated material weaknesses were noted, the communication should so state. The insurer *needs* to provide a description of

remedial actions taken or proposed to correct unremediated material weaknesses, if the actions are not described in the accountant's communication. ( )

019. ACCOUNTANT'S LETTER OF QUALIFICATION.
The accountant will furnish the insurer in connection with, and for inclusion in, the filing of the annual audited financial report, a letter stating: (5-8-09)

01. Independence. That the accountant is independent with respect to the insurer and conforms to the standards of his profession as contained in the Code of Professional Ethics and pronouncements of the AICPA and the Rules of Professional Conduct of the Idaho Board of Public Accountancy, or similar code; (5-8-09)

02. Background and Experience. The background and experience in general, and the experience in audits of insurers of the staff assigned to the engagement and whether each is an independent certified public accountant. Nothing within this rule will be construed as prohibiting the accountant from utilizing such staff as he deems appropriate where use is consistent with the standards prescribed by generally accepted auditing standards; (5-8-09)

03. Compliance with Rule. That the accountant understands the annual audited financial report and his opinion thereon will be filed in compliance with this rule and that the Director will be relying on this information in the monitoring and regulation of the financial position of insurers; (5-8-09)

04. Consent to Requirements of Section 020. That the accountant consents to the requirements of Section 020 of this rule and that the accountant consents and agrees to make available for review by the Director, or the Director's designee or appointed agent, the workpapers, as defined in Section 020; (5-8-09)

05. Properly Licensed. A representation that the accountant is properly licensed by an appropriate state licensing authority and is a member in good standing in the AICPA; and (5-8-09)

06. Compliance with Section 014. A representation that the accountant is in compliance with the requirements of Section 014 of this rule. (7-1-93)

020. DEFINITION, AVAILABILITY AND MAINTENANCE OF CERTIFIED PUBLIC ACCOUNTANTS WORKPAPERS.
Workpapers are the records kept by the independent certified public accountant of the procedures followed, the tests performed, the information obtained, and the conclusions reached pertinent to the accountant's audit of the financial statements of an insurer. Workpapers, accordingly, may include audit planning documentation, work programs, analyses, memoranda, letters of confirmation and representation, abstracts of company documents and schedules or commentaries prepared or obtained by the independent certified public accountant in the course of his audit of the financial statements of an insurer and which support the accountant's opinion. Every insurer *needs* to file an Audited financial report pursuant to this rule, will require the accountant to make available for review by the insurance department examiners, all workpapers prepared in the conduct of the accountant's audit and any communications related to the audit between the accountant and the insurer, at the office of the insurer, at the insurance department or at any other reasonable place designated by the Director. The insurer will require that the accountant retain the audit workpapers and communications until the insurance department has filed a report on examination covering the period of the audit but no longer than seven (7) years from the date of the audit report. In the conduct of the aforementioned periodic review by the insurance. department examiners, it will be agreed that photocopies of pertinent audit workpapers may be made and retained by the department. Such reviews by the department examiners will be considered investigations and all working papers and communications obtained during the course of such investigations will be afforded the same confidentiality as other examination workpapers generated by the department. ( )

021. REQUIREMENTS FOR AUDIT COMMITTEES.
This section will not apply to foreign or alien insurers licensed in this state or an insurer that is a SOX Compliant Entity or a direct or indirect wholly-owned subsidiary of a SOX Compliant Entity. (5-8-09)

01. Responsibility. The Audit committee will be directly responsible for the appointment, compensation and oversight of the work of any accountant (including resolution of disagreements between

management and the accountant regarding financial reporting) for the purpose of preparing or issuing the audited financial report or related work pursuant to this chapter. Each accountant will report directly to the Audit committee. (5-8-09)

02. Corporate Membership. Each member of the Audit committee *will need to* be a member of the board of directors of the insurer or a member of the board of directors of an entity elected pursuant to Subsection 021.05 and Section 010 of this rule. *( )*

03. Independence. In order to be considered independent for purposes of Section 021, a member of the Audit committee will not, other than in his capacity as a member of the Audit committee, the board of directors, or any other board committee, accept any consulting, advisory or other compensatory fee from the entity or be an affiliated person of the entity or any subsidiary thereof. However, if law requires board participation by otherwise non-independent members, that law will prevail and such members may participate in the Audit committee and be designated as independent for Audit committee purposes, unless they are an officer or employee of the insurer or one (1) of its affiliates. (5-8-09)

04. Continuation of Service. If a member of the Audit committee ceases to be independent for reasons outside the member's reasonable control, that person, with notice by the responsible entity to the Director, may remain an Audit committee member of the responsible entity until the earlier of the next annual meeting of the responsible entity or one (1) year from the occurrence of the event that caused the member to be no longer independent. (5-8-09)

05. Controlling Person. To exercise the election of the controlling person to designate the Audit committee for purposes of this rule, the ultimate controlling person will provide written notice to the directors of insurance of the affected insurers. Notification will be made timely prior to the issuance of the statutory audit report and include a description of the basis for the election. The election can be changed through notice to the Director by the insurer, which *needs to* include a description of the basis for the change. The election will remain in effect for perpetuity, until rescinded. *( )*

06. Accountant's Reports to Audit Committee. The Audit committee will require the accountant that performs for an insurer any audit *prescribed* by this rule to timely report to the Audit committee in accordance with the standards of his profession. If an insurer is a member of an insurance holding company system, the reports *prescribed* by Subsection 021.06 of this rule, may be provided to the Audit committee on an aggregate basis for insurers in the holding company system, provided that any substantial differences among insurers in the system are identified to the Audit committee. The accountant's reports *need to* include: *( )*

a. All significant accounting policies and material permitted practices; (5-8-09)

b. All material alternative treatments of financial information within statutory accounting principles that have been discussed with management officials of the insurer, ramifications of the use of the alternative disclosures and treatments, and the treatment preferred by the accountant; and (5-8-09)

c. Other material written communications between the accountant and the management of the insurer, such as any management letter or schedule of unadjusted differences. (5-8-09)

07. Requisite Proportion of Independent Audit Committee Members. The proportion of independent Audit committee members will meet or exceed the following criteria: (5-8-09)

Prior Calendar Year Direct Written and Assumed Premiums		
$0 - $300,000,000	Over $300,000,000 -$500,000,000	Over $500,000,000
No minimum requirements. See also Note A and B.	Majority (50% or more) of members will be independent. See also Note A and B.	Supermajority of members (75% or more) will be independent. See also Note A.

Prior Calendar Year Direct Written and Assumed Premiums
Note A: The Director has authority afforded by state law to require the entity's board to enact improvements to the independence of the Audit committee membership if the insurer is in a RBC action level event, meets one or more of the standards of an insurer deemed to be in hazardous financial condition, or otherwise exhibits qualities of a troubled insurer.
Note B: All insurers with less than $500,000,000 in prior year direct written and assumed premiums are encouraged to structure their Audit committees with at least a supermajority of independent Audit committee members.
Note C: Prior calendar year direct written and assumed premiums will be the combined total of direct premiums and assumed premiums from non-affiliates for the reporting entities.

(5-8-09)

08. Hardship Waiver. An insurer with direct written and assumed premium, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than five hundred million dollars ($500,000,000) may make application to the Director for a waiver from the Section 021 requirements based upon hardship. The insurer will file, with its annual statement filing, the approval for relief from Section 021 with the states that it is licensed in or doing business in and the NAIC. If the nondomestic state accepts electronic filing with the NAIC, the insurer will file the approval in an electronic format acceptable to the NAIC. (5-8-09)

022. CONDUCT OF INSURER IN CONNECTION WITH THE PREPARATION OF *REQUISITE* REPORTS AND DOCUMENTS.

01. False or Misleading Statements. No director or officer of an insurer *may*, directly or indirectly make or cause to be made a materially false or misleading statement to an accountant in connection with any audit, review or communication *prescribed* under this chapter. *( )*

02. Omissions. No director or officer of an insurer *may*, directly or indirectly omit to state, or cause another person to omit to state, any material fact necessary in order to make statements made, in light of the circumstances under which the statements were made, not misleading to an accountant in connection with any audit, review or communication *prescribed* under this chapter. *( )*

03. Coercion. No officer or director of an insurer, or any other person acting under the direction thereof, *may* directly or indirectly take any action to coerce, manipulate, mislead or fraudulently influence any accountant engaged in the performance of an audit pursuant to this chapter if that person knew or should have known that the action, if successful, could result in rendering the insurer's financial statements materially misleading. For purposes of Subsection 022.03 of this rule, actions that, "if successful, could result in rendering the insurer's financial statements materially misleading" include, but are not limited to, actions taken at any time with respect to the professional engagement period to coerce, manipulate, mislead or fraudulently influence an accountant: (5-8-09)

a. To issue or reissue a report on an insurer's financial statements that is not warranted in the circumstances (due to material violations of statutory accounting principles prescribed by the Director, generally accepted auditing standards, or other professional or regulatory standards); (5-8-09)

b. Not to perform audit, review or other procedures *prescribed* by generally accepted auditing standards or other professional standards; *( )*

c. Not to withdraw an issued report; or (5-8-09)

d. Not to communicate matters to an insurer's Audit committee. (5-8-09)

023. MANAGEMENT'S REPORT OF INTERNAL CONTROL OVER FINANCIAL REPORTING.

01. Premium Threshold. Every insurer *needs* to file an audited financial report pursuant to this chapter that has annual direct written and assumed premiums, excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, of five hundred million dollars ($500,000,000) or more will prepare a report of the insurer's or group of insurers' internal control over financial reporting, as these terms are defined in Section 010. The report will be filed with the Director along with the Communication of Internal Control Related Matters Noted in an Audit described under Section 018. Management's Report of Internal Control over Financial Reporting will be as of December 31 immediately preceding. (5-8-09)

02. RBC Level or Other Event. Notwithstanding the premium threshold in Subsection 023.01 of this rule, the Director may require an insurer to file Management's Report of Internal Control over Financial Reporting if the insurer is in any RBC level event, or meets any one (1) or more of the standards of an insurer deemed to be in hazardous financial condition as defined in IDAPA 18.07.05, "Director's Authority for Companies Deemed to be in Hazardous Financial Condition." (5-8-09)

03. Section 404. An insurer or a group of insurers may file its or its parent's Section 404 Report and an addendum in satisfaction of this Section 023 requirement provided that those internal controls of the insurer or group of insurers having a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Subsections 012.02 through 012.07 of this rule) were included in the scope of the Section 404 Report. The addendum will be a positive statement by management that there are no material processes with respect to the preparation of the insurer's or group of insurers' audited statutory financial statements (those items included in Subsections 012.02 through 012.07 of this rule) excluded from the Section 404 Report. If there are internal controls of the insurer or group of insurers that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements and those internal controls were not included in the scope of the Section 404 Report, the insurer or group of insurers may either file: (5-8-09)

a. A Section 023 report; or (5-8-09)

b. The Section 404 Report and a Section 023 report for those internal controls that have a material impact on the preparation of the insurer's or group of insurers' audited statutory financial statements not covered by the Section 404 Report, providing the insurer or group of insurers is: (5-8-09)

i. Directly subject to Section 404; (5-8-09)

ii. Part of a holding company system whose parent is directly subject to Section 404; (5-8-09)

iii. Not directly subject to Section 404 but is a SOX Compliant Entity; or (5-8-09)

iv. A member of a holding company system whose parent is not directly subject to Section 404 but is a SOX Compliant Entity. (5-8-09)

04. *Requisite* Elements. Management's Report of Internal Control over Financial Reporting will include: *( )*

a. A statement that management is responsible for establishing and maintaining adequate Internal control over financial reporting; (5-8-09)

b. A statement that management has established Internal control over financial reporting and an assertion, to the best of management's knowledge and belief, after diligent inquiry, as to whether its Internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles; (5-8-09)

c. A statement that briefly describes the approach or processes by which management evaluated the effectiveness of its Internal control over financial reporting; and (5-8-09)

d. A statement that briefly describes the scope of work that is included and whether any internal controls were excluded; (5-8-09)

e. Disclosure of any unremediated material weaknesses in the Internal control over financial reporting identified by management as of December 31 immediately preceding. Management is not permitted to conclude that the Internal control over financial reporting is effective to provide reasonable assurance regarding the reliability of financial statements in accordance with statutory accounting principles if there is one (1) or more unremediated material weaknesses in its Internal control over financial reporting; (5-8-09)

f. A statement regarding the inherent limitations of internal control systems; and (5-8-09)

g. Signatures of the chief executive officer and the chief financial officer (or equivalent position/title). (5-8-09)

05. Documentation by Management. Management will document and make available upon financial condition examination the basis upon which its assertions, *prescribed* in Subsection 023.04 of this rule, are made. Management may base its assertions, in part, upon its review, monitoring and testing of internal controls undertaken in the normal course of its activities. Management *may* have discretion as to the nature of the internal control framework used, and the nature and extent of documentation, in order to make its assertion in a cost effective manner and, as such, may include assembly of or reference to existing documentation. Management's Report on Internal Control over Financial Reporting, *prescribed* by Subsection 023.01 of this rule, and any documentation provided in support thereof during the course of a financial condition examination, will be kept confidential by the Idaho Department of Insurance. *( )*

024. EXEMPTIONS AND EFFECTIVE DATES.

01. Exemptions Not Otherwise Provided. Upon written application of any insurer, the Director may grant an exemption from compliance with any and all provisions of this rule if the Director finds, upon review of the application, that compliance with this rule would constitute a financial or organizational hardship upon the insurer. An exemption may be granted at any time and from time to time for a specified period or periods. Within ten (10) days from a denial of an insurer's written request for an exemption from this chapter, the insurer may request in writing a hearing on its application for an exemption. The hearing will be held in accordance with the IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," pertaining to administrative hearing procedures. (5-8-09)

02. **Alternate Effective Date for Section 021 [Requirements for Audit Committees]**. An insurer or group of insurers that is not *prescribed* to have independent Audit committee members or only a majority of independent Audit committee members (as opposed to a supermajority) because the total written and assumed premium is below the threshold and subsequently becomes subject to one (1) of the independence requirements due to changes in premium will have one (1) year following the year the threshold is exceeded to comply with the independence requirements. Likewise, an insurer that becomes subject to one (1) of the independence requirements as a result of a business combination will have one (1) calendar year following the date of acquisition or combination to comply with the independence requirements. *( )*

03. **Effective Date for Section 023 [Management's Report of Internal Control Over Financial Reporting]**. An insurer or group of insurers that is not *prescribed* to file a report because the total written premium is below the threshold and subsequently becomes subject to the reporting requirements will have two (2) years following the year the threshold is exceeded to file a report. Likewise, an insurer acquired in a business combination will have two (2) calendar years following the date of acquisition or combination to comply with the reporting requirements. *( )*

025. CANADIAN AND BRITISH COMPANIES.

01. Annual Audited Financial Report. In the case of Canadian and British insurers, the annual audited financial report is defined as the annual statement of total business on the form filed by such companies with their supervision authority duly audited by an independent chartered accountant. (5-8-09)

02. Letter *Requisite* in Section 013. For such insurers, the letter *prescribed* in Section 013 state*s* that the accountant is aware of the requirements relating to the annual Audited statement filed with the Director pursuant to section 011 and affirm*s* that the opinion expressed is in conformity with such requirements. *( )*

026. INTERNAL AUDIT FUNCTION REQUIREMENTS.

01. Exemption. An insurer is exempt from the requirements of this section if: (4-11-19)

a. The insurer has annual direct written and unaffiliated assumed premium, including international direct and assumed premium but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than five hundred million dollars ($500,000,000); and (4-11-19)

b. If the insurer is a member of a group of insurers, the group has annual direct written and unaffiliated assumed premium including international direct and assumed premium, but excluding premiums reinsured with the Federal Crop Insurance Corporation and Federal Flood Program, less than one billion dollars ($1,000,000,000). (4-11-19)

02. Function. The insurer or group of insurers *need to* establish an internal audit function providing independent, objective and reasonable assurance to the audit committee and insurer management regarding the insurer's governance, risk management and internal controls. This assurance will be provided by performing general and specific audits, reviews and tests and by employing other techniques deemed necessary to protect assets, evaluate control effectiveness and efficiency, and evaluate compliance with policies and regulations. *( )*

03. Independence. In order to ensure that internal auditors remain objective, the internal audit function *needs to* be organizationally independent. Specifically, the internal audit function will not defer ultimate judgment on audit matters to others, and will appoint an individual to head the internal audit function who will have direct and unrestricted access to the board of directors. Organizational independence does not preclude dual-reporting relationships. (4-11-19)

04. Reporting. The head of the internal audit function will report to the audit committee regularly, but no less than annually, on the periodic audit plan, factors that may adversely impact the internal audit function's independence or effectiveness, material findings from completed audits and the appropriateness of corrective actions implemented by management as a result of audit findings. (4-11-19)

05. Additional Requirements. If an insurer is a member of an insurance holding company system or included in a group of insurers, the insurer may satisfy the internal audit function requirements set forth in this section at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level. (4-11-19)

027. MINIMUM RESERVE STANDARDS.

In addition to the requirements in this rule, unless otherwise prescribed or permitted, the minimum reserve standards for individual and group health insurance contracts set forth in the NAIC Accounting Practices and Procedures Manual apply to all individual and group health (disability) insurance coverages including single premium credit disability insurance. All other credit insurance is not subject to this section. ( )

02*8*. -- 999. (RESERVED)

18.07.05 – DIRECTOR'S AUTHORITY FOR COMPANIES DEEMED TO BE IN HAZARDOUS FINANCIAL CONDITION

000. LEGAL AUTHORITY.
Title 41, *Chapters 2, 3, and 33,* Sections 41-211, 41-327 and 41-3309, Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 18.07.05, "Director's Authority for Companies Deemed to be in Hazardous Financial Condition." (4-7-11)

02. Scope. This rule establishes standards that the Director may use for identifying insurers found to be in such condition as to render the continuance of their business hazardous to the public or to holders of their policies or certificates of insurance. This rule cannot be interpreted to limit the powers granted the Director by any laws or parts of laws of this state, nor supersedes any laws or parts of laws of this state. *( )*

002. INCORPORATION BY REFERENCE.
This rule incorporates by reference the full text of the National Association of Insurance Commissioners (*NAIC)* Financial Condition Examiners Handbook and the *NAIC* Annual Statement Instructions and Accounting Practices and Procedures Manual, pursuant to Sections 41-223 and 41-335, Idaho Code. *( )*

003. -- 010. (RESERVED)

011. STANDARDS.
The following standards, either singly or in combination of two (2) or more, may be considered by the Director to determine whether the continued operation of any insurer transacting insurance business in this state might be deemed to be hazardous to its policyholders or creditors or to the general public. The Director may consider: (4-7-11)

01. Examination Reports. Adverse findings reported in financial condition and market conduct examination reports, audit reports, and actuarial opinions, reports or summaries. (4-7-11)

02. NAIC Insurance Regulatory Information System. The NAIC Regulatory Information System and its other financial analysis solvency tools and reports. (4-7-11)

03. Adequate Cash Provision. Whether the insurer has made adequate provision, according to presently accepted actuarial standards of practice, for the anticipated cash flows needed by the contractual obligations and related expenses of the insurer, when considered in light of the assets held by the insurer with respect to such reserves and related actuarial items including, but not limited to, the investment earnings on such assets, and the considerations anticipated to be received and retained under such policies and contracts. (4-7-11)

04. Reinsurance Program. The ability of an assuming reinsurer to perform and whether the insurer's reinsurance program provides sufficient protection for the company's remaining surplus after taking into account the insurer's cash flow and the classes of business written as well as the financial condition of the assuming reinsurer. (10-1-93)

05. Operating Loss (50% of Surplus). Whether the insurer's operating loss in the last twelve (12) month period or any shorter period of time, including but not limited to net capital gain or loss, change in non-admitted assets, and cash dividends paid to shareholders, is greater than fifty percent (50%) of the insurer's remaining surplus as regards policyholders in excess of the minimum *mandatory*. *( )*

06. Operating Loss (20% of Surplus). Whether the insurer's operating loss in the last twelve (12) month period or any shorter period of time, excluding net capital gains, is greater than twenty percent (20%) of the insurer's remaining surplus as regards policyholders in excess of the minimum *mandatory*. *( )*

07. Insolvency of Affiliate, Subsidiary or Reinsurer. Whether a reinsurer, obligor, or any entity within the insurer's insurance holding company system is insolvent, threatened with insolvency, or delinquent in payment of its monetary or other obligations, and which in the opinion of the Director may affect the solvency of the insurer. (4-7-11)

08. Contingent Liabilities. Contingent liabilities, pledges or guaranties which either individually or collectively involve a total amount which in the opinion of the Director may affect the solvency of the insurer. (10-1-93)

09. Controlling Person. Whether any "controlling person" of an insurer is delinquent in the transmitting to, or payment of, net premiums to such insurer. (10-1-93)

10. Receivables. The age and collectibility of receivables. (10-1-93)

11. Competence of Management. Whether the management of an insurer, including officers, directors, or any other person who directly or indirectly controls the operation of such insurer, fails to possess and demonstrate the competence, fitness and reputation deemed necessary to serve the insurer in such position. (10-1-93)

12. Failure to Respond to Inquiries. Whether management of an insurer has failed to respond to inquiries relative to the condition of the insurer or has furnished false and misleading information concerning an inquiry. (10-1-93)

13. Failure to Meet Filing Requirements. Whether the insurer has failed to meet financial and holding company filing requirements in the absence of a reason satisfactory to the Director. (4-7-11)

14. False or Misleading Financial Statements. Whether management of an insurer either has filed any false or misleading sworn financial statement, or has released false or misleading financial statement to lending institutions or to the general public, or has made a false or misleading entry, or has omitted an entry of material amount in the books of the insurer. (10-1-93)

15. Extensive Growth. Whether the insurer has grown so rapidly and to such an extent that it lacks adequate financial and administrative capacity to meet its obligations in a timely manner. (10-1-93)

16. Cash Flow. Whether the company has experienced or will experience in the foreseeable future cash flow and/or liquidity problems. (10-1-93)

17. Reserves Compliance with Minimum Standards. Whether management has established reserves that do not comply with minimum standards established by state insurance laws, regulations, statutory accounting standards, sound actuarial principles and standards of practice. (4-7-11)

18. Material Under-Reserving. Whether management persistently engages in material under-reserving that results in adverse development. (4-7-11)

19. Transactions Among Affiliates. Whether transactions among affiliates, subsidiaries or controlling persons for which the insurer receives assets, capital gains or both do not provide sufficient value, liquidity or diversity to assure the insurer's ability to meet its outstanding obligations as they mature. (4-7-11)

20. Any Other Finding. Any other finding determined by the Director to be hazardous to the insurer's policyholders or creditors or to the general public. (4-7-11)

012. DIRECTOR'S AUTHORITY.

01. Determination of Financial Condition. For the purposes of making a determination of an insurer's financial condition under this rule, the Director may: (10-1-93)

a. Disregard any credit or amount receivable resulting from transactions with a reinsurer which is insolvent, impaired or otherwise subject to a delinquency proceeding; (10-1-93)

b. Make appropriate adjustments, including disallowance, to asset values attributable to investments in or transactions with parents, subsidiaries, or affiliates, consistent with the NAIC Accounting Policies and Procedures Manual, state laws, and regulations; (4-7-11)

c. Refuse to recognize the stated value of accounts receivable if the ability to collect receivables is highly speculative in view of the age of the account or the financial condition of the debtor; (10-1-93)

d. Increase the insurer's liability in an amount equal to any contingent liability, pledge, or guarantee not otherwise included if there is a substantial risk that the insurer will be called upon to meet the obligation undertaken within the next twelve (12) month period. (10-1-93)

02. Issuance of Order. If the Director determines that the continued operation of the insurer licensed to transact business in this state may be hazardous to the policyholders or creditors or to the general public, then the Director may, upon a determination, issue an order requiring the insurer to: (4-7-11)

a. Reduce the total amount of present and potential liability for policy benefits by reinsurance; (10-1-93)

b. Reduce, suspend or limit the volume of business being accepted or renewed; (10-1-93)

c. Reduce general insurance and commission expenses by specified methods; (10-1-93)

d. Increase the insurer's capital and surplus; (10-1-93)

e. Suspend or limit the declaration and payment of dividend by an insurer to its stockholders or to its policyholders; (10-1-93)

f. File reports in a form acceptable to the Director concerning the market value of an insurer's assets; (10-1-93)

g. Limit or withdraw from certain investments or discontinue certain investment practices to the extent the Director deems necessary; (10-1-93)

h. Document the adequacy of premium rates in relation to the risks insured; (10-1-93)

i. File, in addition to regular annual statements, interim financial reports on the form adopted by the NAIC or in such format as promulgated by the Director; (10-1-93)

j. Correct corporate governance practice deficiencies and adopt and utilize governance practices acceptable to the Director; (4-7-11)

k. Provide a business plan to the Director in order to continue to transact business in the state; or (4-7-11)

l. Adjust rates for any non-life insurance product written by the insurer that the Director considers necessary to improve the financial condition of the insurer. (4-7-11)

03. Hearing. Any insurer subject to an order under Subsection 012.02 may request a hearing to review that order pursuant to Title 41, Chapter 2, Idaho Code. (4-7-11)

013. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, *Chapters 2, 3, and 5,* Sections 41-211, 41-335, 41-510, 41-511, 41-512 and 41-514, Idaho Code. *( )*

001. TITLE, PURPOSE AND SCOPE.

01. Title. IDAPA 18.07.06, "Rules Governing Life and Health Reinsurance Agreements." *( )*

02. **Purpose**. *T*o set forth standards for Reinsurance Agreements involving life insurance, annuities, or accident and sickness insurance (disability) in order that the financial statements of the life and health and property and casualty insurers writing health business and utilizing such agreements properly reflect the financial condition of the ceding and assuming insurer. *( )*

a. The Department recognizes that licensed insurers routinely enter into reinsurance agreements that yield legitimate relief to the ceding insurer from strain to surplus. (10-1-93)

b. However, it is improper for a licensed insurer, in the capacity of ceding insurer, to enter into reinsurance agreements for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business being reinsured. In substance or effect, the expected potential liability to the ceding insurer remains basically unchanged by the reinsurance transaction, notwithstanding certain risk elements in the reinsurance agreement, such as catastrophic mortality or extraordinary survival. The terms of such agreements referred to herein and described in Section 011 violate *Idaho Code Sections 41-1306, 41-515, 41-308(3), 41-327 and 41-3309*: *( )*

03. **Applicability**. This rule applies to all domestic life and accident and health insurers and to all other licensed life and accident and health insurers that are not subject to a substantially similar rule in their domiciliary state. This rule also similarly applies to licensed property and casualty insurers with respect to their accident and health business. This rule does not apply to assumption reinsurance or yearly renewable term reinsurance. (10-1-93)

002. -- 010. (RESERVED)

011. ACCOUNTING REQUIREMENTS.

01. Standards for Credit on Financial Statement. No insurer subject to this rule will, for reinsurance ceded, reduce any liability or establish any asset in any financial statement filed with the Department if, by the terms of the reinsurance agreement, in substance or effect, any of the following conditions exist: (10-1-93)

a. Renewal expense allowances provided or to be provided to the ceding insurer by the reinsurer in any accounting period, are not sufficient to cover anticipated allocable renewal expenses of the ceding insurer on the portion of the business reinsured, unless a liability is established for the present value of the shortfall (using assumptions equal to the applicable statutory reserve basis on the business reinsured). Those expenses include commissions, premium taxes and direct expenses including, but not limited to, billing, valuation, claims and maintenance expected by the company at the time the business is reinsured; (10-1-93)

b. The ceding insurer can be deprived of surplus or assets at the reinsurer's option or automatically upon the occurrence of some event, such as the insolvency of the ceding insurer, except that termination of the reinsurance agreement by the reinsurer for nonpayment of reinsurance premiums or other amounts due, such as modified coinsurance reserve adjustments, interest and adjustments on funds withheld, and tax reimbursements, will not be considered to be such a deprivation of surplus or assets; (10-1-93)

c. The ceding insurer *needs* to reimburse the reinsurer for negative experience under the reinsurance agreement, except that neither offsetting experience refunds against current and prior years' losses under the agreement nor payment by the ceding insurer of an amount equal to the current and prior years' losses under the agreement upon voluntary termination of in force reinsurance by the ceding insurer will be considered such a reimbursement to the reinsurer for negative experience. Voluntary termination does not include situations where termination occurs because of unreasonable provisions which allow the reinsurer to reduce its risk under the agreement. An example of such a provision is the right of the reinsurer to increase reinsurance premiums or risk and expense charges to excessive levels forcing the ceding company to prematurely terminate the reinsurance treaty; *( )*

d. The ceding insurer *needs to*, at specific points in time scheduled in the agreement, terminate or

automatically recapture all or part of the reinsurance ceded; ( )

e. The reinsurance agreement involves the possible payment by the ceding insurer to the reinsurer of amounts other than from income realized from the insured policies. For example, it is improper for a ceding company to pay reinsurance premiums, or other fees or charges to a reinsurer which are greater than the direct premiums collected by the ceding company; (10-1-93)

f. The treaty does not transfer all of the significant risk inherent in the business being reinsured. The following table identified for a representative sampling of products or type of business, the risks which are considered to be significant. For products not specifically included, the risks determined to be significant will be consistent with this table. (10-1-93)

i. Risk categories: (10-1-93)

(1) Morbidity. (10-1-93)

(2) Mortality. (10-1-93)

ii. Lapse. This is the risk that a policy will voluntarily terminate prior to the recoupment of a statutory surplus strain experienced at issue of the policy. (10-1-93)

iii. Credit Quality (C1). This is the risk that invested assets supporting the reinsured business will decrease in value. The main hazards are that assets will default or that there will be a decrease in earning power. It excludes market value declines due to changes in interest rate. (10-1-93)

iv. Reinvestment (C3). This is the risk that interest rates will fall and funds reinvested (coupon payments or monies received upon asset maturity or call) will therefore earn less than expected. If asset durations are less than liability durations, the mismatch will increase. (10-1-93)

v. Disintermediation (C3). This is the risk that interest rates rise and policy loans and surrenders increase or maturing contracts do not renew at anticipated rates of renewal. If asset durations are greater than the liability durations, the mismatch will increase. Policyholders will move their funds into new products offering higher rates. The company may have to sell assets at a loss to provide for these withdrawals.

Risk Category

Key: + - Significant
0 - Insignificant

	i.	ii.	iii.	iv.	v.	vi.
Health Insurance - other than LTC/LTD*	+	0	+	0	0	0
Health Insurance - LTC/LTD*	+	0	+	+	+	0
Immediate Annuities	0	+	0	+	+	0
Single Premium Deferred Annuities	0	0	+	+	+	+
Flexible Premium Deferred Annuities	0	0	+	+	+	+
Guaranteed Interest Contracts	0	0	0	+	+	+
Other Annuity Deposit Business	0	0	+	+	+	+
Single Premium Whole Life	0	+	+	+	+	+
Traditional Non-Par Permanent	0	+	+	+	+	+
Traditional Non-Par Term	0	+	+	0	0	0

	i.	ii.	iii.	iv.	v.	vi.
Traditional Par Permanent	0	+	+	+	+	+
Traditional Par Term	0	+	+	0	0	0
Adjustable Premium Permanent	0	+	+	+	+	+
Indeterminate Premium Permanent	0	+	+	+	+	+
Universal Life Flexible Premium	0	+	+	+	+	+
Universal Life Fixed Premium	0	+	+	+	+	+
Universal Life Fixed Premium dump-in premiums allowed	0	+	+	+	+	+

*LTC = Long Term Care Insurance
*LTD = Long Term Disability Insurance

(10-1-93)

g. Significant Risk. (10-1-93)

i. The credit quality, reinvestment, or disintermediation risk is significant for the business reinsured and the ceding company does not (other than for the classes of business excepted in IDAPA 18.07.06.011.01.g.ii.) either transfer the underlying assets to the reinsurer or legally segregate such assets in a trust or escrow account or otherwise establish a mechanism satisfactory to the Director which legally segregates, by contract or contract provision, the underlying assets. (10-1-93)

ii. Notwithstanding the requirements of IDAPA 18.07.06.011.01.g.i., the assets supporting the reserves for the following classes of business and any classes of business which do not have a significant credit quality, reinvestment or disintermediation risk may be held by the ceding company without segregation of such assets:

- Health Insurance - LTC/LTD

- Traditional Non-Par Permanent

- Traditional Par Permanent

- Adjustable Premium Permanent

- Indeterminate Premium Permanent

- Universal Life Fixed Premium (no dump-in premiums allowed)

The associated formula for determining the reserve interest rate adjustment *needs to* use a formula that reflects the ceding company's investment earnings and incorporates all realized and unrealized gains and losses reflected in the statutory statement. The following is an acceptable formula:

$$\text{Rate} = \frac{2(I + CG)}{X + Y - I - CG}$$

Where: "I" is the net investment income as reported in Annual Statement

"CG" is capital gains less capital losses as reported in Annual Statement

"X" is the current year cash and invested assets plus investment income due and accrued less borrowed

money as reported in Annual Statement

"Y" is the same as X but for the prior year ( )

h. Settlements are made less frequently than quarterly or payments due from the reinsurer are not made in cash within ninety (90) days of the settlement date. (10-1-93)

i. The ceding insurer *needs* to make representations or warranties not reasonably related to the business being reinsured. ( )

j. The ceding insurer *needs* to make representations or warranties about future performance of the business being reinsured. ( )

k. The reinsurance agreement is entered into for the principal purpose of producing significant surplus aid for the ceding insurer, typically on a temporary basis, while not transferring all of the significant risks inherent in the business reinsured and, in substance or effect, the expected potential liability to the ceding insurer remains basically unchanged. (10-1-93)

02. Director's Approval. *A*n insurer subject to this Rule may, with the prior approval of the Director, take such reserve credit or establish such asset as the Director may deem consistent with the Insurance Code and Rules, including actuarial interpretations or standards adopted by the Department. ( )

03. Filing of Reinsurance Agreements. (10-1-93)

a. Agreements entered into after the effective date of this Rule which involve the reinsurance of business issued prior to the effective date of the agreements, along with any subsequent amendments thereto, will be filed by the ceding company with the Director within thirty (30) days from its date of execution. Each filing will include data detailing the financial impact of the transaction. The ceding insurer's actuary who signs the financial statement actuarial opinion with respect to valuation of reserves will consider his Rule and any applicable actuarial standards of practice when determining the proper credit in financial statements filed with this Department. The actuary should maintain adequate documentation and be prepared upon request to describe the actuarial work performed for inclusion in the financial statements and to demonstrate that such work conforms to this Rule. (10-1-93)

b. Any increase in surplus net of federal income tax resulting from arrangements described in Subsection 011.03.a. will be identified separately on the insurer's statutory financial statement as a surplus item (aggregate write-ins for gains and losses in surplus in the Capital and Surplus Account line of the Annual Statement) and recognition of the surplus increase as income will be reflected on a net of tax basis in the "Reinsurance ceded" line of the annual statement as earnings emerge from the business reinsured. (10-1-93)

i. For example: On the last day of calendar year N, company XYZ pays a twenty ($20) million initial commission and expense allowance to company ABC for reinsuring an existing block of business. Assuming a thirty-four percent (34%) tax rate, the net increase in surplus at inception is thirteen point two ($13.2) million (twenty ($20) million - six point eight ($6.8) million) which is reported on the "Aggregate write-ins for gains and losses in surplus" line in the Capital and Surplus account. Six point eight ($6.8) million (thirty-four (34%) of twenty ($20) million) is reported as income on the "Commissions and expense allowances on reinsurance ceded" line of the Summary of Operations. (10-1-93)

ii. At the end of year N+1 the business has earned four ($4) million. ABC has paid point five ($.5) million in profit and risk charges in arrears for the year and has received a one million ($1) million experience refund. Company ABC's annual statement would report one point six five ($1.65) million (sixty-six percent (66%) of (four ($4) million - one ($1) million - point five ($.5) million) up to a maximum of thirteen point two ($13.2) million) on the "Commissions and expense allowance on reinsurance ceded" line of the Summary of Operations, and -one point sixty five ($1.65) million on the "Aggregate write-ins for gains and losses in surplus" line of the Capital and Surplus account. The experience refund would be reported separately as a miscellaneous income item in the Summary of Operations. (10-1-93)

012. WRITTEN AGREEMENTS.

01. Execution Date. No reinsurance agreement or amendment to any agreement may be used to reduce any liability or to establish any asset in any financial statement filed with the Department, unless the agreement, amendment or a binding letter of intent has been duly executed by both parties no later than the "as of date" of the financial statement. (10-1-93)

02. Letter of Intent. In the case of a letter of intent, a reinsurance agreement or an amendment to a reinsurance agreement *needs to* be executed within a reasonable period of time, not exceeding ninety (90) days from the execution date of the letter of intent, in order for credit to be granted for the reinsurance ceded. (10-1-93)

03. *Requisite* Provisions. The reinsurance agreement will contain provisions that provide that: (10-1-93)

a. The agreement will constitute the entire agreement between the parties with respect to the business being reinsured thereunder and that there are no understandings between the parties other than as expressed in the agreement; and (10-1-93)

b. Any change or modification to the agreement will be null and void unless made by amendment to the agreement and signed by both parties. (10-1-93)

013. EXISTING AGREEMENTS.
Insurers subject to this rule will not be allowed to recognize any reserve credits or assets established with respect to reinsurance agreements entered into prior to the effective date of this rule which, under the provisions of this rule would not be entitled to recognition of the reserve credits or assets; provided, however, that the reinsurance agreements will have been in compliance with laws or rules in existence immediately preceding the effective date of this rule. ( )

01*4*. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Section 41-211, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. IDAPA 18.07.07, "Credit for Reinsurance Rules." ( )

02. Scope. The purpose of this rule is to set forth rules and procedural requirements necessary to carry out the Credit for Reinsurance provision, Section 41-515, Idaho Code. The actions and information are in the public interest and for the protection of the ceding insurers in this state. ( )

002. INCORPORATION BY REFERENCE.
Consistent with National Association of Insurance Commissioners (NAIC) model regulation 786, the following documents applicable to letters of credit as referenced in Subsections 061.02, 081.05 and 081.06 of this rule, are incorporated by reference. (3-28-18)

***01*. The Purposes and Procedures Manual of the NAIC Investment Analysis Office**, NAIC Securities Valuation Office and NAIC Structured Securities Group, December 31, 2016, edition, as referenced in Subsection 061.02. (3-28-18)

***02*. The Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce** (Publication 600 (UCP 600), July 1, 2007, edition, as referenced in Subsection 081.05. (3-28-18)

***03*. The International Standby Practices of the International Chamber of Commerce Publication 590** (ISP98), 1998 edition, as referenced in Subsection 081.06. (3-28-18)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Beneficiary. When used in trust agreements qualified under this rule, the entity for whose sole benefit the trust has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes, and is limited to, the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). (3-28-18)

02. Grantor. The entity that has established a trust for the sole benefit of the beneficiary. When established in conjunction with a reinsurance agreement, the grantor is the unlicensed, unaccredited assuming insurer. (3-28-18)

03. Mortgage-Related Security. Means an obligation that is rated AA or higher (or the equivalent) by a securities rating agency recognized by the securities valuation office of the NAIC and that either; (3-28-18)

a. Represents ownership of one (1) or more promissory notes or certificates of interest or participation in the notes (including any rights designed to assure servicing of, or the receipt or timeliness of receipt by the holders of the notes, certificates, or participation of amounts payable under, the notes, certificates or participation), that: (3-28-18)

i. Are directly secured by a first lien on a single parcel of real estate, including stock allocated to a dwelling unit in a residential cooperative housing corporation, upon which is located a dwelling or mixed residential and commercial structure, or on a residential manufactured home as defined in 42 U.S.C.A. Section 5402(6), whether the manufactured home is considered real or personal property under the laws of the state in which it is located; (3-28-18)

ii. Were originated by a savings and loan association, savings bank, commercial bank, credit union, insurance company, or similar institution that is supervised and examined by a federal or state housing authority, or by a mortgagee approved by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Sections 1709 and 1715-b, or, where the notes involve a lien on the manufactured home, by an institution or by a financial institution approved for insurance by the Secretary of Housing and Urban Development pursuant to 12 U.S.C.A. Section 1703; or (3-28-18)

b. Is secured by one (1) or more promissory notes or certificates of deposit or participations in the notes (with or without recourse to the insurer of the notes) and, by its terms, provides for payments of principal in relation to payments, or reasonable projections of payments, or notes meeting the requirements of Subparagraphs 010.03.a.i. and 010.03.a.ii. (3-28-18)

04. Obligation. (3-28-18)

a. Losses Paid But Not Recovered. Reinsured losses and allocated loss expenses paid by the ceding company, but not recovered from the assuming insurer; (3-28-18)

b. Reserves for Reinsured Losses Reported and Outstanding; (3-28-18)

c. Reserves for Reinsured Losses Incurred But Not Reported; and (3-28-18)

d. Reserves for Allocated Reinsured Loss Expenses and Unearned Premiums. (3-28-18)

05. Promissory Note. When used in connection with a manufactured home, will also include a loan, advance or credit sale as evidenced by a retail installment sales contract or other instrument. (3-28-18)

011. CREDIT FOR REINSURANCE – REINSURER LICENSED IN THIS STATE.
Pursuant to Section 41-515(2)(a), Idaho Code, the Director will allow credit for reinsurance ceded by a domestic insurer to assuming insurers which were licensed in this State as of statutory financial statement credit for reinsurance is claimed. (3-28-18)

012. -- 020. (RESERVED)

021. CREDIT FOR REINSURANCE -- ACCREDITED REINSURERS.

01. Accredited Reinsurers. Pursuant to Section 41-515(2)(b), Idaho Code, the Director will allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which is accredited as a reinsurer in this state as of the date on which statutory financial statement credit for reinsurance is claimed. An accredited reinsurer needs to: (3-28-18)

a. File with the Department a properly executed form AR-1 as evidence of its submission to this state's jurisdiction and to this state's authority to examine its books and records; ( )

b. File with the Director a certified copy of a certificate of authority or other acceptable evidence that it is licensed to transact insurance or reinsurance in at least one (1) state, or in the case of a U.S. branch of an alien assuming insurer is entered through and licensed to transact insurance or reinsurance in at least one (1) state. (3-28-18)

c. File annually with the director a copy of its annual statement filed with the department of its state of domicile or, in the case of an alien assuming insurer, with the state through which it is entered and in which it is licensed to transact insurance or reinsurance, and a copy of its most recent audited financial statement; and (3-28-18)

d. Maintain a surplus as regards policyholders in an amount not less than twenty million dollars ($20,000,000) or obtain the affirmative approval of the Director upon a finding that it has adequate financial capacity to meet its reinsurance obligations and is otherwise qualified to assume reinsurance from domestic insurers. (3-28-18)

02. Denial of Accreditation. If the Director determines that the assuming insurer has failed to meet or maintain any of these qualifications, he may upon written notice and hearing, suspend or revoke the accreditation. Credit will not be allowed a domestic ceding insurer under this section with respect to reinsurance ceded after 9/1/97 if the assuming insurer's accreditation has been denied or revoked by the Director, or if the reinsurance was ceded while the assuming insurer's accreditation was under suspension by the Director after notice and hearing. (3-28-18)

022. -- 030. (RESERVED)

031. CREDIT FOR REINSURANCE -- REINSURER DOMICILED AND LICENSED IN ANOTHER STATE.

Pursuant to Section 41-515(2)(c), Idaho Code, the Director will allow credit for reinsurance ceded by a domestic insurer to an assuming insurer which any date on which statutory financial statement credit for reinsurance is claimed: (3-28-18)

01. Applicable Domicile and License. Is domiciled and licensed in (or, in the case of a United States branch of an alien assuming insurer, is entered through and licensed in) a state which employs standards regarding credit for reinsurance substantially similar to those applicable under Section 41-515, Idaho Code, and this rule; (3-28-18)

02. Maintains Surplus. Maintains a surplus as regards policyholders in an amount not less than twenty million dollars ($20,000,000); and (7-1-96)

03. Proper AR-1 Form Filed. Files a properly executed Form AR-1 with the Director as evidence of its submission to this state's authority to examine its books and records. (7-1-96)

04. Provisions. The provisions of this section relating to surplus as regards policyholders will not apply to reinsurance ceded and assumed pursuant to pooling arrangements among insurers in the same holding company system. As used in this section, "substantially similar" standards means credit for reinsurance standards which the Director determines equal or exceed the standards of Section 41-515, Idaho Code, and this rule. (3-28-18)

032. -- 040. (RESERVED)

041. CREDIT FOR REINSURANCE -- REINSURERS MAINTAINING TRUST FUNDS.

01. Trust Fund. Pursuant to Section 41-515(2)(d), Idaho Code, the Director will allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that, as of any date on which statutory financial statement credit for reinsurance is claimed, and thereafter for so long as credit for reinsurance is claimed, maintains a trust fund in an amount prescribed below in a qualified United States financial institution as defined in Section 41-515(4), Idaho Code, for the payment of the valid claims of its United States domiciled ceding insurers, their assigns and successors in interest. The assuming insurer will report annually to the Director substantially the same information as that *prescribed* to be reported on the NAIC annual statement form by licensed insurers, to enable the Director to determine the sufficiency of the trust fund. *( )*

02. Requirements. The following requirements apply to the following categories of assuming insurer: (7-1-96)

a. The trust fund for a single assuming insurer will consist of funds in trust in an amount not less than the assuming insurer's liabilities attributable to reinsurance ceded by United States domiciled insurers, and in addition, the assuming insurer will maintain a trusteed surplus of not less than twenty million dollars ($20,000,000), except as provided for in Paragraph 041.02.b. of this section. (3-28-18)

b. At any time after the assuming insurer has permanently discontinued underwriting new business secured by the trust for at least three (3) full years, the Director or commissioner with principal regulatory oversight of the trust may authorize a reduction in the *prescribed* trusteed surplus, but only after a finding, based on an assessment of the risk, that the new *prescribed* surplus level is adequate for the protection of U.S. ceding insurers, policyholders and claimants in light of reasonably foreseeable adverse loss development. The risk assessment may involve an actuarial review, including an independent analysis of reserves and cash flow, and will consider all material risk factors, including when applicable the lines of business involved, the stability of the incurred loss estimates and the effect of the surplus requirements on the assuming insurer's liquidity or solvency. The minimum *prescribed* trusteed surplus cannot be reduced to an amount less than thirty percent (30%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers covered by the trust. *( )*

c. The trust fund for a group including incorporated and individual unincorporated underwriters will

consist of: (3-28-18)

i. For insurance ceded under reinsurance agreements with an inception, amendment or renewal date on or after January 1, 1993, funds in trust in an amount not less than the respective underwriters' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any underwriter of the group; (3-28-18)

ii. For reinsurance ceded under reinsurance agreements with an inception date on or before December 31, 1992, and not amended or renewed after that date, notwithstanding the other provisions of this rule, funds in trust in an amount not less than the respective underwriters' several insurance and reinsurance liabilities attributable to business written in the United States; and (3-28-18)

iii. In addition to these trusts, the group will maintain a trusteed surplus of which one hundred million dollars ($100,000,000) will be held jointly for the benefit of the U.S. domiciled ceding insurers of any member of the group for all the years of account. (3-28-18)

d. The incorporated members of the group within the scope of Paragraph 041.02.c. of this section will not be engaged in any business other than underwriting as a member of the group and will be subject to the same level of regulation and solvency control by the group's domiciliary regulator as are the unincorporated members. The group will, within ninety (90) days after its financial statements are due to be filed with the group's domiciliary regulator, provide to the Director: (3-28-18)

i. An annual certification by the group's domiciliary regulator of the solvency of each underwriter member of the group; or (3-28-18)

ii. If a certification is unavailable, a financial statement, prepared by independent public accountants, of each underwriter member of the group. (3-28-18)

e. The trust fund for a group of incorporated insurers under common administration, whose members possess aggregate policyholders surplus of ten billion dollars ($10,000,000,000) (calculated and reported in substantially the same manner as prescribed by the annual statement instructions and Accounting Practices and Procedures Manual of the NAIC) and that has continuously transacted an insurance business outside the United States for at least three (3) years immediately prior to making application for accreditation, will: (3-28-18)

i. Consist of funds in trust in an amount not less than the assuming insurers' several liabilities attributable to business ceded by U.S. domiciled ceding insurers to any members of the group pursuant to reinsurance contracts issued in the name of such group; (3-28-18)

ii. Maintain a joint trusteed surplus of which one hundred million dollars ($100,000,000) will be held jointly for the benefit of U.S. domiciled ceding insurers of any member of the group; and (3-28-18)

iii. File a properly executed form AR-1 as evidence of the submission to the Idaho Department of Insurance's authority to examine the books and records of any of its members and will certify that any member examined will bear the expense of any such examination. (3-28-18)

f. Within ninety (90) days after the statements are due to be filed with the group's domiciliary regulator, the group will file with the Director an annual certification of each underwriter member's solvency by the member's domiciliary regulators, and financial statements, prepared by independent public accountants, of each underwriter member of the group. (3-28-18)

03. Acceptable Form. (3-28-18)

a. Credit for reinsurance cannot be granted unless the form of the trust and any amendments to the trust have been approved by either the Director or commissioner of the state where the trust is domiciled or the Director or commissioner of another state who, pursuant to the terms of the trust instrument, has accepted responsibility for regulatory oversight of the trust. The form of the trust and any trust amendments also will be filed with the Director and commissioner of every state in which the ceding insurer beneficiaries of the trust are domiciled. The trust instrument will provide that: (3-28-18)

i. Contested claims will be valid and enforceable out of funds in trust to the extent remaining unsatisfied thirty (30) days after entry of the final order of any court of competent jurisdiction in the United States. (7-1-96)

ii. Legal title to the assets of the trust will be vested in the trustee for the benefit of the grantor's United States ceding insurers, their assigns and successors in interest. (3-28-18)

iii. The trust will be subject to examination as determined by the Director. (7-1-96)

iv. The trust will remain in effect for as long as the assuming insurer, or any member or former member of a group of insurers, will have outstanding obligations under reinsurance agreements subject to the trust; and (7-1-96)

v. No later than February 28 of each year the trustees of the trust will report to the Director in writing setting forth the balance in the trust and listing the trust's investments at the preceding year end, and will certify the date of termination of the trust, if so planned, or certify that the trust cannot expire prior to the next following December 31. (7-1-96)

b. Notwithstanding any other provisions in the trust instrument, if the trust fund is inadequate because it contains an amount less than the amount *prescribed* by this subsection or if the grantor of the trust has been declared insolvent or placed into receivership, rehabilitation, liquidation or similar proceedings under the laws of its state or country of domicile, the trustee will comply with an order of the Director or commissioner with regulatory oversight over the trust or with an order of a court of competent jurisdiction directing the trustee to transfer to the Director or commissioner with regulatory oversight over the trust or other designated receiver all of the assets of the trust fund. *( )*

c. The assets will be distributed by and claims will be filed with and valued by the Director or commissioner with regulatory oversight over the trust in accordance with the laws of the state in which the trust is domiciled applicable to the liquidation of domestic insurance companies. (3-28-18)

d. If the commissioner with regulatory oversight over the trust determines that the assets of the trust fund or any part thereof are not necessary to satisfy the claims of the U.S. beneficiaries of the trust, the Director or commissioner with regulatory oversight over the trust will return the assets, or any part thereof, to the trustee for distribution in accordance with the trust agreement. (3-28-18)

e. The grantor will waive any right otherwise available to it under U.S. law that is inconsistent with this provision. (3-28-18)

04. Liabilities. For purposes of this section, the term "liabilities" will mean the assuming insurer's gross liabilities attributable to reinsurance ceded by U.S. domiciled insurers excluding liabilities that are otherwise secured by acceptable means, and, will include: (3-28-18)

a. For business ceded by domestic insurers authorized to write accident and health, and property and casualty insurance: (3-28-18)

i. Losses and allocated loss expenses paid by the ceding insurer, recoverable from the assuming insurer; (3-28-18)

ii. Reserves for losses reported and outstanding; (3-28-18)

iii. Reserves for losses incurred but not reported; (3-28-18)

iv. Reserves for allocated loss expenses; and (3-28-18)

v. Unearned premiums. (3-28-18)

b. For business ceded by domestic insurers authorized to write life, health and annuity insurance: (3-28-18)

i. Aggregate reserves for life policies and contracts net of policy loans and net due and deferred premiums: (3-28-18)

ii. Aggregate reserves for accident and health policies; (3-28-18)

iii. Deposit funds and other liabilities without life or disability contingencies; and (3-28-18)

iv. Liabilities for policy and contract claims. (3-28-18)

05. Assets. Assets deposited in trusts established pursuant to Section 41-515(2), Idaho Code, and Section 041 of these rules will be valued according to their current fair market value and will consist only of cash in U.S. dollars, certificates of deposit issued by a U.S. financial institution as defined in Section 41-515(4)(a), Idaho Code, clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified U.S. financial institution, as defined in Section 41-515(4)(a), Idaho Code, and investments of the type specified in this subsection, but investments in or issued by an entity controlling, controlled by or under common control with either the grantor or beneficiary of the trust cannot exceed five percent (5%) of total investments. No more than twenty percent (20%) of the total of the investments in the trust may be foreign investments authorized under Paragraphs 041.05.a.v., 05.c., 05.e.ii. or 05.f. of this rule, and no more than ten percent (10%) of the total of the investments in the trust may be securities denominated in foreign currencies. For purposes of applying the preceding sentence, a depository receipt denominated in U.S. dollars and representing rights conferred by a foreign security will be classified as a foreign investment denominated in a foreign currency. The assets of a trust established to satisfy the requirements of Section 41-515(2), Idaho Code, will be invested only as follows: (3-28-18)

a. Government obligations that are not in default as to principal or interest, that are valid and legally authorized and that are issued, assumed or guaranteed by: (3-28-18)

i. The United States or by any agency or instrumentality of the United States; (3-28-18)

ii. A state of the United States; (3-28-18)

iii. A territory, possession or other governmental unit of the United States; (3-28-18)

iv. An agency or instrumentality of a governmental unit referred to in Subparagraphs 041.05.a.ii. and 041.05.a.iii. if the obligations will be by law (statutory or otherwise) payable, as to both principal and interest, from taxes levied or by law *needed* to be levied or from adequate special revenues pledged or otherwise appropriated or by law *needed* to be provided for making these payments, but cannot be obligations eligible for investment under this paragraph if payable solely out of special assessments on properties benefited by local improvements; or *( )*

v. The government of any other country that is a member of the Organization for Economic Cooperation and Development and whose government obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. (3-28-18)

b. Obligations that are issued in the United States, or that are dollar denominated and issued in a non-U.S. market, by a solvent U.S. institution (other than an insurance company) or that are assumed or guaranteed by a solvent U.S. institution (other than an insurance company) and that are not in default as to principal or interest if the obligations: (3-28-18)

i. Are rated A or higher (or the equivalent) by a securities rating agency recognized by the Securities Valuation Office of the NAIC, or if not so rated, are similar in structure and other material respects to other obligations of the same institution that are so rated; (3-28-18)

ii. Are insured by at least one (1) authorized insurer (other than the investing insurer or a parent, subsidiary or affiliate of the investing insurer) licensed to insure obligations in this state and, after considering the insurance, are rated AAA (or the equivalent) by a securities rating agency recognized by the Securities Valuation

Office of the NAIC; or (3-28-18)

iii. Have been designated as Class One or Class Two by the Securities Valuation Office of the NAIC. (3-28-18)

c. Obligations issued, assumed or guaranteed by a solvent non-U.S. institution chartered in a country that is a member of the Organization for Economic Cooperation and Development or obligations of U.S. corporations issued in a non-U.S. currency, provided that in either case the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. (3-28-18)

d. An investment made pursuant to the provisions of Paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection will be subject to the following additional limitations: (3-28-18)

i. An investment in or loan upon the obligations of an institution other than an institution that issues mortgage-related securities cannot exceed five percent (5%) of the assets of the trust; (3-28-18)

ii. An investment in any one mortgage-related security cannot exceed five percent (5%) of the assets of the trust; (3-28-18)

iii. The aggregate total investment in mortgage-related securities cannot exceed twenty-five percent (25%) of the assets of the trust; and (3-28-18)

iv. Preferred or guaranteed shares issued or guaranteed by a solvent U.S. institution are permissible investments if all of the institution's obligations are eligible as investments under Subparagraphs 041.05.b.i. and 05.b.iii. of this subsection, but cannot exceed two percent (2%) of the assets of the trust. (3-28-18)

e. Equity interests: (3-28-18)

i. Investments in common shares or partnership interests of a solvent U.S. institution are permissible if: (3-28-18)

(1) Its obligations and preferred shares, if any, are eligible as investments under Paragraph 041.05.e.; and (3-28-18)

(2) The equity interests of the institution (except an insurance company) are registered on a national securities exchange as provided in the Securities Exchange Act of 1934, 15 U.S.C. Sections 78a to 78kk or otherwise registered pursuant to that act, and if otherwise registered, price quotations for them are furnished through a nationwide automated quotations system approved by the Financial Industry Regulatory Authority, or successor organization. A trust cannot invest in equity interests under Paragraph 041.05.e. an amount exceeding one percent (1%) of the assets of the trust even though the equity interests are not so registered and are not issued by an insurance company; (3-28-18)

ii. Investments in common shares of a solvent institution organized under the laws of a country that is a member of the Organization for Economic Cooperation and Development, if: (3-28-18)

(1) All its obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC; and (3-28-18)

(2) The equity interests of the institution are registered on a securities exchange regulated by the government of a country that is a member of the Organization for Economic Cooperation and Development. (3-28-18)

iii. An investment in or loan upon any one institution's outstanding equity interests cannot exceed one percent (1%) of the assets of the trust. The cost of an investment in equity interests made pursuant to Paragraph 041.05.e., when added to the aggregate cost of other investments in equity interests then held pursuant to Paragraph 041.05.e., cannot exceed ten percent (10%) of the assets in the trust. (3-28-18)

f. Obligations issued, assumed or guaranteed by a multinational development bank, provided the obligations are rated A or higher, or the equivalent, by a rating agency recognized by the Securities Valuation Office of the NAIC. (3-28-18)

g. Investment companies: (3-28-18)

i. Securities of an investment company registered pursuant to the Investment Company Act of 1940, 15 U.S.C. Section 80a, are permissible investments if the investment company: (3-28-18)

(1) Invests at least ninety percent (90%) of its assets in the types of securities that qualify as an investment under Paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection or invests in securities that are determined by the Director to be substantively similar to the types of securities set forth in Paragraph 041.05.a., 041.05.b., or 041.05.c. of this subsection; or (3-28-18)

(2) Invests at least ninety percent (90%) of its assets in the types of equity interests that qualify as an investment under Subparagraph 041.05.e.i. of this subsection; (3-28-18)

ii. Investments made by a trust in investment companies under Paragraph 041.05.e. cannot exceed the following limitations: (3-28-18)

(1) An investment in an investment company qualifying under Subparagraph 041.05.g.i.(1) of this subsection, cannot exceed ten percent (10%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies cannot exceed twenty-five percent (25%) of the assets in the trust; and (3-28-18)

(2) Investments in an investment company qualifying under Subparagraph 041.05.g.i.(2) of this subsection, cannot exceed five percent (5%) of the assets in the trust and the aggregate amount of investment in qualifying investment companies will be included when calculating the permissible aggregate value of equity interests pursuant to Subparagraph 041.05.e.i. of this subsection. (3-28-18)

h. Letters of Credit: (3-28-18)

i. In order for a letter of credit to qualify as an asset of the trust, the trustee will have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced. (3-28-18)

ii. The trust agreement will provide that the trustee will be liable for its negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be *necessary is considered* negligence or willful misconduct, or both. *( )*

06. Security by an Unauthorized Assuming Insurer. A specific security provided to a ceding insurer by an assuming insurer pursuant to Section 051 will be applied, until exhausted, to the payment of liabilities of the assuming insurer to the ceding insurer holding the specific security prior to, and as a condition precedent for, presentation of a claim by the ceding insurer for payment by a trustee of a trust established by the assuming insurer pursuant to this section. (3-28-18)

042. CREDIT FOR REINSURANCE – CERTIFIED REINSURERS.

01. Certification and Security. *( )*

a. Pursuant to Section 41-515(2)(e), Idaho Code, the Director will allow credit for reinsurance ceded by a domestic insurer to an assuming insurer that has been certified as a reinsurer in this state at all times for which statutory financial statement credit for reinsurance is claimed under Section 042 of this rule. The credit allowed will be based upon the security held by or on behalf of the ceding insurer in accordance with a rating assigned to the certified reinsurer by the Director. The security will be in a form consistent with the provisions of Section 41-515(2)(e) and (3), Idaho Code, and Sections 071, 081, or 091 of this rule the amount of security *necessary* in order for full credit to be allowed will correspond with the following requirements:

Rating	Security Requisite
Secure - 1	0%
Secure - 2	10%
Secure - 3	20%
Secure - 4	50%
Secure - 5	75%
Vulnerable - 6	100%

( )

b. Affiliated reinsurance transactions will receive the same opportunity for reduced security requirements as all other reinsurance transactions. (3-28-18)

c. The Director will require the certified reinsurer to post one hundred percent (100%), for the benefit of the ceding insurer or its estate, security upon the entry of an order of rehabilitation, liquidation or conservation against the ceding insurer. (3-28-18)

d. In order to facilitate the prompt payment of claims, a certified reinsurer cannot be *prescribed* to post security for catastrophe recoverables for a period of one (1) year from the date of the first instance of a liability reserve entry by the ceding company as a result of a loss from a catastrophic occurrence as recognized by the Director. The one (1) year deferral period is contingent upon the certified reinsurer continuing to pay claims in a timely manner. Reinsurance recoverables for only the following lines of business as reported on the NAIC annual financial statement related specifically to the catastrophic occurrence will be included in the deferral: ( )

i. Line 1: Fire. (3-28-18)

ii. Line 2: Allied Lines. (3-28-18)

iii. Line 3: Farm owners multiple peril. (3-28-18)

iv. Line 4: Homeowners multiple peril. (3-28-18)

v. Line 5: Commercial multiple peril. (3-28-18)

vi. Line 9: Inland Marine. (3-28-18)

vii. Line 12: Earthquake. (3-28-18)

viii. Line 21: Auto physical damage. (3-28-18)

e. Credit for reinsurance under Section 042 will apply only to reinsurance contracts entered into or renewed on or after the effective date of the certification of the assuming insurer. Any reinsurance contract entered into prior to the effective date of the certification of the assuming insurer that is subsequently amended after the effective date of the certification of the assuming insurer, or a new reinsurance contract, covering any risk for which collateral was provided previously, will only be subject to Section 042 with respect to losses incurred and reserves reported from and after the effective date of the amendment or new contract. (3-28-18)

f. Nothing in this section will prohibit the parties to a reinsurance agreement from agreeing to provisions establishing security requirements that exceed the minimum security requirements established for certified reinsurers under Section 042. (3-28-18)

02. Certification procedure: (3-28-18)

a. The Director will post notice on the Department's website promptly upon receipt of any application for certification, including instructions on how members of the public may respond to the application. The Director cannot take final action on the application until at least thirty (30) days after posting the notice *prescribed* by Paragraph 042.02.a. *( )*

b. The Director will issue written notice to an assuming insurer that has made application and been approved as a certified reinsurer. Included in such notice will be the rating assigned the certified reinsurer in accordance with Subsection 042.01. The Director will publish a list of all certified reinsurers and their ratings . (3-28-18)

c. In order to be eligible for certification, the assuming insurer will meet the following requirements: (3-28-18)

i. The assuming insurer *needs to* be domiciled and licensed to transact insurance or reinsurance in a qualified jurisdiction, as determined by the Director pursuant to Subsection 042.03. *( )*

ii. The assuming insurer *needs to* maintain capital and surplus, or its equivalent, of no less than two hundred fifty million dollars ($250,000,000) calculated in accordance with Subparagraph 042.02.d.viii. of this section. This requirement may also be satisfied by an association including incorporated and individual unincorporated underwriters having minimum capital and surplus equivalents (net of liabilities) of at least two hundred fifty million dollars ($250,000,000) and a central fund containing a balance of at least two hundred fifty million dollars ($250,000,000). *( )*

iii. The assuming insurer *needs to* maintain financial strength ratings from two (2) or more rating agencies deemed acceptable by the Director. These ratings will be based on interactive communication between the rating agency and the assuming insurer and cannot be based solely on publicly available information. These financial strength ratings will be one (1) factor used by the Director in determining the rating that is assigned to the assuming insurer. Acceptable rating agencies include the following: *( )*

(1) Standard & Poor's; (3-28-18)

(2) Moody's Investors Service; (3-28-18)

(3) Fitch Ratings; (3-28-18)

(4) A.M. Best Company; or (3-28-18)

(5) Any other nationally recognized statistical rating organization. (3-28-18)

iv. The certified reinsurer *needs to* comply with any other requirements reasonably imposed by the Director. *( )*

d. Each certified reinsurer will be rated on a legal entity basis, with due consideration being given to the group rating where appropriate, except that an association including incorporated and individual unincorporated underwriters that has been approved to do business as a single certified reinsurer may be evaluated on the basis of its group rating. Factors that may be considered as part of the evaluation process include, but are not limited to, the following: (3-28-18)

i. The certified reinsurer's financial strength rating from an acceptable rating agency. The maximum rating that a certified reinsurer may be assigned will correspond to its financial strength rating as outlined in the table below. The Director will use the lowest financial strength rating received from an approved rating agency in establishing the maximum rating of a certified reinsurer. A failure to obtain or maintain at least two (2) financial strength ratings from acceptable rating agencies will result in loss of eligibility for certification:

Rating	Best	S&P	Moody's	Fitch
Secure - 1	A++	AAA	Aaa	AAA
Secure - 2	A+	AA+, AA, AA-	Aa1, Aa2, Aa3	AA+, AA, AA-
Secure - 3	A	A+, A	A1, A2	A+, A
Secure - 4	A-	A-	A3	A-
Secure - 5	B++, B+	BBB+, BBB, BBB-	Baa1, Baa2, Baa3	BBB+, BBB, BBB-
Vulnerable - 6	B, B-, C++, C+, C, C-, D, E, F	BB+, BB, BB-, B+, B, B-, CCC, CC, C, D, R	Ba1, Ba2, Ba3, B1, B2, B3, Caa, Ca, C	BB+, BB, BB-, B+, B, B-, CCC+, CC, CCC-, DD

(3-28-18)

ii. The business practices of the certified reinsurer in dealing with its ceding insurers, including its record of compliance with reinsurance contractual terms and obligations; (3-28-18)

iii. For certified reinsurers domiciled in the U.S., a review of the most recent applicable NAIC Annual Statement Blank, either Schedule F (for property/casualty reinsurers) or Schedule S (for life and health reinsurers); (3-28-18)

iv. For certified reinsurers not domiciled in the U.S., a review annually of Form CR-F (for property/casualty reinsurers) or Form CR-S (for life and health reinsurers); ( )

v. The reputation of the certified reinsurer for prompt payment of claims under reinsurance agreements, based on an analysis of ceding insurers' Schedule F reporting of overdue reinsurance recoverables, including the proportion of obligations that are more than ninety (90) days past due or are in dispute, with specific attention given to obligations payable to companies that are in administrative supervision or receivership; (3-28-18)

vi. Regulatory actions against the certified reinsurer; (3-28-18)

vii. The report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in following Subparagraph 042.02.d.viii.; (3-28-18)

viii. For certified reinsurers not domiciled in the U.S., audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but *needs to* include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or with the permission of the state insurance director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the non-U.S. jurisdiction supervisor). Upon the initial application for certification, the Director will consider audited financial statements for the last three (3) years filed with its non U.S. jurisdiction supervisor; ( )

ix. The liquidation priority of obligations to a ceding insurer in the certified reinsurer's domiciliary jurisdiction in the context of an insolvency proceeding; (3-28-18)

x. A certified reinsurer's participation in any solvent scheme of arrangement, or similar procedure, which involves U.S. ceding insurers. The Director will receive prior notice from a certified reinsurer that proposes participation by the certified reinsurer in a solvent scheme of arrangement; and (3-28-18)

xi. Any other information deemed relevant by the Director. (3-28-18)

e. Based on the analysis conducted under Subparagraph 042.02.d.v. of a certified reinsurer's reputation for prompt payment of claims, the Director may make appropriate adjustments in the security the certified reinsurer is *needed* to post to protect its liabilities to U.S. ceding insurers, provided that the Director will, at a

minimum, increase the security the certified reinsurer is *needed* to post by one rating level under Subparagraph 042.02.d.i. if the Director finds that: *( )*

i. More than fifteen percent (15%) of the certified reinsurer's ceding insurance clients have overdue reinsurance recoverables on paid losses of ninety (90) days or more that are not in dispute and that exceed one hundred thousand dollars ($100,000) for each cedent; or (3-28-18)

ii. The aggregate amount of reinsurance recoverables on paid losses that are not in dispute that are overdue by ninety (90) days or more exceeds fifty million dollars ($50,000,000). (3-28-18)

f. The assuming insurer *needs to* submit a properly executed form CR-1 as evidence of its submission to the jurisdiction of this state, appointment of the Director as an agent for service of process in this state, and agreement to provide security for one hundred percent (100%) of the assuming insurer's liabilities attributable to reinsurance ceded by U.S. ceding insurers if it resists enforcement of a final U.S. judgment. The Director will not certify any assuming insurer that is domiciled in a jurisdiction that the Director has determined does not adequately and promptly enforce final U.S. judgments or arbitration awards. *( )*

g. The certified reinsurer *needs to* agree to meet applicable information filing requirements as determined by the Director, both with respect to an initial application for certification and on an ongoing basis. All information submitted by certified reinsurers that is not otherwise public information subject to disclosure will be exempted from disclosure under Title 74, Chapter 1, Idaho Code, and will be withheld from public disclosure. The applicable information filing requirements are, as follows: *( )*

i. Notification within ten (10) days of any regulatory actions taken against the certified reinsurer, any change in the provisions of its domiciliary license or any change in rating by an approved rating agency, including a statement describing such changes and the reasons therefor; (3-28-18)

ii. Annually, Form CR-F or CR-S, as applicable per instructions adopted by the Department. (3-28-18)

iii. Annually, the report of the independent auditor on the financial statements of the insurance enterprise, on the basis described in following Subparagraph 042.02.g.iv.; (3-28-18)

iv. Annually, audited financial statements (audited U.S. GAAP basis if available, audited IFRS basis statements are allowed but *needs to* include an audited footnote reconciling equity and net income to a U.S. GAAP basis, or, with the permission of the Director, audited IFRS statements with reconciliation to U.S. GAAP certified by an officer of the company), regulatory filings, and actuarial opinion (as filed with the certified reinsurer's supervisor). Upon the initial certification, audited financial statements for the last three (3) years filed with the certified reinsurer's supervisor; *( )*

v. At least annually, an updated list of all disputed and overdue reinsurance claims regarding reinsurance assumed from U.S. domestic ceding insurers; (3-28-18)

vi. A certification from the certified reinsurer's domestic regulator that the certified reinsurer is in good standing and maintains capital in excess of the jurisdiction's highest regulatory action level; and (3-28-18)

vii. Any other information that the Director may reasonably require. (3-28-18)

h. Change in Rating or Revocation of Certification. (3-28-18)

i. In the case of a downgrade by a rating agency or other disqualifying circumstance, the Director will upon written notice assign a new rating to the certified reinsurer in accordance with the requirements of Subparagraph 042.02.d.i. (3-28-18)

ii. The Director will have the authority to suspend, revoke, or otherwise modify a certified reinsurer's certification at any time if the certified reinsurer fails to meet its obligations or security requirements under this section, or if other financial or operating results of the certified reinsurer, or documented significant delays in

payment by the certified reinsurer, lead the Director to reconsider the certified reinsurer's ability or willingness to meet its contractual obligations. (3-28-18)

iii. If the rating of a certified reinsurer is upgraded by the Director, the certified reinsurer may meet the security requirements applicable to its new rating on a prospective basis, but the Director will require the certified reinsurer to post security under the previously applicable security requirements as to all contracts in force on or before the effective date of the upgraded rating. If the rating of a certified reinsurer is downgraded by the Director, the Director will require the certified reinsurer to meet the security requirements applicable to its new rating for all business it has assumed as a certified reinsurer. (3-28-18)

iv. Upon revocation of the certification of a certified reinsurer by the Director, the assuming insurer *will* be *needed* to post security in accordance with Section 061 of this rule in order for the ceding insurer to continue to take credit for reinsurance ceded to the assuming insurer. If funds continue to be held in trust in accordance with Section 041 of this rule, the Director may allow additional credit equal to the ceding insurer's pro rata share of such funds, discounted to reflect the risk of uncollectibility and anticipated expenses of trust administration. Notwithstanding the change of a certified reinsurer's rating or revocation of its certification, a domestic insurer that has ceded reinsurance to that certified reinsurer cannot be denied credit for reinsurance for a period of three (3) months for all reinsurance ceded to that certified reinsurer, unless the reinsurance is found by the Director to be at high risk of uncollectibility. *( )*

03. Qualified Jurisdictions. (3-28-18)

a. If, upon conducting an evaluation under Section 042 of this rule with respect to the reinsurance supervisory system of any non-U.S. assuming insurer, the Director determines that the jurisdiction qualifies to be recognized as a qualified jurisdiction, the Director will publish notice and evidence of such recognition in an appropriate manner. The Director may establish a procedure to withdraw recognition of those jurisdictions that are no longer qualified. (3-28-18)

b. In order to determine whether the domiciliary jurisdiction of a non-U.S. assuming insurer is eligible to be recognized as a qualified jurisdiction, the Director will evaluate the reinsurance supervisory system of the non-U.S. jurisdiction, both initially and on an ongoing basis, and consider the rights, benefits and the extent of reciprocal recognition afforded by the non-U.S. jurisdiction to reinsurers licensed and domiciled in the U.S. The Director will determine the appropriate approach for evaluating the qualifications of such jurisdictions, and create and publish a list of jurisdictions whose reinsurers may be approved by the Director as eligible for certification. A qualified jurisdiction *needs to* agree to share information and cooperate with the Director with respect to all certified reinsurers domiciled within that jurisdiction. Additional factors to be considered in determining whether to recognize a qualified jurisdiction, in the discretion of the Director, include, but are not limited to, the following: *( )*

i. The framework under which the assuming insurer is regulated. (3-28-18)

ii. The structure and authority of the domiciliary regulator with regard to solvency regulation requirements and financial surveillance. (3-28-18)

iii. The substance of financial and operating standards for assuming insurers in the domiciliary jurisdiction. (3-28-18)

iv. The form and substance of financial reports *needed* to be filed or made publicly available by reinsurers in the domiciliary jurisdiction and the accounting principles used. *( )*

v. The domiciliary regulator's willingness to cooperate with U.S. regulators in general and the Director in particular. (3-28-18)

vi. The history of performance by assuming insurers in the domiciliary jurisdiction. (3-28-18)

vii. Any documented evidence of substantial problems with the enforcement of final U.S. judgments in the domiciliary jurisdiction. A jurisdiction will not be considered to be a qualified jurisdiction if the Director has determined that it does not adequately and promptly enforce final U.S. judgments or arbitration awards. (3-28-18)

viii. Any relevant international standards or guidance with respect to mutual recognition of reinsurance supervision adopted by the International Association of Insurance Supervisors or successor organization. (3-28-18)

ix. Any other matters deemed relevant by the Director. (3-28-18)

c. A list of qualified jurisdictions will be published through the NAIC committee process. The Director will consider this list in determining qualified jurisdictions. If the Director approves a jurisdiction as qualified that does not appear on the list of qualified jurisdictions, the Director will provide thoroughly documented justification with respect to the criteria provided under Subparagraphs 042.03.b.i. through 042.03.b.ix. of this subsection. (3-28-18)

d. U.S. jurisdictions that meet the requirements for accreditation under the NAIC financial standards and accreditation program will be recognized as qualified jurisdictions. (3-28-18)

04. Recognition of Certification Issued by an NAIC Accredited Jurisdiction. (3-28-18)

a. If an applicant for certification has been certified as a reinsurer in an NAIC accredited jurisdiction, the Director has the discretion to defer to that jurisdiction's certification, and to defer to the rating assigned by that jurisdiction, if the assuming insurer submits a properly executed Form CR-1 and such additional information as the Director requires. The assuming insurer will be considered to be a certified reinsurer in this State. (3-28-18)

b. Any change in the certified reinsurer's status or rating in the other jurisdiction will apply automatically in this State as of the date it takes effect in the other jurisdiction. The certified reinsurer will notify the Director of any change in its status or rating within ten (10) days after receiving notice of the change. (3-28-18)

c. The Director may withdraw recognition of the other jurisdiction's rating at any time and assign a new rating in accordance with Paragraph 042.02.h. of this subsection. (3-28-18)

d. The Director may withdraw recognition of the other jurisdiction's certification at any time, with written notice to the certified reinsurer. Unless the Director suspends or revokes the certified reinsurer's certification in accordance with Paragraph 042.02.h., the certified reinsurer's certification will remain in good standing in this State for a period of three (3) months, which will be extended if additional time is necessary to consider the assuming insurer's application for certification in this State. (3-28-18)

05. Mandatory Funding Clause. In addition to the clauses *prescribed* under Section 101 of this rule, reinsurance contracts entered into or renewed under this section will include a proper funding clause, which requires the certified reinsurer to provide and maintain security in an amount sufficient to avoid the imposition of any financial statement penalty on the ceding insurer under this section for reinsurance ceded to the certified reinsurer. *( )*

06. Notification Requirements.The Director will comply with all reporting and notification requirements that may be established by the NAIC with respect to certified reinsurers and qualified jurisdictions. (3-28-18)

043. -- 050. (RESERVED)

051. CREDIT FOR REINSURANCE *REQUISITE* BY LAW.
Pursuant to Section 41-515(2)(f), Idaho Code, the Director will allow credit for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 41-515(2)(a), (b), (c), (d), or (e), Idaho Code, but only with respect to the insurance of risks located in jurisdictions where such reinsurance is *prescribed* by the applicable law or regulation of that jurisdiction. As used in this section, "jurisdiction" means any state, district or territory of the United States and any lawful national government. *( )*

052. -- 060. (RESERVED)

061. ASSET OR REDUCTION FROM LIABILITY FOR REINSURANCE CEDED TO AN UNAUTHORIZED ASSUMING INSURER NOT MEETING THE REQUIREMENT OF SECTIONS 011, 021, 031, 041, 042, AND 051.

Pursuant to Section 41-515(3), Idaho Code, the Director will allow a reduction from liability for reinsurance ceded by a domestic insurer to an assuming insurer not meeting the requirements of Section 41-515(2), Idaho Code, in an amount not exceeding the liabilities carried by the ceding insurer. The reduction will be in the amount of funds held by or on behalf of the ceding insurer, including funds held in trust for the exclusive benefit of the ceding insurer, under a reinsurance contract with such assuming insurer as security for the payment of obligations under the reinsurance contract. The security will be held in the United States subject to withdrawal solely by, and under the exclusive control of, the ceding insurer or, in the case of a trust, held in a qualified United States financial institution as defined in Section 41-515(4)(b), Idaho Code. This security may be in the form of any of the following: (3-28-18)

01. Cash. (7-1-96)

02. Securities. Securities listed by the Securities Valuation Office of the NAIC, including those deemed exempt from filing as defined by the Purposes and Procedures Manual of the NAIC Investment Analysis Office NAIC Securities Valuation Office and NAIC Structured Securities Group, and qualifying as admitted assets; (3-28-18)

03. Letters of Credit. Clean, irrevocable, unconditional and "evergreen" letters of credit issued or confirmed by a qualified United States institution, as defined in Section 41-515(4)(a), Idaho Code, effective no later than December 31 of the year for which filing is being made, and in the possession of, or in trust for, the ceding insurer on or before the filing date of its annual statement. Letters of credit meeting applicable standards of issuer acceptability as of the dates of their issuance (or confirmation) will, notwithstanding the issuing (or confirming) institution's subsequent failure to meet applicable standards of issuer acceptability, continue to be acceptable as security until their expiration, extension, renewal, modification or amendment, whichever first occurs; or (3-28-18)

04. Other. Any Other Form of Security Acceptable to the Director. (3-28-18)

05. Other Provisions Applicable. An admitted asset or a reduction from liability for reinsurance ceded to an unauthorized assuming insurer pursuant to Section 061 will be allowed only when the requirements of Section 101 and the applicable portions of Sections 074, 075, 076, 081, and 091 of this rule are met. (3-28-18)

062. -- 070. (RESERVED)

071. TRUST AGREEMENTS QUALIFIED UNDER IDAPA 18.07.08.061.

Sections 074, 075, and 076 apply to trust agreements qualified under Section 061. (3-28-18)

072. -- 073. (RESERVED)

074. REQUISITE CONDITIONS.

01. Who Will Enter the Agreement. The trust agreement will be entered into between the beneficiary, the grantor and a trustee which will be a qualified United States financial institution as defined in Section 41-515(4)(b), Idaho Code. (3-28-18)

02. Trust Account. The trust agreement will create a trust account into which assets will be deposited. (7-1-99)

03. Who Will Hold Assets in Trust Account. All assets in the trust account will be held by the trustee at the trustee's office in the United States. (3-28-18)

04. Provisions of Trust Agreement. The Trust Agreement will provide that: (7-1-99)

a. The beneficiary will have the right to withdraw assets from the trust account at any time, without notice to the grantor, subject only to written notice from the beneficiary to the trustee; (7-1-96)

b. No other statement or document is *prescribed* to be presented to withdraw assets, except that the beneficiary may be *prescribed* to acknowledge receipt of withdrawn assets; *( )*

c. It is not subject to any conditions or qualifications outside of the trust agreement; and (7-1-96)

d. It cannot contain references to any other agreements or documents except as provided for under Subsections 074.11 and 074.12. (3-28-18)

05. Sole Benefit of Beneficiary. The Trust Agreement will be established for the sole benefit of the beneficiary. (7-1-99)

06. Requisites of Trustee. The Trust Agreement will require the trustee to: (7-1-99)

a. Receive assets and hold all assets in a safe place; (7-1-96)

b. Determine that all assets are in such form that the beneficiary, or the trustee upon direction by the beneficiary, may whenever necessary negotiate any such assets, without consent or signature from the grantor or any other person or entity; (7-1-96)

c. Furnish to the grantor and the beneficiary a statement of all assets in the trust account upon its inception and at intervals no less frequent than the end of each calendar quarter; (7-1-96)

d. Notify the grantor and the beneficiary within ten (10) days, of any deposits to or withdrawals from the trust account; (7-1-96)

e. Upon written demand of the beneficiary, immediately take any and all steps necessary to transfer absolutely and unequivocally all right, title and interest in the assets held in the trust account to the beneficiary and deliver physical custody of the assets to the beneficiary; and (7-1-96)

f. Allow no substitutions or withdrawals of assets from the trust account, except on written instructions from the beneficiary, except that the trustee may, without the consent of but with notice to the beneficiary, upon call or maturity of any trust asset, withdraw such asset upon condition that the proceeds are paid into the trust account. (7-1-96)

07. Written Notification of Termination. The trust agreement will provide that at least thirty (30) days, but not more than forty-five (45) days, prior to termination of the trust account, written notification of termination will be delivered by the trustee to the beneficiary. (7-1-99)

08. Subject to Laws of State in Which Trust is Established. The trust agreement will be made subject to and governed by the laws of the state in which the trust is domiciled. (3-28-18)

09. Prohibit Invasion of Trust Corpus. The trust agreement will prohibit invasion of the trust corpus for the purpose of paying compensation to, or reimbursing the expenses of, the trustee. In order for a letter of credit to qualify as an asset of the trust, the trustee will have the right and the obligation pursuant to the deed of trust or some other binding agreement (as duly approved by the Director), to immediately draw down the full amount of the letter of credit and hold the proceeds in trust for the beneficiaries of the trust if the letter of credit will otherwise expire without being renewed or replaced. (3-28-18)

10. Trustee Will Be Liable. The trust agreement will provide that the trustee will be liable for its own negligence, willful misconduct or lack of good faith. The failure of the trustee to draw against the letter of credit in circumstances where such draw would be *necessary to* be deemed to be *considered* negligence or willful misconduct, or both. *( )*

11. Purposes for Applying Amounts Drawn Upon Trust Account. *W*hen a trust agreement is established in conjunction with a reinsurance agreement covering risks other than life, annuities and accident and health, where it is customary practice to provide a trust agreement for a specific purpose, the trust agreement may, provide that the ceding insurer will undertake to use and apply amounts drawn upon the trust account, without

diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes: ( )

a. To pay or reimburse the ceding insurer for the assuming insurer's share under the specific reinsurance agreement regarding any losses and allocated loss expenses paid by the ceding insurer, but not recovered from the assuming insurer, or for unearned premiums due to the ceding insurer if not otherwise paid by the assuming insurer; (7-1-96)

b. To make payment to the assuming insurer of any amounts held in the trust account that exceed one hundred two percent (102%) of the actual amount *needed* to fund the assuming insurer's obligations under the specific reinsurance agreement; or ( )

c. Where the ceding insurer has received notification of termination of the trust account and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the obligations and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified United States financial institution as defined in Section 41-515(4)(b), Idaho Code, apart from its general assets, in trust for such uses and purposes specified in Subsections 074.11.a. and 074.11.b. as may remain executory after such withdrawal and for any period after the termination date. (3-28-18)

12. Reinsurance Agreement Provisions. *W*hen a trust agreement is established to meet the requirements of Section 061 in conjunction with a reinsurance agreement covering life, annuities or accident and health risks, where it is customary to provide a trust agreement for a specific purpose, the trust agreement may provide that the ceding insurer will undertake to use and apply amounts drawn upon the trust account, without diminution because of the insolvency of the ceding insurer or the assuming insurer, only for the following purposes; ( )

a. To pay or reimburse the ceding insurer for: (3-28-18)

i. The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of the policies; and (3-28-18)

ii. The assuming insurer's share under the specific reinsurance agreement of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurer, under the terms and provisions of the policies reinsured under the reinsurance agreement; (3-28-18)

b. To pay to the assuming insurer amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; or (3-28-18)

c. Where the ceding insurer has received notification of termination of the trust and where the assuming insurer's entire obligations under the specific reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer, and deposit those amounts in a separate account, in the name of the ceding insurer in any qualified U.S. financial institution apart from its general assets, in trust for the uses and purposes specified in Paragraphs 074.12.a. and 074.12.b. of this Subsection as may remain executory after withdrawal and for any period after the termination date. (3-28-18)

13. Trust Account Assets. Either the reinsurance agreement or the trust agreement *needs to* stipulate that assets deposited in the trust account will be valued according to their current fair market value and will consist only of cash in United States dollars, certificates of deposit issued by a United States bank and payable in United States dollars, and investments permitted by the Insurance Code or any combination of the above, provided investments in or issued by an entity controlling, controlled by or under common control with either the grantor or the beneficiary of the trust cannot exceed five percent (5%) of total investments. The agreement may further specify the types of investments to be deposited. If the reinsurance agreement covers life, annuities or accident and health risks, then the provisions *prescribed* by this paragraph *needs to* be included in the reinsurance agreement. ( )

075. PERMITTED CONDITIONS.

01. Resignation of Trustee. The trust agreement may provide that the trustee may resign upon delivery of a written notice of resignation, effective not less than ninety (90) days after receipt by the beneficiary and grantor of the notice and that the trustee may be removed by the grantor by delivery to the trustee and the beneficiary of a written notice of removal, effective not less than ninety (90) days after receipt by the trustee and the beneficiary of the notice, provided that no such resignation or removal will be effective until a successor trustee has been duly appointed and approved by the beneficiary and the grantor and all assets in the trust have been duly transferred to the new trustee. (7-1-99)

02. Grantor's Rights. The grantor may have the full and unqualified right to vote any shares of stock in the trust account and to receive from time to time payments of any dividends or interest upon any shares of stock or obligations included in the trust account. Any such interest or dividends will be either forwarded promptly upon receipt to the grantor or deposited in a separate account established in the grantor's name. (7-1-99)

03. Trustee's Authority to Invest. The trustee may be given authority to invest, and accept substitutions of, any funds in the account, provided that no investment or substitution will be made without prior approval of the beneficiary, unless the trust agreement specifies categories of investments acceptable to the beneficiary and authorizes the trustee to invest funds and to accept substitutions which the trustee determines are at least equal in current fair market value to the assets withdrawn and that are consistent with the restrictions in Paragraph 076.01.b. (3-28-18)

04. Transfer of Assets. The trust agreement may provide that the beneficiary may at any time designate a party to which all or part of the trust assets are to be transferred. Such transfer may be conditioned upon the trustee receiving, prior to or simultaneously, other specified assets. (7-1-99)

05. Termination of Trust Account. The trust agreement may provide that, upon termination of the trust account, all assets not previously withdrawn by the beneficiary will, with written approval by the beneficiary, be delivered over to the grantor. (7-1-99)

076. ADDITIONAL CONDITIONS APPLICABLE TO REINSURANCE AGREEMENTS.

01. Reinsurance Agreement. A reinsurance agreement may contain provisions that: (3-28-18)

a. Require the assuming insurer to enter into a trust agreement and to establish a trust account for the benefit of the ceding insurer, and specifying what the agreement is to cover; (7-1-96)

b. Require the assuming insurer, prior to depositing assets with the trustee, to execute assignments or endorsements in blank, or to transfer legal title to the trustee of all shares, obligations or any other assets requiring assignments, in order that the ceding insurer, or the trustee upon the direction of the ceding insurer, may whenever necessary negotiate these assets without consent or signature from the assuming insurer or any other entity; (7-1-96)

c. Require that all settlements of account between the ceding insurer and the assuming insurer be made in cash or its equivalent; and (7-1-96)

d. Stipulate that the assuming insurer and the ceding insurer agree that the assets in the trust account, established pursuant to the provisions of the reinsurance agreement, may be withdrawn by the ceding insurer at any time, notwithstanding any other provisions in the reinsurance agreement, and will be utilized and applied by the ceding insurer or its successors in interest by operation of law, including without limitation any liquidator, rehabilitator, receiver or conservator of such company, without diminution because of insolvency on the part of the ceding insurer or the assuming insurer, only for the following purposes: (7-1-96)

i. To pay or reimburse the ceding insurer for: (3-28-18)

(1) The assuming insurer's share under the specific reinsurance agreement of premiums returned, but not yet recovered from the assuming insurer, to the owners of policies reinsured under the reinsurance agreement because of cancellations of such policies; (3-28-18)

(2) The assuming insurer's share of surrenders and benefits or losses paid by the ceding insurer pursuant to the provisions of the policies reinsured under the reinsurance agreement; and (3-28-18)

(3) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; (3-28-18)

ii. To make payment to the assuming insurer of amounts held in the trust account in excess of the amount necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer. (3-28-18)

02. Other Provisions of Reinsurance Agreement. The Reinsurance Agreement may also contain provisions that: (7-1-99)

a. Give the assuming insurer the right to seek approval from the ceding insurer, which cannot be unreasonably or arbitrarily withheld, to withdraw from the trust account all or any part of the trust assets and transfer those assets to the assuming insurer, provided: (3-28-18)

i. The assuming insurer will, at the time of withdrawal, replace the withdrawn assets with other qualified assets having a current fair market value equal to the current fair market value of the assets withdrawn so as to maintain at all times the deposit in the *prescribed* amount, or *( )*

ii. After withdrawal and transfer, the current fair market value of the trust account is no less than one hundred and two percent (102%) of the *prescribed* amount. *( )*

b. Provide for the return of any amount withdrawn in excess of the actual amounts *prescribed* for Paragraph 076.01.d. and for interest payments, at a rate not in excess of the prime rate of interest on such amounts. *( )*

c. Permit the award by any arbitration panel or court of competent jurisdiction of: (7-1-96)

i. Interest at a rate different from that provided in Paragraph 076.02.b.; (7-1-99)

ii. Court of arbitration costs; (7-1-96)

iii. Attorney's fees, and (7-1-96)

iv. Any other reasonable expenses. (7-1-96)

03. Financial Reporting. A trust agreement may be used to reduce any liability for reinsurance ceded to an unauthorized assuming insurer in financial statements *needed* to be filed with this department in compliance with the provisions of this regulation when established on or before the date of filing of the financial statement of the ceding insurer. Further, the reduction for the existence of an acceptable trust account may be up to the current fair market value of acceptable assets available to be withdrawn from the trust account at that time, but such reduction will be no greater than the specific obligations under the reinsurance agreement that the trust account was established to secure. *( )*

04. Existing Agreements. Notwithstanding the effective date of this rule, any trust agreement or underlying reinsurance agreement in existence prior to July 1, 1996 will continue to be acceptable until 7/1/96, at which time the agreements will have to be in full compliance with this rule for the trust agreement to be acceptable. (7-1-96)

05. Failure to Identify Beneficiary. The failure of any trust agreement to specifically identify the beneficiary as defined in Section 010 will not be construed to affect any actions or rights which the Director may take or possess pursuant to the provisions of the laws of this state. (3-28-18)

077. -- 080. (RESERVED)

081. LETTERS OF CREDIT QUALIFIED UNDER SECTION 061.

01. Letters of Credit Under Section 061. The letter of credit *needs to* be clean, irrevocable and unconditional and issued or confirmed by a qualified United States financial institution as defined in Section 41-515(4)(a), Idaho Code. The letter of credit will contain an issue date and date of expiration and will stipulate that the beneficiary need only draw a sight draft under the letter of credit and present it to obtain funds and that no other document need be presented. The letter of credit will also indicate that it is not subject to any condition or qualifications outside of the letter of credit. In addition, the letter of credit itself cannot contain reference to any other agreements, documents or entities, except as provided in Subparagraph 081.08.a.i. As used in this section, "beneficiary" means the domestic insurer for whose benefit the letter of credit has been established and any successor of the beneficiary by operation of law. If a court of law appoints a successor in interest to the named beneficiary, then the named beneficiary includes and is limited to the court appointed domiciliary receiver (including conservator, rehabilitator or liquidator). *( )*

02. Heading of Letter. The heading of the letter of credit may include a boxed section which contains the name of the applicant and other appropriate notations to provide a reference for the letter of credit. The boxed section will be clearly marked to indicate that such information is for internal identification purposes only. (7-1-96)

03. Statement. The letter of credit will contain a statement to the effect that the obligation of the qualified United States financial institution under the letter of credit is in no way contingent upon reimbursement with respect thereto. (7-1-96)

04. Term of Letter. The term of the letter of credit will be for at least one (1) year and will contain an "evergreen clause" which prevents the expiration of the letter of credit without due notice from the issuer. The "evergreen clause" will provide for a period of no less than thirty (30) days' notice prior to the expiration date or nonrenewal. (7-1-96)

05. Disclosure Statement. The letter of credit will state whether it is subject to and governed by the laws of this state or the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), and all drafts drawn thereunder will be presentable at an office in the United States of a qualified United States financial institution. (3-28-18)

06. Letter Subject to Uniform Customs and Practice. If the letter of credit is made subject to the Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce Publication 600 (UCP 600) or International Standby Practices of the International Chamber of Commerce Publication 590 (ISP98), then the letter of credit will specifically address and provide for an extension of time to draw against the letter of credit in the event that one or more of the occurrences specified in Article 36 of Publication 600 occur. (3-28-18)

07. Exception. If the letter of credit is issued by a United States financial institution authorized to issue letters of credit, other than a qualified United States financial institution as described in Subsection 081.01, then the following additional requirements will be met: (3-28-18)

a. The issuing financial institution will formally designate the confirming qualified United States financial institution as its agent for the receipt and payment of the drafts, and (3-28-18)

b. The "evergreen clause" will provide for thirty (30) days' notice prior to the expiration date for nonrenewal. (7-1-96)

c. The reinsurance agreement in conjunction with which the letter of credit is obtained may contain provisions that: (3-28-18)

i. Require the assuming insurer to provide letters of credit to the ceding insurer and specify what they are to cover. (7-1-96)

ii. Stipulate that the assuming insurer and ceding insurer agree that the letter of credit provided by the

assuming insurer pursuant to the provisions of the reinsurance agreement may be drawn upon at any time, notwithstanding any other provisions in the agreement, and will be utilized by the ceding insurer or its successors in interest only for one or more of the following reasons: (7-1-96)

(1) To pay or reimburse the ceding insurer for: (3-28-18)

(a) The assuming insurer's share under the specific reinsurance agreement of premiums returned but not yet recovered from the assuming insurers, to the owners of policies reinsured under the reinsurance agreement on account of cancellations of such policies; (3-28-18)

(b) The assuming insurer's share, under the specific reinsurance agreement, of surrenders and benefits or losses paid by the ceding insurer, but not yet recovered from the assuming insurers, under the terms and provisions of the policies reinsured under the reinsurance agreement; and (3-28-18)

(c) Any other amounts necessary to secure the credit or reduction from liability for reinsurance taken by the ceding insurer; (3-28-18)

(2) Where the letter of credit will expire without renewal or be reduced or replaced by a letter of credit for a reduced amount, and where the assuming insurer's entire obligations under the reinsurance agreement remain unliquidated and undischarged ten (10) days prior to the termination date, to withdraw amounts equal to the assuming insurer's share of the liabilities, to the extent that the liabilities have not yet been funded by the assuming insurer and exceed the amount of any reduced or replacement letter of credit, and deposit those amounts in a separate account in the name of the ceding insurer in a qualified U.S. financial institution apart from its general assets, in trust for such uses and purposes specified in Subparagraph 081.08.a.ii. as may remain after withdrawal and for any period after the termination date. (3-28-18)

iii. All of the foregoing provisions of Paragraph 081.08.a. should be applied without diminution because of insolvency on the part of the ceding insurer or assuming insurer. (3-28-18)

d. Nothing contained in Paragraph 081.08.a. will preclude the ceding insurer and assuming insurer from providing for: (3-28-18)

i. An interest payment, at a rate not in excess of the prime rate of interest, on the amounts held pursuant to Paragraph 081.08.a.ii; or (3-28-18)

ii. The return of any amounts drawn down on the letters of credit in excess of the actual amounts *needed* for the above or any amounts that are subsequently determined not to be due. *( )*

082. -- 090. (RESERVED)

091. OTHER SECURITY.
A ceding insurer may take credit for unencumbered funds withheld by the ceding insurer in the United States subject to withdrawal solely by the ceding insurer and under its exclusive control. (7-1-96)

092. -- 100. (RESERVED)

101. REINSURANCE CONTRACT.
Credit will not be granted, nor an asset or reduction from liability allowed, to a ceding insurer for reinsurance effected with assuming insurers meeting the requirements of Sections 011, 021, 031, 041, 042, or 061 or otherwise in compliance with Section 41-515(2), Idaho Code, after the adoption of this rule unless the reinsurance agreement: (3-28-18)

01. Insolvency Clause. Includes a proper insolvency clause that stipulates, that reinsurance is payable directly to the liquidator or successor without diminution regardless of the status of the ceding company, pursuant to Chapter 33, Title 41, Idaho Code; (3-28-18)

02. Jurisdiction. Includes a provision pursuant to Section 41-515(2), Idaho Code, whereby the

assuming insurer, if an unauthorized assuming insurer, has submitted to the jurisdiction of an alternative dispute resolution panel or court of competent jurisdiction within the United States, has agreed to comply with all requirements necessary to court or panel jurisdiction, agent upon whom service of process may be effected, and has agreed to abide by the final decision of such court or panel; and (3-28-18)

03. Reinsurance Intermediary Clause. Includes a proper reinsurance intermediary clause, if applicable, that stipulates that the credit risk for the intermediary is carried by the assuming insurer. (3-28-18)

102. -- *150.* (RESERVED)

151. MANDATORY FORMS.
Consistent with NAIC model regulation 786, various forms have been adopted and need to be received by the Department to be compliant with this rule including forms AR-1, CR-1, CR-F, and CR-S. These forms can be obtained from the Department's website. ( )

***152.* -- 999. (RESERVED)**

000. LEGAL AUTHORITY.
Title 41, Chapters 2, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.07.08, "Property and Casualty Actuarial Opinion Rule." (3-30-07)

02. Scope. This rule applies to annual statements filed with the Director as of the end of the first full calendar year following the effective date of the rule, and applies to all property and casualty companies doing business in this State. This rule is intended to provide the Director with additional means to monitor an insurer's loss reserves in accordance with Section 41-610, Idaho Code. (3-30-07)

002. -- 020. (RESERVED)

021. ACTUARIAL OPINION OF RESERVES AND SUPPORTING DOCUMENTATION.

01. Statement of Actuarial Opinion*, Opinion Summary and Actuarial Report and Work Papers*. *( )*

a. Every property and casualty insurance company doing business in this state, unless otherwise exempted by the domiciliary commissioner, will annually submit the opinion of an Appointed Actuary entitled "Statement of Actuarial Opinion." This opinion will be filed in accordance with the appropriate *NAIC* Property and Casualty Annual Statement Instructions. *( )*

b. Every property and casualty insurance company domiciled in this state that is *needs* to submit a Statement of Actuarial Opinion will annually submit an Actuarial Opinion Summary, written by the company's Appointed Actuary. This Actuarial Opinion Summary will be filed in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and will be considered to be a document supporting the Actuarial Opinion *prescribed* in Subsection 021.01 of this chapter. *( )*

c. A company licensed but not domiciled in this state will provide the Actuarial Opinion Summary upon request. (3-30-07)

d. An Actuarial Report and underlying work papers as *prescribed* by the appropriate NAIC Property and Casualty Annual Statement Instructions will be prepared to support each Actuarial Opinion. *( )*

e. If the insurance company fails to provide a supporting Actuarial Report or work papers at the request of the Director, or, after review, the Director determines the supporting Actuarial Report or work papers provided by the insurance company do not comply with the NAIC Property and Casualty Annual Statement Instructions or are otherwise unacceptable, the Director may engage a qualified actuary at the expense of the company to review the opinion and the basis for the opinion, and to prepare the supporting Actuarial Report or work papers. *( )*

022. CONFIDENTIALITY.

01. The Statement of Actuarial Opinion. Will be provided with the Annual Statement in accordance with the appropriate NAIC Property and Casualty Annual Statement Instructions and treated as a public document. (3-30-07)

02. Actuarial Report. (3-30-07)

a. Documents, materials or other information in the possession or control of the Department that are considered an Actuarial Report, work papers or Actuarial Opinion Summary provided in support of the opinion, and any other material provided by the company to the Director in connection with the Actuarial Report, work papers or Actuarial Opinion Summary, will be considered to be exempt from public disclosure under Section 74-107(5), Idaho Code, of the Idaho Public Records Act. (3-30-07)

b. This provision cannot be construed to limit the Director's authority to release the documents to the Actuarial Board for Counseling and Discipline (ABCD) so long as the material is *needed* for the purpose of professional disciplinary proceedings and that the ABCD establishes procedures satisfactory to the Director regarding

disclosure of the documents, nor be construed to limit the Director's authority to use the documents, materials or other information in furtherance of any regulatory or legal action brought as part of the Director's official duties. ( )

03. **Waiver**. No waiver of any applicable privilege or claim of confidentiality in the documents, materials or information occurs as a result of disclosure to the director in Section 022. ( )

023. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Idaho Code. (7-1-97)

001. TITLE AND SCOPE.

01. **Title**. *IDAPA 18.07.09, "Life and Health Acutarial Opinion and Memorandum Rule."* *( )*

02. **Application of Rule**. This rule applies to all life insurance companies and fraternal benefit societies doing business in this State and to all life insurance companies and fraternal benefit societies which are authorized to reinsure life insurance, annuities or accident and health insurance business in this State. This regulation will be applied in a manner that allows the appointed actuary to utilize *their* professional judgment in performing the asset analysis and developing the actuarial opinion and supporting memoranda, consistent with relevant actuarial standards of practice. However, the Director will have the authority to specify specific methods of actuarial analysis and actuarial assumptions when, in the Director's judgment, these specifications are necessary for an acceptable opinion to be rendered relative to the adequacy of reserves and related items. *( )*

03. **Application to All Annual Statements**. This rule will be applicable to all annual statements filed with the office of the Director after the effective date. A statement of opinion on the adequacy of the reserves and related actuarial items based on an asset adequacy analysis in accordance with Section 022 of this chapter, and a memorandum in support thereof in accordance with Section 023 of this chapter, will be *needed* each year. *( )*

04. **Purpose**. The purpose of this rule is to prescribe: (3-30-07)

a. Guidelines and standards for statements of actuarial opinion which are to be submitted in accordance with Section 41-612(12), Idaho Code, and for memoranda in support thereof; (7-1-97)

b. Rules applicable to the appointment of an appointed actuary; and (3-30-07)

c. Guidelines as to the meaning of adequacy of reserves. (3-30-07)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Actuarial Opinion. The opinion of an Appointed Actuary regarding the adequacy of the reserves and related actuarial items based on an asset adequacy test in accordance with Section 022 of this chapter and with presently accepted Actuarial Standards. (3-30-07)

02. Actuarial Standards Board. The board established by the American Academy of Actuaries to develop and promulgate standards of actuarial practice. (7-1-97)

03. **Asset Adequacy Analysis**. An analysis that meets the standards and other requirements referred to in Subsection 021.04 of this chapter. It may take many forms, including, but not limited to, cash flow testing, sensitivity testing or applications of risk theory. (3-30-07)

04. **Company**. A life insurance company, fraternal benefit society or reinsurer subject to the provisions of this rule. (7-1-97)

011. -- 020. (RESERVED)

021. GENERAL REQUIREMENTS.

01. Submission of Statement of Actuarial Opinion. (7-1-97)

a. There is to be included on or attached to Page one (1) of the annual statement for each year beginning with the year in which this rule becomes effective the statement of an appointed actuary, entitled "Statement of Actuarial Opinion," setting forth an opinion relating to reserves and related actuarial items held in support of policies and contracts, in accordance with Section 022 of this chapter. (3-30-07)

b. Upon written request by the company, the Director may grant an extension of the date for

submission of the statement of actuarial opinion. (7-1-97)

02. Qualified Actuary. An individual who: (7-1-97)

a. Is a member in good standing of the American Academy of Actuaries; and (7-1-97)

b. Is qualified to sign statements of actuarial opinion for life and health insurance company annual statements in accordance with the American Academy of Actuaries qualification standards for actuaries signing such statements; and (7-1-97)

c. Is familiar with the valuation requirements applicable to life and health insurance companies; and (7-1-97)

d. Has not been found by the Director (or if so found has subsequently been reinstated as a qualified actuary), following appropriate notice and hearing to have; (3-30-07)

i. Violated any provision of, or any obligation imposed by any law in the course of their dealings as a qualified actuary; or (7-1-97)

ii. Been found guilty of fraudulent or dishonest practices; or (7-1-97)

iii. Demonstrated incompetency, lack of cooperation, or untrustworthiness to act as a qualified actuary; or (7-1-97)

iv. Submitted to the Director during the past five (5) years, pursuant to this rule, an actuarial opinion or memorandum that the Director rejected because it did not meet the provisions including standards set by the Actuarial Standards Board; or (7-1-97)

v. Resigned or been removed as an actuary within the past five (5) years as a result of acts or omissions indicated in any adverse report on examination or as a result of failure to adhere to generally acceptable actuarial standards; and (7-1-97)

e. Has not failed to notify the Director of any action taken by any Director of any other state similar to that under Subsection 021.02.d. of this chapter. (3-30-07)

03. Appointed Actuary. A qualified actuary who is appointed or retained to prepare the Statement of Actuarial Opinion *prescribed* by this rule; either directly by or by the authority of the board of directors through an executive officer of the company. The company will give the Director timely written notice of the name, title (and, in the case of a consulting actuary, the name of the firm) and manner of appointment or retention of each person appointed or retained by the company as an appointed actuary and will state in such notice that the person meets the requirements set forth in Subsection 021.02 of this chapter. Once notice is furnished, no further notice is *prescribed* with respect to this person, provided that the company will give the Director timely written notice in the event the actuary ceases to be appointed or retained as an appointed actuary or to meet the requirements set forth in Subsection 021.02 of this chapter. If any person appointed or retained as an appointed actuary replaces a previously appointed actuary, the notice will so state and give the reasons for replacement. *( )*

04. Standards for Asset Adequacy Analysis. The asset adequacy analysis *prescribed* by this rule: *( )*

a. Will conform to the Standards of Practice as promulgated by the Actuarial Standards Board and on any additional standards under this rule, which standards are to form the basis of the statement of actuarial opinion in accordance with Section 021 of this chapter; and (3-30-07)

b. Will be based on methods of analysis as are deemed appropriate for such purposes by the Actuarial Standards Board. (7-1-97)

05. Liabilities to Be Covered. (7-1-97)

a. Under authority of Section 41-612(12), Idaho Code, the statement of actuarial opinion will apply to all in force business on the statement date regardless of when or where issued, e.g., Aggregate Reserve for Life Contracts, Aggregate Reserve for Accident and Health Contracts, reserves for Deposit Type Contracts, and Claims for Life and Health Contracts as reported in Exhibits of the annual statement, and equivalent items in the separate account statement or statements of the annual statement. (3-30-07)

b. If the appointed actuary determines as the result of asset adequacy analysis that a reserve should be held in addition to the aggregate reserve held by the company and calculated in accordance with methods set forth in Section 41-612(12), Idaho Code, the company will establish such additional reserve. (7-1-97)

c. Additional reserves established under Subsections 021.05.a. or 021.05.b. of this chapter and deemed not necessary in subsequent years may be released. Any amounts released *needs to* be disclosed in the actuarial opinion for the applicable year. The release of such reserves would not be deemed an adoption of a lower standard of valuation. *( )*

022. STATEMENT OF ACTUARIAL OPINION BASED ON AN ASSET ADEQUACY ANALYSIS.

01. General Description. The statement of actuarial opinion submitted in accordance with this section will consist of; (3-30-07)

a. A paragraph identifying the appointed actuary and qualifications (see Subsection 022.02.a. of this chapter); (3-30-07)

b. A scope paragraph identifying the subjects on which an opinion is to be expressed and describing the scope of the appointed actuary's work, including a tabulation delineating the reserves and related actuarial items which have been analyzed for asset adequacy and the method of analysis, (see Subsection 022.02.b. of this chapter) and identifying the reserves and related actuarial items covered by the opinion which have not been so analyzed; (3-30-07)

c. A reliance paragraph describing those areas, if any, where the appointed actuary has deferred to other experts in developing data, procedures or assumptions, (e.g., anticipated cash flows from currently owned assets, including variation in cash flows according to economic scenarios (see Subsection 022.02.c. of this chapter), supported by a statement of each such expert in the form prescribed by Subsection 022.05 of this chapter; and (3-30-07)

d. An opinion paragraph expressing the appointed actuary's opinion with respect to the adequacy of the supporting assets to mature the liabilities (see Subsection 022.02.f. of this chapter). (3-30-07)

e. One (1) or more additional paragraphs will be needed in individual company cases as follows; (3-30-07)

i. If the appointed actuary considers it necessary to state a qualification of his opinion; (7-1-97)

ii. If the appointed actuary *needs to* disclose an inconsistency in the method of analysis or basis of asset allocation used at the prior opinion date with that used for this opinion; *( )*

iii. If the appointed actuary *needs to* disclose whether additional reserves of the prior opinion date are released as of this opinion date, and the extent of the release; or *( )*

iv. If the appointed actuary chooses to add a paragraph briefly describing the assumptions which form the basis for the actuarial opinion. (7-1-97)

02. Recommended Language. The *Department has adopted recommended language which can be obtained on the Department's website and* are to be included in the statement of actuarial opinion in accordance with this section. Language is that which in typical circumstances should be included in a statement of actuarial opinion. The language may be modified as needed to meet the circumstances of a particular case, but the appointed actuary

should use language which clearly expresses their professional judgment. However, in any event the opinion will retain all pertinent aspects of the language provided. ( )

03. Assumptions for New Issues. The adoption for new issues or new claims or other new liabilities of an actuarial assumption which differs from a corresponding assumption used for prior new issues or new claims or other new liabilities is not a change in actuarial assumptions within the meaning of this Section 022 of this chapter. (3-30-07)

04. Adverse Opinions. If the appointed actuary is unable to form an opinion, then they will refuse to issue a statement of actuarial opinion. If the appointed actuary's opinion is adverse or qualified, then they will issue an adverse or qualified actuarial opinion explicitly stating the reason(s) for such opinion. This statement should follow the scope paragraph and precede the opinion paragraph. (7-1-97)

05. Reliance on Data Furnished by Other Persons. If the appointed actuary relies on the certification of others on matters concerning the accuracy or completeness of any data underlying the actuarial opinion, or the appropriateness of any other information used by the appointed actuary in forming the actuarial opinion, the actuarial opinion should so indicate the persons the actuary is relying upon and a precise identification of the items subject to reliance. In addition, the persons on whom the appointed actuary relies will provide a certification that precisely identifies the items on which the person is providing information and a statement as to the accuracy, completeness or reasonableness, as applicable, of the items. This certification will include the signature, title, company, address and telephone number of the person rendering the certification, as well as the date on which it is signed. (3-30-07)

023. ALTERNATE OPTION.

01. Standard Valuation Law. The Standard Valuation Law gives the Director broad authority to accept the valuation of a foreign insurer when that valuation meets the requirements applicable to a company domiciled in this state in the aggregate. As an alternative to the requirements of part (c) in Paragraph 022.02.f. of this chapter, the Director may make one (1) or more of the following additional approaches available to the opining actuary: (3-30-07)

a. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and the formal written standards and conditions of this state for filing an opinion based on the law of the state of domicile." If the Director chooses to allow this alternative, a formal written list of standards and conditions will be made available. If a company chooses to use this alternative, the standards and conditions in effect on July 1 of a calendar year will apply to statements for that calendar year, and they will remain in effect until they are revised or revoked. If no list is available, this alternative is not available. (3-30-07)

b. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have verified that the company's request to file an opinion based on the law of the state of domicile has been approved and that any conditions *prescribed* by the Director for approval of that request have been met." If the Director chooses to allow this alternative, a formal written statement of such allowance will be issued no later than March 31 of the year it is first effective. It will remain valid until rescinded or modified by the Director. The rescission or modifications will be issued no later than March 31 of the year they are first effective. Subsequent to that statement being issued, if a company chooses to use this alternative, the company will file a request to do so, along with justification for its use, no later than April 30 of the year of the opinion to be filed. The request will be deemed approved on October 1 of that year if the Director has not denied the request by that date. ( )

c. A statement that the reserves "meet the requirements of the insurance laws and regulations of the State of [state of domicile] and I have submitted the *prescribed* comparison as specified by this state." ( )

i. If the Director chooses to allow this alternative, a formal written list of products (to be added to the table in Item (ii) below) for which the *prescribed* comparison will be provided will be published. If a company chooses to use this alternative, the list in effect on July 1 of a calendar year will apply to statements for that calendar year, and it will remain in effect until it is revised or revoked. If no list is available, this alternative is not available. ( )

ii. If a company desires to use this alternative, the appointed actuary will provide a comparison of the gross nationwide reserves held to the gross nationwide reserves that would be held under NAIC codification standards. Gross nationwide reserves are the total reserves calculated for the total company in force business directly sold and assumed, indifferent to the state in which the risk resides, without reduction for reinsurance ceded. The information provided will be at least:

(1) Product Type	(2) Death Benefit or Account Value	(3) Reserves Held	(4) Codification Reserves	(5) Codification Standard

(3-30-07)

iii. The information listed will include all products identified by either the state of filing or any other states subscribing to this alternative. (3-30-07)

iv. If there is no codification standard for the type of product or risk in force or if the codification standard does not directly address the type of product or risk in force, the appointed actuary will provide detailed disclosure of the specific method and assumptions used in determining the reserves held. (3-30-07)

v. The comparison provided by the company is to be kept confidential to the same extent and under the same conditions as the actuarial memorandum. (3-30-07)

d. Notwithstanding the above, the Director may reject an opinion based on the laws and regulations of the state of domicile and require an opinion based on the laws of this state. If a company is unable to provide the opinion within sixty (60) days of the request or such other period of time determined by the Director after consultation with the company, the Director may contract with an independent actuary at the company's expense to prepare and file the opinion. (3-30-07)

024. DESCRIPTION OF ACTUARIAL MEMORANDUM INCLUDING AN ASSET ADEQUACY ANALYSIS AND REGULATORY ASSET ADEQUACY ISSUES SUMMARY.

01. General. (7-1-97)

a. In accordance with Section 41-612(12), Idaho Code, the appointed actuary will prepare a memorandum to the company describing the analysis done in support of their opinion regarding the reserves. The memorandum will be made available for examination by the Director upon his request but will be returned to the company after such examination and cannot be considered a record of the insurance department or subject to automatic filing with the Director. (4-7-11)

b. In preparing the memorandum, the appointed actuary may rely on, and include as a part of their own memorandum, memoranda prepared and signed by other actuaries who are qualified within the meaning of Subsection 021.02 of this chapter, with respect to the areas covered in such memoranda, and so state in their memoranda. (3-30-07)

c. If the Director requests a memorandum and no such memorandum exists or if the Director finds that the analysis described in the memorandum fails to meet the standards of the Actuarial Standards Board or the standards and requirements of this Rule, the Director may designate a qualified actuary to review the opinion and prepare such supporting memorandum as is *needed* for review. The reasonable and necessary expense of the independent review will be paid by the company but will be directed and controlled by the Director. *( )*

d. The reviewing actuary will have the same status as an examiner for purposes of obtaining data from the company and the work papers and documentation of the reviewing actuary will be retained by the Director; provided, however, that any information provided by the company to the reviewing actuary and included in the work

papers will be considered as examination workpapers and will be kept confidential to the same extent as is prescribed by Section 41-227, Idaho Code. The reviewing actuary cannot be an employee of a consulting firm involved with the preparation of any prior memorandum or opinion for the insurer pursuant to this rule for any one of the current year or the preceding three (3) years. (7-1-97)

e. In accordance with Section 41-612(12), Idaho Code, the appointed actuary will prepare a regulatory asset adequacy issues summary, the contents of which are specified in Subsection 024.03 of this chapter. The regulatory asset adequacy issues summary will be submitted no later than March 15 of the year following the year for which a statement of actuarial opinion based on asset adequacy is *mandatory*. The regulatory asset adequacy issues summary will be maintained as confidential and not subject to public disclosure by the director in accordance with Section 41-612(12), Idaho Code, and Section 74-107(5) of the Idaho Public Records Act. *( )*

f. In accordance with Section 41-612(12)(d)(iv), the director will accept the regulatory asset adequacy issues summary of a foreign or alien company filed by that company with the insurance supervisory official of another state if the director determines that the summary reasonably meets the requirements applicable to a company domiciled in Idaho. Therefore, foreign or alien insurers *needed* to file the regulatory asset adequacy issues summary in their home state are exempt from filing in this state, except upon request of the director, provided the other state has substantially similar reporting requirements and the summary is filed with the director of the other state within the time specified. *( )*

02. Details of the Memorandum Section Documenting Asset Adequacy Analysis (Section 022). When an actuarial opinion under Section 022 of this chapter is provided, the memorandum will demonstrate that the analysis has been done in accordance with the standards for asset adequacy referred to in Subsection 021.04 of this chapter and any additional standards under this rule. It will specify; (3-30-07)

a. For reserves; (3-30-07)

i. Product descriptions including market description, underwriting and other aspects of a risk profile and the specific risks the appointed actuary deems significant; (7-1-97)

ii. Source of liability in force; (7-1-97)

iii. Reserve method and basis; (7-1-97)

iv. Investment reserves; (7-1-97)

v. Reinsurance arrangements; and (3-30-07)

vi. Identification of any explicit or implied guarantees made by the general account in support of benefits provided through a separate account or under a separate account policy or contract and the methods used by the appointed actuary to provide for the guarantees in the asset adequacy analysis. (3-30-07)

b. Documentation of assumptions to test reserves for the following: (3-30-07)

i. Lapse rates (both base and excess); (3-30-07)

ii. Interest crediting rate strategy; (3-30-07)

iii. Mortality; (3-30-07)

iv. Policyholder dividend strategy; (3-30-07)

v. Competitor or market interest rate; (3-30-07)

vi. Annuitization rates; (3-30-07)

vii. Commissions and expenses; and (3-30-07)

viii. Morbidity. (3-30-07)

ix. The documentation of the assumptions will be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. (3-30-07)

c. For assets: (7-1-97)

i. Portfolio descriptions, including a risk profile disclosing the quality, distribution and types of assets; (7-1-97)

ii. Investment and disinvestment assumptions; (7-1-97)

iii. Source of asset data; (7-1-97)

iv. Asset valuation bases. (7-1-97)

d. Documentation of assumptions made for the following assets: (3-30-07)

i. Default costs; (3-30-07)

ii. Bond call function; (3-30-07)

iii. Mortgage prepayment function; (3-30-07)

iv. Determining market value for assets sold due to disinvestment strategy; and (3-30-07)

v. Determining yield on assets acquired through the investment strategy. (3-30-07)

vi. The documentation of the assumptions will be such that an actuary reviewing the actuarial memorandum could form a conclusion as to the reasonableness of the assumptions. (3-30-07)

e. For the analysis basis: (4-7-11)

i. Methodology; (7-1-97)

ii. Rationale for inclusion/exclusion of different blocks of business and how pertinent risks were analyzed; (7-1-97)

iii. Rationale for degree of rigor in analyzing different blocks of business (include in the rationale the level of "materiality" that was used in determining how rigorously to analyze different blocks of business); (4-7-11)

iv. Criteria for determining asset adequacy (include in the criteria the precise basis for determining if assets are adequate to cover reserves under "moderately adverse conditions" or other conditions as specified in relevant actuarial standards of practice); (4-7-11)

v. Whether the impact of federal income taxes was considered and the method of treating reinsurance in the asset adequacy analysis. (4-7-11)

f. Summary of material changes in methods, procedures, or assumptions from prior year's asset adequacy analysis; (3-30-07)

g. Summary of Results; (7-1-97)

h. Conclusion(s). (7-1-97)

i. The regulatory asset adequacy issues summary will include: (3-30-07)

i. Descriptions of the scenarios tested (including whether those scenarios are stochastic or deterministic) and the sensitivity testing done relative to those scenarios. If negative ending surplus results under certain tests in the aggregate, the actuary should describe those tests and the amount of additional reserve as of the valuation date which, if held, would eliminate the negative aggregate surplus values. Ending surplus values will be determined by either extending the projection period until the in force and associated assets and liabilities at the end of the projection period are immaterial or by adjusting the surplus amount at the end of the projection period by an amount that appropriately estimates the value that can reasonably be expected to arise from the assets and liabilities remaining in force; (3-30-07)

ii. The extent to which the appointed actuary uses assumptions in the asset adequacy analysis that are materially different than the assumptions used in the previous asset adequacy analysis; (3-30-07)

iii. The amount of reserves and the identity of the product lines that had been subjected to asset adequacy analysis in the prior opinion but were not subject to analysis for the current opinion; (3-30-07)

iv. Comments on any interim results that may be of significant concern to the appointed actuary. For example, the impact of the insufficiency of assets to support the payment of benefits and expenses and the establishment of statutory reserves during one or more interim periods; (4-7-11)

v. The methods used by the actuary to recognize the impact of reinsurance on the company's cash flows, including both assets and liabilities, under each of the scenarios tested; and (3-30-07)

vi. Whether the actuary has been satisfied that all options whether explicit or embedded, in any asset or liability (including but not limited to those affecting cash flows embedded in fixed income securities) and equity-like features in any investments have been appropriately considered in the asset adequacy analysis. (3-30-07)

j. The regulatory asset adequacy issues summary will contain the name of the company for which the regulatory asset adequacy issues summary is being supplied and will be signed and dated by the appointed actuary rendering the actuarial opinion. (3-30-07)

04. Conformity to Standards of Practice. The memorandum will include a statement:

"Actuarial methods, considerations and analyses used in the preparation of this memorandum conform to the appropriate Standards of Practice as promulgated by the Actuarial Standards Board, which standards form the basis for this memorandum." (7-1-97)

05. Use of Assets Supporting the Interest Maintenance Reserve and the Asset Valuation Reserve. An appropriate allocation of assets in the amount of the Interest Maintenance Reserve (IMR), whether positive or negative, *needs to* be used in any asset adequacy analysis. Analysis of risks regarding asset default may include an appropriate allocation of assets supporting the Asset Valuation Reserve (AVR); these AVR assets cannot be applied for any other risks with respect to reserve adequacy. Analysis of these and other risks may include assets supporting other mandatory or voluntary reserves available to the extent not used for risk analysis and reserve support. The amount of the assets used for the AVR *needs to* be disclosed in the Table of Reserves and Liabilities of the opinion and in the memorandum. The method used for selecting particular assets or allocated portions of assets *needs to* be disclosed in the memorandum. *( )*

06. Documentation. The appointed actuary will retain on file, for at least seven (7) years, sufficient documentation so that it will be possible to determine the procedures followed, the analyses performed, the bases for assumptions and the results obtained. (7-1-97)

025. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 64, Idaho Code. (3-28-18)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 18.07.10, "Corporate Governance Annual Disclosure." (3-28-18)

02. Scope. This rule sets forth procedures for filing and the *necessary* content of the Corporate Governance Annual Disclosure (CGAD) to carry out the provisions of Title 41, Chapter 64, Idaho Code. *( )*

002. INCORPORATION BY REFERENCE.
The most recent National Association of Insurance Commissioners (NAIC) Financial Analysis Handbook (2016 Annual / 2017 Quarterly edition) is incorporated by reference into IDAPA 18.07.10. *( )*

003. – 009. (RESERVED)

010. DEFINITIONS.

***01*. Senior Management**. Any corporate officer responsible for reporting information to the board of directors at regular intervals or providing this information to shareholders or regulators and will include, for example and without limitation, the chief executive officer (CEO), chief financial officer (CFO), chief operations officer (COO), chief procurement officer (CPO), chief legal officer (CLO), chief information officer (CIO), chief technology officer (CTO), chief revenue officer (CRO), chief visionary officer (CVO), or any other chief or "C" level executive. (3-28-18)

011. FILING PROCEDURES.

01. Filing Deadline. An insurer, or the insurance group of which the insurer is a member, *needs* to file a CGAD by Title 41, Chapter 64, Idaho Code, no later than June 1 of each calendar year, submit to the director a CGAD that contains the information described in Section 012 of this rule. *( )*

02. Signature. The CGAD *needs to* include a signature of the insurer's or insurance group's chief executive officer or corporate secretary attesting to the best of that individual's belief and knowledge that the insurer or insurance group has implemented the corporate governance practices and that a copy of the CGAD has been provided to the insurer's or insurance group's board of directors (board) or the appropriate committee thereof. *( )*

03. Format. The insurer or insurance group will have discretion regarding the appropriate format for providing the information *prescribed* by this rule and is permitted to customize the CGAD to provide the most relevant information necessary to permit the director to gain an understanding of the corporate governance structure, policies and practices utilized by the insurer or insurance group. (3-28-18)

04. Providing Information. For purposes of completing the CGAD, the insurer or insurance group may choose to provide information on governance activities that occur at the ultimate controlling parent level, an intermediate holding company level or the individual legal entity level, depending upon how the insurer or insurance group has structured its system of corporate governance. The insurer or insurance group is encouraged to make the CGAD disclosures at the level at which the insurer's or insurance group's risk appetite is determined, or at which the earnings, capital, liquidity, operations, and reputation of the insurer are overseen collectively and at which the supervision of those factors are coordinated and exercised, or the level at which legal liability for failure of general corporate governance duties would be placed. If the insurer or insurance group determines the level of reporting based on these criteria, it will indicate which of the three criteria was used to determine the level of reporting and explain any subsequent changes in level of reporting. (3-28-18)

05. Completion on Insurance Group Level. Notwithstanding Subsection 011.01, and as outlined in Section 41-6403, Idaho Code, if the CGAD is completed at the insurance group level, then it *needs to* be filed with the lead state of the group as determined by the procedures outlined in the most recent financial analysis handbook adopted by the NAIC. In these instances, a copy of the CGAD *needs to* also be provided to the chief regulatory official of any state in which the insurance group has a domestic insurer, upon request. *( )*

06. Referencing. An insurer or insurance group may comply with this section by referencing other existing documents (e.g., Own Risk Solvency Assessment (ORSA) summary report, holding company form B or F

filings, Securities and Exchange Commission (SEC) proxy statements, foreign regulatory reporting requirements, etc.) if the documents provide information that is comparable to the information described in Section 012. The insurer or insurance group will clearly reference the location of the relevant information within the CGAD and attach the referenced document if it is not already filed or available to the regulator. (3-28-18)

07. Filing of Amended Versions. Each year following the initial filing of the CGAD, the insurer or insurance group will file an amended version of the previously filed CGAD indicating where changes have been made. If no changes were made in the information or activities reported by the insurer or insurance group, the filing should so state. (3-28-18)

012. CONTENTS OF CORPORATE GOVERNANCE ANNUAL DISCLOSURE.

01. Detail. The insurer or insurance group will be as descriptive as possible in completing the CGAD, with inclusion of attachments or example documents that are used in the governance process, since these may provide a means to demonstrate the strengths of their governance framework and practices. (3-28-18)

02. CGAD Considerations. The CGAD will describe the insurer's or insurance group's corporate governance framework and structure including consideration of the following: (3-28-18)

a. The board and various committees thereof ultimately responsible for overseeing the insurer or insurance group and the level(s) at which that oversight occurs (e.g., ultimate control level, intermediate holding company, legal entity, etc.). The insurer or insurance group will describe and discuss the rationale for the current board size and structure; and (3-28-18)

b. The duties of the board and each of its significant committees and how they are governed (e.g., bylaws, charters, informal mandates, etc.), as well as how the board's leadership is structured, including a discussion of the roles of chief executive officer (CEO) and chairman of the board within the organization. (3-28-18)

03. Factors. The insurer or insurance group will describe the policies and practices of the most senior governing entity and significant committees thereof, including a discussion of the following factors: (3-28-18)

a. How the qualifications, expertise and experience of each board member meet the needs of the insurer or insurance group. (3-28-18)

b. How an appropriate amount of independence is maintained on the board and its significant committees. (3-28-18)

c. The number of meetings held by the board and its significant committees over the past year as well as information on director attendance. (3-28-18)

d. How the insurer or insurance group identifies, nominates and elects members to the board and its committees. The discussion should include, for example: (3-28-18)

i. Whether a nomination committee is in place to identify and select individuals for consideration. (3-28-18)

ii. Whether term limits are placed on directors. (3-28-18)

iii. How the election and re-election processes function. (3-28-18)

iv. Whether a board diversity policy is in place and if so, how it functions. (3-28-18)

e. The processes in place for the board to evaluate its performance and the performance of its committees, as well as any recent measures taken to improve performance (including any board or committee training programs that have been put in place). (3-28-18)

04. Additional Factors. The insurer or insurance group will describe the policies and practices for

directing senior management, including a description of the following factors: (3-28-18)

a. Any processes or practices (i.e., suitability standards) to determine whether officers and key persons in control functions have the appropriate background, experience and integrity to fulfill their prospective roles, including: (3-28-18)

i. Identification of the specific positions for which suitability standards have been developed and a description of the standards employed. (3-28-18)

ii. Any changes in an officer's or key person's suitability as outlined by the insurer 's or insurance group's standards and procedures to monitor and evaluate such changes. (3-28-18)

b. The insurer's or insurance group's code of business conduct and ethics, the discussion of which considers, for example: (3-28-18)

i. Compliance with laws, rules, and regulations; and (3-28-18)

ii. Proactive reporting of any illegal or unethical behavior. (3-28-18)

c. The insurer's or insurance group's processes for performance evaluation, compensation and corrective action to ensure effective senior management throughout the organization, including a description of the general objectives of significant compensation programs and what the programs are designed to reward. The description will include sufficient detail to allow the director to understand how the organization ensures that compensation programs do not encourage and/or reward excessive risk taking. Elements to be discussed may include, for example: (3-28-18)

i. The board's role in overseeing management compensation programs and practices. (3-28-18)

ii. The various elements of compensation awarded in the insurer's or insurance group's compensation programs and how the insurer or insurance group determines and calculates the amount of each element of compensation paid; (3-28-18)

iii. How compensation programs are related to both company and individual performance over time; (3-28-18)

iv. Whether compensation programs include risk adjustments and how those adjustments are incorporated into the programs for employees at different levels; (3-28-18)

v. Any clawback provisions built into the programs to recover awards or payments if the performance measures upon which they are based are restated or otherwise adjusted; (3-28-18)

vi. Any other factors relevant in understanding how the insurer or insurance group monitors its compensation policies to determine whether its risk management objectives are met by incentivizing its employees. (3-28-18)

d. The insurer’s or insurance group’s plans for CEO and senior management succession. (3-28-18)

05. Oversight. The insurer or insurance group will describe the processes by which the board, its committees and senior management ensure an appropriate amount of oversight to the critical risk areas impacting the insurer's business activities, including a discussion of: (3-28-18)

a. How oversight and management responsibilities are delegated between the board, its committees and senior management; (3-28-18)

b. How the board is kept informed of the insurer's strategic plans, the associated risks, and steps that senior management is taking to monitor and manage those risks; (3-28-18)

c. How reporting responsibilities are organized for each critical risk area. The description should allow the director to understand the frequency at which information on each critical risk area is reported to and reviewed by senior management and the board. This description may include, for example, the following critical risk areas of the insurer: (3-28-18)

i. Risk management processes (An ORSA summary report filer may refer to its ORSA summary report pursuant to Title 41, Chapter 63, Idaho Code); (3-28-18)

ii. Actuarial function; (3-28-18)

iii. Investment decision-making processes; (3-28-18)

iv. Reinsurance decision-making processes; (3-28-18)

v. Business strategy/finance decision-making processes; (3-28-18)

vi. Compliance function; (3-28-18)

vii. Financial reporting/internal auditing; and (3-28-18)

viii. Market conduct decision-making processes. (3-28-18)

013. – 999. (RESERVED)

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Idaho Code. (7-1-99)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.08.01, "Adoption of the International Fire Code." (4-7-11)

02. Scope. Pursuant to the authority provided by Section 41-253, Idaho Code, the State Fire Marshal adopts the International Fire Code as the minimum standard for the protection of life and property from fire and explosion in the state of Idaho. All such editions and appendices will be adopted in accordance with Section 67-5229, Idaho Code. *( )*

002. -- 009. (RESERVED)

010. CONSTRUCTION AND DESIGN PROVISIONS, SECTION 102.1, INTERNATIONAL FIRE CODE.
Delete Item No. 3 of Section 102.1, International Fire Code. (5-3-03)

011. DEPARTMENT OF FIRE PREVENTION, SECTION 103.2 -- APPOINTMENTS, INTERNATIONAL FIRE CODE.
Delete the following language in section 103.2 of the International Fire Code: "… and the fire code official shall not be removed from office except for cause and after full opportunity to be heard on specific and relevant charges by and before the appointing authority." (3-20-14)

012. GENERAL AUTHORITY AND RESPONSIBILITIES, SECTION 104.1, INTERNATIONAL FIRE CODE.
Add the following second paragraph to Section 104.1, General, International Fire Code: (5-3-03)

01. Fire Chief's Authority. The fire chief is authorized to administer and enforce this code. Under the chief's direction, the fire department is authorized to enforce all ordinances of the jurisdiction pertaining to: (5-3-03)

a. The prevention of fires; (5-3-03)

b. The suppression or extinguishment of dangerous or hazardous fires; (5-3-03)

c. The storage, use and handling of hazardous materials; (5-3-03)

d. The installation and maintenance of automatic, manual and other private fire alarm systems and fire- extinguishing equipment; (5-3-03)

e. The maintenance and regulation of fire escapes; (5-3-03)

f. The maintenance of fire protection and the elimination of fire hazards on land and in buildings, and other property, including those under construction; (5-3-03)

g. The maintenance of means of egress; and (5-3-03)

h. The investigation of the cause, origin and circumstances of fire and unauthorized releases of hazardous materials, for authority related to control and investigation of emergency scenes, see Section 104.11. (5-3-03)

013. -- 015. (RESERVED)

016. PERMIT REQUISITE, SECTION 105.1.1, INTERNATIONAL FIRE CODE.
Delete "the required permit" from the last sentence of Section 105.1.1 of the International Fire Code and add "a permit if needed by the authority having jurisdiction." (3-20-14)

017. VIOLATION PENALTIES, SECTION 109.4, INTERNATIONAL FIRE CODE.
In the first sentence of Section 109.4 of the International Fire Code, delete "[SPECIFY OFFENCE], punishable by a fine of not more than [AMOUNT] dollars, or by imprisonment not exceeding [NUMBER OF DAYS], or both such fine and imprisonment" and add the word "misdemeanor". (3-20-14)

018. FAILURE TO COMPLY, SECTION 111.4, INTERNATIONAL FIRE CODE.
In Section 111.4, International Fire Code, delete this entire section. (5-3-03)

019. SECTION 202, INTERNATIONAL FIRE CODE.

01. Fire Code Official. Add "or as appropriate the Idaho State Fire Marshal" to the end of the definition for FIRE CODE OFFICIAL in Section 202 of the International Fire Code. (3-29-17)

02. Driveway. Add "DRIVEWAY. A vehicular ingress and egress route that serves no more than five (5) single family dwellings, not including accessory structures." (3-29-17)

03. Fire Station. Add "FIRE STATION, A building, or portion of a building that provides, at a minimum, all weather protection for fire apparatus. Temperatures inside the building used for this purpose need to be maintained at above thirty-two (32) degrees Fahrenheit." (3-29-17)

020. SKY LANTERNS, SECTION 308.1.6.3, INTERNATIONAL FIRE CODE.

01. Untethered Sky lanterns. To section 308.1.6.3 delete the sentence: "A person cannot release or cause to be released an untethered sky lantern." (3-29-17)

02. Sky lantern permit. To section 308.1.6.3 add the following: "A person cannot release or cause to be released a sky lantern, tethered or untethered without obtaining a permit, if required by the fire code or jurisdiction. When, in the opinion of the fire code official, the release of sky lanterns, tethered or untethered, constitutes a danger to persons or property, based on the current weather conditions, knowledge of topography, vegetation, or any other reasonable factor, is authorized to require additional safeguards prior to the release of sky lanterns. The fire code official may suspend, revoke, postpone, or prohibit the release of any sky lantern at any time." (3-29-17)

021. CHAPTER 5 FIRE SERVICE FEATURES.
Make the following changes within Chapter 5 of the International Fire Code; (3-20-14)

01. Section 501. (4-7-11)

a. To section 501.3 after the phrase, Construction documents for proposed, add the word "driveways." (4-7-11)

b. To section 501.4 after the phrase, When fire apparatus access roads, add the word "driveways." (4-7-11)

02. Section 502. (3-29-17)

a. To section 502, add the following word "DRIVEWAY." (3-29-17)

b. To section 502, add the words "FIRE STATION." (3-29-17)

03. Section 503. (4-7-11)

a. To section 503 add the words, "AND DRIVEWAYS" to the section heading. (4-7-11)

b. To section 503.1.1 add the following sentence, "Driveways need to be provided and maintained in accordance with Sections 503.1.1 through 503.13." (3-29-17)

c. To section 503.6 delete the sentence, "The installation of security gates across a fire apparatus access road shall be approved by the fire chief." (4-7-11)

d. Add the following section, "503.7 Driveways. Need be provided when any portion of an exterior wall of the first story of a building is located more than 150 feet (45720mm) from a fire apparatus access road.

Driveways will provide a minimum unobstructed width of 12 feet (3658mm) and a minimum unobstructed height of 13 feet 6 inches (4115mm). Driveways in excess of 150 feet (45720mm) in length need to be provided with turnarounds. Driveways in excess of 200 feet (60960mm) in length and less than 20 feet (6096mm) in width may require turnouts in addition to turnarounds." (4-7-11)

e. Add the following section, "503.7.1 Limits. A driveway cannot serve in excess of five single family dwellings." (4-7-11)

f. Add the following section, "503.7.2 Turnarounds. Driveway turnarounds need to have an inside turning radius of not less than 30 feet (9144mm) and an outside turning radius of not less than 45 feet (13716mm). Driveways that connect with an access road or roads at more than one point may be considered as having a turnaround if all changes of direction meet the radius requirements for driveway turnarounds." (4-7-11)

g. Add the following section, "503.7.3 Turnouts. Where line of sight along a driveway is obstructed by a man-made or natural feature, turnouts need to be located as may be needed by the fire code official to provide for safe passage of vehicles. Driveway turnouts will be of an all-weather road surface at least 10 feet (3048mm) wide and 30 feet (9144mm) long." (4-7-11)

h. Add the following section, "503.7.4 Bridge Load Limits. Vehicle load limits will be posted at both entrances to bridges on driveways and private roads. Design loads for bridges will be established by the fire code official." (4-7-11)

i. Add the following section, "503.7.5 Address markers. All buildings need to have a permanently posted address, which will be placed at each driveway entrance and be visible from both directions of travel along the road. In all cases, the address needs to be posted at the beginning of construction and maintained thereafter. The address need be visible and legible from the road on which the road on which the address is located. Address signs along one-way roads will be visible from both the intended direction of travel and the opposite direction. Where multiple address's are required at a single driveway, they need to be mounted on a single post, and additional signs will be posted at locations where driveways divide." (4-7-11)

j. Add the following section, "503.7.6 Grade. The gradient for driveways cannot exceed 10 percent unless approved by the fire code official." (4-7-11)

k. Add the following section, "503.7.7 Security Gates. Where security gates are installed, they need to have an approved means of emergency operation. The security gates and emergency operation will be maintained operational at all times." (4-7-11)

l. Add the following section, "503.7.8 Surface. Driveways need to be designed and maintained to support the imposed loads of local responding fire apparatus and will be surfaced as to provide all weather driving capabilities." (4-7-11)

04. Section 507. To section 507.2 Type of water supply, delete the existing language and add the following, "A water supply will consist of water delivered by fire apparatus, reservoirs, pressure tanks, elevated tanks, water mains or other sources approved by the fire code official capable of providing the needed fire flow. Exception. The water supply prescribed by this code needs to apply to structures served by a municipal fire department or a fire protection district and within ten miles (16093m) of a responding fire station." (4-7-11)

022. -- 026. (RESERVED)

027. ALTERNATIVE AUTOMATIC FIRE-EXTINGUISHING SYSTEMS, SECTION 904.1.1, INTERNATIONAL FIRE CODE.
Add the following language to the beginning of section 904.1.1 of the International Fire Code, "If prescribed by the authority having jurisdiction,". (3-29-17)

028. PORTABLE FIRE EXTINGUISHERS, SECTION 906.2.1, INTERNATIONAL FIRE CODE.
Add the following language to the beginning of section 9.6.2.1 of the International Fire Code, "If prescribed by the authority having jurisdiction,". (3-20-14)

029. FIRE ALARM AND DETECTION SYSTEMS, SECTION 907.1, INTERNATIONAL FIRE CODE.
Notification Devices. When fire alarm systems not needed by the International Fire Code are installed, the notification devices need to meet the minimum design and installation requirements for systems that are prescribed by this code. Intent: (Non-prescribed fire alarm systems will provide the same level of occupant notification that prescribed systems provide). (5-3-03)

030. CONSTRUCTION REQUIREMENTS FOR EXISTING BUILDINGS, SECTION 1101.1, INTERNATIONAL FIRE CODE.
Add the following language to the end of section 1101.1 of the International Fire Code, "only, if in the opinion of the fire code official, they constitute a distinct hazard to life or property." (3-20-14)

031. EXPLOSIVES AND FIREWORKS, CHAPTER 56, INTERNATIONAL FIRE CODE.
Delete Sections 5601.1.3, 5601.2.2, 5601.2.3, 5601.2.4.1, 5601.2.4.2, and sections 5608.2, 5608.2.1, and 5608.3 of the International Fire Code. (3-20-14)

032. -- 045. (RESERVED)

046. UNDERGROUND TANKS OUT OF SERVICE FOR ONE YEAR, SECTION 5704.2.13.1.3 INTERNATIONAL FIRE CODE.
Add to Section 5704.2.13.1.3, International Fire Code, the following paragraph: Upon approval of the Chief underground tanks that comply with the performance standards for new or upgraded underground tanks set forth in Title 40 Section 280.20 or 280.21 of the Code of Federal Regulations may remain out of service indefinitely so long as they remain in compliance with the operation, maintenance and release detection requirements of the federal rule. (3-20-14)

047. -- 055. (RESERVED)

056. REFERENCES TO APPENDIX, INTERNATIONAL FIRE CODE.
The following appendixes of the International Fire Code are *hereby adopted*: *( )*

01. Appendix B, Fire Flow Requirements for Buildings. (5-3-03)

02. Appendix C, Fire Hydrant Location and Distribution. (5-3-03)

03. Appendix D, Fire Apparatus Access Roads. (4-2-08)

a. To section D101.1 Scope, add the following sentence, "Driveways as described in section 503.7 through 503.11 are not subject to the requirements of this appendix." (4-7-11)

b. To section D102.1, after the phrase, by way of an approved fire apparatus access road, add the following "designed and maintained to support the imposed loads of the responding fire apparatus and will be surfaced so as to provide all-weather driving capabilities." And delete the remainder of the section. (4-7-11)

c. To section D103.2 Grade. Add the following. "The gradient of the fire apparatus access road needs to be within the limits established by the fire code official based on the capabilities of the responding fire departments apparatus." Delete the remainder of the section and the exception. (4-7-11)

04. Appendix E, Hazard Categories. (5-3-03)

05. Appendix F, Hazard Rankings. (5-3-03)

057. -- 999. (RESERVED)

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

DOCKET NO. 18-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 41-211, 41-254, and 41-401, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 18, rules of the Department of Insurance:

IDAPA 18
All Lines:
- 18.01.02, Schedule of Fees, Licenses, and Miscellaneous Charges; All rules ***except Subsection 030.02.a.***

State Fire Marshal:
- 18.08.02, Fire Protection Sprinkler Contractors; All rules ***except Subsections 013.02***

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4064–4076**. In preparation for adopting the pending fee rule, in addition to the specific changes per chapter noted above, each chapter has undergone cleanup for technical and housekeeping language to support the Governor's Red Tape Reduction Act. For example, sections on Written Interpretations and Office Hours / Address, etc., have been removed as well as definitions, etc., found in statute.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This fee or charge is being imposed pursuant to Section 41-401, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Weston Trexler, (208)334-4214, **weston.trexler@doi.idaho.gov**.

Dated this 11th day of October, 2019.

Dean L. Cameron, Director
Idaho Department of Insurance
700 W. State Street, 3rd Floor
P.O. Box 83720,
Boise, ID 83702-0043
Phone: (208) 334-4250
Fax: (208) 334-4398

000. LEGAL AUTHORITY.
Title 41, Chapters 2 and 4, Idaho Code, Idaho Code. (7-1-00)

001. TITLE AND SCOPE.

01. Title. IDAPA 18.01.02, "Schedule of Fees, Licenses, and Miscellaneous Charges." (7-1-00)

02. Scope. The purpose of this rule is to provide for the amounts to be collected for fees, licenses and miscellaneous charges. (7-1-00)

002. -- 010. (RESERVED)

011. FEES PAYABLE IN ADVANCE.
The director will collect in advance fees, licenses, and miscellaneous charges as outlined in this rule. (7-1-00)

012. -- 019. (RESERVED)

020. INSURER FEES.

01. Annual Continuation Fee. All insurers and other entities (set forth in Section 020) licensed, listed, or approved to do business in the state of Idaho will pay an annual continuation fee. (7-1-00)

a. The annual continuation fee is due on March 1st each year and *is* payment of the insurer's fees due through the *following* February. *( )*

b. The annual continuation fee is charged at the time the insurer applies for admission to do business in the state of Idaho. If the application is approved, the fee paid will cover the insurer's fees through the *following* February. *( )*

02. Fee for Insurers. For all insurance companies receiving a certificate of authority pursuant to Title 41, Chapter 3, Idaho Code, the annual continuation fee is as follows: *( )*

a. If insurer's *policy holders'* surplus at the preceding December 31 is less than ten million dollars ($10,000,000) - One thousand dollars ($1,000). *( )*

b. If insurer's *policy holders'* surplus at the preceding December 31 is ten million ($10,000,000) or more, but less than one hundred million ($100,000,000) -- Two thousand five hundred dollars ($2,500). *( )*

c. If insurer's *policy holders'* surplus at the preceding December 31 is one hundred million ($100,000,000) or greater - Four thousand five hundred dollars ($4,500). *( )*

03. Fees of Other Entities. The following entities will be assessed an annual continuation fee: *( )*

a. Five hundred dollars ($500): (7-1-01)

i. All reinsurers, listed pursuant to Section 41-515, Idaho Code. *( )*

ii. Authorized surplus line insurers. (7-1-00)

iii. County mutual insurers. (7-1-00)

iv. Fraternal benefit societies. (7-1-00)

v. Hospital and/or professional service corporations. (7-1-00)

vi. Self-funded health care plans. (3-24-16)

vii. Domestic Risk retention groups. (7-1-01)

viii. Petroleum clean water trusts. (7-1-00)

ix. Rating organizations. (7-1-00)

x. Advisory organizations. (7-1-00)

b. One hundred dollars ($100): Purchasing groups. (7-1-00)

04. Fees *Provide*. *T*he annual continuation fee includ*es*, but *is* not limited to, the following: *( )*

a. Certificate of authority renewal, license renewal, and annual registration. (7-1-00)

b. Arson, fire and fraud *investigation costs*. *( )*

c. Annual statement filing. (7-1-00)

d. Agent appointment and renewal of appointment. (7-1-00)

e. Filings under Title 41, Chapter 38, Idaho Code, Acquisitions of Control and Insurance Holding Company Systems. (7-1-00)

f. Filing of amendments to Articles of Incorporation. (7-1-00)

g. Filing of amendments to Bylaws. (7-1-00)

h. Amendments to Certificate of Authority. (7-1-00)

i. Filing of notice of significant transactions pursuant to Section 41-345, Idaho Code. (7-1-00)

j. Quarterly statement filing. (7-1-00)

k. Examination expenses. (3-24-16)

05. Not Provided in Fees. Payment of the annual continuation fee will not exempt the insurer or entity from the following: *( )*

a. Fees for application for producer license. (7-1-00)

b. Costs incurred by the Department for investigation of an applicant for producer license. (7-1-00)

c. Attorney's fees and costs incurred by the Department when allowed pursuant to Idaho Code. (7-1-00)

d. Costs incurred for experts and consultants when allowed by Idaho Code. (7-1-00)

e. Penalties or fines levied by or payable to the Department of Insurance. (7-1-00)

f. All fees set forth under Section 040. (7-1-00)

06. Failure to Pay Fee. Failure to pay the annual continuation fee on or before March 1st each year will result in *the* expiration of the insurer's or entity's authority to do business in the state of Idaho pursuant to Section 41-324, Idaho Code. *( )*

07. Reinstatement Fee. The reinstatement fee referenced in Section 41-324(3), Idaho Code, is the amount referenced above for the insurer or entity continuation fee. (7-1-00)

021. -- 029. (RESERVED)

030. PRODUCER AND MISCELLANEOUS LICENSING FEES.

01. Original License Application. The following fees are due and needs to be paid with the filing application for original license: *( )*

a. Administrators -- three hundred dollars ($300). (7-1-00)

b. Producers -- eighty dollars ($80). (3-13-02)

c. Designation as a managing general agent -- eighty dollars ($80). (3-13-02)

d. Adjusters and public adjusters -- eighty dollars ($80). (3-24-16)

e. Reinsurance intermediary -- eighty dollars ($80). (3-13-02)

f. Surplus line brokers -- eighty dollars ($80). (3-13-02)

g. Life settlement providers -- five hundred dollars ($500). (3-29-10)

h. Life settlement brokers -- three hundred dollars ($300). (3-29-10)

i. Independent review organization -- five hundred dollars ($500). (3-29-10)

j. Vendor of portable electronics insurance, a type of limited lines producer: (3-27-13)

i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- one thousand dollars ($1,000). (3-27-13)

ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars ($100). (3-27-13)

02. Examination Fees. *Each time a producer or adjuster's examination is taken for licensing under Title 41, Chapters 10 and 11, Idaho Code, the applicant may pay a fee to a third-party testing vendor in the amount established by contract between the department and the vendor*. *( )*

03. Fingerprint Processing. Processing fingerprints (as applicable) -- not to exceed eighty dollars ($80). (3-27-13)

04. License Renewal. The following fees are due and needs to be paid for each license to renew or continue: *( )*

a. Adjusters, public adjusters, and producers (biennial) -- eighty dollars ($80), or sixty dollars ($60) if renewed electronically. (3-24-16)

i. A vendor of portable electronic insurance who is engaged in portable electronic transactions at more than ten (10) locations in the state of Idaho -- five hundred dollars ($500). (3-27-13)

ii. A vendor of portable electronic insurance who is engaged in portable electronic transactions at ten (10) or fewer locations in the state of Idaho -- one hundred dollars ($100). (3-27-13)

b. Redesignation as managing general agent (annual) -- eighty dollars ($80). (3-13-02)

c. Administrators (biennial) -- eighty dollars ($80). (3-19-07)

i. Renewal form is filed on or before December 31. (3-19-07)

ii. Any renewal form postmarked after December 31 includes a penalty in an amount equal to the renewal fee. (3-19-07)

iii. A renewal form postmarked after January 31 needs to be submitted as a new application with supporting documents and the full application fee. (3-19-07)

d. Surplus line brokers (biennial) -- eighty dollars ($80), or sixty dollars ($60) if renewed electronically. (3-16-04)

e. Life settlement providers (biennial) -- three hundred dollars ($300). (3-29-10)

f. Life settlement brokers (biennial) -- eighty dollars ($80). (3-29-10)

g. Independent review organization (biennial) -- three hundred dollars ($300). (3-29-10)

031. -- 039. (RESERVED)

040. MISCELLANEOUS FEES.

01. Certified Copy. Certified copy of certificate of authority, license or registration - Fifty dollars ($50). (7-1-00)

02. Certificate Under Seal. Director's certificate under seal (except for those under Subsection 040.01 of this rule) - Twenty dollars ($20). (7-1-00)

03. Documents Filed. For each copy of *a* document filed in *the DOI*, a reasonable cost as fixed by the director. For rate and form filings not submitted electronically through the national System for Electronic Rate and Form Filing (SERFF) -- Twenty dollars ($20) for each rate or form filed in excess of ten (10) per calendar year. *( )*

04. Insurer Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of an insurer -- Thirty dollars ($30). (7-1-00)

05. Agent Service of Process. For receiving and forwarding copy of summons or other process served upon the director as process agent of a nonresident producer or other person for which the director is authorized to serve as statutory agent for service of process -- Thirty dollars ($30). (3-24-16)

06. Continuing Education. Filing continuing education applications for approval and certification of subjects of courses (each application) -- Twenty-five dollars ($25). (7-1-00)

041. -- 049. (RESERVED)

050. REFUNDS.
All fees, licenses, and miscellaneous charges are non-refundable except as noted. (7-1-00)

051. OVERPAYMENTS.
Overpayments of published fees will be returned only when such overpayments exceed twenty dollars ($20), or upon request of the payor. (7-1-00)

052. -- 999. (RESERVED)

18.08.02 – FIRE PROTECTION SPRINKLER CONTRACTORS

000. LEGAL AUTHORITY.
Title 41, Chapter 2, Section 41-254(2), (3) and and Chapter 9 International Fire Code. (5-3-03)

001. TITLE AND SCOPE.

01. *Title.* *IDAPA 18.08.02, "Fire Protection Sprinkler Contractors."* *( )*

02. Purpose. This rule is to assure the people of Idaho that fire sprinkler systems and their appurtenances are being installed and maintained by qualified persons and organizations that contract to sell, design, modify, install, service, or maintain such systems; to safeguard lives and property and protect the public interest; to require insurance, and bonding to register such persons and organizations; to establish regulation by the State Fire Marshal; and to set penalties and fees for the administration of this rule. (7-1-93)

03. Persons Affected. This rule will affect any person, individual, partnership, joint venture, corporation, or any combination thereof, association, business trust or organized group of persons, who by themselves or through others, offers to undertake, represents themselves as being able to undertake, or does undertake contracting for the sale, design, installation, modification, alteration, repair, maintenance, or maintenance inspection of any fire protection sprinkler system or its appurtenances. (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Fire Protection Sprinkler System. *A*n integrated system of underground and overhead piping designed in accordance with fire protection engineering standards. This installation includes a water supply, such as a gravity tank, fire pump, reservoir or pressure tank and/or connection by underground piping to a water supply. The portion of the sprinkler system above ground is a network of specially sized, or hydraulically designed, piping installed in a building, structure or area, generally overhead, and to which sprinklers are connected in a systematic pattern. The system include a controlling valve and a device for actuating an alarm when the system is in operation. The system is usually activated by heat from a fire and discharges water over the fire area. (1-1-94)

02. Fire Protection Sprinkler Contractor. *T*hose persons described in Subsection 001.02 of this rule who contract to install, repair, modify, or maintain fire sprinkler systems. (1-1-94)

03. Fitters. *T*hose persons who install and maintain fire sprinkler systems and who work under the supervision of a Fire Protection Sprinkler Contractor. (7-1-93)

04. Responsible Maintenance Employee. *A*ny person who is employed by an owner of a premises that has a fire sprinkler system installed and who regularly inspects and maintains such system as follows: Inspects and maintains fire sprinkler system as detailed in the maintenance checklist provided by the State Fire Marshal; said checklist will follow the guidelines of National Fire Protection Association Standard 25 for the "Inspection, Testing, and Maintenance of Water-Based Fire Protection Systems." (5-3-03)

011. POWERS AND DUTIES OF THE STATE FIRE MARSHAL.
In addition to the powers and duties prescribed in this rule, the State Fire Marshal will: (7-1-93)

01. Assistants, Inspectors and Other Employees. Appoint an adequate number of assistants, inspectors and other employees that may be necessary to carry out the provisions of this rule, prescribe their duties, and fix their compensation within the amount appropriated. (7-1-93)

02. Licensing Procedures. Establish procedures for licensing of fire protection sprinkler contractors and fitters, set forth the form and content of applications, and investigate and examine all applicants as to their qualifications and fitness for such licensing. (7-1-93)

03. Records. Keep records of all licenses issued, suspended or revoked. (1-1-94)

04. Suspension or Revocation of License. Suspend or revoke any license for any cause prescribed by this rule, and refuse to grant any license for any cause which would be grounds for revocation or suspension. (7-1-93)

05. Examinations. Prepare, administer, and grade such applicable examinations and tests for applicants as may be *needed* for the purposes of this rule, and determine the score that will be deemed a passing score. *( )*

06. Fees. Collect fees, including applications, testing, licensing, renewals, and duplication fees from the applicants, and license holders for the purpose of administering and funding this rule. (7-1-93)

012. QUALIFICATIONS FOR CONTRACTORS LICENSE.
Applicants seeking registration to obtain licenses as fire protection sprinkler contractors will meet the following minimum qualifications: (7-1-93)

01. Owner, Officer or Manager. The applicant is an owner, officer or manager of their company, corporation, partnership or proprietorship. (7-1-93)

02. Examination, Education or Experience. The applicant *needs to*: *( )*

a. Satisfactorily pass an examination prescribed by the State Fire Marshal and provide proof to the effect that the applicant has supervised or installed at least four (4) fire sprinkler systems of more than two hundred (200) heads each (complete with name, description and location of each); or (1-1-94)

b. Provide proof of successful attainment of Level III Certification in fire protection, Automatic Sprinkler System Design from the National Institute for Certification in Engineering Technologies or equivalent. (1-1-94)

013. LICENSE REQUISITE.
No person within the purview of this rule may act, or assume to act, or advertise, as a fire protection sprinkler contractor without a license obtained under and in compliance with this rule. *( )*

014. LICENSE, DISPLAY, RENEWALS, DUPLICATES, APPLICATIONS.

01. Time Period. All licenses will be valid for a period of not longer than one (1) year and expire on the 31st day of December of each year, regardless of the month issued. (7-1-93)

02. Posting of License. Each license issued pursuant to this rule needs to be posted in a conspicuous place in the contractor's place of business. (7-1-93)

03. Renewal. Any license which has not been suspended or revoked may, upon payment of the renewal fees prescribed, be renewed for an additional period of one (1) year from its expiration upon filing an application for renewal on forms prescribed by the State Fire Marshal. (7-1-93)

04. Duplicate License. A duplicate license may be issued for one lost, destroyed, or mutilated upon application for such a form prescribed by the State Fire Marshal and the payment of the fee prescribed. Each duplicate license will have the word "duplicate" stamped across the face and bear the same number as the one it replaced. (7-1-93)

05. Bids Will Bear License Number. All written bids, proposals and offers, and all shop and field installation drawings will bear the contractor's license number. (7-1-93)

06. Forms and Fees. Application for a license will be made on forms *prescribed* by the State Fire Marshal. Each application will be accompanied by the prescribed fee. *( )*

015. ACTION ON APPLICATIONS AND LICENSE FEES.
Within one hundred and twenty (120) days after the filing of a complete application for a license and the payment of the *prescribed* fees, the State Fire Marshal will: *( )*

01. Investigation of Applicants. Conduct an investigation of applicants. Such investigation may inquire the name and address of the applicant; whether the applicant is associated in any partnership, corporation or

other entity; the names, addresses, and official capacities of all such associates; and any other pertinent information as the State Fire Marshal may deem relevant. (7-1-93)

02. **Fees**. License fees for fire protection sprinkler contractors are as follows: (7-1-93)

a. Examination Fee -- Twenty-five dollars ($25). (7-1-93)

b. License Fee -- Four hundred dollars ($400). (7-1-93)

c. Annual License Renewal Fee -- One hundred dollars ($100). (7-1-93)

d. Duplicate License Fee -- Ten dollars ($10). (7-1-93)

e. Branch Office Fee -- One hundred dollars ($100). (7-1-93)

f. Examination fees, when paid, are earned and are not subject to refund. (7-1-93)

03. **Branch Office License**. Branch offices of a licensed firm doing business in this state need obtain a branch office license. Each license needs to provide a shop or a vehicle as a place of business properly equipped and subject to inspection by the authority. A separate license is needed for each business location. Any advertisement that the services of installing or maintaining fire protection sprinkler systems constitutes prima facie evidence that the premises, building, room, shop, store, or establishment in or upon which it appears or to which it refers is a separate business location. (1-1-94)

04. **Arson, Fire, and Fraud Prevent Account**. All license fees collected will be deposited in the Arson, Fire, and Fraud Prevention Account as per Section 41-268(d), Idaho Code. (7-1-93)

016. FINANCIAL RESPONSIBILITY.

01. **Bonding**. (7-1-93)

a. The State Fire Marshal will require each applicant, individual or corporation who is a contractor to put up a license bond in an amount not less than two thousand dollars ($2,000) in favor of the state of Idaho by a surety company authorized to do business in the state of Idaho. ( )

b. The bond remains in full force until released by the State Fire Marshal, or until canceled by the surety. Without prejudice to liability previously incurred, the surety may cancel the bond upon thirty (30) days advance notice to both the contractor and the State Fire Marshal. (7-1-93)

02. **Insurance**. Prior to issuance of a license as a fire protection sprinkler contractor, the applicant will obtain and maintain at all times will a full term comprehensive general liability insurance policy from an insurance company authorized to do business in the state of Idaho, which policy will have aggregate limits of not less than two hundred fifty thousand dollars ($250,000) and including the following: (7-1-93)

a. Comprehensive Form. (7-1-93)

b. Premises Operations. (7-1-93)

c. Products/Completed Operations Hazard. (7-1-93)

d. Contractual Insurance. (7-1-93)

e. Broad Form Property Damage. (7-1-93)

f. Independent Contractors. (7-1-93)

g. Personal Injury. (1-1-94)

h. Evidence of such insurance should be filed with the State Fire Marshal's Office. (1-1-94)

017. REVOCATION, SUSPENSION, AND NON-RENEWAL OF LICENSE.

01. Causes for Revocation, Suspension, or Refusal to Renew License. The State Fire Marshal may revoke any license issued, or suspend the right of the license holder to use such license, or refuse to renew any such license for any of the following causes: (7-1-93)

a. Fraud, bad faith, misrepresentation, or bribery, either in securing a license or in the conduct of business under a license. (7-1-93)

b. The making of any false statement as to a material matter in any application for license. (7-1-93)

c. Failure by the contractor to perform their contract with the property owner. (7-1-93)

d. The manipulation of assets or of any accounts covering the subject matter of this rule, or by fraud or bad faith. (7-1-93)

e. Failure to display the license as provided in Subsection 013.02 of this rule. (7-1-93)

f. Failure to secure or maintain workmen's compensation insurance when not authorized to act as a self-insurer. (7-1-93)

g. Knowingly entering into a contract with an unregistered contractor involving the performance of work or activity which requires a license under this rule. (7-1-93)

h. The licensee has pled guilty to, or was found guilty of, a felony. (1-1-94)

i. Violation of any provision of this rule. (7-1-93)

02. Length of Suspension. No license will be suspended for longer than two (2) years. (7-1-93)

03. Eligibility to Reapply After Revocation. No person whose license is revoked will be eligible to apply for a new license until the expiration of two (2) years. (7-1-93)

018. HEARINGS.
In every case where it is proposed to refuse to grant a license, revoke a license, or to refuse to renew a license, the State Fire Marshal will give adequate notice and provide a hearing if requested. Notice of hearing will be given in writing by registered or certified mail with return receipt requested at least fifteen (15) days prior to the hearing. (7-1-93)

019. APPROVED EQUIPMENT AND MATERIALS.
No component or devices of an automatic fire sprinkler system may be sold, leased, or installed in this state unless it has been approved, labeled, or listed by Underwriters Laboratories, Inc., Underwriters Laboratories of Canada, Factory Mutual Laboratories, or other testing laboratories approved by the State Fire Marshal. *( )*

01. Sprinklers. Only new standard commercial or other listed sprinklers may be employed in the installation of a sprinkler system. (7-1-93)

02. Minimum Requirements. Automatic fire sprinkler systems installed in the State will meet the minimum NFPA standards. Partial installations *prescribed* for compliance with life safety codes *need to* be approved by the local fire department or the State Fire Marshal. *( )*

020. SERVICE EVIDENCE.

01. Submission of Plans. Where automatic fire sprinkler systems are installed, the installer completes

the contractor's material and test certificates NFPA 13 1-10.1. All systems *need to* be under the supervision of a contractor or a R.M.E. These persons *will conduct* proper tests and inspections at prescribed intervals and have general charge of all alterations and additions to the systems under their supervision. *( )*

02. Conformance to Standards. A service tag conforming to the requirements of this chapter will be attached to all systems. (7-1-93)

021. DESIGN REQUIREMENTS.

01. Submission of Plans. Detailed plans in accordance with applicable NFPA standards are submitted by a licensed contractor for approval to the local fire department and to the State Fire Marshal. (7-1-93)

02. Conformance to Standards. The specifications will state that the installation will conform to the applicable standards listed in this rule and be approved by the local fire department and the State Fire Marshal. (7-1-93)

03. Tests. The specifications need to include the specific tests needed to meet the standards for approval of the local fire department and the State Fire Marshal. (7-1-93)

04. Scale. Plans need to be drawn to an indicated scale or be suitably dimensioned, and made so that they can be easily reproduced. (7-1-93)

05. Detail. Plans need to contain sufficient detail to evaluate the effectiveness of the system. (7-1-93)

06. Prior Approval of Plans. Plans need to be submitted to the State Fire Marshal and the local fire department and approved, before work starts. Work may start prior to final plans submitted based on conceptual drawings if approved by the local fire department and the State Fire Marshal. A plan's review fee of two dollars ($2) per sprinkler head up to one thousand (1000) heads per fire protection sprinkler system (maximum two thousand dollars ($2,000)) or one hundred dollars ($100) per fire protection sprinkler system if less than fifty (50) sprinkler heads. The applicable fee needs to accompany the plans sent to the State Fire Marshal. Two (2) sprinkler heads on an arm-over will be considered as one (1) sprinkler head for fee purposes. (4-11-19)

07. Corrected Plans. Where field conditions necessitate any substantial change from the approved plan, the corrected plan showing the system as installed need to be submitted to the local fire department and the State Fire Marshal for approval. (7-1-93)

08. Exemption. A City or County may request an exemption from the requirements of this Section that plans be submitted to the State Fire Marshal for review and approval. A request for exemption will be made in writing signed by the Fire Chief, designated representative or elected local official and set forth the reasons for the request. If the State Fire Marshal determines the request is justified, the requesting party will be provided a written notice of exemption. The exemption will continue until terminated by the State Fire Marshal. Any such exemption will not apply to plans or inspections relating to structures owned, leased or controlled by the state or any state agency. (4-5-00)

022. SERVICE TAG.

01. Form. Automatic fire sprinkler service tags need to be in a form prescribed by the State Fire Marshal and a new tag installed each time work is performed on the system. (7-1-93)

02. Control Valve Not Electrically Supervised. In the event the control valve is not electrically supervised, the service tag will serve as a seal for the valve. (7-1-93)

03. Electrically Supervised Control Valve. In the event the control valve is electrically supervised, the service tag will be attached in such a manner that the valve may be closed for testing of the supervision without removing the tag. (7-1-93)

023. FITTERS.

All fitters, as described in Subsection 004.03 may be licensed under this rule as follows: (7-1-93)

01. Examination. Show proof by affidavit signed by a licensed fire protection sprinkler contractor that he has worked as a fitter for at least one thousand (1,000) hours per year for three (3) consecutive years and then take and pass a written examination given by the State Fire Marshal, and pay the appropriate fee. (7-1-93)

02. Fees. The State Fire Marshal collects in advance fees, license fees and miscellaneous charges as follows: (7-1-93)

a. Examination Fee -- Twenty-five dollars ($25). (7-1-93)

b. Original License Fee -- Fifty dollars ($50). (7-1-93)

c. Annual License Renewal Fee -- Twenty-five dollars ($25). (7-1-93)

d. Duplicate License Fee -- Ten dollars ($10). (7-1-93)

e. All license fees collected are be deposited to the Arson, Fire, and Fraud Prevention Account as per Section 41-268(d), Idaho Code. No examination will be taken or license issued pursuant to this rule until the appropriate fees, as listed above, are paid. Examination fees, when paid, are earned and are not subject to refund. (7-1-93)

03. Period of Time. No fitters license is valid for a period of longer than one (1) year and expires on the 31st day of December of each year regardless of the month issued. (7-1-93)

04. Renewal. Any license which has not been suspended or revoked may, upon payment of the renewal fee prescribed, be renewed for an additional period of one (1) year from its expiration upon filing an application for such renewal on forms prescribed by the State Fire Marshal. (7-1-93)

05. Duplicate License. A duplicate license may be issued for one lost, destroyed, or mutilated upon application for such on a form to be prescribed by the State Fire Marshal, and the payment of the fee prescribed. Each such duplicate license will have the word “duplicate” stamped across the face and bear the same number as the one it replaced. (7-1-93)

024. -- 999. (RESERVED)

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY

DOCKET NO. 19-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-912, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as proposed rules under this docket number under IDAPA 19, rules of the Idaho State Board of Dentistry:

IDAPA 19
- 19.01.01, *Rules of the Idaho State Board of Dentistry*

Any amendments to the text of the pending rule have been made in accordance in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4,077 to 4,099**.

The Board of Dentistry held a public comment hearing on the proposed rule and considered broad comments from affected parties prior to the adoption of this pending rule.

Changes between the text of the proposed rule and text of the pending rule include the following:

1. In the telehealth services rule, the Board eliminated the seventy-five mile radius requirement between the dentist and the patient. Having weighed comments on both sides of the issue, the Board concluded the requirement was likely too restrictive given the fact that no other state dental board, or Idaho medical board has a similar requirement. The Board further concluded that the delivery of dental healthcare through the telehealth model has sufficient safeguards in place without imposing a radius requirement. Those safeguards include the requirement that the dentist be licensed in Idaho, the dentist must practice to the standard of care, and the dentist must disclose to the patient their identity, and obtain appropriate consents from the patient.

2. The Board modified the rule for dental assistant practice by placing the professional responsibility on the dentist to ensure the dental assistant is adequately trained to perform assigned duties. As is currently required, the dentist is responsible to supervise the dental assistant's work. The Board eliminated the dental assistant expanded function education requirement, and dental assistant program curriculum review. The Board does not license, certify, or register dental assistants.

3. The pending rule contains additional nonsubstantive edits under the Red Tape Reduction Act.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule sets the application and license fee for dentists, dental specialists, dental hygienists, and sedation permits. This fee or charge is being imposed pursuant to Sections 54-916 and 54-920, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Susan Miller, Executive Director, (208) 334-2369.

Dated this 8th day of October, 2019.

Susan Miller, Executive Director
Idaho State Board of Dentistry
350 N. 9th Street, Suite M100
P.O. Box 83720
Boise, ID 83720-0021
Phone: (208) 334-2369
Fax: (208) 334-3247

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY

19.01.01 – RULES OF THE IDAHO STATE BOARD OF DENTISTRY

000. LEGAL AUTHORITY.
This Chapter is adopted under the legal authority of Chapter 9, Title 54, Idaho Code. ( )

001. TITLE AND SCOPE.
These rules are titled IDAPA 19.01.01, "Rules of the Idaho State Board of Dentistry." These rules constitute the minimum requirements for licensure and regulation of dentists and dental hygienists. ( )

***002*. INCORPORATION BY REFERENCE.**
Pursuant to Section 67-5229, Idaho Code, this chapter incorporates by reference the following documents: ( )

01. Professional Standards. ( )

a. AAOMS, Office Anesthesia Evaluation Manual, 8th Edition, 2012. ( )

b. CDC, Guidelines for Infection Control in Dental Health-Care Settings, 2003. ( )

c. ADA, Principles of Ethics, Code of Professional Conduct and Advisory Opinions, January 2009. ( )

d. ADHA Hygienists' Association, Standards for Clinical Dental Hygiene Practice, 2016. ( )

***003*. -- 009. (RESERVED)**

010. DEFINITIONS AND ABBREVIATIONS.

01. ACLS. Advanced Cardiovascular Life Support or Pediatric Advanced Life Support. ( )

02. ADA. American Dental Association. ( )

03. ADHA. American Dental Hygienists Association. ( )

04. AAOMS. American Association of Oral and Maxillofacial Surgeons. ( )

05. Analgesia. The diminution or elimination of pain. ( )

06. BLS. Basic Life Support. ( )

07. CDC. Centers for Disease Control and Prevention. ( )

08. CE. Continuing Education: one (1) hour of instruction equals one (1) CE credit. ( )

09. CODA. Commission on Dental Accreditation. ( )

10. CRNA. Certified Registered Nurse Anesthetist. ( )

11. Deep Sedation. A drug-induced depression of consciousness during which patients cannot be easily aroused but respond purposefully following repeated or painful stimulation. The ability to independently maintain ventilator function may be impaired. Patients may require assistance in maintaining a patent airway, and spontaneous ventilation may be inadequate. Cardiovascular function is usually maintained. ( )

12. Enteral. Administration of a drug in which the agent is absorbed through the GI or mucosa. ( )

13. EPA. United States Environmental Protection Agency. ( )

14. General Anesthesia. A drug-induced loss of consciousness during which patients are not

arousable, even by painful stimulation. The ability to independently maintain ventilator function is often impaired. Patients often require assistance in maintaining a patent airway, and positive pressure ventilation may be required because of depressed spontaneous ventilation or drug-induced depression of neuromuscular function. Cardiovascular function may be impaired. ( )

15. **GI**. Gastrointestinal tract. ( )

16. **Inhalation**. Administration of a gaseous or volatile agent introduced into the lungs and whose primary effect is due to absorption through the gas/blood interface. ( )

17. **Local Anesthesia**. The elimination of sensation, especially pain, in one (1) part of the body by the topical application or regional injection of a drug. ( )

18. **Minimal Sedation**. A minimally depressed level of consciousness that retains the patient's ability to independently and continuously maintain an airway and respond normally to tactile stimulation and verbal command. Although cognitive function and coordination may be modestly impaired, ventilator and cardiovascular functions are unaffected. In accord with this particular definition, the drugs and/or techniques used should carry a margin of safety wide enough never to render unintended loss of consciousness. Further, patients whose only response is reflex withdrawal from repeated painful stimuli would not be considered to be in a state of minimal sedation. ( )

19. **Moderate Sedation**. A drug-induced depression of consciousness during which patients respond purposefully to verbal commands, either alone or accompanied by light tactile stimulation. No interventions are required to maintain a patent airway, and spontaneous ventilation is adequate. Cardiovascular function is usually maintained. ( )

20. **Monitor or Monitoring**. The direct clinical observation of a patient during the administration of sedation by a person trained to observe the physical condition of the patient and capable of assisting with emergency or other procedures. ( )

21. **MRD**. Maximum FDA-recommended dose of a drug, as printed in FDA-approved labeling for unmonitored home use. ( )

22. **NBDE**. National Board Dental Examination. ( )

23. **NBDHE**. National Board Dental Hygiene Examination. ( )

24. **Operator**. The supervising dentist or another person who is authorized by these rules to induce and administer sedation. ( )

25. **Parenteral**. Administration of a drug which bypasses the GI tract [i.e., intramuscular, intravenous, intranasal, submucosal, subcutaneous, intraosseous]. ( )

26. **PMP**. Idaho Prescription Monitoring Program. ( )

27. **Sedation**. The administration of minimal, moderate, and deep sedation and general anesthesia. ( )

011. APPLICATION AND LICENSE FEES.
Application fees are not refunded. A license shall not be issued or renewed unless fees have been paid. License fees shall be prorated from date of initial licensure to the next successive license renewal date. The application fees and license fees shall be as follows:

License/Permit Type	Application Fee	License/Permit Fee
Dentist/Dental Specialist	$300	Active Status: $375 Inactive Status: $160
Dental Hygienist	$150	Active Status: $175 Inactive Status: $85
Sedation Permit	$300	$300

( )

012. EXAMINATIONS FOR LICENSURE.

01. Dentist and Dental Specialist Written Examination. Evidence of passing the NBDE may be required of all applicants for a license to practice dentistry or a dental specialty. Any other written examination will be specified by the Board. ( )

02. Dentist Clinical Examination. All applicants for a license to practice general dentistry *must* pass a Board-approved clinical examination upon such subjects as specified by the Board. Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination. *( )*

03. Dental Hygienist Written Examination. Evidence of passing the NBDHE may be required of all applicants applying for a license to practice dental hygiene. Any other written examination will be specified by the Board. ( )

04. Dental Hygienist Clinical Examination. All applicants for a license to practice dental hygiene *must* pass a Board-approved clinical dental hygiene examination upon such subjects as specified by the Board. In addition, all applicants must pass a *Board-approved* clinical local anesthesia examination. Clinical examination results will be valid for licensure by examination for a period of (5) five years from the date of successful completion of the examination. *( )*

013. REQUIREMENTS FOR LICENSURE.
Applicants for licensure to practice dentistry must furnish proof of graduation from a school of dentistry accredited by CODA at the time of applicant's graduation. Applicants for licensure to practice dental hygiene must furnish proof of graduation from a dental hygiene program accredited by CODA at the time of applicant's graduation. ( )

014. REQUIREMENT FOR BLS.
Applicants for initial licensure as a dentist, dental specialist, or dental hygienist *must* provide proof of current BLS certification. All practicing dentists, dental specialists, and dental hygienists must maintain current BLS certification. *( )*

015. CONTINUING EDUCATION REQUIREMENTS.
A licensee renewing an active status license *must* report to the Board completion of *CE* or volunteer practice which meets the following requirements: *( )*

01. Number of Credits. ( )

a. Dentists and dental specialists must complete thirty (30) credits of verifiable CE in each biennial renewal period. One (1) of the credits must be related to using the PMP. ( )

b. Dental hygienists must complete twenty-four (24) credits of verifiable *CE* in each biennial renewal period. *( )*

c. A dental hygienist holding an extended access license endorsement must complete an additional

four (4) credits of verifiable *CE* in each biennial renewal period in the specific practice areas of medical emergencies, local anesthesia, oral pathology, care and treatment of geriatric, medically compromised or disabled patients and treatment of children. *( )*

02. Nature of Education. *CE* must be oral health/health-related for the licensee's professional development. *( )*

03. Volunteer Practice. Licensees are allowed one (1) credit of *CE* for every two (2) hours of verified volunteer practice performed during the biennial renewal period up to a maximum of ten (10) credits. *( )*

04. Prorated Credits. Any person who is granted a license with active *status* during any biennial renewal period shall be required at the time of the next successive license renewal to report a prorated amount of *CE* credits as specified by the Board. *( )*

05. Documentation. In conjunction with license renewal, the licensee shall provide a list of *CE* credits obtained and verification of hours of volunteer practice performed and *attest* that the minimum requirements were completed in the biennial renewal period. *( )*

016. – 020. (RESERVED)

021. PROVISIONAL LICENSURE.
This type of license may be granted at the Board's discretion to applicants who meet the following requirements: ( )

01. Active Practice. Active practice within the previous two (2) years. ( )

02. Current Licensure. Current licensure in good standing in another state. ( )

03. Evidence. Evidence that the applicant has not failed an exam given by the Board or its agent. ( )

04. Provisional License. The provisional license *will* be valid for the period of time specified on the provisional license which *may* not exceed one (1) year from the date of issuance. *( )*

022. VOLUNTEER DENTAL HYGIENE SERVICES.
A person holding an unrestricted active status dental hygien*e* license issued by the Board may provide dental hygiene services in an extended access oral health care setting without being issued an extended access license endorsement under the following circumstances: *( )*

01. Extended Access Oral Health Care Setting. The dental hygiene services must be performed in an extended access oral health care setting under the supervision of a dentist who has issued written orders to the dental hygienist; ( )

02. Dental Hygiene Services Performed. The dental hygiene services performed *are* limited to oral health screening and patient assessment, preventive and oral health education, preparation and review of health history, non-surgical periodontal treatment, oral prophylaxis, the application of caries preventive agents including fluoride, the application of pit and fissure sealants with recommendation that the patient will be examined by a dentist; *( )*

03. Volunteers. The dental hygienist must perform the dental hygiene services on a volunteer basis and *may* not accept any form of remuneration for providing the services; and *( )*

04. Volunteer Time Limit. The dental hygienist may not provide dental hygiene services under this provision for more than five (5) days within any calendar month. ( )

023. DENTAL HYGIENISTS – LICENSE ENDORSEMENTS.
The Board may grant license endorsements to qualified dental hygienists as follows: ( )

01. Extended Access Endorsement. Upon application, the Board may grant an extended access endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that all of the following requirements are met: *( )*

a. The person has been licensed as a dental hygienist during the two (2) year period immediately prior to the date of application for an extended access endorsement; *( )*

b. For a minimum of one thousand (1000) total hours within the previous two (2) years, the person has either been employed as a dental hygienist in supervised clinical practice or has been engaged as a clinical practice educator in an approved dental hygiene school; ( )

c. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under general supervision in an extended access oral health care setting; and ( )

d. Any person holding an unrestricted active status dental hygienist's license issued by the Board who is employed as a dental hygienist in an extended access oral health care setting in this state *may* be granted an extended access endorsement without being required to satisfy the experience requirements specified in this rule. *( )*

02. Extended Access Restorative Endorsement. Notwithstanding any other provision of these rules, a qualified dental hygienist holding an extended access restorative endorsement may perform specified restorative functions under the direct supervision of a dentist in an extended access oral health care setting. Permissible restorative functions under this endorsement *are* limited to the placement of a restoration into a tooth prepared by a dentist and the carving, contouring and adjustment of the contacts and occlusion of the restoration. Upon application, the Board may grant an extended access restorative endorsement to a person holding an unrestricted active status dental hygienist's license issued by the Board who provides satisfactory proof that the following requirements are met: *( )*

a. The person has successfully completed the Western Regional Examining Board's restorative examination or an equivalent restorative examination approved by the Board; *and* *( )*

b. The person has not been disciplined by the Board or another licensing authority upon grounds that bear a demonstrable relationship to the ability of the dental hygienist to safely and competently practice under in an extended access oral health care setting. ( )

03. Renewal. Upon payment of the appropriate license fee and completion of required *CE* credits specified for a license endorsement, a person meeting all other requirements for renewal of a license to practice dental hygiene *is* also entitled to renewal of a license endorsement for the effective period of the license. An endorsement immediately expire*s* and *is* cancelled at such time as a person no longer holds an unrestricted active status dental hygienist's license issued by the Board or upon a person's failure to complete the required *CE*. *( )*

024. LICENSURE OF DENTAL SPECIALISTS.

01. Requirements for Specialty Licensure. Each applicant for specialty licensure must have graduated from a CODA accredited dental school and hold a license to practice general dentistry in the state of Idaho or another state. The Board may grant licensure in specialty areas of dentistry for which a dentist has completed a CODA accredited postdoctoral advanced dental education program of at least two full-time academic years. ( )

02. Examination. Specialty licensure in those specialties recognized may be granted solely at the discretion of the Board. An examination covering the applicant's chosen field may be required and, if so, will be conducted by the Board or a testing agent. Applicants who have met the requirements for licensure as a specialist may be required to pass an examination as follows: ( )

a. Applicants who have passed a general licensure examination acceptable to the Board may be granted specialty licensure by Board approval. ( )

b. Applicants who have passed a general licensure examination not acceptable to the Board may be required to pass a specialty examination. ( )

c. Applicants who are certified by the American Board of that particular specialty as of the date of application for specialty licensure may be granted specialty licensure by Board approval. ( )

03. Limitation of Practice. No dentist *may* announce or otherwise hold himself out to the public as a specialist unless he has first complied with the requirements established by the Board for such specialty and has been issued a specialty license authorizing him to do so. Any individual granted a specialty license must limit his practice to the specialty(s) in which he is licensed. *( )*

025. SPECIALTY ADVERTISING.
The specialty advertising rules are intended to allow the public to be informed about dental specialties and to require appropriate disclosures to avoid misperceptions on the part of the public. ( )

01. Recognized Specialty License. An advertisement *may* not state that a licensee is a specialist unless the licensee has been granted a license in that specialty area of dental practice by the Board. Use of words or terms in advertisements such as "Specialist," "Board Certified," "Diplomate," "Practice Limited To," and "Limited To Specialty Of" shall be prima facie evidence that the licensee is holding himself out to the public as a licensed specialist in a specialty area of dental practice. *( )*

02. Disclaimer. A licensee who has not been granted a specialty license by the Board may advertise as being qualified in a recognized specialty area of dental practice so long as each such advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the licensee is "licensed as a general dentist" or that the specialty services "will be provided by a general dentist." Any disclaimer in a written advertisement *must* be in the same font style and size as that in the listing of the specialty area. *( )*

03. Unrecognized Specialty. A licensee *may* not advertise as being a specialist in or as specializing in any area of dental practice which is not a Board recognized and licensed specialty area unless the advertisement, regardless of form, contains a prominent, clearly worded disclaimer that the advertised area of dental practice is not recognized as a specialty area of dental practice by the Idaho Board of Dentistry. Any disclaimer in a written advertisement shall be in the same font style and size as that in the listing of the specialty area. *( )*

026. PATIENT RECORDS.

01. Individual Records. Each licensee *must* prepare and maintain a record for each person receiving dental services, regardless of whether any fee is charged. The record shall contain the name of the licensee rendering the service and include: *( )*

a. Name and address of patient and, if a minor, name of guardian; ( )

b. Date and description of examination and diagnosis; ( )

c. An entry that informed consent has been obtained and the date the informed consent was obtained. Documentation may be in the form of an acronym such as "PARQ" (Procedure, Alternatives, Risks and Questions) or "SOAP" (Subjective Objective Assessment Plan) or their equivalent. ( )

d. Date and description of treatment or services rendered; ( )

e. Date and description of treatment complications; ( )

f. Date and description of all radiographs, study models, and periodontal charting; ( )

g. Health history; and ( )

h. Date, name of, quantity of, and strength of all drugs dispensed, administered, or prescribed. ( )

02. Charges and Payments. Each dentist *must* prepare and maintain a record of all charges and payments for services including source of payments. *( )*

03. Record Retention. Each dentist *must* maintain patient records *for* no less than seven (7) years from the date of last entry unless: *( )*

a. The patient requests the records be transferred to another dentist who *will* maintain the records. *( )*

b. The dentist gives the records to the patient; or ( )

c. The dentist transfers the dentist's practice to another dentist who *will* maintain the records. *( )*

027. – 030. (RESERVED)

031. INFECTION CONTROL.
In determining what constitutes unacceptable patient care with respect to infection control, the Board may consider current infection control guidelines such as those of the *CDC*. Additionally, dentists, dental hygienists and dental assistants must comply with the following requirements: *( )*

01. Gloves*, Masks, and Eyewear*. Disposable gloves *must* be worn whenever placing fingers into the mouth of a patient or when handling blood or saliva contaminated instruments or equipment. Appropriate hand hygiene *must* performed prior to gloving. Masks and protective eyewear or chin-length shields *must* be worn when spattering of blood or other body fluids is likely. *( )*

02. Instrument Sterilization. Between each patient use, instruments and other equipment that come in contact with body fluids *must* be sterilized. *( )*

03. Sterilizing Devices Testing. Heat sterilizing devices *must* be tested for proper function by means of a biological monitoring system that indicates micro-organisms kill. Devices *must* be tested each calendar week in which scheduled patients are treated. Testing results *must* be retained by the licensee for the current calendar year and the two (2) preceding calendar years. *( )*

04. Non-Critical Surfaces. Environmental surfaces that are contaminated by blood or saliva *must* be disinfected with an EPA registered hospital disinfectant. *( )*

05. Clinical Contact Surfaces. Impervious backed paper, aluminum foil, or plastic wrap should be used to cover surfaces that may be contaminated by blood or saliva. The cover *must* be replaced between patients. If barriers are not used, surfaces *must* be cleaned and disinfected between patients by using an EPA registered hospital disinfectant. *( )*

06. Disposal. All contaminated wastes and sharps *must* be disposed of according to any governmental requirements. *( )*

032. EMERGENCY MEDICATIONS OR DRUGS.
The following emergency medications or drugs are required in all sites where anesthetic agents of any kind are administered: anti-anaphylactic agent, antihistaminic, aspirin, bronchodilator, coronary artery vasodilator, and glucose. ( )

033. DENTAL HYGIENISTS – PRACTICE.
Dental hygienists are hereby authorized to perform the activities specified below: ( )

01. General Supervision. A dental hygienist may perform specified duties under general supervision as follows: ( )

a. Oral prophylaxis (removal of stains and plaque biofilm and if present, supragingival and/or subgingival calculus); ( )

b. Medical history assessments and intra-oral and extra-oral assessments (including charting of the oral cavity and surrounding structures, taking case histories and periodontal assessment); ( )

c. Developing patient care plans for prophylaxis, non-surgical periodontal therapy and supportive and evaluative care in accordance with the treatment parameters set by supervising dentist; ( )

d. Root planing; ( )

e. Non-surgical periodontal therapy; ( )

f. Closed subgingival curettage; ( )

g. Administration of local anesthesia; ( )

h. Removal of marginal overhangs (use of high speed handpieces or surgical instruments is prohibited); ( )

i. Application of topical antibiotics or antimicrobials (used in non-surgical periodontal therapy); ( )

j. Provide patient education and instruction in oral health education and preventive techniques; ( )

k. Placement of antibiotic treated materials pursuant to dentist authorization; ( )

l. Administration and monitoring of nitrous oxide/oxygen; and ( )

m. All duties which may be performed by a dental assistant. ( )

02. Direct Supervision. A dental hygienist may perform specified duties under direct supervision as follows: ( )

a. Use of a laser restricted to gingival curettage and bleaching. ( )

034. DENTAL HYGIENISTS – PROHIBITED PRACTICE.

01. Diagnosis and Treatment. Definitive diagnosis and dental treatment planning. ( )

02. Operative Preparation. The operative preparation of teeth for the placement of restorative materials. ( )

03. Intraoral Placement or Carving. The intraoral placement or carving of restorative materials unless authorized by issuance of an extended access restorative endorsement. ( )

04. Anesthesia. Administration of any general anesthesia or moderate sedation. ( )

05. Final Placement. Final placement of any fixed or removable appliances. ( )

06. Final Removal. Final removal of any fixed appliance. ( )

07. Cutting Procedures. Cutting procedures utilized in the preparation of the coronal or root portion of the tooth, or cutting procedures involving the supportive structures of the tooth. ( )

08. Root Canal. Placement of the final root canal filling. ( )

09. Occlusal Equilibration Procedures. Occlusal equilibration procedures for any prosthetic restoration, whether fixed or removable. ( )

1*0*. Other Final Placement. Final placement of prefabricated or cast restorations or crowns. ( )

035. DENTAL ASSISTANTS – PRACTICE.

Pursuant to Section 54-903(4), Idaho Code, and these rules, dental assistants are authorized to perform dental services for which they are trained unless prohibited by these rules. Dental assistants must be directly supervised by a dentist when performing intraoral procedures except when providing palliative care as directed by the supervising dentist. *( )*

0*1*. Prohibited Duties. A dental assistant is prohibited from performing the following duties: ( )

***a*.** The intraoral placement or carving of permanent restorative materials. ( )

***b*.** Any irreversible procedure. *( )*

***c*.** The administration of any sedation or local injectable anesthetic. ( )

***d*.** *R*emoval of calculus. *( )*

***e*.** Use of an air polisher. ( )

***f*.** Any intra-oral procedure using a high-speed handpiece, except *for the removal of orthodontic cement or resin*. *( )*

***g*.** Any dental hygiene prohibited duty. ( )

036. – 040. (RESERVED)

041. LOCAL ANESTHESIA.

Persons licensed to practice dentistry and dental hygiene in accordance with the Idaho Dental Practice Act and these rules are not required to obtain a permit to administer local anesthesia to patients. Dental offices in which local anesthesia is administered to patients *must* have and maintain suction equipment capable of aspirating gastric contents from the mouth and pharynx, a portable oxygen delivery system including full face masks and a bag-valve mask combination capable of delivering positive pressure, oxygen-enriched ventilation to the patient, a blood pressure cuff of appropriate size and a stethoscope. *( )*

042. NITROUS OXIDE/OXYGEN.

Persons licensed to practice and dental assistants *trained* in accordance with these rules *may* administer nitrous oxide/oxygen to patients. *( )*

01. Patient Safety. *A* dentist *must e*valuate the patient to *e*nsure the patient is an appropriate candidate for nitrous *oxide*/oxygen; *e*nsure that any patient under nitrous *oxide/*oxygen *is* continually monitored; and *e*nsure that a second person *is in the practice setting* who can immediately respond to any request from the person administering the nitrous *oxide*/oxygen. *( )*

02. Required Facilities and Equipment. Dental offices *where* nitrous oxide/oxygen is administered to patients *must* have *the* follow*ing*: a fail-safe *nitrous oxide delivery* system that is maintained in working order*; a* scavenging system*; and a* positive-pressure oxygen delivery system suitable for the patient being treated. *( )*

03. Personnel. For nitrous oxide/oxygen administration, personnel shall include *a*n operator and *a*n assistant currently certified in BLS. *( )*

043. MINIMAL SEDATION.

Persons licensed to practice dentistry in accordance with the Idaho Dental Practice Act and these rules *may* administer minimal sedation to patients of sixteen (16) years of age or older. When the intent is minimal sedation, the appropriate dosing of a single enteral drug is no more than the MRD. In cases where the patient weighs less than one hundred (100) pounds, or is under the age of sixteen (16) years, minimal sedation may be administered without a

permit by use of nitrous oxide, or with a single enteral dose of a sedative agent administered in the dental office. ( )

01. Patient Safety. The administration of minimal sedation is permissible so long as it does not produce an alteration of the state of consciousness in a patient to the level of moderate sedation, general anesthesia, or deep sedation. A dentist must qualify for and obtain *a* permit from the Board to be authorized to sedate patients to the level of moderate sedation, general anesthesia, or general anesthesia. Nitrous oxide/oxygen may be used in combination with a single enteral drug in minimal sedation, except as described in Section 043 of these rules. Notwithstanding any other provision in these rules, a dentist *must* initiate and regulate the administration of nitrous oxide/oxygen when used in combination with minimal sedation. ( )

02. Personnel. At least one (1) additional person currently certified in BLS must be present in addition to the dentist. ( )

044. MODERATE SEDATION, GENERAL ANESTHESIA AND DEEP SEDATION.
Dentists licensed in the state of Idaho cannot administer moderate sedation, general anesthesia, or deep sedation in the practice of dentistry unless they have obtained *a* permit from the Board. A moderate sedation permit may be either enteral or parenteral. A dentist *may* not administer moderate sedation to children under sixteen (16) years of age and one hundred (100) pounds unless they have qualified for and been issued a moderate parenteral sedation permit. A moderate enteral sedation permit authorizes dentists to administer sedation by either enteral or combination inhalation-enteral routes of administration. A moderate parenteral, general anesthesia, or deep sedation permit authorizes a dentist to administer sedation by any route of administration. To qualify for a moderate, general anesthesia, or deep sedation permit, a dentist *must* provide proof of the following:
( )

01. Training Requirements. ( )

a. For Moderate Sedation Permits, completion of training in the administration of moderate sedation to a level consistent with requirements established by the Board within the five (5) year period immediately prior to the date of application for a moderate sedation permit. The five (5) year requirement *is* not applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. Qualifying training courses must be sponsored by or affiliated with a dental school accredited by CODA, or be approved by the Board. ( )

i. For a moderate enteral sedation permit, the applicant must provide proof of a minimum of twenty-four (24) hours of instruction plus management of at least ten (10) adult case experiences by the enteral and/or enteral-nitrous oxide/oxygen route. These ten (10) cases must include at least three live clinical dental experiences managed by participants in groups no larger than five (5). The remaining cases may include simulations and/or video presentations but must include one experience in returning a patient from deep to moderate sedation. ( )

ii. For a moderate parenteral sedation permit, the applicant must provide proof of a minimum of sixty (60) hours of instruction, plus management of at least twenty (20) patients by the intravenous route. ( )

b. For General Anesthesia and Deep Sedation Permits, completion of an advanced education program accredited by CODA that affords comprehensive training necessary to administer and manage deep sedation or general anesthesia within the five (5) year period immediately preceding the date of application. The five (5) year requirement *is* not applicable to applicants who hold an equivalent permit in another state which has been in effect for the twelve (12) month period immediately prior to the application date. ( )

02. ACLS. Verification of current certification in ACLS or PALS, whichever is appropriate for the patient being sedated. ( )

03. General Requirements The qualified dentist is responsible for the sedative management, adequacy of the facility and staff, diagnosis and treatment of emergencies related to the administration of moderate sedation, general anesthesia, or deep sedation and providing the equipment, drugs and protocol for patient rescue. Evaluators appointed by the Idaho State Board of Dentistry will periodically assess the adequacy of the facility and competence of the sedation team. For general anesthesia and deep sedation, the Board adopts the standards

incorporated by reference in these rules, as set forth by the AAOMS in their office anesthesia evaluation manual. ( )

a. Facility, Equipment and Drug Requirements. The following facilities, equipment and drugs *must* be available for immediate use during the sedation and recovery phase: ( )

i. An operating room large enough to adequately accommodate the patient on an operating table or in an operating chair and to allow an operating team of at least two (2) individuals to freely move about the patient; ( )

ii. An operating table or chair that permits the patient to be positioned so the operating team can maintain the patient's airway, quickly alter the patient's position in an emergency, and provide a firm platform for the administration of basic life support; ( )

iii. A lighting system that permits evaluation of the patient's skin and mucosal color and a backup lighting system of sufficient intensity to permit completion of any operation underway in the event of a general power failure; ( )

iv. Suction equipment that permits aspiration of the oral and pharyngeal cavities and a backup suction device which will function in the event of a general power failure; ( )

v. An oxygen delivery system with adequate full face mask and appropriate connectors that is capable of delivering high flow oxygen to the patient under positive pressure, together with an adequate backup system; ( )

vi. A recovery area that has available oxygen, adequate lighting, suction and electrical outlets. The recovery area can be the operating room ( )

vii. A sphygmomanometer, pulse oximeter, oral and nasopharyngeal airways, supraglottic airway devices, and automated external defibrillator (AED); and ( )

viii. Emergency drugs including, but not limited to, pharmacologic antagonists appropriate to the drugs used, bronchodilators, and antihistamines. ( )

ix. Additional emergency equipment and drugs required for moderate parenteral sedation permits include precordial/pretracheal stethoscope or end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. ( )

x. Additional emergency equipment and drugs required for general anesthesia and deep sedation permits include precordial/pretracheal stethoscope and end-tidal carbon dioxide monitor, intravenous fluid administration equipment, vasopressors, and anticonvulsants. ( )

b. Personnel ( )

i. For moderate sedation, the minimum number of personnel *is* two (2) including: the operator and one (1) additional individual currently certified in BLS. ( )

ii. For general anesthesia or deep sedation, the minimum number of personnel *is* three (3) including: the operator and two (2) additional individuals currently certified in BLS. When the same individual administering the general anesthesia or deep sedation is performing the dental procedure one (1) of the additional individuals must be designated for patient monitoring. ( )

iii. Auxiliary personnel must have documented training in BLS, *will* have specific assignments, and shall have current knowledge of the emergency cart inventory. The dentist and all office personnel must participate in documented periodic reviews of office emergency protocol, including simulated exercises, to assure proper equipment function and staff interaction. ( )

c. Pre-sedation Requirements. Before inducing moderate sedation, general anesthesia, or deep sedation a dentist *must*: *( )*

i. Evaluate the patient's medical history and document, using the American Society of Anesthesiologists Patient Physical Status Classifications, that the patient is an appropriate candidate for moderate sedation, general anesthesia, or deep sedation; ( )

ii. Give written preoperative and postoperative instructions to the patient or, when appropriate due to age or psychological status of the patient, the patient's guardian; ( )

iii. Obtain written informed consent from the patient or patient's guardian for the sedation; and ( )

iv. Maintain a sedation record and enter the individual patient's sedation into a case/drug log. ( )

d. Patient Monitoring. Patients *must* be monitored as follows: *( )*

i. For moderate sedation the patient *must* be continuously monitored using pulse oximetry. For general anesthesia or deep sedation, the patient *must* be continuously monitored using pulse oximetry and end-tidal carbon dioxide monitors. *( )*

ii. The patient's blood pressure, heart rate, and respiration *must* be recorded every five (5) minutes during the sedation and then continued every fifteen (15) minutes until the patient meets the requirements for discharge. These recordings *must* be documented in the patient record. The record must also include documentation of preoperative and postoperative vital signs, all medications administered with dosages, time intervals and route of administration. If this information cannot be obtained, the reasons *must* be documented in the patient's record. *( )*

iii. During the recovery phase, the patient shall be monitored by an individual trained to monitor patients recovering from sedation; ( )

iv. A dentist *will* not release a patient who has undergone sedation except to the care of a responsible third party; *( )*

v. The dentist *will* assess the patient's responsiveness using preoperative values as normal guidelines and discharge the patient only when the following criteria are met: vital signs are stable, patient is alert and oriented, and the patient can ambulate with minimal assistance; and *( )*

vi. A discharge entry *will* be made by the dentist in the patient's record indicating the patient's condition upon discharge and the name of the responsible party to whom the patient was discharged. *( )*

e. Sedation of Other Patients. The permit holder *must* not initiate sedation on another patient until the previous patient is in a stable monitored condition and in the recovery phase following discontinuation of their sedation. *( )*

045. SEDATION PERMIT RENEWAL.

01. Permit Renewal. Before the expiration date of a permit, the board *will* provide notice of renewal to the licensee. Failure to timely submit a renewal application and permit fee shall result in expiration of the permit and termination of the licensee's right to administer sedation. Failure to submit a complete renewal application and permit fee within thirty (30) days of expiration of the permit shall result in cancellation of the permit. Renewal of the permit will be required every five (5) years. Proof of a minimum of twenty-five (25) continuing education credit hours in sedation which may include training in medical/office emergencies will be required to renew a permit. In addition to the continuing education credit hours, a dentist must: *( )*

a. For a moderate enteral sedation permit, maintain current certification in BLS or ACLS. ( )

b. For a moderate parenteral, general anesthesia, or deep sedation permit, maintain current certification in ACLS. ( )

02. Reinstatement. A dentist may *apply for* reinstatement of a canceled or surrendered permit issued by the Board within five (5) years of the date of the permit's cancellation or surrender. Applicants for reinstatement of a sedation permit *must* satisfy the facility and personnel requirements and verify they have obtained an average of five (5) continuing education credit hours in sedation for each year subsequent to the date upon which the permit was canceled or surrendered. A fee for reinstatement *will* be assessed. *( )*

046. SUSPENSION, REVOCATION OR RESTRICTION OF SEDATION PERMIT.
The Board may, at any time and for just cause, institute proceedings to revoke, suspend, or otherwise restrict a sedation permit issued pursuant to Section 045 of these rules. If the Board determines that emergency action is necessary to protect the public, summary suspension may be ordered pending further proceedings. Proceedings to suspend, revoke or restrict a permit shall be subject to applicable statutes and rules governing administrative procedures before the Board. ( )

047. DETERMINATION OF DEGREE OF SEDATION BY THE BOARD.
In any matter under review or in any proceeding being conducted in which the Board must determine the degree of central nervous system depression, the Board may base its findings or conclusions on, among other matters, the type, and dosages, and routes of administration of drugs administered to the patient and what result can reasonably be expected from those drugs in those dosages and routes administered in a patient of that physical and psychological status. ( )

048. USE OF OTHER ANESTHESIA PERSONNEL.
A dentist who does not hold a sedation permit may perform dental procedures in a dental office on a patient who receives sedation induced by an anesthesiologist, a CRNA, or another dentist with a sedation permit as follows: ( )

01. Facility, Equipment, Drugs, and Personnel Requirements. The dentist *will* have the same facility, equipment, drugs, and personnel available during the procedure and during recovery as required of a dentist who has a permit for the level of sedation being provided. *( )*

02. Patient's Condition Monitored Until Discharge. The qualified sedation provider who induces sedation *will* monitor the patient's condition until the patient is discharged and record the patient's condition at discharge in the patient's dental record as required by the rules applicable to the level of sedation being induced. The sedation record *must* be maintained in the patient's dental record and is the responsibility of the dentist who is performing the dental procedures. *( )*

03. Use of Services of a Qualified Sedation Provider. A dentist who intends to use the services of a qualified sedation provider *must* notify the Board in writing of his intent. Such notification need only be submitted once every licensing period. *( )*

04. Advertising. A dentist who intends to use the services of a qualified sedation provider may advertise the service provided so long as each such advertisement contains a prominent disclaimer that the service "will be provided by a qualified sedation provider." ( )

049. INCIDENT REPORTING.
Dentists *must* report to the Board, in writing, within seven (7) days after the death or transport to a hospital or emergency center for medical treatment for a period exceeding twenty-four (24) hours of any patient to whom sedation was administered. *( )*

050. – 054. (RESERVED)

055. TELEHEALTH SERVICES.
Definitions applicable to these rules are those definitions set forth in the Idaho Telehealth Access Act and in Section 54-5703, Idaho Code. ( )

01. Licensure and Location. Any dentist who provides any telehealth services to patients located in Idaho must hold an active Idaho license. *( )*

02. Additional Requirements. In addition to the requirements set forth in Section 54-5705, Idaho Code, during the first contact with the patient, a *dentist* licensed by the Board who is providing telehealth services *must*: ( )

a. Verify the location and identity of the patient; ( )

b. Disclose to the patient the *dentist's* identity, their current location, telephone number, and Idaho license number; and ( )

c. Obtain appropriate consents from the patient after disclosures regarding the delivery models and treatment methods or limitations, including a special informed consent regarding the use of telehealth technologies. ( )

03. Standard of Care. A *dentist* providing telehealth services to patients located in Idaho must comply with the applicable Idaho community standard of care. If a patient's presenting symptoms and conditions require a physical examination in order to make a diagnosis, the *dentist may* not provide diagnosis or treatment through telehealth services unless or until such information is obtained. ( )

04. Informed Consent. In addition to the requirements of Section 54-5708, Idaho Code, evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained at regular intervals consistent with the community standard of care. Appropriate informed consent should, at a minimum, include the following terms: ( )

a. Verification. Identification of the patient, the *dentist,* and the *dentist's* credentials; ( )

b. Telehealth Determination. Agreement of the patient that the provider will determine whether or not the condition being diagnosed and/or treated is appropriate for telehealth services; ( )

c. Security Measures Information. Information on the security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy and notwithstanding such measures; ( )

d. Potential Information Loss. Disclosure that information may be lost due to technical failures. ( )

056. UNPROFESSIONAL CONDUCT.
A licensee shall not engage in unprofessional conduct in the course of his practice. Unprofessional conduct by a person licensed under the provisions of Title 54, Chapter 9, Idaho Code, is defined as, but not limited to, one (1) of the following: ( )

01. Fraud. Obtaining fees by fraud or misrepresentation, or over-treatment either directly or through an insurance carrier. ( )

02. Unlicensed Practice. Employing directly or indirectly any suspended or unlicensed dentist or dental hygienist to practice dentistry or dental hygiene as defined in Title 54, Chapter 9, Idaho Code. ( )

03. Unlawful Practice. Aiding or abetting licensed persons to practice dental hygiene or dentistry unlawfully. ( )

04. Dividing Fees. A dentist *may* not divide a fee for dental services with another party, who is not a partner or associate with him in the practice of dentistry, unless: ( )

a. The patient consents to employment of the other party after a full disclosure that a division of fees will be made; ( )

b. The division is made in proportion to the services performed and responsibility assumed by each

dentist or party. ( )

05. Prescription Drugs. Prescribing or administering prescription drugs not reasonably necessary for, or within the scope of, providing dental services for a patient. A dentist may not prescribe or administer prescription drugs to himself. A dentist shall not use controlled substances as an inducement to secure or maintain dental patronage or aid in the maintenance of any person's drug addiction by selling, giving or prescribing prescription drugs. ( )

06. Harassment. The use of threats or harassment to delay or obstruct any person in providing evidence in any possible or actual disciplinary action, or other legal action; or the discharge of an employee primarily based on the employee's attempt to comply with the provisions of Title 54, Chapter 9, Idaho Code, or the Board's Rules, or to aid in such compliance. ( )

07. Discipline in Other States. Conduct himself in such manner as results in a suspension, revocation or other disciplinary proceedings with respect to his license in another state. ( )

08. Altering Records. Alter a patient's record with intent to deceive. ( )

09. Office Conditions. Unsanitary or unsafe office conditions, as determined by the customary practice and standards of the dental profession in the state of Idaho and *CDC guidelines* as *incorporated by reference in these rules*. *( )*

10. Abandonment of Patients. Abandonment of patients by licensees before the completion of a phase of treatment, as such phase of treatment is contemplated by the customary practice and standards of the dental profession in the state of Idaho, without first advising the patient of such abandonment and of further treatment that is necessary. ( )

11. Use of Intoxicants. Practicing dentistry or dental hygiene while under the influence of an intoxicant or controlled substance where the same impairs the licensee’s ability to practice with reasonable and ordinary care. ( )

12. Mental or Physical Illness. Continued practice of dentistry or dental hygiene in the case of inability of the licensee to practice with reasonable and ordinary care by reason of one (1) or more of the following: ( )

a. Mental illness; ( )

b. Physical illness, including but not limited to, deterioration through the aging process, or loss of motor skill. ( )

13. Consent. Revealing personally identifiable facts, data or information obtained in a professional capacity without prior consent of the patient, except as authorized or required by law. ( )

14. Scope of Practice. Practicing or offering to practice beyond the scope permitted by law, or accepting and performing professional responsibilities that the licensee knows or has reason to know that he or she is not competent to perform. ( )

15. Delegating Duties. Delegating professional responsibilities to a person when the licensee delegating such responsibilities knows, or with the exercise of reasonable care and control should know, that such a person is not qualified by training or by licensure to perform them. ( )

16. Unauthorized Treatment. Performing professional services that have not been authorized by the patient or his legal representative. ( )

17. Supervision. Failing to exercise appropriate supervision over persons who are authorized to practice only under the supervision of a licensed professional. ( )

18. Legal Compliance. Failure to comply with any provisions of federal, state or local laws, statutes, rules, and regulations governing or affecting the practice of dentistry or dental hygiene. ( )

19. Exploiting Patients. Exercising undue influence on a patient in such manner as to exploit a patient for the financial or personal gain of a practitioner or of a third party. ( )

20. Misrepresentation. Willful misrepresentation of the benefits or effectiveness of dental services. ( )

21. Disclosure. Failure to advise patients or their representatives in understandable terms of the treatment to be rendered, alternatives, and disclosure of reasonably anticipated fees relative to the treatment proposed. ( )

22. Sexual Misconduct. Making suggestive, sexual or improper advances toward a patient or committing any lewd or lascivious act upon or with a patient. ( )

23. Patient Management. Use of unreasonable and/or damaging force to manage patients, including but not limited to hitting, slapping or physical restraints. ( )

24. Compliance With Dentist Professional Standards. Failure by a dentist to comply with professional standards applicable to the practice of dentistry, as incorporated by reference in this chapter. ( )

25. Compliance With Dental Hygienist Professional Standards. Failure by a dental hygienist to comply with professional standards applicable to the practice of dental hygiene, as incorporated by reference in this chapter. ( )

26. Failure to Provide Records to a Patient or Patient's Legal Guardian. Refusal or failure to provide a patient or patient's legal guardian with records within five (5) business days. A patient or patient's legal guardian may not be denied a copy of his records for any reason, regardless of whether the person has paid for the dental services rendered. A person may be charged for the actual cost of providing the records but in no circumstances may a person be charged an additional processing or handling fee or any charge in addition to the actual cost. *( )*

27. Failure to Cooperate with Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, willful failure to provide information upon request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. ( )

28. Advertising. Advertise in a way that is false, deceptive, misleading or not readily subject to verification. ( )

057. – 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

DOCKET NO. 20-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and the Idaho State Board of Land Commissioners and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the approved or non-rejected portions of the rule become final and in full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 38-115, 38-132, 38-402, 38-1304, 58-104, 58-105, and 67-5201 et seq., Idaho Code.

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

This rulemaking was prompted by the expiration of the rules. This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 20, Rules of the Idaho Department of Lands:

IDAPA 20
- 20.01.01, *Rules of Practice and Procedure Before the State Board of Land Commissioners*
- 20.02.01, *Rules Pertaining to the Idaho Forest Practices Act*
- 20.04.01, *Rules Pertaining to Forest Fire Protection*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. Minor edits to the proposed rule were prompted by the Red Tape Reduction Act and the Department's continued efforts to clarify and streamline its rules. The complete text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4099–4159**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Amy Johnson at (208) 334-0255 or **rulemaking@idl.idaho.gov**.

Dated this 17th day of October, 2019.

Dustin Miller, Director
Idaho Department of Lands
300 N. 6th St, Suite 103
P.O. Box 83720
Boise, Idaho 83720-0050
Phone: (208) 334-0242
Fax: (208) 334-3698
rulemaking@idl.idaho.gov

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 58-104 and 67-5206(5)(b), Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
This chapter is titled IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners." These rules govern the practice and procedure in contested cases before the Board and the Idaho Department of Lands. These rules do not govern practice and procedure during regular or special meetings of the Board. Furthermore, these rules are not intended to create the substantive right to a contested case hearing; any right to a contested case hearing must be established by other provision of law. *( )*

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

01. **Agency**. The state board of land commissioners and the Idaho department of lands. (7-1-93)

02. **Agency Action**. Agency action means: (7-1-93)

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

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

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

03. **Agency Head**. The state board of land commissioners and the board secretary, the director of the Idaho department of lands. (7-1-93)

04. **Board**. The State Board of Land Commissioners. (7-1-93)

05. **Contested Case**. A proceeding which results in the issuance of an order. (7-1-93)

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

07. **License**. The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (7-1-93)

08. **Order**. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (7-1-93)

09. **Party**. Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (7-1-93)

10. **Person**. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (7-1-93)

003. FILING OF DOCUMENTS -- NUMBER OF COPIES.

01. **Where to File**. In general, all documents in contested cases may be filed with the Board Secretary/ Department of Lands Director at the address set forth *at www.idl.idaho.gov* if no other officer is designated for the particular proceeding. When a specific officer is designated to receive documents in a particular proceeding, documents may be filed with the designated officer as set forth in the order appointing a hearing officer. *( )*

02. **Number of Copies**. An original and five (5) legible copies of all documents shall be filed with the Board in all contested cases wherein a hearing officer has not been appointed by the Board. If a hearing officer has been appointed to hear a contested case, then one (1) original and one (1) legible copy of all documents shall be filed with the hearing officer. *( )*

004. -- 049. (RESERVED)

050. PROCEEDINGS GOVERNED.

01. Contested Case. *Sections* 100 through *780* govern procedure before the Board in contested cases, unless otherwise provided by statute, rule, notice or order of the Board. *( )*

02. Other Specified Procedures. Where another statute or rule requires specific procedures in a contested case before the Board, such other procedures will preempt these rules to the extent that these rules conflict with the other procedures. To the extent the other statute or rule does not address any matter of practice and procedure set forth in these rules, however, these rules shall govern. (7-1-93)

03. Rules Not Applicable to Board Meetings. These rules do not govern practice and procedure before regular or special board meetings. Board meetings are conducted informally and are not contested case hearings. A person who is dissatisfied with any decision of the Board may apply to appear before and be heard by the Board. Such appearances are informal and minutes will be taken and recorded the same as for regular Board meetings, unless application is made for a contested case hearing. A contested case hearing is available only where authorized by statute. See Subsection 104.02. (7-1-93)

04. Rules Not Applicable to Proceedings or Public Hearings. These rules do not govern proceedings in any public comment hearing that the Board may direct for the purpose of taking public comment on any matter. (7-1-93)

051. REFERENCE TO AGENCY.
Reference to the agency in these rules includes the Board and its Secretary, the Director of the Department of Lands, the hearing officer appointed by the agency, or the presiding officer, as context requires. Reference to the agency head means to the Board and its Secretary, the Director of the Department of Lands, as context requires, or such other officer designated by the agency head to review recommended or preliminary orders. (7-1-93)

052. LIBERAL CONSTRUCTION.
The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. Unless required by statute, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (7-1-93)

053. COMMUNICATIONS WITH AGENCY.
All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the Board's Secretary/Director of the Department of Lands, or such officer appointed by the Board. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed. (7-1-93)

054. IDENTIFICATION OF COMMUNICATIONS.
Parties' communications addressing or pertaining to a given proceeding must be written under that proceeding's case caption and case number. General communications by other persons should refer to case captions, case numbers, permit or license numbers, or the like, if this information is known. (7-1-93)

055. SERVICE BY AGENCY.
Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, summonses, complaints, and orders issued by the agency may serve these documents by certified mail, return receipt requested, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a state employee or state agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (7-1-93)

056. COMPUTATION OF TIME.
Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not Saturday, Sunday or a legal holiday. (7-1-93)

057. FEES AND REMITTANCES.
Fees and remittances to the agency must be paid by money order, bank draft or check payable to agency. Remittances in currency or coin are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. (7-1-93)

058. -- 099. (RESERVED)

100. INFORMAL PROCEEDINGS DEFINED.
Informal proceedings are proceedings in contested cases authorized by statute, rule or order of the agency to be conducted using informal procedures, i.e., procedures without a record to be preserved for later agency or judicial review, without the necessity of representation according to Section 202, without formal designation of parties, without the necessity of hearing examiners or other presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, an agency may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a contested case. (7-1-93)

101. INFORMAL PROCEDURE.
Statute authorizes and these rules encourage the use of informal proceedings to settle or determine contested cases. Unless prohibited by statute, the agency may provide for the use of informal procedure at any stage of a contested case. Informal procedure may include individual contacts by or with the agency staff asking for information, advice or assistance from the agency staff, or proposing informal resolution of formal disputes under the law administered by the agency. Informal procedures may be conducted in writing, by telephone or television, or in person. (7-1-93)

102. FURTHER PROCEEDINGS.
If statute provides that informal procedures shall be followed with no opportunity for further formal administrative review, then no opportunity for later formal administrative proceedings must be offered following informal proceedings. Otherwise, except as provided in Section 103, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the agency, if such person is entitled to a contested case hearing, at which time the parties may fully develop the record before the agency. (7-1-93)

103. INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES.
Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceeding are conducted without prejudice to the right of the parties to present the matter formally to the agency. Settlement offers made in the course of informal proceedings are confidential. (7-1-93)

104. FORMAL PROCEEDINGS.

01. Initiation of Proceedings. Formal proceedings, which are governed by rules of procedure other than Sections 100 through 103, must be initiated by a document (generally a notice, order or complaint if initiated by the agency) or another pleading listed in Sections 220 through 260 if initiated by another person. Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Sections 210 through 280. Formal proceedings can be initiated by the same document that initiates informal proceedings. (7-1-93)

02. Right to Contested Case, Board Discretion. Formal proceedings may be initiated by a party only where such party is given the statutory right to a contested case hearing. The Board may, in its discretion, direct that a contested case hearing be held in a contested case, or on any matter. The Board may, in its discretion, deny any request for a contested case hearing on any matter that is not a contested case. (7-1-93)

105. -- 149. (RESERVED)

150. PARTIES TO CONTESTED CASES LISTED.
Parties to contested cases before the agency are called applicants or claimants or appellants, petitioners, complainants, respondents, protestants, or intervenors. On reconsideration or appeal within the agency parties are called by their original titles listed in the previous sentence. (7-1-93)

151. APPLICANTS/CLAIMANTS/APPELLANTS.
Persons who seek any right, license, award or authority from the agency are called "applicants" or "claimants" or "appellants." (7-1-93)

152. PETITIONERS.
Persons not applicants who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case (other than an application or complaint), or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners." (7-1-93)

153. COMPLAINANTS.
Persons who charge other person(s) with any act or omission are called "complainants." In any proceeding in which the agency itself charges a person with an act or omission, the agency is called "complainant." (7-1-93)

154. RESPONDENTS.
Persons against whom complaints are filed or about whom investigations are initiated are called "respondents." (7-1-93)

155. PROTESTANTS.
Persons who oppose an application or claim or appeal and who have a statutory right to contest the right, license, award or authority sought by an applicant or claimant or appellant are called "protestants." (7-1-93)

156. INTERVENORS.
Persons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Sections 350 through 354 are called "intervenors." (7-1-93)

157. RIGHTS OF PARTIES AND OF AGENCY STAFF.
Subject to Sections 558, 560, and 600, all parties and agency staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (7-1-93)

158. PERSONS DEFINED -- PERSONS NOT PARTIES -- INTERESTED PERSONS.
The term "person" includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in the administrative proceeding. Persons other than the persons named in Sections 151 through 156 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. In kinds of proceedings in which persons other than the applicant or claimant or appellant, petitioner, complainant, or respondent would be expected to have an interest, persons may request the agency in writing that they be notified when proceedings of that kind are initiated. These persons are called "Interested Persons." Interested persons may become protestants, intervenors or public witnesses. The agency must serve notice of such proceedings on all interested persons. (7-1-93)

159. -- 199. (RESERVED)

200. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES.
The initial pleading of each party at the formal stage of a contested case (be it an application or claim or appeal, petition, complaint, protest, motion, or answer) must name the party's representative(s) for service and state the representative's (s') address(es) for purposes of receipt of all official documents. Service of documents on the named representative (s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the person signing the pleading will be considered the party's representative. (7-1-93)

201. TAKING OF APPEARANCES -- PARTICIPATION BY AGENCY STAFF.
The presiding officer at a formal hearing or prehearing conference will take appearances to identify the

representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff (other than a recommended order or preliminary order prepared by a hearing officer) will be considered or used in reaching a decision, at the timely request of any party the agency staff must appear at any hearing and participate in the same manner as a party. (7-1-93)

202. REPRESENTATION OF PARTIES AT HEARING.

01. Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (7-1-93)

a. Natural person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, family member, or next friend. (7-1-93)

b. A partnership may be represented by a partner, duly authorized employee, or attorney. (7-1-93)

c. A corporation may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

02. Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (7-1-93)

203. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS.
From the time a party files its initial pleading in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties' representatives designated pursuant to Section 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the agency. (7-1-93)

204. WITHDRAWAL OF PARTIES.
Any party may withdraw from a proceeding in writing or at hearing. (7-1-93)

205. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE.
A party's representative may be changed and a new representative may be substituted by notice to the agency and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the agency must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties. (7-1-93)

206. CONDUCT REQUIRED.
Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (7-1-93)

207. -- 209. (RESERVED)

210. PLEADINGS LISTED -- MISCELLANEOUS.
Pleadings in contested cases are called applications or claims or appeals, petitions, complaints, protests, motions, answers, and consent agreements. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Section 200, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with Sections 300 through 303. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (7-1-93)

211. -- 219. (RESERVED)

220. APPLICATIONS/CLAIMS/APPEALS -- DEFINED -- FORM AND CONTENTS.
All pleadings requesting a right, license, award or authority from the agency are called "applications" or "claims" or "appeals." Applications or claims or appeals must: (7-1-93)

01. Facts. Fully state the facts upon which they are based. (7-1-93)

02. Refer to Provisions. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based. (7-1-93)

03. Other. State the right, license, award, or authority sought. (7-1-93)

221. -- 229. (RESERVED)

230. PETITIONS -- DEFINED -- FORM AND CONTENTS.

01. Pleadings Defined. All pleadings requesting the following are called "petitions": (7-1-93)

a. Modification, amendment or stay of existing orders or rules; (7-1-93)

b. Clarification, declaration or construction of the law administered by the agency or of a party's rights or obligations under law administered by the agency; (7-1-93)

c. The initiation of a contested case not an application, claim or complaint or otherwise taking action that will lead to the issuance of an order or a rule; (7-1-93)

d. Rehearing; or (7-1-93)

e. Intervention. (7-1-93)

02. Petitions. Petitions must: (7-1-93)

a. Fully state the facts upon which they are based; (7-1-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; (7-1-93)

c. State the relief desired; and (7-1-93)

d. State the name of the person petitioned against (the respondent), if any. (7-1-93)

231. -- 239. (RESERVED)

240. COMPLAINTS -- DEFINED -- FORM AND CONTENTS.

01. Defined. All pleadings charging other person(s) with acts or omissions under law administered by the agency are called "complaints." (7-1-93)

02. Form and Contents. Complaints must: (7-1-93)

a. Be in writing; (7-1-93)

b. Fully state the acts or things done or omitted to be done by the persons complained against by reciting the facts constituting the acts or omissions and the dates when they occurred; (7-1-93)

c. Refer to statutes, rules, orders or other controlling law involved; (7-1-93)

d. State the relief desired; and (7-1-93)

e. State the name of the person complained against (the respondent). (7-1-93)

241. -- 249. (RESERVED)

250. PROTESTS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.

01. Defined. All pleadings opposing an application or claim or appeal as a matter of right are called "protests." (7-1-93)

02. Form and Contents, Time for Filing. Protests must: (7-1-93)

a. Fully state the facts upon which they are based, including the protestant's claim of right to oppose the application or claim; (7-1-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; and (7-1-93)

c. State any proposed limitation (or the denial) of any right, license, award or authority sought in the application. (7-1-93)

251. -- 259. (RESERVED)

260. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.

01. Defined. All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called "motions." (7-1-93)

02. Form and Contents. Motions must: (7-1-93)

a. Fully state the facts upon they are based; (7-1-93)

b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and (7-1-93)

c. State the relief sought. (7-1-93)

03. Other. If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit an application or claim or appeal, complaint, petition, or protest must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be filed at any time upon compliance with Section 565. (7-1-93)

261. -- 269. (RESERVED)

270. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.
All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, protests, or motions are called "answers." (7-1-93)

01. Answers to Pleadings Other Than Motions. Answers to applications, claims, or appeals, complaints, petitions, or protests must be filed and served on all parties of record within twenty-one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty-one (21) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent pursuant to Section 700. Answers to applications or claims, complaints, petitions, or protests must admit or deny each material allegation of the

applications or claims, complaint, petition or protest. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (7-1-93)

02. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The presiding officer may act upon a prehearing motion under Section 565. (7-1-93)

271. -- 279. (RESERVED)

280. CONSENT AGREEMENTS -- DEFINED -- FORM AND CONTENTS.
Agreements between the agency or agency staff and another person(s) in which one or more person(s) agree to engage in certain conduct mandated by statute, rule, order, case decision, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, case decision, or other provision of law, are called "consent agreements." Consent agreements are intended to require compliance with existing law. (7-1-93)

01. Requirements. Consent agreements must: (7-1-93)

a. Recite the parties to the agreement; and (7-1-93)

b. Fully state the conduct proscribed or prescribed by the consent agreement. (7-1-93)

02. Additional. In addition, consent agreements may: (7-1-93)

a. Recite the consequences of failure to abide by the consent agreement; (7-1-93)

b. Provide for payment of civil or administrative penalties authorized by law; (7-1-93)

c. Provide for loss of rights, licenses, awards or authority; (7-1-93)

d. Provide for other consequences as agreed to by the parties; and (7-1-93)

e. Provide that the parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. (7-1-93)

281. -- 299. (RESERVED)

300. FILING DOCUMENTS WITH THE AGENCY -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX).
An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX) if the agency's individual rule of practice lists a FAX number for that agency. Whenever any document is filed by FAX, if possible, originals must be delivered by overnight mail the next working day. (7-1-93)

301. FORM OF PLEADINGS.

01. Pleadings. All pleadings submitted by a party and intended to be part of an agency record must: (7-1-93)

a. Be submitted on white, eight and one-half by eleven inch (8 1/2" x 11") paper copied on one (1) side only; (7-1-93)

b. State the case caption, case number and title of the document; (7-1-93)

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and

telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (7-1-93)

d. Have at least one inch (1") left and top margins. (7-1-93)

02. Form. Documents complying with this rule will be in the following form:

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative for (Name of Party)

	BEFORE THE AGENCY	
(Title of Proceeding)	)	CASE NO.
	)	(TITLE OF DOCUMENT)
	)	
	)	

(7-1-93)

302. SERVICE ON PARTIES AND OTHER PERSONS.
All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the officer designated by the agency to receive filings in the case. When a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. (7-1-93)

303. PROOF OF SERVICE.
Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

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

(Signature)

(7-1-93)

304. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS.
Defective, insufficient or late pleadings may be returned or dismissed. (7-1-93)

305. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS.
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. (7-1-93)

306. -- 349. (RESERVED)

350. ORDER GRANTING INTERVENTION NECESSARY.
Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a

proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. (7-1-93)

351. FORM AND CONTENTS OF PETITIONS TO INTERVENE.
Petitions to intervene must comply with Sections 200 and 300 through 303. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (7-1-93)

352. TIMELY FILING OF PETITIONS TO INTERVENE.
Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (7-1-93)

353. GRANTING PETITIONS TO INTERVENE.
If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding. (7-1-93)

354. ORDERS GRANTING INTERVENTION -- OPPOSITION.
No order granting a petition to intervene will be acted upon fewer than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. (7-1-93)

355. PUBLIC WITNESSES.
Persons not parties and not called by a party who testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to Sections 558 and 560, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Section 530 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. (7-1-93)

356. -- 399. (RESERVED)

400. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS.
Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule. (7-1-93)

01. Form. The petition shall: (7-1-93)

a. Identify the petitioner and state the petitioner's interest in the matter; (7-1-93)

b. State the declaratory ruling that the petitioner seeks; and (7-1-93)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (7-1-93)

02. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (7-1-93)

401. NOTICE OF PETITION FOR DECLARATORY RULING.

Notice of petition for declaratory ruling may be issued in a manner designed to call its attention to persons likely to be interested in the subject matter of the petition. (7-1-93)

402. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER.

01. Final Agency Action. The agency's decision on a petition for declaratory ruling on the applicability of any statute, rule, or order administered by the agency is a final agency action decided by order. (7-1-93)

02. Content. The order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a final agency action issuing a declaratory ruling. (7-1-93)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this declaratory ruling may appeal to district court by filing a petition in the District Court in the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The declaratory ruling was issued; (7-1-93)

iii. The party appealing resides; or (7-1-93)

iv. The real property or personal property that was the subject of the declaratory ruling is attached. (7-1-93)

c. This appeal must be filed within twenty-eight (28) days of the service date of this declaratory ruling. See Section 67-5273, Idaho Code. (7-1-93)

403. -- 409. (RESERVED)

410. APPOINTMENT OF HEARING OFFICERS.
A hearing officer is a person other than the agency head appointed to hear contested cases on behalf of the agency. Unless otherwise provided by statute or rule, hearing officers may be employees of the agency or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. The appointment of a hearing officer is a public record available for inspection, examination and copying. (7-1-93)

411. HEARING OFFICERS CONTRASTED WITH AGENCY HEAD.
Agency heads are not hearing officers, even if they are presiding at contested cases. The term "hearing officer" as used in these rules refers only to officers subordinate to the agency head. (7-1-93)

412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.
Pursuant to Section 67-5252, Idaho Code, hearing officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may promptly petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation by a presiding officer. A hearing officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer's determination. Disqualification of agency heads, if allowed, will be pursuant to Sections 74-704 and 67-5252(4), Idaho Code. (7-1-93)

413. SCOPE OF AUTHORITY OF HEARING OFFICERS.
The scope of hearing officers' authority may be restricted in the appointment by the agency. (7-1-93)

01. Scope of Authority. Unless the agency otherwise provides, hearing officers have the standard scope of authority, which is: (7-1-93)

a. Authority to schedule cases assigned to the hearing officer, including authority to issue notices of prehearing conference and of hearing, as appropriate; (7-1-93)

b. Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency; (7-1-93)

c. Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and (7-1-93)

d. Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and recommended findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer. (7-1-93)

02. Limitation. The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope iii (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers can be given authority with regard to the agency's rules as provided in Section 416. (7-1-93)

03. Final Decision by Board. All final decisions in contested cases will be made by the Board. A hearing officer will only issue recommended findings of fact, conclusions of law, and orders to the Board, and the Board will make the final decision to adopt, modify, or reject any or all of the proposed findings, conclusions, and order. (7-1-93)

414. PRESIDING OFFICER(S).

One (1) or more members of the agency board, the agency director, or duly appointed hearing officers may preside at hearing as authorized by statute or rule. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one of them to be the presiding officer. (7-1-93)

415. CHALLENGES TO STATUTES.

A hearing officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority has preempted a state statute or rule, and the hearing officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the hearing officer, then the hearing officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the hearing officer and decide the proceeding before the hearing officer in accordance with the precedent of the court or the preemptive action of the federal authority. (7-1-93)

416. REVIEW OF RULES.

When an order is issued by the agency head in a contested case, the order may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. The agency head may delegate to a hearing officer the authority to recommend a decision on issues of whether a rule is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (7-1-93)

417. EX PARTE COMMUNICATIONS.

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. However, when a presiding officer has received a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a

copy of the communication in the file for the case and distribute a copy of it to all parties of record or order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (7-1-93)

418. -- 499. (RESERVED)

500. ALTERNATIVE RESOLUTION OF CONTESTED CASES.
The Idaho Legislature encourages informal means of alternative dispute resolution (ADR). For contested cases, the means of ADR include, but are not limited to, settlement negotiations, mediation, factfinding, minitrials, and arbitration, or any combination of them. These alternatives can frequently lead to more creative, efficient and sensible outcomes than may be attained under formal contested case procedures. An agency may use ADR for the resolution of issues in controversy in a contested case if the agency finds that such a proceeding is appropriate. Reasons why an agency may find that using ADR is not appropriate may include, but are not limited to, a finding that an authoritative resolution of the matter is needed for precedential value, that formal resolution of the matter is of special importance to avoid variation in individual decisions, that the matter significantly affects persons who are not parties to the proceeding, or that a formal proceeding is in the public interest. Nothing in this rule shall be interpreted to require the Board to utilize ADR procedures in a contested case, nor shall it require the Board to make any findings of fact, conclusions of law, or orders with respect to a decision concerning utilization of ADR procedures. A Board decision on utilization of ADR procedures is not reviewable. (7-1-93)

501. NEUTRALS.
When ADR is used for all or a portion of a contested case, the agency may provide a neutral to assist the parties in resolving their disputed issues. The neutral may be an employee of the agency or of another state agency or any other individual who is acceptable to the parties to the proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. (7-1-93)

502. CONFIDENTIALITY.
Communications in an ADR proceeding shall not be disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or is required by court order, statute or agency rule to be made public. (7-1-93)

503. -- 509. (RESERVED)

510. PURPOSES OF PREHEARING CONFERENCES.
The presiding officer may by order or notice issued to all parties and to all interested persons as defined in Section 158 convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed), arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. (7-1-93)

511. NOTICE OF PREHEARING CONFERENCE.
Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the prehearing conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference must contain the same information as notices of hearing with regard to an agency's obligations under the American with Disabilities Act. (7-1-93)

512. RECORD OF CONFERENCE.
Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a presiding officer, according to order or notice. Agreements by the parties to the conference may be put on the record during formal conferences or may be reduced to writing and filed with the agency after formal or informal conferences. (7-1-93)

513. ORDERS RESULTING FROM PREHEARING CONFERENCE.
The presiding officer may issue a prehearing order or notice based upon the results of the agreements reached at or

rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. (7-1-93)

514. FACTS DISCLOSED NOT PART OF THE RECORD.
Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record. (7-1-93)

515. -- 519. (RESERVED)

520. KINDS AND SCOPE OF DISCOVERY LISTED.

01. Kinds of Discovery. The kinds of discovery recognized and authorized by these rules in contested cases are: (7-1-93)

a. Depositions; (7-1-93)

b. Production requests or written interrogatories; (7-1-93)

c. Requests for admission; (7-1-93)

d. Subpoenas; and (7-1-93)

e. Statutory inspection, examination (including physical or mental examination), investigation, etc. (7-1-93)

02. Rules of Civil Procedure. Unless otherwise provided by statute, rule, order or notice, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b)). (7-1-93)

521. WHEN DISCOVERY AUTHORIZED.
No party before the agency is entitled to engage in discovery unless the party moves to compel discovery and the agency issues an order directing that the discovery be answered, or upon agreement of all parties to the discovery that discovery may be conducted. The presiding officer shall provide a schedule for discovery in the order compelling discovery, but the order compelling and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to compel discovery. (7-1-93)

522. RIGHTS TO DISCOVERY RECIPROCAL.
All parties to a proceeding have a right of discovery of all other parties to a proceeding according to Section 521 and to the authorizing statutes and rules. The presiding officer may by order authorize or compel necessary discovery authorized by statute or rule. (7-1-93)

523. DEPOSITIONS.
Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (7-1-93)

524. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION.
Production requests or written interrogatories and requests for admission may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (7-1-93)

525. SUBPOENAS.
The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. (7-1-93)

526. STATUTORY INSPECTION, EXAMINATION, INVESTIGATION, ETC. -- CONTRASTED WITH OTHER DISCOVERY.
This rule recognizes, but does not enlarge or restrict, an agency's statutory right of inspection, examination (including mental or physical examination), investigation, etc. This statutory right of an agency is independent of and cumulative to any right of discovery in formal proceedings and may be exercised by the agency whether or not a person is party to a formal proceeding before the agency. Information obtained from statutory inspection, examination, investigation, etc., may be used in formal proceedings or for any other purpose, except as restricted by statute or rule. The rights of deposition, production request or written interrogatory, request for admission, and subpoena, can be used by parties only in connection with formal proceedings before the agency. (7-1-93)

527. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION.
Answers to production requests or written interrogatories and to requests for admission shall be filed or served as provided by the order compelling discovery. Answers must conform to the requirements of the Idaho Rules of Civil Procedure. The order compelling discovery may provide that voluminous answers to requests need not be served so long as they are made available for inspection and copying under reasonable terms. (7-1-93)

528. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS.
Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection under Section 527, and objections to discovery must be filed and served as provided in the order compelling discovery. (7-1-93)

529. EXHIBIT NUMBERS.
The agency assigns exhibit numbers to each party. (7-1-93)

530. PREPARED TESTIMONY AND EXHIBITS.
Order, notice or rule may require a party or parties to file before hearing and to serve on all other parties prepared expert testimony and exhibits to be presented at hearing. Assigned exhibits numbers should be used in all prepared testimony. (7-1-93)

531. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.
The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. (7-1-93)

532. PROTECTIVE ORDERS.
As authorized by statute or rule, the agency may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. (7-1-93)

533. -- 549. (RESERVED)

550. NOTICE OF HEARING.
Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the agency finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Section 551. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officers who will hear the case, the name, address and telephone number of the person to whom inquiries about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. (7-1-93)

551. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS.
All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and

other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the request must be made. (7-1-93)

552. HOW HEARINGS HELD.
Hearings may be held in person or by telephone or television or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. (7-1-93)

553. CONDUCT AT HEARINGS.
All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearing. (7-1-93)

554. CONFERENCE AT HEARING.
In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (7-1-93)

555. PRELIMINARY PROCEDURE AT HEARING.
Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (7-1-93)

556. CONSOLIDATION OF PROCEEDINGS.
The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding. (7-1-93)

557. STIPULATIONS.
Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The agency is not bound to adopt a stipulation of the parties, but may do so. If the agency rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (7-1-93)

558. ORDER OF PROCEDURE.
The presiding officer may determine the order of presentation of witnesses and examination of witnesses. (7-1-93)

559. TESTIMONY UNDER OATH.
All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the agency is the truth, the whole truth, and nothing but the truth. (7-1-93)

560. PARTIES AND PERSONS WITH SIMILAR INTERESTS.
If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (7-1-93)

561. CONTINUANCE OF HEARING.
The presiding officer may continue proceedings for further hearing. (7-1-93)

562. RULINGS AT HEARINGS.
The presiding officer rules on motions and objections presented at hearing. When the presiding officer is a hearing

officer, the presiding officer's rulings may be reviewed by the agency head in determining the matter on its merits and the presiding officer may refer or defer rulings to the agency head for determination. (7-1-93)

563. ORAL ARGUMENT.
The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (7-1-93)

564. BRIEFS -- MEMORANDA -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION -- PROPOSED ORDER OF THE PRESIDING OFFICER.
In any contested case, any party may ask to file briefs, memoranda, proposed orders of the parties or statements of position, and the presiding officer may request briefs, proposed orders of the parties, or statements of position. The presiding officer may issue a proposed order and ask the parties for comment upon the proposed order. (7-1-93)

565. PROCEDURE ON PREHEARING MOTIONS.
The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond. (7-1-93)

566. JOINT HEARINGS.
The agency may hold joint hearings with federal agencies, with agencies of other states, and with other agencies of the state of Idaho. When joint hearings are held, the agencies may agree among themselves which agency's rules of practice and procedure will govern. (7-1-93)

567. -- 599. (RESERVED)

600. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE.
Evidence should be taken by the agency to assist the parties' development of a record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. The agency's experience, technical competence and specialized knowledge may be used in evaluation of evidence. (7-1-93)

601. DOCUMENTARY EVIDENCE.
Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. (7-1-93)

602. OFFICIAL NOTICE -- AGENCY STAFF MEMORANDA.
Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed. When the presiding officer proposes to notice agency staff memoranda or agency staff reports, responsible staff employees or agents shall be made available for cross-examination if any party timely requests their availability. (7-1-93)

603. DEPOSITIONS.
Depositions may be offered into evidence. (7-1-93)

604. OBJECTIONS -- OFFERS OF PROOF.

Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection, or, if the presiding officer is a hearing officer, the presiding officer may receive the evidence subject to later ruling by the agency head or refer the matter to the agency head. (7-1-93)

605. PREPARED TESTIMONY.
The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Section 600. (7-1-93)

606. EXHIBITS.
Exhibit numbers may be assigned to the parties before hearing. Exhibits prepared for hearing must ordinarily be typed or printed on eight and one-half inch by eleven inch (8-1/2" x 11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. *M*otion pictures, slides, opaque projections, videotapes, audiotapes *or* other materials not capable of duplication by still photograph or reproduction on paper shall *not* be presented as exhibits without approval of the presiding officer. *( )*

607. -- 609. (RESERVED)

610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS.
Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations in a contested case are not part of the record. (7-1-93)

611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS.
Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (7-1-93)

612. CONSIDERATION OF SETTLEMENTS.
Settlements must be reviewed under this rule. When a settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the presiding officer could summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties. On the other hand, when one (1) or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the agency's charge under the law. (7-1-93)

613. BURDENS OF PROOF.
Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (7-1-93)

614. SETTLEMENT NOT BINDING.
The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (7-1-93)

615. -- 649. (RESERVED)

650. RECORD FOR DECISION.

01. Requirement. The agency shall maintain an official record for each for each contested case and (unless statute provides otherwise) base its decision in a contested case on the official record for the case. (7-1-93)

02. Contents. The record for a contested case shall include: (7-1-93)

a. All notices of proceedings; (7-1-93)

b. All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; (7-1-93)

c. All intermediate or interlocutory rulings of hearing officers or the agency head; (7-1-93)

d. All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (7-1-93)

e. All offers of proof, however made; (7-1-93)

f. All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; (7-1-93)

g. All evidentiary rulings on testimony, exhibits, or offers of proof; (7-1-93)

h. All staff memoranda or data submitted in connection with the consideration of the proceeding; (7-1-93)

i. A statement of matters officially noticed; and (7-1-93)

j. All recommended orders, preliminary orders, final orders, and orders on reconsideration. (7-1-93)

651. RECORDING OF HEARINGS.
All hearings shall be recorded on audiotape or videotape at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Any party may have a transcript prepared at its own expense. (7-1-93)

652. -- 699. (RESERVED)

700. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR.
If an applicant or claimant or appellant, petitioner, complainant, or moving party fails to appear at the time and place set for hearing on an application or claim or appeal, petition, complaint, or motion, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (7-1-93)

701. SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER.
Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered. (7-1-93)

702. ISSUANCE OF DEFAULT ORDER.
The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the

defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the defaulting party. If authorized by statute or rule, costs may be assessed against a defaulting party. (7-1-93)

703. -- 709. (RESERVED)

710. INTERLOCUTORY ORDERS.
Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the agency may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains or is accompanied by a document containing one of the paragraphs set forth in Sections 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the officer issuing the order pursuant to Sections 711, 760, and 770. (7-1-93)

711. REVIEW OF INTERLOCUTORY ORDERS.
Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (7-1-93)

712. -- 719. (RESERVED)

720. RECOMMENDED ORDERS.

01. Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (7-1-93)

02. Content. Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

b. Within twenty-one (21) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position on any issue in the proceeding. (7-1-93)

c. Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have twenty-one (21) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)

721. -- 729. (RESERVED)

730. PRELIMINARY ORDERS.

01. Definition. Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. (7-1-93)

02. Content. Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a motion for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

b. Within twenty-one (21) days after (a) the service date of this preliminary order, (b) the service date of the denial of a petition for reconsideration from this preliminary order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. (7-1-93)

c. If any party appeals or takes exceptions to this preliminary order, opposing parties shall have twenty-one (21) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. (7-1-93)

d. If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)

e. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The final agency action was taken; (7-1-93)

iii. The party seeking review of the order resides; or (7-1-93)

iv. The real property or personal property that was the subject of the agency action is attached. (7-1-93)

f. This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

731. -- 739. (RESERVED)

740. FINAL ORDERS.

01. Definition. Final orders are preliminary orders that have become final under Section 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code. (7-1-

93)

02. Content. Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. (7-1-93)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The final agency action was taken; (7-1-93)

iii. The party seeking review of the order resides; or (7-1-93)

iv. The real property or personal property that was the subject of the agency action is attached. (7-1-93)

c. An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

741. -- 749. (RESERVED)

750. ORDER NOT DESIGNATED.
If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. (7-1-93)

751. -- 759. (RESERVED)

760. MODIFICATION OF ORDER ON PRESIDING OFFICER'S OWN MOTION.
A hearing officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the hearing officer's own motion within fourteen (14) days after issuance of the recommended or preliminary order by withdrawing the recommended or preliminary order and issuing a substitute recommended or preliminary order. The agency head may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the agency head itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it. (7-1-93)

761. -- 769. (RESERVED)

770. CLARIFICATION OF ORDERS.
Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal the order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. (7-1-93)

771. -- 779. (RESERVED)

780. STAY OF ORDERS.
Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion. (7-1-93)

781. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Section 38-1304, Idaho Code, the Idaho Board of Land Commissioners has authority to adopt rules establishing minimum standards for the conduct of forest practices on forest land. (7-1-96)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.02.01, "Rules Pertaining to the Idaho Forest Practices Act." (4-11-06)

02. Scope. These rules constitute the minimum standards for the conduct of forest practices on forest land and describe administrative procedures necessary to implement those standards. (4-11-06)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Unless otherwise required by context as used in these rules: (10-14-75)

01. Act. The Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (7-1-96)

02 Acceptable Tree Species. Any of the tree species normally marketable in the region, which are suitable to meet stocking requirements. Acceptable trees must be of sufficient health and vigor to assure growth and harvest. (7-1-96)

03. Additional Hazard. The debris, slashings, and forest fuel resulting from a forest practice. (10-14-75)

04. Average DBH. Average diameter in inches of trees cut or to be cut, measured at four and one-half (4.5) feet above mean ground level on standing trees. All trees to be cut that do not have a measurable DBH will fall in the one inch (1") class. (7-1-96)

05. Best Management Practice (BMP). A practice or combination of practices determined by the board, in consultation with the department and the forest practices advisory committee, to be the most effective and practicable means of preventing or reducing the amount of nonpoint pollution generated by forest practices. BMPs shall include, but not be limited to, those management practices included in these rules. (9-11-90)

06. Board. The Idaho State Board of Land Commissioners or its designee. (10-14-75)

07. Buffer Strip. A protective area adjacent to an area requiring special attention or protection. (10-14-75)

08. Chemicals. Substances applied to forest lands or timber to accomplish specific purposes and includes pesticides, as defined in the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code, fertilizers, soil amendments, road dust abatement products and other materials that may present hazards to the environment.(7-1-98)

09. Constructed Skid Trail. A skid trail created by the deliberate cut and fill action of a dozer or skidder blade resulting in a road-type configuration. (7-1-96)

10. Commercial Products. Saleable forest products of sufficient value to cover cost of harvest and transportation to available markets. (4-11-06)

11. Condition of Adjoining Area. Those fuel conditions in adjoining areas that relate to spread of fire and to economic values of the adjoining area. (1-24-78)

12. Contaminate. To introduce into the atmosphere, soil, or water sufficient quantities of substances that are injurious to public health, safety, or welfare or to domestic, commercial, industrial, agricultural or recreational uses or to livestock, wildlife, fish or other aquatic life. (4-11-06)

13. Cross-Ditch. A diversion ditch and/or hump in a trail or road for the purpose of carrying surface water runoff into the vegetation, duff, ditch, or other dispersion area so that it does not gain the volume and velocity which causes soil movement and erosion. (3-13-90)

14. **Cull**. Nonmerchantable, alive, standing trees of greater height than twenty (20) feet. (1-24-78)

15. **Department**. The Idaho Department of Lands. (10-14-75)

16. **Deterioration Rate**. Rate of natural decomposition and compaction of fuel debris which decreases the hazard and varies by site. (1-24-78)

17. **Director**. The Director of the Idaho Department of Lands or his designee. (10-14-75)

18. **Emergency Forest Practice**. A forest practice initiated during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event to minimize damage to forest lands, timber, or public resources. (10-14-75)

19. **Fertilizers**. Any substance or any combination or mixture of substances used principally as a source of plant food or soil amendment. (10-14-75)

20. **Fire Trail**. Access routes that are located and constructed in a manner to be either useful in fire control efforts or deterring the fire spread in the hazard area. (10-14-75)

21. **Forest Land**. Federal, state and private land growing forest tree species which are, or could be at maturity, capable of furnishing raw material used in the manufacture of lumber or other forest products. The term includes federal, state and private land from which forest tree species have been removed but have not yet been restocked. It does not include land affirmatively converted to uses other than the growing of forest tree species. (7-1-96)

22. **Forest Practice**. (10-14-75)

a. The harvesting of forest tree species including felling, bucking, yarding, decking, loading and hauling; road construction, improvement or maintenance including installation or improvement of bridges, culverts or structures which convey stream flows within the operating area; also including the clearing of forest land for conversion to non-forest use when harvest occurs; (7-1-98)

b. Road construction, reconstruction or maintenance of existing roads including installation or improvement of bridges, culverts or structures which convey streams not within the operating area associated with harvesting of forest tree species; (7-1-98)

c. Reforestation; (10-14-75)

d. Use of chemicals for the purpose of managing forest tree species or forest land; (7-1-98)

e. The management of slash resulting from harvest, management or improvement of forest tree species or the use of prescribed fire on forest land. (7-1-98)

f. "Forest Practice" shall not include preparatory work such as tree marking, surveying, and road flagging or removal or harvesting of incidental vegetation from forest lands; such as berries, ferns, greenery, mistletoe, herbs, mushrooms, or other products which cannot normally be expected to result in damage to forest soils, timber, or public resources. (10-14-75)

23. **Forest Regions**. Two (2) regions of forest land: one (1) being north of the Salmon River and one (1) being south of the Salmon River. (7-1-96)

24. **Forest Type**. Five forest types in Idaho are defined as follows: (3-20-14)

a. North Idaho grand fir/western red cedar (NIGF): moist to wet interior forests with western red cedar, western hemlock, and grand fir being primary climax species, found in forests north of the Clearwater/ and Lochsa Rivers. (3-20-14)

b. Central Idaho grand fir/western red cedar (CIGF): productive conifer forests found in forests between the Lochsa River Basin and the Salmon River, characterized by stands having western red cedar and grand fir as climax species, with a mixed-conifer overstory increasingly comprised of ponderosa pine, Douglas-fir, and larch in the river breaks canyon-lands. Stocking levels are generally lower than that of the NIGF stands. (3-20-14)

c. South Idaho grand fir (SIGF): mixed-conifer forests, dominated by ponderosa pine and Douglas-fir, found south of the Salmon River with grand fir and occasionally western red cedar being the stand climax species. (3-20-14)

d. Western hemlock-subalpine fir (WH): higher-elevation, moist, cool interior forests dominated by western hemlock, mountain hemlock, and/or subalpine fir. (3-20-14)

e. Douglas-fir-ponderosa pine (PP): drier forests dominated by ponderosa pine and Douglas-fir, generally found in lower-elevation, dry sites. (3-20-14)

25. Fuel Quantity. The diameter, the number of stems and the predominate species to be cut or already cut, and the size of the continuous thinning block all of which determine quantity of fuel per unit of area. (1-24-78)

26. Ground Based Equipment. Mobile equipment such as tractors, dozers, skidders, excavators, loaders, mechanized harvesters and forwarders used for harvesting, site preparation or hazard reduction. This does not include cable systems associated with stationary yarding equipment. (4-4-13)

27. Habitat Types. Forest land capable of producing similar plant communities at climax. (7-1-96)

28. Harvesting. A commercial activity related to the cutting or removal of forest tree species to be used as a forest product. A commercial activity does not include the cutting or removal of forest tree species by a person for his own personal use. (10-14-75)

29. Hazard. Any vegetative residue resulting from a forest practice which constitutes fuel. (1-24-78)

30. Hazard Offset. Improvements or a combination of practices which reduces the spread of fire and increases the ability to control fires. (10-14-75)

31. Hazard Points. The number of points assigned to certain hazardous conditions on an operating area, to actions designed to modify conditions on the same area or to actions by the operator, timber owner or landowner to offset the hazardous conditions on the same area. (1-24-78)

32. Hazard Reduction. The burning or physical reduction of slash by treatment in some manner which will reduce the risk from fire after treatment. (10-14-75)

33. Lake. A body of perennial standing open water, natural or human-made, larger than one (1) acre in size. Lakes include the beds, banks or wetlands below the ordinary high water mark. Lakes do not include drainage or irrigation ditches, farm or stock ponds, settling or gravel ponds. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

34. Landowner. A person, partnership, corporation, or association of whatever nature that holds an ownership interest in forest lands, including the state. (10-14-75)

35. Large Organic Debris (LOD). Live or dead trees and parts or pieces of trees that are large enough or long enough or sufficiently buried in the stream bank or bed to be stable during high flows. Pieces longer than the channel width or longer than twenty (20) feet are considered stable. LOD creates diverse fish habitat and stable stream channels by reducing water velocity, trapping stream gravel and allowing scour pools and side channels to form. (3-13-90)

36. Merchantable Material. That portion of forest tree species suitable for the manufacture of commercial products which can be merchandised under normal market conditions. (10-14-75)

37. **Merchantable Stand of Timber**. A stand of trees that will yield logs or fiber: (7-1-96)

a. Suitable in size and quality for the production of lumber, plywood, pulp, or other forest products; (10-14-75)

b. Of sufficient value at least to cover all costs of harvest and transportation to available markets. (10-14-75)

38. **Noncommercial Forest Land**. Habitat types not capable of producing twenty (20) cubic feet per acre per year. (7-1-96)

39. **Operator**. A person who conducts or is required to conduct a forest practice. (10-14-75)

40. **Operating Area**. That area where a forest practice is taking place or will take place. (1-24-78)

41. **Ordinary High Water Mark**. That mark on all water courses, which will be found by examining the beds and banks and ascertaining where the presence and action of waters are so common and usual, and so long continued in all ordinary years as to mark upon the soil a character distinct from that of the abutting upland, in respect to vegetation, as that condition exists on the effective date of this chapter, or as it may naturally change thereafter. (10-14-75)

42. **Outstanding Resource Water**. A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been so designated by the legislature. ORW constitutes as outstanding national or state resource that requires protection from nonpoint activities, including forest practices, that may lower water quality. (7-1-96)

43. **Partial Cutting**. The well distributed removal of a portion of the merchantable volume in a stand of timber. This includes seed tree, shelterwood, or individual tree selection harvesting techniques. (10-14-75)

44. **Prescribed Fire**. The controlled application of fire to wildland fuels in either their natural or modified state, under such conditions of weather, fuel moisture and soil moisture, to allow the fire to be confined to a predetermined area and at the same time to produce the intensity of heat and rate of spread required to meet planned objectives. (7-1-96)

45. **Present Condition of Area**. The amount or degree of hazard present before a thinning operation commences. (1-24-78)

46. **Public Resource**. Water, fish, and wildlife, and in addition means capital improvements of the State or its political subdivisions. (10-14-75)

47. **Reforestation**. The establishment of an adequately stocked stand of trees of species acceptable to the department to replace the ones removed by a harvesting or a catastrophic event on commercial forest land. (10-14-75)

48. **Relative Stocking**. A measure of site occupancy calculated as a ratio comparison of actual stand density to the biological maximum density for a given forest type. This ratio, expressed as a percentage, shows the extent to which trees utilize a plot of forestland. (3-20-14)

49. **Relief Culvert**. A structure to relieve surface runoff from roadside ditches to prevent excessive buildup in volume and velocity. (10-14-75)

50. **Rules**. Rules adopted by the Board pursuant to Section 38-1304, Idaho Code. (7-1-96)

51. **Slash**. Any vegetative residue three inches (3") and under in diameter resulting from a forest practice or the clearing of land. (7-1-96)

52. **Site**. An area considered as to its ecological factors with reference to capacity to produce forest vegetation; the combination of biotic, climatic, and soil conditions of an area. (10-14-75)

53. **Site Factor**. A combination of percent of average ground slope and predominate aspect of the forest practice area which relate to rate of fire spread. (1-24-78)

54. **Site Specific Best Management Practice**. A BMP that is adapted to and takes account of the specific factors influencing water quality, water quality objectives, on-site conditions, and other factors applicable to the site where a forest practice occurs, and which has been approved by the Department, or by the Board in consultation with the Department and the Forest Practices Advisory Committee. (7-1-96)

55. **Size of Thinning Block**. Acres of continuous fuel creating an additional hazard within a forest practice area. Distance between the perimeter of thinning blocks containing continuous fuel must be a minimum of six (6) chains apart to qualify as more than one (1) block. (1-24-78)

56. **Snags**. Dead, standing trees twenty (20) feet and greater in height. (1-24-78)

57. **Soil Erosion**. Movement of soils resulting from forest practices. (10-14-75)

58. **Soil Stabilization**. The minimizing of soil movement. (10-14-75)

59. **State**. The state of Idaho or other political subdivision thereof. (10-14-75)

60. **Stream**. A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously or intermittently flowing water. Definite beds are defined as having a sandy or rocky bottom which results from the scouring action of water flow. Any reference in these rules to Class I streams shall also apply to lakes. (7-1-96)

a. Class I streams are used for domestic water supply or are important for the spawning, rearing or migration of fish. Such waters shall be considered to be Class I upstream from the point of domestic diversion for a minimum of one thousand three hundred and twenty (l,320) feet. (11-7-86)

b. Class II streams are usually headwater streams or minor drainages that are used by only a few, if any, fish for spawning or rearing. Where fish use is unknown, consider streams as Class II where the total upstream watershed is less than two hundred and forty (240) acres in the north forest region and four hundred and sixty (460) acres in the south forest region. Their principle value lies in their influence on water quality or quantity downstream in Class I streams. (7-1-96)

c. Class I Stream Protection Zone means the area encompassed by a slope distance of seventy-five (75) feet on each side of the ordinary high water marks. (Figure 1.)

FIGURE 1

CLASS 1 STREAM PROTECTION ZONE

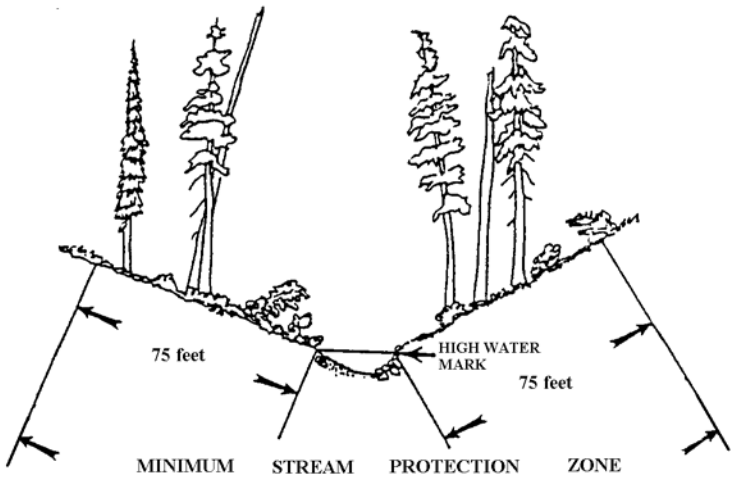

(7-1-96)

d. Class II Stream Protection Zone means the area encompassed by a minimum slope distance of thirty (30) feet on each side of the ordinary high water marks. (Figure 2.) For Class II streams that do not contribute surface flow into Class I streams, provide soil stabilization and water filtering effects by leaving undisturbed soils in widths sufficient to prevent washing of sediment. In no case shall this width be less than five (5) feet slope distance on each side of the ordinary high water marks.

FIGURE 2
CLASS II STREAM PROTECTION ZONE

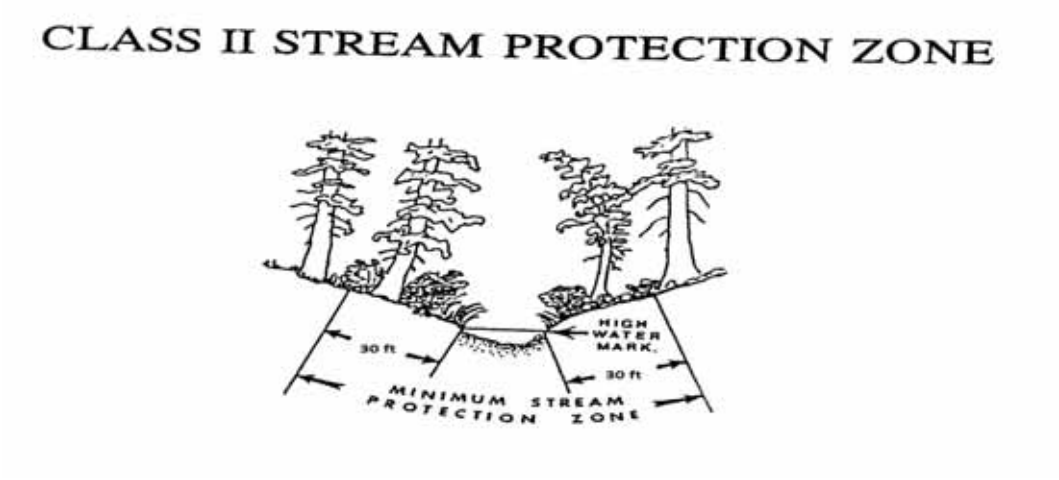

(7-1-96)

61. Timber Owner. A person, partnership, corporation, or association of whatever nature, other than the landowner, that holds an ownership interest in forest tree species on forest land. (10-14-75)

62. Time of Year of Forest Practice. Those combinations of months during which time the forest practice is taking place. Points assigned are: October through December - two (2) points; August through September - four (4) points; January through April - seven (7) points; May through July - ten (10) points. (1-24-78)

011. -- 019. (RESERVED)

020. GENERAL RULES.

01. Compliance. Practices contained within a rule shall be complied with to accomplish the purpose to which the rule is related. (8-13-85)

a. If conditions of sites or activities require the application of practices which differ from those prescribed by the rules, the operator shall obtain a variance according to the following procedure: (8-13-85)

i. The operator shall submit a request for variance to the department in writing. The request shall include a description of the site and particular conditions which necessitate a variance, and a description of proposed practices which, if applied, will result in a violation of the rules. (8-13-85)

ii. Within fourteen (14) calendar days the department shall evaluate the request and notify the operator in writing of the determination to allow or disallow the variance request. (7-1-96)

iii. All practices authorized under this procedure shall provide for equivalent or better results over the long term than the rules which are superseded to insure site productivity, water quality and fish and wildlife habitat. A variance can be applied only at approved sites. (8-13-85)

b. Practices shall also be in compliance with the Stream Channel Alteration Act (Title 42, Chapter 38, Idaho Code), Idaho Water Quality Standards and Waste Water Treatment Requirements (Title 39, Chapter l, Idaho Code), the Idaho Pesticide Law (Title 22, Chapter 34, Idaho Code), and the Hazardous Waste Management Act of 1983 (Title 39, Chapter 44, Idaho Code), and rules and regulations pursuant thereto. (8-13-85)

c. Water may be diverted from a stream and used at any time to carry out Idaho forest practices and for forest road dust abatement, provided that: 1) The total daily volume diverted is no greater than two-tenths (0.2) acre-feet (65,170 gallons) from a single stream; and 2) The rate of diversion shall never exceed twenty-five (25) percent of the rate of flow then available in the stream at the point of diversion for these purposes. (5-8-09)

i. No person shall, under this Section 020, divert water from an irrigation canal, irrigation reservoir, or other irrigation facility while water is lawfully diverted, stored, captured, conveyed, used or otherwise physically controlled by an irrigator, irrigation district or canal company. (5-8-09)

ii. If water is to be diverted from a stream within a water district, or from a stream from which an irrigation delivery entity diverts water, a person diverting water shall give notice to the watermaster of the intent to divert water for the purposes as authorized herein. (5-8-09)

iii. Water diversion intakes used for diversions under Subsection 020.01 shall be screened with a maximum screen mesh size as follows: 1) fish-bearing Class I streams: 3/32 inch, and 2) all other streams: 1/4 inch. (5-8-09)

d. Any alternative conservation measure having received a favorable Biological Opinion or Incidental Take Permit from the National Marine Fisheries Service or US Fish and Wildlife Service will be considered as complying with these rules. (4-4-13)

02. Conversion of Forest Lands. Conversions require a notification be filed, and compliance with all rules except those relating to reforestation. On converted parcels larger than one (1) acre, plant acceptable vegetative cover sufficient to maintain soil productivity and minimize erosion. Cover shall be established within one (1) year of completion of the forest practice except that the director may grant an extension of time if weather or other conditions interfere. Within three (3) years of completion of the forest practice, the director shall determine if the conversion has been accomplished by: (7-1-96)

a. The presence or absence of improvements necessary for use of land for its intended purpose; (7-1-96)

b. Evidence of actual use of the land for the intended purpose. (10-14-75)

c. If the conversion has not been accomplished within three (3) years of the completion of harvest, supplemental reforestation Subsection 050.06 applies. (7-1-96)

03. Annual Review and Consultation. The director shall, at least once each year, meet with other state agencies and the Forest Practices Advisory Committee and review recommendations for amendments to rules, new rules, or repeal of rules. He shall then report to the board a summary of such meeting or meetings, together with recommendations for amendments to rules, new rules, or repeal of rules. (10-14-75)

04. Consultation. The director shall consult with other state agencies and departments concerned with the management of forest environment where expertise from such agencies or departments is desirable or necessary. (10-14-75)

a. The Idaho Water Quality Standards and Wastewater Treatment Requirements, IDAPA 58.01.02, (Title 39, Chapter 1, Idaho Code) reference the Forest Practice Rules as approved best management practices and describe a procedure of modifying the practices based on monitoring and surveillance. The director shall review petitions from Idaho Department of Environmental Quality for changes or additions to the rules according to Administrative Procedures Act (Title 67, Chapter 52, Idaho Code) and make recommendations for modification to the Board of Land Commissioners. (9-20-88)

05. Notification of Forest Practice. (10-14-75)

a. Before commencing a forest practice or a conversion of forest lands the department shall be notified as required in Paragraph 020.05.b. The notice shall be given by the operator. However, the timber owner or landowner satisfies the responsibility of the operator under this Subsection. When more than one forest practice is to be conducted in relation to harvesting of forest tree species, one notice including each forest practice to be conducted shall be filed with the department. (5-8-09)

b. The notification required by Paragraph 020.05.a. shall be on forms prescribed and provided by the department and shall include the name and address of the operator, timber owner, and landowner; the legal description of the area in which the forest practice is to be conducted; whether the forest practice borders an outstanding resource water and other information the department considers necessary for the administration of the rules adopted by the board under Section 38-1304, Idaho Code. All notifications must be formally accepted by the department before any forest practice may begin. Promptly upon formal acceptance of the notice but not more than fourteen (14) calendar days from formal acceptance of the notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notification. The department shall make available to the operator, timber owner, and landowner a copy of the rules. (7-1-96)

c. An operator, timber owner, or landowner, whichever filed the original notification, shall notify the department of any subsequent change in the information contained in the notice within thirty (30) calendar days of the change. Promptly upon receipt of notice of change, but not to exceed fourteen (14) calendar days from receipt of notice, the department shall mail a copy of the notice to whichever of the operator, timber owner, or landowner that did not submit the notice of change. (7-1-96)

d. The notification is valid for the same period as set forth in the certificate of compliance under Section 38-122, Idaho Code. At the expiration of the notification, if the forest practice is continuing, the notification shall be renewed using the same procedures provided for in this section. (4-21-92)

e. If the notification required by Paragraph 020.05.a. of this section indicates that at the expiration of the notification that the forest practice will be continuing, the operator, timber owner, or landowner, at least thirty (30) calendar days prior to the expiration of the notification, shall notify the department and obtain a renewal of the notification. Promptly upon receipt of the request for renewal, but not to exceed fourteen (14) calendar days from

receipt of the request, the department shall mail a copy of the renewed notification to whichever of the operator, timber owner, or landowner that did not submit the request for renewal. (7-1-96)

06. Notification Exception. A notification of Forest Practice is required except for: (7-1-98)

a. Routine road maintenance, recreational uses, grazing by domestic livestock, cone picking, culture and harvest of Christmas trees on lands used solely for the production of Christmas trees, or harvesting of other minor forest products. (10-14-75)

b. Non-commercial cutting and removal of forest tree species by a person for his own personal use. (10-14-75)

c. Clearing forest land for conversion to surface mining or dredge and placer mining operations under a reclamation plan or dredge mining permit. (9-20-88)

07. Emergency Forest Practices. No prior notification shall be required for emergency forest practices necessitated by and commenced during or immediately after a fire, flood, windthrow, earthquake, or other catastrophic event. Within forty-eight (48) hours after commencement of such practice, the operator, timber owner, or landowner shall notify the director with an explanation of why emergency action was necessary. Such emergency forest practices are subject to the rules herein, except that the operator, timber owner, or landowner may take any reasonable action to minimize damage to forest lands, timber, or public resource from the direct or indirect effects of the catastrophic event. (7-1-96)

08. Duty of Purchaser. The initial purchaser of forest tree species which have been harvested from forest lands shall, before making such purchase or contract to purchase or accepting delivery of the same, receive and keep on file a copy of the notice required by Section 38-1306, Idaho Code relating to the harvesting practice for which the forest tree species are being acquired by the initial purchaser. Such notice shall be available for inspection upon request by the department at all reasonable times. (7-1-96)

09. State Divided into Regions. For the purpose of administering this Act, the State is divided into two (2) forest regions: one (1) north of the Salmon River and one (1) south of the Salmon River. (7-1-96)

10. Regions Divided into Forest Habitat Types. For the purpose of further refining the on-the-ground administration of the Act, the forest regions can be divided into Habitat Types. (7-1-96)

021. -- 029. (RESERVED)

030. TIMBER HARVESTING.

01. Purpose. Harvesting of forest tree species is a part of forest management by which wood for human use is obtained and by which forests are established and tended. It is recognized that during harvesting operations there will be a temporary disturbance to the forest environment. It is the purpose of these rules to establish minimum standards for forest practices that will maintain the productivity of the forest land and minimize soil and debris entering streams and protect wildlife and fish habitat. (10-14-75)

02. Quality of Residual Stocking. Reforestation is required if harvesting reduces stocking of acceptable trees below minimums of Subsection 050.04. (7-1-96)

03. Soil Protection. Select for each harvesting operation the logging method and type of equipment adapted to the given slope, landscape and soil properties in order to minimize soil erosion. (8-13-85)

a. An operation that uses ground-based equipment shall not be conducted if it will cause rutting, deep soil disturbance, or accelerated erosion. On slopes exceeding forty-five percent (45%) gradient and which are immediately adjacent to a Class I or II stream, ground-based equipment shall not be used except with an approved variance. Where slopes in the area to be logged exceed forty-five percent (45%) gradient the operator, landowner or timber owner shall notify the department of these steep slopes upon filing the notification as provided for in Subsection 020.05. (4-4-13)

b. Limit the grade of constructed skid trails on geologically unstable, saturated, or highly erodible or easily compacted soils to a maximum of thirty percent (30%). (7-1-96)

c. In accordance with appropriate silvicultural prescriptions, skid trails shall be kept to the minimum feasible width and number. Tractors used for skidding shall be limited to the size appropriate for the job. (8-13-85)

d. Uphill cable yarding is preferred. Where downhill yarding is used, reasonable care shall be taken to lift the leading end of the log to minimize downhill movement of slash and soils. (8-13-85)

04. Location of Landings, Skid Trails, and Fire Trails. Locate landings, skid trails, and fire trails on stable areas to prevent the risk of material entering streams. (10-14-75)

a. All new or reconstructed landings, skid trails, and fire trails shall be located on stable areas outside the appropriate stream protection zones. Locate fire and skid trails where sidecasting is held to a minimum. (3-13-90)

b. Minimize the size of a landing to that necessary for safe economical operation. (8-13-85)

c. To prevent landslides, fill material used in landing construction shall be free of loose stumps and excessive accumulations of slash. On slopes where sidecasting is necessary, landings shall be stabilized by use of seeding, compaction, riprapping, benching, mulching or other suitable means. (8-13-85)

05. Drainage Systems. For each landing, skid trail or fire trail a drainage system shall be provided and maintained that will control the dispersal of surface water to minimize erosion. (4-21-92)

a. Stabilize skid trails and fire trails whenever they are subject to erosion, by water barring, cross draining, outsloping, scarifying, seeding or other suitable means. This work shall be kept current to prevent erosion prior to fall and spring runoff. (8-13-85)

b. Reshape landings as needed to facilitate drainage prior to fall and spring runoff. Stabilize all landings by establishing ground cover or by some other means within one (1) year after harvesting is completed. (8-13-85)

06. Treatment of Waste Materials. All debris, overburden, and other waste material associated with harvesting shall be left or placed in such a manner as to prevent their entry by erosion, high water, or other means into streams. (10-14-75)

a. Wherever possible trees shall be felled, bucked, and limbed in such a manner that the tree or any part thereof will fall away from any Class I streams. Continuously remove slash that enters Class I streams as a result of harvesting operations. Continuously remove other debris that enters Class I streams as a result of harvesting operations whenever there is a potential for stream blockage or if the stream has the ability for transporting such debris. Place removed material five (5) feet slope distance above the ordinary high water mark. (3-13-90)

b. Remove slash and other debris that enters Class II streams whenever there is a potential for stream blockage or if the stream has the ability for transporting the debris immediately following skidding and place removed material above the ordinary high water mark or otherwise treat as prescribed by the department. No formal variance is required. (11-7-86)

c. Deposit waste material from construction or maintenance of landings and skid and fire trails in geologically stable locations outside of the appropriate Stream Protection Zone. (8-13-85)

07. Stream Protection. During and after forest practice operations, stream beds and streamside vegetation shall be protected to leave them in the most natural condition as possible to maintain water quality and aquatic habitat. (8-13-85)

a. Lakes require an approved site specific riparian management prescription prior to conducting forest practices within the stream protection zone. (7-1-96)

b. Operations that utilize ground-based equipment that result in logs being skidded or forwarded in or through streams shall not be permitted. When streams must be crossed, adequate temporary structures to carry stream flow shall be installed. Cross the stream at right angles to its channel if at all possible. (Construction of hydraulic structures in stream channels is regulated by the Stream Channel Protection Act - Title 42, Chapter 38, Idaho Code). Remove all temporary crossings immediately after use and, where applicable, water bar the ends of the skid trails. (4-4-13)

c. Operation of ground based equipment shall not be allowed within the Stream Protection Zone except at approaches to stream crossings. (7-1-96)

d. When cable yarding is necessary, across or inside the Stream Protection Zones it shall be done in such a manner as to minimize stream bank vegetation and channel disturbance. (8-13-85)

e. Provide for large organic debris (LOD), shading, soil stabilization, wildlife cover and water filtering effects of vegetation along streams. (7-1-96)

i. Leave shrubs, grasses, and rocks wherever they afford shade over a stream or maintain the integrity of the soil near a stream. (3-20-14)

ii. Adjacent to all Class I streams, to maintain and enhance shade and large woody debris recruitment, landowners must comply with one of the two following options defining tree retention. The Relative Stocking per acre (RS) referenced in the options is calculated according to the relative-stocking-contribution table in Subparagraph 030.07.e.ii. (3-20-14)

(1) Option 1: Within twenty-five (25) feet from the ordinary high water mark on each side of the stream, live conifers and hardwoods will be retained to maintain a minimum relative stocking per acre of sixty (60). A relative stocking per acre of thirty (30) must be retained in the stream protection zone between twenty-five (25) feet and seventy-five (75) feet from the ordinary high water mark on both sides of the stream. (3-20-14)

(2) Option 2: Within fifty (50) feet from the ordinary high water mark on each side of a stream, live conifers and hardwoods will be retained to maintain a minimum relative stocking per acre of sixty (60). A relative stocking per acre of ten (10) must be retained in the stream protection zone between fifty (50) feet and seventy-five (75) feet from the ordinary high water mark on both sides of the stream. (3-20-14)

(3) Only one (1) option may be implemented within the stream protection zones of a harvesting unit covered by a single notification. Landowners are strongly encouraged to retain all trees immediately adjacent to the stream. (3-20-14)

Forest Type	Per Tree Contribution to Relative Stocking by Diameter Class						
	Diameter Class (DBH in inches)						
	4-7.9"	8-11.9"	12-15.9"	16-19.9"	20-23.9"	24-27.9"	28-31.9"
NIGF (North Idaho Grand Fir)	0.097	0.209	0.347	0.506	0.683	0.878	1.088
CIGF (Central Idaho Grand Fir)	0.113	0.244	0.405	0.59	0.797	1.024	1.27
SIGF (Southern Idaho Grand Fir)	0.136	0.293	0.486	0.708	0.957	1.229	1.524
WHSF (Western Hemlock-Subalpine Fir)	0.123	0.267	0.442	0.644	0.87	1.117	1.385
DFPP (Douglas-fir-Ponderosa Pine)	0.151	0.326	0.54	0.787	1.063	1.366	1.693

(3-20-14)

iii. To protect filtering and shade effects of streamside vegetation adjacent to all Class II streams

following harvesting and hazard management activities, live trees will be retained or new trees established within thirty (30) feet on each side of the streams ordinary high water mark to comply with the minimum stocking standards expressed in Subsection 050.04. (3-20-14)

iv. During harvesting, carefully remove timber from the Stream Protection Zone in such a way that large organic debris, shading and filtering effects are maintained and protected. When portions of felled trees fall into or over a Class I stream, leave the portion consistent with the LOD definition of Subsection 010.35. (4-11-06)

v. When harvesting portions of trees that have fallen naturally into or over a Class I stream, leave the portion(s) over the stream consistent with the LOD definition of Subsection 010.35. Leaving the section with the root ball attached is preferred. (4-11-06)

vi. During harvesting operations, portions of felled or bucked trees not meeting the LOD definition shall be removed, consistent with the slash removal requirements of Subsection 030.06. (4-11-06)

vii. To obtain a variance from the standing tree and shade requirements, the operator must develop a site specific riparian management prescription and submit it to the department for approval. The prescription should consider stream characteristics and the need for large organic debris, stream shading and wildlife cover which will achieve the objective of these rules. (4-11-06)

viii. Stream width shall be measured as average between ordinary high water marks. (3-13-90)

f. Direct ignition of prescribed burns will be limited to hand piles within stream protection zones (SPZ), all other direct ignitions shall occur outside of SPZs, so a backing (cooler) fire will more likely occur within the SPZ. (4-11-06)

i. Hand piles shall be at least five (5) feet from the ordinary high water-mark of streams. (4-11-06)

ii. No mechanical piling of slash or natural forest fuels is allowed in a SPZ (an exception is filter windrows for erosion control which shall not be ignited. (4-11-06)

08. Maintenance of Productivity and Related Values. Harvesting practices will first be designed to assure the continuous growing and harvesting of forest tree species by suitable economic means and also to protect soil, air, water, and wildlife resources. (10-14-75)

a. Where major scenic attractions, highways, recreation areas or other high-use areas are located within or traverse forest land, give special consideration to scenic values by prompt cleanup and regeneration. (10-14-75)

b. Give special consideration to preserving any critical aquatic or wildlife habitat, including snags, especially within stream protection zones. Wherever practical, preserve fruit, nut, and berry producing trees and shrubs. (4-4-13)

c. Avoid conducting operations along or through bogs, swamps, wet meadows, springs, seeps, wet draws or other locations where the presence of water is indicated by associated vegetation; temporary crossings can be used as referred to in Paragraph 030.07.b. Protect soil and vegetation from disturbance which would cause adverse affects on water quality, quantity and wildlife and aquatic habitat. (4-4-13)

d. Harvesting operations within a single ownership, in which essentially all trees have been removed in one operation, shall be planned so that adequate wildlife escape cover (e.g. topography, vegetation, stream protection zones, etc.) is available within one-quarter (¼) mile. (4-4-13)

031. CUMULATIVE WATERSHED EFFECTS.

01. Purpose. In accordance with Section 38-1305(8), Idaho Code, the department has developed methods for controlling cumulative watershed effects (CWE). The methods and procedures are described in the department manual entitled "Forest Practices Cumulative Watershed Effects Process for Idaho." Proper application of

this process will help ensure watersheds are managed to protect water quality so that beneficial uses are supported. This rule describes how the process is to be implemented on forest land. (7-1-98)

02. Process Application. (7-1-98)

a. Application of the CWE process and any resulting site-specific BMPs are encouraged but not mandatory. (7-1-98)

b. The process may be initiated by either the department, a watershed advisory group (WAG), or an individual landowner or group of landowners that collectively own at least twenty-five percent (25%) of the forested land in a watershed. In any case, a reasonable effort will be made to notify forest landowners within the watershed, and the landowners will be given the opportunity to participate in the process. (7-1-98)

c. The department shall be notified prior to the initiation of the CWE process. (7-1-98)

d. The department will review and approve the watershed assessment and CWE site-specific BMPs for compliance with the Forest Practices Act. (7-1-98)

03. Site-Specific BMP Implementation. Approved CWE site-specific BMPs are encouraged and applied on a voluntary basis. (7-1-98)

04. Site-Specific BMPs on Former Stream Segments of Concern. Practices approved by the department from 1989 through 1995 under former stream segments of concern rules remain in effect until revised by a CWE analysis, at which point the CWE site-specific BMPs would be mandatory. (7-1-98)

032. -- 039. (RESERVED)

040. ROAD CONSTRUCTION, RECONSTRUCTION AND MAINTENANCE.

01. Purpose. Provide standards and guidelines for road construction, reconstruction, and maintenance that will maintain forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

02. Road Specifications and Plans. Road specifications and plans shall be consistent with good safety practices. Plan each road to the minimum use standards adapted to the terrain and soil materials to minimize disturbances and damage to forest productivity, water quality, fish, and wildlife habitat. (4-5-00)

a. Plan transportation networks to avoid road construction within stream protection zones, except at approaches to stream crossings. Leave or reestablish areas of vegetation between roads and streams. (4-5-00)

b. Roads shall be no wider than necessary to safely accommodate the anticipated use. Minimize cut and fill volumes by aligning the road to fit the natural terrain features as closely as possible. Adequately compact fill material. Dispose of excess material on geologically stable sites. (4-5-00)

c. Plan roads to drain naturally by out-sloping or in-sloping with cross-drainage and by grade changes where possible. Plan dips, water bars, cross-drainage, or subsurface drainage on roads when necessary. (4-5-00)

d. Relief culverts and roadside ditches shall be planned whenever reliance upon natural drainage would not protect the running surface, cut slopes or fill slopes. Plan culvert installations to prevent erosion of the fill by properly sizing, bedding and compacting. Plan drainage structures to achieve minimum direct discharge of sediment into streams. (4-5-00)

e. The following rule applies to installations of new culverts and re-installations during road reconstructions or reinstallations caused by flood or other catastrophic events. Culverts used for temporary crossings are exempt from the fifty (50) year design requirement, but they must be removed immediately after they are no longer needed and before the spring run-off period. (4-5-00)

i. Culvert installations on fish bearing streams must provide for fish passage. (4-5-00)

ii. Design culverts for stream crossings to carry the fifty (50) year peak flow using engineering methods acceptable to the department or determine culvert size by using the culvert sizing tables below. The minimum size culvert required for stream crossings shall not be less than eighteen (18) inches in diameter, with the exception of that area of the Snake River drainage upstream from the mouth of the Malad River, including the Bear River basin, where the minimum size shall be fifteen (15) inches.

CULVERT SIZING TABLE - I
USE FOR NORTH IDAHO AND THE SALMON RIVER DRAINAGE

This culvert sizing table is used for the area of the state north of the Salmon River and within the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
less than 32	18	6
33 - 74	24	12
75 - 141	30	20
142 - 240	36	32
241 - 366	42	46
367 - 546	48	65
547 - 787	54	89
788 - 1027	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1028 - 1354	66	142
1355 - 1736	72	176
1737 - 2731	84	260
2732 - 4111	96	370
4112 - 5830	108	500
5831 - 8256	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures.

CULVERT SIZING TABLE - II
USE FOR SOUTH IDAHO

This culvert sizing table is used for the area of the state south of the Salmon River and outside the South Fork Salmon River drainage. It was developed to carry the fifty (50) year peak flow at a headwater-to-diameter ratio of one (1).

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
less than 72	18#	6
73 - 150	24	12
151 - 270	30	20
271 - 460	36	32
461 - 720	42	46
721 - 1025	48	65
1026 - 1450	54	89
1451 - 1870	60	112

Strongly consider having culverts larger than sixty (60) inches designed, or consider alternative structures, such as bridges, mitered culverts, arches, etc.

Watershed Area (acres)	Required Culvert Diameter (inches)	Culvert Capacity (in cubic feet/sec)
1871 - 2415	66	142
2416 - 3355	72	176
3356 - 5335	84	260
5336 - 7410	96	370
7411 - 9565	108	500
9566 - 11780	120	675

Culverts larger than one hundred twenty (120) inches must be designed; consider alternative structures.

See exception for southeast Idaho in Subparagraph 040.02.a.ii. of this rule. (4-5-00)

iii. Relief culverts, and those used for seeps, springs, wet areas, and draws shall not be less than twelve (12) inches in diameter for permanent installations. (7-1-96)

f. On existing roads that are not reconstructed or damaged by catastrophic events, landowners or operators are encouraged, but not required, to replace or provide mitigation for culverts that do not provide for fish passage in accordance with Subparagraph 040.02.e.i. or cannot carry the fifty (50) year peak flow of Subparagraph 040.02.e.ii. (4-11-06)

g. Stream crossings, including fords, shall be minimum in number and planned and installed in compliance with the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and with culvert sizing requirements of Paragraph 040.02.e. Fords are an acceptable stream crossing structure on small, shallow streams, with flat, less than four percent (4%) gradients. Fords should cross the stream at right angles. Approaches shall be adequately cross-drained and rocked for at least seventy-five (75) feet. During times of salmonid spawning and egg incubation or to protect active domestic water diversions, use shall be limited to low water, dry, or frozen conditions and hauling or equipment crossing trips limited to minimize sediment delivery to streams. (4-11-06)

h. Avoid reconstruction of existing roads located in stream protection zones, except for approaches to

stream crossings, unless it will result in the least long-term impact on site productivity, water quality, and fish and wildlife habitat. Reconstruction of existing roads in stream protection zones will require a variance. Reusing existing roads in stream protection zones for skidding or landing logs shall require a variance. Reusing existing roads in stream protection zones for hauling fully suspended logs only, where no reconstruction will occur, does not require a variance. (4-11-06)

03. Road Construction. Construct or reconstruct roads in a manner to prevent debris, overburden, and other material from entering streams. (4-5-00)

a. Roads shall be constructed in compliance with the planning guidelines of Subsection 040.02. (7-1-96)

b. Clear all debris generated during construction or maintenance which potentially interferes with drainage or water quality. Deposit excess material and slash on geologically stable sites outside the stream protection zones. (4-5-00)

c. Where exposed material (road surface, cut slopes or fill slopes, borrow pits, waste piles, etc.) is potentially erodible, and where sediments would enter streams, stabilize prior to fall or spring runoff by seeding, compacting, rocking, riprapping, benching, mulching or other suitable means. (4-5-00)

d. In the construction of road fills, compact the material to reduce the entry of water, minimize erosion, and settling of fill material. Minimize the amount of snow, ice, or frozen soil buried in embankments. No significant amount of woody material shall be incorporated into fills. Available slash and debris may be utilized as a filter windrow along the toe of the fill, but must meet the requirements of the Idaho Forestry Act and Fire Hazard Reduction Laws, Title 38, Chapters 1 and 4, Idaho Code. (4-5-00)

e. During and following operations on out-sloped roads, retain out-slope drainage and remove berms on the outside edge except those intentionally constructed for protection of road grade fills. (8-13-85)

f. Provide for drainage of quarries to prevent sediment from entering streams. (8-13-85)

g. Construct cross drains and relief culverts to minimize erosion of embankments. Installation of erosion control devices should be concurrent with road construction. Use riprap, vegetative matter, downspouts and similar devices to minimize erosion of the fill. Install drainage structures or cross drain incompleted roads which are subject to erosion prior to fall or spring runoff. Install relief culverts with a minimum grade of one percent (1%). (4-5-00)

h. Earthwork or material hauling shall be postponed during wet periods if, as a result, erodible material would enter streams. (4-5-00)

i. Cut slopes shall be reconstructed to minimize sloughing of material into road surfaces or ditchlines. Remove or stabilize material subject to sloughing concurrent with the construction operation. (4-5-00)

j. Roads constructed on slopes greater than sixty percent (60%) in unstable or erodible soils shall be full benched without fill slope disposal. At stream and draw crossings keep fills to a minimum. A variance is required if a full bench is not used. (4-5-00)

04. Road Maintenance. Conduct regular preventive maintenance operations to minimize disturbance and damage to forest productivity, water quality, and fish and wildlife habitat. (4-5-00)

a. Place all debris or slide material associated with road maintenance in a manner to prevent their entry into streams. (4-5-00)

b. Repair slumps, slides, and other erosion sources causing stream sedimentation to minimize sediment delivery. (4-5-00)

c. Active roads. An active road is a forest road being used for hauling forest products, rock and other

road building materials. The following maintenance shall be conducted on such roads. (8-13-85)

i. Culverts and ditches shall be kept functional. (8-13-85)

ii. During and upon completion of seasonal operations, the road surface shall be crowned, out-sloped, in-sloped or cross-ditched, and berms removed from the outside edge except those intentionally constructed for protection of fills. (4-5-00)

iii. The road surface shall be maintained as necessary to minimize erosion of the subgrade and to provide proper drainage. (8-13-85)

iv. Hauling shall be postponed during wet periods if necessary to minimize sediment delivery to streams. (4-5-00)

v. If road surface stabilizing materials are used, apply them in such a manner as to prevent their entry into streams. (4-5-00)

d. Incidental Haul Road. An incidental haul road is a multi-use road (residential traffic; its primary purpose is other than forest practices) that has log haul during active harvest activities. Active road maintenance requirements apply. Once active road maintenance is completed, no other maintenance is required under the Forest Practices Act (FPA). (4-11-06)

e. Inactive roads. An inactive road is a forest road (primary purpose is for forest practices) no longer used for commercial hauling but maintained for access (e.g., for fire control, forest management activities, recreational use, and occasional or incidental use for minor forest products harvesting). The following maintenance shall be conducted on inactive roads. (4-11-06)

i. Following termination of active use, ditches and culverts shall be cleared and the road surface shall be crowned, out-sloped or in-sloped, water barred or otherwise left in a condition to minimize erosion. Drainage structures shall be maintained thereafter as needed. (7-1-96)

ii. The roads may be permanently or seasonally blocked to vehicular traffic. (8-13-85)

f. Long-term Inactive Roads. A long-term inactive road is not intended to be used again in the near future but will likely be used again at some point in the future. No subsequent maintenance of a long-term inactive road is required after the following procedures are completed: (4-5-00)

i. The road is left in a condition suitable to control erosion by out-sloping, water barring, seeding, or other suitable methods. (8-13-85)

ii. The road is blocked to vehicular traffic. (8-13-85)

iii. The department may require the removal of bridges, culverts, ditches and unstable fills. Any bridges or culverts left in place shall be maintained by the landowner. (4-5-00)

g. Permanently Abandoned Roads. Permanently abandoned roads are not intended to be used again. All drainage structures must be removed and roadway sections treated so that erosion and landsliding are minimized. (4-5-00)

i. Drainage structures shall be removed and stream gradients restored to their natural slope. (4-5-00)

ii. The road prism shall be treated to break up compacted areas. (4-5-00)

iii. Fill slopes of roads within stream protection zones shall be pulled back to a stable configuration unless long-term stability has already been achieved. (4-5-00)

iv. Unstable sidehill fills shall be pulled back to a stable configuration. (4-5-00)

v. Ditch line erosion shall be controlled by cross-ditching, outsloping, or regrading to eliminate ditches. (4-5-00)

vi. All bare earth areas created by regrading, ripping, and drainage removal shall be stabilized by seeding, mulching, armoring, or other suitable means. (4-5-00)

05. Winter Operations. Due to risk of erosion and damage from roads and constructed skid trails inherent in winter logging, at minimum the following shall apply: (4-21-92)

a. Roads to be used for winter operations must have adequate surface and cross drainage installed prior to winter operations. Drain winter roads by installing rolling dips, driveable cross ditches, open top culverts, outsloping, or by other suitable means. (4-21-92)

b. During winter operations, roads will be maintained as needed to keep the road surface drained during thaws or break up. This may include active maintenance of existing drainage structures, opening of drainage holes in snow berms and installation of additional cross drainage on road surfaces by ripping, placement of native material or other suitable means. (4-21-92)

041. -- 049. (RESERVED)

050. RESIDUAL STOCKING AND REFORESTATION.

01. Purpose. The purpose of these rules is to provide for residual stocking and reforestation that will maintain a continuous growing and harvesting of forest tree species by describing the conditions under which reforestation will be required, specifying the minimum number of acceptable trees per acre, the maximum period of time allowed after harvesting for establishment of forest tree species, and for sites not requiring reforestation, to maintain soil productivity and minimize erosion. (7-1-96)

02. Quality of Residual Stocking. On any operation, trees left for future harvest shall be of acceptable species and adequately protected from harvest damage to enhance their survival and growth. This may be accomplished by locating roads and landings and by conducting felling, bucking, skidding, yarding, and decking operations so as to minimize damage to residual trees. Acceptable residual trees should have a minimum live crown ratio of thirty percent (30%), minimum basal scarring, and should not have dead or broken tops. When stands have a high percentage of unacceptable trees, consider stand replacement rather than intermediate cuttings. (7-1-96)

03. Sites Unpractical to Reforest. Sites unpractical to reforest, generally ponderosa pine and drier Douglas-fir habitat types, shall not be harvested below minimum stocking, unless the site is converted to some other use, or in instances of wildfire, insects, disease or other natural causes where salvage of the damaged timber is planned. (4-4-13)

a. When harvesting timber on these sites, one (1) of the following actions must be taken: (4-4-13)

i. Establish a new stand by leaving seed trees on the site and inter-planting at least once within five (5) years of completing the harvest, if needed to meet minimum stocking. (4-4-13)

ii. Establish a new stand of timber by planting the site with an acceptable tree species, and inter-planting at least once within five (5) years of the original planting, if needed to meet minimum stocking. (4-4-13)

b. If the efforts listed in Subparagraphs 050.03.a.i. and 03.a.ii. fall short of meeting the minimum stocking level, the landowner will be encouraged, but not required, to meet the minimum stocking level through additional reforestation efforts. (4-4-13)

04. Stocking. Stocking will be deemed adequate immediately following harvest if the following number of acceptable trees per acre, within each specified region, for at least one (1) size class, are reasonably well distributed over the area affected by forest harvesting. (NOTE: (1) DBH = Average Diameter (outside of the bark) of a tree four and one half (4.5) feet above mean ground level):

MINIMUM STOCKING - ACCEPTABLE TREES

Idaho Region	Size Class DBH (inches)	Average Number of Retained Trees Per Acre	Average Spacing (feet)
North	0" – 2.9"	170	16 x 16
South	0" – 2.9"	125	18 x 18
North	3.0" – 10.9"	110	19 x 19
South	3.0" – 10.9"	75	24 x 24
North	11.0" and greater	20	46 x 46
South	11.0" and greater	15	53 x 53

If immediately following harvest, the stand consists of retained trees of mixed size classes that are reasonably well distributed over the harvested area, and none of the size classes individually equal or exceed the minimum trees per acre shown above, stocking will also be deemed adequate if the weighted total of all of the size classes of the retained trees exceeds a value of one hundred seventy (170) for a stand in the North Region and one hundred twenty-five (125) in the South Region. The weighted total is calculated by multiplying the number of retained trees per acre in each size class by the weighting factors below, and adding all of these size class totals together.

Size Class	Weight
0" – 2.9"	1
3.0" – 10.9"	1.6
11.0" and greater	8.4

Harvested stands which are not adequately stocked, as defined above, will be subject to supplemental reforestation requirements specified in Subsection 050.06. Minimum stocking requirements for Class I stream protection zones are specified in Subparagraphs 030.07.e.ii. and 07.e.vi. (4-4-13)

05. Reforestation Exemptions. (7-1-96)

a. Reforestation is not required for: (7-1-96)

i. Noncommercial forest land; (7-1-96)

ii. Land converted to another use. This may include land converted to roads used in a forest practice; (7-1-96)

iii. A forest practice which will result in ten (10) acres or less below minimum stocking levels. (7-1-96)

b. On lands exempted under Subsection 050.03, where reforestation is not being planned, some form of grass or planted cover shall be established within one (1) year in order to maintain soil productivity and minimize erosion. (7-1-96)

06. Supplemental Reforestation. Seeding and/or planting may be required if after three (3) growing seasons from the date of harvest, stocking levels do not meet the standards in Subsection 050.04. Required seeding and/or planting shall be completed before the end of the fifth growing season following the time of harvest, except that the director shall grant an extension of time if suitable seeds or seedlings are not available or if weather or other conditions interfere. (7-1-96)

a. Reforestation practices must ensure seedlings become established. This can be accomplished by adequate site preparation, utilizing acceptable seed or seedlings, following accepted planting or sowing practices, or by other suitable means. (7-1-96)

b. The party responsible for reforestation is the landowner during the harvest which reduced stand stocking below the minimum levels stated in Subsection 050.04. (4-4-13)

051. -- 059. (RESERVED)

060. USE OF CHEMICALS AND PETROLEUM PRODUCTS.

01. Purpose. Chemicals perform an important function in the growing and harvesting of forest tree species. The purpose of these rules is to regulate handling, storage and application of chemicals in such a way that the public health and aquatic and terrestrial habitats will not be endangered by contamination of streams or other bodies of water. In addition, the application of chemicals are regulated by the Commercial Fertilizer Law, Title 22, Chapter 6; the Soil and Plant Amendment Law, Title 22, Chapter 22, and the Idaho Pesticide Law, Title 22, Chapter 34, Idaho Code and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)

02. Petroleum Products. Petroleum storage containers with capacities of more than two hundred (200) gallons, stationary or mobile, will be located no closer than one hundred (100) feet from any stream, water course, lake, or area of open water. Dikes, berms or embankments will be constructed to contain at least one hundred ten percent (110%) of the volume of petroleum products stored within the tanks. Diked areas will be sufficiently impervious and of adequate capacity to contain spilled petroleum products. In the event any leakage or spillage enters any stream, water course, lake, or area of open water, the operator will immediately notify the department. (7-1-98)

a. Transferring petroleum products. During fueling operations or petroleum product transfer to other containers, there shall be a person attending such operations at all times. Fueling operations should not take place where, if spillage occurs, the fuel will enter streams, lakes or other areas of open water. (7-1-98)

b. Equipment and containers used for transportation, storage or transfer of petroleum products shall be maintained in a leakproof condition. If the department determines there is evidence of petroleum product leakage or spillage, the use of such equipment shall be suspended until the deficiency has been corrected. (7-1-98)

c. Waste resulting from logging operations, such as crankcase oil, filters, grease, oil containers, or other nonbiodegradable waste shall be removed from the operating area and disposed of properly. (7-1-98)

03. Licensing. Any person applying, mixing or loading pesticides shall comply with the licensing requirements of Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." This requirement does not pertain to individuals applying general use pesticides on their own property. (7-1-98)

04. Maintenance of Equipment. (10-14-75)

a. Equipment used for transportation, storage or application of chemicals shall be maintained in leakproof condition. If, in the director's judgment, there is evidence of chemical leakage, he shall have the authority to suspend the further use of such equipment until the deficiency has been corrected. (10-14-75)

b. The storage of pesticide shall also be conducted in accordance with the requirements Rules of the Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)

05. Mixing. (10-14-75)

a. When water is used in mixing chemicals: (10-14-75)

i. Provide an air gap or reservoir between the water source and the mixing tank. (10-14-75)

ii. Use uncontaminated tanks, pumps, hoses and screens to handle and transfer mix water for utilization in pesticide operations. (7-1-98)

b. Mixing and landing areas: (10-14-75)

i. Mix chemicals and clean tanks and equipment only where spills will not enter any water source or streams. (10-14-75)

ii. Landing areas shall be located where spilled chemicals will not enter any water source or stream. (8-13-85)

iii. Rinsate and wash water should be recovered and used for make-up water, be applied to the target area, or disposed of according to state and federal laws. (7-1-98)

06. Aerial Application: (10-14-75)

a. With the exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide leave at least one (1) swath width (minimum one hundred (100) feet) untreated on each side of all Class I streams, flowing Class II streams and other areas of open water. When applying pelletized fertilizer, leave a minimum of fifty (50) feet untreated on each side of all Class I streams, flowing Class II streams, and other areas of open water. (7-1-98)

b. Use a bucket or spray device capable of immediate shutoff. (10-14-75)

c. Shut off chemical application during turns and over open water. (10-14-75)

d. Aerial application of pesticides shall also be conducted according to the Idaho Pesticide Law and IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)

07. Ground Application with Power Equipment. (10-14-75)

a. With exception of pesticides approved for aquatic use and applied according to labeled directions, when applying pesticide, leave at least twenty-five (25) feet untreated on each side of all Class I streams, flowing Class II streams and areas of open water. (7-1-98)

b. When applying fertilizer, leave at least ten (10) feet untreated on each side of all streams and areas of open water. (10-14-75)

08. Hand Application. (10-14-75)

a. Apply only to specific targets; such as, a stump, burrow, bait, or trap. (10-14-75)

b. Keep chemicals out of all water sources or streams. (10-14-75)

09. Limitations on Applications. (10-14-75)

a. Chemicals shall be applied in accordance with all limitations and instructions printed on the product registration labels, supplemental labels, and others established by regulation of the director. (7-1-98)

b. Do not exceed allowable rates. (7-1-98)

c. Prevent direct entry of chemicals into any water source or stream. (8-13-85)

10. Daily Records of Chemical Applications. (10-14-75)

a. When pesticides are applied on forest land, the operator shall maintain a daily record of spray

operations which includes: (7-1-98)

i. Date and time of day of application. (8-13-85)

ii. Name and address of owner of property treated. (8-13-85)

iii. Purpose of the application (control of vegetation, control of Douglas-fir tussock moth, etc.). (8-13-85)

iv. Contractor's name and pilot's name when applied aerially. Contractor's name or applicator's name for ground application. (7-1-96)

v. Location of project (section, township, range and county). (10-14-75)

vi. Air temperature (hourly). (10-14-75)

vii. Wind velocity and direction (hourly). (10-14-75)

viii. Pesticides used including trade or brand name, EPA product registration number, mixture, application rate, carrier used and total amounts applied. (7-1-98)

b. Whenever fertilizers or soil amendments are applied, the operator shall maintain a daily record of such application which includes Subsection 060.10 and the name of the fertilizer or soil amendment and application rate. (7-1-98)

c. The records required in Subsection 060.10 shall be maintained in compliance with the record-keeping requirements of IDAPA 02.03.03, "Rules Governing Pesticide and Chemigation Use and Application." (7-1-98)

d. All records required in Subsection 060.10 shall be retained for three (3) years. (7-1-98)

11. Container Disposal. Chemical containers shall be: cleaned and removed from the forest and disposed of in a manner approved by the director in accordance with applicable local, state and federal regulations; or removed for reuse in a manner consistent with label directions and applicable regulations of a state or local health department. Open burning of containers is prohibited. (7-1-98)

12. Spills. Spills shall be reported and appropriate cleanup action taken in accordance with applicable state and federal laws and rules and regulations. (8-13-85)

a. All chemical accidents and spills shall be reported immediately to the director. (7-1-98)

b. If chemical is spilled, appropriate procedures shall be taken immediately to control the spill source and contain the released material. (7-1-98)

c. It is the applicator's responsibility to collect, remove, and dispose of the spilled material in accordance with applicable local, state and federal rules and regulations and in a manner approved by the director. (7-1-98)

13. Misapplications. Whenever chemicals are applied to the wrong site or pesticides are applied outside of the directions on the product label, it is the responsibility of the applicator to report these misapplications immediately to the director. (7-1-98)

061. -- 069. (RESERVED)

070. SLASHING MANAGEMENT.

01. Purpose. To provide for management of slashing and fire hazard resulting from harvesting, forest

management, or improvement of forest tree species, or defoliation caused by chemical applications in that manner necessary to protect reproduction and residual stands, reduce risk from fire, insects and disease or optimize the conditions for future regeneration of forest tree species and to maintain air and water quality, fish and wildlife habitat. (10-14-75)

02. Commercial Slash. Fuels and debris resulting from a forest practice involving removal of a commercial product shall be managed as set forth in the Idaho Forestry Act, Title 38, Chapters 1 and 4, Idaho Code and the rules and regulations pertaining to forest fire protection. (7-1-96)

03. Non-Commercial Slash. Fuels and debris resulting from a forest practice where no commercial product is removed shall be managed in a manner as hereinafter designated under authority of the Idaho Forest Practices Act, Title 38, Chapter 13, Idaho Code. (1-24-78)

a. Within ten (10) days or a time mutually agreed upon following receipt by the department of the "Notification of Forest Practice" as provided in Subsection 020.05, the department shall make a determination of the potential fire hazard and hazard reduction and/or hazard offsets, if any, needed to reduce, abate or offset the fire hazard. Such determination shall be based on a point system found in Paragraph 070.03.e. (7-1-96)

b. The operator, timber owner and landowner shall be notified in writing of the determination made in Paragraph 070.03.a. above (on forms provided by the department) and of the hazard reductions and/or hazard offsets, if any, that must be accomplished by the operator, timber owner or landowner. The notification shall specify a reasonable time period not to exceed twelve (12) months from the date the forest practice commenced in which to complete the hazard reduction and shall specify the number of succeeding years that on site improvements or extra protection must be provided. (7-1-96)

c. A release of all obligations under Subsection 070.03 shall be granted in writing on forms provided by the department when the hazard reduction and/or hazard offsets have been accomplished. When hazard offsets are to be accomplished during succeeding years, the release shall be conditioned upon the completion of the required hazard offsets. Notification of release shall be mailed to the operator, timber owner and landowner within seven (7) days of the inspection by the department. Inspections by the department shall be made within ten (10) days of notification by the operator, timber owner or landowner unless otherwise mutually agreed upon. (7-1-96)

d. If the department determines upon inspection that the hazard reduction or hazard offsets have not been accomplished within the time limit specified in Paragraph 070.03.b., extensions of time, each not to exceed three months, may be granted if the director determines that a diligent effort has been made and that conditions beyond the control of the party performing the hazard reduction or hazard offsets prevented completion. If an extension is not granted the department shall proceed as required in Section 38-1307, Idaho Code (Idaho Forest Practices Act). (7-1-96)

e. For the purpose of determining the potential fire hazard and the appropriate hazard reduction and/or hazard offsets, a point system using the following rating guides will be used by the department. A value of eighty (80) points or less for any individual forest practice under Paragraph 070.03, as determined by the department, will be sufficient to release the operator, timber owner and landowner of all further obligations under Subsection 070.03. Total points of the proposed forest practice will be determined from Tables I and II. If the total points are greater than eighty (80), modification of the thinning practice to reduce points may be made as determined by Tables I and II, slash hazard offsets may be scheduled to reduce points as determined by Table III or a combination of these options may be used to reduce the hazards to a point total of eighty (80) or less. Consideration will be given to the operator's, timber owner's and landowner's preference in selecting the options to reduce the points to eighty (80) or less.

TABLE I - HAZARD POINTS

Hazard Points for Ponderosa Pine, Western Red Cedar or Western Hemlock

Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	3	3	4	5	6	7	9	10	16
2	3	6	9	13	16	22	25	30	36	42	51
3	7	16	25	32	38	46	51	52	56	59	
4	9	22	32	40	50	52	54	56	60		
5	13	28	40	51	54	56	59	60			
6	19	36	51	54	58	60	60				

Hazard Points for Douglas Fir, Grand Fir or Engelmann Spruce

Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	3	4	6	7	8	9	13	16	22
2	4	7	13	16	22	28	32	36	42	50	54
3	8	19	28	36	44	51	53	54	58	60	
4	10	25	36	46	51	54	57	59	60		
5	16	32	46	52	56	59	60	60			
6	22	40	52	56	60	60	60				

Hazard Points for Western Larch, Lodgepole Pine or Western White Pine

Thinned Stems Per Acre											
Ave. DBH	250	500	750	1000	1250	1500	1750	2000	2500	3000	4000
1	1	2	2	3	4	4	5	6	8	9	13
2	3	6	8	11	16	19	22	28	32	38	48
3	6	16	25	32	38	46	51	52	56	59	
4	8	16	28	36	44	50	52	54	58		
5	9	22	32	42	50	53	55	57			
6	13	28	40	50	53	56	59				

TABLE II - HAZARD POINTS WORKSHEET

HAZARD CHARACTERISTICS HAZARD POINTS

Fuel Quantity

Hazard points from Slash Hazard Table I 1/ _____
Record number of trees/acre to be cut _____
Average D.B.H. _____
Predominant species _____

	Size of thinning block			
Points	0 - 15	16 - 30	31 - 45	46 - 60 1/
Acres	20	20 - 40	40 - 80	80

Site Factor

Record Slope _____% Aspect _____

Determine points from table below 1/

ASPECT	PERCENT SLOPE			
	0 - 19	20 - 39	40 - 59	60
E or NE	0	5	10	20
E or NW	0	5	10	30
W or SE	0	10	30	40
S or SW	0	20	40	60
1/	Max. 60 points			

Other Factors	
Condition of operating area before forest practice commences	0 - 20 points
Condition of adjoining area	0 - 20 points
Presence of snags and culls	0 - 5 points
Deterioration rate of slash	0 - 5 points
Time of year forest practice operation	10 points
October thru December	2 points
August thru September	4 points
January thru April	7 points
May thru July	10 points
TOTAL FOREST PRACTICE AREA POINTS	(Max. 240 points)

TABLE III - HAZARD OFFSETS

Offsets	Hazard Point Deductions
Physical Changes to the Hazard (1)	
(1) Points will be proportional to the amount of hazard disposed of or modified.	
Disposal by burning or removal.	0 - 160
Modification by reducing depth through crushing, chipping or lopping.	0 - 60
On Site Improvements	
Condition of main access road to forest practice area should allow movement of heavy trucks without difficulty.	0 - 5
Access control to forest practice area provided by closure to public traffic.	0 - 5
Availability of water for tankers within one mile of forest practice area or within three miles for helicopter bucket use. Water supply to be sufficient to supply at least fifty thousand (50,000) gallons.	0 - 15
Buffer zones of unthinned areas at least two chains in width between roadways and thinned areas.	0 - 10
Fuel breaks with slash hazard removal around and/or through forest practice area, located so as to provide optimum fire control effect and of two to four chains in width.	0 - 25
Fire trails with fuel removed to expose mineral soil to a width of twelve (12) feet. Maximum points allowed if combined with a fuel break.	0 - 15
Extra Protection	
Increased attack capability such as retardant availability, increased attack manpower and equipment. Must be in addition to regular forces normally available during the fire season.	0 - 40
Fire detection and prevention increased beyond that normally available for lands in the fire protection district.	0 - 15
Initial attack time based on proximity of forest practice area to initial attack forces.	0 - 5
Landowner protection plan which would provide extra fire protection on a voluntary basis such as extra equipment and/or manpower.	0 - 5

(1-24-78)

071. PRESCRIBED FIRE.

01. Purpose. Prescribed fire is a tool with application in land management. Smoke from prescribed fires can have adverse impacts on ambient air quality or public health. It is the purpose of these rules to establish a management system for smoke from prescribed fires that will protect air quality. (7-1-96)

02. Notification. The use of prescribed fire requires a valid notification in accordance with Subsection 020.05 to maintain air quality and to protect public health. Possession of a valid notification will not preclude meeting the fire safety requirements specified in Section 38-115, Idaho Code. (7-1-96)

03. Recommended Practices. To maintain air quality and protect public health the following practices are recommended: (7-1-96)

a. Slash and large woody debris piles should be compact and free of stumps, soil, snow, and

nonwoody organic material. (7-1-96)

b. Piles should be fully cured, dried at least two (2) months, prior to ignition. Piles should be at least partially covered with a water resistant material so they can be ignited after enough precipitation to lower the fire danger. (7-1-96)

c. Broadcast burns should be conducted within a prescription that minimizes adverse effects on air quality. (7-1-96)

d. Membership in good standing in a recognized Airshed Group is encouraged. (7-1-96)

072. -- 999. (RESERVED)

000. AUTHORITY.
This chapter is adopted under the legal authority of Sections 38-115, 38-132, 38-402, 58-104(6), 58-105, and 67-5201 et seq., Idaho Code. (4-11-19)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.04.01, "Rules Pertaining to Forest Fire Protection." (4-11-19)

02. Scope. These rules govern requirements pertaining to forest fire protection. (4-11-19)

002. INCORPORATION BY REFERENCE.

01. Incorporated Document. IDAPA 20.04.01 adopts and incorporates by reference the full text of the following documents published by the San Dimas Technology & Development Center (SDTDC). (4-11-19)

a. Spark Arrester Guide – General Purpose and Locomotive (GP/Loco), Volume 1, September 2012, 1251 1809-SDTDC. (4-11-19)

b. Spark Arrester Guide – Multiposition Small Engine (MSE), Volume 2, August 2012, 1251 1808-SDTDC. (4-11-19)

c. Spark Arrester Guide – Off- Highway Vehicles (OHV), Volume 3, April 2012, 1251 1805-SDTDC. (4-11-19)

02. Printed and Bound Copies. Printed copies or bound copies may be viewed at any District Office or requested through SDTDC, 444 E. Bonita Ave, San Dimas, 91773. (4-11-19)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Block. A piece of logging equipment where steel rope or cable is actively turning the block's pulley and used as part of a cable logging/yarding system for the specific purposes of establishing tail hold anchor points, intermediate support of main lines, or carriage haul-back capability for the purposes of yarding or hauling of logs to a log landing for transportation to a mill or processing facility. (4-11-19)

02. Cable or Cable Assisted Logging. A harvest system for felling or yarding of forest product materials consisting of the use of a cable assisted harvester or the use of a yarder, spar tree, or intermediate support with motorized or non-motorized carriage to transport logs to the landing for further processing purposes. (4-11-19)

03. Closed Fire Season. The period from May 10 to October 20, inclusive, of each year or as designated by the Director due to conditions of unusual fire danger pursuant to Section 38-115, Idaho Code. (4-11-19)

04. Department. The Idaho Department of Lands. (4-11-19)

05. Director. The director of the Idaho Department of Lands or his authorized representative. (10-28-91)

06. District. A designated forest protective district. (10-28-91)

07. Fire Warden. A duly appointed fire warden or deputy. (10-28-91)

08. Forest Land. Any land which has upon it sufficient brush or flammable forest growth of any kind or size, living or dead, standing or down, including debris or growth following a fire or removal of forest products, to constitute a fire menace to life (including animal) or property. (10-28-91)

09. Forest Operation. An activity or service conducted on forest lands involving any of the operations

as described below where a Certificate of Compliance is required pursuant to Section 38-122, Idaho Code. (4-11-19)

a. The harvesting of trees using equipment that includes, but is not limited to, felling, bucking, yarding, delimbing, and decking operations; (4-11-19)

b. Thinning or mastication operations for stand improvement, stand density management or fuel reduction purposes; (4-11-19)

c. Road construction or reconstruction of existing roads including installation or improvement of bridges, culverts or structures; and (4-11-19)

d. Slash management including chipping, grinding, or other mechanized reduction activities. (4-11-19)

10. Metal-Tracked Harvester. Any machine with metal tracks used to fall, bunch or process trees into forest products at the stump. (4-11-19)

11. Operator. A person who conducts a forest operation. (4-11-19)

12. Operating Area. That area where a forest operation is taking place. (4-11-19)

13. Person. Includes any person or persons, and any corporation, firm or other entity. (10-28-91)

14. Range Land. Any land that is not cultivated and that has upon it native grasses or other forage plants making it best suited for grazing of domestic and wild animals and which land is adjacent to or intermingled with forest land. (10-28-91)

15. Slash. Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or to the clearing of land that are four (4) inches and under in diameter. (10-28-91)

16. State. State of Idaho. (10-28-91)

011. -- 019. (RESERVED)

020. VARIANCE.
If conditions or activities require the application of practices that differ from those prescribed in these rules, the Operator must obtain a variance prior to employing any of those differing practices. (4-11-19)

01. Obtaining a Variance. In order to obtain a variance, the Operator must submit a written request for a variance to the local Fire Warden. The request includes the following: (4-11-19)

a. A description of the specific Operating Area where the variance is being requested; (4-11-19)

b. The particular conditions that necessitate a variance; (4-11-19)

c. A detailed description of the alternative practice; and (4-11-19)

d. A detailed description of how the alternate practice, if applied, will provide fire protection that is equal to or greater than the fire protection provided by the standards set forth in these rules. (4-11-19)

02. Department Response to Request for Variance. Within five (5) business days from receipt of the variance request, the Department will evaluate the request and notify the Operator in writing of the Department's determination to allow or disallow the variance request. (4-11-19)

021. -- 029. (RESERVED)

030. STANDARDS FOR FIRE PROTECTION BY INDIVIDUALS.

The following rules and standards for protection by owners of forest land who have elected to provide their own protection as provided by Section 38-111, Idaho Code, apply: (10-28-91)

01. Fire Plans. Each owner must submit to the director for approval, through the district fire warden in charge of the district in which such forest land lies, before April 1, of each year, a written fire plan that includes, but not be limited to: (10-28-91)

a. A map, with scale of two (2) inches to the mile, revealing section, township, and range lines of the forest land involved and showing thereon roads, streams, trails, and the location of protection facilities for such land. (10-28-91)

b. A description of the system for discovering and reporting any and all fires originating on or spreading to the forest land involved. (10-28-91)

c. A statement showing the number of firefighters available for immediate action to suppress any fire on the forest land; and further, their sources of additional manpower available as firefighters. (10-28-91)

d. A statement showing the type and amount of firefighting equipment in serviceable condition including, but not limited to, fire hose, fire engines, portable pumps, dozers, and mobile equipment for the transportation of men and equipment. (10-28-91)

e. A statement as to the location of fire-tool caches and the number and kind of serviceable hand tools in each cache kept available for immediate use in firefighting, including shovels, hoes, axes, and fire-pump cans. (10-28-91)

f. The name, address, and telephone number of the person who is in charge of the protection facilities and obligated to carry out the provisions of the fire plan. (10-28-91)

02. Approval of Fire Plan Required. No plan will become effective unless approved by the director. (10-28-91)

031. -- 039. (RESERVED)

040. COSTS OF FIRE SUPPRESSION AND PROTECTION.
Whenever the state incurs costs in controlling or extinguishing a fire that any person willfully or is negligently responsible for, such costs include all actual costs to the state, including wages of full-time personnel and use of equipment of the forest protective district or districts where the fire originated or burned. (10-28-91)

041. -- 049. (RESERVED)

050. BURNERS.
Any sawmill, planing mill, shingle mill, or other woodworking plant, or plant manufacturing wood products, operating in or within five hundred (500) feet of forest land, and burning refuse wood material outside of and/or adjacent to such mill or plant, will meet the terms of Section 38-108, Idaho Code. (10-28-91)

051. -- 059. (RESERVED)

060. BURNING PERMITS.
The burning permit specified in Section 38-115, Idaho Code, is be used to protect public health, safety, and welfare. The permit is subject to the following conditions: (10-28-91)

01. When Permit Required. Permits issued for open fires are required from May 10 to October 20, inclusive, of each year and be limited to that period of time needed to accomplish the permitted burning; provided, however, in no event will such permit be issued to cover a period of more than ten (10) days. (10-28-91)

02. Permit Conditions. Each permit contains all the terms and conditions deemed necessary by the director for such burning, which terms and conditions remain effective for the entire period of the permit. (10-28-91)

061. -- 069. (RESERVED)

070. PERMIT TO ENTER CLOSED AREA.
Pursuant to Section 38-115, Idaho Code, the director, because of critical fire hazard, may close specified areas to entry by any person or party. (10-28-91)

01. Notice of Closure. Notice of closure to specified areas will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. Such proclamation will immediately be mailed to the fire wardens of the affected districts. (10-28-91)

02. Fire Warden Permits. The fire warden in charge of the forest protective district in which such areas are located may, in his discretion, issue permits to individuals to enter such closed areas. The permittee is required to carry a copy of the permit at all times while in the closed area. (10-28-91)

071. -- 079. (RESERVED)

080. SPARK ARRESTERS.

01. Requirements. The steam or internal combustion engines referred to in Section 38-121, Idaho Code, must be equipped with properly installed, maintained, and effectively working spark arresters that comply with the standards set forth in the San Dimas Technology and Development Center's "Spark Arrester Guide(s)." (4-11-19)

02. Exemptions. The following are exempt from the requirements of the rule: (10-28-91)

a. Turbo-charged internal combustion engines in which one hundred percent (100%) of the exhaust gases pass through the turbo-charger. (10-28-91)

b. Engines of passenger-carrying vehicles and light trucks, equipped with baffle-type muffler and tailpipe through which all exhaust gasses pass, that are kept in good repair. (10-28-91)

c. Engines of heavy-duty trucks equipped with a vertical exhaust stack and muffler extending above the cab of the vehicle. (10-28-91)

d. Engines of water pumping equipment used in firefighting. (10-28-91)

e. Engines of helicopters and other aircraft. (10-28-91)

081. -- 089. (RESERVED)

090. SMOKING IN THE WOODS.

01. Smoking Prohibited. Smoking is prohibited on forest or range lands of the state during periods of critical fire danger as designated by the director. Logging operators will post "NO SMOKING" signs conspicuously in their camps and operating areas when such periods of critical fire danger have been declared. (10-28-91)

02. Designated Smoking Areas. Fire wardens may designate those areas where smoking may be permitted upon approval of the director. (10-28-91)

091. -- 099. (RESERVED)

100. FIRE TOOLS AND FIRE EXTINGUISHERS.
During closed fire season the following fire tool requirements apply: (10-28-91)

01. Basic Fire Cache. Every Operator engaged in any Forest Operation on Forest Lands will have available for firefighting purposes the number of tools and tool boxes set forth in Table 1. A Forest Operation having more than ten (10) people must use multiples of any of the columns in the table to arrive at a tool distribution equal to

or in excess of the number of people in the Forest Operation.

TABLE 1			
People in Operation	2 - 5	6 - 8	9 - 10
Tool Box	1	1	1
Shovels	2	4	5
Pulaskis	2	4	4
5 gallon pump cans or bladder bags	1	1	2

(4-11-19)

a. The tool boxes required by this rule must be clearly marked "FOR FIRE USE ONLY"; and (4-11-19)

b. The tools required by Subsection 100.01 must be in a location immediately accessible for firefighting purposes, maintained in a serviceable condition and be fully functional at the time of deployment. (4-11-19)

02. Warming Fires or Campfires. Except when in designated developed campgrounds or when traveling as a pedestrian, all persons or parties igniting warming fires or campfires will be equipped with the following: (10-28-91)

a. One (1) serviceable shovel at least twenty-four (24) inches in overall length with six (6) inch or wider blade. (10-28-91)

b. One (1) water container, capacity one (1) gallon or more. (4-11-19)

03. Power Equipment. Each unit of mobile or stationary power equipment other than portable power saws, trail bikes, motorcycles, all-terrain vehicles and similar type vehicles operating on forest lands of the state must be equipped with a minimum of one (1) chemical fire extinguisher rated by the Underwriters Laboratory as not less than 4-BC. (10-28-91)

04. Portable Power Saw. Any person using a portable power saw on forest land in the state must have the following immediately available for the prevention and suppression of fire: (10-28-91)

a. A fully charged operable fire extinguisher of at least eight (8) ounce minimum capacity. (10-28-91)

b. A serviceable round-pointed size zero (0) or larger shovel. (10-28-91)

101. -- 109. (RESERVED)

110. FIRE CREWS.
When engaged in a Forest Operation on Forest Lands during closed fire season, the person responsible for the Forest Operation designates a fire crew and a fire foreman, with powers to act for their employer, to take immediate initial action within the scope of their knowledge, skills and abilities and make a reasonable effort to suppress any fire starting on the Operating Area without compromising the safety of the crew. (4-11-19)

111. -- 119. (RESERVED)

120. RESTRICTED ACTIVITIES.

01. Critical Fire Danger. During periods of critical fire danger, as determined by the director, all persons engaged in any activities in forest areas of the state, determined to be critical, may have those activities

restricted to the least dangerous periods of the day. (10-28-91)

02. Notice. Notification of such restriction will be by proclamation of the director and will be published at least once in a newspaper of general circulation throughout the county or counties affected. (10-28-91)

121. -- 129. (RESERVED)

130. WATER SUPPLY AND EQUIPMENT.
Every Operator conducting a Forest Operation using a cable logging system or a metal tracked harvester during the period of July 1st through September 30th annually must provide the following water supply and fire suppression equipment in the Operating Area. (4-11-19)

01. Water Supply. (4-11-19)

a. The water supply must consist of a self-propelled motor vehicle or trailer equipped with a water tank containing not less than two hundred (200) gallons of water. (4-11-19)

b. Trailers used for this purpose will be equipped with a functional hitch attachment and have a serviceable tow vehicle immediately available to provide for timely fire suppression response. (4-11-19)

02. Water Delivery. (4-11-19)

a. Water pump. The size and capacity of the water pump must be sufficient to provide a discharge of not less than twenty (20) gallons per minute when pumping through fifty (50) feet of hose of not less than three quarter (¾) inch inside diameter with an adjustable nozzle at pump level. (4-11-19)

b. Hose and nozzle. The Operator must have at least five hundred (500) feet of serviceable hose of not less than three quarter (¾) inch inside diameter and a nozzle. (4-11-19)

03. Readiness. (4-11-19)

a. All hose, motor vehicles, trailers, tanks, nozzles and pumps will be kept ready for immediate use during active operations, including fire watch service as set forth in Section 140 of these rules. (4-11-19)

b. The water supply, pump, a minimum of two hundred (200) feet of hose packaged in a suitable manner for immediate deployment, and the nozzle will be maintained as a connected, operating unit ready for immediate use. (4-11-19)

04. Water Supply and Equipment Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the water supply and equipment requirements of Section 130. (4-11-19)

131. -- 139. (RESERVED)

140. FIRE WATCH SERVICE.
Every Operator engaged in a Forest Operation within a Stage 2 proclamation area must provide Fire Watch Service in the Operating Area. (4-11-19)

01. Duties and Requirements. Fire Watch Service consists of at least one (1) person who: (4-11-19)

a. Is constantly on duty for three (3) hours after all power-operated equipment has been shut down for the day. (4-11-19)

b. Visually observes the Operating Area where activity occurred during the day. (4-11-19)

c. Has adequate equipment for transportation and communications to summon fire-fighting assistance in a timely manner; and (4-11-19)

d. Immediately responds to any fire in the Operating Area to initiate such fire suppression actions to suppress the fire within the scope of their knowledge, skills and abilities. (4-11-19)

02. Fire Watch Service Exemption. A Forest Operation conducted under an Option 1 Certificate of Compliance is exempt from the fire watch service requirements of Section 140. (4-11-19)

141. -- 149. (RESERVED)

150. OPERATION AREA FIRE PREVENTION.
To prevent the spread of fire on or from an Operating Area, every Operator conducting a Forest Operation during the period of July 1st through September 30th, annually, must comply with the following precautions: (4-11-19)

01. Cable or Cable Assisted Logging. The following practices and equipment are required by the operator when conducting a cable logging operation on forest land. (4-11-19)

a. Clear the ground of all flammable debris for not less than ten (10) feet slope distance from the point directly below any block. (4-11-19)

b. Prevent moving lines from rubbing on rock or woody material in such a way to cause sparks or sufficient heat that may cause fuel ignition. (4-11-19)

c. Provide a water supply that complies with the capacity, pump, hose, nozzle and readiness requirements set forth in Section 130 of these rules. (4-11-19)

d. Provide at each Block: (4-11-19)

i. One (1) pump equipped can or bladder containing not less than five (5) gallons of water; and (4-11-19)

ii. One (1) round pointed size zero (0) or larger shovel in a serviceable condition. (4-11-19)

151. -- 999. (RESERVED)

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

DOCKET NO. 20-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency, the Idaho State Board of Land Commissioners, the Idaho Oil and Gas Conservation Commission (as to IDAPA 20.07.02), and the Idaho Board of Scaling Practices (as to IDAPA 20.06.01), and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to:

Sections 38-132 and 38-402, Idaho Code; Title 38, Chapter 12, including Section 38-1208, Idaho Code; Title 47, Chapters 3, 7, 8, 15, 16 and 18, including Sections 47-314(8), 47-315(8), 47-328(1), 47-710, 47-714, and 47-1316, Idaho Code; Title 58, Chapters 1, 3, 6, 12 and 13, including Sections 58-104, 58-105, 58-127, and 58-304 through 58-312, Idaho Code; Title 67, Chapter 52, Idaho Code; Article IX, Sections 7 and 8 of the Idaho Constitution; and The Equal Footing Doctrine (Idaho Admission Act of July 3, 1890, 26 Stat. 215, Chapter 656).

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

This rulemaking was prompted by the expiration of the rules. This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 20, Rules of the Idaho Department of Lands:

IDAPA 20

- 20.02.14, *Rules for Selling Forest Products on State-Owned Endowment Lands*
- 20.03.01, *Rules Governing Dredge and Placer Mining Operations in Idaho*
- 20.03.02, *Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities*
- 20.03.03, *Rules Governing Administration of the Reclamation Fund*
- 20.03.04, *Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho*
- 20.03.05, *Riverbed Mineral Leasing in Idaho*
- 20.03.08, *Easements on State Owned Lands*
- 20.03.09, *Easements on State Owned Submerged Lands and Formerly Submerged Lands*
- 20.03.13, *Administration of Cottage Site Leases on State Lands*
- 20.03.14, *Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases*
- 20.03.15, *Rules Governing Geothermal Leasing on Idaho State Lands*
- 20.03.16, *Rules Governing Oil and Gas Leasing on Idaho State Lands*
- 20.03.17, *Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands*
- 20.04.02, *Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws*
- 20.06.01, *Rules of the Idaho Board of Scaling Practices*
- 20.07.02, *Rules Governing Conservation of Oil and Natural Gas in the State of Idaho*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. Minor edits to the proposed rule were prompted by the Red Tape Reduction Act and the Department's continued efforts to clarify and streamline its rules. The original text of theses proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4160–4375**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

- 20.02.14 – Stumpage payments and associated bonding for removal of state timber from endowment land pursuant to timber sales. This charge is being imposed pursuant to Sections 58-104, 58-105 and 58-127, IC.
- 20.03.01 – Application fee, amendment fee, assignment fee, and inspection fee for all dredge and placer permits in the state of Idaho. This fee is being imposed pursuant to Section 47-1316, Idaho Code.
- 20.03.02 – Application fee for permanent closure plans and assignment fee for reclamation plans and permanent closure plans. This fee is being imposed pursuant to Sections 47-1506(g) and 47-1508(f), Idaho Code.
- 20.03.03 – Annual payment for Reclamation Fund participation. This charge is being imposed pursuant to Section 47-1803, Idaho Code.
- 20.03.04 – Application fees for encroachment permits and deposits toward the cost of newspaper publication. This fee is being imposed pursuant to Sections 58-127 and 58-1307, Idaho Code.
- 20.03.05 – Fees for applications, advertising applications, exploration locations, and approval of assignments for riverbed mineral leasing. This fee is being imposed pursuant to Section 47-710, Idaho Code.
- 20.03.08 – Application fee, easement consideration fee, appraisal costs, and assignment fee for easements on state-owned lands. This fee is being imposed pursuant to Sections 58-127, 58-601, and 58-603, Idaho Code.
- 20.03.09 – Administrative fee, appraisal costs, and assignment fee for easements on state-owned submerged lands and formerly submerged lands. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-603, Idaho Code.
- 20.03.13 – Annual rental payment paid to the endowment for which the property is held. This charge is being imposed pursuant to Section 58-304, Idaho Code.
- 20.03.14 – Lease application fee, full lease assignment fee, partial lease assignment fee, mortgage agreement fee, sublease fee, late rental payment fee, minimum lease fee, and lease payment extension request fee on state endowment trust lands. This fee is being imposed pursuant to Section 58-304, Idaho Code.
- 20.03.15 – Application fee, assignment fee, and late payment fee for geothermal leases on state-owned lands. This fee is being imposed pursuant to Section 58-127, Idaho Code.
- 20.03.16 – Exploration location permit fee, nomination fee, and processing fee for oil and gas leases on endowment lands. This fee is being imposed pursuant to Section 58-127, Idaho Code.
- 20.03.17 – Application fee, rental rate, and assignment fee for leases on state-owned submerged lands and formerly submerged lands. This fee is being imposed pursuant to Sections 58-104, 58-127 and 58-304, IC.
- 20.04.02 – Fee imposed upon the harvest and sale of forest products to establish hazard management performance bonds for the abatement of fire hazard created by a timber harvest operation, and fees imposed upon contractors for transferring fire suppression cost liability back to the State. This fee or charge is being imposed pursuant to Sections 38-122 and 38-404, Idaho Code.
- 20.06.01 – Scaling assessment fee paid to a dedicated scaling account for all scaled timber harvested within the state of Idaho; administrative fees for registration, renewal, and transfer of log brands; fees for testing and issuance of a temporary scaling permit, specialty scaling license, and standard scaling license; fee to renew a specialty or standard scaling license; and fee for a requested check scale involving a scaling dispute. This fee is being imposed pursuant to Section 38-1209, Idaho Code.
- 20.07.02 – Bonding for oil and gas activities in Idaho and application fees for seismic operations; permit to drill, deepen or plug back; multiple zone completions; well treatment; pits and directional deviated wells. This fee or charge is being imposed pursuant to Sections 47-315(5)(e) and 47-316, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Amy Johnson at (208) 334-0255 or **rulemaking@idl.idaho.gov**.

Dated this 17th day of October, 2019.

Dustin Miller, Director
Idaho Department of Lands
300 N. 6th St, Suite 103
P.O. Box 83720, Boise, Idaho 83720-0050
Phone: (208) 334-0242 / Fax: (208) 334-3698
rulemaking@idl.idaho.gov

20.02.14 – RULES FOR SELLING FOREST PRODUCTS ON STATE-OWNED ENDOWMENT LANDS

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections *38-1201, et seq.;* 58-104(6); 58-105; 67-5201, et seq.; Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.02.14 "Rules for Selling Forest Products on State-Owned Endowment Lands". (5-8-09)

02. Scope. These rules govern the selling of forest products from state endowment lands. (5-8-09)

002. INCORPORATION BY REFERENCE.
The following document is incorporated by reference into these rules: American National Standard Institute, 05.1, 2002 Edition, published by the Alliance for Telecommunication Industry Solutions and available to purchase on the Internet at http://www.atis.org. (5-8-09)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Land Commissioners. (5-8-09)

02. **Contract**. Timber sale contract in a form prescribed by the Department. (5-8-09)

03. **Department**. The Idaho Department of Lands. (5-8-09)

04. **Development Credits**. A stumpage credit received by the purchaser for the construction or reconstruction of roads, bridges, or other permanent improvements. (5-8-09)

05. **Director**. The director of the Idaho Department of Lands or his authorized representative. (5-8-09)

06. **Forest Products**. Marketable forest materials. (5-8-09)

07. **Net Appraised Value**. The minimum estimated sale value of the forest products after deducting the development credit. (5-8-09)

08. **Net Sale Value**. The final sale bid value of the forest products after deducting the development credit. (5-8-09)

09. **Purchaser**. A successful bidder for forest products from a state sale who has executed a timber sale contract. (5-8-09)

10. **Roads**. Forest access roads used for the transportation of forest products. (5-8-09)

011. -- 018. (RESERVED)

019. FIREWOOD AND OTHER PERSONAL USE PRODUCT PERMITS.
Forest product permits for personal use will be sold on a charge basis. The Director will determine permit rates and maximum permit values. (3-4-11)

020. DIRECT SALES.
The sale of forest products without advertisement may be authorized by the Director if the net appraised value does not exceed the maximum value established by the Board. This type of sale is to be used to harvest isolated or by-passed parcels of timber of insufficient value and volume to justify a timber sale (refer to Section 021). The direct sale will not be used when two (2) or more potential purchasers may be interested in bidding on the forest products offered for sale. The initial duration of a direct sale is six (6) months with a provision for one six (6) month extension. The purchaser must furnish an acceptable performance bond in the amount of thirty percent (30%) of the sale value with a minimum bond of one hundred dollars ($100). Advance payment will be required and all sales will be on a lump sum basis. (3-29-17)

021. TIMBER SALES.
Timber sales exceed the net appraised value or volume for direct sales established by the Board. (3-29-17)

022. -- 025. (RESERVED)

026. ANNUAL SALES PLAN.
The Department will prepare an annual sales plan which will describe the timber sales to be offered for sale during the forthcoming fiscal year. The plan will be based on recommended annual harvest volumes utilizing inventory data, local stand conditions, special management problems, and economic factors. The plan will be presented to the Board for approval annually and upon approval made available to all interested parties. The plan may be altered to respond to changing market conditions or to expedite the sale of damaged or insect-infested forest products. (3-29-17)

027. -- 030. (RESERVED)

031. TIMBER SALE AUCTIONS.

01. Requirements. Timber and Delivered Products sales must be sold at public auction. (3-29-17)

02. Requirements for Bidding. *Bidders must:* *( )*

a. *P*resent a bid deposit in a form acceptable to the State in the amount of ten percent (10%) of the net appraised value. (5-8-09)

b. *N*ot be delinquent on any payments to the State at the time of sale. (5-8-09)

c. *N*ot be a minor as defined in Section 32-101, Idaho Code. (5-8-09)

d. *If a f*oreign corporation, *have a completed and accepted foreign registration statement with the secretary of state and comply with Title 30, Chapter 21, Part 5, Idaho Code in order* to do business in Idaho *and* be eligible to bid on and purchase State timber. *( )*

032. INITIAL DEPOSIT AND BONDS.

01. Initial Deposit. The initial deposit (ten percent (10%) of net sale value) is paid in cash and retained by the state as a cash reserve for the duration of the contract; the purchaser is not entitled to any interest earned thereon. All or a portion of the initial deposit may be applied to charges as the contract nears completion. Any remaining initial deposit will be forfeited in the event the contract is terminated without being completed. (3-4-11)

02. Performance Bond. A bond of sufficient amount for carrying out in good faith all applicable laws and all the terms and conditions imposed by the Board and the sale contract or fifteen percent (15%) of the net sale value of the forest products (whichever is greater) is to be executed within thirty (30) days from the date of sale and prior to execution of the contract. Failure to perform on the contract may result in forfeiture of all or a portion of the performance bond. (3-4-11)

03. Guarantee of Payment. Prior to cutting of any forest products, the purchaser must provide a bond acceptable to the Department as assurance of payment for products to be cut or removed, or both, during the next ninety (90) days. Guarantee of payment on delivered product sales will be as determined by the Department. This bond is in addition to the required initial deposit. Failure to make full and timely payment as per contract terms may result in forfeiture of all or a portion of the guarantee of payment. (3-4-11)

033. -- 040. (RESERVED)

041. STUMPAGE AND INTEREST PAYMENT.
A stumpage summary of forest products measured during the prior month and a statement of account will be prepared by the Department and forwarded to the purchaser monthly. The statement will include interest computed from the date of sale to the date of the billing at a rate specified in the contract. The purchaser must make payments within thirty (30) days of the end of the billing period or the payment is considered delinquent. Interest will not be charged on delivered

product sales. (3-4-11)

042. TIMBER SALE CANCELLATION.

It is the purchaser's responsibility to initiate cancellation by submitting such request in writing to the respective supervisory area office. When all contractual requirements have been completed, final payments have been received, all load tickets have been accounted for, and a written request for cancellation has been received by the Department, any credit balances and all cash bonds will be returned and/or transferred to other timber sale accounts within forty-five (45) days, as requested by the purchaser. (3-4-11)

043. PREMATURE TIMBER SALE TERMINATION.

01. Request. A timber sale purchaser may, for reasons of hardship, make written request to terminate a timber sale contract before harvesting is completed. In such cases, the Board will determine if a hardship exists and if the contract should be terminated. (5-8-09)

02. Termination Policy. (5-8-09)

a. The Board may authorize premature termination of any sale under any terms considered reasonable and appropriate. Any remaining amount of the ten percent (10%) initial deposit will be retained in full and applied towards assessed damages and may not be used as payment for forest products cut and/or removed. Assessed damages in excess of the initial deposit will be applied against the performance bond. (3-4-11)

b. The following damages will be assessed by the Board for premature sale terminations. (3-4-11)

i. The Board will seek payment of the value of the overbid for the uncut residual volume. For example, if white pine had been bid up by five dollars ($5) per thousand board feet over the appraised price and there are one hundred thousand (100,000) board feet of white pine remaining on the sale area, the purchaser will be assessed five hundred dollars ($500) upon termination. (3-4-11)

ii. The Board will seek payment of the accrued stumpage interest due the endowed institutions based on the interest rate specified in the contract and calculated on all remaining volume from the date of sale to the date the Board approved termination of the contract. (3-4-11)

iii. The Board will seek payment for any credits given for developments that remain incomplete at the time of termination. (3-4-11)

iv. The Board will seek payment for estimated Department costs associated with reoffering the timber sale. (3-4-11)

v. The Board may also seek payment for other expenses including, but not limited to, legal costs and Department staff time. (3-4-11)

c. If logging has occurred on the sale, the purchaser must complete the units that have been partially logged according to contract standards and complete all development work as specified in the contract to the extent of allowances that have been credited to the purchaser. (5-8-09)

d. The purchaser who has terminated a timber sale contract is not eligible to rebid that particular sale unless specifically authorized to do so by the Board. (5-8-09)

044. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Section 47-1316, Idaho Code. The Board has delegated to the Director of the Department of Lands ("department") the duties and powers under the act and these rules; provided that the Board retains responsibility for approval of permit and administrative review. (4-1-91)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.01 "Rules Governing Dredge and Placer Mining Operations in Idaho." (4-11-19)

02. Scope. These rules constitute the Idaho Department of Lands' administrative procedures for implementation of the Idaho Dredge and Placer Mining Protection Act with the intent and purpose to protect the lands, streams and watercourses within the state, from destruction by dredge mining and by placer mining, and to preserve the same for the enjoyment, use and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest. (4-11-19)

002. ADMINISTRATIVE APPEALS.

01. Procedures for Appeals: (4-1-91)

a. Any applicant or permit holder aggrieved by any final decision or order of the Board is entitled to judicial review in accordance with the provisions and standards set forth in Title 67, Chapter 52, Idaho Code, the Administrative Procedures Act. (4-1-91)

b. When the Director or the Board finds that justice so requires, it may postpone the effective date of a final order pending judicial review. The reviewing court, including the court to which a case may be taken on appeal, may issue all necessary and appropriate orders to postpone the effective date of any final order pending conclusion of the review proceedings. (4-1-91)

c. Notwithstanding any other provisions of these rules concerning administrative or judicial proceedings, whenever the Board determines that a Permittee has not complied with the provisions of the act or these rules, the Board may file a civil action in the district court for the county wherein the violation or some part occurred, or in the district court for the county where the defendant resides. The Board may request the court to issue an appropriate order to remedy any alleged violation. (4-1-91)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. The Idaho Placer and Dredge Mining Protection Act, Title 47, Chapter 13, Idaho Code. (4-1-91)

02. Approximate Previous Contour. A contour reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. (4-1-91)

03. Best Management Practices. Methods, measures, or practices to prevent or reduce nonpoint source (NPS) water pollution, including, but not limited to, structural and nonstructural controls, and operation and maintenance procedures. Usually, BMPs are applied as a system of practices rather than a single practice. BMPs are selected on the basis of site-specific conditions that reflect natural background conditions; political, social, economic, and technical feasibility; and stated water quality goals. (4-11-19)

04. Board. The State Board of Land Commissioners or any department, commission, or agency that may lawfully succeed to the powers and duties of such Board. (4-1-91)

05. Department. The Idaho Department of Lands. (4-1-91)

06. **Director**. The Director of the Department of Lands or such representative as may be designated by the Director. (4-1-91)

07. Disturbed Land or Affected Land. Land, natural watercourses, or existing stockpiles and waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore wastes from placer or dredge mining, or construction of roads, tailings ponds, structures, or facilities appurtenant to placer or dredge mining operations. (4-1-91)

08. Final Order of the Board. A written notice of rejection or approval, the order of a hearing officer at the conclusion of a hearing, or any other order of the Board where additional administrative remedies are not available. (4-1-91)

09. Hearing Officer. That person duly appointed by the Board to hear proceedings under Section 47-1320, Idaho Code. It also means that person selected by the Director to hear proceedings initiated under Section 030 or Section 051 of these rules. (4-1-91)

10. Mine Panel. That area designated by the Permittee as an identifiable portion of a placer or dredge mine on the map submitted pursuant to Section 47-1317, Idaho Code. (4-1-91)

11. Mineral. Any ore, rock or substance extracted from a placer deposit or from an existing placer stockpile or wastepile, but does not include coal, clay, stone, sand, gravel, phosphate, uranium, oil or gas. (4-1-91)

12. Motorized Earth-Moving Equipment. Backhoes, bulldozers, front-loaders, trenchers, core drills, draglines, and suction dredges with an intake diameter exceeding eight (8) inches, and other similar equipment. (4-1-91)

13. Mulch. Vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation. (4-1-91)

14. Natural Watercourse. Any stream in the state of Idaho having definite bed and banks, and which confines and conducts continuously flowing water. (4-1-91)

15. Overburden. Material extracted by a Permittee which is not a part of the material ultimately removed from a placer or dredge mine and marketed by a Permittee, exclusive of mineral stockpiles. Overburden is comprised of topsoil and waste. (4-1-91)

16. Overburden Disposal Area. Land surface upon which overburden is piled or planned to be piled. (4-1-91)

17. Permanent Cessation. Mining operations as to the whole or any part of the permit area have stopped and there is substantial evidence that such operations will not resume within one (1) year. The date of permanent cessation is the last day when mining operations are known or can be shown to have occurred. (4-1-91)

18. Permit Area. That area designated under Section 021 as the site of a proposed placer or dredge mining operation, including all lands to be disturbed by the operation. (4-1-91)

19. Permittee. The person in whose name the permit is issued and who is to be held responsible for compliance with the conditions of the permit by the department. (4-1-91)

20. Person. Any person, corporation, partnership, association, or public or governmental agency engaged in placer or dredge mining, whether individually, jointly, or through subsidiaries, agents, employees, or contractors. (4-1-91)

21. Pit. An excavation created by the extraction of minerals or overburden during placer mining or exploration operations. (4-1-91)

22. Placer Deposit. Naturally occurring unconsolidated surficial detritus containing valuable minerals, whether located inside or outside the confines of a natural watercourse. (4-1-91)

23. Placer Stockpile. Placer mineral extracted during past or present placer or dredge mining

operations and retained at the mine for future rather than immediate use. (4-1-91)

24. Placer or Dredge Exploration Operation. Activities including, but not limited to, the construction of roads, trenches, and test holes performed on a placer deposit for the purpose of locating and determining the economic feasibility of extracting minerals by placer or dredge mining. (4-1-91)

25. Placer or Dredge Mining or Dredge or Other Placer Mining. The extraction of minerals from a placer deposit, including remining for sale, processing, or other disposition of earth material excavated from previous placer or dredge mining. (4-1-91)

26. Placer or Dredge Mining Operation. Placer or dredge mining which disturbs in excess of one-half (1/2) acre of land during the life of the operation. (4-1-91)

27. Reclamation. The process of restoring an area disturbed by a placer or dredge mining operation or exploration operation to its original or another beneficial use, considering land uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (4-1-91)

28. Revegetation. The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by placer or dredge mining operations. (4-1-91)

29. Road. A way including the bed, slopes, and shoulders constructed within the circular tract circumscribed by a placer or dredge mining operation, or constructed solely for access to a placer or dredge mining operation or placer or dredge exploration operation. A way dedicated to public multiple use or being used by a governmental land manager or private landowner at the time of cessation of operations and not constructed solely for access to a placer or dredge mining operation or exploration operation, is not considered a road. (4-1-91)

30. Settling Pond. A manmade enclosure or natural impoundment structure constructed and used for the purpose of treating mine process water and/or runoff water from adjacent disturbed areas by the removal or settling of sediment particles. Several types of settling ponds or a series of smaller ponds may be used in water management. The most common type is a recycle or recirculation pond which is used to pump clarified water back to the wash plant operation. (4-1-91)

31. Surface Waters. The surface waters of the state of Idaho. (4-1-91)

32. Topsoil. The unconsolidated mineral and organic matter naturally present on the surface of the earth that is necessary for the growth and regeneration of vegetation. (4-1-91)

011. ABBREVIATIONS.

01. BMP. Best Management Practices. (4-11-19)

02. DEQ. Department of Environmental Quality. (4-11-19)

012. PURPOSE AND GENERAL PROVISIONS.

01. Policy. It is the policy of the state of Idaho to protect the lands, streams, and watercourses within the state from destruction by placer mining, and to preserve them for the enjoyment, use, and benefit of all of the people, and that clean water in the streams of Idaho is in the public interest. (4-1-91)

02. Purpose. These rules are intended to implement the requirements for operation and reclamation of placer and dredge mining set forth in the Idaho Code. Compliance with these rules will allow removal of minerals while preserving water quality and ensuring rehabilitation for beneficial use of the land following mining. Placer and dredge mining is expressly prohibited upon certain waterways included in the federal wild and scenic rivers system. It is also the purpose of these rules to implement the state of Idaho's antidegradation policy as set out in Executive Order No. 88-23 as it pertains to placer mining and exploration operations. (4-1-91)

03. General Provisions. In general, these rules establish: (4-1-91)

a. Requirements for placer mine exploration operations; (4-1-91)

b. Procedures for securing a placer and dredge mining permit; (4-1-91)

c. The requirements for posting a performance bond as a condition of such permit to ensure the completion of rehabilitation operations; (4-1-91)

d. Procedures for initial and periodic inspection of placer and dredge mining operations to ensure compliance with these rules; (4-1-91)

e. Prohibition of placer and dredge mining on designated watercourses (see Section 060); and (4-1-91)

f. Prohibitions against placer and dredge mining on certain lands when not in the public interest. (4-1-91)

04. Compliance with Other Laws. Placer and dredge exploration operations and mining operations must comply with all applicable rules and laws of the state of Idaho including, but not limited to, the following: (4-1-91)

a. Idaho Environmental Protection and Health Act, Title 39, Chapter 1, Idaho Code, and rules as promulgated and administered by the Idaho Department of Environmental Quality. (4-1-91)

b. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (4-1-91)

c. Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations as promulgated and administered by the Idaho Department of Water Resources. (4-1-91)

013. APPLICABILITY.

01. All Lands in State. These rules apply to all lands within the state, including private and federal lands, which are disturbed by placer or dredge mining conducted after November 24, 1954. (4-1-91)

02. Types of Operations. These rules apply to placer and dredge mining operations and placer and dredge exploration operations as defined under Section 47-1313, Idaho Code, and Subsections 010.24, 010.25, and 010.26 and to the following activities: (4-1-91)

a. The extraction of minerals from a placer deposit, including the removal of vegetation, topsoil, overburden, and minerals; construction, and operation of on-site processing equipment; disposal of overburden and waste materials; design and operation of siltation and other water quality control facilities; and other activities contiguous to the mining site that disturb land and affect water quality and/or water quantity. (4-1-91)

b. All exploration activities conducted upon a placer deposit using motorized earth-moving equipment. (4-1-91)

03. Nonapplicability. These rules do not apply to mining operations regulated by the Idaho Surface Mining Act; neither do they apply to surface disturbance caused by the underground mining of a placer deposit, unless the deposit outcrops on or near the surface and the operation will result in the probable subsidence of the land surface. (4-1-91)

04. Stream Channel Alterations. These rules do not exempt the Permittee from obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources. (4-1-91)

05. Navigational Improvements. These rules do not apply to dredging operations conducted for the

sole purpose of establishing and maintaining a channel for navigation. (4-1-91)

06. Suction Dredges. These rules do not apply to dredging operations in streams or riverbeds using suction dredges with an intake diameter of eight (8) inches or less. However, these rules do not affect or exempt the applicability of Section 47-701, Idaho Code, regarding leasing of the state-owned beds of navigable lakes, rivers, and streams, Section 47-703A, Idaho Code, regarding exploration on navigable lakes and streams, and Section 39-118, Idaho Code, regarding review of plans for waste treatment or disposal facilities such as settling or recycle ponds. (4-1-91)

014. -- 019. (RESERVED)

020. PLACER OR DREDGE EXPLORATION OPERATIONS.

01. Notice. Any person desiring to conduct placer or dredge exploration operations using motorized earth-moving equipment must, within seven (7) days of commencing exploration, notify the Director. The notice includes the following: (4-11-19)

a. The name and address of the operator; (4-1-91)

b. The legal description of the exploration operation and its starting and estimated completion date; and (4-1-91)

c. The anticipated size of the exploration operation and the general method of operation. (4-1-91)

02. Confidentiality. The exploration notice will be treated confidential pursuant to Sections 74-107 and 47-1314, Idaho Code. (4-1-91)

03. One-Half Acre Limit. Any placer or dredge exploration operation that causes a cumulative surface disturbance in excess of one-half (1/2) acre of land, including roads, is considered a placer or dredge mining operation and subject to the requirements outlined in Sections 021 through 065. Lands disturbed by any placer or dredge exploration operation that causes a cumulative surface disturbance of less than one-half (1/2) acre of land, including roads, must be restored to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operation and as outlined in Subsection 020.04. (4-1-91)

04. Reclamation Required. The following reclamation activities, required to be conducted on exploration sites, must be performed in a workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, pit, or trench, within one (1) year after abandonment thereof: (4-1-91)

a. Drill holes must be plugged within one (1) year of abandonment with a permanent concrete or bentonite plug. (4-1-91)

b. Restore all disturbed lands, including roads, to conditions reasonably comparable to conditions existing prior to the placer or dredge exploration operations. (47-1314(b)) (4-1-91)

c. Conduct revegetation activities in accordance with Subsection 040.17. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. Such abandoned pits and trenches must be reclaimed within one (1) year of verification; (4-1-91)

d. If water runoff from exploration operations causes siltation or other pollution of surface waters, the operator will prepare disturbed lands and adjoining lands under his or her control, as is necessary to meet state water quality standards. (4-1-91)

e. Abandoned lands disturbed by an exploration operation must be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration operation, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant thereon; (4-1-91)

f. Any water containment structure created in connection with exploration operations will be constructed, maintained, and reclaimed so as not to constitute a hazard to human health or the environment. (4-1-91)

021. APPLICATION PROCEDURE FOR PLACER OR DREDGE MINING PERMIT.

01. Approved Reclamation Plan Required. No Permittee may conduct placer or dredge mining operations, as defined in these rules, on any lands in the state of Idaho until the placer mining permit has been approved by the Board, the department has received a bond meeting the requirements of these rules, and the permit has been signed by the Director and the Permittee. (4-1-91)

02. Application Package. The Permittee must submit a complete application package, for each separate placer mine or mine panel, before the placer permit will be reviewed. Separate placer mines are individual, physically disconnected operations. The complete application package consists of: (4-11-19)

a. An application completed by the applicant on a form provided by the Director; (4-1-91)

b. A map or maps of the proposed mining operation which includes the information required under Subsection 021.04; (4-1-91)

c. A reclamation plan, in map and narrative form, which includes the information required under Subsection 021.06. The map and reclamation plan may be combined on one (1) sheet if practical; (4-1-91)

d. Document(s) identifying and assessing foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters, and the best management practices the applicant will take to control such nonpoint source impacts; (4-1-91)

e. When the Director determines, after consultation with DEQ, that there is an unreasonably high potential for nonpoint source pollution of adjacent surface waters, the Director will request, and the applicant will provide to the Director, baseline pre-project surface water monitoring information and furnish ongoing monitoring data during the life of the project. This provision does not require any additional baseline preproject surface water monitoring information or ongoing monitoring data where such information or data is already required to be provided pursuant to any federal or state law and is available to the Director; (4-1-91)

f. An out-of-state Permittee may designate an in-state agent authorized to act on behalf of the Permittee. In case of an emergency requiring action to be taken to prevent environmental damage, the authorized agent will be notified as well as the Permittee; and (4-1-91)

g. An application fee of fifty dollars ($50) for each ten (10) acres or fraction of land included in an application for a new mining permit, or of land to be affected or added in an amended application to an existing mining permit, must be included with the application. No application fee will exceed one thousand dollars ($1,000). (4-1-91)

03. Incomplete Applications. An application for a permit may be returned for correction if the information provided on the application form or associated mine map(s) or reclamation plan is incomplete or otherwise unsatisfactory. The Director will not proceed on the application until all necessary information is submitted.

(4-1-91)

a. If the applicant is not the owner of the lands described in the application, or any part thereof, the land owner must endorse his approval of the application prior to issuance of a permit. The federal government, as a property owner, will be notified of the application, and asked to endorse the application as property owner. For mining operations proposed upon land under a mining lease, either the signature of the lessor must be affixed to the application or a copy of the complete lease attached to the application. (4-1-91)

04. Requirements of Maps. Vicinity maps must be prepared on standard United States Geological Survey, seven and one-half (7.5) minute quadrangle maps, or equivalent. In addition, maps of the proposed placer

mining operation site will be of sufficient scale to adequately show the following: (4-1-91)

a. The location of existing roads and anticipated access and main haulage roads planned for construction in connection with the mining operation, along with approximate dates for construction, reconstruction, and abandonment; (4-1-91)

b. The approximate location, and the names of all known streams, creeks, springs, wells, or bodies of water within one thousand (1,000) feet of the mining operation; (4-1-91)

c. The approximate boundaries of all lands to be disturbed in the process of mining, including legal description to the quarter-quarter section; (4-1-91)

d. The approximate boundaries and acreage of the lands that will become disturbed land as a result of the placer or dredge mining operation during the first year of operations following issuance of a placer mining permit; (4-1-91)

e. The planned location and configuration of pits, mineral stockpiles, topsoil stockpiles, and waste dumps within the mining property; (4-1-91)

f. Scaled cross-sections, of length and width, which are representative of the placer or dredge mining operation, showing the surface contour prior to mining and the expected surface contour after reclamation activities have been completed; (4-1-91)

g. The location of required settling ponds, the design plans, construction specifications and narrative to show they meet both operating requirements and protection from erosion, seepage, and flooding that can be anticipated in the area. Where a dredge is operating in a stream, describe by drawing and narrative, the operation of the filtration equipment to be used to clarify the water. (4-1-91)

h. Surface and mineral control or ownership of appropriate scale for boundary identification. (4-1-91)

05. Settling Ponds. Detailed plans and specifications for settling ponds must be drawn to a scale of one (1) inch = ten (10) feet and include the following: (4-1-91)

a. A detailed map of the settling pond location, including: (4-1-91)

i. Dimensions and orientation of the settling ponds and/or other wastewater treatment components of the operation; (4-1-91)

ii. Distance from surface waters; (4-1-91)

iii. Pond inlet/outlet locations including emergency spillways and detailed description of control structures and piping; (4-1-91)

iv. Location of erosion control structures; and (4-1-91)

v. Ten (10) year flood elevation (probable high water mark). (4-1-91)

b. A detailed cross-section of the pond(s) including: (4-1-91)

i. Dimensions and orientation; (4-1-91)

ii. Proposed sidewall elevations; (4-1-91)

iii. Proposed sidewall slope; (4-1-91)

iv. Sidewall width; (4-1-91)

v. Distance from and elevation above all surface water; and (4-1-91)

vi. Slope of settling pond location. (4-1-91)

c. Narrative of the construction method(s) describing: (4-1-91)

i. Bottom material; (4-1-91)

ii. Sidewall material; (4-1-91)

iii. Pond volume; (4-1-91)

iv. Volume of water to be used in the wash plant; (4-1-91)

v. Discharge or land application requirements; (4-1-91)

vi. Any pond liners or filter materials to be installed; and (4-1-91)

viii. Compaction techniques. (4-1-91)

d. If the proposed ponds are: (4-1-91)

i. Less than two thousand five hundred (2,500) feet square surface area; (4-1-91)

ii. Less than four (4) feet high; (4-1-91)

iii. Greater than fifty (50) feet from surface water; and (4-1-91)

iv. Constructed on slopes of three: one (3:1) or flatter, the plans and specifications for settlings ponds must contain information in Subparagraphs 021.05.a.i., 021.05.a.ii., and 021.05.a.iv.; 021.05.b.i., 021.05.b.ii., 021.05.b.v. and 021.05.b.vi. This information may be prepared as a sketch map showing appropriate elevations, distances and other required details. (4-1-91)

06. Requirements for Reclamation Plan. A reclamation plan must be submitted in map and narrative form and include the following: (4-1-91)

a. Show how watercourses disturbed by the mining operation will be replaced on meander lines with a pool structure conducive to good fish and wildlife habitat and recreational use. Show how and where riprap or other methods of bank stabilization will be used to ensure that, following abandonment, the stream erosion will not exceed the rate normally experienced in the area. If necessary, show how the replaced watercourse will not contribute to degradation of water supplies; (4-1-91)

b. Describe and show the contour of the proposed mine site after final backfilling and/or grading, with grades listed for slopes after mining; (4-1-91)

c. On a drainage control map, show the best management practices to be utilized to minimize erosion on disturbed lands; (4-1-91)

d. Show roads to be reclaimed upon completion of mining; (4-1-91)

e. Show plans for both concurrent and final revegetation of disturbed lands. Indicate soil types, slopes, precipitation, seed rates, species, topsoil, or other growth medium storage and handling, time of planting, method of planting and, if necessary, fertilizer and mulching rates; (4-1-91)

f. The planned reclamation of tailings or sediment ponds; (4-1-91)

g. An estimate of total reclamation cost to be used in establishing bond amount. The cost estimate

should include the approximate cost of grading, revegetation, equipment mobilization, labor, and administrative overhead. (4-1-91)

h. Make a premining estimate of trees on the site by species and forest lands utilization consideration in reclamation. (4-1-91)

07. State Approval Required. Approval of a placer mining permit must be obtained under these rules, even if approval of such plan has been or is obtained from an appropriate federal agency. (4-1-91)

08. Application Review and Inspection. If the Director determines that an inspection is necessary, the applicant may be contacted and asked that he or his duly authorized employee or representative be present for inspection at a reasonable time. An inspection may be required prior to issuance of the permit. The applicant must make such persons available for the purpose of inspection (see Subsection 051.01). Failure to provide a representative does not mean that the state will not conduct such inspection. (4-1-91)

022. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION.

01. Decision on Application. Following the Director's review of an application for a new permit, or to amend an existing permit and provide an opportunity to correct any deficiencies, the Board will approve or disapprove the application and the Director will notify the applicant of the Board's decision by mail. Such notice will contain any reservations conditioned with the approval, or the information required to be given under Subsections 022.07 and 022.09 if disapproved. If approved, a permit will be issued after the bonding requirements of Section 035 are met. No mining is allowed until the permit is bonded and applicant is notified by mail or telephone of approval. (4-1-91)

02. Public Hearings. For the purpose of determining whether a proposed application complies with these rules, the Director may call for a public hearing, as described in Section 030. (4-1-91)

03. Adverse Weather. If weather conditions prevent the Director from inspecting the proposed mining site to acquire the information required to evaluate the application, the application may be placed in suspense, pending improved weather conditions. The applicant will be notified in writing of this action. (4-1-91)

04. Interagency Comment. Nonconfidential materials submitted under Section 021 will be forwarded by the Directors to the Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. If operations are to be located on federal lands, the department will notify the U. S. Bureau of Land Management or the U.S. Forest Service. The Director may provide public notice on receipt of a reclamation plan. In addition, a copy of an application will be provided to individuals who request the information in writing, subject to Title 9, Chapter 3, Idaho Code. (4-1-91)

05. Stream Alteration Permits. No permit will be issued proposing to alter, occupy or to dredge any stream or watercourse without notification to the Department of the pending application. The Department will respond to said notification within twenty (20) days. If a stream channel alteration permit is required, it must be issued prior to issuance of the placer and dredge permit. (4-1-91)

06. Water Clarification. No permit will be issued until the Director is satisfied that the methods of water clarification proposed by the applicant are of sound engineering design and capable of meeting the water quality standards established under Title 39, Chapter 1, Idaho Code, and IDAPA 58.01.02, "Water Quality Standards," IDAPA, 58.01.11. "Ground Water Quality Rule." (4-11-19)

07. Permit Denial Authority. The Board has the power to deny any application for a permit on state lands, streams, or riverbeds, or on any unpatented mining claims, upon its determination that a placer or dredge mining operation on the area proposed would not be in the public interest, giving consideration to economic factors, recreational use for such lands, fish and wildlife habitat, and other factors which in the judgement of the Board may be pertinent, and may deny any application upon notification by the Department that the granting of such permit would result in permanent damage to the stream channel. (Section 47-1317(j), Idaho Code) (4-1-91)

08. Permit Conditions. If an application fails to meet the requirements of these rules, the Board may

issue a permit subject to conditions that bring the application into compliance with these rules. The applicant may accept or refuse the permit. Refusal to accept the permit is considered a denial under Subsection 022.09. (4-1-91)

09. Amended Applications. If the Board disapproves the application, the applicant will be informed of the rules that have not been complied with, the manner in which they have not been complied with, and the requirements necessary to correct the deficiencies. The applicant may then submit an amended application, which will be processed as described in Section 022. (4-1-91)

10. Permit Offering. Upon approval by the Board, the applicant will be notified of the action and the amount of bond required. Upon receipt of the required bond, the permit will be sent to the applicant for signature. If the bond and the permit, signed by the applicant, are not received within twelve (12) months of Board action, the approval will be automatically rescinded, except that upon written request of the applicant, and for good cause, the Director may defer decision of the Board's approval for a reasonable period of time not to exceed one (1) year. The Director will notify the applicant of his decision in writing. (4-1-91)

11. Reclamation Obligations. The permit issued by the Board governs and determines the nature and extent of the reclamation obligations of the Permittee. (4-1-91)

023. -- 024. (RESERVED)

025. AMENDING AN APPROVED PERMIT.

01. Application to Amendment. If circumstances arise that require significant change in the reclamation plan, method of operation, increase in acreage, or other details associated with an approved permit, the Permittee will submit an application on a department form or exact copy to amend the permit. Application fees are to be submitted with amended applications pursuant to Subsection 021.02.g. (4-1-91)

02. Processing. An application to amend a permit will be processed in accord with Section 022. (4-1-91)

026. DEVIATION FROM AN APPROVED PERMIT.

01. Unforeseen Events. If a Permittee finds that unforeseen events or unexpected conditions require immediate deviation from an approved permit, the Permittee may continue mining in accord with the procedures dictated by the changed conditions, pending submission and approval of an amended permit, even though such operations do not comply with the current approved permit. This does not excuse the Permittee from complying with the BMPs and reclamation requirements of Sections 020 and 040. (4-1-91)

02. Notification. Notification of such unforeseen events must be given to the department within forty-eight (48) hours after discovery, and an application to amend the permit must be submitted within thirty (30) days of deviation from the approved permit by the Permittee. (4-1-91)

027. TRANSFER OF PERMITS.

Placer and dredge mining permits may be transferred from an existing Permittee to a new Permittee. Transfer is made by the new Permittee filing a notarized Department Transfer of Permit form. The new Permittee is then responsible for the past Permittee's obligations under Title 47, Chapter 13, Idaho Code, these rules, the reclamation plan, and permit. When a replacement bond is submitted relative to an approved placer/dredge mining permit, the following rider must be filed with the department as part of the replacement bond before the existing bond will be released:

"(Surety company or principal) understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas disturbed in connection with placer/dredge mining permit No., both prior and subsequent to the date of this rider." (4-1-91)

028. -- 029. (RESERVED)

030. PUBLIC HEARING FOR PERMIT APPLICATION.

01. Public Hearings. During any stage of the application process the Director may conduct a public hearing. (4-1-91)

02. Basis for Hearing. This action will be based upon the preliminary review of the application and upon any concern registered with the Director by the public, affected land owners, federal agencies having surface management of the affected lands, other interested entities, or upon request by the applicant. (4-1-91)

03. Hearing for Water Degradation The Director will call for a public hearing when he determines, after consultation with the Departments of Water Resources, Environmental Quality, Fish and Game, and affected Indian tribes (pursuant to Paragraph 021.02.e.), that proposed placer or dredge mining operations can reasonably be expected to significantly degrade adjacent surface waters. A hearing held under this subsection will be conducted to receive comment on the measures the applicant will use to protect surface water quality from nonpoint source water pollution. (4-1-91)

04. Site of Hearing. The hearing will be held, upon the record, in the locality of the proposed operation, or in Ada County, at a reasonable time and place. (4-1-91)

05. Hearing Notice. The Director will give notice of the date, time, and place of the hearing to the applicant, to federal, state, local agencies, and Indian tribes which may have an interest in the decision, as shown on the application; to all persons petitioning for the hearing, if any; and to all persons identified by the applicant pursuant to Subsection 021.03.a. as an owner of the specific acreage to be affected by the proposed placer or dredge mining operation. Such hearing notice will be sent by certified mail and postmarked not less than thirty (30) days before the scheduled date of the public hearing. (4-1-91)

06. Public Notice. The Director will notify the general public of the date, time, and place of the hearing by placing a newspaper advertisement once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. The two (2) consecutive weekly advertisements begin between seven (7) and twenty (20) days prior to the scheduled date of the hearing. A copy of the application is to be placed for review in a conspicuous place in the local area of the proposed mining operations, in the nearest department's area office, and the department's administrative office in Boise. (4-1-91)

07. Description of Effects. In the event a hearing is ordered under Subsection 030.03, the notice to the public will describe the potentially significant surface water quality degradation and contain the applicant's description of the measures that will be taken to prevent degradation of adjacent surface waters from nonpoint sources of pollution. The foregoing is to be discussed at the public hearing. (4-1-91)

08. Hearing Officer. The hearing will be conducted by the Director or his duly authorized representative. Both oral and written testimony will be accepted. (4-1-91)

031. -- 034. (RESERVED)

035. PERFORMANCE BOND REQUIREMENTS.

01. Submittal of Bond. Prior to issuance of a placer or dredge mining permit, an applicant must submit to the Director, on a placer or dredge mining bond form, a performance bond meeting the requirements of this rule. (4-1-91)

a. The amount of the initial bond is in the amount determined by the Board to be the estimated reasonable costs of reclamation of lands proposed to be disturbed in the permit area, plus ten percent (10%). The determination by the Board of the bond amount constitutes a final decision subject to judicial review as set forth in Section 002 of these rules. The bond may be submitted in the form of a surety, cash, certificate of deposit, or other bond acceptable to the Director. (4-1-91)

b. Acreage on which reclamation is completed must be reported in accord with Subsections 035.06 and 035.07. Acreage may be released upon approval by the Director. The bond may be reduced by the amount appropriate to reflect the completed reclamation. (4-1-91)

02. Form of Performance Bond. (4-1-91)

a. Corporate surety bond: This is an indemnity agreement executed for the Permittee by a corporate surety licensed to do business in the state of Idaho submitted on a placer and dredge mining bond form, or exact copy, supplied by the Director. The bond is to be conditioned upon the Permittee faithfully performing all requirements of the act, these rules, the permit, and reclamation plan, and is be payable to the state of Idaho. (4-1-91)

b. Collateral bond: This is an indemnity agreement executed by or for the Permittee, and payable to the Idaho Department of Lands, pledging cash deposits, governmental securities, or negotiable certificates of deposit of any financial institution doing business in the United States. Collateral bonds are subject to the following conditions: (4-1-91)

i. The Director will obtain possession, and upon receipt of such collateral bonds, deposit such cash or securities with the state treasurer to hold in trust for the purpose of bonding reclamation performance; (4-1-91)

ii. The Director will value collateral at its current market value, not face value; (4-1-91)

iii. Certificates of deposit will be issued or assigned to the Department, in writing, and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the bank, upon demand, to the Permittee, or other person which posted the collateral bond; (4-1-91)

iv. Amount of an individual certificate may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors; (4-1-91)

v. Financial institutions issuing such certificates will waive all rights of set-off or liens which it has or might have against such certificates; (4-1-91)

vi. Any such certificates will be automatically renewable; and (4-1-91)

vii. The certificate of deposit will be of sufficient amount to ensure that the Director would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond, including any penalty for early withdrawal. (4-1-91)

c. Letters of credit: (4-1-91)

i. A letter of credit ("credit") is an instrument executed by a bank doing business in Idaho, made at the request of a customer, that states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit; (4-1-91)

ii. All credits are irrevocable and prepared in a format prescribed by the Director; (4-1-91)

iii. All credits must be issued by an institution authorized to do business in the state of Idaho or through a confirming bank authorized to do business in the state of Idaho which engages that it will itself honor the credit in full. In the alternative, a foreign bank may execute or consent to jurisdiction of Idaho courts on a form prescribed by the Director; and (4-1-91)

iv. The account party on all credits must be identical to the entity identified on the placer mining permit as the Permittee. (4-1-91)

03. Blanket Bond. Where a Permittee is involved in numerous placer or dredge operations, the Director may accept a blanket bond in lieu of separate bonds under approved permits. The amount of such bond must comply with other applicable provisions of Section 035 and are equal to the total of the penalties of the separate bonds being combined into a single bond. (4-1-91)

04. Bond Cancellation. Any surety company canceling a bond must give the department at least one hundred twenty (120) days' notice prior to cancellation. The Director will not release a surety from liability under an existing bond until the Permittee has submitted to the Director an acceptable replacement bond or reclaimed the site.

Replacement bonds must cover any liability accrued against the bonded principal under the permit. If a Permittee fails to submit an acceptable replacement bond prior to the effective date of cancellation of the original bond, or within thirty (30) days following written notice of cancellation by the Director, whichever is later, the Director may issue a cease and desist order and seek injunctive relief to stop the Permittee from conducting placer or dredge mining operations on the lands covered by the bond until such replacement has been received by the department. The Permittee must cease mining operations on lands covered by the bond until a suitable bond is filed. (4-1-91)

05. Substitute Surety. If a surety's Idaho business license is suspended or revoked, the Permittee must, within thirty (30) days after notice by the department, find a substitute for such surety. The substitute surety must be licensed to do business in Idaho. If the Permittee fails to secure such substitute surety, the Director may issue a cease-and-desist order and seek injunctive relief to stop the Permittee from conducting placer and dredge mining operations on the lands covered by the bond until a substitution has been made. The Permittee must cease mining operations on lands covered by the bond until a bond acceptable to the department is filed. (4-1-91)

06. Bond Reduction. Upon finding that any land bonded under a placer or dredge mining permit will not be affected by mining, the Permittee must notify the Director by submitting an application amending the permitted acreage, pursuant to Section 025. When the Director has verified that the bonding requirement for the amended permit is adequate, any excess reclamation bond will be released. Any request for bond reduction will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (4-1-91)

07. Bond Release. Upon completion of the reclamation, specified in the permit, the Permittee must notify the Director in writing, of his desire to secure release from bonding. When the Director has verified that the requirements of the placer or dredge mining permit have been met, as stated in the permit, the bond will be released. (4-1-91)

a. Any request for bond release will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (4-1-91)

b. If the Director finds that a specific portion of the reclamation has been satisfactorily completed, the bond may be reduced to the amount required to complete the remaining reclamation. The following schedule will be used to complete these bond reductions unless the Director determines in a specific case that this schedule is not appropriate and specifies a different schedule: (4-1-91)

i. Sixty percent (60%) of the bond may be released when the Permittee completes the required backfilling, regrading, topsoil replacement, and drainage control of the bonded area in accordance with the approved placer mining permit; and (4-1-91)

ii. After revegetation activities have been performed by the Permittee on the regraded lands according to the approved placer mining permit and Section 040, the department may release an additional twenty-five percent (25%) of the bond. (4-1-91)

c. The remaining bond will not be released: (4-1-91)

i. As long as the disturbed lands are contributing sediment or other pollution to surface waters outside the disturbed land in excess of state water quality standards established under Title 39, Chapter 1, Idaho Code; (4-1-91)

ii. Until final removal of equipment and structures related to the mining activity, or until any remaining equipment and structures are brought under an approved placer or dredge mining permit and bond by a new Permittee (this rule does not require a Permittee to remove equipment or structures from patented lands when the landowner has authorized the equipment and structures to remain on the site); (4-1-91)

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved placer mining permit and bond by a new Permittee; and (4-1-91)

iv. Until vegetation productivity is returned to levels of yields at least comparable to productivity

which the disturbed lands supported prior to the permitted mining, except as stated in Subsection 040.17.b. (4-1-91)

08. Forfeiture. In accord with Subsection 050.02, a bond may be forfeited if the Director determines that the Permittee has not conducted the placer and dredge mining and reclamation in accord with the act, these rules, the approved permit, and the reclamation plan. (4-1-91)

09. Correction of Deficiencies. The Director may, through cooperative agreement with the Permittee, devise a schedule to correct deficiencies in complying with the permit and thereby postpone action to recover the bond. (4-1-91)

10. Bonding Rate. A Permittee may petition the Director for a change in the initial bond rate. The Director will review the petition, and if satisfied with the information presented, a special bond rate will be set based upon the estimated cost that the Director would incur should a forfeiture of bond occur and it becomes necessary for the Director to complete reclamation to the standards established in the permit and reclamation plan. (4-1-91)

11. Federal Bonds Recognized. The Director may accept as a bond, evidence of a valid reclamation bond with the United States government. The bond must equal or exceed the amount determined in Subsection 035.01.a. This does not release a Permittee from bonding under these rules if the Permittee fails to continuously maintain a valid federal bond. (4-1-91)

12. Insufficient Bond. In the event the amount of the bond is insufficient to reclaim the land in compliance with the act, these rules, the approved permit, and the reclamation plan, the attorney general is empowered to commence legal action against the Permittee in the name of the Board to recover the amount, in excess of the bond, necessary to reclaim the land in compliance with the act, these rules, the approved permit, and the reclamation plan. (4-1-91)

036. -- 039. (RESERVED)

040. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR PLACER AND DREDGE MINING OPERATION.

01. Nonpoint Source Sediment Control. (4-1-91)

a. Appropriate best management practices for nonpoint source sediment or other pollution controls must be designed, constructed, and maintained with respect to site-specific placer or dredge mining operations. Permittees will utilize best management practices designed to achieve state water quality standards and protect existing beneficial uses of adjacent surface waters. (4-1-91)

b. State water quality standards, including protection of existing beneficial uses, are the standard that must be achieved by best management practices. In addition to proper mining techniques and reclamation measures, the Permittee will take necessary steps at the close of each operating season to assure that sediment movement or other pollution associated with surface runoff over the area is minimized in order to achieve water quality standards. (4-1-91)

c. Sediment or pollution control measures refer to best management practices that are carried out within and, if necessary, adjacent to the disturbed land and consist of utilization of proper mining and reclamation measures, as well as specific necessary pollution control methods, separately or in combination. Specific pollution control methods may include, but are not limited to: (4-1-91)

i. Keeping the disturbed land to a minimum at any given time through concurrent reclamation; (4-1-91)

ii. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; (4-1-91)

iii. Retaining sediment within the disturbed land; (4-1-91)

iv. Diverting surface runoff to limit water coming into the disturbed land and settling ponds; (4-1-91)

v. Routing runoff through the disturbed land using protected channels or pipes so as not to increase sediment load; (4-1-91)

vi. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and (4-1-91)

vii. Use of adequate sediment ponds, with or without chemical treatment. (4-1-91)

02. Modification of Management Practices. If best management practices utilized by the Permittee do not result in compliance with Subsection 040.01, the Director will require the Permittee to modify or improve such best management practices to meet state water quality standards. (4-1-91)

03. Clearing and Grubbing. Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Permittees are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the Permittee is required to meet state water quality standards. Trees and slash should be stockpiled for use in seedbed protection and erosion control and such stockpiling may be a requirement of the approved permit. (4-1-91)

04. Overburden/Topsoil. To aid in the revegetation of disturbed land, where placer or dredge mining operations result in the removal of substantial amounts of overburden, including any topsoil, the Permittee must remove, where practicable, the available topsoil or other growth medium as a separate operation for such area. Unless there are previously disturbed lands which are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium must be stockpiled and protected from erosion and contamination until such areas become available. (4-1-91)

a. Overburden/topsoil removal: (4-1-91)

i. Any overburden/topsoil to be removed will be removed prior to any other mining activity to prevent loss or contamination; (4-1-91)

ii. Where overburden/topsoil removal exposes land area to potential erosion, the Director may, as a condition of a permit, limit the size of any one (1) area having topsoil removed at any one (1) time. (4-1-91)

iii. Where the Permittee can show that an overburden material other than topsoil is more conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. (4-1-91)

b. Topsoil storage. Topsoil stockpiles must be placed to minimize rehandling and exposure and to avoid excessive wind and water erosion. Topsoil stockpiles must be protected, as necessary, from erosion by use of temporary vegetation or by other methods which will control erosion; including, but not limited to, silt fences, chemical binders, seeding, and mulching. (4-1-91)

c. Overburden storage. Stockpiled ridges of overburden must be leveled to a minimum width of ten (10) feet at the top. Peaks of overburden must be leveled to a minimum width of fifteen (15) feet at the top. The overburden piles must be reasonably prepared to control erosion using best management practices such as terracing, silt fences, chemical binders, seeding, and mulching. (4-1-91)

05. Roads. (4-1-91)

a. Roads must be constructed to minimize soil erosion. Such construction may require, but is not limited to, restrictions on length and grade of roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. (4-1-91)

b. All access and haul roads must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. (4-1-91)

c. Culverts that are to be maintained for more than one (1) year must be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. (4-1-91)

d. Roads and water control structures must be maintained at periodic intervals as needed. Water control structures serving to drain roads may not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. (4-1-91)

e. Roads that are to be abandoned must be cross-ditched, ripped, and revegetated or otherwise obliterated to control erosion. (4-1-91)

f. Roads, not abandoned, which are to continue in use under the jurisdiction of a governmental or private landowner, are the Permittee's responsibility to comply with the nonpoint source sediment control provisions of Subsection 040.01 until the successor assumes control. (4-1-91)

06. Settling Ponds -- Minimum Criteria. (4-1-91)

a. Settling ponds must provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. (4-1-91)

b. No settling pond, used for process water clarification, must be constructed to block a surface water drainage. (4-1-91)

c. All settling ponds must be constructed and designed to prevent surface water runoff from entering the pond. (4-1-91)

d. All settling ponds must be constructed and maintained to contain direct precipitation to the pond surface from a fifty (50) year twenty-four (24) hour storm event. (4-1-91)

e. No chemicals may be used for water clarification or on site gold recovery without prior notification to, and approval from, the DEQ. (4-1-91)

07. Dewatering Settling Ponds. Upon reclamation, settling ponds must be dewatered, detoxified, and stabilized. Stabilization includes regrading the site for erosion control, to the approximate original contour, and may require removal and disposal of settling pond contents. (4-1-91)

08. Topsoil Replacement. Following completion of the requirements of Subsection 040.07, the settling ponds must be retopped with stockpiled topsoils or other soils conducive to plant growth. Where such soils are limited in quantity or not available, physical or chemical methods of erosion control may be used. All such areas are to be revegetated in accord with Subsection 040.17, unless otherwise specified in the placer mining permit. (4-1-91)

09. Dam Safety. Settling ponds must conform with the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code and with the Environmental Protection and Health Act, Section 39-118, Idaho Code, requiring plan and specification review and approval for waste treatment facilities. (4-1-91)

10. Backfilling and Grading. (4-1-91)

a. Every operator who conducts placer mining exploration operations that disturb less than one-half (1/2) acre must contour the disturbed land to its approximate previous contour. These lands must be revegetated in accordance with Subsection 040.17. For showing discovery on federal mining claims, unless otherwise required by a federal agency, one (1) pit may be left open on each claim pending verification by federal mining examiners, but must not create a hazard to humans or animals. Such pits and trenches must be reclaimed within one (1) year of verification. (4-1-91)

b. Every Permittee who disturbs more than one-half (1/2) acre must shape and smooth the disturbed

ground to a grade reasonably comparable with the natural contour of the ground prior to mining, and to a condition that promotes the growth of vegetation except as provided in Paragraph 040.17.m. or minimize erosion through other means. Any disturbed natural watercourse must be restored to a configuration and structure conducive to good fish and wildlife habitat and recreational use. (4-1-91)

c. Backfill materials must be compacted in a manner to ensure stability of the fill. (4-1-91)

d. After the disturbed land has been graded, slopes will be measured by the department for compliance with the requirements of the act, these rules, the placer or dredge mining permit, and the reclamation plan. (4-1-91)

11. Waste Disposal - Disposal of Waste in Areas Other Than Mine Excavations. Waste materials not used in backfilling mined areas must be placed, stabilized, and revegetated to ensure that drainage is compatible with the surrounding drainage and to ensure long-term stability. (4-1-91)

a. The Permittee may, if appropriate, use terraces to stabilize the face of any fill. Slopes of the fill material may not exceed the angle of repose. (4-1-91)

b. Unless adequate drainage is provided through a fill area, all surface water above a fill must be diverted away from a fill area into protected channels, and drainage may not be directed over the unprotected face of a fill. (4-1-91)

12. Topsoil Redistribution. Topsoil must be spread to achieve a thickness over the regraded area, adequate to support plant life. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution must be timed so that seeding or other protective measures can be readily applied to prevent compaction and erosion. Final grading must be along the contour unless such grading will expose equipment operators to hazardous operating conditions, in which case the best alternative method must be used in grading. (4-1-91)

13. Soil Amendments. Nutrients and soil amendments must, if necessary, be applied to the graded areas to successfully achieve the revegetation requirements of the permit and reclamation plan. (4-1-91)

14. Revegetating Waste Piles. The Permittee must conduct revegetation activities with respect to such waste piles in accordance with Subsection 040.17. (4-1-91)

15. Mulching. Mulch must be used on severe sites and may be required by the approved placer or dredge mining permit. Nurse crops such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (4-1-91)

16. Permanent Cessation and Time Limits for Planting. (4-1-91)

a. Wherever possible, but not later than one (1) year after grading, seeding and planting of disturbed lands must be completed during the first favorable growth period after seedbed preparation. If permanent vegetation is delayed or slow in establishment, temporary cover of small annual grains, grasses, or legumes may be used to control erosion until adequate permanent cover is established. (4-1-91)

b. Reclamation activities should be concurrent with the mining operation and may be included in the approved placer or dredge mining permit and reclamation plan. Final reclamation must begin within one (1) year after the placer or dredge mining operations have permanently ceased on a mine panel. If the Permittee permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other disturbed land, the reclamation activity on each given area must start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other disturbed land, has not permanently ceased. (4-1-91)

c. A Permittee will be presumed to have permanently ceased placer or dredge mining operations on a given portion of disturbed land where no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the previous one (1)

year. (4-1-91)

d. If a Permittee does not plan to use disturbed land for one (1) or more years but intends thereafter to use the disturbed land for placer or dredge mining operations and desires to defer final reclamation until after its subsequent use, the Permittee must submit a notice of intent and request for deferral of reclamation to the Director, in writing. If the Director determines that the Permittee plans to continue the operation within a reasonable period of time, the Director will notify the Permittee and may require actions to be taken to reduce degradation of surface resources until operations resume. If the Director determines that the use of the disturbed land for placer or dredge mining operations will not be continued within a reasonable period of time, the Director will proceed as though the placer or dredge mining operation has been abandoned, but the Permittee will be notified of such decision at least thirty (30) days before taking any formal administrative action. (4-1-91)

17. Revegetation Activities. (4-1-91)

a. The Permittee must select and establish plant species that can be expected to result in vegetation comparable to that growing on the disturbed lands prior to placer or dredge mining operations or other species that will be conducive to the post-mining use of the disturbed lands. The Permittee may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation. (4-1-91)

b. Standards for success of revegetation. Revegetative success, unless otherwise specified in the approved placer mining permit and reclamation plan, is measured against the existing vegetation at the site prior to mining, or an adjacent reference area supporting similar vegetation. (4-1-91)

c. The ground cover of living plants on the revegetated area must be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. (4-1-91)

d. For purposes of this rule, ground cover is considered comparable if it has, on the area actually planted, at least seventy percent (70%) of the premining ground cover for the mined land or adjacent reference area. (4-1-91)

e. For locations with an average annual precipitation of more than twenty-six (26) inches, the Director, in approving a placer mining permit, may set a minimum standard for success of revegetation as follows: (4-1-91)

i. Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or (4-1-91)

ii. Fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. (4-1-91)

f. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measurement. Rock surface areas, composed of rock three plus (3+) inches in diameter will be excluded from this calculation. For purposes of measuring ground cover, rock greater than three (3) inches in diameter is considered as ground cover. (4-1-91)

g. For previously mined areas that were not reclaimed to the standards required by Section 040, and that are disturbed by the placer or dredge mining operations, vegetation must be established to the extent necessary to control erosion, but not be less than that which existed before redisturbance. (4-1-91)

h. Introduced species may be planted if they are comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the disturbed land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weeds may not be used in revegetation. (4-1-91)

i. By mutual agreement of the Director, the landowner, and the Permittee, a site may be converted to a different, more desirable, or more economically suitable habitat. (4-1-91)

j. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (4-1-91)

k. The Permittee should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs must be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. (4-1-91)

l. Reforestation -- Tree stocking of forestlands should meet the following criteria: (4-1-91)

i. Trees that are adapted to the site should be planted on the land to be revegetated, in a density which can be expected over time to yield a timber stand comparable to premining timber stands. This in no way is to exclude the conversion of sites to a different, more desirable, or more economically suited species; (4-1-91)

ii. Trees must be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (4-1-91)

iii. Forest lands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (4-1-91)

m. Revegetation is not required on the following areas: (4-1-91)

i. Disturbed lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; (4-1-91)

ii. Any mined land or overburden piles proposed to be used in the mining operations; (4-1-91)

iii. Any mined land or overburden pile, where lakes are formed by rainfall or drainage run-off from adjoining lands; (4-1-91)

iv. Any mineral stockpile; (4-1-91)

v. Any exploration trench which will become a part of any pit or overburden disposal area; and (4-1-91)

vi. Any road which is to be used in mining operations, so long as the road is not abandoned. (4-1-91)

041. -- 049. (RESERVED)

050. TERMINATION OF A PERMIT.

01. Completion of Reclamation. A placer or dredge mining permit terminates upon completion of all reclamation activity to the standards specified in the permit and reclamation plan, and final inspection and approval has been granted by the Director. Upon termination, the Director will release the remaining portion of the bond. (4-1-91)

02. Involuntary Termination. For continuous operation, the bonded permit will remain valid. Administrative action may be taken to terminate a placer and dredge mining permit if: (4-1-91)

a. The permit does not remain bonded; (4-1-91)

b. The placer and dredge mining operations are not commenced within two (2) years of the date of Board approval; (4-1-91)

c. The placer and dredge mining operations are permanently ceased and final reclamation has not commenced within one (1) year of the date of permanent cessation; (4-1-91)

d. Inspection costs are delinquent; or (4-1-91)

e. Permittee fails to comply with the act, these rules, the permit, or the reclamation plan. (4-1-91)

051. ENFORCEMENT AND FAILURE TO COMPLY.

01. Inspection. The Director may inspect the operation under permit from time to time to determine compliance with the act, these rules, the permit, and the reclamation plan. The cost and expense of such inspections will be borne by the Permittee. (4-1-91)

a. Cost of inspection is assessed at a flat rate of two hundred and fifty dollars ($250) per year for each permit. Permits upon U.S. Forest Service administered lands is assessed at a flat rate of one hundred dollars ($100) per year for each permit, to reflect the reduced inspection work for the department. (4-1-91)

b. A billing for inspection costs will be made in advance each May 1, with the costs due and payable within thirty (30) days of receipt of an inspection cost statement. Inspection fees become delinquent if not paid on or before June 1, and the department may assess the greater of the following; either a twenty-five dollars ($25) late payment charge or penalty at the rate of one percent (1%) for each calendar month or fraction thereof, compounded monthly, for late payments from the date the inspection fee is due. Such costs constitute a lien upon equipment, personal property, or real property of the Permittee and upon minerals produced from the permit area. Should inspection fees be delinquent, the department will send a single notice of delinquent payment by certified mail, return receipt requested, to the Permittee. If payment is not received by the department within thirty (30) days from the date of receipt, the department may take appropriate administrative action to cancel the permit as provided by Subsection 050.02. (4-1-91)

c. Inspection costs related to a reported violation are assessed at actual costs and in addition to those costs in Paragraph 051.01.a. Costs include mileage to and from the mine site, employee meals, lodging, personnel costs, and administrative overhead. Costs are due and payable thirty (30) days after receipt of the inspection cost statement. (4-1-91)

02. Department Remedies. Without affecting the penal and injunctive provisions of these rules, the department may pursue the following remedies: (4-1-91)

a. When the Director determines that a Permittee has not complied with the act, these rules, the permit, or the reclamation plan, the Director will notify the Permittee in writing and set forth the violations claimed and the corrective actions needed. (4-1-91)

b. If the Permittee fails to commence and diligently proceed to complete the requested corrective action within a specified number of days after notice of the violation, unless a cooperative agreement has been reached pursuant to Subsection 035.09, the Director may take administrative action as provided within this rule to terminate the permit and forfeit the bond. (4-1-91)

c. The Board may cause to have issued and served upon the Permittee alleged to be committing such violation, a formal complaint that specifies the provisions of the act, the permit, the reclamation plan, or these rules which the Permittee allegedly is violating, and a statement of the manner in and the extent to which said Permittee is alleged to be violating the provisions of the act, the permit, the reclamation plan, or these rules. Such complaint may be served by certified mail, and return receipt, signed by the Permittee, an officer of a corporate Permittee, or the designated agent of the Permittee, constitute service. (4-1-91)

d. The Permittee is required to answer the formal complaint and request a hearing before a hearing officer appointed by the Director, which authority to appoint is hereby delegated by the Board to the Director, within thirty (30) days of receipt of the complaint if matters asserted in the complaint are disputed. The hearing will be held at a time not less than thirty (30) days after the date the Permittee requests such a hearing. The Board will issue subpoenas at the request of the Director and at the request of the charged Permittee. The hearing will be conducted in accordance with Sections 67-5209 through 67-5213, Idaho Code, and these rules. (4-1-91)

e. The hearing officer will enter an order in accordance with Section 67-5212, Idaho Code, that, if adverse to the Permittee, will designate a time period within which prescribed corrective action, if any, should be taken. The designated time period will be sufficient to allow a reasonably diligent Permittee to correct any violation. Procedure for appeal of an order is outlined in Subsection 002.01. (4-1-91)

f. Upon the Permittee's compliance with the order, the Director will consider the matter resolved and take no further action with respect to such noncompliance. (4-1-91)

g. If the Permittee fails to answer the complaint and request a hearing, the matters asserted in the complaint will be deemed admitted by the Permittee, and the Director may proceed to cancel the placer mining permit and forfeit the bond in the amount necessary to pay all costs and expense of restoring the lands and beds of streams damaged by dredge or other placer mining of said defaulting Permittee and covered by such bond and remaining unrestored, including the department's administrative costs. (4-1-91)

03. Violation of an Order. Upon request of the Director, the attorney general may institute proceedings to have the bond of a Permittee forfeited for violation of an order entered pursuant to Subsection 051.02.e. (4-1-91)

04. Injunctive Procedures. (4-1-91)

a. The Director may seek injunctive relief, as provided by Section 47-1324(b), Idaho Code, against any Permittee who is conducting placer mining or exploration operations when: (4-1-91)

i. Under an existing approved permit, reclamation plan, and bond, a Permittee violates or exceeds the terms of the permit; (4-1-91)

ii. A Permittee violates a provision of the act or these rules; or (4-1-91)

iii. The bond, if forfeited, would not be sufficient to adequately restore the land; (4-1-91)

b. The Director may seek injunctive relief to enjoin a placer mining operation for the Permittee's violation of the terms of an existing approved permit, the reclamation plan, the act, and these rules, and if immediate and irreparable injury, loss, or damage to the state may be expected to occur. (4-1-91)

c. The Director will request the court to terminate any injunction when he determines that all conditions, practices, or violations listed in the order have been abated. Termination will not affect the right of the department to pursue civil penalties for these violations in accordance with Subsection 051.06. (4-1-91)

05. Civil Action. In addition to the injunctive provisions above, the Board may maintain a civil action against any person who violates any provision of the act or these rules, to collect civil damages in an amount sufficient to pay for all the damages to the state caused by such violation, including but not limited to, costs of restoration in accordance with Section 47-1314, Idaho Code, where a person is conducting placer or dredge mining without an approved permit or bond. (4-1-91)

06. Civil Penalty. (4-1-91)

a. Pursuant to Section 47-1324(d), Idaho Code, any person violating any of the provisions of the placer and dredge mining act or these rules or violating any determination or order pursuant to these rules, is liable for a civil penalty of not less than five hundred dollars ($500) nor more than two thousand five hundred dollars ($2,500) for each day during which such violation continues. Such penalty is recoverable in an action brought in the name of

the state of Idaho by the attorney general. (4-1-91)

b. Pursuant to Section 47-1324(d), Idaho Code, any person who willfully or knowingly falsifies any records, plans, specifications, or other information required by the Board or willfully fails, neglects, or refuses to comply with any of the provisions of these rules, is guilty of a misdemeanor and will be punished by a fine of not less than one thousand dollars ($1,000) or more than five thousand dollars ($5,000) or imprisonment, not to exceed one (1) year, or both. (4-1-91)

07. Hearing Procedures. (4-1-91)

a. Process and procedures under these rules will be as summary and simple as may be possible. The Director, Board, or any member thereof, or the hearing officer designated by the Director, has the power to subpoena witnesses and administer oaths. The District Court will enforce the attendance and testimony of witnesses and the production for examination of books, papers, and records. A stenographic record or other recording of the hearing will be made. Witnesses subpoenaed by the Director or the hearing officer will be allowed such fees and traveling expenses as are allowed in civil actions in the District Court, to be paid by the party in whose interest such witnesses are subpoenaed. The Board, Director, or hearing officer will make such inquiries and investigations as deemed relevant. Each hearing will be held at the county seat in the county where any of the lands involved in the hearing are situate, or in the County of Ada, as the Board or Director may designate. (4-1-91)

b. A notice of hearing willl be served by certified mail to the last known address of the Permittee or his agent at least twenty (20) days prior to the hearing. A certified return receipt signed by the Permittee or his agent constitutes service and time thereof. (4-1-91)

c. The cost of such hearing including, but not limited to, room rental, hearing officer fees, and transcript will be assessed against the defaulting Permittee. The Director may designate a hearing officer to conduct any hearings and make findings of fact, conclusions of law, and decision on issues involving the administration of the act and these rules. (4-1-91)

d. If the hearing involves a permit or application for a permit, the decisions of the Board or the hearing officer, together with the transcript of the evidence, findings of fact, and any other matter pertinent to the questions arising during any hearing will be filed in the office of the Director. A copy of the findings of fact and decision will be sent to the applicant or holder of the permit involved in such hearing, by U.S. mail. If the matter has been assigned for hearing and a claim for review is not filed by any party in the proceeding within thirty (30) days after his decision is filed, the decision may be adopted as the decision of the Board and notice thereof will be sent to the applicant or permit holder involved in such hearing by U. S. mail. (4-1-91)

052. -- 054. (RESERVED)

055. COMPUTATION OF TIME.
Computation of time for these rules will be based on calendar days. In computing any period of prescribed time, the day on which the designated period of time begins is not included. The last day of the period is included unless it is a Saturday, Sunday, or legal state holiday. In such a case, the period runs until the end of the next day which is not a Saturday, Sunday, or legal holiday. Intermediate Saturdays, Sundays, or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less. (4-1-91)

056. -- 059. (RESERVED)

060. PLACER OR DREDGE MINING OF CERTAIN WATERBODIES PROHIBITED.

01. Prohibited Areas. Placer or dredge mining in any form is prohibited on water bodies making up the national wild and scenic river system: (4-1-91)

a. The Middle Fork of the Clearwater River, from the town of Kooskia upstream to the town of Lowell; the Lochsa River from its junction with the Selway at Lowell forming the Middle Fork upstream to the Powell Ranger Station; and the Selway River from Lowell upstream to its origin; (4-1-91)

b. The Middle Fork of the Salmon River, from its origin to its confluence with the main Salmon River; (4-1-91)

c. The St. Joe River, including tributaries, from its origin to its confluence with Coeur d'Alene Lake, except for the St. Maries River and its tributaries. (4-1-91)

02. Mining Withdrawals. The Board, under authority provided by Title 47, Chapter 7, Idaho Code, has withdrawn certain other lands from placer and dredge mining. A listing of such withdrawals is available from the administrative offices of the Department. (4-1-91)

061. -- 064. (RESERVED)

065. DEPOSIT OF FORFEITURES AND DAMAGES.

01. Mining Account. All monies, forfeitures, and penalties collected under the provisions of these rules will be deposited in the Placer and Dredge Mining Account to be used by the Director for placer and dredge mine reclamation purposes and related administrative costs. (4-1-91)

02. Funds for Reclamation. Upon approval of the Board, monies in the account may be used to reclaim lands for which the forfeited bond was insufficient to reclaim in accord with these rules, or for placer or dredge mine sites for which the bond has been released and which have resulted in subsequent damage. Monies received from inspection fees are to be kept separate and used for costs incurred by the Director in conducting such inspections. (4-1-91)

066. -- 069. (RESERVED)

070. COMPLIANCE OF EXISTING PLANS WITH THESE RULES.
These rules, upon their adoption, apply as appropriate to all existing placer or dredge mining operations, but are not affect the validity or modify the duties, terms, or conditions of any existing approved placer or dredge mining permits or impose any additional obligations with respect to reclamation upon any Permittee conducting placer or dredge mining operations pursuant to a placer or dredge mining permit approved prior to adoption of these rules. (4-1-91)

071. -- 999. (RESERVED)

000. LEGAL AUTHORITY.

Title 47, Chapter 15 ("chapter"), Idaho Code, authorizes the Idaho State Board of Land Commissioners ("Board") to promulgate rules pertaining to mineral exploration; surface mining operations; reclamation of lands affected by exploration and surface mining operations, including review and approval of reclamation and permanent closure plans; requirements for performance bonds for reclamation and permanent closure, and to establish a reasonable fee for reviewing and approving permanent closure plans for cyanidation facilities, including the reasonable cost to employ a qualified independent party, acceptable to the applicant and the Board, to review permanent closure plans and to verify the accuracy of cost estimates to complete permanent closure. The Board has delegated to the Director of the Department of Lands ("Department") the duties and powers under the chapter and these rules, provided the Board retains responsibility for administrative review. (3-30-06)

001. TITLE AND SCOPE.

01. **Title**. These rules are titled IDAPA 20.03.02, "Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities." (3-30-06)

02. **Purpose**. These rules are intended to provide for the protection of public health, safety, and welfare, by ensuring that all the lands within the state disturbed by exploration and surface mining operations are properly reclaimed and ensuring the proper permanent closure of cyanidation facilities and thereby conserve natural resources; aid in the protection of wildlife, domestic animals, and aquatic resources; and reduce soil erosion. It is also the purpose of these rules to implement the State of Idaho's antidegradation policy as set forth in Executive Order No. 88-23 as it pertains to exploration and surface mining operations and cyanidation facilities operating in the state. These rules are not intended to require reclamation or permanent closure activities in addition to those required by the chapter. (3-30-06)

03. **Scope**. These rules establish: (3-30-06)

a. Requirements for exploration; (3-30-06)

b. Procedures for approval of a surface mining reclamation plan, including an operating plan, when required by Section 47-1506(b), Idaho Code; (7-1-98)

c. Procedures for approval of a permanent closure plan for cyanidation facilities; (3-30-06)

d. Requirements for performance bonds for postmining reclamation to be posted prior to beginning surface mining operations; (11-1-89)

e. Requirements for performance bonds for permanent closure of cyanidation facilities to be posted prior to beginning the construction and operation of a cyanide ore-processing facility; (3-30-06)

f. Reclamation requirements lands disturbed by exploration and surface mining operations; (3-30-06)

g. Permanent closure requirements for cyanidation facilities; and (3-30-06)

h. Procedures for ensuring compliance with the chapter and these rules. (3-30-06)

04. **Other Laws**. Operators engaged in exploration, surface mining operation, and operation of a cyanidation facility must comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: (3-30-06)

a. Idaho water quality standards and waste water treatment requirements established in Title 39, Chapter 1, Idaho Code; IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements"; and IDAPA 58.01.11, "Ground Water Quality Rule," administered by the Idaho Department of Environmental Quality ("DEQ"). (3-30-06)

b. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including, IDAPA 58.01.05, "Rules and Standards for Hazardous Waste" and IDAPA 58.01.06, "Solid Waste Management Rules," administered by the DEQ. (3-30-06)

c. Section 39-118A, Idaho Code, and applicable rules for ore processing by cyanidation as promulgated and administered by the DEQ as defined in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." (3-30-06)

d. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and applicable rules as promulgated and administered by the Idaho Department of Water Resources. (11-1-89)

e. Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules promulgated and administered by the Idaho Department of Water Resources. (3-30-06)

05. Applicability. These rules are to be read and applied in conjunction with the chapter. These rules apply to all exploration, surface mining operations, and permanent closure of cyanidation facilities on all lands in the state, regardless of ownership, with the following exceptions: (3-30-06)

a. These rules apply to surface mining operations or exploration operations conducted on all lands within the state, regardless of ownership, commenced after the effective date of these rules. These rules in no way affect, alter, or modify the terms or conditions of any approved reclamation plan or approved amendment thereto or a performance bond for reclamation obtained prior to January 1, 1997. If a material change arises and is regulated in accordance with Subsection 090.01, then the operator must submit a supplemental reclamation plan. (3-30-06)

b. These rules do not apply to: (3-30-06)

i. Any surface mining operations performed prior to May 31, 1972, and further, an operator is not required to perform such reclamation activities as to any pit or overburden pile as it existed prior to May 31, 1972; (3-30-06)

ii. Mining operations for which the Idaho Dredge and Placer Mining Protection Act requires a permit, or that are otherwise regulated by that Act, nor to surface disturbances resulting from underground mining. (3-30-06)

iii. Extraction of minerals from within the right-of-way of a public highway by a public or governmental agency for maintenance, repair or construction of a public highway, provided the affected land is an integral part of such highway. (3-30-06)

c. Sand and gravel mining operations in state-owned beds of navigable lakes, rivers or streams constitute an approved surface mining plan for the purpose of these rules if they are covered by a valid lease granted by the Board in accordance with Title 47, Chapter 7, Idaho Code and IDAPA 20.03.05, "Rules Governing Riverbed Mineral Leasing," and a valid mineral lease bond; have a valid stream channel alteration permit issued by the Idaho Department of Water Resources; and have a plan of operation for the mineral lease approved by the Department. (3-30-06)

d. Surface mining operations, conducted by a public or governmental agency for maintenance, repair, or construction of a public highway, that: (3-30-06)

i. Disturb more than two (2) acres must comply with the provisions of Section 069; or (3-30-06)

ii. Disturb less than two (2) acres are only required to comply with Subsections 060.06.a. through 060.06.c. (3-30-06)

e. A cyanidation facility with a permit approved by the DEQ prior to July 1, 2005, are subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005; however, if there is a material modification or material expansion to a cyanidation facility after July 1, 2005, these rules apply to the modification or expansion. (3-30-06)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Affected Land. The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at the surface mining operation site. (11-1-89)

02. Approximate Previous Contour. A contour that is reasonably comparable to that contour existing prior to disturbance, or that blends with the adjacent topography. (11-1-89)

03. Best Management Practices. Practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards and Wastewater Treatment Requirements," that are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (4-11-19)

04. Board. The State Board of Land Commissioners. ( )

05. Chapter. The Idaho Surface Mining Act, Title 47, Chapter 15, Idaho Code. (3-30-06)

06. Cyanidation. The method of extracting target precious metals from ores by treatment with cyanide solution, which is the primary leaching agent for extraction. (3-30-06)

07. Cyanidation Facility. That portion of a new ore processing facility, or a material modification or a material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings, and process water. (3-30-06)

08. Department. The Idaho Department of Lands. (7-1-98)

09. DEQ. The Department of Environmental Quality. (11-1-89)

10. Director. The Director of the Department of Lands or such representative as may be designated by the Director. ( )

11. Discharge. With regard to cyanidation facilities, when used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (3-30-06)

12. Exploration Drill Holes. Holes drilled from the surface to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

13. Exploration Operations. Activities performed on the surface of lands to locate mineral bodies and to determine the mineability and merchantability thereof. These activities include, but are not limited to, construction of roads, trenches, and exploration drill holes. (11-1-89)

14. Exploration Roads. Roads constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

15. Exploration Trenches. Trenches constructed to locate mineral bodies and to determine the mineability and merchantability thereof. (11-1-89)

16. Final Order of the Board. A written notice of rejection, the order of a hearing officer at the conclusion of a hearing, or any other order of the Board where additional administrative remedies are not available. (11-1-89)

17. Groundwater. Any water of the state that occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-06)

18. Hearing Officer. That person selected by the Board to hear proceedings under Section 47-1513, Idaho Code. It also means that person selected by the Director to hear proceedings initiated under Section 110 or Section 160 of these rules. (11-1-89)

19. Land Application. With regard to cyanidation facilities, a process or activity involving application of process water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (3-30-06)

20. Material Change. (3-30-06)

a. For surface mining, a change that deviates from the approved reclamation plan and causes one (1) of the following to occur: (3-30-06)

i. Results in a substantial adverse affect to the geotechnical stability of overburden disposal areas, topsoil, stockpiles, roads, embankments, tailings facilities or pit walls; (7-1-98)

ii. Substantially modifies surface water management, not to include routine implementation and maintenance of BMPs; (3-30-06)

iii. Exceeds the permitted acreage; or (7-1-98)

iv. Increases overall estimated reclamation costs by more than fifteen percent (15%). (7-1-98)

b. For cyanidation facilities, a change that causes one (1) of the following to occur: (3-30-06)

i. A substantial adverse effect to the geotechnical stability of the cyanidation facilities; (3-30-06)

ii. The need for a substantial change in the water management plan. (3-30-06)

iii. Increases in overall estimated permanent closure costs by more than fifteen percent (15%). (3-30-06)

21. Material Modification or Material Expansion. With regard to cyanidation facilities: (3-30-06)

a. The addition of a new beneficiation process, or a significant change in the capacity of an existing beneficiation process, that was not identified in the original application and that significantly increases the potential to degrade the waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or (3-30-06)

b. A significant change in the location of a proposed process component or site condition that was not adequately described in the original application; or (3-30-06)

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (3-30-06)

d. For a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities are not considered to be material modifications or material expansions of the cyanidation facility. (3-30-06)

22. Material Stabilization. Managing or treating spent ore, tailings, and other solids or sludges resulting from the cyanidation process in such a manner to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility ensuring that all discharges comply with all applicable standards and criteria. (3-30-06)

23. Mine Panel. That area designated by the operator as a panel of a surface mine on the map submitted pursuant to Section 47-1506, Idaho Code. (11-1-89)

24. Mined Area. Surface of land from which overburden or minerals have been removed other than by drilling of exploration drill holes. (11-1-89)

25. Mineral. Coal, clay, stone, sand, gravel, metalliferous and non-metalliferous types of ores, and any

other similar, solid material or substance of commercial value to be excavated from natural deposits on or in the earth. (11-1-89)

26. Mineral Stockpile. Mineral extracted during surface mining operations and retained at the surface mine for future rather than immediate use. (11-1-89)

27. Motorized Earth-Moving Equipment. Backhoes, bulldozers, front-loaders, trenchers, core drills, and other similar equipment. (11-1-89)

28. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or will not violate all applicable standards and criteria. (3-30-06)

29. Operator. Any person or persons, any partnership, limited partnership, or corporation, or any association of persons, either natural or artificial, including but not limited to every public or governmental agency engaged in surface mining or exploration operations, or engaged in the operation or permanent closure, or both, of a cyanidation facility, whether individually, jointly, or through subsidiaries, agents, employees, or contractors and means every governmental agency owning or controlling the use of any surface mine when the mineral extracted is to be used by or for the benefit of such agency. It does not include any such governmental agency with respect to those surface mining or exploration operations to which it grants mineral leases or prospecting permits or similar contracts, but nothing herein relieves the operator acting pursuant to a mineral lease, prospecting permit or similar contract from the terms of the chapter. (3-30-06)

30. Overburden. Material extracted by an operator that is not a part of the material ultimately removed from a surface mine and marketed by an operator, exclusive of mineral stockpiles. (11-1-89)

31. Overburden Disposal Area. Land surface upon which overburden is piled or planned to be piled. (11-1-89)

32. Peak. A projecting point of overburden. (11-1-89)

33. Permanent Closure. Those activities that result in neutralization, material stabilization, and decontamination of cyanidation facilities and/or facilities' final reclamation. (3-30-06)

34. Permanent Closure Plan. A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of the chapter in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in controlling and monitoring discharges and potential discharges for a reasonable period of time based on site specific conditions. (3-30-06)

35. Permit. When used without qualification, any written authorization by the Department of Environmental Quality, issued pursuant to the application, public participation, and appeal procedures in IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," governing the location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (3-30-06)

36. Pilot Facility. (3-30-06)

a. A testing cyanidation facility that is constructed primarily to obtain data on the effectiveness of the beneficiation process to determine: (3-30-06)

i. The feasibility of metals recovery from an ore; or (3-30-06)

ii. The optimum operating conditions for a predetermined process to extract values from an ore. (3-30-06)

b. A pilot or testing cyanidation facility operated for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the

testing process. (3-30-06)

37. Pit. An excavation created by the extraction of minerals or overburden during surface mining operations. (11-1-89)

38. Pollutant. Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials that, when discharged cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state. (3-30-06)

39. Post Closure. The period after completion of permanent closure when the operator is monitoring the effectiveness of the permanent closure activities. Post closure lasts a minimum of twelve (12) months, but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and the requirements of the chapter. (3-30-06)

40. Process Waters. Any liquids that are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (3-30-06)

41. Reclamation. The process of restoring an area affected by a surface mining operation to its original or another beneficial use, considering previous uses, possible future uses, and surrounding topography. The objective is to re-establish a diverse, self-perpetuating plant community, and to minimize erosion, remove hazards, and maintain water quality. (11-1-89)

42. Revegetation. The establishment of the premining vegetation or a comparable vegetative cover on the land disturbed by surface mining operations. (11-1-89)

43. Ridge. A lengthened elevation of overburden. (11-1-89)

44. Road. A way constructed on a surface mine for the passage of vehicles, including the bed, slopes and shoulders thereof. (11-1-89)

45. Small Cyanidation Processing Facility. A cyanidation facility that chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or operator may concurrently hold more than one (1) small cyanidation processing facility permit, if located within ten (10) miles of each other. (3-30-06)

46. Surface Mine. An area where minerals are extracted by removing the overburden lying above and adjacent to natural deposits thereof and mining directly from the natural deposits thereby exposed. (11-1-89)

47. Surface Mining Operations. The activities performed on a surface mine in the extraction of minerals from the ground, including the excavation of pits, removal of minerals, disposal of overburden, and the construction of haulage roads, exclusive of exploration operations, except that any exploration operations that, exclusive of exploration roads:

a. Result during a period of twelve (12) consecutive months in more than five (5) contiguous acres of newly affected land; or

b. That, exclusive of exploration roads, results during a period of twelve (12) consecutive months in newly affected lands consisting of more than ten (10) noncontiguous acres, if such affected land constitutes more than fifteen percent (15%) of the total area of any circular tract that includes such affected land, is deemed a surface mining operation for the purposes of the Act. (11-1-89)

48. Surface Waters. The surface waters of the state of Idaho. (11-1-89)

49. Tailings Pond. An area on a surface mine enclosed by a man-made or natural dam onto which has

been discharged the waste material resulting from the primary concentration of minerals in ore excavated from a surface mine. (11-1-89)

50. Treatment. With regard to cyanidation facilities, any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (3-30-06)

51. Water Balance. An inventory and accounting process capable of being reconciled that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (3-30-06)

52. Water Management Plan. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state, unless permitted or otherwise approved by the DEQ. (3-30-06)

53. Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof that are wholly or partially within, that flow through or border upon the state. These waters do not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (3-30-06)

54. Weak Acid Dissociable Cyanide. The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036, the American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500 CN^- I, or other methods accepted by the scientific community and deemed appropriate by the DEQ. (4-11-19)

011. -- 059. (RESERVED)

060. EXPLORATION OPERATIONS AND REQUIRED RECLAMATION.

01. Diligence. All reclamation activities required to be conducted on exploration sites must be performed in a good, workmanlike manner with all reasonable diligence, and as to a given exploration drill hole, road, or trench, within one (1) year after abandonment thereof. (11-1-89)

02. When Exploration Is Surface Mining. Exploration operations may under some circumstances constitute surface mining operations (see Subsection 010.46). (3-30-06)

03. Notification. Any operator desiring to conduct exploration using motorized earth-moving equipment to locate minerals for immediate or ultimate sale must notify the Department within seven (7) days after beginning exploration operations. (4-11-19)

04. Contents of Notification. The notification includes: (3-30-06)

a. The name and address of the operator; (11-1-89)

b. The legal description of the exploration and its starting and estimated completion date; and (3-30-06)

c. The anticipated size of the exploration and the general method of operation. (3-30-06)

05. Confidentiality. Any such notification is treated as confidential in accord with Section 180. (3-30-06)

06. Exploration Reclamation (Less Than Two Acres). Every operator who conducts exploration affecting less than two (2) acres must: (3-30-06)

a. Wherever possible, contour the affected lands to their approximate previous contour; and (11-1-89)

b. Conduct revegetation activities in accordance with Subsection 140.11. Unless otherwise required by a federal agency, one (1) pit or trench on a federal mining claim showing discovery, may be left open pending verification by federal mining examiners. (3-30-06)

c. Abandoned exploration drill holes must be plugged, or otherwise left so as to eliminate hazards to humans and animals. Pits or trenches on mining claims showing discovery may be left open pending verification by federal mining examiners but cannot create a hazard to humans or animals. Such abandoned pits and trenches must be reclaimed within one (1) year of verification. (3-30-06)

d. If water runoff from exploration causes siltation of surface waters in amounts more than normally results from runoff, the operator must reclaim affected lands and adjoining lands under his control as is necessary to re-establish runoff conditions that existed prior to starting exploration, or as is necessary to meet state water quality standards, whichever is the lesser standard. It is presumed that state water quality standards will be the applicable standard unless baseline data is provided to rebut the presumption. (3-30-06)

07. Exploration Reclamation (More Than Two Acres). Reclamation of lands where exploration has affected more than two (2) acres must be completed as set forth in Subsection 060.06 and the following additional requirements: (3-30-06)

a. Abandoned exploration roads must be cross-ditched as necessary to minimize erosion. The Director may request in writing, or may be petitioned in writing, that a given road or road segment be left for a specific purpose and not be cross-ditched or revegetated. If the Director approves the petition, the operator cannot thereafter be required to conduct reclamation activities with respect to that given road or road segment. (3-30-06)

b. Ridges of overburden must be leveled so as to have a minimum width of ten (10) feet at the top. (11-1-89)

c. Peaks of overburden must be leveled so as to have a minimum width of fifteen (15) feet at the top. (11-1-89)

d. Overburden piles must be reasonably prepared to control erosion. (11-1-89)

e. Abandoned lands affected by exploration must be top-dressed to the extent that such overburden is reasonably available from any pit or other excavation created by the exploration, with that type of overburden that is conducive to the control of erosion or the growth of vegetation that the operator elects to plant thereon. (3-30-06)

f. Any water containment structure created in connection with exploration, must be reasonably prepared so as not to constitute a hazard to humans or animals. (3-30-06)

08. Additional Reclamation. The operator and the Director may agree, in writing, to complete additional reclamation beyond the requirements established in the chapter and these rules. (3-30-06)

061. -- 068. (RESERVED)

069. APPLICATION PROCEDURE AND REQUIREMENTS FOR QUARRIES, DECORATIVE STONE, BUILDING STONE, AND AGGREGATE MATERIALS INCLUDING SAND, GRAVEL AND CRUSHED ROCK.

01. Approval Required. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. (3-30-06)

02. No Operator Shall Conduct Surface Mining Operations. No operator may conduct surface mining operations on any lands in the state until the surface mining reclamation plan has been approved by the Director, and the operator has filed a bond that meets the requirements of the chapter and these rules. (3-30-06)

03. Application Package. The operator must submit a complete application package, for each separate surface mine or mine panel, before the reclamation plan will be approved. Separate surface mines are individual, physically disconnected operations. A complete application package consists of: (4-11-19)

a. An application provided by the Director; (7-1-98)

b. A map or maps of the proposed mining operation that include the information required under Subsection 069.03; (7-1-98)

c. A reclamation plan, in map and narrative form, that includes the information required under Subsection 069.04; and (3-30-06)

d. An out-of-state operator must designate an in-state agent authorized to act on behalf of the operator. In case of an emergency that requires an action or actions to prevent environmental damage, both the operator and the authorized agent will be notified as well. (3-30-06)

04. Map Requirements. A vicinity map must be prepared on standard United States Geological Survey ("USGS") seven and one-half (7.5) minute quadrangle maps or equivalent. A map of the proposed surface mining operation site must be of sufficient scale to show: (3-30-06)

a. The location of existing roads, access, and main haul roads to be constructed or reconstructed in conjunction with the surface mining operation and the approximate dates for construction, reconstruction, and abandonment; (3-30-06)

b. The approximate location and names, if known, of drainages, streams, creeks, or water bodies within one thousand (1,000) feet of the surface mining operation; (3-30-06)

c. The approximate boundaries of the lands to be utilized in the surface mining operations, including a legal description to the quarter-quarter section; (3-30-06)

d. The approximate boundaries and acreage of the lands that will become affected land as a result of the surface mining operation during the first year of operations; (3-30-06)

e. The currently planned storage locations of fuel, equipment maintenance products, wastes, and chemicals that will be utilized in the surface mining operation; (3-30-06)

f. The currently planned location and configuration of pits, overburden piles, crusher reject materials, topsoil storage, wash plant ponds and sediment ponds that will be utilized; (3-30-06)

g. Scaled cross-sections by length and height showing surface profiles prior to mining; and (7-1-98)

h. A surface and mineral control or ownership map of appropriate scale for boundary identification; (7-1-98)

05. Reclamation Plan Requirements. Reclamation plans must be submitted in map and narrative form and include the following: (3-30-06)

a. Where surface waters are likely to be impacted and when requested by the Director, documents identifying and assessing foreseeable, site-specific nonpoint sources of water quality impacts upon adjacent surface waters and the BMPs the operator will use to control such impacts during surface mining and reclamation; (3-30-06)

b. Scaled cross-sections by length and height, showing planned surface profiles and slopes after reclamation; (3-30-06)

c. Roads to be reclaimed; (7-1-98)

d. A plan for revegetation of affected lands including soil types, slopes, precipitation, seed rates,

species, handling of topsoil or other growth medium, time of planting, method of planting and, if necessary, fertilizer and mulching rates; (7-1-98)

e. The planned reclamation of wash plant or sediment ponds; (3-30-06)

f. A drainage control map that identifies the location of BMPs that will be implemented to control erosion and such nonpoint source water quality impacts during surface mining and reclamation activities; (3-30-06)

g. The location of any current 100-year floodplain in relation to the mining facilities if the floodplain is within one hundred (100) feet of the facilities, and the BMPs to be implemented that will keep surface waters from entering any pits and potentially changing course. (4-11-19)

070. APPLICATION PROCEDURE AND REQUIREMENTS FOR OTHER SURFACE MINING OPERATIONS INCLUDING HARDROCK AND PHOSPHATE MINING.

01. Reclamation Plan Approval Required. Approval of a reclamation plan by the Department is required even if approval of such plan has been or will be obtained from a federal agency. No operator may conduct surface mining operations on any lands in the state until the reclamation plan has been approved by the Director, and the operator has filed the required performance bond. (3-30-06)

02. Application Package. The operator must submit a complete application package for each separate surface mine or mine panel before the reclamation plan will be approved. Separate surface mines are individual, physically disconnected operations. A complete application package consists of: (4-11-19)

a. All items and information required under Section 069 of these rules; (3-30-06)

b. Any additional information required by Subsection 070.04; and (3-30-06)

c. An operating plan, if required by Section 47-1506(b), Idaho Code, prepared in accordance with Subsections 070.05 and 070.06 of these rules. (3-30-06)

03. Map Requirements. Maps must be prepared in accordance with Subsection 069.04 of these rules. (3-30-06)

04. Reclamation Plan Requirements. Reclamation plans must include all of the information required under Subsection 069.05 and the following additional information: (3-30-06)

a. A description of the planned reclamation of tailings or sediment ponds; and (3-30-06)

b. An estimate of total reclamation cost to be used in establishing bond amount. The cost estimate should include the approximate cost of grading, revegetation, equipment mobilization, labor, and other pertinent costs. (11-1-89)

c. A description of foreseeable, site-specific impacts from acid rock drainage and the BMPs that will be used to mitigate any impacts from such acid rock drainage. (3-30-06)

d. Other pertinent information the Department has determined is necessary to ensure that the operator will comply with the requirements of the chapter. (3-30-06)

05. Operating Plan Requirements. A complete operating plan consists of: (3-30-06)

a. Maps showing: (3-30-06)

i. The location of existing roads and anticipated access and principal haul roads planned to be constructed for surface mining operations. (3-30-06)

ii. The boundaries and acreage of the affected lands. (3-30-06)

iii. The planned location of pits, mineral stockpiles, overburden piles and tailings ponds for the surface mining operation. (3-30-06)

iv. The location and, if known, the names of all streams, creeks, or water bodies within the area of the affected lands. (3-30-06)

v. The drainage adjacent to the area where the surface is being utilized by surface mining operations. (7-1-98)

vi. The approximate boundaries and acreage of the lands that will become affected during the first year of surface mining operations. (3-30-06)

b. Additional information regarding coarse and durable rock armor, if any, is proposed to be used for reclamation of mine facilities. The Director may, after considering the type, size, and potential environmental impact of the facility, require the operator to include additional information in the operating plan. Such information may include, but is not limited to, one (1) or more of the following: (3-30-06)

i. A description of the quantities, size, geologic characteristics, and durability of the materials to be used for final reclamation and armoring. (3-30-06)

ii. A description of how the coarse and durable materials will be handled and/or stockpiled, including a schedule for such activities that will ensure adequate quantities are available during reclamation. (3-30-06)

c. The Director may, after considering the type, size, and potential environmental impact of the facility, require the operator to prepare a geotechnical analysis and report, signed by an engineer registered in the state of Idaho, that shows that (1) any waste rock or overburden stockpiles, (2) any pit walls proposed to be more than one hundred (100) feet high, or (3) any pit walls where geologic conditions could lead to failure of the wall regardless of the height will be constructed in a manner that is consistent with industry standards to minimize the potential for failure. If failure of these structures can reasonably be expected to impact adjacent surface or ground waters or adjacent private or state-owned lands, the analysis may be required to consider the long-term stability of these structures, the potential for groundwater accumulation, and the expected seismic accelerations at the site. (3-30-06)

071. APPLICATION PROCEDURE AND REQUIREMENTS FOR PERMANENT CLOSURE OF CYANIDATION FACILITIES.

01. Permanent Closure Plan Approval Required. No operator may construct or operate a new cyanidation facility or materially modify or materially expand an existing cyanidation facility prior to obtaining a permit, approval from the Director and before the operator has filed a bond, as required by these rules. (3-30-06)

02. Permanent Closure Plan Requirements. A permanent closure plan: (3-30-06)

a. Identifies the current owner of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility; (3-30-06)

b. Includes a timeline showing: (3-30-06)

i. The schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the operator is responsible for post-closure activities; and (3-30-06)

ii. If the operator plans to complete construction, operation, and/or permanent closure of the cyanidation facility in phases, the schedule to begin each phase of construction, operation, and/or permanent closure activities and any associated post-closure activities. (3-30-06)

c. Provides the objectives, methods, and procedures that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure; (3-30-06)

d. Provides a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. The plan must be prepared in accordance with IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," administered by the DEQ, as required to meet the objectives of the permanent closure plan. (3-30-06)

e. Includes the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, and a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (3-30-06)

f. Provides proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including the final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and groundwaters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to approval of a permanent closure plan, engineering designs and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho; (3-30-06)

g. Includes monitoring plans for surface and ground water during closure and post-closure periods, adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and the requirements of the chapter; (3-30-06)

h. Provides an assessment of the potential impacts to soils, vegetation, and surface and ground waters for all areas to be used for the land application system and provide a mitigation plan, as appropriate. (3-30-06)

i. Provides information on how the operator will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 et seq.; Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure; (3-30-06)

j. Provides sufficient detail to allow the operator to prepare an estimate of the reasonable costs to implement the permanent closure plan; (3-30-06)

k. Provides an estimate of the reasonable estimated costs to complete the permanent closure activities specified in the permanent closure plan in the event the operator fails to complete those activities. The estimate: (3-30-06)

i. Identifies the incremental costs of attaining critical phases of the permanent closure plan and a proposed bond release schedule; (3-30-06)

ii. Assumes that permanent closure activities will be completed by a third party whose services are contracted for by the Board as a result of a bond forfeiture under Section 47-1513, Idaho Code, and include: (3-30-06)

(1) All direct and indirect costs expected to be incurred by a third party including, but not limited to, mobilization, labor, materials, equipment, engineering, and demobilization costs; and (3-30-06)

(2) An amount acceptable to the Department, but not to exceed ten percent (10%) of the total estimated closure costs, that is intended to cover costs the Department will incur in association with contract administration. (3-30-06)

l. If the proposal is to complete cyanidation facility construction, operation, and/or permanent closure activities in phases: (3-30-06)

i. Describes how these activities will be phased and how, after the first phase of activities, each subsequent phase will be distinguished from the previous phase or phases; and (3-30-06)

ii. Describes how any required post-closure activities will be addressed during and after each subsequent phase has begun. (3-30-06)

m. Provides any additional information that may be required by the Department to ensure compliance with the objectives of the permanent closure plan and the requirements of the chapter. (3-30-06)

03. Preapplication Conference. Prospective applicants are encouraged to meet with the Department well in advance of preparing and submitting an application package to discuss the anticipated application requirements and application procedures, and to arrange for a visit or visits to the proposed location of the cyanidation facility. The preapplication conference may trigger a period of collaborative effort between the Department, the DEQ, and the applicant in developing checklists to be used by the agencies in reviewing an application for completion, accuracy, and protectiveness. (3-30-06)

04. Application Package for Permanent Closure. An application and its contents submitted to the Department is used to determine whether an applicant can complete all permanent closure activities in conformance with all applicable state laws. An application must provide information in sufficient detail to allow the Director to make necessary application review decisions regarding cyanidation facility closure and protection of public health, safety, and welfare, in accordance with the chapter. A complete application package must be submitted to the Department. A complete application package for an operator proposing to use cyanidation consists of: (4-11-19)

a. A Department application form completed, signed, and dated by the applicant. This form contains the following information: (3-30-06)

i. Name, location, and mailing address of the cyanidation facility; (3-30-06)

ii. Name, mailing address, and phone number of the operator. An out-of-state operator must designate an in-state agent authorized to act on his behalf. In case of an emergency that requires actions to prevent environmental damage, both the operator and his agent will be notified; (3-30-06)

iii. Land ownership status (federal, state, private or public); (3-30-06)

iv. The legal description to the quarter-quarter section of the location of the proposed cyanidation facility; and (3-30-06)

v. The legal structure (corporation, partnership, etc.) and primary place of business of the operator. (3-30-06)

b. Evidence that the applicant is authorized by the Secretary of State to conduct business in the state of Idaho; (3-30-06)

c. A permanent closure plan as prescribed in Subsection 071.02; (3-30-06)

d. The DEQ application and supporting materials; (3-30-06)

e. The five thousand dollar ($5,000) application processing and review fee, as defined in Subsection 071.05.a. (3-30-06)

05. Application Fee. The application fee consists of two (2) parts: (3-30-06)

a. Processing and review fee. (3-30-06)

i. The applicant pays a nonrefundable five thousand dollar ($5,000) fee upon submission of an application. Within thirty (30) days of receiving an application and this fee, the Director will provide a detailed cost estimate to the operator that includes a description of the scope of the Department's review; the assumptions on which the Department's estimate is based; and an itemized accounting of the anticipated number of labor hours, hourly labor rates, travel expenses and any other direct expenses the Department expects to incur, and indirect expenses equal to ten percent (10%) of the Department's estimated direct costs, as required to satisfy its statutory obligation pursuant to

the chapter. (3-30-06)

ii. If the Department's estimate is greater than five thousand dollars ($5,000), the applicant may agree to pay a fee equal to the difference between five thousand dollars ($5,000) and the Department's estimate, or may commence negotiations with the Department to establish a reasonable fee. (3-30-06)

iii. If, within twenty (20) days from issuance of the Department's estimate, the Department and applicant cannot agree on a reasonable application processing and review fee, the applicant may appeal to the Board. The Board: (3-30-06)

(1) Reviews the Department's estimate; (3-30-06)

(2) Conducts a hearing where the applicant is allowed to give testimony to the Board concerning the Department's estimate; and (3-30-06)

(3) Establishes the amount of the application review and processing fee. (3-30-06)

iv. If the fee is more than five thousand dollars ($5,000), the applicant must pay the balance of the fee within fifteen (15) days of the Board's decision or withdraw the application. (3-30-06)

v. Nothing in this Section extends the time in which the Board must act on a plan submitted. (3-30-06)

b. Permanent closure cost estimate verification fee. (3-30-06)

i. Pursuant to Sections 47-1506(g) and 47-1513(j), Idaho Code, the Department may employ a qualified independent party, acceptable to the operator and the Board, to verify the accuracy of the permanent closure cost estimate. (3-30-06)

ii. The applicant is solely responsible for paying the Department's cost to employ a qualified independent party to verify the accuracy of the permanent closure cost estimate. The applicant may participate in the Department's processes for identifying qualified parties and selecting a party to perform this work. (3-30-06)

iii. If a federal agency has responsibility to establish the bond amount for permanent closure of a cyanidation facility on federal land, the Department may employ the firm retained by the federal agency to verify the accuracy of the permanent closure cost estimate. If the Director chooses not to employ the firm retained by the federal agency, he will provide a written justification explaining why the firm was not employed. (3-30-06)

072. -- 079. (RESERVED)

080. PROCEDURES FOR REVIEW AND DECISION UPON AN APPLICATION TO PERFORM SURFACE MINING, RECLAMATION, AND ORE PROCESSING USING CYANIDE.

01. Return of Application. (3-30-06)

a. Surface mining reclamation. Within thirty (30) days after receipt of a reclamation plan by the Department, an application for surface mining reclamation may be returned for correction and resubmission if either the reclamation plan or mine map(s) are incomplete. Return of an application by the Director constitutes a rejection in accordance with Section 47-1507(b), Idaho Code. (3-30-06)

b. Permanent closure plans for cyanidation facilities. Within thirty (30) days after receipt of a permanent closure plan by the Department, an application for permanent closure of a cyanidation facility may be returned for correction and resubmission, if the permanent closure plan does not meet the requirements of Section 071 of these rules. Return of an application by the Director constitutes a rejection in accordance with Section 47-1507(b), Idaho Code. (3-30-06)

02. Agency Notification and Comments. (3-30-06)

a. Nonconfidential materials submitted under Sections 069, 070, and 071 will be forwarded by the Director to the Idaho Departments of Water Resources, Environmental Quality, and Fish and Game for review and comment. The Director may decide not to circulate applications submitted under Section 069 if the Director determines the impacts of the proposed activities are minor and do not involve surface waters. The Director may provide public notice on receipt of a reclamation plan or permanent closure plan. In addition, nonconfidential contents of an application will be provided to individuals who request the information in writing, as required by the Idaho Public Records Act. (3-30-06)

b. Upon receipt of a complete application for reclamation of surface-mined areas or permanent closure of a cyanidation facility, the Director will provide notice to the cities and counties where the surface mining or cyanidation facility operation is proposed, in accordance with Section 47-1505(7), Idaho Code. The notice includes the name and address of the operator, the procedure and schedule for the Department's review, and an invitation to review nonconfidential portions of the application, if requested in writing. Such notice will be provided upon receipt of a reclamation plan, a permanent closure plan, or an amended or supplemental plan for an existing operation, or an amended cost estimate to complete permanent closure of a cyanidation facility, if required under the chapter and these rules.. (3-30-06)

03. Decision on Reclamation Plans. The Director will review a new reclamation plan or an amended or supplemental reclamation plan pursuant to Sections 47-1507 and 47-1508, Idaho Code. (3-30-06)

a. Approval. (3-30-06)

i. Within sixty (60) days of receipt of an application that complies with Subsections 069 and 070 of these rules, the Department will provide written notice to the applicant that the reclamation plan or any amendment(s) or supplementary plan(s) to an approved reclamation plan is approved or denied and, if approved, the amount of the reclamation bond required; or (3-30-06)

ii. If the Director does not take action within sixty (60) days, a reclamation plan or any amendments or supplementary plans thereof is deemed to comply with the chapter, unless the sixty (60) day time period is extended pursuant to Section 47-1512(c), Idaho Code. (3-30-06)

iii. The operator and Director may agree, in writing, to implement additional actions with respect to reclamation that extend beyond the requirements set forth in these rules. (3-30-06)

b. Inspections. The Director may determine that an inspection of the proposed surface mining site location is necessary if the inspection will provide additional information or otherwise aid in processing of the application. (3-30-06)

i. If the Director decides to perform an inspection, the applicant will be contacted and asked that he or an authorized employee or agent be present. This rule does not prevent the Department from making an inspection of the site if the applicant does not appear. (3-30-06)

ii. If weather conditions preclude an inspection of a proposed surface mining operation, the Director will provide written notice to the applicant that review of the reclamation plan or an amended or supplementary plan has been suspended until weather conditions permit an inspection, and that the schedule for a decision will be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1512(c), Idaho Code. (3-30-06)

04. Decision on Cyanidation Facility Permanent Closure Plans. Pursuant to Sections 47-1507 and 47-1508, Idaho Code, following review of a complete application, the Director: (3-30-06)

a. Coordination with DEQ. Initiates a coordinated interagency review of the application by providing a notice in writing to the DEQ Director that the Department has received an application for permanent closure of a cyanidation facility; (3-30-06)

b. Approval. (3-30-06)

i. Within one hundred eighty (180) days of receipt of an application that complies with Subsection 071.04 of these rules, the Department will provide written notice to the applicant that the permanent closure plan is approved or denied and, if approved, the amount of the permanent closure bond required; or (3-30-06)

ii. If the Director does not take action within one hundred eighty (180) days, a permanent closure plan, or any amendments or supplementary plans thereof, it is deemed to comply with the provisions of the chapter, unless the one hundred eighty (180) day time period will be extended in accordance with Section 47-1512(d), Idaho Code. (3-30-06)

c. Inspections. The Director may determine that it is necessary to inspect the proposed cyanidation facility location if the inspection will provide additional information or otherwise aid in processing of the application. (3-30-06)

i. If the Director determines to inspect the site, the applicant will be contacted and asked that he or an authorized employee or agent be present. The Department may proceed with an inspection if the applicant or his designated employee or agent does not appear. (3-30-06)

ii. If weather conditions preclude an inspection of the proposed cyanidation facility, the Director will provide written notice to the applicant that processing of the application has been suspended until weather conditions permit an inspection, and that the schedule for a decision will be extended for up to thirty (30) days after weather conditions permit such inspection in accordance with Section 47-1512(d), Idaho Code. (3-30-06)

05. Nonpoint Source Pollution. When the Director determines, after consultation with the DEQ, that there is a reasonable potential for nonpoint source pollution of adjacent surface and ground waters, the Director will require the operator to provide baseline preproject surface and ground water monitoring information, and furnish additional monitoring data during the life of the project. This provision does not require any additional baseline preproject monitoring information or ongoing monitoring data where such data is already required to be provided under any federal or state law and is available to the Director. (3-30-06)

06. Permanent Closure Plan Approval. (3-30-06)

a. The Department may condition its approval on issuance of a permit by the DEQ for the cyanidation facility. (3-30-06)

b. Except for the concurrent and additional permanent closure requirements that may be established in a permit issued by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation," an approved permanent closure plan defines the nature and extent of the operator's obligation under the chapter. (3-30-06)

c. The permanent closure plan, as approved by the Department in coordination with the DEQ, is incorporated by reference into the cyanidation facility permit issued by DEQ as a permit condition and is enforceable as such. The operator ensures that closure complies with the approved plan and any additional permanent closure requirements as outlined in the permit issued by DEQ. (3-30-06)

d. No sooner than one hundred twenty (120) days after an application for a permanent closure plan has been submitted to the Department may the applicant submit a reclamation plan as required by Section 070 of these rules. The Department will review and approve the reclamation plan in accordance with Subsection 080. (3-30-06)

e. Approval of a permanent closure plan by the Department is required even if approval of such plan has been or will be obtained from an appropriate federal agency. (3-30-06)

07. Denial of an Application. If the Director rejects an application, the Director will deliver in writing to the applicant a statement of the reasons the application has been rejected, the factual findings upon which the rejection is based, a statement of the applicable statute(s) and rule(s), the manner in which the application failed to fulfill the requirements of these rules, and the action that must be taken or conditions that must be satisfied to meet

the requirements of the chapter and these rules. The applicant may submit an amended application in accordance with Sections 069, 070 or 071 for review and, if appropriate, approval by the Department. The Director may deny a reclamation plan, permanent closure plan, or any amendments or supplementary plans thereof if: (3-30-06)

a. The application is inaccurate or incomplete; (3-30-06)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure to protect public safety, health, and welfare, in accordance with the scope and intent of these rules, or to protect beneficial uses of the waters of the state, as determined by the DEQ pursuant to Section 39-118A, Idaho Code and IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation" and other DEQ rules cited therein. (3-30-06)

08. Public Hearing. The Director may call a public hearing to determine whether a proposed application complies with the chapter and these rules. A hearing will be conducted in accordance with Section 110. (3-30-06)

09. Referral to Board. The Director may refer the decision concerning an application to the Board. This action will not extend the time period for a decision to approve or deny an application. (3-30-06)

10. Appeal of Final Order. Any final order of the Board regarding an application for a surface mining reclamation plan or for permanent closure of a cyanidation facility may be appealed as set forth in Section 47-1514, Idaho Code. (3-30-06)

081. -- 089. (RESERVED)

090. AMENDING AN APPROVED RECLAMATION PLAN.

01. Cause for Reclamation Plan Amendment. In the event circumstances arise that necessitate amendments to an approved reclamation plan, the operator must submit an application to amend the plan and state the reasons the amendment is necessary. Either the operator or the Director may initiate a process to amend an approved reclamation plan. If the Director identifies a material change he believes requires a change in the reclamation plan, the Director must deliver in writing to the operator a detailed statement identifying the material change and the action(s) necessary to address the material changes. (3-30-06)

02. Review of Amendment. The Director will process an application to amend a plan in accordance with Sections 080 and 110, provided, however, that no land or aspect or provision of an approved reclamation plan that would not be affected by the proposed amendment, is subject to the amendment, review or reapproval in connection with processing the application. Approval of an amendment is not conditioned upon the performance of any actions not required by the approved reclamation plan or the proposed amendment itself, unless the operator agrees to perform such actions. (3-30-06)

03. Minor Amendments. Minor amendments to an approved reclamation plan may be made by agreement between the Director and the operator, if the amendment is consistent with the overall objectives of the approved reclamation plan and so long as water quality standards will be met and existing beneficial uses will be protected. (11-1-89)

091. AMENDING AN APPROVED PERMANENT CLOSURE PLAN.

01. Cause for Permanent Closure Plan Amendment. In the event circumstances arise that necessitate amendments to an approved permanent closure plan, the operator must submit an application to amend the permanent closure plan and state the reasons the amendment is necessary. Either the operator or the Director may initiate a process to amend an approved permanent closure plan. Circumstances that could require a permanent closure plan to be amended include: (3-30-06)

a. A material modification or material expansion in the cyanidation facility design or operation for which the approved permanent closure plan is no longer adequate. (3-30-06)

b. Conditions substantially different from those anticipated in the original permit for which the

approved permanent closure plan is no longer adequate. (3-30-06)

c. A material change as defined in Subsections 010.20.b.i. and 010.20.b.ii. of these rules. (3-30-06)

02. Modifications at an Operator's Request. Requests from an operator to modify a permanent closure plan must be submitted to the Department in writing. The Director will process an application for amendment in accordance with Section 080. An application to amend a permanent closure plan includes: (3-30-06)

a. A written description of the circumstances that necessitate the amendment; (3-30-06)

b. Data supporting the request; (3-30-06)

c. The proposed amendment; (3-30-06)

d. A description of how the amendment will impact the estimated cost to complete permanent closure pursuant to the chapter; (3-30-06)

e. A cost estimate to implement the amended permanent closure plan, prepared in accordance with Subsection 071.02 of these rules; and (3-30-06)

f. Payment of a reasonable fee as may be determined by the Director in accordance with Section 47-1512, Idaho Code. (3-30-06)

03. Modification at Request of Director. If, following consultation with the DEQ, the Director determines that cause exists to amend the permanent closure plan, the Director will notify the operator in writing of his determination and explain the circumstances that have arisen that require the permanent closure plan to be amended. Within thirty (30) days or as agreed by the operator and the Department, the operator must submit an application to amend the permanent closure plan in accordance with Subsection 091.02. (3-30-06)

04. Minor Amendments. Minor amendments to an approved permanent closure plan may be made by agreement between the Director and the operator, if the amendment is consistent with the overall objectives of the approved permanent closure plan and so long as water quality standards will be met and existing beneficial uses will be protected. (3-30-06)

092. -- 099. (RESERVED)

100. DEVIATION FROM AN APPROVED RECLAMATION PLAN.

01. Unforeseen Events. If a surface mining operator finds that unforeseen events or unexpected conditions require immediate change from an approved plan, the operator may continue surface mining in accordance with the procedures dictated by the changed conditions, pending submission and approval of an amended plan, even though operations do not comply with the approved reclamation plan on file with the Department. This does not excuse the operator from complying with the requirements of Sections 140 and 120. (3-30-06)

02. Notification. The operator must notify the Director, in writing, within ten (10) days of the discovery of conditions that require deviation from the approved plan. A proposed amendment to the plan must be submitted by the operator within thirty (30) days of the discovery of those conditions. (3-30-06)

101. -- 109. (RESERVED)

110. PUBLIC HEARING.

01. Call for a Hearing. A public hearing called by the Director following receipt of a complete application submitted in accordance with Sections 069, 070, or 071 will be conducted in accordance with Section 47-1507(d), Idaho Code. The Director may call for a hearing following his preliminary review of an application for a new operation or a supplemental application of an existing operation when one (1) or more of the following circumstances arises: (3-30-06)

a. Public Concern. The public, potentially affected landowners, any governmental entity, or any other interested parties who may be affected by the operations proposed under the chapter have registered, in writing, a concern with the Director regarding the proposed operations or cyanidation facility. The purpose of the public hearing is to gather written and oral comments as to whether the proposed reclamation plan or permanent closure plan meets the requirements of the chapter and these rules. (3-30-06)

b. Agency Concern. The Director determines, after consultation with the Department of Water Resources, DEQ, the Department of Fish and Game, and affected Indian tribes that the proposed surface mining or cyanidation facility operations could reasonably be expected to significantly degrade adjacent surface and/or ground waters or otherwise threaten public health, safety or welfare. The purpose of a public hearing held under this subsection will be to receive written and oral comments on the measures the operator is proposing to use to protect surface and/or ground water quality from nonpoint source pollution. (3-30-06)

02. Consolidation. If the Director determines that a hearing should be held, he will order that such proceedings be consolidated. The applicant and the public must be advised of the specific subjects to be discussed at the hearing at least twenty (20) days prior to the hearing. The Department will coordinate with the DEQ, as appropriate, for any hearings relating to permanent closure of a cyanidation facility to streamline application processing. (3-30-06)

03. Location. A hearing will be held in the locality of the proposed surface mine or a proposed cyanidation facility at a reasonably convenient time and place for public participation. The Director may call for more than one hearing when conditions warrant. (3-30-06)

04. Notice of Hearing. The Director will provide at lease twenty (20) days' advance notice of the date, time, and place of the hearing to: federal, state, and local governmental agencies, Indian tribes who may have an interest in the decision as shown on the application, and the public; to all persons who petitioned for a hearing; and to any person identified by the applicant under Subsection 070.02 as a legal owner of the land that will likely be affected by the proposed operations. Notice to the applicant must be sent by certified mail and postmarked not less than twenty (20) days before the scheduled public hearing date. (3-30-06)

05. Publication of Notice. The Director will provide at least twenty (20) days advance notice to the general public of the date, time, and place of the hearing. A newspaper advertisement will be placed once a week, for two (2) consecutive weeks, in the locale of the area covered by the application. (11-1-89)

a. In the event a hearing is ordered under Section 110, the notice will describe: (3-30-06)

i. The potentially significant surface water quality impacts from the proposed surface mining operation and the operator's description of the measures that will be used to prevent degradation of adjacent surface and ground waters from nonpoint sources of pollution; or (3-30-06)

ii. The objectives of a permanent closure plan that have been submitted for review. (3-30-06)

b. A copy of the application must be placed for review in a public place in the local area of the proposed surface mining operation or cyanidation facility, in the closest Department area office, and the Department's administrative office in Boise. (3-30-06)

06. Hearing Officer. The hearing will be conducted by the Director or his designated representative. Both oral and written testimony will be accepted. Proceedings of the hearing will be recorded on audio tape and a verbatim transcript will be prepared. (3-30-06)

07. Consideration of Hearing Record. The Department will consider the hearing record when reviewing reclamation plans or permanent closure plans for final approval or rejection. (3-30-06)

111. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, an operator must begin implementation of the approved permanent closure plan. (3-30-06)

a. Within one (1) year of the final addition of new cyanide to the ore process circuit for small cyanidation processing or pilot facilities; or (3-30-06)

b. Within two (2) years of the final addition of new cyanide to the ore process circuit for all other cyanidation facilities; or (3-30-06)

c. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (3-30-06)

02. Submittal of a Permanent Closure Report. The operator must submit a permanent closure report to the Department for review and approval. A permanent closure report must be of sufficient detail for the Directors of the Department and DEQ to issue a determination that permanent closure, as defined by Subsection 010.33, has been achieved. The permanent closure report must address: (3-30-06)

a. The effectiveness of material stabilization. (3-30-06)

b. The effectiveness of the water management plan and the adequacy of the monitoring plan. (3-30-06)

c. The final configuration of the cyanidation facility and its operational/closure status. (3-30-06)

d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (3-30-06)

e. The operational/closure status of any land application site of the cyanidation facilities. (3-30-06)

f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short- and long-term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (3-30-06)

g. The short- and long-term water quality trends in surface and ground water through the statistical analysis of the existing monitoring data pursuant to the ore-processing by cyanidation permit. (3-30-06)

h. Ownership and responsibility for the site upon permanent closure during the defined post-closure period. (3-30-06)

i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed cyanidation facilities. (3-30-06)

j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (3-30-06)

112. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Receipt of a Permanent Closure Report. Within sixty (60) days of receipt of a permanent closure report, the Director will issue to the operator a Director's determination of approval or disapproval of the permanent closure report. (3-30-06)

02. Permanent Closure Report Is Disapproved. The Director's determination to approve or disapprove a permanent closure report will be based on the permanent closure report's demonstration that permanent closure has resulted in long-term neutralization of process waters and material stabilization. If a permanent closure report is disapproved, the Director will provide in writing identification of: (3-30-06)

a. Errors or inaccuracies in the permanent closure report. (3-30-06)

b. Issues or details that require additional clarification. (3-30-06)

c. Failures to fully implement the approved permanent closure plans. (3-30-06)

d. Failures to ensure protection for public health, safety, and welfare or to prevent degradation of waters of the state. (3-30-06)

e. Outstanding violations or other noncompliance issues. (3-30-06)

f. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (3-30-06)

113. -- 119. (RESERVED)

120. PERFORMANCE BOND REQUIREMENTS FOR SURFACE MINING.

01. Submittal of Bond Before Surface Mining. Prior to beginning any surface mining on a mine panel covered by a plan, an operator must submit to the Director, on a surface mining reclamation bond form, a performance bond meeting the requirements of this rule. The amount is the amount necessary to pay the estimated reasonable costs of reclamation required under the reclamation plan for each acre of land to be affected during the first year of operation, plus ten (10%) percent. No performance bond may exceed fifteen thousand dollars ($15,000) for a given acre of affected land unless: (4-11-19)

a. The Board has determined that such performance bond is necessary to meet the requirements of Sections 47-1506, 47-1509, 47-1510, and 47-1511, Idaho Code. (3-30-06)

b. The Board has delivered to the operator, in writing, a notice setting forth the reasons it believes such bond is necessary. (7-1-98)

c. The Board has conducted a hearing where the operator is allowed to give testimony to the Board concerning the amount of the proposed bond, as provided by Section 47-1512(c), Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. (3-30-06)

02. Mining Operation Conducted by Public or Government. Notwithstanding any other provision of law to the contrary, the bonding provisions of the chapter and these rules do not apply to any surface mining operations conducted by a public or governmental agency for maintenance, repair, or construction of a public highway. (3-30-06)

03. Annual Bond Review. At the beginning of each calendar year, the operator will notify the Director of any increase in the acreage of affected land that will result from planned surface mining activity within the next twelve (12) months. A commensurate increase in the bond will be required for an increase in affected acreage. Any additional bond required must be submitted on the appropriate bond form within ninety (90) days of operator's receipt of notice from the Department that an additional bond amount is required. In no event may surface mining operations be conducted that would affect additional acreage until the appropriate bond form and bond has been with the Department. Acreage on which reclamation is complete must be reported in accordance with Subsection 120.07 and after release of this acreage from the plan by the Director, the bond may be reduced by the amount appropriate to reflect the completed reclamation. (3-30-06)

04. Bond Provided to the Federal Government. Any bond provided to the federal government that also meets the requirements of Section 120 is sufficient for the purposes of these rules. (3-30-06)

05. Bond Reduction. (11-1-89)

a. Upon finding that any land bonded under a reclamation plan will not be affected by mining, the operator must notify the Director. The amount of the bond will be reduced by the amount being held to reclaim those lands. (11-1-89)

b. Any request for bond reduction will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (11-1-89)

06. Bond Release. Upon completion of the reclamation specified in the plan, the operator will notify the Director of his desire to secure release from bonding. When the Director has verified that the requirements of the reclamation plan have been met as stated in the plan, the bond will be released. (11-1-89)

a. Any request for bond release will be answered by the Director within thirty (30) days of receiving such request unless weather conditions prevent inspection. (11-1-89)

b. If the Director finds that a specific portion of the reclamation has been satisfactorily completed, the bond may be reduced to the amount required to complete the remaining reclamation. The following schedule will be used to complete these bond reductions unless the Director determines in a specific case that this schedule is not appropriate and specifies a different schedule: (11-1-89)

i. Sixty percent (60%) of the bond may be released when the operator completes the required backfilling, regrading, topsoil replacement, and drainage control of the bonded area in accordance with the approved reclamation plan; and (11-1-89)

ii. After revegetation activities have been performed by the operator on the regraded lands, according to the approved reclamation plan, the Department may release an additional twenty-five percent (25%) of the bond. (11-1-89)

c. The remaining bond will not be released: (11-1-89)

i. As long as the affected lands are contributing suspended solids to surface waters outside the affected area in excess of state water quality standards and in greater quantities than existed prior to the commencement of surface mining operations; (11-1-89)

ii. Until final removal of equipment and structures related to the mining activity or until any remaining equipment and structures are brought under an approved reclamation plan and bond by a new operator; and (11-1-89)

iii. Until all temporary sediment or erosion control structures have been removed and reclaimed or until such structures are brought under an approved reclamation plan and bond by a new operator. (11-1-89)

07. Cooperative Agreements. The Director may through private conference, conciliation, and persuasion reach a cooperative agreement with the operator to correct deficiencies in complying with the reclamation plan and thereby postpone action to forfeit the bond and cancel the reclamation plan if all deficiencies are satisfactorily corrected within the time specified by the cooperative agreement. (11-1-89)

08. Bonding Rate. An operator may petition the Director for a change in the initial bond rate. The Director will review the petition, and if satisfied with the information presented, a special bond rate will be set based upon the estimated cost that the Director would incur should a forfeiture of bond occur and it became necessary for the Director, through contracting with a third party, to complete reclamation to the standards established in the plan. (11-1-89)

09. Liabilities for Unbonded Reclamation Costs. An operator who: (11-1-89)

a. Departs from his approved reclamation plan by performing an act or omission and such deviation is not subsequently approved; (11-1-89)

b. Does not furnish a bond required by these rules; and (11-1-89)

c. Is not required to furnish a bond by these rules, but fails to reclaim; is in violation of these rules and may be subject to civil penalty under Section 47-1513(c), Idaho Code. The amount of civil penalty is the estimated cost of reasonable reclamation of affected lands as determined by the Director. Reasonable reclamation of the site is

presumed to be in accordance with the standards established in the approved reclamation plan. The amount of the civil penalty is in addition to those described in Subsection 160.06. (11-1-89)

121. PERFORMANCE BOND REQUIREMENTS FOR CYANIDATION FACILITIES.

01. Submittal of Bond Before Operating a Cyanidation Facility. Prior to beginning construction or operation of a cyanidation facility, but no later than ninety (90) days after approval of a permanent closure plan, an operator must submit to the Director, on a permanent closure plan bond form, a performance bond meeting the requirements of Section 47-1512(a)(2), Idaho Code. The performance bond must be in an amount equal to the total costs estimated under subsection 071.02.k. of these rules plus ten percent (10%). Upon application to the Department, the operator may apply and the Director may approve bonding for each phase of closure on an incremental basis. If the Department authorizes phased bonding, then bonding may increase incrementally commensurate with the additional permanent closure liability. After construction and operation of the initial phase of a cyanidation facility has commenced and after filing by an operator of the initial permanent closure bond, an operator may not construct any component of a subsequent phase or phases of the subject cyanidation facility before filing the additional permanent closure bond amount that may be required by the Board. If phased bonding is not authorized, the operator is required to file the bond amount required to complete permanent closure of all planned phases prior to any construction.

(3-30-06)

02. Limits. The Board may require a bond in excess of five million dollars ($5,000,000) if the following conditions have been met: (3-30-06)

a. The Board has determined that such a performance bond is necessary to meet the requirements of the chapter; (3-30-06)

b. The Board has delivered to the operator, in writing, a notice explaining the reasons such a performance bond is necessary; and (3-30-06)

c. The operator is allowed to give testimony to the Board concerning the amount of the proposed bond, as provided by Section 47-1512(d)(3), Idaho Code. This requirement for a hearing may be waived, in writing, by the operator. (3-30-06)

03. Other Government Agency Bonds. Upon a finding by the Director that the bond amount established by a federal agency is inadequate because it has not included one (1) or more permanent closure tasks required by the state, the Department may require the operator to file an additional bond amount, as necessary, to satisfy the requirements of the chapter. (3-30-06)

04. Bond Review. The Department will periodically review all performance bonds filed for permanent closure to determine their sufficiency to complete the work required by an approved permanent closure plan.

(3-30-06)

a. Once every three (3) years, the operator must submit an updated permanent closure cost estimate to the Department for review. The Director will review the updated estimate to determine whether the existing bond amount is adequate to implement the permanent closure plan, as approved by the Department. Any resulting change in the bond amount does not in and of itself require an amendment to the permanent closure plan as may be required by Section 091 of these rules. The Director will review the estimate to determine whether the existing bond amount is adequate to complete permanent closure of the cyanidation facility. (3-30-06)

b. When the Director determines that there has been a material change in the estimated reasonable costs to complete permanent closure: (3-30-06)

i. The Director must notify the operator in writing of his intent to reevaluate the performance bond amount. Within a reasonable time period determined by the Department, the operator must provide to the Department a revised cost estimate to complete permanent closure as approved by the Department. (3-30-06)

ii. Within thirty (30) days of receipt of the revised cost estimate the Director will notify the operator in

writing of his determination of bond adequacy. (3-30-06)

iii. Within ninety (90) days of notification of the Director's assessment, the operator must make the appropriate adjustment to the bond or the Director will reduce the bond as appropriate. (3-30-06)

c. The Department may conduct an internal review of the amount of each bond annually to determine whether it is adequate to complete permanent closure. (3-30-06)

d. For bond reviews conducted pursuant to Subsections 121.04.a. and 121.04.b., the Director may employ a qualified independent party to verify the accuracy of the revised estimated costs to complete permanent closure. The qualified independent party will be employed and the operator must pay a reasonable fee pursuant to Subsection 071.05.b. (3-30-06)

05. Bond Reduction. A performance bond for permanent closure may be reduced if, during the Department's review of the performance bond pursuant to Subsection 121.04, the estimated costs to complete permanent closure of the subject cyanidation facility will be lower than the amount bonded at that time. (3-30-06)

06. Bond Release. (3-30-06)

a. A bond filed for permanent closure of a cyanidation facility is to be released according to the schedule in the permanent closure plan. The schedule includes provisions for the release of the post closure monitoring and maintenance portions of the bond. The schedule may be adjusted to reflect the operator's performance of permanent closure activities and their demonstrated effectiveness. (3-30-06)

b. Upon completion of an activity required by an approved permanent closure plan, the operator may request in writing a bond reduction for that activity. When the Director, in consultation with DEQ, has verified that the activity meets the requirements of the permanent closure plan, the bond will be reduced by an amount to reflect the activity completed. (3-30-06)

c. Upon the Director's determination that all activities specified in the permanent closure plan have been successfully completed, the Department will, in accordance with Section 47-1512(i), Idaho Code, release the balance remaining after partial bond releases. (3-30-06)

07. Liabilities for Unbonded Permanent Closure Costs. An operator who is in violation of the chapter or any provision of these rules may be subject to civil penalties under Section 47-1513(f), Idaho Code. (3-30-06)

122. FORM OF PERFORMANCE BOND.

01. Corporate Surety Bond. A corporate surety bond is an indemnity agreement executed for the operator and a corporate surety licensed to do business in the state of Idaho, filed on the appropriate bond form supplied by the Director. The bond is payable to the state of Idaho and conditioned to require the operator to faithfully perform all requirements of the chapter, and the rules in effect on the date that a reclamation plan or a permanent closure plan was approved by the Department. (3-30-06)

02. Collateral Bond. A collateral bond is an indemnity agreement executed by or for the operator, payable to the state of Idaho, pledging cash deposits, government securities or negotiable certificates of deposit of any financial institution authorized to do business in the state. Collateral bonds are subject to the following conditions. (3-30-06)

a. The Director will obtain possession of a collateral bond and, upon receipt, deposit it with the state treasurer to hold it in trust for the purpose of bonding reclamation or permanent closure performance. (3-30-06)

b. The Director will value the collateral at its current market value, not its face value. (3-30-06)

c. Certificates of deposit will be issued or assigned, in writing, to the state of Idaho and upon the books of the financial institution issuing such certificates. Interest will be allowed to accrue and may be paid by the

bank, upon demand, to the operator or another person who posted the collateral bond. (3-30-06)

d. Amount of an individual certificate may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. (3-30-06)

e. Financial institutions issuing such certificates will waive all rights of set-off or liens that it has or might have against such certificates. (3-30-06)

f. Certificates of deposit will be automatically renewable. (3-30-06)

g. Certificates of deposit must be of sufficient amount to ensure that the Director could liquidate them before maturity upon forfeiture for the required bond amount, including any penalty for early withdrawal. (3-30-06)

03. Letters of Credit. A letter of credit is an instrument executed by a bank doing business in Idaho, made at the request of a customer. A letter of credit states that the issuing bank will honor drafts for payment upon compliance with the terms of the credit. Letters of credit are subject to the following conditions. (3-30-06)

a. All credits are irrevocable and prepared in a format prescribed by the Director. (3-30-06)

b. All credits must be issued by an institution authorized to do business in the state of Idaho or through a correspondent bank authorized to do business in the state of Idaho. (3-30-06)

c. The account party on all credits must be identical to the entity identified in the reclamation plan or in the permanent closure plan and on the cyanidation facility permit as the party obligated to complete reclamation or permanent closure. (3-30-06)

04. Blanket Bond. Where an operator is involved in more than one (1) surface mining operation permitted by the Department or more than one (1) cyanidation facility operation permitted by the DEQ and for which a permanent closure bond is required, the Director may accept a blanket bond in lieu of separate reclamation or permanent closure bonds under the approved plans. The amount of such bond must be equal to the total of the requirements of the separate bonds being combined into a single bond, as determined pursuant to Section 47-1512, Idaho Code, and in accordance with Sections 120 and 121 of these rules. The bonded principal is liable for an amount no more than the bond filed for completion of reclamation activities or permanent closure activities if the Department takes action against the bond pursuant to Section 47-1513, Idaho Code and Section 123 of these rules. (3-30-06)

05. Notice of Cancellation. Any notice of cancellation by a surety company must comply with the provisions of Section 47-1512(f), Idaho Code. (3-30-06)

06. Revocation of Surety License. If a surety's Idaho business license is suspended or revoked, the operator must comply with the provisions of Section 47-1512(g), Idaho Code. (3-30-06)

123. FORFEITURE OF BOND.

A bond may be forfeited in accordance with Section 47-1513, Idaho Code, when the operator has not conducted the reclamation or has not conducted permanent closure in accord with an approved plan and the applicable requirements of these rules. (3-30-06)

124. -- 129. (RESERVED)

130. TRANSFER OF APPROVED PLANS.

01. Reclamation Plans. A reclamation plan may be transferred from one (1) operator to another after the Department's approval. To complete a transfer, the new applicant must file a notarized assumption of reclamation plan form as prescribed by the Department. The new operator is then responsible for the past operator's obligations under the chapter, these rules, and the reclamation plan. When a replacement bond is submitted relative to an approved surface mining reclamation plan, the following rider must be filed with the Department as part of the replacement bond before the existing bond will be released: "[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which reclamation is required on areas

disturbed in connection with surface mining reclamation plan [number], both prior to and subsequent to the date of this rider." (3-30-06)

02. Permanent Closure Plans. An approved permanent closure plan permit may be transferred to a new operator if he provides written notice to the Director that includes a specific date for transfer of permanent closure responsibility, coverage, and liability between the old and new operators no later than ten (10) days after the date of closure. An operator is required to provide such notice at the same time he provides notice to the DEQ as required IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." To complete a transfer, the new applicant must: (3-30-06)

a. File a notarized assumption of permanent closure plan form as prescribed by the Department; and (3-30-06)

b. File a replacement permanent closure bond on a form approved by the Department must be filed with the Department as part of the replacement bond before the existing bond will be released. The following rider must be filed as part of the replacement bond before the existing bond will be released: "[Surety company or principal] understands and expressly agrees that the liability under this bond shall extend to all acts for which permanent closure activities must be completed in connection with permanent closure plan [number], both prior to and subsequent to the date of this rider." (3-30-06)

131. -- 139. (RESERVED)

140. BEST MANAGEMENT PRACTICES AND RECLAMATION FOR SURFACE MINING OPERATION AND PERMANENT CLOSURE OF CYANIDATION FACILITIES.
Enumeration of a practice or act in Section 140 is not be construed to require its specific inclusion in a reclamation or permanent closure plan. (3-30-06)

01. Nonpoint Source Control. (3-30-06)

a. Appropriate BMPs for nonpoint source controls must be designed, constructed, and maintained with respect to site-specific surface mining operations or permanent closure activities. Operators will utilize BMPs designed to achieve state water quality standards and to protect existing beneficial uses of adjacent waters of the state, but are not be required to do more than is necessary to preserve the condition of runoff from the affected land or the cyanidation facility prior to conducting any exploration, surface mining or cyanidation facility operations. These measures must be among the first to be taken, if necessary, to protect water quality. State water quality standards, including protection of existing beneficial uses, are the standard that must be achieved by BMPs unless the operator can show, and the Director determines, that a lesser standard existed in the area to be affected prior to the commencement of the subject surface mining or exploration operations. (3-30-06)

b. If the BMPs utilized by the operator do not result in compliance with Paragraph 140.01.a., the Director will require the operator to modify or improve such BMPs to meet the controlling, water quality standards as set forth in current laws, rules, and regulations. (4-11-19)

02. Sediment Control. In addition to proper mining techniques and reclamation measures, the operator must take necessary steps at the close of each operating season to assure that sediment movement associated with surface runoff over the area is minimized in order to achieve water quality standards, or to preserve the condition of water runoff from the mined area prior to commencement of the subject surface mining or exploration operations, whichever is the lesser standard. Sediment control measures refer to best management practices carried out within and, if necessary, adjacent to the disturbed area and consist of utilization of proper mining and reclamation measures, as well as specific necessary sediment control methods, separately or in combination. Specific sediment control methods may include, but are not limited to: (3-30-06)

a. Keeping the disturbed area to a minimum at any given time through progressive reclamation; (3-30-06)

b. Shaping waste to help reduce the rate and volume of water runoff by increasing infiltration; (3-30-06)

c. Retaining sediment within the disturbed area; (3-30-06)

d. Diverting surface runoff around the disturbed area; (3-30-06)

e. Routing runoff through the disturbed area using protected channels or pipes so as not to increase sediment load; (3-30-06)

f. Use of riprap, straw dikes, check dams, mulches, temporary vegetation, or other measures to reduce overland flow velocities, reduce runoff volume, or retain sediment; and (3-30-06)

g. Use of adequate sediment ponds, with or without chemical treatment. (3-30-06)

03. Clearing and Grubbing. Clearing and grubbing of land in preparation for mining exposes mineral soil to the erosive effects of moving water. Operators are cautioned to keep such areas as small as possible (preferably no more than one (1) year's mining activity) as the operator is required to meet the applicable surface water quality standards on all such areas. Where practicable, trees and slash should be stockpiled for use in seedbed protection and erosion control. (3-30-06)

04. Overburden/Topsoil. To aid in the revegetation of affected lands where surface mining operations result in the removal of substantial amounts of overburden including any topsoil, the operator should remove the available topsoil or other growth medium as a separate operation for such area. Unless there are previously affected lands that are graded and immediately available for placement of the newly removed topsoil or other growth medium, the topsoil or other growth medium must be stockpiled and protected from erosion and contamination until such areas become available. (3-30-06)

a. Overburden/Topsoil Removal. (11-1-89)

i. Any overburden/topsoil to be removed should be removed prior to any other mining activity to prevent loss or contamination; (11-1-89)

ii. Where overburden/topsoil removal exposes land area to potential erosion, the Director, under the reclamation plan, may require BMPs necessary to prevent violation of water quality standards; and (3-30-06)

iii. Where the operator can show that an overburden material other than topsoil is conducive to plant growth, or where overburden other than topsoil is the only material reasonably available, such overburden may be allowed as a substitute for or a supplement to the available topsoil. (3-30-06)

b. Topsoil Storage. Topsoil stockpiles must be placed to minimize rehandling and exposure to excessive wind and water erosion. Topsoil stockpiles must be protected as necessary from erosion by use of temporary vegetation or by other methods that will control erosion, including, but not limited to, silt fences, chemical binders, seeding, and mulching. (11-1-89)

c. Overburden Storage. Stockpiled ridges of overburden must be leveled in such a manner as to have a minimum width of ten (10) feet at the top. Peaks of overburden must be leveled in such a manner as to have a minimum width of fifteen (15) feet at the top. The overburden piles must be reasonably prepared to control erosion using best management practices; such activities may include terracing, silt fences, chemical binders, seeding, mulching or slope reduction. (7-1-98)

d. Topsoil Placement. Abandoned affected lands must be covered with topsoil or other type of overburden that is conducive to plant growth, to the extent such materials are readily available, in order to achieve a stable uniform thickness. Excessive compaction of overburden and topsoil is to be avoided. Topsoil redistribution must be timed so that seeding, or other protective measures, can be readily applied to prevent compaction and erosion. (3-30-06)

e. Fill. Backfill and fill materials should be compacted in a manner to ensure stability. (3-30-06)

05. Roads. (11-1-89)

a. Roads must be constructed to minimize soil erosion, which may require restrictions on the length and grade of the roadbed, surfacing of roads with durable non-toxic material, stabilization of cut and fill slopes, and other techniques designed to control erosion. (3-30-06)

b. All access and haul roads must be adequately drained. Drainage structures may include, but are not limited to, properly installed ditches, water-bars, cross drains, culverts, and sediment traps. (11-1-89)

c. Culverts that are to be maintained for more than one (1) year must be designed to pass peak flows from not less than a twenty (20) year, twenty-four (24) hour precipitation event and have a minimum diameter of eighteen (18) inches. (11-1-89)

d. Roads and water control structures must be maintained at periodic intervals as needed. Water control structures serving to drain roads must not be blocked or restricted in any manner to impede drainage or significantly alter the intended purpose of the structure. (11-1-89)

e. Roads that will not be recontoured to approximate original contours upon abandonment must be cross-ditched and revegetated, as necessary, to control erosion. (3-30-06)

f. Roads that are not abandoned and continue to be used under the jurisdiction of a governmental or private landowner, must comply with the nonpoint source sediment control provisions of Subsection 140.02 until the successor assumes control. (3-30-06)

06. Backfilling and Grading. (11-1-89)

a. Every operator who conducts surface mining or cyanidation facility operations thatmust disturb less than two (2) acres must, where possible, contour the disturbed land to its approximate previous contour. These lands must be revegetated in accordance with Subsection 140.11. (3-30-06)

b. An operator who conducts surface mining or cyanidation facility operations that disturb two (2) acres or more must reduce all waste piles and depressions to the lowest practicable grade. This grade may not exceed the angle of repose or maximum slope of natural stability for such waste or generate erosion in which sediment enters waters of the state. (3-30-06)

c. Backfill and fill materials are to be compacted in a manner to ensure mass and surface stability. (7-1-98)

d. After the disturbed area has been graded, slopes will be measured for consistency with the approved reclamation plan or the permanent closure plan. (3-30-06)

07. Disposal of Waste in Areas Other Than Mine Excavation. Waste material not used to backfill mined areas must be transported and placed in a manner designed to stabilize the waste piles and control erosion. (3-30-06)

a. The available disposal area should be on a moderately sloped, naturally stable area. The site should be near the head of a drainage to reduce the area of watershed above the fill. (11-1-89)

b. All surface water flows within the disposal area must be diverted and drained using accepted engineering practices such as a system of French drains, to keep water from entering the waste pile. These measures must be implemented in accordance with standards prescribed by the Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (11-1-89)

c. The waste material not used in backfilling mined areas should be compacted, where practical, and should be covered and graded to allow surface drainage and ensure long-term stability. (11-1-89)

d. The operator may, if appropriate, use terraces or slope reduction to stabilize the face of any fill. Slopes of the fill material should not exceed angle of repose or generate erosion in which sediment enters waters of the state. (3-30-06)

e. Unless adequate drainage is provided through a fill area, all surface water above the fill must be diverted away from the fill area into protected channels, and drainage may not be directed over the unprotected face of the fill. (11-1-89)

f. The operator must conduct revegetation activities with respect to such waste piles in accordance with Subsection 140.11. (3-30-06)

08. Settling Ponds; Minimum Criteria. (11-1-89)

a. Sediment Storage Volume. Settling ponds must provide adequate sediment storage capacity to achieve compliance with applicable water quality standards and protect existing beneficial uses, and may require periodic cleaning and proper disposal of sediment. (11-1-89)

b. Water Detention Time. Settling ponds must have an adequate theoretical detention time for water inflow and runoff entering the pond, but theoretical detention time may be reduced by improvements in pond design, chemical treatment, or other methods. (11-1-89)

c. Emergency Spillway. In addition to the sediment storage volume and water detention time, settling ponds must be designed to withstand and release storm flows as required by the Idaho Dam Safety Act, Section 42-1710 through 42-1721, Idaho Code, and Safety of Dams Rules, where applicable. (11-1-89)

09. Tailings Impoundments. All tailings, dams, or other types of tailings impoundments must be designed, constructed, operated, and decommissioned so that upon their abandonment, the dam and impoundment area will not constitute a hazard to human or animal life. (11-1-89)

a. Design criteria, construction techniques, and decommission techniques for tailings dams and impoundments must comply with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, and applicable rules and regulations. (11-1-89)

b. Topsoil must be removed from the area to be affected by the impounding structure and tailings reservoir in accordance with Subsection 140.04. (3-30-06)

c. Abandonment and Decommissioning of Tailings Impoundments. (3-30-06)

i. Dewatering. Tailings ponds must be dewatered to the extent necessary to provide an adequate foundation for the approved post-mining use. (3-30-06)

ii. Control of surface waters. Surface waters must either be channeled around the reservoir and impoundment structure or through the reservoir and breached structure. Permanent civil structures must be designed and constructed to implement either method of channeling. The structure must provide for erosion-free passage of waters and adequate energy dissipation prior to entry into the natural drainage below the impounding structure. (3-30-06)

iii. Detoxification. Hazardous chemical residues within the tailings pond must be detoxified or covered with an adequate thickness of non-toxic material, to the extent necessary to achieve water quality standards in adjacent surface waters. (3-30-06)

iv. Reclamation. After implementing the required dewatering, detoxification, and surface drainage control measures, the reservoir and impounding structure must be covered with topsoil or other material conducive to plant growth, in accordance with Subsection 140.04. Where such soils are limited in quantity or not available, and upon approval by the Department, physical or chemical methods for erosion control may be used. All such areas are to be revegetated in accordance with Subsection 140.11, unless specified otherwise. (3-30-06)

d. When the operator requests termination of its reclamation or permanent closure plan, pursuant to Section 150 of these rules, impoundment structures and any reservoirs retained as fresh water reservoirs after final reclamation or permanent closure must conform with the Idaho Dam Safety Act, Sections 42-1710 through 42-1721, Idaho Code, if applicable. (3-30-06)

10. Permanent Cessation and Time Limits for Planting. (11-1-89)

a. Seeding and planting of affected lands and/or a permanently closed cyanidation facility should be conducted during the first normal period for favorable planting conditions after final seedbed preparation. (3-30-06)

b. Reclamation activities, where possible, are encouraged to be concurrent with the mining operation and may be included in the approved reclamation plan. Final reclamation must begin within one (1) year after the surface mining operations have permanently ceased on a mine panel. If the operator permanently ceases disposing of overburden on a waste area or permanently ceases removing minerals from a pit or permanently ceases using a road or other affected land, the reclamation activity on each given area must start within one (1) year of such cessation, despite the fact that all operations as to the mine panel, which included such pit, road, overburden pile, or other affected land, has not permanently ceased. (11-1-89)

c. An operator is presumed to have permanently ceased surface mining operations on a given portion of affected land when no substantial amount of mineral or overburden material has been removed or overburden placed on an overburden dump, or no significant use has been made of a road during the prior three (3) years. If an operator does not plan to use an affected area for three (3) or more years but intends thereafter to use the affected area for surface mining operations and desires to defer final reclamation until after its subsequent use, the operator shall submit a notice of intent and request for deferral of reclamation to the Director, in writing. If the Director determines that the operator plans to continue the operation within a reasonable period of time, the Director will notify the operator and may require actions to be taken to reduce degradation of surface resources until operations resume. If the Director determines that use of the affected land for surface mining operations will not be continued within a reasonable period of time, the Director will proceed as though the surface mining operation has been abandoned, but the operator will be notified of such decision at least thirty (30) days before taking any formal administrative action. (11-1-89)

11. Revegetation Activities. (11-1-89)

a. The operator must select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands or on a closed cyanidation facility prior to surface mining or cyanidation facility operations, respectively. Certified weed free seed should be used in revegetation. The operator may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation. These practices of selection may be included in an approved reclamation plan or permanent closure. (3-30-06)

b. Unless otherwise specified in the approved reclamation or permanent closure plan, the success of revegetation efforts will be measured against the existing vegetation on site prior to the surface mining or cyanidation facility operation, or against an adjacent reference area supporting similar types of vegetation. (3-30-06)

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on the adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation. (11-1-89)

ii. For purposes of this rule, ground cover will be considered comparable if it has, on the area actually planted at least seventy percent (70%) of the premining ground cover for the mined area or adjacent reference area; (11-1-89)

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the Director, in approving a reclamation or permanent closure plan, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species. (3-30-06)

iv. As used in this section, "herbaceous species" means grasses, legumes, and other forbs; "woody plants" means woody shrubs, trees, and vines; and "ground cover" means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation. (11-1-89)

v. For previously mined areas that were not reclaimed to the standards required by Section 140, and that are affected by the surface mining or cyanidation facility operations, vegetation should be established to the extent necessary to control erosion, but may not be less than that which existed before redisturbance; and (3-30-06)

vi. Vegetative cover may not be less than that required to control erosion. (11-1-89)

c. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-mining use of the affected land, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species are not be used in revegetation. (11-1-89)

d. By mutual agreement of the Director, the landowner, and the operator, a site may be converted to a different, more desirable or more economically suitable habitat. (3-30-06)

e. Planting of grasses and forbs should be done in a manner that promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for mine revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (11-1-89)

f. The operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to mining. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the landowner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs must be protected from erosion by vegetation, chemical, or other acceptable means during establishment of the shrubs. (11-1-89)

g. Reforestation. Tree stocking of forestlands should meet the following criteria: (3-30-06)

i. Trees that are adapted to the site should be planted on the area to be revegetated in a density that can be expected over time to yield a timber stand comparable to premining timber stands; (11-1-89)

ii. Trees must be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (11-1-89)

iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (11-1-89)

h. Revegetation is not required on the following areas: (11-1-89)

i. Affected lands, or portions thereof, where planting is not practicable or reasonable because the soil is composed of excessive amounts of sand, gravel, shale, stone, or other material to such an extent to prohibit plant growth; (11-1-89)

ii. Any mined area or overburden stockpiles proposed to be used in the mining operations for haulage roads, so long as those roads are not abandoned; (3-30-06)

iii. Any mined area or overburden stockpile, where lakes are formed by rainfall or drainage runoff from adjoining lands; (3-30-06)

iv. Any mineral stockpile; (11-1-89)

v. Any exploration trench that will become a part of a pit or an overburden disposal area; and (3-30-06)

vi. Any road that is to be used in mining operations, so long as the road is not abandoned. (11-1-89)

i. Mulching. Mulch should be used on severe sites and may be required by the reclamation or permanent closure plan where slopes are steeper than three to one (3:1) or the mean annual rainfall is less than twelve (12) inches. When used, straw or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation that will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (3-30-06)

12. Petroleum-Based Products and Chemicals. All refuse, chemical and petroleum products and equipment should be stored and maintained in a designated location away from surface water and disposed of in such a manner as to prevent their entry into a waterway. (3-30-06)

141. -- 149. (RESERVED)

150. TERMINATION OF A PLAN.

01. Terminate upon Request of the Operator. A reclamation plan terminates upon request of the operator, upon inspection by the Director, and a determination that all reclamation activity has been completed to the standards specified in the plan, and following final approval by the Director. Upon termination, the Director will release the remaining bond, notify the operator, and any authority to conduct any surface mining operations under the subject plan terminates. (3-30-06)

02. Terminate a Permanent Closure Plan. The Director will terminate a permanent closure plan upon request of the operator, provided all the provisions and objectives of the permanent closure plan have been met, as determined by the Director under Sections 111 and 112 of these rules. Upon a determination that permanent closure has been completed in accordance with the approved permanent closure plan and upon consultation with the DEQ that the operator's request to terminate a plan should be approved, the Director will notify the operator that any authority to continue cyanidation operations ceases and he will release the balance of the permanent closure bond in accordance with Subsection 121.06. (3-30-06)

151. -- 159. (RESERVED)

160. ENFORCEMENT AND FAILURE TO COMPLY.

01. Right of Inspection. Authorized officers of the Department, upon presentation of appropriate credentials, have the right to enter upon lands affected or proposed to be affected by exploration or surface mining operations to determine compliance with these rules. Inspections may be conducted at reasonable times in the presence of the operator or his authorized employee or representative. The operator will make such a person available for the purpose of inspection. This rule does not prevent the Department from making an inspection of the site if the operator fails to make a representative available on request. (11-1-89)

02. Bond Forfeiture. Upon request by the Director, the attorney general may institute proceedings to have the bond for reclamation or permanent closure forfeited for violation of an order entered pursuant to Section 47-1513, Idaho Code and these rules. (3-30-06)

03. Civil Penalty. An unbonded operator, or an operator who violates these rules by performing an act that is not included in an approved reclamation plan or an approved permanent closure plan that is not subsequently approved by the Department, is subject to a civil penalty as authorized by Section 47-1513(c), Idaho Code. (3-30-06)

04. Injunctive Procedures. The Director may seek injunctive relief and proceed with legal action, if necessary, to enjoin a surface mine operator or cyanidation facility operator who violates the provisions of the chapter, these rules, or the terms of an existing approved reclamation or permanent closure plan. Any such action follows the procedures established in Section 47-1513, Idaho Code. (3-30-06)

05. Appeal of Final Order. An operator dissatisfied with a final order of the Board may within sixty

(60) days after receiving the order, file an appeal in accordance with Section 47-1514, Idaho Code. (3-30-06)

161. -- 169. (RESERVED)

170. COMPUTATION OF TIME.
Computation of time will be based on calendar days. In computing any period of time prescribed by the chapter, the day on which the designated period of time begins is excluded. The last day of the period is included unless it is a Saturday, Sunday or legal holiday when the Department is not open for business. In such a case, the time period runs until the end of the next day that is not a Saturday, Sunday or legal holiday. Intermediate Saturdays, Sundays or legal holidays are excluded from the computation when the period of prescribed time is seven (7) days or less. (3-30-06)

171. -- 179. (RESERVED)

180. PUBLIC AND CONFIDENTIAL INFORMATION.

01. Information Subject to Disclosure. Information obtained by the Department pursuant to the chapter and these rules is subject to disclosure under Title 74, Chapter 1, Idaho Code ("Public Records Act"). (3-30-06)

02. Public Inspection. Except as provided in Section 180 or Title 9, Chapter 3, Idaho Code, information obtained by or submitted to the Department pursuant to these rules will be available to the public for inspection and copying during normal office hours. Anyone who requests assistance from the Department to collect, copy or mail public information must tender, in advance, the reasonable cost of those services. (3-30-06)

03. Information Not Subject to Public Inspection. Notice of exploration as required under Section 060 and any materials submitted to the Board, the Director, or the Department as confidential will not be disclosed by the Board, Director, or Department employees to any person other than the Board, Director, and employees of the Department without the written permission of the operator. (3-30-06)

04. Use by Board. Any plans, documents, or materials submitted as confidential and held as such, do not prohibit the Board, Director, or Department from using the information in an administrative hearing or judicial proceeding initiated pursuant to Section 47-1514, Idaho Code. (3-30-06)

05. BMPs. An operator may not unreasonably designate as confidential portions of reclamation or permanent closure plans that detail proposed BMPs to meet state water quality standards and protect existing beneficial uses of waters of the state. (3-30-06)

181. -- 189. (RESERVED)

190. DEPOSIT OF FORFEITURES AND DAMAGES.
All penalties, forfeitures, and civil damages collected pursuant to the chapter, are deposited with the state treasurer in: (3-30-06)

01. Surface Mine Reclamation Fund. The surface mine reclamation fund to be used by the Director for surface-mined land reclamation purposes; or (3-30-06)

02. Cyanidation Facility Closure Fund. The cyanidation facility closure fund to be used by the Director to complete permanent closure activities and to administer the permanent closure provisions of the chapter. (3-30-06)

191. -- 199. (RESERVED)

200. COMPLIANCE OF EXISTING RECLAMATION PLANS.
These rules, upon their adoption, apply as appropriate to all existing surface mining operations, but do not affect the validity or modify the duties, terms, or conditions of any existing approved reclamation plan or impose any additional obligations with respect to reclamation upon any operator conducting surface mining operations pursuant to a reclamation plan approved prior to adoption of these rules unless amended under Section 090. (3-30-06)

201. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated by the Idaho State Board of Land Commissioners *under* to Sections 58-104(3) and (6), Idaho Code, and Title 47, Chapter 18, Idaho Code. The Board has delegated to the Director of the Idaho Department of Lands the duties and powers under Title 47, Chapter 18, Idaho Code and these rules; *except* the Board retains responsibility for administrative review. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund." (3-16-04)

02. Scope. These rules constitute the Department*'s* administrative procedures *and participation criteria* for *the* Reclamation Fund*, which is* an alternative form of financial assurance for *certain* min*es* in Idaho. These rules *are to* be construed in a manner consistent with the duties and responsibilities of the Board *and of operators, permit holders, or lessees* as set forth in Title 47, Chapter 7, *Idaho Code, "Mineral Rights in State Lands"; Title 47, Chapter* 13, *Idaho Code, "Dredge Mining"; Title 47, Chapter* 15, *Idaho Code, "Mined Land Reclamation"; Title 47, Chapter* 18, Idaho Code, *"Financial Assurance";* IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho"; IDAPA 20.03.02, "Rules Governing *Mined Land Reclamation*"; and IDAPA 20.03.05, "Riverbed Mineral Leasing In Idaho." *( )*

002. ADMINISTRATIVE APPEALS.
Any person aggrieved by a final agency action or a party aggrieved by a final order of the Board arising from its administration of the Reclamation Fund Act is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, "Administrative Procedure Act," and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners." *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.
Except as provided in these rules, the Board adopts the definitions set forth in the Mineral Leasing Act, the Dredge Mining Act, and the Mined Land Reclamation Act. As used in these rules: *( )*

01. Actual Allowable Cost. *The allowable total reclamation cost as set by the Board to allow* ***participation in the Reclamation Fund.*** ***( )***

02. Actual Allowable Disturbance*. The area of disturbed acres or affected land as set by the Board to allow participation in the Reclamation Fund.* *( )*

03. **Board**. The *Idaho* State Board of Land Commissioners or *its authorized representatives*. *( )*

04. **Department**. The Idaho Department of Lands. (3-16-04)

05. **Disturbed Acres; Affected Land*s***. *Any l*and, natural watercourses, or existing stockpiles or waste piles affected by placer or dredge mining, remining, exploration, stockpiling of ore, waste from placer or dredge mining, or construction of roads, settling ponds, structures, or facilities appurtenant to *a* placer or dredge *mine*. The land area included in overburden disposal areas, mined areas, mineral stockpiles, roads, tailings ponds, and other areas disturbed at a mine. *The land area disturbed by motorized exploration of state land under a mineral lease.* *( )*

06. **Dredge Mining Act**. Title 47, Chapter 13, Idaho Code, and IDAPA 20.03.01, "Dredge and Placer Mining Operations in Idaho." (3-16-04)

07. Financial Assurance. *Cash, corporate surety bond, collateral bond, or letter of credit as described in the Dredge Mining Act, the Mineral Leasing Act, or a mineral lease. Financial assurance as defined in the Mined Land Reclamation Act.* *( )*

08. **Mine; Mine Panel**. *All* area*s* designated by the operator on the map *or plan* submitted pursuant to *Section 47-703A, Idaho Code, or* Section 47-1506, Idaho Code, or as an identifiable portion of a placer or dredge mine on the map submitted *under* to Section 47-1317, Idaho Code. (3-16-04)

*09. **Mined Land Reclamation Act**. Title 47, Chapter 15, Idaho Code, and IDAPA 20.03.02, "Rules Governing Mined Land Reclamation."* *( )*

10. **Mineral Lease**. Lease executed *by the Board and the mineral lessee* pursuant to *the Mineral Leasing Act.* ( )

11. **Mineral Lessee**. The lessee of a mineral lease. ( )

12. **Mineral Leasing Act**. Title 47, Chapter 7, Idaho Code. (3-16-04)

*13. **Mining Reclamation Plan**. Any reclamation plan approved pursuant to the Mined Land Reclamation Act.* *( )*

14. **Motorized Exploration**. Exploration that may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques which employ the use of earth moving equipment, seismic operations using explosives, and includes sampling with a suction dredge having an intake diameter greater than two (2) inches when operated in a perennial stream. When operated in an intermittent stream, suction dredges *are* considered motorized exploration regardless of intake size. *( )*

15. **Operator**. Any person or *entity authorized to conduct business in Idaho, partnership, joint venture, or public or governmental agency required to have any reclamation plan under the Mined Land Reclamation Act or the Mineral Leasing Act, or a permit under the Dredge Mining Act, whether individually or jointly through subsidiaries, agents, employees, or contractors.* *( )*

16. **Permit**. Dredge *or* placer mining permit issued pursuant to *the Dredge Mining Act*. *( )*

17. **Reclamation Fund**. The interest-bearing dedicated fund authorized pursuant to *the Reclamation Fund Act.* *( )*

18. **Reclamation Fund Act**. Title 47, Chapter 18, Idaho Code*, and IDAPA 20.03.03, "Rules Governing Administration of the Reclamation Fund."* *( )*

011. -- 015. (RESERVED)

016. REQUIRED PARTICIPANTS.
*Any o*perators with the exception of the *mines* and operators listed in Section 017 of these rules, *are* required to provide alternative financial assurance through the Reclamation Fund to assure the reclamation of disturbed acres or affected lands. *Alternative f*inancial assurance pursuant to the Reclamation Fund Act *is* in lieu of *other types of financial assurance* as set forth in the *Mined Land Reclamation* Act*, the Mineral Leasing Act,* or the Dredge Mining Act. *( )*

017. INELIGIBLE *MINES* OR OPERATORS.
The following types of *mines* and operators are not allowed to participate in the Reclamation Fund and *must file proof of other acceptable financial assurance as required by the Department.* *( )*

01. Disturbed Acres Limit. A mine or mineral lease with un-reclaimed disturbed acres *in excess of the actual allowable disturbance* may not provide alternative financial assurance through the Reclamation Fund. Un-reclaimed disturbance is that which does not meet the final *financial assurance* release criteria in the Dredge Mining Act, the *Mined Land Reclamation Act* or a mineral lease. *( )*

02. Reclamation Cost *Limit*. Operators with an estimated reclamation cost in excess of *the actual allowable reclamation cost*, regardless of *the disturbed* acre*s*. *( )*

03. Phosphate Mines. Operators *or mineral lessees* of phosphate mines. *( )*

04. Hardrock Mines. Operators *or mineral lessees* of hardrock mines such as gold, silver,

molybdenum, copper, lead, zinc, cobalt, and other precious metal mines. ( )

05. Potential Heavy Metal Releases. Operators of mines with a reasonable potential to release heavy metals or other substances harmful to human health or the environment, but not including substances such as fuels and other materials commonly used in excavation or construction. (3-16-04)

06. Oil and Gas Conservation. Oil and gas exploration and development under Title 47, Chapter 3, Idaho Code. ( )

07. Oil and Gas Leasing. Oil and gas leases and associated exploration and development under Title 47, Chapter 8, Idaho Code. ( )

08. Geothermal. *Operators or mineral lessees of g*eothermal *wells* and development authorized under Title 47, Chapter 16, Idaho Code. ( )

09. Off Lease Exploration. Motorized exploration on state lands that are not under a mineral lease or exploration location. (3-16-04)

10. Violators. *Mines* or operators in violation of the *Reclamation Fund Act,* Dredge Mining Act, *Mined Land Reclamation* Act, Mineral Leasing Act, or a mineral lease. ( )

11. Reclamation Fund Forfeitures. Operators, permittees or lessees who have not reimbursed the Reclamation Fund for a forfeiture from the Reclamation Fund due to their violations of the *Reclamation Fund Act,* Dredge Mining Act, *Mined Land Reclamation* Act, Mineral Leasing Act, or a mineral lease. ( )

12. Other Forfeitures. An operator who has forfeited *any financial assurance*. ( )

***13. Operators Providing Acceptable Financial Assurance**. An operator who provides proof of financial assurance accepted by the Department that is greater than or equal to the minimum dollar per acre for each acre of affected land at a mine.* ( )

018. ACREAGE *AND RECLAMATION COST* LIMITATIONS.

***01. Actual Allowable Participation**. The Board will establish by policy the actual allowable disturbance, actual allowable reclamation cost, and the minimum dollar per acre of disturbance in order to provide financial assurance to opt out of participation in the Reclamation Fund.* ( )

***02. Maximum Disturbance and Reclamation Cost**. The maximum disturbance and maximum reclamation costs in these rules are maximums. The maximum allowable disturbance is eighty (80) acres; the maximum allowable reclamation cost is four hundred forty thousand dollars ($440,000).* ( )

***03. Multiple Plans or Permits**. An operator who has multiple mining reclamation plans or permits that have a total disturbance in excess of the actual allowable disturbance, or with total reclamation costs in excess of the actual allowable reclamation cost, may participate in the Reclamation Fund with one (1) or more sites that together contain less than both of the Board-established actual allowable limits.* ( )

019. OPTIONAL PARTICIPATION.

Operators who have one (1) or more *mines* or *mineral* leases that are ineligible to participate in the Reclamation Fund as set forth in Section 017 or 018 of these rules may choose to not participate in the Reclamation Fund with respect to all other *eligible mines* or *mineral* leases in their name. An operator who does not participate in the Reclamation Fund must secure *all mines* with *other types of financial assurance approved by the Department*. ( )

020. FEDERAL AGENCY NON-ACCEPTANCE OF RECLAMATION FUND.

If a federal agency will not accept an operator's participation in the Reclamation Fund as proof of reclamation security, the operator will be required to provide *the Department with proof of other types of financial assurance acceptable to the Department*. ( )

021. -- 025. (RESERVED)

026. PAYMENT.

01. Board Approved Payment Schedule. The Board will adopt a payment schedule *that* determine*s* the annual Reclamation Fund payment for each *operator participating* in the Reclamation Fund. Any changes to the payment *schedule will* be approved by the Board. *Participating operators must pay all required payments annually.* *( )*

02. Acreage Calculation. The annual payment for each participant in the Reclamation Fund will be established based upon the number of disturbed *acres* at each *mine*. The acres used to calculate the annual payment will include the *total* current disturbed *acres of* affected land*s* and the acres planned to be disturbed or affected during the next twelve (12) months. The *total acreage calculation will* not be rounded when determining annual payments. *( )*

03. Annual Payments Non-Refundable. Payments to the Reclamation Fund are non-refundable. Payments will be billed annually and*, if not timely paid, will accrue late fees and interest* as established by the Board. New participants will be assessed a pro-rated payment based on the Department's established billing cycle. *( )*

04. Supplemental Payments. If an operator affect*s* more acreage than the acreage secured through the Reclamation Fund for *a* current period, the Department may require supplemental Reclamation Fund payments. *( )*

05. Assignment. When a *mineral* lease, *mining reclamation* plan, or permit is assigned, *all* financial assurance requirements must be assumed by the new operator. No Reclamation Fund payments will be refunded following an assignment. If the new operator is ineligible to participate in the Reclamation Fund, the new operator must provide *proof of other acceptable financial assurance* before the assignment *may* be approved. *( )*

06. Non-Payment Constitutes Lack of Bonding. For *any* operator participat*ing* in the Reclamation Fund, non-payment of the annual *payment is* considered a failure to provide *financial assurance* as required by the Dredge Mining Act, the *Mined Land Reclamation* Act, Mineral Leasing Act, or a mineral lease. *( )*

027. -- 030. (RESERVED)

031. ENFORCEMENT AND FAILURE TO COMPLY.

01. Forfeiture. Prior to withdrawing monies from the Reclamation Fund due to a violation of the Dredge Mining Act, the *Mined Land Reclamation* Act, Mineral Leasing Act, or a mineral lease, the Department *will* comply with the *respective financial assurance forfeiture* procedures. *( )*

02. Penalties. If an operator fails to provide financial assurance as required by these rules or has forfeited monies from the Reclamation Fund and has not repaid those monies, the Board *is* authorized to file liens against personal property and equipment of the operator to recover costs. The operator *is* liable for actual costs of *all unpaid annual payments, interest, and late payment charges, the actual* reclamation costs, and administrative costs incurred by the Department in reclaiming the disturbed *acres* or affected lands. Authorization to obtain a lien under these rules and Section 47-1804, Idaho Code, *are* in addition to, not in lieu of, any other legal remedy available to the Board and the Department pursuant to the Dredge Mining Act, *the Mined Land Reclamation* Act, Mineral Leasing Act, or mineral lease. *( )*

032. MINIMUM BALANCE FOR THE RECLAMATION FUND.
The Board will determine a reasonable minimum balance for the Reclamation Fund. (3-16-04)

033. -- 999. (RESERVED)

20.03.04 – RULES FOR THE REGULATION OF BEDS, WATERS, AND AIRSPACE OVER NAVIGABLE LAKES IN THE STATE OF IDAHO

000. LEGAL AUTHORITY.
This Chapter is adopted under the legal authorities of Sections 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Title 58, Chapter 13, Idaho Code; and Title 67, Chapter 52, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.04, "Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho." (4-2-08)

02. Scope. These rules govern encroachments on, in, or above navigable lakes in the state of Idaho. (4-2-08)

002. ADMINISTRATIVE APPEALS.
Any person aggrieved by any final decision or order of the board is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01, Title 58, Chapter 13, Sections 58-1305 and 58-1306, Idaho Code, and Sections 025, 030, and 080 of these rules. (4-2-08)

003. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules: (4-2-08)

01. IDAPA 07.01.01, "Rules of the Electrical Board." IDAPA 07.01.01 is available at https://adminrules.idaho.gov/rules/current/07/070101.pdf. ( )

02. IDAPA 07.02.06, "Rules Concerning Idaho State Plumbing Code." This rule is available at https://adminrules.idaho.gov/rules/current/07/070206.pdf. (4-11-19)

03. 33 CFR Part 62, revised as of July 27, 2015 (United States Aids to Navigation System). The Electronic Code of Federal Regulations (eCFR) is available at http://www.ecfr.gov/cgi-bin/ECFR. (4-11-19)

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Adjacent. Contiguous or touching, and with regard to land or land ownership having a common boundary. (7-1-98)

02. Aids to Navigation. Buoys, warning lights, and other encroachments in aid of navigation intended to improve waterways for navigation. (4-2-08)

03. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line. (4-2-08)

04. Beds of Navigable Lakes. The lands lying under or below the "natural or ordinary high water mark" of a navigable lake and, for purposes of these rules only, the lands lying between the natural or ordinary high water mark and the artificial high water mark, if there be one. (9-13-90)

05. Board. The Idaho State Board of Land Commissioners or its designee. (4-2-08)

06. Boat Garage. A structure with one (1) or more slips that is completely enclosed with walls, roof, and doors, but no temporary or permanent residential area. (4-2-08)

07. Boat Lift. A mechanism for mooring boats partially or entirely out of the water. (4-2-08)

08. Boat Ramp. A structure or improved surface extending below the ordinary or artificial high water mark whereby watercraft or equipment are launched from land-based vehicles or trailers. (4-2-08)

09. Commercial Marina. A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to the general public. (4-2-08)

10. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes. (4-2-08)

11. Community Dock. A structure that provides private moorage for more than two (2) adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to homeowner's associations. No public access is required for a community dock. (4-2-08)

12. Covered Slip. A slip, or group of slips, with a frame, fabric canopy, and eaves that do not extend beyond the underlying dock. (4-7-11)

13. Department. The Idaho Department of Lands or its designee. (4-2-08)

14. Director. The head of the Idaho Department of Lands or his designee. (4-2-08)

15. Encroachments in Aid of Navigation. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake. The term "encroachments in aid of navigation" *is* used interchangeably with the term "navigational encroachments." *( )*

16. Encroachments Not in Aid of Navigation. Includes all other encroachments on, in, or above the beds or waters of a navigable lake, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation*, such as* float homes and boat garages. The term "encroachments not in aid of navigation" *is* used interchangeably with the term "nonnavigational encroachments." *( )*

17. Floating Home or Float Home. A structure that is designed and built to be used, or is modified to be used, as a stationary waterborne residential dwelling and is not self-propelled. These structures are usually dependent for utilities upon a continuous utility linkage to a source originating on shore, and must have either a permanent continuous connection to a sewage system on shore, or an alternative method of sewage disposal that does not violate local, state, or federal water quality and sanitation regulations. (4-2-08)

18. Floating Toys. Trampolines, inflatable structures, water ski courses, and other recreational equipment that are not permanently anchored to the lake bed or an encroachment and are either located between the shoreline and the line of navigability or are waterward of the line of navigability for less than twenty-four (24) consecutive hours. (3-29-10)

19. Jet Ski Ramp, Port, or Lift. A mechanism for mooring jet skis or other personal watercraft similar to a boat lift. The lifts may be free standing or attached to a dock or pier. (4-2-08)

20. Line of Navigability. A line located at such distance waterward of the low water mark established by the length of existing legally permitted encroachments, water depths waterward of the low water mark, and by other relevant criteria determined by the board when a line has not already been established for the body of water in question. (4-2-08)

21. Low Water Mark. That line or elevation on the bed of a lake marked or located by the average low water elevations over a period of years, and marks the point to which the riparian rights of adjoining landowners extend as a matter of right, in aid of their right to use the waters of the lake for purposes of navigation. (4-2-08)

22. Moorage. A place to secure float homes and watercraft including, but not limited to, boats, personal watercraft, jet skis, etc. (4-2-08)

23. Natural or Ordinary High Water Mark. The high water elevation in a lake over a period of years, uninfluenced by man-made dams or works, at which elevation the water impresses a line on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. (9-13-90)

24. Navigable Lake. Any permanent body of relatively still or slack water, including man-made

reservoirs, not privately owned and not a mere marsh or stream eddy, and capable of accommodating boats or canoes. This definition does not include man-made reservoirs where the jurisdiction thereof is asserted and exclusively assumed by a federal agency. (4-2-08)

25. Party. Each person or agency named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. (3-29-10)

26. Person. A partnership, association, corporation, natural person, or entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government. (4-2-08)

27. Piling. A metal, concrete, plastic, or wood post that is placed into the lakebed and used to secure floating docks and other structures. (4-2-08)

28. Plans. Maps, sketches, engineering drawings, aerial and other photographs, word descriptions, and specifications sufficient to describe the extent, nature and approximate location of the proposed encroachment and the proposed method of accomplishing the same. (9-13-90)

29. Public Hearing. The type of hearing where members of the public are allowed to comment, in written or oral form, on the record at a public meeting held at a set time and place and presided over by a designated representative of the Department who acts as the hearing coordinator. This type of hearing is an informal opportunity for public comment and does not involve the presentation of witnesses, cross examination, oaths, or the rules of evidence. A record of any oral presentations at such hearings will be taken by the Department by tape recorder. The hearing coordinator exercises such control at hearings as necessary to maintain order, decorum and common courtesy among the participants. (4-2-08)

30. Public Trust Doctrine. The duty of the State to its people to ensure that the use of public trust resources is consistent with identified public trust values. This common law doctrine has been interpreted by decisions of the Idaho Appellate Courts and is codified at Title 58, Chapter 12, Idaho Code. (3-19-99)

31. Pylon. A metal, concrete, or wood post that is placed into the lakebed and used to support fixed piers. (4-2-08)

32. Riparian or Littoral Rights. The rights of owners or lessees of land adjacent to navigable waters of the lake to maintain their adjacency to the lake and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters of the lake. (4-2-08)

33. Riparian or Littoral Owner. The fee owner of land immediately adjacent to a navigable lake, or his lessee, or the owner of riparian or littoral rights that have been segregated from the fee specifically by deed, lease, or other grant. (3-29-10)

34. Riparian or Littoral Right Lines. Lines that extend waterward of the intersection between the artificial or ordinary high water mark and an upland ownership boundary to the line of navigation. Riparian or littoral right lines will generally be at right angles to the shoreline. (4-2-08)

35. Side Tie. Moorage for watercraft where the dock or pier is on only one (1) side of the watercraft. (4-2-08)

36. Single-Family Dock. A structure providing noncommercial moorage that serves one (1) waterfront owner whose waterfront footage is no less than twenty-five (25) feet. (4-2-08)

37. Slip. Moorage for boats with pier or dock structures on at least two (2) sides of the moorage. (4-2-08)

38. Submerged Lands. The state-owned beds of navigable lakes, rivers and streams below the natural or ordinary high water marks. (9-13-90)

39. **Two-Family Dock**. A structure providing noncommercial moorage that serves two (2) adjacent waterfront owners having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common littoral property line. (4-2-08)

40. **Upland**. The land bordering on navigable lakes, rivers, and streams. (4-2-08)

011. ABBREVIATIONS.

01. **ATON**. Aids to Navigation. (4-2-08)

02. **HDPE**. High-Density Polyethylene. (3-29-10)

012. POLICY.

01. **Environmental Protection and Navigational or Economic Necessity**. It is the express policy of the State of Idaho that the public health, interest, safety and welfare requires that all encroachments upon, in or above the beds or waters of navigable lakes of the state be regulated in order that the protection of property, navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty and water quality be given due consideration and weighed against the navigational or economic necessity or justification for, or benefit to be derived from the proposed encroachment. Moreover, it is the responsibility of the State Board of Land Commissioners to regulate and control the use or disposition of state-owned lake beds, so as to provide for their commercial, navigational, recreational or other public use. (9-13-90)

02. **No Encroachments Without Permit**. No encroachment on, in or above the beds or waters of any navigable lake in the state may be made unless approval has been given as provided in these rules. An encroachment permit does not guarantee the use of public trust lands without appropriate compensation to the state of Idaho. *( )*

03. **Permitting of Existing Encroachments**. (4-2-08)

a. The provisions of Title 58, Chapter 13, Section 58-1312, Idaho Code, apply. (4-2-08)

b. Any new encroachments, or any unpermitted encroachments constructed after January 1, 1975, are subject to these rules. (4-2-08)

013. -- 014. (RESERVED)

015. ENCROACHMENT STANDARDS.

01. **Single-Family and Two-Family Docks**. The following parameters govern the size and dimensions of single-family docks and two-family docks. (7-1-98)

a. No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark may exceed ten (10) feet in width, excluding the slip cut out. (4-2-08)

b. Total surface decking area waterward of the natural or ordinary or artificial high water mark may not exceed seven hundred (700) square feet, including approach ramp and walkway for a single-family dock and may not exceed one thousand one hundred (1,100) square feet, including approach ramp and walkway for a two-family dock. (4-2-08)

c. No portion of the docking facility may extend beyond the line of navigability. Shorter docks are encouraged whenever practical and new docks normally will be installed within the waterward extent of existing docks or the line of navigability. (3-29-10)

d. A variance to the standards in *this S*ubsection 015.01 may be approved by the Department *when* justified by site specific considerations, *such* as the distance to the established line of navigability. *( )*

02. **Community Docks**. (7-1-98)

a. A community dock *is* considered a commercial navigational aid for purposes of processing the application. *( )*

b. No part of the structure waterward of the natural or ordinary high water mark or artificial high water mark may exceed ten (10) feet in width except breakwaters when justified by site specific conditions and approved by the Department. (4-2-08)

c. A community dock may not have less than fifty (50) feet combined shoreline frontage. Moorage facilities will be limited in size as a function of the length of shoreline dedicated to the community dock. The surface decking area of the community dock *is* limited to the product of the length of shoreline multiplied by seven (7) square feet per lineal feet or a minimum of seven hundred (700) square feet. However, the Department, at its discretion, may limit the ultimate size when evaluating the proposal and public trust values. *( )*

d. If a breakwater will be incorporated into the structure of a dock, and a need for the breakwater can be demonstrated, the Department may allow the surface decking area to exceed the size limitations of Paragraph 015.02.c of these rules. (4-2-08)

e. A person with an existing community dock that desires to change the facility to a commercial marina must submit the following information to the Department: (4-2-08)

i. A new application for an encroachment permit. (4-2-08)

ii. Text and drawings that describe which moorage will be public and which moorage will be private. (4-2-08)

03. Commercial Marina. (4-2-08)

a. Commercial marinas must have a minimum of fifty percent (50%) of their moorage available for use by the general public on either a first come, first served basis for free or rent, or a rent or lease agreement for a period of time up to one (1) year. Moorage contracts may be renewed annually, so long as a renewal term does not exceed one (1) year. Moorage for use by the general public may not include conditions that result in a transfer of ownership of moorage or real property, or require membership in a club or organization. (3-29-10)

b. Commercial marinas that are converted to a community dock must conform to all the community dock standards, including frontage requirements and square footage restrictions. This change of use must be approved by the Department through a new encroachment permit prior to implementing the change. (3-29-10)

c. If local city or county ordinances governing parking requirements for marinas have not been adopted, commercial marinas must provide a minimum of upland vehicle parking equivalent to one (1) parking space per two (2) public watercraft or float home moorages. If private moorage is tied to specific parking spaces or designated parking areas, then one (1) parking space per one (1) private watercraft or float home moorage must be provided. In the event of conflict, the local ordinances prevail. *( )*

d. If a commercial marina can be accessed from a road, marina customers must be allowed access via that road. (4-2-08)

e. Moorage that is not available for public use as described in Paragraph 015.03.a. of these rules is private moorage. (3-29-10)

f. When calculating the moorage percentage, the amount of public moorage is to be compared to the amount of private moorage. Commercial marinas with private float home moorage are required to provide either non-private float home moorage or two (2) public use boat moorages for every private float home moorage in addition to any other required public use boat moorages. (4-2-08)

g. When private moorage is permitted, the public moorage must be of similar size and quality as private moorage, except for float home moorage as provided in Paragraph 015.03.f. (3-29-10)

h. Commercial marinas with private moorage must form a condominium association, co-op, or other entity that owns and manages the marina, littoral rights, upland property sufficient to maintain and operate a marina, and private submerged land, if present. This entity is responsible for obtaining and maintaining an encroachment permit under these rules and a submerged lands lease under IDAPA 20.03.17, "Rules Governing Leases on State-Owned Submerged lands and Formerly Submerged Lands." (4-2-08)

i. Existing commercial marinas that desire to change their operations and convert some of their moorage to private use must keep at least fifty percent (50%) of their moorage available for use by the general public. This change in operations must be approved by the Department through a new encroachment permit prior to implementation of the change. The permit application must describe, in text and in drawings, which moorage will be public and which moorage will be private. (4-2-08)

04. Covered Slip. (4-2-08)

a. Covered slips, regardless of when constructed, may not have a temporary or permanent residential area. (4-2-08)

b. Slip covers should have colors that blend with the natural surroundings and are approved by the Department. (4-2-08)

c. Covered slips may not be supported by extra piling nor constructed with hard roofs. (3-29-10)

d. Slip covers with permanent roofs and up to three (3) walls may be maintained or replaced at their current size if they were previously permitted or if they were constructed prior to January 1, 1975. These structures may not be expanded nor converted to boat garages. (3-29-10)

e. Fabric covered slips must be constructed as canopies without sides unless the following standards are followed: (4-2-08)

i. At least two (2) feet of open space is left between the bottom of the cover and the dock or pier surface; and (4-2-08)

ii. Fabric for canopy and sides will transmit at least seventy-five percent (75%) of the natural light. (4-2-08)

05. Boat Garage. (4-2-08)

a. Boat garages are considered nonnavigational encroachments. (4-2-08)

b. Applications for permits to construct new boat garages, expand the total square footage of the existing footprint, or raise the height will not be accepted unless the application is to support local emergency services. (4-11-19)

c. Existing permitted boat garages may be maintained or replaced with the current square footage of their existing footprint and height. (4-11-19)

d. Relocation of an existing boat garage will require a permit. (4-2-08)

06. Breakwaters. Breakwaters built upon the lake for use in aid of navigation will not be authorized below the level of normal low water without an extraordinary showing of need, provided, however that this does not apply to floating breakwaters secured by piling and used to protect private property from recurring wind, wave, or ice damage, or used to control traffic in busy areas of lakes. The breakwater must be designed to counter wave actions of known wave heights and wave lengths. (4-2-08)

07. Seawalls. Seawalls should be placed at or above the ordinary high water mark, or the artificial high water mark, if applicable. Seawalls are not an aid to navigation, and placement waterward of the ordinary or artificial

high water mark will generally not be allowed. (4-2-08)

08. Riprap. (4-2-08)

a. Riprap used to stabilize shorelines will consist of rock that is appropriately sized to resist movement from anticipated wave heights or tractive forces of the water flow. The rock must be sound, dense, durable, and angular rock resistant to weathering and free of fines. The riprap must overlie a distinct filter layer which consists of sand, gravel, or nonwoven geotextile fabric. The riprap and filter layer must be keyed into the bed below the ordinary or artificial high water mark, as applicable. If the applicant wishes to install riprap with different standards, they must submit a design that is signed and stamped for construction purposes by a professional engineer registered in the state of Idaho. (4-2-08)

b. Riprap used to protect the base of a seawall or other vertical walls may not need to be keyed into the bed and may not require a filter layer, at the Department's discretion. (4-2-08)

09. Mooring Buoys. Buoys must be installed a minimum of thirty (30) feet away from littoral right lines of adjacent littoral owners. One (1) mooring buoy per littoral owner may be allowed. (4-2-08)

10. Float Homes. (4-2-08)

a. Applications for permits to construct new float homes, or to expand the total square footage of the existing footprint, will not be accepted. (4-2-08)

b. Applications for relocation of float homes within a lake or from one (1) lake to another are subject to the following requirements: (4-2-08)

i. Proof of ownership or long term lease of the uplands adjacent to the relocation site must be furnished to the Department. (7-1-98)

ii. The applicant must show that all wastes and waste water will be transported to shore disposal systems by a method approved by the Idaho Department of Environmental Quality or the appropriate local health authority. Applicant must either obtain a letter from the local sewer district stating that the district will serve the float home or demonstrate that sewage will be appropriately handled and treated. Applicant must also provide a statement from a professional plumber licensed in the state of Idaho that the plumbing was designed in accordance with IDAPA 07.02.06, "Rules Concerning the Idaho State Plumbing Code," as incorporated by reference in Section 003 of these rules, installed properly, and has been pressure tested. (4-11-19)

c. Encroachment applications and approved local permits are required for replacement of, or adding another story to, a float home. (4-2-08)

d. All plumbing work on float homes must be done in accordance with IDAPA 07.02.06, "Rules Concerning the Idaho State Plumbing Code" and IDAPA 07.01.01, "Rules of the Electrical Board," as incorporated by reference in Section 003 of these rules. (4-11-19)

e. All float homes in Idaho that connect with upland sewer or septic systems must implement the following standards by December 31, 2012: (3-29-10)

i. The holding tank with pump or grinder unit must be adequately sealed to prevent material from escaping and to prevent lake water from entering. The tank lid must have a gasket or seal, and the lid must be securely fastened at all times unless the system is being repaired or maintained. An audible overflow alarm must also be installed. (3-29-10)

ii. Grinders or solids handling pumps must be used to move sewage from the float home to the upland system. (3-29-10)

iii. If solids handling pumps are used, they must have a minimum two (2) inch interior diameter discharge, and the pipe to the shoreline must also have a minimum two (2) inch interior diameter. Connectors used on

either end of this pipe may not significantly reduce the interior diameter. (3-29-10)

iv. The pipeline from the float home to the shoreline must be a continuous line with no mechanical connections. Check valves and manual shutoff valves must be installed at each end of the line. Butt fused HDPE, two hundred (200) psi black polyethylene pipe, or materials with similar properties must be used. The pipeline must contain sufficient slack to account for the maximum expected rise and fall of the lake or river level. The pipeline must be buried in the lakebed for freeze protection where it will be exposed during periods of low water. Pipelines on the bed of the lake must be appropriately located and anchored so they will not unduly interfere with navigation or other lake related uses. (3-29-10)

v. Manifolds below the ordinary, or artificial if applicable, high water mark that collect two (2) or more sewer lines and then route the discharge to the shore through a single pipe are not allowed. All float homes must have an individual sewer line from the float home to a facility on the shore. (3-29-10)

f. All float home permittees will have their float homes inspected by a professional plumber licensed in the state of Idaho by December 31, 2012. The inspection will be documented with a report prepared by the inspector. The report will document whether or not the float homes meet the standards in Paragraph 015.10.e. of these rules, and will be provided to the Department before the above date. (3-29-10)

g. A float home permittee must request an extension, and give cause for the extension, if their float home does not meet the standards in paragraph 015.01.e. of these rules by December 31, 2012. Extensions beyond December 31, 2016 will not be allowed. A permittee's failure to either request the extension, if needed, or to meet the December 31, 2016 deadline will be a violation subject to the provisions of Section 080 of these rules. (3-29-10)

h. Construction or remodel work on a float home that costs fifty percent (50%) or more of its assessed value will require an encroachment application and construction drawings stamped by an engineer licensed in the state of Idaho. (3-29-10)

11. Excavated or Dredged Channel. (4-2-08)

a. Excavating, dredging, or redredging channels require an encroachment permit and are processed in accordance with Section 030 of these rules. (4-2-08)

b. An excavated or dredged channel or basin to provide access to navigable waters must have a clear environmental, economic, or social benefit to the people of the state, and must not result in any appreciable environmental degradation. A channel or basin will not be approved if the cumulative effects of these features in the same navigable lake would be adverse to fisheries or water quality. (3-29-10)

c. Whenever practical, such channels or basins must be located to serve more than one (1) littoral owner or a commercial marina; provided, however, that no basin or channel will be approved that will provide access for watercraft to nonlittoral owners. (3-29-10)

12. ATONs. Aids to Navigation will conform to the requirements established by the United States Aid to Navigation system. (4-2-08)

13. General Encroachment Standards. (4-2-08)

a. Square Footage. The square footage limitations in Subsections 015.01 and 015.02 include all structures beyond the ordinary or artificial high water mark such as the approach, ramp, pier, dock, and all other floating or suspended structures that cover the lake surface, except for: (3-29-10)

i. Boat lifts as allowed pursuant to Paragraph 015.13.b. (3-29-10)

ii. Jet ski ramp, port, or lift as allowed pursuant to Paragraph 015.13.b. (3-29-10)

iii. Slip covers. (4-2-08)

iv. Undecked portions of breakwaters. (4-2-08)

b. Boat Lifts and Jet Ski Lifts. (4-2-08)

i. Single-family docks are allowed a single boat lift and two (2) jet ski lifts, or two (2) boat lifts, without adding their footprint to the dock square footage. Additional lifts will require that fifty percent (50%) of the footprint of the largest lifts be included in the allowable square footage of the dock or pier as per Subsection 015.01. (4-2-08)

ii. Two-family docks are allowed two (2) boat lifts and four (4) jet ski lifts, or four (4) boat lifts, without adding their footprint to the dock square footage. Additional lifts will require that fifty percent (50%) of the footprint of the largest lifts be included in the allowable square footage of the dock or pier as per Subsection 015.01. (4-2-08)

iii. A boat lift or jet ski lift within lines drawn perpendicular from the shore to the outside dock edges will not require a separate permit if the lift is outside the ten (10) foot adjacent littoral owner setback, the lift does not extend beyond the line of navigability, and the lift does not count toward the square footage of the dock as outlined in Subparagraphs 015.13.b.i. and 015.13.b.ii. The permittee must send a revised permit drawing with the lift location as an application to the Department. If the lift meets the above conditions, the application will be approved as submitted. Future applications must include the lifts. (3-29-10)

iv. Community docks are allowed one (1) boat lift or two (2) jet ski lifts per moorage. Boat lifts placed outside of a slip must be oriented with the long axis parallel to the dock structure. Additional lifts will require that fifty percent (50%) of their footprint be included in the allowable square footage of the dock or pier as per Subsection 015.02. (3-29-10)

c. Angle from Shoreline. (4-2-08)

i. Where feasible, all docks, piers, or similar structures must be constructed so as to protrude as nearly as possible at right angles to the general shoreline, lessening the potential for infringement on adjacent littoral rights. (4-2-08)

ii. Where it is not feasible to place docks at right angles to the general shoreline, the Department will work with the applicant to review and approve the applicant's proposed configuration and location of the dock and the dock's angle from shore. (4-2-08)

d. Length of Community Docks and Commercial Navigational Encroachments. Docks, piers, or other works may extend to a length that will provide access to a water depth that will afford sufficient draft for water craft customarily in use on the particular body of water, except that no structure may extend beyond the normal accepted line of navigability established through use unless additional length is authorized by permit or order of the Director. If a normally accepted line of navigability has not been established through use, the Director may from time to time as he deems necessary, designate a line of navigability for the purpose of effective administration of these rules. (4-2-08)

e. Presumed Adverse Effect. It will be presumed, subject to rebuttal, that single-family and two-family navigational encroachments will have an adverse effect upon adjacent littoral rights if located closer than ten (10) feet from adjacent littoral right lines, and that commercial navigational encroachments, community docks or nonnavigational encroachments will have a like adverse effect upon adjacent littoral rights if located closer than twenty-five (25) feet to adjacent littoral right lines. Written consent of the adjacent littoral owner or owners will automatically rebut the presumption. All boat lifts and other structures attached to the encroachments are subject to the above presumptions of adverse affects. (4-2-08)

f. Weather Conditions. Encroachments and their building materials must be designed and installed to withstand normally anticipated weather conditions in the area. Docks, piers, and similar structures must be adequately secured to pilings or anchors to prevent displacement due to ice, wind, and waves. Flotation devices for docks, float homes, etc. must be reasonably resistant to puncture and other damage. (4-2-08)

g. Markers. If the Department determines that an encroachment is not of sufficient size to be readily

seen or poses a hazard to navigation, the permit will specify that aids to navigation be used to clearly identify the potential hazard. (4-2-08)

h. Overhead Clearance. (4-2-08)

i. Overhead clearance between the natural or ordinary high water mark or the artificial high water mark, if there be one, and the structure or wires must be sufficient to pass the largest vessel that may reasonably be anticipated to use the subject waters in the vicinity of the encroachment. In no case will the clearance be required to exceed thirty (30) feet unless the Department determines after public hearing that it is in the overall public interest that the clearance be in excess of thirty (30) feet. Irrespective of height above the water, approval of structures or wires presenting a hazard for boating or other water related activities may be conditioned upon adequate safety marking to show clearance and otherwise to warn the public of the hazard. The Department will specify in the permit the amount of overhead clearance and markings required. (4-2-08)

ii. When the permit provides for overhead clearance or safety markings under Paragraph 015.13.h., the Department will consider the applicable requirements of the United States Coast Guard, the Idaho Transportation Department, the Idaho Public Utilities Commission and any other applicable federal, state, or local regulations. (4-2-08)

i. Beaded Foam Flotation. Beaded foam flotation must be completely encased in a manner that will maintain the structural integrity of the foam. The encasement must be resistant to the entry of rodents. (4-2-08)

14. Floating Toys. (3-29-10)

a. Encroachment permits are not required for floating toys, except where noted in Paragraph 015.14.b. Counties and cities may regulate floating toys for public safety and related concerns. (3-29-10)

b. A floating toy becomes a nonnavigational encroachment, and an encroachment permit is required, when one (1) of the following occurs: (3-29-10)

i. It is anchored to the bed of the lake with a device that requires equipment to remove it from the bed of the lake, or; (3-29-10)

ii. It is located waterward of the line of navigability for more than twenty-four (24) consecutive hours. (3-29-10)

15. Lake Specific Encroachment Permit Terms. (3-29-10)

a. The Department may use encroachment permit conditions specific to individual lakes if the permit conditions are needed to protect public trust values and the permit condition is approved by the Land Board. (3-29-10)

b. Lake specific encroachment permit conditions may supplement, negate, or alter encroachment standards established in Section 015 of these rules. (3-29-10)

c. Lake specific encroachment permit conditions will be used to assist with implementing lake management plans authorized by Title 39, Chapter 66, Idaho Code; Title 39, Chapter 85, Idaho Code; Title 67, Chapter 43, Idaho Code; and Title 70, Chapter 2, Idaho Code. The purpose for using such lake specific permit conditions is to address lake specific environmental concerns that require attention and create a need for a variance from what is allowed on other lakes. (3-29-10)

d. Lake specific encroachment permit terms may be read at the Idaho Department of Lands website: http://www.idl.idaho.gov/. (3-29-10)

016. -- 019. (RESERVED)

020. APPLICATIONS.

01. Encroachment Applications. No person may make or cause to be made any encroachment on, in or above the beds or waters of any navigable lake in the state of Idaho without first making application to and receiving written approval from the Department. The placing of dredged or fill material, refuse or waste matter intended as or becoming fill material, on or in the beds or waters of any navigable lake in the state of Idaho is considered an encroachment and written approval by the Department is required. If demolition is required prior to construction of the proposed encroachment, then the application must describe the demolition activities and the steps that will be taken to protect water quality and other public trust values. No demolition activities may proceed until the permit is issued. (4-2-08)

02. Signature Requirement. Only persons who are littoral owners or lessees of a littoral owner are eligible to apply for encroachment permits. A person who has been specifically granted littoral rights or dock rights from a littoral owner is also eligible for an encroachment permit; the grantor of such littoral rights, however, will no longer be eligible to apply for an encroachment permit. Except for waterlines or utility lines, the possession of an easement to the shoreline does not qualify a person to be eligible for an encroachment permit. (4-2-08)

03. Other Permits. Nothing in these rules excuses a person seeking to make an encroachment from obtaining any additional approvals lawfully required by federal, local or other state agencies. (9-13-90)

04. Repairs, Reinstallation of Structures. No permit is required to clean, maintain, or repair an existing permitted encroachment, but a permit is required to completely replace, enlarge. or extend an existing encroachment. Replacement of single-family and two-family docks may not require a permit if they meet the criteria in Section 58-1305(e), Idaho Code. Reinstalling the top or deck of a dock, wharf or similar structure is considered a repair; reinstallation of winter damaged or wind and water damaged pilings, docks, or float logs is considered a repair. Repairs, or replacements under Section 58-1305(e),Idaho Code, that adversely affect the bed of the lake will be considered a violation of these rules. (4-7-11)

05. Dock Reconfiguration. (4-2-08)

a. Rearrangement of single-family and two-family docks will require a new application for an encroachment permit. (4-2-08)

b. Rearrangement of community docks and commercial navigational encroachments may not require a new application for an encroachment permit if the changes are only internal. The Department must be consulted prior to modifications being made, and will use the following criteria to help determine if a new permit must be submitted: (4-2-08)

i. Overall footprint does not change in dimension or orientation; (4-2-08)

ii No increase in the square footage, as described in the existing permit and in accordance with Paragraph 015.13.a., occurs. This only applies to community docks; (3-29-10)

iii. The entrances and exits of the facility do not change. (4-2-08)

06. Redredging. Redredging a channel or basin is considered a new encroachment and a permit is required unless redredging is specifically authorized by the outstanding permit. Water quality certification from the Idaho Department of Environmental Quality is required regardless of how redredging is addressed in any existing or future permit. (4-2-08)

07. Forms, Filing. Applications and plans must be filed on forms provided by the Department together with filing fees and costs of publication when required by these rules. Costs of preparation of the application, including all necessary maps and drawings, must be paid by the applicant. (4-11-19)

a. Plans must include the following information at a scale sufficient to show the information requested: (4-11-19)

i. Lakebed profile in relationship to the proposed encroachment. The lakebed profile must show the

summer and winter water levels. (4-2-08)

ii. Copy of most recent survey or county plat showing the full extent of the applicant's lot and the adjacent littoral lots. (4-2-08)

iii. Proof of current ownership or control of littoral property or littoral rights. (4-2-08)

iv. A general vicinity map. (4-2-08)

v. Scaled air photos or maps showing the lengths of adjacent docks as an indication of the line of navigability, distances to adjacent encroachments, and the location and orientation of the proposed encroachment in the lake. (4-2-08)

vi. Total square footage of proposed docks and other structures, excluding pilings, that cover the lake surface. (4-2-08)

vii. Names and current mailing addresses of adjacent littoral landowners. (4-2-08)

b. Applications must be submitted or approved by the littoral owner or, if the encroachment will lie over or upon private lands between the natural or ordinary high water mark and the artificial high water mark, the application must be submitted or approved by the owner of such lands. When the littoral owner is not the applicant, the application must bear the owner's signature as approving the encroachment prior to filing. (4-2-08)

c. If more than one (1) littoral owner exists, the application must bear the signature of all littoral owners, or the signature of an authorized officer of a designated homeowner's or property management association. (4-2-08)

d. Applications for noncommercial encroachments intended to improve waterways for navigation, wildlife habitat and other recreational uses by members of the public must be filed by any municipality, county, state, or federal agency, or other entity empowered to make such improvements. Application fees are not required for these encroachments. (4-2-08)

e. The following applications must be accompanied by the respective nonrefundable filing fees together with a deposit toward the cost of newspaper publication, which deposit will be determined by the Director at the time of filing: (4-2-08)

i. Nonnavigational encroachments require a fee of one thousand dollars ($1,000); except that nonnavigational encroachments for bank stabilization and erosion control require a fee of five hundred fifty dollars ($550). (4-11-19)

ii. Commercial navigational encroachments require a base fee of two thousand dollars ($2,000). If the costs of processing an application exceed this amount, then the applicant may be charged additional costs as allowed by Title 58, Chapter 13, Section 58-1307, Idaho Code; (4-2-08)

iii. Community navigational encroachments require a fee of two thousand dollars ($2,000); and (4-2-08)

iv. Navigational encroachments extending beyond the line of navigability require a fee of one thousand dollars ($1,000). (4-2-08)

f. Applicants must pay any balance due on publication costs before written approval will be issued. The Department will refund any excess at or before final action on the application. (9-13-90)

g. Application for a single-family or two-family dock not extending beyond the line of navigability or a nonnavigational encroachment for a buried or submerged water intake line serving four or less households must be accompanied by a nonrefundable filing fee of *four hundred twenty-five dollars ($425)*. *( )*

h. No publication cost is required for application for noncommercial navigational encroachment not extending beyond the line of navigability or for application for installation of buried or submerged water intake lines and utility lines. (9-13-90)

i. Applications and plans must be stamped with the date of filing. (7-1-98)

j. Applications that are incomplete, not in the proper form, not containing the required signature(s), or not accompanied by filing fees and costs of publication when required, will not be accepted for filing. The Department will send the applicant a written notice of incompleteness with a listing of the application's deficiencies. The applicant will be given thirty (30) days from receipt of the notice of incompleteness to resubmit the required information. The deadline may be extended with written consent of the Department. If the given deadline is not met, the Department will notify the applicant that the application has been denied due to lack of sufficient information. The applicant may reapply at a later date, but will be required to pay another filing fee and publication fee, if applicable.

(4-2-08)

021. -- 024. (RESERVED)

025. PROCESSING OF APPLICATIONS FOR SINGLE-FAMILY AND TWO-FAMILY NAVIGATIONAL ENCROACHMENTS WITHIN LINE OF NAVIGABILITY.

01. Single-Family and Two-Family Navigational Encroachments. Applications for single-family and two-family navigational encroachments not extending beyond the line of navigability will be processed with a minimum of procedural requirements and will not be denied except in the most unusual of circumstances. No newspaper publication, formal appearance by the applicant, or hearing is contemplated. (4-2-08)

02. **Notification of Adjacent Littoral Owners**. *T*he Department *will* provide a copy of *the* application to the littoral owners immediately adjacent to the applicant's property. If the applicant owns one (1) or more adjacent lots, the Department will notify the owner of the next adjacent lot. *If the proposed encroachment may infringe upon the littoral rights of an adjacent owner, the Department will provide notice of the application by certified mail, return receipt requested; otherwise, the notice* will be sent by regular mail. *Notification will be mailed* to the adjacent littoral owners' usual place of address, which, if not known, *will* be the address shown on the records of the county treasurer or assessor. The applicant may submit the adjacent littoral owners' signatures*, consenting to the proposed encroachment,* in lieu of the Department's notification. *( )*

03. **Written Objections**. (4-2-08)

a. If an adjacent littoral owner files written objections to the application with the Department within ten (10) days from the date of service or receipt of notice of the completed application, the Department will fix a time and a place for a hearing. In computing the time to object, the day of service or receipt of notice of the application will not be counted. Objections must be received within the ten (10) day period by mail or hand delivery in the local Department office or the Director's office in Boise. If the last day of the period is Saturday, Sunday or a legal holiday, the time within which to object runs until the end of the first business day thereafter. (4-2-08)

b. The applicant and any objectors may agree to changes in the permit that result in the objections being withdrawn. Department employees may facilitate any such agreement. Participation by Department personnel in this informal mediation does not constitute a conflict of interest for participation in the hearing process. A withdrawal of objections must be in writing, completed prior to a scheduled hearing, and contain: (4-2-08)

i. Signatures of the applicant and the objecting party; (4-2-08)

ii. A description of the changes or clarifications to the permit that are acceptable to the applicant, the objecting party, and the Department. (4-2-08)

04. **Unusual Circumstances**. Even though no objection is filed by an adjacent littoral owner to a noncommercial navigational encroachment, if the Director deems it advisable because of the existence of unusual circumstances, he may require a hearing. (4-2-08)

05. **Hearings**. Hearings fixed by the Director following an objection pursuant to Subsection 025.03 or the Director's own determination pursuant to Subsection 025.04 will be fixed as to time and place, but no later than sixty (60) days from date of acceptance for filing of the application. At the hearing the applicant and any adjacent riparian owner filing timely objections may appear personally or through an authorized representative and present evidence. The Department may also appear and present evidence at the hearing. In such hearings the hearing coordinator acts as a fact finder and not a party. The Director, at his discretion, will designate a Department representative to sit as the hearing coordinator. Provided, however, that the parties may agree to informal disposition of an application by stipulation, agreed settlement, consent order, or other informal means. *( )*

06. **Decision Following a Hearing**. The Director will, within forty-five (45) days after close of the hearing provided for in Subsections 025.03 or 025.04 render a final decision and give notice thereof to the parties appearing before him either personally or by certified or registered mail. The final decision will be in writing. (4-2-08)

07. **Disposition Without Hearing**. If a hearing is not held under Subsection 025.03 or Subsection 025.04, then the Department will act upon a complete application filed under Subsection 025.01 as expeditiously as possible but no later than sixty (60) days from acceptance of the application. Failure to act within this sixty (60) day timeframe will constitute approval of the application. Applications determined to be incomplete under Subsection 020.07 are not subject to the sixty (60) day timeframe until the information requested by the Department and required by the rules has been submitted. (4-2-08)

08. **Judicial Review**. Any applicant aggrieved by the Director's final decision, or an aggrieved party appearing at a hearing, has a right to have the proceedings and final decision reviewed by the district court in the county where the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final decision. An adjacent littoral owner is required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars ($500) insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the Director. The applicant need post no bond with the court to prosecute an appeal. (4-2-08)

026. -- 029. (RESERVED)

030. PROCESSING OF APPLICATIONS FOR ALL OTHER TYPES OF ENCROACHMENTS.

01. Nonnavigational, Community, and Commercial Navigational Encroachments. Within ten (10) days of receiving a complete application for a nonnavigational encroachment, a community dock, a commercial navigational encroachment, or a navigational encroachment extending beyond the line of navigability, the Department will cause to be published a notice of application once a week for two (2) consecutive weeks in a newspaper of general circulation in the county in which the encroachment is proposed. If, however, the Director orders a hearing on the application within the time for publication of the above notice, the Department will dispense with publication of the notice of the application and proceed instead to publish a notice of the public hearing as provided in Subsection 030.05. Applications for installation of buried or submerged water intake lines and utility lines are exempt from the newspaper publication process. (3-29-10)

02. Encroachments Not in Aid of Navigation. Encroachments not in aid of navigation in navigable lakes will normally not be approved by the Department and will be considered only in cases involving major environmental, economic, or social benefits to the general public. Approval under these circumstances is authorized only when consistent with the public trust doctrine and when there is no other feasible alternative with less impact on public trust values. (4-2-08)

03. Notifications. Upon request or when the Department deems it appropriate, the Department may furnish copies of the application and plans to federal, state and local agencies and to adjacent littoral owners, requesting comment on the likely effect of the proposed encroachment upon adjacent littoral property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. (4-2-08)

04. Written Comments or Objections. Within thirty (30) days of the first date of publication, an agency, adjacent littoral owner or lessee, or any resident of the state of Idaho may do one (1) of the following: (4-2-08)

a. Notify the Department of their opinions and recommendation, if any, for alternate plans they believe will be economically feasible and will accomplish the purpose of the proposed encroachment without unreasonably adversely affecting adjacent littoral property or public trust values; or (4-2-08)

b. File with the Department written objections to the proposed encroachment and request a public hearing on the application. The hearing must be specifically requested in writing. Any person or agency requesting a hearing on the application must deposit and pay to the Department an amount sufficient to cover the cost of publishing notice of hearing provided in Subsection 030.05. (4-2-08)

05. Hearing. Notice of the time and place of public hearing on the application will be published by the Director once a week for two (2) consecutive weeks in a newspaper in the county in which the encroachment is proposed, which hearing will be held within ninety (90) days from the date the application is accepted for filing. (7-1-98)

06. Hearing Participants. Any person may appear at the public hearing and present oral testimony. Written comments will also be received by the Department. (7-1-98)

07. Decision After Hearing. The Director will render a final decision within thirty (30) days after close of the public hearing. A copy of his final decision will be mailed to the applicant and to each person or agency appearing at the hearing and giving oral or written testimony in support of or in opposition to the proposed encroachment. (4-2-08)

08. Decision Where No Hearing. (4-2-08)

a. In the event no objection to the proposed encroachment is filed with the Department and no public hearing is requested under Subsection 030.04, or ordered by the Director under Subsection 030.01, the Department, based upon its investigation and considering the economics of the navigational necessity, justification or benefit, public or private, of such proposed encroachment as well as its detrimental effects, if any, upon adjacent real property and public trust values such as navigation, fish and wildlife habitat, aquatic life, recreation, aesthetic beauty, water quality, etc. will prepare and forward to the applicant its decision. (4-2-08)

b. The applicant, if dissatisfied with the Director's decision, has twenty (20) days from the date of the Director's decision to request reconsideration thereof. If reconsideration is required, the Director will set a time and place for a reconsideration hearing, not to exceed thirty (30) days from receipt of the request, at which time and place the applicant may appear in person or through an authorized representative and present briefing and oral argument. Upon conclusion of reconsideration, the Director will, by personal service or by registered or certified mail, notify the applicant of his final decision. (4-2-08)

09. Judicial Review. Any applicant aggrieved by the Director's final decision, or an aggrieved party who appeared at a hearing, has the right to have the proceedings and final decision of the Director reviewed by the district court in the county in which the encroachment is proposed by filing a notice of appeal within thirty (30) days from the date of the final decision. The applicant need post no bond with the court to prosecute an appeal. Any other aggrieved party is required to deposit an appeal bond with the court, in an amount to be determined by the court but not less than five hundred dollars ($500), insuring payment to the applicant of damages caused by delay and costs and expenses, including reasonable attorney fees, incurred on the appeal in the event the district court sustains the action of the Director. (4-2-08)

10. Factors in Decision. In recognition of continuing private property ownership of lands lying between the natural or ordinary high water mark and the artificial high water mark, if present, the Department will consider unreasonable adverse effect upon adjacent property and undue interference with navigation the most important factors to be considered in granting or denying an application for either a nonnavigational encroachment or a commercial navigational encroachment not extending below the natural or ordinary high water mark. If no objections have been filed to the application and no public hearing has been requested or ordered by the Director, or,

if upon reconsideration of a decision disallowing a permit, or following a public hearing, the Department determines that the benefits, whether public or private, to be derived from allowing such encroachment exceed its detrimental effects, the permit will be granted. (4-2-08)

031. -- 034. (RESERVED)

035. TEMPORARY PERMITS.

01. Applicability. Temporary permits are used for construction, temporary activities related to permitted encroachments, or other activities approved by the Department. (4-2-08)

02. Permit Term. These permits are generally issued for less than one (1) year, but longer terms may be approved by the Department and permits may be extended with Department approval. (4-2-08)

03. Bonding. The Department may require bonds for temporary permits. (4-2-08)

04. Fee. The board sets fees for temporary permits, but the fees will not be greater than the amounts listed for the respective permit types in Subsection 020.07. Fee information is available on the Internet at www.idl.idaho.gov. (4-2-08)

05. Processing. These permits may be advertised if the Department deems it appropriate, with the applicant paying the advertising fee as per Subsection 020.07. (4-2-08)

036. -- 049. (RESERVED)

050. RECORDATION.
Recordation of an issued permit in the records of the county in which an encroachment is located is a condition of issuance of a permit and proof of recordation must be furnished to the Department by the permittee before a permit becomes valid. Such recordation is at the expense of the permittee. Recordation of an issued permit serves only to provide constructive notice of the permit to the public and subsequent purchasers and mortgagees, but conveys no other right, title, or interest on the permittee other than validation of said permit. (4-2-08)

051. -- 054. (RESERVED)

055. LEASES AND EASEMENTS.

01. Lease or Easement Required. As a condition of the encroachment permit, the Department may require a submerged land lease or easement for use of any part of the state-owned bed of the lake where such lease or easement is required in accordance with "Rules Governing Leases on State-owned Submerged Lands and Formerly Submerged Lands," IDAPA 20.03.17, or "Rules For Easements On State-owned Submerged Lands And Formerly Submerged Lands," IDAPA 20.03.09. A lease or easement may be required for uses including, but not limited to, commercial uses. Construction of an encroachment authorized by permit without first obtaining the required lease or easement constitutes a trespass upon state-owned public trust lands. This rule is intended to grant the state recompense for the use of the state-owned bed of a navigable lake where reasonable and it is not intended that the Department withhold or refuse to grant such lease or easement if in all other respects the proposed encroachment would be permitted. (4-2-08)

02. Seawalls, Breakwaters, Quays. Seawalls, breakwaters, and quays on or over state-owned beds, designed primarily to create additional land surface, will be authorized, if at all, by an encroachment permit and submerged land lease or easement, upon determination by the Department to be an appropriate use of submerged lands. (4-2-08)

056. -- 059. (RESERVED)

060. INSTALLATION.

01. Installation Only After Permit Issued. Installation or on site construction of an encroachment

may commence only when the permit is issued or when the Department notifies the applicant in writing that installation may be commenced or when the Department has failed to act in accordance with Subsection 025.07. (4-2-08)

02. Removal of Construction Waste. (4-2-08)

a. Pilings, anchors, old docks, and other structures or waste at the site of the installation or reinstallation and not used as a part of the encroachment must be removed from the water and lakebed at the time of the installation or reinstallation to a point above normal flood water levels; provided, however, that this is not be construed to prevent the use of trash booms for the temporary control of floatable piling ends and other floatable materials in a securely maintained trash boom, but approval for a trash boom must be required as part of a permit. (4-2-08)

b. Demolition of encroachments must be done in a manner that does not unnecessarily damage the lakebed or shoreline. Demolition work must comply with water quality standards administered by the Department of Environmental Quality. (4-2-08)

03. Compliance with Permit. All work must be done in accordance with these rules, and the application submitted, and is subject to any condition specified in the permit. (7-1-98)

04. Sunset Clause. All activities authorized within the scope of the encroachment permit must be completed within three (3) years of issuance date. If the activities are not completed within three (3) years, the permit automatically expires unless it was previously revoked or extended by the Department. The Department may issue a permit with an initial sunset clause that exceeds three (3) years, if the need is demonstrated by the applicant. (3-29-10)

061. -- 064. (RESERVED)

065. ASSIGNMENTS.

01. Assignment of Encroachment Permit. Encroachment permits may be assigned upon approval of the Department provided that the encroachment conforms with the approved permit. The assignor and assignee must complete a Department assignment form and forward it to the appropriate area office. (4-2-08)

02. Assignment Fee. The assignment fee *is three hundred dollars ($300) and is due* at the time the assignment is submitted to the Department. *( )*

03. Approval Required for Assignment. An assignment is not valid until it has been approved by the Department. (4-2-08)

04. Assignment With New Permit. Encroachments not in compliance with the approved permit may be assigned only if: (4-2-08)

a. An application for a new permit to correct the noncompliance is submitted at the same time. (4-2-08)

b. The assignee submits written consent to bring the encroachment permit into compliance. (4-2-08)

066. -- 069. (RESERVED)

070. MISCELLANEOUS.

01. Water Resources Permit. A permit to alter a navigable stream issued by the Department of Water Resources pursuant to Title 42, Chapter 38, Idaho Code, may, in appropriate circumstances, contain language stating the approval of the Department of Lands to occupy the state-owned bed of the navigable stream. (9-13-90)

02. Dredge and Placer Mining. Department authorization is required for dredge and placer mining in

the lands, lakes and rivers within the state, whether or not the state owns the beds, pursuant to Title 47, Chapter 13, Idaho Code. (9-13-90)

03. Mineral Leases. Littoral rights do not include any right to remove bed materials from state-owned lakebeds. Applications to lease minerals, oil, gas and hydrocarbons, and geothermal resources within the state-owned beds of navigable lakes will be processed by the Department pursuant to Title 47, Chapters 7, 8 and 16, Idaho Code, and rules promulgated thereunder. (4-2-08)

04. Other Laws and Rules. The permittee must comply with all other applicable state, federal and local rules and laws insofar as they affect the use of public trust resources. (4-2-08)

071. -- 079. (RESERVED)

080. VIOLATIONS - PENALTIES.

01. Cease and Desist Order. When the Department determines that a violation of these rules is occurring due to the ongoing construction of an unauthorized encroachment or an unauthorized modification of a permitted encroachment, it may provide the landowner, contractor, or permittee with a written cease and desist order that consists of a short and plain statement of what the violation is, the pertinent legal authority, and how the violation may be rectified. This order will be served by personal service or certified mail. The cease and desist order is used to maintain the status quo pending formal proceedings by the Department to rectify the violation. (4-2-08)

02. Notice of Noncompliance/Proposed Permit Revocation. When the Department determines that these rules have been violated, a cause exists for revocation of a lake encroachment permit, or both of these have occurred, it will provide the permittee or offending person with a notice of noncompliance/proposed permit revocation that consists of a short and plain statement of the violation including any pertinent legal authority. This notice also informs the permittee or offending person of what steps are needed to either bring the encroachment into compliance, if possible, or avoid revocation, or both. (4-11-19)

03. Noncompliance Resolution. The Department will attempt to resolve all noncompliance issues through conference with the permittee or other involved party. Any period set by the parties for correction of a violation is binding. If the Department is unsuccessful in resolving the violations, then the Department may pursue other remedies under Section 080 of these rules. (4-2-08)

04. Violations. The following acts or omissions subject a person to a civil penalty as allowed by Title 58, Chapter 13, Section 58-1308, Idaho Code: (4-2-08)

a. A violation of the provisions of Title 58, Chapter 13, Idaho Code, or of the rules and general orders adopted and applicable to navigable lakes; (4-2-08)

b. A violation of any special order of the Director applicable to a navigable lake; or (4-2-08)

c. Refusal to cease and desist from any violation in regards to a navigable lake after having received a written cease and desist order from the Department by personal service or certified mail, within the time provided in the notice, or within thirty (30) days of service of such notice if no time is provided. (4-2-08)

d. Willfully and knowingly falsifying any records, plans, information, or other data required by these rules. (4-2-08)

e. Violating the terms of an encroachment permit. (4-2-08)

05. Injunctions, **Damages**. The Board expressly reserves the right, through the Director, to seek injunctive relief under Title 58, Chapter 13, Section 58-1308, Idaho Code and mitigation of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties provided for in Subsection 080.04 of these rules. (4-2-08)

06. Mitigation, Restoration. The board expressly reserves the right, through the Director, to require

mitigation and restoration of damages under Title 58, Chapter 13, Section 58-1309, Idaho Code, in addition to the civil penalties and injunctive relief provided for in Subsections 080.04 and 080.05 of these rules. The Department may consult with other state agencies to determine the appropriate type and amount of mitigation and restoration required.

(4-2-08)

07. Revocation of Lake Encroachment Permits. (4-2-08)

a. The Department may institute an administrative action to revoke a lake encroachment permit for violation of the conditions of a permit, or for any other reason authorized by law. All such proceedings will be conducted as contested case hearings subject to the provisions of Title 67, Chapter 52, Idaho Code, and IDAPA 20.01.01, "Rules of Practice and Procedure before the State Board of Land Commissioners." (4-2-08)

b. A hearing officer appointed to conduct the revocation hearing prepares recommended findings of fact and conclusions of law and forward them to the Director for final adoption or rejection. (4-2-08)

c. An aggrieved party who appeared and testified at a hearing has the right to have the proceedings and final decision of the Director reviewed by the district court of the county in which the violation or revocation occurred by filing a notice of appeal within twenty-eight (28) days from the date of the final decision. (4-2-08)

081. -- 999. (RESERVED)

000. AUTHORITY.

01. Statutory Authority. These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to *Title 47 and 58, Chapters 7 and 1*, Sections 47-710, 47-714 and 58-104, Idaho Code. *( )*

02. Discretionary Powers. The Board of Land Commissioners is delegated discretionary power to regulate and control the use or disposition of lands in the beds of navigable lakes, rivers, and streams, to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided that the Board will take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands. (Section 58-104(9), Idaho Code). (2-7-91)

001. TITLE AND SCOPE.

***01. Title**. These rules are titled IDAPA 20.03.05, "Riverbed Mineral Leasing in Idaho." ( )*

02. Where Applicable. These rules apply to the exploration and extraction of precious metals, minerals, and construction materials from a placer deposit situated in state-owned submerged lands. (2-7-91)

03. Where Not Applicable. These rules do not apply to the application and leasing of geothermal resources by title 47, Chapter 16, Idaho Code, or to the application and leasing of oil and gas resources covered by Title 47, Chapter 8, Idaho Code. (2-7-91)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Available State Lands. All lands between the ordinary high water marks of a navigable river which have not been located, leased, or withdrawn. (2-7-91)

02. Board. The State Board of Land Commissioners or its authorized representative. (2-7-91)

03. Casual Exploration. Entry and/or exploration which does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. Exploration using suction dredges having an intake diameter of two inches (2") or less are considered casual exploration when operated in a perennial stream and authorized under the stream protection act, Title 42, Chapter 38, Idaho Code. Refer to Section 015 for further clarification regarding casual exploration and recreational mining. (2-7-91)

04. Commercial. The type of operation that engages in the removal of construction materials or uses suction dredges with an intake diameter larger than five inches (5") or attendant power sources rated at greater than fifteen (15) horsepower and/or other motorized equipment. (2-7-91)

05. Construction Materials. Sand, gravel, cobble, boulders, and other similar materials. (2-7-91)

06. Director. The Director of the Idaho Department of Lands or his authorized representative. *( )*

07. Motorized Exploration. Exploration that may appreciably disturb or damage the land or resources thereon. Motorized exploration includes, but is not limited to, drilling, trenching, dredging, or other techniques that employ the use of earth moving or other motorized equipment, seismic operations using explosives, and sampling with suction dredges having an intake diameter greater than two inches (2") when operated in a perennial stream. When operated in an intermittent stream, suction dredges are considered motorized exploration regardless of the intake size. (2-7-91)

08. Natural or Ordinary High Water Mark. The line that the water impresses upon the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes. (2-7-91)

09. Person. (2-7-91)

a. An individual of legal age; (2-7-91)

b. Any firm, association or corporation qualified to do business in the state of Idaho; or (2-7-91)

c. Any public agency or government unit, including without limitation, municipalities. (2-7-91)

10. Recreational Mining. Mining with a suction dredge having an intake diameter of five inches (5") or less, and attendant power sources, rated at fifteen (15) horsepower or less, pans, rockers, hand tools, hand operated sluices and other similar equipment. (2-7-91)

11. River Mile. Five thousand two hundred eighty (5,280) feet of contiguous riverbed as measured along the approximate center of the river. (2-7-91)

12. Navigable River. A natural water course of perceptible extent, with definite bed and banks, which confine and conducts continuously flowing water, and the bed of which is owned by the state of Idaho in trust. (2-7-91)

13. Submerged Lands. All state-owned beds of navigable lakes, rivers, and streams between the natural or ordinary high water marks. (2-7-91)

011. -- 014. (RESERVED)

015. CASUAL EXPLORATION AND RECREATIONAL MINING.

01. Lands Open. All beds of navigable rivers that have not been located, leased or withdrawn in accordance with statute or the terms of these rules, are free and open to casual exploration and recreational mining on a nonexclusive and first come basis. (2-7-91)

02. Equipment Limitations. Mining equipment for casual exploration that may occur prior to the filing of a location or lease application is limited to suction dredges with a two (2") inch intake or less, pans, rockers, hand tools, hand operated sluices and other similar equipment. (2-7-91)

03. No Approval for Casual Exploration Required. No written approval is required from the Director for casual exploration. (2-7-91)

04. Recreational Mining Equipment. Mining equipment for recreational mining is limited to suction dredges with an intake diameter of five (5") inches or less with attendant power sources rated at fifteen (15) horse power or less, pans, rockers, hand tools, hand operated sluices and other similar equipment. (2-7-91)

05. Department of Water Resources Permits. Possession of a valid Stream Protection Act Permit issued by the Idaho Department of Water Resources and a Recreational Mining Permit issued by the Idaho Department of Lands constitutes the Board's waiver of bond, waiver of royalty, and written approval to engage in recreational mining under Section 47-704(6), Idaho Code, and title 47, chapter 13, Idaho Code. (2-7-91)

016. EXPLORATION LOCATIONS.

01. Lands Open. The beds of navigable rivers that have not been located or withdrawn, or are not under application to lease, in accordance with statute or the terms of these rules, are available for exploration location; provided that salable minerals are not subject to exploration location. Details of exploration locations on state lands can be found in Title 47, Chapter 7, Idaho Code. (2-7-91)

02. Size of Location. Each exploration location is limited to one-half (1/2) mile in length. (2-7-91)

03. Record Keeping Requirement. A locator must keep a record of all minerals recovered during exploration operations and must pay to the state a royalty of five percent (5%) of the gross value of the minerals recovered. Payment must be made each year with the filing of the assessment work report. (2-7-91)

04. When No Written Approval Required. No written approval is required from the Director for exploratory activity on an exploration location when such exploration is limited to mining equipment such as suction dredges with a five (5") inch intake diameter or less and attendant power sources rated at fifteen (15) horsepower or less, pans, rockers, hand operated sluices, and other similar equipment; provided however, that recreational mining activity performed under a Recreational Mining Permit as authorized under Section 015 does not serve to establish any basis for an exploration location. (2-7-91)

05. When Written Approval Required. Written approval is required from the Director prior to entry for operators conducting motorized exploration except as allowed in Subsection 016.04. Approved operations must be bonded as outlined in Subsection 040.03. (2-7-91)

017. -- 019. (RESERVED)

020. RIVERBED MINERAL LEASE.

01. Limitations on Suction Dredges. Operators may not use suction dredges with an intake diameter larger than five inches (5") or attendant power sources rated greater than fifteen (15) horsepower, except under lease. (2-7-91)

02. Approval Required Before Operations. Prior to entry upon navigable rivers, operators are required to have written approval from the Director. (2-7-91)

03. Bonding. Approved operations must be bonded as outlined in Subsection 040.01. (2-7-91)

04. Simultaneous Filings. Two (2) or more lease applications received on the same date and hour, covering the same lands, are considered simultaneous filings. Simultaneous filings will be resolved by competitive bidding. (2-7-91)

021. -- 024. (RESERVED)

025. PUBLIC NOTICE AND HEARING.

01. Publication of Notice. Upon receipt by the Board of an application to lease any lands that may belong to the state of Idaho by reason of being situated between the high water marks of navigable rivers of the state, the Board will cause at the expense of the applicant, a notice of such application to be published once a week for two (2) issues in a newspaper of general circulation in the county or counties in which said lands described in said application are situated. (2-7-91)

02. Public Hearing. The Board may order a public hearing on an application if it deems this action is in the best interest of the public. (2-7-91)

03. Petition for Hearing. The Board or its authorized representative will hold a public hearing on the application, if requested in writing no later than thirty (30) days after the last published notice by ten (10) person whose lawful rights to use the waters applied for may be injured thereby, or by an association presenting a petition with signatures of not less than ten (10) such aggrieved parties; provided that the Board may order a public hearing in the first instance. The Board will consider fully all written and oral submissions respecting the application. (2-7-91)

026. -- 029. (RESERVED)

030. RENTAL AND ROYALTY AND LATE PAYMENTS.

01. Minimum Annual Rental. The minimum annual rental is one hundred sixty dollars ($160) for any area up to one hundred sixty (160) acres, and one dollar ($1) for each additional acre. (2-7-91)

02. Minimum Annual Royalty. In addition to the annual rental, the commercial lessee pays an annual minimum royalty of five hundred dollars ($500) per year and all other lessees pay an annual minimum royalty of

three hundred forty dollars ($340) per year. (2-7-91)

03. Deduction of Royalty. The annual minimum royalty and the annual rental for any year is deducted from the actual production royalty as it accrues for that year. (2-7-91)

04. Royalty Schedule. The appropriate Board approved royalty schedule for the commodity mined must be attached and made a part of the mineral lease. (2-7-91)

05. Late Payments. Rental or royalty not paid by the due date is considered late. A twenty-five dollars ($25) late payment charge or penalty interest from the due date, whichever is greater, will be added to the rental or royalty amount. The penalty interest is one percent (1%) for each calendar month or fraction thereof. (2-7-91)

031. SIZE AND COMPOSITION OF LEASABLE TRACT.

01. One Mile Limitation. A riverbed lease may not exceed one (1) contiguous river mile in length or all the riverbed within one (1) section should all the available state lands within the section exceed one (1) river mile. (2-7-91)

02. Construction Materials. Leases for construction materials may be limited to a smaller size tract at the Board's discretion. (2-7-91)

032. -- 034. (RESERVED)

035. ASSIGNMENTS.

01. Prior Written Approval. No location or lease assignment is be valid until approved in writing by the Director, and no assignment takes effect until after the first day of the month following its approval. (2-7-91)

02. Partition. A location or lease may be assigned to any person qualified to hold a state location or lease, provided that in the event an assignment partitions leased lands between two (2) or more persons, both the assigned and the retained part created by the assignment contain not less than one-half (1/2) mile length of river bed land. (2-7-91)

03. Segregation of Lease. If an assignment partitions leased lands between two (2) or more persons, it must clearly segregate the assigned and retained portions of the leasehold. Resulting segregated leases continue in full force and effect for the balance of the term of the original lease or as further extended pursuant to statute and these rules. (2-7-91)

036. -- 039. (RESERVED)

040. BOND.

01. Minimum Bond. Concurrent with the execution of the lease by the lessee, lessee must furnish to the Director a good and sufficient bond or undertaking on a Department form in the amount of five thousand dollars ($5,000) for commercial operations and one thousand dollars ($1,000) for all other operations, in favor of the state of Idaho, conditioned on the payment of all damages to the land and all improvements thereon which result from the lessee's operation and conditioned on complying with statute, these rules and the lease terms. This bond is in addition to the bonds required by the Idaho Dredge and Placer Mining Protection Act (Title 47, Chapter 13, Idaho Code). (2-7-91)

02. Statewide Bond. In lieu of the above bond, the lessee may furnish a good and sufficient "statewide" bond conditioned as above in the amount of fifty thousand dollars ($50,000) in favor of the state of Idaho, to cover all lessee's leases and operations carried on under statute and these rules. (2-7-91)

03. Motorized Exploration. Motorized exploration on a site under location is subject to a minimum bond in the amount of seven hundred fifty dollars ($750). A larger bond not exceeding seven hundred fifty dollars ($750) per acre may be required by the Department depending on the size and scope of the operation. (2-7-91)

041. -- 044. (RESERVED)

045. FEES.
The following fees apply: (2-7-91)

01. Nonrefundable Application Fee for Lease. Fifty dollars ($50) per application. (2-7-91)

02. Nonrefundable Fee for Advertising Application. Forty-five dollars ($45) per application. (2-7-91)

03. Exploration Location Fee. Two hundred fifty dollars ($250) per location. (2-7-91)

04. Application Fee for Approval of Assignment. Fifty dollars ($50) per lease or location involved in the assignment. (2-7-91)

046. -- 999. (RESERVED)

20.03.08 – EASEMENTS ON STATE-OWNED LANDS

000. LEGAL AUTHORITY.
These rules are promulgated pursuant to and are to be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Idaho Code Title 58, Chapters 1 and 6, and Article IX, Sections 7 and 8 of the Idaho Constitution. (9-9-86)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.08, "Easements on State-Owned Lands." (3-30-06)

02. Scope. These rules set forth procedures concerning the issuance of easements on all lands within the jurisdiction of the Idaho State Board of Land Commissioners except for state-owned submerged lands and formerly submerged lands. Further, these rules do not apply to easements for hydroelectric projects. (3-30-06)

03. Valid Existing Rights. These rules are not be construed as affecting any valid existing rights. (9-9-86)

002. ADMINISTRATIVE APPEALS.
An applicant aggrieved by a decision of the Director under these rules may request a hearing before the Board, but must do so within thirty (30) days after receipt of written notice of the Director's decision. (9-9-86)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Land Commissioners or such representative as may be designated by the Board. (9-9-86)

02. Damage or Impairment of Rights to the Remainder of the Property. The diminution of the market value of the remainder area, in the case of a partial taking. (9-9-86)

03. Department. The Idaho Department of Lands. (9-9-86)

04. Director. The Director of the Department of Lands or such representative as may be designated by the Director. (9-9-86)

05. Easement. A non-possessory interest in land for a specific purpose. Such interest may be limited to a specified term. (3-30-06)

06. Endowment Lands. Land grants made to the state of Idaho by the Congress of the United States, or real property subsequently acquired through land exchange or purchase, for the sole use and benefit of the public schools and certain other institutions of the state, comprising nine (9) grants altogether. (3-30-06)

07. Market Value. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-30-06)

08. State-Owned Lands. All lands within the jurisdiction of the Idaho State Board of Land Commissioners except for state-owned submerged lands or formerly submerged lands. (9-9-86)

09. Temporary Permit. An instrument authorizing a specific use on state land usually issued for five (5) years or less, but that may be issued for up to ten (10) years. (9-9-86)

011. -- 019. (RESERVED)

020. POLICY.

01. Easements Required. Easements are required for all rights-of-way of a permanent nature over state-owned land. Easements will not be granted when temporary permits will serve the required purpose or when a lease is appropriate. (3-30-06)

02. Prior Grants. The Director will recognize easements on state endowment lands by grant of the federal government, or subsequent landowners, prior to title vesting with the State or by eminent domain. (3-30-06)

03. Existing Easements. These rules do not apply to any use, facility or structure described in an existing easement. For amendment of an existing easement, see Section 025. (3-30-06)

04. Director's Discretion. The Director may grant an easement over state-owned land for any legitimate public or private purpose upon payment of appropriate compensation. (9-9-86)

05. Reciprocal Easements. The Director may seek reciprocal easements for access to state-owned lands from applicants for easements over state-owned lands. The value of the easement acquired by the state may be applied towards the cost of the easement acquired from the state. (9-9-86)

06. Interest Granted. An easement grants only such interest to the grantee as is specified in the instrument, including the right to use the property for the specified purpose without interference by the grantor. The right to use the property for all other purposes not inconsistent with the grantee's interest remains with the grantor. (9-9-86)

07. Limit of Director's Discretion. The Director may grant and renew easements in all cases except when the compensation will exceed twenty-five thousand dollars ($25,000) exclusive of the value of timber and payment for any damage or impairment of rights to the remainder of the property. (3-30-06)

08. Width of Easement. The width of any easement granted may not be less than eight (8) feet. (9-9-86)

09. Recordation. The Department will record the easement, or easement release, with the appropriate county recorder's office. (3-30-06)

10. Term Easement. The Director may grant an easement that is issued for a specific time period of ten (10) to fifty-five (55) years. (3-30-06)

021. FEES AND COMPENSATION.

01. Application Fee. The application fee for new, renewed, or amended easements is one hundred dollars ($100) and is collected from all applicants. This application fee is in addition to the easement compensation and appraisal costs, and is non-refundable unless the Director determines that the land applied for is not under the jurisdiction of the Board. (3-30-06)

02. Easement Fee. The compensation for permanent easements over state-owned lands covered by these rules is as follows:

	COMPENSATION
Highways, roads, railroads, reservoirs, trails, canals, ditches, or any other improvements that require long term, exclusive or near exclusive use and occupation of the right of way	Up to 100% of land value plus payment for any damage or impairment of rights to the remainder of the property as determined by the Director and supported by specific data such as an appraisal
Overhead transmission and power lines	Up to 100% of land value depending on the exclusivity of use as determined by the Director and supported by specific data such as an appraisal plus payment for any damage or impairment of rights to the remainder of the property as determined by the Director and supported by data such as an appraisal

	COMPENSATION
Buried installations - cables, pipelines, sewerlines, waterlines	Up to 100% of land value, depending on the exclusivity use as determined by the Director and supported by specific data such as an appraisal plus payment for any damage or impairment of rights to the remainder of the property, as determined by the Director and supported by specific data such as an appraisal

(7-1-93)

03. Appraisal Required. An appraisal of an easement may be required where, in the opinion of the Director, the easement value will exceed the minimum compensation fee of five hundred dollars ($500). (3-30-06)

04. Performance of Appraisal. The appraisal of the easement will normally be performed by qualified department staff. If so desired by the applicant, and agreed to by the Director, the applicant may provide the appraisal that is acceptable to and meets the specifications set by the Director. (9-9-86)

05. Appraisal Costs. Where the appraisal is performed by department staff, the appraisal is two hundred fifty dollars ($250) for a market analysis, five hundred dollars ($500) for a short form appraisal, and one thousand dollars ($1,000) for appraisals of easements requiring Board approval. The appraisal cost is in addition to those costs outlined in Subsections 021.01 and 021.02. In no case will an applicant be charged more than one thousand dollars ($1000) for an appraisal of an easement conducted by departmental staff. (3-30-06)

06. Term Easements. Compensation for term easements will be established by appraisal. (3-30-06)

07. Minimum Compensation. The minimum compensation for any easement is five hundred dollars ($500), not including the application fee and appraisal costs. (3-30-06)

022. -- 024. (RESERVED)

025. EASEMENT AMENDMENT.
Amendment of an existing easement must be processed in the same manner as a new application. Amendment includes change of use, widening the easement area, or changing the location of the easement area. Amendment does not include ordinary maintenance, repair, or replacement of existing structures such as poles, wires, cables, and culverts. (3-30-06)

026. -- 029. (RESERVED)

030. EMERGENCY WORK.
The grantee is authorized to enter upon endowment lands and other lands managed by the Department for the purpose of performing emergency repairs on an easement for damage due to floods, high winds and other acts of God, provided that the grantee provides written notice to the Director within forty-eight (48) hours of the time work commences. Thereupon, the Director is authorized to assess any damages to the state lands and seek reimbursement. (9-9-86)

031. -- 034. (RESERVED)

035. COOPERATIVE USE AND RECIPROCAL USE AGREEMENTS.

01. Joint Agreements. The Director may, subject to the approval of the Board, enter into joint ownership and use agreements with persons for roads providing access to state endowment lands and other lands managed by the Department. Such agreements must provide that all landowners share proportionately in the cost of building and maintaining the shared road. The proportionate shares are calculated on timber volume, acreage or other unit of value. (9-9-86)

02. Reciprocal Use Agreements. The Director may enter into reciprocal use agreements with persons for existing roads where such agreements will enhance the management of state endowment lands or other lands managed by the Department. (9-9-86)

03. Applicability. Where the Director has entered into such agreements mentioned in Subsections 035.01 and 035.02 above, Sections 021, 040, and 046 do not apply. (9-9-86)

036. -- 039. (RESERVED)

040. ASSIGNMENTS.

01. Fee. Easements issued by the Director or by the Board are assignable provided that the assignor and assignee complete the Department's standard assignment form and forward it and the non-refundable assignment fee of fifty dollars ($50) to any department office. (9-9-86)

02. Prior Written Consent. An assignment is not valid without the prior written consent of the Director. Such consent will not be unreasonably withheld. (3-30-06)

03. Multiple Assignments. If all state easements held by a grantee are assigned at one time, only one (1) assignment fee is required. (9-9-86)

041. ABANDONMENT, RELINQUISHMENT, AND TERMINATION.

01. Section 58-603, Idaho Code. The provisions of Idaho Code Section 58-603 apply to all easements over state-owned lands. (9-9-86)

02. Non-Use. An easement not used for the purpose for which it was granted, for five (5) consecutive years, is presumed abandoned and automatically terminates. The Director will notify the grantee in writing of the termination. The grantee has thirty (30) days from the date of notification to reply in writing to the Director to show cause why the easement should be reinstated. Within sixty (60) days of receipt of the statement to show cause, the Director will notify the grantee in writing as to the Director's decision concerning reinstatement. The grantee has thirty (30) days of receipt of the Director's decision to appeal an adverse decision to the Board. (9-9-86)

03. Removal of Improvements. Upon termination, the grantee has twelve (12) months from the date of final notice to remove any facilities and improvements. (9-9-86)

04. Voluntary Relinquishment. The grantee may voluntarily relinquish the easement at any time by completing an easement relinquishment form. The Department will pay the grantee one dollar ($1) for the relinquishment. (9-9-86)

042. -- 045. (RESERVED)

046. PROCEDURE.

01. Contents of Application. An easement application contains. (7-1-93)

a. A letter of request stating the purpose of the easement; (7-1-93)

b. A map of right-of-way in triplicate; and (3-30-06)

c. One (1) copy of an acceptable written description based on a centerline survey or a metes and bounds survey of the perimeter of the easement tract. The applicant may also describe the area occupied by existing uses, facilities or structures by platting the state-owned land affected by the use and showing surveyed or scaled ties (to a legal corner) at the points where the use enters and leaves the parcel. (3-30-06)

02. Engineer Certification. As required in Section 58-601, Idaho Code, for any application for a ditch, canal or reservoir, the plats and field notes must be certified by the engineer under whose direction such surveys or

plans were made and four (4) copies filed with the Department and one (1) copy with the Director, Department of Water Resources. (9-9-86)

03. Where to Submit Application. An easement application may be submitted to any office of the Department. (9-9-86)

04. Notification of Approval. If approved, the applicant will be notified of the amount due to the Department. (9-9-86)

05. Notification of Denial. If the application is denied, the applicant will be notified in writing of such decision. (9-9-86)

047. EASEMENTS ON STATE LAND UNDER LAND SALE CONTRACT.

01. Approval of Contract Purchaser. The Director will not approve an easement on lands under contract of sale (land sale certificate) without the approval of the contract sale purchaser or without reviewing the consideration received to insure that the state's interests are protected. (9-9-86)

02. Compensation. The compensation for easements on lands under land sale contract will be as set out in Section 021 except that "land value" may be the sale value. These moneys will be applied to the principal balance on the land sale contract. Additionally, the Department will collect the one hundred dollar ($100) application fee. (3-30-06)

03. Co-Signature of Contract Purchaser. The contract sale purchaser must co-sign the easement to validate the document. (9-9-86)

048. -- 999. (RESERVED)

20.03.09 – EASEMENTS ON STATE-OWNED SUBMERGED LANDS AND FORMERLY SUBMERGED LANDS

000. LEGAL AUTHORITY.
These rules are promulgated pursuant to, and are to be construed in a manner consistent with, the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Title 58, Chapters 1, 6, and 13, Idaho Code, and the Equal Footing Doctrine (Idaho Admission Act of July 3, 1890, 26 Stat. 215, Chapter 656). (9-9-92)

001. TITLE AND SCOPE.

01. Title. *These rules are titled IDAPA 20.03.09, "Easements on State-Owned Submerged Lands and Formerly Submerged Lands."* *( )*

02. **Purpose**. These rules set forth procedures concerning the issuance of easements on state-owned submerged and formerly submerged lands. (9-9-92)

03. **Scope**. These rules apply to the issuance of easements for all uses, other than irrigation facilities, diversion facilities, temporary irrigation berms, headgates, turnouts, and domestic water supply intake lines capable of drawing less than five (5) cubic feet per second of water; except that dams that span the entire width of a navigable stream channel regardless of their purpose are subject to these rules. (9-9-92)

04. **Exceptions; Permits Required**. Easements will not be granted where temporary permits will serve the required purpose or when a lease is more usual and customary, such as for marinas, docks, float homes, and similar facilities. (see IDAPA 20.03.17, "Rules Governing Leases on State-owned Submerged Lands and Formerly Submerged Lands.") (9-9-92)

05. **Exceptions; Temporary Structures**. These rules do not apply to uses, facilities, and structures considered to be temporary in nature; more specifically, those uses that will be in effect for a period of ten (10) years or less or those facilities or structures with a lifespan of ten (10) years or less. Such uses, facilities, and structures may be authorized by revocable temporary permits. (9-9-92)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
An applicant aggrieved by a decision of the Director under these rules may request a hearing before the board, but must do so within thirty (30) calendar days after receipt of written notice of the Director's decision. Failure to make said request within the thirty (30) day period constitutes a waiver of the applicant's right to a hearing before the board. Pursuant to Title 67, Chapter 52, Idaho Code, the applicant may appeal an adverse decision of the board. (9-9-92)

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line (Section 58-1302(d), Idaho Code). (9-9-92)

02. Board. The Idaho State Board of Land Commissioners or such representative as may be designated by the board. (9-9-92)

03. Dam. Any artificial barrier, placed across a navigable stream channel or watercourse. (9-9-92)

04. Department. The Idaho Department of Lands. *( )*

05. Director. The Director of the Idaho Department of Lands or such representative as may be designated by the Director. (9-9-92)

06. Easement. A nonpossessory interest held by one person in land of another person whereby the first person is accorded use for a portion of such land for a specific purpose. (9-9-92)

07. Formerly Submerged Lands. Formerly submerged beds of state-owned navigable lakes, rivers,

and streams which have either been filled or have subsequently become uplands because of human activities, i.e., dikes, berms, seawalls, etc. Included are islands that have been created on submerged lands by natural processes or human activities since the date of statehood (July 3, 1890). (9-9-92)

08. **Grantee**. The party to whom the easement is granted and their assigns and successors in interest. (9-9-92)

09. **Grantor**. The State of Idaho and its assigns and successors in interest (9-9-92)

10. **Hydroelectric Facilities**. The dam, diversion, penstock, transmission lines, water storage area, powerhouse and other facilities related to generating electric energy from water power. (9-9-92)

11. **Market Value**. The amount in cash, or on terms reasonably equivalent to cash, for which in all probability the property would be sold by a knowledgeable owner willing but not obligated to sell to a knowledgeable purchaser who desired but is not obligated to buy. (9-9-92)

12. **Natural or Ordinary High Water Mark**. The line which the water impresses upon the soil covering it for a sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes (Section 58-104(9), Idaho Code). When the soil, configuration of the surface, or vegetation has been altered by man's activity, the natural or ordinary high water mark shall be located where it would have been if this alteration had not occurred. (9-9-92)

13. **Person**. A partnership, an association, a joint venture or a corporation qualified to do business in the State of Idaho, any federal, state, county or local unit of government, or an individual. (9-9-92)

14. **Right-of-Way**. The privilege which one (1) person, or persons particularly described, may have of passing over the land of another in some particular line. Usually an easement over the land of another. (9-9-92)

15. **Submerged Lands**. The state-owned beds of navigable lakes, rivers, and streams lying below the natural or ordinary high water marks. (9-9-92)

16. **Uplands**. The land bordering on navigable lakes, rivers, and streams. (9-9-92)

011. POLICY.

01. **Regulation of the Beds of Navigable Waters**. It is the policy of the state of Idaho to regulate and control the use or disposition of lands in the beds of navigable lakes, rivers, and streams to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided, that the board shall take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands (Section 58-104, Idaho Code). (9-9-92)

a. These rules shall not be construed as adversely affecting any valid existing rights. (9-9-92)

b. The board or Director shall not grant an easement for any use, facility, or structure that would impair those uses of submerged and formerly submerged lands protected under the public trust doctrine. (9-9-92)

02. **Exercise of State Title**. The state exercises its title over the beds of all lakes, rivers, and streams that are navigable in fact. The department will respond to requests or inquiries as to which lakes, rivers, and streams are deemed navigable in fact. Additional information about streams deemed navigable by the state of Idaho is available from the Idaho Department of Lands. (9-9-92)

03. **Stream Channel and Encroachment Permits**. Issuance of an easement shall be contingent upon the applicant first obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources, pursuant to Title 42, Chapter 38, Idaho Code, or a lake encroachment permit if required by the Idaho Department of Lands pursuant to the Lake Protection Act, Section 58-1301, Idaho Code. (9-9-92)

04. **Other Permits**. Issuance of an easement shall not relieve an applicant of acquiring other permits

and licenses that are required by law. (9-9-92)

05. Existing Easements. These rules apply to existing easements on submerged or formerly submerged lands. However, it shall not be necessary for a person possessing a valid easement on the effective date of these rules to file a new application pursuant to these rules. (9-9-92)

06. Existing Permits. Any person holding a permit, issued after May 23, 1984 during the pendency of the promulgation of these rules, for right-of-way on submerged or formerly submerged lands shall convert the permit to an easement upon payment of fees and compensation in the amount provided for by these rules. (9-9-92)

07. Limitation on Easement Grant. An easement grants only such interest to the grantee as is specified within the document, including the legal right to occupy and use the submerged or formerly submerged lands for the specified purpose in the easement without interference by the grantor, except as otherwise provided by law. The legal right to use the submerged or formerly submerged lands for all other purposes not inconsistent with the grantee's interest remains with the grantor. (9-9-92)

08. Minimum Width. The minimum width of any easement granted shall be eight (8) feet. (9-9-92)

012. -- 019. (RESERVED)

020. FEES AND COMPENSATION.

01. Administrative Fee. There shall be a one-time nonrefundable administrative fee of three hundred dollars ($300) for any use, facility, or structure requiring an easement under these rules. No supplemental compensation, in excess of the one-time administrative fee, shall be required for: (7-1-93)

a. An easement for a use, facility, or structure for which the navigable lake, river, or stream poses an obstacle or barrier for construction or operation of the use, facility, or structure, or where the applicant demonstrates, and the Director or board concurs, that the impact of the use, facility, or structure on the submerged lands is less than the impact on the other values associated with the adjacent upland such as conservation of resources, significant cost savings to the public, or accessibility. (9-9-92)

b. An easement for a dam that does not produce hydroelectric power and is less than ten (10) feet in height (as measured from the natural stream bed at the downstream side). (9-9-92)

02. Supplemental Compensation. In addition to the one-time nonrefundable administrative fee of three hundred dollars ($300), supplemental compensation will be required for: (7-1-93)

a. New and renewed easements for all dams of any size that produce hydroelectric power and all dams that are ten (10) feet and higher (as measured from the natural stream bed at the downstream side). Supplemental compensation for such easements shall be one thousand dollars ($1,000), and for a dam including associated hydroelectric facilities, there shall be an additional one-time payment of five dollars ($5) per megawatt of installed capacity per the nameplate rating of said facility. If the facility is situated on a Snake River segment that is a common border with the state of Oregon or the state of Washington, the installed capacity shall be prorated based on the location of the common border for the purpose of calculating the compensation. Total compensation for a new or renewed easement issued for a dam including associated hydroelectric facilities shall not exceed twenty thousand dollars ($20,000). If an easement for a hydroelectric facility has been issued prior to relicensing, the fee will be prorated based on a fifty (50) year use period. The fee for annual extensions that are frequently issued by FERC because of permitting delays prior to issuance of the major FERC license will be prorated based on a fifty (50) year use period. (9-9-92)

b. An easement over submerged and formerly submerged lands, for any use, facility, or structure, that is not a dam or hydroelectric facility, which would use submerged or formerly submerged lands as a substitute for or to reduce or eliminate the use of uplands. Supplemental compensation for such easements shall be a one-time payment based on the market value of the submerged or formerly submerged lands. The compensation shall be determined by appraisal. For purposes of this subsection, the per acre value of the submerged or formerly submerged lands shall be the same as the per acre value of the adjacent uplands for which the submerged or formerly submerged

lands shall serve as a substitute or in the case of filled lands, the per acre value shall be based on its highest and best use. Adjacent uplands are uplands bordered on one (1) side by the water body and extending landward at least one (1) lot in depth or three hundred (300) feet, whichever is greater. (9-9-92)

03. Appraisal. The appraisal of the easement normally will be performed by qualified department staff. If so desired by the applicant and agreed to by the Director, the applicant may provide the appraisal, which must be acceptable to and meet the specifications set by the Director. (9-9-92)

04. Cost of Appraisal. Where the appraisal is performed by department staff, the appraisal costs shall be the actual cost and shall be charged to the applicant in addition to those costs outlined in Subsections 020.01 and 020.02. These costs shall include transportation, personnel costs (including per diem), and administrative overhead. An itemized statement of these costs shall be provided to the applicant. The appraisal fee shall be billed separately from the nonrefundable administrative fee established in Subsection 020.01. (9-9-92)

021. -- 029. (RESERVED)

030. TERM OF EASEMENT.

01. Permanent Uses. A permanent easement will be issued for uses, facilities, and structures that are normally considered permanent in nature, such as bridges, utility crossings, highway fills, and dams. (9-9-92)

02. Term Easements. A term easement will be issued for a specific time period of ten (10) to fifty-five (55) years and will be issued for those uses, facilities, and structures not normally considered permanent in nature. (9-9-92)

03. Federally Licensed Facilities. The term of an easement for all federally licensed hydroelectric facilities on submerged or formerly submerged lands shall be run concurrently with the term of such license issued by the United States Federal Energy Regulatory Commission (FERC), or its successor, authorizing the facility. Easements for hydroelectric facilities for which FERC has issued a conduit exemption shall not exceed fifty-five (55) years. (9-9-92)

031. -- 039. (RESERVED)

040. USE, FACILITY, OR STRUCTURE MODIFICATION.
Modification of an existing use, facility, or structure shall require an easement or an amendment to an existing easement and shall be processed in the same manner as a new application. Modification includes expanding the use or easement area, or changing the location of the use or easement area. Modification does not include ordinary maintenance, repair, or replacement of existing structures such as poles, wires, and cables. (9-9-92)

041. -- 049. (RESERVED)

050. ASSIGNMENTS.

01. Assignment Fee. Easements may be assigned upon approval of the Director. The assignor and assignee must complete the department's standard assignment form and forward it and the nonrefundable assignment fee of fifty dollars ($50) to any department office. (9-9-92)

02. Prior Written Consent. An assignment is not valid without the written consent of the Director which shall not be unreasonably withheld. The department shall work diligently to complete assignments within sixty (60) days after receipt of the standard assignment forms and all associated information. (9-9-92)

03. Multiple Assignments. If all state easements held by a grantee are assigned at one time, only one (1) assignment fee shall be required. (9-9-92)

051. -- 059. (RESERVED)

060. ABANDONMENT, RELINQUISHMENT, AND TERMINATION.

01. Section 58-603, Idaho Code. The provisions of Section 58-603, Idaho Code relating to rights-of-way apply to all easements over state-owned submerged and formerly submerged lands. (9-9-92)

02. Non-Use. Upon termination of an easement for any cause, the Director shall provide the grantee with a specific, but reasonable, period of time (up to twelve (12) months) to remove all facilities or structures. Failure to remove all facilities or structures within such time period established by the Director shall be deemed a trespass on submerged or formerly submerged lands. (9-9-92)

03. Voluntary Relinquishment. The grantee may voluntarily relinquish the easement at any time by submitting a letter or relinquishment form in recordable format to the state of Idaho. Voluntary relinquishment of an easement does not waive or forgive the obligation of the easement holder to remove facilities as required in Rule 060.02. (9-9-92)

061. -- 069. (RESERVED)

070. PROCEDURE.

01. Contents of Application. An easement application shall contain: (7-1-93)

a. A letter of request stating the purpose of the easement; (7-1-93)

b. A plat of right-of-way in triplicate; and (7-1-93)

c. One (1) copy of an acceptable written description based on a survey of the centerline OR a metes and bounds survey of the easement tract. The applicant may also describe the area occupied by existing uses, facilities or structures by platting the state-owned submerged or formerly submerged lands affected by the use and showing surveyed or scaled ties (to a legal corner) at the points where the use enters and/or leaves the parcel. (9-9-92)

02. Engineer Certification. All maps, plans, and field notes attached to an application for rights-of-way for ditches and reservoirs governed by Section 58-601, Idaho Code, shall be certified by the engineer under whose direction such surveys or plans were made and four (4) copies filed with the department and one (1) copy filed with the Idaho Department of Water Resources. (9-9-92)

03. Decision on Application. Upon proper application and payment of the nonrefundable administrative fees, appraisal costs, and supplemental compensation required pursuant to these rules, the Director may, after appropriate review and consideration of the facts and the law, grant an easement on and over submerged or formerly submerged lands for any public or private purpose. The Director may deny an application for easement upon a finding that issuance would not be consistent with law or these rules. Such denial or approval shall be in writing within six (6) months of the receipt of the application. (9-9-92)

04. Director's Decision. The Director may grant and renew easements in all cases except when the compensation will exceed ten thousand dollars ($10,000), exclusive of the payment for any damage or impairment of rights to the remainder of the property. (9-9-92)

05. Board Decision. Easement applications where compensation exceeds ten thousand dollars ($10,000), or that are of a complex and unusual nature as determined by the Director, shall be presented to the board for appropriate action. (9-9-92)

06. Where to Submit. An easement application may be submitted to any office of the department. (9-9-92)

07. Notification of Approval. If the application is approved, the applicant shall be notified in writing of the amount due to the department. (9-9-92)

08. Denial of Application. If the application is denied, the applicant shall be notified in writing of the reasons for the denial. (9-9-92)

071. -- 079. (RESERVED)

080. EASEMENT ACCESS AND EMERGENCY WORK.

01. Use of Land. The grantee has the right to use such portion of the lands adjacent to and along said easement as may be reasonably necessary in connection with the installation, repair, and replacement of the use, facility, or structure authorized by the easement. If such activities cause soil disturbance, the destruction of vegetation, and/or entering the navigable stream bed below the natural or ordinary high water mark, the grantee will obtain written authorization from the grantor. (9-9-92)

02. Emergency Work. The grantee is authorized to enter upon lands lying outside the easement area, including submerged or formerly submerged lands and other lands managed by the department, for the purpose of performing emergency repairs on an easement for damage due to floods, high winds, and other acts of God, provided that the grantee provides written notice to the Director within forty-eight (48) hours of the time work commences. The grantee shall be responsible for any damage to lands or other resources outside the easement area. (9-9-92)

081. -- 999. (RESERVED)

20.03.13 – ADMINISTRATION OF COTTAGE SITE LEASES ON STATE LANDS

000. LEGAL AUTHORITY.
*T*he State Board of Land Commissioners *has* adopt*ed* these rules *in accordance with Article IX, Section 8 of the Idaho Constitution and Sections 58-104(1) and 58-304, Idaho Code*. *( )*

001. TITLE AND SCOPE.

***01. Title**. These rules are titled IDAPA 20.03.13, "Administration of Cottage Site Leases on State Lands."* *( )*

02. Scope. It is the intent and express policy of the Board in administration of cottage site leases located on state-owned lands administered by the Board, to provide for a reasonable rental income from those lands in accordance with the requirements of the Constitution of the State of Idaho. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of these rules, unless otherwise indicated by express term or by context, the term: (7-1-93)

01. Annual Rental. The rental paid on or before January 1, in advance, for the following year. (12-7-87)

02. Board. The State Board of Land Commissioners. (12-7-87)

03. Cottage Site. Any state-owned lot that is leased for recreational residential purposes. (12-7-87)

04. Department. The Idaho Department of Lands. *( )*

***05.* Lessee**. A tenant of a cottage site. (12-7-87)

011. -- 019. (RESERVED)

020. SALE AND ASSIGNMENT - REQUIRED DOCUMENTATION.

01. Documentation of Sale. The lessee must provide the Department, at their expense, the following documents concerning a cottage site sale prior to assignment of the cottage site lease. (12-7-87)

a. The original of the current lease; or *( )*

b. A signed and notarized Affidavit of Loss if the current lease has been lost. *( )*

02. Assignments. A lease may only be assigned to an individual or to a husband or wife. The Board will not recognize assignments to corporations, partnerships, or companies. Leases may be assigned to and held by an estate only if one (1) individual or husband or wife are designated as the sole contact for all billing and correspondence. A lessee may only hold one (1) cottage site lease at a time. (12-7-87)

021. -- 024. (RESERVED)

025. LEASE RATE DETERMINATION -- ANNUAL RENTAL.
Annual rental *is* set by the Board from time to time as deem*ed* necessary. *It is the intent of the State Board of Land Commissioners that those rental rates be determined through market indicators of comparable land values.* *( )*

026. -- 999. (RESERVED)

20.03.14 – RULES GOVERNING GRAZING, FARMING, CONSERVATION, NONCOMMERCIAL RECREATION, AND COMMUNICATION SITE LEASES

000. LEGAL AUTHORITY.

These rules are promulgated by the Idaho State Board of Land Commissioners pursuant to Section 58-104, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.14, "Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases." (3-12-10)

02. Scope. These rules constitute the Department's administrative procedures for leasing of state endowment trust land for grazing, farming, conservation, noncommercial recreation, communication sites and other uses that are treated similarly under the provisions of Section 58-307, Idaho Code, regarding a lease term for no longer than twenty (20) years, and under the provisions of Section 58-310, Idaho Code regarding lease auctions. These rules are to be construed in a manner consistent with the duties and responsibilities of the Idaho State Board of Land Commissioners as set forth in Title 58, Chapter 3, Idaho Code; Article 9, Sections 3, 7 and 8, of the Idaho Constitution; and Section 5 of the Idaho Admission Bill. (4-4-13)

002. ADMINISTRATIVE APPEALS.

01. Board Appeal. All decisions of the Director are appealable to the Board. An aggrieved party desiring to make such an appeal must, within twenty (20) days after receiving notice of the final decision being appealed or in case of a conflict auction within twenty (20) days after the auction is held, file with the Director a written notice of appeal setting forth the basis for the appeal. The Board has the discretion to accept or reject any timely appeal. In the event that the Board rejects hearing the appeal, the decision of the Director will be deemed final. (3-13-02)

02. Board Decision. In the event the Board hears an appeal, it will do so at the earliest practical time or, in its discretion, appoint a Board sub-committee or a hearing officer to hear the appeal. The Board sub-committee or hearing officer will make findings and conclusions which the Board accepts, rejects or modifies. The decision of the Board after a hearing, or upon a ruling concerning the Board sub-committee or hearing officer's findings and conclusions, are final. (3-13-02)

03. Judicial Review. Judicial review of the final decision of the Board is in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. (6-14-88)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Amortization. The purchase of Department authorized, lessee installed, lease improvements by the Department through allowance of credit to the lessee's annual lease payments. (3-13-02)

02. Animal Unit Month (AUM). The amount of forage necessary to feed one (1) cow or one (1) cow with one (1) calf under six (6) months of age or one (1) bull for one (1) month. One (1) yearling is considered seven tenths (.7) of an AUM. Five (5) head of sheep, or five (5) ewes with lambs are considered one (1) AUM. One (1) horse is considered one and one-half (1 1/2) AUM. (3-12-10)

03. Assignment. The Department approved transfer of all, or a portion of, a lessee's right to another person wherein the second person assumes the lease contract with the Department. (3-13-02)

04. Board. The Idaho State Board of Land Commissioners or such representatives as may be designated. (3-13-02)

05. Conflict Application. An application to lease state endowment trust land for grazing, farming, conservation, noncommercial recreation or communication site use when one (1) or more applications have been submitted for the same parcel of state endowment trust land and for the same or an incompatible use. (3-12-10)

06. Department. The Idaho Department of Lands. (6-14-88)

07. Director. The Director of the Department of Lands, or such representative as may be designated by the Director. (3-13-02)

08. Extension. An approved delay in the due date of the rental owed on a farming lease without risk of loss of the lease. (3-12-10)

09. Improvement Valuation. The process or processes of estimating the value of Department authorized improvements associated with a lease, as defined in Section 102. (4-4-13)

10. Lease. A written agreement between the Department and a person containing the terms and conditions upon which the person will be authorized to use state endowment trust land. (3-12-10)

11. Herd Stock. Livestock leased or managed, but not owned, by the lessee. (3-13-02)

12. Lease Application. An application to lease state endowment trust land for grazing, farming, conservation, noncommercial recreation, or communication site purposes. (3-12-10)

13. Manageable Unit. A unit of state endowment trust land designated by the Department, geographically configured and sufficiently large to achieve the proposed use. (3-12-10)

14. Management Plan. The signed state endowment trust land lease for grazing, farming and conservation, and any referenced attachments such as annual operating plans or federal allotment management plans, is considered the management plan. (4-4-13)

15. Mortgage Agreement. Department authorization for the lessee to obtain a mortgage on a state endowment trust land lease. (4-4-13)

16. Person. An individual, partnership, association, corporation or any other entity qualified to do business in the state of Idaho and any federal, state, county, or local unit of government. (3-13-02)

17. Proposed Management Plan. A document written and submitted by the lease applicant detailing the management objectives and strategies associated with their proposed activity. (4-4-13)

18. Sublease. An agreement in which the state endowment trust land lease holder conveys the right of use and occupancy of the property to another party on a temporary basis. (4-4-13)

011. -- 018. (RESERVED)

019. LESSEE MAILING ADDRESS.
Unless otherwise notified by the lessee, all lease correspondence from the Department will be sent to the name and address as it appears on the lease application. It is the lessee's duty to notify the Department, in writing, of any change in mailing address. (3-13-02)

020. APPLICATIONS AND PROCESSING.

01. Eligible Applicant. Any person legally competent to contract may submit an application to lease state endowment trust land provided such person is not then in default of any contract with the Department of Lands; provided further, that the Department may, in its discretion, exclude any person in breach of any contract with the state of Idaho or any department or agency thereof. (4-4-13)

02. Application Process. All lease applications must be submitted to the Department on the appropriate Department form. The applications must be signed by the applicant, must be submitted in such manner as determined by the Department, and must meet the following criteria: (3-12-10)

a. Non-refundable Fee. Each application for a lease must be accompanied by a non-refundable application fee in the amount specified by the Board. (3-13-02)

b. Application Deadline. The deadline to apply to lease a parcel of state endowment trust land already covered by a lease is as established by the Department for the year the existing lease expires. Applications to lease unleased state endowment trust land may be submitted at any time, or at such time as designated by the Department. (3-12-10)

c. Proposed Management Plan. All applicants for state grazing, farming and conservation leases must submit a proposed management plan with their application. Where current lessee is an applicant, the Department will recognize the existing management plan, as described by the existing lease provisions, as the proposed management plan required to complete the lease application. The Department may require amendments to the proposed management plan in accordance with Subsections 020.02.e. and 020.02.f. (4-4-13)

d. Legal Description on Application. All applications must include a legal description of the state endowment trust land applied on. The Department reserves the right to require an amendment of the legal description of state endowment trust lands identified in a lease application to ensure the parcel is a manageable unit or for any other reason deemed appropriate by the Department. If the applicant fails to provide an amended application, referencing a manageable unit as designated by the Department, the application is considered invalid. (3-12-10)

e. Nonconflicted Applications. (3-12-10)

i. If the current lessee is the only applicant and the Department does not have concerns with the lessee's current management of the leased state endowment trust land, a new lease will be issued. (3-12-10)

ii. If the current lessee is the only applicant and the Department has concerns with the lessee's current management of the state endowment trust lands, the Department will request in writing a new proposed management plan and meet with the current lessee to develop terms and conditions of a proposed lease. (4-4-13)

f. Conflicted Applications. (3-12-10)

i. All applicants submitting conflict applications must meet with the Department to develop the terms and conditions of a proposed lease specific to each applicant's proposed management plan. (4-4-13)

ii. The Department will provide all applicants for conflicted leases with the list of criteria that will be used to develop lease provisions. Among the factors to be addressed in the criteria are the following: (3-12-10)

(1) The applicant's proposed use and the compatibility of that use of the state endowment trust land with preserving its long-term leasing viability for purposes of generating maximum return to trust beneficiaries; i.e., the impact of the proposed use and any anticipated improvements on the parcel's future utility and leasing income potential. (4-4-13)

(2) The applicant's legal access to and/or control of land or other resources that will facilitate the proposed use and is relevant to generating maximum return to trust beneficiaries. (3-12-10)

(3) The applicant's previous management of land leases, land management plans, or other experience relevant to the proposed use or ability/willingness to retain individuals with relevant experience. (3-12-10)

(4) Potential environmental and land management constraints that may affect or be relevant to assessing the efficacy or viability of the proposed use. (3-12-10)

(5) Mitigation measures designed to address trust management concerns such as: (3-12-10)

(a) Construction of improvements at lessee's expense. (3-12-10)

(b) Payment by lessee of additional or non-standard administrative costs where the nature of the proposed use and/or the applicant's experience raises a reasonable possibility that greater monitoring or oversight by the Department than historically provided will be necessary to ensure lease-term compliance. (3-12-10)

(c) Bonding to ensure removal of any improvements installed for the lessee's benefit only and which

would impair the future utility and leasing income potential of the state endowment trust land. (3-12-10)

(d) Bonding to ensure future rental payments due under the lease in cases where the lessee is determined by the Department to pose a significant financial risk because of lack of experience or uncertain financial resources. (3-12-10)

(6) Any other factors the Department deems relevant to the management of the state endowment trust land for the proposed use. (4-4-13)

g. Proposed Lease. Within ten (10) days of the final meeting with the applicant to discuss lease provisions, the Department will provide the applicant with a proposed lease containing those terms and conditions upon which it will lease the state endowment trust land. If the applicant does not accept in writing the lease as proposed by the Department within seven (7) days of receipt, the application will be rejected in writing by the Department. Within twenty (20) days of the date of mailing of the rejection notice, the applicant may appeal the Department's determination as to the lease's terms and conditions to the Land Board. If the appeal is denied, the applicant may continue with the auction process by accepting the lease terms and conditions initially offered by the Department. No auction may be held until the Land Board resolves any such appeal. (4-4-13)

03. Expiring Leases. Lease applications will be mailed by the Department to all holders of expiring leases no less than thirty (30) days prior to the application deadline. Signed applications and the application fee must be returned to the Department by the established deadline or postmarked no later than midnight of that date. It is the lessee's responsibility to ensure applications are delivered or postmarked by the deadline. (3-12-10)

04. Rental Deposit. (3-13-02)

a. Existing Lessee. If the existing lessee is the sole applicant, the lessee may submit the rental deposit at the normal due date. If a conflict application is also filed on the expiring lease and the existing lessee is awarded the lease by the Land Board, the lessee must deposit, with the Department, the estimated first year's rental for the lease at the time the lease is submitted to the Department with lessee's signature. (3-12-10)

b. New Applicants. (3-12-10)

i. Expiring Lease. New applicants for expiring leases must submit the estimated first year's rental to the Department at the time of the application's submission. (3-12-10)

ii. Unleased State Endowment Trust Land. All applicants for unleased state endowment trust land are deemed new applicants. If an applicant for unleased state endowment trust land is the sole applicant, the applicant may submit the rental deposit at the normal billing cycle, unless the time of application and desired time of use do not coincide with the normal billing cycle, in which case payment must be rendered at the direction of the Department. (4-4-13)

021. LENGTH OF LEASE.
The Department may issue a lease for any period of time up to the maximum term provided by law. (3-12-10)

022. -- 029. (RESERVED)

030. CHANGE IN LAND USE.
The Director may change the use of any state endowment trust land, in whole or in part, for other uses that will better achieve the objectives of the Board. (3-12-10)

031. -- 039. (RESERVED)

040. RENTAL.

01. Rental Rates. The methodology used to calculate rental rates is determined by the Board. (4-4-13)

02. Special Uses. Fees for special uses requested by the lessee and approved by the Department are

determined by the Department. (4-4-13)

03. Rental Due Date. Lease rentals are due in accordance with the terms of the lease. (3-12-10)

041. CHANGE OF RENTAL.
The Department reserves the right to increase the annual lease rental. Notice of any increase will be provided in writing to the lessee at least one hundred eighty (180) days prior to the lease rental due date. (3-13-02)

042. LATE PAYMENTS.
Rental not paid by the due date is considered late. Late payment charges from the due date forward are specified in the lease. (3-12-10)

043. -- 048. (RESERVED)

049. BREACH.

01. Non-Compliance. A lessee is in breach if the lessee's use is not in compliance with the provisions of the lease. (3-12-10)

02. Damages for Breach. A lessee is responsible for all damages resulting from breach and other damages as provided by law. (3-13-02)

050. LEASE CANCELLATION.
Leases may be canceled by the Director for the following reasons: (3-13-02)

01. Non-Compliance. If the lessee is not complying with the lease provisions or if resource damage attributable to the lessee's management is occurring to state endowment trust land within a lease, the lessee will be provided written notification of the violation by regular and certified mail. The letter will set forth the reasons for the Department's cancellation of the lease and provide the lessee thirty (30) days' notice of the cancellation. (4-4-13)

02. Change in Land Use. A lease may be canceled in whole or in part upon one hundred eighty (180) days written notice by the Department if the state endowment trust lands are to be leased for any other use as designated by the Board or the Department and the new use is incompatible with the existing lease. In the event of early cancellation due to a change in land use, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-12-10)

03. Land Sale. The Department reserves the right to sell state endowment trust lands covered under the lease. The lessee will be notified that the state endowment trust lands are being considered for sale prior to submitting the sales plan to the Board for approval. The lessee will also be notified of a scheduled sale at least thirty (30) days prior to sale. In the event of early cancellation due to land sale, the lessee will be entitled to a prorated refund of the premium bid for a conflicted lease. (3-12-10)

04. Mutual Agreement. Leases may be canceled by mutual agreement between the Department and the lessee. (3-13-02)

051. LEASE ADJUSTMENTS.

01. Department Required. The Department may make adjustments to the lease for resource protection or resource improvement. (3-13-02)

02. Lessee Requested. Lessee requested changes in lease conditions must be submitted in writing and must receive written approval from the Department before implementation. (3-13-02)

052. EXTENSIONS OF ANNUAL FARMING LEASE PAYMENT.

01. Farming Lease Extensions. An extension of the annual lease payment may be approved for farming leases only. Each lease is limited to no more than two (2) successive or five (5) total extensions during any

ten (10) year lease period. Requests for extensions must be submitted in writing and must include the extension fee determined by the Board. The lessee must provide a written statement from a financial institution verifying that money is not available for the current year's farming operations. (3-12-10)

02. Liens. When an extension is approved, the Department will file a lien on the lessee's pertinent crop in a manner provided by Idaho Code. (4-4-13)

03. Due Date. Rental plus interest at a rate established by the Board will be due not later than November l of the year the extension is granted. (3-13-02)

053. -- 059. (RESERVED)

060. FEES.
Fees for lease administration will be periodically set by the Board and must be paid in full before a transaction can occur. All lease administration fees are non refundable. The Board has the authority to set fees related to administration of the leasing process including, but not limited to the following: lease applications; full lease assignment; partial lease assignment; mortgage agreement; subleases; late rental payment; minimum lease fee; and lease payment extension request. ( )

061. -- 069. (RESERVED)

070. SUBLEASING.
A lessee may not authorize another person to use state endowment trust land without prior written approval from the Department. The lessee must provide the name and address of sublessee, purpose of sublease, and a copy of the proposed sublease agreement. Lessee controlled herd stock does not require sublease approval. (3-12-10)

071. ASSIGNMENTS.
The lessee may not assign a lease, or any part thereof, without prior written approval of the Department. (3-13-02)

072. MORTGAGE AGREEMENTS.
The lessee may not enter into a mortgage agreement that involves state endowment trust land lease without prior written approval of the Department. The lessee must submit the required filing fee. The term of a mortgage agreement may not exceed the lease term. (3-12-10)

073. -- 079. (RESERVED)

080. MANAGEMENT PLANS.

01. Federal Plan. When state endowment trust land is managed in conjunction with federal land, the management plan prepared for the federal land may be deemed by the Department, at its discretion, the management plan. (4-4-13)

02. Modification of Plan. The Department may review and modify any grazing management plan upon changes in conditions, laws, or regulations, provided that the Department will give the lessee thirty (30) days notice of any such modifications prior to the effective date thereof. Modifications mutually agreeable to both the Department and lessee may be made at any time and may be initiated by lessee's request. (4-4-13)

081. -- 089. (RESERVED)

090. TRESPASS.

01. Loss or Waste. The lessee must use the property within the lease in such manner as will best protect the state of Idaho against loss or waste. Unauthorized activities occurring on state endowment trust land are considered trespass; these include dumping of garbage, constructing improvements without a permit, and other unauthorized actions. (4-4-13)

02. Civil Action by Lessee. The lessee is encouraged to take civil action against owners of trespass

livestock on state endowment trust lands to recover damages to the lessee for lost forage or other values incurred by the lessee. (4-4-13)

03. Continuing Trespass. When continued trespass causes resource damage, the Department will initiate proceedings to restrict further trespass and recover damages as necessary. (3-13-02)

04. Trespass Claims. Trespass claims initiated by the Department will be assessed as triple the current State AUM rate for forage taken. (3-13-02)

091. -- 099. (RESERVED)

100. CONSTRUCTION AND MAINTENANCE OF IMPROVEMENTS.

01. Prior Written Approval. The lessee must secure the written approval of the Department prior to constructing any improvements or buildings, or clearing any state endowment trust land. Failure to secure such approval eliminates any right to an improvement credit and may, at the Department's discretion, be deemed a material breach of the lease and cause for cancellation. Any arrangement for cost sharing or improvement crediting will be identified in the improvement permit. Routine farming practices identified in a farm plan will not require prior approval. (3-12-10)

02. Maintenance. All authorized improvements must be maintained in functional condition by the lessee. The lessee may be required to remove or reconstruct improvements in poor or non-serviceable condition. Existing maintenance agreements on lands acquired from the federal government remain in effect until amended by the parties involved. If maintenance is not being accomplished, the Department will provide a certified letter to the lessee informing the lessee of the rule violation. If work is not begun within thirty (30) days, the Department may contract repairs and add the amount to the annual rental. (3-13-02)

03. Bond. The Department may require the lessee to furnish a bond prior to constructing improvements as deemed necessary to protect endowment assets or to ensure performance under the lease. (3-12-10)

101. IMPROVEMENT CREDIT.

01. Sale or Auction. In the event of sale of the state endowment trust land covered under the lease or if the existing lessee is not the successful bidder at the auction of the lease, the creditable value of the authorized improvements, as determined by the Department, will be paid to the former lessee by the Department or the purchaser where a sale occurs or by the successful bidder where a new lease is issued. (3-12-10)

02. Exchange. In the event of exchange of the state endowment trust land covered under the lease, the creditable value of authorized improvements, as determined by the Department, will be paid to the former lessee by the acquiring party, if other than the existing lessee. (3-12-10)

03. Crediting. Improvement credit may be allowed when the Department determines that such credit would further the objective of maximizing long-term financial return to trust beneficiaries if the improvements are: (3-12-10)

a. Authorized in writing by the Department or lacking written authorization, but in existence prior to 1970; (3-12-10)

b. Not expressly permitted "for lessee's benefit only"; and (3-12-10)

c. Maintained during the lease term. (3-12-10)

04. Value Only to Lessee. Where improvements are approved, but due to their nature, are not acceptable to receive improvement credit because no value exists for a future lessee, a notation will be made in the permit, "For lessee's benefit only." If the succeeding lessee or assignee chooses not to purchase the non-creditable improvements, the former lessee will be required to remove them. (3-13-02)

05. Maintenance Costs. Maintenance of improvements will be considered a normal cost of doing business and no improvement credit will be allowed, except that, with prior written approval from the Department, improvement crediting may be allowed for materials used for the maintenance of Department-funded improvements. (3-13-02)

06. Unauthorized Improvements. No credit will be allowed for unauthorized improvements. At the discretion of the Department, the lessee may be required to remove unauthorized improvements. (3-13-02)

07. Cost Sharing. Federal or state cost-share amounts are not included in the allowable improvement credit. (3-13-02)

102. VALUATION OF IMPROVEMENTS.
Credited improvements will be valued on the basis of replacement cost, including lessee provided labor, equipment and materials, less depreciation based on loss of utility. Improvements cannot be appraised higher than current market value, regardless of lessee's cost. Any improvement amortization or cost limitations identified by the Department will be considered in determining a final value. (3-19-07)

01. Applicant Review of Department Improvement Credit Valuation. All applicants for a conflicted lease will be provided a copy of the Department's improvement credit valuation for review and a notice of objection form. Any applicant objecting to the appraisal will have twenty-one (21) days from the date of the valuation mailing to submit the notice of objection form to the Department. If no objections are received during the twenty-one (21) day review period, the lease auction will be scheduled and will proceed using the Department's improvement credit valuation. (3-19-07)

02. Failure to File a Timely Notice of Objection. Failure to submit a notice of objection within the specified twenty-one (21) day period will preclude any applicant from further administrative remedies and the auction will proceed using the Department's improvement credit valuation. (3-19-07)

03. Notice of Objection. Any applicant objecting to the Department improvement credit valuation must submit a complete and timely notice of objection form, and payment of two thousand five hundred dollars ($2,500) or ten percent (10%) of the total Department improvement credit valuation whichever is greater, to pay for the services of an independent third party. Within five (5) days of receipt of the notice of objection, the Department will notify all applicants in writing that an objection has been received and provide them with a list of certified appraisers. (3-19-07)

04. Selection of an Independent Third Party. The applicants will have twenty-one (21) days from the date of the Department's notification of an objection to select by mutual agreement, one individual from the list of certified appraisers to serve as an independent third party. If the applicants cannot agree on an independent third party within the twenty-one (21) day time period, the Department will randomly select one individual from the list to serve as the independent third party. (3-19-07)

05. Duties of the Independent Third Party. The independent third party will review the Department improvement credit valuation and alternate valuations provided by the applicants. Following this review, the independent third party will select from among the Department valuation and alternate valuations, the one value that (s)he determines is the most accurate value of the improvements. The independent third party will notify the Department of this value in writing. (3-19-07)

06. Notification of Final Improvement Value. Within five (5) days of receiving the independent third party's final determination of improvement credit value, the Department will mail to each applicant an auction notice that will reference the independent third party's determined value of improvements. The determination by the independent third party of the improvement value will be deemed final, and the appraised value of improvements will not be allowed as a basis for appeal of the auction. (3-19-07)

103. -- 104. (RESERVED)

105. CONFLICT AUCTIONS.

01. Two or More Applicants. When two (2) or more eligible applicants apply to lease the same state endowment trust land for grazing, farming conservation, noncommercial recreation, or communication site purposes and the Department determines the proposed uses are not compatible, the Department will hold an auction. (3-12-10)

02. Minimum Bid. Bidding begins at two hundred fifty dollars ($250) or the cost of preparing any required improvement valuation in connection with the expiring lease, whichever is greater. (3-12-10)

03. Auction Bidding. Each applicant who appears in person or by proxy at the time and place so designated in said notice and bids for the lease is deemed to have participated in the auction. A proxy must be authorized by the lease applicant in writing prior to the start of the auction. (3-13-02)

04. Withdrawal Prior to or Failure to Participate in an Auction. Applicants who either withdraw their applications after accepting the Department offered lease per Subsection 020.02 of this rule and prior to the auction that results in no need to schedule an auction or cancellation of a scheduled auction; or applicants who fail to participate at the auction by not submitting a bid which results in only one (1) participant at the scheduled auction, forfeit an amount equal to the lesser of the following: (4-4-13)

a. The Department's cost of making any required improvement credit valuation; (3-12-10)

b. For existing lessee applicants, any improvement credit payment that would otherwise be due if not awarded the lease; or (3-12-10)

c. For conflict applicants, the rental deposit made. (3-12-10)

05. High Bid Deposit. The high bidder is required to submit payment in the amount of the high bid at the conclusion of the auction. (3-12-10)

06. Auction Procedures. The Department will prescribe the procedures for conducting conflicted lease auctions. (3-12-10)

07. Withdrawal After Auction. (3-12-10)

a. If the high bidder withdraws or refuses to accept the lease, the high bid payment will be retained by the Department. (3-12-10)

i. If the auction involved only two (2) participants, the second high bidder will be awarded the lease. (3-12-10)

ii. If the auction involved more than two (2) participants, the lease will be reauctioned. (3-12-10)

b. If an auction bidder other than the high bidder withdraws a bid before Land Board review and action on the auction results, no adjustment will be made in the payment deposited by the high bidder. (3-12-10)

106. BOARD REVIEW OF AUCTION.

The Board will review the proposed leases and auction results and make the determination required under Section 58-310, Idaho Code, consistent with its obligations under Article IX, Section 8 of the Idaho Constitution and all relevant statutory provisions. (3-12-10)

107. -- 110. (RESERVED)

111. NOXIOUS WEED CONTROL.

01. Weed Control. The lessee must cooperate with the Department, or any other authorized agency, to undertake programs for control or eradication of noxious weeds on state endowment trust land. The lessee will take measures to control noxious weeds on the leased state endowment trust land in accordance with Title 22, Chapter 24, Idaho Code. (4-4-13)

02. Responsibility. The lessee will not be held responsible for the control of noxious weeds resulting from other land management activities such as temporary permits, easements, special leases and timber sales. Control of noxious weeds on state grazing lands will be shared by the lessee and Department, with the Department's share subject to funds appropriated for that purpose. (3-13-02)

112. LIVESTOCK QUARANTINE.

01. Cooperation. The lessee must cooperate with the state/ federal agency responsible for the control of livestock diseases. (6-14-88)

02. Non-Compliance. Non-compliance with state/federal regulations will be considered a lease violation and may result in cancellation of the lease. (6-14-88)

113. ANIMAL DAMAGE CONTROL.
The lessee may request the services of USDA Animal and Plant and Health Inspection Service-Wildlife Services to remove animals causing crop damage or harassing/killing the lessee's livestock. The Department is liable for any consequence from any animal control actions. (3-13-02)

114. LIABILITY (INDEMNITY).
The lessee must indemnify and hold harmless the state of Idaho, its departments, agencies and employees for any and all claims, actions, damages, costs and expenses which may arise by reason of lessee's occupation of the leased state endowment trust land, or the occupation of the leased parcel by any of the lessee's agents or by any person occupying the same with the lessee's permission. (4-4-13)

115. RULES AND LAWS OF THE STATE.
The lessee must comply with all applicable rules, regulations and laws of the state of Idaho and the United States insofar as they affect the use of the state endowment trust lands described in the lease. (3-12-10)

116. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This Chapter is adopted under the legal authorities of Sections 58-104(1), 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Section 58-307, Idaho Code; Title 47, Chapter 7, Idaho Code; Title 47, Chapter 16, Idaho Code; and Title 67, Chapter 52, Idaho Code. (3-21-12)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.15, "Rules Governing Geothermal Leasing on Idaho State Lands." (3-21-12)

02. Scope. These rules apply to the exploration and extraction of any and all geothermal resources situated in state-owned mineral lands. (3-21-12)

03. Other Laws. In addition to these rules, the Lessee must comply with all applicable federal, state and local laws, rules and regulations. The violation of any applicable law, rule or regulation constitutes a breach of any lease issued in accordance with these rules. (4-4-13)

002. ADMINISTRATIVE APPEALS.
Any person aggrieved by any final agency action will be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, IDAPA 20.01.01, and Title 47, Chapter 16, Idaho Code. (3-21-12)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Associated By-Products or By-Product: (3-21-12)

a. Any mineral or minerals (exclusive of oil, hydrocarbon gas, and helium) that are found in solution or developed in association with geothermal resources; or (3-21-12)

b. Demineralized or mineralized water. (3-21-12)

02. **Board**. The Idaho State Board of Land Commissioners or its designee. (3-21-12)

03. **Casual Exploration**. Casual exploration means entry and/or exploration that does not appreciably disturb or damage the land or resources thereon. Casual exploration includes, but is not limited to, geochemical and/or geophysical exploration techniques, sampling with hand tools, and entry using wheeled vehicles for transportation to conduct such exploration. (4-4-13)

04. **Completion**. A well is considered to be completed thirty (30) days after drilling operations have ceased and the drill rig is removed from the premises or thirty (30) days after the initial production or injection test has been completed, whichever occurs last. (3-21-12)

05. **Department**. The Idaho Department of Lands or its designee. (3-21-12)

06. **Director**. The director of the Idaho Department of Lands or his designee. (3-21-12)

07. **Direct Use**. The use of geothermal resources for direct applications, including, but not limited to, road surface heating, resorts, hot spring bathing and spas, space heating of buildings, recreation, greenhouse warming, aquaculture, or industrial applications where geothermal heat is used in place of other energy inputs. (4-4-13)

08. **Electrical Generation**. The use of geothermal resources to either directly generate electricity or to heat a secondary fluid and use it to generate electricity. (3-21-12)

09. **Field**. A geographic area overlying a geothermal system with one (1) or more geothermal reservoirs or pool, including any porous, permeable geologic layer, that may be formed along one (1) fault or fracture, or a series of connected faults or fractures. (4-4-13)

10. **Geothermal Resources**. The natural heat energy of the earth, the energy, in whatever form, that

may be found in any position and at any depth below the surface of the earth present in, resulting from, or created by, or that may be extracted from such natural heat, and all minerals in solution or other products obtained from the material medium of any geothermal resource. When used without restriction, it includes associated by-products. (9-3-91)

11. **Lease**. A lease covering the geothermal resources and associated by-products in state lands. (9-3-91)

12. **Lessee**. The person to whom a geothermal lease has been issued and his successor in interest or assignee. It also means any agent of the Lessee or an operator holding authority by or through the Lessee. (9-3-91)

13. **Market Value**. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property or commodity should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-21-12)

14. **Motorized Earth-Moving Equipment**. Backhoes, bulldozers, front-loaders, trenchers, core drills, drill rigs, power augers, and other similar equipment. (3-21-12)

15. **Navigable Water Courses**. The state owned beds of active lakes, rivers and streams that do not include formerly submerged lands where the state retains ownership. (4-4-13)

16. **Operator**. The person having control or management of operations on the leased lands or a portion thereof. The operator may be the Lessee, designated operator, or agent of the Lessee, or holder of rights under an approved operating agreement. (9-3-91)

17. **Overriding Royalty**. An interest in the geothermal resource produced at the surface free of any cost of production. It is a royalty in addition to the royalty reserved to the state. (9-3-91)

18. **Person**. Any natural person, corporation, association, partnership, or other entity recognized and authorized to do business in Idaho, receiver, trustee, executor, administrator, guardian, fiduciary, or other representatives of any kind, and includes any government or any political subdivision of any agency thereof. The masculine gender, in referring to a person, includes the feminine and the neuter genders. (4-4-13)

19. **Record Title**. The publicly recorded lease that is the evidence of right that a person has to the possession of the leased property. (9-3-91)

20. **Reservoir or Pool**. A porous, permeable geologic layer containing geothermal resources. (3-21-12)

21. **Shut In**. To close the valves at the wellhead so that the well stops flowing or producing. Also describes a well on which the valves have been closed. (3-21-12)

22. **State Lands**. Without limitation, lands in which the title to the mineral rights are owned by the state of Idaho and are under the jurisdiction and control of the Board or under the jurisdiction and control of any other state body or agency, having been obtained from any source and by any means whatsoever, including the beds of navigable waters of the state of Idaho. (9-3-91)

23. **Waste**. Any physical loss of geothermal resources including, but not limited to: (3-21-12)

a. Underground loss of geothermal resources resulting from inefficient, excessive, or improper use, or dissipation of geothermal energy, or of any geothermal resource pool, reservoir, or other source; or the locating, spacing, constructing, equipping, operating, or producing of any well in a manner that results, or tends to result in, reducing the quantity of geothermal energy to be recovered from any geothermal area in the state; (3-21-12)

b. The inefficient above-ground transporting and storage of geothermal energy; and the locating, spacing, equipping, operating, or producing of any well or injection well in a manner causing or tending to cause

unnecessary or excessive surface loss or destruction of geothermal energy; the escape into the open air from a well of steam or hot water in excess of what is reasonably necessary in the efficient development or production of a well. (3-21-12)

011. ABBREVIATIONS.

01. **IDWR**. Idaho Department of Water Resources. (3-21-12)

012. -- 019. (RESERVED)

020. QUALIFIED APPLICANTS AND LESSEES.
Any person legally competent to contract may submit an application to lease state land provided such person is not then in default of any contract with the state of Idaho or any department or agency thereof. (4-4-13)

021. LEASE AWARD THROUGH AUCTION.
If more than one (1) application is received for geothermal development on the same parcel of land, a lease auction will be held. (4-4-13)

022. -- 029. (RESERVED)

030. TERM.

01. Lease Term. All leases may be for a term of up to forty-nine (49) years from the effective date of the lease. (3-21-12)

02. Diligence in Utilization. Lessee will use due diligence to market or utilize geothermal resources in paying quantities. If leased land is capable of producing geothermal resources in paying quantities, but production is shut-in, the lease will continue in force upon payment of rentals for the duration of the lease term or two (2) years after shut-in, whichever is shorter. If the Department determines that the Lessee is proceeding diligently to acquire a contract to sell or to utilize the production or is progressing with installations needed for production, the lease may continue in force for one (1) additional year if rental payments are kept current. The Department will continue to review a shut-in lease every year until production and payment of royalties takes place, or the lease is terminated for Lessee's lack of due diligence or surrendered by the Lessee. (3-21-12)

03. Yearly Reporting. A report of all exploration, development, and production activities must be submitted to the Department at the close of each lease year. (3-21-12)

031. -- 034. (RESERVED)

035. RENTALS.

01. Advance Annual Rental. Lessee will pay to the Department in advance each year an annual rental. The annual rental for the first year of the term will be due and payable and will be received by the Department, together with a lease agreement executed by Lessee within thirty (30) days of the date of notice of approval or award. Second year and subsequent rental payments must be received by the Department on or before the anniversary date of the lease. (4-4-13)

02. Amount. Annual rentals will be set by the Board through competitive bidding, negotiation, fixed amounts, formulas, or some other method of valuation that a prudent investor might reasonably apply to establish such rental amounts. (4-4-13)

036. ROYALTIES.

01. Royalty Payments. The Lessee will cause to be paid to the Department royalties on the value of geothermal production from the leased premises. The royalty rate will be established by the Board based on the market value of the geothermal resources produced from the lands under lease. The royalties specified in geothermal leases will be fixed in any manner by the Board, including but not limited to competitive bidding, negotiation, fixed

amounts, or formulas. Royalty rates may be adjusted through the term of the lease in order to keep pace with market values. When leases are issued, the following guidelines will be used for royalty rates not subject to competitive bidding: (4-4-13)

a. A royalty of between five percent (5%) and twenty percent (20%) of the amount or value of geothermal resources, or any other form of heat or energy excluding electrical power generation, derived from production under the lease and sold or utilized by the Lessee or reasonably susceptible to sale or utilization by the Lessee; (3-21-12)

b. A royalty of between two percent (2%) and fifteen percent (15%) of the amount or value of any associated by-product derived from production under the lease and sold or utilized or reasonably susceptible of sale or utilization by the Lessee, including commercially demineralized water. (3-21-12)

c. A royalty of between two percent (2%) and five percent (5%) of gross receipts for sale of electrical power. (3-21-12)

02. Calculation of Value. The value of geothermal production from the leased premises for the purpose of computing royalties is based on a total of the following: (4-4-13)

a. The total consideration accruing to the Lessee from the sale of geothermal resources to another party in an arms-length transaction; and (4-4-13)

b. The value of the end product attributable to the geothermal resource produced from a particular lease where geothermal resources are not sold by the Lessee before being utilized, but are instead directly used in manufacturing power production, or other industrial activity; and (4-4-13)

c. The value of all renewable energy credits or similar incentives based on a proportionate share of the leased lands in the entire project area qualifying for the credits. (3-21-12)

03. Due Date. Royalties will be due and payable monthly to the Department on or before the last day of the calendar month following the month in which the geothermal resources and/or their associated by-products are produced and utilized or sold. (4-4-13)

04. Utilization of Geothermal Resources. The Lessee must file with the Department within thirty (30) days after execution a copy of any contract for the utilization of geothermal resources from the lease. Reports of sales or utilization by Lessee and royalty for each productive lease must be filed each month once production begins, even though production may be intermittent, unless otherwise authorized by the Department. Total volumes of geothermal resources produced and utilized or sold, including associated by-products, the value of production, and the royalty due the state of Idaho must be shown. This report is due on or before the last day of the month following the month in which production was obtained and sold or utilized, together with the royalties due the state of Idaho. (3-21-12)

05. Measurement. The Lessee will measure or gauge all production in accordance with methods approved by the Department. The quantity and quality of all production will be determined in accordance with the standard practices, procedures and specifications generally used in industry. All measuring equipment must be tested consistent with industry practice and, if found defective, the Department will determine the quantity and quality of production from the best evidence available. (3-21-12)

06. By-Product Testing. The Lessee will periodically furnish the Department the results of periodic tests showing the content of by-products in the produced geothermal resources. Such tests will be taken as specified by the Department and by the method of testing approved by him, except that tests not consistent with industry practices will be conducted at the expense of the Department. (4-4-13)

07. Commingling. The Department may authorize a Lessee to commingle production from wells on his State lease(s) with production from non-state lands. Department approval of commingling will not be unreasonably withheld, and will consider the following: (3-21-12)

a. The operator’s economic necessity of commingling; (3-21-12)

b. The type of geothermal use proposed for the commingled waters; and (3-21-12)

c. Sufficient measurement and accounting of all the commingled waters to ensure that the Department is appropriately compensated by royalties. (3-21-12)

037. -- 039. (RESERVED)

040. SIZE OF A LEASABLE TRACT.

01. Surface Area. Geothermal leases are not limited in surface area. The Board will determine the surface area of a lease after consultation with other state agencies and prospective Lessees. The probable extent of a geothermal reservoir, the surface area needed for a viable project, and other relevant factors will be used to help determine lease surface area. (3-21-12)

02. Navigable Water Courses. Geothermal resources leases may be issued for state lands underlying navigable water courses in Idaho. Such lands are considered "state lands" and will be leased in accordance with these rules. Operations in the beds of navigable water courses will not be authorized except in necessary circumstances and then only with express written approval of the Board upon such conditions and security as the Department deems appropriate. (4-4-13)

041. -- 049. (RESERVED)

050. LAND SURFACE USE RIGHTS AND OBLIGATIONS.

01. Use and Occupancy. (3-21-12)

a. Lessee will be entitled to use and occupy only so much of the surface of the leased lands as may be required for all purposes reasonably incident to exploration for, drilling for, production and marketing or geothermal resources and associated by-products produced from the leased lands, including the right to construct and maintain thereon all works, buildings, plants, waterway, roads, communication lines, pipelines, reservoirs, tanks, pumping stations or other structures necessary to the full enjoyment and development thereof, consistent with a plan of operations and amendments thereto, as approved by the Department. (3-21-12)

b. Uses occurring on the leased area related to exploration, development, production, or marketing of geothermal resources and associated by-products produced from off-lease lands may require the Lessee to pay additional rent. (3-21-12)

02. Supervision. Uses of state lands within the jurisdiction and control of the Board are subject to the supervision of the Department. Other state lands are subject to the supervision of the appropriate state agency consistent with these rules. (3-21-12)

03. Distance from Residence. No well may be drilled within two hundred (200) feet of any house or barn on the premises, without the written consent of the Department and its surface Lessees, grantees or contract purchasers. (3-21-12)

04. Disposal of Leased Land. The Board reserves the right to sell or otherwise dispose of the surface of the lands embraced with a lease, insofar as said surface is not necessary for the use of the Lessee in the exploration, development and production of the geothermal resources and associated by-products, but any sale of surface rights made subsequent to execution of a lease will be subject to all the terms and provisions of that lease during the life thereof. (3-21-12)

05. Damage. Lessee must pay to the Board, its surface Lessees or grantees or contract purchasers, for any damage done to the surface of said lands and improvements thereon, including without limitation growing crops, by reason of Lessee's operations. (9-3-91)

051. -- 053. (RESERVED)

054. EXPLORATION UNDER THE LEASE.

01. Diligent Exploration. Lessees must perform diligent exploration and development activities in the first five (5) years of the initial lease term or as otherwise extended by lease provision. Diligent exploration includes seismic, gravity, and other geophysical surveys, geothermometry studies, drilling temperature gradient wells, or similar activities that seek to determine the presence or extent of geothermal resources. This exploration may occur off-lease if it is being done on the same geothermal field. Failure to perform diligent exploration as described may result in lease cancellation. (4-4-13)

02. Casual Exploration. At any time after formal approval by the Board of a lease application, Lessee may enter upon the leased lands for casual exploration or inspection without notice to the department. As an express condition of an application to lease and of the right of casual inspection without notice, Lessee agrees to the indemnity conditions provided in Section 102 of these rules without a formally executed lease. (3-21-12)

03. Plan Required. Lessee must submit a Research and Analysis Plan to the Department before any exploration using motorized equipment or before otherwise engaging in operations that may lead to an appreciable disturbance or damage to lands, timber, other resources, or improvements on or adjacent to the leased lands. The proposed activities may not start until the Department approves the plan and the applicable preconditions in Sections 100 and 101 of these rules have been satisfied. The plan of operations may be amended as needed with Department approval. The plan includes all items that the Department deems necessary or useful in managing the geothermal resources including, but not limited to, the following: (4-4-13)

a. A narrative statement describing the proposed measures to be taken for protection of the environment, including, but not limited to the prevention or control of: (3-21-12)

i. Fires; (3-21-12)

ii. Soil loss and erosion; (3-21-12)

iii. Pollution of surface and ground waters; (3-21-12)

iv. Damage to fish and wildlife or other natural resources; (3-21-12)

v. Air and noise pollution; and (3-21-12)

vi. Hazards to public health and safety during lease activities. (3-21-12)

b. All pertinent information or data that the department may require to support the plan of operations for the utilization of geothermal resources and the protection of the environment; (3-21-12)

055. DEVELOPMENT AND PRODUCTION UNDER THE LEASE.

01. Diligent Development of Lease and Production. Lessee must develop the geothermal resources on their lease area and start production within the first ten (10) years of the initial lease term or as otherwise extended by lease provision. Development of the lease area requires wells to be drilled and other necessary infrastructure to be built. Production on the lease area means that geothermal fluids are being used and royalties are being paid to the state. Failure to develop the lease and start production as described may result in lease cancellation unless the Lessee applies to the Department for an extension and the extension is granted. (4-4-13)

02. Best Practices. All operations will conform to the best practice and engineering principles in use in the industry. Operations must be conducted in such a manner as to protect the natural resources on the leased lands, including without limitation geothermal resources, and to result in the maximum ultimate recovery of geothermal resources with a minimum of waste, and be consistent with the principles of the use of the land for other purposes and of the protection of the environment. Lessee must promptly remove from the leased lands or store, in an orderly manner, all scraps or other materials not in use and not reasonably incident to the operation. (3-21-12)

03. Plans Required. Prior to development, Lessee must submit a Development Plan, Operating Plan, and Decommissioning and Reclamation Plan for the leased lands. All plans must be approved by the Department, in writing, prior to Lessee beginning a phase of the lease in which those plans are performed or as otherwise required by the lease. All required plans must include all items that the Department deems necessary or useful in managing the geothermal resources, including, but not limited to, those items referred to in Paragraphs 054.03.a. and 054.03.b. of these rules. (4-4-13)

04. Waste and Damage. (3-21-12)

a. Lessee must take all reasonable precautions to prevent the following: (3-21-12)

i. Waste; (3-21-12)

ii. Damage to other natural resources; (3-21-12)

iii. Injury or damage to persons, real or personal property; and (3-21-12)

iv. Any environmental pollution or damages that may constitute a violation of state or federal laws. (3-21-12)

b. The Department may inspect Lessee's operations and issue such orders as are necessary to accomplish the purposes in Paragraph 055.04.a. Any significant effect on the environment created by the Lessee's operations or failure to comply with environmental standards must be reported to the Department by Lessee within twenty-four (24) hours and confirmed in writing within thirty (30) days. (3-21-12)

05. Notice of Production. Lessee must notify the department within sixty (60) days before any geothermal resources are used or removed for commercial purposes. (3-21-12)

06. Amendments. The plan of operations must be amended by the Lessee for the Department's approval to reflect changes in operations on the leased lands, including the installation of works, buildings, plants or structures for the production, marketing or utilization of geothermal resources. (3-21-12)

056. WASTE PREVENTION, DRILLING AND PRODUCTION OBLIGATIONS.

01. Waste. All leases are subject to the condition that the Lessee will, in conducting his exploration, development and producing operations, use all reasonable precautions to prevent waste of geothermal resources and other natural resources found or developed in the leased lands. (9-3-91)

02. Diligence. The Lessee must, subject to the right to surrender the lease, diligently drill and produce, or unitize such wells as are necessary to protect the Board from loss by reason of production on other properties. (3-21-12)

03. Prevention of Waste Through Reinjection. Geothermal Lessees must return geothermal waters to the geothermal aquifer in a manner that supports geothermal development. (3-21-12)

04. Additional Requirements. The selection of the types and weights of drilling fluids and provisions for controlling fluid temperatures, blowout preventers and other surface control equipment and materials, casing and cementing programs, etc., to be used must be based on sound engineering principles and must take into account apparent geothermal gradients, depths and pressures of the various formations to be penetrated and other pertinent geologic and engineering data and information about the area. In addition, the Lessee must do the following: (3-21-12)

a. Take all necessary precautions to keep all wells under control at all times; (3-21-12)

b. Utilize trained and competent personnel; (3-21-12)

c. Utilize properly maintained equipment and materials; and (3-21-12)

d. Use operating practices that ensure the safety of life and property. (3-21-12)

05. Unused Wells. Except as provided in Subsection 070.02 of these rules, the Lessee must promptly plug and abandon any well on the leased land that is not used or useful in conformity with regulations promulgated by the IDWR or its successor agency. No production well will be abandoned until its lack of capacity for further profitable production of geothermal resources has been demonstrated to the satisfaction of the Department and the Department has been given an opportunity to either acquire the well permit or assign it to another party. A producible well may be abandoned only after receipt of written approval by the Department. Equipment will be removed, and premises at the well site will be restored as near as reasonably possible to its original condition immediately after plugging operations are completed on any well except as otherwise authorized by the Department. Drilling equipment must not be removed from any suspended drilling well without taking adequate measures to close the well and protect subsurface resources. Upon failure of Lessee to comply with any requirements under this rule, the Department is authorized to cause the work to be performed at the expense of the Lessee and the surety. (3-21-12)

057. -- 059. (RESERVED)

060. EXPLORATION AND OPERATION RECORDS, CONFIDENTIALITY.

01. Drilling Records. Lessee must keep or cause to be kept and filed with the IDWR such careful and accurate well drilling records as are now or may hereafter be required by that Department. Lessee must file with the Department such production records and exploration evidence as required by Sections 030, 036, and 055 of these rules, which records will be subject to inspection by the public at the offices of the Department during regular business hours under such conditions as the Department deems appropriate, subject, however, to exemptions from disclosure as set forth in Section 74107, Idaho Code. As an express condition of the lease, the Department may inspect and copy well drilling records filed with the IDWR at any time after the records are filed. (3-21-12)

02. Continuing Obligations. Unless Lessee is specifically released in writing by the Department of all or any portion of its obligations under the lease upon the assignment, surrender, termination or expiration of the lease, Lessee's obligations under this rule will continue beyond assignment, surrender, termination or expiration of the lease. Lessee must, within thirty (30) days after assignment, surrender, termination or expiration or such additional time as the Department may grant, file all outstanding data and records required by this rule with the Department. (4-4-13)

03. Well Logs. The confidentiality of well logs is limited to one year from well completion as stated in Section 42-4010(b), Idaho Code. (3-21-12)

061. -- 064. (RESERVED)

065. LESSEE'S RECORDS, RIGHT OF INSPECTION BY DEPARTMENT.
Lessee will permit the Department to examine during reasonable business hours all books, records and other documents and matters pertaining to operations under a lease, in Lessee's custody or control, and to make copies of and extracts therefrom. (3-21-12)

066. -- 069. (RESERVED)

070. WATER RIGHTS.

01. Water Rights. Lessee must comply with all applicable federal and state laws, rules and regulations regarding the appropriation of public waters of Idaho to beneficial uses. The establishment of any new water rights on state lands must be by and for the Lessor and no claim thereto may be made by the Lessee. Such water rights will attach to and become appurtenant to the state lands, and the Lessor will be the owner thereof. (4-4-13)

02. Potable Water Discovery. All leases issued under these rules will be subject to the condition that, where the Lessee finds only potable water of no commercial value as a geothermal resource in any well drilled for exploration or production of geothermal resources, and when the water is of such quality and quantity as to be valuable and usable for agricultural, domestic, or other purpose, the Board, or where appropriate, the surface Lessee,

grantee or contract purchaser, will have the right to acquire the well with whatever casing is installed in the well at the fair market value of the casing, and upon the assumption of all future liabilities and responsibilities for the well, with the approval of the director of the IDWR. (3-21-12)

071. -- 074. (RESERVED)

075. ASSIGNMENTS.

01. Prior Written Approval. In order for Lessee to effect an assignment, Lessee must, prior to the consummation of an effective sale, transfer or assignment of the lease between Lessee and its proposed assignee, provide to the Department certain information about the proposed assignment, including identification of the proposed assignee and general terms of the proposed assignment on assignment application forms provided by the Department. Any proposed total or partial assignment of a lease must be preapproved in writing by the Department prior to any proposed sale, transfer or assignment of the lease is consummated between Lessee and the proposed assignee. Approval will not be unreasonably withheld. Following the Department's written preapproval of the proposed assignee and general terms of the proposed assignment, Lessee and assignee may consummate any such sale, transfer or assignment of Lessee's leasehold interest in the lease. The consummation of any assignment agreement by the Lessee without the Department's prior written preapproval constitutes a default of the lease, and such sale, transfer or assignment may be rejected in the Department's sole discretion; and, such assignment will only be effective if the default is expressly waived in writing by the Department. In order for an assignment of Lessee's interest in the lease to be acceptable for approval by the Department, the consummated sale, transfer or assignment must include provisions wherein Lessee has sold, transferred or assigned to the assignee any and all interest that Lessee has in the lease together with any and all interest Lessee has in any and all improvements located upon the leased premises, and assignee must assume all liabilities of Lessee under the lease together with ownership of all improvements owned by Lessee. An assignment between Lessee and its assignee will only take effect following the Department's final written approval of the assignment following receipt of copies of the final, consummated sale, transfer or assignment agreement between Lessee and assignee. (4-4-13)

02. Full or Partial. A lease may be assigned as to all or part of the acreage included therein to any person qualified to hold a state lease, provided that neither the assigned nor the retained part created by the assignment contains less than forty (40) acres. No undivided interest in a lease of less than ten percent (10%) may be created by assignment. (9-3-91)

03. Overriding Royalty Disclosure. Overriding royalty interests created by an assignment are subject to the requirements in Section 080 of these rules. (3-21-12)

04. Responsibility. In an assignment of a partial or complete interest in all of the lands in a lease, the assignor and its surety continue to be responsible for performance of any and all obligations under the lease until such time as the Department, in writing, releases Lessee and its surety from obligations arising under the lease after the Department accepts any such assignment and provides a release of any or all obligations in writing. After the effective date of any assignment, the assignee and its surety will be bound by the terms of the lease to the same extent as if the assignee were the original Lessee, any conditions in the assignment to the contrary notwithstanding.(4-4-13)

05. Segregation of Assignment. An assignment of all or any portion of Lessee's record title of the complete interest in a portion of the lands in a lease must clearly identify and segregate the assigned and retained portions. After the effective date, the assignor will be released and discharged from any obligations thereafter accruing with respect to the assigned portion of the leased lands. Such segregated leases continue in full force and effect for the primary term of the original lease or as further extended pursuant to the terms of these rules. (4-4-13)

06. Joint Principal. Where an assignment does not segregate the record title to the lease, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. The application must also be accompanied by a consent of assignor's surety to remain bound under the bond of record, if the bond, by its terms, does not contain such consent. If a party to the assignment has previously furnished a statewide bond, no additional showing by such party is necessary as to the bond requirement. (9-3-91)

07. Application. The application for approval of an assignment must be on forms approved by the Department. (4-4-13)

08. Denial. If the Lessee is in default of the lease at the time of a request for assignment approval, the Department may, at its sole discretion, reject any proposed assignment until the lease is brought into full compliance. The approval of an assignment of lease in good standing will not be unreasonably withheld provided such consent of the Department is requested and obtained prior to any assignment. (4-4-13)

076. -- 079. (RESERVED)

080. OVERRIDING ROYALTY INTERESTS.

01. Statements. An overriding royalty interest, or any similar interest whereby an agreement is made to pay a percentage based on production, must be disclosed at the time of assignment or transfer by filing a statement of such interest with the Department. Assignees must meet the requirements of Section 021 of these rules. All assignments of overriding royalty interests without a working interest and otherwise not contemplated by Section 075 of these rules, must be filed with the Department within ninety (90) days from the date of execution. (3-21-12)

02. Maximum Amount. No overriding royalty on the production of geothermal resources created by an assignment contemplated by Section 075 of these rules or otherwise will exceed five percent (5%) nor will an overriding royalty, when added to overriding royalties previously created, exceed five percent (5%). (3-21-12)

03. Conformance with Rules. The creation of an overriding royalty interest that does not conform to the requirements of this rule is be deemed a violation of the lease terms, unless the agreement creating overriding royalties provides for a prorated reduction of all overriding royalties so that the aggregate rate of overriding royalties does not exceed five percent (5%). (9-3-91)

04. Director's Authority. In addition to the foregoing limitations, any agreement to create or any assignment creating royalties or payments out of production from the leased lands is subject to the authority of the Director, after notice and hearing, to require the proper parties thereto to suspend or modify such royalties or payments out of production in such manner as may be reasonable when and during such periods of time as they may constitute an undue economic burden upon the reasonable operations of such lease. (9-3-91)

081. -- 084. (RESERVED)

085. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.

01. IDWR Approval. Nothing in this rule will excuse the parties to a unit agreement from procuring the approval of the IDWR pursuant to Section 42-4013, Idaho Code, if approval is required. (3-21-12)

02. Unit Plan. For the purpose of conserving the natural resources of any geothermal pool, field or like area, Lessees under lease issued by the Board are authorized, with the written consent of the Department, to commit the state lands to unit, cooperative or other plans of development or operation with other state lands, federal lands, privately-owned lands or Indian lands. Departmental consent will not be unreasonably withheld. Applications to unitize, or a copy of the application filed with IDWR, will be filed with the Department who will certify whether such plan is necessary or advisable in the public interest. The Department may require whatever documents or data that the Department deems necessary in its reasonable discretion. To implement such unitization, the Board may with the consent of its Lessees modify and change any and all terms of leases issued by it that are committed to such unit, cooperative or other plans of development or operations. (4-4-13)

03. Contents. The agreement must describe the separate tracts comprising the unit, disclose the apportionment of the production of royalties and costs to the several parties, and the name of the operator, and must contain adequate provisions for the protection of the interests of all parties, including the state of Idaho. The agreement should be signed by or in behalf of all interested necessary parties before being submitted to the Department. It will be effective only after approval by the Department. The unit operator must be a person as defined by these rules and must be approved by the Department. (4-4-13)

04. Lease Modification. Any modification of an approved agreement will require approval of the Department under procedures similar to those cited in Subsection 085.02 of these rules. (3-21-12)

05. Term. At the sole discretion of the Department, the term of any leases included in any cooperative or unit plan of development or operation may be extended for the term of such unit or cooperative agreement, but in no event beyond that time provided in Subsection 030.01 of these rules. Rentals or royalties on leases so extended may be reassessed for such extended term of the lease. (4-4-13)

06. Continuation of Lease. Any lease that will be eliminated from any such cooperative or unit plan of development or operation, or any lease that will be in effect at the termination of any such cooperative or unit plan of development or operation, unless relinquished, will continue in effect for the term of the lease. (3-21-12)

07. Evidence of Agreement. Before issuance of a lease for lands within an approved unit agreement, the lease applicant or successful bidder will be required to file evidence that they have entered into an agreement with the unit operator for the development and operation of the lands in a lease if issued to him under and pursuant to the terms and provisions of the approved unit agreement, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, the lease applicant or successful bidder will be permitted to operate independently, but will be required to perform his operations in a manner that the Department deems to be consistent with the unit operations. (4-4-13)

086. -- 094. (RESERVED)

095. SURRENDER, TERMINATION, EXPIRATION OF LEASE.

01. Procedure. A lease, or any surveyed subdivision of the area covered by such lease, may be surrendered by the record title holder by filing a written relinquishment in the office of the Department, on a form furnished by the Department, provided that a partial relinquishment does not reduce the remaining acreage in the lease to less than forty (40) acres. The minimum acreage provision of this section may be waived by the Department where the Department finds such exception is justified on the basis of exploratory and development data derived from activity on the leasehold. The relinquishment must: (4-4-13)

a. Describe the lands to be relinquished; (9-3-91)

b. Include a statement as to whether the relinquished lands had been disturbed and, if so, whether they were restored as prescribed by the terms of the lease; and (9-3-91)

c. State whether wells had been drilled on the lands and, if so, whether they have been plugged and abandoned pursuant to the rules of the IDWR. (3-21-12)

02. Continuing Obligations. A relinquishment takes effect on the date it is filed, subject to the continued obligation of the Lessee and his surety: (9-3-91)

a. To make payments of all accrued rentals and royalties; (9-3-91)

b. To place all wells on the land to be relinquished in condition for suspension of operations or abandonment; (9-3-91)

c. To restore the surface resources in accordance with these rules and the terms of the lease; and (9-3-91)

d. To comply with all other environmental stipulations provided for by these rules or lease. (9-3-91)

03. Failure to Pay Rental or Royalty. The Director may terminate a lease for failure to pay rentals or royalties thirty (30) days after mailing a notice of delinquent payment. However, if the time for payment falls upon any day in which the office of the Department is not open, payment received on the next official working day will be deemed to be timely. The termination of the lease for failure to pay the rental will be noted on the official records of the Department. Upon termination the lands included in such lease may become subject to leasing as provided by these rules. (4-4-13)

04. Termination for Cause. A lease may be terminated by the Department for any violation of these rules, or the lease terms, sixty (60) days after notice of the violation has been given to Lessee by personal service or certified mail, return receipt requested, to the address of record last appearing in the files of the Department, unless: (3-21-12)

a. The violation has been corrected; or (9-3-91)

b. The violation is one that cannot be corrected within the notice period and the Lessee has in good faith commenced within the notice period to correct the violation and thereafter proceeds diligently to complete the correction. (9-3-91)

05. Equipment Removal. Prior to the expiration of the lease, or the earlier termination or surrender thereof pursuant to this rule, and provided the Lessee is not in default, the Lessee will have the privilege at any time during the term of the lease to remove from the leased premises any materials, tools, appliances, machinery, structures, and equipment other than improvements needed for producing wells. Any materials, tools, appliances, machinery, structures and equipment subject to removal, but not removed prior to any termination of the lease or any extension thereof that may be granted because of adverse climatic conditions during that period, will, at the option of the Department, become property of the state of Idaho, but the Lessee must remove any or all such property where so directed by the Department. (4-4-13)

06. Surrender After Termination. Upon the expiration or termination of a lease, the Lessee will quietly and peaceably surrender possession of the premises to the state, and if the Lessee is surrendering the leased premises or any portion thereof, the Lessee must deliver to the state a good and sufficient release on a form furnished by the Department. (4-4-13)

096. -- 099. (RESERVED)

100. BOND REQUIREMENTS.

01. Minimum Bond. Prior to initiation of operations using motorized earth-moving equipment Lessee must furnish a bond. This bond will be in favor of the state of Idaho, conditioned on the payment of all damages to the land surface and all improvements thereon, including without limitation crops on the lands, whether or not the lands under this lease have been sold or leased by the Board for any other purpose; conditioned also upon compliance by Lessee of his obligations under this lease and these rules. The Department may require a new bond in a greater amount at any time after operations have begun, upon a finding that such action is reasonably necessary to protect state resources. (3-21-12)

02. Statewide Bond. In lieu of the aforementioned bonds, Lessee may furnish a good and sufficient "statewide" bond conditioned as in Subsection 100.01. This bond will cover all Lessee's leases and operations carried on under all geothermal resource leases issued and outstanding to Lessee by the Board at any given time during the period when the "statewide" bond is in effect. The amount of such bond will be equal to the total of the requirements of the separate bonds being combined into a single bond. (3-21-12)

03. Period of Liability. The period of liability of any bond will not be terminated until all lease terms and conditions have been fulfilled and the bond is released in writing by the Department. (3-21-12)

04. Operator Bond. In the event suit is filed to enforce the terms of any bond furnished by an operator in which the Lessee (if a different person) is not a named party, the Department may, in its sole discretion, join the Lessee as a party to such suit. (4-4-13)

101. LIABILITY INSURANCE.

01. Liability Insurance Required. The Department will require the Lessee to purchase and maintain suitable insurance for the duration of the lease prior to entry upon the leased lands for other than casual exploration or inspection as contemplated by Subsection 054.02 of these rules. (3-21-12)

02. Insurance Certificate Required. No work under this lease will commence prior to the

Department's receipt of a certificate, signed by a licensed insurance agent, evidencing existence of insurance as required above. Further, such certificate must reflect that no change or cancellation in such coverage will become effective until after the Department receives written notice of such change or cancellation. (3-21-12)

102. -- 104. (RESERVED)

105. TITLE.
The state of Idaho does not warrant title to the leased lands or the geothermal resources and associated by-products that may be discovered thereon; the lease is issued only under such title as the state of Idaho may have as of the effective date of the lease or thereafter acquire. If the interest owned by the state in the leased lands includes less than the entire interest in the geothermal resources and associated by-products for which royalty is payable, then the royalties provided for in the lease will be paid to the state only in the proportion that its interest bears to said whole and undivided interest in said geothermal resources and associated by-products for which royalty is payable; provided, however, that the state is not liable for any damages sustained by the Lessee, nor is the Lessee entitled to or may claim any refund of rentals or royalties therefore paid to the state in the event that the state does not own title to said geothermal resources and associated by-products, or if its title thereto is less than whole and entire. (9-3-91)

106. -- 110. (RESERVED)

111. TAXES.
Lessee must pay, when due, all taxes and assessments of any kind lawfully assessed and levied against Lessee's interests or operations under the laws of the state of Idaho. (9-3-91)

112. RENTAL NOTICES.
Advance notice of rental due is usually sent to the Lessee by the Department, but failure to receive such notices does not act to relieve the Lessee from the payment of the rental and the lease will be in default if such payment is not made as provided in these rules. (9-3-91)

113. OUTSTANDING LEASES.
No right to seek, obtain or use geothermal resources has passed or will pass with any existing or future license, permit or lease of state lands, including without limitation, mineral leases and oil and gas development leases, except upon the issuance of a geothermal resources lease. (9-3-91)

114. -- 119. (RESERVED)

120. FEES.
The following fees apply: (9-3-91)

01. Non-Refundable Application Fee for Lease. Two hundred fifty dollars ($250) per application. (3-21-12)

02. Application Fee for Approval of Assignment. One hundred fifty dollars ($150) per lease involved in the assignment. (3-21-12)

03. Late Payment Fee. The greater of the following: (9-3-91)

a. Twenty-five dollars ($25); or (9-3-91)

b. One percent (1%) per month (or portion thereof) on the unpaid balance. (9-3-91)

121. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This Chapter is adopted under the legal authorities of Sections 58-104(1), 58-104(6), 58-104(9), 58-105, and 58-127, Idaho Code; Section 58-307, Idaho Code; Title 47, Chapter 7, Idaho Code; Title 47, Chapter 8, Idaho Code; and Title 67, Chapter 52, Idaho Code. (3-24-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.16, "Rules Governing Oil and Gas Leasing on Idaho State Lands." (3-24-17)

02. Scope. These rules apply to the exploration and extraction of oil and gas resources situated in state-owned mineral lands. (3-24-17)

03. Other Laws. In addition to these rules, the lessee must comply with all applicable federal, state and local laws, rules and regulations. The violation of any applicable law, rule or regulation constitutes a breach of any lease issued in accordance with these rules. (3-24-17)

002. ADMINISTRATIVE APPEALS.

01. Appeal to Board. All decisions of the Director are appealable to the Board. An aggrieved party desiring to take such an appeal must, within thirty (30) days after notice of the Director's decision, file with the Director a written notice of appeal setting forth the basis for the appeal. (10-11-88)

02. Hearing. The Board will hear the appeal at the earliest practical time or in its discretion appoint a hearing officer to hear the appeal, within sixty (60) days after filing of the notice of appeal. The hearing officer will make findings and conclusions that the Board may accept, reject or modify. The decision of the Board after hearing or upon a ruling concerning the hearing officer's findings and conclusions is final. (10-11-88)

03. Judicial Review. Judicial review of the final decision of the Board will be in accord with the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, by filing a petition in the district court in Ada County, or the county where the Board heard the appeal and made its final decision, within thirty (30) days after notice of the Board's decision. Service of the Board's decision may be by personal service or by certified mail to the lessee. (10-11-88)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho State Board of Land Commissioners or its authorized representative, or where appropriate, the state of Idaho. (10-11-88)

02. Commission. The Idaho Oil and Gas Conservation Commission. (10-11-88)

03. Collateral Surety Bond and Corporate Surety Bond. See Subsections 080.04.a. and 080.04.b. (10-11-88)

04. Department. The Idaho Department of Lands. (10-11-88)

05. Director. The director of the Idaho Department of Lands or his authorized representative. (10-11-88)

06. Discretion. Exercising authority to make a decision, choice or judgment without being arbitrary, capricious or illegal. (10-11-88)

07. Exploration. Activities related to the various geological and geophysical methods used to detect and determine the existence and extent of hydrocarbon deposits. (3-24-17)

08. Final Board Approval. Approval of a lease occurs after the lease is signed by the Governor, the Secretary of State and the Director on behalf of the Board after approval of the lease by a majority of the Board. All approved leases must first be signed by the Lessee and then by the above-entitled state officials. (10-11-88)

09. **Lease**. A written agreement between the Department and a person containing the terms and conditions upon which the Person will be authorized to use state lands. (3-24-17)

10. **Legal Subdivision**. See Subsection 071.04. (10-11-88)

11. **Lessee**. The person to whom a lease has been issued and his successor in interest or assignee(s). More than one (1) person may be entered as an applicant on the application form but only one (1) person shall be designated in the application for lease or assignment as the lessee of record with sole responsibility for the lease under these rules. (10-11-88)

12. **Lessor**. The Board on behalf of the state of Idaho. (10-11-88)

13. **Motorized Exploration Equipment**. The equipment used in exploration that may appreciably disturb or damage the land or resources thereon as defined in Section 47-703(a), Idaho Code. (3-24-17)

14. **Natural Gas Plant Liquids**. Hydrocarbon compounds in raw gas that are separated as liquids at gas processing plants, fractionating plants, and cycling plants. *I*nclude*s* ethane, liquefied petroleum gases (propane and the butanes), and pentanes plus any heavier hydrocarbon compounds. Component products may be fractionated or mixed. *( )*

15. **Oil and Gas**. Oil and gas means oil or gas, or both. (3-24-17)

16. **Person**. (7-1-93)

a. An individual of legal age; (7-1-93)

b. Any firm, association or corporation that is qualified to do business in the state of Idaho; (7-1-93)

c. Or any public agency or governmental unit, including without limitation, municipalities. (10-11-88)

17. **Production in Paying Quantities**. That gross income from oil and/or gas produced and saved (after deduction of taxes and royalty) that exceeds the cost of operation. (10-11-88)

18. **State Lands**. Lands, including the beds of navigable waters within Idaho in which the title to mineral rights is owned by the state of Idaho, that are under the jurisdiction and control of the Board or any other state agency. (10-11-88)

19. **Tract**. An expanse of land representing the surface expression of the underlying mineral estate, which includes oil and gas rights owned by the State, that: (3-24-17)

a. May be identified by its public land survey system of rectangular surveys that subdivides and describes land in the United States in the public domain and is regulated by the U.S. Department of the Interior, Bureau of Land Management; (3-24-17)

b. Is of no particular size; (3-24-17)

c. Is a maximum size of six hundred forty (640) acres or one section, unless otherwise determined by the Director; (3-24-17)

d. May be irregular in form; (3-24-17)

e. Is contiguous; (3-24-17)

f. May lie in more than one township or one section; (3-24-17)

g. May have a boundary defined entirely or in part by natural monuments such as streams, divides, or straight lines connecting prominent features of topography; (3-24-17)

h. May include the mineral estate beneath navigable waters of the State; and (3-24-17)

i. May be combined with other tracts to form a lease. (3-24-17)

011. -- 014. (RESERVED)

015. CONTROL OF STATE LANDS.
The Director will regulate and supervise pursuant to law and these rules all state lands within the custody and control of the Board. State lands subject to the custody and control of other state agencies will be regulated and supervised by the respective agency in accord with state laws and rules; provided that any lease for oil and gas thereon complies with these rules. (10-11-88)

016. WITHDRAWAL OF LANDS.
At any time prior to final Board approval of a lease, the Board reserves the right to withdraw state lands entirely from oil and gas leasing if consistent with its constitutional and statutory duties and in the state's best interests. (3-24-17)

017. -- 019. (RESERVED)

020. QUALIFIED APPLICANTS AND LESSEES.
Any person who is not then in default of any contract with the state of Idaho or any department or agency thereof is a qualified applicant and lessee. No member of the Board or employee of the Department may take or hold such lease. (3-24-17)

021. EXPLORATION.

01. Written Permit Required. Any appreciable surface disturbing activity, including, but not limited to, motorized exploration on state lands is prohibited except by written permit for exploration for a period of time as determined by the Director. This permit is in addition to any permit required by the Commission. (3-24-17)

02. Permit Conditions. The permit will contain such conditions as the Director determines will protect the existing surface uses and resources of the state. The permit applicant must pay in advance the fee required by Section 120. (3-24-17)

022. LEASE ACQUISITION PROCESS.

01. Acquiring a Lease. A lease may be acquired for the exclusive right and privilege to explore for and produce oil and gas by oral auction, online auction, or such other method of competitive bidding authorized by the Board, in its discretion, determined to be in the best interest of the state, and will be awarded to the winning bidder at close of auction. The winning bidder at auction will be issued the lease by the Department on the first day of the month following Final Board Approval. The Board and Department reserve the right to reject any or all nominations or bids, and expressly disclaim any liability for inconvenience or loss caused by errors that may occur concerning lease offerings. (3-24-17)

02. Lease Provisions. (3-24-17)

a. Advance Annual Rental. The Lessee must pay to the state of Idaho an advance annual rental for each lease of three dollars ($3) per acre with a minimum of two hundred fifty dollars ($250) per lease. (3-24-17)

b. Diligent Drilling. Diligent and continuous drilling operations means no delay or cessation of drilling for a period greater than one hundred twenty (120) days, unless extended in writing by the Director. The Director must receive a written request for an extension at least ten (10) days prior to the expiration of the one hundred twenty (120) day period. (3-24-17)

c. Notification at End of Lease Period. The Lessee must notify the Director in writing prior to the

expiration of the final year of his lease that drilling or reworking operations has commenced and will extend beyond the expiration date of the lease. Advance Annual Rental, in the amount required by Section 022 for any additional and each succeeding year, must be received by the Department prior to the expiration date and entitles the Lessee to hold the lease only as long as drilling or rework operations are pursued in accord with these rules. There will be no refund of unused rental. (3-24-17)

d. Abandonment. During any additional or succeeding year of any lease, cessation of production for a period of six (6) months is considered as abandonment. The lease will then automatically terminate at its next anniversary date unless the Director determines that such cessation of production is justified or the well meets the requirements of a shut in well under Subsection 022.02.e. (3-24-17)

e. Suspension of Production. The Director may grant a suspension of production not to exceed one (1) year upon a written application showing that the lessee is unable to market oil or gas from a well located on the leased premises capable of oil and gas production in paying quantities due to a lack of suitable production facilities or a suitable market for the oil or gas and such conditions are outside the reasonable control of lessee and the lease is not being otherwise maintained in force and effect. If such well is shut in and the Director approves the application for suspension of production requirements prior to the expiration or termination of the lease, then the lease will be extended in accordance with the terms of Section 47-801, Idaho Code, for a period of one (1) year if the lessee timely submits an application in a form approved by the Director and, upon approval of said application, pays a shut-in royalty in the amount equal to double the annual rental provided for by these rules for each well capable of producing oil or gas in paying quantities. The lessee must remit the shut-in royalty payment while the lease is otherwise maintained in force and effect. Payment of shut-in royalty after the expiration or other termination of the lease will not revive or extend the lease. The Lessee may request continuation of this suspension of production, provided such request is received in writing by the Director at least thirty (30) days prior to the expiration date of the period of suspension. (3-24-17)

03. Nominating a Tract for Auction. A tract may be nominated for auction either by application to the Department at least ninety (90) days prior to a Department-defined close of auction date, or by Department nomination at least ninety (90) days prior to a Department- defined close of auction date. Any qualified person may nominate a tract for lease auction by submitting a nomination to the Department, and paying the nomination fee in an amount determined by the Board, during regular business hours on the Department nomination form. Each nominated tract must be a maximum size of six hundred forty (640) acres or one section. The nominating person may propose that multiple tracts be included in a single lease. Each nomination for a tract for auction is deemed an offer by the nominating person to lease the tract for the advance annual rental amount as defined in Subsection 022.02 above. (3-24-17)

04. Withdrawing a Tract for Auction. Any person nominating a tract for auction may withdraw their nomination if a request for such withdrawal is received by the Department at least ten (10) business days prior to the opening date of auction. The nomination fee will not be refunded. (3-24-17)

05. Auction Conditions. The Department will determine the conditions associated with the auction including, but not limited to, the following: when or if a tract will be offered for auction; whether the tract is to be removed from the auction; whether multiple tracts will be combined in a single lease at the discretion of the Department; and any disclaimers, additional information, and any other such terms and conditions associated with the auction of the tracts. Any such terms and conditions, disclaimers, and additional information will be posted on the Department's website. (3-24-17)

06. Lease Information for Auction. For each lease to be auctioned, the Department will provide on the website the following: a lease number designated by the Department; the legal description; the lease length; the number of acres; a minimum bid per acre; a lease template; any lease stipulations; any other lease information; a specific date designated for the beginning and ending dates that a bidder may conduct due diligence; a specific date designated for the opening of auction; and a close of auction date. A notice of lease auction will be published at least once per week for the four (4) consecutive weeks prior to the date of auction in a newspaper in general circulation in the county in which the nominated lease is located and in a newspaper in general circulation in Ada County. (3-24-17)

07. Auction Procedure. The Department will determine the procedures associated with the auction,

including, but not limited to place of auction, time of auction, and bidder registration procedure. Additional auction procedures are as follows. (3-24-17)

a. Bid Increments. The minimum bid increment is one dollar ($1). (3-24-17)

b. Winning Bid. At close of auction, the winning bid for a Lessee is the number of dollars bid multiplied by the number of acres in the lease, with fractions of an acre rounded up to the next whole acre. If, at close of auction, a bid for a lease has not been submitted by a bidder, then the lease will be awarded to the nominating applicant. The entry of a bid constitutes an enforceable contractual obligation. (3-24-17)

c. Amount Due. The amount due for a lease is the winning bid, plus the first year's annual rental amount as per Subsection 022.02, plus the nomination fee. If the winning bid was submitted by the nominator of the tract(s), then the nomination fee will already have been submitted to the Department and will not be included in the amount due. The nominator will be refunded the nomination fee if they are not the winning bidder. (3-24-17)

d. Transfer of Funds. Unless otherwise required in the notice of auction, the winning bidder for each lease has five (5) full business days after close of auction to complete the transfer of funds to the Department. Failure of the winning bidder to transfer funds within the period specified constitutes a breach of contract, and the state may pursue any action or remedy at law or in equity against the winning bidder. (3-24-17)

08. Execution of Lease. The completed lease will be executed by the winning bidder within thirty (30) days from the date of mailing after close of auction, or if personally delivered to the applicant or his agent by the Department, within thirty (30) days from the date of receipt. An individual who executes a lease on behalf of another Person must submit a power of attorney outlining such delegated authority. (3-24-17)

023. -- 044. (RESERVED)

045. ROYALTIES.

01. Royalty Payments. Unless otherwise specified by the Board, the lessee will pay to the state of Idaho in money or in kind to the state at its option a royalty of no less than twelve and one-half percent (12.5%) of the oil and/or gas or natural gas plant liquids produced and saved. The lessee will make payments in cash unless written instructions for payment in kind are received from the state. Royalty is due on all production from the leased premises except that consumed for the direct operation of the producing wells and that lost through no fault of the lessee. (3-24-17)

02. Royalty Not Reduced. Where royalties are paid in cash, costs of marketing, transporting and processing oil and/or gas or natural gas plant liquids or all of them produced are borne entirely by the lessee, and such cost will not reduce the lessor's royalty directly or indirectly. If the Director elects to take royalty in kind, the state will reimburse the lessee for reasonable additional storage and transportation costs. (3-24-17)

03. Oil, Gas, and Natural Gas Plant Liquids Royalty Calculation and Reporting. All royalty owed to the lessor hereunder and not paid in kind at the election of the lessor will be paid to the lessor in the following manner: (3-24-17)

a. Payment of royalty on production of oil is due and must be received by the lessor on or before the 65th day after the month of production; (3-24-17)

b. Payment of royalty on production of gas and natural gas plant liquids is due and must be received by the lessor on or before the 95th day after the month of production; (3-24-17)

c. All royalty payments must be completed in the form and manner approved by the Department including, but not limited to, the gross amount and disposition of all oil, gas, and natural gas plant liquids produced and the market value of the oil, gas, and natural gas plant liquids; (3-24-17)

d. Lessee must maintain, and make available to the lessor upon request, copies of all documents, records or reports confirming the gross production, disposition and market value, including gas meter readings,

pipeline receipts, gas line receipts and other checks or memoranda of the amount produced and put into pipelines, tanks, or pools and gas lines or gas storage, and any other reports or records that the lessor may require to verify the gross production, disposition and market value; and (3-24-17)

e. Each royalty payment must be accompanied by a check stub, schedule, summary or other remittance advice showing, by the assigned lessor lease number, the amount of royalty being paid on each lease. (3-24-17)

04. Overriding Royalty. All assignments of overriding royalty without a working interest made directly by the lessee and not included with an assignment of lease must be filed with the Department with the processing fee within ninety (90) days from the date of execution; provided that it is the lessee's responsibility, and not the Department's, to process such assignments by third parties. Any assignment that creates an overriding royalty exceeds the royalty previously payable to the state by greater than five percent (5%), is deemed a violation of the terms of the lease unless such an assignment expressly provides that the obligation to pay such excess overriding royalty is suspended when the average production of oil per well per day, averaged on a monthly basis, is fifteen (15) barrels or less. (3-24-17)

046. -- 049. (RESERVED)

050. LAND USE, SURFACE RIGHTS AND OBLIGATIONS.

01. Use and Occupancy. Notwithstanding other leases for other uses of state lands, the lessee is entitled to use and occupy as much of the surface of the leased lands as may be required for all purposes reasonably incident to exploration, drilling and production and marketing of oil and gas produced from the leased land, including the right to construct and maintain all works, buildings, plants, waterways, roads, communication lines, pipelines, reservoirs, tanks pumping stations or other structures necessary to full enjoyment and development; provided that lessee's operation does not unreasonably interfere with or endanger operations under any lease, license, claim, permit or other authorized, lawful use. (10-11-88)

02. Prevention of Injury or Damage. The lessee, its assignees, agents, and/or contractors must take all reasonable precautions to prevent injury or damage to persons, real and personal property and to prevent waste or damage to the oil, gas and other surface and subsurface natural resources and the surrounding environment including but not limited to, vegetation, livestock, fish and wildlife and their natural habitat, streams, rivers, lakes, timber, forest and agricultural resources. The Lessee, his assignees, agents and/or contractors will compensate the Board, his surface lessees, grantees or contract purchasers for any damage resulting by reason of their operations or any damage resulting from their failure to take all reasonable precautions to prevent injury or damage to persons, real and personal property and to prevent waste or damage to the oil, gas and other surface and subsurface natural resources and surrounding environment as set forth above. The lessee, its assignees, agents and/or contractors must comply with all environmental laws, rules and regulations as they pertain to its operation. (10-11-88)

03. Blowout or Spill. The lessee must report to the Director any blowout, fire, uncontrolled venting, or oil spill on the leased land within twenty-four (24) hours and confirm this report in writing within ten (10) days. (10-11-88)

04. Fences. The lessee may not at any time fence any watering place upon leased lands where it is the only accessible and feasible watering place upon the lands within a radius of one (1) mile, without first having secured the written consent of the Director. (10-11-88)

05. Timber Removal. The lessee may not unreasonably interfere with the removal of timber purchased prior or subsequent to the issuance of an oil and gas lease. The lessee may remove any timber required for ingress or egress or necessary for operations. The lessee must pay for any timber cut or removed on a current stumpage price basis as determined by the Director, and proceeds therefrom accrue to the state agency that has custody and control over the leased lands. (10-11-88)

06. Potable Water Discovery. If the lessee finds only potable water in any well drilled for exploration or production of oil and gas, and the water is of such quality and quantity as to be valuable and usable for agricultural, domestic, or other purposes, the Board may acquire the well with whatever casing is installed in the well at the fair

market value of the casing upon the assumption by its surface lessee, grantee, or contract purchaser of all future liabilities and responsibilities for the well, with the approval of the commission and in compliance with Section 058; provided that the surface lessee, grantee, or contract purchaser also complies with applicable laws and rules of the Department of Water Resources. (10-11-88)

07. Reclamation. The lessee must reclaim all state lands disturbed by its exploration and operations at least consistent with previous use by the surface owner, including segregating and protecting topsoil and regrading to approximate previous contour. If substantial removal of topsoil has occurred as determined by the Director, the lessee will replace the topsoil and revegetate to the extent necessary to minimize erosion. (3-24-17)

08. Entry by Director. The Director is permitted at all reasonable times to go in and upon the leased lands and premises to inspect the operations and the products obtained and to post any lawful notice. The Director may at any time require that reasonable tests, surveys, samples, etc., be taken in accord with his instruction, without cost to the state of Idaho, to assure compliance with these rules. The Director may at any reasonable time inspect and copy at his own expense all of lessee's books and records pertaining to a lease under these rules. Upon failure of lessee to take timely, corrective measures ordered by the Director or the Board or the commission, the Director may shut down lessee's operations if he determines they are unsafe or are causing or may cause waste or pollution to oil, gas or other resources; or the Director may terminate the lease and cause damage or unsafe conditions to be repaired or corrected at the expense of the lessee and forfeiture of bond in accordance with these rules. (10-11-88)

09. Other Uses. Subject to Subsection 050.01, the Director may issue leases for other uses of state lands leased under these rules. All lessees have the right of reasonable ingress and egress at all times during the term of the lease. (10-11-88)

10. Disposal of Leased Lands. The Board reserves the right to sell or otherwise dispose of the surface of the leased lands; provided that any sale of surface rights made subsequent to execution of the lease is subject to all terms and provisions of the oil and gas lease during its life including extensions and continuations under Section 040. (10-11-88)

051. DILIGENT EXPLORATION REQUIRED.

The lessee must perform diligent exploration during the entire term of a lease. Diligent exploration means that the lessee provides continuing efforts as a reasonably prudent operator toward achieving production, including, without limitation, performing geological and geophysical surveys and/or the drilling of a test well. (3-24-17)

052. -- 054. (RESERVED)

055. OPERATIONS UNDER THE LEASE.

01. Best Practices. The lessee will at all times conduct exploration, development, drilling and all operations as a reasonably prudent operator and conform to the best practice and engineering principles in use in the oil and gas industry. (10-11-88)

02. Compliance with Rules. The lessee will comply with all rules of the oil and gas commission, including amendments promulgated pursuant to Title 67, Chapter 52, Idaho Code, and any violations of the commission's rules or other applicable state laws and rules may constitute a violation of the lease under these rules. (10-11-88)

03. Designation of Operator. In all cases where operations are not conducted by the lessee but are to be conducted under authority of an approved operating agreement, assignment or other arrangement, a designation of operator must be submitted to the Director prior to commencement of operations. Such a designation authorizes the operator or his local representative to act for the lessee and to sign any papers or reports required under these rules. The lessee must immediately report to the Director all changes of address and termination of the authority of the operator. (10-11-88)

04. Legal Representative. When required by the Director, the lessee must designate a local representative empowered to receive service of civil or criminal process and notices and orders of the Director issued pursuant to these rules. (10-11-88)

05. Diligence. The lessee will, subject to the right to surrender the lease, diligently drill and produce such wells as are necessary to protect the Board from loss by reason of production on other properties, or with the consent of the Director, compensate the Board for failure to drill and produce any such well. All wells under lease must be drilled, maintained and operated to produce the maximum amount of oil and/or gas that can be secured without injury to the well. (10-11-88)

06. Loss Through Waste or Failure to Produce. The Director will determine the value of production accruing to the Board where there is loss through waste or failure to drill and produce protection wells on the leased lands and the compensation due to the Board as reimbursement for such loss. Payment for such losses must be made within sixty (60) days after the date of billing. The value of production resulting from a loss through waste or failure to take corrective measures to protect a well is calculated at ninety percent (90%) of the last year's actual production royalty or a minimum royalty of five dollars ($5) per acre or fraction thereof, whichever is greater. (10-11-88)

07. By-Products. Where production, use of conversion of oil and gas under a lease, is susceptible of producing a valuable by-product or by-products, including, without limitation, commercially demineralized water, carbon dioxide or helium, the lessee must submit to the Director all available information concerning the potential by-product. The Department may conduct tests or studies at its expense and may issue reasonable orders to produce and preserve such by-product. (10-11-88)

08. Geothermal Information. Prior to abandoning any well, the lessee must submit to the Director all available information concerning geothermal resource potential. The Department may conduct tests or studies at its expense prior to the abandoning of any well to determine geothermal resource potential. Except as provided in Subsection 040.05, the lessee must promptly plug and abandon any well on the leased land that is not used or useful, in accord with these rules and the rules of the commission, and any applicable rules and regulations of the Department of Water Resources. When drilling in a known geothermal resources area, the applicant may need a geothermal resource well permit from the Department of Water Resources. (10-11-88)

056. WATER RIGHTS.

The lessee will comply with all state laws and rules regulating the appropriation of water rights. No water rights developed or obtained by the lessee in conjunction with operations under a lease may be sold, assigned or otherwise transferred without written approval of the Director. Upon surrender, termination or expiration of the lease, the lessee must take all actions required by the Director to assign to the Board all water rights, including applications and permits, subject to applicable laws regarding the transfer or assignment of permits to appropriate water. (10-11-88)

057. -- 059. (RESERVED)

060. ASSIGNMENTS.

01. Prior Written Approval. No lease assignment is valid until approved in writing by the Director, and no assignment takes effect until the first day of the month following its approval. (10-11-88)

02. Qualified Assignee. A lease may be assigned to any person qualified to hold a state lease, provided that in the event an assignment partitions leased lands between two (2) or more persons, neither the assigned nor the retained part created by the assignment may contain less than forty (40) acres or a government lot, whichever is less. (10-11-88)

03. Responsibilities. In an assignment of the complete interest of the leasehold, the assignor and his surety continue to comply with the lease and these rules until the effective date of the assignment. After the effective date of any assignment, the assignee and his surety are bound by the lease and these rules to the same extent as if the assignee were the original lessee, notwithstanding any conditions in the assignment to the contrary; however, the assignor-lessee remains liable for rentals and royalties due and damages accruing prior to the effective date of the assignment. (10-11-88)

04. Segregation of Assignment. If an assignment partitions leased lands between two (2) or more persons, it must clearly segregate the assigned and retained portions of the leasehold. Resulting segregated leases continue in full force and effect for the balance of the ten-year term of the original lease or as further extended

pursuant to these rules. (10-11-88)

05. Joint Principal. Where an assignment does not segregate the record title to the lease, the assignee, if the assignment so provides, may become a joint principal on the bond with the assignor. The application must be accompanied by a consent of assignor's surety to remain bound under the bond of record, if the bond by its terms does not contain such consent. If a party to the assignment has previously furnished a statewide bond, no additional showing by such party is necessary as to the bond requirement. (10-11-88)

06. Form of Assignment. An assignment is a valid legal instrument, properly executed and acknowledged, setting forth the number of the lease, a legal description of the land involved, the name and address of the assignee, the interest transferred and the consideration. A fully executed copy of the instrument of assignment must be filed with the application for approval pursuant to Subsection 060.07. An assignment may affect or concern more than one (1) lease. (10-11-88)

07. Application. The application for approval of an assignment must be submitted in duplicate on forms of the Department or exact copies of such forms. The "lessee/assignee of record" must be designated in accordance with Subsection 010.11. If payments out of production are reserved, a statement must be submitted stating the amount, method of payment, and other pertinent items. The statement must be filed with the Department no later than fifteen (15) days after the filing of the application for approval. (10-11-88)

08. Denial. The Director may deny an application for assignment if the lessee or the assignee is delinquent in payment of rentals or royalties or otherwise has violated these rules. (10-11-88)

09. Fee. All applications for approval of assignment must be accompanied by the fee required by Section 120. (10-11-88)

061. -- 069. (RESERVED)

070. SURRENDER - RELINQUISHMENT.

01. Procedure. The lessee may surrender its lease or any surveyed subdivision of the area covered by such lease, by filing a written relinquishment with the Department, provided that a partial relinquishment does not reduce the remaining acreage in the lease to less than forty (40) acres or a government lot, whichever is less. The Director may waive the minimum acreage provision of this rule if he finds it is justified on the basis of exploratory and development data derived from activity on the leasehold. (10-11-88)

02. Effective Date. A relinquishment takes effect thirty (30) days after it is received by the Department. Thereafter the lessee is relieved of liability under these rules except for the continued obligation of the lessee and his surety to: (10-11-88)

a. Make payments of all accrued rentals and royalties; (10-11-88)

b. Place all wells on the land to be relinquished in condition for suspension of operations or abandonment; (10-11-88)

c. Comply with all rules of the commission for plugging of abandoned wells; (10-11-88)

d. Comply with applicable laws and rules of the Department of Water Resources; and (10-11-88)

e. Reclaim the surface and natural resources in accord with these rules. (10-11-88)

03. Partial Surrender. In the event of a partial surrender of the land covered by such lease, the annual rental thereafter payable will be reduced proportionately. (10-11-88)

071. TERMINATION - CANCELLATION OF LEASE.

01. Cause. Except as otherwise provided in these rules, the Director may terminate the lease for any

substantial violation of these rules, the lease, or the rules of the commission, ninety (90) days after notice of the violation has been given to lessee by personal service or by certified mail to the lessee, unless: (10-11-88)

a. The violation has been corrected; or (10-11-88)

b. The violation is one that cannot be corrected within the notice period and the lessee has in good faith commenced within the notice period to correct the violation and proceeds diligently to complete corrective action within a time period set by the Director. If sent by certified mail, such notice will be deemed served upon mailing. (10-11-88)

02. Surrender After Termination. Upon the expiration or termination of the lease, the lessee will quietly and peaceably surrender possession of the premises to the state. Thereafter, lessee's obligations under these rules that have accrued prior to the date of expiration or termination continue in full force and effect. (10-11-88)

03. Other Wells. Default by the lessee in the performance of any of the conditions or provisions of the lease concerning a well or wells on any legal subdivision of the leasehold do not affect the right of the lessee to continue the possession or operation of any other well or wells, situated upon any other legal subdivision of the leasehold. The term "legal subdivision" as herein used means a subdivision as established by the United States land survey that most nearly approximates in size the area allocated to one well under any approved well spacing program; provided that if no special program has been approved, "legal subdivision" means the parcel upon which such well is located, but in any event not less than forty (40) acres surrounding such well. Where such a default involving one (1) or more wells results in cancellation, and the lessee has other wells on the lease not in default, such cancellation will result in the division of the defaulting acreage from the lease and resultant reduction in the size of the lease held by the lessee. (10-11-88)

04. Equipment Removal. Upon the expiration of the lease, or its earlier termination or surrender pursuant to these rules, the lessee must, within a period of ninety (90) days, remove from the premises all materials, tools, appliances, machinery, structures. Equipment subject to removal but not removed within the ninety (90) day period or any extension that may be granted because of adverse climatic conditions during that period, may, at the option of the Director, become property of the state of Idaho, or the Director may cause the property to be removed at the lessee's expense. (10-11-88)

072. -- 079. (RESERVED)

080. BOND REQUIREMENTS.

01. Minimum Bond. Prior to entry with motorized exploration equipment upon leased lands, the surface of which has been sold or leased, the lessee must submit to the Director a corporate surety bond or collateral bond in the amount of one thousand dollars ($1,000) in favor of the state of Idaho conditioned upon the payment of all damages to the surface that result from the lessee's operation. Prior to entry upon the leased land with drilling equipment or prior to commencing any construction in preparation for drilling upon leased lands, the lessee must submit to the Director a corporate security bond or collateral bond in the amount of six thousand dollars ($6,000) in favor of the state of Idaho bond will be conditioned upon compliance with the lease, these rules, the removal of all materials, etc. per Subsection 071.04, and the payment of all damages to the land surface and all improvements thereon, including crops, which result from the lessee's operation, regardless of whether the lands under this lease have been sold or leased by the Board for any other purpose. This bond is in addition to the drilling bond pursuant to commission rules. This rule notwithstanding, the oil and gas lessee may be required on a case-by-case basis to post a bond in excess of six thousand dollars ($6,000) to protect a surface lessee's or surface owner's interests pursuant to Section 47-708, Idaho Code. (10-11-88)

02. Statewide Bond. In lieu of the aforementioned bonds, the lessee may furnish a good and sufficient "statewide" bond conditioned as above in the amount of fifty thousand dollars ($50,000) in favor of the state of Idaho to cover all lessee's leases and operations carried on under these rules. (10-11-88)

03. Period of Liability. The period of liability of any bond is not be terminated until all obligations under the lease and these rules have been fulfilled and the bond is released in writing by the Director. (10-11-88)

04. Form of Performance Bond. (10-11-88)

a. Corporate surety bond means an indemnity agreement executed by or for the lessee and a corporate surety licensed to do business in the state of Idaho on an oil and gas lease bond form supplied by the Department conditioned in accord with Subsection 080.01, and payable to the state of Idaho. (10-11-88)

b. Collateral bond means an indemnity agreement executed by or for the lessee and payable to the state of Idaho, pledging cash deposits, negotiable bonds of the United States, state or municipalities, or negotiable certificates of deposit of any bank doing business in the United States. Collateral bonds are subject to the following conditions: The Department obtains possession and deposits such with the state treasurer. The Department will value collateral at its current market value, not face value. Certificates of deposit are made payable to the "State of Idaho or the lessee." Amount of an individual certificate may not exceed the maximum amount insured by the Federal Deposit Insurance Corporation or Federal Savings and Loan Insurance Corporation or their successors. Banks issuing such certificates waive all rights of set-off or liens that they have of may have against such certificates. Any such certificates are automatically renewable. The certificate of deposit must be of sufficient amount to ensure that the Department would be able to liquidate such certificates prior to maturity, upon forfeiture, for the amount of the required bond including any penalty for early withdrawal. (10-11-88)

05. Bond Cancellation. Any surety company or indemnitor canceling a bond must give the Department at least sixty-days' (60) notice prior to cancellation. The Department will not release a surety or indemnitor from liability under existing bonds until the lessee has submitted to the Department an acceptable replacement bond. Such replacement bond must cover any liability accrued against the bonded principal on the lease covered by the previous bond. (10-11-88)

06. Surety License. If the license to do business in Idaho of any surety is suspended or revoked, the lessee must find a substitute for such surety within thirty (30) days after notice by the Department. If the lessee fails to secure a substitute surety, he must cease operation upon the lease. The substitute surety must be licensed to do business in Idaho. (10-11-88)

07. Form. All bonds furnished must be on the Department bond form or exact copy of it. (10-11-88)

081. -- 089. (RESERVED)

090. UNIT OR COOPERATIVE PLANS OF DEVELOPMENT OR OPERATION.

01. Unit Plan. For the purpose of properly conserving the natural resources of any oil and gas pool, field or like area, the lessee may, with the written consent of the Director, commit the leased lands to a unit, cooperative or other plan of development or operation with other state, federal, Indian, or privately-owned lands. (10-11-88)

02. Contents. An agreement to unitize must: describe the separate tracts comprising the unit; disclose the apportionment of the production of royalties and costs to the several parties; the name of the operation; and contain adequate provisions for the protection of the interests of all parties, including the state. The agreement must: be signed by or in behalf of those persons or entities having effective control of the geologic structure; submitted to the Director with the application to unitize; and effective only after approval by the Director. (10-11-88)

03. Interested Parties. The owners of any right, title or interest in the oil and gas resources to be developed or operated under an agreement may be regarded as interested parties to a proposed unitization agreement. Signature of a party with only an overriding royalty interest in unnecessary. (10-11-88)

04. Collective Bond. In lieu of separate bonds for each lease committed to a unit agreement, the unit operator may furnish and maintain a collective corporate surety bond or a collateral bond conditioned upon faithful performance of the duties and obligations of the agreement, the lease subject to the agreement and these rules. The liability under the bond will be for such amount the Director determines to be adequate to protect the interests of the state. If the unit operator is changed, a new bond or consent of surety to the change in principal under the existing bond must be filed within thirty (30) days of assignment. (10-11-88)

05. Lease Modification. The terms of any lease included in any cooperative or unit plan of development or operation may be modified by the Director with approval of the lessee, except that a unit agreement must have final approval by the Director for a state cooperative plan or the final approval by the secretary of interior for a federal cooperative plan prior to extending any lease into its eleventh year and each year thereafter. A lease so extended expires two (2) years after the unit plan expires provided the lessee continues to pay the annual rental as outlined in Subsection 041.03. (10-11-88)

06. Rentals. Rentals and royalties on leases so extended are at the rates specified in these rules. Advanced rental must be paid on or before the extended lease's anniversary date. Any unused portion of annual rental will not be refunded. (10-11-88)

07. Evidence of Agreement. Before issuance of a lease for lands within an approved unit agreement, the lease applicant must file with the Department evidence that he has entered into an agreement with the unit operator for the development and operation of the lands in a lease, or a statement giving satisfactory reasons for the failure to enter into such agreement. If such statement is acceptable, the applicant will be permitted to operate independently but be required to perform its operations in a manner that the Director deems to be consistent with the unit operations. (10-11-88)

08. Segregation Prohibited. A lease may not be segregated if any part thereof is included in a cooperative plan until the pool or field has been defined. Once defined, those areas outside the unit area or pool boundary can be surrendered as provided in Section 070. (10-11-88)

091. -- 094. (RESERVED)

095. LIABILITY INSURANCE; SPECIAL ENDORSEMENTS.

01. Liability Insurance Required. Prior to entry upon the leased lands for any reason other than casual exploration or inspection pursuant to Section 021, the lessee must secure and maintain during the term of this lease, public liability, property damage, and products liability insurance in the sum of four hundred thousand dollars ($400,000) for injury or death for each occurrence; in the aggregate sum of two million dollars ($2,000,000) for injury or death; and in the sum of four hundred thousand dollars ($400,000) for damages to property and products damages caused by any occupancy, use, operations of any other activity on leased lands carried on by the lessee, its assigns, agents, operators or contractors. The lessee must insure against explosion, blow out, collapse, fire, oil spill and underground hazards and submit evidence of such insurance to the Director. If the land surface and improvements thereon covered by the lease have been sold or leased by the state of Idaho, the owner or lessee of the surface rights and improvements will be an additional named insured. The state of Idaho is a named insured in all instances. This policy or policies of liability insurance must contain the following special endorsement:

"The state of Idaho, the Idaho State Board of Land Commissioners, the Director of the Department of Lands, the Department of Lands, (or other state agency exercising custody and control over the lands), and (herein insert name of owner or lessee of surface rights, if applicable) and the officers, employees and agents of each and every of the foregoing are additional insureds under the terms of this policy: Provided, however, these additional insureds shall not be insured hereunder for any primary negligence or misconduct on their part, but such additional insureds shall be insured hereunder for secondary negligence or misconduct, which shall be limited to failure to discover and cause to be corrected the negligence or misconduct of the lessee, its agents, operators or contractors. This insurance policy shall not be canceled without thirty (30) days prior written notice to the Idaho Department of Lands. None of the foregoing additional insureds is liable for the payment of premiums or assessments of this policy."

No cancellation provision in any insurance policy is in derogation of the continuous duty of the lessee to furnish insurance during the term of this lease. Such policy or policies must be underwritten to the satisfaction of the Director. A signed complete certificate of insurance, with the endorsement required by this paragraph, must be submitted to the Director prior to entry upon the leased land with motorized exploration equipment after award of a lease and may be required prior to such entry under Rule 021. (10-11-88)

02. Certificate of Insurance. At least thirty (30) days prior to the expiration of any such policy, a signed complete certificate of insurance, with the endorsement required by Subsection 095.01, showing that such insurance coverage has been renewed or extended, must be filed with the Director. (10-11-88)

096. HOLD HARMLESS.
The state of Idaho, the Board, the Director, the Department, and any other state agency that may have custody or control of the leased lands, and the owner of the surface rights and improvements, if not the state of Idaho, or state lessee of surface rights, if there be one, the officers, agents and employees of each of the foregoing, are free from any and all liabilities and claims for damages and/or suits for or by reason of death or injury to any person or damage of property of any kind whatsoever, caused by a negligent or otherwise wrongful act or omission of the lessee, its assigns, agents, operators, employees or contractors; and lessee covenants and agrees to indemnify and to save harmless the state of Idaho, the Board, the Director, the Department, or other state agency, or the lessee of surface rights if there be one, and their officers, agents, and employees from all liabilities, charges, expense, including attorney fees, claims, suits or losses caused by a negligent or otherwise wrongful act or omission of the lessee, its assigns, agents, operators, employees or contractors. The lessee's signature to a lease under these rules constitutes express agreement to this rule. (10-11-88)

097. -- 099. (RESERVED)

100. TITLE.
The state of Idaho does not warrant title to the leased lands or the oil and gas resources that may be discovered thereon; the lease is issued only under such title as the state of Idaho may have as of the effective date of the lease or thereafter acquires. (10-11-88)

101. IMPOSSIBILITY OF PERFORMANCE.
Whenever, as a result of any act of God, or law, order or regulation of any governmental agency, it becomes impossible for the lessee to perform or to comply with any obligation under the lease or these rules, other than payment of rentals or royalties, the Director in his discretion, may by written order excuse lessee from damages or forfeiture of the lease, and the lessee's obligations may be suspended and the term of the lease may be extended provided that the Director finds that good cause exists. (10-11-88)

102. TAXES.
The lessee pays, when due, all taxes and assessments of any kind lawfully assessed and levied against the lessee's interest or operations under the laws of the state of Idaho. (10-11-88)

103. -- 119. (RESERVED)

120. FEES.

01. Exploration Permit. One hundred dollars ($100) per linear mile or a minimum of one hundred dollars ($100) per section. (10-11-88)

02. Nonrefundable Nomination Fee. The nomination fee is set by the Board at a minimum of two hundred fifty dollars ($250) per tract. (3-24-17)

03. Processing Fee. The processing fee is set by the Board at a minimum of one hundred dollars ($100) per each document. (3-24-17)

04. Fee Adjustment. The Board may annually adjust these fees without formal rulemaking procedures. (10-11-88)

121. -- 999. (RESERVED)

20.03.17 – RULES GOVERNING LEASES ON STATE-OWNED SUBMERGED LANDS AND FORMERLY SUBMERGED LANDS

000. LEGAL AUTHORITY.
This Chapter is adopted under the legal authorities of Title 58, Chapter 1, Idaho Code, Sections 58-104(6), 58-104(9), and 58-105; Title 58, Chapter 3, Idaho Code, Sections 58-304 through 58-312; Title 58, Chapter 6, Idaho Code; Title 58, Chapter 12; and Title 67, Chapter 52, Idaho Code. (3-26-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.03.17, "Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands." (3-26-08)

02. Scope. These rules govern the issuance of leases on state-owned submerged lands. (3-26-08)

a. These rules also apply to state-owned islands raised from submerged lands, or filled submerged lands, or other formerly submerged lands that are no longer covered by water at any time during an ordinary year. (3-26-08)

b. While the State asserts the right to issue leases for all encroachments, navigational or non-navigational, upon, in or above the beds or waters of navigable lakes and rivers, nothing in these rules may be construed to vest in the state of Idaho any property, right or claim of such right to any private lands lying above the natural or ordinary high water mark of any navigable lake or river. (3-26-08)

002. ADMINISTRATIVE APPEALS.
Any person aggrieved by any final decision or order of the Board is entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, and IDAPA 20.01.01, "Rules of Practice and Procedure Before the State Board of Land Commissioners." (3-26-08)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Artificial High Water Mark. The high water elevation above the natural or ordinary high water mark resulting from construction of man-made dams or control works and impressing a new and higher vegetation line. (3-26-08)

02. Board. The Idaho State Board of Land Commissioners or its designee. (3-26-08)

03. Commercial Marina. A commercial navigational encroachment whose primary purpose is to provide moorage for rental or for free to the general public. (3-26-08)

04. Commercial Navigational Encroachment. A navigational encroachment used for commercial purposes. (3-26-08)

05. Community Dock. A structure that provides private moorage for more than two (2) adjacent littoral owners, or other littoral owners possessing a littoral common area with littoral rights including, but not limited to, homeowners' associations. No public access is required for a community dock. (3-26-08)

06. Department. The Idaho Department of Lands or its designee. (3-26-08)

07. Director. The director of the Idaho Department of Lands or his designee. (3-26-08)

08. Dock Surface Area. Includes docks, slips, piers, and ramps and is calculated in square feet. Dock surface area does not include pilings, submerged anchors, or undecked breakwaters. (3-26-08)

09. Encroachments in Aid of Navigation. Includes docks, piers, jet ski and boat lifts, buoys, pilings, breakwaters, boat ramps, channels or basins, and other facilities used to support water craft and moorage on, in, or above the beds or waters of a navigable lake, river or stream. The term "encroachments in aid of navigation" may be used interchangeably herein with the term "navigational encroachments." (3-26-08)

10. Encroachments Not in Aid of Navigation. Includes all other encroachments on, in, or above the

beds or waters of a navigable lake, river or stream, including landfills, bridges, utility and power lines, or other structures not constructed primarily for use in aid of navigation. It also includes float homes and floating toys. The term "encroachments not in aid of navigation" may be used interchangeably herein with the term "non-navigational encroachments." (3-26-08)

11. Formerly Submerged Lands. The beds of navigable lakes, rivers, and streams that have either been filled or subsequently became uplands because of human activities including construction of dikes, berms, and seawalls. Also included are islands that have been created on submerged lands through natural processes or human activities since statehood, July 3, 1890. (7-1-97)

12. Market Value. The most probable price at a specified date, in cash, or on terms reasonably equivalent to cash, for which the property should bring in a competitive and open market under all conditions requisite to a fair sale, the buyer and seller each acting prudently and knowledgeably, and assuming the price is not affected by undue stimulus. (3-26-08)

13. Natural or Ordinary High Water Mark. The line that the water impresses upon the soil by covering it for a sufficient period of time to deprive the soil of its vegetation and destroy its value for agricultural purposes. If, however, the soil, configuration of the surface, or vegetation has been altered by man's activity, the ordinary high water mark is located where it would have been if the alteration had not occurred. (3-26-08)

14. Person. A partnership, association, corporation, natural person, or entity qualified to do business in the state of Idaho and any federal, state, tribal, or municipal unit of government. (3-26-08)

15. Riparian or Littoral Rights. The rights of owners or lessees of land adjacent to navigable lakes, rivers or streams to maintain their adjacency to the lake, river, or stream and to make use of their rights as riparian or littoral owners or lessees in building or using aids to navigation but does not include any right to make any consumptive use of the waters. (3-26-08)

16. Single-Family Dock. A structure providing noncommercial moorage that serves one (1) waterfront owner whose waterfront footage is no less than twenty-five (25) feet. (3-26-08)

17. Submerged Lands. The state-owned beds of navigable lakes, rivers, and streams below the natural or ordinary high water marks. (3-26-08)

18. Two-Family Dock. A structure providing noncommercial moorage that serves two (2) adjacent waterfront owners having a combined waterfront footage of no less than fifty (50) feet. Usually the structure is located on the common littoral property line. (3-26-08)

19. Upland. The land bordering on navigable lakes, rivers, and streams. (3-26-08)

011. -- 019. (RESERVED)

020. APPLICABILITY.
Leases are required for all encroachments on, in, or over state-owned submerged land except: (7-1-97)

01. Single -Family or Two-Family Docks. Single-family or two-family docks that were constructed on or before July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (3-26-08)

02. Single-Family Docks. Single-family docks that were constructed after July 1, 1993, that occupy less than seven hundred (700) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (3-26-08)

03. Two-Family Docks. Two-family docks that were constructed after July 1, 1993, that occupy less than eleven hundred (1,100) square feet of dock surface area lakeward of the ordinary high water mark, and for which all required permits and approvals have been obtained. (3-26-08)

04. Encroachments Free to the Public. Encroachments in aid of navigation for which the complete use is offered free to the public. (7-1-97)

05. Temporary Permits or Easements. Uses or encroachments that are customarily authorized by temporary permits or easements, such as roads, railroads, overhead utility lines, submerged cables, and pipelines. Information on easements can be found in IDAPA 20.03.09, "Easements on State-Owned Submerged Lands and Formerly Submerged Lands." (3-26-08)

021. -- 024. (RESERVED)

025. POLICY.

01. Policy of the State of Idaho. It is the policy of the state of Idaho to regulate and control the use and disposition of lands in the beds of navigable lakes, rivers and streams to the natural or ordinary high water mark thereof, so as to provide for their commercial, navigational, recreational or other public use; provided that the Board will take no action in derogation of or seeking to interfere with the riparian or littoral rights of the owners of upland property abutting or adjoining such lands. (3-26-08)

02. Director May Grant Leases. The Director may grant leases for uses that are in the public interest and consistent with these rules. (7-1-97)

03. Requests or Inquiries Regarding Navigability. The State owns the beds of all lakes, rivers, and streams that were navigable in fact at statehood. The Department will respond to requests or inquiries as to which lakes, rivers, and streams are deemed navigable in fact. Additional information about streams deemed navigable by the State of Idaho is available from the Department. (3-26-08)

04. Stream Channel Alteration Permit or Encroachment Permit. Issuance of a lease is contingent upon the applicant obtaining a stream channel alteration permit if required by the Idaho Department of Water Resources, pursuant to Title 42, Chapter 38, Idaho Code, or an encroachment permit if required by the Department pursuant to the Lake Protection Act, Title 58, Chapter 13, Idaho Code, and compliance with local planning and zoning regulations if applicable. (7-1-97)

05. Other Permits and Licenses. Issuance of a lease does not relieve an applicant from acquiring other permits and licenses that are required by law. (7-1-97)

06. Submerged Lands Lease Required Upon Notification. All persons using submerged lands in a manner that requires a submerged land lease must obtain such a lease from the Director when notified to do so. (7-1-97)

07. Term of Lease, Renewal of Lease. Leases are issued for a term of ten (10) years or as determined by the Board. Leases may be renewed for additional periods to be determined by the Department based upon satisfactory performance during the present term. Renewals will be processed with a minimum of procedural requirements and will not be denied except in the most unusual circumstances or noncompliance with the terms and conditions of the previous lease. Lease renewals are initiated by the Department. (3-26-08)

08. Director's Authorization to Issue and Renew Leases. The Director is authorized to issue and renew leases for the use of submerged lands in accordance with these rules. (7-1-97)

09. Rights Granted. The lease grants only such rights as are specified in the lease. The right to use the submerged or formerly submerged lands for all other purposes that do not interfere with the rights authorized in the lease remains with the state. (3-29-10)

10. Rules Applicable to All Existing and Proposed Uses and Encroachments. These rules apply to all existing and proposed uses and encroachments, whether or not authorized by permit under the Lake Protection Act, Title 58, Chapter 13, Idaho Code, or the Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code. These rules provide that a lease may be required in addition to existing permits. See Section 020 of these rules for information about exceptions to lease requirements. (3-26-08)

11. Waiver of Lease Requirements. The Director may, in his discretion, waive lease requirements for single-family or two-family dock encroachments whose dock surface areas exceed square footages described in Subsections 020.01 through 020.03 of these rules when the additional dock surface area square footage is necessary to gain or maintain access to water of sufficient depth to sustain dock use for water craft customarily in use on that particular lake. (3-26-08)

12. Private Moorage at Commercial Marinas. (3-26-08)

a. This Subsection (025.12) does not apply to community docks. (3-26-08)

b. Private moorage at commercial marinas is allowed as long as the requirements of IDAPA 20.03.04, "Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho," Subsection 015.03 are met. (3-26-08)

c. The sale, lease, or rental of private moorage is in no way an encumbrance on any underlying public trust land. All transactions related to private moorage are subject to the limitations of the associated submerged lands lease. (3-26-08)

d. Acquisition of private moorage must be documented with a disclosure that the transaction does not convey public trust lands and only conveys the right to use the designated portion of the marina. (3-26-08)

e. The Department will make no policy regarding the cost of private moorage and the resolution of disputes between the involved parties. (3-26-08)

026. -- 029. (RESERVED)

030. LEASE APPLICATION, FEE, AND PROCEDURE.

01. Fee. The lease application fee is one hundred fifty dollars ($150). (3-26-08)

02. Fee Shall Be Required. A lease application and nonrefundable fee is required for new and existing encroachments. A lease application fee is required for leases that are renewed upon expiration. (3-26-08)

03. Application to Lease and Fee. The lease application and fee must be submitted with the information from Subsections 030.03.a. through 030.03.c., in sufficient detail for the Department to determine an appropriate lease rate based on numbers of slips, square footage, or other permit information: (3-26-08)

a. A letter of request stating the purpose of the lease. (3-26-08)

b. A scale drawing of the proposed lease area with plans detailing all intended improvements, including reference to the nearest known property corner(s). An encroachment permit may satisfy this requirement. (3-26-08)

c. The permit number of each existing applicable encroachment permit. (3-26-08)

04. Submittal of Application to Lease and Fee. The lease application and fee must be filed in the local office of the Department or the Director's office. (3-26-08)

05. Notification of Approval or Denial. The applicant will be notified in writing if the lease application is approved or denied. The applicant will also be notified of any additional requirements. (3-26-08)

06. Request for Reconsideration. Any applicant aggrieved with the Director's determination of rent or denial of a lease application may request reconsideration by the Director. (7-1-97)

031. -- 034. (RESERVED)

035. RENTAL.
The rental rate policy for submerged land leases is set by the Board. This policy is available on the Department website at http://www.idl.idaho.gov/. (3-26-08)

01. Standardized Rental Rates. The Board sets standard submerged land lease rental rates for common uses such as commercial marinas, community docks, floathomes, restaurants, and retail stores. Rental rates for commercial marinas and other uses that produce revenue for the lessee will commonly be calculated as a percentage of gross receipts, however, other methods may be used as determined appropriate by the Board. (3-29-10)

02. Nonstandard Rental Rates. The Board directs the Department to use a percentage of market value or gross receipts, or other methods determined appropriate by the Board, as the submerged lands lease rental rate for uses that are uncommon, especially for non-navigational encroachments. (3-26-08)

036. YEARLY REPORTING.

01. Annual Report. Lessees must provide an annual report to the Department that includes: (3-26-08)

a. A schedule of moorage rental rates, including moorage sizes and types. (3-26-08)

b. The number and size of all public boat and float home moorages. (3-26-08)

c. The number and size of all private boat and float home moorages. (3-26-08)

d. Current proof of insurance that is required by the lease. (3-26-08)

02. Failure to Report. Failure to provide the annual report information is a violation of these rules. (3-26-08)

037. -- 039. (RESERVED)

040. LATE PAYMENT, EXTENSIONS OF PAYMENT.

01. Penalty for Late Payment of Rent. Rent not paid by the due date is considered late. A penalty, calculated from the day after which payment was due, will be added to the rent. The penalty will be determined by the Board for the first month or any portion thereof and one percent (1%) of the rent due, including penalty, per month thereafter. (7-1-97)

02. Extension in Time for Payment of Rent. An extension in time in which to submit payment of rent may be granted for commercial submerged lands leases only. Such extensions may not exceed two (2) successive years, as required by Title 58, Chapter 3, Idaho Code, Section 58-305. (3-26-08)

03. Request for Extension in Time for Payment of Rent. Lessees must request extensions on forms supplied by the lessor and pay an extension fee to be determined by the Board. The lessee must also provide a statement from his banker or accountant verifying that money is not available for the payment of rent. (7-1-97)

04. Interest Rate for Extension in Time for Payment of Rent. If an extension is granted, rent plus interest at a rate established by the Board will be due no later than October 1 of the rent year. Specifically, interest will be the average monthly rate for conventional mortgages as quoted in the Federal Reserve Statistical Report; the rate to be rounded downward to the nearest one quarter percent (1/4%) on the tenth of each month following the release of data. (7-1-97)

041. -- 044. (RESERVED)

045. APPRAISAL PROCEDURES.
Appraisals may be used to determine the market value of adjacent uplands for calculating submerged lease rental rates. (3-26-08)

01. Appraisal. An appraisal will either be performed by qualified Department staff or an independent contract appraisal. Any appraisal must be under the control of the Department. (3-26-08)

02. Cost of Appraisal. The appraisal costs are the actual cost for Department personnel plus transportation, including per diem and administrative overhead, or the bid amount for the contract appraiser. An itemized statement of these costs will be provided to the applicant. The cost of the appraisal is in addition to those costs outlined in Section 035 of these rules and is billed separately from the application fee and rent. (3-26-08)

046. -- 049. (RESERVED)

050. LEASE MODIFICATION OR AMENDMENT.

01. Encroachment Amendment. A lease modification or amendment must first be permitted through an amendment to the lake encroachment permit or stream alteration permit, if needed. (3-26-08)

02. Modification of Existing Lease. Modification or amendment of an existing lease will be processed in the same manner as a new lease application, but no fee will be required. Modification or amendment includes change of use, location, size or scope of the lease site, but does not include ordinary maintenance, repair or replacement of existing structures or facilities. (3-29-10)

03. Modification of Interior Facilities. If the proposed changes to a facility do not require a new encroachment permit, a lease modification may still be needed as described in Subsection 050.02 of these rules. The lessee must give written notice to the Department at least ten (10) days in advance of making such changes. The Department will determine if a lease modification is needed due to the proposed changes. When requested, the lessee must also furnish one (1) set of as-built plans to the Department within thirty (30) days following completion of changes. (3-29-10)

051. -- 054. (RESERVED)

055. ASSIGNMENTS, ASSIGNMENT FEE.

01. Assignment of Lease. Leases may be assigned upon approval of the Director provided that the lease conforms with Subsection 025.02 and all other provisions of these rules. The assignor and assignee must complete the Department's standard assignment form and forward it to any Department office. (7-1-97)

02. Assignment Fee. The assignment fee is one hundred fifty dollars ($150). (3-26-08)

03. Permit Assignment. The encroachment permit/stream alteration permit pertinent to a lease must be assigned to a purchaser simultaneously with a lease assignment. A lease assignment will not be approved unless the permit is assigned. (3-26-08)

04. Approval Required for Assignment. An assignment is not valid until it has been approved by the Director. (7-1-97)

056. -- 059. (RESERVED)

060. CANCELLATION AND ADDITIONAL REMEDIES.

01. Cancellation of Lease for Violation of Terms. Any violation of the terms of the lease by the lessee, including non-payment of rent or any violation by lessee of any rule now in force or hereafter adopted by the Board may subject the lease to cancellation. The lessee will be provided written notification of any violation. The letter will specify the violation, corrective action necessary, and specify a reasonable time to make the correction. If the corrective action is not taken within the specified reasonable period of time, the Department will notify the lessee of cancellation of the lease; provided, however, that the notice is provided to lessee no later than thirty (30) days prior to the effective date of such cancellation. (7-1-97)

02. Reinstatement of Lease. A lease may be reinstated within ninety (90) days after cancellation for

non-payment by paying the rental, plus interest, and a reinstatement fee to be determined by the Board. (3-26-08)

03. Cancellation of Lease for Use Other Than Intended Purpose. A lease not used for the purpose for which it was granted may be canceled. The Department will notify the lessee in writing of any proposed cancellation. The lessee has thirty (30) days to reply in writing to the Department to show cause why the lease should not be canceled. Within sixty (60) days, the Department will notify the lessee in writing as to the Department's decision concerning cancellation. The lessee has thirty (30) days to appeal an adverse decision to the Director. (7-1-97)

04. Removal of Improvements Upon Cancellation. Upon cancellation, the Director will provide the lessee with a specific amount of time, not to exceed six (6) months from the date of final notice, to remove any facilities and improvements. Failure to remove any facilities or structures within such time period established by the Director will be deemed a trespass on submerged or formerly submerged lands. (7-1-97)

05. Additional Remedies Available. In addition to termination of the lease for the material default of the lessee, the lease may provide for other remedies to non-monetary breach of the lease including, but not limited to: (3-26-08)

a. Civil penalties as determined by the Board and to be collected as additional rent; (3-26-08)

b. The reasonable costs of remedial action undertaken by the Department as a result of the lessee's failure to perform a requirement of the lease. These costs will be collected as additional rent; and (3-26-08)

c. Such other remedies as the Board deems appropriate. (3-26-08)

061. -- 064. (RESERVED)

065. BOND.

01. Bond Requirement Determined by Director. Bonds may be required for commercial navigational, community dock, and nonnavigational leases. The need for bond will be at the discretion of the Director who will consider the potential for abandonment of the facility, harm to state-owned submerged land and water resources, the personal and real property of adjacent upland owners and the personal and real property owned by the encroachment owner that is appurtenant to and supportive of the encroachment. (3-26-08)

02. Performance Bond. In the event a bond is necessary, the lessee must submit a performance bond in favor of the state of Idaho and in a format acceptable to the Director before a lease is issued. Acceptable bonds include surety, collateral, and letters of credit. The amount of bond is the estimated cost of restoration as established by the Director in consultation with the lease applicant on a case by case basis. To determine restoration costs, the Director may consider the potential for damage to land, to improvements, and the cost of structure removal. (7-1-97)

066. -- 069. (RESERVED)

070. LIABILITY AND INDEMNITY.
A lessee will indemnify and hold harmless the lessors, its departments, agencies and employees for any and all claims, actions, damages, costs, and expenses that may arise by reason of lessee's occupation of the leased premises, or the occupation of the leased premises by any of the lessee's agents, or by any person occupying the same with the lessee's permission. (7-1-97)

071. -- 074. (RESERVED)

075. OTHER RULES AND LAWS.
The lessee will comply with all applicable state, federal, and local rules and laws insofar as they affect the use of the lands described in the lease. (3-26-08)

076. -- 079. (RESERVED)

080. BINDING ON HEIRS.
All of the terms, covenants, and conditions in a state lease are binding upon the heirs, executors, and assigns of the lessee. (7-1-97)

081. -- 084. (RESERVED)

085. CIVIL RIGHTS.
The lessee may not discriminate against any person on the basis of such person's race, creed, color, sex, national origin or handicap. (7-1-97)

086. -- 999. (RESERVED)

20.04.02 – RULES PERTAINING TO THE IDAHO FORESTRY ACT AND FIRE HAZARD REDUCTION LAWS

000. LEGAL AUTHORITY.
These rules are adopted pursuant to the rulemaking authority granted in Sections 38-132 and 38-402, Idaho Code.
( )

001. TITLE AND SCOPE.

01. Title. *These rules are titled IDAPA 20.04.02, "Rules Pertaining to the Idaho Forestry and Fire Hazard Reduction Law."* *( )*

02. Scope. *These rules implement the provisions of the Idaho Forestry Act and Fire Hazard Reduction Laws.* *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
Unless otherwise required by context, as used in these rules: (3-1-88)

01. Agreement. The Certificate of Compliance-Fire Hazard Management Agreement (Department of Lands Form 715) required by Section 38-122, Idaho Code. (3-1-88)

02. Contract Area. The legal description of the land given on the agreement. (3-1-88)

03. Contractor. The person who enters into the Certificate of Compliance-Fire Hazard Management Agreement. (3-1-88)

04. Department. The Idaho Department of Lands. (3-1-88)

05. Director. The Director of the Idaho Department of Lands or his authorized representative. (3-1-88)

06. District. A designated forest protective district. (3-1-88)

07. Fire Line. A line dug to mineral soil which is intended to control a fire. (3-1-88)

08. Fire Warden. A duly appointed fire warden or deputy. (3-1-88)

09. Fuel. Any slash or woody debris that will contribute to the spread or intensity of a wildfire. (3-1-88)

10. Fuel Break. An area in which all slash and dead woody debris have been removed or piled and burned. (3-1-88)

11. Hazard Reduction. The burning or physical reduction of fire hazards by treatment in a manner that will reduce the intensity and/or spread of a wildfire after treatment is completed. (3-1-88)

12. Initial Purchaser or Purchaser. The first person, company, partnership, corporation or association of whatever nature who purchases a forest product after it is harvested. (3-1-88)

13. Operational Period. A standard twelve (12) hour fire control shift. (3-1-88)

14. Slash or Slashing. Brush, severed limbs, poles, tops and/or other waste material incident to such cutting or to the clearing of land, which are four (4) inches and under in diameter. However, for the purpose of these rules and to correspond with standard fire classifications, slash will only include material less than or equal to three (3) inches in diameter. (3-1-88)

15. Slash Load. Slash resulting from timber harvesting that has occurred under a current agreement, exclusive of natural mortality. (3-1-88)

16. State. The state of Idaho. (3-1-88)

011. -- 029. (RESERVED)

030. CERTIFICATE OF COMPLIANCE-FIRE HAZARD MANAGEMENT AGREEMENT.

01. Contents. A Certificate of Compliance-Fire Hazard Management Agreement must be obtained by anyone who conducts an operation involving the harvesting of forest products or potential forest products. Such Agreement provides the option of entering into a contract as provided in Section 38-404, Idaho Code or posting of a cash or surety bond to the State. The Certificate of Compliance required by Section 38-122, Idaho Code, msut be in substantially the same form as Department of Lands Form No. 715 -- "Certificate of Compliance-Fire Hazard Management Agreement." (3-1-88)

02. Period of Time. The period set forth within the Agreement is based upon such considerations as the size of the contract area, the volume of the timber to be harvested or the silvicultural objectives of the landowner. However, in no case may a single Agreement exceed a period of twenty four (24) months unless the contractor and the fire warden mutually agree upon a plan for the timely abatement of the hazard during a period that may exceed twenty four (24) months. (3-1-88)

03. Extensions. If the contractor cannot meet the standard required to obtain a clearance within the period specified above, the contractor may apply to the fire warden for an extension. The application must be in writing, received at the district office thirty (30) working days before the Agreement expires, and show good reason other than financial hardship, why an extension should be given. The fire warden will acknowledge receipt of the request prior to the expiration of the Agreement. (3-1-88)

04. Responsibility. The contractor named in the Agreement will be responsible for managing the fire hazard created by the harvesting and will receive the clearance if the slash treatment meets standards, or will carry the liability for suppressing wildfire for five (5) full years following the expiration of the Agreement. (3-1-88)

031. -- 039. (RESERVED)

040. ADDENDUM TO CERTIFICATE OF COMPLIANCE-FIRE HAZARD MANAGEMENT AGREEMENT.
In those instances where a contractor indicates an intent to accomplish only the piling portion of the total slash hazard reduction job, an addendum to the Agreement must be executed specifying precisely the portion of slash withholding money that will be refunded. The addendum must be in substantially the same form as Department of Lands Form No. 715.1 -- "Addendum to Certificate of Compliance-Fire Hazard Management Agreement." (3-1-88)

041. -- 049. (RESERVED)

050. BOND.

01. Amount of Bond. The bond specified in Section 38-122 and Section 38-404, Idaho Code, must be in the amount of four dollars ($4) per thousand board feet (MBF), or equivalent measure as shown in Table I below, of forest products harvested, and may take the form of cash, surety bond or irrevocable letter of credit. Surety bonds must be in substantially the same form as Department of Lands Form No. 707 - "Bond." (3-1-88)

02. Rates. Rates and amounts listed in Table I will be used as a minimum in calculating hazard reduction bonds for products cut from all state and private lands in Idaho.

TABLE I

PRODUCT	BOND RATE
(1) MBF Measurement	
All Products	$4.00 MBF
OR	

PRODUCT	BOND RATE
(2) Other Measurement	
Green pulp, stud timber, etc.	$2.00 Cord
Lineal Foot Measure	
Utility poles and pilings, all species	$.014 LF
Stulls, corral poles, cellar timbers, fence rails, round posts	$.01 LF
Piece Measure	
100 inch bolt material	$.08 ea.
Split posts	$.02 ea.
Tree stakes	$.02 ea.
Shake boards	$.02 ea.
Ton Measurement	
Green or Dead Pulp, Chips, etc.	$.70 Ton

(7-1-93)

03. Exceeding Minimum Bond. The minimum bond rate will only be exceeded when the landowner or operator requests that higher rate to accomplish additional hazard reduction. (3-1-88)

051. -- 059. (RESERVED)

060. CONTRACTS WITH FOREST LANDOWNERS OR OPERATORS.
Forest landowners and operators who engage in timber harvesting operations may enter into an optional Agreement with the Director as provided in Section 38-404, Idaho Code. Under the terms of such an optional Agreement, the Director may assume all responsibility for the management and reduction of fire hazards to be created in return for a stipulated amount to be paid to the Director by the landowner or operator. Such optional Agreement must be in substantially the same form as Department of Lands Form No. 720 -- "Contract for Management, Reduction and/or Removal of Fire Hazards Created by the Harvesting of Timber Within the State of Idaho," or Department of Lands Form No 725 - "Contract for Management of Fire Hazards Created By the Harvesting of Timber Within the State of Idaho." (3-1-88)

061. -- 069. (RESERVED)

070. CASH BOND RELEASE.
Contractors who elect under Section 38-122, Idaho Code, to have hazard reduction money withheld, but who do not intend to dispose of the hazard themselves, must release the withheld monies to the Director of the Department of Lands. Such release must be in substantially the same form as Department of Lands Form No. 761 -- "Release of Cash Bond Withheld to Assure Slash Disposal." (3-1-88)

071. -- 079. (RESERVED)

080. ADDED PROTECTION IN LIEU OF HAZARD REDUCTION.
As provided in Section 38-401, Idaho Code, fire hazard management methods may include or be limited to the taking of additional protective measures in lieu of actual disposal of the slash hazard. Any funds coming into district hazard management accounts through contract, cash bond release or forfeiture, may be used for added protection provided that the expenditure meets specifications outlined in Section 38-401, Idaho Code. (3-1-88)

081. -- 089. (RESERVED)

090. PURCHASER REQUIREMENTS.

01. Initial Purchaser. Initial purchasers of forest products, in accordance with Section 38-122, Idaho Code, must withhold and remit to the State slash management monies as appropriate for the slash management option chosen by the contractor. Such option must be clearly identified on the purchaser's copy of the Agreement. Slash monies withheld in any one (1) calendar month must be remitted to the Director on or before the end of the next calendar month. Such remittance must be in substantially the same form as Department of Lands Form No. 740 -- "Hazard Reduction Payment Record." (3-1-88)

02. Duty of Initial Purchaser. Initial purchasers of forest products must make certain that all contractors from whom they purchase forest products have obtained a proper Agreement. (3-1-88)

091. -- 099. (RESERVED)

100. INJUNCTION AGAINST FURTHER CUTTING.
Any person who cuts timber or other forest products of any kind, without having first secured an Agreement in accordance with Section 38-122, Idaho Code, may be enjoined from continuing such cutting and will be required to immediately dispose of all slash created. If the person responsible fails to properly dispose of the slash within thirty (30) days after being notified to do so, the State may dispose of the slash and such costs of disposal, plus twenty percent (20%) as a penalty, may be collected as a prior lien against the products harvested. (3-1-88)

101. -- 109. (RESERVED)

110. BURNING OF SLASH.

01. Permits. Any burning operation conducted for the purpose of hazard reduction must be in accordance with the law requiring burning permits during the closed fire season. Persons conducting burning operations must have sufficient men, tools and equipment on hand to immediately stop the uncontrolled spread of any fire. Burning operations must be planned, prepared and executed in such a manner that forest resources are not damaged and air quality standards are met. (3-1-88)

02. Burn Plan. Burning of specifically designated blocks or areas of forest land for any purpose must be conducted in accordance with a prescribed burn plan approved by the fire warden in whose area of responsibility the burn occurs. (3-1-88)

111. -- 119. (RESERVED)

120. STANDARDS -- TREATMENT OF HAZARDS.

01. Purpose. To provide standards for hazard reduction and the release of liability for the contractor who is working under a valid Agreement with the State. (3-1-88)

02. Reduction of Total Hazard Points. The contractor must reduce the total hazard points charged against the contract area to five (5) points or less (see Table II) on or before the expiration date on the Agreement in order to receive a refund of slash monies withheld (less three (3) percent for the fire suppression fund, ref. Rule150) or, to clear any demands that might be made against the surety bond and to receive a release of liability against any fires that start on or pass through the contract area.

TABLE II

HAZARD CHARACTERISTICS AND OFFSET SLASH LOAD MAXIMUM 20 POINTS	
RATING (POINTS)	**ADJECTIVE DESCRIPTION**
LOW (0-5)	Associated with low harvest volumes per acre such as; selection cutting, light commercial thinning, sanitation/salvage operations, tree length skidding with tops and limbs and little or no breakage. Slash is broken up; slash is in many islands over the operating area.
MODERATE (6-10)	Operation types similar to those listed above except that harvest volume per acre is higher or utilization standards are lower, or timber has higher proportion of unusable top and crown (commonly associated with partial cutting in second growth stands of mixed timber). Most diameter limit cutting falls in this category. Slash is distributed with some clear or very light areas intermingled with heavy islands of slash over the operating area, slash is not continuous.
HIGH (11-15)	Usually associated with regeneration harvest methods such as shelterwood, seed tree and most clearcuts, or any partial cut with a high harvest volume per acre. Slash is nearly continuous through the operating area frequently with heavier islands intermingled with light continuous slash.
EXTREME (16-20)	Any operation with very high cut volume, and/or low utilization standards, and/or many slashed or broken stems. Slash is continuous over the operating area with few light areas.
TECHNICAL SPECIFICATIONS	
LOW (0-5)	Slash load less than or equal to 3 inch diameter materials not to exceed 3.0 tons/acre.
MODERATE (6-10)	Slash load less than or equal to 3 inch diameter materials greater than 3.0 tons/acre but less than 6.0 tons/acre.
HIGH (11-15)	Slash load less than or equal to 3 inch diameter materials greater than 6.0 tons/acre but less than 12.0 tons/acre.
EXTREME (16-20)	Slash load less than or equal to 3 inch diameter materials exceeds 12.0 tons/acre.

Slash loads can be determined by using any standard photo series appropriate for the habitat type represented by the contract area, or by using USDA Forest Service General Technical Report INT-16, 1974 (HANDBOOK FOR INVENTORYING DOWNED WOODY MATERIAL). If the contractor insists upon the latter, sampling intensity will be one (1) point per two (2) acres through the area in question. The inventory cost is paid by the contractor. All slash made available as a result of the current harvest will be included in the inventory except that slash that has been piled and will be burned by the contractor before the expiration date on the Agreement or such extensions granted by the fire warden.

SITE FACTORS - MAXIMUM 10 POINTS						
ASPECT	**PERCENT SLOPE**					
	0-10	**11-20**	**21-30**	**31-40**	**41-50**	**>50**
N-NE	0	0	1	2	4	5
E,NW	0	0	1	3	6	7
W,SE	0	1	2	5	8	9
S-SW	1	2	4	7	9	10

UNIT SIZE - MAXIMUM 5 POINTS						
ACRES	**<40**	**40-160**	**161-320**	**321-480**	**481-640**	**>640**
PT VALUE	0	1	2	3	4	5

OTHER FACTORS - MAXIMUM 7 POINTS	
Pre-existing slash from operations in the past five years	0-2
Proximity to structures, highways and recreational areas (e.g., parks, established campgrounds, etc).	Add Points
330 feet	5
660 feet	4
990 feet	3
1320 feet	2
2640 feet	1

In applying offset points to large, complex contract areas, or contract areas with highly variable hazard characteristics, hazard offset techniques must first be applied toward that portion of the contract area which will do the most to reduce the hazard by optimizing fire control effects.

HAZARD OFFSETS		
ALL POINTS ARE DEDUCTIONS		
DISPOSAL	Piling and Burning, Broadcast Burning, etc.	0-42
If disposal reduces slash load in the contract area to <3 tons, deduct hazard points to five (5) or less. If disposal does not reduce slash load to that level, points should be assigned as a proportion of the area treated. For example, if twenty-five percent (25%) of the area is dozer piled and the piles burned, but the slash load in the contract area still exceeds three (3) tons, twenty-five percent (25%) of the total points charged against the job should be deducted. However, if the disposal effectively isolates the untreated portion of the slash, or is otherwise placed to optimize fire control effects the proportion of points deducted may be increased to an amount to be determined by the district fire warden.		
MODIFICATION:	Chipping	0-42
	Crushing	0-20
	Lopping	0-10
Lopping standards: All material less than three (3) inches in diameter will be cut so that it does not extend more than twenty (20) inches of the mean height above the ground. In addition, all boles greater than three (3) inches in diameter intersecting another bole will be completely severed.		
Assign points as a proportion of the contract area treated.		
ISOLATION	Fuel Breaks	0-20

HAZARD OFFSETS	
ALL POINTS ARE DEDUCTIONS	
To qualify as a fuel break, all slash and available fuels (Ref. Subsection 010.10) must be removed, or piled and burned, or treated sufficiently to prevent a fire from carrying through the area, for a minimum width of one chain (66 feet). In addition, the breaks must be placed to take advantage of terrain, manmade or natural barriers and to provide for optimum fire control effect.	
Fire Lines	0-5
All vegetative material must be removed to expose mineral soil. Minimum width of dozer line must be the width of the dozer blade with all dirt pushed in one direction and all vegetative debris to the other. Handlines must be eighteen (18) inches wide; additionally all fuels must be cleared for eight (8) feet. Lines must be tied to an anchor point except that they are not required to be built through a riparian management zone. In addition, the lines must be placed to take advantage of terrain, manmade or natural barriers, and to provide for optimum fire control effect. Maximum points allowed only if combined with an approved fuel break.	

ASSIGNING POINTS FOR ISOLATION			
Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met and the total isolation points do not exceed 25 offset points.			
ACTIVITY	**FUEL BREAK ONLY**	**FIRE LINE ONLY**	**BOTH**
Isolates contract area into subunits:			
A. Partial isolation or incomplete units	1-5	1	1-6
B. Complete isolation of area into 1 to 2 subunits	6-10	2	6-12
C. Complete isolation of area into 3 to 5 subunits	11-15	3	11-18
D. Complete isolation of area into 6 or more subunits	16-20	4	16-25
OR			
Isolates contract area from adjacent stands:			
A. One third of the contract area boundary isolated	1-5	1	1-6
B. Two thirds of the contract area boundary isolated	6-10	2	6-12
C. Entire contract area boundary isolated	11-15	3	11-18
ACCESS CONTROL	0-2		
Locked gate system controls access on all secondary roads with slash treated on main road			1
Locked gate system controls all road access into unit			2
AVAILABILITY OF WATER			0-3
The water supply must provide water availability for engines within one road mile of operating area or within three air miles for helicopter bucket use. The water supply must be sufficient to supply 10,000 gallons in an operational period during the fire season.			
Water supply for engine only or helicopter only (capacity 10,000 gallons during fire season).			1

ASSIGNING POINTS FOR ISOLATION			
Isolation techniques will usually be used to break the area into subunits or isolate the area from adjacent stands. Hazard offsets can be deducted for both if, in the opinion of the fire warden, both objectives are met and the total isolation points do not exceed 25 offset points.			
ACTIVITY	**FUEL BREAK ONLY**	**FIRE LINE ONLY**	**BOTH**
Water supply for engine and helicopter (capacity 10,000 gallons) or; for engine or helicopter and which replenishes itself every operational period.			2
Water supply for engine and helicopter which replenishes itself every operational period.			3

(7-1-97)

121. -- 129. (RESERVED)

130. LIABILITY.

01. State Liability. With the exception of cases of negligence on the part of the landowner, operator or their agents, liability for the cost of suppressing fires that originate on or pass through a slashing area remains with the State if one of the following alternatives is executed by the contractor: (3-1-88)

a. The contract area is covered by a Certificate of Compliance-Fire Hazard Management Agreement and all hazard money payments are current or a proper bond is in place. (3-1-88)

b. The contractor treats the slash in accordance with the standards outlined in the Section 120, Table II within the time period specified on the Agreement or approved extensions. (3-1-88)

c. The landowner or operator elects to enter into a contract with the State for management of the slash and liability of fire suppression costs in accordance with Section 38-404, Idaho Code. (3-1-88)

02. Contractor Liability. Should the contractor choose not to treat the slash or not enter into a contract with the State in accordance with Subsection 130.01, the contractor, in addition to forfeiting any applicable bond, is liable for fire suppression costs for all fires that originate on or pass through the contractor's slashing area. The contractor retains the full liability for five (5) years from the time the Agreement or any extension thereof expires, unless a clearance has been issued. (3-1-88)

03. Failure to Treat. Any contractor who fails to treat the fire hazard as outlined in Subsection 130.02, is liable for the actual costs of suppressing any wildfire that may occur on or pass through the area covered by the Agreement for an amount up to two hundred fifty thousand dollars ($250,000). If the same wildfire occurs on or passes through several areas covered by separate agreements or if several Agreements cover the same area, the contractor is liable for the actual cost of suppression up to one million dollars ($1,000,000). If a wildfire occurs on or passes through an area covered by separate Agreements with different contractors, the actual cost of suppression up to one million dollars ($1,000,000) will be shared by the contractors prorated on acreage included in their Agreements. (3-1-88)

04. Fees. Upon payment of the fees set forth in Table III, the State will assume liability for the cost of suppressing fires that originate on or pass through the contract area.

TABLE III - ADDITIONAL FEE TO TRANSFER LIABILITY BY HAZARD POINTS	
POINTS	**RATE**
6-10	$1.00/MBF
11-20	$2.00/MBF
21-30	$3.00/MBF
>30	$4.00/MBF

Additional fee rates for measurement other than board foot measurement are available upon request from any Department of Lands office. (3-1-88)

05. Additional Fee. If the contractor is unable to reduce the hazard points on a contract area to the standards required for a clearance, but has completed some hazard reduction work, that contractor can discharge the remainder of his hazard obligation by returning a portion of his bond to the district and paying an additional fee to transfer liability. Use the following formula: [One minus (the acceptable hazard point or five, divided by the residual, or untreated hazard points)] multiply that ratio times the slash rate. This dollar amount should be multiplied by the total volume removed from the contract area. Add to that the additional fee to transfer liability (for the untreated hazard points, from Table III) times the total volume. When this amount is paid to the State the contract area can be cleared. Which can also be expressed as:

(1-(5/U)) * B * V + (A*V) = Formula to transfer liability for a partially completed job.

Where:

U = Untreated or residual hazard points
B = Bond rate (usually $4.00 MBF) Ref. Section 050, Table I
A = Additional fee to transfer liability, Table III
V = Total volume removed from the contract areas

(3-1-88)

131. -- 139. (RESERVED)

140. CERTIFICATE OF CLEARANCE.
The Certificate of Clearance is the instrument used to certify that hazard reduction has been accomplished, a contract entered into with the Director to ensure hazard management, or an additional fee has been paid. Anyone who has been issued an Agreement for the cutting of any forest product or potential forest product and who has met standards outlined in Section 120, or has made payment for hazard reduction under a contract with the Director, as provided in Section 38-404, Idaho Code, or has paid an additional fee in accordance with Section 38-122, Idaho Code, must apply in writing to the Director for a Certificate of Clearance. Within thirty (30) days after receipt of such written request for a Certificate of Clearance, the Director will cause the area covered by the request to be inspected. If it is found that the fire hazard has been properly disposed of, the Director will issue a Certificate of Clearance. The Certificate of Clearance must be substantially the same form as Department of Lands Form No. 760 - "Certificate of Clearance."
(3-1-88)

141. -- 149. (RESERVED)

150. FIRE SUPPRESSION AND FOREST PRACTICES ASSESSMENT.

01. Withholding. An amount of three percent (3%) of the slash management rate (twelve cents ($.12)/ MBF) will be withheld from all slash management monies received and dedicated to suppression of wildfires on forest lands. For harvest from private land, an additional amount not to exceed three percent (3%) of the slash

management rate (twelve cents ($.12)/MBF) can be withheld from slash management monies received and will be dedicated to Forest Practices support on forest lands. (7-1-97)

02. Assessment Costs. Fire suppression assessment costs on operations covered by surety bond or irrevocable letter of credit or other form of bond is paid at the rate specified in Subsection 150.01. (7-1-97)

151. -- 159. (RESERVED)

160. PRELOGGING CONFERENCE AND AGREEMENT.
Prelogging conferences and hazard reduction agreements are encouraged, however, the hazard reduction agreement will be canceled or modified if significant operational changes occur during the harvesting of forest products or potential forest products. (3-1-88)

161. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Section 38-1208, Idaho Code, the Board has the power to adopt and amend rules. (4-15-98)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.06.01, "Rules of the Idaho Board of Scaling Practices." (5-8-09)

02. Scope. These rules constitute the levy of assessment, payment for logging and hauling, licensing standards and renewals, method of scaling forest products for commercial purposes, check scaling operations, and informal hearings. (5-8-09)

002. INCORPORATION BY REFERENCE.

01. Incorporated Document. The "Idaho Log Scaling Manual," 2008 Edition, published by the Idaho Board of Scaling Practices is herein incorporated by reference. (5-8-09)

02. Availability of Referenced Documents. The "Idaho Log Scaling Manual," 2008 Edition, is available on the *Board's* website at http://www.ibsp.idaho.gov/. *( )*

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho Board of Scaling Practices. (5-8-09)

02. Check Scaling. The comparison of scaling practices between a Board-appointed check scaler and any other scaler. (4-15-98)

03. Combination Log. Any multiple-segment log involving more than one (1) product classification. (4-15-98)

04. Complaint. A written statement alleging a violation of the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. (3-20-04)

05. Complainant. A person or entity who submits a complaint to the Board. (3-20-04)

06. Cubic Volume. A log rule that uses cubic feet as its basic unit of measure, determined on the basis of a mathematical formula. *( )*

07. Decimal "C." A log rule that uses tens of board feet as its basic unit of measure; one (1) decimal "C" equals ten (10) board feet. The Idaho Scribner decimal "C" volumes as listed in the Appendix of the "Idaho Log Scaling Manual." (5-8-09)

08. Gross Scale. The log rule volume of timber products before deductions are made for defects. (4-15-98)

09. **Informal Hearing**. Any hearing before the Board of Scaling Practices, as opposed to a formal hearing before a hearing officer designated by the Board. (3-20-04)

10. **Log Brands**. A unique symbol or mark placed on or in forest products for the purpose of identifying ownership. (4-15-98)

11. **Net Scale**. The remaining log rule volume of timber products after deductions are made for defects, based on the product classification that is used. (4-15-98)

12. **Official Seal**. An official seal of the Idaho Board of Scaling Practices is hereby adopted. The seal must be round, of a diameter of at least one and one-half inches (1-1/2"), and so constructed that it may readily be imprinted on paper. (4-15-98)

13. **Prize Logs**. As described in Section 38-809, Idaho Code. (4-15-98)

14. **Product Classification**. Classification as sawlog, pulp log, or cedar products log for purposes of net scale determination or check scaling. (5-8-09)

15. **Purchaser**. The principal individual, partnership, or corporation entitled to ownership at the first determination of scale for forest products harvested in Idaho. Purchaser also includes the owner of the timber as provided in Section 38-1209(b), Idaho Code. (4-15-98)

16. **Requested Check Scale**. A check scale performed pursuant to Section 820 of these rules. (4-15-98)

17. **Relicense Check Scale**. A check scale requested and scheduled in advance, by a licensed scaler, for purposes of license renewal. (4-15-98)

18. **Routine Check Scale**. A check scale that is not a relicense, temporary permit, or requested check scale. (4-15-98)

19. **Respondent**. The person or entity accused of violating the Idaho Scaling Law, Title 38, Chapter 12, Idaho Code. (3-20-04)

20. **Temporary Permit Check Scale**. A check scale performed pursuant to provisions of Section 240 of these rules. (4-15-98)

21. **Written Scaling Specifications**. A written document provided to the scaler that states the information necessary to scale logs in accordance with a contractual scaling agreement. (4-15-98)

011. -- 049. (RESERVED)

050. ASSESSMENT.
In accordance with provisions of Section 38-1209, Idaho Code, the Board is authorized and directed to levy an assessment. (4-15-98)

01. **Purchaser**. The purchaser, as defined in Subsection 010.15, pays the assessment levied by the Board. (3-20-04)

02. **Assessment**. The assessment must be transmitted to the Board on or before the twentieth (20th) day of each month for all timber harvested during the previous month. Forms provided by the Board must be completed and submitted with the assessment. (4-15-98)

03. **Weight**. On forest products harvested and purchased solely on the basis of weight, no levy of assessment is applicable. (4-15-98)

051. -- 059. (RESERVED)

060. LOG BRANDS.
In accordance with the provisions of Section 38-808, Idaho Code, the Board is responsible for approval and registration of all log brands. (4-15-98)

01. **Applications**. All applications for log brands or renewals must be submitted and approved prior to use. (4-15-98)

02. **Fees**. Log brand registration, renewal, and transfer of ownership fees are twenty-five dollars ($25) for each log brand. (4-15-98)

061. -- 069. (RESERVED)

070. PRIZE LOGS.
In accordance with provisions of Section 38-809, Idaho Code, the Board is responsible for the disposition of prize logs. (4-15-98)

071. -- 099. (RESERVED)

100. PAYMENT FOR LOGGING OR HAULING.
Provisions of Section 38-1220(b), Idaho Code, govern payment for logging or hauling. (3-20-04)

01. Gross Scale Determination. Gross scale is determined by the methodology stated in Chapter Two (2) of the "Idaho Log Scaling Manual." (5-8-09)

02. Compliance with Gross Scale Determination. Notwithstanding the methodology criteria contained in the "Idaho Log Scaling Manual," compliance will be determined to have been met when check scale results on gross scale comparisons are within allowable standards of variation as provided in these rules. (5-8-09)

101. -- 199. (RESERVED)

200. LICENSES.

01. Application Form. Application for a scaling license is made on a form prescribed and furnished by the Board. (4-15-98)

02. Revocation or Suspension for Incompetency. If check scale results on three (3) occasions in any twelve (12) month period are found unacceptable based on standards of variation established under Section 810, the scaler's license may be revoked or suspended as provided in Section 38-1218, Idaho Code. (4-15-98)

201. -- 219. (RESERVED)

220. APPRENTICESHIP CERTIFICATE.

01. General. *Is* issued at no charge to those individuals with no previous scaling experience who wish to practice scaling techniques in view of becoming a licensed scaler. *( )*

02. Procedure to Obtain Certificate. After submitting the application form, a candidate will be required to take the written examination. Upon passing the written examination, the Apprenticeship Certificate will then be issued. (4-15-98)

03. Regulations Governing Use of Certificate. The apprentice is authorized to scale only under the direct supervision of a licensed scaler. The scale determined by the apprentice will, under no circumstances, be used as the sole basis for payment. (4-15-98)

221. -- 239. (RESERVED)

240. TEMPORARY PERMIT.

01. General. *Is* issued for a period of time, not to exceed three (3) months, to individuals with previous scaling experience who need to scale for commercial purposes. *( )*

02. Procedure to Obtain. Submit the application form; remit the required twenty-five dollar ($25) fee; submit a letter from the employer requesting the temporary permit and identifying where the permittee would be scaling; take and pass the written portion of the scaler's examination, and demonstrate practical scaling abilities in the form of an acceptable check scale. (4-15-98)

03. Regulations Governing Use of Temporary Permit. (4-15-98)

a. Permits expire the date of the next practical examination in the area or three (3) months from the date of issuance, whichever comes first. The scale determined by the holder of a temporary permit may be used as a

basis for payment. (4-15-98)

b. Should the holder of a temporary permit fail to appear to take the practical portion of the scaler's examination after being notified in writing of the time and place of said examination, the temporary permit will be canceled. (4-15-98)

c. Temporary permits will not be issued to applicants or relicensees who have failed the practical examination two (2) or more times until thirty (30) days following the individual's last exam failure. (4-15-98)

241. -- 259. (RESERVED)

260. SPECIALTY LICENSE.

01. General. *Is* issued to handle situations where the applicant would not be required to possess the exacting skills needed to scale sawlogs. *( )*

02. Procedure to Obtain. Submit the application form, remit the required twenty-five dollar ($25) fee, submit a letter from the employer describing scaling that would justify the issuance of a specialty license. and successfully complete the examination as may be devised by the Board. (4-15-98)

03. Regulations Governing Use of Specialty License. The holder is only allowed to scale the products specified on the individual's license. (4-15-98)

261. -- 279. (RESERVED)

280. STANDARD LICENSE.

01. General. *Is* issued to individuals who demonstrate competency in scaling principles and techniques. *( )*

02. Procedure to Obtain. Submit the application form, remit the required twenty-five dollar ($25) fee, and take and pass the examination as described under Section 300. (4-15-98)

03. Regulations Governing Use of Standard License. The holder is qualified to scale all species and products. (4-15-98)

281. -- 299. (RESERVED)

300. STANDARD LICENSE EXAMINATION.
To be taken by all persons applying for the standard license. (4-15-98)

01. Written Examination. (4-15-98)

a. Will be based upon Chapters 1, 2, and 3 of the "Idaho Log Scaling Manual." (5-8-09)

b. Any score of seventy percent (70%) or better is a passing grade. (4-15-98)

c. The written test must be taken and passed before the practical examination can be attempted. (4-15-98)

02. Practical Examination. (4-15-98)

a. The practical examination for a scaler's license will consist of scaling a minimum of not less than two hundred (200) logs with a net decimal "C" scale determination for sawlogs of not less than twenty thousand (20,000) board feet, or not less than fifteen thousand (15,000) board feet in the southeast Idaho area. (4-15-98)

b. The logs will first be scaled by three (3) qualified check scalers, except the southeast Idaho area

will be two (2) or more qualified check scalers, and the agreed-upon results will be the basis for grading the examination. (4-15-98)

c. To obtain a passing grade, a scaler must be within allowable limits of variation in the following categories:

CATEGORY		ALLOWABLE VARIATION
Gross Volume	For logs in round form	+/- 2.0%
	For logs in fractional or slab form	+/- 5.0%
Net Volume	Check scale percent of defect on logs checked	
	Up to 10	+/- 2.0%
	10.1 to 15	+/- 3.0%
	15.1 to 20	+/- 0.2% for each percent of defect
	Over 20	+/- 5.0%
	Species identification errors	3.0%

(4-15-98)

301. -- 399. (RESERVED)

400. RENEWAL OF STANDARD AND SPECIALTY LICENSES.
For scalers who hold "Standard" and "Specialty" licenses, the process for renewal will consist of the following. (4-15-98)

01. To Renew a License by the Expiration Date. Receive an acceptable check scale performed by a Board check scaler and pay renewal fee of twenty-five dollars ($25). (4-15-98)

02. To Renew a License Within Two Years After The Expiration Date: (4-15-98)

a. Request and receive an acceptable check scale performed by a Board check scaler. When the check scale is unacceptable, the individual is required to reapply for the standard license. (4-15-98)

b. Pay renewal fee of twenty-five dollars ($25). (4-15-98)

03. To Renew a License More Than Two Years After The Expiration Date. An individual is required to reapply for the standard license. (4-15-98)

04. Option to a Check Scale for Standard License Renewal. A practical examination successfully completed may be used in-lieu-of a check scale for renewal. (4-15-98)

05. Option to a Check Scale for Specialty License Renewal. An examination as may be devised by the Board may be used in-lieu-of a check scale for renewal of specialty licenses. (4-15-98)

401. -- 499. (RESERVED)

500. METHOD OF SCALING FOREST PRODUCTS FOR COMMERCIAL PURPOSES.

01. Scribner Decimal "C". Log scaling by the Scribner decimal "C" method must be made according to scaling practices and procedures described in the "Idaho Log Scaling Manual" and Sections 501 through 504 of these rules. (5-8-09)

02. Cubic Volume. Log scaling by a cubic volume method must be made according to scaling practices and procedures agreed upon in writing between parties to a scaling agreement. (5-8-09)

03. Other Scaling Methods. Log scaling by any method other than Scribner decimal "C" or cubic volume will be considered and determined by the Board upon written request. (5-8-09)

501. GROSS VOLUME CONVERSIONS.

01. Conversion to Gross Decimal "C" or Gross Cubic Volume. Gross volume measurement determined in a manner other than decimal "C" or cubic volume will be converted to an equivalent decimal "C" or cubic volume gross scale. (5-8-09)

02. Conversion Factors. Measurement procedures and converting factors described in the Special Situations Measurement section, Chapter Two (2) of the "Idaho Log Scaling Manual," may be used to express decimal "C" board foot equivalents. (5-8-09)

03. Other Conversion Factors. Measurement procedures and converting factors not listed in the "Idaho Log Scaling Manual" will be considered and determined by the Board upon written request. (5-8-09)

502. GENERAL SCALING REQUIREMENTS.

01. Written Scaling Specifications. At any scaling site, licensed scalers will be provided with a written document that states the information necessary to scale logs in accordance with a contractual scaling agreement. (5-8-09)

02. Recording Measurements on Scale Tickets. For each log scaled, scalers must record a combination of data from which both gross and net volume can be derived. This data includes scaling length and scaling diameter(s). (5-8-09)

03. Load Identification. Scalers must ensure that all loads are readily identifiable upon completion of scaling. (5-8-09)

503. GROSS DECIMAL "C" SCALE DETERMINATION.
Contractual scaling agreements relating to determination of Scribner decimal "C" gross scale may not establish any scaling requirement that differs from those stated in the "Idaho Log Scaling Manual" except for a minimum top diameter that may be smaller than five and fifty-one hundredths inches (5.51") actual measure. Licensed scalers will be provided with written scaling specifications that denote any minimum top diameter that is smaller than five and fifty-one hundredths inches (5.51") actual measure. (5-8-09)

504. NET DECIMAL "C" SCALE DETERMINATION.
Contractual scaling agreements relating to determination of Scribner decimal "C" net scale may establish scaling requirements that differ from those stated in the "Idaho Log Scaling Manual." Licensed scalers will be provided with written scaling specifications that clearly describe any changes in net scale scaling practices. (5-8-09)

505. -- 799. (RESERVED)

800. CHECK SCALING PROCEDURES.

01. Valid Check Scale. (4-15-98)

a. Check scaling requires a minimum of fifty (50) logs containing a decimal "C" gross scale of at least ten thousand (10,000) board feet. When other methods of measurement are used, the check scaler will investigate the situation and determine the most logical method of check scaling. (4-15-98)

b. Check scaling will be performed without scaler's knowledge, when possible. (4-15-98)

c. Check scales are performed only on logs that are in the same position as presented to the scaler. (4-15-98)

d. Check scales will not be performed if the logs are not spread adequately enough, in the check scaler's discretion, to allow for accurate scaling. If these conditions arise, the check scaler makes a written report describing the conditions and surrounding circumstances. The Board will make a decision as to the disposition of these conditions and direct the check scaler accordingly. (4-15-98)

e. The check scaler must use the written scaling specifications that have been provided to the scaler. In the absence or omission of written scaling specifications, logs will be check scaled according to scaling methodology stated within the "Idaho Log Scaling Manual." (5-8-09)

02. Cooperative Scaling. Cooperative scaling involves two (2) scalers, using different scaling specifications, working together to determine the log scale volume. In these instances, each scaler is individually responsible for the scale recorded. (4-15-98)

03. Team Scaling. Team scaling is two (2) scalers, using the same scaling specifications, working together to determine the log scale volume. In these instances, both scalers are responsible for the scale recorded, except that if one (1) of the individuals is an apprentice scaler, the licensed scaler is responsible for the scale recorded. (4-15-98)

04. Holding Check Scale Log Loads. All log loads involved in an unacceptable check scale will be held at the point of the check scale until such time as the logs have been reviewed with the scaler, or for a period up to forty-eight (48) hours. (4-15-98)

a. During this period the load(s) may not be moved or tampered with in any way. (4-15-98)

b. The Board's check scaler *will mark* all loads that must be held, and notify the scaler and landing supervisors respectively. *( )*

801. -- 809. (RESERVED)

810. CHECK SCALING STANDARDS OF VARIATION.

01. Allowable Limits of Variation. To determine a check scale as acceptable or unacceptable for Board consideration, and when the method of measurement is the Coconino Scribner decimal C log rule, a scaler must be within allowable limits of variation in the following categories:

CATEGORY			ALLOWABLE VARIATION
Gross Volume		For logs in round form	+/- 2.0 percent
		For logs in fractional or slab form	+/- 5.0 percent
Net Volume	Sawlogs	Check scale percent of defect on logs checked	
		Up to 10	+/- 2.0 percent
		10.1 to 15	+/- 3.0 percent
		15.1 to 20	+/- 0.2 percent for each percent of defect
		Over 20	+/- 5.0 percent
	Pulp Logs		+/- 5.0 percent
	Cedar Product Logs		+/- 8.0 percent
		Species Identification Errors	3.0 percent
		Product Classification Errors	3.0 percent

(4-15-98)

02. Combination Logs. For purposes of determining product classification errors, combination logs are counted as one-half (1/2), one-third (1/3), one-fourth (1/4) -- depending on the number of scaling segments -- to arrive at a piece or log count variation. Combination logs will be considered only when provided for in a contractual scaling agreement or written scaling specifications. (4-15-98)

03. Check Scales Involving Multiple Variations. Some check scales will involve more than one (1) parameter of variation. The overall allowable limit of variation to determine acceptability or unacceptability of the total gross or net scales is determined by the following formula:

OAV	=	$\frac{(a \times E) + (b \times E) + (c \times F)}{(D + E + F)}$
OAV	=	overall allowable percentage variation
A	=	allowable percentage variation for gross/net sawlog scale
B	=	allowable percentage variation for gross/net pulp log scale
C	=	allowable percentage variation for gross/net cedar products scale
D	=	check scaler's gross/net sawlog scale
E	=	check scaler's gross/net pulp log scale
F	=	check scaler's gross/net cedar products log scale

(4-15-98)

811. -- 819. (RESERVED)

820. REQUESTED CHECK SCALE.
A check scale may be performed upon request of any individual, company, or corporation. (4-15-98)

01. Submission of Request. (4-15-98)

a. The request must be in writing and approved by the *Board's* executive director. *( )*

b. The request must be made by a party directly affected and involve disputes on scaling. (4-15-98)

02. Cost of a Requested Check Scale. The fee is two hundred dollars ($200) for each day, or part of a day, that the check scaler is scaling the logs. (4-15-98)

821. -- 829. (RESERVED)

830. CHECK SCALE REPORT.

01. Check Scale Results. The check scaler will make a report of his findings to the Board. (4-15-98)

02. Persons Entitled to a Copy of the Check Scale Report. (4-15-98)

a. Persons directly affected and entitled to a copy of the check scale report on temporary permits and relicensure check scales are the scaler and the scaler's employer(s). (4-15-98)

b. Persons directly affected and entitled to a copy of the check scale report on routine and requested check scales include the scaler, the scaler's employer(s), the scaler's supervisor(s), the logging contractor(s), or other persons directly affected by the check scale report as determined by the Board's executive director. (4-15-98)

831. -- 909. (RESERVED)

910. INFORMAL HEARINGS -- SCOPE AND AUTHORITY.

Sections 910 through 980 apply to all informal hearings before the Board. These rules are adopted pursuant to Sections 38-1208 and 67-5201, et seq., Idaho Code, and are intended to facilitate the Board in executing its duties and responsibilities under Title 38, Chapter 12, Idaho Code. These rules are construed to effectuate the intent of the legislature in adopting the Idaho Scaling Law in a reasonable, fair and expeditious manner. (3-20-04)

911. -- 919. (RESERVED)

920. COMPLAINTS.

01. Submittal of Complaint. *Is* submitted in writing in the name of the primary complainant. *( )*

02. Contents of Complaint. *Must* state: *( )*

a. The name and address of the person or entity actually aggrieved; (3-20-04)

b. A short and plain statement of the nature of the complaint, including the location and date of the alleged violation; (3-20-04)

c. The complainant's notarized signature; (3-20-04)

d. The complainant must submit written or documentary evidence in support of the alleged violation; and *( )*

e. In the case of a gross scale complaint, which alleges violations of Section 38-1220(b), Idaho Code, the complainant must also provide a readable copy of the contract, payment slips, and scale tickets for each transaction involved in the alleged complaint. (3-20-04)

921. -- 929. (RESERVED).

930. RESPONSE TO COMPLAINT.

01. Response. The respondent must submit to the Board a written response to the allegations of the complaint, with supporting evidence, within thirty (30) days after receiving a copy of the same from the Board. The Board will presume that the respondent received such complaint and evidence within three (3) days after mailing by the Board, unless the respondent submits evidence to the contrary to the Board. (3-20-04)

02. Consideration of Complaint. The Board will consider a complaint in its next meeting following the timely response of the respondent or the respondent's failure to respond within the time limit of Subsection 930.01. (3-20-04)

931. ACCESS TO RECORDS.
The Board will provide to the respondent or his counsel a copy of the complaint and any supporting evidence to which the respondent does not have access, at the earliest date after the Board has received the same. The Board will provide the complainant or his counsel a copy of any answer or response and supporting evidence thereof to which the complainant does not have access, at the earliest date after the Board has received the same. (3-20-04)

932. -- 939. (RESERVED).

940. CONDUCT OF INFORMAL HEARINGS.

01. Hearing Procedure. The chairman of the Board will minimize, where possible, the use or application of formal court rules of procedure and evidence in the spirit of an informal hearing consistent with the intent of these rules, fairness to the parties, and the interests of justice. (3-20-04)

02. Statements. The complainant and the respondent may make a brief statement concerning the allegation(s) and may introduce new evidence in support of or in opposition to the allegation(s). Statements must be concise, specific, relevant to the allegation(s), and limited to ten (10) minutes per party, unless the specific

allegation(s) as determined by the chairman clearly requires greater time to address the same. (3-20-04)

03. Questions Directed to the Board. All questions at the hearing are directed to the Board. The Board will consider written or oral questions from the complainant or respondent at the hearing or take such questions under advisement. (3-20-04)

04. Questions Asked by the Board. Only the Board may ask questions of the complainant or respondent and may call witnesses. (3-20-04)

05. Representation by Counsel. The complainant and the respondent may be represented by counsel. (3-20-04)

941. -- 949. (RESERVED)

950. TIME FOR BOARD DETERMINATION.
After submission of the complaint and supporting documentation for evidence in accord with Section 930, and after an informal hearing on a complaint wherein the parties have had opportunity to respond to these allegations and to present testimony, documentation, or other evidence thereon in accord with Section 940, the Board may thereafter make its determination or take the matter under advisement and reach its determination within thirty (30) days. (3-20-04)

951. -- 959. (RESERVED).

960. FINAL DETERMINATION.
The Board's determination is final, subject to appeal pursuant to Title 67, Chapter 52, Idaho Code. (3-20-04)

961. -- 969. (RESERVED).

970. BOARD ACTION UPON DETERMINATION OF PROBABLE VIOLATION.
In the event that the Board determines that the complaint and supporting evidence indicate a probable violation of the Idaho Scaling Law, the Board will, within thirty (30) days after that determination, transmit the complaint and supporting documentation to the prosecutor of the county where the violation occurred. (3-20-04)

971. -- 999. (RESERVED).

20.07.02 – RULES GOVERNING CONSERVATION OF OIL AND NATURAL GAS IN THE STATE OF IDAHO

SUBCHAPTER A - GENERAL PROVISIONS

000. LEGAL AUTHORITY.
This Chapter is adopted under the legal authorities of Title 47, Chapter 3, Idaho Code; and Title 67, Chapter 52, Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 20.07.02, "Rules Governing Conservation of Oil and Natural Gas in the State of Idaho." (3-29-12)

02. Scope. These rules apply to the exploration and extraction of any and all crude oil and natural gas resources in the state of Idaho, not including biogas, manufactured gas, or landfill gas, regardless of ownership. (3-29-12)

03. Other Laws. Owners or operators engaged in the exploration and extraction of crude oil and natural gas resources will comply with all applicable laws and rules of the state of Idaho including, but not limited to the following: (3-29-12)

a. Idaho water quality standards and waste water treatment requirements established in Title 39, Chapter 1, Idaho Code; IDAPA 58.01.02, "Water Quality Standards"; IDAPA 58.01.16, "Wastewater Rules"; and IDAPA 58.01.11, "Ground Water Quality Rule," administered by the IDEQ. (3-29-12)

b. Idaho air quality standards established in Title 39, Chapter 1, Idaho Code and IDAPA 58.01.01 "Rules for the Control of Air Pollution in Idaho," administered by the IDEQ. (3-29-12)

c. Requirements and procedures for hazardous and solid waste management, as established in Title 39, Chapter 44, Idaho Code, and rules promulgated thereunder including IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; IDAPA 58.01.06, "Solid Waste Management Rules"; and IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended," administered by the IDEQ. (3-29-12)

d. Idaho Stream Channel Protection Act, Title 42, Chapter 38, Idaho Code, and rules promulgated thereunder including IDAPA 37.03.07, "Stream Channel Alteration Rules," administered by the IDWR. (3-29-12)

e. Injection Well Act, Title 42, Chapter 39, Idaho Code and rules promulgated thereunder including IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," administered by the IDWR. (3-29-12)

f. Department of Water Resources – Water Resource Board Act, Title 42, Chapter 17, Idaho Code and rules promulgated thereunder including IDAPA 37.03.06, "Safety of Dams Rules," administered by the IDWR. (3-29-12)

002. ADMINISTRATIVE APPEALS.
Any person aggrieved by any final decision or order of the Commission shall be entitled to judicial review pursuant to the provisions of Title 67, Chapter 52, Idaho Code, Title 47, Chapter 3, Idaho Code, and IDAPA 20.07.01, "Rules of Practice and Procedure before the Idaho Oil and Gas Conservation Commission." (4-11-15)

003. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules: (3-29-12)

01. API Bulletin E3, Well Abandonment and Inactive Well Practices for U.S. Exploration and Production Operations, Environmental Guidance Document. 1st Edition, January 1993 and Reaffirmed June 2000 available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (3-29-12)

02. API SPEC 5CT, Specifications for Casing and Tubing. The 8th edition dated July, 1, 2005 and the amendments dated March, 31, 2006 and April, 7, 2006 are available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (3-29-12)

03. API SPEC 10a, Specification for Cements and Materials for Well Cementing. The 24th Edition dated December, 2010 is available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (3-29-12)

04. ASTM D698-07e1, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Standard Effort (12,400 ft-lbf/ft3 (600 kN-m/m3)). 2007 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (3-29-12)

05. ASTM D1250-08, Standard Guide for Use of the Petroleum Measurement Tables. 2008 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (3-29-12)

06. ASTM D1557-09, Standard Test Methods for Laboratory Compaction Characteristics of Soil Using Modified Effort (56,000 ft-lbf/ft3 (2,700 kN-m/m3)). 2009 revision. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103. (3-29-12)

07. EPA SW-846 Method 9090A, Compatibility Test for Wastes and Membrane Liners. Revision 1, July 1992. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: http://www.epa.gov/osw/hazard/testmethods/sw846/pdfs/9090a.pdf. (3-29-12)

08. OSHA Standard 1910.1200 (Hazard Communication). Last revised 1996. Available at the office of the Idaho Department of Lands at 300 North 6th Street, Suite 103 and this website: http://www.osha.gov/pls/oshaweb/owadisp.show_document?p_table=standards&p_id=10099. (3-29-12)

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. The Idaho Oil and Gas Conservation Act, Title 47, Chapter 3, Idaho Code. (10-21-92)

02. Active Well. A permitted well used for production, disposal, or injection that is not idled for more than twenty-four (24) continuous months. (3-29-12)

03. Barrel. Forty-two (42) U. S. gallons at sixty (60) Degrees F at atmospheric pressure. (10-21-92)

04. Blowout. An unplanned sudden or violent escape of fluids from a well. (3-29-12)

05. Blowout Preventer. A casinghead control equipped with special gates or rams that can be closed and sealed around the drill pipe, or that otherwise completely closes the top of the casing. (4-11-15)

06. Bonus Payment. Monetary consideration that is paid by the lessee to the lessor for the execution of an oil and gas lease. (4-11-15)

07. Casing Pressure. The pressure within the casing or between the casing, tubing, or drill pipe. (3-29-12)

08. Casinghead. A metal flange attached to the top of the conductor pipe that is the primary interface for the diverter system during drilling out for surface casing. (3-29-12)

09. Casinghead Gas. Any gas or vapor, or both, indigenous to an oil stratum and produced from such stratum with oil. (3-29-12)

10. Common Source of Supply. The geographical area or horizon definitely separated from any other such area or horizon and which contains, or from competent evidence appears to contain, a common accumulation of oil or gas or both. Any oil or gas field or part thereof which comprises and includes any area which is underlaid, or which from geological or other scientific data or experiments or from drilling operations or other evidence appears to

be underlaid by a common pool or accumulation of oil or gas or both oil and gas. (3-29-12)

11. Completion. An oil well is considered completed when the first new oil is produced through wellhead equipment into lease tanks from the ultimate producing interval after the production casing has been run. A gas well is considered completed when the well is capable of producing gas through wellhead equipment from the ultimate producing zone after the production casing has been run. (3-29-12)

12. Conductor Pipe. The first and largest diameter string of casing to be installed in a well. This casing extends from land surface to a depth great enough to keep surface waters from entering and loose earth from falling in the hole and to provide anchorage for the diverter system prior to setting surface casing. (3-29-12)

13. Cubic Foot of Gas. The volume of gas contained in one (1) cubic foot of space at a standard pressure base and a standard temperature base. The standard pressure base shall be fourteen and seventy-three hundredths (14.73) pounds per square inch absolute and the standard temperature base shall be sixty (60) Degrees F. (3-29-12)

14. Day. A period of twenty-four (24) consecutive hours from 8 a.m. one day to 8 a.m. the following day. (3-29-12)

15. Development. Any work that actively promotes bringing in production. (10-21-92)

16. Director. The head of the Idaho Department of Lands and secretary to the Oil and Gas Conservation Commission, or his designee. (3-29-12)

17. Drilling Logs. The recorded description of the lithologic sequence encountered in drilling a well, and any electric, gamma ray, geophysical, or other logging done in the hole. (3-29-12)

18. Fresh Water. All surface waters and those ground waters that are used, or may be used in the future, for drinking water, agriculture, aquaculture, or industrial purposes other than oil and gas development. The possibility of future use is based on hydrogeologic conditions, water quality, future land use activities, and social/ economic considerations. (3-29-12)

19. Gas-Oil Ratio. The volume of gas produced in standard cubic feet to each barrel of oil or condensate produced concurrently during any stated period. (3-29-12)

20. Gas Processing Facility. A facility that conditions liquids or gas by compression, dehydration, refrigeration, or by other means. (4-11-15)

21. Gas Well. (10-21-92)

a. A well that produces primarily natural gas; (3-29-12)

b. Any well capable of producing gas in commercial quantities and also producing oil from the same common source of supply but not in commercial quantities; or (10-21-92)

c. Any well classed as a gas well by the Commission for any reason. (10-21-92)

22. Geophysical or Seismic Operations. Any geophysical method performed on the surface of the land utilizing certain instruments operating under the laws of physics respecting vibration or sound to determine conditions below the surface of the earth that may contain oil or gas and is inclusive of, but not limited to, the preliminary line survey, the acquisition of necessary permits, the selection and marking of shot-hole locations, necessary clearing of vegetation, shot-hole drilling, implantation of charge, placement of geophones, detonation and backfill of shot-holes, and vibroseis. (3-29-12)

23. Hydraulic Fracturing, or Fracing. A method of stimulating or increasing the recovery of hydrocarbons by perforating the production casing and injecting fluids or gels into the potential target reservoir at pressures greater than the existing fracture gradient in the target reservoir. (3-29-12)

24. **Inactive Well**. An unplugged well that has no reported production, disposal, injection, or other permitted activity for a period of greater than twenty-four (24) continuous months, and for which no extension has been granted. (3-29-12)

25. **Intermediate Casing**. The casing installed within the well to seal intermediate zones above the anticipated bottom hole depth. The casing is generally set in place after the surface casing and before the production casing. (3-29-12)

26. **Junk**. Debris in a hole that impedes drilling or completion. (3-29-12)

27. **Lease**. A tract(s) of land that by virtue of an oil and gas lease, fee or mineral ownership, a drilling, pooling or other agreement, a rule, regulation or order of a governmental authority, or otherwise constitutes a single tract or leasehold estate for the purpose of the development or operation thereof for oil or gas or both. (10-21-92)

28. **Mechanical Integrity Test**. A test designed to determine if there is a significant leak in the casing, tubing, or packer of a well. (3-29-12)

29. **Oil Well**. Any well capable of primarily producing oil in paying quantities, but not a gas well. (3-29-12)

30. **Pit**. Any excavated or constructed depression or reservoir used to contain reserve, drilling, well treatment, produced water, or other fluids at the drill site. This does not include enclosed, mobile, or portable tanks used to contain fluids. (3-29-12)

31. **Pollution**. Constituents of oil, gas, salt water, or other materials used in oil and gas extraction, occurring in fresh water supplies at levels that exceed the standards in IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.11, "Ground Water Quality Rules," as the result of the drilling, casing, treating, operation or plugging of wells. (3-29-12)

32. **Pressure Maintenance**. The injection of gas, water, or other fluids into oil or gas reservoirs to maintain pressure or retard pressure decline in the reservoir for the purpose of increasing the recovery of oil or other hydrocarbons therefrom. (10-21-92)

33. **Produced Water**. Water that is produced along with oil or gas. (3-29-12)

34. **Production Casing**. The casing set across the reservoir interval and within which the primary completion components are installed. (3-29-12)

35. **Proppant**. Sand or other materials used in hydraulic fracturing to prop open fractures. (3-29-12)

36. **Release**. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (3-29-12)

37. **Spud**. To start the drilling process by removing rock, dirt, and other sedimentary material with the drill bit. (4-11-15)

38. **Surface Casing**. The first casing that is run after the conductor pipe to anchor blow out prevention equipment and seals out fresh water zones. (3-29-12)

39. **Surface Water**. Rivers, streams, lakes, and springs when flowing in their natural channels. (4-11-15)

40. **Systems Approach**. The disclosure of chemical information by chemical abstract service name only, without disclosing component percentages or chemical relationships. (4-11-15)

41. **Tank**. A concrete, metal, or plastic stationary vessel used to contain fluids. (4-11-15)

42. **Tank Battery**. One (1) or more tanks that are connected to receive crude oil, condensate, or produced waters from a well(s) and that serves as the point of collection and disbursement of oil or gas from a well(s). (4-11-15)

43. **Tank Dike**. An impermeable man-made structure constructed around a tank to contain leakage from the tank. (4-11-15)

44. **Tubing**. Pipe used inside the production casing to convey oil or gas from the producing interval to the surface. (3-29-12)

45. **Volatile Organic Compound**. Organic chemical compounds whose composition makes it possible for them to evaporate under normal indoor atmospheric conditions of sixty-eight (68) degrees F and an absolute pressure of fourteen point seven (14.7) psi atmospheric. (3-29-12)

46. **Waterflooding**. The injection into a reservoir through one (1) or more wells with volumes of water for the purpose of increasing the recovery of oil therefrom. (3-29-12)

47. **Well Report**. The written record progressively describing the strata, water, oil, or gas encountered in drilling a well with such additional information as to give volumes, pressures, rate of fill-up, water depths, caving strata, casing record, etc., as is usually recorded in normal procedure of drilling; also, it includes electrical radioactivity, or other similar logs run, lithologic description of all cores, and all drill-stem tests, including depth-tested, cushion-used, time tool open, flowing and shut-in pressures and recoveries. (3-29-12)

48. **Well Site**. The areas that are directly disturbed during the drilling and subsequent operation of, or affected by production facilities directly associated with, any oil well, gas well, or injection well, and its associated well pad. (4-11-15)

49. **Well Treatment**. Actions performed on a well to acidize, fracture, or stimulate the target reservoir. (3-29-12)

50. **Wildcat Well**. An exploratory well drilled in an area of unknown subsurface conditions. (3-29-12)

011. ABBREVIATIONS.

01. **API**. American Petroleum Institute. (3-29-12)

02. **ASTM**. American Society for Testing and Materials. (3-29-12)

03. **BBL**. Oilfield Barrel. (4-11-15)

04. **BOP**. Blowout Preventer. (3-29-12)

05. **CAS**. Chemical Abstracts Service. (3-29-12)

06. **EPA**. United States Environmental Protection Agency. (3-29-12)

07. **F**. Fahrenheit. (3-29-12)

08. **GPS**. Global Positioning System. (3-29-12)

09. **HDPE**. High Density Polyethylene. (3-29-12)

10. **IDAPA**. Idaho Administrative Procedure Act. (3-29-12)

11. **IDEQ**. Idaho Department of Environmental Quality. (3-29-12)

12. **IDWR**. Idaho Department of Water Resources. (3-29-12)

13. **MCF**. One thousand cubic foot. (4-11-15)

14. **MSDS**. Material Safety Data Sheet. (3-29-12)

15. **OSHA**. Occupational Safety & Health Administration. (3-29-12)

16. **PSI**. Pounds per Square Inch. (3-29-12)

17. **PVC**. Polyvinyl Chloride. (4-11-15)

012. -- 014. (RESERVED)

015. PROTECTION OF CORRELATIVE RIGHTS.
The Commission and the Department should afford a reasonable opportunity to each person entitled thereto to recover or receive the oil or gas in such person's tract(s) or the equivalent thereof, without being required to drill unnecessary wells or to incur other unnecessary expense to recover or receive such oil or gas or its equivalent. (3-29-12)

016. -- 019. (RESERVED)

020. APPLICABILITY.

01. **Oil and Gas Development**. These rules apply to oil and gas development and carry out the Commission's duty to prevent waste, protect correlative rights, and prevent pollution of fresh water supplies through activities authorized by these rules. (3-29-12)

02. **Exclusions**. These rules do not apply to the exploration and development of other mineral resources covered by Title 47, Chapter 13, Idaho Code; Title 47, Chapter 15, Idaho Code; or Title 42, Chapter 40, Idaho Code. (3-29-12)

021. CLASS II INJECTION WELLS.
Class II injection wells, as described in IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," are currently not authorized under this rule. Permits for Class II injection wells must be obtained through IDAPA 37.03.03. (3-29-12)

022. -- 029. (RESERVED)

030. NOTICES - GENERAL.

01. **Written Authorization Required**. Any written notice of intention to do work or to change plans previously approved must be filed with the Department, unless otherwise directed, and must be approved before the work is begun. Such approval may be given orally and, if so given, shall thereafter be confirmed by the Department in writing. Written notices may be submitted to the Department by e-mail or facsimile. (4-11-15)

02. **Emergency Authorization**. In case of emergency, or a situation where operations might be unduly delayed, any written notice required by these rules and regulations to be given the Department may be given orally or by wire and if approval is obtained, the transaction shall be confirmed in writing, as a matter of record. (3-29-12)

03. **Publication of Legal Notices**. Whenever these rules require a legal notice to be published in a newspaper, the notice must be published once a week for two (2) consecutive weeks. (4-11-15)

031. FORMS.
The Department will adopt such forms of notices, requests, permits, and reports as it may deem advisable or necessary in carrying out the provisions of law and its rules. (4-11-15)

032. ORGANIZATION REPORTS.

01. Required Content. Before any person engages in any activity covered by the statutes and rules of the Commission, that person must file an organization report with the Department. The organization report must include the following information: (4-11-15)

a. The person's name and the type of the business being operated or conducted; (4-11-15)

b. The mailing address to which all correspondence from the Department is to be sent; (4-11-15)

c. The telephone number(s), facsimile number(s), and e-mail address(es) for which contact by the Department may be made; (4-11-15)

d. The names of persons authorized to submit required forms, reports, and other documents to the Department; and (4-11-15)

e. If a legal entity, proof the person is authorized to transact business within the state. (4-11-15)

02. Updates. A supplementary report must be filed with the Department within thirty (30) days of any change to facts stated in a previously-filed organization report. (4-11-15)

033. DESIGNATION OF AGENT.
A "Designation of Agent" must be submitted to the Department in a manner and form approved by the Department prior to the commencement of operations. A Designation of Agent(s) will be accepted as authority of agent to fulfill the obligations of the owner and to sign any papers or reports required under these oil and gas operating regulations, and all authorized orders or notices given by the Department when given in the manner hereinafter provided will be deemed service of such orders or notices upon the owner and the lessee. All changes of address and any termination of the agent's authority must be immediately reported in writing to the Department and, in the latter case, the designation of a new agent(s) must be immediately made. If the designated agent(s) is at any time incapacitated for duty or absent from the address provided, the owner must designate in writing a substitute to serve in his or their stead, and in the absence of such owner or of notice of appointment of a substitute then, in such case, notices may be given by the Department by delivering a registered letter to the United States Post Office at Boise, Idaho, directed to the agent(s) at the address shown on the current Designation of Agent on file in the Department's office, and such notice will be deemed service upon the owner and lessee. (3-29-12)

034. -- 039. (RESERVED)

040. PUBLIC COMMENT.
Applications submitted under Sections 100, 200, 210, 230 and 330 of these rules will be posted on the Department's website for a fifteen-day (15) written comment period. The Department will also send an electronic copy of the application to the respective county, and city if applicable, where the proposed operation is located. The purpose of the comment period is to receive written comments on whether a proposed application complies with these rules. These comments will be considered by the Department prior to permit approval or denial. Relevant comments will be posted on the Department's website following the comment period. (4-11-15)

041. -- 049. (RESERVED)

050. ENFORCEMENT.
The Department enforces these rules pursuant to Section 47-325, Idaho Code. (3-29-12)

051. -- 099. (RESERVED)

SUBCHAPTER B - EXPLORATION AND DEVELOPMENT

100. GEOPHYSICAL OPERATIONS.

01. Permit Required. Before beginning seismic operations in the state of Idaho, a representative of the client company and the seismic contractor will meet with the staff of the Department, file an application for a permit to conduct seismic operations, and pay an application fee. No seismic operation may be conducted without such a permit. The Department has discretion to waive the requirement of the pre-permit meeting for the client company. The permit for seismic operations may be revoked or suspended or the application for the permit denied by the Department for failure to comply with the Commission's rules, statutes, and orders. The Department may revoke, suspend, or deny the application for a seismic permit without a hearing; provided that the seismic contractor will be given an opportunity for a hearing at the next regularly scheduled Commission meeting. The fact that a permit is revoked or suspended does not excuse the seismic contractor or client company from properly plugging existing seismic holes but does prohibit the person(s) from drilling any more. The application for a permit for seismic operations must include: (3-29-12)

a. The proposed route of the seismic line on a topographic or recent air photo base map at a sufficient scale to show roads, buildings, surface waters, and Section, Township, and Range lines. The map must also show additional area as needed for any alternative routing. The alternative routing must be within at least one-half (1/2) mile of the proposed route. Reapplication must be made if the final route strays from the proposed route and outside the designated alternative routing areas; and (3-29-12)

b. The energy sources proposed to be used for the seismic operation, such as vibroseis, shot holes, surface shot, or others. (3-29-12)

c. The approximate number, depth, and location of the seismic holes and the size of the explosive charges. The application must be accompanied by a map with a scale of one inch equaling two (2) miles that shows the depth and location of the shotholes. (10-21-92)

d. The name and permanent address of the client company the Department may contact about the seismic operation. (3-29-12)

e. The name, permanent address, and phone number of the seismic contractor and his local representative whom the Department may contact about the seismic activity. (3-29-12)

f. The name, phone number, and permanent address of the hole plugging contractor, if different from the seismic contractor. (10-21-92)

g. A detailed description of the hole plugging procedures, and a description of the surface reclamation procedures, if such reclamation is needed. (3-29-12)

h. The anticipated starting date of seismic operations. (3-29-12)

i. The anticipated completion date of seismic operations, and the anticipated date of any required reclamation or hole plugging. (3-29-12)

j. A description of the identifying mark that will be on the hat or nonmetallic plug to be used in the plugging of the seismic hole. (10-21-92)

02. Operating Requirements. All geophysical operations must comply with the following requirements: (3-29-12)

a. All vehicles utilized by the permit holder, or its agents or contractors, shall be clearly identified by signs or markings utilizing letters or numbers, or a combination thereof, a minimum of three (3) inches in height and one-half (1/2) inch wide, indicating the name of such agent. (3-29-12)

b. No seismic source generation from vibroseis, shot holes, surface shot, or other method shall be conducted within two hundred (200) feet of any residence, water well, oil well, gas well, injection well or other structure without having first secured the express written authority of the owner(s) thereof and the permit holder shall be responsible for any resulting damages. (3-29-12)

c. Written authority from the owner of a residence, water well, oil well, gas well, injection well or other structure must also be obtained from the owner(s) if any explosive charge exceeds the maximum allowable charge within the scaled distance below:

DISTANCE TO STRUCTURE (Feet)*	MAXIMUM ALLOWABLE CHARGE WEIGHTS (Pounds)*
50	0.5
100	2.0
150	4.5
200	8.0
250	12.0
300	18.0
350	25.0
* Based upon a charge weight of seventy (70) Foot/Pound$^{1/2}$	

(3-29-12)

d. The maximum allowable charge weight is twenty-five (25) pounds, unless the permit holder requests and secures the prior written authorization from the Department. (3-29-12)

e. All seismic sources placed for detonation shall contain additives to accelerate the biodegradation thereof and shall be handled with due care in accordance with industry standards. The cap leads for any seismic sources that fail to detonate shall be buried at least three (3) feet deep. (3-29-12)

f. All vegetation cleared to the ground shall be cleared in a competent and workmanlike manner in the exercise of due care. (3-29-12)

g. Unless otherwise consented to by the surface owner in writing, permit holder shall not cut down any tree measuring six (6) inches or more in diameter, as measured at a height of three (3) feet from the ground surface, unless there are no reasonable alternatives to the removal of such tree(s) available to permit holder. Permit holder shall compensate surface owner the value of all such trees. (3-29-12)

h. All excessive rutting or soil disturbances shall be repaired or restored to the original condition and contour to the extent reasonable, unless otherwise agreed to by the permit holder and the surface owner in writing. (3-29-12)

i. All fences removed shall be replaced, unless otherwise agreed to by the permit holder and the surface owner in writing. (3-29-12)

j. All debris associated with the seismic activity shall be removed and properly disposed. (3-29-12)

03. Bond Required. (3-29-12)

a. Before beginning geophysical operations, the geophysical contractor must file and have approved by the Department a bond in the amount of at least ten thousand dollars ($10,000). The Department may increase this bonding requirement for geophysical contractors based on the amount of potential damage from the contemplated operation. The condition of such bond shall comply with the Act, the rules and orders of the Commission, and orders of the Department. The obligation of the bond shall not be discharged until one (1) year from completion of the survey or until the geophysical contractor has complied with the Oil and Gas Conservation Law, the Commission's rules, and the orders of the Commission and the Department. (3-29-12)

b. Persons or other entities who engage in the plugging of seismic holes and are not a regular full-time

employee of the seismic company, owner, or operator shall have posted with the director a surety bond in favor of the Department. Said bond shall be on a form prescribed by the Department and in the amount of five thousand dollars ($5,000). The condition of the bond shall comply with the Oil and Gas Conservation Law and the regulations and orders of the Commission and the Department. (3-29-12)

04. Newspaper Notice. Before a geophysical contractor conducts the geophysical operation, the contractor shall publish a legal notice in a newspaper of general circulation in the county where the survey will be conducted. The notice shall state the nature and approximate time period of the seismic operations. These requirements do not apply to operations conducted within a well or conducted by aerial surveys. (3-29-12)

05. Owner and Occupant Notification. No entry shall be made by any person to conduct seismic operations, upon the lands where such seismic operations are to be conducted, without the permit holder having first given notice at least thirty (30) calendar days prior to commencement of field seismic operations. (3-29-12)

a. The notice shall be in writing and given either personally or by certified United States mail to the following persons: (3-29-12)

i. Surface owners reflected in the tax records of the counties where the lands are located, at the mailing addresses identified for such surface owners in such records; (3-29-12)

ii**.** Occupants residing on the lands who are not the surface owners, if it can be reasonably ascertained that there are such occupants; and (3-29-12)

iii. Owners or operators of oil and gas wells within the seismic survey area, as reflected in Department records. (3-29-12)

b. The notice shall contain the following: (3-29-12)

i. Name of the person or entity that is conducting the seismic operations; (3-29-12)

ii. Proposed location of the seismic operations; and (3-29-12)

iii. Approximate date the person or entity proposes to commence seismic operations. (3-29-12)

06. Department Notifications. (3-29-12)

a. The permit holder shall also notify the Department within five (5) business days of the commencement and completion of each seismic operation. (3-29-12)

b. Before beginning geophysical operations other than seismic operations, the geophysical contractor shall file a notice of intention to do so with the Department. Said notice shall describe the geophysical method to be used and be accompanied by a map of a scale of one (1) inch equals two (2) miles showing the location of the project. (3-29-12)

07. Reports and Notices Required. (10-21-92)

a. Activity Report. Upon completion of the seismic activity or at thirty (30) day intervals after the work has commenced, whichever occurs first, the seismic contractor shall file with the Department a report of the completion or progress of the seismic project. The final completion report shall be in affidavit form and shall include a seven and one-half (7.5) - or fifteen (15) minute United States Geological Survey topographic quadrangle map (at a scale of one (1) inch equals two thousand (2,000) feet or one (1) inch equals four thousand (4,000) feet that shows section, township, and range) and the location of each survey so that the shotholes and other potential impacts can be easily located. The final completion report shall also include a statement that all work has been performed in compliance with the application for a permit to perform seismic activity, Section 100 of these rules, and permit provisions. Said maps, applications, and reports shall be kept confidential by the Department for a period of one (1) year from the date of receipt, subject to the needs of the Department to use them to enforce these regulations, the Act, and the orders of the Commission or the Department. Also, the owner of the surface of the land may be advised of the

location of seismic lines or seismic holes on his land and of the exploration method used. (4-11-15)

b. Plugging Notice. Seismic contractors shall give the Department at least twenty-four (24) hours advance notice of shothole plugging operations, provided that notice of plugging operations planned for Sunday or Monday may be given on the previous Friday. (3-29-12)

08. Client-Contractor Responsibility. The client company may be held responsible along with the seismic contractor for conducting the operation in compliance with the Commission's rules and orders, the Department's orders, and the Act for the seismic contractor's failure to comply with such rules, statutes, and orders. The hats used in the plugging of seismic holes shall be imprinted with the name of the contractor responsible for the plugging of the hole. (3-29-12)

09. Plugging. Unless the seismic contractor can prove to the satisfaction of the Department that another method will provide better protection to ground water and long-term land stability, seismic shothole operations shall be conducted in the following manner: (3-29-12)

a. When water is used in conjunction with the drilling of seismic shotholes and artesian flow is not encountered at the surface, seismic holes are to be filled with a high grade bentonite/water slurry mixture. Said slurry shall have a density that is at least four percent (4%) greater than the density of fresh water; said slurry shall also have a Marsh funnel viscosity of at least sixty (60) seconds per quart. Density and viscosity are to be measured prior to adding cuttings to the slurry. Cuttings not added to the slurry are to be disposed of in accordance with Paragraph 100.09.f. of this rule. Any other suitable plugging material commonly used in the industry may be substituted for the bentonite/water slurry as long as the physical characteristics of said substitute are at least comparable to those of the bentonite/water slurry. Between November 1 and May 1, coarse ground bentonite approved by the Department shall be used as a plugging material. (4-11-15)

b. The hole will be filled with the slurry from the bottom up to a depth of three (3) feet (three (3) feet below ground level). A nonmetallic plug will be set at this depth of three (3) feet, and the remaining hole will be filled and tamped to the surface with cuttings and native soil. (10-21-92)

c. When drilling with air and nonartesian water is encountered, the hole shall be plugged with the slurry mixture, or coarse ground bentonite, as specified in Paragraph 100.09.a., supra. (4-11-15)

d. When drilling with air only and in completely dry holes, plugging may be accomplished by returning the cuttings to the hole, tamping the returned cuttings to the above-referenced depth of three (3) feet, and setting the permaplug topped with more cuttings and soil as per Paragraph 100.09.b. above. A small mound will be left over the hole for settling allowance. Auger holes twenty (20) feet or less in depth may be plugged in this same manner. (4-11-15)

e. The foregoing seismic holes shall be properly plugged and abandoned as soon as practical after the shot has been fired; however, a shot hole shall not be left unplugged for more than thirty (30) days without approval of the Department. (3-29-12)

f. Any slurry, drilling fluid, or cuttings which are deposited on the surface around the seismic hole will be raked or otherwise spread out to at least within one (1) inch of the surface, so that the growth of the natural grasses or foliage will not be impaired. (10-21-92)

g. The requirements of Paragraphs 100.09.a. through 100.09.f. of this rule may be modified by any reasonable written agreement between the seismic company and the surface owner. (4-11-15)

h. If artesian flow (water flowing at the surface) is encountered in the drilling of any seismic hole, cement will be used to seal off the water flow thereby preventing cross-flow, erosion, and/or contamination of freshwater supplies. Said holes shall be cemented immediately. (3-29-12)

i. After completing the plugging of seismic shot holes and spreading the cuttings as required by this rule, the seismic contractor shall record the GPS location of the seismic hole, and the contractor shall provide the location data to the Department. (3-29-12)

10. Forfeiture of Geophysical Exploration Bond. The Department may forfeit the bond submitted under Subsection 100.03 of this rule upon failure of the owner or operator to conduct the seismic survey and complete reclamation in conformance with Section 100 of this rule. The owner or operator will be given an opportunity to address compliance issues prior to the Department taking action against the bond. (4-11-15)

101. -- 199. (RESERVED)

SUBCHAPTER C - DRILLING, WELL TREATMENT, AND PIT PERMITS

200. PERMIT TO DRILL, DEEPEN, OR PLUG BACK.

01. Permits Required. Prior to the commencement of operations to drill, deepen, or plug back to any source of supply other than the existing producing horizon, application shall be delivered to the Department of intention to drill, deepen, or plug back any well for oil or gas, and approval obtained. (3-29-12)

02. Fees. An application fee must accompany each application for permit to drill, deepen, or plug back. No service fee is required for a permit to deepen or plug back in a well for which the fee has been paid for permit to drill unless the drilling permit has expired. (3-29-12)

03. Time Required to Commence Operations; Term of Permit. On the first anniversary of the date of issuance of a permit to drill, deepen, or plug back, said permit will expire and be of no further force or effect, unless the work for which the permit was issued has been started. Prior to the anniversary date, the owner or operator may apply for a one-time, six-month extension if work has not started. If conditions have not changed and no changes to the permit are requested, the extension may be approved by the Department. If a permit expires due to the failure to commence operations, then reapplication is required prior to commencing operations. (3-29-12)

04. Application. The Application for Permit to Drill shall include a Department approved form and the following: (3-29-12)

a. An accurate plat showing the location of the proposed well with reference to the nearest lines of an established public survey. (3-29-12)

b. The location of the nearest structure with a water supply, or the nearest water well as shown on the IDWR registry of water rights or well log database. (3-29-12)

c. Information on the type of tools to be used and the proposed logging program. (3-29-12)

d. Proposed total depth to which the well will be drilled, estimated depth to the top of the important geologic markers, and the estimated depth to the top of the target formations. (3-29-12)

e. The proposed casing program, including size and weight thereof, the depth at which each casing type is to be set. (3-29-12)

f. The type and amount of cement to be used, and the intervals cemented. (3-29-12)

g. Information on the drilling plan. (3-29-12)

h. Best management practices to be used for erosion and sediment control. (3-29-12)

i. Plan for interim reclamation of the drill site after the well is completed, and a plan for final reclamation of the drill site following plugging and abandonment of the well. These plans must contain the information needed to implement reclamation as described in Subsection 310.16 and Section 510 of these rules. (4-11-15)

j. Applications that include the following actions must also provide the information from the

respective Section of these rules: (3-29-12)

i. Well treatments require the submittal of the information in Section 210. (4-11-15)

ii. Pit construction and use requires the submittal of the information in Section 230. (4-11-15)

iii. Directional or horizontal drilling requires the submittal of the information in Section 330. (4-11-15)

k. Any other information which may be required by the Department based on site specific reasons. (3-29-12)

05. Permit Denial. Applications may be denied for the following reasons: (3-29-12)

a. Application fee was not submitted. (3-29-12)

b. Application is incomplete. (3-29-12)

c. Failure to post required bonds. (3-29-12)

d. Proposed well will result in a waste of oil or gas, a violation of correlative rights, or the pollution of fresh water supplies. (3-29-12)

201. MULTIPLE ZONE COMPLETIONS.

01. Requirements of the Owner or Operator; Request for Approval. A multiple zone completion may be approved by the Department upon application by the owner or operator and payment of an application fee, as herein provided. The application shall be accompanied by an exhibit showing the location of wells on applicant's lease and all offset wells on leases, and shall set forth all material facts involved and the manner and method of completion proposed, including a diagrammatic sketch of the mechanical installation of the proposed well. The application fee may not exceed that required by Subsection 200.02 of these rules. Notice of the filing of such application shall be given by the applicant by mailing to each offset operator a notice containing a full description of the proposed completion for which approval is requested, and proof of mailing such notice shall be made by affidavit, which shall be attached to the application showing names and addresses of those to whom notice was mailed. (4-11-15)

02. Conditions for Approval; Cause for Hearing. In the event the Department is in agreement with the application and that no offset operator files a written objection to the application with the Department within fifteen (15) days of the date of the offset operator's receipt of application, the application shall be approved as an amendment to the drilling permit. If any offset operator shall file in writing with the Department an objection to such multiple completion, or if the Department is not in agreement with the application, the matter shall be immediately set for hearing and Notice of Hearing duly given by the Department. (3-29-12)

03. Zone Effectiveness; Requirement for Production Testing. The Department may require such tests as necessary to determine the effectiveness of the segregation of the different productive zones. (3-29-12)

04. Commingling Production. The Department may require that oil or gas from multiple zones be produced through different sets of tubing, if needed to protect correlative rights or to prevent waste. (3-29-12)

202. -- 209. (RESERVED)

210. WELL TREATMENTS.

01. Application Required. An Application for Permit to Drill required by Section 200 must include any plans for well treatment if they are known before the well is drilled. If well treatments are not covered in the original drilling permit, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the well treatments being implemented. Actions to clean the

casing or perforations not in excess of pressures sufficient to overcome the fracture gradient in the surrounding formation are not considered to be well treatments, but operators must notify the Department when such actions occur. Applications for well treatments must include the permit number, well name, well location, as-built description if drilling has been completed, and the following: (4-11-15)

a. Depth to perforations or the openhole interval; (3-29-12)

b. The source of water or type of base fluid; (3-29-12)

c. Additives, meaning any substance or any combination of substances including proppant, having a specified purpose that is combined with base treatment fluid by trade name, if available, and MSDS for each additive; (3-29-12)

d. Type of proppant(s); (3-29-12)

e. Anticipated percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s); (3-29-12)

f. Estimated pump pressures; (3-29-12)

g. Method and timeline for the management, storage, and disposal of well treatment fluids, including anticipated disposal site of treatment fluids or plans for reuse; (3-29-12)

h. Size and design of storage pits, if proposed, in conformance with Section 230 of these rules; (4-11-15)

i. Information specific to hydraulic fracturing as described in Section 211 of these rules; (4-11-15)

j. Summary identifying all water bearing zones from the surface down to the bottom of the well; (3-29-12)

k. Fresh water protection plan that describes the proposed site specific measures to protect water quality from activities associated with well treatments. The Department will review this plan in consultation with the IDEQ. The Fresh Water Protection Plan shall include the following information: (3-29-12)

i. Ground water and storm water best management practices; (3-29-12)

ii. Statement certifying that the owner or operator is complying with Spill Prevention, Control, and Countermeasures (SPCC) requirements administered by the EPA; (3-29-12)

iii. A preconstruction topographic site map or aerial photos identifying all habitable structures, wells, perennial and intermittent springs, surface waters, and irrigation ditches within one-quarter (1/4) mile of the oil or gas well. The distance or location may be changed based on site specific factors such as horizontal drilling, the expected length of fractures, or lack of suitable water sample locations within one-quarter (1/4) mile; (3-29-12)

iv. A brief description of the structural geology that may influence ground water flow and direction; and (3-29-12)

v. The general hydrogeological characteristics of the treatment area and surrounding land. (3-29-12)

l. Certification by the owner or operator that all aspects of the well construction, including the suitability and integrity of the cement used to seal the well, are designed to meet the requirements of proposed well treatments; (3-29-12)

m. Affidavit signed by the owner or operator stating that all home owners and water well owners within one-quarter (1/4) mile of the oil or gas well, and all owners of a public drinking water system that have a IDEQ recognized source water assessment or protection area within one-quarter (1/4) mile of the oil or gas well, have been

notified of the proposed treatment. If a well deviates from the vertical, these surface distances will be from the entire length of the wellbore from the surface to total depth. The notification will also offer an opportunity to have the owner or operator sample and test the water, at the owner or operator's cost, prior to and after the oil or gas well being treated. Notification shall be by certified mail to the surface owner as identified by the county assessor's records, or to the well owner as identified on the IDWR registry of water rights or well log database; (3-29-12)

n. Proof of publication in a newspaper of general circulation in the county where the well is located of a legal notice briefly describing the well treatment to be performed. Notice shall also advise all water well or public drinking water system owners, as described in Paragraph 210.01.m. of these rules, of the opportunity to have their water tested at the owner's or operator's cost before and after the well treatment; and (4-11-15)

o. Additional information as required by the Department. (3-29-12)

02. Master Drilling/Treatment Plans. Where multiple stimulation activities will be undertaken for several wells proposed to be drilled in the same field within an area of geologic similarity, approval may be sought from the Department for a comprehensive master drilling/treatment plan containing the information required. The approved master drilling/treatment plan must then be referenced on each individual well's Application for Permit to Drill. (3-29-12)

03. Application Denial. The Department may deny well treatment applications for one (1) or more of the following reasons: (3-29-12)

a. Application does not contain the information in Subsection 210.01 of these rules; (4-11-15)

b. Application fee was not submitted. (3-29-12)

c. Proposed treatment will result in a waste of oil or gas, a violation of correlative rights, or the pollution of fresh water supplies. (3-29-12)

04. Time Limit. If a treatment approved in a drilling permit or amended drilling permit is not started within one (1) year of the approval of the well treatment, the well treatment permit will expire and reapplication will be required prior to conducting the well treatment. Prior to the anniversary date, the owner or operator may apply for a six-month (6) extension. If conditions have not changed, and no changes to the permit are requested, the extension may be approved by the Department. (3-29-12)

05. Inspections. The Department may conduct inspections prior, during, and after well treatments. (3-29-12)

06. Reporting Requirements. A report on the well treatment must be submitted within thirty (30) days of the treatment. The report shall present a detailed account of the work done and the manner in which such work was performed, including: (3-29-12)

a. The daily production of oil, gas, and water both prior to and after the operation. (3-29-12)

b. The size and depth of perforations. (3-29-12)

c. Percentages by volume and total volumes of base treatment fluid, individual additives, and proppant(s). This requirement can be met by the submittal of well completion field tickets if they contain this information. (3-29-12)

d. Documentation demonstrating the chemicals used in the well treatment have been reported to the website www.fracfocus.org, its successor website, or another publicly accessible database approved by the Department. The chemical information must be reported in a systems approach. (4-11-15)

e. Information specific to hydraulic fracturing, as described in Section 211 of these rules. (4-11-15)

f. Static pressure testing results before and after the well treatment. (3-29-12)

g. The amounts, handling, and if necessary, disposal at an identified appropriate disposal facility, or reuse of the well stimulation fluid load recovered during flow back, swabbing, and/or recovery from production facility vessels. Reporting of recovered fluids shall be included with other monthly production reports required by the Department. Storage of such fluid shall be protective of ground water as demonstrated by the use of either tanks or authorized lined pits as described in Section 230 of these rules. (4-11-15)

h. Any other information related to operations which alter the performance or characteristics of the well. (3-29-12)

07. Fresh Water Protections for Well Treatments. (3-29-12)

a. The Department will not authorize pits, lagoons, ponds, or other methods of subsurface storage for treatment fluids within IDEQ recognized source water assessment or protection areas for public drinking water systems. Owners or operators must store and transport treatment fluids using above ground storage facilities and tanker trucks for well treatments in these locations. (3-29-12)

b. The Department will not authorize well treatments to create fractures within five hundred (500) vertical feet above or below fresh water aquifers. (4-11-15)

c. The Department shall require the owner or operator to complete fresh water monitoring at the owner's or operator's cost before and after a well treatment unless the Department, in consultation with the IDEQ, determines that the proposed treatment does not pose a threat of pollution to fresh waters. The Department will review and approve all monitoring proposals with the IDEQ. The monitoring will be done using representative existing water wells or surface waters within one-quarter (1/4) horizontal mile of the treated well. For wells that deviate from the vertical, sampling may be required within one-quarter (1/4) horizontal mile of the wellbore's projected location on the surface. If no water wells or surface waters are present in this area, the sampling area may be enlarged as needed with approval by the Department. If the Department determines that existing water wells are not representative of the ground waters that could be impacted, then the Department may require the owner or operator to install one (1) or more ground water monitoring wells at the owner's or operator's cost. The owner or operator must obtain consent from appropriate property owners to gain access prior to any sampling or well construction. When monitoring is required by the Department, the operator will prepare a monitoring plan that includes the following: (3-29-12)

i. Location of proposed monitoring sites; (3-29-12)

ii. Construction details of any sampled or constructed wells including total well depth, depth of screened interval(s), screen size, and drilling log. For existing wells, the operator must make every reasonable attempt to locate this information; (3-29-12)

iii. When possible, data from the existing wells collected within the last five (5) years and analyzed in a state or EPA certified drinking water lab; (3-29-12)

iv. List of proposed analytes, testing methods, and their detection limits; (3-29-12)

v. Additional tests such as stable isotopic analysis; and (3-29-12)

vi. Pre-treatment sampling and analysis when no relevant data exists, and a schedule for post-treatment sampling and analysis. (3-29-12)

d. The owner or operator will provide the Department with copies of any analysis or reports within thirty (30) days of samples being taken. All samples must be analyzed in a state or EPA certified drinking water lab. (3-29-12)

e. Pollution of fresh water supplies due to a well treatment is a violation of these rules and Title 47, Chapter 3, Idaho Code. (3-29-12)

211. HYDRAULIC FRACTURING.

01. Application Requirements. In addition to the information required by Subsection 210.01 of this rule, the owner or operator shall provide the following application information regarding hydraulic fracturing: (4-11-15)

a. The geological names and descriptions of the formation into which well stimulation fluids are to be injected; (3-29-12)

b. Detailed information on the base stimulation fluid source. For each stage of the well stimulation program, provide the chemical additives and proppants and concentrations or rates proposed to be mixed and injected, including: (3-29-12)

i. Stimulation fluid identified by additive type (such as but not limited to acid, biocide, breaker, brine, corrosion inhibitor, crosslinker, demulsifier, friction reducer, gel, iron control, oxygen scavenger, pH adjusting agent, proppant, scale inhibitor, surfactant); (3-29-12)

ii. The chemical compound name and Chemical Abstracts Service (CAS) number as found on the previously submitted MSDS shall be identified (such as the additive biocide is glutaraldehyde, or the additive breaker is ammonium persulfate, or the proppant is silica or quartz sand, and so on for each additive used); (3-29-12)

iii. The proposed rate or concentration for each additive and the total volume of each shall be provided (such as gel as pounds per thousand gallons, or biocide at gallons per thousand gallons, or proppant at pounds per gallon, or expressed as percent by weight or percent by volume, or parts per million, or parts per billion); and (3-29-12)

iv. The formulary disclosure of the chemical compounds used in the well stimulation(s) for the purpose of protecting public health and safety. (3-29-12)

c. A detailed description of the proposed well stimulation design that shall include: (3-29-12)

i. The anticipated surface treating pressure range; (3-29-12)

ii. The maximum injection treating pressure, which shall be within accepted safety limits. Accepted safety limits are generally eighty percent (80%) of the maximum pressure rating of the pressurized system; (4-11-15)

iii. The estimated or calculated fracture height in both the horizontal and vertical directions. (3-29-12)

02. Volatile Organic Compounds and Petroleum Distallates. The injection of volatile organic compounds, such as benzene, toluene, ethyl benzene and xylene, also known as BTEX compounds, or any petroleum distillates into ground water in excess of the applicable ground water quality standards is prohibited. Volatile organic compounds or petroleum distillates may be appropriate as additives, but they are not appropriate for use as the base fluids. The proposed use of volatile organic compounds or any petroleum distillates for well stimulation into hydrocarbon bearing zones may be authorized with prior approval of the director. Water that is produced with oil and gas, and which may contain small amounts of naturally occurring volatile organic compounds or petroleum distillates, may be used as well stimulation fluid in hydrocarbon bearing zones. (3-29-12)

03. Well Integrity. Prior to the well stimulation, the owner or operator will perform a suitable mechanical integrity test of the casing or of the casing-tubing annulus or other mechanical integrity test methods and submit an affidavit certifying that the well was tested in anticipation of proposed treatment pressures. The owner or operator will notify the Department of this test twelve (12) to twenty-four (24) hours in advance. (3-29-12)

04. Pressure Monitoring. During the well stimulation operation, the owner or operator shall monitor and record the annulus pressure at the casinghead. If intermediate casing has been set on the well being stimulated, the pressure in the annulus between the intermediate casing and the production casing shall also be monitored and recorded. If the annulus pressure increases by more than five hundred (500) psi gauge as compared to the pressure immediately preceding the stimulation, the owner or operator shall verbally notify the Department as soon as

practicable but no later than twenty-four (24) hours following the incident. (3-29-12)

05. Post Treatment Report. In addition to the information required by Subsection 210.06 of this rule, the owner or operator shall provide the following post-treatment reporting: (4-11-15)

a. The actual total well stimulation treatment volume pumped; (3-29-12)

b. The actual surface pressure and rate at the end of each fluid stage and the actual flush volume, rate and final pump pressure; (3-29-12)

c. The instantaneous shut-in pressure, and the actual fifteen (15) minute and thirty (30) minute shut-in pressures when these pressure measurements are available; (3-29-12)

d. A continuous record of the annulus pressure during the well stimulation; (3-29-12)

e. A copy of the well stimulation service contractor's job log, without any cost/pricing data from the field ticket, in lieu of paragraphs (a) through (d) above. If the job log does not contain all the needed information, it must be supplemented with additional information needed to satisfy Paragraphs 211.05.a. through 211.05.d. of this rule. (4-11-15)

f. A report containing all details pertaining to any annulus pressure increases of more than five hundred (500) psi gauge as described in Subsection 211.04 of this rule. The report shall include corrective actions taken, if necessary. (4-11-15)

g. Results of post treatment fluid analysis used to help determine where the fluid can be disposed. (3-29-12)

212. -- 219. (RESERVED)

220. BONDING.

01. Individual Bond. The Department shall, except as hereinafter provided, require from the owner or operator a good and sufficient bond in the sum of not less than ten thousand dollars ($10,000) plus one dollar ($1) for each foot of planned well length in favor of the Department. The bond shall be conditioned upon the performance of the owner's or operator's duty to comply with the requirements of the Act and the rules of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas and the reclamation of surface disturbance associated with these activities. Said bond shall remain in force and effect until the plugging of said well is approved by the Department and the well site is reclaimed as described in Section 510 of these rules, or the bond is released by the Department. (4-11-15)

02. Blanket Bond. In lieu of the bond in Subsection 220.01 of this rule, any owner or operator may file with the Department a good and sufficient blanket bond covering all active wells drilled or to be drilled in the state of Idaho. The amount of the blanket bond will be as follows according to the number of active wells covered by the bond: (4-11-15)

a. Up to ten (10) wells, fifty thousand dollars ($50,000); (3-29-12)

b. Eleven (11) to thirty (30) wells, one hundred thousand dollars ($100,000); or (3-29-12)

c. More than thirty (30) wells, one hundred fifty thousand dollars ($150,000). (3-29-12)

03. Inactive Well Bond. An owner or operator must provide the Department with a bond of at least ten thousand dollars ($10,000) plus eight dollars ($8) for each foot of planned well length for each inactive well conditioned upon the performance of the duty to comply with the requirements of the Act and the rules of the Commission, with respect to the drilling, maintaining, operating, and plugging of each well drilled for oil and gas. Said bond shall remain in force and effect until the plugging of said well is approved by the Department, or the bond is released by the Department. Inactive wells may not be covered by a blanket bond as provided in Subsection 220.02

of this rule. (4-11-15)

04. Additional Bonding. The Department may impose additional bonding on an owner or operator given sufficient reason, such as non-compliance, unusual conditions, horizontal drilling, or other circumstances that suggest a particular well or group of wells has potential risk or liability in excess of that normally expected. The owner or operator may request a hearing to appeal either the decision to impose an additional bond or the proposed amount of the bond. (3-29-12)

05. Authorized Bonds. The bond(s) referred to in Section 220 must be by a corporate surety authorized to do business in the state of Idaho or in cash. If cash is used to satisfy the bonding requirements in these rules, interest on the cash will be allocated to the general fund. (4-11-15)

221. TRANSFER OF DRILLING PERMITS.
No person to whom a permit has been issued shall transfer the permit to any other location or to any other person until the following requirements have been complied with: (10-21-92)

01. Prior to Drilling Well. If, prior to the drilling of a well, the person to whom the permit was originally issued desires to change the location, he shall submit a letter so stating and another application properly filled out showing the new location. Drilling shall not be started until the transfer has been approved and the new permit posted at the new location. (3-29-12)

02. During Drilling or After Completion. If, while a well is being drilled or after it has been completed, the person to whom the permit was originally issued disposes of his interest in the well, he shall submit a written statement to the Department setting forth the facts and requesting that the permit be transferred to the person who has acquired the well. (3-29-12)

03. Terms for Acceptance of Transfer. Before the transfer of a drilling permit shall be recognized, the person who has acquired the well must submit a written statement setting forth that he has acquired such well and assumes full responsibility for its operation and abandonment in conformity with the law, rules, regulations, and orders issued by the Commission. If bond is required to guarantee compliance with the rules and regulations of the Commission, the person acquiring such well shall furnish bond. (3-29-12)

222. -- 229. (RESERVED)

230. PIT REQUIREMENTS.

01. Plans Required. If pits are proposed to be constructed in connection with another permit application required by these rules, then the owner or operator must include plans for pit construction in the application. If a pit is needed after the other permits have been approved, then an application to amend the permit must be made to the Department with an application fee. Approval by the Department is required prior to the pit being constructed unless the pit is necessary for an emergency action. Pit applications must include the permit number, well name, well location, as-built description if drilling has been completed, proposed pit location, and plans for pit construction, operation, and reclamation. (3-29-12)

02. Location. (3-29-12)

a. Pits must be located where they are structurally sound and the liner systems can be adequately protected against factors such as wild fires, floods, landslides, surface and ground water systems, equipment operation, and public access. (3-29-12)

b. Pits located in a one hundred-year floodplain must be in conformance with any applicable floodplain ordinances pertaining to activities within the one hundred-year floodplain. (3-29-12)

c. Pits shall not be located within an IDEQ recognized source water assessment or protection areas for public drinking water systems. (3-29-12)

03. Site Preparation. All sites must be properly prepared prior to pit construction. Vegetation, roots,

brush, large woody debris and other deleterious materials, topsoil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction, must be removed from the footprint of the pit unless approved by the Department. (3-29-12)

04. Pit Sizing Criteria. (3-29-12)

a. Pits that have constructed berms ten (10) or more feet in height or hold fifty (50) acre-feet or more of fluid must also comply with the dam safety requirements of IDAPA 37.03.06, "Safety of Dams Rules." (3-29-12)

b. Pits must be designed to hold the maximum volume of fluids being used for drilling or well treatment and the volume of water associated with a one hundred-year, twenty-four-hour precipitation event. (3-29-12)

c. Snowmelt events shall be considered in determining the containment capacity. (3-29-12)

d. Pits that are left over winter must be able to contain one hundred twenty-five percent (125%) of the average annual precipitation that falls from October through May. (3-29-12)

e. Pits must be designed to maintain a minimum two (2) foot freeboard at all times. Contingency plans for managing excesses of fluids shall be described in the application. At no time shall fluids in a pit be allowed to escape from the impoundment. (3-29-12)

05. Minimum Plans and Specifications for Reserve, Well Treatment, and Other Short Term Pits. Pits used for one (1) year or less, not including extensions, are short term pits. Construction plans and specifications for short term pits must include the requirements under Subsections 230.02 through 230.04 of this rule and the following: (4-11-15)

a. A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials, and compacted to ninety-five percent (95%) of Standard Proctor Test ASTM D698-07e1 or ninety-five percent (95%) of Modified Proctor Test ASTM D1557-09; (3-29-12)

b. Slopes of two (2) feet horizontal to one (1) foot vertical (2H:1V) or flatter for all interior and exterior pit walls. The top of a bermed pit wall must be a minimum of two (2) feet wide; (3-29-12)

c. A primary liner system consisting of a synthetic liner of at least twenty (20) mils thickness and constructed according to manufacturers' standards with at least four (4) inches of welded seam overlap and complete coverage on the floor and inside walls of the pit. Seams must run parallel to the line of maximum slope so they do not traverse across the slope. The liner edges shall be anchored in a compacted earth filled trench at least eighteen (18) inches in depth. The liner must be protected against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities. Liner compatibility shall comply with EPA SW-846 method 9090A. Alternative liner systems with similar standards may be proposed by the owner or operator and approved at the Department's discretion; (3-29-12)

d. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining system of the pit; (3-29-12)

e. Site-specific methods for excluding people, terrestrial animals, and avian wildlife from the pits; (3-29-12)

f. Segregation and stockpiling of topsoil in a manner that will support reestablishment of the pre-disturbance land use after pit closure; and (3-29-12)

g. A closure plan including the following: (3-29-12)

i. Testing of residual fluids and any accumulated solids, if anything other than water based drilling fluid was placed in the pit; (3-29-12)

ii. Plans for removal and disposal of residual fluids and accumulated solids, with the liner material, at an appropriate facility; (3-29-12)

iii. Regrading plan, replacement of topsoil, and erosion control measures; and (3-29-12)

iv. Reseeding and Revegetation. (3-29-12)

06. Minimum Plans and Specifications for Long Term Pits. Pits used for more than one (1) year, not including extensions, are long term pits. Construction plans and specifications for long term pits must include the requirements under Subsections 230.02 through 230.05 of this rule and the following: (4-11-15)

a. A quality control/quality assurance construction and installation plan; (3-29-12)

b. Type of fluids to be contained in the pit; (3-29-12)

c. Secondary containment synthetic liners, which shall have a minimum thickness of sixty (60) mils consisting of HDPE and a maximum coefficient of permeability of 10^{-9} cm/sec, or comparable liners approved by the Department; (3-29-12)

d. Leak detection and collection systems. The plans and specifications shall: (3-29-12)

i. Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all fluids that pass through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be reasonably expected to result in discharges through the secondary containment synthetic liner; (3-29-12)

ii. Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of fluids from the layer placed between primary and secondary containment synthetic liners. The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; (3-29-12)

iii. Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; and (3-29-12)

iv. Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems. (3-29-12)

e. All piping, including that contained in the leak detection and collection system, shall have a minimum wall thickness of PVC Schedule 80 and be designed to: (4-11-15)

i. Withstand chemical attack from oil field waste or leachate; (3-29-12)

ii. Withstand structural loading from stresses and disturbances from cover materials or equipment operation; and (3-29-12)

iii. Facilitate clean-out and maintenance. (3-29-12)

f. Protections for the liner from excessive hydrostatic force or mechanical damage at the point of discharge into, or suction from, the pit. External discharge or suction lines shall not penetrate the liner; (3-29-12)

g. Plans for erosion control during and immediately following construction; and (3-29-12)

h. Operating and maintenance plans. (3-29-12)

07. Time Limits for Short Term Pits. Reserve, well treatment, and other short term pits must be closed out and reclaimed within one (1) year of being constructed. The owner or operator may request a one-time extension for up to six (6) months. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for ensuring that the pit is adequately monitored and maintained. (3-29-12)

a. Fluids may be left in a pit for up to six (6) months after the associated well activities are conducted. The owner or operator may request a one-time extension for up to one (1) year. The Department may grant the request if the owner or operator gives sufficient cause and presents a plan for keeping the fluids in a usable state. (3-29-12)

b. Notwithstanding the above time limits, the owner or operator may request additional time based upon conditions wholly outside of the owner's or operator's control including, but not limited to, governmental lease requirements and delays related to difficult drilling conditions. The Department may impose additional construction or monitoring requirements prior to granting additional time. (3-29-12)

08. Emergency Pits. Pits constructed during an emergency situation may be approved by an after-the - fact application submitted to the Department. The requirements in Subsections 230.02 through 230.05 of this rule shall apply, and the pit must be closed out and reclaimed within six (6) months of being constructed. The Department must be notified within twenty-four (24) hours of an emergency situation requiring an emergency pit. (4-11-15)

09. Operating Requirements. (3-29-12)

a. Waste oil, hydraulic fluid, transmission fluids, trash, or any other miscellaneous waste products must not be disposed of in a pit. Placement of these materials into a pit may result in the creation of a mixed waste that requires handling and disposal as a hazardous waste. (3-29-12)

b. If a pit liner's integrity is compromised, or if any penetration of the liner occurs above the liquid's surface, then the owner or operator shall notify the appropriate Department area office within forty-eight (48) hours of the discovery and repair the damage or replace the liner. (3-29-12)

c. If a pit or closed-loop system develops a leak, or if any penetration of the pit liner occurs below the liquid's surface, then the owner or operator shall remove all liquid above the damage or leak line within forty-eight (48) hours, notify the appropriate Department area office within forty-eight (48) hours of the discovery, and repair the damage or replace the pit liner. (3-29-12)

d. The owner or operator shall install, or maintain on site, an oil absorbent boom or other device to contain and remove oil from a pit's surface. Visible oil must be removed from short term pits immediately following the cessation of activity for which the pit was constructed. Visible oil must be removed from long term pits as soon as it is discovered. (3-29-12)

10. Closure of Pits. (3-29-12)

a. The owner or operator shall remove all liquids from the pit prior to closure and dispose of them at an appropriate facility or reuse them at a different location. If the nature of the fluids has substantially altered during their use, then the fluids must be sampled and tested to determine which disposal facility can accept them. (3-29-12)

b. Any solids that have been accumulated in the bottom of the pit will be tested to determine which disposal facility can accept the material. The solid material and liner will then be removed and disposed of at an appropriate facility. (3-29-12)

c. The owner or operator must notify the Department at least forty-eight (48) hours prior to removal of the pit liner so an inspection may be conducted. (3-29-12)

d. The pit foundation will be inspected for signs of leakage. If evidence of leakage is observed, the owner or operator must contact the Department and the IDEQ within twenty-four (24) hours and report the type of fluids released and the estimated extent of release. The owner or operator must then remediate the site in conformance with the applicable standards administered by IDEQ in IDAPA 58.01.02," Water Quality Standards," Sections 850 through 852. (3-29-12)

e. After addressing any pit leakage concerns, the owner or operator shall perform the activities described in Subsections 510.04 through 510.08 of these rules. (4-11-15)

11. Condemnation Due to Improper Impoundment. The Department shall have authority to condemn any pit that does not properly impound fluids and order the disposal of such fluids in conformance with IDAPA 58.01.16, "Wastewater Rules," and other applicable rules. (3-29-12)

231. -- 299. (RESERVED)

SUBCHAPTER D - WELL SITES AND DRILLING

300. IDENTIFICATION OF WELLS.

01. Signs; Lease Access Roads. To identify all producing leases the owner or operator thereof shall cause a sign to be placed where the principal lease road enters the lease and such sign shall show the name of the lease and the owner or operator thereof and the section, township, and range. (10-21-92)

02. Signs; Well Sites. Prior to spud activity, a legible sign must be placed near the well to identify the operator, permit number, well name, and emergency telephone number. If a multiple completion, each well head connection shall be identified. (4-11-15)

301. WELL SITE OPERATIONS.

The owner or operator must conduct all operations and maintain the well site at all times in a safe and workmanlike manner. Best management practices and good housekeeping practices must be used at well sites. (4-11-15)

01. Fencing. Within sixty (60) days after completion of the well, the owner or operator must install a fence around the well site to maintain safe working conditions, secure the well site, and prevent access by wildlife and livestock. The fence design must be acceptable to both the landowner and owner or operator. (4-11-15)

02. Storage. All chemicals must be stored and maintained in accordance with the applicable MSDS requirements. Materials related to operations must be palletized where applicable. Vehicles and materials not in use must be removed from the well site. (4-11-15)

03. Vegetation. All well sites must be kept free of excessive vegetation. (4-11-15)

04. Trash. All trash, debris, and scrap metal must be removed from the well site. Pending removal, any trash or debris that might constitute a fire hazard shall be removed to a distance of at least one hundred (100) feet from the well location, tanks, and separator. (4-11-15)

302. ACCIDENTS AND FIRES.

The owner or operator shall take all reasonable precautions to prevent accidents and fires. An emergency response plan will be prepared and available at the well for use or inspection. Coordination with local emergency responders and the Idaho Bureau of Homeland Security is recommended prior to rig set up. The following actions must be taken in event of a release, industrial accident, or fire of major consequence: (3-29-12)

01. Provide Information to Emergency Response. Emergency workers will be given information on all fluids or chemicals involved in a spill or accident as needed according to OSHA Standard 1910.1200 (Hazard Communication). Nothing in this rule shall authorize any person to withhold information that is required by state or federal law to be provided to a health care professional, a doctor, or a nurse. All information required by a health care professional, a doctor, or a nurse shall be supplied, immediately upon request, by the owner or operator, or their contractors, directly to the requesting health care professional, doctor, or nurse, including the percent by volume of the chemical constituents (and associated CAS numbers) in the fluids and the additives; (3-29-12)

02. Initiate Spill Response and Corrective Actions. Owner or operator must comply with the requirements of IDAPA 58.01.02, "Water Quality Standards," Sections 850 through 852; and (3-29-12)

03. Notify the Department. Notify the Department within twenty-four (24) hours and submit a full report thereon within fifteen (15) days. (3-29-12)

303. -- 309. (RESERVED)

310. GENERAL DRILLING RULES.

01. General Design Requirements for Casing and Cementing. Casing and cementing programs adopted for wells must be so planned as to protect any potential oil- or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. Owners and operators shall follow the standards for casing and tubing in API SPEC 5CT and the standards for cementing in API SPEC 10A. (3-29-12)

02. Wildcat and High-Pressure Conditions. When drilling wildcat territory or in any field where high pressures are likely to exist, the owner or operator shall take all necessary precautions to keep the well under control at all times and shall use proper high-pressure fittings and equipment at the time the well is started. Under such conditions all strings of casings must be securely anchored. (3-29-12)

03. High Temperature Conditions. Due to high geothermal gradients in Idaho, the temperature of the return drilling mud shall be monitored daily during the drilling of the surface casing hole and all deeper holes. The owner or operator must use cements appropriate for the temperatures expected or encountered. (3-29-12)

04. Conductor Pipe or Casing Requirements. A minimum of forty (40) feet of conductor pipe shall be installed. If geologic conditions are such that forty (40) feet is not feasible, the owner or operator may request a variance from the Department. The annular space is to be cemented solid to the surface. A twenty-four (24) hour cure period for the grout must be allowed prior to drilling out the shoe unless sufficient additives, as determined by the Department, are used to obtain early strength. (3-29-12)

05. Surface Casing Requirements. (3-29-12)

a. The Department must be notified in writing seventy-two (72) hours in advance of planned spud activity for surface casing. The Department will post the spud activity notice on its website and send an electronic copy of the notice to the county where the well is located. (4-11-15)

b. Surface casing must be set at a minimum depth equal to ten percent (10%) of the proposed total depth of the well. In areas where pressures and formations are unknown, a minimum of two hundred (200) feet of surface casing shall be set. (3-29-12)

c. Surface casing shall provide for control of formation fluids, protection of fresh water, and for adequate anchorage of blow out prevention equipment. The casing must be seated through a sufficient series of low permeability, competent lithologic units such as claystone, siltstone, basalt, etc., to insure a solid anchor for blow out prevention equipment and to protect usable ground water from contamination. Additional surface casing may be required if the first string has not been cemented through a sufficient series of low permeability, competent lithologic units, or rapidly increasing thermal gradients or formation pressures are encountered. (4-11-15)

d. All surface casing shall be cemented solid to the surface by pump and plug, displacement, or other approved method. When surface samples are cured, additional drilling activities may commence. (3-29-12)

e. The Department must be notified in writing twenty-four (24) hours in advance of planned cementing activity for surface casing. The Department will witness and document all surface casing cementing activities. (4-11-15)

06. Requirements for BOP Equipment. Unless altered, modified, or changed for a particular pool(s) upon hearing before the Commission, BOP and related equipment shall be installed and maintained during the drilling of all wells in accordance with the following rules: (3-29-12)

a. BOP equipment installed on wells in which formation pressures to be encountered are abnormal or unknown shall consist of a double-gate, hydraulically operated preventer with pipe and blind rams or two (2) single-ram-type preventers; one (1) equipped with pipe rams, the other with blind rams and an annular type preventer. In addition, upper and lower kelly cocks, pit level indicators with alarms and/or flow sensors with alarms, and surface

facilities to handle pressure kicks shall be installed prior to drilling any formation with known abnormal pressure. (10-21-92)

i. Accumulators shall maintain a pressure capacity reserve at all times to provide for operation of the hydraulic preventers and valves with no outside source. (10-21-92)

ii. In all other drilling operations, BOP equipment shall consist of at least one (1) double-gate preventer with pipe and blind rams or two (2) single-ram-type preventers, one (1) equipped with pipe rams, the other with blind rams, and sufficient valving to permit fluid circulation at the surface. (10-21-92)

b. All BOP equipment, choke lines, and manifolds shall be installed above ground level. Casing heads and optional spools may be installed below ground level provided they are visible and accessible. (4-11-15)

c. BOP equipment and related casing heads and spools shall have a vertical bore no smaller than the inside diameter of the casing to which they are attached. (3-29-12)

d. The working pressure rating of all BOP and related equipment shall equal or exceed the maximum anticipated pressure to be contained at the surface. (4-11-15)

e. All ram-type BOP and related equipment, including casing, shall be tested to the full working pressure rating of said equipment upon installation, provided that components need not be tested to levels higher than the lowest working pressure rated component. Annular type BOP and related equipment must be tested in conformance with the manufacturer's published recommendations. If, for any reason, a pressure seal in the assembly is disassembled, a test to a full working pressure rating of that seal shall be conducted prior to the resumption of any drilling operation. In addition to the initial pressure tests, ram-type BOP shall be checked for physical operation at least once per week and all components, again with exception of the annular-type BOP, tested at least once every twenty-one (21) days to at least fifty percent (50%) of the rated pressure of the BOP equipment and/or to the maximum anticipated pressure to be contained at the surface, whichever is greater. (4-11-15)

f. The Department will require an affidavit covering the initial pressure tests after installation signed by the owner, operator, or contractor attesting to the satisfactory pressure tests. The Department must be advised at least twenty-four (24) hours in advance of all tests. The Department may inspect and witness all BOP operations and testing. (4-11-15)

g. A schematic diagram of the BOP and well head assembly shall be submitted to the Department upon application for a permit to drill. The schematic diagram should indicate the minimum size and pressure rating of all components of the well head and BOP assembly. (3-29-12)

h. Studs on all well head and BOP flanges shall be checked for tightness each week. Hand wheels for locking screws shall be installed and operational, and the entire BOP and well head assembly shall be kept clean of mud and ice. (10-21-92)

i. A drillstem safety valve shall be available on the rig floor at all times with correct thread for the pipe in use. (3-29-12)

j. A drillstem float valve shall be installed in bit sub or as close to bit as reasonably possible. (3-29-12)

07. Intermediate Casing. (3-29-12)

a. Intermediate casing, if installed, shall be cemented solidly to the surface or to the top of the casing. (3-29-12)

b. Intermediate casing not run to surface will be lapped into at least one hundred (100) feet of the surface casing, or at least one hundred (100) feet of the next larger casing to provide overlap and secure a seal. (3-29-12)

c. Such casing shall be cemented and pressure tested before cement plugs are drilled. (3-29-12)

d. The Department must be notified in writing twenty-four (24) hours in advance of planned cementing activity for intermediate casing. The Department may witness and document all intermediate casing cementing activities. (4-11-15)

08. Production Casing; Cementing and Testing Requirements. (3-29-12)

a. If and when it becomes necessary to run a production casing, such casing shall be cemented and pressure tested before cement plugs are drilled. (3-29-12)

b. The Department must be notified in writing twenty-four (24) hours in advance of planned cementing activity for production casing. The Department may witness and document all production casing cementing activities. (4-11-15)

c. When not run to the surface, production casing will be cemented from the bottom of the hole up into at least one hundred (100) feet of the next larger casing to provide overlap and secure a seal. (3-29-12)

d. If the bottom plug will be drilled out, the open hole interval must be completed to protect any potential oil-bearing or gas-bearing horizons penetrated during drilling from infiltration of injurious waters from other sources, and to prevent the migration of oil or gas from one horizon to another. (3-29-12)

09. Step-off. An owner or operator may submit to the Department a step-off request to complete a new borehole from surface if a borehole without production casing deviates from vertical plumb by more than five (5) degrees. A step-off borehole must be drilled within the existing pad of the permitted well. The incomplete borehole must be plugged and abandoned in accordance with Section 502 of these rules. (4-11-15)

10. Well Control (Rotary Tools); Reserve Mud Tanks. When drilling with rotary tools, the owner or operator shall provide, as required by the Department, a reserve mud pit or tank of suitable capacity for the anticipated depth of the well and maintain an on-site supply of mud additives that can raise the mud weight by one (1) pound per gallon in case of loss of well control. (4-11-15)

11. Mud Pits. Before commencing to drill, proper and adequate mud pits shall be constructed for the reception and confinement of mud and cuttings and to facilitate the drilling operation. Special precautions shall be taken, if necessary, to prevent contamination of fresh waters. These pits must conform to the standards in Section 230 of these rules. If tanks will be used, then mud pits may not be required. (4-11-15)

12. Well Control (Cable Tools); Fluid Containment. Natural gas or oil which may be encountered in a substantial quantity in any section of a cabletool drilled hole above the ultimate objective shall be shut off with reasonable diligence either by mudding or by casing, or other approved method, and confined to its original source to the satisfaction of the Department. The use of cable tools for drilling activities requires written approval by the Department prior to spud activities. A request to use cable tools must include the following: (4-11-15)

a. Proposed pressure control measures; (4-11-15)

b. Diversion and disposal methods for stray gas; (4-11-15)

c. Safety protocols for mud weights and well controls; and (4-11-15)

d. Annual drill rig safety inspection information, including the date of last replacement of cables, draw works inspection report, and metallurgic report of safety compliance for structural integrity of the drill rig. (4-11-15)

13. Drilling Mud Disposal. Drilling mud will be disposed of at an appropriate facility in compliance with applicable state and federal requirements. (3-29-12)

14. Report of Water Encountered; Owner's or Operator's Duties. It shall be the duty of any owner

or operator drilling an oil or gas well or drilling a seismic, core or other exploratory hole to report to the Department all potential water bearing zones encountered; such report shall be in writing and give the location of the well or hole, the depth at which the zones were encountered, the thickness of such zones, and the rate of flow of water if known. This requirement can be met by the submittal of the logs required in Section 340 of this rule. (4-11-15)

15. Spill Prevention, Control, and Countermeasures Plan. The owner or operator must have a Spill Prevention, Control, and Countermeasures Plan in conformance with the requirements of the EPA. This plan must be updated as needed when facilities or activities change. (3-29-12)

16. Interim Drill Site Clean Up. If a well is completed for production or other purposes, interim reclamation must be completed within six (6) months of the rig being removed. Interim reclamation includes the following activities: (3-29-12)

a. Debris and waste materials including, but not limited to, concrete, sack bentonite and other drilling mud additives, sand, plastic, pipe, and cable associated with the drilling, re-entry, or completion operations shall be removed and disposed of properly. (3-29-12)

b. All disturbed areas affected by drilling or subsequent operations, except areas reasonably needed for production operations or for subsequent drilling operations to be commenced within twelve (12) months, shall be reclaimed and revegetated to approximately the pre-drilling condition or to the condition specified in an agreement with the surface owner. The reclamation standards in Subsections 510.04 through 510.07 of these rules, shall apply. (4-11-15)

311. LOSS OF TOOL WITH RADIOACTIVE MATERIAL.

01. Recovery or Cementing of Tool. If a gamma ray tool, or some other tool containing radioactive material, becomes lost in a well, the owner or operator shall make every reasonable attempt to retrieve the tool from the well. If the tool cannot be recovered, the owner or operator must immediately cover the tool with cement sufficient to secure it in place and prevent it from contacting any fluids in the well. A whipstock or other approved deflection device shall be placed on top of the cement plug to prevent accidental or intentional mechanical disintegration of the radioactive source. (3-29-12)

02. Sidetracking. If the hole is later sidetracked above the radioactive material, the sidetracked hole must be at least fifteen (15) feet from the original hole with the lost radioactive material. (3-29-12)

03. Reporting. A report must be sent to the Department and IDEQ within thirty (30) days of cementing the tool. The report must describe the tool that was lost, the depth it was lost at, the specific type and amount of radioactive material in the tool, and an estimate of the length of cement covering the tool. This report may be included in a plugging report if the well will be plugged. (3-29-12)

312. CHOKES.

All flowing wells shall be equipped with adequate chokes or beans to properly control the flow thereof. (10-21-92)

313. USE OF EARTHEN RESERVOIRS.

Oil shall not be produced, stored, or retained in earthen reservoirs or in open receptacles. (10-21-92)

314. VACUUM PUMPS PROHIBITED.

The use of vacuum pumps or other devices for the purpose of placing a vacuum on any gas- or oil-bearing stratum is prohibited; however, the Department may upon application and hearing and for good cause shown permit the use of vacuum pumps. (3-29-12)

315. PULLING OUTSIDE STRINGS OF CASING.

Casing shall not be recovered if its recovery will expose any abnormal pressure, lost circulation, oil, gas, or water zone. In pulling outside strings of casing from any oil or gas well, the space outside the casing left in the hole shall be kept and left full of mud-laden fluid of adequate specific gravity to seal off all fresh and saltwater strata and any strata bearing oil or gas which is not producing. Casing may not be pulled without first making application to the Department and receiving approval. The application must describe how fresh waters will be protected. (3-29-12)

316. -- 319. (RESERVED)

320. MECHANICAL INTEGRITY TESTING.

01. Mechanical Integrity Testing. (3-29-12)

a. The mechanical integrity test shall include one (1) of the following tests to determine whether leaks are present in the casing, tubing, or packer: (3-29-12)

i. A pressure test with liquid or gas at a pressure of not less than three hundred (300) psi or the minimum injection pressure, whichever is greater, and not more than the maximum injection pressure; or (3-29-12)

ii. The monitoring and reporting to the Department, on a monthly basis for sixty (60) consecutive months, of the average casing-tubing annulus pressure, following an initial pressure test; or (3-29-12)

iii. In lieu of Subparagraphs 320.01.a.i. and 320.01.a.ii. of this rule, any equivalent test or combinations of tests approved by the Department. (4-11-15)

b. The mechanical integrity test shall include one (1) of the following tests to determine whether there are fluid movements in vertical channels adjacent to the well bore: (3-29-12)

i. Tracer surveys; (3-29-12)

ii. Cement bond log or other acceptable cement evaluation log; (3-29-12)

iii. Temperature surveys; or (3-29-12)

iv. In lieu of Subparagraphs 320.01.b.i. through 320.01.b.iii. of this rule, any other equivalent test or combination of tests approved by the Department. (4-11-15)

c. Mechanical integrity tests shall be performed at the rate of not less than one (1) test every five (5) years, regardless of well status. The first five-year period shall commence on the date the initial mechanical integrity test is performed. (3-29-12)

02. Inactive Wells. If, at any time, surface equipment excluding the wellhead is removed or the well becomes incapable of production, a mechanical integrity test shall be performed within thirty (30) days. The mechanical integrity test for an inactive well shall be isolation of the wellbore with a bridge plug or similar approved isolating device set one hundred (100) feet or less above the highest perforations and a pressure test with liquid or gas at a pressure of not less than three hundred (300) psi surface pressure or any equivalent test or combination of tests approved by the Department. (3-29-12)

03. Prior Notification. Not less than ten (10) days prior to the performance of any mechanical integrity test required by this rule, any person required to perform the test shall notify the Department, in writing, of the scheduled date on which the test will be performed. (3-29-12)

04. Reporting Requirements. Mechanical integrity test results shall be submitted to the Department within thirty (30) days of testing. (3-29-12)

05. Mechanical Integrity Required. All wells shall maintain mechanical integrity. All wells that fail a mechanical integrity test, or that are determined through any other means to lack mechanical integrity, shall immediately be investigated by the owner or operator. The well shall be repaired or immediately shut down following the investigation. Repairs shall be completed within six (6) months, or the well shall be plugged and abandoned. If the repair cannot be completed within six (6) months, the owner or operator may request an extension and provide a plan for the repair, (3-29-12)

321. -- 329. (RESERVED)

330. WELL DIRECTIONAL CONTROL.

01. General Restrictions; Allowable Deviation. The maximum point at which a well penetrates the producing formation shall not unreasonably vary from the vertical drawn from the center of the hole at the surface. Deviation is permitted without special permission to remedy blowouts and, for short distances, to straighten the hole, sidetrack junk, or correct other mechanical difficulties. (10-21-92)

02. Controlled Directional Drilling. Except for the purposes recited in Subsection 330.01, no well hereafter drilled may be intentionally directionally deviated from the vertical unless the owner or operator thereof shall first file an application and application fee to amend the drilling permit and receive approval from the Department. Such application shall contain the following information: (4-11-15)

a. Name and address of the owner or operator. (3-29-12)

b. Lease name, well number, name of field and reservoir and county. (10-21-92)

c. Description of surface location and proposed location of the producing interval (footage from lease and section or block and survey lines). (10-21-92)

d. Reason for intentional deviation. (10-21-92)

e. List of offset operators and statement that each has been furnished a copy of the application by registered mail. (10-21-92)

f. Signature of representative of owner or operator. (3-29-12)

g. Notification to offset operators that any objection they may have to the proposed intentional deviation of the well must be filed with the Department within fifteen (15) days of receipt of a copy of the application. (3-29-12)

h. The application shall be accompanied by a neat, accurate plat or sketch of the lease and all offset leases showing the names of all offset operators and the surface and proposed producing interval locations of the well. Plat shall be drawn to a scale which will permit facile observation of all pertinent data. (10-21-92)

03. Copy of Application to Offset Operators. At the time the application is filed with the Department, a copy of the application and the plat shall be forwarded by registered mail to all offset operators to the lease on which the well is to be drilled. (3-29-12)

04. Department Action. Upon receipt, the Department will hold the application for fifteen (15) days. If objection from any offset operator to the proposed intentional deviation is received within fifteen (15) days of receipt of the application by said operator, or if the Department is not in agreement with the proposed deviation, the application shall be set down for public hearing. If no objection from either an offset operator or the Department is interposed within the fifteen (15) day period, the application shall be approved and permit issued by the Department. If written consent of the offset operator(s) is filed concurrently with the application to drill directionally, the Department may immediately approve the application without waiting fifteen (15) days. (3-29-12)

05. Angular Deviation and Directional Survey. Upon completion, a complete angular deviation and directional survey of the well obtained by an approved well surveying company shall be filed with the Department, together with other regularly required reports. (3-29-12)

06. Application for Exceptions. In the event the proposed, or final, location of the producing interval of the directionally deviated well is not in agreement with spacing or other rules of the Commission applicable to the reservoir, proper applications shall be made to obtain approval of exceptions to such rules. Such approval shall be granted or denied at the discretion of the Department, and shall be accorded with the same consideration and treatment as if the well had been drilled vertically to the producing interval. (3-29-12)

331. -- 339. (RESERVED)

340. WELL COMPLETION/RECOMPLETION REPORT AND WELL REPORT.
Within thirty (30) days after the completion of a well drilled for oil or gas, or the recompletion of a well into a different source of supply, or where the producing interval is changed, a completion report shall be filed with the Department, on a form prescribed by the Department. Such report shall include name, number, and exact location of the well; lease name, date of completion and date of first production, if any; name and depth of hydrocarbon reservoir(s), if a multiple completion, from which well is producing; annulus pressure test; initial production test, including oil, gas, and water, if any; a well report as defined in Section 010; and such other relevant information as the Department may require. (3-29-12)

341. DRILLING LOGS.

01. Minimum Required Logs. All wells shall have a lithologic log from the bottom of the hole to the top, to the extent practicable. (3-29-12)

02. Bottom Hole Survey. All wells shall have a bottom hole location survey. (3-29-12)

03. Cement Bond Log. All wells that are cased and cemented shall have a cement bond log run across the casing. (3-29-12)

04. Other Logs. If other logs are run, including, but not limited to, resistivity, gamma-neutron log, sonic log, etc., then the owner or operator shall retain a copy regardless of results. (3-29-12)

05. Log Submittal. The above logs shall be submitted to the Department in paper and digital formats within thirty (30) days of the log being run. If logs were run in color, then the submitted copies shall also be in color. Digital formats must be Tiff and LAS 2.0 or higher. Logs submitted to the Department must have a scale of one (1) inch for correlation logs and five (5) inches for detail logs. (4-11-15)

342. -- 399. (RESERVED)

SUBCHAPTER E - PRODUCTION

400. PRODUCTION REPORTS.

01. Required Content. An owner or operator must report production on a form created by the Department. Production reports submitted to the Department must include gas quantities sold in thousand cubic feet (mcf), condensate sold in barrel quantities (bbl), oil sold in barrel quantities (bbl), and formational waters produced in barrel quantities (bbl). (4-11-15)

02. Annual Production Report. By January 31 of each year, an owner or operator must submit to the Department an aggregated report of all hydrocarbons and formational waters produced and sold or disposed of for each well during the previous calendar year. (4-11-15)

401. MEASUREMENT OF OIL.
The volume of production of oil shall be computed in terms of barrels of clean oil on the basis of meter measurements or tank measurements of oil-level difference made and recorded to the nearest quarter-inch (1/4") of one hundred percent (100%) capacity tables, subject to the following corrections: (10-21-92)

01. Correction for Impurities. The percentage of impurities (water, sand, and other foreign substances, not constituting a natural component part of the oil) shall be determined to the satisfaction of the Department, and the observed gross volume of oil shall be corrected to exclude the entire volume of such impurities. (3-29-12)

02. Temperature Correction. The observed volume of oil corrected for impurities shall be further corrected to the standard volume at sixty (60) Degrees F in accordance with ASTM D-1250-08, Table 7, or any

revisions thereof and any supplements thereto, or any close approximation thereof approved by the Department. (3-29-12)

03. Gravity Determination. The gravity of oil at sixty (60) degrees F shall be determined in accordance with ASTM D-1250-08, Table 5, or any revisions thereof and any supplements thereto approved by the Department. (3-29-12)

402. MEASUREMENT OF GAS.
Gas Measurement. For computing volume of gas to be reported to the Department, the standard of pressure shall be fourteen point seventy-three (14.73) psi atmospheric, and the standard of temperature shall be sixty (60) Degrees F. All volumes of gas to be reported to the Department shall be adjusted by computation to these standards, unless otherwise authorized by the Department. (3-29-12)

403. GAS-OIL RATIO FOR WELL CLASSIFICATIONS.
In the absence of an order by the Commission setting a field-specific oil-gas ratio, a well that produces gas of five thousand (5,000) cubic feet or greater to one (1) bbl of oil at standard temperature and pressure will be classified as a gas well. (4-11-15)

404. GAS-OIL RATIO LIMITATION.

01. Waste Prevention; Conditions for Emergency Order. To further prevent waste resulting from the production of wells with inefficient gas-oil ratios, the Department may enter an emergency order temporarily prohibiting the production of oil or gas from all wells in a pool producing both oil and gas when the Department believes that waste may be occurring or is imminent in said pool by reason of the operation of wells with inefficient gas-oil ratios. The order shall specify a date for the hearing described in Subsection 404.02 of these rules. The Department may use information provided by an offset operator or an owner or operator in a common source of supply to determine if waste is occurring. (4-11-15)

02. Notice and Cause for Hearing. The Department will notify all offset operators and owners or operators in the common source of supply of the hearing date. A hearing regarding waste due to inefficient gas-oil ratios will held for any of the following reasons: (3-29-12)

i. If an emergency order is issued as described in Subsection 404.01 of these rules. The hearing will be scheduled between five (5) and fifteen (15) days after the effective date of the order. (4-11-15)

ii. Upon application to the Department from any person with an ownership interest in the common source of supply who believes that waste is occurring due to inefficient oil and gas ratios. The application must include credible evidence of such waste. The hearing shall be held within thirty (30) days of the Department receiving the application. (3-29-12)

iii. Prior to an emergency situation and upon its own motion with reasonable cause, the Department may schedule a hearing regarding potential waste due to inefficient gas-oil ratios. (3-29-12)

03. Determination of Inefficient Ratios; Power to Limit Production. If the Department after notice and hearing, whether held upon its own motion, upon the application of an interested party, or pursuant to an emergency order entered as hereinafter provided for, shall find that a well(s) in the pool are operating with inefficient gas-oil ratios, and that waste is occurring or is imminent as a result thereof, it shall enter an order limiting the production of oil and gas from said pool to that amount which the pool can produce without waste and in accordance with sound engineering practice. The order shall also limit the amount of oil or gas, or both, that may be produced from any well in the pool, so that each owner or operator is given an opportunity to produce his just and equitable share in the pool in accordance with sound engineering practice. (3-29-12)

405. GAS-OIL RATIO SURVEYS AND REPORTS.
Within thirty (30) days following the completion or recompletion of each well producing oil and gas and thereafter as the Department may require, the owner or operator of such well shall make a gas-oil ratio test of such well and the results of such test shall be reported to the Department within twenty (20) days after the test is made. Certain wells may be excepted from this rule by the Department upon written request. Entire fields may be excepted from this rule

after notice and hearing. (3-29-12)

406. -- 409. (RESERVED)

410. METERS.

01. General Requirements. Meter fittings of adequate size to measure the gas efficiently for the purpose of obtaining gas-oil ratios shall be installed on the gas vent line of every separator or proper connections made for orifice well tester. Well-head equipment shall be installed and maintained in excellent condition. Valves shall be installed so that pressures can be readily obtained on both casing and tubing. (3-29-12)

02. Visibility. All required meters shall be accessible and viewable by the Department for the purpose of monitoring daily, monthly and/or cumulative production volumes from individual wells. (3-29-12)

411. SEPARATORS.
All flowing oil wells must be produced through an adequate oil and gas separator or emulsion treater, provided, however, the director may approve producing wells without a separator or emulsion treater. (10-21-92)

412. PRODUCING FROM DIFFERENT POOLS THROUGH THE SAME CASING STRING.
No well shall be permitted to produce either oil or gas from different pools through the same string of casing without first receiving written permission from the Department. (3-29-12)

413. GAS UTILIZATION.
After a well is completed and while it is being tested, the owner or operator may flare gas for no more than fourteen (14) days without paying royalties and severance taxes on the flared gas. Under no conditions may gas be flared for more than sixty (60) days after a well is completed or recompleted. Prior to flaring gas, owners or operators must notify the county in which the well is located and all owners of occupied structures within one-quarter (1/4) mile radius of the well. After the owner or operator has tested a well, no gas from such well shall be permitted to escape into the air, and all gas produced therefrom shall be utilized without waste. (4-11-15)

414. -- 419. (RESERVED)

420. TANK BATTERIES.
Tank batteries must meet the following requirements. (4-11-15)

01. Containment Requirements. All tank batteries consisting of tanks containing produced fluids or crude oil storage tanks or containing tanks equipped to receive produced fluids must be surrounded by tank dikes that meet the following requirements: (4-11-15)

a. Tank dikes must be designed to have a capacity of at least one and one-half (1½) times the volume of the largest tank which the dike surrounds. (4-11-15)

b. The material used to construct a tank dike and the material used to line the bottom and sides of the containment reservoir must have a maximum coefficient of permeability of 10-9 cm/sec so as to contain fluids and resist erosion. An operator must submit proof of compliance for tank dike liner construction to the Department in the form of a manufacturer's statement of design or a nuclear density test performed by a third party trained to perform the test. (4-11-15)

c. All piping and manmade improvements that perforate the tank dike wall or tank battery floor must be sealed to a minimum radius of twelve (12) inches from the outside edge of the piping or improvement. (4-11-15)

d. Valves and quick-connect couplers on tank batteries must be at least eighteen (18) inches from the inside wall of the tank dike. (4-11-15)

e. Vegetation on the top and outside surface of tank dike must be properly maintained so as to not pose a fire hazard. (4-11-15)

f. A ladder or other permanent device must be installed over the tank dike to access the containment reservoir. (4-11-15)

g. The containment reservoir must be kept free of vegetation, stormwater, produced fluids, other oil and gas field related debris, general trash, or any flammable material. Drain lines installed through the tank dike for the purpose of draining storm water from the containment reservoir must have a valve installed which must remain closed and capped when not in use. Any fluids collected, spilled or discharged within the containment reservoirs must be removed as soon as practical, characterized, treated if necessary, and disposed in conformance with IDAPA 58.01.16, "Wastewater Rules," and other applicable rules. (4-11-15)

421. -- 429. (RESERVED)

430. GAS PROCESSING FACILITIES.
Gas processing facilities must meet the following requirements. (4-11-15)

01. Operations. Operators of gas processing facilities must notify the Department which wells, by API number, are served by a gas processing facility. All gas processing facilities not constructed on a well site must comply with the requirements in Sections 301 and 302 of these rules. (4-11-15)

02. Meters and Facility Plans. Gas processing facilities must account for all liquids and gas entering and leaving the facility with accurate meters. A supervisory control and data acquisition systems or other data recording system must be used to monitor the liquids and gas in the facility. Operators of gas processing facilities must submit an as-built facility design plan to the Department upon completion of the facility, a facility design plan must contain at the minimum: (4-11-15)

a. Site layout; (4-11-15)

b. Piping and instrumentation diagram; (4-11-15)

c. Process Flow schematics; (4-11-15)

d. Electronic controls and sensing schematic; (4-11-15)

e. Equipment operations and maintenance manuals for, pumps, meters, heat exchangers and any other operationally critical equipment that requires periodic maintenance and calibration; (4-11-15)

f. Periodic maintenance schedule for critical equipment; (4-11-15)

g. Troubleshooting metric; and (4-11-15)

h. Other information or documentation necessary for the safe and continued operation of a gas processing facility. (4-11-15)

03. Flaring. Flaring at gas processing facilities must be in conformance with IDAPA 58.01.01, Rules for the Control of Air Pollution in Idaho, and any permit issued by the IDEQ. (4-11-15)

04. Inspections. Gas processing facilities must have site specific facility design plans and a log book of gas metered in and out of the facility available for review by Department staff during the inspections of gas processing facilities. During inspections, gas process facility staff must demonstrate knowledge of all operations and the location of all emergency shut off equipment, direction of flow lines, and heat exchangers. The Department will conduct quarterly inspections of facilities. (4-11-15)

431. -- 499. (RESERVED)

SUBCHAPTER F - WELL ACTIVITY AND RECLAMATION

500. ACTIVE WELLS.

01. Gas Storage Wells. Gas storage wells are to be considered active at all times unless physically plugged. (3-29-12)

02. Extension of Active Status. An owner or operator may request an extension of active well status for wells that are idled for more than twenty-four (24) continuous months. The owner or operator shall provide a written request to the Department stating the reason for the extension, the length of extension, the method used to close the well to the atmosphere, and the plans for future operation. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed five (5) years and may be renewed upon request. (3-29-12)

03. Annual Reports for Active Wells. The owner or operator shall submit an annual report to the Department describing the current status of the well and the plans for future well operation by January 31 of each year. Failure to submit the annual report may result in the Department declaring the well inactive. (4-11-15)

501. INACTIVE WELLS.

01. Determination of Inactive Status. The Department shall declare a well inactive after twenty-four (24) continuous months of inactivity if the owner or operator has not received approval for an extension of active status, or after an owner or operator fails to submit an annual report for an active well. The Department will immediately notify an owner or operator of this determination by certified mail, and the owner or operator may appeal this determination to the Commission. (3-29-12)

02. Owner's or Operator's Responsibility for Inactive Wells. The owner or operator must plug and abandon an inactive well in accordance with Section 502 of these rules within six (6) months of being notified by the Department unless the owner or operator supplies the following information within the six-month time period: (4-11-15)

a. A written request to extend inactive status; (3-29-12)

b. An individual bond, as provided for in Subsection 220.03 of these rules, if the well was covered by a blanket bond; and (4-11-15)

c. A description of how the well is closed to the atmosphere with a swedge and valve, packer, or other approved method, and how the well is to be maintained. (3-29-12)

03. Inactive Review and Decision. The Department shall review the request for approval, modification, or denial, and shall set the duration of the extension if approved. An extension shall not exceed three (3) years and may be renewed upon request. (3-29-12)

04. Testing of Inactive Wells. In addition to the requirements of Section 320 of these rules, inactive wells shall have a mechanical integrity test performed within two (2) years after the date of last use in order to retain inactive status. (4-11-15)

05. Converting Inactive Wells to Active Wells. The owner or operator must apply to the Department to change the status of a well from inactive to active. The Department shall review the request for approval, modification, or denial. A mechanical integrity test may be required by the Department if the well has been worked over or if a test has not been conducted for five (5) years or longer. If approved, the well may again be covered by a blanket bond. (3-29-12)

502. WELL PLUGGING.

01. Plugging Required. The operator or owner shall not permit any well drilled for oil, gas, saltwater disposal or any other purpose in connection with the production of oil and gas, to remain unplugged after such well is no longer used for the purpose for which it was drilled or converted. (10-21-92)

02. Notice of Intention to Abandon Well. Before beginning abandonment work on an oil or gas well, a Notice of Intention to Abandon shall be filed with the Department and approval obtained as to the method of abandonment before the work is started. The notice must show the reason for abandonment and must give a detailed statement of the proposed work, including such information as kind, location, and length of plugs (by depths), and plans for mudding, cementing, shooting, testing, and removing casing as well as any other pertinent information. (3-29-12)

03. Plugging Dry Holes. If a nonproductive well, or dry hole, is drilled and not needed for any specific purpose, it must be plugged and abandoned prior to removal of the drill rig. A verbal notification and approval may be used for dry holes in lieu of the written notification referenced in Subsection 502.02 of these rules. The standards in Subsections 502.04 through 502.06 of these rules will still apply. (4-11-15)

04. Plugging of Wells. The owner or operator of any well drilled for oil or gas, or any seismic, core, or other exploratory holes, whether cased or uncased, and regardless of diameter shall be responsible for the plugging of said hole in a manner sufficient to properly protect all freshwater-bearing and possible or probable oil- or gas-bearing formations. The material used in plugging, whether cement, mechanical plug, or some other equivalent method approved in writing by the Director, must be placed in the well in a manner to permanently prevent migration of oil, gas, water, or other substance from the formation or horizon in which it originally occurred. The preferred plugging cement slurry is that recommended in API Bulletin E3. Pozzolan, gel, and other approved extenders may be used if the owner or operator can document to the Department's satisfaction that the slurry design will achieve a minimum compressive strength of three hundred (300) psi after twenty-four (24) hours, and eight hundred (800) psi after seventy-two (72) hours measured at ninety-five (95) degrees F and at eight hundred (800) psi. No substances of any nature or description other than those normally used in plugging operations shall be placed in any well at any time during plugging operations. (3-29-12)

05. Plugged Intervals. The following plugging standards shall be followed for all wells: (3-29-12)

a. Cement must be placed for a length of at least one hundred (100) feet on either side of each casing shoe, or casing bottom if no shoe is present. If the bottom of the hole is less than one hundred (100) feet from the bottom of the lowest casing, then the entire length of the uncased hole below the casing will be cemented. (3-29-12)

b. In the uncased portions of a well, cement plugs must be placed to extend from one hundred (100) feet below the bottom up to one hundred (100) feet above the top of any oil, gas, and abnormally high pressure zones, so as to isolate fluids in the strata in which they are found and to prevent them from escaping into other strata. (3-29-12)

c. A cement plug shall be placed a minimum of one hundred (100) feet above all producing zones in uncased portions of a well. (3-29-12)

d. A cement plug shall be placed a minimum of fifty (50) feet above and below the following intervals: (3-29-12)

i. Where the casing is perforated or ruptured. If no cement is present behind the casing, then cement must also be squeezed out the perforations or ruptures and into the annular space between the casing and the borehole. (3-29-12)

ii. Top and bottom of fresh water zones. If fresh water zone is less than one hundred (100) feet thick, then continuous cement must be placed from fifty (50) feet below the zone upward to fifty (50) feet above the zone. (3-29-12)

e. The top of all cement plugs will be tagged to verify their depth. (3-29-12)

f. The owner or operator shall have the option as to the method of placing cement in the hole by: (3-29-12)

i. Dump bailer; (3-29-12)

ii. Pumping a balanced cement plug through tubing or drill pipe; (3-29-12)

iii. Pump and plug; or (3-29-12)

iv. Equivalent method approved by the Director prior to plugging. (3-29-12)

g. Unless prior approval is given, all wellbores shall have water based drilling muds, high viscosity pills, or other approved fluids between all plugs. (3-29-12)

h. All abandoned wells shall have a plug or seal placed at the surface of the ground or the bottom of the cellar in the hole in such manner as not to interfere with soil cultivation or other surface use. The top of the pipe must be sealed with either a cement plug and a screw cap, or cement plug and a steel plate welded in place or by other approved method, or in the alternative be marked with a permanent monument which shall consist of a piece of pipe not less than four (4) inches in diameter and not less than ten (10) feet in length, of which four (4) feet shall be above the general ground level, the remainder to be embedded in cement or to be welded to the surface casing. (3-29-12)

06. Subsequent Report of Abandonment. If a well is plugged or abandoned, a subsequent record of work done must be filed with the Department. This report shall be filed separately within thirty (30) days after the work is done. The report shall give a detailed account of the manner in which the abandonment of plugging work was carried out, including the weight of mud, the nature and quantities of materials used in plugging, the location and extent (by depths) of the plugs of different materials, and the records of any tests or measurements made and of the amount, size, and location (by depths) of casing left in the well. If an attempt was made to part any casing, a complete report of the method used and the results obtained must be included. (3-29-12)

07. Wells Used for Fresh Water (Cold Water < 85 degrees Fahrenheit), Low Temperature Geothermal (85 - 212 Degrees Fahrenheit) or Geothermal Wells (>212 Degrees Fahrenheit). (3-29-12)

a. Oil and gas wells, seismic, core or other exploratory holes no longer being used for their original purpose may not be converted into fresh water, low temperature geothermal, or geothermal wells unless the following actions occur: (3-29-12)

i. Owner, operator, or surface owner files an application with the IDWR describing the conversion and the proposed use for the water or geothermal resource and any modifications necessary to meet the applicable well construction standards; (3-29-12)

ii. The surface owner provides written documentation assuming responsibility for the converted well including, should it become necessary, decommissioning (plugging) of the converted well in accordance with applicable law; (3-29-12)

iii. IDWR issues a permit for a geothermal resource well, a water right, or recognizes a domestic exemption authorizing the withdrawal of water from the converted well; and (3-29-12)

iv. A licensed driller in Idaho inspects and certifies that the converted well meets all well construction standards for its intended purpose. (3-29-12)

b. The Department's bond may not be released, and the oil and gas permit cancelled, until all requirements in Paragraph 502.07.a. of these rules are met. (4-11-15)

503. -- 509. (RESERVED)

510. SURFACE RECLAMATION.

01. Timing of Reclamation. After the plugging and abandonment of a well or closure of other oil and gas facilities, all reclamation work described in this Section shall be completed within twelve (12) months. The Director may grant an extension where unusual circumstances are encountered, but every reasonable effort shall be made to complete reclamation before the next local growing season. (3-29-12)

02. General Clean Up. All debris, abandoned gathering line risers and flowline risers, surface equipment, supplies, rubbish, and other waste materials shall be removed within three (3) months of plugging a well. The burning or burial of such material on the premises shall be performed in accordance with applicable local, state, or federal solid waste disposal and air quality regulations. In addition, material may be burned or buried on the premises only with the prior written consent of the surface owner. (3-29-12)

03. Road Removal. All access roads to plugged and abandoned wells and associated production facilities shall be ripped, regraded, and recontoured unless otherwise specified in a surface use agreement. Culverts and any other obstructions that were part of the access road(s) shall be removed. Roads to be left will be graded to drain and prepared with rolling dips or other best management practices to minimize erosion. (3-29-12)

04. Regrading. Drill pads, pits, berms, cut and fill slopes, and other disturbed areas will be regraded to approximate the original contour. Where possible, slopes should be reduced to three (3) horizontal feet to one (1) vertical foot (3H:1V) or flatter. (3-29-12)

05. Compacted Areas. All areas compacted by drilling and subsequent oil and gas operations that are no longer needed following completion of such operations shall be cross-ripped. Ripping shall be undertaken to a depth of eighteen (18) inches or bedrock, whichever is reached first. (3-29-12)

06. Topsoiling. Stockpiled topsoil shall be replaced in a manner that will support reestablishment of the pre-disturbance land use and contoured to control erosion and provide long-term stability. If necessary, topsoiled areas shall be tilled adequately in order to establish a proper seedbed. (3-29-12)

07. Revegetation. (3-29-12)

a. The owner or operator shall select and establish plant species that can be expected to result in vegetation comparable to that growing on the affected lands prior to the oil and gas operations. Certified weed free seed should be used in revegetation. The owner or operator may use available technical data and results of field tests for selecting seeding practices and soil amendments that will result in viable revegetation. (3-29-12)

b. The disturbed areas shall be reseeded in the first favorable season following rig demobilization, site regrading, and topsoil replacement. (3-29-12)

c. Unless otherwise specified in the approved permit, the success of revegetation efforts shall be measured against the existing vegetation on site prior to the oil and gas operations, or against an adjacent reference area supporting similar types of vegetation. Reseeding or replanting is required until the following cover standards are met: (3-29-12)

i. The ground cover of living plants on the revegetated area should be comparable to the ground cover of living plants on an adjacent reference area for two (2) full growing seasons after cessation of soil amendment or irrigation, if used; (3-29-12)

ii. Ground cover shall be considered comparable if the planted area has at least seventy percent (70%) of the pre-disturbance, or adjacent reference area, ground cover; (3-29-12)

iii. For locations with an average annual precipitation of more than twenty-six (26) inches, the Department, in approving a drilling permit or a pit, may set a minimum standard for success of revegetation as follows: Vegetative cover of seventy percent (70%) for two (2) full growing seasons in areas planted to herbaceous species only; or fifty percent (50%) vegetative cover for two (2) full growing seasons and six hundred (600) woody plants per acre in areas planted to a mixture of herbaceous and woody species; (3-29-12)

iv. As used in this section, “herbaceous species” means grasses, legumes, and other forbs; “woody plants” means woody shrubs, trees, and vines; and “ground cover” means the area of the ground surface covered by the combined aerial parts of vegetation and the litter that is produced naturally on-site, expressed as a percentage of the total area measured. Rock surface areas will be excluded from this calculation; and (3-29-12)

v. In all cases, vegetative cover shall be established to the extent necessary to control erosion.

(3-29-12)

d. Introduced species may be planted if they are known to be comparable to previous vegetation, or if known to be of equal or superior use for the approved post-reclamation land use, or, if necessary, to achieve a quick, temporary cover for soil stabilization purposes. Species classified as poisonous or noxious weed species shall not be used in revegetation. (3-29-12)

e. By mutual agreement of the Department, the surface owner, and the owner or operator, a site may be converted to a different, more desirable or more economically suitable habitat. (3-29-12)

f. Planting of grasses and forbs should be done in a manner which promotes rapid stabilization of the soil surface. Wherever terrain permits, grasses and forbs should be drilled or compacted into the ground using agricultural grass planting equipment or other seeders specifically designed for revegetation applications. Broadcast and hydroseeding may be used on areas where other methods are impractical or unavailable. (3-29-12)

g. The owner or operator should plant shrubs or shrub seed, as required, where shrub communities existed prior to oil and gas operations. Shrub seed may be planted as a portion of a grass seed mix or planted as bare-root transplants after grass seeding. Where the surface owner desires a specific land use such as grazing or cropland, shrubs will not be required in the revegetation species mix. Shrub lands undergoing revegetation with shrubs shall be protected from erosion by vegetation, chemical binders, or other acceptable means during establishment of the shrubs. (3-29-12)

h. Tree stocking of forestlands should meet the following criteria: (3-29-12)

i. Trees that are adapted to the site should be planted in a density which can be expected over time to yield a timber stand comparable to pre-disturbance timber stands; (3-29-12)

ii. Trees shall be established for two (2) full growing seasons after cessation of any soil amendments and irrigation before they are considered to be established; and (3-29-12)

iii. Forestlands undergoing revegetation with trees should be protected from erosion by vegetation, chemical binders, or other acceptable means during seedling establishment. (3-29-12)

i. Revegetation is not required on areas that the surface owner wishes to incorporate into an irrigated field and any roads which will be used for other oil and gas operations. (3-29-12)

j. Mulch should be used on severe sites and may be required by the permit where slopes are steeper than three (3) horizontal feet to one (1) vertical foot (3H:1V) or the mean annual rainfall is less than twelve (12) inches. When used, straw, or hay mulch should be obtained from certified weed free sources. "Mulch" means vegetation residues or other suitable materials to aid in the stabilization of soil and soil moisture conservation which will provide a micro-climate more suitable for germination and growth on severe sites. Annual grains such as rye, oats, and wheat may be used as a substitute for mulch where they will provide adequate protection and will be replaced by permanent species within a reasonable length of time. (3-29-12)

08. Reclamation Under a Surface Use Agreement. Notwithstanding the requirements of Subsections 510.03 through 510.07 of this rule, reclamation may be superseded by the conditions of a surface use agreement as long as the site is left in a stable, non-eroding condition that will not impact fresh waters. (4-11-15)

511. -- 999. (RESERVED)

IDAPA 21 – IDAHO DIVISION OF VETERANS SERVICES

DOCKET NO. 21-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 65-202; 65-204; 65-506, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as proposed rules under this docket number under IDAPA 21, rules of the Idaho Division of Veterans Services:

IDAPA 21

- 21.01.06, *Rules for the Enforcement of the Veteran's Preference in Public Employment*

Any amendments to the text of the pending rule have been made in accordance in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 4376 – 4383**. These rules provide guidance for the enforcement of Veteran's preference in public employment. These rules provide recourse for an applicant who has reason to believe his/her Veteran's status wasn't considered during the hiring process. It provides a clear path for both public employers and applicants to follow for the resolution of a Veteran's Preference complaint prior to the court system becoming involved. Minor technical corrections were made for clarity.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kevin Wallior (208) 780-1308.

Dated this 10th day of October, 2019.

Kevin Wallior
Management Assistant
Idaho Division of Veterans Services
351 Collins Road
Boise, ID 83702
Phone: (208) 780-1308
Fax: (208) 780-1301

21.01.06 – RULES FOR THE ENFORCEMENT OF THE VETERAN'S PREFERENCE IN PUBLIC EMPLOYMENT

000. LEGAL AUTHORITY.
Section 65-506, Idaho Code, authorizes and directs the Idaho Division of Veterans Services to issue rules for the enforcement of Title 65, Chapter 5, Idaho Code. (3-30-07)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 21.01.06, "Rules for the Enforcement of the Veteran's Preference in Public Employment." (3-30-07)

02. Scope. These rules contain procedures public employers may implement for an internal process which must be exhausted prior to a petitioner gaining access to the courts to contest a public employer's application of the veteran's preference in public employment. (3-30-07)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Definitions Generally. Except where supplemented by the definitions in Section 010 of these rules, the definitions in Section 65-502, Idaho Code, apply to terms used in these rules. (3-30-07)

02. Petitioner. Petitioner means a person who alleges the denial of a preference. (3-30-07)

03. Preference. Preference means a right or benefit granted to the petitioner under Title 65, Chapter 5, Idaho Code. (3-30-07)

04. Presiding Officer. The individual or individuals, as more particularly described in Subsection 103.01 of these rules, appointed by the public employer executive to preside at a hearing. (3-30-07)

05. Public Employer Executive. Public employer executive means the individual or body of individuals in whom the ultimate legal authority of the public employer is vested by any provision of law. (3-30-07)

011. -- 099. (RESERVED)

100. HEARING REQUESTS.

01. Written Requests. A petitioner must make a hearing request in writing to the public employer executive. A written hearing request must be hand delivered to the public employer executive or deposited in the United States mail. Hearing requests must contain the following information: ( )

a. The petitioner's full name and complete mailing address. (3-30-07)

b. A request for either a telephonic or a face-to-face hearing. The petitioner shall provide the telephone number where a telephonic hearing may be conducted. (3-30-07)

c. The position for which the petitioner applied for appointment. (3-30-07)

d. A brief statement of the petitioner's basis of eligibility for a preference, as set forth in Section 65-503, Idaho Code. (3-30-07)

e. A brief statement of the issues petitioner proposes to raise at the hearing. (3-30-07)

f. Any dates or times that the petitioner or the petitioner's attorney cannot be available for a hearing. (3-30-07)

02. Timely Requests. The public employer executive must receive hearing requests by 5 p.m. at the offices of the public employer executive no later than thirty-five (35) days following the date of the alleged denial of a preference. The date of the alleged denial of a preference for the purpose of calculation of time under Subsection 100.02 of these rules, shall be the date of issuance of a notice to the petitioner that the petitioner was not awarded a position or, if no notice is issued, the date petitioner becomes aware that he was not awarded a position. (3-30-07)

03. Request Withdrawal. A petitioner may withdraw a hearing request at any time. (3-30-07)

04. Disposition of Case Without a Hearing. Any hearing request may be resolved without a hearing on the merits of the request by stipulation, settlement, motion to dismiss, summary judgment, default, or for lack of jurisdiction. The public employer executive must dismiss an appeal that is not timely filed for lack of jurisdiction. (3-30-07)

101. HEARING NOTICES.

01. Notification of Hearing. Upon timely receipt of a hearing request, the public employer executive shall notify petitioners of the time and date of the hearing and the presiding officer at the hearing not less than seven (7) days prior to the hearing. The hearing notice shall specify whether the hearing will be conducted by telephone or face-to-face. If the hearing is to be face-to-face, the hearing notice shall specify the location of the hearing. The hearing notice shall stipulate an address for the filing of documents with the presiding officer. ( )

02. Location of Hearings. Hearings may be conducted by telephone or face-to-face in the discretion of the public employer executive, except that where the petitioner or another participant in the hearing would be denied the opportunity to participate in the hearing if held by telephone, the hearing will be face-to-face. Face-to-face hearings will be held in the city in which the position the petitioner applied for appointment is located, unless otherwise agreed upon by the parties. (3-30-07)

03. Hearing Date. The public employer executive shall conduct hearings within thirty-five (35) days of receipt of the hearing request. The public employer executive may extend the hearing date for an additional thirty-five (35) days for good cause shown by the public employer executive or the petitioner. (3-30-07)

102. PREHEARING PROCEDURE.

01. Discovery. Prehearing discovery is limited to obtaining the names of witnesses and copies of documents the opposing party intends to offer as exhibits. The presiding officer at the hearing may order production of the names of witnesses and copies of documents after receiving a written request for an order of production. The presiding officer shall issue an order of production as needed to ensure the orderly conduct of the hearing. (3-30-07)

02. Subpoenas. If the public employer executive holds statutory subpoena power applicable to hearings under these rules, the presiding officer may issue subpoenas for witnesses or documents. (3-30-07)

03. Briefing. The presiding officer may require briefs to be filed by the parties and establish a reasonable briefing schedule. (3-30-07)

04. Filing of Documents. All documents requested by a party to be entered as exhibits shall be filed with the presiding officer in person or by first class mail with a copy provided to the opposing party. Service by mail is complete when the document, properly addressed and stamped, is deposited in the United States mail. A certificate showing delivery to all parties must accompany all documents when they are filed with the presiding officer. (3-30-07)

103. PROCEDURE AT HEARING.

01. Presiding Officer at Hearing. In the discretion of the public employer executive, the public employer executive, one (1) or more members of the public employer executive, or one (1) or more hearing officers will be the presiding officer at the hearing. (3-30-07)

02. Representation. The petitioner may represent himself. Either party may be represented by legal counsel, at the party's own expense. Persons not authorized to practice law in the state of Idaho shall not represent parties. (3-30-07)

03. Evidence. The presiding officer may exclude evidence that is irrelevant, immaterial, incompetent, unduly repetitious, excludable on constitutional or statutory grounds, or protected by legal privilege. Hearsay

evidence may be admitted if it is relevant to the grant or denial of the preference and is sufficiently reliable that prudent persons would commonly rely on it in the conduct of their affairs or if the hearsay evidence corroborates competent evidence. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. Notice may be taken of judicially cognizable facts or general, technical, or scientific facts by the presiding officer on its own motion or on motion of a party. (3-30-07)

04. Hearing Record. The presiding officer shall make a record of the hearing consist*ing* of: an audio recording of the hearing, except in instances where the presiding officer requires a different method of recording the hearing; and, exhibits and other items of evidence presented at the hearing. A party may request a copy of the hearing record, at the party's own expense. *( )*

104. FINAL ORDER.

01. Order of the Presiding Officer. The presiding officer must issue a written order not more than thirty-five (35) days from the date of the hearing *that* include*s*: *( )*

a. Specific findings on all major facts at issue; (3-30-07)

b. A reasoned statement in support of the decision; (3-30-07)

c. All other findings and recommendations of the presiding officer; (3-30-07)

d. A preliminary decision finding that a preference was or was not applied by the public employer as required by Title 65, Chapter 5, Idaho Code; and (3-30-07)

e. The procedure and time limits for filing a request for a review by the public employer executive, if available. (3-30-07)

02. Review by the Public Employer Executive.

a. If the presiding officer at the hearing was a hearing officer or less than a quorum of the public employer executive, either party may request a review by a quorum of the public employer executive not later than seven (7) days from the date the presiding officer mailed the order of the presiding officer. The request must identify all legal and factual bases of disagreement with the order of the presiding officer. (3-30-07)

b. Upon receipt of the request for a review hearing, the public employer executive may: (3-30-07)

i. Issue a written order affirming the decision of the public employer executive without a hearing; or, (3-30-07)

ii. Issue a notice for a review hearing complying with the provisions of Section 101 of these rules. (3-30-07)

c. If the public employer executive issues a notice for a review hearing, the notice will establish a schedule for briefing, if allowed, and specify whether oral argument will be heard on the review. (3-30-07)

d. The public employer executive shall conduct review hearings within thirty-five (35) days of receipt of the review request. (3-30-07)

e. The public employer executive shall issue a written order not more than thirty-five (35) days from the date of the review hearing contain*ing*: *( )*

i. Specific findings on all major facts at issue; (3-30-07)

ii. A reasoned statement in support of the decision; (3-30-07)

iii. All other findings and recommendations of the public employer executive; and (3-30-07)

iv. A finding that a preference was or was not applied by the public employer as required by Title 65, Chapter 5, Idaho Code. (3-30-07)

03. Order of the Public Employer Executive.

a. The following shall be orders of the public employer executive: (3-30-07)

i. The order of the presiding officer if the presiding officer is an individual serving as the public employer executive or a quorum of the public employer executive. The date of exhaustion of the appeal process shall be the date such order of the presiding officer is issued. (3-30-07)

ii. The order of the presiding officer if the presiding officer is a hearing officer or less than a quorum of the public employer executive and the public employer executive fails to hold a review hearing after a timely request or fails to issue an order within the required time after holding a review hearing. The date of exhaustion of the appeal process shall be the last day the public employer executive was required by these rules to hold a hearing or to issue an order. (3-30-07)

iii. The written order of the public employer executive following a review hearing. The date of exhaustion of the appeal process shall be the date such order of the public employer executive is issued. (3-30-07)

iv. The initial hiring determination of the public employer executive if the public employer executive fails to hold a hearing as required by these rules or if the presiding officer fails to issue an order after holding a hearing. The date of exhaustion of the appeal process shall be the last day the public employer executive was required by these rules to hold a hearing or to issue an order. (3-30-07)

b. Orders of the public employer executive shall set forth the procedure and time limits for filing an appeal to the district court under Section 65-506, Idaho Code. (3-30-07)

105. -- 200. (RESERVED)

201. ALTERNATIVE PROCESSES.
A public employer may publish an alternative internal review process for challenges to the application of Title 65, Chapter 5, Idaho Code, if such process: (3-30-07)

01. Appeal Deadline. Establishes a deadline of thirty-five (35) days for the filing of appeals alleging the denial of a preference. (3-30-07)

02. Notice of Process. Includes written notice to applicants for employment of the existence of the process and how to obtain a copy of the process. Publication of the process in a rule or ordinance of the public employer shall be written notice to applicants for employment. (3-30-07)

03. Opportunity to Be Heard. Provides an opportunity in the internal review for the petitioner to submit argument, evidence, and witnesses and to cross-examine the public employer executive's witnesses. (3-30-07)

04. Record of Process. Produces a record of the internal review process that is available to the district court. (3-30-07)

05. Written Final Order. Requires a written final order of the public employer containing: (3-30-07)

a. Specific findings on all major facts at issue; (3-30-07)

b. A reasoned statement in support of the decision; and (3-30-07)

c. A finding that a preference was or was not applied by the public employer as required by Title 65, Chapter 5, Idaho Code. (3-30-07)

06. Notice of Appeal Rights. Includes written notice to petitioners at the conclusion of the internal review of the procedure and time limits for filing an appeal to the district court under Section 65-506, Idaho Code. (3-30-07)

202. -- 300. (RESERVED)

301. APPEAL TO DISTRICT COURT.
Petitioners must exhaust an appeal process implemented under these rules prior to appeal to district court. If a public employer implements an appeal process under these rules, petitioner may appeal the order of the public employer executive to a district court of the state of Idaho within one hundred eighty (180) days of the exhaustion of the appeal process. If a public employer has not implemented an appeal process under these rules, the petitioner may file an action directly in a district court of the state of Idaho within thirty-five (35) days of the alleged denial of a preference. (3-30-07)

302. TRANSFER OF HEARING RECORD TO DISTRICT COURT.
The public employer shall submit a complete copy of the hearing record to a district court of the state of Idaho following the filing of an appeal and payment by the appealing party of the costs of duplicating and preparing the hearing record for submission, including labor costs. The opposing party may obtain a copy of the transcript at a cost not exceeding the cost of duplicating the hearing record submitted to the district court. (3-30-07)

303. -- 999. (RESERVED)

IDAPA 21 – IDAHO DIVISION OF VETERANS SERVICES

DOCKET NO. 21-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 65-202; 65-204; 66-907, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 21, rules of the Idaho Division of Veterans Services:

IDAPA 21

- 21.01.01, *Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure*
- 21.01.04, *Rules Governing the Idaho State Veterans Cemetery*

Any amendments to the text of the pending rule have been made in accordance in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4384 – 4415**. These rules ensure that the Idaho Division of Veterans Services can honor and serve Idaho's Veterans to the highest standard, whether living or deceased. The provisions laid out in these rules provide standards for admission in the State Veterans Homes and interment in the State Veterans Cemeteries. IDAPA 21.01.01 ensures the ability of the Idaho Division of Veterans Services to provide necessary care to honorably discharged eligible Veterans. IDAPA 21.01.04 ensures the ability of the Idaho Division of Veterans Services to provide a dignified final resting place for honorably discharged Veterans and their eligible dependents. These rules provide the guidance to ensure proper collection of VA burial benefits and necessary fees to ensure the Idaho State Veterans Cemetery is able to inter, disinter, or reinter as needs be with dignity and respect. Technical corrections were made to both IDAPA 21.01.01 and 21.01.04 for clarity, accuracy, and brevity.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. IDAPA 21.01.01.915 - Maintenance Charges; IDAPA 21.01.01.916.01 - Monthly Charges and Allowances Nursing Care; IDAPA 21.01.01.916.02 - Monthly Charges And Allowances Residential and Domiciliary Care; IDAPA 21.01.04.024 - Fees for Interment, Disinterment, and Reinterment. These fees or charges are being imposed pursuant to Section 66-907, Idaho Code, and Section 65-202(8), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Kevin Wallior (208) 780-1308.

Dated this 10th day of October 10, 2019.

Kevin Wallior
Management Assistant
Phone: (208) 780-1308 / Fax: (208) 780-1301

Idaho Division of Veterans Services
351 Collins Road
Boise, ID 83702

21.01.01 – RULES GOVERNING ADMISSION, RESIDENCY, AND MAINTENANCE CHARGES IN IDAHO STATE VETERANS HOMES AND DIVISION OF VETERANS SERVICES ADMINISTRATIVE PROCEDURE

000. LEGAL AUTHORITY.

The Administrator of the Division of Veterans Services with the advice of the Veterans Affairs Commission is authorized by the Idaho Legislature to establish rules governing requirements for admission to Idaho State Veterans Homes and to establish rules governing charges for residency, pursuant to Sections 65-202, 65-204 and 66-907, Idaho Code. (3-30-01)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 21.01.01, "Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure." (3-30-01)

02. Scope. These rules contain provisions for determining eligibility for admission and for establishing charges for residency in Idaho State Veterans Homes, together with rules of administrative procedure before the Idaho Veterans Affairs Commission. (3-30-01)

002. POLICY.

Through the facilities and services available at Idaho State Veterans Homes, the Division of Veterans Services will provide necessary care for honorably discharged eligible veterans. No applicant will be denied admission on the basis of sex, race, color, age, political or religious opinion or affiliation, national origin, or lack of income, nor will any care or other benefit at a Home be provided in a manner, place, or quality different than that provided for other residents with comparable disabilities and circumstances. However, if residents are financially able to do so, they must contribute to the cost of their care, with allowances made for retention of funds for their personal needs. (3-30-01)

003. INCORPORATION BY REFERENCE.

***01. Incorporated Documents**. These rules incorporate by reference:* ( )

***a.** 5 U.S.C. Section 2108(1) dated October 7, 2015.* ( )

***b.** 38 CFR Part 51, Subpart A, B, C, D, and E dated December 28, 2018.* ( )

***02. Document Availability**. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-0001.* ( )

004. -- 009. (RESERVED)

010. DEFINITIONS.

For the purposes of the rules contained in this Chapter, the following terms are used as defined: (3-15-02)

01. Applicant. A person who has expressed interest in applying for residency in an Idaho State Veterans Home. (3-30-01)

02. Asset. Real or personal property that is owned in whole or in part by an applicant or resident, including stocks, bonds, goods, rights of action, evidences of debt, and cash or money that is not income. Insurance payments or monetary compensation for loss of or damage to an asset is an asset. Income not expended in the calendar month received is an asset beginning on the first day of the next calendar month. (4-2-08)

03. Bona Fide Resident. A person who maintains a principal or primary home or place of abode in the state of Idaho coupled with the present intent to remain at that home or abode and return to it after any period of absence pursuant to Section 66-901, Idaho Code. (3-30-01)

04. Commission. The Idaho Veterans Affairs Commission. (3-30-01)

***05.** **Division**. Division of Veterans Services in the Idaho Department of Self Governing Agencies.* (3-30-01)

***06.** **Division Administrator**. The Administrator of the Division of Veterans Services in the Department of Self Governing Agencies, or his designee. The chief officer of the Division of Veterans Services.* (3-30-01)

07. **Home Administrator**. Administrator of an Idaho State Veterans Home. The chief officer of each respective Veterans Home. (3-30-01)

08. **Home**. An Idaho State Veterans Home. (3-30-01)

09. **Idaho State Veterans Home**. Pursuant to Section 66-901, Idaho Code, a Home for eligible veterans. (3-30-01)

10. **Income**. Money received from any source including wages, tips, commissions, private pension and retirement payments, social security benefits, unemployment compensation, veterans assistance benefits, and gifts. (4-2-08)

11. **Legal Dependents**. The mother, father, spouse, or minor children of an applicant or a resident who, by reason of insufficient financial resources, or non-minor children who because of disease, handicap or disability, must have financial support from the applicant or resident in order to maintain themselves. (3-30-07)

12. **Liquid Assets**. Those assets which are cash or can be liquidated for cash within a reasonable period of time including, but not limited to, money market certificates, certificates of deposit, stocks and bonds, and some tax shelter investments. (4-2-08)

13. **Maintenance Charge**. A charge made for care and residence at an Idaho State Veterans Home, based upon the current established rate. (3-30-01)

14. **Net Income**. That income used to compute charges after allowable deductions have been made. (3-30-01)

15. **Resident**. A person who is a resident of an Idaho State Veterans Home. (3-30-07)

16. **Spouse**. The husband or wife, under a marriage recognized by Title 32, Idaho Code, of a veteran or the widow or widower of a veteran under a marriage recognized by Title 32, Idaho Code. (3-30-07)

17. **VA**. United States Department of Veterans Affairs. (3-30-01)

18. **Veteran**. Has the meaning established in Section 65-203, Idaho Code. The separation or discharge considered under this definition means the conditions of the most recent separation or discharge from military service. *( )*

011. -- 049. (RESERVED)

050. ADMINISTRATIVE POWERS.
The Home Administrator has full authority in the management of a Home, subject to review by the Division Administrator and Commission. A Home Administrator can, in the execution of his duties, delegate certain responsibilities to his staff. When requested by the Division Administrator, the Home Administrator will attend regular and special meetings of the Commission. (3-30-01)

01. Representative Powers. The Division Administrator is authorized to represent the Commission in all official transactions between the Homes and other departments of Idaho state government. (3-30-01)

02. Investigation Powers. Upon receipt of an application for residency and for the duration of residency of any resident, the Division is authorized to conduct an investigation to determine the total value of the property and assets of the applicant/resident to determine his ability to pay maintenance charges established in this Chapter pursuant to Section 66-907, Idaho Code. (3-30-01)

03. Inspection Powers. Inspection of the rooms and facilities of a Home, as well as of the dress and appearance of all residents, can be conducted at any time by the Home Administrator. (3-30-01)

04. Emergency Powers. In an emergency, the Home Administrator is authorized to use his judgment in matters not specifically covered by a statute, order, rule, or policy. (3-30-01)

051. -- 074. (RESERVED)

075. ADMINISTRATIVE DUTIES.
The Home Administrator will enforce all orders and rules and implement all policies of the Division in the administration of a Home. (3-30-01)

01. Management of Records. The Home Administrator must maintain accurate fiscal and resident records. (3-30-01)

a. Nursing care records. Records relating to each nursing care resident of a Home will be kept in accordance with Idaho Department of Health and Welfare Rules, IDAPA 16.03.02, "Rules and Minimum Standards for Skilled Nursing and Intermediate Care Facilities in Idaho," *and VA Rules 38 CFR Part 51; Subpart A, B, C, and D dated December 28, 2018*. *( )*

b. Residential *and domiciliary* care records. Records relating to each residential care resident of a Home will be kept in accordance with *VA Rules 38 CFR Part 51; Subpart A, B, C, and D dated December 28, 2018*. *( )*

02. Response to Complaints. The Home Administrator will respond in writing to any written and signed complaint made by a resident pursuant to Section 300 of these rules. (3-30-01)

076. -- 099. (RESERVED)

100. ELIGIBILITY REQUIREMENTS.
Applicants and residents must satisfy the following requirements: (3-30-07)

01. Veterans or Eligible Spouse. (3-30-07)

a. Nursing Care. Applicants for and residents of nursing care must be a veteran or the spouse of a veteran who is eligible for admission to a Home. The death of a veteran shall not disqualify a resident spouse if the veteran was eligible for admission to a Home at the time of death. (3-30-07)

b. Residential Care and Domiciliary Care. Applicants for and residents of residential care and domiciliary care must be a veteran. A Home will not grant spouses admission for residential care or domiciliary care. (3-30-07)

02. Idaho Residency. The applicant must be a bona fide resident of the state of Idaho at the time of admission to a Home. (3-30-01)

03. Incompetent Applicants. Applicants and residents who are incompetent must provide copies of a legally sufficient guardianship or power of attorney. (3-30-07)

04. Necessity of Services. Applicants and residents must meet the requirements for the level of care for which they apply or are receiving. At the request of the Home, residents must provide recertification of their need for services from a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-30-07)

a. Nursing Care. To be eligible to receive nursing care in a Home, applicants must be referred by a VA physician or a physician currently licensed by the Idaho Board of Medicine to practice medicine or surgery in the state of Idaho. (3-30-01)

b. Residential *and Domiciliary* Care. Each applicant must submit to a physical examination performed by a licensed physician and meet the physical limitation requirements for residential care *and domiciliary care*. Applicants and residents must be unable to earn a living and have no adequate means of support due to wounds,

old age, or physical or mental disabilities. However, each residential care *and domiciliary care* resident must ambulate independently or with the aid of a wheelchair, walker, or similar device and be capable of performing at the time of admission, and for the duration of his residency, all of the following with minimal assistance: *( )*

i. Making his bed daily; (3-30-01)

ii. Maintaining his room in a neat and orderly manner at all times; (3-30-01)

iii. Keeping all clothing clean through proper laundering; (3-30-01)

iv. Observing cleanliness in person, dress and living habits and dressing himself; (3-30-01)

v. Bathing or showering frequently; (3-30-01)

vi. Shaving daily or keeping his mustache or beard neatly groomed; (3-30-01)

vii. Proceeding to and returning from the dining room and feeding himself; (3-30-01)

viii. Securing medical attention on an ambulatory basis and managing medications; (3-30-01)

ix. Maintaining voluntary control over body eliminations or control by use of an appropriate prosthesis; and (3-30-01)

x. Making rational decisions as to his desire to remain or leave the Home. (3-30-01)

05. Placement Restriction. A Home shall not accept applicants or continue to extend care to residents for whom the facility does not have the capability or services to provide an appropriate level of care. (3-30-01)

06. Financial Statement. Each applicant must file a signed, dated statement with the Home Administrator containing a report of income from all sources and a report of all liquid assets which will be used to determine the amount of the maintenance charge which is required in accordance with Section 66-907, Idaho Code, and *these rules*. *( )*

07. Social Security Benefits. If eligible for Social Security benefits, the applicants and residents and their spouses must apply for those benefits unless waived by the Home Administrator. (3-30-07)

08. Medicare Coverage. If eligible for Medicare, the applicants and residents must elect to participate, unless participation is waived by the Home Administrator. (3-30-07)

09. Income Limitation. (3-30-01)

a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. An applicant whose total monthly net income, at the time of his application for residency, exceeds the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95588 divided by twelve (12) cannot be admitted unless granted a waiver by the Home Administrator. This waiver must include a statement from a VA Medical Center physician indicating the veteran is in "need of continuing medical care." (3-30-01)

10. VA Pension -- Nursing Care. Unless waived by the Home Administrator, a wartime veteran, as defined in 5 U.S.C. Section 2108, who is a nursing care applicant or resident must be eligible for, apply for, or be in receipt of a VA disability pension in accordance with Public Law 95588. Such waivers may be considered only when the applicant or resident has signed a statement that he is able to defray the necessary expenses of the medical care for which he is applying or receiving and arrangements are made to secure medical services not provided by the VA. (3-30-07)

11. Agreements for Behavior and Care Needs. The Homes may require that applicants or residents

enter into agreements concerning the applicant or resident's behavior or care needs while residing in the Home. The resident's failure to perform these agreements is a basis for discharge from the Home. (3-15-02)

12. Limit on Admission of Spouses. Unless waived in writing by the Division Administrator, a Home shall not accept spouses for admission if the Home's residency is at ninety-five percent (95%) or more of capacity. Homes shall not admit a spouse if the number of spouses residing in the home will exceed twenty-five percent (25%) of the residents of the Home following admission of the applicant. (3-30-07)

101. -- 149. (RESERVED)

150. APPLICATION PROCEDURE.

***01*. Submission of Application**. An application may be submitted to the administrative offices of a Home *on a form from the Division*. *( )*

***02*. Application Processing**. Completed applications will be processed no later than three (3) working days from receipt. (3-30-01)

***03*. Waiting List**. An applicant who is approved for admission for whom a vacancy does not exist will be placed on a waiting list and accepted on a first come, first served basis dependent on the Home's ability to provide a level of care consistent with the needs of the applicant. The Home Administrator may award "priority status" to prospective Home residents resulting in their names being placed near the top of the Home waiting list, provided they have completed all preadmission requirements and meet one (1) or more of the following criteria: (3-30-07)

a. Veterans who served during any war or conflict officially engaged in by the government of the United States. (3-30-01)

b. Previous residents of Homes who have been discharged for therapeutic treatment or to live in a lesser level of care or in an independent setting and whose discharge plan indicates a readmission priority. (3-30-01)

c. Current Home residents who demonstrate a need for a level of care provided by a Home and who would benefit from maintaining a stable environment. (3-30-01)

d. Receive special consideration as per the request of the medical director because of his desire to provide a very specific continuum of care. (3-30-01)

***04*. Provision If Application Rejected**. An applicant whose application has been rejected and who feels he meets the eligibility requirements can request a hearing in accordance with the procedures specified in Section 982, et seq., of these rules. (3-30-01)

151. -- 199. (RESERVED)

200. CONDITIONS FOR ADMISSION.

01. Denial of Admission. Admission may be denied to an otherwise eligible applicant for any reason for which an admitted resident could be involuntarily discharged. (3-30-01)

02. Assignment of Personal Property. Prior to admission to a Home, an eligible applicant must agree that while he is a resident of a Home he will assign the following, under the conditions specified: (3-30-01)

a. Pursuant to Section 66-906, Idaho Code, all personal property owned, money held, or assets to which he is entitled at the time of his death -- unless disposed of by will or rightfully claimed within five (5) years of the death of the resident by an heir or person named in the resident's will -- must be assigned to the Division Administrator at the time of application for the sole use and benefit of a Home. (3-30-01)

b. Upon discharge or voluntary departure from a Home, and after written notification is sent to the resident, all personal property owned or money deposited with the Home which is unclaimed by the former resident

will be converted for the sole use and benefit of a Home as specified below: (3-30-01)

i. Personal property unclaimed within thirty (30) days of departure or discharge will be made available to needy Home residents or disposed of at public auction or private sale and the proceeds deposited with the state; or (3-30-01)

ii. Money deposited with the Home will be retained and deposited with the state; however, said money may be claimed by the former resident within five (5) years of departure or discharge. (3-30-01)

201. WEAPONS.
Weapons including, but not limited to, firearms, ammunition, straight razors, and knives are not allowed. (4-11-06)

202. ACKNOWLEDGMENT OF CONDITIONS LEADING TO DISCHARGE.
Upon admission to a Home, each resident will be advised in writing of the conditions under which immediate discharge will occur, as specified in Section 350 of these rules. Each resident must acknowledge receipt of this information by signature, and that acknowledgment will be a permanent part of each resident's file. (5-8-09)

203. -- 299. (RESERVED)

300. CONDUCT OF RESIDENTS.
Each resident must comply with applicable rules in this Chapter and with any order or directive of the Home Administrator. All complaints made by the residents concerning food, quarters, ill treatment, neglect, abusive language, or other violations of any rule or standard applicable to the Home, or complaints against the operation of a Home may be made either verbally or in writing to the Home Administrator. (3-30-01)

01. No Operation of Motor Vehicles by Nursing Care Residents. The operation or storage of privately owned motor vehicles by nursing care residents is prohibited on Home property. (3-20-04)

02. Operation of Motor Vehicles by Domiciliary and Residential Care Residents. Each authorized domiciliary and residential care resident who drives a motor vehicle onto the grounds of a Home must adhere to the following: (3-20-04)

a. Requirements: (3-30-01)

i. Possess a valid driver's license; (3-30-01)

ii. Have a current motor vehicle registration; (3-30-01)

iii. Operator is insured against liability and property damage in accordance with Idaho law; and (3-30-01)

iv. Park only in assigned spaces. (3-30-01)

b. Prohibitions. Nonoperable motor vehicles and motor vehicle repairs are not permitted on the grounds of a Home. (3-30-01)

03. Housekeeping. (3-30-01)

a. Housekeeping services for nursing care residents shall be provided by the Home. (3-30-01)

b. Each residential and domiciliary care resident must adhere to the following requirements (residential care residents may need minimal assistance): (3-30-01)

i. Making his bed daily; (3-30-01)

ii. Maintaining his room in a neat and orderly manner at all times; and (3-30-01)

iii. Assuring that all clothing is appropriately marked, stored and kept clean through proper laundering. (3-30-01)

c. All residents are prohibited from: (3-30-01)

i. Washing clothes or other articles which present a health or safety hazard in resident rooms or bathrooms; (3-30-01)

ii. Using electrical devices, including televisions, radios, recorders, and shavers, until they have been certified by Home maintenance staff as being safe for use; (3-30-01)

iii. Entering the kitchen, laundry, shop or mechanical spaces without permission; and (3-30-01)

iv. Interfering or tampering with the heating, refrigeration or air conditioning systems, televisions, lighting, appliances, plumbing, or mechanical equipment at the Home without authorization. (3-30-01)

04. Personal Conduct. Each resident must adhere to the following: (3-30-01)

a. Requirements: (3-30-01)

i. Observing cleanliness in person, dress and in living habits; (3-30-01)

ii. Bathing or showering frequently; (3-30-01)

iii. Observing the smoking policies of a Home; and (3-30-01)

iv. Residential and domiciliary care residents must retire to a recreation area or utilize an individual bed light if desiring to read between 10 p.m. and 6:30 a.m. during which time all room overhead lights are turned off. (3-30-01)

b. Prohibitions: (3-30-01)

i. Creating a disturbance or using intoxicating beverages or nonprescribed controlled substances in the buildings or on the grounds (unless prescribed by a physician); (3-30-01)

ii. Marking or writing on the walls of a building, or damaging the grounds or any other property; (3-30-01)

iii. Using profanity or exhibiting vulgar behavior in the Home or in any other public place; (3-30-01)

iv. Becoming involved in quarrels, persistent dissension or criticism of others; (3-30-01)

v. Lending money to, or borrowing money from, another resident or an employee of the Home; (3-30-01)

vi. Smoking in an unauthorized area; (3-30-01)

vii. Taking food (other than fresh fruit for consumption within a reasonable time period), condiments, dishes or utensils from the dining room; (3-30-01)

viii. Cooking or using heating devices in residents' rooms or other unauthorized areas; and (3-30-01)

ix. Storing flammable or combustible material including, but not limited to, gasoline, butane, solvents, and acetone on Home grounds. (3-30-01)

301. -- 349. (RESERVED)

350. TRANSFER AND DISCHARGE OF RESIDENTS.
A resident can be transferred or discharged, for a period to be determined by the Home Administrator, for the bases set forth in Section 350 of these rules. The Home Administrator will provide notice of transfer or discharge and the opportunity to appeal a transfer or discharge in accordance with Section 980 of these rules. (5-8-09)

01. Emergency Discharge or Transfer. Upon determination by the Home Administrator that an emergency exists, a resident may be immediately discharged or transferred. (5-8-09)

02. General Discharge or Transfer. If the Home Administrator determines that one (1) or more of the following is present or has occurred, the resident may be discharged or transferred from the Home: (5-8-09)

a. Possession of a lethal weapon of any kind by the resident on Division property; possession of wine, beer, or liquor by the resident on Division property; or possession of a controlled substance or medication by the resident, unless prescribed by the resident's physician; (4-2-08)

b. *E*xcessive or habitual intoxication; *( )*

c. *W*illfully destroys or wrongfully appropriates state or another person's property; *( )*

d. *Failure* to comply with the rules of this Chapter or a written directive of the Home Administrator or the Division Administrator; *( )*

e. *F*inancial conditions set forth in Section 950 of these rules are present; *( )*

f. *E*ngages in a pattern of behavior that infringes upon the rights of another person; *( )*

g. *U*nauthorized absences from the Home in excess of those permitted by Section 352 of these rules; *( )*

h. *Endangers the safety, wellbeing, or health of the* resident or other persons *or disrupts the peace of the home*; *( )*

i. The resident is required by law to register as a sex offender. *Should it be* determined *by* the Home *that it* must provide resources in excess of those provided to other residents to ensure the safety of the resident or other persons; *( )*

j. The resident does not meet the requirements and limitations set forth in Section 100 of these rules. (4-2-08)

03. Discharge or Transfer During Absence. A resident who is absent from the Home may be discharged or transferred due to one (1) or more of the following: (5-8-09)

a. The Home will not have the capability or services to provide an appropriate level of care to the resident upon the resident's return to the Home; (5-8-09)

b. The resident has not returned to the Home from an absence prior to the expiration of the bed hold period established by a third party payer paying more than half of the resident's maintenance charges; (5-8-09)

c. The resident ceases to pay the resident's maintenance charges or a bed hold charge applicable to an absence. (5-8-09)

04. Voluntary Transfer or Discharge. A resident may be transferred or discharged at any time upon voluntary consent of the resident. (5-8-09)

351. (RESERVED)

352. UNAUTHORIZED ABSENCES -- RESIDENTIAL AND DOMICILIARY CARE.

01. Unauthorized Absences Prohibited. For residential and domiciliary care residents, no more than three (3) unauthorized absences may be accumulated in a thirty (30) day period. If more than three (3) unauthorized absences are accumulated, the resident may be discharged for a period of thirty (30) days. (5-8-09)

02. Yearly Maximum. The maximum number of unauthorized absences allowable in a one (1) year period is twelve (12). Any resident who exceeds twelve (12) unauthorized absences in one (1) year may be discharged for a period of up to one (1) year. (5-8-09)

03. Readmission Requirements. Residents discharged for unauthorized absences must reapply for admission and are subject to the same restrictions and conditions as other applicants. (5-8-09)

353. -- 850. (RESERVED)

851. AVAILABLE SERVICES.
The Division will make available the following services. (3-15-02)

***01. Residential and Domiciliary Care**. The Division will make available the services listed below for residential and domiciliary care residents:* ( )

a. *Barber/Beauty Shop.* ( )

b. *Chaplain.* ( )

c. *Dietary.* ( )

d. *Laundry.* ( )

e. *Nursing (limited).* ( )

f. *Referral.* ( )

g. *Social Work.* ( )

h. *Therapeutic Recreation.* ( )

i. *Limited Transportation.* ( )

02. **Nursing Care**. *In addition to the services listed in Subsection 851.01, t*he Division will make available the services listed below for nursing care residents: ( )

a. *Dental Hygiene.* ( )

b. *Lab.* ( )

c. *Nursing (Skilled).* ( )

d. *Pharmaceutical.* ( )

e. *Physical Therapy.* ( )

f. *Physician.* ( )

g. *Speech Therapy.* ( )

h. *X-Ray.* ( )

852. -- 879. (RESERVED)

880. FINANCIAL CONDITION OF APPLICANTS/RESIDENTS.
Each applicant/resident or his legal representative must submit a signed and dated financial statement to the Home Administrator on which his income and liquid assets from all sources are reported. The statement must also indicate whether the applicant/resident is responsible for the support of any legal dependent who should be considered in fixing the amount of monthly charges. If changes occur in the applicant's/resident's income or liquid assets, it is the applicant's/resident's responsibility to submit an accurate financial statement immediately. (3-30-01)

01. Investigation of Financial Condition. The Division is authorized to investigate the financial condition of applicants/residents to determine their ability to pay maintenance charges. An applicant/resident may *need* to provide a power of attorney or a release of information to the Home Administrator in order to assist in investigating his financial condition and to aid in securing any benefits for which he may be eligible. (3-30-01)

02. Retroactive Income. In the event an applicant/resident is awarded retroactive income from any source, he is responsible to report this award to the Home Administrator *and* to pay his maintenance charge retroactive to the effective date of income. *( )*

881. -- 914. (RESERVED)

915. MAINTENANCE CHARGES.
Upon becoming a resident of a Home, each resident is liable for the payment of a maintenance charge as well as expenses for supplies, medication, equipment, and services (other than basic services for the assigned level of care) that are not provided or paid for by VA, Medicaid, Medicare, or other insurance unless otherwise determined by the Home Administrator. Residents living in a Home for any part of a month must pay for each day, based on the actual number of days in the month, at that fraction of their total charge. Refusal or failure to pay the established maintenance charge or related expenses is cause for discharge from the Home. (3-30-01)

***01. Nursing Care Charges**. Charges shall be computed, based on payment source to include VA, Medicaid, Medicare, or full cost of care.* *( )*

***02. Residential and Domiciliary Care* Charges**. Charges will be computed, based on the following factors: *( )*

a. If the resident has an income, those items used to compute the charge will include: (3-30-01)

i. Social Security benefits; (3-30-01)

ii. Retirement benefits; (3-30-01)

iii. Income from annuities; (3-30-01)

iv. Insurance benefits; (3-30-01)

v. Rental from property; (3-30-01)

vi. Farm income; (3-30-01)

vii. VA pensions or compensations; (3-30-01)

viii. Tax refunds; and (3-30-01)

ix. Income from any and all other sources. (3-30-01)

b. If the resident is single, incompetent, and has liquid assets in excess of one thousand five hundred dollars ($1,500), he will be assessed the current maximum charge until those assets are reduced to less than one thousand five hundred dollars ($1,500). (3-15-02)

c. If the resident is single, competent, and has liquid assets in excess of fifteen hundred dollars ($1,500), he will be assessed the current maximum charge until those assets are reduced to less than fifteen hundred dollars ($1,500). (3-30-01)

d. Joint income will be used in computing charges for married persons. If the resident has dependents who rely upon him for financial support, the amount of liquid assets will not be drawn upon after they have declined to a level of five thousand dollars ($5,000). (3-30-01)

e. *Residential Care. After allowable deductions, a resident will be assessed a fee of seventy-five percent (75%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be seventy-five percent (75%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95 588 divided by twelve (12). (3-30-01)* *( )*

f. *Domiciliary Care. After allowable deductions, a resident will be assessed a fee of sixty percent (60%) of the remaining portion of his net monthly income up to the maximum charge. The maximum monthly maintenance charge shall be sixty percent (60%) of the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95 588 divided by twelve (12).* *( )*

03*. Exclusions from Income or Payment *for Residential and Domiciliary Care. The only exclusions in computing monthly charges will be: (3-30-01)

a. Those funds which a resident receives from the sale of hobby/craft items constructed and sold as part of a Home occupational therapy program; or (3-30-01)

b. Those unusual expenses specified below, which are incurred after the resident's admission to a Home and are approved by the Home Administrator, up to a maximum monthly allowance which is established pursuant to Section 916 of these rules: (3-30-01)

i. Prosthetic, orthopedic, and paraplegic appliances; (3-30-01)

ii. Sensory aids; (3-30-01)

iii. Wheelchairs; (3-30-01)

iv. Therapy services; (3-30-01)

v. Hospital, medical, surgical expenses and bills for prescription drugs incurred and paid by the individual in the current month and documented by a paid receipt. (3-30-01)

c. Reasonable medical insurance premiums, as paid, with documentation of payment. Other insurance premiums are excluded from consideration; or (3-30-01)

d. An allowance established pursuant to Section 916 of these rules for retention by a resident for personal needs; (3-30-01)

e. That amount necessary for a resident of a Home to contribute to the support of a legal dependent where proof of actual payment is documented. A monthly allowance will be established for a spouse or additional dependents pursuant to Section 916 of these rules. (These allowances take into consideration housing and utility costs.) (3-30-01)

***04*. Income Eligibility Limits**. (3-30-01)

a. Nursing Care. None. (3-30-01)

b. Residential and Domiciliary Care. A resident's total monthly net income, from all sources, may not exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided

by twelve (12) unless waived by the Home Administrator in accordance with Subsection 100.08 of these rules. (3-30-01)

c. While in residence at a Home, a domiciliary resident may seek outside employment and receive income so that his total monthly net income from all sources will exceed the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95-588 divided by twelve (12) for a one-month transitional period. At the end of this one-month transitional period, the resident will be discharged. (3-30-01)

***05*. Continued Eligibility**. (3-30-01)

a. Nursing Care. A resident may continue to be eligible for residency in a Home, regardless of income changes, if the conditions defined in Subsection 100.09 of these rules continue to be met. (3-30-01)

b. Residential and Domiciliary Care. If a resident's net monthly income exceeds the income eligibility limit after admission to the Home, the resident may appeal to the Home Administrator for a waiver of the income eligibility limit which may be granted for good cause. Consideration for good cause must include "need for continuing medical care" as documented by a VA Medical Center physician. (3-30-01)

06. Payment Schedule. Maintenance charges are due the first of each month and must be paid in full by the resident or guardian on or before the tenth day of the month. Payments may be made either by cash or by check, and a receipt will be issued. (3-15-02)

07. Security Deposit. A deposit of one hundred dollars ($100) will be required by domiciliary and residential care residents upon admission to a Home, unless waived by the Home Administrator. This deposit will be held until the resident leaves. Any debts or liabilities on behalf of the resident will be offset against this deposit at that time. After payment of any debts or liabilities, the remaining balance of the deposit will be returned to the outgoing resident. (5-3-03)

08. Leave of Absence or Hospitalization. Residents receiving Medicaid, Medicare, or VA per diem will be charged for leave of absence or hospitalization in accordance with Medicaid, Medicare, and VA requirements. The Home will not reduce charges for leave of absence or hospitalization of residents not qualifying for Medicaid, Medicare, or VA payment for such absence and each day will count as if the resident were present at a Home. Unless waived by the Home Administrator or prohibited by law, the Home will charge residents receiving Medicaid, Medicare, or VA per diem the current VA per diem rate for each absent day of a leave of absence or hospitalization in excess of the period eligible for payment by Medicaid, Medicare, or the VA. (3-29-10)

09. Medicaid Eligibility. All nursing care residents, including re-admitted residents must either apply for or become eligible for Medicaid benefits, or must pay the maximum monthly charge as it may be established from time to time. Eligibility for Medicaid benefits is determined entirely by the Idaho Department of Health and Welfare and its agents. Residents who cannot, or choose not to, qualify for Medicaid are required to pay for services in full from other than Medicaid funds. Care and services for those residents who are Medicaid eligible will be billed to and paid by Medicaid. Residents eligible for Medicaid will be assessed a fee equal to the resident's liability as determined by Medicaid. *( )*

916. MONTHLY CHARGES AND ALLOWANCES.

01. Nursing Care. Pursuant to Section 66-907, Idaho Code, maximum monthly charges are established by the Division Administrator with the advice of the Commission. A schedule of charges will be available in the business office of each Home. Charges will be reviewed from time to time by the Division Administrator and the Commission. *( )*

a. Changes to Charges. Members of the public may comment on proposed changes at meetings of the Commission when changes are considered. *( )*

b. Notification and Posting. When changes are made to charges, residents or their families or sponsors will receive written notification and changes will be posted in the business office of each Home a minimum of thirty (30) days prior to the effective date of the change. *( )*

02. Residential and Domiciliary Care. Pursuant to Section 66-907, Idaho Code, maximum monthly charges and allowances are established by the Division Administrator with the advice of the Commission. A schedule of charges and allowances will be available in the business office of the Homes. Allowances will be reviewed from time to time by the Division Administrator and the Commission. (3-20-04)

a. Changes to Charges and Allowances. Pursuant to Paragraphs 915.02.e. and 915.02.f. of these rules, monthly charges for residential and domiciliary care will be adjusted automatically when a change is made to the current maximum annual rate of VA pension for a single veteran pursuant to Public Law 95588 divided by twelve (12). Relative to monthly allowances, members of the public may comment on proposed changes at meetings of the Commission when changes are considered. (3-30-01)

b. Notification and Posting of Changes to Allowances. When changes are made to allowances, residents or their families or sponsors will receive written notification, and changes will be posted in the business office of the Veterans Homes *directly following notification pursuant to Public Law 95-588*. *( )*

917. -- 949. (RESERVED)

950. FINANCIAL GROUNDS FOR REJECTION OR DISCHARGE.
The following circumstances may be considered as grounds for rejection of an application for residency or for revocation of residency and subsequent discharge. (When an application is rejected or a resident discharged, the applicant/resident will be given notification of intended application rejection or discharge, in accordance with the provisions in Section 982 of these rules.) *( )*

01. Disposal of Assets. If the Home Administrator determines that an applicant/resident has disposed of assets following or within sixty (60) months preceding initial application for residency, which would have the effect of reducing his maintenance charge, such action can lead to rejection of the application or discharge from a Home. (4-2-08)

02. Failure to Pay Maintenance Charge. Refusal or failure to pay the established maintenance charge can be cause for discharge from a Home. If the resident is so discharged, or leaves a Home voluntarily, *the resident* will not be eligible for readmission to a Home until all indebtedness to the Home is paid in full, or acceptable arrangements have been made with the Home Administrator for repayment. *( )*

03. Failure to Pay for Services. (3-30-01)

a. Residents who are excluded from receiving free services from a VA Medical Center may elect to purchase such services through a sharing agreement or contract between a Home and a VA Medical Center or an outside provider when such sharing agreement or contract exists. In those cases where sharing agreement or contract costs are borne by a Home, the resident must reimburse the Home for the costs of services provided. (3-30-01)

b. Failure to reimburse a Home or a service provider within ten (10) days after receipt of a bill for services provided under a sharing agreement or contract may result in a resident's discharge from the Home. (3-30-01)

951. -- 979. (RESERVED)

980. NOTICE OF RESIDENT TRANSFER OR DISCHARGE AND NOTICE OF DENIAL OF AN APPLICATION FOR RESIDENCY.
The Home Administrator or his designee must notify the applicant or resident of any action to be taken regarding rejection of an application or *involuntary* transfer or discharge from a Home. *( )*

01. Form of Notice. *( )*

a. *The notice of denial of application may be made orally.* *( )*

b. *The notice of transfer or discharge must be in writing.* *( )*

02. Content of Notice *of Transfer or Discharge*. The notice must state the following: *( )*

a. The reason for the impending action and a reference to the pertinent rules under which the action is being brought or decision has been made; (5-8-09)

b. The effective date of the action; (5-8-09)

c. The location to which the resident is transferred or discharge, which is established for Nursing Care transfers and discharges only;

d. The applicant's or resident's right to request a hearing according to the provisions in Section 982 of these rules; and (5-8-09)

e. The procedure for requesting a hearing, as provided in Subsection 982.03 of these rules. (5-8-09)

f. *The name, address, and telephone number of the State long term care ombudsman;* *( )*

g. *The name, address, and telephone number of the State Disability Rights agency responsible for the protection and advocacy for those residents with developmental disabilities or mental illness.* *( )*

03. Notification Deadlines for Domiciliary Care. The following notification deadlines are established for Domiciliary Care only: (5-8-09)

a. Discharge notices must be sent to the resident three (3) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. (5-8-09)

b. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (5-8-09)

04. Notification Deadlines for Residential Care. The following notification deadlines are established for Residential Care only: (5-8-09)

a. Discharge notices must be sent to the resident fifteen (15) days prior to the intended effective date of the action, except under the conditions noted in Subsections 350.01, 350.03 and 350.04 of these rules. (5-8-09)

b. Notification of findings of ineligibility for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (5-8-09)

05. Notification Deadlines for Nursing Care. The following notification deadlines are established for Nursing Care only: (5-8-09)

a. Notices of general discharge or transfer pursuant to Subsection 350.02 of these rules must be sent to the resident thirty (30) days prior to the intended effective date of the action. (5-8-09)

b. Notices of emergency discharge or transfer pursuant to Subsection 350.01 of these rules must be sent to the resident as soon as practical. (5-8-09)

c. Notices of discharge or transfer during absence pursuant to Subsection 350.03 of these rules must be sent to the resident within three (3) working days of the Home’s determination to transfer. (5-8-09)

d. Notice of discharge for unauthorized absences pursuant to Paragraph 350.02.g. of these rules must be sent to the resident within three (3) days of the last unauthorized absence establishing a basis for discharge. (5-8-09)

e. The Home does not need to provide notice of voluntary transfer or discharge pursuant to

Subsection 350.04 of these rules. (5-8-09)

f. Notification of the denial of an application for residency will be mailed to the applicant within three (3) working days after receipt of the completed application citing the reasons for rejection. (5-8-09)

981. APPEAL PROCEDURE.
Upon notification to a resident of transfer or discharge from a Home by the Home Administrator, the resident may request a hearing in accordance with the provisions in Section 982, "Provisions for Contested Cases," of these rules. Any additional violation of Home rules by a resident while on notice of transfer or discharge will be treated independent of any pending appeal. (5-8-09)

982. PROVISIONS FOR CONTESTED CASES.

01. Inapplicability of Idaho Rules of Administrative Procedure of the Attorney General. All contested cases shall be governed by the provisions of these rules. The Commission and Division Administrator find that the provisions of IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General," are inapplicable and inappropriate for contested cases before the Commission, because of the specific and unique requirements of federal and state law regarding notices, hearing processes, procedural requirements, time lines, and other provisions requiring the Division to adopt its own procedures pursuant to Section 67-5206(5)(b), Idaho Code, and hereby affirmatively promulgate and adopt alternative procedures and elect not to be governed by any of the provisions of IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General.
" (3-30-01)

02. Hearing Rights. Residents and applicants have the following rights to a hearing: (5-8-09)

a. If a resident of a Home is notified of transfer or discharge, the resident will be afforded an opportunity for a hearing. A resident of a Home must attempt to resolve the bases stated on the notice of action through verbal discussions with the Home Administrator or his designee prior to submission of a written request for a hearing. A resident will not be afforded an opportunity for a hearing based upon a voluntary transfer or discharge under Subsection 350.04 of these rules. (5-8-09)

b. If an application for residency in a Home is rejected, the applicant may request a hearing. (5-8-09)

03. Requesting a Hearing *for Nursing Care*. *A request for a hearing from a nursing care resident for residency in a Home must be submitted to the Idaho Department of Health and Welfare, Fair Hearing Office, P.O. Box 83720, Boise, Idaho 83720. Requests for appeal should be received by the Idaho Department of Health and Welfare before thirty (30) days have passed in order to stop the discharge before it occurs.* *( )*

04. Requesting a Hearing for Residential and Domiciliary Care. *( )*

a. A request for a hearing from a resident for *residential and domiciliary care* residency in a Home must be submitted through the Home Administrator to the Division Administrator for possible resolution or the scheduling of a hearing. A resident's request must contain a description of what effort he has taken to satisfy the requirements of Paragraph 982.02.a. of these rules. *( )*

b. A request for a hearing must be in writing and signed by the applicant/resident. (3-30-01)

c. A request for a hearing must be submitted within three (3) days of receipt of the written notice of action or denial. (3-30-01)

d. Pending a hearing, benefits will be continued or held in abeyance as follows: (3-30-01)

i. Benefits for domiciliary care, residential care, and nursing care residents will not be continued when the transfer or discharge is an emergency discharge under Subsection 350.01 of these rules or a discharge for unauthorized absences under Paragraph 350.02.g. of these rules. If the hearing request is made before the effective date of action and within three (3) days of receipt of the notice, no action will be taken by the Home Administrator on a general discharge under Subsection 350.02 of these rules, except Paragraph 350.02.g., or a transfer under

Subsection 350.03 of these rules pending receipt of the final order. (5-8-09)

e. The Division Administrator will not accept a request for a hearing from a voluntary transfer or discharge pursuant to Subsection 350.04 of these rules. (5-8-09)

983. PREHEARING PROVISIONS *FOR RESIDENTIAL AND DOMICILIARY CARE*.
The following general provisions are applicable to those phases of all appeals which occur before the hearing is conducted unless precluded by statute or rule. *( )*

01. Notice of Hearing. Upon the receipt of a timely request for a hearing, the hearing shall be arranged by the Division Administrator and a notice sent to all parties *that* include*s*: *( )*

a. A statement of the time, place and nature of the hearing; (3-30-01)

b. A statement of the legal authority under which the hearing is to be held; (3-30-01)

c. A reference to the particular sections of any statutes and rules involved; (3-30-01)

d. A statement of the issues involved; (3-30-01)

e. A statement that all documents to be relied upon by the hearing officer to make its order or notice of decision, or otherwise related to the issues involved in the hearing and relied upon by any party, are to be filed with the Division Administrator and that each party must serve its own documents unless otherwise stated by law; (5-8-09)

f. A statement that all parties may be represented by counsel; and (3-30-01)

g. A statement concerning advance requests for hearing transcripts pursuant to Subsection 983.08 of these rules. (3-30-01)

h. The assignment of a hearing officer for the hearing. The Division Administrator may designate the Commission as a hearing officer. (5-8-09)

02. Prehearing Conference. The Division Administrator or hearing officer may, upon written or other sufficient notice to all interested parties, hold a prehearing conference for the following purposes: (5-8-09)

a. To formulate or simplify the issues; (3-30-01)

b. To obtain admissions or stipulations of fact and of documents; (3-30-01)

c. To arrange for exchange of proposed exhibits or prepared expert testimony; (3-30-01)

d. To limit the number of witnesses; (3-30-01)

e. To determine the procedure at the hearing; and (3-30-01)

f. To determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (3-30-01)

03. Disposition of Case Without a Hearing. Unless precluded by law, disposition without a hearing may be made of any contested case by stipulation, agreed settlement, consent order, motions to dismiss, summary judgment, or default. (3-30-01)

04. Withdrawal of Appeal. The initiating party at any time may withdraw from any contested case proceeding upon serving written notice of withdrawal to the Division Administrator. (3-30-01)

05. Withdrawal of Attorney or Representative. Any attorney or other person representing a party in

a contested case proceeding who wants to withdraw from such proceeding must immediately notify, in writing, the Division Administrator, and all involved parties. (3-30-01)

06. Intervention. Persons, other than the original parties to the proceeding, who are directly and substantially affected by the proceeding, may intervene if they first secure an order from the Division Administrator granting leave to intervene. (3-30-01)

a. Granting of Leave to Intervene. The granting of leave to intervene or to otherwise appear in any matter or proceeding shall not be construed to be a finding or determination that such party will or may be a party aggrieved by any ruling, order or decision of the agency for purposes of judicial review or appeal. (3-30-01)

b. Form and Content of Petitions. Petitions for leave to intervene must be in writing and must clearly: (3-30-01)

i. Identify the proceeding in which it is sought to intervene, setting forth the name and address of the intervenor; (3-30-01)

ii. Make a clear and concise statement of the direct and substantial interest of the intervenor in such proceeding and the relationship of the intervenor to the other parties; (3-30-01)

iii. State the manner in which such intervenor will be affected by such proceeding, outlining the matters and things relied upon by such intervenor as a basis for his request to intervene in such cause; (3-30-01)

iv. If affirmative relief is sought, the petition must contain a clear and concise statement of relief sought and the basis thereof; and (3-30-01)

v. A statement as to the nature and quantity of evidence the intervenor will present if such petition is granted. (3-30-01)

c. Filing of Petitions. All petitions must be filed with the Division Administrator. Petitions to intervene and proof of service thereof on all other parties of record must be filed within seven (7) days after receiving notice of the proceeding, or if no notice is received, not less than fourteen (14) days prior to the date set for hearing and, if filed thereafter, must state a substantial reason for such delay; otherwise the petition will not be considered. (3-30-01)

07. Hearing Record. The hearing officer or the Division Administrator will arrange for a record to be made of the hearing. The record must be a verbatim record and it will be recorded by a recording device, unless a party requests a stenographic recording by a certified court reporter, in writing, at least seven (7) days prior to the date of hearing. The record will be transcribed at the expense of the party requesting a transcription, and prepayment or guarantee of payment may be required. Once a transcription is requested, any party may obtain a copy at the party's own expense. The recorded proceedings will be provided to the Division Administrator for inclusion into the record. The Division will maintain an official record of each contested case for a period of not less than six (6) months after the expiration of the last date for judicial review, unless otherwise provided by law. The record will include all notices of proceedings, pleadings, motions, briefs, petitions and intermediate rulings, evidence received or considered, any oral or written statements allowed by the hearing officer or the Division Administrator, statement of matters officially noticed, offers of proof and objections and rulings thereon, the recording of the proceedings or any transcript of all or part of the proceedings, staff memoranda or data submitted to the hearing officer or the Division Administrator in connection with the proceeding, and any recommended order, preliminary order, final order or order on reconsideration. (5-8-09)

08. Subpoenas. Where authorized by law, the hearing officer may compel the attendance of specific persons and the production of specific documents, materials, or objects at any hearing by subpoena issued by the Division Administrator. (5-8-09)

09. Stipulations. The parties to a contested case proceeding may stipulate as to any fact at issue, either by written stipulation or by oral statement shown upon the record. Any such stipulation is binding upon all parties so stipulating and may be considered by the hearing officer and the Division Administrator. The hearing officer and the

Division Administrator may require proof by evidence of any facts stipulated to, notwithstanding the stipulation of the parties. (5-8-09)

10. Rules of Civil Procedure. As contested case proceedings and hearings are informal, the Idaho Rules of Civil Procedure do not apply. The hearing officer shall provide the procedure at the hearing, as required by the provisions of Section 67-5242(3), Idaho Code. (5-8-09)

11. Discovery. Prehearing discovery shall be strictly limited to obtaining the names of witnesses and copies of documents the opposing party intends to offer or present at the hearing. The hearing officer may order disclosure of this information if a party refuses to comply after receiving a written request. (5-8-09)

12. Briefing Schedule. The hearing officer may require briefs and written memoranda to be filed by the parties, and may establish a reasonable briefing schedule. (5-8-09)

13. Informal Disposition. Unless otherwise prohibited by statute or rule, the hearing officer may decline to initiate a contested case. Informal disposition may be made of any contested case by negotiation, stipulation, agreed settlement or consent order, which informal settlement is encouraged. The parties may stipulate as to the facts, reserving their right to appeal to a court of competent jurisdiction on issues of law. The hearing officer may request such additional information as may be necessary to decide whether to initiate or to decide a contested case. If the hearing officer declines to initiate or decide a contested case, a brief statement of the reasons for that decision will be furnished to all persons or parties involved. This disposition of a contested case by informal disposition is a final agency action pursuant to Section 67-5241, Idaho Code. (5-8-09)

984. HEARING PROVISIONS *FOR RESIDENTIAL AND DOMICILIARY CARE*.
The following general provisions are applicable to those phases of all hearings, unless precluded by statute or rule. *( )*

01. Computation of Time. In computing any period of time relating to a hearing, the first day of the period is not to be included. The last day of the period is to be included unless it is a Saturday, Sunday or legal holiday, in which case the period runs until 5 p.m. of the next working day, unless otherwise provided by law. (5-8-09)

02. Service of Documents. Documents concerning hearings must be served as follows: (5-8-09)

a. All pleadings, briefs and subsequent papers must be served upon every party of record concurrently with the filing with the Division Administrator. (3-30-01)

b. All notices and orders required to be served, other than the initial complaint or petition, must be served in person or by first-class mail. (3-30-01)

c. The initial complaint or petition must be served in person or by certified mail. (3-30-01)

c. The initial hearing request must be served in person or by certified mail. (5-8-09)

d. Service by first-class or certified mail will be deemed complete when the document, properly addressed and stamped, is deposited in the United States mail. The postmark will be the determinant date for all time lines. (3-30-01)

e. Proof of service must accompany all documents when they are filed with the Division Administrator. (5-8-09)

03. Hearing Officer Authority. In the context of each proceeding and unless precluded by law, the hearing officer has the discretion, power and authority to: (5-8-09)

a. Determine the order of presentation; (3-30-01)

b. Grant or deny petitions for reconsideration; (3-30-01)

c. Determine the need, if any, for consolidation; (3-30-01)

d. Rule on all evidentiary questions; (3-30-01)

e. Rule on motions and objections and dispose of procedural requests; (3-30-01)

f. Determine the need for prehearing conferences, recesses, adjournments, hearings on motions and postponements; (3-30-01)

g. Administer oaths and affirmations; (3-30-01)

h. Examine witnesses; (3-30-01)

i. Issue subpoenas or request orders in the form of subpoenas as provided by law; (3-30-01)

j. Prescribe general rules of hearing decorum and conduct; (3-30-01)

k. Regulate the course of the proceeding; (3-30-01)

l. Formulate a reasoned statement in support of the decision. Findings of fact should be set forth in statutory language and be accompanied by a concise and explicit statement of the underlying facts of record supporting the findings. (3-30-01)

m. Perform any functions including those set forth in Sections 67-5241 through 67-5251, Idaho Code; and (3-30-01)

n. All other functions specifically authorized by statute or rule. (3-30-01)

o. The hearing officer shall not have the jurisdiction or authority to invalidate any federal or state statute, rule, or regulation. (5-8-09)

04. Ex Parte Consultations. Ex parte communications between the hearing officer and any party to a contested case proceeding are precluded pursuant to Section 67-5253, Idaho Code. (5-8-09)

05. Representation by Counsel. Any party in a contested case proceeding may be represented by counsel, at the party's own expense. (3-30-01)

06. Open Hearings. All hearings may be open to the public, unless precluded by law. When the Commission is acting as a hearing officer, hearings will be held during regular meetings of the Commission unless otherwise scheduled by the Commission and will be arranged by the Division Administrator. (5-8-09)

07. Testimony Under Oath. All testimony to be considered, with the exception of matters officially noticed or entered by stipulation, must be given under oath, as administered by the hearing officer or other authority authorized to administer oaths. (5-8-09)

08. Appearance and Representation. Any party to a proceeding may appear and be heard in person or may authorize an attorney to represent the party at the party's own expense. Unless otherwise prohibited by law and with the prior approval of the hearing officer, a party may be assisted, but not represented, by a friend or relative. When a party chooses to appear in person and does not speak or understand the English language, an interpreter shall be allowed to interpret under oath. The interpreter is not allowed to act as a representative of the party and shall act at the party's own expense. (5-8-09)

09. Default. If a party fails to appear at a scheduled hearing or at any stage of a contested case without good cause and reasonable notice to the hearing officer and to all other parties, the hearing officer may enter a notice of proposed default order against the nonappearing party. A default order may be altered or set aside upon petition filed within seven (7) days of service of the order showing sufficient good cause stating the grounds relied on, and providing reasonable notice to all parties. (5-8-09)

10. Order of Presentation and Burden of Proof. At any contested case hearing, the party having the burden of proof shall be the first to present testimony unless the hearing officer determines otherwise. Unless otherwise determined, in advance, by the hearing officer, the burden of proof shall be preponderance of the evidence. (5-8-09)

11. Evidence. Pursuant to Section 67-5251, Idaho Code, the hearing shall be informal and technical rules of evidence do not apply, except that irrelevant, immaterial, incompetent, duly repetitious evidence, or evidence excludable on constitutional or statutory grounds protected by the rules of privilege recognized by law may be excluded. Hearsay evidence may be received if it is relevant to or corroborates competent evidence, but shall not be the sole basis for any finding of fact. Any part of the evidence may be received in written form if doing so will expedite the hearing without substantially prejudicing the interest of any party. Documentary evidence may be received in the form of copies or excerpts if the original is not readily available. (3-30-01)

12. Testimony by Telephone or Other Electronic Means. With the prior approval of the hearing officer, witnesses may testify by telephone or other electronic means, provided the examination and responses are audible to all parties. (5-8-09)

13. Official Notice. (3-30-01)

a. Discretionary Notice. Notice may be taken of judicially cognizable facts by the hearing officer on its own motion or on motion of a party. In addition, notice may be taken of generally recognized technical or scientific facts within the hearing officer's specialized knowledge. Parties shall be notified either before or during the hearing, or by reference in preliminary reports or otherwise, of the material noticed including any staff memoranda or data, and the parties shall be afforded an opportunity to contest the material so noticed. The hearing officer's experience, technical competence, and specialized knowledge may be utilized in the evaluation of the evidence. (5-8-09)

b. Mandatory Notice. For all hearings, the hearing officer must take official notice of the following materials on its own motion or on the motion of any party. Objections going to such notice must become a part of the record. For the purposes of the hearing, it is established as true without proof that the following are admissible, valid and enforceable: (5-8-09)

i. Rules of the Division and other state agencies; (3-30-01)

ii. Federal regulations; (3-30-01)

iii. The constitution and statutes of the United States and Idaho; (3-30-01)

iv. Public records; and (3-30-01)

v. Such other materials that a court of law must judicially notice. (3-30-01)

14. Hearing Officer Decision. The hearing officer will issue a written order as provided in Section 67-5243, Idaho Code. (5-8-09)

a. Recommended orders will contain a statement of the schedule for review of that order by the Division Administrator. (5-8-09)

b. Preliminary orders will include notice of the right to seek a review of the order by the Division Administrator and a statement that the order will become final without a request for such review. A request for review shall be filed no later than fourteen (14) days following the issuance of the preliminary order, unless a request for reconsideration by the hearing officer is filed prior to the expiration of such fourteen (14) day period. If a petition for reconsideration is made, a request shall be filed within fourteen (14) days of the hearing officer's order disposing of the petition or the deemed denial of the petition pursuant to Section 67-5243, Idaho Code. (5-8-09)

c. A party may file a motion for reconsideration with the hearing officer no later than fourteen (14)

days following the issuance of the preliminary order or the recommended order. (5-8-09)

15. Contents of the Record. Pursuant to Section 67-5249(2), Idaho Code, the record in a contested case proceeding will be kept by the Division Administrator, on behalf of the hearing officer, and must include the following: (5-8-09)

a. All notices, pleadings, motions and rulings; (3-30-01)

b. All evidence received or considered; (3-30-01)

c. A statement of all matters officially noticed; (3-30-01)

d. A record of testimony and offers of proof, objections and rulings thereon; (3-30-01)

e. A record of proposed findings and exceptions; (3-30-01)

f. Any decision, opinion, or report by the Commission; (3-30-01)

g. All staff memoranda or data submitted to the Commission in connection with consideration of the case; (3-30-01)

h. All briefs or memoranda submitted by any party; and (3-30-01)

i. Any recommended order, preliminary order, final order, or order on reconsideration. (3-30-01)

16. Review by the Division Administrator and Issuance of the Final Order. Following the issuance of an order by the hearing officer, the Division Administrator will: (5-8-09)

a. Review recommended orders as provided in Section 67-5244, Idaho Code; (5-8-09)

b. Review preliminary orders upon the appeal of a party or upon the Division Administrator's own motion as provided in Section 67-5245, Idaho Code; and (5-8-09)

c. Issue a final order as provided in Section 67-5246, Idaho Code. (5-8-09)

17. Judicial Review. In accordance with Section 67-5271, Idaho Code, a party which has exhausted all administrative remedies available within the Division may seek judicial review. Proceedings for judicial review shall be instituted in accordance with Sections 67-5270 and 67-5273, Idaho Code. (3-30-01)

985. POST HEARING PROVISIONS *FOR RESIDENTIAL AND DOMICILIARY CARE*.
The following provisions are applicable to those phases of all contested case proceedings which occur after the hearing has been conducted: *( )*

01. Service of Decisions and Orders. Decisions and orders are deemed to have been served when copies thereof are mailed to all parties of record or their attorneys by the Division Administrator. (3-30-01)

02. No Motions for Reconsideration. Unless otherwise provided by law or these rules, motions for reconsideration shall not be permitted. (3-30-01)

03. Public Inspection. All final decisions and orders of the Commission must be maintained by the Division Administrator and made available for public inspection after service on the parties. (3-30-01)

04. Effect of Petition for Judicial Review. The filing of a petition for judicial review shall not stay compliance with the decision and order or suspend the effectiveness of the decision and order, unless otherwise ordered or mandated by law. (3-30-01)

986. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Legislature has given the Administrator of the Division of Veterans Services the authority to promulgate rules governing the Idaho State Veterans Cemetery pursuant to Section 65-202, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 21.01.04, "Rules Governing the Idaho State Veterans Cemetery." (5-3-03)

02. Scope. These rules contain the provisions for eligibility for interment at the Idaho State Veterans Cemetery and the provisions for operation and maintenance of the Idaho State Veterans Cemetery. (5-3-03)

002. INCORPORATION BY REFERENCE.

01. Incorporated Documents. *These rules* incorporate by reference the following: *( )*

a. The full text of 38 CFR 38.620, dated July 1, 2001. (3-29-10)

b. 38 U.S.C.A. Section 2402, (2004 and Supp. 2004). (3-30-06)

c. 38 CFR 39.5(d), dated July 1, 2008. (3-29-10)

02. Document Availability. Copies are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402-0001. (5-3-03)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Administrator. The Administrator of the Idaho Division of Veterans Services or his designee. (5-3-03)

02. Applicant. The individual requesting interment, disinterment or reinterment of a qualified person. (5-3-03)

03. Armed Forces Member. A member or former member of the armed forces of the United States, the reserve component of the armed forces of the United States, the reserve officers training corps of the United States, or the armed forces of an ally of the United States who is eligible for burial in national cemeteries pursuant to 38 CFR 38.620 and 38 U.S.C. Section 2402. (3-29-10)

04. Cemetery. The Idaho State Veterans Cemetery authorized pursuant to Section 65-108, Idaho Code. (5-3-03)

05. Committal Service. A gathering of one (1) or more individuals prior to interment or reinterment. (5-3-03)

06. Cremains. Cremated human remains. (5-3-03)

07. Designated Interpretive Trail. A public recreational trail designated by a sign or marker. (3-30-07)

08. Disinterment. The removal of human remains from their place of interment. (5-3-03)

09. Division. The Idaho Division of Veterans Services. (5-3-03)

10. Interment. The disposition of human remains by burial or the placement of cremains in a grave plot or in any location designated by the Administrator for use as a permanent location of cremains. (5-3-03)

11. Qualified Person. A person who satisfies the requirements for eligibility for interment in national cemeteries found at 38 CFR 38.620 and 38 U.S.C. Section 2402 and is not prohibited from being interred by 38 CFR

39.10(b). (3-29-10)

12. **Reinterment**. The interment of previously interred human remains. (5-3-03)

13. **Unremarried Spouse**. An individual who is the surviving spouse of a deceased armed forces member and who has not remarried. (5-3-03)

14. **USDVA**. The United States Department of Veterans Affairs. (5-3-03)

011. -- 019. (RESERVED)

020. ELIGIBILITY FOR INTERMENT.

01. **Eligibility**. *A qualified person* is eligible for interment at the cemetery. An individual who is a qualified person based upon a relationship to an armed forces member is eligible for interment at the cemetery if the armed forces member is pre-registered for interment at the cemetery or is interred at the cemetery. *( )*

02. **Requirements**. (5-3-03)

a. Proof of Qualification as an Armed Forces Member. The following documents may be submitted as proof that an individual is a qualified person: (5-3-03)

i. A valid discharge from the armed forces of the United States in the name of the individual indicating that the character of discharge was other than dishonorable; or (5-3-03)

ii. A copy of a Reserve Retirement Eligibility Benefits Letter in the name of the individual; or (5-3-03)

iii. A valid certificate of naturalization or a valid United States passport in the name of the individual and a valid discharge in the name of the individual from the armed forces of an ally of the United States in a war during which the individual served indicating that the character of discharge was other than dishonorable; or (5-3-03)

iv. Any other evidence satisfactory to the Administrator. (5-3-03)

b. Proof of Qualification for Relatives of an Armed Forces Member. The following documents may be submitted as proof that an individual is a qualified person: (5-3-03)

i. One (1) of the items listed in Subparagraphs 020.02.a.i. through 020.02.a.iii. of these rules for a parent of the individual, a valid birth or adoption record identifying such parent, and proof of the individual's birth date; or (5-3-03)

ii. One (1) of the items listed in Subparagraphs 020.02.a.i. through 020.02.a.iii. of these rules for the spouse of the individual, a valid record of marriage between the individual and the armed forces member, and a certification that the individual was an unremarried spouse at the time of death, if the armed forces member predeceased the individual; or (5-3-03)

iii. Any other evidence satisfactory to the Administrator. (5-3-03)

03. **Burden of Proof**. The burden of proof in establishing eligibility for interment or reinterment in the cemetery shall be upon the applicant. (5-3-03)

021. APPLICATION FOR INTERMENT.

01. **Who May Apply**. A qualified person seeking to pre-register for interment or their legal representative, the Administrator of a qualified person's estate, the personal representative of a deceased qualified person, or a relative of a deceased qualified person may apply for interment. If the qualified person was married at the time of death, that person's spouse must consent to the application. If no relative or legal representative of a qualified

person is available to apply on the behalf of a deceased qualified person, a veteran's organization or the Administrator may apply for interment. (5-3-03)

02. Pre-Registration for Interment. A qualified person or the legal representative of a qualified person may pre-register for interment by submitting proof of eligibility and completing an application form prescribed by the Administrator. If the individual seeking to be pre-registered for interment is a qualified person based upon a relationship to an armed forces member, the armed forces member must be pre-registered for interment or interred at the cemetery. If a qualified person is eligible based upon marriage to an armed forces member, the Administrator must receive proof that the qualified person was an unremarried spouse at the time of death prior to interment. (5-3-03)

03. Application Following Death. An applicant may submit an application for interment following the death of a qualified person by submitting proof of eligibility and completing an application form prescribed by the Administrator. (5-3-03)

022. INTERMENT AND REINTERMENT.

01. Remains. Remains shall be delivered to the cemetery in a casket or, if cremated, in a recoverable container. The container for cremains designated by the applicant for interment in a location other than a grave plot shall not exceed nine (9) inches in width, thirteen (13) inches in height, and nine (9) inches in depth. (3-16-04)

02. Committal Services. The cemetery shall provide a designated location for committal services. Graveside committal services shall not be held in the cemetery. The cemetery shall not provide facilities for viewing of remains. The arrangements for and any expenses associated with committal services shall be the responsibility of the applicant. The Administrator may assist the applicant in applying for military honors. (5-3-03)

023. DISINTERMENT AND REINTERMENT.

01. Disinterment. The Administrator may approve an application for disinterment where the applicant for interment, the surviving unremarried spouse, if any, and the children of the interred person, or the legal representatives of any of the foregoing persons, complete and sign an application form prescribed by the Administrator and submit proof of applicable governmental approval of the disinterment, transporting, and reinterment of the remains. The Administrator shall approve an application for disinterment accompanied by the order of a court of competent jurisdiction. (5-3-03)

02. Reinterment. (5-3-03)

a. Who May Be Reinterred. The Administrator may approve an application for reinterment of remains in the cemetery where the remains are of a qualified person and the applicant for interment desires that the remains be interred with remains interred in the cemetery or with the remains of a qualified person pre-registered for interment in the cemetery. (5-3-03)

b. Application and Proof of Eligibility. The applicant for reinterment shall complete an application form prescribed by the Administrator and submit proof of the eligibility of the qualified person and proof of applicable governmental approval of the disinterment, transporting, and reinterment of the remains. If the application seeks reinterment of the remains of a qualified person, the applicant shall identify the qualified person with whom the reinterred remains will be interred. (5-3-03)

024. FEES FOR INTERMENT, DISINTERMENT, AND REINTERMENT.
The Administrator shall charge the following fees: (3-16-04)

01. Interment. (3-30-06)

a. *A* fee equal to the then current USDVA reimbursement for opening and closing an interment site containing a pre-placed crypt. The Administrator will accept, as full payment the amount of reimbursement by the USDVA to the Division for opening and closing an interment site containing a pre-placed crypt for a qualified veteran. *( )*

b. In addition to the fee charged under Paragraph 024.01.a. of this rule, the Administrator shall charge a fee of five hundred dollars ($500) for preparation of an interment site not containing a pre-placed crypt. (4-9-09)

02. Disinterment. *A* fee equal to the then current USDVA reimbursement for opening and closing an interment site. The expenses of removal, transportation and reinterment of remains, and the expenses of removal, transportation and reinstallation of the grave marker, if any, shall be paid by the applicant for disinterment. *( )*

03. Reinterment. *A* fee equal to the then current USDVA reimbursement for opening and closing an interment site for reinterment. The expenses of reinterment of remains and reinstallation of the grave marker, if any, shall be paid by the applicant for reinterment. *( )*

025. -- 029. (RESERVED)

030. CEMETERY USE.

01. Public Use. The cemetery will be open to public access from 8 a.m. to sunset daily. The Administrator may close the cemetery at 6 p.m. when a public fireworks display is planned. (5-8-09)

02. Interment Schedule. Cemetery staff will schedule interments to ensure that cemetery staff complete their duties between the hours of 8 a.m. and 5 p.m. Cemetery staff will not schedule interments on Saturdays, Sundays and legal holidays without the prior approval of the Administrator. (5-3-03)

031. -- 039. (RESERVED)

040. MEMORIALS AND DONATIONS.

01. Flowers and Grave Decorations. The Administrator will post the requirements for natural and artificial flowers and other grave decorations in the cemetery. Cemetery personnel may remove and discard grave decorations that fail to comply with the posted requirements or that are faded, wilted, tattered or worn. *( )*

02. Plaques, Statues, and Other Memorials. The Administrator may approve plaques, statues, and other memorials to commemorate events, units, individuals, groups, and organizations. Persons wishing to install such memorials shall submit an application on a form prescribed by the Administrator. The cost of all such memorials shall be the responsibility of the applicant. Memorials approved by the Administrator shall be donations to the cemetery. (5-3-03)

03. Grave Markers. All grave markers in the cemetery shall be markers issued by the USDVA. Upright granite markers shall be used to mark graves. Flush granite markers shall be used to mark interments in an area reserved for the interment of cremains in the soil. Granite niche markers shall be used to mark the interment of cremains in a structure reserved for the interment of cremains. The Administrator may assist the applicant in completing all forms for ordering a grave marker required by the USDVA. (5-3-03)

04. Donations and Gifts. The Administrator may accept gifts and donations to the Veterans Cemetery Maintenance Fund established pursuant to Section 65-107, Idaho Code. (5-3-03)

041. -- 049. (RESERVED)

050. PUBLIC BEHAVIOR IN THE CEMETERY.

01. Littering. Littering is prohibited in the cemetery. (5-3-03)

02. Preservation of Cemetery Property. The destruction, injury, defacement, removal or disturbance in or of any building, sign, equipment, monument, statute, marker or any other structures, or of any tree, flower, or other vegetation, or of any artifact or any other property in the cemetery is prohibited unless authorized by the Administrator. (5-3-03)

03. Recreation and Entertainment. The cemetery shall not be used for any form of sports, entertainment or recreation, other than use limited solely to designated interpretive trails. The Administrator may limit access to designated interpretive trails to one (1) or more routes designated by a marker or sign. The cemetery shall not be used as a picnic ground. (3-30-07)

04. Public Ceremonies and Gatherings. Except for committal services, any individual or group organizing a ceremony or gathering in the cemetery must first obtain the prior written approval of the Administrator. The cemetery shall not be used for partisan activities. Parties receiving authority to hold a ceremony or public gathering shall comply with all restrictions placed upon the ceremony or public gathering by the Administrator. (3-30-07)

05. Animals. *Leashed a*nimals are allowed in the cemetery only on designated interpretive trails and marked designated interpretive trail access areas. Animal owners shall observe posted requirements for gaining access to designated interpretive trails, the use and behavior of animals, and the disposal of animal waste. *( )*

06. Motor Vehicles. Except as authorized by the Administrator: (5-3-03)

a. Motor vehicles shall remain on authorized, established roadways or parking areas; (5-3-03)

b. Motor vehicles are prohibited on interpretive trails; (5-3-03)

c. Motor vehicle drivers shall observe posted traffic, directional, parking, and speed signs and all applicable state and local laws governing traffic on public roads; and (5-3-03)

d. Overnight parking is prohibited in the cemetery. (5-3-03)

07. Alcohol. No alcoholic beverages can be consumed in the cemetery. (5-3-03)

08. Photographs. No commercial video or commercial still photographs can be taken in the cemetery without the prior written approval of the Administrator. (5-3-03)

051. -- 999. (RESERVED)

IDAPA 22 – BOARD OF MEDICINE

DOCKET NO. 22-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 54-1806(2), 54-1806(4), 54-1806(11), 54-1806A, 52-1807, 54-1812, 54-1813, 54-1814 and 54-1841, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as proposed rules under this docket number under IDAPA 22, rules of the Board of Medicine:

IDAPA 22

- 22.01.05, *General Provisions of the Board of Medicine*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 4416–4423**. Changes that took place to these sets of rules after publication in the June 19, 2019 Bulletin include insertion of general licensure, renewal, complaint investigation, telehealth, and disciplinary provisions that were in other rules chapters to consolidate all universal provisions into this one chapter. Also, unnecessary, redundant, and duplicative language was removed, including language that is already present in the relevant practice acts in Idaho Code, Title 54, Chapters 18, 35, 39, and 43.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anne Lawler, (208) 327-7000.

Dated this 15th day of October, 2019.

Anne K. Lawler, JD, RN, Executive Director
Idaho State Board of Medicine
345 W. Bobwhite Court, Suite 150
Boise, Idaho 83706
Phone: (208) 327-7000
Fax: (208) 327-7005
E-mail: **anne.lawler@bom.idaho.gov**

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Sections 54-1806(2), and 54-5713, Idaho Code. (4-11-19)

001. TITLE AND SCOPE.
The title of this chapter is IDAPA 22.01.05, "General Provisions of the Board of Medicine." This chapter has the following scope: these rules govern general aspects of Board of Medicine operations, complaint investigation and telehealth services. (4-11-19)

002. **-- *099.*** **(RESERVED)**

100. GENERAL QUALIFICATIONS FOR LICENSURE.

01. Applicant. *An applicant must meet the statutory requirements of licensure. The Board may refuse licensure or to issue a permit if it finds the applicant has engaged in conduct prohibited by state law for that specific category of licensure; provided the Board will take into consideration the rehabilitation of the applicant and other mitigating circumstances.* *( )*

02. Licensure. *Each applicant must have attained the level of education required by the Board, and have passed an examination required by the Board, or be entitled to apply by Licensure by Endorsement, or provisional licensure, if applicable.* *( )*

03. Application. *All applications for license or permit will be made to the Board on forms supplied by the Board, will be verified, must include all requested information, and must include the nonrefundable application fee.* *( )*

04. Application Expiration. *All applicants must complete their license application within one (1) year unless extended by the Board after filing an application for extension. Unless extended, applications that remain on file for more than one (1) year will be considered null and void and a new application and new fees will be required as if filing for the first time.* *( )*

05. Personal Interview. *The Board may, at its discretion, require the applicant to appear for a personal interview.* *( )*

06. Residence. *No period of residence in Idaho is required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request only. The Board may refuse licensure or to renew a license if the applicant is not lawfully present in the United States.* *( )*

101. LICENSE OR PERMIT EXPIRATION AND RENEWAL.

01. License Expiration. *Licenses and permits will be issued for a period of not more than five (5) years. All licenses expire on the expiration date printed on the face of the certificate and become invalid after that date unless renewed. The Board will collect a fee for each renewal year of a license. Prorated fees may be assessed by the Board to bring the expiration date of the license within the next occurring license renewal period.* *( )*

02. Renewal. *Each license to practice medicine may be renewed prior to its expiration date by the payment of a renewal fee to the Board and by completion of a renewal form provided by the Board. In order to be eligible for renewal, a licensee must provide a current address and e-mail address to the Board and must notify the Board of any change of address or e-mail address prior to the renewal period. Licenses not renewed by their expiration date will be canceled.* *( )*

03. Reinstatement. *Licenses canceled for nonpayment of renewal fees may be reinstated by filing a reinstatement application on forms prescribed by the Board and upon payment of a reinstatement fee and applicable renewal fees for the period the license was lapsed.* *( )*

04. Reapplication. *A person whose license has been canceled for a period of more than five (5) years, is required to make application to the Board as a new applicant for licensure.* *( )*

102. LICENSE BY ENDORSEMENT.
Where permitted by law, an applicant, in good standing with no restrictions upon or actions taken against their license to practice in a state, territory or district of the United States or Canada is eligible for licensure by

endorsement to practice medicine in Idaho. An applicant with any disciplinary action, including past, pending, or confidential, by any board of medicine, licensing authority, medical society, professional society, hospital, medical school or institution staff in any state, territory, district or country is not eligible for licensure by endorsement. An applicant ineligible for licensure by endorsement may make a full and complete application pursuant to the requirements found in Title 54, Idaho Code, IDAPA 22.01.05, and on Board-approved forms. ( )

***01. Application**. All applications for license or permit will be made to the Board on forms supplied by the Board, will be verified, must include all requested information, and the nonrefundable application fee. ( )*

***02. Character**. An applicant is not eligible for licensure by endorsement if the Board finds the applicant has engaged in conduct prohibited by state law for that specific category of licensure. ( )*

***03. Residence**. No period of residence in Idaho is required of any applicant, however, each applicant for licensure must be legally able to work and live in the United States. Original documentation of lawful presence in the United States must be provided upon request. The Board may refuse licensure or to renew a license if the applicant is not lawfully present in the United States. ( )*

103. PROVISIONAL LICENSURE.

Where permitted by law, the Board may issue a provisional license to a person who has successfully completed the academic requirements required by the Board and has met all the other requirements for licensure set forth in statute, but who has not yet passed the relevant examination required by the Board for licensure in their specific profession. ( )

***01. Application**. Each applicant for provisional licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the application fee, and all requested information, including the affidavit of a monitor licensed to practice the same profession in the state who will undertake the supervision of the provisional licensee. ( )*

***02. Affidavit**. An affidavit must be signed by an monitor licensed in Idaho to practice the same profession, in which they affirm and attest to supervise and be responsible for the activities of the provisionally licensed provider being supervised and to review and countersign all records and documentation of services performed by the provisionally licensed provider. ( )*

***03. Supervision**. The practice of a provider holding a provisional license will be in direct association with an Idaho licensee of the same profession who shall is responsible for the activities of the provisionally licensed provider being supervised and will review and countersign all patient documentation performed by the provisionally licensed provider. The supervising monitor need not be physically present or on the premises at all times but will be available for telephonic consultation. The extent of communication between the monitor and the provisionally licensed provider will be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients. ( )*

104. INACTIVE LICENSE

***01. Issuance of Inactive License**. Any applicant who is eligible to be issued a license by the Board, except a volunteer license, may be issued, upon request, an inactive license to practice on the condition that he will not engage in the practice of the relevant profession in this state. An inactive license fee will be collected by the Board. ( )*

***02. Renewal of Inactive License**. Inactive licenses will be issued for a period of not more than five (5) years and such licenses will be renewed upon payment of an inactive license renewal fee of no more than one hundred dollars ($100) for each renewal year. The inactive license certificate will set forth its date of expiration. ( )*

***03. Inactive to Active License**. An inactive license may be converted to an active license by application to the Board and payment of required fees. Before the license will be converted the applicant must account for the time during which an inactive license was held. The Board may, in its discretion, require a personal interview. ( )*

105. -- 149. (RESERVED)

150. ADDITIONAL GROUNDS FOR SUSPENSION, REVOCATION, DISCIPLINARY SANCTIONS OR DENIAL OR RESTRICTION OF A LICENSE.

*01. **Discipline**. In addition to the grounds for discipline set forth in Idaho Code, every person licensed or permitted by the Board is subject to discipline upon any of the following grounds: ( )*

*02. **Unethical Advertising**. Advertising the licensee or permittee's practice in any unethical or unprofessional manner, including but not limited to: ( )*

a. Using advertising or representations likely to deceive, defraud or harm the public. ( )

b. Making a false or misleading statement regarding the licensee or permittee's skill or the efficacy or value of the treatment, remedy, or service offered, performed, or prescribed by the licensee or permittee. ( )

*03. **Standard of Care**. Providing health care that fails to meet the standard of health care provided by other qualified licensees or permittees of the same profession, in the same community or similar communities, including but not limited to: ( )*

a. Being found mentally incompetent or insane by any court of competent jurisdiction. ( )

b. Engaging in practice or behavior that demonstrates a manifest incapacity or incompetence to practice his or her profession. ( )

c. Allowing another person or organization to use his or her license or permit to practice his or her profession. ( )

d. Prescribing, selling, administering, distributing or giving any drug legally classified as a controlled substance or recognized as an addictive or dangerous drug to himself or herself or to a spouse, child or stepchild. ( )

e. Using any controlled substance or alcohol to an extent that use impairs the licensee or permittee's ability to practice his or her profession competently. ( )

f. Violating any state or federal law or regulation relating to controlled substances. ( )

g. Directly promoting surgical procedures or laboratory tests that are unnecessary and not medically indicated. ( )

h. Failure to transfer pertinent and necessary medical records to another provider when requested to do so by the subject patient or client or by his or her legally designated representative. ( )

i. Failing to maintain adequate records. Adequate patient or client records means legible records that contain, at a minimum, subjective information, an evaluation and report of objective findings, assessment or diagnosis, and the plan of care. ( )

j. Providing care or performing any service outside the licensee or permittee's scope of practice as set forth in Idaho Code, including providing care or performing a service without supervision, if such is required by Idaho Code or Board rule. ( )

k. Failing to have a supervising or directing physician who is licensed by the Board, if such supervision is required by Idaho Code or Board rule. ( )

*04. **Conduct**. Engaging in any conduct that constitutes an abuse or exploitation of a patient or client arising out of the trust and confidence placed in the licensee or permittee by the patient or client, including but not limited to: ( )*

a. Obtaining any fee by fraud, deceit or misrepresentation. ( )

b. Employing abusive billing practices. ( )

d. Commission of any act of sexual contact, misconduct, exploitation or intercourse with a patient or client or former patient or client or related to the licensee's practice. ( )

i. Consent of the patient or client shall not be a defense. ( )

ii. Section 101 does not apply to sexual contact between a licensee or permittee and the licensee or permittee's spouse or a person in a domestic relationship who is also a patient or client. ( )

iii. A former patient or client includes a patient or client for whom the licensee or permittee has provided services related to the licensee or permittee's practice, including prescriptions, within the last twelve (12) months; sexual or romantic relationships with former patients or clients beyond that period of time may also be a violation if the licensee or permittee uses or exploits the trust, knowledge, emotions or influence derived from the prior professional relationship with the patient or client. ( )

e. Accepting any reimbursement for service, beyond actual expenses, while providing services under a volunteer license. ( )

f. Employing, supervising, directing, aiding or abetting a person not licensed or permitted in this state who directly or indirectly performs activities or provides services requiring a license or permit. ( )

g. Failing to report to the Board any known act or omission of a Board licensee or permittee that violates any provision of these rules. ( )

h. Interfering with an investigation or disciplinary proceeding by willful misrepresentation of facts or by use of threats or harassment against any patient or client, Board or Advisory Board or Committee member, Board staff, hearing officer, or witness in an attempt to influence the outcome of a disciplinary proceeding, investigation, or other legal action. ( )

i. Failing to obey any and all state and local laws and rules related to the licensee or permittee's practice or profession. ( )

***151*. COMPLAINTS.**
Complaints may be submitted in writing to the Board, and will include the name of the provider, the approximate date of the incident or care, the concerns regarding the incident or care, along with the complainant's e-mail address, telephone number, and mailing address. Complaints will be reviewed to determine if they fall under the jurisdiction of the Board, upon which determination, an investigation will ensue. Disposition of investigations will be determined following recommendations to the Board by the Committee on Professional Discipline or the appropriate allied health board or committee. ( )

152. NOTICE.
The Board will notify, in writing, a licensee under investigation within ten (10) business days of the commencement of the investigation, and will provide an opportunity for any licensee under investigation to meet with the Committee on Professional Discipline or Board staff before the initiation of formal disciplinary proceedings by the Board. ( )

153. ON SITE REVIEW.
The Board, by and through its designated agents, is authorized to conduct on-site reviews of the activities of its licensees at the locations and facilities in which the licensees practice at such times as the Board deems necessary. ( )

***154*. -- 200. (RESERVED)**

201. DEFINITIONS PERTAINING TO TELEHEALTH SERVICES IN IDAHO.

01. Asynchronous Store and Forward Transfer. "Asynchronous store and forward transfer" means the transmission of a patient's health care information from an originating site to a provider at a distant site over a secure connection that complies with state and federal security and privacy laws. (4-11-19)

02. Distant Site. "Distant site" means the site at which a provider delivering telehealth services is located at the time the service is provided. (4-11-19)

03 Originating Site. "Originating site" means the location of a patient at the time telehealth services are provided. (4-11-19)

04. Provider. "Provider" means a person who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho, pursuant to Title 54, Idaho Code, to deliver health care consistent with his or her license. (4-11-19)

05. Synchronous Interaction. "Synchronous interaction" means real-time communication through interactive technology that enables a provider and a patient at two (2) locations separated by distance to interact simultaneously through two-way video and audio or audio transmission. (4-11-19)

06. Telehealth Services. "Telehealth services" means health care services provided by a provider to a person through the use of electronic communications, information technology, asynchronous store and forward transfer or synchronous interaction between a provider at a distant site and a patient at an originating site. Such services include, but are not limited to, clinical care, health education, home health and facilitation of self-managed care and caregiver support. (4-11-19)

202. IDAHO LICENSE REQUIRED.
Any physician, physician assistant, respiratory therapist, polysomnographer, dietitian, athletic trainer*, or naturopathic medical doctor* who provides any telehealth services to patients located in Idaho must hold an active Idaho license issued by the Idaho State Board of Medicine for their applicable practice. *( )*

203. PROVIDER-PATIENT RELATIONSHIP.
In addition to the requirements set forth in Section 54-5705, Idaho Code, during the first contact with the patient, a provider licensed by the Idaho State Board of Medicine who is providing telehealth services must: (4-11-19)

01. Verification. Verify the location and identity of the patient; (4-11-19)

02. Disclose. Disclose to the patient the provider's identity, their current location and telephone number and Idaho license number; (4-11-19)

03. Consent. Obtain appropriate consents from the patient after disclosures regarding the delivery models and treatment methods or limitations, including a special informed consent regarding the use of telehealth technologies; and (4-11-19)

04. Provider Selection. Allow the patient an opportunity to select their provider rather than being assigned a provider at random to the extent possible. (4-11-19)

204. STANDARD OF CARE.
A provider providing telehealth services to patients located in Idaho must comply with the applicable Idaho community standard of care. The provider is personally responsible to familiarize themself with the applicable Idaho community standard of care. If a patient's presenting symptoms and conditions require a physical examination, lab work or imaging studies in order to make a diagnosis, the provider shall not provide diagnosis or treatment through telehealth services unless or until such information is obtained. (4-11-19)

205. INFORMED CONSENT.
In addition to the requirements of Section 54-5708, Idaho Code, evidence documenting appropriate patient informed consent for the use of telehealth technologies must be obtained and maintained at regular intervals consistent with the community standard of care. Appropriate informed consent should, at a minimum, include the following terms: (4-11-19)

01. Verification. Identification of the patient, the provider and the provider's credentials; (4-11-19)

02. Telehealth Determination. Agreement of the patient that the provider will determine whether or not the condition being diagnosed and/or treated is appropriate for telehealth services; (4-11-19)

03. Security Measures Information. Information on the security measures taken with the use of telehealth technologies, such as encrypting data, password protected screen savers and data files, or utilizing other reliable authentication techniques, as well as potential risks to privacy and notwithstanding such measures; (4-11-19)

04. Potential Information Loss. Disclosure that information may be lost due to technical failures. (4-11-19)

206. MEDICAL RECORDS.
As required by Section 54-5711, Idaho Code, any provider providing telehealth services as part of his or her practice shall generate and maintain medical records for each patient. The medical record should include copies of all patient-related electronic communications, including patient-physician communications, prescriptions, laboratory and test results, evaluations and consultations, relevant information of past care, and instructions obtained or produced in connection with the utilization of telehealth technologies. Informed consents obtained in connection with the provision of telehealth services should also be documented in the medical record. The patient record established during the provision of telehealth services must be accessible and documented for both the physician and the patient, consistent with all established laws and regulations governing patient healthcare records. (4-11-19)

207. -- 999. (RESERVED)

IDAPA 22 – BOARD OF MEDICINE

DOCKET NO. 22-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1806(2), 54-1806(4), 54-1806(11), 54-1806A, 52-1807, 54-1812, 54-1813, 54-1814 and 54-1841, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 22, rules of the Board of Medicine:

IDAPA 22

- 22.01.01, *Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho*
- 22.01.03, *Rules for the Licensure of Physician Assistants*
- 22.01.10, *Rules for the Licensure of Athletic Trainers to Practice in Idaho*
- 22.01.11, *Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho*
- 22.01.13, *Rules for the Licensure of Dietitians*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4424–4488**. Changes that took place to these sets of rules after publication in the June 19, 2019 Bulletin include removal of unnecessary, redundant, and duplicative language throughout, including language that is already present in the relevant practice acts in Idaho Code, Title 54, Chapters 18, 35, 39, and 43. In addition, all provisions of these rules that apply to all Boards and Committees under the Board of Medicine were moved to the General Provisions at IDAPA 22.01.05.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The fees included in each rule chapter relate to licensure and renewal of licensure for each profession described in each rule chapter. This fee or charge is being imposed pursuant to Sections 54-1808, 54-3509, 54-3907, and 54-4311, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Anne Lawler, (208) 327-7000.

Dated this 15th day of October, 2019.

Anne K. Lawler, JD, RN, Executive Director
Phone: (208) 327-7000 / Fax: (208) 327-7005
E-mail: **anne.lawler@bom.idaho.gov**

Idaho State Board of Medicine
345 W. Bobwhite Court, Suite 150
Boise, Idaho 83706

22.01.01 – RULES OF THE BOARD OF MEDICINE FOR THE LICENSURE TO PRACTICE MEDICINE AND OSTEOPATHIC MEDICINE IN IDAHO

000. LEGAL AUTHORITY.
Pursuant to Sections 54-1806(2), 54-1806(4), 54-1806(11), 54-1806A, 52-1807, 54-1812, 54-1813, 54-1814 and 54-1841, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the practice of Medicine in Idaho. (4-11-19)

001. TITLE AND SCOPE.
These rules are titled IDAPA 22.01.01, "Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho." (4-11-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Acceptable International School of Medicine**. An international medical school located outside the United States or Canada that meets the standards for medical educational facilities set forth in Subsection 051.02, is accredited by the Educational Commission for Foreign Medical Graduates (ECFMG) and provides the scope and content of the education and coursework that are equivalent to acceptable schools of medicine located within the United States or Canada. (3-26-08)

02. **Educational Commission for Foreign Medical Graduates (ECFMG)**. A nationally recognized non-profit organization that certifies international medical graduates who seek to enter United States residency and fellowship programs. (4-11-19)

03. **Federation of State Medical Boards of the United States (FSMB)**. A nationally recognized non-profit organization representing the seventy (70) medical and osteopathic boards of the United States and its territories. (4-11-19)

04. **Medical Practice Act**. Title 54, Chapter 18, Idaho Code. (3-30-06)

011. ABBREVIATIONS.

01. **AAMC**. Association of American Medical Colleges. (3-26-08)

02. **ACGME**. Accreditation Council for Graduate Medical Education. (3-26-08)

03. **AMA**. American Medical Association. (3-26-08)

04. **AOA**. American Osteopathic Association. (3-26-08)

05. **CACMS**. Committee on Accreditation of Canadian Medical Schools. (4-11-19)

06. **COCA**. Commission on Osteopathic College Accreditation. (4-11-19)

07. **ECFMG**. Educational Commission for Foreign Medical Graduates. (3-26-08)

08. **FAIMER**. Foundation for Advancement of International Medical Education. (4-11-19)

09. **FSMB**. Federation of State Medical Boards. (3-26-08)

10. **LCME**. Liaison Committee on Medical Education. (3-26-08)

11. **USMLE**. United States Medical Licensing Exam. (3-26-08)

12. **WFME**. World Federation for Medical Education. (4-11-19)

012. -- 049. (RESERVED)

050. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.
Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 22.01.05, and on

Board approved forms. *( )*

01. Special Purpose Examination. Upon inquiry, if further examination is required, the Board may require passage of the Special Purpose Examination (SPEX) administered by the FSMB, a post licensure assessment conducted by the FSMB, or an evaluation by an independent agency accepted by the Board to evaluate physician competence. *( )*

02. Additional Circumstances. The Board *may* require further inquiry when in its judgment the need is apparent, including, but not limited to, the following circumstances: *( )*

i. Graduate of an international medical school located outside the United States and Canada and not accredited by the LCME; (5-8-09)

ii. Applicant whose background investigation reveals evidence of impairment, competency deficit, or disciplinary action by any licensing or regulatory agency; (3-26-08)

iii. An applicant has not been in active medical practice for a period exceeding one (1) year, or when practice has been significantly interrupted; (3-30-06)

iv. An applicant has not written a recognized examination intended to determine ability to practice medicine within a period of five (5) years preceding application; (3-30-06)

v. An applicant whose initial licensure was issued on the basis of an examination not recognized by the Board; or (3-30-06)

vi. When there is any reason whatsoever to question the identity of the applicant. (3-30-06)

c. Recommendations of the assessment and or evaluation acceptable to the Board related to the ability of the applicant to practice medicine and surgery will be considered by the Board in its decision whether to issue a license and the Board may limit, condition, or restrict a license based on the Board's determination and the recommendation of the assessment or evaluation. (3-30-06)

051. LICENSURE FOR GRADUATES OF INTERNATIONAL MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES AND CANADA.

01. International Medical Graduate. In addition to meeting the requirements of Section 050, graduates of international medical schools located outside of the United States and Canada must submit to the Board: (3-26-08)

a. Original certificate from the ECFMG or original documentation that the applicant has passed the examination either administered or recognized by the ECFMG and passed an examination acceptable to the Board that demonstrates qualification for licensure or successfully completed the United States Medical Licensing Exam (USMLE). (5-8-09)

b. Original documentation directly from the international medical school that establishes to the satisfaction of the Board that the international medical school meets the standards for medical educational facilities set forth in Subsection 051.02; *( )*

c. Original documentation directly from the international medical school that it has not been disapproved or has its authorization, accreditation, certification or approval denied or removed by any state, country or territorial jurisdiction and that to its knowledge no state of the United States or any country or territorial jurisdiction has refused to license its graduates on the grounds that the school fails to meet reasonable standards for medical education facilities; (3-26-08)

d. A transcript from the international medical school showing successful completion of all the courses taken and grades received and original documentation of successful completion of all clinical coursework; and (4-11-19)

e. Original documentation of successful completion of three (3) years of progressive postgraduate training at one (1) training program accredited for internship, residency, or fellowship training by the ACGME, AOA or the Royal College of Physicians and Surgeons of Canada or its successor organization, provided however, a resident who is attending an Idaho based residency program may be licensed after successful completion of two (2) years of progressive post graduate training, if the following conditions are met: (4-11-19)

i. The resident must have the written approval of the residency program director; (3-25-16)

ii. The resident must have a signed written contract with the Idaho residency program to complete the entire residency program; (3-25-16)

iii. The resident must remain in good standing at the Idaho-based residency program; (3-25-16)

iv. The residency program must notify the Board within thirty (30) days if there is a change in circumstances or affiliation with the program (for example, if the resident resigns or does not demonstrate continued satisfactory clinical progress); and (3-25-16)

v. The Idaho residency program and the Idaho Board have prescreened the applicant to ensure that the applicant has received an MD or DO degree from an approved school that is eligible for Idaho licensure after graduation. (3-25-16)

02. International Medical School Requirements. An international medical school must be listed in the World Directory of Medical Schools, a joint venture of World Federation for Medical Education (WFME) and the Foundation for Advancement of International Medical Education and Research (FAIMER). (4-11-19)

052. GRADUATES OF UNAPPROVED INTERNATIONAL MEDICAL SCHOOLS LOCATED OUTSIDE OF THE UNITED STATES OR CANADA.
In addition to meeting the requirements of Section 050 of these rules, graduates of unapproved international medical schools located outside the United States or Canada that do not meet the requirements of Section 051.02 of these rules, shall submit to the Board an original certificate or document of three (3) of the four (4) following requirements. (4-11-19)

01. Valid ECFMG Certificate. Hold a valid certificate issued by ECFMG. (3-26-08)

02. Three Years of Completed Post Graduate Training. Successful completion of three (3) years of progressive post graduate training at one (1) training program accredited for internship, residency or fellowship training in an ACGME or AOA or Royal College of Physicians and Surgeons of Canada or its successor organization's approved program. (4-11-19)

03. Board Certification. Hold current board certification by a specialty board approved by the American Board of Medical Specialties or the AOA. (3-26-08)

04. Five Years Unrestricted Practice. Evidence of five (5) years of unrestricted practice as a licensee of any United States or Canadian jurisdiction. (3-26-08)

053. -- 078. (RESERVED)

079. CONTINUING MEDICAL EDUCATION (CME) REQUIRED.

01. Purpose. The purpose of practice relevant CME is to enhance competence, performance, understanding of current standards of care, and patient outcomes. (5-3-03)

02. Renewal. Each person licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho shall complete no less than forty (40) hours of practice relevant, Category 1, CME every two (2) years. (5-3-03)

03. **Verification of Compliance**. Licensees will, at license renewal, provide *an attestation* to the Board indicating compliance. The Board, in its discretion, may require such additional evidence as is necessary to verify compliance. *( )*

04. **Alternate Compliance**. The Board may accept certification or recertification by a member of the American Board of Medical Specialties, the American Osteopathic Association, or the Royal College of Physicians and Surgeons of Canada or its successor organization in lieu of compliance with continuing education requirements during the cycle in which the certification or recertification is granted. The Board may also grant an exemption for full time participation in a residency or fellowship training at a professionally accredited institution. (4-11-19)

05. **Penalties for Noncompliance**. The Board may condition, limit, suspend, or refuse to renew the license of any person whom the Board determines has failed to comply with the continuing education requirements of this chapter. (5-3-03)

080. PHYSICIAN PANELIST FOR PRELITIGATION CONSIDERATION OF MEDICAL MALPRACTICE CLAIMS.

01. Purpose. The purpose of serving as a physician panelist for prelitigation consideration of medical malpractice claims against physicians and surgeons practicing in the state of Idaho or against licensed acute care general hospitals operating in the state of Idaho is to: (4-4-13)

a. Cooperate in the prelitigation consideration of personal injury and wrongful death claims for damages arising out of the provision of or alleged failure to provide hospital or medical care in Idaho; and (4-4-13)

b. Accept and hear complaints of such negligence and damages, made by or on behalf of any patient who is an alleged victim of such negligence. (4-4-13)

02. Eligibility. A physician licensed to practice medicine and surgery or osteopathic medicine or surgery in Idaho must be available to serve in any two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman, as a physician panelist for prelitigation consideration of a medical malpractice claim. (5-8-09)

03. Excusing Physicians from Serving. A physician panelist so selected must serve unless he had served on a prelitigation panel during any previous two (2) year period, or a longer period not to exceed five (5) years, as determined by the panel chairman or for good cause shown, is excused by the panel chairman. To show good cause for relief from serving, the selected physician panelist must present an affidavit to the panel chairman which shall set out the facts showing that service would constitute an unreasonable burden or undue hardship. The panel chairman has the sole authority to excuse a selected physician from serving on a prelitigation panel. (5-8-09)

04. Penalties for Noncompliance. The Board may condition, limit, suspend, or refuse to renew the license of any physician whom the Board determines has failed to serve as a physician panelist for the prelitigation consideration of a medical malpractice claim. (5-8-09)

081. **-- 099. (RESERVED)**

100. FEES -- TABLE.

01. Fees -- Table. Nonrefundable fees are as follows:

Fees -- Table		
Licensure Fee	-	Not more than $600
Temporary License	-	Not more than $300
Reinstatement License Fee plus total of renewal fees not paid by applicant	-	Not more than $300

Fees -- Table		
Inactive License Renewal Fee	-	Not more than $100
Renewal of License to Practice Medicine Fee	-	Not more than $300
Duplicate Wallet License	-	Not more than $20
Duplicate Wall *Certificate*	-	Not more than $50
Volunteer License Application Fee	-	$0
Volunteer License Renewal Fee	-	$0

( )

02. Administrative Fees for Services. Administrative fees for services shall be billed on the basis of time and cost. (7-1-93)

***101*. -- 150. (RESERVED)**

151. DEFINITIONS RELATING TO SUPERVISING AND DIRECTING PHYSICIANS.

01. Alternate Directing Physician. A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer in the temporary absence of the directing physician. (4-11-19)

***02*. Alternate Supervising Physician for Interns and Residents**. A physician licensed to practice medicine or licensed to practice osteopathic medicine in Idaho who has been designated by the supervising physician and approved by and registered by the Board to supervise the intern or resident in the temporary absence of the supervising physician. (4-11-19)

***03*. Alternate Supervising Physician of Medical Personnel**. An Idaho licensed physician who is registered with the Board pursuant to this chapter, who supervises and has full responsibility for cosmetic treatments using prescriptive medical/cosmetic devices and/or products provided by medical personnel in the temporary absence of the supervising physician. (4-11-19)

***04*. Athletic Trainer**. A person who has met the qualifications for licensure as set forth in Title 54, Chapter 39, Idaho Code, is licensed under that chapter, and carries out the practice of athletic training under the direction of a designated Idaho licensed physician, registered with the Board. (4-11-19)

***05*. Directing Physician**. A designated Idaho licensed physician, registered with the Board pursuant to this chapter and Title 54, Chapter 39, Idaho Code, who oversees the practice of athletic training and is responsible for the athletic training services provided by the athletic trainer. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board. (4-11-19)

***06*. Medical Personnel**. An individual who provides cosmetic treatments using prescriptive medical/cosmetic devices and products that are exclusively non-incisive or non-ablative under the direction and supervision of a supervising physician registered with the Board, pursuant to the applicable Idaho statutes and the applicable rules promulgated by the Board. (4-11-19)

***07*. Supervising Physician of Interns or Residents**. Any person approved by and registered with the Board who is licensed to practice medicine and surgery or osteopathic medicine and surgery in Idaho, who signs the application for registration of an intern or resident, and who is responsible for the direction and supervision of their activities. (4-11-19)

***08*. Supervising Physician of Medical Personnel**. An Idaho licensed physician who is registered with the Board pursuant to this chapter, who supervises and has full responsibility for cosmetic treatments using

prescriptive medical/cosmetic devices and products provided by medical personnel. (4-11-19)

152. – 160. (RESERVED)

161. DUTIES OF DIRECTING PHYSICIANS.

01. Responsibilities. The directing physician accepts full responsibility for the acts and athletic training services provided by the athletic trainer and oversees the practice of athletic training of the athletic trainer, and for the supervision of such acts which include, but are not limited to: (4-11-19)

a. An on-site visit at least semiannually to personally observe the quality of athletic training services provided; and (4-11-19)

b. Recording of a periodic review of a representative sample of the records, including, but not limited to, records made from the past six (6) months of the review to evaluate the athletic training services that were provided. (4-11-19)

02. Scope of Practice. The directing physician must ensure the scope of practice of the athletic trainer, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," and Section 54-3903, Idaho Code, will be limited to and consistent with the scope of practice of the directing physician and exclude any independent practice of athletic training by an athletic trainer. (4-11-19)

03. Directing Responsibility. The responsibilities and duties of a directing physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician without prior notification and Board approval. (4-11-19)

04. Available Supervision. The directing physician will oversee the activities of the athletic trainer and must be available either in person or by telephone to supervise, direct, and counsel the athletic trainer. The scope and nature of the direction of the athletic trainer will be outlined in an athletic training service plan or protocol, as set forth in IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho," Section 012. ( )

05. Disclosure. It is the responsibility of each directing physician to ensure that each athlete who receives athletic training services is aware of the fact that said person is not a licensed physician. This disclosure requirement can be fulfilled by the use of name tags, correspondence, oral statements, office signs, or such other procedures that under the involved circumstances adequately advise the athlete of the education and training of the person rendering athletic training services. (4-11-19)

162. DUTIES OF SUPERVISING PHYSICIANS.

01. Responsibilities. The supervising physician accepts full responsibility for the medical acts of and patient services provided by physician assistants and graduate physician assistants and for the supervision of such acts which shall include, but are not limited to: (4-11-19)

a. An on-site visit at least monthly to personally observe the quality of care provided; (4-11-19)

b. A periodic review of a representative sample of medical records to evaluate the medical services that are provided. When applicable, this review will also include an evaluation of adherence to the delegation of services agreement between the physician and physician assistant or graduate physician assistant; and (4-11-19)

c. Regularly scheduled conferences between the supervising physician and such licensees. (4-11-19)

02. Pre-Signed Prescriptions. The supervising physician will not utilize or authorize the physician assistant to use any pre-signed prescriptions. (4-11-19)

03. Supervisory Responsibility. A supervising physician or alternate supervising physician may not supervise more than four (4) physician assistants or graduate physician assistants contemporaneously. The Board, however, may authorize a supervising physician or alternate supervising physician to supervise a total of six (6) such

licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician without prior notification and Board approval. (4-11-19)

04. Available Supervision. The supervising physician will oversee the activities of the physician assistant or graduate physician assistant, and must always be available either in person or by telephone to supervise, direct, and counsel such licensees. The scope and nature of the supervision of the physician assistant and graduate physician assistant must be outlined in a delegation of services agreement, as set forth in IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants," Subsection 030.04. (4-11-19)

05. Disclosure. It is the responsibility of each supervising physician to ensure that each patient who receives the services of a physician assistant or graduate physician assistant is aware of the fact that said person is not a licensed physician. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs, or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the person rendering medical services. (4-11-19)

163. DUTIES OF SUPERVISING PHYSICIANS OF INTERNS AND RESIDENTS.

01. Responsibilities. The supervising physician is responsible for the direction and supervision of the medical acts and patient services provided by an intern or resident. The direction and supervision of such activities include, but are not limited to: (4-11-19)

a. An on-site visit at least monthly to personally observe the quality of care provided; (4-11-19)

b. Recording of a periodic review of a representative sample of medical records to evaluate the medical services that are provided; and (4-11-19)

c. Regularly scheduled conferences between the supervising physician and the intern or resident. (4-11-19)

02. Available Supervision. The supervising physician will oversee the activities of the intern or resident, and must always be available either in person or by telephone to supervise, direct and counsel the intern or resident. (4-11-19)

03. Disclosure. It is the responsibility of each supervising physician to ensure that each patient who receives the services of an intern or resident is aware of the fact that said person is not a licensed physician. This disclosure requirement can be fulfilled by the use of nametags, correspondence, oral statements, office signs, or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the person rendering medical services. (4-11-19)

164. SUPERVISING PHYSICIANS OF MEDICAL PERSONNEL.

Prescriptive medical/cosmetic devices and products penetrate and alter human tissue and can result in complications such as visual impairment, blindness, inflammation, burns, scarring, hypopigmentation, and hyperpigmentation. Cosmetic treatments using such prescriptive medical/cosmetic devices and products is the practice of medicine as defined in Section 54-1803(1), Idaho Code. This chapter does not authorize the practice of medicine or any of its branches by a person not so licensed by the Board. (4-11-19)

01. Definitions. (4-11-19)

a. Ablative. Ablative is the separation, eradication, removal, or destruction of human tissue. (4-11-19)

b. Incisive. Incisive is the power and quality of cutting of human tissue. (4-11-19)

c. Cosmetic Treatment. An aesthetic treatment prescribed by a physician for a patient that uses prescriptive medical/cosmetic devices and products to alter human tissue. (4-11-19)

d. Prescriptive Medical/Cosmetic Device. A federal food and drug administration approved prescriptive device that uses waveform energy including, but not limited to, intense pulsed light or lasers, to cosmetically alter human tissue. (4-11-19)

e. Prescriptive Medical/Cosmetic Product. A federal food and drug administration approved prescriptive product whose primary intended use of the product is achieved through chemical action and cosmetically alters human tissue including, but not limited to, filler substances such as collagen or fat; lipo transfer; muscle immobilizers or sclerosing agents. (4-11-19)

02. Duties and Responsibilities of Supervising Physicians. The supervising physician accepts full responsibility for cosmetic treatments provided by medical personnel using prescriptive medical/cosmetic devices and products and for the supervision of such treatments. The supervising physician must be trained in the safety and use of prescriptive medical/cosmetic devices and products. (4-11-19)

a. Patient Record. The supervising physician must document an adequate legible patient record of his evaluation and assessment of the patient prior to the initial cosmetic treatment. An adequate patient record must contain, at minimum, subjective information, an evaluation and report of objective findings, assessment or diagnosis, and the plan of care including, but not limited to, a prescription for prescriptive medical/cosmetic devices and products. (4-11-19)

b. Supervisory Responsibility. A supervising physician or alternate supervising physician of medical personnel may not supervise more than three (3) such medical personnel contemporaneously. The Board, however, may authorize a supervising physician or alternate supervising physician to supervise a total of six (6) such medical personnel contemporaneously if necessary to provide adequate cosmetic treatments and upon prior petition documenting adequate safeguards to protect the public health and safety. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation or partnership, nor may they be assigned to another physician without prior notification and Board approval. (4-11-19)

c. Available Supervision. The supervising physician will be on-site or immediately available to respond promptly to any questions or problems that may occur while a cosmetic treatment is being performed by medical personnel using prescriptive medical/cosmetic devices and products. Such supervision includes, but is not limited to: (4-11-19)

i. Periodic review of the medical records to evaluate the prescribed cosmetic treatments that are provided by such medical personnel including any adverse outcomes or changes in the treatment protocol; and (4-11-19)

ii. Regularly scheduled conferences between the supervising physician and such medical personnel. (4-11-19)

d. Scope of Cosmetic Treatments. Medical personnel providing cosmetic treatments are limited to using prescriptive medical/cosmetic devices and products that are exclusively non-incisive and non-ablative. The supervising physician will ensure cosmetic treatments using prescriptive medical/cosmetic devices and products provided by medical personnel are limited to and consistent with the scope of practice of the supervising physician. The supervising physician will ensure medical personnel do not independently provide cosmetic treatments using prescriptive medical/cosmetic devices and products. (4-11-19)

i. The supervising physician will ensure that, with respect to each procedure performed, the medical personnel possess the proper training in cutaneous medicine, the indications for the prescribed treatment, and the pre- and post-procedure care involved; and (4-11-19)

ii. The supervising physician will prepare a written protocol for medical personnel to follow when using prescriptive medical/cosmetic devices and products. The supervising physician is responsible for ensuring that the medical personnel use prescriptive medical/cosmetic devices and products only in accordance with the written protocol and do not exercise independent judgment when using prescriptive medical/cosmetic devices and products. (4-11-19)

e. Training Requirements. Medical personnel who provide cosmetic treatments using prescriptive medical/cosmetic devices and products must have training and be certified by their supervising physicians on each device or product they will use. The training on each device or product includes the following: (4-11-19)

i. Physics and safety of the prescriptive medical/cosmetic devices and products; (4-11-19)

ii. Basic principle of the planned procedure and treatment; (4-11-19)

iii. Clinical application of the prescriptive medical/cosmetic devices and products including, but not limited to, wavelengths to be used with intense pulsed light/lasers; (4-11-19)

iv. Indications and contraindications for the use of the prescriptive medical/cosmetic devices and products; (4-11-19)

v. Pre-procedure and post-procedure care; (4-11-19)

vi. Recognition and acute management of complications that may result from the procedure or treatment; and (4-11-19)

vii. Infectious disease control procedures required for each treatment. (4-11-19)

viii. The supervising physician will assure compliance with the training and reporting requirements of this rule. (4-11-19)

ix. The supervising physician will submit verification of training upon the Medical Personnel Supervising Physician Registration form provided by the Board, to the Board for approval prior to the provision of cosmetic treatments using prescriptive medical/cosmetic devices and products by medical personnel. The Board may require the supervising physician to provide additional written information, which may include his affidavit attesting to the medical personnel's qualifications and clinical abilities to perform cosmetic treatments using prescriptive medical/cosmetic devices and products. The Medical Personnel Supervising Physician Registration Form will be sent to the Board and maintained on file at each practice location and at the address of record of the supervising physician. The Board may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 18, Idaho Code, and to safeguard the public. (4-11-19)

f. Disclosure. It is the responsibility of each supervising physician to ensure that every patient receiving a cosmetic treatment using prescriptive medical/cosmetic devices and products by such medical personnel is aware of the fact that such medical personnel are not licensed physicians. This disclosure requirement can be fulfilled by the use of name tags, correspondence, oral statements, office signs, or such other procedures that under the involved circumstances adequately advise the patient of the education and training of the medical personnel rendering such cosmetic treatments. (4-11-19)

g. Patient Complaints. The supervising physician will report to the Board of Medicine all patient complaints received against medical personnel that relate to the quality and nature of cosmetic treatments rendered. (4-11-19)

h. Duties and Responsibilities Nontransferable. The responsibilities and duties of a supervising physician may not be transferred to a business entity, professional corporation, or partnership, nor may they be assigned to another physician or person. (4-11-19)

165. **-- 200. (RESERVED)**

201. REGISTRATION BY SUPERVISING AND DIRECTING PHYSICIANS.

01. Registration and Renewal. Each supervising, directing, and alternate physician must register with the Board and such registration will be renewed annually. (4-11-19)

02. Notification. The supervising and directing physician must notify the Board of any change in the

status of any physician assistant, graduate physician assistant, athletic trainer, or medical personnel for whom he is responsible, including, but not limited to, changes in location, duties, responsibilities, or supervision, or termination of employment within thirty (30) days of such event. (4-11-19)

***202*. -- 239. (RESERVED)**

240. FEES - *TABLE*.
Nonrefundable fees are as follows:

Supervising Physician Registration Fee	-	*Not more than $50*
Annual Renewal of Supervising Physician Registration Fee	-	*Not more than $25*
Directing Physician Registration Fee	-	*Not more than $50*
Annual Renewal of Directing Physician Registration Fee	-	*Not more than $25*
Alternate supervising physicians and alternate directing physicians are not required to pay an annual fee.		

( )

241. (RESERVED)

242. DEFINITIONS RELATED TO INTERNS AND RESIDENTS.

01. Acceptable Training Program. A medical training program or course of medical study that has been approved by the Liaison Committee for Medical Education (LCME), Council on Medical Education or Commission on Osteopathic College Accreditation (COCA) of the American Osteopathic Association (AOA). (4-11-19)

02. Acceptable Post Graduate Training Program. A post graduate medical training program or course of medical study that has been approved by the Accreditation Council for Graduate Medical Education (ACGME) or American Osteopathic Association (AOA). (4-11-19)

243*. *RESIDENT AND INTERN REGISTRATION.

***01*. Registration Certificate**. Upon approval of the registration application, the Board may issue a registration certificate that sets forth the period during which the registrant may engage in activities that may involve the practice of medicine. Each registration will be issued for a period of not less than one (1) year and will set forth its expiration date on the face of the certificate. Each registration will identify the supervising physician. Each registrant will notify the Board in writing of any change of the supervising physician or the program or course of study fourteen (14) days prior to any such change. If the Board deems the intern or resident qualified, and if the course study requires, the Board may additionally certify on the registration certificate that the intern or resident is qualified to write prescriptions for Class III through Class V scheduled medications. (4-11-19)

***02*. Termination of Registration**. The registration of an intern or resident may be terminated, suspended, or made conditional by the Board on the grounds set forth in Section 54-1814, Idaho Code, and under the procedures set forth in Section 54-1806A, Idaho Code. (4-11-19)

***03*. Annual Renewal of Registration**. Each registration must be renewed annually prior to its expiration date. Any registration not renewed by its expiration date will be canceled. (4-11-19)

***04*. Notification of Change**. Each registrant must notify the Board in writing of any adverse action or termination, whatever the outcome, from any post graduate training program and any name changes within fourteen (14) days of such event. (4-11-19)

***05*. Disclosure**. It is the responsibility of each registrant to ensure that every patient is aware of the fact that such intern and resident is currently enrolled in a post graduate training program and under the supervision of a

licensed physician. This disclosure requirement can be fulfilled by the use of name tags, correspondence, oral statements, or such other procedures that under the circumstances adequately advise the patient of the education and training of the intern and resident. (4-11-19)

244. FEES - TABLE.

Resident and Intern Registration Fee	-	Not more than $25
Registration Annual Renewal Fee	-	Not more than $25

( )

245. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Pursuant to Section 54-1806(2), Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern activities of persons licensed under these rules to practice as physician assistants and graduate physician assistants under the supervision of persons licensed to practice medicine or osteopathic medicine in Idaho. (4-11-19)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 22.01.03, "Rules for the Licensure of Physician Assistants." (3-19-99)

02. Scope. Pursuant to Idaho Code, Section 54-1807A(1), physician assistants and graduate physician assistants must be licensed with the Board prior to commencement of activities. (4-11-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.

***01*. Approved Program**. A course of study for the education and training of physician assistants that is accredited by the Accreditation Review Commission on Education for Physician Assistants (ARC-PA) or predecessor agency or equivalent agency recognized by the Board as recommended by the Committee. (3-29-17)

***02*. Delegation of Services (DOS) Agreement**. A*n agreement on a Board-approved form* signed and dated by the licensed physician assistant or graduate physician assistant and supervising and alternate supervising physician that defines the working relationship and delegation of duties between the supervising physician and the licensee as specified by Board rule. *( )*

***03*. Supervision**. The direction and oversight of the activities of and patient services provided by a physician assistant or graduate physician assistant by a supervising physician or alternate supervising physician who accepts full medical responsibility with respect thereto. The constant physical presence of the supervising or alternate supervising physician is not required as long as the supervisor and such licensee are or can be easily in contact with one another by radio, telephone, or other telecommunication device. The scope and nature of the supervision will be outlined in a delegation of services agreement, as defined in Subsection 030.04 of these rules. (3-29-17)

***011*. -- 019. (RESERVED)**

***020*. REQUIREMENTS FOR LICENSURE.**
Requirements for licensure and renewal are found in Title 54, Chapter 18, Idaho Code, IDAPA 22.01.05, and on Board-approved forms. *( )*

***021*. -- 027. (RESERVED)**

028. SCOPE OF PRACTICE.

01. Scope. The scope of practice of physician assistants and graduate physician assistants *is generally* defined in the delegation of services and may include a broad range of diagnostic, therapeutic and health promotion and disease prevention services. *( )*

a. The scope of practice includes only those duties and responsibilities delegated to the licensee by their supervising and alternate supervising physician and in accordance with the delegation of services agreement and consistent with the expertise and regular scope of practice of the supervising and alternate supervising physician. (3-29-17)

b. The scope of practice may include prescribing, administering, and dispensing of medical devices and drugs, including the administration of a local anesthetic injected subcutaneously, digital blocks, or the application of topical anesthetics, while working under the supervision of a licensed medical physician. (3-29-17)

c. Physician assistants and graduate physician assistants are agents of their supervising and alternate supervising physician in the performance of all practice-related activities and patient services. (4-9-09)

d. A supervising physician or alternate supervising physician *will* each supervise *no* more than a total of four (4) physician assistants or graduate physician assistants contemporaneously. *( )*

e. The Board, however, may authorize a supervising physician to supervise a total of six (6) such

licensees contemporaneously if necessary to provide adequate medical care and upon prior petition documenting adequate safeguards to protect the public health and safety. (4-11-19)

029. CONTINUING EDUCATION REQUIREMENTS.

Requirements for Renewal. Prior to renewal of each license as set forth by the expiration date on the face of the certificate, physician assistants shall attest to maintenance of certification by the National Commission on Certification of Physician Assistants or similar certifying agency approved by the Board, which certification requires a minimum of one hundred (100) hours of continuing medical education over a two-year (2) period. (3-29-17)

030. PRACTICE STANDARDS.

01. Identification. The physician assistant or graduate physician assistant will at all times when on duty wear a placard or plate so identifying himself. (4-11-19)

02. Advertise. No physician assistant or graduate physician assistant may advertise or represent himself either directly or indirectly, as a physician. (4-11-19)

03. Supervising Physician. Each licensed physician assistant and graduate physician assistant will have a Board-approved supervising physician prior to practice. (3-29-17)

04. Delegation of Services Agreement. Each licensed physician assistant and graduate physician assistant must maintain a current, *completed* copy of a Delegation of Services (DOS) Agreement between the licensee and each of his supervising and alternate supervising physicians. This agreement must be sent to the Board and be maintained on file at each practice location and at the address of record of the supervising and alternate supervising physician. *( )*

05. Notification of Change or Addition of Supervising or Alternate Supervising Physician. A physician assistant or graduate physician assistant must notify the Board when adding, changing, or deleting a supervising physician or alternate supervising physician. *( )*

031. PARTICIPATION IN DISASTER AND EMERGENCY CARE.

A physician assistant or graduate physician assistant licensed in this state or licensed or authorized to practice in any other state of the United States or currently credentialed to practice by a federal employer who is responding to a need for patient services created by an emergency or a state or local disaster (not to be defined as an emergency situation which occurs in the place of one's employment) may render such patient services that they are able to provide without supervision as it is defined in this chapter, or with such supervision as is available. Any physician who supervises a physician assistant or graduate physician assistant providing patient services in response to such an emergency or state or local disaster will not be required to meet the requirements set forth in this chapter for a supervising physician. (3-16-04)

032. -- 035. (RESERVED)

036. GRADUATE PHYSICIAN ASSISTANT.

01. Licensure Prior to Certification Examination -- Board Consideration. Any person who has graduated from an approved physician assistant training program and meets all Idaho requirements, including achieving a college baccalaureate degree, but has not yet taken and passed the certification examination, may be considered by the Board for licensure as a graduate physician assistant for six (6) months when an application for licensure as a graduate physician assistant has been submitted to the Board on forms supplied by the Board and payment of the prescribed fee, provided: (4-11-19)

a. The applicant will submit to the Board, within ten (10) business days of receipt, a copy of acknowledgment of sitting for the national certification examination. The applicant will submit to the Board, within ten (10) business days of receipt, a copy of the national certification examination results. (4-9-09)

b. After the graduate physician assistant has passed the certification examination, the Board will receive verification of national certification directly from the certifying entity. Once the verification is received by the Board, the graduate physician assistant's license will be converted to a permanent license and he may apply for prescribing authority pursuant to Section 042 of these rules. (3-16-04)

c. The applicant who has failed the certification examination one (1) time, may petition the Board for a one-time extension of his graduate physician assistant license for an additional six (6) months. (3-16-04)

d. If the graduate physician assistant fails to pass the certifying examination on two (2) separate occasions, the graduate physician assistant's license will automatically be canceled upon receipt of the second failing certification examination score. (3-16-04)

e. The graduate physician assistant applicant will agree to execute an authorization for the release of information, attached to his application as Exhibit A, authorizing the Board or its designated agents, having information relevant to the application, including but not limited to the status of the certification examination, to release such information, as necessary, to his supervising physician. (3-16-04)

02. Licensure Prior to College Baccalaureate Degree -- Board Consideration. Licensure as a graduate physician assistant may also be considered upon application made to the Board on forms supplied by the Board and payment of the prescribed fee when all application requirements have been met as set forth in Section *020* of these rules, except receipt of documentation of a college baccalaureate degree, provided: *( )*

a. A college baccalaureate degree from a nationally accredited school with a curriculum approved by the United States Secretary of Education, the Council for Higher Education Accreditation, or both, or from a school accredited by another such agency approved by the Board shall be completed within five (5) years of initial licensure in Idaho; (4-11-19)

03. No Prescribing Authority. Graduate physician assistants shall not be entitled to issue any written or oral prescriptions unless granted an exemption by the Board. Application for an exemption must be in writing and accompany documentation of a minimum of five (5) years of recent practice as a physician assistant in another state. (4-11-19)

04. Weekly Record Review. Graduate physician assistants must have a weekly record review by their supervising physician, unless subject to an exemption as granted in Subsection 036.03. (3-29-17)

***037*. -- 041. (RESERVED)**

042. PRESCRIPTION WRITING.
Approval and Authorization Required. A physician assistant may issue written or oral prescriptions for legend drugs and controlled drugs, Schedule II through V only in accordance with *the* current delegation of services agreement and *applicable federal and state law, and any prescriptive practice will* be consistent with the regular prescriptive practice of the supervising or alternate supervising physician. *( )*

043. -- 050. (RESERVED)

051. FEES *- TABLE*.
Nonrefundable fees are as follows:

Licensure Fee - Physician Assistant & Graduate Physician Assistant	*-*	*Not more than $250*
Annual License Renewal Fee	*-*	*Not more than $150*
Reinstatement Fee	*-*	*$50 plus past renewal fees*
Reinstatement Fee for Graduate Physician Assistant	*-*	*Not more than $100*
Inactive License Fee	*-*	*Not more than $150*
Annual Renewal of Inactive License Fee	*-*	*Not more than $100*
Inactive Conversion Fee	*-*	*Not more than $150*

( )

052. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Pursuant to Section 54-3914(2), Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to govern the practice of athletic trainers. (7-1-93)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 22.01.10, "Rules for the Licensure of Athletic Trainers to Practice in Idaho." (3-16-04)

02. Scope. Pursuant to this chapter and Idaho Code, Section 54-3904, athletic trainers must be licensed with the Board prior to commencement of activities related to athletic training. (3-16-04)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Actively Engaged. A person who is employed in Idaho on a remuneration basis by an educational or health care institution, professional, amateur, or recreational sports club, or other bona fide athletic organization and is involved in athletic training as a responsibility of his employment. (3-16-04)

02. Association. The Idaho Athletic Trainers' Association. (9-16-89)

03. **Athletic Training Service Plan or Protocol**. A written document, made upon a form provided by the Board, mutually agreed upon, signed and dated by the athletic trainer and directing physician that defines the athletic training services to be provided by the athletic trainer. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter and Title 54, Chapter 39, Idaho Code, and to safeguard the public. The Board of Chiropractic Physicians may review those athletic training service plans or protocols or other documents that define the responsibilities of the athletic trainer for those athletic trainers whose directing physicians are chiropractic physicians. (3-16-04)

011. **SCOPE OF PRACTICE.**

01. **Referral by Directing Physician**. An athletic injury not incurred in association with an educational institution, professional, amateur, or recreational sports club or organization must be referred by a directing physician, but only after such directing physician has first evaluated the athlete. An athletic trainer treating or evaluating an athlete with an athletic injury incurred in association with an amateur or recreational sports club or organization will especially consider the need for a directing physician to subsequently evaluate the athlete and refer for further athletic training services. (3-16-04)

02. **Limitations of Scope of Practice**. The scope of practice of the athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, shall be limited to and consistent with the scope of practice of his directing physician. (3-16-04)

03. **Identification**. The athletic trainer will at all times when on duty identify himself as an athletic trainer. (3-16-04)

012. **ATHLETIC TRAINING SERVICE PLAN OR PROTOCOL.**
Each licensed athletic trainer providing athletic training services will create, upon a form provided by the Board, an athletic training service plan or protocol with his directing physician. This athletic training service plan or protocol must be reviewed and updated on an annual basis. Each licensed athletic trainer must notify the Board within thirty (30) days of any change in the status of his directing physician. This plan or protocol will not be sent to the Board, but must be maintained on file at each location in which the athletic trainer is practicing. The Board may review athletic training service plans or protocols, job descriptions, policy statements, or other documents that define the responsibilities of the athletic trainer in the practice setting, and may require such changes as needed to achieve compliance with this chapter, Title 54, Chapter 39, Idaho Code, and to safeguard the public. This plan or protocol will be made immediately available to the Board upon request. This plan or protocol will be made immediately available to the Board of Chiropractic Physicians upon request for those athletic trainers whose directing physicians are chiropractic physicians. This plan or protocol will include: (3-16-04)

01. Listing of Services and Activities. A listing of the athletic training services to be provided and specific activities to be performed by the athletic trainer. (3-16-04)

02. Locations and Facilities. The specific locations and facilities in which the athletic trainer will function; and (3-16-04)

03. Methods to be Used. The methods to be used to ensure responsible direction and control of the activities of the athletic trainer, which will provide for the: (3-16-04)

a. Recording of an on-site visit by the directing physician at least *semi*annually or every semester; *( )*

b. Availability of the directing physician to the athletic trainer in person or by telephone and procedures for providing direction for the athletic trainer in emergency situations; and (3-16-04)

c. Procedures for addressing situations outside the scope of practice of the athletic trainer. (3-16-04)

***013*. -- 019. (RESERVED)**

020. GENERAL QUALIFICATIONS FOR LICENSURE *AND RENEWAL*.
Requirements for licensure and renewal are found in Title 54, Chapter 39, Idaho Code, IDAPA 22.01.05, and on Board approved forms. *( )*

021. -- 029. (RESERVED)

030. APPLICATION FOR LICENSURE.

***01*. Application for Provisional Licensure**. (3-16-04)

a. The Board, based upon the recommendation of the Board of Athletic Trainers, may issue provisional licensure to applicants who have successfully completed a bachelor's or advanced degree from an accredited four (4) year college or university, and met the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and who have met all the other requirements set forth by Section 020 of these rules but who have not yet passed the examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. *( )*

b. Each applicant for provisional licensure will submit a completed written application to the Board on forms prescribed by the Board, together with the application fee. The application shall be verified, under oath, and *include a*n affidavit signed by an Idaho licensed athletic trainer affirming and attesting to supervise and be responsible for the athletic training services of the provisionally licensed athletic trainer and to review and countersign all records and documentation of services performed by the provisionally licensed athletic trainer. *( )*

ii. Supervision. A provisionally licensed graduate athletic trainer must be in direct association with his directing physician and Idaho licensed athletic trainer who will supervise and be available to render direction in person and on the premises where the athletic training services are being provided. The directing physician and the supervising athletic trainer is responsible for the athletic training services provided by the provisionally licensed graduate athletic trainer. The extent of communication between the directing physician and supervising athletic trainer and the provisionally licensed athletic trainer is determined by the competency of the provisionally licensed athletic trainer and the practice setting and the type of athletic training services being rendered. *( )*

c. Scope of Practice. The scope of practice of the provisionally licensed athletic trainer, as set forth in this chapter and Section 54-3903, Idaho Code, is limited to and consistent with the scope of practice of his directing physician and supervising athletic trainer and conform with the established athletic training service plan or protocol. (3-16-04)

d. Expiration of Provisional License. All provisional licenses for athletic trainers will expire upon meeting the minimum athletic training curriculum requirement established by the Board as recommended by the Board of Athletic Trainers and meeting all the other requirements set forth by Section 020 of these rules, including passing the certification examination conducted by the National Athletic Trainers' Association Board of Certification or a nationally recognized credentialing agency, approved by the Board as recommended by the Board of Athletic Trainers. (3-16-04)

031. -- 051. (RESERVED)

052. DENIAL OR REFUSAL TO RENEW LICENSURE OR SUSPENSION OR REVOCATION OF LICENSURE.

01. Application or Renewal Denial. A new or renewal application for licensure may be denied by the Board and shall be considered a contested case. Every person licensed pursuant to Title 54, Chapter 39, Idaho Code and these rules is subject to discipline pursuant to the procedures and powers established by and set forth in Section 54-3911, Idaho Code, *and* the Idaho Administrative Procedure Act. *( )*

02. Petitions for Reconsideration of Denial. All petitions for reconsideration of a denial of a license application or reinstatement application shall be made to the Board within one (1) year from the date of the denial. (3-16-04)

053. -- 060. (RESERVED)

061. FEES -- TABLE.
Nonrefundable fees are as follows:

Athletic Trainer Licensure Fee	*-*	*Not more than $240*
Athletic Trainer Annual Renewal Fee	*-*	*Not more than $160*
Directing Physician Registration Fee	*-*	*Not more than $50*
Annual Renewal of Directing Physician Registration Fee	*-*	*Not more than $25*
Alternate Directing Physician Registration/Renewal Fee	*-*	*$0*
Provisional Licensure Fee	*-*	*Not more than $80*
Annual Renewal of Provisional License Fee	*-*	*Not more than $40*
Inactive License Renewal Fee	*-*	*Not more than $0*
Reinstatement Fee	*-*	*Not more than $50 plus unpaid renewal fees*

( )

062. -- 999. (RESERVED)

22.01.11 – RULES FOR LICENSURE OF RESPIRATORY THERAPISTS AND PERMITTING OF POLYSOMNOGRAPHERS IN IDAHO

000. LEGAL AUTHORITY.
Pursuant to Sections 54-4304A, 54-4305, 54-4309, 54-4310, 54-4311, 54-4312 and 54-4316, Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules governing the practice of respiratory care and polysomnography related respiratory care. (3-26-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 22.01.11, "Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho." (3-16-04)

02. Scope. Pursuant to Sections 54-4304 and 54-4304A, Idaho Code, and this chapter, respiratory therapists must be licensed and polysomnographers issued a permit by the Board prior to commencement of practice and related activities. (3-16-04)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.

***01*. Board of Registered Polysomnographic Technologists**. A nationally recognized private testing, examining and credentialing body for the polysomnography related respiratory care profession. (3-16-04)

***02*. Comprehensive Registry Exam**. The comprehensive registry examination administered by the Board of Registered Polysomnographic Technologists, or administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person to the professional designation of Registered Polysomnographic Technologist (RPSGT). (3-16-04)

***03*. Conditional Permit**. A time-restricted permit issued by the Board. *( )*

***04*. Medical Practice Act**. Title 54, Chapter 18, Idaho Code. *( )*

***05*. Written Registry and Clinical Simulation Examinations**. The certification examinations administered by the National Board of Respiratory Care, Inc., or certification examinations administered by an equivalent board, recognized by the Board, the successful completion of which entitles a person the professional designation of "Registered Respiratory Therapist" (RRT). (3-16-04)

***011*. APPLICATION TO BOTH PERMITS AND LICENSES.**
The provisions of this chapter governing procedures for suspension and revocation of licenses, payment and assessment of fees and governing misrepresentation, penalties and severability and other administrative procedures shall apply equally to permits for the practice of polysomnography related respiratory care services as to licenses for the practice of respiratory care. (3-16-04)

***012*. -- 030. (RESERVED)**

031. GENERAL *QUALIFICATIONS* FOR LICENSURE *AND RENEWAL*.
Requirements for licensure and renewal are found in Title 54, Chapter 43, Idaho Code, IDAPA 22.01.05, and on Board approved forms. *( )*

***01*. Application for Respiratory Care and Polysomnography Related Respiratory Care Practitioner**. (3-16-04)

a. The Board may issue a dual license/permit to an applicant who meets the requirements set forth in this chapter and Sections 54-4306 and 54-4304A(2) and (3), Idaho Code. A dual license/permit shall authorize the holder to perform respiratory care and polysomnography related respiratory care in this state. (3-16-04)

b. Application for a dual license/permit shall be made to the Board on a form prescribed by the Board, together with the application fee. (3-16-04)

c. Such dual license/permit shall expire on the expiration date printed on the face of the certificate unless renewed. (3-16-04)

032. CONTINUING EDUCATION.

01. Evidence of Completion. Prior to renewal each applicant for renewal, reinstatement or reapplication, shall submit evidence of successfully completing no less than twelve (12) clock hours per year of continuing education acceptable to the Board. Continuing education must be germane to the practice or performance of respiratory care. Appropriate continuing professional education activities include but are not limited to, the following: (4-11-06)

a. Attending or presenting at conferences, seminars or inservice programs. (2-23-94)

b. Formal course work in Respiratory Therapy related subjects. (2-23-94)

02. Polysomnographer Continuing Education. *Each individual applicant for renewal of an active permit shall, on or before the expiration date of the permit, submit satisfactory proof to the Licensure Board of successful completion of not less than twelve (12) hours of approved continuing education pertaining to the provision of polysomnographic-related respiratory care per year in addition to any other requirements for renewal as adopted by the Board. The Board, as recommended by the Licensure Board, may substitute all or a portion of the coursework required in Section 032 when an applicant for renewal shows evidence of passing an approved challenge exam or of completing equivalent education as determined by the Board, as recommended by the Licensure Board, to be in full compliance with the education requirements of this chapter.* *( )*

033. SUPERVISION OF RESPIRATORY CARE.
The practice or provision of respiratory care by persons holding a student or consulting and training exemption, or temporary permit shall be in direct association with a respiratory care practitioner or licensed physician who shall be responsible for the activities of the person being supervised and shall review and countersign all patient documentation performed by the person being supervised. The supervising respiratory care practitioner or licensed physician need not be physically present or on the premises at all times but must be available for telephonic consultation. The extent of communication between the supervising or consulting respiratory care practitioner or licensed physician and the person being supervised shall be determined by the competency of the person, the treatment setting, and the diagnostic category of the client. *( )*

034. **DENIAL OR REFUSAL TO RENEW LICENSE OR PERMIT OR SUSPENSION OR REVOCATION OF LICENSE OR PERMIT.**
Discipline. A new or renewal application may be denied, and every person licensed or issued a permit pursuant to Title 54, Chapter 43, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-4312, Idaho Code and the Administrative Procedures Act. *( )*

035**. -- 045. (RESERVED)**

046. FEES *-- TABLE*.

01. Fees -- Table. *Nonrefundable fees for Respiratory Care Practitioners are as follows:*

Respiratory Care Practitioner Initial Licensure Fee	*-*	*Not more than $180*
Respiratory Care Practitioner Reinstatement Fee	*-*	*$50 plus unpaid renewal fees*
Annual Renewal Fee for Inactive License	*-*	*Not more than $100*
Inactive Conversion Fee	*-*	*Not more than $100*
Annual Renewal Fee	*-*	*Not more than $140*
Temporary Permit Fee	*-*	*Not more than $180*

( )

02. Fees – Table. *Nonrefundable Permit Fees for Polysomnography Related Respiratory Care Practitioners.*

Initial Permit Fee – Registered Polysomnographic Technologist	-	*Not more than $180*
Initial Permit Fee -Polysomnographic Trainee	-	*Not more than $100*
Reinstatement Fee – Registered Polysomnographic Technologist	-	*$50 plus unpaid renewal fees*
Annual Renewal Fee – Registered Polysomnographic Technologist	-	*Not more than $140*
Annual Renewal Fee – Polysomnographic Trainee	-	*Not more than $70*
Temporary Permit Fee – Registered Polysomnographic Technologist	-	*Not more than $180*
Temporary Permit Fee – Polysomnographic Trainee	-	*Not more than $90*
Conditional Permit Fee – Registered Polysomnographic Technologist	-	*Not more than $180*
Conditional Permit Fee – Polysomnographic Trainee	-	*Not more than $90*
Annual Renewal Fee for Inactive License—Polysomnographic Technologist	-	*Not more than $100*
Inactive Conversion Fee	-	*Not more than $100 plus unpaid active licensure fees for the time inactive*

( )

***03. Fees - Table**. Nonrefundable Dual Licensure/Permit Fees for Practitioners of Respiratory and Polysomnography Related Respiratory Care.* *( )*

***a.** Initial Licensure/Permit Fee. A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.*

Dual Licensure/Permit Fee	-	*Not more than $180*
A person holding a current license or permit, if qualified, may apply for and obtain a dual license/permit without paying an additional fee.		
Reinstatement Fee	-	*$50 plus unpaid renewal fees*
Annual Renewal Fee	-	*Not more than $140*
Renewal is required upon the expiration of either the permit or the license, whichever expires first if the two (2) initially were not obtained at the same time.		

( )

***047*. -- 999. (RESERVED)**

000. LEGAL AUTHORITY.
Pursuant to Section 54-3505(2), Idaho Code, the Idaho State Board of Medicine is authorized to promulgate rules to implement provisions of the Dietitians Act. (12-28-94)

001. TITLE AND SCOPE.
These rules are titled IDAPA 22.01.13, "Rules for the Licensure of Dietitians." (12-28-94)

***002*. -- 019. (RESERVED)**

020. GENERAL QUALIFICATIONS FOR LICENSURE AND RENEWAL.
Requirements for licensure and renewal are found in Title 54, Chapter 35, Idaho Code, IDAPA 22.01.05, and on Board-approved forms. *( )*

021. PROVISIONAL LICENSURE.

01. Provisional License. The Board may issue a provisional license to a person who has successfully completed the academic requirements of an education program in dietetics approved by the licensure board and has successfully completed a dietetic internship or preprofessional practice program, coordinated program or such other equivalent experience as may be approved by the board and who has met all the other requirements set forth by Section 020 of this rule but who has not yet passed the examination conducted by the Commission on Dietetic Registration. (4-2-03)

02. Provisional License Dietitian/Monitor Affidavit. The provisionally licensed dietitian must obtain an affidavit signed by an Idaho licensed dietitian affirming and attesting *that they will* be responsible for the activities of the provisionally licensed dietitian *and will* review and countersign all patient documentation *signed* by the provisionally licensed dietitian. supervising monitor need not be physically present or on the premises at all times but must be available for telephonic consultation. *The extent of communication between the monitor and the provisionally licensed dietitian will be determined by the competency of the individual, the treatment setting, and the diagnostic category of the patients.* *( )*

03. Provisional Licensure Expiration. Provisional licenses will become full active licenses upon the date of receipt of a copy of registration by the Commission on Dietetic Registration. All provisional licenses will expire on the last day of the current renewal cycle. *( )*

***022*. -- *031*. (RESERVED)**

032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.

01. Disciplinary Authority. A new or renewal application may be denied or a license may be suspended or revoked by the Board, and every person licensed pursuant to Title 54, Chapter 35, Idaho Code and these rules is subject to disciplinary actions or probationary conditions pursuant to the procedures and powers established by and set forth in Section 54-3505, Idaho Code, *and the Idaho Administrative Procedure Act*. *( )*

***033*. -- 040. (RESERVED)**

041. FEES -- TABLE.
Nonrefundable fees are as follows:

Initial Licensure Fee	-	*Not more than $150*
Annual Renewal Fee	-	*Not more than $100*
Reinstatement Fee	-	*$50 plus unpaid renewal fees*
Inactive Conversion Fee	-	*Not more than $50*

( )

***042*. -- 999. (RESERVED)**

IDAPA 23 – BOARD OF NURSING

DOCKET NO. 23-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-1404 (13), Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 23, rules of the Board of Nursing:

IDAPA 23
- 23.01.01, *Rules of the Idaho Board of Nursing*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4489 - 4547.

The rule making was prompted by the expiration of the rules. The Board considered the Licensing Freedom Act and the Red Tape Reduction Act and the continued efforts to clarify and streamline its rules. Changes were made to Unlicensed Assistant Professionals because of no statutory authority for such rules. Some fee rules were eliminated. Minor housekeeping edits are also intended to make the Board's rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 23.01.01
497.01-08: Fees applicable to Medication Assistant-Certified and the certification process;
900.01-03: Renewal and Reinstatement Fees;
901.01-08: Licensure Fees;
903.01-02: Education Program Fees;
906: Returned Check Fee
999.01: Administrative Fine

As part of this rule making, the following fees were eliminated:
901.04: Verification of Licensure Fee;
901.05: Emeritus License Fee;
901.07: Limited License Fee.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Janet Summers (208) 577-2500.

Dated this 16th day of October, 2019.

Russ Barron, Executive Director
Idaho Board of Nursing
280 N. 8th Street, Ste. 210
PO Box 83720
Boise, Idaho 83720
Phone: (208) 577-2476
Fax: (208) 334-3262

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Section 54-1404(13), Idaho Code. (4-4-13)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 23.01.01, "Rules of the Idaho Board of Nursing." (7-1-93)

02. Scope. These rules include, but are not limited to the minimum standards of nursing practice, licensure, educational programs and discipline. (7-1-93)

002. **FILING OF DOCUMENTS.**
All written communications and documents that are intended to be part of an official record for decision in a rulemaking or contested case must be filed with the executive director of the Board. One (1) original is sufficient for submission to the hearing officer, with one (1) copy for the Board and one (1) copy submitted to the opposing party. Whenever documents are filed by facsimile transmission (FAX), originals are to be deposited in the mail the same day or hand delivered the following business day to the hearing officer or the Board, and opposing parties. (3-30-01)

003. **CHANGES IN NAME AND ADDRESS – ADDRESS FOR NOTIFICATION PURPOSES.**

01. Change of Name. Whenever a change of licensee name *or address* occurs, the Board *is to* be immediately notified of the change. Documentation confirming the change of name will be provided to the Board on request. *( )*

02. **Address for Notification Purposes**. (3-24-17)

a. The most recent mailing or electronic address on record with the Board *is* utilized for purposes of all written communication with the licensee. *( )*

b. In a contested case proceeding, the service of process of Board documents (including notices, summonses, complaints, subpoenas and orders) *is* made by: *( )*

i. Personal service; (3-24-17)

ii. Mailing to the licensee's mailing address on record; or (3-24-17)

iii. E-mailing to the licensee's electronic address on record, if authorized. Service on an electronic address is authorized when the licensee has already appeared in the proceeding or has agreed in writing to service by e-mail. (3-24-17)

004. **-- 009. (RESERVED)**

010. DEFINITIONS.
The definitions set forth in Section 54-1402, Idaho Code, are applicable to these rules. In addition, unless the context clearly denotes or requires otherwise, for purposes of these rules, the below terms have the following meanings: *( )*

01. Abandonment. The termination of a nurse/patient relationship without first making appropriate arrangements for continuation of required nursing care. The nurse/patient relationship begins when responsibility for nursing care of a patient is accepted by the nurse. Refusal to accept an employment assignment or refusal to accept or begin a nurse/patient relationship is not abandonment. Reasonable notification, or a timely request for alternative care for a patient, directed to a qualified provider or to a staff supervisor, prior to leaving the assignment, constitutes termination of the nurse/patient relationship. (4-4-13)

02. Accreditation. The official authorization or status granted by a recognized accrediting entity or agency other than a state board of nursing. (7-1-93)

03. Administration of Medications. The process whereby a prescribed medication is given to a patient by one (1) of several routes. Administration of medication is a complex nursing responsibility which requires a knowledge of anatomy, physiology, pathophysiology, and pharmacology. Only persons authorized under Board statutes and these rules may administer medications and treatments as prescribed by health care providers authorized

to prescribe medications. (4-7-11)

04. Approval. The process by which the Board evaluates and grants official recognition to education programs that meet standards established by the Board. (5-3-03)

05. Assist. To aid or help in the accomplishment of a prescribed set of actions. (7-1-93)

06. Assistance With Medications. The process whereby a non-licensed care provider is delegated tasks by a licensed nurse to aid a patient who cannot independently self-administer medications. (5-3-03)

07. **Board Staff**. The executive director and other such personnel as are needed to implement the Nursing Practice Act and these rules. (7-1-93)

08. **Charge Nurse**. A licensed nurse who bears primary responsibility for assessing, planning, prioritizing and evaluating care for the patients on a unit, as well as the overall supervision of the licensed and unlicensed staff delivering the nursing care. (5-3-03)

09. **Clinical Preceptor**. A licensed registered nurse, or other qualified individual as defined in these rules, who acts to facilitate student training in a manner prescribed by a written agreement between the preceptor's employer and an educational institution. (3-29-17)

10. **Competence**. Safely performing those functions within the role of the licensee in a manner that demonstrates essential knowledge, judgment and skills. (5-3-03)

11. **Curriculum**. The systematic arrangement of learning experiences including didactic courses, practical experiences, and other activities needed to meet the requirements of the nursing program and of the certificate or degree conferred by the parent institution. (5-3-03)

12. **Delegation**. The process by which a licensed nurse assigns tasks to be performed by others. (5-3-03)

13. **Disability**. Any physical, mental, or emotional condition that interferes with the ability to safely and competently *practice*. *( )*

14. **Emeritus License**. A license issued to a nurse *retiring* from active practice for any length of time. *( )*

15. **Licensing Examination**. A licensing examination acceptable to the Board. *( )*

16. **License in Good Standing**. A license not subject to current disciplinary action, restriction, probation or investigation in any jurisdiction. (5-3-03)

17. **Nursing Assessment**. The systematic collection of data related to the patient's health needs. *( )*

18. **Nursing Diagnosis**. The clinical judgment or conclusion regarding patient/client/family/community response to actual or potential health problems made as a result of the nursing assessment. (7-1-93)

19. **Nursing Intervention**. An action deliberately selected and performed to support the plan of care. (5-3-03)

20. **Nursing Jurisdiction**. Unless the context clearly denotes a different meaning, when used in these rules, the term nursing jurisdiction means any or all of the fifty (50) states, U.S. territories or commonwealths, as the case may be. (4-4-13)

21. **Nursing Service Administrator**. A licensed registered nurse who has administrative responsibility for the nursing services provided in a health care setting. (7-1-93)

22. **Organized Program of Study**. A written plan of instruction to include course objectives and content, teaching strategies, provisions for supervised clinical practice, evaluation methods, length and hours of course, and faculty qualifications. (7-1-93)

23. **Patient**. An individual or a group of individuals who are the beneficiaries of nursing services in any setting and may include client, resident, family, community. (5-3-03)

24. **Patient Education**. The act of teaching patients and their families, for the purpose of improving or maintaining an individual's health status. (5-3-03)

25. **Plan of Care**. The goal-oriented strategy developed to assist individuals or groups to achieve optimal health potential. (5-3-03)

26. **Practice Standards**. General guidelines that identify roles and responsibilities for a particular category of licensure and, used in conjunction with the decision-making model, define a nurse's relationship with other care providers. (5-3-03)

27. **Probation**. A period of time set forth in an order in which certain restrictions, conditions or limitations are imposed on a licensee. (5-3-03)

28. **Protocols**. Written standards that define or specify performance expectations, objectives, and criteria. (5-3-03)

29. ***Restricted License**. A nursing license subject to specific restrictions, terms, and conditions. ( )*

30. **Revocation**. Termination of the authorization to practice. (5-3-03)

31. **Scope of Practice**. The extent of treatment, activity, influence, or range of actions permitted or authorized for licensed nurses based on the nurse's education, preparation, and experience. (5-3-03)

32. **Supervision**. Designating or prescribing a course of action, or giving procedural guidance, direction, and periodic evaluation. Direct supervision requires the supervisor to be physically present and immediately accessible to designate or prescribe a course of action or to give procedural guidance, direction, and periodic evaluation. (4-6-05)

33. **Suspension**. An order temporarily withdrawing a nurse's right to practice nursing. (5-3-03)

34. **Technician/Technologist**. These individuals are not credentialed by regulatory bodies in Idaho and may include, but are not limited to: surgical, dialysis and radiology technicians/technologists, monitor technicians and medical assistants. (3-30-07)

35. Unlicensed Assistive Personnel (UAP). This term is used to designate unlicensed personnel employed to perform nursing care services under the direction and supervision of licensed nurses. The term also includes licensed or credentialed health care workers whose job responsibilities extend to health care services beyond their usual and customary roles and which activities are provided under the direction and supervision of licensed nurses. UAPs are prohibited from performing any licensed nurse functions that are specifically defined in Section 54-1402, Idaho Code. UAPs may not be delegated procedures involving acts that require nursing assessment or diagnosis, establishment of a plan of care or teaching, the exercise of nursing judgment, or procedures requiring specialized nursing knowledge, skills or techniques. ( )

36. **Universal *Precautions***. The recommendations published by the Center for Disease Control, Atlanta, Georgia, for preventing transmission of infectious disease. *( )*

011. -- 039. (RESERVED)

040. TEMPORARY LICENSE.
A temporary license is a nonrenewable license. (3-30-07)

01. Issued at Discretion of Board. Temporary licenses are issued, and may be extended, at the discretion of the Board. (3-30-07)

02. Temporary Licensure by Interstate Endorsement. A temporary license may be issued to an applicant for interstate endorsement on proof of current licensure in good standing in another nursing jurisdiction, satisfactory documentation of employment within the three (3) years immediately preceding application, and compliance with the requirements of Section 240 of these rules. (4-4-13)

03. Temporary Licensure by Examination. A temporary license to practice nursing until notification of examination results and completion of criminal background check may be issued to an applicant for Idaho licensure following graduation from a nursing education program recognized by the professional licensing board for another nursing jurisdiction, and compliance with Section 221 of these rules. (4-4-13)

a. The practice of nursing by new graduates holding temporary licensure *is* limited as follows: *( )*

i. Direct supervision by a licensed registered nurse *is* provided. *( )*

ii. *Precluded from* act*ing* as charge nurse. *( )*

b. Temporary licenses issued to examination candidates *are* issued for a period not to exceed three (3) months. *( )*

04. Unsuccessful Examination Candidates. (6-11-93)

a. An applicant who fails to pass the licensing examination *is* not eligible for further temporary licensure. *( )*

b. In the event that such applicant subsequently passes the licensing examination after twelve (12) months or more have elapsed following completion of the educational program, a temporary license with conditions may be issued until verification of clinical competence is received. (3-30-01)

05. Applicants Not in Active Practice. A temporary license with specific terms and conditions may be issued to a person who has not actively engaged in the practice of nursing in any nursing jurisdiction for more than three (3) years immediately prior to the application for licensure or to an applicant whose completed application indicates the need for confirmation of the applicant's ability to practice safe nursing. (4-4-13)

06. Applicants from Other Countries. Upon final evaluation of the completed application, the Board may, at its discretion, issue a temporary license to a graduate from a nursing education program outside of a nursing jurisdiction, pending notification of results of the licensing examination. (4-4-13)

07. Fee. The applicant pay*s* the temporary license fee, as prescribed in of these rules. *( )*

041. -- 059. (RESERVED)

060. *LPN, RN, AND APRN* LICENSE RENEWAL.
All licenses *are* renewed as prescribed in Section 54-1411, Idaho Code. *( )*

***01*. Renewal Applications**. Renewal applications may be obtained by contacting the Board. (4-7-11)

***02*. Final Date to Renew**. The original completed renewal application and renewal fee as prescribed in Section 900 of these rules, *are* submitted to the Board and post-marked or electronically dated not later than August 31 of the appropriate renewal year. *( )*

***03*. Date License Lapsed**. Licenses not renewed prior to September 1 of the appropriate year *are* lapsed and therefore invalid. *( )*

061. CONTINUED COMPETENCE REQUIREMENTS FOR RENEWAL OF AN ACTIVE LICENSE.

01. Learning Activities. In order to renew an LPN or RN license, a licensee shall complete or comply with at least two (2) of any of the learning activities listed below in Paragraphs 061.01.a., b., or c. within the two-year (2) renewal period: (3-25-16)

a. Practice: (3-25-16)

i. Current nursing specialty certification as defined in Section 402 of these rules; or (3-25-16)

ii. One hundred (100) hours of practice or simulation practice, paid or unpaid, in which the nurse applies knowledge or clinical judgment in a way that influences patients, families, nurses, or organizations; (3-25-16)

b. Education, Continuing Education, E-learning, and In-service: (3-25-16)

i. Fifteen (15) contact hours of continuing education, e-learning, academic courses, nursing-related in-service offered by an accredited educational institution, healthcare institution, or organization (a contact hour equals not less than fifty (50) minutes); or (3-25-16)

ii. Completion of a minimum of one (1) semester credit hour of post-licensure academic education relevant to nursing practice, offered by a college or university accredited by an organization recognized by the U.S. Department of Education; or (3-25-16)

iii. Completion of a Board-recognized refresher course in nursing or nurse residency program; or (3-25-16)

iv. Participation in or presentation of a workshop, seminar, conference, or course relevant to the practice of nursing and approved by an organization recognized by the Board to include, but not limited to: (3-25-16)

(1) A nationally recognized nursing organization; (3-25-16)

(2) An accredited academic institution; (3-25-16)

(3) A provider of continuing education recognized by another board of nursing; (3-25-16)

(4) A provider of continuing education recognized by a regulatory board of another discipline; or (3-25-16)

(5) A program that meets criteria established by the Board; (3-25-16)

c. Professional Engagement: (3-25-16)

i. Acknowledged contributor to a published nursing-related article or manuscript; or (3-25-16)

ii. Teaching or developing a nursing-related course of instruction; or (3-25-16)

iii. Participation in related professional activities including, but not limited to, research, published professional materials, nursing-related volunteer work, teaching (if not licensee's primary employment), peer reviewing, precepting, professional auditing, and service on nursing or healthcare related boards, organizations, associations or committees. (3-25-16)

02. APRN Continued Competence Requirements. Registered nurses who also hold an active license as an APRN shall only meet the requirements of Section 300 of these rules. (3-25-16)

03. First Renewal Exemption. A licensee is exempt from the continued competence requirement for the first renewal following initial licensure by examination. (3-25-16)

04. Extension. The Board may grant an extension for good cause for up to one (1) year for the completion of continuing competence requirements. Such extension shall not relieve the licensee of the continuing competence requirements. (3-25-16)

05. Beyond the Control of Licensee Exemption. The Board may, in the exercise of its sound discretion, grant an exemption for all or part of the continuing competence requirements due to circumstances beyond the control of the licensee. (3-25-16)

06. Disciplinary Proceeding. Continued competence activities or courses required by Board order in a disciplinary proceeding shall not be counted as meeting the requirements for licensure renewal. (3-25-16)

07. Compliance Effective Dates. Compliance with the continuing competence requirements of Sections 061 and 062 will be necessary to renew an LPN license beginning with 2018 renewals and an RN license beginning with 2019 renewals. (3-25-16)

062. DOCUMENTING COMPLIANCE WITH CONTINUED COMPETENCE REQUIREMENTS.

01. Retention of Original Documentation. All licensees are to maintain original documentation of completion for a period of two (2) years following renewal and to provide such documentation within thirty (30) days of a request from the Board for proof of compliance. *( )*

02. Documentation of Compliance. Documentation of compliance *consists of the following*: *( )*

a. Evidence of national certification include*s* a copy of a certificate that includes the name of licensee, name of certifying body, date of certification, and date of certification expiration. Certification *will* be initially attained during the licensure period, have been in effect during the entire licensure period, or have been recertified during the licensure period. *( )*

b. Evidence of post-licensure academic education include*s* a copy of the transcript with the name of the licensee, name of educational institution, date(s) of attendance, name of course, and number of credit hours received. *( )*

c. Evidence of completion of a Board-recognized refresher course include*s* certificate or written correspondence from the provider with the name of the licensee, name of provider, and verification of successful completion of the course. *( )*

d. Evidence of completion of research or a nursing project include*s* an abstract or summary, the name of the licensee, role of the licensee as principal or contributing investigator, date of completion, statement of the problem, research or project objectives, methods used, and summary of findings. *( )*

e. Evidence of contributing to a published nursing-related article, manuscript, paper, book, or book chapter include*s* a copy of the publication to include the name of the licensee and publication date. *( )*

f. Evidence of teaching a course for college credit include*s* documentation of the course offering indicating instructor, course title, course syllabus, and the number of credit hours. Teaching a particular course may only be used once to satisfy the continued competence requirement unless the course offering and syllabus has changed in a material or significant fashion. *( )*

g. Evidence of teaching a course for continuing education credit include*s* a written attestation from the director of the program or authorizing entity including the date(s) of the course and the number of hours awarded. *( )*

h. Evidence of hours of continuing learning activities or courses include*s* the name of the licensee, title of activity, name of provider, number of hours, and date of activity. *( )*

i. Evidence of one hundred (100) hours of practice in nursing include*s* the name of the licensee and documentation satisfactory to the Board of the number of hours worked during review period validated by the

employer/recipient agency. If self-employed, hours worked may be validated through other methods such as tax records or other business records. If practice is of a volunteer or gratuitous nature, hours worked may be validated by the recipient agency. ( )

063. REINSTATEMENT (NON-DISCIPLINE).
A person whose license has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement by *submitting the items set out in Section 54-1411(3), Idaho Code and a current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code, as well as paying the fees prescribed in these rules.* ( )

064. REINSTATEMENT AFTER DISCIPLINE.

01. Submission of Application Materials. A person whose license has been subject to disciplinary action by the Board may apply for reinstatement of the license to active and unrestricted status by: (4-7-11)

a. *Submitting the items set out in Section 54-1411(3), Idaho Code;* ( )

b. *Submitting a current fingerprint-based criminal history check as set forth in Section 54-1401(3), Idaho Code;* ( )

c. *Paying the fees prescribed in these rules; and* ( )

d. Documenting compliance with any term and restrictions set forth in any order as a condition of reinstatement. ( )

02. Appearance Before Board. Applicants for reinstatement may be *called* to appear before the Board. ( )

03. Application for Reinstatement After Revocation. Unless otherwise provided in the order of revocation, applicants for reinstatement of revoked licenses *are precluded from applying* for reinstatement for a period of two (2) years after entry of the order. ( )

065. -- 075. (RESERVED)

076. PERSONS EXEMPTED BY BOARD.
Licensure to practice nursing *is* not *necessary*, nor *is* the practice of nursing prohibited for persons exempted by the Board including: ( )

01. Technicians and Technologists. Technicians and technologists who comply with Section 491 of these rules. (3-30-07)

02. Non-Resident Nurses. Non-resident nurses currently licensed in good standing in another nursing jurisdiction, who are in Idaho on a temporary basis because of enrollment in or presentation of a short term course of instruction recognized or approved by the Board and who are performing functions incident to formal instruction. (4-4-13)

03. Family Members and Others. (7-1-93)

a. Family members providing care to a person to whom they are related by blood, marriage, adoption, legal guardianship or licensed foster care. (5-21-89)

b. Non-family members who provide gratuitous care to a person on a temporary basis in order to give respite to family members who regularly provide care to that person. (5-21-89)

c. Live-in domestics, housekeepers and companions provided they do not represent themselves as, nor receive compensation as, licensed nurses or other nursing care providers and so long as any health care provided is incidental to the services for which they are employed. (3-30-01)

04. Nurse Apprentice. A nurse apprentice is a nursing student or recent graduate who is employed for remuneration in a non-licensed capacity outside the student role by a Board approved health care agency. (4-11-19)

a. Applicants for nurse apprentice *must*: *( )*

i. Be enrolled in an accredited/approved nursing education program that is substantially equivalent to Idaho's approved programs for practical/registered nursing. (6-20-92)

ii. Be in good academic standing at the time of application and notify the Board of any change in academic standing. (6-20-92)

iii. Meet the employing agency's health care skills validation requirements. (3-30-01)

iv. Satisfactorily complete a basic nursing fundamentals course. (3-30-01)

v. Use obvious designations that identify the applicant as a nurse apprentice. (3-30-01)

b. A completed application for nurse apprentice consists of: (3-30-01)

i. Completed application form provided by the Board, to include a fee of ten dollars ($10); and (7-1-93)

ii. Verification of satisfactory completion of a basic nursing fundamentals course; and (3-30-01)

iii. Validation of successful demonstration of skills from a nursing education program; and (3-30-01)

iv. Verification of good academic standing. (4-11-19)

c. An individual whose application is approved will be issued a letter identifying the individual as a nurse apprentice for a designated time period to extend not more than three (3) months after successful completion of the nursing education program. (4-11-19)

d. A nurse apprentice may, under licensed registered nurse supervision, perform all functions approved by the Board for unlicensed assistive personnel as set forth in Section 490 of these rules. (3-30-07)

05. Employer Application. (3-30-01)

a. *H*ealth care agencies wishing to employ nurse apprentices *are to complete an* application form provided by the Board *that consists of:* *( )*

i. Job descriptions for apprentice; (3-30-01)

ii. A written plan for orientation and skill validation; (6-20-92)

iii. The name of the licensed registered nurse who is accountable and responsible for the coordination or management of the nurse apprentice program; (3-30-01)

iv. Assurance that a licensed registered nurse is readily available when nurse apprentice is working; (3-30-01)

v. A written procedure for the nurse apprentice who is asked to perform a task that could jeopardize a patient and who declines to perform the task; and (3-30-01)

vi. A fee of one hundred dollars ($100). (3-30-01)

b. Following application review, the Board may grant approval to a health care agency to employ nurse apprentices for a period of up to one (1) year. (3-30-01)

c. To ensure continuing compliance with Board requirements, each approved agency submits an annual report to the Board on forms provided by the Board. Based on its findings, the Board may grant continuing approval annually for an additional one (1) year period. *( )*

d. At any time, if the employing agency fails to inform the Board of changes in conditions upon which approval was based or otherwise fails to comply with established requirements, the Board may notify the agency of withdrawal of approval. (6-20-92)

077. -- 089. (RESERVED)

090. *REAPPLICATION FOR A LICENSE AFTER PREVIOUS DENIAL.*

***01. Request for Review**. Review of a denied application may be requested by submitting a written statement and documentation that includes evidence, satisfactory to the Board, of rehabilitation, or elimination or cure of the conditions for denial. ( )*

***02. Reapplication Files**. Reapplication files remain open and active for a period of twelve (12) months from date of receipt. After twelve (12) months, the file is closed and any subsequent reapplication will require submission of a new application form and payment of the applicable fees. ( )*

091. -- 099. (RESERVED)

100. GROUNDS FOR DISCIPLINE.

01. False Statement. A false, fraudulent or forged statement or misrepresentation in procuring a license to practice nursing means, but need not be limited to: *( )*

a. Procuring or attempting to procure a license to practice nursing by filing forged or altered documents or credentials; or (3-15-02)

b. Falsifying, misrepresenting facts or failing to verify and accurately report any and all facts submitted on any application for licensure, examination, relicensure, or reinstatement of licensure by making timely and appropriate inquiry of all jurisdictions in which licensee has made application for, or obtained, licensure or certification or engaged in the practice of nursing; or (3-15-02)

c. Impersonating any applicant or acting as proxy for the applicant in any examination for nurse licensure. (6-1-78)

02. Conviction of a Felony. Conviction of, or entry of a withheld judgment or a plea of nolo contendre to, conduct constituting a felony. (3-15-02)

03. False or Assumed Name. Practicing nursing under a false or assumed name means, but need not be limited to, carrying out licensed nursing functions while using other than the individual's given or legal name. *( )*

04. Offense Involving Moral Turpitude. An offense involving moral turpitude means, but need not be limited to, an act of baseness, vileness, or depravity in the private and social duties that a man owes to his fellow man, or to society in general, contrary to the accepted and customary rule of right and duty between man and man. *( )*

05. Gross Negligence or Recklessness. Gross negligence or recklessness in performing nursing functions means, but need not be limited to, a substantial departure from established and customary standards of care which, under similar circumstances, would have been exercised by a licensed peer; an act or an omission where there is a legal duty to act or to refrain from acting that a reasonable and prudent practitioner of nursing under same or similar facts and circumstances would have done, would have refrained from doing or would have done in a different manner and which did or could have resulted in harm or injury to a patient/client. An exercise of so slight a degree of

care as to justify the belief that there was a conscious or overt disregard or indifference for the health, safety, well-being, or welfare of the public shall be considered a substantial departure from the accepted standard of care. ( )

06. Habitual Use of Alcohol or Drugs. Habitual use of alcoholic beverages or drugs means, but need not be limited to, the use of such substances to the extent that the nurse's judgment, skills, or abilities to provide safe and competent nursing care are impaired; or that the individual is unable to care for himself or his property or his family members because of such use; or it is determined by a qualified person that the individual is in need of medical or psychiatric care, treatment or rehabilitation or counseling because of drug or alcohol use. ( )

07. Physical or Mental Unfitness. Physical or mental unfitness to practice nursing means, but need not be limited to, a court order adjudging that a licensee is mentally incompetent, or an evaluation by a qualified professional person indicating that the licensee is mentally or physically incapable of engaging in registered or practical nursing in a manner consistent with sound patient care; or uncorrected physical defect that precludes the safe performance of nursing functions. ( )

08. Violations of Standards of Conduct. Violations of standards of conduct and practice adopted by the Board means, but need not be limited to, any violation of those standards of conduct described in Section 101 of these rules. ( )

09. Conduct to Deceive, Defraud or Endanger. Conduct of a character likely to deceive, defraud, or endanger patients or the public includes, but need not be limited to: ( )

a. Violating the standards of conduct and practice adopted by the Board. (3-15-02)

b. Being convicted of any crime or act substantially related to nursing practice and including, but not limited to, sex crimes, drug violations, acts of violence and child or adult abuse. (3-15-02)

10. Action Against a License. Action against a license means entry of any order restricting, limiting, revoking or suspending or otherwise disciplining a license or privilege to practice nursing by any jurisdiction. A certified copy of an order entered in any jurisdiction *is* prima facie evidence of the matters contained therein. ( )

11. Failure to Make Timely and Appropriate Inquiry. Failing to make timely and appropriate inquiry verifying licensure status in all jurisdictions in which the applicant has ever applied for licensure, certification or privilege to practice, including those jurisdictions in which the applicant is currently or was ever licensed, or in which applicant has practiced, prior to filing any application, verification or other statement regarding licensure status with the Board. (3-15-02)

12. Failure to Cooperate With Authorities. Failure to cooperate with authorities in the investigation of any alleged misconduct or interfering with a Board investigation by willful misrepresentation of facts, failure to provide information on request of the Board, or the use of threats or harassment against any patient or witness to prevent them from providing evidence. (3-30-07)

13. Patterns of Poor Practice. Repeatedly engaging in conduct that departs from the customary standards of care. (3-30-07)

101. STANDARDS OF CONDUCT.

01. Violations. Any violation of these Standards of Conduct *is* grounds for disciplinary action in accordance with Section 54-1413(1), Idaho Code, of the Idaho Nursing Practice Act and Section 090 or 100 of these rules. ( )

02. Classification. For purposes of convenience, the standards of conduct are grouped generally into one (1) of three (3) categories: license, practice, and professional responsibility. The fact that any particular standard is so classified in any particular category *is* not relevant for any purpose other than ease of use. ( )

03. License. (3-15-02)

a. Period of Practice. The nurse *can* practice registered or practical nursing in Idaho only with a current Idaho license or during the period of valid temporary licensure or as otherwise allowed by law. *( )*

b. Aiding in Violation of Law. The nurse shall not aid, abet, or assist any other person to violate or circumvent laws or rules pertaining to the conduct and practice of nursing. (11-28-84)

c. Reporting Grossly Negligent or Reckless Practice. The nurse shall report to the Board any licensed nurse who is grossly negligent or reckless in performing nursing functions or who otherwise violates the Nursing Practice Act or the Board rules. (7-1-93)

d. Unlawful Use of License. The nurse shall not permit *their* license to be used by another person for any purpose or permit unlicensed persons under *their* jurisdiction or supervision to indicate in any way that they are licensed to perform functions restricted to licensed persons. *( )*

e. Impairment of Ability. The nurse shall not practice nursing while the ability to practice is impaired by alcohol or drugs or physical, mental or emotional disability. (11-28-84)

04. **Practice**. The nurse shall have knowledge of the statutes and rules governing nursing and function within the defined legal scope of nursing practice, not assume any duty or responsibility within the practice of nursing without adequate training or where competency has not been maintained*, and:* *( )*

a. *D*elegate activities only to persons who are competent and qualified to undertake and perform the delegated activities and *will* not delegate to non-licensed persons functions that are to be performed only by licensed nurses. *The nurse delegating functions is to supervise the persons to whom the functions have been assigned or delegated*. *( )*

b. *A*ct to safeguard the patient from the incompetent practice, verbal or physical abusive acts or illegal practice of any person. *( )*

c. *N*ot obtain, possess, furnish or administer prescription drugs to any person, including self, except as directed by a person authorized by law to prescribe drugs. *( )*

d. *N*ot abandon patients in need of nursing care in a negligent or wanton manner. The nurse will leave a nursing assignment only after properly reporting and notifying appropriate personnel and *will* transfer responsibilities to appropriate personnel or care giver when continued care is *necessitated* by the patient's condition. *( )*

e. *R*espect the patient's privacy. *( )*

f. *N*ot disseminate information about the patient to individuals not entitled to such information except where such information is *mandated* by law or for the protection of the patient. *( )*

g. *O*bserve the condition and signs and symptoms of a patient, record the information, and report to appropriate persons any significant changes. *( )*

h. *F*unction as a member of the health team and shall collaborate with other health team members as necessary to meet the patient's health needs. *( )*

i. *A*dhere to universal *precautions* and carry out principles of asepsis and infection control and not place the patient, the patient's family or the nurse's coworkers at risk for the transmission of infectious diseases. *( )*

05. Professional Responsibility. (3-15-02)

a. Disclosing Contents of Licensing Examination. The nurse *is* not *to* disclose contents of any licensing examination, or solicit, accept, or compile information regarding the contents of any examination before, during, or after its administration. *( )*

b. Considerations in Providing Care. In providing nursing care, the nurse *will* respect and consider the individual's human dignity, health problems, personal attributes, national origin, and handicaps and not discriminate on the basis of age, sex, race, religion, economic or social status or sexual preferences. *( )*

c. Responsibility and Accountability Assumed. The nurse *is* responsible and accountable for their nursing judgments, actions and competence. *( )*

d. Witnessing Wastage of Controlled Substances Medication. Controlled substances may not be wasted without witnesses. The nurse *cannot* sign any record as a witness attesting to the wastage of controlled substance medications unless the wastage was personally witnessed. The nurse *cannot* solicit the signatures on any record of a person as a witness to the wastage of a controlled substance when that person did not witness the wastage. The nurse *will* solicit signatures of individuals who witnessed the wastage in a timely manner. *( )*

e. Record-keeping. The nurse shall make or keep accurate, intelligible entries into records *mandated* by law, employment or customary practice of nursing, and *will* not falsify, destroy, alter or knowingly make incorrect or unintelligible entries into patients' records or employer or employee records. *( )*

f. Diverting or Soliciting. The nurse *will* respect the property of the patient and employer and not take or divert equipment, materials, property, or drugs without prior consent or authorization, nor solicit or borrow money, materials or property from patients. *( )*

g. Exploit, Solicit, or Receive Fees. The nurse shall not exploit the patient or the patient's family for personal or financial gain or offer, give, solicit, or receive any fee or other consideration for the referral of a patient or client. (3-15-02)

h. Professionalism. The nurse must not abuse the patient's trust, *will* respect the dignity of the profession and maintain appropriate professional boundaries with respect to patients, the patients' families, and the nurse's coworkers. The nurse *is* not *to* engage in sexual misconduct or violent, threatening or abusive behavior towards patients, patients' families or the nurse's coworkers. The nurse *will* be aware of the potential imbalance of power in professional relationships with patients, based on their need for care, assistance, guidance, and support, and ensure that all aspects of that relationship focus exclusively upon the needs of the patient. *( )*

i. For purposes of this rule and Section 54-1413, Idaho Code, sexual misconduct violations include, but are not limited to: (4-11-15)

(1) Engaging in or soliciting any type of sexual conduct with a patient; (4-11-15)

(2) Using the nurse-patient relationship, trust and confidence of the patient derived from the nurse-patient relationship, or any information obtained as a result of the nurse-patient relationship, to solicit, suggest or discuss dating or a romantic or sexual relationship with a patient; (4-11-15)

(3) Using confidential information obtained during the course of the nurse-patient relationship to solicit, suggest or discuss dating or a romantic relationship, or engage in sexual conduct with a patient, former patient, colleague, or member of the public; and (4-11-15)

(4) Engaging in or attempting to engage in sexual exploitation or criminal sexual misconduct directed at patients, former patients, colleagues, or members of the public, whether within or outside the workplace. (4-11-15)

ii. For purposes of this rule: (4-11-15)

(1) Consent of a patient *is* not a defense. In the case of sexual exploitation or criminal sexual misconduct, consent of the victim *is* not a defense. *( )*

(2) A patient ceases to be a patient thirty (30) days after receiving the final nursing services, or final reasonably anticipated nursing services from a nurse, unless the patient is determined by the Board to be particularly vulnerable by his minority; known mental, emotional, or physical disability; known alcohol or drug dependency; or

other circumstance. A patient deemed particularly vulnerable ceases to be a patient one (1) year after receiving the final nursing services, or final reasonably anticipated nursing services from a nurse. ( )

(3) It is not a violation of this rule for a nurse to continue a sexual relationship with a spouse or individual of majority if a consensual sexual relationship existed prior to the establishment of the nurse-patient relationship. (4-11-15)

iii. The following definitions apply to this rule: (4-11-15)

(1) "Sexual conduct" means any behavior that might reasonably be interpreted as being designed or intended to arouse or gratify the sexual desires of an individual. This includes, but is not limited to, physical touching of breasts, buttocks or sexual organs, creation or use of pornographic images, discussion about sexual topics unrelated to the patient's care, intentional exposure of genitals, and not allowing a patient privacy, except as may be medically necessary. (4-11-15)

(2) "Sexual exploitation" means any actual or attempted abuse of a position of vulnerability, differential power, or trust, for sexual purposes, including, but not limited to, profiting monetarily, socially or politically from the sexual conduct of another, or withholding or threatening to withhold care, medication, food or other services to coerce sexual conduct. (4-11-15)

(3) "Criminal sexual misconduct" means any sexual conduct that, if proven, would constitute a felony or misdemeanor under state or federal law. (4-11-15)

102. -- 131. (RESERVED)

132. *RESTRICTED* LICENSES.
Restricted licenses may be issued to qualified individuals in four (4) categories: post-discipline, non-practicing status, restricted status, and substance use and mental health disorders. Failure to comply with the terms and conditions of a *restricted* license will be cause for summary suspension. ( )

01. Following Disciplinary Action. (3-30-07)

a. After evaluation of an application for licensure reinstatement, the Board may issue a *restricted* license to a nurse whose license has been revoked. ( )

b. The Board will specify the conditions of issuance of the *restricted* license in writing. The conditions may be stated on the license. ( )

02. Non-Practicing Status. (3-15-02)

a. Individuals who are prevented from engaging in the active practice of nursing may be issued a *restricted* license. ( )

b. *Non-practicing status* does not entitle the licensee to engage in the active practice of nursing. The status *will* be noted on the license. ( )

c. The non-practicing *restriction* may be removed by the Board following receipt and evaluation of evidence satisfactory to the Board confirming that the licensee's physical or mental health status no longer prevents the individual from engaging in the active practice of nursing. ( )

03. Restricted Status. (3-15-02)

a. Individuals whose disabilities restrict or inhibit their ability to provide a full range of nursing services may be issued a *restricted* license. ( )

b. The conditions may include, but are not limited to: ( )

i. Notifying the Board of changes in employment status. (3-15-02)

ii. Submission of regular reports by the employer or by such other entities or individuals as the Board may desire. (3-15-02)

iii. Meeting with Board representatives. (3-15-02)

iv. Specific parameters of practice, excluding the performance of specific nursing functions. (3-15-02)

d. The conditions of *restricted* practice may be removed by the Board following receipt and evaluation of satisfactory evidence confirming that the health status of the licensee no longer restricts or inhibits the person's ability to provide a full range of nursing services. *( )*

04. Disability Due to Substance Use Disorder or Mental Health Disorder. (3-24-17)

a. Individuals whose practice is or may be impaired due to substance use disorder or to mental health disorder may qualify for issuance of a *restricted* license as an alternative to discipline. *( )*

b. The executive director may restrict the license of an individual who has a substance use disorder or mental health disorder for a period not to exceed five (5) years and who: (3-28-18)

i. Holds a current license to practice in Idaho as a registered nurse, advanced practice registered nurse, or licensed practical nurse, or is otherwise eligible, and is in the process of applying for licensure; (3-24-17)

ii. Has a demonstrated or diagnosed substance use disorder or mental health disorder such that ability to safely practice is, or may be, impaired; (3-24-17)

iii. Sign a written statement admitting to all facts that may constitute grounds for disciplinary action or demonstrate impairment of the safe practice of nursing, and waiving the right to a hearing and all other rights to due process in a contested case under the Idaho Administrative Procedures Act and the Nursing Practice Act; and (3-15-02)

iv. Submit reliable evidence, satisfactory to the executive director, that *they are* competent to safely practice nursing before being authorized to return to active practice. *( )*

c. If *ordered*, the applicant *must* satisfactorily complete a treatment program accepted by the Board. *( )*

d. The applicant agree*s* to participation in the Board's monitoring program. *( )*

e. Admission to the Program for Recovering Nurses or issuance of a *restricted* license, or both, may be denied for any reason including, but not limited to the following: *( )*

i. The applicant diverted controlled substances for other than self-administration; or (3-15-02)

ii. The applicant creates too great a safety risk; or (3-15-02)

iii. The applicant has been terminated from this, or any other, alternative program for non-compliance. (3-15-02)

f. Upon satisfactory compliance with all of the terms of the *restricted* license, and provided that the licensee demonstrates that *they are* qualified and competent to practice nursing, the executive director *will* lift the restriction imposed. *( )*

05. Compliance Required. *Restricted* licensure *is* conditioned upon the individual's prompt and faithful compliance with terms and conditions, which may include: *( )*

a. Satisfactory progress in any *ordered* continuing treatment or rehabilitation program. *( )*

b. Regular and prompt notification to the Board of changes in name and address of self or any employer. (7-1-96)

c. Obtaining of performance evaluations prepared by the employer to be submitted at specified intervals and at any time upon request. (7-1-96)

d. Continuing participation in, and compliance with all recommendations and requirements of, the approved treatment or rehabilitation program, and obtaining of reports of progress submitted by the person directing the treatment or rehabilitation program at specified intervals and at any time upon request. (7-1-96)

e. Submission of self-evaluations and personal progress reports at specified intervals and at any time upon request. (3-24-17)

f. Submission of reports of supervised random alcohol/drug screens at specified intervals and at any time upon request. Participant is responsible for reporting as directed, submitting a sufficient quantity of sample to be tested, and payment for the screening. (7-1-96)

g. Meeting with the Board's professional staff or advisory committee at any time upon request. (3-24-17)

h. Working only in approved practice settings. (7-1-96)

i. Authorization by licensee of the release of applicable records pertaining to assessment, diagnostic evaluation, treatment recommendations, treatment and progress, performance evaluations, counseling, random chemical screens, and after-care at periodic intervals as requested. (7-1-93)

j. Compliance with all laws pertaining to nursing practice, all nursing standards, and all standards, policies and procedures of licensee's employer relating to any of the admitted misconduct or facts as set out in the written statement signed by licensee, or relating to the providing of safe, competent nursing service. (3-24-17)

k. Compliance with other specific terms and conditions as may be *directed* by the executive director. *( )*

06. Summary Suspension - Lack of Compliance. (3-30-07)

a. Any failure to comply with the terms and conditions of a *restricted* license *is* deemed to be an immediate threat to the health, safety, and welfare of the public and the executive director *will*, upon receiving evidence of any such failure, summarily suspend the *restricted* license. *( )*

i. Summary suspension of a *restricted* license may occur if, during participation in the program, information is received which, after investigation, indicates the individual may have violated a provision of the law or Board rules governing the practice of nursing. *( )*

b. An individual whose *restricted* license has been summarily suspended by the executive director may request a hearing regarding the suspension by certified letter addressed to the Board. If the individual fails to request a hearing within twenty (20) days after service of the notice of suspension by the executive director, the right to a hearing is waived. If a hearing is timely requested, after the hearing the Board *will* enter an order affirming or rejecting summary suspension of the *restricted* license and enter such further orders revoking, suspending, or otherwise disciplining the nursing license as may be necessary. The above provisions do not limit or restrict the right of Board staff to bring any summary suspension order before the Board for further proceedings, even if the licensee has not requested a hearing. *( )*

c. The Board may, for good cause, stay any order of the executive director or may modify the terms and conditions of a *restricted* license as deemed appropriate to regulate, monitor or supervise the practice of any licensee. *( )*

133. ADVISORY COMMITTEE.
The Board *will* appoint a committee of at least six (6) persons to provide guidance to the Board on matters relating to nurses whose practice is, or may be, impaired due to substance use disorder or mental health disorder, and advise the Board on the direction of the program. Committee members include a member of the Board who serves as the chairperson and other members as established by the Board, but *will* include persons who are knowledgeable about mental health and substance use disorders. (3-24-17)

134. EMERGENCY ACTION.
If the Board finds that public health, safety, *or* welfare requires emergency action and incorporates a finding to that effect in its order, summary suspension of a license may be ordered pending proceedings for revocation or other action. Such proceedings will be promptly instituted and determined as authorized in Title 67, Chapter 52, Idaho Code. *( )*

135. -- 164. (RESERVED)

165. PETITION FOR REHEARING OR RECONSIDERATION.

01. Petition for Rehearing or Reconsideration. An individual may petition for reconsideration of any final order or rehearing based upon the following grounds: (7-1-93)

a. Newly discovered or newly available evidence relevant to the issue; or (11-28-84)

b. Error in the proceeding or Board decision that would be grounds for reversal or judicial review of the order; or (11-28-84)

c. Need for further consideration of the issues and the evidence in the public interest; or (11-28-84)

d. A showing that issues not considered ought to be examined in order to properly dispose of the matter. (11-28-84)

02. Administrative Procedure. The Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, shall govern proceedings on petitions for reconsideration. (3-30-07)

166. -- 219. (RESERVED)

220. QUALIFICATIONS FOR LICENSURE BY EXAMINATION.

01. In-State. Individuals who have successfully completed all requirements for graduation from an Idaho nursing education program approved by the Board *will* be eligible to make application to the Board to take the licensing examination. *( )*

02. Out-of-State. Individuals who hold a certificate of completion from a nursing education program having board of nursing approval in another nursing jurisdiction *will* be eligible to make application to the Board to take the licensing examination, providing they meet substantially the same basic educational requirements as graduates of Idaho nursing education programs at the time of application. *( )*

03. Practical Nurse Equivalency Requirement. An applicant for practical nurse licensure by examination who has not completed an approved practical nurse program, must provide satisfactory evidence (such as official transcripts) of successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses to include a course in personal and vocational relationships of the practical nurse. Related courses *are to* be equivalent to those same courses included in a practical nursing program approved by the Board. *( )*

04. Time Limit for Writing Examinations. Graduates who do not take the examination within twelve (12) months following completion of the nursing education program *must* follow specific remedial measures as prescribed by the Board. *( )*

221. EXAMINATION APPLICATION.
A completed application for licensure by examination consists of *a completed board approved application, all applicable fees and any additional required documentation.* *( )*

222. EXAMINATION AND RE-EXAMINATION.

01. Applicants for Registered or Practical Nurse Licensure. Applicants *will* successfully *pass* the National Council Licensure Examination (NCLEX) for registered nurse licensure or for practical nurse licensure, as applied for and approved. *In lieu of the NCLEX, the Board may accept documentation that the applicant has taken and successfully passed the State Board Test Pool examination.* *( )*

223. -- 239. (RESERVED)

240. QUALIFICATIONS FOR LICENSURE BY ENDORSEMENT.
An applicant for Idaho licensure by interstate endorsement must: (7-1-93)

01. Graduation. Be a graduate of a state approved/accredited practical or registered nursing education program that is substantially equivalent to Idaho's board-approved practical or registered nursing education program. Applicants for practical nurse licensure may also qualify under the provisions of Section 241 of these rules. *( )*

02. Licensing Examination. Have taken the same licensing examination as that administered in Idaho and achieved scores established as passing for that examination by the Board. (4-4-13)

03. Minimum Requirements. In lieu of the requirements in Subsections 240.01 and 240.02 of this rule, have qualifications that are substantially equivalent to Idaho's minimum requirements. (5-8-09)

04. Current Practice Experience. Have actively practiced nursing at least eighty (80) hours within the preceding three (3) years. (3-30-07)

05. License from Another Nursing Jurisdiction. Hold a license in good standing from another nursing jurisdiction. The license of any applicant subject to official investigation or disciplinary proceedings *is* not considered in good standing. *( )*

241. LICENSURE BY EQUIVALENCY AND ENDORSEMENT LICENSURE.

01. Application by Equivalency. An applicant for practical nurse licensure by interstate endorsement based on equivalency must meet the following requirements: (3-30-07)

a. Have successfully taken the same licensing examination as that administered in Idaho; and *( )*

b. Hold a license in another nursing jurisdiction based on successful completion of nursing and related courses at an approved school preparing persons for licensure as registered nurses to include a course in personal and vocational relationships of the practical nurse (or equivalent experience) and additional courses equivalent to those same courses included in a practical nursing program approved by the Board, and provide evidence thereof. *( )*

02. Applicants Licensed in Another Nursing Jurisdiction. Graduates of schools of nursing located outside the United States, its territories or commonwealths who are licensed in a nursing jurisdiction and who meet the requirements of Subsections 240.02 through 240.05 of these rules may be processed as applicants for licensure by endorsement from another state. (4-4-13)

03. Application for Licensure by Endorsement. A completed application for licensure by interstate endorsement *consists of a completed board approved application, all applicable fees and any additional required documentation.* *( )*

242. -- 259. (RESERVED)

260. QUALIFICATIONS FOR LICENSURE OF GRADUATES OF SCHOOLS OF NURSING LOCATED OUTSIDE THE UNITED STATES, ITS TERRITORIES, OR COMMONWEALTHS.
A graduate from a nursing education program outside of the United States, its territories or commonwealths must: (4-4-13)

01. Qualifications. Demonstrate nursing knowledge and English proficiency skills in reading, writing, speaking and listening. (4-4-13)

02. Education Credentials. Have education qualifications that are substantially equivalent to Idaho's minimum requirements at the time of application. (3-30-01)

03. License. Hold a license or other indication of authorization to practice in good standing, issued by a government entity or agency from a country outside the United States, its territories or commonwealths. (4-4-13)

04. Examination/Re-Examination. Take and achieve a passing score on the licensing examination required in Subsection 222.01 of these rules. (3-30-07)

261. APPLICATION FOR LICENSURE OF GRADUATES OF SCHOOLS OF NURSING LOCATED OUTSIDE THE UNITED STATES, ITS TERRITORIES, OR COMMONWEALTHS.
A completed application for licensure by a graduate of a nursing education program outside of the United States, its territories or commonwealths *consists of a completed board approved application, all applicable fees and any additional required documentation.* *( )*

262. -- 270. (RESERVED)

271. DEFINITIONS RELATED TO ADVANCED PRACTICE REGISTERED NURSING.

01. Accountability. Means being answerable for one's own actions. (7-1-99)

02. Advanced Practice Registered Nurse. Means a registered nurse licensed in this state who has gained additional specialized knowledge, skills and experience through a graduate or post-graduate program of study as defined herein and is authorized to perform advanced nursing practice, which may include acts of diagnosis and treatment, and the prescribing, administering and dispensing of therapeutic pharmacologic and non-pharmacologic agents, as defined herein. Advanced practice registered nurses includes nurses licensed in the roles of certified nurse-midwife, clinical nurse specialist, certified nurse practitioner, and certified registered nurse anesthetist. Advanced practice registered nurses, when functioning within the recognized scope of practice, assume primary responsibility for the care of their patients in diverse settings. This practice incorporates the use of professional judgment in the assessment and management of wellness and conditions appropriate to the advanced practice registered nurse's role, population focus and area of specialization. (7-1-13)

03. Authorized Advanced Practice Registered Nurse. Means an advanced practice registered nurse authorized by the Board to prescribe and dispense pharmacologic and non-pharmacologic agents pursuant to Section 315 of these rules. (7-1-99)

04. Certification. Means recognition of the applicant's advanced knowledge, skills and abilities in a defined area of nursing practice by a national organization recognized by the Board. The certification process measures the theoretical and clinical content denoted in the advanced scope of practice, and is developed in accordance with generally accepted standards of validation and reliability. (7-1-99)

05. Certified Nurse-Midwife. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse-midwifery program, and has current certification as a nurse-midwife from a national organization recognized by the Board. (7-1-13)

06. Certified Nurse Practitioner. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse practitioner program and has current certification as a nurse practitioner from a national organization recognized by the Board. (7-1-13)

07. Certified Registered Nurse Anesthetist. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate nurse anesthesia program and has current certification as a nurse anesthetist from a national organization recognized by the Board. (7-1-13)

08. Clinical Nurse Specialist. Means a licensed registered nurse who has graduated from a nationally accredited graduate or post-graduate clinical nurse specialist program and has current certification as a clinical nurse specialist from a national organization recognized by the Board. (7-1-13)

09. Collaboration. Means the cooperative working relationship with another health care provider, each contributing their respective expertise in the provision of patient care, and such collaborative practice includes the discussion of patient treatment and cooperation in the management and delivery of health care. (7-1-99)

10. Consultation. Means conferring with another health care provider for the purpose of obtaining information or advice. (7-1-99)

11. Diagnosis. Means identification of actual or potential health problems and the need for intervention based on analysis of data collected. Diagnosis depends upon the synthesis of information obtained through interview, physical exam, diagnostic tests or other investigations. (7-1-13)

12. Intervention. Means measures to promote health, protect against disease, treat illness in its earliest stages, manage acute and chronic illness, and treat disability. Interventions may include, but are not limited to ordering diagnostic studies, performing direct nursing care, prescribing pharmacologic or non-pharmacologic or other therapies and consultation with or referral to other health care providers. (7-1-99)

13. Peer Review Process. The systematic process by which a qualified peer assesses, monitors, and makes judgments about the quality of care provided to patients measured against established practice standards. Peer review: (7-1-13)

a. Measures on-going practice competency of the advance practice registered nurse (APRN); (3-30-07)

b. Is performed by a licensed APRN, physician, physician assistant, or other professional certified by a recognized credentialing organization; and (7-1-13)

c. Focuses on a mutual desire for quality of care and professional growth incorporating attitudes of mutual trust and motivation. (3-30-07)

14. Population Focus. Means the section of the population which the APRN has targeted to practice within. The categories of population foci are: (7-1-13)

a. Family/individual across the lifespan; (7-1-13)

b. Adult-gerontology; (7-1-13)

c. Women’s health/gender-related; (7-1-13)

d. Neonatal; (7-1-13)

e. Pediatrics; and (7-1-13)

f. Psychiatric-mental health. (7-1-13)

15. Prescriptive and Dispensing Authorization. Means the legal permission to prescribe, deliver, distribute and dispense pharmacologic and non-pharmacologic agents to a client in compliance with Board rules and applicable federal and state laws. Pharmacologic agents include legend and Schedule II through V controlled substances. (7-1-99)

16. Referral. Means directing a client to a physician or other health professional or resource. (7-1-99)

17. Scope of Practice of Advanced Practice Registered Nurse. Means those activities that the advanced practice registered nurse may perform. Those activities are defined by the Board according to the advanced practice registered nurse's education, preparation, experience and the parameters set forth by the advanced practice registered nurse's recognized, national certifying organization. (7-1-99)

18. Specialization. Means a more focused area of preparation and practice than that of the APRN role/population foci that is built on established criteria for recognition as a nursing specialty to include, but not limited to, specific patient populations (e.g., elder care, care of post-menopausal women), and specific health care needs (e.g., palliative care, pain management, nephrology). (7-1-13)

272. -- 279. (RESERVED)

280. STANDARDS OF PRACTICE FOR ADVANCED PRACTICE REGISTERED NURSING.

01. Purpose. (7-1-99)

a. To establish standards essential for safe practice by the advanced practice registered nurse; and (7-1-99)

b. To serve as a guide for evaluation of advanced practice registered nursing to determine if it is safe and effective. (7-1-99)

02. Core Standards for All Roles of Advanced Practice Registered Nursing. The advanced practice registered nurse is a licensed independent practitioner who shall practice consistent with the definition of advanced practice registered nursing, recognized national standards and the standards set forth in these rules. (7-1-13)

a. The advanced practice registered nurse shall provide client services for which the advanced practice registered nurse is educationally prepared and for which competence has been achieved and maintained. (7-1-13)

b. The advanced practice registered nurse shall recognize their limits of knowledge and experience and consult and collaborate with and refer to other health care professionals as appropriate. (7-1-99)

c. The advanced practice registered nurse shall evaluate and apply current evidence-based research findings relevant to the advanced nursing practice role. (7-1-13)

d. The advanced practice registered nurse shall assume responsibility and accountability for health promotion and maintenance as well as the assessment, diagnosis and management of client conditions to include the use of pharmacologic and non-pharmacologic interventions and the prescribing and dispensing of pharmacologic and non-pharmacologic agents. (7-1-13)

e. The advanced practice registered nurse shall use advanced practice knowledge and skills in teaching and guiding clients and other health care team members. (7-1-13)

f. The advanced practice registered nurse shall have knowledge of the statutes and rules governing advanced nursing practice, and practice within the established standards for the advanced nursing practice role and population focus. (7-1-13)

g. The advanced practice registered nurse shall practice consistent with Subsections 400.01 and 400.02 of these rules. (7-1-13)

03. Certified Nurse-Midwife. In addition to the core standards, the advanced practice registered nurse in the role of certified nurse midwife provides the full range of primary health care services to women throughout the lifespan, including gynecologic care, family planning services, preconception care, prenatal and postpartum care, childbirth, care of the newborn and reproductive health care treatment of the male partners of female clients. (7-1-13)

04. Clinical Nurse Specialist. In addition to core standards, the advanced practice registered nurse in the role of clinical nurse specialist provides services to patients, care providers and health care delivery systems including, but not limited to, direct care, expert consultation, care coordination, monitoring for quality indicators and facilitating communication between patients, their families, members of the health care team and components of the health care delivery system. (7-1-13)

05. Certified Nurse Practitioner. In addition to core standards, the advanced practice registered nurse in the role of certified nurse practitioner provides initial and ongoing comprehensive primary care services to clients including, but not limited to, diagnosis and management of acute and chronic disease, and health promotion, disease prevention, health education counseling, and identification and management of the effects of illness on clients and their families. (7-1-13)

06. Certified Registered Nurse Anesthetist. In addition to core standards, the advanced practice registered nurse in the role of certified registered nurse anesthetist provides the full spectrum of anesthesia care and anesthesia-related care and services to individuals across the lifespan whose health status may range across the wellness-illness continuum to include healthy persons; persons with immediate, severe or life-threatening illness or injury; and persons with sustained or chronic health conditions. (7-1-13)

07. Documentation of Specialization. Unless exempted under Section 305 of these rules, the advanced practice registered nurse must document competency within their specialty area of practice based upon education, experience and national certification in the role and population focus. (7-1-13)

281. -- 284. (RESERVED)

285. QUALIFICATIONS FOR ADVANCED PRACTICE REGISTERED NURSE.
To qualify as an advanced practice registered nurse, an applicant shall provide evidence of: (7-1-13)

01. Current Licensure. Current licensure to practice as a registered nurse in Idaho; (7-1-13)

02. Completion of Advanced Practice Registered Nurse Program. Successful completion of a graduate or post-graduate advanced practice registered nurse program which is accredited by a national organization recognized by the Board; and (7-1-13)

03. National Certification. Current national certification by an organization recognized by the Board for the specified APRN role. (7-1-13)

286. -- 289. (RESERVED)

290. APPLICATION FOR LICENSURE -- ADVANCED PRACTICE REGISTERED NURSE.
A completed application for licensure as an advanced practice registered nurse requesting licensure to practice as a certified nurse-midwife, clinical nurse specialist, certified nurse practitioner or certified registered nurse anesthetist *consists of a completed board-approved application, all applicable fees and any additional required documentation.* *( )*

291. -- 294. (RESERVED)

295. TEMPORARY LICENSURE -- ADVANCED PRACTICE REGISTERED NURSE.
A temporary license to engage in advanced practice registered nursing may be issued to the following: (7-1-13)

01. Applicants Awaiting Initial Certification Examination Results. An otherwise qualified applicant who is eligible to take the first available certification examination following completion of an approved advanced practice registered nurse education program. Verification of registration to write a Board-recognized national certification examination must be received from the national certifying organization. (7-1-99)

a. Temporary licensure to practice shall be deemed to expire upon failure of the certification examination. An applicant who fails the national certification exam shall not engage in advanced practice registered

nursing until such time as all requirements are met. (7-1-99)

b. An applicant who is granted a temporary license to practice as an advanced practice registered nurse must submit notarized results of the certification examination within ten (10) days of receipt. Failure to submit required documentation shall result in the immediate expiration of the temporary license. (7-1-99)

c. The temporary license of an applicant who does not write the examination on the date scheduled shall immediately expire and the applicant shall not engage in advanced practice registered nursing until such time as all requirements are met. (7-1-99)

02. Applicants Whose Certification Has Lapsed. A licensed registered nurse applying for re-entry into advanced registered nursing practice, who is required by the national certifying organization to meet certain specified practice requirements under supervision. The length of and conditions for temporary licensure shall be determined by the Board. (7-1-99)

03. Applicants Holding a Temporary Registered Nursing License. An advanced practice registered nurse currently authorized to practice advanced practice registered nursing in another nursing jurisdiction upon issuance of a temporary license to practice as a registered nurse, and upon evidence of current certification as an advanced practice registered nurse from a Board-recognized national certifying organization. (7-1-13)

04. Applicants Without Required Practice Hours. An advanced practice registered nurse who has not practiced the minimum required period of time during the renewal period may be issued a temporary license in order to acquire the required number of hours and demonstrate ability to safely practice. (7-1-99)

05. Application Processing. An APRN whose application has been received but is not yet complete may be issued a temporary license. (3-30-07)

06. Term of Temporary License. A temporary license expires at the conclusion of the term for which it is issued, or the issuance of a renewable license, whichever occurs earlier. (3-30-07)

296. -- 299. (RESERVED)

300. RENEWAL OF ADVANCED PRACTICE REGISTERED NURSE LICENSE.
The advanced practice registered nurse license may be renewed every two (2) years as specified in Section 54-1411, Idaho Code, provided that the advanced practice registered nurse: (7-1-13)

01. Current Registered Nurse License. Maintains a current registered nurse license or privilege to practice in Idaho. (7-1-13)

02. Evidence of Certification. Submits evidence of current APRN certification by a national organization recognized by the Board. (7-1-13)

03. Evidence of Continuing Education. Provides documentation of thirty (30) contact hours of continuing education during the renewal period, which shall include ten (10) contact hours in pharmacology if the nurse has prescriptive authority. Continuing education completed may be that required for renewal of national certification if documentation is submitted confirming the certifying organization's requirement is for at least thirty (30) contact hours. (7-1-13)

04. Hours of Practice. Attests, on forms provided by the Board, to a minimum of two hundred (200) hours of advanced registered nursing practice within the preceding two (2) year period. (7-1-99)

05. **Peer Review Process**. Provides evidence, satisfactory to the Board, of participation in a peer review process acceptable to the Board. (7-1-13)

06. **Exemption From Requirements**. Nurse practitioners not certified by a national organization recognized by the Board and approved prior to July 1, 1998 shall be exempt from the requirement set forth in Subsection 300.02 of these rules. (7-1-99)

301. REINSTATEMENT OF ADVANCED PRACTICE REGISTERED NURSE LICENSE.
An advanced practice registered nurse license may be reinstated as specified in Section 54-1411, Idaho Code, provided that the applicant: (7-1-13)

01. Current Registered Nurse License. Maintains a current registered nurse license or privilege to practice in Idaho. (7-1-13)

02. Evidence of Certification. Submits evidence of current APRN certification by a national organization recognized by the Board. (7-1-13)

03. **Fee**. Pays the fee specified in Section 900 of these rules. (7-1-13)

302. -- 304. (RESERVED)

305. PERSONS EXEMPTED FROM ADVANCED PRACTICE REGISTERED NURSING LICENSE REQUIREMENTS.

01. Students. Nothing in these rules prohibits a registered nurse who holds a current license, or privilege, to practice in Idaho and who is enrolled as a matriculated student in a nationally accredited educational program for advanced practice registered nursing from practicing as an advanced practice registered nurse when such practice is an integral part of the advanced practice registered nurse curriculum. (7-1-13)

02. Certified Nurse Practitioners Licensed Prior to July 1, 1998. A certified nurse practitioner authorized to practice prior to July 1, 1998 may satisfy the requirement of Section 280.07 of these rules by documenting competency within *their* specialty area of practice based upon education, experience and national certification in that specialty or education, experience and approval by the Board. *( )*

03. Advanced Practice Registered Nurses Educated Prior to January 1, 2016. (7-1-13)

a. An applicant for APRN licensure who completed a nationally accredited undergraduate or certificate APRN program prior to January 1, 2016, does not need to meet the APRN graduate or post-graduate educational requirements for initial licensure contained within Section 285 of these rules. (7-1-13)

b. A person applying for APRN licensure in Idaho who: holds an existing APRN license issued by any nursing jurisdiction, completed *their* formal APRN education prior to January 1, 2016, and who meets all of the requirements for initial licensure contained within Sections 285 and 286 of these rules except for the APRN graduate or post-graduate educational requirement, may be issued an APRN license by endorsement if at the time the person received *their* APRN license in the other jurisdiction they would have been eligible for licensure as an APRN in Idaho. *( )*

306. DISCIPLINARY ENFORCEMENT.
The Board may revoke, suspend or otherwise discipline the advanced practice registered nurse license of a licensee who fails to comply with current recognized scope and standards of practice, who fails to maintain national certification or competency requirements, or who violates the provisions of the Nursing Practice Act or rules of the Board. (7-1-99)

307. -- 314. (RESERVED)

315. PRESCRIPTIVE AND DISPENSING AUTHORIZATION FOR ADVANCED PRACTICE REGISTERED NURSES.

01. Initial Authorization. An application for the authority to prescribe and dispense pharmacologic and non-pharmacologic agents may be made as part of initial licensure application or by separate application at a later date. Advanced practice registered nurses who complete their APRN graduate or post-graduate educational program after December 31, 2015, will automatically be granted prescriptive and dispensing authority with the issuance of their Idaho license. (7-1-13)

a. An advanced practice registered nurse who applies for authorization to prescribe pharmacologic and non-pharmacologic agents within the scope of practice for the advanced practice role, shall: (7-1-13)

i. Provide evidence of completion of thirty (30) contact hours of post-basic education in pharmacotherapeutics obtained as part of study within a formal educational program or continuing education program, related to advanced nursing practice; and (7-1-13)

ii. Submit a completed, notarized application form provided by the Board. (7-1-99)

b. Exceptions to the pharmacotherapeutic education may be approved by the Board. (7-1-99)

c. Prescriptions written by authorized advanced practice registered nurses shall contain all the minimum information required by Idaho Board of Pharmacy *statute and* administrative rules *and applicable federal law* as well as the printed name and signature of the nurse prescriber, and the abbreviation for the applicable role of the advanced practice nurse (i.e. "CNP," "CNM," "CNS," or CRNA"). If the prescription is for a controlled substance, it shall also include the DEA registration number and address of the prescriber. *( )*

02. Temporary Authorization. The Board may grant temporary prescriptive authority to an applicant who holds a temporary advanced practice registered nurse license and who meets the requirements for initial authorization pursuant to Subsection 315.01 of these rules. (7-1-99)

03. Expiration of Temporary Prescriptive Authorization. Temporary prescriptive authorization automatically expires on the expiration, revocation, suspension, placement on probation, or denial of any advanced practice registered nurse license. (7-1-99)

04. Prescribing and Dispensing Authorization. All authorized advanced practice registered nurses may prescribe and dispense pharmacologic and non-pharmacologic agents pursuant to applicable state and federal laws. (7-1-13)

05. Valid Advanced Practice Registered Nurse/Patient Relationships. (7-1-13)

a. An advanced practice registered nurse shall not dispense pharmacologic agents except in the course of his professional practice and when a bona fide advanced practice registered nurse/patient relationship has been established. A valid relationship will exist when the advanced practice registered nurse has obtained sufficient knowledge of the patient's medical condition through examination and has assumed responsibility for the health care of the patient. (7-1-13)

b. A valid advanced practice registered nurse/patient relationship is not required when dispensing or prescribing medications under the circumstances set forth at Section 54-1733(4), Idaho Code. (7-1-13)

316. GROUNDS FOR DISCIPLINE OF AN ADVANCED PRACTICE REGISTERED NURSE LICENSE.
In addition to the grounds set forth in Section 54-1413, Idaho Code, and Section 100 of these rules, an advanced practice registered nursing license may be suspended, revoked, placed upon probation, or other disciplinary sanctions imposed by the Board on the following grounds: (3-30-07)

01. Prescribing or Dispensing Controlled Substances. Prescribing, dispensing, or selling any drug classified as a controlled substance to a family member or to himself. For purposes of Section 316 of these rules, "family member" is defined as the licensee's spouse, child (biological, adopted, or foster), parent, sibling, grandparent, grandchild, or the same relation by marriage. (4-7-11)

02. Violating Governing Law. Violating any state or federal law relating to controlled substances. (7-1-99)

03. Outside Scope of Practice. Prescribing or dispensing outside the scope of the advanced practice registered nurse's practice. (7-1-99)

04. Other Than Therapeutic Purposes. Prescribing or dispensing for other than therapeutic purposes. (7-1-99)

317. -- 319. (RESERVED)

320. RECOGNITION OF NATIONAL CERTIFYING ORGANIZATIONS FOR ADVANCED PRACTICE REGISTERED NURSING.
The Board recognizes advanced practice registered nurse certification organizations that meet criteria as defined by the National Council of State Boards of Nursing. (7-1-13)

321. -- 389. (RESERVED)

390. USE OF TITLES, ABBREVIATIONS, AND DESIGNATIONS FOR THE PRACTICE OF NURSING.

01. Title for Graduates. A new graduate issued a temporary license pursuant to Section 040 of these rules can use the title graduate nurse, abbreviated GN, or graduate practical nurse, abbreviated GPN, or graduate nurse midwife, abbreviated GNM, or graduate clinical nurse specialist, abbreviated GCNS, or graduate nurse practitioner, abbreviated GNP, or graduate nurse anesthetist, abbreviated GNA, whichever is appropriate, until the renewable license is issued. (3-30-07)

02. Titles *for Advanced Practice Registered Nurses*. *I*ndividual*s* who *have* successfully met all requirements for licensure as an advanced practice registered nurse have the right to use the title corresponding to the role of advanced nursing practice for which the individual is licensed. *( )*

a. Individuals who have successfully met all requirements for licensure as a certified nurse-midwife have the right to use the title certified nurse-midwife, abbreviated APRN, CNM. *( )*

b. Title of Clinical Nurse Specialist. Individuals who have successfully met all requirements for licensure as a clinical nurse specialist have the right to use the title clinical nurse specialist, abbreviated APRN, CNS. *( )*

c. Individuals who have successfully met all requirements for licensure as a certified nurse practitioner have the right to use the title certified nurse practitioner, abbreviated APRN, CNP. *( )*

d. Individuals who have successfully met all requirements for licensure as a certified registered nurse anesthetist have the right to use the title certified registered nurse anesthetist, abbreviated APRN, CRNA. *( )*

03. Registered Nurse Title. Individuals who have successfully met all requirements for licensure as registered nurse have the right to use the title Registered Nurse, abbreviated RN. (7-1-13)

04. Licensed Practical Nurse Title. Individuals who have successfully met all requirements for licensure as a practical nurse have the right to use the title Licensed Practical Nurse, abbreviated LPN. (7-1-13)

391. -- 399. (RESERVED)

400. DECISION-MAKING MODEL.
The decision-making model is the process by which a licensed nurse evaluates whether a particular act is within the legal scope of that nurse's practice and determines whether to delegate the performance of a particular nursing task in a given setting. This model applies to all licensure categories permitting active practice, regardless of practice setting. (5-3-03)

01. Determining Scope of Practice. To evaluate whether a specific act is within the legal scope of nursing practice, a licensed nurse shall determine whether: (5-3-03)

a. The act is expressly prohibited by the Nursing Practice Act, or the act is limited to the scope of

practice of advanced practice registered nurses or to licensed registered nurses, or the act is prohibited by other laws; (5-3-03)

b. The act was taught as a part of the nurse's educational institution's required curriculum and the nurse possesses current clinical skills; (5-3-03)

c. The act does not exceed any existing policies and procedures established by the nurse's employer; (5-3-03)

d. The act is consistent with standards of practice published by a national specialty nursing organization or supported by recognized nursing literature or reputable published research and the nurse can document successful completion of additional education through an organized program of study including supervised clinical practice or equivalent demonstrated competency; (5-3-03)

e. The employment setting/agency has established policies and procedures or job descriptions authorizing performance of the act; and (7-1-96)

f. Performance of the act is within the accepted standard of care that would be provided in a similar situation by a reasonable and prudent nurse with similar education and experience and the nurse is prepared to accept the consequences of the act. (7-1-96)

02. Deciding to Delegate. When delegating nursing care, the licensed nurse retains accountability for the delegated acts and the consequences of delegation. Before delegating any task the nurse shall: (5-3-03)

a. Determine that the acts to be delegated are not expressly prohibited by the Nursing Practice Act or Board rules and that the activities are consistent with job descriptions or policies of the practice setting; (7-1-96)

b. Assess the client's status and health care needs prior to delegation, taking into consideration the complexity of assessments, monitoring required and the degree of physiological or psychological instability; (7-1-96)

c. Exercise professional judgment to determine the safety of the delegated activities, to whom the acts may be delegated, and the potential for harm; (5-3-03)

d. Consider the nature of the act, the complexity of the care needed, the degree of critical thinking required and the predictability of the outcome of the act to be performed; (5-3-03)

e. Consider the impact of timeliness of care, continuity of care, and the level of interaction required with the patient and family; (5-3-03)

f. Consider the type of technology employed in providing care and the knowledge and skills required to effectively use the technology, including relevant infection control and safety issues; (7-1-96)

g. Determine that the person to whom the act is being delegated has documented education or training to perform the activity and is currently competent to perform the act; and (7-1-96)

h. Provide appropriate instruction for performance of the act. (5-3-03)

03. ***Delegating to UAPs.*** *( )*

a. *The nursing care tasks that may be delegated to UAPs shall be stated in writing in the practice setting. Decisions concerning delegation will be determined in accordance with the provisions of Section 400 of these rules. UAPs may complement the licensed nurse in the performance of nursing functions, but cannot substitute for the licensed nurse; UAPs cannot redelegate a delegated act.* *( )*

b. *Where permitted by law, after completion of a Board-approved training program, UAPs in care settings may assist patients who cannot independently self-administer medications, provided that a plan of care has been developed by a licensed registered nurse, and the act has been delegated by a licensed nurse. Assistance with*

medication may include: breaking a scored tablet, crushing a tablet, instilling eye, ear or nose drops, giving medication through a pre-mixed nebulizer inhaler or gastric (non-nasogastric) tube, assisting with oral or topical medications and insertion of suppositories. *( )*

04. **Monitoring Delegation**. Subsequent to delegation, the licensed nurse shall: (5-3-03)

a. Evaluate the patient's response and the outcome of the delegated act, and take such further action as necessary; and (5-3-03)

b. Determine the degree of supervision required and evaluate whether the activity is completed in a manner that meets acceptable outcomes. The degree of supervision shall be based upon the health status and stability of the patient, the complexity of the care and the knowledge and competence of the individual to whom the activity is delegated. (5-3-03)

401. LICENSED REGISTERED NURSE (RN).
In addition to providing hands-on nursing care, licensed registered nurses work and serve in a broad range of capacities including, but not limited to, regulation, delegation, management, administration, teaching, and case management. Licensed registered nurses, also referred to as registered nurses or as "RNs," are expected to exercise competency in judgment, decision making, implementation of nursing interventions, delegation of functions or responsibilities, and administration of medications and treatments prescribed by legally authorized persons. (5-3-03)

01. Standards of Practice. A licensed registered nurse adheres to the decision-making model set forth in Section 400 of these rules. (5-3-03)

02. Functions. A partial listing of tasks within the licensed registered nurse's function follows. This listing is for illustrative purposes only, it is not exclusive. The licensed registered nurse: (5-3-03)

a. Assesses the health status of individuals and groups; (5-3-03)

b. Utilizes data obtained by assessment to identify and document nursing diagnoses which serve as a basis for the plan of nursing care; (5-3-03)

c. Collaborates with the patient, family, and health team members; (5-3-03)

d. Develops and documents a plan for nursing intervention based on assessment, analysis of data, identified nursing diagnoses and patient outcomes; (5-3-03)

e. Is accountable and responsible for implementation of planned and prescribed nursing care;(5-3-03)

f. Maintains safe and effective nursing care by: (5-3-03)

i. Maintaining a safe environment; (5-3-03)

ii. Evaluating patient status and instituting appropriate therapy or procedures which might be required in emergency situations to stabilize the patient's condition or prevent serious complications in accordance with standard procedures established by the policy-making body in the health care setting, including but not limited to administration of intravenous drugs and starting intravenous therapy based on protocols if the patient has been assessed and determined to be in peril; (5-3-03)

iii. Acting as a patient's advocate; (5-3-03)

iv. Applying principles of asepsis and infection control and universal standards when providing nursing care; (5-3-03)

v. Implementing orders for medications and treatments issued by an authorized prescriber; and (5-3-03)

vi. Providing information and making recommendations to patients and others in accordance with employer policies; (5-3-03)

g. Utilizes identified goals and outcomes to evaluate responses to interventions; (5-3-03)

h. Collaborates with other health professionals by: (5-3-03)

i. Communicating significant changes in a patient's status or responses to appropriate health team professionals; (5-3-03)

ii. Coordinating the plan of care with other health team professionals; and (5-3-03)

iii. Consulting with nurses and other health team members as necessary; (5-3-03)

i. Teaches the theory and practice of nursing; and (5-3-03)

j. Facilitates, mentors and guides the practice of nursing formally and informally in practice settings. (5-3-03)

k. Engages in other interfaces with healthcare providers and other workers in settings where there is not a structured nursing organization and in settings where health care plays a secondary role, where the nurse needs to identify the nursing role and responsibility for the particular type of interface, for example, teaching, supervising, consulting, advising, etc. (3-20-14)

03. Chief *Executive Role*. A licensed registered nurse functioning *in a* chief *executive role* is accountable and responsible for: *( )*

a. Prescribing, directing and evaluating the quality of nursing services including, but not limited to, staff development and quality improvement; (7-1-96)

b. Assuring that organizational policies and procedures, job descriptions and standards of nursing practice conform to the Nursing Practice Act and nursing practice rules; (7-1-96)

c. Assuring that the knowledge, skills and abilities of nursing care staff are assessed and that nursing care activities do not exceed the legally defined boundaries of practice; and (7-1-96)

d. Assuring that documentation of all aspects of the nursing organization is maintained. (7-1-96)

04. Management Role. A licensed registered nurse functioning in a management role is accountable and responsible for: (5-3-03)

a. The quality and quantity of nursing care provided by nursing personnel under their supervision; (5-3-03)

b. Managing and coordinating nursing care in accordance with established guidelines for delegation; and (5-3-03)

c. Providing leadership in formulating, interpreting, implementing, and evaluating the objectives and policies of nursing practice. (7-1-96)

402. LICENSED REGISTERED NURSE FUNCTIONING IN SPECIALTY AREAS.

01. Extended Functions. A licensed registered nurse may carry out functions beyond the basic educational preparation described in Sections 600 through 681 of these rules under certain conditions. (3-25-16)

02. Conditions for Licensed Registered Nurses Functioning in Specialty Practice Areas. A licensed registered nurse may carry out functions defined within parameters of a nursing specialty that meets criteria

approved by the American Board of Nursing Specialties (ABNS) or the National Commission for Certifying Agencies (NCCA) of the National Organization for Competency Assurance (NOCA) when the nurse: (3-25-16)

a. Can document successful completion of additional education through an organized program of study including supervised clinical experience or equivalent demonstrated competence consistent with provisions of Section 400 of these rules; and (3-25-16)

b. Conforms to recognized nursing specialty practice parameters, characters, and standards for practice of the specialty. (3-25-16)

403. -- 459. (RESERVED)

460. LICENSED PRACTICAL NURSE (LPN).
Licensed practical nurses function in dependent roles. Licensed practical nurses, also referred to as LPNs, provide nursing care at the delegation of a licensed registered nurse, licensed physician, or licensed dentist pursuant to rules established by the Board. The stability of the patient's environment, the patient's clinical state, and the predictability of the outcome determine the degree of direction and supervision that must be provided to the licensed practical nurse. (5-3-03)

01. Standards. The licensed practical nurse shall be personally accountable and responsible for all actions taken in carrying out nursing activities and adheres to the decision-making model set forth in Section 400 of these rules. (5-3-03)

02. Functions. A partial listing of some of the functions that are included within the legal definition of licensed practical nurse, Section 54-1402(3), Idaho Code, (Nursing Practice Act) follows. This list is for example only, it is not complete. The licensed practical nurse: (5-3-03)

a. Contributes to the assessment of health status by collecting, reporting and recording objective and subjective data; (5-3-03)

b. Participates in the development and modification of the plan of care; (5-3-03)

c. Implements aspects of the plan of care; (5-3-03)

d. Maintains safe and effective nursing care; (5-3-03)

e. Participates in the evaluation of responses to interventions; (5-3-03)

f. Fulfills charge nurse responsibilities in health care facilities as allowed by state and federal law; (5-3-03)

g. Delegates to others as allowed by application of the decision-making model; and (5-3-03)

h. Accepts delegated assignments only as allowed by application of the decision-making model. (5-3-03)

i. Engages in other interfaces with healthcare providers and other workers in settings where there is not a structured nursing organization and in settings where health care plays a secondary role, where the nurse needs to identify the nursing role and responsibility for the particular type of interface, for example, teaching, supervising, consulting, advising, etc. (3-20-14)

461. -- *490*. (RESERVED)

491. TECHNICIANS/TECHNOLOGISTS.

01. Functions. Technicians/technologists may perform limited nursing functions within the ordinary, customary, and usual roles in their fields and are exempted from licensure by the Board under Section 54-1412, Idaho

Code, (Nursing Practice Act), provided they are: (5-3-03)

a. Enrolled in or have completed a formal training program acceptable to the Board; or (5-3-03)

b. Registered with or certified by a national organization acceptable to the Board. (5-3-03)

02. Supervision. Technicians/technologists providing basic nursing care services on an organized nursing unit in an institutional setting must function under the supervision of a licensed registered nurse. (3-30-07)

492. MEDICATION ADMINISTRATION BY MEDICATION ASSISTANTS - CERTIFIED (MA-C).

01. When Tasks May Be Performed. A medication assistant - certified may perform the delegated function of administration of medications and related tasks under the direct supervision of a licensed nurse, if: (3-26-08)

a. The medication assistant - certified does not assume other unrelated tasks while he is administering drugs; (3-26-08)

b. The medication is given by an approved medication route, to include: (3-26-08)

i. Orally, to include sublingual, buccal; (3-26-08)

ii. Topically; (3-26-08)

iii. For the eye, ear, or nose; (3-26-08)

iv. Vaginally; (3-26-08)

v. Rectally; (3-26-08)

vi. Transdermally; (3-26-08)

vii. Oral inhaler; (3-26-08)

viii. Established gastric (non-nasogastric) tube; and (3-26-08)

c. The delegation does not conflict with provisions of Subsection 400.02 of these rules. (3-26-08)

02. When Tasks Shall Not Be Performed. A medication assistant - certified shall not perform a task involving the administration of medication if: (3-26-08)

a. The medication administration requires a nurse’s assessment of the patient prior to or following the medication, a calculation of the dosage of the medication, or the conversion of the dosage. The provision does not restrict the medication assistant - certified from administering PRN medication to stable patients; or (3-26-08)

b. The supervising nurse is unavailable to monitor the progress of the patient and the effect on the patient of the medication; or (3-26-08)

c. The patient’s condition is unstable or the patient has changing nursing needs. (3-26-08)

03. Report Medication Errors. A medication assistant - certified who has any reason to believe that he has made an error in the administration of medication shall follow facility policy and procedure to report the possible or known error to their supervising nurse and shall assist in completing any required documentation of the medication error. (3-26-08)

04. Medication Administration Policies. (3-26-08)

a. The medication assistant - certified shall report to the supervising nurse: (3-26-08)

i. Signs or symptoms that appear life-threatening; (3-26-08)

ii. Events that appear health threatening; and (3-26-08)

iii. Medications that produce no results or undesirable effects as reported by the patient. (3-26-08)

b. A licensed nurse shall supervise medication assistant - certified. (3-26-08)

c. A licensed registered nurse shall periodically review the following: (3-26-08)

i. Authorized provider orders; and (3-26-08)

ii. Patient medication records. (3-26-08)

d. Tasks that may not be performed by the medication assistant - certified: (3-26-08)

i. Receive controlled substances. (3-26-08)

ii. Administration of parenteral or injectable medications. (3-26-08)

iii. Administration of any medication by nasogastric tube. (3-26-08)

iv. Calculate drug dosage. (3-26-08)

v. Destruction of medications. (3-26-08)

vi. Receive written or verbal medication orders. (3-26-08)

vii. Request initial dose medications. (3-26-08)

viii. Evaluate medication error reports. (3-26-08)

ix. Perform treatments unrelated to the administration of medications. (3-26-08)

x. Conduct patient assessments. (3-26-08)

xi. Engage in patient teaching activities. (3-26-08)

xii. Administer initial dose or non-routine medications when the patient's response to the medication is not predictable. (3-26-08)

493. EDUCATION AND TRAINING FOR MEDICATION ASSISTANT - CERTIFIED.

01. Education Program Content. Education for medication assistant - certified shall include: (3-26-08)

a. At least eighty (80) clock hours of didactic content in: (3-26-08)

i. The role of the medication assistant - certified, to include, but not be limited to, medication administration as a delegated nursing function under the supervision of a licensed nurse in a setting or facility where the performance of the delegated function is not otherwise prohibited by law. (3-26-08)

ii. Fundamentals of medication administration, to include, but not be limited to, medication orders, medication storage, measurement, forms of medications, preparation of medications, role of the medication assistant

- certified, and role of the delegating nurse. (3-26-08)

iii. Safety factors in administering medications, to include, but not be limited to, rights of medication administration, prevention of medication errors, and reporting medication errors. (3-26-08)

iv. Communication and documentation, to include, but not be limited to, communication process, boundaries, reporting symptoms and side effects, reporting deviations from normal, and documenting medication administration. (3-26-08)

v. Medication administration, to include, but not be limited to, routes of administration, factors affecting how the body responds to medications, and classes of medications. (3-26-08)

vi. Ethical and legal issues, to include, but not be limited to, responsibility of the medication assistant - certified, patient rights, patient self-administration of medications, and ethical and legal violations. (3-26-08)

b. At least forty (40) clock hours of correlated supervised practicum in medication administration. (3-26-08)

02. Board Approval. Programs preparing medication assistant - certified must be approved by the Board. (3-26-08)

a. Institutions applying for initial approval must make application to the Board on forms supplied by the Board. The following information must be included: (3-26-08)

i. Accreditation status, relationship of educational program to parent institution. (3-26-08)

ii. Curriculum to be used. (3-26-08)

iii. Clinical sites to be used. (3-26-08)

iv. Provision for qualified faculty. (3-26-08)

b. Provisional approval for one (1) year will be granted to programs on initial application that provide evidence that Board-approved training standards will be met. (3-26-08)

c. Programs with provisional approval must apply for full approval on forms supplied by the Board and submit such application to the Board office one (1) month prior to the expiration of provisional approval. (3-26-08)

d. A representative of the Board shall visit the program one (1) year following initial provisional approval and submit a written report to the Board. (3-26-08)

i. Following the Board's review of the visit report, the institution shall be notified of the Board's decision within thirty (30) days of the review. (3-26-08)

ii. Following its review, the Board may grant full approval, if all conditions have been met; or conditional approval, if all conditions have not been met; or denial of approval if, conditions have not been met and the institution can provide no indication that they will be met within a reasonable timeframe. (3-26-08)

e. A letter of continuing approval will be granted annually to programs that substantially meet the Board's requirements, as evidenced by: (3-26-08)

i. Information included in annual reports to the Board; and (3-26-08)

ii. Information obtained by Board representative during on-site visits. (3-26-08)

03. Administration of Program. The educational program shall be administered by an educational

institution accredited by an organization recognized by the U.S. Department of Education. (3-26-08)

04. Medication Assistant - Certified Program Requirements. An educational program preparing medication assistant - certified shall: (3-26-08)

a. Provide evidence of financial support and resources adequate to achieve the purpose of the program, to include, but not limited to, classrooms, laboratories, equipment, supplies, and qualified administrative, instructional, and support personnel and services. (3-26-08)

b. Maintain current and final records for each student enrolled in the program in accordance with policies of the parent institution. (3-26-08)

c. Provide sufficient numbers of qualified faculty to implement the curriculum. (3-26-08)

d. Provide sufficient numbers of faculty in the clinical setting to assure patient safety and meet student learning needs. (3-26-08)

e. Use a curriculum approved by the Board that includes didactic content and supervised clinical as defined in Subsection 493.01 of these rules. (3-26-08)

05. Program Administrator. Medication assistant - certified program administrator shall meet institutional requirements for the position. (3-26-08)

06. Program Instructors. Medication assistant - certified instructors shall: (3-26-08)

a. Hold a current, unencumbered license to practice as a registered nurse in Idaho. (3-26-08)

b. Have a minimum of two (2) years practice experience in a health care facility. (3-26-08)

c. Have at least one (1) year clinical experience relevant to areas of teaching responsibility. (3-26-08)

d. Provide documented evidence of preparation for teaching adults. (3-26-08)

07. Instructor Responsibilities. Medication assistant - certified instructor responsibilities are the same as those identified in Subsection 644.01 of these rules. (3-26-08)

08. Program Changes. Board approval is required to make substantive changes in an approved medication assistant - certified training program. The program provider shall submit a description of the proposed change in curriculum or other substantive change to the Board for review at least sixty (60) days before the program provider plans to implement the changes. The Board will notify the provider in writing of its decision. (3-26-08)

09. Periodic Training Program Evaluation. To ensure compliance with the requirements for medication assistant - certified programs: (3-26-08)

a. Each program shall submit a report annually regarding the program's operation and compliance with the Board rules. (3-26-08)

b. Each program shall be on-site surveyed by representatives of the Board and evaluated for ongoing approval every four (4) years or as requested by the Board. (3-26-08)

c. A copy of the survey visit report will be made available to the education and training program. (3-26-08)

10. Withdrawal of Approval. (3-26-08)

a. The Board shall withdraw approval of medication assistant - certified education and training programs when the Board determines that there is not sufficient evidence that the program is meeting requirements.

(3-26-08)

b. The Board shall provide due process rights and adhere to the procedures of the Idaho Administrative Procedures Act, providing notice, opportunity for hearing, and correction of deficiencies. (3-26-08)

c. The Board may consider reinstatement or approval of an educational program upon submission of satisfactory evidence that the program meets the requirements. (3-26-08)

11. Closing of Education Programs. When a person or entity plans to discontinue offering an education program, it shall comply with the requirements set forth at Section 604 of these rules. (3-26-08)

494. APPLICATION FOR CERTIFICATION FOR MEDICATION ASSISTANT - CERTIFIED.

01. Application Submission. An applicant for medication assistant - certified shall submit to the Board: (3-26-08)

a. A completed, notarized application form provided by the Board; (3-26-08)

b. A notarized affidavit of graduation from an approved medication assistant - certified education and training program; (3-26-08)

c. Evidence of successful completion of a medication assistant - certified competency evaluation, approved by the Board; (3-26-08)

d. Payment of application fees as established in Section 497 of these rules; and (3-26-08)

e. Applicant's current fingerprint-based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)

02. Temporary Certification. (3-26-08)

a. At the Board's discretion, and pending completion of the competency evaluation and receipt of the criminal background report, a temporary certification may be issued to an applicant who meets all other requirements. (3-29-12)

b. Temporary certification is valid for six (6) months from the date of issuance or until a permanent certification is issued or denied, whichever occurs first. (3-26-08)

c. The applicant must pay the temporary certification fee established in Section 498 of these rules. (3-26-08)

03. Denial of Certification. Certification as a medication assistant - certified may be denied for any of the following grounds: (3-26-08)

a. Failure to meet any requirement established by statute or these rules; or (3-26-08)

b. False representation of facts on an application for certification; or (3-26-08)

c. Failure to pass any certification examination required by the Board; or (3-29-12)

d. Having another person appear in their place for any certification examination required by the Board; or (3-29-12)

e. Engaging in any conduct which would be grounds for discipline under Section 54-1406A, Idaho Code, or these rules; or (3-26-08)

f. Revocation, suspension, limitation, reprimand, voluntary surrender, or any other disciplinary action

or proceeding including investigation against a certificate to practice by another state or jurisdiction. (3-26-08)

04. Notification. If certification is denied, the Board will notify the applicant in writing of the reason for denial and inform him of his procedural rights under the Idaho Administrative Procedures Act. (3-26-08)

495. CERTIFICATION RENEWAL FOR MEDICATION ASSISTANT - CERTIFIED.

01. Renewal Time. Certifications of medication assistants - certified must be renewed every two (2) years. (3-26-08)

02. Renewal Application. A renewal application will be provided by the Board to persons certified under these rules. The application will be either mailed to the applicant's address on record with the Board no later than one (1) month before expiration of the certification, or be available to applicants on the Board's website. (3-26-08)

03. Final Date to Renew. The original signed renewal application and renewal fees, as establish in Section 497 of these rules, must be submitted to the Board by personal delivery or postmarked no later than August 31 of every even-numbered year. (3-26-08)

04. Attestation of Good Standing. Along with the renewal application and applicable fees, the applicant must submit evidence that he is currently listed in good standing on the state's certified nurse aide registry and has been employed as a medication assistant - certified within the preceding twenty-four (24) month period. (3-26-08)

05. Date Certification Lapsed. Certifications not renewed prior to September 1 of the appropriate year will automatically lapse and be invalid. (3-26-08)

496. REINSTATEMENT OF CERTIFICATION.

01. Within One Year. A person whose certificate has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement within one (1) year by: (3-26-08)

a. Filing a completed renewal application; and (3-26-08)

b. Payment of the verification of records fee and the reinstatement fee as prescribed in Section 498 of these rules. (3-26-08)

02. After One Year. After one (1) year, but less than three (3) years, a person whose certificate has lapsed for failure to pay the renewal fee by the specified date may apply for reinstatement by: (3-26-08)

a. Filing a completed reinstatement application; (3-26-08)

b. Payment of the fees prescribed in Section 497 of these rules; (3-26-08)

c. Providing evidence satisfactory to the Board of the applicant's ability to practice safely and competently; and (3-26-08)

d. A current fingerprint-based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)

03. After Three Years. After three (3) years, a person whose certificate has lapsed for failure to timely pay the renewal fee may apply for reinstatement by: (3-26-08)

a. Filing a completed reinstatement application; (3-26-08)

b. Payment of the fees prescribed in Section 497 of these rules; (3-26-08)

c. Payment of the temporary certification fee prescribed in Section 497 of these rules, if required;

(3-26-08)

d. Providing evidence, satisfactory to the Board, of the applicant's ability to practice safely and competently; and (3-26-08)

e. A current fingerprint-based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)

04. After Discipline. A person whose certificate has been subject to disciplinary action by the Board may apply for reinstatement of the certificate to active and unrestricted status by: (3-26-08)

a. Submitting a completed application for reinstatement; (3-26-08)

b. Payment of the fees prescribed in Section 497 of these rules; (3-26-08)

c. Documenting compliance with any term and restrictions set forth in any order as a condition of reinstatement; (3-26-08)

d. Providing evidence, satisfactory to the Board, of the applicant's ability to practice safely and competently; and (3-26-08)

e. A current fingerprint-based criminal history check as set forth in Section 54-1406A(5), Idaho Code. (3-26-08)

f. A person whose certificate has been revoked may not apply for reinstatement until two (2) years following the order of revocation. (3-26-08)

497. FEES APPLICABLE TO MEDICATION ASSISTANT - CERTIFIED AND THE CERTIFICATION PROCESS.
The applicable fees are as follows: (3-26-08)

01. Initial Fee by Examination. The initial application fee for medication assistant - certified, by examination: thirty-five dollars ($35). (3-26-08)

02. Initial Fee by Endorsement. The initial application fee for medication assistant - certified, by endorsement: forty dollars ($40). (3-26-08)

03. Temporary. Temporary certification fee: twenty-five dollars ($25). (3-26-08)

04. Renewal. Renewal of certification fee: sixty-five dollars ($65). (3-26-08)

05. Reinstatement. Reinstatement of certification fee: fifty dollars ($50). (3-26-08)

06. Records. Verification of records fee: thirty-five dollars ($35). (3-26-08)

07. Verification. Fee for verification of certification to another state or jurisdiction: thirty dollars ($30). (3-26-08)

08. Evaluation of Education Programs. A fee not to exceed one hundred dollars ($100) per day will be assessed for survey and evaluation of medication assistant - certified education programs, which will be due at the time the evaluation is requested. (3-26-08)

498. CHANGES IN NAME AND ADDRESS FOR NOTIFICATION PURPOSES.

01. Change of Name. Whenever a change of certificate holder name occurs, the Board must be immediately notified of the change. Documentation confirming the change of name must be provided to the Board on request. (3-26-08)

02. Change of Address. Whenever a change of certificate holder mailing address occurs, the Board must be immediately notified of the change. (3-26-08)

03. Address for Notification Purposes. The most recent mailing address on record with the Board will be utilized for purposes of all written communication with the certificate holder including, but not limited to, notification of renewal and notices related to disciplinary actions. (3-26-08)

499. -- 599. (RESERVED)

600. NURSING EDUCATION FOR REGISTERED AND PRACTICAL NURSES.

601. PURPOSE OF APPROVAL.
To assure safe practice of nursing by establishing standards, criteria, and curriculum requirements for education programs preparing persons for the practice of nursing, and for enhancing the knowledge and skills of those in practice. (4-5-00)

01. Preparation of Graduates. To ensure that graduates of nursing education programs are prepared for safe and effective nursing practice. (4-5-00)

02. Guide for Development. To serve as a guide for the development of new nursing education programs. (4-5-00)

03. Continued Improvement. To foster the continued improvement of established nursing education programs. (4-5-00)

04. Evaluation Criteria. To provide criteria for the evaluation of new and established nursing education programs. (4-5-00)

05. Eligibility for Licensing Examination. To assure eligibility for admission to the licensing examination for nurses, and to facilitate interstate endorsement of graduates of Board-approved nursing education programs. (4-5-00)

602. APPROVAL OF A NEW EDUCATIONAL PROGRAM.

01. *Educational* Programs. *( )*

a. Any university, college, or other institution wishing to establish a nursing education program must make application to the Board on forms supplied by the Board. The following information *is to* be included with the initial application: *( )*

i. Purpose for establishing the nursing education program; (11-28-84)

ii. Community needs and studies made, as basis for establishing a nursing education program; (11-28-84)

iii. Type of program; (11-28-84)

iv. Accreditation status, relationship of educational program to parent institution; (4-5-00)

v. Financial provision for the educational program; (11-28-84)

vi. Potential student enrollment; (11-28-84)

vii. Provision for qualified faculty; (11-28-84)

viii. Proposed clinical facilities and other physical facilities; and (11-28-84)

ix. Proposed time schedule for initiating the program. (11-28-84)

b. A representative of the Board will visit the educational and clinical facilities and then submit a written report to the Board. (4-5-00)

c. Representatives of the parent institution must meet with the Board to review the application within ninety (90) days of the conduct of the initial survey visit. (4-5-00)

d. Following the Board's review, the parent institution will be notified of the Board's decision within thirty (30) days of the review. (4-5-00)

e. Following the appointment of a qualified nurse administrator, a minimum period of twelve (12) months *is necessary* for planning to be completed before the first class of students is admitted to the program. *( )*

f. Provisional approval may be applied for when the following conditions have been met: (4-5-00)

i. A qualified nurse administrator has been appointed; (11-28-84)

ii. There are sufficient qualified faculty to initiate the program; (11-28-84)

iii. The curriculum and plans for its implementation have been developed, including tentative clinical affiliation agreements; and (7-1-91)

iv. Program policies have been developed. (11-28-84)

g. Provisional approval must be granted before the first students are admitted to the nursing program. (4-5-00)

h. *S*tudents *can be admitted to the nursing program once provisional approval is granted.* *( )*

i. A representative of the Board will make a follow-up survey visit to the educational program and submit a written report to the Board. (7-1-93)

ii. Following the Board’s review, the parent institution will be notified of the Board’s decision within thirty (30) days. (7-1-93)

iii. Following its review, the Board may grant: full approval, if all conditions have been met; or conditional approval, if all standards have not been met, with such conditions and requirements as the Board may designate to insure compliance with standards within the designated time period; or denial of approval, if standards have not been met. (4-5-00)

i. Full approval will be applied for and granted within a three (3) year period following eligibility. (4-5-00)

603. CONTINUANCE OF FULL APPROVAL OF EDUCATIONAL PROGRAM.

01. Continuing Full Approval. *( )*

a. A certificate of continuing full approval will be granted for up to eight (8) years to nursing education programs that consistently meet the Board's standards, as evidenced by: (4-5-00)

i. Information included in the annual report to the Board; (4-5-00)

ii. Information obtained by a Board representative through consultation visits; and (4-5-00)

iii. Acceptable performance on the licensing examination for each program shall be a pass rate of eighty percent (80%) for its first-time writers in any given calendar year. A program whose pass rate falls below eighty percent (80%) for first-time writers in any two (2) consecutive calendar years shall: (4-5-00)

(1) Present to the Board a plan for identifying possible contributing factors and for correcting any identified deficiencies; and (4-5-00)

(2) Submit periodic progress reports on a schedule determined by the Board. (4-5-00)

b. To ensure continuing compliance with the Board's standards, each approved nursing education program will submit an annual report to the Board. Based on its findings the Board may: (4-5-00)

i. Request additional information from the nursing education program. (7-1-91)

ii. Conduct an on-site review of the nursing education program. (7-1-91)

iii. Request a full survey of the nursing education program. (7-1-91)

c. Written reports of the survey will be submitted to the Board for review and acceptance. Copies of the report and recommendations will then be sent to the educational institution within thirty (30) days of the review. (4-5-00)

d. Nursing education programs that do not meet the standards of the Board may be placed on conditional approval status, with such conditions and requirements as the Board may designate to ensure compliance with standards within a reasonable time period. (4-5-00)

e. At the end of the period of conditional approval, full approval may be restored if the required conditions have been met, or approval may be withdrawn if the required conditions have not been met. Upon petition and written documentation by the nursing education program of extenuating circumstances, the Board may consider extending the period of conditional approval. The school must submit documentation within ten (10) days of notification of withdrawal of full approval. (4-5-00)

f. Following notification of the Board's decision to place a program on conditional approval or to withdraw program approval, the educational program will have ten (10) days in which to request a hearing. Upon receipt of a request for hearing, the Board's action will be stayed until the matter is heard. Hearings shall be conducted in the same manner as disciplinary hearings, in accordance with Title 67, Chapter 52, Idaho Code. (4-5-00)

604. DISCONTINUANCE OF AN EDUCATIONAL PROGRAM.
When an educational institution plans to discontinue its education program, the following procedure must be used: (11-28-84)

01. Notify in Writing. Notify the Board in writing at least one (1) academic year prior to the closure; and (11-28-84)

02. Follow Plan. Follow institutional plan for program closure including: (4-5-00)

a. Maintenance of program standards until last class has graduated; and (4-5-00)

b. Provision for disposition of student records. (4-5-00)

605. -- 629. (RESERVED)

630. PHILOSOPHY AND OBJECTIVES OF EDUCATIONAL PROGRAM.
The nursing education program shall have statements of philosophy and objectives that are consistent with those of the parent institution and with the law governing the practice of nursing. (11-28-84)

631. ADMINISTRATION OF EDUCATIONAL PROGRAM.

01. Administration of Educational Programs. ***( )***

a. The educational program in nursing shall be an integral part of an accredited institution of higher learning. (4-5-00)

b. There shall be an institutional organizational design that demonstrates the relationship of the program to the administration and to comparable programs within the institution, and that clearly delineates the lines of authority, responsibility, and channels of communication. The program faculty are given the opportunity to participate in the governance of the program and the institution. (4-5-00)

i. Qualifications, rights, and responsibilities of faculty are addressed in written personnel policies which are consistent with those of the parent institution as well as those of other programs within the institution. (4-5-00)

ii. Faculty workloads shall be consistent with responsibilities identified in Section 644 of these rules. (4-5-00)

c. The program must have an organizational design with clearly defined authority, responsibility, and channels of communication that assures both faculty and student involvement. (4-5-00)

d. Administrative responsibility and control shall be delegated to the nursing education administrator by the parent institution. (4-5-00)

e. The program must have a written purpose that is consistent with the mission of the institution. The program must have written policies that are congruent with the institution's policies and are periodically reviewed. (4-5-00)

632. FINANCIAL SUPPORT OF EDUCATIONAL PROGRAM FOR PRACTICAL NURSE, REGISTERED NURSE, AND ADVANCED PRACTICE REGISTERED NURSE.
There must be evidence of financial support and resources adequate to achieve the purpose of the program. Resources include: facilities, equipment, supplies, and qualified administrative, instructional, and support personnel and services. (4-5-00)

633. RECORDS OF EDUCATIONAL PROGRAM.
The nursing education program structure shall provide for pre-admission and current records for each student while enrolled. Final records for each student shall be maintained on a permanent basis in accordance with the policies of the parent institution. (11-28-84)

634. -- 639. (RESERVED)

640. FACULTY QUALIFICATIONS.

01. **Practical Nurse Program Faculty Qualifications**. Nursing faculty who have primary responsibility for planning, implementing, and evaluating curriculum in a program leading to licensure as a practical nurse shall have: (4-5-00)

a. A current, unencumbered license to practice as a registered nurse in this state; (4-5-00)

b. A minimum of a baccalaureate degree with a major in nursing; and (4-5-00)

c. Evidence of nursing practice experience. (4-5-00)

02. **Registered Nurse Program Faculty Qualifications**. There shall be sufficient faculty to achieve the purpose of the program. (4-5-00)

a. Nursing faculty who have primary responsibility for planning, implementing, and evaluating curriculum in a program leading to licensure as a registered nurse shall have: (4-5-00)

i. A current, unencumbered license to practice as a registered nurse in this state; (4-5-00)

ii. A minimum of a master's degree with a major in nursing; and (4-5-00)

iii. Evidence of nursing practice experience. (4-5-00)

b. Additional support faculty necessary to accomplish program objectives shall have: (4-5-00)

i. A current, unencumbered license to practice as a registered nurse in this state; (4-5-00)

ii. A minimum of a baccalaureate degree with a major in nursing; and (4-5-00)

iii. A plan approved by the Board for accomplishment of the master's of nursing within three (3) years of appointment to the faculty position. (4-5-00)

***03*. Advanced Practice Registered Nurse Program Faculty Qualifications**. There shall be sufficient faculty to achieve the purpose of the program. Faculty who have primary responsibility for planning, implementing and evaluating curriculum in a program preparing individuals to license as an advanced practice registered nurse shall have: (3-28-18)

a. A current, unencumbered license to practice as a registered nurse in this state; and (4-5-00)

b. A graduate degree or post-graduate degree in nursing; (3-28-18)

c. An advanced practice registered nurse license and national certification if responsible for courses in a specific advanced practice registered nurse role and population; and (3-28-18)

d. Evidence of advanced registered nursing practice experience. (3-28-18)

***04*. Non-clinical Nursing Courses Faculty Qualifications**. Interprofessional faculty teaching non-clinical nursing course shall have advanced preparation appropriate for the content being taught. (3-28-18)

***05*. Clinical Preceptors in Registered Nurse, Practical Nurse, and Advanced Practice Registered Nurse Programs**. Clinical preceptors may be used to enhance clinical learning experiences. (3-29-17)

a. Clinical preceptors in registered and practical nurse programs shall be licensed for nursing practice at or above the license role for which the student is preparing. (3-29-17)

b. Clinical preceptors in advanced practice registered nurse programs shall be licensed to practice as an advanced practice registered nurse (APRN), a physician (MD or DO), or a physician assistant (PA) in an area of practice relevant to the educational course objectives. (3-29-17)

c. Student-Preceptor ratio shall be appropriate to accomplishment of learning objectives; to provide for patient safety; and to the complexity of the clinical situation. (4-5-00)

d. Criteria for selecting preceptors shall be in writing. (4-5-00)

e. Functions and responsibilities of the preceptor shall be clearly delineated in a written agreement between the agency, the preceptor, and the educational program. (4-5-00)

f. The faculty shall be responsible to: (4-5-00)

i. Make arrangements with agency personnel in advance of the clinical experience, providing information such as numbers of students to be in the agency at a time, dates and times scheduled for clinical

experience, faculty supervision to be provided, and arrange for formal orientation of preceptors. (4-5-00)

ii. Inform agency personnel of faculty-defined objectives and serve as a guide for selecting students' learning experiences and making assignments. (4-5-00)

iii. Monitor students' assignments, make periodic site visits to the agency, evaluate students' performance on a regular basis with input from the student and from the preceptor, and be available by telecommunication during students' scheduled clinical time. (4-5-00)

g. Provide direct supervision, by either a qualified faculty person or an experienced registered nurse employee of the agency, during initial home visits and whenever the student is implementing a nursing skill for the first time or a nursing skill with which the student has had limited experience. (4-5-00)

07. Continued Study. The parent institution will support and make provisions for continued professional development of the faculty. (7-1-91)

641. FACULTY.

01. Numbers Needed. There shall be sufficient faculty with educational preparation and nursing expertise to meet the objectives and purposes of the nursing education program. (4-5-00)

a. Number of faculty shall be sufficient to design and implement the curriculum necessary to prepare students to function in a rapidly changing healthcare environment. (4-5-00)

b. Number of faculty in the clinical setting shall be sufficient in number to assure patient safety and meet student learning needs. (4-5-00)

02. Faculty-Student Ratio. There shall be no more than ten (10) students for every faculty person in the clinical agencies. Deviations may be presented for approval with the program's annual report to the Board with written justification assuring client safety and supporting accomplishment of program objectives. (3-24-17)

642. (RESERVED)

643. ADMINISTRATOR RESPONSIBILITIES AND QUALIFICATIONS.

01. Administrator Responsibilities. The administrator provides the leadership and is accountable for the administration, planning, implementation, and evaluation of the program. The administrator's responsibilities include, but are not limited to: (4-5-00)

a. Development and maintenance of an environment conducive to the teaching and learning processes; (4-5-00)

b. Liaison with and maintenance of the relationship with administrative and other units within the institution; (4-5-00)

c. Leadership within the faculty for the development and implementation of the curriculum; (4-5-00)

d. Preparation and administration of the program budget; (4-5-00)

e. Facilitation of faculty recruitment, development, performance review, promotion, and retention; (4-5-00)

f. Liaison with and maintenance of the relationship with the Board; and (4-5-00)

g. Facilitation of cooperative agreements with practice sites. (4-5-00)

02. Administrator Qualifications. The administrator of the program shall be a licensed registered nurse, with a current unencumbered license to practice in this state, and with the additional education and experience

necessary to direct the program. (3-28-18)

a. Practical Nurse Administrator. The administrator in a program preparing for practical nurse licensure shall: (4-5-00)

i. Hold a minimum of a graduate degree with a major in nursing; and (3-28-18)

ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. (4-5-00)

b. Registered Nurse Administrator. The administrator in a program preparing for registered nurse licensure shall: (4-5-00)

i. Hold a minimum of a graduate degree with a major in nursing and meet institutional requirements; and (3-28-18)

ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. (4-5-00)

c. Advanced Practice Registered Nurse Administrator. The administrator in a program preparing for advanced practice registered nursing shall: (4-5-00)

i. Hold a graduate and post-graduate degree, one (1) of which is in nursing; and (3-28-18)

ii. Have evidence of experience in education, administration, and practice sufficient to administer the program. (4-5-00)

03. Numbers of Administrators Needed. There shall be at least one (1) qualified nursing administrator for each nursing education department or division. In institutions that offer nursing education programs for more than one (1) level of preparation and where the scope of administrative responsibility so requires, there shall be an individual administrator for each nursing education program. (4-7-11)

644. FACULTY RESPONSIBILITIES.

01. Faculty Responsibilities. Nursing faculty responsibilities include, but are not limited to the following: *( )*

a. Assess, plan, implement, evaluate, and modify the program based on sociological and environmental indicators; (4-5-00)

b. Design, implement, evaluate, and update the curriculum using a written plan; (4-5-00)

c. Develop, implement, evaluate, and update policies for student admission, progression, retention, and graduation in keeping with the policies of the school; (4-5-00)

d. Participate in academic advisement and guidance of students; (4-5-00)

e. Provide theoretical instruction and practice experiences; (4-5-00)

f. Select, monitor, and evaluate preceptors and the student learning experiences; (4-5-00)

g. Evaluate student achievement of curricular outcomes related to nursing knowledge and practice; (4-5-00)

h. Evaluate teaching effectiveness; (4-5-00)

i. Participate in activities that facilitate maintaining the faculty members' own nursing competence

and professional expertise in the area of teaching responsibility, including instructional methodology; (4-5-00)

j. Participate in other scholarly activities, including research, consistent with institutional and professional requirements; and (4-5-00)

k. Participate in the organization of the program and institution. (4-5-00)

645. -- 659. (RESERVED)

660. STUDENTS, EDUCATIONAL PROGRAM.

01. Student Policies. Student policies should facilitate mobility and articulation and be consistent with the educational standards of the parent institution. Student policies in relation to the following must be in writing and available: *( )*

a. Admission, readmission, progression, retention, graduation, dismissal, and withdrawal; (4-5-00)

b. Physical, mental health, and legal standards required by affiliate agencies and the law governing the practice of nursing; (4-5-00)

c. Student responsibilities; (4-5-00)

d. Student rights and grievance procedures; and (4-5-00)

e. Student opportunity to participate in program governance and evaluation. (4-5-00)

661. -- 679. (RESERVED)

680. CURRICULUM, EDUCATIONAL PROGRAM.

01. Student Competence. (4-5-00)

a. Students enrolled in a practical nursing program shall be provided the opportunity to acquire and demonstrate the knowledge, skills, and abilities for safe and effective nursing practice. The graduate from a practical nurse program is responsible and accountable to practice according to the standards of practice for the licensed practical nurse as defined in Section 460 of these rules. (4-6-05)

b. Students enrolled in a registered nurse program shall be provided the opportunity to acquire and demonstrate the knowledge, skills, and abilities for safe and effective nursing practice. The graduate from a registered nurse program is responsible and accountable to practice according to the standards of practice for the registered nurse as defined in Section 401 of these rules. (4-6-05)

c. Students enrolled in advanced practice registered nursing education shall be provided the opportunity to acquire and demonstrate the knowledge, skills, and abilities for safe and effective advanced nursing practice. The graduate from an advanced practice registered nursing program is responsible and accountable to practice according to the standards for the advanced practice nursing role for which the nurse is prepared as defined in Section 280 of these rules. (4-5-00)

02. Program Evaluation. The program shall have a plan for total program evaluation that includes, but is not limited to the following: organization and administration, faculty, students, curriculum, and performance of graduates. Implementation of the plan and use of findings for relevant decision making must be evident. (4-5-00)

681. CURRICULUM REQUIREMENTS FOR NURSING EDUCATION PROGRAMS.

01. General Curriculum. *F*or licensed practical nurses, registered nurses, and advanced practice registered nurses *the general curriculum is as follows*: *( )*

a. Be planned, implemented, and evaluated by the faculty with provisions for student input; (5-3-03)

b. Reflect the mission and purpose of the nursing education program; (5-3-03)

c. Be organized logically and sequenced appropriately; (5-3-03)

d. Facilitate articulation for horizontal and vertical mobility; (5-3-03)

e. Have a syllabus for each nursing course; (5-3-03)

f. Have written, measurable terminal outcomes that reflect the role of the graduate; and (4-5-00)

g. Be responsive to changing healthcare environment. (4-5-00)

02. Curriculum Changes. Major curriculum changes, as defined in Section 700 of these rules, will be submitted to the Board for approval prior to implementation. (4-5-00)

03. Practice Sites. The program will have sufficient correlated practice experiences to assure development of nursing competencies. (4-5-00)

***04*. Practical Nurse Curriculum**. The curriculum includes: (5-3-03)

a. Nursing didactic content and practice experience that establish the knowledge base for demonstrating beginning competency; and (5-3-03)

b. Integrated, combined or separate coursework from the following academic disciplines and meets requirements for the credential with a major in practical nursing: (5-3-03)

i. Communication and information systems concepts; (5-3-03)

ii. Behavioral and social science concepts that serve as a framework for understanding growth and development throughout the life cycle, human behavior, interpersonal relationships, and cultural diversity; (5-3-03)

iii. Physical and biological sciences concepts that help the students gain an understanding of the principles of scientific theory and computation; (5-3-03)

iv. Nursing concepts that provide the basis for understanding the principles of nursing care and appropriate and sufficient correlated nursing practice experiences to assure development of competencies as a member of the interdisciplinary team; (5-3-03)

v. Concepts regarding legal, managerial, economic, and ethical issues related to responsibilities of the practical nurse; and (4-5-00)

vi. Courses to meet the school's general education requirements for the credential awarded. (4-5-00)

***05*. Registered Nurse Curriculum**. The curriculum includes: (5-3-03)

a. Nursing didactic content and practice experience that establish the knowledge base for demonstrating beginning competency related to: (5-3-03)

i. Nursing practice; (5-3-03)

ii. Systems thinking and interdisciplinary team function; and (4-5-00)

iii. The promotion and restoration of optimal patient health throughout the lifespan in a variety of primary, secondary and tertiary settings focusing on individuals, groups, and communities. (5-3-03)

b. Integrated, combined or separate coursework from the following academic disciplines and meets requirements for a degree with a major in nursing: (5-3-03)

i. Concepts in written and oral communication, values clarification, scientific inquiry, computation, and informatics; (5-3-03)

ii. Behavioral and social sciences concepts that serve as a framework for the understanding of growth and development throughout the life cycle, human behavior, interpersonal relationships, cultural diversity, and economics related to the social context of healthcare; (5-3-03)

iii. Physical and biological sciences concepts that help the student gain an understanding of the principles of scientific theory; (5-3-03)

iv. Arts and humanities concepts that develop the aesthetic, ethical, and intellectual capabilities of the student; (5-3-03)

v. Concepts regarding research, nursing theory, legal and ethical issues, trends in nursing, principles of education and learning, and professional responsibilities; (5-3-03)

vi. Experiences that promote the development of leadership and management skills, interdisciplinary and professional socialization; and (4-5-00)

vii. Courses to meet the school's general education requirements for the academic degree. (4-5-00)

06. **Advanced Practice Registered Nursing Program Curriculum**. The curriculum includes: (5-3-03)

a. Content necessary to prepare the graduate for practice consistent with defined standards for advanced nursing practice; and (5-3-03)

b. Content from nursing and related academic disciplines and meet requirements for a graduate degree with a major in nursing: (5-3-03)

i. Advanced theory and research in nursing, biological and behavioral sciences, interdisciplinary education, cultural diversity, economics and informatics sufficient to practice as a graduate prepared registered nurse; (5-3-03)

ii. Legal, ethical, and professional responsibilities of a graduate prepared registered nurse; (5-3-03)

iii. Didactic content and supervised practice experience relevant to the nursing focus of the graduate specialty; and (5-3-03)

iv. Courses to meet the school's requirements for the graduate degree. (5-3-03)

682. -- 699. (RESERVED)

700. CURRICULUM CHANGE, EDUCATIONAL PROGRAM.
Any proposed curriculum revision that involves major changes in the philosophy and objectives, significant course content changes, or changes in the length of the program, shall be submitted to and approved by the Board prior to implementation. Minor curriculum changes such as redistribution of nursing course content or slight increase or decrease in the number of theory and clinical hours must be reported to the Board in the Annual Report, but do not require Board approval. Curriculum revision that alters existing articulation agreements must be approved by the State Board of Education prior to implementation. (4-5-00)

701. -- 729. (RESERVED)

730. PRACTICE SITES.

The program must have sufficient practice experiences to assure development of nursing competencies. (4-5-00)

01. Approval by Other Agencies. Cooperating agencies shall be approved by the recognized accreditation, evaluation or licensing body as appropriate. *( )*

02. Evaluation by Faculty. Agencies used to provide practice experiences must be evaluated periodically by faculty. (4-5-00)

03. Sufficient Experiences. There must be sufficient practice experiences to assure the development of nursing competencies consistent with the level of preparation. (4-5-00)

04. Written Agreements. There must be written agreements with cooperating agencies that are reviewed and revised periodically. (4-5-00)

05. Faculty Supervision. Sufficient faculty must be employed to supervise student practice experiences. An appropriate student to faculty ratio must be maintained to provide for safety and protection of patients, students, and faculty members. (4-5-00)

06. Planned Communication. Means shall be provided for ongoing and periodic planned communication between faculty and agency administrative personnel and between faculties of all educational programs using the agency; the responsibility for coordination shall be specifically identified. (4-5-00)

731. -- 899. (RESERVED)

900. *INITIAL LICENSE*, RENEWAL AND REINSTATEMENT FEES.

01. Assessed Fees. Fees will be assessed for renewal of licensure or for reinstatement of a lapsed, disciplined, limited, or emeritus license. Any person submitting the renewal application and fee post-marked or electronically dated later than August 31 shall be considered delinquent and the license lapsed and therefore invalid:

	Registered Nurse	*Practical Nurse*	*Advanced Practice Nurse*
Temporary License Fee	*$25*	*$25*	*$25*
Initial Application Fee			*$90*
License by Exam Fee	*$90*	*$75*	
License by Endorsement	*$110*	*$110*	
License Renewal	*$90*	*$90*	*$90*
Expiration date	*Aug 31 - odd years*	*Aug 31 - even years*	*Aug 31 - odd years*

( )

02. **Reinstatement Fee**. Nurses requesting reinstatement of a lapsed, disciplined, *or restricted license*, or reinstatement of an emeritus license to active status, will be assessed the records verification and renewal fees. *( )*

901. *OTHER* FEES.
Fees will be assessed for licensure of registered and practical nurses by examination and endorsement, and for temporary licenses and verification of licensure to another state.

Records Verification Fee	*$35*
Return Check Fee	*$25*

( )

902. (RESERVED)

903. EDUCATION PROGRAM FEES.

01. Evaluation of Nursing Education Programs. A fee not to exceed two hundred fifty dollars ($250) per day will be assessed for survey and evaluation of nursing education programs which will be due at the time the evaluation is requested. (3-30-01)

02. Evaluation of Courses of Instruction. A fee not to exceed five hundred dollars ($500) will be assessed for approval of courses of instruction related to nursing that are offered by commercial establishments. This fee will be due at the time the evaluation is requested. (3-30-01)

***904*. NO REFUNDS.**
Fees are not refundable either in whole or in part. (3-30-01)

***905*. ONLY ONE LICENSE - EXCEPTION.**
A licensee may hold only one (1) active renewable license to practice nursing at any time except that licensed advanced practice registered nurses must also be licensed to practice as licensed registered nurses. (3-30-01)

90*6*. -- 998. (RESERVED)

***999*. ADMINISTRATIVE FINE.**
An administrative fine not to exceed one hundred dollars ($100) for each separate offense of practicing nursing without current licensure may be assessed as a condition of reinstatement of a license, or the issuance of a temporary or renewable license. *( )*

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

DOCKET NO. 24-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-308, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.01.01, Rules of the Board of Architectural Examiners:

IDAPA 24.01.01

- 24.01.01, *Rules of the Board of Architectural Examiners:* all proposed rules except 100.02.c. and 300.01.b.iii.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.01.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Board of Architectural Examiners was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.01.01, the Rules of the Board of Architectural Examiners. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4550 - 4556.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-313, Idaho Code, as follows:

Application fee: $25;
Annual license renewal fee: $50;
Endorsement license fee: $50;
Temporary license fee: $50.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.01.01 – RULES OF THE BOARD OF ARCHITECTURAL EXAMINERS

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Board of Architectural Examiners by the provisions of Section 54-308, Idaho Code. (4-11-19)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.01.01, "Rules of the Board of Architectural Examiners." (7-1-93)

002. INCORPORATION BY REFERENCE.
The document titled NCARB Rules of Conduct as published by the National Council of Architectural Registration Boards, dated July 2014, is hereby incorporated by reference. All documents incorporated by reference can be obtained at the office of the Bureau and on the Board website. (4-11-19)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. **AXP**. Architectural Experience Program. (3-29-17)

02. **Direct Supervision**. Direct supervision of an unlicensed individual in the practice of architecture means the exercise of management, control, authority, responsibility, oversight and guidance over the unlicensed individuals work, activities and conduct. (3-27-13)

03. **NAAB**. National Architectural Accrediting Board. (3-29-17)

04. **NCARB**. National Council of Architectural Registration Board. (3-29-17)

011. -- 099. (RESERVED)

100. ORGANIZATION.

01. **Organization of the Board**. At the first meeting of each calendar year, the Board shall organize and elect from its members a Chairman and Vice Chairman, who shall assume the duties of their respective offices immediately upon such selection. (3-29-17)

02. **Board Members and Duties**. (7-1-93)

a. Chairman. The Chairman shall be a voting member of the Board, and when present preside at all meetings, appoint with the consent of the Board, all committees, and shall otherwise perform all duties pertaining to the office of Chairman. The Chairman shall be an ex-officio member of all committees. (7-1-93)

b. Vice Chairman. The Vice Chairman shall, in the absence or incapacity of the Chairman exercise the duties and possess all the powers of the Chairman. (7-1-93)

101. -- 149. (RESERVED)

150. PROCEDURES AND DUTIES.

01. **Meetings**. The Board shall meet at least four (4) times annually at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman or at the request of two (2) Board members, and all members shall be notified in writing, thereof. (4-11-19)

02. **Voting**. Any motion before the Board shall fail on a tie vote. ( )

151. -- 174. (RESERVED)

175. APPLICANT PAST CRIME REVIEW.

01. Review Authority. In reviewing an Applicant for licensure who has been convicted of a felony or misdemeanor as set forth in section 54-314(1)(d) Idaho Code, the Board may utilize the follow process and factors to determine the applicant's suitability for licensure: (4-11-19)

02. Exemption Review. The exemption review shall consist of a review of any documents relating to the crime and any supplemental information provided by the applicant bearing upon his suitability for registration. The Board may, at its discretion, grant an interview of the applicant. (4-11-19)

a. During the review, the Board shall consider the following factors or evidence: (4-11-19)

i. The severity or nature of the crime; (4-11-19)

ii. The period of time that has passed since the crime under review; (4-11-19)

iii. The number or pattern of crimes or other similar incidents; (4-11-19)

iv. The circumstances surrounding the crime that would help determine the risk of repetition; (4-11-19)

v. The relationship of the crime to the practice of architecture; and (4-11-19)

vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (4-11-19)

b. The applicant shall bear the burden of establishing their current suitability for licensure. (4-11-19)

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATIONS AND LICENSURE.
No refund of fees shall be made.

FEE TYPE	AMOUNT (Not to Exceed)
Examination	Established by NCARB
Application	$25.00
Annual renewal	$50.00
Endorsement license	$50.00
Temporary license	$50.00
Reinstatement	As provided in Section 67-2614, Idaho Code

( )

201. -- 249. (RESERVED)

250. QUALIFICATIONS OF APPLICANTS FOR EXAMINATION.

01. Accredited Degree Applicants. All applicants for the Architectural Registration Examination (ARE) shall possess a professional degree in architecture from a program that is accredited by the National Architectural Accrediting Board (NAAB) or that is approved by the Board. All applicants for the ARE must have started or completed the Architectural Experience Program (AXP) requirements. (4-11-19)

02. Experience in Lieu of Degree Applicants. The Board may allow an applicant without an architecture degree to sit for the architecture examination upon determining that such applicant has attained the

knowledge and skill approximating that attained by graduation from an accredited architecture curriculum including the submission of a record of eight (8) years or more of experience in architecture work of a character deemed satisfactory by the Board. Said experience may include that necessary for completion of the AXP. Two (2) years of eight (8) or more years of experience may be accepted if determined that such experience is directly related to architecture under the direct supervision of a registered engineer (practicing as a structural, civil, mechanical or electrical engineer in the field of building construction) or a registered landscape architect. At least six (6) years of such experience must be obtained while working under the direct supervision of a licensed architect. A person is qualified for the examination once they have met the experience requirement and started the AXP. (3-29-17)

251. – 299. (RESERVED)

300. APPLICATION.

01. Licensure by Examination. (7-1-93)

a. Application for licensure by examination shall be made on the uniform application form adopted by the Board. (4-11-19)

b. Applicants shall furnish all information required by the uniform application form and shall include the following: (3-15-02)

i. If applying based upon an accredited degree: Furnish certification of graduation and a certified transcript of all subjects and grades received for all college courses taken. (4-11-19)

ii. If applying based upon experience in lieu of an accredited degree: Furnish statement or statements, of all actual architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment. (4-11-19)

c. Application shall not be reviewed by the Board until all required information is furnished and the required fee is paid. (3-15-02)

d. Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. (4-11-19)

02. Licensure by Endorsement -- Blue Cover. General requirements. Application shall be accompanied by a current blue cover dossier compiled by the NCARB certifying that the applicant has satisfactorily passed the standard NCARB examinations, or NCARB authorized equivalent and shall include letters, transcripts, and other documents substantiating all statements relative to education and experience made in said application as required by the Board. (3-29-17)

03. Licensure by Endorsement -- Equivalency. (7-1-97)

a. Applicants for licensure by endorsement must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (3-29-17)

b. Applicants shall provide proof of holding a current and valid license issued by another state, a licensing authority recognized by the Board. (3-29-17)

c. Applicants shall provide proof of satisfactorily passing the NCARB examinations or NCARB authorized equivalent examination, as determined by the Board. (3-29-17)

301. -- 349. (RESERVED)

350. REGISTRATION EXAMINATION.
The Board, having found that the content and methodology of the ARE prepared by NCARB is the most practicable and effective examination to test an applicant's qualifications for registration, adopts the ARE as the single, written

and/or electronic examination for registration of architects in this state, and further adopts the following rules with respect thereto: (7-1-97)

01. When Taken. The Board will cause the ARE, prepared by NCARB, to be administered to all applicants eligible, in accordance with the requirements of the Board, by their training and education to be examined for registration on dates scheduled by the NCARB. The Board shall cause repeat divisions of the ARE to be administered to qualified candidates on such dates as are scheduled by the NCARB. The ARE examination is a multiple part examination prepared by NCARB. Content of the examination in all of its sections is available from the Board or NCARB. (4-11-06)

02. Grading. The ARE shall be graded in accordance with the methods and procedures recommended by the NCARB. To achieve a passing grade on the ARE, an applicant must receive a passing grade in each division. Grades from the individual division may not be averaged. Applicants will have unlimited opportunities to retake division which they fail except as set forth in these rules. The Board shall accept passing grades of computer administered divisions of the ARE as satisfying the requirements for said division(s) when such examinations are administered as prescribed by the NCARB. (4-11-06)

03. Passing (ARE). To pass the ARE, an applicant must achieve a passing grade on each division. Subject to certain conditions, a passing grade for any division of the ARE shall be valid for five (5) years, after which time the division must be retaken unless all divisions have been passed. The Board may allow a reasonable extension of such period in circumstances where completion of all divisions is prevented by a medical condition, active duty in military service, or other like causes. Approval to take the ARE will terminate unless the applicant has passed or failed a division of the ARE within a period of five (5) years. Any applicant whose approval has so terminated must reapply for approval to take the ARE. (3-29-17)

351. -- 374. (RESERVED)

375. ARCHITECTURAL INTERN.
An individual may represent themselves as an architectural intern only under the following conditions: (3-15-02)

01. Supervision. Each architectural intern shall be employed by and work under the direct supervision of an Idaho licensed architect. (3-15-02)

02. AXP Enrollment. Each architectural intern shall be enrolled in NCARB's AXP and shall maintain a record in good standing. (3-29-17)

03. Record. Each architectural intern shall possess either: (3-15-02)

a. A record with the NCARB establishing that AXP training has been started; or (3-29-17)

b. A record establishing completion of all AXP training regulations as specified by NCARB. (3-29-17)

04. Prohibitions. An architectural intern shall not sign or seal any architectural plan, specification, or other document. An architectural intern shall not engage in the practice of architecture except under the direct supervision of an Idaho licensed architect. (3-15-02)

376. -- 399. (RESERVED)

400. FIRM NAME.

01. Firm Names. Firm names incorporating the use of names of unlicensed individuals are considered in violation of Section 54-315, Idaho Code. A firm may continue to utilize the name of a retired or deceased formerly licensed architect so long as their unlicensed status is clearly disclosed. (4-11-19)

401. -- 409. (RESERVED)

410. USE OF AN ARCHITECT'S SEAL.
An architect's seal may be placed on all technical submissions prepared personally by the architect or prepared under the architect's responsible control or as otherwise allowed under the provisions of Section 54-304, Idaho Code. Nothing in this rule shall limit an architect's responsibility to the owner for the work of other licensed professionals to the extent established by contract between the owner and architect. (4-11-19)

411. -- 449. (RESERVED)

450. CONTINUING EDUCATION.
In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-20-04)

01. Continuing Education Requirement. Each Idaho licensed architect must successfully complete a minimum of twelve (12) hours of continuing education in architectural health, safety and welfare in the calendar year prior to license renewal. (3-29-17)

a. Each licensee will submit to the Board their annual renewal application form and required fees, and will certify that they have complied with annual CE requirements for the previous calendar year. Each licensee will provide to the Board together with their application for reinstatement of an expired license form and required fees, proof of compliance with annual CE requirements for each year that their license was expired. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (3-29-17)

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their initial license. Licensees who have failed to meet the annual continuing education requirement may petition the Board for additional time to complete their continuing education requirements. (3-20-04)

c. A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. (3-29-12)

d. One (1) continuing education hour shall be equal to one (1) learning unit, as determined by the American Institute of Architects, or one (1) clock hour of education, as determined by the Board. (3-20-04)

02. Architectural Health, Safety and Welfare Requirement. To qualify for continuing education, a course must involve architectural health, safety and welfare, which generally relates to the structural integrity or unimpairedness of a building or building sites and be germane to the practice of architecture. Courses may include the following subject areas: (3-29-17)

a. Legal, which includes laws, codes, zoning, regulations, standards, life safety, accessibility, ethics, insurance to protect owners and public. (3-29-12)

b. Building systems, which includes structural, mechanical, electrical, plumbing, communications, security, and fire protection. (3-29-12)

c. Environmental, which includes energy efficiency, sustainability, natural resources, natural hazards, hazardous materials, weatherproofing, and insulation. (3-29-12)

d. Occupant comfort, which includes air quality, lighting, acoustics, ergonomics. (3-29-12)

e. Materials and methods, which includes construction systems, products, finishes, furnishings, and equipment. (3-29-12)

f. Preservation, which includes historical, reuse, and adaptation. (3-29-12)

g. Pre-Design, which includes land use analysis, programming, site selection, site and soils analysis, and surveying. (3-29-12)

h. Design, which includes urban planning, master planning, building design, site design, interiors,

safety and security measures. (3-29-12)

i. Construction documents, which includes drawings, specifications, and delivery methods. (3-29-12)

j. Construction contract administration, which includes contracts, bidding, contract negotiations. (3-29-12)

03. Approved Credit. Continuing education courses must be in the subject of architectural health, safety and welfare and be presented by: (3-20-04)

a. Providers approved by the National Architectural Accreditation Board (NAAB) schools of architecture; or (3-20-04)

b. Providers approved by the National Council of Architectural Registration Board (NCARB); or (3-20-04)

c. Providers approved by the American Institute of Architects (AIA); or (3-20-04)

d. Providers as otherwise approved by the Board. All requests for approval or pre-approval of continuing education credits must be made to the Board in writing and must be accompanied by a statement that includes the name of the instructor or instructors, his or her qualifications, the date, time and location of the course, the specific agenda for the course, the number of continuing education hours requested, and a statement of how the course is believed to be in the nature of architectural health, safety and welfare. (3-20-04)

04. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee for a period of five (5) years and provided to the Board upon request of the Board or its agent. (3-29-12)

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-20-04)

06. Exemptions. A licensed architect shall be deemed to have complied with the CE requirements if the licensee attests in the required affidavit that for not less than ten (10) months of the preceding one (1) year period of licensure, the architect has met one (1) of the following criteria: (3-20-04)

a. Meets the military exemption set forth in Section 67-2602A, Idaho Code. (4-11-19)

b. Is a government employee working as an architect and assigned to duty outside the United States. (3-20-04)

c. Special Exemption. The Board shall have authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The architect must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-20-04)

451. -- 749. (RESERVED)

750. CODE OF ETHICS.

01. Rules of Conduct. The NCARB Rules of Conduct are hereby adopted as the Code of Ethics for all Idaho licensed architects. (3-15-02)

751. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.02.01 – RULES OF THE STATE ATHLETIC COMMISSION

DOCKET NO. 24-0201-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-406, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 03.01.01, rules of the State Athletic Commission:

IDAPA 24.02.01

- 24.02.01, *Rules of the State Athletic Commission*
  (formerly IDAPA 03.01.01, Rules of the State Athletic Commission).

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.02.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Athletic Commission was published. This pending rule will allow the Legislature to review for codification IDAPA 24.02.01, the Rules of the State Athletic Commission. The Commission considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing commission fees within authorized limits to maintain commission liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4559 - 4602.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-406, 54-410, and 54-416, Idaho Code, as follows:

Application fee for a combatant: not to exceed $150;
Application fee for a non-combatant: not to exceed $150;
Application fee for a matchmaker: not to exceed $250;
Application fee for a promoter: not to exceed $1,000;
Application fee for a sanction permit: not to exceed $200;
Application fee for a ring official: not to exceed $150;
Annual renewal fee for a combatant: not to exceed $150;
Annual renewal fee for a non-combatant: not to exceed $150;
Annual renewal fee for a matchmaker: not to exceed $250;
Annual renewal fee for a promoter: not to exceed $750;
Annual renewal for a ring official: not to exceed $150.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state

general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
Rulemaking authority is vested in the Athletic Commission in Title 54, Chapter 4, Idaho Code. (3-3-94)

001. TITLE AND SCOPE.
These rules are to be known and cited at IDAPA 24.02.01, "Rules of the State Athletic Commission." These rules are intended to provide clarification on the methods and restrictions of unarmed combat in Idaho. (3-3-94)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Champion. A person who has been formally acknowledged supreme in a branch of athletics or game of skill and who is ready to contend with any qualified challenger. (3-3-94)

02. Combatant. Any boxer, kickboxer, martial artist, or wrestler who takes part as a competitor in an event. A "combatant" sometimes is referred to as a "contestant" in these rules. (4-7-11)

03. Event. A program of one (1) or more unarmed combat contests or exhibitions. (3-29-10)

a. An "amateur event" is an event in which the only combatants are amateur combatants. (3-29-10)

b. A "professional event" is an event in which the only combatants are professional combatants. (3-29-10)

c. A "pro-am" is an event in which combatants include professional combatants and amateur combatants. Professional combatants may not compete against amateur combatants in "pro-am" events. (3-29-10)

04. Main Event. The headline or marquee contest or exhibition scheduled to occur at an event. (3-29-10)

05. Mixed Martial Arts (MMA). A full contact sport that allows a wide variety of unarmed combat techniques from a mixture of martial arts traditions to be used in competitions. (5-8-09)

06. Stub. That part of the ticket retained by a person entering the arena in which an event is held after the ticket has been collected. (3-26-08)

07. Ticket. That document issued by the promoter allowing a person's entrance and attendance at an event and may include that part of the ticket retained by the promoter documenting a person's entrance to an event. (3-26-08)

011. -- 099. (RESERVED)

100. LICENSING.

01. Application for License. *Applicants will submit a complete, Commission-approved, application verified under oath, including the fee and any necessary supporting documentation to the Bureau* for each of the following *licenses*: *( )*

a. Combatant; (3-29-10)

b. Promoter; (3-3-94)

c. Matchmaker; (3-3-94)

d. Manager; (3-3-94)

e. Second, including a trainer; (3-29-10)

f. Ring Official; or (3-29-10)

g. Sanctioning permit for an event. (3-29-10)

101. AGE AND PHYSICAL CONDITION.

01. Age of Combatant. *The Commission will review all complete applications for a combatant license* so that the applicant's experience and fitness may be considered before a license is issued, if the applicant has:*( )*

a. Not reached eighteen (18) years of age; or (3-3-94)

b. Reached thirty-six (36) years of age. (3-3-94)

02. Poor Vision. The Commission will not issue a license to engage in unarmed combat to any applicant who is found to be blind in one (1) eye or whose vision in one (1) eye is so poor that a physician recommends that no license be granted. Exceptions will not be made due to exemplary vision in the good eye. (3-26-08)

03. Cerebral Hemorrhage. The Commission will not issue a license to engage in unarmed combat to any person who has suffered a cerebral hemorrhage. (3-26-08)

04. Serious Head Injuries. The Commission will review the application of any person who has suffered a serious head injury before a license is issued to that person. (3-3-94)

102. ABILITY OF COMBATANT.

01. Satisfy Commission. Before a combatant license is issued by the Commission to any person, the Commission must be satisfied of the person's ability to compete. (3-26-08)

02. Questioned Ability. If a combatant's ability to perform is questioned for any reason, the Commission may hold a hearing to determine: (3-26-08)

a. Whether the person's license should be revoked; or (3-26-08)

b. Whether he should be granted a license. (3-26-08)

103. PHYSICAL EXAMINATION OF COMBATANT.

01. Examination by Physician. Any combatant who has applied for a license or a renewal of his license must be examined by a physician. The physician will establish the combatant's physical and mental fitness for competition. (5-8-09)

02. Additional Examination. Any combatant licensed by the Commission who participates in a contest outside of the state of Idaho may *need* to take this examination again before being allowed to compete in Idaho. *( )*

03. Drug Abuse. The Commission will not issue a license to an athlete who has a recent history of drug abuse, without proof of participation in a recognized drug rehabilitation program and/or submission to urinalysis. (3-3-94)

04. Blood Testing. The Commission will not issue a license to an athlete, or allow an athlete to compete in an event, if the athlete, within the six (6) months immediately preceding the application for licensure or the event at which the licensee wishes to compete, has tested positive for the HIV virus, Hepatitis B Surface Antigen and Hepatitis C Antibody, or illegal drugs or other substances. Accordingly, *upon application for a license*, the athlete *will* submit with the application a blood test report from a blood test conducted within the six (6) months preceding the application date. The blood test must have tested the athlete for HIV virus, Hepatitis B Surface Antigent, Hepatitis C Antibody, and illegal drugs and substances. Additionally, each combatant who is to compete in an event *will*, at the start of the event, provide the Commission with a blood test report from a blood test conducted within the six (6)

months immediately preceding the event. Additional blood tests may be requested by the Commission in its discretion. ( )

104. FEES.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Combatant	$150.00	$150.00
Non-combatant	$150.00	$150.00
Matchmaker	$250.00	$250.00
Promoter	$1,000.00	$750.00
Sanction permit	$200.00	$250.00
Ring official	$150.00	$150.00

( )

105. HONORING ACTIONS OF REGULATORY AGENCIES IN OTHER JURISDICTIONS.
The Commission may honor the following actions of agencies in other jurisdictions which regulate boxing, wrestling, martial arts, or combination thereof: (5-8-09)

01. Suspension. A suspension of a combatant ordered for: (3-26-08)

a. Medical safety; (3-3-94)

b. A violation of a law or rule governing boxing, wrestling, martial arts, or combination thereof which also exists in this state; or (5-8-09)

c. Any other conduct which discredits boxing, wrestling, martial arts, or combination thereof as determined by the Commission. (5-8-09)

106. TIME BETWEEN CONTESTS.
In no case may a combatant (excluding wrestlers) participate in more than one (1) contest or exhibition in any twenty-four (24) hour period. Without the special permission of the Commission, a combatant may not compete in this state unless: (5-8-09)

01. Four Days. Four (4) days have elapsed since the combatant's last contest if the contest lasted not more than four (4) rounds. (3-26-08)

02. Seven Days. Seven (7) days have elapsed since the combatant's last contest if the contest lasted five (5) or six (6) rounds. (3-26-08)

03. Fourteen Days. Fourteen (14) days have elapsed since the combatant's last contest if the contest lasted seven (7) or eight (8) rounds. (3-26-08)

04. Twenty-One Days. Twenty-one (21) days have elapsed since the combatant's last contest if the contest lasted nine (9) or ten (10) rounds. (3-26-08)

05. Forty-Five Days. Forty-five (45) days have elapsed since the combatant's last contest if the contest lasted eleven (11) or twelve (12) rounds. (3-26-08)

107. FEMALE COMBATANTS.

01. Qualifications. *Only female combatants qualified to perform as a combatant may enter a contest*.

( )

02. Limitation. A female combatant will not engage in a contest with a male combatant. (5-8-09)

03. General Requirements. In addition to meeting such requirements of this chapter as are applicable to combatants generally, a female *applicant will*: ( )

a. Submit to pregnancy test within fourteen (14) days of the contest. (5-8-09)

b. Use a mouthpiece specially designed for her mouth; (3-3-94)

c. Wear ten (10) ounce gloves in a boxing contest; and (3-26-08)

d. Have her hair secured in a manner that does not interfere with the vision or safety of either combatant; (3-26-08)

04. Addendum Requirement. A female combatant will, in addition to signing the contract, sign an addendum certifying that the combatant is not pregnant and that the contest will not take place during a menstrual period. (5-8-09)

05. Limitation on Contest. A contest between female combatants is limited to ten (10) rounds of two (2) minutes duration. (3-26-08)

06. Separate Dressing Rooms. The promoters of a contest between female combatants will provide them with adequate separate dressing rooms. (5-8-09)

108. REQUIREMENTS FOR LICENSE AS A PROMOTER.

01. Requirements. Any person applying for a license as a promoter may need to appear before the Commission and be prepared to prove his: (3-3-94)

a. Integrity; (3-3-94)

b. Financial stability; and (3-3-94)

c. Knowledge of the responsibilities involved in the promotion of relevant combative programs. (3-26-08)

02. Provide Waivers. The applicant, or *Commission approved designee, will* provide all waivers necessary to the conduct of the Commission's investigation of the applicant's suitability. ( )

109. AMATEUR ATHLETIC SANCTIONING ORGANIZATIONS.

The Commission may approve an entity as an officially recognized amateur athletic sanctioning organization that may sanction amateur events. The Commission is the final authority on whether an entity may be an amateur athletic sanctioning organization. (4-7-11)

01. Application for Approval. In order to be considered for approval as an officially recognized, amateur athletic sanctioning organization under Section 54-406(3)(b)(iii), Idaho Code, an entity will: (4-7-11)

a. Meet the Criteria for Eligibility set forth in Subsection 109.02 of these rules; (3-29-10)

b. Submit to the Bureau a completed application form, supplied by the Commission, on which the person signing the application verifies under oath that he is an officer or other person authorized to sign on behalf of the entity, that the information on the application and submitted with the application is true and correct, and that the entity meets the Criteria for Eligibility set forth in Subsection 109.02 of these rules; (3-29-10)

c. Pay the appropriate fees, which are: (4-7-11)

i. Initial application processing fee: Two hundred fifty dollars ($250); and (4-7-11)

ii. Initial approval fee: Five hundred dollars ($500). (4-7-11)

d. Provide the Bureau with such documentation as the Bureau may request in the course of reviewing the application, and including, without limitation, a list of the entity's officers and persons claiming an ownership interest in the entity, any requested bylaws, constitution, medical forms, contracts, rules, policies, and procedures used by the entity; and (3-29-10)

e. If requested, appear before the Commission to answer, to the Commission's satisfaction, any questions the Commission may have about the entity or the application, including, without limitation, any questions regarding whether the entity meets the Criteria for Eligibility set forth in Subsection 109.02 of these rules; (3-29-10)

02. Criteria for Eligibility. An entity is eligible for approval as an amateur athletic sanctioning organization if it demonstrates, to the Commission's satisfaction, that it meets the Commission's eligibility criteria. An approved entity's failure to consistently meet these criteria may result in Commission action to suspend or revoke the entity's approved status. The *eligibility* criteria *to* be met are: *( )*

a. The entity is incorporated or otherwise legally recognized under the law of its domicile; (3-29-10)

b. The entity, if not incorporated or otherwise domiciled in Idaho, is authorized to transact business in Idaho; (3-29-10)

c. The entity and its predecessor entity, if any, have never had an application for approval as an amateur sanctioning authority, organization, or similar body denied or disapproved, or an approval as an amateur sanctioning authority, organization, or similar body suspended, revoked, or restricted in any way, by any state, territory, country, or subdivision thereof. (3-29-10)

d. No officer or person having an ownership interest in the entity has had a license, of the types issued by the Commission, suspended, revoked, or disciplined in any way by any state, territory, country, or subdivision thereof. (3-29-10)

e. All sanctioned events will be conducted in accordance with the sanctioning bodies' rules as approved by the Commission. The entity must adopt and consistently enforce rules that: (3-29-10)

i. Ensure that contests and exhibitions do not unreasonably endanger the health of combatants or other participants; (3-29-10)

ii. Provide for the medical safety and care of participants in events; (3-29-10)

iii. Exclude the medically unfit from the contests and exhibitions; (3-29-10)

iv. Require the presence of an ambulance and EMT's on site at all times, and the attendance of an Idaho-licensed medical doctor or osteopathic physician at ringside. (3-29-10)

v. Require the event promoter to obtain health insurance sufficient to cover the medical, surgical, and hospital care of all event participants, other than the promoter, for injuries sustained while participating in the event. The insurance obtained must meet the requirements specified in Section 299 of these rules. (4-7-11)

vi. Require drug testing and blood testing consistent with the Commission's rules for events regulated by the Commission. The entity will submit the results of such testing to the Commission within forty-eight (48) hours after the event sanctioned by the entity ends. (3-29-10)

vii. Restrict the types of blows that can be delivered; (3-29-10)

viii. Exclude professional combatants from its contests and exhibitions, and *not allow* combatants to

receive any type of purse payment or compensation except as approved by the Commission; ( )

ix. Limit the time and frequency of contests and exhibitions, including, without limitation, the times specified in Section 54-407, Idaho Code; (3-29-10)

x. Require that the entity oversee weigh-ins, the hand wrapping, the glove placement after inspecting the gloves as required by the entity's rules as approved by the Commission; (3-29-10)

xi. Require that the entity inspect and approve the contest area before the contest starts; (3-29-10)

xii. Require prompt investigation and resolution of complaints for participants, interested persons, and the Commission; (3-29-10)

xiii. Have a system of review to ensure the entity fairly applies its rules, policies, and procedures; (3-29-10)

xiv. Require the identification of the entity on all advertisements, programs, or handbills issued, used, or distributed in Idaho; (3-29-10)

xv. Require cooperation with the Commission, including without limitation, at least thirty (30) days advance notification to the Commission of sanctioned events to occur in Idaho, and admission of Commission representatives and agents without charge to any sanctioned event, and to any portion of the event. (3-29-10)

xvi. Require that event participants, and the entity, report to the Commission any violations of the entity's rules arising out of a sanctioned event; (3-29-10)

xvii. Require all participants, officials, and the entity to appear at reasonable times before the Commission and truthfully answer any lawful inquiry of the Commission; (3-29-10)

xviii. Ensure that all ring officials, including, without limitation, all timekeepers, judges, referees, and glovers, and all promoters who ask an entity to sanction an event, are licensed by the Commission; (3-29-10)

xix. Set an appropriate fee schedule for ring officials. (3-29-10)

xx. Require the event promoter to obtain a bond or other form of financial security, payable to the State of Idaho, and otherwise consistent with Section 300 of these rules. (4-7-11)

xxi. Require the event promoter to obtain liability insurance for the event, which insurance must adequately cover the promoter, venue, entity, and the Commission. (3-29-10)

xxii. Otherwise require sufficient health and safety standards before, during and after contests and exhibitions to ensure the health, safety, and well-being of any participating amateur combatants. The entity's health and safety standards must be no less stringent than the Commission's health and safety standards for contests and exhibitions for which the Commission may issue a sanctioning permit under Title 54, Chapter 4, Idaho Code. Sections 731 through 799 of these rules establish the minimum safety requirements for MMA events in Idaho. The entity's health and safety standards for sanctioned MMA events must, at a minimum, comport with the Section 731 through 799 requirements. (3-29-10)

f. For each event to be sanctioned by the entity, the entity will ensure that true and correct copies of the following documents are presented to the Bureau at least thirty (30) days before the event: (3-29-10)

i. The event promoter's bond or other form of financial security as referenced in Subparagraph 109.02.e.xx. of these rules. (3-29-10)

ii. The health insurance certificate for health insurance obtained by the promoter as referenced in Subparagraph 109.02.e.v. The deductible amount, claims submission instructions, and insurer contact information must also be provided. (3-29-10)

iii. The liability insurance certificate for liability insurance obtained by the promoter as referenced in Subparagraph 109.02.e.xxii. of these rules. (3-29-10)

g. The entity does not sanction events where: (3-29-10)

i. Financial ties exist between the promoter and the entity, including, without limitation, when anyone serves as an officer, principal, or manager in both the entity and promotion company, or have an ownership interest in both the entity and the promotion company: (3-29-10)

ii. Any ring official, employee, or agent that works for both the promoter and the entity. (3-29-10)

iii. The entity or any of its officers, principals, managers, owners, or employees manages or trains any of the combatants. (3-29-10)

03. Violations. The Commission may suspend or revoke its approval of an amateur athletic sanctioning organization if the approved entity or its officers, owners, or agents engage in any conduct that violates or is inconsistent with any of the requirements of this Section or reflects serious discredit on the sport of boxing, or uses dishonest methods to affect the outcome of any contest. (4-7-11)

04. Annual Review of Approval. An entity's approval to be an amateur athletic sanctioning organization automatically expires one (1) year after issuance. If the entity wishes to remain as an approved amateur sanctioning organization, the entity will submit a timely and complete review application on forms approved by the Commission, along with the appropriate fees. To be timely, a review application and any supporting documentation must be received by the at least thirty (30) days before the automatic expiration date. After receiving a timely review application, the Commission will evaluate the application using the process and criteria set forth in Subsections 109.01 and 109.02. If the Commission is satisfied that the applicant has satisfied all requirements, then the Commission will renew the applicant's approval for another year term. The fees to be paid are: (4-7-11)

a. Annual application processing fee: Two hundred fifty dollars ($250); and (4-7-11)

b. Annual approval fee: Five hundred dollars ($500). (4-7-11)

110. MANAGER ACTING AS SECOND.
A manager licensed by the Commission may act as a second without having a second's license. (3-3-94)

111. REQUIREMENTS FOR LICENSE AS RING OFFICIAL.

01. Qualifications. To qualify for a license as a ring official of contests, an applicant will: (5-8-09)

a. Be at least twenty-one (21) years of age. The Commission may, for good cause shown, lower the minimum age limit for a particular applicant to eighteen (18) years of age; (3-29-10)

b. Have no record of conviction of a felony or other crime involving moral turpitude unless approved by the commission; (3-26-08)

c. Have had at least one (1) year experience in either amateur or professional contest as a ring official; (5-8-09)

d. Submit verifications from three (3) persons of his proficiency as a ring official; and (5-8-09)

e. Provide proof that the applicant meets the other requirements of the commission law and rules. (3-26-08)

02. Equivalent Qualifications. In lieu of the above qualifications, the Commission may accept satisfactory evidence of equivalent qualifications possessed by an applicant who: (5-8-09)

a. Is currently licensed in another state or country; or (3-3-94)

b. Formerly held an Idaho license which lapsed in good standing. (3-26-08)

03. Other Functions. A person holding a current Idaho license or who formerly held an Idaho license which lapsed in good standing may be licensed by the Commission without examination or internship to perform an officiating function other than that for which he is or was licensed if the Commission determines that he is qualified to perform that function. (3-3-94)

04. Ring Officials Determination. The Commission will determine when additional ring officials are needed and when licensing examinations for ring officials will be conducted. (3-3-94)

05. Validity of Licenses. Each license issued by the commission is annually renewable in accordance with Section 67-2614, Idaho Code. The renewal of a license is not automatic. The applicant's past performance and abilities may be considered in evaluating an application for renewal. (5-8-09)

112. (RESERVED)

113. APPLICANTS, LICENSEES, AND OFFICIALS.
*The Commission may direct a*ny ring official, any person licensed by the Commission and any applicant for a license *to* submit to the Commission any forms, records, and statements at the times and manner as directed. *( )*

114. GROUNDS FOR DENIAL OR REVOCATION OF LICENSE.
The Commission may deny an application or suspend or revoke a license or take such other disciplinary action deemed appropriate if it finds that the applicant or licensee or any partner, officer, director, stockholder, or employee of the applicant or licensee has: (3-26-08)

01. Subject to Discipline. Performed any act which constitutes a violation of the laws or rules of the commission. (3-26-08)

02. Specific Conduct. (3-26-08)

a. Has been convicted of a felony; (3-3-94)

b. Engages in illegal bookmaking; (3-3-94)

c. Engages in any illegal gambling activity; (3-3-94)

d. Engages in any fraud or misrepresentation in the application process; (3-26-08)

e. Has a recent history of drug abuse or fails a drug test or refuses to submit to a drug test; (3-26-08)

f. Is under suspension from any other commission; or (3-3-94)

g. Is engaged in any activity or practice which is detrimental to the best interests of a contest regulated by the commission. (3-26-08)

115. -- 199. (RESERVED)

200. CONTRACT BETWEEN MANAGER AND COMBATANT.

01. Contractual Obligations. The Commission may refuse to honor a contract between a manager and combatant unless it complies with the requirements Section 200 of this rule. A contract between a manager and a combatant will be for a term of not more than four (4) years. Such a contract may contain an option which permits the manager, at the expiration of the initial term, to renew the contract for an additional period of not more than two (2) years. (3-26-08)

02. After Contract Services. A manager may not contract to receive the services of a combatant under his management for a match which is scheduled to take place after the expiration of the contract. (3-26-08)

03. Options. A contract between a combatant and a manager may provide for voluntary binding arbitration of disputes by the Commission. If so agreed, the arbitration will be conducted by a member of the Commission mutually agreed upon by the two (2) parties or, if there is no agreement, by a member of the Commission appointed by the chairman. The arbitration will be conducted pursuant to generally accepted arbitration standards. (3-26-08)

04. Contract Approval. The Commission may approve a contract entered into in another jurisdiction by a person who is not a resident of Idaho if the terms of the contract comply with the requirements of this section. If the terms of the contract exceed the limitations contained in this section, the Commission may honor the contract to the extent of those limitations. (3-26-08)

05. Manager Limitations. A manager may not negotiate or sign for matches for a combatant who is not under contract to him. Any combatant who does not have a contract with a licensed manager must sign for his own contest and sign the receipt for his own purse. A manager or managers may not participate separately or collectively in more than thirty-three and one-third percent (33 1/3%) of the combatant's earnings in the ring. (3-26-08)

06. Manager Responsibilities. If a manager signs only for a combatant's appearance at a contest, a copy of the manager's authorization to negotiate and sign for the combatant must accompany the contract which he concluded with the promoter. If the manager does not send a copy of his authorization, the Commission may deny any application received from the combatant or manager pending a hearing before the Commission. (3-26-08)

201. MANAGER'S ADVANCES -- ACCOUNTING.

Any manager who advances or lends any money to any combatant or incurs indebtedness on behalf of a combatant will furnish an accounting in writing to the combatant every ninety (90) days. The accounting will be verified by the manager and set forth each item of indebtedness owed by the combatant, the date that the indebtedness occurred, the purpose of the indebtedness, and the name of the person to whom the debt is owed. (3-26-08)

202. CONTRACT BETWEEN PROMOTER AND COMBATANT.

01. Gate Receipts. A promoter may not deduct any amount from the gate receipts, other than for any federal taxes and the fees prescribed herein until all combatants who are to be paid a percentage of the receipts have been paid, unless the amount to be paid to the combatant is specified in the contract. (3-26-08)

02. Contract Prohibitions. (3-3-94)

a. A contract which provides that a combatant fight exclusively for or at the option of one (1) promoter is prohibited. (3-26-08)

b. A contract which provides that a combatant is to pay for the services of an opponent is prohibited. (3-26-08)

203. FILING CERTAIN CONTRACTS WITH COMMISSION.

01. Main and Semi-Main Events. A contract between a promoter and a combatant for the main and semi-main events of a program *will be filed* with the Commission at least seven (7) working days before the event unless the Commission gives special approval for filing the contract closer to the time of weighing in. *( )*

02. Other Combatants. Contracts for all combatants who will be contending in the program *will* be filed before the scheduled time for weighing in. *( )*

03. Disciplinary Action. A promoter or matchmaker who fails to file a contract for any participant whose name is released to the news media is subject to disciplinary action. (3-3-94)

04. Media Contracts. Any contract by the promoter for the sale, lease or other use of rights to

broadcast, televise including a right to make a closed-circuit telecast, or take motion pictures of a contest *will be filed* with the Commission at least five (5) working days before the event unless the promoter obtains special approval from the Commission for filing the contract at a time closer to the event. *( )*

204. PERCENTAGE OF GATE RECEIPTS TO COMBATANT.
Each combatant working on a percentage basis, will be paid on the basis of the net receipts of each exhibition after state and federal taxes, ring expenses and the price of complimentary tickets upon which a price is specified, have been deducted. (3-26-08)

205. PROMOTER'S ADVANCES TO COMBATANT OR MANAGER OR OCCURRENCE OF DEBT ON HIS BEHALF.

01. Restrictions. A promoter licensed by the Commission will not directly or indirectly make any loan or advance to any combatant or manager except as provided in this rule. (3-26-08)

02. Any Indebtedness Restricted. A promoter will not, directly or indirectly, create any indebtedness which becomes the obligation of a combatant or manager unless the promoter has the express written permission of the Commission for that action. (3-26-08)

206. FAILURE OF COMBATANT TO APPEAR.
Any combatant who fails to appear in an event in which the combatant signed a contract to appear, without a written excuse determined to be valid by the Commission or a certificate from a physician designated by the Commission in advance in case of physical disability is subject to disciplinary action. Any combatant who files a certificate from a physician designated by the Commission stating that he is unable to fulfill a contract because of physical disability shall, on being restored to the eligible list, fulfill his contract with the same opponent or a suitable substitute specified in the contract within a reasonable time, that period to be set by the Commission, unless the combatant is released from the contract by mutual agreement. (3-26-08)

207. PAYMENT OF COMBATANT.

01. Payment in Full. Every combatant will be paid in full according to the combatant's contract, and no part of the combatant's remuneration may be withheld except by order of the Commission, nor may any part of the combatant's remuneration be returned through arrangement with the combatant's manager to any matchmaker or promoter, except as otherwise provided in this section. (3-26-08)

02. Prior Written Commitments. With the prior written permission of a member of the Commission, a promoter may withhold from the purse of a combatant money advanced to the combatant for transportation and maintenance in preparation for a contest, if their agreement so provides. (3-26-08)

03. Manager's Share. A manager's share of the purse may be deducted and paid directly to the manager if the contract so specifies. (3-3-94)

04. Pending Action. If arbitration of a contract entered into by a manager and combatant is pending before the Commission or if the contract is in litigation in a court of competent jurisdiction, the Commission may: (3-26-08)

a. Withhold the amount in dispute in the Commission's trust fund until resolution of the dispute; or (3-3-94)

b. Pay the disputed amount to the clerk of the court in which the litigation is pending. (3-3-94)

05. Prior Approval of Commission. Neither a combatant nor his manager may assign his share of the purse, or any portion thereof, without the approval of the Commission. If a combatant or manager wants to assign his share of the purse, he must file a written request with the Commission at least seven (7) working days before the contest. (3-26-08)

208. PAYMENT OF PURSE.

01. Payment Made. All payment of purses will be made: (3-3-94)

a. Immediately after the contest or exhibition; or (3-3-94)

b. If the combatant is to receive a percentage of the net receipts, immediately after that percentage is determined by a person designated by the Commission, unless otherwise ordered by the Commission. (3-26-08)

02. Signatures. Immediately after the contest or exhibition, the person designated by the Commission will release the checks or cash to the entitled persons and will obtain their signatures on a list in which they acknowledge the payment. (3-3-94)

03. Reconciliation. The promoter may withhold an amount of not more than ten percent (10%) of the purse for payment of expenses incurred by the combatant. A reconciliation of those expenses and payment of the undistributed portion of the purse will be made to the Commission on the Commission's form within seven (7) working days after the contest. The reconciliation must bear written approval of the combatant before it is submitted. If good cause is shown, the chairman of the Commission may grant an extension of the date for reconciliation for a period not to exceed thirty (30) days after the contest. (3-26-08)

04. Alternative Payment. The Commission may permit a form of payment other than those specified in this section. A promoter who wishes to pay the purse by an alternative method of payment will: (3-3-94)

a. Submit a written request to the Commission at least thirty (30) days before the contest. (3-26-08)

b. Describe in detail the alternative method of payment contemplated. (3-3-94)

c. Show good cause for a waiver of the provisions as outlined in Section 208 of this rule. (3-26-08)

d. Comply with all requirements of the Commission regarding the production of relevant information. (3-3-94)

e. Follow precisely the procedural directives of the Commission if the request is granted. (3-3-94)

05. Non-Payment of Amateurs. Consistent with Section 54-402, Idaho Code, a promoter may not compensate any amateur for participating in or being associated in any way with the promoter's event. This ban absolutely bars a promoter from paying an amateur to sell tickets or merchandise or provide services related to an event. (4-7-11)

209. RETAINING PORTION OF PURSE PENDING DETERMINATION OF WHETHER PENALTY WILL BE CHARGED.

At any time before the award of a purse to a contestant, a Commissioner may specify any amount not to exceed twenty-five thousand dollars ($25,000) to be retained from the contestant's purse and transferred from the promoter to the Commission. The money will not be given to the contestant until the Commission determines that no penalty in lieu of revoking the contestant's license will be charged for any action or condition of the contestant. Any amount so specified is not a limitation upon the amount of a penalty which may be charged. (3-3-94)

210. -- 298. (RESERVED)

299. HEALTH INSURANCE.

An event promoter will obtain health insurance sufficient to cover the medical, surgical, and hospital care of all event participants, other than the promoter, for injuries sustained while participating in the event. The insurance shall provide primary coverage for each such participant, and the minimum amount coverage per participant will be ten thousand dollars ($10,000). The participant may not be required to pay a deductible associated with care provided under this insurance. If a participant pays for the medical, surgical or hospital care, the insurance proceeds must be paid to the participant or the participant's beneficiaries for reimbursement for the payment. (4-7-11)

300. SURETY BOND OR OTHER SECURITY.

01. Requirement. Every promoter who applies for a sanctioning permit shall furnish a surety bond or other form of financial security to the Commission consistent with Section 54-408, Idaho Code. The bond or other form of financial security will be in an amount deemed by the Commission to be adequate to guarantee payment of all taxes, fees, fines, and other moneys due and payable under Title 54, Chapter 4, Idaho Code and the Commission's rules, including reimbursement to the purchasers of tickets for the event. (4-7-11)

02. Various Locations. The promoter may apply one (1) bond or other form of financial security to multiple locations if only one (1) of the covered locations is scheduled for an event on any given calendar date. (3-29-10)

03. Total Sum. Each bond or other form of financial security must be conditioned for the payment to the Commission of a sum equivalent to the total sale of tickets: (3-29-10)

a. If the main event is not held on the date advertised, unless the event is subsequently held on a date fixed by the Commission; and (3-3-94)

b. If the main event is neither held on the original date advertised nor on a subsequent date fixed by the Commission. (3-3-94)

04. Sum Due. The sum is due within fifteen (15) days after default, to ensure reimbursement to the purchasers of tickets for the event, if the reimbursement of ticket holders is ordered by the Commission. (3-3-94)

301. APPROVAL OF EVENTS.

01. Prior Approval. No contest will be held without the prior approval of the Commission. A promoter *will* submit a completed application *on a form provided by the Bureau* for a sanctioning permit to hold an event on a specific date, and a permit be issued by the commission before the event may be announced or advertised. *( )*

02. Deadline. A complete application for a sanctioning permit together with application fees, applicable bond amount, proof of insurance, and information regarding the combatants named in the main and semi-main contest must be received by the commission no less than thirty (30) days prior to the date requested for the event named in the application. Combatants named in contests may be changed at the discretion of the commission. (5-8-09)

03. Cancellation. The failure of the promoter to notify the Commission of a cancellation at least seven (7) calendar days before the date for the program will result in the forfeiture of all fees and will be grounds for disciplinary action. (5-8-09)

302. (RESERVED)

303. PROGRAM FOR CHARITY.

01. Application. A person who wishes to present a program or event under the jurisdiction of the commission for charitable purposes *will submit to* the Commission a sanction application to present the program. The application *will* contain the name of the charity, charitable fund or organization which is to benefit from the program and the amount or percentage of the receipts of the program which is to be paid to the charity. *( )*

02. Certified, Itemized Statement. Within seventy-two (72) hours after such a program is held, the promoter will furnish to the Commission a certified itemized statement of the receipts and expenditures in connection with the program and the net amount paid to the charitable fund or organization. If the promoter fails to file the statement within the prescribed time, the Commission: (3-3-94)

a. May suspend or revoke the promoter's license. (3-3-94)

b. Shall not thereafter issue a permit to the promoter for the holding of any program for charitable

purposes. (3-3-94)

304. ARRANGEMENT OF CONTEST FOR PROMOTER.
A contest may not be arranged on behalf of any promoter except by a licensed matchmaker. (5-8-09)

305. – 306. (RESERVED)

307. CERTAIN PERSONS RETAINED MUST HAVE LICENSES.
No person will be retained for any of the following positions unless currently licensed by the Commission: (5-8-09)

01. Second. (3-3-94)

02. Combatant. (3-26-08)

03. Matchmaker. (3-3-94)

04. Ring Official. (5-8-09)

308. OFFICIALS OF EVENTS.

01. Officials Described. The officials of events are the referee, judges, timekeeper, physician, and the Commission's agents. (5-8-09)

02. Commission Involvement. *The Commission will approve and assign all the officials.* The promoter may select the announcer, subject to the Commission's approval. *( )*

309. REFEREES.

01. Selection. The Commission will select the referee for the main event in championship events and for events that the Commission considers to be special events. The Commission will set the fee and reasonable expenses that the referee is entitled to receive for an event. (3-26-08)

02. Protests. If any licensee of the Commission protests the assignment of a referee, the protesting licensee will be given a hearing by the Commission if time permits. If time does not permit, the matter will be heard by two (2) Commissioners in order to make such disposition of the protest as the facts may justify. Protests not made in a timely manner may be summarily rejected. (3-3-94)

03. Physical Examination. Each referee licensed by the Commission *will* annually undergo a complete physical examination, including an eye examination conducted by an optometrist or ophthalmologist. *At the request of the Commission, the licensee will produce all records of the examination*. *( )*

310. JUDGES.

01. Selection. The Commission will select the judges for the main event in championship events and for any other events which the Commission considers to be special events. (3-26-08)

02. Protests. If any licensee of the Commission protests the assignment of a judge, the protesting license will be given a hearing by the Commission if time permits. If time does not permit, the matter will be heard by two (2) Commissioners in order to make such disposition of the protest as the facts may justify. Protests not made in a timely manner may be summarily rejected. (3-3-94)

03. Fees. The Commission will set the fee and reasonable expenses which the judges are entitled to receive for an event. (3-26-08)

04. Station of Judges. Judges will be stationed ringside at places designated by the Commission. (3-3-94)

05. Physical Examination. Each judge licensed by the Commission may be required to submit to or provide proof of a complete physical examination, including an eye examination. (3-3-94)

311. ADMISSION OF LICENSEES AND AGENTS TO EVENTS.
The promoter of any event under the jurisdiction of the commission will admit the following to said event without a ticket: (3-26-08)

01. Participants. Any individual who is licensed by the Commission and who has been authorized by the commission to participate in said event upon such individual's presentation of a current and valid license issued by the commission. (3-26-08)

02. Commissioner or Agent. The Athletic Commissioner, any Deputy Commissioner, and any agent of the Bureau upon presentation of valid identification that identifies the holder as a member of the commission or an agent of the Bureau. (3-26-08)

312. PAYMENT OF FEE TO OFFICIAL DESIGNATED BY COMMISSION.
A promoter will pay the fee and reasonable expenses set by the Commission to any person whom the Commission directs to officiate in an event promoted by that promoter. (3-26-08)

313. POSTPONEMENT OF PROGRAM.

01. Prior Approval. A promoter may not postpone a sanctioned event unless the postponement is approved by the Commission. (3-26-08)

02. No Fault Postponement. If a postponement of a sanctioned event becomes necessary through no fault of the promoter, the Commission will grant an extension of the contracts and set a new date. (3-26-08)

03. Limitations on Postponement. A small advance sale is not a legitimate reason for postponement. Indoor boxing and wrestling programs may not be called off or canceled on account of storms or for any other reason not expressed in this chapter except as approved by the Commission. (3-26-08)

04. Advance Notice. A *promoter may not call off a* sanctioned event without one (1) week prior written approval of the Commission. *( )*

314. MAIN AND SEMI-MAIN EVENTS.
This section applies to the main and semi-main events. (5-8-09)

01. Notice. The promoter must request Commission approval of any change in an announced or advertised program for the main and semi-main events at least one (1) week before the event. Notice of any change or substitution must also be conspicuously posted at the box office of the premises where the program is to be held and announced from the ring before the opening contest. (5-8-09)

02. Refunds. If such change occurs and any patron desires a refund of the ticket price, the promoter will provide a refund upon presentation of the ticket or the ticket stub at the box office before the event is scheduled to begin. The box office must remain open a reasonable length of time to redeem such tickets. (3-26-08)

03. Substitutions. A combatant may not substitute for another combatant in a contest which is the main and semi-main events unless the Commission approves the substitution. (5-8-09)

315. CONTAINERS.
All drinks at an event will be dispensed in paper or plastic cups. (5-8-09)

316. -- 399. (RESERVED)

400. ADMISSION FEE AT QUARTERS WHERE COMBATANT TRAINS.

01. Fee. An admission fee may not be charged to enter the quarters where a combatant is training

unless the Commission has authorized the charging of admission. Where such an admission fee is charged, the Commission will consider the charge to be for the privilege of seeing an exhibition. (5-8-09)

02. State Fee. The state fee on those gross receipts, exclusive of any federal taxes paid thereon, will be sent to the Commission with the report. (3-3-94)

401. APPROVAL OF FACILITIES BY COMMISSION BEFORE TICKETS MAY BE SOLD.
The sale of tickets for any proposed contest or exhibition is prohibited until: (3-3-94)

01. Approval. Plans and statements showing the seating arrangements, the location of tickets of each price, and other aspects of the physical layout of the ring and apron have been approved by the Commission; and (3-26-08)

02. Other Considerations. The aisle spacing, exit facilities, and the location of appliances to extinguish fires have been approved by the appropriate county or municipal authority. (3-3-94)

402. TICKETS LIMITED TO SEATING CAPACITY OF ARENA.
The sale of tickets for an event may not exceed the seating capacity of an indoor arena and no ticket may be issued for standing room. A person may not be sold the right of admission without a ticket. (3-3-94)

403. TICKETS.

01. Inventory. The ticket outlet shall *report* to the Commission an inventory, which he affirms under oath to be correct, of all the tickets issued. *( )*

02. Notification. The promoter will notify the ticket outlet of the requirements of this section. (3-3-94)

404. CONTENTS OF TICKETS.

01. General. Every ticket will have the price, name of the promoter, and date of the program plainly on it. (3-3-94)

02. Changes. Requests for changes in ticket prices or dates of programs will be made in writing to the Commission for approval. (3-3-94)

03. License to Sell. Tickets may not be sold by any person except through an agency holding a license to sell the tickets unless the sale is first approved by the Commission. (3-3-94)

405. COMPLIMENTARY TICKETS.

01. Limitation. A promoter may not issue complimentary tickets for more than two percent (2%) of the seats in the house without the Commission's written authorization. The Commission does not consider complementary tickets which it authorizes under this section to constitute part of the total gross receipts from admission fees for the purposes of calculating the Commission taxes. (3-3-94)

02. More Than Two Percent Issued. If complimentary tickets are issued for more than two percent (2%) of the tickets sold: (3-26-08)

a. Each combatant who is working on a percentage will be paid his percentage of the normal price of all complimentary tickets in excess of two percent (2%) of the tickets sold unless the contract between him and the promoter provides otherwise and stipulates the number of complimentary tickets which will be issued; and (3-26-08)

b. If a service charge is made for complimentary tickets, the combatant is entitled to be paid his percentage of that service charge, less any deduction for federal taxes and fees. (3-26-08)

406. PROVISIONS OF TICKETS WITHOUT CHARGE OR AT REDUCED RATES.

01. Without Charge. Each promoter will provide tickets without charge to holders of lifetime passes issued by the Commission. (3-26-08)

02. No Fees. Persons who receive tickets pursuant to this section are not liable for the payment of any fees for those tickets. (3-3-94)

03. Optional Charges. Each promoter may provide tickets without charge or at a reduced rate to: (3-3-94)

a. Any of his employees, and if the promoter is a corporation, to a director or officer, who is regularly employed or engaged in promoting such programs, whether or not his duties require him to be admitted to the particular program and whether or not he is on duty at the time of that program; (3-3-94)

b. A journalist who is performing his duties as such; and (3-3-94)

c. A fireman or police officer who is performing his duties as such. (3-3-94)

04. Duties Required. Each promoter will perform the following duties in relation to the issuance of complimentary tickets issued: (3-3-94)

a. Each ticket issued to a journalist will be clearly marked "PRESS." No more tickets may be issued to journalists than will permit comfortable seating in the press area. (3-3-94)

b. The promoter may allocate seats for the media, subject to the commission's final approval of the allocation. Seating at the press tables or in the press area will be limited to journalists who are actually covering the contest and to other persons designated by the Commission. (3-26-08)

c. A list of passes issued to journalists must be submitted to the Commission. (3-3-94)

d. Only one (1) complimentary ticket may be issued to any one (1) manager, second, combatant, or other person licensed by the Commission. (3-26-08)

e. *The Commission will approve in advance a*ny credential issued by the promoter which allows an admission to the event without a ticket. Requests for the issuance of such credentials must be made at least five (5) hours before the first contest on the program. *( )*

05. Admission Criteria. Admission of any person who does not hold a ticket or who is not specifically exempted pursuant to this section is grounds for suspension or revocation of the promoter's license or the assessment of a penalty. (3-26-08)

06. Fees. The Commission will collect all fees and taxes due on any ticket which is not specifically exempt pursuant to this section, and for any person who is admitted without a ticket in violation of this section. (3-3-94)

407. SPECULATION IN TICKETS PROHIBITED.

01. Prevent Speculation. A promoter who holds programs or events under the jurisdiction of the commission shall exercise extraordinary caution to prevent speculation in tickets. (3-26-08)

02. No Other Price. The promoter may not sell any tickets for a price other than the price printed thereon. (3-26-08)

a. The promoter may not, without the Commission's written permission, change the price of tickets at any time after they have been placed on sale or sell them at any time during the program for a different price than tickets for the same seats were offered or sold before the program commenced. (3-26-08)

b. Any ticket sold for other than the price printed on the ticket will be over stamped with the actual

price charged. The over stamp must be placed on the printed face of the ticket as well as the stub retained by the holder of the ticket. (3-26-08)

03. Exchange. A person may only exchange tickets at the box office. A ticket may not be redeemed after the show has taken place. Tickets that have not sold will be returned to the box office not later than one (1) hour before the show is scheduled to begin. (3-26-08)

04. Removal and Possession of Stub. A holder of a ticket for a program or event will not be allowed: (3-26-08)

a. To pass through the gate of the premises where the program is being held unless his ticket is separated from the stub; or (3-26-08)

b. To occupy a seat unless in possession of the stub. (3-26-08)

05. Tickets for Readmission. A promoter may not issue a ticket to any person for the purpose of readmission due to leaving the arena and later reentering the arena, useless the promoter has obtained the commission's written permission for such an issuance. (3-26-08)

408. – 414. (RESERVED)

415. TICKETS: REMOVAL AND RETENTION AFTER MATCH; DESTRUCTION.

01. Removal. All tickets and stubs sold or unsold, other than unsold reel tickets, used for any program or event may be removed to the office of the Bureau by the Commission after the Commission has completed the computation of gate receipts and tax due thereon. (3-26-08)

02. Destruction. After the tickets and stubs have been held for at least fifteen (15) days by the Commission, the Commission will destroy them. If the tickets are not taken by the Commission, they must be retained by the promoters for at least six (6) months. Those tickets may be destroyed after they have been held for at least thirty (30) days and written permission has been granted by the Commission for the destruction of such tickets. Tickets need to be kept in separate packages for each show so that an audit can be made at any time by the Commission. (3-26-08)

416. -- 499. (RESERVED)

500. SANITATION.

01. Sanitary Conditions. Each promoter is responsible for and must correct any violation of the regulations of the Commission or the public health district regarding the sanitary condition of dressing rooms, showers, water bottles, towels or other equipment. (3-26-08)

02. Reporting. Physicians and the Commission or its agents will make a particular examination before or during each program or event to discover any violation of such regulations, and any such violation will be reported to the Commission immediately. (3-26-08)

501. REQUIRED NUMBER OF AMBULANCES; NOTICE TO AMBULANCE SERVICE AND HOSPITAL.

01. Required Number of Ambulances. The following number of ambulances must be present at the site of any program or event under the jurisdiction of the commission: (3-26-08)

a. Where the anticipated attendance is four thousand (4,000) persons or more but less than eight thousand (8,000) persons, one (1) ambulance. (3-3-94)

b. Where the anticipated attendance is eight thousand (8,000) persons or more, two (2) ambulances. (3-3-94)

02. Promoter Requirements. Each promoter of a program or event will, without regard to the size of the anticipated attendance: (3-26-08)

a. Give notice of the time, date and site of the program to the ambulance service or emergency medical service which is located nearest to the site of the program and ascertain from the service the length of time for one (1) of its ambulances to reach the site. (3-3-94)

b. Give such a notice to the nearest hospital and the persons in charge of its emergency room. (3-3-94)

c. Before the start of the program or event, certify to a member of the Commission that the requirements of this section have been met. (3-26-08)

502. DRESSING ROOMS -- ONLY AUTHORIZED PERSONS ARE ALLOWED TO ENTER.

01. Authorized Persons to Enter. On the day of a contest only the following people are allowed in the dressing room of a combatant; (3-3-94)

a. The combatant's manager; (3-26-08)

b. The combatant's seconds; (3-26-08)

c. Any authorized agent of the promoter; and (3-26-08)

d. Members of the Commission or its agent. (3-26-08)

02. Other Persons. The promoter will furnish a doorman or doormen at the entrance to the dressing rooms to enforce this section. (3-3-94)

503. BOXING GLOVES.
The gloves used in a boxing contest must meet the following requirements: (3-3-94)

01. General. The gloves will be examined by the Commission and the referee. If padding in any of the gloves is found to be misplaced or lumpy or if any of the gloves are found to be imperfect, they must be changed before the contest starts. No breaking, roughing or twisting of gloves is permitted. (3-26-08)

02. Glove Specifications. The gloves for every main event will be new, of the same brand for both combatants, furnished by the promoter, and of the size specified by the Commission. (3-26-08)

03. Sanitary. If gloves to be used in preliminary contests have been used before, they will be whole, clean and in sanitary condition. The gloves are subject to inspection by the referee or the Commission. If found to be unfit, they will be immediately discarded and replaced with gloves meeting the requirements of this section. (3-26-08)

04. Extra Set. Each promoter will have an extra set of gloves of the appropriate weight available at the glove table to be used in case gloves are broken or otherwise damaged during the course of a contest. (3-26-08)

05. Weight of Gloves. Each combatant will wear gloves that are not less than eight (8) ounces and not more than ten (10) ounces in weight except that the Commission will set the weight of gloves to be used in a championship fight. Eight (8) ounce gloves will be used for all weight classes through welterweight (one hundred forty-seven (147) lbs). Super welterweight (above one hundred forty-seven (147) lbs) and above must use ten (10) ounce gloves. (5-8-09)

06. Distal Portion. All gloves will have the distal portion of the thumb attached to the body of the glove so as to minimize the possibility of injury to an opponent's eye. (3-3-94)

504. BANDAGING OF COMBATANT'S HANDS.

01. General. Bandages may not exceed one (1) winding of surgeon's adhesive tape, not over one and one-half (1 1/2) inches wide, placed directly on the hand to protect the part of the hand near the wrists. The tape may cross the back of the hand twice but may not extend within three-fourths (3/4) inch of the knuckles when the hand is clenched to make a fist. (3-3-94)

02. Additional Requirements. Each combatant will use soft surgical bandage not over two (2) inches wide, held in place by not more than six (6) feet of surgeon's adhesive tape for each hand. Up to one (1) fifteen (15) yard roll of bandage may be used to complete the wrappings for each hand. Strips of tape may be used between the fingers to hold down the bandages. (3-26-08)

03. Witnesses. Bandages must be adjusted in the dressing room in the presence of the Commission and both combatants. Either combatant may waive his privilege of witnessing the bandaging of the opponent's hands. (3-26-08)

505. EQUIPMENT OF THE CHIEF SECOND.

01. Equipment. The chief second will equip himself with: (3-3-94)

a. A clear plastic water bottle; (3-3-94)

b. A bucket containing ice; (3-3-94)

c. A solution of a kind approved by the Commission for stopping hemorrhaging; (3-3-94)

d. Adhesive tape; (3-3-94)

e. Gauze; (3-3-94)

f. Scissors; and (3-3-94)

g. One (1) extra mouthpiece. (3-3-94)

02. Ammonia. No ammonia may be used in the ring. (3-3-94)

03. Ring Physician. The ring physician or the Commission may at any time inspect the contents of the chief second's first-aid kit. (3-26-08)

506. BOXING RING.
A boxing ring will meet the following requirements: (3-3-94)

01. Ring Dimensions. The ring will be not less than sixteen (16) feet square not more than twenty-four (24) feet square within the ropes. The ring floor will extend at least eighteen (18) inches beyond the ropes. The ring floor will be padded with ensolite or another similar closed-cell foam. Padding will extend beyond the ring ropes and over the edge of the platform, with a top covering of canvas, duck or similar material tightly stretched and laced to the ring platform. Material that tends to gather in lumps or ridges must not be used. (3-3-94)

02. Ring Platform. The ring platform will not be more than four (4) feet above the floor of the building, and will be provided with suitable steps for use of contestants. Ring posts will be of metal, not more than three (3) inches in diameter, extending from the floor of the building to a height of fifty-eight (58) inches above the ring floor. Rings posts will be at least eighteen (18) inches away from the ropes. (3-3-94)

03. Ropes. There will be four (4) padded ring ropes, not less than one (1) inch in diameter and wrapped in soft material. The lower rope will be eighteen (18) inches above the ring floor and offset four (4) inches to the outside of the ring from the ropes above. (3-3-94)

507. BELL OR GONG.
There will be a bell or gong at the ring no higher than the floor level of the ring. The bell or gong will produce a clear tone easily heard by the contestants. (3-3-94)

508. EQUIPMENT OF A TIMEKEEPER.
Every timekeeper will have the equipment prescribed by the Commission and will carry out the duties directed by the Commission. (3-26-08)

509. -- 599. (RESERVED)

600. WEIGHTS AND CLASSES OF COMBATANTS.

01. Classes and Weights. The classes and weights for each class are shown in the following schedule: (3-3-94)

a. Strawweight -- up to one hundred five (105) pounds. (3-3-94)

b. Light-Flyweight -- over one hundred five (105) to one hundred eight (108) pounds. (3-3-94)

c. Flyweight -- over one hundred eight (108) to one hundred twelve (112) pounds. (3-3-94)

d. Super Flyweight -- over one hundred twelve (112) to one hundred fifteen (115) pounds. (3-3-94)

e. Bantamweight -- over one hundred fifteen (115) to one hundred eighteen (118) pounds. (3-3-94)

f. Super Bantamweight -- over one hundred eighteen (118) to one hundred twenty-two (122) pounds. (3-3-94)

g. Featherweight -- over one hundred twenty-two (122) to one hundred twenty-six (126) pounds. (3-3-94)

h. Super Featherweight -- over one hundred twenty-six (126) to one hundred thirty (130) pounds. (3-3-94)

i. Lightweight -- over one hundred thirty (130) to one hundred thirty-five (135) pounds. (3-3-94)

j. Super Lightweight -- over one hundred thirty-five (135) to one hundred forty (140) pounds. (3-3-94)

k. Welterweight -- over one hundred forty (140) to one hundred forty-seven (147) pounds. (3-3-94)

l. Super Welterweight -- over one hundred forty-seven (147) to one hundred fifty-four (154) pounds. (3-3-94)

m. Middleweight -- over one hundred fifty-four (154) to one hundred sixty (160) pounds. (3-3-94)

n. Super Middleweight -- over one hundred sixty (160) to one hundred sixty-eight (168) pounds. (3-3-94)

o. Light-Heavyweight -- over one hundred sixty-eight (168) to one hundred seventy-five (175) pounds. (3-3-94)

p. Cruiserweight -- over one hundred seventy-five (175) to one hundred ninety-five (195) pounds. (3-3-94)

q. Heavyweight -- all over one hundred ninety-five (195) pounds. (3-3-94)

02. Exceeding Weight Allowances. No contest may be scheduled and no combatant may engage in a boxing contest without the approval of the Commission if the difference in weight between combatants exceeds the allowance shown in the following schedule: (3-26-08)

a. Up to one hundred eighteen (118) pounds -- not more than three (3) pounds. (3-3-94)

b. One hundred eighteen (118) to one hundred twenty-six (126) pounds -- not more than five (5) pounds. (3-3-94)

c. One hundred twenty-six (126) to one hundred thirty-five (135) pounds -- not more than seven (7) pounds. (3-3-94)

d. One hundred thirty-five (135) to one hundred forty-seven (147) pounds -- not more than nine (9) pounds. (3-3-94)

e. One hundred forty-seven (147) to one hundred sixty (160) pounds -- not more than eleven (11) pounds. (3-3-94)

f. One hundred sixty (160) to one hundred seventy-five (175) -- not more than twelve (12) pounds. (3-3-94)

g. One hundred seventy-five (175) to one hundred ninety-five (195) pounds -- not more than twenty (20) pounds. (3-3-94)

h. One hundred ninety-five (195) pounds and over -- no limit. (3-3-94)

03. Weigh-Ins on Day of Contest. If a weigh-in is scheduled on the day of the contest, weight loss in excess of two (2) pounds after the time of the weigh-in is not permitted. (3-3-94)

601. CHAMPIONS.

01. General. This section applies to a boxer who has been declared the champion of his class. (3-3-94)

02. Title Not at Stake. A champion may engage in a contest in which his title is not at stake if the Commission consents to the contest. (3-3-94)

03. Title at Stake. The title of a champion is at stake if at the official weigh-in his opponent shows and is determined to be within the maximum weight limit of the class. Contests for the championship of the state will be held at twelve (12) rounds. If a champion in a match which has been approved by the Commission for the championship of the state has, within two (2) hours after the scheduled time for the weigh-in, failed to make the specified weight, his title must be declared vacant. (3-26-08)

04. Fighting a Boxer from Heavier Class. The Commission may permit a champion to fight a boxer belonging to a heavier class, but no restriction of minimum weight may be placed on the opponent to prevent his weighing in as a contender for the title. The difference in weight between the combatants may not exceed twenty (20) pounds unless both weigh over one hundred ninety-five (195) pounds. (3-26-08)

05. Commission Names Champions. The Commission may name professional boxing champions of the state each year in each weight class. A championship may be lost by default, forfeit or inability to make the weight, but a championship may only be won in a contest. (3-3-94)

06. Defending a Title. The titles of champions of the state will be defended at least once every six (6) months. If a boxer does not defend his title within this period, his title is automatically vacated. (3-3-94)

07. Presentation of Championship Belt to Commission Before Title Contest. Every boxer who holds a belt for winning the championship of the state will present the belt to the Commission when the title is being defended. Any donor of a championship belt will be approved by the Commission. (3-26-08)

602. WEIGH-IN, EXAMINATION OF COMBATANT MAY BE ORDERED BY THE COMMISSION.
Any combatant who has signed a contract to box on a promoter's program is subject to an order by the Commission to appear at any time to be weighed or examined by any physician designated by the Commission. (5-8-09)

603. ADVANCE APPEARANCE OF COMBATANT SCHEDULED TO FIGHT IN MAIN EVENT.

01. When to Appear. Each combatant who is scheduled to fight in a main event, except a combatant in a regularly scheduled weekly contest, must be present in any place specified by the promoter at least three (3) days before the scheduled day of the contest for the purpose of training, publicity, and whatever other purpose the promoter may desire, unless the combatant has the Commission's express written approval to be absent. (5-8-09)

02. Expenses. Unless otherwise provided for in the contract, the combatant's expenses for this purpose will be borne by the promoter. If a boxer fails to comply with this requirement, the promoter, subject to approval of the Commission, may deduct ten percent (10%) of the offending combatant's purse. (5-8-09)

604. WEIGHING IN OF COMBATANTS.

01. Attendees and Scales Used at Weigh-In. Each combatant will be weighed in the presence of the public, the other combatant, the Commission and an official representing the promoter, on scales approved by the Commission at any place designated by the Commission. (3-26-08)

02. Attire. The combatant will have all weights stripped from his body before he is weighed in, but he may wear shorts. (5-8-09)

03. Attendance by Media. Representatives of newspapers and the electronic news media who provide official identification as such will be admitted to each official weighing in of a combatant. (5-8-09)

04. Security. The owner or operator of the premises in which the weighing in is held will provide adequate security for the combatant and other persons who are present. (5-8-09)

605. FORFEITURE FOR FAILURE TO MAKE WEIGHT.

01. Failure to Make Weight. Any combatant who fails to make the weight agreed upon in his contract forfeits: (3-26-08)

a. Ten percent (10%) of his purse if no lesser amount is set by the Commission; or (3-26-08)

b. A lesser amount set by the Commission, unless the weight difference is one (1) pound or less. (3-3-94)

02. Dividing Forfeit. A forfeit will be divided equally between the other combatant and the Commission. (3-26-08)

03. Exception. Except as otherwise provided, if, during the two (2) hours following the time of the weigh-in, a combatant is able to make the weight or weighs less than one (1) pound outside the agreed limits, no forfeit may be imposed or fine assessed upon him. (3-26-08)

606. PHYSICAL AND EYE EXAMINATION OF COMBATANTS.
A physician designated by the Commission must give each combatant a thorough physical and eye examination within thirty-six (36) hours, but not less than two (2) hours, before the contest or exhibition in which the combatant will participate. (3-29-10)

607. PHYSICIAN -- SUITABLE PLACE TO EXAMINE CONTESTANT; FEE; EMERGENCY TREATMENT.

01. Suitable Examination Place. The promoter will provide the physician designated by the

Commission a suitable place to examine each contestant. (3-3-94)

02. Fees. The physician is entitled to receive a fee for his services at a bout. (3-3-94)

03. Emergency Treatment. The physician will give any injured contestant temporary or emergency treatment in the arena or dressing room and no additional fee may be charged. (3-3-94)

608. PHYSICIAN'S DETERMINATION OF FITNESS OF COMBATANTS AND REFEREE; CERTIFICATION; REPORT.

01. Determination of Physician. The physician who examines any combatant or referee who has contracted to participate in an event will determine that a combatant or referee will not participate in the event and must immediately report such finding to the promoter and the Commission if: (5-8-09)

a. The combatant is unfit for competition; or (3-26-08)

b. The referee is unfit for officiating. (3-3-94)

02. Written Certification. If the examining physician finds that the combatants and referees are in good physical condition, the physician will, one (1) hour before the start of the event, give written certification of those findings to the Commission. (5-8-09)

03. Physician's Written Report. Within twenty-four (24) hours after the event ends, the physician will mail or deliver to the Commission his written report on every licensee he examined. The report will be on a form furnished by the Commission. (5-8-09)

609. COMBATANT'S REPORT OF OWN ILLNESS OR INJURY; EXAMINATION; FEE.

01. Combatant's Report of Non-Participation to Commission. When a licensed combatant is unable to take part in a contest for which he is under contract because of injury or illness, he will immediately report the fact to the Commission and submit to an examination by a physician designated by the Commission. (5-8-09)

02. Payment of Fees to Physician. The fee for the physician's examination will be paid by the promoter if he has requested the examination, otherwise the fee will be paid by the combatant. (5-8-09)

610. SUSPENSION OF LICENSEE FOR MEDICAL REASON.

01. Not Fit for Competition or Officiating. Any licensee who is determined to be unfit to compete or officiate will be suspended until it is shown that he is fit for further competition or officiating. (3-3-94)

02. Medical Suspension -- Thirty Days. Any boxer suspended for thirty (30) days for his medical protection will take the same examination upon the expiration of his suspension as is required annually, unless the Commission directs him to submit to further tests of his physical condition. The physician may require any other procedures during the examination, including an electroencephalogram if indicated. (3-3-94)

611. -- 699. (RESERVED)

700. COMBATANTS MUST REPORT.
Each combatant will report to the Commission in the dressing rooms at least one (1) hour before his scheduled time of the first match. (3-26-08)

701. BOXER'S COSTUME AND EQUIPMENT.

01. Costume. Each combatant on a program will provide himself with the ring costume selected and approved by the Commission. (3-26-08)

02. Fit. The trunks must be loose fitting and made of a lightweight cloth similar to an athlete's

"running pants." The belt of the trunks must not extend above the waist line. (3-3-94)

03. Other Equipment. Each combatant will wear: (3-26-08)

a. A mouthpiece which has been individually fitted; and (3-26-08)

b. An abdominal cup which will protect him against injury from a foul blow. (3-3-94)

702. COMBATANT'S PHYSICAL APPEARANCE.

01. Grease or Foreign Substances. The excessive use of grease or any other foreign substance may not be used on the face of a combatant. The referees or the Commission will cause any excessive grease or foreign substance to be removed. (3-26-08)

02. Hair. The Commission will determine whether head or facial hair presents any hazard to the safety of the combatant or his opponent or will interfere with the supervision and conduct of the contest. (3-26-08)

703. PROCEDURE FOR USE OF SCORECARDS.

01. Scorecards. The Commission will, before the start of the contest, give scorecards to each judge. (3-26-08)

02. Scoring by Judges. The judges will score each round of the contest on an individual scorecard and sign it. The referee will pick up the scorecard from each judge and turn in the scorecards at the Commission's desk before the start of each round. (3-26-08)

03. Presentation of Scorecards to Press After Contest. The Commission may show the scorecards to accredited representatives of the press after the completion of the contest. (3-26-08)

04. Delivery of Scorecards to Commission. The Commission will mail or deliver the scorecards together with required reports regarding the contest to the Bureau. (3-26-08)

05. Report of Each Contest. Reports of each contest will be kept on file in the office of the Bureau. (3-26-08)

704. METHOD OF JUDGING.

01. Scoring by Judges. Each judge will score every contest and determine the winner through the use of the following system: (3-3-94)

a. The better combatant of a round receives ten (10) points and his opponent proportionately less. (3-26-08)

b. If the round is even, each combatant receives ten (10) points. (3-26-08)

c. No fraction of points may be given. (3-3-94)

d. Points for each round will be awarded immediately after the end of the round. (3-3-94)

02. Majority Opinion. After the end of the contest the announcer will pick up the scores of the judges from the Commission's desk. The majority opinion in conclusive and if there is no majority the decision is a draw. (3-3-94)

03. Announcing a Winner. When the Commission has checked the scores, the announcer will be informed of the decision, and the announcer will inform the audience of the decision over the available public address system. (3-26-08)

705. INTRODUCTION FROM RING.
Only a combatant or person officially identified with the contest may be introduced from the ring at an event, except with specific authority to do so from the Commission. (5-8-09)

706. REFEREE'S INSTRUCTIONS TO COMBATANTS.
The referee will, before starting a contest, ascertain from each combatant the name of his chief second, who will be responsible for the conduct of the assistant seconds during the progress of the contest. The referee will call combatants together before each contest for final instructions, at which time each combatant will be accompanied by his chief second only. (3-26-08)

707. LIMITATIONS ON SECONDS.

01. Number of Seconds. No contestant will have more than three (3) seconds except that in a contest for a world title the Commission may authorize four (4) seconds. (3-3-94)

02. Excessive Use of Water. Any excessive or undue spraying or throwing of water on any boxer by a second between rounds is prohibited. (3-3-94)

708. CONTINUOUS PRESENCE OF PHYSICIAN AT RINGSIDE.

01. Presence of Physician at Ringside. The physician designated by the Commission will sit at the immediate ringside at every event. A contest may not proceed unless the physician is in his seat at ringside. The physician must not leave until released by the Commission. He will be prepared to assist if any serious emergency arises and will render temporary or emergency treatments for cuts and minor injuries sustained by the combatants. (5-8-09)

02. Injury to Boxer During Round. When a combatant appears to have been injured during the course of a round, his manager or second cannot attempt to render aid to him before the physician has had an opportunity to examine him. (5-8-09)

709. WARNING BEFORE START OF ROUND.
Ten (10) seconds before the beginning of each round the timekeeper will give warning to the seconds of the combatants by blowing a whistle. (5-8-09)

710. DURATION OF ROUND.
A round of boxing is three (3) minutes in duration. (3-3-94)

711. PERSONS ALLOWED IN RING.
No persons other than the contestants and the referee may be in the ring during the progress of a round. (3-3-94)

712. FAIR BLOWS AND FOULS.

01. Fair Blow. A fair blow is one delivered with the padded knuckle part of the glove on the front or side of the head or the front or side of the body above the belt. (3-3-94)

02. Fouls. The following acts constitute fouls in boxing: (3-3-94)

a. Hitting below the belt. (3-3-94)

b. Hitting an opponent who is down or is getting up after being down. (3-3-94)

c. Holding an opponent with one hand and hitting with the other. (3-3-94)

d. Holding or deliberately maintaining a clinch. (3-3-94)

e. Wrestling or kicking. (3-3-94)

f. Butting with the head or shoulder or using the knee. (3-3-94)

g. Hitting with the open glove, the butt of the hand, the wrist or the elbow, and all backhand blows. (3-3-94)

h. Purposely going down without being hit. (3-3-94)

i. Striking deliberately at that part of the body over the kidneys. (3-3-94)

j. Deliberately using the rabbit punch. (3-3-94)

k. Jabbing the opponent's eyes with the thumb of the glove. (3-3-94)

l. Using abusive language in the ring. (3-3-94)

m. Engaging in any unsportsman like trick or action which causes injury to an opponent. (3-3-94)

n. Hitting on the break. (3-3-94)

o. Hitting after the bell has sounded the end of the round. (3-3-94)

p. Hitting an opponent whose head is between and outside of the ropes. (3-3-94)

q. Pushing an opponent about the ring or into the ropes. (3-3-94)

713. UNFAIR PRACTICES; DUTIES OF REFEREES.

01. Enforcing the Rules. A referee is responsible for enforcing the rules of the contest. He cannot permit unfair practices that may cause injury to a combatant. (5-8-09)

02. Warnings. The referees will warn the combatants whenever they are committing fouls. (5-8-09)

03. Deducting Points. If a combatant persists in committing fouls after he has been warned, the referee will deduct points from him or disqualify him. (5-8-09)

714. FOULS: DEDUCTION FOR POINTS; EFFECT OF CLAIMING LOW BLOW BY OPPONENT.

01. Deducting Points Because of Fouls. If a contestant repeatedly fouls his opponent during a contest or commits any other infraction, the referee may penalize him by deducting a point from his score, whether or not the foul or infraction was intentional. (3-3-94)

02. Notification of Point Deduction. When the referee determines that it is necessary to deduct a point because of a foul or infraction, he will inform the offender, the scoring table and the judges of the penalty to be assessed. (3-3-94)

03. Deduction of Points in Round Foul Occurs. Any point or points to be deducted for any foul or infraction are deducted in the round in which the foul or infraction occurred, and may not be deducted from the score of any subsequent round. (3-3-94)

04. Contestant Claiming Low Blow. A contestant may not be declared the winner of a contest on the basis of his claim that his opponent committed a foul by hitting him below the belt. If a contestant falls to the floor of the ring or otherwise indicates that he is unwilling to continue because of a claim of a blow to be a technical knockout in favor of the contestant who is willing to continue. (3-3-94)

715. FOULS: DISQUALIFICATION OF COMBATANT AND WITHHOLDING OF PURSE.
Any combatant guilty of a foul in a contest may be disqualified by the referee and the participant's purse ordered withheld by the Commission. Disposition of the purse and the penalty to be imposed upon the combatant will be

determined by the Commission. (5-8-09)

716. ACCIDENTAL FOULING.

01. Accidental Foul. If a contest is stopped because of an accidental foul, the referee will determine whether the combatant who has been fouled can continue or not. If the combatant's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the contest continued after a reasonable interval. Before the contest begins again, the referee must inform the Commission of his determination that the foul was accidental. (5-8-09)

02. Contest Stopped Due to Accidental Foul. If the referee determines that the contest may not continue because of an injury suffered as the result of an accidental foul, the bout will be declared a draw if the foul occurs during one-half (1/2) of the total scheduled rounds. (3-26-08)

03. Contest Stopped by Referee. If an injury inflicted by an accidental foul later becomes aggravated by fair blows and the referee orders the contest stopped because of the injury, the outcome is determined by scoring the completed rounds and the round during which the referee stops the contest. (3-26-08)

717. STOPPING OF CONTEST: INJURY TO COMBATANT.
The referee, in consultation with the ring physician designated by the Commission, will determine whether a contest should be stopped because of an injury to a combatant. (5-8-09)

718. STOPPING OF CONTEST: ONE-SIDED CONTEST; RISK OF INJURY; EXAMINATION BY PHYSICIAN.

01. One-Sided Contested. The referee may stop a contest at any stage if he considers it too one-sided or if either combatant is in such a condition that to continue might subject him to serious injury. (5-8-09)

02. Risk of Injury and Examination by Physician. If a combatant sustains any injury which the referee believes may incapacitate him, the referee will call the physician into the ring to examine the combatant. The physician will give his opinion to the referee before the referee renders his decision in the matter. (5-8-09)

719. STOPPING THE CONTEST: COMBATANT NOT HONESTLY COMPETING.
If the referee decides that a combatant is not honestly competing, he may stop the contest before its scheduled completion, disqualify the combatant and recommend the purse of that combatant be held pending investigation by the Commission. The announcer will then inform the audience that no decision has been rendered. (5-8-09)

720. FAILURE OF COMBATANT TO RESUME.
A combatant may not leave the ring during any one (1) minute rest period between rounds. If any combatant fails or refuses to resume the contest when the bell sounds signaling the commencement of the next round, the referee will award a decision of technical knockout to his opponent as of the round which has last been finished, unless the circumstances indicate to the referee the need for investigation or punitive action, in which event the referee will not give a decision and will recommend the purse or purses of either or both combatants to be withheld. (5-8-09)

721. GLOVES TO BE WIPED BY REFEREE AFTER BOXER FALLS.
Before a boxer may resume boxing after having been knocked or having fallen or slipped to the floor of the ring, the referee shall wipe any accumulated resin from the boxer's gloves with a damp towel or the referee's shirt. (3-3-94)

722. KNOCKDOWN OF COMBATANT; PROCEDURE FOR COUNTING.

01. Knockdown. When a combatant is knocked down, the referee will order the opponent to retire to the farthest neutral corner of the ring, pointing to the corner, and immediately begin the count over the combatant who is down. The referee will audibly announce the passing of the seconds, accompanying the count with motions of his arm, the downward motion indication the end of each second. (5-8-09)

02. Timekeeper. The timekeeper, by effective signaling, will give the referee the correct one (1) second interval for his count. The referee's count is the official count. Once the referee picks up the count from the

timekeeper, the timekeeper will cease counting. No combatant who is knocked down may be allowed to resume boxing until the referee has finished counting to eight (8). The combatant may take the count either on the floor or standing. (5-8-09)

03. Failure of Opponent to Stay in Farthest Neutral Corner. If the opponent fails to stay in the farthest neutral corner, the referee will cease counting until he has returned to his corner and will then go on with the count form the point at which it was interrupted. If the combatant who is down arises during the count, the referee may step between the combatants long enough to assure himself that the combatant just arisen is in condition to continue. If so assured, he will, without loss of time, order both combatants to go on with the contest. During the intervention by the referee the striking of a blow by either combatant may be ruled a foul. (5-8-09)

04. Knock-Out. When a combatant is knocked out, the referee will perform a full ten (10) second count unless, in the judgment of the referee, the safety for the combatant would be jeopardized by such a count. If the combatant who is knocked down is still down when the referee calls the count of ten (10), the referee will wave both arms to indicate that he had been knocked out and will raise the hand of the opponent as the winner. (5-8-09)

05. Both Combatants Down. If both combatants go down at the same time, the count will be continued as long as one (1) is still down. If both combatants remain down until the count of ten (10), the contest is stopped and the decision is a technical draw. (5-8-09)

06. Combatants Down -- Referee Counting. If a combatant is down as a result of a legal blow at or near the end of a round, the ring official will continue the count. The combatant cannot be saved by the bell. (5-8-09)

07. Knockdown After Bell Has Sounded. If a legal blow struck in the final seconds of a round causes a combatant to go down after the bell has sounded, that knockdown will be regarded as having occurred during the round just ended and the appropriate count will continue into the rest period following the bell. (3-26-08)

08. Three Knockdowns in Same Round. There is no three (3) knockdown limit. (5-8-09)

723. RESUMING COUNT ON BOXER.

If a knockdown occurs before the normal termination of a round and the boxer who is down stands up before the count of ten (10) is reached and then falls down immediately without being struck, the referee will resume the count where it was left off. (3-3-94)

724. ADJUDICATION OF TECHNICAL KNOCKOUT.

01. Contest Termination. It must be adjudged a technical knockout to the credit of the winner if a contest is terminated because a combatant is: (5-8-09)

a. Unable to continue; (3-3-94)

b. Not honestly competing; (3-3-94)

c. Injured; or (3-3-94)

d. Disqualified. (3-3-94)

02. Win by Other Than Full Count. A contest which is won by other than a full count of ten (10) or the scoring of the judges will be adjudged a technical knockout to the credit of the winner. (3-3-94)

725. PROCEDURE WHEN COMBATANT IS KNOCKED OUT; PERIOD BEFORE HIS NEXT CONTEST; EXAMINATION IN CASE OF HEAD INJURY.

01. Combatant Who Has Been Knocked Out. A combatant who has been knocked out will be kept in a prone position until he has recovered. Except for the referee or chief second who may remove his mouthpiece, no one may touch him until the ring physician enters the ring, attends him and issues any instructions to his handlers. (3-26-08)

02. Decision of Technical Knockout Rendered by Referee. If the referee has rendered a decision of technical knockout against a combatant, the participant will be placed on the ill and unavailable list for a period designated by the Commission after consulting the Commission's physician, but that period will not be less than fifteen (15) days. The combatant may not engage in any contact boxing during this period without the approval of the Commission. (3-26-08)

03. Knockout from Blow to Head. If a combatant has been knocked out by a blow to the head, he will be placed on the ill and unavailable list for at least thirty (30) days. Before he is reinstated, he must satisfactorily pass an examination performed with a computerized tomographic scanning device or an electroencephalogram, or both, if the Commission or its physician finds that such an examination is necessary to determine his condition. (3-26-08)

04. Head Injury. Whenever it appears that a combatant may have suffered a head injury, he will undergo such an examination if directed to do so by the Commission or its physician. (3-26-08)

726. WHEN COMBATANT FALLS FROM RING DURING ROUND.

01. Combatant Knocked or Falls from Ring Platform. A combatant who has been knocked or has fallen through the ropes and over the edge of the ring platform during the contest may be helped back by anyone except his seconds or manager, and the referee may allow a reasonable amount of time for the combatant to return to the ring. If the combatant is on the ring platform outside the ropes, he must enter the ring immediately where he may resume the contest or take a count. The referee will start the count as soon as the combatant who had fallen is back in the ring. (5-8-09)

02. Stalling Outside Ropes. If the combatant stalls for time outside the ropes, the referee will start the count without waiting for him to reenter the ring. (5-8-09)

03. Combatant to Neutral Corner. When one (1) combatant has fallen through the ropes, the other combatant will retire to the farthest corner and stay there until ordered to continue the contest by the referee. (5-8-09)

04. Penalty. A combatant who deliberately wrestles or throws an opponent from the ring, or who hits when he is partly out of the ring and is prevented by the ropes from assuming a position of defense, may be penalized. (5-8-09)

727. WHEN A BOXER SHALL BE DEEMED DOWN.

01. Feet Off Floor. A boxer is deemed to be down when any part of his body other than his feet is on the floor. (3-3-94)

02. Hanging over Ropes. A boxer is deemed to be down when he is hanging over the ropes without the ability to protect himself and he cannot fall to the floor. A referee may count a contestant out if he is on the floor or is being held up by the ropes. (3-3-94)

728. ANNOUNCEMENT OF WINNER OF BOUT.
At the termination of each boxing bout the announcer will announce the winner and the referee will raise the winner's hand. (3-29-10)

729. CHANGE OF DECISION IN CONTEST.
The Commission will not change a decision rendered at the end of any contest unless: (3-29-10)

01. Collusion. The Commission determines that there was collusion affecting the result of the contest; (3-3-94)

02. Error in Scoring. The compilation of scorecards of the judges discloses an error which shows that the decision was given to the wrong combatant; or (3-29-10)

03. Error in Interpretation of Rules. As a result of an error in interpreting a provision of this chapter,

the referee has rendered an incorrect decision. (3-3-94)

04. Failure of Drug Test. The Commission determines that there was a violation of Section 900. (5-8-09)

730. PHYSICIAN'S REPORT TO COMMISSION AFTER CONTEST.
On the report which the physician designated by the Commission files after a contest, he shall list each case in which the boxer or wrestler: (3-3-94)

01. Injury. Was injured during the contest; or (3-3-94)

02. Applies for Medical Aid. Has applied for medical aid after the contest. (3-3-94)

731. MARTIAL ARTS AND MIXED MARTIAL ARTS (MMA).

01. Regulation of Marital Arts and MMA. Except to the extent set forth under Rules 731-799, all requirements and the limitations relating to combatants and licenses (as set forth within Title 54, Chapter 4, Idaho Code, and in the remaining rules of the Commission) will apply to all martial arts and MMA contests and exhibitions. Notwithstanding the foregoing, at its sole discretion, the Commission may (by specific reference in the sanctioning permit) allow the use of other requirements and limitations during a particular martial arts contest or exhibition. (5-8-09)

02. Practices, Belt Promotions, and Non-Contact Demonstrations. Martial arts practices, belt promotion testing and demonstrations (as used herein the term demonstrations means displays that do not involve combative contact between combatants or between participants) conducted by martial arts schools are not considered to be boxing. Such practices, testing, and demonstrations are exempt from the licensing requirements of Title 54, Chapter 4, Idaho Code, and persons do not need a license to participate in such practices, testing, and demonstrations. (3-29-10)

03. Licensing Exemption. Martial arts schools that meet the conditions set forth within Section 54-406(3)(b), Idaho Code, may apply to the Commission for exemption from licensing and sanctioning permit requirements relating to exhibitions and contests. (3-29-10)

04. Use of Official Rules for Art. Martial arts contests and exhibitions will be conducted pursuant to the official rules of the particular art. The sponsoring organization or promoter must file a copy of the official rules with the Commission before the Commission will issue a sanctioning permit for the contest or exhibition. (4-6-05)

05. Boxing Gloves. The requirement set forth in Section 54-414, Idaho Code, of wearing boxing gloves applies to kickboxing but will not apply to any other form of martial art unless the use of boxing gloves is required by the official rules of that particular art. Any gloves utilized must be in good condition as approved by the commission. For the main and semi main events, gloves will be in new condition and of the same brand for combatants. (5-8-09)

732. MMA EQUIPMENT.
The Commission is the final authority in all equipment matters. The following is a list of required equipment for MMA contests: (5-8-09)

01. Commission Approved Mouthpiece. All combatants will wear a mouthpiece during the contest. It is strongly recommended that all combatants have two (2) form fitted mouthpieces available for use in each contest. (5-8-09)

a. To Begin the Round. The round cannot begin if the mouthpiece is not inside the combatant's mouth and set in place. (5-8-09)

b. During the Contest. The mouthpiece will be inside the combatant's mouth and properly set at all times during the contest. (5-8-09)

c. Dislodged Mouthpiece. If the mouthpiece is dislodged during the contest, the referee will wait until the first opportune moment, without interfering with the action, call time out, and have the mouthpiece replaced. (5-8-09)

d. Violations. At the discretion of the referee, points may be deducted or a disqualification rendered in the following situations: (5-8-09)

i. When the mouthpiece is not being properly kept inside of the combatant's mouth; (5-8-09)

ii. When the mouthpiece is purposely spit out; or (5-8-09)

iii. When the corner fails to have the combatant resume competition with the mouthpiece in place or delays in replacing the mouthpiece after it becomes dislodged. (5-8-09)

02. Commission Approved MMA Gloves. (5-8-09)

a. General. The gloves will be examined by the Commission and the referee. If padding in the gloves is found to be misplaced or lumpy, or if any gloves are found to be imperfect, they must be changed before the contest starts. No breaking, roughing or twisting of gloves is permitted. (5-8-09)

b. Weight: Each combatant will wear gloves that are not less than four (4) ounces in weight; (5-8-09)

c. Specifications. Each combatant will wear open finger gloves that have no padding in the palm or fingertip area and that are appropriate in weight for the combatant's hand size. Under no circumstances will a combatant be allowed to wear bag gloves or any other gloves with metal or plastic inserts. (5-8-09)

03. Commission Approved Attire. (5-8-09)

a. Each combatant will wear a foul-proof groin protector. (5-8-09)

b. Each female combatant will wear Commission-approved form fitting breast support protection. Supports may not have brace, metal or hard material of any kind. (5-8-09)

c. For male combatants, no body shirts or pants are allowed. Female combatants will wear fighting shorts and rash guard. (5-8-09)

d. Combatant may only use soft materials to tie hair. (5-8-09)

04. Prohibited Equipment and Attire. (5-8-09)

a. The following equipment and attire are prohibited: (5-8-09)

i. Shoes; (5-8-09)

ii. Facial hair, if determined by the Commission to pose a health, safety or sanitary issue; (5-8-09)

iii. Tar material on any part of the body; (5-8-09)

iv. Henna-type tattoos; (5-8-09)

v. Piercing accessories; and (5-8-09)

vi. Makeup of any kind. (5-8-09)

b. Masks, costumes, and props must be approved by the Commission prior to usage. (5-8-09)

c. Fingernails and toenails must be cut and trimmed prior to a contest. (5-8-09)

733. FAIR TECHNIQUES AND FOULS IN MMA EVENTS.

01. Fair Techniques. Fair MMA techniques include the use of striking and grappling techniques, either while standing or on the ground, subject to techniques designated by the rules as fouls. (5-8-09)

02. Fouls. The following actions will constitute fouls during any MMA event: (3-29-10)

a. Head-butting or striking with the head in any manner. Any use of the head as a striking instrument whether head to head, head to body or otherwise is illegal. (3-29-10)

b. Eye-gouging by means of fingers, chin, or elbow. Legal strikes or punches that contact the combatant's eye socket are not eye gouging and will be considered legal attacks. (3-29-10)

c. A combatant must recognize that a referee may not be able to physically observe some actions and must make the referee aware if they are being bitten during an exhibition of unarmed combat. (3-29-10)

d. Hair Pulling. A combatant may not grab hold of an opponent's hair in order to control the opponent in any way. (3-29-10)

e. Fishhooking, meaning using the fingers to attack an opponent's mouth, nose, or ears, or stretching the skin to that area. Fishhooking generally is the placing of fingers into the mouth of an opponent and pulling the hands in opposite directions while holding onto the skin of the opponent. (3-29-10)

f. Groin attacks, including striking, grabbing, pinching or twisting the groin area. (3-29-10)

g. Smothering an opponent by cupping a hand over an opponent's mouth and nose. (3-29-10)

h. Elbows thrown from a vertical angle. Elbows thrown from any other angle are legal, except that strikes with the elbow point from any angle are illegal during a contest or exhibition in which an amateur combatant participates. (3-29-10)

i. Knee strikes of any kind to an amateur combatant's head. Further, when any combatant goes to the ground, only knees to the body are allowed. (3-29-10)

j. Strikes to the back of the head. The back of the head is considered from the crown of the head down the centerline of the skull into the spine, with a one (1) inch variance to each side, similar to a mohawk haircut. Strikes that are thrown to areas behind the ears but not within the mohawk limitation are legal strikes. (3-29-10)

k. Hand Chokes. A combatant may not attack an opponent with a choke utilizing only his hand or hands in an attempt to submit an opponent. A common phrase for this type of choke is the "C clamp" choke wherein the thumb is placed on one side of an opponent's neck with the fingers on the opposite side. (3-29-10)

l. Placing one's fingers into an open laceration on an opponent in an attempt to enlarge the cut. A combatant may not place his fingers into an opponent's nose, ears, mouth, or any body cavity. (3-29-10)

m. Small Joint Manipulation. Fingers and toes are small joints. Wrists, ankles, knees, shoulders and elbows are all large joints. (3-29-10)

n. Spine Attacks. Illegal spine attacks include, without limitation, locks, such as the "Twister," and strikes to the spine. (3-29-10)

o. Throat strikes of any kind including, without limitation, grabbing the trachea. (3-29-10)

i. No directed throat strikes are allowed. A directed attack would include a combatant pulling an opponent's head in a way to open the neck area for a striking attack. Directed throat attacks are not punches that connect during an exchange from the standing position while combatants are engaged in combat. (5-8-09)

ii. A combatant may not gouge his fingers or thumb into an opponent's neck or trachea in an attempt to submit the opponent. (5-8-09)

iii. All arm chokes such as the "rear naked," "guillotine" and "bar arm" are legal. (5-8-09)

p. Skin Clawing. Any attack that targets the combatant's skin by clawing at the skin or attempting to pull or twist the skin to apply pain. (3-29-10)

q. Kicking the head or groin of a grounded opponent. A grounded opponent is any combatant who has more than just the soles of the feet on the ground. If the referee determines that a combatant would be a grounded combatant, but not solely because the ring ropes or cage fence has held the combatant up from the ground, the referee can instruct the combatants that the combatant held up solely by the cage or ropes is being treated as a grounded combatant. A combatant can be kicked to the body when he is on the ground with any type of legal kick, but may not be kicked in the head or groin. (3-29-10)

r. Stomping, meaning any type of striking action with the feet wherein the combatant lifts his leg, bending it at the knee, and initiates a striking action with the bottom of the foot or heal. This includes stomping the feet while both combatants are standing. Axe kicks are not stomps. (3-29-10)

s. Pile-driving an opponent into the mat. (3-29-10)

i. A pile driver is considered to be any throw wherein a combatant controls an opponent's body by placing the opponent's feet straight up in the air and the head straight down and then forcibly driving the opponent's head into the canvas or flooring material. (5-8-09)

ii. It should be noted that if a combatant is placed into a submission hold by his opponent and the combatant is capable of elevating his opponent, the combatant may bring his opponent down in any manner because he is not in control of his opponent's body. The combatant who is attempting the submission can either adjust his position or let go of the hold before being slammed to the canvas. It is crucial that referees are properly advised and trained on this and that the combatants fully understand this at the rules meeting. (5-8-09)

t. Purposely throwing an opponent out of the ring or caged area. A combatant will not intentionally or purposely throw an opponent out of the ring or cage. (3-29-10)

u. Holding the shorts or gloves of an opponent. A combatant may not control an opponent's movement by holding onto the opponent's shorts or gloves. A combatant may hold onto or grab an opponent's hand as long as the combatant is not controlling the opponent's hand by using only the material of the glove but is actually gripping the hand. It is legal for a combatant to hold onto his own gloves or shorts. (3-29-10)

v. Engaging in any unsportsmanlike conduct is not allowed. Any type of behavior or conduct observed or heard by the referee that can be considered detrimental or disrespectful towards an opponent or the sport of MMA. This includes, but is not limited to, spitting at an opponent, using abusive language or abusive gestures, etc. (3-29-10)

w. Holding the ropes or the fence. (3-29-10)

i. A combatant may put his hands on the fence and push off at any time. A combatant may place his feet onto the cage and have his toes go through the fencing material at any time. If a combatant's fingers go through the cage and he grabs hold of the fence and starts to control either his body position or his opponent's body position, it is an illegal action. A combatant may not grab the ropes or wrap his arms over the ring ropes at any time. (5-8-09)

ii. If a combatant is caught holding the fence, cage or ring rope material the referee will issue a one-point (1) deduction from the offending combatant's scorecard. (5-8-09)

iii. If a point deduction for holding the fence occurs, and the fouling combatant ends up in a superior position due to the foul, the combatants will be re-started, standing in a neutral position. (5-8-09)

x. Attacking an opponent on or during the break. A combatant will not engage an opponent in any manner during a time-out or break of action in competition. (3-29-10)

y. Engaging an opponent in any manner while the opponent is under the referee's care or handling. (3-29-10)

z. Failing to follow the referee's instructions. Any deviation or non-compliance may result in the combatant's disqualification. (3-29-10)

aa. Timidity, meaning any action by a combatant that is used to avoid contact with his opponent or to run away from the action of the fight. Timidity, includes, without limitation, intentionally avoiding contact with an opponent or consistently dropping the mouthpiece or faking an injury. The referee may also call timidity on a combatant for attempting to receive time by falsely claiming a foul or injury, for purposely dropping or spitting out his mouthpiece, or for committing any other action designed to stall the contest. (3-29-10)

bb. Interference by the corner, meaning any action or activity by a corner aimed at disrupting the contest or causing an unfair advantage to a combatant. Corners are not allowed to distract the referee or influence the actions of the referee in any manner. (3-29-10)

03. Time Considerations for Fouls. (5-8-09)

a. A combatant who has been struck with a low blow is allowed up to five (5) minutes to recover from the foul and can continue on in the contest if allowed to by the ringside physician. (5-8-09)

i. If the combatant states that they can continue on before the five (5) minute time allotment has expired, then as soon as is practical the referee will restart the contest. (5-8-09)

ii. If the combatant goes over the five (5) minute time allotment, the contest cannot be restarted and is stopped. The outcome is determined by the round and time in which the contest was stopped. (5-8-09)

b. If a combatant is fouled by a blow that the referee deems illegal, the referee will stop the action and call for time. The referee will take the injured combatant to the ringside physician and have the ringside physician examine the combatant to determine the combatant's ability to continue on in the contest. The ringside physician has up to five (5) minutes to make his determination. If the ringside physician determines that the combatant can continue on in the contest, then as soon as is practical the referee will restart the contest. Unlike the low blow foul, the combatant does not have the five (5) minute time allotment to use at his discretion. (5-8-09)

c. If the referee stops the contest and employs the use of the ringside physician, the ringside physician's examination cannot exceed five (5) minutes. If five (5) minutes is exceeded, the contest cannot be re-started and is stopped. (5-8-09)

d. If the ringside physician deems a combatant unfit to continue, the referee must immediately stop the contest. If the combatant is deemed unfit to continue by the ringside physician and part of the five (5) minute foul time is remaining, the combatant cannot use the remaining time. This will be enforced for all listed fouls, with the exception of a low blow foul. (5-8-09)

04. Intentional Fouling. (5-8-09)

a. When a contest is interrupted due to an injury caused by an intentional foul, the referee, in consultation with the ringside physician, will determine whether the intentionally fouled combatant can continue or not. If it is determined that the intentionally fouled combatant's chance of winning has not been seriously jeopardized as a result of the foul, the referee may order the contest continued after a reasonable interval. A combatant who is fouled with a low blow has up to five (5) minutes to recover. (3-29-10)

b. If the referee, in consultation with the ringside physician, determines at any time during the contest that the intentionally fouled combatant's chance of winning has been seriously jeopardized or the combatant is unable

to continue the contest as a result of the foul, or by any aggravation to an injury caused by the foul, the intentionally fouled combatant wins by "technical decision." (3-29-10)

05. Accidental Fouling. (5-8-09)

a. When a contest is interrupted due to an injury caused by an accidental foul, the referee, in consultation with the ringside physician, will determine whether the combatant who has been fouled can continue or not. If it is determined that a combatant has been accidentally fouled and the combatant's chance of winning has not been seriously jeopardized as a result of a foul, the referee may order the contest continued after a reasonable interval. A combatant who is fouled with a low blow has up to five (5) minutes to recover. (3-29-10)

b. If the referee or the ringside physician, or both, determine that the contest may not continue because of an injury suffered as the result of an accidental foul or because of an injury inflicted by an accidental foul which later becomes aggravated by fair blows, and if less than two (2) rounds have been completed in the contest, then a "no contest" will be entered. If two (2) or more rounds have been completed in the contest, then the combatant who is ahead on the scorecards wins by "Technical Decision." (3-29-10)

06. Fouls or Unsportsmanlike Conduct During the One Minute Rest Period in MMA Contest. (5-8-09)

a. If a combatant fouls or acts in an unsportsmanlike manner during the one (1) minute rest period, the referee will deduct points from the offending combatant based on the severity of the offense. (5-8-09)

b. The Chief Second is responsible for all corner activities. Any illegal activity may cause the Chief Second to be immediately removed from the corner from the entire contest. (5-8-09)

07. Concussive Head Impact Fouls in MMA Contest. Before allowing a contest to continue, the referee should consult with the ringside physician in all cases involving concussive head fouls. The referee, in conjunction with the ringside physician, will determine the length of time needed to evaluate the affected combatant's suitability to continue. (5-8-09)

a. If the referee determines that a foul to the head was intentional, he must follow the Intentional Foul rule. The referee will consider that allowing the contest to continue may subject the combatant to a severe injury. (3-29-10)

i. If the affected combatant is not badly injured and his chance of winning has not been seriously jeopardized because of the foul, the contest may be allowed to continue. If the contest is allowed to continue, the offending combatant will be issued an official warning and have one (1) point deducted from his score in the round. (5-8-09)

ii. If the referee determines that the affected combatant cannot continue, the offending combatant will lose by "Disqualification." (5-8-09)

b. If the referee determines that a foul to the head was accidental, he will follow the Accidental Foul rule. The referee must consider that allowing the contest to continue may subject a combatant to a severe injury. (3-29-10)

i. If the affected combatant is not badly injured and his chance of winning has not been seriously jeopardized because of the foul, the contest may be allowed to continue. (5-8-09)

ii. If the contest cannot continue the Technical Decision rule will be applied. (5-8-09)

08. Low Blow in MMA Contest. (5-8-09)

a. If the referee determines that the low blow foul was intentional, he will follow the Intentional Foul rule. (3-29-10)

i. If the offended combatant is not badly injured and their chance of winning has not been seriously

jeopardized because of the foul, the Five (5) Minute rule may be applied. (5-8-09)

ii. If the referee determines that the athlete cannot continue, the offending combatant will lose by "Disqualification." (5-8-09)

b. When a combatant is hit with an accidental low blow and claims injury, the referee, at his discretion, may apply the Five (5) Minute rule. If the injured combatant cannot resume fighting before the recovery period ends, the injured combatant will lose the contest by "No Contest." (3-29-10)

c. The Five (5) Minute Rule is only applicable to low blow fouls. (5-8-09)

09. Disqualification. A combatant will lose by "Disqualification" when he: (5-8-09)

a. Intentionally fouls and causes harm to his opponent; (5-8-09)

b. Continually refuses to follow the rules; or (5-8-09)

c. Continually disobeys the referee. (5-8-09)

10. Referee Action on Fouls in MMA Contest. (5-8-09)

a. The referee will inform the Commission Representative as soon as possible of the following: (5-8-09)

i. The type of foul; (5-8-09)

ii. If the foul was accidental or intentional; (5-8-09)

iii. If points will be deducted from the offending combatant; (5-8-09)

iv. If the offending combatant will be disqualified; (5-8-09)

v. If the Five (5) Minute rule will or will not be applied; (5-8-09)

vi. If the contest will be delayed to evaluate a combatant; or (5-8-09)

vii. If the contest will or will not continue. (5-8-09)

b. The referee will declare whether a blow is legal or a foul. If declared a foul, he will declare if it was Accidental or Intentional. Point deductions for fouls will be done at the time of the infraction. If an intentional foul causes injury and the injury is severe enough to immediately terminate the bout, the combatant causing the injury loses by "Disqualification." (5-8-09)

c. Point deductions for an intentional foul is mandatory. If an intentional foul causes an injury and the fouled combatant can continue, the referee at his discretion will deduct points from the offending combatant. (5-8-09)

734. SUSPENSION OF MMA CONTEST FOR UNFORSEEN REASONS.

01. Unforeseen Reasons. If a contest has to be suspended for any reason other than the actions of the combatants, the referee will have the clock stopped and attend to the issue. The referee, Commission or Commission's representative will decide the length of time allotted to address the issue. All reasonable efforts are made to resume the contest as soon as possible. It is expected that the responsible party or parties make a true effort to resolve the issue. (5-8-09)

02. Suspicious Circumstances. If the contest is unexpectedly stopped under suspicious circumstances, all or part of the following actions may take place: (5-8-09)

a. If a combatant or his corner is involved, the offending combatant may be disqualified. (5-8-09)

b. The combatant may be subject to investigation and discipline in the event of a violation of these rules. (5-8-09)

c. In certain circumstances the matter may be referred to the appropriate law enforcement agency or the courts, or both. (5-8-09)

735. STANDING EIGHT COUNT IN MMA CONTEST.
No standing eight (8) count is permitted under any circumstances. Referee's are responsible for combatant safety and will stop a contest when a combatant is unable to intelligently defend himself, or is unresponsive, timid, or mismatched in competition, or when the referee feels the combatant's safety is jeopardized. (5-8-09)

736. WEIGHT CATEGORIES - MIXED MARTIAL ARTS.
Commissions may use their discretion to approve certain matches out-of-weight class contests. The following comprises the full list of usable weight categories in any MMA contest.

MEN'S DIVISIONS:	
Featherweight	Up to 135 lbs.
Lightweight	135.1 to 155 lbs.
Welterweight	155.1 to 170 lbs.
Middleweight	170.1 to 185 lbs.
Light Heavyweight	185.1 to 205 lbs.
Heavyweight	205.1 to 265 lbs.
Super Heavyweight	265.1 lbs. and above

WOMEN'S DIVISONS:	
Flyweight	95 lbs. and below
Featherweight	95.1 to 115 lbs.
Lightweight	115.1 to 125 lbs.
Welterweight	125.1 to 135 lbs.
Middleweight	135.1 to 145 lbs.
Light Heavyweight	145.1 to 155 lbs.
Cruiserweight	155.1 to 165 lbs.
Heavyweight	165.1 to 185 lbs.
Super Heavyweight	185.1 and above

(5-8-09)

737. MMA EVENT ROUNDS.

01. Length of Rounds. Rounds for contests or exhibitions in which amateur combatants participate are three (3) minutes long. Rounds for contests or exhibitions in which professional combatants participate are five (5) minutes long. (3-29-10)

02. Number of Rounds. Non-title contests consists of three (3) rounds. Title contests consist of five

(5) rounds. (5-8-09)

738. METHODS OF WINNING MMA CONTEST.

01. Knockout (KO). A knockout is declared when a combatant is unable to intelligently defend himself following a strike. (5-8-09)

02. Technical Knockout (TKO). A technical knockout is declared when the licensed ringside physician or referee decides the combatant cannot continue due to a cut or other injury. (5-8-09)

03. Submission. When a combatant submits by tapping out on the opponent or the mat as a result from a choke, lock, or any other legal technique or strike. A combatant may call out defeat when unable to tap out. (5-8-09)

04. Referee Stoppage. The referee may stop the contest if a combatant can no longer defend himself or cannot or will not tap out, or for any other reason to preserve the health and safety of the combatants. (5-8-09)

05. Decision. When the contest ends after the specified time period and there is no winner, or ends due to a foul or fouls that cause injury, or ends due to unforeseen circumstance, it will be scored by the three (3) judges. (5-8-09)

a. Decisions made via a scorecard in MMA contest will be: (5-8-09)

i. A "Unanimous Decision" in which all three (3) judges agree on winner. (5-8-09)

ii. A "Split Decision" in which two (2) judges agree on one (1) combatant and one (1) judge scores for the other combatant. (5-8-09)

iii. A "Majority Decision" in which two (2) judges agree on one (1) combatant and one (1) judge scores a draw. (5-8-09)

b. A "Draw" may be: (5-8-09)

i. A "Unanimous" decision in which all three (3) judges score the contest a draw; (5-8-09)

ii. A "Majority" decision in which two (2) judges score the contest a draw and one (1) judge scores for a combatant; or (5-8-09)

iii. A "Split" decision in which one (1) judge scores for a combatant, one (1) judge scores for the other combatant and one (1) judge scores the contest a draw. (5-8-09)

c. Other scorecard decisions are: (5-8-09)

i. Technical Decision; (5-8-09)

ii. Technical Draw; or (5-8-09)

iii. No Contest. (5-8-09)

d. A "Disqualification" can result from fouling or unsportsmanlike conduct as determined by the referee. (5-8-09)

06. Inability of Opponent to Continue or Throws in Towel. If the opponent is unable or unwilling to continue the contest or the combatant's corner decides that the combatant is unable to continue and indicates this by throwing the towel into the ring or cage, a TKO will result against this combatant. (5-8-09)

739. MMA CONTEST SCORING.

01. 10 Point Must System. All contests will be evaluated and scored by three (3) judges. In exigent circumstances, or at the discretion of the Commission, a referee may be allowed to judge a contest. The 10 Point Must System will be the standard system of scoring a contest. In the event that a contest ends by technical decision, the judges will score the partial round. (5-8-09)

02. Method of Judging. (5-8-09)

a. Scoring by Judges. Each judge will score every contest and will determine the winner using the following scoring system: (5-8-09)

i. The better combatant of a round receives ten (10) points and his opponent proportionately fewer points. (5-8-09)

ii. If the round is even, each combatant receives ten (10) points. (5-8-09)

iii. No point fractions may be given. (5-8-09)

iv. Points for each round are awarded immediately after the end of the round. (5-8-09)

b. Majority Opinion. After the end of the contest the announcer will pick up the scores of the judges from the Commission's desk. The majority opinion is conclusive. If there is no majority decision, the contest is declared a technical draw. (5-8-09)

c. Announcing a Winner. When the Commission has checked the scores, the announcer will be informed of the decision, and the announcer will inform the audience of the decision over the available public address system. (5-8-09)

03. Primary Scoring Considerations. The following are primary scoring considerations for scoring an amateur MMA competition: (5-8-09)

a. Legal striking. Clean, effective strikes in the legal scoring zone - number and quality of legal scoring blows; (5-8-09)

b. Legal takedowns, throws or knockdowns; (5-8-09)

c. Near completed submission; (5-8-09)

d. Overall control and dominance; and (5-8-09)

e. Damage. (5-8-09)

740. COMBATANT DOWN AFTER THE SOUND OF THE BELL.

01. End of Round. The round ends when the bell sounds to end the round. (5-8-09)

02. Combatant Down After Round Has Ended. If during the round legal blows negatively affect a combatant and the combatant goes down after the bell has sounded ending the round, the referee will consider the round ended and the one-minute rest period started. The referee may then allow the combatant's corner to assist the downed combatant or he may summon the ringside physician to evaluate the combatant, or both. (5-8-09)

741. BLOWS AT OR AFTER THE BELL IN MMA CONTEST.

01. Legal Blow. A blow that strikes a combatant concurrent with the sounding of the bell is deemed to be a legal blow. (5-8-09)

02. Illegal Blow. A blow that strikes a combatant after the sounding of the bell is deemed to be a foul.

The referee will determine if it was accidental or intentional foul. (5-8-09)

742. TERMINATION OF A CONTEST DUE TO A FAIR BLOW IN MMA CONTEST.
If an athlete sustains an injury from a fair blow and the injury is severe enough to immediately terminate the contest, the injured combatant will lose by "Technical Knockout (TKO)". (5-8-09)

743. COMBAT PLATFORMS (RING/CAGE).
All MMA contests will take place in either a cage or a ring that has been approved by the Commission. The cage or ring will be subject to inspection prior to each contest by the Commission, a Commission representative, or a referee. (5-8-09)

744. -- 799. (RESERVED)

800. WRESTLING: SPECIAL LICENSE IS REQUIRED FOR A CONTEST.
Unless a special license has been obtained, all professional wrestling programs under the supervision and authority of the Commission are only exhibitions and not contests, and those exhibitions cannot be advertised or announced as contests. (3-3-94)

801. WRESTLING: DISQUALIFICATION FOR DANGEROUS TACTICS.

01. Restrictions. The referee will not permit physically dangerous conduct or tactics by any wrestler. Any wrestler who fails to discontinue those tactics, after being warned by the referee, will be disqualified and have his purse held up and paid to the Commission. (3-3-94)

02. Professionalism. A referee cannot participate in an exhibition to the extent that the Commission or the referee is made to look ridiculous. (3-3-94)

802. LICENSEE'S DUTIES AT WRESTLING EXHIBITION.

01. Conduct. The referee, promoter and his agents, attaches and employees, and participants in any wrestling exhibition will maintain peace, order and decency in the conduct of the exhibition. (3-3-94)

02. No Abusive Behavior. A person who is involved in such exhibition will not abuse the referee or an official of the Commission. (3-3-94)

03. Decision and Appeal. The Commission will hear any complaint about a referee or an official. (3-26-08)

803. WRESTLERS -- PHYSICAL EXAMINATION.
Any person applying for or renewing a license as a wrestler will first be examined by a physician approved by the Commission to establish physical and mental fitness. A wrestler will be furnished a list of approved examining physicians by the Commission. The Commission may order the examination of any wrestler for the purpose of determining whether the wrestler is fit and qualified to engage in further exhibitions. (3-3-94)

804. -- 899. (RESERVED)

900. ADMINISTRATION OR USE OF ALCOHOL, DRUGS, STIMULANTS.

01. Prohibitions. The administration of or use of any of the following, in any part of the body either before or during an event, to or by any combatant is prohibited: (3-26-08)

a. Alcohol; (3-3-94)

b. Drugs; (3-3-94)

c. Injection; or (3-3-94)

d. Stimulant. (3-3-94)

02. Urinalysis. A combatant will submit to a urinalysis of chemical test before or after a contest if the Commission directs him to do so. (3-26-08)

03. Suspension. No combatant will be allowed to box if his urinalysis testing reveals the presence of illegal substance(s). (3-26-08)

04. Procedure for Testing for Illegal Substance(s). (3-3-94)

a. The Commission reserves the right to conduct random drug testing. A combatant with a recent history of drug abuse may be specifically required to test. Both combatants in the title contest will be tested by urine specimen or blood test at the discretion of the commission. (3-26-08)

b. The combatant to be tested shall go directly to the dressing room after the end of the fight. Only water may be consumed until the test sample has been taken. The Commission's approved physician or agent will give each combatant the specimen container and observe the combatant give the specimen into the container. The container will be sealed and labeled by the physician or agent. The Chain of Custody Form is signed by the combatant, or manager, and the physician or agent will also sign and date the form. The physician or agent will transport the sample to the testing laboratory as selected by the Commission. Any other person taking custody of the sample will sign and date The Chain of Custody Form. After completion of the test, the Chain of Custody Form will be returned to the Commission with the test results. (3-26-08)

05. Subject to Disciplinary Action. A licensee who violates any provision of this Section is subject to disciplinary action by the Commission. (3-3-94)

901. PREPARATIONS TO STOP HEMORRHAGING.
The Commission will periodically review the preparations available to stop hemorrhaging. Only the preparations which are approved by the Commission may be used to stop hemorrhaging on the ring. Avetine and Thrombin are the only Commission approved preparations to stop hemorrhaging. (5-8-09)

902. COMBATANT NOT TO HAVE PROMOTER OR CERTAIN OTHERS ACT AS MANAGER OR HOLD FINANCIAL INTEREST.
A combatant may not have a promoter or any of its members, stockholders, officials, matchmakers or assistant matchmakers: (3-26-08)

01. Manager. Act directly or indirectly as manager; or (3-26-08)

02. Financial Interest. Hold any financial interest in the management of the combatant's earnings. (3-26-08)

903. REPORT TO COMMISSION OF SOLICITATION TO CONDUCT CONTEST FRAUDULENTLY.
When any person who is licensed by the Commission is approached with a request or suggestion that a contest not be conducted honestly, that person must immediately report that matter to the Commission. Failure to do so is a ground for disciplinary action. (3-26-08)

904. SUSPENSION OF A LICENSE -- DEBTS IN CONNECTION WITH TRAINING.
Any boxer, wrestler or manager may have his license suspended by the Commission if he fails to pay any legitimate debt which he contracted in connection with training and use of a gymnasium. (3-3-94)

905. GROUNDS FOR DISCIPLINARY ACTION.
Any person who is licensed by the Commission may have his license suspended or revoked, or be fined or otherwise disciplined by the Commission for any of the following: (3-26-08)

01. Violation of Laws. Having violated the laws of Idaho, except for minor traffic violations. (3-26-08)

02. Violation of Rules. Having violated any provisions of this chapter. (3-26-08)

03. Valid Orders of Commission. Failed or refused to comply with a valid order of the Commission. (3-26-08)

04. Good Conduct. Conduct at any time or place in a manner which is deemed by the Commission to reflect discredit to boxing or wrestling. (3-26-08)

906. (RESERVED)

907. LICENSEES PROHIBITED FROM DEALING WITH PERSONS WHOSE LICENSES ARE SUSPENDED OR REVOKED.
A person who is licensed by the Commission will not have any dealings related to boxing or wrestling with any person whose license had been suspended or revoked by the Commission. (3-3-94)

908. SUSPENSION AND REVOCATION OF LICENSES.

01. Comply with Suspensions. Every promoter and matchmaker will take notice of the bulletins of suspension sent out by the Commission and will not permit any person under suspension to take any part as a participant or in arranging or conducting matches or exhibitions during the period of suspension. (3-3-94)

02. Additional. Every person whose license has been suspended or revoked by the Commission will refrain from participating in or matchmaking or holding contests during the period of suspension or after the revocation. (3-3-94)

03. Specific Actions. Any person whose license has been suspended or revoked is barred from: (3-3-94)

a. The dressing rooms at the premises where any program of boxing is being held; (3-3-94)

b. Occupying any seat within six (6) rows of the ring platform; (3-3-94)

c. Approaching within six (6) rows of seats from the ring platform; and (3-3-94)

d. Communicating in the arena or near the dressing rooms with any of the principals in the contests, their managers, their seconds, of the referee, whether directly or by a messenger, during any program. (3-26-08)

e. Any person who violates a provision of Subsection 908.03 of this rule may be ejected from the arena or building where the program is being held, and the price paid for admission refunded upon presentation of the ticket stub at the box office. Thereafter, he is barred entirely from all premises used for contests or exhibitions while the programs are being held. (3-26-08)

04. Dishonest Methods. If a license issued by the Commission has been suspended because the holder used dishonest methods to affect the outcome of any contest or because of any conduct reflecting serious discredit upon the sport of boxing, the Commission will not reinstate the license for six (6) months in the case of first offense. In the case of a second offense, the holder's license will be revoked. (3-26-08)

05. Temporary Suspension. Any manager who is under temporary suspension is considered to have forfeited all rights in this state under the terms of any contract with a combatant licensed by the Commission. Any attempt by a suspended manager to exercise those contract rights will result in a permanent suspension of his license. The license of any combatant, matchmaker, or promoter who continues to engage in any contractual relations with a manager whose license has been suspended by the Commission may be indefinitely suspended. (3-26-08)

06. Continuation. A combatant whose manager has been suspended may continue to compete independently during the term of that suspension, signing contracts for matches. Payment of a combatant's earnings may not be made by any promoter to a manager who is under suspension, or to a suspended manager's agent, but will be paid in full to the combatant. (3-26-08)

07. Cancellation of Contract Rights. Revocation of a manager's license automatically cancels all contract rights in this state under any contracts with combatants made under the authority of the Commission. If such a revocation occurs, a combatant may operate independently and make contracts for matches or enter into contracts with other managers licensed by the Commission. (3-26-08)

909. PENALTIES FOR CERTAIN VIOLATIONS; REVIEW BY COMMISSION.

01. Penalties General. Except as otherwise provided in this chapter, the Commission may charge a penalty not to exceed twenty-five thousand dollars ($25,000) for: (5-8-09)

a. Any violation of the provisions of these rules (IDAPA 24.02.01, "Rules of the Athletic Commission"); or (5-8-09)

b. Being late or failing to appear for a weigh-in or contest. (3-26-08)

02. Later Review. Any disciplinary action taken pursuant to Subsection 909.01 of these rules will be reviewed at a later date by the Commission. (5-8-09)

910. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.03.01 – RULES OF THE STATE BOARD OF CHIROPRACTIC PHYSICIANS

DOCKET NO. 24-0301-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-707, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.03.01, rules of the State Board of Chiropractic Physicians.

IDAPA 24.03.01

- 24.03.01, *Rules of the State Board of Chiropractic Physicians*: all proposed rules except 010.04, 020, 100.01, 250, 300.02.b., 300.02.c., 300.02.d., 450.01, 450.02, 450.03, 450.04, 450.05, 450.06, 450.07, 450.08, 450.09, 450.10, 500, 550.01, 551.01, 560, 701, 702.02.a., 702.03.a., and 709.03, 709.04.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.03.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Board of Chiropractic Physicians was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.03.01, the Rules of the State Board of Chiropractic Physicians. On July 12, 2019, the State Board of Chiropractic Physicians held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Further, the pending fee rule expands continuing education options for licensees through adding two categories of approved continuing education, the rule revises the advertisement rules through eliminating examples to align with other medical advertising rules, and the rule eliminates unnecessary storage duration and waste disposal rules.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4605 - 4620.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules, except that it changes the fee structure to set a cap.

The fee caps are above the current fee level for applications by $50;
Original licensure by $50;
License renewal by $50;
Inactive renewal by $50;

Temporary permit by $50;
Intern permit by $50;
Applications for clinical nutrition certification by $25;
Clinical nutrition certification renewal by $25.

Fee caps are established in accordance with Section 54-707A, Idaho Code, as follows:
Application fee: not to exceed $200;
Original license fee: not to exceed $200;
Annual renewal fee: not to exceed: $200;
Inactive license fee: not to exceed $150;
Temporary permit fee: not to exceed $150;
Intern permit fee not to exceed $150;
Application for clinical nutrition certification fee: not to exceed $175;
Clinical nutrition certification fee not to exceed $175;
Reinstatement fee of an expired license is being reduced to $35.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking. Additionally, the Board is not a general fund agency, and these rule changes have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Chiropractic Physicians by the provisions of Section 54-707, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.03.01, "Rules of the State Board of Chiropractic Physicians." (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITION.

01. ***Chiropractic Assistant****. A chiropractic assistant is an individual functioning in a dependent relationship with a supervising chiropractic physician in the performance of any chiropractic practice. ( )*

02. Chiropractic Intern*. A chiropractic intern is defined as any individual who is presently enrolled in a school of chiropractic and is qualified to practice as an intern as established by the approved chiropractic college that the individual attends and who will function in a dependent relationship with a supervising chiropractic physician in the performance of chiropractic practice. ( )*

03. Direct Personal Supervision. Direct Personal Supervision means that the licensed chiropractic physician is physically present in the clinic, is monitoring the activities of the supervisee, and is available to intervene, if necessary. (3-29-10)

04. Inactive Retired. The status of a licensee who is over sixty-five (65) years of age, has paid the inactive retired fee and is permanently retired from the practice of chiropractic. The holder of an inactive retired license may not practice chiropractic in Idaho. (3-15-02)

011. -- 099. (RESERVED)

100. APPLICATIONS.

01. Qualifications. (7-1-93)

a. New applicants will meet the following requirements: (7-1-93)

i. National Boards Parts I, II, III, and IV; (7-1-99)

ii. Graduation from a *Council on Chiropractic Education (*CCE*)* approved college or university; and (7-1-93)

iii. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians." (7-1-99)

b. Endorsement applicants will meet the following requirements: (7-1-93)

i. Successful passage of the National Boards Parts which were in effect at the time of graduation from chiropractic college and physiotherapy; (4-2-08)

ii. If licensed prior to January, 1980, CCE approved college or university not required. If licensed after January, 1980, applicant must have graduated from a CCE approved college or university; (7-1-93)

iii. Five (5) years of consecutive practice without discipline immediately prior to application and holds a current, valid license to practice in a state, territory, or district of the United States or Canada; (4-11-19)

iv. Applicants must demonstrate that they possess the requisite qualifications to provide the same standard of chiropractic care as provided by physicians in this state. The Board may, in its sole discretion, require further examination to establish such qualifications, such as passage of the National Board Special Purposes Examination for Chiropractors (SPEC); and (4-11-19)

v. Applicants will be required to sign an affidavit swearing under oath that they have fully reviewed and understand and will abide by the Chiropractic Act, Title 54, Chapter 7, Idaho Code, and the Board's Rules, IDAPA 24, Title 03, Chapter 01, "Rules of the State Board of Chiropractic Physicians." (7-1-99)

101. -- 149. (RESERVED)

150. FEES.
All fees are non-refundable.

FEE	AMOUNT (Not to Exceed)
Application	$200
Original license	$200
Annual renewal	$200
Inactive license	$150
Reinstatement of expired license	$35
Reinstatement of inactive license	$150
Temporary permit	$150
Intern permit	$150
Application for clinical nutrition certification	$175
Clinical nutrition certification renewal	$175

( )

151. -- 199. (RESERVED)

200. EXAMINATIONS.
It shall be the applicant's duty to take and successfully pass the National Board Examinations administered by the National Board of Chiropractic Examiners as specified in these rules. (3-10-00)

201. -- 299. (RESERVED)

300. INACTIVE LICENSE.
A licensee holding a current active license in this state who is not practicing chiropractic in this state may be issued an inactive license in accordance with Section 54-708(2), Idaho Code, as follows: (4-11-19)

01. Inactive Status. Each application for an Inactive status license must be accompanied by: (3-15-02)

a. The established fee; and (3-15-02)

b. A written application to change a current active license to an inactive license. (4-11-19)

c. An inactive license shall be issued for one (1) year. (4-11-19)

02. Inactive License Status Renewal. (4-11-19)

a. An inactive license must be renewed annually by submitting the established fee and renewal application. Inactive licenses not renewed will be canceled. (4-11-19)

b. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. (4-11-19)

03. Return to Active Status of License Inactive for Five (5) or Fewer Years. An inactive license holder whose license has been inactive for five (5) or fewer years may convert from inactive to active license status by: (4-11-19)

a. Making written application to the Board on a form prescribed by the Board; (4-11-19)

b. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and (4-11-19)

c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (4-11-19)

04. Return to Active Status of License Inactive for More Than Five (5) Years. An inactive license holder whose license has been inactive for more than five (5) years may convert from inactive to active license status by: (4-11-19)

a. Making written application to the Board on a form prescribed by the Board. (4-11-19)

b. Providing an account to the Board for that period of time during which the license was inactive and fulfilling requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency. (4-11-19)

c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (4-11-19)

05. Clinical Nutrition Certificate Expires. If a licensee holds a clinical nutrition certificate and places their license on inactive status, the clinical nutrition certificate is immediately canceled as though the license was not timely renewed as provided in Section 703 of these rules. (4-11-19)

06. Reissuance of Clinical Nutrition Certificate. An inactive license holder who held a clinical nutrition certificate at the time their license was placed on inactive status who returns to active license status pursuant to this rule may be reissued a clinical nutrition certificate by showing proof of compliance with the provisions of Sections 704, 705, and 706 that apply to their situation. (4-11-19)

301. -- 349. (RESERVED)

350. CONTINUING EDUCATION.
All licensees must comply with the following continuing education requirements: (4-11-19)

01. Requirement. Applicants for renewal shall be required to complete a minimum of eighteen (18) hours of continuing education within the preceding twelve (12) months, as approved by the Board. (4-11-19)

a. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. (4-11-19)

b. The educational setting may include a classroom, conference/seminar, on-line, or a virtual classroom. ( )

c. If the licensee completes two (2) or more courses having substantially the same content during any one (1) renewal period, the licensee only will receive continuing education credit for one (1) of the courses. (4-11-19)

02. Documentation. Each licensee shall maintain documentation verifying continuing education attendance and curriculum for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. (4-11-19)

a. Documented evidence of meeting the continuing education requirement shall be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. (4-11-19)

b. A licensee must submit the verification documentation to the Board if requested by the Board. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. (4-11-19)

03. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. (4-11-19)

04. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. Hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (4-11-19)

05. Exemption. A licensee is exempt from the continuing education requirements under this section for the period between the initial issuance or the original license and the first expiration date of that license. (4-11-19)

***06. Continuing Education Activities**. The following educational activities qualify for continuing education: ( )*

***a.** Post-graduate education courses, germane to chiropractic practice as approved by the Board. ( )*

***b.** Attendance at Board meetings. ( )*

351. APPROVAL OF CONTINUING EDUCATION COURSES.

01. Approved Continuing Education Courses. Approved continuing education courses shall be those courses, programs, and activities that are germane to the practice of chiropractic, as defined in Sections 54-704(1) and (2), Idaho Code, and meet the general requirements and content requirements of these rules, and are approved, sponsored, or provided by the following entities or organizations, or otherwise approved by the Board: (4-11-19)

a. Council of Chiropractic Education (CCE) approved chiropractic college or university, a college or university accredited by a nationally recognized accrediting agency as recognized by the United States Secretary of Education or an educational program approved by the Board; (4-11-19)

b. Providers of Approved Continuing Education (PACE); (4-11-19)

c. National and state chiropractic associations; and (4-11-19)

d. Provider Course Approval. Other courses that may be approved by the Board based upon documentation submitted by a continuing education provider. Requests for approval of courses made by the provider must be submitted on a form approved by the Board that includes: (4-11-19)

i. The nature and subject of the course and how it is germane to the practice of chiropractic; (4-11-19)

ii. The name of the instructor(s) and their qualifications; (4-11-19)

iii. The date, time, and location of the course; (4-11-19)

iv. The specific agenda for the course; (4-11-19)

v. The number of continuing education hours requested; (4-11-19)

vi. The procedures for verification of attendance; and (4-11-19)

vii. Other information as may be requested by the Board. (4-11-19)

viii. Upon review of all information requested, the Board may deny any request for a course that does not meet the requirements of Idaho law or rule. Board approval of a course shall be granted for a period not to exceed two (2) years or until the course materials or instructors are changed, whichever may occur first. (4-11-19)

02. Licensee Course Approval. Other courses that may be approved by the Board based upon documentation submitted by the licensee. All requests for approval must be made to the Board in writing and include the nature and subject of the course and its relevancy to the practice of chiropractic, name of instructor(s) and their qualifications, date, time and location of the course, and procedures for verification of attendance. (4-11-19)

352. -- 399. (RESERVED)

400. APPROVED SCHOOLS OF CHIROPRACTIC.

01. Requirement for Approval. (7-1-93)

a. *The Board will consider a school, college, or university in good standing only if such school, college, or university conforms to the requirements of "recognized candidate for accreditation," or "accredited" of the Council of Chiropractic Education or any foreign country college which meets equivalent standards as determined by the Board and teaches accredited courses in all the subjects set forth in Section 54-709(1)(b), Idaho Code.* *( )*

b. Regardless of the Council on Chiropractic Education status, the Board may make additional requirements for approval as a reputable school, college or university of Chiropractic. (7-1-93)

02. New Schools. Those graduates of new schools of chiropractic will only be accepted for licensure application provided the school reaches "recognized candidate for accreditation" status with the Council on Chiropractic Education within one year following the first graduating class. (4-11-19)

401. -- 449. (RESERVED)

450. ADVERTISEMENTS.

01. Prohibited Advertising. No chiropractor shall disseminate or cause the dissemination of any advertisement or advertising which is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising shall be deemed by the board to be fraudulent, false, deceptive, or misleading if it: (7-1-93)

a. *Is likely to deceive, defraud, or harm the public; or* *( )*

b. *Uses false or misleading statement(s) regarding a chiropractor's skill or the efficacy or value of the chiropractic medicine, treatment, or remedy prescribed by a chiropractor or at a chiropractor's direction in the treatment of any disease or other condition of the body or mind.* *( )*

451. -- 549. (RESERVED)

550. CHIROPRACTIC ASSISTANTS.

01. Chiropractic Physician Responsible and Liable. The chiropractic physician shall be responsible and liable for: (7-1-93)

a. Direct *personal* supervision; *( )*

b. Any acts of the assistant in the performance of chiropractic practice; (7-1-93)

c. Proper training and capabilities of the chiropractic assistant before authorization is given to

perform any chiropractic practice. (7-1-93)

02. Chiropractic Assistant Limitations. A chiropractic assistant shall not: (7-1-93)

a. Manipulate articulations; (7-1-93)

b. Provide diagnostic results or interpretations to the patient; (7-1-93)

c. Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. (7-1-93)

551. CHIROPRACTIC INTERN.

01. Chiropractic Physician Responsible and Liable. The chiropractic physician shall be responsible and liable for: (3-15-02)

a. Direct personal supervision of the intern; (3-15-02)

b. Any acts of the intern in the performance of chiropractic practice; (3-15-02)

c. Determining that the intern possesses sufficient training and capabilities before authorization is given to perform any chiropractic practice. (3-15-02)

02. Chiropractic Intern Limitations. A chiropractic intern shall not: (3-15-02)

a. Perform any chiropractic practice independently, but must perform all such practice under the direct personal supervision of a licensed Chiropractic Physician; (3-15-02)

b. Provide diagnostic results or interpretations to the patient prior to consultation with the supervising Chiropractic Physician; (3-15-02)

c. Provide treatment advice to any patient without instructions from the supervising Chiropractic Physician. (3-15-02)

552. TEMPORARY PRACTICE PERMITS.
When an original application for license or internship is accepted by the board as being fully completed, in accordance with the requirements of the Idaho Chiropractic Physician Law and these Rules, a temporary permit to practice may be issued. (3-15-02)

01. Supervision Required. A permit holder may work only when under the direct personal supervision of a chiropractic physician currently licensed in Idaho. The name, address and signature of the supervising chiropractic physician shall appear on the application. (3-15-02)

02. Only One Permit May Be Issued. Only one (1) permit may be issued under any circumstances to any individual. (3-15-02)

03. Validity of Temporary Permits. Temporary permit to practice will be valid for a period not to exceed twelve (12) months and only: (3-15-02)

a. In the case of an applicant for Idaho licensure, until the results of the next scheduled examination have been released. No work permit will be issued to an applicant who has previously failed an examination for licensure in this or any other state, territory, possession, or country more than once. Failure to sit for the next scheduled examination will invalidate the work permit and no further permits will be issued. (3-29-10)

b. In the case of an intern, until the scheduled date of graduation from an approved school of chiropractic. Upon original application for licensure in Idaho, the intern permit may be extended by the board until the results of the next scheduled examination have been released. No work permit will be issued to an applicant who

has previously failed an examination for licensure in this or any other state, territory, possession, or country more than once. Failure to sit for the next scheduled examination will invalidate the work permit and no further permits will be issued. (3-29-10)

553. -- 604. (RESERVED)

605. CODE OF ETHICS.
Chiropractic physicians are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A in these rules. (4-7-11)

606. -- 699. (RESERVED)

700. CLINICAL NUTRITION CERTIFICATION AND PRACTICE.

***01. Non-Certified Clinical Nutritional Practice**. Clinical nutritional methods as referenced in Section 54-704(1), Idaho Code, include, but are not limited to, the clinical use, administration, recommendation, compounding, prescribing, selling, and distributing non-prescription vitamins, minerals, botanical medicine, herbals, homeopathic, phytonutrients, antioxidants, enzymes and glandular extracts, and durable and non-durable medical goods and devices. Nothing herein shall allow any deviation from Section 54-704(3), Idaho Code. ( )*

***02. Certified Clinical Nutritional Practice**.* The Board may issue clinical nutrition certification to a chiropractic physician licensed by the Board who successfully completes the minimum education and complies with requirements in Chapter 7, Title 54, Idaho Code governing clinical nutrition certification and the requirements of Sections 700 through 706. *( )*

701. *(RESERVED)*

702. REQUIREMENTS FOR CLINICAL NUTRITION CERTIFICATION.
The Board may grant clinical nutrition certification to a licensee who completes an application, pays the applicable fees and meets the following requirements: (3-22-18)

01. General. (3-22-18)

a. Hold and maintain a current, active, unrestricted license as a chiropractic physician issued by the Board. (3-22-18)

b. Not have been on probation or otherwise disciplined by the Board or by any other licensing board or regulatory entity; provided the applicant may make written request to the Board for an exemption review to determine the applicant's suitability for certification, which the Board shall determine in accordance with the following: (3-22-18)

i. The exemption review shall consist of a review of any documents relating to the probation or discipline and any supplemental information provided by the applicant bearing upon the applicant's suitability for certification. The Board may, at its discretion, grant an interview of the applicant. During the review, the Board shall consider the following factors or evidence: (3-22-18)

(1) The severity or nature of the violation(s) resulting in probation or discipline; (3-22-18)

(2) The period of time that has passed since the violation(s) under review; (3-22-18)

(3) The number or pattern of violations or other similar incidents; (3-22-18)

(4) The circumstances surrounding the violation(s) that would help determine the risk of repetition; (3-22-18)

(5) The relationship of the violation(s) to the practice of chiropractic or any health care profession, including but not limited to, whether the violation(s) related to clinical practice, involved patient care, a violation of

any state or federal law, rule or regulation relating to controlled substances or to a drug, substance or product identified in Section 54-704(3)(b), Idaho Code; (3-22-18)

(6) The applicant's activities since the violation(s) under review, such as employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of current rehabilitation; and (3-22-18)

(7) Any other mitigating or aggravating circumstances. (3-22-18)

ii. The applicant shall bear the burden of establishing current suitability for certification. (3-22-18)

c. Successfully complete the requirements of Section 54-717, Idaho Code, and Section 702. (3-22-18)

d. Written verification of current health care provider cardiopulmonary resuscitation (CPR) certification. Health care provider CPR certification must be from a course that includes a hands-on skill component as provided by the American Heart Association, American Red Cross, American Health and Safety Institute or similar provider approved by the Board. Written verification of current basic life support (BLS) certification. All chiropractic physicians holding clinical nutrition certification must maintain current health care provider CPR and BLS certification as provided in this Section. (3-22-18)

e. Certify that the chiropractic physician has BLS equipment on the premises where clinical nutrition treatment is being performed. BLS equipment shall include at a minimum: (3-22-18)

i. Rescue breathing equipment. (3-22-18)

ii. Oxygen. (3-22-18)

iii. Epinephrine. (3-22-18)

f. Certify that the chiropractic physician possesses and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code. (3-22-18)

g. Payment of all fines, costs, fees or other amounts that are due and owing to the Board or in compliance with a payment arrangement with the Board is required to be eligible for clinical nutrition certification pursuant to Sections 700 through 706. (3-22-18)

02. Didactic Education Requirement. Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of seven (7) credits (seventy-seven (77) hours) of didactic human nutrition, nutrition biochemistry, and nutritional pharmacology courses. The certificate or other evidence of successful completion must be provided directly to the Board by the educational institution. (3-22-18)

a. *C*hiropractic physicians licensed by the Board who apply for clinical nutrition certification may be determined to have satisfied the didactic education requirements only if they present a certificate or other evidence acceptable to the Board pursuant to this Section demonstrating they commenced obtaining the didactic education required by this Section no earlier than three (3) years prior to applying for clinical nutrition certification and thereafter successfully completed the requirements. *( )*

03. Practicum Requirement. Provide a certificate or other evidence acceptable to the Board of successful completion of a minimum of twenty-four (24) hours of practicum in intravenous and injectable nutrient therapy, which must include: sterile needle practices, phlebotomy, proper injection techniques, intravenous therapy techniques, intramuscular injection techniques, safety practices, and use and expected outcomes utilizing micronutrients, response to adverse effects, lab testing, and blood chemistry interpretation. (3-22-18)

a. After July 1, 2019, the practicum of any applicant for clinical nutrition certification required by this

Section must not have commenced more than two (2) years prior to the date of application for clinical nutrition certification and be successfully completed thereafter. (3-22-18)

04. Accredited Institution and Program Requirement. The courses and practicum required by Subsections 702.02 and 702.03 must be taken from an accredited chiropractic college or other accredited institution of higher education. In addition the courses and practicum must be from an accredited program at the college or institution or be a program approved by the Board. (3-22-18)

a. For purposes of this Section "accredited" means accredited by an accrediting agency recognized by the United States Department of Education. (3-22-18)

b. For purposes of this Section "approved by the Board" means a program that is a "recognized candidate for accreditation," has "initial accreditation" status or "preaccreditation" status by an accrediting body recognized by the United States Department of Education, or is substantially equivalent to a program having that status. (3-22-18)

c. An applicant for clinical nutrition certification shall bear the burden to demonstrate their education and training in clinical nutrition meets the requirements of this Section, including both the accredited institution and accredited program requirements. (3-22-18)

05. Audit of Compliance with Clinical Nutrition Certification and Recertification Requirements. The Board may conduct audits to confirm that licensees meet the requirements to maintain clinical nutrition certification and recertification. In the event a licensee audited by the Board fails to provide documentation or other evidence acceptable to the Board of meeting the clinical nutrition certification or recertification requirements as verified to the Board as part of their annual license renewal or the recertification process the matter will be referred to Bureau's investigative unit for investigation and potential disciplinary proceedings by the Board. (3-22-18)

06. Requirement to Maintain Supporting Documentation. A licensee need not submit documentation to the Board with a chiropractic license renewal application verifying qualifications for annual issuance of clinical nutrition certification pursuant to Section 703, or verifying qualifications to recertify clinical nutrition certification pursuant to Section 706. However, a licensee must maintain documentation for a period of five (5) years verifying the licensee has satisfied the requirements. A licensee must submit the documentation to the Board if the annual reissuance or the recertification is audited. All documentation must include the licensee's name, and as applicable, the date the course or other required activity commenced and was completed, provider name, course title and description, length of the course/activity, and other information required by the Board. (3-22-18)

703. ANNUAL ISSUANCE OF CLINICAL NUTRITION CERTIFICATION WITH LICENSE RENEWAL.

01. Expiration Date. Chiropractic physicians' clinical nutrition certification expires on the expiration date of their chiropractic license and must be issued annually with the renewal of their license pursuant to Section 250. The Board shall waive the clinical nutrition certification fee in conjunction with the first timely renewal of the chiropractic license after initial clinical nutrition certification. (3-22-18)

02. Issuance. Clinical nutrition certification shall be issued annually by timely submission of a chiropractic license renewal application, payment of the chiropractic license renewal fee, the clinical nutrition certification fee, any amounts owing pursuant to Subsection 702.01.g., and verifying to the Board that the licensee is in compliance with the requirements for clinical nutrition certification as provided in the Board's laws and rules. (3-22-18)

03. Failure to Comply with Issuance Requirements. (3-22-18)

a. If a licensee with clinical nutrition certification fails to verify meeting clinical nutrition certification annual issuance requirements when renewing their chiropractic physician license the clinical nutrition certification is canceled and the chiropractic physician license will be renewed without clinical nutrition certification. (3-22-18)

b. If a licensee with clinical nutrition certification fails to timely renew their chiropractic physician

license their clinical nutrition certification is canceled. (3-22-18)

c. Clinical nutrition certification canceled pursuant to this Section may be reissued within three (3) years in accordance with Section 704. (3-22-18)

704. REISSUANCE OF CANCELLED CLINICAL NUTRITION CERTIFICATION.

01. Reissuance. Clinical nutrition certification canceled pursuant to Subsection 703.03 may be reissued within three (3) years of cancellation as follows: (3-22-18)

a. Submission of a reissuance application and payment of the current clinical nutrition certification fee. (3-22-18)

b. Submission of any other documents required by the Board for reissuance including but not limited to: (3-22-18)

i. Documentation of holding current licensure as a chiropractic physician from the Board meeting the requirements of Section 702. (3-22-18)

ii. Documentation of compliance with clinical recertification requirements in accordance with Section 706. (3-22-18)

iii. Documentation of current health care provider CPR and BLS certification and certification that the chiropractic physician has BLS equipment on the premises where clinical nutrition treatment is performed and that informed consent and voluntary permission to perform the proposed therapy are being used in accordance with Section 702. (3-22-18)

705. CLINICAL NUTRITION CERTIFICATION CANCELLED FOR OVER THREE (3) YEARS.
Clinical nutrition certification canceled for a period of more than three (3) years may not be reissued. The chiropractic physician so affected shall be required to make application to the Board in compliance with Section 701 and Section 702 and pay the application and other fees for new clinical nutrition certification. The applicant shall be reviewed by the Board and considered as follows: (3-22-18)

01. Current Competency and Training. The chiropractic physician shall fulfill requirements as determined by the Board that demonstrate the chiropractic physician's competency to regain clinical nutrition certification in this state. Such requirements may include, but are not limited to, education, supervised practice, and examination, including some or all education, training and other requirements for original clinical nutrition certification as set forth in Section 54-717, Idaho Code, and Section 702. (3-22-18)

02. New Clinical Nutrition Certification. Chiropractic Physicians who fulfill the conditions and requirements of this Section may be granted a new clinical nutrition certification. (3-22-18)

706. CLINICAL NUTRITION RECERTIFICATION REQUIREMENT.

01. Recertification in Clinical Nutrition Every Three (3) Years. After Initial certification in clinical nutrition, chiropractic physicians must recertify in clinical nutrition every three (3) years in order to maintain clinical nutrition certification. (3-22-18)

02. Annual Verification of Meeting Requirements. In order to maintain clinical nutrition certification pursuant to Section 54-717, Idaho Code, and Section 700, chiropractic physicians having clinical nutrition certification must annually verify, along with their chiropractic license renewal, pursuant to Subsection 706.01 by attesting to the Board they are in compliance with the requirements to recertify in clinical nutrition the following: (3-22-18)

a. Completion within the three (3) years prior to required recertification of a twelve (12) hour in person face to face classroom course from an institution and program meeting Section 702.04 accreditation requirements. The course must include both didactic education and practical review and practice of contemporary

developments and best practices to maintain core competency in the practice of clinical nutrition as set forth in Section 54-716, Idaho Code, and Section 54-717, Idaho Code. (3-22-18)

b. Current licensure as a chiropractic physician issued by the Board meeting the requirements of Section 702. (3-22-18)

c. Current health care provider CPR and BLS certification and that BLS equipment is maintained on the premises where clinical nutrition treatment is performed pursuant to Section 702. (3-22-18)

d. They possess and will provide to patients informed consent documentation that explains the benefits and potential risks of the specific course of intravenous or injectable nutrition therapy that is being proposed and that the physician will in advance obtain from the patient written voluntary permission to perform the proposed therapy in accordance with Section 54-717(7), Idaho Code. (3-22-18)

03. Recertification is in Addition to Required Annual Continuing Education. The twelve (12) hour recertification course requirement is in addition to the annual eighteen (18) hours of continuing education required under Subsection 300.01. (3-22-18)

04. Failure to Timely Recertify in Clinical Nutrition. Clinical nutrition certification not timely recertified in accordance with Section 706 shall expire and be canceled. Clinical nutrition certification canceled for failure to recertify may be reissued within three (3) years in accordance with Section 704. (3-22-18)

707. OBTAINING AND INDEPENDENTLY ADMINISTERING CLINICAL NUTRITION PRESCRIPTION DRUG PRODUCTS.

A chiropractic physician with clinical nutrition certification as defined by Sections 54-704(4), 54-716 and 54-717, Idaho Code, may obtain and independently administer prescription drug products in the practice of chiropractic subject to the conditions below. (3-22-18)

01. Current Certification in Clinical Nutrition Required. Only chiropractic physicians who hold current certification in clinical nutrition by the Board may obtain and independently administer prescription drug products during chiropractic practice. (3-22-18)

02. Obtain Prescription Drugs Products from the Formulary. A chiropractic physician with clinical nutrition certification may not obtain a prescription drug product that is not listed in the chiropractic clinical nutrition formulary. (3-22-18)

03. Only Administer Prescription Drug Products from the Formulary. Chiropractic physicians with clinical nutrition certification may only administer those prescription drug products listed in the chiropractic clinical nutrition formulary. (3-22-18)

a. Chiropractic physicians with clinical nutrition certification shall not prescribe, dispense, distribute, or direct to a patient the use of a prescription drug product. (3-22-18)

04. Routes of Administration and Dosing of Prescription Drug Products. Prescription drug products listed in the chiropractic clinical nutrition formulary may be administered through oral, topical, intravenous, intramuscular or subcutaneous routes by a chiropractic physician with clinical nutrition certification. The route of administration and dosing shall be in accordance with the product's labeling as approved by the federal food and drug administration or with the manufacturer's instructions. (3-22-18)

05. Practice Limited to Chiropractic Physicians with Clinical Nutrition Certification. Chiropractic interns, chiropractic assistants, holders of chiropractic temporary practice permits and others working under the authority or direction of a chiropractic physician may not perform any practice or function requiring clinical nutrition certification. (3-22-18)

06. Sale, Transfer, or Other Distribution of Prescription Drugs Prohibited. Chiropractic physicians with clinical nutrition certification may obtain and administer prescription drug products to a patient only in accordance with this Section 707. Chiropractic physicians may not prescribe, sell, transfer, dispense, or otherwise

distribute prescription drug products to any person or entity. Prescription drug products not administered to a patient shall be handled in accordance with Subsections 708.05, 708.06, and 708.07. (3-22-18)

708. CLINICAL NUTRITION FORMULARY.
Chiropractic physicians certified in clinical nutrition may obtain and independently administer, during chiropractic practice, only the prescription drug products listed in this chiropractic clinical nutrition formulary and subject to the provisions hereof. (3-22-18)

01. Chiropractic Clinical Nutrition Prescription Drug Formulary. Prescription drug products that may be used by chiropractic physicians with clinical nutrition certification are limited to the following: (3-22-18)

a. Vitamins: vitamin A, all B vitamins and vitamin C; (3-22-18)

b. Minerals: ammonium molybdate, calcium, chromium, copper, iodine, magnesium, manganese, potassium, selenium, sodium, and zinc; (3-22-18)

c. Fluids: dextrose, lactated ringers, plasma lyte, saline, and sterile water; (3-22-18)

d. Epinephrine; and (3-22-18)

e. Oxygen for use during an emergency or allergic reaction. (3-22-18)

02. Sources of Clinical Nutrition Prescription Drug Products. Prescription drug products listed in the chiropractic clinical nutrition formulary shall be obtained only by a chiropractic physician with clinical nutrition certification and only from a source licensed under Chapter 17, Title 54, Idaho Code, that is a wholesale distributor, a manufacturer, a pharmacy, or an outsourcing facility and from no other source. (3-22-18)

03. No Compounding of Prescription Drug Products. No vitamin or mineral may be compounded, as defined in Section 54-1705, Idaho Code, by a chiropractic physician. A compounded drug product containing two (2) or more of the vitamins or minerals approved in the chiropractic clinical nutrition formulary shall be obtained for office use by a chiropractic physician with clinical nutrition certification only from an outsourcing facility licensed under Chapter 17, Title 54, Idaho Code and from no other source. A chiropractic physician may not obtain or use in chiropractic practice a compounded drug product containing a prescription drug product that is not included in the chiropractic clinical nutrition formulary. (3-22-18)

04. Limitations on Possession of Prescription Drug Products. Possession of prescription drug products without a valid prescription drug order by chiropractic physicians licensed pursuant to Chapter 7, Title 54, Idaho Code, and certified pursuant to Sections 54-708, and 54-717, Idaho Code, or their agents or employees shall be limited to: (3-22-18)

a. Only those prescription drug products listed in Sections 54-716, Idaho Code, and in the chiropractic clinical nutrition formulary; (3-22-18)

b. Only those quantities reasonably required for use in the usual and lawful course of the chiropractic physician's clinical nutrition practice based on the patient panel size and history of orders. (3-22-18)

05. Prescription Drug Product Storage. Clinical nutrition prescription drugs must be stored in accordance with United States Pharmacopeia-National Formulary requirements in an area maintained and secured appropriately to safeguard product integrity and protect against product theft or diversion. (3-22-18)

06. Expired, Deteriorated, Adulterated, Damaged, or Contaminated Prescription Drug Products. Expired, deteriorated, adulterated, damaged, or contaminated prescription drug products must be removed from stock and isolated for return, reclamation or destruction. (3-22-18)

07. Compliance with Federal and State Requirements. In addition to the requirements of the Idaho Chiropractic Practice Act and rules of the Board, chiropractic physicians shall comply with all federal and state laws, rules and policies governing possession, storage, record keeping, use, and disposal of prescription drug products. (3-22-18)

709. MEDICAL WASTE.
Chiropractic physicians certified in clinical nutrition must dispose of medical waste during the practice of chiropractic clinical nutrition according to the following protocol: (3-22-18)

01. Containers for Non-Sharp, Medical Waste. Medical waste, except for sharps, must be placed in disposable containers/bags that are impervious to moisture and strong enough to preclude ripping, tearing, or bursting under normal conditions of use. The bags must be securely tied so as to prevent leakage or expulsion of solid or liquid waste during storage, handling, or transport. The containment system must have a tight-fitting cover and be kept clean and in good repair. All bags used for containment of medical waste must be clearly identified by label or color, or both. (3-22-18)

02. Containers for Sharps. Sharps must be placed in impervious, rigid, puncture-resistant containers immediately after use. *After use, n*eedles must not be bent, clipped or broken by hand. Rigid containers of discarded sharps must either be labeled or colored like the disposable bags used for other medical waste, or placed in such labeled or colored bags *and disposed of according to container guidelines*. *( )*

710. -- 999. (RESERVED)

Appendix A – Chiropractic Physicians Code of Ethics

PREAMBLE

This code of ethics set forth principles for the ethical practice of chiropractic. All chiropractic physicians are responsible for maintaining and promoting ethical practice and otherwise complying with the terms of this code of ethics. To this end, the chiropractic physician shall act in the best interest of the patient. This code of ethics shall be binding on all chiropractic physicians.

1. Duty to Report

A. Duty to Report. It shall be the duty of every licensee to notify the Board through the Bureau of Occupational Licenses of any violation of the Chiropractic Act or Board Rules, if the licensee has personal knowledge of the conduct.

B. Reporting of Certain Judgments to Board. If a judgment is entered against a licensee in any court, or a settlement is reached on a claim involving malpractice exceeding fifty thousand dollars ($50,000), a licensee shall report that fact to the Board within thirty (30) days. The licensee may satisfy the provision of this subsection if he/she provides the Board with a copy of the judgment or settlement.

If a licensee is convicted of a felony or a crime involving dishonesty, theft, violence, habitual use of drugs or alcohol, or sexual misconduct, he/she shall report that fact to the board within thirty (30) days following the conviction.

2. Advertising of Research Projects

Advertisement of Affiliation with Research Projects. If a licensee advertises any affiliation with a research project, he must make a written statement of the objectives, cost and budget of the project, and the person conducting the research. Such statements are to be made available at the request of the Board, to scientific organizations, and to the general public. The advertisement must indicate that it is supported by clinical research. Any willful failure to comply with these requirements will be deemed false and deceptive advertising under rule 450. Licensee must comply with all state and federal laws and regulations governing research projects on humans, and shall obtain "Institutional Review Board" (IRB) approval as established and set forth in the U.S. Code of Federal Regulations, Title 45, Part 46, Subpart A (45 CFR 46.101-46-505).

3. Sexual Misconduct

The doctor-patient relationship requires the chiropractic physician to exercise utmost care that he or she will do nothing to exploit the trust and dependency of the patient. Sexual misconduct is a form of behavior that adversely

affects the public welfare and harms patients individually and collectively. Sexual misconduct exploits the doctor-patient relationship and is a violation of the public trust. This section of the Code of Ethics shall not apply between a chiropractor and their spouse.

For the purposes of this subsection, sexual misconduct is divided into sub-categories based upon the severity of the conduct:

A. Sexual Impropriety. Any behavior such as gestures, expressions, and statements which are sexually suggestive or demeaning to a patient, or which demonstrate a lack of respect for a patient's privacy.

B. Sexual Violation. Physician-patient contact of a sexual nature, whether initiated by the physician or the patient.

C. A chiropractic physician shall wait at least one (1) year ("waiting period") following the termination of a professional doctor-patient relationship, before beginning any type of sexual relationship with a former patient.

4. Prepaid Funds

A chiropractic physician shall promptly refund any unearned fees within thirty (30) days upon request and cancellation of the prepaid contract. A full accounting of the patient account shall be provided to the patient at the time of the refund or upon request.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.04.01 – RULES OF PROCEDURE OF THE BOARD OF REGISTRATION FOR PROFESSIONAL GEOLOGISTS

DOCKET NO. 24-0401-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2808, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 24.04.01, rules of the Idaho Board of Registration for Professional Geologists:

IDAPA 24.04.01

- 24.04.01, *Rules of the Board of Registration for Professional Geologists*: all proposed rules except 100.03.a., 200.01.b., 200.02, 300.01.a., 300.01.b., 300.02.a., 300.02.b., 300.02.d., and 300.08.

The Idaho Administrative Code expired on June 30, 2019, including then IDAPA 14.01.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Board of Registration for Professional Geologists was published as IDAPA 24.04.01. This pending fee rule will allow the Legislature to review for codification IDAPA 24.04.01, the Rules of the Board of Professional Geologists. On August 5, 2019, the Board of Registration for Professional Geologists held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties were given the opportunity to comment as this chapter was reviewed. Changes made to the pending rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4623 - 4629.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This fee or charge is being imposed pursuant to Sections 54-2813, 54-2814, 54-2815, and 54-2816, Idaho Code as follows:

Application fee: not to exceed $100;
Initial certificate: not to exceed $20;
Annual renewal: not to exceed $60;
Annual renewal fee for registrants 70 years of age or older: one-half of the current renewal fee;
Duplicate certificate fee: $20.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to

have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Board of Registration For Professional Geologists by the provisions of Section 54-2808, Idaho Code. (6-30-19)T

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.04.01, "Rules of the Board of Registration for Professional Geologists." These rules establish procedures for the organization and operation of the Board. *( )*

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.
For the purposes of these rules, the following definitions apply: (3-26-08)

01. Geologist-in-Training. The interim designation given to any person who has met the academic requirements and successfully passed the fundamentals of geology portion of the professional examination but has not yet completed the requisite years of experience and passed the practices of geology examination. *( )*

02. Registrant. Any person currently registered as a professional geologist. *( )*

03. Responsible Position. A position wherein a person, having independent control, direction, or supervision of a geological project, investigates and interprets geologic features. (7-1-93)

04. Responsible Charge. *M*eans the control and direction of geology work, requiring initiative, professional skill, independent judgment, and professional knowledge of the content of relevant documents during their preparation. *( )*

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Filing of Documents. All correspondence, including remittances and renewal fees, shall be directed to the office of the Board. (3-26-08)

02. Meetings. The Board shall meet at least once each year at the call of the chairman; the Board shall elect a chairman and vice-chairman at such annual meeting. In addition to *an* annual meeting, the chairman may call special meetings from time to time when, it is deemed necessary, or upon the written request of any three (3) members of the Board. *( )*

03. Officers. The vice-chairman shall, in the absence or incapacity of the chairman, exercise the duties and possess all the powers of the chairman. *( )*

04. Committees. *The chairman may appoint* committees as necessary, to perform special duties and shall present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. *( )*

05. Certificates. Certificates of registration shall be issued to each Registrant on forms adopted by the Board. Certificates shall be displayed by Registrants in their place of business *( )*

06. Seals. The Board has adopted a seal for use by each *R*egistrant. The seal may be a rubber stamp, crimp, or electronically generated image. Whenever the seal is applied, the Registrant's signature and date shall also be included. If the signature is handwritten, it shall be adjacent to or across the seal. No further words or wording are required. A facsimile signature generated by any method will not be acceptable unless accompanied by a digital signature. (See "Appendix A" at end of this Chapter.) *( )*

a*. The seal, signature, and date shall be placed on all final specifications, reports, information, and calculations, whenever presented. Any such document that is not final and does not contain a seal, signature, and date shall be clearly marked as "Preliminary," "Draft," "Not for Construction," or with similar words to distinguish the document from a final document. *( )

b. The seal, signature, and date shall be placed on all original documents. The application of the Registrant's seal, signature, and date shall constitute certification that the work thereon was done by *the Registrant* or under *the Registrant's* supervision. Each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants responsible for each sheet. In the case of a business entity, each plan or drawing sheet shall be sealed and signed by the Registrant or Registrants involved. The supervising professional geologist shall sign and seal the title or first sheet. Copies of electronically produced documents, listed in Paragraph 100.06.b. of these rules, distributed for informational uses such as for bidding purposes or working copies, may be issued with the Registrant's seal and a notice that the original document is on file with the Registrant's signature and date. The words "Original Signed By:" and "Date Original Signed:" shall be placed adjacent to or across the seal on the electronic original. The storage location of the original document shall also be provided. Only the title page of reports, specifications, and like documents need bear the seal, signature, and date of the Registrant. *( )*

c. The seal and signature shall be used by the Registrant only when the work being stamped was under the Registrant's responsible charge. Upon sealing, the Registrant takes full professional responsibility for that work. After-the-fact ratification by the sealing of documents relating to work that was not performed by the Registrant but by an unregistered subordinate or other unregistered individual and without thorough technical review throughout the project by the sealing Registrant is prohibited. (3-20-14)

d. In the event a Registrant in responsible charge of a project leaves employment, is transferred, is promoted, becomes incapacitated, dies, or is otherwise not available to seal, sign, and date final documents, the duty of responsible charge for the project shall be accomplished by successor Registrant by becoming familiar with and reviewing, in detail, and retaining the project documents to date. Subsequent work on the project must clearly and accurately reflect the successor Registrant's responsible charge. The successor Registrant shall seal, sign, and date all work product in conformance with Section 54-2815, Idaho Code. (3-20-14)

07. Address Change. Each Applicant and Registrant shall notify the Board within sixty (60) days of any and all changes of address, giving both old and new address. (7-1-93)

101. -- 149. (RESERVED)

150. FEES.
The fees for registration under the Act shall be the following:

FEE TYPE	*AMOUNT (Not to Exceed)*
Application	*$100*
Initial Certificate	*$20*
Annual Renewal	*$60*
Annual Renewal for Registrants Seventy (70) Years of Age or Older	*One-half (1/2) of the current renewal fee*
Reinstatement	*Is as provided in Section 67-2614, Idaho Code*
Duplicate Certificate	*$20*
Examination	*Set by ASBOG*

( )

151. -- 199. (RESERVED)

200. APPLICATION PROCEDURES.

01. Applications. Applications for registration shall be: (7-1-93)

a. *On* forms prescribed by the Board and accompanied by official transcripts, reference statements, and a signed code of ethics (See "Appendix B" at end of this Chapter); *( )*

b. Received by the Board, if for registration by examination, not less than ninety (90) days prior to the date of examination; (4-9-09)

c. Subscribed and certified to by the Applicant under penalty of perjury as provided for by state law; and (7-1-93)

d. *I*ncomplete *applications* will not be accepted by the Board and will be returned to the Applicant with a statement of the reason for return. *( )*

02. **Appeal**. Upon notification by the Board that the Application has been denied or rejected, the Applicant, within thirty (30) days of receipt of such notice, may petition the Board for a hearing, under the provisions of Title 67, Chapter 52, Idaho Code. (3-26-08)

03. **Dates**. The date of application shall be the date it is delivered in person to the Board office or, if mailed, the date shown by post office cancellation mark. Qualifying education and experience of the Applicant, for examination and registration, shall be computed from the date of application as described above. (7-1-93)

04. **References**. Statements from personal references in Responsible Positions concerning the Applicant's technical ability and personal character, shall be received, as prescribed by the Act, prior to any action by the Board to approve an Application. Each statement must reflect in a positive way the technical and ethical merits of the Applicant. Applicants for the Fundamentals of Geology examination may fulfill this requirement with reference statements from geologists in Responsible Positions familiar with the ability and character of the Applicant as demonstrated in an academic setting. (3-26-08)

05. **Lack of Activity**. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-25-16)

201. -- 299. (RESERVED)

300. EXAMINATIONS.
Except as otherwise provided in statute, every Applicant for registration *as a professional geologist* shall take and pass the complete professional examination for registration as a professional geologist. *( )*

01. **Fundamentals of Geology**. The written examination is the Fundamentals of Geology examination provided by ASBOG. To be eligible to take the Fundamentals of Geology examination, an Applicant must have completed thirty (30) semester units or equivalent quarter units in courses in geological science leading to a degree in the geological sciences of which at least twenty-four (24) units are in third or fourth year, and/or graduate courses. Applicants who can satisfy *to* the Board that they will have completed the required coursework and number of units and will be graduating at the end of the spring, summer or fall terms of any given year, may be eligible for examination immediately preceding the date of graduation. *( )*

02. **Practice of Geology**. The written examination is the Practice of Geology examination provided by ASBOG. To be eligible to take the Practice of Geology examination an Applicant must have satisfied the education requirements as set forth in Section 54-2812, Idaho Code. *( )*

03. **Authorization**. (7-1-93)

a. The Board shall notify each Applicant in writing of the acceptance or rejection of his Application and, if rejected, the reason for the rejection. (3-25-16)

b. Not less than ninety (90) days prior to the examination date, the Applicant shall give written notice to the Board of his intent to take the examination and shall submit all applicable testing fees in full. (3-25-16)

c. Not less than thirty (30) days prior to the examination date, the Board shall give written notice to each Applicant that has previously given written notice and has paid his examination fees, of the date, time, and location(s) of the examination. (3-25-16)

04. Reexamination. An Applicant failing their first examination may apply for reexamination without filing a new Application and shall be entitled to such reexamination on payment of the reexamination fee. *P*rovided, however, that it shall be unlawful for an Applicant failing any examination to practice professional geology under the appropriate provisions of the Act. *( )*

05. Time and Place. The Board shall make all arrangements necessary to provide sufficient help to conduct examinations and to provide adequate facilities at such locations throughout the state as may be required to accommodate the number of Applicants to be examined *upon the dates prescribed by ASBOG*. *( )*

06. Scores. An Applicant for registration by examination must successfully pass both the Fundamentals of Geology examination and the Practice of Geology examination. (3-25-16)

a. Every Applicant receiving a scaled score of seventy (70) or more, as determined by ASBOG, on the Fundamentals of Geology examination shall be deemed to have passed the examination, is thereby eligible to receive certification as a Geologist-in-Training. *( )*

b. Every Applicant receiving a scaled score of seventy (70) or more, as determined by ASBOG, on the Practice of Geology examination shall be deemed to have passed such examination and will be registered as a professional geologist. *( )*

c. Every Applicant receiving a scaled score of less than seventy (70), as determined by ASBOG, on either the Fundamentals of Geology examination or the Practice of Geology examination, shall be deemed to have failed such examination. Every Applicant having failed shall have his Application denied without prejudice, but shall be allowed to retake the failed examination in accordance with Subsection 300.04 of these rules. (3-25-16)

07. Re-Score or Review of Examination. (3-25-16)

a. An Applicant who fails to obtain a passing grade in any portion of the written examination may request a rescore or review of his examination papers at such times, locations, and under such circumstances as may be designated by the Board, ASBOG, or both. (3-25-16)

b. When a review is requested and authorized, at the time of review, no one other than the examinee or his attorney and a representative of the Board shall have access to such examination papers. (3-25-16)

301. -- 399. (RESERVED)

400. GEOLOGIST IN TRAINING.

An Applicant who has passed the Fundamentals of Geology examination and satisfied the education requirements set forth in Subsection 300.01 of these rules, will receive a certificate of completion designat*ing* the Applicant as a Geologist-in-Training. *( )*

01. Supervised Practice. The possession of a Geologist-in-Training certificate by an Applicant does not entitle the Applicant to practice professional geology without supervision. *( )*

02. Limitation. Designation as a Geologist in Training is limited to a period not to exceed ten (10) years. If after ten (10) years the Geologist-in-Training has not met all requirements for registration as a professional geologist, the Geologist-in-Training certification is withdrawn and the Applicant must re-apply for registration. (3-25-16)

401. -- 999. (RESERVED)

APPENDIX A -- AS REFERENCED IN SECTION 24.04.01.100.06.b.

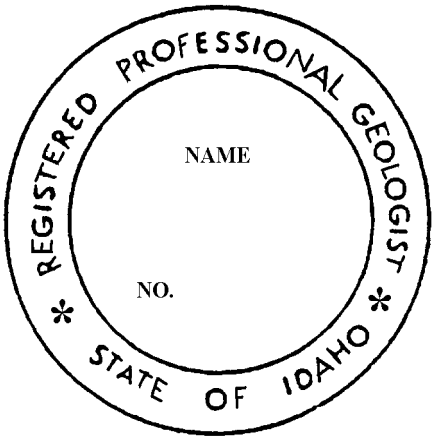

SEAL OF REGISTERED PROFESSIONAL GEOLOGIST
Diameter of Outer Ring: 1 1/2 Inches
Diameter of Inner Ring: 1 Inch

APPENDIX B -- AS REFERENCED IN SUBSECTION 24.04.01.200.01.a.

STATE OF IDAHO
BOARD OF REGISTRATION
FOR PROFESSIONAL GEOLOGISTS
CODE OF ETHICS

Geology is a profession, and the privilege of professional practice requires morality and responsibility, as well as professional knowledge, on the part of each practitioner. Each registered professional geologist shall be guided by the highest standards of business ethics, personal honor and professional conduct.

With regard for the geologic profession and recognizing in the Code of Ethics a set of dynamic principles to guide his services to his fellow men, and with full knowledge of the responsibility of geologists to safeguard health, safety, and public welfare, a registered geologist:

1. Brings credit, honor and dignity to the geologic profession in his dealings with clients, other geologists, and the public.

2. Acts for his clients as a faithful agent or trustee and accepts remuneration only in accordance with his stated charges for services rendered.

3. Exchanges non-confidential geologic information with other geologists, students, and the public; encourages the public understanding of geology, and ensures proper credit for geologic work.

4. Does not reveal nor seek the revelation of geologic work performed for a paying client.

5. Does not advertise or solicit geologic work assignments in a fraudulent, misleading or deceptive manner.

6. Promptly reports to the Board unethical conduct on the part of any geologist.

7. Undertakes professional service or renders expert opinion only when qualified in the specific technical areas involved.

8. Functions without prejudice with respect to gender, religion, national or ethnic origin, age, sexual preference, or physical or mental disability.

Acknowledged and subscribed to:

Signature of Applicant

Adopted by the Board September 11, 1971
Amended March 17, 2007.

Sign and return this form with your completed application forms.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.05.01 – RULES OF THE BOARD OF DRINKING WATER AND WASTEWATER PROFESSIONALS

DOCKET NO. 24-0501-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2406, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.05.01, Rules of the Board of Drinking Water and Wastewater Professionals:

IDAPA 24.05.01

- 24.05.01, *Rules of the Board of Drinking Water and Wastewater Professionals*: all proposed rules except 010.01, 010.02, 010.12, 010.13, 010.14, 010,16, 100.01.a., 100.01.b., 10.02.a., 100.02.b., 150.03, and 600.01

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.05.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Board of Drinking Water and Wastewater Professionals was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.05.01, the Rules of the Board of Drinking Water and Wastewater Professionals. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4632 - 4647.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking.

This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-2407, Idaho Code, as follows:

Application fee: not to exceed $25;
Examination fee as set by the examination provider;
License by endorsement fee: not to exceed $30;
Original license fee: not to exceed $30;
Renewal fee: not to exceed $30.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 332-3433.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Board of Drinking Water and Wastewater Professionals by the provisions of Section 54-2406, Idaho Code. (3-24-05)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.05.01, "Rules of the Board of Drinking Water and Wastewater Professionals." (3-24-05)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Class I Restricted License. Class I restricted license means a water or wastewater license associated with a specific class I system. A restricted license is available for water distribution or treatment or for wastewater collection or treatment. A restricted license is not transferable and does not qualify for endorsement. (3-29-10)

02. DEQ. The Idaho Department of Environmental Quality. (3-24-05)

03. Direct Supervision. Supervision in a way that will ensure the proper operation and maintenance of the public drinking water or public wastewater system. Supervision shall include, but not be limited to, providing written, hands-on, or oral instruction as well as verification that the instructions are being completed. The supervisor has an active on-site or on-call presence at the specific facility. (3-21-12)

04. Endorsement. Endorsement (often referred to as "reciprocity") is that process by which a person licensed in another jurisdiction may apply for a license in Idaho. (3-24-05)

05. EPA. The United States Environmental Protection Agency. (3-24-05)

06. Experience. One (1) year of experience is based upon a minimum of one thousand six hundred hours (1,600) worked. (4-11-19)

07. On-Site Operating Experience. On-site operating experience means experience obtained while physically present at the location of the system. (3-21-12)

08. Operating Personnel. Operating personnel means any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public drinking water system or a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. (3-24-05)

09. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (3-24-05)

10. Responsible Charge Operator. An operator of a public drinking water system or wastewater system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system or wastewater classification, who is in responsible charge of the public drinking water system or the wastewater system. (3-21-12)

11. Substitute or Back-Up Responsible Charge Operator. An operator of a public drinking water or wastewater system who holds a valid license at a class equal to or greater than the drinking water or wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (3-21-12)

12. Very Small Public Drinking Water System. A community or non-transient non-community public water system that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (3-21-12)

13. Very Small Wastewater System. A public wastewater system that serves five hundred (500) connections or less and includes a collection system with a system size of six (6) points or less on the Department of

Environmental Quality (DEQ) system classification rating form and is limited to only one (1) of the following wastewater treatment processes: (3-21-12)

a. Aerated lagoons: (3-21-12)

b. Non-aerated lagoon(s); (3-21-12)

c. Primary treatment; or (3-21-12)

d. Primary treatment discharging to a large soil absorption system (LSAS). (3-21-12)

011. -- 099. (RESERVED)

100. ORGANIZATION.

01. Meetings. The Board shall meet at least two (2) times annually at such times and places as designated by the Board or the Chairman of the Board. A minimum of four Board members shall constitute a quorum and shall be required to be present in order to hold a meeting of the Board. A majority vote of the Board members present at a meeting shall be considered the action of the Board as a whole. The Chairman may vote only in the event of a tie vote. *( )*

02. Organization of the Board. At the first meeting of each fiscal year, the Board shall elect from its members a Chairman, who shall assume the duty of the office immediately upon such selection. (3-24-05)

101. -- 149. (RESERVED)

150. APPLICATION.
Each applicant for licensure shall submit a complete application together with the required fees. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. The Board shall not review an application until all required information is furnished and the required fees paid. (3-24-05)

01. Licensure by Examination. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. All applications shall include: (3-24-05)

a. Documentation of having met the appropriate educational requirement; (3-24-05)

b. Documentation of all actual applicable experience giving kind and type of work done, together with dates of employment, and verification by affidavit of the most current applicable experience, signed by the person under whose supervision the work was performed. (3-24-05)

02. Licensure by Endorsement. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. All applications shall include: (3-24-05)

a. Official documentation of licensure sent to the Bureau directly from each regulatory authority from which the applicant has obtained licensure. Such documentation shall note name, address, current status, date originally issued, expiration date, and any disciplinary action imposed; (3-24-05)

b. A copy of the current regulations governing licensure in each jurisdiction from which the applicant obtained licensure. (3-24-05)

03. Application Required. Applicants seeking licensure in any type or classification of licensure shall submit a separate application for each type and classification of licensure being sought. Applicants holding a current type and classification of license and who are seeking a classification upgrade within the same license type and category shall not be required to submit an original license fee with their application. (3-24-05)

04. Lack of Activity. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months shall be deemed

denied and shall be terminated upon thirty (30) days written notice unless good cause is established to the Board. (5-8-09)

151. -- 174. (RESERVED)

175. LICENSE TYPES AND CLASSIFICATIONS.
The Board shall issue each of the following licenses under the provisions of Chapter 24, Title 54, Idaho Code. (3-24-05)

01. Drinking Water Distribution Operator. (3-24-05)

a. Class Operator-In-Training. (3-24-05)

b. Class I Restricted. (3-29-10)

c. Class I. (3-24-05)

d. Class II. (3-24-05)

e. Class III. (3-24-05)

f. Class IV. (3-24-05)

02. Drinking Water Treatment Operator. (3-24-05)

a. Class Operator-In-Training. (3-24-05)

b. Class I Restricted. (3-29-10)

c. Class I. (3-24-05)

d. Class II. (3-24-05)

e. Class III. (3-24-05)

f. Class IV. (3-24-05)

03. Wastewater Treatment Operator. (3-24-05)

a. Class Operator-In-Training. (3-24-05)

b. Lagoon. (3-24-05)

c. Class I Restricted. (3-29-10)

d. Class I. (3-24-05)

e. Class II. (3-24-05)

f. Class III. (3-24-05)

g. Class IV. (3-24-05)

h. Land Application. (3-24-05)

04. Wastewater Collection Operator. (3-24-05)

a. Class Operator-In-Training. (3-24-05)

b. Class I Restricted. (3-29-10)

c. Class I. (3-24-05)

d. Class II. (3-24-05)

e. Class III. (3-24-05)

f. Class IV. (3-24-05)

05. Wastewater Laboratory Analyst. (3-24-05)

a. Class I. (3-24-05)

b. Class II. (3-24-05)

c. Class III. (3-24-05)

d. Class IV. (3-24-05)

06. Backflow Assembly Tester. (3-24-05)

07. Drinking Water Very Small System Operator. (3-21-12)

08. Wastewater Very Small System Operator. (3-21-12)

176. -- 199. (RESERVED)

200. FEES FOR EXAMINATION AND LICENSURE.
Application and examination fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)
Application	*$25*
Examination	*Amount set by examination provider*
Endorsement	*$30*
Original License	*$30*
Annual renewal	*$30*
Reinstatement	*As provided in Section 67-2614, Idaho Code*

( )

201. -- 249. (RESERVED)

250. LICENSE REQUIRED -- SCOPE OF PRACTICE.
All water and wastewater operating personnel, including those in responsible charge and those in substitute responsible charge, of public water systems and public wastewater systems, and all backflow assembly testers, shall be licensed under the provisions of these rules and Chapter 24, Title 54, Idaho Code. (3-21-12)

01. Drinking Water Operator Scope. Operating personnel shall only act in accordance with the nature and extent of their license. Those in responsible charge or substitute responsible charge of a public water

system must hold a valid license equal to or greater than the classification of the public water system where the responsible charge or substitute responsible charge operator is in responsible charge. The types of water systems are distribution and treatment. (3-24-05)

02. Wastewater Operator Scope. Operating personnel shall only act in accordance with the nature and extent of their license. Those in responsible charge or substitute responsible charge of a public wastewater system shall hold a valid license equal to or greater than the classification of the public wastewater system where the responsible charge or substitute responsible charge operator is in responsible charge. The types of wastewater systems are collection, laboratory analyst, and treatment. (3-21-12)

03. Backflow Assembly Tester. Individuals licensed as backflow assembly testers may inspect and test backflow prevention assemblies as defined in Title 54, Chapter 24, Idaho Code. (3-24-05)

04. Operator-in-Training. Operators-in-training shall practice only under the direct supervision of a licensed operator of a type, category, and classification higher than operator-in-training. No operator-in-training shall accept or perform the designated responsible charge duties at any system. (3-24-05)

251. -- 299. (RESERVED)

300. GENERAL REQUIREMENTS FOR LICENSE.
Applicants shall submit an application together with the required fees and such documentation as is required. (3-24-05)

01. Examination Requirement. Applicants must pass a written examination for each individual classification in each type of licensure with a minimum score of seventy percent (70%). (3-21-12)

a. The examination will reflect different levels of knowledge, ability and judgment required for the established license type and class. The Board will administer examinations at such times and places as the Board may determine. (3-24-05)

b. The examination for all types and classes of licensure shall be validated and provided by the Association of Boards of Certification (ABC). The American Backflow Prevention Association (ABPA) backflow assembly tester examination is also approved for backflow assembly tester licensure. (5-8-09)

c. Applicants who fail an examination must make application to retake the same type and class examination and pay the required examination fees prior to retaking the examination. (3-24-05)

d. Applicants must take and pass the examination within one (1) year of application approval. After one (1) year a new application and applicable fees must be submitted. (3-30-07)

02. Education Requirements. Documentation must be provided showing proof of education required for the type and level of license being sought. (3-21-12)

03. Experience Requirement. Only actual verified on-site operating experience at a treatment, distribution or collection system will be acceptable except as may be allowed by substitution as set forth in these rules. Experience as a laboratory analyst can be counted as wastewater operating experience for up to one-half (1/2) of the wastewater operating experience requirement but cannot be counted as responsible charge experience. Experience as a wastewater operator can be counted as laboratory analyst experience for up to one-half (1/2) of the laboratory analyst experience. Applicants shall not receive more than one (1) year of experience for hours worked in excess of one thousand six hundred (1,600) hours in a calendar year unless specifically approved by the Board based upon documentation submitted by the Applicant. (4-11-19)

04. Apprenticeship Program. The Board may approve Apprenticeship Programs that are designed to provide either experience or experience and education for individuals seeking licensure in Idaho as an Operator-In-Training, or a Class I, II or III Water or Wastewater Operator. A basic Apprenticeship Program is designed to provide hands on experience and education related to the operation of Class I and II facilities. An advanced Apprenticeship Program is designed to provide hands on experience and education related to Class III facilities. All approved

Apprenticeship Programs shall be registered with the U.S. Department of Labor, Office of Apprenticeship, meet the Standards of Apprenticeship developed by the U.S. Department of Labor and meet the intent of these rules regarding the education and experience necessary for Operator-In-Training, Class I, II and III licensure. Sponsors of Apprenticeship Programs shall seek Board approval by application along with all supporting documentation necessary to establish the program meets the intent of these rules regarding education and experience. The Board may revoke the approval of any program that fails to comply with the Board's rules. (4-11-19)

301. -- 309. (RESERVED)

310. REQUIREMENTS FOR OPERATOR-IN-TRAINING LICENSE.
Each applicant for an Operator-In-Training License must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED; and (3-21-12)

02. Examination. Pass the relevant Class I examination or be enrolled in an Apprenticeship Program approved by the Board. (4-11-19)

311. -- 314. (RESERVED)

315. REQUIREMENTS FOR A VERY SMALL WATER SYSTEM LICENSE.
To qualify for a Very Small Water System license an operator must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED and; (3-21-12)

02. Experience. Document eighty-eight (88) hours of acceptable on-site operating experience at a water system; and (3-21-12)

a. Complete an approved six-hour water treatment course or an approved six-hour chlorination course or a combination of said approved courses equaling six (6) hours; and (3-20-14)

b. Complete an approved six-hour water distribution course; and (3-21-12)

03. Examination. Pass the relevant very small water system examination. (3-21-12)

316. -- 319. (RESERVED)

320. REQUIREMENTS FOR A VERY SMALL WASTEWATER SYSTEM LICENSE.
To qualify for a Very Small Wastewater System license, an operator must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED; and (3-21-12)

02. Experience. Document fifty (50) hours of acceptable on-site operating experience at a wastewater collection system; and (3-21-12)

a. Fifty (50) hours of acceptable relevant on-site operating experience at a wastewater treatment system or lagoon; and (3-21-12)

b. Complete an approved six-hour pumps and motors course or an approved six-hour collection course or a combination of said approved courses equaling six (6) hours; and (3-20-14)

c. Complete an approved six-hour lagoon operation and maintenance course; or an approved six-hour large soil absorption system course or an approved six-hour wastewater treatment course or a combination of said approved courses equaling six (6) hours; and (3-20-14)

03. Examination. Pass the relevant lagoon examination. (3-21-12)

321. -- 324. (RESERVED)

325. REQUIREMENTS FOR CLASS I RESTRICTED WATER OR WASTEWATER LICENSE.
To qualify for a Class I Restricted water or wastewater license an operator must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED; and (3-21-12)

02. Experience. Document two hundred sixty (260) hours of acceptable relevant on-site operating experience during twelve (12) consecutive months with the system and complete sixteen (16) hours of continuing education relevant to the license; and (3-21-12)

03. Examination. Pass the relevant Class I examination. (3-21-12)

04. Restricted License Upgrade. Upon obtaining one thousand six hundred (1,600) hours of supervised on-site operating experience for each license, the operator shall be eligible to apply for an unrestricted Class I license. There is no limit on the amount of time needed to obtain the necessary experience to qualify for the unrestricted license. A restricted license is limited to a specific system. (3-21-12)

326. -- 327. (RESERVED)

328. REQUIREMENTS FOR A CLASS I OPERATOR LICENSE.
To qualify for a Class I operator license an applicant must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED; and (3-21-12)

02. Experience. Document one (1) year of acceptable relevant on-site operating experience at a Class I or higher system or successfully complete one (1) year of an Approved Apprenticeship Program; and (4-11-19)

03. Examination. Pass the relevant Class I examination. (3-21-12)

329. (RESERVED)

330. REQUIREMENTS FOR A CLASS II OPERATOR LICENSE.
To qualify for a Class II license an applicant must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED; and (3-21-12)

02. Experience. Document three (3) years of acceptable relevant on-site operating experience at a Class I or higher system or successfully complete an Approved Apprenticeship Program; and (4-11-19)

03. Examination. Pass the relevant Class II examination. (3-21-12)

331. -- 334. (RESERVED)

335. REQUIREMENTS FOR A CLASS III OPERATOR LICENSE.
To qualify for a Class III license an applicant must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED and two (2) years of post-high school education in the environmental control field, engineering or related science; and (3-21-12)

02. Experience. Document four (4) years of acceptable relevant on-site operating experience, including two (2) years of responsible charge of a major segment of a system in the same or next lower class, of a Class I or higher system for collection or distribution or Class II or higher system for treatment or successful completion of an Approved Apprenticeship Program; and (4-11-19)

03. Examination. Pass the relevant Class III examination. (3-21-12)

336. -- 339. (RESERVED)

340. REQUIREMENTS FOR A CLASS IV OPERATOR LICENSE.
To qualify for a Class IV license an applicant must meet the following requirements; (3-21-12)

01. Education. Possess a high school diploma or GED and four (4) years of post-high school education in the environmental control field, engineering or related science; and (3-21-12)

02. Experience. Document four (4) years of acceptable relevant on-site operating experience, including two (2) years of responsible charge of a major segment of a system in the same or next lower class, at a Class I or higher system for collection or distribution or Class III or higher system for treatment; and (3-25-16)

03. Examination. Pass the relevant Class IV examination. (3-21-12)

341. -- 344. (RESERVED)

345. REQUIREMENTS FOR A LAGOON OPERATOR LICENSE.
To qualify for a lagoon license, an operator must meet the following requirements; (3-21-12)

01. Education. Possess a high school diploma or GED; and (3-21-12)

02. Experience. Document twelve (12) consecutive months of acceptable on-site operating experience at a Lagoon system; and (3-21-12)

03. Examination. Pass the relevant Lagoon examination. (3-21-12)

346. -- 349. (RESERVED)

350. REQUIREMENTS FOR A WASTEWATER LAND APPLICATION LICENSE.
To qualify for a Wastewater Land Application license, an operator must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED: and (3-21-12)

02. Experience. Document a minimum six (6) months of on-site operating experience at a wastewater land application system; and (3-21-12)

03. Examination. Pass the relevant Wastewater Land Application examination; and (3-21-12)

04. Other. Possess a wastewater Class I or higher operation license. The wastewater land application operator that is a responsible charge or substitute responsible charge operator must be licensed at the type and class equal to or greater than the classification of the wastewater system. (3-21-12)

351. -- 354. (RESERVED)

355. REQUIREMENTS FOR A BACKFLOW ASSEMBLY TESTER LICENSE.
To qualify for a backflow assembly tester license, an applicant must meet the following requirements: (3-21-12)

01. Education. Possess a high school diploma or GED, and (3-21-12)

02. Experience. Document successful completion of a Board-approved backflow assembly tester training program in compliance with the Cross Connection Control Accepted Procedure and Practice Manual and consisting of theory instruction, practical instruction, and a practical examination in compliance with the USC Test procedures; and (3-21-12)

03. Examination. Pass the relevant Backflow Assembly Tester examination. (3-21-12)

356. -- 359. (RESERVED)

360. REQUIREMENTS FOR WASTEWATER LABORATORY ANALYST LICENSE.
To qualify for a wastewater laboratory analyst license, an applicant must meet the following requirements for the relevant class: (3-21-12)

01. Class I. (3-21-12)

a. Possess a high school diploma or GED; and (3-21-12)

b. Document one (1) year of acceptable lab experience at a class I or higher system; and (3-21-12)

c. Pass the relevant class I laboratory analyst examination. (3-21-12)

02. Class II. (3-21-12)

a. Possess a high school diploma or GED; and (3-21-12)

b. Document three (3) years of acceptable lab experience at a class I or higher system; and (3-21-12)

c. Pass the relevant class II laboratory analyst examination. (3-21-12)

03. Class III. (3-21-12)

a. Possess a high school diploma or GED and two (2) years of post-high school education in the environmental control field, engineering or related science; and (3-21-12)

b. Document four (4) years of acceptable lab experience at a class II or higher system; and (3-21-12)

c. Pass the relevant class III laboratory analyst examination. (3-21-12)

04. Class IV. (3-21-12)

a. Possess a high school diploma or GED and four (4) years of post-high school education in the environmental control field, engineering or related science; and (3-21-12)

b. Document four (4) years of acceptable lab experience at a class III or higher system; and (3-21-12)

c. Pass the relevant class IV laboratory analyst examination. (3-21-12)

361. -- 374. (RESERVED)

375. SUBSTITUTIONS.

01. Substituting Education for Experience. Applicants may substitute approved education for operating and responsible charge experience as specified below. (3-21-12)

a. No substitution for on-site operating experience shall be permitted for licensure as a very small system operator or a Class I operator. (3-21-12)

b. For Classes II, III and IV, substitution shall only be allowed for the required experience when fifty percent (50%) of all stated experience (both on-site operating and responsible charge) has been met by actual on-site operating experience. (3-21-12)

c. For Class II, a maximum of one and one-half (1½) years of post-high school education in the environmental control field, engineering or related science may be substituted for one and one-half (1½) years of operating experience. (3-21-12)

d. For Class III and IV, a maximum of two (2) years of post-high school education in the environmental control field, engineering or related science may be substituted for two (2) years of on-site operating experience; however the applicant for Class III must still have one (1) year of responsible charge experience and the applicant for Class IV must have two (2) years of responsible charge experience. (3-21-12)

e. Education substituted for on-site operating experience may not be also credited toward the education requirement. (3-21-12)

f. One (1) year of post-high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required on-site operating or responsible charge experience. (3-21-12)

02. Substituting Experience for Education. Where applicable, approved on-site operating and responsible charge experience may be substituted for education as specified below: (3-21-12)

a. One (1) year of on-site operating experience may be substituted for two (2) years of grade school or one (1) year of high school with no limitation. (3-21-12)

b. For Class III and IV, additional responsible charge experience (that exceeding the two-year class requirements) may be substituted for post-high school education on a one (1) for one (1) basis: one (1) year additional responsible charge equal one (1) year post-high school education. (3-21-12)

03. Substituting Experience for Experience. Related experience may be substituted for experience up to one-half (½) of the operating experience requirement for Class II, III and IV. Experience that may be substituted includes, but is not limited to, the following: (3-21-12)

a. Experience as an environmental or operations consultant; (3-21-12)

b. Experience in an environmental or engineering branch of federal, state, county, or local government; (3-21-12)

c. Experience as a wastewater collection system operator; (3-21-12)

d. Experience as a wastewater treatment plant operator; (3-21-12)

e. Experience as a water distribution system operator and/or manager; (3-21-12)

f. One (1) year of post-high school education may be substituted for one (1) year experience up to a maximum of fifty percent (50%) of the required operating or responsible charge experience. (3-21-12)

g. Experience in waste treatment operation and maintenance. (3-21-12)

h. Experience as a laboratory analyst can be counted as wastewater operating experience for up to one-half (1/2) of the wastewater operating experience requirement but cannot be counted as responsible charge experience. (3-21-12)

i. Experience as a wastewater operator can be counted as laboratory analyst experience for up to one-half (1/2) of the laboratory analyst experience requirement. (3-21-12)

04. Equivalency Policy. Substitutions for education or experience requirements needed to meet minimum requirements for license will be evaluated upon the following equivalency policies: (3-21-12)

a. High School - High School diploma equals GED or equivalent as approved by the Board equals four (4) years. (3-21-12)

b. College - Thirty (30) credits equal one (1) year (limited to curricula in environmental engineering, environmental sciences, water/wastewater technology, and/or related fields as determined by the Board). (4-11-19)

c. Continuing Education Units (CEU) for operator training courses, seminars, related college courses, and other training activities. Ten (10) classroom hours equal one (1) CEU; forty-five (45) CEUs equal one (1) year of college. (3-21-12)

376. -- 399. (RESERVED)

400. ENDORSEMENT.
The board may waive the examination requirements and issue the appropriate license for applicants holding licenses issued by other States that have equivalent license requirements and who otherwise meet the requirements set forth in Subsections 150.02, 150.03, and 150.04. (3-24-05)

401. -- 449. (RESERVED)

450. WASTEWATER GRANDPARENT PROVISION.
The board issued grandparent licenses to wastewater operators who provided documentation satisfactory to the board of being in responsible charge of an existing public wastewater system on or before April 15, 2006. (4-11-19)

01. Grandparent License. A grandparent license allowed the licensee to operate in responsible charge of the specific facility identified in the original application. The license is site specific and non-transferable and does not grant authority for the holder to practice at any other system in any capacity as an operator. (4-11-19)

02. License Requirements. A grandparent licensed wastewater operator is required to meet all other requirements including the continuing education and renewal requirements. (3-21-12)

03. Wastewater System Classification Limitations. The grandparent license shall become invalid any time the classification of the wastewater system changes to a higher classification. (3-24-05)

451. -- 499. (RESERVED)

500. CONTINUING EDUCATION.
In order to further protect the health, safety and welfare of Idaho's public, and to facilitate the continued competence of persons licensed under the drinking water and wastewater professionals licensing act, the Board has adopted the following rules for continuing education. (3-24-05)

01. Continuing Education Requirement. Each licensee must successfully complete a minimum of six (6) hours (0.6 CEUs) of approved continuing education annually for license renewal, except that backflow assembly testers shall complete an eight (8) hour refresher course every two (2) years for license renewal. Continuing education must be earned in a subject matter relevant to the field in which the license is issued. A licensee holding one (1) or more drinking water license(s) shall be required to meet the annual continuing education requirement for only one license. A licensee holding one (1) or more wastewater license(s) shall be required to meet the annual continuing education requirement for only one license. A licensee holding both drinking water and wastewater class licenses must complete a minimum of six (6) hours annually for the drinking water license plus six (6) hours annually for the wastewater license. (3-30-06)

a. Each licensee shall submit to the Board an annual license renewal application form, together with the required fees, certifying by signed affidavit that compliance with the CE requirements have been met. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (3-24-05)

b. A licensee shall be considered to have satisfied their CE requirements for the first renewal of their license. (3-24-05)

c. A water or wastewater licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. The same hours may not be carried forward more than one (1) renewal cycle. (3-24-05)

d. Continuing Education hours for approved operator training courses, seminars, related college

courses, and other training activities may be converted to Continuing Education Units (CEU) as follows: Six (6) classroom hours = point six (0.6) CEU. (3-24-05)

02. Subject Material. The subject material of the continuing education requirement shall be relevant to the license for which the continued education is required. "Relevant" shall be limited to material germane to the operation, maintenance and administration of drinking water and wastewater systems as referenced in Chapter 24, Title 54, Idaho Code, and includes those subjects identified in the "need to know" criteria published by the Associations of Boards of Certification. (3-30-06)

03. Course Approval. All course providers must submit requests for approval of continuing education courses to the Board in writing no less than thirty (30) days prior to the course being offered, on a form approved by the Board that includes: (3-30-06)

a. The name and qualifications of the instructor or instructors; (3-24-05)

b. The date, time and location of the course; (3-24-05)

c. The specific agenda for the course; (3-24-05)

d. The type and number of continuing education credit hours requested; (3-24-05)

e. A statement of how the course is believed to be relevant as defined; (3-24-05)

f. Any certificate of approval from a governmental agency if the course has been previously approved for continuing education; (3-30-06)

g. The training materials; (3-24-05)

h. Other information as may be requested by the Board. (3-24-05)

i. Upon review of all information requested, the Board may either approve or deny any request for a course. Board approval of a course shall be granted for a period not to exceed five (5) years or until the course materials or instructors are changed. (4-11-19)

04. Approved Courses. Those continuing education courses which are relevant and approved by the states of Nevada, Oregon, Montana, Utah, Wyoming, and Washington are deemed approved by the Board. (2-26-08)

05. Verification of Attendance. It shall be necessary for each licensee to maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. This verification shall be maintained by the licensee and provided upon request of the Board or its agent. (3-24-05)

06. Distance Learning and Independent Study. The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the licensee in a face-to-face setting with the course instructor. The licensee shall maintain documentation of the nature and details of the course and evidence that the licensee successfully completed the course, which shall be made available to the Board upon request. (3-30-06)

07. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for those licensees who fail to certify or otherwise provide acceptable documentation of meeting the CE requirements. Licensees who make a false attestation regarding compliance with the CE requirements shall be subject to disciplinary action by the Board. (3-24-05)

08. Exemptions. The Board may waive the continuing education requirement or extend the deadline up to ninety (90) days for any one or more of the following circumstances. The licensee must request the exemption and provide any information requested to assist the Board in making a determination. An exemption may be granted at the sole discretion of the Board. (3-30-06)

a. The licensee is a resident of another jurisdiction recognized by the Board having a continuing professional education requirement for licensure renewal and has complied with the requirements of that state or district. (3-24-05)

b. The licensee is a government employee working outside the continental United States. (3-24-05)

c. The licensee documents individual hardship, including health (certified by a medical doctor) or other good cause. (3-24-05)

501. -- 599. (RESERVED)

600. RENEWAL OR REINSTATEMENT OF LICENSE.

01. Expiration Date. All licenses expire and must be renewed annually on forms approved by the Board in accordance with Section 67-2614, Idaho Code. Licenses not so renewed will be cancelled in accordance with Section 67-2614, Idaho Code. (3-24-05)

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant shall submit proof of having completed the total number of required continuing education for each year the license or certificate was cancelled. (2-26-08)

03. Operator-in-Training License. Applicants for the operator-in-training license shall, upon compliance with the requirements of Subsections 300.01 and 300.02, be issued a "one-time" non-renewable license for the purpose of gaining supervised experience as an operator-in-training (OIT). This license will be valid for three (3) years from the date of issue. (4-11-19)

04. Backflow Assembly Testers. Backflow assembly testers shall complete a Board-approved eight (8) hour refresher course every two (2) years for license renewal. (3-30-06)

05. Wastewater Land Application License. Wastewater land application licenses shall not be renewed unless the licensee also maintains a current wastewater treatment license. (3-30-06)

601. -- 649. (RESERVED)

650. BACKFLOW ASSEMBLY TESTER CODE OF ETHICS AND STANDARDS OF CONDUCT.
All backflow assembly tester licensees shall comply with the Idaho Backflow Assembly Tester Code of Ethics and Standards of Conduct as approved by the Board and attached to these rules as Appendix A. (3-25-16)

651. -- 699. (RESERVED)

700. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensee for each violation of Chapter 24, Title 54, Idaho Code. (3-24-05)

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Chapter 24, Title 54, Idaho Code. (3-24-05)

701. -- 799. (RESERVED)

800. STAKEHOLDER INVOLVEMENT.
Ongoing drinking water stakeholder involvement shall be provided through the existing DEQ drinking water advisory committee. (3-24-05)

801. -- 999. (RESERVED)

APPENDIX A
IDAHO BACKFLOW ASSEMBLY TESTER CODE OF ETHICS AND STANDARDS OF CONDUCT

The purpose of this rule is to protect public health by setting minimum requirements and standards for licensed Backflow Assembly Testers in Idaho who inspect and field test backflow assemblies, backflow prevention devices and air gaps that protect public water systems.

1. Code of Ethics -- A licensed Backflow Assembly Tester shall:

a. At all times, act in accordance with his/her primary obligation to perform his/her duties with due care and diligence to protect the safety, health and welfare of the public;

b. Comply with the laws and rules governing Backflow Assembly Testers and all applicable state and federal laws and regulations relating to backflow assembly testing;

c. Perform only those duties consistent with and appropriate to his/her experience, training. skills, abilities, and licensure; and

d. Be objective and truthful in all professional reports, statements, or testimony and include all relevant and pertinent information in such reports, statements or testimony.

2. Definitions:

a. Backflow Prevention Assembly: an approved assembly such as a Double Check Valve Assembly (DCVA), a Pressure Vacuum Breaker Assembly (PVBA), a Reduced Pressure Backflow Assembly (RPBA), or a Spill-Resistant Pressure Vacuum Breaker Assembly (SVBA) used for the protection of the public water supply according to the provisions of IDAPA 58.01.08, “Idaho Rules for Public Drinking Water Systems,” as administered by DEQ.

b. Backflow Prevention Device: an approved device such as an Atmospheric Vacuum Breaker (AVB), which does not contain valves or test ports, or a method, such as an air gap, that is utilized to prevent cross connections to a public water supply.

c. Calibration/Verification: the annual verification, calibration, or both of a backflow assembly field test kit by an instrument calibration laboratory/facility or by a person qualified to verify and calibrate a field test kit such as a manufacturer, dealer licensed to calibrate or verify field test kits, or calibration technician.

d. Customer: means the owner of the property or his/her authorized or appointed agent.

e. Field Test Kit: an instrument, either mechanical or electronic in design, and all related fittings, tools, equipment and appurtenances necessary to perform field verification tests on backflow prevention assemblies.

3. Standards of Conduct

a. Principle 1 -- A Backflow Assembly Tester shall act only within the scope of practice as set forth in the Board’s laws and rules. A Backflow Assembly Tester must use due care and diligence in performing his/her duties.

b. Principle 2 -- When conducting inspections and field tests of backflow prevention assemblies, a Backflow Assembly Tester must use test procedures that comply with standard field test procedures.

c. Principle 3 -- The Backflow Assembly Tester shall observe or inspect existing installations of backflow prevention assemblies to identify whether the assembly is properly installed and whether, in the opinion of the Backflow Assembly Tester, the assembly is adequate and appropriate for the degree of hazard posed to the Public Water System having jurisdiction over the assembly.

i. A Backflow Assembly Tester must report improperly installed assemblies to the customer and the Public Water System having jurisdiction over the backflow prevention assembly and also must note the discrepancy on the test report and submit the test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

ii. A Backflow Assembly Tester must note discrepancies regarding inadequate or inappropriate backflow prevention assemblies on the test report and submit the test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

d. Principle 4 -- A Backflow Assembly Tester shall use a properly working and calibrated field test kit that meets the requirements of the Pacific Northwest Section of the American Water Works Association Cross Connection Control Manual, Seventh Edition, November 2012. When requested by a Public Water System, a Backflow Assembly Tester shall submit the most recent calibration report that verifies the accuracy of the field kit. When requested by a Public Water System, a Backflow Assembly Tester shall submit proof of current licensure in Idaho as a Backflow Assembly Tester.

e. Principle 5 -- The Backflow Assembly Tester must competently use a field test kit, all tools, and other equipment and appurtenances necessary to inspect and field test backflow prevention assemblies, inspect air gaps and backflow prevention devices.

f. Principle 6 -- When a backflow prevention assembly passes a field test, the Backflow Assembly Tester shall submit within fifteen (15) business days of performing the field test a passing test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

g. Principle 7 -- When a backflow prevention assembly is defective or fails to pass the field test, the Backflow Assembly Tester shall submit immediately, if possible, but no later than within two (2) business days, a failing field test report to the customer and the Public Water System having jurisdiction over the backflow prevention assembly.

h. Principle 8 -- The Backflow Assembly Tester shall complete a test report for each backflow prevention assembly for which the Backflow Assembly Tester conducts a field test. A test report must be legible and contain all relevant and pertinent information pertaining to the field test including, at a minimum, the make, model, size, serial number, orientation, and test results for each test conducted.

i. A Backflow Assembly Tester shall record data and sign test reports only for backflow prevention assemblies for which the Backflow Assembly Tester has personally conducted the field test.

ii. A Backflow Assembly Tester shall not falsify the results of a backflow prevention assembly field test or inspection.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.06.01 – RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

DOCKET NO. 24-0601-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3717(2), Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.06.01, rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants:

IDAPA 24.06.01

- 24.06.01, *Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants*: all proposed rules except 010.01, 010.02.a., 010.02.b., 010.02.c., 010.02.d., 010.07, 010.08, 010.09, 010.10, 010.12, 010.13, 020.03, 020.05, 020.06, 021.01, 021.02.a., 021.02.b., 021.03.a., 021.04.a., 023, 025.03.b., 025.03.c., 025.03.d., 025.05.l, 025.06.a., 025.06.b., 025.06.c., 032.02.c., and 032.02.e.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.06.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules for the Licensure of Occupational Therapists and Occupational Therapy was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.06.01, the Rules for the Licensure of Occupational Therapists and Occupational Therapy. On June 10, 2019, the State Occupational Therapy Licensure Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Further, this pending fee rule added mechanical and physical agent modalities to rule 012 to reflect the scope of practice allowed in the Board’s governing statute. This pending fee rule also replaced the term patient with the term client to reflect industry practice. This pending fee rule also removed the term good moral character, to clarify requirements for licensure. Additionally, this pending fee rule clarified the continuing education requirements for licensees which was identified in the Board’s Licensing Freedom Act of 2017 Report. These changes will make the continuing education requirements easier to understand, as well as increase the number of allowed continuing education courses. This pending fee rule updates the requirements an inactive licensee must meet before returning to active status. To ensure all active practitioners are proficient, this pending rule will require licensees inactive for five or more years to show proof of competency before returning to active status as well as the criteria to determine competency. Finally, this pending fee rule institutes standards of practice for telehealth, which will aid both therapists and clients in determining whether telehealth is appropriate.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4650 - 4660.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-3707 and 54-3712, Idaho Code, as follows:

Initial licensure fee for occupational therapists: not to exceed $80;
Initial licensure fee for occupational therapy assistants: not to exceed $60;
Fee for limited permit or temporary license: not to exceed $25;
Active license annual renewal fee for occupational therapists: not to exceed $40;
Active license renewal fee for occupational therapy assistants: not to exceed $30;
Inactive license annual renewal fee for occupational therapists and occupational therapy assistants: not to exceed $20;
Fee for reinstating an inactive license to an active license is the difference between the current inactive and active license renewal fees.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

24.06.01 – RULES FOR THE LICENSURE OF OCCUPATIONAL THERAPISTS AND OCCUPATIONAL THERAPY ASSISTANTS

000. LEGAL AUTHORITY.
Pursuant to Section 54-3717(2), Idaho Code, the Occupational Therapy Licensure Board of Idaho is authorized to promulgate rules that implement the provisions of Chapter 37, Title 54, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.06.01, "Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants." (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Client-Related Tasks. Client-related tasks are routine tasks during which the aide may interact with the client but does not act as a primary service provider of occupational therapy services. *( )*

02. Direct Line-of-Sight Supervision. Direct line-of-sight supervision requires the supervisor's physical presence when services are being provided to clients by the individual under supervision. *( )*

03. Direct Supervision. Direct supervision requires daily, in-person contact by the supervisor at the site where services are provided to clients by the individual under supervision. (4-11-19)

04. Evaluation. Evaluation is the process of obtaining and interpreting data necessary for treatment, which includes, but is not limited to, planning for and documenting the review, specific observation, interviewing, and administering data collection procedures, which include, but are not limited to, the use of standardized tests, performance checklists, and activities and tasks designed to evaluate specific performance abilities. (4-11-19)

05. General Supervision. General Supervision requires in-person or synchronous interaction at least once per month by an occupational therapist and contact by other means as needed. Other means of contact include, but are not limited to, electronic communications such as email. (4-11-19)

06. Routine Supervision. Routine Supervision requires in-person or synchronous interaction at least once every two (2) weeks by an occupational therapist and contact by other means as needed. Other means of contact include, but are not limited to, electronic communications such as email. (4-11-19)

011. SUPERVISION.
An occupational therapist shall supervise and be responsible for the patient care given by occupational therapy assistants, limited permit holders, aides, and students. An occupational therapist's or occupational therapy assistant's failure to provide appropriate supervision in accordance with these rules is grounds for discipline. (4-11-19)

01. Occupational Therapy Assistants. Occupational therapy assistants must be supervised by an occupational therapist. General Supervision must be provided at a minimum. (4-11-19)

02. Limited Permit Holders. Limited permit holders must be supervised by an occupational therapist or occupational therapy assistant. Direct supervision must be provided at a minimum. The occupational therapist is responsible for the overall use and actions of the limited permit holder. (4-11-19)

03. Occupational Therapy Aides. Occupational therapy aides do not provide skilled occupational therapy services. An aide must be trained by an occupational therapist or an occupational therapy assistant to perform specifically delegated tasks. The occupational therapist is responsible for the overall use and actions of the aide. The occupational therapist must oversee the development, documentation, and implementation of a plan to supervise and routinely assess the ability of the occupational therapy aide to carry out non-client related and client-related tasks. The occupational therapy assistant may contribute to the development and documentation of this plan. (4-11-19)

a. The following factors must be present when an occupational therapist or occupational therapy assistant assigns a selected client-related task to the aide: *( )*

i. The outcome of the assigned task is predictable; *( )*

ii. The situation of the client and the environment is stable and will not require that judgment, interpretations, or adaptations be made by the aide; *( )*

iii. The client has demonstrated some previous performance ability in executing the task; and ( )

iv. The task routine and process have been clearly established. ( )

b. Before assigning client-related and non-client related tasks to an aide, the occupational therapist or occupational therapy assistant must ensure that the aide is able to competently perform the task. (4-11-19)

c. The occupational therapist or occupational therapy assistant must train the aide to perform client-related and non-client related tasks at least once per month. (4-11-19)

d. An aide must perform client-related tasks under the direct line-of-sight supervision of an occupational therapist or occupational therapy assistant. (4-11-19)

e. Occupational therapists and occupational therapy assistants must document all training and supervision of an aide. *( )*

0*4*. Students. Students must be under the direct on-site supervision of an occupational therapist or occupational therapy assistant who is appropriately supervised by an occupational therapist. The occupational therapist is responsible for the overall use and actions of the student. (4-11-19)

0*5*. Supervision Requirements. Supervision is the direction and review of service delivery, treatment plans, and treatment outcomes. Unless otherwise specified in this rule, General Supervision is the minimum level of supervision that must be provided. Methods of supervision may include, but are not limited to, Direct Line-of-Sight Supervision, Direct Supervision, Routine Supervision, or General Supervision, as needed to ensure the safe and effective delivery of occupational therapy. (4-11-19)

a. An occupational therapist and an occupational therapy assistant must ensure the delivery of services by the individual being supervised is appropriate for client care and safety and must evaluate: (4-11-19)

i. The complexity of client needs; (4-11-19)

ii. The number and diversity of clients; (4-11-19)

iii. The skills of the occupational therapist assistant, aide, or limited permit holder; *( )*

iv. The type of practice setting; (4-11-19)

v. The requirements of the practice setting; and (4-11-19)

vi. Other regulatory requirements applicable to the practice setting or delivery of services. (4-11-19)

b. Supervision must be documented in a manner appropriate to the *supervised position* and the setting. The documentation must be kept as required by Section 013 of these rules. *( )*

c. Supervision must include consultation at appropriate intervals regarding evaluation, intervention, progress, reevaluation and discharge planning for each patient. Consultation must be documented and signed by the supervisor and supervisee. (4-11-19)

012. DEEP THERMAL, ELECTROTHERAPEUTIC*, MECHANICAL PHYSICAL AGENT* MODALITIES, AND WOUND CARE.

01. Qualifications. Except as provided in Subsection 012.02 of these rules, a person may not utilize occupational therapy techniques involving deep thermal, electrotherapeutic*, or mechanical physical agent* modalities or perform wound care management unless the person is licensed by the Board as an occupational therapist and certified by the Hand Therapy Commission. In lieu of being certified by the Hand Therapy Commission, the person must have obtained education and training as *follows*. *( )*

a. If the person utilizes techniques involving deep thermal, electrotherapeutic*, or mechanical physical agent* modalities, the person must have successfully completed *thirty (30) contact hours* in the application of deep thermal*,* electrotherapeutic modalities*, and mechanical physical agent modalities*, along with forty (40) hours of supervised, on-the-job or clinical internship or affiliation training pertaining to such modalities. *( )*

b. If the person manages wound care, the person must have successfully completed *fifteen (15) contact hours* in wound care management, along with forty (40) hours of supervised, on-the-job or clinical internship or affiliation training pertaining to wound care management. *( )*

c. If the person utilizes both deep thermal, electrotherapeutic*, or mechanical physical agent* modalities and manages wound care, the forty (40) hours of supervised *components may be obtained concurrently*. *( )*

02. Obtaining Education and Supervised Training. A student occupational therapist, graduate occupational therapist, and an occupational therapist may utilize deep thermal, electrotherapeutic*, or mechanical physical agent* modalities or manage wound care while working towards obtaining the education and supervised training described in Section 012 of these rules. The supervisor must provide at least direct supervision to the student occupational therapist, and at least routine supervision to the graduate occupational therapist or occupational therapist. An occupational therapy assistant may apply deep thermal*,* electrotherapeutic*, or mechanical physical agent* modalities under routine supervision if the occupational therapy assistant has obtained the education and training described in *this* section. Otherwise, the occupational therapy assistant must work under direct *line-of-sight* supervision while applying such modalities. *( )*

03. Supervised Training by Qualified Individual. The supervised training described in Section 012 of these rules must be provided by an occupational therapist who is qualified *pursuant to* Subsection 012.01, or by another type of licensed health care practitioner whose education, training, and scope of practice enable the practitioner to competently supervise the person as to the modalities utilized and wound care management provided. *( )*

013. RECORD KEEPING.
Occupational therapists and occupational therapy assistants must maintain adequate records that are consistent with the standard business practices of the setting in which the licensee is providing occupational therapy or supervision and that show necessary *client* care, supervision provided by the licensee, and compliance with regulatory requirements applicable to the setting. *( )*

014. -- 019. (RESERVED)

020. GENERAL QUALIFICATIONS FOR LICENSURE.

01. Applicant. The Board may refuse licensure if it finds the applicant has engaged in conduct prohibited by Section 54-371*8*, Idaho Code; provided, the Board shall take into consideration the rehabilitation of the applicant and other mitigating circumstances. *( )*

02. Education. Each applicant shall provide evidence of successful completion of the academic requirements of an educational program in occupational therapy that is accredited by the American Occupational Therapy Association's Accreditation Council for Occupational Therapy Education (ACOTE), or by a predecessor or successor organization recognized by the United States Secretary of Education, the Council for Higher Education Accreditation, or both. (3-29-10)

0*3*. Examination. Each applicant shall either pass an examination required by the Board or shall be entitled to apply for licensure by endorsement or limited permit. (1-5-88)

a. The written examination shall be the examination conducted by the National Board for Certification in Occupational Therapy, Inc. (NBCOT) and the passing score shall be the passing score established by the NBCOT. (4-2-03)

b. An applicant for licensure by examination who fails to pass the examination on two (2) attempts

must submit a new application. ( )

021. APPLICATION FOR LICENSURE.

01. Licensure by Endorsement. An applicant may be eligible for licensure without examination if he or she meets all of the other qualifications prescribed in Section 54-3709, Idaho Code, and also holds a current valid license or registration from some other state, territory or district of the United States, or certified by the National Board for Certification in Occupational Therapy providing they meet Idaho standards and are equivalent to the requirements for licensure pursuant to these rules. (3-29-10)

02. Limited Permit. The Board may issue a Limited Permit to a graduate occupational therapist or graduate occupational therapy assistant who meets the requirements set forth by Sections 54-3706(1) and 54-3706(2), Idaho Code, who has not yet passed the examination as required in Paragraph 020.04.a. of these rules. (3-29-10)

a. A Limited Permit shall only allow a person to practice occupational therapy in association with and under the supervision of a licensed occupational therapist. (1-5-88)

b. A Limited Permit shall be valid six (6) months from the date of issue. (3-20-14)

c. A Limited Permit may be extended by the Board for good cause. (3-20-14)

04. Temporary License. The Board may issue a temporary license to a person applying for licensure as an occupational therapist or an occupational therapy assistant if the person is currently licensed and in good standing to practice in another jurisdiction and meets that jurisdiction's requirements for licensure by endorsement. (3-29-10)

a. A temporary license shall automatically expire once the Board has processed the person's application for licensure and issued or denied the applied-for license, or in six (6) months after the date on which the Board issued the temporary license, whichever is sooner. (3-29-10)

05. Personal Interview. The Board may, at its discretion, require the applicant to appear for a personal interview. (1-5-88)

022. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.
An applicant who, or whose license, has a criminal conviction, finding of guilt, withheld judgment, or suspended sentence for any crime under any municipal, state, or federal law other than minor traffic offenses, or has been subject to discipline by any state professional regulatory agency or professional organization must submit with the application a written statement and any supplemental information establishing the applicant's current suitability for licensure. ( )

01. Consideration of Factors and Evidence. The Board shall consider the following factors or evidence: (4-11-19)

a. The severity or nature of the crime or discipline; (4-11-19)

b. The period of time that has passed since the crime or discipline under review; (4-11-19)

c. The number or pattern of crimes or discipline or other similar incidents; (4-11-19)

d. The circumstances surrounding the crime or discipline that would help determine the risk of repetition; (4-11-19)

e. The relationship of the crime or discipline to the practice of occupational therapy; (4-11-19)

f. The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of current rehabilitation; and (4-11-19)

g. Any other information regarding rehabilitation or mitigating circumstances. (4-11-19)

02. Interview. The Board may, at its discretion, grant an interview of the applicant. (4-11-19)

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing the applicant's current suitability for licensure. (4-11-19)

023. -- 024. (RESERVED)

025. CONTINUING EDUCATION.
In order to protect public health and safety and promote the public welfare, the Board has adopted the following continuing education requirement of all licensees: (3-25-16)

01. Requirement. *Each licensee shall successfully complete, in the twelve (12) months preceding license renewal*, a minimum of *ten (10) contact hours of continuing education, as approved by the Board*. *( )*

a. One (1) contact hour *is equivalent to* one (1) clock hour for *the* purpose of obtaining *continuing education*. *( )*

b. The Board shall waive the continuing education requirement for the first license renewal after initial licensure. *( )*

02. *Attestation*. The licensee must *attest*, as part of the annual license renewal process, that the licensee is in compliance with the continuing education requirement. *( )*

03. Courses and Activities. At least *five (5) contact hours* must directly relate to the delivery of occupational therapy services. The remaining *contact hours* must be germane to the practice of occupational therapy and relate to other areas of a licensee's practice. A licensee may take online or home study courses *or self-competency assessments*, as long as a course completion certificate is provided. *( )*

a. *The delivery of occupational therapy services may include: models, theories or frameworks that relate to client care in preventing or minimizing impairment, enabling function within the person/environment or community context.* *( )*

b. *Other areas may include, but are not limited to, occupation based theory assessment/interview techniques, intervention strategies, and community/environment as related to the licensee's practice.* *( )*

c. C*ontinuing education* acceptable to the Board include*s*, but *is* not limited to, programs or activities sponsored by the American Occupational Therapy Association (AOTA), the Idaho Occupational Therapy Association (IOTA), *or National Board for Certification in Occupational Therapy (NBCOT)*; post-professional coursework completed through any approved or accredited educational institution; or otherwise meet all of the following criteria: *( )*

i. The program or activity contributes directly to professional knowledge, skill, and ability; (3-29-10)

ii. The program or activity relates directly to the practice of occupational therapy; and (3-29-10)

iii. The program or activity must be objectively measurable in terms of the hours involved. (3-29-10)

04. Carry Over and Duplication. *A maximum of ten (10) continuing education hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. If the licensee completes two (2) or more courses having substantially the same content during any one (1) renewal period, the licensee only will receive continuing education credit for one (1) of the courses*. *( )*

05. Documentation. A licensee need not submit documentation of *continuing education* when the licensee renews a license. However, a licensee must maintain documentation verifying that the licensee has

completed the continuing education requirement for a period of four (4) years *from the date of completion*. A licensee must submit the verification documentation to the Board if the licensee is audited by the Board. A percentage of occupational therapists and certified occupational therapy assistants will be audited every year. Documentation for all activities must include licensee's name, date of activity or when course was completed, provider name, course title, description of course/activity, and number of *contact hours*. *( )*

a. Continuing education course work. The required documentation for this activity is a certificate or documentation of attendance. (3-29-10)

b. In-service training. The required documentation for this activity is a certificate or documentation of attendance. (3-29-10)

c. Professional conference or workshop. The required documentation for this activity is a certificate or documentation of attendance. (3-29-10)

d. Course work offered by an accredited college or university, provided that the course work is taken after the licensee has obtained a degree in occupational therapy, and the course work provides skills and knowledge beyond entry-level skills or knowledge. The required documentation for this activity is a transcript. (3-29-10)

e. Publications. The required documentation for this activity is a copy of the publication. (3-29-10)

f. Presentations. The required documentation for this activity is a copy of the presentation or program listing. Any particular presentation may be reported only once per reporting period. (3-29-10)

g. Interactive online courses *and evidence-based competency assessments*. The required documentation for this activity is a certificate or documentation of completion. *( )*

h. Development of instructional materials incorporating alternative media such as video, audio and/or software programs to advance professional skills of others. The required documentation for this activity is a program description. The media/software materials must be available if requested during audit process. (3-29-10)

i. Professional manuscript review. The required documentation for this activity is a letter from *the* publishing organization verifying review of manuscript. A maximum of *five (5)* hours is allowed per *renewal* period for this category. *( )*

j. Guest lecturer for occupational therapy related academic course work (academia not primary role). The required documentation for this activity is a letter or other documentation from instructor. (3-29-10)

k. Serving on a professional board, committee, disciplinary panel, or association. The required documentation for this activity is a letter or other documentation from the organization. A maximum of *five (5)* hours is allowed per *renewal* period for this category. *( )*

l. Level II fieldwork direct supervision of an occupational therapy student or occupational therapy assistant student by site designated supervisor(s). The required documentation for this activity is *the* name of student(s), letter of verification from school, and dates of fieldwork. *( )*

06. Exemptions. A licensee may request an exemption from the continuing education requirement for a particular *renewal* period *for reasonable cause*. The licensee must provide any information requested by the Board to assist in substantiating the licensee's need for a claimed exemption: *( )*

026. -- 029. (RESERVED)

030. INACTIVE STATUS.

01. Request for Inactive Status. Occupational Therapists and Occupational Therapy Assistants requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. (4-7-11)

02. Inactive License Status. (4-7-11)

a. Licensees may not practice in Idaho while on inactive status. (4-7-11)

b. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho, subject to Subsection 030.03 of these rules. (4-7-11)

03. Reinstatement to Full Licensure from Inactive Status. *( )*

a. *Return to Active Status of License - Inactive for Five (5) or Fewer Years. An inactive license holder whose license has been inactive for five (5) or fewer years may convert from inactive to active license status by: ( )*

i. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ( )

ii. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. ( )

b. *Return to Active Status of License - Inactive for Greater than Five (5) Years. An inactive license holder whose license has been inactive for greater than five (5) years may convert from inactive to active license status by: ( )*

i. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and ( )

ii. Providing proof that the licensee has actively engaged in the practice of occupational therapy in another state or territory of the United States for at least three (3) of the immediately preceding five (5) years, or provide proof that the licensee is competent to practice in Idaho. ( )

iii. The Board may consider the following factors when determining proof of competency: ( )

(1) Number of years of practice prior to transfer from active status; ( )

(2) Employment in a field similar to occupational therapy; and ( )

(3) Any other factors the Board deems appropriate. ( )

031. (RESERVED)

032. DENIAL OR REFUSAL TO RENEW, SUSPENSION OR REVOCATION OF LICENSE.

01. Disciplinary Authority. A new application may be denied or renewal refused, and every person licensed pursuant to Title 54, Chapter 37, Idaho Code and these rules is subject to discipline, pursuant to the procedures and powers established by and set forth in Section 54-3718, Idaho Code, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," and the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code. *( )*

02. Grounds for Discipline. In addition to the grounds set forth in Section 54-3718, Idaho Code, applicants may be denied or refused licensure and licensees are subject to discipline upon the following grounds, including but not limited to: *( )*

a. Obtaining a license by means of fraud, misrepresentation, or concealment of material facts; (1-5-88)

b. Being guilty of unprofessional conduct or violating the Code of Ethics *in Appendix A, incorporated herein by reference* governing said licensees, including the provision of health care which fails to meet the standard of

health care provided by other qualified licensees in the same community or similar communities, taking into account the licensee's training, experience and the degree of expertise to which he holds himself out to the public; ( )

c. The unauthorized practice of medicine; (1-5-88)

d. Failure to properly supervise persons as required in these rules. (3-29-10)

03. Penalties. In addition to any other disciplinary sanctions the Board may impose against a licensee, the Board may impose a fine of up to one thousand dollars ($1,000) per violation, or in such greater amount as the Board may deem necessary to deprive the licensee of any economic advantage gained by the licensee through the conduct that resulted in discipline and that reimburses the Board for costs of the investigation and disciplinary proceedings. (3-29-10)

033. -- 040. (RESERVED)

041. FEES.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL FEE (Not to Exceed)
Initial Licensure for Occupational Therapists	$80	$40
Initial Licensure for Occupational Therapy Assistants	$60	$30
Limited Permit or Temporary License	$25	
Reinstatement Fee	As provided in Section 67-2614, Idaho Code.	
Inactive License Renewal	$20	
Inactive to Active License	The difference between the current inactive and active license renewal fees	

( )

042. STANDARDS OF PRACTICE FOR TELEHEALTH

***01. Determining Type of Evaluation**. In making the determination whether an in-person evaluation or intervention are necessary, an occupational therapist shall consider at a minimum:* ( )

***a.** The complexity of the client's condition;* ( )

***b.** His or her own knowledge, skills and abilities;* ( )

***c.** The client's context and environment;* ( )

***d.** The nature and complexity of the intervention;* ( )

***e.** The pragmatic requirements of the practice setting; and* ( )

***f.** The capacity and quality of the technological interface.* ( )

***02. Supervision of Occupational Therapy Assistant**. Supervision of Occupational Therapy Assistant under 24.06.01.011 for routine and general supervision, can be done through telehealth, but cannot be done when direct or direct line-of-sight is determined by the supervising occupational therapist. The same considerations in*

(1)(a) through (f) must be considered in determining whether telehealth should be used. ( )

043. -- 999. (RESERVED)

APPENDIX A
OCCUPATIONAL THERAPY CODE OF ETHICS
PREAMBLE

All Occupational Therapists, Occupational Therapy Assistants, and Limited Permit Holders (collectively, "occupational therapy personnel") are responsible for maintaining and promoting the ethical practice of occupational therapy. Occupational therapy personnel shall act in the best interest of the patient/client at every level of practice. This Code of Ethics, modeled in principle and the spirit of the Code of Ethics of the American Occupational Therapy Association, sets forth principals for the ethical practice of occupational therapy for occupational therapy personnel. This Code of Ethics shall be binding on all occupational therapy personnel.

Principle 1.
Occupational therapy personnel shall demonstrate, a concern for the well-being of the recipients of their services. (beneficence).

Principle 2.
Occupational therapy personnel shall take reasonable precautions to avoid imposing or inflicting harm upon the recipient of services or to his or her property. (nonmaleficence)

Principle 3.
Occupational therapy personnel shall respect the recipient and/or their surrogate(s) as well as the recipient's rights. (autonomy, privacy, confidentiality)

Principle 4.
Occupational therapy personnel shall achieve and continually maintain high standards of competence. (duties)

Principle 5.
Occupational therapy personnel shall comply with laws and policies guiding the profession of occupational therapy. (justice)

Principle 6.
Occupational therapy personnel shall provide accurate information about occupational therapy services. (veracity)

Principle 7.
Occupational therapy personnel shall treat colleagues and other professionals with fairness, discretion, and integrity. (fidelity)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.07.01 – RULES OF THE IDAHO STATE BOARD OF LANDSCAPE ARCHITECTS

DOCKET NO. 24-0701-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3003, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.07.01, rules of the Idaho State Board of Landscape Architects:

IDAPA 24.07.01

- 24.07.01, *Rules of the Idaho State Board of Landscape Architects*: all proposed rules except 201.02.a.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.07.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Board of Landscape Architects was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.07.01, the Rules of the Idaho State Board of Landscape Architects. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4663 - 4666.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3003, Idaho Code, as follows:

Application fee: not to exceed $75;
Landscape architect-in-training application fee: not to exceed $25;
Original license fee and annual license fee: not to exceed $125.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY (RULE 0).
In accordance with Section 54-3003, Idaho Code, the Idaho State Board of Landscape Architects promulgates these rules which implement the provisions of Chapter 30, Title 54, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
These rules are titled IDAPA 24.07.01, "Rules of the Idaho State Board of Landscape Architects." (11-25-94)

002. INCORPORATION BY REFERENCE (RULE 4).
The document titled the Council of Landscape Architectural Registration Boards (CLARB) Model Rules of Professional Conduct as amended February 2007, referenced in Subsection 425, is herein incorporated by reference. (3-26-08)

003. ADDRESS OF IDAHO BOARD OF LANDSCAPE ARCHITECTS (RULE 5).
The office of the Board of Landscape Architects is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. The phone number of the Board is (208) 334-3233. The Board's fax number is (208) 334-3945. The Board's e-mail address is lar@ibol.idaho.gov. The Board's official website is http://www.ibol.idaho.gov. (3-29-10)

004. -- 100. (RESERVED)

101. APPROVED EDUCATION (RULE 101).
An approved college or school of landscape architecture shall have a landscape architecture program accredited by the Landscape Architectural Accreditation Board (LAAB), or shall substantially meet the accrediting standards of the LAAB as may be determined by the Board. (3-22-18)

102. PRACTICAL EXPERIENCE IN LIEU OF EDUCATION (RULE 102).
An applicant shall document at least eight (8) years of actual practical experience in landscape architecture in lieu of graduation from an approved college or school of landscape architecture. Such experience shall establish the applicant's education in those subjects and areas contained in the curriculum of an approved college or school of landscape architecture. No less than fifty percent (50%) of such practical experience shall be under the supervision of a licensed landscape architect. (3-20-04)

103. -- 199. (RESERVED)

200. APPLICATION (RULE 200).
Each applicant for licensure shall submit a complete application together with the required fees to the Board. An application shall be made on the uniform application form adopted by the Board and furnished to the applicant by the Bureau. An application shall not be reviewed by the Board until all required information is furnished and the required fees paid. (3-20-04)

201. APPLICATION FORM (RULE 201).

01. Reference Requirements. Applicants are required to furnish the Board with four (4) references. Two (2) of the references must be from currently licensed Landscape Architects. The remaining two (2) may be licensed landscape architects, licensed engineers, licensed architects, or any combination thereof. All references must be from competent individuals who are well acquainted with the applicant's character and professional ability. (3-29-10)

02. Materials Submitted to Board. All required applications, statements, fees and other documentation must be submitted to the Board in care of the Bureau of Occupational Licenses, and shall include: (3-20-04)

a. Documentation of being at least eighteen (18) years of age at the time of application; and (3-20-04)

b. Either certification of graduation from an approved college or school of landscape architecture; or (3-20-04)

c. Documentation of all actual landscape architectural or other applicable experience signed by the person under whose supervision the work was performed, giving kind and type of work done, together with dates of employment; and (3-20-14)

d. Proof of successful passage of an examination approved by the Board. (3-20-14)

03. Deadlines. To be considered by the Board, completed applications must be received by the Bureau prior to the next scheduled meeting of the Board. (3-20-14)

04. Inactive Applications. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months shall be deemed denied and shall be terminated upon thirty (30) days written notice unless good cause is established to the Board. (3-20-14)

202. -- 249. (RESERVED)

250. LANDSCAPE ARCHITECT-IN-TRAINING (RULE 250).
An individual may represent themselves as a landscape architect-in-training only under the following conditions: (3-20-04)

01. Qualifications. Any person who is at least eighteen (18) years of age and has graduated from an approved college or school of landscape architecture, or who documents at least eight (8) years of actual practical experience in landscape architecture approved by the Board. (3-20-04)

02. Supervision. Each landscape architect-in-training shall be employed by and work under the direct supervision of an Idaho licensed landscape architect. Any change in supervision shall require a new application and registration. (3-26-08)

03. Prohibitions. A landscape architect-in-training shall not sign or seal any plan, specification, or other document, and shall not engage in the practice of landscape architecture except under the direct supervision of an Idaho licensed landscape architect. (3-20-04)

04. Registration. Each landscape architect-in-training shall register with the Board on forms provided by the Bureau of Occupational Licenses that shall include the application fee and the names and addresses of their employer, and supervisor. (3-26-08)

05. Termination. A registration for a landscape architect-in-training shall not exceed a total of six (6) years. (3-26-08)

251. -- 299. (RESERVED)

300. EXAMINATIONS (RULE 300).
The examination prepared by the Council of Landscape Architectural Registration Boards is an approved examination. The Board may approve other examinations it deems appropriate. (3-20-14)

01. Minimum Passing Score. The minimum passing score for each section of the examination shall be the score as determined by the examination provider. (3-20-14)

02. Failing a Section of Exam. An applicant failing any section of the examination will be required to retake only that section failed. (7-1-93)

301. (RESERVED)

302. ENDORSEMENT (RULE 302).
The Board may approve the registration and licensure of an applicant who holds a current license in another state and who has successfully passed the Landscape Architect Registration Examination as required by Section 300 or holds a current Council of Landscape Architectural Registration Boards certificate. (3-20-04)

303. -- 399. (RESERVED)

400. FEES (RULE 400).
Fees are not refundable.

FEE	AMOUNT (Not to Exceed)
Application	$75
Landscape Architect-in-training Application	$25
Examination	As established by CLARB
Original License and Annual Renewal	$125
Reinstatement	As provided in Section 67-2614, Idaho Code

( )

401. -- 424. (RESERVED)

425. RULES OF PROFESSIONAL RESPONSIBILITY (RULE 425).

01. Rules of Professional Responsibility. Pursuant to Section 004 of these rules, the CLARB model rules of professional conduct, as incorporated, are the Rules of Professional Responsibility for all Idaho licensed landscape architects. (3-29-10)

02. Violation of the Rules of Professional Responsibility. The Board will take action against a licensee under Section 54-3004(5), Idaho Code, who is found in violation of the Rules of Professional Responsibility. (3-20-04)

426. -- 449. (RESERVED)

450. DISCIPLINE (RULE 450).

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed landscape architect for each violation of Section 54-3004, Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed landscape architect to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3004, Idaho Code. (3-18-99)

451. -- 499. (RESERVED)

500. MEETINGS (RULE 500).
Board meetings will be held at least twice yearly and at such other times as the Board deems necessary. (3-20-14)

501. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.08.01 – RULES OF THE STATE BOARD OF MORTICIANS

DOCKET NO. 24-0801-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-1106 and 54-1107, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.08.01, rules of the State Board of Morticians:

IDAPA 24.08.01

- 24.08.01, *Rules of the State Board of Morticians*

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.08.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Board of Morticians was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.08.01, the Rules of the State Board of Morticians. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4669 - 4678.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-1107 and 54-1115, Idaho Code as follows:

Funeral director original license and annual renewal fee: not to exceed $85;
Funeral establishment original license and annual renewal fee: not to exceed $125;
Crematory establishment original license and annual renewal fee: not to exceed $200;
Mortician original license and annual renewal fee: not to exceed $85;
Original, inactive license and annual renewal fee: not to exceed $40;
Resident trainee original license and annual renewal: not to exceed $50;
Application fee: not to exceed $100;
Original certificate of authority and annual renewal fee: not to exceed $50.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
The following rules have been adopted by the Idaho State Board of Morticians and the Chief, Bureau of Occupational Licenses in accordance with the provisions of Section 54-1106 and 54-1107, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.08.01, "Rules of the State Board of Morticians." (7-1-93)

002. -- 099. (RESERVED)

100. MEETINGS (RULE 100).
The board shall hold meetings no less than annually at such times and places as determined by the board. The annual election of chairman will be held during the first meeting of each fiscal year. The chairman of the board shall preside at all meetings, appoint all committees, and perform all the functions incidental to the office of chairman. (4-11-06)

101. -- 149. (RESERVED)

150. TIME OF EXAMINATIONS (RULE 150).
Examinations will be held no less than semi-annually at such times or places as the Board may determine. (4-11-06)

151. -- 199. (RESERVED)

200. APPLICATION (RULE 200).
Application must be postmarked sixty (60) days prior to the date of examination. ( )

01. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-25-16)

201. -- 249. (RESERVED)

250. RESIDENT TRAINEE (RULE 250).
A Resident Trainee is a person who is licensed to train, under the direct and immediate supervision of a sponsoring mortician, to become a licensed mortician or funeral director. (4-7-11)

01. Training Requirements. (4-7-11)

a. Training requires the Resident Trainee's diligent attention to the subject matter in the course of regular and full-time paid employment. Full-time employment requires that the Resident Trainee be employed for at least thirty-six (36) hours per week for fifty (50) weeks per year within the mortuary where the Resident Trainee's sponsoring mortician is the practicing, resident mortician. (4-7-11)

i. At least three-fourths (3/4) of the Resident Trainee's training must consist of the sponsoring mortician instructing and demonstrating practices and procedures to increase the Resident Trainee's knowledge of the service performed by a mortician or a funeral director as defined in Chapter 11, Title 54, Idaho Code. (4-7-11)

ii. For the balance of the required hours, the sponsoring mortician, or his licensed appointee, must be immediately available to consult with the Resident Trainee. (4-7-11)

b. All training must occur within Idaho. (4-7-11)

c. A Resident Trainee shall not sign a death certificate. (4-7-11)

02. Sponsoring Mortician. A sponsoring mortician must: (4-7-11)

a. Be an Idaho-licensed mortician who practices as a full-time resident mortician in Idaho. (4-7-11)

b. Not serve as the sponsoring mortician for more than two (2) "Resident Trainees at any given time." (4-7-11)

c. Supervise and instruct the Resident Trainee, and provide demonstrations for and consultations to the Resident Trainee, as described in Subsection 250.01, of this rule. (4-7-11)

d. Complete and co-sign, with the Resident Trainee, quarterly and final reports. These reports must be completed on forms approved by the Board and document the information described in Subparagraphs 250.04.c. and 250.04.d., of this rule. The sponsoring mortician must promptly submit a report after the period of time covered by the report ends. For example, the sponsoring mortician must promptly submit the first quarter report after the first quarter ends, the second quarter report after the second quarter ends, etc. (4-7-11)

e. Promptly notify the Board in writing if a Resident Trainee's training is terminated, including termination due to interruption as specified in Subsection 250.05, of this rule and submit a final report documenting training up to the termination date. (4-7-11)

03. Eligibility to Be Licensed. A person may not be licensed as a "Resident Trainee" if the person has practiced as a Resident Trainee or apprentice for a total cumulative period of more than three (3) years in Idaho, unless approved by the Board for good cause. For purposes of accounting for total cumulative training as a Resident Trainee, the sponsoring mortician must notify the Bureau at the beginning and termination of the training period. When a Resident Trainee completes training, the Resident Trainee must complete the remaining qualifications for licensure as a mortician or funeral director within the following three (3) years or show good reason for further delay. (3-29-17)

04. Resident Trainee Applicants to Qualify. (7-1-93)

a. An applicant for a Resident Trainee license must apply on Board-approved forms and pay the appropriate fee. The applicant must: (4-7-11)

i. Be at least eighteen (18) years of age; (4-7-11)

ii. Be of good moral character; (4-7-11)

iii. Have graduated from an accredited high school or have received an equivalent education as determined by the standards set and established by the state board of education; (4-7-11)

iv. Identify the sponsoring mortician and the funeral establishment in which the applicant will train. The applicant must promptly notify the Board in writing if this information changes during the training period. (4-7-11)

b. The effective date of the resident training shall be determined by the board at its next meeting. In no case shall it be prior to the date the application, together with the required fees, are received in the office of the Bureau. (4-11-06)

c. Resident Trainees pursuing a mortician license must complete and co-sign, with the sponsoring mortician, quarterly and final reports documenting that the applicant has assisted in embalming at least twenty-five (25) dead human bodies and assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under supervision. (4-7-11)

d. Resident Trainees pursuing a funeral director license must complete and co-sign, with the sponsoring mortician, quarterly and final reports documenting that the applicant has assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under supervision. (4-7-11)

05. Interruption in Training. An interruption in training of sixty (60) days or more constitutes termination of training. (7-1-93)

251. -- 299. (RESERVED)

300. APPLICATIONS AND EXAMINATION (RULE 300).
In order to be admitted to the examination, the applicant must submit a completed application on forms provided by the bureau and provide all requested documentation including proof of having completed the training period as

prescribed by law and these rules, and meet the specific requirements for license as set forth in Section 54-1109 of the Idaho Code as follows: (4-11-06)

01. **Age**. Applicant must have attained the age of twenty-one (21) years by the time of examination. (7-1-93)

02. **Moral Character**. Must be of good moral character. (7-1-93)

03. **Mortician Educational Requirements**. Applicants for a mortician license must have completed and received credit for at least sixty (60) semester hours or ninety (90) quarter hours instruction in a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all such credits must be for courses in fields of liberal arts, business or science directly relating to the knowledge required to successfully compete in the field of mortuary science. In questionable cases the decision of the board shall be final. These requirements shall be in addition to and not considered a part of the completion of and graduation from a mortuary college accredited by the American Board of Funeral Service Education that includes an embalming course of study. (4-11-06)

04. **Funeral Director Educational Requirements**. Applicants for a funeral director license must have completed and received at least sixty (60) semester hours' or ninety (90) quarter-hours' instruction from a duly accredited college or university and has obtained at least a C grade average for all courses of instruction; provided, however, at least three-fourths (3/4) of all such credits must be for courses in the fields of liberal arts, business or science as defined and specified by the board. These requirements shall be in addition to completion of at least fifteen (15) semester credit hours or the equivalent from a mortuary college accredited by the American board of funeral service education, inc., or such credits as are otherwise approved by the board, with course of study to include business law, psychology, sociology, funeral service counseling, funeral service management and other classes that relate to conducting funeral business. (4-11-06)

05. **Completion of One Year as a Resident Trainee**. Must have served one (1) year as required by statute as a Resident Trainee and receive certification from a sponsoring mortician in Idaho. (4-11-06)

a. An applicant pursuing licensure as a mortician must document on Board-approved forms that the applicant has assisted in embalming at least twenty-five (25) dead human bodies and assisted in making at least twenty-five (25) funeral arrangements and in conducting at least twenty-five (25) funerals under the supervision of a sponsoring mortician. (4-7-11)

b. An applicant pursuing licensure as a funeral director must document on Board-approved forms that the applicant has assisted in making at least twenty-five (25) funeral arrangements and in conducting twenty-five (25) funerals under the supervision of a sponsoring mortician. (4-7-11)

301. -- 324. (RESERVED)

325. APPROVED EXAMINATION.
Applicants for licensure shall successfully pass the examinations set forth below. (3-16-04)

01. **Mortician Examination**. The Mortician examination shall consist of: (3-16-04)

a. All sections of the International Conference of Funeral Service Examining Board's National Board Examination; and (3-16-04)

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)

c. The examination of the rules of the Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)

02. **Funeral Director**. The funeral director examination shall consist of: (3-16-04)

a. The Arts section of the State Based Examination conducted by the International Conference of Funeral Service Examination Board; and (4-2-08)

b. The examination of the laws and rules of the state of Idaho relating to the care, disinfection, preservation, burial, transportation, or other final disposition of human remains; and (3-16-04)

c. The examination of the rules of the Idaho Department of Health and Welfare relating to infectious diseases and quarantine. (3-16-04)

03. Grading. The required average grade to pass the examination is seventy-five percent (75%). Provided further, that where the applicant has a score of less than seventy percent (70%) in one (1) or more subjects, such applicant shall not be passed, notwithstanding that his average mark may be higher than seventy-five percent (75%), however, should the applicant apply for reexamination he may, by board approval, be required to retake only that portion of the examination which he failed in previous examination. (3-16-04)

326. -- 349. (RESERVED)

350. ENDORSEMENT.
Refer to Section 54-1109(3) and (4), Idaho Code. (3-16-04)

351. -- 379. (RESERVED)

380. INACTIVE LICENSE.

01. Request for Inactive License. Persons holding an unrestricted mortician or funeral director license in this state may apply for inactive status by making written application to the Board on a form prescribed by the Board and paying the established fee. (3-22-18)

02. Inactive License Status. (3-22-18)

a. Inactive license renewal notices and licenses will be marked “inactive”. (3-22-18)

b. Inactive license holders may not practice in Idaho while on inactive status. (3-22-18)

c. If a licensee holds a certificate of authority and places their license on inactive status, their certificate of authority expires as of the date their license becomes inactive. (4-11-19)

d. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. (3-22-18)

03. Return to Active License Status. An inactive license holder may convert from inactive to active license status by: (3-22-18)

a. Making written application to the Board on a form prescribed by the Board; (3-22-18)

b. Providing documentation to the Board showing successful completion within the previous twelve (12) months of the continuing education requirements for renewal of an active license; and (3-22-18)

c. Paying a fee equivalent to the difference between the current inactive fee and the active renewal fee. (3-22-18)

d. An inactive licensee who held a certificate of authority at the time their license became inactive who returns to active license status pursuant to this rule may be reissued a certificate of authority by paying the renewal fee for the certificate of authority. (4-11-19)

381. -- 399. (RESERVED)

400. EXPIRATION OF LICENSE.
All licenses shall expire each year and will be cancelled if not renewed by payment of the required fee before the birthdate of the license holder. There will be no grace period. (3-16-04)

401. -- 409. (RESERVED)

410. CONTINUING EDUCATION.
In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (3-29-10)

01. Continuing Education (CE) Requirement. Each Idaho licensed mortician and funeral director must successfully complete a minimum of eight (8) hours of continuing education annually for license renewal. (3-29-10)

a. *E*ach licensee must certify on their renewal application form that compliance with the annual CE requirements has been met during the previous twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. *( )*

b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (3-29-10)

c. After July 1, 2011, and prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. A license that has lapsed, been canceled, or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. (3-29-10)

02. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, computer on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that provides the opportunity for participants to communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (3-29-10)

a. A licensee may carryover a maximum of eight (8) hours of continuing education to meet the next year's continuing education requirement. Only four (4) hours may be carried over from correspondence, computer on-line, or self-study. (3-29-10)

03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a college or university, a national or state association, trade group, or other person or entity approved by the Board and must be germane to the license held. Continuing education may include, but shall not be limited to, the following subject areas: (3-29-10)

a. Public Health and Technical. This includes, but is not limited to, embalming, restorative art, after care, organ procurement, sanitation, and infection control. (3-29-10)

b. Business Management. This includes, but is not limited to, computer application, marketing, personnel management, accounting, or comparable subjects. (3-29-10)

c. Social Science. This includes, but is not limited to, communication skills (both written and oral), sociological factors, counseling, grief psychology, funeral customs, or comparable subjects. (3-29-10)

d. Legal, Ethical, Regulatory. This includes, but is not limited to, OSHA (Occupational Safety and Health Association), FTC (Federal Trade Commission), ethical issues, legal interpretations, or comparable subjects. (3-29-10)

04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. (3-29-10)

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. (3-29-10)

06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. (3-29-10)

411. -- 424. (RESERVED)

425. MAINTENANCE OF PRE-NEED TRUST ACCOUNT FEES.
Maintenance of pre-need trust accounts fee. Pursuant to Section 54-1134 D, Idaho Code, a fee not to exceed ten percent (10%) of the annual earned interest income may be charged for maintenance of pre-need trust accounts. (4-11-06)

426. -- 449. (RESERVED)

450. FUNERAL ESTABLISHMENT AND CREMATORY ESTABLISHMENT.
All applicants for establishment license shall submit a completed application on a form approved by the Board. All newly licensed establishments and all branch or satellite facilities must meet the same requirements for licensure. A walk-through inspection of the establishment must be arranged and completed within six (6) months of the Board's review of the application or the application will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (3-25-16)

01. Contents of Application. Each applicant for a license to operate a funeral establishment or crematory establishment in Idaho shall document the following: (4-2-08)

a. Name and address of owner whether individual or entity; and (4-2-08)

b. Notarized signature of applicant or authorized agent; and (4-2-08)

c. Name and license number of responsible licensee; and (4-2-08)

d. Other such information as the board may require. (4-2-08)

02. Change in Ownership or Location. Any change in the ownership or location of a funeral establishment shall constitute a new funeral establishment for the purposes of licensure. (7-1-93)

03. Funeral Establishment. All funeral establishments shall be required to provide each of the following: (4-2-08)

a. An operating room and necessary equipment for embalming; (4-2-08)

b. A selection room for caskets and merchandise which may include video, catalogs, and electronic depiction of caskets and merchandise; (4-2-08)

c. A chapel where funeral or other religious ceremonies may be held; and (4-2-08)

d. A room for viewing and visitation. (4-2-08)

04. Funeral Firm. Every funeral firm in the state of Idaho and/or licensee thereof shall give or cause to

be given to the person or persons making funeral arrangements or arranging for the disposition of the dead human body at the time of said arrangements and prior to rendering that service or providing that merchandise, a written statement showing to the extent then known the following: (7-1-93)

a. The price of the service that the person or persons have selected and what is included therein. (7-1-93)

b. The prices of each of the supplementary items of service and/or merchandise requested. (7-1-93)

c. The amount involved for each of the items for which the firm will advance monies as an accommodation for the family. (7-1-93)

d. The method of payment. (7-1-93)

e. If the quoted price includes a basic component of a funeral or a part thereof which is not desired, then a credit thereof should be granted. (7-1-93)

05. Crematory Establishment. All crematory establishments shall be required to provide each of the following: (4-2-08)

a. Detailed information regarding each retort, specifically documenting that each retort and accompanying equipment is listed by an approved testing agency as listed in the Uniform Fire Code or in the case of alkaline hydrolysis, a pressurized vessel heated to one hundred fifty degrees Celsius (150 ºC) (three hundred two degrees Fahrenheit (302 ºF)) for a minimum recommended period of thirty (30) minutes, thereby meeting or exceeding the United States Center for Disease Control (CDC) requirements for the complete destruction of human pathogens; and (3-20-14)

b. One (1) set of blueprints for the proposed new construction or remodeling where the retort is to be located. The blueprints must be approved by the local building department as being in compliance with applicable building codes and ordinances. (4-2-08)

451. (RESERVED)

452. MINIMUM STANDARDS.

01. Reasonable Sanitation and Safety Required. In the interest of the protection of the public welfare, no license will be issued on an application to operate a funeral establishment or crematory unless it is apparent that the establishment or crematory can and will be operated in a reasonably sanitary and safe manner and that all pertinent federal, state, and local permits have been obtained when operating an alkaline hydrolysis retort. (3-20-14)

02. Reduction of Cremated Remains. No crematory will be licensed or operated unless it is capable of reducing human remains to cremains containing not more than five percent (5%) of the weight of the body immediately after death. (3-16-04)

03. Delay Before Cremation. No dead human body, regardless of cause of death, is to be cremated, nor is actual cremation of such a body to be commenced, unless the county coroner in the county in which the death occurred gives his written authorization to cremate the body. (3-16-04)

04. Embalming. If a dead human body is to be held longer than twenty-four (24) hours prior to burial, cremation, or other disposition, the body must be either embalmed or refrigerated at thirty-six degrees Fahrenheit (36F) or less until buried, cremated, or otherwise disposed of. (4-11-06)

05. Casket Not Necessary. It is not necessary for the body to be in a casket for cremation to take place. (3-16-04)

a. This is not to be construed to mean that the crematory must cremate without a casket; and

(3-16-04)

b. It will not prevent the operators from developing their own internal requirements for aesthetic or sanitary reasons. (3-16-04)

453. RECEIPT FOR BODIES TO BE CREMATED.
The following must be performed by the operator of a crematory upon receipt of a human body for cremation: (3-16-04)

01. Provide a Receipt. A receipt must be delivered to the licensed mortician or funeral director, his agent, or another person who delivers such body to the crematory. (3-16-04)

02. Contents of Receipt. The receipt must show: (3-16-04)

a. The name of the decedent whose body was received; and (3-16-04)

b. The date on which that body was received; and (3-16-04)

c. The place where that body was received; and (3-16-04)

d. The name and address of the funeral establishment from whom that body was received; and (3-16-04)

e. The name and address of the person, or the names and addresses of the persons, if more than one (1), who actually delivers the body. (3-16-04)

454. RECORDS OF BODIES.

01. Content of Record. Each funeral establishment and crematory must maintain a record of each burial, cremation, or other disposition of human remains, disclosing: (4-11-06)

a. The name of the decedent; and (4-11-06)

b. The name and address of the person, or names and addresses of the persons if more than one (1), authorizing the burial, cremation, or other disposition of that body; and (4-11-06)

c. A statement as to whether or not the body was embalmed; and (3-16-04)

d. The date of the burial, cremation, or other disposition of that body; and (4-11-06)

e. The subsequent disposal of any cremated remains. (4-11-06)

455. RESPONSIBILITY, INSPECTION, AND CONFIDENTIALITY OF RECORDS.

01. Responsibility for Record. Records regarding the burial, cremation, and other disposition of human bodies must be made as soon as reasonably possible after the burial, cremation, or other disposition and must be dated and signed by the licensed mortician or funeral director who supervised or was otherwise directly responsible for the burial, cremation, or other disposition. (3-20-14)

02. Inspection of Records. Records regarding the receipt, burial, cremation, and other disposition of human bodies must be maintained at the funeral establishment and crematory and be open for inspection at any reasonable time by the Board or its designated representatives. (4-11-06)

03. Confidentiality of Records. Any disclosure of information obtained by the Board in connection with licensure activities and records of funerals or cremations must comply with Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (4-11-06)

456. -- 499. (RESERVED)

500. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
Funeral Director	$85
Funeral Establishment	$125
Crematory Establishment	$200
Mortician	$85
Inactive License	$40
Resident Trainee	$50
Application Fee	$100
Certificate of Authority	$50

( )

501. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensee for each violation of Section 54-1116, Idaho Code. (3-20-14)

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee if found in violation of Section 54-1116, Idaho Code. (3-20-14)

502. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.09.01 – RULES OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS

DOCKET NO. 24-0901-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-1604, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.09.01, rules of the Board of Examiners of Nursing Home Administrators:

IDAPA 24.09.01

- 24.09.01, *Rules of the Board of Examiners of Nursing Home Administrators*: all proposed rules except 010, 050, 100.05, 200.03, 200.04, 300.03, 300.06, 450.01.a., 450.01.b., and 450.02.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.09.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Board of Examiners of Nursing Home Administrators was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.09.01, the Rules of the Board of Examiners of Nursing Home Administrators. On June 14, 2019, the Board of Examiners of Nursing Home Administrators held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. The Board considered the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules.

This pending fee rule reorganizes and combines sections for clarity, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. This pending fee rule removed the previous good moral character requirement and replaced it with guidelines and factors for the Board to consider when determining suitability for licensure. Further, this pending fee rule updates the required training domains set by the National Association of Long-Term Care Administration Boards. Finally, this pending rule also adds a master's degree in business administration with a healthcare emphasis as an acceptable degree for endorsement purposes.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4681 - 4685.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-1605, Idaho Code, as follows:

Original license fee: not to exceed $200;
Annual renewal fee: not to exceed $200;

Original application fee: not to exceed $200;
Endorsement application fee: not to exceed $200;
Temporary permit fee: not to exceed $100;
Administrator-in-training fee: not to exceed $100;
License reinstatement fee: not to exceed $100.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Board of Examiners of Nursing Home Administrators by the provisions of Section 54-1604, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.09.01, "Rules of the Board of Examiners of Nursing Home Administrators."

002. ADDRESS OF THE BOARD OF EXAMINERS OF NURSING HOME ADMINISTRATORS.
The office of the Board of Examiners of Nursing Home Administrators is located within the Bureau of Occupational Licenses, 700 W. State Street, Boise, Idaho 83702. The Bureau is open between the hours of 8:00 a.m. and 5:00 p.m. each day except Saturdays, Sundays and holidays. The telephone number of the Board is (208) 334-3233. The Board's fax number is (208) 334-3945. The Board's e-mail address is nha@ibol.idaho.gov. The Board's official website is http://www.ibol.idaho.gov. (4-6-05)

003. -- 099. (RESERVED)

100. EXAMINATION FOR LICENSURE (RULE 100).

01. Examination Fee. The examination fee for the national examination shall be in the amount as determined by the National Association of *Long Term Care Administration* Boards and shall be paid to the entity administering said examination. The examination fee is in addition to the license fee provided for in Section 54-1604, sub-paragraph (g), Idaho Code. *( )*

02. Good Moral Character. *An applicant who has a criminal conviction, finding of guilt, withheld judgment, or suspended sentence for any felony or any crime related to an applicant's fitness for licensure, or whose license has been subject to discipline by any state professional regulatory agency or professional organization must submit with the application a written statement and any supplemental information establishing the applicant's current suitability for licensure.* *( )*

a. *Consideration of Factors and Evidence. The Board shall consider the following factors or evidence:* *( )*

i. The severity or nature of the crime or discipline; *( )*

ii. The period of time that has passed since the crime or discipline under review; *( )*

iii. The number or pattern of crimes or discipline or other similar incidents; *( )*

iv. The circumstances surrounding the crime or discipline that would help determine the risk of repetition; *( )*

v. The relationship of the crime or discipline to the practice; *( )*

vi. The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of current rehabilitation; and *( )*

vii. Any other information regarding rehabilitation or mitigating circumstances. *( )*

b. *Interview. The Board may, at its discretion, grant an interview of the applicant.* *( )*

c. *Applicant Bears the Burden. The applicant shall bear the burden of establishing the applicant's current suitability for licensure.* *( )*

03. Contents of Exam, Passing Scores. *Ann applicant must pass an examination issued by NAB*, and an examination pertaining to Idaho law and rules governing nursing homes *administered by the Board*. The passing score of the Idaho Laws and Rules Examination shall be seventy-five percent (75%). *( )*

04. Date and Location of Exam. Examinations shall be held at the location and at the times determined by the entity administering the national examination. The state examination shall be a take-home examination and be returned to the Board. *( )*

101. -- 199. (RESERVED)

200. CONTINUING EDUCATION REQUIREMENTS.

01. Educational Requirements. In order to qualify as continuing education, a seminar or course of study must be relevant to nursing home administration as determined by the Board and sponsored by accredited universities or colleges, State or National health related associations, and/or approved by NCERS (National Continuing Education Review Service). (4-11-19)

02. Renewal of License. Applicants for renewal of license shall be required to complete a minimum of twenty (20) clock hours of *approved* courses within the preceding twelve-month (12) period. Licensees shall not be required to comply with this requirement during the first year in which they become licensed under this chapter. *( )*

03. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of twenty (20) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one (1) renewal year. *( )*

04. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. *( )*

201. -- 299. (RESERVED)

300. ENDORSEMENT.
Each applicant for licensure by endorsement shall be required to document compliance with each of the following requirements. (4-6-05)

01. A Valid License. Hold a valid and current nursing home administrator license issued in another state *or jurisdiction with substantially equivalent licensing standards*. *( )*

02. Experience/Education. (3-30-07)

a. One thousand (1,000) hours of experience as an administrator in training in another state; or (4-11-19)

b. A total of one thousand (1,000) hours of combined experience obtained in an administrator in training program and from practical experience as an administrator in another state; or (4-11-19)

c. A master's degree in health administration related to long-term care from an accredited institution; or (3-30-07)

d. A master's degree in health administration *or business administration with a healthcare emphasis* from an accredited institution and one (1) year management experience in long-term care. *( )*

03. National Examination. Has taken and successfully passed the NAB examination. (4-6-05)

04. State Examination. Has taken and successfully completed the state of Idaho examination. (4-6-05)

05. Criminal History. *Applicant is subject to Section 100.02 of these rules.* *( )*

301. -- 399. (RESERVED)

400. NURSING HOME ADMINISTRATORS-IN-TRAINING.

01. Supervised Hour Requirements. An individual must successfully complete one thousand (1,000) hours under the direct supervision of a licensed nursing home administrator in compliance with Section 54-1610, Idaho Code, and these rules in order to be eligible to take the examination. (4-11-19)

02. Trainees. A trainee must work on a full time basis in any capacity in an Idaho licensed nursing home setting. Full time shall be at least a thirty-two (32) hour per week work schedule with consideration for normal leave taken. (4-11-19)

a. Each trainee shall register with the Board as a Nursing Home Administrator-In-Training (AIT) by submitting an application provided by the Board together with the required fee. The effective date of each AIT program shall be the date the Board approves the application. (3-13-02)

b. Reports for those trainees employed in a nursing home must be submitted to the Board after completion of each five hundred (500) hour increment and reflect that the preceptor of the trainee has instructed, assisted and given assignments as deemed necessary to fulfill the requirements of Subsection 400.03. (4-11-19)

03. Nursing Home Administrator-in-Training Requirements. A Nursing Home Administrator-in-Training shall be required to train in all domains of nursing home administration including the following: (4-7-11)

a. *Customer care, support, and services*. *( )*

b. *Human resources*. *( )*

c. Finance. *( )*

d. Environment. *( )*

e. *Management and leadership*. *( )*

f. Completion of a specialized course of study in nursing home long-term health care administration approved by NAB or otherwise approved by the Board. (4-6-05)

04. Facility Administrator. The trainee must spend no less than thirty-two (32) hours a month with the preceptor in a training and/or observational situation in the *five (5)* domains of nursing home administration as outlined in Subsection 400.03. Time spent with the preceptor must be in addition to the full time work that the trainee must perform under Subsection 400.02, unless the Administrator-in-Training role is designated as a full time training position. Collectively, during the training period, reports must reflect particular emphasis on all *five (5)* domains of nursing home administration during the time spent in the nursing home. *( )*

05. Preceptor Certification. (7-1-93)

a. A nursing home administrator who serves as a preceptor for a nursing home administrator-in-training must be certified by the Board of Examiners of Nursing Home Administrators. The Board will certify the Idaho licensed nursing home administrator to be a preceptor who: (7-1-98)

i. Is currently practicing as a nursing home administrator and who has practiced a minimum of two (2) consecutive years as a nursing home administrator; and (7-1-98)

ii. Who successfully completes a six (6) clock hour preceptor orientation course approved by the Board. (7-1-93)

b. The orientation course will cover the philosophy, requirements and practical application of the nursing home administrator-in-training program and a review of the six (6) phases of nursing home administration as outlined in Subsection 400.03. (7-1-93)

c. The preceptor must be re-certified by the Board every ten (10) years. (4-7-11)

401. -- 449. (RESERVED)

450. ADMINISTRATOR DESIGNEE QUALIFICATION.
In order to practice as an administrator designee, an individual shall register with the Board as an Administrator Designee by submitting an application and providing documentation of each the following requirements. (3-13-02)

01. ***Criminal History****. Applicant is subject to Section 100.02 of these rules.* *( )*

02. **Education**. Provide proof of either: (3-13-02)

a. A bachelors degree from an approved college or university, or (3-13-02)

b. Two (2) years of satisfactory practical experience in nursing home administration or a related health administration area for each year of the required education as set forth in Section 54-1605(3), Idaho Code; (3-13-02)

04. **Experience**. Provide proof of having one (1) year of management experience in a skilled nursing facility. Experience documented in Subsection 450.03.b. may also be used to meet this requirement. (3-13-02)

05. **Authorization**. Submit an agreement signed by an Idaho Licensed Nursing Home Administrator who will act as a consultant to assist the designee in administrating the facility. (3-13-02)

451. -- 499. (RESERVED)

500. PERMITS.

01. **Requirements for Issuance**. A temporary permit may be issued upon submission of an endorsement application evidencing a license in good standing in another state and payment of fees. The permit shall be valid until the Board acts upon their endorsement application. No more than one (1) temporary permit may be granted to any applicant for any reason. (4-11-19)

02. **Issuance of a Temporary Permit Does Not Obligate the Board**. Issuance of a temporary permit does not obligate the board to subsequently issue a license. Issuance of a subsequent license depends upon a successful application to the Board. (7-1-98)

501. -- 599. (RESERVED)

600. FEES.

FEE	*AMOUNT (Not to Exceed)*
Original Application	*$200*
Original License	*$200*
Annual Renewal	*$200*
Endorsement Application	*$200*
Temporary Permit	*$100*
Administrator-in-training	*$100*
License Reinstatement	*$100*

( )

601. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.10.01 – RULES OF THE STATE BOARD OF OPTOMETRY

DOCKET NO. 24-1001-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-1509, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.10.01, rules of the State Board of Optometry:

IDAPA 24.10.01

- 24.10.01, *Rules of the State Board of Optometry*: all proposed rules except 175.01.b., 300.01.a., and 300.02.a.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.10.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Board of Optometry was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.10.01, the Rules of the State Board of Optometry. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4688 - 4697.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-1506, Idaho Code, as follows:

Annual renewal fee: not to exceed $75;
Annual fund fee: not to exceed $75;
License application fee: not to exceed $100;
Certificate to obtain and use pharmaceutical agents fee: not to exceed $10.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Optometry by the provisions of Section 54-1509, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.10.01, "Rules of the State Board of Optometry." (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Low Vision. Refer to Section 54-1501(5), Idaho Code, correcting defects may include low vision but is not limited to low vision rehabilitation. (7-1-97)

02. Opticianry. The professional practice of filling prescriptions from a licensed optometrist or ophthalmologist for ophthalmic lenses, contact lenses, and any other ophthalmic device used to improve vision. Opticianry does not include prescriptive authority. (3-29-10)

03. Vision Therapy. Any person who assesses, diagnoses, treats, or prescribes treatment for conditions of the visual system or manages a patient with vision therapy, visual training, visual rehabilitation, orthoptics or eye exercises or who hold him/herself out as being able to do so for the rehabilitation and/or treatment of physical, physiological, sensorimotor, neuromuscular or perceptual anomalies of the eyes or vision system or who prescribes or utilizes lenses, prisms, filters, occlusion or other devices for the enhancement, rehabilitation and/or treatment of the visual system or prevention of visual dysfunctions, except under the supervision and management of a licensed optometrist, is engaged in the practice of optometry. (7-1-97)

011. -- 149. (RESERVED)

150. MEETING OF THE BOARD.
The Board shall meet at least annually and at other such times and places as designated by the Chairman or upon written request of any two members of the Board. All meetings shall be held in accordance with the Idaho Open Meeting Law, Chapter 23, Title 67, Idaho Code. (4-4-13)

151. -- 174. (RESERVED)

175. METHOD OF APPLICATION-EXAMINATION OF APPLICANTS.
Applications for license shall be made on forms approved by the Board. (4-4-13)

01. Application. The application must be accompanied by: (4-4-13)

a. The required fee. (7-1-93)

b. A complete transcript of credits from any college of optometry attended. (7-1-93)

c. A photocopy of any diplomas granted by any college of optometry. (7-1-93)

d. A copy of certified results establishing successful passage of the required examinations. (3-30-01)

02. Application Review. Only fully completed applications accompanied by appropriate documents shall be reviewed for licensure. (3-30-01)

03. Exam Content. The written and the practical portions of the Idaho examination shall be all parts of the National Board of Examiners in Optometry Examination (NBEOE) and the Board approved jurisprudence examination. A passing grade for the NBEOE shall be that established by the test provider. The passing grade for the jurisprudence examination shall be seventy-five percent (75%). A passing score on all examinations shall be necessary to qualify for a license to practice Optometry in Idaho. (4-4-13)

176. -- 199. (RESERVED)

200. APPROVAL OF SCHOOLS OF OPTOMETRY.
The State Board of Optometry recognizes as reputable and in good standing the schools and colleges of optometry

which have met the standards set by the Accreditation Council on Optometric Education, or its successor agency, a list of which may be obtained from the secretary of the Board or from the office of the Bureau of Occupational Licenses in Boise. (4-4-13)

201. -- 224. (RESERVED)

225. APPROVAL OF PRELIMINARY EDUCATION.
The State Board of Optometry recognizes the preliminary education prerequisites for entry into a school, college or university of optometry approved by the Council on Optometric Education of the American Optometric Association as adequate preliminary education prerequisites for licensing in Idaho. (7-1-93)

226. -- 249. (RESERVED)

250. LICENSES CANCELED FOR FAILURE TO RENEW.
A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. Any person whose license to practice optometry has been canceled for failure to renew for a period of more than five (5) years must apply for a new license in accordance with the requirements of Section 67-2614, Idaho Code. (3-24-17)

251. -- 274. (RESERVED)

275. ENDORSEMENT.

01. Endorsement. Any person who presents to the Board of Optometry a certified copy of a certificate or license of registration which he holds in good standing in another state or a foreign country, which state or foreign country has similar requirements for licensing or registration as is provided for new applicants in Idaho (including therapeutic privileges), may apply to the Board for the issuance of a license to practice optometry in the state of Idaho. (4-5-00)

02. Conditions to be Granted a License. The right to be granted a license to practice optometry in Idaho is also subject to the following conditions set out below: (7-1-93)

a. The submission of a completed application meeting the requirements of Subsection 175.01 including the applicable fee. (4-5-00)

b. That the license or certificate of registration of the applicant shall not have been suspended or revoked by any state or country or subject to any pending or unresolved licensure action in any state or country. That the applicant must not have committed any act which would constitute a violation of the Optometry Act or Board Rules. (4-5-00)

c. For those licensed in another state the applicant must document to the Board for approval, the education, training, and examination for diagnostic and therapeutic privileges in the other state and return the state of Idaho law examination. (3-30-07)

d. That the applicant has been engaged in the practice of optometry continuously for three (3) of the last four (4) years. (3-30-07)

276. -- 299. (RESERVED)

300. CONTINUING EDUCATION IN OPTOMETRY.

01. Hours Required, Advance Approval. (4-11-15)

a. *E*ach optometrist licensed by the state of Idaho shall attend in each calendar year prior to license renewal, a minimum of twelve (12) full hours of approved optometric continuing education courses or meetings. *( )*

b. Approved optometric continuing education courses or meetings shall be those post-graduate optometric education courses or meetings approved in advance by the Board of Optometry or post-graduate study sessions or seminars at an accredited school or college of optometry. In addition, all Council on Optometric Practitioners Education (COPE) approved courses are approved for continuing education credit. If an optometrist attends or plans to attend a course of study or seminar which has not been approved in advance, he may petition the Board for approval of that educational course of study, setting forth a description of the course. The Board may, in its discretion, approve the course upon review of the material submitted either in advance or after completion of the course. (4-11-15)

02. Additional Hours Required to Use Therapeutic Pharmaceutical Agents. (4-11-15)

a. *E*ach optometrist licensed by the state of Idaho to use therapeutic pharmaceutical agents shall attend in each calendar year prior to license renewal, a minimum of six (6) additional full hours of approved optometric courses or meetings. *( )*

b. This six (6) hours of continuing education must be in courses involving ocular pharmacology and/or advanced ocular disease and are in addition to the twelve (12) hours of continuing education required under Subsection 300.01. (4-11-15)

03. Correspondence/Home Study Courses/Observation. The Board allows credit for correspondence courses, individual home study and observation that is germane to the practice of optometry. No more than nine (9) hours of continuing education shall be permitted each year in correspondence courses or other continuing education obtained from "home study" courses or observation. (3-24-17)

04. Waiver of Requirements. The Board of Optometry shall waive the continuing education requirement for the first license renewal after initial licensure. The Board of Optometry may, upon application, waive the requirements of this rule in cases involving illness, unusual circumstances interfering with the optometrist's ability to practice or inability to conform to the rules due to military duty. (3-15-02)

05. Renewal Application Form. Each licensed Idaho optometrist will be furnished a license renewal application form by the State Board of Optometry on which each optometrist shall attest on their annual license renewal application that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application shall subject the licensee to disciplinary action. (3-20-04)

06. Audit. The Board may conduct audits to confirm that the continuing education requirements have been met. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the license will not be renewed. (3-20-04)

07. Documentation of Attendance. It shall be necessary for each licensed Idaho optometrist to provide documentation verifying attendance or completion of continuing education by securing authorized signatures, documentation, or electronic verification from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided upon request by the Board or its agent. (4-4-13)

08. Excess Hours. A licensee may carryover a maximum of six (6) hours of continuing education to meet the next year's continuing education requirement. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) year. (4-11-15)

301. -- 324. (RESERVED)

325. CODE OF ETHICS.

01. Patient's Visual Welfare. The licensed optometrist shall keep the patient's visual welfare uppermost in his consideration at all times and promote the best methods of care for the visual needs of mankind. (7-1-93)

02. Confidentiality. The optometrist shall preserve information concerning his patients in confidence and not release that information unless authorized by the patient or their lawful agent. An optometrist may, however, supply information of an otherwise confidential or privileged nature when lawfully subpoenaed to testify at a deposition or hearing in any proceeding before the Board of Optometry, or at any other time and place ordered by a court of law. (4-4-13)

03. Conduct of Practice. The optometrist shall conduct his practice in a dignified and professional manner and in keeping with the mode of practice of a professional person entrusted with the care of the health of citizens of this state and shall abide by the rulings of the Board of Optometry. (7-1-93)

04. Unprofessional Conduct. In order to define what constitutes unprofessional conduct, the board sets forth certain prohibited actions. In conducting his practice, an optometrist must not: (3-30-07)

a. Practice optometry in any manner other than as a professional person in an individual capacity, or in partnership with or associate with other licensed health care professionals. An optometrist may be a stock holder in and practice as a member of a professional service corporation with other licensed health care professionals as authorized by Title 54, Chapter 15, Idaho Code, but the optometrist must list his individual name as well as any name selected for the professional service corporation on any letterheads, telephone directories, office or building directories, or other places where the general public might be advised of the fact that the individual is practicing optometry, as required by these rules. (3-30-07)

b. Use either "Cappers" or "Steerers" or accept a split or divided fee for the purpose of obtaining patients or use solicitors or agents for the purpose of securing patients or conducting eye examinations or furnishing optometric services. (7-1-93)

c. Allow his prescription files and records to be used by any unlicensed person, firm, or corporation not under the direct control of that optometrist for the practice of optometry. (4-4-13)

d. Fail to perform services for which fees have been received. (7-1-93)

e. File false reports of services performed or fees rendered. (7-1-93)

f. Permit the use of his name or professional title by or in conjunction with any person not an optometrist, or any firm, company, corporation or military association which illegally practices or in any manner holds himself or itself out to the public as being entitled to practice the profession of optometry when not licensed to do so under the law of Idaho or which uses the title "Optometric Services" in such a manner in advertising as to convey to the public the impression that the individual or corporation is entitled to practice optometry or furnish optometric advice or services when not so authorized by law. (7-1-93)

326. -- 424. (RESERVED)

425. RULES DEFINING GROSS INCOMPETENCE.
In order to protect the public, the Board of Optometry defines as "gross incompetence" any behavior or practice on the part of the licensed optometrist which demonstrates a lack of competence with respect to discharging professional obligations or duties which might result in injury or damage to a patient whether such injury or damage actually occurs or not and in particular, the Board defines as "gross incompetence" any of the following: (11-6-93)

01. Failure to Meet Prevailing Standards. Failure to meet prevailing standards, or willful rendering of substandard care, either individually or as part of a third party reimbursement agreement or by other agreement. (7-1-97)

02. Failure to Meet Prevailing Standards in the Referral of Any Patient Who Is Suffering From Any Apparent or Suspected Pathological Condition. A failure to meet prevailing standards in the referral of any patient who is suffering from any apparent or suspected pathological condition to a person competent and licensed to properly treat or diagnose the condition. (7-1-93)

03. Employment of Techniques or Methods of Practice. Employment of techniques or methods of

practice in treating or prescribing for a patient when he does not have proper training in the technique or methods of practice. (7-1-93)

04. Failure to Advise Patient of Possible Danger When a Lens Not Meeting Impact Resistance Standards of F.D.A. Failure to advise his patient of possible danger when a lens does not meet impact resistance standards of F.D.A. Regulation, 21 CFR 801.410, and is provided to the patient. (4-4-13)

05. Failure to Provide Follow-Up Care. Failure to provide follow-up care according to prevailing standards. (11-6-93)

06. Displaying Gross Ignorance or Demonstrating Gross Inefficiency. Displaying gross ignorance or demonstrating gross inefficiency in the care of a patient. (7-1-93)

07. Failure to Verify the Specifications of All Lenses. Failure to verify the specifications of all lenses provided by him. (11-6-93)

08. Failing to Perform Tests and Record Findings. In the course of an examination of a patient, failure to perform tests and record findings in a manner consistent with prevailing standards of optometric care. (11-6-93)

09. Using Pharmaceutical Agents. Using pharmaceutical agents in the practice of optometry without having attended sufficient training programs or schools and acquiring the knowledge necessary to use the drugs in a competent manner. (11-6-93)

10. Illegal Prescription Sale, Administration, Distribution, or Use of Drugs. Prescribing, selling, administering, distributing, giving, or using drugs legally classified. Prescribing, selling, administering, distributing, giving, or using drugs legally classified as a controlled substance or as an addictive or dangerous drug for other than accepted diagnostic or therapeutic purposes. (7-1-97)

11. Disciplinary Action or Sanctions. Disciplinary action or sanctions taken by another state, jurisdiction, peer review body or a professional association or society against an optometrist for acts or conduct similar to acts or conduct which would constitute grounds for action as defined under "Rules of the Idaho Board of Optometry." (7-1-97)

12. Sanitary Office. Failure to maintain sanitary office conditions, equipment, and use appropriate techniques and procedures. (4-4-13)

13. Failure to Release Prescription. Failure to release either a spectacle or contact lens prescription as required by Federal law. (3-29-10)

14. Sufficient Training or Education. Performing procedures without having successfully completed education, instruction or certification. (4-4-13)

426. -- 449. (RESERVED)

450. PRESCRIPTIONS FOR SPECTACLES AND CONTACT LENSES.
Eyeglasses and contact lenses, including plano or cosmetic contact lenses, may only be dispensed upon a current prescription issued by an optometrist or medical physician. Every prescription written or issued by an optometrist practicing in Idaho shall contain at least the following information: (4-4-13)

01. Prescription for Spectacles. Prescriptions for spectacles must contain the following: (7-1-93)

a. Sphere, cylinder, axis, prism power and additional power, if applicable; and (3-30-07)

b. The standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. (3-29-10)

02. All Prescriptions for Rigid Contact Lenses. All prescriptions for rigid contact lenses must contain at least the following information: (7-1-93)

a. Base curve; (7-1-93)

b. Lens manufacturer or "brand" name; (4-4-13)

c. Overall diameter; (7-1-93)

d. Lens material; (4-4-13)

e. Power; and (3-30-07)

f. The standard expiration date of the prescription must be at least one (1) year from date the prescription was originally issued. A shorter prescription period may be allowed when based upon a documented medical condition. (3-29-10)

03. All Prescriptions for Soft Contact Lenses. All prescriptions for soft contact lenses must contain at least the following information: (7-1-93)

a. Lens manufacturer or "brand" name; (7-1-93)

b. Series or base curve; (7-1-93)

c. Power; (7-1-93)

d. Diameter, if applicable; (7-1-93)

e. Color, if applicable; and (7-1-93)

f. The standard expiration date of the prescription is one (1) year from date the prescription was originally issued. A shorter prescription period may be allowed when based upon a documented medical condition. (3-29-10)

04. Alteration of Prescriptions. A person may not alter the specifications of an ophthalmic lens prescription without the prescribing doctor's consent. (4-4-13)

05. Expired Contact Lens Prescription. A person may not fill an expired contact lens prescription. (4-4-13)

06. Fitting and Dispensing Contact Lenses. (4-4-13)

a. Contact lenses may be fitted only by an optometrist, or licensed physician. (4-4-13)

b. An ophthalmic dispenser may dispense contact lenses on a fully written contact lens prescription issued by an optometrist or licensed physician. (4-4-13)

c. Notwithstanding Subsection 450.06.b., an optometrist, or licensed physician who issues a contact lens prescription remains professionally responsible to the patient. (4-4-13)

451. -- 474. (RESERVED)

475. PATIENTS RECORDS.

01. Optometrist Shall Keep a Complete Record of All Patients Examined. Every optometrist practicing in the state of Idaho shall keep a complete record of all patients examined by him or for whom he has adapted optical accessories, including copies of prescriptions issued to the patient and copies of statements of charges

delivered or provided to the patient. All such records shall be maintained in an orderly and accessible manner and place and shall be maintained for at least five (5) years following the optometrist's last professional contact with the patient. Failure to maintain such records is deemed to be unprofessional conduct and constitutes gross incompetence in the handling of the patient's affairs. (7-1-93)

02. Prescription Files. The prescription files and all records pertaining to the practice of optometry shall be maintained as the sole property of the optometrist and not be distributed to any unlicensed person except as required by law or when lawfully subpoenaed in a criminal or civil proceeding in court, or subpoenaed for presentation at a deposition or hearing authorized by the Board of Optometry. (7-1-93)

03. Storage of Patient Records. Storage of patient records must be in compliance with rules in accordance with Health Insurance Portability and Accountability Act (HIPAA) including that patient records must be stored in an area inaccessible to patients. (4-4-13)

476. -- 499. (RESERVED)

500. PRECEPTORSHIP PROGRAM.
An optometrist may use a student of optometry in his office under his direct supervision for educational purposes. (7-1-93)

501. -- 524. (RESERVED)

525. GENERAL RULES.

01. Engaging as an Advisor or Staff Optometrist. An optometrist may be engaged as an advisor for or be engaged as a staff optometrist for an administrator for: (7-1-93)

a. Industrial plants where industrial vision programs are being, or have been instituted. (7-1-93)

b. Health programs sponsored or funded by any agency or municipal county, state or federal government. (7-1-93)

c. Research organizations or educational institutions. (7-1-93)

d. Insurance companies. (7-1-93)

e. Hospitals. (7-1-93)

f. Ophthalmologists. (7-1-93)

g. Corporations where the optometrist's full time is engaged by the corporation to care for the visual needs of the employees of such corporation and their families. (7-1-93)

02. Professional Responsibilities. Provided, however, that in acting in the capacity of consultant, advisor, or staff optometrists, the optometrist shall at all times remain cognizant of his professional responsibilities and shall with demeanor, decorum and determination retain his right of independent professional judgment and title in all situations and circumstances and in a manner similar to that which he would exercise if he were engaged in practice in his own office. (7-1-93)

526. -- 574. (RESERVED)

575. FEES.

FEE TYPE	AMOUNT (Not to Exceed)
License Application	$100
Annual Fund	$75
Annual Renewal	$75
Certificate to obtain and use pharmaceutical agents	$10
Reinstatement	As provided in Section 67-2614, Idaho Code

( )

576. -- 599. (RESERVED)

600. BOARD CERTIFICATION OF OPTOMETRIST AUTHORIZED TO OBTAIN AND USE PHARMACEUTICAL AGENTS.

01. The Right to Obtain and Use Topically Applied Diagnostic Pharmaceutical Agents. The right to obtain and use topically applied diagnostic pharmaceutical agents for use in diagnosis of another in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (7-1-93)

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to obtain and use topically applied diagnostic pharmaceutical agents shall obtain, from pharmacists licensed by the state of Idaho, or from any other source, and use only those agents listed below: (7-1-93)

i. All medications for use in the diagnosis of conditions of the human eye and/or eyelid. (4-4-13)

ii. All over-the-counter agents. (4-4-13)

iii. Such other diagnostic pharmaceutical agents as may be approved by the Board of Optometry. (4-4-13)

b. The Board of Optometry shall issue a certificate to obtain and use the diagnostic drugs specifically identified and listed in this rule to any optometrist licensed to practice in Idaho who complies with both the minimum educational requirements in the subject of general and ocular pharmacology and the minimum continuing educational requirements set out below: (7-1-93)

i. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall have completed courses totaling fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology and emergency medical care given by an institution approved by the Council on Post Secondary Accreditation of the U.S. Department of Education or an instructor accredited and employed by such institution and which have been approved by the Board of Optometry. (7-1-93)

ii. Each optometrist certified to obtain and use topically applied pharmaceutical agents shall also have completed a refresher course in cardiopulmonary resuscitation (CPR), emergency medical care provided by the Emergency Medical Services Bureau, or equivalent program either approved or provided by the Board of Optometry, within a two (2) year period preceding issuance of the certificate by the Board of Optometry. (7-1-93)

iii. In order to maintain the certificate issued by the Board, each certified optometrist must complete a refresher course in CPR described in Subsection 600.01.b.ii. above once during each two (2) year period following certification and shall list and describe the course attended and the dates of attendance upon a license renewal application form filed pursuant to Section 300. (4-4-13)

c. In order to implement this rule, the Board of Optometry may designate and approve courses of instruction given by those institutions or instructors described in Subsection 600.01.b.i. above which may be

necessary to provide practicing optometrists who have received less than fifty-five (55) hours of actual classroom instruction in general and ocular pharmacology in optometry school with the opportunity to meet the requirements of this rule. (7-1-93)

02. The Right to Prescribe, Administer and Dispense Therapeutic Pharmaceutical Agents. The right to prescribe, administer and dispense therapeutic pharmaceutical agents in the practice of optometry as defined by Section 54-1501, Idaho Code, is subject to the following conditions set out below: (11-6-93)

a. Optometrists who have obtained a certificate from the Board of Optometry authorizing them to prescribe, administer and dispense therapeutic pharmaceutical agents shall obtain, from pharmacists licensed by the State of Idaho, or from any other source, and use only those agents listed below: (11-6-93)

i. All medications for use in the treatment of the human eye and/or eyelid. (7-1-97)

ii. All over-the-counter agents. (11-6-93)

iii. Such other therapeutic pharmaceutical agents as may be approved by the Board of Optometry. (11-6-93)

b. The Board of Optometry shall issue a certificate to prescribe, administer and dispense the therapeutic medications to any optometrist licensed to practice in Idaho who complies with Subsection 600.01 and both the minimum educational and clinical experience requirements in the subject of ocular pharmacology and therapeutics and the minimum continuing educational requirements set out below: (7-1-97)

i. Completion of a minimum of one hundred (100) hours of actual classroom and clinical instruction in ocular pharmacology and therapeutics courses given by an institution or organization approved by the Council on Post-Secondary Accreditation of the U.S. Department of Education, or an Instructor employed by such institution, which have been approved by the Board of Optometry. (7-1-93)

ii. Successful passage of the "Treatment and Management of Ocular Diseases" section of the optometrist examination approved by the Association of Regulatory Boards of Optometry, Inc. (ARBO) or its equivalent as approved by the Board. (4-4-13)

601. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.11.01 – RULES OF THE STATE BOARD OF PODIATRY

DOCKET NO. 24-1101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-605, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.11.01, rules of the State Board of Podiatry:

IDAPA 24.11.01

- 24.11.01, *Rules of the State Board of Podiatry*: all proposed rules except 100, 200.01, 200.03, 401.01, 425.02.b., and 425.02.d.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.11.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of Rules of the State Board of Podiatry was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.11.01, the Rules of the State Board of Podiatry. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4700 - 4704.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-605 and 54-606, Idaho Code, as follows:

Application fee: not to exceed $200;
Original license fee: not to exceed $400;
Annual renewal fee: not to exceed $500;
Annual renewal fee for inactive license: not to exceed $250.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Podiatry, by the provisions of Section 54-605, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.11.01, "Rules of the State Board of Podiatry." (7-1-93)

002. INCORPORATION BY REFERENCE.
The document titled American Podiatric Medical Association's Code of Ethics as published by the American Podiatric Medical Association, dated March 2013 and referenced in Section 500, is herein incorporated by reference and is available for review at the Board's office and on the Board's web site at http://www.ibol.idaho.gov. (3-20-14)

003. -- 009. (RESERVED)

010. DEFINITIONS AND STANDARDS.

01. Licensure. Licensure means a license to practice podiatry in Idaho. (3-13-02)

02. Reputable School. A "reputable school" of podiatry is defined as an approved podiatry school located within the United States or Canada and designated as such by the Council on Podiatric Medical Education and the American Podiatric Medical Association. (3-20-14)

011. -- 149. (RESERVED)

150. PRE-PROFESSIONAL EDUCATION.
All applicants must provide official documentation of credits granted for at least two (2) full years of general college study in a college or university of recognized standing. (3-20-14)

151. PROFESSIONAL EDUCATION.
All applicants must possess evidence of graduation from four (4) full years of study in a reputable school of podiatry, as defined in Subsection 010.04 of these rules. (3-13-02)

152. PODIATRIC RESIDENCY.

01. Residency Required for Licensure. A candidate may not apply for licensure until completion of an accredited podiatric residency as approved by the Council on Podiatric Medical Education of no less than twenty-four (24) months, a minimum of twelve (12) months of which must be surgical. (4-11-06)

02. Submission of Verification of Residency Curriculum. Notwithstanding the provisions of Subsection 152.01, a candidate must provide directly from the residency program such official documentation of completion of the entire curriculum as the board may require. Any deviation of this requirement must be approved by the Board. (4-11-06)

153. -- 199. (RESERVED)

200. CREDENTIALS TO BE FILED BY ALL APPLICANTS.

01. Certified Copy of National Board Results. A copy of the applicable National Board results that has been certified as true and correct by the examining entity. (7-1-97)

02. Educational Certificate Requirement. Each applicant must provide official documentation of a collegiate education of not less than two (2) years in an accredited college or university giving instruction in letters and sciences. (3-20-14)

03. Diploma. Certified photostatic copy of diploma granted by any college of podiatry and official certified transcripts indicating graduation from the program. (3-13-02)

04. Residency Certification Requirement. All applications must include certification of completion of a residency as defined in Rule 152. (3-13-02)

201. -- 299. (RESERVED)

300. FEES.
All fees are non-refundable; if a license is not issued, the license fee will be refunded.

FEE TYPE	AMOUNT (Not to Exceed)
Application	$200
Original License	$400
Written Examination	Set by National Examining Entity
Annual Renewal	$500
Inactive License Annual Renewal	$250

( )

301. -- 399. (RESERVED)

400. LICENSURE BY EXAMINATION.

01. Examination of Applicants. All applicants must successfully pass all parts of the American Podiatric Medical Licensing Examination developed and administered by the National Board of Podiatric Medical Examiners. (3-20-14)

02. Passing Grade. A passing grade in all subjects examined is the grade established by the examination provider. (3-20-14)

401. LICENSURE BY ENDORSEMENT.
Under Section 54-613, Idaho Code, applicants for licensure by endorsement may be granted a license upon the approval of the Board. Each applicant for licensure by endorsement must provide documentation for each of the following before licensure will be considered: (3-15-02)

01. Certification of License. Certification of having maintained a current license or other authority to practice issued by a regulatory board of Podiatry in any state or territory. (4-11-06)

02. Credentials. Credentials as required in Subsections 200.02 through 200.05. (3-29-10)

03. Examination. Successful passage of a written licensure examination covering all those subjects noted in Section 54-606, Idaho Code. Official certification of examination must be received by the board directly from: (4-11-06)

a. The applicant's state or territory of licensure; or (3-15-02)

b. The national board of podiatric medical examiners. (3-20-14)

04. Residency. Proof of completion of the residency requirement as set forth in Subsection 200.06 of this rule. However, if the applicant graduated from a college of podiatry prior to 1993, this requirement will be waived. (3-29-10)

05. Practical Experience. Having practiced podiatry under licensure for three (3) of the last five (5) years immediately prior to the date of application. (4-11-06)

06. Continuing Education. Having completed at least fifteen (15) hours of continuing education germane to the practice of podiatry during the twelve (12) months prior to the date of application. (4-11-19)

07. Disciplinary Action. Has not been the subject of any disciplinary action including pending or unresolved licensure actions within the last five (5) years immediately prior to application and has never had a license

to practice podiatry revoked or suspended either voluntarily or involuntarily in any jurisdiction. (3-29-10)

402. TEMPORARY LICENSES.
No temporary licenses will be granted for the practice of podiatry in Idaho. (3-13-02)

403. -- 409. (RESERVED)

410. ORIGINAL APPLICATION.
The original application will be considered null and void after a period of two (2) years from date of original application if no license has been issued. (4-2-08)

411. -- 424. (RESERVED)

425. INACTIVE STATUS.

01. Request for Inactive Status. Each person requesting an inactive status during the renewal of their active license must submit a written request and pay the inactive license fee. (4-6-15)

02. Inactive License Status. (4-6-15)

a. All continuing education requirements will be waived during the time that a licensee maintains an inactive license in Idaho. (4-6-15)

b. When the licensee desires active status, the licensee must show acceptable fulfillment of continuing education requirements for the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee. (4-6-15)

426. -- 449. (RESERVED)

450. SCOPE OF PRACTICE.

01. Competence. Upon being granted a license to practice podiatry, a practitioner is authorized to provide only those services and treatments for which that practitioner has been trained and prepared to provide. Information contained within the application file and supplemental certified information of additional training and experience included in the credential file maintained by the practitioner is prima facie evidence of the practitioner's education and experience. It is the responsibility of the individual practitioner to ensure that the information in his credential file is accurate, complete and supplemented to support all procedures, applications and treatments employed by the practitioner. Practice beyond a practitioner's documented education and experience may violate the adopted code of ethics and be grounds for discipline by the board. (4-11-06)

02. Advanced Surgical Procedures. Advanced surgical procedures must be performed in a licensed hospital or certified ambulatory surgical center accredited by the joint commission on accreditation of healthcare organizations or the accreditation association for ambulatory health care where a peer review system is in place. Advanced surgical procedures are defined as: (4-11-06)

a. Ankle fractures - Open Reduction and Internal Fixation. (4-11-06)

b. Ankle and rearfoot arthrodesis. (4-11-06)

c. Nerve surgery of the leg. (4-11-06)

d. Major tendon repair or transfer surgery - proximal to ankle. (4-11-06)

e. Autogenous bone grafting. (4-11-06)

f. External fixation of the rearfoot, ankle and leg. (4-11-06)

451. -- 499. (RESERVED)

500. STANDARDS OF THE ETHICAL PRACTICE OF PODIATRY.
The standards for the ethical practice of podiatry is the American Podiatric Medical Association's Code of Ethics as referenced in Section 004 of these rules and are hereby adopted and apply to all practitioners of podiatry. (5-3-03)

501. -- 549. (RESERVED)

550. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed podiatrist for each violation of Sections 54-608 and 54-609, Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed podiatrist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Sections 54-608 and 54-609, Idaho Code. (3-18-99)

551. -- 699. (RESERVED)

700. CONTINUING EDUCATION.

01. Education Requirement for License Renewal. Each podiatrist licensed by the state of Idaho must complete in each twelve-month period preceding the renewal of a license to practice podiatry in Idaho, a minimum of fifteen (15) full hours of podiatry continuing education. Continuing education includes lectures, conferences, seminars, moderator-guided panel discussions, clinical and practical workshops, internet based learning and home study. Education must be germane to the practice of podiatry; and (4-11-19)

a. Approved by the Council on Podiatric Medical Education; or (4-2-08)

b. Otherwise approved by the Board. (4-2-08)

02. Submission of License Renewal Application Form. Each licensed Idaho podiatrist will be furnished a license renewal application form by the Bureau of Occupational Licenses on which each podiatrist will be required to certify by signed affidavit that compliance with the continuing education requirements has been met and must submit the renewal application together with the required fees to the Bureau. (3-15-02)

03. Verification of Completion. A licensee must maintain verification of completion by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours completed by the licensee. This verification must be maintained by the licensee and provided to the Board upon the request of the Board or its agent. The Board will conduct random audits to monitor compliance. Failure to provide proof of meeting the continuing education upon request of the Board will be grounds for disciplinary action. (4-11-19)

04. Carryover of Continuing Education Hours. Continuing education not claimed for credit in the current renewal year may be credited for the next renewal year. A maximum of fifteen (15) hours may be carried forward from the immediately preceding year. (4-11-19)

05. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or for other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-20-14)

701. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.12.01 – RULES OF THE IDAHO STATE BOARD OF PSYCHOLOGIST EXAMINERS

DOCKET NO. 24-1201-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2305, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.12.01, rules of the Idaho State Board of Psychological Examiners:

IDAPA 24.12

- 24.12.01, *Rules of the Idaho State Board of Psychological Examiners*—all proposed rules ***except 200.05, 250.02.e., 250.02.f., 250.02.g., 250.02.h., 275.02.b., 275.02.d., 375.02, 400.01, 402.08, 550.01.b., 550.04.a., 550.04.b., 550.04.c., 550.04.d., 550.04.e., 550.04.f., 550.04.g., 550.04.h., 550.04.i., and 550.04.j.*** which have been vacated.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4,707-4,727. The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.12.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Board of Psychological Examiners was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.12.01, the Rules of the Idaho State Board of Psychological Examiners. On July 19, 2019, the State Board of Psychological Examiners held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Further, this pending fee rule reorganizes the qualifications for licensure by endorsement in order to clarify qualifying experience and education. This pending fee rule also updates the endorsement for certification of prescriptive authority section, the continuing education hours section, the guidelines for approval of continuing education credits section, and the supervised practice of provisional certification holder section to accurately reflect the rules previously promulgated by the Board and the Advisory Panel. This pending fee rule updates the temporary license requirements because the program administered by the association of state and provincial psychology boards (ASPPB) will be ending. Finally, this pending fee rule enlarges the scope of eligible licensees who may act as service extenders, expanding access to mental health services.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-2307, 54-2312, 54-2312A, 54-2315, and 54-2318, Idaho Code, as follows: annual renewal fee: not to exceed $250; annual renewal fee for inactive lice: not to exceed $125; original application fee for licensure by exam: not to exceed $150; original application fee for licensure by endorsement/senior psychologist: not to exceed $250; original application fee for provisional certification of prescriptive authority: not to exceed $250; annual renewal fee for provisional certification of prescriptive authority: not to exceed $250; original application fee for certification of prescriptive authority: not to exceed $250; annual renewal fee for certification of prescriptive authority: not to exceed $250; original application fee for certification of prescriptive authority by endorsement: not to exceed $250; service extender application fee not to exceed $100; service extender annual renewal fee: $ not to exceed 100; and examination and reexamination fee: $25.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Idaho State Board of Psychologist Examiners by the provisions of Section 54-2305, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.12.01, "Rules of the Idaho State Board of Psychologist Examiners." (7-1-93)

002. INCORPORATION BY REFERENCE (RULE 4).
The document titled "Ethical Principles of Psychologists and Code of Conduct," published by the American Psychological Association and dated June 1, 2003 with the 2010 amendments effective June 1, 2010, as referenced in Section 350, is herein incorporated by reference and is available from the Board's office and on the Board web site. (3-24-16)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Certificate of Professional Qualification. A certificate of professional qualification means the certificate of professional qualification granted to a psychologist by the Association of State and Provincial Psychology Boards. (3-15-02)

02. Collaboration or Collaborative Relationship. Collaboration or collaborative relationship means a cooperative working relationship between a prescribing psychologist and a licensed medical provider in the provision of patient care, including cooperation in the management and delivery of physical and mental health care, to ensure optimal patient care. (4-1-19)

03. Geriatric Patient. A person sixty-five (65) years of age or older. (4-1-19)

04. Licensed Medical Provider. A physician or physician assistant licensed pursuant to chapter 18, title 54, Idaho Code, or an advanced practice registered nurse licensed pursuant to chapter 14, title 54, Idaho Code. (4-1-19)

05. Mental, Nervous, Emotional, Behavioral, Substance Abuse, and Cognitive Disorders. Disorders, illnesses, or diseases listed in either the most recent edition of the Diagnostic and Statistical Manual of Mental Disorders published by the American Psychiatric Association or those listed in the International Classification of Diseases published by the World Health Organization. (4-1-19)

06. Pediatric Patient. A person seventeen (17) years of age or younger. (4-1-19)

07. Prescribing Psychologist. A person who holds a license to practice psychology issued by the Board and who holds a Certification or Provisional Certification of Prescriptive Authority issued by the Board under Sections 54-2317, 54-2318, 54-2319, Idaho Code, and these rules. (4-1-19)

08. Supervising Physician. A board-certified psychiatrist, neurologist, or other physician with specialized training and experience in the management of psychotropic medication and who is licensed under chapter 18, title 54, Idaho Code, or an equivalent licensing provision of the law of a state adjoining Idaho. (4-1-19)

011. -- 099. (RESERVED)

100. APPLICATION.

01. Filing an Application. Applicants for licensure or certification or provisional certification of prescriptive authority must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (4-1-19)

02. Supporting Documents. The applicant must provide or facilitate the provision of any supporting third-party documents that may be required under the qualifications for the license being sought. (4-1-19)

a. Any third-party documents, including letters of reference, must be received by the Board directly from the third party. (4-1-19)

b. One (1) of the two (2) years of supervised experience as required by Section 2307(*2*)*(a)*, Idaho Code, for initial licensure may be pre-doctoral. The second year must be post-doctoral work under appropriate supervision and must be verified by the appropriate supervisor. *( )*

101. -- 149. (RESERVED)

150. FEES.
All fees are non-refundable. The examination or reexamination fee are in addition to the application fee and must accompany the application.

FEE TYPE	*AMOUNT (Not to Exceed)*	*RENEWAL (Not to Exceed)*
Original Application for Licensure by Exam	*$150*	
Inactive License Renewal	*$125*	
Annual Renewal	*$250*	
Original Application for Licensure by Endorsement/Senior Psychologist	*$250*	
Original Application for Provisional Certification of Prescriptive Authority	*$250*	*$250*
Original Application for Certification of Prescriptive Authority	*$250*	*$250*
Original Application for Certification of Prescriptive Authority by Endorsement	*$250*	
Application for Service Extender	*$100*	*$100*
Examination and Reexamination	*The amount charged by the national examining entity plus a processing fee of $25*	
Reinstatement	*As set forth in Section 67-2614, Idaho Code.*	
Temporary License	*$50*	

( )

151. -- 199. (RESERVED)

200. EXAMINATIONS.

01. Written Exam Required. The Board will require a written examination of applicants. The written examination will be the National Examination for Professional Practice In Psychology (EPPP). (3-20-04)

02. Passing Score. The Board has determined that a passing score on the EPPP is a raw score of one hundred forty (140) or, for examinations after April 1, 2001, a scaled score of five hundred (500) for licensure. (3-20-04)

03. Time and Place of Exam. The examination will be conducted at a time and place specified by the administrator of the national examination for professional practice in psychology (EPPP). (5-8-09)

04. Failure of Exam. The first time the examination is failed the applicant may take it again the next

time it is given upon application and payment of fees. If the examination has been failed twice, the individual must wait at least one (1) year and petition the Board for approval to take the examination the third time. The petition must include evidence satisfactory to the Board that the applicant has taken additional study in the field of Psychology before approval will be granted. (5-8-09)

201. EXAMINATION FOR PROVISIONAL CERTIFICATION OF PRESCRIPTIVE AUTHORITY.
The approved examination for provisional certification of prescriptive authority is the Psychopharmacology Examination for Psychologists (PEP). (4-1-19)

01. Passing Score. A passing score will be determined by the Association of State and Provincial Psychology Boards (ASPPB). (4-1-19)

02. Date of Exam. The passage of the exam may have occurred prior to the effective date of these rules. (4-1-19)

202. -- 249. (RESERVED)

250. ENDORSEMENT.

01. Eligibility for Endorsement. An applicant who is in possession of a valid statutory license or statutory certificate from another state or Canada may apply for licensing under the endorsement section of this law. (3-15-02)

02. Requirements for Endorsement. An applicant under the endorsement section must have: (3-15-02)

a. A valid psychology license or certificate issued by the regulatory entity of another jurisdiction; and (3-15-02)

b. A *history of no disciplinary action in any jurisdiction; and* *( )*

c. *Meet one of the following qualifications:* *( )*

i. A current certificate of professional qualification in Psychology as defined in these rules; or *( )*

ii. A registration with the National Register of Health Service Providers in Psychology; or *( )*

iii. A certification by American Board of Professional Psychology; or *( )*

iv. Graduated from an APA accredited program with a doctoral degree in psychology and two (2) years of supervised experience acceptable to the Board, one (1) year of which may include a pre-doctoral practicum or internship and one (1) year of which must be post-doctoral; *( )*

d. *Or complete both of the following:* *( )*

i. Graduated *with a doctoral degree in psychology or a related field*, provided experience and training are acceptable to the Board; and *( )*

ii. A record of practicing Psychology at the independent level for the five (5) years of the last seven (7) years immediately prior to application. *( )*

251. ENDORSEMENT FOR CERTIFICATION OF PRESCRIPTIVE AUTHORITY (RULE 251).
The Board may grant a provisional certification or certification of prescriptive authority by endorsement to an applicant who completes an application as set forth in Section 100 of these rules, pays the required fee, and meets the following requirements: (4-1-19)

01. Holds a Current License. The applicant must be the holder of a current and unrestricted license to

practice psychology in another state and in Idaho; (4-1-19)

02. Holds a Current Certificate of Prescriptive Authority. (4-1-19)

a. The applicant must be the holder of a current and unrestricted certification of prescriptive authority from another state *that imposes substantially equivalent educational and training requirements as those contained in Sections 54-2317 and 54-2318, Idaho Code, and these rules*; or *( )*

b. The applicant must have training from the United States department of defense demonstration project or other similar program developed and operated by any branch of the armed forces that imposes substantially equivalent educational and training requirements as those contained in Sections 54-2317 and 54-2318, Idaho Code, and these rules. (4-1-19)

03. Credit Toward Requirements. In the event that an applicant has not met the requirements for certification of prescriptive authority, the Board may consider an applicant's experience in prescribing in another state as meeting a portion of the requirements necessary to qualify for provisional certification or certification of prescriptive authority in this state. In that event, the Board may require additional education, supervision, or both to satisfy the requirements to obtain a provisional certification or certification of prescriptive authority in this state. (4-1-19)

04. Advisory Panel. The Advisory Panel, as established in Section 54-2320, Idaho Code, will review the education and training of an applicant seeking certification by endorsement and advise the Board as to its sufficiency to meet the requirements for provisional certification or certification of prescriptive authority under Chapter 23, Title 54, Idaho Code, and these rules. (4-1-19)

252. -- 274. (RESERVED)

275. INACTIVE STATUS.

01. Request for Inactive Status. Persons requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. (3-29-10)

02. Inactive License Status. (3-29-10)

a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho. (3-29-10)

b. When the licensees desire active status, they must show fulfillment of continuing education requirements within the previous twelve (12) months and submit a fee equivalent to the difference between the current inactive and active renewal fee. (3-29-10)

276. -- 299. (RESERVED)

300. TEMPORARY LICENSES (RULE 300).
Persons not licensed in this state who desire to practice psychology under the provisions of this chapter for a period not to exceed thirty (30) days within a calendar year may do so if they hold *a license in another state or province have had no disciplinary action, and pay the required fee*. Persons authorized to practice under this section must hold a certification of prescriptive authority issued by the Idaho Board of Psychologist Examiners to issue a prescription. *( )*

301. -- 349. (RESERVED)

350. CODE OF ETHICS.
All licensees must have knowledge of the Ethical Principles of Psychologists and Code of Conduct, as published in the American Psychologist, as referenced in Section 004. (5-8-09)

351. -- 374. (RESERVED)

375. DISCIPLINE.
The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed psychologist for each violation of Section 54-2309, Idaho Code. ( )

376. -- 379. (RESERVED)

380. REHABILITATION *COMPONENTS*.
In the event of a violation of Board laws or rules, the Board, in its discretion, may implement a plan of rehabilitation. Completion of the plan may lead to consideration of submission of an application for re-licensure, the removal of suspension, or the removal of supervision requirements. In the event the licensee has not met the Board's criteria for rehabilitation, the plan may be revised, expanded, or continued depending upon the progress of the rehabilitation program. The rehabilitation *components* listed in this Section should be considered illustrative, but not exhaustive, of the potential options available to the Board. In each instance, rehabilitation *parameters* will be tailored to the individual needs of the licensee. ( )

01. Options in Devising Rehabilitation Program. The Board may follow one (1) or more options in devising a rehabilitation program: (3-29-10)

a. The individual may be supervised in all or selected areas of activities related to his practice as a licensee by a licensed psychologist approved by the Board for a specified length of time. (3-29-10)

i. The Board may specify the focus of the supervision. (3-29-10)

ii. The Board may specify the number of hours per week required in a face-to-face supervisory contract. (3-29-10)

iii. The Board may require the supervisor to provide periodic and timely reports to the Board concerning the progress of the supervisee. (3-29-10)

iv. Any fees for supervision time will be the responsibility of the supervisee. (3-29-10)

02. Educational Programs. The individual may be expected to successfully complete a variety of appropriate educational programs. Appropriate educational formats may include, but are not limited to, workshops, seminars, courses in regionally accredited universities, or organized pre- or post-doctoral internship settings. Workshops or seminars that are not held in a setting of academic review (approved continuing education) need prior approval of the Board. Any course of study must be approved by the Board prior to enrollment if it is to meet the criteria of a rehabilitation plan. (3-29-10)

03. Additional Requirements. The Board may require of the individual: (3-29-10)

a. Psychodiagnostic evaluations by a psychologist approved by the Board; (3-29-10)

b. A physical examination that may include an alcohol and drug screen by a physician approved by the Board; (3-29-10)

c. Psychotherapy on a regular basis from a psychologist approved by the Board; (3-29-10)

d. Take or retake and pass the appropriate professional examination; or (3-29-10)

381. -- 399. (RESERVED)

400. RENEWAL OF LICENSE -- CONTINUING EDUCATION.
Licenses may be renewed or reinstated by payment of the required fees and by submitting certification of having satisfied the continuing education requirement. ( )

401. CONTINUING EDUCATION REQUIREMENTS FOR RELICENSURE IN PSYCHOLOGY.

01. Number of Hours Required. All licensed psychologists, in order to renew their license, must have accumulated twenty (20) hours per year of continuing education credits. All prescribing psychologists, in order to renew their provisional certification or certification of prescriptive authority, must have accumulated twenty (20) hours per year of continuing education credits in psychopharmacology or psychopharmacotherapy offered in accordance with Subsection 402.01 of these rules. Continuing education credits for a prescribing psychologist are in addition to the continuing education credits required to renew their psychologist license. *( )*

a. At the time of renewal of the psychologists' licenses and prescribing psychologists' certifications, they will certify that they are aware of the requirements for continuing education and that they have met those requirements for the preceding year. *( )*

b. At the time of reinstatement of a psychologist's license or a prescribing psychologist's *certification or* provisional certification, the psychologist must provide proof of meeting the requirements for continuing education for the preceding year. *( )*

c. A minimum of four (4) hours credit in ethics, standards of care, and/or review of laws pertaining to the practice of psychology is required every three (3) years. Areas covered may include practice, consultation, research, teaching, and/or supervision. These units may be used as part of the continuing education credit required. (4-1-19)

02. Professional Level of Continuing Education -- Time Period Records Kept - Audit. This continuing education experience must be at an appropriate level for professional training in psychology. The licensees have responsibility for demonstrating the relevance and adequacy of the educational experience they select. The licensees are also responsible for keeping an accurate record of their own personal continuing education hours for a period of five (5) years. A random audit may be conducted to insure compliance. (7-1-93)

03. Newly Licensed Individuals. Newly licensed individuals will be considered to have satisfied the continuing education requirements for the remainder of the year in which their license is granted. (7-1-93)

04. Certificates of Satisfactory Attendance and Completion. Certificates of satisfactory attendance and completion, participant lists, transcripts from universities, letters of certification on instructor's letterhead, and other reasonably convincing proof of the submitted activities may serve as documentation when persons audited are required to submit proof of continuing education. *( )*

05. Licensees Who Do Not Fulfill the Continuing Education Requirements. Licensees who do not fulfill the continuing education requirements may be subject to disciplinary action. (7-1-93)

06. Carryover of Continuing Education Hours. Continuing education courses not claimed for CE credit in the current renewal year, may be credited for the next renewal year. A maximum of twenty (20) hours may be carried forward from the immediately preceding year *for renewal of a psychologist license, and a maximum of twenty (20) hours may be carried forward from the immediately preceding year for renewal of a prescribing psychologist's certificate*. *( )*

07. Special Exemption. The Board *may* make exceptions for reasons of individual hardship including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. Request for special exemption must be made prior to licensure renewal. *( )*

402. GUIDELINES FOR APPROVAL OF CONTINUING EDUCATION CREDITS (RULE 402).

01. Continuing Education Credit. Continuing education credit will be given to formally organized workshops or classes with an attendance roster and preassigned continuing education credit offered in association with or under the auspices of: (7-1-93)

a. Regionally accredited institutions of higher education. (7-1-93)

b. The American Psychological Association. (7-1-93)

c. A Regional Psychological Association. (7-1-93)

d. A State Psychological Association. (7-1-93)

e. For prescribing psychologists, in addition to the approved organizations above, workshops or classes may be *classified as continuing medical education credit and* offered in association with or under the auspices of: *( )*

i. The American Medical Association; (4-1-19)

ii. A regional medical association; (4-1-19)

iii. A state medical association; or (4-1-19)

iv. Offered by sponsors accredited by the Accreditation Council for Continuing Medical Education (ACCME). (4-1-19)

f. Credit will be given for the number of credit hours preauthorized by the sponsoring agency with no upper limit on the number of hours. (7-1-93)

02. Credit for International, National and Regional Meetings of Psychological Organizations. Six (6) hours of continuing education credit will be allowed for documented attendance at international, national and regional meetings of psychological organizations. (7-1-93)

03. Credit for Other Relevant Workshops, Classes or Training Experiences. Other relevant workshops, classes or training experiences when not offered, approved, or provided by an entity in Subsection 402.01, may receive up to six (6) hours of credit per experience provided they are conducted by a licensed or reputable psychologist or other mental health professional. Each documented hour of training experience counts as one (1) hour of continuing education experience. (4-4-13)

04. Presentation of Papers. Presentation of papers at international, national, regional or state psychological or other professional associations may be counted as equivalent to six (6) hours per event. Only actual presentation time may be counted; preparation time does not qualify for credit. The licensee must provide the Board with a letter from a sponsor, host organization, or professional colleague, copy of the program, and a summary of the evaluations from the event. (3-29-10)

05. Self-Study, Lectures or Public or Professional Publications and Presentations. The Board also recognizes the value of self-study, lectures or public or professional publications and presentations (including for example, in the case of the university faculty, preparation of a new course). Therefore, the Board will allow credit for six (6) hours of individual study per year. (7-1-93)

a. Self-Study. The reading of a publication may qualify for credit with proper documentation verifying completion. A licensee seeking credit for reading a publication must submit results from a test on the information contained within the publication. If a test is not available, the licensee must seek pre-approval of the Board. (3-29-10)

b. Professional publications. Publication activities are limited to articles in professional journals, a chapter in an edited book, or a published book. The licensee must provide the Board with a copy of the cover page of the article or book in which the licensee has been published. For chapters of an edited book, licensees must submit a copy of the table of contents. (3-29-10)

06. Board Assessment of Continuing Education Activities. The Board of Psychologist Examiners may avail itself of help and consultation from the American Psychological Association or the Idaho Psychological Association in assessing the appropriateness of continuing education activities. (3-29-10)

07. *Electronic Continuing* Education *Courses*. *( )*

a. Non-interactive. A maximum of ten (10) on-line*, non-interactive* continuing education hours relevant to the practice of psychology may be counted during each reporting period. *( )*

i. Continuing education credit will be given to on-line education offered in association with or under the auspices of the organizations listed in Subsections 402.01.a. through 402.01.d. of these rules. (3-29-17)

ii. The licensee must provide the Board with a copy of the certification, verified by the authorized signatures from the course instructors, providers, or sponsoring institution, substantiating any hours completed by the licensee. (3-29-10)

b. Interactive. To qualify for credit, teleconferences must feature an interactive format. Interactive conferences are those that provide the opportunity for participants to communicate directly with the instructor or that have a facilitator present at the conference site. The licensee must provide the Board with a copy of the certificate, or a letter signed by course instructors, providers, or sponsoring institution, substantiating any hours attended by licensee. *( )*

i. When offered, approved, or provided by entities in Subsection 402.01, the number of hours that may be counted during each reporting period is not limited. (4-4-13)

ii. When not offered, approved, or provided by an entity in Subsection 402.01, a maximum of six (6) hours may be counted during each reporting period. (4-4-13)

403. -- 449. (RESERVED)

450. GUIDELINES FOR USE OF SERVICE EXTENDERS TO LICENSED PSYCHOLOGISTS.
The Board recognizes that licensed psychologists may choose to extend their services by using service extenders. The Board provides general rules to cover all service extenders as well as specific rules to cover service extenders with different levels of training and experience. (7-1-93)

01. General Provisions for Licensed Psychologists Extending Their Services Through Others. (7-1-93)

a. The licensed psychologist *will have* administrative control for a service extender. *( )*

b. The licensed psychologist exercising professional direction for a service extender must: (7-1-93)

i. Prior to employing the service extender, formulate and provide to the Board a written supervisory plan for each service extender and obtain approval for the plan. The plan must include provisions for supervisory sessions and chart review. If the psychologist requires *recordings* to be made of psychological services delivered by the service extender, then the plan must also specify review and destruction of these *recordings*. The plan must also specify the hours per calendar week that the licensed psychologist will be at the same physical location as the person extending the services of the licensed psychologist. The plan must be accompanied by a completed application form and appropriate application fee. *( )*

ii. Establish and maintain a level of supervisory contact sufficient to be readily accountable in the event that professional, ethical, or legal issues are raised. For service extenders in Categories I and II, there will be a minimum of one (1) hour of face-to-face supervisory contact by *the* licensed psychologist with the service extender for each one (1) to twenty (20) hours of services provided by the service extender during any calendar week. At least one half (1/2) of this face-to-face supervisory contact will be conducted individually, and up to one half (1/2) of this face-to-face supervisory contact may be provided using a group format. A written record of this supervisory contact, including the type of activities conducted by the service extender, must be maintained by the licensed psychologist. Except under unusual circumstances, the supervisory contact will occur either during the week the services are extended or during the week following. In no case will services be extended more than two (2) weeks without supervisory contact between the service extender and *the* licensed psychologist. For service extenders in Category III, there will be a minimum of one (1) hour of face-to-face supervisory contact by *the* licensed psychologist with the

service extender during each calendar month that services are provided by the service extender. A written record of this supervisory contact, including the type of activities conducted by the service extender, must be maintained by the licensed psychologist. The licensed psychologist will also be available for consultation either face-to-face, by phone, or by other means of contact on any day that services are provided by the service extender. *( )*

iii. Provide the service extender a copy of the current Ethical Standards of the American Psychological Association, and obtain a written agreement from the service extender of his intention to abide by them. (7-1-93)

c. Supervision of service extenders through electronic communications, including video conferencing, cannot replace face-to-face supervision. Psychologists will ensure that the service that they provide through the use of service extenders is provided according to all applicable laws and rules. (3-29-17)

02. Qualifications for Service Extenders. (7-1-93)

a. Category I: A service extender will be placed in Category I if: (7-1-93)

i. The licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender holds a license *in counseling, social work, or a related mental health profession* issued by the state of Idaho to practice a specific profession, and that the issuance of that license requires the licensee hold a master's degree or its equivalent as determined by the Board; or *( )*

ii. The service extender meets the criteria for Category II specified below and the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender has satisfactorily functioned as a service extender to one (1) or more licensed psychologist for at least twenty (20) hours per calendar week over a period totaling two hundred sixty (260) weeks. (7-1-93)

b. Category II: A service extender will be placed in Category II if the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender holds a master's degree or equivalent from a program in psychology, counseling, or human development as determined by the Board. (3-29-17)

c. Category III: A service extender will be placed in Category III if the licensed psychologist wishing to employ the service extender verifies in writing to the satisfaction of the Board that the service extender holds a master's degree or equivalent from a program in psychology, counseling, or human development as determined by the Board, and the service extender will only provide psychometrician services. Such services are defined as administrating, scoring, and/or summarizing psychological or neuropsychological tests and test data that require specialized training. Interpretation of the testing data must be performed by the licensed psychologist. Service extenders in Category III will not be allowed to perform psychotherapy, intake assessments, or other services outside the scope of psychometric services defined above. The licensed psychologist wishing to employ the service extender must also verify in writing to the satisfaction of the Board that the service extender has been properly trained in all of the testing instruments that the service extender will administer at the start of employment and will continue to receive proper training in any new testing instruments utilized by the service extender over the course of employment. (3-29-17)

03. Conditions for Use of Service Extenders. (7-1-93)

a. All persons used to extend the services of a licensed psychologist must be under the direct and continuing administrative control and professional direction of a licensed psychologist. These service extenders may not use any title incorporating the word "psychologist" or any of its variants or derivatives, e.g. "psychological," "psychotherapist." (5-8-09)

b. Work assignments must be commensurate with the skills of the service extender and procedures must be planned in consultation with the licensed psychologist under all circumstances. (7-1-93)

c. Public announcement of fees and services, as well as contact with lay or professional public must be offered only in the name of the licensed psychologist whose services are being extended. However, persons licensed to practice professions other than psychology may make note of their status in such announcements or

contacts. (7-1-93)

d. Setting and collecting of fees must remain the sole domain of the licensed psychologist; excepting that when a service extender is used to provide services of the licensed psychologist, third party payers must be informed of this occurrence in writing at the time of billing. Unless otherwise provided in these rules and regulations, licensed psychologists may neither claim *n*or imply to service recipients or to third party payers an ability to extend their services through any person who has not been approved as a service extender to that psychologist as specified in this section. *( )*

e. All service recipients must sign a written notice of the service extender's status as a service extender for the licensed psychologist. A copy of the signed written notice will be maintained on file with the licensed psychologist. (7-1-93)

f. Within the first three (3) contacts, the licensed psychologist must have face-to-face contact with each service recipient. (7-1-93)

g. A licensed psychologist must be available to both the service extender and the service recipient for emergency consultation. (7-1-93)

h. Service Extenders must be housed in the same service delivery site as the licensed psychologist whose services they extend. Whatever other activities they may be qualified to perform, service extenders must limit themselves to acting as service extenders of the licensed psychologist when providing direct services so long as they are physically located in the offices of the licensed psychologist. (7-1-93)

i. A service extender in Category I may deliver as much as, but not more than fifty percent (50%) of their service while the licensed psychologist is not physically present at the service delivery site. A service extender in Category II may deliver as much as, but not more than twenty-five percent (25%) of their service while the licensed psychologist is not physically present at the service delivery site. Service extenders in the Category III may deliver as much as, but not more than seventy-five percent (75%) of their service while the licensed psychologist is not physically present at the service delivery site. Service Extenders providing as many as, but no more than, three (3) hours of service extension per calendar week must be exempted from the on-site provisions of Section 450 of this rule. Without notification to the Board, short term exemption from this rule for atypical circumstances, such as irregular travel by the licensed psychologist, may occur for periods as long as, but no longer than three (3) calendar weeks. Longer exemptions may be granted at the discretion of the Board on written request by the licensed psychologist to the Board. (3-29-17)

j. The licensed psychologist must employ no more than three (3) service extenders. (3-18-99)

k. When a licensed psychologist terminates employment of a service extender, the licensed psychologist will notify the Board in writing within thirty (30) days. (7-1-93)

l. At the time of license renewal the licensed psychologist must submit for each service extender the appropriate fee together with certification to the Board that they possess: (3-19-07)

i. A written record of supervisory contact for the previous twelve (12) months; and (3-20-04)

ii. The percentage of time during the previous twelve (12) months that the service extender extended services while the licensed psychologist was at the service delivery site; and (3-20-04)

iii. An updated plan for the supervision of each of his service extenders. (3-20-04)

m. Documentation of supervisory notes, hours of supervision, number of hours on-site while the service extender provided services, and plan of supervision must be maintained by the supervisor for not less than three (3) years for each service extender and submitted to the Board upon request. (5-8-09)

451. -- 499. (RESERVED)

500. EDUCATIONAL AND CREDENTIALING REQUIREMENTS FOR LICENSURE.
Applicants who receive a doctoral degree from a program accredited by the American Psychological Association are considered to have met all criteria outlined in Section 500. (5-3-03)

01. Training in Professional Psychology. Training in professional psychology is doctoral training offered in an institution of higher education accredited by: (7-1-93)

a. Middle States Commission on Higher Education. (7-1-93)

b. The New England Association of Schools and Colleges. (7-1-93)

c. Higher Learning Commission. (7-1-93)

d. The Northwest Commission on Colleges and Universities. (7-1-93)

e. The Southern Association of Colleges and Schools. (7-1-93)

f. The Western Association of Schools and Colleges. (7-1-93)

02. Training Program. The training program must stand as a recognizable, coherent organizational entity within the institution. Programs that are accredited by the American Psychological Association or that meet the criteria for such accreditation are recognized as meeting the definition of a professional psychology program. (5-3-03)

03. Authority and Primary Responsibility. There must be a clear authority and primary responsibility for the core and specialty areas by a designated leader who is a doctoral psychologist and is a member of the core faculty. (5-8-09)

04. Content of Program. The program must be an integrated, organized sequence of study. (7-1-93)

05. There Must Be an Identifiable Training Faculty and a Psychologist Responsible for the Program. There must be an identifiable training faculty on site of sufficient size and breadth to carry out the training responsibilities. A faculty psychologist must be responsible for the program. (5-3-03)

06. Program Must Have an Identifiable Body. The program must have an identifiable body of students who are matriculated in that program for a degree. (7-1-93)

07. What the Program Must Include. The program must include supervised practicum and pre-doctoral internship appropriate to the practice of psychology. Pre-doctoral internships must be completed at member sites of the Association of Psychology Postdoctoral and Internship Centers, or sites demonstrating an equivalent program. (5-8-09)

08. Curriculum. The curriculum must encompass a minimum of three (3) academic years of full time graduate study at least one (1) year of which is spent in full-time physical residence at the degree granting educational institution. In addition to instruction in professional areas of competence, which include assessment and diagnosis, intervention, consultation, and supervision, the core program must require each student to demonstrate competence in specific substantive areas. Minimal competence is demonstrated by passing a three (3) credit semester graduate course (or a five (5) credit quarter graduate course) in each of the substantive areas listed below: (3-20-04)

a. Biological Bases of Behavior: Physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology. (7-1-93)

b. Cognitive-Affective Bases of Behavior: Learning, cognition, motivation, emotion. (3-20-04)

c. Social Bases of Behavior: Social psychology, group processes, organizational and systems theory. (7-1-93)

d. Individual Differences: Personality theory, human development, abnormal psychology. (7-1-93)

e. Scientific and Professional Standards and Ethics. (3-20-04)

f. Research Design and Methodology. (3-20-04)

g. Techniques of Data Analysis: statistics, multivariate statistics, factor analysis, multiple regression, non-parametric statistics. (3-20-04)

h. Psychological Measurement: psychometric principles, test theory, personality assessment, cognitive assessment. (3-20-04)

i. History and Systems of Psychology. (3-20-04)

j. Multiculturalism and Individual Diversity. (3-20-04)

501. -- 549. (RESERVED)

550. REQUIREMENTS FOR SUPERVISED PRACTICE.

01. Duration and Setting of Supervised Practice. (7-1-93)

a. A year of supervised experience is defined as a minimum of one thousand (1000) hours of supervised service provision acquired during not less than a twelve (12) month and no more than a thirty-six (36) calendar month period. The first year of supervised experience must be accredited only after acquiring the equivalent of one (1) year of full time graduate study. A second year must be obtained post-doctorally. (5-3-03)

02. Qualifications of Supervisors. Supervising psychologists must be licensed and must have training in the specific area of practice in which they are offering supervision. (7-1-93)

03. Amount of Supervisory Contact. One (1) hour per week of face-to-face individual contact per twenty (20) hours of applicable experience is a minimum. (7-1-93)

04. Evaluation and Accreditation of Supervised Practice. The Board will require submission of information by the supervisor(s) that enable it to evaluate and credit the extent and quality of the candidate's supervised practice*, on a form approved by the Board* *( )*

05. Unacceptable Supervision. Supervised practice time during which the supervisor deems supervisee's performance to have been unacceptable will not be credited towards the required supervised practice hours. (7-1-93)

551. -- 600. (RESERVED)

601. TELEPSYCHOLOGY.
This rule supplements Title 54, Chapter 57, Idaho Code, the Idaho Telehealth Access Act, the American Psychological Association Guidelines for the Practice of Telepsychology, and all other laws and rules applicable to the practice of telepsychology in this state. (3-29-17)

01. Definitions. For purposes of telepychology services, the following terms are defined as follows: (3-29-17)

a. Emergency. Emergency means a situation in which there is an occurrence that poses an imminent threat of a life threatening condition or severe bodily harm. (3-29-17)

b. Information Technology. Information technology means the production, storage, and communication of information using computers and microelectronics including but not limited to telephones, mobile devices, interactive videoconferencing, email, chat, text, social media, and other Internet based services. (3-29-17)

c. Telehealth Provider. Telehealth provider means a person who is licensed, required to be licensed, or, if located outside of Idaho, would be required to be licensed if located in Idaho by Title 54, Chapter 23, Idaho Code and who provides or offers to provide telepsychology services to persons who are located in or who reside in Idaho. (3-29-17)

d. Telepsychology Services. Telepsychology services mean psychological services provided by a provider through the use of electronic communications, information technology, asynchronous store and forward transfer of information or synchronous interaction between the provider at a distant site and a service recipient at an originating site. Such services include, but are not limited to, assessing, testing, diagnosing, treating, educating, and consulting. (3-28-18)

02. General. (3-29-17)

a. When telepsychology services are contemplated, a telehealth provider will document individualized potential benefits and potential risks to the service recipient(s). (3-29-17)

b. Before telepsychology services are provided, a telehealth provider will document an emergency plan in the service recipient's record. The plan will specify the procedure for dealing with emergencies that will in an effective and timely way, provide for the service recipient's welfare. (3-29-17)

c. Except for psycho-educational purposes, the use of avatars for telepsychology services is prohibited. (3-29-17)

03. Initial Contact. Telehealth providers will, upon initial contact with the service recipient except in an emergency, prior to providing telepsychology services, obtain the written, informed consent of the service recipient(s), consistent with accepted professional and legal requirements concerning: (3-28-18)

a. The limitations and challenges of using information technology to provide telepsychology services; (3-28-18)

b. The potential for breaches in confidentiality of information while delivering telepsychology services; (3-28-18)

c. The risks of sudden and unpredictable disruption of telepsychology services and the alternative means by which communication may be re-established. (3-28-18)

04. Informed Consent.Telehealth providers will, upon initial and subsequent contact with the service recipient: (3-29-17)

a. Make reasonable efforts to verify the identity of the service recipient; (3-29-17)

b. Provide to the service recipient alternative means of contacting the telehealth provider should communications be disrupted during the provision of services. (3-29-17)

c. Discuss who, in addition to the provider and the service recipient, may have access to the content of telecommunications between the provider and service recipient; (3-29-17)

d. Inform the service recipient of when and how the provider will respond to electronic messages; (3-29-17)

e. Ensure that a written agreement has been executed with service recipient(s) concerning compensation, billing, and payment arrangements. (3-29-17)

05. Security and Confidentiality. Telehealth providers must: (3-29-17)

a. Use secure communications when providing telepsychology services and document consent for the

use of non-secure communication means when they are necessary; (3-28-18)

b. Document how electronic communications are stored and maintain confidentiality of communications with service recipients; (3-29-17)

c. Ensure that unauthorized persons cannot recover or access confidential electronically-stored information when retained by the provider and after the data or equipment in which the data is stored has been discarded. (3-29-17)

d. Inform service recipients how electronic communications may be sent to the provider and how the provider will store these communications. (3-29-17)

06. Assessment. (3-29-17)

a. When conducting psychological assessments using telepsychology services, telehealth providers must only use test and assessment procedures that are empirically supported for the patient population being evaluated. (3-29-17)

b. Telehealth providers using telepsychology for assessment must ensure that the identity of service recipients remains secure, that test security is maintained, that test-taking conditions are conducive to quiet and private test administration, and that the parameters of the test(s) are not compromised. (3-29-17)

c. Telehealth providers will explain to service recipients the potential limitations of conclusions and recommendations drawn from the results on online assessments and will document these limitations in the findings or report. Treatment will not be based solely upon the results of online assessments. (3-29-17)

07. Interjurisdictional Practice. (3-29-17)

a. Before delivering telepsychology services to recipients across state, territorial, and international boundaries, telehealth providers should familiarize themselves and ensure that they comply with all applicable laws. (3-29-17)

b. Telehealth providers who are licensed to practice psychology pursuant to Title 54, Chapter 23, Idaho Code are under the jurisdiction of the Board when providing telepsychology services to Idaho residents located either within or outside of Idaho and to all recipients located within the state of Idaho. (3-29-17)

c. Except when providing telepsychology services in response to an emergency, telehealth providers who are not licensed to practice psychology in this state, who do not hold a temporary license under Section 300, or who are not otherwise exempt by law, but who are nevertheless providing telepsychology services to recipients located in this state, are guilty of a misdemeanor crime under Chapter 23, Title 54, Idaho Code. (3-29-17)

602. -- 699. (RESERVED)

700. QUALIFICATIONS FOR PROVISIONAL CERTIFICATION OF PRESCRIPTIVE AUTHORITY.
The Board may grant a provisional certification of prescriptive authority to an applicant who holds a current license to practice psychology in Idaho, who completes an application as set forth in Section 100 of these rules, pays the required fee, and who meets the following educational and training qualifications. (4-1-19)

01. Doctoral Degree. The applicant must have been awarded a doctoral degree in psychology from an institution of higher education that meets the requirements in Section 54-2317(2), Idaho Code. (4-1-19)

02. Master's Degree. The applicant must have been awarded a master's degree in clinical psychopharmacology from an accredited program that meets the requirements in Section 54-2317(3), Idaho Code. (4-1-19)

03. Clinical Experience. An applicant must have successfully completed clinical experience as part of the master's clinical psychopharmacology program that includes a diverse population of patients. (4-1-19)

a. Clinical experience must include a minimum of four hundred (400) hours consisting of direct patient contact and collaboration with licensed medical providers involving a minimum of one hundred (100) separate patients. (4-1-19)

b. A diverse population of patients includes diversity in: (4-1-19)

i. Gender; (4-1-19)

ii. Different ages throughout the life cycle, including adults, children/adolescents, and geriatrics, as possible and appropriate; (4-1-19)

iii. Range of disorders listed in the most recent diagnostic and statistical manual of mental disorders published by the American psychiatric association and acute and chronic disorders; (4-1-19)

iv. Ethnicity; (4-1-19)

v. Socio-cultural background; and (4-1-19)

vi. In-patient and out-patient settings, as possible and appropriate. (4-1-19)

04. Examination. An applicant must successfully pass the national examination in psychopharmacology, as approved by the Board under Section 201 of these rules. (4-1-19)

05. Supervision Agreement. An applicant must submit to the Board a supervision agreement that identifies the supervising physician(s) who will directly supervise the applicant's prescribing under a provisional certification of prescriptive authority. The documentation submitted to the Board must also identify: (4-1-19)

a. For each supervising physician, the supervisor's name, address, license number, state in which granted, licensure status, length of licensure, and area of specialization; (4-1-19)

b. For each supervising physician, documentation of the physician's board-certification as a psychiatrist or neurologist or of specialized training and experience in the management of psychotropic medication; (4-1-19)

c. For an applicant seeking to prescribe for pediatric or geriatric patients, the supervising physician(s)' specialized training and experience in treating the patient population for which the applicant seeks to prescribe; (4-1-19)

d. Designate a primary supervising physician when more than one (1) supervising physician is identified. The primary supervising physician will be responsible for coordinating between the other supervising physician(s) to obtain written progress reports at least every six (6) months concerning how the provisional prescribing psychologist is performing in the domains for supervision. (4-1-19)

e. The types of cases for which each supervisor will be responsible for supervising and in which the supervisor has specialized training and experience. (4-1-19)

f. The number of provisional certification holders supervised by each supervising physician. A supervising physician may not concurrently supervise more than three (3) provisional certification holders unless otherwise approved by the Board; and (4-1-19)

g. The name and nature of setting in which the applicant will practice; (4-1-19)

h. Prior to a change in supervisors or a change in the supervision agreement, the supervisee must notify the Board and the change must be approved by the Board, or a designated member of the Board, prior to the commencement of supervision by a new supervisor or implementation of the change. (4-1-19)

701. SUPERVISED PRACTICE OF PROVISIONAL CERTIFICATION HOLDER.
A holder of a provisional certification of prescriptive authority may only prescribe under the supervision of physician(s) approved by the Board. Prior to application for a certification of prescriptive authority, a provisional certification holder must complete two (2) years of satisfactory prescribing, which includes: (4-1-19)

01. Hours of Supervision. A minimum of two thousand (2,000) hours acquired in not less than twenty-four (24) months and not more than forty-eight (48) months. (4-1-19)

a. The two thousand (2,000) hours may consist of direct patient contact, supervision, case consultations, and collaboration with licensed health care providers for the purpose of evaluation and treatment of patients with medication(s) within the formulary set forth in Section 730 of these rules. (4-1-19)

b. Supervised practice time during which the supervisor(s) deem(s) a supervisee's performance to have been unsatisfactory will not be credited towards the required supervised practice hours. A supervisor who believes the supervisee's practice is unsatisfactory should notify the supervisee and the primary supervisor as soon as possible and identify the basis for such conclusion including, but not limited to, specific domains or issues needing remediation. (4-1-19)

02. Number of Patients. A minimum of fifty (50) separate patients who are seen for the purpose of evaluation and treatment with those medications that are within the formulary established in Section 730 of these rules. (4-1-19)

03. Amount of Supervisory Contact. Supervision *must occur* on a one-to-one basis *at a minimum of one (1) hour for each six (6) hours of clinical contact time with patients being seen for the purpose of evaluation and treatment with those medications that are within the formulary established in Section 730 of these rules*. One-to-one supervision must be provided either face-to-face, telephonically, or by live video communication. *( )*

04. Domains for Supervision. Supervision must include assessment of the provisional certification holder with regard to each of the following domains: (4-1-19)

a. Basic science; (4-1-19)

b. Neurosciences; (4-1-19)

c. Physical assessments and laboratory exams; (4-1-19)

d. Clinical medicine and pathophysiology; (4-1-19)

e. Clinical and research pharmacology and psychopharmacology; (4-1-19)

f. Clinical pharmacotherapeutics; (4-1-19)

g. Research; and (4-1-19)

h. Professional, ethical, and legal issues. (4-1-19)

702. QUALIFICATIONS TO PRESCRIBE FOR PEDIATRIC OR GERIATRIC PATIENTS.
A prescribing psychologist may not prescribe for pediatric or geriatric patients unless approved by the Board. The Board may *only* grant prescriptive authority for pediatric patients or geriatric patients to an applicant for certification of prescriptive authority who has completed one (1) year of satisfactory prescribing, as attested to by the supervising physician, for the patient population for which the prescribing psychologist seeks to prescribe. *( )*

01. Credit Toward Certification. The one (1) year of satisfactory prescribing for a pediatric or geriatric population may be counted as one (1) year of the two (2) years of satisfactory prescribing required to qualify for a certification of prescriptive authority. (4-1-19)

02. Hours of Supervision. One (1) year of satisfactory prescribing includes a minimum of one

thousand (1,000) hours acquired in not less than twelve (12) months and not more than twenty-four (24) months. (4-1-19)

a. The one thousand (1,000) hours may consist of direct patient contact, supervision, case consultations, and collaboration with licensed medical providers for the purpose of evaluation and treatment of patients with medication(s) within the formulary set forth in Section 730 of these rules. A minimum of eight hundred (800) hours of the one thousand (1,000) hours must be directly related to the population for which the prescribing psychologist seeks to prescribe. (4-1-19)

b. Supervised practice time during which the supervisor(s) deem(s) a supervisee's performance to have been unsatisfactory will not be credited towards the required supervised practice hours. A supervisor who believes the supervisee's practice is unsatisfactory *should* notify the supervisee and the primary supervisor as soon as possible and identify the basis for such conclusion including, but not limited to, specific domains or issues needing remediation. *( )*

03. Number of Patients. One (1) year of satisfactory prescribing includes a minimum of twenty-five (25) separate patients in the population for which the prescribing psychologist seeks to prescribe and who are seen for the purpose of evaluation and treatment with those medications that are within the formulary established in Section 730 of these rules. For a prescribing psychologist who seeks to prescribe for pediatric patients, a minimum of ten (10) separate patients must be twelve (12) years of age or younger and a minimum of ten (10) separate patients must be between thirteen (13) years of age and seventeen (17) years of age. (4-1-19)

04. Amount of Supervisory Contact. Supervision must be *obtained* in accordance with Subsection 701.03 of these rules, and under a supervision agreement approved by the Board in accordance with Subsection 700.05 of these rules. *( )*

05. Domains for Supervision. Supervision must include assessment in each of the domains set forth in Subsection 701.04 of these rules. (4-1-19)

703. -- 709. (RESERVED)

710. QUALIFICATIONS FOR CERTIFICATION OF PRESCRIPTIVE AUTHORITY.
The Board may grant a certification of prescriptive authority to an applicant who completes an application as set forth in Section 100 of these rules and who meets the following educational and training qualifications. (4-1-19)

01. Holds a License to Practice Psychology. The applicant must hold a current license to practice psychology issued by the Board. (4-1-19)

02. Holds Provisional Certification. The applicant must hold a provisional certification of prescriptive authority issued by the Board. (4-1-19)

03. Supervision. The applicant must have successfully completed at least two (2) years of satisfactory prescribing under supervision that meets the requirements of Section 701 of these rules, as attested to by the supervising physician(s). (4-1-19)

711. -- 719. (RESERVED)

720. STANDARDS OF PRACTICE FOR PRESCRIPTIVE AUTHORITY.
A prescribing psychologist who issues a prescription for medication to a patient must collaborate with the patient's licensed medical provider and follow standards of practice as set forth in these rules. (4-1-19)

01. Licensed Medical Provider. A prescribing psychologist may only prescribe medication to a patient who has a licensed medical provider. If a patient does not have a licensed medical provider, the prescribing psychologist must refer the patient to a licensed medical provider prior to prescribing medication. (4-1-19)

a. In the event a patient terminates the relationship with the patient's licensed medical provider, with whom the prescribing psychologist has established a collaborative relationship, and the patient declines to secure a

new licensed medical provider, the prescribing psychologist must advise the patient that the prescribing psychologist cannot continue to psychopharmacologically manage the patient. (4-1-19)

b. The prescribing psychologist must document that the psychologist has made every reasonable effort to encourage the patient to maintain or establish a relationship with a licensed medical provider. (4-1-19)

c. In those cases, in which an abrupt discontinuation of a psychopharmacologic medication could represent a health risk or result in adverse effects, the prescribing psychologist, with concurrence from the previously established licensed medical provider, may prescribe the medication in a manner that is customarily recognized as a discontinuation regimen until the medication has been completely discontinued. The prescribing psychologist must document the discontinuation regimen in the patient's medical records. (4-1-19)

02. Release of Information. A prescribing psychologist must obtain a release of information from the patient or the patient's legal guardian authorizing the psychologist to contact the patient's licensed medical provider. If the patient or the patient's legal guardian refuses to sign a release of information for the patient's licensed medical provider, the prescribing psychologist must inform the patient or the patient's legal guardian that the psychologist cannot treat the patient pharmacologically without an ongoing collaborative relationship with the patient's licensed medical provider. The psychologist must refer the patient to another mental health care provider who is not required to maintain an ongoing collaborative relationship with a licensed medical provider. (4-1-19)

03. Initial Collaboration with Licensed Medical Provider. Prior to prescribing medication, a prescribing psychologist must contact the patient's licensed medical provider as provided in these rules and receive the results of the licensed medical provider's assessment. (4-1-19)

a. The prescribing psychologist must inform the licensed medical provider of: (4-1-19)

i. The medication(s) the prescribing psychologist intends to prescribe for mental, nervous, emotional, behavioral, substance abuse, cognitive disorders; and (4-1-19)

ii. Any laboratory tests that the prescribing psychologist ordered or reviewed. (4-1-19)

b. The prescribing psychologist must discuss with the licensed medical provider the relevant indications and contraindications to the patient of prescribing the medication(s) that the prescribing psychologist intends to prescribe. (4-1-19)

c. The prescribing psychologist must document the date and time of contacts with the licensed medical provider, a summary of what was discussed, and the outcome of the discussions or decisions reached. (4-1-19)

04. Ongoing Collaboration with Licensed Medical Provider. After the initial collaborative relationship with the patient's licensed medical provider is established, the prescribing psychologist must maintain and document the collaborative relationship to ensure that relevant information is exchanged accurately and in a timely manner. At a minimum the prescribing psychologist must: (4-1-19)

a. Contact the licensed medical provider for any changes in medication not previously discussed with the licensed medical provider. (4-1-19)

b. Contact the licensed medical provider if and when the patient experiences adverse effects from medications prescribed by the psychologist that may be related to the patient's medical condition for which he or she is being treated by a health care practitioner. (4-1-19)

c. Contact the licensed medical provider regarding results of laboratory tests related to the medical care of the patient that have been ordered by the psychologist in conjunction with psychopharmacological treatment. (4-1-19)

d. Inform the licensed medical provider as soon as possible of any change in the patient's psychological condition that may affect the medical treatment being provided by the licensed medical provider.

(4-1-19)

e. Request that as part of the collaborative relationship, the licensed medical provider inform the prescribing psychologist of any new medical diagnosis or changes in the patient's medical condition that may affect the treatment being provided by the prescribing psychologist. (4-1-19)

f. Request that as part of the collaborative relationship, the licensed medical provider inform the prescribing psychologist of any psychotropic medications prescribed or discontinued by the licensed medical provider or other licensed medical provider, of which the licensed medical provider is aware, the dates of any subsequent changes in psychotropic medications prescribed by the licensed medical provider or other licensed medical provider, of which the licensed medical provider is aware, and the efforts to coordinate the mental health care of the patient as soon as possible. (4-1-19)

05. Disagreement between Prescribing Psychologist and Licensed Medical Provider. If the licensed medical provider and the prescribing psychologist do not agree about a particular psychopharmacological treatment strategy, the prescribing psychologist must document the reasons for recommending the psychopharmacological treatment strategy that is in disagreement and must inform the licensed medical provider of that recommendation. If the licensed medical provider believes the medication is contraindicated because of a patient's medical condition, the prescribing psychologist must defer to the judgment of the licensed medical provider and may not prescribe that psychopharmacological treatment strategy. (4-1-19)

06. Prohibited Agreements with Licensed Medical Providers. A prescribing psychologist is prohibited from employing a licensed medical provider or entering into an independent contractor or similar contractual or financial relationship with a licensed medical provider with whom the prescribing psychologist collaborates, unless approved by the Board. The Board may grant an exception to this requirement on a case-by-case basis where the prescribing psychologist shows that such relationship is structured so as to prohibit interference with the licensed medical provider's relationship with patients, the licensed medical provider's exercise of independent medical judgment, and satisfaction of the obligations and responsibilities in Chapter 23, Title 57, Idaho Code, and these rules. (4-1-19)

07. Prescriptions. All prescriptions issued by a prescribing psychologist must comply with all applicable federal and state laws, rules and regulations and these rules. (4-1-19)

08. Emergencies. If a prescribing psychologist determines that an emergency exists that may jeopardize the health or well being of the patient, the prescribing psychologist may, without prior consultation with the patient's licensed medical provider, prescribe psychotropic medications or modify an existing prescription for psychotropic medication previously written for that patient by that prescribing psychologist. The prescribing psychologist must consult with the licensed medical provider as soon as possible. The prescribing psychologist must document in the patient's psychological evaluation/treatment records the nature and extent of the emergency and the attempt(s) made to contact the licensed medical provider prior to prescribing or other reason why contact could not be made. (4-1-19)

09. Disaster Areas. If a prescribing psychologist is working in a declared emergency/disaster area, the on-site medical staff can serve as the evaluating licensed medical provider. (4-1-19)

721. -- 729. (RESERVED)

730. FORMULARY.

A prescribing psychologist may prescribe medications and controlled substances that are recognized in or customarily used in the diagnosis, treatment and management of individuals with mental, nervous, emotional, behavioral, substance abuse and cognitive disorders and that are relevant to the practice of psychology or other procedures directly related thereto under the following limitations. (4-1-19)

01. Prohibited Medications and Controlled Substances. A prescribing psychologist may not prescribe: (4-1-19)

a. Any medication or controlled substance designated or included as a Schedule I controlled

substance; or (4-1-19)

b. Any opioid. (4-1-19)

02. Disorders and Conditions. A prescribing psychologist may not prescribe medication to treat a primary endocrine, cardiovascular, orthopedic, neurologic, gynecologic, obstetric, metabolic, hematologic, respiratory, renal, gastrointestinal, hepatic, dermatologic, oncologic, infectious, ophthalmologic, or rheumatologic illness or disorder. The provisions of this rule do not prohibit a prescribing psychologist from prescribing to treat a mental, nervous, emotional, behavioral, substance abuse or cognitive disorder that arises secondary to a primary physical illness, provided that the primary illness is being treated *by a licensed medical provider* and the prescribing psychologist collaborates with the patient's licensed medical provider, as provided in these rules. *( )*

731. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.13.01 – RULES GOVERNING THE PHYSICAL THERAPY LICENSURE BOARD

DOCKET NO. 24-1301-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2206, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.13.01, rules governing the Physical Therapy Licensure Board.

IDAPA 24.13.01

- 24.13.01, *Rules Governing the Physical Therapy Licensure Board*: all proposed rules except 150.07 and 150.09.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.13.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules Governing the Physical Therapy Licensure Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.13.01, the Rules Governing the Physical Therapy Licensure Board. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4730 - 4741.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 65-2207, Idaho Code, as follows:

Initial licensure and annual renewal fee of a physical therapist: not to exceed $25;
Initial licensure and annual renewal fee of a physical therapist assistant: not to exceed $20;
Examination fee: not to exceed $20;
Application fee: not to exceed $25.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY (RULE 0).
These rules are hereby prescribed and established pursuant to the authority vested in the Physical Therapy Licensure Board by the provisions of Section 54-2206, Idaho Code. (3-19-07)

001. TITLE AND SCOPE (RULE 1).
The rules are titled IDAPA 24.13.01, "Rules Governing the Physical Therapy Licensure Board." (3-19-07)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS (RULE 10).

01. Physical Therapist Assistant. An individual who meets the requirements of Title 54, Chapter 22, Idaho Code, holds an active license, and who performs physical therapy procedures and related tasks that have been selected and delegated only by a supervising physical therapist. (3-19-07)

02. Supportive Personnel. An individual, or individuals, who are neither a physical therapist or a physical therapist assistant, but who are employed by and/or trained under the direction of a licensed physical therapist to perform designated non-treatment patient related tasks and routine physical therapy tasks. (3-19-07)

03. Non-Treatment Patient Related Tasks. Actions and procedures related to patient care that do not involve direct patient treatment or direct personal supervision, but do require a level of supervision not less than general supervision, including, but not limited to: treatment area preparation and clean-up, equipment set-up, heat and cold pack preparation, preparation of a patient for treatment by a physical therapist or physical therapist assistant, transportation of patients to and from treatment, and assistance to a physical therapist or physical therapist assistant when such assistance is requested by a physical therapist or physical therapist assistant when safety and effective treatment would so require. (3-19-07)

04. Routine Physical Therapy Tasks. Actions and procedures within the scope of practice of physical therapy, which do not require the special skills or training of a physical therapist or physical therapist assistant, rendered directly to a patient by supportive personnel at the request of and under the direct personal supervision of a physical therapist or physical therapist assistant. (3-19-07)

05. Testing. (3-19-07)

a. Standard methods and techniques used in the practice of physical therapy to gather data about individuals including: (3-19-07)

i. Electrodiagnostic and electrophysiological measurements; (3-19-07)

ii. Assessment or evaluation of muscle strength, force, endurance and tone; (3-19-07)

iii. Reflexes; (3-19-07)

iv. Automatic reactions; (3-19-07)

v. Posture and body mechanics; (3-19-07)

vi. Movement skill and accuracy; (3-19-07)

vii. Joint range of motion and stability; (3-19-07)

viii. Sensation; (3-19-07)

ix. Perception; (3-19-07)

x. Peripheral nerve function integrity; (3-19-07)

xi. Locomotor skills; (3-19-07)

xii. Fit, function and comfort of prosthetic, orthotic, and other assistive devices; (3-19-07)

xiii. Limb volume, symmetry, length and circumference; (3-19-07)

xiv. Clinical evaluation of cardiac and respiratory status to include adequacy of pulses, noninvasive assessment of peripheral circulation, thoracic excursion, vital capacity, and breathing patterns; (3-19-07)

xv. Vital signs such as pulse, respiratory rate, and blood pressure; (3-19-07)

xvi. Activities of daily living; and the physical environment of the home and work place; and (3-19-07)

xvii. Pain patterns, localization and modifying factors; and (3-19-07)

xviii. Photosensitivity. (3-19-07)

b. Specifically excluded are the ordering of electromyographic study, electrocardiography, thermography, invasive vascular study, selective injection tests, or complex cardiac or respiratory function studies without consultation and direction of a physician. (3-19-07)

06. Functional Mobility Training. Includes gait training, locomotion training, and posture training. (3-19-07)

07. Manual Therapy. Skilled hand movements to mobilize or manipulate soft tissues and joints for the purpose of: (3-19-07)

a. Modulating pain, increasing range of motion, reducing or eliminating soft tissue swelling, inflammation or restriction; (3-19-07)

b. Inducing relaxation; (3-19-07)

c. Improving contractile and non-contractile tissue extensibility; and (3-19-07)

d. Improving pulmonary function. (3-19-07)

08. Dry Needling. A skilled intervention performed by a physical therapist that uses a thin filiform needle to penetrate the skin and stimulate underlying neural, muscular, and connective tissues for the evaluation and management of neuromusculoskeletal conditions, pain and movement impairments. (4-11-19)

09. Physical Agents or Modalities. Thermal, acoustic, radiant, mechanical, or electrical energy used to produce physiologic changes in tissues. (3-19-07)

10. General Supervision. A physical therapist's availability at least by means of telecommunications, which does not require a physical therapist to be on the premises where physical therapy is being provided, for the direction of a physical therapist assistant. (3-19-07)

11. Direct Supervision. A physical therapist's or physical therapist assistant's physical presence and availability to render direction in person and on the premises where physical therapy is being provided. (3-19-07)

12. Direct Personal Supervision. A physical therapist's or physical therapist assistant's direct and continuous physical presence and availability to render direction, in person and on the premises where physical therapy is being provided. The physical therapist or physical therapist assistant must have direct contact with the patient during each session and assess patient response to delegated treatment. (3-19-07)

13. Supervising Physical Therapist. A licensed physical therapist who developed and recorded the initial plan of care and/or who has maintained regular treatment sessions with a patient. Such physical therapist's designation of another licensed physical therapist if the physical therapist who developed and recorded the initial plan of care or maintained regular treatment sessions is not available to provide direction at least by means of

telecommunications. (3-19-07)

14. Nationally Accredited School. A school or course of physical therapy or physical therapist assistant with a curriculum approved by: (3-19-07)

a. The American Physical Therapy Association (APTA) from 1926 to 1936; or the APTA Accreditation Commission; or (3-19-07)

b. The Council on Medical Education and Hospitals of the American Medical Association from 1936 to 1960; or (3-19-07)

c. An accrediting agency recognized by the U.S. Department of Education, the Council on Postsecondary Accreditation, or a successor entity, or both. (4-7-11)

15. Examination. The examination is the National Physical Therapy Examination (NPTE) administered by Federation of State Boards of Physical Therapy. The examination may also include a jurisprudence examination adopted by the Board. (4-2-08)

011. -- 015. (RESERVED)

016. SUPERVISION (RULE 16).
A physical therapist shall supervise and be responsible for patient care given by physical therapist assistants, supportive personnel, physical therapy students, and physical therapist assistant students. (3-19-07)

01. Procedures and Interventions Performed Exclusively by Physical Therapist. The following procedures and interventions shall be performed exclusively by a physical therapist: (3-19-07)

a. Interpretation of a referral for physical therapy if a referral has been received. (3-19-07)

b. Performance of the initial patient evaluation and problem identification including a diagnosis for physical therapy and a prognosis for physical therapy. (3-19-07)

c. Development or modification of a treatment plan of care which is based on the initial evaluation and which includes long-term and short-term physical therapy treatment goals. (3-19-07)

d. Assessment of the competence of physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel to perform assigned procedures, interventions and routine tasks. (3-19-07)

e. Selection and delegation of appropriate portions of treatment procedures, interventions and routine physical therapy tasks to the physical therapist assistants, physical therapy students, physical therapist assistant students, and supportive personnel. (3-19-07)

f. Performance of a re-evaluation when any change in a patient's condition occurs that is not consistent with the physical therapy treatment plan of care, patient's anticipated progress, and physical therapy treatment goals. (3-19-07)

g. Performance and documentation of a discharge evaluation and summary of the physical therapy treatment plan. (3-19-07)

h. Performance of dry needling. (4-11-19)

02. Supervision of Physical Therapist Assistants. A physical therapist assistant must be supervised by a physical therapist by no less standard than general supervision. (3-19-07)

a. A physical therapist assistant must not change a procedure or intervention unless such change of procedure or intervention has been included within the treatment plan of care as set forth by a physical therapist.

(3-19-07)

b. A physical therapist assistant may not continue to provide treatment as specified under a treatment plan of care if a patient's condition changes such that further treatment necessitates a change in the established treatment plan of care unless the physical therapist assistant has consulted with the supervising physical therapist prior to the patient's next appointment for physical therapy, and a re-evaluation is completed by the supervising physical therapist. (3-19-07)

c. The supervising physical therapist must provide direct personal contact with the patient and assess the plan of care on or before every ten (10) visits or once a week if treatment is performed more than once per day but no less often than once every sixty (60) days. The supervising therapist's assessment must be documented in the patient record. (3-20-14)

d. A physical therapist assistant may refuse to perform any procedure, intervention, or task delegated by a physical therapist when such procedure, intervention, or task is beyond the physical therapist assistant's skill level or scope of practice standards. (3-19-07)

e. A physical therapist is not required to co-sign any treatment related documents prepared by a physical therapist assistant, unless required to do so in accordance with law, or by a third-party. (3-19-07)

03. Supervision of Supportive Personnel. Any routine physical therapy tasks performed by supportive personnel requires direct personal supervision. (3-19-07)

04. Supervision of Physical Therapy and Physical Therapist Assistant Students. Supervision of physical therapy students and physical therapist assistant students requires direct supervision. (3-19-07)

a. A physical therapy student is only supervised by the direct supervision of a physical therapist. (3-19-07)

b. A physical therapy student is required to sign all treatment notes with the designation "SPT" after their name, and all such signatures require the co-signature of the supervising physical therapist. (3-19-07)

c. A physical therapist assistant student is required to sign all treatment notes with the designation "SPTA" after their name, and all such signatures require the co-signature of the supervising physical therapist or supervising physical therapist assistant. (3-19-07)

05. Supervision Ratios. (3-19-07)

a. At no time during the treatment of a patient or patients for physical therapy may the number of physical therapist assistants providing such treatment be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

b. At no time during the treatment of a patient or patients for physical therapy may the number of supportive personnel performing routine physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

c. At no time during the treatment of a patient or patients for physical therapy may the number of physical therapy students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

d. At no time during the treatment of a patient or patients for physical therapy may the number of physical therapist assistant students performing delegated supervised physical therapy tasks be more than twice in number of such supervising physical therapist(s) or supervising physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

e. At no time during the treatment of a patient or patients for physical therapy shall the number of physical therapist assistants, physical therapy students, physical therapist assistants students, and supportive personnel, or a combination thereof, performing delegated supervised physical therapy or routine physical therapy tasks be more than three (3) times in number of such physical therapist(s) providing physical therapy treatment at any physical therapy practice or site; nor may the number of physical therapist assistant students or supportive personnel, or a combination thereof, performing delegated and supervised physical therapy tasks or routine physical therapy tasks be more than twice in number of such physical therapist assistant(s) providing physical therapy treatment at any physical therapy practice or site. (3-19-07)

017. -- 099. (RESERVED)

100. MEETINGS AND ORGANIZATION (RULE 100).

01. Meetings. The Board meets at least once annually at such time and place as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman or any two (2) members, and all members shall be notified in writing. (3-19-07)

02. Voting. A quorum is three (3) Board members. A majority vote of Board members present is considered the action of the Board as a whole. Any motion before the Board fails on a tie vote. (3-19-07)

101. -- 149. (RESERVED)

150. APPLICATION (RULE 150).
Each applicant must submit a completed written application on forms provided by the Board together with applicable fees. The application must be verified under oath and requires the following information: (3-19-07)

01. Education. The educational background of the applicant; (3-19-07)

02. Evidence of Graduation. Evidence of graduation from a nationally accredited school; (3-19-07)

03. Criminal Convictions. The disclosure of any criminal conviction or charges against the applicant other than minor traffic offenses; (3-19-07)

04. Disciplinary Action. The disclosure of any disciplinary action against the applicant by any professional regulatory agency; (3-19-07)

05. License or Registration Denial. The disclosure of the denial of registration or licensure by any state or district regulatory body; (3-19-07)

06. References. Two (2) references from individuals, other than relatives or individuals living with the applicant, who have at least two (2) years of personal knowledge of the applicant's character and ability to provide physical therapy; and (3-19-07)

07. Other Information. Such other information as the Board deems necessary to identify and evaluate the applicant's credentials. (3-19-07)

08. Lack of Activity. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months is deemed denied and will be terminated upon thirty (30) days written notice unless good cause is established to the Board. (4-7-11)

151. -- 174. (RESERVED)

175. REQUIREMENTS FOR LICENSURE (RULE 175).
An individual shall be entitled to a license upon meeting the following requirements: (4-2-08)

01. Application. Submission of a complete application establishing that the individual has met the qualifications as set forth in these rules. (4-2-08)

02. Examination. Submission of proof that the individual has successfully passed the NPTE with a scaled score of at least six hundred (600) and the jurisprudence examination with a score of at least seventy-five percent (75%). Foreign educated individuals whose native language is not English must submit proof of successfully passing one (1) of the following English proficiency exams: (4-7-11)

a. Test of English as a Foreign Language (TOEFL) with minimum passing scores of two hundred twenty (220) for computer test and five hundred sixty (560) for paper test; (4-7-11)

b. Test of English as a Foreign Language - internet based test (TOEFL IBT) with minimum passing scores of twenty-four (24) in writing; twenty-six (26) in speaking, twenty-one (21) in reading, and eighteen (18) in listening; or (4-7-11)

c. As otherwise approved by the Board. (4-7-11)

176. -- 179. (RESERVED)

180. REQUIREMENTS TO PRACTICE DRY NEEDLING (RULE 180).
A physical therapist, with at least one (1) year of practice as a licensed physical therapist, may perform dry needling upon successful completion of education and training in dry needling that meets the following requirements: (4-11-19)

01. Length of Course. The education and training consists of a minimum of twenty-seven (27) hours of in-person instruction of which no less than sixteen (16) hours must be hands-on application of dry needling techniques by the physical therapist; (4-11-19)

02. Safety Training. The education and training includes instruction and training on indications/ contraindications for dry needling, safe needling technique, and blood borne pathogens; (4-11-19)

03. Course Approval. Each course is approved by the Federation of State Boards of Physical Therapy (FSBPT) or another nationally recognized accrediting body of physical therapy that is approved by the Board; and (4-11-19)

04. Proficiency Assessment. Each course requires successful completion of an assessment of proficiency in dry needling, which includes a practical demonstration of the physical therapist's dry needling skills. (4-11-19)

05. Course Completion. Completion of this education and training may have occurred prior to the effective date of these rules. (4-11-19)

181. PRACTICE OF DRY NEEDLING (RULE 181).
A physical therapist who practices dry needling must maintain documentation of having satisfied the requirements of Section 180 of these rules and must obtain and maintain documentation of written informed consent from patients. (4-11-19)

01. Documentation of Training. Upon request by the Board, a physical therapist must produce documentation of having satisfied the education and training requirements in Section 180 of these rules. (4-11-19)

02. Written Informed Consent. Prior to performing dry needling on a patient, the physical therapist must provide the patient with information that includes a definition and description of the practice of dry needling and a description of the risks, benefits, and potential side effects of dry needling and obtain the patient's written consent to treatment, which documentation must be maintained as part of the patient record. (4-11-19)

182. -- 199. (RESERVED)

200. FEES (RULE 200).
All fees are non-refundable.

FEE TYPE	AMOUNT (Not to Exceed)	RENEWAL (Not to Exceed)
Physical Therapist License	$25	$25
Physical Therapist Assistant License	$20	$20
Examination	Established by examination entity plus an administrative fee not to exceed $20	
Reinstatement	As provided in Section 67-2614, Idaho Code	
Application	$25	

( )

201. -- 249. (RESERVED)

250. CONTINUING EDUCATION REQUIREMENT (RULE 250).

01. Renewal of License. Every person holding a license issued by the Board must annually complete sixteen (16) contact hours of continuing education prior to license renewal. (3-28-18)

02. Reinstatement of License. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, with the exception that the applicant must submit proof of having met the following continuing education requirement: (3-28-18)

a. For licenses expired for one (1) year or less, one (1) year of continuing education; (3-28-18)

b. For licenses expired for more than one (1) year and up to two (2) years, two (2) years of continuing education; (3-28-18)

c. For licenses expired for more than two (2) years, three (3) years of continuing education. (3-28-18)

03. Contact Hours. The contact hours of continuing education must be obtained in areas of study germane to the practice for which the license is issued as approved by the board. (3-19-07)

04. Documentation of Attendance. The applicant must provide documentation verifying attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee. This documentation must be maintained by the licensee and provided to the board upon request by the board or its agent. (3-19-07)

05. Excess Hours. Continuing education hours accumulated during the twelve (12) months immediately preceding the license expiration date may be applied toward meeting the continuing education requirement for the next license renewal. Hours in excess of the required hours may be carried forward. Excess hours may be used only during the next renewal period and may not be carried forward more than one (1) time. (3-19-07)

06. Compliance Audit. The board may conduct random continuing education audits of those persons required to obtain continuing education in order to renew a license and require that proof acceptable to the board of meeting the continuing education requirement be submitted to the bureau. Failure to provide proof of meeting the continuing education upon request of the board are grounds for disciplinary action. (3-19-07)

07. Special Exemption. The board has authority to make exceptions for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must provide any

information requested by the board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the board. (3-19-07)

08. Continuing Education Credit Hours. Hours of continuing education credit may be obtained by attending and participating in a continuing education activity approved by the Board. (3-19-07)

a. General Criteria. A continuing education activity which meets all of the following criteria is appropriate for continuing education credit: (3-19-07)

i. Constitutes an organized program of learning which contributes directly to the professional competency of the licensee; (3-19-07)

ii. Pertains to subject matters integrally related and germane to the practice of the profession; (3-19-07)

iii. Conducted by individuals who have specialized education, training and experience to be considered qualified to present the subject matter of the program. The Board may request documentation of the qualifications of presenters; (3-19-07)

iv. Application for Board approval is accompanied by a paper, manual or outline which describes the specific offering and includes the program schedule, goals and objectives; and (3-19-07)

v. Provides proof of attendance to licensees in attendance including: Date, location, course title, presenter(s); Number of program contact hours (One (1) contact hour equals one (1) hour of continuing education credit.); and the official signature or verification of the program sponsor. (3-19-07)

b. Specific Criteria. Continuing education hours of credit may be obtained by: (3-19-07)

i. Presenting professional programs which meet the criteria listed in these rules. Two (2) hours of credit will be awarded for each hour of presentation by the licensee. A course schedule or brochure must be maintained for audit; (3-19-07)

ii. Providing official transcripts indicating successful completion of academic courses which apply to the field of physical therapy in order to receive the following continuing education credits: (3-19-07)

(1) One (1) academic semester hour = fifteen (15) continuing education hours of credit; (3-19-07)

(2) One (1) academic trimester hour = twelve (12) continuing education hours of credit; (3-19-07)

(3) One (1) academic quarter hour = ten (10) continuing education hours of credit. (3-19-07)

iii. Attending workshops, conferences, symposiums or electronically transmitted, live interactive conferences which relate directly to the professional competency of the licensee; (3-19-07)

iv. Authoring research or other activities that are published in a recognized professional publication. The licensee will receive five (5) hours of credit per page; (3-19-07)

v. Viewing videotaped presentations if the following criteria are met: (3-19-07)

(1) There is a sponsoring group or agency; (3-19-07)

(2) There is a facilitator or program official present; (3-19-07)

(3) The program official may not be the only attendee; and (3-19-07)

(4) The program meets all the criteria specified in these rules; (3-19-07)

vi. Participating in home study courses that have a certificate of completion; (3-19-07)

vii. Participating in courses that have business-related topics: marketing, time management, government regulations, and other like topics; (3-19-07)

viii. Participating in courses that have personal skills topics: career burnout, communication skills, human relations, and other like topics; (4-7-11)

ix. Participating in courses that have general health topics: clinical research, CPR, child abuse reporting, and other like topics; (3-29-12)

x. Supervision of a physical therapist student or physical therapist assistant student in an accredited college program. The licensee will receive four (4) hours of credit per year; and (3-29-12)

xi. Completion and awarding of Board Certification or recertification by American Board of Physical Therapy Specialists (ABPTS). The licensee will receive sixteen (16) hours for the year the certification or recertification was received. (3-29-12)

09. Course Approval. Courses of study relevant to physical therapy and sponsored or provided by the following entities or organizations are approved for continuing education credits: (3-29-12)

a. The American Physical Therapy Association (APTA) or any of its sections or local chapters; or (3-29-12)

b. The Federation of State Boards of Physical Therapy (FSBPT); or (3-29-12)

c. Commission on Accreditation in Physical Therapy Education (CAPTE); or (3-29-12)

d. National Athletic Trainers Association (NATA); or (3-29-12)

e. A College or University which is accredited or a candidate for accreditation by the Northwest Association of Secondary and Higher Schools or any similar accrediting body; or (3-29-12)

f. Otherwise approved by the Board. (3-29-12)

10. Submitting False Reports or Failure to Comply. The Board may condition, limit, suspend, or refuse to renew the license of any individual whom the Board determines submitted a false report of continuing education or failed to comply with the continuing education requirements. (3-19-07)

11. Failure to Receive the Renewal Application. Failure to receive the renewal application does not relieve the licensee of the responsibility of meeting the continuing education requirements and submitting the renewal application and renewal fee. (3-19-07)

251. -- 274. (RESERVED)

275. DISCIPLINARY PENALTY (RULE 275).

01. Disciplinary Procedures. The disciplinary procedures of the Bureau are the disciplinary procedures of the Board. (3-19-07)

02. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) for each violation upon anyone licensed under Title 54, Chapter 22, Idaho Code who is found by the Board to be in violation of Section 54-2219, Idaho Code. (3-19-07)

03. Costs and Fees. The Board may order anyone licensed under Title 54, Chapter 22, Idaho Code, who is found by the Board to be in violation of the provisions of Title 54, Chapter 22, Idaho Code, to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee. (3-19-07)

276. -- 299. (RESERVED)

300. CODE OF ETHICS (RULE 300).
Physical therapists and physical therapist assistants are responsible for maintaining and promoting ethical practice in accordance with the ethical principles set forth in Appendix A and Appendix B to these rules. (3-19-07)

301. -- 999. (RESERVED)

Appendix A - Physical Therapist Code Of Ethics

Preamble
This Code of Ethics of the American Physical Therapy Association sets forth principles for the ethical practice of physical therapy. All physical therapists are responsible for maintaining and promoting ethical practice. To this end, the physical therapist shall act in the best interest of the patient/client. This Code of Ethics shall be binding on all physical therapists.

Principle 1
A physical therapist shall respect the rights and dignity of all individuals and shall provide compassionate care.

Principle 2
A physical therapist shall act in a trustworthy manner toward patients/clients and in all other aspects of physical therapy practice.

Principle 3
A physical therapist shall comply with laws and regulations governing physical therapy and shall strive to effect changes that benefit patients/clients.

Principle 4
A physical therapist shall exercise sound professional judgment.

Principle 5
A physical therapist shall achieve and maintain professional competence.

Principle 6
A physical therapist shall maintain and promote high standards for physical therapy practice, education, and research.

Principle 7
A physical therapist shall seek only such remuneration as is deserved and reasonable for physical therapy services.

Principle 8
A physical therapist shall provide and make available accurate and relevant information to patients/clients about their care and to the public about physical therapy services.

Principle 9
A physical therapist shall protect the public and the profession from unethical, incompetent, and illegal acts.

Principle 10
A physical therapist shall endeavor to address the health needs of society.

Principle 11
A physical therapist shall respect the rights, knowledge, and skills of colleagues and other health care professionals.

APPENDIX B - PHYSICAL THERAPIST ASSISTANT CODE OF ETHICS

Preamble
This document of the American Physical Therapy Association sets forth standards for the ethical conduct of the physical therapist assistant. All physical therapist assistants are responsible for maintaining high standards of conduct while assisting physical therapists. The physical therapist assistant shall act in the best interest of the patient/client. These standards of conduct shall be binding on all physical therapist assistants.

Standard 1
A physical therapist assistant shall respect the rights and dignity of all individuals and shall provide compassionate care.

Standard 2
A physical therapist assistant shall act in a trustworthy manner toward patients/clients.

Standard 3
A physical therapist assistant shall provide selected physical therapy interventions only under the supervision and direction of a physical therapist.

Standard 4
A physical therapy assistant shall comply with laws and regulations governing physical therapy.

Standard 5
A physical therapist assistant shall achieve and maintain competence in the provision of selected physical therapy interventions.

Standard 6
A physical therapist assistant shall make judgments that are commensurate with his or her educational and legal qualifications as a physical therapist assistant.

Standard 7
A physical therapist assistant shall protect the public and the profession from unethical, incompetent, and illegal acts.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.14.01 – RULES OF THE STATE BOARD OF SOCIAL WORK EXAMINERS

DOCKET NO. 24-1401-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3204, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.14.01, rules of the State Board of Social Work Examiners:

IDAPA 24.14.01

- 24.14.01, *Rules of the State Board of Social Work Examiners*: all proposed rules except 075, 150.01, 150.02, 200.01, 200.02, 201.04, 201.05, 210.04.a., 210.04.b., 210.04.d., 210.04.e., 211.03.c., 225.02.b., 225.02.d., 350.01, 350.03, 351.01.d., 351.01.i., 351.01.j., 351.04.d., and 351.04.e.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.14.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Board of Social Work Examiners was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.14.01, the Rules of the State Board of Social Work Examiners. On July 23, 2019, the State Board of Social Work Examiners held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Further, the pending fee rule removes the term good moral character and replaces it with the defined term professionalism, clarifying the expectation of applicants and licensees. This pending fee rule removes the term any felony from the endorsement section and replaces it with the phrase any crime that is inconsistent with the profession of social work and adds criteria for the Board to evaluate the compatibility of the crime with the practice of social work. This change which will clarify what information the Board is requesting and provide notice to applicants on how the Board will evaluate a conviction. This pending fee rule also will allow for live electronic supervisions sessions between a supervisor and a supervisee, allowing licensees alternative pathways to attain the required supervised experience. This pending fee rule also clarifies the continuing education requirement for inactive licensees desiring to return to active status. Finally, to ensure all active practitioners are proficient, this pending fee rule will require licensees inactive for five or more years to show proof of competency before returning to active status as well as the criteria to determine competency.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4744 - 4756.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3209, Idaho Code, as follows:

Application and original license fee for licensed clinical social worker or licensed masters social worker or licensed social worker: not to exceed $70;
Endorsement and license fee for licensed clinical social worker or licensed masters social worker or licensed social worker: not to exceed $90:
Licensed clinical social worker renewal fee: not to exceed $90;
Licensed masters social worker: not to exceed $80;
Licensed social worker: not to exceed $80;
Inactive licensed clinical social worker: not to exceed $45;
Inactive licensed masters social worker: not to exceed $40;
Inactive licensed social worker: not to exceed $40.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Social Work Examiners by the provisions of Section 54-3204, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.14.01, "Rules of the State Board of Social Work Examiners." (7-1-93)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.

***01. Professionalism**. Behavior exhibited on the part of an applicant which is in conformity with the Social Work Code of Professional Conduct as defined in Section 450 of these rules and within the limits of state law. ( )*

02. Psychotherapy. Treatment methods using a specialized, formal interaction between a Clinical Social Worker and an individual, couple, family, or group in which a therapeutic relationship is established, maintained, or sustained to understand unconscious processes, intrapersonal, interpersonal, and psychosocial dynamics, and the diagnosis and treatment of mental, emotional, and behavioral disorders, conditions, and addictions. (3-20-04)

03. Relative. For the purposes of these rules, a relative is a person's spouse, parent, child, or sibling, regardless of whether the relation is by blood, through marriage, or by law. (4-4-13)

04. Supportive Counseling. Supportive counseling by a social worker means a method used by social workers to assist individuals, couples, families, and groups in learning how to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns. This help in the maintenance of adaptive patterns is done in the interview through reassurance, advice giving, information providing, and pointing out client strengths and resources. Supportive counseling does not seek to reach unconscious material. (3-20-04)

011. -- 099. (RESERVED)

100. APPROVED COLLEGES AND UNIVERSITIES.
Any college, university, or school of social work that is accredited or is a candidate for accreditation by the Northwest Commission on Colleges and Universities or any similar accrediting body, and that offers a social work program that is accredited by the Council on Social Work Education (CSWE) or that is otherwise approved by the Board. The social work program must be a recognizable, coherent organizational entity within the institution. (3-29-12)

101. -- 149. (RESERVED)

150. *BOARD MEETINGS*.
The Board must meet at least three (3) times each year. ( )

151. -- 199. (RESERVED)

200. LICENSING QUALIFICATIONS AND DEFINITION OF TERMS.
All applicants for licensing under the Social Work Licensing Act must meet the minimum qualifications as set forth by this act. (7-1-93)

***0*1. Educational Requirements**. Educational requirements must be verified by submission of official transcripts sent directly to the Board from the educational institution or from the repository of primary source credentialing information administered by the Association of Social Work Boards (ASWB). *Applicants are responsible for arranging transmission of this information. ( )*

201. PRACTICE OF SOCIAL WORK.

01. Baccalaureate Social Work. The application of social work theory, knowledge, methods, and ethics to restore or enhance social or psychosocial functioning of individuals, couples, families, groups,

organizations, and communities. Baccalaureate social work is a generalist practice that includes assessment, planning, intervention, evaluation, case management, information and referral, supportive counseling, supervision, and consultation with clients. Baccalaureate social work also includes advocacy, education, community organization, and the development, implementation and administration of policies, programs, and activities. Bachelor level social workers are prohibited from performing psychotherapy. Baccalaureate social work can include independent practice, but not private practice. (4-4-13)

02. Master's Social Work. The application of social work theory, knowledge, methods and ethics, and the professional use of self to restore or enhance social, psychosocial or biopsychosocial functioning of individuals, couples, families, groups, organizations, and communities. Master's social work requires the application of specialized knowledge and advanced practice skills in the areas of assessment, treatment planning, implementation and evaluation, case management, information and referral, supportive counseling, supervision and consultation with clients, advocacy, teaching, research, community organization, and the development, implementation, and administration of policies, programs, and activities. Master level social workers who do not hold clinical licensure may provide psychotherapy only under the supervision of a licensed clinical social worker, psychologist, or psychiatrist and in accordance with an approved supervision plan. Master's social work can include independent practice, but not private practice. (4-4-13)

03. Clinical Social Work. The practice of clinical social work is a specialty within the practice of master's social work and requires the application of specialized clinical knowledge and advanced clinical skills in the areas of assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions. Clinical social work is based on knowledge and theory of psychosocial development, behavior, psychopathology, motivation, interpersonal relationships, environmental stress, social systems, and cultural diversity, with particular attention to person-in-environment. It shares with all social work practice the goal of enhancement and maintenance of psychosocial functioning of individuals, families, and small groups. Clinical social work includes, but is not limited to, individual, couples, family and group psychotherapy, and includes independent and private practice. (3-20-04)

0*4*. Employment of a Social Worker. A social worker employed directly by a physician, psychologist or other social worker, or by a public or private agency, institution, hospital, nursing home, rehabilitation center, or any similar facility, is not to be considered within the definition of an independent practitioner. Furthermore, a social worker who contracts with an agency or institution that assumes full responsibility for and supervises the services provided to clients is not considered to be a private practitioner. (5-3-03)

202. -- 209. (RESERVED)

210. SUPERVISION.

01. Generally Applicable Supervision Requirements. All supervised experience, as set forth in this section, must meet the following requirements: (4-4-13)

a. Supervision must be consultative-teaching supervision which is directed toward enhancement and improvement of the individual's social work values, knowledge, methods, and techniques. (4-4-13)

b. A minimum of one hundred (100) hours of the required supervision must be face-to-face contact with the supervisor and must occur on a regular and on-going basis. *Supervision may include a face-to-face setting provided by a secure live electronic connection. The secure live electronic connection must comply with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA). ( )*

i. A supervisee may count in full all time in a supervisory session where the ratio of supervisor to supervisees does not exceed one (1) supervisor to two (2) social workers. All one hundred (100) hours may be earned in such a one (1) to two (2) setting. (4-4-13)

ii. Group supervision may count for no more than fifty (50) hours of face-to-face contact. Group supervision may count only where the ratio of supervisor to supervisees does not exceed one (1) supervisor to six (6) supervisees, and the allowable countable time must be prorated by the following formula: total session minutes

divided by total supervisees, multiplied by two (2) equals the maximum allowable countable time per supervisee for the session. i.e. a supervisee attending a one (1) hour group supervisory session consisting of six (6) supervisees must be allowed twenty (20) minutes of group supervision credit (60 minutes/6 supervisees x 2 = 20 minutes). (4-4-13)

02. Pursuing Licensure As Independent Practitioners. Requirements for supervision of baccalaureate or master's social workers pursuing licensure as independent practitioners. (4-4-13)

a. Develop a plan for supervision that must be reviewed and approved by a designated Board member prior to commencement of supervision. (4-4-13)

b. Complete a minimum of three thousand (3,000) hours of supervised social work experience. The hours must be accumulated in not less than two (2) years but in not more than five (5) years unless an extension is approved by the Board for good cause shown. (4-4-13)

c. Supervision must be provided by a qualified and experienced licensed social worker with a current license in good standing and approved to pursue independent practice. (4-4-13)

i. For a baccalaureate social worker the supervisor must hold a license at the baccalaureate, masters, or clinical level. (4-4-13)

ii. For a masters social worker the supervisor must hold a license at the masters, or clinical level. (4-4-13)

iii. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. (4-4-13)

iv. The supervisee may not have more than two (2) supervisors at any given time. (4-4-13)

03. Pursuing Licensure As Clinical Social Worker. Requirements for supervision of master's social workers pursuing licensure as clinical social worker. (4-4-13)

a. Develop a plan for supervision that must be reviewed and approved by a designated Board member prior to commencement of supervision. (4-4-13)

b. Complete a minimum of three thousand (3,000) hours of supervised social work experience focused on clinical social work. The hours must be accumulated in not less than two (2) years but in not more than five (5) years unless an extension is approved by the Board for good cause shown. The hours must also meet the following: (4-4-13)

i. One thousand seven hundred fifty (1,750) hours of direct client contact involving treatment in clinical social work as defined; and (4-4-13)

ii. One thousand two hundred fifty (1,250) hours involving assessment, diagnosis, and other clinical social work as defined. (4-4-13)

c. Fifty percent (50%) of supervised experience must be provided by a licensed clinical social worker registered as a supervisor pursuant to Section 211 of these rules. The remaining fifty percent (50%) of supervision may be provided by one or more of the following: (4-4-13)

i. A licensed clinical social worker who is registered as a supervisor pursuant to Section 211; (4-4-13)

ii. A licensed clinical psychologist; (4-4-13)

iii. A person licensed to practice medicine and surgery who practices in the area of psychiatry; (4-4-13)

iv. A licensed clinical professional counselor registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists; or (4-4-13)

v. A licensed marriage and family therapist registered as a supervisor by the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. (4-4-13)

d. Prior to a change in supervisors, the supervisee must notify the Board and the change must be approved by a designated member of the Board prior to the commencement of supervision by the new supervisor. (4-4-13)

e. The supervisee may not have more than two (2) supervisors at any given time. (4-4-13)

04. Out-of-State Supervised Experience. The Board may consider supervised experience obtained outside the state of Idaho submitted for Idaho licensure purposes *as proscribed under Section 210.03 and consistent with that jurisdictions laws*. Such experience, whether already obtained or planned to be obtained, must be included in the plan for supervision and reviewed and approved by a designated Board member. *( )*

a. Previous supervised experience must have been obtained within the five (5) year period preceding the submission of the plan for supervision and must have been obtained in compliance with the law and rules of the state in which the experience was obtained. (4-4-13)

211. SOCIAL WORK SUPERVISOR REGISTRATION.
Idaho licensed social workers must be registered with the Board in order to provide postgraduate supervision for those individuals in Idaho pursuing licensure as a clinical social worker. (3-20-14)

01. Requirements for Registration. (3-14-05)

a. Document at least two-years' experience as a licensed clinical social worker. (3-20-14)

b. Have not been the subject of any disciplinary action for five (5) years prior to application for registration. (3-14-05)

c. Document fifteen (15) contact hours of education in clinical supervisor training *within the past five (5) years,* as approved by the Board, or if previously registered as a supervisor with the Board, document six (6) hours of education in advanced supervisor training as approved by the Board. *( )*

02. Registration. *( )*

a. Upon receipt of a completed application verifying compliance with the requirements for registration as a supervisor, the applicant must be registered as a supervisor. (3-14-05)

b. A supervisor's registration must remain valid only so long as the individual's clinical social worker license remains current and in good standing. (4-4-13)

03. Renewal. *A* supervisor's registration is valid for a term of five (5) years. *To renew a supervisor registration, the registered supervisor must submit a renewal application and*: *( )*

a. Hold an active Idaho clinical social worker license which has not been subject to discipline*, the Board may, in its discretion, approve a supervisor who has been previously disciplined based on the nature of the discipline and the time elapsed*; and *( )*

b. Document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous five (5) years. (4-4-13)

212. -- 224. (RESERVED)

225. INACTIVE STATUS.

01. Request for Inactive Status. Each person requesting an inactive status must submit *the required form* and pay the inactive license fee. *( )*

02. Inactive License Status. (4-9-09)

a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing or supervising in Idaho (4-9-09)

b. *To return to active status, a licensee must complete one (1) year of continuing education requirements* and submit a fee equivalent to the difference between the inactive and active renewal fee. *( )*

03. Return to Active Status After Five (5) Years or More of Inactive Status*. Licensee must provide an account to the Board for that period of time during which the license was inactive and fulfilling requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency.* *( )*

226. -- 299. (RESERVED)

300. FEES.
All fees are non-refundable.

FEE TYPE	*AMOUNT (Not to Exceed)*	*RENEWAL (Not to Exceed)*	*INACTIVE (Not to Exceed)*
Application	*$70*		
Examination	*Set by testing service*		
Endorsement and license	*$90*		
Licensed Clinical Social Worker	*$70*	*$90*	*$45*
Licensed Masters Social Worker	*$70*	*$80*	*$40*
Licensed Social Worker	*$70*	*$80*	*$40*
Reinstatement	*In accordance with Section 67-2614, Idaho Code*		

( )

301. -- 349. (RESERVED)

350. EXAMINATIONS *AND* ENDORSEMENT.
Applications for examination *and endorsement* may be reviewed and approved by a designated Board member upon determination that the applicant meets the qualifications. Approval to sit for examination does not obligate the Board to issue a license if it is later determined that the applicant does not meet the requirements for licensure. *( )*

0*1*. Exam. The Board approves the uniform, nationally standardized examination of the Association of Social Work Boards (ASWB) as the Idaho licensure examination. (4-4-13)

a. Bachelor level candidates are required to successfully pass the bachelor's examination. (4-2-08)

b. Masters level candidates are required to successfully pass the master's examination. (4-2-08)

c. Clinical level candidates are required to successfully pass the clinical examination. (5-3-03)

02. **Graduation Date to Qualify for Exam**. Candidates for examination who can satisfy the Board that they will be graduating at the end of the spring, summer, or fall terms of any given year may qualify for examination immediately preceding the date of graduation. (4-4-13)

03. **Endorsement**. The Board may grant a license to any person who submits a*n* application and who: *( )*

a. Holds a current, active social work license, at the level for which a license is being sought, issued by the authorized regulatory entity in another state or country, the certification of which must be received directly by the Board from the issuing agency; and (3-20-04)

b. Has not been disciplined within the last five (5) years, had a license revoked, suspended, restricted, or otherwise sanctioned by any regulatory entity and has never voluntarily surrendered a license; and (5-3-03)

c. *H*as not been convicted, found guilty, or received a withheld judgment or suspended sentence for any *crime that is inconsistent with the profession of social work. In reviewing the application, the Board may review the following factors or evidence:* *( )*

i. The severity or nature of the crime; *( )*

ii. The period of time that has passed since the crime under review; *( )*

iii. The number or pattern of crimes or other similar incidents; *( )*

iv. The circumstances surrounding the crime that would help determine the risk of repetition; *( )*

v. The relationship of the crime to the practice of social work; and *( )*

vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and *( )*

d. Has successfully passed an examination, as referenced in Subsection 350.02, or an examination provided by the Professional Examination Service (PES) at the clinical social worker and social worker level or the Education Testing Service (ETS) examination; and (5-3-03)

e. Has certified under oath to abide by the laws and rules governing the practice of social work in Idaho and the code of professional conduct. (5-3-03)

f. The Board may waive the examination requirement in Subsection 350.05.d. for an applicant who was not required to pass such an examination at the time the applicant initially obtained a social work license, provided that the applicant meets all other requirements in this subsection and has actively practiced social work for five (5) of the last seven (7) years preceding application. (4-11-19)

351. CONTINUING EDUCATION.

01. **Continuing Education Requirements**. (7-1-95)

a. Continuing education is required for renewal at all levels of social work licensure in Idaho. *The Board may waive this requirement upon a showing of good cause.* *( )*

b. *Each licensee must complete* a minimum of twenty (20) continuing education (CE) hours*, including at least one (1) hour in professional ethics*. *( )*

c. Compliance with the continuing education (CE) requirements for licensees must be reported annually. A continuing education course taken in any renewal year, but not claimed for CE credit in that year, may be utilized for credit in the following renewal year. (5-3-03)

d. Licensees will maintain documentation verifying CE attendance and curriculum for a period of four (4) years. This documentation will be subject to audit by the board. (5-3-03)

e. Licensees are not required to comply with this requirement during the first year in which they become licensed under the social work act. (5-3-03)

f. One (1) continuing education hour equals one (1) clock hour. (7-1-95)

g. Courses that are part of the curriculum of a university, college or other educational institution are allotted CE credit at the rate of fifteen (15) CE hours for each semester hour or ten (10) CE hours for each quarter hour of school credit awarded. (7-1-95)

h. Applications for reinstatement of a canceled license must include documented proof of meeting the continuing education requirements for the previous twelve (12) months. The requirement for professional ethics training continues during any period of cancellation. (3-20-04)

02. Categories of Continuing Education. (7-1-95)

a. Category I. Category I includes formally organized learning events, ideally involving face-to-face interaction with a teacher for the purpose of accomplishing specific learning objectives. Courses, workshops, conferences, practice oriented seminars, staff development and training activities coordinated and/or taught by approved and recognized educators also are included in this category. Because of our geographic location and sparse population, closed circuit T.V., video and audio tapes, internet based courses, and correspondence courses may be substituted for face-to-face contact if the course is interactive or requires an examination. (3-14-05)

b. Category II. *No more than ten (10) CE hours may be obtained from this category.* Category II consists of a variety of self-directed professional study activities and growth experiences. Examples include making an initial presentation on professional issues or programs, teaching a course for the first time, presenting a lecture or conducting a workshop for the first time, editing or writing professional books or articles, and conducting professional research. *( )*

c. The subject matter of all approved continuing education must be germane to the practice of social work as defined in Section 54-3202, Idaho Code, and may include the specialties of Marriage and Family Therapy, Psychiatry, Psychiatric Nursing, or Psychology. (3-14-05)

03. Continuing Education Sources. (7-1-95)

a. Continuing education course providers must include: (5-3-03)

i. Professional Associations. Continuing education hours may be obtained by participating in activities sponsored by or approved by professional associations including but not limited to the Idaho Chapter of the National Association of Social Workers, Idaho Society for Clinical Social Workers. The professional association must certify the number of clock hours of educational content in each sponsored or approved activity. (5-3-03)

ii. Educational Institutions. Continuing education hours may be obtained by completing coursework not below your level of licensing or by participating in continuing education programs sponsored by or approved by educational institutions accredited by a regional body recognized by the Council on Post Secondary Accreditation. The educational institution must certify the number of clock hours of educational content in each sponsored or approved program. (7-1-95)

iii. Government Agencies, Schools and Hospitals. Continuing education hours may be obtained by participating in in-service training, courses or workshops sponsored by federal, state, or local government agencies, public school systems and licensed hospitals. The provider must certify the number of clock hours of educational

content in each approved activity. (7-1-95)

iv. Private social service agencies and other entities. Continuing education hours may be obtained by participating in continuing education programs sponsored by agencies or entities who regularly provide social work services. The provider must certify the number of clock hours of educational content in each approved activity. (3-20-04)

b. All continuing education hours must be relevant to the profession of social work at the individual's particular level of social work licensure. The presenter's level of education must be at the licensee's level or above. Continuing education for clinical licensees must be clinical in nature except that five (5) hours each year may be non-clinical but must be germane to the practice of social work. Final approval of acceptable programs rests with the Board. (3-20-04)

04. Documentation. (7-1-95)

a. Each licensee must maintain documentation verifying CE attendance and curriculum for a period of four (4) years from the date of completion. This documentation will be subject to audit by the Board. (5-3-03)

b. Licensees must attest, on their annual license renewal application, that they have satisfied the continuing education requirements. False attestation of satisfaction of the continuing education requirements on a renewal application will subject the licensee to disciplinary action, including revocation. (5-3-03)

c. *Continuing education* documents must be in the form of a certificate of attendance, a statement signed by the provider verifying participation in the activity, an official transcript*, or other documentation such as a certificate or letter from the sponsoring entity that includes the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials, or other documentation as the Board may require*. *( )*

352. -- 399. (RESERVED)

400. UNPROFESSIONAL CONDUCT.
"Unprofessional conduct" is further defined as any violation of the Social Work Code of Professional Conduct. (7-1-93)

401. -- 449. (RESERVED)

450. STATEMENT OF PUBLIC POLICY AND CODE OF PROFESSIONAL CONDUCT.
The profession of social work is dedicated to serving people; the professional relationship between social workers and clients thus is governed by the highest moral and ethical values. The client is in a vulnerable role that extends beyond the time frame of actual services. In both social and professional interactions, this vulnerability is taken into consideration whether the person is currently or has been a client. Following is the Code of Professional Conduct: (5-24-95)

01. The Social Worker's Ethical Responsibility to Clients. (7-1-93)

a. For the purpose of this Code of Professional Conduct, a client is anyone for whom the social worker provides social work services directly or indirectly through consultations, staffings, or supervision with other professionals. (7-1-93)

b. The social worker will not commit fraud nor misrepresent services performed. (7-1-93)

c. The social worker will not solicit the clients of an agency for which they provide services for his private practice. (7-1-93)

d. The social worker will not divide a fee or accept or give anything of value for receiving or making a referral. (7-1-93)

e. The social worker will provide clients with accurate and complete information regarding the extent and nature of the services available to them. (7-1-93)

f. The social worker will terminate service to clients, and professional relationships with them, when such service and relationships are no longer required or in which a conflict of interest arises. (7-1-93)

g. A social worker may not violate a position of trust by knowingly committing any act detrimental to a client. (7-1-93)

h. A social worker may not exploit their professional relationships with clients (or former clients), supervisees, supervisors, students, employees, or research participants, sexually or otherwise. Social workers will not condone or engage in sexual harassment. Sexual harassment is defined as deliberate or repeated comments, gestures, or physical contacts of a sexual nature that are unwelcomed by the recipient. (7-1-93)

i. A social worker may not engage in romantic or sexual acts with a client or with a person who has been a client within the past three (3) years, with a relative of a client, or with a person with whom the client maintains a close personal relationship when it has the potential to be harmful to the client. A social worker must not provide social work services to a person with whom he/she has had a romantic or sexual relationship. (4-4-13)

02. The Social Worker's Conduct and Comportment as a Social Worker. (7-1-93)

a. In providing services, a social worker may not discriminate on the basis of age, gender, race, color, religion, national origin, mental status, physical disability, social or economic status, political belief, or any other preference or personal characteristic, condition or status. (4-2-08)

b. Social workers may not undertake any activity in which their personal problems are likely to lead to inadequate performance or harm to a client, colleague, student, or research participant. If engaged in such activity when they become aware of their personal problems, they must seek competent professional assistance to determine whether they should suspend, terminate, or limit the scope of their professional activities. (7-1-93)

c. A social worker may not practice while impaired by medication, alcohol, drugs, or other chemicals. A social worker may not practice under a mental or physical condition that impairs the ability to practice safely. (4-2-08)

d. A social worker may not repeatedly fail to keep scheduled appointments. (7-1-93)

e. The social worker who anticipates the termination or interruption of service to clients must notify clients promptly and seek the transfer, referral, or continuation of services in relation to the clients' needs and preferences. (7-1-93)

f. The social worker must attempt to make appropriate referrals as indicated by the client's need for services. (7-1-93)

g. A social worker must obtain the client's or legal guardian's informed written consent when a client is to be involved in any research project. A social worker must explain the research, including any implications. (7-1-93)

h. The social worker must obtain informed consent of clients before taping, recording, or permitting third party observation of their activities. (7-1-93)

i. A social worker must safeguard information given by clients in providing client services. Except when required by law or judicial order, a social worker must obtain the client's informed written consent before releasing confidential information from the setting or facility except for compelling reasons defined as but not limited to: (7-1-93)

i. Consultation with another professional on behalf of the client thought to be dangerous to self or others; (7-1-93)

ii. Duty to warn pursuant to Chapter 19, Title 6, Idaho Code; (5-24-95)

iii. Child abuse and sexual molestation pursuant to Chapter 16, Title 16, Idaho Code; and (5-24-95)

iv. Any other situation in accordance with statutory requirements. (7-1-93)

j. A social worker must report any violation of the law or rules, including Code of Professional Conduct, by a person certified under Chapter 32, Title 54, Idaho Code. (7-1-93)

03. Competent Practice for Social Workers. All social workers must practice in a competent manner consistent with their level of education, training and experience. (3-20-04)

a. A social worker must only represent himself and practice within the boundaries of his education, training, licensure level, supervision, and other relevant professional experience. (3-20-04)

b. A social worker must only practice within new areas or use new intervention techniques or approaches after engaging in appropriate study, training, consultation, or supervision. (3-20-04)

c. A social worker must exercise careful judgment, when generally recognized standards do not exist with respect to an emerging area of practice, and take responsible steps to ensure the competence of his practice. (3-20-04)

04. The Advertising Rules for Social Workers. No social worker may disseminate or cause the dissemination of any advertisement or advertising that is any way fraudulent, false, deceptive or misleading. Any advertisement or advertising is deemed by the board to be fraudulent, false, deceptive, or misleading if it: (7-1-93)

a. Contains a misrepresentation of fact; or (7-1-93)

b. Is misleading or deceptive because in its content or in the context in which it is presented it makes only a partial disclosure of relevant facts. More specifically, it is misleading and deceptive for a social worker to advertise free services or services for a specific charge when in fact the social worker is transmitting a higher charge for the advertised services to a third party payor for payment or charges the patient or a third party. It is misleading and deceptive for a social worker or a group of social workers to advertise a social work referral service or bureau unless the advertisement specifically names each of the individual social workers who are participating in the referral service or bureau. (7-1-93)

c. Creates false or unjustified expectations of beneficial treatment or successful outcomes; or (7-1-93)

d. Fails to identify conspicuously the social worker or social workers referred to in the advertising as a social worker or social workers; or (7-1-93)

e. Contains any representation or claims, as to which the social worker, referred to in the advertising, fails to perform; or (7-1-93)

f. Contains any representation which identifies the social worker practice being advertised by a name which does not include the terms "social worker," "social work," or some easily recognizable derivation thereof; or (7-1-93)

g. Contains any representation that the practitioner has received any license or recognition by the state of Idaho or its authorized agents, which is superior to the license and recognition granted to any social worker who successfully meets the licensing requirements of Chapter 32, Title 54, Idaho Code; or (7-1-93)

h. Appears in any classified directory, listing, or compendium under a heading, which when considered together with the advertisement, has the capacity or tendency to be deceptive or misleading with respect to the profession or professional status of the social worker; or (7-1-93)

i. Contains any other representation, statement, or claim which is misleading or deceptive. (7-1-93)

05. Dual Relationships. A social worker may not engage in dual or multiple relationships with clients, with relatives of a client, or with individuals with whom clients maintain close personal relationships, in which a reasonable and prudent social worker would conclude after appropriate assessment that there is a risk of harm or exploitation to the client or of impairing a social worker's objectivity or professional judgment. A dual or multiple relationship is a relationship that occurs when a social worker interacts with a client in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively. After an appropriate assessment that the relationship does not create a risk of harm or exploitation to the client and will not impair a social worker's objectivity or professional judgment, the social worker must document in case records, prior to the interaction, when feasible, the rationale for such a relationship, the potential benefit to the client, and anticipated consequences for the client. (4-4-13)

06. Business Relationships. A social worker may not purchase goods or services from a client or otherwise engage in a business relationship with a client except when: (4-4-13)

a. The client is providing necessary goods or services to the general public; (4-4-13)

b. A reasonable and prudent social worker would determine that it is not practical or reasonable to obtain the goods or services from another provider; and (4-4-13)

c. A reasonable and prudent social worker would determine that engaging in the business relationship will not be detrimental to the client or the professional relationship. (4-4-13)

07. Bartering. Bartering is the acceptance of goods, services, or other nonmonetary remuneration from a client in return for a social worker's services. Social workers may not barter except when such arrangement is not exploitative and: (4-4-13)

a. Is initiated by the client and with the client's written informed consent; and (4-4-13)

b. Has an easily determined fair market value of the goods or services received. (4-4-13)

451. -- 474. (RESERVED)

475. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed social worker for each violation of Section 54-3211, Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed social worker to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3211, Idaho Code. (3-18-99)

476. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.15.01 – RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

DOCKET NO. 24-1501-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3404, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.15.01, rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists:

IDAPA 24.15.01

- IDAPA 24.15.01, *Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists*: all proposed rules except 002, 005, 100, 149, 150.01.a., 150.01.a.ii., 150.01.b., 150.01.c., 150.01.d., 150.02.a.i., 150.02.a.ii., 150.02.a.iii., 150.02.e., 200, 225.03, 230.03, 232, 238.05, 239.02, 239.04.a., 239.04.c.i., 239.04.c.ii., 240.01.d., 300.02, 300.03, 300.05, 260.02.b., 400, 425.04, 425.05, 450, and 500

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4,759-4,774. The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.15.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists was published. This pending rule will allow the Legislature to review for codification IDAPA 24.15.01, the Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists. On July 25, 2019, the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes unnecessary or outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Further, these pending fee rules include language for activating inactive licenses that is aligned with the reinstatement of expired licenses to provide consistency in minimum competency requirements for a person who has not been practicing for five years or more. This pending rule also implements a two-year continuing education cycle in as recommended in the Board’s Licensing Freedom Act Report. Finally, this pending rule implements House Bill 3 from the 2019 Legislative Session and the Board’s recommendation in its Licensing Freedom Act Report for qualifications for counselors in Sections 150 and 225 to modernize and streamline educational requirements, increase portability of education and licensure from other states, and create more flexibility for practicum requirements, and apply uniform reporting for education obtained in another country for all professions licensed by the Board.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4759 - 4774.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules, except that it changes the fee structure to set a cap. The fee caps are above the current fee level for applications by $25; licensure by $25; license renewal by $20; and inactive renewal by $10. Fee caps are established in accordance with Section 54-3411, Idaho Code, as follows:

Application fee for professional counselor, clinical professional counselor, marriage and family therapist, and associate marriage and family therapist: not to exceed $100;
Application for intern registration: not to exceed $25;
Marriage and family therapist examination or reexamination fee: $25;
Original license fee cap for professional counselor, clinical professional counselor, associate marriage and family therapist, and marriage and family therapist: not to exceed $100;
Annual license renewal fee cap for professional counselor, clinical professional counselor, associate marriage and family therapist, and marriage and family therapist: not to exceed $120;
Annual inactive license renewal fee cap for professional counselor, clinical professional counselor, associate marriage and family therapist, and marriage and family therapist: not to exceed $60;
Annual license renewal fee cap for senior professional counselor, clinical professional counselor, associate marriage and family therapist, and marriage and family therapist: not to exceed $60.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking. Additionally, the Board is not a general fund agency, and these rule changes have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

24.15.01 – RULES OF THE IDAHO LICENSING BOARD OF PROFESSIONAL COUNSELORS AND MARRIAGE AND FAMILY THERAPISTS

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists by the provisions of Section 54-3404, Idaho Code. (3-13-02)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.15.01, "Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists." (3-13-02)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.

01. ACA Code of Ethics. "ACA Code of Ethics," as published by the American Counseling Association (ACA), effective 2014, is herein incorporated by reference and is available from the Board's office and website. *( )*

02. AAMFT Code of Ethics. The document titled "AAMFT Code of Ethics," as published by the American Association for Marriage and Family Therapy (AAMFT), effective January 1, 2015, is herein incorporated by reference and is available from the Board's office and website. *( )*

03. Guidelines. The document titled "Approved Supervision Designation Handbook" that provides supervision guidelines for supervisors, as published by the American Association for Marriage and Family Therapy (AAMFT), dated October 2007, is herein incorporated by reference and is available from the Board's office and website. *( )*

***005*. -- 009. (RESERVED)**

010. DEFINITIONS.

01. Accredited University or College. An accredited university or college is a college or university accredited by a regional accrediting agency as identified by the U.S. Department of Education. (4-11-19)

***02. Face-to-face Setting**. May include a secure live electronic face-to-face connection between the supervisor and supervisee.* *( )*

***03. Licensed Mental Health Professional Supervisor**. A clinical professional counselor, marriage and family therapist, psychologist, clinical social worker, or psychiatrist, whose license in Idaho is active, current, and in good standing and who, when applicable, is registered as a supervisor with their respective licensing board.* *( )*

0*4*. Practicum. The term practicum includes a practicum, internship, or a combination, taken as part of the graduate level program. (4-11-19)

0*5*. Supplemental Practicum Hours. Supplemental practicum hours are hours of direct client contact that are supervised at a ratio of one (1) hour of supervision for every ten (10) hours of direct client contact *by a registered supervisor for the profession for which the applicant is seeking licensure*. *( )*

011. -- 14*9*. (RESERVED)

150. QUALIFICATIONS FOR PROFESSIONAL COUNSELOR LICENSURE.
Licensure as a "professional counselor" is restricted to persons who have successfully completed the required examination and each of the following: *( )*

01. Graduate Program. *Possess a master's degree or higher, which includes an educational specialist degree, that* is primarily counseling in nature, from an accredited university or college offering a graduate program in counseling*, provided that the program is either:* *( )*

a. *A*pproved by the Council for Accreditation of Counseling and Related Educational Programs; or *( )*

b. A counseling program *of at least sixty (60) semester hours or ninety (90) quarter hours in length and that at a minimum includes successful* completion of one (1) graduate level course unique to the eight (8) areas *and an advanced counseling practicum as follows*: *( )*

i. Human growth and development: Includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on psychological, sociological, and physiological approaches. Also included are areas such as human behavior (normal and abnormal), personality theory, and learning theory. (7-1-93)

ii. Social and cultural foundations: Includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural mores, use of leisure time, and differing life patterns. (7-1-93)

iii. The helping relationship: Includes philosophic bases of the helping relationship: Consultation theory and/or an emphasis on the development of counselor and client (or consultee) self-awareness and self-understanding. (7-1-93)

iv. Groups: Includes theory and types of groups, as well as descriptions of group practices, methods dynamics, and facilitative skills. It includes either a supervised practice and/or a group experience. (7-1-93)

v. Life-style and career development: Includes areas such as vocational-choice theory, relationship between career choice and life-style, sources of occupational and educational information, approaches to career decision-making processes, and career-development exploration techniques. (7-1-93)

vi. Appraisal of the individual: Includes the development of a framework for understanding the individual, including methods of data gathering and interpretation, individual and group testing, case-study approaches and the study of individual differences. Ethnic, cultural, and sex factors are also considered. (7-1-93)

vii. Research and evaluation: Includes areas such as statistics, research design, and development of research and demonstration proposals. It also includes understanding legislation relating to the development of research, program development, and demonstration proposals, as well as the development and evaluation of program objectives. (7-1-93)

viii. Professional orientation: Includes goals and objectives of professional counseling organizations, codes of ethics, legal consideration, standards of preparation, certification, and licensing and role of identity of counselors. (7-1-93)

ix. Advanced counseling practicum: Complete at least two (2) semester courses of an advanced counseling practicum taken at the graduate school level, provided that the applicant completed a total of two hundred eighty hours (280) of direct client contact that is supervised at the ratio of at least one (1) hour of one-to-one supervision for every ten (10) hours of experience in the setting. An applicant may complete one (1) supplemental practicum hour for every hour in which the practicum was deficient and that meets the requirements of Subsection 230.02 of these rules. ( )

02. Supervised Experience Requirement. One thousand (1,000) hours of supervised experience in counseling acceptable to the Board. (7-1-93)

a. One thousand (1,000) hours is defined as one thousand (1,000) clock hours of experience working in a counseling setting, four hundred (400) hours of which must be direct client contact. Supervised experience in practic*um* taken at the graduate level may be utilized. The supervised experience includes a minimum of one (1) hour of face-to-face or one-to-one (1/1) or one-to-two (1/2) supervision with the supervisor for every twenty (20) hours of job/internship experience. *( )*

b. *S*upervision must be provided *in compliance with the ACA Code of Ethics that was adopted by the Board at the time the supervision and provided* by a counselor education faculty member at an accredited college or university, Professional Counselor, registered with the Board as a supervisor, *or a licensed mental health professional*

supervisor as defined in these rules. If the applicant's supervision was provided in another state, it must have been provided by a counseling professional licensed by that state, provided the requirements for licensure in that state are substantially equivalent to the requirements *in* Idaho. *( )*

c. Experience in counseling is defined as assisting individuals or groups, through the counseling relationship, to develop an understanding of personal problems, to define goals, and to plan action reflecting interests, abilities, aptitudes, and needs as related to persona-social concerns, educational progress, and occupations and careers. Counseling experience may include the use of appraisal instruments, referral activities, and research findings. (7-1-93)

d. The Board considers the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

151. -- 224. (RESERVED)

225. CLINICAL PROFESSIONAL COUNSELOR LICENSURE.
Licensure as a "clinical professional counselor" is restricted to *applicants* who have successfully passed the required examination and have met the following: *( )*

01. License. Hold a "professional counselor" license in this state or *a license or other authorization* in another state that has substantially similar requirements to a licensed professional counselor in this state*, provided the license or authorization is current and in good standing*; and *( )*

02. Experience. Document two thousand (2,000) hours of direct client contact experience under supervision accumulated in no less than a two (2) year period after licensure or other authorization to practice in any state. (4-11-19)

a. All applicants must provide verification of meeting at least one thousand (1,000) hours of supervised experience under the supervision of a licensed Clinical Professional Counselor registered as a supervisor with the Board. The remainder of the supervision may be provided by a licensed *mental health professional supervisor as defined in these rules*. If the applicant's supervision was provided in another state, it must have been provided by a counseling professional licensed by that state, provided the requirements for license and supervision are substantially equivalent to the requirements *in* Idaho. *( )*

b. One (1) hour of clinical supervision for every thirty (30) hours of direct client contact is required. Individual supervision is defined as one (1) hour of face-to-face, one-on-one (1:1) or one-to-two (1:2) supervision to every thirty (30) hours of direct client contact. Supervision must be provided in a face-to-face setting. *( )*

c. No more than one-half (1/2) of the required supervision hours may be group supervision. (4-11-19)

03. Recommendation of the Supervisor(s). The Board considers the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (3-29-12)

226. -- 229. (RESERVED)

230. QUALIFICATIONS FOR ASSOCIATE MARRIAGE AND FAMILY THERAPIST.
An applicant for associate marriage and family therapist licensure *must pass the required examination and meet the following*: *( )*

01. Graduate Degree. Possess a graduate degree as outlined in Subsection 238.01 of these rules or a master's degree or higher in marriage and family therapy or a related field from an accredited university or college, provided that the graduate program meets one of the following: (4-11-19)

a. Accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or (4-11-19)

b. Accredited by the Council for Accreditation of Counseling and Related Educational Programs-

Marriage, Couple, and Family Counseling (CACREP-MCFC); or (4-11-19)

c. The program includes, at a minimum, twenty-seven (27) semester credits or thirty-six (36) quarter credits of the graduate level coursework set forth in Subsection 238.01.b of these rules. (4-11-19)

02. Practicum. Completion of a supervised practicum in no less than a twelve (12) month period as part of the graduate program. The practicum must consist of at least three hundred (300) hours of direct client contact, of which at least one hundred fifty (150) hours must be with couples, families and other systems, provided that the Board may grant a license to an applicant who completed a practicum with fewer than the required hours and completed one (1) supplemental practicum hour for every hour in which the practicum was deficient. Supplemental practicum hours must be completed as: (4-11-19)

a. A Registered Intern under Section 245 of these rules; or (4-11-19)

b. Supervised practice in another jurisdiction that is sufficient to be considered substantially similar to the supplemental practicum hour requirements of these rules; or (4-11-19)

c. A combination of Paragraph 02.a. and 02.b. of this subsection. (4-11-19)

231. – 237. (RESERVED)

238. MARRIAGE AND FAMILY THERAPISTS.
An applicant for marriage and family therapist licensure *must pass the required examination and meet the following*: *( )*

01. Graduate Degree. Possess a master's degree or higher in marriage and family therapy or a related field from an accredited university or college provided that the program is either: (4-11-19)

a. Accredited by the Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE); or (4-11-19)

b. A program of at least sixty (60) semester hours or ninety (90) quarter hours in length and that includes at a minimum: (4-11-19)

i. Marriage and family studies – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes theoretical foundations, history, philosophy, etiology and contemporary conceptual directions of marriage and family therapy or marriage and family counseling; family systems theories and other relevant theories and their application in working with a wide variety of family structures, including families in transition, nontraditional families and blended families, and a diverse range of presenting issues; and preventive approaches, including premarital counseling, parent skill training and relationship enhancement, for working with couples, families, individuals, subsystems and other systems; (4-11-19)

ii. Marriage and family therapy – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes the practice of marriage and family therapy related to theory, and a comprehensive survey and substantive understanding of the major models of marriage and family therapy or marriage and family counseling; and interviewing and assessment skills for working with couples, families, individuals, subsystems and other systems, and skills in the appropriate implementation of systematic interventions across a variety of presenting clinical issues including, but not limited to, socioeconomic disadvantage, abuse and addiction; (4-11-19)

iii. Biopsychosocial health and development across the lifespan – Nine (9) semester credit hours or twelve (12) quarter credit hours: includes individual development and transitions across the life span; family, marital and couple life cycle development and family relationships, family of origin and intergenerational influences, cultural influences, ethnicity, race, socioeconomic status, religious beliefs, gender, sexual orientation, social and equity issues and disability; human sexual development, function and dysfunction, impacts on individuals, couples and families, and strategies for intervention and resolution; and issues of violence, abuse and substance use in a relational context, and strategies for intervention and resolution; (4-11-19)

iv. Psychological and mental health competency – Six (6) semester credit hours or eight (8) quarter credit hours: includes psychopathology, including etiology, assessment, evaluation and treatment of mental disorders, use of the current diagnostic and statistical manual of mental disorders, differential diagnosis and multiaxial diagnosis; standard mental health diagnostic assessment methods and instruments, including standardized tests; and psychotropic medications and the role of referral to and cooperation with other mental health practitioners in treatment planning, and case management skills for working with individuals, couples, families, and other systems and relational groups; (4-11-19)

v. Professional ethics and identity – Three (3) semester credit hours or four (4) quarter credit hours: includes professional identity, including professional socialization, professional organizations, training standards, credentialing bodies, licensure, certification, practice settings and collaboration with other disciplines; ethical and legal issues related to the practice of marriage and family therapy, legal responsibilities of marriage and family therapy and marriage and family counseling practice and research, business aspects, reimbursement, recordkeeping, family law, confidentiality issues and the relevant codes of ethics, including the code of ethics specified by the board; and the interface between therapist responsibility and the professional, social and political context of treatment; (4-11-19)

vi. Research – Three (3) semester credit hours or four (4) quarter credit hours: includes research in marriage and family therapy or marriage and family counseling and its application to working with couples and families; and research methodology, quantitative and qualitative methods, statistics, data analysis, ethics and legal considerations of conducting research, and evaluation of research. (4-11-19)

02. Practicum. Complet*ed* a supervised practicum, including any supplemental practicum hours, which meets the requirements of Subsection 230.02 of these rules. *( )*

03. Supervised Marriage and Family Therapy Experience. Complet*ed* at least three thousand (3,000) hours of graduate or post-graduate supervised experience in marriage and family therapy that meets the following requirements: *( )*

a. A minimum of two thousand (2,000) post-master's direct client contact hours, over a period of not less than two (2) years, which must include a minimum of one thousand (1,000) direct client contact hours with couples, families, and other systems; and (4-11-19)

b. A minimum of two hundred (200) hours of post-master's supervision. (4-11-19)

c. Other hours must support development as a marriage and family therapist, and may include: additional hours of supervision, additional practicum hours above the three hundred (300) hours required in Subsection 230.02 of these rules, writing clinical reports, writing case notes, case consultation, coordination of care, administering tests, and attending workshops, training sessions, and conferences. (4-11-19)

d. A minimum of one hundred (100) hours post-master's supervision must be obtained from a registered marriage and family therapist supervisor. The remaining one hundred (100) hours of supervision may also be obtained from a licensed *mental health professional supervisor as defined in these rules* who documents: *( )*

i. A minimum of five (5) years of experience providing marriage and family therapy; and (3-20-04)

ii. Fifteen (15) contact hours of education in supervisor training; and (3-20-04)

iii. Has not been the subject of any disciplinary action for five (5) years immediately prior to providing supervision. (3-20-04)

e. No more than one hundred (100) hours of group supervision are allowed. Group supervision is defined as up to six (6) supervisees and one (1) supervisor; and (3-29-12)

f. Individual supervision is defined as up to two (2) supervisees per supervisor; and (3-13-02)

g. Supervision must employ observation of client contact such as the use of audio technologies or

video technologies or co-therapy, or live supervision; and (3-29-12)

h. *A* supervisor may not act as an applicant's personal Professional Counselor/Therapist. *( )*

i. The Board considers the recommendation of the supervisor(s) when determining the acceptability of the applicant's supervised experience. (4-2-03)

j. Supervision obtained in another jurisdiction or from a supervisor in another jurisdiction must conform with the jurisdiction's requirements provided they are substantially equivalent to Idaho's requirements. (4-11-19)

239. SUPERVISOR REQUIREMENTS.
Licensee*s* in Idaho must be registered with the board to provide supervision for those individuals pursuing licensure in the state of Idaho as a *counselor or* marriage and family therapist. *( )*

01. Requirements for Registration. *The board will register an applicant who:* *( )*

a. Possesse*s* two (2) years experience as a licensed *counselor or* marriage and family therapist*, respective to the profession for which the applicant seeks registration as a supervisor,* and document at least *one thousand five hundred (1,500) hours of direct client contact as a counselor or* two thousand (2,000) hours of direct client contact with couples, families, and other systems as a marriage and family therapist. *( )*

b. Documents fifteen (15) contact hours of education in supervisor training as approved by the Board. (3-20-04)

c. *Has* not been subject to discipline for five (5) years prior to registration*, provided that the Board may in its discretion approve a supervisor with disciplinary action for failing to complete continuing education requirements*. *( )*

0*2*. Supervision. (3-20-04)

a. A registered supervisor must provide supervision in conformance with the guidelines for supervisors *set forth in the ACA Code of Ethics for counselor supervisors or the* American Association for Marriage and Family Therapists and the guidelines set forth in the AAMFT Code of Ethics *for marriage and family therapist supervisors*. *( )*

b. Unless the primary work role of an individual is as a clinical supervisor, a registered *supervisor* may not supervise more than six (6) supervisees *concurrently*. *( )*

c. Supervision must be provided in a face-to-face setting. *( )*

d. *A registered supervisor must ensure that informed consent containing information about the roles of the supervisor and supervisee is obtained from clients of the supervisee.* *( )*

04. Renewal. Subject to the conditions in Paragraph 239.04.c. of this rule, a supervisor's registration is valid for a term of five (5) years*, provided the supervisor's license remains current, active, in good standing, and is not subject to discipline*. To renew a supervisor registration, the *licensee* must submit to the Board a complete application for registration renewal prior to the expiration of the current registration and meet the following: *( )*

a. Document six (6) hours of continuing education in advanced supervisor training as approved by the Board and completed within the previous five (5) years. (3-25-16)

b. For supervisors registered *for less than five (5) years prior to July 1, 2016 must submit a complete application for registration renewal and meet the renewal requirements by July 1, 2020.* *( )*

240. EXAMINATION FOR LICENSURE.
Applicants must have successfully completed the required written examination. *( )*

01. Examination. *The required written examination is:* *( )*

a. *For* counselor applicants, the National Counselor Examination prepared by the National Board of Certified Counselors (NBCC). *( )*

b. *For* clinical counselor applicants, the National Clinical Mental Health Counselor Examination (NCMHCE) prepared by the National Board of Certified Counselors (NBCC). *( )*

c. *For* associate marriage and family therapist *and marriage and family therapist* applicants, the National Marital and Family Therapy Examination as approved by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) *or another recognized competency examination in marriage and family therapy that is approved by the Board*. *( )*

02. Time and Place. The examination will be conducted at a time and place specified by the Board or the examining entity. (3-30-06)

03. Successful Passage. Successful passage of the examination is defined as achievement of the passing score set by the preparer of the examination. Reexamination consists of the entire examination. (3-30-06)

241. NON-UNITED STATES EDUCATED APPLICANTS.
Applicants with a graduate degree from a country other than the United States may be required to submit a certification from a credential evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or approved by the Board. The service must certify that the graduate degree is equivalent to a graduate degree from the United States. All costs for the certification are the responsibility of the applicant. All information submitted to the Board must be submitted with an English translation. *( )*

24*2*. -- 244. (RESERVED)

245. REGISTERED INTERNS.
The Board may issue a registration to allow an intern to engage in the practice of counseling or marriage and family therapy while completing either the supervised experience or supplemental practicum hours required for licensure. A registered intern may only practice under the direct supervision of a person registered as a supervisor with the Board or otherwise approved to provide supervision under this chapter. (4-11-19)

01. Requirements for Registration. An applicant must meet the following requirements: *( )*

a. Possess a graduate degree in counseling, marriage and family therapy, or a closely related field from an accredited university or college. (4-2-03)

b. Designate a supervisor who is registered with the board as a supervisor as set forth in these rules or who is otherwise approved to provide marriage and family therapy supervision as set forth in Section 238 of these rules. (4-11-19)

02. Supervision. The designated supervisor is responsible to provide supervision and ensure that a Registered Intern is competent to practice such counseling or marriage and family therapy as may be provided. (4-11-19)

03. Designation of Intern Status. Only a Registered Intern may use the title Registered Counselor Intern or Registered Marriage and Family Therapist Intern. Registered interns must explicitly state that they are interns in their documentation and advertising, such as business cards, informed consent forms, and other disclosures. (4-11-19)

04. Expiration. An individual may not practice as an intern for more than four (4) years from the original date of registration, unless good cause is demonstrated to the board. (4-11-19)

246. -- 249. (RESERVED)

250. FEES.

01. Application*, License, and Registration* Fee. *All* fee*s are non refundable*:

LICENSE/PERMIT/REGISTRATION	*INITIAL FEE (Not to Exceed)*	*ANNUAL RENEWAL FEE (Not to Exceed)*
Application	*$100*	
License	*$100*	*$120*
Intern Registration	*$25*	
Reinstatement Fee	*As provided in Section 67-2614, Idaho Code*	
Senior License		*$60*
Inactive License		*$60*
Inactive to Active License Fee	*The difference between the current inactive and active license renewal fees*	

( )

02. Examination or Reexamination Fee. The examination or reexamination fee*s are* the fee*s* set by the provider of the approved examination plus an administration fee of twenty-five dollars ($25) *for the Marriage and Family Therapy examination*. *( )*

251. -- 299. (RESERVED)

300. ENDORSEMENT.
The Board may grant a license to *an applicant* who: *( )*

01. Holds a Current License. *H*old*s* a current active license, in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity in another state or foreign country. The state or foreign country must have substantially similar requirements for licensing as is provided for new applicants in Idaho. The certification of licensure must be received by the Board from the issuing agency; and *( )*

02. Has Documented Experience. *Has* a documented record of at least five (5) years actual practice under licensure in the seven (7) years immediately prior to application in the profession for which a license is being sought, or can demonstrate hardship or extenuating circumstances that prohibited practice during a portion of the seven (7) year period as determined by the Board. *( )*

301. -- 349. (RESERVED)

350. CODE OF ETHICS.
The Board adopts the American Counseling Association (ACA) Code of Ethics and the American Association for Marriage and Family Therapy (AAMFT) Code of Ethics. All licensees *must* adhere to the appropriate Code of Ethics pertaining to their licensure. *( )*

351. -- 359. (RESERVED)

360. INACTIVE STATUS.

01. Request for Inactive Status. Each person requesting an inactive status must submit a written request and pay the established fee. *( )*

02. Inactive License Status. (3-26-08)

a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license. *( )*

b. When the licensee desires active status, the licensee must show acceptable fulfillment of continuing education requirements for the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee*, provided that a licensee whose license has been inactive five (5) years or more must provide an account to the Board for that period of time during which the license was inactive and fulfill requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency*. *( )*

c. Licensees may not practice *or supervise counseling or marriage and family therapy* in Idaho while on inactive status. *( )*

361. -- 374. (RESERVED)

375. SENIOR STATUS.

01. Request for Senior Status. Each person having attained the age of sixty-five (65) and requesting a senior status during the renewal of their active license must submit a written request and pay the established fee. (3-26-08)

02. Continuing Education. Continuing education must be completed annually per Section 425 of this rule. (3-26-08)

376. -- 424. (RESERVED)

425. CONTINUING EDUCATION.
All licensees must complete in each *twenty-four*-month period preceding the renewal of a license, *forty* (*4*0) contact hours of continuing education. A contact hour is one (1) hour of actual participation in a continuing education activity, exclusive of breaks. *( )*

01. Contact Hours. The contact hours of continuing education must be obtained in areas of study germane to the practice for which the license is issued as approved by the Board. No less than *six* (*6*) contact hours for each renewal period must be in ethics, which must be specific to legal issues, law, or ethics. Therapeutic workshops, retreats and other self-help activities are not considered continuing education training unless specific parts of the experience are applicable to counseling or therapy practice. *( )*

02. Documentation of Attendance. *Each* licensee *must* maintain documentation verifying *hours of* attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution. This documentation *is subject to audit and* must be provided upon request by the Board or its agent. *( )*

03. Approved Contact Hours, Limitations, and Required Documents. (3-29-10)

a. College or University Courses for Credit or Audit. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. However, all courses are subject to Board approval. For college or university courses, one (1) semester credit equals fifteen (15) contact hours; one (1) quarter credit equals ten (10) contact hours. The licensee must provide the Board with a copy of the licensee's transcript substantiating any hours attended by the licensee. (3-29-10)

b. Seminars, Workshops, Conferences. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. *Verifying documentation is* a copy of the certificate, or letter signed by course instructors, providers, or sponsoring institution substantiating any hours attended by the licensee.

( )

c. Publications. A maximum of *eight* (*8*) contact hours may be counted in this category during each reporting period. Publication activities are limited to articles in journals, a chapter in an edited book, or a published book or professional publication. *Verifying documentation is* a copy of the cover page or the article or book in which the licensee has been published. For a chapter in an edited book the licensee must submit a copy of the table of contents. ( )

d. Presentations. A maximum of *eight* (*8*) contact hours may be counted in this category during each reporting period. Class, conference, or workshop presentations may be used for contact hour credit if the topic is germane to the field. A specific presentation given repeatedly can only be counted once. A particular presentation will qualify for contact hour credit one (1) time in a five (5) year period. Only actual presentation time may be counted; preparation time does not qualify for contact hour credit. *Verifying documentation is* a copy of the conference program or a letter from the sponsor, host organization, or professional colleague. ( )

e. Clinical Supervision and Case Consultation. A maximum of *ten* (*10*) contact hours of received supervision/consultation may be counted in this category during each reporting period. In order to qualify for contact hour credit, supervision/consultation must be received on a regular basis with a set agenda. No credit will be given for the licensee's supervision of others. *Verifying documentation is* a letter from the supervisor or consultant listing periods of supervision or consultation. ( )

f. Dissertation. A maximum of *ten* (*10*) contact hours may be counted in this category during each reporting period. *Verifying documentation is* a copy of the licensee's transcript and the title of the dissertation. ( )

g. Leadership. A maximum of *eight* (*8*) contact hours may be counted in this category during each reporting period. *Verifying documentation is* a letter from a professional colleague listing the position of leadership, periods of leadership, and the name of the organization under which the leadership took place. The following leadership positions qualify for continuing education credits: ( )

i. Executive officer of a state or national counseling or therapy organization; (3-29-12)

ii. Editor or editorial board service of a professional counseling or therapy journal; (3-29-12)

iii. Member of a national ethics disciplinary review committee rendering licenses, certification, or professional membership; (3-29-10)

iv. Active member of a counseling or therapy working committee producing a substantial written product; (3-29-10)

v. Chair of a major counseling or therapy conference or convention; or (3-29-10)

vi. Other leadership positions with justifiable professional learning experiences. (3-29-10)

h. Home Study and On-line Education. There is no limit to the contact hours that a licensee may obtain in this category during each reporting period. Home study or on-line courses qualify for contact hours, provided that the course is provided by a Board-approved continuing education provider or a course pre-approved by the Board. *Verifying documentation is* a copy of the certification that is verified by the authorized signatures from the course instructors, providers, or sponsoring institution and substantiates any hours completed by the licensee. A licensee seeking contact credit for reading a publication must submit results from a test on the information contained within the publication and administered by an independent third-party. ( )

i. *Board Meetings*. Continuing education credit may be granted for a maximum of *four* (*4*) hours each renewal period for time spent attending *two* (*2*) Board meeting*s*. ( )

0***4.*** ***Waiver***. The Board *may waive continuing education requirements* for reasons of individual hardship, including health (certified by a medical doctor) or other good cause. The licensee must request such *waiver* prior to renewal and provide any information requested by the Board to assist in substantiating hardship cases. This

waiver is granted at the sole discretion of the Board. *( )*

426. – 524. (RESERVED)

525. DOCUMENTATION OF INFORMED CONSENT.
In accordance with Section 54-3410A, Idaho Code, all licensees and registered interns will document the process of obtaining the informed consent of clients at the beginning of treatment and at other times as appropriate. Licensees and interns must adhere to their respective Codes of Ethics and state law in obtaining informed consent and disclosing information to clients. The receipt of the disclosure must be acknowledged in writing by both the client and the licensee or intern, and such disclosure of information concerning their practice must include: (4-4-13)

01. Name, Business Address and Phone Number of Licensee or Intern. If the licensee or intern is practicing under supervision, the statement must include the licensee or intern status as such and the designated qualified supervisor's name, business address and phone number; (4-4-13)

02. License Type and License Number, Credentials, and Certifications; (4-4-13)

03. Education. *E*ducation with the name(s) of the institution(s) attended and the specific degree(s) received; *( )*

04. Theoretical Orientation and Approach. Counseling or marriage and family therapy; (4-4-13)

05. Relationship. Information about the nature of the clinical relationship; fee structure and billing arrangements; cancellation policy; (4-4-13)

06. The Extent and Limits of Confidentiality. (4-4-13)

07. Written Statement. A statement that sexual intimacy is never appropriate with a client and should be reported to the board. (4-4-13)

08. Client's Rights. The client's rights to be a participant in treatment decisions, to seek a second opinion, to file a complaint without retaliation, and to refuse treatment. (4-4-13)

09. Board Information. The name, address, and phone number of the Board with the information that the practice of licensees and interns is regulated by the Board. (4-4-13)

526. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.16.01 – RULES OF THE STATE BOARD OF DENTURITRY

DOCKET NO. 24-1601-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3309, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 24.16.01, rules of the State Board of Denturitry:

IDAPA 24.16.01
- 24.16.01, *Rules of the State Board of Denturitry*

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.16.01 In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Board of Denturitry was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.16.01, the Rules of the State Board of Denturitry. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4777 - 4784.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3309, Idaho Code, as follows:

License application and examination fee: not to exceed $300;
License application and re-examination fee: not to exceed $300;
Intern application and permit fee: not to exceed $300;
Initial license fee: not to exceed $300;
Annual renewal fee: not to exceed $75;
Inactive license fee: not to exceed $50.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
In accordance with Section 54-3309, Idaho Code, the State Board of Denturitry has promulgated rules implementing the provisions of Chapter 33, Title 54, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.16.01, "Rules of the State Board of Denturitry." (7-1-93)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.

01. Denturist Services. For purposes of the unconditional ninety (90) day guarantee prescribed in Section 54-3320(c), Idaho Code, denturist services include any and all prosthetic dental appliances and materials and/or services related to the furnishing or supplying of such a denture, including prepatory work, construction, fitting, furnishing, supplying, altering, repairing or reproducing any prosthetic dental appliance or device. (7-1-97)

02. Denture Technician. A person who is limited to making, constructing, altering, reproducing or repairing of a full upper or lower removable prosthetic denture, the repairing of a removable partial upper or lower prosthetic denture but is not allowed to make an impression or come in direct contact with a patient. (3-10-00)

011. -- 149. (RESERVED)

150. EXAMINATIONS.

01. Date of Licensure Examination. The licensure examination will be held no less than two (2) times per year at such times and places as may be determined by the Board. (3-29-17)

02. Content. Examinations include both a written theory examination and a practical demonstration of skills. (4-2-03)

03. Grading. An applicant must obtain a score of seventy-five percent (75%) or better on each part of the examination in order to pass the examination. (4-2-03)

04. Re-Examination. (4-2-03)

a. Applicants who fail either part or all of the examination will be required to make application and pay the required fees prior to being eligible to retake the failed part of the examination. (4-2-03)

b. Applicants failing either part or all of the examination on the first attempt will not be required to complete any additional instruction prior to being eligible to make application and retake the examination. (4-2-03)

c. Applicants failing either part or all of the examination on a second attempt and all subsequent attempts are not eligible to make application and retake the examination within one (1) year of the date of the examination failure The Board may recommend additional course work or clinical work for any applicant who has failed an examination two (2) or more times. (3-29-17)

151. -- 199. (RESERVED)

200. APPLICATIONS.

01. Application Filing Date. Licensure applications must be received in the Bureau of Occupational Licenses at least seven (7) business days prior to the next scheduled meeting of the Board. Applications received after that date may be held over for the Board's next meeting. (3-29-17)

02. Application Form for Licensure. Applications for licensure must be made on forms approved by the Board and furnished by the Bureau of Occupational Licenses and must include all other documents necessary to establish the applicant meets the requirements for licensure except examination and is eligible to take the licensure examination. (7-1-93)

03. Application Must Be Complete. All applications must be complete in every respect and accompanied by the appropriate fees before being considered received by the Bureau of Occupational Licenses. (7-1-93)

04. Authorization for Examination. (3-29-17)

a. After the Board evaluates the applicant's qualifications to take the examination the applicant will be notified in writing of the approval or denial, and, if denied, the reason for the denial. (3-29-17)

b. At the time the Board approves an applicant to take the examination the Board will set the date and location(s) of the next examination if it has not already been set. Approved applicants will be notified of the date and location(s) of the next examination. (3-29-17)

201. -- 249. (RESERVED)

250. FEES.

FEE TYPE	*AMOUNT (Not to Exceed)*
License Application and Examination	*$300*
License Application and Re-examination	*$300*
Intern Application and Permit	*$300*
Initial License	*$300*
Inactive License	*$50*
Annual Renewal	*$750*

( )

251. -- 299. (RESERVED)

300. INTERNSHIP.

01. Requirements and Conditions for Internship. (3-10-00)

a. To be eligible for internship the applicant must have completed: (3-10-00)

i. The educational requirements set forth in Section 54-3310(b), Idaho Code; or (3-10-00)

ii. Have denturitry experience of three (3) years within the five (5) years immediately preceding application. (3-10-00)

b. Where an internship is established based on experience, the internship is valid only while the intern is actively pursuing completion of Idaho licensure requirements. (3-10-00)

c. Application must be made on forms provided by the Bureau of Occupational Licenses and must: (3-10-00)

i. Document the location of practice; (3-10-00)

ii. Include the name and address of the supervising denturist or dentist; (3-10-00)

iii. Include a sworn or affirmed statement by the supervising denturist or dentist; (3-10-00)

iv. Include a sworn or affirmed statement by the supervisor accepting supervision of the intern; (3-10-00)

v. Include a sworn statement by applicant that he is knowledgeable of law and rules and will abide by all requirements of such law and rules; and (3-10-00)

vi. Include such other information necessary to establish applicant's qualifications for licensure as a denturist and establish compliance with pre-intern requirements. (3-10-00)

d. The supervising denturist or dentist must be present and directly observe any intern interaction with a patient. (3-29-10)

e. Two (2) years of internship under the supervision of a licensed denturist must be completed in not less than twenty-four (24) months and may not exceed thirty (30) months except as approved by the Board. (4-2-08)

02. Internship Equivalency. A person is considered to have the equivalent of two (2) years internship under a licensed denturist who has met and verifies one (1) of the following within the five (5) years immediately preceding application: (3-10-00)

a. Two (2) years internship as a denture lab technician under a licensed dentist; or (3-10-00)

b. Two (2) years in the military as a denture lab technician; or (3-10-00)

c. Three (3) years experience as a denturist under licensure in another state or Canada. (3-10-00)

03. Internship Not to Exceed One Year. Internship not to exceed one (1) year acquired through a formal training program in an acceptable school will be accepted toward the two (2) year required internship for licensure. (7-1-93)

04. Training Requirements. Each year of required internship consists of two thousand (2,000) clock hours of training and performance of the following minimum procedures for licensure. (7-1-93)

a. Procedures include all steps required in constructing a finished denture but are not limited to the following: (7-1-93)

i. Patient charting -- thirty-six (36) minimum. (7-1-93)

ii. Operatory sanitation -- thirty-six (36) minimum. (7-1-93)

iii. Oral examination -- thirty-six (36) minimum. (7-1-93)

iv. Impressions, preliminary and final (pour models, custom trays) -- thirty-six (36) minimum. (7-1-93)

v. Bite registrations -- twelve (12) minimum. (7-1-93)

vi. Articulations -- twelve (12) minimum. (7-1-93)

vii. Set ups -- twelve (12) minimum. (7-1-93)

viii. Try ins -- twelve (12) minimum. (7-1-93)

ix. Processing (wax up, flask-boil out, packing, grind-polish) -- thirty-six (36) minimum. (7-1-93)

x. Delivery-post adjustment -- thirty-six (36) minimum. (7-1-93)

b. Processed relines (one (1) plate = one (1) unit) -- twenty-four (24) units. (7-1-93)

c. Tooth repairs -- forty-eight (48) minimum. (7-1-93)

d. Broken or fractured plates or partials -- forty-eight (48) minimum. (7-1-93)

05. Reporting Requirements. Interns must file reports, attested to by the supervisor, with the Board on forms provided by the Bureau of Occupational Licenses on a monthly basis and recapped at termination or completion of the training. (7-1-93)

06. Denture Clinic Requirements. Denture clinic requirements for approved internship training: (7-1-93)

a. There may not be more than one (1) internee per licensed denturist or dentist who is practicing at the clinic on a full time basis. (7-1-93)

b. There must be a separate work station in the laboratory area for each intern with standard equipment, i.e. lathe, torch and storage space. The intern must provide necessary hand tools to perform the duties of the denture profession. Use of the operatory facilities and other equipment will be shared with the intern. (7-1-93)

07. Internship Supervisor Requirements. (3-29-17)

a. A supervisor must: (3-29-17)

i. Be approved in advance by the Board for each internship. (3-29-17)

ii. Not have been the subject of any disciplinary action by the Board, by the Idaho Board of Dentistry or by any other jurisdiction for five (5) years immediately prior to being approved as the supervisor. (3-29-17)

b. A supervisor that is a denturist must: (3-29-17)

i. Hold an Idaho denturist license that is current and in good standing and is renewed as provided in these rules; and (3-29-17)

ii. Have actively practiced denturitry for at least three (3) of the five (5) years immediately prior to being approved as the supervisor. (3-29-17)

c. A supervisor that is a dentist must: (3-29-17)

i. Hold an Idaho dentist license that is current and in good standing and is renewed as provided in Chapter 9, Title 54, Idaho Code; and (3-29-17)

ii. Have actively practiced general dentistry, or a dental specialty accepted by the Board, for at least three (3) of the five (5) years immediately prior to being approved as a supervisor. (3-29-17)

d. Supervise only one (1) intern. A supervisor will not be approved to supervise more than one (1) intern at a time. (3-29-17)

e. Termination of supervisor approval. Approval of the supervisor immediately terminates if the supervisor is disciplined or ceases to meet supervisor requirements. (3-29-17)

301. -- 314. (RESERVED)

315. INACTIVE LICENSURE STATUS.

01. Request License be Placed on Inactive Status. A denturitry licensee may request the Board that his license be placed upon inactive status. (3-10-00)

02. License Fee for Inactive Status. A licensee is required to submit an annual renewal fee of fifty dollars ($50) in order to remain on inactive status. (3-10-00)

03. While on Inactive Status. A licensee on inactive status may not provide or perform denturist services as defined in these rules. (3-10-00)

04. Reactivating Inactive License. A licensee on inactive status may reactivate his license to active status by paying the renewal fee for an active license and providing proof they have completed and obtained such continuing education as required by Board rule of not less than twelve (12) hours for each year of inactive licensure. (3-10-00)

05. License Inactive over Five Years. No license may remain on inactive status for more than five (5) years. (3-10-00)

316. -- 349. (RESERVED)

350. CONTINUING EDUCATION.
The Board may accredit education programs for purposes of continuing education where the subject matter of the program is determined to be pertinent to the practice of denturitry. (7-1-93)

01. Subjects. Subjects deemed pertinent to the practice of denturitry are those set forth in Section 54-3311(b), Idaho Code and may also include ethics courses. (7-1-93)

02. Request for Approval. Requests for approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. The request must also address the matters set forth in Subsection 350.05 below. Requests may accompany the annual renewal form or may be made to the Board in advance of the program for which approval is sought as indicated in Subsection 350.03, below. (7-1-93)

03. Requests for Pre-Approval. Requests for pre-approval of continuing education programs must be made to the Board, in writing, and provide an outline of the program which the Board is being asked to approve. Requests for pre-approval must also address the matters set forth in Subsection 350.05 below. (7-1-93)

a. Requests for pre-approval must be received by the Bureau of Occupational Licenses no less than eleven (11) working days prior to the date of the program. (7-1-93)

b. Requests for pre-approval which are not denied within ten (10) working days from receipt by the Bureau will be deemed approved. (7-1-93)

c. Only those continuing education programs sponsored by recognized educational institutions (such as accredited colleges or universities), state or national denturist boards or associations, will be eligible for pre-approval consideration by the Board. All other programs will be considered at the time of renewal. (7-1-93)

04. Credit for Continuing Education Attendance. Continuing education credit will be given only for actual time in attendance by the licensee. No credit will be given for non-instructive time. Correspondence or Home Study courses are not eligible for continuing education credits. (3-10-00)

05. Requests for Approval of Programs. All requests for approval or pre-approval of educational programs must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, and a statement by the licensee of how the course is believed to be pertinent to the practice of denturitry as specified in Section 54-3311(b), Idaho Code. (7-1-93)

351. -- 399. (RESERVED)

400. INSPECTIONS.

01. Who May Examine or Inspect. The Board or its agents may examine and inspect the place of

business of any denturist at anytime during business hours or upon at least seventy-two (72) hours notice made by U.S. mail to the address of record of the denturist when the Board or its agents are unable to establish the regular business hours. (7-1-93)

02. Reason for Inspection. Inspections are made to insure compliance with the Standards of Conduct and practice set forth in Section 450. Deficiencies are a violation of Section 450 and actionable against the denturist under Section 54-3314(c), Idaho Code. (7-1-93)

401. -- 449. (RESERVED)

450. STANDARDS OF CONDUCT AND PRACTICE.

01. Sanitation. (7-1-93)

a. There must be three (3) separate rooms; a reception room, and operatory room and a laboratory. (7-1-93)

b. The operatory room must have hot and cold running water, basin with approved disposal system; disinfectant soap; single-use towels, a cuspidor with running water and a closed waste receptacle. (8-24-94)

c. The laboratory room must have hot and cold running water, and basin with approved disposal system. (8-24-94)

d. There must be a method of sterilization and disinfection evident and in use to insure the protection of the public. (8-24-94)

e. All floors, walls, ceiling and benches must be kept in a sanitary condition at all times. (8-24-94)

f. Every patient must have a separate and clean bib and a disposable cup. (7-1-93)

g. The hands of every denturist must be washed in the presence of every patient with germicidal or antiseptic soap and water. Every denturist must wear disposable gloves. (8-24-94)

h. Adequate and conveniently located toilet facilities with hot and cold running water, basin with approved disposal system, soap and single use towels will be provided within the building. (8-24-94)

i. All denturist offices are open to inspection anytime during the business hours to inspection by the Board or its agents. (7-1-93)

02. Office Standards. (7-1-93)

a. Denturists must take care to use proper sterilization and sanitation techniques in all phases of their work. (7-1-93)

b. A complete record of each patient must be kept. (7-1-93)

c. All teeth and materials used must meet ADA standards. (7-1-93)

03. Advertisements. (4-2-08)

a. No denturist may disseminate or cause the dissemination of any advertisement or advertising that is any way fraudulent, false, deceptive or misleading. (4-2-08)

04. General Conditions. (7-1-93)

a. Conditions deemed by investigators to be a menace to the public health will be brought to the attention of the Board for consideration and immediate action. (7-1-93)

b. These Standards of Conduct and Practice must be conspicuously posted in every licensed denturist's place of business. (7-1-93)

05. Patient Record. A denturist must record, update and maintain documentation for each patient relevant to health history, clinical examinations and treatment, and financial data. Documentation must be written or computerized. Records must be maintained in compliance with any applicable state and federal laws, rules and regulations, including the health insurance portability and accountability act (HIPAA), P.L. 104-191 (1996), and the health information technology for economic and clinical health act (HITECH), P.L. 111-115 (2009). Such records must be accessible to other providers and to the patient in accordance with applicable laws, rules and regulations. Records must include, but are not limited to, the following: (3-29-17)

a. Patient data, including name, address, date and description of examination; (3-29-17)

b. Evidence of informed consent; (3-29-17)

c. Date and description of treatment, services rendered, and any complications; (3-29-17)

d. Health history as applicable; and (3-29-17)

e. Any other information deemed appropriate to patient care. (3-29-17)

06. Record Retention. Patient documentation, written or archived electronically by computer, must be retained for a minimum of seven (7) years and available upon request by the Board. (3-29-17)

451. -- 474. (RESERVED)

475. REGISTRATION STATEMENT.
To enable the Board to examine or inspect the place of business of any licensed denturist as referred to in Section 54-3314(5)(b), Idaho Code, the filing of an annual statement is required of all licensed denturists. (7-1-97)

01. Statement. must list the name and principal place of business of the denturist who is responsible for the practice of denturitry at that location. (7-1-97)

02. Other Business Locations. Any other business locations maintained by the principal denturist and all denturists employed at the business. (7-1-97)

03. Date of Filing. must be filed with the Board annually or within ten (10) days of any change in either location, identity of principal denturist or denturist employees. (3-29-17)

04. Failure to Timely File. Failure to timely file or update this statement will constitute grounds for discipline pursuant to Section 54-3314(a), Idaho Code. (7-1-97)

476. GUARANTEE OF DENTURIST SERVICES.
As prescribed in Section 54-3320(c), Idaho Code, unconditional guarantee of denturist services will require that the licensee refund, in full, any monies received in connection with the providing of denturist services, if demanded by the purchaser within ninety (90) days of delivery of the dentures, or the providing of services for which a fee is charged. (7-1-97)

01. Ninety Day Period. The ninety (90) day period will be tolled for any period in which the denturist has taken possession or control of the dentures after original delivery. (7-1-97)

02. Written Contract. By written contract signed by the purchaser, the denturist may specify the amount of the purchase price of the dentures, if any, that is nonrefundable should the consumer choose to cancel the purchase within the guarantee period. (7-1-97)

03. Nonrefundable Amount. Under no circumstances will the nonrefundable amount exceed twenty-

five percent (25%) of the total purchase price of the dentures. (7-1-97)

04. Limitation. There is no limitation on the consumer's right to cancel. (7-1-97)

05. Cancellation of Agreement. If the licensee elects to cancel the agreement or refuses to provide adjustments or other appropriate services to the consumer, the consumer will be entitled to a complete refund. (7-1-97)

477. -- 479. (RESERVED)

480. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed denturist for each violation of Section 54-3314(a), Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed denturist to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-3314(a), Idaho Code. (3-18-99)

481. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.17.01 – RULES OF THE STATE BOARD OF ACUPUNCTURE

DOCKET NO. 24-1701-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-4705, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.17.01, rules of the State Board of Acupuncture:

IDAPA 24.17.01

- 24.17.01, *Rules of the State Board of Acupuncture*: all proposed rules except 010.03, 010.04, 010.06, 200.02, 201.01, 301.01, 302.01, 402, 405.01, 405.02,405.03, 405.04, and 405.05.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.17.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the State Board of Acupuncture was published. This pending rule will allow the Legislature to review for codification IDAPA 24.17.01, the Rules of the State Board of Acupuncture. On June 28, 2019, the Board of Acupuncture held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending rule removes outdated language and processes, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

This pending rule also clarifies the requirements for a licensee to transition to active status from inactive status, establishes requirements to return to active status after five or more years in inactive status, as well as factors the Board may consider in determining whether a licensee is competent to return to active status. These changes will make it easier for licensees to understand the requirements to return to active status and will protect the public through ensuring competency to practice. This pending rule will reduce the administrative burden on licensees through removing the requirement to disclose fees for service and the required method of payment for such services. Additionally, this pending rule removes unnecessary examples of violations of the advertising requirements.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4787 - 4794.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-4710, Idaho Code, as follows:

Application fee: not to exceed $50;

Original license fee: not to exceed $150;
Original fee for certification not to exceed $150;
Original fee for acupuncture trainee permit: not to exceed $150;
Annual renewal fee for licensure: not to exceed $75;
Annual renewal fee for certification: not to exceed $75;
Annual renewal fee for technician certification or acupuncture trainee permit: not to exceed $50;
Fee for inactive license or certification: not to exceed $50.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the State Board of Acupuncture by the provisions of Section 54-4705, Idaho Code. (3-10-00)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 24.17.01, "Rules of the State Board of Acupuncture." (3-10-00)

02. Scope. These rules review and establish the minimum requirements for licensure/certification of acupuncturists. (3-10-00)

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.

0*1*. Accredited College or University. An accredited college or university is a college or university accredited by an accrediting organization approved by the U.S. Department of Education. (4-2-08)

0*2*. Approved Acupuncture Program. A formal full-time acupuncture educational program that has met the standards of the Accreditation Commission for Acupuncture and Oriental Medicine or an equivalent educational body. An acupuncture program may be established as having satisfied this requirement by obtaining: (3-30-01)

a. Accreditation; or (3-30-01)

b. Candidacy for accreditation; or (3-30-01)

c. An equivalent evaluation performed by a private, state government, or foreign government agency recognized for that purpose by the NCCAOM (National Certification Commission for Acupuncture and Oriental Medicine) Eligibility Committee. (3-30-01)

0*3*. License. Any license *or* certification issued to a qualified applicant pursuant to the laws and rules of the Board, permitting said applicant to practice acupuncture in the state of Idaho. *( )*

0*4*. Practitioner. A person to whom a license, certification, or acupuncture trainee has been issued pursuant to Title 54, Chapter 47, Idaho Code. *( )*

011. -- 199. (RESERVED)

200. QUALIFICATIONS FOR LICENSURE OR CERTIFICATION.

01. Requirements for Licensure. Applicants for licensure must submit a complete application, required fee, and official certified documentation of either: (3-30-01)

a. Certification from NCCAOM; or (5-3-03)

b. Graduation from an approved formal full-time acupuncture program of at least one thousand seven hundred twenty-five (1,725) hours of entry-level acupuncture education which includes a minimum of one thousand (1000) hours of didactic course work and five hundred (500) clinical hours practice; and (3-30-01)

c. Successful completion of an acupuncture internship, or other equivalent experience as approved by the Board; and (3-30-01)

d. Receipt of a passing grade on an NCCAOM Acupuncture certification examination; or (3-30-01)

e. Other demonstration of proficiency as uniformly required by the Board for other similarly qualified applicants for licensure; and (3-30-01)

f. Successful completion of a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. (3-30-01)

201. ACUPUNCTURE TRAINEE PERMIT.
The Board may issue an acupuncture trainee permit to allow a person to engage in the practice of acupuncture while actively pursuing licensure or certification. The permit will expire one (1) year from date of issue. The permit may be extended in accordance with Section 54-4708, Idaho Code. The holder of an acupuncture trainee permit may only practice under the supervision of a person licensed or certified under this chapter who meets the requirements in Section 404 of these rules. An applicant for a permit must present evidence satisfactory to the Board of meeting the following requirements: (4-11-19)

01. **Education**. An applicant must submit documentation of either: (4-11-19)

a. Current enrollment in an Approved Acupuncture Program and actively pursuing completion of the program; or (4-11-19)

b. Satisfaction of the requirement for certification as set forth in *Section 54-4707, Idaho Code.* *( )*

02. **Supervision**. Submission of a supervision plan specifying at a minimum the name of the supervisor and the setting and location where the permit holder will practice. A supervision plan may be approved by a designated Board member. (4-11-19)

202. -- 225. (RESERVED)

226. REQUEST FOR APPROVAL OF QUALIFICATION.

01. **Course Review**. A person or entity may request approval of a course of study in acupuncture that will be offered to qualify applicants for a credential to practice acupuncture. The request must include a complete description of the required hours, scope and extent of academic and other training and clinical experience offered through the course along with appropriate supporting documentation and course materials. The request must also designate whether approval is sought for compliance with standards for certification. *( )*

02. **Individual Qualification**. An applicant may request approval of his individual qualification for licensure or certification in acupuncture. The request must include a complete description of the number of hours, scope and extent of academic and other training and clinical experience the individual has received along with available supporting documentation. The request must also designate whether qualification is sought for licensure or certification. A demonstration of proficiency or examination may be required as a part of the determination of the individual's qualification. (3-21-12)

227. -- 299. (RESERVED)

300. FEES.
All fees are non-refundable:

License/Certification/Permit/Certification	*Initial Fee (Not to Exceed)*	*Annual Renewal Fee (Not to Exceed)*
Application	*$50*	*n/a*
License	*$150*	*$75*
Certification	*$150*	*$75*
Acupuncture Trainee	*$150*	*$50*
Inactive License or Certification	*n/a*	*$50*
Reinstatement	*$250*	*n/a*

( )

301. REINSTATEMENT OF LICENSE.
*T*he applicant must submit proof of having met the continuing education required of licensees by Section 305 through 307 of these rules as follows: *( )*

01. Expired for One Year or Less. For licenses or certificates expired for one (1) year or less, one (1) year of continuing education; *( )*

02. Expired More than One Year. For licenses or certificates expired for more than one (1) year, two (2) years of continuing education. *( )*

302. INACTIVE STATUS.
A currently licensed or certified practitioner may request in writing to have their license placed on inactive status and pay the inactive status fee. Such request must be made prior to the expiration date of the license. *( )*

0*1*. Waiving Continuing Education Requirements – Inactive Status. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license. *( )*

0*2*. Return to Active Status. *( )*

a. *A licensee desiring to return to active status must complete the equivalent of one (1) year of continuing education for every year the license was inactive and submit a fee equivalent to the difference between the inactive fee and renewal fee.* *( )*

b. *For licenses inactive five (5) years or greater, the licensee shall complete forty-five (45) hours of continuing education and either provide proof that the licensee has actively engaged in the practice of acupuncture in another state or territory of the United States for at least three (3) of the immediately preceding five (5) years, or provide proof that the licensee is competent to practice acupuncture in Idaho.* *( )*

c. *The Board may consider the following factors when determining proof of competency:* *( )*

i. *Practice of acupuncture in another jurisdiction;* *( )*

ii. *Number of years of practice prior to transfer from active status;* *( )*

iii. *Completion of continuing education courses;* *( )*

iv. *Employment in a field similar to acupuncture; and* *( )*

v. *Any other factors the Board deems appropriate.* *( )*

303. -- 304. (RESERVED)

305. CONTINUING EDUCATION REQUIREMENTS.
In order to further protect the public health and to facilitate the administration of the Acupuncture Act, the Board has adopted the following requirements: (4-4-13)

01. Requirement. All practitioners are required to complete a minimum of fifteen (15) hours of continuing education within the preceding twelve (12) months. *A* minimum of ten (10) hours of continuing education must be from Category I topics, and a maximum of five (5) hours of continuing education may be from Category II topics, as set forth in Sections 306 and 307 of these rules. *( )*

02. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any hours attended by the applicant. This verification must be maintained by the licensee for no less than *four* (*4*) years and provided to the Board upon the request of the Board or its agent. *( )*

03. Distance Learning and Independent Study. The Board may approve a course of study for

continuing education credit that does not include the actual physical attendance of the applicant in a face-to-face setting with the course instructor. Distance Learning or Independent Study courses are eligible for continuing education credits if approved by NCCAOM or upon approval of the Board. (4-6-05)

04. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. ( )

05. Carryover. A continuing education course taken in a renewal year, but not claimed for continuing education credit in that year, may only be claimed for credit in the following renewal year. (4-4-13)

06. Credit for Teaching. Licensees may earn continuing education credit by teaching Board-approved courses. A licensee will earn one (1) credit hour for every two (2) hours of teaching. Credit for teaching will not exceed five (5) hours of the total continuing education hours required for a renewal period and will be credited to the category of the topic taught. (3-25-16)

306. APPROVAL OF CONTINUING EDUCATION COURSES.
Approved continuing education courses are those courses, programs, and activities that are approved or provided by the following entities or organizations, or otherwise approved by the Board: ( )

01. NCCAOM; (4-4-13)

02. Accredited Schools. Acupuncture and oriental medicine; and (4-4-13)

03. Other Courses May Be Approved by the Board. Other courses may be approved based upon documentation submitted by the licensee or course provider. All requests for approval or pre-approval of educational programs must be made to the Board in writing, and must be accompanied by a statement that includes the name of the instructor or instructors, the date and time and location of the course, the specific agenda for the course, the number of continuing education credit hours requested, and a statement of how the course is believed to be pertinent to the practice of acupuncture. (4-4-13)

307. CONTENT OF CONTINUING EDUCATION COURSES.
The content of a continuing education course must be germane to the practice of acupuncture as defined in Section 54-4702, Idaho Code, and: ( )

01. Category I. Category I courses relate to the following topics: (4-4-13)

a. Acupuncture and the practice of acupuncture as defined in Section 54-4702, Idaho Code including topics that directly concern the history and theory of acupuncture, oriental medicine diagnosis and treatment techniques, and techniques of adjunctive oriental medicine therapies; (4-4-13)

b. The role of acupuncture in individual and public health, such as emergencies and disasters; or (4-4-13)

c. Research and evidence-based medicine as related to acupuncture and Asian medicine; (4-4-13)

02. Category II. Category II courses relate to the following topics: (4-4-13)

a. Western biomedicine and biological sciences; (4-4-13)

b. Scientific or clinical content with a direct bearing on the quality of patient care, community or public health, or preventive medicine; (4-4-13)

c. Laws and ethics; (4-4-13)

d. Enhancement of effective communication with other medical practitioners; (4-4-13)

e. Behavioral sciences, patient counseling, and patient management and motivation when such courses are specifically oriented to the improvement of patient health; (4-4-13)

f. Practice management unrelated to clinical matters and direct patient care, including, but not limited to, administrative record keeping, insurance billing and coding, and general business organization and management; or (4-4-13)

g. Patient education including, but not limited to, patient education in East Asian therapeutic exercise techniques and Asian nutritional therapies. (4-4-13)

308. -- 400. (RESERVED)

401. RECORDS.
A practitioner must keep accurate records of each patient the practitioner treats. The records must *at a minimum* include the name of the patient and the indication and nature of treatment given. Records must be kept on file for a minimum of five (5) years. A patient's records will be made available to the patient within thirty (30) days of a request. *( )*

402. *(RESERVED)*

403. EMPLOYMENT OF UNLICENSED, NON-EXEMPT INDIVIDUALS.
Individuals who do not have a license and are not exempt from licensure may not perform any insertion of acupuncture needles or use similar devices and therapies, including application of moxibustion. They may only support the practitioner's professional practice by performing office and ministerial acts related to acupuncture. The practitioner is responsible for the services provided by such employees. (4-4-13)

404. SUPERVISION OF TRAINEES.
A licensed or certified acupuncturist providing supervision to trainees shall be responsible for the services provided by such individuals. Failure to adequately supervise such an individual may subject the supervisor to discipline. (4-4-13)

01. Qualifications of Supervisors. Prior to providing supervision to a trainee, a supervisor must: (4-11-19)

a. Have held a current acupuncture license or certification without restriction for a minimum of five (5) years. (4-11-19)

b. Have not been the subject of any disciplinary action within the preceding five (5) years, provided that the Board may in its discretion approve a supervisor with disciplinary action for failing to complete continuing education requirements. (4-11-19)

02. Supervision. For the first one hundred (100) hours of practice, the supervisor must provide supervision in person when the trainee is providing treatment. After the first one hundred (100) hours of practice, the supervisor may provide supervision by making themselves accessible to the trainee by telephone, or video conferencing, provided that the trainee has successfully completed the requirement in Paragraph 404.02.a. of this rule, and provided that the supervisor meets with the trainee in person on at least a monthly basis during which time the supervisor must review case studies and require the trainee to demonstrate acupuncture point location and needle placement technique. (4-11-19)

a. Before providing treatment without in-person supervision, the trainee must successfully complete a Blood Borne Pathogen course and comprehensive examination that incorporates clean needle techniques and OSHA procedures and requirements. (4-11-19)

b. The supervisor must provide the trainee with adequate training, which must include at a minimum charting, diagnosis, and treatment plans, and opportunities for the trainee to complete at least twenty-five (25) case studies. (4-11-19)

c. The supervisor and trainee must keep adequate records of supervision, which shall include at a minimum, summary of case studies in progress or completed by the trainee under supervision, treatment plan for each patient, and the dates of supervision. (4-11-19)

03. Continuing Education. A supervisor may annually count up to ten (10) hours of supervision of a trainee toward the Category I continuing education requirements. Supervision hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of ten (10) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (4-11-19)

04. Completion of Supervision. At the conclusion of supervision of a trainee, the supervisor must verify the hours of supervision, the type of supervision provided to the trainee, and the documentation of at least twenty-five (25) case studies by the trainee. *( )*

05. Termination of Supervision or Change in Supervisor. A supervisor may terminate supervision at any time by submitting written notice of termination to the Board. (4-11-19)

405. ADVERTISING.
A practitioner shall not disseminate or cause the dissemination of any advertisement or advertising including offers, statements, or other representations, which is in any way fraudulent, false, deceptive, or misleading. *( )*

406. – 524. (RESERVED)

525. DISPLAY OF LICENSE.
The license shall be conspicuously displayed in the office of the Practitioner. (3-10-00)

526. -- 574. (RESERVED)

575. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensee for each violation of Section 54-4711, Idaho Code. (4-6-05)

02. Costs and Fees. The Board may order a licensee to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4711, Idaho Code. (4-6-05)

576. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.18.01 – RULES OF THE REAL ESTATE APPRAISER BOARD

DOCKET NO. 24-1801-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-4106, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.18.01, rules of the Real Estate Appraiser Board:

IDAPA 24.18.01

- 24.18.01, *Rules of the Real Estate Appraiser Board*: all proposed rules except 100.01, 100.03, 200.05, 200.06, 225, 275.02.b.i., 275.02.b.ii., 275.02.b.iii., 275.02.b.iv., 275.02.b.v., 275.02.b.vi., 276.02.b.i., 276.02.b.ii., 276.02.b.iii., 276.02.b.iv., 276.02.b.v., 276.02.b.vi., 450.01, and 550.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.18.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Real Estate Appraiser Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.18.01, the Rules of the Real Estate Appraiser Board. On August 12, 2019, the Real Estate Appraiser Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. This pending fee rule clarifies the supervision requirements for an applicant's log book, through the specific requirements for the signature and license number of the supervising appraiser. Further, the pending fee rule clarifies the number of hours a registered trainee must obtain in Idaho within a minimum period of time, which will allow applicants flexibility while ensuring familiarity with Idaho markets. This pending fee rule also adds that the Board will only consider experience gained in jurisdictions with substantially equal requirements to those of Idaho, which will provide clarity to applicants, as well as ensure all applicants are held to the same standards.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4797 - 4810.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-4113, 54-4124, and 54-4134, Idaho Code, as follows:

Application fee for license and registration: not to exceed $200;

Original license fee: not to exceed $100;
Original appraisal management company registration: not to exceed $1,000;
License renewal fee: not to exceed $275; appraisal management company registration renewal: not to exceed $900;
Application for reciprocity: not to exceed $200; Original license via reciprocity: not to exceed $100;
Temporary permit: not to exceed $75;
Trainee registration fee: not to exceed $50;
Continuing education provider application fee: not to exceed $100.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Real Estate Appraiser Board by the provisions of Section 54-4106, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.18.01, "Rules of the Real Estate Appraiser Board." (7-1-97)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The document titled "Uniform Standards of Professional Appraisal Practice (USPAP)," *2020-2021* Edition, excluding standards 7, 8, 9, and 10, published by the Appraisal Foundation and effective January 1, *2020*, as referenced in Subsection 700, is herein incorporated by reference and is available for review at the Board's office and may be purchased from the Appraisal Foundation, Distribution Center, P. O. Box 381, Annapolis Junction, MD 20701-0381.
( )

***005*. -- 009. (RESERVED)**

010. DEFINITIONS.
The definitions numbered one through *fif*teen (1-1*5*), appearing at Section 54-4104, Idaho Code are incorporated herein by reference as if set forth in full. *( )*

01. Accredited. Accredited by the Commission on Colleges, a regional or national accreditation association, or by an accrediting agency that is recognized by the U.S. Secretary of Education. (3-20-14)

02. Advisory Committee. A committee of state certified or licensed real estate appraisers appointed by the board to provide technical assistance relating to real estate appraisal standards and real estate appraiser experience, education and examination requirements that are appropriate for each classification of state certified or licensed real estate appraiser. (7-1-93)

03. Appraiser Qualifications Board. Appraiser Qualifications Board of the Appraisal Foundation establishes the qualifications criteria for licensing, certification and recertification of appraisers. (7-1-97)

04. Appraisal Standards Board. The Appraisal Standards Board of the Appraisal Foundation develops, publishes, interprets and amends the Uniform Standards of Professional Appraisal Practice (USPAP) on behalf of appraisers and users of appraisal services. (7-1-97)

05. Classroom Hour. Fifty (50) minutes out of each sixty (60) minute hour in a setting which may include a classroom, conference/seminar, on-line or a virtual classroom. (4-4-13)

06. Field Real Estate Appraisal Experience. Personal inspections of real property, assembly and analysis of relevant facts, and by the use of reason and the exercise of judgment, formation of objective opinions as to the market or other value of such properties or interests therein and preparation of written appraisal reports or other memoranda showing data, reasoning, and conclusion. Professional responsibility for the valuation function is essential. (4-6-05)

07. FIRREA. Title XI, Financial Institutions Reform, Recovery and Enforcement Act of 1989, as amended, was designed to ensure that more reliable appraisals are rendered in connection with federally related transactions. (3-20-14)

08. Real Estate. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean an identified parcel or tract of land, including improvements, if any. (3-29-10)

09. Real Property. In addition to the previous definition in Section 54-4104(11), Idaho Code, will also mean one or more defined interests, benefits, or rights inherent in the ownership of real estate. (3-29-10)

10. Residential Unit. Real estate with a current highest and best use of a residential nature. A residential unit includes a kitchen and a bathroom. (3-29-10)

11. Uniform Standards of Professional Appraisal Practice or USPAP. Those uniform standards adopted by the Appraisal Foundation's Appraisal Standards Board. These standards may be altered, amended, interpreted, supplemented, or repealed by the Appraisal Standards Board (ASB) from time to time. (3-13-02)

12. USPAP Course. For the purposes of licensure and license renewal, any reference to the approved USPAP course means the National USPAP Course provided by Appraisal Qualifications Board Certified USPAP Instructors and Educational Providers. (4-6-05)

13. Appraisal Management Company or AMC. Appraisal Management Company or AMC means a natural person or organization that meets the definition in Section 54-4122, Idaho Code, and is registered under the Idaho Appraisal Management Company Registration and Regulation Act. (3-24-17)

011. -- 099. (RESERVED)

100. ORGANIZATION AND MEETINGS.

01. Organization of Board. At the first meeting of each year, the Board shall organize and elect from its members a Chairman and Vice Chairman who shall assume the duties of their respective offices immediately upon such selection. (3-13-02)

02. Meetings. The Board meets at least four (4) times annually and at such other times as requested by the Board or its chairman. (7-1-93)

03. Quorum. A quorum is three (3) board members. A majority vote of the quorum present is considered the action of the Board as a whole. (4-11-06)

101. -- 149. (RESERVED)

150. FEES.
Fees are *non-refundable and* established in accordance with Sections 54-4113, 54-4124, and 54-4134, Idaho Code, as follows:

FEE TYPE	*AMOUNT (Not to Exceed)*	*RENEWAL (Not to Exceed)*
Application	*$200*	
License	*$100**	*$275**
AMC Registration	*$1,000***	*$900***
Reinstatement	*As provided in Section 67-2614, Idaho Code*	
Application for Reciprocity	*$200*	
Original license via Reciprocity	*$100**	
Temporary Permit	*$75*	
Trainee Registration	*$50*	
Continuing Education Provider Application	*$100*	
Examination and Reexamination	*As charged by the provider*	

( )

***01*. Fees Followed by One Asterisk (*) Means**. Proposed fees for these categories marked with an

asterisk (*) include forty dollars ($40) to be submitted by the state to the federal government. Title XI, Section 1109 of the FIRREA as amended requires each state to submit a roster listing of state licensed appraisers to the Appraisal Subcommittee of the Federal Financial Institutions Examination Council "no less than annually." The state is also required to collect from such individuals who perform appraisals in federally related transactions an annual registry fee of "not more than eighty-five dollars ($85)," such fees to be transmitted by the state to the federal government on an annual basis. This fee is subject to change by the Appraisal Subcommittee. (3-21-12)

02. **Fees Followed by Two Asterisks (**) Means**. The fees for the categories marked with two (2) asterisks (**) do not include additional fees assessed pursuant to Title XI, Section 1109 of the FIRREA, as amended, including, but not limited to, an AMC registry fee, such fees to be collected from AMCs by the state and transmitted to the federal government on an annual basis. (3-22-18)

151. -- 199. (RESERVED)

200. APPLICATION.

01. Appraiser License Application. Any person desiring to apply for licensure must submit a completed application with required supporting documents and appropriate fees to the Bureau at its official address. After the qualifications have been reviewed, verified and approved by the Board, the applicant will receive the pre-approved examination card and must submit the appropriate fees to the examining entity. (3-24-17)

02. Eligibility for Examination. The qualified applicant will be sent notification on how to register for the examination subsequent to the determination of eligibility based on documentation that the applicant has met the required education and experience requirements. (3-21-12)

03. Trainee Registration Application. Any person desiring registration as a trainee must submit a completed application with required supporting documents and appropriate fees to the Bureau at its official address. *( )*

04. AMC Registration Application. Any person or organization desiring registration as an AMC must submit a completed application with required supporting documents and appropriate fees to the Bureau at its official address. (3-24-17)

201. -- 249. (RESERVED)

250. REQUIREMENTS FOR LICENSURE.
All applicants for licensure in any real estate appraiser classification must comply with the following education, experience and examination requirements in addition to meeting those requirements set forth in Sections 275, 300, 350, and 400 below. (4-11-06)

01. Education. Classroom hours will be credited only for courses with content that follows the Required Core Curriculum as outlined by the Appraisal Qualification Board. (3-20-14)

a. Credit toward the classroom hour requirement may only be granted where the length of the educational offering is at least fifteen (15) hours, and the individual successfully completes a closed-book examination pertinent to the educational offering. In addition, distance education courses intended for use as qualifying education must include a written, closed-book final examination - proctored by an official approved by the college or university or by the sponsoring organization. The term "written" as used herein refers to an exam that might be written on paper or administered electronically on a computer workstation or other device. Oral exams are not acceptable. The testing must be in compliance with the examination requirements of this section. (3-20-14)

b. Credit for the classroom hour requirement may be obtained from the following: (7-1-97)

i. Colleges or Universities. (7-1-97)

ii. Community or Junior Colleges. (7-1-97)

iii. Courses approved by the Appraisal Qualifications Board. (4-2-08)

iv. State or Federal Agencies or Commissions. (7-1-97)

v. Other providers approved by the Board. (7-1-97)

c. Only those courses completed preceding the date of application will be accepted for meeting educational requirements. (3-18-99)

d. Course credits that are obtained from the course provider by challenge examination without attending the course will not be accepted. (4-11-06)

e. Credit toward education requirements may be obtained through completion of a degree in Real Estate from: (3-20-14)

i. An accredited degree-granting college or university that has been approved by the Association to Advance Collegiate Schools of Business; or (3-20-14)

ii. A regional or national accreditation agency that is recognized by the U.S. Secretary of Education and whose curriculum has been reviewed and approved by the Appraiser Qualifications Board. (3-20-14)

f. Applicants with a college degree from a foreign country may have their education evaluated for equivalency by one (1) of the following: (3-20-14)

i. An accredited, degree-granting domestic college or university; (3-20-14)

ii. The American Association of Collegiate Registrars and Admissions Officers (AACRAO); (3-20-14)

iii. A foreign degree credential evaluation services company that is a member of the National Association of Credential Evaluation Services (NACES); or (3-20-14)

iv. A foreign degree credential evaluation service company that provides equivalency evaluation reports accepted by an accredited degree-granting domestic college or university or by a state licensing board that issues credentials in another discipline. (3-20-14)

02. Experience. (7-1-97)

a. The work product claimed for experience credit must be in conformity with USPAP. (3-21-12)

b. All appraisal experience must be obtained as a registered trainee or as a licensed appraiser. *At least five hundred (500) hours in no less than three (3) months must be obtained in Idaho pursuant to these rules. The Board will only consider experience from other jurisdictions with substantially equal requirements. ( )*

c. Only experience gained during the five (5) years immediately preceding application will be considered for evaluation. (4-11-06)

d. Acceptable non field appraisal experience includes, but is not limited to the following: Fee and Staff appraisal analysis, ad valorem tax appraisal, condemnation appraisal, technical review appraisal, appraisal analysis, review appraisal, real estate counseling, highest and best use analysis, and feasibility analysis/study. (4-11-06)

e. Each applicant applying for licensure must verify completion of the required experience via affidavit, under oath subject to penalty of perjury, and notarized on a form provided by the Board. (4-11-06)

i. The Board requires submission of a log that details hours claimed for experience credit. The log must include the following: (3-29-10)

(1) Type of property; (3-29-10)

(2) Address of the property; (3-29-10)

(3) Report date; (3-29-10)

(4) Description of work performed; (3-29-10)

(5) Number of work hours; (3-29-10)

(6) Complexity; (3-29-10)

(7) Approaches to value; (3-29-10)

(8) Appraised value; (3-29-10)

(9) Scope of supervising appraiser's review; and (3-29-10)

(10) *Signature and license number of the supervising appraiser*. *( )*

ii. The Board reserves the right to contact an employer for confirmation of length and extent of experience claimed. This may require an employer to submit appraisal reports and/or an affidavit. (7-1-97)

iii. The Board may request submission of written reports or file memoranda that substantiate an applicant's claim for experience credit. (4-11-06)

f. Ad valorem tax appraisers must demonstrate the use of techniques to value properties similar to those used by appraisers and effectively use the process as defined in Subsection 010.06, Field Real Estate Appraisal Experience in order to receive experience credit. (3-20-14)

03. Examination. Successful completion of an examination appropriate to the license classification being applied for and approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

251. -- 274. (RESERVED)

275. REGISTERED TRAINEE REAL ESTATE APPRAISER.

01. Qualification. Each applicant for registration as an appraiser trainee must meet the following requirements: (4-11-06)

a. Education. Within the five-year period preceding application, all applicants for registration as a trainee must document completion of at least seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

i. Basic Appraisal Principles - not less than thirty (30) hours specifically including Real Property Concepts and Characteristics, Legal Considerations, Influences on Real Estate Values, Types of Value, Economic Principles, Overview of Real Estate Markets and Analysis, and Ethics and How They Apply in Appraisal Theory and Practice; and (4-11-06)

ii. Basic Appraisal Procedures - not less than thirty (30) hours specifically including Overview of Approaches to Value, Valuation Procedures, Property Description, and Residential Applications; and (4-11-06)

iii. National USPAP Course - not less than fifteen (15) hours. (4-11-06)

b. Experience. All applicants for registration as a trainee must retain and identify at least one (1)

qualified supervisor as required by law and rule. *( )*

c. Examination. Each trainee applicant shall document successful passage of examinations in each of the prerequisite courses required for registration as a trainee. (4-11-06)

d. Prior to registration as an appraiser trainee, each trainee applicant must complete a trainee appraiser course that complies with the content requirements established by the Appraisal Qualifications Board. This course is in addition to the education requirements set forth in Section 275. (3-24-17)

02. Scope and Practice. An Appraiser Trainee shall not be involved in the appraisal of any property that exceeds the lawful scope of practice of the supervising appraiser. The appraiser trainee shall be subject to USPAP. (4-11-06)

a. Each appraiser trainee is permitted to have more than one (1) supervising appraiser provided a supervising appraiser is not registered to more than three (3) trainees at any one (1) time. (4-11-06)

b. An appraisal log shall be maintained for each supervising appraiser by the appraiser trainee and shall include no less than the *requirements outlined in Subsection 250.02.e.i.* for each appraisal. *( )*

c. An appraiser trainee shall be entitled to obtain copies of all appraisal reports prepared by the trainee. (4-11-06)

03. Continuing Education. Prior to the second renewal and for each continuing education cycle thereafter as provided in Section 275 of this rule, an appraiser trainee shall be required to obtain: (3-21-12)

a. The equivalent of thirty (30) classroom hours of instruction in approved courses or seminars during the twenty-four (24) month period preceding the renewal. Once every twenty-four (24) months, registered appraiser trainees will be required to attend an approved seven-hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. (3-21-12)

b. All continuing education shall be in compliance with Subsections 401.01 through 401.05. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. (3-20-14)

c. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities that are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. (3-20-14)

d. The purpose of continuing education is to ensure that the appraiser trainee participates in a program that maintains and increases skill, knowledge and competence in real estate appraising. (4-11-06)

04. Renewal and Reinstatement. An appraiser trainee shall renew their registration annually as set forth in Section 67-2614, Idaho Code, and may reinstate after expiration as provided in Section 67-2614, Idaho Code. Beginning July 1, 2017, an individual may only be registered as an appraiser trainee for a maximum period of five (5) years, unless approved by the Board for good cause. (3-24-17)

276. REGISTERED TRAINEE SUPERVISORS.

01. Registered Trainee Supervisor Requirements. (3-24-17)

a. A supervising appraiser shall: (3-24-17)

i. Hold a current Idaho license as a Certified Residential Appraiser or as a Certified General Appraiser when supervising a trainee registered in Idaho. (3-24-17)

ii. Have held a current and unrestricted license as a Certified Residential Appraiser or a Certified General Appraiser for at least three (3) years prior to providing supervision; and; (3-24-17)

iii. Submit evidence of completion of an approved four-hour (4) continuing education course regarding the role of a supervising appraiser. (3-24-17)

iv. Not have been disciplined by the Board or any other state or jurisdiction within the previous four (4) years; and (3-24-17)

v. Not supervise more than three (3) appraiser trainees at one time; and (3-24-17)

vi. Be responsible for the training and direct supervision of the appraiser trainee; and (3-24-17)

vii. Accept responsibility for all appraiser trainee appraisal reports by signing and certifying that the report is in compliance with USPAP; and (3-24-17)

viii. Review and sign all appraiser trainee appraisal report(s); and (3-24-17)

ix. Personally inspect each appraised property with the appraiser trainee until the supervising appraiser determines the appraiser trainee is competent in accordance with the Competency Provision of USPAP for the property type. (3-24-17)

b. An accurate, current and complete appraisal experience log shall be maintained jointly by the supervising appraiser and the appraiser trainee *as outlined in Subsection 250.02.e.i.* *( )*

c. A supervising appraiser may not continue to supervise if: (3-24-17)

i. The appraiser ceases to meet supervisor requirements; or (3-24-17)

ii. The appraiser is disciplined, unless the board grants a waiver and a waiver may be subject to conditions set by the board. (3-24-17)

277. -- 299. (RESERVED)

300. LICENSED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.
The state licensed residential real estate appraiser classification applies to the appraisal of residential real property consisting of one (1) to four (4) non-complex residential units having a transaction value less than one million dollars ($1,000,000) and complex one (1) to four (4) residential units having a transaction value less than two hundred fifty thousand dollars ($250,000). Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being licensed, every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Licensed Residential Real Estate Appraiser, each applicant shall: (3-20-14)

a. Document registration as an Appraiser Trainee; and (4-11-19)

b. Document the successful completion of not less than seventy-five (75) classroom hours of courses in subjects related to real estate appraisal as follows: (3-24-17)

i. Residential Market Analysis and Highest and Best Use – not less than fifteen (15) hours; and (3-24-17)

ii. Residential Appraiser Site Valuation and Cost Approach – not less than fifteen (15) hours; and (3-24-17)

iii. Residential Sales Comparison and Income Approaches – not less than thirty (30) hours specifically including: Valuation Principles and Procedures – Sales Comparison Approach; Valuation Principles and Procedures – Income Approach; Finance and Cash Equivalency; Financial Calculator Introduction; Identification, Derivation and Measurement of Adjustments; Gross Rent Multipliers; Partial Interests; Reconciliation; and Case Studies; and (3-24-17)

iv. Residential Report Writing and Case Studies – not less than fifteen (15) hours specifically including: Writing and Reasoning Skills; Common Writing Problems; Form Reports; Report Options and USPAP Compliance; Case Studies. (3-24-17)

02. Experience. Prerequisite to sit for the examination: (7-1-97)

a. Document one thousand (1,000) hours of supervised appraisal experience as a registered Appraiser Trainee in no less than six (6) months. Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-19)

b. Of the required one thousand (1,000) hours, the applicant must accumulate a minimum of seven hundred-fifty (750) hours from field real estate appraisal experience. The balance of two hundred-fifty (250) hours may include non-field experience, refer to Subsection 250.02.d. (4-11-19)

03. Examination. Successful completion of the Licensed Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (4-11-06)

301. -- 349. (RESERVED)

350. CERTIFIED RESIDENTIAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.
The State Certified Residential Real Estate Appraiser classification applies to the appraisal of residential properties of four (4) or less units without regard to transaction value or complexity. Applicants must meet the following education, experience and examination requirements in addition to complying with Section 250. Subsequent to being certified every licensee must annually meet the continuing education requirement. (4-11-06)

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Certified Residential Real Estate Appraiser, each applicant shall: (3-20-14)

a. Hold a Bachelor's degree in any field of study from an accredited degree-granting college or university, or meet one of the following options: (4-11-19)

i. Possession of an Associate's degree in a field of study related to business administration, accounting, finance, economics or real estate; or (4-11-19)

ii. Successful completion of thirty (30) semester hours of college-level courses that cover each of the following specific topic areas and hours: English composition (three (3) semester hours), microeconomics (three (3) semester hours), macroeconomics (three (3) semester hours), finance (three (3) semester hours), algebra, geometry or higher mathematics (three (3) semester hours), statistics (three (3) semester hours), computer science (three (3) semester hours), business or real estate law (three (3) semester hours), and two (2) elective courses in any of the topics listed above or in accounting, geography, agricultural economics, business management, or real estate (three (3) semester hours each); or (4-11-19)

iii. Successful completion of at least thirty (30) semester hours of College Level Examination Program® (CLEP®) examinations from each of the following subject matter areas: college algebra (three (3) semester hours), college composition (six (6) semester hours), college composition modular (three (3) semester hours), college mathematics (six (6) semester hours), principles of macroeconomics (three (3) semester hours), principles of microeconomics (three (3) semester hours), introductory business law (three (3) semester hours), and information systems (three (3) semester hours), or (4-11-19)

iv. Any combination of the above criteria (within Subsections 350.01.a.ii. and 350.01.a.iii. of these

rules) that ensures coverage of all topics and hours identified in Subsection 350.01.a.ii. (4-11-19)

b. As an alternative to the requirements in Subsection 350.01.a., above, individuals who have held a Licensed Residential credential for a minimum of five (5) years may qualify as meeting the requirements of Subsection 350.01.a., if it is established that there is no record of any adverse, final, and non-appealable disciplinary action affecting the Licensed Residential appraiser's legal eligibility to engage in appraisal practice within the five (5) years immediately preceding the date of application for a Certified Residential license. (4-11-19)

c. Document registration as an Appraiser Trainee and completion of the education required for licensure as a Licensed Residential Real Estate Appraiser, or hold a current license as a Licensed Residential Real Estate Appraiser; and (3-20-14)

d. Document the successful completion of not less than fifty (50) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (3-20-14)

ii. Advanced Residential Applications and Case Studies: not less than fifteen (15) hours, specifically including Complex Property, Ownership and Market Conditions; Deriving and Supporting Adjustments; Residential Market Analysis; and Advanced Case Studies; and (3-20-14)

iii. Appraisal Subject Matter Electives: not less than twenty (20) hours, and may include hours over the minimum shown in Subsection 350.01.d. of these rules. (3-20-14)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document one thousand five hundred (1,500) hours of appraisal experience in no less than twelve (12) months (see Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-19)

b. One thousand two hundred (1,200) hours of the experience shall be from residential field appraisal experience. The balance of three hundred (300) hours may include non-field experience, refer to Subsection 250.02.d. (4-11-19)

c. Examination. Successful completion of the Certified Residential Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (3-21-12)

351. -- 399. (RESERVED)

400. CERTIFIED GENERAL REAL ESTATE APPRAISER CLASSIFICATION APPRAISER QUALIFICATION CRITERIA.
The State Certified General Real Estate Appraiser classification applies to the appraisal of all types of real property. Applicants must meet the following examination, education, and experience requirements in addition to complying with Section 250. Subsequent to being certified, an individual must meet the continuing education requirement. (4-2-08)

01. Education. As a prerequisite to taking the examination for licensure as an Idaho Certified General Real Estate Appraiser, each applicant shall: (3-20-14)

a. Hold a Bachelor's degree or higher from an accredited degree-granting college or university; and (3-24-17)

b. Document registration as an Appraiser Trainee and document the successful completion of not less than two hundred twenty-five (225) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal), and Real Estate Finance; (3-20-14)

ii. General Appraiser Market Analysis and Highest and Best Use: not less than thirty (30) hours; (3-20-14)

iii. General Appraiser Sales Comparison Approach: not less than thirty (30) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; (3-20-14)

iv. General Appraiser Site Valuation and Cost Approach: not less than thirty (30) hours; (3-20-14)

v. General Appraiser Income Approach: not less than sixty (60) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; (3-20-14)

vi. General Appraiser Report Writing and Case Studies: not less than thirty (30) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and (3-20-14)

vii. Appraisal Subject Matter Electives: not less than thirty (30) hours, and may include hours over the minimum shown in Subsection 400.01.b. of these rules; or (3-20-14)

c. Document licensure as a Licensed Residential Real Estate Appraiser and the successful completion of not less than one hundred fifty (150) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

i. Statistics, Modeling and Finance: not less than fifteen (15) hours, specifically including Statistics; Valuation Models (AVM's and Mass Appraisal); and Real Estate Finance; and (3-20-14)

ii. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and (3-20-14)

iii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (3-20-14)

iv. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and (3-20-14)

v. General Appraiser Income Approach: not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (3-20-14)

vi. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies; and (3-20-14)

vii. Appraisal Subject Matter Electives: not less than thirty (30) hours. and may include hours over the minimum shown in Subsection 400.01.c.; or (3-20-14)

d. Document licensure as a Certified Residential Real Estate Appraiser and the successful completion of not less than one hundred five (105) classroom hours of courses in subjects related to real estate appraisal as follows: (3-20-14)

i. General Appraiser Market Analysis and Highest and Best Use: not less than fifteen (15) hours; and (3-20-14)

ii. General Appraiser Sales Comparison Approach: not less than fifteen (15) hours, specifically including Value Principles, Procedures, Identification and Measurement of Adjustments, Reconciliation, and Case Studies; and (3-20-14)

iii. General Appraiser Site Valuation and Cost Approach: not less than fifteen (15) hours; and (3-20-14)

iv. General Appraiser Income Approach: not less than forty-five (45) hours, specifically including Overview, Compound Interest, Lease Analysis, Income Analysis, Vacancy and Collection Law, Estimating Operating Expenses and Reserves, Reconstructed Income and Expense Statement, Stabilized Net Operating Income Estimate, Direct Capitalization, Discounted Cash Flow, Yield Capitalization, Partial Interest, and Case Studies; and (3-20-14)

v. General Appraiser Report Writing and Case Studies: not less than fifteen (15) hours, specifically including Writing and Reasoning Skills, Common Writing Problems, Report Options and USPAP Compliance, and Case Studies. (3-20-14)

02. Experience. Experience is a prerequisite to sit for the licensure examination: (4-11-06)

a. Document three thousand (3,000) hours of appraisal experience in no less than eighteen (18) months (See Subsection 250.02). Experience documentation in the form of reports or file memoranda should be available to support the claim for experience. (4-11-19)

b. One thousand five hundred (1,500) hours of the experience must be non-residential appraisal experience. The balance of one thousand five hundred (1,500) hours may be solely residential experience or can include up to five hundred (500) hours of non-field experience as outlined in Subsection 250.02.d. (4-11-06)

c. Examination. Successful completion of the Certified General Appraiser examination approved by the Board pursuant to the guidelines of the Appraisal Qualifications Board. (3-21-12)

401. CONTINUING EDUCATION.

All certified/licensed appraisers must comply with the following continuing education requirements: (7-1-97)

01. Purpose of Continuing Education. The purpose of continuing education is to ensure that the appraiser participates in a program that maintains and increases his skill, knowledge and competency in real estate appraising. (7-1-97)

02. Hours Required. The equivalent of thirty (30) classroom hours of instruction in courses or seminars during the twenty-four (24) months prior to renewal is required. If the licensee completes two (2) or more courses having substantially the same content during any one (1) continuing education cycle, the licensee only will receive continuing education credit for one (1) of the courses. (3-21-12)

a. If the educational offering is taken on-line or in a virtual classroom, the course must include successful completion of prescribed course mechanisms required to demonstrate knowledge of the subject matter. (3-20-14)

b. Credit toward the classroom hour requirement may be granted only where the length of the educational offering is at least two (2) hours. (7-1-97)

c. Credit for the classroom hour requirement may be obtained by accredited courses which have been approved by the Appraisal Qualifications Board and by courses approved by Real Estate Appraiser Boards of states with reciprocity with Idaho. All other courses must have approval of the Board, which shall require the continuing education provider to submit the educational course approval application and application fee as set forth in these rules along with the documentation including the instructors and their qualifications, course content, length of course, and its location. Courses shall be approved for a period of four (4) years. (4-4-13)

d. Once every twenty-four (24) months, Idaho State Certified/Licensed Real Estate Appraisers and registered trainees will be required to attend an approved seven (7) hour USPAP update course or the equivalent. The course must cover the most recent USPAP edition. (3-21-12)

03. Credit for Appraisal Educational Processes and Programs. Continuing education credit may also be granted for participation, other than as a student, in appraisal educational processes and programs. Examples of activities for which credit may be granted are teaching, program development, authorship of textbooks, or similar activities which are determined to be equivalent to obtaining continuing education. Credit for educational processes and programs continuing education shall not exceed one-half (1/2) of the total continuing education credits required for a renewal period. (4-2-08)

04. Credit for Attending the Licensure Board Meetings. Continuing education credit may be granted for a maximum of two (2) hours each continuing education cycle for time spent attending one (1) Board meeting. Members of the board shall not be entitled to continuing education credit for board service. (3-21-12)

05. Requirement When a Certificate/License Is Canceled. For each year (less than five (5)) in which a license is lapsed, canceled, or otherwise non-renewed, fifteen (15) hours of continuing education must be documented, including a seven (7) hour USPAP update course, prior to reinstatement. The course must cover the most recent USPAP edition. (3-21-12)

402. -- 449. (RESERVED)

450. RECIPROCITY.
Applicant must comply with Section 54-4115, Idaho Code. (7-1-93)

0*1*. Submit Statement Verifying Certification/Licensure. Submit current notarized statement verifying certification/licensure in good standing in another state. (7-1-93)

451. -- 499. (RESERVED)

500. TEMPORARY PRACTICE.

01. Requirements for Issuance. A permit to temporarily practice may be issued to individuals coming to Idaho who are certified/licensed in another state and are either transferring to Idaho or have a temporary assignment in Idaho. (7-1-93)

02. Proof of Current Certification or Licensure. The applicant must be listed on the National Registry, maintained by the Appraisal Subcommittee, as current and in good standing and comply with Section 54-4115(3), Idaho Code, regarding irrevocable consent. (3-21-12)

03. Assignments and Length of Time Permit Will Be Issued. Permit to temporarily practice will be issued on a per appraisal assignment basis for a period not to exceed six (6) months. A temporary permit may be extended one (1) time only. (3-18-99)

501. -- 524. (RESERVED)

525. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed or certified real estate appraiser for each violation of Section 54-4107(1), Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed or certified real estate appraiser to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4107(1), Idaho Code. (3-18-99)

526. -- 539. (RESERVED)

540. APPRAISALS IN LITIGATION.
Licensed or certified appraisers providing opinions of value in litigation shall comply with USPAP Standard 1 including maintaining a work file in support of the opinion of value in litigation. (3-20-14)

541. -- 699. (RESERVED)

700. UNIFORM STANDARDS OF PROFESSIONAL APPRAISAL PRACTICE/CODE OF ETHICS.
The Uniform Standards of Professional Practice, excluding standards 7, 8, 9, and 10, as published by the Appraisal Foundation and referenced in Section 004, are hereby adopted as the rules of conduct and code of ethics for all Real Estate Appraisers licensed under Title 54, Chapter 41, Idaho Code, and these rules. (3-25-16)

701. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.19.01 – RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

DOCKET NO. 24-1901-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-4205, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.19.01, rules of the Board of Examiners of Residential Care Facility Administrators:

IDAPA 24.19.01

- 24.19.01, *Rules of the Board of Examiners of Residential Care Facility Administrators*

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.19.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Board of Examiners of Residential Care Facility Administrators was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.19.01, Rules of the Board of Examiners of Residential Care Facility Administrators. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4813 - 4816.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Sections 54-4205, 54-4206, and 54-4210, Idaho Code, as follows: license application fee: not to exceed $150; annual renewal fee: not to exceed $150; provisional permit fee: not to exceed $150; and reissuance of lost license fee: not to exceed $10.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

24.19.01 – RULES OF THE BOARD OF EXAMINERS OF RESIDENTIAL CARE FACILITY ADMINISTRATORS

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Board of Examiners of Residential Care Facility Administrators by the provisions of Section 54-4205, Idaho Code. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.19.01, "Rules of the Board of Examiners of Residential Care Facility Administrators." (7-1-93)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The document titled "ACHCA Code of Ethics," published by the American College of Health Care Administrators (ACHCA) as referenced in Section 650, is herein incorporated by reference and is available from the Board's office and on the Board web site. (3-20-04)

***005*. -- 099. (RESERVED)**

100. APPLICATIONS.
Applications will be on forms approved by the Board. No application will be considered for any action unless accompanied by the appropriate fees and until the required supporting documentation is received by the Bureau. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon thirty (30) days written notice, unless good cause is established to the Board. (3-29-10)

101. -- 149. (RESERVED)

150. QUALIFICATIONS FOR ADMINISTRATOR LICENSE.
Each applicant for an administrator's license must submit proof, along with their application, that said individual is at least twenty-one (21) years of age and meets all the following qualifications for the issuance of a license: (3-29-12)

01. Good Moral Character. The applicant must submit a criminal background check by an entity approved by the Board establishing that the applicant has not been convicted, pled guilty or nolo contendere or received a withheld judgment for a felony or any crime involving dishonesty or the health or safety of a person. (3-30-06)

02. Education and Experience. The applicant must document one (1) of the combinations of education and experience in accordance with Section 54-4206, Idaho Code, and Subsection 400 of these rules. (3-29-12)

03. Coursework. The applicant must document completion of a specialized course or program of study as set forth in Subsection 400 of these rules. (3-29-12)

04. Examination. The applicant must submit proof of successful passage of a relevant examination as approved by the Board and defined in Subsection 300 of these rules. (3-29-12)

151. -- 159. (RESERVED)

160. NURSING HOME ADMINISTRATOR QUALIFICATIONS FOR LICENSE.
Any applicant who holds a valid Idaho nursing home administrator license must meet the requirements provided in Section 54-4211(2), Idaho Code, and must take and pass the Board-approved residential care administrator examination. This requirement may be waived if the applicant submits evidence satisfactory to the Board that he has at least one (1) year of leadership or management experience working in a residential care facility or nursing home facility within the five (5) years preceding the application. (4-11-19)

161. -- 199. (RESERVED)

200. BOARD MEETINGS -- DATES -- PLACES.

01. Board Meeting Dates. The Board meets at least semi-annually at such time and place as

determined by the Board. (3-15-02)

02. Dates and Places May be Changed. Dates and places of board meetings may be changed by the action of the majority of the Board and advance public notice given. (7-1-93)

201. -- 299. (RESERVED)

300. EXAMINATIONS.

01. Examination. The Board approves the following examinations for licensure: (5-8-09)

a. The Residential Care Facility Administrators examination developed and administered by the National Association of Boards of Examiners of Long Term Care Administrators (NAB) and an open book examination of law and rules governing residential care administrators in Idaho. The passing score for the NAB examination is determined by NAB. An applicant for examination is required to register with NAB and pay any required examination fees directly to NAB. The passing score for the open book examination is seventy-five percent (75%). (5-8-09)

b. Other examinations as approved by the Board. (5-8-09)

301. -- 399. (RESERVED)

400. EDUCATIONAL AND TRAINING REQUIREMENTS.

01. Approved Course. (5-3-03)

a. The Certification Program for Residential Care Facility Administrators course, administered by the Idaho Health Care Association (IHCA)/Idaho Center for Assisted Living (ICAL), are approved courses of study to qualify for licensure. (5-8-09)

b. Any Certification Program for Residential Care Facility Administrators provided by a state or national Residential Care Facility Administrator organization or a nationally or regionally accredited college or university must be an approved course of study to qualify for licensure. (5-3-03)

02. Approval of Other Courses. Applicants may, in lieu of completion of the Certification Program for Residential Care Facility Administrators, submit official documentation of successful completion of relevant courses. These courses must be approved by the Board before equivalency will be given. (3-30-06)

401. CONTINUING EDUCATION.

01. Minimum Hours Required. Applicants for annual renewal or reinstatement are required to complete a minimum of twelve (12) hours of continuing education courses within the preceding twelve-month (12) period. Basic First Aid, Cardio-Pulmonary Resuscitation, medication assistance, or fire safety courses will not be considered for continuing education credit. (3-24-17)

02. Course Approval. Courses of study relevant to residential care facility administration and sponsored or provided by the following entities or organizations are approved for continuing education credits: (3-30-06)

a. Accredited colleges or universities. (3-30-06)

b. Federal, state or local government entities. (3-30-06)

c. National or state associations. (3-30-06)

d. Otherwise approved by the Board based upon documentation submitted by the licensee or course provider reviewing the nature and subject of the course and its relevancy to residential care administration, name of

instructor(s) and their qualifications, date, time and location of the course and procedures for verification of attendance. (3-30-06)

03. Credit. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or by computer on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (3-30-06)

04. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (3-29-10)

402. -- 449. (RESERVED)

450. SCOPE OF PRACTICE.
A residential care facility administrator must possess the education, training, and experience necessary to insure that appropriate services and care are provided for each facility resident within any facility under the licensee's administration. Information contained within the application together with supporting documentation maintained by the licensee is prima facie evidence of the licensee's education and experience. It is the responsibility of the individual licensee to maintain adequate documentation of education and experience appropriate to the planning, organizing, directing and control of the operation of a residential care facility. (3-19-07)

451. -- 599. (RESERVED)

600. FEES.

FEE TYPE	*AMOUNT (Not to Exceed)*
Application	*$150*
Annual Renewal	*$150*
Provisional Permit	*$150*
Reissuance of Lost License	*$10*
Reinstatement	*As provided in Section 67-2614, Idaho Code*

( )

601. -- 649. (RESERVED)

650. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed residential care facility administrator for each violation of Section 54-4213(1), Idaho Code. (3-18-99)

02. Costs and Fees. The Board may order a licensed residential care facility administrator to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-4213(1), Idaho Code. (3-18-99)

03. Code of Ethics. The Board has adopted (ACHCA) Code of Ethics. Violations of the code of ethics is considered grounds for disciplinary action. (3-20-04)

651. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.20.01 – RULES OF THE BUREAU OF OCCUPATIONAL LICENSES

DOCKET NO. 24-2001-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-2609, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.20.01, rules of the Idaho Bureau of Occupational Licenses:

IDAPA 24.20.01

- 24.20.01, *Rules of the Bureau of Occupational Licenses*

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, Vol. 19-6SE, pages 4,819-4,821. The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.20.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of Bureau of Occupational Licenses was published. This pending rule will allow the Legislature to review for codification IDAPA 24.20.01, Rules of the Bureau of Occupational Licenses. The Bureau considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the Bureau's continued efforts to clarify and streamline its rules.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4819 - 4821.

FISCAL IMPACT: This rulemaking does not impose a fee or charge.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Rob McQuade at (208) 334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are established pursuant to the authority vested in the Bureau of Occupational Licenses by the provisions of Section 67-2609, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 24.20.01, "Rules of the Bureau of Occupational Licenses." (3-15-02)

02. Scope. These rules include, but are not limited to the procedures followed by the Bureau of Occupational Licenses and Boards in contested cases. (3-15-02)

002. **CHANGES IN NAME AND ADDRESS -- ADDRESS FOR NOTIFICATION PURPOSES.**

01. Change of Name. Whenever a change of a licensee's name of record occurs, the licensee must immediately notify the Bureau in writing of the change. Official documentation confirming the change of name must be provided to the Bureau on request. (3-15-02)

02. Change of Address. Whenever a change of the licensee's address of record occurs, the licensee must immediately notify the Bureau in writing of the change. (3-15-02)

03. Address for Notification Purposes. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to disciplinary actions. It is the responsibility of each licensee to keep the Bureau informed of a current mailing address. (3-15-02)

003. – 009. **(RESERVED)**

010. DEFINITIONS.

01. Address of Record. The address that appears on an official license issued by a board to practice an occupation or profession. The address of record is considered a public record pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-15-02)

02. Board. Any professional or occupational licensing board of the state of Idaho receiving administrative, investigative, legal, fiscal and other services from the Bureau. The boards receiving such services from the Bureau include, but are not limited to, those listed in Section 67-2602(1), Idaho Code. (3-15-02)

03. Complaint. A written communication in a form approved by the Bureau that contains the name, address, and phone number of the complaining party, the name, address, phone number, and profession of the licensee complained against, and a narrative of the facts and circumstances and perceived acts or omissions that may constitute cause for disciplinary action against the licensee. The complaint must be signed by the complaining party. (3-15-02)

04. Formal Complaint. The document that initiates a hearing before a board and charges a licensee with acts or omissions under the laws administered by the board. (3-15-02)

05. Hearing Officer. A person appointed by the Bureau or a Board, other than a member of the Board, to preside over the hearing of a contested case. (3-15-02)

06. Licensee. A person holding any current, expired, cancelled, suspended, revoked, or otherwise sanctioned license, registration, permit and/or certificate issued by a board. (3-15-02)

07. Mailing Address. The address used by the Bureau or a board for purposes of all written communication with an applicant for a license, permit, certificate, or registration, or a licensee, including, but not limited to, general correspondence, notification of renewal, and notices related to disciplinary actions. The mailing address may or may not be the same as the address of record. (3-15-02)

08. Representative of the Board. Any person, including the Chief of the Bureau of Occupational

Licenses, designated by a Board to act as its agent under certain circumstances. (3-15-02)

011. -- 019. (RESERVED)

020. PROCEDURES GOVERNING HEARINGS.
Procedures for a hearing before the Bureau or a Board are governed by the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, "Idaho Rules of Administrative Procedure of the Attorney General," IDAPA 04.11.01, and the provisions of Idaho Code and administrative rules governing the Boards. These rules supplement the contested case procedures of the Boards, if any. Where these rules are inconsistent with provisions of the Idaho Code governing the procedures for a hearing before a board, the Idaho Code provisions are the controlling authority. (3-15-02)

021. -- 099. (RESERVED)

100. REPORT AND INVESTIGATION OF VIOLATIONS.

01. Who May Report a Violation. Any person who knows of a violation by a licensee of the lawful requirements for the retention of a license, registration, permit or certificate may report the violation to the Bureau. (3-15-02)

02. Person Reporting a Violation. A person reporting a violation is not regarded as a party to the investigation or to any proceeding that may result from the investigation. The policy of the Bureau is not to publish or divulge the name of any person reporting a violation. The name of a person reporting a violation may be obtained, however, pursuant to the rules governing discovery during contested case proceedings. (3-15-02)

03. Insufficient Facts and Evidence. If, after review, the Bureau finds that either the complaint or the investigative report concerns facts and evidence insufficient to warrant the filing of a formal complaint against a licensee, no further action will be taken. (3-15-02)

04. Sufficient Facts and Evidence. If after investigation the Bureau finds that the investigative report concerns facts and evidence potentially sufficient to warrant the filing of a formal complaint against a licensee, a formal complaint against the licensee may be prepared by the Bureau with the approval and assistance of the Office of the Attorney General and filed with the Board. (3-15-02)

05. Preliminary Investigations and Papers. Preliminary investigations and papers obtained as part of an inquiry into a person's fitness to be granted or to retain a license, certificate, permit, privilege, or registration must be confidential until a formal complaint is filed. This rule is subject to any provisions in the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code, and the Idaho Rules of Civil Procedure which may require or limit disclosure either before or after a formal complaint is filed. (3-15-02)

101. -- 199. (RESERVED)

200. INITIATION OF A HEARING.
A hearing is initiated by filing with the Bureau or relevant board a formal complaint or other pleading. A formal complaint or other pleading initiating a hearing may be signed by the Chief of the Bureau of Occupational Licenses or his designated representative. Upon receipt of a formal complaint or other pleading, the relevant board or its representative assigns it a docket number and may select and appoint a hearing officer. Regardless of who conducts the hearing, all board members are entitled to attend and participate in a hearing. (3-15-02)

201. NOTICE REQUIRED.
The formal complaint includes a notice containing the following information: (3-15-02)

01. File an Answer. The respondent is required to file an answer to the formal complaint; (3-15-02)

02. Time Limit. The applicable time limits for filing an answer; (3-15-02)

03. Default Notice. That if the respondent fails to timely file an answer, then a notice of default may be issued; (3-15-02)

04. Hearing to Be Scheduled. That a hearing will be scheduled within applicable time limits pursuant to a Notice of Hearing if he files an answer; (3-15-02)

05. Opportunity to Respond to Complaint. That at the hearing he will be afforded an opportunity to respond to the formal complaint and to present evidence and argument on all issues involved, and an opportunity to cross-examine all witnesses testifying against him; (3-15-02)

06. Legal Representation. That he has the right to be represented by an attorney; that if he fails to appear at the hearing, the Board may revoke, suspend, or impose other disciplinary sanctions as authorized by law without further notice; and (3-15-02)

202. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.21.01 – RULES OF THE IDAHO STATE CONTRACTORS BOARD

DOCKET NO. 24-2101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5206, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.21.01, rules of the Idaho State Contractors Board:

IDAPA 24.21.01

- IDAPA 24.21.01, *Rules of the Idaho State Contractors Board*: all proposed rules except 100.01.a., and 100.02.b.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.21.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Contractors Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.21.01, the Rules of the Idaho State Contractors Board. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4824 - 4826.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules, except that it changes the fee structure to set a cap. The fee caps are above the current fee level for applications by $15; for reciprocal registration by $15; and registration renewal by $15. Fees are established in accordance with Section 54-5207, Idaho Code, as follows:

Application fee: not to exceed $50;
Reciprocal fee: not to exceed $50;
Annual registration renewal fee: not to exceed $50;
Reinstatement fee: not to exceed $35.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking. Additionally, the Board is not a general fund agency, and these rule changes have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Idaho State Contractors Board by the provisions of Section 54-5206, Idaho Code. (3-30-06)

001. TITLE AND SCOPE.
These rules are title IDAPA 24.21.01, "Rules of the Idaho State Contractors Board." (3-30-06)

***002*. -- 099. (RESERVED)**

100. ORGANIZATION.

01. Meetings. The Board meets not less than once during each calendar quarter and at such times and places as designated by the Board or the Chairman of the Board. Special meetings may be held at the call of the Chairman, and all members will be notified in writing. (3-30-06)

***a*.** A minimum of three (3) Board members constitutes a quorum and is required for the transaction of business. A majority vote of the Board members present at a meeting is considered the action of the Board as a whole. (3-30-06)

02. Organization of the Board. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-30-06)

a. The Chairman, when present, presides at all meetings, appoints with the consent of the Board, all committees, and otherwise performs all duties pertaining to the office of Chairman. The Chairman will be an ex-officio member of all committees. (3-30-06)

101. -- 149. (RESERVED)

150. APPLICATION.
Each applicant for registration must submit a complete application on applications forms approved by the board together with the required fee(s). The applicant must provide or facilitate the provision of any supplemental third party documents that may be required. Applications on file with the Board where an applicant has failed to respond to a Board request or where the applications have lacked activity for twelve (12) consecutive months are deemed denied and will be terminated upon thirty (30) days written notice unless good cause is established to the Board. (5-8-09)

151. -- 164. (RESERVED)

165. ADDITIONAL QUALIFICATIONS FOR REGISTRATION.
Applicants for a registration must meet the following qualifications in addition to those set forth in Section 54-5210, Idaho Code and these rules. (4-2-08)

01. Felony Conviction. Not have been convicted of any felony in a state or federal court; provided the applicant may make written request to the board for an exemption review to determine the applicant's suitability for registration, which the board determines in accordance with the following: (4-2-08)

02. Exemption Review. The exemption review consists of a review of any documents relating to the felony and any supplemental information provided by the applicant bearing upon his suitability for registration. The board may, at its discretion, grant an interview of the applicant. (4-2-08)

a. During the review, the board considers the following factors or evidence: (4-2-08)

i**.** The severity or nature of the felony; (4-2-08)

ii**.** The period of time that has passed since the felony under review; (4-2-08)

iii. The number or pattern of felonies or other similar incidents; (4-2-08)

iv. The circumstances surrounding the crime that would help determine the risk of repetition; (4-2-08)

v. The relationship of the crime to the registered practice of construction; and (4-2-08)

vi. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation. (4-2-08)

b. The applicant bears the burden of establishing his current suitability for registration. (4-2-08)

03. Fraud in Application Process. The registration application and supporting documents are free from any fraud or material misrepresentations. (4-2-08)

166. -- 174. (RESERVED)

175. FEES.
Fees are no*n*-refundable*:*

FEE TYPE	*AMOUNT* *(Not to Exceed)*
Application (includes original registration)	*$50.00*
Reciprocal	*$50.00*
Renewal	*$50.00*
Reinstatement	*$35.00*

( )

176. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.22.01 – RULES OF THE IDAHO STATE LIQUEFIED PETROLEUM GAS SAFETY BOARD

DOCKET NO. 24-2201-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5310, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.22.01, rules of the Idaho State Liquefied Petroleum Gas Safety Board:

IDAPA 24.22.01

- 24.22.01, *Rules of the Idaho State Liquefied Petroleum Gas Safety Board*: all proposed rules except 010, 100.01.a., 100.01.b., 150, 300, and 355.03.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.22.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Liquefied Petroleum Gas Safety Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.22.01, the Rules of the Idaho State Liquefied Petroleum Gas Safety Board. On July 17, 2019, the Idaho State Liquefied Petroleum Gas Safety Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule reorganizes and combines sections for clarity, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Additionally, this pending rule adds a new fee for re-inspection of liquefied petroleum facilities, to cover the cost generated as a result of a failed initial inspection. The Board felt the facility requiring the reinspection should bear the added cost, rather than all licensees.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4829 - 4832.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. The Board operates on dedicated funds and is proposing to add a facility reinspection fee in an amount not to exceed $125. The remaining previously approved fees are as follows:

Application fee: not to exceed $30;
Original individual license and annual renewal fee: not to exceed $75;
Dealer-in-training license fee: not to exceed $50;
Original facility license fee and annual renewal fee: not to exceed $100;
Original bulk storage facility fee and annual renewal fee: not to exceed $400;
Endorsement fee: not to exceed $75.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state

general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
In accordance with Section 54-5310, Idaho Code, the Idaho State Liquefied Petroleum Gas Safety Board has promulgated rules that implement the provisions of Chapter 53, Title 54, Idaho Code. (3-30-06)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.22.01, "Rules of the Idaho State Liquefied Petroleum Gas Safety Board." (3-30-06)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The document titled Liquefied Petroleum Gas Code, 2017 Edition, commonly known as NFPA 58, published by National Fire Protection Association (NFPA), is herein incorporated by reference and is available for public inspection at the Board's office. Copies of the 2017 Liquefied Petroleum Gas Code are available for purchase from the National Fire Protection Association, 11 Tracy Drive, Avon, MA 02322. (3-29-17)

***005*. -- 099. (RESERVED)**

100. ORGANIZATION.
At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. *( )*

101. -- 174. (RESERVED)

175. FEES.
All fees are non-refundable:

FEE TYPE	*AMOUNT (Not to Exceed)*	*RENEWAL (Not to Exceed)*
Application	*$30*	
Individual License	*$75*	*$75*
Endorsement	*$75*	
Dealer-in-training	*$50*	
Facility License	*$100*	*$100*
Bulk Storage Facility	*$400*	*$400*
Facility Reinspection	*$125*	

( )

176. – 224. (RESERVED)

225. APPROVED EDUCATION *AND EXAMINATIONS*.
Each applicant must provide certified proof that they have successfully completed the following: (3-30-06)

01. Basic Education. The Basic Certified Employee Training Program (CETP) provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application. (3-30-06)

***02. Licensure Examination**. Receipt of a passing grade on the Basic Certified Employee Training Program (CETP) examination provided by the National Propane Gas Association or the equivalent as determined by the Board within the thirty-six (36) months immediately preceding application.* *( )*

226. -- 249. (RESERVED)

250. PRACTICAL EXPERIENCE.

01. Supervised Practical Experience. Each applicant must provide certified proof that the applicant has successfully obtained at least one (1) year of practical experience in a *Liquefied Petroleum Gas (*LPG*)* facility while the applicant was under supervision of a licensed dealer. A person in the process of meeting the practical experience requirement must complete the education and examination requirements and apply for a dealer license within eighteen (18) months of beginning to obtain supervised experience. *( )*

02. Dealer-in-Training License. *A*n individual may not begin obtaining supervised practical experience until the individual has applied for and obtained a dealer-in-training license from the board. Such license is issued on a non-renewable basis and is for the purpose of enabling the individual to gain the supervised practical experience that the person must obtain to become an LPG dealer. The dealer-in-training license is valid for eighteen (18) months from the date of issue. *( )*

251. -- 349. (RESERVED)

350. FACILITY LICENSURE.

01. Facility Licensure and Operation Requirements. (3-30-06)

a. Application for a facility license must include a certificate of general liability insurance set forth in these rules and plans and specifications complying with local ordinances and zoning requirements. All applications must be submitted to the Board for approval and a license must be issued before a new facility may open for business; *( )*

b. Each facility application must clearly identify and designate a location adequate to allow the facilities safe operation and the selling, filling, refilling, or commercial handling or commercial storage of liquefied petroleum gas; (3-30-06)

c. Each facility must meet all requirements of NFPA 58. (3-30-06)

02. Facility Changes in Ownership or Location. (3-30-06)

a. Whenever a change of ownership or location of a facility occurs, an original application must be submitted, the fee must be paid and compliance with all rules concerning a new facility documented, before a new license will be issued. FACILITY LICENSES ARE NOT TRANSFERABLE. (3-30-06)

b. Deletion of an owner from multiple ownership does not constitute a change in ownership. (3-30-06)

c. Addition of an owner to multiple ownership does constitute a change in ownership. (3-30-06)

d. Whenever any facility ceases operation at the licensed location, the owner(s) must notify the Board in writing that the facility is out of business and the facility license must be submitted to the Bureau. A new facility license will not be issued for any location that is currently licensed as a facility at the time of application. (3-30-06)

351. -- 354. (RESERVED)

355. GENERAL LIABILITY INSURANCE REQUIREMENT.
*N*o facility license will be issued without a certificate showing proof of a current general liability insurance policy in the sum of not less than one million dollars ($1,000,000) for an occurrence. *The Board may conduct random audits of facility licenses and request documentation of a current general liability insurance policy.* *( )*

01. Original Facility License Application. An application for facility license will not be considered complete without a certificate of general liability insurance showing a current policy. The policy must be kept in full force and effect. (4-2-08)

02. Renewal of Facility License. All licenses being renewed must certify that the facility holds a

current general liability insurance policy. (4-2-08)

356. -- 374. (RESERVED)

375. INSPECTION RULES.
All facilities are subject to inspection by the Board or its agents at any time without notice to insure the safe operation of each facility and to insure continued compliance with the requirements of NFPA 58 and the Idaho laws and rules. The Board may adopt a form which establishes for the facility those material rules of NFPA 58 which will be inspected, and a level of compliance necessary for issuance or retention of a license or disciplinary action. The Board may further determine the time frame a facility may be granted in order to comply with NFPA 58, but still continue to operate, or pursue disciplinary action for a failure to comply. *In the event of non-compliance necessitating re-inspection, the Board may assess a re-inspection fee.* *( )*

376. -- 399. (RESERVED)

400. ENDORSEMENT.
Any person who holds a current, unsuspended, unrevoked or otherwise nonsanctioned license in another state or country that has licensing requirements substantially equivalent to or higher than those in Idaho may, submit the required application, supporting documentation, and required fee, for Board consideration. Those applicants who received their professional education or experience outside of the United States must provide such additional information concerning their professional education or experience as the Board may request. The Board may, in its discretion, require successful completion of additional course work or examination for any applicant under this provision. (3-30-06)

401. -- 449. (RESERVED)

450. DISCIPLINE.

01. Civil Fine. The Board may impose a civil fine not to exceed one thousand dollars ($1,000) upon a licensed LPG dealer or a licensed LPG facility for each violation of Section 54-5315, Idaho Code. (3-30-06)

02. Costs and Fees. The Board may order a licensed LPG dealer or a licensed LPG facility to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee for violation of Section 54-5315, Idaho Code. (3-30-06)

451. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.23.01 – RULES OF THE SPEECH, HEARING AND COMMUNICATION SERVICES LICENSURE BOARD

DOCKET NO. 24-2301-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2910, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.23.01, rules of the Speech, Hearing and Communication Services Licensure Board:

IDAPA 24.23.01

- 24.23.01, *Rules of the Speech, Hearing and Communication Services Licensure Board*: all proposed rules except 010.02, 010.04, 010.05, 010.06, 010.07, 100, 150, 200, 211.02.b., 211.02.c.ii., 211.02.c.xi., 211.03, 260.01, 300, 301, 310.02, 310.03, 310.04, 350, 400.03, 400.04, 450, 460, 470, 480, 500.05.a., 500.05.b., and 700.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.23.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Speech, Hearing and Communication Services Licensure Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.23.01, the Rules of the Speech, Hearing and Communication Services Licensure Board. On June 27, 2019, the Idaho Speech, Hearing and Communication Services Licensure Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule removes outdated and unnecessary language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Further, this pending fee rule standardizes the language in Section 205 for activating inactive licenses to align with the reinstatement of expired licenses to provide consistency in minimum competency requirements for a person who has not been practicing for five years or more. This pending fee rule adds a definition of "direct client contact" as recommended in the Board's Licensing Freedom Act Report and clarifies the experience requirement for Audiology applicants. This pending fee rule ensures applicants demonstrate current minimum competency by requiring examination scores for an audiology application to be five years old or less and for a sign language interpreter to be ten years old or less. This pending fee rule also eliminates task-specific lists of what audiology support personnel may do to reduce any confusion between the previous permitted activity list and prohibited activity list and where relying on the supervising audiologist protects the public without creating overly intrusive burdens on licensees. This pending fee rule also clarifies that the removal of cerumen cannot be done by audiology support personnel, which is a question that frequently comes to the Board. This pending fee rule states the supervision frequency of postgraduate experience for speech language pathologists in Section 220.03.c in terms of a total rather than a per quarter basis to reduce the burden on part-time workers and increase flexibility for supervisors and supervisees. This pending fee rule

also implements House Bill 22 from the 2019 Legislative Session to remove the age requirement for sign language interpreters and also differentiates the continuing education requirements for sign language interpreters to maintain an annual reporting cycle as was required at the time licensure for sign language interpreters was added to the Board. This pending fee rule also allows continuing education credit for licensees who proctor the hearing aid dealing and fitting examination in Section 400.01.d. Finally, this pending fee rule streamlines requirements regarding provisional permits to provide more consistency between professions, provides extension of a permit for individual hardships, and provides clarity for licensees on deficient quarterly reports, cancellation of permits, and the validity of a permit when supervisor(s) are disqualified.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4835 - 4854.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules, except that the examination administrative fee when the exam administered by the Board is increased by $50 to better reflect the actual cost of administering the examination. Fees are established in accordance with Sections 54-2912, 54-2913, 54-2914, 54-2915, 54-2916A, 54-2918, and 54-2921, Idaho Code, as follows:

Application fee: not to exceed $30;
Original license fee: not to exceed $70;
Provisional permit: not to exceed $100;
Registration fee for out-of-state licenses: not to exceed $10;
Anual renewal fee: not to exceed $100;
Annual renewal fee for inactive license: not to exceed $65;
Examination fee when administered by the Board: $100.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

DATED this October 16, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Speech, Hearing and Communication Services Licensure Board by the provisions of Section 54-2910, Idaho Code. (3-30-06)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.23.01, "Rules of the Speech, Hearing, and Communication Services Licensure Board." (3-30-06)

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The document titled "National Association of the Deaf (NAD)-Registry of Interpreters for the Deaf, Inc. (RID) Code of Professional Conduct," copyright 2005 by the Registry of Interpreters for the Deaf, is incorporated by reference into this rule and is available at the Board's office and on the Board's web site. (3-22-18)

***005*. -- 009. (RESERVED)**

010. DEFINITIONS.

01. Audiology Support Personnel. Unlicensed natural persons who work under the direction and supervision of an audiologist who is licensed in accordance with Title 54, Chapter 29, Idaho Code, and is engaged in the practice of audiology. (3-24-17)

***02. Direct Client Contact**. Assessment, diagnosis, evaluation, screening, treatment, report writing, family or client consultation, counseling, or any combination of these activities. ( )*

03. Dual Licensure. The status of a person who holds more than one (1) license under Title 54, Chapter 29, Idaho Code. (3-22-18)

011. -- 174. (RESERVED)

175. FEES.
All fees are non-refundable. Fees are established in accord with Title 54, Chapter 29, Idaho Code as follows: ( )

01. License, Permit, and Registration Fees.

LICENSE/PERMIT/REGISTRATION	*INITIAL FEE (Not to Exceed)*	*ANNUAL RENEWAL FEE (Not to Exceed)*
Application	*$30*	
Original or Endorsement	*$70*	*$100*
Provisional Permit or Extension	*$100*	
Registration Out-of-State Licensee	*$10*	
Reinstatement fee	*As provided in Section 67-2614, Idaho Code.*	
Inactive license		*$65*
Inactive to active license fee	*The difference between the current inactive and active license renewal fees*	

( )

***02. Examination Fees**. The examination fee is that charged by the examination provider plus an administration fee of one hundred dollars ($100) when the examination is administered by the Board. ( )*

176. -- 204. (RESERVED)

205. INACTIVE STATUS.

01. Request for Inactive Status. Each person requesting an inactive status of *an* active license must submit a written request and pay the established fee. *( )*

02. Inactive License Status. (3-27-13)

a. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license. *( )*

b. When the licensee desires active status, the licensee must show acceptable fulfillment of *ten (10) contact hours of* continuing education *during* the previous twelve (12) months and submit a fee equivalent to the difference between the inactive and active renewal fee*, provided that a licensee whose license has been inactive five (5) years or more must provide an account to the Board for that period of time during which the license was inactive and fulfill requirements that demonstrate competency to resume practice. Those requirements may include, but are not limited to, education, supervised practice, and examination as determined by the Board. The Board may consider practice in another jurisdiction in determining competency*. *( )*

c. Licensees may not practice or supervise in Idaho as an Audiologist, Speech-Language Pathologist, Speech-Language Pathologist Aide, Speech-Language Pathologist Assistant, Hearing Aid Dealer and Fitter*, or Sign Language Interpreter* while on inactive status. *( )*

206. -- 209. (RESERVED)

210. QUALIFICATIONS FOR AUDIOLOGIST LICENSURE.
All applicants for licensure as an audiologist must comply with the following education, experience, and examination requirements: *( )*

01. Graduate Program Requirement. A master's or doctoral degree with emphasis in audiology or not less than seventy-five (75) semester credit hours of post-baccalaureate study that culminates in a doctoral degree from a nationally accredited school for audiology. (4-2-08)

02. Examination. Pass *the audiology* examination given by PRAXIS *within the last five (5) years* or other examination as may be approved by the Board. *( )*

03. Experience. *Successfully complete a* supervised academic clinical practicum *as part of a doctoral program that satisfies Subsection 210.01 of this rule or* supervised postgraduate experience *that is substantially equivalent to such a practicum. An applicant who has insufficient supervised experience as part of the doctoral program may obtain the necessary experience under a provisional permit as provided in these rules*. *( )*

211. SUPPORT PERSONNEL: AUDIOLOGY.

01. Supervising Audiologist – Responsibilities – Restrictions. (3-24-17)

a. The supervising *licensed* audiologist is responsible for everything audiology support personnel do or fail to do while performing their duties under the supervising audiologist's supervision. *( )*

b. Responsibilities of the supervising audiologist include, but are not limited to: (3-24-17)

i. *T*raining, assessing the competency, and evaluating the performance of audiology support personnel. *( )*

ii. Approving or disapproving all orders and directives concerning audiology tasks issued by administrators or other managers. (3-24-17)

iii. Assigning audiology tasks to audiology support personnel and supervising the performance of those tasks. Assigned tasks must not exceed the knowledge and skills of audiology support personnel nor require the exercise of professional judgment, interpretation of test results, or the development or modification of treatment plans. (3-24-17)

iv. Assessing the abilities of audiology support personnel to perform assigned audiology tasks. (3-24-17)

v. Providing feedback to audiology support personnel to facilitate improved job performance. (3-24-17)

c. The number of audiology support personnel that an audiologist may supervise at any one time must be consistent with the delivery of appropriate, quality service, and Title 54, Chapter 29, Idaho Code. (3-24-17)

d. An audiologist must supervise audiology support personnel in the following manner: (3-24-17)

i. A supervising audiologist must directly supervise audiology support personnel no less than one (1) time for every five (5) times that support personnel provide audiology services to a patient (twenty percent (20%)). Direct supervision requires in-view real-time observation and guidance while an assigned activity is performed. This requirement can be met when the supervisor is providing supervision from a distant site using two-way video and audio transmission. The supervising audiologist will document and retain a record of all direct supervision periods. (3-24-17)

ii. When not providing direct supervision, the supervising audiologist must provide direction and supervision to audiology support personnel while support personnel are providing audiology services to a patient by making themselves accessible to the support personnel by telephone, video conferencing or in person. (3-24-17)

02. Audiology Support Personnel – Roles – Restrictions. Audiology support personnel perform only tasks that are planned, delegated, and supervised by the supervising audiologist. Duties and responsibilities are assigned based on training, *certification,* available supervision, and specific work setting*, provided that an audiologist may not allow audiology support personnel to perform the following:* *( )*

a. Any task prohibited by state or federal law. (3-24-17)

b. Interpreting observations or data into diagnostic statements of clinical management strategies or procedures. (3-24-17)

c. Determining case selection. (3-24-17)

d. Transmitting clinical information, either verbally or in writing, to anyone without the approval of the supervising audiologist. (3-24-17)

e. Composing clinical reports except for progress notes to be reviewed by the audiologist and held in the client's records. (3-24-17)

f. Referring a patient/client to other professionals or agencies. (3-24-17)

g. Referring to self or using in connection with audiology support person's name, any title other than one determined by the supervising audiologist that is consistent with state and federal law. (3-24-17)

h. Signing any formal documents (e.g. treatment plans, reimbursement forms, or reports). (3-24-17)

i. Discharging a patient/client from services. (3-24-17)

j. *Removal of cerumen.* *( )*

03. Audiology Support Personnel – Pre-Service and In-Service Instruction. (3-24-17)

a. The supervising audiologist is responsible for maintaining a written record of completed training activity. ( )

b. Training will be conducted pre-service (before tasks are assigned) and in-service (after tasks are assigned). The quality and content of training is left to the discretion of the supervising audiologist. The following guidelines apply to both pre-service and in-service training. (3-24-17)

i. Training should be well-defined and specific to assigned tasks. (3-24-17)

ii. Supervising audiologists should ensure that the scope and intensity of training is sufficient to prepare audiology support personnel to successfully perform assigned tasks. (3-24-17)

iii. Training should be competency-based and be provided through a variety of formal and informal instructional methods accompanied by written policies and procedures. (3-24-17)

iv. Supervising audiologists should provide audiology support personnel with a written description of their roles and functions. Audiologists should provide personnel with ongoing training opportunities to ensure that audiology practices are current and skills are maintained. (3-24-17)

v. Training should include the identification of and appropriate response to linguistic and cultural challenges which may affect the delivery of service. (3-24-17)

212. NEWBORN HEARING SCREENING TESTS.
Performing newborn hearing screening tests on infants using automated equipment that produces a pass/fail response does not, by itself, constitute the practice of audiology or convert persons performing the tests into audiology support personnel. (3-28-18)

213. -- 219. (RESERVED)

220. QUALIFICATIONS FOR SPEECH-LANGUAGE PATHOLOGIST LICENSURE.
All applicants for licensure as a speech-language pathologist must comply with the following education, experience, and examination requirements: ( )

01. Graduate Program Requirement. A master's or doctoral degree from a nationally accredited school of speech-language pathology with a curriculum approved by the Board and includes a supervised academic clinical practicum. (3-27-13)

02. Examination. Pass an examination in speech-language pathology given by PRAXIS or other examination as may be approved by the Board. (4-2-08)

03. Supervised Experience. Satisfactorily complete the supervised postgraduate experience approved by the Board *as follows:* ( )

a. One thousand two hundred sixty (1,260) hours of experience gained under the supervision of a licensed speech-language pathologist in no less than thirty-six (36) weeks of full-time (thirty-five (35) hours per week) experience or the equivalent part-time experience and in no more than forty-eight (48) months. (3-27-13)

b. One thousand ten (1,010) hours of experience must be in direct client contact *as defined in these rules*. ( )

c. *A minimum of eighteen (18) hours of direct client contact must be observed on-site by the Board-approved supervisor and provided on a regular basis throughout the hours of experience*. ( )

d. The nature of the supervision and contact must allow for immediate feedback and can be conducted using audio/visual, in person, electronic means, or telephone. (3-27-13)

221. -- 229. (RESERVED)

230. QUALIFICATIONS FOR SPEECH-LANGUAGE PATHOLOGIST AIDE LICENSURE.
All applicants for licensure as a speech-language pathologist aide must comply with the following education and examination requirements: *( )*

01. Education Program Requirement. A baccalaureate degree from a nationally accredited school of speech-language pathology with a curriculum approved by the Board. (4-2-08)

02. Examination. Pass an examination in speech-language pathology aide as approved by the Board. *( )*

03. Supervision. A speech-language pathologist aide *must* work under the supervision of a speech-language pathologist. *( )*

231. -- 239. (RESERVED)

240. QUALIFICATIONS FOR SPEECH-LANGUAGE PATHOLOGIST ASSISTANT LICENSURE.
All applicants for licensure as a speech-language pathologist assistant must comply with the following education and examination requirements: *( )*

01. Education Program Requirement. An associate degree from a nationally accredited school of speech-language pathology with a curriculum approved by the Board. (4-2-08)

02. Examination. Pass an examination in speech-language pathology assistant approved by the Board. *( )*

03. Supervision. A speech-language pathologist assistant *must* work under the supervision of a speech-language pathologist. *( )*

241. -- 249. (RESERVED)

250. QUALIFICATIONS FOR HEARING AID DEALER AND FITTER LICENSURE.
All applicants for licensure as a hearing aid dealer and fitter must comply with the following education, experience, and examination requirements: *( )*

01. Education Requirement. A high school diploma or successful passage of the General Educational Development diploma (GED). (4-2-08)

02. Examination. Pass *the national International Hearing Instrument Studies examination and the practical* examination approved by the Board. *An applicant who fails to obtain a satisfactory score as determined by the examination provider in either the written examination or a section of the practical examination, may retake only the portion of the examination failed in order to qualify for licensure. If the applicant again fails the examination the applicant must retake the entire examination until the examination is successfully passed to qualify for licensure.* *( )*

251. -- 259. (RESERVED)

260. QUALIFICATIONS FOR SIGN LANGUAGE INTERPRETER LICENSURE.
The Board may grant a sign language interpreter license to an applicant who meets the following: *( )*

01. Education. Possess a high school diploma or the equivalent; (3-22-18)

02. Examination or Certification. Pass *one (1) written and one (1) practical or performance* competency examination approved by the Board or *hold* a *current* certification approved by the Board. *( )*

a. Written examinations approved by the Board include, but are not limited to: The Educational Interpreter Performance Assessment (EIPA), any interpreting generalist written examination developed by the Registry of Interpreters for the Deaf (RID), the Center for Assessment of Sign Language Interpreters (CASLI), or any state government. ( )

b. Practical or performance examinations approved by the Board include, but are not limited to: any practical or performance general interpreting examination recognized by the Registry of Interpreters for the Deaf (RID) or the Educational Interpreter Performance Assessment (EIPA) at score 4.0 or above. The practical or performance examination must have been passed within ten (10) years before the date of original application for licensure. ( )

c. Certifications approved by the Board include, but are not limited to, those administered by: Registry of Interpreters for the Deaf (RID); National Association of the Deaf (NAD); Center for Assessment of Sign Language Interpreters (CASLI); Board for Evaluation of Interpreters (BEI) at basic level or above, or if certified before 2014, at intermediate level or above; Utah Interpreter Program (UIP) at professional or master level, or a Utah Certified: Deaf Interpreter (UC:DI). ( )

261. TELEPRACTICE OF SIGN LANGUAGE INTERPRETING.
A person who performs sign language interpreting services through the use of electronic communications, information technology, asynchronous store and forward transfer, or synchronous interaction to persons located in Idaho are subject to the licensure, registration, or deaf interpreter requirements of Chapter 24, Title 54, Idaho Code, and these rules unless the person is located outside of Idaho and providing video relay services regulated by the Federal Communication Commission (FCC). ( )

26*2*. -- 26*4*. (RESERVED)

265. CODE OF ETHICS AND STANDARDS FOR SIGN LANGUAGE INTERPRETERS.
All licensed sign language interpreters must follow the National Association of the Deaf (NAD)-Registry of Interpreters for the Deaf, Inc. (RID) code of professional conduct as incorporated by reference in Section 004 of these rules, and must practice competently and in a manner consistent with the licensee's training, skill, and experience. ( )

266. -- 269. (RESERVED)

270. REGISTRATION FOR OUT-OF-STATE LICENSEES.
A person licensed or certified as sign language interpreter in another state, territory, or the District of Columbia may practice sign language interpreting in this state without a license issued by the board for a period not to exceed in the aggregate thirty (30) days in any calendar year provided that they fulfill the following requirements: (3-22-18)

01. Statement of Registration. Before commencing such work, the person will file with the Board on a form approved by the board a statement of registration providing the person's name, residence, sign language interpreter license or certificate of registration number, and the name, address, and phone number of the issuing authority; (3-22-18)

02. Registration Fee. *Payment of* one (1) registration fee for each calendar year in which they register; *( )*

03. Statement of Time Engaged. Within five (5) business days of completion of the work, the person will submit to the Board on a form approved by the Board a statement of the number of days in which the person engaged in that work within the state. (3-22-18)

271. -- 279. (RESERVED)

280. DEAF INTERPRETERS.

01. Letter of Endorsement. Persons who are deaf or hard-of-hearing and are not sign language interpreters may perform *sign language interpreting services* in the role of a deaf interpreter if they file with the

Board two (2) written endorsement letters from sign language interpreters licensed *by the Board*. Each letter must, at a minimum, include: *( )*

a. Date letter of endorsement was written; (3-22-18)

b. Full name, mailing address, and phone number of the deaf interpreter; (3-22-18)

c. Name, mailing address, and phone number of the sign language interpreter; and (3-22-18)

d. A statement endorsing the deaf interpreter to perform sign language interpreting services and an explanation as to why the sign language interpreter believes that the deaf interpreter has the skills and the knowledge to perform this role. (3-22-18)

02. Withdrawal of Endorsement. A sign language interpreter who has endorsed a deaf interpreter may withdraw their endorsement at any time upon delivery of written notice to the deaf interpreter and the Board. (3-22-18)

281. -- 309. (RESERVED)

310. ENDORSEMENT.
The Board may grant a license to any person who holds a current, active license, at the level for which a license is being sought, issued by the authorized regulatory entity in another state *and has not engaged in conduct that would constitute grounds for discipline under Section 54-2918, Idaho Code, unless the applicant has demonstrated suitability for licensure as set forth in these rules*. *( )*

311. -- 319. (RESERVED)

320. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.
An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or has been subject to discipline in another state, territory, or country must submit with his application a written statement and any supplemental information establishing *the applicant's* current suitability for licensure. *( )*

01. Consideration of Factors and Evidence. The board *may* consider the following factors or evidence: *( )*

a. The severity or nature of the crime or discipline; (3-22-18)

b. The period of time that has passed since the crime or discipline under review; (3-22-18)

c. The number or pattern of crimes or discipline or other similar incidents; (3-22-18)

d. The circumstances surrounding the crime or discipline that would help determine the risk of reoccurrence; (3-22-18)

e. The relationship of the crime or discipline to the practice of sign language interpreting; (3-22-18)

f. The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and (3-22-18)

g. Any other information regarding rehabilitation or mitigating circumstances. (3-22-18)

02. Interview. The Board may, at its discretion, grant an interview of the applicant. (3-22-18)

03. Applicant Bears the Burden. The applicant bears the burden of establishing *the applicant's* current suitability for licensure. *( )*

321. -- 399. (RESERVED)

400. CONTINUING EDUCATION.
All licensees must complete the following continuing education requirement*s*: *( )*

01. Requirement. *For licensed sign language interpreters and up u*ntil January 1, 2021, *for all other licensees,* each licensee will successfully complete, in the twelve (12) months preceding each renewal of their license, a minimum of ten (10) contact hours of continuing education. *( )*

a. Effective January 1, 2021, *for licensees other than sign language interpreters,* each licensee will successfully complete, in the three (3) years prior to their license expiration date, a minimum of thirty (30) contact hours of continuing education. *( )*

b. A contact hour is a measurement of the licensee's participation in an area of study germane to the practice for which the license is issued as approved by the Board. One (1) contact hour requires one (1) hour of participation in a Board-approved continuing education program excluding meals and breaks. One (1) contact hour equals one (1) clock hour for purposes of obtaining continuing education credit. (3-28-18)

c. For college or university courses that are approved by the Board for continuing education credit, one (1) semester credit hour equals fifteen (15) contact hours; one (1) quarter credit hour equals ten (10) contact hours. (3-28-18)

d. *For proctoring the hearing aid dealing and fitting examination administered by the Board, a licensee may claim three (3) contact hours per exam up to a total of six (6) contact hours during each year, provided that a licensee may not claim more than nine (9) contact hours during any three (3) year period. ( )*

e. Effective January 1, 2021, the Board will waive the continuing education requirement for the first three (3) license renewals after initial licensure *for licensees other than sign language interpreters. For sign language interpreters and up until January 1, 2021, for all other licensees, the Board will waive the continuing education requirement for the first renewal after initial licensure*. *( )*

02. Documentation. *Each licensee must maintain* documentation verifying *hours of* attendance by securing authorized signatures or other documentation from the course instructors, providers, or sponsoring institution. This documentation *is subject to audit and* must be provided upon request by the Board or its agent. *( )*

0*3.* ***Waiver***. The Board *may waive continuing education requirements* for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. The licensee must provide any information requested by the Board to assist in substantiating hardship cases. This *waiver* is granted at the sole discretion of the Board. *( )*

04. Carryover of Continuing Education Hours*. Until January 1, 2021, continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of ten (10) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. ( )*

401. -- 449. (RESERVED)

450. PROVISIONAL PERMITS.

01. Scope and Purpose*. The Board may issue a provisional permit to allow an applicant to engage in the supervised practice of a profession regulated by Title 54, Chapter 29, Idaho Code, while pursuing licensure for that profession. ( )*

a. *A provisional permit holder for audiology or speech language may practice the respective profession while completing the supervised experience necessary for licensure set forth in Subsection 210.03 or*

Subsection 220.03. ( )

b. *A provisional permit holder for sign language interpreting or hearing aid dealing and fitting may practice the respective profession while pursuing passage of examination(s) or certification necessary for licensure as set forth in Subsection 260.02. ( )*

02. Supervisor*. A provisional permit holder may only practice under the supervision of a licensee(s) whose license is current, in good standing, has not had discipline in the last two (2) years, and who is not supervising more than one (1) other permit holder, and as set forth below: ( )*

a. *A permit holder must be supervised by a licensee for the profession corresponding to the permit, except that a hearing aid dealer and fitter permit holder must be supervised by: ( )*

i. A hearing aid dealer and fitter who holds a current hearing instrument sciences (BC-HIS) from the National Board for Certification in Hearing Instrument Sciences or has three (3) years of active practice immediately preceding approval as a supervisor; or ( )

ii. An audiologist with one (1) year of active practice immediately preceding approval as a supervisor. ( )

iii. For an applicant who holds a current hearing instrument sciences (BC-HIS) from the National Board for Certification in Hearing Instrument Sciences, the Board may within its discretion approve a supervisor who is an audiologist with less than one (1) year of practice, is supervising more than one (1) other permit holder, or both. The Board's approval of such a supervisor may be rescinded in the event the permit holder fails a licensing examination or the permit holder failure to take the licensing examination within six (6) months after issuance of the permit. The Board may allow the supervisor to continue to supervise the permit holder upon adequate assurance that the supervision being provided is sufficient to ensure the safe and effective delivery of hearing aid dealing and fitting services and preparation for the examination. ( )

b. *A supervisor for a permit holder, except for sign language interpreter supervisor, must have an established business site in Idaho. A supervisor and permit holder for hearing aid dealing and fitting must work in the same facility. ( )*

c. *A supervisor may terminate their supervision of a permit holder by a written notice to the Board and the permit holder by certified mail at least ten (10) calendar days prior to the termination. ( )*

03. Supervision*. The supervisor is responsible for all practice and conduct of each permit holder under supervision. The supervisor and permit holder for hearing aid dealing and fitting must have adequate personal contact, which at a minimum includes: ( )*

a. *Personal contact each work day to review any assignments, client contacts, and hearing aid fittings for the first sixty (60) days of practice. The nature of the supervision and contact must allow for immediate feedback and includes audio/visual, in person, or telephone contacts. ( )*

b. *After the first sixty (60) days of practice, personal contact as described in Subsection 450.03.a. must be made no less than once in each calendar week throughout the remaining period of the permit. ( )*

c. *In the event a permit holder fails the licensing examination two (2) consecutive times and is eligible to maintain a permit, the supervisor and permit holder must reinstate contact in person each work day as set forth in Subsection 450.03.a. ( )*

04. Plan of Training and Quarterly Reports*. An applicant must submit a plan of training approved by the designated supervisor(s). Permit holders must submit quarterly reports signed by the supervisor(s) reflecting the progress on the plan(s) of training and any additional information required by this rule. ( )*

a. *A plan of training for hearing aid dealing and fitting or a sign language interpreter must cover all sections of the license examination(s). ( )*

b. *A plan of training and supervision for an audiology or speech language pathology permit holder must provide for adequate direct client contact activities which include assessment, diagnosis, evaluation, screening, treatment, and client management.* ( )

c. *Quarterly reports must be on forms approved by the Board, attested to and signed by the permit holder and approved supervisor(s), and include:* ( )

i. A log of client and supervisor contacts; ( )

ii. Supervisor's statement of completed training assignments by the permit holder; ( )

iii. For an audiology permit holder, documentation of all hearing aid sales or fittings made by the permit holder; ( )

iv. For a sign language interpreter, certification of attendance for any workshop or training session that permit holder has attended; ( )

v. For a hearing aid dealing and fitting permit holder, a copy of test results for all persons tested by the permit holder whether or not a sale occurred and a copy of each hearing aid order for all fittings including specifications of instruments ordered. ( )

d. *Quarterly reports are due on or before April 10th, July 10th, October 10th, and January 10th for the three (3) calendar month period preceding the month due. If the permit has not been in effect for the entire quarter, the report is due for that portion of the quarter in which the permit was in effect. If quarterly reports are not received by the specified due date, are inadequate, or document inadequate progress or incompetent practice the permit may be suspended or revoked upon notice and an opportunity to be heard.* ( )

05. Change in Supervisor or Plan of Training*. A permit holder must notify the Board prior to changing supervisors or changing the plan of training, and the change must be approved by the Board, or a designated member of the Board, prior to the commencement of supervision by a new supervisor or implementation of the change. Any supervision obtained from a supervisor or under a plan of training prior to or without approval of the Board will only be accepted at the discretion of the Board.* ( )

06. Cancellation of Permit*. A permit is cancelled upon any of the following: issuance of a license, expiration of the permit, or ten (10) business days after termination or disqualification of all supervision or supervisors if the permit holder has not applied for a change of supervisor.* ( )

07. Expiration*. Following the approval of a permit holder's original application, a provisional permit expires after:* ( )

a. *Twenty-four (24) months for the practice of audiology or the practice of hearing aid dealing and fitting.* ( )

b. Forty-eight (48) months for the practice of speech language pathology. ( )

c. *Twelve (12) months for the practice of sign language interpreting, provided that the Board may at its discretion, and upon application of the permit holder and approval of the supervisor, extend the time period by an additional twelve (12) months. The permit holder may apply for an extension a maximum of two (2) times, such that no permit holder may practice under a permit for more than thirty-six (36) months after the approval of the original application.* ( )

d. *The Board may extend the time period for reasons of individual hardship, including health when certified by a medical doctor, or other good cause that prevented the permit holder from completing the supervision within the stated time period.* ( )

451. -- 499. (RESERVED)

500. *HEARING EVALUATION*.

01. Purpose of Rule. The purpose of this rule is to define, "tests utilizing appropriate procedures," as used in Section 54-2923(6), Idaho Code. This rule is intended to be consistent with and to complement FDA Rule 801.420 as it refers to hearing evaluations. *( )*

02. Pre-Fitting Testing. All prospective hearing aid consumers must be given calibrated pure-tone air and bone tests with masking when applicable. Speech tests must be given by appropriate equipment calibrated to current H.T.L. reference levels. (3-30-06)

03. Sound Field Testing. Before the prospective consumer purchases a hearing aid or within six (6) weeks afterward, the licensee must conduct the testing necessary to document that the fitted instrument meets industry standards and provides benefit to the consumer. This testing must be accomplished using appropriate sound field testing so as to ensure repeatability. Verification of benefit may be accomplished using any one (1) of the following tests: (3-30-06)

a. Soundfield testing for speech discrimination in both the aided and unaided conditions; (3-30-06)

b. Soundfield testing using warble tones or narrowband noise to evaluate functional gain; or(3-30-06)

c. "Real ear" probe microphone measurements. (3-30-06)

04. Records. A copy of all test data must be kept on file by the licensee for two (2) years after sale. (3-30-06)

05. Exemptions. The testing requirements contained in Subsections 450.02 and 450.03 of this rule do not apply to consumers who *cannot respond* to acceptable audiological tests*, for any reason*. *( )*

551. -- 599. (RESERVED)

600. WRITTEN CONTRACTS.

01. Contract Form. Any person who practices the fitting and sale of hearing aids must enter into a written contract with the person to be supplied with the hearing aid*, which is signed by the licensee and the consumer and contains the information required in Subsections 600.01.a. through g*. The written contract must be given to the consumer at the time of the sale and must contain the following*:* *( )*

a. *L*icense number; (3-30-06)

b. Business address; (3-30-06)

c. The specifications as to the make, model, and manufacture date of the hearing aid; (3-30-06)

d. Clearly state the full terms of the sale*, including the exact portion of the purchase price, not to exceed twenty-five (25%) percent of the total purchase price of the hearing instrument and fitting expenses, that is nonrefundable;* *( )*

e. Provide the serial number of the hearing aid upon delivery; (3-30-06)

f. Be clearly marked as **"**used**"** or **"**reconditioned,**"** whichever is applicable, if the aid is not new*; and* *( )*

g. *In print size no smaller than ten (10) point type:* *( )*

i. The address of the bureau of occupational licenses and the procedure for filing complaints against anyone licensed to dispense hearing aids. *( )*

ii. A nonwaivable statement that the contract is null and void and unenforceable if the hearing aid being purchased is not delivered to the consumer within thirty (30) days of the date the written contract is signed, and that in the event the hearing aid is not delivered to the consumer within thirty (30) days of the date the written contract is signed, the licensee shall promptly refund any and all moneys paid for the purchase of the hearing aid. *( )*

02. Cancellation and Refund. The written contract must grant the consumer a nonwaivable thirty (30) day right to cancel the purchase and obtain a refund. The thirty (30) day right to cancel commences from either the date the contract is signed or the hearing aid is originally delivered to the consumer, whichever is later. The thirty (30) day period is tolled for any period in which the licensee has taken possession or control of the hearing aid after its original delivery. *( )*

03. Dealer Cancellation. In the event that any licensee cancels, nullifies, or otherwise, of their own volition, refuses to honor any written contract, for any reason other than consumer cancellation as set forth in Subsection 500.02, that licensee must promptly refund any and all moneys paid for the purchase of the hearing aid, including any monies designated by the contract as nonrefundable in the event that the consumer had canceled the purchase. *( )*

601. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD

DOCKET NO. 24-2401-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5607, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.24.01, rules of the Genetic Counselors Licensing Board:

IDAPA 24.24

- 24.24.01, Rules of the Genetic Counselors Licensing Board—all proposed rules except 010, 011, 100.01, 100.02.a, 100.02.b, 200, 305, 306, 311.01, 311.03, 500.05, 800, 900.01.a, 900.01.b, 900.01.c, 900.01.d, and 900.01.e which have been vacated.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4,857-4,862. The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.24.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Genetic Counselors Licensing Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.24.01, the Rules of the Genetic Counselors Licensing Board. On July 22, 2019, the Genetic Counselors Licensing Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02; and the continued efforts to clarify and streamline its rules. This pending fee rule reorganizes and combines sections for clarity, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase “not to exceed” before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Additionally, this pending rule adds an inactive license status, a less burdensome alternative to licensees desiring to maintain a license.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5613, Idaho Code, as follows: application fee: not to exceed $200; original license fee: not to exceed $200; annual renewal fee: not to exceed $200; provisional license fee: not to exceed $200; and license by endorsement fee: not to exceed $200.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at 208-334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

24.24.01 – RULES OF THE GENETIC COUNSELORS LICENSING BOARD

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Genetic Counselors Licensing Board by the provisions of Title 54, Chapter 56, Idaho Code. (3-24-16)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 24.24.01, "Rules of the Genetic Counselors Licensing Board." (3-24-16)

02. Scope. These rules implement the purposes and intent of Chapter 56, Title 54, Idaho Code, to regulate the profession of genetic counseling in the interest of the public health, safety, and welfare. (3-24-16)

002. INCORPORATION BY REFERENCE.
The document titled "National Society of Genetic Counselors Code of Ethics," adopted January 1992 and revised December 2004 and January 2006, is incorporated by reference into this rule and is available at the Board's office and on the Board's web site. (3-24-16)

005. -- 099. (RESERVED)

100. ORGANIZATION OF THE BOARD.
At the first meeting of each fiscal year, the Board will elect from its members a Chairman, who will assume the duties of the office at the direction of the Board. *( )*

101. -- 249. (RESERVED)

250. FEES.
All fees are non-refundable except that, if a license fee is tendered but the Board does not issue a license, the respective license fee will be returned. Fees are established in accord with Section 54-5613, Idaho Code as follows:

FEE TYPE	*AMOUNT (Not to Exceed)*
Application	*$200*
Original License	*$200*
Annual Renewal	*$200*
Provisional License	*$200*
License by Endorsement	*$200*
Examination	*Determined by third-party examination administrator*
Reinstatement	*As provided in Section 67-2614, Idaho Code*

( )

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.

01. General. *An applicant who in any state, territory or country has had a license revoked or suspended or has been otherwise disciplined by a Board, a government agency, or any other disciplinary body, or has been found guilty, convicted, received a withheld judgment or suspended sentence for a felony or a lesser crime conviction must submit with his application a written statement and any supplemental information establishing his current suitability for licensure.* *( )*

***02. Consideration of Factors and Evidence**. The Board will consider the following factors or evidence:* *( )*

***a.** The severity or nature of the crime or discipline;* *( )*

b. *The period of time that has passed since the crime or discipline under review;* *( )*

c. *The number or pattern of crimes or discipline or other similar incidents;* *( )*

d. *The circumstances surrounding the crime or discipline that would help determine the risk of repetition;* *( )*

e. *The relationship of the crime or discipline to the practice of genetic counseling;* *( )*

f. *The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and* *( )*

g. *Any other information regarding rehabilitation or mitigating circumstances.* *( )*

03. Interview*. The Board may, at its discretion, grant an interview of the applicant.* *( )*

04. Applicant Bears the Burden*. The applicant will bear the burden of establishing his current suitability for licensure.* *( )*

05. Education. An applicant must hold a master's degree or higher in genetics from an *American Board of Genetic Counseling (*ABGC*)*, *American Board of Medical Genetics (*ABMG*)*, *Accreditation Council for Genetic Counseling (*ACGC*)*, or *National Society of Genetic Counselors (*NSGC*)* accredited program or master's degree or higher in a related field of study as approved by the Board. *( )*

06. Examination. An applicant must pass an ABGC or ABMG administered genetic counselor certification exam. *The passage of the exam may have occurred prior to the effective date of these rules.* *( )*

07. Certification. An applicant must provide proof of current certification from the ABGC or ABMG. (3-24-16)

301. -- 309. (RESERVED)

310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.
The Board may grant a license to an applicant for licensure by endorsement who meets the following requirements: *( )*

01. General. Meets the requirements prescribed in Subsection 300.01 of these rules; and (3-24-16)

02. Holds a Current License. The applicant must be the holder of a current active license in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity of another state, territory, or jurisdiction. The state, territory, or jurisdiction must have licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure must be received by the Board from the issuing agency. *( )*

311. REQUIREMENTS FOR PROVISIONAL LICENSE.
The Board may issue a provisional license to allow a person who has been granted *active candidate status* to engage in the practice of genetic counseling. The holder of a provisional license may only practice under the general supervision of a person fully licensed under this chapter or a physician licensed in this state. *( )*

01. General*. Meets the requirements prescribed in Subsection 300.01 of these rules; and* *( )*

02. Supervision. While the provisional licensee is providing genetic counseling services, the licensee's supervisor need not be physically present; however, the supervisor must be readily accessible to the provisional licensee by telephone or by electronic means for consultation and assistance. (3-24-16)

312. INACTIVE STATUS.

*01. **Request for Inactive Status**. Licensees requesting an inactive status during the renewal of their active license must submit a written request and pay the established fee. ( )*

*02. **Inactive License Status**. All continuing education requirements will be waived for any year or portion thereof that a licensee maintains an inactive license and is not actively practicing in Idaho. ( )*

*03. **Reinstatement to Full Licensure from Inactive Status**. An inactive licensee may reinstate to active status by submitting a completed, board-approved application and paying the appropriate fee, provide proof of ABGC certification and one (1) year of continuing education immediately preceding application. ( )*

313. -- 499. (RESERVED)

500. CONTINUING EDUCATION.
All licensees must comply with the following continuing education requirements: (3-24-16)

01. Requirement. Beginning with the second renewal of their license, a licensee will be required to complete a minimum of two (2) *Continuing Education Units (*CEUs*)* within the preceding twelve (12) months or one (1) CEU and one (1) *Professional Activity Credit (*PAC*)* within the preceding twelve (12) months. *( )*

02. Documentation. Each licensee will maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. (3-24-16)

a. Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. (3-24-16)

b. A licensee must submit the verification documentation to the Board, if requested by the Board. If a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal application, the licensee may be subject to disciplinary action. (3-24-16)

03. Waiver. The Board may *for good cause* waive the requirements of this rule. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. *( )*

04. Carryover of Continuing Education Hours. CEUs and PACs not claimed in the current renewal year may be claimed in the next renewal year. A maximum of two (2) CEUs or one (1) PAC and one (1) CEU may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (3-24-16)

501. -- 699. (RESERVED)

700. UNPROFESSIONAL *AND UNETHICAL* CONDUCT.
Unprofessional and unethical conduct is conduct that does not conform to the guidelines for genetic counseling contained within the (NSGC) Code of Ethics, incorporated by reference into Section 004 of these rules and approved by the Board as the Idaho Code of Ethics. ( )

701. -- 899. (RESERVED)

900. DISCIPLINE.

01. Disciplinary Action. If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 56, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee.

901. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.25.01 – RULES OF THE IDAHO DRIVING BUSINESSES LICENSURE BOARD

DOCKET NO. 24-2501-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5403, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.25.01, rules of the Rules of the Idaho Driving Businesses Licensure Board:

IDAPA 24.25.01

- 24.25.01, *Rules of the Idaho Driving Businesses Licensure Board*: all proposed rules except 100.02.a. and 100.02.b.

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, 4,865-4,876. The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.25.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho Driving Businesses Licensure Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.25.01, the Rules of the Idaho Driving Business Licensure Board. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4865 - 4876.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5404, Idaho Code, as follows:

Application fee: not to exceed $25;
Original instructor license fee and renewal fee: not to exceed $25;
Instructor apprentice permit fee: not to exceed $25;
Original business license fee and renewal fee: not to exceed $125.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
In accordance with Section 54-5403, Idaho Code, the Idaho Driving Businesses Licensure Board hereby promulgates rules that implement the provisions of Chapter 54, Title 54, Idaho Code. (4-7-11)

001. TITLE AND SCOPE.
These rules are cited as IDAPA 24.25.01, "Rules of the Idaho Driving Businesses Licensure Board." (4-7-11)

002. CHANGES IN LICENSEE INFORMATION (RULE 7).

01. Information Update. Each licensee must keep the Bureau current on the information that the licensee has placed on record with the Bureau. If a change occurs to the information that a licensee provided to the Bureau under Rules 150, 225, or 250, the licensee must notify the Bureau in writing of the change within twenty (20) calendar days after the change occurs. The licensee must provide the Bureau, upon request, with appropriate documentation reflecting the change. (4-7-11)

02. Address for Notification Purposes. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee including, but not limited to, notification of renewal and notices related to disciplinary actions. Each licensee must keep the Bureau informed of the licensee's current mailing address. (4-7-11)

003. -- 099. (RESERVED)

100. ORGANIZATION.

01. Meetings. The Board meets at least annually at such times and places as designated by the Chairman, or upon the written request of two (2) members of the Board. (4-7-11)

a. All meetings are held in accordance with the Idaho Open Meeting Law, Chapter 23, Title 67, Idaho Code. (4-7-11)

b. A minimum of three (3) Board members constitutes a quorum and may exercise all powers and authority conferred on the Board in order to hold a meeting of the Board. A majority vote of the Board members present at a meeting is considered the action of the Board as a whole. (4-7-11)

02. Organization of the Board. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (4-7-11)

101. -- 149. (RESERVED)

150. APPLICATION.
Each applicant for a license, permit, or other authority from the Board must submit a complete application on Board-approved application forms. The application must be accompanied by required fee(s). Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. The Board also will not review incomplete applications, including applications submitted without the required fee(s). Further, an applicant must provide, or facilitate the provision of, any supplemental information or documents requested by the Board. Any application on file with the Board where an applicant has failed to respond to a Board request or where the application has lacked activity for twelve (12) consecutive months will be deemed denied and will be terminated upon thirty (30) days written notice to the applicant unless good cause is established to the Board. (4-11-19)

151. -- 174. (RESERVED)

175. FEES.
All fees are non-refundable.

FEE TYPE	*AMOUNT (Not to Exceed)*
Application	*$25*
Original Instructor License and Annual Renewal	*$25*

FEE TYPE	AMOUNT (Not to Exceed)
Instructor Apprentice Permit	$25
Original Business License and Annual Renewal	$125
Reinstatement	As provided in Section 67-2614, Idaho Code

( )

176. -- 199. (RESERVED)

200. RENEWAL OF LICENSE.

01. Application for Renewal. In order to renew a license, a licensee must annually submit a timely, completed, Board-approved renewal application form and pay the required renewal fees. All renewals are subject to audit. When applying for renewal, the licensee must meet the following requirements: (4-7-11)

a. The licensee must certify that the licensee continues to satisfy all requirements for the licensee's type of licensure, as set forth in Rules 225 and 250, and that the licensee is, and has been, in full compliance with Rule 007. The licensee must further certify that the licensee is in compliance with the Board's continuing education requirements. (4-7-11)

b. An instructor licensee also must certify that the licensee does not suffer from any physical or mental condition or disease that would impair the licensee's ability to safely instruct drivers. (4-7-11)

c. Every two (2) years, a driving instructor licensee must obtain a new medical certificate of the kind described in Subsection 250.05. The instructor licensee must annually certify that the licensee is in compliance with the requirements. (4-7-11)

d. A business licensee that offers a Board-approved instructor apprentice training program must certify that the licensee's program has maintained compliance with the Board's program approval criteria as specified in Rule 275. (4-7-11)

02. Reinstatement. Any license cancelled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code, and subject to Subsection 201.01.c., below. (4-7-11)

201. CONTINUING EDUCATION.
In order to protect the public health and safety and promote the public welfare, the Board has adopted the following rules for continuing education. (4-7-11)

01. Continuing Education (CE) Requirement. Each Idaho licensed driving instructor must annually complete a minimum of eight (8) hours of continuing education. (4-11-19)

a. The licensee must certify on the licensee's renewal application that the licensee has complied with the annual CE requirements for the preceding twelve (12) months. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with the CE requirements. (4-7-11)

b. A licensee is considered to have satisfied the CE requirements for the first renewal of the initial license. (4-7-11)

c. Prior to reinstatement of a license lapsed, canceled, or otherwise non-renewed for less than five (5) years, the applicant must provide proof of attendance of eight (8) hours of continuing education for the previous twelve (12) months. A license that has lapsed, been canceled, or otherwise not renewed for more than five (5) years may be reinstated in accordance with Section 67-2614, Idaho Code. (4-11-19)

02. Hours. Credit for continuing education hours will only be given for actual time in attendance or for the time spent participating in the educational activity. One (1) hour of continuing education is equal to sixty (60) minutes. Courses taken by correspondence or on-line may be approved for continuing education if the courses require an exam or other proof of successful completion. Only four (4) hours of the required continuing education may be from correspondence, on-line, or self-study in each renewal period. The remaining hours must be in an interactive setting that allows participants to communicate directly with the instructor. Each licensee must maintain proof of attendance or successful completion documentation of all continuing education courses for a period of three (3) years. (4-7-11)

03. Providers/Sponsors/Subjects of Continuing Education. The continuing education must be provided by a nationally or regionally accredited college or university, a national or state driver education and traffic safety association such as the Idaho Association of Professional Driving Businesses, Driving School Association of the Americas, the American Driver Traffic Safety Education Association, and the American Automobile Association, transportation and law enforcement agencies, or other person or entity approved by the Board and must be germane to driver education. (4-7-11)

04. Verification of Attendance. Each licensee must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any and all hours attended by the licensee. (4-7-11)

05. Failure to Fulfill the Continuing Education Requirements. The license will not be renewed for a licensee who fails to certify compliance with CE requirements. A licensee who makes a false attestation regarding compliance with the CE requirements is subject to disciplinary action by the Board. (4-7-11)

06. Special Exemption. The Board has authority to make exceptions for reasons of individual hardship, including health, when certified by a medical doctor, or other good cause. Each licensee must provide any information requested by the Board to assist in substantiating hardship cases. This exemption is granted at the sole discretion of the Board. (4-7-11)

07. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of eight (8) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one (1) renewal year. (4-11-19)

202 -- 224. (RESERVED)

225. DRIVING BUSINESS LICENSE.
A driving business license enables a licensee to operate a driver education business at one (1), principal classroom location as designated in the application. The licensee may also utilize secondary locations for classroom instruction, so long as the business does not conduct driver education at any given secondary location for more than sixty (60) days in a one-year period. A driving business license is not transferable. The business licensee must conspicuously display the license at the business's principal classroom location. Each applicant must apply as required by Rule 150. (4-7-11)

01. Applicant Identity. The applicant must provide such identifying information as may be requested by the Board including, without limitation, the following: (4-7-11)

a. The applicant's legal name (i.e., the name of the natural person or business entity to be issued the license) and assumed business name(s), if any. (4-7-11)

b. The applicant's social security number, if the applicant has no employees and is a natural person (including a sole proprietor acting under an assumed business name). If the applicant has employees or is not a natural person (e.g., is a general or limited partnership, corporation, limited liability partnership, or limited liability company), then the applicant must provide its employer identification number. (4-7-11)

c. The names and addresses of the applicant's officers and shareholders having a twenty-five percent (25%) or greater ownership interest (if a corporation), members and managers (if a limited liability company), and

partners (if a partnership). (4-7-11)

d. The applicant's contact information, including its mailing address, physical address, and telephone number. (4-7-11)

02. Criminal History Background Check. The applicant, if a natural person, and all persons listed under Paragraph 225.01.c. and Subsection 225.05 of these rules, must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must ensure that such persons submit a full set of their fingerprints, and any relevant fees, to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The application will not be processed until the Bureau has received the completed fingerprint-based criminal history background checks. (3-20-14)

03. Classroom Locations and Certificates of Occupancy. Each applicant must list all principal and secondary classroom locations to be utilized by the business. The applicant must provide a certificate of occupancy issued to the building/room by the local fire marshal or the fire marshal's designated agent, for each classroom location other than a location in a public or private school building, government building, church, or synagogue. (4-7-11)

04. Certificate of Vehicle Insurance. The certificate of vehicle insurance for each vehicle utilized by the driving business for driver education must accompany the application. The minimum coverage will include: (4-7-11)

a. Medical Payment for each person - five thousand dollars ($5,000); and either (4-7-11)

b. Limit of liability (Combined single limit) - five hundred thousand ($500,000) to apply to bodily injury and/or property damage; or (4-7-11)

c. Limit of liability (Split limit). Bodily injury - two hundred-fifty thousand ($250,000) per person/ five hundred thousand ($500,000) each accident; Property damage - two hundred-fifty thousand ($250,000) each accident. (4-7-11)

05. Licensed Instructors. Before beginning to offer driver education, and at all times while offering driver education, a driving business must employ or have contracted with one (1) or more licensed driving instructors to teach the classroom instruction phase and behind-the-wheel training phase of the driver education to be provided by the business. A driving business must submit to the Bureau a current list of such licensed instructors with applications for original licensure and reinstatement. A driving business must keep such list current and available for inspection upon request by the board or its authorized agent. The list must be kept at its primary place of business and retained for five (5) years. (3-29-17)

06. Vehicles. An applicant for a driving business license must submit to the Bureau a list of the vehicles that the business will utilize when offering driver education. A business licensee may not utilize vehicles that do not appear on the list. Each vehicle must have dual control brake pedals, safety restraints for all passengers, a side view mirror on each side of the vehicle, and an additional rear view mirror or compatible viewing device for the exclusive use of the instructor. A driving business must ensure that students are not allowed in a listed vehicle unless the vehicle is in a safe and proper operating condition. (4-7-11)

a. Initial Inspection. An applicant may not include a vehicle on a business's vehicle list unless the vehicle has passed a vehicle inspection performed by an ASE mechanic or vehicle technician within the two (2) month period preceding the application. The inspection must be documented on the Board-approved inspection form included at Appendix A to these rules, or on such other similar forms as may be approved by the Board. The person who inspected the vehicle must sign the form, certifying that the vehicle generally is in a safe and proper operating condition, and that each inspected item passed inspection or, if found to be in need of repair, was repaired on a given date. The application must be accompanied by a separate, signed form for each listed vehicle. (4-7-11)

b. Annual Inspection. A business licensee must ensure that each vehicle passes an inspection every twelve (12) months, and that the inspection is performed by an ASE mechanic or vehicle technician documented on

the Board-approved form referenced in Paragraph 225.06.a. of these rules. If a vehicle fails an annual inspection, the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes a subsequent inspection and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

c. Incident Inspection. If a vehicle incident occurs that requires an investigation and report by law enforcement, or in which the damage exceeds one thousand five hundred dollars ($1,500), the business licensee must withdraw the vehicle from service. The business licensee may not use the vehicle for behind-the-wheel training until the vehicle passes inspection by an ASE mechanic or vehicle technician and the business licensee has submitted to the Bureau the inspection form evidencing that the vehicle has passed. (4-7-11)

d. Signage. The business licensee must ensure that the outside of each vehicle is equipped with safely secured signs. Signs must include "Student Driver," "Driver Education," "Driver Training," "Driving School," or similar language that clearly designates the vehicle as a driver training vehicle. (4-7-11)

07. Course of Instruction. Each applicant, for an original business license, must provide with its application the course of instruction the applicant will use when instructing students. The applicant must demonstrate, to the Board's satisfaction, that the course of instruction is designed to produce safe and effective drivers and is educationally sound. The course of instruction must be based on the minimum curriculum components outlined in Rule 226, and consists of: (4-7-11)

a. Not less than thirty (30) hours of classroom instruction; and (4-7-11)

b. Not less than six (6) hours of behind-the-wheel practice driving; and (4-7-11)

c. Not less than six (6) hours of student, in-vehicle observation of other persons (e.g., parents, other student drivers, etc.) driving the vehicle. (4-7-11)

08. On-line Instruction. In addition to, or in lieu of offering classroom instruction at a physical classroom location, a business licensee may offer classroom instruction to students via the internet. While a business licensee may utilize a third party to offer on-line classroom instruction, the business licensee is responsible for ensuring that the instruction content meets the requirements of these rules and is approved by the Board. (3-29-17)

09. Instructor Apprenticeship Training Program. A driving business may offer a Board-approved instructor apprenticeship training program under the conditions specified in Rule 275. (4-7-11)

226. DRIVING BUSINESS -- MINIMUM CURRICULUM COMPONENTS.
In order to assure consistency among driving businesses, it is necessary that every business licensee ensure that its driver education curriculum include the following minimum curriculum components: (4-7-11)

01. Component One for Classroom. (4-7-11)

a. Conducting a parent/student orientation and course overview. (4-7-11)

02. Component Two for Classroom. (4-7-11)

a. Identifying vehicle gauges, alert, and warning symbols. (4-7-11)

b. Preparing to drive. (4-7-11)

c. Protecting occupants. (4-7-11)

03. Component Three for Classroom. (4-7-11)

a. Identifying road signs and signals. (4-7-11)

b. Identifying lane markings. (4-7-11)

04. **Component Four for Classroom**. (4-7-11)

a. Understanding basic traffic laws, including right-of-way rules. (4-7-11)

05. **Component Five for Classroom**. (4-7-11)

a. Using good habits for reduced risk driving. (4-7-11)

b. Using time and space management systems and strategies. (4-7-11)

06. **Component Six for Classroom**. (4-7-11)

a. Explaining the effect of gravity and energy of motion on a vehicle. (4-7-11)

b. Understanding procedures to maintain vehicle balance and traction. (4-7-11)

c. Identify strategies to negotiate hills and curves. (4-7-11)

07. **Component Seven for Classroom**. (4-7-11)

a. Identifying strategies to use when driving in rural and urban environments. (4-7-11)

b. Identifying strategies to use when driving on freeways. (4-7-11)

08. **Component Eight for Classroom**. (4-7-11)

a. Identifying strategies to use when driving in bad weather. (4-7-11)

b. Identifying strategies to use when encountering roadside emergencies. (4-7-11)

09. **Component Nine for Classroom**. (4-7-11)

a. Understanding ways to cooperate with other roadway users, including bicyclists. (4-7-11)

b. Identifying responsibilities after a collision. (4-7-11)

c. Identifying the procedure for obtaining a driver's license. (4-7-11)

d. Identifying and avoiding common driver distractions. (4-7-11)

e. Identifying ways to prevent drowsiness while driving. (4-7-11)

f. Resisting aggressive driving behaviors. (4-7-11)

10. **Component Ten for Classroom**. (4-7-11)

a. Explaining the effects of alcohol on the body. (4-7-11)

b. Explaining the effects of alcohol on the driving task. (4-7-11)

c. Correlating drinking and driving with vehicle crashes. (4-7-11)

d. Identifying Idaho laws related to drinking and driving. (4-7-11)

e. Explaining the dangers of alcohol and other drug use. (4-7-11)

11. **Component Eleven for In-Car**. (4-7-11)

a. Performing pre-drive procedure. (4-7-11)

b. Identifying vehicle controls. (4-7-11)

c. Starting the vehicle. (4-7-11)

d. Backing the vehicle. (4-7-11)

e. Demonstrating approved steering technique. (4-7-11)

f. Smoothly stopping the vehicle. (4-7-11)

g. Demonstrating proper signaling and turning technique. (4-7-11)

h. Recognizing relevant signs and markings. (4-7-11)

i. Distinguishing between four-way and two-way stops. (4-7-11)

12. **Component Twelve for In-Car**. (4-7-11)

a. Negotiating controlled and uncontrolled intersections. (4-7-11)

b. Negotiating hills and curves. (4-7-11)

c. Angle parking in a parking lot. (4-7-11)

d. Driving in rural environment. (4-7-11)

e. Making lane changes. (4-7-11)

13. **Component Thirteen for In-Car**. (4-7-11)

a. Driving in an urban environment (with one-way and two-way streets, if available). (4-7-11)

b. Dealing with signal lights, pedestrians, and city traffic. (4-7-11)

c. Performing a perpendicular park. (4-7-11)

d. Merging onto the freeway. (4-7-11)

e. Driving on the freeway. (4-7-11)

f. Exiting the freeway and merging with traffic on surface streets. (4-7-11)

14. **Component Fourteen for In-Car**. (4-7-11)

a. Performing a parallel park/street park. (4-7-11)

b. Performing turnabouts. (4-7-11)

c. Passing another vehicle. (4-7-11)

d. Driving independently with the instructor. (4-7-11)

227. DRIVING BUSINESS - COURSE OF INSTRUCTION.

01. Student Permit Required. No enrollee of any class D driver's training course will be allowed to attend classes or participate in driving instruction unless he has obtained a class D driver's training instruction permit, or a class D instruction permit, as provided in Section 49-307(4), Idaho Code. (4-7-11)

02. In-Car Documentation. A business licensee must ensure that each listed vehicle contains documentation that identifies each student and the student's permit number. Permits will be given to the students following the completion of the course and used during the required graduate licensing process. (4-7-11)

03. Maximum Daily Driving and Observation Time. Neither a business licensee nor an instructor licensee may permit an enrolled student to receive more than two (2) hours of behind-the-wheel driving time per day. Maximum observation time is two (2) hours per student, per day, and may be completed with a parent or legal guardian. (4-7-11)

04. Maximum Number of Students In Vehicle. Neither a business licensee nor an instructor licensee may permit more than three (3) students in a vehicle at one (1) time. (4-7-11)

05. Grading Criteria. A business licensee may not permit a student to graduate from the business's driver education program unless the student has achieved an eighty percent (80%) or higher in each of the three (3) course areas described in Subsection 225.07. The business licensee must utilize written grading criteria for each of the minimum components in Rule 226. Criteria may include student attitude and such other criteria as the driving business may deem appropriate. The business licensee must maintain records of the student's grades. (4-7-11)

06. Driving Log. Each driving instructor must complete a log for each student's behind-the-wheel driving and each driving business licensee must ensure that its driving instructors complete the log. The log must include, for each student, at least the student's name, birthdate, phone number, driving permit number, class date, instructor's name, lesson objective, total instruction time, total observation time, final grade, and date the student passed. (4-7-11)

07. Reporting. A business licensee will send student performance information as prescribed by the Idaho Division of Motor Vehicles (DMV) to the DMV no later than five (5) p.m. on the third business day following completion of the course. (3-29-17)

08. Parental Involvement. Each business licensee should encourage parental involvement in the education of the student. (4-7-11)

09. Record Retention. The business licensee must maintain all logs and other records required under Rule 227 for at least three (3) years from date on which the student completes, or is no longer enrolled in, the business's driver education course. The business licensee may not release these records without written consent from the student and the student's parent or legal guardian. The Board and its agents, however, may inspect these records at any time. (4-7-11)

228. DRIVING BUSINESS - INITIAL AUDIT.

After July 1, 2009, all new driving business licensees issued licenses will automatically be audited for compliance with the Board's laws and rules following their first renewal. (4-7-11)

229. -- 249. (RESERVED)

250. DRIVING INSTRUCTOR LICENSE.

01. Application. Each applicant for a driving instructor license must apply as required by Rule 150. Each applicant is required to provide his name, date of birth, and contact information, including mailing address and telephone number, on the Board-approved application form. (4-7-11)

02. Age. An applicant for a driving instructor license must be at least twenty-one (21) years old. (4-7-11)

03. Driving Record and Drivers License. Each applicant must submit a copy of a valid driver's

license in good standing and a copy of a satisfactory driving record. An unsatisfactory record includes, but is not limited to, two (2) moving violations in the past twelve (12) months, or suspension or revocation of a driver's license in the last thirty-six (36) months, or a conviction involving alcohol or controlled substances within the last thirty-six (36) months. (4-7-11)

04. Criminal History Background Check. Each applicant must submit to a current, fingerprint-based criminal history check conducted by an organization approved by the Board. Each applicant must submit a full set of the applicant's fingerprints, and any relevant fees, to the Bureau which will forward the fingerprints and fees to the organization that conducts the fingerprint based criminal history background check. The application will not be processed until the completed fingerprint-based criminal history background check has been received. (3-20-14)

05. Medical Certificate. A driving instructor licensee may not provide in-vehicle instruction to students if the instructor suffers from a medical condition that may impair the instructor's ability to safely instruct student drivers. Accordingly, each applicant for an instructor's license must obtain a medical examination performed by a licensed medical professional. The examination must be completed within two (2) years preceding the application. The applicant must submit a medical examiner's certificate, issued and signed by a licensed, qualified medical professional documenting that the examination occurred and that the applicant does not suffer from any physical or mental condition or disease that would impair the applicant's ability to safely instruct student drivers. If a medical condition exists, the applicant must re-certify as the medical professional requires and submit that information to the Board. (3-29-17)

06. Education. Each applicant must submit written evidence, satisfactory to the Board, of having graduated from a high school or a regionally or nationally accredited college or university, or of having obtained a GED. (4-7-11)

07. Instructor Apprenticeship Training Program. Applicants for licensure must demonstrate to the Board's satisfaction that they have successfully completed all required classroom instruction and behind-the-wheel training hours from a Board-approved instructor apprenticeship training program or have met the requirements for a waiver of the apprenticeship training program as set forth in these rules. The applicant must have undertaken and completed the apprenticeship training program within the five (5) year period immediately preceding the application. (4-11-15)

a. Proof of successful completion must include written certificate from a Board-approved apprenticeship training program certifying that the applicant has satisfactorily completed the program. An applicant need not have completed all required classroom instruction and behind-the-wheel training hours through a single program so long as the last program attended by the applicant ensures itself, and its business licensee certifies to the Board that the applicant has satisfactorily completed all required hours through Board-approved apprenticeship training programs. (4-7-11)

b. A person may not enroll in an apprenticeship training program unless the person has applied for, paid for, and obtained an apprenticeship permit from the Board. The applicant must apply on Board-approved forms, which must identify the applicant and the business licensee in whose approved apprenticeship training program the applicant will be enrolled. The individual applicant must establish that they are at least twenty-one (21) years old, hold a valid driver's license and a satisfactory driver license record, have passed a fingerprint based criminal history background check, and have obtained a medical certificate consistent with the requirements of Subsections 250.02 through 250.05. An apprenticeship permit automatically expires one (1) year after issuance. The Board also may suspend or revoke an apprenticeship permit, and refuse to issue another permit, if the permittee engages in any act or omission that would subject the permittee to discipline if the permittee had an instructor's license. No one may be a permittee for more than three (3) years. (3-20-14)

08. Waiver of Instructor Apprenticeship Training Program. An applicant is entitled to a waiver of the apprenticeship training program if they possess the requisite training and experience as set forth below. (4-11-15)

a. An applicant who holds a current active unrestricted equivalent driving instructor license from another state qualifies for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they hold a current unrestricted driving instructor license from another state, and that said license is equivalent to an Idaho driver instructor license in its qualifications and scope of practice; or

(4-11-15)

b. An applicant who has held within the past five (5) years an active and unrestricted public driver education instructor license issued by the Idaho State Department of Education and has completed eight (8) hours of continuing education within the prior year or an individual who has completed the Idaho State Department of Education driving instructor program within the past five (5) years and has completed eight (8) hours of continuing education within the prior year qualifies for a waiver of the apprenticeship training program requirement. The applicant is responsible to provide proof to the Board that they meet the requirements herein. (4-11-19)

251. -- 274. (RESERVED)

275. INSTRUCTOR APPRENTICESHIP TRAINING PROGRAM.

01. Application for Approval. A business licensee may operate a Board-approved instructor apprenticeship training program. The business licensee must apply for program approval on forms provided by the Board, and submit with the application such documentation as the Board may require to enable the Board to assess whether the proposed program meets the Board's approval criteria, as specified in Subsections 275.03 through 275.08 of these rules. (4-7-11)

02. Suspension or Revocation of Approval and Discipline. If an approved program fails to consistently adhere to the approval criteria in Subsections 275.03 through 275.08 of these rules, the Board may suspend or revoke the approval. Further, if a business licensee that operates an approved program fails to cooperate with the Board in any inspection or audit of the program, the licensee may be disciplined. (4-7-11)

03. Apprentices. The business licensee must ensure that all persons who enroll in the licensee's program possess a valid instructor apprenticeship training permit from the Board. (3-20-14)

04. Instruction and Training Hours. The Board must be satisfied that the program has designed its proposed instruction and training to produce safe and effective driving instructors. The business licensee must ensure that the program includes at least the following instruction and training components: (4-7-11)

a. Each apprentice must receive at least sixty (60) hours of classroom instruction covering the curriculum components for student classroom instruction specified in Subsections 226.01 through 226.10 of these rules. These hours may also be completed through on-line or internet based instruction. (4-11-19)

b. Each apprentice must receive at least one hundred eight (108) hours of behind-the-wheel-training covering the curriculum components for student in-car instruction specified in Subsections 226.11 through 226.14 of these rules. When an apprentice begins to provide behind-the-wheel driving instruction to students, a program instructor must supervise the apprentice by riding in the vehicle with the apprentice and students for the first six (6) hours. A program instructor also must ride in the vehicle with the apprentice and students to evaluate the apprentice during the final two (2) hours of the apprentice's behind-the-wheel training. (4-7-11)

05. Instructors. The business licensee must ensure that only licensed driving instructors are allowed to teach in the program. A list of the instructors must accompany the application for approval. (4-11-19)

06. Recordkeeping. The business licensee must ensure that the program maintains progress records for each apprentice. A program instructor and the apprentice must sign and date the records each month, and copies of the records must be provided to the apprentice. The records must, at a minimum, identify each lesson completed, the number of hours of instruction involved in the lesson, the date the apprentice completed the lesson, the instructor who taught the lesson, and whether the apprentice passed. When an apprentice's course of instruction has been completed or terminated, the program business licensee must maintain the records of the apprentice's progress, and the total hours recorded and maintained by the program for a period of five (5) years from completion or termination date. These records are subject to inspection by the Board at any time. (4-7-11)

07. Certificate of Proficiency. The program must provide each apprentice with a certificate of proficiency evidencing all hours satisfactorily completed by the apprentice while in the program, and that the apprentice is proficient in all areas covered by the certificate. (4-7-11)

08. Discontinuance of Program. If the business licensee ceases to operate the program, the business licensee must provide the program's current and prior apprentices with any progress or other records that the program is required to maintain under this Section. (4-7-11)

276. -- 449. (RESERVED)

450. DISCIPLINE.

01. Grounds for Discipline. In addition to the grounds for discipline listed in Section 54-5408, Idaho Code, grounds for discipline also include: (4-7-11)

a. Failure to cooperate with an inspection or audit conducted by the Board or its agents including, without limitation, any continuing education audit, as specified in Section 54-5403(6), Idaho Code. Failure to cooperate includes, without limitation, failure to provide documentation requested by the Board or its agents during an inspection or audit of the licensee's compliance with Board laws or rules. (4-7-11)

b. Violating any of the following standards of conduct that have been adopted by the Board: (4-7-11)

i. A licensee must not use fraud or deception in procuring or renewing, or in attempting to procure or renew, a license, permit, or other authorization issued by the Board. (4-7-11)

ii. A licensee must not aid, abet, or assist any person or entity in conduct for which a license or permit is required under Idaho Driving Businesses Act, unless the person or entity has the required license or permit. (4-7-11)

iii. A licensee must comply with final orders of the Board issued in contested cases to which the licensee is a party. (4-7-11)

02. Disciplinary Sanctions. If the Board determines that grounds for discipline exist, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: (4-7-11)

a. Revoke or suspend the licensee's license(s); (4-7-11)

b. Restrict or limit the licensee's practice; (4-7-11)

c. Require the licensee to pay an administrative fine not to exceed one thousand dollars ($1000) for each violation identified in the Board's order. (4-7-11)

d. Require the licensee to pay all or part of the costs and fees incurred by the Board in the investigation and prosecution of the licensee, including without limitation, all costs and fees incurred by the Board in proceedings upon which the order was entered. (4-7-11)

451. -- 999. (RESERVED)

APPENDIX "A"

IDAHO DRIVING BUSINESSES LICENSURE BOARD VEHICLE INSPECTION REPORT

	DATE
BUSINESS OWNER/OPERATOR AND BUSINESS NAME	INSPECTORS NAME (PRINT OR TYPE)
ADDRESS	
CITY, STATE, ZIP CODE	VEHICLE IDENTIFICATION (LIC. PLATE NO. & VIN)
VEHICLE TYPE (YEAR, MAKE and MODEL)	ODOMETER READING

VEHICLE COMPONENTS INSPECTED

OK	Needs Repair	Repaired Date	Item	OK	Needs Repair	Repaired Date	Item	OK	Needs Repair	Repaired Date	Comments
			1. BRAKE SYSTEM				**7. LIGHTING DEVICES**				List any other condition which may prevent safe operation of this vehicle and whether or not the repair has been made.
			a. service brakes				a. headlights high and low beam				
			b. parking brake system				b. brake lights				
			c. brake drums/rotors/pads				c. taillights				
			d. brake hoses				d. turn signals				
			e. brake tubing				e. parking lights				
			f. low pressure warming device				f. other				
							8. SUSPENSION				
			g. hydraulic brakes				a. Any damaged or loose				
			h. vacuum system				U-bolt(s), spring hangers				
			i. dual control brake with				or other part(s) that may cause				
			stopping distance 20mph				axle to shift				
			2. EXHAUST SYSTEM				b. spring assembly				
			a. any exhaust system				c. torque, radius or tracking				
			determined to be leaking				components				
			b. emission control				d. wheel alignment				
			3. FUEL SYSTEM				**9. ELECTRICAL SYSTEM**				
			a. visible leak				a. horn				
			b. fuel tank cap missing				b. switches				
			4. STEERING MECHANISM				c. wiring				
			a. steering wheel free play				d. starting system				
			b. steering column				**10. VISIBILITY**				
			c. front axle beam and all				a. dual side view mirrors				
			steering components				b. rearview mirror				
			other than steering				c. inside instructor mirror				
			column				d. windshield wipers				
			d. steering gear box				c. defroster				
			e. pitman arm				**11. INTERIOR**				
			f. power steering				a. seatbelts for all occupants				
			g. ball and socket joints				b. airbag readiness light				
			h. tie rods and drag links								
			i. nuts								
			j. steering system								
			5. TIRES								
			tire condition and wear								
			6. WINDSHIELD GLAZE								
			cracks, discoloration or								
			lack of clarity								

Mechanic Verification

I verify I have inspected this vehicle and completed this form. I certify that the vehicle appears to be in a safe and proper operating condition, and that each inspected item passed inspection, or if found to be in need of repair, was repaired on the date indicated .

_____ _____ _____

Print Name ASE ID # Signature

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.26.01 – RULES OF THE IDAHO BOARD OF MIDWIFERY

DOCKET NO. 24-2601-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-5504, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.26.01, rules of the Idaho State Board of Midwifery:

IDAPA 24.26.01

- 24.26.01, *Rules of the Idaho State Board of Midwifery*: all proposed rules except 010, 020.01, 020.02.a., 020.02.b., 200.01, 200.02, 200.03, 325.01.a., 325.01.b., 325.01.e., 325.01.f., 325.01.g., 356.02.a., 356.02.b., 356.03.a. through 356.03.o., 356.04.a. through 356.04.o., 356.05.a.iii. through 356.05.a.xvi., 356.05.b.i. through 356.05.b.iv., and 450.01.a through 450.01.e.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.26.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Board of Midwifery was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.26.01, "Rules of the Idaho State Board of Midwifery." On July 1, 2019, the Idaho State Board of Midwifery held a public meeting, which was noticed pursuant to the Idaho Open Meetings Law, where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending fee rule removes redundant and unnecessary language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Additionally, this pending fee rule will reflect the enactment of House Bill 8 from the 2019 Legislative Session through updating certain drugs listed in the formulary.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4880 - 4894.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-5504, Idaho Code, as follows:

Initial application fee: not to exceed $200;
Initial license fee: not to exceed $800;
Annual renewal fee: not to exceed $850;
Reinstatement fee: not to exceed $50.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to

have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
In accordance with Section 54-5504, Idaho Code, the Idaho Board of Midwifery has promulgated rules that implement the provisions of Chapter 55, Title 54, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 24.26.01, "Rules of the Idaho Board of Midwifery." (3-29-10)

02. Scope. These rules establish the framework for licensure of midwives and the provisions for what midwives are allowed to do, what they may not do, when they must advise their clients to seek other medical advice and when to transport a client. (3-29-10)

002. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules, and are available at the Board's office and through the Board's website: (3-29-10)

01. Prevention of Perinatal Group B Streptococcal Disease. Published by the Centers for Disease Control and Prevention, MMWR 2010;59 (No. RR 10), dated November 19, 2010, referenced in Paragraph 350.01.d. (4-11-19)

02. Essential Documents of the National Association of Certified Professional Midwives. Copyright date 2004, referenced in Subsection 356.01. (3-29-10)

03. 2016 Job Analysis Survey. Published by the North American Registry of Midwives (NARM). (4-11-19)

003. -- 019. (RESERVED)

020. ORGANIZATION.
At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-29-10)

021. -- 099. (RESERVED)

100. QUALIFICATIONS FOR LICENSURE.

01. Applications. Applications for licensure must be submitted on Board-approved forms. (3-29-10)

02. Qualifications. Applicants for licensure must submit a completed application, required application and licensing fees, and documentation, acceptable to the Board, establishing that the applicant: (3-29-10)

a. Currently is certified as a CPM by NARM or a successor organization. (3-29-10)

b. Has successfully completed Board-approved, MEAC-accredited courses in pharmacology, the treatment of shock/IV therapy, and suturing specific to midwives. (3-29-10)

03. Incomplete or Stalled Applications. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required by the Board. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board is deemed denied and it will be terminated upon thirty (30) days written notice, unless good cause is established to the Board. (3-29-10)

101. -- 174. (RESERVED)

175. FEES.
Unless otherwise provided for, all fees are non-refundable.

APPLICATION	FEE (Not to Exceed)
Initial Application	$200
Initial License	$800 (amount will be refunded if license not issued)
Renewal	$850 (amount will be refunded if license not renewed)
Reinstatement	$50

( )

176. -- 199. (RESERVED)

200. RENEWAL OF LICENSE.

01. Complete Practice Data. The information submitted by the licensed midwife must include complete practice data for the *calendar year* preceding the date of the renewal application. Such information includes: ( )

a. The number of clients to whom the licensed midwife has provided care; (3-29-10)

b. The number of deliveries, including; (3-29-10)

i. The number of cesareans; (3-29-10)

ii. The number of vaginal births after cesarean (VBACs); (3-29-10)

c. The average, oldest, and youngest maternal ages; (3-29-10)

d. The number of primiparae; (3-29-10)

e. All APGAR scores below five (5) at five (5) minutes; (3-29-10)

f. The number of prenatal transfers and transfers during labor, delivery and immediately following birth, including: (3-29-10)

i. Transfers of mothers; (3-29-10)

ii. Transfers of babies; (3-29-10)

iii. Reasons for transfers; (3-29-10)

iv. Transfers of all newborns being admitted to the neonatal intensive care unit (NICU) for more than twenty four (24) hours. (3-29-10)

g. Any perinatal deaths occurring up to six weeks post-delivery, broken out by: (3-29-10)

i. Weight; (3-29-10)

ii. Gestational Age; (3-29-10)

iii. Age of the baby; (3-29-10)

iv. Stillbirths, if any; (3-29-10)

h. Any significant neonatal or perinatal problem, not listed above, during the six (6) weeks following

birth. (3-29-10)

02. Current Cardiopulmonary Resuscitation Certification. A licensed midwife to renew their license must certify on their renewal application that they possess a current certification in adult, infant, and child cardiopulmonary resuscitation and in neonatal resuscitation obtained through completion of American Heart Association or the Health and Safety Institute approved cardiopulmonary resuscitation courses and American Academy of Pediatrics approved neonatal resuscitation courses. (4-11-19)

03. Continuing Education Verification. When a licensed midwife submits a renewal application, the licensed midwife must certify by signed affidavit that the annual continuing education requirements set by the Board have been met. The Board may conduct such continuing education audits and require verification of attendance as deemed necessary to ensure compliance with continuing education requirements. (3-29-10)

201. -- 299. (RESERVED)

300. CONTINUING EDUCATION REQUIREMENT.

01. Annual Continuing Education Requirement. A licensed midwife must successfully complete a minimum of ten (10) continuing education hours per year *for the year preceding renewal*. Two (2) of these hours must be in peer review participation as described in Subsection 300.06. One (1) continuing education hour equals one (1) clock hour. A licensed midwife is considered to have satisfied the annual continuing education requirement for the first renewal of the initial license. *( )*

02. Subject Material. The subject material of the continuing education must be germane to the practice of midwifery and either acceptable to NARM as counting towards recertification of a licensed midwife as a CPM or otherwise approved by the Board. (3-29-10)

03. Verification of Attendance. Each licensed midwife must maintain verification of attendance by securing authorized signatures or other documentation from the course instructors or sponsoring institution substantiating any hours attended. This verification must be maintained by the licensed midwife for no less than seven (7) years and provided to the Board upon request by the Board or its agent. (3-29-10)

04. Distance Learning and Independent Study. The Board may approve a course of study for continuing education credit that does not include the actual physical attendance of the licensed midwife in a face-to-face setting with the course instructor. Distance Learning or Independent Study courses will be eligible for continuing education credits if approved by NARM or upon approval of the Board. (3-29-10)

05. Requests for Board Approval. All requests for Board approval of educational programs must be made to the Board in writing at least sixty (60) days before the program is scheduled to occur. Requests must be accompanied by a statement that includes: (3-29-10)

a. The name of the instructor or instructors; (3-29-10)

b. The date and time and location of the course; (3-29-10)

c. The specific agenda for the course; (3-29-10)

d. The number of continuing education credit hours requested; and (3-29-10)

e. A statement of how the course is believed to be germane to the practice of midwifery. (3-29-10)

06. Peer Review System. As part of the Board's annual continuing education requirement, each licensed midwife must participate in peer review activities for a minimum of two (2) hours per year. (3-29-10)

a. The purpose of peer review is to enable licensed midwives to retrospectively present and review cases in an effort to further educate themselves about the appropriateness, quality, utilization, and ethical performance of midwifery care. (3-29-10)

b. Licensed midwives are responsible for organizing their own peer review sessions. At least three (3) licensed midwives or CPMs must participate in a peer review session in order for the session to count towards a licensed midwife's annual two-hour peer review activity requirement. (3-29-10)

c. Each licensed midwife must make a presentation that must include, without limitation, the following information: (3-29-10)

i. Total number of clients currently in the licensed midwife's care; (3-29-10)

ii. The number of upcoming due dates for clients in the licensed midwife's practice; (3-29-10)

iii. The number of women in the licensed midwife's practice that are postpartum; (3-29-10)

iv. The number of births the licensed midwife has been involved with since the last peer review session; and (3-29-10)

v. One (1) or more specific cases arising since the licensed midwife's last peer review session. The licensed midwife must present any cases involving serious complications or the transport of a mother or baby to the hospital. (3-29-10)

d. The information presented in a peer review session is confidential. The identities of the client, other health care providers, and other persons involved in a case may not be divulged during the peer review session. (3-29-10)

07. Carryover Hours. A licensed midwife may carryover a maximum of five (5) hours of continuing education to meet the next year's continuing education requirement. (3-29-10)

08. Hardship Waiver. The Board may waive *the* continuing education requirement for good cause. The licensed midwife must request the waiver and provide the Board with any information requested to assist the Board in substantiating the claimed hardship. *( )*

301. -- 324. (RESERVED)

325. INFORMED CONSENT.

01. Informed Consent Required. A licensed midwife must obtain and document informed consent from a client before caring for that client. The informed consent must be documented on an informed consent form, signed and dated by the client, in which the client acknowledges, at a minimum, *the provisions listed in Section 54-5511, Idaho Code and the following*: *( )*

a. Instructions for obtaining a copy of the Essential Documents of the NACPM and 2016 Job Analysis Survey, published by NARM; *( )*

b. Instructions for filing complaints with the Board; (3-29-10)

02. Record of Informed Consent. All licensed midwives must maintain a record of all signed informed consent forms for each client for a minimum of nine (9) years after the last day of care for such client. (3-29-10)

326. -- 349. (RESERVED)

350. FORMULARY.

01. Midwifery Formulary. A licensed midwife may obtain and administer, during the practice of midwifery, the following: (3-29-10)

a. Oxygen; (3-29-10)

b. Oxytocin, *misoprostol, and methylergonovine* as postpartum antihemorrhagic agents; *( )*

c. Injectable local anesthetic for the repair of lacerations that are no more extensive than second degree; (3-29-10)

d. Antibiotics to the mother for group b streptococcus prophylaxis consistent with the guidelines set forth in Prevention of Perinatal Group B Streptococcal Disease, published by the Centers for Disease Control and Prevention; (7-1-14)

e. Epinephrine to the mother administered *for anaphylactic shock*; *( )*

f. Intravenous fluids for stabilization of the woman; (3-29-10)

g. Rho (d) immune globulin; (3-29-10)

h. *Phytonadione*; and *( )*

i. Eye prophylactics to the baby. (3-29-10)

02. Other Legend Drugs. During the practice of midwifery a licensed midwife may not obtain or administer legend drugs that are not listed in the midwifery formulary. Drugs of a similar nature and character may be used if determined by the Board to be consistent with the practice of midwifery and provided that at least one hundred twenty (120) days' advance notice of the proposal to allow the use of such drugs is given to the Board of Pharmacy and the Board of Medicine and neither Board objects to the addition of such drugs to the midwifery formulary. (3-29-10)

351. USE OF FORMULARY DRUGS.

A licensed midwife may use the drugs described in the midwifery formulary according to the following protocol describing the indication for use, dosage, route of administration and duration of treatment:

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Oxygen	Maternal/Fetal Distress	10-12 L/min. 10 L/min.	Bag and mask Mask	Until maternal/fetal stabilization is achieved or transfer to hospital is complete
	Neonatal Resuscitation	10-12 L/min. 10 L/min.	Bag and mask Mask	Until stabilization is achieved or transfer to a hospital is complete
Oxytocin (Pitocin)	Postpartum hemorrhage only	10 Units/ml	Intramuscularly only	1-2 doses Transport to hospital required if more than two doses are administered
Lidocaine HCl 2%	Local anesthetic for use during postpartum repair of lacerations or episiotomy	Maximum 50 ml	Percutaneous infiltration only	Completion of repair

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Penicillin G (Recommended)	Group B Strep Prophylaxis	5 million units initial dose, then 2.5 million units every 4 hours until birth	IV in ≥ 100 ml LR, NS or D_5LR	Birth of baby
Ampicillin Sodium (Alternative)	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 4 hours until birth	IV in ≥100 ml NS or LR	Birth of baby
Cefazolin Sodium (drug of choice for penicillin allergy with low risk for anaphylaxis)	Group B Strep Prophylaxis	2 grams initial dose, then 1 gram every 8 hours	IV in ≥ 100 ml LR, NS or D_5LR	Birth of baby
Clindamycin Phosphate (drug of choice for penicillin allergy with high risk for anaphylaxis)	Group B Strep Prophylaxis	900 mg every 8 hours	IV in ≥100 ml NS (not LR)	Birth of baby
Epinephrine HCl 1:1000	Treatment or post-exposure prevention of severe allergic reactions	0.3 ml	Subcutaneously or intramuscularly	Every 20 minutes or until emergency medical services arrive Administer first dose then immediately request emergency services
Lactated Ringer's (LR) 5% Dextrose in Lactated Ringer's solution (D_5LR) 0.9% Sodium Chloride (NS) Sterile Water	To achieve maternal stabilization Reconstitution of antibiotic powder	I - 2 liter bags First liter run in at a wide-open rate, the second liter titrated to client's condition As directed	Intravenously with ≥18 gauge catheter As directed	Until maternal stabilization is achieved or transfer to a hospital is complete Birth of Baby
Cytotec (Misoprostol)	Postpartum hemorrhage only	800 mcg	Rectally is the preferred method Orally is allowed	1-2 doses Transport to hospital required if more than one dose is administered

Drug	Indication	Dose	Route of Administration	Duration of Treatment
Rho(d) Immune Globulin	Prevention of Rho (d) sensitization in Rho (d) negative women	300 mcg	Intramuscularly	Single dose at any gestation for Rho (d) negative, antibody negative women within 72 hours of spontaneous bleeding or abdominal trauma. Single dose at 26-28 weeks gestation for Rho (d) negative, antibody negative women Single dose for Rho (d) negative, antibody negative women within 72 hours of delivery of Rho (d) positive infant, or infant with unknown blood type
Phytonadione	Prophylaxis for Vitamin K Deficiency Bleeding	1 mg	Intramuscularly	1 dose
0.5% Erythromycin Ophthalmic Ointment	Prophylaxis of Neonatal Ophthalmia	1 cm ribbon in each eye	Topical	1 dose

( )

352. OBTAINING, STORING, AND DISPOSING OF FORMULARY DRUGS.
A licensed midwife must adhere to the following protocol for obtaining, storing, and disposing of formulary drugs during the practice of midwifery. (3-29-10)

01. Obtaining Formulary Drugs. A licensed midwife may obtain formulary drugs as allowed by law, including, without limitation, from: (3-29-10)

a. A person or entity that is licensed as a Wholesale Distributor by the Idaho State Board of Pharmacy; and (3-29-10)

b. A retail pharmacy, in minimal quantities for office use. (3-29-10)

02. Storing Formulary Drugs. A licensed midwife must store all formulary drugs in secure areas suitable for preventing unauthorized access and for ensuring a proper environment for the preservation of the drugs. However, licensed midwives may carry formulary drugs to the home setting while providing care within the course and scope of the practice of midwifery. *( )*

03. Disposing of Formulary Drugs. A licensed midwife must dispose of formulary drugs using means that are reasonably calculated to guard against unauthorized access by persons and harmful excretion of the drugs into the environment. The means that may be used include, without limitation: (3-29-10)

a. Transferring the drugs to a reverse distributor who is registered to destroy drugs with the U.S. Drug Enforcement Agency; (3-29-10)

b. Removing the drugs from their original containers, mixing them with an undesirable substance such as coffee grounds or kitty litter, putting them in impermeable, non-descript containers such as empty cans or

sealable bags, and throwing the containers in the trash; or (3-29-10)

c. Flushing the drugs down the toilet if the accompanying patient information instructs that it is safe to do so. (3-29-10)

353. -- 354. (RESERVED)

355. MEDICAL WASTE.
A licensed midwife must dispose of medical waste during the practice of midwifery according to the following protocol: (3-29-10)

01. Containers for Non-Sharp, Medical Waste. Medical waste, except for sharps, must be placed in disposable containers/bags which are impervious to moisture and strong enough to preclude ripping, tearing or bursting under normal conditions of use. The bags must be securely tied so as to prevent leakage or expulsion of solid or liquid waste during storage, handling or transport. The containment system must have a tight-fitting cover and be kept clean and in good repair. All bags used for containment of medical waste must be clearly identified by label or color, or both. (3-29-10)

02. Containers for Sharps. Sharps must be placed in impervious, rigid, puncture-resistant containers immediately after use. Needles must not be bent, clipped or broken by hand. Rigid containers of discarded sharps must either be labeled or colored like the disposable bags used for other medical waste, or placed in such labeled or colored bags. (3-29-10)

03. Storage Duration. Medical waste may not be stored for more than seven (7) days, unless the storage temperature is below thirty-two (32) degrees Fahrenheit. Medical waste must never be stored for more than ninety (90) days. (3-29-10)

04. Waste Disposal. Medical waste must be disposed of by persons knowledgeable in handling of medical waste. (3-29-10)

356. SCOPE AND PRACTICE STANDARDS.
A licensed midwife must adhere to the following scope and practice standards when providing antepartum, intrapartum, postpartum, and newborn care. (3-29-10)

01. NACPM Scope and Practice Standards. The Board adopts the Essential Documents of the National Association of Certified Professional Midwives as scope and practice standards for licensed midwives. All licensed midwives must adhere to these scope and practice standards during the practice of midwifery to the extent such scope and practice standards are consistent with the Board's enabling law, Chapter 55, Title 54, Idaho Code. (3-29-10)

02. Conditions for Which a Licensed Midwife May Not Provide Care. A licensed midwife may not provide care for a client with *conditions listed in Section 54-5505(1)(e)(i), Idaho Code.* *( )*

03. Conditions for Which a Licensed Midwife May Not Provide Care Without Health Care Provider Involvement. A licensed midwife may not provide care for a client with a history of the disorders, diagnoses, conditions, or symptoms listed *in Section 54-5505(1)(e)(ii), Idaho Code,* unless such disorders, diagnoses, conditions or symptoms are being treated, monitored or managed by a licensed health care provider. *For purposes of this Paragraph, in Section 54-5505(1)(e)(ii), Idaho Code, "history" means a "current history" and "illegal drug use" means "illegal drug abuse or addiction."* Before providing care to such a client, the licensed midwife must notify the client in writing that the client must obtain the described physician care as a condition to the client's eligibility to obtain maternity care from the licensed midwife. The licensed midwife must, additionally, obtain the client's signed acknowledgment that the client has received the written notice. *( )*

04. Conditions for Which a Licensed Midwife Must Recommend Physician Involvement. Before providing care for a client with a history of any of the disorders, diagnoses, conditions or symptoms listed in *Section 54-5505(1)(e)(iii), Idaho Code*, a licensed midwife must provide written notice to the client that the client is advised to see a physician licensed under Chapter 18, Title 54, Idaho Code, or under an equivalent provision of the law of a

state bordering Idaho, during the client's pregnancy. Additionally, the licensed midwife must obtain the client's signed acknowledgment that the client has received the written notice.

05. Conditions for which a Licensed Midwife must Facilitate Hospital Transfer. (3-29-10)

a. Conditions. A licensed midwife must facilitate the immediate transfer of a client to a hospital for emergency care if the client has any of the disorders, diagnoses, conditions or symptoms *listed in Section 54-5505(1)(e)(iv), Idaho Code, and the following*: *( )*

i. Maternal fever in labor of more than 100.4 degrees Fahrenheit, in the absence of environmental factors; (7-1-14)

ii. Suggestion of fetal jeopardy, such as frank bleeding before delivery, any abnormal bleeding (with or without abdominal pain), evidence of placental abruption, meconium with non-reassuring fetal heart tone patterns where birth is not imminent, or abnormal fetal heart tones with non-reassuring patterns where birth is not imminent; (3-29-10)

b. Plan for Emergency Transfer and Transport. When facilitating a transfer under Subsection 356.05, the licensed midwife must notify the hospital when the transfer is initiated, accompany the client to the hospital, if feasible, or communicate by telephone with the hospital if the licensed midwife is unable to be present personally. The licensed midwife must also ensure that the transfer of care is accompanied by the client's medical record, which must include *items defined in Section 54-5505(1)(e)(v), Idaho Code, and i*f feasible, the licensed midwife's assessment of the client's current medical condition and description of the care provided by the licensed midwife before transfer. *( )*

c. Transfer or Termination of Care. A midwife who deems it necessary to transfer or terminate care pursuant to the laws and rules of the Board or for any other reason must transfer or terminate care and will not be regarded as having abandoned care or wrongfully terminated services. *( )*

357. -- 359. (RESERVED)

360. NEWBORN TRANSFER OF CARE OR CONSULTATION.

01. Newborn Transfer of Care. Conditions for which a licensed midwife must facilitate the immediate transfer of a newborn to a hospital for emergency care: (4-11-15)

a. Respiratory distress defined as respiratory rate greater than eighty (80) or grunting, flaring, or retracting for more than one (1) hour. (4-11-15)

b. Any respiratory distress following delivery with moderate to thick meconium stained fluid. (4-11-15)

c. Central cyanosis or pallor for more than ten (10) minutes. (4-11-15)

d. Apgar score of six (6) or less at five (5) minutes of age. (4-11-15)

e. Abnormal bleeding. (4-11-15)

f. Any condition requiring more than six (6) hours of continuous, immediate postpartum evaluation. (4-11-15)

g. Any vesicular skin lesions. (4-11-15)

h. Seizure-like activity. (4-11-15)

i. Any bright green emesis. (4-11-15)

j. Poor feeding effort due to lethargy or disinterest in nursing for more than two (2) hours immediately following birth. (4-11-15)

02. Newborn Consultation Required. Conditions for which a licensed midwife must consult a Pediatric Provider (Neonatologist, Pediatrician, Family Practice Physician, Advanced Practice Registered Nurse, or Physician Assistant): (4-11-15)

a. Temperature instability, defined as a rectal temperature less than ninety-six point eight (96.8) degrees Fahrenheit or greater than one hundred point four (100.4) degrees Fahrenheit documented two (2) times more than fifteen (15) minutes apart. (4-11-15)

b. Murmur lasting more than twenty-four (24) hours immediately following birth. (4-11-15)

c. Cardiac arrhythmia. (4-11-15)

d. Congenital anomalies. (4-11-15)

e. Birth injury. (4-11-15)

f. Clinical evidence of prematurity, including but not limited to, low birth weight of less than two thousand five hundred (2,500) grams, smooth soles of feet, or immature genitalia. (4-11-15)

g. Any jaundice in the first twenty-four (24) hours after birth or significant jaundice at any time. (4-11-15)

h. No stool for more than twenty-four (24) hours immediately following birth. (4-11-15)

i. No urine output for more than twenty-four (24) hours. (4-11-15)

j. Development of persistent poor feeding effort at any time. (4-11-15)

361. -- 449. (RESERVED)

450. UNPROFESSIONAL CONDUCT.

01. Standards of Conduct. If a licensed midwife or an applicant for licensure, renewal, or reinstatement has engaged in unprofessional conduct, the Board may refuse to issue, renew, or reinstate the applicant's license and may discipline the licensee. Unprofessional conduct includes, without limitation, *those actions defined in Section 54-5510, Idaho Code, and* any of the following: *( )*

a. Having a license suspended, revoked, or otherwise disciplined in this or any other state or jurisdiction; (4-7-11)

b. Having been convicted of any felony, or of a lesser crime that reflects adversely on the person's fitness to be a licensed midwife. Such lesser crimes include, but are not limited to, any crime involving the delivery of health care services, dishonesty, misrepresentation, theft, or an attempt, conspiracy or solicitation of another to commit a felony or such lesser crimes. (4-7-11)

c. Violating any standards of conduct set forth in these rules, whether or not specifically labeled as such, and including without limitation any scope and practice standards, record-keeping requirements, notice requirements, or requirements for documenting informed consent. (3-29-10)

02. Discipline. If the Board determines that a licensed midwife has engaged in unprofessional conduct, it may impose discipline against the licensed midwife that includes, without limitation, the following: (4-7-11)

a. Require that a licensed midwife practice midwifery under the supervision of another health care provider. The Board may specify the nature and extent of the supervision and may require the licensed midwife to enter into a consultation, collaboration, proctoring, or supervisory agreement, written or otherwise, with the other

health care provider; (3-29-10)

b. Suspend or revoke a license; (3-29-10)

c. Impose a civil fine not to exceed one thousand dollars ($1,000) for each violation of the Board's laws and rules; and (3-29-10)

d. Order payment of the costs and fees incurred by the Board for the investigation and prosecution of the violation of the Board's laws and rules. (3-29-10)

451. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.27.01 – RULES OF THE IDAHO STATE BOARD OF MASSAGE THERAPY

DOCKET NO. 24-2701-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-4007, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.27.01, rules of the Idaho State Board of Massage Therapy:

IDAPA 24.27.01

- 24.27.01, *Rules of the Idaho State Board of Massage Therapy*: all proposed rules except 011, 100.02.a., 100.02.b., 200.03, and 200.04.

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.27.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Idaho State Board of Massage Therapy was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.27.01, the Rules of the Idaho State Board of Massage Therapy. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4897 - 4908.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-4008, Idaho Code, as follows:

Application fee: not to exceed $50;
Original license fee: not to exceed $65;
Annual renewal fee: not to exceed $65;
License by endorsement fee: not to exceed $75;
Temporary license fee: not to exceed $25; p
Provisional permit fee: not to exceed $25;
Duplicate license fee: not to exceed $10.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 332-3433.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Idaho State Board of Massage Therapy by the provisions of Section 54-4007, Idaho Code. (3-27-13)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 24.27.01, "Rules of the Idaho State Board of Massage Therapy." (3-27-13)

02. Scope. These rules implement the purposes and intent of Title 54, Chapter 40, Idaho Code, to regulate the profession of massage therapy in the interest of the public health, safety, and welfare. (3-27-13)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Approved Massage Program. A massage therapy program conducted by an entity that is registered with the Idaho State Board of Education pursuant to Chapter 24, Title 33, Idaho Code, or with a comparable authority in another state, and that meets the entry-level educational requirements as set forth in Section 600 of these rules. (3-27-13)

02. Clinical Work. Supervised, hands-on training in a classroom setting. (3-27-13)

03. Code of Ethics. The Idaho Code of Ethics for Massage Therapy attached to these rules as Appendix A. (3-27-13)

04. CPR. Cardiopulmonary resuscitation. (3-27-13)

05. Standards of Practice. The Standards of Practice of Massage Therapy attached to these rules as Appendix B. (3-27-13)

011. -- 099. (RESERVED)

100. ORGANIZATION AND OPERATIONS OF THE BOARD.

01. Meetings. The Board meets at least annually and at other such times and places as designated by the Chairman or upon the written request of any three (3) members of the Board. (3-27-13)

a. A minimum of three (3) Board members constitutes a quorum and shall be required for the transaction of business. A majority vote of the quorum present at a meeting is considered the action of the Board as a whole. (3-27-13)

b. The Chairman is a voting member. (3-27-13)

02. Organization. At the first meeting of each fiscal year, the Board elects from its members a Chairman, who assumes the duty of the office immediately upon such selection. (3-27-13)

101. -- 199. (RESERVED)

200. APPLICATION.

01. Filing an Application. Applicants for licensure must submit a complete application, verified under oath, to the Board at its official address. The application must be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (3-27-13)

02. Supplemental Documents. The applicant must provide or facilitate the provision of any supplemental third party documents that may be required under the qualifications for the license being sought. (3-27-13)

201. -- 249. (RESERVED)

250. FEES.
All fees are non-refundable except that, if a license is not issued, the license fee will be refunded

FEE TYPE	AMOUNT (Not to Exceed)
Application	$50
Original License	$65
Annual Renewal	$65
License by Endorsement	$75
Temporary License	$25
Provisional Permit	$25
Reinstatement	As provided in Section 67-2614, Idaho Code
Examination	Established by Administrator

( )

251. -- 299. (RESERVED)

300. REQUIREMENTS FOR ORIGINAL LICENSURE.
The Board may grant a license to an applicant for licensure who completes an application as set forth in Section 200 of these rules and meets the following general, education, and examination requirements: (3-27-13)

01. General. (3-27-13)

a. An applicant must provide evidence of being at least eighteen (18) years of age. (3-27-13)

b. An applicant must certify that he/she has not been found guilty, convicted, received a withheld judgment, or suspended sentence for a felony or a crime involving moral turpitude, or if the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

c. An applicant must certify that he/she has not been convicted of a crime under any municipal, state, or federal narcotic or controlled substance law, or if the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

d. An applicant must certify that their license has not been subject to any disciplinary action by a regulatory entity in another state, territory or country including, but not limited to, having an application for licensure denied. If the applicant or their license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

301. -- 304. (RESERVED)

305. APPROVED EXAMINATIONS.
Approved examinations are the following examinations or another nationally recognized competency examination in massage therapy that is approved by the Board. (3-27-13)

01. Approved Examinations. (3-27-13)

a. Massage and Bodywork Licensing Examination (MBLEx) as administered by the Federation of State Massage Therapy Boards (FSMTB); (3-27-13)

b. National Certification Examination for Therapeutic Massage and Bodywork (NCETMB) or National Certification Examination for Therapeutic Massage (NCETM) as administered by the National Certification Board for Therapeutic Massage and Bodywork (NCBTMB), if taken before February 1, 2015. (3-24-17)

c. Other nationally recognized competency examinations in massage therapy that are approved by the Board. A written request for approval must be submitted to the Board together with supporting documentation as may be requested by the Board. (3-27-13)

02. Successful Passage. A passing score, or successful passage of the exam, will be determined by the entity administering the exam. (3-27-13)

03. Date of Exam. The passage of the exam may have occurred prior to the effective date of these rules. (3-27-13)

306. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE.
An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or crime involving moral turpitude, has a conviction for any crime under any municipal, state, or federal narcotic or controlled substance law, or has been subject to discipline in another state, territory or country must submit with his application a written statement and any supplemental information establishing his current suitability for licensure. (3-27-13)

01. Consideration of Factors and Evidence. The Board considers the following factors or evidence: (3-27-13)

a. The severity or nature of the crime or discipline; (3-27-13)

b. The period of time that has passed since the crime or discipline under review; (3-27-13)

c. The number or pattern of crimes or discipline or other similar incidents; (3-27-13)

d. The circumstances surrounding the crime or discipline that would help determine the risk of repetition; (3-27-13)

e. The relationship of the crime or discipline to the practice of massage therapy; (3-27-13)

f. The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors that may be evidence of current rehabilitation; and (3-27-13)

g. Any other information regarding rehabilitation or mitigating circumstances. (3-27-13)

02. Interview. The Board may, at its discretion, grant an interview of the applicant. (3-27-13)

03. Applicant Bears the Burden. The applicant bears the burden of establishing his current suitability for licensure. (3-27-13)

307. -- 309. (RESERVED)

310. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.
The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 and meets the following requirements: (3-27-13)

01. Holds a Current License. The applicant must be the holder of a current active license or certificate in good standing in the profession, and at the level for which a license is being sought, issued by the authorized regulatory entity in another state. The state must have licensing or certification requirements substantially equivalent to or higher than those required for new applicants in Idaho. The certification of licensure or certification must be received by the Board from the issuing agency; (3-27-13)

02. Has Not Been Disciplined. The applicant or his/her license must have not been voluntarily surrendered, revoked, or suspended by any regulatory entity. The Board may consider an applicant who, or whose license, has been restricted, denied, sanctioned, or otherwise disciplined. If the applicant or his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules; (3-27-13)

03. Is of Good Moral Character. The applicant must not have been found guilty, convicted, received a withheld judgment, or suspended sentence for any felony or any crime involving moral turpitude. If the applicant has been found guilty, convicted, received a withheld judgment, or suspended sentence for such a crime the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules; and (3-27-13)

04. Has Not Been Convicted of a Drug Offense. The applicant must not have been convicted of any crime under any municipal, state, or federal narcotic or controlled substance law. If the applicant has been convicted of such a crime, the applicant must submit a written statement of suitability for licensure as set forth in Section 306 of these rules. (3-27-13)

311. -- 319. (RESERVED)

320. TEMPORARY LICENSE.

01. General. Any person who has submitted to the Board a complete application for licensure by examination under Section 54-4009, Idaho Code, or by endorsement under Section 54-4010, Idaho Code, together with the required fees, may apply for a temporary license to practice massage therapy while their application is being processed by the Board. (3-24-17)

02. Duration. An applicant will be issued only one (1) temporary license that will be valid for a period not to exceed four (4) months or until the Board acts upon the licensure application, whichever occurs first. (3-24-17)

321. -- 329. (RESERVED)

330. PROVISIONAL PERMIT.
Upon application to the Board and payment of the required fees, an applicant may be issued a provisional permit to practice massage therapy if the applicant meets all the requirements for licensure under section 54-4009, Idaho Code, except for having successfully passed a nationally recognized competency examination in massage therapy that is approved by the Board as described in Subsection 305.01. (3-24-17)

01. General. A provisional permit will be issued subject to the following conditions: (3-24-17)

a. The applicant must certify that the applicant will take the next scheduled examination for licensure approved by the Board, and that the applicant has not failed two (2) previous examinations for licensure; and (3-24-17)

b. A licensed massage therapist certifies to the Board that the applicant will practice massage therapy only under the supervision of the licensed massage therapist while both are in the same location. (3-24-17)

02. Duration and Renewal. An applicant will be issued only one (1) provisional permit that is valid for a period not to exceed six (6) months or until the applicant is issued a temporary license or the Board acts upon the massage therapist license application, whichever occurs first. A provisional permit may only be renewed once upon a showing of good cause. (3-24-17)

331. -- 399. (RESERVED)

400. RENEWAL OR EXPIRATION OF LICENSE.
A license expires on the license holder's birth date. The individual must annually renew the license before the license holder's birth date. Licenses not so renewed will be immediately canceled in accordance with Section 67-2614, Idaho

Code. (3-27-13)

01. Renewal. A license must be renewed before it expires by submitting a complete application for renewal on forms approved by the Board together with the renewal fee. As part of a complete renewal application, the licensee will attest to completion of the required continuing education pursuant to Section 500 of these rules. False attestation of satisfaction of the continuing education requirements on a renewal application subjects the licensee to disciplinary action, including revocation. (3-27-13)

02. Reinstatement. A license that has been canceled for failure to renew may be reinstated in accordance with Section 67-2614, Idaho Code. (3-27-13)

a. Within five (5) years of cancellation, an applicant seeking reinstatement must submit to the Board evidence that the applicant has completed the required continuing education together with a complete renewal application and appropriate fee(s). (3-27-13)

i. The applicant must submit evidence of completion of continuing education hours totaling the hours required at the time of cancellation and for each year the license was canceled. (3-27-13)

ii. The applicant must pay a reinstatement fee as set forth in Section 250 of these rules. (3-24-16)

b. After five (5) years of cancellation, the applicant will be treated as a new applicant, and application must be made on the same forms and in the same manner as an application for an original license in accordance with Section 200 of these rules. (3-27-13)

401. -- 499. (RESERVED)

500. CONTINUING EDUCATION.
All licensees must comply with the following continuing education requirements: (3-27-13)

01. Requirement. Beginning with the second renewal of their license, a licensee is required to complete a minimum of six (6) hours of continuing education, which includes one (1.0) hour in ethics, within the preceding twelve (12) months that meet the requirements in Sections 501, 502 and 503 of these rules. (3-27-13)

a. An hour is defined as fifty (50) minutes out of each sixty (60) minute segment. (3-27-13)

b. Continuing education credit will only be given for actual time in attendance or for the time spent participating in the educational activity. (3-27-13)

c. The educational course setting may include a classroom, conference, seminar, on-line or a virtual classroom. (3-27-13)

d. If the licensee completes two (2) or more courses having substantially the same content during any one (1) renewal period, the licensee will only receive continuing education credit for one (1) of the courses. (3-27-13)

02. Documentation. Each licensee must maintain documentation verifying continuing education course attendance and curriculum, or completion of the educational activity for a period of five (5) years from the date of completion. This documentation will be subject to audit by the Board. (3-27-13)

a. Documented evidence of meeting the continuing education course requirement must be in the form of a certificate or letter from the sponsoring entity that includes verification of attendance by the licensee, the title of the activity, the subject material covered, the dates and number of hours credited, and the presenter's full name and professional credentials. Documented evidence of completing a continuing education activity must be in such form as to document both completion and date of the activity. (3-27-13)

b. A licensee must submit the verification documentation to the Board, if requested by the Board. In the event a licensee fails to provide the Board with acceptable documentation of the hours attested to on the renewal

application, the licensee may be subject to disciplinary action. (3-27-13)

03. Waiver. The Board may waive the requirements of this rule for reasons of individual hardship, including health or other good cause. The licensee should request the waiver in advance of renewal and must provide any information requested by the Board to assist in substantiating hardship cases. This waiver is granted at the sole discretion of the Board. (3-27-13)

04. Carryover of Continuing Education Hours. Continuing education hours not claimed in the current renewal year may be claimed in the next renewal year. A maximum of six (6) hours may be carried forward from the immediately preceding year, and may not be carried forward more than one renewal year. (3-27-13)

05. Exemption. A licensee is exempt from the continuing education requirements under this Section for the period between the initial issuance of the original license and the first expiration date of that license. (3-27-13)

501. APPROVAL OF CONTINUING EDUCATION COURSES.
Approved continuing education courses are those courses and programs that meet the requirements of these rules, and are approved, sponsored, or provided by the following entities or organizations, or otherwise approved by the Board: (3-27-13)

01. A College or University. Accredited by a nationally recognized accrediting agency as recognized by the United States Secretary of Education; (3-27-13)

02. Federal, State or Local Governmental Entities; and (3-27-13)

03. National and State Massage Therapy Associations. (3-27-13)

04. Provider Course Approval. Other courses may be approved by the Board based upon documentation submitted by a continuing education provider. Requests for approval of courses made by the provider must be submitted on a form approved by the Board that includes: (3-27-13)

a. The nature and subject of the course and its relevancy to the practice of massage therapy; (3-27-13)

b. The name of instructor(s) and their qualifications; (3-27-13)

c. The date, time and location of the course; (3-27-13)

d. The specific agenda for the course; (3-27-13)

e. The number of continuing education hours requested; (3-27-13)

f. The procedures for verification of attendance; and (3-27-13)

g. Other information as may be requested by the Board. (3-27-13)

h. Upon review of all information requested, the Board may deny any request for a course that does not meet the requirements of Idaho law or rule. Board approval of a course will be granted for a period not to exceed five (5) years, or until the course materials or instructors are changed, whichever may occur first. (3-27-13)

05. Licensee Course Approval. Other courses may be approved by the Board based upon documentation submitted by the licensee. All requests for approval must be made to the Board in writing and include the nature and subject of the course and its relevancy to the practice of massage therapy, name of instructor(s) and their qualifications, date, time and location of the course, and procedures for verification of attendance. (3-27-13)

502. CONTINUING EDUCATION ACTIVITIES.
The following educational activities qualify for continuing education as set forth: (3-27-13)

01. Teaching a Course For The First Time, Not to Exceed Six Hours. A report must be submitted, including the name of the course, course outline, qualifications for teaching, number of hours taught, number of participants taught, date and location of the training. (3-27-13)

02. Publishing Articles or Books. The hours awarded as determined at the discretion of the Board. (3-27-13)

03. Self Study. Using books, audio tapes, video tapes, DVD's, research materials, professional publications, online sources, and/or other electronic sources/methods documented by a type-written two-page report summarizing the study content. (3-27-13)

503. CONTENT OF CONTINUING EDUCATION.
The content of continuing education activities and course content must be germane to the practice of massage therapy as defined in Section 54-4002, Idaho Code, and courses in ethics must also be specific to legal issues, law, standards of practice, or ethics. (3-27-13)

01. Continuing Education. Content germane to the practice of massage therapy includes, but is not limited to: (3-27-13)

a. Applications of massage and bodywork therapy for specific needs, conditions, or client populations. (3-27-13)

b. Client assessment protocols, skills for client record keeping, strategies for interfacing with other health care providers. (3-27-13)

c. Use of external agents such as water, sound, heat, cold, or topical applications of plant or mineral-based substances. (4-11-15)

d. Body-centered or somatic psychology, psychophysiology, or interpersonal skills which may include communication skills, boundary functions, dual relationships, transference, counter-transference, and projection. (3-27-13)

e. Standards of practice, professional ethics, or state laws. (3-27-13)

f. Strategies for the marketing of massage and bodywork therapy practices. (3-27-13)

g. Theory or practice of ergonomics as applied to therapists or clients. (3-27-13)

h. Hygiene, methods of infectious disease control, organization and management of the treatment environment. (3-27-13)

i. Body sciences, which may include anatomy, physiology, kinesiology or pathology, as they apply to massage therapy. (3-27-13)

j. Certified CPR or first aid training. (3-27-13)

504. -- 599. (RESERVED)

600. EDUCATIONAL PROGRAM STANDARDS.
Approved educational programs are those programs conducted by an entity that meet the definition in Section 010 and that consist of a minimum of five hundred (500) hours of in-class supervised hours of coursework and clinical work that meets the following entry-level educational standards: (3-27-13)

01. Coursework Content and Hours. Coursework must include the following content areas and minimum hours: (3-27-13)

a. Two hundred (200) hours in massage and bodywork assessment, theory, and application; (3-27-13)

b. One hundred twenty-five (125) hours in body systems including anatomy, physiology, and kinesiology; (3-27-13)

c. Forty (40) hours in pathology; (3-27-13)

d. Twenty-five (25) hours in business and ethics; and (3-27-13)

02. Clinical Work. A minimum of one hundred ten (110) hours must be clinical work. (3-27-13)

a. Students are *not* permitted to render any clinical services to clients until students have completed at least twenty percent (20%) of the required hours of instruction. *( )*

b. All clinical services must be performed under the supervision of a person fully licensed. (3-27-13)

601. SUPERVISION.

01. Supervision of Clinical Work. The supervising massage therapist must consult with the student, evaluate student performance and be physically present and available to render direction in person and on the premises where massage therapy is being provided. (4-11-15)

02. Supervision of Fieldwork. The supervising massage therapist must be available to render direction either in person or by means of telecommunications but is not required to be physically present on the premises where massage therapy is being provided. (4-11-15)

602. -- 699. (RESERVED)

700. SCOPE OF PRACTICE.
All licensees must practice in a competent manner consistent with their level of education, training, and experience. (3-27-13)

701. -- 749. (RESERVED)

750. STANDARDS OF PRACTICE.
All licensees must comply with the Idaho Standards of Practice for Massage Therapy as approved by the Board and attached as Appendix B. (3-27-13)

751. -- 799. (RESERVED)

800. CODE OF ETHICS.
All licensees must comply with the Code of Ethics for Massage Therapy as approved by the Board and attached to these rules as Appendix A. (3-27-13)

801. -- 899. (RESERVED)

900. DISCIPLINE.
If the Board determines that grounds for discipline exist for violations of Title 54, Chapter 40, Idaho Code, violations of these rules, or both, it may impose disciplinary sanctions against the licensee including, without limitation, any or all of the following: (3-27-13)

01. Refuse License. Refuse to issue, renew, or reinstate a license; (3-27-13)

02. Revoke License. Revoke or suspend the licensee's license(s); (3-27-13)

03. Restrict License. Condition, restrict, or limit the licensee's practice, license, or both; (3-27-13)

04. Administrative Fine. Impose an administrative fine not to exceed one thousand dollars ($1,000)

for each violation of the Board's laws or rules; and (3-27-13)

05. Licensee Costs. Order a licensee to pay the costs and fees incurred by the Board in the investigation, prosecution, or both, of the licensee for violation(s) of the Board's laws, rules, or both. (3-27-13)

901. -- 999. (RESERVED)

IDAHO BOARD OF MASSAGE THERAPY CODE OF ETHICS -- APPENDIX A

Preamble: This Code of Ethics is a summary statement of the standards of conduct that define ethical practice of massage therapy. All licensees are responsible for maintaining and promoting ethical practice.

A licensee shall:

1. Conduct all business and professional activities honestly and within their scope of practice and all applicable legal and regulatory requirements.

2. Inform clients of the limitations of the licensee's practice, the limitations of massage therapy, and the contraindications for massage therapy.

3. Refer the client to other professionals or services if the treatment or service is beyond the licensee's scope of practice.

4. Not engage in any sexual conduct, sexual activities, or sexualizing behavior involving a client, even if the client attempts to sexualize the relationship. Sexual activity includes any verbal and/or nonverbal behavior for the purpose of soliciting, receiving, or giving sexual gratification.

5. Be truthful in advertising and marketing, and not misrepresent services, charges for services, credentials, training, experience or results.

6. Safeguard the confidentiality of all client information, unless disclosure is requested by the client in writing or as allowed or required by law.

7. Obtain informed and voluntary consent from clients.

8. Allow a client the right to refuse, modify or terminate treatment regardless of prior consent given.

9. Provide draping and treatment in a way that ensures the safety, comfort, and privacy of the client.

10. Possess the right to refuse to treat any person or part of the body.

11. Refuse any gifts or benefits that are intended to influence a referral, decision, treatment or the professional relationship between the licensee and the client.

12. Report to the Idaho Board of Massage Therapy any unlicensed practice of massage therapy, and any evidence indicating unethical, incompetent or illegal acts committed by a licensee or individual.

13. Do no harm to the physical, mental, and emotional well being of clients.

IDAHO BOARD OF MASSAGE THERAPY STANDARDS OF PRACTICE -- APPENDIX B

Standard I: Professionalism

In his/her professional role the licensee shall:

1. Cooperate with any Board investigation regarding any alleged violation of the Massage Therapy law or rules.

2. Use professional verbal, nonverbal, and written communications.

3. Provide an environment that is safe for the client and which meets all legal requirements for health and safety.

4. Use standard precautions to ensure professional hygienic practices and maintain a level of personal hygiene appropriate for practitioners in the therapeutic setting.

5. Wear clothing that is clean and professional.

6. Obtain voluntary and informed consent from the client, or written informed consent from client's legal guardian, prior to initiating the treatment plan.

7. If applicable, conduct an accurate needs assessment, develop a plan of care with the client, and update the plan as needed.

8. Use appropriate draping to protect the client's physical and emotional privacy. When clients remain dressed for seated massage or sports massage, draping is not required.

9. Not practice under the influence of alcohol, drugs, or any illegal substances, with the exception of legal or prescribed dosage of medication which does not impair the licensee.

Standard II: Legal and Ethical Requirements

In his/her professional role the licensee shall:

1. Maintain accurate and complete client billing and records. Client Records includes notes written by a licensee and kept in a separate client file that indicates the date of the session, areas of complaint as stated by client, and observations made and actions taken by the licensee.

2. Report within thirty (30) days to the Idaho Board of Massage Therapy any felony or misdemeanor criminal convictions of the licensee.

Standard III: Confidentiality

In his/her professional role the licensee shall:

1. Protect the confidentiality of the client's identity in conversations, all advertisements, and any and all other matters unless disclosure of identifiable information is requested or permitted by the client in writing or is required or allowed by law.

2. Protect the interests of clients who are minors or clients who are unable to give voluntary and informed consent by securing written informed consent from an appropriate third party or guardian.

3. Solicit only information that is relevant or reasonable to the professional relationship.

4. Maintain the client files for a minimum period of seven (7) years.

5. Store and dispose of client files in a secure manner.

Standard IV: Business Practices

In his/her professional role the licensee shall:

1. Not use sensational, sexual, or provocative language and/or pictures to advertise or promote their business.

2. Display/discuss a schedule of fees in advance of the session that is clearly understood by the client or potential client.

3. Make financial arrangements in advance that are clearly understood by, and safeguard the best interests of, the client or consumer.

Standard V: Roles and Boundaries

In his/her professional role the licensee shall:

1. Not participate in client relationships that could impair professional judgment or result in exploitation of the client.

Standard VI: Prevention of Sexual Misconduct

In his/her professional role the licensee shall:

1. Not engage in any behavior that sexualizes, or appears to sexualize, the client/licensee relationship.

2. Not participate in a sexual relationship or sexual conduct with the client, whether consensual or otherwise, from the beginning of the client/licensee relationship and for a minimum of twelve (12) months after the termination of the client/licensee relationship.

3. In the event that the client initiates sexual behavior, clarify the purpose of the therapeutic session and, if such conduct does not cease, terminate or refuse the session.

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.28.01 – RULES OF THE BARBER AND COSMETOLOGY SERVICES LICENSING BOARD

DOCKET NO. 24-2801-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 54-5807 and 54-5822, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.28.01, rules of the Rules of the Barber and Cosmetology Services Licensing Board:

IDAPA 24.28.01

- 24.28.01, *Rules of the Barber and Cosmetology Services Licensing Board*

The Idaho Administrative Code expired on June 30, 2019, including IDAPA 24.28.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of the Barber and Cosmetology Services Licensing Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.28.01, the Rules of the Barber and Cosmetology Services Licensing Board. The Board considered the Licensing Freedom Act of 2017, Executive Order No. 2017-06, Licensing Freedom Act of 2019, Executive Order No. 2019-01; and the Red Tape Reduction Act, Executive Order No. 2019-02 and the continued efforts to clarify and streamline its rules. This pending fee rule removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which allows for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4911 - 4936.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The following fees are established in accordance with Section 54-5822, Idaho Code, as follows:

Original license fee for individual licenses: not to exceed $25;
Original license fee for instructors: not to exceed $30;
Original license fee for establishments: not to exceed $20;
Original license fee for schools: not to exceed $300;
Original license or registration fee for facilities: not to exceed $20;
Renewal fee for individual licenses: not to exceed $25;
Renewal fee for instructors: not to exceed $30;
Renewal fee for establishments: not to exceed $20;
Renewal fee for schools: not to exceed $85;
Renewal fee for facilities: not to exceed $20;
Registration fee for apprentice: not to exceed $25;
Certificate for makeup artist: not to exceed $25;
License by endorsement fee: not to exceed $35.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are hereby prescribed and established pursuant to the authority vested in the Barber and Cosmetology Services Licensing Board by the provisions of Section 54-5807, Idaho Code. (4-1-19)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 24.28.01, "Rules of the Barber and Cosmetology Services Licensing Board." (4-1-19)

02. Scope. These rules implement the purposes and intent of Chapter 58, Title 54, Idaho Code, to regulate the professions of barbering and cosmetology in the interest of the public health, safety, and welfare. (4-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Clean. Removal of visible or surface debris, washing with soap and water, detergent or chemical "cleaner." Cleaning reduces the number and slows the growth of pathogens on both porous and non-porous surfaces. Cleaning prepares non-porous items for disinfection, but cleaning does not make multi-use items safe for use. (4-1-19)

02. Clinical Services or Clinical Work. Performing hands-on acts or techniques within the scope of practice of a profession regulated by the Board. (4-1-19)

03. Disinfect. The process of making a non-porous item safe for use. Disinfecting requires the use of a chemical intended to kill or denature a bacteria, virus or fungus. Items to be disinfected must be cleaned prior to disinfection. Ultraviolet (UV) light is not acceptable for disinfection. (4-1-19)

04. Disinfectant. Disinfectant registered by the United States Environmental Protection Agency (EPA) and is bactericidal, virucidal and fungicidal with effectiveness against staphylococcus aureus (including methicillin-resistant staphylococcus aureus (MRSA)), human immunodeficiency virus (HIV) and hepatitis B (HEPB). This includes EPA registered Sodium Hypochlorite 5.25% or higher (household bleach) with instructions for disinfection, diluted as instructed on the label and observing the five (5) minute contact time listed on the manufacturer's label. Bleach must be active (not expired) with a manufacture date of less than six (6) months prior to use. (4-1-19)

05. Establishment. Establishment means a place licensed under Chapter 58, Title 54, Idaho Code, other than a licensed school or licensed facility, where barber-styling, cosmetology, or electrology is practiced. (4-1-19)

06. Facility. A retail cosmetics dealer, a retail thermal styling equipment dealer, or a makeover or glamour photography business. (4-1-19)

07. First-Aid Kit. First-aid kit means a packaged and identifiable assortment of medical supplies, including adhesive bandages, skin antiseptic, disposable gloves, and gauze. (4-1-19)

08. Makeup. Makeup means makeup, cosmetics, or any pigment product that is used to cover, camouflage, or decorate the skin. (4-1-19)

09. Patron. Patron means any person who receives the services of anyone licensed, certificated or otherwise regulated by the provisions of Chapter 58, Title 54, Idaho Code. (4-1-19)

10. Record of Instruction. The final documentation of total hours and operations completed by a student that is maintained by a school or, in the case of an apprentice, by the instructor. (4-1-19)

11. Single-Use. Any non-electrical item that cannot be properly cleaned and disinfected is considered single-use. This includes, but is not limited to, pumice stones, buffing blocks, wooden cuticle pushers, cotton balls, pads or swabs, toe separators and flip flops, and all nail files or emery boards that are not made entirely of metal, glass, or crystal. (4-1-19)

12. **Sterilize**. The eradication of all microbial life through the use of heat, steam or chemical sterilants. Items to be sterilized must be cleaned prior to sterilization. (4-1-19)

13. **Sterilant**. Autoclaves or dry heat sterilizers approved by the United States Food and Drug Administration and spore tested through an independent lab at least once every thirty (30) days. Sterilants must be used only as instructed by the manufacturer. Spore testing results and maintenance records for the most recent twelve (12) months must be kept onsite at the establishment. (4-1-19)

011. UPDATE OF RECORDS.
Applicants, licensees, registrants, and certificants are responsible for keeping their records updated with the Bureau. All changes including name changes and change of address must be submitted in writing to the Bureau within thirty (30) days. The most recent mailing address on file with the Bureau will be used for purposes of all written communication with a licensee, registrant, or certificant including notification of renewal and notices related to disciplinary actions. (4-1-19)

012. -- 099. (RESERVED)

100. ORGANIZATION AND OPERATIONS OF THE BOARD.

01. **Meetings**. The Board shall meet at least annually and at other such times and places as designated by the Chairman, upon the request of the governor, or upon the written request of a majority of the members of the Board. (4-1-19)

a. A minimum of four (4) Board members shall constitute a quorum and shall be required for the transaction of business, provided at least one (1) board member of the relevant profession is present when any board action is taken that affects the profession, its licensees, or its applicants. A majority vote of the quorum present at a meeting shall be considered the action of the Board as a whole. (4-1-19)

b. The Chairman shall be a voting member. (4-1-19)

02. **Organization**. At the first meeting of each fiscal year, the Board shall elect from its members a Chairman, who shall assume the duty of the office immediately upon such selection. (4-1-19)

a. The Chairman shall preside at all meetings when present, appoint all committees with the consent of the Board, and otherwise perform all duties pertaining to the office of Chairman. (4-1-19)

b. The Bureau shall act as an agent of the Board and shall be the official keeper of all records of the Board. The Bureau shall provide such services as may be authorized by Chapter 26, Title 67, Idaho Code, and as defined under contract between the Bureau and the Board. (4-1-19)

101. -- 199. (RESERVED)

200. APPLICATION.

01. **Filing an Application**. Applicants for licensure, certification, or registration shall submit a complete application, verified under oath, to the Board at its official address. The application shall be on the forms approved by the Board and submitted together with the appropriate fee(s) and supporting documentation. (4-1-19)

02. **Supporting Documents**. The applicant must provide or facilitate the provision of any supporting third party documents that may be required under the qualifications for the license, certificate, or registration being sought. (4-1-19)

03. **Applications Must Be Complete**. Applications shall not be considered complete until all required information, documents, and fees are received by the Board. (4-1-19)

04. **Application Deadline Date**. Applications received less than seven (7) days prior to a Board meeting may be held over to the next meeting. (4-1-19)

05. Lack of Activity. If an applicant fails to respond to a Board request or an application has lacked activity for twelve (12) consecutive months, the application on file with the Board will be deemed denied and will be terminated upon a thirty (30) day written notice, unless good cause is demonstrated to the Board. (4-1-19)

201. -- 249. (RESERVED)

250. FEES.
All fees are non-refundable. *( )*

FEE TYPE	*AMOUNT (Not to Exceed)*	*RENEWAL (Not to Exceed)*
Original License for Individual Licenses	*$25*	*$25*
Instructor License	*$30*	*$30*
Original License for Establishments	*$20*	*$20*
Original License for Schools	*$300*	*$85*
Original License or Registration for Facilities	*$20*	*$20*
Registration for Apprentice	*$25*	
Certificate for Makeup Artist	*$25*	
License by Endorsement	*$35*	
Reinstatement	*$35*	
Examination	*As set by the Administrator*	

( )

251. -- 299. (RESERVED)

300. QUALIFICATIONS FOR ALL LICENSES OR CERTIFICATES FOR INDIVIDUALS.
In addition to other qualifications set forth in these rules, each applicant for licensure or certification must meet the following general qualifications: (4-1-19)

01. Age. Be at least sixteen and one-half (16 ½) years of age. (4-1-19)

02. Education. Successful completion of at least two (2) years of high school or have attained an equivalent education as determined by the Board as evidenced by: (4-1-19)

a. High school transcripts, a copy of a high school diploma, or a letter written on high school stationery, signed by an officer of the high school, indicating that the applicant has satisfactorily completed the tenth grade and is eligible to commence the eleventh grade; or (4-1-19)

b. Documents establishing admission to or graduation from an associates, bachelors, or graduate degree program from an accredited college or university; or (4-1-19)

c. Successful passage of the General Educational Development (G.E.D.) Test; or (4-1-19)

d. Any test approved by the Department of Education to establish education equivalency shall be approved by the Board when an applicant receives a score approved by the Department of Education as meeting the equivalency requirement; or (4-1-19)

e. Other proof of satisfactory completion of the tenth grade with eligibility to commence the eleventh grade. (4-1-19)

03. Good Moral Character. (4-1-19)

a. An applicant must certify that he/she has not been found guilty, been convicted, or received a withheld judgment or suspended sentence for a felony or a crime involving moral turpitude. If the applicant has been found guilty, been convicted, or received a withheld judgment or suspended sentence for such a crime, the applicant must submit a written statement of suitability for licensure or certification as set forth in Section 312 of these rules. (4-1-19)

b. An applicant must certify that he/she or his/her license has not been subject to any disciplinary action by a regulatory entity in another state, territory, or country including, but not limited to, having an application for licensure denied. If the applicant or his/her license has been subject to discipline, the applicant must submit a written statement of suitability for licensure or certification as set forth in Section 312 of these rules. (4-1-19)

301. QUALIFICATIONS FOR ORIGINAL BARBER LICENSE.

The Board may grant a license to an applicant for licensure as a barber who completes an application as set forth in Section 200 of these rules, pays the required fee, and who meets the following general, education, experience, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of barbering consisting of not less than nine hundred (900) hours of instruction in a licensed barber school, or the following equivalent instruction: (4-1-19)

a. For a currently licensed cosmetologist, a licensed barber school must credit eight hundred (800) hours toward the required nine hundred (900) hours for a barber course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the barber course curriculum, provided that the remaining hours of instruction must at a minimum include the following: (4-1-19)

i. Barber theory, including male haircuts; and (4-1-19)

ii. Shaving. (4-1-19)

b. For a currently licensed barber in another state, territory, possession or country, and who does not meet the qualifications for licensure by endorsement, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barbering. (4-1-19)

03. Examination. Successful passage of a barber examination approved by the Board. (4-1-19)

302. QUALIFICATIONS FOR ORIGINAL BARBER-STYLIST LICENSE.

The Board may grant a license to an applicant for licensure as a barber-stylist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of barber-styling consisting of not less than one thousand five hundred (1,500) hours of instruction in a licensed barber school, or the following equivalent instruction: (4-1-19)

a. For a currently licensed cosmetologist, a licensed barber school must credit of one thousand four hundred (1,400) hours toward the required one thousand five hundred (1,500) hours for a barber-stylist course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the barber-stylist course curriculum, provided that the remaining hours of instruction must at a minimum include the following: (4-1-19)

i. Barber theory, including male haircuts; and (4-1-19)

ii. Shaving. (4-1-19)

b. For a currently licensed barber-stylist in another state, territory, possession or country, fifty (50) hours of instruction may be credited for each three (3) months of practical experience in barber-styling. (4-1-19)

03. Examination. Successful passage of a barber-stylist examination approved by the Board. (4-1-19)

303. QUALIFICATIONS FOR ORIGINAL COSMETOLOGIST LICENSE.
The Board may grant a license to an applicant for licensure as a cosmetologist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of cosmetology consisting of not less than one thousand six hundred (1,600) hours of instruction in a licensed cosmetology school or completed at least three thousand two hundred (3,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (4-1-19)

a. For a currently licensed barber-stylist, a licensed cosmetology school must credit one thousand three hundred (1,300) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the cosmetology course curriculum, provided that the remaining hours of instruction must at a minimum include the following: (4-1-19)

i. Nail technology; (4-1-19)

ii. Esthetics; and (4-1-19)

iii. Cosmetology theory, including female hairstyling. (4-1-19)

b. For a currently licensed barber, a licensed cosmetology school must credit nine hundred (900) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course. The school must submit for the Board's approval a written explanation of how the credited hours and the remaining hours of instruction will be allotted among the subjects in the cosmetology course curriculum, provided that the remaining hours of instruction must at a minimum include the following: (4-1-19)

i. Working on the hair with chemicals; (4-1-19)

ii. Nail technology; (4-1-19)

iii. Esthetics; and (4-1-19)

iv. Cosmetology theory, including female hairstyling. (4-1-19)

c. A currently licensed esthetician, haircutter, or nail technician must be given credit of two hundred (200) hours toward the required one thousand six hundred (1,600) hours for a cosmetology course or four hundred (400) hours toward the required three thousand two hundred (3,200) hours as a cosmetology apprentice. (4-1-19)

d. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for a cosmetology course, or a licensed instructor may credit up to one hundred (100) hours toward the required apprenticeship hours. (4-1-19)

e. For an esthetician, haircutter, or nail technician student, a licensed cosmetology school may credit

eighty percent (80%) of accumulated hours, but no more than two hundred (200) hours, toward the required instructional hours for a cosmetology course. (4-1-19)

f. For a currently licensed cosmetologist in another state, territory, possession or country, one hundred (100) hours of instruction or two hundred (200) hours as an apprentice may be credited for each six-month period of practical experience in cosmetology. (4-1-19)

03. Examination. Successful passage of the cosmetology examination approved by the Board. (4-1-19)

304. QUALIFICATIONS FOR ORIGINAL ELECTROLOGIST LICENSE.
The Board may grant a license to an applicant for licensure as an electrologist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of electrology consisting of not less than six hundred (600) hours of instruction in a licensed cosmetology school approved to teach electrology or successful completion of at least one thousand two hundred (1,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules. For a currently licensed electrologist in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in electrology. (4-1-19)

03. Examination. Successful passage of the electrologist examination conducted or approved by the Board. (4-1-19)

305. QUALIFICATIONS FOR ORIGINAL ESTHETICIAN LICENSE.
The Board may grant a license to an applicant for licensure as an esthetician who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Education. Successful completion and graduation from a program of esthetics consisting of not less than six hundred (600) hours of instruction in a licensed cosmetology school or successful completion of at least one thousand two hundred (1,200) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (4-1-19)

a. For a currently certificated makeup artist in this state, a licensed cosmetology school may credit up to fifty (50) hours toward the required instructional hours for an esthetics course or, a licensed instructor may credit up to one hundred (100) hours toward the required apprenticeship hours. (4-1-19)

b. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for an esthetics course for a cosmetology student. (4-1-19)

c. For a currently licensed esthetician in another state, territory, possession or country, sixty (60) hours of instruction or one hundred twenty (120) hours as an apprentice may be given for each six-month period of practical experience in esthetics. (4-1-19)

03. Examination. Successful passage of the esthetician examination approved by the Board. (4-1-19)

306. QUALIFICATIONS FOR ORIGINAL HAIRCUTTER LICENSE.
The Board may grant a license to an applicant for licensure as a haircutter who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. **General**. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. **Education**. Successful completion of and graduation from a program of haircutting consisting of not less than nine hundred (900) hours of instruction in a licensed cosmetology school or the following equivalent instruction: (4-1-19)

a. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for a haircutter course for a cosmetology student. (4-1-19)

b. For a currently licensed haircutter in another state, territory, possession or country, ninety (90) hours of instruction or one hundred twenty (120) hours as an apprentice may be credited for each six-month period of practical experience in haircutting, hair design, or cosmetology. (4-1-19)

307. QUALIFICATIONS FOR ORIGINAL NAIL TECHNICIAN LICENSE.
The Board may grant a license to an applicant for licensure as a nail technician who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general, education, and examination qualifications: (4-1-19)

01. **General**. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. **Education**. Successful completion and graduation from a program of nail technology consisting of not less than four hundred (400) hours of instruction in a cosmetology school approved by the Board or completed at least eight hundred (800) hours in an apprenticeship that meets the requirements of Section 550 of these rules, or the following equivalent instruction: (4-1-19)

a. A licensed cosmetology school may credit one-seventh (1/7) of accumulated hours toward the required instructional hours for a nail technology course for a cosmetology student. (4-1-19)

b. For a currently licensed nail technician in another state, territory, possession or country, forty (40) hours of instruction or eighty (80) hours as an apprentice may be credited for each six-month period of practical experience in nail technology. (4-1-19)

03. **Examination**. Successful passage of the nail technician examination approved by the Board. (4-1-19)

308. QUALIFICATIONS FOR MAKEUP ARTIST CERTIFICATE.
The Board may grant a certificate to an applicant for certification as a makeup artist who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following general and education/training requirements: (4-1-19)

01. **General**. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. **Education/Training**. Successful completion of instruction of not less than one hundred (100) hours in makeup artistry, which must include instruction and practical experience in safety and infection control. Hours may be classroom instruction, training, practical experience, or a combination. Instruction may be received from one or more of the following sources: (4-1-19)

a. A cosmetology school licensed in this state or another state, territory, possession, or country; (4-1-19)

b. A cosmetology or esthetics instructor licensed in this state or another state, territory or possession; (4-1-19)

c. A retail cosmetics dealer licensed in this state or another state, territory or possession; or (4-1-19)

d. Other source of instruction that includes: (4-1-19)

i. Knowledgeable and experienced instructor with a record of safe practices; (4-1-19)

ii. Instruction in client safety and safe product selection; and (4-1-19)

iii. Hands-on practice and training in infection control. (4-1-19)

e. Any combination of the sources listed in Subsections 308.02.a. through d. of these rules. (4-1-19)

03. Documentation of Education/Training. An applicant may present proof of education/training in makeup artistry in the following ways: (4-1-19)

a. A current cosmetology or esthetician license from another state, territory, possession or country. (4-1-19)

b. Transcripts or records of instruction. (4-1-19)

c. Documentation of work history and training as an employee for a retail cosmetics dealer licensed in this state or another state, territory or possession of the United States. (4-1-19)

d. Membership in the International Alliance of Theatrical Stage Employees Make-Up Artists and Hair Stylists Guild or other similar organization whose membership requirements meet or exceed the requirements of these rules. (4-1-19)

e. Documentation of other training/experience must include: (4-1-19)

i. Identity and qualifications of the person delivering the instruction/training; (4-1-19)

ii. Method of instruction/training and amount of hands-on training provided; and (4-1-19)

iii. Subject matters covered, particularly pertaining to topics listed in Subsection 308.02.d. of these rules. (4-1-19)

04. Additional Education/Training. The Board may require an applicant who does not have a documented record of sufficient training in safety and infection control to obtain additional training or other demonstration of competency in that area. (4-1-19)

309. QUALIFICATIONS FOR ORIGINAL BARBER OR BARBER-STYLIST INSTRUCTOR LICENSE.

The Board may grant a license to an applicant for licensure as a barber instructor or barber-stylist instructor who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following licensure, education, experience, and examination qualifications: (4-1-19)

01. Licensure. Hold a current barber license for a barber instructor applicant or hold a current barber-stylist or cosmetologist license for a barber-stylist instructor applicant. (4-1-19)

02. Education and Experience. At least five (5) years of experience as a licensed barber for a barber instructor applicant or as a licensed barber-stylist for a barber-stylist instructor applicant or have satisfactorily completed: (4-1-19)

a. A minimum six (6) month course of barber instructing for a barber instructor applicant or barber-stylist instructing for a barber-stylist instructor applicant as a student in a licensed barber school, provided that the course consist of no less than nine hundred (900) hours; or (4-1-19)

b. A minimum three (3) month course of barber instructing for a barber instructor applicant or barber-stylist instructing for a barber-stylist instructor applicant as a student in a licensed barber school, if the applicant has at least two (2) years of experience as a licensed barber for a barber instructor applicant or as a barber-stylist for a barber-stylist instructor applicant, provided that the course consist of no less than five hundred (500) hours; or

(4-1-19)

c. Hold a cosmetology instructor license in this state. (4-1-19)

03. Examination. Successful passage of the instructor examination approved by the Board. (4-1-19)

04. Single License Required to Practice and Instruct. The holder of a license issued by the board who is subsequently issued an instructor license is permitted to maintain a single license to practice. An instructor license issued by the board permits the holder to both practice and instruct only within the scope of the license(s) held under Subsection 01 of this rule. The holder of a cosmetologist license who is subsequently issued a barber-stylist instructor license may not practice or instruct elements of barbering or barber-styling that are outside the definition of cosmetology unless the licensee also has been issued a license as a barber or barber-stylist by the board. (4-1-19)

310. QUALIFICATIONS FOR ORIGINAL COSMETOLOGY INSTRUCTOR LICENSE.
The Board may grant a license to an applicant for licensure as an instructor of cosmetology, electrology, esthetics, or nail technology who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following licensure, education, experience, and examination qualifications: (4-1-19)

01. General. Meet the requirements prescribed in Section 300 of these rules. (4-1-19)

02. Licensure. Hold a current license as a cosmetologist, electrologist, esthetician, or nail technician. (4-1-19)

03. Education or Equivalent. Earned twelve (12) college credit hours or the equivalent. Credit hours must be obtained from the Education Department, Speech Communications Department or from the Psychology/ Sociology Department and other credit at the discretion of the Board. Equivalency is determined as: (4-1-19)

a. Completion of teaching seminars focusing on cosmetology, nail technology, esthetics, or electrology approved by the Board. Fourteen (14) clock hours is equivalent to one (1) semester college credit hour in an approved seminar. Verification of satisfactory completion must be submitted to the Board for its approval; or (4-1-19)

b. Verified satisfactory teaching as a qualified instructor from another state for one (1) of the previous three (3) years immediately prior to application; or (4-1-19)

c. Successful passage of the instructor examination approved by the Board. (4-1-19)

04. Experience. At least five (5) years of experience as a licensed cosmetologist, electrologist, esthetician, or nail technician, which must be immediately preceding the application, or have satisfactorily completed: (4-1-19)

a. A minimum six (6) month course of cosmetology instructing as a student in a licensed cosmetology school, provided that the course consist of no less than nine hundred (900) hours; or (4-1-19)

b. A minimum three (3) month course of cosmetology instructing as a student in a licensed cosmetology school, if the applicant has at least two (2) years of experience as a licensed cosmetologist, electrologist, esthetician, or nail technician, provided that the course consist of no less than five hundred (500) hours; or (4-1-19)

c. Hold a barber or barber-stylist instructor license in this state. (4-1-19)

05. Single License Required to Practice and Instruct. The holder of a license issued by the Board who is subsequently issued an instructor license is permitted to maintain a single license to practice. An instructor license issued by the Board permits the holder to both practice and instruct only within the scope of the license(s) held under Subsection 310.02 of this rule. (4-1-19)

311. APPROVED EXAMINATION.
Approved examinations shall be the written and practical examination provided by the National Interstate Council of

State Boards of Cosmetology (NIC) for the discipline for which licensure is sought. A passing score must be obtained on both the written and practical examination. A passing score will be determined by NIC. (4-1-19)

312. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE OR CERTIFICATION.
An applicant who or whose license has a conviction, finding of guilt, withheld judgment, or suspended sentence for a felony or crime involving moral turpitude, or has been subject to discipline in another state, territory or country must submit with his/her application a written statement and any supplemental information establishing his/her current suitability for licensure or certification. (4-1-19)

01. Consideration of Factors and Evidence. The Board shall consider the following factors or evidence: (4-1-19)

a. The severity or nature of the crime or discipline; (4-1-19)

b. The period of time that has passed since the crime or discipline under review; (4-1-19)

c. The number or pattern of crimes or discipline or other similar incidents; (4-1-19)

d. The circumstances surrounding the crime or discipline that would help determine the risk of repetition; (4-1-19)

e. The relationship of the crime or discipline to the practice of barbering or cosmetology; (4-1-19)

f. The applicant's activities since the crime or discipline under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current rehabilitation; and (4-1-19)

g. Any other information regarding rehabilitation or mitigating circumstances. (4-1-19)

02. Interview. The board may, at its discretion, grant an interview of the applicant. (4-1-19)

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing his/her current suitability for licensure or certification. (4-1-19)

313. REQUIREMENTS FOR LICENSURE BY ENDORSEMENT.
The Board may grant a license to an applicant for licensure by endorsement who completes an application as set forth in Section 200 of these rules and meets the following requirements: (4-1-19)

01. General Requirements. The applicant must: (4-1-19)

a. Be at least eighteen (18) years of age; (4-1-19)

b. Meet the education requirements set forth in Subsection 300.02 of these rules; and (4-1-19)

c. Meet the good moral character requirements set forth in Subsection 300.03 of these rules. (4-1-19)

02. Hold a Current License and Have Experience. The applicant must be the holder of a current active license or certificate of qualification in the profession and at the level for which a license is being sought, issued by the authorized regulatory entity in another state, territory, possession, or foreign country. The certification of licensure must be received by the Board from the issuing agency; and (4-1-19)

a. Must show that the state, territory, possession, or foreign country has licensing requirements substantially equivalent to or higher than those required for new applicants in Idaho; or (4-1-19)

b. Document at least one (1) year of actual practice under certification or licensure in the three (3) years immediately prior to application in the profession for which a license is being sought. (4-1-19)

314. -- 324. (RESERVED)

325. LICENSURE AND OPERATION OF PRIMARY AND CONTIGUOUS ESTABLISHMENTS.
Except as otherwise provided in statute and these rules, a licensed individual must practice within a licensed establishment. An establishment may be licensed as a primary establishment or a contiguous establishment that operates within a primary establishment. (4-1-19)

01. Primary Establishment License. A primary establishment license may be issued and annually renewed only under the following conditions: (4-1-19)

a. Application for establishment license shall be made on forms furnished by the Board and shall include plans and specifications complying with the Board's safety and disinfection requirements. The fully completed application form, with the required fees, must be submitted to the Board and a license issued prior to the opening or operation of any barber or cosmetology primary establishment; and (4-1-19)

b. There is a clearly defined and designated working floor space of adequate dimension to allow the safe and sanitary practice of any one (1) or combination of defined practices of cosmetology or barber-styling for all individual stations that may be in operation in addition to any restroom and access areas; and (4-1-19)

c. There is an approved hot and cold running water source and drainage system that is available to any contiguous establishment or other establishment or facility that may exist; and must be within the perimeters of the licensed establishment and separate from the toilet facilities; and (4-1-19)

d. There are restroom facilities conveniently located and accessible from within the building in which the primary establishment is located and which shall be accessible from the primary area and to all areas designated for the operation of contiguous establishments. Restroom facilities shall contain an approved hot and cold running water source and approved drainage system. The water source shall be in addition to the work area facilities; and (4-1-19)

e. Any areas designated by the primary establishment for the operation of contiguous establishments shall be clearly defined and fixed, and shall provide adequate dimension to allow the safe and sanitary practice of any one or a combination of the defined practices of cosmetology or barber-styling for all stations that may be operated in that area. (4-1-19)

f. The holder of the primary establishment license is responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the designated licensed area of the primary establishment, including areas that are cooperatively or jointly used as "common areas" such as shampoo bowls, restrooms, entrance or reception areas. (4-1-19)

02. Contiguous Establishment License. A contiguous establishment license may be issued and annually renewed only under the following conditions: (4-1-19)

a. Application for establishment license shall be made on forms furnished by the Board. The fully completed application form, with the required fees, must be submitted to the Board and a license issued prior to the opening or operation of any barber or cosmetology contiguous establishment; and (4-1-19)

b. The contiguous establishment is associated with a currently licensed primary establishment and a holder of the primary establishment license provides proof that the primary shop is equipped to meet the safety and disinfection requirements and rules of the Board; and (4-1-19)

c. The contiguous establishment shall only operate in the contiguous establishment designated areas within the associated primary establishment. (4-1-19)

d. The holder of the contiguous establishment license will be responsible for complying with the safety and disinfection requirements and all other applicable statutes and rules for the contiguous designated area where it operates. (4-1-19)

03. Businesses Other Than a Licensed Establishment or Facility. Businesses other than one licensed under Chapter 58, Title 54, Idaho Code, and living quarters shall be separate and apart. Home establishments must provide a separate outside entrance directly into the establishment and substantial partitions or walls shall extend from the floor to not less than seven (7) feet high, separating the establishment from adjoining rooms used for business or domestic purposes. All doors to an establishment from adjacent rooms shall be closed. (4-1-19)

04. Conditions for Issuance. No primary establishment license may be issued which includes or overlaps all or any portion of an existing establishment license. (4-1-19)

326. ESTABLISHMENT CHANGES IN OWNERSHIP OR LOCATION.
Whenever a change of ownership or fixed location of an establishment occurs, an original license fee must be paid and compliance with all rules concerning a new establishment must be met before a new license will be issued. Establishment licenses are not transferable. (4-1-19)

01. Board Must Be Informed of All Changes. The Board must be informed in writing of any and all changes of ownership and location of establishments. (4-1-19)

02. Deletion of an Owner. Deletion of an owner in a multiple ownership may be effected by filing a written statement with the Board signed by the person withdrawing and the remaining owner(s). (4-1-19)

03. Transfer of Ownership. If the transfer involves change of corporate structure or deleting one (1) or more owners, a written notarized statement signed by all former owners as registered with the Board shall be accepted. (4-1-19)

04. Addition of an Owner. Addition of an owner to a multiple ownership constitutes a change in ownership and the requirements for a new establishment apply. (4-1-19)

05. Out of Business. Whenever any establishment ceases operation at the licensed location, the owner(s) or authorized agent of the establishment shall notify the Board by submitting: (4-1-19)

a. A signed letter by the owner(s) or authorized agent advising that the establishment is out of business; or (4-1-19)

b. The establishment license bearing the signature of the owner(s) or authorized agent and marked out-of-business; or (4-1-19)

c. For a contiguous establishment license, a signed statement by the associated primary establishment advising that the contiguous establishment is out of business. (4-1-19)

d. In the event that the Board has not been notified about the cessation of operations pursuant to this rule and documentation or evidence has been obtained that an establishment has ceased operation at the licensed location, the Board may cancel the establishment license upon a thirty (30) day written notice to the owner(s) or authorized agent of the establishment. (4-1-19)

06. License Status. A new primary establishment license will not be issued for any location that is currently licensed as a primary establishment at the time of application. (4-1-19)

327. RETAIL COSMETICS DEALER LICENSE.
The Board may grant a retail cosmetic dealer license to allow the application of cosmetic products to customers' faces in connection with the sale of the products. An applicant for a retail cosmetic dealer license must complete an application as set forth in Section 200 of these rules, pay the required fee, and meet the following requirements: (4-1-19)

01. Requirements. All retail cosmetic dealers shall provide an area within the business premises for disinfection and storage of equipment and supplies necessary to perform any cosmetic application services provided. The business premises must have: (4-1-19)

a. Access to hot and cold running water; (4-1-19)

b. Access to restroom facilities; (4-1-19)

c. Disinfectants, as defined in these rules; (4-1-19)

d. Single-use samples, wipes, spatulas or other dispensing techniques designed to prevent contamination of the cosmetic product; and (4-1-19)

e. First-aid kit. (4-1-19)

02. Change in Ownership or Location. Licenses are not transferable. Whenever a change of ownership or location of a facility occurs, a new application for a facility license must be submitted together with the required fee to the Board, and all the facility requirements must be met. (4-1-19)

03. Cessation of Operation. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the facility license shall be submitted to the Bureau. In the event that the Board has not been notified about the cessation of operations pursuant to this rule and documentation or evidence has been obtained that the facility has ceased operation at the licensed location, the Board may cancel the facility license upon a thirty (30) day written notice to the owner(s) or authorized agent of the facility. (4-1-19)

328. RETAIL THERMAL STYLING EQUIPMENT DEALER REGISTRATION.
The Board may grant a registration as a retail thermal styling equipment dealer to an applicant who completes an application as set forth in Section 200 of these rules, pay the required fee, and meet the following requirements: (4-1-19)

01. Training. The dealer is responsible to train all employees on the proper and safe use of the thermal styling equipment and all disinfection related to the demonstration of the equipment prior to permitting an employee's use of the equipment on customers. (4-1-19)

02. Requirements. All retail thermal styling equipment dealers shall provide the equipment and supplies necessary to perform any demonstration of the thermal styling equipment. The area where the demonstration is being performed must have: (4-1-19)

a. Disinfectants, as defined in these rules; and (4-1-19)

b. First-aid kit. (4-1-19)

03. Change in Ownership or Location. Registrations are not transferable. Whenever a change of ownership or location of a facility occurs, a new application for a registration must be submitted together with the required fee to the Board, and all the facility requirements must be met. (4-1-19)

04. Cessation of Operation. Whenever any facility ceases operation at the licensed location, the owner(s) shall notify the Board in writing that the facility is out of business and the registration shall be submitted to the Bureau. In the event that the Board has not been notified about the cessation of operations pursuant to this rule and documentation or evidence has been obtained that the facility has ceased operation at the registered location, the Board may cancel the facility registration upon a thirty (30) day written notice to the owner(s) or authorized agent of the facility. (4-1-19)

329. -- 399. (RESERVED)

400. RENEWAL OR EXPIRATION OF LICENSE.
A licensee must renew his/her/its license annually as set forth in Section 67-2614, Idaho Code, and may reinstate his/her/its license within five (5) years after expiration as provided in Section 67-2614, Idaho Code. (4-1-19)

401. -- 499. (RESERVED)

500. BARBER AND COSMETOLOGY SCHOOL REQUIREMENTS.
The Board may grant a license to an applicant for licensure to operate a barber or cosmetology school who completes an application as set forth in Section 200 of these rules, pays the required fee, and who meets the following requirements: (4-1-19)

01. Premises. The premises of a barber or cosmetology school must: (4-1-19)

a. Possess sufficient apparatus and equipment for the proper and full teaching of all subjects or its curriculum. Each barber school must have at least one (1) barber chair that shall be of such construction that it may be readily cleaned and it shall be mechanically workable and in good working order. Space between barber chairs and the workstand or wall shall be adequate so that no student will be hampered in the performance of his/her work. (4-1-19)

b. Provide adequate space, ventilation, lighting, and facilities to safely accommodate all students, instructors, and customers. (4-1-19)

c. Have classroom and training areas equipped with sufficient seating capacity and work stations for all enrolled students. (4-1-19)

d. Provide a restroom with a sink with hot and cold running water and approved drainage system. (4-1-19)

02. Faculty or Instructors. A school must be under the direct, personal supervision at all times of a licensed cosmetology instructor if a cosmetology school or a licensed barber or barber-stylist instructor if a barber school and must employ and maintain a licensed instructor for every twenty (20) students or fraction thereof, with an instructor trainee counting as an instructor for the purposes of the student-instructor ratio. (4-1-19)

a. An instructor shall teach only those subject areas for which the instructor has been issued a license by the Board to practice. (4-1-19)

b. Instructors must devote their time during school or class hours to instructing students rather than engaging in occupational practice. (4-1-19)

03. Operations. A barber or cosmetology school must: (4-1-19)

a. Maintain regular class and instruction hours, establish grades and hold monthly examinations. This information will be transferred to the record of instruction; (4-1-19)

b. Prescribe a school term for training in all aspects of the practice being taught; and (4-1-19)

c. Offer school hours for the purpose of instruction on at least five (5) days per week. (4-1-19)

04. Curriculum. A school must submit a curriculum and course catalog that covers the subjects, as set forth in Section 54-5815(1)(g), Idaho Code, relating to the profession for which the school is seeking approval to teach. Any proposed changes to a curriculum or catalog must be approved by the Board. The submission must identify what specific changes are being made to the curriculum. (4-1-19)

05. Clinical Work. Each school shall advertise to the public that it is a school and that all work is done by students. The clinic area shall not have connecting entrances to establishments or businesses other than barber or cosmetology schools. (4-1-19)

a. Students shall not be permitted to render any clinical service to patrons until students have completed at least five percent (5%) of the required hours of instruction. (4-1-19)

b. All clinical work shall be performed under the supervision of a licensed instructor. (4-1-19)

c. Clinical work shall be recorded on the record of instruction for each month. (4-1-19)

06. Outside School Activities. Schools may credit a student with a maximum of thirty (30) hours toward the required hours of instruction for a course of instruction for activities that take place outside the school. These hours must be approved by the instructor. (4-1-19)

07. Student Records To be Maintained by the School. A school must maintain the following records for each enrolled student: (4-1-19)

a. Proof of age showing student is no less than sixteen and one-half (16 ½) years of age; (4-1-19)

b. Proof of showing student has satisfactorily completed two (2) years of high school (tenth grade) or having equivalent education as evidenced in a manner identified in Subsection 300.02 of these rules; (4-1-19)

c. Daily attendance record for each student; (4-1-19)

d. Record of instruction for each student showing the classroom hours, the clinical hours, and operations done for each month in which the student is enrolled; and (4-1-19)

e. When a student's course of instruction has been completed or terminated, the completed operations, and number of hours of instruction are to be recorded by the school on the record of instruction form. This form is to be provided to the student and maintained by the school for five (5) years from completion or termination. (4-1-19)

08. Change in Ownership or Location. (4-1-19)

a. Licenses are not transferable. (4-1-19)

b. A new application must be submitted to the Board and a license issued for a new or additional location or a change of ownership of an existing school. (4-1-19)

09. Cessation of School. When a school ceases to operate as a school, the school must provide each enrolled student his/her records of instruction at or before the cessation of operations. (4-1-19)

501. RULES FOR COSMETOLOGY SCHOOLS APPROVED TO TEACH ELECTROLOGY.
The Board may grant a license to an applicant to operate an electrology school to an applicant who completes an application as set forth in Section 200 of these rules, pays the required fee, and meets the following requirements: (4-1-19)

01. Premises. Schools provide a minimum of three hundred (300) square feet of designated floor space per six (6) students. (4-1-19)

02. Required Equipment. Each school shall have the following equipment, which is considered the minimum equipment necessary for the proper instruction of students. This amount of equipment is based on six (6) students. (4-1-19)

a. Work stations equal to seventy-five percent (75%) of total enrollment; (4-1-19)

b. Two (2) brands of machines, one (1) of which has three (3) method capability: Galvanic, Thermolysis, and Blend; (4-1-19)

c. Two (2) treatment tables and adjustable technician chairs; (4-1-19)

d. Two (2) swing arm lamps with magnifying lens; (4-1-19)

e. Two (2) magnifying glasses; (4-1-19)

f. Tweezers; (4-1-19)

g. One (1) basin with approved water source; (4-1-19)

h. Necessary sanitation equipment for implements; and (4-1-19)

i. Closed storage cabinet. (4-1-19)

03. Student Supplies. Each student is to be issued a basic kit containing two (2) tweezers, disposable probes, eye shields, disposable gloves, before treatment solution, after treatment lotion, hair pins or clips, and one (1) sharps container. (4-1-19)

04. Faculty or Instructors. A school must be under the direct, personal supervision at all times of one (1) licensed electrologist instructor for every six (6) students or portion thereof being trained therein. (4-1-19)

05. Curriculum. A school must submit a curriculum and course catalog that covers the subjects relating to electrology as set forth in Section 54-5815(1)(g)(iv), Idaho Code. Any changes to a curriculum or catalog must be approved by the Board prior to implementing the proposed changes. The submission must identify what specific changes are being made to the curriculum. (4-1-19)

06. Clinical Work. A cosmetology school approved to teach electrology must meet the same requirements regarding clinical work as a school of cosmetology as set forth in Subsection 500.05 of these rules. (4-1-19)

07. Student Records To be Maintained by the School. Records required of cosmetology schools approved to teach electrology shall be maintained in accordance with the records required for schools of cosmetology as set forth in Subsection 500.06 of these rules. (4-1-19)

08. Change in Ownership or Location. (4-1-19)

a. Licenses are not transferable. (4-1-19)

b. A new application must be submitted to the Board and a license issued for a new or additional location or a change of ownership of an existing school. (4-1-19)

09. Cessation of School. When a school ceases to operate as a school, the school must provide each enrolled student his/her records of instruction at or before the cessation of operations. (4-1-19)

502. EDUCATIONAL PROGRAM STANDARDS FOR COURSES OF INSTRUCTION.
A licensed school must maintain the following educational program standards for each course of instruction for which it is approved to teach. (4-1-19)

01. Barber. Coursework must include courses in the following content areas: (4-1-19)

a. Haircut; (4-1-19)

b. Blow dry (does not include haircut); (4-1-19)

c. Shampoo; (4-1-19)

d. Shave and Beard Trim; (4-1-19)

e. Facial; (4-1-19)

f. Hair and Scalp Treatment; (4-1-19)

g. Curling Iron; and (4-1-19)

h. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)

02. Barber-Stylist. Coursework must include courses in the following content areas: (4-1-19)

a. Haircut; (4-1-19)

b. Style/blow dry (does not include haircut); (4-1-19)

c. Shampoo; (4-1-19)

d. Permanent Wave; (4-1-19)

e. Shave and Beard Trim; (4-1-19)

f. Facial; (4-1-19)

g. Color/Bleach/Rinse; (4-1-19)

h. Hair and Scalp Treatment; (4-1-19)

i. Curling Iron; and (4-1-19)

j. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)

03. Cosmetology. A record of the operations completed by each student shall be maintained and include the following: (4-1-19)

a. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (4-1-19)

b. Scalp Treatments; (4-1-19)

c. Permanent Waves (All Methods); (4-1-19)

d. Haircutting/shaping which shall include scissor and razor/clipper; (4-1-19)

e. Bleaching; (4-1-19)

f. Tinting; (4-1-19)

g. Semi Permanent/Temporary Color; (4-1-19)

h. Frosting/Highlights; (4-1-19)

i. Facials; (4-1-19)

j. Makeup Application; (4-1-19)

k. Waxing; (4-1-19)

l. Manicures which shall include plain and oil; (4-1-19)

m. Pedicures (4-1-19)

n. Artificial Nails; and (4-1-19)

o. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)

04. Esthetics. The recorded operations completed by each student shall be maintained and include the following: (4-1-19)

a. Massage and manipulation application of lotions, creams, tonics, solutions, skin care masks, and similar cosmetic preparations and their effects on the skin and body; (4-1-19)

b. Cleansing, steaming, exfoliation, and extraction procedures; (4-1-19)

c. Cosmetics and makeup application; (4-1-19)

d. Machine Application: use of mechanical or electrical equipment; (4-1-19)

e. Bacteriology, disinfection and sterilization, and safety precautions; (4-1-19)

f. Human anatomy, physiology and histology of skin care; (4-1-19)

g. Follicle growth cycle and hair removal procedures; (4-1-19)

h. Skin analysis, conditions, disorders, and diseases; and (4-1-19)

i. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)

05. Nail Technology. The recorded operations completed by each student shall be maintained and include the following: (4-1-19)

a. Form nails; (4-1-19)

b. Finished tips; (4-1-19)

c. Wraps and mends; (4-1-19)

d. Basic manicures and pedicures; and (4-1-19)

e. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)

06. Haircutter. The recorded operations completed by each student shall be maintained and include the following: (4-1-19)

a. Haircutting and Hair shaping; (4-1-19)

b. Creative hair styling which shall include hair styles, wet sets/styling, thermal styles, fingerwaving, braiding/free styling; (4-1-19)

c. Use of cutting implements; (4-1-19)

d. Basic shampooing and conditioning; and (4-1-19)

e. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)

07. Electrology. The recorded operations completed by each student shall be maintained and include the following: (4-1-19)

a. Bacteriology, disinfection and sterilization, safety precautions, anatomy, and physiology; (4-1-19)

b. Electricity which shall include the nature of electrical current, principles of operating electrical devices and the various safety precautions used when operating electrical equipment; (4-1-19)

c. Electrolysis which shall include the use and study of galvanic current; (4-1-19)

d. Thermolysis, including the use and study of high frequency current, automatic and manual; (4-1-19)

e. A combination of high frequency and galvanic currents; (4-1-19)

f. The study and cause of hypertrichosis; and (4-1-19)

g. Hygiene and disinfection shall be taught on a continuing basis and indicated on the record of instruction. (4-1-19)

08. Instructor. The recorded operations completed by each student shall be maintained and include the following: (4-1-19)

a. Lesson planning; (4-1-19)

b. Audio-Visual aid preparation; (4-1-19)

c. Theory class; (4-1-19)

d. Practical demonstrations; (4-1-19)

e. Testing and evaluation theory; (4-1-19)

f. Testing and evaluation; and (4-1-19)

g. Clinic floor supervision. (4-1-19)

503. -- 549. (RESERVED)

550. APPRENTICE REGISTRATION AND APPRENTICESHIPS.
The Board may issue a registration as an apprentice to allow a person to engage in the practice of cosmetology, nail technology, esthetics, electrology, or makeup artistry while completing the required instructional hours for a license or certificate. An apprentice may only practice under direct supervision as provided below. (4-1-19)

01. Application and Qualifications. An applicant must submit a completed application on a form approved by the Board, pay the required fee, and meet the following qualifications: (4-1-19)

a. Be at least sixteen and one-half (16 ½) years of age; (4-1-19)

b. Have successfully completed at least two (2) years of high school or have attained an equivalent education as determined by the board as evidenced in a manner identified in Subsection 300.02 of these rules; (4-1-19)

c. Have certification from the establishment that the applicant is enrolled as an apprentice in the establishment; (4-1-19)

d. Identify the names and license numbers of the licensed cosmetologists, electrologists, estheticians, and nail technicians employed in the establishment in which the applicant will serve as an apprentice; and (4-1-19)

e. Identify the name(s) and license number(s) of the licensed cosmetology, electrology, esthetics, or nail technology instructor who will instruct the applicant during the apprenticeship. (4-1-19)

02. Instruction. The instructor for any apprenticeship must submit to the Board a curriculum for the entire course of apprenticeship instruction. The Board must approve the curriculum prior to the beginning of instruction. The curriculum must cover the subjects relating to the profession for which the apprentice is pursuing licensure as set forth in Section 54-5815(1)(g), Idaho Code. (4-1-19)

03. Supervision. There must be at least one (1) licensed instructor and one (1) separate supervising licensee for each apprentice in the establishment at all times when an apprentice is being trained, except that an electrology apprentice may be supervised solely by the electrology instructor. (4-1-19)

a. The instructor must be licensed to teach the profession for which the registrant is pursuing licensure and the supervising licensee must be licensed to practice the profession for which the apprentice is pursuing licensure. (4-1-19)

b. An instructor may not train more than three (3) currently registered apprentices, except that an electrology instructor may not train more than one (1) currently registered electrology apprentice. (4-1-19)

c. An establishment may not have more than six (6) currently registered apprentices, unless otherwise approved by the Board. (4-1-19)

d. An establishment or an instructor under current discipline may not supervise an apprentice. (4-1-19)

e. An apprentice shall not be permitted to render any clinical service to patrons until the apprentice has completed at least five percent (5%) of the required hours of instruction. (4-1-19)

04. Recordkeeping. Establishments employing an apprentice shall keep a daily work record of the attendance of the apprentice and a record of the types of instruction given and the work performed by the apprentice as set forth below. (4-1-19)

a. An apprentice must be given monthly progress records, and the monthly record shall be signed and dated by the apprentice and the instructor. The establishment shall maintain the records for a period of five (5) years following completion or termination of the apprentice instruction. (4-1-19)

b. When an apprentice's course of instruction has been completed or terminated, the completed operations and number of hours of instruction are to be recorded by the establishment on the Record of Instruction Form. The instructor must submit the Record of Instruction to the Board within fourteen (14) days of the completion of the apprenticeship. The establishment must maintain a copy of the Record of Instruction for a period of five (5) years from completion or termination date. (4-1-19)

c. Attendance, instruction, and work records must be kept in the establishment in which the apprentice is employed. (4-1-19)

d. Apprenticeship records are subject to inspection by the Board at any time. (4-1-19)

05. Termination of Registration. A registration as an apprentice is valid from the date of issuance until the apprentice is no longer enrolled as an apprentice in the establishment identified on the apprentice's application. (4-1-19)

a. When an apprentice discontinues a course of study, the establishment must complete a Record of Instruction Form with the total number of hours worked and the types of instruction given to the apprentice. The Record of Instruction Form must be submitted to the Board within thirty (30) days of the discontinuance of the apprenticeship. If an apprentice discontinues a course of instruction and does not transfer to another salon within sixty (60) days, the apprentice registration is automatically canceled and is to be submitted to the Board along with the Record of Instruction. (4-1-19)

b. When an establishment where apprentices are being trained ceases operation as an establishment, the establishment must submit the records of instruction for each apprentice to the Board within thirty (30) days. (4-1-19)

c. An apprentice who has discontinued a course of study must apply for and be granted a new registration under Subsection 550.01 of these rules, prior to resuming instruction. (4-1-19)

06. Out of State Apprenticeship. An applicant who has received instruction as an apprentice in another state must file with the Board a copy of the record of instruction from the out of state apprenticeship. For purposes of this section, the record of instruction will be a statement which gives detailed information regarding operations and hours of instruction, and which is to be verified by the licensing agency or instructor(s) in the state in which the instruction was obtained. (4-1-19)

551. -- 699. (RESERVED)

700. SCOPE OF PRACTICE.
All licensees shall practice in a competent manner consistent with their level of education, training, and experience. (4-1-19)

701. -- 709. (RESERVED)

710. PRACTICE OUTSIDE OF A LICENSED ESTABLISHMENT.
All licensees and certificants must practice in a place or establishment that is licensed for such practice, except as provided for in Section 54-5804, Idaho Code, or when the services provided by the licensee or certificant are limited to the following: (4-1-19)

01. Hair Styling. Arranging, styling, dressing of the hair. Trimming of the hair may be performed when it is incidental to the arranging, styling, or dressing of the hair, including facial hair such as beards, mustaches, and eyebrows. (4-1-19)

02. Coloring. Wash out topical color, tinted powder, spray or chalk to temporarily camouflage the hair.

03. Extensions. Application of extensions with non-permanent adhesive or thread, such as clip in hair, halos, wig and toupees. (4-1-19)

04. Temporary Hair Removal. Tweezing of hairs on the face and neck. (4-1-19)

05. Cleansing. Cleansing of the face for the limited purpose of removing makeup and debris and cosmetic preparations for the application of makeup. (4-1-19)

06. Nail Services. Application of nail polish by painting without the use of a lamp or light, removal of polish that is incidental to the painting of the nail, and shaping of the nail with a single-use emery board. (4-1-19)

07. Makeup Application. Application of makeup. (4-1-19)

08. Safety and Disinfection. All licensees and certificants must comply with the safety and disinfection rules applicable to the services being performed, regardless of the location where the services are performed. (4-1-19)

711. -- 799. (RESERVED)

800. UNPROFESSIONAL CONDUCT.
A licensee shall not engage in unprofessional conduct in the course of his/her practice. Unprofessional conduct is conduct which has endangered or is likely to endanger the health, welfare, or safety of the public and includes, but is not limited to, the following: (4-1-19)

01. Use of MMA. Use of Methyl Methacrylate acid (MMA); (4-1-19)

02. Use of Skin Cutting Instruments. Use of skin cutting instruments, including razor-type callus shavers, credo blades, microplane, or other rasps or graters designed to remove corns or calluses by cutting below the skin surface. The presence of such instruments creates a presumption of the instrument's use; (4-1-19)

03. Use of UV Sterilizers. Use of ultraviolet (UV) sterilizers for disinfection. This does not prohibit the use of ultraviolet dryers or lamps used to dry or cure nail products; (4-1-19)

04. Use of Roll-on Wax. Use of roll-on wax, except that single-use roll-on wax cartridges are acceptable when they are disposed of immediately after use; (4-1-19)

05. Double-Dipping. Placing an item or instrument that has been used on a person into a wax pot or other container that holds wax, a compound, solution, or other cosmetic preparation that will be used for more than one (1) than patron. This prohibited practice is commonly referred to as double-dipping; (4-1-19)

06. Reuse of Single-Use or Porous Items. Use of single-use or porous items on more than one (1) patron. The presence of used single-use or porous items, which have not been disposed of, creates a presumption of the item's use or intended use on more than one patron. (4-1-19)

07. Apprentices. Failure to adequately supervise, instruct, or train an apprentice; (4-1-19)

08. Inspections and Investigations. Interference with an inspection or investigation conducted by or on behalf of the Board; (4-1-19)

09. Disease Transmission Prevention. Performing a service on a patron who has an open sore or a known contagious disease of a nature that may be transmitted by performing the procedure, unless the licensee takes medically-approved measures to prevent transmission of the disease; or (4-1-19)

10. Practice Outside Scope of Training. Performing services or using machines or devices outside the licensee's area of training, expertise, competence, or scope of practice for the license held. (4-1-19)

801. -- 849. (RESERVED)

850. INSPECTION OF ESTABLISHMENTS, SCHOOLS AND FACILITIES.
All establishments, schools, and facilities shall be subject to inspection by the Board or its agents during business hours without notice to ensure the safe operation of each establishment, school, or facility and to ensure continued compliance with Chapter 58, Title 54, Idaho Code, and these rules. (4-1-19)

01. Form. The Board may adopt a form which identifies those general items that will be inspected and a level of compliance necessary for issuance or renewal of a license and for which a failure to meet that level is grounds for discipline. Violations of the Chapter 58, Title 54, Idaho Code, or these rules that are not listed on the form but that are found during inspection are also grounds for discipline. (4-1-19)

02. Classification Card. Following an inspection, each establishment, school, and facility, except for retail thermal styling equipment dealers, will receive classification as follows: 100%–90% = "A"; 89%–80% = "B"; 79% and below = "C." The "C" classification denotes an unacceptable level of compliance and a reinspection is required. (4-1-19)

03. Reinspection. A facility, school, or establishment not found to be at an acceptable level of compliance must make improvements within thirty (30) days. The Board may allow an establishment, school, or facility to continue to operate during that period. The Board may take action prior to any reinspection when the circumstances represent an immediate danger to the public health, safety, or welfare. (4-1-19)

851. SAFETY AND DISINFECTION FOR ESTABLISHMENTS AND SCHOOLS.
All establishments and schools must take every precaution to prevent the transfer of disease-causing pathogens between people and comply with Chapter 58, Title 54, Idaho Code. At a minimum the establishment or school must

meet the following requirements: (4-1-19)

01. Premises. Establishments and schools must be separated from living areas by substantial walls and/or closable doors. All establishments and schools must be maintained in an orderly manner and shall be heated, lighted, and ventilated so as to be safe and comfortable to the operators and patrons. Floors, walls, ceilings, furniture, and all other fixtures shall be kept clean and in good repair at all times. (4-1-19)

02. Instrument Cleaning. All instruments and items used by operators shall be thoroughly cleaned after each use and prior to disinfection. (4-1-19)

03. Instrument Disinfection or Sterilization. All instruments and items used by operators shall be disinfected or sterilized after cleaning and prior to use on each patron, with a disinfectant or sterilant as defined in these rules. All disinfectant must be mixed and changed according to the manufacturers' instructions. Disinfection methods such as immersion, sprays, and wipes may be used. Contact time listed on the disinfectant's label must be adhered to in all circumstances. Items or surfaces must remain completely immersed in disinfectant, or visibly wet if using sprays or wipes, for the full amount of contact time. (4-1-19)

04. Single-Use and Porous Instruments. Instruments and items that are intended for single use or that are porous shall be immediately disposed of in a waste container after each use on a patron or given to the patron to take home for personal use, provided that the instruments may not be brought back to the establishment for future use. (4-1-19)

05. Waxes and Waxing Services. Paraffins, waxes and all other solutions or compounds shall be covered and maintained free of any foreign contaminants. Only disinfected or unused, single-use items may be placed into a container that holds wax or paraffins. Waxes and paraffins must be dispensed for use on a patron in the following manner: (4-1-19)

a. Wax may be removed from a multi-use wax pot for use on a patron by one of the following methods: (4-1-19)

i. Single-use spatula disposed of after a single dip/application; (4-1-19)

ii. Disinfected plastic spatulas with one disinfected spatula used for each dip into the wax pot; or (4-1-19)

iii. Placement of all wax needed for entire service in a single-use, disposable cup or a container that can be properly cleaned and disinfected, such as a stainless steel bowl. The cup, any remaining wax, and all single-use applicators must be immediately disposed of at the conclusion of the service. This is the only instance in which a single applicator may be used for an entire service. (4-1-19)

b. Paraffin wax must be portioned out for each patron in a bag or other container, or dispensed in a manner that prevents contamination of the unused supply. All portions used on a patron must be disposed of immediately following use. (4-1-19)

06. Makeup Services. All makeup and makeup services must follow the requirements in Section 852 of these rules. (4-1-19)

07. Nail Services. A licensee must comply with the following disinfection procedures between every patron: (4-1-19)

a. All pedicure bowls, basins or tubs must be cleaned and disinfected prior to each use as follows: (4-1-19)

i. Empty pedicure bowl. (4-1-19)

ii. Remove all removable parts, including screens, foot plates, impellers and fans. (4-1-19)

iii. Clean removable parts with soap or detergent and water, rinse, and immerse parts in disinfectant following manufacturer's directions for proper contact time. (4-1-19)

iv. Scrub bowl with soap or detergent and rinse with clean water. (4-1-19)

v. Replace removable cleaned and disinfected parts. (4-1-19)

vi. Fill bowl and add disinfectant to achieve proper concentration. (4-1-19)

vii. Allow disinfectant solution to sit, or run through system for bowls with circulating water for the manufacturer's recommended contact time. (4-1-19)

viii. Drain the tub, rinse and air dry or wipe dry with clean paper towel. (4-1-19)

b. Metal drill bits may be soaked in acetone to remove nail product. When removed from the acetone, they must be cleaned using soap, water, and a brush, and then rinsed prior to immersion in disinfectant. Drill bits must remain in disinfectant for the full contact time. (4-1-19)

08. Water Supply and Hand Washing. Water supplies shall be from an approved source. Sufficient basins with hot and cold running water, approved drainage systems, soap and single-use towels shall be conveniently located within the work area. Operators and students shall wash their hands with running water and soap prior to providing service to any patron. When hand washing is not practicable, hand sanitizer of at least seventy percent (70%) alcohol may be used. (4-1-19)

09. Restroom Facilities. Clean, adequate and convenient restroom facilities, located and accessible from within the building where the shop or school is located, shall be available for use by operators and patrons. A basin with hot and cold running water, approved drainage systems, soap and single-use towels shall be provided within said facilities. All operators and students must wash their hands with running water and soap and then dry their hands with a single-use towel after using the restroom. (4-1-19)

10. Safety. Clearly identifiable first-aid kit must be readily accessible on the premises. No animals are allowed in shops or schools except service dogs trained to do work or perform tasks for persons with disabilities. The definition of service animals and disabilities shall be as set forth in U.S. Department of Justice Regulations at 28 C.F. R. Section 36.104 effective August 11, 2016. (4-1-19)

11. Licenses and Classification Cards. All establishments and schools must be licensed prior to their operation and must be under the direct supervision of a licensed operator. A current establishment and/or school license, valid operator license(s), a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each establishment or school for the information of operators, Board agents, and the public. (4-1-19)

852. SAFETY AND DISINFECTION FOR RETAIL COSMETICS DEALER FACILITIES AND MAKEOVER OR GLAMOUR PHOTOGRAPHY BUSINESSES.
All retail cosmetic dealers and makeover or glamour photography businesses must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer or business must meet the following requirements: (4-1-19)

01. Cake, Loose, or Liquid Makeup. All makeup that comes in a cake, loose, or liquid form, must be transferred to a palette with a disinfected or single-use spatula for use with a single customer and in a manner to prevent any contamination. Any excess make-up must be disposed of immediately following use on or by a customer. (4-1-19)

02. Makeup Pencils. Make-up pencils that require a sharpener must be sharpened prior to each use. Sharpeners must be cleaned and disinfected in accordance with Subsections 851.02 and 851.03 of these rules. Eyeliner that does not require a sharpener must have a portion transferred to a palette with a disinfected or single-use spatula for use on a single customer. (4-1-19)

03. Mascara. Single-use applicators must be used in the application of mascara. (4-1-19)

04. Brushes and Implements. All implements and applicators, including brushes, that are used on customers or made available to be used by customers must be stored, cleaned, and disinfected or disposed of in accordance with Section 851 of these rules. (4-1-19)

05. Displays. All make-up should be covered when not in use. When make-up displays are accessible to the public, single-use applicators for all make-up must be readily available. (4-1-19)

06. Water Supply and Restroom Facilities. The facility or business must meet the requirements in Subsection 851.11 of these rules. (4-1-19)

07. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. (4-1-19)

08. Licenses and Classification Card. All retail cosmetics dealers and glamour or makeover photography businesses must be licensed prior to their operation. A current license, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. (4-1-19)

853. SAFETY AND DISINFECTION FOR RETAIL THERMAL STYLING DEALER FACILITIES.
All retail thermal styling equipment dealers must take every precaution to prevent the transfer of disease-causing pathogens between people and must comply with Chapter 58, Title 54, Idaho Code. At a minimum the dealer must meet the following requirements: (4-1-19)

01. Cleaning, Disinfection, and Storage. All implements and electrical equipment used on a customer must be cleaned, disinfected, and stored in accordance with Subsections 851.02, 851.03, 851.04, and 851.06 of these rules. (4-1-19)

02. First-aid Kit. The facility or business must have a clearly identifiable first-aid kit readily accessible on the premises. (4-1-19)

03. Registration and Classification Card. All retail thermal styling equipment dealers must be registered prior to their operation. A current registration, a copy of these safety and disinfection rules, and a valid classification card shall be conspicuously displayed in the work area of each facility for the information of employees, Board agents, and the public. (4-1-19)

854. -- 999. (RESERVED)

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24.29.01 – RULES OF PROCEDURE OF THE IDAHO CERTIFIED SHORTHAND REPORTERS BOARD

DOCKET NO. 24-2901-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-3107, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 24.29.01, rules of the Certified Shorthand Reporters Board:

IDAPA 24.29.01

- 24.29.01, *Rules of the Certified Shorthand Reporters Board*: all proposed rules except 007, 100, 101.01, 200, 400.01.b.i., and 400.01.b.ii.

The Idaho Administrative Code expired on June 30, 2019, including then IDAPA 49.01.01. In order to protect the public health, safety, and welfare a temporary and proposed version of the Rules of Procedure of the Idaho Certified Shorthand Reporters Board was published. This pending fee rule will allow the Legislature to review for codification IDAPA 24.29.01, the Rules of Procedure of the Idaho Certified Shorthand Reporters Board. On July 2, 2019, the Idaho Certified Shorthand Reporters Board held a public meeting which was noticed pursuant to the Idaho Open Meetings Law where the public and other interested parties, including industry organizations, were given the opportunity to comment as this chapter was reviewed. Changes made to the pending fee rule which differ from the proposed text were made to accomplish the Recommendations for Improvement, Modification, or Elimination of Requirements from the Licensing Freedom Act of 2017, Executive Order No. 2017-06; the directives set forth in the Licensing Freedom Act of 2019, Executive Order No. 2019-01; the directives set forth in the Red Tape Reduction Act, Executive Order No. 2019-02; and the Board's continued efforts to clarify and streamline its rules. This pending fee rule removes outdated language and processes, reorders certain sections to improve overall organization, removes redundant language, moves fees into an easier to read tabular format, and adds the phrase "not to exceed" before fee amounts, which will allow for flexibility in decreasing and increasing board fees within authorized limits to maintain Board liquidity. Further, the pending fee rule replaces the moral turpitude and good moral character requirements regarding criminal history with the request for disclosure of any crime other than a minor traffic offense. This change will provide clarity to applicants and other potential licensees.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 4939 - 4943.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Fees are established in accordance with Section 54-3110, Idaho Code, as follows:

Application fee: not to exceed $50;
Examination fee: not to exceed $50;
Annual renewal fee: not to exceed $75;
Examination preparation materials: not to exceed $20.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Rob McQuade at (208) 334-3233.

Dated this 16th day of October, 2019.

Kelley Packer
Bureau Chief
Bureau of Occupational Licenses
700 W. State Street
P.O. Box 83720
Boise, ID 83720
Phone: (208) 334-3233
Fax: (208) 334-3945

000. LEGAL AUTHORITY.
These rules are adopted under the authority of Section 54-3107, Idaho Code. (5-8-09)

001. TITLE AND SCOPE.
These rules are titled IDAPA 24.29.01, "Rules of Procedure of the Idaho Certified Shorthand Reporters Board." These rules establish procedures for the organization and operation of the Board. (1-1-97)

002. -- *100*. (RESERVED)

101. COMMITTEES.

01. ***Appointment***. Regular or special committees may be appointed by the chairman and present reports to the Board at the time specified or at the earliest regular or special meeting of the Board. A special voluntary committee from the public, which may include members of the Board, may be formed to render special services during examinations or as the Board may assign to them. (4-9-09)

0*2*. Certificates. Certificates of registration shall be issued to each certified shorthand reporter, as prescribed by the Title 54, Chapter 31, on forms adopted by the Board. Certificates shall be displayed by certified shorthand reporters in their place of business. Each certificate shall bear an individual number as assigned to that particular *Certified Shorthand Reporter* by the Board. *( )*

102. -- 124. (RESERVED)

125. FEES.
All fees are non-refundable. *( )*

FEE TYPE	*AMOUNT (Not to Exceed)*
Application	*$50*
Examination	*$50*
Renewal	*$75*
Examination preparation materials	*$20*

( )

126. -- *200*. (RESERVED)

201. WRITTEN STATEMENT OF SUITABILITY FOR LICENSURE *OR PERMIT*.
An applicant or licensee who has a conviction, finding of guilt, withheld judgment, or suspended sentence for a*ny* crime *other than a minor traffic offense* must submit with their application a written statement and any supplemental information establishing their current suitability for licensure. *( )*

01. Consideration of Factors and Evidence. The Board shall consider the following factors or evidence: (4-11-19)

a. The severity or nature of the crime; (4-11-19)

b. The period of time that has passed since the crime under review; (4-11-19)

c. The number or pattern of crimes; (4-11-19)

d. The circumstances surrounding the crime that would help determine the risk of repetition; (4-11-19)

e. The relationship of the crime or discipline to the practice of shorthand reporting; (4-11-19)

f. The applicant's activities since the crime under review, such as employment, education, participation in treatment, payment of restitution, or any other factors which may be evidence of current

rehabilitation; and (4-11-19)

g. Any other information regarding rehabilitation or mitigating circumstances. (4-11-19)

02. Interview. The Board may, at its discretion, grant an interview of the applicant. (4-11-19)

03. Applicant Bears the Burden. The applicant shall bear the burden of establishing his current suitability for licensure. (4-11-19)

202. -- 299. (RESERVED)

300. EXAMINATIONS.

01. Examination Process. (4-6-05)

a. Late applicants shall not be admitted to the examination room. (1-1-97)

b. Picture identification shall be shown by all applicants before taking an examination. (4-6-05)

c. Examinees are forbidden to receive any unauthorized assistance during the examination. Communication between examinees or possession of unauthorized material or devices during the examination is strictly prohibited. (1-1-97)

d. Only scheduled examinees, Board members, and authorized personnel shall be admitted to the examination room. (4-9-09)

02. Scope of Examination. (7-1-93)

a. The complete examining procedure for certification as a certified shorthand reporter consists of two (2) sections. The first section is the written examination covering subjects as are ordinarily given in a school of court reporting and which are common to all fields of practice. The second section is the skills portion which shall consist of the following segments and speeds. (4-11-15)

i. Question and Answer -- Five (5) minutes at two hundred twenty-five (225) words per minute. (4-11-15)

ii. Jury Charge -- Five (5) minutes at two hundred (200) words per minute. (4-11-15)

iii. Literary -- Five (5) minutes at one hundred eighty (180) words per minute. (4-11-15)

iv. Density of Exam -- The syllabic content of the dictated exam shall be one point four (1.4). (7-1-93)

b. The examination is the same for all applicants. (7-1-93)

c. The examining committee, which shall consist of three Board members, shall inform applicants of the approximate time allowed for typing the skills portion of the examination. ( )

d. The written examination and the three (3) skills segments can be passed individually for the Idaho examination. (4-11-15)

03. Grading. (7-1-93)

a. Each applicant must attain a grade of seventy-five percent (75%) or above to pass the written examination and ninety-five percent (95%) or above in each segment to pass the skills portion. (4-11-15)

b. Every applicant receiving a grade of less than seventy-five percent (75%) in the written examination shall be deemed to have failed such examination and shall have the application denied without prejudice. (1-1-97)

c. Every applicant receiving a grade of less than ninety-five percent (95%) in each of the skills segments of the examination shall be deemed to have failed such examination and shall have the application denied without prejudice. (4-11-15)

d. An applicant failing either the written section, or the skills portion, and having filed a new application for examination, shall be required to take and pass within a two-year period only the section for which a failing grade was received. (1-1-97)

04. Inspection of Examination. (7-1-93)

a. An applicant who fails to obtain a passing grade in the skills portion may inspect his/her examination papers at such times and locations as may be designated by the Board. Inspection of such examination papers shall be permitted within a thirty (30) day period after receipt of notice by the applicant of his/her failure to pass the examination. (1-1-97)

b. At the time of inspection no one other than the examinee or his/her attorney and a representative of the Board shall have access to such examination papers. (1-1-97)

05. Inspection Review. (7-1-93)

a. Within thirty (30) days after the date notice of the results of the examination has been mailed to him/her, an applicant who was unsuccessful in the examination may petition the Board for a review of his/her examination papers. (1-1-97)

b. The petition for review shall be made in writing stating the reason for such review and citing the item or items against which the request is directed. (7-1-93)

c. The Board shall, upon receiving such petition for review, conduct a hearing at the next scheduled Board meeting. (1-1-97)

06. Retention of Examinations. The Board shall retain for at least six (6) months, all examination papers and notes submitted by applicants. (1-1-97)

301. -- 399. (RESERVED)

400. TEMPORARY PERMIT.

01. Eligibility. (7-1-93)

a. Any one (1) or more of the following shall be considered as minimum evidence that the applicant is qualified to hold a temporary permit: (4-11-15)

i. Hold a Certificate of Merit Reporter (RMR) issued by the National Court Reporters Association (NCRA); (3-14-11)

ii. Hold a Certificate of Registered Professional Reporter (RPR) issued by the National Court Reporters Association (NCRA); (3-14-11)

iii. Hold a Certified Shorthand Reporter certificate, or its equivalent, in good standing from another state; (4-11-15)

iv. Hold a diploma or certificate of completion of all requirements to graduate from a National Court Reporter Association (NCRA) approved school; (7-1-93)

v. Has otherwise demonstrated his/her proficiency by a certificate from an agency from another state. (1-1-97)

b. The applicant *must have a high school diploma or equivalent.* *( )*

02. Permit. All temporary permits shall be issued for a period of one (1) year and may be renewable for a single additional year if, before the permit expires, the permit holder: (4-11-15)

a. Submits a written renewal request to the Board; (3-14-11)

b. Establishes that they have passed at least one (1) skills segment of the Idaho Certified Shorthand Reporter Examination, the Registered Professional Reporter Examination (RPR), or the Registered Merit Reporter Examination (RMR); and (4-11-15)

c. Pays the required fees as set forth in this Chapter. (3-14-11)

401. -- 499. (RESERVED)

500. DISCIPLINARY PENALTY.
Costs and fees. The Board may order anyone licensed under Title 54, Chapter 31, Idaho Code, who is found by the Board to be in violation of the provisions of Title 54, Chapter 31, Idaho Code, to pay the costs and fees incurred by the Board in the investigation or prosecution of the licensee. (4-9-09)

501. -- 999. (RESERVED)

IDAPA 25 – IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

DOCKET NO. 25-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected. ***It is intended that the date specified in the concurrent resolution for Section 015 will be July 1, 2020, to coincide with a proposed legislative change.***

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 36-2107 and 36-2108, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 25, rules of the Idaho Outfitters and Guides Licensing Board:

IDAPA 25
- 25.01.01, *Rules of the Idaho Outfitters and Guides Licensing Board*

The rulemaking was prompted by the expiration of the rules. The Board considered the Licensing Freedom Act of 2017 (Executive Order 2017-06) and Red Tape Reduction Act (Executive Order 2019-02), and the continued efforts to clarify, modernize, and streamline its rules. Technical amendments are also intended to make the Board's rules consistent with recent statutory changes and existing law, simplify existing language, remove redundant language, eliminate obsolete, outdated, and unnecessary rules, and reduce or eliminate unnecessary restrictions. In addition, the Board has made the following changes to the pending rules:

- Eliminating the reference requirements for an outfitter applicant who has not been licensed in 5 years because other application requirements are sufficient to ensure minimum competency and protect the public and public opportunities.
- Reducing the waiting period for an applicant to retake the examination from 15 days to 5 days, which will reduce a barrier to licensure but ensure the applicant has sufficient knowledge.
- Eliminating the limitation on the number of times an applicant can take the examination as recommended by the Board in its Licensing Freedom Act Report to eliminate a barrier to licensure.
- Eliminating the partial application fee to be placed on a waiting list to be notified of an opportunity for licensure for a unit, river section, lake, or reservoir to streamline processes; this will reduce a barrier for interested applicants and administrative processing for the Board.
- Eliminating the requirement that a guide applicant is clean and well mannered with a desire to please, which is unnecessary and has not been enforced by the Board.
- Eliminating advertising and booking restrictions on a guide related to wolf hunts and incidental trapping.
- Addition of the BO1A and BO1B river sections to ensure the rule reflects current usage.
- Consolidating the MF1 and MF2 river sections, which will reduce a burden in use reporting for outfitters licensed on those sections.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4944 - 4984**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules and its current statute. This fee or charge is being imposed pursuant to Section 36-2108, Idaho Code as follows:

- Outfitters – application fee: $400; annual license fee online: $400; annual license fee offline: $450; late penalty: $150; major amendment: $200; and minor amendment: $35.
- Designated Agents – application fee: $50; annual license fee online: $140; annual license fee offline: $160; major amendment: $20; and minor amendment: $20.
- Guides – application fee: $20; annual license fee online: $105; annual license fee offline: $115; major amendment: $20; and minor amendment: $20.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking. Additionally, the Board is not a general fund agency, and these rule changes have no fiscal impact on the state general fund.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Lori Thomason at (208) 327-7380.

Dated this 16th of October, 2019.

Lori Thomason
Executive Director
Outfitters and Guides Licensing Board
1365 North Orchard Street #172
Boise, Idaho 83706
Phone: (208) 327-7380
Fax: (208) 327-7382

IDAPA 25 – IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

25.01.01 – RULES OF THE IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

000. LEGAL AUTHORITY.
*These r*ules have been promulgated in accordance with the Idaho Administrative Procedures Act and pursuant to authority granted in the Outfitters and Guides Act. *( )*

001. TITLE AND SCOPE.
These rules are titled IDAPA 25.01.01, "Rules of the Outfitters and Guides Licensing Board." The purpose is to implement, administer, and enforce the Act to establish uniform standards for licensing outfitted and guided activities to protect *the public and protect,* enhance, and facilitate management of Idaho's fish, wildlife, and recreational resources. *( )*

002. DEFINITIONS.
The Act defines certain terminology applicable to its interpretation and administration (Section 36-2102, Idaho Code). Further definitions, for the purposes of *enforcement of the Act and* these Rules are: *( )*

01. Act. Title 36, Chapter 21, Idaho Code, commonly known as the Outfitters and Guides Act, as amended. (4-1-92)

02. **Allocated Tag**. A *hunting* tag that has been allocated by the *IFGC pursuant to section 36-408(4), Idaho Code*. *( )*

03. **Authorized Person**. An investigator or enforcement agent in the employ of the Board, a conservation officer of the *IFGC*, or any local, state, or federal law enforcement officer. *( )*

04. **Booking Agent**. Any individual, firm, business, partnership, or corporation that makes arrangements for the use of the services of a licensed outfitter and receives compensation therefore. A booking agent does not supply personnel or facilities and services to outfitter clientele. (4-1-92)

05. **Capped Zone**. A game management area, unit or zone for which the Idaho Fish and Game Commission has limited or "capped" the number of deer or elk tags available for use in a general season hunt. *( )*

***06. Classified River**. For the purpose of these rules, specific sections of some whitewater river or streams which are considered more hazardous than others have been designated "classified." Classified rivers are denoted by an asterisk (*) in the list of rivers contained in Subsection 059.01.* *( )*

07. Compensation *or Consideration*. The receipt or taking of goods, services, or cash in exchange for outfitted or guided activities. A bona fide charging of out-of-pocket travel expenses by members of a recreational party is not deemed compensation. However, such out-of-pocket expenses may not include depreciation, amortization, wages, or other recompense. (4-1-92)

08. **Controlled Hunt**. A hunt for a species that has a season structure and other conditions determined by the *IFGC* and that has a limited number of tags that are distributed by random drawing to hunters. *( )*

09. **Desert**. A region of scarce rainfall and vegetation in areas often having great differences between day, night and seasonal temperatures. A desert is a land surface ranging from level, plateau land, or undulating to sharply breaking hill-lands and sand dunes that, in addition, may be broken by poor to well-defined, deeply entrenched drainage systems, rims, cliffs, and escarpments. (4-1-92)

10. **Designated Agent**. *A licensed* individual who is employed as an agent by any person, firm, partnership, corporation, or other organization or combination thereof that is licensed as an outfitter and who, together with the licensed outfitter, *is* responsible and accountable for the conduct of the licensed outfitter's operations. *( )*

11. **Enforcement Agent**. An individual employed by the Board having the power of peace officers to enforce the provisions of the Act and *these* Rules. *( )*

12. **Facilities and Services**. The provision of personnel, lodging (tent, home, lodge, or hotel/motel), transportation (other than by commercial carrier), guiding, preparation and serving of food and equipment, or any other accommodation for the benefit of clientele in the conduct of outdoor recreational activities as designed in Section 36-2102(b), Idaho Code. (4-1-92)

13. **First Aid Card**. A valid card or other evidence demonstrating that the individual has successfully completed an applicable American Red Cross course or equivalent course that is acceptable to the Board. *( )*

14. **Fishing**. Fishing activities on those waters and for those species described in the rules of the *IFGC*, IDAPA 13.01.11, "Rules Governing Fish," general fishing seasons and any anadromous fishing rules; for purposes of the Act, fishing is defined as follows: *( )*

a. Anadromous fishing means fishing for salmon or steelhead trout. (4-1-92)

b. Float boat fishing means the use of floatboats without motors for the conduct of fishing as a major activity on those waters open to commercial activities as set forth in Section 059. (4-1-92)

c. Fly fishing means a licensed activity restricted to the use of fly fishing equipment and procedures, as defined by *IFGC* rules. *( )*

d. Incidental fishing means fishing conducted as a minor activity. (4-1-92)

e. Power boat fishing means the use of power boats in conduct of fishing as a major activity on those Idaho waters open to commercial outfitting activities as set forth in Section 059. (4-1-92)

f. Walk and wade fishing means fishing conducted along or in a river, stream, lake or reservoir, and may include the use of personalized flotation equipment, but does not include the use of watercraft. (4-1-92)

15. **Float Boats**. Watercraft (inflatable watercraft, dories, drift boats, canoes, catarafts, kayaks, sport yaks, or other small watercraft) propelled by, and moving with the stream flow, maneuvered by oars, paddles, sweeps, pike poles or by motors for downstream steerage only. Downstream steerage does not include holding or upstream travel of a watercraft with a motor. Excluded as float boats are personal flotation devices, innertubes, air mattresses, or similar devices. (4-1-92)

16. **Hazardous Excursions**. Outfitted or guided activities conducted outside municipal limits in a desert or mountainous environment that may constitute a potential danger to the health, safety, or welfare of participants involved. These activities include, but are not limited to: day or overnight trailrides, backpacking, technical mountaineering/rock climbing, cross-country skiing, backcountry alpine skiing, llama and goat packing, snowmobiling, survival courses, guiding courses, rescue courses, fishing courses, motored and non-motored cycling, wagon rides, sleigh rides, and dog sled rides. (3-29-10)

17. **Hunting**. The pursuit of any game animal or bird and all related activities including packing of client camp equipment, supplies, game meat and clients to and from a hunting camp. (3-30-01)

18. ***IFGC****. The Idaho Department of Fish and Game or the Idaho Fish and Game Commission.* *( )*

19. **Minor Amendment**. All outfitter license amendment requests that can be processed by the Board without requiring outside research or recommendation of a land managing agency or other agency before the Board takes final action on said amendment request. (4-11-06)

20. **Major Activity**. A licensed activity, the nature of which requires a significant commitment of time and effort by an outfitter in its execution and is intended to provide a significant amount of income to an outfitter. (4-1-92)

21. **Major Amendment**. All outfitter license amendment requests requiring Board research or recommendation of a land management agency or other agency before the Board takes final action on the amendment request. (4-1-92)

22. **Minor *or Incidental* Activity**. A licensed activity the nature of which *is* carried out in conjunction with a major activity, but is not the primary purpose of the excursion. *( )*

23. **Mountainous**. A region receiving limited to abundant annual precipitation with an associated vegetative cover of grass, weeds, shrubs, or trees. Cool summer temperatures and cold winter temperatures prevail. A mountainous area is a land surface ranging from level to gently rolling low hills to elevated lands that are often broken with poor to well-developed, deeply entrenched drainage systems, rims, cliffs, and escarpments to steepsided land masses of impressive size and height. (4-1-92)

24. **New Opportunity**. A proposed commercial outfitted activity to be conducted in an area where no similar commercial outfitted activity has been conducted in the past. (4-1-92)

25. **Operating Area**. The area assigned by the Board to an outfitter for the conduct of outfitting activities. (4-1-92)

26. **Operating Plan**. A detailed schedule or plan of operation which an outfitter proposes to follow in the utilization of licensed privileges, areas, or activities. (See Subsection 018.03). (4-1-92)

27. **Outfitted Tag Use**. The following definitions of outfitted tag use apply for purposes of the designation of allocated tags in capped zones and controlled hunts as set forth in Section 057 of these rules. Outfitted tag use for a capped zone is the number of tags used by clients of an outfitter for the species for the type of allocated tags being designated. Outfitted tag use for a controlled hunt zone, unit, or game management area is the number tags used by clients of an outfitter in the hunt that has a species, season structure, and other conditions most closely matching the controlled hunt for which allocated tags are being designated. Until such time as the *IDFG* is able to collect and verify outfitted tag use as provided in Section 36-408(4) Idaho Code, outfitted tag use shall be based on an outfitter's use reports, or the best data available, and subject to verification by documentation or other reliable information acceptable to the Board. *( )*

28. **Out-of-Pocket Costs**. The direct costs attributable to a recreational activity. Such direct costs do not include: (4-1-92)

a. Compensation for either sponsors or participants; (4-1-92)

b. Amortization or depreciation of debt or equipment; or (4-1-92)

c. Costs of non-expendable supplies. (4-1-92)

29. **Power Boats**. All motorized watercraft used on Idaho waters open to commercial outfitting activities. Excluded as power boats are hovercraft, jetskis or similar devices, and float boats using motors for downstream steerage. *( )*

30. **Relinquish**. The failure to re-apply at the expiration of a license; the loss through nonuse, inactivity, revocation, or voluntary surrender of a license; or other loss of license. (3-23-98)

31. **Third Party Agreement**. The allowing of the conduct of an outfitted or guided activity by the outfitter licensed to conduct those activities by any persons not directly employed by said outfitter. (See Section 023). (4-1-92)

32. **Trainee**. A person not less than sixteen (16) years of age *pursuing* the necessary experience or skill qualifications *for a guide license*. A trainee may not provide any direct guiding services for clients, but may assist while under direct supervision. *( )*

*33. **Training Log**. A form approved by the Board and completed in detail and attested to by the outfitter documenting the training completed by a person pursuing training or licensure as a guide pursuant to these rules. The log is maintained and made available for inspection by the Board or its agent by the outfitter during the time the guide is employed by the outfitter and for one (1) complete license year following the termination of employment of the guide, and for three (3) years from the date of an accident or incident jeopardizing the health, safety or welfare of a client, in which the trainee or guide is involved.* *( )*

34. **Unethical/Unprofessional Conduct**. Any activity(ies) by an outfitter or guide which is inappropriate to the conduct of the outfitting or guiding profession. These activities include, but are not limited to: (3-30-01)

a. Providing false, fraudulent or misleading information to the Board *or another governmental entity regulating outfitting activities including the use or verification of allocated tags*; *( )*

b. *Violation of* an order of the Board; *( )*

c. Failure to provide services as advertised or contracted; (3-30-01)

d. Harassment of the public in their use of Idaho's outdoor recreational opportunities; (3-30-01)

e. Violation of state or federal fish and game laws or rules *or to condone or willfully allow a client's violation of those laws and rules;* *( )*

f. *For a licensed boating outfitter or guide, violation of the Idaho Safe Boating Act (Title 67, Chapter 70, Idaho Code) and IDAPA 26.01.30 "Idaho Safe Boating Rules";* *( )*

g. Engaging in unlicensed activities or conducting outfitter/guide services outside the operating area for which the licensee is licensed; (3-30-01)

h. Disregard for the conservation, maintenance or enhancement of fish, game, land and water resources; (3-30-01)

i. *Killing a client's game or catching a client's fish.* *( )*

j. Failure to pay a supplier of goods or services to the outfitter business; (3-15-02)

k. Failure to pay state taxes; *( )*

l. Operating in a manner which endangers the health, safety, or welfare of the public. (3-30-01)

m. Selling lifetime excursions, lifetime hunts, or selling of outfitted activities to an individual for the life of that individual and collecting fees accordingly. (4-11-06)

n. *Operating under a name that is not associated with the license issued by the Board; or* *( )*

o. *Interference with private landowners, public land management agencies, and/or stockmen and their rights and privileges.* *( )*

35. **Watercraft**. A boat or vessel propelled mechanically or manually, capable of operating on inland water surfaces. Excluded as watercraft are hovercraft, jetskis, personal flotation devices (PFD's), or similar devices. (4-1-92)

003. -- 004. (RESERVED)

005. LICENSE PRODUCTION.
A license *or proof of licensure* must be in possession of the licensee while engaged in outfitting or guiding and be produced upon the request of an authorized person. *( )*

006. FIRST AID KIT.
A first aid kit must be present and available on every outfitted excursion. (5-1-95)

007. LICENSE RESTRICTIONS.

01. **Qualified**. All outfitters must be qualified to guide or employ a licensed guide*(s)* qualified for the activity(ies) for which the outfitter is licensed. *( )*

02. **Review**. An outfitter's qualifications to guide will be reviewed by the Board and, if approved, *a guide license* will be issued at no additional fee. *( )*

03. **Qualifications**. The qualification(s) of an outfitter or guide licensee are determined in accordance with *the Act* and *these* rules. *( )*

04. **Limitation**. A limitation in number of clientele served, operating area, or any other criteria affecting the safety, health, and welfare, of the public or viability of the fish, and wildlife, or other natural resources will be imposed in licensing where such limitation is deemed necessary by the Board in accordance with *the Act* and these rules. *( )*

***05. Temporary Employment**. An outfitter may employ a licensed guide who is not currently licensed under the outfitter's license in the case of temporary employment, or short term "loan" or transfer (less than fifteen (15) days duration and not on a routine basis) of a guide between outfitters, or termination of employment of a guide upon completion of the seasonal activity for which the guide was employed. The employing outfitter or authorized agent must keep written documentation of the loan or transfer and dates and times. Repeated transfers or loans of guides require a license amendment.* *( )*

008. EMPLOYMENT OF OUTFITTERS.
An outfitter may guide for another outfitter or rent or lease equipment or services as follows: (10-15-88)

01. Other Outfitter. An outfitter may guide for another outfitter when properly employed by that outfitter *and approved by the Board*. *( )*

02. Other. If an outfitter is employed to guide activities not covered by his own guide license, *the outfitter* must *apply* to the Board for *a license amendment and submit* the *employing outfitter* certification prescribed in Subsection 034.02. *( )*

03. No Sharing of Profits. While an outfitter is employed as a guide by another outfitter, *the outfitters may not share* of profits or equipment and/or animals other than leased equipment and/or leased animals. An outfitter when employed as a guide may only render personal services as would any other guide. *( )*

04. Agreement. When an outfitter utilizes equipment from another outfitter or a guide in the provision of facilities, services and transportation to clientele, a written notice of usage must be filed with the Board including a current certificate or proof of non-owner liability insurance. (3-10-03)

009. (RESERVED)

010. COMPLIANCE WITH LAWS.
All licensees must comply with all local, state, and federal laws, *and* they must report all violations to a law enforcement officer. In instances where violations of local, state, or federal laws have occurred, such violations will be handled in accordance with the following discretionary criteria: *( )*

01. Violations. An applicant who has never held an outfitter or a guide license and who has been convicted of a violation of local, state, or federal law may be required to appear before the Board. Each such conviction will be appraised and a decision to approve or deny the application will be based upon the nature and the circumstances of the violation. (3-1-86)

02. Examination by Board. When a license holder is convicted of a violation of local, state, or federal law, the Board will examine the nature of the violation and the circumstances in determining whether or not a hearing will be held for the purpose of restricting, suspending or revoking the outfitter or guide license or imposing an administrative fine for any violation. Any such violator may be required to appear before the Board before a license will be issued for the following year. (3-1-86)

011. (RESERVED)

012. OUTFITTER RESPONSIBILITIES.
An outfitter is responsible for: (9-1-90)

01. Camps. Maintaining *safe* and sanitary camps at all times. *( )*

02. General. Providing clean, fresh drinking water, protecting all food from contamination, and disposing of all garbage, debris, and human waste in the manner prescribed by regulations concerning use of private and public lands. (9-1-90)

03. Livestock Facilities. Ensuring that livestock facilities are kept separate from camp facilities, and that streams are protected from contamination. (9-1-90)

04. *Emergency Provisions*. *Ensuring that all cross-country and backcountry alpine skiing and technical mountaineering/rock climbing tours have the necessary emergency provisions with them.* *( )*

05. **Actions**. The actions of all guides, and other persons, while in the scope of their employment. (9-1-90)

013. -- 014. (RESERVED)

015. ANNUAL DATE, FEES, AND PAYMENT.

01. *Due* Date. All outfitter and designated agent license applications must be completed and received by the Board by January 31 of each year. *( )*

02. Penalty Fee. When a completed renewal application is filed with the Board after the last day of the license year, a penalty fee must be paid before the license is issued. *( )*

03. License Lapsed and Relinquished. *All licenses expire on March 31, and when a* completed outfitter application *has not been* received by the Board after ninety (90) days after the last day of the license year *the license is deemed relinquished, and a renewal application* will not be accepted for licensure. *( )*

04. **Payment**. (4-11-06)

a. Prior to the issuance of a license, an applicant must submit the appropriate fee. *( )*

b. The applicant must pay an annual license fee for each license issued, *except for an outfitter licensed as a guide for the outfitter's operation*. *( )*

05. Fees.

Type	*Application*	*Annual License - Online*	*Annual License - Offline*	*Late Penalty*	*Amendment - Major*	*Amendment - Minor*
Outfitter	*$400*	*$400*	*$450*	*$150*	*$200*	*$35*
Designated Agent	*$50*	*$140*	*$160*	*n/a*	*$20*	*$20*
Guide	*$20*	*$105*	*$115*	*n/a*	*$20*	*$20*

( )

016. -- 017. (RESERVED)

018. NEW OUTFITTER OR OUTFITTER LICENSE AMENDMENT APPLICATION.
A complete *application for* a new outfitter license, outfitter license *major* amendment, or new landowner statement in existing areas must, in addition to all other requirements *include*: *( )*

01. Name*. The name(s) registered with the Idaho Secretary of State as an assumed business name, the name of the business entity, or both.* *( )*

02. Other Signatures. *Signed landowner or land manager statement from*: *( )*

a. The affected state and federal land managers in all areas where an outfitter plans to utilize lands administered by the state or federal government (this may involve memorandum of understanding procedures as applicable to proposed operation on national forest or public domain lands); and, (9-1-90)

b. Private land owners, or their agents, where an outfitter applicant proposes to use such private lands in his operation. (9-1-90)

03. Operating Plan. *A*n operating plan *that* include*s*, among other things, the following: *( )*

a. A list of the activities to be conducted in the operating area(s) requested. (9-1-90)

b. A detailed map showing the operating area(s) requested for each activity and a worded description of the boundaries of said operating area(s), described in terms of rivers, creeks, and ridges with prominent reference coordinates (section, township, and range). (9-1-90)

c. An outfitter whose operation is solely on rivers, streams, lakes or reservoirs should specify put-in and take-out points but need not send maps. (9-1-90)

d. A detailed description of how and when each operating area(s) will be used for each activity. (9-1-90)

e. The proposed number of guests intended to be accommodated for each activity within the proposed operating area(s). (9-1-90)

f. A list of the names and locations of camps that will be used for each activity, and whether on public or private land. (9-1-90)

g. A list of the basic equipment, facilities, and livestock, and proof of financial capability necessary to conduct the proposed outfitted activity or business. (9-1-90)

h. The number, title (guide, lead guide, etc.), and principal activities of individuals to be employed in the business operation. (9-1-90)

i. A plan to assure the safety and provide for emergency medical care of guests. (9-1-90)

***04. Insurance**. Current certificate or proof of insurance for the following: ( )*

***a.** Insurance coverage against loss resulting from liability imposed by law for bodily injury or death or damage to property suffered by any person, excluding employees, caused by the outfitter's operation, in the minimum amount of one hundred thousand ($100,000) per accident, with the aggregate of three hundred thousand ($300,000), because of bodily injury or death occurring in an accident. ( )*

***b.** Insurance coverage on vehicles carrying passengers against loss resulting from liability for bodily injury or death or property damage suffered by any person caused by the outfitter's operation, in the amount of three hundred thousand ($300,000) for vehicles carrying one (1) to fifteen (15) passengers, and in the minimum amount of five hundred thousand ($500,000) for vehicles carrying sixteen (16) or more passengers. ( )*

***05. Designated Agent**. When the applicant is a corporation, firm, partnership, or other organization or combination thereof, the designation at least one (1) designated agent who is a qualified outfitter, covered by the outfitter's bond, and who will be responsible for the outfitting business. The designated agent must apply for and be granted a license. ( )*

06. **Hearing**. If more than one (1) applicant submits a complete application with landowner statement(s), a hearing will be held to decide the successful applicant. (3-15-02)

07. **Existing Operating Area**. A licensed outfitter may be given priority for any opportunities within the outfitter's existing operating area boundaries. (3-15-02)

019. (RESERVED)

020. EXAMINATION.
All new applicants applying for an outfitter or designated agent license *must successfully pass* a written and/or oral examination on the Act, the rules, and general outfitting procedures. *An* applicant *who* fails the test may retake it after a *five* (*5*) day waiting period. *( )*

021. EVALUATION OF THE OUTFITTER APPLICATION.
In evaluating an outfitter application the Board will consider, but not be limited to, the following criteria: *( )*

***01. Qualifications**. Applicant's qualifications under the Act and these rules.* ( )

02. Need for Services. The public need for the proposed service(s) in the area requested on the application. (3-1-86)

03. Other. The extent of the applicant's experience, knowledge, and ability in the area and in the conduct of activities requested. (3-1-86)

04. **Previous Record**. The applicant's previous record. (3-1-86)

05. **Accessibility of Area**. The accessibility and use by the general public *and* commercial use already licensed in the area. *( )*

06. **Area Requested**. The probable impact on the area should additional licenses be issued. *( )*

07. **Operating Plan**. The adequacy and acceptability of the proposed operating plan. (3-1-86)

a. The applicant's knowledge of financial and business management needs and practices. (3-1-86)

b. The applicant's ability to manage and direct personnel and guests. (3-1-86)

022. ISSUANCE OF AN OUTFITTER LICENSE.
In order to safeguard the health, safety, and welfare of the public and for the conservation of wildlife resources, the Board may place a limit on the number of outfitter licenses issued within an operating area. *( )*

023. THIRD PARTY AGREEMENTS.
An outfitter may not sublet or enter into any third party agreements involving the use of his activity(ies), operating area(s), or license. (10-15-88)

01. Employed. No outfitter may allow any person to conduct any of the activities for which he is licensed unless said person is employed directly by the outfitter as a guide. *( )*

02. **Other Activities**. Any arrangement wherein an outfitter licensed to conduct outfitted activity(ies) in an operating area(s) knowingly allows, condones, or otherwise abets and supports the conduct of outfitting activity(ies) by another, wherein said outfitter does not assume full and complete responsibility for all clients booked for such activity(ies), constitutes an unlawful third party agreement. Complete responsibility includes providing liability insurance to cover the client, collection of fees paid for the activity(ies), payment of user fees and taxes, and making the client aware as to who is the responsible outfitter(s). Such unlawful activity(ies) is grounds for discipline as unethical and unprofessional conduct in addition to any other penalties which may be assessed for violations of these rules or the laws of the state of Idaho. (10-15-88)

03. **Booking Agent**. This Rule *does* not apply to the conduct of a booking agent *or* an agreement between two (2) or more outfitters in which the outfitters provide services to the same party or parties within their respective operating areas. *( )*

024. STANDARDS FOR NON-USE.

In order to carry out the intent of the Act to promote and encourage participation in the enjoyment and use of the state's natural resources and fish and game and ensure an outfitter adequately serves the public, the Board will monitor, prioritize, and fairly administer identified *remedies* based on, among other factors, interest or demand for the particular activity or area *and as set forth in this rule*. *( )*

01. Requirement. The Board may annually review the outfitter's use reports for the preceding three (3) years to determine whether any licensed activity or operating area fall within non-use. If the outfitter falls within non-use, a "notice of non-use" may be issued to the outfitter. (4-11-06)

02. Definitions. (4-11-06)

a. Non-use. When an outfitter is making zero (0) or negligible use of major licensed activities for any two (2) of the three (3) preceding years unless the lack of use is due to an act of nature or because of state or federal agency restrictions on hunting or fishing that limit the ability of the outfitter to seek and accommodate clients; (4-11-06)

b. Zero (0) use. No recorded use by an outfitter of their licensed area or activities; (4-11-06)

c. Negligible use. An unreasonable lack of use as determined by the Board for any one (1) or more of the particular activities in the assigned operating area. Typically, use may be determined by comparison of use levels for the same activity(s) in similar operating areas. Other factors in determining use are found in Subsection 024.04. (4-11-06)

03. Process. (4-11-06)

a. The notice *of non-use* will include the activity(s) and operating area(s) that appear to be in non-use and an explanation of how the determination was made. The outfitter will be given the opportunity to correct the use records by supplying staff with evidence of use, prior to a hearing being scheduled. If adequate proof of use is not provided, the matter will be scheduled for a hearing. *( )*

b. When the Board *determines* that any activity or operating area has had zero (0) use or negligible use, certain requirements may be imposed by the Board up to and including revocation of some or all of the outfitter's operating areas and activities. *( )*

04. Examples of Acceptable Use: (4-11-06)

a. Paying clients participating in activities occurring within a designated operating area; (4-11-06)

b. Donated trips; (4-11-06)

c. Outfitter initiated applications for controlled hunts in their licensed operating area; (4-11-06)

d. Outfitter initiated applications for trophy species; and (4-11-06)

e. Use in conformance with a current and accepted operating plan. (4-11-06)

05. Required Records. Outfitters may be required to submit client records that include the name, address, and date of activity of individual clients or groups for a period of three (3) consecutive years. (4-11-06)

06. Non-Use During a Sale. Board staff reviews all full or partial business sales for non-use. If it is determined a major activity or operating area has had zero (0) or negligible use, the Board may review the sale and the issuance of a license may be denied. In some instances the Board may approve the sale with notification to the buyer that use must be established within the following two (2) out of the next three (3) years or the area or activity may be removed from their license. (4-11-06)

07. Waiver of Compliance. The Board may waive compliance with the non-use standard upon a showing of good cause*, including* an act of nature, state or federal agency seasonal restrictions on hunting or fishing *or personal circumstances such as illness or injury* that limit the ability of the outfitter to seek and accommodate clients. *An outfitter must apply* for *a waiver* prior to the beginning of the license year or immediately upon the *event constituting good cause*. If a federal permit holder is requesting zero (0) or negligible use, the request for a waiver must be accompanied by a Land Manager's Statement. *( )*

025. OUTFITTER RENEWAL.
*All licenses expire on March 31 and e*very application for license renewal *for an outfitter and designated agent must be complete and submitted by January 31 of the license year and include a use report containing an activity, use, and harvest report on the actual use during the preceding year and other information about outfitting or guiding activities.* *( )*

026. OPERATING AREA ADJUSTMENTS.
An outfitter's operating area may be adjusted for reasons of wildlife harvest, where territorial conflict exists, or for the safety of persons utilizing the services of outfitters. (10-15-88)

01. Hearing. If the Board determines that a hearing is necessary prior to the adjustment of a licensee's operating area, such hearing will be conducted in accordance with the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and all affected parties will be afforded an opportunity to participate. (3-30-01)

02. Consideration. In determining whether to adjust an operating area for reasons of wildlife harvest, the Board or the hearing officer considers, among other things, the following: (10-15-88)

a. Any changes in wildlife harvest, including any increase or decrease in wildlife harvest attributable to the licensee's activity(ies). (10-15-88)

b. Any new limitation(s) imposed or recommendation(s) made regarding wildlife harvest in the operating area(s) by any governmental agency since the issuance of the license. (10-15-88)

c. Any environmental change(s) that have occurred in the operating area(s) that affect wildlife management. (10-15-88)

d. Any undesirable wildlife impact(s) that may be ameliorated by a territorial adjustment. (10-15-88)

e. Any new information discovered since the issuance of the license regarding wildlife management in the operating area(s). (10-15-88)

03. Consideration. In determining whether to adjust an operating area for reasons of territorial conflict, the Board or the hearing officer considers, among other things, the following: (10-15-88)

a. Any incident(s) of territorial conflict and how they might be ameliorated by a territorial adjustment. (10-15-88)

b. The extent of each licensee's legal use of the disputed area. (10-15-88)

c. Any public or client safety concerns that might be ameliorated by or might arise from the inclusion of the disputed area as part of a particular licensee's operation. (10-15-88)

d. Any environmental or operational factors that indicate which licensee will be able to make the best use of the disputed area in providing services to the public considering, among other things, each licensee's licensed activity(ies) and the relationship of that activity(ies) to the activity(ies) conducted in the disputed area, each licensee's total operating area, the financial stability of each licensee, and the accessibility of the disputed area from adjacent operating area(s). (10-15-88)

e. Any recommendation(s) submitted by any governmental agency that regulates or manages land or wildlife within the disputed area. (10-15-88)

04. Safety Adjustment. In determining whether to adjust an operating area for reasons of safety of persons using the services of an outfitter, the Board or hearing officer considers, among other things, the following: (10-15-88)

a. Any change(s) in the environmental condition(s) in the area that may pose a threat to the health and safety of persons using the operating area. (10-15-88)

b. Any change(s) in the manner or amount of public use of the operating area since the issuance of the license that may pose a threat to the health and safety of persons using the operating area. (10-15-88)

c. Any change(s) in a licensee's manner of operation within the operating area that may affect clientele safety considering, among other things, change(s) in the condition(s) of the licensee's capability or equipment. (10-15-88)

d. Any safety-related incident(s) that have occurred in the operating area. (10-15-88)

e. Any safety concern(s) expressed by any governmental agency that regulates or manages land or wildlife within the operating area. (10-15-88)

f. Any new information discovered since the issuance of the license regarding safety. (10-15-88)

027. OUTFITTER LICENSE PRIORITY.
Priority *for licensure* in *any outfitter's* operating area may be maintained by submitting a complete application for a license for the ensuing license period before the expiration date of the current license. *( )*

028. OUTFITTER BUSINESS PURCHASE, LICENSE CONSIDERATIONS.

***01. Sale of Outfitting Business**. The sale of an outfitting business requires an application for a new outfitter license by the purchaser, provided that the Board may give priority for licensure to an applicant who has negotiated a purchase agreement with a licensee if the applicant meets all other requirements. ( )*

***02*. Notification to Clients**. When an existing operation is acquired by another outfitter, all clients who have booked with the original outfitter must be promptly notified *and refunded any advanced payment, unless the* client *is* satisfied with the new arrangements. *( )*

029. OUTFITTER BOND *OR INSURANCE* CANCELLATION.
An outfitter or designated agent must immediately notify the Board *when* their bond *or insurance* is canceled. The cancellation of an outfitter license bond *or insurance* by the insurer *is grounds for emergency suspension of* the outfitter's license *under Section 67-5247, Idaho Code*. *( )*

030. OUTFITTER WAITING LISTS.
When there are more outfitter applications for an outfitter operating area than the maximum number of licenses allowing such activity, or when an individual wishes to be considered in an area to which another outfitter has historically been licensed, the Board will maintain a list of such individuals for notification of an available opening. If there is no waiting list for an area, the Board may proceed with the license application or may employ a competitive application process. (4-11-06)

01. Waiting List. The waiting list will be maintained for each individual river, lake and reservoir outlined in Section 059 and for each specific IDFG unit listed in IDAPA 13.01.08, "Rules Governing the Taking of Big Game Animals in the State of Idaho." (4-11-06)

02. Outfitter Application or Outfitter Amendment Form. A *complete* new outfitter application or outfitter amendment form must be submitted for each river section, lake and reservoir and for each specific IDFG unit *and all activities for which* the individual desires *licensure*. *( )*

***03*. Length of Time Name Is on Waiting List**. A name on the waiting list will be maintained for a period of five (5) years or until December 31 of the fifth year that the name is placed on the list, whichever comes first. (4-11-06)

04. **When Available Outfitting Opening Occurs**. When, or if, an available opening does occur and public announcement is made, the Board will use the waiting list for direct notification by mail of interested parties, and will select a qualified candidate from those who apply. Any person on the list who remains interested in obtaining a license following notification of availability must re-apply by submitting all necessary forms and fees during the open period as announced by the Board in order to have his application considered. (4-11-06)

***05*. When an Operating Area Is Relinquished by the Licensee**. If an existing operating area (hunting, boating, or other) is relinquished by the licensee, the Board *may* publicize the area's availability and accept written applications *for licensure* for a thirty (30) day period of time from the date of public notice. The Board will then consider the qualifications of all applicants and license the area to the candidate determined to be most qualified includ*ing the consideration of* criteria used to consider new *or amendment* outfitter applications. *( )*

***031.* -- 033. (RESERVED)**

034. GUIDE APPLICATION REQUIREMENTS - GENERAL.
To be complete, an application for a guide license must: (4-1-92)

01. First Aid Card. Be accompanied by an affidavit signed by the employing outfitter that the applicant will have a *current,* valid first aid card before they are employed as a guide. *( )*

02. Signatures. *Be attested to by* the applicant and *certified by* the licensed outfitter(s) who wishes to employ the applicant as a guide that the applicant: *( )*

a. Is qualified to perform the type of guiding activity(ies) for which the applicant seeks *licensure*. *( )*

b. Has extensive, first-hand knowledge of the operating area(s) and water(s) in or on which the applicant will be guiding. (4-11-06)

c. If the applicant is land based, is able to read and understand a map and compass or operate a global positioning system (GPS) or other computerized map system. (4-11-06)

d. *If the applicant is water based, is proficient in reading the water and handling the type of boat required to be used.* *( )*

e. *Provide directly from the outfitter a training log or documentation demonstrating satisfaction of* the training requirements pursuant to Sections 035 through 042*, 044, 046, 047 and 048* of *these* rule*s, as applicable for the activities sought to be licensed to guide*. *( )*

***03. Amendment**. A guide may apply for an amendment to add additional employing outfitters or additional activities by submitting complete application that includes certification from the outfitter that training requirements for the area and activity to be added have been met and proof of such training will be available at the Board's request.* *( )*

035. GUIDE APPLICATION REQUIREMENTS - HUNTING.
A guide applicant for big game hunting may be licensed either as an apprentice guide or as a guide. (3-1-86)

01. Apprentice Guide. *A new applicant* may be licensed as an apprentice guide *to pursue training necessary for licensure as a guide* by submitting a completed application form and fee. *( )*

02. Apprentice Guide. An apprentice guide may assist a hunting guide *in the scope of* training, but may not be *primarily responsible* for guiding a hunt. *( )*

03. Guide. *In addition to Section 034, a* new hunting guide applicant must have the following minimum training. *( )*

a. *B*een in the outfitter's operating area(s) for at least ten (10) days and *is* knowledgeable of trails, terrain, drainages, and game habits and habitat. *( )*

b. *B*e able to *care for meat and trophies, including the ability to* correctly cape an animal and *with adequate training* to be able to instruct and assist clients in the proper care of meat. *( )*

04. Upgraded. *A licensed* apprentice *guide* may *apply by amendment to* upgrade a guide *license* when the required training is completed *as* certified by the employing outfitter, and a copy of the completed training form is submitted to the Board. *( )*

036. (RESERVED)

037. BOATMAN LICENSE TRAINEES.
A trainee boatman may not obtain a guide license until training is complete and may not operate a boat except as prescribed in Section 040 *and provided that the boat trainee must be in a boat operated by a licensed boatman, or one in which the operation is closely monitored by a licensed boatman. The licensed boatman need not be in the same boat during training as long as the trainee's activity is closely monitored*. *( )*

038. FLOAT BOAT GUIDE -- UNCLASSIFIED RIVERS.
An applicant *for a float boat guide on unclassified rivers and streams* must have one (1) complete commercial float boat trip on each of the rivers applied for, (complete trip means the total section of river designated by the Board in Subsection 059.01), under the supervision of a float boat guide licensed for each of those rivers. *( )*

039. FLOAT BOAT GUIDE -- CLASSIFIED RIVERS.
A float boat guide on a classified river must be licensed as a float boatman or a float lead boatman according to his experience on that specific river. Each trip on a classified river must have a lead boat operated by a guide licensed as a lead boatman for that specific river and all other boats participating in that trip must follow the lead boat and must be operated by a guide licensed as a boatman or a lead boatman for that specific river. (Note exception for trainees in Section 040). (3-1-86)

040. FLOAT BOATMAN QUALIFICATIONS -- CLASSIFIED RIVERS.
An applicant for a float boatman license on classified rivers may qualify in one (1) of three (3) ways: (4-1-92)

01. General. Three (3) complete float boat trips on each of the classified rivers applied for under the direct supervision of a float boatman licensed for that river (complete trip means the total section of river designated by the Board in Subsection 059.01), or he must have had one (1) or more complete float boat trips on each of the classified rivers applied for under the direct supervision of a float boatman licensed for that river with the remaining trip(s) in a boat with no more than one (1) other trainee, following a licensed float boatman for that river, but he must not have passengers in the boat. (4-1-92)

a. Allowances may be made for experience gained as a commercial boat operator on selected whitewater rivers with characteristics similar to Idaho's classified rivers; e.g. Colorado River (Grand Canyon or Cataract Canyon), Yampa River, Rogue River, American and Toulumne Rivers, other Idaho classified rivers, or the unclassified section of the Salmon River from North Fork to Corn Creek, provided the applicant has logged at least five hundred (500) miles as a commercial float boat operator on one (1) or more of those rivers. (4-1-92)

b. To document this experience, a statement signed by the applicant under oath or affirmation and notarized must be recorded on a form provided by the Board office *that* include*s* precise put-in and take-out points, miles logged for each trip, and the names and addresses of the boat operators who have employed them. *( )*

02. Other. Logged at least five hundred (500) miles as a commercial float boat guide on any rivers applicable to Subsection 040.01.a., and must have one (1) complete float boat trip on each river applied for under the direct supervision of a float boatman licensed for that river, or in a boat with no more than one (1) other trainee, following a float boatman licensed for that river, but there must not be any passengers in the boat. (Complete trip means the total section of river designated by the Board in Subsection 059.01). *( )*

03. Float Lead Boatman. Or, *hold a license* as a float lead boatman on a classified Idaho river *and*

complete one (1) complete float boat trip on each *other classified* river applied for, under the direct supervision of a float boatman licensed for that river, or in a boat with no more than one (1) other trainee, following a float boatman licensed for that river, but he must not have passengers in the boat. (Complete trip means the total section of river designated by the Board in Subsection 059.01.) *( )*

041. FLOAT LEAD BOATMAN QUALIFICATIONS.
An applicant for a float lead boatman license must have six (6) complete float boat trips except that upon Board approval, a licensee may train on and be licensed for a specific reach of a section only. (Complete trip means the total section or reach of a section of river designated by the Board in Subsection 059.01). One (1) trip must have been within the sixty (60) months preceding the date of the application on each of the classified rivers applied for. *( )*

042. POWER BOAT GUIDE.
To qualify for a power boat guide license on *the following waters, an applicant must have spent the following power boating hours that are distributed as evenly as possible along the total length or section of river or area of the lake or reservoir and under the direct supervision of a power boat guide licensed for the body of water for which qualification is sought*: *( )*

01. Classified Rivers. *F*ifty (50) hours on the total length of the river or section of river designated on the application by the Board for which he wishes to operate, *except that an applicant may have spent twenty-five (25) hours on each section for* the Salmon River from the mouth of the Middle Fork to Salmon Falls, Salmon Falls to Ludwig Rapids, and Ludwig Rapids to Vinegar Creek or Spring Bar. *( )*

02. Unclassified Rivers and Streams. *A*t least ten (10) hours on the total length of the river or section of river designated by the Board on the application for which he wishes to operate. *( )*

03. Lakes and Reservoirs. *T*en (10) hours on the lake or reservoir on which he wishes to operate. *( )*

04. Log. *The outfitter must maintain a* log of this experience recorded on a form provided by the Board, showing the dates, river, lake or reservoir, location of put-in, destination, take-out, hours logged, and signature of outfitter. *( )*

043. (RESERVED)

044. SKIING, NON-HAZARDOUS AND HAZARDOUS TERRAIN OUTFITTER, DESIGNATED AGENT, SKI GUIDE AND SKI GUIDE TRAINEE.

01. Applications. (4-11-06)

a. An outfitter, designated agent or guide must submit an outfitter or a guide application with current outfitter operating plan, if required, ski resume, *and* avalanche training certificates. *( )*

b. The Technical Advisory Committee (TAC) *will evaluate and advise the Board on the scope and appropriate designations for licensure of any application for outfitting or guiding principally in non-hazardous and hazardous terrain skiing*. The TAC is a five (5) member body of qualified backcountry ski outfitters and ski guides appointed by the Executive Director and confirmed by the Board. *( )*

02. Designations and Qualifications for Outfitters, Designated Agents, Guides and Trainees. The designations and qualifications are as follows: (4-11-06)

a. Level I ski guide (non-hazardous terrain*, principally sub-alpine or skiing operations in forests*). Is qualified to lead ski tours in the outfitter's operating area. One (1) year training as a ski guide assistant in a non-hazardous backcountry setting. Level I Ski Guides may work in hazardous terrain as a Level II Ski Guide Trainee under the supervision of a Level II Ski Guide. Level I Ski Guides are required to have: (4-11-06)

i. Level I field-based avalanche training consisting of a twenty-four (24) hour curriculum submitted and an instructor roster; (4-11-06)

ii. Knowledge of Outfitters Scope of Operation including logistics, services, terrain; and (4-11-06)

b. Level II ski guide (hazardous terrain *with a high degree of avalanche exposure*). Has in-depth ski guiding experience on hazardous terrain and has the following qualifications: *( )*

i. Two (2) winter seasons training with licensed Level II Ski Outfitter or Guide or equivalent work experience with another Level II ski operation which conduct services principally in hazardous or avalanche terrain; (4-11-06)

ii. Advanced First Aid, WFR, or EMT of a minimum of forty-eight (48) hours; (4-11-06)

iii. Level 1 and Level II field-based avalanche training consisting of at least forty-eight (48) hours curriculum with a submitted instructor roster; (4-11-06)

iv. Knowledge of the Outfitters Scope of Operation including logistics, services, terrain; and (4-11-06)

03. Outfitters. Outfitters who conduct winter ski-based operations may be designated as: (4-11-06)

a. Level I: self-propelled, with snowcat, or with snowmobile assisted including day skiing, hut skiing in non-hazardous terrain; (4-11-06)

b. Level II: self-propelled including day skiing, hut skiing, multi-day expeditions, in hazardous terrain; or (4-11-06)

c. Level II skiing operations with snowcats, helicopters, or ski from out of bounds from ski areas. (4-11-06)

04. Outfitters Plan of Operation. *The outfitter's operating plan will* include a plan for snowpack, terrain and avalanche safety assessment, additional transport utilized (i.e., snowmobiles, snowcats, helicopters) and instruction and training plans of guides working around related equipment*, and any a*dditional safety and training standards for guides. *( )*

05. Field Supervisor. The Outfitter must employ at least one individual acting as a field supervisor who *is* a working Guide with the appropriate level of licensing for the operation and a minimum of five (5) years working at that level of guiding as to the scope of the operation, *unless* the outfitter or Designated Agent *has* this experience. *( )*

06. Ski Guide Trainee. A*n outfitter may employ an unlicensed* trainee*, provided the trainee* may only assist when under the direct supervision of a licensed guide and a trainee may not provide guided services to clients. A trainee *who applies for licensure* must have thirty (30) days experience with a licensed ski guide in the outfitter's operating area and meet all other *qualifications* of Section 044. *( )*

045. (RESERVED)

046. TECHNICAL MOUNTAINEERING/ROCK CLIMBING GUIDE.
Any applicant for a technical mountaineering/rock climbing guide license must submit to the Board a detailed explanation of *the applicant's* qualifications, experience, and training. *( )*

047. SNOWMOBILING GUIDE.
An applicant for a snowmobiling guide license must: (4-1-92)

01. Snowmobiling Techniques. Have working knowledge of snowmobiling techniques; (4-1-92)

02. Avalanche. Have good leadership qualities and be knowledgeable in regards to potential avalanche conditions and proper route selection; (4-1-92)

03. **Hypothermia**. Be knowledgeable in the treatment of hypothermia and in winter survival techniques; and (4-1-92)

04. **Mechanics**. Have knowledge of the mechanical characteristics of snowmobiles and other equipment being used. (4-1-92)

048. POWER BOAT FISHING GUIDE -- (LAKES AND RESERVOIRS).
All applicants for a power boat fishing guide license must possess the ability and knowledge to: (10-15-88)

01. Maneuver or Pilot. Maneuver or pilot a power boat upon Idaho lakes and reservoirs open to power boat fishing. (10-15-88)

02. Operation. Have operated a power boat for a minimum of ten (10) hours upon the lakes and reservoirs being requested. (10-15-88)

03. **Law**. *Comply* with the Idaho Safe Boating Act (Title 67, Chapter 70, Idaho Code). *( )*

049. -- 050. (RESERVED)

051. PLACEMENT OF HUNTING CAMPS AND LEAVING OUTFITTER'S OPERATING AREA, BIG GAME HUNTING AND INCIDENTAL TRAPPING.

01. Hot Pursuit of Bear and Cougar With Hounds and Hot Pursuit Agreements. *The* Board *may approve a minor amendment to allow* an outfitter *licensed for bear and cougar hunting to* enter into an adjacent area with a client for hot pursuit of bear and cougar hunting when hunting with hounds*, provided that t*he pursuit *starts inside* the outfitter's licensed area. *The application for minor amendment must include*: *( )*

a. *W*ritten permission from all outfitters whose licensed area(s) will be directly involved in the hunt *and which will be provided annually to the Board*; *( )*

b. *W*ritten permission from all applicable landowners or land managers; *( )*

c. With prior Board approval, on a case by case basis and under special circumstances, the Board may waive the requirement for approval from the adjacent outfitter. (3-20-04)

02. Camps. A hunting outfitter may not place a camp, nor cause one to be placed, in an area for which he is not licensed, except as identified in his approved operating plan. Whenever possible, camps used for big game hunting must be placed well within the operating area and not near the boundary line. (3-20-04)

03. **Wolf Trapping Incidental to Big Game Hunts**. Outfitters licensed for big game hunting and for hunting wolves may qualify to provide wolf trapping *as a hazardous excursion during the course of big game hunting as a minor (incidental) activity during open wolf trapping season as set forth below*. *( )*

a. The Outfitter or Designated Agent *and guide* must have *completed* the mandatory wolf trapping education class *prior to the activity taking place. The outfitter is responsible for maintaining the certificate(s) of completion on file and making it available for inspection.* *( )*

b. Wolf trapping may not be advertised, promoted, or booked as an outfitted or guided service. (4-4-13)

c. Outfitter or Designated Agent may not kill or allow domestic livestock or animals to be killed for use as bait while in their operating area or to use live animals as bait and will be otherwise expected to follow existing state laws regarding handling of domestic livestock. (4-4-13)

d. A trapped animal must be killed quickly and humanely. It cannot be released and then "hunted" *or* killed. *( )*

e. Outfitters *and guides* may not directly engage a client in trapping activities *handle or be involved with handling traps or trapped animals. Clients may be allowed to:* *( )*

i. Hunt and kill any free ranging animal for which they have an appropriate license and tag, except when the animal is in or within two hundred (200) yards of the Outfitter's or guide's trap line. *( )*

ii. Accompany a properly licensed guide who is checking the outfitter's traps provided the client is directly accompanied by that guide at all times. *( )*

iii. Only observe the handling of trapped animals by properly licensed guides. *( )*

f. Guides *who have completed the required education in Paragraph 051.01.a. are subject to the following*: *( )*

i. Guides may check their employing outfitter's or their own wolf traps as per state requirements as part of outfitted, big game hunts. (4-4-13)

ii. May not provide services to the same client for two (2) different outfitters within a five (5) day period. (4-4-13)

052. BOAT TRANSPORT OF HUNTING CLIENTS.
A boatman *licensee* (either power or float) *must* not transport big game hunters to any big game hunting area unless licensed to outfit for big game hunting in that area or is in the employ of the *licensed* outfitter for that area. *( )*

053. CONTROLLED HUNTS OUTSIDE OUTFITTER'S OPERATING AREA.
The Board may authorize an outfitter who is licensed for a controlled hunt species to conduct a one-time hunt for a controlled hunt outside of the outfitter's licensed area when the outfitter submits a minor amendment fee and a written request with the following: *( )*

***01. Written Permission**. W*ritten permission from all outfitters whose licensed area(s) will be directly involved in the hunt *and all applicable landowners or land managers;* *( )*

***02. Identification of Hunter**. T*he hunter name and address, hunting license, tag and permit numbers, controlled hunt number, and dates of hunt. *( )*

03. Compensation Between Outfitters. No compensation is permitted between outfitters participating in the conduct of a controlled hunt *in* another outfitter's area, unless the outfitter supplies a service for that compensation. *( )*

054. BOAT EQUIPMENT REQUIREMENTS.
Each float or power boat must *be identified as follows*: *( )*

***01*. Identification**. Identification *recorded with the Board on the outfitter application* consisting of words, names, or letters *not less than three (3) inches in height, and be of a contrasting color* indicating the current licensed outfitter and *that is* placed above the water line on each side of the bow or stern of the boat utilized by that outfitter in letters. (Does not apply to single person boats or two (2) person inflatable boats). *( )*

02. Clearwater. On Sections CL2 and CL3 of the Clearwater River, a sticker affixed to the surface of any boat used for anadromous fishing *that is* not less than eight (8) inches in height and placed immediately adjacent to the identification words, names or letters on each side of the boat towards the bow, identifying the boat as operated by a licensed outfitter. *S*tickers will be provided and sold annually by the Board or a vendor designated by the Board. *( )*

055. BOATING CLIENT/GUIDE RATIO.
All float boats, occupied by three (3) or more clients, must be under the control of a licensed guide; except a boat guide trainee may operate a boat under the direct supervision of a licensed boatman, or may train as indicated in Section 040. Kayaks and canoes and clients rowing rafts that they *provide* are exempt from this rule. *( )*

056. (RESERVED)

057. DESIGNATION OF ALLOCATED DEER AND ELK TAGS.
Beginning with the 2021 big game season setting, the Board will designate allocated tags *to* eligible outfitter operations as prescribed by Section 36-2107(j), Idaho Code, and when necessary, based on an outfitter's proportional use within the capped zone or controlled hunt zone, unit, or game management area as set forth in this section. For purposes of this section, an eligible outfitter operation is an outfitter whose licensed activities include hunting the species for the type of allocated tag *being designated*. *( )*

01. Calculation and Designation of Allocated Tags. Pursuant to Section 36-2107(j), Idaho Code and as set forth below, an outfitter's number of designated *allocated* tags will be the outfitter's base allocation number plus a proportional share of any surplus allocated tags based on outfitted tag use as set forth below, or when there is an insufficient number of allocated tags to satisfy each outfitter's base allocation, the outfitter's proportional use. The result is the number of allocated tags designated for the outfitter operation. The Board will notify outfitters of the number of designated allocated tags and the underlying basis for the designation. The designation applies until the next big game season setting by the Idaho Fish and Game Commission. *( )*

a. An outfitter's base allocation number is: *( )*

i. For a capped zone, the average of the last two (2) years of an outfitter's outfitted tag use. *( )*

ii. For a controlled hunt, the highest year within the last two (2) years of an outfitter's outfitted tag use. *( )*

b. An outfitter's proportional use is calculated by dividing an individual outfitter's base allocation by the total of the base allocations of all outfitters in the capped zone or controlled hunt zone, unit, or game management area, and then multiplying by the total number of allocated tags for the capped zone or controlled hunt. *( )*

c. When a calculation results in a partial tag, the calculation will be rounded up when a decimal equals or exceeds zero point six (0.6) and rounded down when a decimal is less than zero point six (0.6). *( )*

d. When there are remaining allocated tags after the Board has designated tags pursuant to Paragraphs a and b of this rule, the Board will designate remaining allocated tags based on the following priorities and in the following order: *( )*

i. All eligible outfitters whose base allocation number is zero (0) and who want to be designated allocated tags are designated at least one (1) allocated tag; *( )*

ii. Eligible outfitters with the fewest number of designated allocated tags have an equal number of designated allocated tags when possible; *( )*

iii. Based on a random drawing between the eligible outfitters with the fewest number of designated allocated tags provided that an outfitter is not designated more allocated tags than another outfitter that has a greater base allocation number; *( )*

iv. Based on the greater base allocation number between the eligible outfitters with the fewest number of designated allocated tags. *( )*

e. When there is a deficit of allocated tags to satisfy each outfitter's proportional use, the Board will identify the group of outfitters whose base allocation number was rounded up, and the deficit will be resolved against the outfitter whose base allocation number prior to rounding is closest to zero point six (0.6). In the event there are two outfitters with the same unrounded base allocation number closest to zero point six (0.6), the deficit will be resolved against one of those outfitters based on a random drawing. *( )*

02. Stipulation by Outfitters. Outfitters in a capped zone or for a controlled hunt may submit to the Board a written stipulation determining the number of allocated tags designated for each outfitter within the capped

zone or for the controlled hunt. The stipulation must be signed by all eligible outfitters for the capped zone or controlled hunt. If the Board accepts the stipulation, the stipulation will be effective until the Idaho Fish and Game Commission sets the next big game season. ( )

a. On or before November 1, any outfitter may petition the Board to withdraw from the stipulation for good cause. If the Board grants the withdrawal, then the Board will calculate and designate the allocated tags among the outfitters in that capped zone or controlled hunt according to Subsection 01 of this rule. ( )

b. A stipulation only applies to the designation of allocated tags by the Board. ( )

03. Objection to Calculation. An outfitter that believes the calculation is incorrect may object by filing a petition in accordance with the Idaho administrative procedures act with the Board along with any supporting information or documentation. ( )

a. The Board will notify all other eligible outfitters in the capped zone or for the controlled hunt of the petition. ( )

b. The outfitter bears the burden of establishing that the calculation was incorrect. ( )

04. Hardship Request. An outfitter may submit to the Board a written request to maintain a previous base allocation number when the outfitter can demonstrate hardship, including health, act of nature, state of federal restrictions on hunting or access or other good cause that prohibited or limited the outfitter's ability to seek and accommodate clients and impacted the outfitter's use of designated allocated tags. The outfitter must provide any information requested by the Board to assist in substantiating hardship cases. The hardship request must also be approved by the Idaho Department of Fish and Game to retain the outfitted hunter tag use history in respective hunt. ( )

05. Change in Operating Area or Owner of Business. When an outfitting business is sold or when an operating area is adjusted and designated allocated tags are associated with the affected operating area, the board will transfer the associated designated allocated tags to the new owner. ( )

058. NUMBER OF OUTFITTERS AND GUIDES LIMITED.
Big Lost and Little Lost Rivers and the Big Wood and the Little Wood Rivers -- All reaches from headwaters to the termination of the flow of the Big Lost and the Little Lost Rivers and all reaches of the Big Wood and Little Wood Rivers are limited to a maximum of five (5) outfitters on both rivers combined. (5-1-95)

059. RIVER, LAKE AND RESERVOIR POWER AND FLOAT OUTFITTER LIMITS.
The following rivers and streams or sections that lie totally or partially within the state of Idaho are open to commercial boating operations by outfitters and guides. The Board may open other rivers and streams or sections upon a petition to adopt rules under Section 67-5230, Idaho Code. ( )

01. Licensable Waters -- River Sections (BL1) Blackfoot River through (PR1) Priest River -- Table.

River/Section	Maximum No. Power	Maximum No. Float
(BL1) Blackfoot River - Morgan Bridge to Trail Creek Bridge	none	2
(BO1) Boise River, South Fork - Danskin Bridge to the Neal Bridge EXCEPT on weekends or holidays. Each outfitter may use only one (1) boat for fishing only with a maximum of two (2) fisherman. No overnight camping or walk-and-wade fishing allowed.	none	2

River/Section	Maximum No. Power	Maximum No. Float
***(BO1A) Boise River** - Eckert Road Bridge to Main Street Bridge.*	*none*	
***(BO1B) Boise River** - Main Street Bridge to West side of Garden City limits.*	*none*	
(BO2) Boise River - Downstream from the west side of the Garden City municipal limits to the east side of the Caldwell municipal limits. Each outfitter may use at any time a maximum of four (4) boats for boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	none	2
(CF1) Clark Fork River - Montana stateline to Lake Pend Oreille (boating closing date September 30)	4 outfitters for either power or float or combination thereof	
(CL1) Clearwater River - Lowell to the Lower Bridge at Kooskia. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. Fishing may not be conducted downstream from the Upper Bridge at Kooskia by CL1 outfitters. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5
(CL2) Clearwater River - The Upper Bridge at Kooskia to the Orofino Bridge. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	6	10
(CL3) Clearwater River - The Orofino Bridge to the mouth of the Clearwater River with the Snake River at Lewiston. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitters operating plan.	10	10
* **(NFCL) North Fork Clearwater River** - Kelly Forks Bridge downstream to backwaters of Dworshak Reservoir	none	4

River/Section	Maximum No. Power	Maximum No. Float
(CDNF) Headwaters of North Fork Coeur d'Alene - Including tributaries (Independence and Tee Pee Creeks) upstream from Devils Elbow Campground. Three (3) walk and wade only licenses. Up to four (4) clients on the river at one time per license.	none	none
(CD1) Coeur d'Alene River - Devil's Elbow to South Fork confluence. Fishing limit is two (2) float boats per license with a maximum of two (2) clients at a time per boat. Two (2) additional walk and wade licenses can be issued. Walk and wade limited to a maximum of two (2) clients at a time per license.	none	1
(CD2) Coeur d'Alene River - South Fork confluence downstream to Cataldo Mission Boat Ramp. Fishing limit is one (1) float boat per license with a maximum of two (2) clients or two walk and wade clients per license at a time. Walk and wade activities do not have to be initiated from a float boat.	none	1
(CD3) Lateral (Coeur d'Alene chain) Lakes - Connected by the Coeur d' Alene river. Cataldo Mission Boat Ramp to Highway 97 Bridge. A limit of one (1) power boat per license with a maximum of two (2) clients at a time or a limit of one (1) guide per license and two (2) float tubes at a time or two (2) clients walking and wading. The walk and wade activities must be associated with the power boating.	3	none
*** (JB1) Jarbidge/Bruneau Rivers**	none	4
(KO1) Kootenai River - Montana stateline to Canada boundary	5	5
(LCL1) Little North Fork Clearwater River - Mouth of Canyon Creek to first bridge on the Little North Fork Clearwater River. Fishing only. Each outfitter may use only two (2) boats per day with a maximum of two (2) fishermen per boat.	none	2
*** (LO1) Lochsa River**	none	5
(MO1) Moyie River - Canada boundary to Bonners Ferry Municipal Dam (boating closing date July 20)	none	5
*** (OW1) Owyhee River** - Nevada stateline to Oregon stateline or South Fork to confluence with Owyhee River and continuing on to a take-out point.	none	6

River/Section	Maximum No. Power	Maximum No. Float
(PN1) Payette River, North Fork - Payette Lakes Outlet to Hartsell Bridge. Restrictions: NO FISHING ALLOWED. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN1A) Payette River, North Fork - Cascade City Park, 1/4 mile south of Cascade on Highway 55 to Cabarton. Restrictions: Catch and release for TROUT ONLY, other species F & G rules apply. No stopping by commercial groups from 1/4 mile above to 1/4 mile below heron nesting trees. Four (4) boat or ten (10) canoe limit per trip, and only two (2) trips per day per outfitter.	none	2
(PN2) Payette River, North Fork - Cabarton to Smiths Ferry Bridge	none	5
(PS1) Payette River, South Fork - Grandjean to Deadwood River	none	5
*** (PS2) Payette River, South Fork** - Deadwood River to Banks	none	5
(PA1) Payette River - Banks to Black Canyon Dam	none	5
(PO1) Pend Oreille River	5	5
(PR1) Priest River - Dickensheet Campground to Priest River City	none	5

( )

02. Licensable Waters -- River Sections (MF1) Middle Fork Salmon River Through (SE2) Selway River -- Table.

River/Section	Maximum No. Power	Maximum No. Float
***##(MF1) Salmon River, Middle Fork** - Boundary Creek to *Cache Bar on the Salmon River*	none	27
(SA1) Salmon River - First bridge across Salmon River above Redfish Lake Creek to Torrey's Bar	none	6
(SA2) Salmon River - Torrey's Bar to first Highway 93 bridge above Challis. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	5

River/Section	Maximum No. Power	Maximum No. Float
(SA3) Salmon River - First Highway 93 bridge above Challis to Kilpatrick River access. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are a part of an outfitter's operating plan.	none	6
(SA4A) Salmon River - Kilpatrick River access to North Fork - License period from May 1 to September 30. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	5	11
(SA4B) Salmon River - Kilpatrick River access to North Fork - License period from October 1 to April 30. Each power boat outfitter may use at any one time a maximum of one (1) boat and each float boat outfitter may use at any one time a maximum of three (3) boats.	2	8
(SA5) Salmon River - North Fork to Corn Creek	3	9
***##(SA6) Salmon River** - Corn Creek to Spring Bar Boat Ramp with no outfitter fishing below Vinegar Creek from September 15 through March 31 except that on a case-by-case basis, outfitter fishing may occur when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	14	31
***(SA7A) Salmon River** - Vinegar Creek to Hammer Creek - License period from March 15 to October 15. No power boating is allowed from the Saturday before Memorial Day through Labor Day from 10:30 a.m./Mountain Time to 5:00 p.m./Mountain Time daily between the Riggins City Boat Dock and Lucile.	10	26
***(SA7B) Salmon River** - Power boats from Vinegar Creek to Spring Bar Boat Ramp and float boats from Vinegar Creek to Island Bar Boat Ramp, open from September 15 to March 31 only. Each float boat outfitter may use at any one time a maximum of three (3) boats for fishing, or two (2) additional boats for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director; and each power boat outfitter may use at any one time a maximum of two (2) boats for fishing, or one (1) additional boat for fishing when permitted by the BLM and with the notification to and concurrence of the Board Executive Director.	6	12

River/Section	Maximum No. Power	Maximum No. Float
* **(SA7C) Salmon River** - Riggins City Park Boat Ramp to Hammer Creek. Three (3) designated outfitters may utilize float boats to fish from the Riggins City Boat Dock to Hammer Creek during the period from September 15 to March 31.	none	3
*##**(SA8) Salmon River** - Hammer Creek to Heller Bar or Lewiston on the Snake River	15	35
* **(SE1) Selway River** - Paradise Campground to Selway Falls	none	4
(SE2) Selway River - Selway Falls to the mouth of the Selway River at Lowell. Each outfitter may use at any one time a maximum of (a) three (3) boats for fishing, and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	5

( )

03. Licensable Waters -- River Sections (SH1) Henry's Fork Snake River Through (TE3) Teton River -- Table.

River/Section	Maximum No. Power	Maximum No. Float
(SH1) Snake River, Henry's Fork - Henry's Lake Outlet to Hatchery Ford. (Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing No more than three (3) of these boats may be used at any one time on any of the following river reaches: Henry's Lake Outlet to Island Park Dam, Island Park Dam to Last Chance, Last Chance to Osborn Bridge, and Osborn Bridge to Hatchery Ford), and (b) five (5) boats for other boating activities. The Board may approve adjustments to these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	7
(SH2) Snake River, Henry's Fork - Mesa Falls to St. Anthony. Each outfitter may use at any one time a maximum of (a) eight (8) boats for fishing, no more than three (3) of these boats may be used at any one time on any one of the following river reaches: Mesa Falls to Warm River, Warm River to Ashton Dam, and Ashton Dam to St. Anthony, and (b) five (5) boats for other boating activities. The Board may approve adjustments of these boat limitations to accommodate canoeing or kayaking activities that are part of an outfitter's operating plan.	none	8

River/Section	Maximum No. Power	Maximum No. Float
(SH3) Snake River, Henry's Fork - No more than three (3) boats for fishing may be used by an outfitter at any one (1) time in each of the following river sections: a) St. Anthony to Red Road Bridge Boat Access (i.e., Parker/Salem or Fort Henry) b) Red Road Bridge Boat Access to Warm Slough Boat Access c) Warm Slough Boat Access to Menan Boat Access No outfitter may have more than six (6) boats on the SH3 in any one (1) day. When permitted by the BLM and with the notification to and concurrence of the IOGLB Executive Director, each outfitter may be allowed adjustments to the maximum boat limits in order to accommodate non-fishing boating activities (e.g., canoeing, paddle boards, and kayaks) and hazardous excursions that are part of an outfitter's operating plan. These adjustments must be reviewed and approved annually. IOGLB licenses are for the entire SH3 segment; a section of SH3 cannot be separated from SH3 for the purposes of selling a portion of an outfitter's business.	none	4

River/Section	Maximum No. Power	Maximum No. Float
(SS1) Snake River - South Fork - No more than four (4) boats per section/per day may be used by an outfitter at any one (1) time in each of the following river sections: a) Palisades Dam to the Conant Boat Access; b) Conant Boat Access to Fullmer Boat Access. Exception: Not more than eight (8) boats would be permitted in Section (b) on the same day, provided that no more than four (4) of said boats are in this Section after 11:00 a.m. due to overnight use at designated outfitter camps; c) Fullmer Boat Access to Byington Boat Access; d) Byington Boat Access to Lorenzo Boat Access; and e) Lorenzo Boat Access to Menan Boat Access; Additionally, no outfitter may have more than twelve (12) boats on the SS1 in any one day. A one-time per year exception after July 15 may be granted from Conant Boat Access to Byington Boat Access that would allow two (2) additional boats per section to accommodate large client groups. During this one-time exception, if the two (2) additional boats do not accommodate the large client group, additional boats must come from slots allocated to other outfitters. The maximum daily boat limit for SS1 may not be exceeded. This would require written concurrence from the BLM/USFS and the IOGLB Executive Director. Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor. IOGLB licenses are for the entire SS1 segment; a section of SS1 cannot be separated from SS1 for the purposes of selling a portion of an outfitter's business.	None*	8**
* Each licensed float boat outfitter may use one (1) supply boat (float or power) that does not carry clients. During periods of preparing overnight camps (i.e., setting up tents and portable toilet facilities, boating in grills and other cooking supplies) for the season, usually May or June of each year; and removing the same items listed above from overnight camps at the end of the season, usually October or November; multiple supply boats may be used. ** One (1) license additional for waterfowl hunting covering both BLM and USFS managed lands and waters for the South Fork (Palisades Dam to Wolf Flats Boat Access may be issued. This license opportunity is in addition to the eight (8) float licenses and is limited to providing waterfowl hunting during waterfowl hunting season as defined by Idaho Fish and Game Rules and where no more than two (2) float or power boat boats per day per section a and b only can be used by the outfitter at any one time for that purpose. Fishing may not be provided or conducted unless the outfitter is also licensed and permitted as one (1) of the eight (8) outfitters addressed in this rule who may not provide hunting activities. This business opportunity may be sold separately.		

River/Section	Maximum No. Power	Maximum No. Float
(SN1) Snake River - For each license/permit issued, no more than four (4) boats per section/per day may be used by an outfitter at any one time in each of the following river sections: a) Menan Boat Access to Mike Walker Boat Access (includes Federally managed lands); b) Mike Walker Boat Access to Gem State Power Plant (includes non-Federal lands). Float boats may use motors (5HP or less) for downstream steerage only within the entire SS1 reach. Downstream steerage would not include holding or upstream travel of watercraft with a motor. OGLB licenses are for the entire SN1 segment; a section of SN1 cannot be separated from SN1 for the purposes of selling a portion of an outfitter's business.	3 outfitters either float or power or combination thereof	
(SN2) Snake River - Gem State Power Plant downstream to headwaters of American Falls Reservoir	3	3
(SN3) Snake River - American Falls Dam to Massacre Rocks State Park	3	3
(SN4) Snake River - Massacre Rocks State Park to Milner Dam	3	3
*** (SN5) Snake River** - Milner Dam to Star Falls	none	3
*** (SN6) Snake River** - Star Falls to Twin Falls	none	5
(SN7) Snake River - Twin Falls to Lower Salmon Falls Dam	3	3
(SN8) Snake River - Lower Salmon Falls Dam to Bliss Dam	3	5
(SN9) Snake River - Bliss Dam to headwaters of C.J. Strike Reservoir	5	5
(SN10) Snake River - C.J. Strike Dam to Walter's Ferry	5 outfitters for either power or float or combination thereof	
(SN11) Snake River - Walter's Ferry to headwaters of Brownlee Reservoir	5	none

River/Section	Maximum No. Power	Maximum No. Float
* **(SN12) Snake River** - Hells Canyon Dam to Pittsburg Landing	18	15
* **(SN13) Snake River** - Hells Canyon Dam to Pittsburg Landing, two (2) one-day float trips only	none	2
(SN14) Snake River - Pittsburg Landing to Heller Bar or Lewiston	19	15
(SN15) Snake River - Washington/Oregon stateline to Lewiston	Limitations pending. (This section is set aside for future rules of fishing only outfitters.)	
(SJ1) St. Joe River - St. Joe River Headwaters to Red Ives. No outfitted boating. One (1) walk and wade only fishing outfitter.	none 2	none
(SJ2) St. Joe River - Red Ives to Avery. In addition to one (1) float boat license, three (3) walk and wade only outfitters. No fishing from float boats, boat clients may fish via walk and wade.	none	1
(SJ3) St. Joe River - Avery to St. Joe City Bridge	none	2
(SJ4) St. Joe River - St. Joe City Bridge to Lake Coeur d'Alene	2	none
(SM1) St. Maries River	5	5
(TE1) Teton River - Upper put-in to Cache Bridge, motors not to exceed 10 hp	5 outfitters for either power or float or combination thereof	
(TE2) Teton River - Cache Bridge to Harrop Bridge, motors not to exceed 10 hp	6 outfitters for either power or float or combination thereof	

River/Section	Maximum No. Power	Maximum No. Float
(TE3) Teton River - No more than two (2) boats per section/per day may be used by an outfitter at any one time in each of the following river sections: a), b), d), e) and f). No more than four (4) boats per section/per day may be used by an outfitter at any one time on river section c) and where two (2) boats from same outfitter must be spaced at three-hour (3) intervals: a) Harrop Bridge Boat Access to Felt Dam Boat Access; b) Felt Dam Boat Access to Spring Hollow Boat Access; c) Spring Hollow Boat Access to Teton Dam Site Boat Access; d) Teton Dam Site Boat Access to Hog Hollow Bridge Boat Access e) Hog Hollow Bridge Boat Access to Teton Highway; f) Teton Highway to confluence with the Henrys Fork of the Snake River. Note: No boat access exists at the confluence with the Henrys Fork of the Snake River. Outfitters would utilize Hibbard Bridge or Warm Slough Access on SH3. No fishing on SH3 No outfitter may have more than eight (8) boats on the TE3 in any one day. Float boats may use motors not to exceed 10 hp in section a) (Harrop Bridge to Felt Dam Access) only. Float boats may use motors (5HP or less) for downstream steerage only in sections d), e) and f). Motors are not allowed in other sections. Downstream steerage does not include holding or upstream travel of watercraft with a motor. IOGLB licenses are for the entire TE3 segment; a section of TE3 cannot be separated from TE3 for the purposes of selling a portion of an outfitter's business.	none	5

* Classified rivers
Floatboat and powerboat outfitters on these sections are considered within their area of operations when hiking from the river or fishing in tributaries away from the river, but does not include overnight activities. Conflicts with land-based outfitters will be handled on a case-by-case basis. (3-25-16)

04. Other -- Table. The following lakes and reservoirs or portions thereof that lie totally or partially within the state of Idaho are open to fishing by outfitters with the following limitations:

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Coeur d'Alene	8	1
Dworshak Reservoir	7	2
Hayden Lake	1	2
Henry's Lake	8	2
Island Park Reservoir	7	2
Magic Reservoir	3	2
Palisades Reservoir	10	2

Lake or Reservoir	Maximum No. of Operators	Maximum No. Boats per Operator per Lake or Reservoir
Lake Pend Oreille	11	1
Priest Lake	5	1
American Falls Reservoir	3	2
C.J. Strike Reservoir	4	2
Brownlee Reservoir	5	2
Oxbow Reservoir	3	2
Hells Canyon Reservoir	3	2

(4-1-92)

05. Other Lakes and Reservoirs. All other Idaho lakes and reservoirs are limited to two (2) outfitters with a maximum of two (2) boats (float or power) per outfitter. (4-1-92)

060. (RESERVED)

061. TECHNICAL MOUNTAINEERING/ROCK CLIMBING.
Any outfitter applicant for *technical mountaineering/rock climbing must* appear before the Board to explain in full detail his qualifications, experience, plans, and areas of operation *demonstrating the necessary specialized training and skill*. *( )*

062. (RESERVED)

063. SNOWMOBILING.
In addition *to other requirements, outfitters and guides for snowmobiling must ensure* the following: *( )*

01. Non-Groomed Trails. All machines *are* accompanied by at least one (1) guide for one (1) through five (5) snowmachines, two (2) guides for six (6) through twelve (12) snowmachines, and one (1) additional guide for each additional ten (10) snowmachines. The maximum number of snowmachines allowed in one (1) group may not exceed thirty (30). One (1) guide *leads* and one (1) *trails* where more than five (5) snowmachines are involved. *( )*

02. Groomed Trails. All machines *are* accompanied by at least one (1) guide for one (1) through fifteen (15) snowmachines, and two (2) guides for sixteen (16) through a total of thirty (30) snowmachines. One (1) guide *leads* and one (1) *trails* where more than fifteen (15) machines are involved. The maximum number of snowmachines allowed in one group may not exceed thirty (30). *( )*

03. Emergency Equipment. All snowmobiling tours have with them necessary emergency equipment, tools, and spare parts for the machine(s) in use. *( )*

04. Reduction in Guide Ratios. *An outfitter may apply* to the Board *to* reduce the number of guides on non-groomed trails to one (1) guide for six (6) through twelve (12) snowmachines and the number of guides on groomed trails to one (1) guide for sixteen (16) through thirty (30) snowmachines, *when* the guide has electronic communication for summoning assistance at all times during the excursion. *( )*

064. AUTHORIZATION FOR GRANTING, DENIAL AND REVOCATION OF LICENSES.

01. Executive Director Authorizations. The Executive Director is authorized to grant, issue or deny, temporary authorizations, licenses and license amendments, hot pursuit agreements and *designations of* allocated tags with the concurrence of the Board, under the following conditions: *( )*

a. The Executive Director may grant and issue all routine temporary authorizations, license applications, amendments and related matters when the applicant does not have any convictions for fish and game violations or other violations of the grounds enumerated in Section 36-2113(a), Idaho Code, has not falsified or provided any misleading information to the Board, and otherwise qualifies for licensure. (3-29-10)

b. The Executive Director may grant all license applications which otherwise qualify for licensure, but which have violations of the grounds enumerated in Section 36-2113(a), Idaho Code, which occurred five (5) years prior to the date of application, except that a license will not be granted by the Executive Director to an applicant who has a felony conviction of any nature, or conviction of a flagrant violation pursuant to Section 36-1402(e), Idaho Code. (3-29-10)

c. The Executive Director may grant a license with probationary status for conviction of minor fish and game violations or violations enumerated in Section 36-2113(a), Idaho Code, that occurred at least five (5) years prior to the date of application, excluding felony convictions. (3-29-10)

d. The Executive Director may defer granting or denying any license or related matter to the Board for action by the Board. (3-29-10)

e. The Executive Director may not waive fees. (3-29-10)

02. Board Conditions. The Board may grant or deny a license pursuant to the provisions of Sections 36-2109 and 36-2113, Idaho Code, under the following conditions: (3-30-01)

a. The Board may grant a license to an applicant with convictions of violations enumerated in Section 36-2113(a), Idaho Code, which are over five (5) years old and may place the licensee on probation. *( )*

b. The Board may grant a license to an applicant with convictions of violations enumerated in Section 36-2113(a), Idaho Code, which are less than five (5) years old and may place the licensee on probation. *( )*

c. The Board will proceed with the denial of an applicant for a hunting or fishing outfitter or guide license or proceed with the revocation process on a licensee upon conviction of a flagrant violation pursuant to Section 36-1402(e), Idaho Code, unless unusual mitigating circumstances exist. (3-30-01)

065. **-- 066. (RESERVED)**

067. INSPECTIONS.
Outfitter camps and equipment may be inspected at any time by an authorized person or any member of the Board with a written report submitted to the Board *to ensure a*dequate equipment and gear *is* utilized and maintained in a manner which meets minimum standards of public acceptability and which meets the requirements of applicable local, state, or federal laws *and rules*. *( )*

068. ADMINISTRATIVE FINES/PROBATION/RESTRICTIONS.

01. Penalties -- Table. In addition to suspension, probation, restriction or revocation of a license, the following penalties may be applied to that licensee or those licensees found to have violated the provisions of *the Act, these* rules*, or both*.

I.C. Section 36-2113(a)	First Offense	Second Offense	Third Offense
1.	$100 - $500 Fine	$500 - $5,000 Fine	Suspension or Revocation of License

I.C. Section 36-2113(a)	First Offense	Second Offense	Third Offense
2.	Probation/Restriction of License	$100 - $500 Fine	$500 - $5,000 Fine
3.	All Penalties Are Within The Board's Discretion.		
4.	Probation/Restriction of License	$100 - $500 Fine	$500 - $5,000 Fine
5.	$100 - $300 Fine	$100 - $500 Fine	$500 - $5,000 Fine
6.	Probation/Restriction of License	$100 - $500 Fine	$500 - $5,000 Fine
7.	Probation/Restriction of License	$100 - $500 Fine	$500 - $5,000 Fine
8.	$100 - $500 Fine	$500 - $5,000 Fine	Suspension or Revocation of License
9.	$100 - $500 Fine	$500 - $5,000 Fine	Suspension or Revocation of License
10.	$100 - $500 Fine	$500 - $2,500 Fine	$2,500 - $5,000 Fine
11.	$100 - $300 Fine	$100 - $500 Fine	$500 - $5,000 Fine
12.	$100 - $500 Fine	$500 - $2,500 Fine	$2,500 - $5,000 Fine
13.	All Penalties Are Within The Board's Discretion.		
14.	$100 - $300 Fine	$100 - $500 Fine	$500 - $5,000 Fine

(3-30-01)

02. Restrictions. No license will be issued while any outstanding administrative fine monies are due unless an arrangement has been made and approved by the Board for the payment of same. (10-15-88)

03. Terms of Probation. *Typical* terms of probation are that there are no violations of local, state or federal laws or ordinances, and no amendments to the license during the term of probation*, and* other restrictions as the Board orders. *( )*

069. **-- 999. (RESERVED)**

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

DOCKET NO. 26-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, 67-5221(1) and 67-5226, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-4223, 67-4238, 67-7001, 67-7002, 67-7008A, 67-7103, 67-7122, 67-7125, and 67-7132, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 26, rules of the Department of Parks and Recreation:

IDAPA 26

- IDAPA 26.01.03, *Rules Governing Recreational Registration Program Vendors*
- IDAPA 26.01.21, *Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park*, ***except Sections 030 and 170***
- IDAPA 26.01.22, *Rules Governing Cooperating Associations*
- IDAPA 26.01.24, *Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds*
- IDAPA 26.01.30, *Idaho Safe Boating Rules*
- IDAPA 26.01.31, *Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds*
- IDAPA 26.01.34, *Idaho Protection Against Invasive Species Sticker Rules*
- IDAPA 26.01.37, *Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 4987–5027**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Anna Canning (208) 514-2252.

Dated this 5th day of August, 2019.

Anna Borchers Canning, AICP
Management Services Administrator
Idaho Department of Parks and Recreation
5657 Warm Springs Avenue, Boise, ID
P.O. Box 83720, Boise, ID 83720-0065
(208) 514-2252

26.01.03 – RULES GOVERNING RECREATIONAL REGISTRATION PROGRAM VENDORS

000. LEGAL AUTHORITY.
The Parks and Recreation Board, State of Idaho, acting pursuant to the Administrative Procedures Act, Title 67, Chapter 52, Idaho Code, and its powers and responsibilities under the Parks and Recreation Act, Title 67, Chapter 42, Idaho Code, adopted the following rules. These rules are promulgated under the Department's authority to administer the following Acts: Recreational Activities, Sections 67-7101 through 67-7133, Idaho Code, and Idaho Safe Boating Act, Section 67-7001 et seq., Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. The title of this chapter are cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.03, "Rules Governing Recreational Registration Program Vendors." (4-11-15)

02. Scope. These rules are intended to set forth the procedures for vendors to apply to sell Recreational Registration Program products including, but not limited to, certificates of number, permits, user certificates, and stickers for the Idaho Department of Parks and Recreation and to set forth procedures necessary to effect consistent, effective, and efficient operation and management of the recreational registration program. (4-11-15)

002. -- 009. (RESERVED)

010. DEFINITION OF TERMS.

01. Application. A form prescribed and furnished to prospective vendors by the Department. (7-1-93)

02. Department or Central Office. The Idaho Department of Parks and Recreation. (7-1-93)

03. Memorandum of Agreement. A contract between the Department and the Vendor. (7-1-93)

04. Products. Recreational Registration Program products include, but not be limited to, certificates of number, permits, user certificates, and stickers. (4-11-15)

05. Recreational Registration Program. A unit within Idaho Department of Parks and Recreation responsible for the administration and oversight of the vendor program, the sale of program products, and the management and distribution of the resulting funds. (4-11-15)

06. Vendor. Any business authorized to sell products. (4-11-15)

07. Vendor Policy Manual. A policy manual setting forth guidelines for selling products. (4-11-15)

011. -- 049. (RESERVED)

050. DEPARTMENT RESPONSIBILITIES.
The Department has the responsibility to provide, but is not limited to providing the following: (7-1-93)

01. Reporting Procedures. Effective and efficient reporting procedures. (7-1-93)

02. Training. Training and assistance for vendor problem areas. (7-1-93)

03. Supplies. Maintenance of adequate supplies provided on a timely basis. (7-1-93)

04. Internal Control. Maintenance of adequate internal controls to ensure system integrity. (7-1-93)

051. -- 099. (RESERVED)

100. CRITERIA FOR APPLYING FOR VENDORSHIP.
A prospective vendor may apply to sell one (1) or more types of products. A prospective vendor may make a request to the Department at any time by phone, mail, or in person to receive Vendor Application forms and a copy of the applicable vendor Memorandum of Agreement. The application and the signed Memorandum of Agreement must be

completed in full and returned to the Department for approval. If approved by the Department, the vendorship will be effective upon issuance of the signed Memorandum of Agreement by the Licensing Section, Department of Parks and Recreation. (4-11-15)

101. -- 149. (RESERVED)

150. MINIMUM QUALIFICATIONS OF VENDORS.

01. Established Business. The prospective vendor's business must be known as an established business in the general area they will serve and they may need to provide additional references to establish, to the department's satisfaction, the likelihood of an ongoing business operation. No vendor will be given an exclusive territory or area in which to sell products. (4-11-15)

02. Taxes and Fees. The applicant must not be delinquent in payment of any taxes or fees to the state of Idaho or any subdivision thereof. (7-1-93)

03. Operating Hours. The location of the business and hours of operation must be convenient to the intended customers. (4-11-15)

04. Service. Every effort will be made by the applicant to provide satisfactory service to both the Department and its customers in properly collecting fees, safeguarding supplies and reporting in a timely, accurate manner. (4-11-15)

05. Bonding. When applicable, a vendor must be bondable to the extent that his gross fees collected will exceed one thousand dollars ($1,000); such bond to be provided by the Department. (7-1-93)

06. Nondiscrimination. Vendors may not discriminate against any Department customers on the basis of race, religion, or nationality or gender. (4-11-15)

151. -- 199. (RESERVED)

200. NOTIFICATIONS AND TIME LIMITS.

01. Action on Application. The Department must provide written notification within thirty (30) days following receipt of a vendor application and contract as to the approval or denial of same. Delivery at the central office of the Department constitutes receipt of the documents. This decision for approval or denial is based on the rules contained herein and or such other procedures as are considered necessary by the Department. (7-1-93)

02. Notification. If approved, a fully executed copy of the vendor contract will be returned to the vendor. If denied, notification will outline reasons for such denial. (7-1-93)

201. -- 249. (RESERVED)

250. VENDOR SUSPENSION AND TERMINATION.

01. Suspension. A vendor may be suspended from selling products for up to one (1) year for: (4-11-15)

a. Failure to file a sales report on or before the date required by law, even if there were no products sold. (4-11-15)

b. Filing of inaccurate or incorrect reports. (7-1-93)

c. Failure to issue products in accordance with the provisions of Idaho Code, the Vendor Memorandum of Agreement and procedures, policies and instructions of the Department. (4-11-15)

02. Termination. A vendor may be terminated permanently for: (7-1-93)

a. Being suspended twice in any three (3) year period. (7-1-93)

b. Breach of the vendor Contract. (7-1-93)

c. Remitting fees with a nonsufficient funds check which is not due to bank error. (7-1-93)

d. A volume of ten (10) or less sales, for a one (1) year period. (4-11-15)

e. Refusal to remit fees collected or return voided or unused product. (4-11-15)

f. Use of unacceptable or unbusiness-like conduct toward a Department customer. (4-11-15)

251. -- 299. (RESERVED)

300. VENDOR FEES.
In order to establish consistency in vendor fees, vendors are strongly encouraged to charge the maximum allowable vendor fee as established under appropriate statutes as outlined in Section 000 of this chapter, and to notify the Department of vendor's intent to reduce the fee. The fee must remain consistent for a full season or program year, and changes must be approved by the Department in advance. (4-11-15)

301. -- 349. (RESERVED)

350. DEPARTMENT RESERVES EXCLUSIVE RIGHT TO RENEW CERTIFICATES OF NUMBER BY MAIL.
The Department reserves the exclusive right to mail out requests for renewal on all certificates of number which it is authorized to administer. This does not preclude vendors from making arrangements with Department customers who may be physically removed from their place of residence at a time when numbering becomes necessary. To perform such numbering as a service to that patron, vendor should follow the procedures as outlined in the Vendor Policy Manual. (4-11-15)

351. -- 399. (RESERVED)

400. VENDORS TO OBTAIN EVIDENCE OF OWNERSHIP PRIOR TO ISSUING CERTIFICATES OF NUMBER.
Vendors must take reasonable care that adequate evidence of ownership is presented prior to numbering. Prior certificate of number is sufficient evidence. (4-11-15)

401. -- 999. (RESERVED)

26.01.21 – RULES GOVERNING LEASING PRACTICES AND PROCEDURES FOR RECREATIONAL RESIDENCES WITHIN HEYBURN STATE PARK

000. LEGAL AUTHORITY.
These rules are promulgated by the Idaho Park and Recreation Board pursuant to Idaho Code, Section 67-4223 and are intended to further define and make specific Idaho Code, Section 67-4223 as it pertains to the administration of recreational residence site leases within Heyburn State Park. (7-1-99)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.21, "Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park." (7-1-99)

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration of recreational residence site leases within Heyburn State Park. (7-1-99)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (7-1-99)

01. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the Governor. (7-1-99)

02. Department. The Idaho Department of Parks and Recreation. (7-1-99)

03. Director. The director and chief administrator of the Department, or the designee of the director. (7-1-99)

04. Lease. The contract defining the rights and duties of the parties regarding a recreational residence site within Heyburn State Park. (7-1-99)

05. Lease Payment. The annual fee paid by a Lessee to the Lessor. (7-1-99)

06. Lessee. A person who holds a valid lease for a recreational residence site within Heyburn State Park. (7-1-99)

07. Lessor. The Board or it's authorized representative. (7-1-99)

08. Recreational Residence Site. A particularly described parcel of real property, located within Heyburn State Park and owned by the Department, which has been made available to private individuals through a lease for the purpose of constructing and maintaining a recreational residence. (7-1-99)

011. -- 049. (RESERVED)

050. LEASE TERM.

01. Cottage Site Leases. Leases are issued for a term not to exceed ten (10) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. (4-11-15)

02. Float Home Moorage Site Leases. Lease of a float home moorage site may be issued for a period of up to thirty (30) years commencing upon January 1 of the year the lease is entered into and ending upon December 31 of the final year of the term. (4-11-15)

051. -- 069. (RESERVED)

070. RENEWAL.
No lease may include any right of renewal, whether expressed or implied. (7-1-99)

071. -- 089. (RESERVED)

090. LEASE RATES.

01. Base Rates. Base lease rates are set so as to provide the Department a reasonable return based upon the fair market value of the lease site. (7-1-99)

02. Lease Rate Adjustments. The lease provides for annual adjustments. (7-1-99)

091. -- 109. (RESERVED)

110. OCCUPANCY.

01. Recreational Occupancy. With the exception of those leases that have been grandfathered for full-time occupancy, the leased premises may be used solely for recreational residential purposes. Use may be intermittent or seasonal but in no event may the residence be occupied in excess of six (6) months in any twelve (12) consecutive months or more than one hundred eighty five (185) days in any three hundred sixty five (365) day cycle. (7-1-99)

02. Full-Time Occupancy. Leases that have been grandfathered for full-time occupancy revert to recreational residential purposes when they are transferred, whether by gift, sale, or devise. (7-1-99)

111. -- 129. (RESERVED)

130. USE.

01. Commercial Use Prohibited. Leased premises may not be used for commercial purposes. This includes, but is not limited to, short- or long-term rental for profit, and the conduct of any enterprise of a commercial nature. (7-1-99)

02. Public Use. Heyburn State Park is a public facility that is managed for the use and benefit of the public. Recreational residence leases reserve to the Department and its agents the right of ingress and egress across lease premises. Recreational residence leases preserve the right of the general public to cross the leased premises for any lawful purpose. (7-1-99)

131. -- 999. (RESERVED)

26.01.22 – RULES GOVERNING COOPERATING ASSOCIATIONS

000. LEGAL AUTHORITY.
These rules, promulgated by the Idaho Parks and Recreation Board pursuant to Section 67-5201, et seq., Idaho Code, and Section 67-4223, Idaho Code, are intended to further define and make specific Section 67-4238, Idaho Code, which deals with establishment of cooperating associations. (7-1-93)

001. -- 009. (RESERVED)

010. DEFINITIONS.
When used in these rules, the terms set forth below have the following definitions: (7-1-93)

01. Agreement. A written document between the association and the Department which defines a specific facility, terms, and conditions of operation to which both parties agree. (7-1-93)

02. Cooperating Association. Any private, nonprofit organization that enters into an agreement with the Department to aid the interpretive, educational, and related visitor service activities of a state park facility in which the cooperating association is authorized to function. (7-1-93)

03. Department. The Idaho Department of Parks and Recreation. (7-1-93)

04. Director. The director of the Idaho Department of Parks and Recreation or his designee. (7-1-93)

05. State Park Facility. A structure or area within an Idaho state park, the entire state park, state park region or state park system. (7-1-93)

011. -- 049. (RESERVED)

050. PURPOSE OF COOPERATING ASSOCIATIONS.

01. Generally. The purpose of a cooperating association is to assist the Department at a local, regional, or statewide level to enhance the interpretive, educational, and/or related visitor services activities. (7-1-93)

02. Authorized Organizations and Activities. The Department may enter into agreements with private nonprofit scientific, historic or educational organizations for the purpose of providing interpretive services to state park facilities in Idaho. Said associations may provide such services as educational or interpretive material for sale; acquire display materials and equipment for exhibits; provide support for park interpretive programs or environmental education programs; support park facility libraries; provide support for other interpretive projects related to a specific park facility; provide fund raising activities within the park facility; or other specifically approved activities. All proposed services or activities must receive approval of the director prior to the activity taking place. (7-1-93)

051. -- 099. (RESERVED)

100. CRITERIA FOR COOPERATING ASSOCIATIONS.

01. Number Limited. No more than one (1) association may be created on behalf of any park. (7-1-93)

02. Requirements. Associations are encouraged to incorporate under the laws of the state of Idaho and to attain nonprofit, tax-exempt status under provisions of Section 501(c)3 of the federal Internal Revenue Service tax code, but it is neither a requirement nor a responsibility of the Department. Requirements of an association are that they have, as a minimum, a chairman, vice-chairman, secretary and treasurer, who may also serve on the board of directors of the association. Each association determines the number of association board members. Summary minutes of official association meetings must be forwarded to the Department within thirty (30) days after the meeting. A department representative, designated by the director, is an ex-officio member of the board. Association membership dues may be established by the association. (7-1-93)

101. -- 149. (RESERVED)

150. DEPARTMENT ASSISTANCE TO ASSOCIATIONS.
If the association desires, the Department, in its discretion, may provide assistance to the association on an incidental basis. The Department may provide space at a state park facility for the interpretive materials provided by the association. (7-1-93)

151. -- 199. (RESERVED)

200. AGREEMENT REQUIRED/PRIOR APPROVAL OF ACTIVITIES REQUIRED.
An agreement must be signed between officials of the association and the Department prior to an association undertaking activities enumerated under Subsection 050.02 of this chapter. Agreements signed by officials of the association and the Department are binding on successor officers of the association and the Department. Association activities at a park may not conflict with park resources or objectives, must comply with all applicable statutes, rules and regulations, and are subject to prior approval of the director. Decisions of the director are deemed to be a final decision. (7-1-93)

201. -- 249. (RESERVED)

250. DISPOSITION OF ASSETS AND PROFITS.

01. Profits to Benefit Park Facilities. Any profits received from the sale of publications or other materials provided by an association pursuant to an agreement entered into under these rules must be used by the association for interpretive or educational purposes to benefit the state park facility for which the association provides services. (7-1-93)

02. Dissolution of Association. In the event that the association disbands, dissolves, or the agreement between the association and the Department is terminated for any reason whatsoever, all profits that have accrued to the association as a result of the association/Department agreement must be donated to the Department. The Department will use such assets or profits for interpretive and educational purposes at the designated state park facility. (7-1-93)

251. -- 299. (RESERVED)

300. ACCOUNTABILITY.

01. Annual Statements Required. An annual financial statement of the association must be prepared and presented to the department director by May 1 of each year. (7-1-93)

02. Department Not Liable. In no event will the Department be held liable for any debts incurred by the association. (7-1-93)

301. -- 349. (RESERVED)

350. TERMINATION.
An agreement between an association and the Department may be terminated upon thirty (30) days written notice by either party to the other at the address for "Notices" listed in the agreement. (7-1-93)

351. -- 999. (RESERVED)

26.01.24 – RULES GOVERNING THE ADMINISTRATION OF THE SAWTOOTH NATIONAL RECREATION AREA SPECIAL LICENSE PLATE FUNDS

000. LEGAL AUTHORITY.
The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. (4-5-00)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.24, "Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds." (4-5-00)

02. Scope. This chapter establishes procedures for the administration of the Sawtooth National Recreation Area special plate funds, received pursuant to Section 49-419A, Idaho Code, including requirements for project application, eligibility, review, award and management. (4-5-00)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Applicant. A public entity, user group, organization, or individual that identifies a need for a project and applies for a sawtooth national recreation area special license plate fund grant through the Department. (4-5-00)

02. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (4-5-00)

03. Department. The Idaho Department of Parks and Recreation. (4-5-00)

04. Director. The director and chief administrator of the Department or the designee of the director. (4-5-00)

05. Park and Recreation Fund. That fund created in Section 67-4225, Idaho Code. (4-5-00)

06. Project. Any effort in compliance with applicable rules and policies governing the use of Sawtooth National Recreation Area special license plate funds. (4-5-00)

07. Sawtooth National Recreation Area (SNRA) Special License Plate Funds. Those funds derived from the sale and purchase of Sawtooth National Recreation Area special license plates pursuant to Section 49-419A, Idaho Code. (4-5-00)

011. -- 049. (RESERVED)

050. ELIGIBLE APPLICANTS FOR SAWTOOTH NATIONAL RECREATION AREA SPECIAL LICENSE PLATE FUNDS.
Any public entity or private group, organization or individual which provides evidence of its ability to implement or operate and maintain the project following the completion of the project. (4-5-00)

051. -- 099. (RESERVED)

100. ELIGIBLE PROJECTS.

01. Determination of Eligibility. The director determines eligibility of projects in accordance with Section 49-419A, Idaho Code, and this chapter. (4-5-00)

02. Eligible Projects. Eligible projects are limited to planning, design, development, construction, repair and maintenance of: (4-5-00)

a. Motorized and non-motorized trails; (4-5-00)

b. Camping facilities; (4-5-00)

c. Bridges located on a motorized or non-motorized trail; (4-5-00)

d. Restrooms used primarily by recreationists; (4-5-00)

e. Parking areas used primarily to access outdoor recreation facilities; (4-5-00)

f. Boat launch facilities; (4-5-00)

g. Boat docks; (4-5-00)

h. Interpretive centers, facilities and services for recreationists including informational and directional signs; (4-5-00)

i. Emergency medical facilities and services for recreationists; and (4-5-00)

j. Unpaved roads leading to recreation areas. (4-5-00)

03. Location of Eligible Projects. All eligible projects must be located within the SNRA and must be open to the public regardless of race, color, religion, national origin, gender, age or disability. (4-5-00)

101. -- 149. (RESERVED)

150. APPLICATION PROCEDURES.
To be considered for a grant, an applicant must file with the Department a memorandum of understanding in a form prescribed by the director and bearing original signatures no later than January 1 of each year. (4-5-00)

151. -- 199. (RESERVED)

200. DISBURSEMENT OF FUNDS.
The Department will remit to the applicant at least eighty-five percent (85%) of all moneys collected pursuant to Section 49-419A, Idaho Code, not later than January 25, April 25, July 25 and October 25 of each year. The Department retains up to fifteen percent (15%) to cover costs related to the administration of this chapter. (4-5-00)

201. -- 249. (RESERVED)

250. EXPENDITURE OF FUNDS.
The applicant must expend all funds received pursuant to this chapter within two (2) years of receipt. (4-5-00)

251. -- 299. (RESERVED)

300. RETURN OF FUNDS.
Any funds required by these rules to be returned from the applicant to the Department will be credited to the park and recreation account and disbursed on or before the dates provided in Section 150 of this chapter. (4-5-00)

301. -- 349. (RESERVED)

350. DOCUMENTATION.

01. Allowable Costs. Applicable Office of Management and Budget (OMB) cost principles must be followed in determining reasonable and allowable costs. (4-5-00)

02. Documentation and System of Internal Controls. The applicant must maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs by project. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. (4-5-00)

03. Record Retention. The applicant must retain all financial information referenced in these rules

regarding a project for a time period of three (3) years from the date of the receipt of funds, or until the satisfactory completion of any litigation or audit concerning the project, whichever date is later. (4-5-00)

04. Audit Authority. The Department has the right of access to any pertinent books, documents, papers, or other records of applicant which are pertinent to these rules, in order to make audits, examinations, excerpts, and transcripts. An audit may result in the disallowance of costs incurred by the applicant and the establishment of a debt (account receivable) due the Department. (4-5-00)

351. -- 399. (RESERVED)

400. MAINTENANCE STANDARDS.
The applicant must ensure facilities developed, constructed or repaired with SNRA special license plate funds are maintained and operated in a condition equivalent to that existing when it was funded, normal wear and tear excepted. Maintenance standards must be adopted by the applicant during the application phase of the grant. (4-5-00)

401. -- 449. (RESERVED)

450. PROJECT CONVERSIONS.
No project funded by SNRA special license plate funds may, without prior approval of the Department, be converted to uses other than for the authorized purpose of the original grant. The Department must approve a conversion only when the SNRA special license plate funds expended on the project can be returned to the Department, or the applicant can provide an immediate substitution of other projects of at least equal current fair market value and of reasonable equivalent usefulness and location. (4-5-00)

451. -- 499. (RESERVED)

500. PURCHASE AND BIDDING REQUIREMENTS.
All local, state and federal laws pertaining to the expenditure of SNRA special license plate funds must be followed by the applicant. (4-5-00)

501. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (1-1-94)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.30, "Idaho Safe Boating Rules." (1-1-94)

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (1-1-94)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (1-1-94)

01. Duly Constituted Water Ski School. A profit-making business that files Idaho income tax returns in accordance with the Idaho Income Tax Act (Title 63, Chapter 30, Idaho Code) substantiating that instruction of water ski students for the making of a profit is or was being performed by the instructor. (1-1-94)

02. Lifeboat. A vessel that: (7-1-93)

a. Is owned by the owner of a vessel for which a valid certificate of number has been issued; (7-1-93)

b. Is kept with the numbered vessel during normal operation of the numbered vessel; and (7-1-93)

c. Is used solely in life threatening situations. (7-1-93)

03. Motorboat. Any vessel propelled by machinery, which is powered by an energy source other than human effort, whether or not such machinery is the principal source of propulsion. (7-1-93)

04. Sailboat. Any vessel equipped with mast(s) and sail(s), dependent upon the wind to propel the vessel in the normal course of operation of the vessel. (1-1-94)

05. Sailboard. A surfboard type sailboat with no freeboard and using a triangular sail on a swivel mounted mast not secured to a hull by guys or stays. (7-1-93)

06. Tender. A vessel equipped with propulsion machinery of less than ten (10) horsepower that: (7-1-93)

a. Is owned by the owner of a vessel for which a valid certificate of number has been issued; (7-1-93)

b. Displays the number of that numbered vessel followed by the suffix "1"; and (7-1-93)

c. Is used for direct transportation between the numbered vessel and the shore and for no other purpose. (7-1-93)

07. Watercraft. Those devices designed as a means of transportation on water. The following devices are not considered watercraft: (7-1-93)

a. Diver's aids operated and designed primarily to propel a diver below the surface of the water; and (7-1-93)

b. Non-motorized devices not designed as a means of transportation on water, such as inflatable air mattresses, single inner tubes, and beach and water toys. (3-23-98)

c. Float houses as defined in Section 67-7003(8), Idaho Code. (3-23-98)

08. Whistle or Horn. Any sound producing appliance capable of producing the prescribed blasts and which complies with the specifications of 33 U.S.C. Section 2001 et seq. and 33 CFR Section 86.01 et seq. (1-1-94)

09. Other Definitions. Other definitions set forth in the Idaho Safe Boating Act (Title 67, Chapter 70, Idaho Code) are incorporated herein by reference. (7-1-93)

011. -- 049. (RESERVED)

050. PERSONAL FLOTATION DEVICES (PFD'S).

01. Personal Flotation Devices Required. Except seaplanes, sailboards, and as provided in Subsections 050.03 and 050.04 of this chapter, no person may operate or permit to be operated any vessel on the waters of this state without carrying on board personal flotation devices (Type I life preservers, Type II buoyant vests, Type III special purpose marine buoyant devices, Type IV buoyant cushions or ring life buoys, or Type V restricted use devices) as follows: (7-1-93)

a. Recreational vessels (used for non-commercial use) less than sixteen (16) feet in length, and canoes and kayaks of any length, must have one (1) type I, II, or III wearable personal flotation devices of a suitable size for each person on board. (5-1-95)

b. Recreational vessels sixteen (16) feet in length and over, except as stated in Subsection 050.01.a. of this chapter, must have one (1) type I, II, or III wearable personal flotation device of a suitable size for each person on board and, in addition, one (1) type IV throwable device. (1-1-94)

c. Commercial vessels less than forty (40) feet in length not carrying passengers for hire must have at least one (1) Type I, II, or III wearable personal flotation device of a suitable size for each person on board. (1-1-94)

d. Commercial vessels carrying passengers for hire and commercial vessels forty (40) feet in length or longer not carrying passengers for hire must have at least one Type I wearable personal flotation device of a suitable size for each person on board. (1-1-94)

e. Commercial vessels twenty-six (26) feet in length or longer must have at least one (1) Type IV throwable ring life buoy in addition to other requirements. (1-1-94)

f. Children fourteen (14) years of age and younger, onboard vessels nineteen (19) feet or less, must wear an approved flotation device when the vessel is underway. (3-15-02)

02. Location and Condition. All personal flotation devices required by Section 050 of this chapter must be readily accessible to persons on board and be of good and serviceable condition. When aboard a personal watercraft (Jet Ski, Wave Runner, etc.) or being towed by a boat (water ski, wake board, knee board, tube, etc.), an approved flotation device must be worn to be considered readily accessible. All such devices must be approved by the U.S. Coast Guard, and must be marked in accordance with U.S. Coast Guard standards. All such devices must comply with the construction and design standards set forth by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. (3-30-01)

03. Alternative PFD Requirement. A Type V personal flotation device may be carried in lieu of any required personal flotation device if U.S. Coast Guard approved for the activity engaged in. (7-1-93)

04. Exemptions. (7-1-99)

a. Racing shells, rowing sculls and racing kayaks are exempt from the requirements of Section 050 of this chapter provided they are manually propelled, recognized by a national or international racing association and designed solely for competitive racing. (7-1-99)

b. Float tubes are exempt from the requirements of Section 050 of this chapter while being operated on lakes and reservoirs of this state of less than two hundred (200) surface acres in size at natural or ordinary high water. (7-1-99)

051. -- 074. (RESERVED)

075. FIRE EXTINGUISHERS.

01. Fire Extinguishers Required. Except seaplanes and those motorboats less than twenty-six (26) feet in length, propelled by outboard motors, of open construction that will not permit the entrapment of explosive or flammable gases or vapors, and not carrying passengers for hire, no person may operate or permit to be operated any motorboat on the waters of this state unless it carries on board and have readily accessible at least the minimum number of serviceable U.S. Coast Guard approved fire extinguishers as set forth below. (7-1-93)

02. Type and Size -- Table. Extinguishers approved for use on motorboats are hand portable of either B-I or B-II classification. "B" type is for gasoline, oil and grease fires. "I" and "II" denotes size as follows:

Classification	Foam Dioxide	Carbon Chemical	Dry Freon	Halon/
B-I	1.25 gals.	4 lbs.	2 lbs.	2.5 lbs.
B-II	2.50 gals.	15 lbs.	10 lbs.	

(1-1-94)

03. Inspections. Dry chemical fire extinguishers without gauges or indicating devices must be inspected every six (6) months. If the gross weight of a carbon dioxide (CO_2) fire extinguisher is reduced by more than ten percent (10%) of the net weight, the extinguisher is not acceptable and must be recharged. (1-1-94)

04. Specific Requirements. Except as provided in Subsection 075.01 of this chapter, the requirements for fire extinguishers by length of motorboat are as follows: (7-1-93)

a. Less than twenty-six (26) feet in length: At least one (1) B-1 fire extinguisher is required. (7-1-93)

b. Twenty-six (26) feet to less than forty (40) feet in length: At least two (2) B-1 fire extinguishers are required. (7-1-93)

c. Forty (40) feet to not more than sixty-five (65) feet in length: At least three (3) B-1 fire extinguishers are required. (7-1-93)

d. Over sixty-five (65) feet in length: Federal requirements apply as stated in 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 46 CFR Section 25.30-1 et seq. (1-1-94)

05. Alternative Fire Extinguisher Requirement. One (1) B-II fire extinguisher may be substituted for two (2) B-I fire extinguishers. (7-1-93)

06. Fixed Systems. When a fixed fire extinguishing system is installed in machinery space(s), one (1) less B-I fire extinguisher is required. (7-1-93)

076. -- 099. (RESERVED)

100. LIGHTS AND SHAPES.

01. Lights Required. No person may operate or permit the operation of any vessel on the waters of this state between sunset and sunrise or in other times of restricted visibility unless the vessel is equipped with and displays the lights herein specified, and during such time no other lights which may be mistaken for those prescribed must be exhibited. (1-1-94)

02. Motorized Vessels. A motorboat less than sixty-five and six-tenths (65.6) feet in length must exhibit navigation lights as follows: (7-1-93)

a. A white light placed over the fore and aft centerline of the vessel showing an unbroken light over

an arc of the horizon of two hundred twenty-five (225) degrees (twenty (20) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on either side of the vessel. (1-1-94)

b. A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. (7-1-93)

c. On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. (1-1-94)

d. A motorboat less than thirty-nine and four-tenths (39.4) feet in length may exhibit a white light aft visible all around the horizon in lieu of the white lights prescribed in Subsections 100.02.a. and 100.02.b. of this chapter. (7-1-93)

03. Non-Motorized Vessels. A sailboat, under sail alone, and a vessel under oars or paddles, must exhibit navigation lights as follows: (1-1-94)

a. On the starboard side a green light and on the port side a red light each showing an unbroken light over an arc of the horizon of one hundred twelve and five-tenths (112.5) degrees (ten (10) points) and so fixed as to show the light from right ahead to twenty-two and five-tenths (22.5) degrees (two (2) points) abaft (toward the stern from) the beam on its respective side. These sidelights may be combined in one (1) lantern carried on the fore and aft centerline of the vessel. (1-1-94)

b. A white light placed as nearly as practicable at the stern showing an unbroken light over an arc of the horizon one hundred thirty-five (135) degrees (twelve (12) points) and so fixed as to show the light sixty-seven and five-tenths (67.5) degrees (six (6) points) from right aft on each side of the vessel. (7-1-93)

c. A sailboat of less than twenty-three (23) feet in length or a vessel under oars or paddles must, if practicable, exhibit the lights prescribed in Subsections 100.03.a. and 100.03.b. of this chapter, but if it does not, it must have ready at hand an electric torch or lighted lantern showing a white light that must be exhibited in sufficient time to prevent collision. (7-1-93)

04. Anchorage. All vessels must display a white light visible all around the horizon when anchored on the waters of this state, unless anchored in a designated mooring area. (1-1-94)

05. Seaplanes. Where it is impracticable for a seaplane to exhibit lights of the characteristics or in the positions prescribed in Section 100 of this chapter, it must exhibit lights as similar in characteristics and position as is possible. (1-1-94)

06. Sailboats. Between sunrise and sunset, a vessel proceeding under sail when also being propelled by machinery must exhibit forward where it can best be seen a conical shape, apex downward. A vessel of less than thirty-nine and four-tenths (39.4) feet in length is not required to exhibit this shape, but may do so. (7-1-93)

07. Visibility. Every white light prescribed by Section 100 of this chapter must be of such character as to be visible at a distance of at least two (2) miles. Every other colored light must be fitted with inboard screens of sufficient height so set as to prevent these lights from being seen across the bow and must be of such character as to be visible at a distance of at least one (1) mile. The word "visible" in Section 100 of this chapter means visible on a dark night with clear atmosphere. (7-1-93)

08. Alternative Lights and Shapes. In lieu of the lights and shapes required in Section 100 of this chapter, a vessel may exhibit those lights and shapes provided for by 33 U.S.C. Section 1601 et seq., or 33 U.S.C. Section 2001 et seq. and applicable regulations, and as published by the U.S. Coast Guard in the Navigational Rules International - Inland. (1-1-94)

101. -- 124. (RESERVED)

125. VENTILATION.

01. Ventilation Required. Except seaplanes, no person may operate or permit to be operated any vessel having aboard a gasoline engine used for any purpose, unless it is provided with proper ventilation. (7-1-93)

02. Compartments With Gasoline Engines. Each compartment in a vessel that has a permanently installed gasoline engine with a cranking motor must be open to the atmosphere, or be ventilated by a natural ventilation system and a mechanical exhaust blower system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 183.601 et seq. (1-1-94)

03. Collection of Vapors or Gases. Each compartment or tank in a vessel that may permit the entrapment of explosive or flammable gases or vapors must be ventilated by a natural ventilation system. (1-1-94)

04. Natural Ventilation System. A natural ventilation system must be approved for use by the U.S. Coast Guard and include a supply opening or duct from the atmosphere or from a ventilated compartment or from a compartment that is open to the atmosphere, and an exhaust opening into another ventilated compartment or an exhaust duct to the atmosphere. Each exhaust opening or duct must originate in the lower third of the compartment; and each supply opening or duct and each exhaust opening or duct in a compartment must be above the normal accumulation of bilge water. Each supply opening must be forward facing and located on the exterior surface of a vessel, or be constructed so that air effectively flows into or out of the supply or exhaust openings. (1-1-94)

05. Exhaust Blowers. Each vessel that is required to have an exhaust blower must have a label that is located as close as practicable to each ignition switch, is in plain view of the operator, and has at least the following information:

"WARNING -- GASOLINE VAPORS CAN EXPLODE. BEFORE STARTING ENGINE OPERATE BLOWER FOR FOUR (4) MINUTES AND CHECK ENGINE COMPARTMENT BILGE FOR GASOLINE VAPORS."

(1-1-94)

06. Alternative Ventilation System. In lieu of the ventilation and warning label required in Section 125 of this chapter, a vessel may be provided with any type of ventilating system as required by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and applicable federal regulations. (1-1-94)

126. -- 149. (RESERVED)

150. SOUND PRODUCING DEVICES.
No person may operate or permit to be operated any vessel on the waters of this state without carrying on board sound producing devices as follows: (7-1-93)

01. Vessels Thirty-Nine and Four-Tenths Feet and Over. A vessel of thirty-nine and four-tenths (39.4) feet or more in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq., and a bell. The whistle or horn must be audible for at least one-half (1/2) nautical mile, and the bell, when struck, must produce a clear bell-like tone of full sound characteristic. (1-1-94)

02. Vessels Under Thirty-Nine and Four-Tenths Feet. A vessel of less than thirty-nine and four-tenths (39.4) feet in length must be provided with a whistle or horn capable of making the prescribed signals provided for by 33 U.S.C. Section 2001 et seq. The whistle or horn must be audible for at least one-half (1/2) nautical mile. (1-1-94)

151. -- 174. (RESERVED)

175. BACKFIRE FLAME CONTROL.

Except seaplanes, no person may operate or permit to be operated any motorboat on the waters of this state unless each carburetor on every inboard gasoline engine installed in a motorboat must be equipped with a U.S. Coast Guard approved backfire flame arrester or other means of backfire flame control approved for use by the U.S. Coast Guard, each of which is securely attached to the carburetor and in proper working order. (7-1-93)

176. -- 199. (RESERVED)

200. WARNING FLAGS FOR DOWNED SKIERS.
No person may operate or permit to be operated any vessel used for towing waterskiers or similar devices in which persons or objects are being towed above, in, or on the waters of this state unless it has on board and displays a warning flag as specified in Section 200 of this chapter. (7-1-93)

01. Size and Color. A warning flag must be international orange or red in color and must be at least one (1) foot square. (7-1-93)

02. Use. When any person being towed by the vessel becomes disengaged from the towline and is down in the water, a person in the vessel must immediately hold the warning flag aloft, visible from all sides, as an indicator to other vessels in the area that a person is down in the water. As long as such downed person is in the water, the flag must remain displayed to prevent danger to that person and hazards to passing vessels. (1-1-94)

03. Use Limited. Such warning flag must be displayed only under the conditions set forth in Section 200 of this chapter or when other eminent danger exists. (3-23-98)

201. -- 224. (RESERVED)

225. VESSEL LIVERIES -- EQUIPMENT.
Neither the owner of a vessel livery nor his agent or employee may permit any vessel permitted by him to be operated as a vessel to depart from his premises unless it has been provided, either by owner or renter, with the equipment required pursuant to Title 67, Chapter 70, Idaho Code and this chapter. (1-1-94)

226. PERSONAL WATERCRAFT LIVERIES.

01. Education Required. All liveries renting, leasing or hiring out any personal watercraft must provide education in the laws, rules and safe operation of the personal watercraft to each person that will operate the personal watercraft. No person may operate any personal watercraft that is rented, leased or hired without first completing instruction in the laws, rules and safe operation of the personal watercraft. This instruction must include: (3-23-98)

a. The complete reading of "Personal Watercraft Laws and Safe Operation," IDPR form REV 50.13; and (3-23-98)

b. The complete viewing of the video "Play It Safe" produced by the Personal Watercraft Industry Association. (3-23-98)

02. Acknowledgment Required. All persons operating a rented, leased or hired personal watercraft must carry on board for inspection by any law enforcement officer a valid "Idaho PWC Renter's Acknowledgment of Education" form, IDPR form REV 50.14. (3-23-98)

03. Provision of Forms, Videos, Publications. All forms, videos and other required educational materials will be provided to personal watercraft liveries by the Department at no charge to the livery. (3-23-98)

227. -- 249. (RESERVED)

250. VESSEL NUMBERS -- DISPLAY, SIZE, COLOR.

01. Requirements. Each vessel number required by Section 67-7008, Idaho Code, must: (4-11-15)

a. Be in plain vertical block characters of not less than three (3) inches in height; (7-1-93)

b. Contrast with the color of the background; (7-1-93)

c. Have spaces or hyphens that are equal to the width of a letter other than "I" or a number other than "1" between the letter and number groupings (Example: ID 5678 A or ID-5678-A); (7-1-93)

d. Read from left to right; (7-1-93)

e. Be maintained in legible condition; (7-1-93)

f. Be as high above the waterline as practicable without decreasing the visibility of the number. (7-1-93)

02. Manufacturers and Dealers. When a vessel is used by a manufacturer or dealer for testing or demonstrating, the vessel number may be painted on or attached to removable plates that are temporarily but firmly attached to each side of the forward half of the vessel. (4-11-15)

03. Special Circumstances. On vessels so configured that a vessel number on the hull or superstructure would not be easily visible, the vessel number must be painted on or attached to a backing plate that is attached to the forward half of the vessel so that the vessel number is visible from each side of the vessel. (4-11-15)

251. -- 274. (RESERVED)

275. VESSEL NUMBERS -- FORM.

01. Numbering. Each vessel number issued according to Section 67-7008, Idaho Code, must consist of the prefix "ID," which denotes Idaho as the State of issuing authority, followed by: (4-11-15)

a. Not more than four (4) numerals followed by not more than two (2) capital letters (Example: ID 1234 AB); or (1-1-94)

b. Not more than three (3) numerals followed by not more than three (3) capital letters (Example: ID 123 ABC). (7-1-93)

02. Prohibited Letters. A vessel number suffix may not include the letters "I," "O," or "Q," which may be mistaken for numerals. (4-11-15)

276. -- 299. (RESERVED)

300. VALIDATION STICKERS.

01. Size and Location of Stickers. Validation stickers issued according to Section 67-7008, Idaho Code, must: (4-11-15)

a. Be displayed within six (6) inches of and directly in line with the vessel number displayed on the vessel; (4-11-15)

b. Be approximately three (3) inches square; and (7-1-93)

c. Indicate the year in which each validation sticker expires by the colors, green, red, blue, and international orange, in rotation beginning with green for stickers that expire in 1987. (7-1-93)

02. Removal of Stickers. Validation stickers issued according to Sections 67-7008 or 67-7011, Idaho Code, that have become invalid must be removed from the vessel. (1-1-94)

301. -- 324. (RESERVED)

325. APPLICATION AND CERTIFICATE OF NUMBER -- CONTENTS.

01. Requirements. Except as allowed in Subsections 325.03 and 325.04 of this chapter, each application for a certificate of number and each certificate of number, referred to in Section 67-7008, Idaho Code, must contain the following information: (4-11-15)

a. Number issued to the vessel; (7-1-93)

b. Expiration date of the certificate; (7-1-93)

c. State of principal use; (7-1-93)

d. Name of the owner; (7-1-93)

e. Address of owner, including ZIP code; (7-1-93)

f. Whether the vessel is used for pleasure, rent or lease, dealer or manufacturer demonstration, commercial passenger carrying, commercial fishing or other use; (7-1-93)

g. Manufacturer's hull identification number (if any); (7-1-93)

h. Make of vessel; (7-1-93)

i. Year vessel was manufactured; (7-1-93)

j. Overall length of vessel; (7-1-93)

k. Whether the vessel is an open boat, cabin cruiser, houseboat, or other type; (7-1-93)

l. Hull material; (7-1-93)

m. Whether the propulsion is inboard, outboard, inboard-outdrive, or sail; (7-1-93)

n. Whether the fuel is gasoline, diesel, or other; (7-1-93)

o. The number previously issued by an issuing authority for the vessel, if any; (7-1-93)

p. Whether the application is for a new certificate of number, renewal of a certificate of number, or transfer of ownership; (4-11-15)

q. The signature of the owner. (7-1-93)

02. Manufacturer or Dealer. A certificate of number issued to a manufacturer or dealer to be used on a vessel for test or demonstration purposes may omit the requirements of Subsections 325.01.g. through 325.01.n. of this chapter if the word "manufacturer" or "dealer" is plainly marked on the certificate. (4-11-15)

03. Livery Vessels. A certificate of number issued to a vessel that is to be rented or leased without propulsion machinery may omit the requirements of Subsections 325.01.m. and 325.01.n. of this chapter if the words "livery vessel" are plainly marked on the certificate. (4-11-15)

04. Proof of Ownership. Each applicant for a certificate of number as prescribed in Section 67-7008, Idaho Code, must submit one (1) of the following documents to the Department or authorized vendor: (4-11-15)

a. The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; (3-23-98)

b. If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or

place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; (3-23-98)

c. If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; (3-23-98)

d. If none of the documents listed in Subsections 325.04.a. or 325.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. (3-23-98)

326. -- 349. (RESERVED)

350. NUMBERING - EXEMPTIONS.
The following vessels are exempt from the numbering provisions of Title 67, Chapter 70, Idaho Code, pursuant to Section 67-7009(5), Idaho Code: (7-1-93)

01. Rowboats. Rowboats without motors; (7-1-93)

02. Canoes. Canoes without motors; (7-1-93)

03. Kayaks. Kayaks without motors; (7-1-93)

04. Inflatables. Inflatable vessels without motors; (7-1-93)

05. Paddle Vessels. Paddle vessels without motors; (7-1-93)

06. Sailboards. Sailboards without motors; (7-1-93)

07. Tenders. Tenders; (7-1-93)

08. Documented Vessels. Vessels properly documented with the U.S. Coast Guard, according to 46 U.S.C. 12101 et seq.; and (3-23-98)

09. Government Vessels. Vessels exempted in Section 67-7009(3), Idaho Code, include those vessels owned by the United States, another state or a political subdivision thereof, which are used principally for governmental purposes other than recreation, and which are clearly identifiable as a government-owned vessel. (7-1-93)

351. -- 399. (RESERVED)

400. COUNTY ELIGIBILITY TO RECEIVE MONEYS FROM THE STATE VESSEL ACCOUNT.

01. Boating Improvement Program. Only those counties in the state with a boating improvement program, as recognized by the Department, are eligible to receive moneys from the state vessel account. "A 'boating improvement program' means that one or more recognized boating facilities are being developed and/or maintained within the county's jurisdiction and/or that the county has or is actively developing a recognized boating law enforcement program" (Section 67-7013(6), Idaho Code). (1-1-94)

02. Requirements for Boating Improvement Program. A boating improvement program is recognized if it contains one (1) or more of the following: (7-1-93)

a. Boating facilities that are being maintained within the county's jurisdiction. A boating facility is an improved public boating access site, which includes at least an improved (concrete or asphalt) boat ramp and any type parking area for vehicles and their attached boat trailers. (1-1-94)

b. Boating facilities that are being developed within the county's jurisdiction. "Being developed" means that substantiating evidence can and must be presented in proof of the development. (1-1-94)

c. The county has a boating law enforcement program. A boating law enforcement program is a program whereby an agent of the county sheriff's Department is currently, or has in the recent past, patrolled the county's waterways and enforced Title 67, Chapter 70, Idaho Code. (1-1-94)

d. The county is actively developing a boating law enforcement program. "Actively developing" means that substantiating evidence can and must be presented in proof if the development. (1-1-94)

401. -- 424. (RESERVED)

425. HULL IDENTIFICATION NUMBERS - REQUIRED.

01. Obtaining a Hull Identification Number. A person who builds or imports a vessel for his own use and not for the purposes of sale must request a hull identification number from the director and affix the number as instructed (Section 67-7004(2), Idaho Code). (1-1-94)

02. Displaying the Hull Identification Number. A person must identify a vessel with the display of two (2) identical hull identification numbers, or as otherwise provided by 46 U.S.C. Section 2101 et seq. and Section 4301 et seq., and 33 CFR Section 181.21 et seq. (1-1-94)

03. Duplicate Numbers Prohibited. The same hull identification number may not be assigned to more than one (1) vessel. (7-1-93)

04. Proof of Ownership. Each applicant for a hull identification number as prescribed in Sections 67-7004(2) and 67-7004(4), Idaho Code, must submit one (1) of the following documents to the Department: (3-23-98)

a. The bill of sale from the dealer or a bill of sale from the previous owner of the vessel; (3-23-98)

b. If the vessel is home built, a sworn statement attesting to the identity of the builder, the location or place of construction, the source of the material used for construction and a description of the vessel. The statement must also be accompanied by any receipts received from the purchase or acquisition of the materials used in the construction of the vessel and a copy of the construction plans, if any; (3-23-98)

c. If the vessel has been rebuilt, a sworn statement attesting to the identity of the builder, the location or place of rebuilding, the source of the material used for rebuilding and a description of the vessel. The statement must also be accompanied by any receipts received for the purchase or acquisition of the materials used in the rebuilding of the vessel and documentation indicating the source of the original hull and proof of ownership from the previous owner; (3-23-98)

d. If none of the documents listed in Subsections 425.04.a. or 425.04.b. of this Section are available, the applicant must submit an affidavit of ownership to the Department. (3-23-98)

426. -- 449. (RESERVED)

450. HULL IDENTIFICATION NUMBERS -- FORM.
Each hull identification number issued according to Section 67-7004(2), Idaho Code, consists of twelve (12) characters, uninterrupted by slashes, hyphens, or spaces, as follows: (1-1-94)

01. Prefix. The first three (3) characters (prefix) are "IDZ," which denotes Idaho as the issuing authority. (1-1-94)

02. Hull Serial Number. Characters four (4) through eight (8) are the hull serial number assigned by the director in letters of the English alphabet, or Arabic numerals, or both, except the letters "I," "O," and "Q." (1-1-94)

03. Date of Manufacture. Characters nine (9) and ten (10) indicate the month and year of manufacture. The date indicated can be no earlier than the date construction or assembly began and no later than the date construction or assembly is completed or the vessel is imported into the United States. Character nine (9) are indicated using letters of the English alphabet. The first month of the year, January, is designated by the letter "A," the second month, February, by the letter "B," and so on until the last month of the year, December. Character ten (10) is the last digit of the year of manufacture or import and must be an Arabic numeral. (1-1-94)

04. Model Year. Characters eleven (11) and twelve (12) indicate the model year using Arabic numerals for the last two (2) numbers of the model year such as "87" for 1987 and "88" for 1988. (1-1-94)

451. -- 474. (RESERVED)

475. HULL IDENTIFICATION NUMBERS -- DISPLAY.
Each hull identification number issued according to Section 67-7004(2), Idaho Code must be displayed as follows: (1-1-94)

01. Primary Number. The primary hull identification number must be affixed: (1-1-94)

a. On vessels with transoms, to the starboard outboard side of the transom within two (2) inches of the top of the transom, gunwale, or hull/deck joint, whichever is lowest. (7-1-93)

b. On vessels without transoms or on vessels on which it would be impractical to use the transom, to the starboard outboard side of the hull, aft, within one (1) foot of the stern and within two (2) inches of the top of the hull side, gunwale or hull/deck joint, whichever is lowest. (7-1-93)

c. On catamarans and pontoon vessels which have readily replaceable hulls, to the aft crossbeam within one (1) foot of the starboard hull attachment. (7-1-93)

d. If the hull identification number would not be visible, because of rails, fittings, or other accessories, the number must be affixed as near as possible to the location specified in Subsection 475.01 of this chapter. (1-1-94)

02. Duplicate Number. The duplicate hull identification number must be affixed in an unexposed location on the interior of the vessel or beneath a fitting or item of hardware. (1-1-94)

03. Hull Identification Number to Be Permanently Affixed. Each hull identification number must be carved, burned, stamped, embossed, molded, bonded, or otherwise permanently affixed to the vessel so that alteration, removal, or replacement would be obvious. If the number is on a separate plate, the plate must be fastened in such a manner that its removal would normally cause some scarring of or damage to the surrounding hull area. A hull identification number may not be attached to parts of the vessel that are removable. (1-1-94)

04. Size of Characters. The characters of each hull identification number may be no less than one-fourth (1/4) of an inch high. (1-1-94)

476. -- 499. (RESERVED)

500. IDAHO WATERWAY MARKING SYSTEM.

01. Uniform System. In the marking of water areas, as described in Section 67-7031, Idaho Code, the Uniform State Waterway Marking System is used for the placement of aids to navigation and regulatory markers in the waters of the state. (1-1-94)

02. Regulatory Markers. Regulatory markers are used to indicate to a vessel operator the existence of dangerous areas as well as those which are restricted or controlled, such as speed zones and areas dedicated to a particular use, or to provide general information and directions. (1-1-94)

03. Colors. Each regulatory marker must be colored white with international orange geometric shapes. (7-1-93)

04. Buoys. When a buoy is used as a regulatory marker it must be white with horizontal bands of international orange placed completely around the buoy circumference. One (1) band must be at the top of the buoy body, with a second band placed just above the waterline of the buoy so that both international orange bands are clearly visible to approaching vessels. The area of buoy body visible between the two (2) bands must be white. (7-1-93)

05. Geometric Shapes. Geometric shapes must be placed on the white portion of the buoy body and must be colored international orange. The authorized geometric shapes and meanings associated with them are as follows: (7-1-93)

a. A vertical open faced diamond shape to mean danger. (7-1-93)

b. A vertical open faced diamond shape having a cross centered in the diamond to mean that a vessel is excluded from the marked area. (7-1-93)

c. A circular shape to mean that vessel operated in the marked area is subject to certain operating restrictions. (7-1-93)

d. A square or rectangular shape with directions or information lettered on the inside. (7-1-93)

06. Signs. Where a regulatory marker consists of a square or rectangular shaped sign displayed from a structure, the sign must be white, with an international orange border. When a diamond or circular geometric shape associated with meaning of the marker is included it must be centered on the signboard. (7-1-93)

07. Navigation Aids. Aids to navigation are used to supplement the federal lateral system of buoyage and have either a lateral or cardinal meaning. (1-1-94)

08. Defined Channel. On a well defined channel including a river or other relatively narrow natural or improved waterway, an aid to navigation is normally a solid colored buoy. A buoy that marks the left side of the channel viewed looking upstream or toward the head of navigation must be colored all black. A buoy that marks the right side of the channel viewed looking upstream or toward the head of a navigation must be colored all red. On a well defined channel, solid colored buoys are established in pairs, one (1) on each side of the navigable channel that they mark, and opposite each other to inform the user that the channel lies between the buoys and that he should pass between the buoys. (7-1-93)

09. Irregularly Defined Channel. On an irregularly defined channel, solid colored buoys may be used singly in staggered fashion on alternate sides of the channel provided they are spaced at sufficiently close intervals to inform the user that the channel lies between the buoys and that he should pass between the buoys. (7-1-93)

10. Undefined Channel. Where there is no well defined channel or when a body of water is obstructed by objects whose nature or location is such that the obstruction can be approached by a vessel from more than one (1) direction, supplemental aids to navigation having cardinal meaning (i.e., pertaining to the cardinal points of the compass, north, east, south, and west) may be used. The use of an aid to navigation having cardinal meaning is discretionary provided that the use of such a marker is limited to wholly state owned waters and the state waters for private aids to navigation as defined and described in Section 500 of this chapter. (1-1-94)

11. Cardinal System. Aids to navigation conforming to the cardinal system consist of three (3) distinctly colored buoys. (7-1-93)

a. A white buoy with a red top may be used to indicate to a vessel operator that he will pass to the south or west of the buoy. (1-1-94)

b. A white buoy with a black top may be used to indicate to a vessel operator that he will pass to the north or east of the buoy. (1-1-94)

c. In addition, a buoy showing alternate vertical red and white stripes may be used to indicate to a

vessel operator that an obstruction to navigation extends from the nearest shore to the buoy and that he may not pass between the buoy and shore. The number of white and red stripes is discretionary, provided that the white stripes are twice the width of the red stripes. (1-1-94)

12. Markers to Be Visible. The size, shape, material, and construction of all markers, both fixed and floating, must be such as to be observable under normal conditions of visibility at a distance such that the significance of the marker or aid must be recognizable before the observer stands into danger. (1-1-94)

13. Lettering to Be Visible. Numbers, letters or words on an aid to navigation or regulatory marker must be placed in a manner to enable them to be clearly visible to an approaching and passing vessel. They must be block style, well proportioned, and as large as the available space permits. Numbers and letters on red or black backgrounds must be white; numbers and letters on white backgrounds must be black. (7-1-93)

14. Numbering Buoys. Odd numbers must be used to identify solid colored black buoys or black topped buoys; even numbers must be used to identify solid colored red buoys or red topped buoys. All numbers must increase in an upstream direction or toward the head of navigation. The use of numbers to identify buoys is discretionary. (7-1-93)

15. Lettering Markers. Letters only may be used to identify regulatory and the white and red vertically striped obstruction markers. When used the letters must follow alphabetical sequence in an upstream direction or toward the head of navigation. The letters "I" and "O" are omitted to preclude confusion with numbers. The use of letters to identify regulatory markers and obstruction markers is discretionary. (7-1-93)

16. Reflective Material. The use of reflectors or retroreflective materials is discretionary. (7-1-93)

17. Color of Reflective Material. When used on buoys having lateral significance, red reflectors or retroreflective materials must be used on solid colored red buoys; green reflectors or retroreflective materials must be used on solid colored black buoys; white reflectors or retroreflective materials only may be used for all other buoys including regulatory markers, except that orange reflectors or retroreflective materials may be used on the orange portions of regulatory markers. (7-1-93)

18. Lights. The use of navigational lights on state aids to navigation, including regulatory markers, is discretionary. When used, lights on solid colored buoys must be regularly flashing, regularly occulting, or equal interval lights. For ordinary purposes the frequency of flashes may not be more than thirty (30) flashes per minute (slow flashing). When it is desired that lights have a distinct cautionary significance, as at sharp turns or sudden constrictions in the channel or to mark wrecks or other artificial or natural obstructions, the frequency of flashes may not be less than sixty (60) flashes per minute (quick flashing). When a light is used on a cardinal system buoy or a vertically striped white and red buoy it must always be quick flashing. The colors of the lights must be the same as for reflectors; a red light only on a solid colored red buoy; a green light on solid colored black buoy; white light only for all other buoys including regulatory markers. (1-1-94)

19. Ownership Identification. The use and placement of ownership identification is discretionary, provided that ownership identification is worded and placed in a manner that avoids detracting from the meaning intended to be conveyed by a navigational aid or regulatory marker. (1-1-94)

20. Mooring Buoys. Mooring buoys instate waters for private aids to navigation must be colored white and must have a horizontal blue band around the circumference of the buoy centered midway between the top of the buoy and the waterline. (1-1-94)

21. Lighted Mooring Buoys. A lighted mooring buoy must normally display a slow flashing white light. When its location in a waterway is such that it constitutes an obstruction to a vessel operated during hours of darkness, it must display a quick flashing white light. (1-1-94)

22. Identifying Mooring Buoys. A mooring buoy may bear ownership identification provided that the manner and placement of the identification does not detract from the meaning intended to be conveyed by the color scheme or identification letter when assigned. (7-1-93)

501. -- 524. (RESERVED)

525. NEGLIGENT OPERATION.
Negligent operation, as used in Section 67-7017, Idaho Code, includes, but not be limited to, the following: (1-1-94)

01. Airborne. Becoming airborne or completely leaving the water while crossing the wake of another vessel at an unsafe distance from the vessel creating the wake; or (3-23-98)

02. Weaving. Weaving through congested traffic; or (3-23-98)

03. Speed or Proximity. Operating at such a speed and proximity to another vessel, a person, or property of other persons so as to require the operator to swerve at the last moment to avoid collision. (3-23-98)

526. -- 999. (RESERVED)

26.01.31 – RULES GOVERNING THE ADMINISTRATION OF THE IDAHO DEPARTMENT OF PARKS AND RECREATION STATE AND FEDERAL GRANT FUNDS

000. LEGAL AUTHORITY.
The Idaho Park and Recreation Board is authorized under Section 67-4223(a), Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the Department and its programs. (7-1-99)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.31, "Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds." (4-11-06)

02. Scope. This chapter establishes procedures for grants administration of the Off-Road Motor Vehicle Account, the Recreational Vehicle Account, the Waterways Improvement Fund, the State Trust for Outdoor Recreation Enhancement, the Recreational Trails Program, the Motorbike Recreation Account, the Cutthroat License Plate Fund, and the Recreational Road and Bridge Fund. This chapter includes requirements for project application, eligibility, review, award and management. (4-11-06)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (7-1-99)

01. Applicant. An IDPR approved entity, that identifies a need for a project, supplies initial support data, and applies for program grant through the Department. (4-11-06)

02. Board. The Idaho Park and Recreation Board. (7-1-99)

03. County Waterways Committee. Those committees created by Section 67-7012, Idaho Code, whose purpose is to advise the county on the maintenance and improvements of waterways and expenditures of moneys deposited in the county vessel account. (4-11-06)

04. Cutthroat License Plate Fund (CLP). That portion of the Park and Recreation fund created in Section 67-4225, Idaho Code, received from the sale of cutthroat wildlife license plates. (4-11-06)

05. Department. The Idaho Department of Parks and Recreation. (7-1-99)

06. Director. The chief administrator of the Department, or the designee of the Director. (7-1-99)

07. Grant. A grant from programs or funds as described in Section 001.02 of this chapter. (4-11-06)

08. Grantee. An applicant who receives a grant from the Department for the programs or funds as described in Section 001.02. (4-11-06)

09. IDPR Grant Guidelines. A compilation of state procedures, rules, and instructions assembled in manual form for dissemination to the potential applicant and public entities that may wish to apply for grants. (4-11-06)

10. Management. The actions taken in exercising control over, regulating the use, operation, and maintenance of facilities or programs. (7-1-99)

11. Motorbike Recreation (MBR) Account. This account, created by Section 67-7126, Idaho Code, may be used for all of the purposes outlined in Subsection 010.11 of this chapter and rider education programs. When reference is made to the ORMV Account in this chapter, it is intended to include the MBR Fund the same as if it was specifically denoted as such except enforcement of laws and rules governing the use of off-road motor vehicles in Idaho. (4-11-06)

12. Off-Road Motor Vehicle (ORMV) Account. That account created by Section 57-1901, Idaho Code. These moneys may be used to acquire, purchase, improve, repair, maintain, furnish and equip off-road motor vehicle facilities and sites or areas used by off-road vehicles on public or private land, and to assist with enforcement of laws and regulations governing the use of off-road vehicles in the state of Idaho. (7-1-99)

13. Off-Road Motor Vehicle (ORMV) Account Advisory Committee. A nine (9) member committee appointed by the Board to advise the Department on matters involving ORMV Fund grants. (7-1-99)

14. Project. An effort to comply with Idaho statutes and rules for which grant funds are used to assist the grantee in achieving the objectives of the grant programs. (4-11-06)

15. Project Manager. Any individual who has the principle responsibility for the ongoing management of projects. (7-1-99)

16. Public Entity. The state, federal or local government or a subdivision thereof, or an Indian tribe. (7-1-99)

17. Recreational Road and Bridge Fund (RRBF). That portion of the park and recreation capital improvement account designated for grants to improve roads, bridges, and parking lots in or leading to park and recreation areas of the state. (4-11-06)

18. Recreational Trails Program (RTP). The account created by the Transportation Equity Act for the 21st Century (Section 1112). This fund may be used for maintenance and restoration of existing recreational trails, development and rehabilitation of trailside and trailhead facilities and trail linkages for recreational trails, purchase and lease of recreational trail construction equipment, construction of new recreational trails, acquisition of easements and fee simple title to property for recreational trails or recreational trail corridors, and the operation of education programs to promote safety and environmental protection as those objectives relate to the use of recreational trails. (4-11-06)

19. Recreational Trails Program (RTP) Advisory Committee. A ten (10) member advisory committee appointed by the Board to advise the Department on matters related to the Recreational Trails Program. (4-11-06)

20. Recreational Vehicle (RV) Account. That account created by Section 49-448, Idaho Code. The moneys may be used for the acquisition, lease, development, improvement, and maintenance of facilities designed to promote the health, safety, and enjoyment of recreational vehicle users. (7-1-99)

21. Recreational Vehicle (RV) Advisory Committee. A six (6) member committee appointed by the Board to advise the Board and Department on matters involving the RV Account. (7-1-99)

22. Staff. Any individual employed by the Department. (7-1-99)

23. State and Federal Grant Manager. The Department administrator in charge of State and Federal grant programs. (4-11-06)

24. State and Federal Grant Program. That section of the Department responsible for the administration of state and federal grant programs. (4-11-06)

25. State Trust for Outdoor Recreation Enhancement (STORE). The recreation account created by Section 67-4247, Idaho Code. (7-1-99)

26. Waterways Improvement Fund (WIF). That fund created by Section 57-1501, Idaho Code. These moneys may be used for the protection and promotion of safety, waterways improvements, creation and improvement of parking areas for boating purposes, making and improving boat ramps and moorings, marking of waterways, search and rescue, and all things incident to such purposes including the purchase of real and personal property. No such improvements may constructed in any county of the state without the approval of the county waterways committee of the plan for such improvements. (4-11-06)

27. Waterways Improvement Fund Grant Advisory Committee. A six (6) member committee appointed by the Board to advise the Department on matters relating to Waterways Improvement Fund grants. (7-1-99)

011. -- 049. (RESERVED)

050. GENERAL PROVISIONS OF THE STATE AND FEDERAL GRANT PROGRAM.
It is the intent of the Department, through the State and Federal Grant program, to provide funds and planning assistance to entities for the acquisition, lease, development, improvement and maintenance of facilities and equipment to promote the health, safety, enjoyment and general welfare of recreational users in the state of Idaho. (4-11-06)

051. -- 074. (RESERVED)

075. ELIGIBLE APPLICANTS.
Public entities as defined in Subsection 010.16, and sponsors as defined by Federal Highway Administration Recreation Trail Program Interim Guidance, are eligible to apply for and receive grants as described on Subsection 001.02 of this chapter. (4-11-06)

076. -- 099. (RESERVED)

100. APPLICATION PROCEDURE.
All forms and documents required by these rules and the Department must be completed and submitted according to these rules in order for a grant application to be considered for approval. (7-1-99)

01. Forms. To be considered for a grant, an applicant must file with the Department a completed grant application form and other documentation specified in the IDPR Grant Guidelines, all of which must have original signatures. An applicant must file with the Department a completed grant agreement form, with original signatures, within sixty (60) calendar days of written notification of grant approval. The application and grant agreement forms must be provided to the applicant by the Department. (4-11-06)

02. Review. The applicant or applicant's representative may review the project and all associated documentation with the Department prior to submitting the application to ensure the project and documentation meet the criteria of the State and Federal grant program. When possible, Department staff may perform an on-site visit to the project site for preliminary fact finding and to evaluate the viability and eligibility of the project. (4-11-06)

03. Public Comment. The applicant must submit to the Department proof of public comment regarding the project. Proof of public comment may include the results of public meetings, scoping of National Environmental Policy Act (NEPA) processes, individual contacts with recreationists and others that may be affected by the project, newspaper articles and/or other media releases that describe the project and request public input. (4-11-06)

04. Deadline. The deadline for grant applications is established by the Department. The Department announces the availability of funds at least sixty (60) days prior to the deadline date for receipt of applications. (4-11-06)

101. -- 149. (RESERVED)

150. ELIGIBILITY AND PRIORITY RATING OF PROJECTS.
Eligibility of all projects or applicants is determined by the State and Federal Grant Manager who considers relevant rules, statutes and past performance of the applicant. (4-11-06)

01. Pre-Application Activities. Projects, or any part thereof, either paid for by the grantee or completed prior to the grant application deadline date established by the Department, are ineligible for grant funding or to be considered as match. However, costs for design and engineering incurred within one (1) year prior to the application deadline date may be considered as match, provided they are listed as a scope element on the application. Recreational Trail Program projects, or any part thereof, completed prior to the execution of the project agreement must be ineligible for grant funding or to be considered as match. (4-11-06)

02. Priority Rating Criteria. The Department and/or appropriate advisory committee establishes

project rankings by rating each eligible project using criteria established by the Board. Specific evaluation criteria is listed in the IDPR Grant Guidelines. (4-11-06)

151. -- 174. (RESERVED)

175. PROJECT TIME PERIOD.

01. Grant Cycle. Applications for ORMV Fund, RV Account, WIF, Motorbike Recreation Account (MRB), Cutthroat License Plate Fund, (CLP), Recreational Road and Bridge Fund (RRBF), or STORE will be considered at least once each state fiscal year (July 1 through June 30) dependent upon adequate funding availability. Applications for RTP projects will be considered at least once each federal fiscal year (October 1 through September 30) dependent upon adequate funding availability. (4-11-06)

02. Expenditure of Grant Funds. Except as herein provided, the grantee has only the designated state or federal fiscal year or years to expend grant funds. If the grant funds are not expended within the designated fiscal year or years, the grant will be revoked unless the applicant requests and receives an extension of time from the Department. (4-11-06)

03. Requests for Extension. A written request for an extension of the project period must be received by the Department prior to the end of the project period. The State and Federal Grant Manager must make the final determination of extensions. No project extension will be granted for more than one (1) year, however, project extensions may be granted in consecutive years. (4-11-06)

176. -- 199. (RESERVED)

200. AUTHORITY FOR FUNDING APPROVAL.
Projects up to, and including, twenty thousand dollars ($20,000) may be approved by the Director. Projects over twenty thousand dollars ($20,000) must be presented to the Board for approval. (4-11-06)

01. Minor Cost Increases. Cost increases of fifteen percent (15%) or less of the original grant amount may be approved by the Director. (4-11-06)

02. Major Cost Increases. Cost increases of more than fifteen percent (15%) of the original grant amount require the project be presented as a totally new proposal and compete through the general application process described herein. Should the revised project not receive approval for cost increase grant funding, the grantee will be required to complete the scope of the project as originally proposed at its expense or return any project grant funds paid to it so that the project may be canceled and the grant funds reallocated. (4-11-06)

03. Waterways Improvement Fund Grant Limit. The total sum of WIF grant funds approved to be used in any one (1) county may not exceed thirty percent (30%) of the total WIF grant funds approved to be used statewide in any state fiscal year. (4-11-06)

201. -- 249. (RESERVED)

250. DISBURSEMENT OF FUNDS.

01. Allowable Costs. Applicable Office of Management and Budget (OMB) cost principles, program regulations, and the terms of grant agreements must be followed in determining the reasonableness and allowability of costs. (7-1-99)

02. Documentation and System of Internal Controls. The grantee must maintain a system of internal controls in order to identify the source and disbursement of funds provided for all project costs and match by grant or project. Accounting records must be supported by source documentation such as vouchers, canceled checks, invoices, payroll, time and attendance records, contract and sub-grant award documents, and other required billing forms. (4-11-06)

03. Match. Match is the donation of cash, product or service used to complete the grant project as

approved. The following types of match may be used: (4-11-06)

a. Force account labor and equipment, i.e., the use of the grantee's staff (labor) and equipment costs. Documentation of force account must include: the name of each worker, dates worked, hourly rate of pay, number of hours worked, and the total cost by each person. Documentation of equipment costs includes the type of equipment used, dates used, hourly rate value, number of hours used, how the hourly rate was determined, and total cost. (7-1-99)

b. Donated material that is used as match must be reasonable and cannot exceed the costs of the materials to the donor or the market price at the time they are charged to the project, whichever is less. A detailed invoice marked "donation" or a letter from the donor must be used as documentation of donated material. (7-1-99)

c. Donated Contract Labor. When an employer, other than the grantee, furnishes the services of an employee, these services are valued at the employee's regular rate of pay (not including fringe benefits and overhead costs). These services must be for the same skill for which the employees is normally paid. Documentation must include the employee's name, dates worked, hourly rate, number of hours worked, and total cost. (7-1-99)

d. Rates for Volunteers. Skilled and unskilled must be consistent with the rate regularly paid by the grantee for similar work or must be consistent with those paid for similar work in the grantee's labor market. If the volunteer is professionally skilled and employed in the work he is performing on the project, the grantee may use the individual's normal wage rate. If the volunteer is unskilled and not professionally employed in the work he is performing the grantee must value the donated labor at the national minimum wage rate. Documentation must include the volunteer's name, date worked, hourly rate, number of hours worked, and total cost. (7-1-99)

04. Disbursement of Funds. Except as provided in Subsection 250.05 herein, the Department will authorize disbursement of funds allocated to a project on a reimbursement basis. This means that the grantee must initially pay all project costs and then seek reimbursement through the Department. (4-11-06)

a. General. Grantees must use only the forms specified in this section, and such supplementary or other forms as may from time to time be authorized by the Department. (7-1-99)

b. Request for Reimbursement. The grantee must complete an Idaho Department of Parks & Recreation (IDPR), Request for Reimbursement/Close-out Report form certifying that the data is correct and submit the form to the State and Federal grant program with an original signature. (4-11-06)

c. Extend the Due Date. The Department may extend the due date of any financial report upon receiving a justified request from a grantee. (7-1-99)

d. Accounting Basis. Each grantee must report program outlays and program income on a cash or accrual basis pursuant to Generally Accepted Accounting Principles. (7-1-99)

05. Cash Advances. When approved for an advance grantees will be paid in advance no sooner than thirty (30) days prior to project start, provided they maintain or demonstrate the willingness and ability to maintain procedures to minimize the time elapsing between the transfer of funds and their disbursement by the grantee. (4-11-06)

a. Requesting an Advance. A disbursement of funds may be made on an advance basis by submitting an IDPR Request for Advancement form provided by the Department. Written Justification for an advance is required unless there is a Memorandum of Understanding or Collection Agreement on file. (4-11-06)

b. Interest Earned on Advances. Grantees and subgrantees must promptly, at grant close-out, remit interest earned on advances to the Department. (7-1-99)

06. Reporting. Each grantee receiving grant funds that require reporting must remit a complete activities report to the Department no later than January 31 of each year that covers the preceding calendar year and must be on forms provided by the Department. Failure to report or poor performance indicated by the report may disqualify grantee from future grant application. (4-11-06)

07. Grant Closeouts. Within forty-five (45) days after the completion of the project, the grantee must submit an IDPR Request for Reimbursement/Close-out form and immediately refund to the Department any balance of unobligated cash advanced and interest earned. (4-11-06)

08. Record Retention. The grantee must retain all financial information referenced in these rules regarding a project for a time period of three (3) years from the date of the final grant payment, unless any litigation or audit concerning the project has been started or announced. (4-11-06)

09. Audit Authority. The Department has the right of access to any pertinent books, documents, papers, or other records of grantees that are pertinent to the grant, in order to make audits, examinations, excerpts, and transcripts. An audit of the award may result in the disallowance of costs incurred by the recipient and the establishment of a debt (account receivable) due the Department. (7-1-99)

10. Contingency Fund. The Department may retain grant funds from each recreational program grant account for the exclusive purpose of providing facilities or services. (7-1-99)

251. OFF-HIGHWAY VEHICLE LAW ENFORCEMENT FUND DISTRIBUTION.

01. Deposits Into and Usage of Fund. One dollar ($1) of every off-highway vehicle certificate of number will be deposited into the off-highway vehicle law enforcement fund. Moneys in this fund are paid out and used as follows: (4-11-15)

a. Sheriffs of counties with a current or an actively developing off-highway vehicle law enforcement program recognized by the Department receive moneys from the fund based upon the formula provided in this rule. (3-29-10)

b. A program is recognized as an off-highway vehicle law enforcement program if it is sponsored by a county sheriff to promote off-highway vehicle safety, education, and law enforcement and is overseen by an advisory committee of three (3) or more individuals to include at least one (1) sheriff or deputy sheriff, one (1) motorbike representative, and one (1) all-terrain vehicle or utility type vehicle representative. (3-29-10)

c. The Department must not withhold recognition of an off-highway vehicle law enforcement program unless it is clearly demonstrated that the program has not performed its off-highway vehicle enforcement duties within the past calendar year. An annual report of accomplishments of the previous calendar year by each participating sheriff must be delivered to the Department by March 1 of each year and includes (3-29-10)

i. The number of citations issued; (3-29-10)

ii. Assistance calls responded to; (3-29-10)

iii. Off-highway vehicle contacts made; and (3-29-10)

iv. Safety classes held. (3-29-10)

d. Money from the off-highway vehicle law enforcement fund will be used to defray costs for enforcement by sheriffs' offices pertaining to the use of all terrain vehicles, motorbikes, specialty off-highway vehicles, and utility type vehicles as defined in section 67-7101, Idaho Code. (3-29-10)

e. Money in the off-highway vehicle law enforcement fund will be used by the Department for the purpose of defraying costs of off highway vehicle related law enforcement activities that are conducted by a county sheriff's office and for no other purpose. Defrayable costs include: (3-29-10)

i. Wages (including overtime wages) of county sheriff's deputies directly engaged in off-highway vehicle law enforcement, as described in this Section; (3-29-10)

ii. Wages for court appearances pertaining to violations of Idaho law pertaining to off-highway

vehicles, as described in this Section; and (3-29-10)

iii. Direct costs to the sheriff's office required to facilitate the enforcement of off-highway vehicle laws, including vehicle purchase costs, fuel costs, supply costs and vehicle maintenance costs. (3-29-10)

02. Annual Notification of Qualifying Offices. Each year no later than April 1, the Department will notify the Idaho Sheriffs' Association in writing regarding which sheriff's offices are recognized by the Department as qualifying for enforcement funding under Section 67-7126, Idaho Code, and the balance of the off-highway vehicle law enforcement fund. It is the responsibility of each sheriff's office to provide information regarding its off-highway vehicle enforcement program in order for the Department to determine whether it recognizes the program. A sheriff's office has fourteen (14) days to request reconsideration of the Department's decision withholding recognition, and the Department must act upon such request within fourteen (14) days. (3-29-10)

03. Formula for Distribution of Funds. The Department distributes the funds in the off-highway vehicle law enforcement fund based on the following formula: (3-29-10)

a. Total federal acres with reference to the Payments in Lieu of Taxes (PILT) number for each eligible county minus large tracts of land not open to off-highway vehicle use. The result is the total off-highway vehicle opportunity on federal public land for that county. (3-29-10)

b. Calculate the percentage of the total off-highway vehicle opportunity on federal public land for each eligible county as compared to the entire state. (3-29-10)

c. Multiply this percentage by point zero six (0.6) to get sixty percent (60%) of the value. (3-29-10)

d. Calculate the percentage of off-highway vehicle certificate of number designations for each eligible county as compared to the entire state. (4-11-15)

e. Multiply this percentage by point zero four (0.4) to get forty percent (40%) of the value. (3-29-10)

f. Add the sixty percent (60%) value from the total off-highway vehicle opportunity on federal public land to the forty (40%) value of the off-highway vehicle certificates of number. This total will be the percentage of the off-highway vehicle law enforcement funds for which the individual county is eligible. (4-11-15)

04. Distribution of Funds Not Used. For the off-highway vehicle law enforcement funds that are not allocated to a county because they do not have an off-highway vehicle enforcement program as described by this rule, or for funds from undesignated certificates of number, the funds return to the off-highway vehicle law enforcement fund. Any undistributed money must be allocated as follows: (4-11-15)

a. Fifty percent (50%) of the unallocated money must be distributed as per the distribution formula previously listed; and (3-29-10)

b. Fifty percent (50%) of the unallocated money will be held by the Idaho Sheriff's Association to be used for emphasis areas of off-highway vehicle law enforcement. (3-29-10)

05. Annual Audit. All counties that receive off-highway vehicle law enforcement funding are subject to an annual audit of the expenditure of the funds. (3-29-10)

252. -- 299. (RESERVED)

300. GRANTEE OBLIGATIONS.

01. Project Completion. Except as herein proved, upon approval of a grant application the grantee is obligated to complete all elements of a project as described on the approved grant application, grant agreement, or approved amendment. (4-11-06)

02. Project Management. Except as herein provided, upon approval of a grant application the grantee must ensure adequate management of the project as specified in the approved grant application or grant agreement. (4-11-06)

03. Grant Modification. Only for good cause, and upon the submission of detailed justification shown in writing and approval by the State and Federal Grant Manager may the terms and obligations of the grant application or grant agreement be modified. (4-11-06)

04. Maintenance and Operation. Real property, physical facilities and equipment funded by a grant must be maintained and operated in the condition or state equivalent to that existing when such facility was completed or property or equipment purchased, normal wear and tear excepted. (4-11-06)

05. Public Use/Nondiscrimination. Physical facilities and real property purchased in whole or in part with grant moneys must be available for public use regardless of race, color, religion, national origin, gender, age, or disability. Facilities constructed with grant moneys must meet the requirements as set by the Americans with Disabilities Act Guidelines. (4-11-06)

06. Fees And Donations. Except as herein provided, fees may be charged or donations subscribed for the use of or access to facilities or real property developed or purchased with grant funds at a level commensurate with the costs of maintenance and upkeep of the facility or real property with the approval of the Board. Fees may be charged or donations subscribed for special events of limited duration at the facility when approved by the Department. (4-11-06)

07. Acknowledgment of Funding Assistance. Grantee must post and maintain appropriate permanent signs or decals upon project sites or equipment acknowledging funding assistance from the appropriate grant fund and the Department upon start of the project or purchase of equipment. (4-11-06)

08. Notice Of Numbering Requirements. Off-Road Motor Vehicle Account project applicants and sponsors are responsible for posting a written notice of the requirement of applicable certificate of number requirements and enforcing such requirements for special events as well as general use. (4-11-15)

09. Project Liability. Grantees, through a signed agreement, assume all project liability and hold the Department harmless. (4-11-06)

10. Purchase and Bidding Requirements. The grantee must follow all local, state and federal laws pertaining to the expenditure of public funds. (4-11-06)

11. Permits. The grantee must legally acquire all required local, state and federal permits for the construction or development of the project before grant funds are expended. Construction must comply with the then current codes and standards as set by the Uniform Building Code, Uniform Plumbing Code, and the National Electrical Code. (4-11-06)

12. Failure to Comply. Failure by the grantee to comply with such terms and obligations as set forth in the approved grant application or grant agreement will result in the immediate revocation of an approved grant or constitutes a conversion pursuant to Section 350 of this chapter, as applicable. (4-11-06)

301. -- 349. (RESERVED)

350. PROJECT CONVERSIONS.
No grant funded project may, without the prior written approval of the Board, be converted to uses other than for the authorized purposes specified in the original grant application or grant agreement. (4-11-06)

01. Approval of a Conversion. The Board may approve a conversion only when the grant moneys spent on the project can be returned to the appropriate grant fund or the grantee can provide an immediate substitution of other projects of at least equal current fair market value and of reasonably equivalent recreational usefulness and location. (4-11-06)

02. Resolving a Conversion. If there is a project conversion, the grantee is responsible for repaying the appropriate grant fund an amount determined by investment amortization through use, project life expectancy, and depreciation or appreciation of the facilities or equipment. (4-11-06)

03. Conversion Requests. Project conversion requests must be in writing by the grantee prior to any conversion attempts. (7-1-99)

351. -- 399. (RESERVED)

400. RESPONSIBILITY FOR EQUIPMENT.
Motorized equipment purchased with grant funds become property of the grantee. Such units of motorized equipment are subject to Subsection 250.06 and Section 350 of this chapter. (4-11-06)

401. -- 449. (RESERVED)

450. REAL PROPERTY.

01. Appraisals. A real estate appraisal is required for all real property to be acquired with grant funds. All appraisals must be prepared according to Department procedures. The appraisal must be paid for by the grantee, but may be included as part of eligible project costs. The selection of the appraiser must be approved by the Department. (4-11-06)

02. Appraisal Review. The Department reviews appraisals as necessary. Any appraisal report that does not meet content requirements or use correct analysis procedures must be corrected to the satisfaction of the Department. All costs are covered by the grantee. (4-11-06)

03. Negotiated Price. An approved appraisal is an acceptable estimate of property value. The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this value can be considered along with the appraised value in establishing the reasonable limits of assistance. If the grantee believes the negotiated price is a better indication of market value, yet is higher that the appraised value, a detailed statement of this difference must be submitted to the Department. (4-11-06)

04. Adequate Title and Public Access. The grantee must have clear title to, or adequate control and tenure of, the real property (land, land improvement, structures, and appurtenances) to be developed. The term "adequate control and tenure" of real property means a lease or an easement that provides the grantee sufficient control over the real property to permit the proposed development and use for a period of at least twenty-five (25) years from the date of application, unless specifically approved in writing by the Department for a shorter term. The grantee must list all outstanding rights or interests held by others in the real property to be developed. If access to the real property to be developed is over private property, then the grantee must describe the provisions made to ensure adequate public access. In the event the real property becomes unusable for its intended purposes or if such use ceases, the grantee is responsible for conversion of the project as described in Section 350 of this chapter. (4-11-06)

05. Limitations on Use. Property rights obtained with grant funds must be free of all reservations or encumbrances that would limit the use of the site disproportionate to the public benefit. (4-11-06)

451. -- 999. (RESERVED)

26.01.34 – IDAHO PROTECTION AGAINST INVASIVE SPECIES STICKER RULES

000. LEGAL AUTHORITY.

The Idaho Park and Recreation Board is authorized under Section 67-7002, Idaho Code to promulgate rules to aid in the administration of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code; and is authorized under Section 67-7008A, Idaho Code, to promulgate rules prescribing the display of protection against invasive species stickers. (3-29-10)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.34, "Idaho Protection Against Invasive Species Sticker Rules." (3-29-10)

02. Scope. This chapter establishes rules to aid in the administration and enforcement of the Idaho Safe Boating Act, Title 67, Chapter 70, Idaho Code. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.

As used in this chapter: (3-29-10)

01. Commercial Outfitters. As defined in Section 36-2102(b), Idaho Code. (3-29-10)

02. Department. The Idaho Department of Parks and Recreation. (3-29-10)

03. Fund. Invasive Species Fund as defined in Section 22-1911, Idaho Code. (3-29-10)

04. Idaho Invasive Species Act. The Idaho Invasive Species Act of 2008 as established in Title 22, Chapter 19, Idaho Code. (3-29-10)

05. Motorized Vessel. Any watercraft requiring certificate of number under Section 67-7008, Idaho Code, or any comparable U.S. vessel certificate of number program. (4-11-15)

06. Non-Motorized Vessel. Any watercraft used or capable of being used as a means of transportation on water that is propelled by human effort. For the purpose of this chapter this term does not include small inflatable rafts or other inflatable vessels less than ten (10) feet in length. (3-29-10)

07. Protection Against Invasive Species Sticker. Any sticker issued by the Department in accordance with the provisions of Section 67-7008(A), Idaho Code. (3-29-10)

08. Validation Sticker. Any sticker issued by the Department in accordance with the provisions of Section 67-7008, Idaho Code. (4-11-15)

011. -- 049. (RESERVED)

050. COLLECTION OF FEES AND DISTRIBUTION OF REVENUES INTO FUND.

In addition to any other moneys or fees collected pursuant to Section 67-7008 or any other provision of Title 67, Chapter 70, Idaho Code, all vessels are required to pay an additional fee as established in Section 67-7008A, Idaho Code. (3-29-10)

01. Operator Responsibilities. The operator of any watercraft required to display a Protection Against Invasive Species Sticker pursuant to this chapter will ensure that fees are paid and that a Protection Against Invasive Species Sticker is displayed on the vessel, except as provided in Subsection 075.01 of this chapter, prior to launch into the public waters of Idaho. (3-29-10)

02. Prorated Group Rates for Commercial Outfitters. (4-7-11)

a. Group rates for commercial outfitters with nonmotorized fleets exceeding five (5) vessels will be determined using the number of vessels within the fleet at the time of purchase of the stickers, as provided in Section 67-7008A(1)(c). Previous or future sticker purchases will be prorated separately. (4-7-11)

b. Protection Against Invasive Species Stickers purchased by outfitters or guides who are duly licensed in accordance with Title 36, Chapter 21, Idaho Code, must be accompanied by an affidavit that must be

signed by the outfitter or guide. The signed affidavit verifies the number of vessels within the covered fleet and that the appropriate number of Protection Against Invasive Species Stickers has been purchased. The Protection Against Invasive Species Stickers and affidavit must be kept on file at the outfitter or guide's physical address and must be made available for inspection upon request of the Department or upon request by law enforcement. Non-motorized commercial outfitters and guides are not required to place a Protection Against Invasive Species Sticker on their vessels. Identification of commercial outfitted and guided boats must be in compliance with IDAPA 25.01.01, "Rules of the Outfitters and Guides Licensing Board," Subsection 054.03.a. (4-7-11)

03. Transfer of Funds. Fees collected will be transferred and deposited into the Fund no less than quarterly during any fiscal year. (3-29-10)

051. -- 074. (RESERVED)

075. PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. Motorized Vessels. Beginning with the 2010 boating season, upon payment of the fees required by Section 050 of these rules, the validation sticker as identified in IDAPA 26.01.30, "Idaho Safe Boating Rules," will also serve as the Protection Against Invasive Species Sticker for those vessels numbered pursuant to Section 67-7008, Idaho Code. (4-11-15)

02. All Other Watercraft. A separate Protection Against Invasive Species Sticker will be issued for all other watercraft upon payment of the fees required under Section 050 of these rules. (3-29-10)

076. PLACEMENT OF PROTECTION AGAINST INVASIVE SPECIES STICKER.

01. Location. (3-29-10)

a. Motorized vessel. Except as provided in Subsection 075.01 of this chapter, the Protection Against Invasive Species Sticker should be affixed next to the current year validation sticker on the port (left) side of the vessel. (4-11-15)

b. Non-motorized. Except as provided in Subsection 050.02.a. of this chapter, the Protection Against Invasive Species Sticker should be affixed in the following manner. (4-7-11)

i. For canoes, kayaks, and other small rigid vessels, the Protection Against Invasive Species Sticker should be affixed near the bow above the waterline on the port (left) side, or on top of the vessel if there is little or no waterline distinction. (3-29-10)

ii. For inflatable (non-rigid) vessels, the Protection Against Invasive Species Sticker can be modified to allow attachment of a zip tie, plastic attachment, or other similar mechanism, or be laminated into a hang tag. (3-29-10)

02. Removal. Protection Against Invasive Species Stickers issued in accordance with Section 67-7008A, Idaho Code, that have become invalid, must be removed from the vessel. (3-29-10)

077. ENFORCEMENT.
All operators of vessels as defined in this chapter must ensure their vessel is in compliance with the provisions of this chapter when launched upon the public waters of the state of Idaho. Non-compliance with the provisions of this chapter will result in possible assessment of penalties as described in Sec. 67-7033, Idaho Code, the Idaho Safe Boating Act. (3-29-10)

078. -- 999. (RESERVED)

26.01.37 – RULES GOVERNING TEST PROCEDURES AND INSTRUMENTS FOR NOISE ABATEMENT OF OFF HIGHWAY VEHICLES

000. LEGAL AUTHORITY.
The Idaho Park and Recreation Board is authorized under Section 67-7125, Idaho Code to promulgate rules to effectuate the purposes of and aid in the administration of Section 67-7125, Idaho Code. (7-1-94)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.37, "Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles." (7-1-94)

02. Scope. This chapter establishes rules to effectuate the purposes of and aid in the administration and enforcement of Section 67-7125, Idaho Code. (7-1-94)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (7-1-94)

01. All Terrain Vehicle (ATV). Any recreation vehicle with three (3) or more tires, under eight hundred fifty (850) pounds and less than forty-eight (48) inches in width, having a wheelbase of sixty-one (61) inches or less, traveling on low pressure tires, less than ten (10) pounds per square inch (psi). (4-11-06)

02. A-Weighting Scale. A sound filtering system contained in a sound meter which adjusts (weights) the incoming sound energy to approximate human hearing. (7-1-94)

03. Calibrator. A device used to standardize the reading of a sound level meter. (7-1-94)

04. CC. The displacement (size) of an engine in cubic centimeters. The kc's of an engine refers to the piston displacement or engine size. (7-1-94)

05. Db or Decibel. A unit used to measure the amplitude of sounds. As a sound measured in decibels increases, so does its loudness. (7-1-94)

06. Off Highway Vehicle (OHV). Any ATV or motorbike as defined in Section 67-7101, Idaho Code, used off public highways but excluding those vehicles used exclusively on private land for agricultural use or used exclusively for snow removal purposes. These vehicles, together with others not covered by these rules, are sometimes commonly known as off-road vehicles or ORMV's. (7-1-94)

07. Operator. Any person who is in physical control of an OHV. (7-1-94)

08. Red-Line Speed. The lowest numerical engine speed included in the red zone on the OHV tachometer or prescribed by the manufacturer as compiled in the "Off-Highway Motorcycle and ATV Stationary Sound Test Manual" published by the Motorcycle Industry Council, Inc. (7-1-94)

09. Revolutions per Minute (RPM). The number of times the crankshaft of an engine revolves in one (1) minute. (7-1-94)

10. Sound Level Meter. An instrument used for measuring sound levels, which includes a microphone, an amplifier, and meter with frequency weighing networks, such as the A-weighting scale. (7-1-94)

11. Tachometer. A device used to measure RPM of an engine. Tachometers used to obtain sound level measurements may be permanently affixed to the OHV or may be portable units such as hand-held electric, vibrating reed, or inductive tachometers. (4-11-06)

011. -- 049. (RESERVED)

050. TEST PROCEDURE.

01. Test Site. The test site must be a flat, open surface free of large reflecting surfaces, other than the ground, such as parked vehicles, signboards, or hillsides located within sixteen (16) feet of the (OHV) being tested

and the location of the microphone of the sound level meter. (7-1-94)

a. Ambient sound level. The ambient sound level, including wind effects, at the test site due to sources other than the OHV being measured must be at least ten (10) dB lower than the sound produced by the OHV under test. (7-1-94)

b. Wind speed. Wind speed at the test site must be less than twenty (20) miles per hour. (7-1-94)

c. Persons in test area. While making sound level measurements, not more than one (1) person other than the operator, the measurer, and the assistant, if necessary, may be within ten (10) feet of the OHV under test or the microphone of the sound level meter, and that person must be directly behind the measurer on a line through the microphone of the sound level meter and the measurer. (7-1-94)

02. Test Surface. The surface of the ground within the test area must be paving or hard packed earth, level within an average slope of five (5) inches per foot and must be free of loose or powdered snow, plowed soil, grass of a height greater than six (6) inches, trees, or other extraneous materials. (7-1-94)

03. Position of OHV. (7-1-94)

a. For two (2) wheeled OHV's, the operator may sit astride of the OHV, in normal riding position with both feet on the ground. If this is not possible because of the seat height of the OHV, an assistant may hold the OHV by the forks, front wheel, or handlebars so that it is stationary with its longitudinal plane of symmetry vertical. If an assistant is not available to assist in holding the OHV upright, the operator may use a box, rock or other object to rest his feet upon to steady the OHV, so long as the OHV longitudinal plane of symmetry is vertical and stationary. (7-1-94)

b. For three (3) wheeled and four (4) wheeled ATV's, the operator may sit in the normal riding position with one (1) or both feet on the footrests. (7-1-94)

04. Operation of OHV. (7-1-94)

a. If the OHV has a neutral gear, the operator must run the engine with the gear box in neutral at a speed equal to one-half (1/2) of the rated engine speed or one-half (1/2) of the red line speed specified by the manufacturer as compiled in the "Off Highway Motorcycle and ATV Stationary Sound Test Manual." (7-1-94)

b. If the OHV has no neutral gear, it must be operated either with the rear wheel(s) at least two (2) inches clear of the ground or with the drive chain or belt removed, or the clutch, if the OHV is so equipped, disengaged. (7-1-94)

05. Engine Temperature. The engine of the OHV being tested must be at a normal operating temperature during the test. (7-1-94)

051. -- 099. (RESERVED)

100. MEASUREMENT.

01. Sound Level Meter Settings. The sound meter must be set for the A-weighing scale and may be set for either slow or fast dynamic response. (7-1-94)

02. Exhaust Outlets. Tests must be made on each side of the OHV having an exhaust outlet. (7-1-94)

03. Location of the Microphone of the Sound Level Meter. (7-1-94)

a. The microphone of the sound level meter must be located twenty (20) inches - one-half (1/2) inch behind the exhaust. If there is more than one (1) exhaust outlet per side, the microphone of the sound level meter must be located with reference to the rear most outlet. (7-1-94)

b. The microphone of the sound level meter must be within one-half (1/2) inch of the height of the exhaust outlet. (7-1-94)

c. The microphone of the sound level meter must be at a forty-five (45) degree - ten (10) degree angle to the normal line of travel of the OHV. (7-1-94)

d. The longitudinal axis of the microphone of the sound level meter must be in a plane parallel to the ground plane. (7-1-94)

e. The axis of the microphone of the sound level meter must be oriented as specified for field response by the manufacturer. (7-1-94)

04. Attachments Prohibited. No wire or other rigid means of distance measurement may be attached to the sound level meter measuring system. (7-1-94)

05. Sound Level. The sound level recorded must be that measured during steady state operation at the engine speed specified in Subsections 050.04 and 050.05 of this chapter, two hundred (200) RPM, measured on the loudest side of the OHV. The test speed in RPM must also be recorded. (7-1-94)

06. Calibration. Calibration of the sound level meter using a sound level calibrator with an accuracy of one-half (1/2) dB must be made immediately before the first test of each day. Field calibration should by made at intervals of no more than one (1) hour. (7-1-94)

101. -- 149. (RESERVED)

150. EQUIPMENT.

01. Sound Level Meter. A type one (1) sound level meter, which generally can provide the most accurate measurements, must be used for certification of exhaust systems and for law enforcement purposes.(7-1-94)

02. Tachometer. A hand-held tachometer of the type described in Subsection 010.11 must be used if the OHV does not have a permanently affixed tachometer. (7-1-94)

03. Calibrator. A calibrator appropriate for use with the sound level meter must be used to calibrate the sound level meter. (7-1-94)

04. Manual. Persons measuring sound levels for law enforcement purposes must use the "Off-Highway Motorcycle and ATV Stationary Sound Test Manual," published by the Motorcycle Industry Council, Inc. for current information concerning manufacturer's specifications for OHV operation. (7-1-94)

151. -- 999. (RESERVED)

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

DOCKET NO. 26-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 67-4223, 67-7115, and 67-7116, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapters promulgated as proposed rules under this docket number under IDAPA 26, rules of the Department of Parks and Recreation:

IDAPA 26

- IDAPA 26.01.10, *Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation*
- IDAPA 26.01.20, *Rules Governing the Administration of Park and Recreation Areas and Facilities*
- IDAPA 26.01.33, *Rules Governing the Administration of the Land and Water Conservation Fund Program*
- IDAPA 26.01.36, *Rules Governing the Winter Recreational Parking Permit Program*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5030–5066**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

- IDAPA 26.01.10, Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation. Fees related to: temporary permit processing, compensation, application and enforcement.
- IDAPA 26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities. Fees related to motor vehicle entrance, parking violations, camping, reservations (placing, modifying, and canceling), vessel moorage, overnight use, surcharges, group facility use, winter access, and returned checks.
- IDAPA 26.01.33, Rules Governing the Administration of the Land and Water Conservation Fund Program. Service fee to administer and manage process to convert property from a recreation use.
- IDAPA 26.01.36, Rules Governing the Winter Recreational Parking Permit Program. Fees for annual and temporary winter recreation parking permit.

This fee or charge is being imposed pursuant to Sections 67-4223, 67-7115, and 67-7116, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Anna Canning (208) 514-2252.

Dated this 5th day of August, 2019.

Anna Borchers Canning, AICP
Management Services Administrator
Idaho Department of Parks and Recreation

5657 Warm Springs Avenue
P.O. Box 83720
Boise, ID 83720-0065

26.01.10 – RULES GOVERNING THE ADMINISTRATION OF TEMPORARY PERMITS ON LANDS OWNED BY THE IDAHO DEPARTMENT OF PARKS AND RECREATION

000. LEGAL AUTHORITY.

These rules set forth procedures concerning the issuance of temporary permits on all lands owned by the Idaho Department of Parks and Recreation. Requests for permits on lands administered, but not owned by IDPR must be made directly to the land owner. These rules are promulgated pursuant to Idaho Code Section 67-4223(a) and are construed in a manner consistent with the duties and responsibilities of the Idaho Park and Recreation Board as set forth in Idaho Code Title 67, Chapter 42. These rules are not be construed as affecting any valid existing rights. (7-1-93)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.10, "Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation." (6-30-19)T

02. Scope. These rules are intended to set forth the procedures for the administration of temporary permits on lands owned by the Department. (6-30-19)T

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Idaho Park and Recreation Board or such representative as may be designated by the board. (7-1-93)

02. Department and IDPR. The Idaho Department of Parks and Recreation. (7-1-93)

03. Director. The Director of the Idaho Department of Parks and Recreation or such representative as may be designated by the Director. (7-1-93)

04. Grantee. The party to whom a temporary permit is granted and their assigns and successors in interest. (7-1-93)

05. Grantor. The State of Idaho and its assigns and successors in interest. (7-1-93)

06. Park Manager. The person responsible for administering and supervising a specific state park area, or department owned land not yet a state park, as designated by the Director of the Idaho Department of Parks and Recreation. (7-1-93)

07. Person. An individual, partnership, association, or corporation qualified to do business in the state of Idaho, and any federal, state, county or local unit of government. (7-1-93)

08. Temporary Permit. An instrument authorizing a temporary use of IDPR owned land for the construction, operation and maintenance of specific typically linear elements including but not limited to power and telephone lines, roadways, driveways, sewer lines, natural gas lines and water lines. (7-1-93)

011. -- 049. (RESERVED)

050. POLICY.

01. Issuing Authority. Temporary permits are issued by the Director in lieu of easements, and are required for all activities on or over IDPR owned land. (7-1-93)

02. Discretion. The Board retains absolute discretion to grant or withhold a temporary permit on land which it owns. (7-1-93)

03. Consent Required. Temporary permits, their amendment, renewal and assignment and all subsequent actions are not valid without the written consent of the Director. (7-1-93)

04. Modifications. Temporary permits and subsequent modifications, assignments and renewals require a formal application, and payment of a processing fee to reimburse the agency for staff time devoted to processing the request. (7-1-93)

05. Purpose Compatible. The purpose for which the temporary permit is sought must not interfere with the existing or anticipated values, objectives, or operation of department owned lands. (7-1-93)

06. Compensation. An appropriate compensation for use of department-owned lands, as set out in Section 150 of this chapter, must be paid to the IDPR in cash or in the form of offsetting benefits to be determined by the Director. (7-1-93)

07. Control. At all times the control of gates, roads and park lands is retained by the State. The permit granted is for the Grantee's use only, is revocable for cause, is issued for a specific period of time, not to exceed ten (10) years, but usually five (5) years or less, and automatically expires if not used for a period of one (1) year. (7-1-93)

051. -- 099. (RESERVED)

100. PROCESSING FEES.

01. Issuance or Modification. The processing fee for a new temporary permit, or modification of an existing temporary permit, is one-hundred dollars ($100), which must be received from all applicants before processing can proceed. The processing fees are designed to offset processing costs and are nonrefundable. (7-1-93)

02. Assignment or Renewal. The processing fee for assignment or renewal of an existing temporary permit is twenty-five dollars ($25), and must be received before processing can proceed. The processing fees are designed to offset processing costs and are nonrefundable. (7-1-93)

101. -- 149. (RESERVED)

150. COMPENSATION.

01. Payable in Advance. Cash compensation for the entire term of the temporary permit will be collected from the applicant prior to issuance. (7-1-93)

02. Cost per Acre. Cash compensation for a temporary permit is charged at a rate of fifty dollars ($50) per acre of IDPR land utilized per year or any portion thereof, and is specified in the temporary permit. Temporary permits of less than one (1) year in duration will not be prorated. (7-1-93)

03. Noncash Compensation. Offsetting (non-cash) compensation for a temporary permit may be approved on an individual basis by the Director, and the terms of the agreement must be outlined in the temporary permit. (7-1-93)

04. Nonrefundable. Compensation to IDPR for a temporary permit is non-refundable, except as set out in Subsection 200.08 of this chapter. (7-1-93)

151. -- 199. (RESERVED)

200. STANDARD CONDITIONS.
All temporary permits issued are subject to the following standard conditions: (7-1-93)

01. Term Limited. The use and term of a temporary permit is limited solely to that specifically stated in the instrument. (7-1-93)

02. Utilities. Except under special circumstances with approval of the Director, all utilities must be installed underground. (7-1-93)

03. Construction, Operation and Maintenance. The Grantee must construct, maintain and operate at Grantee's sole expense the facility for which the temporary permit is granted, and maintain the permit site in a condition satisfactory to the Park Manager. (7-1-93)

04. Compliance with Laws. The Grantee will comply with all applicable state and local laws, rules, and ordinances, including but not limited to: State fire laws and all rules of the State Land Board pertaining to forest and watershed protection, and with the Stream Channel Protection Act as designated in Chapter 38, Title 42 of the Idaho Code. (7-1-93)

05. Wetlands. The Grantee will comply with all State and Federal statutes, rules, and regulations pertaining to wetlands protection. (7-1-93)

06. Land and Water Conservation Fund. Temporary permits on land located within Land and Water Conservation Fund 6(f) boundaries, their amendment, renewal, assignment and all subsequent actions must be subject to the terms and the requirements of the Land and Water Conservation Fund Act of 1965 (P.L. 88-578, 16 U.S.C.S. Section 4601-4 et seq.). (7-1-93)

07. Hold Harmless. The Grantee, its agents and contractors must indemnify and hold harmless the Department, the state of Idaho and its representatives against and from any and all demands, claims or liabilities of every nature whatsoever, arising directly or indirectly from or in any way connected with the use authorized under the temporary permit. (7-1-93)

08. Withdrawal for Park Use. Should the land be needed for park development or recreation use, the Director reserves the right to order the change of location or the removal of any structure(s) or facility(ies) authorized by a temporary permit at any time. Any such change or removal will be made at the sole expense of the Grantee, its successors or assigns. When a temporary permit is terminated prior to its stated expiration date pursuant to this provision, the grantee will receive a pro-rata refund of compensation paid. (7-1-93)

09. Permits Not Exclusive. The temporary permit is not exclusive to the Grantee, and must not prohibit the Department from granting other permits or franchise rights of like or other nature to other public or private entities, nor must it prevent the Department from using or constructing roads and structures over or near the lands encompassed by the temporary permit, or affect the Department's right to full supervision or control over any or all lands which are part of the temporary permit. (7-1-93)

10. Cancellation. The Director may cancel the temporary permit or amend any of the conditions of the temporary permit if the Grantee fails to comply with any or all of the provisions, or requirements set forth or through willful or unreasonable neglect, fails to heed or comply with notices given. (7-1-93)

11. Removal of Facilities. Upon termination of the temporary permit for any reason including cancellation, expiration, or relinquishment, the Grantee must have thirty (30) days from the date of termination to remove any facilities and improvements constructed by the Grantee, and must restore the permit site to the satisfaction of the Park Manager. Upon written request, and for good cause shown, the Director may allow a reasonable additional time for the removal of improvements and facilities and the restoration of the site. (7-1-93)

201. -- 249. (RESERVED)

250. SPECIAL CONDITIONS.

Special conditions addressing unique situations may be included in the temporary permit to protect natural or park resources, or to safeguard public health, safety or welfare. (7-1-93)

251. -- 299. (RESERVED)

300. APPLICATION PROCEDURE.

01. Contents of Application. A temporary permit application must contain: (7-1-93)

a. A Temporary Permit Application/Action form; (7-1-93)

b. A plat of the proposed permit location; (7-1-93)

c. The appropriate application fee; (7-1-93)

d. An acceptable written legal description based on a survey of the centerline, or a metes and bounds survey of the temporary permit tract. The survey must be performed by a Registered Professional Land Surveyor as required by Idaho Code Section 54-1229. (7-1-93)

02. Engineering Certification. As required in Section 58-601, Idaho Code, for any application for a ditch, canal or reservoir, the plats and field notes must be certified by the engineer under whose direction such surveys or plans were made and four (4) copies filed with the Department and one (1) copy with the Director, Idaho Department of Water Resources. (7-1-93)

03. Application Submission. Temporary permit applications must be submitted to the Park Manager of the park in which the permit is requested. The Park Manager will forward it for processing as outlined in Section 800. of this chapter. (7-1-93)

301. -- 349. (RESERVED)

350. MODIFICATION OF EXISTING TEMPORARY PERMIT.
A modification of an existing temporary permit must be processed in the same manner as a new application. Modification includes change of use, enlarging the permit area, or changing the location of the permit area. Modification does not include ordinary maintenance, repair, or replacement of existing facilities. (7-1-93)

351. -- 399. (RESERVED)

400. ASSIGNMENT.
Temporary Permits issued by the Director cannot be assigned without the approval of the Director. To request approval of an assignment, the Assignor and Assignee must complete the Department's standard Temporary Permit Application/Action form and forward it and the assignment fee to the Park Manager, for processing as outlined in Section 800 of this chapter. (7-1-93)

401. -- 449. (RESERVED)

450. RENEWAL.
Renewal of temporary permits may be sought by completing a Temporary Permit Application/Action form and forwarding it together with the renewal fee to the Park Manager for processing as outlined in Section 800 of this chapter. Renewal applications must be submitted at least forty-five (45) days prior to the expiration date of the temporary permit. (7-1-93)

451. -- 499. (RESERVED)

500. ABANDONMENT.
A Temporary Permit not used for the purpose for which it was granted for a period of one (1) year is presumed abandoned and must automatically terminate. The Director must notify the Grantee in writing of the termination. The Grantee must have thirty (30) days from the date of the written notice to reply in writing to the Director to show cause why the Temporary Permit should be reinstated. Within thirty (30) days of receipt of the statement to show cause, the Director must notify the Grantee in writing as to the Director's decision concerning reinstatement. The Grantee must have thirty (30) days after receipt of the Director's decision to request to appear before the board as outlined in Section 003 of this chapter. Removal of property from and restoration of the site is governed by Subsection 200.11 of this chapter. (7-1-93)

501. -- 549. (RESERVED)

550. RELINQUISHMENT.
The Grantee may voluntarily relinquish a temporary permit any time by submitting a Temporary Permit Application/ Action Form to the Park Manager. Upon relinquishment, removal of property from and restoration of the site is governed by Subsection 200.11 of this chapter. (7-1-93)

551. -- 599. (RESERVED)

600. EXPIRATION.
Upon expiration, and absent a request for renewal of the temporary permit, removal of property from and restoration of the site is governed by Subsection 200.11 of this chapter. (7-1-93)

601. -- 649. (RESERVED)

650. CANCELLATION.
The Director may cancel a temporary permit if the Grantee fails to comply with any or all of its provisions, terms, conditions, or rules; or through willful or unreasonable neglect, fails to heed or comply with notices given. (7-1-93)

651. -- 699. (RESERVED)

700. ENFORCEMENT.
Should it become necessary to enforce the terms of a temporary permit in a court of law and the Grantor prevails, the Grantee must pay all costs and fees. (7-1-93)

701. -- 749. (RESERVED)

750. ADMINISTRATION.

01. Bureau Responsible. The IDPR Development Bureau must be responsible for uniform statewide administration of all IDPR temporary permits. (7-1-93)

02. Disposition of Fees. All processing and compensation fees collected from applicants must be sent to the fiscal section for deposit into the appropriate account. (7-1-93)

03. Status Report. The IDPR Development Bureau must maintain an up-to-date status report on all temporary permits issued. (7-1-93)

751. -- 799. (RESERVED)

800. PROCESSING.

01. Receipt of Application. Upon receipt of a properly filed Temporary Permit Application/Action form and the appropriate application fee, the Park Manager must review the application and forward it, together with his comments, to the Region Supervisor. The Region Supervisor must review the application and forward his comments along with the Temporary Permit Application/Action package, to the Chief, Development Bureau, IDPR for processing. (7-1-93)

02. Time. Processing of Temporary Permit Application/Action Forms must not exceed one hundred twenty (120) days from the date of acceptance of a complete application by the Park Manager. Applications not acted on within one hundred twenty (120) days are deemed denied. (7-1-93)

03. Notification. All applicants must be notified in writing, by the development bureau chief, of the approval or denial of their application. (7-1-93)

801. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Park and Recreation Board is authorized under Section 67-4223, Idaho Code, to adopt, amend, or rescind rules as may be necessary for the proper administration of Title 67, Chapter 42, Idaho Code, and the use and protection of lands and facilities subject to its jurisdiction. (1-1-94)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.20, "Rules Governing the Administration of Park and Recreation Areas and Facilities." (1-1-94)

02. Scope. This chapter establishes fees for and rules governing the use of lands and facilities administered by the Department, and establishes procedures for obtaining individual and group use reservations. (1-1-94)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (1-1-94)

01. ADA Campsites and Facilities. (3-30-06)

a. ADA Designated Campsites. Campsites that have been designated and built to meet ADA accessibility requirements. These campsites are not managed exclusively for ADA use. (3-27-13)

b. ADA Accessible Facilities. IDPR offers some facilities that provide for ADA accessibility. These facilities are not managed exclusively for ADA use. (3-30-06)

02. Annual Motor Vehicle Entrance Fee. A sticker that allows a single motor vehicle to enter Idaho State Parks without being charged a motor vehicle entrance fee. (3-27-13)

a. The Annual Motor Vehicle Entrance Fee sticker expires December 31 of the year issued. (3-27-13)

b. The Annual Motor Vehicle Entrance Fee sticker may be purchased at any Idaho State Park, the Idaho Department of Parks and Recreation central or regional offices, or online. (3-27-13)

c. Automobiles, Trucks, Motorhomes. The sticker must be permanently affixed on the lower corner of the driver's side windshield. (3-27-13)

d. All-Terrain Vehicles (ATVs), Utility Type Vehicles (UTVs), Specialty Off-Highway Vehicles (SOHVs). The sticker must be permanently affixed on the rear fender. (3-27-13)

e. Motorbikes. The sticker must be permanently affixed on the rider's right fork. (3-27-13)

f. Snowmobiles. The sticker must be permanently affixed to the right side of the cowling located just below the hood, to the right of the validation sticker. It must be visible and legible at all times. (4-11-15)

03. Annual Motor Vehicle Entrance Fee Replacement. Replacement due to a motor vehicle sale or damage to an existing annual motor vehicle entrance fee sticker. (3-27-13)

a. The applicant must apply at any Idaho State Park, at the Idaho Department of Parks and Recreation central or regional offices, or online for replacement sticker. (3-27-13)

b. Proof of purchase must be established. (3-27-13)

c. Display and placement of the replacement sticker will comply with Subsections 010.02.c. through 010.02.f. of this Chapter. (3-27-13)

04. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member Board, appointed by the Governor. (3-13-97)

05. Camping Unit. A camping unit is the combined equipment and people capacity that a site or facility will accommodate. (3-30-06)

a. Campsites. Maximum capacity limits on each campsite are subject to each site's design and size. Unless otherwise specified, and provided the combined equipment and people fit within the designated camping area of the site selected, the maximum capacity will be one (1) family unit or a party of no more than eight (8) persons, two (2) tents and two (2) motor vehicles. No more than one (1) RV may occupy a site. Two (2) motorcycles are the equivalent of one (1) motor vehicle when determining campsite capacity. Each motorcycle will be subject to the MVEF. (3-29-17)

b. Facilities. Maximum capacity limits on each facility are subject to each facility's design and size. The combined equipment and people occupying a facility must fit within the designated areas of the facility selected. (3-30-06)

06. Camping Day. (3-30-06)

a. For individual and group campsites the period between 2 p.m. of one (1) calendar day and 1 p.m. of the following calendar day. (3-30-06)

b. For individual and group camping facilities, the period between 3 p.m. of one (1) calendar day and 12 noon of the following calendar day. (3-30-06)

07. Campsite. (3-30-06)

a. Individual. An area within an IDPR managed campground designated for camping use by an individual camping unit or camping party. (3-30-06)

b. Group. An area within an IDPR managed campground designated for group camping use or a block of individual campsites designated for group use within a campground primarily managed for individual use. (3-30-06)

c. Facility, Individual. A camping structure within an IDPR managed campground or area designated for camping use by an individual camping party. (3-30-06)

d. Facility, Group. A camping structure within an IDPR managed campground or area designated for group use. (3-30-06)

08. Day Use. Use of any non-camping lands and/or facilities between the hours of 7 a.m. and 10 p.m. unless otherwise posted. (3-30-06)

09. Department. The Idaho Department of Parks and Recreation. (1-1-94)

10. Designated Beach. Waterfront areas designated by the park manager or designee for water-based recreation activities. The length and width of each designated beach must be visibly identified with signs. (3-30-06)

11. Designated Roads and Trails. Facilities recognizable by reasonable formal development, signing, or posted rules. (3-7-03)

12. Director. The Director and chief administrator of the Department, or the designee of the Director. (1-1-94)

13. Dock and Boating Facility. Floats, piers, and mooring buoys owned or operated by the Department. (3-13-97)

14. Encroachments. Non-recreational uses of lands under the control of the Board including any utilization for personal, commercial, or governmental use by a non-Department entity. (4-4-13)

15. Extra Vehicle. An additional motor vehicle without built in sleeping accommodations registered to a camp site. (3-27-13)

16. Facilities. (3-30-06)

a. Individual. A camping structure within an IDPR managed campground or area designated for camping use by an individual camping party. (3-30-06)

b. Group. A camping structure within an IDPR managed campground or area designated for group use. (3-30-06)

17. Group Use. Twenty-five (25) or more people, or any group needing special considerations or deviations from normal Department rules or activities. (1-1-94)

18. Idaho State Parks Passport. A sticker, purchased from any county Department of Motor Vehicles' office in the state of Idaho, that matches a particular motor vehicle license number and expiration date, allowing that vehicle to enter Idaho State Parks without being charged a motor vehicle entrance fee. (3-27-13)

a. Idaho State Parks Passport sticker expires concurrent with the expiration of that vehicle's registration. (3-27-13)

b. Display and placement of the Idaho State Parks Passport will comply with Subsections 010.02.c. through 010.02.f. of this rule. (3-27-13)

19. Idaho State Parks Passport Replacement. Replacement due to a motor vehicle registration transfer or damage to an existing passport. (3-27-13)

a. The applicant must apply in person to their county Department of Motor Vehicles' office for this replacement sticker. (3-27-13)

b. Display and placement of the replacement sticker will comply with Subsections 010.02.c. through 010.02.f. of this rule. (3-27-13)

20. Motor Vehicle. Every vehicle that is self-propelled except for vehicles moved solely by human power and motorized wheelchairs. (3-27-13)

21. Motor Vehicle Entrance Fee (MVEF). A fee charged for entry to or operation of a motor vehicle in an Idaho State Park. Day use expires at 10 p.m. on date of purchase or as posted; overnight camping use expires upon checkout which is 1 p.m. for a campsite and 12 noon for a facility. (3-27-13)

22. Overnight Use. Use of any non-camping lands for the parking of motor vehicles or trailers not associated with a campsite between the hours of 10 p.m. and 7 a.m. unless otherwise posted. (4-4-13)

23. Overnight Use Fee. A fee charged for overnight use of non-camping lands between the hours of 10 p.m. and 7 a.m. (4-4-13)

24. Park or Program Manager. The person, designated by the Director, responsible for administering and supervising particular lands, facilities, and staff that are under the jurisdiction of the Department. (3-7-03)

25. Recreational Vehicle (RV). A "recreational vehicle" means a vehicular type unit primarily designed as temporary living quarters for recreational, camping, or travel use, which either has its own motive power or is mounted on or drawn by another vehicle. The entities are travel trailer, camping trailer, truck camper, fifth-wheel trailer, and motorhome. It does not include pickup hoods, shells, or canopies designed, created, or modified for occupational use. (Section 39, Idaho Code) (3-27-13)

26. Standard Amenities. Campsite with no serviced amenities. (3-30-06)

27. Serviced Amenities. Serviced campsite amenities includes water, electricity, or sewer. (3-30-06)

28. **Primary Season**. The time of the year when the majority of use occurs at a park facility. (3-7-03)

29. **Vessel**. Every description of watercraft, including a seaplane on the water, used or capable of being used as a means of transportation on water, but not including float houses, diver's aids operated and designed primarily to propel a diver below the surface of the water, and non-motorized devices not designed or modified to be used as a means of transportation on the water such as inflatable air mattresses, single inner tubes, and beach and water toys as defined in Section 67-7003(22), Idaho Code. (3-7-03)

30. **Vessel Length**. The distance measured at the centerline at the highest point above the waterline from the fore-part of the outer hull at the bow to the aft-part of the outer hull at the stern, excepting any bowsprits, railings or extraneous or additional equipment. (3-13-97)

011. -- 074. (RESERVED)

075. AUTHORITY CONFERRABLE ON EMPLOYEES - ENFORCEMENT.

01. **Director Authority**. The Director may, pursuant to Section 67-4239, Idaho Code, authorize any employee of the Department to exercise any power granted to, or perform any duty imposed upon the Director. (3-7-03)

02. **Park Manager Authority**. The park manager or designee may establish and enforce all rules, including interim rules. Interim rules apply to the public safety, use, and enjoyment or protection of natural, cultural, or other resources within lands administered by the Department. Those rules willl be posted for public view and will be consistent with established state laws and these rules. Interim rules expire in one hundred twenty (120) days from the established effective date unless approved by the Board. (3-30-06)

076. -- 099. (RESERVED)

100. PENALTIES FOR VIOLATIONS.
Failure of any person, persons, partnership, corporation, concessionaire, association, society, or any fraternal, social or other organized groups to comply with these rules constitutes an infraction. (3-30-06)

01. **Civil Claim**. The penalty established in Section 100 of this chapter does not prevent the Department from filing a civil claim against a violator to collect damages incurred to lands, resources, or facilities administered by the Department. (3-13-97)

02. **Violators**. In addition to the penalty provided in Section 100 of this chapter, or any other existing laws of the state of Idaho, any person failing to comply with any section of these rules or federal, state, or local laws, rules, or ordinances applicable under the circumstances, is a trespasser upon state land and subject to expulsion from any state park area for a period of time not less than forty-eight (48) hours. (3-7-03)

101. -- 124. (RESERVED)

125. PRESERVATION OF PUBLIC PROPERTY.
The destruction, injury, defacement, removal, or disturbance in or of any public building, sign, equipment, monument, statue, marker, or any other structures; or of any tree, flower, or other vegetation; or of any cultural artifact or any other public property of any kind, is prohibited unless authorized by the park manager of a specific area. (3-30-06)

126. -- 149. (RESERVED)

150. USE OF MOTOR VEHICLES.
Except where otherwise provided, motor vehicles may enter or be operated in park and recreation areas and facilities only upon payment of the motor vehicle entrance fee or display of a valid Idaho state Parks Passport or Annual Motor Vehicle Entrance Fee sticker. All motor vehicles must stay on authorized established Department roadways or parking areas except for trails and areas which are clearly identified by signs for off-road use. Drivers and motor vehicles operated within lands administered by the Department must be licensed or certified as required under state

law. The operators of all motor vehicles must comply with the motor vehicle entrance fee requirements, speed and traffic rules of the Department, and all other federal, state, local laws, and ordinances governing traffic on public roads. (3-27-13)

01. Use of Parking Spaces for Persons With a Disability. Special zones and parking spaces within state parks are designated and signed for exclusive use by vehicles displaying a special license plate or card denoting legal handicap status as provided in Section 49-213, Idaho Code. (3-7-03)

02. Overdriving Road Conditions and Speeding Prohibited. No person may drive a vehicle at a speed greater than the posted speed or a reasonable and prudent speed under the conditions, whichever is less. Every person must drive at a safe and appropriate speed when traveling on park roads, in congested areas, when pedestrians or bicyclists are present, or by reason of weather or hazardous highway conditions as provided in Section 49-654, Idaho Code. (3-7-03)

03. Motorcycle and ATV Safety Helmets. Persons under eighteen (18) years of age must wear a protective safety helmet when riding upon a motorcycle or an all-terrain vehicle as operator or passenger as provided in Section 49-666, Idaho Code. (3-30-06)

04. Snowmobile Operation Limited. No person may operate a snowmobile on any regularly plowed park road unless authorized by park manager or designee. Access on non-plowed roads and trails are only permitted when authorized by the park manager. (3-30-06)

05. Compliance With Posted Regulatory Signs Required. Persons operating vehicles within state parks are required to obey posted regulatory signs as provided in Section 49-807, Idaho Code. (3-7-03)

06. Obedience to Traffic Direction Required. No person may willfully fail or refuse to comply with any lawful order or directions of any park employee invested with authority to direct, control, or regulate traffic within a state park. (3-30-01)

07. Restrictions. The operation of motor vehicles within a designated campground is restricted to ingress and egress to a campsite or other in-park destination by the most direct route. (3-27-13)

08. Official Use. This rule does not prohibit official use of motor vehicles by Department employees anywhere within lands administered by the Department. (3-27-13)

151. PARKING VIOLATIONS.

01. Land or Facilities Administered by the Department. No person may stop, stand, or park a motor vehicle or trailer anywhere within land or facilities administered by the Department unless proof of payment of all required fees or other lawful authorization for entry is plainly visible and properly displayed. (4-4-13)

02. Designated Campgrounds. No person may stop, stand, or park a motor vehicle within designated campgrounds unless proof of payment of the applicable campsite fees as set forth in Section 250 of this chapter is plainly visible and properly displayed on either the lower windshield or dashboard of the driver's side of the vehicle. (4-4-13)

03. Designated Overnight Use Area. Except for authorized campers, no person may stop, stand, park, or leave a motor vehicle or trailer unattended outside day use hours unless the motor vehicle or trailer is in a designated overnight use area and proof of payment of the overnight-use fee is plainly visible and properly displayed. (4-4-13)

04. Fee Collection Surcharge. Any person stopping, standing, or parking a motor vehicle or trailer without payment or properly displaying proof of payment of all required fees is subject to the fee collection surcharge as provided in Subsection 225.06 of this chapter. (4-11-19)

05. Citations for Violations. Citations for violations of this Section may be issued to the operator of the motor vehicle. If the operator cannot be readily identified, the citation may be issued to the registered owner or

lessee of the motor vehicle, subject to the provisions of Section 67-4237, Idaho Code. (4-4-13)

152. -- 174. (RESERVED)

175. PUBLIC BEHAVIOR.

01. Resisting and Obstructing a Park Employee Prohibited. Persons may not willfully resist, delay, obstruct, or interfere with any park employee in his duties to protect the state's resources and facilities and to provide a safe place to recreate. (3-30-01)

02. Day Use. Between the hours of 10 p.m. and 7 a.m., unless otherwise posted, all personal property must be removed from the day use area. (3-27-13)

03. Quiet Hours. Within lands administered by the Department, the hours between 10 p.m. and 7 a.m. are considered quiet hours unless otherwise posted. During that time, users are restricted from the production of noise that may be disturbing to other users. (1-1-94)

04. Noise. Amplified sound, poorly muffled vehicles, loud conduct, or loud equipment are prohibited within lands administered by the Department, except in designated areas or by authority of the park manager. (1-1-94)

05. Alcohol. State laws regulating alcoholic beverages and public drunkenness are enforced within lands administered by the Department. (3-30-01)

06. Littering. Littering is prohibited within lands administered by the Department. (1-1-94)

07. Smoking. State Park facilities are designated as "smoke free" areas. Persons may not smoke within park structures or at posted outdoor areas. (3-30-01)

176. -- 199. (RESERVED)

200. CAMPING.

01. Occupancy. Camping is permitted only in designated campsites, areas, or facilities. A campsite or facility will be determined occupied only after all required fees have been paid, registration information completed, and all permits properly displayed. Unique circumstances may arise, and specific sites or facilities by virtue of design may require exceptions to the capacity limits. (3-27-13)

02. Self Registration. In those areas so posted, campers must register themselves for the use of campsites and facilities, paying all required fees as provided for herein and in accordance with all posted instructions. (3-27-13)

03. Length of Stay. Except as provided herein, no person, party or organization may be permitted to camp on any lands administered by the Department for more than fifteen (15) days in any thirty (30) consecutive day period. This applies to both reservation and "first come first served" customers. The IDPR Operations Division Administrator or designee may authorize shorter or longer periods for any individual area. (3-30-06)

04. Registration Required. All required fees must be paid, registration information completed, and all permits properly displayed prior to occupying a campsite or facility. Saving or holding campsites or facilities for individuals not physically present at the time of registration for "first come first served" camping is prohibited. (3-27-13)

05. Condition of Campsite. Campers must keep their individual or group campsite or facility and other use areas clean. (3-30-06)

06. Liquid Waste Disposal. All gray water and sewage wastes must be held in self-contained units or collected in water-tight receptacles in compliance with state adopted standards and dumped in sanitary facilities

provided for the disposal of such wastes. (3-30-01)

07. Motorized Equipment. No generators or other motorized equipment emitting sound and exhaust are permitted to be operated during quiet hours. (7-1-93)

08. Campsite Parking. All motor vehicles and trailers, must fit entirely within the campsite parking pad/area provided with the assigned individual or group campsite or facility. All equipment that does not fit entirely within the designated campsite parking area must be parked at another location within the campground, or outside the campground, as may be designated by the park manager or designee. If no outside parking is available, the park manager or designee may require the party to register on a second campsite, if available. (3-27-13)

09. Equipment. All camping equipment and personal belongings of a camper must be maintained within the assigned individual or group campsite or facility perimeter. (3-30-06)

10. Check Out. (3-30-06)

a. Campsite. Campers are required to check out and leave a clean individual or group campsite by 1 p.m. of the day following the last paid night of camping. (3-30-06)

b. Facility. Campers are required to check out and leave a clean individual or group camping facility by 12 noon of the day following the last paid night of camping. (3-30-06)

11. Visitors. Individuals visiting campers must park in designated areas, except with permission of the park manager or designee. Visitors must conform to established day use hours and day use fee requirements. (3-30-06)

12. Responsible Party. The individual purchasing an individual or group campsite or facility is responsible for ensuring compliance with the rules within this chapter. (3-30-06)

13. Camping Prohibited. Camping in individual or group facility sites is prohibited unless in areas specifically designated for camping or by authorization of the park manager or designee. (3-30-06)

201. BOATING FACILITIES.

The provisions of this section do not apply to Department-operated marinas which provide moorage on a lease or long-term rental basis. (3-7-03)

01. Moorage and Use of Marine Facilities. No person or persons may moor or berth a vessel of any type in a Department-owned or operated park or marine area that is signed for other use. Vessel moorage is limited to no more than fifteen (15) days in any consecutive thirty (30) day period. (3-30-06)

02. Moorage Fees. Vessels moored between 10 p.m. and 7 a.m. at designated facilities will be charged an overnight moorage fee. (3-30-06)

03. Use of Onshore Campsites. If any person or persons from a vessel moored at a Department boating facility also occupies any designated campsite onshore, all required fees for such campsite(s) must be paid in addition to any moorage fee provided herein. (3-27-13)

04. Self-Registration. In those areas so posted, boaters must register themselves for the use of marine facilities and onshore campsites, paying all required moorage and campsite fees as provided for herein and in accordance with all posted instructions. (3-27-13)

202. OVERNIGHT USE.

01. Occupancy. Overnight use is permitted only in designated areas. Overnight use is only allowed after all required fees have been paid, registration information completed, and all permits properly displayed. (4-4-13)

02. Overnight Use Fees. Motor vehicles or trailers not associated with campers between 10:00 p.m. and 7:00 a.m. at designated facilities must be charged an overnight use fee. (4-4-13)

03. Self Registration. In those areas so posted, overnight users must register themselves for the use of overnight use areas, paying the appropriate fees as provided for herein and in accordance with all posted instructions. (4-4-13)

04. Length of Stay. Except as provided herein, no person, party, or organization may be permitted to utilize overnight use areas on any lands administered by the Department for more than fifteen (15) days in any thirty (30) consecutive-day period. This applies to both reservation and "first come first served" customers. The IDPR Director or designee may authorize shorter or longer periods for any individual area. (4-4-13)

05. Registration Required. All required fees must be paid, registration information completed, and all permits properly displayed prior to occupying an overnight use area. (4-4-13)

06. Check Out. Overnight users are required to check out by 1 p.m. of the day following the last paid overnight of use. (4-4-13)

07. Responsible Party. The individual purchasing an overnight use permit or the registered owner of the motor vehicle or trailer is responsible for ensuring compliance with the rules within this chapter. (4-4-13)

08. Overnight Use Prohibited. Overnight use is prohibited except in areas specifically designated for overnight use or by authorization of the park manager or designee. (4-4-13)

203. -- 224. (RESERVED)

225. FEES AND SERVICES.

01. Authority. (3-13-97)

a. The Board adopts fees for the use of lands, facilities, and equipment. Visitors must pay all required fees. (3-27-13)

b. Park managers or designees may set fees for goods available for resale and services provided by staff to enhance the users experience unique to the individual park. Fees for lands, facilities, and equipment unique to an individual park will be posted at that site. (3-27-13)

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

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

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

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

b. Permits for groups of up to two hundred fifty (250) people may be approved by the park manager with thirty (30) days advance notice. Permits for groups of two hundred fifty (250) or more people may be approved by the Director with forty-five (45) days advance notice. (3-27-13)

c. The motor vehicle entrance fee may be charged to groups entering a designated area for a non-camping visit. (3-27-13)

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

06. Fee Collection Surcharge. A ten dollar ($10) surcharge may be added to all established fees when the operator of a motor vehicle or responsible party of a camping unit fails to pay all required fees or fails to properly display proof of payment for required fees prior to entering a park area or occupying a campsite. If the surcharge is assessed, and the operator of the vehicle or responsible party is not present, all required fees in addition to the ten dollar ($10) surcharge will be assessed against the registered owner of the motor vehicle or camping unit. (4-11-19)

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

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

09. Encroachment Permit Application Fee. The Department may assess an encroachment application fee as set by the Board to cover administrative costs incurred by the Department in reviewing the application and the site, and in preparing the appropriate document(s). (3-27-13)

226. -- 249. (RESERVED)

250. FEE SCHEDULE: CAMPSITES.

01. Campsites:

CAMPSITE FEE TABLE Maximum Fee Allowed	
Primitive Campsite No amenities at site, camping area not defined	$23/day
Standard Campsite Any defined campsite, either tent pad or RV pad/area (may include: table and/or grill)	$26/day
Serviced Campsite/ W Any defined campsite, either tent pad or RV pad/area, with water at site (may include: table and/or grill)	$30/day
Serviced Campsite/ E Any defined campsite, either tent pad or RV pad/area, with electricity at site (may include: table and/or grill)	$30/day
Serviced Campsite/ W, E Any defined campsite, either tent pad or RV pad/area, with water and electricity at site (may include table and/or grill)	$34/day
Serviced Campsite/ W, E, SWR Any defined campsite, either tent pad or RV pad/area, with water, electricity, and sewer at site (may include table and/or grill)	$36/day
Companion Campsite May be any campsite type, regardless of amenities, that has greater equipment/people capacity (may include table and/or grill) Fee determined by actual site type.	Site type multiplied by two (2)

CAMPSITE FEE TABLE Maximum Fee Allowed	
Amenity Fee for Central Water Applies to "Standard" campsites in campgrounds with a central water supply. The Amenity Fee is charged in addition to the Standard Campsite fee.	$2/night
Amenity Fee for Flush-Toilets/Showers Applies to "Standard" campsites in campgrounds with Flush-Toilets/Showers. The Amenity Fee is charged in addition to the Standard Campsite fee.	$2/night
Use of Campground Showers by Non-campers	$3/person
Overnight Use Fee per motor vehicle or trailer per night Applies to non-campers leaving a motor vehicle or trailer on park property overnight.	$10/night
Limited Income Discount - Idaho residents showing proof of limited income (Medicaid card or other evidence approved by the Board) may receive a camping fee discount of:	$4/day
Resident Disabled Idaho Veterans - Campsite fees are waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability	
Senior Citizen Discount - Pursuant to Section 67-4223, Idaho Code, and at the discretion of the Director, IDPR may provide, at selected under-utilized locations and times, a senior citizen discount.	Maximum 50% of RV camping fee
Camping Cabins and Yurts	$200/night
Each additional person above the sleeping capacity of camping cabin or yurt	$12/night

(7-1-14)

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

251. (RESERVED)

252. FEE SCHEDULE: MOTOR VEHICLE ENTRANCE FEE.

MOTOR VEHICLE ENTRANCE FEE TABLE. Maximum Fee Allowed	
Annual Motor Vehicle Entrance Fee per motor vehicle	$40
Daily charge per motorized vehicle	$5
Annual Motor Vehicle Entrance Fee Replacement per motor vehicle	$5

MOTOR VEHICLE ENTRANCE FEE TABLE. Maximum Fee Allowed	
Daily charge per commercial motor coach (no annual pass available)	$25
Disabled Idaho Resident Veterans - The motor vehicle entrance fee is waived for resident Idaho veterans showing proof of a one hundred percent (100%) permanent and total service related disability	
Idaho State Parks Passport per motor vehicle.	$10
Idaho State Parks Passport Replacement per motor vehicle	$2

(3-27-13)

253. (RESERVED)

254. FEE SCHEDULE: GROUP FACILITY.
Group Facility Fees. Reservation service fee, designated group campground or facility. (3-30-06)

01. Non-Refundable, Non-Transferable. A non-refundable, non-transferable (from one (1) party to another) service charge of twenty-five dollars ($25) will be assessed per designated group area or facility reserved. This fee will be charged in addition to the usage fees for each group or campsite or facility. (4-4-13)

02. Individual Fees. Groups using overnight facilities will be charged three dollars ($3) per person per night camping fees for each individual above the authorized base occupancy rate for the specific site or facility. (4-4-13)

03. Cleaning and Damage Deposits. Cleaning/damage deposits may be required for certain facilities. Where cleaning/damage deposits are required, they must be paid prior to check-in. Cleaning/damage deposits will be fully refunded if the facility is left in the same condition in which it was accepted. (4-4-13)

04. Day Use. Group use fees for day use facilities may be negotiated by the park manager or designee and will generally not fall below the cost of providing services. (4-4-13)

255. (RESERVED)

256. FEE SCHEDULE: BOATING FACILITIES.
Boating Facilities:

BOATING FACILITIES FEE TABLE Maximum Fee Allowed	
Vessel launching - per vessel/per day Annual Motor Vehicle Entrance Fee, Idaho State Parks Passport, or motor vehicle entrance fee apply toward vessel launching fees	$5/ day
Overnight moorage - any length of vessel. (Applicable to persons who have paid for a park campsite and are not camping on the vessel)	$9/night
Overnight moorage - persons camping on vessel Any length vessel Any length vessel moored at buoy	 $10/night $9/night

(3-27-13)

257. (RESERVED)

258. FEE SCHEDULE: SPECIAL FEES.

01. Modification of Fees. Additional fees or deposits may be required for certain uses or for the reservation of certain facilities. The Department reserves the right to waive or reduce fees and charges for Department sponsored promotions. (7-1-93)

02. Sales Tax. Applicable sales tax may be added to all sales excluding the day use fee. (3-30-06)

03. Special Charges. The cost to the agency for returned checks will be passed on to the issuer of the insufficient funds check. (4-4-13)

04. Length of Stay. Fifteen (15) days in any consecutive thirty (30) day period. (3-30-06)

259. FEE SCHEDULE: WINTER ACCESS PROGRAM FEES.

WINTER ACCESS PROGRAM FEE TABLE Maximum Fee Allowed	
Winter Access Daily per Person Pass -- per person per season	$6
Winter Access Daily Family Pass -- per family per season	$100
Winter Access Individual Season Pass -- per person per season	$50
Winter Access Couples Season Pass -- per couple per season	$75

01. Winter Access Program Fee – Daily Pass. A fee of six dollars ($6) per person per day and one hundred dollars ($100) per family per season will be required at Board-approved premium winter access locations. These programs may include: maintained parking areas, warming facilities, winter accessible restroom facilities, regularly groomed trails, extensive signing, trail mapping, and ski patrol services. (7-1-14)

02. Winter Access Program Fee – Season Pass. A fee of fifty dollars ($50) per Individual Season Pass per person per winter access season and a fee of seventy-five dollars ($75) per Couples Season Pass per couple per winter access season will be required at Board-approved premium winter access locations. These programs may include maintained parking areas, warming facilities, winter accessible restroom facilities, regularly groomed trails, extensive signing, train mapping, and ski patrol services. (7-1-14)

260. -- 274. (RESERVED)

275. CRITERIA FOR INDIVIDUAL CAMPSITE, CAMPING CABIN, AND YURT RESERVATIONS.

01. Confirmation Requirements. (3-30-06)

a. Confirmation of an Individual Campsite or Facility Reservation. Full payment of all required fees must be made before a reservation is confirmed. (3-27-13)

b. Confirmation of a Designated Group Campground or Facility Reservation. (3-30-06)

i. Payment of the first night or daily base rate fee for a group facility and all required fees must be made before a reservation is confirmed. (3-27-13)

ii. Payment of all required fees applicable for each campsite or facility reserved within a group campground must be paid at the time of booking before a reservation is confirmed. (3-27-13)

02. Individual Campsite and Facility Reservations. Reservations for individual campsites, and facilities are managed in accordance with rules promulgated by the Idaho Park and Recreation Board. (4-7-11)

03. Reservation Modifications. Individual and group campsite(s) or facilities. A reservation service

fee will be assessed for any modification to a previously made reservation that involves reducing the planned length of stay, or to change the reservation dates where part of the new stay includes part of the original stay booked (rolling window). With the exception of the reservation service fees as defined in Subsection 250.02, any overpaid fees will be reimbursed at the time the reservation is modified. (3-30-06)

04. Reservation Cancellations. (3-7-03)

a. Individual Site or Facility. A reservation service fee will be assessed for the cancellation of a reservation. This service fee will be assessed for each campsite or facility involved. If the customer cancels after the scheduled arrival date the customer forfeits all usage fees for the time period already expired. Cancellations received after checkout time will result in the forfeiture of that day's usage fees for the campsite or facility. At no time will the customer be charged a cancellation fee that exceeds the amount originally paid. The IDPR or its reservation service provider may cancel a customer's reservation for insufficient payment of fees due. With the exception of the reservation service fees, all fees paid will be reimbursed at the time the reservation is cancelled. (3-30-06)

b. Park Board Designated Special Use Campsites and Facilities. A reservation service fee will be assessed for the cancellation of a reservation. If a cancellation for a group facility occurs twenty-one (21) or fewer calendar days prior to arrival, the customer forfeits the first night or daily facility usage fees (base rate). If a cancellation for a group facility occurs more than twenty-one (21) calendar days prior to arrival, a cancellation charge of fifty dollars ($50) will be assessed. If the customer cancels after the arrival date the customer forfeits all usage fees for the time period already expired. Cancellations received after checkout time will result in the forfeiture of that day's usage fees for the campsite or facility. At no time will the customer be charged a cancellation fee that exceeds the amount originally paid. The IDPR or its reservation service provider may cancel a customer's reservation for insufficient payment of fees due. An individual site cancellation fee applies to each campsite in a group campground. With the exception of the reservation service fees, all fees paid will be reimbursed at the time the reservation is cancelled. (4-4-13)

05. Park Manager Authority. The park manager or designee may deny entry to, or reservation of, any Department unit, campsite, or facility, to any individual whose prior documented behavior has violated Department rules or whose in-park activities are incompatible with the park's operation. (3-30-06)

276. -- 299. (RESERVED)

300. RESERVING GROUP USE FACILITIES.

01. General. Unless otherwise provided, designated group use facilities and areas may be reserved through the reservation system up to nine (9) months in advance but at least two (2) days prior to the date of arrival. (3-30-06)

02. Responsible Party. A designated group leader is responsible for all facilities. A damage or cleaning deposit may be required by the park manager or designee as a condition of reservation. (3-7-03)

03. Park Manager Authority. The park manager or designee may deny entry to, or reservation of any Department unit, campsite, or facility, to any group whose prior documented behavior has violated Department rules, whose in-park activities are incompatible with the park's operation, or whose in-park activity will violate Department rules. (3-30-06)

04. Additional Information. Additional information concerning group use reservations and definitions can be found in Subsection 250.05 of this chapter. (3-30-06)

301. -- 399. (RESERVED)

400. PARK CAPACITIES.
Where applicable, park managers may limit or deny access to an area whenever it has reached its designated capacity. Only if special arrangements for the public welfare have been made may the park manager allow that capacity to be exceeded. (3-30-06)

401. OPERATIONAL GUIDELINES FOR NON-TRADITIONAL RECREATIONAL ACTIVITIES.
Non-traditional recreational activities such as model airplane/glider operations, geo-caching, gold panning and metal detecting may be authorized by the Park Manager or his designee, if such activities do not interfere with traditional uses of the park and are consistent with preservation of park resources. (4-2-08)

402. -- 449. (RESERVED)

450. WATERFRONT AREA RESTRICTIONS.

01. Swimming. Swimming or water contact is at an individual's own risk. (3-7-03)

02. Restrictions on Designated Beaches. No glass containers or pets are allowed on designated beaches or swim areas. (3-7-03)

03. Restricted Areas. Vessels must remain clear of designated beaches and other areas signed and buoyed for public safety. (3-7-03)

04. Ramps and Docks. The use of docks located next to boat ramps is limited to the active launching and loading of boats. (3-7-03)

05. Compliance with Laws. Vessels operating on public waters administered by the Department must fully comply with the Idaho Safe Boating Act, Title 67, Chapter 70 and the Marine Sewage Disposal Act, Title 67, Chapter 75, Idaho Code, and the rules promulgated thereunder. The director may establish rules prohibiting the use of boat motors or to limit the horsepower capacity on those vessels operating on waters administered by the Department. (3-7-03)

451. -- 474. (RESERVED)

475. PETS.
Pets are allowed within lands administered by the Department only if confined or controlled on a leash not longer than six (6) feet in length. No person may allow their pet to create a disturbance which might be bothersome to other users. Excepting persons with disabilities who are assisted by guide animals, no person may permit their pet animals to enter or remain on any swim area or beach. Pet owners are responsible to clean up after their animals. Pets may not be left unattended. Areas for exercising pets off leash may be designated by the park manager or designee. Department employees may impound or remove any stray or unattended animals at the owner's expense. (3-7-03)

476. -- 499. (RESERVED)

500. LIVESTOCK.
Grazing of livestock is not permitted within lands administered by the Department. Exceptions may be made by the board for grazing permits or otherwise permitting the use of lands administered by the Department for livestock. The use of saddle or other recreational livestock is prohibited on trails, roadways, and other areas unless designated through signing for that purpose or with permission of the park manager or designee. (3-7-03)

501. -- 524. (RESERVED)

525. FIRES.
The use of fires is restricted to fire circles, grills or other places otherwise designated by the park manager. All fires must be kept under control at all times, and must be extinguished before checking out of the campsite or whenever fire is left unattended. Areas may be closed to open fires during extreme fire danger. (3-13-97)

526. -- 549. (RESERVED)

550. FIREWORKS.
No person may use fireworks of any kind within lands administered by the Department, except under special permit issued by the director for exhibition purposes, and then only by persons designated by the director. (1-1-94)

551. -- 574. (RESERVED)

575. PROTECTION OF WILDLIFE.
All molesting, injuring, or killing of any wild creature is strictly prohibited, except as provided by action of the Board and as established in Board Policy. Persons in possession of wildlife, which may be legally taken within state park boundaries, must comply with Idaho Fish and Game rules. (3-7-03)

576. PROTECTION OF HISTORICAL, CULTURAL AND NATURAL RESOURCES.
The digging, destruction or removal of historical, cultural or natural resources is prohibited. Collection for scientific and educational purposes will be through written permission of the park manager or designee only. (3-30-06)

01. Spreading of Human Ashes. Human ashes may be spread on lands owned by the Idaho Department of Parks and Recreation. The exact location must be pre-approved by the Park Manager or designee. Ashes may not be spread in the water within a state park. (4-2-08)

02. Land-Use Restrictions. The spreading of human ashes will not restrict the use of Department land from future development. The Department does not assign or convey any rights or restrictions by allowing the placement of ashes on the land, and there are no restrictions in the ability of the landowner to operate, develop, or otherwise use the land at their sole discretion without any obligation associated with the placement of ashes on the land. (4-2-08)

577. -- 599. (RESERVED)

600. PERSONAL SAFETY, FIREARMS.
No person may purposefully or negligently endanger the life of any person or creature within any land administered by the Department. No person may discharge firearms or other projectile firing devices within any lands administered by the Department, except in the lawful defense of person, persons, or property or in the course of lawful hunting, or for exhibition or at designated ranges as authorized by the Director. (3-29-10)

601. -- 624. (RESERVED)

625. ADVERTISEMENTS/PROMOTIONS/DEMONSTRATIONS.

01. Printed Material. Public notices, public announcements, advertisements, or other printed matter may only be posted or distributed in a special area approved by the park manager or designee. (3-30-06)

02. Political Advertising. Political advertising is strictly prohibited within any lands administered by the Department. (3-30-06)

03. Demonstrations. Public demonstrations are limited to areas approved by the park manager and subject to an approved permit issued after arrangements for sanitation, population density limitations, safety of persons and property, and regulation of traffic are made. (3-30-06)

626. -- 649. (RESERVED)

650. AUTHORIZED OPERATIONS.
No person, firm, or corporation may operate any concession, business, or enterprise within lands administered by the Department without written permission or permit from the board. No person(s), partnership, corporation, association or other organized groups may: (1-1-94)

01. Beg or Solicit for Any Purpose. (7-1-93)

02. Game or Operate a Gaming Device of Any Nature. (7-1-93)

03. Abandon Any Property. Leaving property on Department lands is prohibited unless registered in a campsite or permitted by the park manager or designee. Property left on Department lands for more than twenty-four (24) hours will be removed at the owner's expense. (3-7-03)

04. Discriminate. Discriminate in any manner against any person or persons because of race, color, national origin, religion, gender, age or disability within lands administered by the Department. (1-1-94)

651. -- 674. (RESERVED)

675. DEPARTMENT RESPONSIBILITY.
The Department is not responsible for damage to, or theft of personal property within lands administered by the Department. All visitors use facilities and areas at their own risk. (1-1-94)

676. -- 999. (RESERVED)

26.01.33 – RULES GOVERNING THE ADMINISTRATION OF THE LAND AND WATER CONSERVATION FUND PROGRAM

000. LEGAL AUTHORITY.
The Idaho Park and Recreation Board is authorized under Section 67-4223, Idaho Code, to adopt, amend, or rescind rules as may be necessary for proper administration of the department and its programs. (1-1-94)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.33, "Rules Governing the Administration of the Land and Water Conservation Fund Program." (1-1-94)

02. Scope. This chapter establishes procedures for the administration of the Land and Water Conservation Fund program, including requirements for project application, eligibility, review, award, and management. (1-1-94)

002. -- 009. (RESERVED)

010. DEFINITIONS.
As used in this chapter: (1-1-94)

01. Acquisition. The gaining of rights of public use by purchase or donation of fee or less than fee interests in real property. (1-1-94)

02. Board. The Idaho Park and Recreation Board, a bipartisan, six (6) member board, appointed by the governor. (1-1-94)

03. Development. The act of physically improving an area or constructing facilities necessary to increase its ability to serve outdoor recreation purposes. (1-1-94)

04. Director. The director and chief administrator of IDPR or the designee of the director. Designated by the governor to serve as the State Liaison Officer for the LWCF program. (1-1-94)

05. Evaluation Committee. Representatives from federal, state and local agencies with expertise in community development or public outdoor recreation needs. The committee determines acceptability of projects based on technical criteria, rates LWCF projects, and assists IDPR staff in making funding priority recommendations to the Idaho Park and Recreation Board. (1-1-94)

06. Grants Program. All funding programs administered by IDPR. (7-1-93)

07. IDPR. The Idaho Department of Parks and Recreation. (1-1-94)

08. LWCF. The Land and Water Conservation Fund, a federal grant program that provides fifty percent (50%) matching grants to states, and through states to local governments, for the planning, acquisition and development of public outdoor recreation areas and facilities. (1-1-94)

09. NPS. The National Park Service. (1-1-94)

10. Open Project Selection Process (OPSP). The overall objective decision making process by which IDPR selects LWCF projects for funding. (7-1-93)

11. Participation Manual and Internal Procedures Manuals. A compilation of state procedures, rules, and instructions that have been assembled in manual form and that have been approved by the board for dissemination to the public and public agencies that may wish to participate in grant programs of IDPR or that outline operation of the Land and Water Conservation Program by IDPR for staff use. (7-1-93)

12. Planning. The development of documents and programs to identify and propose actions for managing recreational resources and the preparation and review of designs and specifications for such resources. (1-1-94)

13. Priority Needs Assessment. Incorporates SCORTP related activities that refined Idaho's priorities for LWCF obligation. These area are reflected in the OPSP criteria (see Section 440 of this chapter). (1-1-94)

14. **Project**. The undertaking that is or may be funded in whole or in part with funds administered by IDPR. (1-1-94)

15. **Retroactive Cost**. Costs incurred after receipt of application but prior to the execution of the project contract. (7-1-93)

16. **SCORP/SCORTP**. Statewide Comprehensive Outdoor Recreation Plan/Statewide Comprehensive Outdoor Recreation and Tourism Plan. (1-1-94)

17. **Scope Element**. A specific item, for example, one (1) facility or amenity, listed on a project application or project agreement that is a part of the whole. (1-1-94)

18. **Sponsor**. A state or local government agency that solicits a grant of funds from IDPR for a projector is responsible for administering the grant or funding of an approved application or completed project. (1-1-94)

19. **State Liaison Officer (SLO)**. The director is designated by the governor to serve as the State Liaison Officer to the National Park Service for the LWCF program. The chief of the Recreation Resources Bureau is designated as the Alternate State Liaison Officer. (1-1-94)

011. -- 049. (RESERVED)

050. GENERAL PROVISIONS.
Federal Land and Water Conservation Fund (LWCF) grants are available through IDPR for the acquisition or development of land to be used for outdoor recreation or for the combined acquisition and development of land to be used for outdoor recreation. Any land acquired or developed with these funds are held in perpetuity for outdoor recreation or, with approval from IDPR abd NPS, be replaced with land of equal or higher fair market value, recreation utility and location. LWCF grants may be used for SCORTP activities. (1-1-94)

051. -- 064. (RESERVED)

065. COMPLIANCE WITH LAWS.
LWCF administration is subject to all applicable state and federal statutes, rules, regulations, ordinances and requirements. (1-1-94)

066. -- 079. (RESERVED)

080. FUND ALLOCATION.

01. **Eligible Applicants**. Governmental agencies that are eligible to receive or apply for the grant funds include incorporated cities, counties, state agencies, recreation districts and other state or local governmental agencies authorized to provide general public recreation facilities. (1-1-94)

02. **Allocation of Funds**. Idaho's cost of administering the SCORTP program, the LWCF program and a contingency fund are deducted from the state's annual apportionment. The remaining funds are divided fifty percent (50%) for local governmental agencies and fifty percent (50%) for state agencies. This policy may be altered in any year at the discretion of the board. (1-1-94)

a. To assure that the needs of rural areas are met, twenty percent (20%) of the amount dedicated for local governmental agencies is dedicated for use by governmental agencies of five thousand (5,000) population or less. If the cumulative request of the governmental agencies of five thousand (5,000) population or less is more than the twenty percent (20%) of the amount dedicated for local governmental agencies, governmental agencies of five thousand (5,000) population or less may compete for the total remaining allocation. (1-1-94)

b. If the total cost for a single project of a governmental agency with a population of five thousand (5,000) or less requires over one-half (1/2) of the twenty percent (20%) dedicated for use by governmental agencies

of five thousand (5,000) population or less, that project will compete with the large governmental agency projects. (1-1-94)

03. Exceptions. The board may suspend (through formal action at the board meeting at which LWCF grant requests are considered) any provision of Subsection 080.02 of this chapter if the allocation is too small to warrant viable projects. (1-1-94)

04. Project Requests Insufficient. The board is not required to distribute all available funds. IDPR staff may recommend, and the board determine, to reject projects with evaluation scores so low as to be noncompetitive. (1-1-94)

081. -- 094. (RESERVED)

095. CONTINGENCY FUND.
Twenty percent (20%) of the total allocation may be held out for needed cost overruns, special projects, and emergency needs. Any unused funds at the end of the funding cycle are obligated through the normal process. (1-1-94)

096. -- 109. (RESERVED)

110. SPONSOR'S MATCHING SHARE.
The sponsor will be reimbursed up to fifty percent (50%) of the approved project cost. The sponsor's share can be either local funds, acceptable state funds, force account, or donation of privately owned lands, goods or services. Reimbursement varies according to the type of project and total project cost (see Section 515 of this chapter). The use of specific types of sponsor's share match may be adjusted in any year at the discretion of the board (see Section 140.04 of this chapter). (1-1-94)

111. -- 124. (RESERVED)

125. PROJECT TIME LIMITATIONS.
The project must be completed by the applicant within twenty-four (24) months of the federal contract signing. (1-1-94)

126. -- 139. (RESERVED)

140. ELIGIBLE PROJECTS.

01. Generally. LWCF grants are available for up to fifty percent (50%) of the cost to acquire or develop land that is to be used for outdoor recreation purposes and is to be held in perpetuity for public outdoor recreation uses. (1-1-94)

02. Less Than Fee Acquisition. Acquisition of less than fee interest, such as easements and development right, must be considered in the same manner as simple fee acquisition subject to the following conditions: (1-1-94)

a. The interest cannot be revocable; (7-1-93)

b. The value can be supported through standard appraisal techniques; and (1-1-94)

c. Recreation can be demonstrated as the primary purpose of the acquisition. (7-1-93)

03. Ineligible Projects. Acquisitions or developments that do not contribute directly to general public outdoor recreation facilities or activities are ineligible for LWCF funding. Acquisition of leases are not eligible. (7-1-93)

04. SCORTP. LWCF grants are available for up to fifty percent (50%) of the cost of the SCORTP. (1-1-94)

141. -- 154. (RESERVED)

155. ELIGIBLE PROJECT COSTS.
IDPR may place restrictions on reimbursement of some acquisition and development costs. (1-1-94)

156. -- 169. (RESERVED)

170. ACQUISITION OF PUBLICLY OWNED LANDS.
The cost to the sponsor of land purchased from another public agency is generally not eligible for matching assistance. (7-1-93)

171. -- 184. (RESERVED)

185. ACQUISITION OF STRUCTURES.
Structures that are proposed to be retained and are incidental to the land are eligible for LWCF matching funds if they are to be used primarily for support facilities for outdoor recreation activities. The anticipated used must be clearly identified in the project application so that IDPR may exercise reasonable judgment in determining the eligibility of the structure for funding assistance. (1-1-94)

186. -- 199. (RESERVED)

200. WAIVER OF RETROACTIVELY.

01. Generally. The SLO may grant permission to a sponsor to proceed prior to normal processing of an application through a written waiver of retroactively. This is not be construed as a qualitative approval of the proposed project. Should the project subsequently be approved, the costs incurred must be eligible for assistance. (1-1-94)

02. NPS Waiver Required. The SLO may not grant a waiver of retroactivity until the NPS has issued its waiver of retroactivity. A waiver may be granted only if LWCF moneys are available and only if an emergency situation warrants it. (1-1-94)

03. Limitations. Retroactive development costs are not eligible for reimbursement, other than expenses necessary for planning a development project and then only if it is specifically requested in the project application. (7-1-93)

201. -- 214. (RESERVED)

215. ENCUMBRANCES.
Property rights obtained with LWCF assistance must be free of all reservations or encumbrances that would limit the use of the site disproportionate to the public benefit. (7-1-93)

216. -- 229. (RESERVED)

230. ACQUISITION COSTS EXCEEDING FAIR MARKET VALUE.
An approved appraisal is an acceptable estimate of property value (see Section 350 of this chapter). The negotiation between a willing seller and a willing buyer may set a price that is higher than the appraisal, and this market place value can be considered along with the appraised value in establishing the reasonable limits of assistance. If the sponsor believes that the negotiated price is a better indication of market value, yet it is higher than the appraised value, a detailed and well documented statement of this differences must be submitted, together with a formal request for a cost increase (see Section 620 of this chapter). (1-1-94)

231. -- 259. (RESERVED)

260. ACQUISITIONS INVOLVING COMPATIBLE MULTIPLE USES.
Nonrecreation uses, such as timber management, grazing, and other natural resource uses, may be carried out on

lands acquired with LWCF assistance if they are clearly compatible with and secondary to recreation use, and are approved by IDPR prior to execution of the project contract. (1-1-94)

261. -- 274. (RESERVED)

275. ACQUISITIONS INVOLVING NONRECREATION USE.

01. Nonrecreation Use Limited. Lands acquired with LWCF assistance are immediately dedicated to public outdoor recreation and therefore, in the interim period between acquisition and planned development, the public cannot be denied use. In some instances during this period the temporary continuation of nonrecreation uses of LWCF assisted areas may be appropriate if not at the expense of public use. Continuation of existing nonrecreation uses must be approved by IDPR. When approved by IDPR, the used will be phased out within three (3) years from the date of the acquisition. (1-1-94)

02. Life Estates. Life estates, whereby an owner is allowed to use the property to the end of his life, is an allowable nonrecreation use provided all of the following conditions are met: (1-1-94)

a. The life estate must not totally limit public use of the site; (1-1-94)

b. The value of the life estate is not included within the total project cost as established through acceptable appraisal techniques; and (1-1-94)

c. The life estate provisions are approved by IDPR. (1-1-94)

276. -- 289. (RESERVED)

290. PUBLIC PARK AND SCHOOL DEVELOPMENT PROJECTS.
Projects clearly designed and located to meet identified needs for general public recreation, as well as to provide school districts with outdoor education, physical education, and recreation facilities may be eligible for funding, provided general public recreation is clearly the primary use. (1-1-94)

291. -- 304. (RESERVED)

305. DONATED REAL PROPERTY AS MATCHING SHARE.

01. Generally. The value of privately owned donated real property may be used as a portion or as all of the sponsor's matching share of an approved project when the transfer of title to the sponsor has not been accomplished prior to the execution by IDPR of the project contract, unless such action has been previously approved by IDPR under the waiver of retroactivity procedure (see Section 200 of this chapter). (1-1-94)

02. Limitations. The donation must consist of real property that would normally qualify for LWCF funding. If the donation does not adjoin the tract being acquired or is not being developed as part of the project then it must stand on its own merits as an acceptable public recreation area in order to be considered an eligible donation. It also must be within the jurisdiction of the sponsor. (1-1-94)

03. Appraisal Required. The value of the donation must be established by an appraisal report prepared under the provision of Section 350 of this chapter. Any portion of the value of the donation not utilized by the sponsor for matching in the project is not available for subsequent projects. The amount of donation that is matchable is the value of the land donation up to the limit of the local agency's share of the project. The maximum reimbursed by IDPR may never exceed the cash expended on the project. (1-1-94)

306. -- 319. (RESERVED)

320. DONATED GOODS AND SERVICES AS MATCHING SHARE.

01. Generally. Donated services, materials and equipment are eligible for reimbursement. Allowable rates must be agreed upon by IDPR prior to initiation of construction and must be in accordance with current federal

regulations and state rules. Partial reimbursement on projects involving such donations are limited to the amount of actual cash outlay by the grantee. (1-1-94)

02. Excess Value. Donated services above the needs for a project are not eligible for further funding assistance. (7-1-93)

03. Requirements. Donated services may be furnished by professional and technical personnel, consultants, and other skilled or unskilled labor. The services must be an integral and necessary part of an approved project. Rates for donated services must be consistent with those paid for similar work in other activities of the state or local government. In those instances in which the required skills are not found in the sponsor's organization, rates must be consistent with those paid for similar work in the labor market in which the sponsor competes for the kind of services involved. (1-1-94)

321. -- 334. (RESERVED)

335. FORCE ACCOUNT AS MATCHING SHARE.
All or a portion of the sponsor's share can be provided through force account (i.e., use of sponsor's staff and equipment) when such contributions are verifiable from the sponsor's records, are not included as contributions for any other IDPR program, and are necessary and reasonable for proper and efficient accomplishment of the project. (7-1-93)

336. -- 349. (RESERVED)

350. APPRAISAL REQUIREMENTS.
A real estate appraisal is required for all land to be acquired. The appraisal must be prepared and paid for by the sponsor. The type of appraisal to be used must be determined by the cost of the property, and difficulty of the appraisal assignment. All appraisal must be done according to "Uniform Appraisal Standards for Federal Land Acquisitions." (1-1-94)

351. -- 364. (RESERVED)

365. APPRAISAL REVIEWS.
IDPR reviews appraisals as necessary. Any appraisal report that does not meet the basic content requirement or use correct analysis procedures must be corrected to the satisfaction of IDPR. All costs are paid by the sponsor. (1-1-94)

366. -- 379. (RESERVED)

380. REVENUE FEASIBILITY STUDIES.
At the discretion of the SLO, a feasibility report prepared by a fiscal specialist may be required prior to funding consideration by the board. Specifically, it must provide the SLO with detailed financial information and data that is incorporated in staff recommendations to the board. This report is paid for by the sponsor. (1-1-94)

381. -- 394. (RESERVED)

395. TECHNICAL REVIEW.
At the discretion of the SLO, a technical report prepared by a licensed, certified engineer may be required prior to funding consideration by the board. This report is paid for by the sponsor. (1-1-94)

396. -- 409. (RESERVED)

410. FUNDING CYCLE.

01. Generally. A funding cycle is held at a minimum of once every two (2) years with the following exception: subject to the level of funding, the board may suspend (through formal action at any regular meeting) a funding cycle. (1-1-94)

02. Procedure. The funding cycle consists of the following: (7-1-93)

a. Notification to begin a funding cycle must be made no less than ninety (90) days before applications are due. (1-1-94)

b. The evaluation committee meeting must be held within one hundred twenty (120) days of the application due date. (1-1-94)

c. Recommendations must be formulated by IDPR staff within thirty (30) days following the evaluation committee meeting and must be made to the board no later than the next regularly scheduled meeting. (1-1-94)

d. Subject to the level of funding, the board may suspend (through formal action at any regular meeting) the evaluation committee meeting and may elect to adopt staff recommendations. (1-1-94)

03. Fees. At the discretion of the SLO, fees may be charged for the various stages of any funding cycle. When charged, fees are assessed equally on all applicants. Fees charge may not exceed fifty dollars ($50) for all stages combined. (1-1-94)

411. -- 424. (RESERVED)

425. APPLICATION PROCEDURE.

01. Initial Review. Participation manuals are available to guide sponsors in preparing projects for funding consideration. Materials submitted for consideration are reviewed by IDPR staff for completeness and for project eligibility. Once all application materials are submitted and a project is determined to be potentially eligible under criteria established in the OPSP, IDPR will ask the sponsor to make a presentation to the evaluation committee. (1-1-94)

02. Eligible Projects. Eligible projects are ranked according to the (OPSP (see Section 440 of this chapter) and approved by the board (see Section 470 of this chapter). Full federal application materials must be submitted to NPS for final funding approval (see Section 485 of this chapter). (1-1-94)

426. -- 439. (RESERVED)

440. OPEN PROJECT SELECTION PROCESS (OPSP).

01. Generally. The procedures outlined in OPSP through the SCORTP process are for the purpose of defining criteria that a proposed LWCF project must meet in order to be eligible for funding, and to establish priorities on the basis of which competing eligible projects can be rated objectively. The intent is to ensure that available funds are used to fund those projects that most nearly satisfy the intent of the LWCF Act, and the recreational needs of the people of Idaho. (1-1-94)

02. Requirements. Requirements for the SCORTP and the OPSP can be found in the "LWCF Participation Manual," available from IDPR or NPS. (1-1-94)

03. Availability. Copies of the SCORTP and the OPSP criteria used in prioritizing those projects submitted for LWCF assistance may be obtained from IDPR or NPS. Typically, this criteria is provided in all LWCF application guidelines. (1-1-94)

04. Suspension of OPSP. Subject to the level of funding, the board may elect to suspend OPSP (through formal action at any regular meeting). (1-1-94)

441. -- 454. (RESERVED)

455. EVALUATION COMMITTEE.

01. Composition. The evaluation committee includes representatives with experience in community

development or public outdoor recreation. The committee ranks projects based on its review of the application and a presentation by the sponsor. It rates all projects based on the selected criteria found in OPSP. The evaluation committee includes nine (9) members as follows: (1-1-94)

a. Three (3) members are representatives of state and federal agencies with a technical relationship to community development or the outdoor recreation needs in the state. (1-1-94)

b. One (1) member represents a community of five thousand (5,000) population or more (1-1-94)

c. One (1) members represents a community of five thousand (5,000) population or less. (1-1-94)

d. One (1) member represents the interests of ethnic minorities. (1-1-94)

e. One (1) member represents the interests of the elderly. (1-1-94)

f. One (1) member represents the interests of people with disabilities. (1-1-94)

g. One (1) member must be from the board. (1-1-94)

02. Quorum. A quorum is required to conduct committee business. Five (5) people constitute a quorum. (1-1-94)

03. Appointment and Term. Members are appointed by and serve at the discretion of the SLO for three (3) funding sessions and may be reappointed, except, the board member must be selected by and serve at the discretion of the board. As necessary, the SLO provides public notice of available seats. Any interested individual or organization may nominate individuals to serve on the committee. (1-1-94)

456. -- 469. (RESERVED)

470. BOARD REVIEW AND APPROVAL.
The board reviews and approves projects according to the priority list provided by IDPR staff. Applications are submitted to NPS according to priority after LWCF moneys have been appropriated by congress and allocated to the state. (1-1-94)

471. -- 484. (RESERVED)

485. NPS PROJECT APPROVAL.
When a project is approved by NPS, the announcement is made by one of the state's congressional delegation following notification from IDPR. All appraisals, title and deed work must be finalized prior to submitting a project to NPS. (1-1-94)

486. -- 499. (RESERVED)

500. PROCEEDING ON THE PROJECT.
After project approval, the IDPR staff assists the sponsor in meeting the requirements of the LWCF including providing information on the steps and required documentation for acquisition and development projects along with financial responsibilities and allowable costs. The sponsor must complete work on the project according to the scope elements in the state/local agreement. (1-1-94)

501. -- 514. (RESERVED)

515. DISBURSEMENT OF FUNDS.

01. Authorization. Except as otherwise provided herein, the SLO must authorize disbursement of funds allocated to a project through reimbursement basis. The LWCF program is a reimbursement program, which means that the participants initially pay all project costs and then seek reimbursement through IDPR. (1-1-94)

02. Documentation. Reimbursement not be made by IDPR until deed, title insurance and appraisal requirements are satisfied on all projects. Reimbursement may be made on development or combination acquisition and development projects once construction shows evidence and reasonable progress toward the completion of all scope elements and LWCF requirements. (1-1-94)

03. Partial Reimbursement. Partial reimbursement is not made for projects where the project sponsor's matching share is less than fifteen thousand dollars ($15,000). When reimbursement is granted prior to project completion, the sponsor receives a reimbursement for fifty percent (50%) of the eligible costs incurred less a fifteen percent (15%) hold back. When the project has been completed and receives final approval from IDPR, the sponsor is paid the fifteen percent (15%) hold back. If multiple payments are to be incurred as part of the project, the final payment may be used as the fifteen percent (15%) hold back. (1-1-94)

04. Request for Reimbursement. Reimbursement must be requested by local governmental agencies on voucher forms provided by IDPR and includes all required documentation. The sponsor will receive a reimbursement for fifty percent (50%) of the eligible costs incurred. The amount of reimbursement must never exceed the cash expended on the project. (1-1-94)

05. Advance Payment. An advance payment is a payment made to a sponsor upon its request before cash outlays are made by the sponsor or payment made through the use of predetermined payment schedules before such payments are due. Advance payment may be made subject to the conditions outlined below: (1-1-94)

a. IDPR will consider the payment of advances on development projects where the matching share is non-cash, and on acquisition projects where funds must be available up front in order to prevent the loss of an available site to other interested buyers. Such advances must receive prior approval of NPS. A written request must be submitted by the sponsor to IDPR to initiate the process. (1-1-94)

b. Advances must be timed and procedures observed to assure that cash withdrawals occur only as and when essential to meet the needs of the project sponsors. Advances are limited to the minimum amounts needed and timed to be in accord with the requirements of carrying out the purpose of the approved project. Any moneys advanced to the sponsor are public moneys (owned by the Federal Government and the State of Idaho) and must be deposited in a bank with FDIC insurance coverage and the balances exceeding the FDIC coverage must be collaterally secure. (1-1-94)

c. One (1) month after the advance has been received, the sponsor must submit a billing indicating expenditures made from the advanced funds. This will be used by IDPR as a basis for liquidating obligations, reducing the advance account and making charges to the appropriate cost account. (1-1-94)

d. At least monthly, IDPR reviews the sponsor's disbursements of advanced funds for reasonableness of cash balances on hand. In the event IDPR determines a sponsor is making insufficient progress using advanced funds, IDPR may request an immediate refund. (1-1-94)

516. -- 529. (RESERVED)

530. PROJECT CONTRACT.
For every funded project, a project contracts must be executed. The project contract must be prepared by the IDPR staff subsequent to approval of the project. Upon execution by the sponsor, the parties are thereafter bound by the project contract terms. The sponsor may not proceed with the project until the project contract has been executed. IDPR may not execute a project contract until federal funding has been authorized by NPS. (1-1-94)

531. -- 544. (RESERVED)

545. CONTROL AND TENURE.
The sponsor has title to or adequate control and tenure of the area to be developed. The sponsor must list all outstanding rights or interests held by others in the property to be developed. In the event that outstanding rights later prove to be incompatible with public outdoor recreation uses of the site, the sponsor assumes the responsibility for having to replace the facilities developed with state or federal assistance with others of at least equal value and reasonably equivalent usefulness and location at the sole cost of the sponsor. (1-1-94)

546. -- 559. (RESERVED)

560. APPLICABILITY.
All LWCF requirements apply to each area or facility, regardless of the extent of LWCF assistance. When LWCF development assistance is given to a project limited to less than a complete recreational property, all lands immediately adjacent to that LWCF development that are designated as recreational property must be identified as being within the LWCF project boundary and must be subject to LWCF guidelines. (1-1-94)

561. -- 574. (RESERVED)

575. SPONSOR COMMITMENT.
A proclamation from the sponsor's governing body committing the project and the sponsor to LWCF requirements must be submitted to IDPR prior to IDPR project approval. (1-1-94)

576. -- 589. (RESERVED)

590. RESTRICTION ON TITLE.
Land acquired in fee or developed with outdoor recreation funds must be dedicated to outdoor recreation use in perpetuity by a recorded "Deed of Right to Use Land for Public Recreation Purposes" (Deed of Right) that conveys a real property interest to the public. This must be executed and recorded by the sponsor after it has taken title to the property, and before it applies for reimbursement. (1-1-94)

591. -- 604. (RESERVED)

605. RECORDS.
Project records must be maintained by the state and sponsor for three (3) years after final payment. The material must be maintained beyond the required three (3) year period if audit findings have not been resolved. Property records must be maintained in perpetuity. (1-1-94)

606. -- 619. (RESERVED)

620. PROJECT AMENDMENTS, COST INCREASES AND TIME EXTENSIONS.

01. Amendments. The project contract may be amended by execution of a project amendment. All amendment requests must be made in writing and must include a detailed justification. Sponsors are expected to complete projects as originally proposed and evaluated. However, amendments for minor changes in scope may be requested. Cost increases of twenty-five percent (25%) or more or changes in project elements that change the total project cost by twenty-five percent (25%) or more require that the project be presented as a totally new proposal and compete through the OPSP (see Sections 440 through 485 of this chapter) during a current funding cycle. Should the revised project not receive enough points to be funded, the sponsor is required to complete the scope of the project as originally proposed at its expense or return any funds reimbursed so that the project may be canceled and the funds reallocated. This does not apply to SCORTP projects. (1-1-94)

02. Cost Increases on Development Projects. For cost increase requests on development projects to be considered, all of the following requirements must be met: (1-1-94)

a. The increase, or any portion thereof, is to be used only for costs incurred on elements specified in the project agreement; and (1-1-94)

b. The sponsor has initiated implementation of the project in a timely manner and has had little control over the condition causing the cost overrun. (7-1-93)

03. Cost Increases on Acquisition Projects. Acquisition project cost increases must meet all of the following conditions: (1-1-94)

a. The increased market value is supported by an acceptable appraisal; (1-1-94)

b. The sponsor has diligently pursued the acquisition; and (1-1-94)

c. If increased relocation costs have caused a cost overrun, an explanation is required. (1-1-94)

04. Condemnation. Acquisition cost increases based on condemnation awards, if granted, must be based on compensation for the property and direct relocation costs; no court or legal costs are eligible for reimbursement. (1-1-94)

05. Basis for Cost Increase. Cost increase requests for development projects are based on the total approved costs. Cost increase requests for acquisition projects are based on a parcel by parcel determination.(1-1-94)

06. Extensions of Time. Extensions of time limitations will be considered if based on unavoidable circumstances such as condemnation of property for acquisition projects and delays due to unusually poor weather or unavailability of supplies for a development project. Extensions are generally granted in six (6) month intervals. Avoidable project delays may result in loss of funding with the sponsor being required to return any funds reimbursed so that the project can be canceled. (1-1-94)

621. -- 634. (RESERVED)

635. DEVELOPMENT PROJECT CONTRACT REQUIREMENTS.
Development projects require competitive bidding according to state and federal statutes. (1-1-94)

636. -- 649. (RESERVED)

650. CONVERSION TO OTHER USES.

01. Generally. Property acquired or developed with LWCF assistance is not converted to other than public outdoor recreation uses without prior approval of the SLO and the NPS regional director. The SLO has authority to disapprove conversion requests or to reject proposed property substitutions. (1-1-94)

02. Prerequisites to Approval of Conversion. IDPR will only consider a conversion request once the following prerequisites have been met: (1-1-94)

a. All practical alternatives to the conversion have been evaluated and rejected on a sound basis. (7-1-93)

b. At least thirty (30) days prior to IDPR submitting a request to NPS to convert LWCF properties, the sponsors must hold a public hearing. (1-1-94)

c. The fair market value of the property to be converted has been established and the property proposed for substitution is of at least equal fair market value as established by a state approved appraisal. (7-1-93)

d. The property proposed for replacement is of reasonably equivalent usefulness and location as that being converted. It must be administered by the same political jurisdiction as the converted property. (1-1-94)

e. The property proposed for substitution meets the eligibility requirements for LWCF assisted acquisition. The replacement property constitutes or is part of a viable recreation area. (1-1-94)

f. Public land may not be used for substitution on acquisition projects unless it meets the criteria for an eligible acquisition project. However, in the case of development projects for which the state match was not derived from the cost of the purchase or value of a donation of the land to be converted, public land not currently dedicated to recreation or conservation use may be used as replacement land even if this land is transferred from one public agency to another without cost. (7-1-93)

g. All necessary coordination with other federal agencies has been satisfactorily accomplished. (7-1-93)

h. The guidelines for environmental evaluation have been satisfactorily completed and considered. (7-1-93)

i. The proposed conversion and substitution are in accord with the SCORTP. (1-1-94)

j. Staff consideration of the above points reveals no reason for disapproval and the project files are so documented. (7-1-93)

k. It should also be noted that the acquisition of one (1) parcel of land may be used in satisfaction of several approved conversions. However, previously acquired property cannot be used to satisfy substitution requirements except in the case of development projects. (7-1-93)

03. Project Amendments. Approved conversions require amendments in the project contract when the property to be substituted is off site or when replacement of property is deferred. (7-1-93)

04. Fees. Deposit, cost and fees for the administration and management of the LWCF conversion process must be as follows: (1-1-94)

a. The sponsor is required to pay a deposit of two and five-tenths percent (2.5%) of the appraised value of the property or the total cost of the project grant, whichever is greater. This deposit may not be less than one thousand dollars ($1,000). (1-1-94)

b. IDPR will charge the sponsor for all administrative costs relating to the conversion and a service fee of one percent (1%) of the current appraised value of the converted property. The service fee may not exceed three thousand five hundred dollars ($3,500) for each converted tract of property. (1-1-94)

c. The administrative costs and the service fee will be deducted from the deposit. The sponsor will be reimbursed the remaining amount upon the successful completion of the conversion. Any incidental costs exceeding the deposit will be paid by the sponsor. (1-1-94)

651. -- 664. (RESERVED)

665. USER FEES, CHARGES AND INCOME.

01. User Fees. User or other types of fees may be charged in connection with facilities developed with LWCF grants, provided that the fees and charges are commensurate with the value of recreation services or opportunities furnished and are in the prevailing range of public fees and charges for the particular activity involved. Discrimination on the basis of residence, including preferential reservation or membership systems and annual permit systems, is prohibited except to the extent that reasonable differences in admission and other fees may be maintained on the basis of residence. (7-1-93)

02. Nonrecreational User Fees. Nonrecreational income that accrues to an outdoor recreation area other than the intended recreational use, including income from land management practices, must derive from use that is consistent with, and complementary to, the intended outdoor recreational use of the area. Gross nonrecreational income that accrues during the project period established in the project contract must be used to reduce the total cost of the project. Gross nonrecreational income that accrues subsequent to the ending date identified in the project contracts must be used only to offset the expense of operation and maintenance of the facility. (1-1-94)

666. -- 679. (RESERVED)

680. PERMANENT PROJECT SIGNS.
Permanent public acknowledgment of LWCF assistance at project sites is required on at least one (1) prominently placed area identification sign. The LWCF symbol established and provided by IDPR must be used for such acknowledgment at the project site entrance, or other appropriate locations. The sponsor may desire to provide a more detailed identification. IDPR staff must approve the sponsor's park sign prior to its construction to ensure proper

designation is included. (1-1-94)

681. -- 694. (RESERVED)

695. ARCHITECTURAL BARRIERS.
Sponsors in the LWCF programs must assure that persons with disabilities are not precluded from the use of LWCF assisted recreational facilities. (1-1-94)

696. -- 709. (RESERVED)

710. UNIFORM RELOCATION COMPLAINT PROCEDURE.
The two (2) appeal procedure recommended by NPS are an appeal to the SLO and then to the board for resolution (see IDAPA 26.01.01, Section 250, "Rules of Administrative Procedure of the Idaho Park and Recreation Board"). (1-1-94)

711. -- 724. (RESERVED)

725. AVAILABILITY TO USERS.

01. Nondiscrimination. Property must be open to entry and use by all persons regardless of race, color, or national origin. Discrimination is also prohibited on the basis of age, disability, religion or gender. (1-1-94)

02. Seasons and Hours. Facilities must be kept open for public use at reasonable hours and times of the year based on intended use. (1-1-94)

726. -- 739. (RESERVED)

740. CIVIL RIGHTS COMPLAINT PROCEDURE.
An opportunity is provided for filing civil rights complaints. A written complaint must be filed with the SLO within one hundred eighty (180) days from the date the alleged discrimination occurred. Within ten (10) working days of IDPR receiving the complaint, the complainant must be notified of action that has been or must be taken to resolve the complaint. An investigation must be conducted by the deputy director or his designee within thirty (30) working days of IDPR's receipt of the complaint. The SLO or SLO's designee must send a written response to the complainant regarding the results of the investigation within thirty (30) working days of the time the investigation began. If dissatisfied with the results of the investigation, the complainant may submit a written request for reconsideration to the SLO within ten (10) days of the receipt of resolution. The complainant may also file a complaint with the Idaho Human Rights Commission and The Office of Equal Opportunity. Addresses are available from IDPR. (1-1-94)

741. -- 999. (RESERVED)

26.01.36 – RULES GOVERNING THE WINTER RECREATIONAL PARKING PERMIT PROGRAM

000. LEGAL AUTHORITY.
These rules are promulgated by the Idaho Park and Recreation Board pursuant to Idaho Code Section 67-5201, et seq. and Idaho Code Section 67-4223, and are intended to further define and make specific the provisions of Idaho Code Section 67-7115 et seq. The purpose of the act is to provide designated winter recreational parking locations established and maintained with funds acquired from the cross-country skiing recreation account through the sale of winter recreational parking permits. (7-1-93)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is cited in full as Idaho Department of Parks and Recreation Rules, IDAPA 26.01.36, "Rules Governing the Winter Recreational Parking Permit Program." (4-11-15)

02. Scope. This chapter establishes fees for and rules governing the winter recreational parking permit program administered by the Department, and establishes procedures for obtaining a winter recreational parking permit. (4-11-15)

002. -- 049. (RESERVED)

050. LOCATION OF PERMIT ON VEHICLE.
The annual winter recreational parking permit must be permanently affixed on the front window of the vehicle nearest the driver's seat and the temporary three-day permit must be displayed on the vehicle's dashboard with the dated side displayed to the front of the vehicle in such a manner that it is completely visible and must be kept in legible condition at all times. No person may transfer or attempt to transfer an annual winter recreational parking permit decal or a temporary three-day permit from the vehicle upon which it was legally permitted and placed. (4-11-15)

051. -- 099. (RESERVED)

100. PERMIT COST, EXPIRATION.
The fee for an annual winter recreational parking permit will not exceed thirty dollars ($30). The fee for a temporary winter recreational parking permit will not exceed ten dollars ($10). The annual winter recreational parking permit is valid until the expiration date printed on the decal. The temporary winter recreational parking permit is valid for only the three (3) consecutive days written on the permit. (4-11-15)

101. -- 149. (RESERVED)

150. USER EXCEPTION.
Snowmobilers are allowed to park their transportation vehicles in a designated parking area without displaying a parking permit when the snowmobiles have current snowmobile validation stickers. (4-11-15)

151. -- 199. (RESERVED)

200. COMPLIANCE WITH ADDITIONAL PERMIT REQUIREMENTS.
No person may file or attempt to file for a duplicate annual winter recreational parking permit unless the original permit was stolen or destroyed. A temporary, three-day winter recreational parking permit that is lost, stolen, or destroyed will not be reissued. (7-1-93)

201. -- 249. (RESERVED)

250. PARKING RESTRICTIONS.
No person may park a vehicle in a designated winter recreational parking location in such a manner as to deprive other users of reasonable access to all or part of the remainder of that parking area. (7-1-93)

251. -- 299. (RESERVED)

300. EQUIPMENT TO REMAIN PROPERTY OF STATE OF IDAHO.
Any cross-country ski trail grooming equipment purchased through the cross-country skiing recreation account or the Symms National Recreational Trails Fund Act will remain the property of the state of Idaho. Individual winter recreational parking area local advisory committees or clubs may contract to use said equipment on a yearly basis from the Idaho Department of Parks and Recreation. (7-1-93)

301. -- 349. (RESERVED)

350. PENALTIES FOR VIOLATIONS.
The owner of a vehicle failing to comply with these rules, or conditions of Title 67, Chapter 71, Idaho Code has committed an infraction and is subject to the penalties provided in Idaho Code Section 18-113A. (7-1-93)

351. -- 399. (RESERVED)

400. DESIGNATION OF PRIMARY USE AREA.
A skier, when purchasing a permit, will be allowed to designate on the appropriate form, a primary winter recreational parking use area. The full portion of fees not allocated to the vendor or the department will be apportioned to the designated use area. Should a skier fail to designate a primary use area, those fees will be apportioned to a use area determined by the department. (7-1-93)

401. -- 449. (RESERVED)

450. PUBLIC USE, NONDISCRIMINATION.
Facilities constructed or maintained with, and programs supported by cross-country skiing recreation account monies shall be available for public use without discrimination and shall comply with requirements as set out in the Americans with Disabilities Act. (7-1-93)

451. -- 999. (RESERVED)

IDAPA 27 – IDAHO BOARD OF PHARMACY

DOCKET NO. 27-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 27, rules of the Board of Pharmacy:

IDAPA 27

- 27.01.01, *Rules of the Idaho State Board of Pharmacy*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5067–5095**.

These proposed rule changes were prompted by recommendations in the Licensing Freedom Act and the Red Tape Reduction Act and the Board's continued efforts to clarify and streamline its rules. These proposed rule changes are also intended to make the Board's rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

FEE SUMMARY: The following section provides a specific description of the fee or charge imposed by this rulemaking. This fee or charge is being imposed pursuant to Section 54-1701, Idaho Code.

No changes were made to the fee section of the rule. The fee or charge imposed by the rule(s) are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. [These fees are necessary for a self-governing agency].

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Nicki Chopski at (208) 334-2356.

Dated this 4th day of September, 2019.

Nicki Chopski, Executive Director
Phone: (208) 334-2356
Fax: (208) 334-3536

Idaho Board of Pharmacy
1199 W Shoreline Lane, Suite 303
Boise, ID 83702-9103

IDAPA 27 – BOARD OF PHARMACY

27.01.01 – RULES OF THE IDAHO STATE BOARD OF PHARMACY

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of the Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; the Idaho Pharmacy Act, the Idaho Wholesale Drug Distribution Act, and the Idaho Legend Drug Donation Act, Title 54, Chapter 17, Idaho Code; and specifically pursuant to Sections 37-2702, 37-2715, 54-1717, 54-1753, and 54-1755, Idaho Code. (7-1-18)

001. TITLE AND SCOPE.

01. **Title**. The title of this chapter is "Rules of the Idaho State Board of Pharmacy," IDAPA 27, Title 01, Chapter 01. (7-1-18)

02. **Scope**. The scope of this chapter includes, but is not limited to, provision for, and clarification of, the Board's assigned responsibility to: (7-1-18)

a. Regulate and control the manufacture, distribution, and dispensing of controlled substances within or into the state, pursuant to the Uniform Controlled Substances Act, Section 37-2715, Idaho Code; and (7-1-18)

b. Regulate and control the practice of pharmacy, pursuant to the Idaho Pharmacy Act, Title 54, Chapter 17, Idaho Code. *( )*

002. **– 009. (RESERVED)**

010. DEFINITIONS AND ABBREVIATIONS (A – D).
The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: (7-1-18)

01. **ACCME**. Accreditation Council for Continuing Medical Education. (7-1-18)

02. **Accredited School or College of Pharmacy**. A school or college that meets the minimum standards of the ACPE and appears on its list of accredited schools or colleges of pharmacy. (7-1-18)

03. **ACPE**. Accreditation Council for Pharmacy Education. (7-1-18)

04. **ADS – Automated Dispensing and Storage**. A mechanical system that performs operations or activities, other than compounding or administration, relative to the storage, packaging, dispensing, or distribution of drugs and that collects, controls, and maintains transaction information. (7-1-18)

0*5*. **Change of Ownership**. A change of majority ownership or controlling interest of a drug outlet licensed or registered by the Board. (7-1-18)

0*6*. **CME**. Continuing medical education. (7-1-18)

07. **Collaborative Pharmacy Practice**. A pharmacy practice whereby one (1) or more pharmacists or pharmacies jointly agree to work under a protocol authorized by one (1) or more prescribers to provide patient care and DTM services not otherwise permitted to be performed by a pharmacist under specified conditions or limitations. (7-1-18)

08. **CPE**. Continuing pharmacy education. (7-1-18)

09. **CPE Monitor**. An NABP service that allows pharmacists to electronically keep track of CPE credits from ACPE-accredited providers. (7-1-18)

1*0*. **DEA**. United States Drug Enforcement Administration. (7-1-18)

1*1*. **Distributor**. A supplier of drugs manufactured, produced, or prepared by others to persons other

than the ultimate consumer. (7-1-18)

12. **DME Outlet**. A registered outlet that may hold for sale at retail durable medical equipment (DME) and the following prescription drugs: pure oxygen for human application, nitrous oxide, sterile sodium chloride, and sterile water for injection. (4-11-19)

13. **DTM – Drug Therapy Management**. Selecting, initiating, or modifying drug treatment pursuant to a collaborative pharmacy practice agreement. (7-1-18)

011. DEFINITIONS AND ABBREVIATIONS (E – N).
The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: (7-1-18)

01. **FDA**. United States Food and Drug Administration. (7-1-18)

02. **Flavoring Agent**. An additive in food or drugs in the minimum quantity necessary to produce its intended effect. ( )

03. **Floor Stock**. Drugs or devices not labeled for a specific patient that are maintained at a nursing station or other department of an institutional facility, excluding the pharmacy, for the purpose of administering to patients of the facility. (7-1-18)

04. **FPGEC Certification**. Foreign Pharmacy Graduate Examination Committee Certification. (7-1-18)

05. **Hazardous Drug**. Any drug listed as such by the National Institute for Occupational Safety and Health or any drug identified by at least one (1) of the following criteria: carcinogenicity; teratogenicity or developmental toxicity; reproductive toxicity in humans; organ toxicity at low doses in humans or animals; genotoxicity; or new drugs that mimic existing hazardous drugs in structure or toxicity. ( )

06. **HIPAA**. Health Insurance Portability and Accountability Act of 1996 (Public Law 104-191). (7-1-18)

07. **Limited Service Outlet**. Limited service outlets include, but are not limited to, sterile product pharmacies, remote dispensing pharmacies, facilities operating narcotic treatment programs, DME outlets, prescriber drug outlets, outsourcing facilities, nuclear pharmacies, cognitive service pharmacies, correctional facilities, offsite ADSs for non-emergency dispensing, reverse distributors, mobile pharmacies, and analytical or research laboratories. (4-11-19)

08. **NABP**. National Association of Boards of Pharmacy. (7-1-18)

09. **NAPLEX**. North American Pharmacists Licensure Examination. (7-1-18)

10. **NDC**. National Drug Code. (7-1-18)

012. DEFINITIONS AND ABBREVIATIONS (O – Z).
The definitions set forth in Sections 54-1705 and 37-2701, Idaho Code, are applicable to these rules. In addition, the following terms have the meanings set forth below: (7-1-18)

01. **Parenteral Admixture**. The preparation and labeling of sterile products intended for administration by injection. (7-1-18)

02. **Pharmaceutical Care Services**. A broad range of pharmacist-provided cognitive services, activities and responsibilities intended to optimize drug-related therapeutic outcomes for patients. Pharmaceutical care services may be performed independent of, or concurrently with, the dispensing or administration of a drug or device and also encompasses services provided by way of DTM under a collaborative practice agreement. Pharmaceutical care services are not limited to, but may include one (1) or more of the following: (7-1-18)

a. Performing or obtaining necessary assessments of the patient's health status, including the performance of health screening activities that may include, but are not limited to, obtaining finger-stick blood samples; (7-1-18)

b. Reviewing, analyzing, evaluating, formulating or providing a drug utilization plan; (7-1-18)

c. Monitoring and evaluating the patient's response to drug therapy, including safety and effectiveness; (7-1-18)

d. Providing counseling education, information, support services, and resources applicable to a drug, disease state, or a related condition or designed to enhance patient compliance with therapeutic regimens; (7-1-18)

e. Coordinating and integrating pharmaceutical care services within the broader health care management services being provided to the patient; and (7-1-18)

f. Ordering and interpreting laboratory tests. (7-1-18)

03. PDMP. Prescription Drug Monitoring Program. (7-1-18)

04. Prepackaging. The act of transferring a drug, manually or using an automated system, from a manufacturer's original container to another container prior to receiving a prescription drug order. (7-1-18)

05. Prescriber. An individual currently licensed, registered, or otherwise authorized to prescribe and administer drugs in the course of professional practice. (7-1-18)

06. Purple Book. The list of licensed biological products with reference product exclusivity and biosimilarity or interchangeability evaluations published by the FDA under the Public Health Service Act. (7-1-18)

07. Readily Retrievable. Records are considered readily retrievable if they are able to be completely and legibly produced upon request within seventy-two (72) hours. (7-1-18)

08. Reconstitution. The process of adding a diluent to a powdered medication to prepare a solution or suspension, according to the product's labeling or the manufacturer's instructions. (7-1-18)

09. Restricted Drug Storage Area. The area of a drug outlet where prescription drugs are prepared, compounded, distributed, dispensed, or stored. (7-1-18)

10. Technician. *A term to indicate an individual authorized by registration with the Board to perform pharmacy support services under the direction of a pharmacist.* *( )*

11. Therapeutic Equivalent Drugs. Products assigned an "A" code by the FDA in the Approved Drug Products with Therapeutic Equivalence Evaluations (Orange Book) and animal drug products published in the FDA Approved Animal Drug Products (Green Book). (7-1-18)

12. USP. United States Pharmacopeia. (7-1-18)

13. USP-NF. United State Pharmacopeia-National Formulary. (7-1-18)

14. VAWD – Verified Accredited Wholesale Distributor. An accreditation program for wholesale distributors offered through NABP. (7-1-18)

013. – 099. (RESERVED)

SUBCHAPTER A - GENERAL PROVISIONS
(Rules 100 through 199 - Standard Provisions)

100. PRACTICE OF PHARMACY: GENERAL APPROACH.
To evaluate whether a specific act is within the scope of pharmacy practice in or into Idaho, or whether an act can be delegated to other individuals under their supervision, a licensee or registrant of the Board must independently determine whether: (7-1-18)

01. Express Prohibition. The act is expressly prohibited by: (7-1-18)

a. The Idaho Pharmacy Act, Title 54, Chapter 17, Idaho Code; (7-1-18)

b. The Uniform Controlled Substances Act, Title 37, Chapter 27, Idaho Code; (7-1-18)

c. The rules of the Idaho State Board of Pharmacy; or (7-1-18)

d. Any other applicable state or federal laws, rules or regulations. (7-1-18)

02. Education, Training, and Experience. The act is consistent with licensee or registrant's education, training, and experience. (4-11-19)

03. Standard of Care. Performance of the act is within the accepted standard of care that would be provided in a similar setting by a reasonable and prudent licensee or registrant with similar education, training and experience. (7-1-18)

101. PRESCRIBER PERFORMANCE OF PHARMACY FUNCTIONS.
For the purposes of this chapter, any function that a pharmacist may perform may similarly be performed by an Idaho prescriber or may be delegated by an Idaho prescriber to appropriate support personnel, in accordance with the prescriber's practice act. (7-1-18)

102. WAIVERS OR VARIANCES.

01. Criteria. The board may grant or deny, in whole or in part, a waiver of, or variance from, specified rules if the granting of the waiver or variance is consistent with the Board's mandate to promote, preserve and protect public health, safety and welfare. (7-1-18)

02. Emergency Waiver. In the event of an emergency declared by the President of the United States, the Governor of the State of Idaho, or by any other person with legal authority to declare an emergency, the Board may waive any requirement of these rules for the duration of the emergency. (7-1-18)

103. BOARD INSPECTIONS AND INVESTIGATIONS.

01. Records Subject to Board Inspection. Records created, maintained, or retained by Board licensees or registrants in compliance with statutes or rules enforced by the Board must be made available for inspection upon request by Board inspectors or authorized agents. It is unlawful to refuse to permit or to obstruct a Board inspection. (7-1-18)

02. Inspections. Prior to the commencement of business, as applicable, and thereafter at regular intervals, registrants and licensees must permit the Board or its compliance officers to enter and inspect the premises and to audit the records of each drug outlet for compliance with laws enforced by or under the Board's jurisdiction. (7-1-18)

03. Inspection Deficiencies. Deficiencies noted must be promptly remedied, and if requested, the Board office notified of corrective measures. One (1) follow-up inspection may be performed by the Board at no cost. For additional follow-up inspections, the drug outlet will be charged actual travel and personnel costs incurred in the inspection to be paid within ninety (90) days of inspection. (7-1-18)

04. Inspection Reports. Inspection reports must be reviewed with the Board inspector and signed by an agent of the drug outlet upon completion of the exit interview. (7-1-18)

05. Investigations. Licensees or registrants must fully cooperate with Board investigations conducted to confirm compliance with laws enforced by the Board, to gather information pertinent to a complaint received by the Board, or to enforce disciplinary actions. (7-1-18)

104. UNPROFESSIONAL CONDUCT.
The following acts or practices by any licensee or registrant are declared to be specifically, but not by way of limitation, unprofessional conduct and conduct contrary to the public interest. (7-1-18)

01. Unethical Conduct. Conduct in the practice of pharmacy or in the operation of a pharmacy that may reduce the public confidence in the ability and integrity of the profession of pharmacy or endangers the public health, safety, and welfare. A violation of this section includes committing fraud, misrepresentation, negligence, concealment, or being involved in dishonest dealings, price fixing, or breaching the public trust with respect to the practice of pharmacy. (7-1-18)

02. Lack of Fitness. A lack of fitness for professional practice due to incompetency, personal habits, drug or alcohol dependence, physical or mental illness, or for any other cause that endangers public health, safety, or welfare. (7-1-18)

03. On-Duty Intoxication or Impairment. Intoxication, impairment, or consumption of alcohol or drugs while on duty, including break periods after which the individual is expected to return to work, or prior to reporting to work. (7-1-18)

04. Diversion of Drug Products and Devices. Supplying or diverting drugs, biologicals, and other medicines, substances, or devices legally sold in pharmacies that allows the circumvention of laws pertaining to the legal sale of these articles. (7-1-18)

05. Unlawful Possession or Use of Drugs. Possessing or using a controlled substance without a lawful prescription drug order. A failed drug test creates a rebuttable presumption of a violation of this rule. (7-1-18)

06. Prescription Drug Order Noncompliance. Failing to follow the instructions of the person writing, making, or ordering a prescription as to its refills, contents, or labeling except as provided in these rules. (7-1-18)

07. Failure to Confer. Failure to confer with the prescriber when necessary or appropriate or filling a prescription if necessary components of the prescription drug order are missing or questionable. (7-1-18)

08. Excessive Provision of Controlled Substances. Providing an excessive amount of controlled substances. Evidentiary factors of a clearly excessive amount include, but are not limited to, the amount of controlled substances furnished and previous ordering patterns (including size and frequency of orders). (7-1-18)

09. Failure to Counsel or Offer Counseling. Failing to counsel or offer counseling, unless specifically exempted or refused. (7-1-18)

10. Substandard, Misbranded, Adulterated, or Expired Products. Manufacturing, compounding, delivering, distributing, dispensing, or permitting to be manufactured, compounded, delivered, distributed or dispensed substandard, misbranded, or adulterated drugs or preparations or those made using secret formulas. Failing to remove expired drugs from stock. (4-11-19)

11. Prescriber Incentives. Allowing a commission or rebate to be paid, or personally paying a commission or rebate, to a person writing, making, or otherwise ordering a prescription. (7-1-18)

12. Exclusive Arrangements. Participation in a plan or agreement that compromises the quality or extent of professional services or limits access to provider facilities at the expense of public health or welfare. (7-1-18)

13. Failure to Report. Failing to report to the Board any violation of statutes or rules pertaining to the practice of pharmacy or any act that endangers the health, safety, or welfare of patients or the public. (7-1-18)

14. Failure to Follow Board Order. Failure to follow an order of the Board. (7-1-18)

15. Use of False Information. Knowingly using false information in connection with the prescribing, delivering, administering, or dispensing of a controlled substance or other drug product. ( )

16. Standard of Care. Acts or omissions within the practice of pharmacy which fail to meet the standard provided by other qualified licensees or registrants in the same or similar setting. (4-11-19)

17. Unnecessary Services or Products. Directly promoting or inducing for the provisions of health care services or products that are unnecessary or not medically indicated. (7-1-18)

18. Controlled Substance Non-Compliance. Violating provisions of the federal Controlled Substances Act or Title 37, Chapter 27, Idaho Code. ( )

105. – 199. (RESERVED)

SUBCHAPTER B - RULES GOVERNING LICENSURE AND REGISTRATION (Rules 200 through 299 - Standard Provisions)

200. BOARD OF PHARMACY LICENSURE AND REGISTRATION.
The Board will issue or renew a license or certificate of registration upon application and determination that the applicant has satisfied the requirements of applicable statutes, and any additional criteria specified by these rules. Licenses or registrations must be obtained prior to engaging in these practices or their supportive functions. ( )

201. LICENSURE AND REGISTRATION: GENERAL REQUIREMENTS.

01. Board Forms. Initial licensure and registration applications, annual renewal applications, and other forms used for licensure, registration, or other purposes must be in such form as designated by the Board. (7-1-18)

02. Incomplete Applications. Information requested on the application or other form must be provided and submitted to the Board office with the applicable fee or the submission will be considered incomplete and will not be processed. Applications that remain incomplete after six (6) months from the date of initial submission will expire. (7-1-18)

03. On-Time Annual Renewal Application. Licenses and registrations must be renewed annually prior to expiration to remain valid. Timely submission of the renewal application is the responsibility of each licensee or registrant. Licenses and certificates of registration issued to individuals will expire annually on the last day of the individual's birth month, and on December 31 for facilities, unless an alternate expiration term or date is stated in these rules. (7-1-18)

04. Late Renewal Application. Failure to submit a renewal application prior to the expiration date will cause the license or registration to lapse and will result in the assessment of a late fee and possible disciplinary action. A lapsed license or registration is invalid until renewal is approved by the Board and if not renewed within thirty (30) days after its expiration will require reinstatement. (7-1-18)

05. Exemption. New licenses and registrations issued ten (10) weeks or less prior to the renewal due date are exempt from the renewal requirements that year only. (7-1-18)

06. Cancellation and Registration. Failure to maintain the requirements for any registration will result in the cancellation of the registration. (7-1-18)

07. Reinstatement of License or Registration. Unless otherwise specified in Board rule, consideration of a request for reinstatement of a license or registration will require a completed application on a Board form, submission of a completed fingerprint card, as applicable, and payment of any applicable fees due or delinquent at the time reinstatement is requested. (7-1-18)

08. Parent or Legal Guardian Consent. No person under the age of eighteen (18), unless an emancipated minor, may submit an application for licensure or registration without first providing the Board with written consent from a parent or legal guardian. (7-1-18)

202. BOARD FEES.

01. Fee Determination and Collection. Pursuant to the authority and limitations established by Sections 37-2715 and 54-1720(5)(a), Idaho Code, the Board has determined and will collect fees for the issuance, annual renewal, or reinstatement of licenses and certificates of registration to persons and drug outlets engaged in acts or practices regulated by the Board. (7-1-18)

02. Time and Method of Payment. Fees are due at the time of application, submission, or request. Fees are payable to the "Idaho State Board of Pharmacy," are non-refundable, and will not be prorated. (7-1-18)

03. Fee for Dishonored Payment. A reasonable administrative fee may be charged for a dishonored check or other form of payment. If a license or registration application has been approved or renewed by the Board and payment is subsequently dishonored, the approval or renewal is immediately canceled on the basis of the submission of an incomplete application. The board may require subsequent payments to be made by cashier's check, money order, or other form of guaranteed funds. (7-1-18)

04. Overpayment of Fees. "Overpayment" refers to the payment of any fee in excess of the listed amount. Refunds issued will be reduced by a reasonable processing fee. (7-1-18)

05. Fee Exemption for Controlled Substance Registrations. Persons exempt pursuant to federal law from fee requirements applicable to controlled substance registrations issued by the DEA are also exempt from fees applicable to controlled substance registrations issued by the Board. (7-1-18)

203. FEE SCHEDULE.

01. Licenses and Registrations -- Professionals.

License/Registration	Initial Fee	Annual Renewal Fee
Pharmacist License	$140	$130
Nonresident PIC Registration	$290	$290
Pharmacist Intern	$50	$50
Technician	$35	$35
Practitioner Controlled Substance Registration	$60	$60

(4-1-19)

02. Certificates of Registration and Licensure -- Facilities.

License/Registration	Initial Fee	Annual Renewal Fee
Drug Outlet (unless otherwise listed)	$100	$100
Wholesale License	$180	$180
Wholesale Registration	$150	$150
Central Drug Outlet (Nonresident)	$500	$250
Mail Service Pharmacy	$500	$250

License/Registration	Initial Fee	Annual Renewal Fee
Durable Medical Equipment Outlet	$50	$50
Outsourcing Facility (Nonresident)	$500	$250
Manufacturer	$150	$150
Veterinary Drug Outlet	$35	$35

(7-1-18)

03. Late Fees and Reinstatements.

Category	Fee
Late payment processing fee	$50
License or registration reinstatement fee	One-half (1/2) of the amount of the annual renewal

(7-1-18)

04. Administrative Services.

Category	Fee
Experiential hours certification	$25
Duplicate pharmacist certificate of licensure	$35

(7-1-18)

204. – 209. (RESERVED)

210. DETERMINATION OF NEED FOR NONRESIDENT LICENSURE OR REGISTRATION.

01. Independent Practice. Nonresident pharmacists must be licensed if engaged in the independent practice of pharmacy across state lines and not practicing for an Idaho registered drug outlet. (7-1-18)

02. Practice for an Idaho Registered Drug Outlet. A nonresident pharmacist serving as the PIC for an Idaho registered nonresident drug outlet must be registered to practice into Idaho. All other nonresident pharmacists who are employed by, or affiliated with, and practicing for the Idaho registered nonresident drug outlet, but who are not the PIC, are exempt from license and registration requirements for practice into Idaho. (7-1-18)

03. Multistate Pharmacists. Multistate pharmacists, as defined in Section 54-1723B, Idaho Code, are exempt from separate licensure or registration in Idaho. (7-1-18)

04. Exemption from Separate Controlled Substance Registration. All pharmacists who are practicing in or into Idaho are exempt from obtaining a separate controlled substance registration, but are subject to compliance with all requirements under Title 37, Chapter 27, Idaho Code. (7-1-18)

211. PHARMACIST LICENSURE BY EXAMINATION.
To be considered for licensure, a person must satisfy the requirements of Section 54-1722(1)(a) through (e), Idaho Code, submit to the Board an application for licensure by examination, and meet the following: (7-1-18)

01. Graduates of U.S. Pharmacy Schools. Graduate from an ACPE-accredited school or college of pharmacy within the United States. (7-1-18)

02. Graduates of Foreign Pharmacy Schools. Graduate from a school or college of pharmacy located

outside of the United States, submit certification by the FPGEC, and complete a minimum of seventeen hundred forty (1,740) experiential hours as verified on an employer's affidavit signed by a pharmacist licensed and practicing in the United States. The Board may request verifiable business records to document the hours. (7-1-18)

03. Licensure Examinations. Qualified applicants must pass the NAPLEX in accordance with NABP standards. A candidate who fails the NAPLEX three (3) times must complete at least thirty (30) hours of continuing education accredited by an ACPE-accredited provider prior to being eligible to sit for each subsequent reexamination. Candidates are limited to five (5) total NAPLEX attempts. (4-1-19)

212. PHARMACIST LICENSURE BY RECIPROCITY.
An applicant for pharmacist licensure by reciprocity must satisfy the requirements of Section 54-1723, Idaho Code, and submit a preliminary application for licensure transfer through NABP. An applicant whose pharmacist license is currently restricted by a licensing entity in another state must appear before the Board to petition for licensure by reciprocity. An applicant not actively engaged in the practice of pharmacy during the year preceding the date of application may have to complete intern hours for each year away from the practice of pharmacy. (7-1-18)

213. PHARMACIST LICENSE RENEWAL: CPE REQUIREMENTS.
Each pharmacist applicant for license renewal must complete fifteen (15) CPE hours each calendar year between January 1 and December 31. (7-1-18)

01. ACPE. At least twelve (12) of the CPE hours obtained must be from programs by an ACPE that have a participant designation of "P" (for pharmacist) as the suffix of the ACPE universal program number. ACPE credits must be reported to and documented in CPE Monitor in order to be accepted. (7-1-18)

02. CME. A maximum of three (3) of the hours may be obtained from CME, if the credits are: (7-1-18)

a. Obtained from an ACCME accredited provider; and (7-1-18)

b. A certificate is furnished that identifies the name of the ACCME accredited provider and a clear reference to its accreditation status, the title of the CME program, the completed hours of instruction, the date of completion, and the name of the individual obtaining the credit. *Upon audit, a*ll CME certificates must be submitted to the Board. *( )*

***03. Alternative to CPE**. If audited, a pharmacist may substitute a current certification by a nationally accredited pharmacy practice-specific specialty certification program.* *( )*

214. PHARMACIST LICENSE: REINSTATEMENT.
The Board may, at its discretion, consider reinstatement of a pharmacist license upon receipt of a completed application, background check, and payment of the reinstatement and other fees due or delinquent at the time reinstatement is requested. (7-1-18)

01. Satisfactory Evidence. Reinstatement applicants must provide satisfactory evidence of completion of a minimum of thirty (30) CPE hours within the twenty-four (24) months prior to reinstatement and compliance with any direct orders of the Board. (7-1-18)

02. Additional Requirements. A pharmacist reinstatement applicant may be required to appear before the Board. The Board may also, at its discretion, impose additional requirements on a pharmacist reinstatement applicant who has not practiced as a pharmacist for the preceding twelve (12) months or longer that may include taking and passing an examination, completion of intern hours, completion of additional CPE hours, or other requirements determined necessary to acquire or demonstrate professional competency. (4-1-19)

215. NONRESIDENT PIC REGISTRATION TO PRACTICE PHARMACY INTO IDAHO.
To be registered as a nonresident PIC, an applicant must submit an application on a Board form including, but not limited to: (4-1-19)

01. Individual License Information. Current pharmacist licensure information in all other states,

including each state of licensure and each license number; (7-1-18)

02. Facility License Information. The license or registration number of the facility for which the applicant will be practicing. (7-1-18)

216. PHARMACIST INTERN REGISTRATION.

01. Registration Requirements. To be approved for and maintain registration as a pharmacist intern, the applicant must: (7-1-18)

a. Currently be enrolled and in good standing in an accredited school or college of pharmacy, pursuing a professional degree in pharmacy; or (7-1-18)

b. Be a graduate of an accredited school or college of pharmacy within the United States and awaiting examination for pharmacist licensure; or (7-1-18)

c. Be a graduate of a school or college of pharmacy located outside the United States, obtain certification by the FPGEC, and be awaiting finalization of pharmacist licensure. (7-1-18)

02. Renewal. (7-1-18)

a. Current Students. A pharmacist intern registration must be renewed annually by July 15; however, the renewal fee will be waived, if renewed on time, for the duration of the student's enrollment in the school or college of pharmacy. Following graduation, if a pharmacist license application has been submitted, the pharmacist intern license will be extended at no cost for up to six (6) additional months from the date of application as a pharmacist, after which time the individual will need to submit a new application to continue to be a pharmacist intern. (7-1-18)

b. Pharmacy Graduates. A graduate pharmacist intern registration may be obtained and renewed once within one (1) year from the date of issuance. The Board may, at its discretion, grant additional time to complete internship experience if unique circumstances present. (7-1-18)

217. – 219. (RESERVED)

220. CERTIFIED TECHNICIAN REGISTRATION.
To be approved for registration as a certified technician, a person must satisfy the following requirements: (7-1-18)

01. Age. Be at least sixteen (16) years of age; (7-1-18)

02. Education. Be a high school graduate or the recipient of a high school equivalency diploma; and (7-1-18)

03. Certification. Have obtained and maintained certified pharmacy technician (CPhT) status through the Pharmacy Technician Certification Board (PTCB), the National Healthcareer Association (NHA), or their successors. (7-1-18)

221. TECHNICIAN REGISTRATION.
A person who has not obtained or maintained technician certification may apply for registration as a technician if the person satisfies *the following* requirements*:* *( )*

01. Age. Be at least sixteen (16) years of age; *( )*

02. Education. Be a high school graduate or the recipient of a high school equivalency diploma *or currently enrolled and in good standing in a high school or college supervised program.* *( )*

***03. Exemption from Criminal Background Check**. Technician candidates under the age of eighteen (18) are exempt from the fingerprint-based criminal history check requirement of Idaho Code.* *( )*

222. – 223. (RESERVED)

224. PRACTITIONER CONTROLLED SUBSTANCE REGISTRATION.
Any practitioner in Idaho who intends to prescribe, administer, dispense, or conduct research with a controlled substance must first obtain an Idaho practitioner controlled substance registration *and:* *( )*

01. State License. *H*old a valid license or registration to prescribe medications from a licensing entity established under Title 54, Idaho Code. *( )*

02. DEA Registration. *H*old a valid federal DEA registration, if required under federal law. *( )*

225. – 229. (RESERVED)

230. DRUG OUTLET LICENSURE AND REGISTRATION: GENERAL REQUIREMENTS.
A license or a certificate of registration is required for drug outlets prior to doing business in or into Idaho. A license or certificate of registration will be issued by the Board to drug outlets pursuant to, and in the general classifications defined by, Section 54-1729, Idaho Code. (7-1-18)

01. New Drug Outlet Inspections. Prior to approving the issuance of a new license or registration, each drug outlet may be inspected to confirm that the facility is compliant with applicable law. Prescription drugs may not be delivered to a new drug outlet location prior to satisfactory completion of an opening inspection. A change of ownership of a currently registered pharmacy will not require an onsite inspection prior to issuance of a new pharmacy registration unless a structural remodel occurs. (7-1-18)

02. License and Registration Transferability. Drug outlet licenses and registrations are location and owner specific and are nontransferable as to person or place. If the ownership or location of an outlet changes, any registration or license issued to it by the Board is void. (7-1-18)

03. Nonresident Drug Outlet. The Board may license or register a drug outlet licensed or registered under the laws of another state if the other state's standards are comparable to those in Idaho and acceptable to the Board, evidenced by an inspection report. (7-1-18)

04. Change of Ownership. The registrant must notify the Board of a drug outlet's change of ownership at least ten (10) days prior to the event on a Board form. (7-1-18)

05. Permanent Closing. A registrant must notify the Board and the general public of the pharmacy's permanent closing at least ten (10) days prior to closing. The notice must include the proposed date of closure*,* the new location of the prescription files*, and the location where t*he closing inventory record of controlled substances *is* retained. *( )*

06. Exemption from Separate Controlled Substance Registration. All drug outlets doing business in or into Idaho who hold a valid license or registration from the Board are exempt from obtaining a separate controlled substance registration, but are subject to compliance with all requirements under Title 37, Chapter 27, Idaho Code. (7-1-18)

07. Sterile Preparation Endorsement. A drug outlet engaged in sterile preparation must obtain a single endorsement for one (1) or more hood or aseptic environmental control devices. (7-1-18)

231. -- 239. (RESERVED)

240. WHOLESALER LICENSURE AND REGISTRATION.

01. Wholesaler Licensure. In addition to the information *provided in Section* 54-1753, Idaho Code, the following information must be provided under oath by each applicant for wholesaler licensure as part of the initial licensing procedure and for each renewal on a Board form: *( )*

a. Any felony conviction or any conviction of the applicant relating to wholesale or retail prescription drug distribution or distribution of controlled substances. (7-1-18)

b. Any discipline of the applicant by a regulatory agency in any state for violating any law relating to wholesale or retail prescription drug distribution or distribution of controlled substances. (7-1-18)

02. VAWD Accreditation. The Board will recognize a wholesaler's VAWD accreditation by NABP for purposes of reciprocity and satisfying the new drug outlet inspection requirements of these rules. (7-1-18)

03. Wholesaler Registration. Except when licensed pursuant to the Idaho Wholesale Drug Distribution Act and these rules, a wholesaler that engages in wholesale distribution of DME supplies, prescription medical devices, or non-prescription drugs in or into Idaho must be registered by the Board. (7-1-18)

241. – 249. (RESERVED)

250. MANUFACTURER REGISTRATION.
Manufacturers must be registered as follows: (7-1-18)

01. Mail Service Pharmacy. Those that ship, mail, or deliver dispensed prescription drugs or devices to an Idaho resident *will* be registered by the Board as a mail service pharmacy. *( )*

02. Manufacturer. Those engaged in wholesale distribution *will* be registered as a manufacturer and comply with the Idaho Wholesale Drug Distribution Act and rules, as applicable. *( )*

251. – 299. (RESERVED)

SUBCHAPTER C - DRUG OUTLET PRACTICE STANDARDS
(Rules 300 through 399 - Drug Outlet Practice Standards)

300. DRUG OUTLETS: MINIMUM FACILITY STANDARDS.
A resident drug outlet that dispenses prescription drugs to patients in Idaho must meet the following minimum requirements: (7-1-18)

01. Security and Privacy. A drug outlet must be constructed and equipped with adequate security to protect its equipment, records and supply of drugs, devices and other restricted sale items from unauthorized access, acquisition or use. All protected health information must be stored and maintained in accordance with HIPAA. (7-1-18)

02. Controlled Substance Storage. Drug outlets that dispense prescription drugs must store controlled substances in accordance with federal law. (7-1-18)

03. Authorized Access to the Restricted Drug Storage Area. Access to the restricted drug storage area must be limited to authorized personnel. (7-1-18)

04. Staffing. A drug outlet must be staffed sufficiently to allow for appropriate supervision, to otherwise operate safely and, if applicable, to remain open during the hours posted as open to the public for business. (7-1-18)

05. Electronic Recordkeeping System. A drug outlet that dispenses more than twenty (20) prescriptions per day must use an electronic recordkeeping system to establish and store patient medication records and prescription drug order, refill, transfer information, and other information necessary to provide safe and appropriate patient care. The electronic recordkeeping system must have audit trail functionality that documents for each prescription drug order the identity of each individual involved at each step of its processing, filling, and dispensing or, alternatively, the identity of the pharmacist or prescriber responsible for the accuracy of these processes. (7-1-18)

301. DRUG OUTLETS THAT DISPENSE PRESCRIPTION DRUGS: MINIMUM PRESCRIPTION FILLING REQUIREMENTS.
Unless exempted by these rules, each drug outlet that dispenses prescription drugs to patients in Idaho must meet the following minimum requirements either at the drug outlet or through offsite pharmacy services: (7-1-18)

01. Valid Prescription Drug Order. Prescription drugs *may* only be dispensed pursuant to a valid prescription drug order as set forth in Subchapter *E* of these rules. *( )*

02. Prospective Drug Review. Prospective drug review, as defined in Section 54-1705, Idaho Code, must be provided as set forth in Section 54-1739, Idaho Code. (7-1-18)

03. Labeling. Each drug must bear a complete and accurate label as set forth in these rules. (7-1-18)

04. Verification of Dispensing Accuracy. Verification of dispensing accuracy must be performed to compare the drug stock selected to the drug prescribed. If not performed by a pharmacist or prescriber, an electronic verification system must be used that confirms the drug stock selected to fill the prescription is the same as indicated on the prescription label. A compounded drug may only be verified by a pharmacist or prescriber. ( )

05. Patient Counseling. Counseling, as defined in Section 54-1705, Idaho Code, must be provided as set forth in Section 54-1739, Idaho Code. (7-1-18)

302. DRUG OUTLETS THAT DISPENSE DRUGS TO PATIENTS WITHOUT AN ONSITE PHARMACIST OR PRESCRIBER.
A drug outlet that dispenses drugs to patients in Idaho that does not have a pharmacist or prescriber onsite to perform or supervise pharmacy operations must comply with the following requirements: (7-1-18)

01. Security and Access. (7-1-18)

a. *M*aintain video surveillance with an adequate number of views of the full facility and retain a high quality recording for a minimum of ninety (90) days. *( )*

b. *Utilize p*roper identification controls of individuals accessing the restricted drug storage area *to ensure* access *is* limited, authorized, and regularly monitored. *( )*

02. Technology. The video and audio communication system used to counsel and interact with each patient or patient's caregiver, must be clear, secure, and HIPAA-compliant. (7-1-18)

03. Controlled Substances Inventories. (7-1-18)

a. *Keep a* perpetual inventory for all Schedule II controlled substances; and *( )*

b. If a perpetual inventory is not kept for all Schedule III through V substances, the pharmacist or prescriber must inventory and audit at least three (3) random controlled substances quarterly. (7-1-18)

04. Self-Inspection. *C*omplete and retain a monthly in-person self-inspection of the drug outlet *by a pharmacist or prescriber* using a form designated by the Board. *( )*

05. *Technical Limitation Closure*. The drug outlet must be, or remain, closed to the public if any component of the surveillance or video and audio communication system is malfunctioning, until system corrections or repairs are completed. *( )*

06. Exemption for Self-Service Systems. A self-service ADS that is operating as a drug outlet is exempt from the video surveillance requirement and the self-inspection requirement of this rule. In addition, if counseling is provided by an onsite prescriber or pharmacist, a self-service ADS is exempt from the video and audio communication system requirements of this rule. (7-1-18)

07. Exemption for Veterinarians. Veterinarians practicing in accordance with their Idaho practice act

are exempt from this rule. (7-1-18)

303. DRUGS STORED OUTSIDE OF A DRUG OUTLET FOR RETRIEVAL BY A LICENSED HEALTH PROFESSIONAL.
Drugs may be stored in an alternative designated area outside the drug outlet, including, but not limited to, floor stock, in an emergency cabinet, in an emergency kit, or as emergency outpatient drug delivery from an emergency room at a registered institutional facility, provided the following conditions are met: (7-1-18)

01. Supervising Drug Outlet. Drugs stored in such a manner must remain under the control of, and be routinely monitored by, the supervising drug outlet. (7-1-18)

02. Secure Storage. The area is appropriately equipped to ensure security and protection from diversion or tampering. (7-1-18)

03. Controlled Substances. Controlled substances may only be stored in an alternative designated area as permitted by, and in accordance with, federal law. (7-1-18)

04. Stocking and Replenishing. Stocking or replenishing drugs in an alternative designated area may be performed by a pharmacist or prescriber, or by appropriate support personnel using either an electronic verification system or a two (2) person checking system. (7-1-18)

304. – 349. (RESERVED)

SUBCHAPTER D - RULES GOVERNING PHARMACIST PRESCRIPTIVE AUTHORITY
(Rules 350 through 399 - Rules Governing Pharmacist Prescriptive Authority)

350. PHARMACIST PRESCRIBING: GENERAL REQUIREMENTS.
In accordance with Section 54-1704, Idaho Code, a pharmacist may independently prescribe drugs, drug categories and devices provided the following general requirements are met: (7-1-18)

01. Education. The pharmacist may only prescribe drugs or devices for conditions for which the pharmacist is educationally prepared and for which competence has been achieved and maintained. (7-1-18)

02. Patient-Prescriber Relationship. The pharmacist may only issue a prescription for a legitimate medical purpose arising from a patient-prescriber relationship as defined in Section 54-1733, Idaho Code. (7-1-18)

03. Patient Assessment. The pharmacist must obtain adequate information about the patient's health status to make appropriate decisions based on the applicable standard of care. The pharmacist must maintain an updated patient assessment protocol with evidence-based inclusion, exclusion and referral criteria. (7-1-18)

04. Collaboration with Other Health Care Professionals. The pharmacist must recognize the limits of the pharmacist's own knowledge and experience and consult with and refer to other health care professionals as appropriate. (7-1-18)

05. Follow-Up Care Plan. The pharmacist must develop and implement an appropriate follow-up care plan, including any monitoring parameters, in accordance with clinical guidelines. (7-1-18)

06. Notification. The pharmacist must inquire about the identity of the patient's primary care provider; and, if one is identified by the patient, provide notification within five (5) business days following the prescribing of a drug. In the instance in which the pharmacist is prescribing to close a gap in care or to supplement a valid prescription drug order, the pharmacist must alternatively notify the provider of record. (7-1-18)

07. Documentation. The pharmacist must maintain documentation adequate to justify the care provided, including, but not limited to the information collected as part of the patient assessment, the prescription record, and the follow-up care plan. (7-1-18)

08. Prescribing Exemption. The general requirements set forth in this section do not apply to

collaborative pharmacy practice agreements, nonprescription drugs and devices, and the individually named drug products listed in Section 54-1704, Idaho Code. (7-1-18)

351. COLLABORATIVE PHARMACY PRACTICE.
Collaborative pharmacy practice may be performed in accordance with an agreement that contains the following elements: ( )

01. Identification. Identification of the parties to the agreement; (7-1-18)

02. Scope. The pharmacist's scope of practice authorized by the agreement, including a description of the types of permitted activities and decisions; and (7-1-18)

03. Monitoring. A described method for a prescriber to monitor compliance with the agreement and clinical outcomes of patients and to intercede where necessary. (7-1-18)

352. -- 399. (RESERVED)

SUBCHAPTER E – FILLING AND DISPENSING PRESCRIPTION DRUGS
(Rules 400 through 499 - Filling and Dispensing Prescription Drugs)

400. PRESCRIPTION DRUG ORDER: VALIDITY.
Prior to filling or dispensing a prescription drug order, a pharmacist must verify its validity. (7-1-18)

01. Invalid Prescription Drug Orders. A prescription drug order is invalid if not issued by a licensed prescriber for a legitimate medical purpose, and within the course and scope of the prescriber's professional practice and prescriptive authority. (7-1-18)

02. Antedating or Postdating. A prescription drug order is invalid if antedated or postdated. (7-1-18)

03. Tampering. A prescription drug order is invalid if, at the time of presentation, it shows evidence of alteration, erasure, or addition by any person other than the person who wrote it. (7-1-18)

04. Prescriber Self-Use. A prescription drug order written for a controlled substance is invalid if written for the prescriber's own use. (7-1-18)

05. Digital Image Prescriptions. A digital image of a prescription drug order is invalid if it is for a controlled substance or if the patient intends to pay cash for the drug in whole. (4-11-19)

401. PRESCRIPTION DRUG ORDER: MINIMUM REQUIREMENTS.
A prescription drug order must comply with applicable requirements of federal law and, except as differentiation is permitted for an institutional drug order, include at least the following: ( )

01. Patient's Name. The patient's or authorized entity's name and: (7-1-18)

a. If for a controlled substance, the patient's full name and address; and (7-1-18)

b. If for an animal, the species. (7-1-18)

02. Date. The date issued. (7-1-18)

03. Drug Information. The drug name, strength, quantity and, if for a controlled substance, the dosage form. (7-1-18)

04. Directions. The directions for use. (7-1-18)

05. Prescriber Information. The name and, if for a controlled substance, the address and DEA registration number of the prescriber. (7-1-18)

06. Signature. A signature sufficient to evidence a valid prescription of either the prescriber or, if a renewal of a previous prescription, the prescriber's agent, when authorized by the prescriber. (4-11-19)

07. Institutional Drug Order Exemptions. An institutional drug order may exempt the patient's address, the dosage form, quantity, prescriber's address, and prescriber's DEA registration number. (7-1-18)

08. Exemptions for Non-Controlled Substances. A prescriber may omit drug information and directions if the prescriber makes a clear indication that the pharmacist is to finalize the patient's drug therapy plan. ( )

402. FILLING PRESCRIPTION DRUG ORDERS: PRACTICE LIMITATIONS.

01. Drug Product Selection. Drug product selection is allowed only between therapeutic equivalent drugs. If a prescriber orders by any means that a brand name drug must be dispensed, then no drug product selection is permitted. (7-1-18)

02. Partial Filling. A prescription drug order may be partially filled within the limits of federal law. The total quantity dispensed in partial fillings must not exceed the total quantity prescribed. (7-1-18)

03. Refill Authorization. A prescription drug order may be refilled when permitted by state and federal law and only as specifically authorized by the prescriber, except that a pharmacist may refill a prescription for a non-controlled drug when the prescriber is not available for authorization. In such cases, a pharmacist may dispense a refill up to the quantity on the most recent fill or a thirty (30)-day supply, whichever is less. (4-11-19)

403. FILLING PRESCRIPTION DRUG ORDERS: ADAPTATION.
Upon patient consent, a pharmacist may adapt drugs as specified in this rule, provided that the prescriber has not indicated that adaptation is not permitted. (7-1-18)

01. Change Quantity. A pharmacist may change the quantity of medication prescribed if: (7-1-18)

a. The prescribed quantity or package size is not commercially available; (7-1-18)

b. The change in quantity is related to a change in dosage form or therapeutic interchange; (4-11-19)

c. The change is intended to dispense up to the total amount authorized by the prescriber including refills; or (4-11-19)

d. The change extends a maintenance drug for the limited quantity necessary to coordinate a patient's refills in a medication synchronization program. (4-11-19)

02. Change Dosage Form. A pharmacist may change the dosage form of the prescription if it is in the best interest of patient care, so long as the prescriber's directions are also modified to equate to an equivalent amount of drug dispensed as prescribed. (7-1-18)

03. Complete Missing Information. A pharmacist may complete missing information on a prescription if there is evidence to support the change. (7-1-18)

04. Documentation. A pharmacist who adapts a prescription in accordance with these rules must document the adaptation in the patient's record. (7-1-18)

404. FILLING PRESCRIPTION DRUG ORDERS: DRUG PRODUCT SUBSTITUTION.
Drug product substitutions *in which a pharmacist dispenses a drug product other than that prescribed* are allowed only as follows: *( )*

01. Hospital. Pursuant to a formulary or drug list prepared by the pharmacy and therapeutics committee of a hospital; (7-1-18)

02. Institutional Facility. At the direction of the quality assessment and assurance committee of an institutional facility; (4-11-19)

03. Drug Shortage. Upon a drug shortage, a pharmacist may exercise professional judgment, without contacting the prescriber, and may substitute an alternative dose of a prescribed drug, so long as the prescriber's directions are also modified, to equate to an equivalent amount of drug dispensed as prescribed; or (7-1-18)

04. Biosimilars. A pharmacist may substitute an interchangeable biosimilar product for a prescribed biological product if: (7-1-18)

a. The biosimilar has been determined by the FDA to be interchangeable and published in the Purple Book; (7-1-18)

b. The prescriber does not indicate by any means that the prescribed biological product must be dispensed; and (7-1-18)

c. The name of the drug and the manufacturer or the NDC number is documented in the patient medical record. (7-1-18)

05. Therapeutic Interchange. A pharmacist may substitute a drug with another drug in the same therapeutic class provided the patient opts-in and the substitution is intended to ensure formulary compliance with the patient's health insurance plan, or, in the case of a patient without insurance, to lower the cost to the patient while maintaining safety. Therapeutic interchange does not apply to biological products, narrow therapeutic index drugs, or psychotropic drugs. (7-1-18)

405. FILLING PRESCRIPTION DRUG ORDERS: TRANSFERS.
A prescription drug order may be transferred within the limits of federal law. Drug outlets using a common electronic file are exempt from transfer limits. (7-1-18)

406. LABELING STANDARDS.
All prescription drugs must be in an appropriate container and bear information that identifies the drug product, any additional components as appropriate, and the individual responsible for its final preparation. (7-1-18)

01. Standard Prescription Drug. A prescription drug for outpatient dispensing must be labeled in accordance with federal law. (7-1-18)

02. Parenteral Admixture. If one (1) or more drugs are added to a parenteral admixture, the admixture's container must include the date and time of the addition, or alternatively, the beyond use date. (7-1-18)

03. Prepackaged Product. The containers of prepackaged drugs must include an expiration date that is the lesser of the manufacturer's original expiration date, one (1) year from the date the drug is prepackaged, or a shorter period if warranted. (7-1-18)

04. Repackaged Drug. If a previously dispensed drug is repackaged, it must contain the serial number and contact information for the original dispensing pharmacy, as well as a statement that indicates that the drug has been repackaged, and the contact information of the repackaging pharmacy. (7-1-18)

05. Distributed Compounded Drug Product. Compounded and sterile prepackaged drug product distributed in the absence of a patient specific prescription must be labeled as follows: (7-1-18)

a. If from a pharmacy, the statement: "not for further dispensing or distribution." (7-1-18)

b. If from an outsourcing facility, the statement: "not for resale." (7-1-18)

407. PRESCRIPTION DELIVERY: RESTRICTIONS.

01. Acceptable Delivery. A drug outlet that dispenses drugs to patients in Idaho may deliver filled prescriptions in accordance with federal law, as long as appropriate measures are taken to ensure product integrity and safety. (4-11-19)

02. Pick-up or Return by Authorized Personnel. Filled prescriptions may be picked up for or returned from delivery by authorized personnel from a secured delivery area. (4-11-19)

408. DESTRUCTION OR RETURN OF DRUGS OR DEVICES: RESTRICTIONS.
A drug outlet registered with the DEA as a collector may collect controlled and non-controlled drugs for destruction in accordance with applicable federal law. Otherwise a dispensed drug or prescription device may only be accepted for return as follows: (7-1-18)

01. Potential Harm. When the pharmacist determines that harm could result if the drug is not returned. (7-1-18)

02. Did Not Reach Patient. Non-controlled drugs that have been maintained in the custody and control of the institutional facility, dispensing pharmacy, or their related clinical facilities may be returned if product integrity can be assured. Controlled substances may only be returned from a hospital daily delivery system under which a pharmacy dispenses no more than a seventy-two (72) hour supply for a drug order. ( )

03. Donation. Those that qualify for return under the provisions of the Idaho Legend Drug Donation Act as specified in Section 54-1762, Idaho Code. (7-1-18)

409. DISPENSING CONTROLLED SUBSTANCES: POSITIVE IDENTIFICATION.
If a controlled substance is picked up by an individual other than the patient, the potential recipient must first present a valid government-issued identification or the controlled substance may not be dispensed. The pharmacy must document the recipient's identification, or an exception as permitted under this rule, and link it to the record of the dispensed controlled substance. Identification is not necessary if the individual receiving the controlled substance is personally and positively known by a drug outlet staff member who is present. ( )

410. -- 499. (RESERVED)

SUBCHAPTER F – REPORTING REQUIREMENTS AND DRUG OUTLET RECORDKEEPING
(Rules 500 through 599 - Reporting Requirements and Drug Outlet Recordkeeping)

500. RECORDKEEPING: MAINTENANCE AND INVENTORY REQUIREMENTS.

01. Records Maintenance and Retention Requirement. Unless an alternative standard is stated for a specified record type, form, or format, records required to evidence compliance with statutes or rules enforced by the Board must be maintained and retained in a readily retrievable form and location for at least three (3) years from the date of the transaction. (7-1-18)

02. Prescription Retention. A prescription drug order must be retained in a readily retrievable manner by each drug outlet and maintained in accordance with federal law: (7-1-18)

03. Inventory Records. Each drug outlet must maintain a current, complete and accurate record of each controlled substance manufactured, imported, received, ordered, sold, delivered, exported, dispensed or otherwise disposed of by the registrant. Drug outlets must maintain inventories and records in accordance with federal law. An annual inventory must be conducted at each registered location no later than seven (7) days after the date of the most recent inventory in a form and manner that satisfies the inventory requirements of federal law. Drugs stored outside a drug outlet in accordance with these rules must be regularly inventoried and inspected to ensure that they are properly stored, secured, and accounted for. Additional inventories are necessary when required by federal law. (7-1-18)

04. Rebuttal Presumption of Violation. Evidence of an amount of a controlled substance that differs from the amount reflected on a record or inventory required by state or federal law creates a rebuttable presumption that the registrant has failed to keep records or maintain inventories in conformance with the recordkeeping and

inventory requirements of state and federal law. (7-1-18)

05. Drug Distributor Records. Wholesalers and other entities engaged in wholesale drug distribution must maintain inventories and records or transactions pertaining to the receipt and distribution or other disposition of drugs in accordance with federal law *that* include at least: *( )*

a. The source of the drugs, including the name and principal address of the seller or transferor, and the address of the location from which the drugs were shipped; (4-11-19)

b. The identity and quantity of the drugs received and distributed or disposed of; (4-11-19)

c. The dates of receipt and distribution or other disposition of the drugs; and (4-11-19)

d. Controlled substance distribution invoices, in the form and including the requirements of federal law. (4-11-19)

06. Central Records Storage. Records may be retained at a central location in compliance with federal law. (7-1-18)

07. Electronic Records Storage. Records may be electronically stored and maintained if they remain legible and are in a readily retrievable format, and if federal law does not require them to be kept in a hard copy format. (7-1-18)

501. REPORTING REQUIREMENTS.

01. Theft or Loss of Controlled Substances. A registrant must report to the Board on the same day reported to the DEA a theft or loss of a controlled substance that includes the information required by federal law. (7-1-18)

02. Individual Information Changes. Changes in employment or changes to information provided on or with the initial or renewal application must be reported to the Board within ten (10) days of the change. (7-1-18)

03. Drug Distributor Monthly Reports. An authorized distributor must report specified data on drugs distributed at least monthly to the Board in a form and manner prescribed by the Board. (4-11-19)

502. -- 599. (RESERVED)

SUBCHAPTER G – PRESCRIPTION DRUG MONITORING PROGRAM REQUIREMENTS
(Rules 600 through 699 – Prescription Drug Monitoring Program Requirements)

600. CONTROLLED SUBSTANCES: PDMP.
Specified data on controlled substances must be reported by the end of the next business day by all drug outlets that dispense controlled substances in or into Idaho and prescribers that dispense controlled substances to humans. (7-1-18)

01. Online Access to PDMP. To obtain online access, a prescriber or pharmacist, or their delegate must complete and submit a registration application and agree to adhere to the access restrictions and limitations established by law. (7-1-18)

02. Use Outside Scope of Practice. Information obtained from the PDMP must not be used for purposes outside the prescriber's or pharmacist's scope of professional practice. A delegate may not access the PDMP outside of their supervisor's scope of professional practice. (7-1-18)

03. Profile Requests. Authorized persons without online access may obtain a profile by completing a Board form and submitting it to the Board office with proof of identification and other credentials necessary to confirm the requestor's authorized status pursuant to Section 37-2726, Idaho Code. (7-1-18)

601. – 699. (RESERVED)

SUBCHAPTER H - RULES GOVERNING DRUG COMPOUNDING
(Rules 700 through 799 - Rules Governing Drug Compounding)

700. COMPOUNDING DRUG PREPARATIONS.
Any compounding that is not permitted herein is considered manufacturing. (7-1-18)

01. Application. This rule applies to any person, including any business entity, authorized to engage in the practice of non-sterile compounding, sterile compounding, and sterile prepackaging of drug products in or into Idaho, except these rules do not apply to: (7-1-18)

a. Compound positron emission tomography drugs; (7-1-18)

b. Radiopharmaceutics; (7-1-18)

c. The reconstitution of a non-sterile drug or a sterile drug for immediate administration; (7-1-18)

d. The addition of a flavoring agent to a drug product; and (7-1-18)

e. Product preparation of a non-sterile, non-hazardous drug according to the manufacturer's FDA approved labeling. (7-1-18)

02. General Compounding Standards. (7-1-18)

a. Active Pharmaceutical Ingredients. All active pharmaceutical ingredients must be obtained from an FDA registered manufacturer. FDA registration as a foreign manufacturer satisfies this requirement. (7-1-18)

b. Certificate of Analysis (COA). Unless the active pharmaceutical ingredient complies with the standards of an applicable USP-NF monograph, a COA must be obtained for all active pharmaceutical ingredients procured for compounding and retained for a period of not less than three (3) years from the date the container is emptied, expired, returned, or disposed of. The following minimum information is necessary on the COA: *p*roduct name*, l*ot number*, e*xpiration date*,* and *a*ssay. *( )*

c. Equipment. Equipment and utensils must be of suitable design and composition and cleaned, sanitized, or sterilized as appropriate prior to use. (7-1-18)

d. Disposal of Compromised Drugs. When the correct identity, purity, strength, and sterility of ingredients and components cannot be confirmed (in cases of, for example, unlabeled syringes, opened ampoules, punctured stoppers of vials and bags, and containers of ingredients with incomplete labeling) or when the ingredients and components do not possess the expected appearance, aroma, and texture, they must be removed from stock and isolated for return, reclamation, or destruction. (7-1-18)

03. Prohibited Compounding. Compounding any drug product for human use that the FDA has identified as presenting demonstrable difficulties in compounding or has withdrawn or removed from the market for safety or efficacy reasons is prohibited. (7-1-18)

04. Limited Compounding. (7-1-18)

a. Triad Relationship. A pharmacist may compound a drug product in the usual course of professional practice for an individual patient pursuant to an established prescriber/patient/pharmacist relationship and a valid prescription drug order. (7-1-18)

b. Commercially Available Products. A drug product that is commercially available may only be compounded if not compounded regularly or in inordinate amounts and if: (7-1-18)

i. It is medically warranted to provide an alternate ingredient, dosage form, or strength of

significance; or (7-1-18)

ii. The commercial product is not reasonably available in the market in time to meet the patient's needs. (7-1-18)

c. Anticipatory Compounding. Limited quantities of a drug product may be compounded or sterile prepackaged prior to receiving a valid prescription drug order based on a history of receiving valid prescription drug orders for the compounded or sterile prepackaged drug product. (7-1-18)

05. Drug Compounding Controls. (7-1-18)

a. Policies and Procedures. In consideration of the applicable provisions of USP Chapter 795 concerning pharmacy compounding of non-sterile preparations, USP Chapter 797 concerning sterile preparations, Chapter 1075 of the USP-NF concerning good compounding practices, and Chapter 1160 of the USP-NF concerning pharmaceutical calculations, policies and procedures for the compounding or sterile prepackaging of drug products must ensure the safety, identity, strength, quality, and purity of the finished product, and must include any of the following that are applicable to the scope of compounding practice being performed: (7-1-18)

i. Appropriate packaging, handling, transport, and storage requirements; (7-1-18)

ii. Accuracy and precision of calculations, measurements, and weighing; (7-1-18)

iii. Determining ingredient identity, quality, and purity; (7-1-18)

iv. Labeling accuracy and completeness; (7-1-18)

v. Beyond use dating; (7-1-18)

vi. Auditing for deficiencies, including routine environmental sampling, quality and accuracy testing, and maintaining inspection and testing records; (7-1-18)

vii. Maintaining environmental quality control; and (7-1-18)

viii. Safe limits and ranges for strength of ingredients, pH, bacterial endotoxins, and particulate matter. (7-1-18)

b. Accuracy. Components including, but not limited to, bulk drug substances, used in the compounding or sterile prepackaging of drug products must be accurately weighed, measured, or subdivided, as appropriate. The amount of each active ingredient contained within a compounded drug product must not vary from the labeled potency by more than the drug product's acceptable potency range listed in the USP-NF monograph for that product. If USP-NF does not publish a range for a particular drug product, the active ingredients must not contain less than ninety percent (90%) and not more than one hundred ten percent (110%) of the potency stated on the label. (7-1-18)

c. Non-Patient Specific Records. Except for drug products that are being compounded or sterile prepackaged for direct administration, a production record of drug products compounded or sterile prepackaged in anticipation of receiving prescription drug orders or distributed in the absence of a patient specific prescription drug order ("office use") solely as permitted in these rules, must be prepared and kept for each drug product prepared, including: (7-1-18)

i. Production date; (7-1-18)

ii. Beyond use date; (7-1-18)

iii. List and quantity of each ingredient; (7-1-18)

iv. Internal control or serial number; and (7-1-18)

v. Initials or unique identifier of all persons involved in the process or the compounder responsible for the accuracy of these processes. (7-1-18)

701. STERILE PREPARATION.

01. Application. In addition to all other applicable rules in this chapter, including the rules governing Compounding Drug Preparations, these rules apply to all persons, including any business entity, engaged in the practice of sterile compounding and sterile prepackaging in or into Idaho. (7-1-18)

02. Dosage Forms Requiring Sterility. The sterility of compounded biologics, diagnostics, drugs, nutrients, and radiopharmaceuticals must be maintained or the compounded drug preparation must be sterilized when prepared in the following dosage forms: (7-1-18)

a. Aqueous bronchial and nasal inhalations, except sprays and irrigations intended to treat nasal mucosa only; (4-11-19)

b. Baths and soaks for live organs and tissues; (7-1-18)

c. Injections (for example, colloidal dispersions, emulsions, solutions, suspensions); (7-1-18)

d. Irrigations for wounds and body cavities; (7-1-18)

e. Ophthalmic drops and ointments; and (7-1-18)

f. Tissue implants. (7-1-18)

03. Compounder Responsibilities. Compounders and sterile prepackagers are responsible for ensuring that sterile products are accurately identified, measured, diluted, and mixed and are correctly purified, sterilized, packaged, sealed, labeled, stored, dispensed, and distributed, as well as prepared in a manner that maintains sterility and minimizes the introduction of particulate matter; (7-1-18)

a. Unless following manufacturer's guidelines or another reliable literature source, opened or partially used packages of ingredients for subsequent use must be properly stored as follows; (7-1-18)

i. Opened or entered (such as needle-punctured) single-dose containers, such as bags, bottles, syringes, and vials of sterile products and compounded sterile preparations are to be used within one (1) hour if opened in non-sterile conditions, and any remaining contents must be discarded; (7-1-18)

ii. Single-dose vials needle-punctured in a sterile environment may be used up to six (6) hours after initial needle puncture; (7-1-18)

iii. Opened single-dose ampules may not be stored for any time period; and (7-1-18)

iv. Multiple-dose containers (for example, vials) that are formulated for removal of portions on multiple occasions because they contain antimicrobial preservatives, may be used for up to twenty-eight (28) days after initial opening or entering, unless otherwise specified by the manufacturer; (7-1-18)

b. Water-containing compounded sterile products that are non-sterile during any phase of the compounding procedure must be sterilized within six (6) hours after completing the preparation in order to minimize the generation of bacterial endotoxins; (7-1-18)

c. No food, drinks, or materials exposed in patient care and treatment areas may enter ante-areas, buffer areas, or segregated areas where components and ingredients of sterile preparations are prepared. (7-1-18)

04. Environmental Controls. Except when prepared for immediate administration, the environment for the preparation of sterile preparations in a drug outlet must be in an isolated area, designed to avoid unnecessary

traffic and airflow disturbances, and equipped to accommodate aseptic techniques and conditions. (7-1-18)

a. Hoods and aseptic environmental control devices must be certified for operational efficiency as often as recommended by the manufacturer or at least every six (6) months or if relocated. (7-1-18)

b. Filters must be inspected and replaced in accordance with the manufacturer's recommendations. (7-1-18)

05. Sterile Preparation Equipment. A drug outlet in which sterile preparations are prepared must be equipped with at least the following: (7-1-18)

a. Protective apparel including gowns, masks, and sterile (or the ability to sterilize) non-vinyl gloves, unless written documentation can be provided from the aseptic isolator manufacturer that any component of garbing is not necessary; (7-1-18)

b. A sink; (4-11-19)

c. A refrigerator for proper storage of additives and finished sterile preparations prior to delivery when necessary; and (7-1-18)

d. An appropriate laminar airflow hood or other aseptic environmental control device such as a laminar flow biological safety cabinet, or a comparable compounding area when authorized by USP Chapter 797. (4-11-19)

06. Documentation Requirements. The following documentation must also be maintained by a drug outlet in which sterile preparations are prepared: (7-1-18)

a. Justification of beyond use dates assigned, pursuant to direct testing or extrapolation from reliable literature sources; (7-1-18)

b. Training records, evidencing that personnel are trained on a routine basis and are adequately skilled, educated, and instructed; (7-1-18)

c. Audits appropriate for the risk of contamination for the particular sterile preparation including: (7-1-18)

i. Visual inspection to ensure the absence of particulate matter in solutions, the absence of leakage from bags and vials, and the accuracy of labeling with each dispensing; (7-1-18)

ii. Periodic hand hygiene and garbing competency; (7-1-18)

iii. Media-fill test procedures (or equivalent), aseptic technique, and practice related competency evaluation at least annually by each compounder or sterile prepackager; (7-1-18)

iv. Environmental sampling testing at least upon registration of a new drug outlet, following the servicing or re-certification of facilities and equipment, or in response to identified problems with end products, staff techniques or patient-related infections, or every six (6) months. ( )

v. Gloved fingertip sampling testing at least annually for personnel who compound low- and medium-risk level compounded sterile preparations and every six (6) months for personnel who compound high-risk level compounded sterile preparations. (4-11-19)

vi. Sterility testing of high risk batches of more than twenty-five (25) identical packages (ampules, bags, vials, etc.) before dispensing or distributing; (7-1-18)

d. Temperature, logged daily; (7-1-18)

e. Beyond use date and accuracy testing, when appropriate; and (7-1-18)

f. Measuring, mixing, sterilizing, and purification equipment inspection, monitoring, cleaning, and maintenance to ensure accuracy and effectiveness for their intended use. (7-1-18)

07. Policy and Procedures *Manual*. *Maintain a policy and procedures manual to ensure compliance with this rule.* *( )*

702. HAZARDOUS DRUGS PREPARATION.
In addition to all other applicable rules in this chapter, including the rules governing Compounding Drug Preparations and Sterile Preparation, these rules apply to all persons, including any business entity, engaged in the practice of compounding or sterile prepackaging with hazardous drugs. Such persons must: (7-1-18)

01. Ventilation. Ensure the storage and compounding areas have sufficient general exhaust ventilation to dilute and remove any airborne contaminants. (7-1-18)

02. Ventilated Cabinet. Utilize a ventilated cabinet designed to reduce worker exposures while preparing hazardous drugs. (7-1-18)

a. Sterile hazardous drugs must be prepared in a dedicated Class II biological safety cabinet or a barrier isolator of appropriate design to meet the personnel exposure limits described in product material safety data sheets; (7-1-18)

b. When asepsis is not required, a Class I BSC, powder containment hood or an isolator intended for containment applications may be sufficient. (7-1-18)

c. A ventilated cabinet that re-circulates air inside the cabinet or exhausts air back into the room environment is prohibited, unless: (7-1-18)

i. The hazardous drugs in use will not volatilize while they are being handled; or (7-1-18)

ii. Written documentation from the manufacturer attesting to the safety of such ventilation. (7-1-18)

03. Clear Identification. Clearly identify storage areas, compounding areas, containers, and prepared doses of hazardous drugs. (7-1-18)

04. Labeling. Label hazardous drugs with proper precautions, and dispense them in a manner to minimize risk of hazardous spills. (7-1-18)

05. Protective Equipment and Supplies. Provide and maintain appropriate personal protective equipment and supplies necessary for handling hazardous drugs, spills and disposal. (7-1-18)

06. Contamination Prevention. Unpack, store, prepackage, and compound hazardous drugs separately from other inventory in a restricted area in a manner to prevent contamination and personnel exposure until hazardous drugs exist in their final unit-of-use packaging. (7-1-18)

07. Compliance With Laws. Comply with applicable local, state, and federal laws including for the disposal of hazardous waste. (7-1-18)

08. Training. Ensure that personnel working with hazardous drugs are trained in hygiene, garbing, receipt, storage, handling, transporting, compounding, spill control, clean up, disposal, dispensing, medical surveillance, and environmental quality and control. (7-1-18)

09. Policy and Procedures Manual. Maintain a policy and procedures manual to ensure compliance with this rule. (7-1-18)

703. OUTSOURCING FACILITY.

01. Federal Act Compliance. An outsourcing facility must ensure compliance with 21 U.S.C. Section 353b of the Federal Food, Drug and Cosmetic Act. (7-1-18)

02. Adverse Event Reports. Outsourcing facilities must submit to the Board a copy of all adverse event reports submitted to the secretary of Health and Human Services in accordance with Section 310.305 of Title 21 of the Code of Federal Regulations. (7-1-18)

704. – 999. (RESERVED)

IDAPA 28 – DEPARTMENT OF COMMERCE

DOCKET NO. 28-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-4702(2), Idaho Code.

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

This pending rule adopts and re-publishes the following chapters promulgated as a proposed rule under this docket number under IDAPA 28, rules of the Department of Commerce:

IDAPA 28
- 28.02.03, *Department of Commerce Grant Program Rules*
- 28.04.01, *Rules Governing the Idaho Reimbursement Incentive Act*

This pending rule vacates the following proposed rules previously promulgated as part of the omnibus proposed rulemaking under IDAPA 28, rules of the Department of Commerce:

- ***(VACATED)*** *28.02.03, Rules of the Idaho Regional Travel and Convention Grant Program*
- ***(VACATED)*** *28.02.04, Idaho Gem Grant Program*
- ***(VACATED)*** *28.02.05, Rural Community Block Grant Program (RCBG)*
- ***(VACATED)*** *28.02.07, Rules Governing the Administration of the IGEM Grant Program*
- ***(VACATED)*** *28.03.01, Rules of the Idaho Opportunity Fund*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of these proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 5096–5125**.

The pending rulemaking being adopted under re-designated IDAPA 28.02.03, "Department of Commerce Grant Program Rules," combines the previously approved and codified rules from the following Department of Commerce grant programs into this new chapter:

1) IDAPA 28.02.03, "Idaho Regional Travel and Convention Grant Program"
2) IDAPA 28.02.04, "Idaho Gem Grant Program"
3) IDAPA 28.02.05, "Rural Community Block Grant Program (RCBG)"
4) IDAPA 28.02.07, "Rules Governing Administration of the IGEM Grant Program"
5) IDAPA 28.03.01, "Idaho Opportunity Fund"

As the lead economic development agency for the state of Idaho, the mission of the Idaho Department of Commerce is to foster a business-friendly environment to aid in job creation, support existing companies, support tourism, and strengthen Idaho communities. The adoption of the pending rule will ensure the continued support for Idaho businesses and tourism from the Idaho Department of Commerce.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Ewa Szewczyk, (208) 334-2470.

Dated this 16th day of October, 2019.

Ewa Szewczyk
Grants & Contracts Manager
Idaho Commerce
700 W. State Street
Boise, Idaho 83702
Phone: (208) 334-2470
Fax: (208) 334-2631

000. LEGAL AUTHORITY.
These rules have been adopted pursuant to Sections 67-4702, 67-4703, 67-4715, 67-4717, 67-4718, 67-4729, and 67-4733, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 28.02.03, "Department of Commerce Grant Program Rules." ( )

02. Scope. These rules implement the following Department of Commerce grant programs:1) Idaho Regional Travel and Convention Grant Program; 2) Idaho Gem Grant Program; 3) Rural Community Investment Fund; 4) IGEM Grant Program; 5) Idaho Opportunity Fund; and 6) Idaho Community Development Block Grant Program. ( )

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Department. The Idaho Department of Commerce as set forth in Section 67-4701, Idaho Code. ( )

02. Program Guidelines. Department of Commerce grant programs are administered in accordance with applicable federal and state statutes, these rules, grant resources available on the Department's website, and written grant agreements entered into between the successful applicant and the Department. Collectively these laws, rules, handbooks, grant resources, and grant agreements are referred to as "program guidelines" throughout these rules and each may be enforced by the Department. Interpretation of these rules by the Idaho Travel Council. ( )

011. -- 049. (RESERVED)

SUBCHAPTER A - GENERAL GRANT PROGRAM REQUIREMENTS

050. GENERAL GRANT PROGRAM REQUIREMENTS.

01. Application Procedure. All applicants must meet eligibility requirements specified in program guidelines. Eligible applicants must submit a completed application to the Department and meet the requirements specified in program guidelines prior to the application deadline specified therein. ( )

02. Review of Applications. Unless otherwise specified, all grants will be reviewed, ranked, and selected by the Department and relevant council members if applicable, in accordance with selection criteria specified in program guidelines. All applicants will be notified of their application status in a reasonable timeframe after the application deadline. ( )

03. Grant Agreement. All applicants selected for funding must enter into a written grant agreement with the Department. The grant will take effect upon the date of award specified in the grant agreement and grant monies cannot be expended until that date. ( )

04. Amendments to Grant Agreements. Extensions and amendments to grant agreements are only permitted if agreed to in writing and approved by the Department or applicable council members. ( )

05. Grant Acknowledgement. If required, projects funded by the Department must acknowledge said program as outlined in the program guidelines. ( )

06. Reporting Requirements. As specified in program guidelines, the grantee must provide regular progress reports to the Department to demonstrate progress toward planned outcomes, as well as a final report demonstrating the outcomes achieved. ( )

07. Termination of Funding. The grantee may only use the grant funds in accordance with program guidelines. If at any time the Department becomes aware of a grantee's noncompliance with program guidelines, or

inappropriate or illegal use of grant funds, the Department may terminate the agreement. The Department may require an audit of grant funds. The Department may further terminate a grant if the project loses viability or is unlikely to meet the intent of the original application. ( )

***08. Limitation on Use of Funds**. Program guidelines detail ineligible uses of funds. In addition, funds cannot be used as follows: ( )*

***a.** Political activities. For political purposes or to engage in lobbying or other partisan political activities. ( )*

***b.** Religious activities. For the construction, rehabilitation or operation of active churches or religious structures used for religious purposes. ( )*

***c.** Conflict of interest. If at any time the Department and/or any council member(s) becomes aware of an apparent or potential conflict of interest between a grantee and a private entity which may influence grant funds, the Department may request a meeting with the grantee's representatives. The Department may, at that meeting, terminate the grant if an inappropriate conflict of interest is found. ( )*

***09. Rural Community**. Communities that are generally less than twenty-five thousand (25,000) in population. ( )*

***10. Cost Reimbursable**. Department grants are cost reimbursable. Grant payment procedures will be established in the program guidelines. The Department will reimburse allowable costs up to the maximum grant amount for which both receipts and matching funds documentation have been provided. The grantee is responsible for any discrepancies in documentation. ( )*

051. -- 099. (RESERVED)

100. IDAHO REGIONAL TRAVEL AND CONVENTION GRANT PROGRAM.

***01. Program Intent**. The intent of this program is to provide grant funds to non-profit, incorporated organizations which have in place a viable travel or convention promotion program, or both, in their area of operation. Preference is given to programs with a primary focus of promoting overnight visitation in Idaho. Funds may be used for tourism marketing which has a positive economic impact to the state of Idaho including, but not limited to, the promotion of accommodations, recreational areas, events, conferences, food and beverage, tourism services, culture, attractions, and transportation. ( )*

***02. Eligible Applicants**. Non-profit entities with a focus on tourism. Entities must provide proof of non-profit status including: State of Idaho Certificate of Incorporation, Articles of Incorporation from the Secretary of State, or a letter of determination from the Internal Revenue Service, and Notice of Employer Identification Number assigned by the Internal Revenue Service. ( )*

***03. Review of Applications**. The Idaho Travel Council will review applications in accordance with selection criteria specified in program guidelines. ( )*

***04. Matching Funds**. This grant requires a cash match of twelve and one-half percent (12.5%) of the amount awarded, with further requirements specified in program guidelines. ( )*

***05. Distribution of Funds**. The Department will reimburse funds to the grantee upon submission and review of complete documentation of funds expended. ( )*

***06. Eligible Expenses**. ( )*

***a.** Program intent. Eligible projects under the Regional Travel and Convention Grant Program must be consistent with the legislative declaration of policy in Title 67, Chapter 47, Idaho Code, and the program intent. Programs that are eligible for consideration must fall under the basic definition of travel or convention promotion. ( )*

b. *Administrative expense. The following administrative and overhead costs are allowable: ( )*

i. Wages and benefits. Wages and benefits of one (1) designated grant administrator for time directly related to the task of grant administration. Other employee wages and benefits incurred in the execution of the grant program may be used as cash match with documentation. ( )

ii. Overhead. Reasonable, apportioned overhead costs of the grantee organization required to execute the grant program must be approved by the Idaho Travel Council. The Department will recommend preferred apportionment methods. ( )

***07. Ineligible Expenses**. Unless specified otherwise in the program guidelines, this grant program will not fund: ( )*

a. *The day-to-day, administrative expenses of organizations that have a travel or convention promotion element; ( )*

b. *Projects that have alternative funding sources (for example, regular Chamber of Commerce budgets) or that have been funded previously with the agency's own funds; or ( )*

c. *The promotion of local events; or ( )*

d. *No expenses related to grant writing, or grant application are eligible. ( )*

***08. Audit Requirement**. Grantees who receive one hundred thousand dollars ($100,000) or more in grant funds will have an audit performed by a Certified Public Accountant and submitted to the Department within sixty (60) days following the close of the grant cycle. ( )*

101. -- 149. (RESERVED)

150. IDAHO GEM GRANT (IGG) PROGRAM.

***01. Program Intent**. The intent of this program is to fund community development projects of rural communities for the purpose of improving the local economy, retaining or creating jobs, promoting the community for economic development and tourism, and assisting business expansion and diversification. ( )*

***02. Eligible Applicants**. Idaho rural communities under ten thousand (10,000) persons and other Idaho rural communities at the discretion of the Director of the Department of Commerce are eligible to apply for IGGs up to a maximum of fifty thousand dollars ($50,000). IGGs to city and county governments may be administered by their designees as established by formally adopted resolutions. ( )*

***03. Review of Applications**. The Department's Director, in his sole discretion, makes all IGG awards. The Director may make grant awards at any time the Director determines it necessary to take advantage of special opportunities that further the primary objectives of the IGG Program. ( )*

***04. Matching Funds**.This grant requires a minimum of twenty percent (20%) matching funds of either cash or in-kind donations for the total amount of IGG funds received. Matching funds can be comprised of any combination of cash and in-kind donations and must meet conditions specified in the program guidelines. ( )*

***05. Distribution of Funds**. Grantees receive payment of IGG funds on a cost reimbursement basis. Grant payment procedures will be established in the program guidelines. The Department will reimburse allowable costs up to the maximum grant amount for which both receipts and matching funds documentation have been provided. The grantee is responsible for any discrepancies in documentation. ( )*

***06. Eligible Expenses**. Eligible expenses are specified in program guidelines. ( )*

***07. Ineligible Expenses**. Funds may not be used for: ( )*

a. Payroll costs for city, county, development corporation or other community agencies. ( )

b. Real property acquisition. Construction, rehabilitation, or operation of schools, general government facilities, jails or state facilities. ( )

c. Administrative costs. Expenses related to administering the grant will not be reimbursable to the grantee from grant funds. ( )

*08. **Bid Process**. Grantees must contact a minimum of three (3) vendors for quotes or bids for the purchase of goods or services over twenty-five thousand dollars ($25,000). Prior to reimbursement for such costs, the following information must be submitted to the Department: ( )*

a. Item or service purchased. A detailed description of the item or service purchased or to be purchased. ( )

b. Bid verification. Written documentation of three (3) or more businesses or vendors contacted by IGG grantees for bids or quotes listing the businesses or vendors contacted and indicating their response, and a list of all businesses or vendors contacted whether or not a response was received. ( )

c. Reasons for selection. Grantees justification for the business or vendor selected. ( )

151. -- 199. (RESERVED)

200. RURAL COMMUNITY INVESTMENT FUND (RCIF).

*01. **Program Intent**. This grant provides funds to rural areas in support of economic expansion and job creation, as defined per the program guideline which includes the RCIF Grant Application and Manual. ( )*

*02. **Eligible Applicants**. Applicants for the Idaho Rural Community Block Grants are as follows: ( )*

a. City applicants. Rural cities are those generally less than twenty-five thousand (25,000) in population. Cities contiguous to large cities are not eligible to apply. ( )

b. County applicants. Counties with less than twenty-five thousand (25,000) population. However, any county may apply for unincorporated communities. ( )

c. Indian tribes located in Idaho may apply if the project site is located on reservation land and within a community of less than twenty-five thousand (25,000) population. ( )

*03. **Review of Applications**. Presentations must be made by key elected officials of the applicant to the Department's Economic Advisory Committee (EAC) on the need for the project, the local commitment to the project, the economic impact of the project on the community, and any additional information that should be given special consideration. Applications will be reviewed and ranked on criteria specified in the RCIF Grant Application and Manual. The EAC may recommend standby projects to be funded if enough funds become available at a later time. ( )*

*04. **Eligible Expenses**. Eligible expenses are specified in the RCIF Grant Application and Manual. ( )*

*05. **Ineligible Expenses**. Any activity not authorized in the RCIF Grant Application and manual is ineligible to receive RCBG funds, including: ( )*

a. General conduct of government. Assistance to buildings, or portions thereof, used predominantly for the general conduct of government. Such buildings include, but are not limited to, city halls, courthouses, jails, police stations, state or local government office buildings, and other building used for general government

administration affairs. Also ineligible are school buildings, school administration offices, and university and college vocational-technology facilities. ( )

b. *Local government expenses. Expenses to carry out the regular responsibilities of the unit of general local government are not eligible for assistance with RCIF. ( )*

c. *Equipment. The purchase of equipment, fixtures, motor vehicles, furnishings or other personal property, which is not an integral structural fixture, is generally ineligible. ( )*

d. *Operating and maintenance expenses. ( )*

201. -- 249. (RESERVED)

250. IDAHO GLOBAL ENTREPRENEURIAL MISSION (IGEM) GRANT PROGRAM.

01. Program Intent*. The IGEM Grant Program funds commercialization grants supporting University and industry research partnerships for the purpose of enhancing technology transfer and commercialization of research and technologies developed at the Universities to create high-quality jobs and new industries in the private sector in Idaho. ( )*

02. Eligible Applicants*. Idaho's public research universities: Boise State University, Idaho State University, and University of Idaho. ( )*

03. Industry Partner*. A domestic or foreign entity that designs, produces, or sells goods or services or that contractually agrees to undertake such acts in connection with the technologies licensed or otherwise transferred to the entity by a University, and that is partnered with an Eligible Applicant. ( )*

04. Review of Applications*. In selecting IGEM awards, the IGEM Council will give greater weight to proposals that partner with Idaho-based entities. ( )*

05. Matching Funds*. This grant requires a monetary or in-kind contribution from the industry partner as outlined in program guidelines. ( )*

06. Commercialization Revenue*. Revenue generated through the commercialization of university intellectual property rights in a work authored or an invention conceived or first reduced to practice in the performance of an IGEM grant award are distributed as outlined in Section 67-4731, Idaho Code. ( )*

251. -- 299. (RESERVED)

300. IDAHO OPPORTUNITY FUND.

01. Program Intent*. The Idaho Opportunity Fund provides funding for public costs incurred with the purpose to retain, expand or attract jobs, which include: ( )*

a. *Construction of or improvements to new or existing water, sewer, gas or electric utility systems for new or existing buildings to be used for industrial or commercial operations; ( )*

b. *Flood zone or environmental hazard mitigation; or ( )*

c. *Construction, upgrade or renovation of other infrastructure related items including, but not limited to, railroads, broadband, parking lots, roads or other public costs that are directly related to specific job creation or expansion projects. ( )*

02. Review of Applications*. The Director of the Department may, in his sole discretion, award Opportunity Fund grants to local governments in accordance with program guidelines. ( )*

03. Matching Funds*. This grant requires an allowable local match. Allowable match includes those*

costs which are allowable within the Opportunity Fund and are provided by the local government as cash, in-kind services, fee waivers (such as development impact fees), donation of assets, the provision of infrastructure or a combination thereof. The match must represent a material commitment from the local government that is commensurate with the local government's financial condition. The Director of the Department has the authority to approve other forms of local match or waive the local match requirements. ( )

***04. Distribution of Funds and Eligible Applicants**. Funds will be disbursed from the Opportunity Fund to local governments as defined in the Local Government Grant Agreement and after the local government has demonstrated that the Grantee Business has complied with the terms of the Company Performance Agreement. ( )*

***05. Grant Agreements**. Local Government Grant Agreements will be entered into between the Department and one (1) or more local governments, and contain the provisions specified in the program guidelines. In addition, Company Performance Agreements will be entered into between one (1) or more local governments and a Grantee Business, and containing provisions outlined in the program guidelines. ( )*

301. -- 349. (RESERVED)

350. IDAHO COMMUNITY DEVELOPMENT BLOCK GRANT (ICDBG)

***01. Incorporation by Reference**. The Department of Commerce adopts and incorporates by reference the CDBG Procedures Guide, CDBG Application Handbook, the CDBG Grant Manual, 24 CFR Part 570, and the most current Annual Action Plan as rules for the administration of the Idaho Community Development Block Grant. ( )*

***02. Purpose**. The rules incorporated by reference in (01) relate to the scope and procedures for the implementation of the Idaho Community Development Block Grant Program. ( )*

351. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are promulgated under the legal authority of Section 67-4744, Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 28.04.01, "Rules Governing the Idaho Reimbursement Incentive Act." (4-11-15)

02. Scope. These rules implement *the Idaho Reimbursement Act, including* application and pre-application process, formation of incentive agreements with the business entity, reimbursement to the business entity through an earned tax credit, annual reporting procedure. *( )*

003. ADMINISTRATIVE APPEALS.
The award of a credit under the Tax Reimbursement Incentive Act is made at the recommendation of the Director of the Department of Commerce and approval of the Economic Advisory Council (Council). In light of the negotiated nature of awarding the Tax Reimbursement Incentive (TRI), there is no administrative appeal under these rules. Nothing in this section prohibits an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code. (4-11-15)

***004*. -- 099. (RESERVED)**

100. DEFINITIONS AND ABBREVIATIONS.
Unless defined below, all words have the meaning ascribed in Chapter 47, Title 67, Sections 67-4737 through 67-4744, Idaho Code. *( )*

01. Incentive Agreement. A reimbursement contract between the Department and the business entity which details any instruction provided by the Council in addition to the requirements detailed in Chapter 47, Title 67, Section 4740, Idaho Code. Also referred to as an Agreement. (4-11-15)

02. Pre-Application. A form, paper or electronic, that is completed by the business entity or on behalf of the business entity by an authorized economic development or local government representative when details about the Meaningful Project are not fully known. A pre-application necessitates that an application is completed by the business entity or its authorized representative at a later time, and prior to award of a tax credit. (4-11-15)

03. Tax Reimbursement Incentive Act (TRI). A performance based tax reimbursement mechanism available to existing Idaho businesses and new businesses creating jobs in Idaho. Also known as the Idaho Reimbursement Incentive Act. (4-11-15)

101. -- 129. (RESERVED)

130. PROGRAM INTENT.
The TRI is designed to accelerate the growth of new business opportunities, encourage the creation of high-paying jobs, and diversify the state's economy. The Tax Reimbursement Incentive is a performance-based economic development tool that provides a refundable tax credit up to thirty percent (30%) for up to fifteen (15) years on new business entity income tax, sales tax, and payroll taxes paid as a result of meaningful project. The TRI will perpetually generate the revenues needed to fund the incentive. (4-11-15)

01. Available Credit. This credit is available to both existing and new companies seeking expansion in the state. The tax credit percentage and project term are negotiated based upon the quantity and quality of jobs created, state/regional economic impact and return on investment for Idaho, among others. The credit authorized must be the lowest approved percentage and term that will incentivize creation of new jobs and New State Revenue. (4-11-15)

02. Evaluation and Recommendation. Incentives will be evaluated and recommended to the Council by the Director, with final approval by the Council. The TRI will be governed by detailed incentive agreements between the Department and business entity. (4-11-15)

131. -- 149. (RESERVED)

150. ELIGIBILITY.

01. Eligible Recipients. Recipients of the TRI are limited to existing business entities located in Idaho seeking to expand their companies within the state of Idaho, and business entities, new to Idaho, seeking to relocate to, or expand in, the state of Idaho. (4-11-15)

02. Eligible Projects. An eligible project is an expansion of an existing business located in Idaho or the creation of new business operations in Idaho that generate the minimum required new jobs based on rural or urban location. (4-11-15)

151. JOB CREATION CRITERIA.

01. Rural Community. The minimum new jobs required for a rural community is not less than twenty (20) over the term of the project. (4-11-15)

02. Urban Community. The minimum new jobs required for an urban community is not less than fifty (50) over the term of the project. (4-11-15)

03. New Jobs. New jobs must exceed the business entities' maximum number of full times jobs in Idaho during the twelve (12) months immediately preceding the date of the application. (4-11-15)

04. Job Shift. A job that shifts from one (1) location within the state of Idaho to another location within the state of Idaho is not considered a new job. (4-11-15)

05. New Jobs Wages. New jobs wages must equal or exceed the average annual county wage in the county where the jobs are located. The Department will annually publish the average county wage based on the most recent, non-preliminary information, obtained from the Idaho Department of Labor. (4-11-15)

152. APPLICATION PROCESS.

01. Inquiry. The business entity, or its authorized representative, may engage an authorized representative from the Department to complete an initial screening process. The screening process will assist the business entity in determining to proceed with a pre-application or application. Information necessary during screening includes general details about the Project, the number of full-time jobs, the number of new jobs, the minimum new jobs, the rural or urban area under consideration, the industry, the community contribution, as well as any other information requested to determine eligibility. The business entity, in consultation with the Department's representative, makes a determination to proceed with a pre-application or a full application depending on the project timeline, known project details or other factors associated with the project. (4-11-15)

02. **Pre-Application**. After the business entity's determination to proceed with a pre-application, the business entity, or its authorized representative, will be provided with a pre-application. A pre-application may be completed by the business entity or an authorized representative of the business entity, such as an economic development or local government representative. A pre-application must detail the following: (4-11-15)

a. A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (4-11-15)

b. A statement of dependency explaining whether the project will occur or how it will be altered if the application is denied by the council; (4-11-15)

c. A letter from the city or county, or both, expressing a commitment to supply community contribution; (4-11-15)

d. Detailed description of the proposed capital investment; (4-11-15)

e. Detailed description of jobs to be created, an approximation of the number of such jobs to be created and the projected wages to be paid for such jobs; and (4-11-15)

f. Detailed description of the estimated new state tax revenues by tax to be generated by the project. (4-11-15)

03. Pre-Application Estimate Letter. Upon review and acceptance of a pre-application, the Director may issue an estimate letter to the business entity or its authorized representative, or both, which describes the estimated amount of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. This letter is not a binding commitment but an estimate based on the initial information supplied in the pre-application. (4-11-15)

04. Application. After the business entity's determination to proceed with an application, the business entity will be given access to the application, which must include, but not be limited to, the following information: (4-11-15)

a. A complete description of the proposed project and the estimated economic benefit that will accrue to the state as a result of the project; (4-11-15)

b. An affidavit of criticality explaining that without the TRI incentive, the business entity would be forced to alter its project or not choose Idaho; (4-11-15)

c. A letter from the city or county, or both, describing their commitment to supply community contribution, a specific description of the contribution, and the amount of the contribution; (4-11-15)

d. Business entities currently doing business in Idaho will supply a letter from the Idaho State Tax commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission; (4-11-15)

e. An estimate of Idaho goods and services to be consumed or purchased by the business entity during the term; (4-11-15)

f. Known or expected detriments to the environment or existing industries in the state; (4-11-15)

g. An anticipated project inception date and proposed schedule of progress; (4-11-15)

h. Any proposed performance requirements and measurements that must be met prior to issuance of the tax credit; (4-11-15)

i. A description of any proposed capital investment; (4-11-15)

j. A detailed schedule and description of the projected jobs to be created, the projected wages to be paid for those jobs, and the anticipated hiring schedule for those jobs; and (4-11-15)

k. The estimated new state tax revenues to be generated by the project. (4-11-15)

05. Application Recommendation Letter. Upon review of an application, the Director may issue a letter that details the Director's anticipated recommendation to the Council. The letter may include the percentage of the tax credit, the term of the tax credit, and any other contingencies determined necessary by the Department. All application recommendation letters must contain a "subject to Economic Advisory Council approval" contingency clause. (4-11-15)

06. Technical Review - Pre-Application. The Director and Department staff will complete a technical review of each pre-application. Upon satisfaction that all pre-application requirements are met, the Director may issue an estimate letter. (4-11-15)

07. Technical Review - Application. The Director of the Department and Department staff will complete a technical review and economic impact analysis of each application. The technical review will consider many economic factors and external information sources such as, but not limited to, the region, industry, financial

health and history of the business entity, as well as the quality, quantity and economic impact of new jobs and new state revenue. Upon satisfaction that all application requirements are met, the Director may submit a recommendation for award to the Council. (4-11-15)

08. Economic Advisory Council. The Council reviews the application and the Director recommendations. Following review the council has the following three (3) options: (4-11-15)

a. Request additional information or action from the Director in order to obtain necessary information to approve or reject the application; or (4-11-15)

b. Approve the application and instruct the Director to enter into an incentive agreement with the business entity; or (4-11-15)

c. Reject the application. (4-11-15)

d. An approval or rejection from the council is not considered a contested case pursuant to Chapter 52, Title 67, Idaho Code, provided, however, that nothing in this section prohibits an aggrieved applicant from seeking judicial review as provided in Chapter 52, Title 67, Idaho Code. (4-11-15)

09. Pre-Application Schedule. The pre-application is open year round. Review of pre-applications are subject to the meeting schedule of Department staff. (4-11-15)

10. Application Schedule. The application is open year round. Review of applications is subject to the meeting schedule of Department Staff and the Council. The Council will meet no less than quarterly and has the ability to meet more often at the request of the Director. (4-11-15)

153. -- 159. (RESERVED)

160. CONFLICT OF INTEREST.
Conflict of Interest is defined by Idaho's Office of the Attorney General as any official action or any decision or recommendation by a person acting in a capacity as a public official, the effect of which would be to the private pecuniary benefit of the person or member of the person's household, or a business with which the person or a member of the person's household is associated. In the event Department staff, including the Director has a conflict of interest regarding an application, the conflict must be fully disclosed to the Director and the Council, and that person must abstain from decision making or evaluation of the application. In the event a Council member has a conflict of interest regarding an application, the Council member must fully disclose such conflict to the Director and the Council, and that Council member must abstain from discussing or voting on the application. (4-11-15)

161. -- 169. (RESERVED)

170. AGREEMENTS.

01. Incentive Agreement. At the direction of the Council, and in accordance with the criteria established by these rules, the Director enters into an incentive agreement with the business entity. (4-11-15)

02. Agreement Terms Defined. The incentive agreement contains any terms as approved by the Council, or deemed necessary by the state Deputy Attorney General, as well as defines the following: (4-11-15)

a. Maximum term that is not to exceed fifteen (15) years; (4-11-15)

b. Projected new state revenues to be generated during the term; (4-11-15)

c. Method and recordkeeping requirements to determine projected new state revenue to be generated; (4-11-15)

d. The approved tax credit percentage applied to new state revenue each year the business entity is entitled to receive the reimbursement during the term of the meaningful project; (4-11-15)

e. The projected new jobs; (4-11-15)

f. The terms and conditions of any and all performance requirements and measurements that must be met prior to the issuance of a tax credit authorization; (4-11-15)

g. The agreed upon and necessary proof of compliance required prior to tax credit issuance. Proof of compliance provided by the business entity must be adequate to demonstrate to the director that all requirements and measurements have been met for the business entity to receive the tax credit; (4-11-15)

h. The consequences of default by the business entity; (4-11-15)

i. The period to be used to determine the taxes paid at the date of application; (4-11-15)

j. Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. (4-11-15)

k. The federal employer identification or social security number for each individual or entity stated as the business entity in the incentive agreement; and (4-11-15)

l. Identification of the individual or entity that is or will be claiming the refundable credit. (4-11-15)

171. -- 179. (RESERVED)

180. TAX CREDIT AUTHORIZATION.

01. Claiming Tax Credit. No business entity may claim a tax credit unless the business entity has a tax credit authorization issued by the Department. A business entity may claim a tax credit on its tax return, in the amount listed on the tax credit authorization for the year listed on the tax credit authorization. (4-11-15)

02. Duplicate Copy. The Department must provide a duplicate copy of any tax credit authorization to the Tax Commission. (4-11-15)

181. -- 189. (RESERVED)

190. ANNUAL REPORTING BY APPLICANT.
Required Annual reporting must be outlined in the incentive agreement and will include, but not be limited to, the following: (4-11-15)

01. New State Revenues. Supporting documentation of the new state revenues from the business entity's new project that were paid during the preceding calendar year. (4-11-15)

02. New Jobs Created. Supporting documentation of the new jobs that were created during the preceding tax year and the corresponding payroll information associated with the new jobs. (4-11-15)

03. Known or Expected Detriments. Known or expected detriments to the environment or existing industries in the state. (4-11-15)

04. Authorization Document. A document that expressly directs and authorizes the Tax Commission and Department of Labor to allow the Department access to the business entity's returns, filings and other information that may be necessary to verify or otherwise confirm the declared new state revenues, the new jobs and the associated payroll information. (4-11-15)

05. Tax Commission Letter. A letter from the Idaho State Tax Commission confirming that the business entity is in good standing in the state of Idaho and is not in unresolved arrears in the payment of any state tax or fee administered by the tax commission. (4-11-15)

06. Other Entitle to Rebate. Identification of any individual or entity included within the application that is entitled to a rebate pursuant to section 63-3641 or 63-4408, Idaho Code, or is required to obtain a separate seller's permit pursuant to Chapter 36, Title 63, Idaho Code. (4-11-15)

07. Supporting Documentation. Supporting documentation that the business entity has satisfied the measurements and requirements outlined in the incentive agreement. (4-11-15)

191. ANNUAL REPORTING BY DEPARTMENT.
The Department must create an annual written report for the Governor and the Legislature describing the following: (4-11-15)

01. Successes. The Department's success under this act in attracting new jobs; (4-11-15)

02. Estimated Tax Credit Commitments. The estimated amount of tax credit commitments made by the Department and the period of time over which tax credits will be paid; (4-11-15)

03. Economic Impact to State. The economic impact to the state related to generating new state revenue and providing tax credits under this act; (4-11-15)

04. Estimated Costs and Benefits. The estimated costs and economic benefits of the tax credit commitments that the Department made; and (4-11-15)

05. Actual Costs and Benefits. The actual costs and economic benefits of the tax credit commitments the Department made. (4-11-15)

06. Submittal of Report. The report must be submitted to the Office of the Governor and the appropriate legislative committee chairmen in a timely manner following the close of the state's fiscal year.(4-11-15)

192. -- 199. (RESERVED)

200. AUDIT.
*T*he Department must arrange for an independent third-party audit *annually* pursuant to Chapter 47, Title 67, Idaho Code. The Department must consider any audit recommendations provided during the audit and implement changes as necessary as a result of those recommendations. *( )*

201. -- 209. (RESERVED)

210. CONTINUATION OF TAX CREDIT.
The Department will review the business entity's annual report. Provided the business entity provides a reasonable justification for authorizing or continuing a tax credit, the Department determines the amount of the tax credit to be granted, issue a tax credit authorization to the business entity, and provide a duplicate copy of the tax credit authorization to the Tax Commission. The amount of the tax credit to be continued must be in accordance with the credit percentages specified in the incentive agreement. The TRI will not be extended beyond the term and length specified in the incentive agreement. (4-11-15)

211. TERMINATION OR SUSPENSION OF TAX CREDIT.
During the term of the project for each business entity, the Department will review the business entity's annual report. If the information provided is inadequate or inaccurate to provide a reasonable justification for authorizing or continuing a tax credit, the Department may: (4-11-15)

01. Denial of Tax Credit. Deny the tax credit for that tax year; or (4-11-15)

02. Termination of Agreement. Terminate the incentive agreement for failure to meet the performance standards established in accordance with the terms outlined in the incentive agreement; or (4-11-15)

03. Request for Additional Documentation. Request the business entity to submit additional

documentation. (4-11-15)

212. -- 219. (RESERVED)

220. SUSPENSION OF IDAHO REIMBURSEMENT INCENTIVE ACT.
The Director will suspend the issuance of all new incentive agreements with business entities upon the occurrence of the following conditions: (4-11-15)

01. Temporary Spending Reduction. The governor orders a temporary reduction of general fund spending authority, pursuant to Section 67-3512A, Idaho Code; and (4-11-15)

02. Suspension of New Agreements. The governor issues an executive order directing the Department to suspend the issuance of new incentive agreements during the tax year in which the temporary reduction of general fund spending authority has been ordered and the executive order issued. (4-11-15)

03. Existing Approved Agreements. In the case of suspension all agreements that have been approved by the Council prior to the governor issuing an executive order, as provided in Subsections 026.01 and 026.02 of these rules, will remain in full force and effect and shall not be modified or impaired as a result of the executive order. (4-11-15)

04. Support of Existing Agreements. During the period of time that new incentive agreements have been suspended, the Director will maintain the necessary services required to support all existing agreements and comply with all required reporting and review responsibilities. (4-11-15)

05. Removal of Suspension. The governor may remove the suspension issued by executive order. (4-11-15)

221. -- 999. (RESERVED)

IDAPA 29 – IDAHO POTATO COMMISSION

DOCKET NO. 29-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 22-1205 and 22-1207, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 29, rules of the Idaho Potato Commission:

IDAPA 29

- 29.01.01, *Rules of Procedure of the Idaho Potato Commission*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5128–5140**.

The pending rule adopts the updated and streamlined rules that were previously in 29.01.01 and 29.01.02, while deferring to the rules of procedure of the Attorney General when possible.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Patrick Kole at (208) 514-4208 or **Patrick.Kole@potato.idaho.gov**.

Dated this 24th day of July, 2019.

Patrick Kole, VP Legal and Government Affairs
Idaho Potato Commission
661 S. Rivershore Ln., Ste. 230
P.O. Box 1670
Eagle, ID 83616
Phone: (208) 514-4208
Fax: (208) 334-2274

IDAPA 29 – IDAHO POTATO COMMISSION

29.01.01 – RULES OF THE IDAHO POTATO COMMISSION

000. LEGAL AUTHORITY.
These rules are adopted under the general legal authority of the Idaho Potato Commission Law, Chapter 12, Title 22, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 29.01.01, "Rules of the Idaho Potato Commission." ( )

02. Scope. These rules govern payment of taxes to the Idaho Potato Commission (the Commission); records to be kept by growers, dealers, handlers, shippers, processors, container manufacturers, and out-of-state repackers of Idaho® potatoes; use of Certification Marks and Trademarks owned or administered by the Commission; branding of individual potatoes, state brand grade and packing requirements, reporting, labeling and revocation, and additional labeling requirements. These rules govern all procedure before the Idaho Potato Commission (the Commission). *( )*

002. (RESERVED)

003. ADMINISTRATIVE PROCEEDINGS AND APPEALS.
Administrative proceedings and appeals are administered by the Commission in accordance with the "Idaho Rules of Administrative Procedure of the Attorney General." IDAPA 04.11.01, Subchapter B - Contested Cases, Sections 100 through 800, which for the purpose of Section 22-1201 et seq., Idaho Code, *will* be known as Rules of Practice and Procedure of the Idaho Potato Commission Governing Contested Cases. Whenever these rules address the same subject matter as IDAPA 04.11.01, the specific provisions of these rules govern. There are no provisions for administrative appeals within the Commission under these rules of procedure, except that under Sections 202 and 203 a presiding officer may in the presiding officer's discretion refer a ruling on evidence or a motion to the full Commission. *( )*

***004*. -- 010. (RESERVED)**

010. DEFINITIONS.
The terms defined in Section 22-1204, Idaho Code, apply to this chapter. In addition, the following terms are defined as follows: ( )

01. Primary Channel of Trade. Potatoes are deemed to be delivered for shipment into the primary channel of trade when any such potatoes are sold or delivered for shipment, or delivered for canning and/or processing into by-products. ( )

011. -- 099. (RESERVED)

100. GENERAL.

01. Potato Tax. All potatoes grown in Idaho, no matter how grown (i.e. by conventional, organic, or other methods) and no matter what variety (i.e. russet, red, yellow, specialty, or other variety) are subject to the potato tax imposed by Section 22-1211, Idaho Code. ( )

02. Potato Tax Base Rate and Additional Tax. A base tax of four cents ($0.04) per hundredweight is imposed by statute on all potatoes grown in Idaho. In addition, an additional tax of eleven cents ($0.11) per hundredweight may be imposed upon a determination by at least two-thirds (2/3) of commission members that the anticipated expenditures for the fiscal year following the year in which the determination is made will exceed the anticipated tax revenues to be collected from the four cents ($0.04) base tax rate. ( )

03. Potato Tax Due Date and Responsible Party. The potato tax is due when potatoes are first handled in the primary channels of trade and must be paid not later than the fifteenth day of the next month. The first person selling or otherwise delivering potatoes into primary channels of trade is responsible for and must pay the full

potato tax. However, if the first person is a dealer or shipper handling potatoes grown by another, he may charge back to the person he acquired the potatoes from sixty percent (60%) of the potato tax. The charge back does not reduce the first person's tax liability due to the commission. ( )

04. Growers', Dealers', Handlers', Shippers', Processors', Container Manufacturers', and Out-of-State Repackers' Records. Idaho Potato Commission Tax Report Forms - Audits - Inspections. ( )

a. Every dealer or handler including out-of-state repackers shall keep a complete and accurate record of all potatoes handled in the primary channels of trade in such form as the Commission or *their designee* prescribes. *( )*

b. In addition to such other information that the Executive Director, duly authorized agent, representative or employee requires, each grower, dealer, handler, shipper, processor, container manufacturer, and out-of-state repacker shall keep records that segregates purchases and sales of Idaho® potatoes by calendar month; records of inventories of Idaho® potatoes by calendar month; and records of inventories of containers bearing the registered Certification Marks of the Commission by calendar month. Such records shall be preserved for a minimum period of two (2) years and be open to inspection at any time upon written or oral request or demand by the Commission or its duly authorized agents, representatives, or employees. *( )*

c. The Commission's duly authorized agent, representative or employee may enter upon the premises of any grower, dealer, handler, out-of-state repacker, container manufacturer, processor or any other license agreement holder of Idaho® potatoes and examine or cause to be examined any books, papers, records, ledgers, purchase journals, sales journals, electronically and/or magnetically recorded data, computers and computer records or memoranda bearing upon the amount of taxes payable or the correct usage of any Idaho Trade or Certification Mark, and to secure any other information directly or indirectly concerned with the enforcement of Chapter 12, Title 22, Idaho Code, all rules adopted pursuant thereto and all licensing agreements entered into with the Commission. The Commission's duly authorized agents, representatives or employees may also inspect and take samples of any potatoes, potato products or containers from the premises used by a grower, dealer, handler, shipper, processor, container manufacturer, or out-of-state repacker. Regular audits shall be routinely performed by the Commission or its duly authorized agents, representatives, or employees to assure adherence with these rules. In addition, compliance audits may take place at any time. For further requirements see Section 22-1212, Idaho Code. ( )

05. Calculation of Tax Due. All first handlers of Idaho® Grown potatoes shall pay the total tax due on all potatoes handled by them on a net weight basis. Net weight shall be determined by subtracting from the gross scale weight the dirt, rock, other foreign material only, and potatoes that are not used for human consumption. The amount of tax due is the tax rate currently imposed pursuant to Section 100.03 multiplied by the net hundredweight (cwt). The following diagram illustrates the manner in which the formula is to be applied:

Gross Scale Weight	Less	Dirt, rock, other foreign material, and potatoes not used for human consumption	=	Net CWT (Hundred-weight) upon which tax is due	X	Tax Rate	=	Tax Amount Due

( )

06. Tax Reports to Be Made by Growers, Dealers, Handlers, Shippers and Processors. A report on a form approved by the Commission, showing total weight handled for a given period of time and the Idaho Potato Commission tax due are to be sent to the Idaho Potato Commission office with the tax payment. These reports are to be made on forms furnished by the Commission and show such information as the Commission may require. *( )*

101. *(RESERVED)*

102. CERTIFICATION MARKS FOR IDAHO® POTATO CONTAINERS.

01. Containers. All potatoes grown in Idaho and packed or repacked in containers in or outside of the state of Idaho shall be in containers printed, labeled or stenciled in a plain and legible manner with one (1) of the

Commission's registered Certification Marks, and a "GROWN IN IDAHO®" Certification Mark. An exact reproduction of the Commission's Certification Marks appears in appendix A. Certification Marks may not be stamped on any Idaho® potato container without a temporary written variance. No container may use a "Check Off" box format for state of origin. All containers must use Idaho specific approved produce code identification numbers, where the same have been obtained and approved. No container of Idaho® potatoes or potato products may be manufactured or used without prior written approval of the Commission or its employee. No Seal, Trademark, Certification Mark, brand, or similar device used to promote potatoes not grown in Idaho can be placed on a container. ( )

a. Upon written application, the Idaho Potato Commission may grant a variance from these rules for special purpose shipments for charity, certified seed, experimentation and processing. If a variance is granted, the applicant shall comply with all terms and conditions of such variance. If applicable, the application shall be accompanied by a valid Certificate of Privilege issued by the Idaho and Eastern Oregon Potato Committee, and the applicant shall furnish copies of all of the reports required by the Idaho and Eastern Oregon Potato Committee to the Idaho Potato Commission. ( )

02. Marks. No person, firm or corporation packing or repacking potatoes or potato products outside of the state of Idaho shall use any of the Commission's Certification Marks on any containers of potatoes or potato products packed or repacked outside the state of Idaho unless they have first executed an agreement for the use of the Certification Marks with the Idaho Potato Commission, and unless they are actually packing or repacking in such containers of Idaho grown potatoes or potato products made from Idaho grown potatoes. ( )

03. Agreement. No person, including without limitation manufacturers, container manufacturers, growers, shippers, processors and repackers, shall use or reproduce any of the Commission's Certification Marks on any container without first executing an agreement for the use of the marks with the Idaho Potato Commission. ( )

04. Recognition. Whenever the "GROWN IN IDAHO®," "IDAHO®," or other Certification Marks are used, recognition must be given that the marks are registered under the appropriate Federal statute. This recognition must be: by printing a legible capital "R" inside a circle ®, immediately after the word "IDAHO" or where designated by a duly authorized employee of the Commission. ( )

05. No Certification Mark. No Certification Mark *may* be incorporated into any private label, brand, or seal but shall be portrayed without embellishment as shown in appendix A. *( )*

06. Not Incorporated. The word "IDAHO®," *can*not be incorporated into any private label, brand, or seal unless such label, brand, or seal was registered with the U.S. Patent Office prior to January 1, 1966. *( )*

07. Size. A Certification Mark shall be used on the front of a one hundred (100) pound sack type container, *that is* not less than five (5) inches in diameter or width and not placed closer than two (2) inches from the bottom of said container. Any Certification Mark used on the rear of a one hundred (100) pound sack type container, it shall not be less than twelve (12) inches in diameter or width. The marks may also be used on both the front and back of one hundred (100) pound sack type containers, if placed as indicated and in the sizes indicated. *( )*

08. Limitation of Use. On fifty (50) pound sack type containers, a Certification Mark shall be used as on the one hundred (100) pound containers, but in proportionate sizes. ( )

09. Other Type Containers. On all sack type containers of less than fifty (50) pounds, a Certification Mark shall appear plainly visible on the front of the containers in relative proportion to brands, labels, or other printed matter thereon, but not less than two and one quarter (2 1/4) inches in diameter or width. *( )*

10. Box Type Containers. ( )

a. On all box type containers in which U.S. No. 1 grade Idaho® Potatoes will be packed, a Certification Mark shall be located on the front and back panels of the container *that is* not less than a width measurement of three and one half (3 1/2) inches and a length measurement of five and one half (5 1/2) inches so placed as to be plainly visible. Unless an approved product traceability sticker is used, the top one and three quarters

(1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container. The container shall be packed with an approved box bottom bearing Idaho® Potato Certification Marks as specified by the commission. ( )

b. On all box type containers in which number two (2) grade Idaho® Potatoes will be packed, packing is permitted only when the following requirements are met: ( )

i. The container must be manufactured in a kraft, or non-colored cardboard material and may either be of a single or double piece construction that uses a box bottom bearing Idaho® Potato Certification Marks as specified by the commission; ( )

ii. The rectangular "Grown in Idaho®" certification mark shall be placed on each side and end panel of the container, with a width measurement of three and one-half (3 1/2) inches and length measurement of five and one-half (5 1/2) inches as shown in Appendix B; ( )

iii. The certification mark "Idaho® Potatoes" shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B; ( )

iv. The words "U.S. NO. 2" shall be printed on all four (4) sides of the container in one (1) inch lettering in the locations shown in Appendix B and on one (1) of the top flaps of the container; ( )

v. The top one and three quarters (1 3/4) inches of the carton shall contain no preprinting on all four (4) sides of the container; ( )

vi. One (1) of the elongated top flaps shall contain the "Grown in Idaho®" certification mark with a width of three and one-half (3 1/2) inches and length of five and one-half (5 1/2) inches, together with the certification mark "Idaho® Potatoes" in one (1) inch height and the words "U.S. NO. 2" in one (1) inch height; ( )

vii. Product code identification numbers on containers bearing the certification marks shall use Idaho specific codes where the same have been obtained and approved; and ( )

viii. All other requirements regarding container packaging set forth in these rules and the license agreements of the Idaho Potato Commission apply to the use of this type of container. ( )

11. Tote Bin Type. On all tote bin type containers, Certification Marks must be used on the front of said container but may be used elsewhere and shall not be less than twelve (12) inches in diameter or width. ( )

12. Identity of Commodity. All containers bearing the marks shall specify the identity of the commodity contained therein and the name and place of business of the manufacturer, packer, licensee, or distributor of the commodity. Containers which do not comply with the rules of the Idaho Potato Commission *can*not be used by any grower, dealer, handler, shipper, processor, or out-of-state repacker for any potatoes or potato products subject to these rules. ( )

13. Words Printed. All potatoes grown in Idaho and packed or repacked in Idaho shall have the words "PACKED IN IDAHO" printed on the container. ( )

14. Sack Type Containers -- Fifty Pounds or Over. On all sack type containers for fifty (50) pounds or over the words "PACKED IN IDAHO" shall be located on the front lower half of the container but not closer than six (6) inches to the bottom thereof. ( )

15. Sack Type Containers -- Less Than Fifty Pounds. On all sack type containers containing less than fifty (50) pounds of potatoes the words "PACKED IN IDAHO" may be placed anywhere on the container so as to be plainly visible. ( )

16. Location of Words. On all box type containers the words "PACKED IN IDAHO" may be located on the ends, sides or top of the container but shall be so placed as to be plainly visible. ( )

17. Colors. All marks when used and the words "PACKED IN IDAHO" shall be in color or colors in contrast with the color of the container. ( )

18. Use. Only in connection with potatoes and potato products grown within the state of Idaho may growers, handlers, shippers, processors, and packers use the name "IDAHO®" in any mark, label or stencil applied to containers for such produce and products. The growers, dealers, handlers, shippers, processors, and packers of potatoes within the state of Idaho are not precluded from processing, packing, and shipping potatoes grown outside the state of Idaho so long as such potatoes are not misrepresented or misbranded as Idaho® Potatoes. ( )

19. Compulsory Printing. Printing of the mark "GROWN IN IDAHO®" and the words "PACKED IN IDAHO" is compulsory on all potato containers printed or contracted for after December 1, 1964. ( )

20. Idahos. The word "IDAHOS" *can*not be used on any container for potatoes, potato products, or on any other printing or advertising material or correspondence used to identify or promote Idaho potatoes. *( )*

21. Exemption. Only shipments of certified seed potatoes to destinations outside of the state of Idaho are exempt from this rule. ( )

22. Other Rules. Other rules on containers, grade, and size are covered under Title 22, Chapter 9, Idaho Code, and applicable marketing orders. ( )

103. BRANDING, AND GRADE AND PACKAGING REQUIREMENTS OF STATE BRAND.

01. Branding or Marking of Individual IDAHO® Potatoes. ( )

a. Idaho® potatoes are considered to be branded when they are individually marked or identified as such. The methods of branding shall include: marking of individual potatoes by ink, heat, light, labeling, stickering, or puncturing and such other methods as may from time to time be authorized by the Idaho Potato Commission. ( )

b. The certification mark "Idaho®" shall be one (1) inch in length and one-quarter (1/4) inch in height unless prior Idaho Potato Commission written approval is secured and granted for any variance. ( )

c. The purchase or the leasing or use of branding machines shall be entirely voluntary. ( )

d. There *are* no limitations on the size and type of containers in which branded potatoes may be packed as long as they meet the licensing requirements of Section 102. *( )*

e. Grade for branding shall be U.S. No. 1 or better (as defined in the U.S. Standards effective March 27, 1991) and not less than two (2) inches in diameter or four (4) ounces in weight. ( )

f. Only Certification Marks owned or administered by the Idaho Potato Commission may be branded on potatoes grown in Idaho unless prior Idaho Potato Commission approval in writing is secured and granted for the use of additional words or designs. ( )

g. The operation of branding the word "Idaho®" upon potatoes *may* be carried on only by licensees of the Idaho Potato Commission, and only upon such terms and conditions that will insure that only Idaho grown potatoes are branded as such. *( )*

h. All varieties of potatoes grown in Idaho may be so branded. ( )

i. No person, firm, or corporation may brand the word "Idaho®" on potatoes or sell machinery for the purpose of branding potatoes with any of the Idaho certification marks unless granted the right to do so by written agreement with the Idaho Potato Commission. ( )

j. Branded potatoes must use Idaho specific, approved produce code identification numbers, where

the same have been obtained and approved. ( )

k. On all branded potatoes using a standard size sticker, the Certification Mark "Idaho® Potatoes" shall be printed in eight (8) point type and the Certification Mark "Grown in Idaho®" shall be printed with a minimum height of eight point one hundred twenty-nine (8.129) mm and minimum width of five point thirty-seven (5.37) mm. ( )

02. State Brand Grade and Packaging Requirements. Idaho® potatoes shall meet all requirements of U.S. Extra No. 1 as defined in the U.S. Standards for Grades of Potatoes, March 27, 1991, with the following additions or exceptions: ( )

a. Mature. ( )

b. Fairly well shaped. Defined as excluding the lower limits of such classification. ( )

c. Appearance as related to russeting *where* at least seventy five percent (75%) of the surface of the individual potato *is* moderately netted which means the netting will be solid net-like in appearance. *( )*

d. Size *is* two and one eighth (2-1/8) inches in diameter and four (4) ounces minimum, eleven (11) ounces maximum. Each lot shall meet the specifications of Size A as defined in 51.1545, Table I(2) of the Standards. *( )*

e. Tolerances for grade defects are defined in 51.1546(a)(2), for U.S. No. 1. ( )

f. All other tolerances and definitions of the Standards apply. ( )

03. Packaging. ( )

a. Container Requirement: Maximum size not to exceed twenty (20) pounds. ( )

b. Miscellaneous Requirements: Use of the state brand packaging *is* entirely voluntary. Potatoes grown *and packed* in Idaho may be packed in state branded containers. All varieties of potatoes grown in Idaho may be packed in state branded containers. The Commission shall require a written agreement between the Idaho Potato Commission and Idaho packers for the use of the state brand. All state branded containers shall be Federal-State inspected. *( )*

c. The grade used in state brand containers shall be as defined in Subsection 103.03 and "Idaho State Code 22-908" and "Federal-State Inspected" shall be printed in three-eights (3/8) inch or larger letters, on front of each container. ( )

d. If individually branded Idaho® potatoes are packaged in state brand packaging they must meet grade requirements as defined in Subsection 103.03. ( )

104. REPORTING, LABELING, AND REVOCATION.

01. Reporting of Fresh Shipments of Potatoes. ( )

a. *G*rowers, dealers, handlers, and shippers of Idaho® potatoes are required to report shipments of all fresh Idaho grown potatoes giving information as to weight, packaging, and type of receiver. Reporting forms will be furnished for this information by the Idaho Potato Commission. All information received will be kept in strictest confidence as to individual shipments. *( )*

b. The purpose of this information is to provide the Idaho Potato Commission with information concerning fresh potato sales in geographical marketing areas receiving Idaho® grown potatoes to enable it to design and evaluate advertising and marketing programs. ( )

02. Labeling Containers of Fresh Idaho® Potatoes to Indicate the Variety Packed Therein.

( )

a. All potatoes grown in Idaho that are packed or repacked in containers in Idaho, or packed or repacked in containers outside of Idaho under an out-of-state packer license agreement, shall be packed or repacked in containers that are printed, marked, labeled or stenciled in a plain and legible manner that identifies the variety packed therein. ( )

b. No container may contain more than one (1) variety of potato, except as provided by written variance for non-russet variety potatoes. ( )

c. Any mark, label, or stencil *necessitated* by this rule shall be conspicuously placed on the container and printed in a color contrasting with the background and be of a size determined as follows: *( )*

i. For bags and other containers holding one hundred (100) pounds of potatoes or more, the letters of the label shall be at least one (1) inch high; ( )

ii. For bags and other containers holding fifty (50) pounds or more of potatoes, but less than one hundred (100) pounds, the letters of the label shall be at least three-fourths (3/4) of an inch high; ( )

iii. For bags or other containers holding less than fifty (50) pounds of potatoes, the letters on the label shall be five-eights (5/8) of an inch high. ( )

iv. For containers holding less than five (5) potatoes, the letter on the label shall be in a size that is plainly visible and approved in writing by a duly authorized Commission employee. ( )

d. Any person seeking authorization to comply with this rule in a manner other than that specified herein shall submit a written request to the Commission for approval of an alternate method of compliance, which alternative method shall be in substantial compliance with these standards and which request describes in detail the proposed alternate method of compliance. The Executive Director of the Commission or a duly authorized employee shall have the authority and responsibility to review such requests and rule whether they should be allowed, said determination to be based upon a finding that such alternate method has nor has not been shown to comply with the purpose and meet the standards of this rule; provided, any interested person may request in writing that the Commission grant a de novo review of said request at a subsequent regular meeting deemed convenient and appropriate by the Commission, which request the Commission may in its discretion, either grant or deny. ( )

e. No potatoes grown in Idaho and packed or repacked in containers in Idaho, or packed or repacked outside of Idaho under an out-of-state packer license agreement, shall carry or be printed, labeled, or identified with the GROWN IN IDAHO® or IDAHO® marks unless this rule is fully complied with as respects said potatoes. ( )

f. All persons growing potatoes in Idaho or packing or repacking in containers in Idaho, or packing or repacking outside of Idaho under an out-of-state license agreement, shall have the affirmative duty to avoid and refrain from ambiguous or misleading practices, acts or representations and to eliminate the same in marketing or handling Idaho® potatoes if such practice does or is likely to mislead any purchaser or consumer regarding the quality and variety of Idaho® potatoes purchased by such buyer or consumer. ( )

03. Revocation of Right to Use Marks. ( )

a. The Commission *has* the power to revoke the right of any person, firm, or corporation to use any of the Commission's Certification Marks or Trademarks if such person, firm, or corporation fails to pay any advertising tax assessed against it, license fees, or royalties, or fails to comply with any of these rules or applicable law. *( )*

b. Revocation of the right to use the Certification Marks or Trademarks shall not occur without reasonable notice of at least twenty (20) days and an opportunity for a hearing pursuant to Section 67-5242, Idaho Code. However, where the Executive Director determines that expedited action is necessary, he may: ( )

i. Issue an order immediately suspending the right to use any of the Commission's Certification

Marks or Trademarks pending a hearing, which hearing shall be held within twenty (20) days from the Executive Director's order; or ( )

ii. Issue an order conditioning the right to use any of the Commission's Certification Marks or Trademarks pending a hearing, which hearing shall be held within twenty (20) days from the Executive Director's order; or ( )

iii. Issue an order directing that the user of the Commission's Certification Marks or Trademarks show cause why the right to use the marks should not be suspended or conditioned further. ( )

105. ADDITIONAL LABELING REQUIREMENTS, POTATOES.

01. Disclosure of Geographic Growing Area of Origin upon Potato Containers. All persons doing business in the state of Idaho are required to disclose the growing area of origin upon all potato containers in accordance with this rule and Section 22-1207, Idaho Code. For purposes of these rules, doing business in the state of Idaho means the doing of any of the acts which would subject a person to the jurisdiction of the courts of this state or defined in Section 5-514, Idaho Code. ( )

02. Compliance for Idaho Grown Potatoes. For potatoes "Grown in Idaho®," this rule is complied with by meeting the requirements of Section 102. ( )

03. Compliance for Private Brands or Labels That Reference Idaho Locations. Private brands or labels of containers that reference an Idaho location, geographical feature, or otherwise attempt to imply directly or indirectly that a container of potatoes contains potatoes grown in Idaho when in fact such is not the case are prohibited. ( )

04. Compliance for Private Brands or Labels That Do Not Reference Idaho Locations. Private brands or labels that do not reference an Idaho location, geographical feature, or otherwise attempt to imply directly or indirectly that a container of potatoes contains potatoes grown in Idaho when in fact such is not the case, but only have an Idaho address on the container, are permitted when approved by the commission or its designee. This rule is complied with by private brands or labels that: ( )

a. Meet the requirements of Subsection 104.02.c.; ( )

b. State the geographical state of origin of the potatoes followed by the word "potatoes"; and ( )

c. The lettering size of the Idaho address on the container does not exceed one-half (1/2) inch for containers fifty (50) pounds or greater and one-quarter (1/4) inch for containers less than fifty (50) pounds. For example, for potatoes grown in the state of Washington, the phrase "Washington potatoes" would comply with these rules. The use of the words "Grown in" preceding the state of origin is prohibited. ( )

106. ADDITIONAL REQUIREMENTS FOR USE OF TRADEMARKS.

01. Marks. No person is permitted to use any trademark owned or administered by the Commission unless authorized to do so pursuant to a license agreement entered into with the Commission. ( )

02. Agreement. Trademarks owned or administered by the Commission may be licensed for use as permitted under federal and state law and as authorized by the Commission. ( )

03. Royalty Fees. In addition to license fees, the Commission may set royalty fees for the use of trademarks. ( )

04. Reproductions. Exact reproductions of the trademarks owned or administered by the Commission are set forth in Appendix C of these rules. ( )

107. -- 199. (RESERVED)

SUBCHAPTER A - RULES OF PROCEDURE
(Sections 200 through 204)

200. INFORMAL FILES MAY BE INVESTIGATIVE RECORDS.
Files created by the Commission and its staff in response to informal inquiries or complaints are investigatory records within the meaning of Sections 74-101(6) and 74-107(16), Idaho Code, are generally exempt from disclosure according to the standards of Sections 74-101 through 74-108, Idaho Code, but are available under Section 74-113, Idaho Code, to the customer, applicant, licensee, etc., that are the subjects of the investigation. ( )

201. SUBPOENAS.

01. Issuance of Subpoenas. Upon a motion in writing, or upon a Commissioner's own initiative without motion, any Commissioner or the Commission's Secretary may issue subpoenas: ( )

a. Requiring the attendance of a witness from any place in Idaho; ( )

b. The production of documents from any place in Idaho; or ( )

c. The production of any books, accounts, papers, or records of a licensee kept within or without Idaho to any designated place of deposition, hearing, or investigation for the purpose of taking testimony or examining documents before the Commission, a Commissioner or hearing examiner. ( )

02. Witness or Travel Fees. A party's motion to issue a subpoena must be accompanied by a statement that the party will tender to the subpoenaed person all fees *necessitated* by statute and rules if the subpoena is issued. *( )*

03. Motions to Quash. The Commission upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may: ( )

a. Quash the subpoena; or ( )

b. Condition denial of the motion to quash upon reasonable terms. ( )

202. RULINGS AT HEARINGS.
The presiding officer rules on motions presented at hearing. The presiding officer's rulings may be reviewed by the full Commission in determining the matter on its merits. In extraordinary circumstances, the presiding officer may refer or defer these matters to the full Commission for determination. ( )

203. OBJECTIONS -- OFFERS OF PROOF.
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection or the presiding officer may receive the evidence subject to the later ruling by the full Commission or refer to the matter to the full Commission. ( )

204. -- 999. (RESERVED)

APPENDIX A


Certified
GROWN IN IDAHO
100% Idaho Potatoes
Certified
GROWN IN IDAHO
100% Idaho Potatoes
Certified
GROWN IN IDAHO
100% Idaho Potatoes
Certificadas
PRODUCIDAS EN IDAHO
100% Papas de Idaho
Certified
GROWN IN IDAHO
100% Idaho Potatoes
Certified
GROWN IN IDAHO
100% Idaho Potatoes
Certificadas
PRODUCIDAS EN IDAHO
100% Papas de Idaho
GROWN IN ® IDAHO
PRODUCIDAS EN IDAHO
GROWN IN ® IDAHO
GROWN IN ® IDAHO
IDAHO POTATOES
IDAHO POTATOES
Certified
GROWN IN IDAHO
Genuine Idaho Potatoes
Certified
GROWN IN IDAHO
Genuine Idaho Potatoes
Idaho® Potatoes
Idaho Potatoes
GROWN IN IDAHO
GROWN IN IDAHO

APPENDIX B

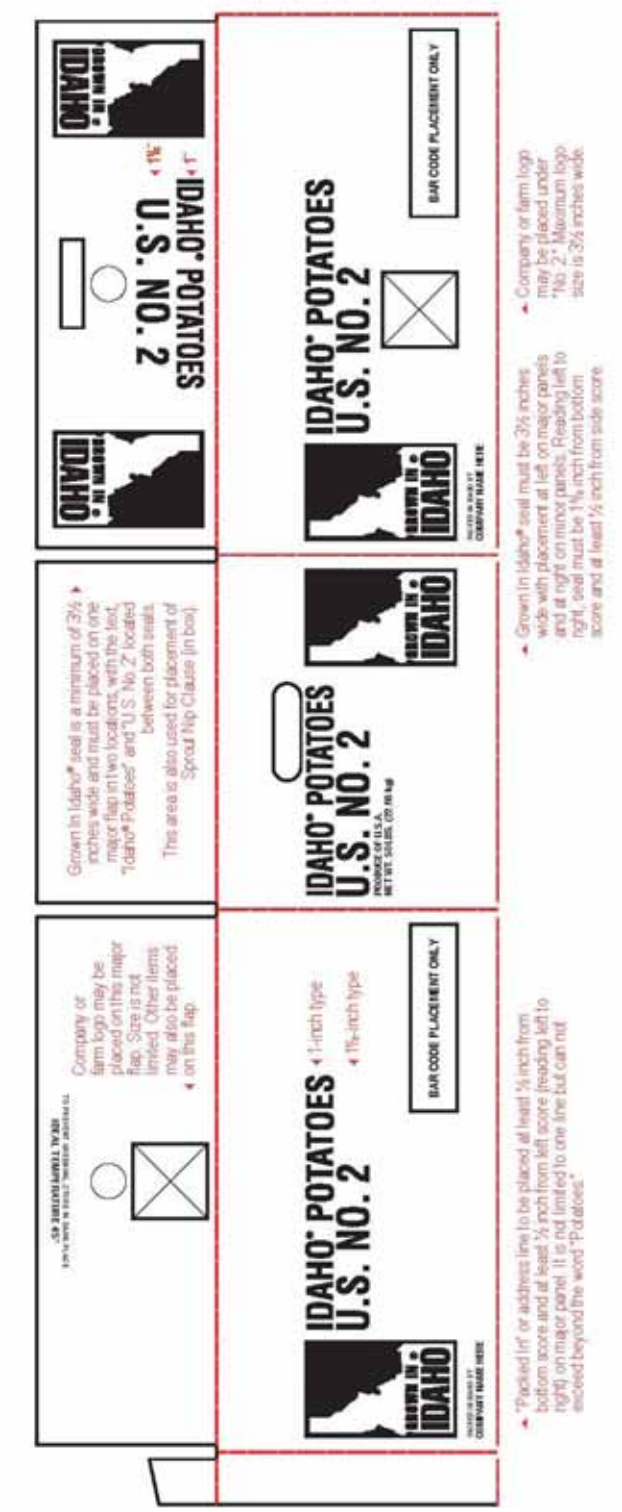
IDAHO POTATOES
U.S. NO. 2
BAR CODE PLACEMENT ONLY
Company or farm logo may be placed on this major flap. Size is not limited. Other items may also be placed on this flap
Grown in Idaho® seal is a minimum of 3½ inches wide and must be placed on one major flap in two locations, with the text, "Idaho® Potatoes" and "U.S. No. 2" located between both seals.
This area is also used for placement of Sprout Nip Clause (in box)
1-inch type
1⅝-inch type
"Packed In" or address line to be placed at least ½ inch from bottom score and at least ½ inch from left score (reading left to right) on major panel. It is not limited to one line but can not exceed beyond the word "Potatoes"
Grown in Idaho® seal must be 3½ inches wide with placement at left on major panels and at right on minor panels. Reading left to right, seal must be 1⅝ inch from bottom score and at least ½ inch from side score
Company or farm logo may be placed under "No. 2". Maximum logo size is 3½ inches wide.

APPENDIX C


Certificadas
PRODUCIDAS EN IDAHO
100% Papas de Idaho
Certified
GROWN IN IDAHO
100% Idaho Potatoes
IDAHO POTATO COMMISSION
FAMOUS POTATOES
GROWN IN ® IDAHO
Las Papas Famosas
Famous Potatoes
FAMOUS IDAHO POTATOES

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES

DOCKET NO. 30-0101-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 33-2503(2), Idaho Code. The Board of Library Commissioners has the authority to promulgate rules for the proper conduct of business for the Idaho Commission for Libraries.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 30, rules of the Idaho Commission for Libraries:

IDAPA 30

- 30.01.01, *Rules of the Idaho Commission for Libraries Governing the Use of Commission Services*

The rulemaking was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5141–5148**.

FISCAL IMPACT: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact State Librarian Stephanie Bailey-White, (208) 639-4145.

Dated this 6th day of September, 2019.

Stephanie Bailey-White, State Librarian
Idaho Commission for Libraries
325 W. State Street
Boise, ID 83702
Phone: (208) 334-2150
Fax: (208) 334-4016

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES

30.01.01 – RULES OF THE IDAHO COMMISSION FOR LIBRARIES GOVERNING THE USE OF COMMISSION SERVICES

000. LEGAL AUTHORITY.
In accordance with Section 33-2503(2), Idaho Code, the Board of Library Commissioners has the authority to promulgate rules for the proper conduct of business for the Idaho Commission for Libraries. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 30.01.01, "Rules of the Idaho Commission for Libraries Governing the Use of Commission Services." (4-2-08)

02. Scope. These rules govern the use of the Idaho Commission for Libraries services. (4-2-08)

002. ADMINISTRATIVE APPEALS.
Appeals from the agency's denial of eligibility for grant funding or denial of a request for exemption from criteria for a proposed library district will be governed by the provisions of the Administrative Procedure Act, Title 67, Chapter 52, Idaho Code, and IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (4-11-19)

003. INCORPORATION BY REFERENCE.
The Library Services and Technology Act, 20 U.S.C.A. Section 9101, et. seq. Copies of the Library Services and Technology Act are available at the offices of the Commission and at Museum and Library Services website at https://www.imls.gov/assets/1/AssetManager/MLSA_2010_asamended.pdf. (4-11-19)

***004*. -- 010. (RESERVED)**

011. DEFINITIONS.

01. Academic Library. A library organized and operating as part of an institution of higher education. An academic library may be, or be part of, a registered non-profit organization with tax exempt status. (4-11-19)

02. Board. The Idaho Board of Library Commissioners as established in Title 33, Chapter 25, Idaho Code. (4-2-08)

03. Commission. The Idaho Commission for Libraries as established in Title 33, Chapter 25, Idaho Code. (4-2-08)

04. Library Clientele. The clientele of a library is dependent upon the type of library: (4-2-08)

a. Academic library. The students, staff, and faculty of the academic institution. (4-2-08)

b. Public library. The residents of the library's legal service area, as defined by the boundaries of its jurisdiction, and any non-residents as further defined by the library board's policies and contracts. (4-2-08)

c. School library. The students, staff, and faculty of the school or school district. (4-2-08)

d. Special library. The patrons of the individual library or its parent institution, or both. (4-2-08)

05. Library Consortia. A local, regional, statewide, or interstate cooperative association of library entities which provides for the systematic and effective coordination of the resources of academic, public, school, and special libraries for improved services for the clientele of the member library entities. (4-2-08)

06. Public Library. A library organized and operating in compliance with Title 33, Chapter 26 or Title 33, Chapter 27, Idaho Code. (4-2-08)

07. School Library. A library organized and operating as part of a primary or secondary school, or both, or school district. Also called a school library media center. (4-2-08)

08. Special Library. A library that is not an academic, public, or school library, usually organized to meet a specialized mission and operating with a specialized collection, or to serve a specialized clientele. A special library may be a tribal, military or correctional institution library, or one that is, or is part of, a registered non-profit organization with tax exempt status. (4-11-19)

012. ABBREVIATIONS.

01. LiLI. Libraries Linking Idaho. (4-2-08)

02. LSTA. Library Services and Technology Act. (4-2-08)

013. -- 019. (RESERVED)

020. GRANT PROGRAMS – ELIGIBILITY REQUIREMENTS.

01. General Eligibility Requirements for Public, School, Academic, and Special Library Grant Program Applicants. Any grant program library applicant will meet the following eligibility requirements: (4-11-19)

a. The library consists of a specific, permanent space exclusively designated for providing library services. (4-2-08)

b. The library collects, provides, and coordinates access to library materials. (4-2-08)

c. The library serves its clientele free of charge. (4-2-08)

d. The library maintains regular hours of operation posted at the library door, and is open at least five (5) hours per week. (4-11-19)

e. The library has complied with previous Commission grant conditions during the preceding fiscal year. (4-11-19)

f. The library has at least one (1) paid staff member responsible for the daily operation of the library. (4-11-19)

g. The library is not affiliated with any school, university or organization controlled by any church, sectarian, or religious denomination (Idaho State Constitution, Article IX, Section 5). (4-11-19)

h. The library seeking to participate in any grant program must apply on forms provided by the Commission for that purpose. (4-11-19)

02. Additional Eligibility Requirements for School and Academic Library Grant Program Applicants. In addition to the criteria set forth in Subsection 020.01 of these rules, any grant program school or academic library applicant will also meet the following requirements: (4-11-19)

a. For school libraries, the school maintains a space that: (4-11-19)

i. Is dedicated to library services, and is not space solely used for other instructions, such as a teacher's classroom; (4-11-19)

ii. Houses books and other tools supporting the curriculum, research and reading requirements of students and staff; (4-11-19)

iii. Is accessible for the students, teachers and staff at the school; and (4-11-19)

b. For academic libraries, the academic institution is accredited by the Northwest Commission on

Colleges and Universities. (4-11-19)

03. Additional Eligibility Requirements for Public Library Grant Program Applicants. In addition to the criteria set forth in Subsection 020.01 of these rules, any grant program public library applicant will also meet the following requirements: (4-11-19)

a. The library is established and operating in compliance with Title 33, Chapter 26 or Title 33, Chapter 27, Idaho Code. (4-2-08)

b. The library is open to the general public and does not charge a fee to any resident of its legal service area for any basic library service. Basic library services include: (4-11-19)

i. Access during posted operating hours to library collections and the internet. (4-11-19)

ii. Circulation of library materials, regardless of format. (4-2-08)

iii. Access to interlibrary loan services. Postage charges for interlibrary loans are assumed by the library, not the user. (4-2-08)

iv. Reference services, regardless of format. (4-2-08)

c. The library has a completed annual "Idaho Public Library Survey" for the preceding fiscal year accepted by, and on file at, the Commission. (4-11-19)

d. The library has adopted a written internet safety policy that has been reviewed within the last three (3) years by the library's board of trustees and is posted at the library. (4-11-19)

e. The library maintains a web presence that provides current information about, or access to, its services including: (4-11-19)

i. Library contact information. (4-11-19)

ii. Link to the LiLI Portal or to the LiLI Databases with the "funded by LiLI" icon. (4-11-19)

021. LIBRARY CONSORTIUM GRANT PROGRAM APPLICANTS.
In addition to the criteria set forth in Subsection 020.01 of these rules, any grant program library consortium applicant will have a formal organizational structure with at least the following elements in place: (4-11-19)

01. Name. A name for the consortium. (4-2-08)

02. Identification Number. A tax identification number or an employer identification number (EIN) for the consortium. (4-2-08)

03. Members List. A list of all the members. (4-2-08)

04. Governance Structure. A representative governance structure and the name or names of the individuals with leadership roles and responsibilities identified. (4-2-08)

05. Funding Mechanism. A sustaining funding mechanism supported in part by local funds from the members involved. (4-2-08)

06. Agreement or By-Laws. A cooperative agreement or by-laws of the organization signed by each member. (4-2-08)

022. – 029. (RESERVED)

030. REQUEST FOR EXEMPTION FROM THE CRITERIA FOR A PROPOSED LIBRARY DISTRICT - SECTION 33-2703(5), IDAHO CODE.

01. Exemption Requests. An applicant requesting exemption must apply on forms provided by the Commission and submit the completed application at least six (6) months prior to the election to be conducted to establish the district. (4-2-08)

02. Factors in Evaluating the Request for Exemption. In reviewing applications for exemption, the following factors will be considered: (4-2-08)

a. Service plan and budget. (4-2-08)

i. Will the proposed district meet the Commission's LSTA grant eligibility requirements? (4-2-08)

ii. Is there an awareness of current trends in library service and the ability to offer new services as the need is identified? (4-2-08)

iii. Is the proposed budget commensurate with the service plan? (4-2-08)

iv. Is the district as described likely to be able to sustain a level of library services that is consistent with state plans? (4-2-08)

b. Proposed boundaries, population size, and levy. (4-2-08)

i. Have the organizers investigated all reasonable alternatives, including those identified by Commission staff? (4-2-08)

ii. Have the organizers met with neighboring library boards to discuss possible annexation or combination? Have those neighboring boards indicated that they are not interested? (4-2-08)

iii. Does area history suggest the election is not likely to pass with expanded boundaries? (4-2-08)

iv. Is the proposal part of a plan to use the proposed district as a stepping stone to a larger district? (4-2-08)

c. Anticipated impact in the event exemption is not granted. (4-2-08)

i. Will current services significantly decline? (4-2-08)

ii. Will the long-term effects be so negative that library service will be badly damaged in the long run? (4-2-08)

031. -- 039. (RESERVED)

040. DIGITAL REPOSITORY OF STATE PUBLICATIONS.
All state publications intended for distribution to the public must be deposited with the Commission according to Section 33-2505, Idaho Code. The Board may, however, grant exemptions from Section 33-2505, Idaho Code, for any publication or class of publications in the interest of economy and efficiency. Exemption requests may be made by state agencies or the State Librarian. Any formal Board action will be documented in the Board minutes and communicated to the requestor. (6-30-19)T

041. -- 049. (RESERVED)

050. TALKING BOOK SERVICE (TBS).

01. Patron Status. (3-29-10)

a. Active status. To remain active, users must borrow or download at least one (1) book per year or subscribe to at least one (1) magazine provided through the service. (4-11-19)

b. Changes of status. The user must notify the Talking Book Service of address changes, a desire to cancel the service, and temporary or permanent service transfer to another state. (3-29-10)

02. Materials Loaned. (3-29-10)

a. Formats. Audio and Braille books, magazines, and print/Braille books are loaned free to eligible registered users. The Talking Book Service keeps records of all loans. (4-11-19)

b. Equipment. Equipment necessary to listen to audio materials will be loaned for as long as the user meets National Library Service eligibility requirements and is using the equipment to listen to materials provided by the Talking Book Service. Materials received from sources other than the Talking Book Service do not qualify for continuance of service. Playback equipment needing repair must be returned to the Talking Book Service. A replacement will be provided upon request. The user should not attempt to repair the playback equipment or replace the battery. (4-11-19)

c. Sharing materials. Users may not lend Talking Book Service materials or equipment to other persons. (3-29-10)

03. Circulation. (3-29-10)

a. Number of titles loaned. The Board will establish the maximum number of titles each user may request and that information is available at the Commission office. Once a user reaches the established maximum number of titles, no additional titles will be sent in that format until outstanding titles are returned. A user may request a change in the number of titles received at any time, up to the maximum. (3-29-12)

b. Loan periods. The Board will establish loan periods for all titles and that information is available at the Commission office. (3-29-12)

c. Overdue materials. Users are urged to return materials promptly so they can be circulated to other patrons. (3-29-12)

d. Fines. No fines are levied for materials returned later than the circulation due date. (3-29-10)

e. Returning materials. Materials can be returned free via the United State Postal Service using Free Matter for the Blind mailing cards. Place materials in a mailbox or take them to the Post Office. (3-29-10)

04. Service Suspension. If any of the rules of Section 050 of these rules are repeatedly violated, the user's service may be suspended pursuant to the following suspension procedure: (3-29-10)

a. Service staff will discuss the violation with the user. (3-29-10)

b. A warning letter will be sent to the user that summarizes the discussion and the violation. The user will have an opportunity to reply within ten (10) business days. (3-29-10)

c. If rule violations continue, a second warning letter will be sent citing the earlier warning letter and listing examples of subsequent violations. The service can be suspended for up to six (6) months. A specific date to reinstate service will be included in this letter. The user will have an opportunity to reply within ten (10) business days. (3-29-10)

d. When service is reinstated, a letter will be sent notifying the user of reinstatement of service and reminding the user that further documented violations will result in another suspension of service. (3-29-10)

051. -- 999. (RESERVED)

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

DOCKET NO. 31-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code. Chapters 8 through 10, 13, 15 through 17, Title 61, Idaho Code; Chapters 3 and 4, Title 62, Idaho Code; the Telecommunications Act of 1988, as amended, Chapter 6, Title 62; Chapters 12 and 13, Title 62, Idaho Code; and the Public Records Act, Chapter 1, Title 74, Idaho Code; and the particular authority of Sections 56-904, 61-110, 61-111, 61-129, 61-301 through 61-309, 61-315, 61-501 through 61-505, 61-508, 61-510, 61-512, 61-515 through 61-517, 61-520, 61-523, 61-524, 61-538, 61-541, 61-601 through 61-607, 61-610 through 61-619, 61-621 through 61-626, 61-803 through 61-806, 61-902 through 61-905, 61-909, 61-1003 through 61-1005, 61-1007, 61-1305, 61-1306, 61-1603 through 61-1607, 61-1703 through 61-1709, 62-301 through 62-308, 62-424, 62-602 through 62-616A, 62-619, 62-622, 62-622A, 62-1201 through 62-1207, 62-1303, 62-1304, 63-3029I, 67-6528, and 74-107(13), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 31, rules of the Idaho Public Utilities Commission:

IDAPA 31

- 31.01.01, *Rules of Procedure of the Idaho Public Utilities Commission*
- 31.11.01, *Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission*
- 31.12.01, *Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission*
- 31.21.01, *Customer Relations Rules for Gas, Electric and Water Public Utilities (the Utility Customer Relations Rules)*
- 31.26.01, *Master-Metering Rules for Electric Utilities*
- 31.31.01, *Gas Service Rules*
- 31.36.01, *Policies and Presumptions for Small Water Companies*
- 31.41.01, *Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to Customer Service Regulation by the Idaho Public Utilities Commission*
- 31.46.01, *Universal Service Fund Rules*
- 31.46.02, *Rules for Telecommunications Relay Services (TRS)*
- 31.61.01, *Rules for the Measurement of Stray Current or Voltage*
- 31.71.01, *Railroad Safety Rules*
- 31.81.01, *Energy Consumption Reporting Rules*

This pending rule vacates the following proposed rule previously promulgated as part of the omnibus proposed rulemaking under IDAPA 31, rules of the Idaho Public Utilities Commission:

- ***(VACATED)*** *31.51.01, Operator Service and Pay Telephone Rules*
- ***(VACATED)*** **31.71.03, Railroad Safety and Accident Reporting Rules*

IDAPA *31.71.03 has been combined with IDAPA 31.71.01 to consolidate the Railroad Safety Rules into a single chapter. Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code.

The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 5149–5322**. Changes to these proposed rules are in compliance with **Executive Order 2019-02**: Red Tape Reduction Act.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Stephen Goodson at (208) 334-0323.

Dated this 10th day of October, 2019.

Diane Holt, Commission Secretary
Idaho Public Utilities Commission
11331 W. Chinden Blvd, Bldg 8, Ste 201-A
Boise, Idaho 83714
P.O. Box 83720
(208) 334-0323 Office
(208) 334.4045 Fax

SUBCHAPTER A -- GENERAL PROVISIONS
(Rules 0 -- 20)

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code. Chapters 8 through 10, 13, 15 through 17, Title 61, Idaho Code; Chapters 3 and 4, Title 62, Idaho Code; the Telecommunications Act of 1988, as amended, Chapter 6, Title 62; Chapters 12 and 13, Title 62, Idaho Code; and the particular authority of Sections 56-904, 61-304 through 61-309, 61-501 through 61-505, 61-507, 61-516, 61-538, 61-541, 61-601 through 61-607, 61-610 through 61-619, 61-621 through 61-626, 61-803 through 61-806, 61-902 through 61-905, 61-909, 61-1003 through 61-1005, 61-1007, 61-1305, 61-1306, 61-1603 through 61-1607, 61-1703 through 61-1709, 62-304, 62-305, 62-424, 62-602 through 62-616A, 62-619, 62-622, 62-622A, 62-1201 through 62-1207, 62-1303, 62-1304, 63-3029I, and 67-6528, Idaho Code. (4-7-11)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is "Rules of Procedure of the Idaho Public Utilities Commission." This chapter has the following scope: These rules govern all procedure before the Idaho Public Utilities Commission (the Commission). (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
There are no provisions for administrative appeals within the Commission under these rules of procedure, except that under Rules 253 and 265 a presiding officer may in the presiding officer's discretion refer a ruling on evidence or a motion to the full Commission. (7-1-93)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).
Except as provided by statute and Rules 26, 52, 67, 233, and 287, all materials filed with the Commission pursuant to these rules and all materials issued by the Commission pursuant to these rules are public documents subject to inspection, examination and copying. (4-7-11)

005. DEFINITIONS (RULE 5).
Terms of art used throughout these rules are defined within the rules themselves. The term "utility" used in these rules includes every common carrier, pipeline corporation, gas corporation, electric corporation, telephone corporation, and water corporation as defined in Chapter 1, Title 61, Idaho Code, and Section 62-603, Idaho Code. (4-7-11)

006. -- 009. (RESERVED)

010. THESE RULES SUPERSEDE THE ATTORNEY GENERAL'S RULES OF PROCEDURE (RULE 10).
Except as provided in Rule 401 addressing rulemaking, these rules are affirmatively promulgated to supersede the Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01.000 et seq. The Attorney General's Idaho Rules of Administrative Procedure do not apply to proceedings before the Commission except as provided in Rule 401. (7-1-93)

011. PROCEEDINGS GOVERNED (RULE 11).
Rules 11 through 401 govern all procedure before the Idaho Public Utilities Commission (the Commission) in all investigations, contested cases, licensing, rulemaking, and other matters specifically addressed by these rules, unless otherwise directed by the Commission. (7-1-93)

012. OFFICE – OFFICE HOURS – FAX NUMBER – MAILING, ELECTRONIC AND STREET ADDRESSES – DROP BOX (RULE 12).
The principal office of the Commission is in Boise, Idaho. This office is open from 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. The Commission's telephone number is (208) 334-0300. The hearing or speech impaired may reach the Commission through the Idaho Telecommunications Relay Service by dialing 711. The Commission has no drop box for filing documents after the close of business. (5-8-09)

01. Fax Number, Mailing and Street Addresses. The Commission's FAX number is (208) 334-3762.

The Commission's mailing address is: Idaho Public Utilities Commission, PO Box 83720, Boise, Idaho 83720-0074. The street address of the Commission is: 11331 W. Chinden Blvd, Bldg 8, Suite 201-A, Boise, Idaho 83714. Except as noted in Subsection 012.03 of this rule, all documents filed in all proceedings must be filed with the Commission at one (1) of these addresses. (5-8-09)

02. Internet Homepage. The Commission's electronic address is http://www.puc.idaho.gov. (5-8-09)

03. Electronic Address. The Commission's e-mail address is secretary@puc.idaho.gov, for filing authorized documents per Subsections 061.02 through 061.04. (5-8-09)

013. LIBERAL CONSTRUCTION (RULE 13).
These rules will be liberally construed to secure just, speedy and economical determination of all issues presented to the Commission. Unless prohibited by statute, the Commission may permit deviation from these rules when it finds compliance with them is impracticable, unnecessary or not in the public interest. (7-1-93)

014. COMMISSION SECRETARY -- COMMUNICATIONS WITH COMMISSION -- TIMELY FILING (RULE 14).

01. The Commission Secretary. The Commission Secretary is the custodian of all public files of the Commission and is responsible for service of all orders and notices of the Commission and of all complaints filed with the Commission. Unless otherwise directed by order, the Commission Secretary issues all official notices of the Commission. All written communications and documents that are intended to be part of an official Commission record (other than a hearing record) must be filed with the Commission Secretary. (5-8-09)

02. Timely Filing. Unless otherwise provided by statutes, these rules, order or notice, documents are considered filed when received by the Commission Secretary, not when mailed or otherwise transmitted. (5-8-09)

03. Case Information. Information concerning proceedings before the Commission or the status of any matter before the Commission is available from the Commission Secretary or the Commission's Internet homepage. (5-8-09)

015. IDENTIFICATION OF COMMUNICATIONS (RULE 15).
Parties' communications addressing or pertaining to a given case or proceeding must be written under that case caption and case number. General communications by other persons should refer to case captions, case numbers, permit numbers, or the like, if this information is known. (7-1-93)

016. SERVICE BY COMMISSION - DESIGNATION OF AGENT (RULE 16).
The Commission Secretary serves all notices, orders, summonses, and complaints issued by the Commission or by the Secretary. (7-1-93)

01. Service of Orders and Notices. All notices and orders served by the Commission may be served by United States mail. Notices and orders may also be served by electronic mail in cases designated by the Commission. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is either deposited in the United States mail or transmitted electronically. All orders and notices shall be affixed with the Commission Secretary's official service date on the first page. The Commission Secretary will serve all orders and notices in a proceeding on the representatives of each party designated pursuant to Rule 41 for that proceeding and upon other persons designated by these rules or by the Commission or any Commissioner. (3-16-04)

02. Service of Summonses and Complaints. The Commission Secretary will serve complaints against utilities upon the person designated for that purpose by the utility. Summonses and complaints directed to regulated utilities or other persons shall be served by registered or certified mail. Writs of summons or subpoena and warrants of attachments directed to all other persons must be served by a person authorized to serve process by statute or by the Idaho Rules of Civil Procedure. (4-7-11)

03. Designation of Agent for Service. All utilities shall designate a person as their agent to be served with summons and complaints. Utilities shall be responsible for maintaining on file with the Commission Secretary

the current name, mailing address and e-mail address of the person designated as the agent to receive service. (4-7-11)

017. COMPUTATION OF TIME (RULE 17).
Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is a Saturday, Sunday or legal holiday, the act may be done on the first day following that is not a Saturday, Sunday or legal holiday. (7-1-93)

018. PAYMENT OF FEES AND REMITTANCES (RULE 18).

01. Payments. Fees and remittances to the Commission must be paid by money order, bank draft or check payable to "Idaho Public Utilities Commission." Remittances in currency or coin are wholly at the risk of the remitter, and the Commission assumes no responsibility for their loss. (2-15-14)

02. Annual Regulatory Fees. Utilities and railroads shall pay their annual special regulatory fees as required by Chapter 10, Title 61 and Section 62-611, Idaho Code. Utilities and railroads that fail to pay their special regulatory fees, are no longer conducting business in Idaho, and fail to maintain a designated agent for service with the Commission Secretary (Subsection 016.03) may be administratively removed from the list of utilities and railroads subject to the annual regulatory fee. (2-15-14)

019. INCORPORATED BY REFERENCE -- IDAHO BAR COMMISSION RULE (RULE 19).
Rule 43 incorporates by reference Idaho Bar Commission Rule 227 (Pro Hac Vice Admission). Bar Rule 227 is promulgated by the Idaho State Bar and adopted by order of the Idaho Supreme Court. Bar Rule 227 may be obtained from the Idaho State Bar, PO Box 895, Boise, ID 83701, or online at http://www.isb.idaho.gov. Bar Rule 227 is also available for inspection and copying at the Idaho State Law Library or at the offices of the Idaho Public Utilities Commission. (2-15-14)

020. DISCONTINUANCE OF TELECOMMUNICATIONS SERVICE (RULE 20).
A telephone corporation that intends to discontinue service in Idaho shall file a notice with the Commission at least ninety (90) days in advance of the date that it intends to cease operations. The telephone corporation proposing to discontinue basic local exchange or message telecommunications services shall also publish a notice of such discontinuance in a legal newspaper circulated in its service area pursuant to Section 62-612, Idaho Code. If the telephone corporation held any customer deposits or advance payments, the telephone corporation shall indicate in the notice how the deposits are to be returned to customers. See also IDAPA 31.41.01, "Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to Customer Service Regulation by the Idaho Public Utilities Commission," Section 312 (4-7-11)

SUBCHAPTER B -- CONTESTED CASES
(Rules 21 -- 400)

PART 1 -- DEFINITIONS AND GENERAL PROVISIONS
(Rules 21 -- 100)

INFORMAL AND FORMAL PROCEEDINGS
(Rules 21 -- 30)

021. INFORMAL PROCEEDINGS DEFINED (RULE 21).
Informal proceedings are proceedings in cases authorized by statute, rule or order of the Commission to be conducted using informal procedures, i.e., procedures without a record to be preserved for later Commission or judicial review, without the necessity of representation according to Rule 43, without formal designation of parties, without the necessity of presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, the Commission may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a case. (7-1-93)

022. INFORMAL PROCEDURE (RULE 22).
These rules encourage the use of informal proceedings to settle or determine cases. Unless prohibited by statute, the

Commission may provide for the use of informal procedure at any stage of a case. Informal procedure may include individual contacts by or with the Commission staff asking for information, advice or assistance from the Commission staff, or proposing informal resolution of formal disputes. Informal procedures may be conducted in writing, by telephone, or in person. (7-1-93)

023. FURTHER PROCEEDINGS (RULE 23).
Except as provided in Rule 24, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the Commission, at which time the parties may fully develop the record before the Commission. (7-1-93)

024. INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES (RULE 24).
Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceedings are conducted without prejudice to the right of the parties to present the matter formally to the Commission. The Commission Staff will consider and investigate informal inquiries or complaints without prejudice to the right of the interested persons to present the matter formally to the Commission, unless all affected persons agree in writing to be bound by the informal decision. Settlement offers made in the course of informal proceedings are confidential and shall be excluded from the agency record of any later formal proceedings. Informal procedure is recommended and preferred for informal inquiries or complaints. However, the Commission itself may formally consider any informal inquiry or complaint presented to it or to the Staff. (7-1-93)

025. FORMAL PROCEEDINGS (RULE 25).
Formal proceedings, which are governed by rules of procedure other than Rules 21 through 24, must be initiated by a pleading listed in Rules 51 through 58. (7-1-93)

026. INFORMAL FILES MAY BE INVESTIGATIVE RECORDS (RULE 26).
Files created by the Commission and its Staff in response to informal inquiries or complaints are investigatory records and are generally exempt from disclosure according to Section 74-105(1), Idaho Code, but are available under Section 74-113(1), Idaho Code, to the customer, applicant, utility, carrier, etc., that are the subjects of the investigation. (4-5-00)

027. -- 030. (RESERVED)

PARTIES -- OTHER PERSONS
(Rules 31 -- 40)

031. PARTIES LISTED (RULE 31).
Parties to proceedings before the Commission are called applicants, petitioners, complainants, respondents, or intervenors. Applicants, petitioners, complainants, and respondents are original parties. On reconsideration parties are called by their original titles listed above. (7-1-93)

032. APPLICANTS (RULE 32).
Persons who seek any right, license, award, or authority (except intervenors requesting intervenor funding) from the Commission are called "applicants." (7-1-93)

033. PETITIONERS (RULE 33).
Persons not applicants who seek to modify, amend or stay existing orders or rules, to clarify their rights or obligations under law administered by the Commission, to ask the Commission to initiate a proceeding (other than an application or a complaint), or to otherwise take action that will result in the issuance of an order or rule, but not seeking a right or authority from the Commission, are called "petitioners." (7-1-93)

034. COMPLAINANTS (RULE 34).
Persons charging other person(s) with any act or omission are called "complainants." In any proceeding which the Commission charges an act or omission, the Commission is called "complainant." (7-1-93)

035. RESPONDENTS (RULE 35).

Persons against whom complaints or petitions are filed or about whom investigations are initiated are called "respondents." (7-1-93)

036. INTERVENORS (RULE 36).
Persons, not original parties to a proceeding, permitted to participate as parties pursuant to Rules 71 through 75, are called "intervenors." (7-1-93)

037. COMMISSION STAFF (RULE 37).
The Commission Staff, without intervention, may appear at any hearing and has all rights of participation as a party to the proceeding. If counsel is desired, a Deputy Attorney General for the Commission represents the Staff. (3-16-04)

038. RIGHTS OF PARTIES AND OF COMMISSION STAFF (RULE 38).
Subject to Rules 249, 251 and 261, all parties and the Commission Staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (7-1-93)

039. PERSONS -- PERSONS NOT PARTIES -- INTERESTED PERSONS -- PUBLIC INVOLVEMENT (RULE 39).

01. Persons and Person Not Parties. The term "person" includes natural persons, partnerships, corporations, associations, municipalities, government entities and subdivisions, and any other entity authorized by law to participate in administrative proceedings. Persons other than the persons named in Rules 32 through 37 are not parties for the purpose of any statute or rule addressing rights or obligations of parties. (2-15-14)

02. Interested Persons. Interested persons for purposes of the Commission Secretary's service of notice under Rules 113, 123, and 202 are municipalities, counties, and chambers of commerce in the area affected by a proceeding and persons who were parties in any proceeding of a similar kind involving the same utility or railroad in the preceding three (3) years. This rule defines interested persons for purposes of Rules 113, 123, and 202, but not for purposes of Section 61-626, Idaho Code. (2-15-14)

03. Public Involvement. Persons interested in receiving periodic updates about filings made in certain groups of cases, in individual cases, or the issuance of press releases, orders and notices may subscribe to the Commission's Rich Site Summary (RSS) feed located on the Commission's home page at: www.puc.idaho.gov. Subscription to general information will be available at the home page at "Keep Me Updated" and case specific subscription will be available at each case summary page. The Commission's home page also contains links to other utility or Commission topics. (2-15-14)

040. (RESERVED)

REPRESENTATIVES OF PARTIES
(Rules 41 -- 50)

041. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES (RULE 41).

01. Designation of Representative Required. The initial pleading of each party to a proceeding (be it an application, petition, complaint, motion, or answer) must name the party's representative(s) for service and state each representative's mailing and electronic (if available) address for purposes of receipt of all official documents. Service of documents on the named representative(s) by mail or by electronic mail is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as a party's representative, the person signing the pleading will be considered the party's representative. (3-16-04)

02. Number of Representatives. No more than two (2) persons may be designated as a party's representatives for purposes of service or receipt of official documents unless otherwise authorized by order. The Commission may condition such an order upon reasonable terms concerning payment of copying costs and mailing costs to additional representatives. (7-1-93)

042. TAKING OF APPEARANCES (RULE 42).
The presiding officer at hearing or prehearing conference will take appearances to identify the representatives of all parties at the hearing. Parties whose pleadings have not been received by or distributed to all other parties may be required to state their interests at the hearing. (7-1-93)

043. REPRESENTATION OF PARTIES (RULE 43).
Proceedings before the Commission are sometimes administrative in nature or quasi-judicial in nature. General requirements for the representation of parties are outlined below. (2-15-14)

01. Administrative Proceedings. Administrative proceedings before the Commission include matters such as the filing of tariff schedules, tariff advices, price lists, certificates to provide local exchange service, interconnection agreements, rulemaking, written comments in modified procedure, or written comments provided at a customer hearing. These filings may be made by a natural person pro se, a partner in a partnership, an employee or officer of a corporation, or a licensed attorney. (4-7-11)

02. Quasi-Judicial Proceedings. The representation of parties at quasi-judicial proceedings for the purpose of adjudicating the legal rights or duties of a party is restricted as set out below. Quasi-judicial proceedings before the Commission include matters such as formal complaints, petitions, motions, applications for modified procedure or technical/evidentiary hearings. Representation of parties of these types of proceedings shall be as follows: (4-7-11)

a. A natural person may represent himself or herself or be represented by a licensed attorney. (4-7-11)

b. A partnership or corporation shall be represented by a licensed attorney. (4-7-11)

c. A municipal corporation; a state, federal, tribal, or local government agency; an unincorporated association; a non-profit organization, or other entity shall be represented by a licensed attorney. (4-7-11)

03. Attorney Representation. Only an active member of the Idaho State Bar may represent a party as an attorney except as provided by Idaho Bar Commission Rule 227 (Pro Hac Vice Admission). The Commission adopts by incorporation Bar Rule 227 as modified below. (2-15-14)

a. Limited admission by out-of-state attorneys will not be necessary in conjunction with administrative proceedings. Out-of-state attorneys representing the same party in one (1) or more quasi-judicial proceedings must request limited admission at least one (1) time per calendar year. (4-7-11)

b. An attorney applying for limited admission to appear before the Commission in a representative capacity shall file a written motion with the Commission Secretary and serve a copy on all parties. The motion shall be substantially in the form set out in Bar Rule 227(j) with references to the Commission instead of the court. (2-15-14)

c. A copy of the written motion shall be submitted to the Idaho State Bar accompanied by the fee prescribed in Bar Rule 227. (2-15-14)

044. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS (RULE 44).
From the time a party files its initial pleading in a proceeding, that party must serve and all other parties must serve all future documents listed in Rule 51 upon all other parties' representatives designated pursuant to Rule 41, unless otherwise directed by order or notice or by the presiding officer on the record. The Commission may order parties to serve past documents filed in the case upon those representatives. The Commission may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the Commission. (3-16-04)

045. WITHDRAWAL OF PARTIES (RULE 45).
Any party must move the Commission in writing or at hearing to withdraw from a proceeding. (7-1-93)

046. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE (RULE 46).
A party's representative may be changed and a new representative may be substituted by notice to the Commission and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may

permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the Commission must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties. (7-1-93)

047. CONDUCT REQUIRED (RULE 47).
Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (7-1-93)

048. FORMER EMPLOYEES -- RESTRICTION ON REPRESENTATION OF PARTIES (RULE 48).
No former employee of the Commission or member of the Attorney General's staff may appear in a representative capacity or as an expert witness on behalf of other parties in a formal proceeding in which he or she previously took an active part. (7-1-93)

049. NOTICE OF PARTIES (RULE 49).
As reasonably necessary in a proceeding, and in any event, at least once in every proceeding, the Commission Secretary will issue to the parties a notice of parties. The notice of parties will list all parties, their representative(s) under Rule 41, their representative's(s') mailing or electronic address(es), exhibit numbers assigned to the parties, and any other information required by the Commission. The Commission Secretary will maintain on file a current list of all parties to a proceeding and issue a revised notice of parties as reasonably necessary to reflect changes in the previous notice of parties. (4-5-00)

050. (RESERVED)

PLEADINGS -- IN GENERAL
(Rules 51 -- 60)

051. PLEADINGS LISTED -- MISCELLANEOUS (RULE 51).
Pleadings before the Commission are called applications, petitions, complaints, motions, answers and consent agreements. Affidavits may be filed in support of any pleading. Initial pleadings must comply with Rule 41. All pleadings must be filed in accordance with Rules 61 through 66. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (7-1-93)

052. APPLICATIONS -- DEFINED -- FORM AND CONTENTS (RULE 52).
All pleadings requesting a right, certificate, permit, or authority from the Commission are called "applications." Applications must: (2-15-14)

01. State Facts. Fully state the facts upon which they are based, (7-1-93)

02. Refer to Provisions. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based, and (7-1-93)

03. Pray for the Action Sought. Request the action desired. (3-16-04)

04. Public Information. Unless otherwise exempted from disclosure by statute, information in applications is public information not exempt from disclosure under Section 74-106(8) and 74-106(9), Idaho Code. (3-16-04)

053. PETITIONS -- DEFINED -- FORM AND CONTENTS (RULE 53).
All pleadings requesting: (7-1-93)

01. Modification, Amendment or Stay of Existing Orders or Rules. (7-1-93)

02. Clarification or Construction of Orders, Rules or Statute. (7-1-93)

03. Initiation of Proceeding. The initiation of a proceeding not an application or a proceeding that will lead to the issuance of an order. (7-1-93)

04. Reconsideration. (2-15-14)

05. Request for Intervenor Funding. (2-15-14)

06. Intervention are Called "Petitions." (2-15-14)

07. Form and Content. Petitions must: (2-15-14)

a. Fully state the facts upon which they are based, (7-1-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based, (7-1-93)

c. Pray for the relief desired, and (7-1-93)

d. State the name of the person petitioned against (the respondent), if any. (7-1-93)

054. FORMAL COMPLAINTS -- DEFINED -- CONTENTS AND PROCESS (RULE 54).
All pleadings charging utilities or other person(s) with acts or omissions under law administered by the Commission are called "formal complaints." Formal complaints must be in writing and: (5-8-09)

01. Name the Respondent. State the name of the utility or person complained against (the respondent). (5-8-09)

02. State the Facts. Fully state the facts constituting the acts or omissions of the utility or person against whom the complaint is filed and the dates when the acts or omissions occurred. (5-8-09)

03. Refer to Applicable Provisions. Refer to the specific provision of statute, rule, order, notice, tariff or other controlling law that the utility or person has violated. (5-8-09)

04. State the Relief Desired. State what action or outcome should be taken to resolve the complaint. (5-8-09)

05. Process. The Commission encourages the use of informal proceeding (see Rules 21 through 26) to resolve or settle formal complaints. The Commission shall determine how a formal complaint should be processed, e.g., issuance of a summons, open an investigation, informal procedure with Staff. The Commission Secretary may serve a copy of the formal complaint upon the utility or person to which the formal complaint is directed. (5-8-09)

055. INFORMAL INQUIRIES OR COMPLAINTS (RULE 55).
Informal inquiries or complaints are addressed in Rules 21 through 26. (7-1-93)

056. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING (RULE 56).
All other pleadings requesting the Commission to take any other action, except consent agreements or pleadings specifically answering other pleadings, are called "motions." Motions must: (7-1-93)

01. State the Facts. Fully state the facts upon which they are based. (7-1-93)

02. Refer to Provisions. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based. (7-1-93)

03. Pray for the Relief Sought. If the moving party desires oral argument or hearing on the motion, the moving party must so state in the motion. Any motion to dismiss, strike or limit a complaint or petition must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be

filed at any time upon compliance with Rule 256. The Commission will act on motions as provided in Rule 256. (7-1-93)

057. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING (RULE 57).

01. Answers Defined. All pleadings responding to the allegations or requests of applications, complaints, petitions or motions are called "answers." All pleadings responding to the allegations or prayers of complaints, petitions or motions are called "answers." (7-1-93)

02. Answers to Complaints or Petitions. Answers to complaints or petitions must be filed with the Commission and served on all parties of record within twenty-one (21) days after service of the complaint or petition, unless the Commission modifies the time within which answer may be made or a motion to dismiss is made within twenty-one (21) days. (7-1-93)

a. Answers to complaints or petitions must admit or deny each material allegation of the complaint or petition. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. (7-1-93)

b. A party that fails to answer a complaint or petition within the prescribed time will be treated as generally denying the allegations of the complaint or petition and will be precluded, except for good cause shown, from setting up any affirmative defense in the proceeding. In these cases, the Commission may proceed with the matter solely upon the issues set forth in the complaint or petition. The complainant or petitioner must offer evidence of its allegations regardless of whether the complaint or petition is answered or denied. (7-1-93)

03. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to file a motion for additional time to answer. The Commission may act upon a motion under Rule 256. (7-1-93)

058. CONSENT AGREEMENTS -- DEFINED -- FORM AND CONTENTS (RULE 58).

01. Definition of Consent Agreement. Agreements between a regulated utility or carrier and the Commission Staff, a customer or another utility or regulated carrier in which one (1) or more parties agree prospectively to engage in certain conduct mandated by statute, rule, order, tariff, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, tariff, or other provision of law, are called "consent agreements." Consent agreements are intended to require compliance with existing law. Settlements of differing positions in ongoing cases under Rules 271 through 277 in the development of new rules, orders, tariffs, etc., are not consent agreements. (7-1-93)

02. Form and Content of Consent Agreement. Consent agreements must: (7-1-93)

a. Recite Parties. Recite the parties to the agreement; and (7-1-93)

b. Statement of Conduct. Fully state the conduct proscribed or prescribed by the consent agreement. In addition, consent agreements may; (7-1-93)

c. Recite the consequences of failure to abide by the consent agreement; (7-1-93)

d. Provide for payment of civil or administrative penalties authorized by law; (7-1-93)

e. Provide for payment of reparations of overcharges authorized by law; (7-1-93)

f. Provide for loss of rights, licenses, awards or authority; (7-1-93)

g. Provide for consent to adjustment of rates, charges, certificates, permits, tariffs, or other action as authorized by law; or (7-1-93)

h. Provide that parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. (7-1-93)

059. -- 060. (RESERVED)

FILING, SERVICE, AMENDMENT AND WITHDRAWAL OF DOCUMENTS (Rules 61 -- 70)

061. FILING DOCUMENTS WITH THE COMMISSION -- NUMBER OF COPIES -- DISCOVERY -- FACSIMILE (FAX) AND ELECTRONIC FILING (RULE 61).
The following numbers of documents shall be filed with the Commission Secretary: (5-8-09)

01. Printed Filings. When filing printed material: (4-5-00)

a. In utilities cases (other than those cases specified in Subsections 061.01.b. and 061.01.c. of this rule): (5-8-09)

i. Pleadings (applications, petitions, complaints, motions, answers and consent agreements)--an original (unbound and unstapled) and seven (7) copies. (5-8-09)

ii. Briefs, proposed orders, statements of position, and exceptions under Rule 312--an original (unbound and unstapled) and seven (7) copies. (5-8-09)

iii. Prepared testimony and exhibits--nine (9) copies (one (1) copy designated as reporter's copy) plus CD-ROM as required by Rule 231.05. (5-8-09)

b. Security issuance cases: (4-5-00)

i. Pleadings--an original (unbound and unstapled) and four (4) copies. (5-8-09)

ii. Other documents except for discovery-related documents -- three (3) copies. (5-8-09)

c. Telecommunication interconnection agreements: (3-16-04)

i. Pleadings--an original (unbound and unstapled) and three (3) copies. (5-8-09)

ii. All other documents -- two (2) copies. (3-16-04)

02. Filing Discovery. Discovery-related documents (notice of taking deposition, production requests, written interrogatories, requests for admission, answers to discovery, explanations in lieu of discovery under Rule 225, and objections to discovery) shall be filed in either printed or electronic format. (5-8-09)

a. If printed filing -- three (3) copies to the Commission Secretary. (5-8-09)

b. If electronic filing -- the discovery document(s) shall be submitted to the Commission Secretary as attachments to an e-mail or placed on a CD-ROM and the CD-ROM is filed with the Secretary. The electronic discovery documents shall be in a computer searchable form of Adobe Acrobat in portable document format (PDF) without password protection. The transmitting e-mail or CD-ROM shall be labeled with the case number, case name, and the name of the person and the party submitting the discovery. (5-8-09)

03. FAX and Electronic Filings. Notices of withdrawal of party or of withdrawal of representative, stipulations, and documents requiring emergency or immediate action by the Commission may be filed with the Commission Secretary as an attachment to an e-mail or by facsimile transmission (FAX). The attached electronic document shall be in a computer searchable form of Adobe Acrobat (PDF) without password protection. Whenever any such document is filed by electronic mail or by FAX, the required number of printed documents per Subsection 061.01 must be delivered to the Commission by overnight mail on the next working day. The use of electronic mail or

FAX is prohibited to file prepared testimony and exhibits, discovery-related documents or any other documents except as authorized by this paragraph. (5-8-09)

04. Reducing the Number or Changing the Form of Filing. The Commission Secretary is authorized to reduce the number of required copies or allow electronic copies to be filed in lieu of a printed original or copies. (5-8-09)

062. FORM OF DOCUMENTS (RULE 62).

01. Information to be Listed. All documents listed in Rule 61 submitted by a party and intended to be part of the record must: (7-1-93)

a. Be submitted on white eight and one-half inch by eleven inch (8 1/2" by 11") paper copied on either one (1) side or both sides (duplexed); (5-8-09)

b. State the case caption, case number and title of the document; (7-1-93)

c. Include on the upper left corner of the first page: (3-16-04)

i. The name(s); (3-16-04)

ii. Mailing, street and e-mail address(es); and (3-16-04)

iii. Telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (3-16-04)

d. Have at least one-inch (1") left and top margins. (7-1-93)

02. Example. These documents complying with this rule will be in the following form:

Name of Representative (State Bar No. if applicable)
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
E-mail address (if available)
Attorney/Representative (for Name of Party)

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

(Title of Proceeding)

)
) CASE NO. ABC-X-XX-XX
) TITLE OF DOCUMENT

(5-8-09)

03. Identification of Parties. Every document filed under this rule must identify the party filing it in its title. The party must be identified by both the party's designation as a party (e.g., intervenor) and the party's name. For example, the Intervenor ABC Company would title its motion to strike as "Motion to Strike of Intervenor ABC Company." A short title of the document must appear at the bottom left corner of each page of the document. For example, the short title of the motion above could be: "ABC's Motion to Strike." (7-1-93)

04. Original Documents. All original documents filed with the Commission Secretary shall be unbound and unstapled. Copies of original documents may be bound or stapled. (5-8-09)

063. SERVICE ON PARTIES AND OTHER PERSONS (RULE 63).

01. Service in General. All documents referred to in Rule 61 (except as noted below) must be served upon the representatives of every party of record concurrently with filing with the Commission Secretary. When a document has been filed with the Commission Secretary by FAX or electronic mail, it must be served upon all other parties with FAX facilities or by electronic mail, respectively. For parties without electronic capability, service shall be made by overnight mail, hand delivery, or the next best available service if these services are not available. The Commission may direct that some or all of these documents be served on interested or affected persons who are not parties. The Commission Secretary's notice of parties (and revisions to it) will list all persons whom the parties must serve and their representatives as of the date of the notice or its revision. (5-8-09)

02. Service by Electronic Mail. The Commission may direct or the parties may agree that service among parties be accomplished by electronic mail. (5-8-09)

03. Service of Discovery. The service of discovery documents on parties shall be accomplished by electronic mail (as attachments to e-mail). For parties without electronic mail capability, service shall be made by overnight mail, hand delivery, or the next best available service if these services are not available. See Rule 229. (5-8-09)

064. PROOF OF SERVICE (RULE 64).
Every document that is filed with the Commission and intended to be part of the record for decision must be attached to or accompanied by proof of service by the following or similar certificate: (7-1-93)

I HEREBY CERTIFY (swear or affirm) that I have this day of, served the foregoing (name(s) of document(s)) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names)).
(Signature)

Each certificate of service must individually list the names and addresses of each person served. (7-1-93)

065. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS (RULE 65).
Defective, insufficient or late pleadings may be returned or dismissed, except that applications under Rule 121 cannot be dismissed during the period of suspension of rates under Rule 123, but can only be returned for correction once the suspension period has begun. (7-1-93)

066. AMENDMENTS TO PLEADINGS (RULE 66).
The Commission may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. (7-1-93)

067. INFORMATION EXEMPT FROM PUBLIC REVIEW -- DEFINITIONS -- FORM -- PROCEDURES (RULE 67).

01. Definitions. (4-5-00)

a. "Trade secrets" filed with the Commission are exempt from public inspection, examination, and copying pursuant to Section 74-107(1), Idaho Code. Trade secrets means information, including a formula, pattern, compilation, program, computer program, device, method, technique, process, or unpublished or in progress research that: (4-5-00)

i. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by other persons who can obtain economic value from its disclosure or use; and (4-5-00)

ii. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (4-5-00)

b. "Confidential information" means information, documents, or records filed with the Commission

that are specifically exempt from public inspection, examination and copying pursuant to Sections 74-104 through 74-109, Idaho Code. (4-5-00)

02. Form. In addition to the requirements of Rule 62 (except Subsection 062.01.a.), information that is alleged to be trade secrets, confidential or otherwise exempt from public disclosure shall be served upon the Commission and other parties who have entered into a protective agreement pursuant to Subsection 067.04 in either printed or electronic format. (4-5-00)

a. If in printed form, the page(s) containing the trade secret or confidential information shall be reproduced on yellow paper. Each page shall be marked as "TRADE SECRETS" or "CONFIDENTIAL." See Rule 61 for the number of printed copies. (5-8-09)

b. If in electronic form, the trade secret or confidential information shall be reproduced separately on a CD-ROM or other electronic storage format approved by the Commission Secretary; and not included with other material electronically filed. Each CD-ROM or other storage device containing trade secret or confidential information shall be clearly identified with the case caption, case number, title of document and marked as "TRADE SECRETS" or "CONFIDENTIAL." (5-8-09)

03. Procedure. Whenever a party believes that information contained in pleadings or other documents are trade secrets, confidential or otherwise exempt from public disclosure, the attorney of such party designated by Rule 41 must state in writing that the information is protected by law from public inspection, examination or copying, citing the specific grounds and legal authority for that assertion. Documents containing trade secrets or confidential information shall be separated from documents not containing trade secrets or confidential information. Trade secrets or confidential information contained in documents will be removed and replaced with a page marked: "This page allegedly contains trade secrets or confidential material and is separately filed." All materials for which no assertion of protection from public inspection, examination and copying is made will be placed in files available for public inspection. Trade secrets, confidential information and other records exempt from public inspection shall be separately stored in a secured location with limited access and safeguarded from unauthorized disclosure. (4-5-00)

04. Protective Agreements. In proceedings before the Commission involving trade secrets or other confidential information, parties may enter into protective agreements to facilitate and safeguard the exchange of necessary information. Protective agreements may include procedures for copying, exchanging, serving, safeguarding, or challenging the characterization of trade secrets or confidential information. The Commission shall not be a party and will not be bound by the terms of a protective agreement. (4-5-00)

068. WITHDRAWAL OF PLEADINGS (RULE 68).

A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading with the Commission and serve all parties with it. Unless otherwise ordered by the Commission, the notice is effective fourteen (14) days after filing. (3-30-01)

069. -- 070. (RESERVED)

INTERVENTION -- PUBLIC WITNESSES
(Rules 71 -- 80)

071. ORDER GRANTING INTERVENTION NECESSARY (RULE 71).

Persons not original parties to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the Commission granting intervention to become a party. (7-1-93)

072. FORM AND CONTENTS OF PETITIONS TO INTERVENE (RULE 72).

Petitions to intervene must comply with Rules 41, 61, and 62. The petition must set forth the name and address of the petitioner and clearly and concisely state the direct and substantial interest of the petitioner in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. Petitions for intervenor funding should be made in a separate document from the petition to intervene. (2-15-14)

073. TIMELY FILING OF PETITIONS TO INTERVENE (RULE 73).

Petitions to intervene must be filed at least fourteen (14) days before the date set for hearing or prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The Commission may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (7-1-93)

074. GRANTING PETITIONS TO INTERVENE (RULE 74).
If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the Commission or the presiding officer will grant intervention, subject to reasonable conditions. If it later appears that an intervenor has no direct or substantial interest in the proceeding, or that the intervention is not in the public interest, the Commission may dismiss the intervenor from the proceeding. (7-1-93)

075. ORDERS GRANTING INTERVENTION -- OPPOSITION (RULE 75).
No order granting a petition to intervene will be acted upon fewer than seven (7) days after its filing, except in a hearing in which any party may be heard. Any party opposing a petition to intervene must do so by motion in opposition filed within seven (7) days after receipt of the petition to intervene and served upon all parties of record and upon the person petitioning to intervene. (7-1-93)

076. PUBLIC WITNESSES (RULE 76).
Persons not parties and not called by a party who testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings. Subject to Rules 249 and 251, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Rule 231 with regard to filing and service of testimony and exhibits to the same extent as witnesses of parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection. (4-5-00)

077. -- 100. (RESERVED)

PART 2 - SPECIFIC REQUIREMENTS OF CERTAIN FILINGS -- RELATED RULES
(Rules 101 -- 200)

PETITIONS FOR DECLARATORY ORDERS
(Rules 101 -- 110)

101. FORM AND CONTENTS OF PETITION FOR DECLARATORY ORDERS (RULE 101).

01. Form of Petition. Any person petitioning for a declaratory ruling must substantially follow this form. (7-1-93)

02. Contents of Petition. The petition shall: (7-1-93)

a. Identify the petitioner and state the petitioner's interest in the matter, (7-1-93)

b. State the declaratory ruling that the petitioner seeks, and (7-1-93)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. Legal assertions in these paragraphs may be accompanied by citations of cases and/or statutory provisions. (7-1-93)

102. NOTICE OF PETITION FOR DECLARATORY ORDERS (RULE 102).
Notice of petition for declaratory ruling will be issued to all affected utilities. Orders disposing of the petition will be served on all affected utilities. (4-5-00)

103. -- 110. (RESERVED)

APPLICATIONS FOR CERTIFICATES OF CONVENIENCE AND NECESSITY
(Rules 111 -- 120)

111. FORM AND CONTENTS -- NEW UTILITY (RULE 111).
Applicants for the issuance of a certificate of convenience and necessity for a new utility under Section 61-526, Idaho Code, or Commission order, must submit the data required by this rule (where relevant) with their applications. (4-5-00)

01. Name, Address and Form of Business. (7-1-93)

a. If the applicant is a sole proprietor: (7-1-93)

i. The name, business address, and electronic address (if available) of the applicant; and (4-5-00)

ii. The business name (including "doing business as" (dba)) of the sole proprietorship. (3-16-04)

b. If the applicant is a partnership: (7-1-93)

i. A list of the names, business addresses, and electronic addresses (if available) of all the partners; and (4-5-00)

ii. The business name (including dba) of the partnership. (3-16-04)

c. If the applicant is a corporation or limited liability company (LLC): (2-15-14)

i. A short statement of the character of public service in which it may engage; (7-1-93)

ii. The name of the entity (including dba) and the state in which it is incorporated or organized; (2-15-14)

iii. Its principal business address, its principal business address within Idaho, and electronic address (if available); (4-5-00)

iv. A certified copy of its articles of incorporation or its certificate of organization if an LLC; and (2-15-14)

v. If not incorporated or organized in Idaho, a certificate of authority from the Idaho Secretary of State, a certificate of good standing issued by the secretary of state of the state in which it is incorporated or organized, and the name and address of its registered agent for service in Idaho. (2-15-14)

02. Written Explanation Why Service Is Proposed. A statement or prepared testimony and exhibits explaining why the proposed utility service is or will be in the public convenience and necessity. (7-1-93)

03. Proposed Operations. A full description of the proposed location, route or routes of the utility service, including a description of the manner of construction, and the names of all public utilities, corporations, or persons with whom the proposed new utility is likely to compete. (7-1-93)

04. Maps. A map of suitable scale showing the location of the utility service and its relation to other public utilities in the area that offer or provide similar utility service. (7-1-93)

05. Financing of Construction. A statement of the manner in which the applicant proposes to finance new utility service construction, the time when the applicant proposes to begin construction and the time when the applicant proposes to begin service. (7-1-93)

06. Cost of Service. Estimates of the cost of extending to and the annual cost of serving the territory for which the certificate is sought, of the number of service connections already made or to be made, of the annual revenue from them or expected annual revenue from them, and of anticipated rates and charges. (7-1-93)

07. Financial Statement. A financial statement of the applicant. (7-1-93)

112. FORM AND CONTENTS -- EXISTING UTILITY (RULE 112).
Existing utilities applying for the issuance of or the amendment of a certificate of convenience and necessity under Section 61-526, Idaho Code, must submit the following data (where relevant): (4-5-00)

01. Statement and Explanation. A statement or prepared testimony and exhibits explaining why the proposed construction or expansion is or will be in the public convenience and necessity. (7-1-93)

02. Description of Construction or Expansion. A full description of the proposed construction or expansion, including the manner of construction or expansion, and if an expansion, the names of all public utilities, corporations, or persons with whom the expanded utility is likely to compete. (7-1-93)

03. Map. A map of suitable scale showing the location of the construction or expansion and its relation to other public utilities in the area(s) that offer or provide similar utility service. (7-1-93)

04. Financial Statement and Construction Timelines. A statement of the manner in which the applicant proposes to finance the construction or expansion, the time when the applicant proposes to begin the construction or expansion, and the time when the applicant proposes to complete the construction or expansion. (7-1-93)

05. Cost Estimates and Revenue Requirements. Estimates of the cost of the construction or expansion, the number of additional customers to be served by the construction or expansion, the revenues to be derived from the construction or expansion, and of the effects of the construction or expansion on revenue requirements. (7-1-93)

113. NOTICE OF APPLICATION -- ORDERS (RULE 113).
Notice of application for a certificate of convenience and necessity will be issued to all interested persons in all cases in which statute requires formal consideration of the application or in which the Commission intends to conduct formal proceedings to consider the application. (4-5-00)

114. APPLICATION FOR NEW COMPETITIVE LOCAL EXCHANGE CARRIER (CLEC) – FORM AND CONTENT (RULE 114).
The Commission issues Certificates of Public Convenience and Necessity to competitive local exchange carriers (CLECs) seeking to provide local exchange services in Idaho. The Commission uses the certification process to register and review applications to provide local telecommunications services. See Commission Order No. 26665 issued November 7, 1996. Each CLEC application shall include the following information: (5-8-09)

01. Name, Address and Form of Business. (5-8-09)

a. If the applicant is the sole proprietor, provide the name and business address of the applicant and the business name of the sole proprietorship. (5-8-09)

b. If the applicant is a partnership, provide a list of the names and business addresses of all the partners, and the business name of the partnership. (5-8-09)

c. If the applicant is a corporation or limited liability company (LLC), along with the entity's name (and dba, if any), provide, if applicable: (2-15-14)

i. A short statement of the character of public service in which it is engaged; (5-8-09)

ii. The name of the entity (including dba, if any) and the state in which it is incorporated or organized;

(2-15-14)

iii. Its principal business address and its principal address within Idaho; (5-8-09)

iv. A certified copy of its articles of incorporation or its certificate of organization if an LLC; (2-15-14)

v. The names and addresses of the officers and directors of applicant; (5-8-09)

vi. The names and addresses of subsidiaries owned or controlled by applicant; (5-8-09)

vii. If not incorporated or organized in Idaho, a certificate of authority from the Idaho Secretary of State, a certificate of good standing issued by the secretary of state in the state it is incorporated or organized, and the name and address of its registered agent for service in Idaho; and (2-15-14)

viii. The name and address of any corporation, association, or similar organization holding a five percent (5%) or greater ownership or a managerial interest in the applicant, and indicate the amount and character of the ownership interest. Include a copy of any management agreement with the application. (5-8-09)

02. Services and Territory. The application shall include: (5-8-09)

a. A written description of customer classes and customer services that the applicant proposes to offer to the public. The application shall indicate the date on which the applicant proposes to begin construction or anticipates it will begin to provide service in Idaho. (5-8-09)

b. A description sufficient for determining whether service is to be offered in a particular location and the names of incumbent local exchange corporations (ILECs) with whom the proposed utility is likely to compete. The application shall include a description of the intended manner of service, e.g., resold services or facilities-based services; and a general description of the property owned or controlled by applicant. (5-8-09)

c. A map of reasonable size and detail showing where the applicant is proposing to provide service including exchanges (if different from existing exchanges), rural zones, and local calling areas. If the service area is identical to an incumbent LEC's service area, then applicant may refer to the incumbent's service area. (5-8-09)

03. Financial Information. (5-8-09)

a. The application shall provide the current detailed balance sheets, including a detailed income and profit and loss statements of applicant reflecting current and prior year balance for the twelve (12) months ending as of the date of the balance sheet, or if not readily available, for the period since the close of the preceding calendar year. If a balance sheet and income statement are not available, the applicant shall submit financial data sufficient to establish it possesses adequate financial resources to provide the proposed services. (5-8-09)

b. The application shall include the latest annual report, if any. (5-8-09)

04. Tariffs and Price Lists. The application shall include proposed initial tariffs or price sheets setting forth rates, rules, terms, and regulations applicable to the contemplated service. Initial tariffs and price lists filings shall be in an electronic form as well as paper. The tariffs and price lists in electronic format will be in computer searchable Adobe Acrobat (PDF), or submitted on a CD-ROM or other format as prescribed by the Commission Secretary. (5-8-09)

05. Tariff and Customer Contact. The application shall include the name, address, and telephone number for those persons responsible for tariff and price list questions, as well as customer complaints and inquiries. The application shall state the toll-free telephone number for customer inquiries and complaints. (5-8-09)

06. Interconnection Agreements. The application shall state whether the applicant has initiated interconnection negotiations and, if so, when and with whom. Include copies of any interconnection contracts which have been completed for the provision of telecommunication services. (5-8-09)

07. Compliance with Commission Rules. The application shall contain a written statement that the applicant has reviewed all of the Commission's rules and agrees to comply with them, or include a request for waiver of those rules believed to be inapplicable. (5-8-09)

08. Conservation of Telephone Numbers. The application shall contain a written statement acknowledging that non-paging telecommunications carriers with telephone numbering resources in Idaho shall be subject to numbering conservation measures including mandatory one thousand (1,000) block pooling. See Commission Order No. 30425. All CLECs shall evaluate their numbering resources and donate to the numbering resource pool unused one thousand (1,000) number blocks and one thousand (1,000) number blocks that have fewer than ten percent (10%) of the telephone numbers assigned. Applicable carriers shall also file the necessary utilization reports with NeuStar and semi-annual report their number resource utilization/forecast (NRUF) data at the one thousand (1,000) block level for each rate center within their service territory. The Federal Communications Commission has appointed NeuStar to manage the assignment and conservation of telephone area codes and telephone numbers in North America. (5-8-09)

115. -- 120. (RESERVED)

APPLICATIONS TO CHANGE RATES OR RULES
(Rules 121 -- 130)

121. FORM AND CONTENTS OF APPLICATION TO CHANGE RATES (RULE 121).

01. Utility Applications to Change Rates. Applications by any public utility subject to Title 61, Idaho Code, to increase, decrease or change any rate, fare, toll, rental or charge or any classification, contract, practice, rule or regulation resulting in any such increase, decrease or change must include the following data: (4-7-11)

a. An exhibit showing in full each proposed change in rates, tolls, rentals, charges, rules or regulation by striking over proposed deletions to existing tariffs and underlining proposed additions or amendments to existing tariffs, except applications to increase or decrease all or almost all rates and charges by a uniform percentage or by a uniform amount may be made by filing a tariff listing the proposed change and all unchanged rates and charges or rates and charges not changed by a uniform percentage or a uniform amount, or by use of another designation previously approved by the Commission that clearly calls attention to all proposed changes in numbers or wording. (7-1-93)

b. If the application is subject to Rule 122, a complete justification of the proposed increase in the form of testimony and exhibits or a narrative exposition. (7-1-93)

c. If the application is subject to Rule 122, a statement showing how and when the application has been or will be brought to the attention of affected customers and a copy of the press release and customer notice required by Rule 125. (2-15-14)

d. A statement that the applicant stands ready for immediate consideration of the application. (7-1-93)

e. If the application is subject to Rule 122, testimony and exhibits showing financial statements, cost of capital and appropriate cost of service studies. (7-1-93)

f. Workpapers or documentation showing how test year data were adjusted. (7-1-93)

g. If the applicant provides utility service in states other than Idaho or utility service subject to federal regulation, a jurisdictional separation of all investments, revenues and expenses allocated or assigned in whole or in part to Idaho intrastate utility business regulated by this Commission showing allocations or assignments to Idaho. (7-1-93)

02. Proposals Based upon Computer Modeling. In addition, in any application in which a computer model is used to represent or simulate processes from which the revenue requirement is derived or upon which allocations of the revenue requirement to different customer classes are based, complete documentation of all those

computer models must be supplied to the Staff, upon request, and be available in the utility's office or other depository. The Staff may request that the computer model itself be provided. A computer model includes the representation or simulation of a process, but does not mean or include the compilation of actual data. The application must state that the documentation of the models already on file in the applicant's office or other depository fully describes the models or that necessary updates or additions to previous documentation that will fully describe the models is on file and will be supplied on request. (4-5-00)

03. Grounds for Returning or Dismissing Application. Failure to comply with Rule 121.01 and 121.02 of this rule is grounds to return or dismiss an application under Rule 65. (7-1-93)

122. NOTICE OF INTENT TO FILE A GENERAL RATE CASE (RULE 122).

01. Which Utilities Must File Notice. Utilities with annual gross revenues from retail customers in the State of Idaho exceeding three million dollars ($3,000,000) must file with the Commission a "notice of intent to file a general rate case" at least sixty (60) days before filing a general rate case. If the general rate case described in the notice is not filed within one-hundred twenty (120) days after filing of the notice of intent to file a general rate case, by operation of this rule a notice of intent to file a general rate case will be considered withdrawn unless it is supplemented with a written statement that the utility still intends to file a general rate case of the kind described in its notice of intent to file a general rate case. (7-1-93)

02. Exceptions for Trackers or Annual Cost Adjustments. This rule applies only to general rate increases. Examples of cases outside the scope of this rule include (but are not limited to) fuel cost adjustments (e.g., PGA), power cost adjustment (PCA), commodity or purchased power tracker rate increases, emergency or other short-notice increases caused by disaster or weather-related or other conditions unexpectedly increasing a utility's expenses, rate increases designed to recover governmentally-imposed increases in costs of doing business, such as changes in tax laws or ordinances, or other increases designed to recover increased expenses arising on short notice and beyond the utility's control. (5-8-09)

123. PROPOSED CHANGES TO RATES OR RULES -- EFFECTIVE DATE -- NOTICE OF APPLICATION -- SUSPENSION (RULE 123).

01. Statutory Notice of Rate Changes. No application by any public utility to change any rate, fare, toll, rental, charge or classification, or any rule, regulation, or contract relating to or affecting any rate, fare, toll, rental, charge, classification, or service, or in any privilege or facility, can be effective unless notice is given to the Commission and the public pursuant to Section 61-307, Idaho Code. If the application for such a change proposes an effective date fewer than thirty (30) days after the application is filed, the effective date of the change is delayed until thirty (30) days after the application is filed by operation of Section 61-307, Idaho Code, unless the Commission by order approves an earlier effective date for good cause shown. In the absence of an order approving or suspending any or all such proposed changes, the changes not suspended or approved go into effect thirty (30) days after filing or on their proposed effective date, whichever is later. If no effective date is proposed for the changes, the changes do not go into effect until approved by order. (4-5-00)

02. Notice of Application. Within twenty-one (21) days of the date of any application to change any rate, fare, toll, charge, or classification, or any rule, regulation or contract relating to or affecting any rate, fare, toll, rental, charge, classification, or service, or in any privilege or facility, the Commission Secretary will issue a notice of application to all interested persons, unless notice is issued pursuant to modified procedure or the application is earlier approved or described by order. (4-5-00)

03. Suspension of Proposed Rate Changes. At any time before proposed changes take effect pursuant to Sections 61-307, Idaho Code and Rule 123.01 of this rule, the Commission may suspend the effectiveness of the changes pursuant to Sections 61-622, Idaho Code. Whenever the Commission suspends proposed changes for less than the maximum period of suspension allowed by statute, it may extend the period of the suspension to the statutory maximum consistent with the statutory standards. (7-1-93)

124. DESIGNATION AS GENERAL RATE CASE IN NOTICE OF APPLICATION (RULE 124).
When a notice of application designates a proceeding as a general rate case, all persons are thereby put upon notice that the following are at issue and the Commission may make decisions addressing them, whether the notice

explicitly repeats the following or not: (7-1-93)

01. Revenue Requirement. The utility's Idaho intrastate revenue requirement, and every component of it, both rate base and expense, are at issue. The Commission may grant, deny, or modify the revenue requirement requested and may find a revenue requirement different from that proposed by any party is just, fair and reasonable. (7-1-93)

02. Rates, Charges, and Service. The rates and charges of all Idaho retail customers, both recurring and non-recurring, including those of special contract customers, are at issue, and every component of every existing and proposed rate and charge is at issue. The Commission may approve, reject or modify the rates and charges proposed and may find that rates and charges different from those proposed by any party are just, fair and reasonable. (7-1-93)

a. The Commission may approve, reject or modify existing or proposed relationships between and among rates and charges within, between or among customer classes or rate groupings and may approve, reject or modify existing or proposed relationships among and between customer classes or rate groupings. (7-1-93)

b. The Commission may abolish, reduce or create rate blocks or categories of rates and charges, abolish, create or reduce components of rates and charges, abolish, reduce or create customer classes or rate groupings, and abolish, reduce or create absolute or relative differences among and between existing classes or rate groupings of customers. (7-1-93)

c. The tariffs, practices, rules and regulations, service, instrumentalities, equipment, facilities, classifications, and customer relations of the utility are at issue, and the Commission may address any of them in its order. (7-1-93)

125. NOTICES TO CUSTOMERS OF PROPOSED CHANGES IN RATES (RULE 125).

01. Customer Notice of a Change in Rates. (4-7-11)

a. If a utility is requesting a rate increase, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the utility's need for additional revenue and the dollar amount requested. The notice shall give the proposed overall percentage change from current rates as well as the proposed percentage increase in revenue for each major customer class. (4-7-11)

b. If the utility is requesting a rate decrease, the utility shall issue a customer notice to each customer. The customer notice shall include a brief explanation of the reason for the decrease, the overall dollar amount of the proposed decrease, and the proposed percentage decrease for each major customer class. (4-7-11)

c. The customer notice shall make it clear that the application is a proposal, subject to public review and a Commission decision. It shall also inform customers that a copy of the utility's application is available for public review at the offices of both the Commission and the utility, and on the Commission's homepage at www.puc.idaho.gov. (2-15-14)

d. The customer notice shall inform customers that written comments regarding the utility's application may be filed with the Commission. It shall also inform customers that they may subscribe to the Commission's RSS feed (Subsection 039.03) to receive periodic updates via e-mail about the case. (2-15-14)

02. Timing of Notice for Trackers or Annual Cost Adjustments. Tracker adjustments occasioned by federal action that result in an increase or decrease in rates may be brought to the attention of customers in compliance with this rule after approval by the Commission. Other tracker or annual cost adjustment cases that result in an increase in rates remain subject to the requirements of advance notice contained in this rule. Other tracker or annual cost adjustment cases that result in a decrease in rates may be brought to the attention of customers in compliance with this rule after being approved by the Commission. (4-7-11)

03. Timely Distribution of Customer Notices. The customer notices referred to in Subsection 125.01 may be mailed separately to customers or included in the customer's regular bill as a bill stuffer. At the customer's

option, the customer notice may be provided electronically. The information required by this rule is to be clearly identified, easily understood, and pertain only to the proposed rate change. Distribution of customer notices shall commence when the utility files its application or as soon as possible thereafter. (2-15-14)

04. Press Release. In instances covered by Subsection 125.01, the utility shall also send a press release containing, at minimum, the same information presented in the customer notices to all newspapers, radio, and television stations listed on the Commission's news organization list for that utility. The press releases shall be mailed or delivered simultaneously with filing of the application. (5-8-09)

05. Filing of a Press Release and Customer Notice. A copy of the press release and customer notice shall be filed with the application. (5-8-09)

06. Purposes and Effects of This Rule. The purposes of Subsections 125.01 through 125.05 of this rule are to encourage wide dissemination to customers of information concerning proposed rate changes for utility services. It is not a purpose of these subsections to create due process or other procedural rights in customers by expanding, contracting, or otherwise modifying the notice and due process rights of customers under the Public Utilities Law and the Commission's Rules of Procedure, IDAPA 31.01.01. Accordingly, Subsections 125.01 through 125.05 of this rule create no individual procedural rights in any customer for notice that would give rise to a due process or other procedural claim cognizable by the Commission, but failure to comply with Subsections 125.01 through 125.05 of this rule can be grounds for returning an application for incompleteness. (5-8-09)

126. APPLICATION TO APPROVE INTERCONNECTION AGREEMENTS (RULE 126).

01. Uncontested Agreements. A telephone corporation may file an application for the Commission to approve voluntarily negotiated, adopted or amended interconnection agreements pursuant to Section 252 of the federal Telecommunications Act of 1996, http://www.fcc.gov/telecom.html. The Commission acts on adopted or negotiated interconnection agreements and uncontested amendments to previously approved agreements with the assistance of an ex parte recommendation of the Commission Staff. (5-8-09)

02. Contested Agreements. Petitions to arbitrate, mediate or otherwise resolve interconnection disputes between or among telecommunication carriers shall be processed under Rule 53. (3-16-04)

127. PUBLIC WORKSHOPS ON APPLICATIONS TO INCREASE RATES (RULE 127).

01. Public Workshop. When a public utility files an application to increase any rate, fare, toll, rental or charge regarding any classification or service, the Commission will determine if the staff should conduct a public workshop. The purpose of any workshop is for the staff to dispense information concerning the utility's application and to receive written or oral comments from the public prior to the staff filing testimony or comments in the case. (3-16-04)

02. Notice and Location of Workshop. Notice of the public workshop shall be disseminated a minimum of seven (7) days prior to the workshop to newspapers of general circulation and radio and television stations in the affected area. The Commission shall determine the location for the workshop within the area served by the public utility. The notice shall also be posted on the Commission's website. (3-16-04)

03. Exemptions. The requirements of Subsection 127.01 shall not apply to applications regarding uniform statewide surcharges under Sections 56-904, 62-610 and 62-610F, Idaho Code, or to utility tariff advices. (5-8-09)

128. -- 130. (RESERVED)

TARIFF SCHEDULES
(Rules 131 -- 140)

131. FORM OF TARIFFS (RULE 131).
Tariff schedules of utilities must show the designation "Idaho Public Utilities Commission" on their title page. A

blank space approximately three by one and one-half inches (3" x 1-1/2") must be provided for the Commission's stamp of approval in the upper right or lower right corner of each schedule filed. (4-5-00)

132. NUMBER OF TARIFF COPIES FILED (RULE 132).
The Commission encourages public utilities to file their tariff schedules via electronic mail. (3-16-04)

01. Electronic Tariffs. For electronically filed tariffs, each utility shall submit its tariff schedules prepared in searchable Adobe Acrobat in portable document format (PDF) as an attachment to an e-mail, secretary@puc.idaho.gov, message sent to the Commission Secretary. Electronic tariff schedules may also be submitted as PDF documents on appropriately formatted CD-ROM or other electronic storage format approved by the Commission Secretary. (5-8-09)

02. Printed Tariffs. To file printed tariffs, each utility shall file an original and two (2) copies of their tariff schedules with the Commission Secretary. (3-16-04)

03. Approval. The Commission will stamp its approval in the space provided on each copy of an approved tariff, placing the original in its files and returning one (1) copy to the public utility. (3-16-04)

133. TARIFFS SUBMITTED PURSUANT TO ORDER (RULE 133).

01. Order May Require Submission of Tariffs. When the Commission directs or authorizes by order that certain tariffs be filed, the order may require the tariff submissions to the Commission to be accompanied by appropriate explanatory documents, summaries, workpapers, or similar material. When the Commission authorizes a utility to file new tariffs pursuant to order in a general rate case, the Commission may require the utility to file a complete set of tariffs containing both pages with changed rates and charges and those without. (7-1-93)

02. Staff Review of Tariffs Filed Pursuant to Order. When a utility files tariffs with the Commission pursuant to an order of the Commission in a proceeding in which other persons are party, the responsibility for reviewing the tariff submission to determine whether it complies with the Commission's order is upon the Commission Staff, which shall promptly report to the Commission whether the tariffs do comply. The review of tariffs filed pursuant to order is an ex parte, ministerial responsibility of the Commission Staff. Tariffs may be approved in the minutes of the Commission's decision meetings or by minute entry after Staff review without further order. (5-8-09)

03. Motions With Regard to Tariffs Submitted Pursuant to Order. If the Commission has approved tariffs, parties or persons contending that approved tariffs are inconsistent with the Commission's orders may file appropriate motions asking that approval be reviewed. (7-1-93)

134. TARIFF ADVICES (RULE 134).

01. Tariff Advices Authorized. Public utilities may file tariffs adding new or modifying existing services, providing for new or modified rules, or otherwise making minor changes to existing schedules by tariff advice. The tariff advice must include a letter of transmittal from the utility listing all tariff pages changed or added by the tariff advice and stating briefly the reason for filing the tariff advice. If existing tariffs are changed, the advice must contain two (2) copies of each changed page: one (1) showing all the changes with appropriate symbols for deletions, additions, etc., and one (1) showing the pages after the changes as they will appear in the proposed new tariffs. (7-1-93)

02. Filing of Tariff Advice. No tariff advice can be effective unless notice is given to the Commission and the public pursuant to Sections 61-307 and 61-622, Idaho Code. If the tariff advice proposes an effective date fewer than thirty (30) days after it is filed, the effective date of the tariff is delayed until thirty (30) days after the tariff advice is filed by operation of Sections 61-307 and 61-622, Idaho Code, unless the Commission by order approves an earlier effective date for good cause shown. In the absence of an order approving or suspending the tariff advice, the tariff advice not suspended or approved goes into effect thirty (30) days after filing or on the proposed effective date, whichever is later. If no effective date is proposed for the tariff advice, the tariff advice does not go into effect until approved by order or minute entry. If a tariff advice is suspended, the Commission will open a formal proceeding and treat the tariff advice as an application. (7-1-93)

03. Ex Parte Action. Ordinarily, the Commission acts upon tariff advices with the assistance of a written ex parte recommendation of the Commission Staff. The Commission acts upon tariff advices at its open meetings. (5-8-09)

135. -- 140. (RESERVED)

APPLICATIONS FOR APPROVAL TO ISSUE SECURITIES
(Rules 141 -- 150)

141. FORM AND CONTENTS OF APPLICATION TO ISSUE SECURITIES (RULE 141).
Except as provided in Rule 142, 147 or Section 61-909, Idaho Code, any utility applying to issue securities under Sections 61-901 through 61-904, Idaho Code, must submit an application with the following information: (4-5-00)

01. Description. A general description of the applicant's field of operations. (7-1-93)

02. A Full Description of the Securities. Including the proposed: (7-1-93)

a. Amount; (7-1-93)

b. Interest or dividend rates; (7-1-93)

c. Date of issue (or statement that the securities will be a shelf registration); (7-1-93)

d. Date of maturity; (7-1-93)

e. Voting privileges; (7-1-93)

f. Call or redemption provisions; and (7-1-93)

g. Sinking fund or other provisions for securing payment. (7-1-93)

03. A Statement of the Proposed. (7-1-93)

a. Method of marketing; (7-1-93)

b. Terms of sale; (7-1-93)

c. Underwriting discounts or commissions; (7-1-93)

d. Sale price; and (7-1-93)

e. Net proceeds to the applicant, including itemized statements of all fees and expenses (estimated if not known) to be paid in connection with the proposed transaction. (7-1-93)

04. A Statement of the Purposes. Statement of the purposes for which the proceeds from the securities will be used, including: (7-1-93)

a. A description of the property to be acquired or constructed and a statement of its cost or value (estimated if not known); (7-1-93)

b. A description of obligations to be refunded or expenditures for which reimbursement is intended; or (7-1-93)

c. Other information advising the Commission of the nature and purposes of the proposed transaction. (7-1-93)

05. Statement of Explanation. A statement explaining why the proposed transaction is consistent with the public interest and necessary or appropriate for or consistent with the applicant's proper performance of service as a public utility. (7-1-93)

06. Financial Statement. A financial statement showing the authorized and outstanding classes of the applicant's securities and certified copies of the resolutions of stockholders or directors authorizing the proposed transaction and other instruments relating to the transaction. (7-1-93)

07. Proposed Order. A proposed order granting the application, captioned proposed order of applicant, suitable for adoption by reference if the application is granted. (7-1-93)

08. Statement of Public Notice Application. A statement that notice of the application has been published in those newspapers in general circulation in the applicant's service area in Idaho or nearest applicant's service area in Idaho or will be published within seven (7) days of the application. These newspapers are: the Coeur d'Alene Press (Coeur d'Alene), the Idaho Business Review (Boise), the Idaho State Journal (Pocatello), the Idaho Statesman (Boise), the Lewiston Morning Tribune (Lewiston), the Post Register (Idaho Falls), the Preston Citizen (Preston), the Bonner County Daily Bee (Sandpoint), and the Times News (Twin Falls). The Commission may require the applicant to furnish further necessary information. (7-1-93)

142. APPLICATIONS FILED WITH OTHER AGENCY (RULE 142).
If the applicant files a similar application with any federal or other state agency, it may file a copy of the federal or other state application in lieu of the application required by this rule. The Commission may require the applicant to furnish further necessary information. (7-1-93)

143. REPORTS (RULE 143).
When the information becomes available, the applicant must file with the Commission a verified report or a copy of a verified report filed with another regulatory agency showing the amount realized by the applicant, including the itemized costs and expenses incurred in connection with the transaction. (7-1-93)

144. HEARING -- MODIFIED PROCEDURE -- SUMMARY ACTION (RULE 144).
The Commission may consider applications to issue securities without hearing, place the matter on modified procedure, or set the matter for formal hearing. (7-1-93)

145. REQUESTS FOR EXPEDITIOUS ACTION (RULE 145).
If a pleading requests the Commission to issue an order authorizing issuance of securities sooner than thirty (30) days after initial filing with the Commission, each copy of the pleading making that request must be accompanied by a cover letter stating the following:

ATTENTION COMMISSION SECRETARY AND HEAD LEGAL SECRETARY:
(Name of party) requests that the Commission issue an
Order approving issuance of these securities on or before (date).

(4-5-00)

146. FEES MUST BE PAID BEFORE ORDER ISSUED (RULE 146).
No orders authorizing security issuances will be issued until fees required by Section 61-905, Idaho Code, are paid. (7-1-93)

147. EXEMPTION (RULE 147).
Pursuant to Section 61-909, Idaho Code, the Commission may, by order, exempt any security or a class of security or a class of public utility from the provisions of Sections 61-902 through 61-905, Idaho Code, if it finds the public interest will not be adversely affected. See Commission Order No. 26959. (4-5-00)

148. -- 150. (RESERVED)

CABLE POLE ATTACHMENTS
(Rules 151 -- 160)

151. TIMETABLE FOR DECISION -- CABLE POLE ATTACHMENT PROCEEDINGS (RULE 151).
Whenever a public utility, as defined in Section 61-538, Idaho Code, and a cable television company, as defined in Section 61-538, Idaho Code, are unable to agree upon the rates, terms, or conditions for pole attachments or the terms, conditions, or cost of production of space needed for pole attachments, and either the public utility or the cable television company files an application, complaint, or petition asking the Commission to establish and regulate rates, terms, or conditions, the Commission shall decide the case within thirty (30) days; provided, the Commission shall have the right, upon reasonable notice, to enter upon a hearing concerning the propriety of such proposed rate, term, or condition and to extend its period for considering the application, complaint, or petition an additional thirty (30) days plus five (5) months and, for good cause shown on the record, an additional sixty (60) days. (7-1-93)

152. RULES OF PROCEDURE TO BE USED (RULE 152).
These Rules of Procedure apply to all proceedings concerning the rates, terms, or conditions for cable pole attachments, provided, that any such proceeding, whether denominated an application, complaint or petition, shall be processed according to the timetable of Rule 151. (7-1-93)

153. -- 160. (RESERVED)

APPLICATIONS FOR INTERVENOR FUNDING
(Rules 161 -- 170)

161. CASES IN WHICH INTERVENORS MAY APPLY FOR FUNDING (RULE 161).
In any case involving regulated electric, gas, water or telephone utilities with gross Idaho intrastate annual revenues exceeding three million five hundred thousand dollars ($3,500,000), intervenors may apply for intervenor funding. (3-16-04)

162. FORM AND CONTENTS OF PETITION FOR INTERVENOR FUNDING (RULE 162).
A petition for intervenor funding must contain the following: (2-15-14)

01. Itemized List of Expenses. An itemized list of expenses that the intervenor requests to recover broken down into categories such as legal fees, witness fees, or reproduction fees. Legal and witness fees shall, where applicable, indicate hourly rates. (4-5-00)

02. Statement of Proposed Findings. A statement of the intervenor's proposed finding or recommendation that the intervenor wishes the Commission to adopt. (7-1-93)

03. Statement Showing Costs. A statement showing that the costs that the intervenor proposes to recover are reasonable in amount. (7-1-93)

04. Explanation of Cost Statement. A statement explaining why the costs described in Rule 162.01 constitute a significant financial hardship for the intervenor. (4-5-00)

05. Statement of Difference. A statement showing how the intervenor's proposed finding or recommendation in the case differs materially from the testimony and exhibits of the Commission Staff. (4-5-00)

06. Statement of Recommendation. A statement showing how the intervenor's recommendation or position addressed issues of concern to the general body of utility users or consumers, and (7-1-93)

07. Statement Showing Class of Customer. A statement showing the class of customer on whose behalf the intervenor appeared. (7-1-93)

163. PROHIBITION ON APPLICATION BY COMPETITOR (RULE 163).
No intervenor in direct competition with a public utility involved in a proceeding is entitled to intervenor funding for that proceeding. (7-1-93)

164. TIME TO APPLY (RULE 164).
Unless otherwise provided by order, an intervenor requesting intervenor funding must apply no later than fourteen (14) days after the last evidentiary hearing in a proceeding or the deadline for submitting briefs, proposed orders, or statements of position, whichever is last. Motions in opposition to intervenor funding must be filed within fourteen (14) days after the request for intervenor funding is filed. (7-1-93)

165. AWARDS (RULE 165).

01. Order Awarding Intervenor Funding. The Commission may by order award intervenor funding pursuant to Section 61-617A, Idaho Code. The total award for all intervening parties combined shall not exceed forty thousand dollars ($40,000) in any proceeding. The Commission must find that: (3-16-04)

a. The intervenor's presentation materially contributed to the Commission's decision, (7-1-93)

b. The costs of intervention awarded are reasonable in amount, (7-1-93)

c. The costs of intervention were a significant hardship for the intervenors, (7-1-93)

d. The recommendations of the intervenor differed materially from the testimony and exhibits of the Commission Staff, and (7-1-93)

e. The intervenor addressed issues of concern to the general body of users or consumers. (7-1-93)

02. Payment of Awards. Awards of intervenor funding must be paid within twenty-eight (28) days of the order of the Commission awarding intervenor funding, unless the order of the Commission is stayed. (7-1-93)

03. Recovery of Awards of Intervenor Funding. Awards of intervenor funding paid by electric, gas, water or telephone utilities will be an allowable business expense in the pending rate case or, if the proceeding is not a rate case, in the utility's next rate case. Awards of intervenor funding shall be chargeable to the class of customers represented by the intervenors. (7-1-93)

166. -- 200. (RESERVED)

PART 3 -- POST-PLEADING PROCEDURE
(Rules 201 -- 300)

MODIFIED PROCEDURE
(Rules 201 -- 210)

201. SCOPE OF MODIFIED PROCEDURE (RULE 201).
The Commission may preliminarily find that the public interest may not require a hearing to consider the issues presented in a proceeding and that the proceeding may be processed under modified procedure, i.e., by written submissions rather than by hearing. (4-5-00)

202. NOTICE OF MODIFIED PROCEDURE (RULE 202).

01. Notice of Modified Procedure. When the Commission finds that it may not be in the public interest to hold a hearing in a matter, notice of modified procedure will be issued. It will: (7-1-93)

a. Describe the issues presented in the proceeding; (7-1-93)

b. Summarize the moving party's justification for the proposed changes and its position; (7-1-93)

c. State that the Commission finds that it may be in the public interest not to hold a hearing in the proceeding and will not do so unless it receives written protests or comments opposing the use of modified procedure

and stating reasons why modified procedure should not be used; and (7-1-93)

d. Establish the deadline for filing written protests or comments, and a reply by the moving party. (5-8-09)

02. Distribution of Notice. Copies of the notice of modified procedure will be provided to all interested persons, including newspapers, municipalities, counties, and chambers of commerce located within the territorial scope of the application, petition or complaint whose readers, citizens or members may be affected by the proceedings and to all parties. Unless otherwise provided by the notice of modified procedure, all interested persons will have at least twenty-one (21) days from the date of the notice to file a written protest or comment. (4-5-00)

203. PROTESTS AND COMMENTS (RULE 203).
Any person affected by the proposal of the moving party may file a written protest, support or comment before the deadline of the notice of modified procedure. Protests, supports and comments must contain a statement of the reasons for the protest, support or comment, but need not ask for a hearing. Persons desiring a hearing must specifically request a hearing in their written protests or comments. A copy of the person's protest, support or comment must be served on the representative of the moving party. (4-5-00)

204. ACTION BY COMMISSION (RULE 204).
If no protests, supports or comments are received within the deadline, the Commission may consider the matter and enter its order without a hearing. If protests, supports, comments or a reply are filed within the deadlines, the Commission will consider them and may set the matter for hearing or may decide the matter and issue its order on the basis of the written positions before it. (5-8-09)

205. -- 210. (RESERVED)

PREHEARING CONFERENCES
(Rules 211 -- 220)

211. PURPOSES OF PREHEARING CONFERENCES (RULE 211).
The Commission may by order or notice issued to all parties and to all interested persons as defined in Rule 39 convene a prehearing conference for the purposes of formulating or simplifying the issues, obtaining concessions of fact or of identification documents to avoid unnecessary proof, scheduling discovery, arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, scheduling hearings, establishing procedure at the hearings, discussing settlement offers or making settlement offers, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. (7-1-93)

212. NOTICE OF PREHEARING CONFERENCES (RULE 212).
Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the conference, unless the Commission finds by order that the public necessity requires the conference to be held earlier. Notices for prehearing conferences must contain the same information as notices of hearing with regard to the Commission's obligations under the Americans with Disabilities Act. See Rule 242. (7-1-93)

213. RECORD OF CONFERENCE (RULE 213).
Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a Commissioner or hearing examiner, according to order or notice. Agreements by the parties to the conference may be recorded by the reporter during formal conferences or may be reduced to writing and filed with the Commission Secretary after formal or informal conferences. (7-1-93)

214. ORDERS RESULTING FROM PREHEARING CONFERENCES (RULE 214).
The Commission may issue a prehearing order or notice based upon the results of the agreements reached at a prehearing conference. The order or notice will bind all persons who could have participated in the prehearing conference, but did not, and all those who later file untimely interventions. A prehearing order will control the course of subsequent proceedings unless modified by the Commission for good cause. (7-1-93)

215. CONFERENCE PROCEEDINGS PRIVILEGED (RULE 215).

Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences are privileged and are not part of the record. Except by agreement, facts disclosed cannot be used against participating parties, before the Commission or elsewhere, unless proved by independent evidence. Offers made and other aspects of negotiations or settlement other than a final agreement itself are privileged. (3-16-04)

216. -- 220. (RESERVED)

DISCOVERY -- RELATED PREHEARING PROCEDURE
(Rules 221 -- 240)

221. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 221).
The kinds of discovery recognized and authorized by these rules are: (7-1-93)

01. Depositions. (7-1-93)

02. Production Requests or Written Interrogatories. (7-1-93)

03. Requests for Admission. (7-1-93)

04. Subpoenas. (7-1-93)

05. Statutory Examination and Audit. Unless otherwise provided by these rules, order, or notice, the scope and procedure of discovery, other than statutory examination and audit, is governed by the Idaho Rules of Civil Procedure. (See Idaho Rule of Civil Procedure 26(b)). (7-1-93)

222. DISCOVERY AUTHORIZED (RULE 222).
The Commission, individual Commissioners, and all parties to a proceeding have a right of discovery of all other parties to a proceeding. The Commission may by order authorize or compel necessary discovery not listed in these rules. (7-1-93)

223. RIGHTS TO DISCOVERY RECIPROCAL (RULE 223).
All parties to a proceeding and the Commission Staff have a right of discovery of all other parties to the proceeding and the Commission Staff according to these rules. The Commission may by order direct further discovery not provided by these rules. (7-1-93)

224. DEPOSITIONS (RULE 224).
Depositions may be taken in accordance with Section 61-605, Idaho Code, and the Idaho Rules of Civil Procedure for any purpose allowed by statute, Idaho Rule of Civil Procedure, rule of the Commission, order or notice. Depositions may be taken of expert witnesses notwithstanding contrary provisions of the Idaho Rules of Civil Procedure. Depositions rather than production requests or written interrogatories should be used to obtain statements of opinion or policy not previously written or published. Unless otherwise provided by order or notice or agreed to by the deponent or the deponent's attorney, notice of deposition must be given at least fourteen (14) days before deposition is taken. (7-1-93)

225. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION (RULE 225).

01. When Requests May Be Used. Production requests or written interrogatories and requests for admission may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, Idaho Rule of Civil Procedure, rule of the Commission, order or notice, except: (7-1-93)

a. Production requests or written interrogatories should not be used to obtain statements of opinion or policy not previously written or published and may be objected to on that ground; and (7-1-93)

b. Requests for admission concerning a matter of opinion or policy or the application of law, order or rule to fact may be denied generally and the reasons for denial required to be discovered by deposition rather than by

request for admission, but a request for admission on any matter of opinion or policy or application of law to fact on an uncontested matter must be answered. (7-1-93)

02. Form of Requests. The caption of a production request or written interrogatory and of a request for admission must identify the party making the request or interrogatory, the party to whom the request or interrogatory is directed, and the number of the request or interrogatory to that party. Separate questions within a production request or written interrogatory or within a request for admission must be numbered consecutively within the request or interrogatory and consecutively with earlier production requests or written interrogatories and requests for admission, respectively, from the same party submitting the questions to the same party answering them. For example, if the last question of the Third Production Request of the Commission Staff to XYZ Electric Company is numbered 33, the first question of the Fourth Production Request of the Commission Staff to XYZ Electric Company must be numbered 34. But, if the Staff's next production request is its first to intervenor ABC Company, that request must begin with question one (1) to that intervenor. (7-1-93)

03. Time for Objection and Answer. Unless otherwise provided by order, notice, or these rules, or pursuant to agreement with or acquiescence of the answering party, parties have at minimum fourteen (14) days to object or explain why a question cannot be answered according to this rule and twenty-one (21) days to answer. (5-8-09)

04. Numbers of Requests. The number of production requests or written interrogatories and of requests for admission and individual questions or subparts in them may be limited by order, notice or rule of the Commission, but are not limited by the provisions of the Idaho Rules of Civil Procedure. (7-1-93)

226. SUBPOENAS (RULE 226).

01. Issuance of Subpoenas. Upon a motion in writing, or upon a Commissioner's own initiative without motion, any Commissioner may issue subpoenas: (7-1-93)

a. Requiring the attendance of a witness from any place in Idaho; (7-1-93)

b. The production of documents from any place in Idaho; or (7-1-93)

c. The production of any books, accounts, papers or records of a utility or carrier kept within or without Idaho to any designated place of deposition, hearing or investigation for the purpose of taking testimony or examining documents before the Commission, a Commissioner or hearing examiner. (7-1-93)

02. Witness or Travel Fees. A party's motion to issue a subpoena must be accompanied by a statement that the party will tender to the subpoenaed person all fees required by statute and rules if the subpoena is issued. (7-1-93)

03. Motions to Quash. The Commission upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may: (7-1-93)

a. Quash the subpoena; or (7-1-93)

b. Condition denial of the motion to quash upon reasonable terms. (7-1-93)

227. STATUTORY EXAMINATION AND AUDIT -- CONTRASTED WITH OTHER DISCOVERY (RULE 227).

Statutory examination and audit refers to the right of the Commission, an individual Commissioner, or an authorized member of the Commission Staff to review and inspect the books, records and premises of regulated utilities and carriers pursuant to statute. This right of statutory examination and audit is independent of any right of discovery in formal proceedings and may be exercised whether or not a regulated utility or carrier is party to a formal proceeding before the Commission. Information obtained from statutory examination and audit may be used in formal proceedings or for any other regulatory purpose. The rights of deposition, production request or written interrogatory, request for admission, and subpoenas can be used by parties only in connection with formal proceedings before the

Commission. (7-1-93)

228. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION (RULE 228).

01. When Answers Not Filed. Answers to production requests or written interrogatories and to requests for admission need not be filed and served in the following circumstances: (7-1-93)

a. Voluminous answers may be filed in a depository designated and agreed to by the parties or designated by the Commission, and an explanation notifying the parties of the availability of the answers at the depository must be filed and served in their stead. (7-1-93)

b. Answers involving data compiled by computer may be transmitted in computer-readable form (e.g., by disk or other mutually agreed means) to the party requesting them and to all other parties requesting them in similar computer-readable forms and an explanation notifying the parties of their distribution must be filed and served in their stead. (3-16-04)

02. Filing of Answers. Except as provided in Rule 228.01, answers to production requests or written interrogatories and to requests for admission must restate in full each question asked, then state in full the party's response to the question and the persons who will be able to answer questions about or sponsor the answer at hearing. Answers to production requests or interrogatories need not be separately answered under oath by each person preparing the party's response to the question or each witness who will be able to answer questions about or sponsor the answer, but instead can be generally subscribed by the party's representative. The restatement of the question and its accompanying answer must begin on a new page whenever the preceding answer refers to other documents or whenever the preceding question in the particular production request or written interrogatory is not answered in full in that document. (7-1-93)

229. FILING AND SERVICE OF DISCOVERY AND RELATED DOCUMENTS (RULE 229).
Notices of deposition, production requests or written interrogatories, requests for admission, answers to production requests or written interrogatories, answers to requests for admission, explanations in lieu of answers under Rule 228.01, and objections to discovery shall be filed with the Commission Secretary and copies served on all parties according to Rules 61, 62, 63, and 64. (5-8-09)

230. EXHIBIT NUMBERS -- PREPARED TESTIMONY AND EXHIBITS (RULE 230).
The Commission Secretary assigns exhibit numbers to each party. Applicants, petitioners, or complainants are assigned exhibit nos. 1-100. If the Commission is complainant, the Staff is assigned exhibit nos. 1-100. In all other cases, the Staff is assigned exhibit nos. 101-200. Respondents and intervenors are assigned exhibit nos. 201-300, 301-400, etc., as they make their first pleading, but the lower series are reserved first for respondents, then for intervenors. These assigned numbers should be used in all prepared testimony. (7-1-93)

231. PREPARED TESTIMONY AND EXHIBITS (RULE 231).

01. Prepared Testimony May Be Required. Order, notice or rule may require a party or parties to submit prepared testimony and exhibits to be presented at hearing. (7-1-93)

02. Format for Prepared Testimony. (7-1-93)

a. Prepared testimony and exhibits must be accompanied by a cover sheet showing the case caption and case title, the person testifying, the party for whom the testimony is offered, and the nature of the testimony (direct, rebuttal, etc.). (7-1-93)

b. The first page of prepared testimony should contain testimony only (i.e., it should begin with the first question to the witness and not repeat the information on the cover page). (7-1-93)

c. Prepared testimony must be submitted on white eight and one-half by eleven inch (8-1/2" x 11") paper, be double-spaced (except for quoted material and tables or other collections of numerical data), and contain no more than ten (10) characters per inch and no less than twenty-five (25) lines of double-spaced testimony or more

than thirty (30) lines per page. Each page may be printed on the front and back (duplexed). (4-7-11)

d. Each line of prepared testimony must be numbered at the left margin (except single-spaced quotations or tables of numerical data, which may be numbered at the left margin as though they were double-spaced). Each page of testimony must have a one and one-half (1-1/2) inch left margin that will allow the page to be bound on its left side without obscuring the printed material. Indentations for paragraphing and for "Q" and "A" must be seven (7) spaces. (7-1-93)

e. Each page of prepared testimony must be numbered at the lower right corner and must be blank in the center of the bottom margin to allow the reporter to insert transcript page numbers there. Each page of prepared testimony must have at least a one-inch (1") top and bottom margin. (7-1-93)

f. Each page of prepared testimony must contain the witness's surname followed by the designation "Di" (signifying direct testimony) or "Di-Reb" (signifying direct testimony on rebuttal) and the name of the party sponsoring the testimony printed in the lower right margin. For example, the marginal notation on page 5 of the testimony of the witness Lynn Accountant of ABC Company would be:

5 Accountant, Di ABC Company	or	Accountant, Di 5 ABC Company

(7-1-93)

03. References to Exhibits. All references to exhibits in prepared testimony must refer to the exhibits by their number as assigned by the Commission Secretary. Exhibits accompanying prepared testimony must be consecutively numbered from the first exhibit number assigned to the party by the Commission Secretary if the party has not previously identified exhibits, or from the highest exhibit number previously identified by that party. Exhibits must be filed on eight and one-half by eleven inch (8-1/2" x 11") paper unless it is impractical to make them that size. Exhibits accompanying prepared testimony must comply with Rule 267. (7-1-93)

04. Number of Copies -- Filing and Service. Unless otherwise provided by order, notice or agreement of the parties, nine (9) legible copies of prepared testimony and exhibits must be filed with the Commission Secretary and copies filed on all parties pursuant to Rules 61, 62, 63 and 64 at least fourteen (14) days before the hearing at which they will be presented. The original, if there is an original, or one (1) of the copies, if there is not, must be specifically designated as the reporter's copy by cover sheet, attached note or otherwise, and be included with the copies filed with the Commission Secretary. In special circumstances, notice or order may provide that the reporter's copy of prepared testimony and exhibits be served directly on the reporter rather than the Commission Secretary. (7-1-93)

05. Computer-Searchable Copies of Testimony. In addition to the paper copies of prepared testimony, the Commission Secretary may also require or the parties may agree that some or all of the prepared testimony to be submitted to the Secretary, parties and the reporter in computer searchable CD-ROM without password protection. The CD-ROM shall be in Adobe Acrobat (PDF) or other searchable format agreed upon by the reporter and the parties. Each CD-ROM shall be labeled with the Commission's case number, case name, the name of each witness and the sponsoring party. (4-7-11)

232. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (RULE 232).
The Commission may impose all sanctions recognized by the Public Utilities Law for failure to comply with an order compelling discovery. (7-1-93)

233. ASSERTIONS THAT DISCOVERED MATERIAL IS PROTECTED FROM PUBLIC INSPECTIONS -- PROCEDURES (RULE 233).

01. Assertion of Protection. Whenever any party to a request for discovery believes that material otherwise discoverable is protected by statute or rule of law from inspection, examination or copying by the general public, the attorney for the party asserting the material is protected by law from inspection, examination or copying must state that the answer or some portion of it is protected, citing the specific statute or other legal authority for that position. The attorney's assertion constitutes a representation that the attorney is familiar with the material claimed

not to be available for public inspection, examination and copying and in good faith believes there is a basis in law for that claim. (4-5-00)

02. Procedures. When an answer contains material, some of which is protected by law from public inspection, examination, and copying and some of which is not, the protected material must be reproduced on yellow paper and separated from material available for public review. Each page of the material exempt from public review must be marked "Trade Secrets" or "Confidential." All material exempt from public review shall be filed with the Commission Secretary and served on all parties under seal pursuant to Rule 229. Material exempt from public review shall be separately stored in a secure location with limited access and safeguarded from unauthorized disclosure. All material for which no assertion of protection against public inspection, examination and copying is made will be placed in files available for public inspection. (5-8-09)

234. ASSERTION OF RIGHT AGAINST SELF-INCRIMINATION DURING DISCOVERY -- IMMUNITY (RULE 234).

01. Assertion of Right. During discovery any person may assert the right not to testify or not to produce documents upon the ground that the testimony or production of documents may tend to incriminate the person or subject him or her to penalty or forfeiture. (7-1-93)

02. Granting of Immunity. The Commission or any Commissioner may direct that person to testify or produce documents by written order or upon the record at hearing. In such case, that person shall not be prosecuted, punished or subjected to any forfeiture or penalty for or on account of any act, transaction, matter or thing concerning which he or she shall under oath have testified or produced documentary evidence: provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed in that testimony. (7-1-93)

03. No Immunity Without Assertion of Right. No immunity is granted under this rule or under Section 61-606, Idaho Code, in the absence of a specific assertion of the persons' rights under Section 61-606, Idaho Code, and the Commission's or a Commissioner's written order or direction on the record at hearing compelling the person to testify or produce written documents and immunizing the person from prosecution, punishment, forfeiture or penalty according to this rule and Section 61-606, Idaho Code. No immunity granted under this rule or Section 61-606, Idaho Code, shall extend to any public utility. (7-1-93)

235. -- 240. (RESERVED)

HEARINGS -- MISCELLANEOUS PROCEDURE
(Rules 241 -- 260)

241. NOTICE OF HEARING (RULE 241).

01. Timing of Notice. Notice of the place, date and hour of hearing will be served at least fourteen (14) days, or in the case of formal complaints, twenty-one (21) days, before the time set for hearing, unless the Commission finds by order that the public necessity requires the hearing to be held earlier. (7-1-93)

02. Contents of Notice. Notices must comply with Rule 242's requirements. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number, and the name of the hearing officer who will conduct the hearing if the case will not be heard by one (1) or more Commissioners. If no document previously issued by the Commission has listed the legal authority of the Commission to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. (7-1-93)

03. Locations of Hearing. Hearings may be held in Boise, Idaho, or at other places designated by notice or order. (7-1-93)

04. Types of Formal Hearings. The Commission generally conducts two (2) types of formal public hearings. (5-8-09)

a. A technical hearing is a public hearing where parties present witnesses and their prepared testimony and exhibits. (5-8-09)

b. A customer hearing is a public hearing for customers, public officials, and other persons not related to parties in the case to provide testimony. Unless otherwise ordered by the presiding officer, parties are prohibited from presenting evidence at the customer hearing. (5-8-09)

242. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS (RULE 242).
All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act (ADA). All notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the Commission is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the Commission will supply that assistance upon request made seven (7) days before hearing. (7-1-93)

243. HOW HEARINGS ARE HELD (RULE 243).

01. All Hearings Presumed Open. All hearings conducted by the Commission are open to the public except when a hearing may be partially closed to safeguard trade secrets or other confidential information protected from public disclosure. If parties intend to cross-examine or offer testimony that may necessitate the parital closure of a hearing, they shall advise the Commission or presiding officer at the beginning of the hearing or as soon as thereafter as practical. The Commission disfavors closed hearings and parties shall take all reasonable measures to avoid the need to close a public hearing. Such measures include: (4-5-00)

a. Using references to page and line or column numbers; (4-5-00)

b. Using summaries or generalizations; (4-5-00)

c. Stipulating that the evidence be offered in the public hearing; or (4-5-00)

d. Offering testimony in writing. (4-5-00)

02. Methods of Conducting Hearings. Hearings may be held in person or by telephone or television or other electronic means, if each participant to the hearing has an opportunity to participate in the entire proceeding while it is taking place. (4-5-00)

244. CONDUCT AT HEARINGS (RULE 244).
All persons attending a hearing must conduct themselves in a respectful and courteous manner. Persons disrupting the hearing shall be asked to leave by the presiding officer. See Rule 47 and Section 18-6409(1), Idaho Code. Smoking is not permitted at hearings. (5-8-09)

245. CONFERENCE AT HEARING (RULE 245).
In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer will state the results of the conference on the record. (7-1-93)

246. PRELIMINARY PROCEDURE AT HEARING (RULE 246).
Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (7-1-93)

247. CONSOLIDATION OF PROCEEDINGS (RULE 247).
The Commission may consolidate two (2) or more proceedings for hearing when it finds that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer

determines the order of the proceeding. (7-1-93)

248. STIPULATIONS (RULE 248).
Parties may stipulate among themselves to any fact at issue by written statement filed with the Commission Secretary or presented at hearing or by oral statement on the hearing record. A stipulation binds all parties agreeing to it only according to its terms. The Commission may regard a stipulation as evidence, but the Commission may require proof by evidence of the facts stipulated. The Commission is not bound to adopt a stipulation of the parties, but may by order do so. If the Commission rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (7-1-93)

249. ORDER OF PROCEDURE (RULE 249).

01. Order of Presentation of Evidence. The parties' evidence will ordinarily be introduced in the following order: (7-1-93)

a. Upon applications: (7-1-93)

i. Applicant; (7-1-93)

ii. Intervenors; (7-1-93)

iii. Commission Staff; and (7-1-93)

iv. Rebuttal by applicant. (7-1-93)

b. Upon formal complaints or petitions (except when the Commission is complainant): (7-1-93)

i. Complainant or petitioner; (7-1-93)

ii. Intervenors; (7-1-93)

iii. Commission Staff; (7-1-93)

iv. Respondents; and (7-1-93)

v. Rebuttal by complainant or petitioner. (7-1-93)

c. Upon complaints by Commission: (7-1-93)

i. Commission Staff; (7-1-93)

ii. Intervenors; (7-1-93)

iii. Respondents; and (7-1-93)

iv. Rebuttal by Commission Staff. This order of presentation of evidence may be modified by the Commission or presiding officer. Additional evidence may be taken in the discretion of the Commission or presiding officer. Evidence of public witnesses may be taken at any time. (7-1-93)

02. Order of Examination of Witnesses. Witnesses will ordinarily be examined in the following order: (7-1-93)

a. Direct examination by sponsoring party or direct statement of public witness; (7-1-93)

b. Examination by applicants, petitioners or complainants; (7-1-93)

c. Examination by intervenors; (7-1-93)

d. Examination by respondents; (7-1-93)

e. Examination by Commission Staff (except when the Staff acts as complainant); (7-1-93)

f. Examination by Commissioners or hearing examiners; and (7-1-93)

g. Redirect examination or rebuttal statement. The presiding officer may allow additional examination of witnesses or vary the order of examination of witnesses. The presiding officer may vary the order of examination of witnesses to allow parties with interests adverse to the witness to examine the witness after parties with interests similar to the witness. (7-1-93)

250. TESTIMONY UNDER OATH (RULE 250).
All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the Commission is the truth, the whole truth, and nothing but the truth. (7-1-93)

251. PARTIES AND PERSONS WITH SIMILAR INTERESTS (RULE 251).
If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (7-1-93)

252. CONTINUANCE OF HEARING (RULE 252).
The Commission or presiding officer may continue proceedings for further hearing. When a hearing for an application described by Rule 121 is continued at the request of the applicant, the applicant may be required, as a condition of granting the motion for continuance, to consent to an order tolling the running of any suspension period if the Commission ultimately finds that a final order cannot be issued within the suspension period because the applicant's request for a continuance was granted. (7-1-93)

253. RULINGS AT HEARINGS (RULE 253).
The presiding officer rules on motions presented at hearing. The presiding officer's rulings may be reviewed by the full Commission in determining the matter on its merits. In extraordinary circumstances, the presiding officer may refer or defer these matters to the full Commission for determination. (7-1-93)

254. ORAL ARGUMENT (RULE 254).
The Commission may set and hear oral argument on any matter before it on reasonable notice according to the circumstances. (7-1-93)

255. BRIEFS -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION -- PROPOSED ORDER OF THE COMMISSION (RULE 255).
In any proceeding, any party may move to file briefs, memoranda, proposed orders of the parties or statements of position, and the Commission or presiding officer may request briefs, proposed orders of the parties, or statements of position. The Commission or presiding officer may issue a proposed order and ask the parties for comment upon the proposed order. (7-1-93)

256. PROCEDURE ON MOTIONS (RULE 256).

01. Argument. The Commission may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the Commission must state its grounds for denying the request. (7-1-93)

02. Requirements for Motion for Expeditious Substantive Relief. A motion requesting substantive relief on fewer than fourteen (14) days' notice will not be acted upon on fewer than fourteen (14) days' notice unless it states: (7-1-93)

a. The facts supporting its request to act on shorter notice; and (7-1-93)

b. 1) That at least one (1) representative of all parties has received actual notice of the motion, by telephone or personal delivery of the motion; or 2) stating the efforts made to reach representatives of those parties not contacted and what efforts will continue to be made to contact them. Except as otherwise provided in this paragraph, the Commission will allow at least two (2) days (excluding Saturdays, Sundays and legal holidays) after notification by telephone or actual receipt of the motion for parties to inform the Commission Secretary, either in writing personally delivered to the Secretary or by telephone, whether they support or oppose the motion and whether they desire to be heard on the motion in person, in writing or by telephone. Except in extraordinary circumstances in which the Commission states good cause for ruling on a motion without allowing two (2) days for parties to state their positions or to present their position on the motion either in person, in writing or by telephone, the Commission will not rule on a substantive motion. Whenever an order is issued in such extraordinary circumstances, it will expire in no more than seven (7) days. (7-1-93)

03. Motions for Procedural Relief. A motion requesting procedural relief on fewer than fourteen (14) days' notice is properly filed if it complies with provisions of Rule 256.02.a. and 256.02.b. The Commission may act on such a motion without waiting for responses of other parties. (7-1-93)

04. Support or Opposition to Prehearing Motion. When a prehearing motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file their own motions within seven (7) days after receiving the original motion. The party answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the last motion or joinder pursuant to the requirements of the previous sentence in which to respond, except as provided in Rule 256.02 and 256.03 of this rule. (7-1-93)

257. JOINT HEARINGS (RULE 257).

When the Commission participates jointly with a federal regulatory agency, the rules of practice and procedure of the federal agency govern. When the Commission participates jointly with an administrative body of another state or other states, the rules of the state where the hearing is held govern unless otherwise agreed upon by the participating agencies. Any person entitled to appear in a representative capacity for any of the agencies involved in a joint hearing may do so in such joint hearing. (7-1-93)

258. COMMISSIONERS -- HEARING EXAMINERS -- PROCEDURE (RULE 258).

01. Officers Holding Hearings. Hearings are held before one (1) or more Commissioners or one (1) or more hearing examiners appointed by the Commission. The presiding officer is designated by the Commission. Any Commissioner or hearing examiner may administer oaths. (7-1-93)

02. Procedure When Hearing Examiner Holds Hearing. When a hearing examiner hears a proceeding, the examiner must prepare and file recommended findings of fact with the Commission Secretary and serve copies of them on all parties of record within fourteen (14) days after receipt of the hearing record, unless the examiner's recommended findings are stated on the record at hearing. Unless otherwise provided by order or notice, the Commission will issue its decision based upon its independent review of the record and of the hearing examiner's recommended findings of fact. (7-1-93)

259. ASSERTION OF RIGHT AGAINST SELF-INCRIMINATION AT HEARING -- IMMUNITY (RULE 259).

01. Assertion of Right. At hearing any person may assert the right not to testify or not to produce documents upon the ground that the testimony or production of documents may tend to incriminate the person or subject him or her to penalty or forfeiture. (7-1-93)

02. Granting of Immunity. The Commission or any Commissioner may direct that person to testify or produce the document by written order or upon the record at hearing. In such case, that person shall not be prosecuted, punished or subjected to any forfeiture or penalty for or on account of any act, transaction, matter or thing concerning which the person shall under oath have testified or produced documentary evidence: provided, that no person so testifying shall be exempt from prosecution or punishment for any perjury committed by him or her in that testimony. (7-1-93)

03. No Immunity Without Assertion of Right. No immunity is granted under this rule or under Section 61-606, Idaho Code, in the absence of a specific assertion of the person's rights under Section 61-606, Idaho Code, and the Commission's or a Commissioner's written order or direction on the record at hearing compelling the person to testify or produce written documents and immunizing the person from prosecution, punishment, forfeiture or penalty according to this rule and Section 61-606, Idaho Code. No immunity granted under this rule or Section 61-606, Idaho Code, shall extend to any public utility. (7-1-93)

260. SUMMARY OF POSITION(S) AND TESTIMONY (RULE 260).
Each utility shall make available to the public at all Commission hearings a brief written summary of the utility's position(s) and testimony filed in the case under consideration except when the Commission has determined that a summary is not necessary. If the utility is requesting a rate increase, its summary shall address the utility's need for additional revenue, the total dollar amount requested, and the proposed percentage increase or decrease in rates for each major customer class. The Commission Staff and intervenors shall also provide a brief summary of their recommendations and the testimony filed in the case under consideration. These summaries and presentations are provided solely for the convenience of the public and will not be allowed as evidence or form the basis for cross-examination of any witness. (5-8-09)

EVIDENCE
(Rules 261 -- 270)

261. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE (RULE 261).
The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order made, approved or confirmed by the Commission. Rules as to the admissibility of evidence used by the district courts of Idaho in non-jury civil cases are generally followed, but evidence (including hearsay) not admissible in non-jury civil cases may be admitted to determine facts not reasonably susceptible of proof under the Idaho Rules of Evidence. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or inadmissible on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho, and order the presentation of such evidence to stop. All other evidence may be admitted if it is a type generally relied upon by prudent persons in the conduct of their affairs. The Commission's expertise, technical competence and special knowledge may be used in the evaluation of the evidence. (7-1-93)

262. DOCUMENTARY EVIDENCE -- INTRODUCTION OF RECORDS IN THE COMMISSION SECRETARY'S OFFICIAL FILE (RULE 262).
Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. When a party offers in evidence any portion of a transcript, exhibit, or other record from any other proceeding before the Commission, the portion offered must be specifically described and, if admitted, will be made an exhibit. The party offering the exhibit must comply with Rule 267. (7-1-93)

263. OFFICIAL NOTICE (RULE 263).

01. Matters That May Be Officially Noticed. The Commission may officially note at hearing and in its orders: (7-1-93)

a. (1) Its own orders, notices, rules, certificates and permits, and (2) those of any other regulatory agency, state or federal; (7-1-93)

b. (1) matters of common knowledge, (2) technical, financial, or scientific facts established and published in accepted authorities or in the Commission's specialized knowledge, and (3) matters judicially noticeable; and (7-1-93)

c. Data contained in periodic reports of regulated utilities filed with the Commission or federal regulatory agencies. (4-5-00)

02. Procedure for Taking Official Notice. When officially noting on its own motion matters

described in Rule 263.01.b.(2) or 263.01.c. or adjudicative facts under Rule 263.01.b.(3) of this rule, the Commission will give the parties appropriate opportunity to respond or refute such matters noticed. Unless otherwise agreed by the parties and approved by the presiding officer, parties requesting the Commission to take official notice of documents must submit those documents to the Commission in the manner prescribed for documents in Rule 262. (7-1-93)

264. DEPOSITIONS (RULE 264).
Depositions may be offered into evidence as allowed by Section 61-605, Idaho Code, and the Idaho Rules of Civil Procedure. (7-1-93)

265. OBJECTIONS -- OFFERS OF PROOF (RULE 265).
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection or the presiding officer may receive the evidence subject to the later ruling by the full Commission or refer to the matter to the full Commission. (7-1-93)

266. PREPARED TESTIMONY (RULE 266).
The presiding officer may order a witness's prepared testimony previously distributed to all parties to be incorporated in the transcript as if read if timely filed pursuant to an order, notice or rule requiring its filing before hearing. Without objection, the presiding officer may direct other prepared testimony to be incorporated in the transcript as if read. Admissibility of prepared testimony is subject to the Rule 261. (7-1-93)

267. EXHIBITS (RULE 267).

01. Exhibit Numbers. Exhibit numbers are assigned to the parties before hearing according to Rule 230. (7-1-93)

02. Form of Exhibits. Public exhibits offered at hearing must ordinarily be typed or printed on eight and one-half by eleven inch (8 1/2" x 11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. Exhibits that are trade secrets, confidential information or otherwise exempt from public review shall be printed on yellow paper. A copy of each documentary exhibit must be furnished to each party present, to the reporter, and to each Commissioner or hearing examiner, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. (5-8-09)

03. Timely Filing of Exhibits. Exhibits offered as part of a party's direct case (except exhibits offered on redirect examination) must be timely filed. Exhibits filed pursuant to any order, notice or rule requiring their filing before hearing are timely filed. Otherwise, exhibits must be distributed or made available to all parties long enough before their introduction into evidence to allow the parties a reasonable opportunity to review them and to prepare to examine their substance, except those exhibits that update exhibits previously timely filed may be filed so long as fair opportunity is afforded other parties to examine the sponsoring witnesses about the updated material. (7-1-93)

04. Objection -- Admission. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. (7-1-93)

05. Labeling of Exhibits. All exhibits accompanying prepared testimony, exhibits introduced during direct examination of a party's witnesses, and, to the extent practicable, all other exhibits introduced at hearing must label the exhibit number, case number, party and witness sponsoring the exhibit, and any subdivisions within the exhibit, such as separate schedules or charts. Examples of labeling required by this rule are:

Exhibit No. 101	Exhibit No. 507
Case No. XXX-X-XX-XX	Case No. XXX-X-XX-XX
P. Engineer, Staff L.Accountant, ABC Company	
Schedule 1, p. 1 of 3	

Exhibits prepared for the proceeding must contain this labeling on each page of the exhibit. Exhibits reproducing previously existing documents may contain a cover page with this labeling, but need not be labeled on each page. (7-1-93)

06. Sources for Exhibits. Exhibits prepared from data in workpapers, answers to discovery, periodicals, reports or other documentable sources of information must contain a statement of sources. Examples of the statements of sources required by this rule are: (7-1-93)

P. Engineer, Workpapers -- Answer of XYZ Utility
to First Tab A, pages 1 - 47 Production Request of ABC
Company, Question 13

Moody's Public Utility -- XYZ Utility,
FERC Form 1 (1993)
Manual p. 402a 1993 Vol. 1, p. 606

Exhibits especially prepared for introduction into evidence in a proceeding (i.e., exhibits not otherwise prepared or in existence) should be descriptively titled to show their contents and purpose. (7-1-93)

07. Certain Exhibits Require Presiding Officer's Approval. Neither motion pictures, slides, opaque projections, video tapes, audio tapes nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without prior approval of the presiding officer. Writing, sketching and drawing on blackboards or other similar surfaces by witnesses presenting testimony do not constitute an exhibit or evidence in the proceeding unless the writing, sketching or drawing is reproduced, photographed, or otherwise preserved for the record. (7-1-93)

268. -- 270. (RESERVED)

SETTLEMENTS
(Rules 271 -- 280)

271. PASSIVE SETTLEMENTS (RULE 271).
Settlements in formal proceedings in which a party agrees to concur in, accept, or not to oppose another party's positions previously on record with the Commission are called passive settlements. Any party may reach a passive settlement with any other party on any issue without prior notification to the Commission or any other party. (7-1-93)

272. PROCEDURES FOR ACTIVE SETTLEMENTS (RULE 272).
Settlements in formal proceedings in which one (1) or more parties negotiate an agreement differing from positions of one (1) or more of the parties previously on record with the Commission are called active settlements. Any party other than the Commission Staff may enter into an active settlement with any party other than the Commission Staff without prior notification to the Commission or other parties. The Commission Staff, however, is precluded from entering into an active settlement without first notifying all other parties and the Commission that it intends to begin or has begun settlement negotiations. The Commission Staff must give all other parties an opportunity to participate in or be apprised of the course of the settlement negotiations before a final settlement agreement is reached. Settlement negotiations are confidential, unless all participants to the negotiation agree to the contrary. (5-8-09)

273. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS (RULE 273).
Through notice or order or on the record at prehearing conference or hearing, the Commission or an individual Commissioner may inquire of the parties in any proceeding whether settlement negotiations are in progress or contemplated or invite settlement of an entire proceeding or certain issues. In issuing such an invitation for settlement, the Commission or an individual Commissioner may indicate acceptable ranges of settlement, preclude certain issues from settlement, or otherwise inform the parties of his, her or their views on settlement in aid of securing a just, speedy and economical determination of the issues presented to the Commission. Neither the Commission nor individual Commissioners will indicate ex parte their views on the merits of any proposed settlement. (7-1-93)

274. CONSIDERATION OF SETTLEMENTS (RULE 274).
Settlements must be reviewed under this rule. When a settlement, be it active or passive, is presented to the Commission, the Commission will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the Commission may summarily accept settlement of an essentially private dispute that has no significant implications for regulatory law or policy or for other utilities or customers upon the written request of the affected parties. On the other hand, when one (1) or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other utilities, other customers or the public interest, the Commission may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is just, fair, and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. (7-1-93)

275. BURDENS OF PROOF (RULE 275).
Proponents of a proposed settlement carry the burden of showing that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. In any instance in which parties or affected persons oppose the settlement, proponents of the settlement should be prepared to call witnesses and argue in favor of the settlement. Opponents of the settlement should be prepared to examine supporting witnesses, offer their own witnesses, or argue against the settlement. The Commission may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (7-1-93)

276. SETTLEMENT NOT BINDING (RULE 276).
The Commission is not bound by settlements. It will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. When a settlement is presented for decision, the Commission may accept the settlement, reject the settlement, or state additional conditions under which the settlement will be accepted. In the last instance, the parties will have twenty-one (21) days to state their acceptance or rejection of the additional conditions imposed by the Commission. If the Commission rejects the settlement or if the Commission's conditional acceptance of a settlement is rejected by the parties to the settlement, the Commission will notify the parties of procedures to be followed to decide the issues for which settlement was rejected by the Commission. (7-1-93)

277. CONSENT AGREEMENTS NOT SETTLEMENTS (RULE 277).
Consent agreements proscribing or prescribing certain conduct under Rule 58 are not settlements under this rule. (7-1-93)

278. -- 280. (RESERVED)

OFFICIAL RECORDS AND FILES
(Rules 281 -- 290)

281. RECORDS FOR DECISION -- RELATIONSHIP TO OFFICIAL FILE (RULE 281).
The Commission bases its decisions and issues its orders on the hearing record (excluding exhibits denied admission), the Commissioners' record and items officially noted. The hearing record and the Commissioners' record are part of the Commission Secretary's official file. (7-1-93)

282. THE COMMISSION SECRETARY'S OFFICIAL FILE (RULE 282).

01. Documents in File. The Commission Secretary's official file for a proceeding is the public file maintained by the Commission Secretary. This file includes all documents filed with regard to a proceeding, whether filed by parties or other persons, and includes (but is not limited to) pleadings, discovery and related materials, briefs, proposed orders, statements of position, correspondence concerning the proceeding directed to the Commission, a Commissioner, or the Commission Secretary (whether by parties or persons not parties), prepared testimony and exhibits, workpapers, transcripts, exhibits presented at hearing, orders, notices, press releases, and other matters pertaining to or related to a proceeding and included in the public files of that proceeding by the Commission Secretary. (7-1-93)

02. Public Records. Except as provided in Rules 26, 67, 233, and 287, which refer to statutory exemptions from disclosure, all material in the Commission Secretary's Official File is subject to inspection,

examination and copying under Section 74-102, Idaho Code. In particular, information obtained in an application for a certificate issued by this Commission inquiring into a person's fitness to be granted or to retain a certificate is not exempted from examination or copying under Sections 74-106(8) and 74-106(9), Idaho Code, but may be exempted under other statutes. (4-5-00)

283. THE HEARING RECORD (RULE 283).
The hearing record in a proceeding consists of all transcripts of hearings, conferences, arguments and other proceedings on the record and of all exhibits identified, offered, admitted or denied admission at hearing or prehearing conference. Workpapers, requests for discovery, answers to discovery and other documents filed with the Commission Secretary and served on the parties, whether or not discussed at hearing, are not part of the hearing records unless introduced as exhibits at hearing. The Commission or an individual Commissioner may add to the hearing record by reference to any document in the Commission Secretary's official file, but only after notifying the parties of that intention and giving them reasonable opportunity to object, review, examine, and rebut or contest the document. (7-1-93)

284. THE COMMISSIONERS' RECORD (RULE 284).

01. Documents in File. The Commissioners' record in a proceeding automatically includes all pleadings, orders, notices, briefs, proposed orders and position papers. The Commission may add documents officially noticed to the Commissioners' record. (7-1-93)

02. Materials Available at Hearing. The Commissioner(s) or hearing examiner(s) conducting a hearing will have the Commissioners' record and all prepared testimony and exhibits available at hearing. Parties desiring to refer to additional documents at hearing should notify the Commission Secretary and all other parties of their intention so that these other documents will be available to the Commissioner(s) or hearing examiner(s) at hearing or should themselves provide copies at hearing to all other parties and to the Commissioner(s) or hearing examiner(s). (7-1-93)

285. THE REPORTER (RULE 285).
The reporter at all hearings, conferences, arguments and other proceedings on the record must transcribe all oral proceedings on the record and collect all exhibits identified at hearing. Except as otherwise directed by the Commission, presiding officer at hearing, or the Commission Secretary, the reporter must file the complete hearing record of transcripts and exhibits with the Commission Secretary within fourteen (14) days of the close of hearing. (7-1-93)

286. TRANSCRIPTS (RULE 286).

01. Form of Transcripts -- Cover Sheet. Transcripts must be prepared on white eight and one-half by eleven inch (8 1/2" x 11") paper. The lines of each page shall be double-spaced with a minimum of twenty-five (25) lines and a maximum of thirty (30) lines per page. Quotations, citations and parenthetical notes may be single-spaced. Each line shall be numbered on the left margin. The cover page of each volume of transcript must show the title of the proceeding, the case number, the presiding officer, the time and place of hearing, and other information as shown in the following example:

BEFORE THE IDAHO PUBLIC UTILITIES COMMISSION

(TITLE OF PROCEEDING))
CASE NO. XXX-X-XX-XX)
)
)

(COMMISSIONER Able Baker, Presiding)

(HEARING OFFICER Charlie Dog, Presiding)

(Date, e.g., January 21, 1983)

(Hearing Room, e.g., Commission Hearing Room)

(Address, e.g., 472 West Washington, Boise, Idaho)

(4-7-11)

02. Volumes of Transcript -- Indices to Volumes. Each day of hearing must be transcribed in a volume or volumes separate from other days of hearing. Each volume of transcript must begin with a list of the parties who appeared that day and their representatives at hearing that day. This list must be followed with a list of all witnesses whose testimony is reported in that volume, showing the pages at which each witness's testimony begins, what party (if any) called the witness, the pages upon which each other party's examination begins, the pages upon which each Commissioner's or hearing examiner's examination begins, and the pages upon which redirect examination or any party's, Commissioner's or hearing examiner's re-examination begins. These lists must be followed with a list showing all exhibits identified in that volume of transcript (including exhibits accompanying prepared testimony), the pages upon which they are first identified, and, if any exhibits are denied admission, the pages upon which the exhibits are denied admission. (7-1-93)

03. Matters Included in Transcript. The transcript must contain all discussions on the record while the hearing is in order. Unless otherwise directed by the Commission, the presiding officer, or the Commission Secretary, prepared testimony must be included in the transcript without change or retyping. Witness's corrections to prepared testimony should be made by distributing replacement pages to the reporter and describing those corrections on the record and/or distributing an errata sheet; unless otherwise directed, no corrections other than replacement pages will be made in the prepared testimony before it is incorporated in the transcript, except the reporter may make minor corrections by interlineation in the prepared testimony. Witnesses may have seven (7) days after hearing to distribute replacement pages to all parties and to the reporter, unless the Commission, the presiding officer or the Commission Secretary otherwise directs. (7-1-93)

04. Marginal Notes. The testimony of all witnesses reported in the transcript must be designated in the lower right margin by the witness's surname and the party sponsoring the witness's testimony. Witnesses not sponsored by any party must be designated "Public." The type of testimony must be shown following the witness's surname as "Di" (direct or redirect), "X" (examination by any party not sponsoring the witness), or "Com" (examination by a Commissioner or hearing examiner). Examples of the designations required by this Rule follow:

Accountant, Di;	Accountant, Com; Ratepayer, X
ABC Company	ABC Company Public

Discussions on the record that are not testimony or examination may be labeled "argument," "decision," "colloquy," etc., to describe what is reported. (7-1-93)

05. Volume Size -- Number of Pages. Transcript volumes should not exceed three hundred (300) pages unless the transcript can be completed in three hundred fifty (350) pages or less. Transcript volumes and pages of all proceedings on the record, including prehearing conferences, hearings, arguments, and any other proceedings on the record, must be numbered consecutively. For example, if a prehearing conference on the record preceded a hearing, the transcript volume and page numbers of the hearing would be numbered consecutively with that of the prehearing conference. (3-16-04)

06. Number of Copies -- Binding. The reporter shall prepare an original and one (1) copy of the transcript for the Commission. The original of each transcript shall be filed with the Commission Secretary unbound but each volume shall be separated (if applicable). Copies of the transcript shall be fastened at the left margin in spiral or plastic-type binding, so as to open as flat as possible. (3-16-04)

07. Compressed Transcript. Any party may request a compressed transcript having no more than four (4) pages of regular transcript on a page. Each volume of compressed transcript shall contain no more than two hundred (200) pages unless the transcript can be completed in two hundred fifty (250) pages or less. A compressed transcript may be duplexed. The pagination shall be horizontal as follows:

1	2
3	4

(4-7-11)

08. Computer-Searchable Transcript. Any party may request a computer-searchable disk of the written transcript. The disk shall be in Adobe Acrobat (PDF) or other searchable format agreed upon by the reporter and the party ordering the disk. (4-7-11)

09. Purchase of Transcript. Any party or other person may request and pay for a copy of a transcript or portions of the transcript from the reporter. (3-16-04)

287. SEALED TRANSCRIPTS (RULE 287).
At the direction of the Commission or the presiding officer, the reporter shall prepare a separate transcript volume(s) of closed proceedings involving trade secrets, confidential information or other matters exempt from public disclosure. The reporter shall file the separate transcript volume(s) under seal. Sealed transcripts shall be separately stored in a secure location with limited access and safeguarded from unauthorized disclosure. (4-5-00)

288. -- 300. (RESERVED)

PART 4 - ORDERS AND REVIEW OF ORDERS
(Rules 301 -- 400)

DEFAULTS
(Rules 301 -- 310)

301. FAILURE TO ANSWER OR APPEAR AT HEARING -- DEFAULTS (RULE 301).
After an applicant's, petitioner's, complainant's or moving party's failure to appear at the time and place set for hearing, the Commission may dismiss the petition, application, complaint or motion. When a respondent that has been properly served fails to answer or appear at hearing, the Commission may order any relief against the respondent authorized by law. (7-1-93)

302. -- 310. (RESERVED)

DECISIONS AND ORDERS
(Rules 311 -- 320)

311. SUBMISSION FOR DECISIONS (RULE 311).
A proceeding is submitted for decision upon filing of the hearing record with the Commission Secretary, filing of timely briefs, filing of timely orders proposed by the parties and timely written comments or exceptions, oral argument, or receipt of recommended findings of fact of the hearing examiner, whichever is last, but no later than twenty-eight (28) days after hearing is closed when a hearing is held, except when all Commissioners participating in the decision have heard the case themselves, they need not await the filing of the hearing record to consider the case submitted for their decision. The Commission (or a hearing examiner presiding over an uncontested matter) may issue a final decision earlier or rule from the bench, but a bench ruling will be followed by written order. (7-1-93)

312. PROPOSED ORDERS BY COMMISSION (RULE 312).
The Commission may issue a proposed order in any proceeding. Any party may file exceptions and briefs to a proposed order within twenty-one (21) days from its date of service, unless a different time is designated by the Commission. Any party may file and serve answers and accompanying briefs to the exceptions within seven (7) days after service of the exceptions. The Commission may adopt or revise the proposed order in response and issue a final order accordingly. The proposed order is not an order of the Commission unless it is adopted by order. In that case, the order of adoption is the final order for all purposes. (7-1-93)

313. -- 320. (RESERVED)

INTERLOCUTORY ORDERS -- FINAL ORDERS -- REVIEW OR STAY OF ORDERS
(Rules 321 -- 330)

321. INTERLOCUTORY ORDERS (RULE 321).

01. Defined. Interlocutory orders are orders that do not finally decide all previously undecided issues presented in a proceeding, except the Commission may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration and appeal, but is not final on other issues. Unless an order contains one (1) of the paragraphs set forth in Rule 323 or a paragraph substantially similar, the order is interlocutory. (7-1-93)

02. Certain Orders Always Interlocutory. The following orders are always interlocutory: orders suspending rates, fares, tolls, rentals, charges, classifications, contracts, practices, rules or regulations under Section 61-622, Idaho Code; orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, arguments or deadlines for written communications; orders proposing modified procedure; orders compelling or refusing to compel discovery. (7-1-93)

03. Review of Interlocutory Orders. Interlocutory orders may be reviewed pursuant to Rules 322, 324 and 325. (7-1-93)

322. REVIEW OF INTERLOCUTORY ORDERS (RULE 322).
Any person may petition to review any interlocutory order. The Commission may rescind, alter or amend any interlocutory order on its own motion, but will not on its own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (7-1-93)

323. FINAL ORDERS (RULE 323).

01. Paragraphs Designating Final Orders. Final orders are all orders and only those orders containing one (1) of the following paragraphs or a paragraph substantially similar: (7-1-93)

a. THIS IS A FINAL ORDER. Any person interested in this Order (or in issues finally decided by this Order) or in interlocutory Orders previously issued in this Case No. xxx-x-xx-xx may petition for reconsideration within twenty-one (21) days of the service date of this Order with regard to any matter decided in this Order or in interlocutory Orders previously issued in this Case No. xxx-x-xx-xx. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration in response to issues raised in the petition for reconsideration. See Section 61-626, Idaho Code; or (7-1-93)

b. THIS IS A FINAL ORDER on reconsideration (or denying reconsideration). Any party aggrieved by this Order or other final or interlocutory Orders previously issued in this Case No. xxx-x-xx-xx may appeal to the Supreme Court of Idaho pursuant to the Public Utilities Law and the Idaho Appellate Rules. See Section 61-627, Idaho Code. Orders may be final on some issues and interlocutory on others. If so, the orders will explicitly designate the issues upon which they are final. (7-1-93)

02. Service of Final Orders. The Commission Secretary must indicate on every order subject to petition for reconsideration the date upon which the order was served on the representatives of parties listed in Rule 41. The Commission Secretary must indicate on every order subject to appeal the date upon which the order was filed and the date upon which the order was served on the representatives of parties listed in Rule 41. (7-1-93)

03. Petition to Designate Order as Final. Whenever a party believes that an order not designated as a final order according to the terms of these rules should be a final order, the party may petition the Commission to designate the order as final. If an order is designated as final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. (7-1-93)

04. Review of Final Orders. Final orders may be reviewed pursuant to Rules 324, 325, 326, 331 and 341. (7-1-93)

324. STAY OF ORDERS (RULE 324).
Any person may petition the Commission to stay any order, whether interlocutory or final. Orders may be stayed by the judiciary according to statute. The Commission may stay any order on its own motion. (7-1-93)

325. CLARIFICATION OF ORDERS (RULE 325).
Any person may petition to clarify any order, whether interlocutory or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal a final order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. The Commission may clarify any order on its own motion. (7-1-93)

326. RESCISSION, ALTERATION OR AMENDMENT OF FINAL ORDERS (RULE 326).

01. Petition to Rescind, Alter or Amend a Final Order. Any person may petition to rescind, alter or amend a final order pursuant to Section 61-624, Idaho Code. The petition to rescind, petition to alter, or petition to amend must state: (7-1-93)

a. That it is filed pursuant to Section 61-629, Idaho Code, after an order has been set aside or set aside in part on appeal, or (7-1-93)

b. That there have been changed circumstances or that new information has become available since the order was issued, or that there are other good and sufficient reasons for rescinding, altering, or amending the order. The Commission may dismiss as defective any such petition not complying with this rule and with Rule 53. (7-1-93)

02. Rescission, Alteration or Amendment of Final Order on Commission's Own Motion. The Commission on its own motion may propose to rescind, alter or amend any final order. The Commission will give all interested persons notice of its proposal to rescind, alter or amend the final order and appropriate opportunity to be heard by evidentiary hearing or written submission. (7-1-93)

327. SUBSTANCE OF ORDERS (RULE 327).
Unless prohibited by statute, the substance of orders and the relief provided by orders may differ from the relief requested or proposed by any party. The Commission's order may provide for any result supported by the record before the Commission without regard to whether each component of the order or any component of the order was specifically recommended by a party to the proceeding. (7-1-93)

328. -- 330. (RESERVED)

RECONSIDERATION
(Rules 331 -- 340)

331. PETITIONS AND CROSS-PETITIONS FOR RECONSIDERATION (RULE 331).

01. Petition for Reconsideration. Within twenty-one (21) days after the service date of issuance of any final order, any person interested in a final order or any issue decided in a final order of the Commission may petition for reconsideration. Petitions for reconsideration must set forth specifically the ground or grounds why the petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument the petitioner will offer if reconsideration is granted. See Section 61-626, Idaho Code. (4-5-00)

02. Cross-Petition for Reconsideration. Within seven (7) days after any person has petitioned for reconsideration, any other person may cross-petition for reconsideration in response to any issues raised in the petition for reconsideration. Cross-petitions for reconsideration must set forth specifically the ground or grounds why

the cross-petitioner contends that the order or any issue decided in the order is unreasonable, unlawful, erroneous or not in conformity with the law, and a statement of the nature and quantity of evidence or argument that the cross-petitioner will offer if reconsideration is granted. See Section 61-626, Idaho Code. (4-5-00)

03. Methods of Reconsideration Requested. The petition or cross-petition must state whether the petitioner or cross-petitioner requests reconsideration by evidentiary hearing, written briefs, comments, or interrogatories. (7-1-93)

04. Timely Filing -- Mailbox Rules. A petition for reconsideration is timely within the meaning of Section 61-626, Idaho Code, if it is filed with the Commission or postmarked no later than twenty-one (21) days after the date of service of the final order. Whenever a petition for reconsideration is mailed, rather than personally delivered, and it is not postmarked within eighteen (18) days from the date of service of the final order, the petitioner should notify the Commission Secretary and all other parties by telephone that the petition for reconsideration has been mailed. A cross-petition for reconsideration is timely filed within the meaning of Section 61-626, Idaho Code, if it is filed with the Commission or postmarked no later than seven (7) days after the petition for reconsideration to which it responds is received in the Office of the Commission Secretary. Whenever a cross-petition for reconsideration is mailed, rather than personally delivered, and is not postmarked within four (4) days from the date of receipt of the petition for reconsideration by the Commission Secretary, the cross-petitioner should notify the Commission Secretary and all other parties by telephone that the cross-petition for reconsideration has been mailed. (4-5-00)

05. Answers to Petitions for Reconsideration. Answers to petitions for reconsideration (pleadings that disagree with a petition for reconsideration, but do not ask for affirmative relief from the Commission's orders) must be filed according to the procedures for cross-petitions for reconsideration. (7-1-93)

332. PROCEDURE AT RECONSIDERATION (RULE 332).
The Commission may grant reconsideration upon petition of any interested person or upon its own motion. Prehearing conferences may be convened before reconsideration. Reconsiderations by rehearing are conducted in accordance with the procedure at other hearings, except that parties whose petitions are granted are treated as complainants or petitioners under Rule 249. When the order for reconsideration finds that the grounds upon which the petition is granted present only issues of law and not of fact or issues of fact not requiring hearings, the Commission may direct that these grounds be considered on reconsideration by submission of briefs, memoranda, written interrogatories or written statements and not by further submission of evidence at hearing. Grounds for reconsideration or issues on reconsideration that are not supported by specific explanation may be dismissed. Rule 311 determines when a matter that is reconsidered is finally submitted for purposes of Section 61-626, Idaho Code. (7-1-93)

333. EFFECT OF FILING PETITION FOR RECONSIDERATION (RULE 333).
Filing a petition for reconsideration does not excuse compliance with any order nor stay the effectiveness of any order, unless otherwise ordered. Petitions to stay may accompany or precede petitions for reconsideration. (7-1-93)

334. -- 340. (RESERVED)

APPEAL
(Rules 341 -- 350)

341. PERSONS WHO MAY APPEAL (RULE 341).

01. Parties Aggrieved by Order Following Petition for Reconsideration. After a petition for reconsideration is denied, or, if the petition is granted, then after the rendition of the decision on reconsideration, the state of Idaho or any party aggrieved may appeal from any such order of the Commission by filing with the Commission Secretary a notice of appeal conforming to the requirements of the Idaho Appellate Rules within the time provided by the Idaho Appellate Rules. See Section 61-627, Idaho Code. (7-1-93)

02. Parties Aggrieved by Denial of Petition for Reconsideration. No person is a party aggrieved by an order denying reconsideration unless the person is a party that petitioned for reconsideration and presented the

ground(s) and issue(s) on which it contends it was aggrieved by earlier orders of the Commission as issue(s) on reconsideration pursuant to Rule 331 and the Commission denied reconsideration on some or all of those issues. (7-1-93)

03. Parties Aggrieved Following Reconsideration. No party is aggrieved by an order issued on reconsideration unless: (7-1-93)

a. The party petitioned or cross-petitioned for reconsideration, its petition or cross-petition was granted, and the order issued on reconsideration did not grant the relief requested in the party's petition or cross-petition for reconsideration with regard to some or all of the grounds and issues on reconsideration presented in its petition or cross-petition; or (7-1-93)

b. The party did not petition or cross-petition for reconsideration, but stated on the record, by motion, or by brief that it opposed any alteration or change in the Commission's earlier order(s) on some or all of the grounds associated with issue(s) on reconsideration, and the order issued on reconsideration altered or changed the earlier order(s) with regard to some or all of the grounds or issues on reconsideration that the party opposed. (7-1-93)

342. NOTICE OF APPEAL (RULE 342).
The notice of appeal must be filed with the Commission Secretary as provided in the Idaho Appellate Rules. A notice of appeal is not considered filed for any purpose when it is mailed, but is only considered filed when it is received by the Commission Secretary. (7-1-93)

343. PREPARATION OF APPELLATE RECORD (RULE 343).
The Commission by order may correct the title of an appeal to properly designate all parties as appellants, cross-appellants, respondents, or cross-respondents and to omit those designations for parties before the Commission who are not parties on appeal. All requests for a transcript on appeal must be served on the reporter and on the Commission Secretary. Reporter's fees under Idaho Appellate Rule 24(c) should be paid directly to the reporter, not to the Commission Secretary. The Secretary's fees under Idaho Appellate Rule 27(b) for preparation of the agency's record are the same fees provided in that rule for the clerk of the district court to charge for preparation of the clerk's record. (4-5-00)

344. -- 350. (RESERVED)

SETTLEMENT OF APPEAL FROM THE COMMISSION
(Rules 351 -- 360)

351. DISMISSALS (RULE 351).
Settlements in which appellants or cross-appellants from orders of the Commission agree to dismiss appeals, cross-appeals, or issues on appeal or cross-appeal without requiring the alteration, amendment or rescission of any Commission order are called dismissals. Any party may dismiss any appeal, cross-appeal, or issue on appeal or cross-appeal without any involvement of the Commission. Dismissals are governed solely by the procedures established by the Supreme Court of Idaho. (7-1-93)

352. SETTLEMENTS CALLING FOR COMMISSION ACTION (RULE 352).
Settlements in which one (1) or more parties agree to dismiss an appeal, cross-appeal, or issue on appeal or cross-appeal in conjunction with the alteration, amendment or rescission of a Commission order are called settlements calling for Commission action. If any party to an appeal wishes to attempt to negotiate a settlement calling for Commission action, it must notify the Commission and all other parties to the appeal of its intention to do so. If the Commission believes that settlement negotiations are in the public interest, it may authorize the Commission Staff to enter into settlement negotiations. In conducting those negotiations, the Staff must abide by Rule 272 with regard to active settlements of issues before the Commission. Settlement negotiations are confidential, unless all participants to the negotiation agree to the contrary. (7-1-93)

353. SUGGESTION FOR INQUIRY ABOUT SETTLEMENTS (RULE 353).
In authorizing the Staff to enter into settlement negotiations for a settlement calling for Commission action, the Commission may invite settlement of the entire appeal (including cross-appeals) or of certain issues. The

authorization must be in writing and served upon all parties, but need not be done by notice or order. In authorizing negotiation for settlement calling for Commission action, the Commission or individual Commissioners may indicate acceptable ranges of settlement, preclude certain issues from settlement, or otherwise inform the parties of its views on settlement of an appeal calling for Commission action in aid of securing a just, speedy and economical settlement negotiation. Neither the Commission nor individual Commissioners will indicate ex parte their views on the merits of any proposed settlement. (7-1-93)

354. CONSIDERATION OF SETTLEMENT ON APPEAL (RULE 354).
When a settlement of an appeal calling for Commission action is presented to the Commission, the Commission will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the Commission may accept settlement of essentially private disputes that have no significant implications for regulatory law or policy or for other utilities or customers summarily upon the written request of the affected parties. On the other hand, when one (1) or more parties to the appeal is not party to the settlement or when the settlement presents issues of significant implication for other utilities, other customers or the public interest, the Commission may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is in the public interest. In all cases, the Commission will follow the procedure established by Section 61-624, Idaho Code, with regard to alteration, amendment or rescission of any order affected by the settlement. (7-1-93)

355. BURDENS OF PROOF (RULE 355).
Proponents of a proposed settlement carry the burden of showing that the settlement is reasonable, in the public interest, or otherwise in accordance with law or regulatory policy. In any instance in which parties or affected persons oppose the settlement, proponents of the settlement should be prepared to call witnesses and argue in favor of the settlement. Opponents of the settlement should be prepared to examine supporting witnesses, offer opposing witnesses or argue against the settlement. The Commission may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (7-1-93)

356. SETTLEMENTS NOT BINDING (RULE 356).
The Commission is not bound by settlement agreements. It will independently review any settlement proposed to it to determine whether the settlement is just, fair and reasonable, in the public interest or otherwise in accordance with law or regulatory policy. When a settlement agreement is presented to the Commission for its approval, the Commission may accept the settlement, reject the settlement, or state additional conditions under which the settlement will be accepted. In the last instance, the parties will have twenty-one (21) days to state their acceptance or rejection of the additional conditions imposed by the Commission. (7-1-93)

357. -- 999. (RESERVED)

31.11.01 – SAFETY AND ACCIDENT REPORTING RULES FOR UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

000. LEGAL AUTHORITY (RULE 0).
These rules adopt by reference national safety codes and require the reporting of certain accidents under the general authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code, and under the specific authority of Sections 61-515 and 61-517, Idaho Code. (3-29-10)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is "Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission." This chapter has the following scope: All electric and telephone corporations subject to the regulation of the Idaho Public Utilities Commission are required to abide by the safety regulations adopted in Rule 101; all gas and pipeline corporations are required to abide by the safety regulations adopted in Rules 201 through 203; and all electrical, gas, pipeline, telephone, and water corporations are required to abide by the safety and accident reporting requirements of Rules 301 and 302. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
Any person requesting a waiver from any provision of these safety rules or accident reporting rules may petition the Idaho Public Utilities Commission for a waiver pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (4-1-98)

004. PUBLIC RECORDS ACT COMPLIANCE (RULE 4).
Notes of telephone reports required by Rule 301 and written reports required by Rule 302 are public records subject to inspection, examination and copying. Further investigative reports by the Commission or the Commission Staff are investigatory records exempt from disclosure. See Sections 74-101(6) and 74-105(1), Idaho Code. Reports required by these rules and the results of further investigations by the Commission are by statute prohibited from admission into evidence in any action for damages based on or arising out of the loss of life or injury to the person or property. See Section 61-517, Idaho Code. (3-29-10)

005. DEFINITIONS (RULE 5).

01. Utilities. The terms "electrical corporation," "gas corporation," "pipeline corporation," "telephone corporation," and "water corporation" have the meanings given to them by statute in Chapter 1, Title 61, Idaho Code; orders of the Idaho Public Utilities Commission; and decisions of the Idaho Supreme Court construing these statutes. (3-29-10)

02. Serious Damage. Damage to natural gas facilities caused by a natural disaster or terrorism that results in a loss of or reduction in pipeline throughput or storage deliverability. (4-2-08)

03. Serious Interruption of Service. Interruptions of natural gas pipeline service to communities, major governmental installations, and large industrial plants outside of communities or any other interruption that is significant in the judgment of the natural gas pipeline. Interruptions of less than three (3) hours or planned maintenance outages need not be reported. (4-2-08)

006. -- 007. (RESERVED)

008. INCORPORATION BY REFERENCE – CODE OF FEDERAL REGULATIONS (RULE 8).
Rules 101, 201, and 302 incorporate by reference various national safety codes and federal gas pipeline safety regulations. Each applicable rule identifies the issuing entity for each code or regulation and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. (4-2-08)

009. -- 100. (RESERVED)

ELECTRIC AND TELEPHONE UTILITIES

Rules 101 through 200

101. NATIONAL ELECTRICAL SAFETY CODE (NESC) (RULE 101).
The Commission adopts by reference the American National Standards Institute (ANSI) C2-2017 National Electrical Safety Code (NESC), 2017 Edition. The National Electrical Safety Code, 2017 Edition, is published by the Institute of Electrical and Electronics Engineers, Inc., and is available from the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997 and may be ordered by calling 1-800-678-IEEE. All electrical and telephone corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of the NESC. (4-11-19)

102. -- 200. (RESERVED)

TRANSPORTATION OF NATURAL GAS BY PIPELINES -- LIQUEFIED NATURAL GAS FACILITIES -- TRANSPORTATION OF HAZARDOUS LIQUIDS BY PIPELINE -- INTERNATIONAL FUEL GAS CODE -- INTERNATIONAL MECHANICAL CODE

(Rules 201 through 300)

201. FEDERAL NATURAL GAS SAFETY REGULATIONS (RULE 201).
The Commission incorporates by reference Part 260.9, Title 18 (April 1, 2017) and Parts 191, 192, 193, 195, and 199, Title 49, the Code of Federal Regulations (October 1, 2017), except that federal accident reporting requirements contained in the rules adopted by reference in Rule 201 are replaced for state reporting purposes by orders of the Commission or rules of the Commission. These regulations are found in the Code of Federal Regulations, *viewable online at www.govinfo.gov/app/collection/cfr/2017*. The incorporated CFR Parts are also available in electronic format at https://www.gpo.gov/fdsys. All gas and pipeline corporations subject to the Commission's jurisdiction are required to abide by applicable provisions of these federal regulations adopted by reference. *( )*

202. -- 300. (RESERVED)

REPORTING OF ACCIDENTS AND SERVICE INTERRUPTIONS

(Rules 300 through 400)

301. IMMEDIATE REPORTING OF FATALITIES AND CERTAIN ACCIDENTS AND MAJOR NATURAL GAS INTERRUPTIONS (RULE 301).

01. Fatality and Hospitalization Reporting. Whenever any employee of an electrical corporation, gas corporation, pipeline corporation, telephone corporation, or water corporation or any member of the public dies or requires in-patient hospitalization as a result of contact with or proximity to utility operating property, the utility must notify the Commission by telephone of the fatality or hospitalization no later than the first business day following discovery of the fatality or reporting of the hospitalization, except as provided in Subsection 31.11.01.301.02. Reports should be made to the Commission Secretary at (208) 334-0338. (3-29-10)

02. Operating Property -- Motor Vehicle Accident Exception. As used in this rule, operating property means electric plant as defined in Section 61-118, Idaho Code, gas plant as defined in Section 61-116, Idaho Code, pipelines as defined in Section 61-114, Idaho Code, telephone line as defined in Section 61-120, Idaho Code, or water systems as defined in Section 61-124, Idaho Code. This reporting rule does not apply to fatalities and hospitalizations arising out of motor vehicle accidents, even if the motor vehicle later comes into contact with utility plant. Office buildings or portions of office buildings not associated with the physical delivery of utility services or commodities are not considered operating property. (3-29-10)

03. Major Service Interruptions or Damage to Natural Gas Pipelines. The Commission incorporates by reference Section 260.9, Title 18, the Code of Federal Regulations (April 1, 2009)*, or at www.govinfo.gov/app/collection/cfr/2009*. Every natural gas corporation must report serious damage to natural gas facilities and serious interruptions of service to the Commission. Natural gas corporations should also report other serious damage not caused by natural disaster or terrorism if such damage *prompts an evacuation and or* create*s* the

potential for serious delivery problems on its own system or the pipeline grid. ( )

302. WRITTEN REPORTING OF ACCIDENTS AND NATURAL GAS INTERRUPTIONS (RULE 302).

01. Reporting Required. In addition to any telephone reporting required under Rule 301, a written report shall be submitted for: (4-2-08)

a. Every accident involving an employee of the utility or member of the public that results in a fatality or in-patient hospitalization; (4-2-08)

b. Any other accident the utility finds significant; or (4-2-08)

c. Serious damage or service interruption of natural gas pipelines. (4-2-08)

02. Submitting the Written Report. All written reports shall be submitted to the Commission *Secretary* within twenty one (21) days after the fatality or hospitalization is discovered. Reports regarding serious damage or service interruption shall be submitted at the earliest feasible time. Copies of such reports may also be provided by facsimile at (208) 334-3762 or by electronic mail at secretary@puc.idaho.gov. ( )

03. Contents of Written Accident Report. There is no standard form for written reports prescribed by this rule. Gas companies may file copies of reports submitted to federal regulators under 49 C.F.R. Part 191. All reports submitted *must include*: ( )

a. Name of person(s) involved in the accident; (7-1-93)

b. Status of persons involved in the accident (e.g., employees, children, contractors, etc.); (7-1-93)

c. Time of day, day of the week and month, and location of the accident or discovery of the accident; (4-2-08)

d. Description of the accident and events leading up to the accident; and (4-2-08)

e. The company name, contact person, e-mail address and direct telephone number of the reporting official. (3-29-10)

04. Contents of Written Report Involving Damage or Interruption to Natural Gas Facilities. All written reports shall provide the following information: (4-2-08)

a. The location and cause of the service interruption or damage to natural gas pipeline or storage facilities; (4-2-08)

b. The nature of the serious damage to pipeline or storage facility; (4-2-08)

c. The specific identification and location of any facilities damaged; (4-2-08)

d. The time the service interruption or damage to facilities occurred; (4-2-08)

e. The customers affected by the interruption of service or damage to facilities; (4-2-08)

f. A brief description of emergency actions taken to maintain service; (4-2-08)

g. An estimate of the time (if available) when pipeline throughput or storage deliverables are expected to be restored; and (4-2-08)

h. The company name, contact person, e-mail address and direct telephone number of the reporting official. (3-29-10)

303. USE OF REPORTS (RULE 303).

The Commission may find that reports required by Rules 301 and 302 constitute an adequate investigation of the accident reported, may direct the utility to provide further information to the Commission, or may direct its Staff or others to conduct further investigations. Reports required by Rules 301 and 302 and the results of further investigations by the Commission are by statute prohibited from admission into evidence in any action for damages based on or arising out of the loss of life or injury to the person or property. See Section 61-517, Idaho Code.

(4-1-98)

304. -- 999. (RESERVED)

31.12.01 – SYSTEMS OF ACCOUNTS FOR PUBLIC UTILITIES REGULATED BY THE IDAHO PUBLIC UTILITIES COMMISSION

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code, and the specific legal authority of Section 61-524, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is "Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission." This chapter has the following scope: All Class A and B electric, gas, telephone, and water public utilities are required to maintain their books and records according to the systems of accounts adopted by this rule. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
Any person requesting a waiver from any provision of the Uniform Systems of Accounts pay petition the Idaho Public Utilities Commission for a waiver pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)

004. (RESERVED)

005. DEFINITIONS (RULE 5).
The terms "electrical corporation," "gas corporation," "telephone corporation," and "water corporation" have the meanings given to them by statute in Chapter 1, Title 61, Idaho Code and orders of the Idaho Public Utilities Commission and decisions of the Supreme Court of Idaho construing those statutes. (7-1-93)

006. -- 007. (RESERVED)

008. INCORPORATION BY REFERENCE (RULE 8).
Rule 101, 102, 103 and 104 incorporate by reference various federal accounting regulations and accounting standards issued by the National Association of Regulatory Utility Commissioners. Each applicable rule identifies the issuing entity for each regulation or standard and indicates where the incorporated materials may be obtained. Incorporated materials are also available for inspection and copying at the offices of the Idaho Public Utilities Commission and the Idaho State Law Library. (4-2-08)

009. -- 100. (RESERVED)

UNIFORM SYSTEMS OF ACCOUNTS

Rules 101 through 200

101. UNIFORM SYSTEM OF ACCOUNTS FOR ELECTRIC UTILITIES (RULE 101).
The Commission adopts by reference the Uniform System of Accounts for Major (previously Class A and B) Electric Utilities contained in the Code of Federal Regulations, Title 18, Part 101 (April 1, 2007), *viewable online* at *www.govinfo.gov/app/collection/cfr/2007*. For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only for accounting and reporting and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All Major electrical corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. *( )*

102. UNIFORM SYSTEM OF ACCOUNTS FOR GAS UTILITIES (RULE 102).
The Commission adopts by reference the Uniform System of Accounts for Major (previously Class A and B) Natural Gas Companies contained in the Code of Federal Regulations, Title 18, Part 201 (April 1, 2007), *viewable online* at *www.govinfo.gov/app/collection/cfr/2007*. For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only for accounting and reporting and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All Major gas corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. *( )*

103. UNIFORM SYSTEM OF ACCOUNTS FOR TELEPHONE UTILITIES (RULE 103).
The Commission adopts by reference the Uniform System of Accounts for Class A and B Telephone Utilities contained in the Code of Federal Regulations, Title 47, Part 32 (October 1, 2007), *viewable online* at *www.govinfo.gov/app/collection/cfr/2007*. For payment by credit card, call toll-free 866-512-1800. The accounts adopted by reference are adopted for convenience of establishing uniform systems of accounts only and do not bind the Commission in any manner to any particular ratemaking treatment of items in those accounts. All Class A and B telephone corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. *( )*

104. UNIFORM SYSTEM OF ACCOUNTS FOR WATER UTILITIES (RULE 104).
The Commission adopts by reference the Uniform System of Accounts for Class A and B Water Utilities, 1996 Edition, published by the National Association of Regulatory Utility Commissioners (NARUC), available at www.naruc.org/store. The accounts adopted by reference are adopted for the convenience of establishing uniform systems of accounts only and do not bind the Commission in any manner to any particular ratemaking treatment of items in these accounts. All Class A and B water corporations subject to the regulatory authority of the Idaho Public Utilities Commission are required to maintain their regulatory books according to the system of accounts adopted by this rule. *( )*

105. -- 999. (RESERVED)

31.21.01 – CUSTOMER RELATIONS RULES FOR GAS, ELECTRIC, AND WATER PUBLIC UTILITIES (THE UTILITY CUSTOMER RELATIONS RULES)

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Idaho Code, and the specific legal authority of Sections 61-301, 61-302, 61-303, 61-315, 61-503, 61-507, and 61-520, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is "Customer Relations Rules for Gas, Electric, and Water Public Utilities (the Utility Customer Relations Rules)." This chapter has the following scope: These rules provide a set of fair, just, reasonable, and non-discriminatory rules with regard to deposits, guarantees, billing, application for service, denial of service, termination of service and complaints to utilities. (3-29-10)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
This rule governs *formal* complaints *and requests for exemption* under these rules. Any person requesting and receiving an informal staff determination with regard to *a* complaint may formally request the Commission to review the staff's determination. *If unusual hardships result from the application of any of these rules, any person may apply to the Commission for, or the Commission on its own motion may order, a permanent or temporary exemption. A formal complaint or request for exemption must be filed with the Commission pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq.* *( )*

004. (RESERVED)

005. DEFINITIONS (RULE 5).
The following definitions are used in this title and chapter: (7-1-93)

01. **Applicant**. Unless restricted by definition within a rule or group of rules to a particular class of service, "applicant" means any potential customer who applies for service from a utility. Utilities may require an adult or minor competent to contract to join a minor not competent to contract as an applicant. (3-20-04)

02. **Customer**. Unless restricted by definition within a rule or group of rules to a particular class of customer, "customer" means any person who has applied for, has been accepted by the utility, and is: (3-20-04)

a. Receiving service from a utility; or (7-1-93)

b. Has received service within the past ten (10) calendar days prior to termination by the utility; or (3-20-04)

c. Has assumed responsibility for payment of service provided to another or others. If the person receiving service is not the same person as the person assuming responsibility for payment of service, the latter is the customer for purposes of obtaining or terminating service, receiving refunds, or making changes to the account. (3-20-04)

03. **Utility**. Unless restricted by definition within a rule or group of rules, "utility" means any public utility providing gas, electric or water service subject by law to the Commission's jurisdiction, whether previously certified or not. (7-1-93)

006. -- 007. (RESERVED)

008. EXERCISE OF RIGHTS BY CUSTOMER (RULE 8).
*U*tilit*ies will not* discriminate against or penalize a customer for exercising any right granted by these rules. *( )*

***009*. INFORMAL *COMPLAINTS AND* INTERPRETATION OF RULES (RULE *9*).**
Commission staff *may* informal*ly* interpret these rules and utility tariffs and investigate complaints filed with this Commission. The Commission reserves the authority to issue orders *interpreting* these rules and utility tariffs*,* and *resolving* formal complaints. *( )*

010. CONFLICT WITH UTILITY TARIFFS (RULE 11).
If a utility's tariff den*ies* or restrict*s* customer rights protected by these rules, these rules supercede *the* conflicting tariff provisions. *( )*

011 **-- 099. (RESERVED)**

RESIDENTIAL AND SMALL COMMERCIAL DEPOSITS

Rules 100 through 199

100. FURTHER DEFINITIONS (RULE 100).
As used in Rules 101 through 109: (7-1-93)

01. Applicant. "Applicant" is restricted from its general definition to refer only to applicants for residential or small commercial service, unless further restricted by the rule. (7-1-93)

02. Customer. "Customer" is restricted from its general definition to refer to a residential or small commercial customer, unless further restricted by the rule. (7-1-93)

03. Deposit. "Deposit" means any payment held as security for future payment or performance that is reimbursable after the customer establishes good credit. (7-1-93)

04. Residential and Small Commercial Classes. The Commission will maintain on file a list of which customer classes of a given utility are residential and which are small commercial. (7-1-93)

101. DEPOSIT REQUIREMENTS (RULE 101).

01. Residential Customers. *Utilities will not* demand or hold a deposit from any current residential customer or applicant for residential service without proof that the customer or applicant is likely to be a credit risk or to damage the property of the utility. A lack of previous history with the utility does not, in itself, constitute such proof. *Utilities will* not demand or hold a deposit under this rule as a condition of service from a residential customer or applicant unless one or more of the following criteria applies: *( )*

a. The customer or applicant has outstanding a prior residential service account with the utility that accrued within the last four (4) years and at the time of application for service remains unpaid and not in dispute. (5-3-03)

b. The customer's or applicant's service from the utility has been terminated within the last four (4) years for one (1) or more of the following reasons: (5-3-03)

i. Nonpayment of any undisputed delinquent bill; (7-1-93)

ii. Obtaining, diverting or using service without the *utilities* authorization or knowledge. *( )*

c. *The utility has determined that i*nformation provided by the applicant upon application for service is materially false or materially misrepresent*s* the applicant's true status. *( )*

d. The applicant *has* not *had* service with the utility for a period of at least twelve (12) consecutive months during the last four (4) years, and does not pass an objective credit screen. *( )*

e. The applicant requests service at a residence where a former customer who owes a past due balance for service incurred at that location still resides. (5-3-03)

f. The utility has given the customer two (2) or more written final notices of termination within the last twelve (12) consecutive months. (5-3-03)

02. Small Commercial Customers. *Utilities will* not demand or hold a deposit as a condition of service from any current small commercial customer or applicant for small commercial service unless one or more of the following criteria apply: *( )*

a. Any of the criteria listed in Rule Subsection 101.01 of this rule are present. (7-1-93)

b. The applicant *has not had previous* service *with* that utility. *( )*

03. Bankrupt Customers. If an applicant for service or a customer, either residential or small commercial, has sought any form of relief under the Federal Bankruptcy Laws, has been brought within the jurisdiction of the bankruptcy court for any reason in an involuntary manner, or has had a receiver appointed in a state court proceeding, then deposit may be demanded as allowed by the Federal Bankruptcy *Laws*. *( )*

102. OTHER DEPOSIT STANDARDS PROHIBITED -- RESIDENTIAL CUSTOMERS (RULE 102).
Utilities will not require a deposit or other guarantee as a condition of new or continued residential utility service based upon residential ownership or location, income level, source of income, employment tenure, nature of occupation, race, creed, sex, age, national origin, marital status, number of dependents, or any other criterion not authorized by these rules. Rules governing deposits will be applied uniformly. *( )*

103. (RESERVED)

104. EXPLANATION FOR REQUIREMENT OF DEPOSIT (RULE 104).
If the utility requires a cash deposit as a condition of providing service, then it will immediately *notify* the applicant or customer *verbally or in writing* why a deposit is required. The applicant or customer *will have* an opportunity to rebut those reasons. *The notice will also advise* the applicant or customer *that if there is a dispute,* an informal or formal complaint may be filed with the Commission. *( )*

105. AMOUNT OF DEPOSIT (RULE 105).

01. Amount of Deposit. A deposit allowed pursuant to Rule 101 as a condition of service will not exceed one-sixth (1/6) the amount of reasonably estimated billing for one (1) year at rates then in effect. Where gas service is used for space heating purposes only, the deposit will not exceed the total of the two (2) highest months' bills during the previous twelve (12) consecutive months, adjusted for currently effective rates. Deposit amounts will be based upon the use of service at the premises during the prior year or upon the type and size of equipment using the utility's service. (4-2-08)

02. Installment Payments of Deposit. The utility will advise the applicant or customer that the deposit may be paid in two (2) installments. One-half (1/2) of the deposit amount is due immediately with the remaining installment payable in one (1) month. (4-2-08)

106. INTEREST ON DEPOSITS (RULE 106).

01. Interest Payable. Interest will be payable on all deposited amounts at the rate provided by Subsection 106.02 of this rule. Interest will accrue from the date the deposit or deposit installment is made until the deposit is refunded or applied to the customer's utility bill; however, interest will not accrue on a deposit or deposit installment if: (7-1-93)

a. Service is terminated temporarily at the request of a customer who leaves the deposit with the utility for future use as a deposit; or (7-1-93)

b. Service has been permanently terminated and the utility has been unsuccessful in its attempt to refund a deposit. (7-1-93)

02. Interest Rate. On or before November 15 of each year, the Commission will determine the twelve month average interest rate for one-year Treasury Bills for the previous November 1 through October 31, round that rate to the nearest whole percent, and notify the utilities of its determination of this interest rate. That rate will be in

effect for the following calendar year for all deposits described in Rule Subsection 106.01 of this rule. (7-1-93)

107. RETURN OF DEPOSIT (RULE 107).

01. Former Customers. Upon termination of service, *the utility will credit* the deposit (with accrued interest) to the final bill *and promptly return any* remaining *balance* to the customer. *( )*

02. Existing Customers. If the customer has paid all undisputed bills and has no more than one (1) late payment during the past twelve (12) consecutive months of service, the utility will promptly return the deposit (with accrued interest) by either crediting the customer's current account or issuing a refund. (3-20-04)

03. Retention During Dispute. The utility may retain the deposit pending the resolution of a dispute over termination of service. If the deposit is later returned to the customer, the utility will pay interest at the annual rates established in Rule 106 for the entire period over which the deposit was held. (7-1-93)

04. Early Return of Deposit. A utility may refund a deposit plus accrued interest in whole or in part at any time before the time prescribed in this rule. (7-1-93)

108. TRANSFER OF DEPOSIT (RULE 108).

Deposits will not be transferred from one customer to another customer or between classes of service, except at the customer's request. When a customer with a deposit on file transfers service to a new location within the same utility's service area, the deposit (with accrued interest) will be either transferred to the account for the new location or credited to the customer's current account. (4-6-05)

109. RECORDS OF DEPOSIT (RULE 109).

01. *Records of Deposit*. Each customer paying a deposit or the initial installment on a deposit *must* be provided the following information *in writing*: *( )*

a. Name of customer and service address for which deposit is held; (7-1-93)

b. Date of payment(s); (7-1-93)

c. Amount of payment(s); and (7-1-93)

d. *T*erms and conditions governing the return of deposits. *( )*

02. Retention of Records. Each utility will maintain records that will enable a customer entitled to a return of a deposit to obtain a refund even though the customer may be unable to produce *a record of* the deposit. The utility will maintain a detailed record of all deposits received from customers, showing the name of each customer, the location of the premises occupied by the customer when the deposit is made and each successive location occupied by the customer while the deposit is retained, and the date(s) and amount(s) of the deposits or installments. The utility will retain records of deposits that have been refunded to customers for a period of three (3) years after the date of refund. The utility shall retain records of unclaimed deposits for seven (7) years as required by Section 14-531, Idaho Code. *( )*

03. Transfer of Records. Upon the sale or transfer of any utility or any of its operating units, the seller will certify to the Commission that it has a list showing the names of all customers whose service is transferred and who have a deposit on file, the date the deposit was made, and the amount of the deposit. (7-1-93)

110. UNCLAIMED DEPOSITS AND ADVANCE PAYMENTS (RULE 110).

01. Presumption of Abandonment. Pursuant to Section 14-508, Idaho Code, any deposit or advance payment made to obtain or maintain utility service that is unclaimed by the owner for more than one (1) year after termination of service is presumed abandoned. (4-6-05)

02. Financial Assistance Program. A utility may apply to the Commission for approval to pay

unclaimed deposits and advance payments presumed to be abandoned to a financial assistance program which assists the utility's low income and disadvantaged customers with payment of utility bills. The utility *will* file its report of such abandoned property as required by Section 14-517, Idaho Code, and retain records as required by Section 14-531, Idaho Code. *( )*

111. -- 199. (RESERVED)

BILLING
Rules 200 Through 299

200. FURTHER DEFINITION (RULE 200).
As used in Rules 201 through 20*7*, "bill" or "billing *statement*" refers to a written request for payment listing charges for services *provided*. *An electronic billing statement may be provided upon customer request. Oral notice of the amount of charges pending is not a bill.* *( )*

201. ISSUANCE OF BILLS -- CONTENTS OF BILLS (RULE 201).

***01. Billing Statements**. Billing statements will* be issued regular*ly and will* contain the following information: *( )*

a. *The date the billing statement was issued.* *( )*

b. *The time period covered by the billing statement.* *( )*

c. *The beginning and ending meter readings and the quantity of service provided, if service is metered. The billing statement must be clearly marked as estimated if meter data is unavailable.* *( )*

d. *The due date of the bill and, if automatic payment is authorized by the customer, the date funds will be withdrawn or the credit card charged.* *( )*

e. *An itemization of all charges, both recurring and nonrecurring.* *( )*

f. *Any amount transferred from another account.* *( )*

g. *Any amount past due.* *( )*

h. *Any payments or credits applied to the customer's account since the last billing statement.* *( )*

i. *The total amount due.* *( )*

j. *Contact information for the utility, including the toll-free telephone number(s) available to customers for answering billing inquiries.* *( )*

02. **Comparison of Consumption Data**. *Billing statements for customers of gas, electric, and certain water utilities will also include the following information:* *( )*

a. Each gas and electric utility will compare on each customer's regular billing the customer's actual consumption of gas or electricity with the customer's actual consumption of gas or electricity for the corresponding billing period in the previous year. If the billing periods being compared contain a different number of days, the utility will adjust the data to take into account the different length of the billing periods and show the comparison as an absolute change in therm use or kilowatt hour use per day. *Upon request, the utility must make degree day adjusted data available to be provided to customers for comparison.* *( )*

b. Each water utility with more than five thousand (5,000) customers will compare on each customer's regular billing the customer's actual consumption of water with the customer's actual consumption of water for the corresponding billing period in the previous year. The usage comparison will be expressed in gallons or

cubic feet based upon total consumption for each billing period or average consumption per day during each billing period. (3-29-10)

202. DUE DATE OF BILLS -- DELINQUENT BILLS (RULE 202).

01. Ordinary Due Date. The utility may require that bills for service be paid within a specified time after the billing date. The minimum specified time after the billing date is fifteen (15) days (or twelve (12) days after mailing or delivery, if bills are mailed or delivered more than three (3) days after the billing date.) Upon the expiration of this time without payment, the bill may be considered delinquent. (7-1-93)

02. Hardship Exemption. When a residential customer certifies in writing to the utility that payment by the ordinary due date creates a hardship due to the particular date when the customer receives funds, *the utility will either extend* the due date up to an additional fifteen (15) days or *bill* the customer in a cycle that corresponds to the customer's receipt of funds. *( )*

203. BILLING ERRORS, BILLING UNDER INCORRECT RATES, OR FAILURE TO BILL FOR SERVICE (RULE 203).

01. Billing Errors -- Failure to Bill. Whenever the billing for utility service was not accurately determined for reasons such as a meter malfunction or *failure, incorrect installation or programming of* metering equipment, or *errors in preparation of* bills, the utility *will* prepare a corrected billing. If the utility has failed to bill a customer for service *provided*, the utility will prepare a bill for the period during which *service* was provided *and the customer was not billed. At its discretion, the utility may waive rebilling for undercharges*. *( )*

02. Billing Under Incorrect Rates. *A customer has been billed under an incorrect rate if the customer was billed under a rate for which the customer was not eligible or the customer, who is eligible for billing under more than one (1) rate, was billed under a rate contrary to the customer's election or the election was made based upon erroneous information provided by the utility. If a customer is billed under an incorrect rate, the utility must recalculate the customer's past bills and correctly calculate future bills based on the appropriate rate. The utility is not required to adjust bills when it has acted in good faith based upon information provided by the customer. ( )*

***03*. Rebilling Time Period**. (4-2-08)

a. If the time when the *billing* error*, billing under incorrect rates, or failure to bill (collectively referred to as "billing problem")* began cannot be reasonably determined to have occurred within a specific period, the corrected billings *will* not exceed the most recent six (6) months before the discovery of the *billing problem*. *( )*

b. If the time when the *billing problem* began can be reasonably determined and the utility determines the customer was overcharged, the corrected billings will go back to that time, but not to exceed three (3) years from the time the *billing problem* occurred as provided by Section 61-642, Idaho Code. *( )*

c. If the time when the *billing problem* can be reasonably determined and the utility determines the customer was undercharged, the utility may rebill for a period of six (6) months unless a reasonable person should have known of the inaccurate billing, in which case the rebilling may be extended for a period not to exceed three (3) years. Utilities *must* implement procedures designed to monitor and identify customers who have not been billed or who have been inaccurately billed. *( )*

***04*. Refunds**. The utility will promptly *recalculate the* refund *amounts overpaid by* the customer and issue a credit *within two (2) billing cycles*. Any remaining credit balance will be credited against future bills unless the customer, after notice from the utility, requests a refund. The utility will advise the customer of the option to have any remaining credit balance *exceeding twenty-five dollars ($25)* refunded. *( )*

***05*. Additional Payments**. The utility will promptly prepare a corrected billing for a customer who has been undercharged indicating the amount owed to the utility. An unbilled or undercharged customer must be given the opportunity to make payment arrangements under Rule 313 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not

billed. (4-2-08)

204. -- 205. (RESERVED)

206. RESPONSIBILITY FOR PAYMENT OF BILLS -- RESIDENTIAL CUSTOMERS (RULE 206).

01. Customer Defined. For purposes of this rule, "customer" means a customer whose name appears on the utility's regular bill for residential service or who signed a written application for service or other document informing the customer that he or she was assuming an obligation for payment for service. (7-1-93)

02. Customer's Responsibility. A *utility will not hold a* customer responsible for *paying* an amount owed by *anyone* who resides at the customer's premises or is a member of the customer's household, but whose name does not appear on the current bill or application for service, unless: *( )*

a. The customer signs a written agreement to pay or otherwise expressly accepts responsibility for payment of the other person's bill; or (3-20-04)

b. The customer has a legal obligation to pay the other person's bill. (7-1-93)

03. Customer Notice. The utility will provide written notice of its intent to add to the customer's bill for current service an amount owed for. *The notice may be provided in an electronic format with the customer's consent:* *( )*

a. Another person's bill; or (3-20-04)

b. Service rendered at a former service location, provided that the lapse in service exceeds sixty (60) calendar days. (3-20-04)

04. Contents of Notice. The notice must include: (3-20-04)

a. The name of the customer of record who owes the bill amount; (7-1-93)

b. The service location involved; (7-1-93)

c. The time over which the bill amount was accumulated; (3-20-04)

d. The amount owed; (7-1-93)

e. The reason(s) for adding the bill amount to the customer's bill statement; (3-20-04)

f. A statement that payment arrangements may be made on the amount owed; (7-1-93)

g. A statement that the customer has the right to contest the utility's proposed action with the utility or the Commission; and (3-20-04)

h. The response deadline after which the bill amount will be added to the customer's bill statement. (3-20-04)

05. Opportunity to Respond. The *utility will give the* customer *at least* seven (7) calendar days from the date of the proposed action to respond to the utility's notice. ( )

207. BILLING PROHIBITED (RULE 207).

Utilities will not bill for non-utility service(s) or merchandise not ordered or otherwise authorized by the customer of record. Any charges for these services that appear on a customer's bill will be removed from the customer's bill *within* two (2) billing cycles *after* the customer *notifies* the utility. A utility that unknowingly submits a bill containing charges for non-utility service(s) or merchandise not ordered or otherwise authorized by the customer of record *will not have violated this rule* if the disputed amounts are removed from the customer's bill. *( )*

208. -- 299. (RESERVED)

DENIAL AND TERMINATION OF SERVICE AND PAYMENT ARRANGEMENT RULES FOR RESIDENTIAL AND SMALL COMMERCIAL CUSTOMERS
Rules 300 Through 399

300. FURTHER DEFINITIONS (RULE 300).

As used in Rules 301 through 313: (7-1-93)

01. Applicant. "Applicant" is restricted from its general definition to refer only to applicants for residential or small commercial service, unless further restricted by the rule. (7-1-93)

02. Customer. "Customer" is restricted from its general definition to refer only to residential or small commercial customers, unless further restricted by the rule. (7-1-93)

03. Non-Utility Service. "Non-utility service" means: (7-1-93)

a. Service for which the Commission does not regulate rates, charges, or availability of service; (7-1-93)

b. Service for which no rate or charge is contained in the utility's tariffs; or (7-1-93)

c. Merchandise or equipment or charges for merchandise or equipment not required as a condition of receiving utility service. (7-1-93)

04. Written Notice. "Written notice" of the utility's intent to deny or terminate service may be mailed or otherwise delivered to the applicant, resident, occupant, or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and separately consents in writing to "opt-in" to receiving electronic notification. (4-2-08)

301. EXPLANATION FOR DENIAL OF SERVICE TO APPLICANT (RULE 301).

01. Explanation to Applicant. If the utility intends to deny service to an applicant under Rule 302, the utility *will notify* the applicant *verbally or in writing why* the utility *will deny service*. The *utility will advise the* applicant what action(s) *the applicant will take* to receive service*, and that if there is* a dispute, the applicant *may file* an informal or formal complaint with the Commission. *( )*

02. Written Notice. If service is currently being provided to the premises occupied by an applicant, the utility will provide written notice of its refusal to serve pursuant to Rule 312. (3-20-04)

302. GROUNDS FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (RULE 302).

01. Reasons for Denial or Termination of Service. A utility may deny or terminate service to a customer or applicant without the customer's or applicant's permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: *( )*

a. With respect to undisputed past due bills the customer or applicant: (3-20-04)

i. Failed to pay; (3-20-04)

ii. Paid with a dishonored check; or (3-20-04)

iii. Made an electronic payment drawn on an account with insufficient funds. (3-20-04)

b. The customer or applicant failed to make a security deposit or an installment payment on a deposit where it is required. *( )*

c. The customer or applicant failed to abide by the terms of a payment arrangement. (3-30-01)

d. *The utility has determined that information provided by the customer or applicant is materially false or materially misrepresents the customer's or applicant's true status.* *( )*

e. The customer or applicant denied or willfully prevented the utility's access to the meter. (7-1-93)

f. The utility determines that the customer is willfully wasting *or interfering with* service *to the customer or other customers* through improper equipment or otherwise. *( )*

g. The applicant or customer is a minor not competent to contract as described in Sections 29-101 and 32-101, Idaho Code. (3-20-04)

02. No Obligation to Connect Service. Nothing in this rule requires the utility to connect service for a customer or applicant who owes money on an existing account or from a previous account if the unpaid bill is for service provided within the past four (4) years. *( )*

303. GROUNDS FOR DENIAL OR TERMINATION OF SERVICE WITHOUT PRIOR NOTICE (RULE 303).

A utility may deny or terminate service without prior notice to the customer or applicant and without the customer's or applicant's permission for one (1) or more of the following reasons: (7-1-93)

01. Dangerous Conditions. A condition immediately dangerous or hazardous to life, physical safety, or property exists, or if necessary to prevent a violation of federal, state or local safety or health codes. (7-1-93)

02. Order to Terminate Service. The utility is ordered to terminate service by any court, the Commission, or any other duly authorized public authority. (7-1-93)

03. Illegal Use of Service. The service is obtained, diverted or used without the authorization or knowledge of the utility. (7-1-93)

04. Unable to Contact Customer. The utility has tried diligently to meet the notice requirements of Rule 304, but has been unsuccessful in its attempts to contact the customer affected. (7-1-93)

304. REQUIREMENTS FOR NOTICE TO CUSTOMERS BEFORE TERMINATION OF SERVICE (RULE 304).

01. Initial Notice. If the utility intends to terminate service to a customer under Rule 302, the utility will send to the customer written notice of termination mailed at least seven (7) calendar days before the proposed date of termination. *Written notice may be provided by electronic mail (i.e. e-mail) if the customer is billed electronically and separately consents in writing to receiving electronic notification.* This written notice will contain the information required by Rule 305. *( )*

02. Final Notice. The utility may mail a final written notice to the customer at least three (3) calendar days, excluding weekends and holidays, before the proposed date of termination. Regardless of whether the utility elects to mail a written notice, at least twenty-four (24) hours before the proposed date of termination, the utility must diligently attempt to contact the customer affected, either in person or by telephone, to advise the customer of the proposed action and steps to take to avoid or delay termination. This final notice will contain the same information required by Rule 305. (3-20-04)

03. Additional Notice. If service is not terminated within twenty-one (21) calendar days after the proposed termination date as specified in a written notice the utility will again provide notice under Subsections 304.01 and 304.02 if it still intends to terminate service. (3-20-04)

04. Failure to Pay. No additional notice of termination is required if, upon receipt of a termination notice, the customer: (3-20-04)

a. Makes a payment arrangement and subsequently fails to keep that arrangement; (3-20-04)

b. Tenders payment with a dishonored check; or (3-20-04)

c. Makes an electronic payment drawn on an account with insufficient funds. (3-20-04)

305. CONTENTS OF NOTICE OF INTENT TO TERMINATE SERVICE (RULE 305).

01. Contents of Notice. The written or oral notice of intent to terminate service required by Rule 304 will state: (4-11-06)

a. The reason(s), citing these rules, why service will be terminated and the proposed date of termination; (4-11-06)

b. Actions the customer may take to avoid termination of service; (4-11-06)

c. That a certificate notifying the utility of a serious illness or medical emergency in the household may delay termination as prescribed by Rule 308; (4-11-06)

d. That an informal or formal complaint concerning termination may be filed with the utility or the Commission, and that service will not be terminated on the ground relating to the dispute between the customer and the utility before resolution of the complaint (the Commission's address and telephone number will be given to the customer); and (4-11-06)

e. That the utility is willing to make payment arrangements (this statement will be in bold print on written notices). (4-11-06)

f. That for purposes of termination, partial payments will be applied toward utility service charges first, unless the customer requests otherwise, and that charges for non-utility services cannot be used as a basis for termination. (4-11-06)

02. Additional Requirements for Gas and Electric Utilities. During the months of November, December, January and February, oral and written notices provided by gas and electric utilities to residential customers will include or be accompanied by an explanation of restrictions on termination of service and the availability of the Winter Payment Plan described in Rule 306. (4-11-06)

306. TERMINATION OF RESIDENTIAL GAS AND ELECTRIC SERVICE -- WINTER PAYMENT PLAN (RULE 306).

01. Restrictions on Termination of Service to Households with Children, Elderly, or Infirm. Except as provided in Rule 303, no gas or electric utility may terminate service or threaten to terminate service during the months of December through February to any residential customer who declares that he or she is unable to pay in full for utility service *at the primary household* and whose *primary* household includes children, elderly or infirm persons. *( )*

02. Definitions for This Rule. For purposes of this rule: (7-1-93)

a. "Children" means persons eighteen (18) years of age or younger, but customers who are emancipated minors are not children under this rule. (4-11-06)

b. "Elderly" means persons sixty two (62) years of age or older. (4-11-06)

c. "Infirm" means persons whose physical health or safety would be seriously impaired by termination of utility service. (4-11-06)

03. Opportunity to Participate in Winter Payment Plan. Any residential customer who declares that he or she is unable to pay in full for utility service and whose household includes children, elderly or infirm persons will be offered the opportunity to establish a Winter Payment Plan. However, no customer may be required to establish such a plan. Except as provided in Rule 303, no gas or electric utility may terminate service during the months of November through March to any customer who establishes a Winter Payment Plan before November 1. A customer may establish a Winter Payment Plan after November 1, but the extended protection from termination of service offered under such a plan will not begin until the date the plan is established. Failure of a participating customer to make payments as required will result in cancellation of the plan and elimination of the extended protection from termination of service offered under the plan. The customer may use any source of funds to satisfy the payment requirements of Winter Payment Plan. (4-11-06)

04. Amount of Payments Under Winter Payment Plan. Monthly payments under a Winter Payment Plan are equal to one-half (1/2) of the Level Pay Plan amount for that customer. The Level Payment Plan amount will be calculated according to Rule 313.06. (4-11-06)

05. Payment Arrangements Following Winter Payment Plan. If a customer who received the protection of this rule has an outstanding balance owed to the utility, the customer will either pay this balance or negotiate a new payment arrangement: (4-11-06)

a. On or after March 1, if the customer has not established a Winter Payment Plan; or (7-1-93)

b. On or after April 1, if the customer has established a Winter Payment plan. Failure of a customer to pay or make payment arrangements on or after these dates may result in termination of service. (7-1-93)

06. Successive Participation in Winter Payment Plan. A residential customer who participates in a Winter Payment Plan one (1) year will be allowed to participate in the succeeding year if the customer has honored the payment arrangements and the balance owing as of November 1 does not exceed seventy-five dollars ($75) or the customer's utility bill for the previous thirty (30) days, whichever is greater. (4-11-06)

07. Unoccupied Residences -- Failure or Refusal to Apply for Service. Nothing in this rule prevents a gas or electric utility from terminating service to unoccupied residences or residences where the occupants have failed or refused to apply for utility service. (4-11-06)

08. Customers Who Move. During the months of December, January and February, a gas or electric utility will continue to provide service to any residential customer who made a declaration as provided for in Subsection 306.01 and subsequently moves to a new residence served by the same utility, regardless of any outstanding balance owed by the customer. If service is not connected at the new residence, service will be connected as soon as possible after the customer requests service at the new residence. (4-11-06)

09. Applicants Previously Served. During the months of December, January and February, a gas or electric utility will provide service to any residential applicant who made a declaration as provided for in Subsection 306.01 and within thirty (30) days of discontinuing service, subsequently applies for service at a new residence served by the same utility, regardless of any outstanding balance owed by the applicant. If service is not connected at the new residence, service will be connected as soon as possible after the applicant requests service at the new residence. (4-11-06)

307. THIRD-PARTY NOTIFICATION -- RESIDENTIAL SERVICE (RULE 307).

Each gas *and* electric utility *must* provide a program for its residential customers known as Third-Party Notification. Under this program, the utility will, at the request of the customer, notify orally or in writing a third-party designated by the customer of the utility's intention to terminate service. The third-party will be under no obligation to pay the bill, but as provided in Rule 313.08, no customer can be considered to have refused to enter a payment arrangement unless either the customer or the designated third-party has been given notice of the proposed termination of service and of the customer's opportunity to make payment arrangements. *( )*

308. SERIOUS ILLNESS OR MEDICAL EMERGENCY (RULE 308).

01. Medical Certificate -- Postponement of Termination of Service. A utility will postpone termination of utility service to a residential customer for thirty (30) calendar days from the date of receipt of a written certificate signed by a licensed physician or public health official with medical training. The certificate must contain the following information: (3-20-04)

a. A statement that the customer, a member of the customer's family, or other permanent resident of the premises where service is rendered is seriously ill or has a medical emergency or will become seriously ill or have a medical emergency because of termination of service, and that termination of utility service would adversely affect the health of that customer, member of the customer's family, or resident of the household. (3-20-04)

b. The name of the person whose serious illness or medical emergency would be adversely affected by termination and the relationship to the customer, and (3-20-04)

c. The name, title, and signature of the person certifying the serious illness or medical emergency. (3-20-04)

02. Restoration of Service. If service has already been terminated when the medical certificate is received, service will be restored as soon as possible, but no later than twenty-four (24) hours after receipt. The customer will receive service for thirty (30) calendar days from the utility's receipt of the certificate. (3-20-04)

03. Second Postponement. The utility may postpone termination of service upon receipt of a second certificate stating that the serious illness or medical emergency still exists. (7-1-93)

04. Verification of Medical Certificate. The utility may verify the authenticity of the certificate and may refuse to delay termination of service if it is determined that the certificate is a forgery or is otherwise fraudulent. (7-1-93)

05. Obligation to Pay. Nothing in this rule relieves the customer of the obligation to pay any undisputed bill. (3-20-04)

309. MEDICAL FACILITIES -- SHELTER CARE (RULE 309).

Where service is provided to a customer known to the utility to be or identifying itself as a medical care facility, including a hospital, medical clinic with resident patients, nursing home, intermediate care facility or shelter care facility, *a final* notice of pending termination will be provided to the Commission as well as to the customer. Upon request from the Commission, a delay in termination of no less than seven (7) calendar days from the date of notice will be allowed so that action may be taken to protect the interests of the facility's residents. *( )*

310. INSUFFICIENT GROUNDS FOR TERMINATION OR DENIAL OF SERVICE (RULE 310).

01. Termination of Service. *Utilities will not terminate service or provide notice of intent to terminate service if the unpaid bill cited as grounds for termination is*: *( )*

a. *L*ess than fifty dollars ($50) or two (2) months' charges for service, whichever is less. *( )*

b. *F*or utility service to any other customer (unless that customer has a legal obligation to pay the other customer's bill) or for any other class of service. *( )*

c. *For* the purchase of non-utility goods or services. *( )*

d. *F*or service provided four (4) or more years ago unless the customer has promised in writing to pay or made a payment on the bill within the last four (4) years. *( )*

e. *The subject of an informal or formal complaint filed with the Commission, except as provided for under Rule 401.* *( )*

f. *A*t issue *in a case* pending before a court in the state of Idaho unless *termination is* authorized by court order. *( )*

02. Denial of Service. *A utility will not deny service, or notify an* applicant *that the utility will deny the applicant service* if any of the criteria listed in Subsection 310.01.b. through 310.01.f. apply to the unpaid bill cited as grounds for denial of service. *( )*

311. TIMES WHEN SERVICE MAY BE TERMINATED -- OPPORTUNITY TO AVOID TERMINATION OF SERVICE (RULE 311).

01. When Termination of Service Is Prohibited. Except as authorized by Rule 303 or this rule, service provided to a customer, applicant, resident or occupant shall not be terminated: (4-2-08)

a. On any Friday, Saturday, Sunday, legal holidays recognized by the state of Idaho, or on any day immediately preceding any legal holiday; or (4-2-08)

b. At any time when the utility is not open for business. (4-2-08)

02. Times When Service May Be Terminated. Service may be terminated: (4-2-08)

a. At any time when there is a dangerous condition pursuant to Rule 303.01 or the utility is ordered to do so pursuant to Rule 303.02; (4-2-08)

b. Between the hours of 8 a.m. and 5 p.m., Monday through Thursday, for any reason authorized by Rules 302 and 303; (4-2-08)

c. Between the hours of 8 a.m. and 5 p.m. on Friday for illegal use of service pursuant to Rule 303.03 or if the premises are unoccupied and service has been abandoned; or (4-2-08)

d. Between the hours of 5 p.m. and 9 p.m., Monday through Thursday, if the utility is unable to gain access to the meter during normal business hours or for illegal use of service pursuant to Rule 303.03. (4-2-08)

03. Personnel to Authorize Reconnection. Each utility shall have personnel available who are authorized to reconnect service if the conditions cited as grounds for termination are corrected to the utility's satisfaction. Service shall be reconnected as soon as possible, but no later than twenty-four (24) hours after the utility's conditions are satisfied and reconnection is requested. (4-2-08)

04. Opportunity to Prevent Termination of Service During Premise Visit. *If a utility needs to visit a customer's premise to terminate service, the utilities* employee *may* identify himself or herself to the customer or other responsible adult upon the premises and announce the purpose of the employee's *visit*. The employee *may* be authorized *by the utility* to accept full *or* partial payment and, in such case, *the employee will* not terminate service. Nothing in this rule prevents a utility from proceeding with termination of service if the customer or other responsible adult is not on the premises. *( )*

05. Notice of Procedure for Reconnecting Service. *During a premise visit t*he utility employee designated to terminate service *may* give to the customer or leave in a conspicuous location at the affected service address, a notice showing the time of and grounds for termination, steps to be taken to secure reconnection, and the telephone numbers of utility personnel or other authorized representatives who are available to authorize reconnection. *( )*

06. Applicant Without Service - Customer Requested Termination. Nothing in this rule prohibits a utility from terminating service at any time pursuant to a customer's request. (4-2-08)

312. DENIAL OR TERMINATION OF SERVICE TO MASTER-METERED ACCOUNTS AND RESIDENTS OR OCCUPANTS WHO ARE NOT CUSTOMERS (RULE 312).

01. Notice to Occupants or Residents Not Customers. Except as provided in Rules 303.01 and 303.02, *utilities will not* deny or terminate service without providing written notice to the residents or occupants of: *( )*

a. A building or mobile home court where service is master-metered; (3-20-04)

b. A residence where the customer billed for service is not a resident or occupant of the premises being served; or (3-20-04)

c. Premises where service is being provided on an interim basis to a resident or occupant following a customer's request to terminate service. (3-20-04)

02. Delivery and Contents of Notice. The utility must notify the residents or occupants of its intent to deny or terminate service at least two (2) calendar days, excluding weekends and holidays, before the proposed date of termination. The notice should be delivered to the premises or, in the case of multi-occupant buildings or mobile home parks, posted in common areas or a conspicuous location. The notice will state: (3-20-04)

a. The date of the notice; (7-1-93)

b. The proposed denial or termination date; (3-20-04)

c. The reason for denial or termination; (3-20-04)

d. What action(s) the resident(s) or occupant(s) must take in order to obtain or retain service in the resident's(s') or occupant's(s') own name(s); and (3-20-04)

e. That an informal or formal complaint concerning denial or termination of service may be filed with this Commission. (3-20-04)

313. PAYMENT ARRANGEMENTS (RULE 313).

01. Arrangements Allowed. When a customer cannot pay a bill in full, the utility will continue to serve the customer if the customer and the utility agree on a reasonable portion of the outstanding bill to be paid immediately, and the manner in which the balance of the outstanding bill will be paid. For customers who are unable to come to the utility's local office to make payment arrangements, a gas or electric utility must, upon request by the customer, make payment arrangements over the telephone, by mail or at the customer's home. (7-1-93)

02. Reasonableness. In deciding on the reasonableness of a particular agreement, the utility will take into account the customer's ability to pay, the size of the unpaid balance, the customer's payment history, and the amount of time and reasons why the debt is outstanding. (7-1-93)

03. Application of Payment. Unless the customer designates otherwise, payments are to be first applied to the undisputed balance owed by the customer for utility services and associated installation charges, taxes, franchise fees and surcharges. (3-30-01)

04. Second Arrangement. If a customer fails to make the payment agreed upon by the date that it is due, the utility may, but is not obligated to, enter into a second such agreement. (7-1-93)

05. When Arrangement Not Binding. No payment arrangement *binds* a customer if it requires the customer to forego any right provided for in these rules. *( )*

06. Level Pay Plans Acceptable Payment Arrangement. Payment arrangements may be in the form of a Level Pay Plan that will equalize monthly payments of all arrears, if any, and anticipated future bill amounts over a period of not less than one (1) year. No customer agreeing to a reasonable payment arrangement is required to choose this plan. (7-1-93)

07. Third-Party Contact. If a utility has been unable to contact a customer concerning termination, but has contacted the customer's third-party designated under Rule 307 and has failed to receive a response from the customer within seven (7) days after the third-party was contacted, the utility may treat the customer as one who has been contacted and has declined to enter into a reasonable payment arrangement. (7-1-93)

314. -- *399*. (RESERVED)

COMPLAINT PROCEDURE
Rules *400* Through 499

***400*. COMPLAINT TO UTILITY (RULE *400*).**

01. ***Complaint***. A customer or applicant for service may complain at any time to the utility about any deposit or written guarantee required as a condition of service, billing, termination of service, quality or availability of service, or any other matter regarding utility services, policies and practices. The customer or applicant may request a conference with the utility, but this provision does not affect any statute of limitation that might otherwise apply. Complaints to the utility may be made orally or in writing. A complaint is considered filed upon receipt by the utility. In making a complaint or request for conference, the customer or applicant will state the customer's or applicant's name, service address, and the general nature of the complaint. *( )*

02. ***Investigation by Utility***. *T*he utility will promptly, thoroughly and completely investigate the complaint, notify the customer or applicant of the results of the investigation, and make a good-faith attempt to resolve the complaint. The oral or written notification will advise the customer or applicant that the customer or applicant may request the Commission to review the utility's proposed disposition of the complaint. *( )*

03. **Service Maintained**. The utility will not terminate service based upon the subject matter of the complaint while investigating the complaint or making a good-faith attempt to resolve the complaint. (7-1-93)

***401*. COMPLAINT TO COMMISSION (RULE *401*).**

01. **Informal *Complaint***. If a customer or applicant who has complained to a utility is dissatisfied with a utility's proposed disposition of the complaint, the customer or applicant may file *an informal complaint with* request the Commission. *Customers and applicants are encouraged, but not required, to contact the utility before filing an informal complaint.* *( )*

02. ***Termination of Service - Undisputed Bills***. Utility service *must* not be terminated nor termination threatened by notice or otherwise while the complaint is pending before the Commission. *The utility may continue to issue bills and request payment from the customer of any undisputed amounts.* *( )*

03. **Customer's Rights Protected**. No customer or applicant will be denied the opportunity to file *an informal or formal* complaint with the Commission. *( )*

***402*. RECORD OF COMPLAINTS (RULE *402*).**

01. **Recordkeeping**. Each utility must keep a written record of complaints *made under* Rules *400* and *401*. These records must be retained for a minimum of one (1) year *by* the utility. These written records are to be readily available upon request by the concerned customer, the customer's agent possessing written authorization, or the Commission. *( )*

02. **Reporting**. Each utility must, at the Commission's request, submit a report to the Commission that states and classifies the number of complaints made to the utility pursuant to Rules *400* and *401*, *and* the general subject matter *of the complaints*. *( )*

***403*. UTILITY RESPONSE TO INFORMAL COMPLAINTS (RULE *403*).**

01. ***Response to Commission.*** Within ten (10) business days of receiving notification that an informal complaint involving the *utility* has been filed with the Commission, *the utility* must respond *verbally* or in writing to the Commission. A utility will be granted an extension of time to prepare its response if it represents that it is making a good faith effort to resolve the matter in dispute. A full and complete response should be submitted to the Commission no later than thirty (30) days after receipt of notification from the Commission. *( )*

404. -- 599. (RESERVED)

RULES FOR DEPOSIT, DENIAL, AND TERMINATION OF SERVICE FOR INDUSTRIAL, LARGE COMMERCIAL, AND IRRIGATION CUSTOMERS
Rules 600 Through 699

600. DEFINITIONS (RULE 600).
As used in Rules 601 through 605. (7-1-93)

01. Advance Payment. "Advance payment" means a payment made prior to receiving service that will be credited to the customer's account at a later date. (7-1-93)

02. Applicant. "Applicant" means an applicant for industrial, large commercial or irrigation service. (7-1-93)

03. Customer. "Customer" means an industrial, large commercial or irrigation customer, unless further restricted by the rule. The Commission will maintain on file a list of which customer classes of a given utility are industrial, large commercial, and irrigation. (7-1-93)

04. Deposit. "Deposit" means any payment held as security for future payment or performance that is reimbursable. (7-1-93)

05. Written Notice. "Written notice" of the utility's intent to deny or terminate service may be mailed or otherwise delivered to the applicant, occupant or customer. Written notice may be provided by electronic mail (i.e., e-mail) if the customer is billed electronically and separately consents in writing to "opt-in" to receiving electronic notification. (4-2-08)

601. DEPOSIT REQUIREMENTS AND ADVANCE PAYMENTS (RULE 601).
An applicant or customer may be required to pay a deposit or make an advance payment in accordance with the utility's tariff filed with the Commission. If an applicant or customer has sought any form of relief under the Federal Bankruptcy Laws, has been brought within the jurisdiction of the bankruptcy court for any reason in an involuntary manner, or has had a receiver appointed in a state court proceeding, then a deposit may be demanded as allowed by the Federal Bankruptcy *Laws*, or as directed by the state court. *( )*

602. GROUNDS FOR DENIAL OR TERMINATION OF SERVICE WITH PRIOR NOTICE (RULE 602).
A utility may deny or terminate service to an industrial, large commercial or irrigation customer without its permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (7-1-93)

01. ***Any Reason Listed in Rule 302.01.a. Through 302.01.f.*** *( )*

02. Failure to ***Make Advance Payment or Provide Guarantee***. The customer or applicant failed to make a required advance payment, pay a deposit or provide an acceptable guarantee, when required by the applicable tariff or contract. *( )*

03. **Failure to Apply for Service**. The customer or applicant failed to apply for service with the utility. (7-1-93)

603. REQUIREMENTS FOR AND CONTENTS OF NOTICE BEFORE TERMINATION OF SERVICE (RULE 603).

01. Initial Notice. If the utility intends to terminate service under Rule *602*, the utility *will mail* the customer written notice of termination at least seven (7) calendar days *before* the proposed termination *date*. *The written notice of termination will state:* *( )*

02. **Final Notice**. The utility may mail a final written notice to customers at least three (3) calendar days, excluding weekends and holidays, before the proposed date of termination. Regardless of whether the utility elects to mail a written notice, at least twenty-four (24) hours prior to actual termination, the utility will diligently attempt to contact the customer affected, either in person or by telephone, to apprise the customer of the proposed action. This final notice will contain the same information required above for written notice. Each utility will maintain clear, written records of oral notices, showing dates and the utility employee giving the notices. (3-20-04)

604. GROUNDS FOR TERMINATION OF SERVICE WITHOUT PRIOR NOTICE (RULE 604).
A utility may terminate service without prior notice to the customer as specified in Rule 602 only: (7-1-93)

01. Dangerous Conditions. If a condition immediately dangerous or hazardous to life, physical safety, or property exists, or if necessary to prevent a violation of federal, state or local safety or health codes. (7-1-93)

02. Order to Terminate. Upon order by any court, the Commission, or any other duly authorized public authority. (7-1-93)

03. Illegal Use of Utility. If such service is obtained, diverted or used without the authorization or knowledge of the utility; or (7-1-93)

04. Unable to Contact Customer. If the utility has tried diligently to meet the notice requirements of Rule 602, but has been unsuccessful in its attempt to contact the customer. (7-1-93)

605. NOTICE TO COMMISSION PRIOR TO TERMINATION (RULE 605).
A utility will provide written notice to the Commission of its intent to terminate service to an industrial or large commercial customer at least seven (7) days before the *scheduled* termination *date*. The Commission may stay termination *if it finds* that the public interest requires service to be maintained to the customer. *( )*

606. -- *699*. (RESERVED)

SUMMARY OF CUSTOMER RULES
Rules *700* Through *799*

700. *INFORMATION TO CUSTOMERS* (RULE *700*).

01. *Required Information*. Each utility *will* provide *the following information* to its customers*:* ( )

a. *A summary of the terms and conditions under which service is provided, including the conditions under which the utility may request a deposit or deny or terminate service;* *( )*

b. *A statement that:* *( )*

i. *The utility is willing to make reasonable payment arrangements;* *( )*

ii. *The customer may file a complaint with the utility and the Commission and that termination of service is prohibited while a complaint is pending with the Commission or with a court in the state of Idaho;* *( )*

iii. *Termination of service may be postponed due to serious illness or medical emergency (residential customers only).* *( )*

c. *A clear and concise explanation of rate schedule(s) applicable to the customer's class of service.* *( )*

02. **Information for Gas and Electric Customers**. *Each* gas or electric utility also *will* include *an explanation of*: *( )*

a. *R*estrictions on termination of service and the availability of the Winter Payment Plan described in Rule 306 (residential customers only). *( )*

b. *T*he Third Party Notification Program described in Rule 307 (residential customers only); and *( )*

c. *T*he availability of the Level Pay Plan described in Rule 313. *( )*

***03. When and How Information Provided**. Utilities will provide information to customers in writing annually and to new customers upon initiation of service. Information provided upon initiation of service may be separately mailed or included with a paper or electronic billing statement. Annual notices may be made by separate mailing, included with the paper or electronic billing statement or, with the customer's consent, by electronic notice with reference to information contained on the utility's website. ( )*

***701*. -- 999. (RESERVED)**

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Public Utilities Law, chapters 1 through 7, Title 61, Idaho Code, and the specific authority of Sections 61-301, 61-302, 61-303, 61-315, 61-503, 61-507, and 61-520, Idaho Code, with regard to service. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is "Master-Metering Rules for Electric Utilities." This chapter has the following scope: All electric utilities are required to abide by these rules defining when and under what circumstances their customers may master-meter tenants of the customer. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
There are no administrative appeals under these rules because they are not procedural rules. If an issue should arise calling for a proceeding to apply these rules, that proceeding would be conducted under the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)

004. (RESERVED)

005. DEFINITIONS (RULE 5).
As used in these rules: (7-1-93)

01. Electric Utility. Electric utility or utility means an "electrical corporation" as defined by statute in Chapter 1, Title 61, Idaho Code, and orders of the Idaho Public Utilities Commission and decisions of the Supreme Court of Idaho construing those statutes. (7-1-93)

02. Tenant -- Mobile Home Park. A tenant of a mobile home park is a person defined as a resident and not a transient by the Manufactured Home Residency Act, Section 55-2001 et seq., Idaho Code, and in particular by Section 55-2003(*164*) and 55-2003(*195*), Idaho Code. *( )*

03. Tenant -- Multi-Unit Residential or Commercial Building. A tenant of a multi-unit residential building is a person who is not a transient and who intends to reside in or be a commercial tenant in one (1) of the building's units for a period not less than one (1) month. (7-1-93)

***04. Master-Metering**. Provision of service to multiple tenants through one meter, which measures the aggregate usage of all tenants. Typically, the utility bills the property owner or landlord based on measurement by the master meter.* *( )*

006. -- *099*. (RESERVED)

MASTER-METERING RULES FOR ELECTRIC UTILITIES

Rules 100 Through 199

***100*. MASTER-METERING AND INDIVIDUAL METERING IN MOBILE HOME PARKS (RULE *100*).**

01. *Master Metering Prohibited. Master-metering, whether or not in conjunction with sub-metering of electric service by the park operator, is prohibited for any mobile home park connected for service by the utility after July 1, 1980. After that date,* tenants (excluding transients) of mobile home parks must be individually metered *and billed* by the electric utility. *( )*

02. Exception for Sub-Metered Parks. *Any m*obile home park *connected for service on or before July 1, 1980* whose spaces for *non-transient* tenants *are* been fully sub-metered for electricity by the park owners need not be individually metered by the electric utility supplying the park. *A m*obile home park sub-metered by the park operator must charge each of their tenants the same rate for electric service that a residential customer of the utility serving the park would charge the tenant if the tenant were directly metered and billed by the utility. *Upon request, the utility will provide written instruction on how to calculate bills for sub-metered tenants in conformance with the*

utility's applicable rate schedule. *( )*

***101*. MASTER-METERING AND INDIVIDUAL METERING IN MULTI-OCCUPANT RESIDENTIAL BUILDINGS (RULE *101*).**
*M*ulti-occupant residential buildings *connected* for electric service after July 1, 1980, if the dwelling units for nontransient tenants contain an electric space heating, water heating, or air-conditioning (space cooling) unit that is not centrally controlled and for which the dwelling unit's tenants individually control electric usage. *In such case, non-transient tenants will be individually metered and billed by the electric utility.* *( )*

***102*. MASTER-METERING AND INDIVIDUAL METERING IN COMMERCIAL BUILDINGS AND SHOPPING CENTERS (RULE *102*).**
*C*ommercial buildings and shopping centers *connected* for electric service after July 1, 1980, *may not be master metered* if the units for *non-transient* tenants contain an electric space heating, water heating, or air-conditioning (space cooling) unit that is not centrally controlled and *for* which the unit's tenants individually control electric usage. *Any non-transient t*enants in otherwise master-metered buildings *will be individually metered and billed by the utility if the tenant's* electric load *is significantly greater than that of other tenants in the building or shopping center* or exceeds the individual metering threshold found in the utility's tariffs. *( )*

***103*. -- 999. (RESERVED)**

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Public Utilities Law, chapters 1 through 7, Title 61, Idaho Code, and the specific authority of Sections 61-301, 61-302, 61-303, 61-315, 61-503, 61-507, 61-515, and 61-520, Idaho Code, with regard to safety and service. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is the "Gas Service Rules." This chapter has the following scope: All gas utilities are required to abide by these rules in their provision of gas service. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
There are no administrative appeals under these rules because they are not procedural rules. If an issue should arise calling for a proceeding to apply these rules, that proceeding would be conducted under the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)

004. (RESERVED)

005. DEFINITIONS (RULE 5).
As used in these rules, gas utility or gas corporation means a "gas corporation" as defined by statute in Chapter 1, Title 61, Idaho Code, and orders of the Idaho Public Utilities Commission and decisions of the Supreme Court of Idaho construing those statutes. (7-1-93)

006. -- 100. (RESERVED)

CONSTRUCTION, OPERATION, AND MAINTENANCE OF FACILITIES FOR TRANSMISSION AND DISTRIBUTION OF GAS - RULES 101 THROUGH 200

PRELIMINARIES FOR SERVICE - RULES 101 THROUGH 150

101. MAPS OF FACILITIES (RULE 101).

01. Maps, Plans, and Records. Gas corporations must maintain maps, plans, and records as prescribed by this rule. *The gas corporation will keep in the principal office of each of its division or district* a map or maps *and information about the distribution system that will enable the local representatives to furnish information about the gas corporation regarding rendering of service to existing and prospective customers of the gas corporation*. The maps *will* show the size, character, and location of each street main, district regulator, street valve and drip, and when practicable, each service connection in the corresponding territory served. In lieu of showing date of installation and service locations on maps, a card record or other suitable means may be used. *( )*

***02*. Maps of Manufacturing, Mixing, Compressor, and Storage Facilities**. Each gas manufacturing or mixing plant and each compressor station and storage facility shall be provided with an accurate ground plan drawn to a suitable scale, showing the entire layout of the plant or station, the location, size, and character of plant, equipment, major pipelines, connections, valves, and other facilities used for the production and delivery of gas, all properly identified. (7-1-93)

***03*. Inspection of Facilities**. In determining whether these rules are being complied with, the Commission may inspect facilities and records as necessary, as provided in Section 61-521, Idaho Code. (7-1-93)

102. INSPECTION OF CUSTOMER'S FACILITIES (RULE 102).
The gas corporation shall inspect the customer's installation before the connection of a meter to ascertain that the installation conforms to the provisions contained in the National Fuel Gas Code and the Uniform Mechanical Code, as adopted by the Commission. If the installation on the customer's premises does not meet these requirements, the Company shall refuse to connect the meter and shall advise the customer in writing the reasons for such refusal. See Customer Relations Rule 301, IDAPA 31.21.01.301; see Safety and Accident Reporting Rules 201, IDAPA 31.11.01.201. (7-1-93)

103. -- 150. (RESERVED)

STANDARDS FOR SERVICE - RULES 151 THROUGH 200

151. STANDARD FOR SERVICE (RULE 151).
Service to the customer shall assure the customer of adequate pressure, a definite heat content, and accurate measurement of gas. (7-1-93)

152. PERIODIC TESTS OF CUSTOMER METERS (RULE 152).

01. Testing of Smaller Capacity Meters. All meters with capacities up to and including four hundred (400) cubic feet per hour (cfh) that have been in service ten (10) or more years as established by last set date shall be tested within a prescribed sample size as determined in accordance with *ANSI/ASQ Z1.4 and Z1.9 2003 (R2018), which are incorporated by reference into these rules, which can be found at https://webstore.ansi.org/Standards/ASQ/ANSIASQZ1SamplingProcedures*. *( )*

02. Testing of Larger Capacity Meters. All meters from four hundred one (401) to three thousand (3,000) cfh that have been in service ten (10) years as established by last set date shall be replaced or field tested. (7-1-93)

153. METER PROVING (RULE 153).

01. Meter Provers. Each gas corporation shall own at least one (1) meter prover of a type approved by the Commission and shall maintain such equipment in proper adjustment and so calibrated that the error of indication shall not exceed one-half percent. No meter prover shall be so placed as to subject it to excessive temperature variation and each meter prover shall be equipped with suitable thermometers and other necessary accessories. *Additional meter proving station shall be installed when and where found necessary by the Commission. ( )*

***02*. Testing Apparatus for Large Capacity Meters**. Each gas utility using orifice meters, high pressure meters, proportional meters, or other large capacity meters shall own and maintain testing apparatus of a type approved by the Commission. (7-1-93)

***03*. Accuracy of Meter Provers and Testers**. The accuracy of all provers and methods of operation may be established from time to time by a representative of the Commission. Any alterations, accidents, or repairs that might affect the accuracy of any meter prover, or the method of operating it, shall be promptly reported in writing to the Commission. (7-1-93)

154. CUSTOMER METER ACCURACY REQUIREMENTS (RULE 154).

01. Accuracy of Meters. A new gas meter installed for the use of any customer shall not be more than two percent (2%) slow and not more than one percent (1%) fast. Every meter removed from service when opened for repairs shall be adjusted to be not more than two percent (2%) slow and not more than one percent (1%) fast before being reset; and if not opened for repairs may be reset without adjustment if found to be not more than two percent (2%) in error fast or slow, when passing as in both instances at the test rates provided for in Rule 155 (Customer Meter Test Loads). (7-1-93)

02. Removal of Defective Meters From Service. No meter that is mechanically defective shall be placed in service or allowed to remain in service after the defect has been discovered. When any gas meter is not connected in service, the inlet and outlet shall be capped to prevent the drying out of the diagrams. (7-1-93)

155. CUSTOMER METER TEST LOADS (RULE 155).

01. Testing of Meters. All tests to determine the accuracy of registrations of gas service meters shall be made with a suitable meter prover or testing equipment. Unless exempted by order of the Commission, at least two (2) test runs shall be made on each bellows type displacement meter, the results of which shall agree with each other within one-half of one percent (.5%). (7-1-93)

02. Gas Flows During Testing. The rate of flow to be used in testing meters having capacities up to and including three thousand (3,000) cubic feet per hour shall be twenty percent (20%) and one hundred percent (100%) of the rated capacity. The one hundred percent (100%) capacity or open run test shall not be taken into consideration in arriving at the accuracy of these meters. Meters having capacities of above three thousand (3,000) cubic feet per hour, except orifice meters, shall be tested both at twenty percent (20%) and one hundred percent (100%) of their capacity. For the purpose of determining the accuracy of these meters, the average of twenty percent (20%) and one hundred percent (100%) tests shall be used. (7-1-93)

156. CUSTOMER METER TEST RECORDS (RULE 156).

01. Records of Meter Tests. *Annually e*ach gas *utility will make tabulations of the results of all meter accuracy tests required by these rules and* keep records of tests of the accuracy of each of its meters, until superseded by a later test, but not less than two (2) years. These records shall give: *( )*

a. Sufficient information to identify the meter; (7-1-93)

b. The reason for the test; (7-1-93)

c. The date of the test and reading of the meter; (7-1-93)

d. The name of the person making the test; and (7-1-93)

e. The accuracy as found and as left, together with enough of the data taken at the time of the test to permit the convenient checking of the methods employed and the calculations. (7-1-93)

157. -- 999. (RESERVED)

31.36.01 – POLICIES AND PRESUMPTIONS FOR SMALL WATER COMPANIES

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Public Utilities Law, chapters 1 through 7, Title 61, Idaho Code, and the specific authority of Sections 61-301, 61-302, 61-303, 61-315, 61-501, 61-502, 61-503, 61-507, 61-508, 61-515, 61-520, and 61-523, Idaho Code, with regard to valuation and service. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is "Policies and Presumptions for Small Water Companies." This chapter has the following scope: All small water companies created or certified after the effective date of these rules (November 1, 1987) are subject to the policies and presumptions of these rules. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
There are no administrative appeals under these rules because they are not procedural rules. If an issue should arise calling for a proceeding to apply these rules, that proceeding would be conducted under the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)

004. (RESERVED)

005. DEFINITIONS (RULE 5).
As used in these rules, water utility, water company, or water corporation means a "water corporation" as defined by statute in Chapter 1, Title 61, Idaho Code, and orders of the Idaho Public Utilities Commission and decisions of the Supreme Court of Idaho construing those statutes. (7-1-93)

006. -- 100. (RESERVED)

101. SMALL WATER COMPANIES DEFINED (RULE 101).
Small water companies are water corporations as defined by the Public Utilities Law that: (7-1-93)

01. Gross Revenue. Have or anticipate not more than fifty thousand dollars ($50,000) annual gross revenues from water operations, or (7-1-93)

02. Customer Base. Provide service to fewer than three hundred (300) customers or propose initially to provide service to fewer than three hundred (300) customers. (7-1-93)

***102*. PRESUMPTION OF CONTRIBUTED CAPITAL (RULE 103).**
In issuing certificates for a small water company or in setting rates for a small water company, it will be presumed that the capital investment in plant associated with the system is contributed capital, i.e., that this capital investment will be excluded from rate base. (7-1-93)

104. -- 999. (RESERVED)

31.41.01 – CUSTOMER RELATIONS RULES FOR TELEPHONE CORPORATIONS PROVIDING SERVICES IN IDAHO SUBJECT TO CUSTOMER SERVICE REGULATION BY THE IDAHO PUBLIC UTILITIES COMMISSION

(THE TELEPHONE CUSTOMER RELATIONS RULES)

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Public Utilities Law, Chapters 1 through 7, Title 61, Idaho Code, and the Telecommunications Act of 1988, Chapter 6, Title 62, Idaho Code, and the specific authority of Sections 61-301, 61-302, 61-303, 61-315, 61-503, 61-507, 61-520, 62-605, 62-606, 62-612, 62-616, and 62-622, Idaho Code, with regard to service. (3-29-10)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is the "Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to Customer Service Regulation by the Idaho Public Utilities Commission," (The Telephone Customer Relations Rules). For companies subject to Commission regulation under Title 62, Idaho Code, these rules apply to companies providing local exchange service as defined in Section 62-603, Idaho Code. This chapter has the following scope: These rules provide a set of fair, just, reasonable, and non-discriminatory rules to address recurring areas of disagreement between local exchange companies and other telephone companies and customers with regard to deposits, guarantees, billing, application for service, denial of service, termination of service, complaints to telephone companies, billing for interrupted service, and provision of certain information about customers to authorities. (3-29-10)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. (6-30-19)T

003. ADMINISTRATIVE APPEALS (RULE 3).
This rule governs formal complaints and requests for exemption under these rules. Any telephone company or customer requesting and receiving an informal staff determination with regard to a complaint may formally request the Commission to review the staff's determination. If unusual hardships result from the application of any of these rules, any telephone company or customer may apply to the Commission for, or the Commission on its own motion may order, a permanent or temporary exemption. A formal complaint or request for exemption must be filed with the Commission pursuant to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. ( )

004. (RESERVED)

005. DEFINITIONS (RULE 5).
The following definitions are used in this title and chapter: (7-1-93)

01. Customer. A "customer" is a person or entity who has requested service or currently receives service from a telephone company or has assumed responsibility for payment of service provided to another person or entity. Any person whose service has been temporarily disconnected for non-payment will continue to be a "customer" for the purposes of these rules until such time as service is permanently disconnected. (3-29-10)

02. Local Exchange Company (LEC). "Local exchange company" (LEC) is a telephone company providing local exchange service to end-users. (3-29-10)

03. Message Telecommunications Service (MTS). "MTS" (commonly known as "long-distance service") means the transmission of two-way interactive switched voice communication between local exchange areas. (3-29-10)

04. Other Services. "Other services" mean all services except local exchange and MTS services provided, billed, or collected by a telephone company. (1-1-95)

05. Residential Service. "Residential service" means telecommunication service furnished and maintained at a dwelling primarily for personal or domestic purposes and not for business, professional or institutional purposes, i.e., service provided to residential customers as defined in Section 62-603(9), Idaho Code. (3-29-10)

06. Small Business Service. "Small business service" means telecommunication service furnished to a business or institutional entity, whether an individual, partnership, corporation, association or other business or

institutional form, for occupational, professional, or institutional purposes, to customers who do not subscribe to more than five (5) local access lines which are billed to a single billing location, i.e., service provided to small business customers as defined in Section 62-603(11), Idaho Code. (3-29-10)

07. Telephone Company. Unless further restricted by definition within a rule or a group of rules, "telephone company" means any entity subject to this Commission's regulation as a provider of telecommunication services to end-users under the Public Utilities Law (Idaho Code, Title 61, Chapters 1-7) or subject to this Commission's authority under the Telecommunications Act of 1988, as amended, (Idaho Code, Title 62, Chapter 6) or the federal Telecommunications Act of 1996 (47 U.S.C. 151 et seq). (3-29-10)

006. -- 007. (RESERVED)

008. EXERCISE OF RIGHTS BY CUSTOMER (RULE 8).
*T*elephone company *will not* discriminate against or penalize a customer for exercising any right granted by these rules. *( )*

009. INFORMAL COMPLAINTS AND INTERPRETATION OF RULES (RULE 9).
Commission staff *may informally interpret* these rules and tariffs or other filings of telephone companies and investigate complaints made to the Commission. The Commission *may* issue orders *interpreting* these rules, telephone company tariffs or similar filings, and *resolving* formal complaints. *( )*

010. CONFLICT WITH TELEPHONE TARIFFS OR PRICE LISTS (RULE 10).
If a telephone company's tariff or price list *denies* or *restricts* customer rights protected by these rules, these rules supersede conflicting tariff or price list provisions. *( )*

011. INCORPORATION BY REFERENCE -- CODE OF FEDERAL REGULATIONS (RULE 11).
Rules 701 through 703 incorporate by reference federal regulations issued by the Federal Communications Commission. The incorporated regulations are found in the Code of Federal Regulations available from the U.S. Government Printing Office. Incorporated materials are also available for inspection and copying at the offices of the Public Utilities Commission. (3-29-10)

012. -- 099. (RESERVED)

RESIDENTIAL AND SMALL BUSINESS DEPOSIT
Rules 100 through 199

100. DEPOSIT REQUIREMENTS -- LECS (RULE 100).

01. Residential Customers. *Telephone companies* providing local exchange service *will not* demand or hold any deposit from any residential customer for service without proof that the customer is likely to be a credit risk or to damage the property of the local exchange company or other companies for which it bills. A history of late payment or lack of previous history with the local exchange company does not, in itself, constitute such proof. A local exchange company will not demand or hold a deposit under this rule as a condition of service from a residential customer unless one (1) or more of the following criteria applies: *( )*

a. The customer has outstanding a prior residential service account and at the time of application for service remains unpaid and not in dispute. (3-29-10)

b. The customer's service has been temporarily denied or terminated within the past four (4) years for one (1) or more of the following reasons: (3-29-10)

i. Non-payment of any undisputed delinquent bill; (7-1-93)

ii. Obtaining, diverting or using telephone service without the authorization or knowledge of the telephone company. (7-1-93)

c. The customer does not have verifiable previous telephone service that was in existence for a period exceeding twelve (12) months and does not pass an objective credit screen. (3-29-10)

d. The telephone company has determined that information provided by the customer is materially false or materially misrepresents the customer's true status. (3-29-10)

e. The customer requests service at a residence where a prior subscriber still resides and where any balance for service to that prior subscriber incurred at that location is past due or owing. (3-29-10)

02. Small Business Customers. *Telephone companies* providing local exchange service *will not* demand or hold any deposit as a condition of service from any current small business customer for small business service unless one (1) or more of the following criteria apply: *( )*

a. Any of the conditions listed in Rule 100.01 of this rule are present. (3-29-10)

b. The customer has not had previous service with that telephone company. (3-29-10)

c. The customer was delinquent in payment two (2) or more times in the previous twelve (12) months. (7-1-93)

03. Bankrupt Customers. If a customer, either residential or a small business, has sought any form of relief under the Federal Bankruptcy Laws, has been brought within the jurisdiction of the bankruptcy court for any reason in an involuntary manner, or has had a receiver appointed in a state court proceeding, then a deposit may be demanded as allowed by the Federal Bankruptcy Laws. (3-29-10)

101. OTHER DEPOSIT STANDARDS PROHIBITED (RULE 101).
A local exchange company will not require a deposit or other guarantee as a condition of new or continued residential telephone service based upon residential ownership or location, income level, source of income, employment tenure, nature of occupation, race, creed, sex, age, national origin, marital status, number of dependents, or any other criterion not authorized by these rules. Rules governing deposits will be applied uniformly. If the customer, either residential or small business, selects another company to provide services and arranges to be billed directly by that company rather than through the local exchange company, no deposit may be collected by the local exchange company for the services provided by the other company. (3-29-10)

102. EXPLANATION FOR DENIAL OF SERVICE OR REQUIREMENT OF DEPOSIT -- LECS (RULE 102).
If the local exchange company requires a deposit as a condition of providing service, then it will immediately provide an explanation to the customer why a deposit is required. The customer will be given an opportunity to rebut these reasons. *The notice will also advise* the customer *that if there is a dispute* an informal or formal complaint may be filed with the Commission. *( )*

103. AMOUNT OF DEPOSIT -- LECS (RULE 103).
A deposit allowed pursuant to Rule 100 as a condition of service by a local exchange company *must* not exceed two (2) months' charges for local exchange service. Additional deposits for damage or other reasons independent of usage may be in reasonable amounts. *( )*

104. INTEREST ON DEPOSITS (RULE 104).

01. Interest Payable. Interest will be payable on the deposited amounts at the rate provided by Rule 104.02. Interest will accrue from the date the deposit is made until the deposit is refunded or applied to the customer's bill; however, interest will not accrue on a deposit if: (3-29-10)

a. Service is terminated temporarily at the request of the customer who leaves the deposit with the telephone company for future use as a deposit; or (7-1-93)

b. Service has been permanently terminated and the telephone company has been unsuccessful in its attempt to refund a deposit. (7-1-93)

02. Interest Rate. On or before November 15 of each year, the Commission will determine the twelve-month average interest rate for one-year Treasury Bills for the previous November 1 through October 31, round that rate to the nearest whole percent, and notify the telephone companies of its determination of this interest rate. That rate will be in effect for the following calendar year for all deposits described in Rule 104.01. (3-29-10)

105. RETURN OF DEPOSIT -- LECS (RULE 105).

01. Former Customers. Upon termination of service *the telephone company will credit* the deposit *(*with accrued interest*)*, to the final bill *then promptly return any* remaining *balance* to the customer. *( )*

02. Existing Customers. If the customer has paid all undisputed bills and has no more than one (1) late payment during the past twelve (12) consecutive months of service, the telephone company will promptly return the deposit (with accrued interest) by crediting the customer's current account or issuing a refund. (3-29-10)

03. Retention During Dispute. The local exchange company may retain the deposit pending resolution of a dispute over termination of service. If the deposit is later refunded to the customer, the local exchange company will pay interest at the annual rates established in Rule 104 for the entire period over which the deposit was held. (7-1-93)

04. Early Return of Deposit. A local exchange company may refund a deposit plus accrued interest in whole or part at any time before the time prescribed in this rule. (7-1-93)

106. TRANSFER OF DEPOSIT (RULE 106).
Deposits will not be transferred from one (1) customer to another customer or between classes of service, except at the customer's request. When a customer with a deposit on file transfers service to a new location within the same telephone company's service area in Idaho, the deposit and any outstanding balance will be transferred to the account for the new location. (7-1-93)

107. RECORDS OF DEPOSITS (RULE 107).

01. Receipts. Each customer paying a deposit will be provided the following information: (3-29-10)

a. Name of customer and service address for which deposit is held; (7-1-93)

b. Date of payment; (7-1-93)

c. Amount of payment; and (7-1-93)

d. Terms and conditions governing the return of deposits. (3-29-10)

02. Retention of Records. Each telephone company will maintain records that will enable a customer entitled to a return of a deposit to obtain a refund even though the customer may be unable to produce the receipt for the deposit. These records must include the name of each customer, the service location(s) and telephone number(s) of the customer while the deposit is retained, and the date(s) and amount(s) of the deposits. The telephone company will retain records of deposits that have been refunded to customers for a period of three (3) years after the date of refund. The telephone company will retain records of unclaimed deposits for a period of seven (7) years as required by Section 14-531, Idaho Code. (4-6-05)

03. Transfer of Records. Upon the sale or transfer of any telephone company or any of its operating units, the seller will certify to the Commission that it has a list showing the names of all customers whose service is transferred and who have a deposit on file, the date the deposit was made and the amount of the deposit. (7-1-93)

108. UNCLAIMED DEPOSITS AND ADVANCE PAYMENTS (RULE 108).

01. Presumption of Abandonment. Pursuant to Section 14-508, Idaho Code, any deposit or advance payment made to obtain or maintain local exchange service or other services that is unclaimed by the owner for more

than one (1) year after termination of service is presumed abandoned. (3-29-10)

02. Financial Assistance Program. A telephone company may apply to the Commission for approval to pay unclaimed deposits and advance payments presumed to be abandoned to a financial assistance program which assists the telephone company's low income and disadvantaged customers with payment of utility bills. The telephone company *will* file its report of such abandoned property as required by Section 14-517, Idaho Code, and retain records as required by Section 14-531, Idaho Code. *( )*

109. -- 199. (RESERVED)

BILLING
Rules 200 through 299

200. FURTHER DEFINITION (RULE 200).
As used in Rules 201 through 205, "bill" or "billing statement" refers to a written request for payment listing charges for goods and services that is mailed or otherwise delivered to the customer for payment. A billing statement may be provided to the customer in an electronic format with the customer's consent. Oral notice of the amount of charges pending is not a bill. Bills include requests for payments for services rendered by other telephone companies or other entities that are not telephone companies. This rule does not apply to billings between or among telephone companies. *( )*

201. ISSUANCE OF BILLING STATEMENTS -- CONTENTS OF BILLS -- RESIDENTIAL AND SMALL BUSINESS SERVICE (RULE 201).

01. Local Exchange Service. Billing statements for residential and small business local exchange service *will* be *regularly* issued and must contain the following information: *( )*

a. The date the billing statement is issued; (3-29-10)

b. The time period covered by the billing statement; (3-29-10)

c. The due date by which payment must be received, unless the customer has authorized automatic monthly payment. If automatic payment is authorized, the customer must be informed in writing when funds will be withdrawn from a bank account or charged to a credit card account. In addition, the billing statement must state the actual or earliest possible date that funds will be withdrawn or the credit card charged unless the customer consents otherwise in writing at the time automatic payment is authorized; (3-29-10)

d. Any amounts transferred from another account; (7-1-93)

e. Any amounts past due; (7-1-93)

f. Any payments or credits applied to the customer's account since the last bill; (7-1-93)

g. The total amount due; (7-1-93)

h. Names of all telephone companies or entities providing goods and services for which the customer is billed, sufficient information to readily identify the goods and services provided, and the amounts charged; (3-29-10)

i. The toll-free telephone number(s) available to customers for answering inquiries and resolving complaints about goods and services billed; (3-29-10)

j. An itemization of charges for goods and services provided to the customer and any associated fees, taxes, surcharges or subscriber line charges. Charges for each good or service provided as part of a package under a single price, or calling plans in which individual calls are billed at a flat rate regardless of usage need not be separately itemized. (3-29-10)

02. MTS Bills. In addition to the requirements of Rule 201.01, bills for MTS service must identify the number called and the date, time, duration, destination and charge for each call, unless the customer has selected a flat rate calling plan. For collect and third-party calls the MTS provider must also itemize the origin of the call. (3-29-10)

03. Other Services. No telephone company may send demand letters or initiate collection efforts for any amount owed by a customer who subscribes to or is billed for services other than local exchange service and MTS services provided by another telephone company unless the bill separately lists those services as required by this rule. (3-29-10)

04. Customer Request for Less Detail. Upon customer request, telephone companies may provide billing statements containing less detail than required by this rule. Telephone companies must make available without charge detailed billing information for the preceding twelve (12) months to those customers who have elected to receive less detail on monthly billing statements but subsequently request more detail. (3-29-10)

202. DUE DATE OF BILLS -- DELINQUENT BILLS (RULE 202).

The telephone company may require that bills for service be paid within a specified time after the billing date. The minimum specified time after the billing date is fifteen (15) days (or twelve (12) days after mailing or delivery of a paper or electronic bill, if bills are mailed or delivered more than three (3) days after the billing date). Upon the expiration of this time without payment, the bill may be considered delinquent. With the customer's approval, automatic monthly payments made by withdrawal from a bank account or charged to a credit card account may take place prior to the normal due date if the customer has authorized such a payment. (3-29-10)

203. BILLING ERRORS, BILLING UNDER INCORRECT RATES, OR FAILURE TO BILL (RULE 203).

01. Billing Errors -- Failure to Bill. Whenever the billing for telephone service was not accurately billed because of malfunction in billing equipment or error in preparation of bills, the telephone company shall prepare a corrected billing. If the telephone company has not billed a customer for service provided, the telephone company shall prepare a bill for the period in which service was provided and the customer was not billed. At its discretion, the telephone company may waive rebilling for undercharges. (7-1-93)

02. Billing Under Incorrect Rates. A customer has been billed under an incorrect rate if the customer was billed under a rate for which the customer was not eligible or the customer, who is eligible for billing under more than one (1) rate, was billed under a rate contrary to the customer's election or the election was made based upon erroneous information provided by the telephone company. If a customer is billed under an incorrect rate, the telephone company must recalculate the customer's past bills and correctly calculate future bills based on the appropriate rate. The telephone company is not required to adjust bills when it has acted in good faith based upon information provided by the customer. (3-29-10)

03. Rebilling Time Period. (3-29-10)

a. If the time when the billing error, billing under incorrect rates, or failure to bill (collectively referred to as "billing problem") began cannot be reasonably determined to have occurred within a specified billing period, the corrected billings will not exceed the most recent six (6) months before the discovery of the billing problem. (3-29-10)

b. If the time when the billing problem began can be reasonably determined, and the telephone company determines the customer was overcharged, the corrected billings will go back to that time, but not to exceed three (3) years from the time the billing problem occurred as provided by Section 61-642, Idaho Code. (3-29-10)

c. If the time when the billing problem began can be reasonably determined and the telephone company determines the customer was undercharged, the company may rebill for a period of six (6) months unless a reasonable person should have known of the inaccurate billing, in which case the rebilling may be extended for a period not to exceed three (3) years. The telephone company is responsible for identifying customers who have not been billed or who have been inaccurately billed. (3-29-10)

04. Refunds. The telephone company will promptly calculate refund amounts overpaid by the customer and issue a credit within two (2) billing cycles. Any remaining credit balance will be credited against future bills unless the customer, after notice from the telephone company, requests a refund and the amount is more than twenty-five dollars ($25). The telephone company will advise the customer of the option to have any remaining credit balance exceeding twenty-five dollars ($25) refunded. (3-29-10)

05. Additional Payments. The telephone company will promptly prepare a corrected billing for a customer who has been undercharged, indicating the amount owed to the company. An unbilled or undercharged customer will be given the opportunity to make payment arrangements under Rule 310 on the amount due. At the customer's option, the term of the payment arrangement may extend for the length of time that the underbilling accrued or the customer was not billed. (3-29-10)

204. BILLING PROHIBITED -- BILLING DISPUTES (RULE 204).

01. Unauthorized Charges. No telephone company will bill for unanswered or unaccepted telephone calls, telephone calls placed to a toll-free number, or telephone service or other goods and services not ordered or otherwise authorized by the customer of record. A telephone company that unknowingly submits a bill containing charges for unanswered or unaccepted telephone calls, telephone calls placed to a toll-free number, or telephone service or other services or goods not ordered or otherwise authorized by the customer of record shall be considered in violation of this rule unless the disputed amounts are removed from the customer's bill within two (2) billing cycles of the customer's notification to the company. (3-29-10)

02. Billing Disputes. A telephone company that bills and collects for other telephone companies or entities is responsible for either addressing billing disputes regarding unauthorized goods and services for which it bills or advising customers how to contact the providers of those goods and services. If a customer is unable to either contact or successfully resolve a dispute about unauthorized goods and services for which the telephone company bills, a credit equal to the disputed charges must be applied to the customer's account within two (2) billing cycles of the customer's notification to the company. (3-29-10)

205. RESPONSIBILITY FOR PAYMENT OF RESIDENTIAL SERVICE BILLS (RULE 205).

01. Customer Defined. For purposes of this rule, "customer" means a person whose name appears on the telephone company's regular bill for residential service or who signed a written application for residential service or another document informing the customer that he or she was assuming an obligation for payment of service. (7-1-93)

02. Customer's Responsibility. A *telephone company will not hold a* customer responsible for *paying* an amount not billed for the customer's own service or through use of the customer's own credit or facilities and whose own name does not appear on the current bill or application for service, unless: *( )*

a. The customer expressly accepts responsibility for payment of the other person's bill; or (7-1-93)

b. The customer has a legal obligation to pay the other person's bill. (7-1-93)

03. Customer Notice. The telephone company will provide written notice of its intent to add to the customer's bill for current service an amount owed for another person's bill or service rendered at a former service location, if the lapse in service exceeds sixty (60) calendar days. The notice may be provided in an electronic format with the customer's consent. (3-29-10)

04. Contents of Notice. The notice must include: (3-29-10)

a. The name of the customer of record who owes the bill; (7-1-93)

b. The service location and telephone number or account number involved; (7-1-93)

c. The time over which the bill amount was accumulated; (3-29-10)

d. The amount owed; (7-1-93)

e. The reason(s) for adding the bill amount to the customer's billing statement; (3-29-10)

f. Statement that payment arrangements may be made on the amount owed; (7-1-93)

g. A statement that the customer has a right to contest the telephone company's proposed action by contacting the Commission; and (3-29-10)

h. The response deadline after which the bill amount will be added to the customer's billing statement. (3-29-10)

05. Opportunity to Respond. The *telephone company will give the* customer *at least* seven (7) calendar days from the date of its proposed action to respond to the telephone company notice. *( )*

206. -- 299. (RESERVED)

DENIAL, RESTRICTION, AND TERMINATION OF SERVICE
Rules 300 Through 399

300. EXPLANATION FOR DENIAL OF A SERVICE TO A CUSTOMER (RULE 300).
If a telephone company intends to deny service to a customer under Rule 301, the telephone company will provide an explanation to the customer stating the reasons for the telephone company's refusal to provide service and the necessary action(s) to be taken to receive service. In the event of a dispute, the customer will be advised that an informal or formal complaint concerning denial of service may be filed with the Commission. (3-29-10)

301. GROUNDS FOR DENIAL OR TERMINATION OF LOCAL EXCHANGE SERVICE WITH PRIOR NOTICE (RULE 301).
A telephone company may deny or terminate local exchange service to a customer without the customer's permission, but only after adequate notice has been given in accordance with these rules, for one (1) or more of the following reasons: (3-29-10)

01. Customer Did Not Pay Undisputed Bills. With respect to undisputed past due bills for local exchange service, the customer: (3-29-10)

a. Failed to pay; (3-29-10)

b. Paid with a dishonored check; or (3-29-10)

c. Made an electronic payment drawn on an account with insufficient funds. (3-29-10)

d. The customer failed to make a security deposit, when one is required. (3-29-10)

e. The customer failed to abide by the terms of a payment arrangement. (3-29-10)

f. The telephone company determines as prescribed by relevant state or other applicable standards that the customer is willfully wasting or interfering with service through improper equipment or otherwise. (3-29-10)

g. The customer is a minor not competent to contract as described in Sections 29-101 and 32-101, Idaho Code. (3-29-10)

02. ***No*** **Obligation to Connect Service**. Nothing in this rule requires the telephone company to connect service for a customer who owes money on an existing account or from a previous account if the unpaid bill is for service provided within the past four (4) years. *( )*

302. GROUNDS FOR DENIAL OR TERMINATION OF A SERVICE, WITHOUT PRIOR NOTICE (RULE 302).

A telephone company may deny or terminate a service or all services without prior notice to the customer and without the customer's permission for any of the following reasons: (3-29-10)

01. Dangerous Condition. A condition immediately dangerous or hazardous to life, physical safety, or property exists, or it is necessary to prevent a violation of federal, state or local safety or health codes. (7-1-93)

02. Ordered to Terminate Service. The telephone company is ordered to terminate service by any court, the Commission, or any other duly authorized public authority. (7-1-93)

03. Illegal Use of Services. The service(s) was (were) obtained, diverted or used without the authorization or knowledge of the telephone company. (3-29-10)

04. Customer Unable to Be Contacted. The telephone company has tried diligently to meet the notice requirements of Rule 303, but has been unsuccessful in its attempt to contact the customer. (3-29-10)

05. Misrepresentation. The telephone company has determined that information provided by the customer is materially false or materially misrepresents the customer's true status. (3-29-10)

303. REQUIREMENTS FOR NOTICE BEFORE TERMINATION OF LOCAL EXCHANGE SERVICE (RULE 303).

01. Initial Notice. If the telephone company intends to terminate local exchange service under Rule 301, it will send to the customer written notice of termination mailed at least seven (7) calendar days before the proposed date of termination. Written notice may be provided by electronic mail (i.e. e-mail) if the customer is billed electronically and separately consents in writing to receiving electronic notification. This written notice will contain the information required by Rule 304. (3-29-10)

02. Final Notice. At least twenty-four (24) hours before actual termination, the telephone company will diligently attempt to contact the customer to apprise the customer of the proposed action and the steps the customer must take to avoid or delay termination. This oral notice will contain the same information required by Rule 304. (3-29-10)

03. Additional Notice. If the telephone company has not terminated service within twenty-one (21) days after the proposed termination date as specified in a notice, the telephone company will again provide notice under Rules 303.01 and 303.02 if it still intends to terminate service. (3-29-10)

04. Failure to Pay. No additional notice of termination is required if, upon receipt of a termination notice: (3-29-10)

a. The customer makes a payment arrangement and subsequently fails to keep that arrangement; (3-29-10)

b. The customer tenders payment with a dishonored check; or (3-29-10)

c. Makes an electronic payment drawn on an account with insufficient funds. (3-29-10)

304. CONTENTS OF NOTICE OF INTENT TO TERMINATE LOCAL EXCHANGE SERVICE (RULE 304).

01. Contents of Notice. The written, electronic or oral notice of intent to terminate local exchange service required by Rule 303 will state: (3-29-10)

a. The reason(s), citing these rules, why service will be terminated and the proposed date of termination; (3-29-10)

b. Actions the customer may take to avoid termination; (3-29-10)

c. That a certificate notifying the local exchange company of a serious illness or medical emergency in the household may delay termination under Rule 306; (3-29-10)

d. That an informal or formal complaint concerning termination may be filed with the telephone company or the Commission, and that service will not be terminated on grounds relating to the dispute between the customer and telephone company before resolution of the complaint (the Commission's mailing address, Internet address, and telephone number must be given to the customer); (3-29-10)

e. That the telephone company is willing to make payment arrangements (in a written notice this statement must be in bold print); and (3-29-10)

f. What amount must be paid in order to avoid termination of local exchange service and that partial payments will be applied toward past due charges for local exchange service first. (3-29-10)

305. SERIOUS ILLNESS OR MEDICAL EMERGENCY (RULE *305*).

01. Medical Certificate -- Postponement of Termination of Local Exchange or Long-Distance Services. A telephone company offering local exchange or long-distance service between a residential customer and the customer's nearest community providing necessary medical facilities or services must postpone termination of local exchange or long-distance service to a residential customer for thirty (30) calendar days from the date of receipt of a written certificate signed by a licensed physician or public health official with medical training. The certificate must contain the following information: (3-29-10)

a. A statement that the customer, a member of the customer's family, or other permanent resident of the premises where service is provided, is seriously ill or has a medical emergency or will become seriously ill or may have a medical emergency because of termination of service; and that termination of local exchange service would adversely affect the health of that customer, member of the customer's family, or resident of the household. (3-29-10)

b. If the customer requests that termination of long-distance service be postponed, a statement that termination of long-distance service would impair the customer's ability to communicate with necessary medical facilities or services. (3-29-10)

c. The name of the person whose serious illness or medical emergency would be adversely affected by termination and the relationship to the customer. (4-6-05)

d. The name, title, and signature of the person certifying the serious illness or medical emergency. (4-6-05)

02. Restoration of Service. If local exchange or long-distance service has already been terminated when the medical certificate is received, the appropriate service will be restored as soon as possible, but no later than twenty-four (24) hours after receipt. The customer will receive local exchange and necessary long-distance services for thirty (30) calendar days from the telephone company's receipt of the certificate. (3-29-10)

03. Second Postponement. The telephone company may postpone termination of local exchange and necessary long-distance service for an additional thirty (30) days upon receipt of a second certificate stating that the serious illness or medical emergency still exists. (3-29-10)

04. Verification of Medical Certificate. The telephone company may verify the authenticity of the certificate and may refuse to delay termination of service if the certificate is a forgery or is otherwise fraudulent. (7-1-93)

05. Obligation to Pay. Nothing in this rule relieves the customer of the obligation to pay any undisputed bill. (4-6-05)

306. MEDICAL FACILITIES -- SHELTER CARE (RULE *306*).

Where local exchange or long-distance services are provided to a customer known by the telephone company to be or identifying itself as a medical care facility, including a hospital, medical clinic with resident patients, nursing home, intermediate care facility or shelter care facility, notice of pending termination will be provided to the Commission as well as to the customer. Upon request from the Commission, a delay in termination of no less than seven (7) calendar days from the date of notice will be allowed so that action may be taken to protect the interests of the facility's residents. *( )*

307. INSUFFICIENT GROUNDS FOR TERMINATION OF LOCAL EXCHANGE SERVICE (RULE 307).

01. Termination Prohibited. *Telephone companies will not terminate service or provide notice of intent to terminate service if the unpaid bill cited as grounds for termination is*: *( )*

a. Less than thirty ($30) dollars; (3-29-10)

b. For telephone service provided to any other customer or former customer (unless that customer has a legal obligation to pay the other bill) or for a class of service (business or residential) other than the one to which the customer currently subscribes; (3-29-10)

c. For MTS or other goods and services provided by the telephone company or for which the telephone company bills; (3-29-10)

d. For service provided four (4) or more years ago unless the customer made a payment on the bill within the past four (4) years, or the customer signed a written payment agreement and then failed to pay; (3-29-10)

e. The subject of an informal or formal complaint filed with the Commission; or (3-29-10)

f. Is at issue in a case pending before a court in the state of Idaho unless termination is authorized by court order. (3-29-10)

308. RESTRICTIONS ON TERMINATION OF LOCAL EXCHANGE SERVICE -- OPPORTUNITY TO AVOID TERMINATION OF LOCAL EXCHANGE SERVICE (RULE 308).

01. When Termination Not Allowed. Unless the customer affected has consented in writing, local exchange service will not be terminated on any Friday after twelve noon or on any Saturday, Sunday, legal holidays recognized by the state of Idaho, or after twelve noon on any day immediately before any legal holiday, or at any time when the telephone company's business offices are not open for business, except as authorized by Rules 302.01 and 302.02, or for non-residential customers, as authorized by any Subsection of Rule 302. Local exchange services may be terminated only between the hours of 8 a.m. and 4 p.m., except as authorized by Rules 302.01 and 302.02. (3-29-10)

02. Personnel to Authorize Reconnection. Each telephone company providing local exchange service will have personnel available after the time of termination who are authorized to reconnect service if the conditions cited as grounds for termination are corrected to the telephone company's satisfaction. Customers may be asked to pay reconnection fees before restoration of service. (1-1-95)

03. Service to Persons Not Customers. If local exchange service is provided to a residence and the account is in the name of one who does not reside there, the telephone company, prior to termination, will notify the person(s) receiving service and afford the person(s) a reasonable opportunity to negotiate directly with the telephone company to purchase service in the resident's(s') own name(s). (1-1-95)

04. No Termination While Complaint Pending. Except as authorized by order of the Commission or of the Judiciary, local exchange service will not be terminated for failure to pay amounts in dispute while a complaint over that telephone service filed pursuant to Rule 401 is pending before this Commission or while a case placing at issue payment for that telephone service is pending before a court in the state of Idaho. (3-29-10)

309. PAYMENT ARRANGEMENTS (RULE 309).

01. Arrangements Allowed. When a customer cannot pay a bill in full, the telephone company may continue to serve the customer if the customer and the telephone company agree on a reasonable portion of the outstanding bill to be paid immediately, and the manner in which the balance of the outstanding bill will be paid. (7-1-93)

02. Reasonableness. In deciding on the reasonableness of a particular agreement, the telephone company will take into account the customer's ability to pay, the size of the unpaid balance, the customer's payment history and length of service, and the amount of time and reasons why the debt is outstanding. (7-1-93)

03. Application of Payment. Payments are to be applied first to the undisputed past due balance owed by the customer for local exchange services. In discussing or negotiating payment arrangements, the telephone company shall advise the customer what amount of payment the customer must allocate to local exchange service or to long-distance service or other goods and services in order to retain those goods and services. (3-29-10)

04. Second Arrangement. If a customer fails to make the payment by the agreed due date, the telephone company may, but is not obligated to, enter into a second arrangement. (3-29-10)

05. When Arrangement Not Binding. No payment arrangement binds a customer if it requires the customer to forego any right provided for in these rules. (1-1-95)

310. DENIAL, RESTRICTION, MODIFICATION, OR TERMINATION OF LONG-DISTANCE SERVICE OR OTHER SERVICES (RULE *310*).

01. Compliance. Telephone companies regulated under Title 61, Idaho Code, providing long-distance or other services must comply with Rules 300, 302, 308.03, 308.04, and 309 in connection with denial, restriction, modification, or termination of those services. Telephone companies providing long-distance or other services must provide reasonable notice before terminating or restricting access to such services, except as provided by Rule 302. Telephone companies providing long-distance services must provide reasonable notice before modifying a customer's existing service. Nothing in this rule abrogates customers' rights under those telephone companies' tariffs or filings, written agreements with customer, or obligations otherwise imposed by statutory or common law. (3-29-10)

02. Failure to Pay. A customer's failure to pay for undisputed long-distance charges billed by the local exchange company may result in loss of 0+ or 0- and 1+ dialing access to long-distance services until such time as the customer pays the undisputed charges and any applicable reconnection charges. (3-29-10)

03. Loss of Services. Customer failure to pay undisputed charges for other services may result in loss of those services. (1-1-95)

311. CESSATION OF SERVICE IN A SERVICE AREA (RULE *311*).

01. Single Local Service Provider. A telephone company that intends to terminate a service regulated under Title 61, Idaho Code, and an eligible telecommunications carrier that intends to terminate its universal service obligation in an area where it is the only eligible telecommunications carrier, must comply with the following: (3-29-10)

a. Petition the Commission for authority to terminate the service at least ninety (90) days before the company intends to terminate the service. If the Commission does not deny the petition or set it for hearing within ninety (90) days after receiving the petition, it shall be deemed approved; (3-29-10)

b. Mail a notice to each affected customer and to each telecommunications provider affected by the proposed cessation no later than ten (10) days after filing its petition with the Commission. (3-29-10)

c. Include with its petition a copy of the notice to customers and the number of customers affected by the proposed cessation; (3-29-10)

d. Demonstrate that the termination will not deprive the public of necessary telephone services; (3-29-10)

e. Obtain Commission approval before transferring customers to other telecommunications providers. (3-29-10)

02. Competitive Local Service Provider. A local exchange company that intends to terminate local exchange service that is not subject to regulation under Title 61, Idaho Code, and an eligible telecommunications carrier that intends to terminate its universal service obligation in an area where it is not the only eligible telecommunications carrier, must comply with the following: (3-29-10)

a. Provide notice to the Commission and each affected customer at least forty-five (45) days prior to the proposed termination of service; (3-29-10)

b. Inform the Commission of the number of customers and the other providers affected by the proposed termination, and the company's plan to ensure that all customers served by the company will continue to be served; (3-29-10)

c. The telecommunications company may, after complying with this rule, transfer customers to another telecommunications provider without obtaining affirmative approval from affected customers if the following conditions are satisfied: (3-29-10)

i. The company terminating service has a written commitment from another provider to accept all of the exiting company's customers within the receiving company's service area; (3-29-10)

ii. All affected customers are notified at least forty-five (45) days in advance that they may apply to another telecommunications company for the service that is being terminated, and that if they do not obtain service from another provider, then the exiting company will automatically transfer them to the receiving company. (3-29-10)

iii. The receiving company may provide service to the terminating company's customers for up to forty-five (45) days without the affected customer applying for service from the receiving company. If the affected customers do not apply for service from or otherwise affirm an agreement to be served by the receiving company within forty-five (45) days, the receiving company may discontinue service. (3-29-10)

***312*. -- 399. (RESERVED)**

COMPLAINT PROCEDURE
Rules 400 through 499

400. COMPLAINT TO TELEPHONE COMPANY (RULE 400).

01. ***Compliant***. A customer for service may complain to the telephone company about any deposit or guarantee required as a condition of service, billing, termination of service, quality or availability of service, or any other matter regarding telephone company services, policies or practices for local exchange service, and other services. Complaints to the telephone company may be made orally or in writing. A complaint is considered filed when received by the telephone company. In making a complaint, the customer will state the customer's name, service address, telephone number and the general nature of the complaint. *( )*

02. Investigation *by Utility*. *T*he telephone company *will* promptly, thoroughly and completely investigate the complaint, notify the customer of the results of its investigation and make a good faith attempt to resolve the complaint. The oral or written notification will advise the customer that the customer may request the Commission to review the telephone company's proposed disposition of the complaint. *( )*

03. Service Maintained. The telephone company will not terminate service based upon the subject matter of the complaint while investigating the complaint or making a good-faith attempt to resolve the complaint.

(7-1-93)

401. *COMPLAINT TO COMMISSION* (RULE 401).

01. Informal Complaint. The Commission has authority to investigate and resolve complaints made by subscribers to telecommunication services that concern the quality and availability of local exchange service, or whether price and conditions of service are in conformance with filed tariffs or price lists, deposit requirements for such service or disconnection of such service. If a customer who has complained to a telephone company is dissatisfied with a telephone company's proposed disposition of the complaint, the customer may request the Commission to review informally the disputed issue and the telephone company's proposed disposition of the complaint. The Commission may consider complaints regarding any telephone services over which the Commission has authority. (3-29-10)

02. *Termination of Service - Undisputed Bills*. Telephone service will not be terminated nor shall termination be threatened by notice or otherwise while the complaint is pending before the Commission. *The telephone company may continue to issue bills and request payment from the customer of any undisputed amounts.* *( )*

03. Rights Protected. No customer will be denied the opportunity to file *an informal or formal* complaint with the Commission. *( )*

402. RECORD OF COMPLAINTS (RULE 402).

01. Recordkeeping. Each telephone company must keep a record of written complaints pursuant to Rules 400 and 401. These records must be retained for a minimum of one year *by* the telephone company where the complaints were received. These written records are to be readily available upon request by the complaining customer, the customer's agent possessing written authorization, or the Commission. *( )*

02. Reporting. When previously requested by the Commission, a telephone company must submit a report to the Commission that states and classifies the number of complaints made to the telephone company pursuant to Rules 400 and 401 and the general subject matter of the complaints. (3-29-10)

403. *TELEPHONE COMPANY* RESPONSE TO INFORMAL COMPLAINTS (RULE 403).
Within ten (10) business days of receiving notification that an informal complaint involving the *telephone* company has been filed with the Commission, telephone companies must respond *either* orally or in writing to the Commission. A telephone company will be granted an extension of time to prepare its response if it represents that it is making a good faith effort to resolve the matter in dispute. A full and complete response should be submitted to the Commission no later than thirty (30) days after receipt of notification from the Commission. *( )*

404. -- 499. (RESERVED)

QUALITY OF SERVICE
Rules 500 through 599

500. QUALITY OF SERVICE (RULE 500).

01. Service Standards. Each telephone company providing local exchange service pursuant to Title 61 or Title 62, Idaho Code, as applicable, and each eligible telecommunications carrier (ETC) is required to employ prudent management and engineering practices to ensure that customers receive the best quality of service practicable. Each telephone company is required to adopt and pursue a maintenance program aimed at achieving efficient operation of its systems to render safe, adequate and uninterrupted service. These programs must include guidelines for keeping all plant and equipment in good repair, including the following: (3-29-10)

a. Broken, damaged or deteriorated equipment must be promptly repaired or replaced; and (7-1-93)

b. Transmission problems (including induction, cross-talk, or other poor transmission on any line) must be promptly corrected when located or identified. (7-1-93)

02. Service Outage. If a customer's local telephone service quality deteriorates to such an extent that the customer cannot make local calls or cannot receive local calls or cannot use the service for voice grade communication because of cross-talk, static or other transmission problem, the telephone company must respond to a customer's report of such a "service outage" in accordance with Rule 502. (3-27-13)

501. RESPONSE TO SERVICE OUTAGE (RULE 501).

01. Receipt and Recording of Reports. Each telephone company providing local exchange service will provide for the receipt of customer trouble reports at all hours and make a full and prompt investigation of and response to all reports. The telephone company will maintain an accurate record of trouble reports made by its customers. This record will include accurate identification of the affected customer or service, the time, date and nature of the report, the action taken to clear the trouble or satisfy the customer, and the date and time of trouble clearance or other disposition. This record will be available to the Commission or its authorized representatives upon request at any time within two (2) years of the date of the record. (3-29-10)

02. Repair Commitments. Commitments to customers for repair service will be set in accordance with Rule 502. Each telephone company will make every reasonable attempt to fulfill repair commitments to customers. Customers shall be timely notified of unavoidable changes. (3-27-13)

502. REPAIR SERVICE STANDARDS (RULE 502).

01. Restoration of Service. When a telephone company providing local exchange service is informed by a customer of a service outage as described in Rule 500.02, the telephone company will restore service within forty-eight (48) hours after the report of the outage, except: (3-27-13)

a. Restore service within sixteen (16) hours after the report of the outage if the customer notifies the telephone company that the service outage creates an emergency for the customer; or (7-1-93)

b. For outages reported on Friday, Saturday or Sunday, the company must restore service no later than the following Tuesday by 6 p.m. (3-27-13)

02. Extenuating Circumstances. Following disruption of telephone service caused by natural disaster or other causes not within the telephone company's control and affecting large groups of customers, or in conditions where the personal safety of an employee would be jeopardized, the telephone company is required to use reasonable judgment and diligence to restore service, giving due regard for the needs of various customers. When a customer causes the customer's own service outage or does not make a reasonable effort to arrange a repair visit within the service restoration deadline, or when the telephone company determines that the outage is attributable to the customer's own equipment or inside wire, the telephone company is not required to meet the restoration timelines of Rule 502.01. (3-27-13)

03. Compliance Standard. Each month at least eighty percent (80%) of out-of-service trouble reports shall be cleared in accordance with Rules 502.01 and 502.02. (3-27-13)

503. PAYTELEPHONE EMERGENCY ACCESS REQUIRED (RULE 503).

***01. Access to Emergency Services**. All telephones connected to an OSP are required: ( )*

***a.** To provide direct access to a local exchange company operator for access to emergency services by dialing "0" (except for OSP customers like hotels, motels, hospitals, dormitories, etc., that direct "0" calls to a person on the OSP customer's premises), and ( )*

***b.** Where available, to provide direct access to emergency service providers by dialing "911", unless exempted by the Commission pursuant to Rule 102.02 of this rule. Unless exempted, access to the OSP network (other than the local exchange company's) may be made through any other access number or keypad symbol. Exempted providers are required to maintain current lists of local emergency numbers. ( )*

c. Provide or pass through the information required by Enhanced 911 service providers, including but not limited to, signaling system seven ("SS7") and automatic number identification ("ANI"). ( )

*02. **Emergency Dialing Instructions**. All pay telephones owned or controlled by the OSP customer must be posted with emergency dialing instructions. ( )*

*03. **Termination of Service for Violation of This Rule**. Consistent with this Commission's rules on termination of service (Telephone Customer Relations Rules 300-314, IDAPA 31.41.01.300 through 31.41.01.314 and Rule 213 of these rules), the LEC must terminate service to customers of record known to be in violation of Rule 102.01 that have not been granted an exemption under Rule 102.02. The Commission or its Staff shall notify the LEC in writing of customers it knows to be in violation and whose service should be terminated. ( )*

504. PAYTELEPHONE APPROVED INSTRUMENTS -- OPERATION OF INSTRUMENTS (RULE 504).

*01. **Registered or Exempt Instruments**. All PSPs connecting pay telephones to the network must connect pay telephone instruments that: ( )*

a. Are registered under 47 CFR Part 68 of the Federal Communications Commission (FCC) Rules and Regulations (October 1, 2000) and comply with all Americans with Disabilities Act (ADA) requirements listed in the Code of Federal Regulations at 28 CFR Part 36 (July 1, 2000) and the Americans with Disabilities Act Accessibility Guidelines for Buildings and Facilities ("ADAAG") (July 1, 2000). ( )

b. If not registered, are connected behind a protective coupler registered under Part 68 of the FCC Rules and Regulations; or ( )

c. Are exempted from registration by the FCC. See Title 47, Part 68.1 through 68.318 (October 1, 2000). ( )

*02. **Instruments for the Hearing Impaired**. All owners of PSPs connecting pay telephones to the network must connect pay telephones that comply with the requirements of the Telecommunications for the Disabled Act of 1982 (January 3, 1983) and 47 CFR. Parts 68.112 and 68.316 (October 1, 2000) (which address access to the handicapped and hearing aid compatibility). ( )*

505. PAYTELEPHONE EMERGENCY NUMBERS (RULE 505).
Pay telephones must allow coin-free operator and emergency 911 access in any exchange in which 911 service is available. Where 911 service is not available, instructions for completing coin-free emergency calls must be posted on the pay telephone instrument as required in Rule 207. ( )

506. CONNECTION OF PAY TELEPHONES (RULE 506).
Pay telephones shall be connected only to public access lines (PAL). Every LEC must offer a PAL tariff or price list. There must be one (1) PAL for each pay telephone instrument. ( )

***507*. -- 599. (RESERVED)**

MISCELLANEOUS PROVISIONS
Rules 600 Through 699

600. INFORMATION TO CUSTOMERS (RULE 600).

01. Required Information. Each telephone company providing local exchange service will make the following information available to its customers: (3-29-10)

a. A summary of the general terms and conditions under which service is provided, referring to these rules as appropriate; (3-29-10)

b. A clear and concise explanation of: (3-29-10)

i. All the goods and services for which the customer is billed, including those goods and services provided as part of a package offered by the telephone company; (3-29-10)

ii. All recurring charges associated with individual goods and services or package of goods and services for which the customer is billed; (3-29-10)

iii. Any early termination fees that apply if the customer terminates service prior to the end of a service agreement or contract period; (3-29-10)

iv. The telephone company's dispute resolution procedures and a statement that an informal or formal complaint may be filed with the Commission; and (3-29-10)

v. If the customer subscribes to non-published service, the circumstances under which the telephone company will release information about the customer or the customer's service and to whom it will be released. (3-29-10)

02. When and How Information Provided. Information will be provided to customers in writing upon initiation of service and whenever a material change in the terms and conditions of service or charges for goods and services takes place. Information provided upon initiation of service may be separately mailed or included with the paper or electronic billing statement delivered to the customer. Subsequent notices may be made by separate mailing, included with a billing statement or, with the customer's consent, by electronic notice with reference to information contained on the telephone company's website. (3-29-10)

601. ACCESS TO EMERGENCY SERVICES (RULE 601).
In counties where consolidated emergency communications systems, as defined by Section 31-4802, Idaho Code, are established, the local exchange company will provide access to those services to all its customers. (7-1-99)

602. REQUEST FOR TELEPHONE COMPANY RECORDS (RULE 602).

01. General Rule. If any telephone company subject to these rules is directed by subpoena or court order to disclose customer records, as soon as practical, it will notify the customer what records were requested and of the company's response to the request. In no case will the reasonable period of time under this rule exceed two (2) business days after deciding to abide by that request. (3-29-10)

02. Exceptions. This rule does not apply if a judge of a court of competent jurisdiction has ordered a telephone company not to disclose that it has complied with a court order or subpoena to turn over a customer's telephone records. (3-29-10)

603. AUTOMATIC RECORDING (RULE 603).
Certain federal, state or local agencies have been permitted by rule or tariff approved by or filed with the Federal Communications Commission or this Commission to automatically record all telephone conversations on certain lines of the agency. This automatic recording is allowed for security, safety or public interest purposes. Release of telephone conversations automatically recorded by such a government agency for purposes unrelated to security, safety or the public interest is expressly prohibited under the authority of rules or tariffs authorizing automatic recording of conversations. This rule does not preclude the records' release pursuant to independent judicial, executive, legislative, or other order or authorization for release of such conversations, or upon consent of all parties whose conversations were recorded. (7-1-93)

604. PUBLIC NOTICE (RULE 604).
Telephone companies will give "public notice" of all proposed changes in rates as required by Section 62-606, Idaho Code. Public notice must be reasonably designed to call affected customers' attention to the proposed changes in rates. Legal advertisements alone will not be considered adequate public notice. Individual notice to all customers affected will always constitute public notice. Notices of rate increases must be provided to individual customers at least ten (10) days before change is effective. (3-29-10)

605. TELEPHONE SOLICITATIONS (RULE 605).

Each telephone company providing local exchange service will summarize the provisions of Sections 48-1001 et seq., Idaho Code, in an annual insert in a billing statement mailed to customers or by conspicuous publication in the consumer pages of the local telephone directory. Local exchange companies may meet the requirements of this notice by publishing the following explanation or one (1) substantially similar: (3-29-10)

606. INFORMATION, PRICE LISTS OR TARIFFS FOR NON-LOCAL EXCHANGE SERVICE (RULE 606).

01. Information to be Filed. All telephone corporations, except mutual nonprofit or cooperative corporations, that did not on January 1, 1988, hold a certificate of public convenience and necessity issued by the Commission and that do not provide basic local exchange service are required by Section 62-604(1)(b), Idaho Code, to file a notice with this Commission before offering services in Idaho. The notice must contain the following information: (3-29-10)

a. The name of the telephone corporation and the business name of the telephone corporation if it does business under an assumed business name; (3-29-10)

b. The United States and electronic (if available) mailing addresses of the principal place of business of the telephone corporation, and, if there is a principal place of business in Idaho, the addresses of the principal place of business in Idaho; (3-29-10)

c. An agent in Idaho for service of process by the Commission in the state of Idaho including the agent's United States and electronic (if available) mailing addresses; (3-29-10)

d. A description of the telecommunication services offered by the telephone corporation and a map of the area(s) served by the telephone corporation or in which the telephone corporation offers or intends to offer service; (3-29-10)

e. Address(es) and toll-free telephone number(s) for personnel responsible for handling consumer inquiries, complaints, etc., by the public; and (3-29-10)

f. Name(s), United States mail and electronic (if available) addresses, and telephone number(s) of person(s) designated as a contact for the Commission Staff in resolving consumer complaints, responding to consumer inquiries, and answering matters concerning rates and price lists or tariffs. These notices must be updated at least annually, between December 1 and December 31 each year, and whenever there is a change in the telephone corporation's name, address, or agent for service of process. (3-29-10)

02. Service. Notices, orders, rules, complaints and other documents issued by the Commission may be served by United States or electronic mail on the agent for service of process listed pursuant to this rule. This service constitutes due and timely notice to the telephone corporation, and no further service is necessary to bind the telephone corporation. Telephone corporations obligated by statute to file the notice required by this rule, but failing to do so, are bound by the Commission's motions, orders, rules, complaints and other documents upon their filing with the Commission Secretary. (3-29-10)

607. PRICE LISTS OR TARIFF FILINGS (RULE 607).

01. Price Lists or Tariffs. All telephone corporations subject to the Telecommunications Act of 1988 are required by Section 62-606, Idaho Code, or by this Commission's implementation of Section 62-616, Idaho Code, to file for informational purposes price lists or tariffs that reflect the availability, price, terms and conditions of all telecommunication services not offered under Title 61 of the Idaho Code. The price lists or tariffs must: (3-29-10)

a. Contain a title page identifying the telephone corporation; (3-29-10)

b. Show on each page the name of the company, the date of issuance and an effective date for their rates; (3-29-10)

c. Contain a table of contents; (3-29-10)

d. Number pages and paragraphs describing the services; (3-29-10)

e. Show when pages or services have been cancelled or revised; and (3-29-10)

f. Provide a mechanism (e.g., page revision numbers) for tracing additions, deletions or amendments to the price list or tariff. The price lists or tariffs must include schedules of rates for each type of service generally made available to subscribers, showing the effective date of all rates and charges and listing any rules and regulations associated with provision of the services. Surcharges, discounts, hours of availability, minimum service periods, and other conditions of service must be detailed. (3-29-10)

02. Changes to Price Lists or Tariffs. When required by Section 62-606, Idaho Code, changes to price lists or tariffs are effective not less than ten (10) days after filing with the Commission and giving public notice to affected customers except for charges for non-recurring services quoted directly to the customer when an order is placed or price reductions, both of which may take effect immediately with filing. Changes to price lists or tariffs must be accompanied by a letter of transmittal stating how affected customers received notice of the changes to price lists or tariffs. See Rule 604. (3-29-10)

03. Tracking Price Lists or Tariffs. Each revision to a price list or tariff must be accompanied by a cover letter summarizing the changes to the price list or tariff, specifically referring to existing tariff pages affected by the new price list or tariff and stating whether new pages replace, are in addition to, or delete existing pages. The Commission Secretary may adopt a system to number each company's changes to its price lists or tariffs. (3-29-10)

608. FORM AND NUMBER OF COPIES OF PRICE LIST OR TARIFF (RULE 608).
Price lists or tariffs filed pursuant to Section 62-606, Idaho Code, or by this Commission's implementation of Section 62-616, Idaho Code, must have a blank space approximately three by one and one-half inches (3" x 1-1/2") square provided for the Commission's filing stamp in the upper right or lower right corner of each schedule filed. An original and three (3) copies of the price list or tariff must be filed with the Commission. The Commission stamps its indication that the price list or tariff has been filed in the space provided on each copy of the price list or tariff, placing the original in its files and returning one copy to the telephone corporation. (3-29-10)

609. -- 699. (RESERVED)

SLAMMING PROVISIONS
Rules 700 through 799

700. THE UNAUTHORIZED CHANGE OF A CUSTOMER'S TELEPHONE COMPANY (RULE 700).
Local exchange companies and interexchange carriers are prohibited from submitting or executing an unauthorized change in a customer's selection of a provider of local or long distance telephone service. This practice is commonly referred to as "slamming." The Commission will administer the Federal Communications Commission's regulations regarding slamming. (3-15-02)

701. ADOPTION OF FEDERAL SLAMMING REGULATIONS (RULE 701).
The Commission adopts the slamming regulations promulgated by the Federal Communications Commission and found at Sections 64.1100 through 64.1170 and 64.1190, Title 47, Code of Federal Regulations (October 1, 2004).
( )

702. STATE PROCEDURES (RULE 702).
The federal slamming procedures incorporated by reference in Rule 701 are modified as follows: (3-29-10)

01. Form. Complaints regarding an unauthorized carrier change may be filed with the Commission in person, by mail, by e-mail, or by telephone. E-mail complaint forms to secretary@puc.idaho.gov. A copy of the telephone bill(s) in dispute and other relevant evidence shall be provided to the Commission by the complaining party. The slamming complaint shall include the following information: (3-15-02)

a. Name, address and telephone number of complainant; (3-15-02)

b. Name/identity of the alleged slamming carrier; (3-15-02)

c. Name of the previous authorized carrier; (3-15-02)

d. Name of the billing entity; (3-15-02)

e. Date the alleged slamming occurred; (3-15-02)

f. Whether the customer has been restored to the preferred carrier; (3-15-02)

g. Whether the customer has paid any or all of the disputed charges; (3-15-02)

h. Efforts in attempting to resolve the alleged slamming; and (3-15-02)

i. Whether the customer was charged for changing carrier(s). (3-15-02)

02. Procedure. The Commission's Consumer Assistance Staff shall be responsible for resolving slamming complaints under the Commission's informal complaint procedures in IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Rules 21 through 24. Not later than twenty-one (21) calendar days after notification of a slamming complaint, the alleged unauthorized carrier shall provide to the Consumer Assistance Staff a copy of any valid proof of verification of the carrier change and any other evidence relevant to the complaint. Use of the Commission's informal complaint procedures are mandatory. (3-15-02)

703. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of the Telecommunications Act of 1988, Chapter 6, Title 62, Idaho Code, and the specific authority of Section 62-610, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The title of these rules is "Universal Service Fund Rules." Their scope is that they apply to all telephone corporations' collection of and payment of monies to fund the Universal Service Fund, to all disbursements from the Universal Service Fund, to all actions by the Universal Service Fund Administrator, and to any other matter that may involve the Universal Service Fund. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. (6-30-19)T

003. ADMINISTRATIVE APPEALS (RULE 3).
Any telephone corporation aggrieved by any decision of the Universal Service Fund Administrator or the Commission Staff under these rules may petition the Commission to review the decision of the Administrator or the Commission Staff by filing a formal petition according to the Commission's Rules of Procedure, IDAPA 31.01.01.000, et seq. (7-1-93)

004. (RESERVED)

005. DEFINITIONS (RULE 5).

01. Basic Local Exchange Service. "Basic local exchange service" means the provision of access lines to residential and small business customers with the associated transmission of two-way interactive switched voice communication within a local exchange area. See Section 62-603(1), Idaho Code. (7-1-93)

02. Basic Local Exchange Rate. "Basic local exchange rate" means the monthly charge imposed by a telephone corporation for basic local exchange service, but does not include any charges resulting from action by a federal agency or taxes or surcharges imposed by a governmental body that are separately itemized and billed by a telephone corporation to its customers. See Section 62-603(2), Idaho Code. (7-1-93)

03. Business Telephone Service. "Business telephone service" means telecommunication service that is not residential telephone service. (7-1-93)

04. Local Exchange Company (LEC). "Local exchange company" (LEC) is a telephone corporation providing local exchange service to customers in Idaho. (7-1-93)

05. Local Exchange Service. "Local exchange service" means the provision of local exchange access lines to residential or business customers with the associated transmission of two-way interactive switched voice-grade transmission within a local exchange area. (7-1-93)

06. Message Telecommunication Service (MTS). "Message telecommunication service (MTS)" means the transmission of two-way interactive switched voice communication between local exchange areas for which charges are made on a per-unit basis, not including wide area telecommunications service (WATS), or its equivalent, or individually negotiated contracts for telecommunication services. See Section 62-603(6), Idaho Code. (7-1-93)

07. MTS/WATS Company. "MTS/WATS company" means a telephone corporation providing Idaho intrastate MTS or WATS services within the definition of Section 62-603(6), Idaho Code. (7-1-93)

08. Residential Customer. "Residential customer" means a person to whom telecommunication services are furnished at a dwelling and which are used for personal or domestic purposes and not for business, professional or institutional purposes. See Section 62-603(a), Idaho Code. (7-1-93)

09. Residential Telephone Service. "Residential telephone service" means telecommunication service furnished and maintained at a dwelling primarily for personal or domestic purposes and not for business, professional or institutional purposes, i.e., service provided to a residential customer as defined in Section 62-603(7), Idaho Code. (7-1-93)

10. Residual Revenue Requirement. "Residual revenue requirement means a local exchange company's revenue requirement as determined by the Commission less revenue generated by all intrastate telecommunication services, including local exchange services priced at one hundred twenty-five percent (125%) or more of the weighted statewide average and MTS/WATS access services priced at one hundred percent (100%) or more of the statewide average, less contributions from the federal universal service fund. See Section 62-610(4), Idaho Code. (7-1-93)

11. Small Business Customer. "Small business customer" means a business entity, whether an individual, partnership, corporation or any other business form, to whom telecommunication services are furnished for occupational, professional or institutional purposes, and whose business entity does not subscribe to more than five (5) access lines within a building. See Section 62-603(a), Idaho Code. (7-1-93)

12. Telecommunication Service. "Telecommunication Service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information of any nature by wire, radio, light waves, or other electromagnetic means (which includes message telecommunication service and access service), which originate and terminate in Idaho, and are offered to or for the public, or some portion thereof, for compensation. "Telecommunication Service" does not include the one-way transmission to subscribers of: (7-1-93)

a. Video programming; or (7-1-93)

b. Other programming service, and subscriber interaction, if any, which is required for the selection of such a video programming or other programming service, surveying, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services), and such services shall not be subject to the provisions of Title 61, Idaho Code, or Title 62, Idaho Code. See Section 62-603(9), Idaho Code. (7-1-93)

13. Telephone Corporation. "Telephone corporation" means every corporation or person, their lessees, trustees, receivers or trustees appointed by any court whatsoever, providing telecommunication services for compensation within Idaho. Telephone corporations providing radio paging, mobile radio telecommunications services, answering services (including computerized or otherwise automated answering or voice message services), or one-way transmission to subscribers of: (7-1-93)

a. Video programming; or (7-1-93)

b. Other programming service, and subscriber interaction, if any, which is required for the selection of such a video programming or other programming service or surveying are exempt from any requirement of Title 62 or Title 61, Idaho Code, in the provision of such services. See Section 62-603(10), Idaho Code. (7-1-93)

14. WATS. "WATS" means wide-area telecommunications service. (7-1-93)

006. -- 100. (RESERVED)

GENERAL PROVISIONS
Rules 101 through 200

101. ESTABLISHMENT AND PURPOSES (RULE 101).
Section 62-610, Idaho Code, directs the Commission to establish a universal service fund (USF) for the purposes of maintaining universal availability of local exchange service at reasonable rates and to promote the availability of message telecommunication service (MTS) at reasonably comparable prices throughout the state of Idaho. The USF is established pursuant to this statute. Rules or orders issued by the Commission concerning administration of the USF supersede previous rules, orders or provisions of the contract between the Commission and the Universal Service Fund administrator. (7-1-93)

102. ADMINISTRATOR OF THE USF (RULE 102).
The Commission shall contract with an administrator of the universal service fund. The administrator of the USF

shall receive all monies surcharged by telephone corporations for payment into the USF, account for those monies pending their disbursement, disburse those monies to qualifying recipients according to the terms of the administrator's contract and the Commission's rules and orders, and comply with the other requirements of these rules or orders. The administrator shall have the authority to hire an attorney approved by the Commission to pursue enforcement action, including initiating civil proceedings, against telephone corporations that violate the USF rules. The Commission has a right to audit the books and records of the administrator of the USF. (4-26-95)

103. STATEWIDE END-USER SURCHARGES (RULE 103).

01. Imposition of Surcharges. Pursuant to 62-610(2), Idaho Code, the USF is funded by the imposition of statewide end-user surcharges on local exchange, MTS and wide-area telephone service (WATS) services in amounts to be determined by the Commission pursuant to Rule 104. (7-1-93)

02. Local Exchange Surcharges. The local exchange surcharges are imposed monthly as cents-per-line charges uniform throughout the state with the business-residential differential for the surcharges equal to the statewide average business-residential price ratio. (7-1-93)

03. MTS/WATS Surcharges. The MTS and WATS surcharges are imposed monthly on a uniform basis by: (7-1-93)

a. A uniform cents-per-minute surcharge applied to the monthly MTS and WATS bill of each end-user for all MTS/WATS companies using this option; or, alternatively, (7-1-93)

b. A company-specific percentage surcharge applied to the monthly MTS and WATS bill of each end-user. (7-1-93)

04. Remittance of Surcharges. Surcharges of a given level are authorized by order of the Commission and continue in effect until modified by subsequent order of the Commission. Surcharges on Title 62 services may be explicitly added to customers' bills in addition to charges that would otherwise be collected or may be implicitly included in customers' bills (and remitted by the telephone corporation) without increasing customers' bills. Unless otherwise provided by order of the Commission or letter from the Commission Staff or from the USF administrator issued pursuant to Rules 401 or 402, surcharges imposed by these rules are to be remitted monthly to the administrator pursuant to Rule 201. (7-1-93)

104. THE COMMISSION'S DETERMINATION OF FUNDING LEVELS (RULE 104).

01. Issuance of Commission Order. On or before September 1 of each year the Commission shall issue an order in response to the administrator's report, which will establish statewide end-user surcharges to be in effect for the twelve (12) months beginning October 1 following issuance of the order. (7-1-93)

02. Findings and Directives of the Order Prescribing Statewide End-User Surcharges. The order prescribing statewide end-user surcharges for the twelve months beginning October 1 shall contain the following: (7-1-93)

a. The Commission's finding of the funding target for the USF for the twelve (12) months beginning October 1, based upon the anticipated revenue requirement of the USF for those twelve (12) months (including certain or likely changes in the revenue requirement of the USF from that reported by the administrator) and prudent management of minimum fund balances; (7-1-93)

b. The Commission's finding of the fair, just, and reasonable contribution to this twelve (12) month funding target that should be made from local exchange and MTS/WATS surcharges; and (7-1-93)

c. The Commission's finding of the statewide end-user surcharges to be imposed for the twelve (12) months beginning October 1 to reach the funding target. (7-1-93)

03. Calculation of Local Surcharges. The surcharge imposed by Subsection 104.02.c. of this rule to be remitted by each LEC for residence and business local exchange service shall be calculated in the following

manner from the total funds that the Commission finds should be recovered from local exchange surcharges. The Commission may round the surcharges for local residence and business service to the nearest cent per month. The following is an example of calculation of local service surcharge: (7-1-93)

a. Total dollars to be funded from local service surcharges -- twenty-four thousand dollars ($24,000)/month. (7-1-93)

b. Total local residence lines (as reported in Rule 302.02) -- four hundred fifty thousand (450,000) (7-1-93)

c. Weighted, state-wide average one-party, single-line flat residence rate (as reported in Rule 302.03) -- ten dollars ($10)/month (7-1-93)

d. Hypothetical Residence revenues under statutory formula (line b x line c) -- four million five hundred thousand ($4,500,000)/month (7-1-93)

e. Total local business lines (as reported in Rule 302.02) -- fifty thousand (50,000) (7-1-93)

f. Weighted, statewide average one-party, single-line flat business rate (as reported in Rule 302.03) -- thirty dollars ($30)/month (7-1-93)

g. Hypothetical business revenues under statutory formula (line e x line f) -- one million five hundred thousand dollars ($1,500,000)/month (7-1-93

h. Total hypothetical revenue (line d + line g) -- six million dollars ($6,000,000) (7-1-93)

i. Residence relative responsibility (line d / line h) -- .7500 (7-1-93)

j. Residence total responsibility -- eighteen thousand dollars ($18,000) (7-1-93)

k. Residence surcharge (line j / line b) -- four cents ($.04)/month (7-1-93)

l. Business relative responsibility (line g / line h) -- .2500 (7-1-93)

m. Business total responsibility (line a x line l) -- six thousand dollars ($6,000)/month (7-1-93)

n. Business surcharge (line h /line e) -- twelve cents ($.12)/month (7-1-93)

* These hypothetical revenues from residence and business lines do not correspond to any actual revenues received by telephone corporations. Instead, they represent a calculation of revenues that would result if every residence and business line subscribed to one-party, single-line service at the weighted statewide average rate calculated for those services, which is the statutory formula underlying the calculation of the surcharges.

04. Calculation of MTS/WATS Surcharges. The surcharge imposed by Rule Subsection 104.02.c. of this rule to be remitted by each MTS/WATS company for MTS/WATS service shall be calculated in one (1) of two (2) alternative manners: (7-1-93)

a. A uniform cents per minute surcharge for all MTS/WATS companies using this option will be calculated by the Commission by dividing the total revenues to be recovered from toll surcharges from all companies by the total actual toll minutes reported for all companies under Rule 204; or, alternatively, (7-1-93)

b. A company-specific percentage surcharge will be calculated by the company (and reviewed by the administrator) by multiplying the individual MTS/WATS company's total toll minutes as reported in Rule 204 by the cents-per-minute surcharge calculated in a above, then dividing by the total toll revenues as reported for that company reported in Rule 204. (7-1-93)

105. TELEPHONE CORPORATIONS' AUTHORIZATION TO IMPOSE SURCHARGES (RULE 105).

01. Local Exchange Companies. All local exchange companies are authorized to impose a surcharge for residence and business local exchange service in the amounts set forth in the order issued pursuant to Rule 104.03. The LEC may impose surcharges on the service of any customer subscribing to local service on or after October 1 following issuance of the order and may prorate the surcharge in the same manner as the LEC prorates other flat monthly charges. (7-1-93)

02. MTS/WATS Companies. All MTS/WATS companies (except those exempted from remitting surcharges to the USF administrator pursuant to Rule 402) are authorized to impose a surcharge on Idaho intrastate MTS/WATS services in the amounts set forth in the order issued pursuant to Rule 104.04. The MTS/WATS surcharge may be imposed in two (2) different manners: (7-1-93)

a. The MTS/WATS company is authorized to impose beginning October 1 following issuance of the order an MTS/WATS surcharge per toll minute in the amount set forth in the order issued pursuant to the Rule 104.04.a.; or, alternatively, (7-1-93)

b. The MTS/WATS company is authorized to impose beginning October 1 following issuance of the order an MTS/WATS surcharge on a uniform percentage basis in the manner set forth in the order issued pursuant to Rule 104.04.b. Within fourteen (14) days after the Commission has issued its order pursuant to Rule 104 authorizing surcharges on MTS/WATS service, MTS/WATS companies authorized to impose surcharges under this paragraph must notify the administrator and the Commission in writing which option they choose for the twelve (12) months beginning October 1 following issuance of the order. (7-1-93)

106. APPLICATIONS FOR FUNDS -- ORDERS FOR FUNDING (RULE 106).

01. Eligibility. Pursuant to 62-610, Idaho Code, a telephone corporation that provides local exchange service and access service for MTS/WATS providers may apply for disbursement from the USF if: (7-1-93)

a. Its average residence and business rates for local exchange service for one-party, single-line services exceed one hundred twenty-five percent (125%) of the weighted statewide average rates for one-party, single-line services for residence and business lines, respectively; and (7-1-93)

b. Its average rates per minute for MTS/WATS access services exceed one hundred percent (100%) of the weighted statewide average rate for the same or similar MTS/WATS access services. (7-1-93)

02. Continuation of Eligibility. Each telephone company's average rate for one-party single-line residence and business service and for MTS/WATS access service shall be calculated individually and compared to the threshold rate based on the newly calculated statewide average as calculated annually by the Administrator pursuant to Rule 302. In order to continue receiving USF funding after the first year of eligibility, the rate shall be revised to equal or exceed the threshold rate, if a company's average for one-party single-line residence or business service or its rate for MTS/WATS access service is below the threshold rate and if: (4-5-00)

a. The difference in the company's current average rate and the statewide average threshold rate is greater than three percent (3%); and (4-26-95)

b. The difference in the annual revenue associated with the company's current rate and the revenue associated with the statewide average threshold rate is over six thousand dollars ($6,000). (4-26-95)

03. Form of Application. An application for initial USF funding or changes in USF funding may be made in a general rate case or as otherwise allowed by the Commission. Applications must quantify the USF funding sought and the proposed rates to be charged for one-party, single-line residence and business services and for MTS/WATS access services, indicating how USF funding will benefit the rates for these services. Applications must comply with the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (4-26-95)

04. Changes to Funding on Commission's Own Motion. The Commission on its own motion may by order change a telephone company's funding from the USF: (4-26-95)

a. In connection with any proceeding affecting the telephone company's residual revenue requirement; (7-1-93)

b. In connection with a recalculation of the statewide average rates for one-party, single-line residence and business rates and MTS/WATS access services and those recalculations' effect on the threshold for eligibility for funding; (7-1-93)

c. In connection with redetermination of the percentage of the residual revenue requirement that should be met by the USF; or (7-1-93)

d. As otherwise provided by order. No order altering a telephone company's funding from the USF will be issued without notice that USF funding is at issue and appropriate opportunity to be heard in person or in writing. (7-1-93)

05. Order for Disbursement. If the Commission finds that an applicant is eligible for USF disbursements, it may issue an order directing the USF to meet between seventy-five percent (75%) and one hundred percent (100%) of the telephone corporation's residual revenue requirement as defined in Section 62-610(4), Idaho Code. See Rule 005.10. Disbursements from the USF shall be made monthly in one twelfth (1/12) of the annual disbursements ordered by the Commission. (4-26-95)

107. -- 200. (RESERVED)

TELEPHONE CORPORATIONS' OBLIGATIONS
Rules 201 through 300

201. TELEPHONE CORPORATIONS' MONTHLY REMITTANCES OF USF SURCHARGES (RULE 201).

01. Local Exchange Companies. Unless otherwise provided by order, letter from the Commission Staff or from the USF administrator issued pursuant to Rule 401, all LECs providing local exchange service in Idaho shall remit the following funds to the administrator on or before the first day of the month: (7-1-93)

a. The number of local residence lines in service in Idaho on the first day of the preceding month multiplied by the monthly residence surcharge the companies are authorized to impose under Rules 104.03 and 105.01; and (7-1-93)

b. The number of local business lines in service in Idaho on the first day of the preceding month multiplied by the monthly business surcharge the companies are authorized to impose under Rules 104.03 and 105.01. The LEC's remittance shall be accompanied by a report on a form supplied by the administrator separately stating the number of local residence and business lines in service in Idaho for that LEC on the first day of the preceding month. This amount shall be remitted to the administrator without regard to whether the local exchange company has separately imposed the surcharge authorized by Rules 104.03 and 105.01. (7-1-93)

02. MTS/WATS Companies. Unless otherwise provided by Order of the Commission or letter from the Commission Staff or from the USF administrator issued pursuant to Rule 402, all MTS/WATS companies offering intrastate MTS or WATS services in Idaho shall remit the following funds to the administrator on or before the first day of the month: (7-1-93)

a. The number of actual toll minutes billed to customers in Idaho for intrastate MTS/WATS services in the last complete monthly billing cycle billed by the first day of the preceding calendar month multiplied by the surcharge per toll minute that the companies were authorized to impose under Rules 104.04.a and 105.02.a; or, alternatively; (7-1-93)

b. The percentage surcharge of revenues from all intrastate MTS/WATS services provided in last complete monthly billing cycle billed by the first day of the preceding calendar month that the companies are authorized to impose under Subsections 104.04.b. and 105.02.b. These MTS/WATS companies' remittances under

both a and b of this paragraph shall be accompanied by a report on a form supplied by the administrator separately stating the number of toll minutes billed and the revenues associated with the toll minutes and showing the calculation of the surcharge on those minutes for the period stated in this paragraph. These amounts shall be remitted to the administrator without regard to whether the MTS/WATS company has separately imposed the surcharge authorized by Subsections 104.04 and 105.02. (7-1-93)

03. Failure to Comply. A telephone corporation failing to comply with this rule is subject to all sanctions provided by Section 62-620, Idaho Code. (7-1-93)

202. TELEPHONE CORPORATIONS' ANNUAL REPORTING TO ADMINISTRATOR (RULE 202).

01. Requirement to Report. Unless otherwise provided by order of the Commission or letter from the Commission Staff or from the USF administrator issued pursuant to Rule 402, on or before May 30 of each year all telephone corporations providing local exchange service or MTS/WATS intrastate service in Idaho shall report to the administrator the information required by these rules. The administrator shall annually supply forms for these reports on or before May 1 to all telephone corporations for which the administrator has records showing that the telephone corporation provides one (1) or more of these services. The administrator's failure to supply forms does not relieve any such telephone corporation of its reporting requirements under these rules and statute. The reports that this rule requires to be filed with the administrator should not be filed with the Commission. (7-1-93)

02. The Administrator's Compliance Report. The administrator shall report to the Commission on or before June 15 whether all telephone corporations receiving the forms have complied with the reporting requirements of this Rule 202 and Rules 203 and 204, specifically identifying telephone corporations that have failed to report altogether, those that have incompletely reported, those that have reported late, and those that have failed to remit the monthly surcharges required by Rule 201. The report shall include a summary of the actions taken against the telephone corporations not complying with the USF rules. See Rule 303. (4-26-95)

03. Failure to Comply. A telephone corporation failing to comply with this rule is subject to all sanctions provided. (7-1-93)

203. LOCAL EXCHANGE COMPANIES' (LECS') ANNUAL REPORTS TO THE ADMINISTRATOR (RULE 203).

01. Reporting of One-Party, Single-Line Residence and Business Lines and Rates. The reports prescribed for LECs by this rule and Rule 202 must include the following information concerning the LEC's customer base and rates for each of the LEC's rate groups as of May 1 of that year: (7-1-93)

a. Rates for one-party, single-line, flat-rate residential service (inclusive of mandatory extended area service (EAS) surcharges) and the number of customers subscribing to the service in each rate group, unless exchanges within the rate group have different rates, in which case exchange-by-exchange reporting is required; (7-1-93)

b. Rates for one-party, single-line, flat-rate business service (inclusive of mandatory EAS surcharges) and the number of customers subscribing to the service in each rate group, unless exchanges within the rate group have different rates, in which case exchange-by-exchange reporting is required; and (7-1-93)

c. The company-wide, weighted average rate for residential and business services described in Rules 203.01.a. and 203.01.b. of this paragraph. Rural zone and mileage charges are excluded from the rates reported in this paragraph. (7-1-93)

02. Inventories of Other Local Access Lines. These reports must also include reporting for each rate group (or exchange if required by Subsection 203.01) the following inventories of customers and public network access lines of other local services as of May 1 of that year: (7-1-93)

a. Multi-party residence local service; (7-1-93)

b. Multi-party business local service; (7-1-93)

c. Semi-public pay telephone service; (7-1-93)

d. Public access line service for customer-owned pay telephones; (7-1-93)

e. Centron, centrex or other central-office based telecommunication systems (including only the public network access lines to this kind of equipment, not the number of station lines behind the equipment); and (7-1-93)

f. Local service trunks for private branch exchanges (PBXs). (7-1-93)

03. MTS/WATS Actual Access Minutes and Revenues. These reports must also include the following information: (7-1-93)

a. Rates for access minutes associated with the provision of MTS/WATS services in effect on May 1 of that year; (7-1-93)

b. Total minutes and revenues billed for MTS/WATS access services for the preceding calendar year; (7-1-93)

c. Total revenues that would be obtained by billing the access minutes reported in Rule 203.03.b. at the rates reported in Rule 203.03.a.; and (7-1-93)

d. Total revenues from billing and collection services for the preceding calendar year. If different exchanges have different rates, each rate must be reported as a separate line item, indicating the exchanges in which service is offered at each rate and total number of minutes billed to service at each rate. In making this report, telephone companies must include revenues associated with sale of intrastate access under feature groups A, B, C and D. (7-1-93)

04. MTS/WATS Equivalent Access Minutes. If the LEC provides MTS/WATS services in addition to basic exchange services, these reports must also include a conversion of the LEC's annual billed MTS/WATS minutes into "equivalent access minutes." The method used to convert billed toll minutes into equivalent access minutes must be shown with the number of toll minutes used in the calculation. Actual access minutes reported pursuant to Rule 203.03 of this rule must be separately stated from "equivalent access minutes" reported under this paragraph. The manner in which these data may be filed is shown in Rules 302.03.a. through 302.03.h. (7-1-93)

204. MTS/WATS COMPANIES' ANNUAL REPORTS TO THE ADMINISTRATOR (RULE 204).
The reports prescribed for telephone corporations offering intrastate MTS or WATS services (including those that are also LECs) by this rule and by Rule 202 must include the following information for the calendar year preceding the year in which the report is due: (7-1-93)

01. Total Intrastate MTS Minutes and Revenues. (7-1-93)

02. Total Intrastate WATS Minutes and Revenues. (7-1-93)

205. -- 300. (RESERVED)

THE ADMINISTRATOR'S OBLIGATIONS
Rules 301 through 400

301. THE ADMINISTRATOR'S QUARTERLY REPORT TO THE COMMISSION (RULE 301).
On or before the fifteenth day after the close of each quarter, the administrator shall submit a report to the Commission providing the following information: (7-1-93)

01. List of Companies Receiving Disbursements. A list of all companies receiving disbursements from the USF during the quarter, the individual disbursements for each company during the quarter, and the total disbursements to companies during the quarter; (7-1-93)

02. Administrator Fees and Expenses. The administrator's fees and expenses for the quarter; (4-26-95)

03. List of Companies Remitting Surcharges. A list of all companies remitting surcharges to the USF during the quarter, indicating which companies remitted LEC surcharges, which companies remitted MTS/WATS surcharges, and which companies remitted both; (7-1-93)

04. Aggregate Amount. The aggregate amount of LEC surcharges remitted to the USF during the quarter, the aggregate amount of MTS/WATS surcharges remitted to the USF during the quarter, and the total of the two (2); (7-1-93)

05. Interest Earned. Interest earned during the quarter; and (7-1-93)

06. Fund Balances. Beginning, ending and monthly fund balances for the quarter, together with any other information that may be necessary to calculate beginning and ending balances for the quarter. (7-1-93)

302. THE ADMINISTRATOR'S CALCULATIONS FROM THE ANNUAL REPORTS (RULE 302).

01. Weighted Statewide Average Rates for One-Party, Single-Line Residence and Business Services. From the annual reports provided by LECs pursuant to Rule 203.01, the administrator shall calculate a weighted, state-wide average, one-party, single-line, flat residence rate and a weighted, state-wide average, one-party, single-line, flat business rate, including EAS surcharges. (7-1-93)

02. Inventory of Local Service Lines. From the annual reports of LECs provided pursuant to Rule 203.01 and 203.02, the administrator shall calculate the total number of local service lines in Idaho, with subtotals for residence and business service lines and for the categories of lines listed in Rule 203.02. (7-1-93)

03. Statewide Weighted Average Rate for MTS/WATS Access Minute. From the annual reports of LECs provided pursuant to Rule 203.03 and 203.04. the administrator shall calculate a statewide weighted average rate per MTS/WATS access minute in the manner shown in the following example
:

		Example Using Three Companies		
a.	Actual annual access minutes (as reported under Rule 203.03.b.)	500	500	1,000
b.	Annual pro forma actual access revenues (as reported under Rule 203.03.c.)	$50	$40	$50
c.	Average pro forma revenue per actual access minute (line b/line a)	$.10/min	$.08/min	$.05/min
d.	Calculated equivalent access minutes from MTS/WATS (as reported under Rule 203.04)	0	1,000	2,000
e.	Assigned average revenue (from line c)	$.10/min	$.08/min	$.05/min
f.	Calculated equivalent access revenue (line d x line e)	$0	$80	$100
g.	Total actual and equivalent access minutes (line a + line d)	500	1,500	3,000
h.	Total pro forma and equivalent access revenues (line b + line f)	$50	$120	$150
i.	Average revenue per total actual and equivalent access minutes (line h /line g)	$.10/min	$.08/min	$.05/min
j.	All companies' total actual and equivalent access minutes (sum of entries on line g)	---	5,000	---
k.	Company's ratio of total state access minutes (lineg/line j)	.1000	.3000	.6000

		Example Using Three Companies		
l.	All companies' total actual and equivalent access revenues (sum of entries of line H)	---	$320	---

(7-1-93)

04. Access. The figures for access minutes and access revenues on lines a, b and d include all access minutes and all access revenues from any access service reported pursuant to Rule 203.03 or 203.04, and all access under any feature group. (7-1-93)

303. THE ADMINISTRATOR'S ANNUAL REPORT TO THE COMMISSION (RULE 303).

01. The Administrator's Compliance Report. The administrator shall report to the Commission on or before June 15 whether all telephone corporations receiving the forms have complied with the reporting requirements of this Rule 303 and Rules 202, 203, and 204, specifically identifying telephone corporations that have failed to report altogether, those that have incompletely reported, those that have reported late, and those that have failed to remit the monthly surcharges required by Rule 201. The report shall include a summary of the actions taken against the telephone corporations not complying with the USF rules. (4-26-95)

02. Report of Existing Conditions. On or before July 15 of each year the administrator shall submit a report to the Commission providing the following information: (7-1-93)

a. Calculations of weighted statewide average rates required by Rule 302, providing workpapers showing each telephone corporation's contributions to the totals and averages contained in the administrator's calculation in Rule 302. (7-1-93)

b. Calculations of the USF's expected revenues under the status quo for the twelve (12) months beginning July 1 made by: (7-1-93)

i. Multiplying the existing local surcharge for residence service by the statewide total residence lines as of May 1; (7-1-93)

ii. Multiplying the existing local surcharge for business service by the statewide total business lines as of May 1; (7-1-93)

iii. Multiplying the total MTS/WATS access minutes for the previous calendar year by the existing MTS/WATS surcharge per access minute; and (7-1-93)

iv. Summing the three (3) products. (7-1-93)

c. Calculations of the expected revenue requirement of the USF under the status quo for the twelve (12) months beginning July 1 made by listing and summing the annualized rate of disbursement for every telephone corporation for which the Commission has ordered and authorized disbursements from the USF together with the administrator's annual budget for administration of the USF. (7-1-93)

d. Calculations of the expected revenue requirement of the USF as described in Rule 303.02.c. assuming that companies revise their rates pursuant to Rule 106.02 to maintain funding eligibility and that their USF funding is adjusted pursuant to Rule 106.04. (4-26-95)

e. Actual USF balances at the end of the quarters ending in June, September and December of the preceding year and of the quarters ending in March and June of the year of the report (or the estimated USF balance for the quarter ending June 30 if actual balances are not yet available). (4-26-95)

03. Recommendation. The administrator shall report the USF's expected surplus or deficit for the twelve (12) months beginning July 1 based upon the assumption that the USF surcharges will not be changed. The administrator shall also report whether this surplus or deficit will alter the expected fund balance during the twelve

(12) months beginning July 1 following the report significantly enough to recommend that USF surcharges be raised or lowered. If the administrator believes that the USF surcharges should be raised or lowered, the administrator shall recommend a target balance for the USF for the end of the twelve months beginning July 1 following this report and the amount by which USF collections would be increased or decreased beginning October 1 to meet this target. (7-1-93)

04. Review by Commission Staff. On or before August 15 the Commission Staff shall review the calculations and recommendations of the administrator and call any errors or omissions to the attention of the administrator and the Commission. (7-1-93)

05. Report a Public Record--Workpapers Exempted Trade Secrets. The report of the administrator showing statewide aggregate totals of local service and MTS/WATS revenues, inventories of services, and other information not identifying any telephone corporation or customer is a public record available for inspection, examination and copying under Section 74-102, Idaho Code. The workpapers accompanying the report showing individual telephone corporations' data for Title 62 services and individual telephone corporation's reports to the administrator showing data for Title 62 services, together with any data for Title 61 services protected from disclosure under applicable trade secret law, are trade secrets exempt from disclosure under Section 74-107(1), Idaho Code. (4-5-00)

304. -- 400. (RESERVED)

EXEMPTIONS FROM REPORTING AND REMITTANCES
Rules 401 through 500

401. LECS' EXEMPTION FROM REPORTING AND REMITTANCES (RULE 401).

01. Criteria for Exemption. Local exchange companies may be exempted from monthly remittances and monthly reporting to the USF administrator under Rule 201 by order of the Commission or letter from the Commission Staff or from the USF administrator upon the grounds that the LEC provides such a small number of local service lines in Idaho and generates such a small monthly surcharge that neither the practical administration of the USF nor the public interest requires monthly remittances and reporting. (7-1-93)

02. Action on Requests. The order or letter excusing the LEC from monthly reporting shall specify quarterly, semiannual or annual remittances and reporting instead. The order or letter may be issued upon request of the LEC or upon the initiative of the Commission, the Commission Staff, or the USF administrator without a request from the LEC. No LEC will be excused from making remittances less often than annually nor from annual reporting under Rules 202 and 203. (7-1-93)

03. Requests of Exemptions. This Commission Staff shall maintain a file of all exemptions under this rule and supply a copy to the Commission Secretary and to the USF administrator. (7-1-93)

04. Petition From Initial Denial by Commission Staff or Administrator. If a request for a LEC's exemption is denied by the Commission Staff or the Administrator, the LEC may petition the Commission. (7-1-93)

402. MTS/WATS COMPANIES -- RESELLERS' EXEMPTION FROM REPORTING AND REMITTANCES (RULE 402).

01. Criterion for Exemption. MTS/WATS companies may be exempted from monthly remittances and monthly reporting to the USF administrator under Rule 201 by Order of the Commission or letter from the Commission Staff or from the USF administrator upon the grounds that the MTS/WATS company is exclusively a reseller of MTS/WATS services from another MTS/WATS company that is already remitting the surcharge prescribed for MTS/WATS services for all of the reselling MTS/WATS company's MTS/WATS minutes. (7-1-93)

02. Requirements of Request for Exemption. No exemption will be given under this rule unless the reselling MTS/WATS company has requested an exemption in writing. The request for exemption shall be directed to

the Commission Secretary (or if received by the administrator or a member of the Commission Staff forwarded to the Commission Secretary). The request for exemption must state that the MTS/WATS company is seeking a reseller's exemption, must name the reseller's underlying MTS/WATS carrier, must certify that the named underlying carrier carries all of the reseller's traffic in Idaho, and must be accompanied by a letter from the underlying carrier stating that the reselling carrier requesting the exemption is a customer of the underlying carrier, that the underlying carrier is remitting the surcharge to the USF for all minutes sold to the reselling carrier, and that the reseller will notify the Commission whenever one of its underlying carriers changes. (7-1-93)

03. Action on Requests. The Commission Staff or the USF administrator may grant a reseller an exemption from monthly remittances of USF surcharges and from monthly reporting of MTS/WATS use if the reseller has shown that another MTS/WATS company is remitting the surcharge for all of the reseller's minutes. The exemption shall require the reseller to report to the Commission Staff whenever it changes its underlying carrier. The exemption ordinarily excuses the reseller from annual reporting under Rules 202 and 203, but does not exempt the reseller from annual recertification upon request of the Commission Staff or the administrator of its continuing status as a reseller. However, the Commission Staff or the administrator may require an exempt reseller to file an annual report upon written notification that the Commission Staff or administrator requires an annual report for that year. (7-1-93)

04. File of Exemptions. The Commission Staff shall maintain a file of all exemptions under this rule and supply a copy to the Commission Secretary and to the USF administrator. (7-1-93)

05. Petition From Initial Denial by the Commission Staff or Administrator. If a request for a reseller's exemption is denied by the Commission or the Commission Staff or the Administrator, the company may petition to the Commission. The petition must contain a description of the telephone company's network connections. (7-1-93)

403. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general legal authority of Chapter 13, Title 62, Idaho Code, and the specific authority of Section 61-1306, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The name of this chapter is "Rules for Telecommunications Relay Services (TRS)." This chapter has the following scope: It governs provision of telecommunications relay services (TRS) in Idaho. (7-1-93)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
Any telephone corporation aggrieved by any decision of the Universal Service Fund Administrator, the Telecommunications Relay System Administrator, or the Commission Staff that affects any of the telephone corporation's interests under these rules may petition the Commission to review the decision of the Universal Service Fund Administrator, the Telecommunications Relay System Administrator, or the Commission Staff by filing a formal petition according to the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)

004. (RESERVED)

005. DEFINITIONS (RULE 5).
The definitions in Section 61-1302 apply to these rules. In addition, the following terms have the meanings set forth below: *( )*

01. **American Sign Language (ASL)**. "American sign language" means a visual language based on hand shape, position, movement, and orientation of the hands in relation to each other and the body. See 47 C.F.R. 64.601(1). (7-1-93)

02. **ASCII**. "ASCII" is an acronym for American Standard Code for Information Interexchange, which employs an eight-bit code and can operate at any standard transmission baud rate including 300, 1200, 2400, and higher. *( )*

03. **Baudot**. "Baudot" means a seven (7) bit code, only five (5) of which are information bits. Baudot was used by some text telephones to communicate with each other at a forty-five point five (45.5) baud rate. *( )*

04. **Communications Assistant (CA)**. "Communications assistant (CA)" means a person who transliterates conversation from text to voice and from voice to text between two (2) end users of TRS. CAs are also known by terms such as "TRS operator" or "TDD operator." *( )*

05. **Hearing Carry Over (HCO)**. "Hearing carry over (HCO)" means a reduced form of TRS where the person with a speech disability is able to listen to the other end user and, in reply, the CA speaks the text as typed by the person with the speech disability. The CA does not type any conversation. *( )*

06. **Telecommunications Relay Services (TRS)**. "Telecommunications relay services (TRS)" *is defined in Section 61-13028, Idaho Code, and* includes services that enable two-way communication between an individual who uses a text telephone or other non-voice terminal device and an individual who does not use such a device. TRS supersedes the terms "dual party relay system," "message relay services," and "TDD relay." See Section 61-1302(8), Idaho Code, and 47 C.F.R. 64.601(7). *( )*

07. **Text Telephone (TT)**. "Text telephone (TT)" means a machine that employs graphic communication in the transmission of coded signals through a wire or radio communications system. TT supersedes the term "TDD" or "telecommunications device for the deaf." *( )*

08. **Universal Service Fund (USF)**. "Universal service fund (USF)" means the fund established by the Commission pursuant to Section 62-610, Idaho Code, and this Commission's rules codified at IDAPA 31.46.01.000, et seq. The USF has an Administrator whose duties are set forth by this Commission's rules and this Commission's contract with the Administrator. See IDAPA 31.46.01.102. (7-1-93)

09. **Voice Carry Over (VCO)**. "Voice carry over (VCO)" means a reduced form of TRS where the

person with the hearing disability is able to speak directly to the other end-user. The CA types responses back to the person with the hearing disability. The CA does not speak on behalf of the TT users. ( )

006. -- *099*. (RESERVED)

THE TRS PROGRAM, ADMINISTRATOR, AND PROVIDER
Rules 101 through 200

100. REQUIREMENTS OF THE TRS PROGRAM (RULE *100*).

01. Operational Requirements. *A TRS provider will comply with these* operational requirements: ( )

a. TRS must be provided twenty-four (24) hours per day, seven (7) days per week, every day of the year. ( )

b. The TRS provider shall not refuse calls or limit the length of calls using TRS, except that providers of TRS may decline to complete a call because credit authorization has been denied. ( )

c. The TRS provider must be capable of communicating with text telephone users using either the ASCII or Baudot format, at any speed generally in use. ( )

d. Except during network failure, the TRS provider shall answer eighty-five percent (85%) of all calls within ten (10) seconds, and no more than thirty (30) seconds shall elapse between receipt of dialing information and the dialing of a requested number. The TRS provider shall include adequate staffing to provide callers with efficient access under projected calling volumes so that the probability of a busy response due to unavailability of communications assistants will be functionally equivalent to what a voice caller would experience in attempting to reach a party through the voice telephone network. ( )

e. The TRS provider shall give TRS users access through the TRS to their chosen inter-exchange carrier and to all other operator services to the same extent that such access is provided to voice users. ( )

02. Communications Assistants' Handling of Calls. TRS providers must require that communications assistants (CAs) be sufficiently trained to effectively meet the specialized communication needs of individuals with hearing and speech disabilities and that communications assistants have competent skills in typing, grammar, spelling, interpretation of typewritten ASL, and familiarity with hearing and speech disability cultures, languages and etiquette. Communications assistants are prohibited from disclosing the content of any relayed conversation regardless of content and from keeping records of the content of any conversation beyond the duration of a call. Communications assistants are prohibited from intentionally altering a relayed conversation and must relay all conversations verbatim unless the relay user specifically requests summarization. Communications assistants must relay all messages promptly and accurately. ( )

03. Rates. The users of TRS shall pay rates no greater than the rates paid for functionally equivalent voice communication services with respect to such factors as the duration of the call, the time of day, and the distance from point of origination to the point of termination. In particular, this means that when a telephone call from one customer to another would not incur long-distance charges if the call were placed directly without use of the TRS system, then there will be no long-distance charge for that call when the TRS system is used, even if the TRS provider is located in a telephone exchange that would ordinarily require a long-distance call to reach the calling or answering party. ( )

04. Other Standards and Services. The standards and services required for TRS providers by this rule are minimum standards and services. The request for proposal for TRS services may require additional standards or services, or if the request for proposals does not, the selection of the TRS provider may take into account the ability of the TRS provider to meet standards or provide services in addition to the minimum standards or services required by this rule. (7-1-93)

101. TRS ADMINISTRATOR (RULE *101*).

01. Appointment and Contract. The Commission shall appoint and contract with a qualified person to administer the TRS program in accordance with the requirements of state and federal law. The TRS Administrator is not an employee or officer of the state of Idaho, but is instead an independent contractor. The appointment and contract shall be for fixed terms, but the Commission may renew terms of appointment or contract. (7-1-93)

02. Duties and Responsibilities of Administrator. The Administrator shall: (7-1-93)

a. Consult with and receive recommendations from a telephone industry technical advisory committee (or its representatives) appointed by the Commission; (7-1-93)

b. Post a fidelity bond in the amount required by the contract with the Commission; (7-1-93)

c. Meet timetables necessary to secure certification of the TRS program by the Federal Communications Commission; (7-1-93)

d. Issue (upon such terms as the Commission finds reasonable) a request for proposals to providers of message relay services requesting responsive proposals to provide such services that may be necessary for the program; (7-1-93)

e. Evaluate responsive proposals to offer TRS services and recommend one (1) or more proposals to the Commission for its review and approval; (7-1-93)

f. Enter into a contract with the provider of TRS, which contract and provider have been approved by the Commission; (7-1-93)

g. Consult with the Idaho State Council for the Deaf and Hard of Hearing and the Idaho State Council on Developmental Disabilities concerning program design and delivery of message relay services to communications-impaired persons within the state of Idaho; and (7-1-93)

h. Perform other services concerning the program as may be deemed reasonable and necessary by the Commission or required by the Commission in its contract with the TRS Administrator. (7-1-93)

03. Contributions, Gifts and Grants. The Administrator may receive contributions, gifts and grants on behalf of and in aid of the TRS program. The contributions, gifts and grants shall be deposited in the Idaho Telecommunications Relay Services Fund. (7-1-93)

102. ESTABLISHMENT OF TELEPHONE INDUSTRY ADVISORY COMMITTEE (RULE *102*).

01. Establishment of Committee. The Commission hereby establishes a telephone industry advisory committee with which the Administrator shall consult in the assessment of responses to the *request for proposal (*RFP*)*, and review the services provided. The industry committee shall have three (3) members, who shall be representatives of: *( )*

a. A large provider of local exchange and intraLATA *Message Telecommunications (*MTS*)* services in Idaho; *( )*

b. An independent telephone company providing local exchange services and a member of the Idaho Telephone Association (the trade group that includes independent telephone companies in Idaho); and (3-29-17)

c. The Idaho State Council for the Deaf and Hard of Hearing, or the State Council on Developmental Disabilities. (3-29-17)

103. CONSULTATION WITH REPRESENTATIVES OF THE HEARING-IMPAIRED AND THE SPEECH-IMPAIRED (RULE *103*).

*T*he Administrator *will* consult with representatives of the Idaho State Council for the Deaf and Hard of Hearing and

of the Idaho State Council on Developmental Disabilities. ( )

104. REQUEST FOR PROPOSALS (RFP) -- SELECTION OF TRS PROVIDER (RULE 104).

01. Formulation of RFP and Submission to the Commission. The Administrator, shall formulate and submit a request for proposals (RFP) for the provision of TRS to the Commission. The Commission shall review the RFP and return it to the Administrator, with comments or changes that Commission finds appropriate, and direct the Administrator to issue the RFP. (3-29-17)

02. Requirements of the RFP. The RFP issued by the Administrator will request all companies responding to the RFP to comply with all requirements of state and federal law. See Rule 101. In addition, the RFP may require those responding to the RFP to meet additional requirements contained in the RFP or ask those responding to list additional standards they could meet or additional services that they could provide above the minimums required by state and federal law. (7-1-93)

03. Timetable for Decision. The Administrator shall develop a timetable for formulation of the RFP, its review by the Commission, advertisement of the RFP for response, review of proposals submitted in response to the RFP, and final decision selecting a TRS provider that will complete the process of selection of the TRS provider in sufficient time to maintain uninterrupted relay services. (3-29-17)

105. RESOLUTION OF COMPLAINTS (RULE 105).
The Idaho Public Utilities Commission hereby offers itself as a forum for resolution of customer complaints regarding TRS provided for Idaho intrastate services. Complaints can be filed and handled informally under Rules 401 et seq. of the Telephone Customer Relations Rules, IDAPA 31.41.01.400 et seq., or formally under the Commission's Rules of Practice and Procedure, IDAPA 31.01.01.000 et seq. The Commission commits to process these complaints within the one hundred eighty (180) day timetable set forth in 47 C.F.R. 64.604(c)(5)(i). (7-1-93)

106. -- 199. (RESERVED)

TELECOMMUNICATIONS RELAY SERVICES FUND
Rules 200 through 299

200. TELECOMMUNICATIONS RELAY SERVICES (TRS) FUND -- ESTABLISHMENT AND PURPOSE (RULE 200).
Section 61-1304, Idaho Code, directs the TRS Administrator to establish a fund (the telecommunications relay services fund, or TRS fund) for the provision of telecommunications relay services. The TRS Administrator *will* deposit the fund in a depository approved by the Commission and to credit to that fund all monetary contributions, gifts and grants received by the Administrator and all charges billed and collected pursuant to Section 61-1305, Idaho Code, and these rules. No funds derived from monies billed and collected from telephone corporations pursuant to Section 61-1305, Idaho Code, and these rules shall be used *to acquire* end-user text telephones. All monies deposited in the TRS fund shall be spent for the purpose of defraying the expenses, debts and costs incurred in carrying out the provisions of the TRS program, or for defraying administrative expenses of the Administrator, including necessary expenses for consultants to the Administrator, expenses for travel, supplies and equipment and other expenses of the Administrator necessary for the implementation of the TRS program. All monies credited to the TRS fund may be spent by the Administrator at such times and in such manner as authorized by this Commission's rules, orders or contract with the Administrator. ( )

201. THE COMMISSION'S DETERMINATION OF FUNDING LEVELS (RULE 201).

01. Issuance of Commission Order. On or before March 1 of each succeeding year, the Commission shall issue an order in response to the Administrator's annual report that will establish funding levels to be in effect for the twelve months beginning April 1 following issuance of the order. The Commission may issue an order revising funding levels at other times in order to preserve the integrity of the fund. (3-29-17)

02. Findings and Directives of the Order Prescribing Funding Levels. *O*rders prescribing funding

levels issued pursuant to Rule 202.01 shall contain the following: *( )*

a. The Commission's finding of the funding target for the TRS program for the twelve (12) months beginning April 1 (or other appropriate time, if the order is not issued to be in effect for twelve (12) months beginning April 1), based upon anticipated expenses of operation of the TRS program for those twelve (12) months and prudent management of minimum fund balances; and (7-1-93)

b. The Commission's findings of the fair, just and reasonable allocations of the twelve (12) month funding target that will come from telephone corporations providing local exchange service and that will come from telephone corporations providing MTS/WATS services, respectively. (7-1-93)

03. Calculation of Funding Levels. Telephone corporations providing local exchange service in Idaho and telephone corporations providing intrastate *Message Telecommunication Services/Wide Area Telecommunications Services (*MTS/WATS*)* services in Idaho must contribute to the TRS fund as follows: *( )*

a. Each telephone corporation providing local exchange service in Idaho shall file a monthly report, due on or before the first of each month, stating the number of local access lines it has for that month. The data used to determine a local exchange company's number of local access lines shall be the same as that used for monthly reporting to the Administrator of the Universal Service Fund (USF) for the monthly USF report. See USF Rule 201.01, IDAPA 31.46.01.201.01. (7-1-93)

b. Each telephone corporation providing intrastate MTS/WATS service in Idaho is required to contribute to TRS funding in proportion to the number of its intrastate MTS/WATS billed minutes, provided that those telephone corporations providing intrastate MTS/WATS service in Idaho that use the services of another telephone corporation for the actual transportation of calls and that have been granted exemptions from contributions to the USF by the Commission, the USF Administrator, or the Commission staff are also granted exemptions from contributions to the TRS fund by operation of this rule. The USF Administrator shall provide the TRS Administrator with a list of all telephone corporations exempted from contributing to the USF and all changes to that list whenever they are made. The data determining an MTS/WATS company's number of intrastate MTS/WATS billed minutes for a given monthly report due on or before the first of the month shall be the same provided to the Administrator of the USF for the USF report also due on or before the first of that month. See USF Rule 201.02, IDAPA 31.46.02.201.02. *( )*

202. TELEPHONE CORPORATIONS' MONTHLY REMITTANCES TO THE TRS ADMINISTRATOR (RULE *202*).

Unless otherwise provided by order of the Commission or written exemption of the USF Administrator or the Commission staff, on or before the first day of each month, all local exchange companies providing local exchange service in Idaho shall remit to the TRS Administrator the funds due under the Commission's order issued pursuant to Rule 202. Unless otherwise provided by order of the Commission or written exemption of the USF Administrator or the Commission staff, on or before the first day of each month all MTS/WATS companies providing intrastate MTS/WATS services shall remit to the Administrator the funds due under the Commission's order issued pursuant to Rule 202. (7-1-93)

203. THE ADMINISTRATOR'S QUARTERLY REPORT TO THE COMMISSION (RULE *203*).

On or before the fifteenth day after the close of each quarter, the Administrator shall submit a report to the Commission providing the following information: (7-1-93)

01. Administrator's Disbursements. The Administrator's disbursements to the TRS provider for the quarter. (7-1-93)

02. Administrator's Fees. The Administrator's fees for the quarter. (7-1-93)

03. List of All Companies. A list of all companies remitting monies to the TRS fund during the quarter, indicating which companies have remitted funds for their provision of local exchange service, which companies have remitted funds for their provision of MTS/WATS services, and which companies have remitted both. (7-1-93)

04. Total Amounts Remitted. The total amounts remitted to the TRS fund by local exchange companies during the quarter, the total amounts remitted by MTS/WATS companies during the quarter, and the sum of the two; (7-1-93)

05. Total Number of Local Calls. The total number of local calls handled by the TRS provider during the quarter, the total number of intrastate and interstate calls handled by the TRS provider during the quarter (keeping separate totals for each), and the total number of intrastate and interstate MTS/WATS minutes billed by the TRS provider during the quarter (keeping separate totals for each); (7-1-93)

06. Interest, Contributions and Other Income. Interest earned during the quarter, contributions received during the quarter, and any other income for the quarter; and (7-1-93)

07. Fund Balances for the Quarter. Beginning, ending and monthly fund balances for the quarter, together with any information that may be necessary to calculate beginning and ending balances for the quarter. (7-1-93)

204. THE ADMINISTRATOR'S ANNUAL REPORT TO THE COMMISSION (RULE *204*).

01. Report of Existing Financial Conditions. On or before February 15 of each year, the Administrator shall submit a report to the Commission providing the following information: (3-29-17)

a. A statement of the TRS fund's income in the previous calendar year from remittances by local exchange companies and from remittances by MTS/WATS companies, and the total, and a statement of all other income (including interest), gifts, contributions, etc., for the calendar year; (7-1-93)

b. Actual TRS fund balances at the end of the quarters ending in March, June, September and December of the preceding calendar year; and (7-1-93)

c. The statewide line count for local service lines on January 1 of that year and January 1 of the previous year, and the total number of MTS/WATS minutes reported to the TRS Administrator for the year ending the previous December 31 and the year ending the December 31 before that. (3-29-17)

02. Report on Use of the TRS Program. The Administrator shall also report, based upon information to be supplied by the TRS provider, upon use of the TRS program in the previous calendar year. The Administrator's contract with the TRS provider shall require appropriate data collection by the TRS provider, including, but not limited to, the number of calls handled by the provider, with breakdown showing whether the calls are local or MTS, intrastate or interstate MTS, total intrastate and interstate MTS minutes, the hours when calls are made (e.g., from 8 a.m. to 5 p.m., from 5 p.m. to 11 p.m., from 11 p.m. to 8 a.m.), days of the week when calls are made, and patterns of increased or decreased usage of the TRS program from month to month for the previous calendar year. The TRS provider shall provide this information by month to the TRS Administrator on dates to be specified by the Administrator. (7-1-93)

03. Recommendation. The Administrator shall report the TRS fund's expected surplus or deficit for the twelve months beginning April 1 based upon the assumption that the TRS funding levels will not change. The Administrator shall also report whether this surplus or deficit will alter the expected fund balance during the twelve (12) months beginning April 1 following the report significantly enough to recommend that TRS funding levels be increased or decreased. If the Administrator believes that the TRS funding levels should be increased or decreased, the Administrator shall recommend a target balance for the TRS fund for the end of the twelve (12) months beginning April 1 following this report and the amount by which TRS fund remittances should be increased or decreased beginning April 1 to meet this target. (7-1-93)

04. Review by Commission Staff. On or before March 1 the Commission Staff shall review the *Administrator's* calculations and recommendations and call any errors or omissions to the attention of the Administrator and the Commission. *( )*

05. Report a Public Record -- Workpapers Exempted Trade Secrets. The *Administrator's* report showing statewide totals for local service and MTS/WATS minutes, inventories of service lines, and other

information not identifying a telephone corporation or a customer is a public record available for inspection, examination and copying under Section 74-102, Idaho Code. Workpapers accompanying the report (including those produced by the USF Administrator) showing individual telephone corporation's data for Title 62 services and individual telephone corporation's reports to the TRS or USF Administrators showing data for their Title 62 services, together with any data for Title 61 services protected from disclosure under applicable Trade Secret Law, are trade secrets exempt from disclosure under Section 74-107(1), Idaho Code. *( )*

***205*. -- *299*. (RESERVED)**

PARTICIPATION IN THE TRS PROGRAM
Rules 300 through 399

***300*. PARTICIPATION IN PROGRAM (RULE *300*).**
All telephone corporations providing local exchange service within the state of Idaho and all telephone corporations providing intrastate MTS within the state of Idaho, including those otherwise exempt from the jurisdiction of the Commission pursuant to Section 61-104, Idaho Code, and those providing local exchange service or MTS/WATS pursuant to the Telecommunications Act of 1988, Sections 62-601 et seq., Idaho Code, are required to participate in the TRS program and to contribute to the TRS fund under these rules, except as provided by Rules 203 and 302. (7-1-93)

***301*. EXEMPTION FROM TRS PARTICIPATION AND FUNDING (RULE *301*).**
The Commission may permit a telephone corporation that provides local exchange service in Idaho or intrastate MTS/WATS service in Idaho to provide TRS to its customers through a TRS provider other than the provider selected by the Commission and may waive the telephone corporation's obligation to participate in the program and to fund the program if the Commission finds, upon application by the telephone corporation, that: (7-1-93)

01. ADA. The telephone corporation will meet its obligation to its Idaho customers in accordance with the standards set forth in the Americans with Disabilities Act. (7-1-93)

02. TRS Program. The operation or provision of TRS under the program approved by the Commission will not be substantially impaired if that telephone corporation does not participate in or fund the TRS program. (7-1-93)

***302*. -- 999. (RESERVED)**

31.61.01 – RULES FOR THE MEASUREMENT OF STRAY CURRENT OR VOLTAGE (THE STRAY VOLTAGE RULES)

GENERAL PROVISIONS
Rules 0 through 11

000. LEGAL AUTHORITY (RULE 0).
These rules are promulgated pursuant to the authority of the Idaho Public Utilities Law, Sections 61-515 and 61-520, Idaho Code, and the Stray Current and Voltage Remediation Act, Section 61-803, Idaho Code. (4-11-06)

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of these rules is the IDAPA 31.61.01, "Rules for the Measurement of Stray Current or Voltage" (Stray Voltage Rules). (4-11-06)

02. Scope. These rules are applicable to dairy producers, public utilities and all persons or entities involved in any way in the measurement or remediation of stray current or voltage within Idaho. (4-11-06)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
There are no provisions for administrative appeals within the Commission under these rules. (4-11-06)

004. INCORPORATION BY REFERENCE – REFERENCE TO SAFETY CODES (RULE 4).

01. Safety Codes. These rules reference two (2) national safety codes. (4-11-06)

a. The National Electrical Safety Code (NESC) is applicable to public utilities and is adopted by the Commission in IDAPA 31.11.01, "Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission." (4-11-06)

b. The National Electrical Code (NEC) is applicable to the installation of wires and facilities used to convey electric current and to apparatus to be operated by such electric current. Adoption of the National Electrical Code is found at Section 54-1001, Idaho Code, and IDAPA 07.01.06, "Rules Governing the Use of National Electrical Code," Section 011. (4-11-06)

005. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Adequate Remediation. Means corrective action taken by a utility which results in, and is reasonably likely to sustain, a reduction of stray current or voltage attributable to the utility's distribution system to a measured level that is fifty percent (50%) or less of the preventive action level. (4-11-06)

02. Ampere. A unit of measure of current. A milliampere is one-one thousandths (1/1,000) of an ampere. (4-11-06)

03. Commission. Means the Idaho Public Utilities Commission. (4-11-06)

04. Cow Contact Points. Means any two (2) points on electrically conductive materials in a dairy which a dairy cow may (in its normal environment on the dairy) unavoidably and simultaneously contact. Electrically conductive material may include the surface(s) that the cow is standing on as one (1) or both cow contact points. (4-11-06)

05. Equipotential Plane (EPP). Means an area where wire mesh or other conductive elements are imbedded in or placed under concrete, bonded to all metal structures and fixed nonelectrical equipment that may become energized, and connected to the electrical grounding system to prevent a difference in voltage from developing within the plane. (4-11-06)

06. Preventive Action Level (PAL). Stray current or voltage that, when correctly measured, is either:

(4-11-06)

a. A steady state, root mean square (rms) alternating current (AC) of two (2) milliamperes (mA) or more through a five hundred (500) ohm resistor (i.e., shunt resistor) connected between cow contact points, as measured by a true rms meter, or; (4-11-06)

b. Any steady state, rms AC voltage of one (1.0) volt or more across (in parallel with) a five hundred (500) ohm resistor (i.e., shunt resistor) connected between cow contact points, as measured by a true rms meter. (4-11-06)

07. Primary System. A term that describes the high voltage utility electrical system including the generation, transmission and distribution systems. It also refers to the high voltage side of a distribution transformer. (4-11-06)

08. Secondary System. Means the low-voltage utility electrical system on the secondary side of a distribution transformer. The dairy's on-farm system begins on the dairy's side of the metering points, except for dairies metered on the high voltage side of the transformer(s). In the case of dairies metered on the high voltage side, the on-farm system begins at the transformer's low-voltage lugs. (4-11-06)

09. Service Provider. Means any person, company or other legal entity providing stray voltage or current testing, consulting, measurements, analysis services, construction, or hardware. (4-11-06)

10. Shunt Resistor. A physical resistor or combination of resistors used to simulate a dairy cow during the measurement of cow contact voltage. As used in these rules, a shunt resistor shall be five hundred (500) ohm plus or minus two percent (+/- 2%). (4-11-06)

11. Source Resistance. Means that portion of resistance in the circuit, other than the resistance of the cow, when the cow is completing a circuit between contact points. Body-to-metal contact resistance and hoof-to-earth resistance may represent a portion of the source resistance. (4-11-06)

12. Steady State. The value of a current or voltage after an amount of time has passed where all transients have decayed to a negligible value. (4-11-06)

13. Stray Current or Voltage. Stray voltage or current is: (4-11-06)

a. Any steady state, sixty (60) hertz (Hz) (including harmonics thereof) root mean square (rms) alternating current (AC) less than twenty (20) milliamperes (mA) through a five hundred (500) ohm resistor (i.e., shunt resistor) connected between cow contact points, as measured by a true rms meter; or (4-11-06)

b. Any steady state, sixty (60) Hz (including harmonics thereof), rms AC voltage of less than ten (10) volts, across (in parallel with) a five hundred (500) ohm resistor (i.e., shunt resistor) connected between cow contact points, as measured by a true rms meter. (4-11-06)

c. Stray current and voltage is a normal, inherent and unavoidable result of electricity traveling through grounded electrical systems, including a dairy producer's on-farm system and a utility's distribution system. These systems are required by the National Electrical Code (NEC) and the National Electrical Safety Code (NESC) to be grounded to the earth to ensure safety and reliability. (4-11-06)

d. Unless the context otherwise requires, the term "stray voltage" shall mean stray current or stray voltage. (4-11-06)

14. Tests, Measurements, Procedures and Analysis. Means any or all of the stray voltage testing, measurement, work and work product defined in these rules. (4-11-06)

15. Transient. Transient or transient deviation means a non-steady state increase or spike in voltage or current. For the purpose of identifying and reporting transients in cow contact voltage (Vcc) or current (Icc), a transient occurs when the recorded maximum Vcc or Icc in a recording interval exceeds two hundred percent (200%)

of the steady state Vcc or Icc recorded during the same recording interval. (4-11-06)

16. **Utility**. Means a public electric utility as defined in Section 61-332A, Idaho Code. (4-11-06)

011. PURPOSE OF RULES -- CONFORMANCE TO ELECTRICAL CODE (RULE 11).
These rules standardize the measurement and testing procedures used to measure stray voltage and current. Standardization of testing will provide a consistent basis for determining the presence and level of stray voltage in a dairy and how to determine the source of that stray voltage or current. These rules do not replace existing safety standards embodied in electrical codes. Any conflict between these rules and the National Electrical Code or the National Electrical Safety Code shall be promptly brought to the attention of the Commission. Under these rules, testing is intended to determine: (4-11-06)

01. **Presence of Stray Voltage**. The presence and amount of any stray voltage or current within the dairy. (4-11-06)

02. **Sources of Stray Voltage**. The source(s) of any stray voltage or current detected. (4-11-06)

03. **Contributions to Stray Voltage**. The percent contribution from the utility side and the dairy side of the dairy service entrance to the total stray voltage or current measured on the dairy. (4-11-06)

012. -- 020. (RESERVED)

**APPLICABILITY AND ADMISSIBILITY
RULES 21 THROUGH 30**

021. UTILITY (RULE 21).
A utility measuring or testing for stray voltage or current at the request of a dairy producer, as directed by the Commission or on its own initiative, shall conduct such measurements in accordance with these rules. (4-11-06)

022. DAIRY PRODUCER (RULE 22).

01. **Serving Notice on the Utility**. A dairy producer providing written notice to a utility pursuant to Section 61-804, Idaho Code, shall specify why the dairy producer believes its dairy cows are being affected by electrical energy attributable to the utility. A dairy producer may provide such notice with or without first having conducted tests or measurements of stray voltage. (4-11-06)

02. **Cooperation**. When a written notice is filed with the utility, the dairy is obligated to make any contact point(s), service panels, grounding rods or other electrical equipment at the dairy available to the utility for measuring and testing. The utility shall provide reasonable notice and cooperate with the dairy producer to establish an appropriate time to conduct the tests and measurements. The dairy shall cooperate with the utility so that all tests and measurements necessary to identify the existence and magnitude of stray current or voltage, if any, are completed within fourteen (14) days of the utility's receipt of such notice. (4-11-06)

023. SERVICE PROVIDERS (RULE 23).
Any person performing any stray voltage measurement or test on behalf of a utility or a dairy shall be deemed a service provider and shall follow these rules. (4-11-06)

024. ADMISSIBILITY (RULE 24).
Only tests and measurements made in compliance with these rules shall be admissible before the Commission or in any civil action. (4-11-06)

025. -- 030. (RESERVED)

**QUALIFICATIONS OF PERSONS PERFORMING AND ANALYZING
RESULTS OF STRAY VOLTAGE TESTS
Rules 31 through 40**

031. PERFORMANCE OF TESTS AND MEASUREMENTS (RULE 31).
Measuring and testing for stray voltage under these rules for consideration by the Commission shall be performed by a qualified testing professional. The following persons are presumed to be qualified testing professionals: (4-11-06)

01. Professional Engineer. A professional engineer, licensed in any state, who has completed no fewer than forty-eight (48) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. (4-11-06)

02. Master Electrician. A master electrician, licensed in any state, who has completed no fewer than forty-eight (48) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. (4-11-06)

03. Technician. A technician who, under the supervision of a person presumed qualified under Subsections 031.01 and 031.02, has completed no fewer than eight (8) hours of Commission-approved stray voltage training and who has been involved in no fewer than five (5) prior investigations involving the measurement or testing of stray voltage. (4-11-06)

032. DATA ANALYSIS (RULE 32).
Analysis of data under these rules, for consideration by the Commission, shall be performed by a qualified analyst. A professional engineer, licensed in any state, who has completed no fewer than forty-eight (48) hours of stray voltage training and who has been involved in no fewer than five (5) prior investigations involving measurement or testing of stray voltage shall be presumed to be a qualified analyst. (4-11-06)

033. PERSONS OTHERWISE QUALIFIED (RULE 33).
A person who does not satisfy the qualifications in Sections 031 and 032, may nonetheless be determined by the Commission to be a qualified testing professional or a qualified analyst if, on motion of any party, the Commission finds that person otherwise possesses the knowledge, skill, experience, training, or education that qualifies that person to offer expert testimony before the Commission. (4-11-06)

034. -- 050. (RESERVED)

CALIBRATION OF AND EQUIPMENT USED FOR MEASURING AND RECORDING VOLTAGE, CURRENT AND RESISTANCE
Rules 51 through 60

051. GENERAL REQUIREMENTS FOR STRAY VOLTAGE MEASURING AND RECORDING EQUIPMENT (RULE 51).
Equipment used for the measurement or testing of stray voltage, current, and resistance shall meet the following criteria: (4-11-06)

01. Resolution and Accuracy. The accuracy and resolution of any instrument used to measure or record cow contact voltage or current, shall limit the error to five percent (5%) or less at one volt (1 V) or two milliampere (2 mA). (4-11-06)

02. Voltage Measurement. Instruments used to measure cow contact voltage shall be capable of separating and independently measuring alternating current (AC) and direct current (DC) voltages. These instruments shall have a minimum internal impedance of ten thousand (10,000) ohm and shall be capable of measuring the true-rms voltage. (4-11-06)

03. Current Measurement. A clamp-on ammeter, a digital multi-meter (DMM) with clamp-on device, or an in-line ammeter shall be used to measure current between two (2) points. The meters shall be capable of separating and independently measuring alternating current (AC) and direct current (DC) and shall be capable of measuring the true-rms current. Care must be taken to assure that clamp-on ammeters used have the required resolution and accuracy. (4-11-06)

04. Resistance Measurement. Resistance shall be measured using either a volt ohmmeter (VOM) or a DMM. Resolution shall be to the level of one (1) ohm or less when measuring a resistance of less than one thousand

(1,000) ohm. Accuracy shall be within plus or minus five (+/-5) ohm for a five hundred (500) ohm resistance. (4-11-06)

05. Resistance-to-Earth Measurement. Grounding electrode resistance-to-earth measurements shall be made with a three- (3) point fall-of-potential instrument or a clamp-on resistance-to-earth tester. (4-11-06)

052. CALIBRATION REQUIREMENTS (RULE 52).

01. Measuring Equipment Calibration. All measuring equipment shall be calibrated according to the manufacturer's recommended calibration schedule, but no less than annually, to meet the manufacturer's specifications for the accuracy and resolution of the equipment. Measuring equipment shall not be used after its next "calibration due" date for measurements or tests conducted during a stray voltage investigation. Calibration shall be performed by either: (4-11-06)

a. The manufacturer of the equipment, who shall certify that the equipment meets the manufacturer's specifications for accuracy and resolution; or (4-11-06)

b. A laboratory currently certified as meeting all applicable Institute of Electrical and Electronic Engineers (IEEE) and International Organization for Standards (ISO) standards. (4-11-06)

02. Calibration Certificates. The service provider performing the tests and measurements shall maintain certificates from the manufacturer or the calibration laboratory demonstrating compliance with calibration requirements. (4-11-06)

03. Field Check. Before voltage or current measurement or testing is performed, the instrument shall be field-checked by comparing measurements to those of other instruments or against a known source. (4-11-06)

053. REQUIREMENTS FOR MONITORING AND RECORDING DEVICES (RULE 53).
Digital recording devices shall be used for the purpose of recording current and voltage for extended periods, such as the forty-eight (48) hour test. The recording devices shall have the same level of resolution and accuracy as the meters being used for the measurements. Monitoring systems, which combine measuring and recording functions in a single instrument, shall have the same level of resolution and accuracy as specified in Section 051. Recording devices and monitoring systems shall be capable of recording transient deviations of one-tenth (0.1) second or less in duration from the steady state. Digital recording devices, which have deviation settings, shall permit the deviation setting to be set "low" enough to meet the resolution and accuracy requirements in Subsection 051.01 of these rules. All recording devices shall be able to log the time and date of all data recorded and shall have their internal clocks synchronized. (4-11-06)

054. REQUIREMENTS FOR LOAD BOXES (RULE 54).
The load box shall meet the following criteria: (4-11-06)

01. Volts. A load box shall be a primarily non-inductive nominal two hundred forty (240) volt, resistance heating type load with a minimum nominal full load of eighteen (18) kilowatts (kW). (4-11-06)

02. Split-Load. A load box shall be capable of operating at two (2) or more load settings, including approximately fifty percent (50%) and one hundred percent (100%) of the load box's rated total load. (4-11-06)

055. -- 070. (RESERVED)

TESTING AND MEASUREMENT PROCEDURES
Rules 71 through 80

071. STRAY CURRENT OR VOLTAGE TESTS (RULE 71).
Subject to Subsection 071.02, there are six (6) tests used to detect and measure stray current or voltage. (4-11-06)

01. Scheduling of Stray Voltage Tests. Efforts shall be made to perform the tests under conditions substantially similar to those conditions existing at the time(s) the dairy producer believes stray voltage to be a

problem. (4-11-06)

a. Test 1 - Cow Contact Test; (4-11-06)

b. Test 2 - Forty-Eight (48) Hour Test; (4-11-06)

c. Test 3 - Primary Profile Test; (4-11-06)

d. Test 4 - Secondary Neutral Voltage Drop Test; (4-11-06)

e. Test 5 - Load Box Test; and (4-11-06)

f. Test 6 - Signature Test. (4-11-06)

02. Testing Sequence. Test 1 shall be performed first. Tests 1 and 2 are used to determine the presence and level of stray voltage and shall be performed in all investigations, subject to the provisions of Subsection 071.03. Tests 3, 4, 5, and 6 may be performed in any order and may be performed without first determining that these tests are required under Paragraph 071.02.b. Tests 3, 4, 5, and 6 may be performed prior to starting the recording for Test 2 or while Test 2 is in progress. Test 2 may be interrupted as necessary to conduct Tests 4, 5, and 6, or for review and analysis of the data recorded up to that point. (4-11-06)

a. If the results from Tests 1 and 2 indicate that stray voltage does not exceed the preventive action level (PAL), the utility has no further testing or remediation obligations under these rules during this test cycle. (4-11-06)

b. If the PAL is exceeded, the utility shall perform the remaining four (4) tests except as provided in Subsection 071.03. The utility shall also perform analysis to determine whether the portion of the stray current or voltage attributable to an off-farm source exceeds fifty percent (50%) of the PAL. (4-11-06)

c. If the PAL is exceeded, and the portion of the stray current or voltage attributable to an off-farm source does not exceed fifty percent (50%) of the PAL, the utility has no further testing or remediation obligations. (4-11-06)

d. If the PAL is exceeded, and the portion of the stray current or voltage attributable to an off-farm source exceeds fifty percent (50%) of the PAL, the utility shall conduct remediation pursuant to Section 091. Under this condition, the forty-eight (48) hour recording of Test 2 may be reduced to no fewer than twenty-four (24) hours. (4-11-06)

e. For all testing conducted under these rules, the utility shall have a qualified analyst prepare a report pursuant to Section 082. (4-11-06)

03. Suspended or Limited Testing. With the written agreement of both the utility and the dairy producer, a stray voltage investigation may be suspended at any point in the investigation. With the written agreement of both the utility and the dairy producer, the utility may employ a limited set of tests or measurements on a dairy as part of an intentionally limited evaluation. If the utility proposes to suspend a stray voltage investigation or to conduct a limited evaluation, its reasons for doing so shall be set forth in the written agreement between the utility and the dairy producer. (4-11-06)

072. PREPARATION FOR TESTING (RULE 72).

The person performing the tests shall perform the following: (4-11-06)

01. Remote Reference Grounding Rod. (4-11-06)

a. Remote reference grounding rod(s) shall be installed and penetrate moist soil to a depth of thirty (30) inches. When practicable, remote reference rods shall be installed at least twenty-five (25) feet away from the nearest underground conductive electrical equipment of any type or at a distance equal to three (3) to four (4) times the buried depth of any metallic structure connected to the service entrance neutral. The reference ground rod shall be

located not closer than twenty-five (25) feet from the centerline of a primary electrical conductor right-of-way. A reference rod shall be located not closer than one hundred (100) feet from the edge of a transmission line right-of-way. (4-11-06)

b. All remote reference grounding rods shall be checked for "remoteness" prior to their use for tests or measurements and if found to be insufficiently "remote," a new location for that reference ground rod shall be found and retested for remoteness. Remoteness of the reference ground shall be determined by measuring the voltage from the transformer grounding electrode conductor to the remote reference ground. The resistance-to-earth of the transformer grounding electrode shall be measured. The grounding electrode current shall be measured. Remoteness is considered adequate if the measured voltage (transformer grounding conductor to reference ground, Vp) is within twenty percent (20%) of the voltage calculated by multiplying the grounding electrode current by the grounding electrode resistance-to-earth. (4-11-06)

c. If the transformer grounding electrode is within twenty-five (25) feet of other primary or secondary grounding electrodes, this remoteness test shall be conducted at the first primary system grounding electrode upstream of the transformer that is greater than twenty-five (25) feet from other primary or secondary system grounding electrodes. (4-11-06)

02. Inspecting the Transformer(s). Prior to testing, the utility transformer shall be inspected, grounding electrode resistance measured, and any repairs necessary for safety be made and recorded. In the case of a customer-owned transformer, qualified personnel shall inspect the installation, measure grounding electrode resistance, and make and record any repairs necessary for safety. Measurements that require contact with utility or customer-owned primary wires or equipment shall be made by the utility or other qualified personnel. (4-11-06)

03. In-Line Ammeters. If in-line or series ammeters are used, they shall be installed under safe conditions in accordance with the National Electrical Safety Code and the National Electrical Code with the entire dairy system or the specific circuit to be tested de-energized. (4-11-06)

04. Pre-Test Documentation. (4-11-06)

a. All pre-test calibration requirements from Section 052 shall be completed and documented. (4-11-06)

b. A sketch or drawing of the dairy shall be prepared indicating: (4-11-06)

i. The location of the buildings; (4-11-06)

ii. Secondary electrical service panels and secondary feeder systems serving cow contact areas; (4-11-06)

iii. Transformer(s) and central distribution point; (4-11-06)

iv. Existing grounding electrodes (if known); (4-11-06)

v. The location of all cow contact points to be tested; (4-11-06)

vi. All remote reference grounding rods; and (4-11-06)

vii. All primary and secondary neutral test points used in conjunction with the remote reference grounding rod(s). (4-11-06)

c. A listing of planned test points shall be prepared using the applicable form prior to beginning each test. Each test shall be listed separately and specific reference numbers shall be given to each planned test point. (4-11-06)

05. Safety. (4-11-06)

a. If the service provider reasonably concludes that a dairy's noncompliance with the National Electrical Code poses a significant and immediate safety hazard which prevents completion of any test or measurement required by these rules, then the service provider's obligations to proceed under these rules shall be suspended until the hazard is eliminated. (4-11-06)

b. At the discretion of the service provider conducting the test, livestock shall be removed from any area where electrical equipment or wiring is examined or electrical measurements are taken. Testing may be suspended if the presence of cows or other animals creates a potential hazard to testing personnel. The locations of electric fences and other electrified cow control devices shall be noted and de-energized where practical. (4-11-06)

073. TEST 1 -- COW CONTACT TEST (RULE 73).

01. Purpose. The purpose of this test is to determine the location(s), if any, where stray current or voltage exceeds the preventive action level (PAL) and to identify the location(s) at which the cow contact voltage will be recorded in the forty-eight (48) hour test. (4-11-06)

02. Selection of Cow Contact Points. The selection of cow contact points to be tested shall include a sufficient number of locations reasonably likely to demonstrate the presence of stray voltage or current, if any. (4-11-06)

03. Conducting the Test. The voltage across the shunt resistor or current through the shunt resistor shall be measured between cow contact points as shown in Figure 1. The source resistance shall be calculated during analysis for all cow contact points.

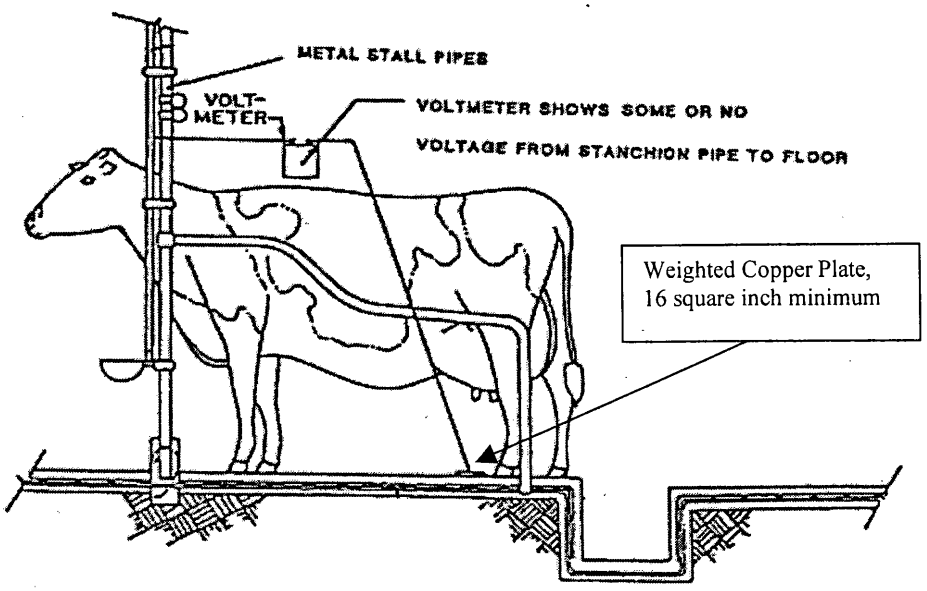

Figure 1, Cow Contact Test. (4-11-06)

a. When using a voltmeter to measure voltage between contact points where one (1) of those points is the floor surface, the equipment shall be arranged as shown in Figures 1 and 2, using a metal plate, which shall make a high quality conductive contact with the ground or floor. If the service provider is unsure of having a high quality conductive contact with the floor or ground, then the procedure described in Paragraph 073.03.c. shall be followed. If

necessary, corrosion shall be removed from the point(s) where test lead(s) make contact with metal equipment.

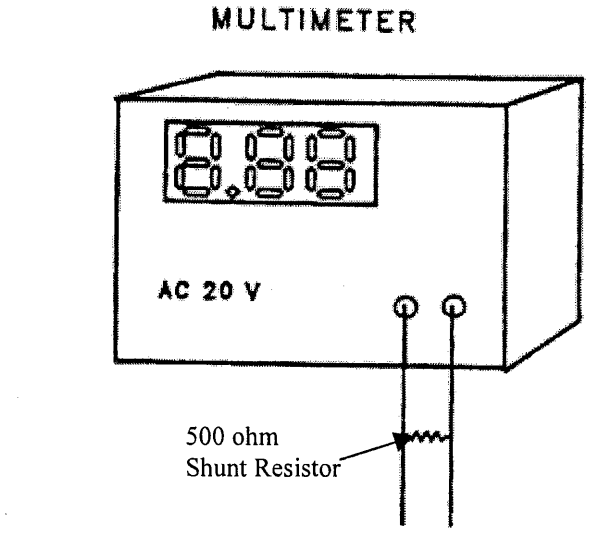

Figure 2, Cow Contact Voltage Measurement. (4-11-06)

b. When using an in-line milliammeter or a clamp-around milliammeter to measure current between contact points and one (1) of those points is the floor surface or earth, the equipment shall be arranged as shown in Figure 3, using a metal plate which shall make high quality conductive contact with the ground or floor. If the service provider is unsure of having a high quality conductive contact with the floor or ground, then the procedures described in Paragraph 073.03.c. shall be followed. If necessary, corrosion shall be removed from the point(s) where test lead(s) make contact with metal equipment.

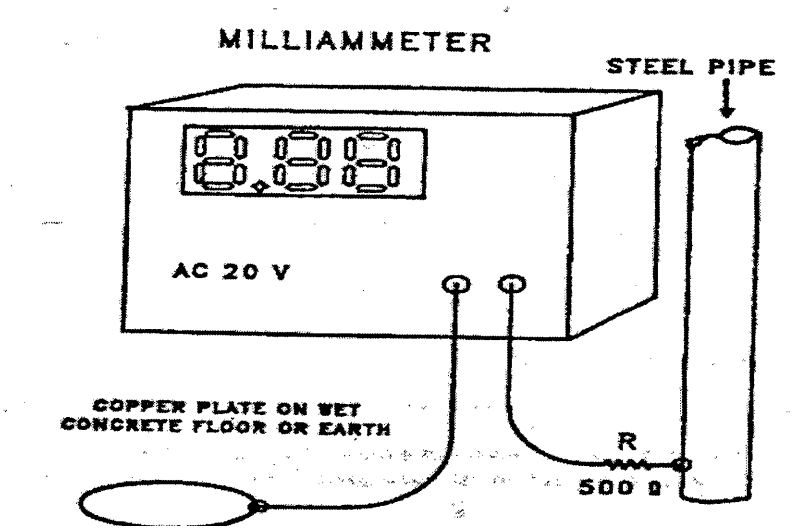

Figure 3, Set Up for Measuring Current Cow Contact Point to Ground (4-11-06)

c. A metal plate used to make an electrical contact with the earth or floor shall be of regular shape (square, rectangular or round), and shall have a surface area equal to or greater than sixteen (16) square inches (4 inches x 4 inches or equivalent). Place a weight not less than twenty (20) pounds on the metal plate. This weight shall be applied evenly across the metal plate and not to the adjacent concrete or earth. Place the metal plate a minimum distance of twelve (12) inches from any metal equipment making contact with the floor or earth. (4-11-06)

i. Where the metal plate is to be placed on a concrete floor, the surface shall be flat. Clean the floor surface with a wire brush to remove debris that may add excess resistance. Use water to clean the floor surface at the point where the metal plate will be placed. Place a paper towel or similar material soaked in saltwater between the metal plate and the concrete floor. (4-11-06)

ii. Where the metal plate is to be placed on the ground or earth surface, the surface shall be flat. Remove any debris and add water to the area, if necessary, to dampen the soil. The surface of the metal plate that will make contact with the earth shall be clean and free of corrosion before use. Remove any corrosion, if necessary. (4-11-06)

04. Recording the Data. The person conducting this test shall record the location of, and measured values at, each test point. At each cow contact location, an open circuit voltage reading (Voc) and a voltage with five hundred (500) ohm nominal shunt resistor placed across the input to the meter (V_{shunt}) shall be taken. These readings shall be taken with ten (10) seconds or less time between each reading. Alternatively, a current measurement (I_{shunt}) may be taken in place of the voltage reading (V_{shunt}). Data for these test points shall be recorded on the form in Appendix 1. (4-11-06)

05. Source Resistance Calculation. The source resistance (R_{source}) shall be calculated for each cow contact location measured and the value recorded in Appendix 1. The following formulas shall be used to calculate source resistance.

$$R_{source} = \frac{V_{oc} - V_{shunt}}{V_{shunt}} \times R_{shunt}$$

$$R_{source} = \frac{V_{oc}}{I_{shunt}} - R_{shunt}$$

(4-11-06)

074. TEST 2 -- FORTY-EIGHT HOUR TEST (RULE 74).

01. Purpose. The purpose of this test is to determine whether stray current or voltage exceeds the preventive action level (PAL) at selected location(s) over a forty-eight (48) hour period, subject to Subsection 074.06 and Paragraph 071.02.d. The test also demonstrates whether the primary or secondary sides of the system have a specific impact on the recorded current or voltage at specific times of day. (4-11-06)

02. Setup. A digitizing data recorder with averaging capability and capable of detecting and recording transient deviations of one-tenth (0.1) second or less in duration shall be used to record the following: (4-11-06)

a. Voltage from primary neutral at the transformer to remote reference ground, Vp. (4-11-06)

b. Voltage from secondary neutral in the service panel serving the area of the cow contact to remote reference ground, Vs. (4-11-06)

c. Voltage drops (Vps) from primary neutral at the location of connection for Vp to secondary neutral at the location of the connection for Vs. (4-11-06)

d. Cow contact current through (Icc) or voltage across a five hundred (500) ohm resistor at the high voltage point(s) found in Test 1, Vcc. (4-11-06)

03. Measurement Interval. The results of the forty-eight (48) hour test may be highly indicative of the presence of stray voltage. A recording interval as high as ten (10) seconds may be used provided that transient deviations of voltage or current of one-tenth (0.1) second or less in duration of voltage or current are recorded to the maximum ability of the instrument. (4-11-06)

04. Measurement at the Cow Contact Point(s). Measurements to the earth or concrete surface shall be to a metal plate as described in Paragraph 073.03.c. When making measurements to metal objects, corrosion shall be removed to obtain a low resistance connection. (4-11-06)

05. Recording the Data. All of the data gathered by the recording equipment during the forty-eight (48) hour test including transients shall be downloaded and retained with the records of the investigation. In addition, the steady-state data shall be summarized in the investigation report. The recorded data shall be made available to the dairy producer or utility upon request. The person conducting this test shall record the location of, and measured values at, each test point. The identification of the cow contact point shall be recorded on the form in Appendix 2. Transient deviations shall be recorded on the supplemental data form, page 3 of 3 in Appendix 2. A plot of the voltage versus time may be substituted for the recording of measured values in Appendix 2. (4-11-06)

06. Reduced Recording Period. If a qualified analyst concludes that remediation by the utility is required under Paragraph 071.02.d. prior to the completion of a forty-eight (48) hour recording period, the recording period may be reduced to no fewer than twenty-four (24) hours. (4-11-06)

075. TEST 3 -- PRIMARY PROFILE TEST (RULE 75).

01. Purpose. The purpose of this test is to measure or calculate neutral-to-earth voltage (NEV) for a multi-grounded distribution system. (4-11-06)

02. Conducting the Test. The primary profile test requires concurrent measurement of the ground electrode resistance and current at all primary system ground points within three quarters (3/4) of a mile on either side of all primary service points serving the dairy, or to the end of the line if less than three quarters (3/4) of a mile. Alternatively, the voltage between a remote grounding rod and the primary ground point being tested may be measured. (4-11-06)

a. This test shall be conducted starting at one (1) end of the distribution system and working toward the other end along the main primary distribution system. Figure 4 below illustrates the procedure. (4-11-06)

i. Where the dairy is served by a dedicated tap of less than one-half (1/2) mile in length from a distribution line, the neutral-to-earth voltage shall be measured at each primary ground along the tap and along the distribution line to a distance of three-quarters (3/4) of a mile in each direction from the point of the tap; or (4-11-06)

ii. Where a dairy is served by a dedicated tap that extends more than one-half (1/2) mile from the distribution line, the neutral-to-earth voltage shall be measured at each primary grounding electrode along the tap and along the distribution line to a distance of one-half (1/2) mile in each direction from the point of the tap. (4-11-06)

03. Recording the Data. The person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 3.

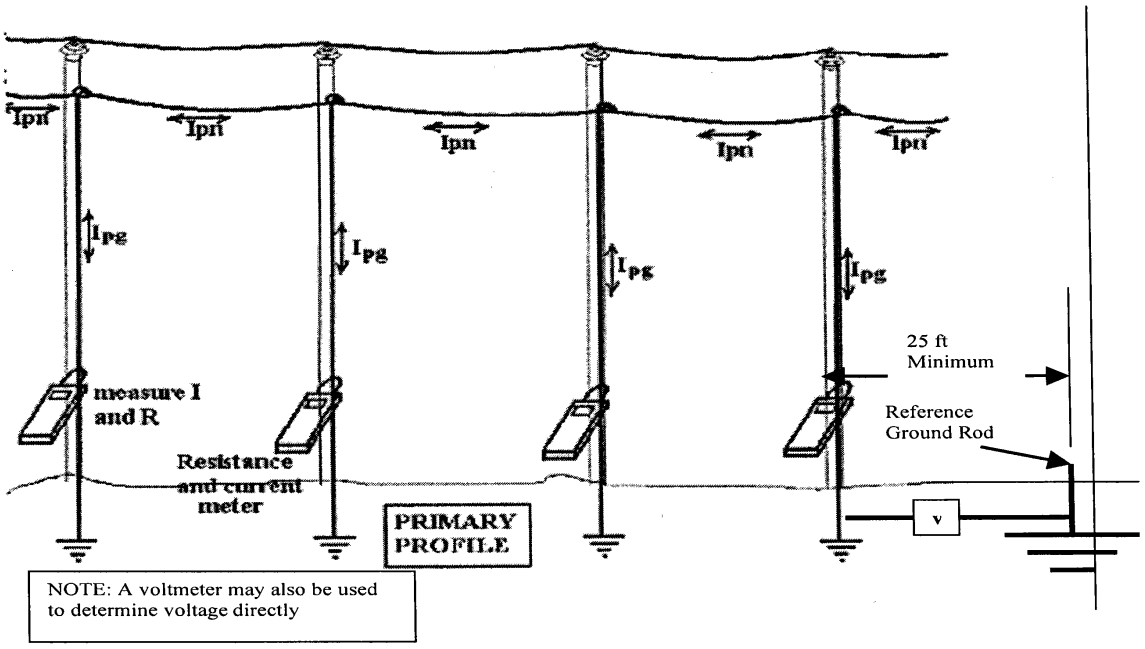

Figure 4, Primary Profile Test (4-11-06)

076. TEST 4 -- SECONDARY NEUTRAL VOLTAGE DROP TEST (RULE 76).

01. Purpose. This test is used to determine the impact of each secondary service on the neutral-to-earth (NEV) and cow contact voltages on the dairy under controlled conditions. (4-11-06)

02. Conducting the Test. This test shall be performed for all service entrances. A proxy load of known characteristics (such as a resistive load like a one hundred twenty (120) volt, fifteen hundred (1,500) watt hairdryer) is required for this test. The proxy load must create a known and stable current and subsequent voltage drop for each neutral serving a main panel, sub-panel or end-of-service area. All service entrances other than that being tested shall be turned "off" to perform this test. A diagram showing the connections and measurement points for this test is shown in Figure 5.

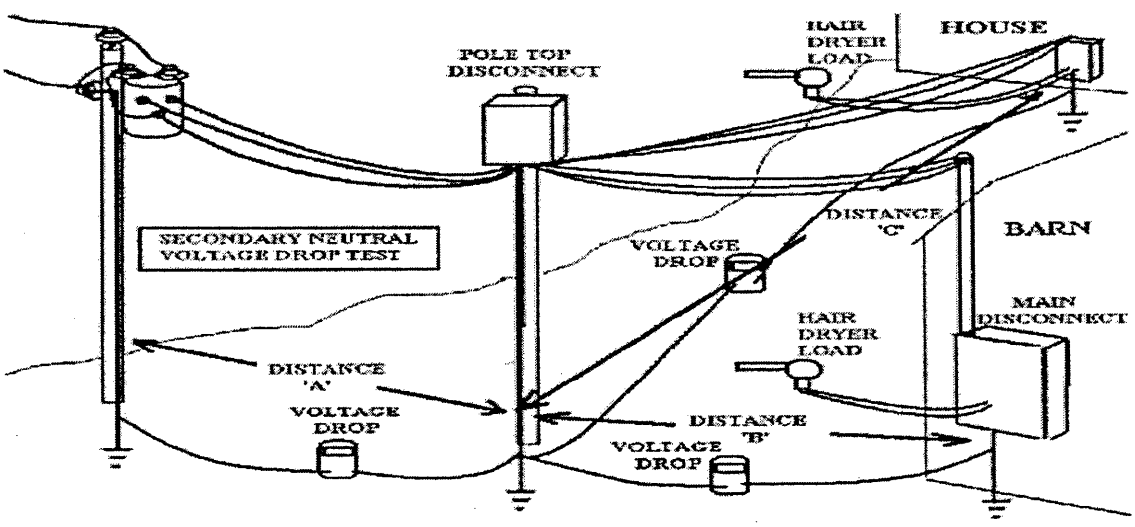

Figure 5, Secondary Neutral Voltage Drop Test Arrangement. (4-11-06)

03. Data Collection. The following data shall be collected for each secondary neutral tested: (4-11-06)

a. Gauge and type of neutral wire. (4-11-06)

b. Length of neutral wire. (4-11-06)

c. Neutral current, Isn. (4-11-06)

d. Voltage drop (V_{DropM}) between both ends of the secondary neutral being tested. (4-11-06)

e. Cow contact voltage (Vcc) or current (Icc) at the same points used in the forty-eight (48) hour test. (4-11-06)

f. Primary neutral at the transformer to reference ground voltage, Vp. (4-11-06)

g. Secondary neutral to reference ground voltage, Vs. (4-11-06)

04. Measurements. The three (3) voltages (Vcc, Vp and Vs) shall be measured with the proxy load "off" and "on." Calculated expected voltage drops (V_{DropC}) (see Appendix 4) shall be compared with measured voltage drops (V_{DropM}). If the measured and calculated voltage drops differ significantly, further investigation shall be undertaken to determine the source of additional voltage drop within the circuit. Neutral current shall be measured and recorded with the proxy load on (Isn). (4-11-06)

05. Recording the Data. Any person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 4. (4-11-06)

077. TEST 5 -- THE LOAD BOX TEST (RULE 77).

01. Purpose. This test is used to determine the extent to which the primary system contributes to stray

current or voltage at cow contact points. For dairies with three (3) phase balanced primary service, the service provider shall perform Steps One and Two in Paragraph 077.02.b. below. (4-11-06)

02. Conducting the Load Box Test. This test shall be performed at the same time of day as the time(s) of highest cow contact voltage found in the forty-eight (48) hour test. During this test, voltage and current shall be measured and recorded at the points indicated in Figure 6.

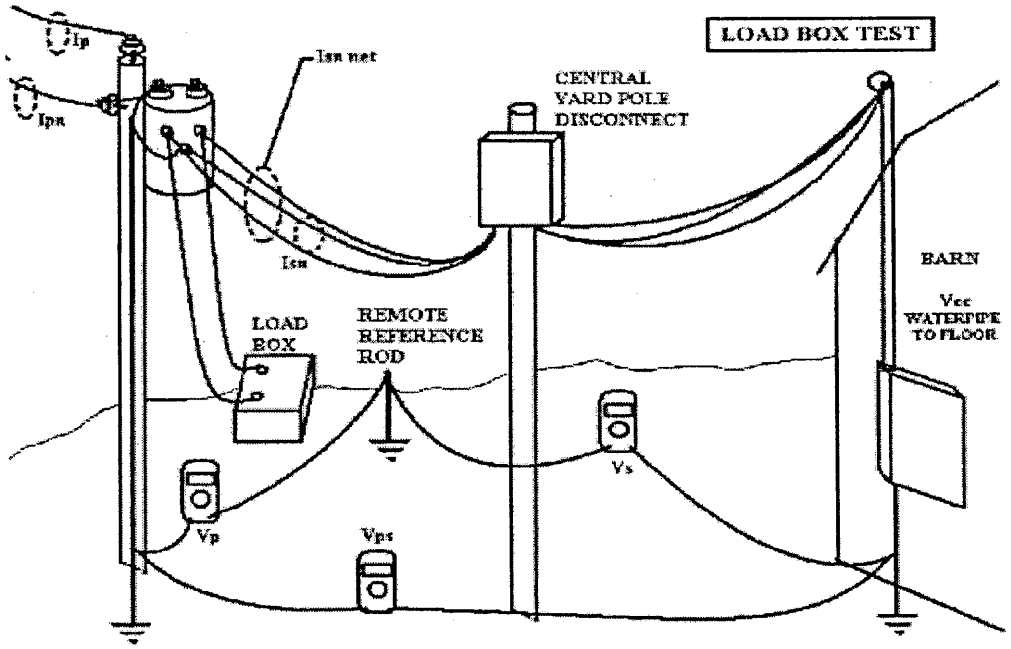

Figure 6, Load Box Test. (4-11-06)

a. The load box test requires the recording of eight (8) data points during each of the five (5) test steps. The eight (8) data points that shall be measured or calculated and recorded for each step are: (4-11-06)

i. Primary line to neutral voltage, V_{pri} . (4-11-06)

ii. Load Box Current, Ilb. (4-11-06)

iii. Voltage at load box connection to secondary system, Vlb. (4-11-06)

iv. Calculate transformer current I_p using $I_p = \frac{I_{lb} \times V_{lb}}{V_{pri}}$. (4-11-06)

v. Voltage from primary neutral at the transformer to remote reference ground rod, Vp. (4-11-06)

vi. Voltage from secondary neutral in the service panel serving the area of the cow contact to remote reference ground rod, Vs. (4-11-06)

vii. Voltage from primary neutral at the transformer to secondary neutral at the service panel serving the area of cow contact, Vps. (4-11-06)

viii. Cow contact voltage (Vcc) or current (Icc) at the same point(s) used in the forty-eight (48) hour test. (4-11-06)

b. Except for dairies with three (3) phase balanced primary service, the following five (5) test steps shall each be conducted for at least two (2) minutes: (4-11-06)

i. Step One: The load box shall be de-energized, the dairy shall remain "on," and the data shall be recorded. (4-11-06)

ii. Step Two: The load box shall be de-energized, the dairy shut "off," and the data shall be recorded. (4-11-06)

iii. Step Three: The load box shall be set to half load, the dairy shut "off," and the data shall be recorded. (4-11-06)

iv. Step Four: The load box shall be set to full load, the dairy shut "off," and the data shall be recorded. (4-11-06)

v. Step Five: The load box shall be set to full load, the dairy shall be turned "on," and the data shall be recorded. (4-11-06)

03. Calculating the K Factor. The K factor is a calculated ratio (Vcc/Vs). The K factor should be less than one (1) because Vcc (cow contact voltage) should be less than Vs (the dairy ground to reference ground voltage). If the K factor is greater than one (1), then there is contribution to Vcc from sources other than Vs. (4-11-06)

04. Recording the Data. The person conducting this test shall record the location of, and measured values at, each test point. Data and calculation results for these test points shall be recorded on the form in Appendix 5. (4-11-06)

078. TEST 6 -- SIGNATURE TEST (RULE 78).

01. Purpose. This test is used to determine the contribution to stray current or voltage of individual pieces of equipment operating on the dairy. The test is best performed when there is minimal farm electrical activity. (4-11-06)

02. Conducting the Signature Test. During this test, individual pieces of major current drawing equipment shall be started and stopped. The effects of starting, operating, and stopping each piece of equipment shall be measured and recorded for a period of operation of at least fifteen (15) seconds. The person conducting the test shall identify and record the equipment being tested and record the specific times that the equipment was started and stopped. A digitizing data recorder with averaging capability shall be used to measure and record the required electrical data. These measurements shall be taken at the same locations at the dairy where measurements were taken for the purpose of the load box test and forty-eight (48) hour test. (4-11-06)

a. Voltage from primary neutral at the transformer to remote reference ground rod, Vp. (4-11-06)

b. Secondary neutral at the service panel serving the area of cow contact to remote reference ground voltage, Vs. (4-11-06)

c. Primary neutral voltage drop (Vps) from the location of connection for Vp to secondary neutral voltage at the location of the connection for Vs. (4-11-06)

d. Cow contact voltage (Vcc) or current (Icc) at the preselected point. (4-11-06)

03. Recording the Data. All of the data gathered by the recording equipment during the signature test, including transients shall be downloaded and retained with the records of the investigation. In addition, the steady state data shall be summarized in the investigation report. The recorded data shall be made available to the dairy producer or utility upon request. The location of all test point(s) shall be recorded on the form in Appendix 6. A plot of the voltage versus time may be substituted for the recording of measured values on Appendix 6. (4-11-06)

079. -- 080. (RESERVED)

ANALYSIS AND REPORTING THE DATA
Rules 81 through 90

081. ANALYZING THE COLLECTED DATA (RULE 81).

01. Cow Contact Points. Examine the data recorded for the forty-eight (48) hour test in Appendix 2 and determine the highest steady state value of cow contact voltage (Vcc) or current (Icc). Determine the value of primary neutral to reference voltage (Vp) that was present for the highest cow contact value. Record these values on the data sheet of Appendix 7. These values shall be identified as "test cow contact voltage or current" (Vcc_{48hr} or Icc_{48hr}) and "primary neutral to reference voltage at time of maximum cow contact voltage or current" (Vp_{48hr}). The three (3) data sets created from the values are: (4-11-06)

a. The primary to reference ground voltage and the cow contact voltage or current measured during the load box test (Appendix 5) with the farm power "off" and the load box "off" shall be recorded on the data sheet of Appendix 7 as Vp_{OFF} and either Vcc_{OFF} or Icc_{OFF}. (4-11-06)

b. The primary to reference ground voltage and the cow contact voltage or current measured with the load box set at one-half (1/2) load shall be recorded on the data sheet of Appendix 7 as $Vp_{HALF\ LOAD}$ and either $Vcc_{HALF\ LOAD}$ or $Icc_{HALF\ LOAD}$. (4-11-06)

c. The primary to reference ground voltage and the cow contact voltage or current measured with the load box at maximum shall be recorded on the data sheet of Appendix 7 as $Vp_{FULL\ LOAD}$ and either $Vcc_{FULL\ LOAD}$ or $Icc_{FULL\ LOAD}$. (4-11-06)

02. Contributions to Stray Voltage or Current for Single Phase Dairies. The utility contribution to cow contact voltage or current shall be determined using the following formula. Compare the values determined to the preventive action level (PAL).

$$\text{Utility contribution to cow contact voltage} = \frac{Vp_{48} - Vp_{HALF}}{Vp_{FULL} - Vp_{HALF}} \times (Vcc_{FULL} - Vcc_{HALF}) + Vcc_{HALF}$$

or

$$\text{Utility contribution to cow contact current} = \frac{Vp_{48} - Vp_{HALF}}{Vp_{FULL} - Vp_{HALF}} \times (Icc_{FULL} - Icc_{HALF}) + Icc_{HALF}$$ (4-11-06)

03. Contributions to Stray Voltage or Current for Three Phase Dairies. The utility contribution to cow contact voltage or current for dairies with three (3) phase balanced load service, shall be determined by directly using the results of the load box test results for Step 1 and Step 2 as specified in Paragraph 077.02.b. (4-11-06)

a. The Vcc measured during Step 1 of the load box with the load box "off" and the dairy "on" will be the total Vcc. (4-11-06)

b. The Vcc measured during Step 2 of the load box test with the load box "off" and the dairy "off" is the contribution to Vcc from the utility, Vccutility. (4-11-06)

c. The contribution to Vcc by the dairy is the difference between Vcc and Vccutility, Vccdairy = Vcc - Vccutility. (4-11-06)

082. REPORTING (RULE 82).
Within a reasonable period of time after completion of any tests required to be performed by the utility under these rules, a qualified analyst shall prepare a written report. The report shall include a summary of the tests performed, a

copy of the sketch or drawing of the dairy prepared pursuant to Section 072, all of the data or results obtained from the tests, and an analysis of the data or results obtained from the tests. If remediation was required under these rules, the report shall specify the actions taken or to be taken. The utility shall provide a copy of the written report to the dairy producer. (4-11-06)

083. -- 090. (RESERVED)

REMEDIAL ACTIONS AND COMMISSION PROCEEDINGS
Rules 91 through 92

091. REMEDIATION (RULE 91).

01. Utility System. If the utility is required to conduct remediation, it shall commence such remediation within five (5) business days. The utility shall diligently pursue to completion remedial procedures which shall reduce, and are reasonably likely to sustain, that portion of the stray current or voltage attributable to the utility's distribution system to a level equal to or less than fifty percent (50%) of the preventive action level (PAL). This may include addressing other off-dairy sources. (4-11-06)

02. Other Dairies, Farms and Industrial Sites. If a utility's contribution to stray voltage exceeds fifty percent (50%) of the preventive action level (PAL) and the utility determines that another customer is a significant contributing source of stray voltage, the utility shall notify both the dairy and the other customer in writing.(4-11-06)

092. COMMISSION PROCEEDINGS (RULE 92).

01. Filing with the Commission. All petitions seeking relief under Section 61-805, Idaho Code, shall be filed with the Commission Secretary pursuant to Section 005. Petitions shall conform to IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Section 053. The petitioner shall file an original and five (5) copies of the petition. (4-11-06)

02. Contents of Petition. The petition shall conform to IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Section 053. The petition shall contain background information, the date the notice was filed with the serving utility, a description of the alleged incident(s) of non-compliance with the Stray Current and Voltage Remediation Act, and the remediation actions (if any) undertaken by either the utility or the dairy. A copy of the utility's entire stray voltage report shall accompany the petition. (4-11-06)

093. -- 999. (RESERVED)

APPENDIX 1
TEST 1 – COW CONTACT POINT DATA FORM

Dairy Name: Date:
Dairy Location:
Shunt Resistor: ohm (R_{shunt})

Item #	Contact Point Identifier	Contact Point Description	Voltage Measured w/o Shunt Resistor Voc	Voltage Current Measured w/Shunt Resistor Vcc	Source Resistance Calculated Rsource	Comments
1						
2						

TEST 1 – COW CONTACT POINT DATA FORM INSTRUCTIONS

1. The total information provided by the contact point identification, the contact point description, and the dairy sketch(es) shall be sufficient to allow a third party to accurately repeat the test locating the correct cow contact points for a specific contact voltage.

2. The voltages measured in this test shall be determined using the same instrument(s) for both data points. One reading shall be taken immediately following the other using the same meter.

3. The actual source resistance is calculated from the known shunt resistance and the measured voltage.

4. Record comments as appropriate or necessary.

$$R_{source} = \frac{V_{oc} - V_{shunt}}{V_{shunt}} \times R_{shunt}$$

or

$$R_{source} = \frac{V_{oc}}{I_{shunt}} - R_{shunt}$$

APPENDIX 2
TEST 2 – "48-HOUR" TEST REPORT FORM 1

Customer Name: Date:
Start Time: Stop Time:
Contact Point Identifier Number

Hour	Time of Occurrence (Hr, Min) of Highest Steady State Vcc or Icc	Voltage Across (Current Thru) Rshunt Vcc or Icc		Primary Neutral to Referenced Ground Vp	Secondary Neutral to Reference Ground Vs	Primary to Secondary Voltage Drop Vps	Duration Steady State Vcc or Icc Exceeded PAL in One Hour Period
1							
2							

TEST 2 - "48-HOUR" TEST REPORT FORM 1
INSTRUCTIONS

Record the following data with a long term digitizing data recorder or its equivalent for a minimum of 48 hours as specified in Rule 074:

a. Voltage from primary neutral to remote reference ground, Vp, at transformer.

b. Secondary neutral to remote reference ground voltage, Vs, at the electrical panel serving the area for the Vcc or Icc selected.

c. Primary neutral to secondary neutral voltage, Vps, between points of connection for Vp and Vs.

d. Steady state cow contact voltage or current at the preselected point(s) with the highest cow contact voltage or current recorded in Test 1, Vcc or Icc.

Steady State Data:

Steady state data recorded during the 48-hour test shall be presented in tabular format on Form 1 as described below, or it shall be presented graphically. Graphical presentation shall include a time scale for the entire recording period and a clear indication of the steady state readings of Vcc or Icc, Vp, Vs and Vps for the recording intervals. The scale(s) shall be such that steady state cow contact voltages or currents at or above the PAL are easily identifiable.

If using tabular format, the analyst shall enter data in the table for each hour of the 48 hours of the test in chronological order. The data recorded in the table shall include: the specific time that the highest steady state value of Vcc or Icc was recorded in that hour; all four corresponding data points recorded at that time (Vp, Vs, Vps and Vcc or Icc), and the total time during the hour that the steady state Vcc or Icc exceeded the PAL.

TEST 2 – REPORT FORM 2
SUPPLEMENTAL DATA FOR FARM OWNER
TRANSIENT DEVIATIONS FOUND DURING "48-HOUR" TEST

Customer Name: Date:

Start Time: Stop Time:

Contact Point Identifier Number:

Hour	Time of Highest Peak Vcc (Icc)	Highest Voltage Recorded	Total Number Transient Deviations	No. Transient Deviations Exceeding 1.0 Volts with Peak Magnitude Greater than 1.0 Volts (2.0 milliamps)
1				
2				

Transient deviations occur due to electrical events such as motor starts. The PAL level is 1.0 volt for steady state voltages but PAL does not apply to transient voltage deviations.

TEST 2 - "48-HOUR" TEST REPORT FORM 2
INSTRUCTIONS

Recording Transient Data:

For the purpose of identifying and reporting transient deviations, a transient deviation occurs when the recorded maximum Vcc or Icc in a recording interval exceeds two hundred percent (200%) of the steady state Vcc or Icc recording during the same recording interval.

Transient data recorded during the 48-hour test shall be presented in tabular format on the "48-hour Test – Transient Deviation Data" form as described below, or it shall be presented graphically. Graphical presentation shall include a time scale for the entire recording period and a clear indication of the maximum Vcc or Icc recorded for the recording intervals. The scale(s) shall be such that Vcc transient deviations at or above two (2.0) volts, or Icc transient deviations at or above four (4) milliamps, are easily identifiable.

If using a tabular format, the analyst shall enter data in the table for each hour of the 48 hours of the test in chronological order. The data recorded in the table shall include; the specific time during the hour that the transient deviation in Vcc or Icc with the largest peak magnitude occurred, the corresponding peak Vcc or Icc, the total number of transient deviations recorded in that hour, and the total number of transient deviations recorded in that hour with a peak magnitude of two (2) or more volts for Vcc or four (4) or more milliamps for Icc.

APPENDIX 3

TEST 3 – PRIMARY PROFILE DATA FORM

Dairy Name:

Dairy Location: Date:

Item	Pole Location & Identification	Time	Current Primary Ground Ipg	Resistance Primary Ground Rpg	Calculated Voltage (primary neutral-to-earth) Vpne	Measured Voltage (primary neutral-to-earth) Vpne	
#			(mA)	(Ohm)	(V)	(V)	Notes
1							
2							

Note: If Vpne is measured it is not required to measure Ipg and Rpg for determination of the calculated Vpne. In cases where Vpne is calculated the following formula is used:

$$\text{Calculated Vpne} = (\text{Ipg x Rpg}) / 1000$$

APPENDIX 4

TEST 4 – SECONDARY NEUTRAL VOLTAGE DROP TEST

Test Performed by: Date:

Customer Name:

(All other farm loads must be off. Use only one load per circuit.)

–

	SITE:	1	2	3	4	5	
A	Site Location						Units
B	Circuit Neutral Wire Gauge						AWG
C	Circuit Neutral AL or CU						
D	Wire length (in 100's ft.)						100 ft.
E	Ω /100 ft.						Ω
F	Total Resistance (D times E)						Ω

G	Measured Neutral Current, Isn						A
H	Calculated Voltage Drop, VDropC (F times G)						V
I	Measured Voltage Drop, VDropM						V
J	Percent difference [(H-I)/H]*100						%
	Vp load "off"						V
	Vs load "off"						V
	Vcc load "off"						V
	Icc load "off," if measured						
	Vp load "on"						V
	Vs load "on"						V
	Vcc load "on"						V
	Icc load "on," if measured						

TEST 4 – SECONDARY NEUTRAL VOLTAGE DROP TEST INSTRUCTIONS

ITEM EXPLANATION

A-J Describe load site location, neutral wire gauge, neutral wire length (in 100s of feet), resistance per 100 feet (see table below), measured neutral current, measured voltage drop, Vp, Vs and Vcc or Icc for load "off" and load "on."

Voltage drop is measured from end-to-end of the secondary neutral being tested and the neutral bus of the building being tested. Electrical power to all buildings shall be turned-off during this test except at the building being tested. Locations of Vp, Vs and Vcc or Icc are the same as measured during the previous tests.

Calculate the total circuit resistance. Calculate using Ohm's Law, the expected neutral voltage drop. Calculate the absolute value of the difference and divide by the expected voltage drop. Express this as a percentage. If the two values (measured voltage drop and calculated voltage drop) do not agree, further investigation is warranted to discover the reason for the discrepancy.

Resistance Chart (ohm per 100 feet)

Multi-conductor Cables at 68 Degrees F.

MATERIAL

GAUGE	AL	CU
14	0.423	0.257
12	0.265	0.162
10	0.166	0.102
8	0.104	0.064
6	0.066	0.040
4	0.042	0.025
2	0.026	0.016
1	0.021	0.013
1/0	0.016	0.010
2/0	0.013	0.008
3/0	0.010	0.007
4/0	0.008	0.005

APPENDIX 5
TEST 5 – LOAD BOX TEST

Date:_____

Time:_____

Dairy:_____

	STEP 1	STEP 2	STEP 3	STEP 4	STEP 5
	FARM ON	FARM OFF	FARM OFF	FARM OFF	FARM ON
Condition	Load Box Off	Load Box Off	Load Box Half On	Load Box Full On	Load Box Full On
Time:					
Vp	V	V	V	V	V
Vs	V	V	V	V	V
Vps	V	V	V	V	V
Vcc	V	V	V	V	V
Icc	A	A	A	A	A

Load Box Current (Ilb): Half Load A Full Load A
Load Box Voltage (Vlb): Half Load V Full Load V

Primary Nominal Voltage Phase to Neutral (Vpri): V

Transformer Current Due to Load Box (I_{XFMR}): Half Load A Full Load A

$$Ip = \frac{Ilb \times Vlb}{Vpri}$$

K-Factor for Cow Contact Point $K = \frac{Vcc}{Vs}$

TEST 5 - LOAD BOX TEST INSTRUCTIONS

Note 1: Testing may be accomplished by a single 18/25 kW load box or a dual element 9/18 or 12.5/25 kW load box. The difference between full load and half load measurements is used in most calculations.

Note 2: If the dairy is found in an isolated condition, two load box tests must be performed: an isolated test and a non-isolated test.

Note 3: If the dairy is served by a three-phase system, measure and record only the dairy-off, load box off column and the dairy-on, load box off column or test only one phase of the three.

ITEM # EXPLANATION

1 Enter date and customer name.

2 Attach load box to the 240-volt secondary side of transformer. Turn on load box and measure current and voltage and record on data sheet, Appendix 5.

3 Conduct load box test and for each step measure and record Vp, Vs, Vps and Vcc or Icc. Each step shall be maintained for approximately two minutes with the highest reading during that time interval recorded.

Step 1 Farm power is “on” with load box “off”

Step 2 Farm power is “off” with load box “off”

Step 3 Farm power is “off” with load box “on” at half load

Step 4 Farm power is “off” with load box “on” at full load

Step 5 Farm power is “on” with load box “on” full load

4 Remove load box and restore normal power to the farm.

APPENDIX 6

TEST 6 – EQUIPMENT SIGNATURE TEST FORM

Dairy Name:

Date:

Location:

Descr. of Load		Location of Load	Load V	Load kW or HP	Load Phase 1 or 3	Load On						Load Off					
						Time	Vp	Vs	Vps	Vcc	Icc	Time	Vp	Vs	Vps	Vcc	Icc
1																	
2																	

TEST 6 - EQUIPMENT SIGNATURE TEST FORM INSTRUCTIONS

ITEM INSTRUCTIONS

1 Enter the date the test is performed.

2 Enter the name of the dairy.

3 Enter the description of the load for which the signature will be recorded.

4 Provide a complete description of the load. Provide voltage, horsepower or kilowatt rating, if known.

5 Note the time of turn-on and the time of turn-off. Equipment should be "on" for a period of not less than 15 seconds. If equipment is found in the "on" condition, turn it "off" then turn it back "on." If equipment cannot be manually cycled then record data at the next "on" – "off" cycle.

6 Repeat for all major circuits and pieces of equipment (both 120 volt and 240 volt). Some equipment may normally be operated in sequence. Start each piece of equipment at 15-second intervals until all are running, then turn off in reverse order at 15-second intervals.

7 If data is to be provided graphically, only load description and time are required to be provided on Test 6 data sheet. Operation of each piece of equipment shall be indicated on the graphical data sheet(s).

APPENDIX 7

PREVENTIVE ACTION LEVEL RESULTS

Enter the highest value of cow contact voltage or current that occurred during the 48-hour test from Appendix 2, and corresponding primary to reference ground voltage.

Vp 48hr : _____V Vcc 48hr : _____V or Icc 48hr : _____A

Enter the value of cow contact voltage or current and corresponding primary to reference ground voltage that was present during the load box test with the farm power off and the load box off.

Vp OFF : _____V Vcc OFF : _____V or Icc OFF :_____A

Enter the value of cow contact voltage or current and corresponding primary to reference ground voltage that was present during the load box test with the farm power off and the load box set at half load.

$Vp_{HALF\ LOAD}$: _____V $Vcc_{HALF\ LOAD}$: _____V or $Icc_{HALF\ LOAD}$: _____A

Enter the value of cow contact voltage or current and corresponding primary to reference ground voltage that was present during the load box test with the farm power off and the load box at maximum.

$Vp_{FULL\ LOAD}$: _____V $Vcc_{FULL\ LOAD}$: _____V or $Icc_{FULL\ LOAD}$: _____A

Calculations:

Utility Contribution to

$$\text{Cow Contact Voltage} = \frac{Vp_{48hr} - Vp_{HALF}}{Vp_{FULL} - Vp_{HALF}} \times (Vcc_{FULL} - Vcc_{HALF}) + Vcc_{HALF}$$

Utility contribution to cow contact voltage =_____V

Utility contribution to cow contact voltage as a percentage of Vcc_{48hr} =_____%

Utility contribution to cow contact voltage as a percentage of PAL =_____%

Utility Contribution to

$$\text{Cow Contact Current} = \frac{Vp_{48hr} - Vp_{HALF}}{Vp_{FULL} - Vp_{HALF}} \times (Icc_{FULL} - Icc_{HALF}) + Icc_{HALF}$$

Utility contribution to cow contact current =_____mA (milliamps)

Utility contribution to cow contact current as a percentage of Icc_{48hr} =_____%

Utility contribution to cow contact current as a percentage of the PAL =_____%

See Section 071.02 for required actions based on these results.

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted under the general authority of the Idaho Public Utilities Law, Chapters 1-7, Title 61, Idaho Code, Chapter 3, Title 62, Idaho Code, and Chapter 12, Title 62, Idaho Code, and specific authority of Sections 61-110, 61-111, 61-129, 61-302, 61-501, 61-507, 61-510, 61-512, 61-512, 61-515, 61-517, 62-301 through 62-308, and 62-1201 through 62-1207, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The title of these rules is "Railroad *Safety* Rules." The scope of these rules is that they determine railroad clearance standards for all railroad track located in Idaho*, and set safety, and accident reporting standards for railroads operating in Idaho*. *( )*

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
There are no administrative appeals under these rules. All requests for exemptions or waivers should be submitted directly to the Commission in accordance with the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (7-1-93)

004. (RESERVED)

005. DEFINITION (RULE 5).

01. Height of a Freight Car. "Height of a freight car" is the distance between the top of rail and the highest point of the car. (7-1-93)

02. Icing Platform. "Icing platform" includes structures used in performing the service of icing, cooling, heating, ventilating and servicing of cars used in the handling of commodities requiring these services. (7-1-93)

03. Overhead Clearance. "Overhead clearance" is that distance measured along a line which is perpendicular to and joins a horizontal plane passing through the top of the highest rail and the lowest point of the structure of obstruction overhead. (7-1-93)

04. Side Clearance. "Side clearance" is the shortest distance from centerline of track to a structure or obstruction at the side of the track. (7-1-93)

05. Track Clearance. "Track clearance" is the shortest horizontal distance between the centerlines of adjacent tracks. (7-1-93)

06. Width of a Freight Car. "Width of a freight car" is twice the distance from the center line of the car to its extreme outside part. (7-1-93)

006. (RESERVED)

007. INCORPORATION BY REFERENCE (RULE 007).
The Commission adopts, and incorporates by reference into these rules, the following national codes and standards: *( )*

***01. Code of Federal Regulations**. Rules 700 and 701 reference the Code of Federal Regulations (CFR), and specifically 49 CFR Parts 107, 171, 172, 173, 174, 178, 179, 180, and 225 (October 1, 2014). The annual volumes of the CFR may be obtained on the web from the U.S. Government Bookstore, http://bookstore.gpo.gov/ and click on "Code of Federal Regulations," or by calling toll-free 866-512-1800. The full text of the CFR is also available in electronic format at http://www.gpoaccess.gov/cfr/index.html. The incorporated CFR Parts are also available for inspection and copying at the office of the Idaho Public Utilities Commission and the Idaho State Law Library. Whenever a federal regulation is adopted by reference in these rules, subsequent annual recompilations are also adopted by reference, but subsequent amendments to the CFR are not adopted by reference. ( )*

***02. National Electric Safety Code**. Rules 52 and 312 reference the American National Standards*

Institute (ANSI) C2-2017 National Electrical Safety Code (NESC), 2017 Edition. The NESC is published by the Institute of Electrical and Electronics Engineers, Inc., and is available from the Institute of Electrical and Electronics Engineers, Inc., 3 Park Avenue, New York, NY 10016-5997 and may be ordered by calling 1-800-678-IEEE. ( )

008. WAIVERS (RULE 8).
The Commission may waive the requirements of these rules. *To request a waiver, a* carriers or other interested persons *will file an application that fully explains* why the *waiver* is requested. *A waiver is* limited to the particular case covered by the application. *( )*

009. EMERGENCIES (RULE 9).
A restricted clearance *under* these rules *does not* apply *to*: *( )*

a. *F*alsework, shoo-fly tracks, or other temporary emergency conditions caused by derailments, wash-outs, slides, or other unavoidable accidents or disasters*;* *( )*

b. *B*allast, track material or construction material unloaded on and *next* to tracks for use there or in the immediate vicinity*; or* *( )*

c. *F*alsework or temporary construction necessary on any construction project. *( )*

010. MODIFICATIONS (RULE 10).
The Commission *may permit deviation from* these rules *when it finds complying with them is impractical, unnecessary, or not in the public interest.* *( )*

011. -- 050. (RESERVED)

APPLICABILITY OF CLEARANCES
Rules 51 Through 100

051. OVERHEAD CLEARANCE -- APPLICABILITY (RULE 51).
Overhead clearances authorized in these rules are applicable to tracks on which freight cars having a height from the top of the rail to the highest point of the car of fifteen feet six inches (15'6") or less are transported. In the case of cars or loads exceeding fifteen feet six inches (15'6"), the overhead clearance provisions and excess height provisions of Rules 501 through 502 and 601 through 607 must be complied with unless the railroad prohibits its personnel from occupying the top of freight cars in train service. (7-1-93)

052. EXCEPTION TO OVERHEAD CLEARANCE RULES (RULE 52).
Overhead impairments will be granted without application or a hearing upon consent of the operating railroad, provided that the NESC is not violated. Overhead impairments created by the railroad, not violating the NESC will not require a variance from this Commission. Notice of the impairment and condition must be given to the Commission by letter. *( )*

053. SIDE CLEARANCES (RULE 53).
Side clearances authorized in these rules are applicable to tracks on which freight cars having an overall width not greater than ten feet ten inches (10'10") are transported. In the case of cars or loads exceeding ten feet ten inches (10'10"), Rules 501 through 502 and 601 through 607 must be complied with. (7-1-93)

054. -- 100. (RESERVED)

SPECIAL PROVISIONS
Rules 101 Through 200

101. FACILITIES EXISTING BEFORE APRIL 1, 1955 (RULE 101).
*S*tructures, operating appurtenances, pole lines, service facilities and track arrangements existing before April 1, 1955, *are* exempt from these rules except as provided by these rules. *( )*

102. CHANGES IN EXISTING TRACKS (RULE 102).
No change in track location or elevation *may* reduce existing vertical or horizontal structural clearance below the minimums specified in these rules. *( )*

103. REPAIRS TO EXISTING STRUCTURES (RULE 103).
No repair or maintenance work *may* be done on structures, *operating appurtenances, pole lines, service* facilities*, or track arrangements if the repair or maintenance work would reduce* existing vertical or horizontal structural clearance below the minimum specified in these rules. *( )*

104. EXISTING STRUCTURES NOT COMPLYING WITH THESE RULES (RULE 104).
Where a structure existing before April 1, 1955, does not provide clearance equal to the minimum that is required by these rules, the portion of the structure producing the impaired clearance may be repaired and maintained by partial replacements. In no case shall the clearance available after April 1, 1955, be reduced. (7-1-93)

105. REPLACEMENT OF STRUCTURES NOT COMPLYING WITH THESE RULES (RULE 105).
When the owner replace*s the part* of a structure *that violates* the clearance standards of these rules, the *replaced* portion must *satisfy the clearance* standard*s* unless otherwise ordered by the Commission. *( )*

106. EXISTING TRACKS (RULE 106).
Existing tracks of all kinds may be maintained by reballasting, resurfacing and replacing rails and ties. Where existing yards are completely replaced or are partially replaced as a unit or section of a master plan, the arrangement must meet the provisions of these rules both as to track centers and clearance to structures and other facilities being built in connection with and as a part of such plan. Existing structures which are to remain and which do not provide the minimum clearance with respect to the proposed new tracks must be approved by the Commission for exemption from the terms of these rules. (7-1-93)

107. EXISTING TRACKS NOT MEETING CLEARANCE STANDARDS (RULE 107).
Tracks laid before April 1, 1955, having less vertical clearance than required by the rules may be maintained, but the top of rail may not be raised without raising the overhead structure an equal distance to maintain the existing available clearance. Tracks laid before April 1, 1955, having less horizontal clearance between them than required by these rules for new construction, or having less horizontal clearance to structures than required by these rules, may be maintained, but they may not be shifted horizontally to reduce either the existing track centers or the existing structural clearance. (7-1-93)

108. ENGINE HOUSE AND SHOP FACILITIES (RULE 108).
The clearances in these rules *do* not apply to railroad's engine houses, engine house facilities *or* shop buildings. *( )*

109. -- 200. (RESERVED)

OVERHEAD CLEARANCES
Rules 201 Through 300

201. OVERHEAD CLEARANCE IN GENERAL (RULE 201).
The allowable clearances are: (7-1-93)

01. Begun, Installed or Constructed After April 1, 1955. For structures, operating appurtenances, pole lines, service facilities and track arrangements begun, installed or constructed after April 1, 1955, and before September 1, 1980 twenty-two feet six inches (22'6"). (7-1-93)

02. Begun, Installed or Constructed After September 1, 1980. For structures, operating appurtenances, pole lines, service facilities and track arrangements begun, installed or constructed after September 1, 1980, the vertical clearance required by the owner of the railroad tracks or twenty-two feet six inches (22'6"), whichever is greater. (4-5-00)

03. Structures on Main Lines. For structures on main lines identified by railroad for possible electrification: (7-1-93)

a. At twenty-five (25) kilovolts twenty-four feet three inches (24'3"); or (7-1-93)

b. At fifty (50) kilovolts twenty-six (26') feet. (7-1-93)

202. OVERHEAD CLEARANCE IN BUILDINGS (RULE 202).
Overhead clearances *in buildings* must be at least eighteen (18') feet. The overhead clearance inside an entirely enclosed building may be reduced to eighteen (18') feet *with respect* to tracks *ending* within the building or in the immediate plant area if the track extends through *an enclosed* building. *W*hen an overhead clearance in the building is less than twenty-two feet six inches (22'6"), all cars, locomotives or other equipment *will* stop before entering the building. *( )*

203. OVERHEAD CLEARANCE IN TUNNELS AND BRIDGES (RULE 203).
Minimum overhead clearance in tunnels and through bridges may be decreased to the extent defined by the half-circumference of a circle having a radius of eight (8') feet and tangent to a horizontal line twenty-two feet six inches (22'6") above top of rail at a point directly above the centerline of track. (7-1-93)

204. DECREASES IN OVERHEAD CLEARANCES PRESCRIBED IN RULE 201 (RULE 204).
Minimum overhead clearance as prescribed in Rule 201 may be decreased to the extent defined by the half-circumference of a circle having a radius of eight feet six inches (8'6") and tangent to a horizontal line at the height prescribed by Rule 201 above the top of rail at a point directly over the centerline of track. (7-1-93)

205. -- 300. (RESERVED)

SIDE CLEARANCES
Rules 301 Through 400

301. SIDE CLEARANCE IN GENERAL (RULE 301).
The general rule is that side clearances must be at least eight feet six inches (8'6"). To further reduce operational hazards, it is recommended that, wherever practicable, all posts, pipes, warning signals and other small obstructions be given a side clearance of ten (10') feet. (7-1-93)

302. SIDE CLEARANCE AT PLATFORMS (RULE 302).

01. Eight Inches. Eight (8") inches or less above top of rail -- four feet eight inches (4'8"). (7-1-93)

02. Four Feet. Four (4') feet or less above top of rail -- seven feet three inches (7'3"). (7-1-93)

03. Four Feet Six Inches. Four feet six inches (4'6") or less above top of rail when used principally for loading or unloading refrigerator cars if constructed after April 1, 1955, but before September 1, 1980 -- eight (8) feet, if constructed after September 1, 1980 -- eight feet six inches (8'6"). (7-1-93)

04. Platforms. Platforms complying with Subsection 302.01 of this rule may be combined with those complying with Subsections 302.02 and 302.03, provided that the lower platform presents a level surface from a point not more than four feet eight inches (4'8") from centerline of track to the face of the wall of the platform with which it is combined. No other combinations will be permitted. (7-1-93)

303. ICING PLATFORMS AND SUPPORTS (RULE 303).
The *minimum side clearance for* icing platforms and supports *is* six feet eight inches (6'8"). The *platform's* six feet eight inch (6'8") *side clearance is measured from* eave height of car. The *platform's* supports *must* provide clearance of eight (8') feet if constructed after April 1, 1955, but before September 1, 1980, and eight feet six inches (8'6") if constructed after September 1, 1980. *( )*

304. PLATFORMS OTHER THAN ABOVE (RULE 304).
The general rule is that platforms not listed in earlier rules must have side clearance of at least eight feet six inches (8'6"). Retractable platforms, either sliding or hinged, which are attached to a permanent structure must be so constructed that, when retracted or in nonworking position and firmly secured or anchored, the resulting clearance

shall not be less than the clearances provided in these rules. (7-1-93)

305. EXTENSION OF EXISTING PLATFORMS (RULE 305).
Platforms which were constructed at prevailing clearances or clearances then authorized by this Commission's rules may be extended at existing clearances. (7-1-93)

306. SIDE CLEARANCE -- BRIDGES AND TUNNELS (RULE 306).
The general rule is that side clearances for bridges and tunnels must be at least eight (8') feet. (7-1-93)

307. BRIDGES AND TUNNELS -- UPPER SECTION (RULE 307).
Side clearance in through bridges and tunnels may be decreased to the extent defined by the half circumference of a circle having a radius of eight (8') feet and tangent to a horizontal line twenty-two feet six inches (22'6") above top of rail directly above centerline of track. See Rule 203. (7-1-93)

308. BRIDGES -- LOWER SECTION AND STRUCTURES FOUR FEET HIGH OR LESS -- GUARDS AND CATTLE CHUTES -- HAND RAILS ON BRIDGES AND TRESTLES -- OIL COLUMNS -- WATER BARRELS -- WATER COLUMNS (RULE 308).
Through bridges supporting track affected, hand rails, water barrels and refuge platforms on bridges and trestles, water columns, oil columns, block signals, cattle guards and cattle chutes, or portions thereof, four (4') feet or less above top of rail, may have clearances decreased to the extent defined by a line extending diagonally upward from a point level with the top of rail and five (5') feet distance laterally from centerline of track to a point four (4) feet above top of rail and eight (8') feet distant laterally from centerline of track: Provided that the minimum clearance for hand rails and water barrels shall be seven feet six inches (7'6") and the minimum clearance for fences of cattle guards shall be five feet nine inches (5'9"). Unless previously approved, the clearances authorized in this rule, except as provided for hand rails and water barrels, are not permitted on through bridges where the work of trainmen or yardmen requires them to be upon the decks of such bridges for the purpose of coupling or uncoupling cars in the performance if switching service on a switching lead. (7-1-93)

309. SIDE CLEARANCE INTERLOCKING MECHANISM SWITCH BOXES, ETC. (RULE 309).
The minimum side clearance for interlocking mechanism switch boxes, etc., is three (3') feet. Switch boxes, switch operating mechanism necessary for the control and operation of signals and interlocks projecting four (4") inches or less above top of rail. (7-1-93)

310. SIDE CLEARANCE -- MAIL CRANES AND TRAIN ORDER STANDS WHEN NOT IN OPERATIVE POSITION (RULE 310).
The minimum side clearance for mail cranes and train order stands when not in operative condition is eight feet six inches (8'6"). (7-1-93)

311. SIDE CLEARANCE -- POLES SUPPORTING TROLLEY CONTACT (RULE 311).
The minimum side clearance for poles with conductors supplying motive power to track affected--of bracket construction is eight feet three inches (8'3"). (7-1-93)

312. SIDE CLEARANCE -- POLES OTHER THAN TROLLEY POLES (RULE 312).
The minimum side clearance for poles *besides* trolley poles is eight feet six inches (8'6"). The NESC governs the side clearance for poles *besides* trolley poles *that are described in* the NESC. *( )*

313. SIDE CLEARANCE SIGNALS AND SWITCH STANDS THREE FEET HIGH OR LESS ABOVE THE TOP OF THE RAIL (RULE 313).
The minimum height of signals and switch stands when located between tracks where not practicable to provide clearances otherwise prescribed in these rules is at least six (6') feet. (7-1-93)

314. SIDE CLEARANCE -- SIGNALS AND SWITCH STANDS OTHER THAN ABOVE (RULE 314).
The minimum side clearance for signals and switch stands other than above is at least eight (8') feet. (7-1-93)

315. SIDE CLEARANCE ON CURVED TRACK (RULE 315).
Side clearances on all structures adjacent to curved track shall be increased as necessary to give the equivalent of tangent track clearances. As a general rule, the side clearance on curved track should be increased one and one-half

inches (1 1/2") for each degree of curvature. (7-1-93)

316. SIDE CLEARANCES -- MATERIAL OR MERCHANDISE ADJACENT TO TRACKS (RULE 316).
No merchandise, material or other articles shall be placed or stored on the ground or platforms adjacent to any track at a distance less than eight feet six inches (8'6") from the centerline of track, except in cases of maintenance or emergency when such material is to be used within a reasonable period of time or where local conditions make compliance with this rule impossible. (7-1-93)

317. -- 400. (RESERVED)

TRACK CLEARANCES
Rules 401 Through 500

401. TRACK CLEARANCES -- IN GENERAL (RULE 401).
The minimum distance between the center line of parallel standard gauge railroad tracks, which are used or proposed to be used for transporting cars, engines, motors or like equipment, shall be fourteen (14') feet, except as otherwise prescribed in these rules. (7-1-93)

402. TRACK CLEARANCES -- MAIN AND SUBSIDIARY TRACKS (RULE 402).
The centerline of any standard gauge track, except a main track or a passing track, parallel and adjacent to a main track or a passing track shall be at least fifteen (15') feet from the centerline of such main track or passing track; provided, however, that where a passing track is adjacent to and at least fifteen (15') feet distant from the main track, any other track may be constructed adjacent to such passing track width clearance prescribed in Rule 401. (7-1-93)

403. TRACK CLEARANCES -- PARALLEL TEAM, HOUSE OR INDUSTRY TRACKS (RULE 403).
Minimum clearances between centerlines of parallel team, house or industry tracks shall be thirteen (13') feet. (7-1-93)

404. TRACK CLEARANCES -- PARALLEL LADDER OR LADDER AND OTHER TRACK (RULE 404).
The centerline of any standard gauge ladder track, constructed parallel to any other track, shall have a clearance of not less than twenty (20') feet from the centerline of such other track. (7-1-93)

405. TRACK CLEARANCES -- EXISTING TRACKS (RULE 405).
Existing tracks laid at prevailing clearances then authorized by this Commission's rules may be extended at these clearances. (7-1-93)

406. -- 500. (RESERVED)

MARKING OF CARS
Rules 501 Through 600

501. CARS EXCEEDING FIFTEEN FEET SIX INCHES IN HEIGHT (RULE 501).
Each car of a height exceeding fifteen feet six inches (15'6") from top of rail to the highest point of the car, the movement of which is authorized by these rules, shall be marked, stenciled or placarded, and such markings maintained in a legible condition to read:

This Car
EXCESS
HEIGHT

The words "EXCESS HEIGHT" must occupy the greater portion of a rectangular space seven by ten inches (7" x 10") enclosed within a three-quarter inch (3/4") solid border. The markings required shall be made permanent on owned cars before their use. Lettering and border of signs shall be of colors contrasting to that of the car body. All such required marking and placarding shall be placed on the side adjacent to the ladder or handholds near the floor line of the car at each of the four (4) corners. (7-1-93)

502. CARS EXCEEDING TEN FEET TEN INCHES IN WIDTH (RULE 502).
Each car of a width exceeding ten feet ten inches (10'10"), the movement of which is authorized by these rules, shall be marked, stenciled or placarded, and such markings maintained in a legible condition to read:

This Car
EXCESS
WIDTH

The words "EXCESS WIDTH" must occupy the greater portion of a rectangular space seven by ten inches (7" x 10") enclosed within a three-quarter inch (3/4") solid border. The markings required shall be made permanent on owned cars before their use. Lettering and border of signs shall be of colors contrasting to that of the car body. All such required marking and placarding shall be placed on the side or end adjacent to the ladder or handholds near the floor line of the car at each of the four (4) corners. (7-1-93)

503. -- 600. (RESERVED)

OPERATIONS OF EXCESS DIMENSION LOADS
RULES 601 THROUGH 700

601. CARS CONTAINING LADING IN EXCESS OF FIFTEEN FEET SIX INCHES HIGH AND/OR FIVE FEET FIVE INCHES FROM CENTERLINE OF CAR (RULE 601).
Each open-top car containing lading of height exceeding fifteen feet six inches (15'6") above top of rail, or which extends laterally more than five feet five inches (5'5") from the centerline of the car, the movement of which is authorized by these rules, shall be marked, stenciled or placarded, and such marking maintained in a legible condition to read:

This car **EXCESS** **EXCESS** **HEIGHT**	**and/or**	**This car** **EXCESS** **EXCESS** **WIDTH**

The words "EXCESS HEIGHT" and/or "EXCESS WIDTH" must occupy the greater portion of a space seven by ten inches (7" x 10") enclosed within a three-quarter inch (3/4") solid border. Letters and border shall be of colors contrasting to the car body. These required markings and placarding shall be placed on the side or end adjacent to the ladder or handholds near the floor line of the car at each of the four (4) corners where practicable, and in addition one of these signs shall be placed on each side of the load in a conspicuous position before the car is used. (7-1-93)

602. CARS CONTAINING LADING WHICH EXTENDS LATERALLY IN EXCESS OF FIVE FEET FIVE INCHES (RULE 602).
The movement of open-top cars containing lading which extends laterally in excess of five feet five inches (5'5") is authorized if the lading is of such a nature that it cannot practically be reduced in dimensions. (7-1-93)

603. MOVEMENT AND NOTICE OF EXCESS HEIGHT AND/OR EXCESS WIDTH CARS AND LOADS (RULE 603).
The movement of all open-top cars having lading in excess of fifteen feet six (15'6") inches in height, or which extends laterally in excess of five feet five inches (5'5") from centerline of car, will be authorized by written notice to the train crew stating the total number of such cars, and specifying that no member of the train crew will ride on top of such high car or the side of any such wide car. (7-1-93)

604. WRITTEN NOTICE OF EXCESS HEIGHT OR EXCESS WIDTH RULE 604).
A written notice shall be delivered to every train containing any car, the lading of which extends laterally in excess of five feet five inches (5'5") from the centerline of the car or which is in excess of fifteen feet six inches (15'6") in height above top of rails, informing the crew of the train that the train includes such car or cars, stating the total number of these cars and advising that no member of the train crew will ride on the side of any such wide car or the top of any such high car. (7-1-93)

605. NOTICE TO YARD SUPERVISORS (RULE 605).
Yard supervisors shall be notified sufficiently in advance of the arrival of such wide loads as described in Rule 603 as to enable them to take necessary precautions to safeguard employees in yard. (7-1-93)

606. LOADS WHICH CANNOT BE PASSED OVER BY EMPLOYEES (RULE 606).
Open-top cars containing lading having an overall height in excess of fifteen feet six inches (15'6") above top of rail or a width which extends laterally in excess of five feet five inches (5'5"), if otherwise in compliance with these requirements, and the nature of which precludes the possibility of employees passing over the cars, are exempt from the provisions of Rules 603, 604 and 605, but written notice must be given to all members of the train crew informing them of the presence of such loads. (7-1-93)

607. EXEMPTIONS (RULE 607).
The common carrier railroads are authorized to move excess height loads and excess width loads, as described in Rule 601, over roads or portions thereof, without complying with the provisions of Rule 601, provided that clearances equivalent to the minimum prescribed by these rules for cars having a height of fifteen feet six inches (15'6") and width of ten feet ten inches (10'10") are maintained. (7-1-93)

700. TRANSPORTATION OF HAZARDOUS MATERIAL BY RAIL (RULE 700).

***01. Hazardous Material Defined**. "Hazardous material" means a substance or material which has been determined by the United States Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated by the Secretary of Transportation. The term includes hazardous substances, hazardous wastes, marine pollutants, elevated temperature materials as defined in 49 C.F.R. Section 171.8, materials designated as hazardous under the provisions of 49 C.F.R. Section 172.101, and materials that meet the defining criteria for hazardous classes and divisions in 49 C.F.R. Part 173. ( )*

***02. Adoption of Federal Safety Regulations**. The Commission hereby adopts by reference 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179, and 180 (October 1, 2014). All customers offering hazardous materials for shipment by rail and all railroads operating in Idaho that transport hazardous materials listed in, defined by, or regulated by the adopted federal safety regulations must comply with 49 C.F.R. Parts 107, 171, 172, 173, 174, 178, 179 and 180. ( )*

***03. Recognition of Federal Exemptions**. Whenever a railroad or shipper has applied to a federal agency and has been granted an exemption from the transportation or packaging requirements of the federal safety regulations adopted in Subsection 103.02, the federal exemption will also be recognized under these rules. The Commission shall not administer a program to duplicate consideration or approval of federal exemptions on a state level. ( )*

701. REPORTING OF RAILROAD ACCIDENTS (RULE 701).
The Commission incorporates by reference 49 C.F.R. Part 225 (October 1, 2014). Pursuant to 49 C.F.R. 225.1, all railroads that are required to file a copy of any accident/incident report with the Federal Railroad Administration shall also file a copy of such report with the Commission Secretary for accidents or incidents occurring in Idaho. Copies of accident or incident reports will be mailed to: the Commission Secretary. ( )

702. -- 999. (RESERVED)

GENERAL PROVISIONS
Rules 0 Through 10

000. LEGAL AUTHORITY (RULE 0).
These rules are promulgated pursuant to the authority of the Electric and Natural or Manufactured Gas Consumption from Ground Water Pumping Act (hereinafter the Energy Consumption Act), Chapter 13, Title 62, Idaho Code, and the Public Records Act, Section 74-107(13), Title 74, Idaho Code. (4-26-95)

001. TITLE AND SCOPE (RULE 1).
The title of these rules is the "Energy Consumption Reporting Rules." These rules apply to all suppliers of electricity, or natural or manufactured gas, including public utilities, municipal, mutual nonprofit, and cooperative corporations. These rules should be construed in connection with the Energy Consumption Act, the Public Utilities Law, the Public Records Law, and other applicable state laws. Procedures in these Energy Consumption Reporting Rules will be liberally interpreted to secure a just, speedy and economical determination of issues presented to the Commission. Unless prohibited by statute or rule of substantive law, the Commission may permit deviation from procedural rules in these rules when it finds compliance with them is impracticable, unnecessary or not in the public interest. (4-26-95)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations to these rules can be obtained from the Secretary of the Idaho Public Utilities Commission and are available from the office of the Commission Secretary. *( )*

003. ADMINISTRATIVE APPEALS (RULE 3).
All administrative procedures under these rules are conducted under the Commission's Rules of Procedure, IDAPA 31.01.01.000 et seq. (4-26-95)

004. (RESERVED)

01. Report Summaries. The Department may make summaries of such reports available upon written request provided that the identity of individual customers or accounts is protected from public disclosure and cannot be ascertained from the summaries. (4-26-95)

02. Consumption Reports. The Department may release consumption reports to state and federal entities for research purposes provided the identity of individual customers or accounts is protected from public disclosure and cannot be ascertained from the reports. (4-26-95)

005. DEFINITIONS (RULE 5).
Whenever any term used in these rules is defined or referred to in the Energy Consumption Act, that term takes its statutory definition in these rules. The following terms used in these rules are defined: (4-26-95)

01. Commission. The Idaho Public Utilities Commission. (4-26-95)

02. Consumption Reports. The reports created by the energy suppliers as authorized by these rules and submitted to the Department. (4-26-95)

03. Department. The Idaho Department of Water Resources. (4-26-95)

04. Energy Suppliers. All suppliers of electric power and natural or manufactured gas including all public utilities, municipal, mutual nonprofit, and cooperative corporations providing energy to an irrigation customer. (4-26-95)

05. Geographic Areas. Hydrological basins with boundaries determined by the Department. The geographic areas are depicted in the Appendix to these rules. (4-26-95)

06. Irrigation Customer. A customer pumping ground water that is: (4-26-95)

a. Receiving service from an energy supplier under an irrigation service tariff or rate schedule; or (4-26-95)

b. Irrigating three (3) or more acres if such information is known to the energy supplier. (4-26-95)

07. Irrigation Season. As used in these rules means the calendar period from March 1 through October 31 or the energy supplier's billing cycles that include the calendar period. (4-26-95)

08. Service Location. The geographic position of the irrigation customer's pumping location(s) by address, pole number, legal description, longitude-latitude designations, or other description of where the service is delivered, to the extent such information is readily available to the energy supplier. (4-26-95)

006. (RESERVED)

007. FORMS (RULE 7).
The Department *may* produce and distribute forms to carry out these rules. *( )*

008. CORRESPONDENCE -- CHANGE OF ADDRESS (RULE 8).

01. Department's Mailing Address. All correspondence with the Department regarding these rules or energy consumption reports should be addressed to:

Water Allocation Bureau
Idaho Department of Water Resources
PO Box 83720
Boise, ID 83720-0098

The street address is: 322 E. Front St., Boise, ID 83720-0098. (4-26-95)

02. Supplier's Mailing Address Must be Provided to Department. Each energy supplier will provide the Department with a name or department and its mailing address for the purpose of receiving notices and correspondence. Any change of address should be reported to the Department in writing. (4-26-95)

009. -- 010. (RESERVED)

REPORTING RULES
Rules 11 Through 20

011. REQUEST FOR REPORTS (RULE 11).
No later than July 1 of each year, the Department may request consumption reports from energy suppliers for the current irrigation season. (4-26-95)

01. Notification by Department. The Department will notify energy suppliers serving specific geographic areas that consumption reports must be submitted. (4-26-95)

02. Submission of Consumption Reports. Once the Department requests the consumption reports, *the energy supplier will prepare and submit the report* to the Department as soon as possible following the close of the irrigation season but no later than January 5 of the following year. *( )*

012. CONTENTS OF CONSUMPTION REPORT (RULE 12).

01. Content of Consumption Reports. Each consumption report will contain, to the extent available, the *customer's* full name, customer account number, service location, service location identification number, and the amount of energy consumed in kilowatt hours (KWH), or cubic feet of gas, or other applicable volume measurement for each service location. For each service location, the annual consumption report *will state how much energy the customer consumed* for each billing period during the irrigation season, and for the entire irrigation season. *( )*

02. Geographic Area(s) Covered in Consumption Report. The energy supplier may file a consumption report covering the specific geographic area(s) set forth in the Department's notice or, at the discretion of the supplier, a report that encompasses a larger territory so long as the Department's designated areas are included. (4-26-95)

013. REPORT FORMAT (RULE 13).
Consumption reports will be forwarded to the Department in an electronic storage media in a format mutually acceptable to the Department and the energy supplier. If an agreement is not reached or if the supplier is unable to provide the consumption report in electronic media, the report will be submitted in writing. (4-26-95)

014. -- 020. (RESERVED)

REIMBURSEMENT RULES
Rules 21 Through 30

021. REIMBURSEMENT OF COSTS (RULE 21).
Energy suppliers are entitled to reimbursement of the costs for preparing and submitting the consumption reports. *Energy suppliers seeking reimbursement will itemize in sufficient detail their actual costs in preparing and submitting the data.* Reimbursement *is to* be paid by the Department. *( )*

***022*. RESOLUTION OF REIMBURSEMENT DISPUTES (RULE 23).**
When an energy supplier and the Department are unable to resolve a reimbursement dispute, either party or both may seek informal dispute resolution with the Commission's staff. See IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission," Sections 021 through 024. If the outcome of the informal proceeding is unsatisfactory to either party, the aggrieved party may file a *formal* complaint with the Commission. (See IDAPA 31.01.01, Sections 023 through 025, and 051 through 058.) The Commission decides formal complaints under its Rules of Procedure, 31.01.01.000 et seq. *( )*

***023*. -- 999. (RESERVED)**

IDAPA 32 – ENDOWMENT FUND INVESTMENT BOARD

DOCKET NO. 32-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 57-728(2) of the Idaho Code, which gives the Endowment Fund Investment Board (EFIB) authority to promulgate rules necessary to discharge EFIB's duties for the administration of the Credit Enhancement Program for School District Bonds.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter promulgated as a proposed rule under this docket number under IDAPA 32, rules of the Endowment Fund Investment Board:

IDAPA 32

- 32.01.01, *Rule Governing the Credit Enhancement Program for School District Bonds*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5323 through 5324**. The rule governing the Credit Enhancement Program for School District Bonds is beneficial for Idaho's public schools because it lowers the cost of financing associated with the construction or remodeling of public schools.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The Endowment Fund Investment Board charges school districts an application fee of $500 and a one-time bond guarantee fee equal to two one hundredths of one percent (0.02% or two basis points) of the Total Debt Services. The EFIB may charge a pass-through fee if it incurs expenses related to the review of an application. EFIB will not invoice a school district for pass-through fees without the prior approval of a school district. These fees or charges are imposed pursuant to Section 57-728, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance or technical questions concerning this pending fee rule, contact Chris Anton at (208) 334-3312.

Dated this 23rd day of September, 2019.

Chris Anton, Manager of Investments
Endowment Fund Investment Board
816 West Bannock Street, Suite 301
Boise, ID 83702
Phone: (209) 334-3312
Fax: (208) 334-3786

32.01.01 – RULES GOVERNING THE CREDIT ENHANCEMENT PROGRAM FOR SCHOOL DISTRICTS

000. LEGAL AUTHORITY.
Section 57-728(2), Idaho Code, gives the Endowment Fund Investment Board authority to promulgate rules necessary to the discharge of the EFIB's duties for the administration of the Credit Enhancement Program. 2010 Idaho Attorney General Opinion 01 concludes that the EFIB must charge fees to offset the costs of the Credit Enhancement Program to the Endowments. (4-7-11)

001. TITLE AND SCOPE

01. Title. These rules are titled IDAPA 32, Title 01, Chapter 01, "Rules Governing the Credit Enhancement Program for School Districts." (4-7-11)

02. Scope. These rules contain the provisions for implementation of the Credit Enhancement Program. (4-7-11)

002. -- 009. (RESERVED)

010. DEFINITIONS AND REFERENCES.

01. Administrative Fees. Application Fees and Pass-through Fees charged to School Districts applying for and receiving guarantees under the Credit Enhancement Program. (4-7-11)

02. Application Fee. The amount determined by the EFIB and set forth in this chapter as the cost of reviewing applications to the Credit Enhancement Program and administering the Credit Enhancement Program. (4-7-11)

03. Credit Enhancement Program. The Credit Enhancement Program for School District Bonds established in Section 57-728, Idaho Code. (4-7-11)

04. EFIB. Endowment Fund Investment Board. (4-7-11)

05. Endowments. The trusts granted to the state of Idaho by the Idaho Admission Bill, 26 Statutory Laws 215, chapter 656 as amended. The Endowments include the Public School Endowment established by Idaho Admission Bill sections 4 and 13. (4-7-11)

06. Guarantee Fee. The amount determined by the EFIB and set forth in this chapter as the cost of guaranteeing a school bond under the Credit Enhancement Program. The cost of guaranteeing a school bond includes the difference in the investment return to the Public School Endowment projected by the EFIB to arise from the guarantee and additional costs to the Endowments arising from investment of the Public School Endowment in the Credit Enhancement Program. (4-7-11)

07. Guaranty Program. The Idaho School Bond Guaranty Program established in Title 33, Chapter 53, Idaho Code. (4-7-11)

08. Pass-Through Fee. A direct cost to the EFIB for reviewing an application to the Credit Enhancement Program or for issuing a note to pay a debt service payment under the Credit Enhancement Program. Direct costs include the costs billed to the EFIB by legal, accounting, and financial professionals. (4-7-11)

09. School District. As defined in Section 33-5302, Idaho Code. (4-7-11)

10. Total Debt Service. The total amount to be repaid to bond purchasers over the stated maturity of the School District bond (principal plus interest). (4-7-11)

011. -- 019. (RESERVED)

020. APPLICATION.

01. Required Materials. School Districts must submit the following application materials to the EFIB: (4-7-11)

a. Correspondence from the Idaho State Treasurer certifying that the School District has been approved to participate in the Guaranty Program and setting forth the maximum credit enhancement amount available to the School District within the limitations set forth in Section 57-728(8), Idaho Code. (4-7-11)

b. A fully completed application form as prescribed by the EFIB from time to time executed by a party authorized to bind the School District. (4-7-11)

c. Copies of the complete audited financial statements of the School District prepared pursuant to Section 33-701, Idaho Code, for the preceding three (3) fiscal years and the adopted budget for the current fiscal year. (4-7-11)

d. Upon request of the EFIB, documentation substantiating the information set forth in materials submitted pursuant to Subsection 020.01 of these rules. (4-7-11)

02. Submission Deadlines. School Districts may submit an application at any time. (4-7-11)

021. -- 029. (RESERVED)

030. FEES.

01. Guarantee Fee. School Districts must remit to the EFIB a one-time fee equal to two one-hundredths of one percent (0.02% or two basis points) of the Total Debt Service. When Paid. School Districts must remit the Guarantee Fee to the EFIB within five (5) days of the sale of bonds guarantied by the Credit Enhancement Program. The EFIB will deposit the Guarantee Fee in the Public School Endowment. (4-7-11)

02. Administrative Fees. (4-7-11)

a. Application Fee. School Districts shall submit to the EFIB an Application Fee of five hundred dollars ($500). School Districts shall submit the Application Fee to the EFIB with the application materials. The EFIB will use Application Fees to pay costs of reviewing applications and administering the Credit Enhancement Program. At the conclusion of each fiscal year, the EFIB will deposit unexpended Application Fees in the Public School Endowment. (4-7-11)

b. Pass-through Fee. The EFIB may incur a Pass-through Fee related to the review of an application in its discretion. The EFIB will not invoice a School District for Pass-through Fees related to the review of an application without the prior written approval of the School District. The EFIB may incur a Pass-through Fee related to the issuance of a note without prior approval of the School District. The EFIB will invoice School Districts for the full amount of any Pass-through Fees related to the issuance of a note. School Districts shall remit each invoiced Pass-through Fee to the EFIB within thirty (30) days of invoice. The EFIB will use a Pass-through Fee to pay the direct costs to the EFIB under the Credit Enhancement Program giving rise to the fee. (4-7-11)

031. -- 039. (RESERVED)

040. APPROVAL AND DENIAL OF APPLICATIONS.

01. Review Periods. The EFIB will provide written approval or denial of an application within twenty (20) days of the submission of all required materials. If the Board requests substantiating documentation, the EFIB will provide written approval or denial of the application within twenty (20) days of the submission of the substantiating documentation. (4-7-11)

02. Delegation of Review and Approval. (4-7-11)

a. Staff Review. The EFIB may delegate review of applications to EFIB staff. (4-7-11)

b. Experts. The EFIB may engage experts to review an application. Experts include legal, accounting, and financial professionals. (4-7-11)

c. Staff Approval. The EFIB may delegate approval of applications to the EFIB's manager of investments. (4-7-11)

03. Discretionary Investment. The EFIB will invest in a School District bond issuance under the Credit Enhancement Program in its sole discretion and within its fiduciary responsibilities as trustees of the financial assets of the Endowments. The EFIB may deny an application for participation in the Credit Enhancement Program if the EFIB determines the investment is not in the best interests of one (1) or more of the Endowments. (4-7-11)

04. Denial of Application for Unpaid Fees. The EFIB may deny an application for participation in the Credit Enhancement Program if a School District has not paid a fee under a pending application or a prior guarantee issued by the Credit Enhancement Program. (4-7-11)

041. -- 999. (RESERVED)

IDAPA 33 – REAL ESTATE COMMISSION

DOCKET NO. 33-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2097, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 33, rules of the Idaho Real Estate Commission:

IDAPA 33
- 33.01.01, *Rules of the Idaho Real Estate Commission*

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5,328-5,338**.

These pending fee rules are necessary to protect the welfare of the citizens of Idaho and confer a benefit upon its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. Without these Rules in place, the Real Estate Commission will be unable to adequately protect the public in regulated real estate transactions. The Rules provide public protection by ensuring licensees have sufficient Errors & Omissions insurance and that they possess the knowledge, skills, and competency necessary to function in the real estate business in a manner that protects and serves the public interest. Portions of the proposed text have been simplified to provide clarity and deleted to remove redundant language repeated from Idaho Code.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 33.01.01.100: Licensing Fees;
License Renewal Fees;
Late License Renewal Fees;
Fee to Print License Certificate;
Fee to Compile Education or License History.

These fees are being imposed pursuant to Section 54-2020, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact MiChell Bird, (208) 334-3285.

Dated this 23rd day of October, 2019.

MiChell Bird
Executive Director
Idaho Real Estate Commission
575 E. Parkcenter Blvd. Ste 180
Boise, ID 83706
Phone: (208) 334-3285
Fax: (208)334-2050

33.01.01 – RULES OF THE IDAHO REAL ESTATE COMMISSION

000. LEGAL AUTHORITY.
The Rules of the Idaho Real Estate Commission contained herein have been adopted pursuant to Section 54-2007, Idaho Code. Any violation of these rules, or of any provision of Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code, is sufficient cause for disciplinary action as prescribed in Sections 54-2059, 54-2060, or 55-1811, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 33.01.01, "Rules of the Idaho Real Estate Commission," IDAPA 33, Title 01, Chapter 01. (3-15-02)

02. Scope. These rules contain the requirements for implementation and enforcement of the Idaho Real Estate License Law, the Idaho Real Estate Brokerage Representation Act, and the Subdivided Lands Disposition Act, contained in Chapter 20, Title 54, or Chapter 18, Title 55, Idaho Code. ( )

002. – 005. (RESERVED)

006. ELECTRONIC SIGNATURES.
Electronic signatures are permissible in accordance with the Uniform Electronic Transactions Act, Title 28, Chapter 50. *( )*

007. -- 099. (RESERVED)

RULES 100 THROUGH 199
APPLICATION, LICENSURE AND TERMINATION OF LICENSES

100. FEES.
License *and other* fees*:*

	Initial License	*Renewal*	*Late Fee*	*Other*
Broker	*$160*	*$160*	*$25*	
Salesperson	*$160*	*$160*	*$25*	
Business Entity	*$50*	*$50*	*$25*	
Branch Office	*$50*	*$50*	*$25*	
Cooperative License	*$100*			
Education or License History				*$10*
License Certificate				*$15*

( )

101. – 104. (RESERVED)

105. CONDITIONS TO RENEW EXPIRED LICENSE.
The Commission may accept a licensee's application to renew an expired license upon the following conditions: (3-29-10)

01. Payment of Late Fee. The applicant must pay the late license renewal fee. *( )*

02. Renewal After Expiration of Active License. If *an active* license expire*s*, the licensee must complete and submit with the application *an attestation that during the period the license was expired, the licensee*

either did or did not do or attempt to do any acts described in the definitions of real estate broker or salesperson in Section 54-2004, Idaho Code. *( )*

03. Investigate or Discipline a Licensee. Nothing in this Section limits the ability of the Commission to investigate or discipline a licensee for violating Subsection 54-2018(3), Idaho Code, or for violating any other provision of the Real Estate License Law or the*se* rules. *( )*

106. -- 116. (RESERVED)

117. MANDATORY ERRORS AND OMISSIONS INSURANCE.
Every licensee, upon obtaining or renewing an active real estate license in the state of Idaho *will* have in effect and maintain a policy of errors and omissions insurance *as* required by Section 54-2013, Idaho Code, to cover all activities contemplated under Chapter 20, Title 54, Idaho Code and *will* certify such coverage to the Commission in the form and manner prescribed by statute*,* these rules*, and any policy adopted by the Commission*. *( )*

118. INSURANCE PLAN.
The Commission *will* make available to all active licensees, subject to terms and availability from a qualified insurance carrier, a policy of Errors and Omissions Insurance under a Group Plan obtained by the Commission. *Licensees may obtain errors and omissions insurance independently of the Group Policy available through the Commission, subject, however, to the terms and conditions set forth in these rules.* *( )*

01. Insurance Carrier. For the purposes of Section 118*:* *( )*

a. *Shall* maintain an A.M. Best Company rating of B+ or better, and an A.M. Best Financial Size Category of Class VI or higher; *( )*

b. *I*s and will remain for the policy term duly authorized by the Idaho Department of Insurance to do business in the state of Idaho as an insurance carrier; *and* *( )*

c. *I*s and will remain for the policy term qualified and authorized by the Idaho Department of Insurance to write policies of errors and omissions insurance in Idaho of the type contemplated by these rules*.* *( )*

02. Approved Policy. The policy shall cover all activities contemplated under Chapter 20, Title 54, Idaho Code, be subject to such terms and conditions as are customary in the insurance industry for policies of errors and omissions insurance, which are otherwise permissible under Idaho law and the rules of the Idaho Insurance Department, and which are contained in a policy of insurance which has been approved by the Department of Insurance*. T*hat *policy* shall provide, at a minimum, the following terms and conditions:

	Limit Liability Coverage for Each Occurrence Not Less Than	Annual Aggregate Limit Not Less Than
Individual License Coverage	$100,000*	$300,000*
Firm Coverage	$500,000*	$1,000,000*
	*Not including costs of investigation and defense	

( )

a. A deductible amount of not greater than three thousand five hundred dollars ($3,500), which include*s* costs of investigation and defense; *( )*

b. A policy period equal to each licensee's two (2) year license renewal date or the prorated equivalent, or, if an annually renewable policy, a statement of the policy period, and in either case, the policy shall provide for continuous coverage during the policy period; (3-15-02)

c. An extended reporting period per insured of at least ninety (90) days following termination of the policy period; and (3-15-02)

d. Prior acts coverage shall be offered to licensees with continuous past coverage. (3-15-02)

119. *(RESERVED)*

120. CERTIFICATION A PREREQUISITE FOR LICENSE ISSUANCE OR RENEWAL.
Issuance or renewal of an active license requires certification of compliance that satisfies the requirement*s* of Section 54-2013, Idaho Code. *( )*

121. FAILURE TO MAINTAIN INSURANCE.
Failure of a licensee to obtain and maintain insurance coverage required by Section *54-2013, Idaho Code, regardless whether coverage is later obtained and made retroactive by the carrier, will* result in *denial or* inactivation of any active license *and will* be deemed insufficient application for licensure under Section 67-5254, Idaho Code. *A late insurance renewal is considered failure to maintain insurance. Failure to maintain insurance shall be grounds for disciplinary action.* *( )*

122. FALSIFICATION OF CERTIFICATES.
Any licensee who, acting alone or in concert with others, willfully or knowingly causes or allows a certificate of coverage to be filed with, or produced to, the Commission which is false, fraudulent, or misleading, *will* be subject to disciplinary action, including but not limited to suspension or revocation of license, in accordance with Chapter 52, Title 67, Idaho Code; provided, however, that nothing herein *will* entitle such licensee to notice and hearing on the automatic inactivation of license. *( )*

123. -- 199. (RESERVED)

20*0*. -- 299. (RESERVED)

RULES 300 THROUGH 399
BUSINESS CONDUCT

300. DISPUTES CONCERNING COMMISSIONS AND FEES.
The Idaho Real Estate Commission *will* not be involved in the resolution of disputes between licensees or between licensees and buyers and sellers concerning matters of commissions or fees. *( )*

301. *(RESERVED)*

302. TITLE OPINIONS.
No real estate broker or sales associate *will* pass judgment upon or give an opinion with respect to the m*arke*tability of the title to property in any transaction. *( )*

303. LEGAL OPINIONS.
A broker or sales associate *will* not discourage any party to a real estate transaction from seeking the advice of an attorney. *( )*

304. (RESERVED)

305. EDUCATION RECORDS *ACCESS*.
As provided for in Section 74-106, Idaho Code, the Commission may enable a designated broker to access and review the education record of any licensee currently licensed with the broker. *( )*

306. -- 399. (RESERVED)

RULES 400 THROUGH 499
CONTINUING EDUCATION

400. -- 401. (RESERVED)

402. APPROVED TOPICS FOR CONTINUING EDUCATION.
*C*ontinuing education is to assure that licensees possess the knowledge, skills, and competency necessary to function in a manner that protects and serves the public interest, or that promotes the professionalism and business proficiency of the licensee. The knowledge or skills taught in an elective course *will* enable licensees to better serve real estate consumers. *( )*

01. Topics Approved by the Commission. *T*opic areas for continuing education, as provided for in Sections 54-2023 and 54-2036, Idaho Code, *will be approved by the Commission* as they pertain to real estate brokerage practice and actual real estate knowledge. *( )*

02. Topics Not Eligible for Continuing Education Credits. *Topics which are specifically exam preparation in nature or not directly related to real estate brokerage practice will* not be eligible for approval. *( )*

403. -- 499. (RESERVED)

RULES 500 THROUGH 599
EDUCATION TEACHING STANDARDS

500. MINIMUM TEACHING STANDARDS.
All courses offered for credit by a certified provider *will* be taught in accordance with the standards *and written policies adopted by* the Real Estate Commission. *Course instructors will conduct themselves in a professional manner when performing instructional duties and will not engage in conduct that criticizes, degrades, or disparages the Commission, any student, other instructor, brokerage, agency, or organization.* *( )*

01. Certification Requirement. A course required to be taught by a Commission-certified or Commission-approved instructor *will* be taught only by an instructor that is currently approved or certified for that course. *( )*

02. Outlines and Curriculum. A course must be taught in accordance with the course outline or curriculum approved by the Commission. (3-13-08)

03. Attendance Requirement. The course instructor *will* adhere to the Commission's written attendance policy and credit hours *will* only *be submitted* for students who have successfully met the attendance requirements for which the course was approved. *( )*

04. Maintaining Exam Security. The instructor *will* take reasonable steps to protect the security of course examinations and *will* not allow students to retain copies of final course examinations or the exam answer key. *( )*

05. Use of Exam Questions Prohibited. The instructor *will* not obtain or use, or attempt to obtain or use, in any manner or form, Idaho real estate licensing examination questions. *( )*

501. -- 999. (RESERVED)

IDAPA 34 – OFFICE OF THE SECRETARY OF STATE

DOCKET NO. 34-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Sections 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 67-903(9) and 30-21-105, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 34, rules of the Secretary of State:

IDAPA 34
- 34.02.02, *Rules Governing Complaint Process Under the Help America Vote Act*
- 34.03.01, *Rules Implementing the Sunshine Law*
- 34.04.02, *Rules Governing Business Entity Names*
- 34.05.05, *List of Federal Liens in Agricultural Crops*
- 34.06.01, **Rules Governing the Electronic Recording* (*Note chapter name change)

This pending rule vacates the following proposed rule previously promulgated as part of the omnibus proposed rulemaking under IDAPA 34, rules of the Secretary of State:

- ***(VACATED)** 34.06.02, Rules Governing the Electronic Recording of Plats, Records of Survey, and Corner Records*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5,339 through 5,361**. The rule making was prompted by the expiration of the rules. The Secretary of State considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to make the rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions. The former rule 34.06.02 Rules Governing the Electronic Recording of Plats, Records of Survey, and Corner Records has been combined into 34.06.01. The former rule 34.04.01 Corporate name reservation renewals has been combined into 34.04.02

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Chad Houck at (208) 334-2852.

Dated this 10th day of October, 2019.

Chad Houck, Deputy Secretary of State
Administrative Division
700 West Jefferson Street, Room E205
P.O. Box 83720, Boise, ID 83720-0080

34.02.02 – RULES GOVERNING COMPLAINT PROCESS UNDER THE HELP AMERICA VOTE ACT

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Section 34-216, Idaho Code, and 42 U.S.C. Section 15512. Federal law requires the Secretary of State to establish an administrative complaint procedure to remedy grievances under the Help America Vote Act, 42 U.S.C. Section 15481, et seq. (3-20-04)

001. TITLE AND SCOPE.

01. Title. The rules in this chapter shall be known as IDAPA 34.02.02, "Rules Governing Complaint Process Under the Help America Vote Act," and may be cited as IDAPA 34.02.02. (3-20-04)

02. Scope. This chapter provides a uniform, nondiscriminatory procedure for the resolution of any complaint alleging a violation of any provision of Title III of the Help America Vote Act of 2002, 42 United States Code Sections 15481, et seq., including a violation that has occurred, is occurring, or is about to occur. The procedure set out in this chapter does not apply to an election recount under Sections 34-2301 et seq., Idaho Code, or to an election contest under Sections 34-2001 et seq., and 34-2101 et seq, Idaho Code. A Complainant who wishes to challenge the validity of any primary, general or special election, or to determine the validity of any ballot or vote must seek relief as otherwise provided by law. (3-20-04)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In this chapter, the following terms have the meanings indicated. (3-20-04)

01. Complainant. Means the person who files a complaint with the Secretary of State under this rule; (3-20-04)

02. Respondent. Means any State or County election official whose actions are asserted, in a complaint under this subtitle, to be in violation of Title III; (3-20-04)

03. Title III. Means Title III of the Help America Vote Act of 2002, Public Law 107-252, 116 Stat. 1666 (2002), codified at 42 United States Code Sections 15481-15485. (3-20-04)

011. WHO MAY FILE.
Any person who believes that there is a violation of any provision of Title III may file a complaint. (3-20-04)

012. FORM OF COMPLAINT.

01. Writing and Notarization. A complaint shall be in writing and notarized, signed and sworn under oath by the Complainant. The complaint must identify the Complainant by name and mailing address. The complaint must identify the section of Title III for which a violation is alleged. The complaint must set out a clear and concise description of the claimed violation that is sufficiently detailed to apprise both the Respondent and the hearing officer or arbitrator of the claimed violation. The complaint procedure is limited to allegations of violations of Title III in a federal election. (3-20-04)

02. Prescribed or Other Form. The Complainant may use: (3-20-04)

a. The form prescribed by the Idaho Secretary of State, which is available from the Idaho Secretary of State Election Division, or which may be downloaded from the Idaho Secretary of State Election Division's website at http://www.sos.idaho.gov/; or (3-20-04)

b. Any other form satisfying the requirements of Subsection 012.02.a. of this rule. (3-20-04)

013. PLACE AND TIME FOR FILING, COPY FOR RESPONDENT.

01. Place for Filing. A complaint shall be filed with the Election Division, along with adequate proof of mailing or delivery of a copy of the complaint to each Respondent. (3-20-04)

02. Time for Filing. A complaint may be filed no later than ninety (90) days after the final certification of the federal election and at issue. A complaint may be filed anytime prior to an election. (3-20-04)

03. Copy for Respondent. The Complainant shall mail or deliver a copy of the complaint to each Respondent. (3-20-04)

04. Rejection of Complaint. The Election Division shall examine each complaint, and may reject it for filing if: (3-20-04)

a. It is not signed and notarized under oath; (3-20-04)

b. It does not identify the Complainant or include an adequate mailing address; (3-20-04)

c. Does not, on its face, allege a violation of Title III with regard to a federal election; or (3-20-04)

d. More than ninety (90) days have elapsed since the final certification of the federal election at issue. (3-20-04)

014. PROCESSING OF COMPLAINT.

01. Consolidation. The Secretary of State may consolidate complaints if they relate to the same actions or events, or if they raise common questions of law or fact. (3-20-04)

02. Preparing the Complaint for Determination. The Secretary of State shall take all necessary steps to prepare the complaint for determination under these rules. In the course of preparing the complaint for determination, the Secretary of State shall allow a party to proceed with the assistance of an English language interpreter if the Complainant is unable to proceed without assistance of an interpreter. It is the responsibility of the party who needs an interpreter to secure the services of the interpreter. The Secretary of State, in coordination with the parties, shall establish a schedule under which the Complainant and Respondent may file written submissions concerning the complaint, and under which the complaint shall be finally determined. (3-20-04)

03. Record. (3-20-04)

a. The Secretary of State shall compile and maintain an official record in connection with each complaint under this rule; (3-20-04)

b. The official record shall contain: (3-20-04)

i. A copy of the complaint including any amendments made with the permission of the Secretary of State; (3-20-04)

ii. A copy of any written submission by the Complainant; (3-20-04)

iii. A copy of any written response by any Respondent or other interested person; (3-20-04)

iv. A written report of any investigation conducted by employees of the Secretary of State or Office of Attorney General who shall not be directly involved in the actions or events complained of, and shall not directly supervise or be directly supervised by any Respondent; (3-20-04)

v. Copies of all notices and correspondence to or from the Secretary of State in connection with the complaint; (3-20-04)

vi. Originals or copies of any tangible evidence produced at any hearing conducted under Section 015; (3-20-04)

vii. The original tape recording produced at any hearing conducted under Subsection 015.07 of these

rules, and a copy of any transcript obtained by any board or other party; and (3-20-04)

viii. A copy of any final determination made under Sections 016 or 017. (3-20-04)

015. HEARING.

01. Hearing on the Record. At the request of the Complainant, the Secretary of State shall conduct a hearing on the record. (3-20-04)

02. Time Frame for Hearing. The hearing shall be conducted no sooner than ten (10) days and no later than thirty (30) days after the Secretary of State receives the complaint. The Secretary of State shall give at least ten (10) business days' advance notice of the date, time, and place of the hearing: (3-20-04)

a. By mail, to the Complainant, each named Respondent, and any other interested person who has asked in writing to be advised of the hearing; (3-20-04)

b. On the Election Division web site; and (3-20-04)

c. By posting in a prominent place, available to the general public, at the offices of the Election Division; (3-20-04)

03. Hearing Officer. The Secretary of State or his designee shall act as hearing officer. (3-20-04)

04. Who May Appear. The Complainant, any Respondent, or any other interested member of the public may appear at the hearing and testify or present tangible evidence in connection with the complaint. Each witness shall be sworn. The hearing officer may limit the testimony, if necessary, to ensure that all interested participants are able to present their views. The hearing officer may recess the hearing and reconvene at a later date, time, and place announced publicly at the hearing. (3-20-04)

05. Representation by an Attorney Not Necessary. A Complainant, Respondent, or other person who testifies or presents evidence at the hearing may, but need not be, represented by an attorney. (3-20-04)

06. Written Presentation. If a person has already testified or presented evidence at the hearing and wishes to contradict testimony or evidence subsequently presented, that person is not entitled to be heard again, but may make a written presentation to the hearing officer. (3-20-04)

07. Tape Recording of Proceedings. The proceedings shall be tape-recorded by and at the expense of the Election Division. The recording shall not be transcribed as a matter of course, but the Election Division, or any party may obtain a transcript at its own expense. If a party obtains a transcript, the party shall file a copy as part of the record, and any other interested person may examine the record copy. (3-20-04)

08. Filing of Written Brief or Memorandum. Any party to the proceedings may file a written brief or memorandum within five (5) business days after the conclusion of the hearing. No responsive or reply memoranda will be accepted except with the specific authorization of the hearing officer. (3-20-04)

016. FINAL DETERMINATION.

01. If No Hearing is Held. If there has been no hearing under Section 015, the Secretary of State or his designee shall review the record and determine whether, under a preponderance of the evidence standard, a violation of Title III has been established. (3-20-04)

02. Determination of Violation. At the conclusion of any hearing under Section 015, the hearing officer shall determine, under a preponderance of the evidence standard, whether a violation of Title III has been established. (3-20-04)

03. Form of Determination. (3-20-04)

a. If the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has occurred, the Secretary of State shall provide the appropriate remedy. The remedy shall be directed to the improvement of processes or procedures governed by Title III. The remedy so provided may include an order to any Respondent, commanding the Respondent to take specified action, or prohibiting the Respondent from taking specified action, with respect to a past or future election; however, the remedy may not include an award of money damages or attorney's fees. The remedy may not include the denial of certification or the invalidation of any primary, general or special election, or a determination of the validity of any ballot or vote. Remedies addressing the certification of an election, the validity of an election, or of any ballot or vote may be obtained only as otherwise provided by law; (3-20-04)

b. If the complaint is not timely or not in proper form, or if the Secretary of State or his designee, whether acting as hearing officer or otherwise, determines that a violation has not occurred, or that there is not sufficient evidence to establish a violation, the Secretary of State shall dismiss the complaint; (3-20-04)

04. Explanation in Written Decision. The Secretary of State or his designee shall explain in a written decision the reasons for the determination and for any remedy selected. (3-20-04)

05. Issuance of Final Decision. Except as specified in Section 017, the final determination of the Secretary of State shall be issued within ninety (90) days after the complaint was filed, unless the Complainant consents in writing to an extension. The final determination shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final determination. It shall also be published on the Division's website and made available on request to any interested person. If the Secretary of State cannot make a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be referred for final resolution under Section 017. The record complied under Section 014 of this rule shall be made available for use under Section 017. (3-20-04)

017. ALTERNATE DISPUTE RESOLUTION.

If, for any reason, the Secretary of State or his designee does not render a final determination within ninety (90) days after the complaint was filed, or within any extension to which the Complainant consents, the complaint shall be resolved under this Section 017. (3-20-04)

01. Time Frames for Choosing and Arbitrator. On or before the fifth business day after a final determination by the Secretary of State was due, the Secretary of State shall designate in writing to the Complainant a list of names of arbitrators who may resolve the complaint. Within three (3) business days after the Complainant receives this designation, the Complainant and the Secretary of State shall arrange to choose an arbitrator from this list by striking names from the list until an arbitrator acceptable to both parties is chosen. Within three (3) business days after the parties strike names, the Secretary of State shall contact the arbitrator chosen and arrange for the hearing by the arbitrator. (3-20-04)

02. Information the Arbitrator May Review. The arbitrator may review the record compiled in connection with the complaint, including the tape recording or any transcript of a hearing and any briefs or memoranda, but shall not receive additional testimony or evidence. In exceptional cases, the arbitrator may request that the parties present additional briefs or memoranda. (3-20-04)

03. Resolution of Complaint. The arbitrator shall determine the appropriate resolution of the complaint as set out in these rules. (3-20-04)

04. Issuance of Written Resolution. The arbitrator must issue a written resolution within sixty (60) days after the final determination of the Secretary of State was due under Section 016. This sixty (60) day period may not be extended. The final resolution of the arbitrator shall be transmitted to the Secretary of State and shall be the final resolution of the complaint. The final resolution shall be mailed to the Complainant, each Respondent, and any other interested person who has asked in writing to be advised of the final resolution. It shall be published on the Election Division website and made available on request to any interested person. (3-20-04)

018. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This chapter is promulgated pursuant to Chapter 66, Title 67, Idaho Code, specifically Sections 67-6603, 67-6607, 67-6608, 67-6610, 67-6611, 67-6612, 67-6614A, 67-6619, 67-6623, Idaho Code. (4-6-05)

001. TITLE AND SCOPE.
The rules in this Chapter shall be known as IDAPA 34.03.01, "Rules Implementing the Sunshine Law." (4-6-05)

002. -- 010. (RESERVED)

011. FORMS.

01. Form for Lobbyist Registration. Pursuant to the authority of Section 23 of the Sunshine Law the official form for lobbyist registration as required by Section 17 is hereby adopted for use in reporting to the Secretary of State. This form shall be designated as "L-1" and shall be available online. The "L-1" form shall be accompanied by payment of a registration fee of ten dollars ($10). (4-6-05)

02. Annual Report Form. The official form for the lobbyist annual report as required by Section 67-6619, Idaho Code is hereby adopted for use in reporting to the Secretary of State. This form shall be designated as "L-2" and shall be available online. (4-6-05)

a. Expenditures to be reported are those made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer either directly or indirectly for lobbying purposes. The total expenditures shall be cumulative for the calendar year covered by the report. Expenditure categories shall include entertainment, food and refreshment, advertising, living accommodations, travel, telephone, and other expenses or services. (4-6-05)

b. The annual report shall include the name and address of the lobbyist and the name and address of the lobbyists's employer(s), and the subject matter or proposed legislation and the number of each senate or house bill, resolution, or other legislative activity which the lobbyist has been engaged in supporting or opposing during the reporting period; provided that in the case of appropriation bills the lobbyist shall enumerate the specific section or sections which he supported or opposed. (4-6-05)

c. The annual report shall be certified as a true, complete, and correct statement by the lobbyist and the lobbyists's employer(s). (4-6-05)

03. Monthly Report Form. The official form for the lobbyist monthly report as required by Section 67-6619, Idaho Code is hereby adopted for use in reporting to the Secretary of State. This form shall be designated as "L-3" and shall be available online. (4-6-05)

a. Expenditures to be reported are those made or incurred by such lobbyist or on behalf of such lobbyist by the lobbyist's employer either directly or indirectly for lobbying purposes. The expenditure totals in such reports shall not be cumulative throughout the year but rather shall reflect the total expenditures during the calendar month covered by the report. Expenditure categories shall include entertainment, food and refreshment; advertising; living accommodations; travel; telephone; and other expenses or services. (4-6-05)

b. The monthly periodic report shall include the name and address of the lobbyist and the name and address of the lobbyist's employer; and the subject matter of proposed legislation and the number of each senate or house bill, resolution, or other legislative activity which the lobbyist has been engaged in supporting or opposing during the reporting period; provided that in the case of appropriation bills the lobbyist shall enumerate the specific section or sections which he supported or opposed. (7-1-93)

c. The monthly report shall be certified as a true, complete, and correct statement by the lobbyist. (4-6-05)

04. Form for the Appointment and Certification of Political Treasurer. The official form for the appointment and certification of a political treasurer as required by Section 67-6603, Idaho Code is hereby adopted for use in reporting to the Secretary of State. This form shall be numbered "C-1" designated as "Appointment and Certification of Political Treasurer for Candidates and Committees" and shall be available online. (4-6-05)

05. Forms for the Disclosure of Campaign Finances by Candidates and Political Committees. The official forms for the statement required by Sections 67-6607, 67-6608, and 67-6612, Idaho Code are hereby adopted for use in reporting to the Secretary of State. The form numbered "C-2" shall be designated "Campaign Financial

Disclosure Report" and shall be available online. The form numbers "C-2A" shall be designated "Contributions Pledged But Not Yet Received" and shall be available online. The form numbered "C-2B" shall be designated "Expenditures Incurred (Debts and Obligations) and Payments Made on Debt" and shall be available online. (4-6-05)

06. Form for Report of Alleged Violation of Sunshine Law. Pursuant to the authority of Section 67-6623(f), Idaho Code of the Sunshine Law the official form to be used in filing a complaint that a person has violated the Sunshine Law is hereby adopted for use in reporting to the Secretary of State. This form shall be designated as "L-5" and shall be available online. Any person may file a complaint against anyone covered by the Sunshine Law. Such complainant must submit form "L-5" to properly file his complaint. No other method of filing a complaint will be recognized. (4-6-05)

012. DATE OF RECEIPT.
When any application, report, statement, notice or any other document required to be filed by the provisions of Title 67, Chapter 66, Idaho Code has been deposited post paid in the United States mail properly addressed, it shall be deemed to have been received on the date of mailing. It shall be presumed that the date shown by the post office cancellation mark on the envelope is the date of mailing. (7-1-93)

013. EXPENDITURES OTHER THAN CONTRIBUTIONS.

01. Reporting Periods. Reporting periods for disclosing expenditures other than contributions. The reporting periods for the statements required by Section 67-6611, Idaho Code shall be as follows: (7-1-93)

a. The period covered by the Thirty (30) Day Post-Primary report shall be from the date of the first independent expenditure thru the twentieth (20th) day after the primary election. (7-1-93)

b. The period covered by the Thirty (30) Day Post-General report shall begin on the twenty-first day following the primary election and continue thru the twentieth (20th) day following the general election. (7-1-93)

014. SOURCE OF CASH ON HAND.
Newly certified committees must disclose source of cash on hand. Political committees and candidates which have cash on hand at the time of certification (which the committee or candidate anticipates using in an election) shall disclose on their first report the source(s) of these funds, including the information required by Section 67-6612, Idaho Code. Disclosure shall consist of reporting to the Secretary of State the name and address of each person who has contributed more than fifty dollars ($50) to the committee in the current calendar year and the immediately preceding calendar year along with the aggregate amount contributed by each person. (7-1-93)

015. ADVERTISING REGULATION EXEMPTION.
Items exempt from advertising regulation. Campaign buttons, bumper strips, pins, pens and similar small items upon which a disclaimer cannot be conveniently printed are not deemed to be regulated by the provisions of Section 67-6614A, Idaho Code. (7-1-93)

016. COMMUNITY PROPERTY CONTRIBUTIONS.

01. Contributions of Community Property -- How Treated. A contribution of community property shall be deemed to be given one-half (1/2) by each spouse. To be treated as community property the contribution must be specifically identified a such. Moneys contributed from a joint account of husband and wife shall be deemed to be received one-half (1/2) from each spouse only if both spouses have signed the check. The following are examples of contributions: (7-1-93)

a. Husband contributes sixty dollars ($60) by personal check to political treasurer X out of community funds. There is no specific designation that such sixty dollars ($60) contribution is community property. X must treat the entire sixty dollars ($60) contribution as coming from husband. (7-1-93)

b. Husband contributes by personal check sixty dollars ($60) to a political treasurer X out of community funds. Accompanying such contribution is a statement certifying that such contribution is from the community funds of husband and wife. X must report husband and wife as each contributing thirty dollars ($30). (7-1-93)

c. Wife contributes sixty dollars ($60) to political treasurer X by personal check drawn on the joint account of husband and wife. Wife is the only spouse to sign the check. X must report the entire sixty dollars ($60) as being contributed by wife. (7-1-93)

d. Husband and wife contribute sixty dollars ($60) to political treasurer X by a check drawn on their joint account both husband and wife have signed the check. X should report husband and wife as each contributing thirty dollars ($30). (7-1-93)

e. Assuming that after contributing as in the example in Subsection 016.01.d., husband contributes separately another twenty-five dollars ($25) X should report husband aggregate total as fifty-five dollars ($55) and pursuant to Section 67-6610 must list husband's name and address on the campaign financial disclosure report. (7-1-93)

017. -- 999. (RESERVED)

34.04.02 – RULES GOVERNING BUSINESS ENTITY NAMES

000. LEGAL AUTHORITY.
In accordance with Section 67-903(9), Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the duties of the office. (3-29-12)

001. TITLE AND SCOPE.

01. Title. These rules *are titled* IDAPA 34.04.02, "Rules Governing Business Entity Names," IDAPA 34, Title 04, Chapter 02. *( )*

02. Scope. These rules shall apply to business entity name registration and business entity name reservation as provided for in Title 30, Chapters *21, 22, 23, 24, 25, 27, 29*, and *30*, Idaho Code. *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Arabic Numerals. 0, 1, 2, 3, 4, 5, 6, 7, 8, and 9. (3-29-12)

02. Business Entity. A formally organized or registered entity created pursuant to state or federal law and usually designated through the use of a business entity identifier. (3-29-12)

03. Business Entity Identifiers. Company, Corporation, Incorporated, Limited, Chartered, Professional Association, Professional Company, Limited Liability Company, Limited Liability Partnership, Professional Limited Liability Company, Limited Partnership, Limited Liability Limited Partnership, Registered Limited Liability Partnership, and the abbreviations, Co., Corp., Inc., Ltd., P.A., P.C., Chtd., L.L.C., L.L.P., P.L.L.C., L.P., R.L.L.P., and L.L.L.P. (3-29-12)

04. English Alphabet. Letters A through Z. (3-29-12)

05. Internet Prefix. Internet prefixes include "www" and any other Internet prefix used to identify a website. (3-29-12)

06. Internet Suffix. Internet suffixes include .com, .org, .net, .gov, .edu, .coop, and any other Internet suffixes approved by the Internet Corporation for Assigned Names and Numbers (ICANN). (3-29-12)

07. Key Word. Any word that is not an article, preposition, conjunction, or Business Entity Identifier. (3-29-12)

08. Special Characters. Any special characters, such as ! " $ % ( ) * @ ? +, and -, that are readily available on a standard English language keyboard. (3-29-12)

011. -- 099. (RESERVED)

100. GENERAL INFORMATION.

01. Determination by Secretary of State. The Secretary of State shall determine whether a proposed business entity name is distinguishable on the records of the Secretary of State from the names of existing business entities by comparing the proposed business entity name to the names of existing business entity names. (3-29-12)

02. Existing Business Entity Names Considered. The names of business entities in good standing or business entities which have been administratively dissolved for less than six (6) months will be considered in determining whether a proposed business entity name is distinguishable on the records of the Secretary of State from existing business entity names. (3-29-12)

03. Alphabet Names. Where a name or a unit of a name consists of initials only or letters of the alphabet, the combination of initials will be considered as one (1) word for the purpose of determining if the business entity name is distinguishable.

EXAMPLE: The "words" AA – AAA – AAAA – A & B – AAB – AAC are different words and are distinguishable from one another. (3-29-12)

04. Characters in Business Entity Names. Business entity names shall consist of letters of the English Alphabet, Arabic Numerals, or Special Characters. (3-29-12)

05. Foreign Words. Although business entity names may include words in a foreign language, such words will not be translated for the purpose of determining if a business entity name is distinguishable. (3-29-12)

06. Grossly Offensive Name. The business entity name may not be one that is deemed to be grossly offensive. (3-29-12)

07. Internet Prefixes and Suffixes. Internet prefixes and suffixes shall not give any special weight or inference to the business entity name, nor shall they be interpreted for meaning or intent. (3-29-12)

08. False Implication of Government Affiliation. The corporate name may not be one that might falsely imply governmental affiliation. (3-29-12)

101. -- 199. (RESERVED)

200. NOT DISTINGUISHABLE ON THE RECORD.
The following do not make a name distinguishable on the record:

01. Abbreviations. The abbreviation of a word or Special Character is considered the equivalent of the complete word or Special Character.

EXAMPLE: DOE BROTHERS, LLC is not distinguishable from DOE BROS., LLC. *( )*

02. Business Entity Identifiers. The addition, removal, or alteration of Business Entity Identifiers and their applicable abbreviations.

EXAMPLE: DOE BROTHERS CORPORATION is not distinguishable from DOE BROTHERS, INC. *( )*

03. Numbers. The use of a word or Roman numeral for a number instead of the Arabic Numeral.

EXAMPLE: FOUR TURTLES, LLC is not distinguishable from 4 TURTLES, LLC, nor is it distinguishable from IV TURTLES, LLC. *( )*

04. Other Words. The presence or absence of an article, preposition, conjunction, or pronoun.

EXAMPLE: THE DOE BROTHERS, LLC is not distinguishable from DOE BROTHERS, LLC. *( )*

05. Punctuation. Differences in punctuation.

EXAMPLE: U.S.A. STEEL, LLC is not distinguishable from USA STEEL, LLC.
EXAMPLE: PROWIDGETS.COM is not distinguishable from PRO.WIDGETS.COM. *( )*

06. Spaces. Spaces, or the absence of spaces.

EXAMPLE: USA STEEL, LLC is not distinguishable from USASTEEL, LLC. *( )*

07. Special Characters. Differences created by use of Special Characters.

EXAMPLE: AMERICAN PISTOLS, LLC is not distinguishable from AMER!CAN P!TOL, LLC. *( )*

08. The Letter "S". The addition or removal of the letter "s" to make a word singular, plural, or possessive.

EXAMPLE: GOLDEN APPLE, LLC is not distinguishable from GOLDEN APPLES, LLC. *( )*

09. Typeface, Font, or Case. The use of a different typeface, font, or case.

EXAMPLE: SISTERS' DINER is not distinguishable from Sisters' Diner. ( )

201. -- 299. (RESERVED)

300. DISTINGUISHABLE ON THE RECORD.

01. Key Word Difference. If one (1) of the Key Words is different, the name is distinguishable.

EXAMPLE: WIDGET WONDER, LLC is distinguishable from WIDGET ELITE, LLC. (3-29-12)

02. Key Word Order. If the Key Words are in a different order, the name is distinguishable.

EXAMPLE: WIDGET WONDER, LLC is distinguishable from WONDER WIDGET, LLC. (3-29-12)

03. Key Word Addition or Deletion. The addition or deletion of one (1) or more Key Words shall make a name distinguishable.

EXAMPLE: AMAZING WONDER WIDGET, INC. is distinguishable from WONDER WIDGET, INC. (3-29-12)

04. Difference in Meaning. If the Key Words are significantly different in meaning, and the Key Words are not identical, the name may be distinguishable.

EXAMPLE: CAPITAL WIDGET, LLC is distinguishable from CAPITOL WIDGET, LLC. (3-29-12)

05. Internet Prefix and Suffix Addition or Deletion. The addition or deletion of an Internet prefix or suffix shall make a name distinguishable.

EXAMPLE: PRECISE WIDGETS, LLC is distinguishable from PRECISEWIDGETS.COM, LLC which is distinguishable from PRECISEWIDGETS.NET.

EXAMPLE: WWW.PROWIDGETS.COM is distinguishable from PRO.WIDGETS.COM. (3-29-12)

301. -- 399. (RESERVED)

400. MATTERS NOT CONSIDERED.
When determining whether a business entity name is distinguishable on the records of the Secretary of State from another business entity name, the following are among the matters not considered: (3-29-12)

01. Purpose. Whether the purpose of the proposed business entity is the same as or similar to the purpose of an existing business entity. (3-29-12)

02. Location. Whether the business entities will be carrying out activities in the same or nearby locations. (3-29-12)

03. Prior Actions. Whether an analogous situation has previously been acted on by the Secretary of State. (3-29-12)

04. Activity. Whether an existing business entity is actively engaged in business, or has a telephone listing, or a location of a place of business. (3-29-12)

05. Intent. Whether an existing business entity is about to change its name or be dissolved or merged out of existence. (3-29-12)

06. Reliance. Whether the applicant has ordered stationery, opened a bank account, signed a contract,

or otherwise altered his position in the expectation, hope or belief that the proposed name would be available. (3-29-12)

07. Influence. Whether the applicant is more or less important, extensive, widely known, or influential than an existing business entity. (3-29-12)

08. Common Law. Whether infringement or unfair trade practice has occurred or might occur. (3-29-12)

401. CORPORATE RESERVATION RENEWAL TERMS.
A corporate name reservation may be renewed at or after the expiration of any four (4) month reservation period by filing a new name reservation in writing, along with the required fee; provided that at the end of any such reservation period there is not on file in the office of the Secretary of State a competing name reservation which is to take effect at the expiration of the existing reservation. Competing reservations will have priority in order of receipt. ( )

402. -- 999. (RESERVED)

34.05.05 – LIST OF FEDERAL LIENS IN AGRICULTURAL CROPS

000. LEGAL AUTHORITY AND REFERENCES.

01. Title 45, Chapter 2, Idaho Code. (7-1-93)

02. Title 67, Chapter 52, Idaho Code. (7-1-93)

03. IDAPA 34.05.02, "Rules Governing Liens in Crops, for Seed, and Farm Labor," Office of the Secretary of State. (7-1-93)

001. -- 003. (RESERVED)

004. DEFINITIONS AND ABBREVIATIONS.

Where terms used in this rule are not defined herein, definitions and usage of terms from the references are applicable. (7-1-93)

01. IRS. United States Internal Revenue Service, as well as other federal entities which may file notices of federal lien pursuant to Title 45, Chapter 2, Idaho Code. (7-1-93)

02. SOS. Idaho Secretary of State. (7-1-93)

005. -- 010. (RESERVED)

011. NOTICE OF FEDERAL LIENS IN AGRICULTURAL CROPS.

When the IRS files a notice of lien in personal property of an entity described in sub-paragraph (1), (2) or (3) of paragraph (c) of Section 45-202, Idaho Code, and the property includes agricultural crops, the IRS may identify the notice as pertaining to crops. The identification shall be by conspicuous notation on the face of the notice. (7-1-93)

012. COMPILATION AND DISTRIBUTION OF LIST.

01. Content. The SOS shall compile a list of effective notices of federal liens pertaining to agricultural crops, arranged alphabetically by lienee name. Each entry on the list will include; (7-1-93)

a. The name and address of the lienee(s); (7-1-93)

b. The name of the federal entity claiming the lien; (7-1-93)

c. The SOS document number; (7-1-93)

d. The date of attachment of the lien; and (7-1-93)

e. The date and time of filing of the notice. (7-1-93)

02. Schedule. The SOS will publish the list on the same schedule as the list of notices of claim of lien in crops for seed or farm labor, as prescribed in IDAPA 34.05.02, Section 015, "Rules Governing Liens in Crops, For Seed, and Farm Labor," Office of the Secretary of State. (7-1-93)

03. Recipients. The SOS will distribute the list to persons who subscribe for the list of notices of claim of lien in crops pursuant to IDAPA 34.05.02, Section 014, "Rules Governing Liens in Crops, For Seed, and Farm Labor," Office of the Secretary of State, at no additional charge. (7-1-93)

013. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Section 67-903(9), Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the Uniform Real Property Electronic Recording Act enacted as Title 31, Chapter 29, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.06.01, "Rules Governing the Electronic Recording of Real Property," IDAPA 34, Title 06, Chapter 01. (3-20-14)

02. Scope. These rules shall govern the filing, acceptance, indexing and searching of real property records in the county recording offices under Title 31, Chapter 29, Idaho Code. (3-20-14)

002. INCORPORATION BY REFERENCE.
Data and document formats necessary for electronic recording are incorporated by reference. (3-20-14)

01. PRIA Standards. Electronic recording of real property documents shall meet technical standards for document formatting and document data fields and follow implementation guidelines as prescribed by the Property Records Industry Association (PRIA) which are hereby incorporated by reference, made a part of this rule, and listed below: (3-20-14)

a. PRIA Request Version 2.4.2, August 2007; (3-20-14)

b. PRIA Response Version 2.4.2, August 2007; (3-20-14)

c. Document Version 2.4.1, October 2007; (3-20-14)

d. Notary Version 2.4.1, October 2007; (3-20-14)

e. eRecording XML Implementation Guide for Version 2.4.1, Revision 2, March 2007; (3-20-14)

f. URPERA Enactment and eRecording Standards Implementation Guide, December 2005. (3-20-14)

02. Standards Availability. These standards are available from the Property Records Industry Association, 2501 Aerial Center Parkway, Ste. 103, Morrisville, NC 27560, and at http://www.pria.us/. (3-20-14)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Delivery Agent. A party who has entered into an agreement with a Participating Recorder to deliver an Electronic Document from a Submitter to a Participating Recorder and to return the recorded Electronic Document to the Submitter. (3-20-14)

02. Document. The meaning shall be the same as provided in Section 31-2902, Idaho Code. (3-20-14)

03. Electronic Document. The meaning shall be the same as provided in Section 31-2902, Idaho Code. (3-20-14)

04. Electronic Document Delivery System. An automated system for the secure transmission of an Electronic Document between a Submitter and a Participating Recorder through the use of a Delivery Agent. (3-20-14)

05. Electronic Recording. The delivery and return of an Electronic Document, using an Electronic Document Delivery System, for the purpose of recording that document with the county records. (3-20-14)

06. Electronic Signature. The meaning shall be the same as provided in Section 31-2902, Idaho Code. (3-20-14)

07. Participating Recorder. A county recorder who has elected to accept Electronic Documents for recording. (3-20-14)

08. PDF (Portable Document Format). The file format originally created by Adobe Systems for document exchange allowing documents to be viewed as they were intended to appear. PDFs are a common format for image exchange or World Wide Web presentation. (3-20-14)

09. Submitter. A party who requests that an Electronic Document be recorded. (3-20-14)

10. TIFF (Tagged Image File Format). The variable-resolution bitmapped image format originally developed by the Aldus Corporation (now part of Adobe Systems) and published as ISO 12639:2004, Graphic technology-Prepress digital data exchange-Tag image file format for image technology (TIFF/IT). TIFF is a common format for high-quality black and white, gray-scaled, or color graphics of any resolution and is made up of individual dots or pixels. (3-20-14)

11. XML (Extensible Markup Language). An extensible document language for specifying document content. XML is not a predefined markup language but a metalanguage (a language for describing other languages) allowing the user to specify a document type definition (DTD) and design customized markup languages for different classes of documents. (3-20-14)

011. -- 100. (RESERVED)

101. ELECTRONIC RECORDING MODELS.
Electronic Documents shall conform to one of the following models: (3-20-14)

01. Model 1. Model 1, which utilizes scanned ink-signed Documents, transmitted without XML indexing data; (3-20-14)

02. Model 2. Model 2, which utilizes scanned ink-signed Documents or Documents that have been created and signed electronically, transmitted with XML indexing data; or (3-20-14)

03. Model 3. Model 3, which utilizes Documents that have been created and signed electronically, transmitted with embedded XML indexing data. (3-20-14)

102. TRANSMITTED FILES.

01. Technical Standards for Transmitted Files. The technical standards for document formatting and data fields for Electronic Recording are those in effect at the time of the Electronic Recording as prescribed by the Property Records Industry Association (PRIA) in the PRIA eRecording XML Standard Version 2.4, which includes PRIA Request Version 2.4.2 (August 2007); PRIA Response Version 2.4.2 (August 2007); Document Version 2.4.1 (October 2007); and Notary Version 2.4.1 (October 2007). (3-20-14)

02. Guide to Be Consulted for Reference. The PRIA eRecording XML Implementation Guide for Version 2.4.1, Revision 2 (March 2007) should be consulted for reference. (3-20-14)

03. Storage Formats. Electronic Documents shall be transmitted and stored as either TIFF or PDF files, in accordance with the TIFF 6.0 specification, published by the International Organization for Standardization as ISO 12639:2004, Graphic technology - Prepress digital data exchange - Tag image file format for image technology (TIFF/IT), or the PDF 1.7 specification, published by the International Organization for Standardization as ISO 32000-1:2008, Document management - Portable document format - Part 1: PDF 1.7. (3-20-14)

103. DATA FORMATS.
The data format for Electronic Recordings shall meet technical standards and data fields set forth by the Property Records Industry Association (PRIA) in the PRIA eRecording XML Standard Version 2.4, which includes PRIA Request Version 2.4.2 (August 2007); PRIA Response Version 2.4.2 (August 2007); Document Version 2.4.1 (October 2007),; and Notary Version 2.4.1 (October 2007). The PRIA eRecording XML Implementation Guide for Version 2.4.1, Revision 2 (March 2007) should be consulted for reference. (3-20-14)

104. PARTICIPATING RECORDER.

01. Documents Accepted. A Participating Recorder is only required to accept Electronic Documents containing Electronic Signatures or notarizations that the Participating Recorder has the technology to support. (3-20-14)

02. Authentication. A Participating Recorder has no responsibility to authenticate Electronic Signatures or notarizations. (3-20-14)

105. ELECTRONIC RECORDING PROCESSING REQUIREMENTS.

01. Notice Requirements. A Participating Recorder shall provide appropriate notification to the Delivery Agent of the confirmation or rejection of an Electronic Recording through the Electronic Document Delivery System. (3-20-14)

a. A notice of confirmation shall identify and include recording information for the recorded Electronic Document. (3-20-14)

b. A notice of rejection shall identify the rejected Electronic Document and include a brief explanation of the reason for rejection. (3-20-14)

c. The Delivery Agent shall notify the Submitter of the confirmation or rejection of the Electronic Document. (3-20-14)

d. The failure of a Submitter to receive actual notice of confirmation or rejection of a recording shall not affect the validity of the confirmation or rejection. (3-20-14)

02. Contact Information. A Participating Recorder may contact a Submitter regarding an Electronic Document submitted for recording prior to sending a notice of confirmation or rejection. The Delivery Agent shall ensure that the Submitter includes telephone or email contact information with each Electronic Document submission. (3-20-14)

03. Time of Receipt. A Participating Recorder shall enter the time of receipt of Electronic Documents in accordance with Section 31-2410, Idaho Code. (3-20-14)

106. SECURITY REQUIREMENTS.
Procedures shall be implemented and maintained to ensure the security of the Electronic Document Delivery System, including the authenticity and integrity of the Electronic Documents maintained by the Participating Recorder. (3-20-14)

01. Secure Method. A Participating Recorder shall provide a secure method for accepting Documents through the Electronic Document Delivery System and for recording and maintaining Electronic Documents within the Participating Recorder's records. (3-20-14)

02. Security Procedures. A Delivery Agent shall implement and maintain security procedures for all electronic transmissions and shall be responsible for maintaining the security of the systems within their offices. (3-20-14)

03. System and Security Failures. Electronic Document Delivery Systems shall protect against system and security failures and, in addition, shall provide backup, disaster recovery and audit trail mechanisms. Delivery Agents shall provide audit trail information to Participating Recorders on request. (3-20-14)

04. Unauthorized Party. Electronic Document Delivery Systems shall not permit any unauthorized party to modify, manipulate, insert or delete information, without detection, in Electronic Documents or in the public record maintained by the Participating Recorder. (3-20-14)

05. Notification of Breach. If a breach in security is detected by the Participating Recorder, Delivery Agent or Submitter, the party discovering the breach shall notify the other parties immediately. All parties shall work

cooperatively to take remedial action and to resolve any issues related to a breach. (3-20-14)

107. AGREEMENT AND PROCEDURES.

01. Participation Agreement. The Delivery Agent and the Participating Recorder shall enter into an agreement specifying the requirements for Electronic Document recording with the county. At a minimum, the agreement shall address the following items: (3-20-14)

a. Accepted Electronic Recording models; (3-20-14)

b. Accepted Electronic Document types; (3-20-14)

c. Defined technical specifications for data formats, document formats, electronic transmissions and security; (3-20-14)

d. If used by the Participating Recorder, indexing fields required for each Electronic Document; (3-20-14)

e. Electronic Signature and notarization requirements; (3-20-14)

f. Payment options for recording fees and applicable taxes; (3-20-14)

g. Hours during which Electronic Documents will be accepted and processing schedules that affect order of acceptance; (3-20-14)

h. Electronic Document acceptance and rejection requirements and procedures; (3-20-14)

i. Responsibility of the Delivery Agent to review the qualifications of each potential Submitter and to approve the potential Submitter prior to granting access to the Electronic Document Delivery System; and (3-20-14)

j. Responsibility of the Delivery Agent to enter into an agreement with each approved Submitter, in which the Submitter agrees to submit Electronic Documents for recording in accordance with all applicable state statutes and rules and to maintain the security of the systems within the Submitter's offices. (3-20-14)

02. Other Procedures and Requirements. A Participating Recorder may include in the agreement other procedures and requirements needed in order to implement fully an Electronic Recording program. (3-20-14)

03. Establishment and Posting of Procedures. A Participating Recorder shall establish procedures for Electronic Recording in the municipality and shall post the procedures in the recorder's office, on the municipality's Internet website, if available, and through the Electronic Document Delivery System, and shall make a copy of the procedures available on request. The procedures shall cover, at a minimum, the items listed above in this subsection. (3-20-14)

108. -- 999. (RESERVED)

IDAPA 34 – SECRETARY OF STATE

DOCKET NO. 34-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 67-903(9) and 28-9-526, Idaho Code.

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

This pending fee rule adopts previously approved and codified chapter(s) promulgated as proposed rules under this docket number under IDAPA 34, rules of the Secretary of State:

IDAPA 34
- 34.05.01, *Rules Governing Farm Products Central Filing System*
- 34.05.02, *Rules governing Liens in Crops for Seed or Liens in Crops for Farm Labor*
- 34.05.03, *Rules Governing Requests for Information – Form UCC-4-Fees*
- 34.05.06, *Rules Governing Lien Filings Under the UCC*

This pending rule vacates the following proposed rule previously promulgated as part of the omnibus proposed rulemaking under IDAPA 34, rules of the Secretary of State:

- ***(VACATED)*** *34.04.01, Corporate Name Reservation Renewals*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 5,362-5,400**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

UCC Search
- The fee for searching online is $3.
- The fee for copies of individually identified UCC documents of four or more pages is $.25 per page.
- The fee for copies of individual documents is $1 per page.

Federal Tax Lien
- The fee for filing is $6.
- The fee for additional attachment is $1 per page.
- The fee for a search for information only is $6.
- The fee for combination searches available with UCC search for information only is $10.
- The fee for combination searches available with UCC search for information and copies is $16.

State Tax Lien
- There is no fee for filing.
- The fee for a search for information only is $6.
- The fee for combination searches available with UCC search for information only is $10.
- The fee for combination searches available with UCC search for information and copies is $16.

State Agencies
- The fee for a search for information only is $6.
- The fee for combination searches available with UCC search for information only is $10.
- The fee for combination searches available with UCC search for information and copies is $16.

Seed and Farm Labor Liens
- The fee for filing online is $4.
- The fee for a search for information only is $6.
- The fee for combination searches available with UCC search for information only is $10.
- The fee for combination searches available with UCC search for information and copies is $16.

Agriculture Commodity Liens
- The fee for filing is $5.
- The fee for a search for information only is $6.
- The fee for combination searches available with UCC search for information only is $10.
- The fee for combination searches available with UCC search for information and copies is $16.

Farm Product Liens
- The fee for filing online is $10.
- The fee for filing is handwritten is $14.
- The fee for a search for information only is $6.
- The fee for combination searches available with UCC search for information only is $10.
- The fee for combination searches available with UCC search for information and copies is $16.
- The fees are being imposed pursuant to Section 28-9-525, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Chad Houck at (208) 334-2852.

Dated this 10th day of October, 2019.

Chad Houck, Deputy Secretary of State
Administrative Division
700 West Jefferson Street, Room E205
PO Box 83720
Boise, ID 83720-0080
(208) 334-2852

000. LEGAL AUTHORITY.
In accordance with Sections 67-903(9), 28-9-523(g), and 28-9-524, Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the duties of the Office of the Secretary of State. This authority includes rules to implement and maintain the USDA certified Idaho Central Filing System, in accordance with P.L. 99-198, Section 1324 of the Federal Food Security Act (1985) and Title 9, CFR Part 205 (2010). (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.05.01, "Rules Governing Farm Products Central Filing System," IDAPA 34, Title 05, Chapter 01. (4-7-11)

02. Scope. These rules shall govern the requirements for the filing of Farm Products Financing Statements, for the filing of amendments to Farm Products Financing Statements, and for the compilation and distribution of a master list of Farm Products Financing Statements, and portions of the master list. (4-7-11)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The definitions set forth in Section 28-9-102, Idaho Code, apply with full force and effect to all provisions and sections of these rules. Where terms used in this rule are not explicitly or completely defined herein, definitions and usage of terms from the Legal Authority in Section 000 of these rules are applicable. (4-7-11)

01. Crop Year. (7-1-93)

a. For a plant or plant product, the calendar year in which it is harvested or to be harvested. (7-1-93)

b. For mammals, the calendar year in which they are born or acquired. (7-1-93)

c. For bees and worms, the calendar year in which they are alive in adult form. (7-1-93)

d. For poultry and the products of mammals, poultry, and bees (i.e., milk, eggs, and honey), the calendar year in which they are sold or to be sold. (4-7-11)

e. For fish and other aquaculture, the calendar year in which they are harvested or to be harvested. (7-1-93)

02. Farm Products Financing Statement. A financing statement covering farm products. (4-7-11)

03. Item on a Master List or Portion of a Master List. An entry on a master list or portion of a master list relating to one (1) Farm Products Financing Statement and one (1) debtor listed thereon. (4-7-11)

04. PML Grouping. That related group of farm products which will appear on one (1) PML. (4-7-11)

011. ABBREVIATIONS.
Where abbreviations used in these rules are not explicitly or completely defined herein, definitions and usage of abbreviations from the Legal Authority in Section 000 of these rules are applicable. (4-7-11)

01. CS. A cumulative supplement to a PML which contains all additions to, changes to, and deletions from the PML which have been filed since the most recent publication of the complete PML. (4-7-11)

02. PML. A portion of the master list, which covers Farm Products Financing Statements relating to a particular farm product or group of farm products. (4-7-11)

03. SOS. Idaho Secretary of State. (4-7-11)

04. USDA. United States Department of Agriculture. (4-7-11)

012. -- 019. (RESERVED)

020. UNIQUE IDENTIFIER NUMBER (UIN).

01. UIN System. The Secretary of State's Office shall use a UIN system that has been approved and certified by the USDA for the Idaho Central Filing System in place of the former use of complete social security numbers as a means of debtor identification. (4-7-11)

02. Social Security Numbers and Tax Identification Numbers. With the use of UINs, as approved by the USDA, the SOS will no longer require or accept social security numbers or tax identification numbers, in total, on Farm Products Financing Statements. Only the last four (4) digits shall be required and used. The SOS will not provide social security numbers or tax identification numbers, in total, to any person or business entity, in any format, from Farm Products Financing Statements. (4-7-11)

021. -- 099. (RESERVED)

100. FARM PRODUCTS FINANCING STATEMENT REQUIREMENTS.

01. Form. A Farm Products Financing Statement must meet the requirements of Section 28-9-502, Idaho Code, and must be filed on SOS form "UCC-1F." (4-7-11)

02. Completion of Form. Form UCC-1F must be completed in accordance with instructions provided by the SOS. (4-7-11)

101. AMENDMENT, ASSIGNMENT, CONTINUATION, AND TERMINATION OF A FARM PRODUCTS FINANCING STATEMENT.

01. Form. An amendment, assignment, or continuation of a Farm Products Financing Statement must be filed on SOS form "UCC-3F." (4-7-11)

02. Completion of Form. Form UCC-3F must be completed in accordance with instructions provided by the SOS. (4-7-11)

03. Termination. Termination of a Farm Products Financing Statement will be done either by the secured party's signature on the termination signature line on the original of the UCC-1F or by checking the termination box on the UCC-3F. (4-7-11)

102. FARM PRODUCTS FINANCING STATEMENTS UNDER THE UNIFORM COMMERCIAL CODE.
Unless otherwise provided for in this chapter, Farm Products Financing Statements shall be governed by IDAPA 34.05.06, "Administrative Rules Governing Lien Filings Under the UCC," with the following exceptions: (4-7-11)

01. IDAPA 34.05.06.101.05 "File Number." Subsection 101.05 only applies in that a unique number shall be assigned. For Farm Products Financing Statements, the filing type shall be designated as "F" followed by a number that is assigned sequentially. The filing number bears no relation to the time of filing and is not an indicator of priority. (4-7-11)

02. IDAPA 34.05.06.108 "Acceptable Forms." Section 108 does not apply to Farm Products Financing Statements. (4-7-11)

03. IDAPA 34.05.06.111 "Filing Fees." Section 111 does not apply to Farm Products Financing Statements. (4-7-11)

04. IDAPA 34.05.06.115.01 "Individually Identified Documents." Subsection 115.01 does not apply to Farm Products Financing Statements. Copies of Farm Products Financing Statements shall be made available either from a computer terminal in the reception area in the filing office or through any medium otherwise accepted by the filing office. There is a charge of one dollar ($1) per page for copies of Farm Products Financing Statements pursuant to Section 28-9-523(k), Idaho Code. (4-7-11)

05. IDAPA 34.05.06.202.02 "Additional Debtor Identification." Subsection 202.02 does not apply to Farm Products Financing Statements. (4-7-11)

06. IDAPA 34.05.06.301.01 "Identification Numbers." Subsection 301.01 applies, however, each Farm Products Financing Statement is identified by its file number as described in Subsection 102.01 of these rules. (4-7-11)

07. IDAPA 34.05.06.301.05 "Status of Financing Statement." Subsection 301.05 does not apply to Farm Products Financing Statements. (4-7-11)

08. IDAPA 34.05.06.302.01 "Individual Name Fields." Subsection 302.01 applies, however, no indicator is used to distinguish the name as that of an individual. (4-7-11)

09. IDAPA 34.05.06.302.05 "No Assumed Business Names." Subsection 302.05 does not apply to Farm Products Financing Statements. However, if an assumed business name is used as the debtor name, the required information shall be as indicated in Subsection 020.02 of these rules. (4-7-11)

10. IDAPA 34.05.06.303.01 "Single Field." Subsection 303.01 applies, however, no indicator is used to distinguish the name as that of an organization. (4-7-11)

11. IDAPA 34.05.06.303.03 "No Assumed Business Name." Subsection 303.03 does not apply to Farm Products Financing Statements. However, if an assumed business name is used as the debtor name, the required information shall be as indicated in Subsection 020.02 of these rules. (4-7-11)

12. IDAPA 34.05.06.306.02 "Status of Debtor." Subsection 306.02 does not apply to Farm Products Financing Statements. (4-7-11)

13. IDAPA 34.05.06.306.03 "Status of Financing Statement." Subsection 306.03 does not apply to Farm Products Financing Statements. (4-7-11)

14. IDAPA 34.05.06.310 "Termination." Section 310 does not apply to Farm Products Financing Statements. (4-7-11)

15. IDAPA 34.05.06.312 "Procedure Upon Lapse." Section 312 only applies to Farm Products Financing Statements in that a Farm Products Financing Statement lapses on its lapse date. Upon lapse of a Farm Products Financing Statement, the information management system shall cause the Farm Products Financing Statement to no longer be made available to the searcher. (4-7-11)

16. IDAPA 34.05.06.407 "Data Entry of Names - Designated Fields." Section 407 applies to Farm Products Financing Statements, however, the filer is not required to designate whether a name is an individual or an organization. (4-7-11)

17. IDAPA 34.05.06.408 "Data Entry of Names - No Designated Fields." Section 408 does not apply to Farm Products Financing Statements. (4-7-11)

18. IDAPA 34.05.06.410.02 "Name and Address of Each Debtor." Subsection 410.02 applies to Farm Products Financing Statements, however, each debtor name is removed from the searchable index upon lapse or termination. (4-7-11)

19. IDAPA 34.05.06.411.03 "Amendment Financing Statement Lapses." Subsection 411.03 applies to Farm Products Financing Statements, however, each debtor name is removed from the searchable index upon lapse or termination. (4-7-11)

20. IDAPA 34.05.06.413 through IDAPA 34.05.06.504. Sections 413 through 504 do not apply to Farm Products Financing Statements. (4-7-11)

103. -- 199. (RESERVED)

200. COLLATERAL INFORMATION CODES.

Codes are used to describe farm product collateral on the Farm Products Financing Statements and amendments, on the master list maintained by the SOS, and on the PMLs distributed to registered buyers, commission merchants, and selling agents. Assignment of farm product codes and PML Groupings, county codes, and farm product unit codes shall be done by the SOS. The SOS will provide a list of the established codes upon request. (3-29-12)

01. PML Groupings and Farm Product Codes. The table of PML Groupings, farm products, and their codes is as follows:

PML No.	PML Grouping	FP Code	FP Name
01	Wheat and Buckwheat	010	Wheat
		011	Buckwheat
02	Feed and Oil Grains	020	Barley
		021	Rye (including Triticale)
		022	Oats
		023	Sorghum Grain
		024	Flaxseed
		025	Safflower
		026	Rape (including Canola)
		027	Field Corn
		028	Millet
03	Hay	030	Hay
04	Ensilage	040	Ensilage
05	Potatoes	050	Potatoes
06	Sugar Beets	060	Sugar Beets
07	Dry Beans	070	Dry Beans
08	Dry Peas, Lentils and Garbanzos	080	Dry Peas
		081	Lentils
		082	Garbanzos (Chick Peas)
09	Sweet Corn	090	Sweet Corn

PML No.	PML Grouping	FP Code	FP Name
10	Onions and Garlic	100	Onions
		101	Onion Seed
		102	Garlic
11	Mint	110	Mint
12	Hops	120	Hops
13	Popcorn & Sunflower Seeds	130	Popcorn
		131	Sunflower Seeds
14	Soybeans	140	Soybeans
15	Rice	150	Rice
16	Seeds	160	Grass for Seed
		161	Alfalfa for Seed
		162	Other Hay Legumes for Seed
		163	Garden Vegetables and Flower Seeds
		164	Seed Potatoes
		165	Row Crops for Seed
17	Vegetables & Melons	170	Green Peas
		171	Tomatoes
		172	Lettuce
		173	Cucumbers
		174	Broccoli
		175	Cauliflower
		176	Lima Beans
		177	Green Beans
		178	Melons
		179	Carrots
		180	Turnips
		181	Asparagus

PML No.	PML Grouping	FP Code	FP Name
		182	Spinach and Collards
		183	Pumpkins and Squash
		184	Radishes
		185	Peppers
		186	Herbs
19	Fruits	190	Apples
		191	Apricots
		192	Cherries
		193	Nectarines
		194	Peaches
		195	Pears
		196	Plums
20	Berries	200	Strawberries
		201	Raspberries
21	Nursery Products	210	Sod
		211	Nursery Stock (Trees and Shrubs)
		212	Christmas Trees
		213	Flowers and Potted Plants
22	Mushrooms	220	Mushrooms
23	Grapes	230	Grapes
50	Beef Animals	500	Beef Cattle and Calves
		501	Beefalo
		502	Bison
51	Sheep, Wool	510	Sheep and Lambs Goats and Llamas
		511	Wool
		512	Goats
		513	Llamas

PML No.	PML Grouping	FP Code	FP Name
52	Hogs	520	Hogs
53	Dairy	530	Dairy Cattle
		531	Milk
54	Equines	540	Horses
		541	Mules
		542	Donkeys and Burros
55	Chickens and Eggs	550	Chickens
		551	Eggs
56	Other Fowl	560	Turkeys
		561	Ducks
		562	Geese
		563	Game Birds
		564	Ostriches, Emus, and Rheas
57	Mink, Rabbits and Fox	570	Mink and Pelts
		571	Rabbits
		572	Fox and Pelts
58	Apiary Products	580	Bees
		581	Honey
		582	Bees Wax
59	Fish and Other Aquaculture	590	Fish and Other Aquaculture
60	Big Game Animals (Deer and Elk)	600	Big Game Animals (Deer and Elk)
61	Worms	610	Worms
62	Semen	620	Cattle Semen

PML No.	PML Grouping	FP Code	FP Name
		621	Horse Semen

(3-29-12)

02. County Codes. The table of county codes is as follows. Unless otherwise indicated, counties are in Idaho.

00	All Idaho Counties						
01	Ada	16	Cassia	31	Lewis	46	Garfield, Wa.
02	Adams	17	Clark	32	Lincoln	47	Pend Orielle, Wa.
03	Bannock	18	Clearwater	33	Madison	48	Spokane, Wa.
04	Bear Lake	19	Custer	34	Minidoka	49	Whitman, Wa.
05	Benewah	20	Elmore	35	Nez Perce	50	Malheur, Or.
06	Bingham	21	Franklin	36	Oneida	51	Elko, Nv.
07	Blaine	22	Fremont	37	Owyhee	52	Box Elder, Ut.
08	Boise	23	Gem	38	Payette	53	Cache, Ut.
09	Bonner	24	Gooding	39	Power	54	Rich, Ut.
10	Bonneville	25	Idaho	40	Shoshone	55	Lincoln, Wy.
11	Boundary	26	Jefferson	41	Teton	56	Teton, Wy
12	Butte	27	Jerome	42	Twin Falls	57	Beaverhead, Mt.
13	Camas	28	Kootenai	43	Valley	58	Lincoln, Mt
14	Canyon	29	Latah	44	Washington	59	Sanders, Mt.
15	Caribou	30	Lemhi	45	Asotin, Wa.	99	Not in Table

(3-24-16)

03. Unit Codes. The table for codes for units used to indicate the amount of a FP covered is as follows:

A - acres	G - gallons	T - tons
B - bushels	H - head	V - hives
C - hundred weight	L - pounds	W - lugs
E - cases	N - bins	X - boxes
F - flats	S - sacks	Z - stubs

(3-29-12)

201. REGISTRATION OF BUYERS, COMMISSION MERCHANTS, AND SELLING AGENTS -- SUBSCRIPTION TO A PML.

01. Form. Registration of buyers, commission merchants, and selling agents must be on SOS form "UCC-5F." (4-7-11)

02. Right to Subscribe - Number. Registration entitles the registrant to subscribe for PMLs. Each

registrant will be assigned a permanent registration number by the SOS. (7-1-93)

03. Duration. Registration is effective for a period of one (1) year. Renewal of registration may be filed at any time after ninety (90) days prior to expiration of a current registration period. The registrant must indicate his registration number on the renewal registration form. (7-1-93)

04. Change of Name or Address. Notice of a registrant's change of name or address must be made in writing to the SOS. (7-1-93)

05. Initial Subscription. Subscriptions for PMLs may be made at the time of registration or at any time during the period for which the registrant is registered, provided that no subscription for a PML will run beyond the calendar quarter in which the registration period expires. Subscriptions made at the time of registration must be made on the UCC-5F. (4-7-11)

06. Other Subscription. Subscriptions made other than at the time of registration must be made on SOS form "UCC-6F."The registrant must indicate his registration number on the subscription form. (4-7-11)

07. Period of Subscription. A subscription for any PML may be annual or by calendar quarter or quarters, which quarter or quarters may be at a specified time in the future. (7-1-93)

08. Initial Distribution. If a subscription starts at any time other than the start of a calendar quarter, the registrant will receive the most recent complete compilation of the PML, and all distributions of PMLs for the remainder of the calendar quarter. (4-7-11)

09. Special Subscription. If the registrant subscribes for a PML for fewer than all counties or crop years, the registrant must indicate the county codes of the desired counties or the desired crop years, or both. If no county codes or crop years are indicated, the PML will cover all counties and crop years. (4-7-11)

10. Copy of Rules. At the time of registration, each registrant will be provided with a copy of these rules. (4-7-11)

202. -- 299. (RESERVED)

300. FORM AND DISTRIBUTION OF A PML AND CS.

01. Content of List. Each PML includes data from all Farm Products Financing Statements which cover a particular PML Grouping. (4-7-11)

02. PML Publication Dates. Each PML is published in complete form on the first regularly scheduled bi-weekly publication date in each calendar quarter. A PML may at other times be published in complete form at the discretion of the SOS when that appears to be more economical than to publish a CS. (7-1-93)

03. Supplementation. At bi-weekly intervals following the publication of each PML, the SOS publishes a CS for each PML. The CS includes all additions, deletions and changes which have occurred since the publication of the last complete PML. Additions are in the same form and cross-indexed in the same way as items on the PML. Deletions and changes need only refer to the affected item in either the PML or the "addition" section of the CS, and state what action has been taken or what change has been made to that item. (7-1-93)

04. Cut-Off. In order to be included on a PML or CS, a Farm Products Financing Statement must be received by the SOS at least one (1) business day prior to publication. (4-7-11)

05. Schedule. At the beginning of each calendar quarter, the SOS distributes to each registrant a schedule of proposed publication dates for that calendar quarter. The SOS may, for good cause, deviate from the schedule, but every PML and CS will be clearly marked with the actual date of publication. In no case will there be more than eighteen (18) days between publications of PMLs and associated CSs. (4-7-11)

301. GENERATION OF AD HOC INFORMATION REPORTS.

01. Options. Upon the request of any person, the SOS will provide a list organized or limited according to: (7-1-93)

a. An individual farm product or a PML Grouping; (4-7-11)

b. Alphabetical order by debtor name; (7-1-93)

c. By order of UIN; (4-7-11)

d. County; or (7-1-93)

e. Crop year. (7-1-93)

02. Internal Organization. When the request is for organization or limitation on the criteria specified in Paragraphs 301.01.a., 301.01.d., and 301.01.e., of these rules, the list will be organized alphabetically within each resulting group unless the request specifies otherwise. (4-7-11)

03. Additional Criteria. The request may specify additional criteria for further organization or limitation within the first grouping. (7-1-93)

302. REQUESTS FOR INFORMATION.
Requests for information on Farm Products Financing Statements will comply with IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees." (4-7-11)

303. FEES.

01. Farm Products Financing Statement. Farm Products Financing Statement and changes thereto (UCC-1F, UCC-2F and UCC-3F). (4-7-11)

a. The fee for filing either a UCC-1F or a UCC-3F is provided in IDAPA 34.05.06, "Administrative Rules Governing Lien Filings Under the UCC - Farm Product Liens," Section 606. (4-7-11)

b. There is no charge for filing a complete termination of a Farm Products Financing Statement. (4-7-11)

02. Registration of Buyers, Commission Merchants, and Selling Agents. (4-7-11)

a. The fee for the annual registration of each buyer, commission merchant, or selling agent is thirty dollars ($30). (4-7-11)

b. The registration fee must be paid at the time of registration. (7-1-93)

c. There is no fee for filing notice of a registrant's change of name or address. (7-1-93)

03. Subscription to PMLs by Buyers, Commission Merchants, and Selling Agents. (4-7-11)

a. The fee for subscribing to one (1) PML for one (1) year is:

Internet Download (DL)	CD-ROM (CD)	Paper
$30	$40	$200

(3-24-16)

b. New subscriptions purchased at any time after the beginning of a registration period will be

prorated to the current or next fiscal quarter, such that the end of the new subscription coincides with the end of the customer's registration period. (3-24-16)

c. The subscription fee must be paid at the time the subscription is made. (4-7-11)

04. Ad Hoc Lists. (7-1-93)

a. The fee for generating an ad hoc list as provided in Section 301 of these rules, is thirty-five dollars ($35) per hour for programming and analysis and eighty-five dollars ($85) per hour of computer time required to produce the list. In addition thereto, there is a fee of one dollar ($1) per printed page of the list so generated. (4-7-11)

b. The fee for the generation of the list must be paid prior to or upon receipt of the list. (7-1-93)

05. Fees for Requests for Information. The fees for requests for information on Farm Products Financing Statements, both written and verbal, and for copies of Farm Products Financing Statements reported on the certificate, are provided in IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees." (4-7-11)

304. -- 999. (RESERVED)

34.05.02 – RULES GOVERNING LIENS IN CROPS FOR SEED OR LIENS IN CROPS FOR FARM LABOR

000. LEGAL AUTHORITY.
In accordance with Sections 67-903(9), 45-313(3), and 45-316, Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the duties of the Office of the Secretary of State. (4-7-11)

001. TITLE AND SCOPE.

01. **Title**. These rules shall be cited as IDAPA 34.05.02, "Rules Governing Liens in Crops for Seed or Liens in Crops for Farm Labor," IDAPA 34, Title 05, Chapter 02. (4-7-11)

02. **Scope**. These rules shall govern the requirements for the filing, amendment, or termination of liens in crops for seed or liens in crops for farm labor, as well as the creation and distribution of a master list of liens in crops for seed or liens in crops for farm labor. (4-7-11)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The definitions set forth in Section 45-302, Idaho Code, apply with full force and effect to all provisions and sections of these rules. Where terms used in this rule are not defined herein, definitions and usage of terms from the Legal Authority in Section 000 of these rules are applicable. (4-7-11)

01. **Family**. A group of related persons living together as one economic unit, comprised of parents and children, including step-children. (7-1-93)

02. **Farm Laborer**. Anyone who provides farm labor used in the production of crops. When a business entity contracts for and provides such labor, e.g., aerial spraying or custom harvesting, the entity and not its individual employees shall be deemed to be the farm laborer. When individuals provide such labor directly to a producer, each individual is a farm laborer, whether or not they have been organized as a work crew or are members of a family which works as a unit. (7-1-93)

03. **Notice of Claim of Lien**. A written notice on the public record of a claimant's lien in the crops of a producer. (4-7-11)

04. **SOS**. Idaho Secretary of State. (4-7-11)

011. -- 099. (RESERVED)

100. REQUIREMENTS FOR NOTICE OF CLAIM OF LIEN.

01. **Form**. The form for a notice of claim of lien shall be designated "SL-1." (4-7-11)

a. Form SL-1 must be completed in accordance with instructions provided by the SOS. (4-7-11)

b. Collateral information codes shall be used to indicate the crop and the county where the crop is grown. The collateral information codes shall be assigned by the SOS. The SOS will provide a list of the established codes upon request. (4-7-11)

02. **Supplement**. If there is insufficient space on the form SL-1 for all producer and claimant information, the excess will be entered on a supplement form designated "SL-2." (7-1-93)

101. AMENDMENT, ASSIGNMENT, EXTENSION, AND RELEASE OF CLAIM OF LIEN.

01. **Form**. The form for amendment, assignment, extension, and release of claim of lien shall be designated "SL-3." (4-7-11)

a. Form SL-3 must be completed in accordance with instructions provided by the SOS. (4-7-11)

b. Collateral information codes shall be used to indicate the crop and the county where the crop is grown. The collateral information codes shall be assigned by the SOS. The SOS will provide a list of the established codes upon request. (4-7-11)

02. Supplement. If there is insufficient space on the first page of the form SL-3 for all information, the excess shall be entered on an attached second page SL-3. (7-1-93)

102. -- 199. (RESERVED)

200. REGISTRATION AND SUBSCRIPTION FOR LIST OF LIENS IN CROPS FOR SEED OR LIENS IN CROPS FOR FARM LABOR.
Any person may register and subscribe for regular distribution of lists of all presently effective notices of claim of liens in crops for seed or liens in crops for farm labor which have been filed under this rule. Unless otherwise set forth in this chapter, the registration and subscription for the list of liens in crops for seed or liens in crops for farm labor shall be administered by the rules as set forth in IDAPA 34.05.01, "Rules Governing Farm Products Central Filing System," Section 201. (4-7-11)

201. LIST OF NOTICES OF CLAIM OF LIEN (LIST).

01. Compilation and Distribution. The SOS shall compile and distribute to subscribers therefore, a list which shall include all presently effective notices of claim of liens in crops for seed or liens in crops for farm labor. (4-7-11)

02. Schedule. The list will be published on a bi-weekly schedule to be established by the SOS. (4-7-11)

03. Cut-Off. In order to be included on a list, a notice of claim of lien must be received by the SOS at least one (1) business day prior to publication. (4-7-11)

04. Schedule. At the beginning of each quarter, the SOS will distribute to each registrant a schedule of proposed publication dates for that calendar quarter. The SOS may, for good cause, deviate from the schedule, but every list will be marked with the actual date of publication. In no case will there be more than eighteen (18) days between publications of lists. (4-7-11)

202. -- 299. (RESERVED)

300. REQUEST FOR INFORMATION.
Requests for information on notices of claim of liens in crops for seed or liens in crops for farm labor, both written and verbal, will comply with IDAPA 34.05.03, "Rule Governing Requests For Information -- Form UCC-4 -- Fees." (4-7-11)

301. FEES.

01. Notice of Claim of Lien. (4-7-11)

a. The fee is four dollars ($4) if the form is typed or machine printed, and is eight dollars ($8) if hand written. (4-7-11)

b. The fee shall be paid at the time of filing. (7-1-93)

02. Notice of Amendment, Assignment, or Extension. (4-7-11)

a. The fee is four dollars ($4) if the form is typed or machine printed, and is eight dollars ($8) if hand written. (4-7-11)

b. The fee shall be paid at the time of filing. (7-1-93)

03. Notice of Release. No fee charged. (7-1-93)

04. Registration and Subscription for List of Notices. The fees for registration and subscription shall be as set forth in IDAPA 34.05.01, "Rules Governing Farm Products Central Filing System," Subsections 303.02 and 303.03. (4-7-11)

05. Fees for Requests for Information. The fees for requests for information on notices of claim of liens in crops for seed or liens in crops for farm labor, both written and verbal, and for copies of notices of claim of liens in crops for seed or liens in crops for farm labor reported on the certificate, are provided in IDAPA 34.05.03, "Rules Governing Requests For Information -- Form UCC-4 -- Fees." (4-7-11)

302. -- 999. (RESERVED)

000. LEGAL AUTHORITY AND REFERENCES.

01. Title 28, Chapter 9, Part 4, Idaho Code. (7-1-93)

02. Title 45, Chapters 2 and 3, Idaho Code. (7-1-93)

03. Title 67, Chapter 52, Idaho Code. (7-1-93)

04. IDAPA 34, Title 05, Chapter 01, "Farm Products Central Filing System." (7-1-93)

05. IDAPA 34, Title 05, Chapter 02, "Liens in Crops, For Seed and Farm Labor." (7-1-93)

001. -- 003. (RESERVED)

004. DEFINITIONS.

01. SOS. Secretary of State. (7-1-93)

02. EFS. An effective financing statement relating to farm products, as described in IDAPA 34.05.01, "Rules Governing Farm Products Central Filing System, Office of the Secretary of State." (7-1-93)

03. Notice of Lien in Crops. A notice of claim of lien in crops for seed or farm labor, as described in IDAPA 34.05.02, "Rules Governing Liens in Crops, For Seed, and Farm Labor," Office of the Secretary of State. (7-1-93)

04. Notice of Federal Lien. A notice of lien in personal property filed by the Internal Revenue Service or other federal entity pursuant to Title 45, Chapter 2, Idaho Code. (7-1-93)

05. UCCFS. A financing statement filed pursuant to Sections 28-9-402 and 28-9-403, Idaho Code, other than one relating to farm products. (7-1-93)

06. Notices. A collective term used in this rule to include all of the notices and financing statements described in the foregoing Subsections 004.02 through 004.05, as well as all ancillary documents pertaining thereto. (7-1-93)

07. Debtor. As used in this rule, "Debtor" shall include a lienee under Title 45, Chapter 2, Idaho Code, and a producer under Title 45, Chapter 3, Idaho Code. (7-1-93)

08. Secured Party. As used in this rule, "Secured Party" shall include the federal government under Title 45, Chapter 2, Idaho Code and a claimant under Title 45, Chapter 3, Idaho Code. (7-1-93)

005. -- 010. (RESERVED)

011. REQUESTS FOR INFORMATION.

01. Content. Upon the request of any person, the SOS shall issue a certificate showing all notices of the types included in a request naming a particular debtor. The certificate shall include the date and hour of filing of each notice, and the name and address of each secured party named therein. If the requested notices include EFS's or notices of liens in crops, the certificate shall further include other information described in IDAPA 34.05.01, Subsection 017.03, "Rules Governing Farm Products Central Filing System," Office of the Secretary of State, and IDAPA 34.05.02, Subsection 015.04, "Rules Governing Liens in Crops, For Seed and Farm Labor," Office of the Secretary of State, as applicable. (7-1-93)

02. Form. The SOS shall prescribe an approved form for such requests, designated "UCC-4."Other forms may be used, provided they contain all the necessary information and provided that the fee for use of a non-standard form is paid. After January 31, 1993, only the form UCC-4 with a revision date of 10/92 or later will be held to be a standard form. Prior to that date, previously approved forms UCC-4 and UCC-4F will be held to be standard forms for the purposes for which they were intended; e.g. a form UCC-4F may be used to request information on EFS's, notices of liens in crops, or both; an old UCC-4 may be used to request information on UCCFS's, and if noted on the UCC-4, on notices of federal liens. A verbally conveyed request will be treated as a non-standard form request. (7-1-93)

012. VERBAL REQUESTS FOR INFORMATION.

01. SOS Responsibility. Upon the verbal request of any person, the SOS shall provide, within twenty-four (24) hours, a verbal report of the filing of any notices naming a particular debtor. The SOS will include in the report as much of the information described in Section 011, supra., as the requesting party wants. (7-1-93)

02. Time Computation. In computing the twenty-four (24) hour period, weekends and holidays shall not be counted, pursuant to Section 59-1007, Idaho Code. (7-1-93)

03. Attempts to Respond. If the verbal report is to be made telephonically and the requesting party cannot be reached at the stated telephone number within the twenty-four (24) hour period, the SOS shall attempt to reach the requesting party over an additional twenty-four (24) hour period. If at the end of that time the requesting party has not been reached, the SOS shall be deemed to have fulfilled his obligation to make a timely verbal report. A log of each attempted call shall be maintained by the SOS. At least three (3) attempts to reach the requesting party shall be made in each twenty-four (24) hour period, if the requesting party cannot be reached earlier. (7-1-93)

04. Written Confirmation. The SOS shall follow the verbal report with written confirmation, which shall be in the form of a certificate in response to a non-standard information request as prescribed in Section 011, supra. (7-1-93)

013. FEES.

01. Single Type. The fee for the certificate of the SOS showing all notices of a single type is six dollars ($6). (7-1-93)

02. Multiple Types. The fee for the certificate of the SOS showing all notices of more than one (1) type is ten dollars ($10). (7-1-93)

03. Copies. The fee for requesting copies of the notices reported on the certificate is six dollars ($6). (7-1-93)

04. Non-Standard. The fee for use of a non-standard form or for submission of a form which is not typed is four dollars ($4). (7-1-93)

05. Verbal Report. The fee for providing a verbal report of notices naming a particular debtor is ten dollars ($10). (7-1-93)

06. Single Copies. The fee for a copy of any notice, when the requesting party provides the document number to the SOS, is one dollar ($1) per page. (7-1-93)

07. Service Suspension. Notwithstanding any other provision of this rule, cash payment in advance will be required from a requesting party against whom the SOS holds an account receivable more than sixty (60) days past due or which exceeds one hundred dollars ($100). (7-1-93)

014. -- 999. (RESERVED)

000. LEGAL AUTHORITY AND REFERENCES.
In accordance with Sections 67-903(9) (1977) and 28-9-526 (2001), Idaho Code, the Secretary of State has authority to promulgate administrative rules in order to execute the duties of the Office; this authority includes rules to implement Revised Article 9 of the Uniform Commercial Code, House Bill 205 (2001). (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 34.05.06, "Rules Governing Lien Filings Under the UCC," IDAPA 34, Title 05, Chapter 06. (3-15-02)

02. Scope. These rules shall govern the filing, acceptance, indexing and searching of financing statements in the Secretary of State's Office under Article 9 of the Uniform Commercial Code, as amended in 2001. (3-15-02)

002. -- 100. (RESERVED)

SECTION 1 -- GENERAL PROVISIONS

101. DEFINITIONS.
For the purpose of the rules contained in this chapter, the following definitions apply: (3-15-02)

01. Amendment. A UCC document that purports to amend the information contained in a financing statement. Amendments include assignments, continuations and terminations. (3-15-02)

02. Assignment. An amendment that purports to reflect an assignment of all or a part of a secured party's power to authorize an amendment to a financing statement. (3-15-02)

03. Continuation. An amendment that purports to continue the effectiveness of a financing statement. (3-15-02)

04. Correction Statement. A UCC document that purports to indicate that a financing statement is inaccurate or wrongfully filed. (3-15-02)

05. File Number. The unique identifying information assigned to an initial financing statement by the filing officer for the purpose of identifying the financing statement and UCC documents relating to the financing statement in the filing officer's information management system. For a financing statement with an initial financing statement filed on or prior to June 30, 2001, the file number includes the seven-digit (7) number assigned to the financing statement by the filing officer. For a financing statement with an initial financing statement filed on or after July 1,2001, the file number includes three (3) segments; the year of filing expressed as a four-digit (4) number, followed by a unique seven-digit (7) number assigned to the financing statement by the filing office and ending with a one-digit (1) verification number assigned by the filing office but algorithmically derived from the numbers in the first two (2) segments. The filing number bears no relation to the time of filing and is not an indicator of priority. (3-15-02)

06. Filing Office and Filing Officer. The Idaho Secretary of State's Office. (3-15-02)

07. Financing Statement. An initial financing statement and all UCC documents that relate to the initial financing statement. (3-15-02)

08. Individual. A human being, or a decedent in the case of a debtor that is such decedent's estate. (3-15-02)

09. Initial Financing Statement. A UCC document containing the information required to be in an initial financing statement pursuant to Section 2 of these rules which, when filed, causes the filing office to establish the initial record of the existence of a financing statement in the filing office's UCC information management system. (3-15-02)

10. Organization. A legal person who is not an individual under Subsection 101.08. (3-15-02)

11. Remitter. A person who tenders a UCC document to the filing officer for filing, whether the person

is a filer or an agent of a filer responsible for tendering the document for filing. "Remitter" does not include a person responsible merely for the delivery of the document to the filing office, such as the postal service or a courier service but does include a service provider who acts as a filer's representative in the filing process. (3-15-02)

12. Secured Party of Record. With respect to a financing statement, a secured party or representative of a secured party named on the initial financing statement or, if an assignee is designated on the initial financing statement, instead shall mean the secured party or representative named as such assignee, and shall mean each other secured party or secured party representative named as an additional or substitute secured party on any amendment. Revised Article 9 provides that a person remains a secured party of record until the authorized filing of an amendment indicating that the person is no longer a secured party or secured party representative. However, as the filing officer cannot determine if such an amendment is in fact authorized, a secured party of record on a financing statement is not deleted from the filing officer's information management system until the financing statement lapses. (3-15-02)

13. Termination. An amendment intended to indicate that the related financing statement has ceased to be effective with respect to the secured party authorizing the termination. (3-15-02)

14. UCC. The Uniform Commercial Code as enacted in this state, Section 28-11-101, et seq., Idaho Code. (3-15-02)

15. UCC Document. An initial financing statement, a correction statement or any amendment, including an assignment, a continuation, or a termination. The word "document" in the term "UCC document" shall not be deemed to refer exclusively to paper or paper-based writings. In due time, UCC documents may be expressed or transmitted electronically or through media other than such writings. (Note: this definition is used for the purpose of these rules only. The use of the term "UCC document" in these rules has no relation to the definition of the term "document" in Section 28-9-102(a)(30), Idaho Code.) (3-15-02)

102. SINGULAR AND PLURAL FORMS.
Singular nouns shall include the plural form, and plural nouns shall include the singular form, unless the context otherwise requires. (3-15-02)

103. PLACE OF FILING.
The Secretary of State's Office is the filing office for filing UCC documents relating to all types of collateral except for timber to be cut, as-extracted collateral (Section 28-9-102(a)(6), Idaho Code) and, when the relevant financing statement is filed as a fixture filing, goods which are or are to become fixtures. (3-15-02)

104. FILING OFFICE IDENTIFICATION.
In addition to the promulgation of these rules, the filing office will disseminate information of its location, mailing address, telephone and facsimile numbers, and its internet and other electronic "addresses" through usual and customary means. (3-15-02)

105. OFFICE HOURS.
Although the filing office maintains regular office hours, it receives transmissions by facsimile twenty-four (24) hours per day, three hundred sixty-five (365) days per year, except for scheduled maintenance and unscheduled interruptions of service. Electronic filings may be available in the near future, and will be possible twenty-four (24) hours per day, three hundred sixty-five (365) days per year, except for scheduled maintenance and unscheduled interruptions of service. (3-15-02)

106. UCC DOCUMENT DELIVERY.
UCC documents may be tendered for filing at the filing office as follows: (3-15-02)

01. Personal Delivery, at the Filing Office's Street Address. The file time for a UCC document delivered by this method is when delivery of the UCC document is accepted by the filing office (even though the UCC document may not yet have been accepted for filing and subsequently may be rejected). (3-15-02)

02. Courier Delivery, at the Filing Office's Street Address. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, the next close of business following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently

rejected). A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business. (3-15-02)

03. Postal Service Delivery to the Filing Office's Mailing Address. The file time for a UCC document delivered by this method is the next close of business following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected). A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business. (3-15-02)

04. Facsimile Delivery to the Filing Office's Facsimile Filing Telephone Number. The file time for a UCC document delivered by this method is, notwithstanding the time of delivery, 5 p.m. on the day the filing office is open to the public next following the time of delivery (even though the UCC document may not yet have been accepted for filing and may be subsequently rejected). A UCC document delivered after regular business hours or on a day the filing office is not open for business will have a filing time of the close of business on the next day the filing office is open for business. (3-15-02)

107. SEARCH REQUEST DELIVERY.
UCC search requests may be delivered to the filing office by any of the means by which UCC documents may be delivered to the filing office. Requirements concerning search requests are set forth in Section 501. UCC search requests upon a debtor named on an initial financing statement may be made by an appropriate indication on the face of the initial financing statement form if the form is entitled to be filed with the standard form fee and the relevant search fee is also tendered with the initial financing statement (3-15-02)

108. ACCEPTABLE FORMS.
The forms set forth in Section 28-9-521, Idaho Code, shall be accepted by the filing office. Forms approved by the International Association of Corporation Administrators on or prior to July 1, 2001, and forms approved by the filing office shall be accepted. (3-15-02)

109. -- 110. (RESERVED)

111. FILING FEES.
Section 28-9-525, Idaho Code. (3-15-02)

01. Filing Fee. The fee for filing and indexing a UCC document of one (1) or two (2) pages communicated on paper or in a paper-based format (including facsimiles) is six dollars $(6). If there are additional pages, the fee is twelve dollars ($12). When available, the fee for filing and indexing a UCC document communicated by a medium authorized by these rules which is other than on paper or in a paper-based format shall be three dollars ($3). (3-15-02)

02. UCC Search Fee. The fee for a UCC search request communicated on paper or in a paper-based format is twelve dollars ($12). (3-15-02)

112. (RESERVED)

113. METHODS OF PAYMENT.
Filing fees and fees for public records services may be paid by the following methods: (3-15-02)

01. Cash. Payment in cash shall be accepted if paid in person at the filing office. (3-15-02)

02. Checks. Personal checks, business checks, bank-certified checks or cashiers checks and money orders shall be accepted for payment if they are drawn on a bank acceptable to the filing office or if the drawer is acceptable to the filing office. (3-15-02)

03. Prepaid Account. A remitter may open an account for prepayment of filing fees by submitting an application furnished by the filing officer. Fees may be prepaid in amounts not less than fifty dollars ($50). The filing officer shall issue an account number to be used by a remitter who chooses to pay filing fees in advance. The filing

officer shall deduct filing fees from the remitter's prepaid account when authorized to do so by the remitter. (3-15-02)

114. OVERPAYMENT AND UNDERPAYMENT POLICIES.

01. Overpayment. The filing officer shall refund the amount of an overpayment exceeding two dollars ($2) to the remitter. The filing officer shall refund an overpayment of two dollars ($2) or less only upon the written request of the remitter. (3-15-02)

02. Underpayment. Upon receipt of a document with an insufficient fee, the filing officer shall do one (1) of the following. (3-15-02)

a. A notice of the deficiency shall be sent to the remitter and the document shall be held for a period of ten (10) days from the date of the notice, in anticipation of receipt of the fee. Upon receipt of the fee, the document will be filed as of the time and date of receipt of the full filing fee. If the fee has not been received within ten (10) days of the date of the notice, the document shall be returned to the remitter with a written explanation for the refusal to accept the document; or (3-15-02)

b. The document shall be returned to the remitter as provided in Section 205. A refund of a partial payment may be included with the document or delivered under separate cover. (3-15-02)

115. PUBLIC RECORDS SERVICES.
Public records services are provided on a non-discriminatory basis to any member of the public on the terms described in these rules. The following methods are available for obtaining copies of UCC documents and copies of data from the UCC information management system. (3-15-02)

01. Individually Identified Documents. Copies of individually identified UCC documents are available either from a computer terminal in the reception area in the filing office or through any medium otherwise accepted by the filing office. There is a charge of twenty-five cents ($.25) per page for printed information, but only if four (4) or more pages are printed. (3-15-02)

02. Bulk Copies of Documents. Bulk copies of UCC documents are available in TIF (image) format on CD-ROM. (3-15-02)

03. Data from the Information Management System. A list of available data elements from the UCC information management system, and the file layout of the data elements, are available from the filing officer upon request. Data from the information management system is available as follows: (3-15-02)

a. Full Extract. A bulk data extract of information from the UCC information management system is available on a monthly basis. (3-15-02)

b. Format. Extracts from the UCC information management system are available in ASCII .txt format on CD-ROM. (3-15-02)

04. Direct On-Line Services. On-line services providing UCC information are available on a subscription basis from the State's Internet Portal Manager, Idaho Information Consortium, Inc., d/b/a Access Idaho. A description of subscription services is available from the filing officer or Access Idaho. (3-15-02)

116. FEES FOR PUBLIC RECORDS SERVICES.
Fees for public records services are established as follows: (3-15-02)

01. Charge for Paper Copies. The charge for paper copies of individual documents is twenty-five cents ($.25) per page if no staff assistance is utilized and one dollar ($1) per page with staff assistance. Facsimile charge is an additional fifty cents ($.50) per page. (3-15-02)

02. Data From the Information Management System. The charge for a full extract is one hundred twenty-five dollars ($125) per monthly delivery. (3-15-02)

117. NEW PRACTICES AND TECHNOLOGIES.
The filing officer may adopt practices and procedures to accomplish receipt, processing, maintenance, retrieval and transmission of, and remote access to, Article 9 filing data by means of electronic, voice, optical and/or other technologies, and, without limiting the foregoing, to maintain and operate, in addition to or in lieu of a paper-based system, a non-paper-based Article 9 filing system utilizing any of such technologies. In developing and utilizing technologies and practices, the filing officer shall, to the greatest extent feasible, take into account compatibility and consistency with technologies, practices, policies and regulations adopted in connection with Article 9 filing systems in other states. (3-15-02)

118. -- 199. (RESERVED)

SECTION 2 -- ACCEPTANCE AND REFUSAL OF DOCUMENTS

200. ROLE OF FILING OFFICER.

01. Duties and Responsibilities. The duties and responsibilities of the filing officer with respect to the administration of the UCC are ministerial. (3-15-02)

02. What the Filing Officer Does Not Do. In accepting for filing or refusing to file a UCC document pursuant to these rules, the filing officer does not: (3-15-02)

a. Determine the legal sufficiency or insufficiency of a document. (3-15-02)

b. Determine that a security interest in collateral exists or does not exist. (3-15-02)

c. Determine that information in the document is correct or incorrect, in whole or in part. (3-15-02)

d. Create a presumption that information in the document is correct or incorrect, in whole or in part. (3-15-02)

201. DUTY TO FILE.
Provided that there is no ground to refuse acceptance of the document under Section 202, a UCC document is filed upon its receipt by the filing officer with the filing fee and the filing officer shall promptly assign a file number to the UCC document and index it in the information management system. (3-15-02)

202. GROUNDS FOR REFUSAL OF UCC DOCUMENT.
The following grounds are the sole grounds for the filing officer's refusal to accept a UCC document for filing. As used herein, the term “legible” is not limited to refer only to written expressions on paper: it requires, when appropriate, a machine-readable transmission for electronic transmissions and an otherwise readily decipherable transmission in other cases. (3-15-02)

01. Debtor Name and Address. An initial financing statement or an amendment that purports to add a debtor shall be refused if the document fails to include a legible debtor name and address for a debtor, in the case of an initial financing statement, or for the debtor purporting to be added in the case of such an amendment. If the document contains more than one debtor name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the debtor name(s) that was (were) indexed, and a statement that debtors with illegible or missing names or addresses were not indexed. (3-15-02)

02. Additional Debtor Identification. An initial financing statement or an amendment adding one or more debtors shall be refused if the document fails to identify whether each named debtor (or each added debtor in the case of such an amendment) is an individual or an organization, if the last name of each individual debtor is not identified, or if, for each debtor identified as an organization, the document does not include in legible form the organization’s type, state of organization and organization number (or a statement that it does not have an organization number). UCC documents, including the UCC1 and UCC3, should not contain Social Security Account Numbers or other Taxpayer identification numbers although there are spaces for this information on the approved

UCC1 and UCC3 form. If these numbers are entered on the forms, the filing officer shall cause them not to be readable on the scanned image retained by the filing office. (3-15-02)

03. Secured Party Name and Address. An initial financing statement, an amendment purporting to add a secured party of record, or an assignment, shall be refused if the document fails to include a legible secured party (or assignee in the case of an assignment) name and address. If the document contains more than one secured party (or assignee) name or address and some names or addresses are missing or illegible, the filing officer shall index the legible name and address pairings, and provide a notice to the remitter containing the file number of the document, identification of the secured party (or assignee) names that were indexed, and a statement that secured parties with illegible or missing names or addresses were not indexed. (3-15-02)

04. Lack of Identification of Initial Financing Statement. A UCC document other than an initial financing statement shall be refused if the document does not provide a file number of a financing statement which exists in the UCC information management system and which has not lapsed. (3-15-02)

05. Other Required Information. A UCC document that does not identify itself as an initial financing statement or as another type of UCC document shall be refused. (3-15-02)

06. Timeliness of Continuation. A continuation shall be refused if it is not received during the six (6) month period concluding on the day upon which the related financing statement would lapse. (3-15-02)

a. First Day Permitted. The first day on which a continuation may be filed is the date of the month corresponding to the date upon which the financing statement would lapse, six (6) months preceding the month in which the financing statement would lapse. If there is no such corresponding date during the sixth month preceding the month in which the financing statement would lapse, the first day on which a continuation may be filed is the last day of the sixth month preceding the month in which the financing statement would lapse, although filing by certain means may not be possible on such date if the filing office is not open on such date. (3-15-02)

b. Last Day Permitted. The last day on which a continuation may be filed is the date upon which the financing statement lapses. (3-15-02)

07. Fee. A document shall be refused if the document is accompanied by less than the full filing fee tendered by a method described in Section 113. (3-15-02)

08. Means of Communication. UCC documents communicated to the filing office by a means of communication not authorized by the filing officer for the communication of UCC documents shall be refused. (3-15-02)

203. (RESERVED)

204. TIME LIMIT.
The filing officer shall determine whether criteria exist to refuse acceptance of a UCC document for filing not later than the second business day after the date the document would have been filed had it been accepted for filing and shall index a UCC document not so refused within the same time period. (3-15-02)

205. PROCEDURE UPON REFUSAL.
If the filing officer finds any basis under Section 202 to refuse acceptance of a UCC document, the filing officer shall return the document, if written, to the remitter and refund the filing fee. The filing office shall send a notice that contains the date and time the document would have been filed had it been accepted for filing (unless such date and time are stamped on the document), and a brief description of the reason(s) for refusal to accept the document under Section 202. The notice shall be sent to a secured party or the remitter as provided in Subsection 401.02.b. no later than the second business day after of the determination to refuse acceptance of the document. A refund may be delivered with the notice or under separate cover. (3-15-02)

206. ACKNOWLEDGMENT.

01. When Filing Is a Paper or Paper-Based UCC Document. At the request of a filer or remitter

who files a paper or paper-based UCC document, the filing officer shall either: (3-15-02)

a. Send to said filer or remitter an image of the record of the UCC document showing the file number assigned to it and the date and time of filing; or (3-15-02)

b. If such filer or remitter provides a copy of such UCC document, note the file number and the date and time of filing on the copy and deliver or send it to said filer or remitter. (3-15-02)

02. When Filing Is Not a Paper or Paper-Based UCC Document. When appropriate for UCC documents not filed in paper or paper-based form, the filing officer shall communicate to the filer or remitter the information in the filed document, the file number and the date and time of filing. (3-15-02)

207. OTHER NOTICES.
Nothing in these rules prevents a filing officer from communicating to a filer or a remitter that the filing officer noticed apparent potential defects in a UCC document, whether or not it was filed or refused for filing. However, the filing office is under no obligation to do so and may not have the resources to do so. THE RESPONSIBILITY FOR THE LEGAL EFFECTIVENESS OF FILING RESTS WITH FILERS AND REMITTERS AND THE FILING OFFICE BEARS NO RESPONSIBILITY FOR SUCH EFFECTIVENESS. (3-15-02)

208. REFUSAL ERRORS.
If a secured party or a remitter demonstrates to the satisfaction of the filing officer that a UCC document that was refused for filing should not have been, the filing officer will file the UCC document as provided in these rules with a filing date and time assigned when such filing occurs. The filing officer will also file a filing officer statement that states the effective date and time of filing which shall be the date and time the UCC document was originally tendered for filing. The lapse date shall be calculated based upon the date the UCC document was originally tendered. (3-15-02)

209. -- 299. (RESERVED)

SECTION 3 -- UCC INFORMATION MANAGEMENT SYSTEM

300. POLICY STATEMENT.
The filing officer uses an information management system to store, index, and retrieve information relating to financing statements. The information management system includes an index of the names of debtors named on financing statements which have not been lapsed for more than one (1) year. (3-15-02)

301. PRIMARY DATA ELEMENTS.
The primary data elements used in the UCC information management system are the following: (3-15-02)

01. Identification Numbers. (3-15-02)

a. Each initial financing statement is identified by its file number as described in Subsection 101.05. Identification in the form of the file number of the initial financing statement is stamped on written UCC documents or is otherwise permanently associated with the record maintained for UCC documents in the UCC information management system. A record is created in the information management system for each initial financing statement and all information comprising such record is maintained in such system. Such record is identified by the same information assigned to the initial financing statement. (3-15-02)

b. A UCC document other than an initial financing statement is identified by a unique file number assigned by the filing officer. In the information management system, records of all UCC documents other than initial financing statements are linked to the record of their related initial financing statement. (3-15-02)

02. Type of Document. The type of UCC document from which data is transferred is identified in the information management system from information supplied by the remitter. (3-15-02)

03. Filing Date and Filing Time. The filing date and filing time of UCC documents are stored in the

information management system. Calculation of the lapse date of an initial financing statement is based upon the filing date or the effective filing date as provided in Section 208 of these rules. (3-15-02)

04. Identification of Parties. The names and addresses of debtors and secured parties are transferred from UCC documents to the UCC information management system using one (1) or more data entry or transmittal techniques. (3-15-02)

05. Status of Financing Statement. In the information management system, each financing statement has a status of active or inactive. (3-15-02)

06. Lapse Indicator. An indicator is maintained by which the information management system identifies whether or not a financing statement will lapse and, if it does, when it will lapse. The lapse date is determined as provided in Section 404. (3-15-02)

302. NAMES OF DEBTORS WHO ARE INDIVIDUALS.
The definition of "individual" is found in Subsection 101.08. This rule applies to the name on a UCC document of a debtor or a secured party who is an individual. (3-15-02)

01. Individual Name Fields. The names of individuals are stored in the same files as the names of organizations. Separate data entry fields are established for first (given), middle (given), and last names (surnames or family names) of individuals, and an indicator is marked with "I" to distinguish the name as that of an individual. The filing officer assumes no responsibility for the accurate designation of the components of a name but will accurately enter the data in accordance with the filer's designations. (3-15-02)

02. Titles and Prefixes Before Names. Titles and prefixes, such as "Doctor," "Reverend," "Mr.," and "Ms.," should not be entered in the UCC information management system. However, as provided in Section 407, when a UCC document is submitted with designated name fields, the data will be entered in the UCC information management system exactly as it appears. (3-15-02)

03. Titles and Suffixes After Names. Titles or indications of status such as "M.D." and "esquire" shall not be entered in the UCC information management system. Suffixes, such as "Sr.," "Jr.," "I," "II," and "III," and "Est" (estate) are entered in a field designated for name suffixes. (3-15-02)

04. Truncation -- Individual Names. Personal name fields in the UCC database are fixed in length. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. The length of data entry name fields are as follows. (3-15-02)

a. First name: Fifty (50) characters. (3-15-02)

b. Middle name: Fifty (50) characters. (3-15-02)

c. Last name: Two hundred fifty-five (255) characters. (3-15-02)

d. Suffix: Ten (10) characters. (3-15-02)

05. No Assumed Business Names. An assumed business name, whether or not on file under Chapter 5, Title 53, Idaho Code, is not the legal name of the individual using the assumed business name. (3-15-02)

303. NAMES OF DEBTORS THAT ARE ORGANIZATIONS.
This rule applies to the names of organizations which are debtors or secured parties on a UCC document. (3-15-02)

01. Single Field. The names of organizations are stored in the same files as the names of individuals. The name of an organization is stored in the last-name field only, and an indicator is marked with "O" to distinguish the name as that of an organization. The filing officer assumes no responsibility for the accurate designation of an organizational name but will accurately enter the data in accordance with the filer's designations. (3-15-02)

02. Truncation-Organization Names. The organization name field in the UCC database is fixed in length. The maximum length is two hundred fifty-five (255) characters. Although filers should continue to provide full names on their UCC documents, a name that exceeds the fixed length is entered as presented to the filing officer, up to the maximum length of the data entry field. (3-15-02)

03. No Assumed Business Names. An assumed business name, whether or not on file under Chapter 5, Title 53, Idaho Code, is not the legal name of the organization using the assumed business name. (3-15-02)

304. ESTATES.
Although they are not human beings, estates are treated as if the decedent were the debtor under Section 302. "Est" should be entered in the suffix field. (3-15-02)

305. TRUSTS.
If the trust is named in its organic document(s), its full legal name, as set forth in such document(s), is used. Such trusts are treated as organizations. If the trust is not so named, the name of the settlor is used. If a settlor is indicated to be an organization, the name is treated as an organization name. If the settlor is an individual, the name is treated as an individual name. A UCC document that uses a settlor's name should include other information provided by the filer to distinguish the debtor trust from other trusts having the same settlor and all financing statements filed against trusts or trustees acting with respect to property held in trust should indicate the nature of the debtor. If this is done in, or as part of, the name of the debtor, it will be entered as if it were a part of the name under Sections 407 and 408. (3-15-02)

306. INITIAL FINANCING STATEMENT.
Upon the filing of an initial financing statement the status of the parties and the status of the financing statement shall be as follows: (3-15-02)

01. Status of Secured Party. Each secured party named on an initial financing statement shall be a secured party of record, except that if the UCC document names an assignee, the secured party/assignor shall not be a secured party of record and the secured party/assignee shall be a secured party of record. (3-15-02)

02. Status of Debtor. The status of a debtor named on the document shall be active and shall continue as active until one (1) year after the financing statement lapses. (3-15-02)

03. Status of Financing Statement. The status of the financing statement shall be active. A lapse date shall be calculated, five (5) years from the file date, unless the initial financing statement indicates that it is filed with respect to a public-financing transaction or a manufactured-home transaction, in which case the lapse date shall be thirty (30) years from the file date; or, if the initial financing statement indicates that it is filed against a transmitting utility, in which case there shall be no lapse date. A financing statement remains active until one (1) year after it lapses, or if it is indicated to be filed against a transmitting utility, until one (1) year after it is terminated with respect to all secured parties of record. (3-15-02)

307. AMENDMENT.
Upon the filing of an amendment the status of the parties and the status of the financing statement shall be as follows: (3-15-02)

01. Status of Secured Party and Debtor. An amendment shall affect the status of its debtor(s) and secured party(ies) as follows: (3-15-02)

a. Collateral Amendment or Address Change. An amendment that amends only the collateral description or one (1) or more addresses has no effect upon the status of any debtor or secured party. If a statement of amendment is authorized by less than all of the secured parties (or, in the case of an amendment that adds collateral, less than all of the debtors), the statement affects only the interests of each authorizing secured party (or debtor). (3-15-02)

b. Debtor Name Change. An amendment that changes a debtor's name has no effect on the status of any debtor or secured party, except that the related initial financing statement and all UCC documents that include an identification of such initial financing statement shall be cross-indexed in the UCC information management system

so that a search under either the debtor's old name or the debtor's new name will reveal such initial financing statement and such related UCC documents. Such a statement of amendment affects only the rights of its authorizing secured party(ies). (3-15-02)

c. Secured Party Name Change. An amendment that changes the name of a secured party has no effect on the status of any debtor or any secured party, but the new name is added to the index as if it were a new secured party of record. (3-15-02)

d. Addition of a Debtor. An amendment that adds a new debtor name has no effect upon the status of any party to the financing statement, except the new debtor name shall be added as a new debtor on the financing statement. The addition shall affect only the rights of the secured party(ies) authorizing the statement of amendment. (3-15-02)

e. Addition of a Secured Party. An amendment that adds a new secured party shall not affect the status of any party to the financing statement, except that the new secured party name shall be added as a new secured party on the financing statement. (3-15-02)

f. Deletion of a Debtor. An amendment that deletes a debtor has no effect on the status of any party to the financing statement, even if the amendment purports to delete all debtors. (3-15-02)

g. Deletion of a Secured Party. An amendment that deletes a secured party of record has no effect on the status of any party to the financing statement, even if the amendment purports to delete all secured parties of record. (3-15-02)

02. Status of Financing Statement. An amendment shall have no effect upon the status of the financing statement, except that a continuation may extend the period of effectiveness of a financing statement. (3-15-02)

308. ASSIGNMENT OF POWERS OF SECURED PARTY OF RECORD.

01. Status of the Parties. An assignment shall have no effect on the status of the parties to the financing statement, except that each assignee named in the assignment shall become a secured party of record. (3-15-02)

02. Status of Financing Statement. An assignment shall have no effect upon the status of the financing statement. (3-15-02)

309. CONTINUATION.

01. Continuation of Lapse Date. Upon the timely filing of one (1) or more continuations by any secured party(ies) of record, the lapse date of the financing statement shall be postponed for five (5) years. (3-15-02)

02. Status of Parties. The filing of a continuation shall have no effect upon the status of any party to the financing statement. (3-15-02)

03. Status of Financing Statement. Upon the filing of a continuation statement, the status of the financing statement remains active. (3-15-02)

310. TERMINATION.

01. Status of Parties. The filing of a termination shall have no effect upon the status of any party to the financing statement. (3-15-02)

02. Status of Financing Statement. A termination shall have no effect upon the status of the financing statement and the financing statement shall remain active in the information management system until one (1) year after it lapses, unless the termination relates to a financing statement that indicates it is filed against a transmitting utility, in which case the financing statement will become inactive one (1) year after it is terminated with respect to all

secured parties of record. (3-15-02)

311. CORRECTION STATEMENT.

01. Status of Parties. The filing of a correction statement shall have no effect upon the status of any party to the financing statement. (3-15-02)

02. Status of Financing Statement. A correction statement shall have no effect upon the status of the financing statement. (3-15-02)

312. PROCEDURE UPON LAPSE.
If there is no timely filing of a continuation with respect to a financing statement, the financing statement lapses on its lapse date but no action is then taken by the filing office. On the first anniversary of such lapse date, the information management system renders or is caused to render the financing statement inactive and the financing statement will no longer be made available to a searcher unless inactive statements are requested by the searcher and the financing statement is still retrievable by the information management system. (3-15-02)

313. -- 399. (RESERVED)

SECTION 4 -- FILING AND DATA ENTRY PROCEDURES

400. POLICY STATEMENT.
This section contains rules describing the filing procedures of the filing officer upon and after receipt of a UCC document. It is the policy of the filing officer to file promptly a document that conforms to these rules. Except as provided in these rules, data is transferred from a UCC document to the information management system exactly as the data is set forth in the document. Personnel who create reports in response to search requests type search criteria exactly as set forth on the search request. No effort is made to detect or correct errors of any kind. (3-15-02)

401. DOCUMENT INDEXING AND OTHER PROCEDURES BEFORE ARCHIVING.

01. Cash Management. Transactions necessary to payment of the filing fee are performed. (3-15-02)

02. Document Review. The filing office determines whether a ground exists to refuse the document under Section 202. (3-15-02)

a. File Stamp. If there is no ground for refusal of the document, the document is stamped or deemed filed and a unique identification number and the filing date is stamped on the document or permanently associated with the record of the document maintained in the UCC information management system. The sequence of the identification number is not an indication of the order in which the document was received. (3-15-02)

b. Correspondence. If there is a ground for refusal of the document, notification of refusal to accept the document is prepared as provided in Section 205. If there is no ground for refusal of the document, an acknowledgment of filing is prepared as provided in Section 206. Acknowledgment of filing or notice of refusal of a UCC document is sent to the secured party (or the first secured party if there are more than one (1)) named on the UCC document or to the remitter if the remitter so requests by regular mail or by overnight courier if the remitter provides a prepaid waybill or access to the remitter's account with the courier. (3-15-02)

402. FILING DATE.
The filing date of a UCC document is the date the UCC document is received with the proper filing fee if the filing office is open to the public on that date; or, if the filing office is not so open to the public on that date, the filing date is the next date the filing office is so open, except that, in each case, UCC documents received after 5 p.m. shall be deemed received on the following day. The filing officer may perform any duty relating to the document on the filing date or on a date after the filing date. (3-15-02)

403. FILING TIME.
The filing time of a UCC document is determined as provided in Section 106. (3-15-02)

404. LAPSE DATE AND TIME.
A lapse date is calculated for each initial financing statement (unless the debtor is indicated to be a transmitting utility). The lapse date is the same date of the same month as the filing date in the fifth year after the filing date or relevant subsequent fifth anniversary thereof if a timely continuation statement is filed, but if the initial financing statement indicates that it is filed with respect to a public-finance transaction or a manufactured-home transaction, the lapse date is the same date of the same month as the filing date in the thirtieth year after the filing date. The lapse takes effect at midnight at the end of the lapse date. The relevant anniversary for a February 29 filing date shall be March 1 in the fifth year following the year of the filing date. (3-15-02)

405. ERRORS OF THE FILING OFFICER.
The filing office may correct the errors of filing officer personnel in the UCC information management system at any time. If the correction is made after the filing officer has issued a certification date that includes the filing date of a corrected document, the filing officer shall file a filing officer statement in the UCC information management system identifying the record to which it relates, the date of the correction and explaining the nature of the corrective action taken. The notation shall be preserved as long as the record is preserved in the UCC information management system. (3-15-02)

406. ERRORS OTHER THAN FILING OFFICE ERRORS.
An error by a filer is the responsibility of such filer. It can be corrected by filing an amendment or it can be disclosed by a correction statement. (3-15-02)

407. DATA ENTRY OF NAMES – DESIGNATED FIELDS.
A filing should designate whether a name is a name of an individual or an organization and, if an individual, also designate the first, middle and last names and any suffix. When this is done, Subsections 407.01 the through 407.03 shall apply: (3-15-02)

01. Organization Names. Organization names are entered into the UCC information management system exactly as set forth in the UCC document, even if it appears that multiple names are set forth in the document or if it appears that the name of an individual has been included in the field designated for an organization name. (3-15-02)

02. Individual Names. On a form that designates separate fields for first, middle, and last names and any suffix, the filing officer enters the names into the first, middle, and last name and suffix fields in the UCC information management system exactly as set forth on the form. (3-15-02)

03. Designated Fields Encouraged. The filing office encourages the use of forms that designate separate fields for individual and organization names and separate fields for first, middle, and last names and any suffix. Filers should be aware that the inclusion of a name in an incorrect field or the failure to transmit a name accurately to the filing office may cause a filing to be ineffective. (3-15-02)

408. DATA ENTRY OF NAMES -- NO DESIGNATED FIELDS.
A UCC document that is an initial financing statement or an amendment that adds a debtor to a financing statement and that fails to specify whether the debtor is an individual or an organization shall be refused by the filing office. If it is accepted for filing in error, the following rules in Subsections 408.01 through 408.04 shall apply: (3-15-02)

01. Identification of Organizations. A name is treated as an organization name if it contains words or abbreviations that indicate status such as the following and similar words or abbreviations in foreign languages: association, church, college, company, co., corp., corporation, inc., limited, ltd., club, foundation, fund, L.L.C., limited liability company, institute, society, union, syndicate, GmBH, S.A. de C.V., limited partnership, L.P., limited liability partnership, L.L.P., trust, business trust, co-op, cooperative and other designations established by statutes to indicate a statutory organization. In cases where organization or individual status is not designated by the filer and is not clear, the filing officer will use his own judgment. (3-15-02)

02. Identification of Individuals. A name is entered as the name of an individual and not the name of an organization when the name is followed by a title substantially similar to one (1) of the following titles, or the equivalent of one (1) of the following titles in a foreign language: proprietor, sole proprietor, proprietorship, sole proprietorship, partner, general partner, president, vice president, secretary, treasurer, M.D., O.D., D.D.S., attorney at

law, Esq., accountant, CPA. In such cases, the title is not entered. (3-15-02)

03. Individual and Organization Names on a Single Line. Where it is apparent that the name of an individual and the name of an entity are stated on a single line and not in a designated individual name field, the name of the individual and the name of the entity shall be entered as two (2) separate debtors, one (1) as an individual and one (1) as an entity. Additional filing fees for the amendment to add additional debtor name(s) may be required. (3-15-02)

04. Individual Names. The failure to designate the last name of an individual debtor in an initial financing statement or an amendment adding such debtor to a financing statement should cause a filing to be refused. If the filing is accepted in error, or if only the last name is designated, the following data entry rules apply: (3-15-02)

a. Freestanding Initials. An initial in the first position of the name is treated as a first name. An initial in the second position of the name is treated as a middle name. (3-15-02)

b. Combined Initials and Names. An initial and a name to which the initial apparently corresponds is entered into one (1) name field only [e.g. "D. (David)" in the name "John D. (David) Rockefeller" is entered as "John" (first name); "D. (David)" (middle name); "Rockefeller" (last name)]. (3-15-02)

c. Multiple Individual Names on a Single Line. Two (2) individual names contained in a single line are entered as two different debtors [e.g. the debtor name "John and Mary Smith" is entered as two (2) debtors: "John Smith" and "Mary Smith"]. (3-15-02)

d. One Word Names. A one (1) word name is entered as a last name [e.g. "Charro" is treated as a last name]. (3-15-02)

e. Nicknames. A nickname is entered in the name field together with the name preceding the nickname, or if none, then as the first name (e.g., "William (Bill) Jones"). (3-15-02)

409. VERIFICATION OF DATA ENTRY.

The filing officer uses double key entry to verify the accuracy of data entry tasks. (3-15-02)

410. INITIAL FINANCING STATEMENT.

01. New Record Bears the Unique UCC File Number. A new record is opened in the UCC information management system for each initial financing statement. The new record bears the unique file number of the financing statement and the date and time of filing. (3-15-02)

02. Name and Address of Each Debtor. The name and address of each debtor that are legibly set forth in the financing statement are entered into the record of the financing statement. Each such debtor name is included in the searchable index and is not removed until one (1) year after the financing statement lapses. (3-15-02)

03. Name and Address of Each Secured Party. The name and address of each secured party that are legibly set forth in the financing statement are entered into the record of the financing statement. (3-15-02)

04. Record Is Indexed According to the Name of the Debtor. The record is indexed according to the name of the debtor(s) and is maintained for public inspection. (3-15-02)

05. Lapse Date. A lapse date is established for the financing statement, and the lapse date is maintained as part of the record. No lapse date is established for a financing statement which indicates it is filed against a transmitting utility. (3-15-02)

411. AMENDMENT.

01. Date and Time of Filing Amendment. A record is created for the amendment that bears the file number for the amendment and the date and time of filing. (3-15-02)

02. Amendment Initial Financing Statement. The record of the amendment is associated with the record of the related initial financing statement in a manner that causes the amendment to be retrievable each time a record of the financing statement is retrieved. (3-15-02)

03. Amendment Financing Statement Lapses. The name and address of each additional debtor and secured parties are entered into the UCC information management system in the record of the financing statement. Each such additional debtor name is added to the searchable index and is not removed until one (1) year after the financing statement lapses. (3-15-02)

04. New Lapse Date Is Established. If the amendment is a continuation, a new lapse date is established for the financing statement and maintained as part of its record. (3-15-02)

412. CORRECTION STATEMENT.
A record is created for the correction statement that bears the file number for the correction statement and the date and time of filing. The record of the correction statement is associated with the record of the related initial financing statement in a manner that causes the correction statement to be retrievable each time a record of the financing statement is retrieved. (3-15-02)

413. GLOBAL FILINGS.

01. Filing a Single UCC Document.The filing officer may accept for filing a single UCC document for the purpose of amending more than one (1) financing statement, for one (1) or both of the following purposes: (3-15-02)

a. Amendment to change secured party name; or (3-15-02)

b. Amendment to change secured party address. (3-15-02)

02. Global Filing. A global filing shall consist of a written document describing the requested amendment on a form approved by the filing office. Acceptance of a global filing is conditioned upon the determination of the filing officer and is within the filing officer's sole discretion. (3-15-02)

414. NOTICE OF BANKRUPTCY.
The filing officer shall take no action upon receipt of a notification, formal or informal, of a bankruptcy proceeding involving a debtor named in the UCC information management system. (3-15-02)

415. -- 499. (RESERVED)

SECTION 5 -- SEARCH REQUESTS AND REPORTS

500. GENERAL REQUIREMENTS.
The filing officer maintains for public inspection a searchable index for all records of UCC documents that provides for the retrieval of a record by the name of the debtor and by the file number of the initial financing statement to which the record relates and which associates each initial financing statement and each filed UCC document relating to the initial financing statement. (3-15-02)

501. SEARCH REQUESTS.
Search requests shall contain the following information: (3-15-02)

01. Name Searched. A search request should set forth the full correct name of a debtor or the name variant desired to be searched and must specify whether the debtor is an individual or an organization. The full name of an individual should consist, whenever possible, of a first, middle, and last name, followed by any suffix that may apply to the name. The full name of an organization shall consist of the name of the organization as stated on the articles of incorporation or other organic documents in the state or country of organization or the name variant desired to be searched. A search request will be processed using the name in the exact form it is submitted. (3-15-02)

02. Requesting Party. The name and address of the person to whom the search report is to be sent. (3-15-02)

03. Fee. The appropriate fee shall be enclosed, payable by a method described in Section 113. (3-15-02)

502. OPTIONAL INFORMATION.
A UCC search request may contain any of the following information: (3-15-02)

01. Copies of Documents. A request that copies of documents referred to in the report be included with the report. The request may limit the copies requested by limiting them by reference to the city of the debtor, the date of filing, or a range of filing dates on the financing statements located by the related search. The request may ask for copies of UCC documents identified on the primary search response. (3-15-02)

02. Debtor Name. A request that the search of a debtor name be limited to debtors in a particular city. A report created by the filing officer in response to such a request shall contain the following statement: "A search limited to a particular city, the date of filing, or a range of filing dates may not reveal all filings against the debtor searched and the searcher bears the risk of relying on such a search." (3-15-02)

03. Mode of Delivery. Instructions on the mode of delivery requested, if other than by ordinary mail, will be honored if the requested mode is at the time available to the filing office. (3-15-02)

503. RULES APPLIED TO SEARCH REQUESTS.
Search results are created by applying standardized search logic to the name presented to the filing officer by the person requesting the search. Human judgment does not play a role in determining the results of the search, except with respect to supplemental responses regarding individual debtor names that are not automated. The following, and only the following, rules are applied to conduct searches: (3-15-02)

01. No Limit on Number of Search Matches. There is no limit to the number of matches that may be returned in response to the search criteria. (3-15-02)

02. Not Case Sensitive. No distinction is made between upper and lower case letters. (3-15-02)

03. Punctuation. Punctuation marks and accents are disregarded. (3-15-02)

04. Words and Abbreviations at the End of a Name. Words and abbreviations at the end of a name that indicate the existence or nature of an organization as set forth in the "Ending Noise Words" list as promulgated and adopted by the International Association of Corporation Administrators, as amended from time to time, are disregarded (e.g., company, limited, incorporated, corporation, limited partnership, limited liability company or abbreviations of the foregoing). (3-15-02)

05. "The" Disregarded. The word "the" at the beginning of the search criteria is disregarded. (3-15-02)

06. Spaces. All spaces are disregarded. (3-15-02)

07. Initials. For first and middle names of individuals, initials are equated with all names that begin with such initials, and no middle name or initial is equated with all middle names and initials. (3-15-02)

08. Names Searched On. After taking the preceding rules into account to modify the name of the debtor requested to be searched and to modify the names of debtors contained in active financing statements in the UCC information management system, the search will reveal only names of debtors that are contained in active financing statements and, as modified, exactly match the name requested, as modified. (3-15-02)

504. SEARCH RESPONSES.
Reports created in response to a search request shall include the following: (3-15-02)

01. Filing Officer. Identification of the filing officer and the certification of the filing officer required by the UCC. (3-15-02)

02. Report Date. The date the report was generated. (3-15-02)

03. Name Searched. Identification of the name searched. (3-15-02)

04. Certification Date. The certification date applicable to the report; i.e., the date and time through which the search is effective to reveal all relevant UCC documents filed on or prior to that date. (3-15-02)

05. Identification of Initial Financing Statements. Identification of each unlapsed initial financing statement filed on or prior to the certification date and time corresponding to the search criteria, by name of debtor, by identification number, and by file date and file time. (Lapsed financing statements remain active for one (1) year after the lapse date and may be requested on the search form.) (3-15-02)

06. History of Financing Statement. For each initial financing statement on the report, a listing of all related UCC documents filed by the filing officer on or prior to the certification date. (3-15-02)

07. Copies. Copies of all UCC documents revealed by the search and requested by the searcher. (3-15-02)

505. -- 599. (RESERVED)

SECTION 6 -- OTHER NOTICES OF LIENS

600. POLICY STATEMENT.
The purpose of the rules in this section is to describe non-UCC liens maintained by the filing office. These liens are treated by the filing officer in a manner similar to UCC documents and are included, on request, with the reports described in Sections 504 and 505. (3-15-02)

601. NOTICE OF FEDERAL TAX LIEN.

01. Filing. Pursuant to Section 45-202, Idaho Code, federal tax liens on business entities, estates, and trusts are filed at the Secretary of State's Office. (3-15-02)

a. Fee. (3-15-02)

i. The fee for filing is six dollars ($6); (3-15-02)

ii. If there is an attachment there is an additional fee of one dollar ($1) per page. (3-15-02)

b. Duration. Pursuant to the Internal Revenue Code, federal tax liens have a duration of ten (10) years. (3-15-02)

02. Mechanics of Search. (3-15-02)

a. Fee for Search. (3-15-02)

i. Six dollars ($6) for information only; (3-15-02)

ii. Twelve dollars ($12) for information and copies. (3-15-02)

b. Combination Search Available with UCC Search: (3-15-02)

i. Ten dollars ($10) for information; (3-15-02)

ii. Sixteen dollars ($16) for information and copies. (3-15-02)

602. NOTICE OF STATE TAX LIEN.

01. Filing. (3-15-02)

a. Where to File. The Secretary of State accepts electronic filings from the Idaho Tax Commission pursuant to Chapter 19, Title 45, Idaho Code, and Title 63, Idaho Code. (3-15-02)

b. Fee. None. (3-15-02)

c. Duration. Five (5) years. (3-15-02)

02. Mechanics of Search. (3-15-02)

a. Fee for Search. (3-15-02)

i. Six dollars ($6) for information only; (3-15-02)

ii. Twelve dollars ($12) for information and copies. (3-15-02)

b. Combination Search Available with UCC Search: (3-15-02)

i. Ten dollars ($10) for information; (3-15-02)

ii. Sixteen dollars ($16) for information and copies. (3-15-02)

603. NOTICE OF OTHER LIEN IN FAVOR OF A GOVERNMENTAL BODY (NATURE AND DURATION).

01. State Agencies. Generally under Chapter 19, Title 45, Idaho Code. (3-15-02)

a. Department of Commerce and Labor, Chapter 13, Title 72, Idaho Code (unemployment insurance-five year duration). (3-15-02)

b. Department of Commerce and Labor, Chapter 6, Title 45, Idaho Code (wage claims-five (5) year duration). (3-15-02)

c. Department of Health and Welfare, Chapter 12, Title 7, Idaho Code (child support-indefinite duration). (3-15-02)

d. Department of Health and Welfare, Chapter 2, Title 56, Idaho Code (medical assistance-five (5) year duration). (3-15-02)

02. Counties. Chapter 35, Title 31, Idaho Code (indigent medical-indefinite duration). (3-15-02)

03. Mechanics of Search. (3-15-02)

a. Fee for Search. (3-15-02)

i. Six dollars ($6) for information only; (3-15-02)

ii. Twelve dollars ($12) for information and copies. (3-15-02)

b. Combination Search Available with UCC Search: (3-15-02)

i. Ten dollars ($10) for information; (3-15-02)

ii. Sixteen dollars ($16) for information and copies. (3-15-02)

604. SEED AND FARM LABOR LIENS.

01. Mechanics of Filing. Seed and farm labor liens pursuant to Chapter 3, Title 45, Idaho Code are filed in the same manner as initial financing statements and may use only forms prescribed by the Secretary of State's Office. They are indexed by debtor name and will be revealed, on request, by searches under Sections 504 and 505. (3-15-02)

a. Where to File. Seed and farm labor liens are filed with the filing office. (3-15-02)

b. Fee. (3-15-02)

i. Four dollars ($4), if typed; (3-15-02)

ii. Eight dollars ($8), if handwritten. (3-15-02)

c. Duration. (3-15-02)

i. Farm labor liens remain in effect for twelve (12) months after filing and may be extended for six (6) months. (3-15-02)

ii. Seed liens remain in effect for sixteen (16) months and may be extended for six (6) months. (3-15-02)

02. Mechanics of Search. (3-15-02)

a. Fee for Search. (3-15-02)

i. Six dollars ($6) for information only; (3-15-02)

ii. Twelve dollars ($12) for information and copies. (3-15-02)

b. Combination Search Available with UCC Search: (3-15-02)

i. Ten dollars ($10) for information; (3-15-02)

ii. Sixteen dollars ($16) for information and copies. (3-15-02)

605. AGRICULTURE COMMODITY LIENS.

01. Mechanics of Filing. Agricultural commodity liens pursuant to Chapter 18, Title 45, Idaho Code are filed in the same manner as initial financing statements and may use only forms prescribed by the Secretary of State's Office. These types of liens are indexed by debtor name and will be revealed, on request, by searches under Sections 504 and 505. (3-15-02)

a. Fee. Five dollars ($5). (3-15-02)

b. Duration. Ninety (90) days. (3-15-02)

02. Mechanics of Search. Fee for search: (3-15-02)

a. Five dollars ($5), if combined with other searches; (3-15-02)

b. Ten dollars ($10) for information; (3-15-02)

c. Sixteen dollars ($16) for information and copies. (3-15-02)

606. FARM PRODUCT LIENS.

01. Mechanics of Filing. (3-15-02)

a. Pursuant to Section 28-9-526, Idaho Code, farm product liens are filed in the same manner as initial financial statements and may use only forms prescribed by the Secretary of State's Office. They are indexed by debtor name and will be revealed, on request, by searches under Sections 504 and 505. (3-15-02)

b. Where to File. Farm product liens are filed with the filing office. (3-15-02)

c. Fee. (3-15-02)

i. Ten dollars ($10), if typed; (3-15-02)

ii. Fourteen dollars ($14), if handwritten; (3-15-02)

iii. For attachments, it is an additional one dollar ($1) per printer page. (3-15-02)

d. Duration. Farm product liens remain in effect for five (5) years and may be extended to five (5) years if continuation is received six (6) months prior to lapse. (3-15-02)

02. Mechanics of Search. (3-15-02)

a. Fee for Search: (3-15-02)

i. Six dollars ($6) for information only; (3-15-02)

ii. Twelve dollars ($12) for information and copies. (3-15-02)

b. Combination Search Available with UCC Search: (3-15-02)

i. Ten dollars ($10) for information; (3-15-02)

ii. Sixteen dollars ($16) for information and copies. (3-15-02)

607. -- 999. (RESERVED)

IDAPA 35 – IDAHO STATE TAX COMMISSION

DOCKET NO. 35-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 63-105, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters under IDAPA 35, rules of the Idaho State Tax Commission:

IDAPA 35
- 35.01.01, *Income Tax Administrative Rules*
- 35.01.02, *Idaho Sales and Use Tax Administrative Rules*
- 35.01.03, *Property Tax Administrative Rules*
- 35.01.05, *Idaho Motor Fuels Tax Administrative Rules*
- 35.01.06, *Hotel/Motel Room and Campground Sales Tax Administrative Rules*
- 35.01.07, *Kilowatt Hour Tax Administrative Rules*
- 35.01.08, *Mine License Tax Administrative Rules*
- 35.01.09, *Idaho Beer and Wine Taxes Administrative Rules*
- 35.01.10, *Idaho Cigarette and Tobacco Products Taxes Administrative Rules*
- 35.02.01, *Tax Commission Administration and Enforcement Rules*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 5401 - 5904**.

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 35, rules of the Idaho State Tax Commission:

- ***(VACATED)*** *35.01.12, Idaho Beer Tax Administrative Rules*
- ***(VACATED)*** *35.01.14, Prepaid Wireless E911 Fee Administrative Rules*

The rulemaking was prompted by the expiration of the rules. The State Tax Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline its rules. Minor housekeeping edits are also intended to make the Commission's rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Tom Shaner at (208) 334-7518.

Dated this 20th day of November, 2019.

Thomas C. Shaner, CPA - Tax Policy Manager
Phone: (208) 334-7518 / Fax: (208) 334-7690
tom.shaner@tax.idaho.gov

Idaho State Tax Commission, Taxpayer Resources Unit
11321 W. Chinden Blvd., Bldg. 2
P.O. Box 36, Boise ID 83722-0410

000. LEGAL AUTHORITY (RULE 000).
In accordance with Sections 63-105 and 63-3039, Idaho Code, the Tax Commission has promulgated rules implementing the provisions of the Idaho Income Tax Act. The rules relating to the administration and enforcement of income taxes as well as other taxes, such as sales taxes, are promulgated as IDAPA 35.02.01. (3-20-97)

001. TITLE AND SCOPE (RULE 001).
Section 63-3039, Idaho Code.

01. Title. These rules are titled IDAPA 35.01.01.000, et seq., Idaho State Tax Commission Rules IDAPA 35.01.01, "Income Tax Administrative Rules." (2-27-12)

02. Scope. These rules will be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on income of all persons who derive income from Idaho sources or who enjoy benefits of Idaho residence. (2-27-12)

03. Effective Date. To the extent allowed by statute, rules in this chapter will be applied on their effective date to all taxable years open for determining tax liability. (2-27-12)

04. Closed Years or Issues. Taxable years closed by the statute of limitations remain closed and are not reopened by the promulgation, repeal or amendment of any rule. Issues resolved by the expiration of appeal time, a notice of deficiency determination, or a final decision of the Tax Commission will not be reopened by the promulgation, repeal, or amendment of any rule. (2-27-12)

05. Transactions Before an Effective Date. A rule will not be applied to transactions occurring before its effective date in a case where, in the opinion of the Tax Commission, to do so would create an obvious injustice. (2-27-12)

002. ADMINISTRATIVE APPEALS (RULE 002).
This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. (3-20-97)

003. INCORPORATION BY REFERENCE (RULE 003).
These rules incorporate by reference the following documents, which may be obtained from the main office of the Idaho State Tax Commission: (3-15-02)

01. MTC Special Industry Regulations. These documents are found on the Multistate Tax Commission (MTC) Website at http://www.mtc.gov/Uniformity/Adopted-Uniformity-Recommendations, or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rules 580 and 581 of these rules. (4-2-08)

02. MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This rule incorporates the MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions as adopted November 17, 1994. This document is found on the MTC Website at http://www.mtc.gov/uploadedFiles/Multistate_Tax_Commission/Uniformity/Uniformity_Projects/A_-_Z/FormulaforApportionmentofNetIncomeFinInst.pdf or can be obtained by contacting the MTC, 444 N. Capitol Street, NW, Suite 425, Washington, DC 20001. See Rule 582 of these rules. (3-29-17)

004. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).
Section 63-3003, Idaho Code

01. Administration and Enforcement Rules. The term Administration and Enforcement Rules refers to IDAPA 35.02.01, relating to the administration and enforcement of Idaho taxes. (3-20-97)

02. Due Date. As used in these rules, due date means the date prescribed for filing without regard to extensions. (3-20-97)

03. Employee. An employee is an individual who performs services for another individual or organization that controls what services are performed and how they are performed. (3-20-97)

04. Employer. An employer is any person or organization for whom an individual performs services as an employee. (3-20-97)

05. Mathematical Error. A mathematical error includes arithmetical errors, incorrect computations, omissions, defects in a return, and entries on the wrong line. (3-20-97)

06. Sale. A sale is defined as a transaction in which title passes from the seller to the buyer, or when possession and the burdens and benefits of ownership are transferred to the buyer. A sale may have occurred even if the buyer does not have the right to possession until he partially or fully satisfies the terms of the contract. (3-20-97)

07. Tax Home. For income tax purposes, the term tax home refers to the taxpayer's principal place of business, employment, station, or post of duty regardless of where he maintains his personal or family residence. Thus, a taxpayer domiciled or residing in Idaho with a permanent post of duty in another state is an Idaho resident for Idaho income tax purposes. However, he is not entitled to a deduction for travel expenses incurred in the other state since that is his tax home. (3-20-97)

08. Terms. Terms not otherwise defined in the Idaho Income Tax Act or these rules will have the same meaning as is assigned to them by the Internal Revenue Code including Section 7701 relating to definitions of terms. (3-20-97)

09. These Rules. The term these rules refers to IDAPA 35.01.01, relating to Idaho income tax. (3-20-97)

10. Wages. The term wages relates to all compensation for services performed for an employer regardless of the form of payment. (3-20-97)

011. -- 014. (RESERVED)

015. INTERNAL REVENUE CODE (RULE 015).
Section 63-3004, Idaho Code

01. Interpretations. Interpretations of the Internal Revenue Code may be found in various sources. These sources include decisions of the Tax Court, Congressional Committee Reports, General Counsel Memoranda, Decisions of the Federal and State Courts on federal income tax issues and Treasury Regulations. These interpretations are adopted by this reference to the extent that they are not in conflict with or inconsistent with the Idaho Code or administrative rules. (3-20-97)

02. Retroactive Amendments. For the purpose of determining federal taxable income, any retroactive amendments to the Internal Revenue Code that are enacted on or before the date found in Section 63-3004(a), Idaho Code, are applied retroactively to the extent allowed under federal law. (3-26-19)

03. Tax Commission Granted Discretion in Determining Correctness of Tax Return. Discretion granted to the Secretary of the Treasury to determine or reallocate items of income or adjustments to income, deductions, expenses, credits or other subjects of taxation by the Internal Revenue Code may also be exercised by the Tax Commission and its authorized agents, employees and deputies to enforce and administer the Idaho Income Tax Act and these rules. (3-20-97)

016. IDAHO GROSS INCOME (RULE 016).
Sections 63-3011 and 63-3030, Idaho Code

01. In General. Gross income means all income from whatever source derived, unless specifically excluded by the Internal Revenue Code. (3-25-16)

02. Gross Income from Pass-Through Entities. Gross income includes an owner's share of a pass-through entity's gross income pursuant to sections 702(c) and 1366(c) of the Internal Revenue Code, and federal Treasury Regulation Section 1.61-13 (citing Part I, Subchapter J, Chapter 1 of the Internal Revenue Code). (3-25-16)

03. Gross Income from Idaho Sources. Gross income from Idaho sources is that portion of total gross income derived from or related to sources within Idaho. Income derived from or related to sources within Idaho is determined pursuant to this rule and Rules 260 through 286 of these rules. (3-25-16)

04. Idaho Source Gross Income from a Pass-Through Entity. (3-25-16)

a. Partnership. The amount of a partner's gross income from Idaho sources is: (3-25-16)

i. The partner's distributive share of partnership gross income included in the partnership's apportionable income multiplied by the Idaho apportionment factor of the partnership; and (3-25-16)

ii. The partner's distributive share of gross income allocated to Idaho. (3-25-16)

b. S Corporation. The amount of a shareholder's gross income from Idaho sources is: (3-25-16)

i. The shareholder's pro rata share of the S corporation gross income included in the S corporation's apportionable income multiplied by the Idaho apportionment factor of the S corporation; and (3-25-16)

ii. The shareholder's pro rata share of gross income allocated to Idaho. (3-25-16)

c. Trust or Estate. The Idaho source portion of the income that constitutes gross income pursuant to federal Treasury Regulation Section 1.61-13 and Part I, Subchapter J, Chapter 1 of the Internal Revenue Code, is the amount of such income that would be Idaho source if received directly by the individual. (3-25-16)

05. Examples. (3-25-16)

a. A taxpayer's federal adjusted gross income includes ten thousand dollars ($10,000) of ordinary loss passed through from a partnership that transacts business only in Idaho. However, the taxpayer's distributive share of the partnership's gross income determined under Section 61 of the Internal Revenue Code is fifty thousand dollars ($50,000). The taxpayer's gross income from Idaho sources from the partnership is fifty thousand dollars ($50,000). (3-25-16)

b. A taxpayer's federal adjusted gross income includes ten thousand dollars ($10,000) of ordinary loss passed through from a partnership that has a fifty percent (50%) Idaho apportionment factor. However, the taxpayer's distributive share of the partnership's gross income determined under Section 61 of the Internal Revenue Code is fifty thousand dollars ($50,000). The taxpayer's gross income from Idaho sources from the partnership is twenty-five thousand dollars ($25,000). (3-25-16)

c. A nonresident taxpayer's federal adjusted gross income includes five thousand dollars ($5,000) of guaranteed payments for services performed outside of Idaho received from a partnership that has a fifty percent (50%) Idaho apportionment factor. As provided in Section 63-3026A(3)(a)(i)(2), Idaho Code, none of the guaranteed payments are included in the partner's gross income from Idaho sources because the services were performed outside of Idaho. (3-25-16)

d. A nonresident taxpayer's federal adjusted gross income includes five thousand dollars ($5,000) of guaranteed payments for services performed in Idaho received from a partnership that has a fifty percent (50%) Idaho apportionment factor. As provided in Section 63-3026A(3)(a)(i)(2), Idaho Code, all of the guaranteed payments are included in the partner's gross income from Idaho sources because the services were performed in Idaho. (3-25-16)

e. A nonresident taxpayer's federal adjusted gross income includes three hundred thousand dollars ($300,000) of guaranteed payments for services performed outside of Idaho received from a partnership that has a fifty percent (50%) Idaho apportionment factor. As provided in Section 63-3026A(3)(a)(i)(2), Idaho Code, the first two hundred and fifty thousand dollars ($250,000) of guaranteed payments are sourced as compensation for services. Since the services were performed outside of Idaho, two hundred and fifty thousand dollars ($250,000) of the guaranteed payments are not included in the partner's gross income from Idaho sources. However, twenty-five thousand dollars ($25,000) of the guaranteed payments in excess of two hundred and fifty thousand dollars ($250,000) are included in the partner's gross income from Idaho sources based on the apportionment factor of the

partnership. (3-25-16)

f. A nonresident taxpayer's federal adjusted gross income includes ten thousand dollars ($10,000) of nonbusiness gross income passed through from a partnership that has a fifty percent (50%) Idaho apportionment factor. If the partnership's nonbusiness income is allocated to Idaho, ten thousand dollars ($10,000) of the nonbusiness gross income is included in the partner's gross income from Idaho sources. If the partnership's nonbusiness income is allocated to a state other than Idaho, none of the nonbusiness gross income is included in the partner's gross income from Idaho sources. (3-25-16)

017. TREATMENT OF THE SECTION 965 OF THE INTERNAL REVENUE CODE INCREASE IN SUBPART F INCOME AND RELATED EXCLUSIONS (RULE 017).
Subpart F income as defined in Section 952, Internal Revenue Code, is gross income under Section 951(a), Internal Revenue Code, and included in a taxpayer's taxable income under the Internal Revenue Code. Idaho taxpayers must include the Section 965, Internal Revenue Code, increase in their subpart F income (Section 965(a) reduced by Section 965(b), Internal Revenue Code), when computing their Idaho taxable income regardless of how such income is reported to the Internal Revenue Service on the federal income tax form. Section 63-3002, Idaho Code (3-26-19)

018. -- 024. (RESERVED)

025. TAXABLE YEAR AND ACCOUNTING PERIOD (RULE 025).
Section 63-3010, Idaho Code

01. In General. A taxpayer will file his Idaho return for the same taxable year as filed for federal income tax purposes. If a federal return is not filed, the taxable year will be the taxable year required by the Internal Revenue Code, any other period that may be required by law, or the calendar year. Taxable year generally corresponds to the taxpayer's annual accounting period unless a short-period return is required. (7-1-98)

02. Change of Accounting Period. (3-20-97)

a. If a taxpayer changes his accounting period for federal income tax purposes, he will make the same change for the same period for Idaho income tax purposes. If prior approval of the Commissioner of the Internal Revenue Service is required, a copy of that approval will accompany the Idaho short-period return. (3-20-97)

b. If a change does not require prior approval of the Commissioner of the Internal Revenue Service, the change will be noted on the Idaho short-period return, along with a statement that no prior approval was required and the authority cited. (3-20-97)

026. -- 029. (RESERVED)

030. RESIDENT (RULE 030).
Section 63-3013, Idaho Code

01. Resident. The term resident applies to individuals, estates, and trusts. (3-20-97)

a. An individual is a resident if he meets either of the tests set forth in Section 63-3013, Idaho Code. For the rules relating to the residency status of aliens, see Rule 031 of these rules. For the rules relating to the residency status of servicemembers and their spouses, see Rule 032 of these rules. For the rules relating to Native Americans, see Rule 033 of these rules. (2-27-12)

b. For the rules relating to the residency status of estates, see Rule 034 of these rules. (3-20-97)

c. For the rules relating to the residency status of trusts, see Rule 035 of these rules. (3-20-97)

02. Domicile. The term domicile means the place where an individual has his true, fixed, permanent home and principal establishment, and to which place he has the intention of returning whenever he is absent. An individual can have several residences or dwelling places, but he legally can have but one domicile at a time. (3-20-97)

a. Domicile, once established, is never lost until there is a concurrence of a specific intent to abandon an old domicile, an intent to acquire a specific new domicile, and the actual physical presence in a new domicile. (3-20-97)

b. All individuals who have been domiciled in Idaho for the entire taxable year are residents for Idaho income tax purposes, even though they have actually resided outside Idaho during all or part of the taxable year, except as provided in Section 63-3013(2), Idaho Code. (7-1-98)

c. An individual meeting the safe harbor exception set forth in Section 63-3013(2), Idaho Code, is not considered a resident of Idaho. Any individual meeting the safe harbor exception to residency status is either a nonresident or part-year resident. (7-1-98)

d. The safe harbor exception to being a resident of Idaho does not apply to a servicemember or a servicemember's spouse domiciled in Idaho if the Servicemembers Civil Relief Act applies to the individual. (2-27-12)

03. Place of Abode. See Rule 040 of these rules for information as to what constitutes a place of abode. (7-1-98)

031. ALIENS (RULE 031).
Sections 63-3013, 63-3013A, and 63-3014, Idaho Code

01. Idaho Residency Status. For purposes of the Idaho Income Tax Act, an alien may be either a resident, part-year resident, or nonresident, except a nonresident alien as defined in Section 7701, Internal Revenue Code, will be a nonresident. See Paragraph 031.01.b., of this rule. (3-30-07)

a. An alien will determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. (3-30-07)

b. A nonresident alien as defined in Section 7701, Internal Revenue Code, is a nonresident for Idaho. If a nonresident alien has elected to be treated as a resident of the United States for federal income tax purposes, he will determine his Idaho residency status as provided in Paragraph 031.01.a., of this rule. (3-30-07)

02. Computation of Idaho Taxable Income. (3-20-97)

a. To compute the Idaho taxable income of an alien, the first step is to determine his taxable income. This will depend on whether the alien is a resident, nonresident, or dual status alien for federal income tax purposes. (3-20-97)

b. Once the alien's taxable income has been computed, the amount of income subject to Idaho income tax depends on the alien's Idaho residency status. In general, if the alien qualifies as an Idaho resident, he is subject to Idaho income tax on all his taxable income regardless of its source. If the alien qualifies as a part-year resident or nonresident of Idaho, the amount of his taxable income subject to Idaho income tax is determined pursuant to Section 63-3026A, Idaho Code, and Rules 250 through 259 of these rules. (3-20-97)

c. In the case of a nonresident alien who does not elect to be treated as a resident for federal income tax purposes, the standard deduction is zero (0). However, a nonresident alien who qualifies as a student or business apprentice eligible for the benefits of Article 21(2) of the United States - India Income Tax Treaty is entitled to the standard deduction amount as if he were a resident for federal income tax purposes provided he does not claim itemized deductions. (7-1-99)

03. Filing Status. An alien will use the same filing status for the Idaho return as used on the federal return. If for federal income tax purposes a married alien files as a nonresident alien and does not elect to be treated as a resident, the married alien will use the filing status married filing separate on the Idaho return. (3-30-01)

04. Copy of Federal Forms Required. In addition to the requirements set forth in Rule 800 of these rules, a nonresident alien will attach a copy of the following forms to his Idaho individual income tax return:

(4-2-08)

a. Form 8843 if filed with the IRS; (4-2-08)

b. All Forms 1042-S received for the taxable year. (4-2-08)

032. MEMBERS OF THE UNIFORMED SERVICES (RULE 032).
Section 63-3013, Idaho Code

01. Servicemembers Civil Relief Act. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that a servicemember will neither lose nor acquire a residence or domicile with regard to his income tax as a result of being absent or present in a state due to military orders. (4-7-11)

02. Servicemember. A servicemember is defined to include any member of the uniformed services as that term is defined in 10 U.S.C. Section 101(a)(5). A member of the uniformed services includes: (4-7-11)

a. A member of the armed forces, which includes a member of the Army, Navy, Air Force, Marine Corps, or Coast Guard on active duty. It also includes a member of the National Guard who has been called to active service by the President of the United States or the Secretary of Defense of the United States for a period of more than thirty (30) consecutive days under 32 U.S.C. Section 502(f), for purposes of responding to a national emergency declared by the President and supported by federal funds. (4-2-08)

b. The commissioned corps of the National Oceanic and Atmospheric Administration in active service; and (4-2-08)

c. The commissioned corps of the Public Health Service in active service. (4-2-08)

03. Idaho Residency Status. (4-7-11)

a. A servicemember does not become an Idaho resident for income tax purposes by reason of being present in Idaho solely in compliance with military orders. (2-27-12)

b. A servicemember does not lose his status as an Idaho resident for income tax purposes by reason of being absent from Idaho solely in compliance with military orders. The safe harbor exception to being a resident as provided in Section 63-3013(2), Idaho Code, does not apply to a servicemember covered by the federal law. (2-27-12)

c. If a servicemember is present in or absent from Idaho for reasons other than compliance with military orders, the standard analysis of residency under Sections 63-3013, 63-3013A, and 63-3014, Idaho Code, applies. (2-27-12)

d. See Subsection 032.07 of this rule for information relating to a spouse of a servicemember. (2-27-12)

04. Military Service Compensation. (4-7-11)

a. Section 511 of the Servicemembers Civil Relief Act (50 U.S.C. App. Section 571) provides that the military service compensation of a servicemember who is not domiciled in Idaho is not considered income from Idaho sources. (4-7-11)

b. The military service compensation of a servicemember who is domiciled in Idaho is subject to Idaho income tax. However, Section 63-3022(h), Idaho Code, provides that compensation paid to a member of the United States Armed Forces for active duty military service performed outside Idaho is deducted from taxable income in determining the member's Idaho taxable income. A member of the armed forces does not include the commissioned corps of the National Oceanic and Atmospheric Administration or the commissioned corps of the Public Health Service, unless they have been militarized by Presidential Executive Order under Title 42, United States Code. See Section 63-3022(h), Idaho Code, for the specific qualifications of this deduction. (4-7-11)

05. Military Separation Pay. Military separation pay received for voluntary or involuntary separation from active military service is not considered military service compensation. Therefore, Subsection 032.04 of this rule does not apply. (4-7-11)

a. Military separation pay is included in Idaho taxable income only if the recipient is domiciled in or residing in Idaho when the separation pay is received. (3-20-97)

b. For purposes of this rule, a former active duty servicemember whose home of record at the time of separation from the military was a state other than Idaho is not deemed to be residing in Idaho if he moves from Idaho within thirty (30) days from the date of separation from active duty. (3-20-97)

06. Nonmilitary Income. All Idaho source income earned by a servicemember is subject to Idaho taxation except as expressly limited by the Idaho Income Tax Act and these rules. (4-7-11)

07. Spouses of Servicemembers. Beginning on January 1, 2009, Section 511 of the Servicemembers Civil Relief Act also applies to the spouse of a servicemember. (2-27-12)

a. If a spouse of a servicemember has the same domicile or state of residency for tax purposes as the servicemember, the spouse of the servicemember does not become an Idaho resident for income tax purposes by reason of being present in Idaho solely to be with the servicemember who is stationed in Idaho. (2-27-12)

b. If a spouse of a servicemember and the servicemember are both Idaho residents for income tax purposes, the spouse of the servicemember does not lose his status as an Idaho resident for income tax purposes by reason of being absent from Idaho solely to be with the servicemember who is stationed outside of Idaho. (2-27-12)

c. If the spouse is not a resident of Idaho for income tax purposes because of the reason stated in Paragraph 032.07.a. of this rule, income for services performed in Idaho by the spouse will not be deemed to be income from Idaho sources. (2-27-12)

033. AMERICAN INDIANS (RULE 033).

Section 63-3022S, Idaho Code

01. Definitions. For purposes of this rule: (2-27-12)

a. Enrolled member means an enrolled member of a federally recognized Indian tribe. (2-27-12)

b. Indian reservation means a federally recognized Indian reservation. (2-27-12)

02. Idaho Residency Status. An American Indian must determine his Idaho residency status using the tests set forth in Sections 63-3013, 63-3013A, and 63-3014, Idaho Code. Membership in an Indian tribe does not affect that individual's Idaho residency status. (2-27-12)

03. Gambling Winnings. (2-27-12)

a. Amounts received from gambling on an Indian reservation by an enrolled member who lives on the Indian reservation are not subject to Idaho tax. (2-27-12)

b. Amounts received from gambling on an Indian reservation by an enrolled member who lives off the Indian reservation in Idaho are subject to Idaho tax. (2-27-12)

04. Per Capita Distributions. (2-27-12)

a. Per capita distributions paid by an Indian tribe to an enrolled member who lives on the Indian reservation are tax-exempt by Idaho. (2-27-12)

b. Per capita distributions paid by an Indian tribe to an enrolled member who resides off the

reservation in Idaho are subject to Idaho tax. (2-27-12)

034. ESTATE -- RESIDENCY STATUS (RULE 034).
Section 63-3015, Idaho Code

01. Resident Estates. An estate is treated as a resident estate if the decedent was domiciled in Idaho on the date of his or her death. If the estate is other than an estate of a decedent, it is treated as a resident estate if the person for whom the estate was created is a resident of Idaho. (3-20-97)

02. Nonresident Estates. If the estate does not qualify as a resident estate, it is treated as a nonresident estate. The tax liability of a nonresident estate is computed in the same manner as a nonresident individual. (3-20-97)

035. TRUSTS -- RESIDENCY STATUS (RULE 035).
Section 63-3015, Idaho Code

01. Resident Trusts. A trust other than a qualified funeral trust is treated as a resident trust if three (3) or more of the following conditions exist: (5-3-03)

a. The domicile or residency of the grantor is in Idaho; (3-20-97)

b. The trust is governed by Idaho law; (3-20-97)

c. The trust has real or tangible personal property located in Idaho; (3-30-01)

d. The domicile or residency of a trustee is in Idaho; (3-20-97)

e. The administration of the trust takes place in Idaho. Administration of the trust includes conducting trust business, investing assets of the trust, making administrative decisions, record keeping and preparation and filing of tax returns. (3-20-97)

02. Qualified Funeral Trusts. A qualified funeral trust is treated as a resident trust under Section 63-3015, Idaho Code, if: (5-3-03)

a. At the time of the initial funding of the trust, the trust was required to be established under the laws of Idaho; or (5-3-03)

b. The requirement in Subsection 035.02.a. did not exist, but a funeral home or cemetery located in Idaho was identified to provide services or merchandise under the terms of a preneed contract requiring the establishment of the trust. (5-3-03)

03. Nonresident Trusts. If the trust does not qualify as a resident trust, it is treated as a nonresident trust. The tax liability of a nonresident trust is computed in the same manner as a nonresident individual. (3-20-97)

04. Residency Status of a Trust. For purposes of determining the residency status of a trust, no distinction is made between inter vivos trusts and testamentary trusts, or between revocable trusts and irrevocable trusts. (3-20-97)

036. -- 039. (RESERVED)

040. PART-YEAR RESIDENT (RULE 040).
Section 63-3013A, Idaho Code

01. In General. A part-year Idaho resident is any individual who resides in or is domiciled in Idaho for only part of the taxable year. (3-20-97)

a. An individual who has a place of abode in Idaho and is present in Idaho for other than a temporary or transitory purpose is deemed to reside in Idaho. (3-20-97)

b. For the rules relating to the determination of an individual's domicile, see Subsection 030.02 of these rules. (7-1-98)

02. Temporary or Transitory Purpose. For purposes of this rule, an individual is not residing in Idaho if he is present in Idaho only for a temporary or transitory purpose. Likewise, an individual is not residing outside Idaho merely by his temporary or transitory absence from Idaho. (3-20-97)

a. The length of time in Idaho is only one factor in determining whether an individual is present for other than a temporary or transitory purpose. Other factors to be considered include business activity or employment conducted in Idaho, banking and other financial dealings taking place in Idaho, and family and social ties in Idaho. In general, an individual is present for other than a temporary or transitory purpose if his stay is related to a significant business, employment or financial purpose or the individual maintains significant family or social ties in Idaho. (3-20-97)

b. An individual is present in Idaho only for a temporary or transitory purpose if he does not engage in any activity or conduct in Idaho other than that of a vacationer, seasonal visitor, tourist, or guest. (3-20-97)

c. Presence in Idaho for ninety (90) days or more during a taxable year is presumed to be for other than a temporary or transitory purpose. To overcome the presumption, the individual must show that his presence was consistent with that of a vacationer, seasonal visitor, tourist or guest. (3-20-97)

03. Place of Abode. An individual who owns a home in Idaho will not be treated as having a place of abode at that residence if the individual does not have the right to immediately occupy that residence. This definition does not apply for purposes of the federal foreign income exclusion and only applies for purposes of Sections 63-3013 and 63-3013A, Idaho Code. (3-20-14)

a. Example. An individual who is not domiciled in Idaho owns a home in Idaho that is leased to a third party for the entire taxable year. Since the individual does not have the right to immediately occupy the home, it is not treated as that individual's abode for purposes of determining his residency status. (7-1-98)

b. Example. An individual who is not domiciled in Idaho owns a home in Idaho that is offered for rent. For the first three (3) months of the taxable year the home is not rented and remains vacant. During the final nine (9) months of the taxable year the home is leased to a third party. The individual will be treated as having a place of abode in Idaho during the first three (3) months of the taxable year since the individual had the right to immediately occupy the home. If the individual is present in Idaho during the first three (3) months of the taxable year for other than a temporary or transitory purpose, that individual will be deemed to reside in Idaho. (7-1-98)

041. -- 044. (RESERVED)

045. NONRESIDENT (RULE 045).
Sections 63-3014, 63-3026A, Idaho Code

01. Traveling Salesmen. (3-20-97)

a. A nonresident salesman who works in Idaho is subject to Idaho taxation regardless of the location of his post of duty or starting point. (3-20-97)

b. If an individual is paid on a mileage basis, the gross income from sources within Idaho includes that portion of the total compensation for personal services that the number of miles traveled in Idaho bears to the total number of miles traveled within and without Idaho. If the compensation is based on some other measure, such as hours, the total compensation for personal services must be apportioned between Idaho and other states and foreign countries in a manner that allocates to Idaho the portion of total compensation reasonably attributable to personal services performed in Idaho. See Rule 270 of these rules. (3-30-01)

02. Motor Carrier Employees Covered by Title 49, Section 14503, United States Code. Compensation paid to an interstate motor carrier employee who has regularly assigned duties in more than one state is

subject to income tax only in the employee's state of residence. A motor carrier employee is defined in Title 49, Section 31132(2), United States Code, and includes: (7-1-99)

a. An operator, including an independent contractor, of a commercial motor vehicle; (3-20-97)

b. A mechanic; (3-20-97)

c. A freight handler; and (3-20-97)

d. An individual, other than an employer, who in the course of his employment directly affects commercial motor vehicle safety. Employees of the United States, a state, or a local government are not included. Employer, as used in this rule, means a person engaged in business affecting interstate commerce that owns or leases a commercial motor vehicle in connection with that business, or assigns an employee to operate it. See Title 49, Section 31132(3), United States Code. (3-20-97)

03. Water Carrier Employees Covered by Title 46, Section 11108, United States Code. Compensation paid to a water carrier employee is subject to income tax only in the employee's state of residence if such employee: (3-20-04)

a. Is engaged on a vessel to perform assigned duties in more than one (1) state as a pilot licensed under Title 46, Section 7101, or licensed or authorized under the laws of a state; or (3-20-04)

b. Performs regularly assigned duties while engaged as a master, officer, or crewman on a vessel operating on the navigable waters of more than one (1) state. (3-20-04)

04. Air Carrier Employees Covered by Title 49, Section 40116(f), United States Code. Compensation paid to an air carrier employee who has regularly assigned duties on aircraft in more than one state is subject to the income tax laws of only: (7-1-99)

a. The employee's state of residence, and (3-20-97)

b. The state in which the employee earns more than fifty percent (50%) of the pay from the air carrier. (3-20-97)

05. Rail Carrier Employees Covered by Title 49, Section 11502, United States Code. Compensation paid to an interstate rail carrier employee who performs regularly assigned duties on a railroad in more than one (1) state is subject to income tax only in the employee's state of residence. (7-1-99)

06. Pension Income Covered by Title 4, Section 114, United States Code. Pension income, including certain guaranteed payments made to a retired partner of a partnership, per Title 4, Section 114(b)(1)(I), United States Code, is subject to income tax only in the individual's state of residence or domicile. (3-20-14)

046. -- 049. (RESERVED)

050. LIMITED LIABILITY COMPANIES (RULE 050).
Section 63-3006A, Idaho Code

01. Classification. A limited liability company will be classified for Idaho income tax purposes the same as classified for federal income tax purposes as provided by the Internal Revenue Code. (4-11-06)

02. Application of Idaho Code and Rules. Idaho income tax laws and administrative rules will apply according to the applicable classification of the limited liability company. For example, if a limited liability company has elected to be classified for income tax purposes as a partnership, Idaho's income tax administrative rules that apply to partnerships will also apply to such limited liability company. (4-11-06)

051. -- 074. (RESERVED)

075. TAX ON INDIVIDUALS, ESTATES, AND TRUSTS (RULE 075).
Section 63-3024, Idaho Code

01. In General. The tax rates applied to the Idaho taxable income of an individual, trust or estate for the latest five (5) years are identified in Subsection 075.03 of this rule. The Idaho income tax brackets are adjusted for inflation. The maximum tax rate as listed for the applicable taxable year in Subsection 075.03 of this rule applies in computing the tax attributable to the S corporation stock held by an electing small business trust. See Rule 078 of these rules. (4-7-11)

02. Tax Computation. (5-3-03)

a. The tax rates and income tax brackets listed in Subsection 075.03 of this rule are those for a single individual or married individuals filing separate returns. (4-6-05)

b. The tax imposed on individuals filing a joint return, filing as a surviving spouse, or filing as a head of household is twice the tax that would be imposed on one-half (1/2) of the total Idaho taxable income of a single individual. (4-7-11)

c. For example, if a married couple filing a joint return reports Idaho taxable income of thirty thousand dollars ($30,000), the tax is computed as if they had taxable income of fifteen thousand dollars ($15,000). The tax amount is multiplied by two (2). (4-7-11)

03. Tables Identifying the Idaho Tax Rates and Income Tax Brackets. (3-20-04)

a. For taxable years beginning in 2014:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	**But less than**	**Is**		**Plus**
$1	$1,429	$0	+	1.6% of taxable income
$1,429	$2,858	$22.86	+	3.6% of the amount over $1,429
$2,858	$4,287	$74.30	+	4.1% of the amount over $2,858
$4,287	$5,716	$132.89	+	5.1% of the amount over $4,287
$5,716	$7,145	$205.77	+	6.1% of the amount over $5,716
$7,145	$10,718	$292.94	+	7.1% of the amount over $7,145
$10,718 or more		$546.59	+	7.4% of the amount over $10,718
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2014.				

(4-11-15)

b. For taxable years beginning in 2015:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	**But less than**	**Is**		**Plus**
$1	$1,452	$0	+	1.6% of taxable income
$1,452	$2,904	$23.23	+	3.6% of the amount over $1,452
$2,904	$4,356	$75.50	+	4.1% of the amount over $2,904

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	**But less than**	**Is**		**Plus**
$4,356	$5,808	$135.03	+	5.1% of the amount over $4,356
$5,808	$7,260	$209.08	+	6.1% of the amount over $5,808
$7,260	$10,890	$297.65	+	7.1% of the amount over $7,260
$10,890 or more		$555.38	+	7.4% of the amount over $10,890
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2015.				

(3-25-16)

c. For taxable years beginning in 2016:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	**But less than**	**Is**		**Plus**
$1	$1,454	$0	+	1.6% of taxable income
$1,454	$2,908	$23.26	+	3.6% of the amount over $1,454
$2,908	$4,362	$75.60	+	4.1% of the amount over $2,908
$4,362	$5,816	$135.21	+	5.1% of the amount over $4,362
$5,816	$7,270	$209.36	+	6.1% of the amount over $5,816
$7,270	$10,905	$298.05	+	7.1% of the amount over $7,270
$10,905 or more		$556.14	+	7.4% of the amount over $10,905
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2016.				

(3-29-17)

d. For taxable years beginning in 2017:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	**But less than**	**Is**		**Plus**
$1	$1,472	$0	+	1.6% of taxable income
$1,472	$2,945	$23.56	+	3.6% of the amount over $1,472
$2,945	$4,417	$76.57	+	4.1% of the amount over $2,945
$4,417	$5,890	$136.94	+	5.1% of the amount over $4,417
$5,890	$7,362	$212.03	+	6.1% of the amount over $5,890
$7,362	$11,043	$301.85	+	7.1% of the amount over $7,362
$11,043 or more		$563.21	+	7.4% of the amount over $11,043
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2017.				

(3-28-18)

e. For taxable years beginning in 2018:

IF IDAHO TAXABLE INCOME IS		IDAHO TAX		
At least	**But less than**	**Is**		**Plus**
$1	$1,504	$0	+	1.125% of taxable income
$1,504	$3,008	$16.92	+	3.125% of the amount over $1,504
$3,008	$4,511	$63.91	+	3.625% of the amount over $3,008
$4,511	$6,015	$118.42	+	4.625% of the amount over $4,511
$6,015	$7,519	$187.97	+	5.625% of the amount over $6,015
$7,519	$11,279	$272.56	+	6.625% of the amount over $7,519
$11,279 or more		$521.63	+	6.925% of the amount over $11,279
Tax and bracket amounts were calculated using consumer price index amounts published on April 13, 2018.				

(3-26-19)

076. -- 077. (RESERVED)

078. TAX ON TRUSTS -- ELECTING SMALL BUSINESS TRUSTS (RULE 078).
Section 63-3024, Idaho Code

01. In General. The special rules for taxation of electing small business trusts as provided in Section 641, Internal Revenue Code, will apply for purposes of computing the Idaho income tax. These rules include the following: (3-20-04)

a. The portion of an electing small business trust that consists of stock in one (1) or more S corporations will be treated as a separate trust. (3-20-04)

b. The tax on the separate trust will be determined with the following modifications from the usual rules for taxing trusts: (3-20-04)

i. The only items of income, loss, deduction, or credit to be taken into account are the items required to be taken into account as an S corporation shareholder under Section 1366, Internal Revenue Code, and any gain or loss from the disposition of stock in an S corporation. (3-20-04)

ii. As provided in federal Treasury Regulations, administrative expenses will be taken into account to the extent allocable to the items described in Subparagraph 078.01.b.i. (3-20-04)

iii. A deduction or credit will be allowed only for an amount described in this paragraph. No item described in this paragraph will be apportioned to any beneficiary. (3-20-04)

c. A capital loss deduction provided by Section 1211(b), Internal Revenue Code, will be allowed only to the extent of capital gains. (3-20-04)

02. Tax Rate Applied. The tax rates applied to the Idaho taxable income of a trust are identified in Rule 075 of these rules. For taxable years beginning on or after January 1, 2003, the maximum tax rate as listed for that taxable year in Subsection 075.03 will apply in computing the tax attributable to the S corporation stock held by an electing small business trust. (3-20-04)

079. -- 099. (RESERVED)

100. ADJUSTMENTS TO TAXABLE INCOME -- IN GENERAL (RULE 100).
Section 63-3022, Idaho Code. Rules 101 through 249 of these rules discuss the additions to and subtractions from taxable income required when computing the Idaho taxable income of corporations, partnerships, and resident individuals, estates and trusts. For the rules relating to the adjustments to taxable income required of nonresident and part-year resident individuals and nonresident trusts and estates, see Rules 250 through 259 of these rules. (3-20-97)

101. -- 104. (RESERVED)

105. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED OF ALL TAXPAYERS (RULE 105).
Section 63-3022, Idaho Code. The following items must be added by all taxpayers in computing Idaho taxable income. (2-27-12)

01. State and Local Income Taxes. As provided in Section 63-3022(a), Idaho Code, state and local income taxes that are measured by net income and were deducted in computing taxable income must be added. This includes taxes paid to states other than Idaho and their political subdivisions, and amounts paid by an S corporation on capital gains, built-in gains, and excess net passive income. (3-20-14)

02. Net Operating Loss Deduction. As provided in Section 63-3022(b), Idaho Code, the amount of the net operating loss deduction included in taxable income must be added. (2-27-12)

03. Capital Loss or Passive Loss Carryover Deduction. As provided in Section 63-3022(i), Idaho Code: (3-20-14)

a. A corporation must add a capital loss or passive loss that was deducted in computing taxable income if the loss occurred during a taxable year when the corporation did not transact business in Idaho. However, a capital loss is not required to be added back where the corporation was part of a unitary group and at least one (1) member of the group was taxable by Idaho for the taxable year in which the loss was incurred. (3-20-14)

b. An individual must add a capital loss or passive loss that was deducted in computing taxable income if the loss was incurred in an activity not taxable by Idaho at the time it was incurred. (4-4-13)

04. Interest and Dividend Income Exempt From Federal Taxation. As provided in Section 63-3022M, Idaho Code, certain interest and dividend income that is exempt from federal income tax must be added. For example, interest income from state and local bonds that is exempt from federal income tax pursuant to Section 103, Internal Revenue Code, must be added. (2-27-12)

a. Interest from bonds issued by the state of Idaho or its political subdivisions is exempt from Idaho income tax and, therefore, is not required to be added to taxable income. (3-20-97)

b. If a taxpayer has both Idaho and non-Idaho state and municipal interest income, expenses not allowed pursuant to Sections 265 and 291, Internal Revenue Code, must be prorated between the Idaho and non-Idaho interest income as provided in Subsections 105.04.b.i. and 105.04.b.ii. The addition to taxable income required for non-Idaho state and municipal interest income must be offset by the expenses prorated to that interest income. The allowable offset may not exceed the reportable amount of interest income. An unused offset may not be carried back or carried over. A schedule showing the interest and related offsets must be attached to the return. (2-27-12)

i. Expenses prorated to Idaho state and municipal interest income are based on the ratio of Idaho state and municipal interest income to total state and municipal interest income. (2-27-12)

ii. Expenses prorated to non-Idaho state and municipal interest income are based on the ratio of non-Idaho state and municipal interest income to total state and municipal interest income. (2-27-12)

05. Interest Expense Attributable to Tax-Exempt Interest Income. As provided by Section 63-3022M, Idaho Code, a taxpayer must add interest expense on indebtedness incurred to purchase or carry certain obligations that produce tax-exempt interest income. Because this addition serves to offset the tax-exempt interest income, it is often referred to as an interest expense offset related to tax-exempt interest income. See Rule 115 of

these rules for the computation of the interest expense offset related to tax-exempt interest. (2-27-12)

06. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. The amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes must be added. The adjustments required by this subsection do not apply to property acquired after 2007 *and* before 2010. *( )*

106. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF CORPORATIONS (RULE 106).
Section 63-3022, Idaho Code. As provided in Section 63-3022(d), Idaho Code, add the federal dividends received deduction subtracted in computing taxable income. (5-3-03)

107. ADJUSTMENTS TO TAXABLE INCOME -- ADJUSTMENTS REQUIRED ONLY OF TAXPAYERS REPORTING NONBUSINESS INCOME (RULE 107).
Section 63-3027(a)(4), Idaho Code. All deductions relating to the production of nonbusiness income will be allocated with the income produced. See Section 63-3027, Idaho Code, and Rules 330 through 336 of these rules for the definitions of business income and nonbusiness income. (4-11-06)

108. ADJUSTMENTS TO TAXABLE INCOME -- ADDITIONS REQUIRED ONLY OF INDIVIDUALS (RULE 108).
Section 63-3022, Idaho Code

01. Lump Sum Distributions. As provided in Section 63-3022(k), Idaho Code, an individual must add the taxable amount of a lump sum distribution excluded from taxable income. (4-7-11)

02. Withdrawals from an Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, an account holder must add the amount of a withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. See Rule 190 of these rules. (4-7-11)

03. Withdrawals from an Idaho College Savings Program. (4-2-08)

a. As provided in Section 63-3022(o), Idaho Code, an account owner must add the amount of any nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (3-26-19)

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007 to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

04. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, an eligible educator as defined in Section 62, Internal Revenue Code, must add the amount of out-of-pocket classroom expenses deducted as allowed by Section 62, Internal Revenue Code, in computing adjusted gross income. (4-4-13)

05. State and Local Sales Tax. As provided in Section 63-3022(j), Idaho Code, an individual must add the amount of state and local general sales taxes deducted as an itemized deduction. (4-7-11)

109. ADJUSTMENTS TO DISTRIBUTABLE NET INCOME OF ESTATES AND TRUSTS (RULE 109).
Section 63-3022, Idaho Code. As provided in Section 63-3022(g), Idaho Code, an estate or trust will make the adjustments that are required of individuals as provided in Section 63-3022, Idaho Code, in determining the Idaho

taxable income of the beneficiary of an estate or trust. (3-30-01)

110. -- 114. (RESERVED)

115. INTEREST EXPENSE OFFSET RELATED TO TAX-EXEMPT INTEREST INCOME (RULE 115). Section 63-3022M, Idaho Code

01. In General. The interest expense offset provided by Section 63-3022M, Idaho Code, is a separate and distinct adjustment from provisions in the Internal Revenue Code that disallow interest expense related to federal tax-exempt interest. (7-1-99)

02. Tax-Exempt Interest Income. For purposes of computing the interest expense offset attributable to tax-exempt interest income, tax-exempt interest income means interest on qualifying obligations of the United States and interest on qualifying obligations of the state of Idaho, its cities, and political subdivisions. (4-5-00)

a. If a taxpayer owns an interest in a pass-through entity, that entity's tax-exempt income is to also be included to the extent of the taxpayer's interest. (7-1-98)

b. Interest income that is only partially exempt for federal purposes is not included. Also, expenses related to tax-exempt interest income such as adjustments provided by Sections 265 and 291, Internal Revenue Code, are not included. (7-1-98)

03. Total Income. For purposes of computing the interest expense offset, total income is to be computed as follows: (7-1-98)

a. Corporations. (7-1-98)

i. Total income equals the amount reported as total income on Form 1120, U.S. Corporation Income Tax Return, for domestic corporations, plus the amount reported as total income on Form 1120F, U.S. Income Tax Return of a Foreign Corporation, for foreign corporations engaged in a U.S. trade or business, plus the amount of tax-exempt interest income not included in total income on Form 1120 and Form 1120F, plus the amount reported as nonexempt foreign trade income on Schedule B of Form 1120-FSC, Income Tax Return of a Foreign Sales Corporation, less the amount of foreign dividend gross-up included in federal income pursuant to Section 78, Internal Revenue Code. (3-30-01)

ii. If a taxpayer files a return using the worldwide combined reporting method, total income also includes the amount reported as total income on Schedule C of Form 5471, Information Return of U.S. Persons With Respect to Certain Foreign Corporations, for each foreign corporation included in the combined report. (7-1-98)

iii. If the corporation is a partner in a partnership, total income also includes the corporation's distributive share of the partnership's total income as reported on page one (1) of Form 1065, U.S. Partnership Return of Income, to the extent this amount is not included in total income on Form 1120. (7-1-98)

iv. Intercompany amounts are to be eliminated to the extent included in these amounts. (7-1-98)

b. S Corporations. (7-1-98)

i. Total income is to equal the amount reported as total income on Form 1120S, U.S. Income Tax Return for an S Corporation, plus the amounts reported as net income from rental real estate activities, net income from other rental activities, interest income, dividend income, royalty income, net short-term and long-term capital gains, other portfolio income, net gain under Section 1231, and other income as listed on Schedule K, plus the amount of tax-exempt interest income not included on Form 1120S. (3-30-01)

ii. If the S corporation is a partner in a partnership, total income also includes the appropriate partnership amounts as provided in Subsection 115.03.a.iii. (7-1-98)

c. Partnerships. (7-1-99)

i. Total income is to equal the amount reported as total income on Form 1065, U.S. Partnership Return of Income, plus the amounts reported as net income from rental real estate activities, net income from other rental activities, interest income, dividend income, royalty income, net short-term and long-term capital gains, other portfolio income, net gain under Section 1231, and other income as listed on Schedule K, plus the amount of tax-exempt interest income not included on Form 1065. (3-30-01)

ii. If the partnership is a shareholder in an S corporation, total income also includes the partnership's distributive share of the S corporation's total income as reported on page one (1) of the Form 1120S, U.S. Income Tax Return for an S Corporation, to the extent this amount is not included in total income on Form 1065. (7-1-99)

d. Individuals. (7-1-99)

i. Total income is to equal the amount reported as total income on Form 1040, U.S. Individual Income Tax Return. (7-1-99)

ii. If the individual is a partner in a partnership, total income also includes the individual's distributive share of the partnership's total income as reported on page one (1) of Form 1065, U.S. Partnership Return of Income, to the extent this amount is not included in total income on Form 1040. (7-1-99)

iii. If the individual is a shareholder in an S corporation, total income also includes the individual's distributive share of the S corporation's total income as reported on page one (1) of the Form 1120S, U.S. Income Tax Return for an S Corporation, to the extent this amount is not included in total income on Form 1040. (7-1-99)

iv. Total income also includes the amount of tax-exempt interest income not included on Form 1040, plus his share of the amount not included on Forms 1065 and 1120S. (3-30-01)

04. Unitary Taxpayers. The interest expense offset is to be computed at the combined group level, not within each corporate entity. Total income, interest expense, and tax-exempt interest amounts from each member of the combined group are used in computing the interest expense offset. (7-1-98)

116. EXPENSES OTHER THAN INTEREST ATTRIBUTABLE TO TAX-EXEMPT INCOME (RULE 116).
Section 63-3022M, Idaho Code

01. Directly Allocable Expenses. Expenses, other than interest, that are directly allocable to exempt interest or dividend income, is to be allocated to such income and no deduction is to be allowed for such allocated expenses. (5-3-03)

02. Indirectly Allocable Expenses. If an expense is indirectly allocable to both a class of nonexempt income and exempt interest or dividend income, a reasonable proportion of such expense determined in the light of all the facts and circumstances in each case is to be allocated to each class. No deduction is allowed for expenses indirectly allocated to exempt interest or dividend income. (5-3-03)

117. -- 119. (RESERVED)

120. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE TO ALL TAXPAYERS (RULE 120).
Section 63-3022, Idaho Code. The following items are allowable subtractions to all taxpayers in computing Idaho taxable income. (2-27-12)

01. State and Local Income Tax Refunds. State and local income tax refunds included in taxable income may be subtracted, unless the refunds have already been subtracted pursuant to Section 63-3022(a), Idaho Code. (2-27-12)

02. Idaho Net Operating Loss. As provided in Section 63-3022(c), Idaho Code, an Idaho net

operating loss deduction described in Section 63-3021, Idaho Code, and allowed by Section 63-3022(c), Idaho Code, and Rules 200 through 210 of these rules may be subtracted. An S corporation or a partnership that incurs a loss is not entitled to claim a net operating loss deduction. The loss is passed through to the shareholders and partners who may deduct the loss. (2-27-12)

03. Income Not Taxable by Idaho. As provided in Section 63-3022(f), Idaho Code, income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States may be subtracted if that income is included in taxable income and has not been previously subtracted. Income exempt from taxation by Idaho includes the following: (2-27-12)

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars ($600). If a prize equals or exceeds six hundred dollars ($600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

c. Certain income from loss recoveries. See Rule 195 of these rules. (3-20-14)

04. Technological Equipment Donation. As provided by Section 63-3022J, Idaho Code, and Rule 180 of these rules, the lower of cost or fair market value of technological equipment donated to qualifying institutions may be subtracted, limited to the Idaho taxable income of the taxpayer. (3-20-14)

05. Long-Term Care Insurance. As provided in Section 63-3022Q, Idaho Code, a deduction from taxable income is allowed for the amount of the premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer to the extent the premiums have not otherwise been deducted or accounted for by the taxpayer for Idaho income tax purposes. See Rule 193 of these rules. (2-27-12)

06. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. The adjustments required by this subsection do not apply to property acquired after 2007 *and* before 2010. *( )*

a. Depreciation. The amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes may be subtracted. (2-27-12)

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions apply in computing the Idaho capital loss allowed. (2-27-12)

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, a subtraction is allowed for the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. (2-27-12)

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, the federal gain and the Idaho loss must be added together and the total may be subtracted. For example, if a taxpayer has a federal gain of five thousand dollars ($5,000) and an Idaho loss of four thousand dollars ($4,000), the amount subtracted would be nine thousand dollars ($9,000). (2-27-12)

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, the difference between the federal and Idaho losses may be subtracted. For example, if a taxpayer has a

federal loss of three hundred dollars ($300) and an Idaho loss of five hundred dollars ($500), the amount subtracted would be two hundred dollars ($200). (2-27-12)

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars ($6,000) and an Idaho capital loss of eight thousand dollars ($8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars ($3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars ($2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars ($1,000) and an Idaho deductible capital loss of three thousand dollars ($3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars ($2,000) in computing Idaho taxable income. (3-20-04)

07. Income Restored Under Federal Claim of Right. As provided by Section 63-3022F, Idaho Code, if a taxpayer included an item in Idaho taxable income in a prior taxable year and was later required to restore the item because it was established after the close of the prior taxable year that the taxpayer did not have an unrestricted right to such item or to a portion of the item, such taxpayer is allowed a deduction in determining Idaho taxable income if the taxpayer has not otherwise deducted such item in computing his taxable income. The deduction is allowed to the extent such deduction would have been allowed to the taxpayer under Section 1341, Internal Revenue Code, had the taxpayer claimed the deduction instead of the recalculation of federal tax, but only to the extent the item was included in Idaho taxable income in the prior taxable year. (2-27-12)

121. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO INDIVIDUALS (RULE 121).
Section 63-3022, Idaho Code

01. Income Not Taxable by Idaho. As provided in Section 63-3022(f), Idaho Code, subtract the amount of income that is exempt from Idaho income tax if included in taxable income. Income exempt from taxation by Idaho includes the following: (7-1-99)

a. Certain income earned by American Indians. See Rule 033 of these rules. (5-3-03)

b. Retirement payments received pursuant to the old Teachers' Retirement System. Prior to its repeal on July 1, 1967, the old Teachers' Retirement System was codified at Title 33, Chapter 13, Idaho Code. Teachers who were employed by the state of Idaho and who retired on or after January 1, 1966, generally do not qualify for this exemption. Teachers who were not state employees and who retired on or after January 1, 1968, do not qualify. Teachers receiving benefits pursuant to the Public Employees' Retirement System, Title 59, Chapter 13, Idaho Code, do not qualify for the exemption. No exemption is provided for amounts received from other states, school districts outside Idaho, or any other source if the proceeds do not relate to teaching performed in Idaho. (3-20-97)

02. Military Compensation for Service Performed Outside Idaho. As provided in Section 63-3022(h), Idaho Code, certain members of the United States Armed Forces may deduct from taxable income their military service pay received for military service performed outside Idaho. See Rule 032 of these rules. (3-30-01)

03. Standard or Itemized Deduction. As provided in Section 63-3022(j), Idaho Code, deduct either the standard deduction amount as defined in Section 63, Internal Revenue Code, or the itemized deductions allowed by the Internal Revenue Code. If itemized deductions are limited pursuant to the Internal Revenue Code, they are also limited for Idaho income tax purposes. (3-30-01)

a. If state and local income or general sales taxes are included in itemized deductions for federal purposes pursuant to Section 164, Internal Revenue Code, they will be added to taxable income. If itemized deductions are limited pursuant to Section 68, Internal Revenue Code, the amount of state and local income or general sales taxes added back will be computed by dividing the amount of itemized deductions that are allowed to the taxpayer after all federal limitations by total itemized deductions before the Section 68 limitation. For taxable years beginning in or after 2007, this proration will be calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($10,000/$15,000 = .66666 =

.6667 = 66.67%). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($10,000/$30,000 = .33333 = .3333 = 33.33%). The percentage may not exceed one hundred percent (100%) nor be less than zero (0). The result is then applied to state and local income or general sales taxes to determine the Idaho state and local income and general sales tax addback. See Rule 105 of these rules. (3-20-14)

b. If an itemized deduction allowable for federal income tax purposes is reduced for the mortgage interest credit or the foreign tax credit, the amount that would have been allowed if the federal credit had not been claimed is allowed as an itemized deduction. (7-1-99)

c. For taxable years beginning on or after January 1, 2000, the standard deduction allowed on a married filing joint return will be equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. (3-20-14)

04. Social Security and Railroad Retirement Benefits. As provided in Section 63-3022(l), Idaho Code, subtract from taxable income the amount of social security and certain railroad retirement benefits included in gross income pursuant to Section 86, Internal Revenue Code. (3-30-01)

a. The term social security benefits includes United States social security benefits and Canadian social security pensions received by a United States resident that are treated as United States social security benefits for United States income tax purposes. (7-1-99)

b. The term certain railroad retirement benefits means the following amounts paid by the Railroad Retirement Board: (4-6-05)

i. Annuities, supplemental annuities, and disability annuities, including the Tier I social security equivalent benefits, and the Tier II pension amounts; (4-6-05)

ii. Railroad unemployment; and (4-6-05)

iii. Sickness benefits. (4-6-05)

05. Self-Employed Worker's Compensation Insurance Premiums. As provided in Section 63-3022(m), Idaho Code, self-employed individuals may subtract from taxable income the premiums paid to secure worker's compensation insurance for coverage in Idaho if the premiums have not been previously deducted in computing taxable income. The term worker's compensation insurance means "workmen's compensation" as defined in Section 41-506(d), Idaho Code. Premiums paid to secure worker's compensation insurance coverage are those payments made in compliance with Section 72-301, Idaho Code. (3-30-01)

06. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. (3-20-97)

07. Energy Efficiency Upgrades. As provided in Section 63-3022B, Idaho Code, and Rule 140 of these rules, a deduction from taxable income is allowed for qualified expenses related to the installation of energy efficiency upgrades in the residence of the taxpayer built or subject to an outstanding building permit on or before 2002. (4-4-13)

08. Alternative Energy Devices. As provided in Section 63-3022C, Idaho Code, and Rule 150 of these rules, a deduction from taxable income is allowed for qualified expenses related to the acquisition of an alternative energy device used in an Idaho residence of the taxpayer. (4-4-13)

09. Household and Dependent Care Services. As provided in Section 63-3022D, Idaho Code, and Rule 160 of these rules, a deduction from taxable income is allowed for certain employment related expenses incurred for the care of qualifying individuals. (3-20-97)

10. Household Deduction for Elderly or Developmentally Disabled Dependents. As provided in Section 63-3022E, Idaho Code, and Rule 165 of these rules, a deduction from taxable income is allowed for

maintaining a household where an elderly or developmentally disabled family member resides. (3-20-97)

11. Reparations to Displaced Japanese Americans. As provided in Section 63-3022G, Idaho Code, certain individuals are allowed a deduction for amounts included in taxable income relating to reparation payments from the United States Civil Liberties Public Education Fund. (3-20-97)

12. Capital Gains. As provided in Section 63-3022H, Idaho Code, and Rules 170 through 173 of these rules, a deduction from taxable income may be allowed for net capital gains recognized from the sale of qualified Idaho property. (2-27-12)

13. Adoption Expenses. As provided in Section 63-3022I, Idaho Code, and Rule 185 of these rules, a deduction from taxable income is allowed for certain expenses incurred when adopting a child. (3-20-97)

14. Idaho Medical Savings Account. As provided in Section 63-3022K, Idaho Code, and Rule 190 of these rules, a deduction from taxable income is allowed for qualifying contributions to and interest earned on an Idaho medical savings account. (4-5-00)

15. Idaho College Savings Program. As provided in Section 63-3022(n), Idaho Code, a deduction from taxable income is allowed for qualifying contributions to a college savings program. (3-15-02)

16. Health Insurance Costs. A deduction from taxable income is allowed for the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care, as defined in Section 63-3022P, Idaho Code, for the taxpayer, the spouse or dependents of the taxpayer not otherwise deducted or accounted for by the taxpayer for Idaho income tax purposes. See Rule 193 of these rules. (5-3-03)

17. Unused Net Operating Losses of Estates and Trusts. An unused net operating loss carryover remaining on termination of an estate or trust is allowed to the beneficiaries succeeding to the property of the estate or trust. The carryover amount is the same in the hands of the beneficiaries as in the hands of the estate or trust. For taxable years beginning on and after January 1, 2000, but prior to January 1, 2013, the first one hundred thousand dollars ($100,000) of loss sustained in any taxable year of an estate or trust must first be carried back by the estate or trust unless an election has been made as provided by Section 63-3022(c), Idaho Code, to forego the carryback. The first taxable year of the beneficiaries to which the net operating loss is to be carried is the taxable year of the beneficiary in which the estate or trust terminates. No part of a net operating loss incurred by an estate or trust can be carried back by a beneficiary, even if the estate or trust had no preceding taxable years eligible for a carryback. For purposes of determining the number of years to which a loss may be carried over by a beneficiary, the last taxable year of the estate or trust and the first taxable year of the beneficiary to which a loss is carried over each constitute a taxable year. For taxable years beginning on and after January 1, 2013, the first one hundred thousand ($100,000) of loss sustained in any taxable year of an estate or trust may be carried back by the estate or trust if an amended return carrying the loss back is filed within one (1) year of the end of the taxable year of the net operating loss that results in such carryback. (3-20-14)

122. ADJUSTMENTS TO TAXABLE INCOME -- SUBTRACTIONS AVAILABLE ONLY TO CORPORATIONS (RULE 122).
Sections 63-3022 and 41-3821, Idaho Code

01. Foreign Dividend Gross-Up. As provided in Section 63-3022(f), Idaho Code, subtract the amount reported as a dividend pursuant to Section 78, Internal Revenue Code. (4-6-05)

02. Stock Insurance Subsidiary Dividends or Distributions. (4-6-05)

a. As provided in Section 41-3821, Idaho Code, a mutual insurance holding company or an intermediate holding company is to subtract the amount received as a dividend or distribution from a stock insurance subsidiary. The deduction is allowed for taxable years beginning on or after January 1, 2004. (4-6-05)

b. The deduction allowed by Section 41-3821, Idaho Code, is not allowed if the stock insurance subsidiary's Idaho premium tax liability for the preceding taxable year is less than the stock insurance subsidiary would have paid in Idaho income tax had it been subject to Idaho income taxation for that year. The Idaho premium tax liability is the amount of total premium taxes less total premium tax credits allowed. The Idaho income tax it

would have paid is to be computed as provided by Section 63-3027, Idaho Code, net of any applicable income tax credits. (4-6-05)

c. The taxpayer claiming the deduction is to include in its Idaho income tax return for the year the deduction is claimed information that it is entitled to the deduction. Such information is to include the amount of the stock insurance subsidiary's Idaho premium tax for the preceding taxable year and the amount of Idaho income tax it would have paid for such year. (4-6-05)

123. -- 124. (RESERVED)

125. ADJUSTMENTS TO TAXABLE INCOME -- BONUS DEPRECIATION ON PROPERTY ACQUIRED AFTER SEPTEMBER 10, 2001, AND BEFORE DECEMBER 31, 2007, OR AFTER DECEMBER 31, 2009 (RULE 125).
Section 63-3022O, Idaho Code

01. In General. Section 63-3022O, Idaho Code, requires that when computing Idaho taxable income, the amount of the adjusted basis of depreciable property, depreciation, and gains and losses from the sale, exchange, or other disposition of depreciable property acquired after September 10, 2001, and before December 31, 2007, or acquired after December 31, 2009, must be computed without regard to bonus depreciation allowed by Section 168(k), Internal Revenue Code. In order to meet this requirement, a taxpayer must be consistent in making the Idaho adjustments required for all the taxable years in which federal bonus depreciation is claimed. See Subsection 125.02 of this rule. The adjustments required by this rule do not apply to property acquired after 2007 and before 2010. (3-20-14)

02. Depreciation. (4-2-08)

a. If a taxpayer makes the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, in the subsequent taxable years the taxpayer is entitled to the Idaho subtractions for the additional depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation claimed for federal income tax purposes. (2-27-12)

b. If a taxpayer fails to make the Idaho addition in the first taxable year bonus depreciation was claimed for federal income tax purposes, the taxpayer is not entitled to claim the Idaho subtractions for additional depreciation in subsequent taxable years. In such instances, claiming an Idaho subtraction for additional depreciation when the first year Idaho addition was not claimed constitutes computing depreciation with regard to Section 168(k), Internal Revenue Code, which is specifically prohibited in Section 63-3022O(1), Idaho Code. For example, the Idaho addition is required for a taxable year when the bonus depreciation is claimed even though the taxpayer may be limited in claiming a passive loss from a pass-through entity in which the bonus depreciation arose. If the bonus depreciation is not added back in that taxable year, the Idaho subtractions are not allowed in the subsequent taxable years. (2-27-12)

c. The Idaho adjustments are required in all taxable years in which the taxpayer has an Idaho filing requirement or is a member of a combined group of corporations in which at least one member has an Idaho filing requirement. If the taxpayer is not required to file an Idaho income tax return for one (1) or more years in which depreciation may be claimed, the taxpayer may claim the Idaho adjustment in the taxable years in which an Idaho return is filed if all such taxable years are treated consistently. (2-27-12)

d. Example. A corporation transacted business in California and Oregon during taxable year 2003. In 2004, the taxpayer began transacting business in Idaho and was required to file an Idaho corporation income tax return for that year. On the federal return filed for 2003, the taxpayer claimed bonus depreciation for assets placed in service that year. Because the taxpayer was not required to file an Idaho corporation income tax return for 2003, there was no Idaho bonus depreciation addition required of the taxpayer. In 2004, the second year of deprecation for the assets placed in service in 2003, the taxpayer was required for Idaho income tax purposes to compute depreciation on the assets as if bonus depreciation had not been claimed. The difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes for 2004 would be allowed to the taxpayer as an Idaho subtraction since the taxpayer was required to file an Idaho corporation income tax return for that year. Assuming the taxpayer files an Idaho corporation income tax return for the remaining years when depreciation on the assets is allowed, the taxpayer will be allowed the Idaho subtraction in those years for the difference in the Idaho and federal

depreciation amounts. If the corporation transacted business in Idaho during 2003 only, the return filed for that year should reflect the Idaho addition for the difference in the amount of Idaho depreciation and the depreciation claimed for federal income tax purposes, even though the subtractions will not apply in subsequent years. (4-2-08)

126. -- 127. (RESERVED)

128. IDAHO ADJUSTMENTS -- PASS-THROUGH ENTITIES (RULE 128).

01. In General. An adjustment to a partnership, S corporation, estate or trust allowed or required by Idaho statute generally is claimed on the income tax returns of the partners, shareholders, or beneficiaries of the entity. (3-20-97)

a. Partnerships. An adjustment passes through to a partner based on that partner's distributive share of partnership profits. (3-20-97)

b. S Corporations. An adjustment passes through to a shareholder based on that shareholder's pro rata share of income or loss. (3-20-97)

c. Estates and Trusts. An adjustment passes through to a beneficiary in the same ratio that income is allocable to that beneficiary. (3-20-97)

02. Limitations. Deductions claimed on a partner's, shareholder's, or beneficiary's tax return may not exceed the limitations imposed by statute or rule. (3-20-97)

03. Different Taxable Year Ends. If a pass-through entity has a taxable year end different from that of a partner, shareholder, or beneficiary, the adjustment is to be claimed in the same taxable year that income or loss from that entity is reported for federal income tax purposes. (3-20-97)

04. Information Provided by a Pass-Through Entity. The pass-through entity will prepare and distribute to each partner, shareholder, or beneficiary a schedule detailing the proportionate share of each adjustment. Copies of these schedules is to be attached to the pass-through entity's Idaho income tax return or information return for the taxable year that the adjustment is allowed or required. (3-20-97)

05. Pass-Through Entities That Pay Tax. Generally, a pass-through entity is to report the same Idaho adjustments as those allowed to the individual partner, shareholder, or beneficiary for whom the pass-through entity is paying the tax. However, certain deductions that may be allowed to the individual if reporting and paying the tax is not allowed to the pass-through entity. (5-8-09)

a. See Rule 291 of these rules for information on computing the taxable income on which a pass-through entity is to be subject to tax. (5-8-09)

b. See Subsection 173.01 of these rules for the disallowance of an Idaho capital gains deduction to a pass-through entity paying the tax for an electing owner or beneficiary. (5-8-09)

129. (RESERVED)

130. DEDUCTION OF CERTAIN RETIREMENT BENEFITS (RULE 130).
Section 63-3022A, Idaho Code

01. Qualified Benefits. Subject to limitations, the following benefits qualify for the deduction: (3-20-97)

a. Retirement annuities paid to a retired civil service employee. For purposes of this deduction a retired civil service employee is an individual who is receiving retirement annuities paid under the Civil Service Retirement System, the Foreign Service Retirement and Disability System, or the offset programs of these systems. An individual is entitled to benefits from this retirement system only if he established eligibility prior to 1984. Retirement annuities paid to a retired federal employee under the Federal Employees Retirement System generally do not qualify for the deduction. Retirement annuities received under the Federal Employees Retirement System by a

retiree previously covered under the Civil Service Retirement System qualify to the extent the retiree establishes the portion of the annuity attributable to coverage under the Civil Service Retirement System. (3-25-16)

b. Retirement benefits paid as a result of participating in the firemen's retirement fund of the state of Idaho as authorized by Title 72, Chapter 14, Idaho Code. A fireman is entitled to benefits from this fund only if he established eligibility as a paid fireman prior to October 1, 1980. Retirement benefits paid out of the public employee's retirement system do not qualify for the deduction. (3-25-16)

c. Retirement benefits paid to a retired Idaho city police officer: (4-4-13)

i. By a city or its agent in regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by a city in this state; or (4-4-13)

ii. In regard to a policeman's retirement fund that no longer admits new members and on January 1, 2012, was administered by the public employee retirement system of Idaho; or (4-4-13)

iii. By the public employee retirement system of Idaho to a retired police officer in regard to Idaho employment not included in the federal social security retirement system; or (4-4-13)

iv. An unremarried widow or widower of a person described in Subparagraph 130.01.c.i., 130.01.c.ii., or 130.01.c.iii. of this rule. (4-4-13)

d. Retirement benefits paid by the United States Government to a retired member of the military services. (3-20-97)

02. Unremarried Widow or Widower. An unremarried widow or widower of a retired civil service employee, retired policeman, retired fireman, or retired member of the military services, who is sixty-five (65) or older, or sixty-two (62) and disabled, is eligible for the deduction, even though the deceased spouse was not eligible at the time of death. In this situation, the amount of the retirement benefits that can be considered for the deduction for the taxable year of the spouse's death is limited to the benefits paid to the spouse as a widow or widower. (4-4-13)

a. Example. In year one (1), the husband of a married couple filing a joint income tax return received civil service retirement. The husband did not qualify for the Idaho retirement deduction that year since he was not disabled and was only age sixty (60) during that year. In year two (2) the husband died. Because his wife is age sixty-three (63) and disabled in that year, she is eligible for the deduction for year two (2) but only for the amount of her husband's retirement benefits she received that year as a result of being the widow. She may not include in the computation of the deduction any amounts her husband was paid or entitled to prior to his death. For year three (3), she may compute the deduction based on all the retirement benefits she receives as the widow that year. (4-6-05)

b. Example. Assume the same facts as stated in Paragraph 130.02.a, of this rule, except that the wife is not disabled and does not reach age sixty-five (65) until year four (4). In year one (1) the husband did not qualify for the Idaho retirement deduction. In year two (2) the husband did not qualify for the deduction and the wife did not qualify after her husband died. In year three (3), the wife did not qualify. In year four (4), because the wife reaches age sixty-five (65) during that year, she is entitled to the Idaho retirement deduction on the amount of her husband's retirement she received that year as a result of being a widow. (4-6-05)

c. Example. Once the widow remarries, she will not be eligible for the Idaho retirement deduction for that year and the years that follow on the amounts she receives from her previous husband's retirement. (4-6-05)

03. Married Individuals Filing Separate Returns. Married individuals who elect to file married filing separate are not entitled to the deduction allowed by Section 63-3022A, Idaho Code. (7-1-98)

04. Publication of Maximum Deduction. The maximum deduction that may be subtracted when computing Idaho taxable income will be published each year in the instructions for preparing Idaho individual income tax returns. (4-4-13)

05. Disabled Individual. For purposes of this deduction, an individual is classified as disabled if he meets the requirements of Section 63-701, Idaho Code, or an individual who qualifies as a person with a "permanent disability" under Section 49-117 (7) (b) (iv), Idaho Code. This includes: (4-4-13)

a. An individual recognized as disabled by the Social Security Administration pursuant to Title 42, United States Code, or by the Railroad Retirement Board pursuant to Title 45, United States Code, or by the Office of Management and Budget pursuant to Title 5, United States Code; or (4-6-05)

b. A disabled veteran of any war engaged in by the United States, whose disability is recognized as a service-connected disability of a degree of ten percent (10%) or more, or who has a pension for nonservice-connected disabilities, in accordance with laws and regulations administered by the United States Veterans Administration. (4-6-05)

131. -- 139. (RESERVED)

140. DEDUCTION FOR ENERGY EFFICIENCY UPGRADES (RULE 140).
Section 63-3022B, Idaho Code

01. Qualifying Date. The energy efficiency upgrade must be installed in a residence of the taxpayer, or addition to a residence, that existed on or before January 1, 2002. A residence, or addition to a residence, constructed after January 1, 2002, does not qualify. (4-4-13)

02. Qualifying Residence. The residence must be the primary residence of the taxpayer and must be located in Idaho. (3-20-14)

03. Energy Efficiency Upgrade Measure Definition. "Energy efficiency upgrade measure" means an energy efficiency improvement to the building envelope or duct system that meets or exceeds the minimum value for the improved component established by the version of the international energy conservation code (IECC) in effect in Idaho during the taxable year in which the improvement is made or accrued. The IECC in effect in Idaho refers to the version most recently adopted by the Idaho Building Code Board, including amendments made by the Board. See the Board's administrative rules at IDAPA 07.03.01, "Rules of Building Safety," Section 004. (4-4-13)

04. Siding. Siding is not considered an energy efficiency upgrade. If a layer of insulation is placed beneath siding, the cost of the insulation is deductible if it otherwise qualifies. If the siding consists of an outer shell for protection against the weather and an inner layer of insulating material, the insulating material qualifies if the cost is separately identified by the seller. (4-4-13)

141. -- 149. (RESERVED)

150. DEDUCTION FOR ALTERNATIVE ENERGY DEVICES (RULE 150).
Section 63-3022C, Idaho Code

01. Qualifying Residence. The deduction applies only to a residence of an individual and does not apply to rental housing, unless the renter, rather than the owner, installs and pays for the device. (3-20-97)

02. Converted Rental Unit. If a residence served by an alternative energy device is converted by the owner from a rental unit to his residence, the owner is entitled to any remaining allowable deduction for the year of the conversion based on the portion of the year that the residence served as his residence. For each subsequent year, the owner is entitled to the full amount of the allowable deduction for that year assuming the residence continues to be the owner's residence. (3-20-97)

03. Purchase of a Residence. If a residence served by an alternative energy device is sold, both the seller and the buyer are entitled to a portion of the allowable deduction for the year of the sale based on the fraction of the year each individual had ownership of the residence. The new owner is entitled to any allowable deduction remaining for each subsequent year. The deduction is allowed even if the new owner previously rented the residence as his personal residence. No more than a five thousand dollar ($5,000) deduction may be prorated in any year. (3-20-97)

04. Common Distribution System. (3-20-97)

a. If the alternative energy device is dependent on and a part of a common distribution system such as a common solar collector facility or a common pipeline that distributes geothermally heated water, the common system is an alternative energy device if owned by the users of the facility. (3-20-97)

b. For purposes of determining the amount of the deduction, each common owner may claim the cost of the portion of the alternative energy system owned solely by that owner that serves only his residence, plus his pro rata share of the costs of installation of the common system. The pro rata share of the cost is to be the actual cost charged to the residential owner for the common system if the costs are allocated by a method that is reasonably related to the actual cost of providing the alternative energy to the various residential owners. (3-20-97)

c. The developer of a common system should provide a statement to each common owner identifying his allocable cost of the common system. If a statement is not provided, the common owners may agree to a reasonable allocation. If the common owners are unable to determine a reasonable allocation, they may petition the Tax Commission to make the determination. (3-20-97)

05. Destruction of Wood Burning Stove. The wood burning stove that does not meet the environmental protection agency requirements for certification is to be surrendered to the Department of Environmental Quality no later than thirty (30) days from the date of purchase of the qualifying alternative energy device. Failure to surrender the wood burning stove within the thirty (30) day period is to result in the new device failing to qualify as an alternative energy device. The thirty (30) day period may be extended only if the taxpayer can show good cause for the delay. (7-1-99)

151. -- 159. (RESERVED)

160. DEDUCTION FOR HOUSEHOLD AND DEPENDENT CARE SERVICES (RULE 160).
Section 63-3022D, Idaho Code. Section 21, Internal Revenue Code, provides for a credit against federal income tax of a percentage of the authorized employment-related expenses incurred for the care of qualifying individuals. The allowable household and dependent care service expense is a deduction in computing Idaho taxable income. The provisions of the Internal Revenue Code determine which dependents qualify, the maximum allowable expenses, and the qualified payees. (3-20-97)

161. -- 164. (RESERVED)

165. ADDITIONAL HOUSEHOLD DEDUCTION OR CREDIT FOR ELDERLY OR DEVELOPMENTALLY DISABLED DEPENDENTS (RULE 165).
Sections 63-3022E and 63-3025D, Idaho Code

01. Developmentally Disabled Defined. For purposes of the deduction allowed by Section 63-3022E, Idaho Code, or the credit allowed by Section 63-3025D, Idaho Code, developmentally disabled means a chronic disability that meets all of the following conditions: (7-1-99)

a. Is attributable to an impairment, such as intellectual disability, cerebral palsy, epilepsy, autism, or other condition closely related to or similar to one (1) of these impairments that requires similar treatment or services, or is attributable to dyslexia resulting from the impairment. The other condition must result in limitations of general intellectual functioning or adaptive behavior similar to those required for individuals with an intellectual disability. See IDAPA 16.03.10, "Medicaid Enhanced Plan Benefits," Section 501 for the developmental disability determination standards. (4-7-11)

b. Has continued or can be expected to continue indefinitely. (3-20-97)

c. Has substantial functional limitations in three (3) or more areas of major life activity. Individuals with mild intellectual disabilities, controlled epilepsy, and mild cerebral palsy may not be viewed as developmentally disabled since the criteria of substantial limitation may not be met. Individuals who succeed in developing skills to function adequately in five (5) or more major life skill areas will no longer meet the definition of developmental

disability. The following are areas of major life activity: (4-7-11)

i. Self-care; (3-20-97)

ii. Receptive and expressive language; (3-20-97)

iii. Learning; (3-20-97)

iv. Mobility; (3-20-97)

v. Self-direction; (3-20-97)

vi. Capacity for independent living; and (3-20-97)

vii. Economic self-sufficiency. (3-20-97)

d. Reflects the need for a combination and sequence of special, interdisciplinary or generic care, treatment or other services that are of lifelong or extended duration and individually planned and coordinated. Individuals who have limited or no need for services specific to disabilities do not qualify. (3-20-97)

02. Qualifying Individual. (3-20-97)

a. Immediate Family Member. An immediate family member is an individual who meets the relationship test for being claimed as a dependent on the taxpayer's federal income tax return. The family member does not have to be claimed as a dependent on the taxpayer's income tax return to qualify. The family member must receive over one-half (1/2) of his support from the taxpayer. A spouse does not qualify as an immediate family member. (7-1-99)

b. Additional Household Deduction or Credit for Elderly. For purposes of the additional household deduction or credit for the elderly, a qualifying individual must be an immediate family member. (7-1-99)

c. Additional Household Deduction or Credit for Developmentally Disabled Dependents. For purposes of the additional household deduction or credit for a developmentally disabled dependent, a qualifying individual includes an immediate family member, the taxpayer, or his spouse. (7-1-99)

03. Fractions of Years. (7-1-99)

a. The deduction is prorated at eighty-three dollars ($83) per month if the qualified individual lives in the household for less than a full year. A fraction of a calendar month exceeding fifteen (15) days is treated as a full month. (4-7-11)

b. The credit is not available to part-year or nonresident individuals. If the qualified individual lives in the household for less than a full year, the credit is prorated at eight dollars and thirty-three cents ($8.33) per month. (4-7-11)

166. -- 169. (RESERVED)

170. IDAHO CAPITAL GAINS DEDUCTION -- IN GENERAL (RULE 170).
Section 63-3022H, Idaho Code

01. Qualifying for the Idaho Capital Gains Deduction. To qualify for the Idaho capital gains deduction, a taxpayer must report capital gain net income, as defined in Section 1222(9), Internal Revenue Code, on his federal income tax return. (4-11-06)

02. Capital Gain Net Income Limitation. (4-11-06)

a. The Idaho capital gains deduction may not exceed the capital gain net income included in taxable

income. (4-11-06)

b. Example. A taxpayer recognizes a capital gain of five thousand dollars ($5,000) on the sale of Idaho real property that qualifies for the deduction. The taxpayer also recognizes a capital loss of two thousand five hundred dollars ($2,500) from the sale of shares of stock. These are the only sales during the taxable year. Sixty percent (60%) of the capital gain net income from qualified property is greater than the capital gain net income included in the taxpayer's taxable income. Therefore, the taxpayer's Idaho capital gains deduction is limited to the capital gain net income included in taxable income of two thousand five hundred dollars ($2,500), not sixty percent (60%) of the capital gain net income from the qualified property. (4-7-11)

03. Ordinary Income Limitation. Gains treated as ordinary income pursuant to the Internal Revenue Code do not qualify for the Idaho capital gains deduction, including the following: (4-7-11)

a. Gain from dispositions of certain depreciable property treated as ordinary income pursuant to Sections 1245 or 1250, Internal Revenue Code. (4-7-11)

b. Gain treated as ordinary income pursuant to Section 1231(c), Internal Revenue Code, and allocated among the separate categories of net section 1231 gain as provided by Section 1(h)(8), Internal Revenue Code. Gain treated as ordinary income under Section 1231(c) and allocated among the separate categories of net section 1231 gain as provided by Section 1(h)(8), Internal Revenue Code, must be prorated within each category between the gains on property that qualifies for the Idaho capital gains deduction and gains on property that do not qualify for the Idaho capital gains deduction. (4-7-11)

c. Example. One hundred thousand dollars ($100,000) of capital gain income is treated as ordinary income. The first seventy thousand dollars ($70,000) of ordinary income is allocated to the net section 1231 gain in the twenty-eight percent (28%) category. None of the gain in this category qualifies for the Idaho capital gains deduction since it is all treated as ordinary income. The remaining thirty thousand dollars ($30,000) of ordinary income is allocated to gain from property in the twenty-five percent (25%) group. The gain in this category is derived from the sale on three (3) items of equipment. Two (2) of the items were qualified property located in Idaho. The third item was located in Oregon. Each item generated a gain of twenty-five thousand dollars ($25,000). The gain treated as ordinary income is prorated between the three (3) items, ten thousand dollars ($10,000) to each. As a result, fifteen thousand dollars ($15,000) of the gain on each item remains as capital gain. The fifteen thousand dollars ($15,000) of capital gain on each of the two items of Idaho equipment qualify for the Idaho capital gains deduction. Ten thousand dollars ($10,000) of the gain on each of the items do not qualify since it is treated as ordinary income. The gain on the Oregon equipment does not qualify for the capital gains deduction since the equipment is not located in Idaho.

$100,000 of Gain Treated as Ordinary Income	28% Group	25% Group		
		Idaho Equipment	Idaho Equipment	Oregon Equipment
Total Gain in Category	$70,000	$25,000	$25,000	$25,000
Gain Treated as Ordinary Income	$70,000	$100,000 - $70,000 = $30,000 X $25,000/$75,000 = $10,000	$100,000 - $70,000 = $30,000 X $25,000/$75,000 = $10,000	$100,000 - $70,000 = $30,000 X $25,000/$75,000 = $10,000
Amount Remaining as Capital Gain	$0	$25,000 - $10,000 = $15,000	$25,000 - $10,000 = $15,000	$25,000 - $10,000 = $15,000
Gain Qualifying for Idaho Capital Gains Deduction	$0	$15,000	$15,000	$0

(4-7-11)

04. Losses From Nonqualified Property. Losses from property not qualifying for the Idaho capital

gains deduction may not be netted against gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. (4-11-06)

05. Losses From Qualified Property. (7-1-99)

a. Losses from property qualifying for the Idaho capital gains deduction are netted against gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. (4-7-11)

b. A capital loss carryover from property qualifying for the Idaho capital gains deduction will be netted against current year gains from property qualifying for the Idaho capital gains deduction before the amount of the deduction is determined. If a taxpayer has a capital loss carryover consisting of qualified and nonqualified property, the qualified capital loss carryover is the proportion that the qualified capital loss bears to the total capital loss shown on the return in the prior year multiplied by the capital loss carryover. (4-7-11)

06. Examples. (3-20-97)

a. A taxpayer sells two (2) parcels of Idaho real property that qualify for the deduction. These are the only sales during the taxable year. A capital gain of seven thousand five hundred dollars ($7,500) is recognized on the sale of Parcel A. A capital loss of five thousand dollars ($5,000) is recognized on the sale of Parcel B. Since both parcels are qualified property, the gain and loss are netted, resulting in capital gain net income from qualified property of two thousand five hundred dollars ($2,500). The capital gains deduction is sixty percent (60%) or one thousand five hundred dollars ($1,500). (4-7-11)

b. A taxpayer recognizes a capital gain of twenty thousand dollars ($20,000) on the sale of Idaho real property that qualifies for the deduction. The taxpayer also recognizes a capital loss of two thousand five hundred dollars ($2,500) from the sale of shares of stock that he has held for more than one (1) year. These are the only sales during the taxable year. In this case, since the long-term capital loss is not from qualified property, the loss on the sale of stock does not reduce the gain from qualified property for purposes of computing the deduction. The entire gain from qualified property of twenty thousand dollars ($20,000) is eligible for the Idaho capital gains deduction. The capital gains deduction is sixty percent (60%) or twelve thousand dollars ($12,000). (4-7-11)

171. IDAHO CAPITAL GAINS DEDUCTION -- QUALIFIED PROPERTY (RULE 171).

Section 63-3022H, Idaho Code

01. Tangible Personal Property. Tangible personal property qualifies for the Idaho capital gains deduction if it was used in Idaho for at least twelve (12) months by a revenue-producing enterprise as defined by Section 63-3022H(4), Idaho Code, and Rule 172 of these rules. (4-7-11)

02. Real Property. Idaho real property qualifies for the Idaho capital gains deduction if it was held by the taxpayer for twelve (12) months. See Subsection 171.05 of this rule for examples of nonqualifying property. (3-25-16)

03. Gain from Forfeited Rights and Payments. Gain attributable to a cancellation, lapse, expiration, or other termination of a contract right or obligation does not qualify for the Idaho capital gains deduction. This includes any gain from the lapse of an option or from forfeited earnest money, down payment, or similar payments, related to otherwise qualifying property. (4-7-11)

04. Timber. As used in Section 63-3022H(3)(e), Idaho Code, qualified timber grown in Idaho includes: (3-20-97)

a. Standing timber held as investment property that is a capital asset pursuant to Section 1221, Internal Revenue Code; and (3-20-97)

b. Cut timber if the taxpayer elects to treat the cutting of timber as a sale or exchange pursuant to Section 631(a), Internal Revenue Code. (3-20-97)

05. Nonqualifying Property. Nonqualifying property includes: (4-4-13)

a. Real or tangible personal property not having an Idaho situs. (4-4-13)

b. Tangible personal property not used by a revenue-producing enterprise. (4-4-13)

c. Intangible property. Some examples of intangible property include, but are not limited to: (4-4-13)

i. Stocks and bonds; (4-4-13)

ii. Interests in a partnership (except for interests identified in Section 63-3022H(3)(f)), Idaho Code, LLC, or S corporation. (4-11-19)

06. Holding Periods. (3-20-97)

a. In General. To qualify for the capital gains deduction, property otherwise eligible for the Idaho capital gains deduction must be held for specific time periods. The holding periods for Idaho purposes generally follow Sections 1223 and 735, Internal Revenue Code. (5-8-09)

b. Exception to the Tacked-On Holding Period. The holding period of property given up in a tax-free exchange is not tacked on to the holding period of the property received if the property given up was nonqualifying property based on the requirements of Section 63-3022H(3), Idaho Code. (4-4-13)

c. Installment Sales. The determination of whether the property meets the required holding period is made using the laws applicable for the year of the sale. If the required holding period is not met in the year of sale, the gain is not from qualified property. The classification as nonqualified property will not change even though the gain may be reported in subsequent years when a reduced holding period is applicable. (4-5-00)

d. Examples of nonqualifying property. (7-1-98)

i. A taxpayer purchased land in California. After owning the land three (3) years, he gave up the California land in a tax-free exchange for land in Idaho. He owned the Idaho land for ten (10) months until selling it at a gain. For federal purposes the holding period of the California land tacks on to the holding period of the Idaho land. The gain from the sale of the California land would not qualify for the Idaho capital gains deduction since it is real property located outside Idaho. The holding period of the California land does not tack on to the holding period of the Idaho land for purposes of the Idaho capital gains deduction. Because the Idaho land was not held for twelve (12) months, the gain from the sale of the Idaho land does not qualify for the Idaho capital gains deduction. (3-30-07)

ii. Assume the same facts as in the example in Subparagraph 171.05.d.i. except the taxpayer's original purchase was land in Idaho. Because the taxpayer owned real property in Idaho that was exchanged for a second parcel of real property in Idaho, the holding period of the Idaho land given up tacks on to the holding period of the second parcel of Idaho land. Because the holding period of the second property, which includes the holding period of the first property, was at least twelve (12) months, the gain from the sale of the second parcel of real property qualifies for the Idaho capital gains deduction. (4-7-11)

07. Holding Periods of S Corporation and Partnership Property. (7-1-98)

a. Property Contributed by a Shareholder to an S Corporation or by a Partner to a Partnership. A shareholder or partner who contributes otherwise qualified property to an S corporation or partnership may treat the pass-through gain on the sale of that property as a qualifying Idaho capital gain if the property has, in total, been held by the shareholder or partner and the S corporation or partnership for the required holding period. The noncontributing shareholders or partners may treat the pass-through gain as a qualifying Idaho capital gain only if the S corporation or partnership held the property for the required holding period. (5-8-09)

b. Property Distributed by an S Corporation or Partnership. (2-27-12)

i. Distributions. For purposes of this rule, the holding period of property received in a distribution from a partnership or from an S corporation other than in liquidation of stock includes the time the entity held the

property. (3-25-16)

08. Sale of a Partnership Interest. For taxable years beginning on or after January 1, 2018, when 26 CFR 1.170A-13(c)(3) is used to determine the fair market value of the partnership's qualified real property, the language of that federal regulation is to be treated as if it sets forth an appraisal method for determining the value of the qualified real property due to the sale of the partnership interest rather than a donation of property. (4-11-19)

172. IDAHO CAPITAL GAINS DEDUCTION -- REVENUE-PRODUCING ENTERPRISE (RULE 172).
Section 63-3022H, Idaho Code

01. In General. Only the activities listed in Section 63-3022H(4), Idaho Code, qualify as a revenue-producing enterprise. (4-7-11)

02. Nonqualifying Activities. Examples of activities that do not qualify as a revenue-producing enterprise include the following: (4-7-11)

a. Retail sales; (4-7-11)

b. Professional or managerial services; (4-7-11)

c. Repair services or other service related activities; (4-7-11)

d. Transportation activities, unless they are an integral part of the taxpayer's qualifying activity; (4-7-11)

e. Telephone, cable, and internet services; (4-7-11)

f. Agricultural services, such as horse training, veterinarian services, and crop dusting. (4-7-11)

03. Multiple Activities. If a business is engaged in both revenue-producing and nonrevenue-producing activities, tangible personal property must be used in the revenue-producing activity to qualify for the Idaho capital gains deduction. (3-20-97)

04. Examples. (4-7-11)

a. A taxpayer's Idaho business includes buying wool and processing it into yarn, using the yarn to manufacture clothes, and selling the clothes to the customers. Only part of the taxpayer's business activity qualifies as a revenue-producing enterprise. The activity related to retail sales does not qualify as a revenue-producing enterprise and any tangible personal property used in that activity does not qualify for the Idaho capital gains deduction. (4-7-11)

b. A taxpayer's Idaho business includes cutting timber in a forest, transporting the logs to a sawmill, processing the logs into plywood, and selling the plywood to a furniture manufacturer. The entire business qualifies as a revenue-producing enterprise, including the selling activity, because the selling activity is at wholesale. (4-7-11)

c. A taxpayer's Idaho business includes growing potatoes and operating a long-haul trucking business unrelated to the potato operations. Only the portion of the Idaho business involved in activities necessary to the growing of potatoes qualifies as a revenue-producing enterprise. Tangible personal property used in the taxpayer's long-haul trucking business does not qualify for the Idaho capital gains deduction. (4-7-11)

173. IDAHO CAPITAL GAINS DEDUCTION -- PASS-THROUGH ENTITIES (RULE 173).
Section 63-3022H, Idaho Code

01. In General. (3-20-97)

a. Qualified property held by an S corporation, partnership, trust, or estate may be eligible for the Idaho capital gains deduction. The deduction is allowed only on the return of an individual shareholder, individual

partner, or individual beneficiary. (3-29-10)

b. Partnerships, S corporations, trusts, and estates that pay the tax for an electing individual pursuant to Section 63-3022L, Idaho Code, are not allowed to claim a capital gains deduction. (3-29-10)

02. Multistate Entities. A nonresident shareholder of an S corporation or a nonresident partner of a partnership required to allocate and apportion income as set forth in Section 63-3027, Idaho Code, is to compute his Idaho capital gains deduction on his interest in income of that portion of the qualifying capital gains allocated or apportioned to Idaho. (3-20-97)

03. Examples. (3-20-97)

a. XYZ Farms, a multistate partnership, sold three (3) parcels of farmland: one (1) in Idaho purchased seven (7) years ago, one (1) in Washington, and one (1) in Oregon. The sale of the Idaho property resulted in a forty thousand dollar ($40,000) gain, the sale of the Washington property resulted in a thirty thousand dollar ($30,000) gain, and the sale of the Oregon property resulted in a twenty thousand dollar ($20,000) loss, for a net gain of fifty thousand dollars ($50,000). The income and loss from the sale of the farmland is determined to be business income and is included in income apportionable to Idaho. The partnership has a seventy-five percent (75%) Idaho apportionment factor. The three (3) nonresident partners share equally in the partnership profits. Each nonresident partner reports capital gain net income in determining taxable income for the year and may claim an Idaho capital gains deduction of six thousand dollars ($6,000), computed as follows: ($40,000 Idaho gain X 75% apportionment factor = $30,000 gain apportioned to Idaho X 1/3 interest = $10,000 attributable to each partner X 60% = $6,000 capital gains deduction allowable on each partner's nonresident return). For taxable year 2001 only, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, or eight thousand dollars ($8,000). After 2001, the capital gains deduction returns to sixty percent (60%) or six thousand dollars ($6,000). (3-30-07)

b. Assume the same facts as in Paragraph 173.03.a. of this rule, except that one (1) of the nonresident partners reported capital gain net loss on his federal return. Because the partner did not meet the criteria of reporting capital gain net income in determining taxable income as required by Section 63-3022H(1), Idaho Code, he would not be entitled to the Idaho capital gains deduction on his Idaho return. (5-8-09)

c. Assume the same facts as in Paragraph 173.03.a. of this rule, except that the Oregon property was sold at a ninety thousand dollar ($90,000) loss, resulting in capital gain net loss from the partnership. If a partner had other capital gains to report and reported capital gain net income on his federal income tax return, he would be entitled to part or all of the capital gains deduction computed on the Idaho property in Paragraph 173.03.a. of this rule, limited to the amount of the capital gain net income from all property included in taxable income by the partner. (5-8-09)

d. Assume the same facts as in Paragraph 173.03.a. of this rule, except that the farmland is determined to be nonbusiness income. Therefore, the forty thousand dollar ($40,000) gain from the sale of the Idaho farmland is allocated to Idaho. Assuming each partner had no other capital gains or losses except from the partnership, each partner may claim an Idaho capital gains deduction of eight thousand dollars ($8,000), computed as follows: ($40,000 gain allocated to Idaho X 1/3 = $13,333 partner's share X 60% = $8,000 Idaho capital gains deduction allowable on each partner's nonresident return). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, computed to be ten thousand six hundred and sixty-seven dollars ($10,667). (5-8-09)

e. An Idaho resident partner must report all partnership income to Idaho. As a result, his share of partnership income, including any capital gain included in apportionable income, is not limited by the apportionment factor of the partnership. Therefore, in the example in Paragraph 173.03.a. of this rule, a resident partner may claim an Idaho capital gains deduction of eight thousand dollars ($8,000) computed as follows: ($40,000 Idaho gain X 1/3 interest X 60% = $8,000). For taxable year 2001, the capital gains deduction is eighty percent (80%) of the capital gain net income from qualified property, computed to be ten thousand six hundred and sixty-seven dollars ($40,000 Idaho gain X 1/3 interest X 80% = $10,667). (5-8-09)

f. Gains that cannot be traced back to the sale of Idaho qualifying property do not qualify for the

Idaho capital gains deduction. (3-30-07)

174. -- 179. (RESERVED)

180. DEDUCTION FOR DONATION OF TECHNOLOGICAL EQUIPMENT (RULE 180).
Section 63-3022J, Idaho Code

01. Limitations. The deduction for donations of technological equipment is limited to the lower of cost, fair market value, or Idaho taxable income of the taxpayer. Any amount in excess of Idaho taxable income is not allowed as a carryback or carryover. (3-20-14)

02. Fair Market Value. Fair market value is determined pursuant to Section 170, Internal Revenue Code. (3-20-97)

03. Pass-Through of Deduction. (3-20-97)

a. See Rule 128 of these rules for the general rules relating to deductions of pass-through entities. (3-20-97)

b. The limitations in Subsection 180.01 apply at the entity level. The deduction may not exceed the amount of pass-through income less deductions of the entity making the contribution. (3-20-97)

181. -- 184. (RESERVED)

185. ADOPTION EXPENSES (RULE 185).
Section 63-3022I, Idaho Code

01. In General. Subject to the limitations of Subsection 185.02, adoptive parents may deduct from taxable income legal and medical expenses related to the adoption of a child. Travel expenses related to the adoption may not be deducted. (3-20-97)

02. Maximum Deduction. The deduction allowed for a successful adoption is limited to a maximum deduction for each adopted child. For taxable years beginning before 2018, the maximum deduction is three thousand dollars ($3,000). For taxable years beginning after 2017, the maximum deduction is ten thousand dollars ($10,000) regardless of whether the deduction is claimed in one (1) or more years. (3-26-19)

a. Examples: (3-26-19)

i. A taxpayer spent five thousand dollars ($5,000) in 2017 and four thousand dollars ($4,000) in 2018 to adopt a child. He can deduct three thousand dollars ($3,000) in 2017 and four thousand dollars ($4,000) in 2018. (3-26-19)

ii. A taxpayer spent five thousand dollars ($5,000) in 2017 and fifteen thousand dollars ($15,000) in 2018 to adopt a child. He can deduct three thousand dollars ($3,000) in 2017 and seven thousand dollars ($7,000) in 2018. (3-26-19)

03. Ineligible Expenses. (3-20-97)

a. The costs associated with an unsuccessful attempt to adopt a child do not qualify for the deduction. (3-20-97)

b. A deduction is not allowed for expenses incurred in violation of state or federal law or for a surrogate parenting arrangement. (3-20-97)

04. Year Deduction Allowed. The deduction is allowed in the taxable year the expense is paid. A taxpayer is to file an amended return if he claimed any adoption expenses related to an unsuccessful attempt to adopt in a previous taxable year. (3-20-97)

05. Financial Assistance. Eligible expenses are to be reduced by amounts received as financial aid for the adoption, or from a grant pursuant to a federal, state, or local program. (3-20-97)

186. -- 189. (RESERVED)

190. IDAHO MEDICAL SAVINGS ACCOUNTS (RULE 190).
Section 63-3022K, Idaho Code

01. Designation as a Medical Savings Account. An account must be designated by a depository as a medical savings account to qualify as an Idaho medical savings account. To be designated as a medical savings account, the words medical savings account or MSA must be clearly listed on the statement provided to the account holder and be included in one (1) of the following: (5-3-03)

a. The name of the account; (5-3-03)

b. The title of the account; (5-3-03)

c. The description of the account; or (5-3-03)

d. The designation of the account. (5-3-03)

02. Withdrawal to Reimburse the Account Holder. (4-5-00)

a. A withdrawal from an Idaho medical savings account to reimburse the account holder for expenses he paid is not a withdrawal to pay eligible medical expenses to the extent the account balance at the time the expense was paid was less than the withdrawal. (4-5-00)

b. Example. A taxpayer's Idaho medical savings account had a balance of three hundred dollars ($300) on March 1. On that day, he paid a medical expense costing four hundred dollars ($400) using funds from his regular checking account. On March 10 the taxpayer deposited two hundred dollars ($200) into his medical savings account. On March 11 he withdrew four hundred dollars ($400) from his medical savings account to reimburse himself for the medical expense payment. Only three hundred dollars ($300) of the withdrawal qualifies as a payment of eligible medical expenses. The taxpayer may deduct two hundred dollars ($200) for the contribution to the account. However, he must include one hundred dollars ($100) in Idaho taxable income in addition to paying a penalty of ten dollars ($10). (7-1-98)

03. Pretax Contributions. Health benefits paid with pretax contributions, such as those paid pursuant to a salary reduction agreement, are considered paid by the employer and do not qualify as an expense paid by the employee. Health benefits paid with after-tax dollars are considered paid by the employee and qualify as an expense paid by the employee. (3-20-97)

04. Contributions That Exceed the Amount Deductible. An account holder is limited in the amount he can contribute to his Idaho medical savings account each year to the amount deductible for that year. For taxable years beginning on or after January 1, 1995, but before January 1, 2014, the maximum amount deductible is two thousand dollars ($2,000), four thousand dollars ($4,000) for a joint account. For taxable years beginning on or after January 1, 2014, the maximum amount deductible is ten thousand dollars ($10,000), twenty thousand dollars ($20,000) for a joint account. Contributions to an Idaho medical savings account that exceed the limitation for that year and that are not withdrawn as a deposit in error within thirty (30) days from the date of deposit, will be subject to tax and the distribution penalty if withdrawn for purposes other than the payment of eligible medical expenses. (4-11-15)

05. Death of a Spouse. If an Idaho medical savings account is established for married individuals as a joint account, no contributions will be made for an account holder who is deceased. In the year of death, one-half (1/2) of the contributions made up to the date of death will be attributed to each account holder. If the amounts are less than the maximum contribution amount, the surviving account holder may make contributions so that his total contributions for the year total the maximum contribution amount. For example, a married couple contributes three

thousand dollars ($3,000) to their medical savings account in January of 2013. In April of that year, the husband dies. The contributions made to the date of death will be attributed to each spouse with the result that each spouse is considered to have contributed one thousand five hundred dollars ($1,500). Because the wife has not met the maximum deduction of two thousand dollars ($2,000) for taxable year 2013, she can contribute another five hundred dollars ($500) in that year. (4-11-15)

191. -- 192. (RESERVED)

193. HEALTH INSURANCE COSTS AND LONG-TERM CARE INSURANCE (RULE 193).
Sections 63-3022P and 63-3022Q, Idaho Code

01. In General. The amounts paid by an individual taxpayer for health insurance and long-term care insurance that are not otherwise deducted or accounted for are allowed as deductions from taxable income. For taxable years beginning between January 1, 2001, and December 31, 2003, the deduction allowed for the long-term care insurance premiums was limited to fifty percent (50%) of the amount paid during the taxable year. (4-6-05)

02. Costs Deducted or Accounted For. Deductions are not allowed for health insurance costs and premiums paid for long-term care insurance that are otherwise deducted or accounted for. See Rule 194 of these rules for examples of the limitations when costs are otherwise deducted or accounted for. Health insurance costs and premiums paid for long-term care insurance that are otherwise deducted or accounted for include amounts: (5-8-09)

a. Paid out of an Idaho medical savings account; (5-3-03)

b. Paid through a cafeteria plan or other salary-reduction arrangement when these costs are paid out of pretax income; or (4-6-05)

c. Deducted as business expenses. (5-3-03)

03. Social Security Medicare Part A. (5-3-03)

a. The payroll tax paid for Medicare A is not considered a medical expense under Section 213, Internal Revenue Code and, therefore, does not qualify for the Idaho deduction for health insurance costs. This applies to individuals who are covered by Social Security or are government employees who paid Medicare tax. (5-3-03)

b. The amount of premiums a taxpayer pays to voluntarily enroll in Medicare A is deductible under Section 213, Internal Revenue Code, and qualifies for the Idaho deduction for health insurance costs. This applies to individuals who are not covered under Social Security or who were not government employees who paid Medicare tax. (5-3-03)

04. Social Security Medicare Part B. Amounts paid for Medicare B, which is a supplemental medical insurance, qualify for the deduction allowed under Section 213, Internal Revenue Code, and qualify for the Idaho deduction for health insurance costs. (5-3-03)

05. Social Security Medicare Part D. Amounts paid for Medicare D, which is a voluntary prescription drug insurance program for individuals with Medicare A or B, qualify for the deduction allowed under Section 213, Internal Revenue Code, and qualify for the Idaho deduction for health insurance costs. (5-8-09)

06. Medical Payments Coverage and Personal Injury Protection of Automobile Insurance. The portion of automobile insurance that covers medical payments coverage or personal injury protection does not qualify for the Idaho deduction for health insurance costs because the insurance coverage is not restricted to the taxpayer, the taxpayer's spouse, or the dependents of the taxpayer. This insurance provides protection to the driver and passengers of the policyholder's car or other injured parties. (5-3-03)

194. HEALTH INSURANCE COSTS AND LONG-TERM CARE INSURANCE -- EXAMPLES OF LIMITATIONS (RULE 194).
Sections 63-3022P and 63-3022Q, Idaho Code

01. Examples of Limitations When Costs are Otherwise Deducted or Accounted For. If a taxpayer elects to itemize deductions for Idaho purposes and his medical expenses exceed the federal adjusted gross income limitation, the amount that is deducted as an itemized deduction will first apply to health insurance costs, next to long-term care insurance, and last to other medical expenses. If the premiums exceed the amount deducted as an itemized deduction, the Idaho deductions for health insurance costs and long-term care insurance may be allowed if the premiums were not otherwise deducted or accounted for. If the taxpayer does not elect to itemize deductions for Idaho purposes, or if the taxpayer is unable to deduct medical expenses as an itemized deduction due to the federal adjusted gross income limitation, the full amount of health insurance costs and premiums paid for long-term care insurance (fifty-percent (50%) of the premiums for taxable years beginning prior to 2004), not otherwise deducted or accounted for, qualify for the Idaho deduction. Amounts used for calculating the limitations must not be less than zero (0). (3-20-14)

02. Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Zero (0).

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1. Health insurance expenses claimed on federal Schedule A	$10,000
2. Long-term care insurance expenses claimed on federal Schedule A	$4,000
3. Other medical expenses claimed on federal Schedule A	$2,000
4. Total medical expenses claimed on federal Schedule A	$16,000
5. Applicable percentage of federal adjusted gross income	$0
6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$16,000
HEALTH INSURANCE	
7. Total amount paid for health insurance	$10,100
8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$10,000
9. Health insurance expenses deducted elsewhere on the federal return	$100
10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
LONG-TERM CARE INSURANCE	
11. Total amount paid for long-term care insurance	$4,050
12. Medical expense deduction not allocated to health insurance (line 6 less line 1)	$6,000
13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$4,000
14. Long-term care insurance deducted elsewhere on the federal return	$50
15. Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$0

(3-20-14)

03. Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Three Thousand Dollars ($3,000).

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1. Health insurance expenses claimed on federal Schedule A	$10,000
2. Long-term care insurance expenses claimed on federal Schedule A	$4,000

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
3. Other medical expenses claimed on federal Schedule A	$2,000
4. Total medical expenses claimed on federal Schedule A	$16,000
5. Applicable percentage of federal adjusted gross income	$3,000
6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$13,000
HEALTH INSURANCE	
7. Total amount paid for health insurance	$10,100
8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$10,000
9. Health insurance expenses deducted elsewhere on the federal return	$100
10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
LONG-TERM CARE INSURANCE	
11. Total amount paid for long-term care insurance	$4,050
12. Medical expense deduction not allocated to health insurance (line 6 less line 1)	$3,000
13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$3,000
14. Long-term care insurance deducted elsewhere on the federal return	$50
15. Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$1,000

(3-20-14)

04. Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Six Thousand Dollars ($6,000).

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1. Health insurance expenses claimed on federal Schedule A	$10,000
2. Long-term care insurance expenses claimed on federal Schedule A	$4,000
3. Other medical expenses claimed on federal Schedule A	$2,000
4. Total medical expenses claimed on federal Schedule A	$16,000
5. Applicable percentage of federal adjusted gross income	$6,000
6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$10,000
HEALTH INSURANCE	
7. Total amount paid for health insurance	$10,100
8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$10,000
9. Health insurance expenses deducted elsewhere on the federal return	$100
10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$0
LONG-TERM CARE INSURANCE	
11. Total amount paid for long-term care insurance	$4,050

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
12. Medical expense deduction not allocated to health insurance (line 6 less line 1)	$0
13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$0
14. Long-term care insurance deducted elsewhere on the federal return	$50
15. Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$4,000

(3-20-14)

05. Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Fourteen Thousand Dollars ($14,000).

HEALTH INSURANCE AND LONG-TERM CARE INSURANCE DEDUCTION LIMITATIONS	
1. Health insurance expenses claimed on federal Schedule A	$10,000
2. Long-term care insurance expenses claimed on federal Schedule A	$4,000
3. Other medical expenses claimed on federal Schedule A	$2,000
4. Total medical expenses claimed on federal Schedule A	$16,000
5. Applicable percentage of federal adjusted gross income	$14,000
6. Medical expense deduction allowed on federal Schedule A (line 4 less line 5)	$2,000
HEALTH INSURANCE	
7. Total amount paid for health insurance	$10,100
8. Portion of health insurance expenses allowed on federal Schedule A (lesser of line 1 or line 6)	$2,000
9. Health insurance expenses deducted elsewhere on the federal return	$100
10. Health insurance deduction allowed for Idaho (line 7 less lines 8 and 9)	$8,000
LONG-TERM CARE INSURANCE	
11. Total amount paid for long-term care insurance	$4,050
12. Medical expense deduction not allocated to health insurance (line 6 less line 1)	$0
13. Portion of long-term care insurance deduction allowed on federal Schedule A (lesser of line 2 or line 12)	$0
14. Long-term care insurance deducted elsewhere on the federal return	$50
15. Long-term care insurance deduction allowed for Idaho (line 11 less lines 13 and 14)	$4,000

(3-20-14)

06. Applicable Percentage. For taxable years beginning January 1, 2013, the percentage is seven and one-half percent (7.5%) if the taxpayer or spouse is age sixty-five (65) or older. The percentage for taxpayers under the age of sixty-five (65) is ten percent (10%). (3-20-14)

195. LOSS RECOVERIES (RULE 195).
Section 63-3022R, Idaho Code

01. In General. A deduction is allowed in taxable years beginning after December 31, 2012 for

recoveries of losses deducted from federal taxable income in a prior year that were not allowed or allowable as a deduction in calculating Idaho taxable income to the extent the recovery is included in federal taxable income of the current year. (3-20-14)

02. No Double Deduction. No deduction is allowed for recovery of an amount not included in federal taxable income of the current year. No deduction is allowed to the extent the loss recovered previously reduced Idaho taxable income. (3-20-14)

03. Example. A taxpayer claims an itemized deduction of one hundred thousand ($100,000) on his 2010 federal tax return for a theft loss from a Ponzi-type investment scheme. The deduction results in a federal net operating loss of fifty thousand ($50,000) for 2010 but no Idaho net operating loss because the itemized deduction is not allowable in calculating an Idaho net operating loss under Section 63-3021, Idaho Code. On his 2013 federal tax return, the taxpayer includes in federal taxable income a recovery of sixty thousand ($60,000) of the amount previously deducted. Since ten thousand ($10,000) of the recovered amount reduced 2010 Idaho taxable income and fifty thousand ($50,000) did not reduce 2010 Idaho taxable income, a fifty thousand ($50,000) deduction is allowed in calculating 2013 Idaho taxable income. The 2013 Idaho deduction allowed is fifty thousand ($50,000) since that is the amount that was previously disallowed for Idaho purposes. (3-20-14)

196. -- 199. (RESERVED)

200. NET OPERATING LOSS -- CORPORATIONS (RULE 200).
Section 63-3021, Idaho Code

01. Unitary Taxpayers. Each corporation included in a unitary group must determine its respective share of the Idaho apportioned net operating loss incurred by the unitary group for the taxable year. A corporation's share of the net operating loss is computed using its Idaho apportionment factor for the year of the loss. The corporation must add or subtract its nonbusiness income or loss allocated to Idaho to its share of the apportioned loss. (3-20-97)

02. Example.

	XYZ USA, Inc.	Idaho XYZ	Oregon XYZ	Combined
Computation of Idaho Net Operating Loss (NOL):				
Federal Taxable Income	(50,000,000)	5,000,000	(7,000,000)	(52,000,000)
State Adjustments	(5,000,000)	(150,000)	450,000	(4,700,000)
Unitary Business Income (Loss) Subject to Apportionment				(56,700,000)
Idaho Apportionment Factor	.000329	.006217	.000000	
Loss Apportioned to Idaho	(18,654)	(352,504)	0	
Income (Loss) Allocated to Idaho		35,000	0	
Idaho NOL	(18,654)	(317,504)	0	
Application of Idaho NOL:				
Idaho Taxable Income Before Carry-back:				
2nd Preceding Tax Year	15,987	212,852		
1st Preceding Tax Year	29,854	447,962		

	XYZ USA, Inc.	Idaho XYZ	Oregon XYZ	Combined
Maximum Loss Available for Carryback – Limited to the lesser of the current year NOL or $100,000	(18,654)	(100,000)		
NOL Applied to: 2nd Preceding Tax Year 1st Preceding Tax Year	 (15,987) (2,667)	 (100,000) 0		
NOL Available for Carryover	0	(217,504)		
Taxable Income Remaining in Carryback Years:				
2nd Preceding Tax Year	0	112,852		
1st Preceding Tax Year	27,187	447,962		

(4-7-11)

201. NET OPERATING LOSS CARRYBACKS AND CARRYOVERS (RULE 201).
Section 63-3022(c), Idaho Code

01. Definitions for Purposes of Net Operating Loss Carrybacks and Carryovers. (3-20-97)

a. The term net operating loss deduction means the sum of the Idaho net operating losses carried to another taxable year and subtracted in computing Idaho taxable income. (3-20-97)

b. A net operating loss is absorbed when it has been fully subtracted from Idaho taxable income, as modified by Section 63-3021, Idaho Code. (4-5-00)

02. Adjustments to Net Operating Losses. (3-20-97)

a. Adjustments to a net operating loss will be determined pursuant to the law applicable to the loss year. (3-20-97)

b. Adjustments to a net operating loss deduction may be made even though the loss year is closed due to the statute of limitations, but will not result in any tax due or refund for the closed taxable years. (3-25-16)

03. Adjustments in Carryback and Carryover Years. (3-20-97)

a. Adjustments to income, including modifications pursuant to Section 63-3021, Idaho Code, in a carryback or carryover year must be made for purposes of determining, how much, if any, of the net operating loss may be carried over to subsequent years. (4-5-00)

b. Adjustments are made pursuant to the law applicable to the carryback or carryover year. (4-5-00)

c. Adjustments may be made even though the year is closed due to the statute of limitations, but will not result in any tax due or refund for the closed taxable years. (3-25-16)

04. Net Operating Loss Carrybacks Application. (3-20-14)

a. The net operating loss carryback allowed for the entire carryback period may not exceed one hundred thousand dollars ($100,000) per taxpayer. Each corporation that has a net operating loss and is included in a

unitary group is limited to a maximum carryback of one hundred thousand dollars ($100,000). (4-7-11)

b. The sum of net operating loss deductions must not exceed the amount of the net operating loss incurred. (3-20-14)

c. Except as provided in Paragraphs 201.04.d. and 201.04.f, a net operating loss is applied as follows: (3-20-14)

i. Net operating losses incurred in taxable years beginning on and after January 1, 1990, but prior to January 1, 2000, are applied to the third preceding taxable year and if not absorbed, the difference is applied to the second preceding taxable year and if not absorbed, the difference is applied to the first preceding taxable year. The loss not absorbed in the carryback years is subtracted in the fifteen (15) succeeding taxable years, in order, until absorbed. (3-20-14)

ii. Net operating losses incurred in taxable years beginning on and after January 1, 2000, but prior to January 1, 2013, are applied to the second preceding taxable year and if not absorbed, the difference is applied to the first preceding taxable year. The loss not absorbed in the carryback years is subtracted in the twenty (20) succeeding taxable years, in order, until absorbed. (3-20-14)

iii. Net operating losses incurred in taxable years beginning on and after January 1, 2013, are applied to the twenty (20) succeeding taxable years, in order, until absorbed. (3-20-14)

d. For taxable years beginning prior to January 1, 2013, if the taxpayer makes a valid election to forego the carryback period as provided in Subsection 201.05, the provisions of Subsection 201.04.c. do not apply and the net operating loss carryover is applied as follows: (3-20-14)

i. For net operating losses incurred in taxable years beginning on and after January 1, 1990, but prior to January 1, 2000, the net operating loss is subtracted in the fifteen (15) succeeding taxable years, in order, until the loss is absorbed. (4-5-00)

ii. For net operating losses incurred in taxable years beginning on and after January 1, 2000, but prior to January 1, 2013, the net operating loss is subtracted in the twenty (20) succeeding taxable years, in order, until the loss is absorbed. (3-20-14)

e. For taxable years beginning prior to January 1, 2013, if the taxpayer fails to make a valid election to forego the carryback period, the net operating loss must be carried back. If a carryback year is closed due to the statute of limitations, the net operating loss carryback may not result in a refund for the closed taxable year.(3-20-14)

f. For net operating losses incurred in taxable years beginning on and after January 1, 2013, if an amended return carrying back the loss is filed within one (1) year of the end of the taxable year of the net operating loss, the net operating loss is applied to the second preceding taxable year and if not absorbed, the difference is applied to the first preceding taxable year. The loss not absorbed in the carryback years is subtracted in the twenty (20) succeeding taxable years, in order, until absorbed. (3-20-14)

05. Timing and Method of Electing to Forego Carryback For Taxable Years Beginning Before January 1, 2013. (3-20-14)

a. Net operating losses incurred in taxable years beginning on or after January 1, 2010. The election must be made by the due date of the loss year return, including extensions. Once the completed return is filed, the extension period expires. Unless otherwise provided in the Idaho return or in an Idaho form accompanying a return for the taxable year, the election referred to in this Subsection may be made by attaching a statement to the taxpayer's income tax return for the taxable year of the loss. The statement must contain the following information: (4-7-11)

i. The name, address, and taxpayer's social security number or employer identification number; (3-20-97)

ii. A statement that the taxpayer makes the election pursuant to Section 63-3022(c)(1), Idaho Code, to

forego the carryback provision; and (7-1-99)

iii. The amount of the net operating loss. (3-20-97)

b. Attaching a copy of the federal election to forego the federal net operating loss carryback to the Idaho income tax return for the taxable year of the loss does not constitute an election for Idaho purposes. (4-7-11)

c. If the election is made on an amended or original return filed subsequent to the time allowed in Paragraph 201.05.a, it is considered untimely and the net operating loss is applied as provided in Paragraph 201.04.c. (4-7-11)

06. Order in Which Losses Are Applied in a Year. Loss carryovers are deducted before deducting any loss carrybacks applicable to the same taxable year. (3-20-97)

07. Documentation Required When Claiming a Net Operating Loss Deduction. A taxpayer claiming a net operating loss deduction for a taxable year must file with his return for that year a concise statement setting forth the amount of the net operating loss deduction claimed and all material and pertinent facts, including a detailed schedule showing the computation of the net operating loss and its carryback or carryover. (3-20-97)

08. Conversion of C Corporation to S Corporation. An S corporation may not carry over or back a net operating loss from a taxable year in which the corporation was a C corporation. However, an S corporation subject to Idaho tax on net recognized built-in gains or excess net passive income may deduct a net operating loss carryover from a taxable year in which the corporation was a C corporation against its net recognized built-in gain and excess net passive income. (4-7-11)

202. -- 209. (RESERVED)

210. REDUCTION OF IDAHO TAX ATTRIBUTES AND BASIS WHEN INCOME FROM INDEBTEDNESS DISCHARGE IN BANKRUPTCY IS EXCLUDED FROM GROSS INCOME (RULE 210).
Section 63-3022(c), Idaho Code

01. In General. Any taxpayer excluding from taxable income an amount resulting from the discharge of indebtedness in bankruptcy under Section 108(b) of the Internal Revenue Code, is to reduce Idaho net operating loss and basis in accordance with Section 346 of the Bankruptcy Code of the United States. If the discharge occurs outside of bankruptcy, the provisions of these rules do not apply. (7-1-99)

02. Order of Reduction. The reduction referred to in Subsection 210.01 is to be made to the following tax attributes in the following order: (7-1-99)

a. Any net operating loss deduction, as defined in Rule 201 of these rules, is to be reduced by the amount of the indebtedness forgiven or discharged in bankruptcy except as follows: (7-1-99)

i. A deduction with respect to the liability which is disallowed for any taxable period during or after the liability is forgiven or discharged. A deduction with respect to the liability includes a capital loss incurred on the disposition of a capital asset with respect to a liability that was incurred in connection with the acquisition of such asset. (7-1-99)

ii. To the extent that the indebtedness forgiven or discharged consisted of items of a deductible nature that were not deducted by the taxpayer, or resulted in an expired net operating loss deduction or carryover that did not offset income for any taxable period and did not contribute to a net operating loss in or a net operating loss carryover to the taxable period during or after the indebtedness was discharged. (7-1-99)

b. The basis in the taxpayer's property or of property transferred to an entity required to use the taxpayer's basis in whole or in part is to be reduced by the lesser of: (7-1-99)

i. The amount of the forgiven or discharged indebtedness, minus the total amount of adjustments made under Subsection 210.02.a.; and (7-1-99)

ii. The amount of the debtor's total basis of assets before the discharge that exceeds the total preexisting liabilities still remaining after discharge of indebtedness. Basis may not be reduced below a level equal to the remaining undischarged liabilities. (7-1-99)

03. Exception to Basis Reduction. The basis reduction under Subsection 210.02.b. is not required if the taxpayer elects to treat the amount that would otherwise be applied in reduction of basis as taxable income of the taxable period in which the debt is forgiven or discharged. (7-1-99)

04. Discharge Not Treated as Discharged Indebtedness. The following provisions exclude from this rule indebtedness that is discharged and treat the debtor as if it had originally issued stock instead of debt. No reduction to the Idaho net operating loss or basis is required if one (1) or more of these provisions are satisfied. (7-1-99)

a. The indebtedness did not consist of items of a deductible nature and is exchanged for an equity security, other than a limited partnership interest, issued by the debtor or is forgiven as a contribution to capital; or (7-1-99)

b. The indebtedness consisted of items of a deductible nature, and the exchange of stock for debt has the same effect as a cash payment equal to the fair market value of the equity security that is issued by the debtor or, if the value of the security is less than the value of the debt, only part of the debt will be excluded. (7-1-99)

211. -- 249. (RESERVED)

250. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- INCOME SUBJECT TO IDAHO TAXATION (RULE 250).
Sections 63-3026A(1) and (2), Idaho Code

01. Tax on Income From Idaho Sources. All income earned or received from sources within Idaho is subject to Idaho income taxation. For nonresidents and part-year residents, income from sources within Idaho must be determined in accordance with Section 63-3026A(3), Idaho Code, and Rules 260 through 275 of these rules. (2-27-12)

02. Tax on Income Received by Individuals Residing in or Domiciled in Idaho. All income earned or received by an individual who resides in or is domiciled in Idaho is subject to Idaho income taxation without regard to the source of the income. (3-20-97)

03. Receipt of Income -- Part-Year Residents. For purposes of determining if income is reportable to Idaho by a part-year resident, a cash basis taxpayer is considered to have earned or received income when it is actually or constructively received, except as provided in Subsections 250.04 and 250.05. (3-30-01)

04. Receipt of Intangible Income -- Part-Year Residents. (3-30-01)

a. Interest and dividend income received from a source other than from a pass-through entity is considered to be earned or received by a part-year resident ratably during the taxable year. (2-27-12)

b. If a transaction or activity gives rise to income that is reported in a subsequent year when the taxpayer is a part-year resident, the income must be treated as received ratably during that subsequent year. Subsection 250.04 also applies to income that is not received during the year by the taxpayer, but which must be reported in taxable income. See Subsection 250.05 for the receipt of income from a pass-through entity. (2-27-12)

c. A part-year resident must report such income to Idaho in the proportion that the number of days during the taxable year that the individual qualified as an Idaho part-year resident bears to total days in the taxable year. (2-27-12)

d. Example. An individual converts an amount from a traditional IRA to a Roth IRA in year one (1). He elects to have the income taxed over four (4) years. The individual moves to Idaho on August 1 of year two (2).

Since the individual was an Idaho resident for one hundred fifty-three (153) days of year two (2), he must report as Idaho income forty-two percent (42%) of his income from the conversion to a Roth IRA for that year. (3-30-01)

05. Receipt of Pass-Through Items of Income and Losses -- Part-Year Residents. (3-30-01)

a. For a part-year resident who is a shareholder in an S corporation, or a partner in a partnership, the income, gains, losses and other pass-through items from the S corporation or partnership are treated as received ratably during the taxpayer's taxable year. If the taxpayer was not a shareholder or partner for the entire taxable year, the pass-through items are treated as received ratably during the portion of the taxable year the taxpayer was a shareholder of the S corporation or partner of the partnership. (2-27-12)

b. For a part-year resident who is a beneficiary of an estate or trust, the income, gains, losses and other pass-through items from the estate or trust are treated as received ratably during the taxpayer's taxable year. If the taxpayer was not a beneficiary of the estate or trust for the entire taxable year, the pass-through items are treated as received ratably during the portion of the taxable year the taxpayer was a beneficiary of the estate or trust. (2-27-12)

c. A part-year resident must report such income to Idaho in the proportion that the number of days during the taxable year that the individual qualified as an Idaho part-year resident bears to total days in the taxable year. (2-27-12)

251. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- COMPUTATION OF IDAHO TAXABLE INCOME (RULE 251).
Section 63-3026A, Idaho Code

01. Idaho Total Income. To determine the Idaho taxable income of nonresident and part-year resident individuals, first compute the taxpayer's Idaho total income. (3-15-02)

a. Idaho total income is that portion of total income subject to Idaho taxation. It is the amount reported as total income on Form 43. (3-15-02)

b. For purposes of this rule, federal total income means gross income less certain deductions allowed under the Internal Revenue Code. It is the amount reported on the federal individual income tax return that is identified as total income. (3-20-14)

02. Idaho Adjusted Gross Income. From Idaho total income, make the applicable adjustments provided in Rule 252 of these rules to arrive at Idaho adjusted gross income. (3-15-02)

03. Idaho Adjusted Income. From Idaho adjusted gross income, make the applicable additions and subtractions set forth in Rules 253 and 254 of these rules to arrive at Idaho adjusted income. (3-20-97)

04. Idaho Taxable Income. From Idaho adjusted income, subtract the exemption and deduction amounts as provided in Rule 255 of these rules to arrive at Idaho taxable income. (3-20-97)

252. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADJUSTMENTS ALLOWED IN COMPUTING IDAHO ADJUSTED GROSS INCOME (RULE 252).
Section 63-3026A(6), Idaho Code

01. In General. Deductions allowed in computing adjusted gross income will be allowed in computing Idaho adjusted gross income unless specifically denied by Idaho law. The amount allowed will be computed as provided in this rule. Each computation in this rule will include the amounts reported for the taxable year unless otherwise indicated. (3-20-14)

02. Deductions Directly Related to Specific Items of Income or Property. If the deduction directly relates to a specific item of income or property, the allowable deduction will be computed by dividing the amount of related income reported in Idaho income by the total of such related income reported in federal income. This percentage is multiplied by the deduction to arrive at the amount allowed as an Idaho deduction. If the deduction is related to property that did not generate income during the taxable year, the deduction will be allowed in the

proportion that the property to which the deduction relates was located in Idaho. Examples of some of these deductions include the following: (3-20-14)

a. Penalty on early withdrawal of savings. The allowable deduction will be computed by dividing the interest income of the time savings deposit subject to the penalty included in Idaho income by the total interest income of the time savings deposit included in federal income. This percentage is multiplied by the penalty deduction allowed for federal purposes. (3-20-14)

b. Certain business expenses of reservists, performing artists, and fee-basis government officials. (3-29-10)

c. Domestic production activities deduction. The allowable deduction will be computed by dividing the qualified production activities income included in Idaho income by the total qualified production activities income. This percentage is multiplied by the domestic production activities deduction allowed for federal purposes. (3-20-14)

d. Jury duty pay remitted to an employer. (3-29-10)

e. Deductible expenses related to income from the rental of personal property engaged in for profit. (3-29-10)

f. Reforestation amortization and expenses. The allowable deduction will be computed by dividing the income from the related timber operations included in Idaho income by the total income from the related timber operations. If there is no income from the related timber operations for the year of the deduction, the allowable deduction will be computed based on the percentage of property in Idaho to total property to which the reforestation amortization and expenses relate. This percentage is multiplied by the reforestation amortization and expense deduction allowed for federal income tax purposes. (3-20-14)

g. Repayment of supplemental unemployment benefits. The allowable deduction will be computed by dividing the supplemental unemployment benefits included in Idaho income by the total supplemental unemployment benefits reported in federal income. This percentage is multiplied by the repayment deduction allowed for federal purposes. (3-20-14)

h. Attorney fees and court costs. The allowable deduction will be computed by dividing the total income related to the attorney fees and court costs included in Idaho income by the total income from such actions. This percentage is multiplied by the attorney fees and court costs allowed for federal purposes. (3-20-14)

03. Deductions Allowed Based on Qualifying Types of Income. If the deduction is dependent on the taxpayer earning a qualifying type of income, the allowable deduction will be computed by dividing the amount of the qualifying income reported in Idaho income by the total of such qualifying income reported. This percentage is multiplied by the deduction to arrive at the amount allowed as an Idaho deduction. (3-20-14)

a. Payments to an individual retirement account (IRA), federal health savings or medical savings account, or Section 501(c)(18)(D) retirement plan**.** The allowable deduction will be computed by dividing the taxpayer's Idaho compensation by the taxpayer's total compensation. This percentage is multiplied by the deduction allowed for federal purposes. For purposes of this rule, compensation means “compensation” as defined in Section 219(f)(1), Internal Revenue Code, and Treasury Regulation Section 1.219-1(c)(1). Idaho compensation is determined pursuant to Rule 270 of these rules. (3-20-14)

b. Payments to a Keogh retirement plan, simplified employee pension (SEP) Plan, SIMPLE Plan, self-employment tax, and self-employment health insurance. The allowable deduction will be computed by dividing the taxpayer's self-employment income from Idaho sources by the taxpayer's total self-employment income. This percentage is multiplied by the self-employment deductions allowed for federal purposes. (3-20-14)

04. Other Deductions. Deductions that do not relate to specific items of income or to the earning of qualifying income will be allowed in the proportion that Idaho total income bears to federal total income. The federal

net operating loss deduction is not included in either the federal total income or the Idaho total income for this calculation. Such deductions include the following: (3-25-16)

a. Alimony payments. (3-29-10)

b. Moving expenses. (3-29-10)

c. Student loan interest payments. (3-29-10)

d. Tuition and fees deduction. (3-29-10)

253. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- ADDITIONS REQUIRED IN COMPUTING IDAHO ADJUSTED INCOME.
Section 63-3026A(6), Idaho Code. The following items must be added to Idaho adjusted gross income in computing the Idaho adjusted income of nonresident and part-year resident individuals. (4-7-11)

01. Interest and Dividends Not Taxable Pursuant to the Internal Revenue Code. (3-20-97)

a. Part-Year Residents. Interest and dividend income not taxable pursuant to the Internal Revenue Code that was received while residing in or domiciled in Idaho must be added. However, interest received from obligations of the state of Idaho or any political subdivision of Idaho is exempt from Idaho income tax and is not added. (4-7-11)

b. Nonresidents. Interest and dividend income reportable from a pass-through entity that was transacting business in Idaho must be added to the extent the income was apportioned or allocated as Idaho income. See Rule 263 of these rules for multistate apportionment rules. (4-7-11)

02. Net Operating Loss Deduction. The amount of the net operating loss deduction included in Idaho adjusted gross income must be added. (4-7-11)

03. Capital Loss. Capital losses included in Idaho adjusted gross income must be added if the loss was incurred while not residing in and not domiciled in Idaho, or if the loss relates to an activity not taxable by Idaho at the time the loss was incurred. (4-7-11)

04. Lump Sum Distributions. Part-year residents must add the taxable amount of a lump sum distribution deducted in calculating taxable income received while residing in or domiciled in Idaho. This includes both the ordinary income portion and the amount eligible for the capital gain election. (4-7-11)

05. Idaho Medical Savings Account. An account holder must add the amount of any nonqualified withdrawal from an Idaho medical savings account if the withdrawal was not made for the purpose of paying eligible medical expenses. (4-7-11)

06. Idaho College Savings Program. (4-7-11)

a. An account owner must add the amount of a nonqualified withdrawal from an Idaho college savings program, less the amount included in the account owner's Idaho adjusted gross income. The addition is limited to contributions previously exempt from Idaho state income tax and earnings generated from the program as long as the earnings are not already included in federal adjusted gross income. Nonqualified withdrawal is defined in Section 33-5401, Idaho Code. (3-26-19)

b. As provided in Section 63-3022(p), Idaho Code, an account owner must add the amount of a withdrawal from an Idaho college savings program that is transferred on or after July 1, 2007, to a qualified tuition program operated by a state other than Idaho. For taxable years beginning on or after January 1, 2008, the addback is limited to the total of the amounts contributed to the Idaho college savings program that were deducted on the account owner's Idaho income tax returns for the year of the transfer and the immediately preceding taxable year. (4-7-11)

07. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a

taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. An individual must add the amount of depreciation computed for federal income tax purposes that exceeds the amount of depreciation computed for Idaho income tax purposes. This addition does not apply to depreciation computed on property acquired after 2007 *and* before 2010. *( )*

08. Certain Expenses of Eligible Educators. As provided in Section 63-3022O, Idaho Code, prior to January 1, 2012, the amount of out-of-pocket classroom expenses deducted pursuant to Section 62, Internal Revenue Code, must be added. (4-4-13)

254. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUBTRACTIONS ALLOWED IN COMPUTING IDAHO ADJUSTED INCOME (RULE 254).
Section 63-3026A(6), Idaho Code. The following items are allowable subtractions in computing the Idaho adjusted income of nonresident and part-year resident individuals. (2-27-12)

01. Idaho Net Operating Loss. An Idaho net operating loss deduction described in Section 63-3021, Idaho Code, and allowed by Section 63-3022(c), Idaho Code, and Rules 200 through 210 of these rules, may be subtracted to the extent the loss was incurred while the taxpayer was residing in or domiciled in Idaho or to the extent the loss was from activity taking place in Idaho. A net operating loss incurred from an activity not taxable by Idaho may not be subtracted. (2-27-12)

02. State and Local Income Tax Refunds. State and local income tax refunds included in Idaho total income may be subtracted unless the refunds have already been subtracted pursuant to Section 63-3022(a), Idaho Code. (2-27-12)

03. Income Not Taxable by Idaho. As provided in Section 63-3022(f), Idaho Code, income that is exempt from Idaho income taxation by a law of the state of Idaho or of the United States may be subtracted if that income is included in Idaho total income and has not been previously subtracted. Income exempt from taxation by Idaho includes the following: (2-27-12)

a. Interest income from obligations issued by the United States Government. Gain recognized from the sale of United States Government obligations is not exempt from Idaho tax and, therefore, may not be subtracted from taxable income. For the interest expense offset, see Rule 115 of these rules. (7-1-99)

b. Idaho lottery prizes exempt by Section 67-7439, Idaho Code. For prizes awarded on lottery tickets purchased in Idaho after January 1, 1998, a subtraction is allowed for each lottery prize that is less than six hundred dollars ($600). If a prize equals or exceeds six hundred dollars ($600), no subtraction is allowed. The full amount of the prize is included in income. (4-5-00)

c. Certain income earned by American Indians. An enrolled member of a federally recognized Indian tribe who lives on his tribe's federally recognized Indian reservation is not taxable on income derived within that reservation. See Rule 033 of these rules. (2-27-12)

d. Certain income earned by transportation employees covered by Title 49, Sections 11502, 14503 or 40116, United States Code. See Rule 045 of these rules. (7-1-99)

e. Certain income from loss recoveries. See Rule 195 of these rules. (3-20-14)

04. Military Pay. Qualified military pay included in Idaho total income earned for military service performed outside Idaho may be subtracted. Qualified military pay means all compensation paid by the United States for services performed while on active duty as a full-time member of the United States Armed Forces which full-time duty is or will be continuous and uninterrupted for one hundred twenty (120) consecutive days or more. A nonresident does not include his military pay in Idaho total income and, therefore, makes no adjustment. See Rule 032 of these rules for information regarding the residency status of members of the United States Armed Forces. (2-27-12)

05. Social Security and Railroad Retirement Benefits. Social security benefits and benefits paid by the Railroad Retirement Board that are taxable pursuant to the Internal Revenue Code may be subtracted to the extent the benefits are included in Idaho total income. See Subsections 121.04.a. and 121.04.b. of these rules. (2-27-12)

06. Household and Dependent Care Expenses. The allowable portion of household and dependent care expenses that meets the requirements of Section 63-3022D, Idaho Code, may be subtracted if incurred to enable the taxpayer to be gainfully employed in Idaho. To determine the allowable portion of household and dependent care expenses, a percentage is calculated by dividing Idaho earned income by total earned income. The qualified expenses are multiplied by the percentage. Earned income is defined in Section 32(c)(2), Internal Revenue Code. (2-27-12)

07. Insulation and Alternative Energy Device Expenses. Expenses related to the installation of insulation or alternative energy devices that meet the requirements of Section 63-3022B or 63-3022C, Idaho Code, may be subtracted. (2-27-12)

08. Deduction for Dependents Sixty-Five or Older or with Developmental Disabilities. One thousand dollars ($1,000) may be subtracted for each person who meets the requirements of Section 63-3022E, Idaho Code. The deduction may be claimed for no more than three (3) qualifying dependents. If a dependent has not lived in the maintained household for the entire taxable year, the allowable deduction is eighty-three dollars ($83) for each month the dependent resided in the maintained household during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. (2-27-12)

09. Adoption Expenses. The allowable portion of adoption expenses that meets the requirements of Section 63-3022I, Idaho Code, may be subtracted. To determine the allowable portion, calculate a percentage is calculated by dividing Idaho total income by total income. The deduction allowable pursuant to Section 63-3022I, Idaho Code, is multiplied by the percentage. (2-27-12)

10. Capital Gains Deduction. The Idaho capital gains deduction allowed by Section 63-3022H, Idaho Code, may be subtracted. (2-27-12)

11. Idaho Medical Savings Account. (7-1-98)

a. The qualifying amount of contributions to an Idaho medical savings account that meets the requirements of Section 63-3022K, Idaho Code, may be subtracted. (2-27-12)

b. Interest earned on an Idaho medical savings account may be subtracted to the extent included in Idaho total income. (2-27-12)

12. Technological Equipment Donation. As provided by Section 63-3022J, Idaho Code, and Rule 180 of these rules, the lower of cost or fair market value of technological equipment donated to qualifying institutions may be subtracted, limited to the Idaho taxable income of the taxpayer. (3-20-14)

13. Worker's Compensation Insurance. As allowed by Section 63-3022(m), Idaho Code, a self-employed individual may subtract the premiums paid for worker's compensation for coverage in Idaho to the extent not previously subtracted in computing Idaho taxable income. (3-30-01)

14. Idaho College Savings Program. The qualifying amount of contributions to a college savings program that meets the requirements of Section 63-3022(n), Idaho Code, may be subtracted. (2-27-12)

15. Retirement Benefits. As provided in Section 63-3022A, Idaho Code, and Rule 130 of these rules, a deduction from taxable income is allowed for certain retirement benefits. To determine the allowable portion of the deduction for certain retirement benefits, a percentage is calculated by dividing the qualified retirement benefits included in Idaho gross income by the qualified retirement benefits included in federal gross income. The deduction allowable pursuant to Section 63-3022A, Idaho Code, and Rule 130 of these rules, is multiplied by the percentage. (2-27-12)

16. Health Insurance Costs. The allowable portion of the amounts paid by the taxpayer during the taxable year for insurance that constitutes medical care as defined in Section 63-3022P, Idaho Code, for the taxpayer, spouse or dependents of the taxpayer not otherwise deducted or accounted for by the taxpayer for Idaho income tax

purposes may be subtracted. To determine the allowable portion of the amounts paid for medical care insurance, a percentage is calculated by dividing Idaho total income by total income. The deduction allowable pursuant to Section 63-3022P, Idaho Code, is multiplied by the percentage. See Rule 193 of these rules. (2-27-12)

17. Long-Term Care Insurance. As provided in Section 63-3022Q, Idaho Code, a deduction from taxable income is allowed for the allowable portion of premiums paid during the taxable year for qualifying long-term care insurance for the benefit of the taxpayer, a dependent of the taxpayer or an employee of the taxpayer that have not otherwise been deducted or accounted for by the taxpayer for Idaho income tax purposes. To determine the allowable portion, a percentage is calculated by dividing Idaho total income by total income. The deduction allowable pursuant to Section 63-3022Q, Idaho Code, is multiplied by the percentage. See Rule 193 of these rules. (2-27-12)

18. Special First-Year Depreciation Allowance. As provided by Section 63-3022O, Idaho Code, if a taxpayer claims the special first-year depreciation allowance on property acquired before 2008 or after 2009 pursuant to Section 168(k), Internal Revenue Code, the adjusted basis of that property and the depreciation deduction allowed for Idaho income tax purposes must be computed without regard to the special first-year depreciation allowance. The adjustments required by this subsection do not apply to property acquired after 2007 *and* before 2010. *( )*

a. Depreciation. The amount of depreciation computed for Idaho income tax purposes that exceeds the amount of depreciation computed for federal income tax purposes may be subtracted. (2-27-12)

b. Gains and losses. During the recovery period, the adjusted basis of depreciable property computed for federal income tax purposes will be less than the adjusted basis for Idaho income tax purposes as a result of claiming the special first-year depreciation allowance. If a loss qualifies as a capital loss for federal income tax purposes, the federal capital loss limitations and carryback and carryover provisions apply in computing the Idaho capital loss allowed. (2-27-12)

i. If a sale or exchange of property results in a gain for both federal and Idaho income tax purposes, a subtraction is allowed for the difference between the federal and Idaho gains computed prior to any applicable Idaho capital gains deduction. (2-27-12)

ii. If a sale or exchange of property results in a gain for federal income tax purposes and an ordinary loss for Idaho income tax purposes, the federal gain and the Idaho loss must be added together and the total may be subtracted. For example, if a taxpayer has a federal gain of five thousand dollars ($5,000) and an Idaho loss of four thousand dollars ($4,000), the amount subtracted would be nine thousand dollars ($9,000). (2-27-12)

iii. If a sale or exchange of property results in an ordinary loss for both federal and Idaho income tax purposes, the difference between the federal and Idaho losses may be subtracted. For example, if a taxpayer has a federal loss of three hundred dollars ($300) and an Idaho loss of five hundred dollars ($500), the amount subtracted would be two hundred dollars ($200). (2-27-12)

iv. If a sale or exchange of property results in a capital loss for both federal and Idaho income tax purposes, apply the capital loss limitations and subtract the difference between the federal and Idaho deductible capital losses. For example, if a taxpayer has a federal capital loss of six thousand dollars ($6,000) and an Idaho capital loss of eight thousand dollars ($8,000), both the federal and Idaho capital losses are limited to a deductible capital loss of three thousand dollars ($3,000). In this case, no subtraction is required for the year of the sale. In the next year, assume the taxpayer had a capital gain for both federal and Idaho purposes of two thousand dollars ($2,000). The capital loss carryovers added to the capital gain results in a federal deductible capital loss of one thousand dollars ($1,000) and an Idaho deductible capital loss of three thousand dollars ($3,000). The taxpayer would subtract the difference between the federal and Idaho deductible losses or two thousand dollars ($2,000) in computing Idaho taxable income. (3-20-04)

255. NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PRORATION OF EXEMPTIONS AND DEDUCTIONS (RULE 255).

Section 63-3026A(4), Idaho Code

01. In General. The exemptions and deductions allowable for federal purposes, except for the deduction of state and local income taxes and the deduction for state and local general sales taxes, are allowed in part in computing Idaho taxable income. To determine the portion of exemptions and deductions allowable for part-year

and nonresident individuals, the total exemptions and deductions allowed by Section 151, Internal Revenue Code, and Section 63-3022(j), Idaho Code, are multiplied by the calculated proration. (4-7-11)

02. Proration. For taxable years beginning in or after 2007, the proration is calculated by dividing Idaho adjusted income by total adjusted income. Calculate four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($10,000 / $15,000 = .66666 = .6667 = 66.67%). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($10/000 / $30,000 = .33333 = .3333 = 33.33%). The percentage may not exceed one hundred percent (100%), nor be less than zero (0). (4-2-08)

a. Idaho adjusted income means the Idaho taxable income of the taxpayer as computed pursuant to Title 63, Chapter 30, Idaho Code, except for any adjustments for the standard deduction or itemized deductions and personal exemptions. Total adjusted income means the Idaho taxable income of the taxpayer computed as if he were a resident of Idaho for the entire taxable year, except no adjustments are made for the standard deduction, itemized deductions, personal exemptions, the deduction for active military service pay as provided in Section 63-3022(h), Idaho Code, and any deduction for income earned within a federally recognized Indian reservation. (3-30-01)

b. Generally, both Idaho adjusted income and total adjusted income are positive amounts. If Idaho adjusted income is less than or equal to the total adjusted income, the percentage is between zero (0) and one hundred percent (100%). If Idaho adjusted income is greater than the total adjusted income, the percentage is one hundred percent (100%). If Idaho adjusted income is a positive amount and total adjusted income is a negative amount, the percentage is one hundred percent (100%). If Idaho adjusted income is a negative amount and total adjusted income is a positive amount, the percentage is zero (0). (4-7-11)

03. Standard Deduction for Married Filing Joint Returns. The proration percentage is applied after making the following calculations for taxable years beginning on or after January 1, 2000. The standard deduction allowed on a married filing joint return is equal to two (2) times the basic standard deduction for a single individual. Add to this amount any additional standard deduction for the aged or blind allowed for federal income tax purposes. (4-7-11)

256. -- 259. (RESERVED)

260. INCOME FROM IDAHO SOURCES (RULE 260).
Section 63-3026A(3), Idaho Code. Income from Idaho sources is the gross income, or portion thereof, that is derived from a business, trade, profession, or occupation carried on within Idaho or from any property, trust, estate, or any other source with a situs in Idaho. Income of a nonresident that is derived from property located both within and without Idaho during the taxable year, or from business transactions that occur both within and without Idaho during the taxable year, is attributed to Idaho based on the principles set forth in Rules 261 through 275 of these rules. (4-5-00)

261. INCOME FROM ESTATES AND TRUSTS (RULE 261).
Section 63-3026A(3), Idaho Code. Income, gain, loss, or deduction of an estate or trust distributed to a nonresident beneficiary is income derived from or related to sources within Idaho if the income, gain, loss or deduction would be Idaho source income pursuant to Section 63-3026A, Idaho Code, if received directly by a nonresident individual. (4-7-11)

262. (RESERVED)

263. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- DISTRIBUTIVE SHARE OF S CORPORATION AND PARTNERSHIP INCOME (RULE 263).
Section 63-3026A(3), Idaho Code

01. In General. The taxable amount of a shareholder's pro rata share or a partner's distributive share of business income, gains, losses, and other pass-through items from an S corporation or partnership operating both within and without Idaho is determined by multiplying each pass-through item by the Idaho apportionment factor of the business. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. (3-20-97)

02. Nonbusiness Income. Pass-through items of identifiable nonbusiness income, gains, or losses of an S corporation or partnership constitute Idaho source income to the shareholder or partner if allocable to Idaho pursuant to the principles set forth in Section 63-3027, Idaho Code. (3-20-97)

03. Pass-Through Items. Whether a pass-through item of income or loss is business or nonbusiness income is determined at the pass-through entity level. Pass-through items of business income or loss may include: (3-20-97)

a. Ordinary income or loss from trade or business activities; (3-20-97)

b. Net income or loss from rental real estate activities; (3-20-97)

c. Net income or loss from other rental activities; (3-20-97)

d. Interest income; (3-20-97)

e. Dividends; (3-20-97)

f. Royalties; (3-20-97)

g. Capital gain or loss; (3-20-97)

h. Other portfolio income or loss; (3-20-97)

i. Gain or loss recognized pursuant to Section 1231, Internal Revenue Code. (3-20-97)

04. Guaranteed Payments Treated As Compensation. (3-20-14)

a. Guaranteed payments to an individual partner up to the amount shown in paragraph 263.04.b. in any calendar year is sourced as compensation for services. If a nonresident partner performs services on behalf of the partnership within and without Idaho, the amount included in Idaho compensation is determined as provided in Rule 270 of these rules. (3-20-14)

b. The amount of guaranteed payments that are sourced as compensation for services is as follows:

TAX YEAR	AMOUNT
2018	$263,000
2017	$257,500
2016	$254,250
2015	$254,000
2014	$250,000
2013	$250,000

(3-26-19)

05. Distributions. (2-27-12)

a. Partnerships. The amount of distributions received by a partner that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 731, Internal Revenue Code, by the Idaho apportionment factor of the partnership. (2-27-12)

b. S Corporations. The amount of distributions received by a shareholder that is from Idaho sources is determined by multiplying the taxable amount of distributions pursuant to Section 1368, Internal Revenue Code, by

the Idaho apportionment factor of the S corporation. (2-27-12)

c. The Idaho apportionment factor for purposes of Paragraphs 263.05.a. and 263.05.b. of this rule is determined pursuant to Section 63-3027, Idaho Code, and related rules. (2-27-12)

264. INCOME FROM REAL AND TANGIBLE PERSONAL PROPERTY (RULE 264).
Section 63-3026A(3), Idaho Code

01. In General. Rents, royalties, profits, gains, losses and other items of income from the ownership or disposition of real or tangible personal property located in Idaho is Idaho source income. (3-20-97)

02. Property Located Within and Without Idaho. (3-20-97)

a. If the property is located or used within and without Idaho, specific allocation of the income, gain, or loss is appropriate if the gross receipts and related deductions and expenses are readily identifiable from the location or use of the property in Idaho. (3-20-97)

b. To the extent income derived from real property located both within and without Idaho cannot be specifically allocated, the rents, profits, gains, losses or other items of income that constitute Idaho source income are determined by multiplying each item of income by a fraction. The numerator of the fraction is the average value of the property located in Idaho and the denominator is the average value of the property located both within and without Idaho. The value of real property is determined by the original cost of the land and improvements. The average value is determined by averaging the values at the beginning and end of the taxable year. However, the Tax Commission may require the averaging of monthly values during the taxable year if required to properly reflect the average value of the taxpayer's property. (3-20-97)

c. To the extent income derived from tangible personal property used both within and without Idaho cannot be readily allocated, the rents, royalties, gains, losses, and other items of income that constitute Idaho source income are determined by multiplying each item of income by a fraction. The numerator of the fraction is the total number of days the property was used in Idaho during the taxable year, and the denominator is the total number of days the property was used both within and without Idaho during the taxable year. (3-20-97)

03. Alternative Method. If either fraction in Subsection 264.02 does not fairly represent the income derived from the property's use in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, acres may be a more appropriate measure than average value in some cases. (3-30-01)

a. The taxpayer will fully explain the alternative method in a statement attached to his Idaho individual income tax return. (3-20-97)

b. The method proposed by the taxpayer may be used in lieu of the method in Subsection 264.02 unless the Tax Commission expressly denies its use. (3-20-97)

265. SOLE PROPRIETORSHIPS OPERATING WITHIN AND WITHOUT IDAHO (RULE 265).
Section 63-3026A(3), Idaho Code

01. In General. A sole proprietorship that operates within and without Idaho will apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of proprietorship income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. (3-20-97)

02. Application of Rule. This rule also applies to farming activities operated as a sole proprietorship. (3-20-97)

03. Alternative Method. If the method described in Subsection 265.01 does not fairly represent the extent of the business activity in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. (3-30-01)

a. The taxpayer will fully explain the alternative method in a statement attached to his Idaho individual income tax return. (7-1-99)

b. The method proposed by the taxpayer may be used in lieu of the method in Subsection 265.01 unless the Tax Commission expressly denies its use. (7-1-99)

266. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- INCOME FROM INTANGIBLE PROPERTY (RULE 266).
Section 63-3026A(3), Idaho Code

01. In General. Gross income from intangible property generally is sourced to the state of the owner's domicile. The following are exceptions to this rule. (4-11-06)

a. If the intangible property is employed in the owner's trade, business or profession carried on within Idaho, any income derived from or related to the property, including gains from the sale thereof, constitutes income from Idaho sources. For example, if a nonresident pledges stocks, bonds or other intangible personal property as security for the payment of indebtedness incurred in connection with the nonresident's Idaho business operations, the intangible property has an Idaho situs and the income derived therefrom constitutes Idaho source income. (7-1-99)

b. Interest income from the sale of real or tangible personal property on the installment method is treated as income from the sale of the underlying property and is therefore sourced to Idaho if the underlying property was located in Idaho when sold. (7-1-99)

c. Interest income paid by an S corporation to a shareholder or by a partnership to a partner is sourced to Idaho in proportion to the Idaho apportionment factor of the partnership or S corporation. (7-1-99)

d. Gains or losses from the sale or other disposition of a partnership interest or stock in an S corporation are sourced to Idaho by using the Idaho apportionment factor for the entity for the taxable year immediately preceding the year of the sale of the interest or stock. However, a gain or loss from the sale of an interest in a publicly traded partnership transacting business in Idaho is Idaho source income to the extent of the gain or loss determined under Section 751, Internal Revenue Code, multiplied by the Idaho apportionment factor of the partnership for the year in which the sale occurred. (2-27-12)

02. Interest Income Earned on a Bank Account. (7-1-99)

a. Personal Bank Accounts. Interest income earned on a personal bank account is sourced to the owner's state of domicile. A personal bank account is an account that is not used in connection with a business. (7-1-99)

b. Business Bank Accounts. If the business is a sole proprietorship, see Rule 265 of these rules. If the business is an S corporation or partnership, see Rule 263 of these rules. (7-1-99)

03. Payment of Penalties. Payment of penalties is sourced to Idaho the same as interest income. This includes penalties arising from the prepayment or late payment of an installment contract. If the installment contract is for the sale of Idaho property, any penalty paid is Idaho source income. (2-27-12)

04. Covenant Not to Compete. Income from a covenant not to compete is sourced to Idaho based on the Idaho apportionment factor of the entity sold for the taxable year immediately preceding the year of the sale. (2-27-12)

05. Goodwill. Gain or loss from the sale of goodwill from a business transacting business in Idaho is sourced to Idaho based on the Idaho apportionment factor of the business sold for the taxable year immediately preceding the year of the sale. (2-27-12)

06. Timing of Sourcing Determination for Intangible Personal Property. The source of gains and losses from the sale or other disposition of intangible personal property is determined at the time of the sale or disposition of the property. For example, if an Idaho resident sells intangible personal property under the installment

method, and subsequently becomes a nonresident, gain attributable to any installment payment receipts relating to that sale will be sourced to Idaho even though the individual is a nonresident when a payment is received. If the intangible personal property was employed in the owner's business, trade, profession or occupation conducted or carried on in Idaho as described in Paragraph 266.01.a., of this rule, at the time of the sale, any subsequent installment payments is Idaho source income. (2-27-12)

267. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- PASSIVE ACTIVITY LOSSES (RULE 267).
Section 63-3026A(6), Idaho Code

01. In General. Losses from a passive activity incurred while an individual is a nonresident are included in Idaho taxable income only to the extent the losses were from Idaho activity. (2-27-12)

02. Idaho Activity. An activity is an Idaho activity only to the extent the income from that activity would be included in the Idaho taxable income of a nonresident pursuant to Section 63-3026A, Idaho Code. If a passive activity is engaged in both within and without Idaho, the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules must be applied to determine the extent of Idaho activity. (2-27-12)

03. Prior Year Losses. Suspended passive activity losses from prior years included in federal taxable income for the current year are included in Idaho taxable income only to the extent the losses were from Idaho activity. (2-27-12)

04. Current Year Losses. Non-Idaho passive activity losses incurred in the current taxable year are included in Idaho taxable income only to the extent the losses were incurred while the individual was an Idaho resident. The portion of the losses incurred while an Idaho resident is determined by prorating the losses based on the proportion of the year the individual resided in Idaho. (2-27-12)

268. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- SUSPENDED LOSSES FROM PASS-THROUGH ENTITIES (RULE 268).
Section 63-3026A, Idaho Code

01. In General. A nonresident individual's suspended losses from a pass-through entity are included in Idaho taxable income in the year included in federal taxable income only to the extent the losses were from an Idaho source in the year incurred. (4-11-15)

a. Suspended Loss. For purposes of this rule, a suspended loss is a loss required to be carried over to a succeeding taxable year due to Section 465(a), Section 704(d), or Section 1366(d) of the Internal Revenue Code. (4-11-15)

b. Idaho Source. A suspended loss is from an Idaho source in the year incurred to the extent provided by Section 63-3026A, Idaho Code, and related rules. For purposes of this rule, the Idaho source portion of a suspended business loss subject to apportionment is determined by multiplying the loss by the Idaho apportionment factor of the pass-through entity in the year the loss was incurred. The Idaho apportionment factor is determined pursuant to Section 63-3027, Idaho Code, and related rules. (4-11-15)

c. Nonbusiness Losses. A suspended nonbusiness loss is from an Idaho source in the year incurred to the extent the loss is allocable to Idaho pursuant to Section 63-3027, Idaho Code and Rule 263.02 of these rules. (4-11-15)

d. Year Loss Incurred. For purposes of this rule, "year incurred" means the tax year the loss was first suspended. (4-11-15)

e. Example. A nonresident individual's federal taxable income includes one hundred thousand dollars ($100,000) of loss from a partnership. Sixty thousand dollars ($60,000) of that loss was incurred in the prior tax year and suspended due to the basis limitation of Section 704(d) of the Internal Revenue Code. Forty thousand dollars ($40,000) of that loss was incurred in the current tax year. The Idaho apportionment factor of the partnership is one

hundred percent (100%) in the current year and fifty percent (50%) in the prior year. The individual's Idaho taxable income includes seventy thousand dollars ($70,000) of the partnership's loss, computed as follows: ($60,000 prior year suspended loss x fifty percent (50%) prior year Idaho apportionment factor plus (Forty thousand dollars ($40,000) current year loss x one hundred percent (100%) current year Idaho apportionment factor). (4-11-15)

02. Losses from Multiple Years. For purposes of this rule, losses from a pass-through entity are considered used in the order incurred. (4-11-15)

a. Example. A nonresident individual has suspended losses from a partnership of one hundred thousand dollars ($100,000). The suspended losses consist of forty thousand dollars ($40,000) of loss incurred in Year 1 and sixty thousand dollars ($60,000) of loss incurred in Year 2. The individual also has a loss from the partnership in the current year of fifty thousand dollars ($50,000). The partnership's Idaho apportionment factor is one hundred percent (100%) in the current year and fifty percent (50%) in each of the preceding years. Due to the loss limitation of Section 704(d) of the Internal Revenue Code, the individual's current year deduction is limited to one hundred thousand dollars ($100,000). The one hundred thousand dollar ($100,000) loss allowed in computing federal taxable income is considered to be forty thousand dollars ($40,000) of suspended loss from Year 1 and sixty thousand dollars ($60,000) of suspended loss from Year 2. The amount included in Idaho taxable income is fifty thousand dollars ($50,000), computed as follows: ($40,000 Year 1 loss x 50% Idaho apportionment factor) plus ($60,000 Year 2 loss x 50% Idaho apportionment factor). (4-11-15)

269. (RESERVED)

270. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- IDAHO COMPENSATION -- IN GENERAL (RULE 270).
Section 63-3026A(3), Idaho Code

01. In General. If a nonresident individual performs personal services, either as an employee, agent, independent contractor, partner, or otherwise, both within and without Idaho, the portion of his total compensation that constitutes Idaho source income is determined by multiplying that total compensation by the Idaho compensation percentage. (3-20-14)

02. Definitions. (3-20-97)

a. The Idaho compensation percentage is the percentage computed by dividing Idaho work days by total work days. (3-20-97)

b. The term Idaho work days means the total number of days the taxpayer provided personal services in Idaho for a particular employer or principal during the calendar year. If personal services were provided both within and without Idaho on the same day, that day is an Idaho work day unless the taxpayer establishes that less than fifty percent (50%) of the services were performed within Idaho that day. If an employee works in Idaho part of the day on a regular full-time basis, working hours must be used to determine the amount of Idaho compensation. (2-27-12)

c. Total work days means the total number of days the taxpayer provided personal services for that employer or principal both within and without Idaho during the calendar year. For example, a taxpayer working a five (5) day work week may assume total work days of two hundred sixty (260) less any vacation, holidays, sick leave days and other days off. (3-20-97)

d. Total compensation means all salary, wages, commissions, contract payments, and other compensation for services, including sick leave pay, holiday pay and vacation pay, that is taxable pursuant to the Internal Revenue Code. (2-27-12)

03. Work Days. Work days include only those days the taxpayer actually performs personal services for the benefit of the employer or principal. Vacation days, sick leave days, holidays, and other days off from work are considered nonwork days whether compensated or not. Total work days must equal Idaho work days plus non-Idaho work days. The taxpayer has the burden of establishing non-Idaho work days. Documentation establishing non-Idaho work days may be required to support the Idaho compensation percentage used by the taxpayer. (3-20-97)

04. Multiple Employers. If a taxpayer performs personal services both within and without Idaho for more than one (1) employer or principal, he must determine an Idaho compensation percentage separately for each employer or principal. (2-27-12)

05. Alternative Method. If the Idaho compensation percentage does not fairly represent the extent of the taxpayer's personal service activities in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, working hours may be a more appropriate measure than work days in some cases. (3-30-01)

a. The taxpayer must fully explain the alternative method in a statement attached to his Idaho individual income tax return. (2-27-12)

b. The alternative method may be used in lieu of the method in Subsection 270.01 unless the Tax Commission expressly denies its use. (4-5-00)

271. IDAHO COMPENSATION: STOCK OPTIONS (RULE 271).
Section 63-3026A(3), Idaho Code

01. In General. The granting of stock options is considered to be compensation for services. Although considered as compensation, in some circumstances the taxpayer may report the compensation on his federal income tax return as capital gain income. The character of the income from the granting of stock options and the timing of reporting it for federal income tax purposes apply in computing Idaho taxable income. (4-5-00)

02. Definitions. For purposes of this rule: (4-5-00)

a. Work days, Idaho work days, and total work days are defined in Rule 270 of these rules. (4-5-00)

b. Compensable period means the period that begins at the date the stock option is granted and ends at the earlier of the date the stock option becomes vested or the date the employee’s services terminate. (4-5-00)

c. Statutory stock options are options governed by specific Internal Revenue Code sections that impose restrictions on both the employer and the employee. Statutory stock options include incentive stock options as provided in Section 422, Internal Revenue Code, and options issued pursuant to employee stock purchase plans as provided in Section 423, Internal Revenue Code. (3-30-01)

d. Nonstatutory stock options are options that do not meet the Internal Revenue Code requirements to qualify as statutory stock options or are granted pursuant to a plan or offering that does not qualify. (4-5-00)

03. Compensation for Future Services. The granting of stock options will be presumed to be intended as compensation for future services. The party alleging otherwise bears the burden of proving that the stock options were intended for services rendered before the date of grant. (4-5-00)

04. Statutory Stock Options. (4-5-00)

a. Compensation. Compensation is realized at the date the option is exercised, but not taxable until the income or gain is recognized for federal income tax purposes. If a taxpayer reports a capital gain for federal income tax purposes from statutory stock options, the amount of Idaho source compensation will also be reported as capital gain income for Idaho income tax purposes. Idaho source compensation is determined as follows: (4-5-00)

i. Compensation is equal to the portion of the gain that equals the difference between the option price and the fair market value of the stock at the date the option was exercised. Compensation is limited to the gain actually recognized if the stock is sold for less than its fair market value at the time the option was exercised. No compensation will be reported if the stock is sold at a loss. (4-5-00)

ii. Compensation for services performed in Idaho equals the compensation determined in Subsection 271.04.a.i., multiplied by the ratio of Idaho work days to total work days during the compensable period. (4-5-00)

b. Investment Income. Appreciation in the value of the stock after the date the option was exercised is to be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. (4-5-00)

05. Nonstatutory Stock Options. (4-5-00)

a. Compensation. Compensation is recognized at the date the stock option is exercised. The amount of Idaho source compensation related to the stock option is determined as follows: (4-5-00)

i. Compensation for federal income tax purposes is equal to the difference between the option price and the fair market value of the stock at the date the option was exercised. (4-5-00)

ii. Compensation for services performed in Idaho equals the compensation determined in Subsection 271.05.a.i., multiplied by the ratio of Idaho work days to total work days during the compensable period. (4-5-00)

b. Investment Income. Appreciation or depreciation in the value of the stock after the date the option was exercised is to be reported as investment income and sourced to the taxpayer's domicile at the date the stock was sold. (4-5-00)

272. IDAHO COMPENSATION: SEVERANCE PAY (RULE 272).
Section 63-3026A(3), Idaho Code

01. In General. In accordance with federal Treasury Regulation Section 1.61-2, termination or severance pay is treated as compensation for services. The amount of termination or severance pay received by a nonresident that is subject to Idaho income tax is determined pursuant to this rule. (3-15-02)

02. Definitions. For purposes of this rule work days, Idaho work days and total work days are defined in Rule 270 of these rules. (3-15-02)

03. Calculation of Idaho Source Severance Pay. The amount of severance pay that is Idaho source income is to be equal to the severance pay received during the taxable year multiplied by the ratio of Idaho work days to total work days during either of the following: (3-15-02)

a. The employee's entire period of employment with such employer; or (3-15-02)

b. The employee's last twelve (12) months of employment with such employer. (3-15-02)

04. Alternative Method. If the Idaho compensation percentage computed in Subsection 272.03 does not fairly represent the extent of the taxpayer's personal service activities in Idaho, the taxpayer may propose or the Tax Commission may require an alternative method. For example, working hours may be a more appropriate measure than work days in some cases. (3-15-02)

a. The taxpayer will fully explain the alternative method in a statement attached to his Idaho individual income tax return. (3-15-02)

b. The alternative method may be used in lieu of the method in Subsection 272.03 unless the Tax Commission expressly denies its use. (3-15-02)

273. IDAHO COMPENSATION: UNEMPLOYMENT COMPENSATION (RULE 273).
Section 63-3026A(3), Idaho Code. Unemployment compensation benefits are Idaho source income if the benefits are received by the taxpayer from the state of Idaho, even though the benefits may relate to wages earned in Idaho and another state. Unemployment compensation benefits received from another state does not constitute Idaho source income even though the calculation of the benefits may be based in part on wages earned in Idaho. (3-29-10)

274. (RESERVED)

275. IDAHO SOURCE INCOME OF NONRESIDENT AND PART-YEAR RESIDENT INDIVIDUALS -- INVESTMENT INCOME FROM QUALIFIED INVESTMENT PARTNERSHIPS (RULE 275).
Section 63-3026A(3)(c), Idaho Code

01. In General. (4-11-06)

a. For taxable years beginning on or after January 1, 2007, the Idaho taxable income of a nonresident individual does not include the distributive share of investment income of a qualified investment partnership. The distributive share of noninvestment income of a qualified investment partnership derived from or related to sources within Idaho is included in Idaho taxable income. See Rule 250 of these rules for information on when pass-through income from a partnership is deemed to have been received. (2-27-12)

b. The exemption from tax on investment income from a qualified investment partnership does not apply to gains or losses derived from the sale of a nonresident individual's interest in a qualified investment partnership. The source of these gains and losses is governed by Section 63-3026A(3)(a)(vii), Idaho Code, and Rule 266 of these rules. The source of investment income that is not from a qualified investment partnership is determined as provided in Rule 263 of these rules. (2-27-12)

02. Qualified Investment Partnership. An entity is a qualified investment partnership only if it meets both of the following criteria: (2-27-12)

a. The entity is classified as a partnership for federal income tax purposes, but is not a publicly traded partnership taxed as a corporation under Section 63-3006, Idaho Code. (4-2-08)

b. The gross income from investments of the entity is derived at least ninety percent (90%) from investments that when held by a nonresident individual directly, would not produce income subject to the Idaho income tax. See Rules 263 and 266 of these rules. (2-27-12)

03. Investment Income. For purposes of this exclusion, an item of partnership income is investment income only if it would not be Idaho taxable income of a nonresident individual if the individual held the investment directly. (2-27-12)

04. Examples. (2-27-12)

a. A is a nonresident individual member of ABC, a partnership operating solely within Idaho. The taxable income of ABC for the taxable year consists of ninety thousand dollars ($90,000) of dividend income and ten thousand dollars ($10,000) of capital gains from stock trading through a brokerage account. If A held the stock directly, Section 63-3026A(3)(a)(iii), Idaho Code, provides that the dividends and capital gains would not be included in Idaho taxable income. Since at least ninety percent (90%) of ABC's income is from investments that would not be taxable to a nonresident individual if held directly by that individual, ABC is a qualified investment partnership and none of A's distributive share of the income is included in Idaho taxable income even though ABC is an Idaho partnership. (2-27-12)

b. Assume the same facts as in Paragraph 275.04.a. of this rule, except that the ten thousand dollars ($10,000) of capital gains is from the sale of Idaho real property. Since at least ninety percent (90%) of ABC's income is from investments that would not be taxable to a nonresident individual if held directly by that individual, ABC is a qualified investment partnership. A's distributive share of ABC's dividend income is excluded from A's Idaho taxable income, but A's distributive share of ABC's gain from the sale of Idaho real property is included in Idaho taxable income because Section 63-3026A(3), Idaho Code, provides that such income would be taxable to A if A had owned the property directly. (2-27-12)

c. A is a nonresident individual member of ABC, a partnership operating solely within Idaho. The taxable income of ABC for the taxable year consists of eighty thousand dollars ($80,000) of dividend income and twenty thousand dollars ($20,000) of capital gains from the sale of Idaho real property. ABC is not a qualified investment partnership because less than ninety percent (90%) of ABC's income is from investments that would not be taxable to a nonresident individual if held directly by that individual. A's distributive share of ABC's dividend income and capital gain income is included in Idaho taxable income as provided in Rule 263 of these rules. (2-27-12)

d. A is a nonresident individual partner in ABC, a partnership with a fifty percent (50%) Idaho apportionment factor. The gross income of ABC consists of ninety thousand dollars ($90,000) of dividend income, five thousand dollars ($5,000) of capital gain from the sale of non-Idaho real property used in the trade or business, and five thousand dollars ($5,000) of gross business income. Since at least ninety percent (90%) of ABC's gross income is from investments that would not be taxable to a nonresident individual if held directly by that individual, ABC is a qualified investment partnership. A's distributive share of ABC's dividend income is excluded from A's Idaho taxable income, but fifty percent (50%) of A's distributive share of ABC's gain from the sale of non-Idaho real property (which is business income under the facts of this example) and fifty percent (50%) of A's distributive share of ABC's other business income is included in Idaho taxable income, based on the Idaho apportionment factor of the partnership as provided in Section 63-3026A(3)(a)(i) and Rule 263 of these rules. (4-11-15)

276. -- 279. (RESERVED)

280. PARTNERSHIPS OPERATING WITHIN AND WITHOUT IDAHO (RULE 280).
Sections 63-3026A(3), 63-3027 and 63-3030(a)(9), Idaho Code

01. In General. A partnership that operates within and without Idaho must apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of partnership income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. (4-5-00)

02. Exceptions to Apportionment Formula. If the method described in Subsection 280.01 does not fairly represent the extent of the business activity in Idaho, the partnership may file a request to use, or the Tax Commission may require, an alternative method, including the following: (3-30-07)

a. Separate accounting as provided in Rule 585 of these rules; (3-30-07)

b. The exclusion of a factor pursuant to Rule 590 of these rules; (3-30-07)

c. An additional factor or substitute factor pursuant to Rule 595 of these rules; or (3-30-07)

d. The employment of any other method that would fairly represent the extent of business activity in Idaho. (3-30-07)

03. Information Provided to Partners. The partnership must provide to each partner information necessary for the partner to compute his Idaho income tax. Such information must include: (4-5-00)

a. The partner's share of each pass-through item of income and deduction; (4-7-11)

b. The partner's share of each Idaho addition and subtraction; (4-7-11)

c. The partner's share of Idaho qualifying contributions, Idaho tax credits, and tax credit recapture; (4-7-11)

d. The partner's share of income allocated to Idaho; (4-7-11)

e. The partnership's apportionment factor, and if the partner is not an individual, the partnership's property, payroll and sales factor numerator and denominator amounts, including the amount of capitalized rent expense; and (4-7-11)

f. The partner's distributive share of partnership gross income if the partner is an individual, trust, or estate. (4-7-11)

281. -- 284. (RESERVED)

285. S CORPORATIONS (RULE 285).
Sections 63-3025 and 63-3025A, Idaho Code

01. Tax on S Corporations. An S corporation that is transacting business in Idaho or authorized to transact business in Idaho is subject to the tax imposed by Section 63-3025, Idaho Code, if not paying the tax imposed by Section 63-3025A, Idaho Code. The tax imposed by Section 63-3025 or 63-3025A, Idaho Code, is computed on the total of the net recognized built-in gains and the excess net passive income of the S corporation attributable to Idaho for the taxable year. (4-2-08)

a. Net recognized built-in gains is to be determined pursuant to Section 1374, Internal Revenue Code, including any applicable limitations. (4-2-08)

b. Excess net passive income is determined pursuant to Section 1375, Internal Revenue Code, including any applicable limitations. (4-2-08)

c. If the tax computed in Subsection 285.01 of this rule is less than the minimum tax, the S corporation pays the minimum tax. (4-2-08)

02. Minimum Tax. The minimum tax is required of every S corporation that is required to file a return. A name-holder or inactive S corporation that is authorized to do business in Idaho pays the minimum tax of twenty dollars ($20) even though the S corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. See Subsection 285.03 of this rule. (4-2-08)

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. An S corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. (4-2-08)

04. Application of Credits. If an S corporation was previously a C corporation with an Idaho income tax credit carryover at the time of the S corporation election, the S corporation may use any available credit carryover against the tax on the excess net passive income or net recognized built-in gains if the carryover period related to the Idaho income tax credit has not expired before the taxable year in which the tax must be reported. (4-2-08)

05. Tax Resulting From the Requirements of Section 63-3022L, Idaho Code. An S corporation is subject to tax at the corporate rate on the income required to be reported for qualifying shareholders under Section 63-3022L, Idaho Code. This tax is in addition to any tax the S corporation owes under Section 63-3025 or 63-3025A, Idaho Code. See Rule 291 of these rules for additional information. (4-4-13)

06. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) will be treated for Idaho income tax purposes the same as treated for federal income tax purposes. The QSSS will not be treated as a separate corporation, but all the assets, liabilities, and items of income, deduction, and credit of a QSSS will be treated as assets, liabilities and such items of the S corporation. Since the QSSS is not treated as a separate taxpayer, it is not subject to the minimum tax. (4-2-08)

286. S CORPORATIONS OPERATING WITHIN AND WITHOUT IDAHO (RULE 286).

Sections 63-3027 and 63-3030(a)(4), Idaho Code

01. In General. An S corporation that operates within and without Idaho must apply the principles of allocation and apportionment of income set forth in Section 63-3027, Idaho Code, and related rules to determine the extent of S corporation income that is derived from or related to Idaho sources. The use of a combined report, however, is available only to C corporations. (4-2-08)

02. Exceptions to Apportionment Formula. If the method described in Subsection 286.01 of this rule does not fairly represent the extent of the business activity in Idaho, the S corporation may file a request to use or the Tax Commission may require an alternative method, including the following: (4-2-08)

a. Separate accounting as provided in Rule 585 of these rules; (4-2-08)

b. The exclusion of a factor pursuant to Rule 590 of these rules; (4-2-08)

c. An additional factor or substitute factor pursuant to Rule 595 of these rules; or (4-2-08)

d. The employment of any other method that would fairly represent the extent of business activity in Idaho. (4-2-08)

03. Information Provided to Shareholders. An S corporation must provide to each shareholder information necessary for the shareholder to compute his Idaho income tax. Such information must include: (4-2-08)

a. The shareholder's share of each pass-through item of income and deduction; (4-7-11)

b. The shareholder's share of each Idaho addition and subtraction; (4-7-11)

c. The shareholder's share of Idaho qualifying contributions, Idaho tax credits, and tax credit recapture; (4-7-11)

d. The shareholder's share of income allocated to Idaho; (4-7-11)

e. The S corporation's apportionment factor; and (4-7-11)

f. The shareholder's distributive share of S corporation gross income. (4-7-11)

04. Protection Under Public Law 86-272. An S corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. (4-2-08)

05. Qualified Subchapter S Subsidiary. A corporation that is a qualified subchapter S subsidiary (QSSS) must include its apportionment attributes with its parent's apportionment attributes to compute one Idaho apportionment factor for the S corporation. If the S corporation and its qualified subchapter S subsidiaries are carrying on more than one unitary business, each unitary business must allocate and apportion its income pursuant to Rule 340.03. (4-4-13)

287. -- 290. (RESERVED)

291. TAX PAID BY PASS-THROUGH ENTITIES FOR OWNERS OR BENEFICIARIES -- COMPUTATION OF IDAHO TAXABLE INCOME FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 2014 (RULE 291).
Sections 63-3022L and 63-3026A, Idaho Code

01. In General. A pass-through entity is responsible for reporting and paying the tax for nonresident individuals or withholding tax on the individual's share of income from the pass-through entity required to be included in Idaho taxable income as prescribed in Section 63-3036B, Idaho Code. For purposes of this rule, pass-through entity means "pass-through entity" as defined in Section 63-3006C, Idaho Code. (4-4-13)

02. Income Reportable to Idaho. The following items must be included in the computation of Idaho taxable income for an individual: (4-4-13)

a. Pass-through items that are income from Idaho sources of an owner as determined pursuant to Rule 263 of these rules. (4-7-11)

b. Distributable net income from an estate or trust that is income from Idaho sources as determined pursuant to Rule 261 of these rules. (4-7-11)

03. Deductions. Pass-through entities paying the tax under Section 63-3022L, Idaho Code, are not entitled to claim the following deductions on behalf of an individual. (4-7-11)

a. Capital Loss. As provided in Section 63-3022(i), Idaho Code, S corporations and partnerships are not allowed to carry over or carry back any capital loss provided for in Section 1212, Internal Revenue Code. (3-30-07)

b. Net Operating Loss. As provided in Section 63-3022(i), Idaho Code, S corporations and partnerships are not allowed to carry over or carry back any net operating loss provided for in Section 63-3022(c), Idaho Code. (3-30-07)

c. Idaho Capital Gains Deduction. As provided in Section 63-3022H, Idaho Code, the Idaho capital gains deduction may only be claimed by individual taxpayers on an individual income tax return. (4-7-11)

d. Informational Items. Amounts provided to owners of pass-through entities and beneficiaries of trusts and estates on the federal Schedule K-1 that are informational only may not be used as a deduction in computing the taxable income reportable under Section 63-3022L, Idaho Code. Informational items include the domestic production activities information and net earnings from self-employment. (4-7-11)

e. Items Not Deductible Under the Internal Revenue Code. A deduction is not allowed for items disallowed under the Internal Revenue Code. For example, a deduction is not allowed for items disallowed as a deduction in Sections 162(c) and 262 through 280E, Internal Revenue Code, unless specifically allowed by Idaho law. Items allowed by Idaho law include expenses related to tax-exempt income under Section 265, Internal Revenue Code, which are allowed to be deducted as a result of Section 63-3022M, Idaho Code. (4-7-11)

f. Items Not Reported as a Pass-Through Deduction. Amounts not reported from the pass-through entity to the pass-through owner are not allowed as a deduction under Section 63-3022L, Idaho Code. These include: (4-7-11)

i. The standard deduction; (4-7-11)

ii. Personal exemptions; (4-7-11)

iii. Itemized deductions that result from activity of the pass-through owner. For example, a deduction is not allowed for charitable contributions made personally by the pass-through owner, but is allowed for the pass-through owner's share of charitable contributions made by the pass-through entity. (4-7-11)

g. Items Reported as a Pass-Through Deduction. Amounts reported from the pass-through entity to the pass-through owner in their distributive share are allowed as a deduction under Section 63-3022L, Idaho Code, unless otherwise disallowed under this rule. These include but are not limited to: (3-25-16)

i. Section 179, Internal Revenue Code, deduction; (3-25-16)

ii. Charitable contributions made by the pass-through entity; (3-25-16)

iii. Investment interest expense; (3-25-16)

iv. Section 59(e)(2), Internal Revenue Code, expenditures (qualified research expenditures); (3-25-16)

v. Amounts paid for medical insurance; (3-25-16)

vi. Educational assistance benefits; (3-25-16)

vii. Payments to a pension or IRA. (3-25-16)

04. Double Deductions Disallowed. A pass-through owner may not deduct amounts that previously have been deducted by a pass-through entity paying the tax on his behalf. If the pass-through owner files an Idaho individual income tax return reporting federal taxable income that includes amounts previously deducted by a pass-through entity on his behalf, the pass-through owner must add back the duplicated deduction amounts in computing his Idaho taxable income on his individual income tax return. (4-7-11)

292. -- 299. (RESERVED)

300. TAX ON CORPORATIONS (RULE 300).
Sections 63-3025 and 63-3025A, Idaho Code

01. Excise Tax. A corporation excluded from the tax on corporate income imposed by Section 63-3025, Idaho Code, is subject to the excise tax imposed by Section 63-3025A, Idaho Code. If a corporation is subject to the excise tax imposed by Section 63-3025A, Idaho Code, it is not subject to the tax on corporate income imposed by Section 63-3025, Idaho Code. (3-20-97)

02. Minimum Tax. A name-holder or inactive corporation that is authorized to do business in Idaho pays the minimum tax of twenty dollars ($20) even though the corporation did not conduct Idaho business activity during the taxable year. A nonproductive mining corporation generally is not required to pay the minimum tax. See Subsection 300.03. (3-20-97)

03. Nonproductive Mining Corporations. A nonproductive mining corporation is a corporation that does not own any producing mines and does not engage in any business other than mining. A corporation that qualifies as a nonproductive mining corporation is required to file and pay tax if it receives any other income. (3-20-97)

04. Protection Under Public Law 86-272. A corporation whose Idaho business activities fall under the protection of Public Law 86-272 is exempt from the taxes imposed by Sections 63-3025 and 63-3025A, Idaho Code, including the minimum tax. (3-30-07)

05. Corporate Income Tax Rates.

PERIOD	TAX RATE
2018 and after	6.925%
2012-2017	7.4%
2001-2011	7.6%

(3-26-19)

301. -- 309. (RESERVED)

310. ELECTIONS FOR MULTISTATE CORPORATIONS (RULE 310).
Section 63-3027, Idaho Code

01. Available Options. A multistate corporation transacting business in Idaho may elect to be taxed pursuant to the provisions of the Idaho Income Tax Act or pursuant to the Multistate Tax Compact, Section 63-3701, Idaho Code. This provides three (3) options: (3-20-97)

a. Apportionment and allocation pursuant to Section 63-3027, Idaho Code. (3-20-97)

b. Apportionment and allocation pursuant to Article III, Section 1 of the Multistate Tax Compact. However, if this option is elected, business income is to be apportioned using the apportionment formula pursuant to Section 63-3027(i), Idaho Code. (3-20-97)

c. Tax based on one percent (1%) of sales pursuant to Article III, Section 2 of the Multistate Tax Compact and Section 63-3702, Idaho Code. This option is available to corporations whose only activity in Idaho consists of sales that are not in excess of one hundred thousand dollars ($100,000) during the taxable year. (3-20-97)

02. Electing an Option. A multistate corporation is to file pursuant to Section 63-3027, Idaho Code, unless it elects to report and pay income tax pursuant to one of the options specified in Subsections 310.01.b. and

310.01.c. The election is made by attaching a written statement of the election to the return. The statement must affirmatively state each element required by statute to qualify for the option elected. The return must include any additional schedules needed to show how the tax due was computed. The election may not be changed for a taxable year after the return for that year has been filed. (3-20-97)

311. -- 319. (RESERVED)

320. APPLICATION OF MULTISTATE RULES (RULE 320).
Section 63-3027, Idaho Code

01. Prologue. Rules 320 through 699 of these rules are intended to set forth the application of the apportionment and allocation provisions of Section 63-3027, Idaho Code. The only exceptions to these allocation and apportionment rules are those set forth in these rules pursuant to the authority of Sections 63-3027(s) and 63-3027(u), Idaho Code. (3-20-97)

02. Taxpayers Conducting Business Within and Without Idaho. Section 63-3027, Idaho Code, and related rules apply to corporations conducting business within and without Idaho, and to other taxpayers if required by other provisions of the Idaho Code or of these rules. However, only C corporations may use the combined report to determine Idaho taxable income. See Rule 360 of these rules. (3-30-01)

321. -- 324. (RESERVED)

325. DEFINITIONS FOR PURPOSES OF MULTISTATE RULES (RULE 325).
Section 63-3027, Idaho Code. For purposes of computing the Idaho taxable income of a multistate corporation, the following definitions apply: (3-20-97)

01. Affiliated Corporation and Affiliated Group. An affiliated corporation is a corporation that is a member of a commonly controlled group of which the taxpayer is also a member. The commonly controlled group is referred to as an affiliated group. Although Idaho generally follows federal tax principles and terminology, Idaho's use of the terms affiliated corporation and affiliated group means a corporation or corporations with over fifty percent (50%) of its voting stock directly or indirectly owned or controlled by a common owner or owners. For information on what constitutes common control, see Rule 344 of these rules. (4-6-05)

02. Allocation. Allocation refers to the assignment of nonbusiness income to a particular state. (3-20-97)

03. Apportionment. Apportionment refers to the division of business income between states in which the business is conducted by the use of a formula containing apportionment factors. (3-20-97)

04. Business Activity. Business activity refers to the transactions and activity occurring in the regular course of a particular trade or business of a taxpayer or to the acquisition, management, and disposition of property that constitute integral parts of the taxpayer's regular trade or business operations. (4-6-05)

05. Combined Group. Combined group means the group of corporations that comprise a unitary business and are includable in a combined report pursuant to Section 63-3027(t) or 63-3027B, Idaho Code, if the water's edge election is made. (3-20-97)

06. Combined Report. Combined report refers to the computational filing method to be used by a unitary business which is conducted by a group of corporations wherever incorporated rather than a single corporation. (3-20-97)

07. Gross Receipts. (3-15-02)

a. Gross receipts are the gross amounts realized, (the sum of money and the fair market value of other property or services received) on the sale or exchange of property, the performance of services, or the use of property or capital (including rents, royalties, interest and dividends) in a transaction that produces business income, in which the income or loss is recognized (or would be recognized if the transaction were in the United States) under the

Internal Revenue Code. Amounts realized on the sale or exchange of property are not reduced for the cost of goods sold or the basis of property sold. Gross receipts, even if business income, do not include such items as, for example: (3-15-02)

i. Repayment, maturity, or redemption of the principal of a loan, bond, or mutual fund or certificate of deposit or similar marketable instrument; (3-15-02)

ii. The principal amount received under a repurchase agreement or other transaction properly characterized as a loan; (3-15-02)

iii. Proceeds from issuance of the taxpayer's own stock or from sale of treasury stock; (3-15-02)

iv. Damages and other amounts received as the result of litigation; (3-15-02)

v. Property acquired by an agent on behalf of another; (3-15-02)

vi. Tax refunds and other tax benefit recoveries; (3-15-02)

vii. Pension reversions; (3-15-02)

viii. Contributions to capital; (3-15-02)

ix. Income from forgiveness of indebtedness; or (3-15-02)

x. Amounts realized from exchanges of inventory that are not recognized by the Internal Revenue Code. (3-15-02)

b. Exclusion of an item from the definition of gross receipts is not determinative of its character as business or nonbusiness income. Nothing in this definition is to be construed to modify, impair or supersede any provision of Rules 560 through 595 of these rules. (3-15-02)

08. Group Return. A unitary group of corporations may file one (1) Idaho corporate income tax return for all the corporations of the unitary group that are required to file an Idaho income tax return. When used in these rules, group return refers to this sole return filed by a unitary group. Use of the group return precludes the need for each corporation to file its own Idaho corporate income tax return. (3-20-97)

09. MTC. The Multistate Tax Commission. (3-20-97)

10. Multistate Corporation. A multistate corporation is a corporation that operates in more than one (1) state. For purposes of this definition, state is defined in Section 63-3027(a)(6), Idaho Code. (3-20-97)

11. Unitary Business. Unitary business is a concept of constitutional law defined in decisions of the United States Supreme Court. See Rule 340 of these rules. (7-1-98)

326. -- 329. (RESERVED)

330. BUSINESS AND NONBUSINESS INCOME DEFINED: APPORTIONMENT AND ALLOCATION (RULE 330).
Section 63-3027(a), Idaho Code. Sections 63-3027(a)(1) and 63-3027(a)(4), Idaho Code, require that every item of income be classified either as business income or nonbusiness income. Income for purposes of classification as business or nonbusiness includes gains and losses. Business income is apportioned among jurisdictions by use of a formula. Nonbusiness income is specifically assigned or allocated to one (1) or more specific jurisdictions pursuant to express rules. An item of income is classified as business income if it falls within the definition of business income. An item of income is nonbusiness income only if it does not meet the definitional requirements for being classified as business income. (4-6-05)

331. BUSINESS AND NONBUSINESS INCOME DEFINED: BUSINESS INCOME (RULE 331).
Section 63-3027(a)(1), Idaho Code

01. In General. Business income means income of any type or class and from any activity that meets the "transactional test" described in Rule 332 of these rules, or the "functional test" described in Rule 333 of these rules. The classification of income by the labels occasionally used, such as manufacturing income, compensation for services, sales income, interest, dividends, rents, royalties, gains, operating income, and nonoperating income, is of no aid in determining whether income is business or nonbusiness income. (4-6-05)

02. Terms Used in Definition of Business Income and in Application of Definition. As used in the definition of business income and in the application of the definition. (4-6-05)

a. "Trade or business" means the unitary business of the taxpayer, part of which is conducted within Idaho. (4-6-05)

b. "To contribute materially" includes, without limitation, "to be used operationally in the taxpayer's trade or business." Whether property materially contributes is not determined by reference to the property's value or percentage of use. If an item of property materially contributes to the taxpayer's trade or business, the attributes, rights or components of that property are also operationally used in that business. However, property that is held for mere financial betterment is not operationally used in the taxpayer's trade or business. (4-6-05)

332. BUSINESS AND NONBUSINESS INCOME DEFINED: TRANSACTIONAL TEST (RULE 332).
Section 63-3027(a)(1), Idaho Code

01. In General. Business income includes income arising from transactions and activity in the regular course of the taxpayer's trade or business. (4-6-05)

02. Business Income for Idaho. If the transaction or activity is in the regular course of the taxpayer's trade or business, part of which trade or business is conducted within Idaho, the resulting income of the transaction or activity is business income for Idaho. Income may be business income even though the actual transaction or activity that gives rise to the income does not occur in Idaho. (4-6-05)

03. Regular Course of the Taxpayer's Trade or Business. For a transaction or activity to be in the regular course of the taxpayer's trade or business, the transaction or activity need not be one that frequently occurs in the trade or business. Most, but not all, frequently occurring transactions or activities will be in the regular course of that trade or business and will, therefore, satisfy the transactional test. It is sufficient to classify a transaction or activity as being in the regular course of a trade or business, if it is reasonable to conclude transactions of that type are customary in the kind of trade or business being conducted or are within the scope of what that kind of trade or business does. However, even if a taxpayer frequently or customarily engages in investment activities, if those activities are for the taxpayer's mere financial betterment rather than for the operations of the trade or business, such activities do not satisfy the transactional test. The transactional test includes, but is not limited to, income from sales of inventory, property held for sale to customers, and services that are commonly sold by the trade or business. The transactional test also includes, but is not limited to, income from the sale of property used in the production of business income of a kind that is sold or replaced with some regularity, even if replaced less frequently than once a year. (4-6-05)

333. BUSINESS AND NONBUSINESS INCOME DEFINED: FUNCTIONAL TEST (RULE 333).
Section 63-3027(a)(1), Idaho Code

01. In General. Business income also includes income from tangible and intangible property, if the acquisition, management or disposition of the property constitutes an integral or necessary part of the taxpayer's regular trade or business operations. (4-6-05)

02. Terms. (4-6-05)

a. "Property" includes any interest in, control over, or use in property (whether the interest is held directly, beneficially, by contract, or otherwise) that materially contributes to the production of business income. (4-6-05)

b. "Acquisition" refers to the act of obtaining an interest in property. (4-6-05)

c. "Management" refers to the oversight, direction, or control (directly or by delegation) of the property for the use or benefit of the trade or business. (4-6-05)

d. "Disposition" refers to the act, or the power, to relinquish or transfer an interest in or control over property to another, in whole or in part. (4-6-05)

e. "Integral part" refers to property that constituted a part of the composite whole of the trade or business, each part of which gave value to every other part, in a manner that materially contributed to the production of business income. (4-6-05)

03. Integral, Functional, or Operative Component of Trade or Business. Under the functional test, business income need not be derived from transactions or activities that are in the regular course of the taxpayer's own particular trade or business. It is sufficient, if the property from which the income is derived is or was an integral, functional, or operative component used in the taxpayer's trade or business operations, or otherwise materially contributed to the production of business income of the trade or business, part of which trade or business is or was conducted within Idaho. Depending on the facts and circumstances of each case, property that has been converted to nonbusiness use through the passage of a sufficiently lengthy period of time or that has been removed as an operational asset and is instead held by the taxpayer's trade or business exclusively for investment purposes has lost its character as a business asset and is not subject to the rule of the preceding sentence. Property that was an integral part of the trade or business is not considered converted to investment purposes merely because it is placed for sale. (4-6-05)

04. Examples of Business Income Under the Functional Test. Income that is derived from isolated sales, leases, assignments, licenses, and other infrequently occurring dispositions, transfers, or transactions involving property, including transactions made in liquidation or the winding-up of business, is business income, if the property is or was used in the taxpayer's trade or business operations. Income from the licensing of an intangible asset, such as a patent, copyright, trademark, service mark, know-how, trade secrets, or the like, that was developed or acquired for use by the taxpayer in its trade or business operations, constitutes business income whether or not the licensing itself constituted the operation of a trade or business, and whether or not the taxpayer remains in the same trade or business from or for which the intangible asset was developed or acquired. (4-6-05)

05. Operational Function Versus Investment Function. Under the functional test, income from intangible property is business income when the intangible property serves an operational function as opposed to solely an investment function. The relevant inquiry focuses on whether the property is or was held in furtherance of the taxpayer's trade or business, that is, on the objective characteristics of the intangible property's use or acquisition and its relation to the taxpayer and the taxpayer's activities. The functional test is not satisfied where the holding of the property is limited to solely an investment function as is the case where the holding of the property is limited to mere financial betterment of the taxpayer in general. (4-6-05)

06. Property Held in Furtherance of Trade or Business. If the property is or was held in furtherance of the taxpayer's trade or business beyond mere financial betterment, then income from that property may be business income even though the actual transaction or activity involving the property that gives rise to the income does not occur in Idaho. (4-6-05)

07. Presumptions. If with respect to an item of property a taxpayer takes a deduction from business income that is apportioned to Idaho or includes the original cost in the property factor, it is presumed that the item or property is or was integral to the taxpayer's trade or business operations. No presumption arises from the absence of any of these actions. (4-6-05)

08. Application of the Functional Test. Application of the functional test is generally unaffected by the form of the property (for example, tangible or intangible property, real or personal property). Income arising from an intangible interest, for example, corporate stock or other intangible interest in a business or a group of assets, is business income when the intangible itself or the property underlying or associated with the intangible is or was an integral, functional, or operative component to the taxpayer's trade or business operations. Thus, while apportionment of income derived from transactions involving intangible property as business income may be

supported by a finding that the issuer of the intangible property and the taxpayer are engaged in the same trade or business, i.e., the same unitary business, establishment of such a relationship is not the exclusive basis for concluding that the income is subject to apportionment. It is sufficient to support the finding of apportionable income if the holding of the intangible interest served an operational rather than an investment function of mere financial betterment. (4-6-05)

334. BUSINESS AND NONBUSINESS INCOME DEFINED: RELATIONSHIP OF TRANSACTIONAL AND FUNCTIONAL TESTS TO U.S. CONSTITUTION (RULE 334).
Section 63-3027(a)(1), Idaho Code. The Due Process Clause and the Commerce Clause of the U.S. Constitution restrict states from apportioning income as business income that has no rational relationship with the taxing state. The protection against extraterritorial state taxation afforded by these Clauses is often described as the "unitary business principle." The unitary business principle requires apportionable income to be derived from the same unitary business that is being conducted at least in part in Idaho. The unitary business that is conducted in Idaho includes both a unitary business that the taxpayer alone may be conducting and a unitary business the taxpayer may conduct with any other person or persons. Satisfaction of either the transactional test or the functional test complies with the unitary business principle, because each test requires that the transaction or activity (in the case of the transactional test) or the property (in the case of the functional test) to be tied to the same trade or business that is being conducted within Idaho. Determination of the scope of the unitary business being conducted in Idaho is without regard to the extent to which Idaho requires or permits combined reporting. (4-6-05)

335. NONBUSINESS INCOME (RULE 335).
Section 63-3027(a)(4), Idaho Code

01. Nonbusiness Income. Nonbusiness income is all income other than business income. All deductions relating to the production of nonbusiness income is to be allocated with the income produced. Any allowable deduction that applies to both business and nonbusiness income of the taxpayer is to be prorated to those classes of income to determine income subject to tax. When used in these rules, the term nonbusiness income includes nonbusiness losses unless the context clearly indicates otherwise. (3-20-97)

02. Offset of Interest Expense Against Nonbusiness Income. Interest on indebtedness incurred or continued to purchase or to carry investment that generates nonbusiness income is offset against the income produced. If the facts do not support such a matching of the interest expense to the nonbusiness income, the portion of the taxpayer's interest expense that is offset against income from nonbusiness investments is to be an amount that bears the same ratio to the aggregate amount allowable to the taxpayer as a deduction for interest for the taxable year as the taxpayer's nonbusiness income mentioned in the preceding sentence bears to the taxpayer's total income for the taxable year. Aggregate amount allowable means the taxpayer's total interest expense deducted in determining taxable income as defined in Section 63-3011B, Idaho Code, plus interest expense disallowed under Sections 265 and 291 of the Internal Revenue Code, plus interest expense from a pass-through entity, plus the interest expense of a corporation that, pursuant to Sections 63-3027 and 63-3027B through 63-3027E, Idaho Code, is included in a combined report with the taxpayer for the taxable year. See Rule 115 of these rules for the calculation of total income. (3-15-02)

03. Allocated to Idaho. Nonbusiness income, net of interest and other related expense offsets, that is attributable to Idaho is allocated to Idaho. (3-20-97)

04. Allocated to Other States. Nonbusiness income, together with interest and other related expense offsets, is allocated to other states if it is not attributable to Idaho. (3-20-97)

336. BUSINESS AND NONBUSINESS INCOME: APPLICATION OF DEFINITIONS (RULE 336).
Section 63-3027(a)(1), 63-3027(A)(4), Idaho Code

01. In General. The following applies the foregoing principles for purposes of determining whether particular income is business or nonbusiness income. (4-6-05)

02. Rent From Real and Tangible Personal Property. Rental income from real and tangible property is business income if the property for which the rental income was received is or was used in the taxpayer's trade or business and, therefore, is includable in the property factor under Rule 465 of these rules. (4-6-05)

03. Gains or Losses from Sales of Assets. Gain or loss from the sale, exchange or other disposition of real property or of tangible or intangible personal property is business income if the property while owned by the taxpayer was used in, or was otherwise included in the property factor of the taxpayer's trade or business. However, if the property was used to produce nonbusiness income, the gain or loss is nonbusiness income. (4-6-05)

04. Interest Income. Interest income from an intangible is business income if the intangible arises out of or was created in the regular course of the taxpayer's trade or business operations or if the purpose for acquiring and holding the intangible is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations. (4-6-05)

05. Dividends. Dividends from stock are business income if the stock arises out of or was acquired in the regular course of the taxpayer's trade or business operations or where the purpose of acquiring and holding the stock is an integral, functional, or operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations. (4-6-05)

06. Patent and Copyright Royalties. Royalties from patents and copyrights are business income if the patent or copyright arises out of or was created in the regular course of the taxpayer's trade or business operations or if the purpose for acquiring and holding the patent or copyright is an integral, functional, operative component of the taxpayer's trade or business operations, or otherwise materially contributes to the production of business income of the trade or business operations. (4-6-05)

337. -- 339. (RESERVED)

340. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: UNITARY BUSINESS PRINCIPLE (RULE 340).
Section 63-3027, Idaho Code

01. The Concept of a Unitary Business. (4-6-05)

a. A unitary business is a single economic enterprise that is made up either of separate parts of a single business entity or of a commonly controlled group of business entities that are sufficiently interdependent, integrated and interrelated through their activities so as to provide a synergy and mutual benefit that produces a sharing or exchange of value among them and a significant flow of value to the separate parts. This flow of value to a business entity located in Idaho that comes from being part of a unitary business conducted both within and without Idaho is what provides the constitutional due process "definite link and minimum connection" necessary for Idaho to apportion business income of the unitary business, even if that income arises in part from activities conducted outside Idaho. The business income of the unitary business is then apportioned to Idaho using an apportionment percentage provided by Section 63-3027, Idaho Code. (4-6-05)

b. This sharing or exchange of value may also be described as requiring that the operation of one (1) part of the business be dependent upon, or contribute to, the operation of another part of the business. Phrased in the disjunctive, the foregoing means that if the activities of one (1) business either contribute to the activities of another business or are dependent upon the activities of another business, those businesses are part of a unitary business. (4-11-06)

02. Constitutional Requirement for a Unitary Business. (4-6-05)

a. The sharing or exchange of value described in Subsection 340.01 of this rule that defines the scope of a unitary business requires more than the mere flow of funds arising out of a passive investment or from the financial strength contributed by a distinct business undertaking that has no operational relationship to the unitary business. (4-6-05)

b. In Idaho, the unitary business principle will be applied to the fullest extent allowed by the U.S. Constitution. The unitary business principle will not be applied to result in the combination of business activities or entities under circumstances where, if it were adverse to the taxpayer, the combination of such activities or entities

would not be allowed by the U.S. Constitution. (4-6-05)

03. Separate Trades or Businesses Conducted Within a Single Entity. A single entity may have more than one (1) unitary business. In such cases it is necessary to determine the business, or apportionable, income attributable to each separate unitary business as well as its nonbusiness income, which is specifically allocated. The business income of each unitary business is then apportioned by a formula that takes into consideration the in-state and the out-of-state factors that relate to the respective unitary business whose income is being apportioned. (4-6-05)

04. Unitary Business Unaffected by Formal Business Organization. A unitary business may exist within a single business entity or among a commonly controlled group of business entities. The relationship is to be determined by reference to the relationship that exists between all related and affiliated corporations, not just those corporations whose income and apportionment factors are required to be considered. For example, the relationship with foreign affiliates is to be considered even though a water's edge election is made. A related corporation may include insurance companies and fifty percent (50%) or less owned corporations. The scope of what is included in a commonly controlled group of business entities is set forth in Rule 344 of these rules. (4-6-05)

341. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: DETERMINATION OF A UNITARY BUSINESS (RULE 341).
Section 63-3027, Idaho Code

01. In General. Unity can be established under any one (1) of the judicially acceptable tests (Butler Brothers, Edison California Stores, Container, etc.), and cannot be denied merely because another of those tests does not simultaneously apply. (4-11-06)

02. Significant Flows of Value. A unitary business is characterized by significant flows of value evidenced by factors such as those described in Mobil Oil Corp. v. Vermont, 445 U.S. 425 (1980): functional integration, centralization of management, and economies of scale. These factors provide evidence of whether the business activities operate as an integrated whole or exhibit substantial mutual interdependence. Facts suggesting the presence of the factors mentioned above should be analyzed in combination for their cumulative effect and not in isolation. A particular business operation may be suggestive of one (1) or more of the factors mentioned above. (4-11-06)

342. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: DESCRIPTION AND ILLUSTRATION OF FUNCTIONAL INTEGRATION, CENTRALIZATION OF MANAGEMENT AND ECONOMIES OF SCALE (RULE 342).
Section 63-3027, Idaho Code

01. Functional Integration. Functional integration refers to transfers between, or pooling among, business activities that significantly affect the operation of the business activities. Functional integration includes, but is not limited to, transfers or pooling with respect to the unitary business's products or services, technical information, marketing information, distribution systems, purchasing, and intangibles such as patents, trademarks, service marks, copyrights, trade secrets, know-how, formulas, and processes. There is no specific type of functional integration that must be present. The following is a list of examples of business operations that can support the finding of functional integration. The order of the list does not establish a hierarchy of importance. (4-6-05)

a. Sales, exchanges, or transfers (collectively "sales") of products, services, or intangibles between business activities provide evidence of functional integration. The significance of the intercompany sales to the finding of functional integration will be affected by the character of what is sold and the percentage of total sales or purchases represented by the intercompany sales. For example, sales among business entities that are part of a vertically integrated unitary business are indicative of functional integration. Functional integration is not negated by the use of a readily determinable market price to effect the intercompany sales, because such sales can represent an assured market for the seller or an assured source of supply for the purchaser. (4-6-05)

b. Common Marketing. The sharing of common marketing features among business entities is an indication of functional integration when such marketing results in significant mutual advantage. Common marketing exists when a substantial portion of the business entities' products, services, or intangibles are distributed or sold to a common customer, when the business entities use a common trade name or other common identification, or when the

business entities seek to identify themselves to their customers as a member of the same enterprise. The use of a common advertising agency or a commonly owned or controlled in-house advertising office does not by itself establish common marketing that is suggestive of functional integration. (Such activity, however, is relevant to determining the existence of economies of scale and centralization of management.) (4-6-05)

c. Transfer or Pooling of Technical Information or Intellectual Property. Transfers or pooling of technical information or intellectual property, such as patents, copyrights, trademarks and service marks, trade secrets, processes or formulas, know-how, research, or development, provide evidence of functional integration when the matter transferred is significant to the businesses' operations. (4-6-05)

d. Common Distribution System. Use of a common distribution system by the business entities, under which inventory control and accounting, storage, trafficking, or transportation are controlled through a common network provides evidence of functional integration. (4-6-05)

e. Common Purchasing. Common purchasing of substantial quantities of products, services, or intangibles from the same source by the business entities, particularly where the purchasing results in significant cost savings or where products, services, or intangibles are not readily available from other sources and are significant to each entity's operations or sales, provides evidence of functional integration. (4-6-05)

f. Common or Intercompany Financing. Significant common or intercompany financing, including the guarantee by, or the pledging of the credit of, one (1) or more business entities for the benefit of another business entity or entities provides evidence of functional integration, if the financing activity serves an operational purpose of both borrower and lender. Lending which serves an investment purpose of the lender does not necessarily provide evidence of functional integration. (See Subsection 342.02 of this rule for discussion of centralization of management.) (4-6-05)

02. Centralization of Management. Centralization of management exists when directors, officers, or other management employees jointly participate in the management decisions that affect the respective business activities and that may also operate to the benefit of the entire economic enterprise. Centralization of management can exist whether the centralization is effected from a parent entity to a subsidiary entity, from a subsidiary entity to a parent entity, from one (1) subsidiary entity to another, from one (1) division within a single business entity to another division within a business entity, or from any combination of the foregoing. Centralization of management may exist even when day-to-day management responsibility and accountability has been decentralized, so long as the management has an ongoing operational role with respect to the business activities. An operational role can be effected through mandates, consensus building, or an overall operational strategy of the business, or any other mechanism that establishes joint management. (4-6-05)

a. Facts Providing Evidence of Centralization of Management. Evidence of centralization of management is provided when common officers participate in the decisions relating to the business operations of the different segments. Centralization of management may exist when management shares or applies knowledge and expertise among the parts of the business. Existence of common officers and directors, while relevant to a showing of centralization of management, does not alone provide evidence of centralization of management. Common officers are more likely to provide evidence of centralization of management than are common directors. (4-11-06)

b. Stewardship Distinguished. Centralized efforts to fulfill stewardship oversight are not evidence of centralization of management. Stewardship oversight consists of those activities that any owner would take to review the performance of or safeguard an investment. Stewardship oversight is distinguished from those activities that an owner may take to enhance value by integrating one (1) or more significant operating aspects of one (1) business activity with the other business activities of the owner. For example, implementing reporting requirements or mere approval of capital expenditures may evidence only stewardship oversight. (4-11-06)

03. Economies of Scale. Economies of scale refers to a relation among and between business activities resulting in a significant decrease in the average per unit cost of operational or administrative functions due to the increase in operational size. Economies of scale may exist from the inherent cost savings that arise from the presence of functional integration or centralization of management. The following are examples of business operations that can support the finding of economies of scale. The order of the list does not establish a hierarchy of importance. (4-6-05)

a. Centralized Purchasing. Centralized purchasing designed to achieve savings due to the volume of purchases, the timing of purchases, or the interchangeability of purchased items among the parts of the business engaging in the purchasing provides evidence of economies of scale. (4-6-05)

b. Centralized Administrative Functions. The performance of traditional corporate administrative functions, such as legal services, payroll services, pension and other employee benefit administration, in common among the parts of the business may result in some degree of economies of scale. A business entity that secures savings in the performance of corporate administrative services due to its affiliation with other business entities that it would not otherwise reasonably be able to secure on its own because of its size, financial resources, or available market, provides evidence of economies of scale. (4-6-05)

343. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: INDICATORS OF A UNITARY BUSINESS (RULE 343).
Section 63-3027, Idaho Code

01. Same Type of Business. Business activities that are in the same general line of business generally constitute a single unitary business, for example, a multistate grocery chain. (4-6-05)

02. Steps in a Vertical Process. Business activities that are part of different steps in a vertically structured business almost always constitute a single unitary business. For example, a business engaged in the exploration, development, extraction, and processing of a natural resource and the subsequent sale of a product based upon the extracted natural resource, is engaged in a single unitary business, regardless of the fact that the various steps in the process are operated substantially independently of each other with only general supervision from the business's executive offices. (4-6-05)

03. Strong Centralized Management. Business activities that might otherwise be considered as part of more than one (1) unitary business may constitute one (1) unitary business when there is a strong centralized management, coupled with the existence of centralized departments for such functions as financing, advertising, research, or purchasing. Strong centralized management exists when a central manager or group of managers makes substantially all of the operational decisions of the business. For example, some businesses conducting diverse lines of business may properly be considered as engaged in only one (1) unitary business when the central executive officers are actively involved in the operations of the various business activities and there are centralized offices that perform for the business activities the normal matters that a truly independent business would perform for itself, such as personnel, purchasing, advertising, or financing. (4-6-05)

344. PRINCIPLES FOR DETERMINING THE EXISTENCE OF A UNITARY BUSINESS: COMMONLY CONTROLLED GROUP OF BUSINESS ENTITIES (RULE 344).
Section 63-3027, Idaho Code

01. In General. Separate corporations can be a part of a unitary business only if they are members of a commonly controlled group. (4-6-05)

02. Commonly Controlled Group. A "commonly controlled group" means any of the following: (4-6-05)

a. A parent corporation and any one (1) or more corporations or chains of corporations, connected through stock ownership (or constructive ownership) with the parent, but only if: (4-6-05)

i. The parent owns stock possessing more than fifty percent (50%) of the voting power of a least one (1) corporation, and, if applicable, (4-6-05)

ii. Stock cumulatively possessing more than fifty percent (50%) of the voting power of each of the corporations, except the parent, is owned by the parent, one (1) or more corporations described in Subparagraph 344.02.a.i., of this rule, or one (1) or more other corporations that satisfy the conditions of this subparagraph. (4-6-05)

b. Any two (2) or more corporations, if stock, possessing more than fifty percent (50%) of the voting

power of the corporations is owned, or constructively owned, by the same person. (4-6-05)

c. Any two (2) or more corporations that constitute stapled entities. (4-6-05)

i. For purposes of this paragraph, "stapled entities" means any group of two (2) or more corporations if more than fifty percent (50%) of the ownership or beneficial ownership of the stock possessing voting power in each corporation consists of stapled interests. (4-6-05)

ii. Two (2) or more interests are stapled interests if, by reason of form of ownership, restrictions on transfer, or other terms or conditions, in connection with the transfer of one (1) of the interests the other interest or interests are also transferred or required to be transferred. (4-6-05)

d. Any two (2) or more corporations, if stock possessing more than fifty percent (50%) of the voting power of the corporations is cumulatively owned (without regard to the constructive ownership rules of Paragraph 344.05.a., of this rule) by, or for the benefit of, members of the same family. Members of the same family are limited to an individual, the individual's spouse, parents, brothers, sisters, grandparents, children and grandchildren, and their respective spouses. (4-6-05)

03. Elections and Terminations. (4-6-05)

a. If, in the application of Subsection 344.02 of this rule, a corporation is a member of more than one (1) commonly controlled group of corporations, the corporation elects to be treated as a member of only the commonly controlled group (or part thereof) with respect to which it has a unitary business relationship. If the corporation has a unitary business relationship with more than one (1) of those groups, it elects to be treated as a member of only one (1) of the commonly controlled groups with respect to which it has a unitary business relationship. This election remains in effect until the unitary business relationship between the corporation and the rest of the members of its elected commonly controlled group is discontinued, or unless revoked with the approval of the State Tax Commission. (4-6-05)

b. Membership in a commonly controlled group is to be treated as terminated in any year, or fraction thereof, in which the conditions of Subsection 344.02 of this rule are not met, except as follows: (4-6-05)

i. When stock of a corporation is sold, exchanged, or otherwise disposed of, the membership of a corporation in a commonly controlled group will not be terminated, if the requirements of Subsection 344.02 of this rule are again met immediately after the sale, exchange, or disposition. (4-6-05)

ii. The State Tax Commission may treat the commonly controlled group as remaining in place if the conditions of Subsection 344.02 of this rule are again met within a period not to exceed two (2) years. (4-6-05)

04. Controlled. A taxpayer may exclude some or all corporations included in a "commonly controlled group" by reason of Paragraph 344.02.d., of this rule by showing that those members of the group are not controlled directly or indirectly by the same interest, within the meaning of the same phrase in Section 482 of the Internal Revenue Code. For purposes of this subsection, the term "controlled" includes any kind of control, direct or indirect, whether legally enforceable, and however exercisable or exercised. (4-6-05)

05. Stock Ownership. Except as otherwise provided, stock is "owned" when title to the stock is directly held or if the stock is constructively owned. (4-6-05)

a. An individual constructively owns stock that is owned by any of the following: (4-6-05)

i. The individual's spouse. (4-6-05)

ii. Children, including adopted children, of that individual or the individual's spouse, who have not attained the age of twenty-one (21) years. (4-6-05)

iii. An estate or trust, of which the individual is an executor, trustee, or grantor, to the extent that the estate or trust is for the benefit of that individual's spouse or children. (4-6-05)

b. Stock owned by a corporation, or a member of a controlled group of which the corporation is the parent corporation, is constructively owned by any shareholder owning stock that represents more than fifty percent (50%) of the voting power of the corporation. (4-6-05)

c. In the application of Paragraph 344.02.d., of this rule, (dealing with stock possessing voting power held by members of the same family), if more than fifty percent (50%) of the stock possessing voting power of a corporation is, in the aggregate, owned by or for the benefit of members of the same family, stock owned by that corporation is to be treated as constructively owned by members of that family in the same ratio as the proportion of their respective ownership of stock possessing voting power in that corporation to all of such stock of that corporation. (4-6-05)

d. Except as otherwise provided, stock owned by a partnership is constructively owned by any partner, other than a limited partner, in proportion to the partner's capital interest in the partnership. For this purpose, a partnership is treated as owning proportionately the stock owned by any other partnership in which it has a tiered interest, other than as a limited partner. (4-6-05)

e. In any case where a member of a commonly controlled group, or shareholders, officers, directors, or employees of a member of a commonly controlled group, is a general partner in a limited partnership, stock held by the limited partnership is constructively owned by a limited partner to the extent of its capital interest in the limited partnership. (4-6-05)

f. In the application of Paragraph 344.02.d., of this rule (dealing with stock possessing voting power held by members of the same family), stock held by a limited partnership is constructively owned by a limited partner to the extent of the limited partner's capital interest in the limited partnership. (4-6-05)

06. Terms. For purposes of the definition of a commonly controlled group, each of the following applies: (4-6-05)

a. "Corporation" means a corporation as defined in Section 63-3006, Idaho Code. (4-6-05)

b. "Person" means a person as defined in Section 63-3005, Idaho Code. (4-6-05)

c. "Voting power" means the power of all classes of stock entitled to vote that possess the power to elect the membership of the board of directors of the corporation. (4-6-05)

d. "More than fifty percent (50%) of the voting power" means voting power sufficient to elect a majority of the membership of the board of directors of the corporation. (4-6-05)

e. "Stock possessing voting power" includes stock where ownership is retained but the actual voting power is transferred in either of the following manners: (4-6-05)

i. For one (1) year or less. (4-6-05)

ii. By proxy, voting trust, written shareholder agreement, or by similar device, where the transfer is revocable by the transferor. (4-6-05)

f. In the case of an entity treated as a corporation under Paragraph 344.06.a., of this rule, "stock possessing voting power" refers to an instrument, contract, or similar document demonstrating an ownership interest in that entity that confers power in the owner to cast a vote in the selection of the management of that entity. (4-6-05)

345. -- 349. (RESERVED)

350. PRORATION OF DEDUCTIONS (RULE 350).
Section 63-3027, Idaho Code

01. In General. In most cases a taxpayer's allowable deduction applies only to the business income

arising from a particular trade or business or to a particular item of nonbusiness income. In some cases an allowable deduction applies to the business income of more than one trade or business, to several items of nonbusiness income, or to both. In these cases the deduction is to be prorated among the trades or businesses and the items of nonbusiness income in a manner that fairly distributes the deduction among the classes of income to which it applies. (3-20-97)

02. Year to Year Consistency. If a taxpayer departs from or modifies the method used for prorating any deduction in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. (3-20-97)

03. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in applying or prorating any deduction, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. (3-20-97)

351. -- 354. (RESERVED)

355. APPLICATION OF SECTION 63-3027 -- APPORTIONMENT (RULE 355).
Section 63-3027, Idaho Code. If a corporation has business activity both within and without Idaho, and is taxable in another state as a result of this business activity, the portion of the net income or net loss derived from sources in Idaho will be determined by apportionment pursuant to Section 63-3027, Idaho Code. (3-20-97)

356. -- 359. (RESERVED)

360. APPLICATION OF SECTION 63-3027 -- COMBINED REPORT (RULE 360).
Section 63-3027, Idaho Code. If a particular trade or business is carried on by a corporation and one (1) or more affiliates, nothing in these rules is to preclude using a combined report in which the entire business income of the trade or business is apportioned pursuant to Section 63-3027, Idaho Code. The use of the combined report is restricted to C corporations. (3-20-97)

361. -- 364. (RESERVED)

365. USE OF THE COMBINED REPORT (RULE 365).
Section 63-3027, Idaho Code

01. In General. Use of the combined report does not disregard the separate corporate identities of the members of the unitary group. The combined report is simply the computation, by the formula apportionment method, of the unitary business income reportable to Idaho by the separate corporate members of the unitary group. For purposes of this rule, included corporation means a corporation required to file an Idaho income tax return as a result of its own activities in Idaho and using a combined report. (3-20-97)

02. Separate Computations. Each included corporation will: (3-20-97)

a. Be responsible for computing and paying its tax including any minimum tax due pursuant to Sections 63-3025 and 63-3025A, Idaho Code, as determined by the combined report; (3-20-97)

b. Separately compute Idaho tax credits and limitations, except the investment tax credit, which is applied pursuant to Section 63-3029B, Idaho Code, and Rules 710 through 717 of these rules; and (3-20-97)

c. Separately determine and pay the permanent building fund tax required by Section 63-3082, Idaho Code. (3-20-97)

03. Net Operating Loss. The Idaho net operating loss carryover or carryback for each included corporation is limited to its share of the combined net operating loss apportioned to Idaho for each taxable year. See Rule 200 of these rules. (3-20-97)

04. Nexus. Each corporation is to determine whether it has nexus in Idaho based on its activities or

those conducted on its behalf. (3-20-97)

05. Throwback Sales. When a corporation's activities conducted in a state are within the protection of Public Law 86-272, the principle established in Appeal of Joyce, Inc., California State Board of Equalization, November 23, 1966, commonly known as the Joyce Rule, applies. Therefore, only the activities conducted by or on behalf of the corporation is to be considered for this purpose. (3-20-97)

06. Filing Returns. Each included corporation may file a separate return reporting its share of the combined net income or loss of the unitary group. In the alternative, the unitary group may elect to file a group return for all the included corporations. This election is allowed as a convenience to the taxpayer. Its use does not preclude the need for the separate recognition and computational requirements in this rule. (3-20-97)

07. Dividends and Other Intangible Income. Dividends and other intangible income is to be included in income subject to apportionment to the extent they constitute business income received from companies not included in the combined report. However, a dividend deduction and factor adjustments are allowed to the extent dividends received are paid from prior year earnings previously included in income subject to apportionment. Part I, Subchapter C, Internal Revenue Code, is applied to determine the taxable year in which the earnings and profits were earned that paid the dividend. It is the taxpayer's responsibility to prove that the dividend, or a portion of it, was previously included in Idaho apportionable income. (4-6-05)

366. -- 369. (RESERVED)

370. APPLICATION OF SECTION 63-3027 -- ALLOCATION (RULE 370).
Section 63-3027, Idaho Code. A taxpayer subject to the taxing jurisdiction of Idaho allocates all of its nonbusiness income or loss within or without Idaho pursuant to Section 63-3027, Idaho Code. (3-20-97)

371. -- 374. (RESERVED)

375. CONSISTENCY AND UNIFORMITY IN REPORTING (RULE 375).
Section 63-3027, Idaho Code

01. Year to Year Consistency. If a taxpayer departs from or modifies the method used for classifying income as business income or nonbusiness income in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. (3-20-97)

02. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in classifying business and nonbusiness income, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. (3-20-97)

376. -- 384. (RESERVED)

385. TAXABLE IN ANOTHER STATE: IN GENERAL (RULE 385).
Section 63-3027(c), Idaho Code

01. In General. A taxpayer is subject to the allocation and apportionment provisions of Section 63-3027, Idaho Code, if it has income from business activity that is taxable both within and without Idaho. A taxpayer's income from business activity is taxable without Idaho if the taxpayer is taxable in another state within the meaning of Section 63-3027(c), Idaho Code, as a result of that business activity. A taxpayer is taxable in another state if it meets either of the following tests: (3-20-97)

a. The taxpayer is subject to one (1) of the taxes specified in Section 63-3027(c)(1), Idaho Code, as a result of its business activity in another state; or (3-20-97)

b. Another state has jurisdiction to subject the taxpayer to a net income tax as a result of its business activity, regardless of whether the state imposes the tax on the taxpayer. (3-20-97)

02. Not Taxable in Another State. A taxpayer is not taxable in another state with respect to a particular trade or business merely because the taxpayer conducts activities in the other state pertaining to the production of nonbusiness income or business activities relating to a separate trade or business. (3-20-97)

386. -- 389. (RESERVED)

390. TAXABLE IN ANOTHER STATE: WHEN A TAXPAYER IS SUBJECT TO TAX (RULE 390).
Section 63-3027(c)(1), Idaho Code

01. Subject to Tax. A taxpayer is subject to one of the taxes specified in Section 63-3027(c)(1), Idaho Code, if it carries on business activity in a state and that state imposes one of those taxes on it. A taxpayer that claims it is subject to one (1) of the taxes specified in Section 63-3027(c)(1), Idaho Code, is to furnish the Tax Commission, at its request, evidence to support this claim. The Tax Commission may request that evidence include proof the taxpayer has filed the required tax return in the other state and has paid any taxes imposed by the law of that state. The taxpayer's failure to provide proof may be considered in determining whether the taxpayer is subject to one of the taxes specified in Section 63-3027(c)(1), Idaho Code. (3-20-97)

02. Concept of Taxability. The concept of taxability in another state is based on the premise that every state in which the taxpayer transacts business may impose an income tax even though every state does not do so. A state may impose other types of taxes as a substitute for an income tax. Only those taxes specified in Section 63-3027(c)(1), Idaho Code, that are revenue producing rather than regulatory in nature is to be considered in determining taxability in another state. (3-20-97)

03. Examples of Taxability. (3-20-97)

a. State A requires each corporation that qualifies or registers in State A to pay the Secretary of State an annual license fee or tax for the privilege of doing business in the state, regardless of whether it exercises the privilege. The amount paid is determined according to the total authorized capital stock of the corporation; the rates progressively increase. The statute sets a minimum fee of fifty dollars ($50) and a maximum fee of five hundred dollars ($500). Failure to pay the tax bars a corporation from using the state courts to enforce its rights. State A also imposes a corporation income tax. Corporation X is qualified in State A and pays the required fee to the Secretary of State, but does not transact business in State A, although it may use the courts of State A. Corporation X is not taxable in State A. (3-20-97)

b. Assume the same facts as in Subsection 390.03.a., except that Corporation X is subject to and pays the corporation income tax. Payment is prima facie evidence that Corporation X is subject to the net income tax of State A and is taxable in State A. (3-20-97)

c. State B requires all corporations qualified or registered in State B to pay the Secretary of State an annual permit fee or tax for doing business in the state. The base of the fee or tax is the sum of: outstanding capital stock, and surplus and undivided profits. The fee or tax base attributable to State B is determined by a three (3) factor apportionment formula. Corporation X, which operates a plant in State B, pays the required fee or tax to the Secretary of State. Corporation X is taxable in State B. (3-20-97)

d. State A has a corporation franchise tax measured by net income for the privilege of doing business in that state. Corporation X files a return based on its business activity in the state, but the amount of computed liability is less than the minimum tax. Corporation X pays the minimum tax. Corporation X is subject to State A's corporation franchise tax. (3-20-97)

04. Voluntary Tax Payment. A taxpayer is not subject to one (1) of the taxes specified in Section 63-3027(c)(1), Idaho Code, if the taxpayer voluntarily files and pays the tax when not required to do so by the laws of that state. (3-20-97)

05. Minimum Tax or Fee. A taxpayer is not subject to one (1) of the taxes specified in Section 63-3027(c)(1), Idaho Code if it pays a minimal fee for qualification, organization, or the privilege of doing business in that state, but: (3-20-97)

a. Does not transact business in that state; or (3-20-97)

b. Engages in business activity not sufficient for nexus, and the minimum tax bears no relationship to the taxpayer's business activity within that state. (3-20-97)

c. Example. State A has a corporation franchise tax measured by net income for the privilege of doing business in that state. Corporation X files a return and pays the fifty dollar ($50) minimum tax, although it does not transact business in State A. Corporation X is not taxable in State A. (3-20-97)

391. -- 394. (RESERVED)

395. TAXABLE IN ANOTHER STATE: WHEN A STATE HAS JURISDICTION TO SUBJECT A TAXPAYER TO A NET INCOME TAX (RULE 395).
Section 63-3027(c)(2), Idaho Code

01. In General. The test in Section 63-3027(c)(2), Idaho Code, applies if the taxpayer's business activity is sufficient to give the state jurisdiction to impose a net income tax by reason of the business activity pursuant to the Constitution and statutes of the United States. Jurisdiction to tax is not present if the state is prohibited from imposing the tax due to Public Law 86-272, Title 15, Sections 381 through 385, United States Code. (3-20-97)

a. When determining if a state has jurisdiction to subject a taxpayer to a net income tax, the jurisdictional standards applicable to a state of the United States is to also apply to the District of Columbia, the Commonwealth of Puerto Rico, any territory or possession of the United States, and any foreign country or political subdivision thereof. (3-20-97)

b. The provisions of a treaty between a state and the United States are not considered when determining jurisdiction to tax. (3-20-97)

02. Example. Corporation X is engaged in manufacturing farm equipment in State A and in Foreign Country B. Both State A and Foreign Country B impose a net income tax but Foreign Country B exempts corporations engaged in manufacturing farm equipment. Corporation X is subject to the jurisdiction of State A and Foreign Country B. (3-20-97)

396. -- 449. (RESERVED)

450. APPORTIONMENT FORMULA (RULE 450).
Section 63-3027(i), Idaho Code

01. Apportionment Factors. All of a taxpayer's business income is to be apportioned to Idaho using the apportionment formula set forth in Section 63-3027(i), Idaho Code. The elements of the apportionment formula are the property factor, the payroll factor, and the sales factor. See Rules 460 through 559 of these rules for general rules applicable to these factors. See Rules 560 through 599 of these rules for special rules and exceptions to the apportionment formula. The denominator of each factor may not exceed the sum of the numerators of that factor. (3-20-97)

02. Intercompany Transactions. Intercompany transactions are to be eliminated to the extent necessary to properly compute the numerators and the denominators of the apportionment factors of a combined group. The apportionment factor computation may not include property, payroll, or receipts of any affiliated corporation unless its income is included in the combined report. (3-29-10)

03. Rounding. The individual factors and the average apportionment factor is to be calculated six (6) digits to the right of the decimal point. If the seventh digit is five (5) or greater, the sixth digit is rounded to the next higher number. If the seventh digit is less than five (5), the sixth digit remains unchanged and any digits remaining to its right are dropped. (3-20-97)

04. Verification of Factors. The taxpayer is to make available the fifty-one (51) state apportionment factor detail when requested by the Tax Commission. Failure to do so may justify the imposition of the negligence penalty provided by Section 63-3046(a), Idaho Code. (7-1-98)

451. -- 459. (RESERVED)

460. PROPERTY FACTOR: IN GENERAL (RULE 460).
Section 63-3027(k), Idaho Code

01. In General. The property factor of the apportionment formula for each trade or business of the taxpayer includes all real and tangible personal property owned or rented by the taxpayer and used during the taxable year in the regular course of its trade or business. The term real and tangible personal property includes land, buildings, fixtures, inventory, equipment, and other property of a tangible nature, but does not include coin or currency. (3-20-97)

02. Nonbusiness Income. Property used in connection with the production of nonbusiness income is to be excluded from the property factor. Property used both in the regular course of the taxpayer's trade or business and in the production of nonbusiness income is to be included in the factor only to the extent the property is used in the regular course of the taxpayer's trade or business. The method of determining that portion of the value to be included in the factor depends on the facts of each case. (3-20-97)

03. Average Value. The property factor is to reflect the average value of property includable in the factor. See Rule 490 of these rules. (3-20-97)

04. Denominator. The denominator of the factor may not exceed the sum of all the numerators. (3-20-97)

461. -- 464. (RESERVED)

465. PROPERTY FACTOR: PROPERTY USED FOR THE PRODUCTION OF BUSINESS INCOME (RULE 465).
Section 63-3027(k), Idaho Code

01. In General. (3-20-97)

a. Property is to be included in the property factor if it is used, is available for use, or capable of being used during the taxable year in the regular course of the taxpayer's trade or business. Property held as reserves or standby facilities or property held as a reserve source of materials is to be included in the factor. For example, a plant temporarily idle or raw material reserves not currently being processed are includable in the factor. (3-20-97)

b. Property or equipment under construction during the taxable year, except inventoriable goods in process, is to be excluded from the factor until the property is used in the regular course of the taxpayer's trade or business. (3-20-97)

c. If the property is partially used in the regular course of the taxpayer's trade or business while under construction, the value of the property is to be included in the property factor to the extent used. (3-20-97)

d. Property used in the regular course of the taxpayer's trade or business is to remain in the property factor until it is permanently withdrawn by an identifiable event such as its sale, abandonment, or any event or circumstance that renders the property incapable of being used in the regular course of the taxpayer's trade or business. (3-20-97)

02. Examples. (3-20-97)

a. A taxpayer closed its manufacturing plant in State X and held the property for sale. The property remained vacant until its sale one (1) year later. The value of the manufacturing plant is included in the property factor until the plant is sold. (3-20-97)

b. Assume the same facts as in Subsection 465.02.a., except the property was rented until the plant was sold. The plant is included in the property factor until the plant is sold. (3-20-97)

466. -- 469. (RESERVED)

470. PROPERTY FACTOR: CONSISTENCY IN REPORTING (RULE 470).
Section 63-3027(k), Idaho Code

01. Year to Year Consistency. If a taxpayer departs from or modifies the method used for valuing property, or for excluding or including property in the property factor in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. (3-20-97)

02. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in valuing property and in excluding or including property in the property factor, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. (3-20-97)

471. -- 474. (RESERVED)

475. PROPERTY FACTOR: NUMERATOR (RULE 475).
Section 63-3027(k), Idaho Code

01. In General. The numerator of the property factor is to include the average value of the real and tangible personal property owned or rented by the taxpayer and used in Idaho during the taxable year in the regular course of the taxpayer's trade or business. (3-20-97)

02. Property in Transit. Property of the taxpayer that is in transit between locations is to be considered to be at the destination for purposes of the property factor. If property in transit between a buyer and seller is included by a taxpayer in the denominator of its property factor, it is to be included in the numerator according to the state of destination. (3-20-97)

03. Mobile or Movable Property. (3-20-97)

a. The value of mobile or movable property such as construction equipment, trucks, or leased electronic equipment located within and without Idaho during the taxable year will be determined on the basis of total time and use in Idaho as a percentage of total time and use everywhere. (3-20-97)

b. An automobile assigned to a traveling employee is to be included in the numerator of the state to which the employee's compensation is assigned for the payroll factor or in the numerator of the state in which the automobile is licensed. (3-20-97)

c. The value of aircraft used within and without Idaho during the taxable year will be determined by multiplying the value of the aircraft by the ratio of departures from locations in Idaho to total departures. (7-1-98)

476. -- 479. (RESERVED)

480. PROPERTY FACTOR: VALUATION OF OWNED PROPERTY (RULE 480).
Section 63-3027(l), Idaho Code

01. In General. Property owned by a taxpayer is to be valued at its original cost. As a general rule, original cost is deemed to be the basis of the property for federal income tax purposes, prior to any federal adjustments at the time of acquisition and adjusted by subsequent capital additions or improvements and partial disposition, by reason of sale, exchange, abandonment, etc. However, capitalized intangible drilling and development costs of producing property is to be included in the property factor whether or not they have been expensed for either federal or state tax purposes. (3-20-97)

02. Examples. (3-20-97)

a. A taxpayer acquired a factory building in Idaho at a cost of five hundred thousand dollars ($500,000). Eighteen (18) months later the taxpayer remodeled the building for a cost of one hundred thousand dollars ($100,000). The taxpayer files its return on the calendar year basis. The taxpayer claimed a depreciation deduction of twenty-two thousand dollars ($22,000) on its current year return. The value of the building included in the numerator and denominator of the property factor is six hundred thousand dollars ($600,000). The depreciation deduction is not taken into account in determining the value of the building for purposes of the factor. (3-20-97)

b. During the current taxable year, X Corporation merged into Y Corporation in a tax-free reorganization pursuant to the Internal Revenue Code. At the time of the merger, X Corporation owned a factory that it built five (5) years earlier at a cost of one million dollars ($1,000,000). X has been depreciating the factory at the rate of two percent (2%) per year. Its basis in X's hands at the time of the merger is nine hundred thousand dollars ($900,000). Since Y acquired the property in a tax-free transaction, Y includes the property in its property factor at X's original cost of one million dollars ($1,000,000). (3-20-97)

03. Unknown Original Cost. If the original cost of property cannot be determined, the property is included in the factor at its fair market value on the date it was acquired. (3-20-97)

04. Inventory. Inventory is to be included in the factor according to the valuation method used for federal income tax purposes. (3-20-97)

05. Gifts or Inheritance. Property acquired by gift or inheritance is to be included in the factor at its basis pursuant to the Internal Revenue Code. (3-20-97)

481. -- 484. (RESERVED)

485. PROPERTY FACTOR: VALUATION OF RENTED PROPERTY (RULE 485).
Section 63-3027(l), Idaho Code

01. In General. Property rented by the taxpayer is valued at eight (8) times its net annual rental rate. The net annual rental rate is the annual rental rate paid by the taxpayer for the property, less the aggregate annual subrental rates paid by subtenants. Subrents are not deducted if they constitute business income because the property that produces the subrents is used in the regular course of the taxpayer's trade or business when it is producing the income. Accordingly, there is no reduction in its value. See Rules 560 and 565 of these rules for special rules when using the net annual rental rate produces a negative or clearly inaccurate value or when the taxpayer uses property at no charge or rents it at a nominal rental rate. (4-6-05)

02. Examples of Subrents. (3-20-97)

a. A taxpayer receives subrents from a bakery concession in a food market operated by the taxpayer. Since the subrents are business income, they are not deducted from rent paid by the taxpayer for the food market. (3-20-97)

b. A taxpayer rents a five (5) story office building primarily for use in its multistate business. It uses three (3) floors for its offices and subleases two (2) floors to various other businesses on a short-term basis because it anticipates it will need those two (2) floors for future expansion of its multistate business. The rental of all five (5) floors is integral to the operation of the taxpayer's trade or business. Since the subrents are business income, they are not deducted from the rent paid by the taxpayer. (4-6-05)

03. Annual Rental Rate. Annual rental rate is the amount paid as rent for property for a twelve (12) month period. If property is rented for less than a twelve (12) month period, the rent paid for the rental period constitutes the annual rental rate for the taxable year. However, if a taxpayer has rented property for a period of twelve (12) months or more and the current taxable year covers a period of less than twelve (12) months, the rent paid for the short taxable year is to be annualized. If the rental period is for less than twelve (12) months, the rent may not be annualized beyond its rental period. If the rental period is on a month-to-month basis, the rent may not be annualized. (4-6-05)

04. Examples of Annual Rental Rate. (3-20-97)

a. Taxpayer A, which ordinarily files its returns based on a calendar year, is merged into Taxpayer B on April 30. The net rent paid pursuant to a lease with five (5) years remaining is two thousand five hundred dollars ($2,500) a month. The rent for the short taxable year January 1 to April 30 is ten thousand dollars ($10,000). After the rent is annualized the net rent is thirty thousand dollars ($30,000) or ($2,500 x 12). (3-20-97)

b. Assume the same facts as in Paragraph 485.04.a., of this rule except the lease would have terminated on August 31. In this example, the annualized net rent is twenty thousand dollars ($20,000) or ($2,500 x 8). (4-6-05)

05. Annual Rent. Annual rent is the sum of money or other consideration payable, directly or indirectly, by the taxpayer or for the taxpayer's benefit for the use of the property and includes: (3-20-97)

a. Any amount payable for the use of real or tangible personal property whether the amount is a fixed sum of money or a percentage of sales, profits, or otherwise. (3-20-97)

b. Any amount payable as additional rent or in lieu of rents, such as interest, taxes, insurance, repairs or any other items required to be paid by the terms of the lease or other arrangement, not including amounts paid as service charges, such as utilities, janitor services, etc. If a payment includes rent and other charges not separately stated, the amount of the rent is to be determined by considering the relative values of the rent and the other items. (3-20-97)

06. Examples of Annual Rent. (3-20-97)

a. Pursuant to the terms of a lease, a taxpayer pays a lessor one thousand dollars ($1,000) per month as a base rental and at the end of the year pays the lessor one percent (1%) of its gross sales of four hundred thousand dollars ($400,000). The annual rent is sixteen thousand dollars ($16,000) or ($12,000 + (1% x $400,000)). (3-20-97)

b. Pursuant to the terms of a lease, a taxpayer pays a lessor twelve thousand dollars ($12,000) a year for rent, plus taxes of two thousand dollars ($2,000) and mortgage interest of one thousand dollars ($1,000). The annual rent is fifteen thousand dollars ($15,000). (3-20-97)

c. A taxpayer stores part of its inventory in a public warehouse. The total charge for the year is one thousand dollars ($1,000), of which seven hundred dollars ($700) is for storage space and three hundred dollars ($300) is for inventory insurance, handling and shipping charges, and C.O.D. collections. The annual rent is seven hundred dollars ($700). (3-20-97)

07. Exclusions. Annual rent does not include any of the following: (3-20-97)

a. Incidental day-to-day expenses such as hotel or motel accommodations, daily rental of automobiles, etc. (3-20-97)

b. Royalties based on extraction of natural resources, whether represented by delivery or purchase. For this purpose, a royalty includes any consideration conveyed or credited to a holder of an interest in property that constitutes a sharing of current or future production of natural resources from the property, whether designated as a royalty, advance royalty, rental, or otherwise. (3-20-97)

08. Leasehold Improvements. Leasehold improvements is to be treated as property owned by the lessee regardless of whether the lessee is entitled to remove the improvements or they revert to the lessor when the lease expires. The original cost of leasehold improvements is to be included in the lessee's factor. (3-20-97)

09. Safe Harbor Lease. Property subject to a safe harbor lease will be reported in the factor of the actual user of the property at original acquisition cost. (3-20-97)

486. -- 489. (RESERVED)

490. PROPERTY FACTOR: AVERAGING PROPERTY VALUES (RULE 490).
Section 63-3027(m), Idaho Code

01. In General. The average value of property owned by a taxpayer is to be determined by averaging the values at the beginning and end of the taxable year. (3-20-97)

02. Monthly Averaging. The Tax Commission may require or allow averaging by monthly values if that method of averaging is required to properly reflect the average value of the taxpayer's property for the taxable year. Averaging by monthly values generally applies if there are substantial fluctuations in the property values during the taxable year or if property is acquired or disposed of during the taxable year. (3-20-97)

03. Rented Property. Rented property is averaged automatically by determining the net annual rental rate of the property as set forth in Rule 485 of these rules. (3-20-97)

491. -- 499. (RESERVED)

500. PAYROLL FACTOR: IN GENERAL (RULE 500).
Section 63-3027(n), Idaho Code

01. In General. The payroll factor of the apportionment formula for each trade or business of the taxpayer includes the total amount paid for compensation during the taxable year by the taxpayer in the regular course of its trade or business. (3-20-97)

02. Compensation. For purposes of the payroll factor, compensation means wages, salaries, commissions and any other form of remuneration paid to employees for personal services. (3-20-97)

a. Compensation includes the value of board, rent, housing, lodging, and other benefits or services the taxpayer furnished to employees in return for personal services if the amounts constitute income to the recipient pursuant to the Internal Revenue Code. (3-20-97)

b. If employees are not subject to the Internal Revenue Code, for example, those employed in foreign countries, the determination of whether the benefits or services would constitute income to the employees is made as if the employees were subject to the Internal Revenue Code. (3-20-97)

c. If wages paid to employees are capitalized into the cost of an asset that is used in the regular course of the taxpayer's trade or business, these wages are included in the payroll factor. (3-20-97)

03. Amount Paid. The total amount paid to employees is determined by the taxpayer's accounting method. If the taxpayer uses the accrual method of accounting, all compensation properly accrued is deemed to have been paid. At the election of the taxpayer, compensation paid to employees may be included in the payroll factor by using the cash method if the taxpayer is required to use that method to report compensation for unemployment insurance purposes. (3-20-97)

04. Employee. For purposes of the payroll factor, employee means any officer of a corporation, or any individual who, pursuant to the usual common-law rules applicable in determining the employer-employee relationship, has the status of an employee. Generally, a person is considered an employee if he is included by the taxpayer as an employee for purposes of the payroll taxes imposed by the Federal Insurance Contributions Act (FICA); except that, since certain individuals are included within the term employees in the FICA who would not be employees pursuant to the usual common-law rules, it may be established that a person who is included as an employee for purposes of the FICA is not an employee for purposes of this rule. (3-20-97)

05. Exclusions. The following are excluded from the payroll factor: (3-20-97)

a. Compensation paid to an employee for services connected with the production of nonbusiness income; (3-20-97)

b. Payments to an independent contractor or a person not properly classifiable as an employee. (3-20-97)

06. Year to Year Consistency. If a taxpayer departs from or modifies the method used for treating compensation paid in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in

its current year return. (3-20-97)

07. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in treating compensation paid, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. (3-20-97)

501. -- 504. (RESERVED)

505. PAYROLL FACTOR: DENOMINATOR (RULE 505).
Section 63-3027(n), Idaho Code

01. In General. The denominator of the payroll factor is the total compensation paid everywhere during the taxable year. Accordingly, compensation paid to employees whose services are performed entirely in a state where the taxpayer is immune from taxation, for example, by Public Law 86-272, is included in the denominator of the payroll factor. The denominator may not exceed the sum of all numerators. (3-20-97)

02. Example. A taxpayer has employees in States A, B, and C. However, in State C the taxpayer is immune from taxation by Public Law 86-272. The compensation paid to employees for services performed in State C is assigned to that state. This compensation is included in the denominator even though the taxpayer is not taxable in State C. (3-20-97)

506. -- 509. (RESERVED)

510. PAYROLL FACTOR: NUMERATOR (RULE 510).
Section 63-3027(n), Idaho Code. The numerator of the payroll factor is the total amount the taxpayer paid for compensation in Idaho during the taxable year. The tests in Section 63-3027(o), Idaho Code, apply in determining whether compensation is paid in Idaho. It will be presumed that the total wages reported by the taxpayer to Idaho for unemployment insurance purposes constitute compensation paid in Idaho except compensation excluded by Rules 500 through 524 of these rules. The presumption may be overcome by satisfactory evidence that an employee's compensation is not properly reportable to Idaho for unemployment insurance purposes. (3-20-97)

511. -- 514. (RESERVED)

515. PAYROLL FACTOR: COMPENSATION PAID IN IDAHO (RULE 515).
Section 63-3027(o), Idaho Code

01. In General. Compensation is paid in Idaho if one of the tests in Section 63-3027(o), Idaho Code, is met. (3-20-97)

02. Definitions. The following definitions are to be used for purposes of the payroll factor: (3-20-97)

a. Incidental means a service that is temporary or transitory in nature, or that is rendered in connection with an isolated transaction. (3-20-97)

b. Base of operations means the place of a more or less permanent nature where the employee starts his work and where he customarily returns to receive instructions from the taxpayer or communications from his customers or other persons, or to replenish stock or other materials, repair equipment, or perform any other functions necessary to his trade or profession. (3-20-97)

c. Place from which the service is directed or controlled means the place where the power to direct or control is exercised by the taxpayer. (3-20-97)

516. -- 524. (RESERVED)

525. SALES FACTOR: IN GENERAL (RULE 525).
Section 63-3027(p), Idaho Code

01. In General. Sales means all gross receipts of a taxpayer not allocated as nonbusiness income. The sales factor for each trade or business of the taxpayer includes all gross receipts derived by the taxpayer from transactions and activity in the regular course of that trade or business. (3-20-97)

02. Examples. (3-20-97)

a. If a taxpayer manufactures and sells or purchases and resells goods or products, sales includes all gross receipts from sales of the goods or products held primarily for sale to customers in the ordinary course of the taxpayer's trade or business. Sales also includes gross receipts from the sale of other property that would be properly included in the taxpayer's inventory if on hand at the close of the taxable year. Gross receipts means gross sales, less returns and allowances and includes all interest income, service charges, carrying charges, or time-price differential charges incidental to the sales. Federal and state excise taxes, including sales taxes, are included in gross receipts if these taxes are passed on to the buyer or included in the product's selling price. (3-20-97)

b. In the case of cost plus fixed fee contracts, such as the operation of a government-owned plant for a fee, sales includes the entire reimbursed cost plus the fee. (3-20-97)

c. If a taxpayer provides services, such as operating an advertising agency, or performing equipment service contracts or research and development contracts, sales includes the gross receipts from performing the service, including fees, commissions, and similar items. (3-20-97)

d. If a taxpayer rents real or tangible property, sales includes the gross receipts from the renting, leasing, or licensing the use of the property. (3-20-97)

e. If a taxpayer sells, assigns, or licenses intangible personal property, such as patents and copyrights, sales includes the gross receipts from these transactions. (3-20-97)

f. If a taxpayer derives receipts from selling equipment used in its business, the receipts constitute sales. For example, a trucking company owns a fleet of trucks and sells its trucks according to a regular replacement program. The gross receipts from the sale of the trucks are included in the sales factor. (3-20-97)

g. If a taxpayer derives receipts from foreign source dividends that are apportionable business income, the receipts constitute sales. No other apportionment factor relief is permitted to include this dividend income. Section 78, Internal Revenue Code, foreign dividend gross-up is excluded from sales. (3-20-97)

03. Disregarding Gross Receipts. In some cases, certain gross receipts should be disregarded in determining the sales factor so that the apportionment formula operates fairly to apportion the income of the taxpayer's trade or business to Idaho. See Rule 570 of these rules. (3-20-97)

04. Year to Year Consistency. If a taxpayer departs from or modifies the basis used for excluding or including gross receipts in the sales factor in prior year Idaho returns, the taxpayer is to disclose the nature and extent of all modifications in its current year return. (3-20-97)

05. State to State Consistency. If the returns or reports filed by a taxpayer with all states to which the taxpayer reports pursuant to Section 63-3027, Idaho Code; Article IV of the Multistate Tax Compact; or the Uniform Division of Income for Tax Purposes Act are not uniform in including or excluding gross receipts, the taxpayer is to disclose the nature and extent of the variance in its current year Idaho return. (3-20-97)

526. -- 529. (RESERVED)

530. SALES FACTOR: DENOMINATOR (RULE 530).
Section 63-3027(p), Idaho Code. The denominator of the sales factor includes the total gross receipts derived by the taxpayer from transactions and activity in the regular course of its trade or business, except receipts excluded by Rules 525 through 559 and Rule 570 of these rules. The denominator may not exceed the sum of all the numerators. (3-20-97)

531. -- 534. (RESERVED)

535. SALES FACTOR: NUMERATOR (RULE 535).
Section 63-3027(p), Idaho Code. The numerator of the sales factor includes gross receipts attributable to Idaho and derived by the taxpayer from transactions and activity in the regular course of its trade or business. All interest income, service charges, carrying charges, or time-price differential charges incidental to gross receipts are included regardless of where the accounting records are maintained or the location of the contract or other evidence of indebtedness. (3-20-97)

536. -- 539. (RESERVED)

540. SALES FACTOR: SALES OF TANGIBLE PERSONAL PROPERTY IN IDAHO (RULE 540).
Section 63-3027(q), Idaho Code

01. Gross Receipts. Gross receipts from sales of tangible personal property, except sales to the United States Government as discussed in Rule 545 of these rules, are in Idaho if: (3-20-97)

a. The property is delivered or shipped to a purchaser in Idaho regardless of the f.o.b. point or other conditions of sale; or (3-20-97)

b. The property is shipped from an office, store, warehouse, factory, or other place of storage in Idaho and the taxpayer is not taxable in the state of the purchaser. (3-20-97)

02. Destination Sales. (3-20-97)

a. Property is deemed to be delivered or shipped to a purchaser in Idaho if the recipient is in Idaho even though the property is ordered from outside Idaho. Example: A taxpayer, with inventory in State A, sold one hundred thousand dollars ($100,000) of its products to a purchaser with branch stores in several states including Idaho. The order for the purchase was placed by the purchaser's central purchasing department in State B. Twenty-five thousand dollars ($25,000) of the purchase order was shipped directly to purchaser's branch store in Idaho. The branch store in Idaho is the purchaser in Idaho with respect to twenty-five thousand dollars ($25,000) of the taxpayer's sales. (3-20-97)

b. Property is delivered or shipped to a purchaser in Idaho if the shipment terminates in Idaho, even if the property is subsequently transferred to another state by the purchaser. Example: A taxpayer makes a sale to a purchaser who maintains a central warehouse in Idaho where all merchandise purchases are received. The purchaser reships the goods to its branch stores in other states for sale. All of the taxpayer's products shipped to the purchaser's warehouse in Idaho constitute property delivered or shipped to a purchaser in Idaho. (3-20-97)

03. Purchaser. The term purchaser in Idaho includes the ultimate recipient of the property if at the request of the purchaser the taxpayer in Idaho delivers to or has the property shipped to the ultimate recipient in Idaho. Example: A taxpayer in Idaho sold merchandise to a purchaser in State A. The taxpayer directed the manufacturer or supplier of the merchandise in State B to ship the merchandise to the purchaser's customer in Idaho according to the purchaser's instructions. The sale by the taxpayer is in Idaho. (3-20-97)

04. Diverted Shipment. If a seller ships property from the state of origin to a consignee in another state, and the property is diverted while en route to a purchaser in Idaho, the sales are in Idaho. Example: The taxpayer, a produce grower in State A, begins shipping perishable produce to the purchaser's place of business in State B. While en route the produce is diverted to the purchaser's place of business in Idaho where the taxpayer is subject to tax. The sale by the taxpayer is in Idaho. (3-20-97)

05. Throwback Sales. If a taxpayer is not taxable in the state of the purchaser, the sale is attributed to Idaho if the property is shipped from an office, store, warehouse, factory, or other place of storage in Idaho. Example: A taxpayer has its head office and factory in State A. It has a branch office and inventory in Idaho. The taxpayer's only activity in State B is the solicitation of orders by a resident salesman. All orders by the State B salesman are sent to the branch office in Idaho for approval and are filled by shipment from the inventory in Idaho. Since the taxpayer is immune from tax in State B by Public Law 86-272, all sales of merchandise to purchasers in State B are attributed

to Idaho, the state from which the merchandise was shipped. (3-20-97)

06. Third-Party Throwback Sales. If a taxpayer's salesman operating from an office in Idaho makes a sale to a purchaser in another state where the taxpayer is not taxable and the property is shipped directly by a third party to the purchaser, the following rules apply: (3-20-97)

a. If the taxpayer is taxable in the state from which the third-party ships the property, the sale is in that state. (3-20-97)

b. If the taxpayer is not taxable in the state from which the property is shipped, the sale is in Idaho. (3-20-97)

c. Example. A taxpayer in Idaho sold merchandise to a purchaser in State A. The taxpayer is not taxable in State A. On direction of the taxpayer, the merchandise was shipped directly to the purchaser by the manufacturer in State B. If the taxpayer is taxable in State B, the sale is in State B. If the taxpayer is not taxable in State B, the sale is in Idaho. (3-20-97)

541. -- 544. (RESERVED)

545. SALES FACTOR: SALES OF TANGIBLE PERSONAL PROPERTY TO THE UNITED STATES GOVERNMENT IN IDAHO (RULE 545).
Section 63-3027(q), Idaho Code

01. In General. Gross receipts from sales of tangible personal property to the United States Government are in Idaho if the property is shipped from an office, store, warehouse, factory, or other place of storage in Idaho. For purposes of this rule, only sales for which the United States Government makes direct payment to the seller pursuant to the terms of a contract constitute sales to the United States Government. Generally, sales by a subcontractor to the prime contractor, the party to the contract with the United States Government, are not sales to the United States Government. (3-20-97)

02. Examples. (3-20-97)

a. A taxpayer contracts with the General Services Administration to deliver a truck that was paid for by the United States Government. The sale is a sale to the United States Government. (3-20-97)

b. A taxpayer as a subcontractor to a prime contractor with the National Aeronautics and Space Administration contracts to build a rocket component for one million dollars ($1,000,000). The sale by the subcontractor to the prime contractor is not a sale to the United States Government. (3-20-97)

546. -- 549. (RESERVED)

550. SALES FACTOR: SALES OTHER THAN SALES OF TANGIBLE PERSONAL PROPERTY IN IDAHO (RULE 550).
Section 63-3027(r), Idaho Code

01. In General. Section 63-3027(r), Idaho Code, provides for the inclusion in the numerator of the sales factor of gross receipts from transactions other than sales of tangible personal property, including transactions with the United States Government. Gross receipts are attributed to Idaho if the income producing activity that generates the receipts is performed wholly within Idaho. Also, gross receipts are attributed to Idaho if, with respect to a particular item of income, the income producing activity is performed within and without Idaho but the greater part of the income producing activity is performed in Idaho, based on costs of performance. (3-20-97)

02. Income Producing Activity. The term income producing activity applies to each separate item of income and means the transactions and activity engaged in by the taxpayer in the regular course of its trade or business for the ultimate purpose of producing that item of income. The activity includes transactions and activities performed on behalf of a taxpayer, such as those conducted on its behalf by an independent contractor. (5-8-09)

a. Income producing activity includes the following: (5-8-09)

i. The rendering of personal services by employees or by an agent or independent contractor acting on behalf of the taxpayer or the use of tangible and intangible property by the taxpayer or by an agent or independent contractor acting on behalf of the taxpayer in performing a service; (5-8-09)

ii. The sale, rental, leasing, licensing or other use of real property; (3-20-97)

iii. The rental, leasing, licensing or other use of tangible personal property; and (5-8-09)

iv. The sale, licensing or other use of intangible personal property. (5-8-09)

b. The mere holding of intangible personal property is not, by itself, an income producing activity. (3-20-97)

03. Costs of Performance. Costs of performance are the direct costs determined in a manner consistent with generally accepted accounting principles and according to accepted conditions or practices of the taxpayer's trade or business to perform the income producing activity that gives rise to the particular item of income. Included in the taxpayer's cost of performance are taxpayer's payments to an agent or independent contractor for the performance of personal services and utilization of tangible and intangible property that give rise to the particular item of income. (5-8-09)

04. Application. In general, receipts, other than from sales of tangible personal property, in respect to a particular income producing activity are in Idaho if: (3-20-97)

a. The income producing activity is performed wholly in Idaho; or (3-20-97)

b. The income producing activity is performed both within and without Idaho and a greater part of the income producing activity is performed in Idaho than in any other state, based on costs of performance. (3-20-97)

05. Special Rules. The following are rules and examples for determining when receipts from the income producing activities described below are in Idaho: (3-20-97)

a. Gross receipts from the sale, lease, rental or licensing of real property are in Idaho if the real property is located in Idaho. (3-20-97)

b. Gross receipts from the rental, lease or licensing of tangible personal property are in Idaho if the property is located in Idaho. The rental, lease, licensing or other use of tangible personal property in Idaho is a separate income producing activity from the rental, lease, licensing or other use of the same property while in another state. Consequently, if property is within and without Idaho during the rental, lease or licensing period, gross receipts attributable to Idaho will be measured by the ratio that the time the property was present or used in Idaho bears to the total time or use of the property everywhere during the period. (3-20-97)

c. Example. A taxpayer owns ten (10) bulldozers. During the year, each bulldozer was in Idaho fifty (50) days. The receipts attributable to the use of each bulldozer in Idaho are separate items of income and are determined as follows: ((ten (10) bulldozers x fifty (50) days) / (ten (10) bulldozers x three hundred sixty five (365) days)) x total receipts = receipts attributable to Idaho. (3-20-97)

d. Gross receipts for the performance of personal services are attributable to Idaho to the extent the services are performed in Idaho. If services relating to a single item of income are performed within and without Idaho, they are attributable to Idaho only if a greater portion of the services were performed in Idaho, based on costs of performance. Usually if services are performed within and without Idaho, they constitute a separate income producing activity. In this case the gross receipts attributable to Idaho are measured by the ratio that the time spent in performing the services in Idaho bears to the total time spent in performing the services everywhere. Time spent in performing services includes the time spent in performing a contract or other obligation that generates the gross receipts. This computation does not include personal service not directly connected with the performance of the contract or other obligation, as for example, time spent in negotiating the contract. (3-20-97)

e. Example. The taxpayer, a road show, gave theatrical performances at various location in State X and in Idaho during the tax period. All gross receipts from performances given in Idaho are attributed to Idaho. (3-20-97)

f. Example. The taxpayer, a public opinion survey corporation, conducted a poll in State X and in Idaho for the sum of nine thousand dollars ($9,000). The project required six hundred (600) man hours to obtain the basic data and prepare the survey report. Two hundred (200) of the six hundred (600) man hours were expended in Idaho. The receipts attributable to Idaho are three thousand dollars ($3,000): (200 man hours/600 man hours) x $9,000. (3-20-97)

06. Services on Behalf of the Taxpayer. An income producing activity performed on behalf of a taxpayer by an agent or independent contractor is attributed to Idaho if such income producing activity is in Idaho. (5-8-09)

a. Such income producing activity is in Idaho: (5-8-09)

i. When the taxpayer can reasonably determine at the time of filing that the income producing activity is actually performed in Idaho by the agent or independent contractor. However, if the activity occurs in more than one state, the location where the income producing activity is actually performed will be deemed to be not reasonably determinable at the time of filing under Subparagraph 550.06.a.i. of this rule. (5-8-09)

ii. If the taxpayer cannot reasonably determine at the time of filing where the income producing activity is actually performed, when the contract between the taxpayer and the agent or independent contractor indicates it is to be performed in Idaho and the portion of the taxpayer's payment to the agent or contractor associated with such performance is determinable under the contract. (5-8-09)

iii. If it cannot be determined where the income producing activity is actually performed and the agent or independent contractor's contract with the taxpayer does not indicate where it is to be performed, when the contract between the taxpayer and the taxpayer's customer indicates it is to be performed in Idaho and the portion of the taxpayer's payment to the agent or contractor associated with such performance is determinable under the contract; or (5-8-09)

iv. If it cannot be determined where the income producing activity is actually performed and neither contract indicates where it is to be performed or the portion of the payment associated with such performance, when the domicile of the taxpayer's customer is in this state. If the taxpayer's customer is not an individual, "domicile" means commercial domicile. (5-8-09)

b. If the location of the income producing activity by an agent or independent contractor, or the portion of the payment associated with such performance, cannot be determined under Subparagraphs 550.06.a.i. through 550.06.a.iii. of this rule, or the taxpayer's customer's domicile cannot be determined under Subparagraph 550.06.a.iv. of this rule, or, although determinable, such income producing activity is in a state in which the taxpayer is not taxable, such income producing activity is to be disregarded. (5-8-09)

551. -- 559. (RESERVED)

560. SPECIAL RULES (RULE 560).
Section 63-3027(s), Idaho Code

01. In General. A departure from the allocation and apportionment provisions of Section 63-3027, Idaho Code, is permitted only in limited and specific cases where the apportionment and allocation provisions contained in Section 63-3027, Idaho Code, produce incongruous results. (4-11-15)

02. Alternate Methods. If the allocation and apportionment provisions of Section 63-3027, Idaho Code, do not fairly represent the extent of all or any part of a taxpayer's business activity in Idaho, the taxpayer may petition for or the Tax Commission may require: (3-20-97)

a. Separate accounting; (3-20-97)

b. The exclusion of one (1) or more of the factors; (3-20-97)

c. The inclusion of one (1) or more additional factors that fairly represent the taxpayer's business activity in Idaho; or (3-20-97)

d. The use of any other method to achieve an equitable allocation and apportionment of the taxpayer's income. (3-20-97)

03. Special Industry Methods. Rules 460 through 559 of these rules do not set forth appropriate procedures for determining the apportionment factors of certain industries. Nothing in Section 63-3027(s), Idaho Code, or in Rules 560 through 599 of these rules precludes the Tax Commission from establishing appropriate procedures pursuant to Sections 63-3027(k) through 63-3027(r), Idaho Code, for determining the apportionment factors for each of these industries. These procedures will be applied uniformly. See Rule 580 of these rules for the list of the special industries. (4-11-15)

561. -- 564. (RESERVED)

565. SPECIAL RULES: PROPERTY FACTOR (RULE 565).
Section 63-3027(s), Idaho Code

01. Subrents. (3-20-97)

a. In General. If the subrents taken into account in determining the net annual rental rate pursuant to Rule 485 of these rules produce a negative or clearly inaccurate value for any item of property, another method that properly reflects the value of rented property may be required by the Tax Commission or requested by the taxpayer. The value may not be less than an amount that bears the same ratio to the annual rental rate paid by the taxpayer for the property as the fair market value of that portion of the property used by the taxpayer bears to the total fair market value of the rented property. (3-20-97)

b. Example. A taxpayer rents a ten (10) story building at an annual rental rate of one million dollars ($1,000,000). The taxpayer occupies two (2) stories and sublets eight (8) stories for one million dollars ($1,000,000) a year. The taxpayer's net annual rental rate may not be less than two-tenths (0.2) of the taxpayer's annual rental rate for the entire year, or two hundred thousand dollars ($200,000). (3-20-97)

02. Market Rental Rate. If property owned by others is used by the taxpayer at no charge or rented by the taxpayer for a nominal rate, the net annual rental rate for the property is determined based on a reasonable market rental rate for the property. (3-20-97)

566. -- 569. (RESERVED)

570. SPECIAL RULES: SALES FACTOR (RULE 570).
Section 63-3027(s), Idaho Code

01. Gross Receipts from Intangibles. (3-20-97)

a. If the income producing activity in respect to business income from intangible personal property can be readily identified, the gross receipts are included in the denominator of the sales factor and, if the income producing activity occurs in Idaho, in the numerator of the sales factor as well. (2-27-12)

b. Notwithstanding Rule 550 of these rules, gross receipts from the sale of an ownership interest in another entity are included in the sales factor numerator based on the proportion of the entity's operational assets located in Idaho. The amount included is determined by multiplying the gross receipts received by the percentage of the entity's total real and tangible personal property located in Idaho at the time of the sale. (2-27-12)

c. If business income from intangible property cannot readily be attributed to any particular income

producing activity of the taxpayer, the gross receipts are excluded from the denominator and numerator of the sales factor. For example, if business income in the form of dividends received on stock, royalties received on patents or copyrights, and interest received on bonds, debentures or government securities results from the mere holding of the intangible personal property by the taxpayer, the dividends, royalties and interest are excluded from the denominator and numerator of the sales factor. (2-27-12)

d. This rule is not intended to limit the ability of the Tax Commission to allow or require alternative apportionment when appropriate to fairly represent the extent of the taxpayer's business activity in this state. As a result, alternative apportionment may be allowed or required even if the income producing activity with respect to business income derived from intangible personal property can be readily identified. (2-27-12)

02. Net Gains. If gains and losses on the sale of liquid assets are not excluded from the sales factor by other provisions of this rule, such gains or losses are treated as provided in Subsection 570.02 of this rule. This subsection does not provide rules relating to the treatment of other receipts produced from holding or managing such assets. If a taxpayer holds liquid assets in connection with one (1) or more treasury functions of the taxpayer, and the liquid assets produce business income when sold, exchanged or otherwise disposed, the overall net gain from those transactions for each treasury function for the tax period is included in the sales factor. For purposes of Subsection 570.02 of this rule, each treasury function is considered separately. (2-27-12)

a. For purposes of Subsection 570.02 of this rule, a liquid asset is an asset, other than functional currency or funds held in bank accounts, held to provide a relatively immediate source of funds to satisfy the liquidity needs of the trade or business. Liquid assets include foreign currency, and trading positions therein, other than functional currency used in the regular course of the taxpayer's trade or business; marketable instruments, including stocks, bonds, debentures, bills, notes, options, warrants, futures contracts; and mutual funds which hold such liquid assets. An instrument is considered marketable if it is traded in an established stock or securities market and is regularly quoted by brokers or dealers in making a market. Stock in a corporation that is unitary with the taxpayer or has a substantial business relationship with the taxpayer is not considered marketable stock. (2-27-12)

b. For purposes of Subsection 570.02 of this rule, a treasury function is the pooling and management of liquid assets for the purpose of satisfying the cash flow needs of the trade or business, such as providing liquidity for a taxpayer's business cycle, providing a reserve for business contingencies, and providing for business acquisitions. A taxpayer principally engaged in the trade or business of purchasing and selling instruments or other items included in the definition of liquid assets set forth herein is not performing a treasury function with respect to income so produced. (2-27-12)

c. Overall net gain refers to the total net gain from all transactions incurred at each treasury function for the entire tax period, not the net gain from a specific transaction. (4-5-00)

d. Examples. (4-5-00)

i. A taxpayer manufactures various gift items. Because of seasonal variations, the taxpayer must keep liquid assets available for later inventory acquisitions. Because the taxpayer wants to obtain a return on available funds, the taxpayer acquires liquid assets, which are held and managed in State A. The net gain resulting from all gains and losses on the sale of the liquid assets for the tax year will be reflected in the denominator of the sales factor and in the numerator of State A. (4-5-00)

ii. A stockbroker acts as a dealer or trader for its own account in its ordinary course of business. Some of the instruments sold are liquid assets. Subsection 570.02 of this rule does not operate to classify those sales as attributable to a treasury function. (2-27-12)

03. Commissions and Fee Income Related to the Sale of Another Taxpayer's Real Property. Notwithstanding the provisions of Rule 550 of these rules, gross receipts from commissions or fees arising as a result of the personal services and activities associated with the selling of another taxpayer's real property are sourced to the state where the real property is located. (2-27-12)

571. -- 579. (RESERVED)

580. SPECIAL RULES: SPECIAL INDUSTRIES (RULE 580).
Section 63-3027(s), Idaho Code

01. Adoption of MTC Special Industry Regulations. This rule incorporates by reference the MTC special industry regulations as adopted in Subsection 002.01 of these rules. Copies of the MTC special industry regulations may also be obtained from the main office of the Idaho State Tax Commission. The following special industries are to apportion income in accordance with the applicable MTC regulation: ( )

a. Construction Contractors. The apportionment of income derived by a long-term construction contractor is to be computed in accordance with MTC Regulation IV.18.(d). as adopted July 10, 1980; (3-20-97)

b. Airlines. The apportionment of income derived by an airline is to be computed in accordance with MTC Regulation IV.18.(e). as adopted July 14, 1983; (3-20-97)

c. Railroads. The apportionment of income derived by a railroad is to be computed in accordance with MTC Regulation IV.18.(f). as adopted July 16, 1981; (3-20-97)

d. Trucking Companies. The apportionment of income derived by motor common carriers, motor contract carriers, or express carriers that primarily transport tangible personal property of others is to be computed in accordance with MTC Regulation IV.18.(g). as amended July 27, 1989, for taxable years beginning on or after January 1, 1997. (7-1-98)

e. Television and Radio Broadcasting. The apportionment of income derived from television and radio broadcasting is to be computed in accordance with MTC Regulation IV.18.(h). as amended April 25, 1996, for taxable years beginning on or after January 1, 1995. (3-20-97)

f. Publishing. The apportionment of income derived from the publishing, sale, licensing or other distribution of books, newspapers, magazines, periodicals, trade journals or other printed material is to be computed in accordance with MTC Regulation IV.18.(j). as adopted July 30, 1993, for taxable years beginning on or after January 1, 1995. (3-20-97)

g. Financial Institutions. See Rule 582 of these rules for the apportionment of income by a financial institution for taxable years beginning on or after January 1, 1998. (7-1-98)

02. References. See Rule 581 of these rules for the applicability of references used in the MTC special industry regulations and the calculation of the apportionment percentage. (3-15-02)

581. SPECIAL RULES: REFERENCES USED IN MTC SPECIAL INDUSTRY REGULATIONS (RULE 581).
Section 63-3027(s), Idaho Code. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references in the MTC special industry regulations means the following: (3-20-97)

01. Article IV. Of The Multistate Tax Compact. (3-20-97)

a. Article IV. means Section 63-3027, Idaho Code. (3-20-97)

b. Article IV.1 means Section 63-3027(a), Idaho Code. (3-20-97)

c. Article IV.2 means Section 63-3027(b), Idaho Code. (3-20-97)

d. Article IV.3 means Section 63-3027(c), Idaho Code. (3-20-97)

e. Article IV.4 means Section 63-3027(d), Idaho Code. (3-20-97)

f. Article IV.5 means Section 63-3027(e), Idaho Code. (3-20-97)

g. Article IV.6 means Section 63-3027(f), Idaho Code. (3-20-97)

h. Article IV.7 means Section 63-3027(g), Idaho Code. (3-20-97)

i. Article IV.8 means Section 63-3027(h), Idaho Code. (3-20-97)

j. Article IV.9 means Section 63-3027(i), Idaho Code. (3-20-97)

k. Article IV.10 means Section 63-3027(k), Idaho Code. (3-20-97)

l. Article IV.11 means Section 63-3027(l), Idaho Code. (3-20-97)

m. Article IV.12 means Section 63-3027(m), Idaho Code. (3-20-97)

n. Article IV.13 means Section 63-3027(n), Idaho Code. (3-20-97)

o. Article IV.14 means Section 63-3027(o), Idaho Code. (3-20-97)

p. Article IV.15 means Section 63-3027(p), Idaho Code. (3-20-97)

q. Article IV.16 means Section 63-3027(q), Idaho Code. (3-20-97)

r. Article IV.17 means Section 63-3027(r), Idaho Code. (3-20-97)

s. Article IV.18 means Section 63-3027(s), Idaho Code. (3-20-97)

02. MTC Regulations. (3-20-97)

a. Regulation IV.1 means Rules 330 through 354 of these rules. (3-20-97)

b. Regulation IV.2 means Rule 325 and Rules 355 through 384 of these rules. (3-20-97)

c. Regulation IV.3 means Rules 385 through 399 of these rules. (3-20-97)

d. Regulation IV.9 means Rules 450 through 459 of these rules. (3-20-97)

e. Regulation IV.10 means Rules 460 through 479 of these rules. (3-20-97)

f. Regulation IV.11 means Rules 480 through 489 of these rules. (3-20-97)

g. Regulation IV.12 means Rules 490 through 499 of these rules. (3-20-97)

h. Regulation IV.13 means Rules 500 through 514 of these rules. (3-20-97)

i. Regulation IV.14 means Rules 515 through 524 of these rules. (3-20-97)

j. Regulation IV.15 means Rules 525 through 539 of these rules. (3-20-97)

k. Regulation IV.16 means Rules 540 through 549 of these rules. (3-20-97)

l. Regulation IV.17 means Rules 550 through 559 of these rules. (3-20-97)

m. Regulation IV.18.(a) means Rules 560 through 564 of these rules. (3-20-97)

n. Regulation IV.18.(b) means Rules 565 through 569 of these rules. (3-20-97)

o. Regulation IV.18.(c) means Rules 570 through 574 of these rules. (3-20-97)

03. Tax Administrator. Tax Administrator means Tax Commission. (3-20-97)

04. This State. This state means Idaho. (3-20-97)

05. The Apportionment Percentage. (3-20-97)

a. References in MTC Regulation IV.18.(d) to the computation of the apportionment percentage being the total of the property, payroll and sales percentages divided by three (3), is to be replaced with the total of property, payroll, and two (2) times the sales percentages divided by four (4) as required by Section 63-3027(i), Idaho Code. (3-20-97)

b. Examples. Since the Idaho sales factor is double-weighted, examples using a single-weighted sales factor is to be adjusted accordingly. (3-20-97)

582. SPECIAL RULES: FINANCIAL INSTITUTIONS (RULE 582).
Section 63-3027(s), Idaho Code

01. Adoption of MTC Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions. This rule incorporates by reference the MTC "Recommended Formula for the Apportionment and Allocation of Net Income of Financial Institutions" as adopted in Subsection 002.02 of these rules. A copy of this regulation may be obtained from the main office of the Idaho State Tax Commission. ( )

02. Definition of Financial Institution. "Financial institution" means: (2-27-12)

a. Any corporation or other business entity registered under state law as a bank holding company or registered under the Federal Bank Holding Company Act of 1956, as amended, or registered as a savings and loan holding company under the Federal National Housing Act, as amended; (7-1-98)

b. A national bank organized and existing as a national bank association pursuant to the provisions of the National Bank Act, Title 12, Sections 21 et seq., United States Code; (7-1-98)

c. A savings association or federal savings bank as defined in the Federal Deposit Insurance Act, Title 12, Section 1813(b)(1), United States Code; (7-1-98)

d. Any bank or thrift institution incorporated or organized under the laws of any state; (7-1-98)

e. Any corporation organized under the provisions of Title 12, Sections 611 to 631, United States Code; (7-1-98)

f. Any agency or branch of a foreign depository as defined in Title 12, Section 3101, United States Code; (7-1-98)

g. A production credit association organized under the Federal Farm Credit Act of 1933, all of whose stock held by the Federal Production Credit Corporation has been retired; (2-27-12)

h. Any corporation or other business entity that is more than fifty percent (50%) owned, directly or indirectly, by any person or business entity described in Paragraphs 582.02.a. through 582.02.g. (2-27-12)

i. A corporation or other business entity that, in the current tax year and immediately preceding two (2) tax years, derived more than fifty percent (50%) of its total gross income for financial accounting purposes from finance leases. For purposes of this subsection, a finance lease means any lease transaction which is the functional equivalent of an extension of credit and that transfers substantially all of the benefits and risks incident to the ownership of property. This includes any direct financing lease or leverage lease that meets the criteria of Financial Accounting Standards Board Statement No. 13, Accounting for Leases or any other lease that is accounted for as a financing lease by a lessor under generally accepted accounting principles. (2-27-12)

j. Any corporation or business entity that derives more than fifty percent (50%) of its gross income from activities that a person described in Paragraphs 582.02.a. through 582.02.g. and 582.02.i. of this rule is

authorized to transact. For purposes of this subsection, the computation of gross income does not include income from non-recurring, extraordinary items. (2-27-12)

03. Exclusion from Paragraph 582.02.j. The Tax Commission is authorized to exclude any person from the application of Paragraph 582.02.j. upon such person proving, by clear and convincing evidence, that the income-producing activity of such person is not in substantial competition with those persons described in Paragraphs 582.02.a. through 582.02.g. and 582.02.i. (2-27-12)

04. Act Defined. For purposes of applying the rules applicable to Section 63-3027, Idaho Code, references to [Act] in the MTC Recommended Formula for Financial Institutions refers to the Idaho Income Tax Act. (7-1-99)

05. The Apportionment Percentage. References in Section 1(b) of the MTC Recommended Formula for Financial Institutions to the computation of the apportionment percentage being determined by adding the taxpayer's receipts factor, property factor, and payroll factor together and dividing the sum by three (3) are replaced with adding two (2) times the taxpayer's sales factor, the taxpayer's property factor, and the taxpayer's payroll factor together and dividing the sum by four (4) as required by Section 63-3027(i), Idaho Code. (2-27-12)

583. -- 584. (RESERVED)

585. EXCEPTIONS TO APPORTIONMENT FORMULA: SEPARATE ACCOUNTING (RULE 585).
Section 63-3027(s), Idaho Code. Separate accounting may be used only with prior approval of the Tax Commission. A written request must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the return. The Tax Commission is to notify the taxpayer whether the request has been approved or denied. This determination is be based on whether the taxpayer has overcome the presumption that separate accounting will not be allowed when unitary filing and apportionment more accurately reflect the taxpayer's income. (3-20-97)

586. -- 589. (RESERVED)

590. EXCEPTIONS TO APPORTIONMENT FORMULA: EXCLUSION OF A FACTOR (RULE 590).
Section 63-3027(s), Idaho Code. The apportionment of income provided in Section 63-3027, Idaho Code, requires the use of the three (3) factor apportionment formula described in Section 63-3027(i), Idaho Code. However, if one (1) of the prescribed three (3) factors is inapplicable, the remaining two (2) factors are to be included as numerators of the fraction and the denominator of the fraction are two (2) or three (3) if necessary to maintain double weighting of the sales factor. (3-20-97)

591. -- 594. (RESERVED)

595. EXCEPTIONS TO APPORTIONMENT FORMULA: ADDITIONAL OR SUBSTITUTE FACTORS (RULE 595).
Section 63-3027(s), Idaho Code. A factor other than the property, payroll, or sales factor may be used only with prior approval of the Tax Commission. A written request must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the return. The Tax Commission is to notify the taxpayer whether the request has been approved or denied. The taxpayer must establish that the use of the additional factor or substitute factor more accurately reflects the taxpayer's income. (3-20-97)

596. -- 599. (RESERVED)

600. ENTITIES INCLUDED IN A COMBINED REPORT (RULE 600).
Section 63-3027(t), Idaho Code

01. Combined Report. Each corporation that is a member of a unitary business transacting business within and without Idaho is to allocate and apportion its income to Idaho using a combined report pursuant to Rules 360 through 369 of these rules. See Rules 340 through 344 of these rules for the principles for determining the existence of a unitary business. (4-6-05)

02. Domestic International Sales Corporations. If an affiliated group subject to the income tax jurisdiction of Idaho owns more than fifty percent (50%) of the voting power of the stock of a corporation classified

as a Domestic International Sales Corporation (DISC) pursuant to the provisions of Section 992, Internal Revenue Code, a combined filing with the DISC is required. (7-1-98)

03. Foreign Sales Corporations. If an affiliated group subject to the income tax jurisdiction of Idaho owns more than fifty percent (50%) of the voting power of the stock of a corporation classified as a Foreign Sales Corporation (FSC) pursuant to the provisions of Section 922, Internal Revenue Code, a combined filing with the FSC is required. (7-1-98)

04. Intercompany Transactions. If a return is filed on a combined basis, the intercompany transactions are to be eliminated to the extent necessary to properly reflect combined income and to properly compute the apportionment factor. (3-20-97)

a. Dividends received from a real estate investment trust or a regulated investment company and not included in the pre-apportionment tax base as a result of the federal deduction for dividends paid allowed to the dividend payor are not eliminated as intercompany transactions in computing combined income. (3-30-07)

b. Internal Revenue Code Section 1248 Dividends. (3-30-07)

i. Taxpayers Using the Worldwide Filing Method. A corporation included in a worldwide combined group is to treat Section 1248 dividends as dividends for Idaho income tax purposes. An intercompany dividend elimination is allowed to the extent dividends received are paid from current or prior year earnings previously included in income subject to apportionment. (3-30-07)

ii. Taxpayers Using the Water's Edge Filing Method. A corporation included in a water's edge combined group is to treat Section 1248 dividends as dividends that qualify for the dividend exclusion allowed by Section 63-3027C(c)(1), Idaho Code. (3-30-07)

c. Dividends received from a stock insurance subsidiary and deducted by a mutual insurance holding company or an intermediate holding company pursuant to Section 41-3821, Idaho Code, are not eliminated as intercompany transactions in computing combined income. (3-30-07)

05. Insurance Companies. Pursuant to Section 41-405, Idaho Code, payment of an Idaho tax upon an insurance company's premiums will be in lieu of an income tax. (3-30-07)

a. If an insurance company is a member of a unitary business and pays the Idaho premium tax, the insurance company is to be included in the combined group and its income and factor attributes included in the combined report. The income tax attributable to the insurance company is to be deducted from the total tax computed in the combined report. Income tax credits that the insurance company may have earned may not be shared with other members of the unitary group. (3-30-07)

b. If an insurance company is a member of a unitary business and pays a premium tax to a state other than Idaho, or does not pay a premium tax to any state, the insurance company is to be included in the combined group and its income and factor attributes included in the combined report. The insurance company is liable for the Idaho income tax computed on its activity in Idaho and is not exempt from the income tax as a result of Section 41-405, Idaho Code. (3-30-07)

601. -- 604. (RESERVED)

605. ELEMENTS OF A WORLDWIDE COMBINED REPORT (RULE 605).
Section 63-3027(t), Idaho Code

01. Income: In General. Income for the worldwide combined group is to be computed on the same basis as taxable income subject to modifications contained in Sections 63-3022 and 63-3027, Idaho Code, and related rules. (3-20-97)

02. Income: Foreign Corporations Included in a Federal Consolidated Return. Corporations incorporated outside the United States that are included in a federal consolidated return is to include in the combined report the taxable income reported on the federal consolidated return. (3-20-97)

03. Income: Foreign Corporations Not Included in a Federal Consolidated Return. Corporations incorporated outside the United States that are not included in a federal consolidated return, is to include in the combined report either the amount in Subsection 605.03.a. or 605.03.b. as the equivalent of taxable income. The option chosen must be used for all unitary foreign corporations not included in a federal consolidated return. (3-20-97)

a. The taxpayer may use the financial net income before income taxes as reported to the United States Securities and Exchange Commission (SEC) if required to file with the SEC. If not required to file with the SEC, the taxpayer may use the financial net income before income taxes as reported to shareholders and subject to review by an independent auditor. (3-20-97)

b. The taxpayer may use the financial net income of each foreign corporation adjusted to conform to tax accounting standards as would be required by the Internal Revenue Code if the corporation were a domestic corporation required to file a federal income tax return. (3-20-97)

04. Consistent Application of Book to Tax Adjustments. If adjustments are made to conform financial net income to tax accounting standards, all book to tax adjustments as required by the Internal Revenue Code for domestic corporations is to be made for each unitary foreign corporation included in the combined report and is to be consistently applied in each year for which the worldwide method applies. These adjustments are subject to the record-keeping requirements of the Internal Revenue Code and Treasury Regulations for domestic corporations. (3-20-97)

05. Apportionment Factors. The rules for inclusion, value, and attribution of apportionment factors by location for the worldwide combined group is to be determined pursuant to Section 63-3027, Idaho Code, and related rules. Only the apportionment factor attributes of those corporations included in the worldwide combined group may be used. (3-20-97)

606. -- 619. (RESERVED)

620. ATTRIBUTING INCOME OF CORPORATIONS THAT ARE MEMBERS OF PARTNERSHIPS (RULE 620).
Section 63-3027, Idaho Code

01. In General. If a corporation required to file an Idaho income tax return is a member of an operating partnership, the corporation is to report its Idaho taxable income, including its share of income from the partnership, in accordance with this rule. For purposes of this rule, the term partnership includes a joint venture. (3-20-97)

02. Transacting Business. A corporation is transacting business in Idaho if it is a partner in a partnership that is transacting business in Idaho even though the corporation has no other contact with Idaho. In this case, both the partnership and the corporation have an Idaho filing requirement. (3-20-97)

03. Multistate Partnerships. If a partnership operates in more than one state, its income is to be apportioned and allocated on the partnership return as if the partnership were a corporation. The allocation and apportionment rules of Section 63-3027, Idaho Code, and related rules apply to the partnership. (3-20-97)

04. Partnership Income as Business Income of the Partner. (3-20-97)

a. Income. If the income or loss of a partnership is business income or loss to a corporate partner, its share of this net business income or loss is to be apportioned together with all other net business income or loss of the corporation. Business income or loss is defined by Section 63-3027(a)(1), Idaho Code, and Rules 330 through 336 of these rules. (4-11-06)

b. Factors. A corporate partner's share of the partnership property, payroll, and sales after intercompany eliminations, is to be included in the numerators and the denominators of the partner's property, payroll, and sales factors when computing its apportionment formula. The partner's share of the partnership's property, payroll, and sales is determined by attributing the partnership's property, payroll, and sales to the partner in

the same proportion as its distributive share of partnership income if reporting net income for the taxable year or in the same proportion as its distributive share of partnership losses if reporting a net loss for the taxable year. Generally, the partnership's property, payroll, and sales includable in the corporation's factor computations is determined in accordance with Section 63-3027, Idaho Code, and related rules. To determine how the sales attribution rules of Section 63-3027(q), Idaho Code, apply to the sales factor of the corporate partner, the sales of the partnership are treated as if they were sales of the corporation. (3-30-01)

05. Partnership Income as Nonbusiness Income of Partner. (3-20-97)

a. Income. If the partnership income or loss is not business income to a corporate partner, the income is nonbusiness income as defined in Section 63-3027(a)(4), Idaho Code, and Rules 335 through 339 of these rules. The corporate partner is to allocate the nonbusiness income to the state in which it was earned. The corporate partner, on its Idaho corporation income tax return, is to specifically allocate to Idaho its share of the nonbusiness income attributable to Idaho. (3-20-97)

b. Factors. If the partnership income or loss is nonbusiness income to the corporate partner, none of the partnership property, payroll, or sales may be included in the computation of the factors of the corporation. (3-20-97)

621. -- 639. (RESERVED)

640. WATER'S EDGE: MAKING THE ELECTION (RULE 640).
Section 63-3027B, Idaho Code

01. In General. Rules 640 through 649 of these rules apply to taxpayers electing to use the water's edge filing method. To the extent that these rules conflict with any other rules pursuant to this Act, Rules 640 through 649 of these rules control. (3-20-97)

02. The Election. The water's edge election is made for purposes of determining which corporations are included in a combined group for Idaho income tax purposes. If a corporation is not part of a unitary group for which a combined report is required, the corporation cannot make the water's edge election. The election must be made in accordance with Sections 63-3027B through 63-3027E, Idaho Code, and Rules 640 through 649 of these rules. (3-29-10)

a. The election may be made for a year beginning on or after January 1, 1993. The election must be filed with the original tax return for the first year of the election. If the water's edge group changes in a subsequent year through the acquisition or disposition of a corporation with an Idaho filing requirement, a copy of the election is to be attached to the tax return for such taxable year and the changes to the water's edge group is to be noted on the form. See Rule 643 of these rules for Change of Election. (3-29-10)

b. Any corporation included in the unitary group that files with Idaho a consent to the reasonable production of documents may make the election on behalf of the group. An election made by any member of a unitary group binds all other members regardless of any changes in the unitary group in later taxable years. (3-29-10)

c. The election must be made on a form provided by the Tax Commission and include a list of each corporation required to file an Idaho income tax return. The election must be signed by an individual authorized to bind all companies to the election. (3-29-10)

d. Idaho taxpayers having a valid water's edge election is to compute Idaho taxable income in accordance with Sections 63-3027 and 63-3022, Idaho Code, except as modified by Sections 63-3027B through 63-3027E, Idaho Code, and Rules 640 through 649 of these rules. (3-20-97)

03. Failure to Include Election. Failure to include the election with the first return to which the election applies results in Idaho taxable income being determined in accordance with Sections 63-3027 and 63-3022, Idaho Code. (3-20-97)

641. WATER'S EDGE: ELEMENTS OF A COMBINED REPORT (RULE 641).
Section 63-3027B, Idaho Code

01. Income. Income for the water's edge combined group is computed on the same basis as taxable income subject to modifications contained in Sections 63-3022 and 63-3027, Idaho Code, and related rules. Intercompany transactions between members of the water's edge combined group is to be eliminated to the extent necessary to properly reflect combined income. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation will be included in the computation of the income of the water's edge combined group. (4-2-08)

02. Factors. The rules for inclusion, value, and attribution of apportionment factors by location for the water's edge combined group is to be determined pursuant to Section 63-3027, Idaho Code, and related rules. Intercompany transactions between members of the group is to be eliminated to the extent necessary to properly compute the apportionment factors of the water's edge combined group. Transactions between a member of the water's edge combined group and a nonincluded affiliated corporation is to be included, if appropriate, when determining apportionment factors. Dividends, to the extent included in apportionable income, is to be included in the sales factor computation. (4-2-08)

03. Foreign Corporations Filing Protective Returns. A foreign corporation filing a protective Form 1120-F return will not be deemed to be filing a federal income tax return for purposes of taking into account the income and apportionment factors of affiliated corporations in a unitary relationship with the taxpayer solely on the basis of filing this federal return. If subsequent to the filing of the protective 1120-F return it is determined that the foreign corporation had income effectively connected with the United States and was required to file a federal income tax return, the income and apportionment factors of the foreign corporation is required to be included in the combined report of the unitary group for such taxable year and an Idaho return or amended return may be required. (3-29-10)

642. WATER'S EDGE: LEGAL AND PROCEDURAL REQUIREMENTS (RULE 642).
Section 63-3027B, Idaho Code

01. Required Form. Proper filing of the water's edge election and consent for production of records must be made on the form provided by the Tax Commission and included in the original income tax return for the first tax year to which the election applies. (3-20-97)

02. Required Information. The following information must be included with each year's tax return for which a water's edge election applies: (3-20-97)

a. A complete list of all affiliated corporations, foreign and domestic, of which more than twenty percent (20%) of the voting stock is, directly or indirectly, owned or controlled by a common owner; (3-20-97)

b. Identifying information for each member of the water's edge combined group, including: federal identification number, primary business activities, percent of ownership by members of the combined group, and dates of acquisition or disposition of interest; (3-20-97)

c. A copy of the federal consolidated return, if applicable; and (3-20-97)

d. A schedule of taxable income for each possession corporation excluded from the water's edge group pursuant to Section 63-3027B(a), Idaho Code. (3-20-97)

643. WATER'S EDGE: CHANGE OF ELECTION (RULE 643).
Section 63-3027C, Idaho Code

01. In General. Except as provided in Section 63-3027C(a) (1), Idaho Code, the taxpayer must submit a written petition to the Tax Commission and be granted written permission to change its reporting method from water's edge for any subsequent tax year. (3-20-97)

a. A change in the reporting method includes conversion from the water's edge filing method to the worldwide filing method as well as the addition of companies previously omitted or the exclusion of companies previously included in the water's edge combined group, except in the case of companies acquired or disposed of during the taxable year. (3-20-97)

b. The Tax Commission may determine that one or more affiliated corporations should be included or excluded from the water's edge combined group. Income and apportionment factors is to be modified accordingly. (3-20-97)

02. Written Petition. A written petition must include the following: (3-20-97)

a. An explanation of the legal or factual basis for requesting the change of reporting method; and (3-20-97)

b. A computation of the taxpayer's Idaho taxable income and tax liability computed using both the prior reporting method and the method the taxpayer is petitioning to use for the year of change. (3-20-97)

03. Due Date for Filing the Written Petition. The written petition requesting the change of reporting method must be filed with the Tax Commission at least thirty (30) days prior to the due date for filing the tax return. (3-20-97)

04. Failure to Provide Required Information. Failure to provide complete and accurate information necessary for the Tax Commission's review of the petition constitutes grounds for denial of the taxpayer's petition or disregard of the taxpayer's election. (3-20-97)

05. Approval Attached to Original Return. A copy of the Tax Commission's written approval of the change in reporting method must be attached to the original return for the year in which the change is first made. (3-20-97)

06. Appeal Rights. A taxpayer may appeal the Tax Commission's denial of a request to change the method of filing, by submitting a written letter of protest within sixty-three (63) days from date of the denial. If permission to change its filing method is denied, the taxpayer is to continue to file its income tax return with the method used in the previous year. If the appeal is resolved in the taxpayer's favor, the taxpayer may file an amended return for the year of change. (3-20-97)

644. WATER'S EDGE: DISREGARDING THE ELECTION (RULE 644).
Sections 63-3027B and 63-3027C, Idaho Code. If a taxpayer fails to comply with Sections 63-3027B through 63-3027E, Idaho Code, and Rules 640 through 649 of these rules, the Tax Commission may disregard the water's edge election or recompute the water's edge combined income and apportionment factors, and assert penalties pursuant to Section 63-3046, Idaho Code, and Rules 400 through 419 of the Administration and Enforcement Rules. (3-20-97)

645. WATER'S EDGE: TREATMENT OF DIVIDENDS (RULE 645).
Section 63-3027C, Idaho Code

01. Dividends Received from Payors Incorporated Outside the United States. (1-4-19)T

a. Dividends received from payors who are incorporated outside the fifty (50) states and District of Columbia but are not included in the combined report are treated as business income. (1-4-19)T

b. As provided in Section 63-3027C(e)(1), Idaho Code, amounts included in income under sections 951 and 951A of the Internal Revenue Code are treated as dividends from payors outside the fifty (50) states and District of Columbia. (1-4-19)T

c. In order to avoid taxing income that had previously been included in Idaho apportionable income in a prior tax year, the remaining portion of the dividend that was not excluded from Idaho apportionable income under Section 63-3027C(3), Idaho Code, is excluded from Idaho apportionable income if the taxpayer can prove that the income was previously included in Idaho apportionable income in a prior tax year. (1-4-19)T

02. Dividends Received from Payors Incorporated in the United States. Dividends received from payors who are incorporated within the fifty (50) states and District of Columbia but not included in the combined return are presumed to be business income of the water's edge combined group. (3-20-97)

03. Deemed Dividends from Possession Corporations. The income of a possession corporation, excluded in Section 63-3027B(c), Idaho Code, is to be included in business income as a deemed dividend received from a payor incorporated outside the fifty (50) states and District of Columbia. The income of a possession corporation means taxable income greater than zero (0). Losses from possession corporations may not offset income of other possession corporations in determining the amount of deemed dividends. (4-5-00)

04. Dividends from Foreign Sales Corporations. (4-5-00)

a. As provided in Section 63-3027C(d)(1), Idaho Code, dividends received from a Foreign Sales Corporation (FSC) is to be eliminated in the proportion that FSC federal taxable income for the year during which the dividend was paid bears to the total FSC income before taxes for that year. For purposes of computing the dividend elimination, total FSC income before taxes means book income before the deduction of federal income taxes. (4-5-00)

b. For example, a FSC paid one million dollars ($1,000,000) in dividends during the taxable year. For that same taxable year, the FSC had federal taxable income totaling ten million dollars ($10,000,000) and total FSC income before taxes of twenty million dollars ($20,000,000). The dividends eliminated would be five hundred thousand dollars ($500,000) computed as follows: (($10,000,000 federal taxable income / $20,000,000 total FSC income before taxes) X $1,000,000 FSC dividend paid = $500,000 dividend elimination). (4-5-00)

05. Interest Expense Offset. The interest expense offset provided in Section 63-3022M, Idaho Code, does not apply to any dividends subject to the eighty-five percent (85%) or eighty percent (80%) exclusion provided in Section 63-3027C or 63-3027E, Idaho Code. (4-5-00)

646. WATER'S EDGE: DOMESTIC DISCLOSURE SPREADSHEET (RULE 646).
Section 63-3027E, Idaho Code

01. Filing Requirements. The domestic disclosure spreadsheet required by Section 63-3027E(b), Idaho Code, must be filed no later than six (6) months after filing the original return unless the taxpayer makes a declaration to forego the filing of the spreadsheet. The declaration is made on a year by year basis. (7-1-98)

02. Spreadsheet Information. The spreadsheet information must be submitted using the forms contained in the Tax Commission's "Idaho Water's Edge Election Pamphlet" or on identically formatted forms that disclose the same information. (7-1-98)

647. -- 699. (RESERVED)

700. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY: IN GENERAL (RULE 700).
Section 63-3029, Idaho Code

01. Taxpayers Entitled to the Credit. The credit for taxes paid to another state is to be allowed to qualifying individuals, estates, and trusts. (3-29-10)

a. The credit is allowed to resident individuals who are domiciled in Idaho at the time the income was earned in another state. (5-8-09)

b. The credit is allowed to part-year resident individuals who were domiciled or residing in Idaho at the time the income was earned in another state. (5-8-09)

c. The credit is allowed to an estate or trust that is an Idaho resident at the time the income was earned in another state. (3-29-10)

d. Income earned in another state is to be determined under Section 63-3026A, Idaho Code, and related rules. (5-8-09)

02. Taxes Eligible for the Credit. The credit for taxes paid to another state is allowed for the amount

of income tax imposed by another state on a qualifying individual, an S corporation, partnership, limited liability company, estate, or trust of which the individual is a shareholder, partner, member or beneficiary. For taxes paid to another state by a pass-through entity, the credit is allowed to the extent the tax is attributable to the individual as a result of his share of the entity's taxable income in another state. (3-29-10)

03. Taxes Not Eligible for the Credit. If any tax or portion thereof is imposed on capital stock, retained earnings, stock values, or a basis other than income, the tax is not eligible for the credit. The credit is not allowed for income taxes imposed by another state on income not taxed by Idaho. (3-29-10)

04. Credit Calculated on a State-by-State Basis. The credit and credit limitations are to be calculated on a state-by-state basis. The taxpayer may not aggregate the income taxed by other states or the taxes paid to the other states for purposes of calculating the credit and its limitations. (7-1-98)

05. Income Tax Payable to Another State. The income tax payable to another state is to be the tax paid after the application of all credits. The tax paid to the other state must be for the same taxable year that the credit is claimed. Tax paid to cities or counties does not qualify for the credit. (3-30-07)

06. Limitations. The credit for taxes paid to another state is limited as follows: (3-30-07)

a. The credit allowed may not exceed the amount of tax actually paid to the other state. This includes the amount paid by a qualifying individual and the amount paid for such individual by an S corporation, partnership, limited liability company, estate, or trust. (3-29-10)

b. If an individual receives a refund due to a refundable credit for all or part of the income tax paid by the pass-through entity, the amount of the refund attributable to the refundable credit reduces the income tax paid by the pass-through entity. For example, an individual domiciled in Idaho is required to pay tax in another state due to his interest in an S corporation operating in that state. In addition to the individual's tax paid to the other state, the S corporation is required to pay an income tax to that state, of which four hundred dollars ($400) is attributable to the Idaho resident. The individual's income tax to the other state totals three hundred dollars ($300), but he is entitled to a three-hundred sixty dollar ($360) refundable corporate tax credit due to his share of the tax paid by the pass-through entity, resulting in a net refund of sixty dollars ($60). In computing the tax actually paid to the other state, the tax paid by the pass-through entity must be reduced by the net refund received by the individual ($400 - $60 = $340). The credit for tax paid to the other state is limited to three hundred forty dollars ($340). (3-30-07)

c. The credit may not exceed the proportion of the tax otherwise due to Idaho that the adjusted gross income of the individual derived from sources in the other state as modified by Chapter 30, Title 63, Idaho Code, bears to total adjusted gross income for the individual so modified. (3-29-10)

i. For example, if the adjusted gross income derived in another state is twelve thousand dollars ($12,000) after taking into account the Idaho additions and subtractions required by the Idaho Income Tax Act, and the individual's total adjusted gross income similarly modified equals fifty thousand dollars ($50,000), the credit cannot exceed twenty-four percent (24%) of the tax paid to Idaho ($12,000/$50,000 = 24% x tax paid to Idaho). (3-29-10)

ii. See Rule 701 of these rules for information related to part-year residents. (3-29-10)

d. The credit allowed to an estate or trust may not exceed the proportion of the tax otherwise due to Idaho that the federal total income of the estate or trust derived from sources in the other state and taxed by that state bears to the federal total income of the estate or trust. (3-29-10)

i. Federal total income of the estate or trust derived from sources in the other state is to be determined using the Idaho sourcing rules applicable to nonresidents found in Section 63-3026A, Idaho Code and related rules. Income derived from the ownership or disposition of any interest in real or tangible personal property located in the other state is to be considered to be income derived from sources in the other state. Interest income earned on a bank account generally would not be income derived from sources in the other state as provided in Rule 266 of these rules. (3-29-10)

ii. For example, if a trust sells Oregon property at a gain of thirty-six thousand dollars ($36,000),

which is the only income derived from sources in the other state, and the trust's federal total income is ninety thousand dollars ($90,000), the credit cannot exceed forty percent (40%) of the tax paid to Idaho ($36,000/$90,000 = 40% x tax paid to Idaho.) (3-29-10)

07. Rounding. For taxable years beginning in or after 2007, the proration calculated under Section 63-3029, Idaho Code, is to be calculated four (4) digits to the right of the decimal point. If the fifth digit is five (5) or greater, the fourth digit is rounded to the next higher number ($10,000/$15,000 = .66666 = .6667 = 66.67%). If the fifth digit is less than five (5), the fourth digit remains unchanged and any digits remaining to its right are dropped ($10,000/$30,000 = .33333 = .3333 = 33.33%). The percentage may not exceed one hundred percent (100%) nor be less than zero (0). (4-2-08)

701. CREDIT FOR INCOME TAXES PAID ANOTHER STATE OR TERRITORY: PART-YEAR RESIDENTS (RULE 701).
Section 63-3029, Idaho Code

01. Income Subject to Tax by Both States. (3-29-10)

a. Individuals. For purposes of the credit for income taxes paid to another state, income subject to tax by both states means the total amount of income an individual receives from sources outside of Idaho during the portion of the year he is domiciled or residing in Idaho. Income received during the portion of the year when the individual was not domiciled or residing in Idaho does not qualify. (3-29-10)

b. Estates and Trusts. If an estate or trust is determined to be a part-year resident, income subject to tax by both states means the total amount of income the estate or trust receives from sources outside of Idaho during the portion of the year the estate or trust is a resident of Idaho. Income received during the portion of the year when the estate or trust was not a resident of Idaho does not qualify. (3-29-10)

c. Both the source state and Idaho must impose an income tax on the income for the income to be subject to tax by both states. (3-29-10)

02. Examples. The following examples assume the taxpayer earned only wage income. (3-30-07)

a. Taxpayer A was domiciled in California and worked in that state from January through June. In July he moved to Idaho and changed his domicile from California to Idaho. He worked in Idaho the rest of the year. California will tax only the wages earned in California and Idaho will tax only the wages earned in Idaho. Because no income is subject to tax by both states, no credit for income taxes paid another state is allowed. (3-30-07)

b. Taxpayer B was domiciled in Oregon from January through June. On July 1 he moved to Idaho and changed his domicile from Oregon to Idaho. He resided in Idaho the rest of the year. He worked in Oregon for the same employer the entire year. Oregon will tax all the wages earned during the year since they were earned in Oregon. Idaho will tax only the wages he earned in Oregon while residing in Idaho. As a result, only one-half (6 months / 12 months = 1/2) of his wages qualify for credit purposes as being subject to tax by both Idaho and Oregon. (3-30-07)

c. Taxpayer C was domiciled in California. He resided and worked in California from January through June. On July 1 he moved to Idaho, but did not change his domicile to Idaho as he intended to return to his home in California once his job assignment in Idaho was completed. California will tax all his income earned during the year since he is domiciled in California. Idaho will tax only the income he earned while residing in Idaho. Taxpayer C will not receive a credit for income taxes paid to California on his Idaho wages because this income is not earned in another state. If Taxpayer C received other income while residing in Idaho that is taxed by Idaho but sourced to another state, such as gains on the sale of stock, he may be entitled to a credit for taxes paid on this income. (5-8-09)

702. -- 704. (RESERVED)

705. CREDIT FOR CONTRIBUTIONS TO EDUCATIONAL INSTITUTIONS FOR TAXABLE YEARS BEGINNING AFTER 2010 (RULE 705).
Section 63-3029A, Idaho Code

01. Qualified Contributions. Contributions must be made in cash or in another monetary form during the taxable year the credit is claimed. Unpaid pledges, goods, or services provided do not qualify as contributions. Tuition, room and board, student fees, and similar charges are not contributions. (2-27-12)

02. Limitations - Individuals. The credit allowed to an individual is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

a. Fifty percent (50%) of the individual's total income tax liability; or (2-27-12)

b. Five hundred dollars ($500) if filing a return other than a joint return or one thousand dollars ($1,000) if filing a joint return. (2-27-12)

03. Limitations - Corporations. The credit allowed to a corporation is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

a. Ten percent (10%) of the corporation's total income tax liability; or (2-27-12)

b. Five thousand dollars ($5,000). (2-27-12)

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate or trust and passed through to the partner, shareholder, or beneficiary. For pass-through entities paying tax and the application of limitations on pass-through credits, see Rule 785 of these rules. (3-15-02)

05. Other Limitations. (3-15-02)

a. This credit is further limited if the credit for qualifying new employees is claimed. (3-15-02)

b. This credit plus other nonrefundable credits may not reduce the taxpayer's tax liability below zero (0). See Rule 799 of these rules for the priority of credits. (3-15-02)

06. Effect on Itemized Deductions. The credit allowed does not reduce the amount of charitable contributions that may be included in itemized deductions. (3-20-97)

07. Nonprofit Public and Private Museums. To qualify as a museum pursuant to Section 63-3029A, Idaho Code, the public or private nonprofit institution must be organized for the purpose of collecting, preserving, and displaying objects of aesthetic, educational, or scientific value and must be open to the general public on a regular basis. (3-20-97)

706. -- 709. (RESERVED)

710. IDAHO INVESTMENT TAX CREDIT: IN GENERAL (RULE 710).
Section 63-3029B, Idaho Code

01. Credit Allowed. The investment tax credit allowed by Section 63-3029B, Idaho Code, applies to investments made during tax years beginning on and after January 1, 1982, that qualify pursuant to Sections 46(c), 47, and 48, Internal Revenue Code, as in effect prior to amendment by Public Law 101-508. Investments must also meet the requirements of Section 63-3029B, Idaho Code, and Rules 710 through 719 of these rules. (5-8-09)

02. Limitations. The investment tax credit allowable in any taxable year will be limited by the following: (3-20-14)

a. Tax liability. (3-30-01)

i. For taxable years beginning on or after January 1, 2000, the credit claimed may not exceed fifty percent (50%) of the tax after credit for taxes paid another state. (3-30-01)

ii. For taxable years beginning on or after January 1, 1995 and before January 1, 2000, the credit claimed may not exceed forty-five percent (45%) of the tax after credit for taxes paid another state. (3-30-01)

b. Credit for qualifying new employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the investment tax credit is limited by the provisions of Section 63-3029F, Idaho Code. (3-30-01)

c. Unitary taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-30-01)

d. Nonrefundable credits. The investment tax credit is a nonrefundable credit. It is applied to the income tax liability in the priority order for nonrefundable credits described in Rule 799 of these rules. (3-15-02)

e. Used Property Limitation. The term used property limitation means the one hundred fifty thousand dollar ($150,000) limitation imposed by Section 48, Internal Revenue Code of 1986 prior to November 5, 1990.(4-4-13)

03. Carryovers. (3-20-97)

a. Investment tax credit earned on investments made on or after January 1, 1990, but not claimed against tax in the year earned is eligible for a seven (7) year carryover. If a credit carryover from these years is available to be carried into taxable years beginning on or after January 1, 2000, the credit carryover is extended from seven (7) years to fourteen (14) years. (3-30-01)

b. For example, a calendar year taxpayer earned investment tax credit in calendar year 1993. The taxpayer was unable to use all the credit in that year and in the subsequent carryover years. Carryover was remaining into the seventh and final carryover year, calendar year 2000. Since the taxpayer had eligible carryover going into a taxable year beginning on or after January 1, 2000, the carryover period changes from seven (7) years to fourteen (14) years. Assuming the carryover is available for the entire carryover period, and that there are no short period years, the last year that the carryover can be used will be calendar year 2007. If the seventh carryover year was a taxable year beginning prior to January 1, 2000, the carryover period has expired and is not extended. (3-30-01)

c. Investment tax credit earned on investments made in taxable years beginning on or after January 1, 2000, but not claimed against tax in the year earned is eligible for a fourteen (14) year carryover. (3-30-01)

04. Motor Vehicle. Motor vehicle means a self-propelled vehicle that is registered or may be registered for highway use pursuant to the laws of Idaho. Gross vehicle weight is determined by the manufacturer's specified gross vehicle weight. (3-20-97)

05. Expensed Property. The cost of property that the taxpayer elects to expense pursuant to Section 179, Internal Revenue Code, is not a qualified investment. (3-30-01)

06. Bonus Depreciation. The cost of property that the taxpayer elects to deduct as bonus first-year depreciation pursuant to Section 168(k), Internal Revenue Code, is not a qualified investment when the bonus first-year depreciation was also allowed in computing depreciation for Idaho. (3-20-14)

711. IDAHO INVESTMENT TAX CREDIT: TAXPAYERS ENTITLED TO THE CREDIT (RULE 711).
Section 63-3029B, Idaho Code

01. Unitary Taxpayers. A corporation included as a member of a unitary group may elect to share the investment tax credit it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the investment tax credit to the extent allowable against its tax liability. (2-27-12)

a. The credit available to be shared is the amount of investment tax credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029B(4), Idaho Code. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward. (2-27-12)

b. In the taxable year when a corporation that earned the investment tax credit is acquired or disposed of, only a portion of the tax of the other members of the unitary group may be offset with shared investment tax credit from that corporation. To determine the allowable portion of the tax, a percentage is calculated by dividing the number of days that the corporation that earned the investment tax credit is included in the unitary group's taxable year by the total number of days in the taxable year. The tax for each member with an Idaho filing requirement is multiplied by the percentage. The result is the amount of tax that can be offset with a share of the credit, subject to other limitations imposed by law or related rules. (2-27-12)

02. Conversion of C Corporation to S Corporation. (3-20-97)

a. An investment tax credit carryover earned by a C corporation that has converted to an S corporation is allowed against the S corporation's tax on net recognized built-in gains and excess net passive income. The credit is allowed against this tax until the carryover period has expired. The credit is not allowed against the tax computed pursuant to Section 63-3022L, Idaho Code. In addition, the credit may not be passed through to the S corporation shareholders. (2-27-12)

b. The election to file as an S corporation does not cause recapture of investment tax credit. However, the S corporation is liable for any recapture of credit originally claimed by the C corporation as provided by Rule 715 of these rules. (3-20-97)

03. Agricultural Cooperatives. The portion of the investment tax credit earned by an agricultural cooperative that it cannot use for the taxable year is to be allocated to the members of the cooperative. If qualifying property is disposed of or ceases to qualify prior to the close of its estimated useful life, the recapture of credit as provided by Rule 715 of these rules applies as though the cooperative did not allocate any of the original credit to the members. (3-20-97)

a. The distribution to members is made as provided in Rule 785 of these rules. (3-15-02)

b. The investment tax credits claimed by the agricultural cooperative and its members may not be more than one hundred percent (100%) of the credit earned. (3-20-97)

04. Leased Property. Generally the credit for qualified investments in leased property is claimed by the lessor. A lessee may claim the investment tax credit on leased property only as provided in Paragraphs 711.04.a. and 711.04.b. of this rule. (3-29-10)

a. If the lessor elected to pass the investment tax credit to the lessee and filed the federal election pursuant to the Internal Revenue Code and Treasury Regulations prior to the 1986 Tax Reform Act, the investment tax credit is to be claimed by the lessee. Both parties must attach the original election and a schedule identifying the qualifying property. (3-20-97)

b. If a taxpayer is a lessee in a conditional sales contract, he is entitled to the investment tax credit on any qualifying property subject to the contract since the lessee is considered the purchaser of the property. (3-20-97)

712. -- 713. (RESERVED)

714. IDAHO INVESTMENT TAX CREDIT: CREDIT EARNED ON PROPERTY USED BOTH IN AND OUTSIDE IDAHO IN TAXABLE YEARS BEGINNING ON OR AFTER JANUARY 1, 1995 (RULE 714).
Section 63-3029B, Idaho Code

01. In General. Property must be used at least part of the time in Idaho to qualify for the investment tax credit, provided it otherwise qualifies for the credit. It must also be used in Idaho in each taxable year during the recapture period. (3-20-14)

02. Election of Methods. The taxpayer must elect to compute the investment tax credit on property used both in and outside Idaho using either the percentage-of-use method or the amount of that property correctly included in the Idaho property factor numerator. The credit for all property used both in and outside Idaho must be

computed using the method elected. (4-2-08)

a. Percentage-of-Use Method. If the percentage-of-use method is elected, the basis of each qualified asset is multiplied by the percentage of time, miles, or other measure that accurately reflects the use of that asset in Idaho. The use of aircraft within and without Idaho during the taxable year will be determined by the ratio of departures from locations in Idaho to total departures. (3-20-14)

b. Property Factor Method. If the property factor numerator option is elected, the qualified investment is the basis of the asset correctly included in the numerator of the Idaho property factor for the year the credit is earned. (4-4-13)

i. The amounts of investment tax credit computed under the percentage-of-use method and the property factor numerator option are generally the same. Differences may result when a taxpayer uses certain MTC special industry regulations that allow the taxpayer to vary from using the percentage-of-use method for determining the Idaho numerator for each item of mobile property, and instead allow another method, such as the ratio of mobile property miles in the state compared to total mobile property miles or the ratio of departures of aircraft from locations in the state compared to total departures. These special industry regulations include the regulations for airlines, railroads, and trucking companies. See Rule 580 of these rules for a list of the special industries. (4-2-08)

ii. "Correctly included in the numerator of the Idaho property factor" means that the amount included in the Idaho property factor numerator was correctly computed using Section 63-3027, Idaho Code, and related rules including any MTC special industry regulations that apply to the taxpayer. If the amount included in the Idaho property factor numerator exceeds the amount that should have been included using Section 63-3027, Idaho Code and related rules, the investment tax credit will be allowed only on the amount that reflects the correct calculation for purposes of computing the Idaho property factor numerator. For example, a taxpayer includes one hundred percent (100%) of the basis of an asset in the Idaho property factor numerator, but the amount correctly computed under Section 63-3027, Idaho Code, should have been fifty percent (50%) of the basis of the asset. The investment tax credit will be allowed only on the fifty percent (50%) of the basis of the asset. (3-20-14)

03. Order of Limitations. The qualified investment in property used both in and outside Idaho is determined by first applying the rules of this section and then the used property limitations outlined in Rule 710. (4-4-13)

04. Examples. (4-4-13)

a. Idaho Percentage-of-Use Method. In January 2009, a calendar year corporation purchased a road grader for fifty thousand dollars ($50,000). Thirty percent (30%) of its hours were logged in Idaho during the year. No other qualified investments were made during 2009. The taxpayer elected to compute the credit using the percentage-of-use method. The taxpayer has a fifteen thousand dollar ($15,000) qualified investment computed by multiplying thirty percent (30%) by fifty thousand dollars ($50,000). The investment tax credit is computed at three percent (3%) of fifteen thousand dollars ($15,000) for a credit of four hundred fifty dollars ($450). (4-4-13)

b. Idaho Percentage-of-Use Method -- Assets placed in service within ninety (90) days of year end. A calendar year taxpayer elects the percentage-of-use method for a road grader placed in service on March 1, 2011, with a basis of seventy-five thousand dollars ($75,000). If eighty percent (80%) of the road grader's hours were logged in Idaho measured between March 1 and December 31, 2011, the qualifying investment in the road grader is sixty thousand dollars ($60,000) computed at eighty percent (80%) of the asset's basis. If the road grader was placed in service by the same calendar year taxpayer on November 1, 2011, the Idaho qualifying property is measured during the first ninety (90) days of use of the asset. If the percentage of hours logged in Idaho between November 1, 2011, and January 31, 2012, is seventy percent (70%), the qualifying investment in the road grader is fifty-two thousand five hundred dollars ($52,500) computed at seventy percent (70%) of the asset's basis. (4-4-13)

c. Idaho Property Factor Method. In January, 2011, a calendar year corporation purchased a road grader for fifty thousand dollars ($50,000). Twenty percent (20%) of its hours were logged in Idaho during the year. In addition to the road grader, the taxpayer also purchased an asphalt layer and a dump truck in January, 2011. Twenty percent (20%) of the dump truck's hours were logged in Idaho during the year. Only the road grader and dump truck were used in Idaho during the year. The taxpayer's Idaho property factor is thirty percent (30%). The dump truck cost

seventy-five thousand dollars ($75,000), and the asphalt layer cost two hundred thousand dollars ($200,000). The taxpayer has qualified investments totaling twenty-five thousand dollars ($25,000), computed at twenty percent (20%) of the one hundred twenty-five thousand dollars ($125,000) basis in the road grader and the dump truck. The investment tax credit is computed at three percent (3%) of the twenty-five thousand dollars ($25,000) for a total credit of seven hundred fifty dollars ($750). The taxpayer would include twenty-five thousand dollars ($25,000) in the Idaho property factor numerator. The asphalt layer does not qualify for the credit since it was not used in Idaho at any time during 2011. (4-4-13)

d. Order of Limitations. Assume the taxpayer has two (2) asphalt layers costing two hundred thousand dollars ($200,000) each that are both mobile and used property. Fifty percent (50%) of the hours of both asphalt layers was logged in Idaho during the year. The taxpayer has a two hundred thousand dollar ($200,000) qualified investment computed by multiplying fifty percent (50%) by four hundred thousand dollars ($400,000). The used property limitation of one hundred fifty thousand dollars ($150,000) is applied to the two hundred thousand dollar ($200,000) qualified investment and the investment tax credit allowed is computed at three percent (3%) of the one hundred fifty thousand dollars ($150,000). (4-4-13)

715. IDAHO INVESTMENT TAX CREDIT: RECAPTURE (RULE 715).
Section 63-3029B, Idaho Code

01. In General. If a taxpayer is claiming or has claimed the investment tax credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit will be made. (3-20-97)

02. Recomputation of the Investment Tax Credit. (3-20-97)

a. The recomputation of the credit and any recapture of prior credits is made pursuant to the Internal Revenue Code and Treasury Regulations for the taxable year in which the property is disposed of or ceases to qualify. (3-20-97)

b. The recapture is computed by multiplying the credit by the applicable recapture percentage in Subsection 715.04. (3-20-97)

c. The recapture of credit previously claimed against tax in prior taxable years is an addition to tax in the taxable year in which the property is disposed of or ceases to qualify. The addition to tax does not affect the computation of limitations used to determine the amount of investment tax credit or any other Idaho credit that may be claimed in the year of the recapture. (3-20-97)

03. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. (3-20-97)

04. Applicable Recapture Percentages. For qualified business property placed in service after December 31, 1990, the recapture amount is computed by multiplying the credit earned by the applicable recapture percentage. The length of time the asset qualifies determines the recapture percentage as follows: (3-20-97)

a. If less than one (1) year, use one hundred percent (100%); (3-20-97)

b. If more than one (1) year but less than two (2) years, use eighty percent (80%); (3-20-97)

c. If more than two (2) years but less than three (3) years, use sixty percent (60%); (3-20-97)

d. If more than three (3) years but less than four (4) years, use forty percent (40%); (3-20-97)

e. If more than four (4) years but less than five (5) years, use twenty percent (20%). (3-20-97)

716. IDAHO INVESTMENT TAX CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 716).
Section 63-3029B, Idaho Code

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the investment tax credit claimed on an income tax return subject to examination. The records must include all of the following: (3-20-97)

a. A description of the property; (3-20-97)

b. The asset number assigned to the item of property, if applicable; (3-20-97)

c. The acquisition date and date placed in service; (3-20-97)

d. The basis of the property; (3-20-97)

e. The class of the property for recovery property or the estimated useful life for nonrecovery property; (3-20-97)

f. The designation as new or used property; (3-20-97)

g. The location and utilization (the usage both in and outside Idaho) of the property; (3-20-97)

h. The retirement, disposition, or date transferred out of Idaho, or date no longer used in Idaho, if applicable; and (3-20-97)

i. The reason for acquisition if acquired prior to January 1, 1995. (3-20-97)

02. Accounting Records Subject to Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: (3-20-97)

a. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information. (3-20-97)

b. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents. (3-20-97)

c. Records verifying ownership including purchase contracts and cancelled checks. (3-20-97)

d. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho. (3-20-97)

e. Purchase orders, authorizations for expenditures or other records that identify the reason for acquisition for property acquired prior to January 1, 1995. (3-20-97)

f. Log books measuring the use of property used both in and outside Idaho. These logs must be maintained for each item of property on which investment tax credit is claimed. These logs should measure use of property in accordance with the most accurate method for measuring the extent of use in Idaho. For example, use in Idaho of trucks, trailers, locomotives, and railcars are to be calculated according to actual mileage in and outside Idaho. (3-20-97)

g. A system that verifies that property on which the investment tax credit was claimed continues to maintain its status as Idaho qualifying property throughout the recapture period. (3-20-97)

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. (3-20-97)

04. Unitary Taxpayers. Corporations claiming investment tax credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. (3-20-97)

717. -- 718. (RESERVED)

719. IDAHO INVESTMENT TAX CREDIT: PROPERTY TAX EXEMPTION IN LIEU OF (RULE 719).
Section 63-3029B, Idaho Code

01. In General. Beginning with calendar year 2003, a qualifying taxpayer may elect a two (2) year property tax exemption on personal property placed in service during the year. Property placed in service prior to January 1, 2003, does not qualify for the exemption. The personal property must be qualified investment as defined in Section 63-3029B, Idaho Code, and Rules 710 through 716 of these rules. If the property tax exemption is elected on an item of personal property, the taxpayer may not earn the investment tax credit on that item. The election is irrevocable. (3-20-04)

02. Terms. As used in this rule: (3-20-04)

a. Qualifying Taxpayer. A taxpayer must meet both of the following requirements to qualify for the property tax exemption on personal property. (4-6-05)

i. The taxpayer's rate of charge or rate of return must not be regulated or limited by federal or state law. For example, if a corporation's rate of return is set by the Public Utilities Commission, that corporation is to not be eligible to claim the property tax exemption on any personal property it may place in service. The corporation may claim investment tax credit on the property if the property is qualified investment under Section 63-3029B, Idaho Code. Each corporation included in a unitary group is to determine whether its rate of charge or rate of return is regulated or limited by federal or state law based solely on its own activities. (4-6-05)

ii. The taxpayer must have had negative Idaho taxable income in the second preceding taxable year. (4-6-05)

b. Second Preceding Taxable Year. The term second preceding taxable year means the second preceding taxable year from the taxable year in which the property is placed in service. (3-20-04)

03. Negative Idaho Taxable Income in Second Preceding Taxable Year. (4-6-05)

a. Net Operating Loss Carryovers and Carrybacks. Negative Idaho taxable income in the second preceding taxable year is to be determined prior to the application of any Idaho net operating loss carryforwards or carrybacks. (3-20-04)

b. Taxable year, for purposes of this calculation, includes a short taxable year as defined by the Internal Revenue Code. (3-20-04)

c. Examples of Determining Second Preceding Taxable Year. (3-20-04)

i. A taxpayer files income tax returns on a calendar year basis. During calendar year 2003, the taxpayer placed in service personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were calendar years 2001 and 2002. To qualify for the property tax exemption on personal property, the taxpayer must have had negative Idaho taxable income in calendar year 2001, the second preceding taxable year from calendar year 2003. (3-20-04)

ii. A taxpayer files income tax returns on a June 30 fiscal year end basis. During the fiscal year ended June 30, 2003, the taxpayer placed in service between January 1, 2003, and June 30, 2003, personal property that qualifies for the investment tax credit. The taxpayer's two (2) preceding taxable years were fiscal years ended June 30, 2001, and June 30, 2002. To qualify for the property tax exemption, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2001, the second preceding taxable year from fiscal year ended June 30, 2003. Property placed in service during the fiscal year ended June 30, 2003, but in calendar year 2002 does not qualify for the exemption. (4-6-05)

iii. Assume the same facts as in Subparagraph 719.03.c.ii., of this rule, except the taxpayer placed the

property in service on September 30, 2003, during his fiscal year ended June 30, 2004. To qualify for the property tax exemption on personal property placed in service between July 1, 2003, and June 30, 2004, the taxpayer must have had negative Idaho taxable income in fiscal year ended June 30, 2002, the second preceding taxable year from the fiscal year ended June 30, 2004. (4-6-05)

iv. Assume the same facts as in Subparagraph 719.03.c.ii., of this rule, except the taxpayer's previous two (2) taxable years included a short taxable year from January 1, 2002, to June 30, 2002, and calendar year 2001. To qualify for the property tax exemption on personal property placed in service between January 1, 2003, and June 30, 2003, the taxpayer must have had negative Idaho taxable income in the taxable year for calendar year 2001, the second preceding taxable year from the fiscal year ended June 30, 2003. (4-6-05)

v. Table of examples of determining second preceding taxable year.

TAXABLE YEAR PROPERTY PLACED IN SERVICE	FIRST PRECEDING TAXABLE YEAR	SECOND PRECEDING TAXABLE YEAR
Calendar year 2003	Calendar year 2002	Calendar year 2001
Calendar year 2004	Calendar year 2003	Calendar year 2002
Calendar year 2004	Calendar year 2003	Short taxable year beginning February 1, 2002 and ending December 31, 2002
Fiscal year beginning July 1, 2002 and ending June 30, 2003	Fiscal year beginning July 1, 2001 and ending June 30, 2002	Fiscal year beginning July 1, 2000 and ending June 30, 2001
Fiscal year beginning September 1, 2003 and ending August 31, 2004	Fiscal year beginning September 1, 2002 and ending August 31, 2003	Fiscal year beginning September 1, 2001 and ending August 31, 2002
Fiscal year beginning July 1, 2002 and ending June 30, 2003	Short taxable year beginning January 1, 2002 and ending June 30, 2002	Calendar year 2001

(3-20-04)

d. Unitary Taxpayers. Each corporation included in a unitary combined group is to use its Idaho taxable income, as determined pursuant to Section 63-3027, Idaho Code, to determine whether it had negative Idaho taxable income in the second preceding taxable year. See Rule 365 of these rules for more information on how unitary corporations determine their Idaho taxable income. (4-6-05)

e. Pass-Through Entities. A taxpayer who is a partnership or an S corporation does not qualify for the property tax exemption unless the total of its net business income apportioned to Idaho and its nonbusiness income or loss allocated to Idaho is negative for the second preceding taxable year. (3-20-04)

f. Return Not Filed. If a taxpayer has not filed an Idaho income tax return for the second preceding taxable year so that the loss can be verified, the taxpayer is not entitled to the exemption. (3-20-04)

04. Used Property Limitation. (3-20-04)

a. In General. The cost of used property that a taxpayer may take into account for any taxable year in computing qualified investment does not exceed one hundred fifty thousand dollars ($150,000). This includes the cost of property the taxpayer placed in service during the taxable year and also his share of the cost of property placed in service during the taxable year by a partnership, S corporation, estate or trust. Because property must be qualified investment to qualify for the property tax exemption, the taxpayer is limited to one hundred fifty thousand dollars ($150,000) for purposes of determining the property tax exemption. (3-20-04)

b. Selection of Items of Used Property. If the cost of the taxpayer's used property eligible for the investment tax credit exceeds the used property limitation, the taxpayer must select the particular items of used property the cost of which is to be taken into account in computing qualified investment. When the taxpayer selects a particular item, the entire cost or the taxpayer's share of cost of the particular item must be taken into account unless the one hundred fifty thousand dollar ($150,000) limitation is exceeded. For example, if a taxpayer places in service during the taxable year three (3) items of used property, each with a cost of sixty thousand dollars ($60,000), the taxpayer must select the entire cost of two (2) of the items and only thirty thousand dollars ($30,000) of the cost of the third item. The taxpayer may not select a portion of the cost of each of the three (3) items. The remaining thirty thousand dollars ($30,000) of the third item does not qualify for the investment tax credit nor the property tax exemption since it is not qualified investment. The selection by a taxpayer is made by taking the cost of the used property into account in computing the investment tax credit or the property tax exemption for a taxable year. (3-20-04)

c. Electing Property Tax Exemption on Selected Used Property Items. Once the taxpayer has selected the particular items of used property, the cost of which is to be taken into account in computing qualified investment, the taxpayer is to determine whether he may elect the property tax exemption on the items selected. If an item qualifies as personal property and the taxpayer had a negative Idaho taxable income in the second preceding taxable year, the taxpayer may elect to claim the property tax exemption on the item in lieu of earning the investment tax credit. For example, assume the same facts as in Paragraph 719.04.b., of this rule. The taxpayer may elect the property tax exemption on any of the three (3) items, limited to the amount included as qualified investment if the item qualifies as personal property and the taxpayer had a negative Idaho taxable in the second preceding taxable year. (4-6-05)

720. CREDIT FOR IDAHO RESEARCH ACTIVITIES: IN GENERAL (RULE 720).
Section 63-3029G, Idaho Code

01. Definitions. The Idaho credit is computed using the same definitions of qualified research expenses, qualified research, basic research payments, and basic research as are found in Section 41, Internal Revenue Code, except only the amounts related to research conducted in Idaho qualify for the Idaho credit. If an expense does not qualify for the federal credit under Section 41, Internal Revenue Code, it will not qualify for purposes of the Idaho credit. (4-7-11)

02. Limitations. The credit for Idaho research activities allowable in any taxable year is limited as follows: (4-7-11)

a. Tax Liability. The total amount of any credit for Idaho research activities claimed during a taxable year may not exceed one hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the credit for Idaho research activities, regardless of whether the credit for Idaho research activities results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-15-02)

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the credit for Idaho research activities is limited by the provisions of Section 63-3029F, Idaho Code. (3-15-02)

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-15-02)

03. Carryovers. The carryover period for the credit for Idaho research activities is fourteen (14) years. (3-15-02)

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. (3-15-02)

05. Short Taxable Year Calculations. Short taxable year calculations provided in Section 41, Internal

Revenue Code, and related regulations are used to compute the Idaho credit if the taxpayer must use short taxable year calculations for purposes of computing the federal credit. (4-7-11)

721. CREDIT FOR IDAHO RESEARCH ACTIVITIES: ELECTIONS (RULE 721).
Section 63-3029G, Idaho Code

01. Election to Be Treated as a Start-Up Company. Regardless of whether a taxpayer qualifies as a start-up company for purposes of the federal credit for increasing research activities under Section 41, Internal Revenue Code, a taxpayer may elect to be treated as a start-up company for the credit for Idaho research activities. (3-15-02)

a. The election once made is irrevocable. (3-15-02)

b. The election is made by checking the appropriate box on Form 67. (4-7-11)

c. A taxpayer who makes the election under Section 63-3029G, Idaho Code, to be treated as a start-up company must use the fixed-base percentage that would be used by the taxpayer if the taxpayer had qualified as a start-up company for purposes of the federal credit under Section 41, Internal Revenue Code. For example, if the taxpayer's fiscal year beginning in 2001 is the 8th such taxable year beginning after December 31, 1993 in which the taxpayer had Idaho qualified research expenses, the fixed-base percentage is one-half (1/2) of the percentage that the aggregate qualified research expenses of the taxpayer for the 5th, 6th, and 7th such taxable years is of the aggregate gross receipts of the taxpayer for such years. (4-7-11)

02. Unitary Sharing. A corporation included as a member of a unitary group may elect to share the credit for Idaho research activities it earns but does not use with other members of the unitary group. Before the corporation may share the credit, it must claim the credit for Idaho research activities to the extent allowable against its tax liability. The credit available to be shared is the amount of credit carryover and credit earned for the taxable year that exceeds the limitation provided in Section 63-3029G(3), Idaho Code, or Paragraph 720.02.b. of these rules, whichever is applicable. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward. (3-15-02)

722. (RESERVED)

723. CREDIT FOR IDAHO RESEARCH ACTIVITIES: RECORD-KEEPING REQUIREMENTS (RULE 723).
Section 63-3029G, Idaho Code

01. Information Required. Each taxpayer must retain and make available, on request, records for each item included in the computation of the credit for Idaho research activities claimed on an Idaho income tax return. The records must include all of the following: (3-15-02)

a. Verification that the research was conducted in Idaho; (3-15-02)

b. Verification that wages included in the computation were for qualified service performed by an employee in Idaho; (3-15-02)

c. Verification that supplies included in the computation were used for research conducted in Idaho; (3-15-02)

d. Verification that contract research expenses were for research conducted in Idaho; (3-15-02)

e. Verification that the research activities meet the definition of qualified research; and (3-15-02)

f. Verification that the amounts included in the Idaho computation are includable in the computation of the federal credit allowed by Section 41, Internal Revenue Code. (3-15-02)

02. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. (3-15-02)

03. Unitary Taxpayers. Corporations claiming the credit for Idaho research activities must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. (3-15-02)

724. -- 729. (RESERVED)

730. CREDIT FOR CONTRIBUTIONS TO IDAHO YOUTH FACILITIES, REHABILITATION FACILITIES AND NONPROFIT SUBSTANCE ABUSE CENTERS (RULE 730).
Section 63-3029C, Idaho Code

01. Qualified Contributions. Contributions must be made in cash or in kind during the taxable year the credit is claimed. Unpaid pledges do not qualify as contributions. Fees for services provided, room and board, and similar charges are not contributions. (3-30-01)

02. Limitations: Individuals. The credit allowed to an individual is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

a. Twenty percent (20%) of his total income tax liability; or (3-20-97)

b. One hundred dollars ($100) if filing other than a joint return or two hundred dollars ($200) if filing a joint return. (3-20-97)

03. Limitations: Corporations. The credit allowed to a corporation is fifty percent (50%) of the amount contributed limited to the lesser of: (3-20-97)

a. Ten percent (10%) of its total income tax liability; or (3-20-97)

b. Five hundred dollars ($500). (3-20-97)

04. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate or trust and passed through to the partner, shareholder, or beneficiary. For pass-through entities paying tax and the application of limitations on pass-through credits, see Rule 785 of these rules. (3-15-02)

05. Other Limitations. (3-30-01)

a. This credit is further limited if the credit for qualifying new employees is claimed. (3-15-02)

b. This credit plus any other nonrefundable credits may not reduce the taxpayer's tax liability below zero (0). See Rule 799 of these rules for the priority of credits. (3-15-02)

06. Effect on Itemized Deductions. The credit allowed does not reduce the amount of charitable contributions that may be included in itemized deductions. (3-20-97)

731. -- 749. (RESERVED)

750. BROADBAND EQUIPMENT INVESTMENT CREDIT: IN GENERAL (RULE 750).
Section 63-3029I, Idaho Code

01. Credit Allowed. The broadband equipment investment credit allowed by Section 63-3029I, Idaho Code, applies to investments made during taxable years beginning on and after January 1, 2001. The investment must also meet the requirements of Section 63-3029B, Idaho Code, and related rules as to what constitutes qualified investment. (4-6-05)

02. Limitations. The broadband equipment investment credit allowable in any taxable year will be limited as follows: (4-11-15)

a. The broadband equipment investment credit claimed during a taxable year may not exceed the lesser of: (3-15-02)

i. Seven hundred fifty thousand dollars ($750,000); or (3-15-02)

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the broadband equipment investment credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-15-02)

b. Credit for Qualifying New Employees. If the credit for qualifying new employees is claimed in the current taxable year or carried forward to a future taxable year, the broadband equipment investment credit is limited by the provisions of Section 63-3029F, Idaho Code. (3-15-02)

c. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-15-02)

d. Transferred Credit. Limitations apply to each transferee as if the transferee had earned the credit. (3-15-02)

03. Carryovers. (3-15-02)

a. The carryover period for the broadband equipment investment credit is fourteen (14) years. (3-15-02)

i. The fourteen (14) year carryover period provided by section 63-3029I(7), Idaho Code, extends throughout the fourteen (14) taxable years following the year in which the equipment was installed. The fourteen (14) year carryover period begins to run regardless of whether the taxpayer has sought and received approval from the Idaho public utilities commission (PUC). (4-11-15)

ii. Once a taxpayer has received the approval order from the PUC, the broadband tax credit may be claimed or transferred. If the statute of limitations has expired for filing a return to claim the credit for the taxable year of the installation, the taxpayer cannot claim any credit for that taxable year, but must calculate how much of the credit the taxpayer could have used to determine the amount of credit available to carry forward pursuant to section 63-3029I(7), Idaho Code. (4-11-15)

iii. Example: A calendar year filer installed qualifying equipment on July 20, 2001. However, it was not until 2013 that the taxpayer sought and received the approval order from the PUC. The fourteen (14) year carryover period already began to run based on the installation date and will expire at the end of the 2015 taxable year. On March 10, 2013 the taxpayer is preparing his tax returns and considering how much broadband credit is available and to which taxable years it could be applied to. The taxpayer can file an amended return to claim the credit starting with taxable year 2009 (prior years would be out of the statute of limitations for filing an amended return assuming all returns had been timely filed and no other special circumstances had held the period open). The taxpayer must look back to taxable year 2001 (the year of installation) to see how much credit the taxpayer could have used in each taxable year up to 2009 to determine how much credit carryover amount is still available pursuant to the carryover limitations of section 63-3029I(7), Idaho Code. The taxpayer must use up or transfer any unused credit before taxable year 2016; after taxable year 2015, the carry forward period will expire and any unused credit will no longer be available for the taxpayer to apply or transfer. (4-11-15)

b. See Rule 793 of these rules for the rules regarding the carryover of transferred credit. (3-15-02)

04. Taxpayers Entitled to the Credit. Rule 711 of these rules will apply to the broadband equipment investment credit except that limitations referenced in Subsection 711.01 of these rules will be those limitations as provided in Section 63-3029I, Idaho Code. (4-11-15)

05. Pass-Through Entities. The credit may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of

attributing the credit, for pass-through entities paying tax, and the application of limitations on pass-through credits. (3-15-02)

751. (RESERVED)

752. BROADBAND EQUIPMENT INVESTMENT CREDIT: RECAPTURE (RULE 752).
Section 63-3029I, Idaho Code

01. In General. If a taxpayer is claiming or has claimed the broadband equipment investment credit for property sold or otherwise disposed of, or that ceases to qualify pursuant to Section 63-3029B, Idaho Code, prior to being held five (5) full years, a recomputation of the credit is to be made. See Rule 715 of these rules. (3-15-02)

02. Unitary Taxpayers. The corporation that earned the credit is responsible for the recapture or recomputation of the credit when the property ceases to qualify. (3-15-02)

03. Transferred Credit. The transferor is responsible for the recapture or recomputation of the credit when the property ceases to qualify. (3-15-02)

753. BROADBAND EQUIPMENT INVESTMENT CREDIT: RECORD-KEEPING REQUIREMENTS (RULE 753).
Section 63-3029I, Idaho Code

01. Information Required. Each taxpayer must retain and make available, on request, records for each item of property included in the computation of the broadband equipment investment credit claimed on an income tax return subject to examination. The records must include all of the following: (3-15-02)

a. The order from the Idaho Public Utilities Commission confirming that the installed equipment is qualified broadband equipment. (3-15-02)

b. A description of the property; (3-15-02)

c. The asset number assigned to the item of property, if applicable; (3-15-02)

d. The acquisition date and date placed in service; (3-15-02)

e. The basis of the property; and (3-15-02)

f. The retirement, disposition, or date transferred out of Idaho, or date no longer used in Idaho, if applicable. (3-15-02)

02. Accounting Records Subject to Examination. Accounting records that may need to be examined to document acquisition, disposition, location, and utilization of assets include the following: (3-15-02)

a. Source documents supporting the application to the Idaho Public Utilities Commission; (3-15-02)

b. Accounting documents that contain asset and account designations and descriptions. These documents include a chart of accounts, the accounting manual, controller's manual, or other documents containing this information; (3-15-02)

c. Asset location records including asset directories, asset registers, insurance records, property tax records, or similar asset inventory documents; (3-15-02)

d. Records verifying ownership including purchase contracts and cancelled checks; (3-15-02)

e. Invoices, shipping documents, and similar documents reflecting the transfer of assets in and out of Idaho; and (3-15-02)

f. A system that verifies that property on which the broadband equipment investment credit was claimed continues to maintain its status as Idaho qualifying property throughout the recapture period. (3-15-02)

03. Failure to Maintain Adequate Records. Failure to maintain any of the records required by this rule may result in the disallowance of the credit claimed. (3-15-02)

04. Unitary Taxpayers. Corporations claiming broadband equipment investment credit must provide a calculation of the credit earned and used by each member of the combined group. The schedule must clearly identify shared credit and the computation of any credit carryovers. (3-15-02)

05. Credit Transferred. A taxpayer that transfers the broadband equipment investment credit is to continue to be subject to the record-keeping requirements of this rule for as long as the credit may be carried over by the transferee or until further assessment or deficiency determinations are barred by a period of limitation, whichever is longer. (3-15-02)

754. -- 770. (RESERVED)

771. GROCERY CREDIT: TAXABLE YEARS BEGINNING AFTER DECEMBER 31, 2007 (RULE 771).
Section 63-3024A, Idaho Code

01. Residents. (5-8-09)

a. A resident individual may claim a credit for each personal exemption for which a deduction is permitted and claimed on his Idaho income tax return provided the personal exemption represents an individual who is a resident of Idaho. The maximum credit allowed per qualifying exemption is as follows:

TAX YEAR	IDAHO TAXABLE INCOME $1,000 OR LESS	IDAHO TAXABLE INCOME MORE THAN $1,000
2016	$100	$100
2015	$100	$100
2014	$100	$90
2013	$100	$80
2012	$90	$70
2011	$80	$60
2010	$70	$50
2009	$60	$40
2008	$50	$30

For tax years 2015 and after, the credit is one hundred dollars ($100). (3-28-18)

b. A resident individual claiming the credit who is age sixty-five (65) or older may claim an additional twenty dollars ($20). An additional twenty dollar ($20) credit may be claimed for a spouse who is age sixty-five (65) or older. The additional twenty dollar ($20) credit may not be claimed for other dependents who are age sixty-five (65) or older. (5-8-09)

02. Part-Year Residents. A part-year resident is entitled to a prorated credit based on the number of months he was domiciled in Idaho during the taxable year. For purposes of this rule, a fraction of a month exceeding fifteen (15) days is treated as a full month. If the credit exceeds his tax liability, the part-year resident is not entitled to a refund. (5-8-09)

03. Circumstances Causing Ineligibility. A resident or part-year resident individual is not eligible for the credit for the month or part of the month for which the individual: (5-8-09)

a. Received assistance under the federal food stamp program; or (5-8-09)

b. Was incarcerated. (5-8-09)

04. Nonresidents. A nonresident is not entitled to the credit even though the individual may have been employed in Idaho for the entire year. (5-8-09)

05. Illegal Residents. An individual residing illegally in the United States is not entitled to the credit. (5-8-09)

06. Members of the Uniformed Services. A member of the uniformed services who is: (4-7-11)

a. Domiciled in Idaho is entitled to this credit; (5-8-09)

b. Residing in Idaho but who is a nonresident pursuant to the Servicemembers Civil Relief Act is not entitled to this credit. (5-8-09)

c. See Rule 032 of these rules for the definition of member of the uniformed services. (4-7-11)

07. Spouse or Dependents of Members of the Uniformed Services. Beginning on January 1, 2009, a spouse of a nonresident member of the uniformed services stationed in Idaho who has the same domicile as the military service member's home of record and who is residing in Idaho solely to be with the servicemember is a nonresident and is not entitled to the grocery credit. A spouse who is domiciled in Idaho is entitled to the credit. The domicile of a dependent child is presumed to be that of the nonmilitary spouse. (4-7-11)

08. Claiming the Credit. (5-8-09)

a. An individual who is required to file an Idaho individual income tax return must claim the credit on his return. If the credit exceeds his tax liability, the resident will receive a refund. (4-7-11)

b. An individual who is not required to file an Idaho individual income tax return must file a claim for refund of the credit on a form approved by the Tax Commission on or before April 15 following the year for which the credit relates. (4-7-11)

c. No credit may be refunded three (3) years after the due date of the claim for refund, including extensions, if a return was required to be filed under Section 63-3030, Idaho Code. (4-7-11)

09. Donating the Credit. Taxpayers may elect to donate the entire credit to the Cooperative Welfare Fund created pursuant to Section 56-401, Idaho Code. A taxpayer may not make a partial donation of the credit. The election must be made as indicated on the form on which the credit was claimed. The election is irrevocable and may not be changed on an amended return. (5-8-09)

772. -- 774. (RESERVED)

775. CREDIT FOR LIVE ORGAN DONATION EXPENSES (RULE 775).
Section 63-3029K, Idaho Code

01. Credit Allowed. The credit for live organ donation expenses allowed by Section 63-3029K, Idaho Code, applies to live organ donation expenses incurred by a taxpayer during taxable years beginning on or after January 1, 2007. (3-30-07)

02. Limitations. The credit allowed to an individual for the taxable year in which the live organ donation occurs is limited to the lesser of: (3-30-07)

a. The amount of live organ donation expenses paid by the taxpayer during the taxable year, or (3-30-07)

b. Five thousand dollars ($5,000). (3-30-07)

03. Live Organ Donation. A live organ donation means a donation by a living individual who donates the following for transplanting in another individual: (3-30-07)

a. Human bone marrow, or (3-30-07)

b. Any part of an organ including the following: (3-30-07)

i. Intestine, (3-30-07)

ii. Kidney, (3-30-07)

iii. Liver, (3-30-07)

iv. Lung, or (3-30-07)

v. Pancreas. (3-30-07)

04. Live Organ Donation Expenses. Qualifying expenses is to be directly related to a live organ donation by the taxpayer or by a dependent of the taxpayer and includes the following: (3-30-07)

a. The unreimbursed cost of travel paid by the taxpayer to and from the place where the donation operation occurred. (3-30-07)

b. Unreimbursed lodging expenses paid by the taxpayer. (3-30-07)

c. Wages or other compensation lost because of the taxpayer's absence from work during the donation procedure and convalescence. (3-30-07)

05. Carryover. The carryover period for the credit for live organ donation expenses is five (5) years. (3-30-07)

776. -- 784. (RESERVED)

785. CREDITS: PASS-THROUGH ENTITIES (RULE 785).
Section 63-3029(a), Idaho Code

01. In General. A credit earned by a partnership, S corporation, estate, or trust generally is claimed on the income tax returns of the partners, shareholders, or beneficiaries of the entity. (3-20-97)

a. Partnerships. A credit passes through to a partner based on that partner's distributive share of partnership profits. (3-20-97)

b. S Corporations. A credit passes through to a shareholder based on that shareholder's pro rata share of income or loss. (3-20-97)

c. Estates and Trusts. A credit passes through to a beneficiary in the same ratio that income is allocable to that beneficiary. (3-20-97)

d. Idaho credits may not pass through to partners or owners based on special allocations. (5-8-09)

02. Limitations. (3-20-97)

a. In General. Credits claimed on a partner's, shareholder's, or beneficiary's tax return may not exceed the limitations imposed by statute or rule. (3-20-97)

b. Example. Partnership XYZ has three (3) individual partners who each are entitled to a one-third (1/3) share of the partnership profits. The partnership contributed three thousand dollars ($3,000) to an educational institution. The contribution qualifies for the credit provided by Section 63-3029A, Idaho Code. One-third (1/3) of the contribution, one thousand dollars ($1,000), passes through to Partner X who files a joint return. He is allowed a credit of fifty percent (50%) of the amount contributed, but is limited to the lesser of two hundred dollars ($200) or twenty percent (20%) of his total income tax liability. (3-15-02)

c. Example. Assume the same facts as in Subsection 785.02.b., except Partner X also contributed two hundred dollars ($200) to a qualifying educational institution. Partner X is treated as contributing one thousand two hundred dollars ($1,200), to a qualifying educational institution. Since fifty percent (50%) of his contributions, six hundred dollars ($600) exceeds the limitation, the credit is limited to the lesser of two hundred dollars ($200) or twenty percent (20%) of his total income tax liability. The credit is not increased because part of the contribution was from Partner X as an individual and part from the partnership. (3-15-02)

03. Carryovers. Carryovers of credit are allowed to the partner, shareholder, or beneficiary to the extent provided by statute or rule. (3-20-97)

04. Different Taxable Year Ends. If a pass-through entity has a taxable year end different from that of a partner, shareholder, or beneficiary, the credit is available in the same taxable year that income or loss from that entity is reported. (3-20-97)

05. Information Provided by a Pass-Through Entity. The pass-through entity is to prepare and distribute to each partner, shareholder, or beneficiary a schedule detailing the proportionate share of each credit earned and any recapture that is required. Copies of these schedules are to be attached to the pass-through entity's Idaho income tax return or information return for the taxable year that the credit is earned and to each return on which the credit is claimed. (3-20-97)

06. Pass-Through Entities That Pay Tax. (3-30-01)

a. A pass-through entity may apply and may recapture credits that generally pass through to the partner, shareholder, or beneficiary for whom the pass-through entity is paying the tax. For example, Idaho investment tax credit earned that would have passed through to the owner or beneficiary could be claimed by the pass-through entity subject to the applicable limitations. Limitations based on the tax liability apply to each owner's or beneficiary's tax liability being paid by the pass-through entity. (3-30-01)

b. The partner, shareholder or beneficiary is responsible for the recapture or recomputation of credits passed through to the partner, shareholder, or beneficiary. (3-30-01)

c. Carryovers that exist after a pass-through entity offsets the tax with credit available to that partner, shareholder or beneficiary, remain a carryover of the partner, shareholder or beneficiary. (3-30-01)

786. -- 789. (RESERVED)

790. TRANSFER OF CREDIT: IN GENERAL (RULE 790).
Sections 63-3029I and 63-3029J, Idaho Code

01. In General. A credit may be transferred only as specifically allowed in the statute authorizing the credit. The following credits are the only credits that may be transferred: (3-15-02)

a. The broadband equipment investment credit, as allowed by Section 63-3029I, Idaho Code. (3-15-02)

02. Terms. For purposes of Rules 790 through 795 of these rules, the following terms have the stated meanings: (3-15-02)

a. Transferor. The taxpayer who earns the credit and sells, conveys, or transfers the credit to another taxpayer are referred to as the transferor. (3-15-02)

b. Transferee. The taxpayer who receives the credit from the transferor or intermediary is referred to as the transferee. (3-20-04)

03. Transfer Limited. (3-20-04)

a. The broadband equipment investment credit may be transferred to another taxpayer required to file an Idaho income tax return or to an intermediary. The intermediary may use all or a portion of the broadband equipment investment credit or resell the credit to a taxpayer required to file an Idaho income tax return. The broadband equipment investment credit may not be transferred more than two (2) times. (3-20-04)

b. A taxpayer who receives credit through unitary sharing may not transfer the credit to another taxpayer. (3-20-04)

791. TRANSFER OF CREDIT: NOTIFICATION OF INTENDED TRANSFER (RULE 791).
Sections 63-3029I and 63-3029J, Idaho Code

01. Timing of Notification. A taxpayer who intends to transfer qualified credit is to notify the Tax Commission in writing of its intent to transfer the credit at least sixty (60) days prior to the date of the transfer. A transfer may not take place prior to the Tax Commission providing its response as to the amount of credit available and the years the credit may be carried forward. (3-15-02)

02. Information Required. A transferor or intermediary is to notify the Tax Commission by submitting the following information on a form prescribed by the Tax Commission: (3-20-04)

a. Name, address, and federal employer identification number of the transferor or intermediary; (3-20-04)

b. Name, address, and federal employer identification number of the transferee; (3-15-02)

c. Type of credit to be transferred; (3-15-02)

d. Amount of credit to be transferred; (3-15-02)

e. Date of intended transfer; (3-20-04)

f. Signature of authorized individual for transferor or intermediary; and (3-20-04)

g. A copy of the Idaho Form 68, Idaho Broadband Equipment Investment Credit and required schedules for each tax year the credit being transferred was earned. (3-26-19)

792. TRANSFER OF CREDIT: POSTING BOND (RULE 792).
Section 63-3029J, Idaho Code

01. Posting Bond or Security. Section 63-3029J, Idaho Code, provides that prior to obtaining the written statement from the Tax Commission that the transferor may transfer the credit, the transferor may be required to secure any liability by posting a bond or security as the Tax Commission may require. The Tax Commission will require the transferor to post a bond or security only if after receiving the request to transfer credit, the Tax Commission deems the requirement necessary. (5-3-03)

02. Waiver of Bond or Security. If the Tax Commission requires the transferor to secure the liability by posting a bond or security, the transferor may request that the Tax Commission waive the bond requirement if the transferor shows that he is financially responsible. A notice of denial of the bond waiver is to be treated in accordance with Section 63-3045, Idaho Code. A notice of denial of the bond waiver is subject to review in accordance with Section 63-3045B, Idaho Code. (5-3-03)

793. TRANSFER OF CREDIT: TRANSFEREE (RULE 793).
Sections 63-3029I and 63-3029J, Idaho Code

01. Tax Year Credit Available. A transferee may first claim the transferred credit on an income tax return originally filed during the calendar year in which the transfer takes place. However, if the transferee did not claim the transferred credit on his original return filed during the calendar year in which the transfer takes place, he may not amend such return to claim the credit for that tax year. The credit may not be claimed on a tax return that begins prior to January 1, 2001. (3-20-04)

02. Copy of Transfer Form Required. The form verifying the transferred credit is to be attached to the income tax return for each taxable year that the credit is claimed or carried over. (3-15-02)

03. Carryover Period. If a credit is transferred, the transferee is entitled to any remaining carryover period that would have been allowed to the transferor or intermediary had the credit not been transferred. The Tax Commission is to verify the carryover period. The carryover period approved applies to the taxable year of the transferee that begins in the calendar year in which the transferor's taxable year begins. (3-20-04)

a. Taxpayer A earned the broadband equipment investment credit in his taxable year beginning in 2002. He claimed part of the credit on his return for that year. In October of 2003, Taxpayer A sold the remaining credit to Taxpayer B, an intermediary. Taxpayer B resold the credit in May of 2004 to Taxpayer C. Taxpayer C claimed the credit on his original return for taxable year beginning in 2003, which he filed in November of 2004. Taxpayer C has a thirteen (13) year carryover remaining, the same as Taxpayer B would have been entitled to. (3-20-04)

794. -- 798. (RESERVED)

799. PRIORITY ORDER OF CREDITS AND ADJUSTMENTS TO CREDITS (RULE 799).
Section 63-3029P, Idaho Code

01. Tax Liability. Tax liability is the tax imposed by Sections 63-3024, 63-3025, and 63-3025A, Idaho Code. (3-20-97)

02. Nonrefundable Credits. A nonrefundable credit is allowed only to reduce the tax liability. A nonrefundable credit not absorbed by the tax liability is lost unless the statute authorizing the credit includes a carryover provision. Nonrefundable credits apply against the tax liability in the following order of priority: (3-20-97)

a. Credit for taxes paid to other states as authorized by Section 63-3029, Idaho Code; (3-20-97)

b. For part-year residents only, the grocery credit as authorized by Section 63-3024A, Idaho Code; (5-3-03)

c. Credit for contributions to Idaho educational institutions as authorized by Section 63-3029A, Idaho Code; (3-20-97)

d. Investment tax credit as authorized by Section 63-3029B, Idaho Code; (3-20-97)

e. Credit for contributions to Idaho youth facilities, rehabilitation facilities, and nonprofit substance abuse centers as authorized by Section 63-3029C, Idaho Code; (3-30-01)

f. Credit for equipment using postconsumer waste or postindustrial waste as authorized by Section 63-3029D, Idaho Code; (3-30-01)

g. Promoter-sponsored event credit as authorized by Section 63-3620C, Idaho Code; (3-15-02)

h. Credit for Idaho research activities as authorized by Section 63-3029G, Idaho Code; (3-15-02)

i. Broadband equipment investment credit as authorized by Section 63-3029I, Idaho Code; and (3-15-02)

j. Small employer investment tax credit as authorized by Section 63-4403, Idaho Code. (4-11-06)

k. Small employer real property improvement tax credit as authorized by Section 63-4404, Idaho Code. (4-11-06)

l. Small employer new jobs tax credit as authorized by Section 63-4405, Idaho Code. (4-11-06)

m. Credit for live organ donation expenses as authorized by Section 63-3029K, Idaho Code. (3-30-07)

n. Idaho child tax credit as authorized by Section 63-3029L, Idaho Code. (3-26-19)

03. Adjustments to Credits. (4-11-06)

a. Adjustments to the amount of a credit earned is determined pursuant to the law applicable to the taxable year in which the credit was earned. (4-11-06)

b. Adjustments to the amount of a credit earned may be made even though the taxable year in which the credit was earned is closed due to the statute of limitations. Such adjustments to the earned credit also applies to any taxable years to which the credit was carried over. (4-11-06)

c. If the taxable year in which the credit was earned or carried over to is closed due to the statute of limitations, any adjustments to the credit earned does not result in any tax due or refund for the closed taxable years. However, the adjustments may result in tax due or a refund in a carryover year if the carryover year is open to the statute of limitations. (4-11-06)

800. VALID INCOME TAX RETURNS (RULE 800).
Section 63-3030, Idaho Code

01. Requirements of a Valid Income Tax Return. In addition to the requirements set forth in IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 150, an income tax return is to meet the requirements set forth in this rule. Those that fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be completed according to these requirements and resubmitted to the Tax Commission. A taxpayer who does not file a valid income tax return is considered to have filed no return. (3-15-02)

02. Copy of Federal Return Required. A taxpayer is to include with the Idaho return a complete copy of the federal income tax return including all forms, schedules and attachments. (4-2-08)

03. Verification of Idaho Income Tax Withheld. A taxpayer who files an Idaho individual income tax return that is submitted on paper and reports Idaho income tax withheld is to attach appropriate Forms W-2 and 1099 and other information forms that verify the amount of the Idaho income tax withheld and claimed on the Idaho income tax return. Returns filed electronically is to include the W-2 and 1099 information in the electronic record transmitted. (5-8-09)

801. PERSONS REQUIRED TO FILE INCOME TAX RETURNS (RULE 801).
Section 63-3030, Idaho Code

01. In General. Persons who meet the filing requirements under Section 63-3030, Idaho Code, will file Idaho income tax returns unless otherwise provided in the Idaho Income Tax Act or by federal law. (3-20-14)

02. Individuals Who Make Elections Under Section 63-3022L, Idaho Code. For taxable years beginning prior to January 1, 2012, if an individual partner, member, shareholder, or beneficiary is qualified and makes an election under Section 63-3022L, Idaho Code, for the entity to pay the tax attributable to his income from the entity, such individual will not be required to file an Idaho individual income tax return for that taxable year. (3-20-14)

03. Corporations Included in a Unitary Group. A unitary group of corporations may file one (1) Idaho corporate income tax return for all the corporations of the unitary group that are required to file an Idaho

income tax return. Use of the group return precludes the need for each corporation to file its own Idaho corporate income tax return. See Rule 365 of these rules. (3-30-07)

04. Taxpayers Protected Under Public Law 86-272. A taxpayer whose Idaho business activities fall under the protection of Public Law 86-272 is not required to file an Idaho income tax return since the taxpayer is exempt from the tax imposed under the Idaho Income Tax Act. If a taxpayer is a member of a unitary group, it will be included in the combined report although it is exempt from the income tax. The taxpayer's property, payroll, and sales will be included in the computation of the group factor denominators and its business income will be included in the computation of apportionable income for the unitary group. (3-20-14)

802. (RESERVED)

803. ROUNDING (RULE 803).
Section 63-113, Idaho Code. Amounts shown or required to be shown on any return, form, statement or other document required to be submitted to the Tax Commission under Title 63, Chapter 30, Idaho Code, will be rounded to the nearest whole dollar. Amounts less than fifty cents ($.50) are reduced to the whole dollar. Amounts of fifty cents ($.50) or more are increased to the next whole dollar. (4-5-00)

804. (RESERVED)

805. JOINT RETURNS (RULE 805).
Sections 63-3031, 32-201, and 32-209, Idaho Code

01. Effect of Filing Status Used on Federal Returns. A married couple, as defined in Section 32-201, Idaho Code, or recognized by Section 32-209, Idaho Code, is to use the same filing status with Idaho as used when filing returns with the Internal Revenue Service. (3-20-14)

02. In General. (3-20-97)

a. Only a married couple, as defined in Section 32-201, Idaho Code, or recognized by Section 32-209, Idaho Code, may file a joint return. Section 63-3024, Idaho Code, provides for joint return tax rates for individuals filing joint returns and for an individual qualifying as a surviving spouse or head of household. (3-20-14)

b. If a married couple files a joint return and the due date for filing a separate return has expired for either spouse, separate returns may not be filed thereafter. For example, a married couple files a joint return before April 15 in the year due and desires to change their federal and state election to file separately. They may do so only if they file the separate returns on or before April 15. (3-20-97)

03. Resident Aliens or United States Citizens Married to Nonresident Aliens. A United States citizen or resident married to a nonresident alien may elect to treat the spouse as a resident alien allowing them to file a joint return. In this case they are taxed on their worldwide income. The individuals must be able to provide all records and information necessary to determine their tax liability. A statement declaring the election is to be attached to the return for the first taxable year for which the election is to apply. In addition, the statement will include the name, address, and taxpayer identification number of each spouse, and is to be signed by both individuals making the election. (3-20-97)

806. -- 809. (RESERVED)

810. TIME FOR FILING INCOME TAX RETURNS (RULE 810).
Section 63-3032, Idaho Code

01. Due Date of Returns. (7-1-98)

a. All taxpayers except farmer's cooperatives. Each taxpayer, whether a corporation, S corporation, individual, partnership, estate or trust, is required to file an income tax return with the Tax Commission on or before the fifteenth day of the fourth month following the close of the taxable year. A taxable year, for this purpose, includes a short taxable year as defined by the Internal Revenue Code. However, if the time for filing a short taxable year for

federal income tax purposes is later than the fifteenth day of the fourth month following the close of the taxable year, the later date will be the date the return is required to be filed with the Tax Commission. (4-4-13)

b. Farmer's cooperatives. Each farmers' cooperative taxable pursuant to Section 63-3025B, Idaho Code, is required to file an income tax return with the Tax Commission on or before the fifteenth day of the ninth month following the close of the taxable year. (7-1-98)

02. Timely Filing Defined. If the last day for filing a return falls on a Saturday, Sunday, legal holiday, or a holiday recognized by the Internal Revenue Service, the return is deemed timely filed if it is filed on the next day that is not a Saturday, Sunday, or legal holiday. This rule also applies to returns falling due at the end of a period of extension granted by the Tax Commission. A legal holiday, for this purpose, is any holiday recognized by the state of Idaho, including special holidays declared by the Governor. (4-4-13)

03. Mail. Section 63-217(1), Idaho Code, specifies that an income tax return sent through the mail is filed timely if it is postmarked on or before the due date of the return. See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010. (3-15-02)

04. Fifty-Two/Fifty-Three Week Years. A fifty-two fifty-three (52-53) week year is considered to end on the last day of the calendar month ending nearest to the last day of that taxable year. For example, the taxable year of a taxpayer with a fifty-two fifty-three (52-53) week year that ends on February 3 is considered to end on January 31. In this example the due date of the return is May 15, the fifteenth day of the fourth month following January 31. (3-20-97)

811. -- 814. (RESERVED)

815. EXTENSIONS OF TIME (RULE 815).
Section 63-3033, Idaho Code

01. Taxpayers Abroad. An extension granted by the Internal Revenue Service when a taxpayer has not yet met either the bona fide resident test or the physical presence test pursuant to Section 911, Internal Revenue Code, but expects to qualify after the two (2) month extension, is accepted as a valid extension for Idaho filing purposes. A copy of the approved federal extension form must accompany the Idaho income tax return. (7-1-99)

02. Individuals in Combat Zone. Section 7508, Internal Revenue Code, applies to individuals who are serving in a combat zone or who are hospitalized as a result of serving in a combat zone. In this case, returns are not due until one hundred eighty (180) days after the period of qualified service or qualified hospitalization, whichever occurs last. For individuals entitled to this extension of time, interest accrues on the portion of the tax not paid from the extended due date. (2-27-12)

03. Interest. Interest accrues on the portion of the tax not withheld or paid from the due date until the date the return is filed and the full amount of tax is paid. Exceptions only apply in the case of an individual in a combat zone as allowed by Section 63-3033(g), Idaho Code, and Subsection 815.02 of this rule, and when disaster relief is granted to a taxpayer as allowed under Section 63-114, Idaho Code, and Rule 817 of these rules. A taxpayer will not receive interest on amounts withheld or on corporation estimated tax in excess of the actual tax liability. See Section 63-3073, Idaho Code. (2-27-12)

816. (RESERVED)

817. EXTENSIONS OF TIME AS DISASTER RELIEF (RULE 817).
Section 63-114, Idaho Code

01. In General. Section 63-114, Idaho Code, allows the Tax Commission to grant an extension of time for up to one (1) year from the due date to file returns or make payments in the following situations: (5-3-03)

a. When a taxpayer is adversely affected by a disaster declared by the President of the United States or by a governor of a state or territory of the United States; (5-3-03)

b. When a taxpayer is entitled to an extension under Section 7508A, Internal Revenue Code, due to a Presidentially declared disaster or a terroristic or military action. (5-3-03)

02. Penalties and Interest. If an extension of time to file a return or pay tax is allowed under Section 63-114, Idaho Code, penalties and interest will not apply during the extension period. If the taxpayer fails to file by the extended due date, penalties as provided under Section 63-3046, Idaho Code, and interest applies after the extended due date to the date of payment. (5-3-03)

818. -- 819. (RESERVED)

820. CORPORATE ESTIMATED PAYMENTS: IN GENERAL (RULE 820).
Section 63-3036A, Idaho Code

01. Estimated Tax. The term estimated tax means the corporation's anticipated tax as imposed by this Chapter including the permanent building fund tax, plus any recapture of Idaho income tax credits, less the sum of any income tax credits. Estimated payments and non-income tax credits are not included as a credit. (5-3-03)

02. Computation of Estimated Payments. (3-20-97)

a. Estimated tax is paid in four (4) payments. Each estimated payment is to be twenty-five percent (25%) of the lesser of the tax required to be reported on the taxpayer's return filed for the preceding taxable year or ninety percent (90%) of the tax required to be paid on the current year's return. (3-20-97)

b. The tax required to be reported on the preceding year's return and the tax required to be paid on the current year's return means Idaho taxable income multiplied by the corporate income tax rate with a minimum of twenty dollars ($20), plus the permanent building fund tax, plus the recapture of income tax credits, less income tax credits excluding estimated payments. (5-3-03)

c. An estimated payment is not required if an Idaho return was not required for the previous taxable year. (3-20-97)

03. Revised Income Estimate. If, after making one or more estimated payments for a taxable year, a corporation makes a new estimate of its current year income, it recomputes its estimated tax. If the corporation has paid its new estimated tax in prior estimated payments, no payment is due. (3-20-97)

04. Net Operating Loss or Capital Loss Carryover. The allowable net operating loss carryover or capital loss carryover is to be deducted from income for the period before the estimated tax is computed. (5-3-03)

821. CORPORATE ESTIMATED PAYMENTS: PAYMENTS (RULE 821).
Section 63-3036A, Idaho Code

01. Underpayments. A payment of estimated tax is to be applied to previous estimated payments of estimated tax in the order in which the estimated payments were required to be paid. To the extent the payment exceeds previous underpayments, it applies to the estimated payment then due. (3-20-97)

02. Overpayments. (3-20-97)

a. If the estimated payments exceed the actual tax due, the overpayment may be claimed as a credit against the next payment only to the extent it exceeds all underpayments of prior estimated payments. (3-20-97)

b. The overpayment is to be applied to deficiencies of tax, penalties, and interest prior to refund or application to a subsequent year's estimated payment or tax liability. (3-20-97)

c. A refund or credit may not be made to a corporation that fails to file its Idaho income tax return within three (3) years from the due date of the return for which it made the estimated payments. (3-20-97)

03. Obligation to File Returns. The payment of estimated tax does not relieve a corporation of the

obligation to file a return when due pursuant to the Idaho Income Tax Act. An extension of time is not allowed for payment of estimated taxes. Making estimated payments as required in Section 63-3036A, Idaho Code, does not relieve the taxpayer of the requirement to pay the appropriate amount of tax with an application for extension of time to file or with the original return. (3-20-97)

822. CORPORATE ESTIMATED PAYMENTS: ANNUALIZED INCOME INSTALLMENT METHOD (RULE 822).
Section 63-3036A, Idaho Code

01. In General. (3-20-97)

a. If a corporation uses the annualized income installment method for federal purposes and is required to make estimated payments for Idaho purposes, the corporation may use that method to compute its Idaho estimated tax. If a corporation does not use the annualized income installment method for federal purposes, the corporation may not use that method for Idaho purposes. (3-20-97)

b. See Section 6655, Internal Revenue Code, for the determination of annualized income. (3-20-97)

02. Required Installment. The required annualized income installment is the applicable percentage of the tax computed on the annualized income less the aggregate amount of any prior required installments for the reporting period. The applicable percentages for Idaho are: (3-20-97)

a. Twenty-two and one-half percent (22.5%) for the first period; (3-20-97)

b. Forty-five percent (45%) for the second period; (3-20-97)

c. Sixty-seven and one-half percent (67.5%) for the third period; and (3-20-97)

d. Ninety percent (90%) for the fourth period. (3-20-97)

03. Computation of Tax. The tax computed on the annualized income includes the annualized income multiplied by the corporate income tax rate, plus the permanent building fund tax, plus recapture of investment tax credit, less any credits excluding estimated payments. (3-20-97)

823. CORPORATE ESTIMATED PAYMENTS: SHORT TAXABLE YEAR (RULE 823).
Section 63-3036A, Idaho Code

01. In General. If a short taxable year ends before an estimated payment due date, remaining estimated payments is to be made on the fifteenth day of the last month of the short taxable year. No estimated payment is required if the short taxable year is less than four (4) months or if the corporation does not meet the requirements to make an estimated payment before the first day of the last month in the short taxable year. (3-20-97)

02. Examples. (3-20-97)

a. X, a corporation filing on a calendar year basis, changes to a fiscal year beginning September 1, 1993 and ending August 31, 1994. For the short taxable year, January 1, 1993, to August 31, 1993, X must make estimated payments of twenty-five percent (25%) of its minimum payment on April 15, 1993, and June 15, 1993. The remaining payment of fifty percent (50%) of the minimum payment, twenty-five percent (25%) for the third payment plus twenty-five percent (25%) for the fourth payment, is due on August 15, 1993, the fifteenth day of the last month of the short taxable year. (3-20-97)

b. If, in the example in Subsection 823.02.a., X does not meet the requirement to make estimated payments until June 15, 1993, X is required to pay fifty percent (50%) of the estimated tax, twenty-five percent (25%) for the third payment and twenty-five percent (25%) for the fourth payment. No payment for the first and second reporting period is required on August 15, 1993, the fifteenth day of the last month of the short taxable year. (3-20-97)

824. CORPORATE ESTIMATED PAYMENTS: MISCELLANEOUS PROVISIONS (RULE 824).
Section 63-3036A, Idaho Code

01. Unitary Groups Filing Group Returns. (3-20-97)

a. Each corporation included in a group return that is required to make estimated payments separately computes its estimated tax. (3-20-97)

b. Estimated payments is to be made using the name and the federal employer identification number of the corporation whose name will be on the Idaho corporate income tax return. (3-20-97)

02. S Corporations. An S corporation is subject to Section 63-3036A, Idaho Code, limited to its tax on net recognized built-in gains, excess net passive income and from recapture of Idaho income tax credits. (3-29-10)

03. Tax-Exempt Organizations. A tax-exempt organization is subject to Section 63-3036A, Idaho Code, limited to its tax on unrelated business income. (3-20-97)

825. CORPORATE ESTIMATED PAYMENTS: INTEREST ON UNDERPAYMENT (RULE 825).
Section 63-3046A, Idaho Code

01. In General. If a taxpayer is required to pay estimated taxes as provided in Section 63-3036A, Idaho Code, and fails to pay the amount of estimated taxes due, interest is due on the underpaid estimated taxes. (5-3-03)

02. Net Operating Loss and Capital Loss Carrybacks. If the tax due for the taxable year is reduced after the application of a net operating loss carryback or a capital loss carryback, the interest on underpayment of estimated tax will not be recomputed. (5-3-03)

826. -- 829. (RESERVED)

830. INFORMATION RETURNS (RULE 830).
Section 63-3037, Idaho Code

01. In General. Information returns are not required to be filed with the Tax Commission except as follows: (3-20-97)

a. Form 1098, Mortgage Interest Statement, if the property was located in Idaho. (4-5-00)

b. Form 1099-A, Acquisition or Abandonment of Secured Property, if the property was located in Idaho. (4-5-00)

c. Form 1099-B, Proceeds From Broker and Barter Exchange Transactions, if the property was located in Idaho or the service was performed in Idaho. (4-5-00)

d. Form 1099-C, Cancellation of Debt, if the secured property was located in Idaho. (4-5-00)

e. Form 1099-MISC, Miscellaneous Income, if it was issued for transactions related to property located or utilized in Idaho or for services performed in Idaho. (4-5-00)

f. Form 1099-R, Distributions from Pensions, Annuities, Retirement or Profit-Sharing Plans, IRA's, Insurance Contracts, etc., if Idaho income tax was withheld. (4-5-00)

g. Form 1099-S, Proceeds From Real Estate Transactions, if it was issued for transactions related to property located in Idaho. (4-5-00)

h. Form W-2G, Certain Gambling Winnings, if the gambling took place in Idaho. (7-1-98)

02. Submitting Returns. Information returns must be submitted to the Tax Commission through electronic filing or on a paper copy of federal Form 1099. (4-7-11)

03. Due Date of Information Returns. Information returns are made on a calendar year basis. The due date for information returns submitted through electronic filing or on paper is the last day of February following the close of the calendar year. (4-7-11)

04. Voluntary Withholding. Each person who withholds Idaho income tax from amounts reported on information returns required by Section 63-3037, Idaho Code, must: (4-7-11)

a. Obtain an Idaho withholding account number as required by Rule 870 of these rules; and (4-7-11)

b. Submit an annual reconciliation return to the Tax Commission and comply with the requirements provided for filing of annual reconciliation returns as discussed in Rule 872 of these rules. The reconciliation return must report amounts paid during the preceding calendar year and reconcile the state income tax withheld with the tax remitted for the preceding calendar year. The reconciliation return must be filed on or before the last day of January. (3-26-19)

831. -- 854. (RESERVED)

855. PERMANENT BUILDING FUND TAX (RULE 855).
Sections 63-3082 through 63-3087, Idaho Code

01. In General. The permanent building fund tax is an excise tax of ten dollars ($10) reportable on each income tax return required to be filed unless specifically exempt. The proceeds of this tax are credited to the Permanent Building Fund pursuant to Section 57-1110, Idaho Code. (3-20-97)

02. Pass-Through Entities. The permanent building fund tax does not apply to a pass-through entity if all the income or loss of the entity is distributed to or otherwise reported on the income tax return of another taxpayer. A pass-through entity that has Idaho taxable income or loss must pay the permanent building fund tax. (3-25-16)

03. Corporations Included in a Group Return. The permanent building fund tax applies to each member of a unitary group transacting business in Idaho, authorized to transact business in Idaho, or having income attributable to Idaho and included in a group return, except as provided in Subsection 855.05 of this rule. (3-30-07)

04. Inactive or Nameholder Corporations. An inactive or nameholder corporation that files Form 41 to pay the twenty dollar ($20) minimum tax must pay the permanent building fund tax. (3-20-14)

05. Taxpayers Protected Under Public Law 86-272. The permanent building fund tax does not apply to a taxpayer whose Idaho business activities fall under the protection of Public Law 86-272, since the taxpayer is exempt from the tax imposed under the Idaho Income Tax Act and is not required to file an income tax return. (3-20-14)

06. Entities That Pay the Tax for Individuals Under Section 63-3022L, Idaho Code. When a pass-through entity pays the Idaho income tax on a composite return for an individual shareholder, partner, member, or beneficiary on his share of income from the entity, the entity must pay the permanent building fund tax for each individual filing as part of the composite return. When a pass-through entity pays backup withholding for individuals, the permanent building fund tax will be paid by each individual when they file their return. If an individual has tax paid by more than one (1) entity for a taxable year, each entity is required to pay the permanent building fund tax for the individual. Proration of the permanent building fund tax is not allowed for an individual who has tax paid by multiple entities for a taxable year. (3-20-14)

856. -- 859. (RESERVED)

860. DONATIONS TO TRUST ACCOUNTS (RULE 860).
Sections 63-3067A, 63-3067B, and 63-3067D, Idaho Code. A donation to a trust account may not be withdrawn or reduced once the return or amended return on which it was made is filed. (4-7-11)

861. -- 869. (RESERVED)

870. REQUIREMENTS OF AN IDAHO WITHHOLDING ACCOUNT NUMBER (RULE 870).
Sections 63-3035 and 63-3036, Idaho Code

01. Idaho Withholding Account Number Required. An Idaho withholding account number is required of: (3-20-97)

a. Each employer who pays salaries, wages, or other compensation to an employee for services performed in Idaho, including agricultural, household, and domestic employers; and (3-20-97)

b. Each person who withholds Idaho income tax. (3-30-07)

02. Idaho Withholding Account Numbers Are Not Transferable. If a business is sold, the new employer is to apply for a new withholding account number and file separate returns and W-2s. If a change in the form of doing business requires a new federal employer identification number, the new entity is to apply for a new withholding account number. Neither entity should report wages paid by the other entity, nor use the other entity's withholding account number. (3-20-97)

871. STATE INCOME TAX WITHHOLDING REQUIRED (RULE 871).
Sections 63-3035 and 63-3036, Idaho Code

01. Employers Other Than Farmers. An employer is required to withhold from all salaries, wages, tips, bonuses, or other compensation paid to an employee for services performed in Idaho if: (7-1-99)

a. The employer is required to withhold for federal purposes; and (7-1-99)

b. The employee is an Idaho resident; or the employee is a nonresident and compensation of one thousand dollars ($1,000) or more will be paid during a calendar year to the nonresident employee for services performed in Idaho. (7-1-99)

02. Farmer-Employers. An employer who is a farmer is required to withhold from all salaries, wages, tips, bonuses, or other compensation paid to an employee for services performed in Idaho if: (3-30-01)

a. The farmer-employer is required to withhold for federal purposes; and (3-30-01)

b. Compensation of one thousand dollars ($1,000) or more will be paid during a calendar year to the agricultural employee. (3-30-01)

03. Services Performed Within and Without Idaho. An employer is required to withhold only on the portion of the employee's total compensation that is reasonably attributable to services performed in Idaho regardless of his post of duty. Compensation may be allocated to Idaho based on workdays, hours, mileage, or commissions. (7-1-99)

04. Exceptions to Withholding Requirements. Withholding is not required if: (3-20-97)

a. The salaries, wages, tips, bonuses, and other compensation paid by an employer are for services performed wholly outside Idaho regardless of the residency or domicile of either the employer or employee. (3-20-97)

b. The compensation is paid by the United States Armed Forces to a nonresident serving on active duty in Idaho; (3-20-97)

c. The compensation is paid to an interstate transportation employee of a rail carrier covered by Title 49, Section 11502, United States Code, who is a nonresident of Idaho; or (7-1-99)

d. The compensation is paid to an interstate transportation employee of a motor carrier covered by Title 49, Section 14503, United States Code, who is a nonresident of Idaho; or (7-1-99)

e. The compensation is paid to an employee of an interstate air carrier covered by Title 49, Section 40116, United States Code, who is a nonresident of Idaho and earns fifty percent (50%) or less of his compensation in Idaho; or (7-1-99)

f. The compensation is paid to a master or seaman on a vessel in the foreign, coastwise, intercoastal, interstate, or noncontiguous trade or to an individual employed on a fishing vessel or any fish processing vessel covered by Title 46, Section 11108, United States Code; or (4-6-05)

g. The compensation is exempt from federal withholding. (7-1-99)

872. REPORTING AND PAYING STATE INCOME TAX WITHHOLDING (RULE 872).
Sections 63-3035 and 63-3036, Idaho Code

01. Payment of State Income Tax Withheld. (4-6-05)

a. In General. An employer must remit monthly any state income tax withheld. These monthly payments are due on or before the 20th day of the following month. However, employers who owe seven hundred fifty dollars ($750) or less per calendar quarter may, at the discretion of the Tax Commission, be allowed to remit the tax withheld on or before the last day of the month following the end of the quarter. Employers who owe less than seven hundred fifty dollars ($750) annually may be allowed to remit the tax withheld annually on or before January 31. When a filing cycle is changed, the change will take effect on January 1 of the following year. (3-20-14)

b. Semimonthly Filers. (4-11-15)

i. An employer who withholds state income taxes that meet or exceed the monthly or annual threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subparagraph 872.01.b.ii., of this rule, will remit the tax withheld based on semimonthly withholding periods. The first semimonthly withholding period begins on the first day of the month and ends on the 15th day of the same month with payment made no later than the 20th day of the same month. The second period begins on the 16th day of the month and ends on the last day of the same month with payment made no later than the fifth day of the following month. (4-11-15)

ii. Threshold amounts:

Withholding Periods Beginning	Monthly Threshold Amounts	Annual Threshold Amounts
Prior to January 1, 2004	$5,000	$60,000
On or After January 1, 2004, but Before July 1, 2005	$6,000	$72,000
On or After July 1, 2005	$20,000	$240,000

(4-6-05)

iii. An employer who meets the threshold amounts provided in Section 63-3035, Idaho Code, and listed in Subparagraph 872.01.b.ii. of this rule, but only has one (1) monthly pay period, may request approval by the Tax Commission to pay and report monthly. The request should include verification of monthly payroll. (3-29-17)

c. Farmer-Employers. Generally an employer who is a farmer will remit state income tax withheld on or before the last day of January. However, an employer who is a farmer will remit the state income tax withheld on or before the last day of the month following the end of the quarter if he is a covered employer required to file with the Department of Commerce and Labor. (3-20-14)

02. Filing of Annual Reconciliation Returns. (4-6-05)

a. In General. An employer must file an annual reconciliation return for any calendar year in which the employer had an active Idaho withholding account or withheld Idaho income taxes. Such return will: (3-20-14)

i. Report payroll paid during the preceding calendar year; and (4-6-05)

ii. Reconcile the state income tax withheld during the preceding calendar year with the tax remitted for the preceding calendar year. (4-6-05)

b. Due Date of Reconciliation Returns. The annual reconciliation return must be filed with the Forms W-2 on or before such date as required for filing of the W-2. See Rule 874 of these rules. The Tax Commission may require a shorter filing period and due date. (3-20-14)

c. Zero Tax Returns. For reporting periods in which the employer had no payroll or withheld no tax, the annual reconciliation return must be completed and filed by the due date. (3-20-14)

03. Extension of Time to Pay or File Returns. The Tax Commission may allow a one (1) month extension of time to make a monthly or quarterly payment or to file the annual reconciliation return. (4-6-05)

a. The employer must file a written request by the due date of the payment or annual reconciliation return that identifies the reason for the extension and includes the required minimum payment. The minimum payment must be at least ninety percent (90%) of the tax withheld for the period or one hundred percent (100%) of the tax withheld for the same period of the prior year. (3-20-14)

b. The employer must file the annual reconciliation return within one (1) month of the due date. The tax paid with the extension request must be shown on the payment line of the return. Interest from the due date applies to any additional tax due. (3-20-14)

04. Valid Returns. All withholding returns and other documents required to be filed pursuant to Sections 63-3035 and 63-3036, Idaho Code, and this rule will be filed using the proper forms as prescribed by the Tax Commission. The forms will include the taxpayer's name, signature, withholding account number, and federal employer identification number. Returns that fail to meet these requirements are invalid and may be returned to the taxpayer to be refiled. Failure to file a valid return by the due date may cause interest and penalties to be imposed. (3-20-14)

873. EMPLOYEE'S WITHHOLDING ALLOWANCE CERTIFICATES (RULE 873).

Section 63-3035, Idaho Code

01. Verification. The Tax Commission may request verification of the marital status or withholding allowances claimed by an employee on federal Form W-4. If the employee fails to verify the claimed marital status or withholding allowances, a Notice of Deficiency as provided by Section 63-3045, Idaho Code, may be issued. If a Notice of Deficiency is issued but is not protested or is upheld on appeal, the Tax Commission will issue an order specifying the marital status and maximum number of withholding allowances the employee is allowed for Idaho withholding purposes. (4-5-00)

02. Notification. The Tax Commission is to notify the employer of the order. The order is effective immediately on receipt by the employer and is to remain in effect the rest of the calendar year, unless the employee files federal Form W-4 claiming fewer allowances than ordered. The employer is liable to the Tax Commission for any deficiencies that result from withholding in excess of the maximum number of withholding allowances specified in the most recent Tax Commission order. (4-5-00)

03. Petition for Changes. An employee subject to a Tax Commission order may petition the Tax Commission for a change to the order. If the employee establishes that a material change of circumstances has occurred, the Tax Commission will issue a new order and notify the employer. The determination of the Tax Commission on any change to the order is final. (4-5-00)

874. EMPLOYEE'S WAGE AND TAX STATEMENTS (RULE 874).

Sections 63-3035 and 63-3036, Idaho Code

01. Form and Information Required. Federal Form W-2 (W-2) or a form of similar size and design

may be used. In addition to the information required by the Internal Revenue Code, total Idaho wages paid, Idaho income tax withheld, Idaho withholding permit number, and the name of the state must be shown in the appropriate boxes. Incomplete, incorrect or altered forms are not acceptable and may be returned to the employer for correction. (4-7-11)

02. Furnishing Forms W-2 to Employees. The employer must furnish each employee a W-2 before February 1, or at the request of the employee within thirty (30) days after termination of his employment. (4-7-11)

03. Filing Forms W-2 With the Tax Commission. On or before the last day of January, each employer must file with the Tax Commission a state copy of the W-2 for each employee to whom Idaho taxable wages were paid, regardless of whether Idaho income tax was withheld. If the employer had no employees and subsequently did not pay wages or withhold tax, no W-2s are required. (3-29-17)

04. Corrected Forms W-2. If a corrected W-2 is filed with the Internal Revenue Service, the W-2c must be filed with the Tax Commission. (4-6-05)

05. Employers With Fifty or More Idaho Employees. Each employer with fifty (50) or more Idaho employees who is required to file W-2s electronically by Section 6011, Internal Revenue Code, must file through electronic filing with Idaho. In addition to the information required by the Internal Revenue Code, the electronic filing must also include the employer's Idaho withholding account number, Idaho wages, and Idaho withholding. Employers who are required to file electronically but fail to do so are subject to the provisions of Section 63-3046(e)(1), Idaho Code, and treated as if no W-2s were filed. (5-8-09)

06. Services Performed Within and Without Idaho. If services are performed within and without Idaho, the state wages shown on the W-2 furnished to the employee must include the portion of the employee's total wages reasonably attributed to services performed within Idaho as determined using the calculations in Rule 270 of these rules. (5-8-09)

07. Extension of Time to File Form W-2. The Tax Commission may allow a one (1) month extension of time to file the W-2s. (4-6-05)

a. The employer must file a written request by the due date of the W-2s that identifies the reason for the extension. (4-6-05)

b. The employer must file the W-2s within one (1) month of the due date. A penalty of two dollars ($2) per W-2 per month not filed may be applied if the W-2s are not submitted by the due date. (4-6-05)

875. -- 876. (RESERVED)

877. BACKUP WITHHOLDING BY PASS-THROUGH ENTITIES (RULE 877).
Sections 63-3022L and 63-3036B, Idaho Code

01. In General. A pass-through entity that is transacting business in Idaho or an estate or trust that has income taxable in Idaho must withhold Idaho income tax from the owner's or beneficiary's share of income and guaranteed payments from the pass-through entity that is required to be included in the individual's Idaho taxable income unless exempt from backup withholding by Section 63-3036B, Idaho Code, or this rule. For purposes of this rule, pass-through entity means "pass-through entity" as defined in Section 63-3006C, Idaho Code. The provisions of this rule do not affect the withholding requirements set forth in Sections 63-3035, 63-3035A, or 63-3036, Idaho Code, and related rules. (4-4-13)

02. Exceptions to Backup Withholding. Backup withholding by a pass-through entity is not required on the income of the following pass-through owners and beneficiaries: (2-27-12)

a. Owners and beneficiaries who are not natural persons, including corporations, partnerships, trusts, and estates. (4-7-11)

b. Unit holders of a publicly traded partnership as defined by Section 7404(b), Internal Revenue

Code, if the publicly traded partnership: (4-7-11)

i. Is treated as a partnership for purposes of the Internal Revenue Code; and (4-7-11)

ii. Has agreed to file an annual information return. The information return must be in the form of a schedule included with the partnership's Idaho Partnership Return of Income reporting the name, address, taxpayer identification number, and other information requested by the Tax Commission of each unit holder with a distributive share of partnership income in Idaho in excess of five hundred dollars ($500) for the taxable year. (2-27-12)

c. Resident individuals and part-year resident individuals who have income other than from a pass-through entity. (2-27-12)

d. Nonresident individuals if: (4-7-11)

i. The pass-through entity has reported and paid the tax relating to the individual on a composite return pursuant to Section 63-3022L, Idaho Code. (4-4-13)

ii. Such individual's share of income and guaranteed payments of the pass-through entity from Idaho sources is less than one thousand dollars ($1,000) for the taxable year in which the income is subject to tax; (4-4-13)

iii. The income is subject to withholding under Section 63-3035 or 63-3036, Idaho Code; or (4-4-13)

iv. The individual has signed and the pass-through entity has approved an Idaho nonresident owner agreement. (4-4-13)

03. Idaho Nonresident Owner Agreement. When an individual signs an Idaho nonresident owner agreement, he agrees to file and pay tax on his share of Idaho income from a pass-through entity. The signed agreement must be the proper form prescribed by the Tax Commission and must be submitted to the pass-through entity each year. The pass-through entity must sign and approve the nonresident owner agreement for it to be valid. Their approval will signify their acknowledgment that they are liable for any tax due at the corporate rate if the individual fails to file a return as agreed. If the pass-through entity does not approve the nonresident owner agreement, the pass-through entity must withhold or include the individual in the composite return. The pass-through entity must retain the forms for three years following the end of the taxable year for which it is to apply. (4-4-13)

04. Payment of Backup Withholding. (4-7-11)

a. The pass-through entity must withhold amounts from the pass-through income of nonresident individuals at the highest marginal rate applicable for the taxable year under Section 63-3024, Idaho Code. The amount withheld for a taxable year must be remitted to the Tax Commission annually on or before the fifteen day of the fourth month following the end of the taxable year, unless one of the exceptions under Subsection 877.02 of this rule apply to the owner or beneficiary. The amount withheld must be remitted on the appropriate return as required by the Tax Commission. (2-27-12)

b. Amounts remitted as backup withholding for a taxable year in accordance with the provisions of this rule will be considered to be in part payment of the tax imposed on such owner or beneficiary for his taxable year in which the pass-through entity's taxable year ends. (2-27-12)

05. Backup Withholding Returns. A reconciliation schedule must be included with the pass-through entity's Idaho income tax return. Returns submitted to the Tax Commission reporting amounts withheld as required by Section 63-3036B, Idaho Code, must include the following information: (2-27-12)

a. The amount of income described in Section 63-3022L(2), Idaho Code, by owner or beneficiary; (2-27-12)

b. The amount of tax withheld; (4-7-11)

c. Name, address, filing option, and social security number of each owner or beneficiary; (4-4-13)

d. The pass-through entity's name, and federal employer identification number. (2-27-12)

06. Failure to File Returns or Remit Backup Withholding. Returns that fail to meet the requirements of this rule are invalid and may be returned to the pass-through entity to be refiled. Failure to file a valid return or remit the proper amount of backup withholding by the due date may cause interest and penalties to be imposed. (2-27-12)

878. -- 879. (RESERVED)

880. CREDITS AND REFUNDS (RULE 880).
Section 63-3072, Idaho Code

01. Overpayment. The term overpayment includes: (3-20-97)

a. A voluntary and unrequested payment greater than an actual tax liability. (3-20-97)

b. An excessive amount that an employer withholds pursuant to Sections 63-3035 and 63-3036, Idaho Code. (3-20-97)

c. An excessive amount that a pass-through entity withholds pursuant to Section 63-3036B, Idaho Code. (3-20-14)

d. All amounts erroneously or illegally assessed or collected. (3-20-97)

e. The term overpayment does not include an amount paid pursuant to a final determination of tax, including a compromise and closing agreement, decision of the Tax Commission, decision of the Board of Tax Appeals, or final court judgment. (3-20-97)

02. Requirements of a Valid Refund Claim. Before the Tax Commission can credit or refund an overpayment, the taxpayer making the claim must establish both of the following: (4-2-08)

a. The basis for the credit or refund claim, and (4-2-08)

b. The amount of the overpayment. (4-2-08)

03. Timely Claim Required for Refund. (3-20-97)

a. The Tax Commission may not credit or refund an overpayment after the expiration of the period of limitations unless the taxpayer filed a claim before the expiration of the period. (3-20-97)

b. When an adjustment to the taxpayer's federal return affects the calculation or application of an Idaho net operating loss, capital loss, or Idaho credit in a year otherwise closed by the period of limitations, the taxpayer has one (1) year from the date of the final determination to file a claim for refund. (4-2-08)

c. If a claim for credit or refund relates to an overpayment attributable to an Idaho net operating loss carryback incurred in taxable years beginning on and after January 1, 2013, an amended return carrying the loss back must be filed within one (1) year of the end of the taxable year of the net operating loss that results in such carryback. (3-20-14)

04. Amended Returns Required as Refund Claims. The claim for a credit or refund must be made on an amended Idaho income tax return that is properly signed and includes an explanation of each legal or factual basis in sufficient detail to inform the Tax Commission of the reason for the claim. By signing the amended return the taxpayer is declaring that the claim for refund is true and correct to the best of his knowledge and belief and is made under the penalties of perjury. (3-20-14)

05. Closed Issues. The Tax Commission will deny a credit or refund claim for a taxable year for which

the Tax Commission has issued a Notice of Deficiency, unless the taxpayer shows that the changes on the amended return are unrelated to the adjustments in the Notice of Deficiency or that the changes result from a final federal determination. (3-20-14)

06. Limitations on Refunds of Withholding and Estimated Payments. As provided by Section 63-3072(c), Idaho Code, the Tax Commission may not refund taxes withheld from wages unless the taxpayer files a return within three (3) years after the due date. The Tax Commission may not refund any payment received with an extension of time to file or with a tentative return, including quarterly estimated payments, unless the taxpayer makes a claim for a refund within three (3) years of the due date of the return. However, when an individual is in a combat zone and entitled to an extension of time by Section 7508, Internal Revenue Code, the number of days disregarded under such section will be added to the three (3) year period for allowing refunds of amounts withheld or paid as estimated payments. (2-27-12)

07. Reduction or Denial of Refund Claims. If the Tax Commission determines that a refund claim is in error, the Tax Commission will deny the claim in whole or part. Unless the denial results from a mathematical error by the claimant, the Tax Commission will give notice of the denial by a Notice of Deficiency in the manner required by Section 63-3045, Idaho Code, and related rules. The protest and appeal process that applies to a Notice of Deficiency also applies to the denial or reduction of a refund. See Section 63-3045A, Idaho Code, for information on mathematical errors. (3-20-14)

08. Amended Federal Return. Filing a claim with the Internal Revenue Service to reduce taxable income does not extend the Idaho period of limitations for claiming a refund or credit of tax. If the statute of limitations is about to expire on a taxpayer's Idaho return for which an issue is pending on his federal return or return filed with another state, the taxpayer should amend his Idaho return. He should clearly identify the amended return as a protective claim for refund. The taxpayer must notify the Tax Commission of the final resolution. (7-1-98)

09. Combined Reports -- Final Federal Determination and Change of Filing Method. If the Idaho period of limitations is open due to a final federal determination, a corporate taxpayer may not adjust its Idaho return to include a previously omitted corporation or to exclude any corporation previously included in a combined report. (3-20-97)

10. Duplicate Returns. If a return is filed pursuant to Section 63-217(1)(b), Idaho Code, where the taxpayer establishes by competent evidence that the return was deposited in the United States mail or with a qualifying private delivery service (See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010) on or before the date for filing and the Tax Commission has notified the taxpayer that it has not received the return, the taxpayer must submit a duplicate return within fifteen (15) days of such notification for the newly filed return to qualify as a duplicate return. The period of limitations for a duplicate return is the later of one (1) year from the filing of the duplicate return or the date provided for in Section 63-3072(b), Idaho Code. (3-20-14)

881. -- 884. (RESERVED)

885. INTEREST ON REFUNDS (RULE 885).
Sections 63-3073 and 63-3045, Idaho Code

01. In General. Taxpayers will receive interest on refunds of all amounts illegally or erroneously assessed or collected. No interest is payable on refunds of amounts that are voluntary or unrequested payments exceeding the tax due. (3-20-97)

02. Computation. Except as provided in Subsection 885.03, the Tax Commission is to compute interest on a net refund as follows: (7-1-99)

a. Taxes erroneously or illegally assessed or collected. Interest is to be computed from the date the excess amount was received or the due date for filing the return to which the amount relates, whichever is later. (3-20-97)

b. Refunds of income tax withheld. The Tax Commission will pay interest on refunds of withholding if the refund is paid more than sixty (60) days after the due date of the income tax return or the date it was filed,

whichever is later. For purposes of this rule, the refund is considered paid on the date it is postmarked. If a taxpayer unduly delays the processing of his refund by failing to respond promptly to requests for information or in any other way, the Tax Commission may deduct time attributable to the delay from the total processing time to determine whether interest is to be paid and from what date. Unless reasonable cause is established, undue delay occurs if the taxpayer's delay is more than sixty (60) days. Pursuant to this subsection, interest is computed from the due date, or extended due date, of the return. (3-20-97)

c. Tentative payments. The Tax Commission may not pay interest on a refund resulting from an estimated or tentative payment. (3-20-97)

03. Refunds from Net Operating Loss and Capital Loss Carrybacks. Refunds from net operating loss and capital loss carrybacks include refunds from credits carried to years other than the year to which the net operating loss or capital loss deduction applies. Interest on these refunds is computed from the last day of the loss year. (7-1-99)

886. -- 889. (RESERVED)

890. NOTICE OF ADJUSTMENT OF FEDERAL TAX LIABILITY (RULE 890).
Section 63-3069, Idaho Code

01. Final Determination. The term final determination as used in Section 63-3069, Idaho Code means final federal determination as defined in Section 63-3068(f), Idaho Code. (3-20-97)

02. Written Notice. (3-20-97)

a. Written notice will include copies of all Revenue Agents' reports, and any other documents and schedules required to clarify the adjustments to taxable income. If the final determination results in a refund of state taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-20-97)

b. Written notice included with an income tax return for a year or years other than the year subject to the federal adjustment does not constitute the required notification. (3-20-97)

03. Immediate Notification. The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within one hundred twenty (120) days of the final determination. (3-26-19)

891. NOTICE OF ADJUSTMENT OF STATE OR TERRITORY TAX LIABILITY (RULE 891).
Sections 63-3069 and 63-3069A, Idaho Code

01. Final Determination. The term final determination of any deficiency or refund of income tax due to another state or territory as used in Section 63-3069, Idaho Code, means the final resolution of all issues that were adjusted by the other state or territory. (3-30-01)

02. Written Notice. (3-30-01)

a. Written notice is to include copies of all reports issued by the other state or territory, and any other documents and schedules required to clarify the adjustments to taxable income of the state or territory. If the final determination results in a refund of Idaho taxes, an amended Idaho income tax return must accompany the written notice to be a valid claim for refund. (3-30-01)

b. Written notice included with an income tax return for a year or years other than the year subject to the adjustment by the state or territory does not constitute the required notification. (3-30-01)

03. Immediate Notification. The Tax Commission may impose negligence penalties on any additional tax due if the taxpayer has not provided the written notice within one hundred twenty (120) days of the final determination. (3-26-19)

892. -- 894. (RESERVED)

895. PERIOD OF LIMITATION ON ASSESSMENT AND COLLECTION OF TAX (RULE 895).
Sections 63-3068 and 63-3069A, Idaho Code

01. Federal Determination. The additional one (1) year period of limitation provided in Sections 63-3068(f) and 63-3068(j), Idaho Code, does not begin to run if the final federal determination is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's representative. The Internal Revenue Service and other taxing agencies are not representatives of taxpayers. (3-20-97)

02. State or Territory Determination. The additional one (1) year period of limitation provided in Section 63-3069A(2)(b), Idaho Code, does not begin to run if the final determination of income tax due to another state or territory is delivered to the Tax Commission by someone other than the taxpayer or the taxpayer's representative. Taxing agencies of other states or territories are not representatives of taxpayers. (3-30-01)

03. Protest of a Notice of Deficiency. If a taxpayer protests a Notice of Deficiency, the expiration of the period of limitations provided in Section 63-3068, Idaho Code, is suspended. (3-20-97)

04. Waiver of the Period of Limitation. If a taxpayer executes a waiver to extend the period of limitation, the waiver will state the taxpayer's name as shown on the tax return. If a group return is filed, the waiver applies to each corporation included in the combined group. (3-20-97)

05. Duplicate Returns. If a return is filed pursuant to Section 63-217(1)(b), Idaho Code, where the taxpayer establishes by competent evidence that the return was deposited in the United States mail or with a qualifying private delivery service (See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 010) on or before the date for filing and the Tax Commission has notified the taxpayer that it has not received the return, the taxpayer is to submit a duplicate return within fifteen (15) days of such notification for the newly filed return to qualify as a duplicate return. The period of limitations for a duplicate return is the later of one (1) year from the filing of the duplicate return or the date provided for in Section 63-3068, Idaho Code. (4-6-05)

896. REQUEST FOR PROMPT ACTION BY THE TAX COMMISSION (RULE 896).
Section 63-3068(e), Idaho Code

01. In General. A request for prompt action may be made pursuant to Section 63-3068(e), Idaho Code, for an income tax return that is required to be filed for a decedent or an estate of a decedent. The request does not apply to the estate tax imposed by Chapter 4, Title 14, Idaho Code. (7-1-98)

02. Requirements of a Valid Request for Prompt Action. The personal representative, executor, administrator, or other fiduciary representing the estate of a decedent is to file the request for prompt action in writing with the Tax Commission. The request must meet the following qualifications: (7-1-98)

a. It must be filed after the applicable return has been filed; (7-1-98)

b. It must be filed separately from any other document; (7-1-98)

c. It must identify the taxpayer by name and identification number and the taxable periods for which the prompt action is requested; and (7-1-98)

d. It must clearly state that it is a request for prompt action pursuant to Section 63-3068(e), Idaho Code. (7-1-98)

03. Applicable Returns. A request for prompt action does not apply to any return filed after the request has been filed. The request applies only to returns reflecting income earned or other activities and transactions occurring during the lifetime of the decedent or by his estate during the period of administration. (7-1-98)

897. -- 899. (RESERVED)

900. RESPONSIBILITY FOR PAYMENT OF CORPORATE TAXES AND PENALTIES (RULE 900).
Section 63-3078, Idaho Code. The Tax Commission or its delegate may issue a jeopardy assessment or take any other action necessary to assess and collect the amounts due from liable individuals. The action may include the filing of a lien on the property of the individual found liable, or seizure and sale of his property or any other means of collection. The liable individuals are to have the remedies provided in Sections 63-3045, 63-3049, 63-3065, and 63-3074, Idaho Code. (3-20-97)

901. -- 939. (RESERVED)

940. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: DEFINITIONS (RULE 940).
Title 63, Chapter 44, Idaho Code. For purposes of administering the Idaho Small Employer Incentive Act of 2005, as modified by 2006 legislation, and Rules 940 through 946 of these rules, the following definitions apply: (3-30-07)

01. Buildings and Structural Components. Buildings and structural components means buildings and structural components of buildings as defined in Federal Treasury Regulation Section 1.48-1 for Internal Revenue Code Section 48 repealed by Public Law 101-508. (3-30-07)

02. New Plant and Building Facilities. New plant and building facilities are facilities where employees are physically employed. (3-30-07)

03. Investment in New Plant. Investment in new plant means new plant and building facilities: (3-30-07)

a. That are constructed or erected by the taxpayer, or (3-30-07)

b. That are acquired by the taxpayer and whose original use begins with the taxpayer after such acquisition. Original use means the first use to which the property is put, whether or not such use corresponds to the use of such property by the taxpayer. Property used by the taxpayer prior to its acquisition does not qualify as new plant. (3-30-07)

c. That qualify for the investment tax credit under Section 63-3029B, Idaho Code, or is a building or structural components of buildings. (3-30-07)

04. Making Capital Investments. The date capital investments are considered made will be determined in the same manner as the date assets are considered placed in service pursuant to the federal treasury regulations. (3-30-07)

05. New Employee. A new employee cannot be created by reorganizing the business in such a manner that the employee is reassigned to working in the project site instead of outside the project site. An employee within Idaho transferred to a qualifying position within the project site may qualify as a new employee if his previous position is filled by another employee creating a net new job in Idaho. An employee working outside of Idaho and transferred to a qualifying position within the project site may also qualify as a new employee. (3-30-07)

06. Project Period. The project period is a period of time that begins and ends as follows: (3-30-07)

a. The project period may begin on one (1) of the following dates, but not prior to January 1, 2006: (3-29-10)

i. The date of a physical change to the project site; or (3-30-07)

ii. The date new employees begin providing personal services at the project site. (3-30-07)

b. The project period ends at the earliest of: (3-29-10)

i. The conclusion of the project, (3-29-10)

ii. Ten (10) years after the beginning of the project; or (3-29-10)

iii. December 31, 2020. (3-29-10)

07. Project Site. The project site may include one (1) location or more than one (1) location in Idaho. However, if more than one (1) location in Idaho is used, eighty percent (80%) or more of the investment required in the tax incentive criteria is to be located at one (1) contiguous site. (3-30-07)

08. Small Employer Investment Tax Credit. Small employer investment tax credit means the additional income tax credit allowed by Section 63-4403, Idaho Code. (3-30-07)

09. Small Employer New Jobs Tax Credit. Small employer new jobs tax credit means the additional income tax credit for new jobs allowed by Section 63-4405, Idaho Code. (3-30-07)

10. Small Employer Real Property Improvement Tax Credit. Small employer real property improvement tax credit means the real property improvement tax credit allowed by Section 63-4404, Idaho Code. (3-30-07)

11. Small Employer Tax Incentive Criteria. Small employer tax incentive criteria means the tax incentive criteria defined in Section 63-4402(2)(j), Idaho Code. See Rule 942 of these rules for more information. (3-30-07)

12. Small Employer Tax Incentives. Small employer tax incentives means the tax incentives allowed by Title 63, Chapter 44, Idaho Code. (3-30-07)

941. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: IN GENERAL (RULE 941).
Sections 63-4401 and 63-4406, Idaho Code

01. Pass-Through Entities. The income tax credits may be earned by a partnership, S corporation, estate, or trust and passed through to the partner, shareholder, or beneficiary. See Rule 785 of these rules for the method of attributing the credits, for pass-through entities paying tax, and the application of limitations on pass-through credits. (3-30-07)

02. Reorganizations, Mergers and Liquidations. The small employer investment tax credit and real property improvement tax credits are subject to recapture in accordance with Section 47, Internal Revenue Code, as in effect prior to the enactment of Public Law 101-508. Exceptions included in Section 47(b), Internal Revenue Code, to the general recapture rules, including a mere change in the form of conducting the trade or business and transactions to which Section 381(a), Internal Revenue Code, applies will not cause recapture to occur so long as the property is retained in such trade or business as qualified investment in new plant and the taxpayer retains a substantial interest in such trade or business. To the extent that provisions of the Internal Revenue Code allow an acquiring taxpayer to succeed to and take into account unused investment credits of the distributor or transferor taxpayer, such provisions apply to the acquiring taxpayer with regard to any unused Idaho small employer investment tax credits and real property improvement tax credits. See Rule 946 of these rules for information related to the recapture required by an acquiring taxpayer. (3-30-07)

03. Relocations. The relocation from one (1) project site to a new project site within the state may not create new eligibility for the current or any succeeding business entity. (3-30-07)

04. Unitary Taxpayers. A corporation included as a member of a unitary group may elect to share the small employer investment tax credit, real property improvement tax credit, and new jobs tax credit it earns with other members of the unitary group. Before the corporation may share the credit, it must claim the credit to the extent allowable against its tax liability. The credit available to be shared is the amount of each credit carryover and credit earned for the taxable year that exceeds the limitations provided for each credit. The limitation is applied against the tax computed for the corporation that claims the credit. Credit shared with another member of the unitary group reduces the carryforward. (3-30-07)

942. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER TAX INCENTIVE CRITERIA (RULE 942).
Section 63-4402, Idaho Code

01. In General. The small employer tax incentive criteria are the minimum requirements a taxpayer must meet in order to be eligible for small employer tax incentives. To meet the small employer tax incentive criteria, a taxpayer must satisfy the following requirements at the project site, during the project period: (3-30-07)

a. Making capital investment in new plant and building facilities totaling five hundred thousand dollars ($500,000) or more; (3-30-07)

b. Increasing employment by at least ten (10) new employees who meet the requirements of Section 63-4402(2)(j)(ii)(1), Idaho Code; (3-30-07)

c. Employment increases more than the ten (10) new employees described in Paragraph 942.01.b. of this rule will meet the requirements of Section 63-4402(2)(j)(ii)(2), Idaho Code; and (3-30-07)

d. Once the increase in employment has been reached, maintaining that increased employment in Idaho for the remainder of the project period. (3-30-07)

02. Certification. A taxpayer is to certify that he has met, or will meet, the small employer tax incentive criteria before he can claim any of the small employer tax incentives. Certification is accomplished by filing the applicable form as prescribed by the Tax Commission. The certification form includes the following information and be filed with the Tax Commission prior to claiming any of the small employer tax incentives: (3-30-07)

a. A description of the qualifying project; (3-30-07)

b. The estimated or actual start date of the project; (3-30-07)

c. The estimated or actual end date of the project; (3-30-07)

d. The location of the project site or sites; (3-30-07)

e. The estimated or actual number of new jobs created during the project period; and (3-30-07)

f. The estimated or actual cost of capital investment in new plant and building facilities for each year in the project period. (3-30-07)

03. Copy of Certification Form Required. A copy of the certification form will be attached to the Idaho income tax return for each taxable year that a small employer income tax incentive is claimed or carried over. (3-30-07)

943. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER INVESTMENT TAX CREDIT (RULE 943).
Sections 63-4403 and 63-4406, Idaho Code

01. Credit Allowed. (3-30-07)

a. The small employer investment tax credit allowed by Section 63-4403, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 2020. (3-29-10)

b. The credit applies to qualified investments placed in service during the project period. Qualified investments placed in service during the project period, but in a taxable year that does not qualify, will not qualify for the small employer investment tax credit, but may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, the qualified investments placed in service during that taxable year will not qualify for the small employer investment tax

credit, but may qualify for the investment tax credit allowed by Section 63-3029B, Idaho Code. (3-30-07)

02. Taxpayers Entitled to the Credit. The small employer investment tax credit is allowed only to taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)

03. Qualified Investments. (3-30-07)

a. Investments in new plant must meet the definition of qualified investments found in Section 63-3029B, Idaho Code, and requirements of Rules 710 through 719 of these rules, in addition to the requirements of Section 63-4403, Idaho Code, and related rules to qualify as qualified investments. (3-30-07)

b. Qualified investments must be placed in service in Idaho, but may be located in or outside the project site to qualify. (3-30-07)

04. Limitations. The small employer investment tax credit allowable in any taxable year is to be limited as follows: (3-30-07)

a. The small employer investment tax credit claimed during a taxable year may not exceed the lesser of: (3-30-07)

i. Seven hundred fifty thousand dollars ($750,000); or (3-30-07)

ii. Sixty-two and five-tenths percent (62.5%) of the tax, after allowing all other income tax credits that may be claimed before the small employer investment tax credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-30-07)

b. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-30-07)

05. Carryovers. The carryover period for the small employer investment tax credit is fourteen (14) years. (3-30-07)

06. Coordination With Investment Tax Credit Allowed by Title 63, Chapter 30, Idaho Code. A taxpayer who is eligible to claim the small employer investment tax credit is not eligible to claim the investment tax credit allowed by Section 63-3029B, Idaho Code, on the same property. However, if a taxpayer has qualified investments in a taxable year in which the project period begins or ends, the taxpayer may qualify for both the small employer investment tax credit on property placed in service during the project period in that taxable year and for the investment tax credit allowed by Section 63-3029B, Idaho Code, for property placed in service before or after the project period in that taxable year. (3-30-07)

944. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER REAL PROPERTY IMPROVEMENT TAX CREDIT (RULE 944).
Sections 63-4404 and 63-4406, Idaho Code

01. Credit Allowed. (3-30-07)

a. The small employer real property improvement tax credit allowed by Section 63-4404, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 2020. (3-29-10)

b. The credit applies to buildings and structural components of buildings placed in service during the project period. Qualified investments placed in service during the project period, but in a taxable year that does not qualify, will not qualify for the small employer real property improvement tax credit. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, the buildings and structural components placed in service during that taxable year will not qualify for the small employer real property improvement tax credit. (3-30-07)

02. Taxpayers Entitled to the Credit. The small employer real property improvement tax credit is allowed only to taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)

03. Buildings and Structural Components of Buildings. (3-30-07)

a. To qualify for the small employer real property improvement tax credit, buildings and structural components of buildings must meet the following requirements: (3-30-07)

i. The buildings and structural components of buildings must be new as defined in Subsection 940.03 of these rules. Structural components placed in service as part of a renovation of an existing building do not qualify. (3-30-07)

ii. The buildings and structural components of buildings must be placed in service at the project site. (3-30-07)

b. Buildings and structural components of buildings that meet the definition of qualified investments pursuant to Section 63-3029B, Idaho Code, will not qualify for the small employer real property improvement tax credit. (3-30-07)

04. Limitations. The small employer real property improvement tax credit allowable in any taxable year will be limited as follows: (3-30-07)

a. The small employer real property improvement tax credit claimed during a taxable year may not exceed the lesser of: (3-30-07)

i. One hundred twenty-five thousand dollars ($125,000); or (3-30-07)

ii. One hundred percent (100%) of the tax, after allowing all other income tax credits that may be claimed before the small employer real property improvement tax credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-30-07)

b. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-30-07)

05. Carryovers. The carryover period for the small employer real property improvement tax credit is fourteen (14) years. (3-30-07)

945. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: SMALL EMPLOYER NEW JOBS TAX CREDIT (RULE 945).
Sections 63-4405 and 63-4406, Idaho Code

01. Credit Allowed. (3-30-07)

a. The small employer new jobs tax credit allowed by Section 63-4405, Idaho Code, may be earned during taxable years beginning on or after January 1, 2006 and before December 31, 2020. (3-29-10)

b. The credit applies to new employees hired during the project period. New employees hired during the project period, but in a taxable year that does not qualify, will not qualify for the small employer new jobs tax credit. For example, if a project begins after December 31, 2005, but in a fiscal year beginning in 2005, new employees hired during that taxable year will not qualify for the small employer new jobs tax credit, but may qualify for the credit for qualifying new employees allowed by Section 63-3029F, Idaho Code. (3-30-07)

c. The applicable credit rate per new employee depends on the wage rate received by a qualifying new employee. (3-30-07)

02. Taxpayers Entitled to the Credit. The small employer new jobs tax credit is allowed only to

taxpayers who certify that they will meet the small employer tax incentive criteria. (3-30-07)

03. Calculating Number of Employees. (3-30-07)

a. Number of Employees Clarified. Only employees who meet the qualifications set forth in Sections 63-4402(2)(e) and 63-4405, Idaho Code, are included when computing the number of employees for a taxable year. Such requirements include the following: (3-30-07)

i. The employee must have worked primarily within the project site for the taxpayer. (3-30-07)

ii. The employee must have received earnings at a rate of more than twenty-four dollars and four cents ($24.04) per hour worked. (3-30-07)

iii. The employee must have been eligible to receive employer provided coverage under a health plan described in Section 41-4703, Idaho Code. (3-30-07)

iv. The employee must have been subject to Idaho income tax withholding. (3-30-07)

v. The employee must have been covered for Idaho unemployment insurance purposes. (3-30-07)

vi. The employee must have been employed on a regular full-time basis. An employee who customarily performs duties at least forty (40) hours per week on average for the taxable year will be considered employed on a regular full-time basis. Leased employees do not qualify as employees of the lessee. (3-30-07)

vii. The employee must have been performing such duties for the taxpayer for a minimum of nine (9) months during the taxable year. An individual employed in a seasonal or new business that was in operation for less than nine (9) months during the taxable year does not qualify. (3-30-07)

b. Idaho Department of Labor Reports. The taxpayer should begin with his Idaho Department of Labor reports to determine the number of employees. However, all employees reported on these reports do not automatically qualify for the calculation of the number of employees. (3-30-07)

c. Calculation. To calculate the number of employees for a taxable year, add the total qualified employees for each month and divide that sum by the number of months of operation. (3-30-07)

04. Calculating the Number of New Employees. (3-30-07)

a. The number of new employees is the increase in the number of employees for the current taxable year over the greater of the following: (3-30-07)

i. The number of employees for the prior taxable year; or (3-30-07)

ii. The average of the number of employees for the three (3) prior taxable years. (3-30-07)

b. The requirements as to who qualifies for the calculation of number of employees in Paragraph 945.03.a., of this rule will apply in computing the number of employees in Subparagraphs 945.04.a.i., and 945.04.a.ii., of this rule. Calculations used in computing the number of new employees for the prior taxable year and average for the three (3) prior taxable years will be made consistent with the computations for the current taxable year. (3-30-07)

c. The number of new employees will be rounded down to the nearest whole number and must equal or exceed one (1) or no credit is earned. (3-30-07)

05. Computing the Credit Earned. The taxpayer will identify each new employee who qualifies for the credit and his annual salary for the taxable year. (3-30-07)

a. If during the taxable year the new employee earned more than twenty-four dollars and four cents

($24.04) per hour worked but less than or equal to an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked, the credit for such new employee will be one thousand five hundred dollars ($1,500). (3-30-07)

b. If during the taxable year the new employee earned more than an average rate of twenty-eight dollars and eighty-five cents ($28.85) per hour worked but less than or equal to an average rate of thirty-six dollars and six cents ($36.06) per hour worked, the credit for such new employee will be two thousand dollars ($2,000). (3-30-07)

c. If during the taxable year the new employee earned more than an average rate of thirty-six dollars and six cents ($36.06) per hour worked but less than or equal to an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked, the credit for such new employee will be two thousand five hundred dollars ($2,500). (3-30-07)

d. If during the taxable year the new employee earned more than an average rate of forty-three dollars and twenty-seven cents ($43.27) per hour worked, the credit for such new employee will be three thousand dollars ($3,000). (3-30-07)

06. Limitations. The small employer new jobs tax credit allowable in any taxable year will be limited as follows: (3-30-07)

a. The small employer new jobs tax credit claimed during a taxable year may not exceed sixty-two and five-tenths percent (62.5%) of the tax, after allowing all other income tax credits that may be claimed before the small employer new jobs tax credit, regardless of whether this credit results from a carryover earned in prior years, the current year, or both. See Rule 799 of these rules for the priority order for nonrefundable credits. (3-30-07)

b. Unitary Taxpayers. Limitations apply to each taxpayer according to its own tax liability. Each corporation in a unitary group is a separate taxpayer. See Rule 711 of these rules. (3-30-07)

07. Carryovers. The carryover period for the small employer new jobs tax credit is ten (10) years. (3-30-07)

08. Coordination With Credit for Qualifying New Employees Allowed by Title 63, Chapter 30, Idaho Code. A taxpayer who has new employees who are eligible for the small employer new jobs tax credit may not claim the credit for qualifying new employees allowed by Section 63-3029F, Idaho Code, with respect to the same employees. However, a taxpayer may claim the credit for qualifying new employees for any new employees who do not meet the requirements for the small employer new jobs tax credit, but who meet the requirements of Sections 63-3029E and 63-3029F, Idaho Code. (3-30-07)

946. IDAHO SMALL EMPLOYER INCENTIVE ACT OF 2005 AS MODIFIED BY 2006 LEGISLATION: RECAPTURE (RULE 946).

Section 63-4407, Idaho Code

01. Failure to Meet Tax Incentive Criteria. If a taxpayer fails to meet the small employer tax incentive criteria, the full amount of the small employer investment tax credit, real property improvement tax credit and new jobs tax credit claimed in any taxable year will be recaptured. (3-30-07)

02. Year Deficiency Occurs. Recapture will be a deficiency in tax in the taxable year when the disqualification first occurs. For investment in new plant, disqualification occurs when the property is disposed of or otherwise ceases to qualify. For new employees, disqualification occurs when the average number of qualifying employees for a taxable year in the recapture period falls below the average number of qualifying employees for the year in which the credit was earned in Section 63-4405, Idaho Code. (4-2-08)

03. Early Disposition of Investment in New Plant. (3-30-07)

a. If an investment in new plant is disposed of, or otherwise ceases to qualify, prior to the close of the recapture period, the recapture amount will be computed by multiplying the credit earned by the applicable recapture percentage. (3-30-07)

b. The recapture percentage will be determined as follows. If the property is disposed of or ceases to qualify within: (3-30-07)

i. One (1) full year or less from the date the property was placed in service, one hundred percent (100%) will be used; (3-30-07)

ii. Two (2) full years or less, but more than one (1) full year from the date the property was placed in service, eighty percent (80%) will be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the property was placed in service, sixty percent (60%) will be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the property was placed in service, forty percent (40%) will be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the property was placed in service, twenty percent (20%) will be used. (3-30-07)

04. Failure to Maintain Increased Employment. (3-30-07)

a. If the average number of qualifying employees for the taxable year in which the credit was earned in Section 63-4405, Idaho Code, is not maintained for the entire recapture period, the recapture amount will be computed by multiplying the credit earned by the applicable recapture percentage. (4-2-08)

b. The recapture percentage will be determined as follows. If the level of employment is maintained: (4-2-08)

i. One (1) full year or less from the date the project period ends, one hundred percent (100%) will be used; (3-30-07)

ii. Two (2) full years or less, but more than one (1) full year from the date the project period ends, eighty percent (80%) will be used; (3-30-07)

iii. Three (3) full years or less, but more than two (2) full years from the date the project period ends, sixty percent (60%) will be used; (3-30-07)

iv. Four (4) full years or less, but more than three (3) full years from the date the project period ends, forty percent (40%) will be used; (3-30-07)

v. Five (5) full years or less, but more than four (4) full years from the date the project period ends, twenty percent (20%) will be used. (3-30-07)

c. Recapture will not be required if a new employee is replaced by another employee who performs the same duties as the previous employee at a wage rate that would have resulted in the same amount of credit being earned. (3-30-07)

05. Reorganizations, Mergers and Liquidations. (3-30-07)

a. If the investment in new plant is disposed of or otherwise ceases to qualify before the close of the recapture period while in the hands of an acquiring taxpayer who succeeded to unused small employer investment tax credit or small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the acquiring taxpayer will be responsible for any recapture that would have been applicable to the transferor. (3-30-07)

b. For purposes of computing the recapture when an acquiring taxpayer succeeded to unused small employer investment tax credit and small employer real property improvement tax credit as provided for in Rule 941.03 of these rules, the recapture period will begin with the date on which the property was placed in service by the transferor taxpayer and will end with the date of the disposition by, or cessation with respect to, the acquiring taxpayer. (3-30-07)

947. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with Sections 63-105, 63-3624, 63-3635, and 63-3039, Idaho Code, the State Tax Commission has promulgated rules implementing the provisions of the Idaho Sales Tax Act. They are the State Tax Commission's official statement of policy relating to interpretations and applications of the Idaho Sales Tax Act. (7-1-98)

001. TITLE AND SCOPE (RULE 001).

01. Title. These rules are titled IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules." (3-30-07)

02. Scope. These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose an excise tax upon each sale at retail of the sales price of all property subject to taxation under this act and on the storage, use, or other consumption in this state of tangible personal property. (3-30-07)

002. **ADMINISTRATIVE APPEALS (RULE *002*).**
This chapter allows administrative relief as provided in Sections 63-3045, 63-3045B, 63-3049, 63-3620, 63-3620A, 63-3621, 63-3622, 63-3623B, 63-3626, 63-3631, 63-3633, and 63-3634, Idaho Code. (4-11-19)

00*3*. INCORPORATION BY REFERENCE (RULE 00*3*).
These rules incorporate IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." (3-30-07)

00*4*. -- 010. ***(RESERVED)***

011. *MIXED TRANSACTIONS* (RULE 011).
Sections 63-3609, 63-3612, 63-3613, Idaho Code.

0*1*. Retail Sales of Tangible Personal Property Together with Services. The sales tax applies to retail sales of tangible personal property. It does not apply to the sale of services except as stated *in statute or rule*. However, when a sale of tangible personal property includes incidental services, the tax applies to the total amount charged, including fees for any incidental services except separately stated transportation and installation fees. The fact that the charge for the tangible personal property results mainly from the labor or creativity of its maker does not turn a sale of tangible personal property into a sale of services. The cost of any product includes labor and manufacturing skill. To determine whether a transaction is a retail sale of tangible personal property or a sale of services, the following tests are applied. *( )*

a. To determine whether a transfer of tangible personal property is a taxable retail sale or is merely incidental to a service transaction, the proper test is to determine whether the transaction involves a consequential or inconsequential professional or personal service. If the service rendered is inconsequential, then the entire transaction is taxable. If a consequential service is rendered, then it will be determined whether the transfer of the tangible personal property is an inconsequential part of the transaction. If so, then none of the consideration paid is taxable. (7-1-93)

b. To determine whether a mixed transaction qualifies as a sale of services, the object of the transaction will be determined; that is, is the buyer seeking the service itself, or the property produced by the service. (7-1-93)

c. When a mixed transaction involves the transfer of tangible personal property and the performance of a service, both of which are consequential elements whose costs may be separately stated, then two (2) separate transactions exist. The one attributable to the sale of tangible personal property is tax*able* while the other is not. *( )*

0*2*. Determining the Type of Sale. To determine whether a specific sale is a sale of tangible personal property, a sale of services or a mixed transaction, all the facts surrounding the case will be studied and the tests described above applied. Here are some examples. (7-1-93)

a. Example 1: An attorney is retained by a client to prepare the client's will. The attorney prepares the will, sees that it is properly executed and bills the client. The physical document, the will, is then transferred from the attorney to the client. This is a sale of services because the client's object is not to obtain the will itself, but to ensure that their estate is disposed of in a certain way when they die. Since, the transaction between the attorney and the client is not a retail sale of tangible personal property, no sales or use tax applies. However, the attorney pays sales or use tax when the attorney buys stationery and other equipment to prepare the will. Compare Example 5. (7-1-93)

b. Example 2: The attorney in Example 1 prepares a form book of wills which he intends to sell to other attorneys. The will the attorney prepared in Example 1 is included in the form book. The sale of the form book to other attorneys is a taxable retail sale of tangible personal property. From the buyer's point of view, the object of the sale is to obtain the book, which is tangible personal property. The fact that special skill or knowledge went into the preparation of the book and is reflected in the purchase price does not make the sale of the form book a service transaction. (7-1-93)

c. Example 3: An architect is hired to prepare construction plans for a house. He prepares the plans and delivers them to his client. As in the example of the attorney preparing the will, this is a sale of services and the transfer of the tangible personal property, the plans, is inconsequential the transaction. No sales or use tax is due on the sale of the plans. (7-1-93)

d. Example 4: The architect in Example 3 is asked to provide additional copies of the same plans to his original client or to a third party. The architect copies the plans on a duplicating machine and sells them to the requesting party. This is a taxable retail sale of tangible personal property, since the buyer's object is to obtain the property, the plans. (7-1-93)

e. Example 5: An artist is commissioned to paint an oil portrait. When the portrait is completed, ownership is transferred to the client who pays the artist a lump-sum amount for the portrait. This is a taxable retail sale of tangible personal property because the buyer's object is to obtain the portrait. If the artist otherwise qualifies as a retailer, he is required to collect and remit sales tax on the sale of the portrait. (7-1-93)

f. Example 6: An automobile repair shop does repair work for a customer. To do the work, the shop replaces certain parts on the automobile. The repair shop bills its customer an amount for the repair parts and a separate amount for labor. This is a mixed transaction. As long as the sale of the tangible personal property, the parts, and the sale of services, the labor, are separately stated, sales tax is due only on the sale of the parts and not on the charge for labor. However, allocation of the total charge between parts and labor must be reasonable. If part of the charge for parts is unreasonably attributed to the cost of labor, the allocation may be adjusted by the Commission. *( )*

g. Example 7: A retail clothing store provides needed alterations to items purchased by customers. Even though the sale depends on the alterations being done, the service is incidental to the sale of the property. The entire transaction is tax*able*, even if the charge for the alteration labor is separately stated. *( )*

03. Kinds of Services Incidental to the Sale. Two (2) kinds of services rendered incidental to a retail sale are specifically exempt from tax if the charge for the service is separately stated. They are: (7-1-93)

a. Charges for transportation after the sale. See Section 63-3613, Idaho Code, and Rule 061 of these rules; and (3-30-07)

b. Installation charges. See Section 63-3613, Idaho Code, and Rule 012 of these rules. (3-30-07)

04. Separately Stated Nontaxable Charges. Separately stated nontaxable charges for transportation or installation may not be used to avoid tax on the actual sales price of tangible personal property. If the allocation of the total price is unreasonable, the Commission may adjust it. *( )*

05. Tangible Personal Property Used or Consumed by a Business. Tangible personal property used or consumed by a business in performing a nontaxable service is tax*able*. See Rule 072 of these rules. *( )*

012. CONTRACTORS IMPROVING REAL PROPERTY (RULE 012).
Sections 63-3609(a), 63-3621, 63-3615(b), 63-3622B, Idaho Code

01. In General. This rule applies to contractors who construct, alter, repair, or improve real property. Contractors are defined as consumers of materials they use, whether or not they resell the material. All sales of tangible personal property to contractors are taxable. (7-1-93)

a. *A contractor is any person acting as a general contractor, subcontractor, contractee,*

subcontractee, or speculative builder who uses material and equipment to perform any written or verbal contract to improve, alter, or repair real property. ( )

b. Contractors include bricklayers, plumbers, heating specialists, painters, sheet metal workers, carpet layers, electricians, land levelers, well drillers, landscapers, and all others who do contract work on real property. Unless these persons are employees of a contractor, they are acting as contractors and are consumers just as other contractors. (7-1-93)

c. Persons doing residential repairs, such as plumbers and electricians, as well as those who both sell and install carpet, also are contractors improving real property. Such contractors are defined as the consumers of the materials they install and are required to pay sales or use tax on their cost for the materials. They do not charge sales tax to their customers unless they make a sale of materials only, with no installation. (7-1-93)

d. The terms "contractor" and "subcontractor" are not applicable to persons who merely sell tangible personal property in the form of building materials, supplies, or equipment to construction contractors for delivery at the job site without any requirement that they install such tangible personal property. (3-4-10)

02. Contract. A contract to improve real property may be in any of the following forms. (7-1-93)

a. Lump Sum Contract. A lump sum contract is an agreement to furnish materials and services for a lump sum. (7-1-93)

b. Cost-plus Contract. A cost-plus contract is an agreement to furnish materials and services at the contractor's cost plus a fixed sum or percentage of the cost. (7-1-93)

c. Guaranteed Price Contract. A guaranteed price contract is an agreement to furnish materials and services with a guaranteed price which may not be exceeded. (7-1-93)

d. Time and Material Contract. A time and material contract is an agreement to sell a specific list of materials and supplies at retail or an agreed price and to complete the work for an additional agreed price or hourly rate for services rendered. (7-1-93)

e. The contractor or repairman who affixes or installs the personal property into real property is the consumer of tangible personal property regardless of the type of contract entered into, whether it is a lump sum, time and material, or a cost-plus contract. (3-4-10)

03. Use. As used in this rule, the term use includes exercising any right or power over tangible personal property in performing a contract to improve real property, regardless of who owns the material or if the material is leased. (7-1-93)

04. Real Property. See Rules 010 and 067 of these rules. (3-15-02)

05. Use Tax Reporting Number. Contractors need a use tax number if they make purchases on which sales tax has not been charged. In this case, they are required to report and pay the Idaho use tax to the state. If a contractor pays sales tax to his vendors on ALL purchases, he does not have to obtain a use tax number. (7-1-93)

06. Purchases by Contractors. Contractors are consumers of equipment they use in their business such as trucks, tractors, road graders, scaffolding, pipe cutters, trowels, wrenches, tools in general, oxygen, acetylene, oil, and similar items. They pay sales or use tax on their purchase of equipment, tools, and supplies. They also pay tax on their purchase of building materials and fixtures. Fixtures include items such as lighting fixtures, plumbing fixtures, furnaces, boilers, heating units, air-conditioning units, refrigeration units, elevators, hoists, conveying units, awnings, blinds, vaults, cabinets, counters, and lockers. *( )*

07. Fuels. A contractor pays tax on fuels used in off-road equipment unless on-road fuels excise taxes have been paid. (7-1-93)

08. Custom-Made Goods. Sales tax applies to the entire price charged for custom-made goods sold by

the maker. If a contractor orders fabricated steel from a steel company, he pays sales tax on the entire price of the fabricated item, including the cost of the labor involved. On the other hand, if the contractor buys the steel and fabricates it himself for the job, he pays a tax only on the materials he buys. (7-1-93)

09. Value. The contractor owes use tax on the value of the job materials at the time he exercises right or power over them. Value, as used in Section 63-3621, Idaho Code, means: (7-1-93)

a. When a contractor fabricates and installs tangible personal property into Idaho real property, the value is the cost of materials and parts he uses. If a contractor, with a contract to furnish and install goods, fabricates the goods and hires a subcontractor to do the installation, the tax*able* amount is the cost of material to the contractor who fabricated the goods. *( )*

b. When a contractor who is also a retailer fabricates tangible personal property, puts it in his resale inventory, and later withdraws it for a job, tax applies to the fully fabricated value. This is true regardless of whether the fabricator installs the property himself or through an agent or subcontractor. (7-1-93)

10. Materials Provided by Project Owner. (7-1-93)

a. If a project owner who is not exempt from tax buys materials for a job and hires a contractor to install them, he pays sales or use tax when he buys the material. If the owner does not pay tax on the materials, the contractor may be held liable for the tax. (7-1-93)

b. If material needed for a contract is purchased or supplied by an owner who is exempt from sales and use taxes, then the use by the contractor is tax*able*. This is true even if the property is owned by an exempt entity such as the federal government or a state government agency. For example, if a contractor has a public works contract to build a structure using materials owned and supplied by the government, whether federal, state, or local, he is the consumer of the materials and is subject to a use tax on their value. This tax falls directly upon the contractor and not the owner of the property. *( )*

c. A contractor who buys tangible goods cannot avoid tax just because the goods will be built into a structure which will belong to, or be used by an exempt entity. Contractors and subcontractors may not avoid paying sales or use tax due to a contract which allows invoices to be made out in the name of the exempt entity, such as the U.S. Government, and designate the contractor or subcontractor as an agent of the exempt entity. In this case, the contractor or subcontractor is the user or consumer of the material and its use, while it is in his possession and subject to his labor, is taxable. (7-1-93)

11. Subcontractor. In general, a subcontractor is treated the same as a general contractor. Whether his contract is with the owner or the general contractor, the subcontractor pays tax on materials he buys to improve real property. Like any contractor, the subcontractor could be employed to work on or with material purchased by the general contractor or the owner, with one or the other paying tax on the material purchased. These services rendered by the subcontractor are not taxable. His relationship with the owner or general contractor is no different than the relationship between the contractor and owner. However, the provisions of Subsection 011.10 of this rule apply equally to a subcontractor. (6-23-94)

12. Land Leveling. (4-7-11)

a. Persons who contract to level land are improving real property and are contractors under this rule. Accordingly, they *pay* tax on equipment, material, and supplies purchased for land leveling. *( )*

b. Notwithstanding the provisions of Rule 013 of these rules, contractors who crush rock are performing a nontaxable service if the rock is obtained on a construction site, and the crushed rock is used on the same site, for such purposes as backfill, land leveling, site preparation. or site cleanup. The use of such rock, backfill, or other related materials is not tax*able*; however, such a contractor is not primarily devoted to mining and his use of rock crushing equipment, or other equipment and supplies, does not qualify for exemption under Section 63-3622D, Idaho Code. *( )*

c. The sale or use of crushed rock that is removed from a construction site and used elsewhere is

taxable. See Rule 013 of these rules. (4-7-11)

13. Exempt Purchases by Contractors. A contractor can buy materials tax exempt, provided that he will install them into real property in a state that does not have a sales tax, such as Oregon, Montana, or Alaska, or in a state where the materials would not be subject to a use tax or other similar excise tax in that state. For example, this exemption applies to a contractor improving real property on certain projects in Washington where he will not owe a use tax on materials incorporated into realty, even though a sales or use tax may be owed by a third party. This exemption only applies to materials incorporated into real estate in a nontaxing state. Tools, supplies, equipment, or any other tangible personal property purchased in Idaho that are not incorporated into realty are taxable when purchased in Idaho. In order to grant this exemption the retailer must have a properly completed exemption certificate on file. See Rule 128 of these rules. Idaho tax applies to materials purchased or withdrawn from inventory for use in a contract to improve real property in states where use tax applies to materials incorporated into realty, such as Nevada or Wyoming. (2-27-15)

14. Cross-References. (7-1-93)

a. Road and paving contractors, see Rule 013 of these rules. (3-15-02)

b. Contractor/retailers, see Rule 014 of these rules. (3-15-02)

c. Well drillers/pump installers, see Rule 015 of these rules. (3-15-02)

013. ROAD AND PAVING CONTRACTORS (RULE 013).

Sections 63-3609, 63-3615, Idaho Code

01. In General. This rule illustrates the application of Idaho sales and use tax to specific activities of road and paving contractors. The general principles stated in Rule 012 of these rules apply equally to road and paving contractors. (7-1-96)

02. Road or Paving Contractor. A road or paving contractor is a contractor improving real property. The use of materials over which he exercises right or power in the course of performing the contract is tax*able*. This is true even if an exempt entity, such as a government agency, owns the material. It is also true if the contractor does the work under the full or partial supervision of the person for whom the contractor is performing the contract. *( )*

03. Examples. Here are some examples of taxable materials contractors use in paving and road contracts: (3-28-18)

a. Example 1: A contractor is hired to pave a road for a city. The materials the contractor will use are taxable, regardless of ownership, and include rock, sand, asphalt oil, chemicals, bonding agents, or any other like materials which become the aggregate pavement. (3-28-18)

b. Example 2: A contractor is hired to chip seal a local road. The chip seal includes a layer of liquid asphalt or similar material applied to the road with an immediate layer of rock chips applied on top of the wet asphalt. A roller sets the rock chips in place. Once this dries, the surface is cleaned and another oil seal or like product is applied. These three items and any other materials used to form the aggregate chip seal are tax*able*. *( )*

c. Example 3: A contractor is hired to perform landscaping for the barrow pits and shoulders of a new highway. The highway district provides the grass seed and some bushes for the project. The contractor provides labor to sow the seed, plant the bushes, and labor and materials to provide erosion control, land leveling, contouring, etc. The contractor owes sales or use tax on all materials consumed, including those provided by the highway district. (3-28-18)

d. Example 4: A contractor is hired to install a new bridge and provide drainage for a new freeway interchange. The highway district provides the bridge components and culverts needed for the project, and the contractor provided all of the remaining materials and the labor for the project. The contractor will owe sales or use tax on all materials he consumes including the bridge components and culverts provided by the highway district, as well as on the materials the contractor purchased for use on the project. (3-28-18)

e. Example 5: A contractor is hired to install traffic control lights, signage, and roadway illumination for a rebuilt section of roadway. The highway district provides the traffic control signals and the permanent signage for the highway so that all signage will be consistent throughout the highway district. The contractor owes use tax on the value of the traffic signals and signage provided by the highway district as well as on the cost of electrical wiring, signal wiring, and the lights and light poles, etc., purchased and consumed by the contractor. (3-28-18)

04. Materials. The sale or use of materials which are extracted and crushed is taxable. Use tax does not apply to the use of natural materials that are secured on site and used without significant change. (7-1-96)

05. Rock Crushing. The application of the sales or use tax to rock crushing operations depends upon the circumstances of the case. (7-1-96)

a. A sale of crushing only is a sale of a taxable processing service. In this circumstance the crusher obtains raw material owned by another, crushes the rock, and stockpiles it for subsequent use either by the owner or a third party. Unless an exemption applies, the crusher charges tax on all such sales. (7-1-96)

b. A contractor who applies crushed rock to the highway pursuant to a contract is a person engaged in improving real property. If the contractor applying the crushed rock purchases the rock, the purchase price will be tax*able*. If the contractor applies rock owned by another party, the contractor will be responsible for a use tax on the value of the rock, unless the other party paid a sales tax upon its acquisition. This is true even if a government agency supplied the rock. If a recent retail acquisition of the crushed rock exists, the retail price is to be presumed to be the value of the material. If a recent retail sales price does not exist, then value is to be determined by the current acquisition cost of like material from the same or a similar source. For purposes of this section, a retail acquisition within one (1) year of the time of the performance of the contract is to be presumed to be a recent sales price. *( )*

c. A contractor whose contract calls for him to both crush and apply rock to a road is also subject to sales or use tax on the value of the rock whether the contract is performed for a governmental or private contractee. The value is to be determined by the royalty or similar charge for raw materials. If a royalty or similar charge does not exist, then the value will be determined as the royalty fee or value of like material from a similar source. If the contractor chooses to have the rock crushed by a subcontractor, the measure of the use tax is on the crushed value. (7-1-96)

d. A sale of rock crushing services to a retailer who will sell the rock is an exempt sale. The sale of crushed rock to a consumer is a taxable sale unless an exemption applies. (7-1-96)

06. Production Exemption. (7-1-96)

a. Since a contractor improving real property is defined as the consumer of materials incorporated into realty, he is not producing an article for resale. Therefore, the production exemption does not apply to the use of equipment used by contractors to produce asphalt or concrete which are used to complete paving contracts. (7-1-96)

b. A business which is primarily devoted to producing crushed rock, asphalt, or concrete which is ultimately sold at retail will qualify for the production exemption. See Idaho Administrative Sales Tax Rules 079 and 082. (7-1-96)

014. CONTRACTORS/RETAILERS (RULE 014).

Sections 63-3609(a), 63-3610, 63-3620, 63-3621, Idaho Code

01. In General. This rule shows how Idaho sales and use tax applies to contractors who are also retailers. The general principles in Rule 012 of these rules also apply to contractor/retailers and should be reviewed along with this rule. (3-15-02)

02. Contractor/Retailer. *M*any contractor*s are* also retailer*s. For example, plumbers, electricians, carpet layers, cabinet builders, and mechanical contractors can be both contractors and retailers. They are contractors when they install materials in the course of a residential or commercial service call or contract; but when*

they sell items or materials they don't install; they are retailers and need to collect sales tax from their customers. *( )*

03. Record Keeping Procedure. *A* contractor/retailer *can* follow any consistent procedure *to account for inventory and job purchases.* *( )*

a. *Example: I*f the majority of a contractor/retailer's business is performing contracts to improve real property, *T*he *contractor/retailer can* pay *Idaho* tax on all purchases *and if an item is sold at* retail, *remit Idaho* sales tax *collected and request a refund for the tax paid. See Rule 117 of these rules for refund instructions.* *( )*

b. *Example:* If the majority of the contractor/retailer's business is *making* retail sales, *t*he *contractor/retailer can purchase* all *inventory* without paying tax by giving suppliers a *properly completed* resale certificate. *The contractor/retailer would remit sales tax collected on Idaho retail sales and pay an Idaho* use tax *on the value of items taken from inventory and used to improve real property.* *( )*

c. *Example: A* contractor/*retailer can opt* to use separate accounting procedures *for the purchase of resale inventory and job materials. Resale inventory* purchases *can be made* without paying tax by *giving suppliers* a *properly completed* resale certificate *and* pay tax on *the purchase of* job material*s*. See Rule 128 of these rules. *( )*

04. Inventory Withdrawals. When any withdrawal is made from nontaxed inventory, the use tax is due to the state when the material is delivered to the job site, regardless of when it is used in performing a contract. *( )*

05. Tangible Personal Property vs. Improvements to Real Property. Built-in appliances and related items become fixtures to realty when installed in residential buildings. Such built-in appliances include dishwashers, microwave ovens, stove tops, refrigerators, stove hoods, central vacuum systems, waste disposal units, trash compactors, water softeners, water purification systems, and garage door openers. Some appliances retain the character of personal property such as microwave ovens that are not built-in, freestanding stoves, refrigerators, washers, and dryers. Other rules may apply to commercial, industrial, and other non-residential buildings. See Rule 067 of these rules. (5-8-09)

06. Sales with Agreement to Install. A regular over-the-counter sale of a complete unit with an agreement to install it is not a contract to improve real property if the item does not become affixed to realty. This applies to sales of stoves, refrigerators, washing machines, dryers, and other electrical appliances. In this case, *sales* tax is collected from the buyer by the seller on the retail sales price of the item. If the installation charges are properly separated, *sales* tax is due only on the cost of the unit. *( )*

07. Sales of Both Tangible Personal Property and Improvements to Real Property. If a contract includes both retail sales of personal property and improvements to real property, the contractor/retailer collect*s* sales tax on the retail portion of the contract. Also, *the contractor/retailer* does not pay sales tax to *their* vendor, *they* pay use tax on the materials used to perform the real property portion of the contract. *( )*

a. Example: A cabinet builder contracts to build and install kitchen cabinets and build a portable, freestanding china hutch. In the case of the cabinets, *the cabinet builder* is a contractor *improving real property* and pay*s* tax on *the* material costs. In the case of the china hutch, *the cabinet builder* is a retailer and charge*s* his customer sales tax on the *sales* price of the hutch, including labor. *( )*

b. Example: A cabinet builder is hired by Contractor X to fabricate and deliver cabinets to the job site. Contractor X will do the installation. In this case, the cabinet builder is a retailer and charges sales tax to Contractor X on the full sales price, including labor. (7-1-93)

015. WELL DRILLERS/PUMP INSTALLERS (RULE 015).
Sections 63-2410, 63-2423, 63-3609(a), 63-3621, 63-3615(b), 63-3622B, 63-3622D, 63-3622R, 63-3622W, Idaho Code

01. In General. This rule is meant to explain how Idaho sales and use tax applies to contractors who drill wells and install pumps. The general principles in Rule 012 *and 014* of these rules apply to well drillers and

pump installers and should be reviewed along with this rule. ( )

02. Types. The types of wells covered by this rule include, but are not limited to: (7-1-93)

a. Water wells, including those for municipal, domestic, commercial, and industrial purposes, and wells used for agricultural irrigation. (7-1-93)

b. Monitor wells used to check for contamination or to find the water table. (7-1-93)

c. Anode wells used to ground power or gas lines. (7-1-93)

d. Construction wells used for pilings, shoring, and elevator hoists. (7-1-93)

03. Contractor Improving Real Property. A well driller is a contractor improving real property. In general, *the contractor pays* sales or use tax on materials and equipment *they* own and use or over which *they* exercise right or power while performing a contract. *The contractor* should not charge sales tax on materials, such as casing, pumps, screens, piping, etc., used to complete a well. Section 63-3609(a), Idaho Code, states that these materials are consumed by the well driller. *The contractor pays* tax even if the owner of the material is exempt from the tax, such as a government agency. Well drillers may be responsible for use tax on owner-supplied materials. See Rule 012 of this rule. Exemptions are discussed in Subsection 015.05 of this rule. Pumps that are installed with a well, such as a pump that supplies water to land or a building, are presumed to be real property improvements. Pumps that do not supply water to land or buildings and are used in commercial or industrial applications will generally be considered personal property unless they have been so integrated into the real estate that they would be considered a permanent fixture. ( )

a. Example: A well driller contracts to drill a water well and install a pump for a homeowner. *The contractor* bills the homeowner separately for materials and labor as well as the drill bits used. *The contractor* should pay sales or use tax on his purchase of the materials and drill bits. *The contractor* should not charge sales tax to the customer since this is a contract to improve real property. ( )

b. Example: A well driller contracts to drill a well for an Idaho city. *The contractor* pay*s* sales or use tax on the materials and pumps used to complete the well, even though the eventual owner of these items is a governmental entity. See Rule 094 of these rules. ( )

04. Exemptions. In some cases, exemptions may apply to materials installed by well drillers and pump installers. Note: These exemptions apply only to project materials and not to construction equipment and supplies, such as drilling rigs and drill bits. If a well driller or pump installer makes exempt purchases, he must complete an exemption certificate for the vendor's records. (4-2-08)

a. Materials installed in a well which will be used primarily for agricultural irrigation are exempt under Section 63-3622W, Idaho Code. The exemption applies even if the materials become part of the real property. Agricultural irrigation includes supplying water to crops, livestock, and fish which are produced for resale. (7-1-93)

b. Pumps and other equipment used directly in manufacturing or processing are exempt under Section 63-3622D, Idaho Code. Generally, such pumps retain the characteristics of personal property. This exemption applies only to tangible personal property. It does not apply to materials which will become part of real property. Examples include: pumps used directly in food processing; booster pumps and chlorine pumps used directly in manufacturing; and dairy waste pumps. (4-2-08)

05. Motor Vehicles. In general, drilling rigs and licensed motor vehicles are tax*able* when purchased by a well driller or pump installer. However, if a vehicle weighs more than twenty-six thousand (26,000) pounds, is used more than ten percent (10%) of the time outside of Idaho, and is registered under the International Registration Plan or similar pro rata plan, its purchase is exempt. See Rule 101 of these rules. This exemption does not apply to repair parts for motor vehicles, or to drilling rigs purchased separately from a motor vehicle. ( )

06. Fuel. Motor fuel taxes do not apply, or a refund may be obtained, if the fuel is used to run drilling rigs or other off-road equipment. Fuel purchased for such off-highway use is tax*able*. See Sections 63-2410 and 63-

2423, Idaho Code, and related IDAPA 35.01.05, "Idaho Motor Fuels Tax Rules." ( )

016. RETAIL SALE OF ASPHALT, CONCRETE, AND CONCRETE PRODUCTS (RULE 016).
Sections 63-3609(a), 63-3610, 63-3622D, 63-3622W, Idaho Code

01. In General. Asphalt, concrete and concrete products are building materials. The sale of such products to construct, alter, repair, or improve real estate is tax*able*. Separately stated charges for delivery by the vendor and vendor standby time are not tax*able*. ( )

02. Agricultural Irrigation. Materials purchased for agricultural irrigation are exempt from sales tax whether purchased by the farmer, contractor, or subcontractor. This exemption applies even if the material is permanently affixed to real estate, such as concrete used to line ditches or ponds. See Rule 096 of these rules. The buyer must provide the seller with an exemption certificate. See Rule 128 of these rules. (3-15-02)

03. Production Exemption. The retailer who produces and sells asphalt or concrete may qualify to claim the production exemption on equipment and supplies used directly to produce the concrete or asphalt for resale. See Rule 079 of these rules. However, trucks used by a ready-mix operator do not qualify for the production exemption because they are used for transportation. Although they may incidentally contribute to the manufacture of the final article, purchases of the truck, trailer, and the truck-mounted concrete mixer, which becomes a part of the motor vehicle, are not exempt from the tax. (3-15-02)

017. AIRLINES, BUSES, AND RAILWAY DINING CARS (RULE 017).
Sections 63-3612, 63-3613, 63-3621, Idaho Code

01. Sale of Meals. The sale of meals or drinks that are not included in the price of the ticket on commercial aircraft, railway dining cars or buses operating in Idaho is a retail sale. An airline, bus company or passenger train is operating in Idaho if a trip starts or ends in Idaho and part of the trip can be allocated to Idaho. (7-1-93)

02. Taxable Sales. The gross receipts of such a sale are taxable when the meals, beverages or other tangible personal property are ordered or served within the boundaries of Idaho. It does not matter whether the meals and other property are consumed in Idaho. (7-1-93)

03. Formula for Taxable Sales. A formula may be used to determine the taxable sales of meals and beverages on the trip if accurate records of actual sales are not kept. The formula is: first, find the percentage of trip miles in Idaho in relation to the total mileage of the trip; and then, multiply this percentage by the total sales of meals or beverages served on the entire trip. (7-1-93)

04. Meals, Snacks, Beverages or Other Tangible Personal Property. When the price of an airline, bus, or railway ticket includes meals, snacks, beverages, or other tangible personal property, the cost of these goods is subject to use tax. *An* airline, bus company, or railway *that purchases these goods in Idaho, pays Idaho* sales tax to the vendor, *regardless of where* the goods *will be* distributed to passengers. If the*se* goods are purchased in another state and no sales or use tax has been paid to that state, the cost of *the* goods distributed to passengers on trips that start or end in Idaho is subject to use tax. In the absence of accurate records, the *provider* may determine taxable use based on trip miles determined by the formula in Subsection 017.03 of this rule. ( )

018. RETAILER DEFINED (RULE 018).
Sections 63-3610, 63-3611, *63-3614, 63-3620, 63-3620F, 63-1804,* Idaho Code

01. Retailer. The term retailer *is defined in Section 63-3610, Idaho Code. A retailer includes a seller as defined in Section 63-3614, Idaho Code as every person making retail sales to a buyer or consumer, whether as agent, broker, or principal.* ( )

***02. Retailer Engaged in Business in this State**. A retailer engaged in business in this state is anyone required to collect and remit Idaho sales and use tax pursuant to Section 63-3611, Idaho Code.* ( )

03. Retailers Selling Incidental Tangible Personal Property. A person may be a retailer within the

meaning of the act although the sale of tangible personal property is incidental to *their* general business. For example, a plumbing contractor may sell some plumbing supplies as a sideline and thereby become a retailer within the meaning of this act. *( )*

0*4*. Farmers. Farmers who ordinarily sell their grain, livestock and other horticultural products for resale or processing are not tax*able*. However, when they sell to ultimate consumers or users, they must obtain a seller's permit and report sales tax on their taxable sales. *( )*

0*5*. An Agent as a Retailer. Where there is a written agreement between a principal and *their* agent, dealer or other third party, and such agreement stipulates that the agent, dealer or other third party will be responsible for collection, reporting and payment of sales tax generated by sales, the Tax Commission will treat the position of the agent, dealer or third party as that of a retailer and impose on *them* the burden of collecting, accounting for, and paying the sales tax to the State Tax Commission. *( )*

a. However, if for example, a milk route salesman, without such an agreement, makes regular deliveries, collects for the products, and sales tax is included in the total proceeds collected and remitted to the principal for proper crediting, accounting, discounts, etc., then it is the responsibility of the principal to relay the sales tax with proper reporting forms as prescribed by law. (7-1-93)

b. In some instances, such as the above, and the example of a newspaper delivery boy, the sales are actually made on behalf of the dairy and the newspaper company respectively. In the absence of any such written agreement, the Tax Commission will look to the principal as being responsible for the reporting and payment of the sales tax. (7-1-93)

019. SALES BY COUNTY SHERIFFS (RULE 019).

Sections 63-3612, 63-3620, Idaho Code

01. Sales. *A county sheriff who sells* tangible personal property, either as a result of a court order or pursuant to any summary notice and sale foreclosure procedure, *will* collect *and remit sales tax* in the same manner as *a retailer engaged in business in this state*. *( )*

02. Requirement to Register. There is no requirement for the various sheriff's offices to register with the Commission. Each sheriff's office in the state of Idaho is assigned a seller's permit number and must file *Form 850* returns quarterly. *( )*

020. AUCTIONEER, AGENT, BROKER, DISTRIBUTOR AND FACTORS (RULE 020).

Section 63-3610, Idaho Code

Every auctioneer, *agent,* broker*, distributor* and *factor* acting for a principal, or entrusted with any bill of lading, custom house permit for delivery or any tangible personal property or entrusted with possession of any *tangible* personal property for the purpose of sale, collect*s* and remit*s sales* tax *on those* sales*. This is true even if* the principal or owner of the property would not have *had a requirement to do so*. *( )*

021. MULTI-LEVEL MARKETING FIRMS (RULE 021).

Sections 63-3610, 63-3612, Idaho Code

01. Multi-Level Marketing Firm. A multi-level marketing firm is an organization that can convey to a person the right to sell a product and the right to convey those rights to another person. (7-1-93)

02. Agents. The Idaho Sales Tax Act provides the Commission with the authority to view salesmen, representatives, peddlers, or canvassers as agents of the dealers or distributors under whom they operate or from whom they obtain the tangible personal property sold by them, even if such persons are independent contractors. The Commission may require the dealers or distributors to collect and remit the sales tax on behalf of such agents. (7-1-93)

03. Requirement of Multi-Level Marketing Firms to Collect Tax. The Commission may, upon the request of the multi-level marketing firm or when it finds evidence of material failure to comply with the Idaho Sales

Tax Act or these rules and when the Commission determines that it is necessary for the efficient administration of such act, require multi-level marketing firms to collect the sales and use tax on all taxable property sold by the multi-level marketing firm through such agents, whether or not the agents are independent contractors. (7-1-93)

04. Notification. The Commission, upon determination that a multi-level marketing firm is required to collect the tax on taxable sales through its agents, will provide to the multi-level marketing firm, by certified mail, a notification of the sales and use tax remittance requirements imposed by the Commission. (7-1-93)

a. Beginning with the first reporting period after receipt of the notice, the multi-level marketing firm is responsible for collecting and remitting tax on all sales made by *its* agents. *( )*

b. A taxpayer desiring to seek a redetermination of the notice must file a written protest with the Commission within the time limit provided in Section 63-3631, Idaho Code and under the procedures provided by IDAPA 35.02.01.320 - 328, "Tax Administration and Enforcement Administrative Rules." (7-1-93)

022. DROP SHIPMENTS (RULE 022).
Sections 63-3615A, 63-3619, 63-3620, 63-3621, & 63-3622, Idaho Code

01. In General. Drop shipments refer to shipments made by a seller to someone other than its *buyer*. For example, a Manufacturer produces Product X. The Retailer is a distributor of Product X. The Customer, which does business only in Idaho, is the ultimate *buyer* and consumer of Product X. The Customer places a purchase order with the Retailer. The Retailer, having no inventory in stock, places a purchase order with the Manufacturer. The Retailer directs the Manufacturer to ship the product directly to the Customer in Idaho. The Manufacturer, however, bills the Retailer for the product and receives payment from the Retailer. The Retailer bills and receives payment from the Customer. The nature and use of Product X is not within any of the specified exemptions contained in the Idaho Sales Tax Act. The Manufacturer may or may not be required to have an Idaho seller's permit. If the Manufacturer sells directly to the Customer without the presence of a retailer, the Manufacturer is acting as a retailer and the transaction is not a drop shipment. *( )*

02. Parties to the Contract. The Idaho sales tax is imposed upon sales transactions. Since there is no sales transaction between the Manufacturer and the Customer, the Manufacturer will not be required to collect and remit sales tax from the Customer. (4-11-15)

03. Sales Tax Responsibilities of the Permitted Manufacturer. If the Manufacturer is required to have a valid Idaho seller's permit, it has sales tax responsibilities as to the sales transaction between itself and the Retailer. (4-11-15)

a. If the Retailer has an Idaho seller's permit, it will be necessary for the Retailer to provide the Manufacturer with a resale certificate evidencing its intentions to resell Product X. If the Retailer does not provide the resale certificate, then the Manufacturer charges Idaho sales tax on the sale of tangible personal property sold to the Retailer and delivered in Idaho. If the Retailer provides a resale certificate, the Retailer then charges the Customer Idaho sales tax and remit*s* the tax to the Commission together with a proper return. *( )*

b. If the Retailer is not required to have an Idaho seller's permit, a resale certificate from the Retailer to the Manufacturer is unnecessary. If the Retailer has no nexus with the state of Idaho, it can accrue no sales tax liability and the sale between the Manufacturer and the Retailer is not subject to the jurisdiction of the Commission. The Manufacturer must obtain evidence of this fact in the form of a letter from the Retailer stating that they have no nexus in Idaho or by any other clear and convincing evidence. The Customer's use or consumption of Product X within Idaho will cause it to accrue a use tax liability. The Customer will be required to file a use tax return and report and remit the use tax on the purchase of Product X. *( )*

04. Sales Tax Responsibilities of the Unpermitted Manufacturer. If the Manufacturer does not have and is not required to have a valid Idaho seller's permit, it has no sales tax responsibilities as to the sales transaction between itself and the Retailer. (4-11-15)

a. If the Retailer has an Idaho seller's permit, the Retailer charges the Customer Idaho sales tax and remit*s* the tax to the C*ommission together with a proper return. *( )*

b. If the Retailer is not required to have an Idaho seller's permit, the Retailer is under no responsibility to collect Idaho sales tax from the Customer. The Customer's use or consumption of Product X within Idaho will cause it to accrue a use tax liability. It will be required to file a use tax return and report and remit the use tax on the purchase of Product X. (4-11-15)

c. The matrix below outlines the sales tax responsibilities of the Manufacturer:

	Retailer (Permitted)	**Retailer (No Permit Required)**	**Customer**
Manufacturer (Permitted)	Obtain ST-101 or Collect Tax	Obtain Letter of No Nexus or Collect Tax	Do Not Collect Tax from Customer / Use Tax Owed by Customer
Manufacturer (No Permit Required)	Do Not Collect Tax	Do Not Collect Tax	Do Not Collect Tax from Customer / Use Tax Owed by Customer

(4-11-15)

05. Sales Tax Responsibilities of the Retailer. If the Retailer is required to have a seller's permit, it is responsible for collecting sales tax from the Customer. If the Retailer is not required to have a seller's permit, it is not responsible for collecting sales tax form the Customer. The Customer is responsible to pay use tax to the State of Idaho if purchased from an unpermitted retailer. (4-11-15)

a. The matrix below outlines the sales tax responsibilities of the Retailer:

	Manufacturer (Permitted)	**Manufacturer (No Permit Required)**	**Customer**
Retailer (Permitted)	Provide Valid Resale Certificate	None	Collect Tax from Customer
Retailer (No Permit Required)	Give Letter of No Nexus	None	Do Not Collect Tax from Customer / Use Tax Owed by Customer

(4-11-15)

06. Resale Certificate. If either the Manufacturer or the Retailer is engaged in interstate commerce, the resale certificate which the Retailer provides to the Manufacturer may be in the form prescribed for uniform exemption certificates by the Multistate Tax Commission if the rules set forth in Rule 128 of these rules are met. (3-15-02)

023. (RESERVED)

024. RENTALS OR LEASES OF TANGIBLE PERSONAL PROPERTY (RULE 024).
Sections 63-3612, 63-3613, 63-3616, 63-3622UU, Idaho Code

01. In General. The lease or rental of tangible personal property, including licensed motor vehicles, is a sale. (7-1-93)

02. Bare Equipment Rental. A bare equipment rental, that is, a rental of equipment without operator, is a taxable sale. The owner of the equipment is a retailer *with a requirement to* collect *and remit Idaho* sales tax on each rental payment and remit the tax to the State Tax Commission just like any other retailer. The tax applies whether the equipment is rented by the hour, day, week, month, or on a mileage, or any other basis. The equipment owner who primarily rents bare equipment may buy the equipment without paying tax to the vendor by giving *the*

vendor a resale certificate. See Rule 128 of these rules. If the *equipment* owner uses the equipment for his own benefit or in his own business operations, *the equipment owner* pay*s* use tax based on a fair market rental value for the period during which he used his own equipment. *( )*

03. Fully Operated Equipment Rentals. (7-1-93)

a. A fully operated equipment rental, equipment with operator, is a service rather than a retail sale of tangible personal property. No sales tax is due on a fully operated equipment rental. (7-1-93)

b. A fully operated equipment rental is an agreement in which the owner or supplier of the equipment or property supplies the equipment or property along with an operator, and the property supplied is of no value to the customer without the operator. (4-4-13)

c. The owner or supplier of the equipment or property used in a fully operated equipment rental is the consumer of the equipment or property, and is tax*able* when he buys or uses the equipment in Idaho. Special rules apply to transient equipment used for short periods in Idaho. See Rule 073 of these rules. *( )*

d. If the equipment or property has value to the customer without an operator, then the lease or rental of the equipment or property is a distinct transaction. It is tax*able* and its price must be stated separately from the price of the service provided by the operator. *( )*

e. Example: A crane rental company provides a mobile crane to a contractor, along with an operator. The contractor may not use the crane without the operator, so the leasing company is not required to charge sales tax on the lease of the crane. (4-4-13)

f. Example: Pick-Up Industries provides a three (3) cubic yard trash container to a customer. Pick-Up also provides trash hauling service to empty the container. Since the container is used to store trash between collections, its transfer to a customer is a *taxable* lease. *( )*

04. Mixed Use of Rental Equipment. (7-1-93)

a. If the equipment owner primarily rents bare equipment but sometimes supplies equipment with an operator, the equipment owner is the consumer of the equipment while it is used by the operator to perform a service contract. Accordingly, the equipment owner must pay use tax on the fair market rental value of the equipment for that period of time unless he paid tax when he bought the equipment. (4-4-13)

b. If the equipment owner primarily rents fully operated equipment but sometimes rents bare equipment, he charge*s* sales tax on the rental of the bare equipment even though *tax was paid on* the *original* purchase of the property. In this case, the owner purchased the equipment for a purpose other than the resale or re-rental of that property in the regular course of business. *( )*

05. Operator Required to Be Paid by Customer. In some cases, an equipment owner supplies equipment along with an operator but a contract or a state or federal law requires the customer to pay the operator. If all other indications of an employee-employer relationship, such as the right to hire and fire, immediate direction and control, etc., remain with the equipment owner, the owner is viewed as supplying a service and no sales tax applies to the service fee. However, the fact that the transaction is a fully operated equipment rental needs to be clearly stated on the face of the invoice or other billing document. The Commission may, whenever it deems appropriate, examine the facts on a case-by-case basis to determine if a true employer-employee relationship exists between the equipment owner and the operator. *( )*

06. Maintenance of Rental Equipment. If the owner who primarily rents bare equipment is responsible for the maintenance of the equipment, he may buy the necessary repair parts and equipment tax exempt by providing his vendor with a resale certificate. The owner who rents fully operated equipment may not buy the equipment or repair parts tax exempt. (4-4-13)

07. Rentals to Exempt Entities. The rental or lease of equipment invoiced directly to an entity exempt from sales tax, such as the state of Idaho or one (1) of its political subdivisions, is not tax*able*. However, if the rental

or lease is to an individual or organization performing a contract for, or working for an exempt entity, the rental is taxable. ( )

08. Exempt Equipment Rentals. Equipment which would have been exempt from tax if purchased is also tax exempt if leased or rented. To claim this exemption, the renter *provides* the owner with a properly completed exemption certificate. See Rule 128 of these rules. ( )

09. Rental Payments Applied to Future Sales. Rentals to be applied toward a future sale or purchase are taxable. (7-1-93)

10. Personal Property Tax. A lessor may require reimbursement from the lessee for the personal property tax the lessor pays on leased equipment. A charge for personal property tax will be exempt from sales tax if the lease is for a term of one year or longer; if the property tax is billed as a separate line item; and if the charge is no more than the property tax actually paid by the lessor. (5-8-09)

11. Out-of-State Rental/Lease. Rental or lease payments on equipment used outside Idaho are not subject to Idaho sales tax. Rental or lease payments on equipment used in Idaho are taxable. If the equipment is delivered in Idaho, even though it will be used outside the state, then the rental or lease payment for the first month, or other period, is subject to Idaho tax. (7-1-93)

12. Lease-Purchase and Lease with Option to Purchase. (7-1-93)

a. Lease-purchase agreements include transfers which are called leases by the parties but are really installment, conditional, or similar sales. Where ownership passes to the transferee at the end of the stated terms of the lease contract with no additional consideration from the transferee, or where the additional consideration does not represent the fair market value of the property, the transaction is a sale and tax on the entire sales price is collected on the date the property is delivered. (7-1-93)

b. Lease with option to purchase agreements include transfers in which the personal property owner, lessor, transfers possession, dominion, control or use of the property to another for consideration over a stated term and the owner, lessor, keeps the property at the end of the term unless the lessee exercises an option to buy the property at fair market value. The owner/lessor collects sales tax from the lessee at the time each lease payment is charged. If the lessee exercises the option to buy, the lessor/owner collects sales tax from the lessee/buyer on the full remaining purchase price when the option is exercised. (2-27-15)

13. Cross-References. (7-1-93)

a. See Rule 025 of these rules on real property rental. (7-1-99)

b. See Rule 037 of these rules on aircraft and flying services. (7-1-99)

c. See Rule 038 of these rules on flying clubs. (7-1-99)

d. See Rule 044 of these rules on trade-in for rental or lease property. (7-1-99)

e. See Rule 049 of these rules on warranties and service agreements. (7-1-99)

f. See Rule 073 of these rules on transient equipment. (7-1-99)

g. See Rule 106 of these rules on motor vehicles. (7-1-99)

025. *THE SALE,* LEASE*, OR RENTAL* OF REAL PROPERTY (RULE 025).

Section 63-3612, Idaho Code

01. In General. The sale, lease, or rental of real property, including office space, living space, lockers, boat docks, billboards, parking spaces, spaces for booths at fairs, and real property storage spaces is not tax*able*. ( )

02. Hotel, Motel, and Campground Accommodations. The charge for providing hotel, motel, and campground accommodations is tax*able* as provided by Section 63-3612, Idaho Code. See Rule 028 of these rules. *( )*

026. (RESERVED)

027. COMPUTER EQUIPMENT, SOFTWARE, AND DATA SERVICES (RULE 027).
Section 63-3616, Idaho Code

01. Definitions. For purposes of this rule, the following terms will have the following meanings: (4-11-15)

a. Canned Software. Canned software is prewritten software which is offered for sale, lease, or use to customers on an off-the-shelf basis with little or no modification at the time of the transaction beyond specifying the parameters needed to make the program run. Evidence of canned software includes the selling, licensing, or leasing of identical software more than once. Software may qualify as custom software for the original *buyer*, licensee, or lessee, but become canned software when sold to others. Canned software includes program modules which are prewritten and later used as part of a larger computer program. *( )*

b. Computer. A computer is a programmable machine or device having information processing capabilities and includes word, data, and math processing equipment, testing equipment, programmable microprocessors, and any other integrated circuit embedded in manufactured machinery or equipment. (4-11-15)

c. Computer Hardware. Computer hardware is the physical computer assembly and all peripherals, whether attached physically or remotely by any type of network, and includes all equipment, parts and supplies. (4-11-15)

d. Computer Program. A computer program, or simply a program, is a sequence of instructions written for the purpose of performing a specific operation in a computer. (4-11-15)

e. Computer Software. Computer software, or simply software, is defined as any of the following: (4-11-15)

i. A computer program; (4-11-15)

ii. Any part of a computer program; (4-11-15)

iii. Any sequence of instructions that operates automatic data processing equipment; or (4-11-15)

iv. Information stored in an electronic medium. (4-11-15)

f. Custom Software. Custom software is software designed and written by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's needs. *( )*

g. Digital Product. See definition for "Information Stored in an Electronic Medium" in Subsection 027.01.h. (4-11-15)

h. Information Stored in an Electronic Medium. Any electronic data file other than a computer program which can be contained on and accessed from storage media. The term includes audio and video files and any documents stored in an electronic format. For purposes of this rule, the term is interchangeable with "digital product." (4-11-15)

i. Load and Leave Method. A method of software delivery in which the vendor or an agent of the vendor loads software onto the user's storage media at the user's location but does not transfer storage media containing the software to the user. (4-11-15)

j. Remotely Accessed Computer Software. Computer software that a user accesses over the internet, over private or public networks, or through wireless media, and the user only has the right to use or access the software by means of a license, lease, subscription, service, or other agreement. (4-11-15)

k. Storage Media. Storage media include, but are not limited to, hard disks, optical media discs, diskettes, magnetic tape data storage, solid state drives, and other semiconductor memory chips used for nonvolatile storage of information readable by a computer. (4-11-15)

02. Computer Hardware. The sale or lease of computer hardware is a sale at retail. Sales tax is imposed based on the total purchase price, lease, or rental charges. See Rule 024 of these rules. (4-11-15)

03. Canned Software. When canned software is sold and delivered on storage media to the user and the storage media remains in the possession of the user, it is tangible personal property and the sale is taxable. If the storage media is sold along with other computer hardware, any canned software loaded on the storage media is tangible personal property the sale of which is taxable. If canned software is sold and delivered electronically or by the load and leave method, it is not tangible personal property and the sale is not taxable. If canned software is sold using a physical package but the package does not contain the canned software on storage media, it is not tangible personal property and the sale is not taxable. For example, if a printed key code is sold in a box that allows the user to download canned software and activate the canned software using the key code, the sale is not taxable. (4-11-15)

a. If canned software is loaded on a user's computer but has minimal or no functionality without connecting to the provider's servers over the internet, the sale of that canned software may still be taxable based upon the delivery method of the canned software as outlined in Subsection 027.03 of this rule. (4-11-15)

b. Special rules apply to digital music, digital books, digital videos, and digital games. See Subsections 027.06 and 027.07 of this rule. (3-25-16)

c. When a sale of canned software is taxable, tax applies to the entire amount charged to the customer for canned software. If the consideration consists of license fees, royalty fees, right to use fees or program design fees, whether for a period of minimum use or for extended periods, all fees are includ*ed* in the tax*able price*. *( )*

04. Remotely Accessed Computer Software. Remotely accessed computer software is not tangible personal property and charges to use or access such software are not tax*able*. *( )*

05. Maintenance Contracts. Maintenance contracts sold in connection with the sale or lease of canned software generally provide that the *buyer* will be entitled to receive periodic program enhancements and error correction, often referred to as upgrades, either on storage media or through remote telecommunications. The maintenance contract may also provide that the *buyer* will be entitled to telephone or on-site support services. *( )*

a. If the maintenance contract is required as a condition of the sale, lease, or rental of canned software, the gross sales price is tax*able* if the software to which the contract applies is tax*able*. Tax applies whether or not the charge for the maintenance contract is separately stated from the charge for software. In determining whether an agreement is optional or mandatory, the terms of the contract will be controlling. *( )*

b. If the maintenance contract is optional to the *buyer* of canned software: *( )*

i. Then only the portion of the contract fee representing upgrades is tax*able* if the fee for any maintenance agreement support services is separately stated and the upgrades are delivered on storage media; *( )*

ii. If the fee for any maintenance agreement support services is not separately stated from the fee for upgrades and the upgrades are delivered on storage media, then fifty percent (50%) of the entire charge for the maintenance contract is tax*able*; *( )*

iii. If the maintenance contract only provides upgrades delivered on storage media, and no

maintenance agreement support services, then the entire sales price of the contract is taxable; (4-11-15)

iv. If the maintenance contract only provides support services, and the customer is not entitled to or does not receive any canned computer software upgrades or enhancements, then the sale of the contract is not taxable. (3-30-07)

c. If an optional software maintenance contract provides for software updates to be delivered electronically but also allows a customer to receive software updates on storage media, no portion of the contract is taxable unless the customer receives software updates on storage media. ( )

06. Digital Products. Digital music, digital books, digital videos, and digital games are tangible personal property regardless of the delivery or access method but only if the *buyer* has a permanent right to use the digital music, digital books, digital videos, or digital games. Where the *buyer* has a permanent right to use these digital products, the sale is taxable. Leases or rentals of these digital products are not taxable. ( )

a. Other than digital music, digital books, digital videos, or digital games, information stored in an electronic medium is tangible personal property only if it is transferred to the user on storage media that is retained by the user. (3-25-16)

b. If a digital game requires the internet for some or all of its functionality, the sale of that digital game is taxable if the *buyer* has a permanent right to use the digital game. If a user pays a periodic subscription charge to play a digital game, the periodic subscription charge is not taxable. If a user pays a periodic subscription charge for a gaming service that enables certain functionality such as multiplayer capability in one or more digital games, the periodic charge is not taxable. ( )

07. Digital Subscriptions. Digital subscriptions consist of an agreement with a seller that grants a user the right to obtain or access digital products in a fixed quantity or for a fixed period of time. Digital subscriptions are not taxable. (3-25-16)

08. Reports Compiled by a Computer. The sale of statistical reports, graphs, diagrams, microfilm, microfiche, photorecordings, or any other information produced or compiled by a computer and sold or reproduced for sale in substantially the same form as it is produced is a sale of tangible personal property and is taxable if the final product is printed or delivered in an electronic format on storage media. If a report is compiled from information furnished by the same person to whom the finished report is sold, the report will be tax*able* unless the person selling the report performs some sort of service regarding the data or restates the data in substantially different form than that from which it was originally presented or delivers the report to the *buyer* electronically. ( )

a. Example: An accountant uses a computer to prepare financial statements from a client's automated accounting records. No tax will apply since what is sought is the accountant's expertise and knowledge of generally accepted accounting principles. (7-1-93)

b. Example: A company sells mailing lists which are transferred to the user on storage media that remains in the possession of the user. The seller compiles all the mailing lists from a single data base. Since the same data base is used for all such mailing lists it is not custom software. Therefore, the sale is tax*able*. ( )

c. Example: An auto parts retailer hires a data processing firm to optically scan and record its parts book on a computer disk. No analysis or other service is performed regarding the data. Essentially, this is the same as making a copy of the parts books and the sale is, therefore, tax*able*. ( )

d. When additional copies of records, reports, manuals, tabulations, etc., are provided, tax applies to the charges made for the additional copies. Additional copies are all copies in excess of those produced simultaneously with the production of the original and on the same printer, where the copies are prepared by running the same program, by using multiple printers, by looping the program, by using different programs to produce the same output, or by other means. (7-1-93)

e. Charges for copies produced by means of photocopying, multilithing, or by other means are tax*able*. ( )

09. Online or Remote Data Storage. Charges to store data on storage media owned and controlled by another party is a nontaxable service. (4-11-15)

10. Training Services. Separately stated charges for training services are not tax*able*, unless they are incidental services agreed to be rendered as a part of the sale of tangible personal property as provided by Rule 011 of these rules. *( )*

a. When separate charges are made for training materials, such as books, manuals, or canned software, sales tax applies. (7-1-93)

b. When training materials are provided at no cost to the *buyer* in conjunction with the sale of tangible personal property, the training materials are considered to be included in the sales price of the tangible personal property. *( )*

c. When no tangible personal property, computer hardware or canned software, is sold and training materials are provided at no charge to the customer, the provider of the training is the consumer of the training materials and *is required to* pay sales tax or accrue and remit use tax. *( )*

11. Custom Software. The transfer of title, possession, or use for a consideration of custom software is not tax*able*. Custom software is specified, designed, and created by a vendor at the specific request of a client to meet a particular need. Custom software includes software which is created when a user purchases the services of a person to create software which is specialized to meet the user's needs. The term includes those services that are represented by separately stated and identified charges for modification to existing canned software which are made to the special order of the customer, even though the sales, lease, or license of the existing program remains taxable. Examples of services that do not result in custom software include loading parameters to initialize program settings and arranging preprogrammed modules to form a complete program. *( )*

a. Tax does not apply to the sale, license, or lease of custom software regardless of the form or means by which the program is transferred. The tax does not apply to the transfer of custom software or custom programming services performed in connection with the sale or lease of computer equipment if such charges are separately stated from the charges for the equipment. (3-6-00)

b. If the custom programming charges are not separately stated from the sale or lease of equipment, they will be considered taxable as part of the sale. (7-1-93)

c. Custom software includes a program prepared to the special order of a customer who will use the program to produce and sell or lease copies of the program. The sale of the program by the customer for whom the custom software was prepared will be a sale of canned software. (7-1-93)

12. Purchases for Resale. Sales tax does not apply when computer hardware or software is purchased for resale. A properly executed resale certificate must be on file. See Rule 128 of these rules. (3-6-00)

028. HOTELS, MOTELS AND CAMPGROUNDS (RULE 028).

Section*s 63-1801 through 63-1804,* 63-3612(2), *67-4718, 67-4917B, 67-4917C,* Idaho Code

01. Fees. Fees charged for providing hotel, motel, and campground accommodations are subject to the state sales tax, the Idaho Travel and Convention taxes and may be subject to the Auditorium *or Community Center* District sales tax. This includes fees collected for short-term rentals and vacation rentals even when the sale is facilitated by a short-term rental marketplace. These taxes are explained in IDAPA 35.01.06, "Hotel/Motel Room and Campground Sales Tax Administrative Rules." *( )*

02. *Resale* Purchases. Hotels, motels, lodging operators, short-term rentals, vacation rentals, and campgrounds may purchase tangible personal property for consumption by their customers without paying tax if the tangible personal property is included in the fee charged to the customer and is directly consumed by the customer in such a way that it cannot be reused. Hotels, motels, lodging operators, short-term rentals, vacation rentals, and campgrounds must provide a resale certificate to their vendor when purchasing such items for resale. Examples

include: ( )

a. Facial tissue, toilet tissue, disposable laundry pickup bags, and paper napkins. ( )

b. Soaps, hair shampoo, hair conditioners, and lotions. (7-1-93)

c. Disposable plastic drinking glasses, disposable plastic utensils, disposable shoe shine cloths, and disposable shower caps. (7-1-93)

d. Candies, beverages, meals, and newspapers furnished with the room. (7-1-93)

e. Room stationery, envelopes, notepads, and matches. (7-1-93)

03. Tax*able Purchases*. Tangible personal property which is not included in the fee charged to the customer and not directly consumed by the customer is tax*able* when purchased by the hotel, motel, lodging operator, short-term rental, vacation rental, or campground. *T*ax*able purchases* include property not directly consumed by the customer, property that is *not* disposable in nature, or property that is depreciated in the books and records of the hotel, motel, lodging operator, short-term rental, vacation rental, or campground. The hotel, motel, lodging operator, short-term rental, vacation rental, or campground is the user and consumer of such supplies and equipment and will pay sales tax on the purchase of such items. Examples include: ( )

a. Bath towels, bath mats, linens, and bedding. (7-1-93)

b. Glassware, silverware, and china. (7-1-93)

c. Furniture and fixtures. (7-1-93)

d. Bibles, room service menus, and directories. (7-1-93)

e. *G*arbage can liners. ( )

f. Any tangible personal property available to the general public. (7-1-93)

029. PRODUCING, FABRICATING, AND PROCESSING (RULE 029).

Section 63-3612, Idaho Code

01. In General. Tax applies to charges for producing, fabricating, processing, printing, imprinting, or the engraving of tangible personal property for a consideration, whether consumers furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, imprinting, or engraving. ( )

a. Example 1: An owner purchases cabinets from a cabinetmaker to be made according to specifications furnished by the owner. The cabinetmaker delivers the cabinets to the owner who installs them himself. A sales tax will be collected by the cabinetmaker from the owner measured by the entire sales price. (7-1-93)

b. Example 2: An owner purchases material, on which he pays a sales tax, which he delivers to a cabinetmaker. The cabinetmaker uses this material to manufacture cabinets for the owner according to specification. These cabinets are delivered to the owner and an agreed price is paid for the work done by the cabinetmaker. A sales tax will be collected from the owner, measured by the entire price charged by the cabinetmaker. (7-1-93)

c. Example 3: An individual takes a plaque, on which sales tax has been paid, to an engraver and requests the plaque be engraved with an inscription. The total price paid for the engraving is tax*able*. ( )

d. Example 4: A club purchases trophies from a retailer and requests that the trophies be engraved with individual names. The trophies are engraved and delivered for an agreed price. The measure of the sales tax is the price of the trophies plus the engraving charge. (7-1-93)

e. Example 5: An individual takes a beef to a packing plant and requests that the meat be processed by

cutting, wrapping, and freezing the meat to the *buyer*'s specification. The total price paid for this processing is tax*able*. *( )*

f. Example 6: A hunter takes a deer to a business which processes smoked meats. Although the material consumed in the smoking process may be minimal, the entire price paid for this processing is tax*able*. *( )*

02. Repairing and Reconditioning Distinguished. Producing, fabricating, and processing includes any operation which results in the creation or production of tangible personal property or which is a step in a process or series of operations resulting in the creation or production of tangible personal property. The terms do not include operations which do not result in the creation or production of tangible personal property or which do not constitute a step in a process or series of operations resulting in the creation or production of tangible personal property, but which constitute merely the repair or reconditioning of tangible personal property to refit it for the use for which it was originally produced. (7-1-93)

03. Cross-References. (7-1-93)

a. Repairs and Renovation of Tangible Personal Property. See Rules 011 and 062 of these rules. (7-1-93)

b. Fabrications by Contractors. See Rule 012 of these rules. (7-1-93)

030. ADMISSIONS DEFINED (RULE 030).
Section 63-3612, Idaho Code

01. Admissions. Charges for admission to a place or event in Idaho *include the right to remain in a place or use a seat or table or other similar accommodation and* are taxable. The charge to gain access to a place or event is tax*able* whether *that* charge is designated as a cover charge, minimum charge or any such similar charge. *( )*

a. When charge*s for admission allow access to a place or event* for a limited *period,* an*y* additional charge *to* exten*d that* time is admission *and is taxable*. *( )*

b. When a person or organization acquires the sole right to use any place or the right to dispose of or control the admissions to any place with the intent to charge people to attend the event, the amount paid for such right is not subject to sales tax. Such a transaction constitutes a rental for resale. However, when the person or organization sells admission, the tax will apply to the amounts paid for such admission. If the person or organization does not charge people to attend the event, their rental of the recreational facility may be tax*able*. See Rule 129 of these rules. *( )*

02. Rental of Tangible Personal Property. When a charge is made only for the rental of tangible personal property such as skates, golf clubs, etc., the rental will be taxable. If a lesser charge is made to a person not desiring to use the property or services offered, this lesser amount will be deemed to represent the amount charged for admission. (3-6-00)

031. RADIO AND TELECOMMUNICATIONS EQUIPMENT AND LAND MOBILE RADIO SERVICE OF SYSTEMS (RULE 031).
Sections 63-3612, 63-3621, Idaho Code

01. General Rule and Scope. *The sale, rental or lease* of communication equipment and land mobile radio systems are tax*able*. This rule describes sales and use tax treatment of telephone terminal equipment or services and land mobile radio systems or service. *( )*

02. Telephone Terminal Equipment and Services. (7-1-93)

a. *The sale, rental, or lease of telephone terminal equipment is taxable.* Telephone terminal equipment includes, but is not limited to, desk sets, PBX systems, automated answering equipment, cellular telephones and

mobile radio telephones. ( )

b. Fees for access charges, toll charges, call waiting, call forward, message recording, and similar charges to customers are not tax*able*. ( )

03. Land Mobile Radio Systems or Services. *Land mobile radio systems and services, defined by 47 CFR § 90.7, are a regularly interacting group of base, mobile and associated control and fixed relay stations intended to provide land mobile radio communications service over a single area of operation.* ( )

a. *The s*ale*, rental, or lease* of terminal equipment or *equipment located on the* customer*'s* premises *is* taxable. *The* equipment include*s* handsets, mobile telephones, antennae, and like or similar property. ( )

b. Separately stated fees for *the* install*ation of* terminal equipment *or equipment that will be located on the customer's* premises or *is* not tax*able*. ( )

c. *Separately stated f*ees for access charges, toll charges, and similar charges are not tax*able*. ( )

04. Provider Equipment. *The owner or provider of telephone or land mobile radio systems and services must pay a sales or use tax on any tangible personal property purchased for the use of the business. This includes but is not limited to; e*quipment or tangible personal property used in receiving or transmitting, *excluding the equipment referenced in Subsection 031.02.a.,* office supplies, repair equipment, accounting or customer billing equipment, and equipment or devices or other property used to maintain or repair land mobile radio systems or services. ( )

05. Drop-In Equipment and Inside Wiring. *The installation of the d*rop-in equipment and inside wiring useful or necessary to bring telephonic or radio communication transmissions from a source outside the premises of the user, for example, telephone pole or transmitter, to terminal equipment within the user's premises *is an improvement to real property and anyone performing the installation is a contractor. Drop-in equipment and inside wiring includes, but is not limited to, wires, plugs, sockets, receptacles, connectors and similar items*. See Rule 012 of these rules for tax treatment of contractors. ( )

06. Wireless Telecommunications Equipment. A retailer may give away wireless telecommunications equipment as an *incentive* to *start* or continue a contract for telecommunications service. Such a use is exempt from tax pursuant to Section 63-3621(a), Idaho Code. For the purposes of this exemption "telecommunications service" means the transmission of two-way interactive switched signs, signals, writing, images, sounds, messages, data, or other information that is offered to the public for compensation. "Telecommunication service" does not include the one-way transmission to subscribers of video programming, or other programming service, and subscriber interaction, if any, *necessary* for the selection of such video programming or other programming service, surveying, internet service, alarm monitoring service, or the provision of radio paging, mobile radio telecommunication services, answering services (including computerized or otherwise automated answering or voice message services). ( )

032. (RESERVED)

033. SALES OF NEWSPAPERS AND MAGAZINES (RULE 033).
Sections 63-3610, 63-3612, 63-3613, 63-3622, Idaho Code

01. Subscriptions. Subscriptions to newspapers and magazines are sales of tangible personal property. The sale will be taxed if the single copy price of each newspaper or magazine purchased by the subscriber exceeds eleven cents ($0.11). The single copy price is to be computed on an annual basis regardless of whether the subscription is paid weekly, monthly or on some other periodic basis. (7-1-93)

02. Single Copy Price. The single copy price is to be computed according to the following formula. (Published subscription price) x (Number of subscription periods in one (1) year) / (Number of issues a subscriber receives in one (1) year) = Single Copy Price. If the single copy price as computed exceeds eleven ($0.11) cents, the subscription is taxable. If the single copy price is eleven cents ($0.11) or less, the subscription price is not taxable. (7-1-93)

03. Computation of Tax. If the subscription price is taxable, the tax is to be computed on the subscription price according to the schedule contained in Section 63-3619, Idaho Code. (7-1-93)

04. Subscription Price. As used in this rule, the terms published subscription price and subscription price mean the total amount charged for purchase and delivery of the newspaper and magazine, except that separately stated postage is to be excluded from the *taxable* subscription price. It is acceptable business practice for publishers to establish a price for their newspapers as separate weekday-only and Sunday-only issues. The provisions of this rule will be in effect in such cases. When the price is posted as a combined weekday-Sunday price, sales tax will be charged on the combined subscription price. *( )*

05. Individual Sales. Individual or separate sales of newspapers or magazines, except as provided in Subsection 033.06 of this rule for a single price of eleven cents ($0.11) or less are not taxable. Individual or separate sales of newspapers or magazines for a single price exceeding eleven cents ($0.11) are tax*able* according to the schedule provided in Section 63-3619, Idaho Code. Separate or individual sales of newspapers or magazines together with *taxable* retail sales or other *taxable* tangible personal property *is* taxable if the total sales price of all taxable property included in the sale exceeds eleven cents ($0.11). *( )*

06. Vending Machine Sales. Sales of newspapers or magazines through a vending machine are governed by the provisions of Section 63-3613, Idaho Code, and Rule 058 of these rules, except when the cost of the newspaper is greater than the sales price, tax will be computed on the retail sales price. (7-1-99)

07. Independent Retailer Sales. The sale of newspapers by a publisher to an independent retailer will be tax exempt only if the retailer provides the publisher with a properly executed resale certificate. See Rule 128 of these rules. The incidence of sales tax then falls upon the independent retailer who *has* a seller's permit and will be responsible for collecting and remitting the sales tax on all newspapers thus purchased and resold. *( )*

08. Carriers Less Than Sixteen Years Old. If the carrier is less than sixteen (16) years old, the publisher or other seller's permit holder from whom he or she obtains the newspapers will be responsible for the collection of sales tax and remitting such taxes to the Commission. *( )*

09. Product Consumed by the Publisher. Eight-tenths of one percent (0.8%) of net press run of newspapers or magazines, will be taxed as product consumed by the publisher. Any percentage figure below eight-tenths of one percent (0.8%) is to be supported by accepted accounting methods generally used in the publishing industry. The value of the newspapers used is set at the retail price charged the consumer. Example: (Eight tenths of one percent (0.8%) of Daily Net Press Run) x (Single Copy Retail Price) x (Tax Rate) / Daily Net Press Run = Tax Per Copy. (7-1-93)

10. Single Unit Price and Net Press Run. For purposes of the computation in Subsection 033.09 of this rule single copy price is the amount computed by the formula in Subsection 033.02 of this rule. Net press run is all readable, usable copies, including editorial copies, tearsheets, and archival copies, and excluding spoiled runs or printing waste. (7-1-93)

11. Cross-Reference. (7-1-93)

a. See Rule 058 of these rules, Sales Through Vending Machines. (7-1-99)

b. See Rule 127 of these rules, Free Distribution Newspapers. (4-6-05)

c. See Rule 128 of these rules, Certificates for Resale and Other Exemption Claims. (3-15-02)

034. *(RESERVED)*

035. LAYAWAY SALES (RULE 035).

Sections 63-3612, 63-3613, Idaho Code

01. In General. *S*ales tax *must* be collected on the total sales price of the items on layaway at the time of sale. *( )*

02. The Time a Sale Occurs. A sale occurs when title to property passes through delivery to the customer or absolute and unconditional appropriation to a contract. (7-1-93)

a. The sales tax is accrued and remitted to the state based on the tax rate in effect at the time of sale. (7-1-93)

b. Separately stated nonrefundable *layaway* service charges are not tax*able*. *( )*

036. SIGNS AND BILLBOARDS (RULE 036).
Sections 63-3609, 63-3612, 63-3613, 63-3622, Idaho Code

01. Signs and Billboards as Custom Made Articles. The fabrication, manufacturing, lettering, etc., of advertising or informational signs of whatever description, including, but not limited to, neon signs, display lettering on trucks, display cards, show cards, etc., are considered made-to-order goods or custom made articles and as such are subject to sales tax based upon the total sales price of the completed sign to the user. The sales price include*s both* material and labor. *( )*

02. *Lease or* Rental of Signs. The *lease or* rental of signs is tax*able* and sales tax will be collected and remitted to the state upon the date on which rental payments are due and owing the lessor. The tax will be measured by the gross rental receipts. A lease-purchase agreement which in fact a sale, will be treated as a sale and tax collected on the entire sales price at the date upon which the contract is executed. *( )*

03. Material That Becomes Part of a Sign. The sale of advertising signs may consist of a mixed transaction including both a sale of tangible personal property and a sale of real property. (3-20-14)

a. Persons who sell signs may buy materials which become a part of the product without paying tax if they give the seller the documentation required by Rule 128 of these rules. Both the materials and labor *necessary* to fabricate the sign are taxable. Therefore, the entire price of the tangible personal property sold will be taxable to the customer. *( )*

b. Signs may be attached to poles or mountings that are affixed to real property in such a way that they are intended to remain in place and become a real property improvement. The person installing materials into real property is acting as a contractor and is the consumer of the materials installed, such as the concrete or sign poles. The contractor owes a sales or use tax on the purchase of these materials. (3-20-14)

04. Road Signs. Road signs are signs installed alongside or above roads that provide roadway information to users of the road. Examples of road signs include traffic signs such as speed limit signs and stop signs; street signs; recreational area signs; highway signs such as mileage signs and exit signs; and highway exit service information signs. (3-20-14)

a. In general, road signs become real property upon installation. Consequently, an installer of road signs acts as a contractor improving real property when performing the installation work. Therefore, a road sign installer is the consumer of all materials used in the installation of the road sign. The installer owes sales or use tax on its use of all sign materials regardless of whether the installer purchased the materials or had the sign materials provided by the sign owner. However, if the sign owner has already paid sales or use tax on its purchase of the sign materials, the installer will not owe any additional use tax. (3-20-14)

b. Alternatively, if a road sign is intended to serve a temporary purpose, the road sign does not become real property regardless of the nature of its purpose or how the road sign is affixed to real property. (3-20-14)

i. Example 1: A contractor installs a stop sign on behalf of a public transportation department to adjust traffic flow during a period of road construction. The contractor removes the stop sign upon completion of the construction and returns the stop sign to the public transportation department. The stop sign remains tangible personal property while installed. Therefore, the contractor does not owe use tax. (3-20-14)

ii. Example 2: A contractor purchases signs used to warn approaching vehicles of a construction

project that affects traffic flow such as "Be Prepared to Stop." The contractor maintains an inventory of such signs for use on a variety of projects. The signs only ever serve a temporary purpose for the duration of a project. The contractor does not resell the signs or install the signs on a permanent basis. The purchase of these signs is taxable to the contractor. (3-20-14)

05. Custom Painting Directly on Real Property. A sale of custom painting of displays, graphics or signs directly on walls or windows of a building is not considered to be a retail sale of tangible personal property and is not taxable. The sign painter pays sales or use tax on purchases of materials used to paint these custom displays, graphics or signs. (7-1-99)

06. Billboards. Billboards, which are also referred to as twenty-four (24) sheet posters and painted billboards, are not in the same category as signs covered in this rule. The rental of a billboard is not a rental of tangible personal property under the Idaho Sales Tax Act. Material used in the construction, erection, painting, and maintenance of a billboard is tax*able*. *( )*

037. AIRCRAFT AND FLYING SERVICES (RULE 037).
Section*s 63-3607A, 63-3612, 63-3613, 63-3622C,* 63-3622GG, Idaho Code

01. Definitions. For the purposes of this rule, the following terms have the following meanings: (7-1-94)

a. *Aircraft. The term aircraft means any contrivance now known or hereafter invented, used, or designed, for navigation of or flight in the air.* *( )*

b. Recreational Flight. The hiring on demand of an aircraft with a pilot to transport passengers for a recreational purpose. Examples are a pleasure ride, sightseeing, wildlife viewing, hot air balloon rides, or other similar activities. (4-11-06)

c. Freight. Goods transported by a carrier between two (2) points. Freight does not include goods which are being transported for the purpose of aerial spraying or dumping. See Subsection 037.06 of this rule. (4-11-06)

d. Transportation of Passengers. The transportation of passengers means the service of transporting passengers from one (1) point to another. It does not include survey flights, recreational or sightseeing flights, nor does it include any flight that begins and ends at the same point. (4-11-06)

e. Nonresident Individual. An individual as defined by Section 63-3014, Idaho Code. (7-1-94)

f. Nonresident Businesses and Other Organizations. A corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state, and does not have consistent operations in this state. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more aircraft is not a nonresident. The use of an aircraft owned by such an entity will be subject to use tax upon its first use in Idaho. (4-4-13)

g. Day. For the purpose of this rule any part of a day is a day. (7-1-94)

h. Transportation of freight or passengers for hire. "Transportation of freight or passengers for hire" means the business of transporting persons or property for compensation from one (1) location on the ground or water to another. (4-4-13)

i. Common Carrier. The operation of an aircraft in the transportation of freight or passengers for hire by members of the public. When operating as a common carrier, the operator or owner of an aircraft usually charges a rate that will generate a profit. For flights in which federal regulations limit or minimize this profit, the aircraft is likely not operating as a common carrier. (4-4-13)

j. Public. The public does not include: (4-4-13)

i. Owners or operators of the aircraft; (4-4-13)

ii. Employees of the aircraft owner or operator; (4-4-13)

iii. Guests of the aircraft owner or operator; (4-4-13)

iv. Any of the above with the same relationship to a parent of the aircraft owner, a subsidiary of that parent, or a subsidiary of the aircraft owner; (4-4-13)

v. An individual or entity flying under a time sharing agreement which is an arrangement where an aircraft owner leases his aircraft with flight crew to another individual or entity and the aircraft owner limits the amount charged in accordance with federal regulations; or (4-4-13)

vi. An individual or entity flying under an interchange agreement which is an arrangement where an aircraft owner leases his aircraft to another aircraft owner in exchange for equal time on the other owner's aircraft and any fees charged may not exceed the difference between the costs of owning, operating, and maintaining the two (2) aircraft. (4-4-13)

02. Sales of Aircraft. Sales of aircraft are taxable unless an exemption applies. Section 63-3622GG, Idaho Code, provides an exemption for the sale, lease, purchase, or use of an aircraft: (4-11-06)

a. Primarily used to provide passenger or freight services for hire as a common carrier; (4-4-13)

i. Example 1: An aircraft is flown for the following activities: the aircraft owner's personal vacations, flight instruction, and charter operations for hire as a common carrier. The flight hours for each activity are forty-five (45), sixty-five (65) and seventy-five (75) hours respectively in a consecutive twelve (12) month period. The combined flight hours for the taxable uses of the aircraft, owner and flight instruction, (45 + 65 = 110 hours) are more than the hours operating as a common carrier (75 hours). Since the greater use of the aircraft is performing activities that do not qualify for an exemption, the use of the aircraft will be taxable at fair market value as of that point in time. (3-20-14)

ii. Example 2: A charter aircraft service uses an aircraft for three purposes: flight instruction, air ambulance service, and charter flights operated as a common carrier. The flight hours for each activity are one hundred (100), sixty (60) and fifty (50) respectively in a consecutive twelve (12) month period. The combined flight hours for the exempt uses of the aircraft, as an air ambulance and as a common carrier (60 + 50 = 110 hours), are more than the hours used for flight instruction one hundred (100) hours. Since the greater use of the aircraft is performing activities that qualify for an exemption, the use of the aircraft will be exempt. (3-20-14)

b. Primarily used for emergency transportation of sick or injured persons; (3-29-17)

c. That is a fixed-wing aircraft primarily used as an air tactical group supervisor platform under a contract with a governmental entity for wildfire activity; or (3-29-17)

d. Purchased for use outside this state, when the aircraft is upon delivery taken outside this state, but only if: (3-20-04)

i. The aircraft is sold to a nonresident as defined in Subsection 037.01.d. or 037.01.e. of this rule; and (3-30-07)

ii. The registration will be immediately changed to show the new owner and the aircraft will not be used in this state more than ninety (90) days in any consecutive twelve (12) month period. (4-4-13)

03. Sales of Aircraft Repair Parts to Nonresidents. Subject to the restrictions of Section 63-3622GG, Idaho Code, sales of aircraft repair parts, including those paid for under a warranty or service agreement, are exempt from tax when installed on an aircraft owned by a nonresident individual or business as defined in Subsection 037.01

of this rule. (4-11-19)

04. Federal Law Prohibits States From Taxing Sales of Air Transportation. See 49 U.S.C. Section 40116. For this reason, sales of intrastate transportation as described by Section 63-3612(i), Idaho Code, are not taxable in Idaho. (4-11-06)

05. Rentals and Leases of Aircraft. The rental or lease of an aircraft without operator is a *taxable* sale, other than as provided in Subsection 037.02 of this rule. See Rule 024 of these rules. *( )*

06. Aerial Contracting Services. Businesses primarily engaged in the application of agricultural chemicals as described in Federal Aviation Regulation Part 137, or in activities involving the carrying of external loads as described in Federal Aviation Regulation Part 133, such as aerial logging, are performing aerial contracting services. Such businesses are not primarily engaged in the transportation of freight. (4-11-06)

a. Aircraft purchased, rented, or leased for aerial contracting are tax*able*. It makes no difference *if* the service is provided to a government agency or a private individual or company. Sales or use tax also applies to the purchase of repair parts, oil, and other tangible personal property. *( )*

b. When aircraft held for resale are used by the owner, who is an aircraft dealer, for aerial contracting services, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (4-11-06)

07. Air Ambulance Service. Charges for the emergency transportation of sick or injured persons, including standby time, are not tax*able*. *( )*

08. Flying Instructions. Flying instructions or lessons which may include solo flights are a service and the fees are not tax*able*. *( )*

a. Aircraft purchased, rented, or leased to be used primarily for flying instruction are tax*able*. *( )*

b. When aircraft held for resale are used by the aircraft dealer for flying instructions or lessons, a taxable use occurs. The use tax is due on a reasonable rental value for the time the aircraft is used to provide the service. (7-1-94)

09. Recreational Flights. Sales and purchase of aircraft used primarily for providing recreational flights are tax*able*. *( )*

10. Aircraft Held for Resale. Aircraft purchased and held for resale become taxable when used for purposes other than demonstration or display in the regular course of business. (7-1-94)

a. Rentals of aircraft held for resale are taxable as provided by Subsection 037.05 of this rule. (7-1-93)

b. When an aircraft held for resale is used for a taxable purpose, the dealer owes tax on that use. The use tax applies to a reasonable rental value for the time the aircraft is used. (7-1-94)

c. Parts and oil purchased to repair or maintain aircraft held for resale are not tax*able*. The aircraft dealer provides the supplier with a properly completed resale certificate. See Rule 128 of these rules. *( )*

11. Fuel. The sale or purchase of fuels subject to motor fuels tax, or on which a motor fuels tax has been paid, pursuant to Chapter 24, Title 63, Idaho Code, is exempt from sales and use tax. (7-1-94)

038. FLYING CLUBS (RULE 038).

Sections 63-3612, 63-3613, 63-3622, Idaho Code

01. In General. A flying club is an association of persons who have purchased or leased aircraft for the

purpose of renting the aircraft to club members. The aircraft rentals to the club members are considered bare equipment rentals and are tax*able* at a reasonable rental value. *( )*

02. Rental or Sale of Aircraft to Members. The flying club is a retailer who is required to obtain a seller's permit and collect and remit sales tax. The sales tax, at the prevailing tax rate, is to be collected by the flying club and remitted to the Commission in the manner prescribed for other retailers. The tax is applicable whether the aircraft is sold or is rented on an hourly, daily, weekly, monthly, or any other basis. The flying club, primarily engaged in the business of making bare equipment rentals to club members, may purchase or lease the aircraft without paying sales tax by giving to its vendor a valid resale certificate as required by Rule 128 of these rules. (3-15-02)

03. Other Charges to Members. Charges for membership fees are generally tax*able*. If the membership fee is in no way related to the rental of the aircraft, the fee is not tax*able*. Charges for flight instruction, if such charges are separately stated, are not tax*able*. However, charges for logbooks and flight instruction manuals are tax*able*. *( )*

04. Aircraft Repair Parts. If the flying club is responsible for the maintenance of the aircraft, the club may purchase the necessary repair and replacement parts without paying tax by providing a valid resale certificate. See Rule 128 of these rules. (3-15-02)

05. Cross-Reference. Aircraft and Flying Services see Rule 037 of these rules. (3-15-02)

039. BULLION, COINS, OR OTHER CURRENCY (RULE 039).

Sections 63-3612, 63-3613, 63-3622V, Idaho Code

01. Sales and Purchases of Bullion. Sales and purchases of precious metal bullion and monetized bullion are exempt from sales tax. (7-1-93)

a. Precious metal bullion is an elementary precious metal, such as gold, silver, platinum, rhodium and chromium which has been processed by smelting or refining and where the value of the metal depends upon the content and not upon its form. (7-1-93)

b. Monetized bullion is a coin made of gold, silver or other metals which has been, is or will be used as a medium of exchange under the laws of this state, the United States or any foreign nation. (7-1-93)

02. Jewelry or Other Works of Art. The exemption does not extend to coins or money sold to create jewelry or other works of art. The exemption also does not extend to sales of coins whose values may be determined by their form, and which are not minted or manufactured as currency. (3-20-04)

a. Sales of medallions, tokens or other coins created to commemorate a historical event are taxable. However, sales of Idaho commemorative medallions through the Office of the Treasurer of the state of Idaho or its agents are exempt pursuant to Section 63-3622PP, Idaho Code. (3-20-04)

b. Sales of precious metal ingots are exempt from sales tax. Sales of jewelry items, such as belt buckles, bracelets or necklaces, containing silver dollars or other legal tender or ingots are taxable. (3-20-04)

c. Sales of coins, such as Krugerands the one (1) ounce gold coins of the Republic of South Africa, are exempt, unless incorporated into a jewelry item or other decoration. (3-20-04)

040. PROFESSIONAL TAXIDERMIST (RULE 040).

Sections 63-3612, 63-3613, Idaho Code

01. In General. The taxidermy profession is subject to Idaho sales and use tax under the category of custom made items. The underlying reason for the custom made section of Idaho Code is to equalize the tax on custom made items to those that could be purchased and sold in channels of trade. When buying an item fabricated from either a hide or fur pelt, the purchase price is based on the full cost of material and labor. In the instance of the taxidermy profession, the untanned pelt of hide would be the basic raw material from which the finished product was fabricated. (7-1-93)

02. Fabrication. A deerskin brought to the taxidermist for tanning should be taxed on the price charged by the taxidermist for tanning. If later that tanned skin is taken to a business that fabricates either gloves, moccasins, or jackets, again the fabricator should charge tax on the cost of fabricating the tanned hide making the total tax on the item fabricated comparable with the deerskin, gloves, etc., purchased from a retail store. This also would apply to the mounting of antlers, etc., and even to the making of full mounts of animals. At the time the taxidermist receives the head, the antlers, etc., of the animal from the customer, he has received only a basic piece of material that would be useless until he performs certain functions to place it in a usable or finished condition. (7-1-93)

03. Materials. All materials, such as mounting material, tanning material, and preservatives may be purchased by the taxidermist tax exempt since he will charge tax on the finished product. He may provide his supplier with a resale certificate. See Rule 128 of these rules. (3-15-02)

041. FOOD, MEALS, OR DRINKS (RULE 041).

Sections 63-3612(2)(b), 63-3621(p), and 63-3622J, Idaho Code

01. In General. This rule covers the imposition of tax on sales of food, meals, or drinks by commercial establishments, college campuses, conventions, nonprofit organizations, private clubs, and similar organizations. (7-1-93)

02. Commercial Establishments. Sales tax is imposed on the amount paid for food, meals, or drinks furnished by any restaurant, cafeteria, eating house, hotel, drugstore, diner, club, or any other place or organization regardless of whether meals are regularly served to the public. (7-1-93)

03. Clubs and Organizations. Private clubs, country clubs, athletic clubs, fraternal, and other similar organizations are retailers of tangible personal property sold by them, even if they make sales only to members. Such organizations are to *collect and remit Idaho* sales tax on all *taxable* sales. Taxability of membership dues depends upon *what is provided as a part of the membership dues*. Special rules apply to religious organizations. See Rule 086 of these rules. *( )*

a. When an organization holds a function in its own quarters, maintains its own kitchen facilities, and sells tickets which include items such as meals, dancing, drinks, entertainment, speakers, and registration fees (convention), the charges may be separated and tax collected on meals, drinks, and admission fees when the ticket is sold. *The organization holding the function or convention is required to collect and remit Idaho sales tax.* For example, an organization holds a dinner dance in its own building. It charges twenty dollars ($20) for dinner and dancing and twelve dollars ($12) for registration and speakers. Since the two (2) amounts are stated separately, tax is only imposed on twenty dollars ($20). Sales of meals and the use of recreational facilities are taxable. Registration fees, speaker fees, and similar charges are not taxable. *( )*

b. When an organization holds a function in facilities operated by a restaurant or motel and sells tickets for meals, drinks, and other services, no sales tax applies to these sales if the organization pays the restaurant or hotel sales tax on the meals and drinks furnished and all other services performed. The hotel, restaurant, or caterer will *collect and* remit the tax to the state. *( )*

04. Colleges, Universities, and Schools. A cafeteria operated by a state university, junior college district, public school district, or any other public body is treated the same as a cafeteria operated by a private enterprise. Purchases of food for resale are not taxable; meals sold are taxable. (7-1-93)

a. If a meal is paid for by cash or a meal ticket is sold to the student, tax is computed on the total sales price of the meal. If meals are sold as part of a room and board fee, the amount paid for board is separated from the amount paid for the room. Tax is calculated and collected on that part of the total fee allocated to the purchase of meals. (7-1-93)

b. Sales of meals by public or private schools under the Federal School Lunch Program are exempted by Section 63-3622J, Idaho Code. (7-1-93)

05. Fraternities, Sororities, and Cooperative Living Group. Fraternities and sororities generally purchase and prepare food for their own consumption. The food is prepared and served in a cooperative manner by members of the fraternity or by employees hired by the group for this purpose. Purchases made by the fraternity or sorority are for consumptive use and *are* tax*able*. There is no sale of meals to fraternity or sorority members and no sales tax imposed on any allocated charge for them whether stated separately or included as part of a lump sum charge for board and room. *( )*

a. If a concessionaire is retained by the fraternity or sorority to furnish meals, the concessionaire is a retailer engaged in the business of selling meals; food purchases are for resale and meals supplied by the concessionaire to members of the fraternity or sorority are tax*able*. *( )*

b. If the fraternity or sorority regularly furnishes meals for a consideration to nonmembers, these meals become tax*able* and the fraternity or sorority is to obtain an Idaho seller's permit. *( )*

c. Cooperative living groups are normally managed in much the same manner as fraternities and sororities. Food is purchased and meals are prepared and served by members of the group or their employees. The same conditions outlined above for fraternities and sororities apply to cooperative living groups. (4-11-06)

06. Boarding Houses. Sales of meals furnished by boarding houses are tax*able*, when they are charged separately. This applies *even if* the meals are served exclusively to regular boarders. Where no separate charge or specific amount is paid for meals furnished, but is included in the regular board and room charges, the boarding house or other place is not considered to be selling meals, but is the consumer of the items used in preparing such meals. *( )*

07. Honor System Snack Sales. Honor system snack sales are those items of individually sized prepackaged snack foods, such as candy, gum, chips, cookies or crackers, which customers may purchase by depositing the purchase price into a collection receptacle. Displays containing these snacks are generally placed in work or office areas and are unattended. Customers are on their honor to pay the posted price for the article removed from the display. Purchases from these snack displays are tax*able*. *( )*

a. Sales tax applies to the total sales. The posted price is to include a statement that sales tax is included. (4-2-08)

b. The formula for computing the taxable amount is: TS/ (100% + TR) where TS is total sales and TR is the tax rate. (4-2-08)

08. Church Organizations. Special rules apply to religious organizations. See Rule 086 of these rules. (4-11-06)

09. Senior Citizens. Meals sold under programs that provide nutritional meals for the aging under Title III of the Older Americans Act, Public Law 109-365, are exempted from the sales tax by Section 63-3622J, Idaho Code. Organizations selling such meals are to obtain an Idaho seller's permit and collect sales tax when selling meals to buyers who are not senior citizens. (3-26-19)

10. Food or Beverage Tastings. If a participant pays to participate in a food or beverage tasting, the charge to participate in the tasting is tax*able*. The provider of the samples does not owe a sales or use tax on its purchase or use of the product. *( )*

11. Nontaxable Purchases by Establishments Selling Meals or Beverages. Persons who serve food, meals, or drinks for a consideration may purchase tangible personal property without paying tax if the property is for resale to their customers, is included in the fee charged to the customer, and is directly consumed by the customer in such a way that it cannot be reused. A resale certificate is provided to the vendor when the establishment purchases such items for resale. See Rule 128 of these rules. Examples of items which are purchased for resale and directly consumed by customers include: (3-15-02)

a. Disposable containers, such as milkshake containers, paper or styrofoam cups and plates, to-go containers and sacks, pizza cartons, and chicken buckets. (7-1-93)

b. Disposable supplies included in the price of the meal or drink, such as drinking straws, stir sticks, paper napkins, paper placemats, and toothpicks. (7-1-93)

c. Candies, popcorn, drinks, or food, when included in the consideration paid for other food, meals, or drinks. (7-1-93)

12. Taxable Purchases by Establishments Selling Meals or Beverages. Tangible personal property which is not included in the fee charged to the customer and not directly consumed by the customer is tax*able* when purchased by the restaurant, bar, food server, or similar establishment. Tangible personal property which is not directly consumed by the customer includes property that is nondisposable in nature or property that is depreciated in the books and records of the restaurant, bar, or similar establishment. Examples of taxable purchases include: *( )*

a. Waxed paper, stretch wrap, foils, paper towels, garbage can liners, or other paper products consumed by the retailer, as well as linens, silverware, glassware, tablecloths, towels, and nondisposable napkins, furniture, fixtures, cookware, and menus. (7-1-93)

b. Any tangible personal property available to the general public, such as restroom supplies and matches. (7-1-93)

13. Free Giveaways to Employees. It is common practice for a retailer to give away prepared food and beverage, including full meals, to its employees free of charge. Giveaways of this nature normally trigger a use tax liability for the retailer calculated on the value of the items given away. However, if the retailer is in the business of selling prepared food and beverage, giveaways of prepared food and beverage to its employees are not taxable. Retailers that would qualify include restaurants and grocery stores with a deli or similar section that sells prepared food. (3-25-16)

a. For purposes of this subsection, prepared food means food intended for human consumption that: (3-25-16)

i. Is heated when given away; or (3-25-16)

ii. Consists of two (2) or more ingredients combined by the retailer and given away as a single item; or (3-25-16)

iii. Is customarily served with utensils. (3-25-16)

b. For purposes of this subsection, prepared beverage means any beverage intended for human consumption. (3-25-16)

042. PRICE LABELS (RULE 042).

*P*rice labels, stickers, pricing ink, pricing guns and shelf labels *purchased by retailers* are property used and consumed by the *retailer* in the *regular* course of business and are tax*able*. Pricing labels *that* contain *product* information such as ingredients, nutritional information, or caloric information are not tax*able*, since the utility of the label does not end with the purchase of the product. *( )*

043. SALES PRICE OR PURCHASE PRICE DEFINED (RULE 043).

01. Sales Price and Purchase Price. The term sales price and purchase price may be used interchangeably. Both mean the price paid by the customer or user to the seller including: (7-1-93)

a. The cost of transporting goods to the seller. See Rule 061 of these rules. (3-20-04)

b. Manufacturer's or importer's excise tax. See Rule 060 of these rules. (3-20-04)

c. Services agreed to be rendered as part of the sale. (7-1-97)

d. Separately stated labor charges to produce or fabricate made to order goods. See Rule 029 of these rules. (3-20-04)

02. Services Agreed to Be Rendered as a Part of the Sale. The sales and use tax is computed on the sales price of a transaction. The term "sales price" is defined by Section 63-3613, Idaho Code, to include "services agreed to be rendered as a part of the sale." The following items are among those that are part of the sales price and, therefore, may not be deducted before computation of the sales price. This is not intended to be an exclusive list of such items: (4-4-13)

a. Any charges for any services to bring the subject of a sale to its finished state ready for delivery and in the condition specified by the buyer, including charges for assembly, fabrication, alteration, lubrication, engraving, monogramming, cleaning, or any other servicing, customizing or dealer preparation. (3-20-04)

b. Any charge based on the amount or frequency of a purchase, such as a small order charge or the nature of the item sold, such as a slow-moving charge for an item not frequently sold. (3-20-04)

c. Any commission or other form of compensation for the services of an agent, consultant, broker, or similar person. (3-20-04)

d. Any charges for warranties, service agreements, insurance coverage, or other services required by the vendor to be taken as a condition of the sale. If the sale could be consummated without the payment of these charges, the charges are not part of the sales price if separately stated. Also, see Rule 049 of these rules. (3-20-04)

e. Any fuel surcharges except those charges which the vendor can document are related only to delivery of the property to the end customer. (4-4-13)

f. Any environmental or disposal fee except those fees directly imposed by a governmental agency. (4-4-13)

03. Charges Not Included. Sales price does not include charges for interest, carrying charges, amounts charged for optional insurance on the property sold, or any financing charge. These various charges may be deducted from the total sales price if they are separately stated in the contract. In the absence of a separate statement, it will be presumed that the amount charged is part of the total sales price. (3-20-04)

04. Gratuities. When a gratuity is paid in addition to the price of a meal, no sales tax applies to the gratuity. A gratuity can be paid voluntarily by the customer or be required by the seller. A gratuity is also commonly known as a tip. (3-29-12)

a. If a gratuity does not meet all of the following requirements, the gratuity will be subject to sales tax: (3-29-12)

i. A gratuity must be paid to the service provider of the meal as additional income to the base wages of the service provider; (3-29-12)

ii. A gratuity must be separately stated on the receipt or be voluntarily paid by the customer; and (3-29-12)

iii. A gratuity must not be used to avoid sales tax on the actual price of the meal. (3-29-12)

b. For the purposes of Subsection 043.04 of this rule, the following definitions apply: (3-29-12)

i. Meal. Food or drink prepared for or provided to a customer. (3-29-12)

ii. Service provider. An individual directly involved in preparing or providing a meal to a customer. This includes, but is not limited to, the server, the busser, the cook and the bartender. This does not include individuals who manage or own the company if they are not directly involved in preparing and providing a meal.

(3-29-12)

05. Service Charges. Amounts designated as service charges, added to the price of meals or drinks, are a part of the selling price of the meals or drinks and accordingly, must be included in the purchase price subject to tax, even though such service charges are made in lieu of tips and paid over by the retailer to his employees. (7-1-93)

044. TRADE-INS, TRADE-DOWNS AND BARTER (RULE 044).
Sections *63-3612,* 63-3613, *63-3621,* Idaho Code

01. Trade-Ins. A trade-in is the amount allowed by a retailer on merchandise accepted as payment for other merchandise. Merchandise is tangible personal property which is, or becomes, part of an inventory held for resale. (7-1-93)

02. Trade-In Allowance. When a retailer sells merchandise from his resale inventory and lets the customer trade in other goods which the retailer places in his resale inventory, the taxable sales price of the merchandise may be reduced by the amount allowed as trade-in. To qualify for the trade-in allowance, the property traded in *meets all of the following criteria:* *( )*

a. *The property is consideration delivered by the buyer to the seller;* *( )*

b. *The sales documents, executed not later than the time of sale, identify both the property being purchased and the property being traded in; and* *( )*

c. *The delivery of the trade-in and the purchase are components of a single transaction.* *( )*

d. Example: A customer buys a car from a dealer for four thousand dollars ($4,000). A trade-in of one thousand five hundred dollars ($1,500) is allowed for the customer's used car. Tax is charged on two thousand five hundred dollars ($2,500). (4-4-13)

03. Trade-Downs. A trade-down is a transaction in which a vendor accepts a trade-in from the customer that equals or exceeds the value of the merchandise sold to the customer. The taxable sales price is reduced to zero (0) and no sales tax is due on the transaction. (4-4-13)

04. Disallowed Trade-In Allowances. (3-28-18)

a. Private Party Transactions. A trade-in allowance is not allowed on transactions between individuals because the trade-in property does not become a part of an inventory held for resale. (3-28-18)

i. Example: Two (2) individuals exchange cars of equal value. No money, property, service, or consideration other than the cars are exchanged. Both parties pay tax on the fair market value of the vehicle received in the barter. (7-1-93)

ii. Example: Two (2) individuals, neither of whom are car dealers, exchange cars of different values. Tom's vehicle, which is worth ten thousand dollars ($10,000), is transferred to Bill. Bill's car, which is worth eight thousand dollars ($8,000), is transferred to Tom. Bill pays Tom two thousand dollars ($2,000). The trade-in allowance is not applicable because neither car is merchandise. Tom pays use tax on eight thousand dollars ($8,000); Bill pays use tax on ten thousand dollars ($10,000). (7-1-93)

b. Manufactured Homes, New Park Model Recreational Vehicles, and Modular Buildings. Trade-in allowances are not allowed on the sale of manufactured homes, new park model recreational vehicles, and modular buildings. See IDAPA 35.01.02.048 of these rules. *( )*

05. Insurance Settlements. An insurance settlement does not qualify as a trade-in. Example: Tom is involved in a car accident. His insurance company determines the damage exceeds the value of the car and settles with Tom on that basis. If Tom buys another car, he pays sales tax on the entire sales price of the replacement car. (3-30-01)

06. Core Charges. Parts for cars, trucks, and other types of equipment are often sold with an added

core charge. When the used core is returned, the core charge is refunded. This is essentially a trade-in of a used part for a new part. Since the seller cannot be certain that the customer will return a reusable core, such core charges are tax*able*. The tax on the core charge will be refunded by the seller at the time credit for the core charge is allowed. ( )

07. Trade-In for Rental/Lease Property. When tangible personal property is traded in as part payment for the rental or lease of other tangible personal property, sales tax applies to all payments made after the value of the trade-in property has been depleted and the lessor begins charging for the lease or rental. The methods of applying the trade-in value to the lease are: ( )

a. The trade-in value may be subtracted from the value of the leased or rented property, thereby reducing the monthly payments and the sales tax due on those payments. (7-1-93)

b. The trade-in value may be subtracted from the initial lease payments, with no sales tax due on those payments until it is used up. (7-1-93)

c. A combination of the two (2) methods, above. (7-1-93)

d. Example, a lessor leases a car for thirty-six (36) months at two hundred fifty dollars ($250) per month. The value on which the lease payments are based is ten thousand dollars ($10,000). The customer trades in a car worth two thousand dollars ($2,000). (3-30-01)

i. Alternative 1: The customer and lessor agree to reduce the value on which the lease is based by two thousand dollars ($2,000) and reduce the payments to only two hundred dollars ($200) per month for thirty-six (36) months. Sales tax is due on each two hundred dollar ($200) payment. (3-30-01)

ii. Alternative 2: The customer and lessor agree to apply the two thousand dollar ($2,000) trade-in allowance against the two hundred fifty dollar ($250) per month payments for the first eight (8) months of the lease. Sales tax is not due until the trade-in value is used up and the lessee is required to begin making monthly payments. (3-30-01)

iii. Alternative 3: The customer and lessor agree to combine the two methods and apply one thousand dollars ($1,000) against the value on which the lease is based and use the remaining one thousand dollars ($1,000) against the monthly payments, reducing the sales tax liability accordingly. (3-30-01)

08. Rental/Lease Property Traded-In. When a person disposes of tangible personal property that is leased and assigns his right to purchase the leased property to the retailer, no trade-in allowance is given for the amount of the residual buyout paid by the retailer. However, if the residual buyout amount which the lessee would pay to purchase the property is less than the amount that would be allowed by the retailer as a trade-in if the lessee had actually owned the vehicle, then the *taxable* sales price may be reduced by the difference between the total trade-in amount and residual buyout. ( )

a. Example: A person is the lessee of an automobile. Near the end of the lease term, the lessee enters into an agreement to purchase a new vehicle from an automobile dealer. The residual buyout amount for the leased vehicle is ten thousand dollars ($10,000). The retailer would allow nine thousand dollars ($9,000) as a trade-in amount if the lessee owned the vehicle. Since the amount the automobile dealer is willing to allow as a trade-in is not greater than the residual buyout amount, there is no reduction in the *taxable* sales price. ( )

b. Example: A lessee trades in his leased automobile for a new vehicle. The residual amount is ten thousand dollars ($10,000). The automobile dealer allows twelve thousand dollars ($12,000) as a trade. In this case, the sales price of the new vehicle is reduced by the difference between the residual amount and the total trade-in, or two thousand dollars ($2,000). (3-30-01)

045. RESCINDED SALE, REFUNDS OF PURCHASE PRICE (RULE 045).

Sections 28-2-608, 63-3612, 63-3613, Idaho Code

01. A Rescinded Sale. A transaction in which the seller and buyer place each other in the same

positions they were in prior to entering into any taxable transaction; and a transaction which meets the rules of the Uniform Commercial Code for revoking acceptance in whole or in part. See Section 28-2-608, Idaho Code. ( )

02. Refund of Remitted Sales Tax. Where a seller has collected and remitted tax on the sale and has refunded it to the buyer on rescission, the Commission will refund or credit the seller accordingly. The burden of proving a rescission is on the person claiming the refund or credit on a rescinded sale. See Rule 117 of these rules. (7-1-93)

03. Amount Refunded Reduced. If the seller reduces the amount refunded to the buyer on returned merchandise to recover depreciation, buyer usage or other costs, the amount of the reduction is considered a charge by the seller to the buyer for use of the tangible personal property and is tax*able* in the same manner as a rental. The amount of sales tax refunded to the buyer must be reduced accordingly. ( )

04. Restocking Charge. If a seller places a restocking charge on returned merchandise, the charge is not taxable. A restocking charge is a fee charged by a seller to cover his time and expense in returning goods to resale inventory when the buyer has not used the goods in a way that decreases their value. (7-1-93)

05. Required to Buy Other Property. If the customer, in order to retain the refund, is required to buy other property at a higher price, there is no refund and the amount credited on the subsequent purchase is treated as a trade-in. The seller must charge the customer sales tax on the difference between the amount credited and the sales price of the other property. (7-1-93)

06. Documentation. In order to obtain refund credit, the seller must keep adequate documents to support his claim for refund or adjustment. (7-1-93)

046. COATINGS ON TANGIBLE PERSONAL PROPERTY (RULE 046).

01. Coatings Generally. A coating is a substance covering the surface of tangible personal property usually intended to improve the durability or aesthetic appeal of the tangible personal property to which it is applied. There are a variety of coatings including paint, powder coating, chrome plating, spray-on bedliners, and anodized coatings. Effective July 1, 2014, this rule applies to all types of coatings and it is intended that such coatings receive the same tax treatment. This rule does not apply to coatings applied directly to real property such as paint applied to the walls of a building. (3-20-14)

02. Coatings are Tangible Personal Property. The materials applied to tangible personal property to produce a coating are tangible personal property both before and after the application process. Therefore, unless an exemption applies, the sale of a coating is a taxable sale. (3-20-14)

03. Material Charges. Unless an exemption applies, the materials portion of a sale of a coating is taxable. If the seller is unable to measure the exact amount of material used, a reasonable method of estimation is acceptable. (3-20-14)

04. Nontaxable Labor Charges. In any of the following circumstances, the labor to apply a coating will be nontaxable labor: (3-20-14)

a. A previous coating is removed and replaced with a new coating, regardless of any differences in quality between the two (2) coatings. (3-20-14)

b. A coating is applied to used tangible personal property on top of an already existing coating. (3-20-14)

c. Example 1: A vendor applies a spray-on bedliner to an individual's truck bed. The truck bed surface is already coated with automotive paint. The materials charge is taxable, but the labor is not taxable. (3-20-14)

05. Taxable Labor Charges. In any of the following circumstances, the labor to apply a coating will be taxable labor: (3-20-14)

a. A coating is applied to new tangible personal property, regardless of whether the tangible personal

property already has a coating. (3-20-14)

b. A coating is applied to new or used tangible personal property that has never been previously coated. (3-20-14)

06. Separate Statement. For circumstances under which the labor portion of the transaction is exempt, both materials and labor must be separately stated on the customer's billing statement. If there is no separate statement of materials and labor, the entire transaction is subject to sales tax. (3-20-14)

07. Used Tangible Personal Property. For purposes of this rule, tangible personal property is used if the tangible personal property has been previously put to the use for which it was intended. If a contractor hires someone to apply a coating to tangible personal property that the contractor intends to incorporate into real property, the tangible personal property has not been put to the use for which it was intended and is considered new tangible personal property. (3-20-14)

a. Example 1: A contractor hires someone to apply a coating to metal ducting. The contractor intends to incorporate the metal ducts into a ventilation system in a building. Since the ducting has not yet been put to the use for which it was intended, it is not used tangible personal property and all labor and material charges will be taxable. (3-20-14)

b. Example 2: A person buys a piece of furniture for use in the home. The person uses the drawers for a year before hiring someone to apply a stain to the drawers. At that point, the drawers are used tangible personal property. If the drawers had a previous coating of any kind, the labor to apply the stain will be nontaxable. If the drawers had no previous coating, the labor to apply the stain will be taxable. (3-20-14)

c. Example 3: A company buys equipment from a supplier. Before the equipment is ever put to the use for which it was intended, the company takes the equipment to be coated by a different supplier. Since the equipment has not yet been put to the use for which it was intended, it is new tangible personal property. Regardless of whether the equipment already has a coating, both the materials and labor to apply the new coating are taxable. (3-20-14)

08. Tangible Personal Property Held for Resale. For new or used tangible personal property held by a seller as part of its inventory, any labor costs incurred to apply a coating to the tangible personal property and charged to the end consumer are taxable services agreed to be rendered as part of the sale of the tangible personal property. The labor charges are exempt only if the sale of the tangible personal property is exempt. However, if the seller pays a third party to apply a coating to tangible personal property in its inventory, the seller may claim a resale exemption on the transaction. (3-20-14)

a. Example 1: A dealership has a used truck in its inventory. A customer will purchase the truck on the condition that the dealership will apply a spray-on bedliner. The dealership hires another company to apply the spray-on bedliner and pays three hundred dollars ($300) for the job (split evenly between materials and labor). The dealership fills out a resale exemption certificate for the spray-on bedliner company. No tax should be charged on this transaction. The dealership then charges its customer five hundred dollars ($500) (split evenly between materials and labor) and separately states these charges from the sales price of the truck. The materials charge is a taxable sale of tangible personal property. The labor charge is a taxable service agreed to be rendered as part of the sale of the truck. The dealership must charge tax on the entire five hundred dollars ($500). (3-20-14)

09. Exemptions. Like any sale of tangible personal property, if the customer provides a valid exemption certificate to the seller claiming an exemption that applies to the transaction, the seller has no obligation to collect sales tax on the transaction. The seller must maintain a copy of the exemption certificate on file. See Rule 128 of these rules for additional information. (3-20-14)

047. OUTFITTERS, GUIDES, AND LIKE OPERATIONS (RULE 047).

Sections 63-3612, 63-3613, Idaho Code

01. In General. Fees charged for services performed by outfitters, guides, dude ranches, hunting and fishing lodges, or camps are charges for the use of, or privilege of using, tangible personal property or other facilities for recreation. Fees charged by outfitters and like operations for providing outdoor recreational services are tax*able*.

( )

a. An outfitter is any person who holds himself out to the public for hire to conduct outdoor recreational activities, including: hunting animals or birds; float or power boating of rivers, lakes, and streams; fishing; hiking; skiing; hazardous desert or mountain excursions; and other recreational activities. (7-1-93)

b. A guide is a person employed by an outfitter to furnish personal services for the conduct of outdoor recreational activities. (7-1-93)

02. Services Performed in More Than One State. When an outfitter's service to a client takes place in more than one (1) state, and the customer receives an invoice from the outfitter that separately displays the Idaho portion of the charges from those of the other states, only the Idaho portion is subject to Idaho sales tax. (7-1-93)

a. When an outfitter's service to a client takes place in more than one (1) state and the outfitter fails to separately state the Idaho portion of the charges from those of other states, sales tax must be charged on the total amount. (7-1-93)

03. Government Use Fee. Land and water use fees imposed on outfitters, such as the three percent (3%) fee paid to the U.S. Forest Service, are not tax*able* when separately stated on the customer's invoice. ( )

04. Prepaid Travel Expense. When an outfitter's invoice separately states prepaid travel expenses such as lodging, and the outfitter has paid sales tax, when applicable, to vendors providing the travel services, the outfitter will not be required to tax that portion of his bill to the customer. Example: An outfitter's bill to a client for a seven (7) day hunt and prepaid travel expenses should read:

SEVEN-DAY HUNT	FEE	IDAHO SALES TAX
Airline Ticket (New York/Boise)	$500	$0.00 (none)
1 Night Lodging, Motel X Boise (Outfitter has paid tax to Motel X)	$50	$0.00 (none)
7 Day Hunt	$1,500	$75.00 (on 100%)

(4-11-06)

05. Lodging. If an outfitter provides overnight lodging for a client at a facility operated by the outfitter, charges for the lodging are tax*able* and hotel/motel taxes as provided by IDAPA 35.01.06, "Hotel/Motel Room and Campground Sales Tax Administrative Rules," Rule 011. ( )

06. Equipment Rental. When an outfitter rents equipment such as ground sheets, sleeping bags, rain gear, boots and dry bags, to his client for use during the recreational activity, sales tax must be charged on the equipment rental. (7-1-93)

07. Game Processing, Packing, and Taxidermy. When an outfitter bills a client for game processing, packing, or taxidermy services, sales tax must be charged on the entire fee to the client. The outfitter will provide the vendor of the services with a properly completed resale certificate. (7-1-93)

08. Prepurchased Hunting and Fishing Licenses. When an outfitter purchases a hunting or fishing license for a client and separately states the fee on the billing to the client, no sales tax applies to the license fee. (7-1-93)

09. Travel Agency Services. (7-1-93)

a. When outfitter services are purchased by a client through a travel agency and the outfitter bills the travel agency for the fee, the amount billed to the travel agency is tax*able*. In this case, the agency is acting as an agent for the client and the additional fee charged by the agency to the client is not tax*able*. ( )

b. When outfitter services are arranged for a client by a travel agency but the outfitter bills the client,

the amount billed to the client is taxable. In this case, the agency is acting as the agent of the outfitter and the fee paid to the travel agency by the outfitter cannot be deducted from the measure of the taxable sale. Even if the outfitter separately states the travel agency fee on his billing to the client, he is required to charge tax on the total amount. ( )

c. When an outfitter, Outfitter X, books a client and hires a second outfitter, Outfitter Y, to provide the services to the client, Outfitter X is required to charge the client sales tax on the full fee. Outfitter Y can obtain a resale certificate from Outfitter X otherwise, Outfitter Y has a requirement to charge sales tax on the services provided to Outfitter X. ( )

10. Purchases by Outfitters and Like Operations. (7-1-93)

a. Outfitters must pay tax when purchasing equipment and supplies for use in their business. Examples include boats, rafts, oars, motors, horses, tack, llamas, transportation equipment, camp gear, cooking gear, animal feed, brochures, and promotional give-away items. (7-1-93)

b. When an outfitter maintains an inventory of gear, such as ground sheets, sleeping bags, boots, rain gear, and dry bags, which is exclusively held for rental to clients, the outfitter may purchase the gear without tax in the manner previously described. The outfitter may purchase gear without paying tax only if the gear is rented to clients as a separate line item on the invoice to the client and sales tax is charged to the client. If gear is provided to clients as a part of the outfitter package fee, the outfitter must pay tax when purchasing the gear. (3-20-04)

c. When an outfitter arranges travel accommodations for his client and pays the vendors of lodging, and restaurant or catered meals, he must pay sales tax, as well as other applicable hotel/motel taxes, to the vendors. When an outfitter purchases food that he will prepare and furnish to clients, no sales tax applies if the outfitter provides a resale certificate. The outfitter must then collect a tax from his client on the sale of the furnished food. Alternatively, an outfitter may buy food and pay tax on the purchase. Under this alternative, the outfitter will include the cost of the food in his nontaxable charges to his client. (4-11-06)

d. When an outfitter purchases the services of a taxidermist or meat processor on behalf of his client, he should not pay tax to the vendor by providing the vendor with a properly completed resale certificate. The outfitter must charge tax to his client on this fee. (7-1-93)

11. Federal Preemption. The National Maritime Transportation Security Act of 2002, enacted November 25, 2002, prohibits the states from imposing tax on any vessel or other water craft, or its passengers or crew if the vessel or water craft is operating on any navigable waters. The Tax Commission interprets this statute to mean that states are prohibited from taxing sales of rafting and jet boating trips if they occur on navigable waters. See 33 U.S.C. Section 5. If Congress repeals the preemption sales of rafting trips will become taxable on the effective date of the repeal. This interpretation is subject to judicial review and could change, depending on rulings from state or federal courts. (4-11-06)

048. MANUFACTURED HOMES (MOBILE HOMES) AND MODULAR BUILDINGS (RULE 048).

Sections 39-4105, 39-4301, 63-3605J, 63-3606, 63-3612, 63-3613, 63-3621, Idaho Code

01. New Manufactured Home. When a manufactured home is sold at retail for the first time, it is taxable on fifty-five percent (55%) of the purchase price. The purchase price of a new manufactured home includes all component parts and any setup or transportation fees charged by the dealer. No trade-in allowance is permitted. ( )

02. Modular Building. When a modular building is sold at retail, it is taxed on fifty-five percent (55%) of the purchase price including all component parts. No trade-in allowance is permitted. ( )

03. Used Manufactured Home. Only the sale of a new manufactured home is taxable. After the first sale at retail of a manufactured home, any subsequent retail sale of the unit is a sale of a used manufactured home. The sale of a used manufactured home is exempt from tax, whether or not the original sale was taxable and without regard to whether the sale is made for use within or without Idaho or whether sold by a dealer. A dealer who sells both new and used manufactured homes is to maintain adequate records to establish which sales are taxable and which are

exempt for sales tax audit purposes. ( )

04. Sale of Office Trailer. *An office trailer is a structure which is built on a permanent chassis, is transportable in one (1) or more sections and is designed for use as an office.* An office trailer does not qualify as a manufactured home, because it is not designed for use as a dwelling, nor does it qualify as a modular building, because it is not designed to be affixed to real property. When an office trailer is sold at retail, it is tax*ed* on one hundred percent (100%) of the purchase price, including all furniture, fixtures, and appliances, whether the office trailer is new or used. ( )

05. Component Parts. Component parts include items incorporated by the manufacturer which remain unchanged at the time of the original retail sale, such as sinks, cabinetry, closet doors, central heating and cooling, garbage disposals, water heaters, and carpeting. Refrigerators, ranges, draperies, and wood burning stoves placed in the unit by the manufacturer are *also* component parts. ( )

06. Noncomponent Parts. All fixtures, furniture, furnishings, appliances, and attachments not incorporated as a component part of a new modular building or manufactured home are tax*able* separately and distinctly from the sales price of *the* modular building or manufactured home. Such items are to be separately stated on the sales invoice and tax will be assessed on the separately stated items on their full retail value. ( )

07. Repairs. Repairs to or renovations of used modular buildings or manufactured homes are repairs to real property, *irrespective of* whether the unit is affixed to real property *or* whether the unit is held for resale. Materials used to repair or renovate a used modular building or manufactured home are tax*able* at the time of purchase or use tax at the time of use. ( )

049. WARRANTIES AND SERVICE AGREEMENTS (RULE 049).
Section*s 63-3612,* 63-3613, Idaho Code

01. Warranties and Service Agreements. Warranties or service agreements may be furnished by the manufacturer or seller upon the sale, lease, or rental of tangible personal property by any of the following means: (7-1-93)

a. Including the price of the warranty or service agreement as part of the sales, lease, or rental price of the tangible personal property. (7-1-93)

b. Separately stating the price of the warranty or service agreement, but requiring the purchase of the warranty or service agreement as a condition of the sale, lease, or rental of tangible personal property. (7-1-93)

c. Allowing the *buyer* the option of purchasing a separately stated warranty or service agreement. ( )

02. Separate Optional Contract. Service agreements may also be offered as a separate optional contract on tangible personal property not owned or sold by the seller of the service agreement. (7-1-93)

03. Services Agreed to be Rendered. Services agreed to be rendered as a condition of a warranty or service agreement may be performed by the seller of the warranty or service agreement or by any dealer or repair facility that the seller may appoint to perform the repair or service. (7-1-93)

04. Non-Optional Warranty or Service Agreement. If the warranty or service agreement is required as a condition of the sale, lease, or rental of tangible personal property, the gross sales price is tax*able* whether or not the charge for the warranty or service agreement is separately stated from the sales price of the tangible personal property. ( )

a. When parts are replaced by the seller of the warranty or service agreement, no tax is imposed on the purchase of the parts by the seller. The parts replaced are considered to have been taxed at the time the warranty or service agreement was sold. (7-1-93)

b. When a third-party dealer or repair facility performs the repair, the seller of the warranty or service

agreement may provide the repairer with a resale certificate. See Rule 128 of these rules. (3-15-02)

05. Optional Warranty or Service Agreement. If the warranty or service agreement is optional to the *buyer*, no sales tax is charged on the sale of the warranty or service agreement. A taxable transaction occur*s when* the seller of the warranty or service agreement perform*s* the repair. *( )*

a. If the seller of the warranty or service agreement performs the repair and purchases parts for the repair or uses parts from his inventory, he will pay sales or use tax upon the parts when they are applied by him. (7-1-93)

b. When a third-party dealer or repair facility performs the repair and bills the seller of the warranty or service agreement, the third-party dealer or repair facility will separately state and charge sales tax on the parts to the seller of the warranty or service agreement. (7-1-93)

c. The seller of the warranty or service agreement will pay sales or use tax on parts for the repairs, *even if* the *buyer* qualifies for any exemption under the Idaho Sales and Use Tax Act or rules. *( )*

06. Parts in Addition to Warranty Fee. Regardless of any of the above, if the seller of the warranty or service agreement fee, sales tax is charged to the *buyer* on the sales price of the parts. *( )*

07. Replacement Parts and Maintenance Supplies. As used in this rule, a warranty or service agreement applies to replacement parts and maintenance supplies that become a part of the tangible personal property that is being serviced. The sale of other tangible personal property, such as paper for a copy machine, must be separately stated from any warranty or service agreement fee and sales tax charged to the *buyer*. *( )*

08. Cross-Reference. (4-11-19)

a. See Section 037.03 of these rules. Sales of Aircraft Repair Parts to Nonresidents. (4-11-19)

050. VETERINARIANS AND VETERINARY SUPPLIES (RULE 050).
Sections *63-3612, 63-3613,* 63-3622, 63-3622D, Idaho Code

01. In General. Fees charged by a veterinarian for professional services are not tax*able*. Tangible personal property used or consumed by a veterinarian or sold by a veterinarian is taxable in accordance with the provisions of this rule. *( )*

02. Drugs and Other Supplies. Drugs and other supplies used by a veterinarian while treating animal patients are tangible personal property consumed by the veterinarian in the course of providing services. If the veterinarian has not paid sales tax on his purchase of the drugs or supplies, a use tax is owed by the veterinarian. (3-25-16)

03. Services Provided to Exempt Customers. The veterinarian's use of drugs is taxable even though he may be providing services to a cattle rancher, dairyman or other producer because the drugs are consumed by the veterinarian and not by the producer. Since the production exemption is available only to persons engaged in a production business, the veterinarian does not benefit from the exemption. (3-25-16)

04. Retail Sales of Drugs and Supplies. The sale of drugs and veterinary supplies is a retail sale *and v*eterinarians making such sales *collect* and remit sales tax on *those* sales. However, the sale of drugs and veterinary supplies to a person operating a stock, dairy, poultry, fish, fur, or other ranch for gain or profit is exempt if documented by an exemption certificate as provided in Rule 128 of these rules. *( )*

05. Equipment and Supplies. Tangible personal property purchased or acquired by the veterinarian for the operation of his business including professional instruments and supplies, and office furnishings and equipment are taxable. (7-1-93)

051. DISCOUNTS, COUPONS, REBATES, AND GIFT CERTIFICATES (RULE 051).
Sections 63-3612, 63-3613, Idaho Code

01. Adjustments That Apply After Tax Calculation. Tax must be charged before deducting the following: (2-18-02)

a. Cash discounts. *A cash discount is a discount offered by a retailer to a buyer as an inducement for prompt payment.* Sales tax must be computed on the full amount of the purchase price before the cash discount is subtracted. When an invoice or other billing document states that a discount will be allowed if payment is made before a certain date, then the discount is presumed to be a cash discount. Discounts allowed on payments received after the stated date are presumed to be cash discounts unless proven to the contrary by clear and convincing evidence. *( )*

b. Manufacturer's rebates. *A manufacturer's rebate means a cash payment made by a manufacturer to a consumer who has purchased or is purchasing the manufacturer's product from the retailer.* Except as provided by Subsection 051.02 of this rule, sales tax is computed on the full amount of the purchase price without regard to the manufacturer's rebate. Any rebate received by the *buyer* from the manufacturer, distributor, or any person other than the retailer will not reduce the retail sales price tax*able*. Rebates paid by a retailer to the consumer will also be included in the *taxable* price if the retailer has been reimbursed by a third party, such as the manufacturer. *( )*

c. Manufacturer's discount. *A manufacturer's discount is a price reduction offered by a manufacturer to a consumer for purchasing their product from a retailer who is then reimbursed that amount by that manufacturer.* Sales tax *is* computed on the full amount of the purchase price before subtracting the coupon amount. This includes coupons issued by a manufacturer allowing the *buyer* to buy one item and get a second item free if the retailer will be reimbursed by the manufacturer. *( )*

d. Food Stamps and WIC. Purchases of food with coupons issued under the Federal Food Stamp Program or food checks issued by the Federal Special Supplemental Food Program for Women, Infants, and Children, (WIC), are exempt from sales or use tax. When a *buyer* uses manufacturer's discount coupons along with food stamps or WIC checks to purchase food items that qualify under these programs, the discount value of the coupon is tax*able*. For example, a food stamp recipient purchases fifteen dollars ($15) worth of eligible food, surrenders manufacturer's discount coupons valued at two dollars ($2), and pays with thirteen dollars ($13) in food stamps. Sales tax is due on the two dollar ($2) discounted amount. The *buyer* may not use food stamps or WIC checks to pay sales tax due. *( )*

02. Adjustments That Apply Before Tax Calculation. Tax is charged after the deduction of the following: (2-18-02)

a. Trade discounts. A trade discount is a reduction from the posted or listed price offered by a retailer which is not an inducement for prompt payment and which, when applied to the posted or listed price, establishes the true selling price to be paid by the *buyer*. *( )*

b. Retailer's rebates. A retailer's rebate is an amount of money or property paid by a retailer to a *buyer* which is conditioned upon the recipient making a purchase from the retailer. However, if a retailer is reimbursed by a manufacturer or other third party, the transaction is not a retailer's rebate and the rebate amount is included in the *taxable* sales price. This would be the case when a *buyer* sends the rebate claim to the retailer, the retailer sends the rebate amount to the *buyer* and the manufacturer reimburses the retailer. *( )*

c. Retailer discount coupons. Retailer discount coupons are coupons issued by a retailer which entitle the holder to purchase the issuing retailer's products at less than the posted or listed retail price. (7-1-93)

d. Manufacturer's motor vehicle rebates. Effective July 1, 1990, a manufacturer's rebate offered to a *buyer* of a motor vehicle may be deducted from the purchase price of the vehicle before computing the tax if the rebate is used to reduce the retail sales price of the vehicle, or is used as a down payment on the purchase. The dealer's customer invoice shows the manufacturer rebate as a deduction to, or down payment on, the purchase price of the vehicle. Only manufacturer rebates offered on motor vehicles qualify for the exclusion from tax. Manufacturer rebates offered on trailers, off-highway equipment, and other property will be treated as discussed in Subsection 051.01.b. of this rule. *( )*

03. Coupon Books. (3-30-07)

a. The sale of a coupon book that contains coupons offering discounts is deemed to be the sale of an intangible and is therefore not taxable. (3-30-07)

b. When the *buyer* of a coupon book redeems one (1) of the coupons, the discount allowed by the coupon is not included in the *taxable sales* price if the retailer is not reimbursed by a manufacturer or other third party. *( )*

04. Donated Goods. The donor is the consumer of donated goods and must pay sales or use tax on the purchase price of the goods. (7-1-98)

05. Gift Certificates. A gift certificate purchased from a vendor entitles a recipient to tangible personal property or services when presented to the vendor. The purchase of a gift certificate is not a taxable transaction. When the gift certificate is presented for redemption a sale is consummated. If the sale is a transfer of tangible personal property, the vendor collects sales tax at the time of sale. Tax applies to the purchase price of the tangible personal property, irrespective of any cash refunded on any difference between the face value of the gift certificate and the purchase price. If the sale is for services not tax*able* under the Sales Tax Act, the vendor will not collect sales tax. *( )*

06. Buy One Get One Free Discounts. If a retailer offers a "buy one get one free" discount in which the buyer purchases an item and receives another item of the same kind at no additional charge, the *taxable sales* price is the actual price paid after the discount is taken. Use tax is not applicable to the item sold at no charge; however, if a manufacturer's discount allows the *buyer* to receive a free item for which the retailer will be reimbursed by the manufacturer the *taxable sales* price is the full amount before the discount is calculated. *( )*

07. Complimentary Gift with Purchase of an Item. (3-30-07)

a. If a retailer offers a complimentary item to a customer at the time of, and in connection with, the sale of tangible personal property, the gift is considered a part of the sale. The item given away is deemed to be purchased for resale by the retailer; however, if the sale is of an item exempt from tax and the sale of the gift item would have been taxable, the retailer is responsible for use tax on the gift. This subsection applies only to sales of tangible personal property. (3-30-07)

i. Example: A retailer advertises that every *buyer* of a refrigerator will receive a bike at no additional charge. Since both the bike and the refrigerator were purchased for resale, the retailer would not owe tax when it purchases either. When it sells the bike together with the refrigerator, the *taxable* amount is the sales price of the refrigerator. *( )*

ii. Example: A retailer offers to give a free coffee mug to anyone who purchases fifteen (15) gallons of gas. Since the sale of the gasoline is exempt pursuant to Section 63-3622C, Idaho Code, the retailer would not charge any tax to the *buyer*. The retailer must pay use tax on its purchase price of the coffee mug. *( )*

b. If a retailer offers to give away a promotional item to anyone with no purchase required, then the retailer did not purchase the promotional item for resale. The retailer pays sales or use tax on its purchase price of the promotional items given away. (3-30-07)

c. This rule applies only to items given away by sellers of tangible personal property. See Rule 028 of these rules for items given away by hotels and motels. See Rule 041 of these rules for items given away by restaurants. (3-30-07)

052. SALE OF TANGIBLE PERSONAL PROPERTY RELATING TO FUNERAL SERVICES (RULE 052).
Sections 54-1103, 63-3609, 63-3612, 63-3613, 63-3622, 63-3622U, Idaho Code

01. In General. The sale of tangible personal property relating to funeral services by a licensed funeral establishment is exempt from tax. (7-1-99)

02. Sales by Licensed Funeral Directors. The exemption applies only when, at the time of sale, the seller is a person holding a valid funeral director's license issued pursuant to the authority of Title 54, Chapter 11, Idaho Code. A sale made by any seller not so licensed is not exempt under this provision. For example, a casket sold by a licensed funeral director as part of a funeral service is exempt. The funeral director's purchase of the casket is a purchase for resale and, therefore, excluded from the tax. The purchase of a memorial marker is not an integral part of the funeral service. Accordingly, it is not included within the exemption for tangible personal property related to a funeral service. The purchase of a memorial marker, therefore, is a taxable transaction regardless of whether it is sold by a licensed funeral director or by another. Sales of tombstones and grave markers, which are embedded in the sod or set on foundations, are tax*able*. The retail selling price includes the charge for cutting, shaping, polishing and lettering. *( )*

03. Purchases by Licensed Funeral Directors. The exemption does not include the sales to and purchases by funeral directors of equipment and supplies used and consumed by funeral directors in the course of providing funeral services. The funeral director's purchase of equipment and supplies used for embalming and preparing bodies for burial and all other tangible personal property used or consumed by the funeral director in the course of his business operations to which title does not pass from the funeral director is taxable. (7-1-99)

04. Caskets, Vaults, and Burial Receptacles. Caskets, vaults and burial receptacles are exempt when sold by a licensed funeral director as a part of funeral services, even though they may be improvements to real property. The funeral director is not a person engaged in improving real property within the meaning of Section 63-3609(a), Idaho Code; and, therefore, his purchase of these items is not tax*able*. However, the construction of a building for use as a mausoleum is an improvement to real property and the sale or use of the materials for the construction of the mausoleum creates a taxable incident and *is* taxed in the same manner as other persons improving real property. See Rule 012 of these rules. *( )*

05. Use Tax. When licensed funeral directors purchase equipment and supplies from suppliers who do not collect and remit Idaho sales tax, the funeral directors will be required to report and remit use tax on their taxable purchases. (7-1-93)

06. Documenting Purchases for Resale. Funeral directors purchasing tangible personal property for resale will be required to document the purchase for resale by providing their seller with a resale certificate. See Rule 128 of these rules. The purchase by the funeral director of such items as caskets and special clothing is a purchase for resale, even though the sale of the same property by the funeral director is exempt. (3-15-02)

07. Seller's Permit Required. A funeral director is to apply for and maintain a valid seller's permit. The seller's permit number and sales tax returns are used to report use tax on those items which are subject to use tax. The funeral director should also report sales tax on the isolated retail sales of tangible personal property which may be made but which are not related to the providing of any funeral service. (7-1-93)

053. FEES CHARGED FOR FAX SERVICES (RULE 053).

Sections 63-3612, 63-3616, Idaho Code

01. Sending a Fax. A fee charged for sending a fax is not tax*able*. *( )*

02. Receiving a Fax. A fee charged by a print shop, hotel, or other retailer to a person receiving *and printing* a fax is a fee charged for a photocopy and is a taxable sale of tangible personal property. *( )*

054. PERSONS ENGAGED IN PRINTING (RULE 054).

Sections 63-3612, 63-3613, 63-3616, 63-3621, 63-3622, Idaho Code

01. Private Printing Plants. Persons operating private printing plants in conjunction with their principal business pay sales or use tax on the purchase of equipment and supplies used to produce display signs, advertising brochures, and other materials for their own consumption. (7-1-97)

02. Printing upon Special Order. Persons primarily engaged in the printing of tangible personal property upon special order for a consideration may purchase equipment and supplies directly used to produce such property exempt from sales or use tax. (7-1-93)

a. The sale of typography, art work, photoengraving, electros, mats, stereotypes, hand or machine composition, lithographic plates or negatives, electrotypes, etc., to a person primarily engaged in the printing of tangible personal property for a consideration, and to be used directly by such person is deemed essentially sales of service or exempt materials and not taxable. (7-1-93)

b. When purchasing goods exempt from tax, the printer provides the seller with a properly completed exemption certificate. See Rule 128 of these rules. (3-15-02)

03. Sales by Persons Engaged in Printing. Fees charged to ultimate consumers for printing of tangible personal property upon special order are taxable. (7-1-97)

a. Printing of tangible personal property includes imprinting and all processes or operations connected with the preparation of paper or paper-like substances, the reproduction thereon of characters or designs and the alteration or modification of such substances by finishing and binding. (7-1-93)

b. Upon such final sales, charges for materials, labor and production of fabrication or typography, author's alterations, art work, photo engravings, electros, mats, stereotypes, hand or machine composition, lithographic plates or negatives, electrotypes, etc., and binding and finishing services are included in the *taxable sales* price whether the various charges are separately stated or not. *( )*

c. The following charges, if separately stated, are not included in the *taxable sale* price: *( )*

i. *C*harges for postage as part of the printed item*; or* *( )*

ii. *C*harges for addressing, stamping, sealing, inserting or wrapping in connection of a direct mail advertising in which items of tangible personal property and service are supplied. *( )*

04. Advertising Inserts. As used in this rule, advertising inserts means printed advertising distributed concurrently with, but printed separately from, a newspaper, magazine, or other publication. (7-1-93)

a. The sale of advertising inserts by a printer or other supplier to an advertiser for use by the advertiser in the promotion of its business or products, and not for resale by the advertiser, is a *taxable* sale of tangible personal property. If, for any reason, the seller of the advertising inserts fails to collect sales tax on the sale of the advertising inserts to the advertiser, the advertiser is subject to use tax on its use of advertising inserts in Idaho. *( )*

b. When an advertiser contracts for the distribution of advertising inserts to locations within this state, a taxable use by the advertiser occurs. The contracted distribution constitutes an exercise of right or power over the advertising inserts by the advertiser. The person performing the distribution services may be a publisher, printer, distributor of a newspaper, magazines, or other publication, or any other person performing distribution services. (7-1-93)

c. A contract between an advertiser and a publisher of a newspaper, magazine, or other publication, whereby the publisher sells advertising space in its publication is not a *taxable* sale. *( )*

05. Labels and Other Printed Matter Sold to Manufacturers. Sales of labels or name plates, and the printing thereon, to manufacturers, producers, or wholesale merchants where the purpose of the *buyer* is to affix the label or name plate to his own product, or the container thereof will not be taxable. *( )*

a. Sale of package inserts, individual folding boxes and setup boxes, and the printing thereon to manufacturers, or producers, to accompany their own manufactured products, and to pass to the ultimate consumer upon final sales of the manufactured product contained or described therein, *are presumed to be* made for the purpose of resale. *( )*

b. Sale of direction sheets, instruction books, or manuals to a manufacturer, producer, wholesale or retail merchant, to be supplied with his product at no separate charge, are not taxable. If a separate charge is made for such sheets, books, manuals, or pamphlets, the manufacturer, etc., *is required to* collect *and remit sales* tax. *( )*

055. PERSONS ENGAGED IN ADVERTISING (RULE 055).
Sections 63-3612, 63-3613, 63-3621, 63-3622, Idaho Code

01. In General. Advertising agencies, television stations, radio stations, graphic artists, and other persons engaged in advertising may be engaged in either the rendering of professional services or the sale of tangible personal property or both. When such persons are engaged in the sale of tangible personal property, they are retailers and *are required to* collect and remit sales tax on the property sold. When such persons are engaged in the rendering of professional services, no sales tax applies to the service. Whether the sale is a sale of professional services or of tangible personal property is determined by the object of the transaction, i.e., is the object sought by the buyer the service per se or the tangible personal property produced by the service. Determining whether the sale is a sale of professional services or of tangible personal property is a question of fact *is* determined in view of all the facts and circumstances of each transaction. *( )*

02. Advertising Agency as Agent of Client or as Non-Agent. An agent is one who represents another, called the principal, in dealings with third persons. Advertising agencies may act as agents on behalf of their clients in dealing with third persons or they may act on their own behalf. To the extent advertising agencies act as agents of their clients in acquiring tangible personal property, they are neither *buyers* of the property with respect to the supplier nor sellers of the property with respect to their principals. To the extent advertising agencies act on their own behalf in acquiring tangible personal property they are *buyers* of the property with respect to the supplier. Generally, they are sellers of any of the property so acquired which they deliver to, or cause to be delivered to, their clients or to third parties for the benefit of their client. They are also sellers of any of the property which they retain but title to which they transfer to their client. *( )*

a. Items acquired from outside sources. All acquisitions by advertising agencies of tangible personal property are purchases by the agencies on their own behalf for resale or use unless the agency clearly establishes with respect to any acquisition that is acting as agent for its client. (7-1-93)

b. To establish that a*n* acquisition was made as agent for its client the agency *is required to:* *( )*

i. *C*learly disclose to the supplier the name of the client for whom the agency is acting as agent; *( )*

ii. *O*btain, prior to the acquisition, and retain written evidence of agent status with the clients; *and* *( )*

iii. *C*learly state on the billing to its client that it is acting as agent for its client and that tax has been paid to the supplier or use tax has been accrued by the agency on behalf of the client. *( )*

c. The agency fee billed to the client, whether or not separately stated, is not tax*able*. The agency, in its records, *is required to* retain evidence of the payment of the tax. The agency may make no use of the property for its own account, such as charging the item to the account of more than one client. An advertising agency purchasing tangible personal property as an agent on behalf of its client may not issue a resale certificate, as provided by Rule 128 of these rules, to the supplier. It will be presumed that an advertising agency who issues a resale certificate to its supplier is purchasing the tangible personal property on its own behalf for resale and is not acting as an agent for its client. *( )*

03. Items Prepared by Agency. Advertising agencies are sellers of all items of tangible personal property produced, printed, or fabricated by their own employees. Advertising agencies are not agents of their clients with respect to the acquisition of materials incorporated into items of tangible personal property prepared by their employees. (7-1-93)

04. Media Advertising and Advertisements. Media advertising is the use of mass media as a means by which to reach a wide audience, viewers, listeners, or readers, with an advertisement to promote a product, service, issue, or personality. Mass media is defined as radio, television, cable television, newspapers, periodicals, trade journals, or other such media which is capable of reaching a mass audience with an identical message. The object sought by the buyer purchasing media advertising is the intangible professional service of the seller. The sale of media advertising is a sale of professional service and is a nontaxable transaction. The transfer of tangible personal

property is inconsequential to the services rendered. (7-1-93)

a. Radio and television advertisement. Sales tax does not apply to the amount charged to produce or create advertisements which are to be broadcast by a radio or television station. It makes no difference whether the producer or creator sends the advertisement directly to the broadcast facility or to the advertiser, who in turn distributes the commercial to a broadcast facility. (7-1-93)

b. Radio and television dubs. Charges for dubs which are produced from a master copy of a radio or television commercial or broadcast are not tax*able* so long as they are for distribution to other broadcasting facilities. Sales tax will apply to the sale of radio or television commercial or broadcast dubs which are not for distribution to a broadcast facility and are sold to a customer for another use. The measure of the tax will be the total price charged for the copies. *( )*

c. Magazine, newspaper, and periodical advertisements. Sales tax does not apply to the amount charged to a customer to produce camera ready artwork, veloxs, and other forms of artwork which are to be reproduced in and distributed as part of a mass media publication. Examples of such media publications are magazines, newspapers, trade journals, and periodicals. (7-1-93)

d. Print media advertisement copies. Sales tax will apply to charges for reprints of a print media advertisement sold to a customer. The measure of the tax will be the price charged for the reprints. (7-1-93)

05. Sales of Non-Media Advertising. Non-media advertising is any form of advertising which does not use the mass media in reaching the targeted audience. Examples of such advertising are posters, brochures, pamphlets, handbills, displays, business forms, stationery, business cards, key chains, cups and glasses, pens, pencils, t-shirts, and other similar items. The object sought by the buyer is the tangible personal property. If the advertising agency is the agent of its client, the sale is between the supplier of the tangible personal property and the client and is tax*able* based on the price charged by the supplier to the client. If the advertising agency is NOT the agent of its client, then the purchase from the supplier is for resale. The sale from the agency to its client is a retail sale and is subject to tax based upon the entire amount charged to the customer by the advertising agency, including separately stated fees for: *( )*

a. Artwork produced by the advertising agency, including all materials, design fees, and labor to develop and produce the artwork, lettering, and designs used in the finished non-media advertising. (7-1-93)

b. Artwork, lettering, and designs purchased from a graphic artist. (7-1-93)

c. Photographs, negatives, and other similar items whether purchased from a commercial photographer or produced in-house by the advertising agency. (7-1-93)

d. Professional modeling fees. (7-1-93)

e. Printing charges, whether printed by the advertising agency or a commercial printer, including any markup or service charge. (7-1-93)

f. All other charges to the customer for services agreed to be rendered by the advertising agency as part of the sale of non-media advertising. (7-1-93)

06. Sale of Custom Made Audio-Visual Films and Audio Recordings. A custom made audio-visual film or audio recording is a film or recording whose intended purpose is not for media advertising. Examples of custom audio recordings include those to be used with a slide show presentation, designed to be played alone for information purposes or in-store advertising, or other similar purposes. Examples of custom films are safety films, training films, filmed newsletters, in-store audio-visual advertising, and other audio-visual films not sold for media advertising. (7-1-93)

a. The object of the *buyer* is to obtain the tangible personal property. The fact that the charge for the tangible personal property, the film or recording, is principally derived from labor or creativity of the maker of the property does not transform the sale of the tangible personal property into a sale of services. *( )*

b. If the advertising agency is the agent of its client, the sale is between the supplier of the tangible personal property and the client and is tax*able* based on the price charged by the supplier to the client. If the advertising agency is not the agent of its client, then the purchase from the supplier is for resale. The sale from the agency to its client is a retail sale and is tax*able* based upon all charges for copy writing, directing, producing, photographing, acting, vocal artists, recording, editing, mixing, and other similar charges to produce a finished film or audio recording. *( )*

07. Sales of Design Services. Determining whether design fees are tax*able* will depend on the object of the transaction. A fee charged to a customer for creation and design of a logo, product or business trademark, letterhead, or similar item which does not involve the transfer of tangible personal property beyond that which is required to convey the design to the customer, is a sale of services *and is* not tax*able*. When design fees are services agreed to be rendered as a part of the sale of tangible personal property, sales tax will apply to the design fee. Tax does not apply to such fees when an agency acts as an agent. See Subsection 055.07.e. of this rule. *( )*

a. Example 1: A graphic artist is commissioned to design a business logo for a client. The artist completes the design and delivers it to the client. The transaction is a service transaction. The transfer of the tangible personal property is inconsequential to the services rendered. No sales tax is due on the transaction. (7-1-93)

b. NOTE: Subsections 055.07.b. through 055.07.d. of this rule assume no agent relationship. Example 2: An advertising agency is commissioned by a client to design a trademark for its business and provide stationery with the trademark printed on it. On the charges billed to the client, the design fee is separately stated from the charges for printing the stationery and the paper stock. The advertising agency charges sales tax on the entire amount charged. The object of the transaction is to obtain tangible personal property, the stationery. The services agreed to be rendered, the design, are inconsequential to the transaction. (3-15-02)

c. Example 3: An advertising agency is commissioned by a client to design a logo for its business and provide stationery printed with the logo. The advertising agency commissions a graphic artist to design the logo. The sale of the design by the graphic artist to the advertising agency is a sale of services *and is* not tax*able*. The object sought by the advertising agency is the services of the graphic artist. The advertising agency then prints the stationery and bills the client. As the object sought by the client is tangible personal property, the stationery, the advertising agency charges the client sales tax on the entire fee billed, including the design fee. *( )*

d. Example 4: An agency is commissioned to design, produce, and provide one thousand (1,000) copies of a corporation's annual report. As the object sought by the client is the tangible personal property, annual reports, the entire fee to the client *is* tax*able*. *( )*

e. NOTE: This subsection assumes an agent relationship. Example 5: An advertising agency is commissioned to design an annual report. As agent for its client, the agency orders one thousand (1,000) copies from a printer. The charge for the design is a nontaxable service. The charge for the printed reports is taxable. (7-1-93)

08. Purchases by Radio and Television Broadcasters. Section 63-3622S, Idaho Code, provides an exemption from tax for purchases of tangible personal property directly used and consumed in the production and broadcasting of radio and television programs by businesses primarily devoted to such production and broadcasting. (7-1-93)

a. When broadcasters purchase tangible personal property to be directly used and consumed in the production of television or radio advertising, no sales tax applies if they give their vendors a properly executed exemption certificate. See Rule 128 of these rules. (3-15-02)

b. When a radio or television broadcaster produces custom films or audio recordings that will not be broadcast, the exemption provided by Section 63-3622S, Idaho Code, does not apply. Purchases of tangible personal property will be taxed as provided by Subsection 055.06.b. of this rule. (3-15-02)

09. Purchases by Advertising Agencies, Graphic Artists, and Similar Operations. Persons engaged in advertising and graphic artists may provide both nontaxable services and taxable sales of tangible personal property. (7-1-93)

a. When providing nontaxable services, including producing media advertising and providing design services which do not involve the sale of tangible personal property, the agency/artist pays tax on purchases of: Art supplies, such as poster board, paper products, inks, letters, and paints; amount charged by others to produce veloxs, negatives, lithographic plates, electrotype, and other such items; photographic work; prerecorded music and sounds; and props, costumes, and backdrops. (7-1-93)

b. When engaged in the retail sale of tangible personal property, such as the sale of non-media advertising items, custom films, custom audio recordings, or printed goods, the producer/agency/artist, when purchasing tangible personal property to be incorporated into the product for resale, may provide vendors with a properly executed resale certificate. See Rule 128 of these rules. Items considered to be directly incorporated into the product for resale include purchases of: Art supplies such as poster board, paper products, inks, letters, and paints; amounts charged by others to produce veloxs, negatives, lithographic plates, electrotype, and other such items; photographic works; prerecorded sounds and music; and printing charges. (3-15-02)

c. Purchases from photographers. The sale of photographic prints, photostats, negatives, film, and other articles of tangible personal property are *taxable* sales. See Rule 056 of these rules. Photographs, film, negatives, photostats, and other tangible personal property purchased by an advertising agency which are to be incorporated into media advertising are tax*able*. The total selling price on which sales tax will be charged is the amount charged by the photographer for shooting, developing, processing, and printing the photograph, film, negative, etc. Separately stated charges for travel expenses incurred by the photographer while under contract to an advertising agency for such items as travel, food, and lodging which are reimbursed by the advertising agency are not tax*able*. Photographs, film, negatives, photostats, and other tangible personal property purchased for resale, see, Subsection 055.09.b. of this rule. *( )*

d. Rental of recording or production studios and equipment. Sales tax will apply to the rental of a recording studio, audio-visual production studio, recording equipment, and audio-visual production equipment, when the owner of the equipment does not furnish the personnel to operate the equipment and relinquishes total operational control of the equipment. A taxable rental also occurs if the studio personnel merely render incidental services such as maintenance and repair. No sales tax will apply to the rental of a recording studio, audio-visual production studio, recording equipment, and audio-visual production equipment when the personnel to operate the equipment is furnished with the rental of the equipment. (7-1-93)

e. Accounting. Persons engaged in the rendering of advertising or graphic artist services may elect to follow any consistent procedure in purchasing art supplies and other tangible personal property from their vendors which are to be incorporated into services or tangible personal property sold to their customers. The artist/agency may wish to purchase all art and graphics supplies without tax from their vendors by issuing a resale certificate. In this case the artist/agency will keep a record of all supplies withdrawn from inventory for use in nontaxable advertising services and pay use tax on these supplies. If the bulk or majority of the artist/agency's work is nontaxable media advertising or design services, the artist/agency may wish to pay tax on all of their purchases, keep a record of all retail sales, and regularly take a credit against the sales and use tax due for tax originally paid upon purchases. If the artist/agency engages in major jobs, they may want to use separate accounting procedures and make purchases of supplies for inventory without tax by issuing a resale certificate. Purchases for a specific job would be made with or without tax dependent upon the taxable nature of the sale to the client. In all cases, art and graphic supplies are those items which are directly incorporated into the artwork or advertisement, such as paint, ink, colored pencils and markers, lettering, poster board, and other such consumable items. Items on which tax *is required to* be paid include rulers, triangles, t-squares, paint brushes, razor or artist knife blades, any other artist tool, office supplies and equipment, props, sets, wardrobes, costumes, and other equipment. *( )*

10. Cross-References. (7-1-93)

a. Newspapers and periodicals. See Rules 033 and 079 of these rules. (3-15-02)

b. Signs. See Rule 036 of these rules. (3-15-02)

c. Persons engaged in printing. See Rule 054 of these rules. (3-15-02)

d. Motion picture films. See Rule 087 of these rules. (3-15-02)

e. Resale certificates-purchases for resale. See Rule 128 of these rules. (3-15-02)

056. PHOTOGRAPHERS AND PHOTOFINISHERS (RULE 056).
Sections 63-3616, *63-3622,* 63-3622D, Idaho Code

01. Sales of Photographs. (3-25-16)

a. Printed photographs are tangible personal property. Sales of printed photographs are taxable. (3-25-16)

b. Digital photographs are tangible personal property when sold and delivered to the *buyer* on storage media. Sales of digital photographs are taxable when sold and delivered to the *buyer* on storage media. *( )*

c. Digital photographs are not tangible personal property when delivered electronically. Sales of digital photographs are not taxable when sold and delivered to the *buyer* electronically. *( )*

02. Sales by Photographers and Photofinishers. (3-25-16)

a. When photographers or photofinishers sell films, frames, cameras, printed photographs, digital photographs delivered on storage media, photostats, blueprints, etc., they are making a sale of a completed article of tangible personal property and they *are required to* collect the tax on the total *sales* price unless an exemption applies. *( )*

b. When photographers or photofinishers render service, such as retouching, tinting, or coloring of print photographs belonging to others, they are performing taxable processing services and *are to* collect the tax from their customers unless an exemption applies. When similar services are performed on a digital photograph, the service is only taxable if the final product is delivered on storage media. *( )*

c. Photographers may charge a sitting fee which may be separately stated from any charges for the photographs. When charged along with a sale of printed photographs or digital photographs delivered on storage media, sitting fees are charges for producing or fabricating tangible personal property and are taxable. See Rule 029 of these rules. (3-25-16)

03. Sales to Photographers and Photofinishers. (6-23-94)

a. Photographers and photofinishers may qualify for the production exemption if they are primarily in the business of selling print photographs or digital photographs delivered on storage media. Photographers and photofinishers primarily in the business of selling digital photographs that are delivered electronically cannot qualify for the production exemption. (3-25-16)

b. The production process begins when the image is captured. Therefore, photographers pay sales or use tax on purchases of props, backdrops and other items used prior to the start of production of the photograph. Equipment and supplies including cameras, lights, lenses, film, paper, fix, developer, and enlargers used to produce photographs are used during the production process and are exempt if the photographer otherwise qualifies for the production exemption in Section 63-3622D, Idaho Code. (3-25-16)

c. Photofinishers may purchase equipment and supplies exempt from sales or use tax as long as the equipment and supplies are directly used to produce photographs which they will sell and they otherwise qualify for the production exemption provided by Section 63-3622D, Idaho Code. (6-23-94)

04. Definitions. For purposes of this rule, the following terms have the following definition: (3-25-16)

a. Storage media. Storage media include, but are not limited to, optical media discs such as CDs or DVDs, hard drives, diskettes, magnetic tape data storage, solid state drives, flash drives, and other semiconductor memory chips used for nonvolatile storage of information readable by a computer. (3-25-16)

057. DRY CLEANERS, LAUNDRIES, LAUNDROMATS, AND LINEN SUPPLIERS (RULE 057).
Sections 63-3612, 63-3622, 63-3622X, Idaho Code

01. Dry Cleaners and Laundries. Dry cleaners perform a service and are not required to collect tax from their customers. Dry cleaners pay sales or use tax on purchases of cleaning supplies, hangers, plastic bags and other supplies used in the performance of this service. *The* purchases of dry-to-dry transfer systems by dry cleaners are exempt from sales and use tax. This exemption applies only to the purchase of entire systems and does not apply to purchases of repair parts for such systems. *( )*

02. Linen Suppliers. (7-1-93)

a. Linen supply firms or laundries which furnish such items as sheets, pillowslips, towels, uniforms, diapers, etc., collect and remit sales tax based on the rental charge. The sales tax will also apply to the rental of shop towels, floor mats for building entrances, dust mops, room deodorizers and any other tangible personal property rented or leased for building maintenance or service. The entire price charged for such rentals is taxable unless a reasonable charge for cleaning is separately stated. If the allocation between rental and cleaning fees is unreasonable, the Commission may deem the entire fee, or any portion thereof, to be taxable. *( )*

b. Items acquired by these firms which are purchased for resale, rental or lease in the ordinary course of business, may be purchased exempt from sales tax if a properly executed resale certificate is provided to the seller, in accordance with Rule 128 of these rules. (3-15-02)

03. Laundromats. (7-1-93)

a. Receipts from coin-operated washers and dryers are not tax*able*. Sales of cleaning supplies such as soap or bleach through coin operated vending machines, are tax*able* as provided by Rule 058 of these rules. *( )*

b. Persons engaged in the laundromat business must pay sales or use tax when purchasing washers, dryers, and other tangible personal property for the operation of their business. (7-1-98)

058. SALES THROUGH VENDING MACHINES (RULE 058).
Sections 63-3612, 63-3622, 63-3622L, 63-3622X, Idaho Code

01. In General. The sale of tangible personal property through a vending machine is a taxable transaction. The term vending machine means any mechanical device which, without the assistance of a human cashier, dispenses tangible personal property to a *buyer* who deposits cash in the device. Video games and other coin operated amusement devices are not vending machines. Fees paid for the use of coin operated amusement devices are not subject to sales tax pursuant to Section 63-3623B, Idaho Code. See Rule 109 of these rules. *( )*

02. Amount Tax*able*. Pursuant to Section 63-3613, Idaho Code, sales of items through a vending machine for amounts from twelve cents ($0.12) through one dollar ($1) are taxable at one hundred seventeen percent (117%) of the vendor's acquisition cost of the items. Items sold for more than one dollar ($1) are taxable on the retail sales price. Sales of items for a price of eleven cents ($0.11) or less are exempt from tax pursuant to Section 63-3622L, Idaho Code. *( )*

03. Requirement to Obtain a Seller's Permit. Vendors who sell tangible personal property through a vending machine are to obtain a seller's permit. Only one seller's permit is required; however, each vending machine operated by the vendor is to conspicuously display the vendor's name, address, and seller's permit number. When *multiple* vending machines are placed in a single location, the owner's name, address, and seller's permit number need be displayed only once. *( )*

04. Calculation of Tax. The following examples show how vending machine operators calculate the amount of sales tax due: (5-3-03)

a. Example 1: Corporation A's business activity consists only of sales through vending machines in various locations in the state of Idaho. All of the items sold in the vending machines are sold for a unit price of twelve

cents ($0.12) or more but none are sold for a price greater than one dollar ($1). During the month of July, Corporation A's total sales from the vending machine sales were ten thousand dollars ($10,000). Corporation A purchased the items sold during that one (1) month period for eight thousand dollars ($8,000). The company made no nontaxable or exempt sales. Corporation A should file a sales and use tax return for the month of July, computing and reporting its taxable sales as follows. Numbers correspond to line numbers on the return.

Line 1.	Total sales		$9,360
Line 2.	Less nontaxable sales		$0
Line 3.	Net taxable sales		$9,360
	Line 1 computed as follows:		
	8,000 x 117%	=	$9,360

(4-2-08)

b. Example 2: During the month of July, Corporation B had total Idaho sales in the amount of ten thousand dollars ($10,000). In addition to sales through vending machines, the corporation made over-the-counter sales, all of which were taxable, in the amount of two thousand dollars ($2,000). The remaining eight thousand dollars ($8,000) constituted sales through vending machines, of which one thousand dollars ($1,000) was for items with a unit retail price of over one dollar ($1). The other seven thousand dollars ($7,000) were sales of items through vending machines with a unit retail price of fifty cents ($0.50) each. The items sold during the month for fifty cents ($0.50) each were purchased by Corporation B for five thousand dollars ($5,000).

The amount to report as taxable sales is:

Taxable Sales = $2,000 (over the counter items) + $5,850 ($5,000 of purchases of items selling for $.50 x 117%) + ($1,000 ÷ (1 + tax rate expressed as a decimal) (items sold through vending machines for more than one dollar ($1)). Assuming a 6% tax rate this amount would be $1,000 divided by 1.06 or $943.40.

Note that if a vendor sells some items for more than one dollar ($1) the sales tax is included in the total sales. This amount is divided by one (1) plus the current tax rate expressed as a decimal, to determine the sales before sales tax.
(4-2-08)

05. Cross-References. (7-1-93)

a. Amusement devices, see Rule 109 of these rules. (5-3-03)

b. Money operated dispensing equipment, see Rule 095 of these rules. (5-3-03)

c. Sales of newspapers through vending machines, see Rule 033 of these rules. (3-20-04)

059. SALES BY FLORISTS (RULE 059).

Sections 63-3612, 63-3613, Idaho Code

01. Sales. Florists are *retailers* engaged in the business of selling tangible personal property and *are to* collect *and remit sales* tax from the *buyer*. *( )*

a. Charges for creating, processing, fabricating, or setting up floral or plant arrangements are taxable, even if separately stated. (7-1-93)

b. Separately stated delivery charges, relating only to the transportation of the product after the sale, are not tax*able*. *( )*

02. Rentals. *The lease of rental of* potted plants, palms, artificial wreaths and flowers, or other tangible personal property *is taxable*. *( )*

03. Sales. *Sales* tax *is required to* be collected on orders taken by an Idaho florist or nursery *that will be fulfilled by another* florist or nursery*,* the delivery *will take place. The florist or nursery fulfilling this order is not required collect sales tax.* *( )*

a. Telephone, wire, and handling charges in connection with *these* sales *are part of* the *taxable* sales price. *( )*

04. Street Vendors. The above applies to individuals and street vendors as well as florists who maintain a regular place of business. (7-1-93)

060. FEDERAL EXCISE TAXES AND RETAILERS TAXES (RULE 060).
Sections 63-3612, 63-3613, 63-3621, Idaho Code

01. General Rule. The tax*able sales price* include*s* any amount required to be paid by a retailer or his customer as a federal importer's or manufacturer's excise tax. *( )*

a. *Example. F*ederal taxes on: *t*obacco products, distilled spirits, beer, cheese, mixed flour, processed and renovated butter. *( )*

b. *Example.* Any federal tax payable to the wholesaler, importer, manufacturer or other producers, such as taxes on gasoline, automobiles, tires, sporting goods, or other tangible personal property when sold by the wholesaler, importer, manufacturer, or other producer. *( )*

02. Excluded Federal Taxes. Federal taxes imposed directly on retail sales, such as those imposed by Section 4051, Internal Revenue Code, are excluded from the tax*able sales price*. *( )*

061. TRANSPORTATION, FREIGHT, AND HANDLING CHARGES (RULE 061).
Section*s 63-3612,* 63-3613, Idaho Code

01. In General. Whether or not transportation and handling charges are separately stated, the sales price includes any charges made for delivery of goods to the seller. Charges for transportation and handling of goods to the consumer are not included as a part of the sales price regardless of when title passes. (7-1-97)

02. Charges Not Separately Stated. Regardless of other provisions of this rule, transportation and handling charges which are not separately stated are included in the *taxable* sales price. *( )*

03. Example 1: Charges for Delivery to the Seller. A customer orders goods from a retailer. The goods are shipped to a catalog store where the customer picks them up. A charge to the customer for delivery to the store is a charge for delivery to the seller and is included in the *taxable* sales price. *( )*

04. Example 2: Freight-In Taxable. A seller of construction equipment orders a part for a customer. The seller separately states on the invoice charges for freight-in to the seller and freight-out to the consumer. The charges for freight-in are part of the *taxable* sales price. The charges for freight-out are not tax*able*. *( )*

05. Example 3: Delivery by Retailer. A consumer orders building materials from a retailer. The retailer delivers the goods to the *buyer* by means of the retailer's delivery van. The retailer separately states the charge for transportation and handling of the building materials. Since the charge is for delivery to the consumer, it is not subject to sales tax. *( )*

06. Example 4: Use of Transportation Charges as a Means of Avoiding Sales Tax. Seller offers to give away merchandise worth approximately twenty dollars ($20) if the *buyer* pays shipping of nineteen dollars and ninety-five cents ($19.95). The entire price of nineteen dollars and ninety-five cents ($19. 95) is tax*able*. *( )*

***07. Demurrage**. Demurrage charges are not taxable if right, power, and control of the ship, freight car, or truck remains with the transportation company. Demurrage is defined as a charge by a transportation company to its customer for detaining a ship, freight car, or truck beyond the time allowed for loading or unloading.* *( )*

062. REPAIRS SALE OF PARTS AND MATERIAL (RULE 062).
Section 63-3612, 63-3613, 63-3622, Idaho Code

01. In General. Repairs normally require both material and labor. Persons engaged in the business of repairing, renovating or altering tangible personal property owned by others are required to collect sales tax upon the parts or material required in the repair or renovation of the property. (7-1-93)

02. Separate Statement of Parts or Materials. The sales price of parts or materials need to be separately stated and sales tax is charged on these parts or materials. Separately stated repair labor is not taxable. If parts and materials are not separately stated from the repair labor, the total amount for parts and repair labor is tax*able*. *( )*

03. Repairs Covered by Insurance Benefits. Repairs, the costs of which are covered by insurance benefits, are treated the same as otherwise described in this rule. Sales tax is to be collected on the parts and materials. Separately stated repair labor is not taxable. (5-3-03)

04. Incidental Material. In some instances, because of the small amount of materials used in a repair job, the value of the material may be insignificant to the entire repair cost. For example, incidental amounts of material are sometimes used in repairs made to tires, clothing, watches, and shoes. If materials such as buttons, thread, watch parts, tire valve cores and stems are incidental to the repair they will be taxed when purchased by the repairman. Other examples of materials which are incidental to repairs are touch-up paint and soldering materials used in car repairs. Materials are incidental if they have a value which is insignificant and for which a reasonable retail sales price cannot be readily determined. (7-1-93)

05. Shop Supplies. Dealer/repair shops should not charge sales tax on shop supplies that are consumed during the repair, such as spray bottles, buffer pads, towels, masking tape, solvents, sandpaper, and other items that have no specific identifiable value billed to the customer and which do not become a part of the item being repaired. These supplies are tax*able* when purchased by the dealer/repair shop and should not be included as part of the taxable amount billed to the customer. *( )*

06. Repairs Versus Fabrications. Repairs and renovations to tangible personal property must not be confused with fabrications of tangible personal property. Fabricated tangible personal property is subject to sales tax on the entire price whether the parts and materials are separately stated or not. See Rules 011 and 029 of these rules. (3-15-02)

07. Parts for Resale. When a repair shop buys parts that will be resold to its customers or an auto dealer buys parts to install in a car which is being reconditioned for sale, they should not pay tax to the supplier if they provide the documents required by Rule 128 of these rules. (3-15-02)

063. BAD DEBTS AND REPOSSESSIONS (RULE 063).
Sections 63-3612, 63-3613, 63-3619, 63-3626, Idaho Code

01. In General. Sales tax is collected on an accrual basis. The tax is owed to the state at the time of sale, regardless of when the payment is made by the customer. (7-1-93)

02. Rules for Unsecured Credit Sales. The following rules apply to unsecured credit sales: (7-1-93)

a. When a seller cannot collect accounts receivable arising from an unsecured credit sale of tangible personal property subject to sales tax, he can make an adjustment on his sales tax return or apply for a refund of taxes according to this rule. (7-1-93)

b. The adjustment or refund may be claimed on the sales tax return for the month in which the bad debt adjustment is made on the books and records of the taxpayer. The tax for which the credit or refund is sought is included in the amount financed and charged off as a bad debt for income tax purposes. *( )*

c. A written claim for the refund may also be filed with the Commission within three (3) years from

the time the tax was paid to the Commission. The Commission will review all such refund claims. See Rule 117 of these rules, Refund Claims. ( )

03. Rules for Secured Credit Sales. The following rules apply to secured credit sales: (7-1-93)

a. If the collateral is not repossessed, the seller may treat a bad debt the same as an unsecured credit sale. (7-1-93)

b. If the collateral is repossessed and not seasonably resold at a public or private sale, its retention is considered to satisfy the debt and no bad debt adjustment is allowed. (7-1-93)

c. If the collateral is repossessed and seasonably resold at public or private sale, then the seller is entitled to a bad debt adjustment. However, before calculating the amount of tax that may be credited or refunded, the taxpayer must reduce the amount claimed as worthless by the amount realized from the sale of the collateral. (3-30-01)

d. If merchandise is repossessed and is subsequently resold at retail, sales tax is computed on the sales price and collected and remitted the same as on other retail sales. (7-1-93)

04. Application to Taxpayers. The following rules apply to taxpayers who remit sales tax on an accrual basis but report income tax on a cash basis or are not required to file income tax returns. (7-1-93)

a. Retailers are required to remit sales tax on an accrual basis, even though their accounting records and income tax returns may be prepared on the cash basis of accounting. (7-1-93)

b. For taxpayers who keep their records and file income tax returns on a cash basis, a worthless account cannot be written off as a bad debt because it has not been recognized as income in the taxpayer's books. These retailers may still claim a bad debt for sales tax purposes. The claim should be made at the same time and in the same way discussed in Subsections 063.02 and 063.03 of this rule, even though the bad debt does not appear on the retailer's income tax return. (7-1-93)

c. For taxpayers who are not required to file income tax returns, the claim should be made the same way discussed in Subsections 063.02 and 063.03 of this rule. (6-23-94)

d. As these claims cannot be verified against the income tax returns of these taxpayers, sufficient evidence must be attached to the sales tax return to prove that the account has become worthless, that the tax was remitted by the retailer, and that the retailer did not receive payment of the tax from the buyer. (7-1-93)

05. Amount of Credit Allowed. The amount of credit that can be claimed is the amount of sales tax that is uncollectible. If both nontaxable and taxable items are financed, credit may be taken only for that portion of the bad debt which represents unpaid sales tax. (7-1-93)

a. Example: Assume the tax rate is six percent (6%). A retailer sells a thirty thousand dollar ($30,000) forklift for thirty-one thousand eight hundred dollars ($31,800) including sales tax. The *buyer* pays a five thousand dollar ($5,000) down payment and finances the balance. The *buyer* later defaults and the retailer repossesses the forklift and sells it at a public auction for six thousand dollars ($6,000). At the time of repossession the *buyer* owes seventeen thousand five hundred forty-five dollars ($17,545) including the financed sales tax. After the sale the amount that the retailer writes off is eleven thousand five hundred forty-five dollars ($11,545). The sales tax bad debt write off is six hundred fifty-three dollars ($653).

Total taxable sale	$30,000
6% sales tax	$1,800
Total sale	$31,800
Down payment	($5,000)

Total financed	$26,800
Payment to principal after sale	($9,255)
Amount realized at public sale	($6,000)
Total bad debt	$11,545
Sales tax portion of bad debt $11,545 - (11,545 / 1.06) =	$653

( )

b. Example: A car dealer makes a taxable sale of an automobile for fourteen thousand nine hundred dollars ($14,900) along with an extended warranty for five hundred dollars ($500), a documentation fee of one hundred dollars ($100), a title fee of eight dollars ($8) and credit insurance for one hundred dollars ($100). The customer pays one thousand dollars ($1,000) cash and trades in a car worth ten thousand dollars ($10,000) which is pledged as security for an earlier outstanding loan of six thousand dollars ($6,000). The customer, therefore, has to borrow enough to pay off the old loan on the trade-in. The customer defaults on the new ten thousand nine hundred eight dollar ($10,908) loan after paying five hundred dollars ($500) towards the principal. The customer damages the automobile in an accident leaving the collateral worthless. The car dealer may take an adjustment for only that portion of the bad debt representing the taxable percentage of the total sales price of the car. Only five thousand dollars ($5,000) of the total fifteen thousand nine hundred eight dollar ($15,908) cost was taxable.

Sales price of vehicle	$14,900
Documentation fee	$100
Extended warranty	$500
Credit insurance	$100
Title fee	$8
Trade-in	($10,000)
Sales tax	$300
Subtotal	$5,908
Down payment	($1,000)
Invoice total	$4,908
Amount financed	$10,908
Payment to principal after sale	($500)
Amount of bad debt	$10,408
Amount of down payment used to pay sales tax: ($300 / $5,908) = 5.08% .0508 x $1,000 = $50.80	
Amount of sales tax financed: $300 - $50.80 = $249.20	
Percentage of loan representing sales tax: $249.20 / $10,908 = 2.28%	
Sales tax paid by payments to principal: $500 x 0228 = $11.40	

Amount of bad debt write-off:
$249.20 - $11.40 = $237.80

(4-2-08)

06. Bad Debt Collected at a Later Date. If a bad debt account is collected later, the retailer must pay tax on the amount collected. (7-1-93)

07. To Claim Credit for a Bad Debt. Credit for bad debts for sales tax purposes may be claimed by the retailer that made the original sale and paid the sales tax to the state. Financial institutions or other third parties who are the assignees of the retailer may claim a bad debt for sales tax on property for which they provided financing, if the amount financed includes the sales tax remitted on the sale of the property. The person claiming the credit must be the person who ultimately bears the loss if the *buyer* of the property defaults on the obligation to repay. *( )*

08. Cross-Reference. Rescinded Sale. See Rule 045 of these rules. (3-20-04)

064. *(RESERVED)*

065. TIRES BALANCING, STUDDING, AND SIPING (RULE 065).
Sections 63-36112, 63-3613, 63-3619, Idaho Code

01. Services Subject to Sales Tax. Sales tax applies to the amount charged for services agreed to be performed in conjunction with the sale of a tire. Examples of such taxable services are balancing, studding, siping, or similar charges. Sales tax will apply to the total amount charged for the tire, the services, and the materials used to perform the services. (7-1-93)

02. Services Not Subject to Sales Tax. (7-1-93)

a. Sales tax does not apply to the amount charged for balancing, studding, or siping a tire owned by the customer. (7-1-93)

b. Sales tax does not apply to a separately stated fee to mount or install a tire whether sold new or owned by the customer. (7-1-93)

c. The person performing the nontaxable service pays use tax on the value of the materials used in performing the service. (7-1-93)

03. Materials Used in Performing a Service. Studs, wheel weights, valve stems, cores, patches, and similar items are materials that may be used to perform both a taxable and nontaxable service. The seller may elect to use any consistent method in determining the value and the amount of materials used in performing taxable and nontaxable services. (7-1-93)

a. The allocation of materials may be determined using a percentage basis. Example: The seller determined through some reasonable basis that sixty percent (60%) of the studs purchased for resale are used in tires that are purchased from him. The remaining forty percent (40%) are used in tires owned by customers and brought in for studding. Use tax will apply to the forty percent (40%) used in studding customer owned tires. As sales tax applies to the entire fee charged for studding a tire sold to a customer, the remaining sixty percent (60%) of the studs will not be subject to use tax, but are included in the amount subject to sales tax imposed on the *buyer*. *( )*

b. The allocation may be determined based on the value of the material used in performing both taxable and nontaxable services. (7-1-93)

c. The allocation may be determined using any other method that will allow a reasonable allocation of materials used in both a taxable and nontaxable service. (7-1-93)

04. Cross-Reference. Repairs. See Rule 062 of these rules. (7-1-93)

066. CONTRACTOR'S USE OF TANGIBLE PERSONAL PROPERTY (RULE 066).
Sections 63-3609(a), 63-3620, 63-3621, Idaho Code

01. Use. The term use includes the exercise of any right or power over tangible personal property in the performance of a contract, regardless of whether title to the tangible personal property is vested in the contractor or the tangible personal property is leased. (7-1-93)

02. Contractors Use of Tangible Personal Property. If title to the tangible personal property is vested in an entity not entitled to the production exemption, use tax will apply to the contractor. For contractors improving real property, see Rule 012 of these rules. (7-1-93)

03. Exception. The Sales Tax Act provides only one (1) exception. If title to the tangible personal property is vested in a person entitled to the production exemption (see Rule 079 of these rules), the contractor's use of the property will also be exempt. (7-1-93)

067. REAL PROPERTY (RULE 067).
Sections 63-3609, 63-3612, & 63-3616, Idaho Code

***01. Real Property**. For the purpose of these rules, the term real property means land and improvements or fixtures to the land. ( )*

02. Improvements or Fixtures. Improvements or fixtures to real property include: (7-1-93)

a. Property which is physically attached to the land or other improvements affixed to the land in such a manner that it may not be removed without materially damaging the real property or is of such a nature that it would normally be expected to be sold together with the land. (7-1-93)

b. Property which increases the market value of the land or increases the ability of the possessor of the land to use it more productively. (7-1-93)

c. Property which increases the market value or productivity on a relatively permanent basis. (7-1-93)

03. Three Factor Test. A three (3) factor test may be applied to determine whether a*n* article has become a fixture to real property. The three (3) tests to be applied are: *( )*

a. Annexation to the realty, either actual or constructive. (7-1-93)

b. Adoption or application to the use or purpose to which that part of the realty to which it is connected is suitable. (7-1-93)

c. Intention to make the article a permanent addition to the realty. (7-1-93)

04. Example 1: The original builder or owner of an apartment building installs draperies. The draperies meet the three (3) factor test of a fixture to realty. First, they are constructively annexed to the realty when attached to the drapery rod. Although the draperies are not affixed to the realty, they comprise a necessary, integral, or working part of the object to which they are attached. Second, they appropriately adapt to the purpose of the realty to which they are connected. Window coverings are necessary in order to maintain occupancy of the apartment. The third and controlling factor in this example is the intention with which the installation was made. The intention is determined from the surrounding circumstances at the time of installation. It is not the undisclosed purpose of the annexor, but rather the intention implied and manifested by his act. The builders intended that the drapes would remain as long as they served their purpose. (7-1-93)

05. Example 2: The three (3) factor test would not be met in Subsection 067.03 of this rule, if the drapes were installed by a tenant of an apartment leased for a term with no agreement as to ownership. The tenant would be expected to remove or sell the drapes to an incoming tenant, and his intention would be the controlling factor. The draperies would not be considered as fixtures to the real property. (5-8-09)

06. Personal Property Incidental to the Sale of Real Property. This rule does not affect the provisions of Section 63-3609(b), Idaho Code. (7-1-93)

07. Store Fixtures. Store fixtures are items that are affixed to a building and used by retailers in the conduct of their business. The term "store fixtures" includes display cases, trophy cases, clothing racks, shelving, modular displays, kiosks, wall cases, register stands, and check-out counters. If store fixtures only benefit the particular business occupying a building, they are not adapted to the use of the real estate and are therefore personal property. A store fixture will only be deemed to be a real property improvement if: (5-8-09)

a. It is affixed to the real estate and its removal would cause significant structural damage to the building itself; or (5-8-09)

b. It is affixed to the real estate and is of benefit to the land or building regardless of the particular business conducted on the premises. (5-8-09)

08. Fiber Optic and Communication Cable. Fiber optic and communication cable installed in a building is presumed to be a real property improvement. (3-28-18)

068. COLLECTION OF TAX (RULE 068).

Section 63-3619, Idaho Code

01. In General. Idaho Sales Tax is an excise tax which is imposed upon each sale at retail. The tax is computed at the time of each sale and the tax on the total sales for the reporting period, usually monthly, will be reported and paid on or before the due date as established by Rule 105 of these rules. (4-11-06)

02. Sales Tax to Be Collected by Retailer. Sales tax is to be collected by the retailer from the customer. The tax will be computed on and collected for all credit, installment, conditional or similar sales when made or, in the case of rentals, when the rental is charged. (7-1-93)

03. Computation of Tax. The retailer will compute the tax upon the total sale to a *buyer* at a given time and not upon each individual item purchased. (7-1-93)

***04. Tax Rate**. For the purpose of these rules, the terms "tax rate" or "rate" means the current tax rate as defined in Sections 63-3619 and 63-3621, Idaho Code. References to the tax rate in these rules may not reflect the current rate in effect.* *( )*

05. Bracket System for Six Percent Tax Rate. Beginning October 1, 2006, the sales tax rate is six percent (6%). The following schedule is to be used in determining the amount of tax to be collected by a retailer at the time of sale. (4-2-08)

a. Multiply six cents ($0.06) for every whole dollar included in the sale, and (3-20-04)

b. Add for each additional fractional dollar amount of sale the corresponding tax below:

Dollar Amount of Sale		Tax
0.00 - 0.03	-	.00
0.04 - 0.20	-	.01
0.21 - 0.37	-	.02
0.38 - 0.53	-	.03
0.54 - 0.70	-	.04
0.71 - 0.87	-	.05

Dollar Amount of Sale		Tax
0.88 - 0.99	-	.06

However, sales to a total amount of eleven cents ($0.11) or less are exempt from tax. (3-20-04)

06. Tax to Be Separately Displayed. The amount of tax collected by the retailer is to be displayed separately from the list price, marked price, the price advertised in the premises or other price on the sales slip or other proof of sale. The retailer may retain any amount collected under the bracket system which is in excess of the amount of tax for which he is liable to the state during the period as compensation for the work of collecting that tax. (7-1-93)

07. Reimbursement of Tax From the *Buyer* to the Seller. If the seller does not collect the sales tax at the time of the sale and it is later determined that sales tax should have been collected, the seller can then collect the sales tax from the *buyer* if the delinquent tax has been paid by the seller. The legal incidence of the tax is intended to fall upon the buyer, Section 63-3619, Idaho Code. *( )*

a. Example: The Commission determines that certain nontaxed sales by a seller are subject to sales tax and that the seller did not collect the tax and did not have documentation supporting exemption from the sales tax. The Commission issued a Notice of Deficiency Determination to the seller imposing the tax and interest. The assessment then paid by the seller entitles the seller to reimbursement from the buyer. (7-1-93)

b. The seller is also entitled to collect reimbursement from the buyer of the interest paid on the taxes assessed. (7-1-93)

c. The seller is not entitled to reimbursement from the buyer for penalties imposed as part of the assessment against the seller. (7-1-93)

d. The receivable established by the seller seeking reimbursement from the *buyer* is not subject to expiration of the statute of limitations provided in Section 63-3633, Idaho Code. *( )*

069. INTERSTATE COMMERCE (RULE 069).

Sections 63-3612, 63-3613, 63-3621, Idaho Code

When tangible personal property is located within the state of Idaho at the time of sale and is delivered within the state of Idaho, such sale is taxable irrespective of where the parties to the contract of sale are located and where the contract was made or accepted or the funds paid. Example: A Washington-based interstate trucking firm hires an Idaho repair facility to install parts on a disabled truck. The trucking firm takes delivery of the repaired vehicle in Idaho. The sale of the parts is subject to Idaho sales tax. (7-1-93)

070. PERMITS (RULE 070).

Section 63-3620, Idaho Code

01. Requirements for Obtaining Permits. All retailers, wholesalers and other persons required to collect sales tax must obtain a permit from the Commission before engaging in business. No fee is required for the initial sales tax permit. *( )*

a. Every wholesaler, retailer or other person required to collect sales tax must apply for a permit on the form prescribed by the Commission. *Application forms may be obtained by contacting any Commission office.* The application for a permit must list each place of business operated by the same person, firm or corporation. The permit must be posted in a conspicuous place at each location for which it is issued. A separate permit number must be obtained for each business name. *( )*

b. Example 1: Corporation A operates the businesses named B, C, and D. Three (3) permit numbers are required, regardless of how many locations operate using the business names B, C, and D. (7-1-93)

c. Example 2: Corporation E operates three locations, using the business name F. Only one permit number is *needed*, since all locations have the same business name. *( )*

02. Out-of-State Seller. An out-of-state seller desiring to conduct business as a seller within Idaho *needs* a seller's permit. This requirement also applies to any salesmen user's agents who solicit orders for nonresident sellers. *( )*

03. Sales in Leased Premises. When any established business leases a portion of its shelves, counters or floor space to other persons selling tangible personal property to consumers, the sales from such leased department may be included in the tax return of the lessor. When the lessee conducts the leased department in the same manner as a separate business and keeps separate business records, the lessee must apply for a sales tax permit. (7-1-93)

04. Cancellation of Sales Tax Permits. It is the responsibility of a permit holder to notify the Commission in writing immediately upon any change in ownership of the permitted business or upon complete or partial termination of the permit holder's business. Complete or partial termination of a permit holder's business includes the lease of part or all of the business or business location to another party who will be responsible for remitting the sales tax. This notice must include the following information. *( )*

a. This notice must include the date of closure, date of sale or date of lease. If the permit holder does not continue to operate a business under that permit number, the notice must state that the permit should be canceled. The permit holder must return the permit or send a written statement that the permit has been destroyed. If the permit holder has sold or leased his business, the notice must state the last day of operation and the name of the new owner or lessee. (7-1-93)

b. If this information is not furnished to the Commission and the new owner or lessee continues operation of the business on the previous owner's or operator's permit, without filing for and obtaining a new permit, the original permit holder may be held responsible for all tax liability incurred during the period that the new owner or lessee operated a business under the previous owner's permit. *( )*

05. Suspension of Sales Tax Permits. The permit holder must notify the Commission in writing of the anticipated discontinuation of a business due to seasonal operation or for any other reason. This notice must contain the date of closure and anticipated date of reopening. Upon receipt of this information, returns will be suspended during the period of closure. *( )*

06. Requirements of Holding a Seller's Permit. A seller's permit may be held only by persons actively engaged in making retail sales subject to Idaho sales tax. Any person holding a permit who fails to meet this requirement must surrender the permit to the Commission for cancellation. If a permit is held by a person who has reported no sales for a period of twelve (12) consecutive months, the Commission may revoke the permit and require the holder to return the permit to the Commission or provide a sworn statement that the permit has been destroyed by the holder. (7-1-93)

07. Seller's Permit and Sales Tax Permit. The terms seller's permit and sales tax permit may be used interchangeably. Both refer to the permit issued to a person desiring to engage in business in Idaho as a retailer. (7-1-93)

08. Temporary Seller's Permits. The Commission may issue temporary seller's permits valid for *the* period of time shown on the face of the permit. No temporary seller's permit will be issued for a period of time greater than ninety (90) days. *( )*

071. (RESERVED)

072. APPLICATION AND PAYMENT OF USE TAX (RULE 072).
Sections 63-3615*,* 63-3621, *63-3622,* Idaho Code

01. Imposition of Use Tax. Use tax is imposed upon the privilege of using, storing, or otherwise consuming tangible personal property within Idaho. The tax is imposed on the value of the tangible personal property.

A recent sales price is presumptive evidence of the value. In the absence of a recent sales price, the value of the property subject to use tax will be the fair market value at the time of first use in Idaho. Special rules apply to transient equipment which is present in Idaho ninety (90) days or less in any consecutive twelve (12) months. See Section 63-3621A, Idaho Code. ( )

02. Use. Use is the exercise of right or power over tangible personal property incident to either ownership of the property or the performance of a contract. The term "use" does not include use of tangible personal property incident to the performance of a contract if the owner of the tangible personal property is a business primarily engaged in producing tangible personal property for resale and the property is exempt under Section 63-3622D, Idaho Code. See Rules 012, 077, and 079 of these rules. (3-15-02)

03. Storage. Storage is any keeping or retention of tangible personal property in this state, except as inventory for the purpose of sale in the regular course of business or for subsequent use solely outside Idaho. (7-1-93)

04. Specifically Excluded from the Definition of Both Use and Storage Are: (7-1-93)

a. Retention or use of property for subsequent transportation outside the state; or (7-1-93)

b. Processing, fabricating, repairing, or manufacturing property for subsequent transportation and use or resale solely outside the state. (7-1-93)

05. Receipt Showing Sales Tax Paid. If the property is purchased from an Idaho retailer and Idaho sales tax is charged by and remitted to the retailer, then no use tax will apply to the property. A purchase order issued by the *buyer* advising the retailer to charge or include the Idaho sales tax is not sufficient evidence that the tax has been paid. The retailer's receipt provided to the *buyer that* displays separate statement of the tax relieves the *buyer* of the use tax requirements. ( )

06. Out-of-State Purchases. If the property is purchased outside the state or from a retailer not subject to the Commission's jurisdiction and is subsequently used, stored, or otherwise consumed in this state, then a use tax will apply. The *buyer* reports and remits the use tax directly to the state by filing a use tax return on the forms prescribed by the Commission. ( )

07. Taxes Paid to Another State. The taxpayer may offset from the use taxes payable to Idaho any amount of general sales or use taxes paid to another state on the purchase or use of the same property if paid by the same taxpayer. A credit may not be claimed for taxes erroneously paid to another state if no taxable sale or use under the laws of that state occurred. In determining whether a tax is due in the state where paid, the Commission will be bound by the laws, rules, and administrative rulings of the state to which tax is paid. (7-1-93)

a. If the amount of tax levied by the state to which it is paid is less than the amount of the Idaho tax due, then the balance must be paid as Idaho tax. (6-23-94)

b. If the amount of tax levied by the state to which it is paid is equal to or greater than the Idaho tax, then there will be no taxes due to Idaho in regard to the same transaction or subsequent use of the property. (6-23-94)

c. If the taxes paid to the other state are greater than the Idaho tax, the amount of offset available is limited to the amount of Idaho tax due on the same transaction or use of the property. (6-23-94)

08. Use Undeterminable at Time of Purchase. In some cases a *buyer* may be unable to determine at the time of purchase whether or not property purchased by him will be used for a taxable or nontaxable purpose. For example, a *buyer* engaged in both a retailing and contracting business may not know whether an item will be sold at retail or withdrawn from inventory and used in the course of performing a contract to improve real property. In these circumstances the *buyer* may purchase the goods without paying tax if he presents the documentation required by Rule 128 of these rules. The *buyer will* maintain adequate accounting control to insure that use tax is properly accrued on all *taxable* property. ( )

09. Removal from This State. If property is held in this state solely for the purpose of subsequent

transport and use outside Idaho or is to be processed, fabricated, attached to, or incorporated into property that is to be transported outside and used or sold outside the state, a use tax will not apply. (7-1-93)

10. Tangible Personal Property Removed From Inventory. A retailer or wholesaler may purchase tangible personal property for resale without paying sales tax. The tangible personal property then becomes part of inventory. The retailer or wholesaler may use inventory in displaying or demonstrating the inventory for purposes of selling the inventory in the normal course of business. If the retailer or wholesaler uses inventory for any purpose besides display or demonstration in the normal course of selling that inventory, the retailer or wholesaler owes use tax. If inventory is consumed during such display or demonstration, the retailer or wholesaler owes use tax. The retailer or wholesaler calculate*s* the use tax on the value of the tangible personal property. Use tax does not apply to any use or consumption of tangible personal property where such use is specifically exempted from use tax by Idaho Code. *( )*

a. Inventory held for resale becomes subject to use tax at the time the retailer or wholesaler removes the tangible personal property from inventory. If a retailer or wholesaler removes tangible personal property from inventory and then performs additional manufacturing or processing labor, the retailer or wholesaler should calculate use tax on the acquisition cost before the additional labor. However, if a retailer or wholesaler removes tangible personal property after performing additional manufacturing or processing labor, the retailer or wholesaler calculates use tax on the total inventoried cost including the additional labor. (4-4-13)

b. Special rules apply to retailers giving away prepared food and beverage to their employees. See Rule 041 of these rules for more information. (3-25-16)

c. Example 1. A sawmill withdraws lumber from its resale inventory and uses it to construct a building. The lumber was not identified for this use until it was taken from inventory held for resale. Use tax is due on the manufactured value of the lumber taken from inventory. (7-1-93)

d. Example 2. A sawmill cuts specific trees from its own land. The sawmill then cuts these trees to specific dimensions and uses the beams and lumber to construct a building. The trees and lumber are identified for use in constructing the building from the time the trees are cut. Use tax is due on the stumpage value of the trees. (7-1-93)

e. Example 3. A retailer *buys* shirts without paying tax for resale inventory. The shirts cost the retailer ten dollars ($10) each. *The retailer* withdraws ten (10) of the shirts from inventory and donates them to a sports team *they are* sponsoring. The retailer owes use tax on one hundred dollars ($100). *( )*

073. TANGIBLE PERSONAL PROPERTY BROUGHT OR SHIPPED TO IDAHO (RULE 073).

Sections 63-3615, 63-3621, 63-3621A, Idaho Code

01. Equipment Brought into Idaho. Equipment or other tangible personal property brought or shipped to Idaho by residents or nonresidents is presumed to be for storage, use, or other consumption in this state. Generally, tangible personal property is subject to use tax on its fair market value when it is first used in Idaho. Special rules apply to transient equipment present in Idaho for ninety (90) days or less in any consecutive twelve (12) month period. See Section 63-3621A, Idaho Code, and Subsection 073.03 of this rule. For property a contractor fabricates to install into Idaho real property, see Rule 012 of these rules. (4-11-06)

02. Substantive Use. Any substantive use of the property in Idaho is sufficient to subject the property to use tax. Use is defined in Section 63-3615, Idaho Code, and Rule 072 of these rules. The use tax does not apply to the use of items purchased before July 1, 1965, or the use of items excluded from tax by Idaho Code. (3-20-04)

03. Transient Equipment. Transient equipment means equipment that is: owned by the user, which is a business based in another state; a depreciable asset for income tax purposes and treated as such on the owner's income tax returns; brought to Idaho and kept here for ninety (90) days or less in any consecutive twelve (12) months; and either was not taxed in another state or, if tax was paid to another state, the amount paid was less than the amount of Idaho use tax due. (7-1-93)

a. A nonresident business that brings transient equipment to Idaho may elect to pay use tax on either

the fair market value of the equipment at the time it enters Idaho, or the fair market rental value of transient equipment for the time it is kept in Idaho. Fair market rental value is the amount it would cost to rent or lease similar equipment from an unrelated equipment rental company. (3-20-04)

b. Businesses that elect to pay use tax on the rental value of transient equipment may do so without the approval of the Commission as long as the use tax due on the first month's rental is paid in a timely manner. If the owner fails to pay the tax timely, he *will need* written approval from the Commission to use this option. *( )*

c. Equipment which remains in Idaho for more than ninety (90) days in any consecutive twelve (12) months is no longer transient. This equipment becomes subject to Idaho use tax on its fair market value at that time. No credit may be taken for use tax paid on fair market rentals against the use tax due at the time equipment ceases to qualify as transient. (7-1-93)

d. Example: A Wyoming contractor brings transient equipment, with a fair market value of one hundred thousand dollars ($100,000), to Idaho for use on a ninety (90) day project. The fair market rental value of the equipment for the ninety (90) days totals fifteen thousand dollars ($15,000). Idaho use tax on the fair market rental value, assuming a rate of six percent (6%), totals nine hundred dollars ($900). The contractor paid three thousand five hundred dollars ($3,500) of sales tax to the state of Wyoming when he bought the equipment new. The contractor is not required to pay tax to Idaho since the tax paid to Wyoming exceeds the amount of Idaho use tax due. (4-2-08)

e. Example: The same contractor in the previous example returns to Idaho within the same twelve (12) months with the same equipment, now with a fair market value of ninety-five thousand dollars ($95,000). As the equipment has now exceeded the ninety (90) day rule for transient equipment, it is subject to Idaho's six percent (6%) use tax on its present value of ninety-five thousand dollars ($95,000) x six percent (6%) = five thousand seven hundred dollars ($5,700). Credit of two thousand six hundred dollars ($2,600) is allowed for sales tax paid to Wyoming, three thousand five hundred dollars ($3,500) less the nine hundred dollar ($900) credit already used on rentals. The contractor owes three thousand one hundred dollars ($3,100) of use tax to Idaho. (4-2-08)

04. Licensed Motor Vehicles. A motor vehicle licensed in a nonresident's home state and brought to Idaho to use for ninety (90) days or less in any consecutive twelve (12) months is not subject to Idaho use tax. Once the vehicle is used here more than ninety (90) days during any consecutive twelve (12) months, use tax applies to the fair market value of the vehicle at that time unless tax was paid to another state in an amount equal to, or greater than, the tax owed to Idaho. Special rules apply to new residents, nonresident college students, and temporarily assigned military personnel in Idaho. See Rule 107 of these rules. (3-29-12)

074. DONATIONS TO POLITICAL SUBDIVISIONS AND CERTAIN NONPROFIT ORGANIZATIONS OF TANGIBLE PERSONAL PROPERTY USED FOR IMPROVEMENTS TO REAL PROPERTY (RULE 074).

Sections 63-3609, 63-3612, 63-3613, 63-3621, 63-3622O, Idaho Code

01. Donated Property. Effective July 1, 1991, there is an exemption from the use tax for the donation of tangible personal property which is incorporated into real property, when donated to the state of Idaho, political subdivisions of this state, or a nonprofit organization as defined in Section 63-3622O, Idaho Code. The exemption applies whether the tangible personal property is incorporated into real property by the donee, a contractor or subcontractor or any other person. (7-1-93)

02. Purchase of Donated Items. This exemption does not apply to sales tax which is applicable to the purchase of tangible personal property which will be donated to the state of Idaho, its political subdivisions, or qualified nonprofit organizations, for incorporation into real property. (7-1-93)

03. Property Not Incorporated into Real Property. This exemption does not apply to the sales or use tax applicable to tangible personal property donated to the state of Idaho, its political subdivisions, or qualified nonprofit organizations when the property donated will not be incorporated into real property. (7-1-93)

a. Example 1: A concrete company removes from inventory and donates twenty (20) yards of redi-mix concrete to a nonprofit Idaho college for the footings of a storage building. Another contractor who is donating labor for erection of the building places the redi-mix concrete. Neither the redi-mix concrete company nor the contractor *owe* use tax. *( )*

b. Example 2: The same concrete company donates twenty (20) yards of redi-mix concrete to a nonprofit organization which is not listed in Section 63-3622O, Idaho Code. The concrete company *owes* use tax on the cost of the materials removed from inventory for the donation. *( )*

c. Example 3: A contractor *buys* materials from a local lumber yard which *they* donate to the nonprofit Idaho college to be used in building a storage building. This contractor pays sales tax on the material because the law provides exemption only from use tax. *( )*

d. Example 4: A local automobile dealer takes three vehicles from inventory and donates them to the athletic department of an Idaho university. The exemption does not apply. The automobile dealer *owes* use tax on his cost of the vehicles because the vehicles will not become improvements to real property. *( )*

075. -- 076. (RESERVED)

077. EXEMPTION FOR RESEARCH AND DEVELOPMENT AT INL (RULE 077).
Section 63-3622BB, Idaho Code

01. Exclusive Financing Exemption Under Section 63-3622BB(1), Idaho Code. The purchase of certain tangible personal property used in connection with certain activities at the Idaho National Laboratory (INL) is exempt from sales and use tax. To qualify for this exemption, the property needs to be tangible personal property primarily or directly used or consumed in research, development, experimental and testing activities, exclusively financed by the United States Government. (3-26-19)

a. Qualifying Activity. Research, development, experimental, and testing activity means any activity of an original investigation, for the advancement of scientific knowledge in a field of laboratory science, engineering or technology and does not have an actual commercial application. (7-1-93)

b. Real Property. The exemption does not apply to real property or to tangible personal property which will become improvements or fixtures to real property. See Rules 012 and 067 of these rules. (7-1-99)

c. Incidental Use of Property. This exemption does not extend to the incidental use of any tangible personal property which fails to meet the test of primary or direct use or consumption. (7-1-97)

i. Areas of support which are considered incidental include: communications equipment; office equipment and supplies; janitorial equipment and supplies; training equipment and supplies; dosimetry or radiation monitoring equipment which lacks the capability of giving an immediate indication and would not result in an immediate evacuation of personnel or shutdown of equipment; subscriptions or technical manuals which provide technology not primarily used or directly connected to the research activity; and hot and cold laundry operations. (7-1-93)

ii. Materials of common support which are considered incidental include: clothing for weather protection or of a reusable nature; hand tools which are not subject to contamination at the time of initial use; protective coverings which are protection from other than radiation or are of a reusable nature; and all safety equipment and supplies which do not protect from direct radiation exposure. (7-1-93)

d. Property Directly Used or Consumed. Tangible personal property primarily or directly used or consumed in a research and development activity to perform quality assurance on research equipment is tax exempt. Items of a general support nature, such as coveralls, are taxable. (7-1-93)

e. Parts for Equipment. The use of tangible personal property which becomes a component part of research equipment being calibrated within a calibration lab is tax exempt; whereas, the use of parts and equipment in calibrating or for the repair of other maintenance equipment is taxable. (7-1-97)

f. Radioactive Waste. The initial containment or storage of radioactive waste is an exempt use. Any further processing or transporting of such waste not relating to a research and development activity is a taxable use. (7-1-97)

g. Motor Vehicles. The purchase of any motor vehicle licensed or required to be licensed by the laws of this state is taxable. (7-1-97)

h. Agreements with Contractors. The Commission may enter into agreements with contractors engaged in research at the INL prescribing methods by which the contractor or contractors may accrue use tax based on the accounting procedures required by the U.S. Department of Energy. ( )

02. Percentage of Tangible Personal Property Exemption Under Section 63-3622BB(2), Idaho Code. If a facility is used by the United States or one (1) of its management and operating contractors for research and development activities at the INL and also is used by a person or persons in addition to the United States or one (1) of its management and operating contractors, there is exempted from the taxes imposed by this chapter a percentage of each sale or use of tangible personal property used or consumed at or for the benefit of the facility in the amount that the research and development activities of the United States or its management and operating contractors bear to the total use of the facility by all persons. The Commission will calculate, review, and verify the allocation provided for in this section. ( )

078. MOTOR FUELS (RULE 078).

Sections 63-3621, 63-3622C, 63-3622D, 63-3622G, Idaho Code

01. Exemptions. (7-1-93)

a. Motor fuels, including gasoline, diesel and gaseous fuels, upon which the taxes are imposed by Title 63, Chapter 24, Idaho Code, are exempt from sales and use taxes. IDAPA 35.01.05, "Idaho Motor Fuels Tax Administrative Rules," explains in detail which petroleum and gaseous products are *taxable* as motor fuel. Also exempt are purchases upon which motor fuels taxes have been paid. If such purchases are later included in credits or refunds for motor fuels taxes paid and not subject to taxes imposed by Title 63, Chapter 24, Idaho Code, and no other exemption applies, sales and use taxes will be applicable. ( )

b. Fuel may be exempt under Section 63-3622(D), Idaho Code. (7-1-93)

c. Fuel used as heating fuel may be exempt if it qualifies under the exemption for space heating materials. See Rule 088 of this rule. (7-1-93)

d. The sale or use of fuel for subsequent use outside this state and fuel brought into this state in the fuel tanks of vehicles in interstate commerce may be exempt. Carriers engaging in interstate commerce are required to maintain sufficient verifiable statistical data to substantiate any exemption claimed for fuel purchased in Idaho for use outside this state. In the case of a substantial change in the mode of operation of the carrier or other circumstances that would cause the statistical data to be invalid, the carrier is required to review and adjust the exemption claimed accordingly. (7-1-93)

02. Exclusion from Exemption. Purchase or use of any fuels may be subject to sales and use taxes if no other exemption applies. Examples include, without limitation: (7-1-93)

a. Fuel used by a road contractor in the operation of construction equipment or operation of stationary engines to generate electricity, unless all of the electricity generated is used primarily and directly in the processing, manufacturing or fabricating of tangible personal property to be sold at retail. (7-1-93)

b. Fuel used by private contractors in off-road vehicles in the performance of contracts with any governmental instrumentality. (7-1-93)

079. PRODUCTION EXEMPTION (RULE 079).

Sections 63-3622, 63-3622D, 63-3622HH, Idaho Code.

01. In General. Section 63-3622D, Idaho Code, known as the production exemption, provides an exemption from sales and use taxes for certain tangible personal property used in production activities. The production activities include: (5-8-09)

a. A manufacturing, processing, or fabrication operation primarily devoted to producing tangible personal property that it will sell and is intended to be ultimately sold at retail. (5-8-09)

b. The following types of businesses may also qualify for the exemption, even though they perform services and do not actually sell tangible personal property: (5-8-09)

i. The business of custom farming or operating a farm or ranch for profit. (7-1-93)

ii. The business of contract mining or operating a mine for profit. (6-23-94)

iii. Businesses devoted to processing tangible personal property for use as fuel for the production of energy. (5-8-09)

02. Qualifying Businesses. The production exemption applies only to a business or a separately operated segment of a business that primarily produces tangible personal property which is intended for ultimate sale at retail. (7-1-93)

a. For the purposes of this rule, a separately operated segment of a business is a segment of a business for which separate records are maintained and which is operated by an employee or employees whose primary employment responsibility is to operate the business segment. (7-1-93)

b. The production exemption does not include the performance of contracts to improve real property, such as road or building construction, or to service-related businesses not devoted to the production of tangible personal property for ultimate sale at retail. (7-1-93)

c. To qualify for the production exemption, a business sells the products it produces or processes. The only exceptions are businesses primarily devoted to processing fuel to be used for the production of energy; custom farming; and contract mining. (5-8-09)

03. Exempt Purchases. As applied to manufacturing, processing, mining, or fabrication operations, sales and purchases of the following tangible personal property are exempt, except as limited by other subsections of this rule: (4-11-06)

a. Raw materials that become an ingredient or component part of the product which is produced. (7-1-93)

b. Equipment and supplies used or consumed primarily and directly in the production process and which are necessary or essential to perform the operation. To qualify, the production use is the primary use of the equipment and supplies and *they will be* used directly in the production process. *( )*

c. Chemicals and catalysts consumed in the production process which are used directly in the process but which do not become an ingredient or component part of the property produced. (7-1-93)

d. Repair parts, lubricants, hydraulic oil, and coolants, which become a component part of production equipment. (7-1-93)

e. Fuel, such as diesel, gasoline, and propane used in equipment while performing production exempt activities. (7-1-93)

f. Chemicals and equipment used in clean-in-place systems in the food processing and food manufacturing industries. (7-1-93)

g. Safety equipment and supplies required by a state or federal agency when used directly in a production area. (7-1-93)

h. Equipment such as cranes, manlifts, and scissorlifts used primarily to install production equipment. (7-1-93)

i. Equipment used primarily to fabricate production equipment. (7-1-93)

j. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-29-17)

04. Production Process Beginning and End. The production process begins when raw materials used in the process are first handled by the operator at the processing plant or site. The production process ends when the product is placed in storage, however temporary, ready for shipment or when it reaches the final form in which it will be sold at retail, whichever occurs last. See Rule 083 of these rules regarding farming. (3-29-17)

05. Taxable Purchases. The production exemption does not include any of the following: (4-11-06)

a. Motor vehicles required to be licensed by Idaho law. A motor vehicle required to be licensed, but not actually licensed, is taxable. A motor vehicle not required to be licensed is exempt under the production exemption only if it meets the tests in Subsection 079.03 of this rule. (7-1-93)

b. Repair parts for any equipment which does not qualify for the production exemption. (7-1-93)

c. Office equipment and supplies. (7-1-93)

d. Safety equipment and supplies used somewhere other than a production area, such as an office, or which are not required by a state or federal agency even if used in a production area. (7-1-93)

e. Equipment and supplies used in selling and distribution activities. (7-1-93)

f. Janitorial equipment and supplies, other than disinfectants used in the dairy industry to clean pipes, vats, and udders, and clean-in-place equipment and chemicals used in food processing or food manufacturing. (7-1-93)

g. Maintenance and repair equipment and supplies which do not become component parts of production equipment, such as welders, welding gases, shop equipment, etc. (7-1-93)

h. Transportation equipment and supplies. (7-1-93)

i. Aircraft of any type and supplies. (7-1-93)

j. Paint, plastic coatings, and similar products used to protect and maintain equipment, whether applied to production equipment or other equipment. (7-1-93)

k. Other incidental items not directly used in production. (7-1-93)

l. Fuel used in equipment while performing activities that do not qualify for the production exemption. (7-1-93)

m. Recreation-related vehicles as described in 63-3622HH, Idaho Code, regardless of use. (3-28-18)

n. Parts to repair recreation-related vehicles. (7-1-93)

o. Equipment used primarily to construct, improve, alter or repair real property. (7-1-93)

06. Real Property. The production exemption applies only to tangible personal property. It does not apply to real property or to tangible personal property purchased with the intention of becoming improvements or fixtures to real property. The production exemption does not apply to equipment and materials primarily used to improve real property. (3-20-14)

07. Change in Primary Use of Property. If tangible personal property is purchased for a use which

qualifies for the production exemption but later is used primarily for another purpose, it becomes taxable at its fair market value when it ceases to qualify for the exemption. For instance, a loader may be used primarily in a mining operation when purchased. If the primary use of the loader is later changed from mining to road building, it becomes taxable at its fair market value when it ceases to be used for mining. If tax is paid on tangible personal property because no exemption applies at the time of purchase, and the property later becomes eligible for the production exemption, no refund is due the owner. (7-1-93)

08. Transportation Activities. Equipment and supplies used in transportation activities do not qualify for the production exemption. (7-1-93)

a. Transportation includes the movement of tangible personal property over private or public roads or highways, canals, rivers, rail lines, through pipelines or slurry lines, or on private or public aircraft. (7-1-93)

b. Transportation includes movements of tangible personal property from one separate location which is a continuous manufacturing, processing, mining, fabricating or farming activity to another separate location which is a continuous exempt activity or process. (7-1-93)

c. Transportation includes movement of raw materials, except farm produce, from a point of initial extraction or severance or importation to a point where processing, manufacturing, refining or fabrication begins. See Rule 083 of these rules regarding farming. (3-15-02)

09. Exemption Certificate. To claim the production exemption the customer must complete an exemption certificate for the seller's records. See Rule 128 of these rules. (3-15-02)

10. Special Rules. Special rules apply to irrigation equipment, contractors, loggers, and farmers who act as retailers. Refer to the specific rules relating to those subjects. (7-1-93)

080. LUMBER MANUFACTURING (RULE 080).

Sections *63-3622,* 63-3622D, *63-3622HH,* Idaho Code

This rule is intended to illustrate the application of the production exemption to the lumber manufacturing industry. The provisions of this rule are based upon the usual methods of doing business used in the industry generally. Factual differences in the manner in which a specific taxpayer may conduct its business can result in determinations different from those stated in this rule. In cases not covered by this rule, the general principles stated in Rule 079 of these rules will control. Some equipment may be used for more than one purpose. Determinations of taxability will be based upon the equipment's primary use. This rule is limited in application to the manufacturing of rough and finished lumber and does not encompass the manufacturing of plywood, particleboard, veneer, or paper products. (3-15-02)

01. Nontaxable Activities. Generally considered as nontaxable activities are the following: (7-1-93)

a. Log receiving including log loaders, cranes, and front end loaders. (7-1-93)

b. Log deck/log pond including log loading equipment and boats moving logs from the storage area to the debarker; sprinkler equipment when used for prevention of product deterioration; and devices used to detect metal in logs. (7-1-93)

c. Debarking equipment used to strip bark from logs including conveyor equipment for moving debarked logs further into the mill or for conveying bark when bark is used as boiler fuel or when conveying bark to a further processing stage. (7-1-93)

d. Chipper, used to produce chips including chip storage bins and pneumatic conveyors. (7-1-93)

e. Mill deck, as used for grading and cutting to length. (7-1-93)

f. Headrig/shotgun, as used for sawing logs. (7-1-93)

g. Edger, as used for edging rough lumber. (7-1-93)

h. Trimmer, as used for trimming to length. (7-1-93)

i. Resaw, as used for producing the proper thickness. (7-1-93)

j. Green chain, as used to determine according to size and species the amount of time required in the dry kiln. (7-1-93)

k. Dry kiln, as used to reduce moisture content. This exemption encompasses fire brick, steam pipe and fans inside the kiln but does not include improvements to real property. (7-1-93)

l. Unstackers. (7-1-93)

m. Planers, as used for finishing, grading and grade stamping of specialty products. (7-1-93)

n. Boiler when used for the generation of steam used to operate production equipment. (7-1-93)

o. Powerhouse when used to generate power used to operate production equipment. (7-1-93)

p. Waste collection, as used for the collection of waste products for use as fuel for the boiler, generally referred to as hog fuel. (7-1-93)

q. Lumber wrap and steel strapping used for packaging material. (7-1-93)

r. Pollution control equipment when required by a state or federal agency. (7-1-93)

s. Equipment used primarily to install exempt equipment. (7-1-93)

t. Equipment used primarily to fabricate exempt equipment. (7-1-93)

u. Safety equipment and supplies required by a state or federal agency and used in a production area. (7-1-93)

v. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-29-17)

02. Taxable Activities. Generally considered as taxable activities are the following: (7-1-93)

a. Saw filing activities using saw filing equipment and saw filing supplies. (7-1-93)

b. Shipping, including loading equipment and strapping, seals, and binders used in shipping activities to secure lumber on railroad cars, trucks, etc. (7-1-93)

c. Cleanup. (7-1-93)

d. Equipment used to repair or maintain production equipment. (7-1-93)

e. Equipment used primarily to construct, improve, alter or repair real property. (7-1-93)

f. Safety equipment and supplies used in an area where no manufacturing occurs such as an office, or which are not required by a state or federal agency even if used in a production area. (7-1-93)

g. Other items specifically identified as taxable in Rule 079 of these rules. (3-15-02)

03. Exemption Certificate. Persons engaged in lumber manufacturing who wish to purchase goods that qualify for this exemption without paying sales tax complete an exemption certificate. See Rule 128 of these rules. (3-15-02)

081. UNDERGROUND MINING (RULE 081).
Sections 63-3605B, *63-3622,* 63-3622D, *63-3622HH,* Idaho Code

This rule is meant to show how the production exemption applies to the underground mining industry. This rule is based on the usual methods of doing business. Differences in the way a specific taxpayer conducts his business can result in determinations different from those in this rule. In cases not covered by this rule, the general principles in Rule 079 of these rules apply. Determinations of taxability are based on the primary use of equipment. (3-15-02)

01. Nontaxable Purchases. The following are generally considered nontaxable: (7-1-93)

a. Development of known ore deposits, including diamond drilling and other activities to develop levels, laterals, crosscuts, drifts, stopes, raises and shafts. (7-1-93)

b. Support materials, including, timber, concrete, rock bolts, shotcrete, matting, and equipment used to install them. (7-1-93)

c. Drilling of blast holes to facilitate the extraction of ore including pneumatic rock drills and compressors used to supply compressed air to operate pneumatic rock drills. (7-1-93)

d. Blasting to facilitate the extraction of ore using explosives, caps, fuses, etc. (7-1-93)

e. Slushing/mucking to convey broken ore and waste to passes and chutes using scrapers, slushers, muckers, hoists and loaders, and backhoes used to recover both ore and waste. (7-1-93)

f. Hauling, horizontal transportation, to transport ore, waste, men or materials from chutes into cars and the movement of the cars to shaft stations using skips, hoists, hoist cable, shafts, shaft timbers, shaft stations, shaft pockets, shaft guides, concrete, etc. (7-1-93)

g. Haulage, vertical transportation, to hoist ore, waste, men or materials in skips, using skips, hoists, hoist cable, shafts, shaft timbers, shaft stations, shaft pockets, shaft guides, concrete, etc. (7-1-93)

h. Transportation to the surface to load the ore, waste, men or materials into main haulage cars for transportation using locomotives, haulage cars, track and track spikes, fuel batteries used to power locomotives, and conveyors and conveyor belts. (7-1-93)

i. Backfilling to pump tailings back underground as hydraulic sandfill to backfill mined-out areas using, pumps, sumps, pipe, and concrete. (7-1-93)

j. Personal equipment including hard hats, miners' lights, belts, and batteries. (3-25-16)

k. Sampling/assaying for quality control purposes. (7-1-93)

l. Safety equipment and supplies required by a state or federal agency when used directly in a mining area. (7-1-93)

m. Equipment used primarily to install production equipment. (7-1-93)

n. Equipment used primarily to fabricate production equipment. (7-1-93)

o. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-29-17)

02. Taxable Purchases. The following are generally considered taxable: (7-1-93)

a. Diamond drilling activities used for exploration. (7-1-93)

b. Air ventilation and conditioning if an improvement to real property including fans, motors, vent ducts; coolers; and air doors. (7-1-93)

c. Water lines and pumps used to remove water from the mine if improvements to real property. (7-1-93)

d. Safety equipment and supplies used somewhere other than a mining area, such as an office, or not required by a state or federal agency even if used in a mining area. (7-1-93)

e. Maintenance and cleanup using backhoes, except when the primary use is to recover ore or waste; equipment used to repair or maintain mining equipment; battery maintenance equipment including battery chargers, and shop supplies and other materials or supplies which do not become a component part of production exempt equipment. (7-1-93)

f. Sampling/assaying for purposes other than quality control. (7-1-93)

g. Other items specifically identified as taxable in Rule 079 of these rules. (3-15-02)

03. Exemption Certificate. To claim this exemption underground miners will complete an exemption certificate for the seller's records. See Rule 128 of these rules. (3-15-02)

082. ABOVEGROUND, OPEN PIT, MINING (RULE 082).
Sections *47-701, 47-701A, 63-3605H, 63-3622,* 63-3622D, *63-3622X,* Idaho Code

This rule is meant to show how the production exemption applies to the aboveground, open pit, mining industry. This rule is based on the usual methods of doing business in the industry. Differences in the way a specific taxpayer conducts his business can result in determinations different than those stated in this rule. In cases not covered by this rule, the general principles stated in Rule 079 of these rules apply. Determinations of taxability are made based on primary use of the equipment. This rule applies only to aboveground mining activities commonly referred to as open pit mining. *Mining does not include soil extraction.* *( )*

01. Exempt Purchases. The following are generally considered nontaxable: (7-1-93)

a. Drilling and blasting, to loosen overburden for removal or, to define limits of existing ore bodies using track drills, rotary drills, and compressors to operate them, drill rods, drill bits, explosives, caps, fuses, etc., for this purpose. (7-1-93)

b. Ore and overburden extraction and removal using front end loaders, track loaders, power shovels, backhoes, scoop loaders, and similar equipment used to extract and load ore or strip and load overburden. (7-1-93)

c. Hauling of ore and overburden to stockpiles, loading sites, or disposal sites on the mine site using scrapers, carryalls, and off-highway trucks and trailers. (7-1-93)

d. Ore sorting, grading, sizing, and crushing operations, including unloading from transport devices using bulldozers, front end loaders, crushers, conveyors, and similar equipment. (7-1-93)

e. Pollution control equipment required by a state or federal agency. See Section 63-3622X, Idaho Code. (7-1-93)

f. Safety equipment and supplies required by a state or federal agency when directly used in a mining area. (7-1-93)

g. Equipment used primarily to fabricate or install production equipment. (7-1-93)

h. Equipment such as cranes, manlifts, and scissorlifts, used primarily to install production equipment. (7-1-93)

i. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-29-17)

02. Taxable Purchases. The following are generally considered taxable: (7-1-93)

a. Exploration, where the primary purpose is to discover new ore bodies using equipment, including rotary drills, drill rigs, blasting equipment, seismic equipment, cats, bulldozers, and other materials and supplies, primarily used for such activities. (7-1-93)

b. Real property improvements, construction, and maintenance activities, including materials and equipment used primarily for constructing or maintaining buildings, fences, railroads, concrete pads and footings, and roads. Equipment, including cranes, concrete equipment, and post hole diggers primarily used for such purposes. Materials and supplies, including lumber, steel, roofing, trusses, fence posts, gates, and wire; and concrete, rebar, and remesh. (7-1-93)

c. Maintenance and cleanup activities, including those where the primary purpose is to maintain equipment and facilities or cleanup grounds and roads, except where cleanup activities are done primarily to recover ore. Shop or other equipment used primarily to repair, clean, or maintain production equipment, including welders, lathes, shop tools, hoists, cranes, mechanics' trucks, oiling trucks and trailers, steam cleaners, and testing equipment. Shop and other materials and supplies which will not become a component part of production equipment. (7-1-93)

d. Land reclamation activities, including activities where mined ore pits or panels are filled in, shaped, and reseeded, including seed or seedlings, fertilizers, soil conditioners, soil, and bulldozers, scrapers, and seed drills primarily used for this purpose; however, equipment primarily used for ore and overburden extraction and loading is exempt, even though this equipment is also used in land reclamation. (7-1-93)

e. Transportation of personnel and materials, including transportation to and from worksites or about the mine in general using buses, people movers, trailers, trucks, or similar equipment. (7-1-93)

f. Equipment and supplies used in transportation activities where ore or overburden is moved between geographically separated mine sites, processing plants or disposal sites, if 1) a substantial break in the production activities occurs, and 2) the activity does not sort, grade, size, crush, or in some other way further process the ore. Transportation activities include loading, transporting, unloading, and stockpiling. A substantial break in the production activities occurs when the product is transported between geographically separated production sites by means of public roads, waterways, airways, railways, or any other public means. The production facility to which the product is transported is a separate processing facility, and the equipment and supplies used to transport the product tax*able*. Examples of taxable equipment include: trucks and trailers, whether licensed or unlicensed; railroad equipment; barges and other watercraft; pipelines; conveyors; front end loaders; and bulldozers. If the means of transport to processing plants, smelters, etc., does not constitute a substantial break in the process, such as a slurry line directly from the mine to the plant, then the loading and unloading activities are not taxable. *( )*

g. Personnel support activities, including facilities, equipment, and supplies for eating, sleeping, and recreation. Examples include eating trailers, utensils and food, clothing provided to employees at no charge, and pool tables, beds, and linen. (7-1-93)

h. Other items specifically identified as taxable in Rule 079 of these rules. (3-15-02)

03. Exemption Certificate. To claim the production exemption, above ground miners *will* complete an exemption certificate for the seller's records. See Rule 128 of these rules. *( )*

083. FARMING AND RANCHING (RULE 083).

Sections 63-3603, *63-3622,* 63-3622D, *63-3622HH,* Idaho Code

This rule is intended to illustrate the application of the production exemption to the farming and ranching industry. The provisions of this rule are based on the usual methods of doing business in the industry. Specific factual differences in the manner in which a specific taxpayer may conduct his business can result in determinations different from those stated in this rule. Cases not covered by this rule are controlled by the general principles stated in Rule 079 of these rules. Some equipment may be used for more than one purpose. Determinations of taxability will be based upon the equipment's primary use. (3-15-02)

01. In General. Farming includes custom farming and the operation of a farm or ranch, and includes stock, dairy, poultry, fish, fur, fruit and truck farms, ranches, ranges, and orchards operated with the intention of making a gain or profit. Farming does not include operation of ranches or stables where the sole purpose is showing or racing horses, or the breeding of show or race horses. (7-1-93)

02. Property Primarily and Directly Used. As applied to the business of farming, the exemption applies to all tangible personal property which is primarily and directly used to conduct the farming business, and which is necessary or essential to the operation, except those categories of property listed in other sections of this rule. (7-1-93)

03. Directly Used. The term "directly used or consumed in or during" farming operation means the performance of a function reasonably necessary to the operation of the total farming business, including the planting, growing, harvesting, storage and removal from storage of crops and other agricultural products, and movement of crops and produce from the place of harvest to the place of initial storage. (3-29-17)

04. Transportation Activities. Equipment used to move farm produce to initial storage is exempt, even though it may be mounted on a vehicle which is required to be licensed and is taxable. Equipment qualifies for this exemption if: (7-1-93)

a. It is readily removable from the vehicle on which it is mounted; (7-1-93)

b. It is separately stated on the vendor's invoice; and (7-1-93)

c. It is sold to a qualified farming operation and is supported by a valid exemption claim form. (7-1-93)

05. Disinfectants Used in the Dairy Industry. *D*isinfectants used in the dairy industry to clean cow udders or to clean pipes, vats, or other milking equipment are exempt. *( )*

06. Safety Supplies. Safety supplies required by a state or federal agency and directly used in a farming operation are exempt from sales or use tax. (7-1-93)

07. Plants. Plants, such as orchard trees and grape vines, are exempt. (7-1-93)

08. Quality Control. Equipment and supplies used in the performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (3-29-17)

09. The Farming Exemption Does Not Include: (9-1-93)

a. Property purchased to meet the personal needs of a farmer, his family, or employees. Examples of items that are excluded from the exemption include, but are not limited to, hand soap, toothpaste, shampoo, blankets, sheets, pillowcases, towels, washcloths, irrigation boots, coveralls, gloves, other clothing, and grocery items. (7-1-93)

b. Food and supplies purchased for barnyard and household pets, such as cat and dog food, are tax*able*. Even though a dog may occasionally be used for herding livestock or a cat may control mice in the barn, the supplies purchased for their care and maintenance do not qualify for the production exemption. Only when a dog's SOLE purpose is the herding or protection of a rancher's livestock may the food and supplies for the dog be purchased tax exempt under the production exemption. *( )*

c. Livestock trailers which may be attached to motor vehicles used to transport horses, cattle, sheep, or other farm animals on public roads are transportation equipment and are tax*able*. *( )*

d. Motor vehicles required to be licensed are tax*able* even when used exclusively in a farming operation. Motor vehicles purchased, but not licensed, by a farmer for use exclusively in an off-road production activity, such as a feed truck, are not tax*able*. *( )*

e. Other items specifically identified as taxable in Rule 079 of these rules. (3-15-02)

10. Exemption Certificate. Farmers or ranchers who wish to purchase goods that qualify for this exemption without paying sales tax *need to* complete an exemption certificate. See Rule 128 of these rules. *( )*

084. CONTAINERS RETURNABLE/NONRETURNABLE (RULE 084).
Sections 63-3622, 63-3622E, Idaho Code

01. Container. A container encloses or will enclose tangible personal property which is sold at wholesale or retail. A container may be comprised of one (1) or more components. Items used as shipping supplies which do not enclose the product are not considered to be containers. Example: Cartons of canned goods are placed on a pallet. Shrink wrap is used to bind the cartons to the pallet. A shipping address label is affixed to the shrink wrap. The container includes the cans in which the goods are enclosed; the cartons in which the canned goods are placed; and the shrink wrap and pallet which enclose the cartons. The address label is not part of the container. *( )*

02. Containers Exempt from Tax. The following containers are exempt from sales or use tax: (7-1-93)

a. Nonreturnable containers purchased by a retailer or wholesaler who places the contents in the container and sells the contents with the container at retail or wholesale, including cans, barrels, boxes, cartons, grocery sacks, disposable soft drink cups and lids, and other to-go fast food containers. (4-6-05)

b. Returnable containers when the container, along with the contents, is sold at retail if the fee for the container is separately stated, including returnable beer kegs, returnable barrels, and returnable pallets. (7-1-98)

c. Returnable containers when sold back to retailers or manufacturers for refilling. (7-1-93)

d. Returnable or nonreturnable containers when sold with contents that are exempted from the tax, regardless of whether or not the container is separately billed, including containers for prescription drugs, and oxygen or acetylene cylinders, when the use of the gases qualifies for the production exemption. (7-1-93)

03. Taxable Containers. Containers subject to sales and use tax include containers used by persons who are providing a service rather than selling a product, such as plastic clothing bags purchased by dry cleaners. (7-1-98)

04. Supplies. Shipping, selling, or distribution supplies are not considered to be containers and are tax*able* when purchased by the shipper, seller, or distributor, such as: *( )*

a. Shipping pallets and lumber stickers when not banded or shrink wrapped to the product to be sold, thereby not becoming a part of the container. (7-1-93)

b. Banding or binders used to secure goods to transportation equipment. (7-1-93)

c. Price stickers and address labels affixed to containers that do not provide any product information such as weight, quantity, nutritional value, or other necessary product description. See Rule 042 of these rules. (4-6-05)

d. Example: Plywood is wrapped with lumber wrap. The bundles are rested on pallets for shipping. In this example the lumber wrap is the only container. As the bundles are not enclosed onto the pallet, the pallet is not a container and is instead a *taxable* shipping supply subject to the tax. *( )*

085. SALES TO AND PURCHASES BY NONPROFIT ORGANIZATIONS (RULE 085).
Sections 63-3622 and 63-3622O, Idaho Code

01. In General. The Sales Tax Act does not provide any general exemption for, charitable or nonprofit organizations, corporations, associations or other entities. Specific statutory provisions provide exemptions for some

charitable organizations. Unless an exemption is clearly granted to a specific organization or to specific sales or purchases by a specific organization or a class of organization, no exemption applies. Special rules apply to religious organizations. See Rule 086 of these rules. ( )

02. Educational Institutions. Sales to and purchases made by non-profit educational institutions, as defined in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes. (3-6-00)

03. Health Related Entities. Sales to and purchases made by the specific health related entities listed in Section 63-3622O, Idaho Code, are exempt from Idaho sales or use taxes. Health related organizations not named are not entitled to any exemption from sales and use taxes as a health related entity. (3-6-00)

04. Hospitals. In addition to the health related entities listed in Section 63-3622O, Idaho Code, hospitals which are nonprofit institutions licensed for the care of ill persons are exempt. To qualify for the exemption the hospital needs to be a facility defined in Section 39-1301(a), Idaho Code, and licensed as provided in Chapter 13, Title 39, Idaho Code, or an equivalent law in another state. Hospitals operated for profit do not qualify for this exemption, nor do nursing homes, clinics, doctors' offices, or similar facilities unless the organization qualifies for an exemption under Section 63-3622O, Idaho Code. (3-6-00)

05. Idaho Foodbank Warehouse, Inc. The Idaho Foodbank Warehouse, Inc. is a nonprofit corporation which gathers food and food products at one (1) central location for distribution to food banks throughout Idaho. All sales to, donations to, and purchases by the Idaho Foodbank Warehouse, Inc., are exempt from sales and use taxes. (3-6-00)

a. Example 1: The XYC Corporation *buys* food from a grocer to donate to the Idaho Foodbank Warehouse, Inc. The XYC Corporation pays sales tax on the purchase since they are not purchasing the food for resale and no other exemption applies. ( )

b. Example 2: The Idaho Food Bank Warehouse, Inc. *buys* office supplies. No tax is due on the purchase. ( )

06. Food Banks and Soup Kitchens. Food banks or soup kitchens are nonprofit organizations, other than the Idaho Foodbank Warehouse, Inc., which, as one of their regular activities, furnish food to others without charge. Sales to, donations to, and purchases of food or tangible personal property used by food banks and soup kitchens other than the Idaho Foodbank Warehouse, Inc. to grow, store, prepare, or serve food are exempt from sales and use taxes. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization. This exemption does not extend to the sale, purchase, or use of licensed motor vehicles by food banks or soup kitchens. (3-6-00)

a. Example 1: A grocer removes food from *their* inventory of goods held for resale to donate to a food bank or soup kitchen. The grocer is exempt from the use tax on their cost of the inventory donated. (3-6-00)

b. Example 2: The XYZ Corporation *buys* food from a grocer to donate to a food bank. The XYZ Corporation is not purchasing the food items for resale, and no other exemption from sales tax applies. Sales tax is paid on the purchase. ( )

c. Example 3: A food bank *buys* a licensed motor vehicle. The purchase is subject to sales tax because the motor vehicle is not used to grow, prepare, or serve food. ( )

07. Red Cross. See Rule 094 of these rules. (3-29-12)

08. Nonsale Clothiers. Nonprofit organizations, one of whose primary functions is to provide clothing to the needy without charge, may purchase the clothing without paying tax. Only clothing qualifies for the exemption. Other purchases by the organization are taxable. Clothing may also be removed from a resale inventory and donated to these organizations exempt from use tax. However, there is no exemption from the sales tax if goods are purchased with the intent and purpose of donation to a qualified organization. (3-6-00)

a. Example 1: A department store removes clothing from resale merchandise to donate to a nonprofit,

nonsale clothier. The store is exempt from the use tax on the cost of the inventory donated. (7-1-93)

b. Example 2: A nonprofit, nonsale clothier *buys* clothing and bed sheets from a department store to give to the needy. No tax is due on the clothing, but the store charge*s* the organization sales tax on the bed sheets. *( )*

09. Exemption Certificate. The organizations listed in this rule may make purchases without paying sales tax to the vendor by completing an exemption certificate. See Rule 128 of these rules. (3-6-00)

10. Literature. The sale, purchase, use, or other consumption of literature, pamphlets, periodicals, tracts, books, tapes, audio CDs, and other literature which is produced in a machine readable format that are both published and sold by an entity qualified under Section 501(c)(3) of the Internal Revenue Code are exempt from the tax if no part of the net earnings benefits any individual or shareholder. (3-6-00)

11. Sales by Nonprofit Organizations. An exemption from sales tax on sales to one of the foregoing entities does not constitute an exemption from the requirements to collect and remit tax when the entity makes taxable sales to *buyers* not exempt from tax. When an exempt organization qualifies as a retailer the organization is to register with the Commission, obtain a seller's permit, and collect and remit sales taxes on sales as defined in Section 63-3612, Idaho Code, in the same manner and in accordance with the same statutes and rules which govern all other retailers in the state. There are two (2) exceptions to this rule. *( )*

a. Sales of places to sleep by the Idaho Ronald McDonald house are exempt from sales taxes. (3-6-00)

b. Sales of admissions by an entity qualified under Section 501(c)(3) of the Internal Revenue Code, or by an organization conducting an exempt function defined in Section 527 of the Internal Revenue Code when: (3-6-00)

i. The event is not predominately recreational or commercial; and (3-6-00)

ii. Any entertainment value included in the admission charge is minimal when compared to the charge for admission; and (3-6-00)

iii. Such entity has paid a sales or use tax on taxable purchases or tangible personal property or services consumed during the event. (3-6-00)

12. Senior Citizen Centers. Sales to certain senior citizen centers are exempt from sales tax. The definition of "senior citizen center" in Section 63-3622O, Idaho Code, is the same as the definition of a "multipurpose senior center" as defined in the Older Americans Act, Title 42, Section 3002, United States Code. To qualify for the exemption the center needs to have been granted exempt status pursuant to Section 501(c) (3) of the Internal Revenue Code. Long-term care facilities do not qualify for this exemption. (4-2-08)

13. Free Dental Clinics. Sales to and purchases by organizations providing free dental care to children are exempt from sales and use tax. For the purposes of this exemption "children" means persons under the age of eighteen (18). To qualify for the exemption property or services need to be: (4-2-08)

a. Purchased by an organization whose primary purpose is providing free dental care to children; and (4-2-08)

b. Primarily used by an organization whose primary purpose is providing free dental care to children. (4-2-08)

086. SALES AND PURCHASES BY RELIGIOUS ORGANIZATIONS (RULE 086).

Sections 63-3612, 63-3622, 63-3622J, 63-3622KK, Idaho Code

01. In General. The Sales Tax Act does not provide a general exemption from sales or use tax for religious organizations. Other than the exemptions discussed in this rule, sales and purchases by religious

organizations are tax*able*. ( )

02. Meals Sold by a Church to Members Only. An exemption is provided by Section 63-3622J, Idaho Code, for the sale of meals by a church to its members at a church function. For the exemption to apply, the meals *have to* be sold to members only. ( )

a. If the meal is open to members only, the church *can buy* the food without paying tax by providing the vendor with a properly completed exemption certificate or, if the church holds an Idaho seller's permit number, it may provide the vendor with a properly completed resale certificate. See Rule 128 of these rules. ( )

b. If the meal is open to persons other than members of the church, this exemption does not apply. See Subsection 086.03 of this rule. (3-15-02)

c. Food purchased to prepare meals which are not sold by the church, such as meals for resident pastors or for nuns living in a convent or associated with a hospital, is tax*able*. ( )

03. Incidental Sales by Religious Corporations or Societies. Incidental sales by religious organizations are exempt from sales taxes by Section 63-3622KK, Idaho Code. The exemption applies to sales of tangible personal property and other sales defined as subject to sales tax by the Idaho Code, including taxes imposed on providing hotel/motel and campground accommodations. For the exemption to apply, the following conditions need to be met: ( )

a. If selling tangible personal property, the goods sold either have been taxed when purchased by the organization or received as a gift. ( )

b. The proceeds from the sales made by the organization are used exclusively in the programs of the organization which may include any combination of religious worship, education, and recreation. (7-1-93)

c. The sale may not be made to the general public in the open market in regular business competition. (7-1-93)

d. Example 1: A church has a used clothing store. The items sold are not exempt from the sales tax because the store makes sales to the general public in regular competition with similar enterprises. (7-1-93)

e. Example 2: A church holds an annual pancake breakfast in its basement. The meal is advertised and open to the public. If the church pays tax on the breakfast ingredients, it is not required to collect sales tax on the sale of the meals. Although the meal is open to the general public, the church is not in regular competition with other food-serving enterprises. (7-1-93)

f. Example 3: A school owned by a religious corporation sells school supplies and meals only to its students. If the school pays tax when it purchases these items, it is not required to collect sales tax on the sales to its students. If, however, the school has a bookstore or cafeteria which is open to the general public, it does collect sales tax. (7-1-93)

g. Example 4: A school owned by a religious corporation sells admissions to its students to attend athletic events through the sale of activity cards, and also sells admissions to the general public. The school will collect sales tax *on all admission sales*. The sale is open to the general public and is in regular competition with other recreational events to which admissions are charged. ( )

04. Sales of Literature by a Nonprofit Corporation. Literature which is both published and sold by qualifying nonprofit corporations is exempt from sales tax. Refer to Rule 085 of these rules. (3-15-02)

087. LEASE OR RENTAL OF MOTION PICTURE TELEVISION FILM (RULE 087).

Sections 63-3612, 63-3613, 63-3622, Idaho Code

The sales tax or use tax is not applicable to rentals or leases of motion picture film to theaters or other exhibiting enterprises where admission to the showing of films is tax*able*. In the case of radio and television stations, the

purchase of films, tapes or records is exempt. ( )

088. SALE OR PURCHASE OF MATTER USED TO PRODUCE HEAT BY BURNING (RULE 088).
Sections 63-3612, 63-3613, 63-3622, 63-3622G, Idaho Code

01. Scope. Matter used to produce heat by burning includes natural gas, liquefied propane, coal, wood, oil, petroleum, and their by-products. (7-1-93)

02. Limitation. The phrase used to produce heat by burning means the act of incineration of materials defined in Subsection 088.01 of this rule in a furnace or similar device for the purpose of raising or maintaining the temperature in an enclosed space, dwelling, or building including a building under construction, and includes heating water and cooking. Heating fuel delivered in bulk to a dwelling or building for this purpose and properly identified as such by the vendor in his books and records, on the delivery ticket, and invoice to the customer relieves the vendor of the responsibility to obtain a sales tax exemption certificate, from the *buyer*. ( )

03. Liquefied Propane. Sales of liquefied propane in units of fifteen (15) gallons or less, identified in the vendor's records as cylinder sales, will be considered to be used to produce heat by burning as defined in Subsection 088.02 of this rule. These sales will not require that a sales tax exemption certificate be obtained from the *buyer*, and is exempt from the tax regardless of the use to which the *buyer* places the liquefied propane. ( )

04. Documentation of Other Exempt Sales. All other sales of natural gas, liquefied propane, coal, wood, oil, petroleum, and its by-products are tax*able*, unless specifically exempted or excluded elsewhere in the Sales Tax Act. Such exempted or excluded sales are documented in the following manner: ( )

a. If purchased for resale, the vendor obtain*s* a properly executed resale certificate. See Rule 128 of these rules. ( )

b. If purchased to produce heat by burning as defined in Subsection 088.02 of this rule and not bulk delivered to the customer by the vendor, the vendor either obtain*s* a properly executed exemption certificate from the *buyer*, or require*s* the *buyer* to complete a stamped or imprinted statement on the face of the sales invoice containing the following language:

I certify that the gas I have purchased will be used in a furnace or similar device for the purpose of water heating, cooking, or raising or maintaining the temperature in an enclosed space, dwelling, or building.

This tax exemption statement qualifies if this statement is signed by the *buyer* and the name and address of the *buyer* is shown on the invoice.

Any person who signs this certificate with the intention of evading payment of tax is guilty of a misdemeanor.

_____
BUYER'S SIGNATURE

The signature of the *buyer* on this statement be in addition to any other signature required on the invoice. ( )

c. If the *buyer* claims an exemption from the tax for reasons other than heat by burning, a properly executed exemption certificate will need to be obtained. See Rule 128 of these rules. ( )

089. BOY SCOUT, GIRL SCOUT AND 4-H GROUP SALES AND PURCHASES (RULE 089).
Sections 63-3612, 63-3613, 63-3622, 63-3622GK, Idaho Code

01. Sales by Scout and 4-H Groups. In general, when a Scout or 4-H group makes retail sales to their members or to the public, they are a retailer and need to obtain an Idaho seller's permit number. (7-1-93)

a. Sales to Members. Tangible personal property sold to members is subject to sales tax, including badges, insignia, uniforms, and magazines. Camp fees are subject to sales tax. Dues charged to members are not taxable. (7-1-93)

b. Sales by Members. Sales of tangible personal property by members, such as cookies, food, and magazines are tax*able*. The club is responsible for the collection and remittance of the tax. *( )*

c. Sales of Animals. Sales of animals in conjunction with a fair or at the Western Idaho Spring Lamb Sale by 4-H or FFA club members are not taxable. (7-1-93)

02. Purchases by Scout and 4-H Groups. (7-1-93)

a. When a fee is charged to members to attend a camp, the food for the camp may be purchased by the club without paying tax. The club provides the retailers of the food a *properly completed* resale certificate. See Rule 128 of these rules. *( )*

b. Other tangible personal property purchased for resale to members of the club or to the public may be purchased without tax as in Subsection 089.02.a. of this rule. (3-15-02)

c. Materials and supplies purchased by the club for its own use are tax*able*. The club pays tax to the vendor. *( )*

090. GAS, WATER, ELECTRICITY DELIVERED TO CUSTOMERS (RULE 090).
Section 63-3622F, Idaho Code

01. In General. Gas, water and electricity delivered to customers includes those products of public or private utility service or user's cooperative or similar organizations when sold to customers for *the* customer's use. *( )*

02. Telephone Service. Electricity includes the dial tone for telephone utility service. (7-1-93)

091. SALES TO INDIANS (RULE 091).

01. Sales to Indians. Indians make sales tax free purchases if these purchases are made within the boundaries of an Indian Reservation. The retailer *will retain documentation supporting* the fact that a *buyer* is an enrolled member of an Indian tribe. Presentation of an identification card issued by one (1) of the Indian tribes will be acceptable for this purpose. *( )*

02. Records. The retailer will maintain records in support of these exempt sales. Any of the following methods are accepted by the Commission: (7-1-93)

a. Recording of the *buyer*'s name and number from the *buyer*'s tribal identification card on the sales slip. *( )*

b. Recording the name and number from the *buyer*'s tribal identification card on the cash register tape beside the record of the purchase. *( )*

c. Completion of an exemption certificate recording the number from the *buyer*'s tribal identification card. *( )*

03. Sales of Motor Vehicles to Indians. See Rule 107 of these rules. (7-1-93)

092. OUT-OF-STATE SALES (RULE 092).
Sections 63-3612, 63-3613, 63-3622Q, Idaho Code

01. Out-of-State Sales. Section 63-3622Q, Idaho Code, does not distinguish between purchases made by Idaho residents and nonresidents. The purchase of tangible personal property for delivery by the seller outside the state through either a common carrier, U.S. mails or seller's delivery service is not subject to *Idaho* sales tax. *( )*

02. Records.The seller will maintain records to support the exemption claimed in this fashion.

Shipping data in the form of bills of lading, postal receipts or invoices setting forth the out-of-state destination with adequate supporting documentation will be accepted as evidence of the exemption. (7-1-93)

093. SALES AND USE TAX LIABILITY OF FEDERAL AND STATE CREDIT UNIONS, NATIONAL AND STATE BANKS, AND FEDERAL AND STATE SAVINGS AND LOAN ASSOCIATIONS (RULE 093).
Sections 26-2138, 26-2186, 63-3612, 63-3613, Idaho Code

01. Purchases by Credit Unions. Purchases by Federal Credit Unions are exempt from sales and use tax under the provisions of 12 U.S.C. 1768. Purchases by state-chartered credit unions are exempted from sales and use tax by Section 26-2138, Idaho Code, and purchases by Idaho corporate credit unions are exempted from sales and use tax by Section 26-2186, Idaho Code. (7-1-93)

02. Purchases by Banks and Savings and Loan Associations. Purchases by national and state banks, as well as federal and state savings and loan associations, are subject to sales and use tax. (7-1-93)

03. Sales by Credit Unions, Banks, Savings and Loan Associations. When acting as a retailer, all retail sales made by credit unions, banks, and savings and loan associations are subject to sales tax. (7-1-93)

094. EXEMPTIONS ON PURCHASES BY POLITICAL SUBDIVISIONS, SALES BY THE STATE OF IDAHO, ITS DEPARTMENTS, INSTITUTIONS, AND ALL OTHER POLITICAL SUBDIVISIONS (RULE 094).
Sections 63-3609, 63-3612, 63-3613, 63-3622, 63-3622O, Idaho Code

01. In General. This rule governs application of the sales and use tax to governmental instrumentalities. As used herein, the term governmental instrumentalities means the state of Idaho, its agencies, departments or institutions and all political subdivisions of the state of Idaho; but does not include other states, their agencies, departments, or institutions and political subdivisions. (7-1-93)

02. Extent of Exemptions. The state and all its agencies, departments and institutions are exempt from the sales and use tax. This exemption does not extend to corporations, the stock of which is owned in whole or in part by the state, nor does it extend to private agencies to which the state contributes funds. The exemption only applies in the case of purchases made directly by the state, its agencies, departments, and institutions. (7-1-93)

03. Political Subdivisions. Political subdivisions of this state are also exempt from payment of the sales and use tax. A political subdivision is a governmental organization which embraces a certain territory organized for public advantage and not in the interest of private individuals or classes to which has been delegated certain functions of state government. In addition to this, a political subdivision has the power to levy taxes. Included within the definition of political subdivisions would be all counties, municipalities, townships, towns and villages, public school districts, cemetery maintenance districts, fire protection districts, local improvement districts and irrigation districts. Canal companies and ditch companies do not come within the scope of this exemption. (7-1-93)

04. Purchases by Contractors. Contractors are consumers under Idaho tax law. Purchases made by contractors are tax*able* even though they are to be applied to use on a state or political subdivision construction project. *( )*

05. Sales by Political Subdivisions. Sales by the state, its departments or institutions, counties, cities, school districts or any political subdivision are subject to sales tax which is to be collected by the political subdivision. If taxable sales are made, a permit is required. This permit is to be obtained by each sales outlet or by the office at which regular and current sales records are maintained. Examples of taxable sales are all sales of tangible personal property, admission charges, fees to use recreational facilities, recreational program fees, copies of documents for which a fee is not set by Idaho Code and garbage service when receptacles or dumpsters are provided by the service and part of the fee represents rental of the receptacle. (7-1-93)

a. Taxable sales. Taxable sales of tangible personal property will include sales of: code books; books sold by library, book fairs, etc.; maps; crime prevention signs; calendars; cafeteria sales to employees or the public; office supplies or any sale to employees; concession stands; trees, shrubs, or bedding plants; items sold to prisoners, such as cigarettes, candy, pop, etc., through vending machines (tax is to be computed on one hundred seventeen percent (117%) of acquisition cost if the machine is operated by the political subdivision); chemicals for noxious

weeds; unclaimed property; chemicals for pest control; surplus property-assets; gravel, culverts, or pipe; uniforms to employees; equipment rentals with no operator; grave markers; rental of other property, golf carts, swimsuits; and nonresident or resident library cards. See Rule 058 of these rules. (7-1-93)

b. Admission charges. Taxable admission charges will include those fees for using golf courses and swimming pools, for attending athletic events, concerts, fireworks displays, and fund raising events. (3-4-10)

c. Use of facilities for recreation. Taxable use of facilities for a recreational purpose will include receipts from the use of park structures, picnic tables, fair grounds, rodeo grounds, gymnasiums, ball parks, snowmobile areas and campground areas. Exception: If an individual or organization rents or leases one of these facilities and charges admission to each person using the facility, tax will not be required on its rental or lease of the facility. However, the individual or organization will be required to register and apply for a seller's permit number, under which the tax on the admission will be reported and paid. See Rule 030 of these rules. (7-1-93)

d. Recreation program fees. Fees to participate in recreational programs are taxable. Some examples of these programs are city recreational programs in softball, baseball, basketball and football. If instruction is included in such activities as tennis, golf or swimming, the tax will not be due on the separately stated instructional portion of the total fee. If not separately stated, the entire fee is taxable. (7-1-93)

e. Garbage service. Garbage service is taxable on that portion of the total charge which is the rental of the receptacle such as a dumpster. If the statement for service includes the rental of the dumpster or other receptacle but the rental charge is not separately stated, the entire cost of the service is taxable. (7-1-93)

f. The examples cited above are not inclusive. (7-1-93)

06. Federal Government. Sales to and purchases by the federal government and its instrumentalities are not subject to Idaho sales or use taxes except as provided by federal laws or regulations. Federal law also prevents the state of Idaho from imposing sales tax on any sales by the federal government or its instrumentalities. For purposes of Idaho sales and use tax, the American Red Cross is an instrumentality of the federal government. (3-29-12)

07. Other States. Sales to and purchases by states OTHER than Idaho and their political subdivisions are tax*able* if delivery occurs in this state. *( )*

095. MONEY-OPERATED DISPENSING EQUIPMENT (RULE 095).

Sections 63-3612, 63-3613, 63-3622, 63-3622II, Idaho Code

01. Money-Operated Dispensing Equipment. The sale, purchase, lease, or rental of money-operated dispensing equipment is exempt from tax if the equipment is only used to dispense a tangible product, amusement, or service on which a retail sales tax is imposed by the state of Idaho. (4-4-13)

a. Money-operated dispensing equipment includes equipment operated by a debit or credit card. (4-4-13)

02. Parts, Kits, or Supplies. This exemption does not apply to parts, kits, or supplies used to repair, refurbish, or upgrade the dispensing equipment. Refer to Section 63-3622II, Idaho Code. (7-1-93)

096. IRRIGATION EQUIPMENT AND SUPPLIES (RULE 096).

Section 63-3622W, Idaho Code

01. Agricultural Irrigation. The Sales Tax Act exempts all irrigation equipment and supplies which are used directly for agricultural irrigation. To qualify for the exemption, the irrigation equipment or supplies need to be used directly and primarily for agricultural irrigation purposes. If the use of the equipment or supplies is only incidental or only indirectly related to the agricultural irrigation process, the exemption will not apply. Examples include: *( )*

a. An off-highway motorbike or all-terrain vehicle, ATV, used to transport men or equipment is

indirectly related to the irrigation process. (7-1-93)

b. Irrigation boots worn to protect the irrigator are incidental to the process and *are* tax*able*. *( )*

02. Nonagricultural Irrigation Equipment or Supplies. Irrigation equipment or supplies used for any purpose other than agriculture are not exempt. For example, irrigation pipelines or sprinkler systems used on a golf course are taxable. (7-1-93)

03. Real Property Improvements. The exemption applies regardless of whether the equipment becomes a part of real estate. It is not necessary to distinguish between pipeline which retains its identity as tangible personal property and pipeline which may become incorporated into real property such as buried mainline pipe. (7-1-93)

04. Title to Equipment. The exemption applies regardless of whether the equipment is installed by a farmer, a contractor, or a subcontractor. The incidence of tax will not turn upon the determination of whether title to the irrigation equipment passed at the time of sale or subsequent to installation. (7-1-93)

05. Exemption Certificate. A *buyer*'s right to the exemption is documented by the use of an exemption certificate in the manner prescribed by Rule 128 of these rules. *( )*

097. YARD SALES (RULE 097).
Sections 63-3622, 63-3622K, Idaho Code

01. In General. Tangible personal property may be sold tax exempt at a home yard sale if the yard sale meets the qualifications specified in this rule. A home yard sale is characterized by the following: (7-1-93)

a. The sale is of short duration lasting no more than a few days. (7-1-93)

b. The seller is not in the business of regularly selling the same or similar property as that which is offered for sale at the yard sale. (7-1-93)

c. The items offered for sale at the yard sale are not items which are specifically purchased for the purpose of reselling them. (7-1-93)

d. The items offered for sale are owned by the seller, no consignment sales may be made. (7-1-93)

e. The sale is conducted on the residential premises of the seller. (7-1-93)

02. Exempt Yard Sales. An individual seller may only conduct two (2) exempt yard sales in the course of one (1) calendar year. Two (2) or more sellers may join together to conduct a single yard sale which will be considered to be a sale conducted by both such sellers. A home yard sale will include sales referred to as garage sales, moving sales, and other similar such sales if the prerequisites of this rule are otherwise met. (7-1-93)

098. FOREIGN DIPLOMATS (RULE 098).
Sections 63-3610, 63-3622, 63-3622O, Idaho Code

01. In General. The United States Government grants immunity from state taxes to diplomats from certain foreign countries. The diplomat is issued a federal tax exemption card by the U.S. Department of State. The cards are nontransferable and bear a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. (5-3-03)

02. Federal Tax Exemption Cards. Federal tax exemption cards list all restrictions on tax exemptions on the face of the card, including whether or not the card privileges extend to both official and personal purchases. (3-29-12)

03. Documentation. *A r*etailer document*s* exempt sale*s* to a foreign diplomat by: *( )*

a. Retaining a copy of the front and back of the federal tax exemption card to support the exempt sale; or ( )

b. Recording for their permanent record the name of the bearer, the mission represented, the federal tax exemption number displayed on the card, the date of expiration, and the nature of the exemption granted to the diplomat. (7-1-93)

099. OCCASIONAL SALES (RULE 099).
Sections *63-3610, 63-3620,* 63-3622K, 63-3622HH, Idaho Code

01. Occasional Seller. Sales of tangible personal property by an occasional seller are exempt from sales and use tax. In order to qualify as an occasional sale, the seller *can*not make more than two (2) sales of tangible personal property in a twelve (12) month period, nor hold himself out as engaged in the business of selling tangible personal property. ( )

a. If the sale does not qualify as an occasional sale, the seller *is* a retailer and will collect and remit sales tax *in the same manner as any other seller*. See Section 63-3610, Idaho Code. ( )

b. Proof of occasional sale. An occasional seller of tangible personal property will provide a written statement to the *buyer* if requested. An occasional seller of a transport trailer or office trailer may use Form ST-108TR to document his occasional sale claim. For occasional sales of other tangible personal property, the *buyer* obtains a written statement *that has the seller's name, address, date, and signature* from the seller verifying that the seller is not a retailer and has made no more than one (1) other sale of tangible personal property within the last twelve (12) months. The *buyer* will retain the occasional sale statement provided by the seller as evidence that the purchase of the tangible personal property is not subject to use tax. ( )

c. Sales arranged by a third party are taxable. If any sales agent, licensed or unlicensed, participates in the sale of tangible personal property, the sale is taxable. See Rule 020 of these rules. (3-15-02)

02. Change in the Form of Doing Business. A change in the form of doing business qualifies for an occasional sale exemption when the ultimate ownership of the property is substantially unchanged. Example: The incorporation of a partnership qualifies for an occasional sale exemption when substantially all of the property owned by the partnership is transferred to the corporation, and the stockholders of the corporation own substantially the same proportion of the corporation's stock as they owned in the partnership interest as partners. (7-1-93)

03. Bulk Sale -- Sale of an On-Going Business. The sale of substantially all of the operating assets of a business or of a separate division, branch, or identifiable segment of a business qualifies for the occasional sale exemption if: (7-1-98)

a. The *buyer* continues the same type of business operation; and ( )

b. Prior to the sale the income and expenses attributable to the separate division, branch, or identifiable segment can be determined from the accounting records and books. (7-1-93)

c. Example: Corporation X sells its entire wood products division to Corporation Y, which continues to operate it in substantially the same form. The transaction qualifies for an occasional sale exemption. (7-1-93)

04. Sale of a Motor Vehicle Between Family Members. Sales of motor vehicles between family members related within the second degree of consanguinity, blood relationship, qualify for the occasional sale exemption but only if the seller paid a sales or use tax when the motor vehicle was acquired. (7-1-93)

a. Example 1: A brother sells his automobile to his sister. The brother purchased the car from an Idaho dealer and paid Idaho sales tax on the original purchase. No tax applies to the sale of the vehicle to the sister. (7-1-93)

b. Example 2: A mother sells her automobile to her son for five thousand dollars ($5,000). The mother is an Oregon resident and did not pay a sales or use tax when she purchased the automobile. The son, who is a

resident of Idaho, pays Idaho use tax on the five thousand dollar ($5,000) purchase price of the automobile. (7-1-93)

05. Transfers Between Related Parties. The transfer of capital assets between related parties qualifies for an occasional sale exemption, but only if the person transferring the asset has paid a sales or use tax when the asset was acquired. Exempt transfers between related parties include: capital assets transferred in and out of businesses by owners, partners, shareholders stockholders, when the transfer is made only in exchange for equity in the business, and capital assets transferred between a parent corporation and its subsidiary, if the parent owns at least eighty percent (80%) of the subsidiary, and transfers between subsidiary corporations with a common parent, if the parent owns at least eighty percent (80%) of both, and if the transfers are made only in exchange for stock or securities. (4-11-06)

a. Example: Two (2) individuals form a partnership. Each contributes a car in exchange for a percentage of ownership in the business. If each partner paid sales tax when he purchased his vehicle, no sales tax applies to the transfer of the vehicle into the partnership. (7-1-97)

b. Example: Three (3) individuals are equal partners in a construction business. They dissolve the partnership, and each person takes one-third (1/3) of the capital assets as his share of the equity in the business. If tax was paid on the assets when they were purchased by the partnership, sales tax does not apply to the transfer of the assets from the partnership to the co-owners. (7-1-93)

c. Example: A corporation-owned car is given to a shareholder as a bonus for special accomplishments. There is no change in the recipient's shareholdings. The shareholder pays tax on the bonus based on the value of the car, regardless of whether the corporation paid tax when the car was purchased. The exemption does not apply because the transfer of the car did not change the shareholder's equity. (7-1-93)

06. Sales and Rentals to Related Parties. The sale of a capital asset to a related party qualifies for the occasional sale exemption, but only if the seller has paid sales or use tax when the asset was acquired or if the seller acquired the asset from a related party who paid sales tax on acquisition of the asset. Rentals and leases of capital assets between related parties will also qualify for the occasional sale exemption, but only if the initial related party paid sales tax upon acquisition of the asset. If the initial *buyer* does not pay sales or use tax upon the purchase of a capital asset and then leases the asset to a related party, the lessor will collect and remit sales tax on the lease payments. The lease payments will also represent a reasonable rental value for the asset. Exempt transactions between related parties include sales, rentals, and leases of capital assets other than aircraft, boats and vessels, snowmobiles, off-highway motorbikes, and recreational vehicles, as defined by Section, 63-3622HH, Idaho Code, such as the following: *( )*

a. Sales to family members, but only if all parties to the sale are related within the second degree of consanguinity, relationship by blood, or affinity, relationship by marriage, i.e., spouses, children, parents, brothers, sisters, or grandparents. Example: A father and son are the stockholders of Corporation A. This corporation sells a business asset to Proprietorship B, which is owned by the son's grandfather. This sale is exempt as long as Corporation A paid sales tax when the asset was acquired. (7-1-98)

b. Sales in which the new owners are identical to the prior owners. Example: Corporation B owns one hundred percent (100%) of Corporation A. If the initial *buyer* paid tax when it acquired an asset, it may sell the asset to the other without tax. Example: John Doe owns one hundred percent (100%) of a corporation. He buys a truck and pays sales tax. He later sells the truck to his corporation. No tax applies to the sale of the truck to the corporation. Example: A and B each own fifty percent (50%) of a partnership. The partnership buys a capital asset and pays sales tax to the vendor. The partnership immediately leases the asset to Corporation C. A owns ten percent (10%) of Corporation C and B owns ninety percent (90%) of Corporation C. Since the percentages of ownership of the partnership and the corporation are not identical, the lease transaction does not qualify for the occasional sale exemption. The partnership seeks a refund of the sales tax paid on acquisition of the asset and collect*s* and remit*s* sales tax on the lease payments. *( )*

07. Motor Vehicles. Sales of licensed motor vehicles are not considered occasional sales and are taxable, except under the provisions of Subsections 099.02 through 099.06 of this rule. If a motor vehicle transfer qualifies for an exemption under Subsections 099.02 through 099.06 of this rule, the *buyer* complete*s* an appropriate exemption claim form prior to applying for an Idaho motor vehicle title. See Rule 107 of these rules regarding sales

of licensed motor vehicles that do not qualify as occasional sales and the appropriate exemption claim form. ( )

08. Sales of Business Assets. Also excluded from the category of occasional sales, other than as provided by Subsection 099.06 of this rule, are sales of assets or other items of tangible personal property used in an activity requiring a seller's permit. Even though the item sold is not of the type normally sold by the seller in his regular course of business, the sale is tax*able*. Example: A construction equipment dealership sells its office computer. Even though the seller does not normally sell computers, it collects sales tax on the sale of the computer as the computer is used in a business requiring a seller's permit. ( )

09. Taxable Sales of Aircraft, Boats, and Recreation Related Vehicles. The occasional sale exemptions defined in Subsections 099.01 and 099.06 of this rule do not apply to the sale or purchase of the following: (7-1-97)

a. Snowmobiles, including those required to be numbered as provided by Section 67-7102, Idaho Code. (7-1-97)

b. Off-highway motorbikes and dual purpose motorcycles. A dual purpose motorcycle is designed for use off developed roadways and highways, but is also equipped to be legally operated on public roadways and highways. (7-1-93)

c. All-terrain vehicles, ATVs, but not including tractors. A tractor is a motorized vehicle designed and used primarily as a farm implement for drawing plows, mowing machines, and other farm implements. (7-1-93)

d. Portable truck campers designed for temporary living quarters, but not including pickup shells or canopies that do not have a floor. (7-1-93)

e. Camping, travel, fifth-wheel travel-type trailers and park model recreational vehicles designed to provide temporary living quarters. (3-28-18)

f. Motor homes. (7-1-93)

g. Buses and van-type vehicles when converted to recreational use as temporary living quarters and providing at least four (4) of the following facilities: cooking; refrigeration or icebox; self-contained toilet; heating or air conditioning; a portable water supply system including a faucet and sink; and separate one hundred ten to one hundred twenty-five (110-125) volt electrical power supply or LP gas supply. (7-1-93)

h. Aircraft, meaning any device which is designed or used for navigation of or flight in the air, except a parachute or other device designed for such navigation but used primarily as safety equipment. See Rule 037 of these rules regarding other exemption provided for aircraft. (3-15-02)

i. Boats or vessels, meaning every description of watercraft used or capable of being used as a means of transportation on water. Example: A nonretailer sells a boat and boat trailer to an Idaho resident. The sale of the boat does not qualify for the occasional sale exemption and is tax*able*. The sale of the boat trailer may qualify for the occasional sale exemption if the sales price of the boat trailer is separately stated on the bill of sale and an occasional sale affidavit is provided by the seller. ( )

10. Exempt Sales of Aircraft, Boats, and Recreation-Related Vehicles. Sales of aircraft, boats, or recreation-related vehicles under the provisions of Subsections 099.02 or 099.03 of this rule are exempted from the tax. Transfers of aircraft, boats, or recreation-related vehicles under the provision of Subsection 099.05 of this rule are exempted from the tax. The provisions of Subsection 099.04 of this rule apply to the sale of motorized, on-highway recreation-related vehicles. (7-1-98)

11. Exclusion from the Occasional Sale Exemption. Section 63-3622K, Idaho Code, excludes from the occasional sale exemption the use of tangible personal property used to improve real property when such property is obtained, directly or indirectly, from a person in the business of making like or similar improvements to real property. This exclusion applies only to building materials and fixtures that will be incorporated into real property. Sales of construction equipment such as loaders, backhoes, and excavators may still be included within the definition

of "occasional sale" if the seller meets all the other requirements of the exemption. (4-11-06)

a. Example. A contractor enters into a contract to fabricate and install a wrought iron gate. The contractor fabricates the gate but prior to installation the building owner decides to install the gate himself and *buys* it from the contractor. The building owner's purchase does not qualify for the occasional sale exemption. *( )*

b. Example. A contractor has a backhoe that he uses in his contracting business. He sells the backhoe to another contractor. If the seller is not a retailer, as defined by statute, the sale can still qualify as an exempt occasional sale. (4-11-06)

100. PRESCRIPTIONS (RULE 100).
Section*s 63-3612, 63-3613, 63-3622,* 63-3622N, Idaho Code

01. In General. Sales tax does not apply to sales of drugs, oxygen, orthopedic appliances, orthodontic appliances, dental prostheses including crowns, bridges, inlays, overlays, prosthetic devices, durable medical equipment, eyeglasses, contact lenses, and certain other medical equipment and supplies specifically named in Section 63-3622N, Idaho Code, when: (3-29-17)

a. Purchased by a practitioner to be administered or distributed to his patients if such practitioner is licensed by the state under Title 54, Idaho Code, to administer or distribute such items, or when; (7-1-93)

b. Purchased by or on behalf of an individual under a prescription or work order issued by a practitioner who is licensed by the state to practice one of the following professions: physician, physician assistant, surgeon, podiatrist, chiropractor, dentist, optometrist, psychologist, ophthalmologist, nurse practitioner, denturist, orthodontist, audiologist, or hearing aid dealer or fitter. Items purchased under the prescription or work order of a person who is not a health care practitioner specifically named in Section 63-3622N(b), Idaho Code, will not qualify for the exemption. (5-8-09)

c. Example: A physician issues a prescription for a wheelchair to a nursing home patient. The nursing home delivers the prescription to a wheelchair retailer and purchases the wheelchair on behalf of the patient. No tax applies. (7-1-93)

d. Example: A nursing home purchases wheelchairs for general use in its facility. Since the wheelchairs are not purchased under prescription for a specific patient, sales tax applies. (7-1-93)

***02. Orthopedic Appliances**. The term orthopedic appliance includes those braces and other external supports prescribed by a practitioner for the purpose of correction or relief of defects, diseases, or injuries to bones or joints. ( )*

0*3*. Document*ing* Exempt Sale*s*. The seller keeps the written prescription or work order on file to document the exemption. Sales made without a prescription or work order are tax*able*. The seller needs to be able to identify sales which are exempt under prescription from sales which are taxable. *( )*

a. Refills of prescriptions on file with a seller are exempt from tax. (7-1-93)

b. Some drugs may be lawfully sold without a prescription. When sold over the counter without a prescription, the drugs are subject to sales tax. When sold under a prescription, the drugs are exempt from tax. (7-1-93)

0*4*. Purchases by Practitioners. A practitioner, who is licensed under Title 54, Idaho Code, to administer or distribute a medical product listed in Section 63-3622N, Idaho Code, may purchase the item exempt from tax by issuing his supplier an exemption certificate required by Rule 128 of these rules. Only the medical items named in Section 63-3622N, Idaho Code, which the practitioner is licensed to administer or distribute qualify for this exemption. (3-15-02)

0*5*. Purchases by Nursing Homes and For Profit Hospitals. The Sales Tax Act does not provide a general exemption from tax for purchases made by nursing homes and similar facilities or by hospitals operated for

profit*, and as a result, they pay t*ax on all purchases, *unless those* items *are* exempted by Section 63-3622N, Idaho Code. An exemption certificate is completed and provided to the vendor of the exempted items. See Rule 128 of these rules. *( )*

0*6*. Sale of Eyeglasses, Contact Lenses, and Related Products. The sale of non-prescription eyeglasses, non-prescription contact lenses and related products, such as carrying cases, non-prescription sunglasses, and cleaning solutions is tax*able*. *( )*

a. The sale of eyeglasses and their frames, lenses, nose pieces, hinges, and related eyeglass component parts required as part of a finished pair of eyeglasses sold under a prescription is exempt from sales tax on and after July 1, 2015. (3-29-17)

b. The sale of prescription contact lenses on and after July 1, 2016, is exempt from sales tax. (3-29-17)

0*7*. Dental and Orthodontic Appliances. The sale or purchase of dentures, partial plates, dental bridgework, orthodontic appliances, and related parts for such items by a dentist, denturist, orthodontist or other practitioner is not a taxable sale. (7-1-99)

101. MOTOR VEHICLES AND TRAILERS USED IN INTERSTATE COMMERCE (RULE 101).

Sections 49-123, 63-3612, 63-3613, 63-3622, 63-3622R, Idaho Code

01. In General. An exemption is provided from the sales and use tax for the sale or lease of motor vehicles and trailers to commercial or private carriers to be substantially used in interstate commerce. This exemption is commonly called the IRP Exemption. Commercial or private carriers are in the business of transporting persons or commodities owned by the carrier or another. Farm vehicles or noncommercial vehicles as defined by Section 49-123, Idaho Code, do not meet the requirements of the IRP exemption. (4-4-13)

02. Motor Vehicles. To qualify for the exemption, a *buyer* will: *( )*

a. Immediately register the vehicle with a maximum gross weight of over twenty-six thousand (26,000) pounds; (4-6-05)

b. Register the vehicle under the International Registration Plan (IRP); and (4-4-13)

c. Operate the vehicle in a fleet of *one (1) or more* vehicles *registered* under the International Registration Plan (IRP) *or a similar proportional registration system* with a minimum of ten percent (10%) of the fleet miles operated outside the state of Idaho. *( )*

03. Trailers. An exemption is provided from the sales or use tax for trailers when the *buyer* will: *( )*

a. Immediately place the trailer in a fleet of vehicles registered under the International Registration Plan (IRP); and (4-4-13)

b. The trailer will be part of a fleet of vehicles with a minimum of ten percent (10%) of the fleet miles operated outside the state of Idaho under the International Registration Plan (IRP). (4-4-13)

04. Title or Base Plate. The exemption applies whether the motor vehicles and trailers are titled or base plated in Idaho or another state or nation. (7-1-93)

05. Documentation. *Buyers* claiming this exemption provide the seller or lessor with a properly completed Exemption Certificate. When a vehicle qualifying for this exemption is purchased from a retailer who is not registered to collect Idaho sales tax, the *buyer* and provide*s a properly completed exemption certificate* to the county assessor or Department of Transportation when titling or registering the vehicle in Idaho. *See Rule 128 of these rules.* *( )*

06. Repair Parts and Supplies. The exemption does not apply to parts, supplies, or other tangible personal property purchased by persons engaged in interstate commerce. Purchases of glider kits as defined by Section 49-123, Idaho Code, will qualify if they are assembled into glider kit vehicles that will be immediately registered under the International Registration Plan (IRP). (4-4-13)

07. Failure To Meet Interstate Mileage Requirement. The use of a fleet of trucks and trailers, purchased exempt under the IRP exemption provided by Section 63-3622R, Idaho Code, will become taxable as of June 30 of any year in which the fleet's out-of-state mileage is less than ten percent (10%) of the total fleet mileage during the previous four (4) quarters. (4-4-13)

102. LOGGING (RULE 102).
Section 63-3605*C*, *63-3622HH,* 63-3622JJ, Idaho Code

01. In General. The Sales Tax Act provides an exemption from sales and use taxes for certain tangible personal property used in logging activities. The provisions of this rule are based on the usual methods of doing business in this industry. Specific factual differences in the way a specific taxpayer may conduct his business can result in determinations different from those stated in this rule. Since some equipment may be used for more than one (1) purpose, determinations of taxability will be made based upon the primary use of the equipment. (7-1-93)

02. Real Property. The logging exemption applies only to tangible personal property. It does not apply to real property or to tangible personal property purchased for the purpose of becoming an improvement or fixture to real property. See Rules 010 and 067 of these rules for a definition of real property. (4-6-05)

03. Property Used in Logging Operations. The logging exemption applies to tangible personal property primarily used in a logging activity without regard to the primary business activity of the person performing the logging. For example, a contractor building a road for the Forest Service may claim the logging exemption when purchasing equipment and supplies primarily used to remove the timber from the right-of-way if the timber is resold, even though logging is not the contractor's primary activity. (7-1-93)

04. Logging Process Begins and Ends. The logging process begins when forest trees are first handled by the logger at the site where such an operation occurs. The logging process ends when the product is placed on transportation vehicles at the loading site, ready for shipment. (7-1-93)

05. *Equipment and Supplies*. *E*quipment and supplies used or consumed *primarily and directly* in the logging process and which are necessary or essential to perform the operation. To qualify, the logging use must be the primary use of the equipment and supplies. Examples include: *( )*

a. Chain saws and tree harvesters. (3-29-17)

b. Skidders, tower-skidders, skidding cables, or chokers. (7-1-93)

c. Log loaders and log jammers which are not licensed motor equipment. (7-1-93)

d. Repair parts, lubricants, hydraulic oil, and coolants which become a component part of logging equipment. (7-1-93)

e. Fuel, such as diesel, gasoline, and propane consumed by equipment while performing exempt logging activities. (7-1-93)

06. Directly Used. Directly used, as applied to logging, means the performance of any of the following functions when such functions occur between the point at which the logging operation begins and the point at which the operation ends, as defined in Subsection 102.04 of this rule: (7-1-93)

a. The performance of a function in the logging process that effects a physical change in the property being logged so as to render the property more marketable. (7-1-93)

b. The performance of a function which occurs simultaneously with and which is an integral part of

and necessary to a function which effects a physical change in the property being logged rendering it more marketable. (7-1-93)

c. The performance of a function which is an integral and necessary step in a continuous series of functions which effect a physical change in the property being logged rendering it more marketable. (7-1-93)

d. The performance of a quality control function which is an integral and necessary step in maintaining specific product standards. (4-11-06)

07. Not Included in Logging Exemption. Generally, the logging exemption does not include the following activities and equipment: (7-1-93)

a. Road construction equipment and supplies such as tractors, road graders, rollers, water trucks, whether licensed or unlicensed, explosives, gravel, fill material, dust suppression products, culverts, and bridge material. (7-1-93)

b. Slash disposal or brush piling and clearing equipment and supplies, such as brush clearing machines, brush rakes, and tractors, except when part of the operation of a tree farm. (7-1-93)

c. Reforestation equipment and supplies, except when part of the operation of a tree farm. (7-1-93)

d. Safety equipment and supplies, including hard hats and earplugs. (7-1-93)

e. Transportation equipment and supplies including vehicles to transport logs from the loading site to the mill, whether the vehicles are licensed or unlicensed, and cable and tie-downs used to fasten logs to the vehicle. (7-1-93)

f. Machinery, equipment, materials, repair parts, and supplies used in a manner that is incidental to logging such as: office equipment and supplies; selling and distribution equipment and supplies; janitorial equipment and supplies; maintenance equipment and supplies which do not become component parts of logging equipment, such as welders, welding gas, and shop equipment; and paint, plastic coatings, and all other similar products used to protect and maintain equipment, whether applied to logging equipment or other equipment. (7-1-93)

g. Recreation-related vehicles, as defined in Section 63-3622HH, Idaho Code, regardless of use, such as All Terrain Vehicles (ATV), snowmobiles, and off-highway motorbikes. (4-6-05)

h. Aircraft or motor vehicles licensed or required to be licensed by the laws of this state, regardless of the use to which such motor vehicles or aircraft are put. A motor vehicle not required to be licensed is exempt under the logging exemption only if it meets the tests established elsewhere in this rule. (7-1-93)

i. *Harvesting timber for firewood.* *( )*

08. Election to Pay Sales Tax. The owner of a log loader, log jammer, or similar fixed load motor equipment used in logging, not normally licensed for use on public roads, may elect to license and pay sales tax on the motor equipment rather than placing it on the personal property tax rolls, if the motor equipment may be legally operated on a public road as a commercial vehicle. (4-6-05)

a. Motor equipment licensed at the time of purchase. Sales tax applies to the total purchase price of the motor equipment. (7-1-93)

b. Motor equipment licensed after the date of purchase. Use tax applies to the fair market value of motor equipment on which no sales or use tax has been paid and which was not licensed at the time of purchase, if acquired within the last seven (7) years. See Section 63-3633, Idaho Code. Fair market value may be determined from the personal property tax records of the county assessor. (7-1-93)

103. (RESERVED)

104. RAILROAD ROLLING STOCK, PARTS, MATERIALS AND EQUIPMENT (RULE 104).

Sections 63-3622, 63-3622CC, 63-3622DD, Idaho Code

01. In General. Sections 63-3622CC and 63-3622DD, Idaho Code, provide exemptions from sales or use tax for rebuilt or remanufactured railroad rolling stock which was previously used in interstate commerce more than three (3) consecutive months, and for parts, materials, and equipment primarily used to rebuild or remanufacture such railroad rolling stock. (7-1-93)

02. Definitions. As used in this rule, the following terms have the following meanings. (7-1-93)

a. Railroad rolling stock. Flanged-wheel locomotives, railroad cars, maintenance of way equipment and other flanged-wheel vehicles designed and manufactured specifically for use on railroad tracks and railroad systems, including component parts thereof. (7-1-93)

b. Remanufacture/rebuild. To reconstruct, remake, reassemble or reprocess railroad rolling stock to materially extend the life of the equipment. This process requires extended removal of the railroad rolling stock from the transportation stream. (7-1-93)

c. Equipment. All equipment, other than railroad rolling stock, which is used in the actual remanufacturing/rebuilding process. (7-1-93)

d. Parts. Tangible personal property which becomes part of the remanufactured/rebuilt railroad rolling stock or which becomes part of the equipment described in Subsection 104.02.c. above. (7-1-93)

e. Materials. Tangible personal property which is used or consumed in the actual process of remanufacturing/rebuilding railroad rolling stock. (7-1-93)

f. Used in interstate commerce. Railroad rolling stock is used in interstate commerce when it performs a function which is necessary to the operation of a business which transports goods or people between two (2) or more states. ( )

g. Repair. To mend or restore to good usable condition railroad rolling stock which has not been damaged to an extent requiring extended removal from the transportation stream. (7-1-93)

h. Maintenance. Routine, periodic activities, such as lubrication and filter and oil changes, which are necessary to the continued use and operation of railroad rolling stock. (7-1-93)

i. Primary or primarily. Used more than fifty percent (50%) of the time to remanufacture/rebuild railroad rolling stock. (7-1-93)

03. Generally, Included Within the Exemption: (7-1-93)

a. Equipment necessary to, and primarily used in the process of, remanufacturing/rebuilding railroad rolling stock. (7-1-93)

b. Tangible personal property which become part of the remanufacture/rebuilt railroad rolling stock or which becomes part of the equipment identified in Subsection 104.03.a., above. (7-1-93)

c. Tangible personal property which is consumed or primarily used in the remanufacturing/rebuilding process. (7-1-93)

d. Fuel used in testing remanufactured/rebuilt engines which are railroad rolling stock, and fuel used in equipment which is necessary to, and primarily used in, the remanufacturing/rebuilding process. (7-1-93)

04. Generally, Excluded from This Exemption: (7-1-93)

a. Motor vehicles and trailers which are licensed or required to be licensed even though they may

have flanged-wheel attachments which enable travel on railroad tracks. (7-1-93)

b. Tangible personal property which is used in such a way that it becomes a fixture to, or an improvement to, real property. (7-1-93)

c. Tangible personal property, equipment, parts, materials, used or consumed in an activity which is primarily repair or maintenance of railroad rolling stock. (7-1-93)

d. Fuel used in activities other than those stated in Subsection 104.03.d. of this rule and which is not exempt under other provisions of the Sales Tax Act. (7-1-93)

e. Tangible personal property used in related activities which are not primarily remanufacturing/rebuilding activities, including: office equipment and supplies; safety equipment and supplies; equipment, other than railroad rolling stock, which is primarily used to construct, improve, alter or repair real property; and chemicals, solvents, and other cleaning agents used primarily for maintenance of the remanufacturing/rebuilding processing area. (7-1-93)

105. TIME AND IMPOSITION OF TAX, RETURNS, PAYMENTS AND PARTIAL PAYMENTS (RULE 105).

Sections 63-3046, 63-3619, 63-3621, 63-3623, 63-3634, Idaho Code

01. Time and Imposition of Tax. (7-1-93)

a. Sales Tax. Sales tax is imposed, computed and collected at the time of sale, without regard to the provisions of any contract relating to the time or method of payment. In the case of installment sales, sales on account, or other credit sales, the seller reports as a taxable sale the entire sales price for the month in which the sale is made. No part of the sales tax may be deferred until the time the retailer collects payment from the buyer. A sale occurs when title to property passes through delivery to the customer or absolute and unconditional appropriation to a contract. Lease or rental payments are taxable during the month or other period for which the property is leased or rented. ( )

b. Use Tax. Use tax is determined at the time of the use, storage or other consumption of tangible personal property in Idaho. The tax is reported and payable in accordance with the provisions of this rule. Persons making purchases subject to use tax should apply for a use tax permit number from the Commission. Application forms may be obtained by contacting any Commission office. ( )

c. Taxable Sales Create State Revenue. The sales or use tax collected by a retailer from a customer at the time of purchase becomes state money at that time. The collected amounts may not be put to any use other than that allowed by Chapter 36, Title 63, Idaho Code, and these rules. (7-1-93)

02. Returns. (7-1-93)

a. Monthly Filing Generally Required. All retailers and persons subject to use tax are required to remit the tax to the state on a monthly basis unless a different reporting period is prescribed by the Commission. The remittance will include all sales and use tax due from the first through the last day of the preceding calendar month. (7-1-93)

b. Request to File Quarterly or Semiannually. Retailers or persons who owe seven hundred-fifty dollars ($750) or less per quarter and have established a satisfactory record of timely filing and payment of the tax may request permission to file quarterly or semiannually instead of monthly. (5-8-09)

c. Request to File Annually. Retailers or persons who have seasonal activities, such as Christmas tree sales or repeating fair booths, may request permission to file annually. Approval of the request is at the discretion of the Commission and is limited to taxpayers who have established a satisfactory record of timely filing and payment of the tax. (7-1-93)

d. Variable Filing. If the Commission finds it necessary or convenient for the administration of the

Sales Tax Act, it may assign an account to a taxpayer with a variable filing requirement. In such a case the taxpayer would not be required to file returns at regular intervals. The Commission may also create one-time filing only accounts for taxpayers who are making a single payment of sales or use tax. ( )

e. Change in Filing Frequency. If the Commission finds it necessary or convenient for the efficient administration of the Sales Tax Act, it may require taxpayers reporting taxable sales of less than twelve thousand dollars ($12,000) per year to file annually. ( )

f. Final Report. Whenever a taxpayer who is required to file returns under the Sales Tax Act or these rules stops doing business, *the taxpayer* marks cancel on the last return the *taxpayer* files. This return ends the taxable year for sales or use tax purposes and constitutes the taxpayer's final report of sales or use tax activities or liabilities. The taxpayer encloses *their* seller's permit with his request for cancellation or send a written statement that the permit has been destroyed. If the taxpayer continues business activity after filing a final report he may be subject to liabilities or penalties for failing to comply with the Idaho Sales Tax Act and these rules. ( )

03. Valid Return. A tax return or other document required to be filed in accordance with Section 63-3623, Idaho Code, and these rules meets the conditions prescribed below. *Returns that* fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return is considered to have filed no return. A taxpayer's failure to properly file in a timely manner may result in penalties imposed by Section 63-3634, Idaho Code, and related rules. *Perfect accuracy is not required of a valid return, although each of the following conditions is required:* ( )

a. *It is submitted on the proper form, as prescribed by the Commission and is* complete. ( )

b. *If required, copies of all pertinent supporting documentation are attached.* ( )

c. *The tax liability is calculated and has sufficient supporting information, if required, to demonstrate how the result was reached; A return that does not provide sufficient information to compute a tax liability does not constitute a valid return.* ( )

d. All sales and use tax returns or other documents filed by the taxpayer need to include *the relevant* sales or use tax permit number. ( )

e. *The submission* shows an honest and genuine effort to satisfy the requirements of the law. ( )

04. Use of Estimates Extension of Time Returns. (7-1-93)

a. The Commission may, for good cause, grant authority for a taxpayer to file for an extension of time by filing an estimated return. When filing the Extension of Time estimated return, the taxpayer attaches a written request which sets forth the reason for estimating. The Commission will review each request to determine if there is good cause for filing an Extension of Time estimated return. If the Commission determines that the request should be denied, the taxpayer will be notified in writing and a penalty, as provided by Section 63-3046, Idaho Code, will apply to any delinquent tax due when the original return is filed. (7-1-93)

b. If the return for any period is filed on an estimated basis, the estimated return is to be filed timely and reconciled to actual figures by filing an original return within one (1) month of the due date. Any additional tax due as a result of reconciliation is to be remitted when the original return is filed and must include interest on any unpaid balance due from the due date of the return. ( )

c. The estimated tax remitted is to be at least ninety percent (90%) of the total sales and use tax due for the period or one hundred percent (100%) of the total sales and use tax due for the same month of the prior year. If the estimated tax paid is less than these requirements, a five percent (5%) penalty may be applied to the remaining tax due, as provided by Section 63-3046(a), Idaho Code. (7-1-93)

d. Taxpayers wishing to file an Extension of Time estimated return obtain the required forms from the Commission. (7-1-93)

05. Forms Required. The original return will be completed with the amount of total sales, nontaxable sales, taxable sales, items subject to use tax, and tax due inserted in the blanks. Payment will accompany the return. A complete sales and use tax return will be filed by each retailer or person subject to use tax. This return will be on a form prepared and mailed to the taxpayer by the Commission. If the original is lost or destroyed, a substitute form will be supplied upon request. (4-11-15)

a. Retailers Report Own Use and Nontaxed Transactions. All retailers report any sales or purchases on which no sales or use tax was collected or paid. Goods sold or produced and consumed by the retailer, items withdrawn from stock for personal use or employee use, stock removed and used for gift or promotional purposes, or any combination of such uses are tax*able*. *( )*

b. Reporting Adjustments. Any adjustments for additional tax due or credits claimed should be made on the next return due after the adjustments are discovered. These adjustments are to be shown on the line designated for adjustments on the return form and must be accompanied by an explanation and any documents that support the claimed adjustment. (7-1-93)

06. Payment of Tax. (7-1-93)

a. Payment to Accompany Return. The return filed in accordance with this rule is to be accompanied by a remittance of the total amount due as shown on the return. Checks or other negotiable instruments should be made payable to the Commission. *( )*

b. Payment of One Hundred Thousand Dollars ($100,000) or Greater. All taxes due to the state *are to* be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars ($100,000) or greater, in accordance with rules promulgated by the Idaho State Board of Examiners, which is incorporated by reference to these rules. *( )*

c. Remittance of Collections Required--Bracket Exception. Retailers are required to remit all taxes collected from *buyers*, except any difference that may result from use of the bracket system described in Rule 068 of these rules. Any taxes erroneously collected in excess of those properly due should be refunded to the *buyer* by the retailer. If the retailer either cannot or does not make the refund during the period for which the return is due, then the retailer reports the erroneously collected taxes on the return and pay them to the Commission. If the erroneously collected taxes are subsequently refunded to the *buyer* from whom they were collected, the retailer may claim a credit or refund of sales taxes in accordance with Rule 117 of these rules. Under no circumstances may a retailer retain any amount collected as sales or use tax which is greater than the retained amount authorized under the bracket system by Rule 068 of these rules. *( )*

07. Filing Dates--General Rule. The filing date for all sales or use tax returns is the twentieth day of the calendar month immediately following the last day of the reporting period, unless otherwise allowed by these rules. This is the filing due date for all regular monthly, quarterly, semiannual, and annual accounts. If the twentieth is a Saturday, Sunday, or legal holiday, the return is due on the next following day which is not a Saturday, Sunday or legal holiday. (4-6-05)

106. VEHICLE SALES, RENTALS, AND LEASES (RULE 106).

Sections *63-3610,* 63-3612, 63-3613, 63-3619, 63-3621, 63-3622K, 63-3622R, Idaho Code

01. In General. The sale, lease, rental, or purchase of a vehicle is subject to sales and use tax. Retailers, lessors, and dealers are required to collect the tax. *( )*

02. Vehicles Purchased from Idaho Dealers. When a dealer of new or used vehicles sells any motor vehicle for delivery in Idaho, *the dealer* collects sales or use tax at the rate in effect on the date the vehicle is delivered to the buyer, unless an exemption applies. A title application form which is completed by the dealer and displays Idaho sales tax collected is evidence that the buyer paid sales tax to the dealer. *( )*

03. Vehicles Purchased from Out-of-State Dealers. Any trade-in allowance is to be shown on the original bill of sale, voucher, or other receipt from the out-of-state dealer. If sales tax was correctly paid to a dealer in another state, a credit is allowed against sales or use tax payable to Idaho. See Rule 107 of these rules. *( )*

04. Vehicles Purchased from Private Parties. (3-26-19)

a. Bill of Sale. The buyer presents a bill of sale or receipt as proof of the gross sales price. Canceled checks will not be accepted in lieu of a bill of sale. ( )

b. No Bill of Sale. In the absence of a bill of sale or documentation supporting the value of the vehicle, tax is collected on the value established as the "average trade-in price" in the most recent NADA Official Used Car Guide for the same make, model, options, year, mileage, and condition. (3-26-19)

c. Trade In. A trade-in allowance is not allowed on a private party sale. See Rule 044 of these rules. The county assessor will collect tax on the gross sales price. ( )

d. Barter/Exchange. A barter or exchange of vehicles or other property is taxed on the value of the vehicles or other property involved in the exchange. In the absence of documentation supporting the value of the vehicle(s), tax is due on the value established as the "average trade-in price" in the most recent NADA Official Used Car Guide for the same make, model, options, year, mileage, and condition. (3-26-19)

05. Vehicles Purchased from Retailers. (3-26-19)

a. A retailer required to have an Idaho seller's permit collects sales tax when selling a vehicle, even though *they are* not licensed as a vehicle dealer. The retailer gives the buyer the title to the motor vehicle, properly completing title transfer information on the title, including the retailer's seller's permit number as proof that Idaho sales tax was collected. The retailer will also give the buyer a bill of sale stating: the date of sale; the name and address of the seller; the complete vehicle description including the, vehicle identification number (VIN), *that* agrees with the VIN on the title; the person to whom the vehicle was sold; the amount for which the vehicle was sold; and the amount of sales tax charged. ( )

b. A retailer is not relieved of the responsibility for collecting the tax unless he can provide satisfactory evidence to the Commission that the buyer paid tax to the county assessor. If a retailer fails to collect the tax from the buyer, the county assessor will collect the tax. ( )

06. Vehicles Rented or Leased. (7-1-93)

a. A lease-purchase and lease with option to purchase have separate definitions and tax applications. See Rule 024 of these rules. A lease-purchase is tax*able* on the full purchase price at the time the vehicle is delivered to the lessee. A true lease and a lease with an option to purchase are subject to sales tax on each lease payment and on the buy-out or residual value when a lessee exercises his option to buy. The information in Section 106 deals with rentals, true leases, and leases with an option to buy. ( )

b. The lessor of a vehicle is a retailer and will collect sales tax from the lessee on any rental or lease payment on the date it is required to be made, at the tax rate in effect on that date. The lessor also collects tax on any lessee's exercise of an option to buy based on the full purchase price or residual, at the tax rate in effect on the date title is transferred to the lessee. ( )

c. The lessor may not rely on the county assessor to collect sales or use tax if the purchase option is exercised. (3-26-19)

d. The lessor collects *and remits* sales tax on each lease payment received from the renter or lessee. The sales tax is applicable whether the vehicle is leased or rented on an hourly, daily, weekly, monthly, mileage, or any other basis. ( )

e. If the lessor is responsible for maintaining the vehicle and this is stated in the lease or rental agreement, tax does not apply to his purchase of necessary repair parts. (7-1-93)

f. Out-of-state lessors are to obtain a seller's permit and comply with this rule. If the county assessor cannot verify that the lessor is properly registered to collect the tax, title and registration will be denied. (3-26-19)

g. When a vehicle is traded in as part payment for the rental or lease of another vehicle, a deduction is

allowed before computing the sales tax. The methods of applying the trade-in value to the lease are found in Rule 044 of these rules. (4-2-08)

08. Cross-References. (7-1-93)

a. See Rule 024 of these rules. Rentals or leases of tangible personal property. (4-2-08)

b. See Rule 044 of these rules. Trade-ins, trade-downs, and barter. (4-2-08)

c. See Rule 099 of these rules. Occasional sales. (4-2-08)

d. See Rule 091 of these rules. Sales to American Indians. (3-26-19)

e. See Rule 101 of these rules. Motor vehicles and trailers used in interstate commerce. (4-2-08)

f. See Rule 107 of these rules. Vehicles and Vessels - Gifts, Military, Nonresident, New Resident, Tax Paid to Another State, Sales to Family Members, Sales to American Indians. (3-26-19)

g. See Rule 108 of these rules. Motor vehicles manufacturer's, rental company's and dealer's purchase or use of motor vehicles. (4-2-08)

h. *See Rule 128 of these rules. Certificates For Resale And Other Exemption Claims.* *( )*

107. VEHICLES AND VESSELS -- GIFTS, MILITARY PERSONNEL, NONRESIDENT, NEW RESIDENT, TAX PAID TO ANOTHER STATE, SALES TO FAMILY MEMBERS, SALES TO AMERICAN INDIANS, AND OTHER EXEMPTIONS (RULE 107).
Sections 49-117, 49-121, 49-122, 63-3606B, 63-3621, 63-3622K, 63-3622R, 67-7101, Idaho Code

01. In General. This rule discusses specific topics relating to vehicles including gifts, military personnel, and exemptions. Refer to Rule 106 of these rules for general information on purchases, sales, rentals, and leases of vehicles. (4-11-19)

02. Gifts of Vehicles. When the following facts clearly establish that a vehicle is being transferred as a gift from the titleholder to another, the vehicle can be transferred tax exempt if: (4-11-19)

a. No money, services, or other consideration is exchanged between the donor and recipient at any time. (7-1-93)

b. The recipient assumes no indebtedness. (7-1-93)

c. The relationship of the donor and recipient indicates a basis for a gift. (7-1-93)

d. The donor and recipient complete and sign a Form ST-133GT, Use Tax Exemption Certificate -- Gift Transfer Affidavit and submit it to the county assessor along with the title to the vehicle being transferred. If the donor is unable to sign the affidavit, the recipient can submit either: (4-11-19)

i. A letter stating the vehicle is a gift, and signed by the donor, may be accepted by the county assessor and attached to the affidavit; or (4-11-19)

ii. The title may be marked as a gift and signed by the donor. (3-4-10)

03. Purchases Brought into Idaho by Nonresidents. (4-11-19)

a. A nonresident does not owe use tax on the use of a motor vehicle which is purchased outside of Idaho and titled or registered under the laws of another state or nation, is not used in Idaho more than ninety (90) days in any consecutive twelve (12) months pursuant to Section 63-3621(k), Idaho Code, and is not required to be registered or licensed under Idaho law. For purposes of this Subsection (107.03.a.), a motor vehicle is considered to

have been used in Idaho for a day when it is present in this state for more than sixteen (16) hours during any twenty-four (24) hour period. This exemption applies only to nonresidents. A limited liability company (LLC) or other legal entity formed by an Idaho resident under the laws of another state primarily for the purpose of purchasing and owning one (1) or more vehicles or vessels is not a nonresident. The use of a vehicle owned by such an entity will be subject to use tax upon its first use in Idaho. (4-11-19)

b. For the purposes of this rule, a corporation, partnership, limited liability company, or other organization will be considered a nonresident if it is not formed under the laws of the state of Idaho, is not required to be registered to do business with the Idaho Secretary of State, does not have significant contacts with this state and does not have consistent operations in this state. (3-29-12)

c. A nonresident college student does not owe use tax on any use of a motor vehicle while enrolled as a full-time student in a college or university located in Idaho *and accredited by the Idaho State Board of Education if the motor vehicle meets the following requirements:* *( )*

i. It is registered under the laws of the student's state of residence; and

ii. It is owned by the student or a family member of the student.

04. New Residents. A new resident of Idaho does not owe tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired while residing in another state and used primarily outside Idaho. If an owner obtained a registration or title from another state or nation of residence more than three (3) months before moving to Idaho, this is proof that it was purchased primarily for use outside Idaho. New residents entering Idaho with a vehicle titled or registered in a state that does not impose a general sales and use tax will be required to complete and sign Form ST-102, Use Tax Exemption Certificate - New Resident, and submit it to the or county assessor when applying for a title transfer or registration certificate. *( )*

a. If the vehicle, vessel, or aircraft was acquired less than three (3) months before the buyer moved to Idaho, it is presumed that it was acquired for use in this state. (4-11-19)

b. A personally owned vehicle, vessel, or aircraft is one that is owned by, and titled or registered to, an individual or individuals. (4-11-15)

05. Military Personnel. (4-11-15)

a. Active duty military personnel and their spouses do not owe use tax on the use of household goods, personal effects, vehicles, vessels, and aircraft if they are personally owned and acquired prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter. If a vehicle owner obtained a registration or title from another state or nation of residence prior to receipt of orders to transfer to Idaho or three (3) months prior to moving to Idaho, whichever time period is shorter, this is proof that the vehicle was primarily for use outside Idaho. (4-11-15)

b. Military personnel receive no special exemption from the Idaho sales and use tax regarding vehicles or other tangible personal property purchased while temporarily assigned in this state. A military person whose home of record is Idaho is considered to be a resident of this state. (4-11-19)

06. Tax Paid to Another State. When a general retail sales tax has been properly imposed by another state or political subdivision of a state of the United States in an amount equal to or greater than the amount due Idaho, no Idaho tax is due. The credit for state and local taxes paid in another state will be applied first to the state sales tax due and the remainder, if any, will be applied to any local taxes due. (3-30-07)

a. If the amount paid to the other state is less, Idaho tax is due to the extent of the difference, unless some other exemption applies. The owner is to provide evidence that the tax was paid to the other state. A registration certificate or title issued by another taxing state is sufficient evidence that tax was imposed at the other state's tax rate. (7-1-93)

b. Example: A resident of another state buys a vehicle in that state for ten thousand dollars ($10,000) two (2) months before moving to Idaho. He presents his title from the other state to the county assessor. Since he

acquired the vehicle only two (2) months before entering Idaho, no exemption applies. The tax paid to the other state was three hundred dollars ($300) when the vehicle was purchased. Credit for this amount is allowed against the six hundred dollars ($600) tax due Idaho. The county assessor will collect three hundred dollars ($300) tax. (4-11-19)

c. Example: A resident of another state purchased a vehicle two (2) months before moving to Idaho. The applicant paid four percent (4%) state sales tax, one and six tenths percent (1.6%) city sales tax, and one and six tenths percent (1.6%) county sales tax. The total general sales tax paid was seven and two tenths percent (7.2%). Since the Idaho tax rate is lower, no tax is due Idaho because the amount of tax paid to the other state exceeds the amount owed Idaho. (4-2-08)

d. Example: A resident of Alaska *buys* a vehicle immediately prior to moving to Idaho. The *buyer* paid a three percent (3%) city sales tax in Alaska. When the *buyer* moves to Idaho, credit will be given for the local tax paid against the Idaho state use tax due. *( )*

e. A registration certificate or title issued by another taxing state is proof that tax was paid to the other taxing state. This does not apply to states that do not have a tax, such as Montana and Oregon, or when a state has exempted the vehicle from tax. (4-11-19)

f. Example: A church buys and titles a vehicle in Utah. The Utah sales tax law exempts the purchase of the vehicle from sales tax. The church later titles the vehicle in Idaho. Sales tax *is due* on the fair market value of the vehicle when it is titled in Idaho. *( )*

g. Taxes paid to another country cannot be used to offset the taxes owed to Idaho. (4-11-19)

07. Sales to Family Members. The tax does not apply to sales of motor vehicles between members of a family related within the second degree of consanguinity. The second degree of consanguinity means only the following blood or formally adopted relatives of the person making the sale: parents, children, grandparents, grandchildren, brothers, and sisters. Relatives of the second degree of consanguinity do not include persons who are related only by marriage. However, when the motor vehicle sold is community property, and it is sold to a person who is related within the second degree of consanguinity to either spouse, the sale is exempt from tax. (7-1-93)

a. Form ST-133, Sales Tax Exemption Certificate -- Family or American Indian Sales. A Form ST-133 is used to document this exemption. The seller and buyer complete and sign Form ST-133 and submit it to the Idaho Transportation Department or county assessor along with the title to the motor vehicle being transferred. If the seller is unable to sign the affidavit a letter from the seller stating the sale was made to a qualified family member may be accepted by the county assessor and attached to the affidavit. (4-11-19)

b. This exemption does not apply if the seller did not pay tax when he acquired the motor vehicle. (4-11-19)

c. Example: An Oregon resident buys a motor vehicle and titles it in Oregon without paying sales or use tax. Later, he sells the motor vehicle for ten thousand dollars ($10,000) to his son who is an Idaho resident. No exemption applies, since the father did not pay sales or use tax when he acquired the motor vehicle. The son is required to pay Idaho use tax on the ten thousand dollar ($10,000) purchase price of the motor vehicle. (4-11-19)

08. Sales to American Indians. An enrolled American Indian tribal member may buy a vehicle exempt from tax if the sale and delivery of the vehicle is made within the boundaries of the Indian reservation. (4-11-19)

a. Form ST-133, Sales Tax Exemption Certificate -- Family or American Indian Sales. A Form ST-133 is used to document this exemption. The seller and the buyer complete and sign Form ST-133 and provide the name of the tribe, the Tribal Identification Number, and the name of the reservation upon which the delivery occurred. The affidavit is then given to the county assessor along with the title to the vehicle being transferred. See Rule 091 of these rules. (4-11-19)

09. Bulk Sale Transfers. A transfer or sale of a vehicle as part of a bulk sale of assets or property, as defined by Rule 099 of these rules, is exempt from tax. The buyer will complete and sign Form ST-133CATS, Sales

Tax Exemption Certificate -- Capital Asset Transfer Affidavit to present to the county assessor when applying for transfer of title. The buyer attaches a copy of the sales agreement showing the sale qualifies for the exemption on the Form ST-133CATS. (4-11-19)

10. Sales to Nonresidents. (4-11-19)

a. Sales of motor vehicles, trailers, vessels, all-terrain vehicles (ATVs), utility type vehicles (UTVs), specialty off-highway vehicles (SOHVs), off-highway motorcycles, and snowmobiles to nonresidents for use out of this state, even though delivery is made within this state are exempt from tax when: (4-11-19)

i. The motor vehicles, vessels, ATVs, UTVs, SOHVs, trailers, off-highway motorcycles, and snowmobiles will be taken from the point of delivery in this state directly to a point outside this state; and (4-11-19)

ii. The motor vehicles, vessels, ATVs, UTVs, SOHVs, trailers, off-highway motorcycles, and snowmobiles will be registered immediately under the laws of another state or country and will be titled in that state or country, if required to do so by that state or country and will not be used in Idaho more than ninety (90) days in any twelve-month period. (4-11-19)

b. To claim the exemption, each buyer provides the seller with a completed and signed Form ST-104NR, Sales Tax Exemption Certificate -- Nonresident Vehicle/Vessel. The seller keeps a copy for their records and send a copy of the completed form to the Commission. *( )*

c. This exemption does not apply to sales of truck campers or to the sales of canoes, kayaks, paddleboards, inflatable boats, or similar watercraft regardless of length when sold without a motor. (3-29-17)

d. For purposes of Subsection 107.10 of this rule, ATV, UTV, and SOHV have the same meaning given to them in Section 67-7101, Idaho Code. (4-11-19)

e. For purposes of Subsection 107.10 of this rule, a vessel means any boat intended to carry one (1) or more persons upon the water which is either: (3-20-04)

i. Sold together with a motor; or (5-3-03)

ii. Eleven (11) feet in length or more, not including canoes, kayaks, paddleboards, inflatable boats, or similar watercraft unless such canoe, kayak, paddleboard, inflatable boat, or similar watercraft is sold together with attached motor. (3-29-17)

f. For the purposes of Subsection 107.10 of this rule a trailer needs to meet the definition of a park model recreational vehicle, a trailer or utility trailer found in Sections 49-117, 49-121, and 49-122 Idaho Code, which is a vehicle without motive power designed for carrying persons or property and for being drawn by a motor vehicle. The term "trailer" includes the specific types of trailers or park model recreational vehicles defined in Sections 49-117, and 49-121(6), Idaho Code. (3-28-18)

g. To qualify for this exemption the *buyer* needs to be a nonresident of Idaho. An Idaho resident may form an LLC or other legal entity under the laws of another state. If such an LLC or other entity is formed primarily for the purpose of owning one (1) or more vehicles or vessels it is not a nonresident. The purchase or use of a vehicle or vessel in Idaho by such an entity is taxable. *( )*

11. Motor Vehicles and Trailers Used in Interstate Commerce. The sale of motor vehicles with a maximum gross registered weight of over twenty-six thousand (26,000) pounds and trailers are exempt from sales or use tax when they are purchased to become part of a fleet of motor vehicles registered under the International Registration Plan, or similar proportional or pro rata registration system, and they will be used in interstate commerce with at least ten percent (10%) of the fleet miles operated outside this state. The buyer will complete and sign the Form ST-104IC, Sales Tax Exemption Certificate -- Interstate Commerce Vehicles and provide it to the seller. See Rule 101 of these rules. (4-11-19)

12. Related Party Transfers and Sales. Certain transfers and sales of vehicles between businesses

defined as related parties are exempt from tax. Refer to Rule 099 of these rules. The new owner will complete and sign the Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit Form and submit the completed form to the county assessor when applying for title transfer. (4-11-19)

108. VEHICLE MANUFACTURER'S, RENTAL COMPANY'S, AND DEALER'S PURCHASE OR USE OF VEHICLES (RULE 108).
Sections 63-3612, 63-3613, 63-3622, and 63-3623, Idaho Code

01. *Buying* for Resale. Licensed vehicle dealers, vehicle rental companies, and manufacturers of vehicles may purchase vehicles tax exempt when the vehicles are held for resale or rental and are used for no purpose other than retention, demonstration, or display while holding the vehicles for sale or rental in the regular course of business. Purchases of parts that will be installed on vehicles held in a resale inventory are exempt from sales tax. *( )*

02. Titling a Vehicle. Under the Sales Tax Act, no vehicle may be titled without documentation establishing that any sales or use taxes which may be due have been paid. However, certain vehicles may be titled by dealers and rental companies with no tax applying. *( )*

a. *R*ental companies may title and register vehicles held in their rental inventory in their company name with no tax applying. *( )*

b. Idaho dealers may title vehicles held for resale in their dealer name to ensure clear title to the vehicle. However, the vehicle cannot be registered in the dealer's name. If the dealer applies for registration, tax applies. *( )*

03. Dealer Plates. Any vehicle upon which a dealer's plate may be lawfully displayed, as provided by Sections 49-1627 and 49-1628, Idaho Code, *is*, for purposes of the Sales Tax Act, inventory held for sale and not tax*able*. If any use of a vehicle displaying a dealer plate requires that the dealer provide the user with a compensation form for federal income tax purposes, the amount so reported is subject to use tax. The use tax will be paid by the dealer in the month immediately following the issuance of the compensation form. The unauthorized use or display of a dealer's plate on the vehicle which is otherwise required to be titled or licensed under the laws of the state of Idaho subjects the dealer to a use tax liability. *( )*

04. Service Vehicles. Vehicles, such as work or service vehicles, which are not held in stock for sale or rental are tax*able* at the time of their purchase. The use tax will be reported and paid on the sales tax return relating to the period during which the vehicle was purchased. In titling the vehicle, the vehicle dealer may report his seller's permit number to the county assessor or Department of Transportation as evidence that sales or use tax has been paid. *( )*

05. Inventory Withdrawals by Dealers. *D*ealers may withdraw vehicles from inventory and put them to a use for which a dealer's plate is not authorized*, creating a requirement for the vehicles to be* titled and licensed. Vehicles required to be titled and licensed are tax*able*. The taxpayer may choose one (1) of two (2) methods for reporting the tax: *( )*

a. At the time the vehicle is withdrawn from resale inventory, the taxpayer may report and pay use tax on his acquisition cost. (2-18-02)

b. During each month or part of a month during which a vehicle is held for purposes other than resale, the taxpayer may report and pay use tax on a reasonable monthly rental value. A reasonable monthly rental value is an amount equal to rentals charged for vehicles of like or similar make and model when such vehicles are leased or rented by the taxpayer or by other persons in the community in the business of leasing or renting such vehicles. *( )*

06. Inventory Withdrawals by Rental Companies. *R*ental companies that withdraw vehicles from their rental inventory and put them to a use subject to use tax may elect either method of reporting tax discussed in Subsection 108.05 of this rule. *( )*

07. Applicability of Rule 108. The provisions of this rule apply only to vehicle dealers or manufacturers licensed as such by the Department of Transportation, and to companies engaged in the business of renting vehicles without operators. ( )

109. AMUSEMENT DEVICES (RULE 109).
Section 63-3623B, Idaho Code

01. Amusement Devices. "Amusement device" means coin, currency, debit card, credit card, prepaid arcade card, or token operated machines and devices used for amusement or entertainment. This definition includes, but is not limited to, game machines; pool tables; jukeboxes; electronic games; video or cinematic viewing devices; crane, rotary, and pusher machines; and similar devices. It does not include vending machines that are used to sell tangible personal property or other machines or games described in Subsection 109.03 of this rule. (4-4-13)

02. Requirement to Obtain Permit. The owner or operator of amusement devices obtain a seller's permit if the owner or operator makes retail sales other than the use of amusement devices. If the owner or operator does not make such other retail sales, the owner or operator need not obtain a seller's permit, but will obtain an amusement device permit for each amusement device in service. (4-4-13)

a. Owners and operators of amusement devices pay a permit fee for every amusement device in operation. Section 63-3623B(c), Idaho Code, states that the fee may be increased proportionately to any increase in the tax rate. The formula to calculate the permit fee is seven hundred dollars ($700) x tax rate. For example, at a tax rate of five percent (5%) the amount of the permit fee is seven hundred dollars ($700) x five percent (5%) = thirty-five dollars ($35). If the tax rate is six percent (6%), the permit fee will be forty-two dollars ($42). If any change in the tax rate becomes effective on July 1 of a given year, the charge for the permit fee will change proportionately on that date also. If a change in the tax rate occurs on a day other than July 1, the permit fee will be changed on the next July 1 following the change in the tax rate. (4-4-13)

b. Upon receiving the appropriate payment, the Commission will issue to the owner or operator of one (1) or more amusement devices, a permit for each amusement device in service. The owner or operator affixes a separate permit on each amusement device in service. The permit will be affixed to the machine in such a manner that it is easily visible. Permits are transferable from one person to another after written notice of the transfer is received and acknowledged by the Commission. Permits may be transferred from an amusement device that is no longer in service to another amusement device owned or operated by the same person. An amusement device permit is not valid unless the name and business address of the owner or operator is typed or printed in black ink on the face of the permit. ( )

c. Video amusement devices may have more than one (1) monitor and be designed to be operated independently by more than one (1) person. In such cases a separate permit is required for each monitor. (6-30-95)

d. Amusement device permits *are* renewed annually. Annual permits are valid from July 1 through June 30 *and are* renewed on or before July 1 by the owner or operator of the amusement devices. Amusement devices acquired after July 1 or placed in service before the next July 1 will require the appropriate fee for a full-year permit. ( )

e. If an amusement device permit is lost, stolen, or destroyed, an amusement device permit for the current year will still *need to* be affixed to every operating amusement device. This may require the purchase of a new permit. The Commission will not issue free replacement amusement device permits regardless of the reason for the loss of the permit. ( )

03. Other Amusement Machines or Games. Charges for the use of machines or games which do not meet the definition in Subsection 109.01 are tax*able* at the prevailing rate times one hundred percent (100%) of the gross proceeds received for the use of the device. This applies regardless of the method the owner or operator uses to determine the charge, such as by the hour or by the game. The owner or operator of such amusement machines or games will obtain a seller's permit if the owner or operator charges for the use of such machines. ( )

04. Cross-Reference. See Rule 095 of these rules regarding purchases of Money-Operated Dispensing Equipment. (3-16-04)

110. RETURNS FILED BY COUNTY ASSESSORS AND FINANCIAL INSTITUTIONS (RULE 110).
Sections 63-3623 and 63-3638(9), Idaho Code

01. Filing Returns. Upon collection of sales tax on applications for certificate of title to a motor vehicle, trailer, or other titled property, or initial application for registration processed by the county assessor, the assessor will, no less than monthly, complete and submit to the Commission, Form ST-852, Idaho Sales Tax Return-County Assessors. The assessor may, at his discretion, submit the form more frequently. But at no time will the amount of tax collected during any month be submitted later than the twentieth day of the month following the month in which the tax was collected. (4-6-05)

02. Reimbursement. The assessor and the Idaho Transportation Department will be reimbursed at the rate of one dollar ($1) for each application for certificate of title or initial registration of a motor vehicle, trailer, or other titled property; each Form ST-108, Transport Trailer, Office Trailer, and Untitled Boat Certificate; and each Form ST-108TR, Occasional Sale Exemption Claim -- Office Trailer and Transport Trailer, processed by the assessor except those upon which any sales or use tax due has been previously collected by a retailer or paid by the *buyer*. *( )*

03. Financial Institutions. Financial institutions collecting tax on sales of tangible personal property that they are financing, whether sold by the financial institution or another person, are to possess an Idaho seller's permit and file returns to remit the tax as prescribed in Rule 105, of these rules. If the tax collected is not from a sale made by the financial institution, it can be reported as an adjustment on the return. Failure to remit the tax on a timely basis will result in the addition of penalties and interest as provided by Sections 63-3632 and 63-3634, Idaho Code. (4-11-19)

04. Cross Reference. (4-11-19)

a. Permits. See Rule 070 of these rules. (4-11-19)

b. Time and Imposition of Tax. Returns, Payments and Partial Payments. See Rule 105 of these rules. (4-11-19)

111. RECORDS REQUIRED AND AUDITING OF RECORDS (RULE 111).

01. In General. Every retailer doing business in this state and every *buyer* storing, using, or otherwise consuming in this state tangible personal property will keep complete and adequate records as may be necessary for the Commission to determine the amount of sales and use tax for which that person is liable under Title 63, Chapter 36, Idaho Code. *( )*

a. Unless the Commission authorizes an alternative method of record keeping in writing, these records will show gross receipts from sales or rental payments from leases of tangible personal property, including any services that are a part of the sale or lease, made in this state, irrespective of whether the retailer or *buyer* regards the receipts to be taxable or nontaxable; all deductions allowed by law and claimed in filing the return; and the total purchase price of all tangible personal property purchased for sale or consumption or lease in this state. *( )*

b. These records include the normal books of account ordinarily maintained by the average prudent businessman engaged in such business, together with all bills, receipts, invoices, cash register tapes, or other documents of original entry supporting the entries in the books of account, together with all schedules or working papers used in connection with the preparation of tax returns. (7-1-93)

c. For taxpayers that maintain the required records in both a machine-sensible and a hard-copy format, that taxpayer will make the records available to the Commission in machine-sensible record format upon the Commission's request. Machine-sensible records are to be maintained in the original format for the same time periods as required of hard-copy records outlines in Subsection 111.04 of this rule. "Machine-sensible record" is a collection of related information in an electronic format. This does not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche or storage-only imaging systems. *( )*

02. Alternative Storage Media. Records, including general books of account, such as cash books,

journals, voucher registers, ledgers, and like documents may be microfilmed, microfiched, or retained by a storage-only imaging system and the original hard-copy documents may be discarded when all other conditions of this rule are met. A storage-only imaging system involves computer hardware, software, and other reproduction equipment that provides for the storage, retention, and retrieval of records and documents which were originally created on paper. It does not allow for any manipulation or processing of the documents. These records are to be authentic, accessible, readable, and meet the following requirements: (3-30-01)

a. Appropriate facilities are to be provided for preservation of the storage media for the periods required and open to examination and the taxpayers *will* provide transcriptions of any information on microfilm, microfiche, or imaged data which may be required for verification of tax liability. *( )*

b. All microfilmed, microfiched, and imaged data are to be indexed, cross-referenced, and labeled to show beginning and ending numbers and to show beginning and ending alphabetical listing of documents included, and systematically filed to permit ready access. (3-30-01)

c. The taxpayer will make available upon request of the Commission facilities and equipment in good working order at the examination site for reading, locating, and reproducing any record concerning sales or use tax liability maintained on microfilm, microfiche, or other storage-only imaging system. *( )*

d. The taxpayer will set forth in writing the procedures governing the establishment of its microfilm, microfiche, or other storage-only imaging system and the individuals who are responsible for maintaining and operating the system with appropriate authorization from the Board of Directors, general partners, or owner, whichever is applicable. (3-30-01)

e. The microfilm, microfiche, or other storage-only imaging system is to be complete and used consistently in the regularly conducted activity of the business. (3-30-01)

f. The taxpayer will establish procedures with appropriate documentation so that the original document can be followed through the conversion system. (3-30-01)

g. The taxpayer is responsible for the effective identification, processing, storage, and preservation of microfilm, microfiche, or other storage-only imaging system making it readily available for as long as the contents may become material in the administration of any state tax law. (3-30-01)

h. The taxpayer is to keep a record identifying by whom the microfilm, microfiche, or other storage-only image system was produced. (3-30-01)

i. When displayed or reproduced on paper, the material is to exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers. (3-30-01)

j. All production of microfilm or microfiche and processing duplication, quality control, storage, identification, and inspection thereof are to meet acceptable industry standards. (3-30-01)

03. Records Prepared by Automated Data Processing Systems, ADP. An ADP tax accounting system may be used to provide the records required for the verification of tax liability. Although ADP systems will vary from one taxpayer to another, all such systems are to include a method of producing legible and readable records which will provide the necessary information for verifying such tax liability. The following requirements apply to any taxpayer who maintains any such records on an ADP system: (7-1-93)

a. Recorded or reconstructible data. ADP records will provide an opportunity to trace any transaction back to the original source or forward to a final total. If detailed printouts are not made of transactions at the time when they are processed, the systems are to have the ability to reconstruct these transactions. (7-1-93)

b. General and subsidiary books of account. A general ledger, with source references, is to be written out to coincide with financial reports for tax reporting periods. In cases where subsidiary ledgers are used to support

the general ledger accounts, the subsidiary ledgers will also be written out periodically. (7-1-93)

c. Supporting documents and audit trail. The audit trail is to be designed so that the details underlying the summary accounting data may be identified and made available to the Commission upon request. The system is to be so designed that supporting documents, such as sales invoices, purchase invoices, credit memoranda, and like documents are readily available. *( )*

d. Program documentation. A description of the ADP portion of the accounting system are to be made available. The statements and illustrations as to the scope of operations be sufficiently detailed to indicate: The application being performed; the procedures employed in each application, which, for example, might be supported by flowcharts, block diagrams, or other satisfactory descriptions of the input or output procedures; the controls used to insure accurate and reliable processing; and important changes, together with their effective dates, are to be noted in order to preserve an accurate chronological record. (7-1-93)

e. Data storage media. Adequate record retention facilities are to be available for storing tapes and printouts, as well as all supporting documents as may be required by law or this rule. (7-1-93)

04. Record Retention. All records pertaining to the transactions involving sales or use tax liability are to be preserved for a period of not less than four (4) years. If an assessment has been made and an appeal to the Commission or any court is pending, the books and records relating to the period under appeal by such proposed assessment must be preserved until final disposition of the appeal. *( )*

05. Examination of Records. All of the foregoing records are to be made available for examination on request of the Commission or its authorized representatives. *( )*

06. Failure of the Taxpayer to Maintain or Disclose Complete and Adequate Records. Upon failure by the taxpayer, without reasonable cause, to substantially comply with the requirements of this rule, the Commission will: *( )*

a. Impose any penalty as may be authorized by law. (7-1-93)

b. Subpoena attendance of the taxpayer and any other witness when the Commission deems it necessary or expedient for examination and compel the taxpayer and witness to produce any documents within the scope of its inquiry relating in any manner to the sales and use tax. *( )*

c. Enter such other order as may be necessary to obtain compliance with this rule in the future by any taxpayer found not to be in substantial compliance with the requirements of this rule. (7-1-93)

112. DIRECT PAY AUTHORITY (RULE 112).

Sections 63-3624, 63-3629, 63-3631, Idaho Code

01. In General. *A* Direct Pay Authori*ty* is *granted* to certain taxpayers where it is to the mutual convenience of the Commission, the taxpayer, and the taxpayer's vendors to have the sales and use tax liability upon the taxpayer's purchases determined by the taxpayer and reported directly to the state in the form of a use tax. This *authorization* allows vendors to sell all items of tangible personal property to the taxpayer without charging any sales tax. The only effect of this arrangement is to shift the reporting responsibility to the taxpayer holding the authori*zation*. *( )*

02. *Taxable* Purchases. If the particular transaction would have been tax*able* without the authorization, then the *taxpayer holding the authorization* pay*s* sales tax to the state even if the use of the item is not subject to use tax. For example, if *the taxpayer holding the authorization buys* goods from a retailer holding an Idaho seller's permit, then the *taxpayer* pays sales tax on the transaction even if the goods are intended for use solely outside the state. *( )*

03. Documentation. To purchase *tangible personal property* without paying sales tax to the vendor, the taxpayer holding *an* authorization *provides a copy of that authorization* to each vendor. *( )*

04. Holder's Responsibilities. The authorization is granted only to those taxpayers who have demonstrated, to the Commission's satisfaction, the accounting and technical capability to comply with the Sales Tax Act. Direct pay authority holders make all purchases of tangible personal property tax exempt and all taxes due as required by the Idaho Sales Tax Act will be remitted directly to the Commission by the direct pay authority holder. Vendors will be allowed to sell all items of tangible personal property to the direct pay authority holder without charging sales tax provided they obtain and keep on file a copy of the letter granting the direct pay authority. *( )*

05. Revocation. The Commission may revoke a*n* authorization if it determines that the *taxpayer* is not complying with this rule or if the *taxpayer* is allowing contractors or other third parties to make exempt purchases under *its* authority. Notice of revocation will be given in the manner provided for deficiencies in taxes in Section 63-3629, Idaho Code, and is subject to review as provided in Section 63-3631, Idaho Code. Should the Commission revoke a taxpayer's direct pay authority it will be the taxpayer's responsibility to notify his vendors of the revocation. *( )*

06. Tax Imposed by Hotel/Motel Room Sales Tax. *The authorization can't be used* for taxes imposed on *lodging* accommodations. State sales tax, Travel and Convention tax, and Auditorium *or Community Center* District tax, when applicable, is charged by and paid to the retailer by the direct pay permittee. *( )*

07. Valid Only on Purchases of Tangible Personal Property. The author*ization* is valid only on purchases of tangible personal property. The *taxpayer can't* use *the* author*ization* when engaging contractors involved in improving real property. Special rules apply to contractors. Refer to Rules 012 through 015, and 066 of these rules. *( )*

08. Expiration. Direct *P*ay *A*uthor*ity is* granted for a period of five (5) years. If the authorization is not renewed at the end of the expiration period, the authorization will expire automatically. *( )*

113. RECREATIONAL VEHICLE REGISTRATION (RULE 113).

01. Snowmobile, Motorbike, or ATV. A new owner of a new or used snowmobile, motorbike, or ATV will obtain a title for the recreational vehicle according to the Idaho Transportation Department instructions. The buyer will present evidence that sales tax was paid to the seller of the recreational vehicle, or pay any tax due to the county assessor, Idaho Transportation Department, or Commission before a title will be issued. *( )*

02. Boat. A boat owner registers his boat each year with the Department of Parks and Recreation through authorized agents appointed by that department. (7-1-93)

a. When registering the boat for the first time or transferring the registration to a new owner, the owner will complete Form ST-109, Recreational Vehicle Registration Sales Tax Affidavit, except as provided in Subsection 113.02.c. of this rule. (7-1-93)

b. Each month the Department of Parks and Recreation will forward to the Commission the copies of Form ST-109 submitted by its agents. *( )*

c. When registering a boat with a county assessor acting as an authorized agent of the Department of Parks and Recreation, the requirements of this rule do not apply. The assessor will collect and remit to the Tax Commission any sales or use tax due. See Rule 099 of these rules. (7-1-93)

114. SALES UNDER THE SNAP AND WIC PROGRAMS, RECORDS REQUIRED FOR PAYMENTS WITH ELECTRONIC BENEFIT TRANSFER CARDS AND WIC TENDER (RULE 114).
Sections 63-3622EE, 63-3622FF, Idaho Code.

01. In General. Sales of food purchased under the Federal Supplemental Nutrition Assistance Program (SNAP) or the Federal Special Supplemental Food Program for Women, Infants, and Children (WIC) are exempt from the Idaho sales tax. Sales of food under these programs are exempt whether the *buyer* uses electronic benefit transfer (EBT) cards, WIC tender, or any other exchange medium authorized for these programs by federal law. *( )*

02. Records Required. Retailers who accept EBT cards or WIC tender as payment are to maintain accurate records of those sales. Adequate records include sales reports or tender-type reports with collections from each type. (3-20-14)

115. RECORDS REQUIRED, NONTAXED SALES BY RETAIL FOOD STORES (RULE 115).

Section 63-3624(s), Idaho Code

01. Petition for Reduced Record Keeping. Retail food stores may petition the Commission to be relieved from the responsibility of retaining copies of detailed invoices for nontaxed sales. (7-1-93)

02. Form Required. A retail food store may apply for reduced record keeping requirements by submitting a completed Form ST-110, Petition for Sales Tax Records Reduction by a Retail Food Store, to the Commission. (7-1-93)

03. Authority. If authority for reduced record keeping is granted by the Commission, a retailer is not required to keep detailed sales invoices if he obtains a properly completed resale or exemption certificate from the customer and thereafter a properly completed Form ST-111, Sales Tax Exemption Claim Form-Grocer for each exempt sale. The completed Form ST-111 includes the following information: The name of the customer; the total purchase price of the exempt items; the date of the sale; whether the nontaxed merchandise sold consisted of food, nonfood items or both; and the signature of the person making the exempt purchase. (7-1-93)

04. Standard Industry Code. For the purposes of this rule, retail food stores means those retail stores described in major group fifty-four (54) of the Standard Industrial Classification Manual, SIC, of 1987 and whose sales of food for home preparation and consumption account for more than fifty percent (50%) of the store's total sales. Stores in major group fifty-four (54) consist of grocery stores; meat and fish markets; fruit and vegetable markets; candy, nut, and confectionery stores; dairy product stores; retail bakeries; and egg and poultry dealers. (7-1-93)

05. Review of Petitions. The Commission will review all petitions for reduced record keeping requirements. The Commission may examine the books and records of the petitioner to ensure that the petitioner is primarily engaged in the business of selling food for home preparation and consumption. The Commission will give written notice of its determination to the petitioner within sixty (60) days after receiving the petition. (7-1-93)

116. BONDING (RULE 116).

Section 63-3625, Idaho Code

01. Posting Security. The Commission may require a retailer to post security to insure collection and remittance of sales and use taxes for cause including: *( )*

a. A retailer failing to file sales tax returns. (7-1-93)

b. A retailer failing to remit in full taxes due upon any sales tax return. (7-1-93)

c. A retailer with a consistent history of delinquency either in the filing of returns or payment of tax. (7-1-93)

d. The submission of a check for the payment of taxes which is subsequently dishonored. (7-1-93)

e. The filing of a fraudulent return or any return which fails to report all taxable transactions for the period for which the return relates. (7-1-93)

f. A retailer evidencing serious financial instability which, in the opinion of the Commission, creates reasonable doubt as to the ability of the retailer to pay over sales and use taxes collected by it. (7-1-93)

02. Amount of Security. The amount of security will be fixed by the Commission but will not exceed an amount equal to three (3) times the anticipated monthly sales tax liability or ten thousand dollars ($10,000), whichever is less, except in the case of retailers who are habitually delinquent in their submission of returns and/or

taxes in which case the amount of security will not be greater than five (5) times the estimated average monthly liability or ten thousand dollars ($10,000), whichever is less. (7-1-93)

03. Written Demand. Written demand for security will be sent to the retailer by the Commission by certified mail or by personal service upon the retailer. Failure of the retailer to post the demanded security can be grounds for revocation of the retailer's seller's permit following proper notice and hearing. (7-1-93)

04. Forms of Security. The Commission will accept as security the following: (7-1-93)

a. Surety bond. A surety bond issued by a bonding company with the power of an attorney affixed thereto which grants the issuing agent the power to obligate the company for this type of liability. (7-1-93)

b. Cash bond. Preferably in the form of cashier's check. (7-1-93)

c. Pledged savings accounts. This type of security may be furnished, providing the savings account is opened with a bank or savings and loan association and an assignment of the account is executed by the taxpayer or authorized individual and accepted by the bank or savings and loan association. The savings account may be in the business name or individual's name, if a sole proprietorship; jointly in the names of the partners of a partnership; or in the name of a corporation with the assignment properly executed by the officer or officers with the delegated authority to sign documents for the corporation. (7-1-93)

05. Release of Security. Security which has been previously posted may be released by the Commission upon receipt of written request from the retailer if, after careful review of the circumstances, the Commission determines that security is no longer required. A request may be made one (1) year after posting the security. Security will also be released upon the retailer's termination of its retail activities. In either case, if the Commission deems necessary, an audit may be conducted prior to the release of any security. (7-1-93)

117. REFUND CLAIMS (RULE 117).

Sections 63-3612, 63-3613, 63-3619, 63-3626, 63-3629(c), 63-3631, 63-3045, 63-3045B, 63-3049, 63-4408, Idaho Code

01. In General. Application for refund of sales or use taxes paid in excess of those properly imposed by the Sales Tax Act, is to be in accordance with the provisions of this rule. (7-1-93)

02. Payment of Sales Tax by a Buyer to a Vendor. When a buyer has paid sales tax to a vendor, and later determines that the sales tax was paid in error, the buyer needs to request the refund from the vendor to whom the excess tax was paid. If the buyer can provide evidence that the vendor has refused to refund the tax, he may then file a claim for refund directly with the Commission. ( )

03. Payment of Sales or Use Tax Directly to the State. When a person holding a seller's permit or use tax account number has paid tax to the state, and later determines that the sales or use tax was paid in error, he may file a claim for refund directly with the Commission. ( )

04. Bad Debts. Claims for refunds arising from bad debts are to be filed with the Tax Commission in the manner prescribed by this Rule 117 and Rule 063 of these rules. (3-26-19)

05. Mathematical Errors. When the filer of sales or use tax returns determines that a mathematical error has been made on a previously filed return resulting in overpayment of the proper amount of sales or use taxes, he may file a claim for refund directly with the Tax Commission. (7-1-93)

06. Refund Claims. A refund claim, however, is to be in writing and include the following information: ( )

a. Full name, address, and phone number of the claimant; (3-26-19)

b. Claimant's seller's permit number or use tax account number if claimant has such a number; (3-26-19)

c. The amount of the refund claimed; (3-26-19)

d. A detailed statement of the reason the claimant believes refund is due; (3-26-19)

e. An itemized description of the specific goods or services to which the tax relates; (3-26-19)

f. The date on which the claimed excess taxes were paid; (3-26-19)

g. If the claimant is the retailer, a statement under oath that the amount of tax plus interest has been or will be refunded to the buyer; and (3-26-19)

h. If the claim is for bad debt, detailed individual account information for each customer and each item purchased for which a refund is claimed. (3-26-19)

i. A refund claim must be filed within three (3) years from the time the payment was made to the Commission. If a refund claim does not include the required information listed in Subsections *1*17.*06*.a. through h., as applicable, then the claim does not satisfy the requirement to file a written claim to stop the period of limitations provided in Section 63-3626(b)(1), Idaho Code, from running. A refund claim that does not include the required information will be denied and processed as set out in Subsection *1*17.11 of this rule. *( )*

07. Outstanding Liabilities. No claim for refund will be approved or issued unless the claimant first satisfies outstanding liabilities for taxes administered by the Commission. *( )*

08. Payment Under Protest. It is not necessary for a taxpayer to pay taxes under protest in order to subsequently be able to claim a refund of such taxes. (7-1-93)

09. Statute of Limitations. A claim for refund will not be allowed if it is filed more than three (3) years from the time the payment of the tax was made. The time the payment was made is the date upon which the sales or use tax return relating to the payment was filed with the Commission. *( )*

10. Taxes Paid in Response to a Notice of Deficiency Determination. A claim for refund may not be filed relating to any sales or use taxes which have been asserted by a notice of deficiency determination. A taxpayer contending that taxes have been erroneously or illegally collected by the Commission in conformance with a notice of deficiency determination can seek a refund by using the appeal procedures outlined in IDAPA 35.02.01.320 - 328, "Tax Administration and Enforcement Administrative Rules." *( )*

11. Denial of a Refund Claim. All claims for refund or credit will be reviewed by the Commission's staff. If the staff concludes that all or part of the claim should not be allowed, notice of denial of the claim will be given to the claimant by first class mail or by other commercial delivery service providing proof of delivery, whichever is the most cost efficient. The notice will include a statement of the reasons for the denial. The notice of denial will be the equivalent of a notice of deficiency determination. If the taxpayer wishes to seek a redetermination of the denial notice, *they* can file a petition for redetermination in the manner prescribed in IDAPA 35.02.01.320 - 328, "Tax Administration and Enforcement Administrative Rules." A petition for redetermination must be filed no later than sixty-three (63) days from the date upon which the notice of denial is mailed to or served on the claimant. *( )*

12. Interest on Refunds. See Rule 122 of these rules. (5-3-03)

13. Cross Reference. See Rule 003 of these rules, Administrative Appeals. (6-30-19)T

118. RESPONSIBILITY FOR PAYMENT OF SALES TAXES DUE FROM CORPORATIONS, LIMITED LIABILITY COMPANIES AND PARTNERSHIPS (RULE 118).

Sections 63-3045, 63-3049, 63-3065, 63-3074, 63-3634, Idaho Code

01. Corporate Officers Duty to Pay Sales Tax. Individuals including corporate officers and employees with the duty to cause a corporation or a limited liability company to file a sales tax return or to pay sales tax when due, or any partnership member or employee with such duty, will become liable for payment of the tax, penalty and interest due from the corporation or partnership if they fail to carry out their duty. Any such responsible

individual has the defenses, remedies and recourse provided in Sections 63-3045, 63-3049, 63-3065 and 63-3074, Idaho Code, and will be afforded notice and opportunity to be heard on the question of such liability. (7-1-99)

02. Penalty for Failure to Collect. Any individual required to collect, account for and pay over any tax who willfully fails to carry out or execute his duty will be required to pay, in addition to the tax, penalty and interest, an additional amount equal to the total amount of tax involved. This penalty is in addition to all other penalties provided in Section 63-3634, Idaho Code. (7-1-93)

119. SUCCESSOR'S LIABILITY (RULE 119).

Section 63-3628, Idaho Code

01. Making Inquiries. Section 63-3628, Idaho Code, provides that when a vendor sells out his business or stock of goods, the buyer is to make inquiry of the Commission and withhold from the purchase price any amount of tax that may be due until such time as the vendor, seller, produces a receipt stating that no tax is due. If the *buyer* fails to withhold from the purchase price the tax due, he becomes personally liable for the tax. *( )*

02. Written Inquiry Required. The *buyer* is to make written inquiry to the Boise Office of the State Tax Commission setting forth the following: *( )*

a. The name, location, and seller's permit number of the business they are purchasing. (7-1-93)

b. A statement that they are purchasing the business or stock of goods. (7-1-93)

c. An inquiry as to any sales or use tax liability of the business they are purchasing. (7-1-93)

03. Copy of Earnest Money. The *buyer* is to attach to the written inquiry a copy of any earnest money or similar agreement already entered into with the prospective seller. If no earnest money agreement has been entered into, then the seller must provide written authorization to the State Tax Commission to release the information to the prospective buyer. *( )*

04. Written Statement from State Tax Commission. The Commission, after receiving the written inquiry from the *buyer* as to the amount due, will issue a written statement to the *buyer* setting forth the amount of tax due by the seller, if any. The Commission will advise the prospective buyer only of any amount of sales or use tax that may be due to the Commission under the Sales Tax Act. The release of any other information is not authorized. In the case that the prospective buyer requests to see the prospective seller's sales or use tax filing record in order to determine if the business is profitable, the prospective seller is to provide a Power of Attorney appointing the prospective buyer as attorney in fact to receive confidential information regarding sales or use tax filings on behalf of the prospective seller. (5-3-03)

05. Application for Seller's Permit Number. Upon final sale, the *buyer* files an application Form IBR-1 for a new seller's permit number with the Commission. The seller must forward his seller's permit to the Commission for cancellation. *( )*

120. JEOPARDY DETERMINATION (RULE 120).

Section 63-3630, Idaho Code

If collection of any part of a tax required to be paid to the state of if any determination or redetermination will be jeopardized by delay, the Commission will make a determination of the tax or amount required to be collected noting the need for expeditious procedure and the amount of required security upon the assessment. The amount determined to be due the state is immediately payable and, if not paid immediately after service of notice of the deficiency, may be entered as a final assessment and collected by judgment processes or through use of any collection procedure available to the Commission's office. If, within thirty (30) days, the taxpayer files for redetermination and deposits with his petition for redetermination such security as the Commission may, in this specific case, deem necessary to ensure compliance with this act, collection of the deficiency assessment will be delayed pending redetermination. Hearings and other procedure will then proceed in accordance with the rules pertaining thereto. *( )*

121. (RESERVED)

122. INTEREST ON DEFICIENCIES, REFUNDS AND ESTIMATED RETURNS (RULE 122).

Sections 28-22-104, 63-3045, 63-3630, Idaho Code

01. Interest Rate. The rate of interest on deficiencies or refunds of tax is determined annually as provided in Section 63-3045, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 310. All interest on sales or use tax deficiencies is simple interest. Interest applies only to tax and not to penalties. ( )

02. Interest Accruing During a Period Subject to Audit. Interest on deficiencies accrues from the due date of the return to which the deficiency relates. On refunds, the interest accrues from the due date of the return or date of payment, whichever is later. However, when a refund is claimed or a deficiency is asserted for a period of time which includes several reporting periods, in lieu of calculating interest for each reporting period, interest may be averaged over the interest rate period if no substantial distortion results from the averaging technique. When averaging interest, sales or purchases of extraordinary amounts outside the usual course of business which would substantially distort the result should be excluded from the averaging calculation and interest calculated separately on such transactions. Average interest, accruing during an interest rate period, may be calculated according to the following formula:

Formula: $\frac{(N x R) - R}{2}$

N = Number of reporting periods in interest rate period.

R = Interest rate per reporting period, e.g., one percent (1%) for monthly filers, three percent (3%) for quarterly filers, at a 12% annual interest rate, etc. (6-23-94)

03. Alternate Formulas. Alternatively, interest may be calculated according to such other formula as the taxpayer and the Commission's sales tax audit staff may agree to apply. ( )

04. Estimated Returns. Interest on estimated returns accrues at an annual rate as provided in Section 63-3045, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Rule 310. (7-1-97)

05. Failure to Register. Taxpayers who failed to have a tax number in a period where a deficiency exists will be, for interest computation purposes, considered to be monthly filers. (7-1-93)

06. Judgments. Nothing in this rule is intended to effect interest rates on judgments pursuant to Section 28-22-104(2), Idaho Code. (7-1-93)

123. ADDITIONS AND PENALTIES (RULE 123).

Sections 63-3046, 63-3075, 63-3076, 63-3077, Idaho Code

All additions and penalties provided by Sections 63-3046, 63-3075, 63-3076 and 63-3077, Idaho Code, are incorporated in the Sales Tax Act. (7-1-93)

01. Substantial Underpayment. For purposes of enforcing the substantial underpayment penalty provided by Section 63-3046(d), Idaho Code, the term taxable year, is for purposes of the Sales Tax Act, the twelve (12) month calendar period for which an annual reconciliation is required. The return, for purposes of such taxable year, are the returns required to be filed under Rule 105 of these rules. The taxpayer's entire calendar year or fiscal tax year is any fraction of a twelve (12) month period occurring prior to filing a final report. (7-1-97)

02. Repeated or Intentional Invalid Exemption Claims. A *buyer* who repeatedly or intentionally claims exemption from tax on purchases that are not exempt and has not reported and paid use tax on the purchases, owes the tax plus the interest prescribed in Rule 122 of these rules and may also be assessed a penalty of five percent (5%) of the purchase price of the goods or services, or two hundred dollars ($200), whichever is greater. ( )

124. COLLECTION AND ENFORCEMENT (RULE 124).

Sections 63-3633, 63-3635, Idaho Code

Incorporation of Rules. The rules promulgated by the Commission entitled "Idaho Tax Commission Administration and Enforcement Rules" apply to the administration and enforcement of the Idaho Sales Tax Act. ( )

125. DISTRIBUTION OF SALES TAX REVENUES (RULE 125).
Section 63-3638, Idaho Code

Refer to IDAPA 35.01.03, "Property Tax Administrative Rules," Rule 995 for information on distribution of sales tax revenues to cities, counties and other special purpose taxing districts. (3-30-01)

126. SALES TAX COLLECTED BY THE STATE LIQUOR DISPENSARY (RULE 126).
Sections 23-105, 23-1303, 23-1001, 63-3638A, Idaho Code

01. Liquor Subject to Sales Tax. All sales of liquor which includes alcohol, spirits, beer, and wine as defined in Sections 23-105(g), 23-1303(a), and 23-1001(a), Idaho Code, unless specifically exempt, are *taxable*. *( )*

02. Sales for Resale. In the case of sales to persons licensed under the provisions of Title 23, Chapter 9, Idaho Code, only those purchases for resale by an establishment licensed to sell liquor will be exempt from the tax. If the licensee *buys* liquor for any purpose other than for resale, the licensee is subject to the use tax. *( )*

03. Reporting. The superintendent of the State Liquor Dispensary will forward monthly to the Commission a report of all sales tax collected for the preceding month. All sales tax collected by the superintendent of the State Liquor Dispensary and by contract private liquor stores, when the product is supplied by the State Liquor Dispensary, will be credited directly to the liquor account, and not become a part of the sales tax account. *( )*

127. FREE DISTRIBUTION NEWSPAPERS (RULE 127).
Sections 63-3622, 63-3622T, Idaho Code

01. Newspaper Format. The term "newspaper format" means a publication bearing a title, issued regularly at stated intervals of at least twelve (12) times a year, and formed of printed paper sheets without binding. Catalogs, advertising fliers, travel brochures, employee newsletters, theater programs, telephone directories, restaurant guides, posters, and similar publications are not publications in newspaper format. (7-1-96)

02. Purchase or Use of Tangible Personal Property. The purchase or use of tangible personal property used to produce newspapers distributed to the public free of charge is exempt from sales or use taxes if the requirements of Section 63-3622T, Idaho Code are met. (7-1-96)

03. Qualifying for Exemption. To qualify for the exemption at least ten percent (10%) of the total newspaper, computed on an average annual column inch basis, need to be devoted to the publication of non-income producing informative material. Advertisements promoting the free distribution newspaper itself do not qualify as non-income producing informative material. Neither do logos, column headings, mastheads, borders, etc. (7-1-96)

128. CERTIFICATES FOR RESALE AND OTHER EXEMPTION CLAIMS (RULE 128).
Sections *63-3612,* 63-3622, Idaho Code

01. In General. This rule applies to proper documentation for exempt purchases of tangible personal property for resale and all other exemption claims for taxable transactions enumerated in Section 63-3612, Idaho Code. All forms approved by this rule may be reproduced. (3-6-00)

02. Burden of Proof. All sales made within Idaho are presumed to be tax*able* unless the seller obtains from the buyer a properly executed resale or exemption certificate. If the seller does not have an exemption certificate on file it will have the burden of proving that a sale is not tax*able*. The seller may overcome the presumption by establishing the facts giving rise to the exemption. If the seller obtains a valid certificate from the buyer, the seller need not collect sales or use taxes unless the sale of the tangible personal property or the transaction in question is taxable to the buyer as a matter of law in the particular instance claimed on the certificate. *( )*

03. Description and Proper Execution of Approved Forms. In order to be valid, all forms are to be legible and include a date, the buyer's name, signature, and address. If the buyer has a federally issued Employer Identification Number (EIN), the buyer will include that EIN on the form. If the buyer does not have an EIN, the *buyer will provide* the buyer's driver's license number and the state of issue. The seller's name and address are to be

completed on the form when requested. The buyer will comply with any additional requirements provided in these rules. ( )

04. Form ST-101, Sales Tax Resale or Exemption Certificate -- Buying for Resale. To claim a resale exemption, Form ST-101, or a Uniform Sales and Use Tax Certificate -- Multi-jurisdiction, is completed. The resale certificates approved by this rule may only be taken from a buyer described in Subsection 128.04.b. The reason for the claimed exemption is included on the form as well as the primary nature of business and the type of products sold, leased or rented by the buyer. An Idaho registered retailer includes its Idaho seller's permit number. A buyer need not identify every type of product it sells but indicates the general character of the property it sells, rents or leases. (3-26-19)

a. Information on the resale certificate. The resale certificate bears the name and address of the buyer, the name and address of the seller, is signed and dated by the buyer or his agent, indicates the Idaho seller's permit number issued to the buyer, or that the buyer is an out-of-state retailer, and indicates the general character of the tangible personal property sold by the buyer in the regular course of business. By executing the resale certificate, the buyer is certifying that the specific property is being purchased for resale. (3-26-19)

b. Qualified Buyers. The resale exemption may be claimed by the following buyers when buying goods for resale: (3-26-19)

i. A retailer or wholesaler doing business in Idaho who holds a current and valid Idaho seller's permit number. (4-4-13)

ii. A wholesaler who makes no retail sales and who is not required to hold an Idaho seller's permit number. (3-6-00)

iii. An out-of-state retailer who makes not more than two (2) sales in Idaho in any twelve (12) month period and is not required to hold an Idaho seller's permit number. (3-6-00)

c. Seller's Responsibility. A seller is not liable for the collection of sales tax on items sold to a customer from whom the seller has obtained a properly executed Sales Tax Resale and Exemption Certificate, Form ST-101, if the customer intends to resell the items in the regular course of business. The seller has no duty or obligation to collect sales or use taxes in regard to any sales transaction so documented unless the sale fits into the narrow classification of sales that can be considered to be taxable as a matter of law in the particular instance claimed on the resale certificate. If the particular item being purchased for resale does not commonly match the description of the general character of the tangible personal property as identified on the resale certificate, then it is presumed that the sale is taxable as a matter of law; however, if the seller questions the buyer and the buyer provides a new certificate specifically identifying the property in question as being purchased for resale, then the seller can accept the certificate and is relieved of any further responsibility. (3-26-19)

d. Example. A grocery store that in addition to groceries sells miscellaneous items such as cosmetics, magazines, and school supplies. The store would provide its Idaho seller's permit number and describe the primary nature of its business as selling groceries. It could buy cosmetics, magazines, and school supplies for resale and it does not need to list those items on the resale certificate. It only needs to indicate the general character of the property it sells as groceries. (3-26-19)

e. Example. A lawn and garden store occasionally sells barbecue grills as promotional items. Even though it describes lawn and garden items as the types of products it sells, it can buy the grills for resale. (3-26-19)

f. Example. A grocery store describes the primary nature of its business as selling groceries. It then buys an automobile for resale. The grocery store should provide the automobile seller a resale certificate for this transaction and identify its primary nature of its business as grocery and indicate it is specifically buying the automobile for resale. (3-26-19)

g. Example: A restaurant operator completes a Form ST-101 for his supplier. He indicates the general character of the products he sells as food and beverages. The restaurant operator buys sugar and flour from the supplier. The supplier is not liable for the collection of the sales tax as the character of the goods is that which the

restaurant operator will resell in the regular course of business. The resale claim made by the restaurant operator is available as a matter of law. (3-26-19)

h. Example: The same restaurant operator later buys dish towels and dish washing soap. The supplier collects the tax. The general character of the goods are not those sold by a restaurant in the normal course of business. The exemption claimed by the restaurant is not available as a matter of law. However, if the restaurant operator identifies cleaning supplies as one of the types of items it resells, either on the original certificate or on a new certificate, then the supplier need not collect the tax. (3-26-19)

i. Example: An appliance store buys appliances and some furniture for resale from a supplier. The appliance store has a resale certificate on file with the supplier. The supplier also sells warehouse equipment as part of its business. The appliance store buys a forklift from the supplier. The supplier should charge tax. However, if the furniture store provides a new certificate indicating it will sell the forklift, the supplier has no duty or obligation to collect the tax. Without the new certificate, an objectively reasonable person would not assume a furniture store sells forklifts. Additionally, the furniture store is only buying one (1) forklift and this fact indicates to the supplier that it is not buying the forklift for resale. (3-4-10)

05. Form ST-101, Sales Tax Resale and Exemption Certificate -- Claiming Exemptions. A Form ST-101 is completed to claim the sales tax exemptions for the following categories. The buyer identifies the exempt category and specific area within the category for the exemption being claimed. If claiming to be production exempt, the taxpayer identifies the type of business and list the product produced. When claiming a contractor exemption, the invoice, purchase order or job number will be identified along with the city and state of the job location, project owner name, and the reason the project is exempt. (3-26-19)

a. Form ST-101 Exemption Categories; (3-26-19)

i. Production Exemptions; (3-26-19)

ii. Exempt Buyers; (3-26-19)

iii. Contractor Exemptions; and (3-26-19)

iv. Other Exempt Goods and Buyers (3-26-19)

b. Information on the exemption certificate. An exemption certificate shows the buyer’s name and address, business name and address, and be signed and dated by the buyer. The buyer also provides on the certificate the specific exemption being claimed and, if the production exemption is being claimed, a list of the products the buyer produces. If the buyer is claiming the contractor exemption, the buyer identifies the invoice, purchase order, or job number to which the claim applies, the city and state where the job is located, and the name of the project owner. If the buyer is claiming an exemption as an American Indian, then the buyer provides a valid Tribal I.D. number. By signing the exemption certificate, the buyer is certifying that the purchase qualifies for an exemption from tax. (3-26-19)

c. Seller's Responsibility. A seller is not liable for the collection of sales tax on items sold to a customer from whom a properly executed Form ST-101, has been received if the nature of the exemption claimed is available to the buyer as a matter of law or the nature of the goods purchased qualify for the particular exemption claimed on the certificate. (3-26-19)

i. A retailer collects tax on the sale of any goods that are specifically excluded from an exemption as a matter of law. For example, a buyer claiming the production exemption provided by Section 63-3622D, Idaho Code, may not claim an exemption on the sale of items that are specifically excluded from the exemption as a matter of law, such as: maintenance and janitorial equipment and supplies, office equipment and supplies, selling and distribution equipment and supplies, property used in transportation activities, equipment or other property used to make repairs, tangible personal property that becomes a fixture, improvement, or component of real property, licensed motor vehicles, aircraft; and recreation-related vehicles as described in Section 63-3622HH, Idaho Code. (3-26-19)

ii. A retailer cannot rely on an exemption certificate obtained from a buyer when the law does not provide an exemption from the tax for the buyer, such as a nonprofit organization not specifically exempted by the

sales tax law or a governmental agency of another state. (3-26-19)

iii. Nor can a retailer rely on an exemption certificate when the limited language of the law pertaining to the exemption claimed excludes all but certain goods from the exemption. For example, certain contractors can execute an ST-101 to purchase construction materials for specific jobs in non-taxing states claiming an exemption from tax under Section 63-3622B, Idaho Code, and Rule 012 of these rules. The retailer collects tax on any goods that are not to be incorporated into the real property, such as parts for construction equipment and tools. (3-6-00)

d. Buyer's Responsibility. A buyer has the responsibility to properly complete a certificate and ensure that tax is charged on all taxable purchases. If the buyer properly provides a certificate and normally makes exempt purchases, he nevertheless ensures that tax is paid when a taxable purchase is made. If the seller does not charge the tax on a taxable purchase the buyer either notifies the seller to correct the billing and then pays the sales tax to the seller, or accrues and remits use tax on the transaction. If the buyer intentionally or repeatedly makes purchases, claiming they are exempt, when in fact they are not exempt, and the buyer fails to remit use tax, a penalty can be imposed in addition to the use tax. The penalty amount that may be asserted against the buyer is five percent (5%) of the sales price or two hundred dollars ($200), whichever is greater. The penalty will be asserted by the Commission as a Notice of Deficiency but the buyer may have the penalty abated when he can establish that there were reasonable grounds for believing that the purchase was properly exempt from tax. In addition, if the buyer gives a resale or exemption certificate with the intention of evading payment of the tax, the buyer may be charged with a criminal misdemeanor and could be punished by a fine not exceeding one thousand dollars ($1,000) or imprisonment for not more than one (1) year, or by both a fine and imprisonment. (3-26-19)

e. Example: A garden supply store sells, among other things, soil and wood chips in large quantities. It buys a loader to use in its business to load items into customers' trucks. When buying the loader, the garden supply store gives a resale certificate to the seller indicating it intends to resell the loader. However, upon purchase the loader is capitalized on the books of the garden supply store. The Commission could impose a penalty equal to five percent (5%) of the purchase price of the loader against the garden supply store. This penalty is in addition to the use tax that is due. The individual who executed the certificate, or authorized the execution, on behalf of the garden supply store, if done with intent to evade payment of the tax, could be criminally charged with a misdemeanor. (3-26-19)

f. Example: A restaurant buys food for resale from a supplier. It can properly give a resale certificate to the supplier. Since it buys food on a continuing basis the supplier keeps a certificate on file. If the restaurant buys cleaning supplies for its own consumption, the supplier should charge sales tax. If it fails to charge tax, the restaurant should notify the supplier to correct the billing and collect the sales tax. If the restaurant fails to pay sales or use tax on more than one purchase, then, under Section 63-3624, Idaho Code, the Commission can assert a use tax and a penalty against the restaurant. (3-26-19)

g. Example: A farmer completes an ST-101 claiming a production exemption on the purchase of toothpaste and a case of motor oil. The retailer collects the sales tax on the sale of the toothpaste, but is not liable for the collection of the sales tax on the sale of the motor oil. The retailer cannot rely on the exemption certificate when selling the toothpaste because, as a matter of law, the sale of personal hygiene products is excluded from the production exemption. But the retailer can rely on the exemption certificate when selling goods, such as the motor oil, which the farmer could put to either a nontaxable use (e.g., oil for a tractor), or a taxable use (e.g., oil for a licensed pickup truck). (3-26-19)

06. Tax Exemption Statements. In lieu of Form ST-101, retailers, when selling property that the buyer claims is entitled to the exemptions listed below, may stamp or imprint on the face of their sales invoices, or buyers may stamp or imprint on the face of their purchase orders a statement containing the language prescribed in this rule. (3-26-19)

a. A tax exemption statement is to be signed by the buyer and the name, address, and nature of business of the buyer is shown on the invoice. The signature on the statement is in addition to any other signature required on the invoice. If no Form ST-101 is on file with the vendor, then each exempt sale is to be documented as described in this subsection. Any person who signs this certification with the intention of evading payment of tax is guilty of a misdemeanor. (3-26-19)

b. Production or Logging Exemption. A tax exemption statement can be used when selling property that the buyer claims is entitled to the production exemption or the logging exemption. The statement can be made by

either: (3-26-19)

i. Having the seller stamp or imprint the following statement on the face of their sales invoices; or (3-26-19)

ii. Having the seller stamp or imprint the following statement on the face of their purchase orders, a certificate containing the following language: (3-26-19)

I certify that the property which I have here purchased will be used by me directly and primarily in the process of producing tangible personal property by mining, logging, manufacturing, processing, fabricating, or farming, or as a repair part for equipment used primarily as described above.

NATURE OF BUSINESS

BUYER'S SIGNATURE

(3-26-19)

c. Matter Used to Produce Heat by Burning. A tax exemption statement can be used when selling materials that the buyer claims will be used to produce heat by burning as defined in Rule 088 of these rules and for which no bulk delivery will be made. The statement can be made by either: (3-26-19)

i. Having the seller stamp or imprint the following statement on the face of their sales invoices; or (3-26-19)

ii. Having the buyer stamp or imprint on the face of their purchase order, a statement that contains the following language: (3-26-19)

I certify that the matter I have purchased will be used in a furnace or similar device for the purpose of water heating, cooking, or raising or maintaining the temperature in an enclosed space, dwelling, or building.

BUYER'S SIGNATURE

(3-26-19)

07. Form ST-102, Use Tax Exemption Certificate -- New Resident. To claim exemption for vehicles, vessels, and aircraft that were personally owned and acquired while residing in another state and used primarily outside Idaho, new residents and nonresident military individuals need to complete Form ST-102. ( )

08. Form ST-104G, Sales Tax Exemption Claim for Cash Purchases by Governmental Agencies. Form ST-104G may be completed only by federal or, Idaho state, and local government agencies making cash purchases and is to be furnished to the vendor at the time of sale. Each transaction requires a newly executed form signed by the agency's purchasing agent and the employee/buyer. Blank forms will be furnished to government agencies by the Commission upon request. The form cannot be used for lodging and meals bought by a traveling government employee nor for any other reasons enumerated on the form. ( )

09. Form ST-104HM, Sales Tax Exemption Certificate – Lodging Accommodations. Form ST-104HM is used to claim exemption for lodging accommodations paid for using a credit card company who will directly bill to and be paid by federal or, Idaho state, and local government agencies or other qualifying organizations granted exemption under Section 63-3622O, Idaho Code. This form should not be used for credit card payments that are paid by the employee who is later reimbursed by the employer. Each lodging transaction requires a newly executed form signed by the employee/buyer. (3-26-19)

10. Form ST-104IC, Sales Tax Exemption Certificate – Interstate Commerce Vehicles. Form ST-104IC is to be completed by a buyer claiming an exemption from tax under Section 63-3622R, Idaho Code, when purchasing a qualifying motor vehicle, trailer, or glider kit. (3-26-19)

11. Form ST-104NR, Sales Tax Exemption Certificate – Vehicle/Vessel. Form ST-104NR is completed by each buyer claiming an exemption from tax under Section 63-3622R, Idaho Code, when a nonresident buyer is purchasing a qualifying vehicle, vessel, or trailer. (3-26-19)

12. Form ST-108TR, Occasional Sale Exemption Claim – Office Trailer and Transport Trailer. Form ST-108TR is *completed* by any person claiming the occasional sale exemption on the purchase of a transport trailer or an office trailer. The seller completes the seller's statement section in order for the buyer to claim the occasional sale exemption. ( )

13. Form ST-111, Sales Tax Exemption Claim Form – Grocer. Retailers of food products who have been granted record reduction authority by the Commission may accept the Form ST-111 from a buyer if the retailer has a properly executed Form ST-101 on file from the buyer. Form ST-111 includes the buyer's Idaho seller's permit number (if applicable), the signature of the individual claiming the exemption, and the total purchase price and general nature of the nontaxable products sold. ( )

14. Form ST-133, Sales Tax Exemption Certificate – Family or American Indian Sales. (3-26-19)

a. Family Sale. Form ST-133 is completed when claiming an exemption from tax when selling a motor vehicle to a relative under the exemption provided by Section 63-3622K, Idaho Code. (3-26-19)

b. American Indian Sales. Form ST-133 is completed when claiming an exemption from tax when selling a vehicle, vessel, or RV to a member of an American Indian tribe within the boundaries of an American Indian reservation. (3-26-19)

15. Form ST-133CATS, Sales Tax Exemption Certificate – Capital Asset Transfer Affidavit. Form ST-133CATS is required under the provisions of Section 63-3622K, Idaho Code, when claiming an exemption from tax on the sale of certain vehicles included in the bulk sale of a business' assets when the new owner will continue to operate the business in a like manner; for qualifying transfers of certain capital assets through sale, lease or rental; and, for the transfer of vehicles to and from a business or between qualifying businesses when there is no change other than owners' equity. (3-26-19)

16. Form ST-133GT, Use Tax Exemption Certificate -- Gift Transfer Affidavit. Form ST-133GT is completed to claim an exemption from tax when a vehicle, vessel, camper, trailer, or recreational vehicle is being transferred or received as a gift. (3-26-19)

17. The Diplomatic Tax Exemption Program. This United States government program grants immunity from state taxes to diplomats from certain foreign countries. A federal tax exemption card issued by the U.S. Department of State bears a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. Additional information is provided in Rule 098 of these rules. (3-26-19)

18. Timely Acceptance of Certificates. A seller may accept a certificate from a buyer prior to the time of sale, at the time of sale, or at any reasonable time after the sale to establish the exemption claim, with the exception of Forms ST-104HM and ST-104G which is to be provided at the time of sale. The sale is presumed to be taxable if no approved certificate is obtained from the buyer in the manner provided or permitted by this rule. (3-26-19)

a. Certificates obtained by a seller at a time subsequent to, but not within a reasonable time after, the time of sale will be considered by the Commission in conjunction with all other evidence available to determine whether or not the seller has established that a sales tax transaction is exempt from tax. ( )

b. Example: A retailer sells goods to a customer without charging the sales tax but does not obtain an ST-101 from the customer. Instead, the customer writes his Idaho seller's permit number on the invoice when he signs for the goods. The retailer is later audited by the Commission and fails in an attempt to obtain a certificate from his customer. The retailer argues that the Idaho seller's permit number written on the invoice is evidence that the customer purchased the goods for resale. However the number by itself does not establish that the customer bought the goods for resale. The retailer is liable for the tax on the sale. ( )

c. Example: A retailer sells a truck load of hay to a customer, does not charge sales tax on the

transaction, and fails to obtain an ST-101. The retailer is later audited by the Commission and is unable to obtain an ST-101 from the customer. The retailer argues that hay is a farm supply and this alone should establish that the sale is exempt. However, the customer may be in a business which does not qualify for the farming production exemption, such as racing or showing horses. Or, the customer may be using the hay for a nonbusiness purpose, such as raising animals for his own consumption. The retailer is liable for the tax on the sale. ( )

d. When a Notice of Deficiency Determination has been issued to a seller by the Commission and the seller petitions for redetermination as provided by IDAPA 35.02.01.320 - 328, "Tax Administration and Enforcement Administrative Rules," he may submit certificates obtained from his customers as evidence of exemption claims, but only if the certificates are presented to the Commission within ninety (90) days of the date of the Notice of Deficiency Determination. ( )

129. USE OF A RECREATIONAL FACILITY, INSTRUCTIONAL FEES, AND PARI-MUTUEL BETTING (RULE 129).

01. Use of a Recreational Facility. Charges or fees to procure the use of a facility, facilities, or building for the purpose of recreation or physical conditioning are tax*able*. ( )

02. Dues. Dues paid to fraternal organizations such as the Elks, Eagles, Masonic Order, or similar organizations are not normally paid primarily for the use of facilities for recreation; in such cases, recreational use of facilities will be incidental. However, any separate, identifiable fees charged by such fraternal organizations, in excess of ordinary membership dues and fees, specifically for the use of recreational or physical conditioning facilities will be tax*able* including, but not limited to, bowling fees, green fees, swimming fees, court fees, or equipment usage fees. ( )

03. Instructional Fees. Separately stated instruction fees, such as for jazzercise, aerobics, dance, and swimming are not tax*able*. ( )

04. Pari-Mutuel Betting. Pari-mutuel betting is not tax*able*. ( )

05. Use of Tangible Personal Property. Charges imposed on persons using swimming pools, skating rinks, golf courses and bowling alleys, etc., often combine the privilege of entering the place with the right to use tangible personal property. When a uniform price is imposed upon all persons without regard to the intention of the individual to use tangible personal property or the other facilities included, the total charge will be presumed a charge for the use of a recreational facility and tax*able*. ( )

130. PROMOTER SPONSORED EVENTS (RULE 130).
Sections 63-3620, 63-3620C, Idaho Code

01. Promoter's Responsibility. Promoters of promoter sponsored events, as defined in Section 63-3620C, Idaho Code, are to obtain a completed copy of the sales tax declaration section of Form ST-124, Idaho Sales Tax Declaration, from each participant at an event. The promoter obtains pre-numbered Forms ST-124 from the Commission. The promoter is to forward a copy of the completed Form ST-124 to the Commission within ten (10) days following the beginning of the event. The promoter may also maintain a copy in its file. The Commission may request from the promoter a master list of participants to be submitted in addition to the completed Forms ST-124. ( )

02. Use of the Form ST-124. The promoter will provide each participant with the Form ST-124. Upon completing the sales tax declaration section of the form, the participant returns it to the promoter. In this section, the participant states that the participant either has a valid seller's permit, will use Form ST-124 as a temporary seller's permit for the event, or will not make any taxable sales at that event. If a participant uses Form ST-124 as a temporary seller's permit, the promoter will be considered the issuer of that permit as an agent of the Commission. The Form ST-124's sales tax declaration includes the following: ( )

a. The name of the promoter sponsoring the event, the name of the event, the event location, and the dates of the event. (3-30-01)

b. The name, address, and phone number of participant in the event. (3-30-01)

c. Either: (3-30-01)

i. The participant's valid seller's permit number; or (3-20-14)

ii. A statement from the participant that the Form ST-124 will be used as a temporary seller's permit for the event; or (3-20-14)

iii. A statement from the participant that no taxable retail sales will be made at this event. (3-30-01)

d. Other information the Commission may deem necessary. *( )*

03. Participant's Failure to Provide a Form ST-124 to the Promoter. For every participant that does not provide the completed sales tax declaration portion of Form ST-124 to the promoter, the promoter is to provide to the Commission a list of those participants within ten (10) days following the beginning of the event. For each participant listed, the promoter will include the following: the business name, address, phone number, and names of all individuals who own and operate the business. *( )*

04. Temporary Seller's Permit Issued by Promoter. Before a promoter may claim the income tax credit provided for by Section 63-3620C, Idaho Code, the promoter will forward a completed Form ST-124 to the Commission for each Form ST-124 used as a temporary seller's permit. *( )*

05. Promoter's Sales Tax Liability. The promoter will not be held responsible for collecting sales tax on sales made by participants other than sales made by the promoter himself. (3-30-01)

131. -- 132. (RESERVED)

133. RADIO AND TELEVISION BROADCAST EQUIPMENT (RULE 133).
Sections 25-1722, 63-3612, 63-3613, 63-3622, Idaho Code

Sales and purchases of equipment primarily and directly used in the production and broadcasting of radio and television programs are exempt pursuant to Section 63-3622S, Idaho Code. To qualify for the exemption, a business *is required to* be primarily devoted to both producing and broadcasting either radio or television programs. Businesses that provide television or radio programs only to paid subscribers are not broadcasters and cannot claim this exemption. *( )*

134. SALES OF LIVESTOCK (RULE 134).

01. Exempt Sales of Livestock. *C*ertain sales and purchases of livestock are exempt from sales and use tax. To qualify for the exemption, the livestock are to be sold at a livestock market chartered by the Idaho Department of Agriculture, or an organization expressly exempted from chartering requirements by Section 25-1722, Idaho Code. Those groups expressly exempted from chartering requirements are: *( )*

a. Any place or operation where future farmers or 4-H groups, or private fairs conduct sales of livestock. (5-3-03)

b. Any place or operation conducted for a dispersal sale of the livestock of a farmer, dairyman, livestock breeder, or feeder who is discontinuing said business and no other livestock is sold or offered for sale. (5-3-03)

c. Any place or operation where a breeder or an association of breeders of livestock assemble and offer for sale and sell under their own management any livestock when such breeders assume all responsibility of such sale and the title of livestock sold. This applies to all purebred livestock association sales. (5-3-03)

d. All sales of livestock by any generally recognized statewide association or associations composed of persons engaged in the production in Idaho of cattle, calves, sheep, mules, horses, swine, or goats. (5-3-03)

e. Sales of livestock by any nonprofit cooperative association, corporation sole or religious, fraternal or benevolent corporation, provided such association or corporation complies with regulations of the director in connection with such sale and such sales are not held in the regular course of business of such corporation or association. (5-3-03)

f. Any Idaho auction market operated by an Idaho licensed auctioneer selling not more than twenty (20) animals a week or more than eighty (80) animals a month, provided such an auction market is bonded under the provisions of the Federal Packers and Stockyards Act, of 1921, as amended. (5-3-03)

02. Sales of Other Animals Excluded. This exemption is limited to sales of cattle, calves, sheep, mules, horses, swine, or goats. Sales of other animals do not qualify for the exemption regardless of who the seller is and where the sale takes place. (5-3-03)

135. SNOWGROOMING AND SNOWMAKING EQUIPMENT (RULE 135).

Sections 63-3612, 63-3613, 63-3622, 63-3622Y, 63-3641, Idaho Code

01. Exemption for Snow Equipment. Section 63-3622Y, Idaho Code, exempts the sale, storage, use or other consumption of tangible personal property that will become a component of an aerial passenger tramway and snowgrooming and snowmaking equipment purchased and used by the owner or operator of a downhill ski area. This exemption also extends to sales and purchases of component parts used to build or repair snowgrooming and snowmaking equipment. (4-2-08)

02. Consumable Supplies Not Exempt. This exemption only applies to sales and purchases of equipment that will become a component part of snowmaking or snowgrooming equipment. It does not apply to sales and purchases of fuel, fluids, or other consumable supplies. (4-2-08)

136. REBATES PAID TO CERTAIN REAL ESTATE DEVELOPERS (RULE 136).

01. Rebate of Sales Tax. Section 63-3641, Idaho Code, provides for a rebate of sales taxes to be paid to real estate developers who build a qualifying retail complex at a cost of four million dollars ($4,000,000) or more and who expend more than six million dollars ($6,000,000) for the installation of a highway interchange or for improvements on a highway. For the purposes of this rule, the term "qualifying shopping center" is a qualifying retail complex as specified by Section 63-3641, Idaho Code. *( )*

02. Qualifying Shopping Center Location. Qualified retailers located in a qualifying shopping center apply for a separate sellers' permit and report sales separately for that location. For instance, if a retailer has multiple stores in Idaho it files a separate return for any store located in a qualifying shopping center. A retailer who ceases operation in a qualifying shopping center notifies the Commission and cancels the sellers' permit for that location. *( )*

03. Confidential Information. Information about an individual store's sales or aggregate sales for stores located in a qualifying shopping center is confidential and may not be released to the public. (4-2-08)

04. Developer Responsibilities. The developer of a qualifying shopping center provides the names and taxpayer identification numbers of the stores located in the shopping center to the Commission. The developer also notifies the Commission whenever a new retailer begins operation or when a retailer ceases operations in a qualifying shopping center. *( )*

05. Certifying Expenditures Prior to Rebate Payment. No rebate will be paid unless the Idaho Department of Transportation or an appropriate political subdivision of the state of Idaho has certified as to the amounts expended and that the expenditures were made for the purpose of constructing approved transportation improvements. *( )*

06. Disposition of Revenue from a Qualifying Shopping Center. The Commission will deposit sixty percent (60%) of the sales and use tax reported by qualifying retailers in the demonstration pilot project fund after a developer has: *( )*

a. Identified the location and boundaries of the retail complex; (4-7-11)

b. Identified the qualified retailers making retail sales within the complex; and (4-7-11)

c. Verified that it has met the expenditure requirements of Subsection 136.01 of this rule. (4-7-11)

137. IMPOSITION OF THE PREPAID WIRELESS E911 FEE
Sections 31-4801 - 31-4821, Idaho Code

A prepaid wireless E911 fee is imposed on the sale of prepaid wireless telecommunications service at two and one-half percent (2.5%) of the sales price. The prepaid wireless E911 fee is not imposed on a sale of any device, such as a cell phone, that utilizes the prepaid wireless telecommunications service. However, the sale of the device will be subject to the fee if all the following apply: ( )

***01. Separately State the Cost**. The seller does not separately state the cost of the prepaid wireless telecommunications service from the rest of the transaction, ( )*

***02. Service Sold Exceeds**. The amount of the prepaid wireless telecommunications service sold exceeds ten (10) minutes or five dollars ($5.00), and ( )*

***03. Portion of the Sale**. The seller cannot show from its records the portion of the sale that should properly be applied to the sale of the prepaid wireless telecommunications service. ( )*

13*8*. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with Section 63-105 and 63-105A, Idaho Code, the Tax Commission has promulgated rules implementing the provisions of the Idaho Statutes relating to the property tax laws and related statutes, Chapters 1 through 17 and Chapters 28, 30, 35, 36, and 45, Title 63, Idaho Code. Rules relating to the market value of recreational vehicles are authorized by Section 49-446, Idaho Code. Rules relating to taxation of newly constructed improvements are authorized by Section 63-105A, Idaho Code. (4-4-13)

001. TITLE AND SCOPE (RULE 001).
These rules are titled IDAPA 35.01.03, "Property Tax Administrative Rules." (7-1-93)

002. ADMINISTRATIVE APPEALS (RULE *002*).
This chapter does allow administrative relief of certain provisions outlined herein. These rules relate to proceedings pursuant to Sections 63-407 and 63-707, Idaho Code. (4-4-13)

003. INCORPORATION BY REFERENCE (RULE 00*3*).
Unless provided otherwise, any reference in these rules to any document identified in Rule 003 of these rules will constitute the full incorporation into these rules of that document for the purposes of the reference, including any notes and appendices therein. The term "documents" includes codes, standards, or rules adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (5-3-03)

01. Availability of Reference Material. Copies of the documents incorporated by reference into these rules can be electronically accessed as noted in Subsection 003.02 of this rule. *( )*

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (5-3-03)

a. "Standard on Ratio Studies" published in 2013, "Standard on Digital Cadastral Maps and Parcel Identifiers" published in 2015, "Standard on Mass Appraisal of Real Property" published in 2012, "Standard on Verification and Adjustment of Sales" published in 2010, all published by the International Association of Assessing Officers. These documents can be electronically accessed at http://www.iaao.org/wcm/Resources/Publications_access/Technical_Standards/wcm/Resources_Content/Pubs/Technical_Standards.aspx?hkey=9c330567-135b-4adc-a772-00008232ab90 which was last accessed and verified on June 30, 2017. (3-28-18)

b. "Official Railway Equipment Register" published for the last three (3) quarters in 2017 and the first quarter in 2018 issued by R. E. R. Publishing Corporation and published by JOC Group, Inc. (3-28-18)

c. "Forest Habitat Types of Northern Idaho: A Second Approximation" published by the Government Printing Office for the U. S. Forest Service in 1991, General Technical Report INT-236, written by Cooper, Stephen V., Neiman, Kenneth E., Rev, David W., and Roberts, Kenneth E. (4-6-05)

d. "Forest Habitat Types of Central Idaho" published by the Government Printing Office for the Intermountain Forest and Range Experimentation Station of the U. S. Forest Service in 1981, General Technical Report INT-114, written by Kittams, Jay A., Pfister, Robert D., Ryker, Russell A., and Steele, Robert. (5-3-03)

e. "Yield of Even-Aged Stands of Ponderosa Pine" published by the Government Printing Office for the U. S. Department of Agriculture in 1938, Technical Bulletin No. 630. (5-3-03)

f. "Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type" published by the Government Printing Office for the U. S. Department of Agriculture in 1932, Technical Bulletin No. 323. (5-3-03)

g. "Manual of Surveying Instructions" published by the Federal Bureau of Land Management and the Public Land Survey System Foundation in 2009. (4-4-13)

004. -- 019. (RESERVED)

020. VALUE OF RECREATIONAL VEHICLES FOR ANNUAL REGISTRATION AND TAXATION OF UNREGISTERED RECREATIONAL VEHICLES (RULE 020).
Section 49-446, Idaho Code

01. Value of Recreational Vehicle For Registration Fees. For the types of recreational vehicles shown in the "Depreciation Schedule for RVs," beginning with registration fees for calendar year 2004, the County

assessors will administer and collect the recreational vehicle (RV) registration fee based on the market value calculated from the following depreciation schedule. For all other types of recreational vehicles, the assessor will use any available standard industry indices of retail value to determine the market value. If no such indices are available, the assessor will determine market value from sale price or by using appraisal procedures as defined in Rule 217 of these rules.

DEPRECIATION SCHEDULE FOR RVS				
	Travel/ Camp Trailers	Campers	Van Conversions	Motor Homes
Age	Percent Good	Percent Good	Percent Good	Percent Good
0	100	100	100	100
1	86	83	85	85
2	76	76	74	77
3	66	64	62	68
4	62	60	52	62
5	59	55	47	59
6	56	54	40	55
7	55	52	35	54
8	50	49	32	51
9	49	44	30	48
10	43	40	27	44
11	41	36	23	40
12	38	33	19	36
13	37	30	14	32
14	36	27	13	31
15	31	23	12	28

To use this depreciation schedule, multiply the sales price or the market value of the RV adjusted by the percentage, if applicable from Subsection 020.02 or 020.03 below, by the appropriate "Percent Good" based on the "Age" and type of RV. Decide the "Age" based on the year of purchase as follows: purchased in the current year equals "Age" zero (0), purchased in the previous year equals "Age" one (1), etc. For example, in year 2004, the "Age" for an RV purchased in 2004 is zero (0), the "Age" for an RV purchased in 2003 is one (1), the "Age" for an RV purchased in 2002 is two (2), the "Age" for an RV purchased in 2001 is three (3), etc. For any RV still in use and purchased fifteen (15) or more years ago, calculate the minimum market value using the lowest depreciation rate for the correct RV type. (3-28-18)

02. Value of Motor Home or Van Conversion For Registration Fees. The value of any motor home or van conversion used to calculate the registration fee will exclude any chassis value. Beginning with the registration fees for calendar year 2004, the county assessor will use the following schedule of valuation factors to calculate the value of the motor home or van conversion excluding the chassis value.

Motor Home/Van Type	Valuation Factor
Mini Motor Home (MMH)	50%
Motor Home (MH)	60%
Front Engine Diesel	45%
Rear Engine Diesel	58%
Van Conversions	25%

Multiply the motor home or van conversion's total value by the appropriate factor to calculate the value excluding the chassis value. (5-3-03)

03. Value of Vehicles Designed For Combined RV and Non-RV Uses For Registration Fees. For vehicles designed to have part of the vehicle for RV use and other parts of the vehicle for non-RV uses like transporting horses or other cargo, the value of the RV to be used to calculate the registration fee on or after January 1, 2015 is fifty percent (50%) of the sales price. (3-20-14)

04. Assessment Notice Mailed or Assessment Canceled. If after August 31, the required annual registration fee has not been paid, a taxpayer's valuation assessment notice will be mailed to the owner of the recreational vehicle. If the registration fee is paid before the fourth Monday of November, the assessor will cancel the assessment. (5-3-03)

021. -- 113. (RESERVED)

114. POWERS AND DUTIES - PROPERTY TAX - VALUE INFORMATION (RULE 114).
Sections 63-105A and 63-509, Idaho Code. To provide needed value information under Subsection 63-105A(2), Idaho Code, each county assessor will, to the extent practicable, report to the Tax Commission in the same manner and at the same time as the abstract under Section 63-509, Idaho Code, the total market value and exempted value of all property (land and improvements) used for residential purposes and granted the homeowner's exemption under Section 63-602G, Idaho Code, for the current year's assessment roll. Additionally, each county assessor will, to the extent practicable, report to the Tax Commission the number of properties and the aggregate total market value of the properties granted the homeowner's exemption in each group starting with the group of properties valued at less than or equal to twenty-five thousand dollars ($25,000) and including each subsequent group with value increases of twenty-five thousand dollars ($25,000) and ending with the group of properties exceeding the value of more than four hundred fifty thousand dollars ($450,000). (3-29-17)

115. POWERS AND DUTIES - PROPERTY TAX - VALUE INFORMATION (RULE 115).
Sections 63-105A and 63-509, Idaho Code

01. Requirement to Submit Abstracts. The county auditor must submit to the Tax Commission abstracts for the county, the cities or the portion of each city located in the county, the Boise School District, and any taxing district or unit of government with a restriction providing that such district does not levy property taxes on all otherwise taxable property as described in Rule 808 of these rules. (3-29-12)

02. Values by Secondary Category. For each of the abstracts required in Subsection 115.01 of this rule, to provide needed value information under Subsection 63-105A(2), Idaho Code, each assessor will report to the county auditor the market value and exempted value of all property by secondary categories, described in Rules 510, 511, and 512 of these rules, in the same manner as the abstracts required for each county under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-29-12)

03. Additional Abstracts to Accompany County Abstracts. Each county auditor will include city and any required additional abstracts described in Subsection 115.01 of this rule, when submitting to the Tax Commission the abstracts required under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-29-12)

04. Cross Reference. For the descriptions of secondary categories and clarification of responsibilities relating to listing and reporting values by secondary categories, see Rules 509, 510, 511, and 512 of these rules. For a description of levy criteria requiring submittal of additional abstracts, see Rule 808 of these rules. (3-29-12)

116. -- 119. (RESERVED)

120. INVESTIGATION OF WRITTEN COMPLAINTS (RULE 120).
Section 63-105A, Idaho Code

01. Definitions. (4-11-15)

a. Complaint. Complaint means a signed, written statement submitted to the Tax Commission requesting that this agency investigate any actions by county officials relating to property tax assessment or administration, provided such actions are not related to personnel matter or matters relating to the expenditure of funds. (4-11-15)

b. Complainant. Complainant means any individual making a complaint. (7-1-99)

c. Investigation. Investigation means observation and close examination of a county official's application of property tax assessment or administration law and Tax Commission rules. The investigation may require field inspections of property, analysis of public records or the interviewing of witnesses. The investigation will be limited to specific issues identified in the complaint. (4-11-15)

d. County official. The term county official means the elected or appointed official whose actions are the subject of the complaint. (4-11-15)

02. Investigation Procedure. The following procedures apply to an investigation of a complaint. (7-1-99)

a. Examination of complaint. The complaint will be examined by the Tax Commission to decide if a formal investigation will be conducted. (7-1-99)

b. Notification. Within thirty (30) days of receipt of complaint, the Tax Commission will notify the complainant of the decision regarding initiation of an investigation. If an investigation is initiated, the affected county official(s) will also be notified within this time frame. (4-11-15)

c. Delivery of investigation order. Within thirty (30) days of a decision to conduct an investigation, the Tax Commission will deliver to the affected county official(s) a copy of the investigation order naming the investigators and outlining what is to be investigated. (4-11-15)

d. Preliminary report. A preliminary report will be prepared by the investigator and legal counsel. The report will include findings and recommendations, and may include information from the official(s). (4-11-15)

e. Presentation of preliminary report. The preliminary report will be presented to the complainant and the official(s). The Tax Commission investigators will be present when the report is discussed with the affected county official(s) and the complainant. (4-11-15)

f. Comment period. The complainant and the county official(s) will be given a specified time to review and comment on the preliminary report, particularly to correct any errors of fact. (4-11-15)

g. Final report. At the end of the review by the complainant and the public official a final report will be prepared by the investigator and legal counsel and submitted to any affected county official(s) with any changes from the preliminary report highlighted. (4-11-15)

03. County Officials' Response to Final Report. After the final report is completed, the county official(s) will outline how the investigator's recommendations will be implemented and provide a written explanation of why any recommendation has been rejected. (4-11-15)

04. Conclusion of Investigation. The investigator's final report and the county officials' written response to the report will conclude the investigation. The conclusion of the investigation does not preclude the Tax Commission from enforcing additional powers and duties as prescribed by law or the complainant and county official(s) from exercising his or her right to appeal property valuations before a County Board of Equalization, the State Board of Tax Appeals or in District Court. (4-11-15)

05. Special Rules for Investigation of Complaints About Property Tax Budgets or Levies. When complaints are made about property tax budgets or levies of taxing districts, the results of any investigation will also be reported to the appropriate taxing district, the county prosecuting attorney, and affected county officials. The Tax Commission's investigatory authority is limited to determining whether a levy rate or property tax budget increase exceeds any statutory maximum, or whether a levy is unauthorized. Any such investigation must be conducted in accordance with the time constraints found in Section 63-809, Idaho Code. (4-11-15)

121. -- 124. (RESERVED)

125. PROGRAM OF EDUCATION (RULE 125).
Section 63-105A(17), Idaho Code

01. Administration. The program of education is the responsibility of the Tax Commission (Commission). The program of education will be administered by the Tax Commission's education director (education director). (5-8-09)

02. Appraisal School and Other Courses. An appraisal school will be held at least once each year. The school will offer courses for training the Tax Commission's employees, county commissioners, and assessment personnel. The Idaho Association of County Assessors Education Committee and the education director will approve the curriculum for the annual appraisal school. Other courses may be developed and offered as approved by the education director. (5-8-09)

03. Record Keeping and Reporting of Attendance, Grades, and Credit Hours. The education director will maintain student attendance records, records of education hours earned, status of certification, and grades. (5-8-09)

a. The education director and course instructors will monitor attendance and hours of education to be awarded to each student attending the Tax Commission administered classes. A certificate of completion showing the number of education hours to be awarded will be issued by the education director for the Tax Commission administered classes. In order to receive credit for classes not administered by the Tax Commission, the student will provide a certificate of completion showing the number of education hours completed, a course description, and the dates attended. (5-8-09)

b. The education director will maintain records to show the number of education hours completed during the current year and the previous two (2) years. By June and November of each year, the education director will send a certification status report to each county assessor or applicable supervisor. This report will list each certified property tax appraiser who is known to be employed by or under contract with said assessor and show the number of hours of education completed during the previous year and current calendar year. (5-8-09)

c. If a test is given for Tax Commission developed courses, the education director will notify the appropriate county assessor or applicable supervisor of the grade achieved on the test. (5-8-09)

04. Examination Committee -- Establishment and Procedures. The examination committee will be composed of three (3) assessors, one (1) member of the Idaho Association of Assessment Personnel, and the education director. The education director will appoint the members of the committee. The committee will operate by majority rule. (5-8-09)

a. Terms. The term of the education director will be continuous. The other members will serve four (4) year terms. The education director will maintain records of dates of appointments. (5-8-09)

b. If any member fails to serve the full-appointed term, the education director will appoint another member for the remainder of the term. The appointee will be from the same group as the member not completing the term. (5-8-09)

c. The education director will chair the committee. (5-8-09)

d. An applicant may appeal any rulings, matters involving examination structure, grading, or grievances with the committee to a review board. No board member may be an assessor of the applicant's county or a member of the examination committee. The review board will consist of the following four (4) persons: (5-8-09)

i. The president of the Idaho Association of County Assessors; (5-8-09)

ii. A person appointed by the president of the Idaho Association of County Assessors; (5-8-09)

iii. A person appointed by the examination committee; and (5-8-09)

iv. A person appointed by the education director. (5-8-09)

e. The committee will decide which courses meet the requirements for obtaining and maintaining certification and the hours of appraisal education awarded for each course. (5-8-09)

05. Cross Reference. See Rule 126 of these rules for the description of the certified property tax appraiser program and Rule 128 of these rules for the cadastral certification program. (5-8-09)

126. PROPERTY TAX APPRAISER CERTIFICATION PROGRAM (RULE 126).
Section 63-105A, Idaho Code

01. Application for Certification. The Commission (Commission) will prescribe and make available the application for state certification form to each county assessor. (5-8-09)

a. After the applicant has completed the requirements of Subsection 126.02 of this rule, the applicant's supervisor will submit the completed application form to the education director. The application will list the following: (5-8-09)

i. The name and address of the applicant, (5-8-09)

ii. The applicant's employer, and (5-8-09)

iii. The courses completed. (5-8-09)

b. The application must be signed and dated by the applicant and by the applicant's supervisor certifying the completion of the minimum experience requirement. (5-8-09)

c. The education director will make available information regarding the certification process and the application form to students attending the courses referenced in Subsection 126.02 of this rule. (5-8-09)

02. Certification Requirements. An applicant for certification must pass at least two (2) appraisal courses: Tax Commission Course No. 1 or the International Association of Assessing Officers' (IAAO) Course 101; and IAAO Course No. 102 or IAAO Course 201 or IAAO Course 300 or equivalent courses, and must have a minimum of twelve (12) months experience appraising for tax assessment purposes in Idaho or equivalent property tax appraisal experience approved by the examination committee. These requirements must be completed in the five (5) year period immediately preceding application except when the applicant proves equivalent education and experience. (3-29-10)

a. Upon request to the education director, an applicant may take one (1) required course and challenge the second required course by passing a test. The education director will set the time and place for the test. (4-11-15)

b. Equivalent courses may be approved by the education director and the examination committee. (5-8-09)

c. With the exceptions of the county assessor, the members of the county board of equalization, and the Commissioners, all persons making decisions regarding final values for assessment purposes will be certified property tax appraisers. (5-8-09)

03. Maintaining Property Tax Appraisal Certification. (5-8-09)

a. To maintain certification each appraiser must complete thirty-two (32) hours of continuing education within two (2) years of the certification date. Thereafter, by January 1 of each year, each appraiser will have completed thirty-two (32) hours of continuing education during the previous two (2) years. (5-8-09)

b. When any certified property tax appraiser fails to meet the continuing education requirements, the examination committee will place this person on six (6) month probation. When any certified property tax appraiser fails to meet the continuing education requirements within this probationary period, the person will forfeit certification or may, on a one (1) time only basis, submit a written petition to the examination committee for a six (6) month extension of probation. This person must submit this petition at least thirty (30) days prior to the expiration date of the first probationary period. (4-11-15)

c. For recertification, an applicant must apply to the examination committee within five (5) years of the date certification was canceled. An applicant for recertification must satisfactorily complete a written examination approved by the committee. The committee will decide the time and place of the examination. If more than five (5) years have lapsed since certification was canceled, the committee will not grant recertification. After the five (5) year period, an applicant must apply for certification under the same conditions as required for initial certification and a new certification number will be issued. (4-11-15)

04. Cross Reference. See Section 63-201. (1)(a), Idaho Code for the requirement that only assessors or certified property tax appraisers place value on any assessment roll. See Rule 125 of these rules for the description of the examination committee. (5-8-09)

127. (RESERVED)

128. CADASTRAL CERTIFICATION PROGRAM (RULE 128).
Section 63-105A, Idaho Code

01. Application for Certification. The Tax Commission (Commission) will prescribe and make available the application for state certification form to each county assessor. (5-8-09)

a. After any applicant has completed the requirements provided in Subsection 128.02 of this rule, the applicant's supervisor will submit the completed application form to the education director. The application will list the following: (5-8-09)

i. The name and address of the applicant, (5-8-09)

ii. The applicant's employer, and (5-8-09)

iii. The courses completed. (5-8-09)

b. The application must be signed and dated by the applicant and by the applicant's supervisor certifying the completion of the minimum experience requirement. (5-8-09)

c. The education director will make available information regarding the certification process and the application form to students attending the courses mentioned in Subsection 128.02. (5-8-09)

02. Certification Requirements. An applicant for certification must have passed the Tax

Commission's Basic Mapping Course and the International Association of Assessing Officers' (IAAO) Course 600 or IAAO Course 601 or both IAAO Courses 650 and 651, or equivalent courses, and must have a minimum of twelve (12) months experience working as a cadastral specialist in Idaho or equivalent cadastral experience approved by the examination committee. These requirements must be completed in the five (5) year period immediately preceding application except when the applicant proves equivalent education and experience. (5-8-09)

a. Upon request to the education director, an applicant may take one (1) required course and challenge the second required course by passing a test. The education director will set the time and place for the test. (4-11-15)

b. Equivalent courses may be approved by the education director and by the examination committee. (4-11-15)

03. Maintaining Cadastral Specialist Certification. (5-8-09)

a. To maintain certification, each cadastral specialist must complete thirty-two (32) hours of continuing education within two (2) years of the certification date. Thereafter, by January 1 of each year, each cadastral specialist will have completed thirty-two (32) hours of continuing education during the previous two (2) years. (5-8-09)

b. When any certified cadastral specialist fails to meet the continuing education requirements, the education committee will place this person on six (6) month probation. When any certified cadastral specialist fails to meet the continuing education requirements within this probationary period, the person will forfeit certification or may, on a one (1) time only basis, submit a written petition to the examination committee for a six (6) month extension of probation. This person must submit this petition at least thirty (30) days prior to the expiration date of the first probationary period. (4-11-15)

c. For recertification, an applicant must apply to the examination committee within five (5) years of the date certification was canceled. An applicant, for recertification, must satisfactorily complete a written examination approved by the committee. The committee will decide the time and place of the examination. If more than five (5) years have lapsed since certification was canceled, the committee will not grant recertification. After the five (5) year period, an applicant must apply for certification under the same conditions as required for initial certification and a new certification number will be issued. (4-11-15)

04. Cross Reference. See Rule 125 of these rules for the description of the examination committee. (5-8-09)

129. (RESERVED)

130. DESCRIPTION OF PRIMARY CATEGORIES USED TO TEST FOR EQUALIZATION (RULE 130).

Sections 63-109 and 63-315, Idaho Code. The Tax Commission establishes the primary categories listed herein for the purpose of testing values in each county and each school district for equalization by the Tax Commission under Section 63-109, Idaho Code. (3-30-07)

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Primary Category. Primary category means the five categories established and described in Subsections 130.02 through 130.06 of this rule and used by the Tax Commission to test for equalization under Section 63-109, Idaho Code. (3-30-07)

b. Secondary Category. Secondary category means the categories established and described in Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

02. Vacant Residential Land Category. Vacant residential land is all vacant land used for residential purposes. The assessor listed this land in secondary categories 12, 15, 18, or 20, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

03. Improved Residential Property Category. Improved residential property is all improvements used for residential purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 10 and 31, 46, or 48, 12 and 34, 46, or 48, 15 and 37, 46, or 48, 18 and 40, 20 and 41, 46, or 48, 26, 46, 48, or 50 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rules 510 and 511 of these rules, for the purposes of listing property on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

04. Vacant Commercial or Industrial Land Category. Vacant commercial or industrial land is all vacant land used for commercial or industrial purposes. The assessor listed this property in secondary categories 11, 13, 14, 16, 17, 21, or 22, as described in Rule 510 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

05. Improved Commercial or Industrial Property Category. Improved commercial or industrial property is all improvements used for commercial or industrial purposes and the land upon which these improvements are located. The assessor listed this property in secondary categories 11 and 33, 13 and 35, 14 and 36, 16 and 38, 17 and 39, 21 and 42, 22 and 43, 27, or 51, as described in Rules 510 and 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

06. Manufactured Homes on Leased Land Category. Manufactured homes on leased land are all manufactured homes on leased land that the assessor listed in secondary categories 49 or 65 together with secondary category 47 as appropriate for inclusion when valuing this property, as described in Rule 511 of these rules, for the purposes of listing property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and reporting values to the Tax Commission under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

07. Conversion Table: Secondary Categories to Primary Categories.

Conversion Table: Secondary Categories to Primary Categories	
Secondary Categories	Primary Categories
12, 15, 18, or 20	Vacant Residential Land
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51	Improved Commercial or Industrial Property
47, 49, or 65	Manufactured Housing on Leased Land

(3-30-07)

08. Cross Reference. For clarification of responsibilities relating to listing values on the valuation assessment notices or reporting values on the abstracts, see Rule 114, 115, 509, 510, 511, and 512 of these rules. For descriptions of secondary categories used to list land values on the valuation assessment notices and report land values on the abstracts, see Rule 510 of these rules, used to list improvement values on the valuation assessment notices and report improvement values on the abstracts, see Rule 511 of these rules, and used to list values for all

property other than land or improvements on the valuation assessment notices and report these values on the abstracts, see Rule 512 of these rules. (3-30-07)

131. USE OF RATIO STUDY TO TEST FOR EQUALIZATION IN COUNTIES (RULE 131).
Section 63-109, Idaho Code

01. Equalization Ratio Study. Each year the Tax Commission will conduct a ratio study to assist in the equalization of assessments of property within and among the primary categories established in Rule 130 of these rules. The ratio study will be conducted in accordance with the "Standard on Ratio Studies" and the "Standard on Verification and Adjustment of Sales" both referenced in Rule 003 of these rules. The annual ratio study will test assessments as of January 1 of each year. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within each county between October 1 of the year preceding the year for which assessments are to be tested and September 30 of the year for which assessments are to be tested. Each sale price is to be adjusted for time and compared to market value for assessment purposes for the year for which assessments are to be tested, to compute ratios to be analyzed. The Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. Equalization ratio studies must consist of at least five (5) sales and/or appraisals. The Tax Commission may delete sales when necessary to improve representativeness. Sales should be considered as potentially valid if a financial institution is the seller, provided that: (4-4-13)

a. Such sales comprise more than twenty (20) percent of the sales in any primary category or other category tested for equalization; (4-4-13)

b. Such sales are validated to account for changes in property characteristics; and (4-4-13)

c. Any properties that have been vandalized are excluded. (4-4-13)

d. The study will be completed in February following the end of the period studied. The appropriate ratio study statistical measure of level will be the median. (4-4-13)

02. Tested for Equalization. Except as provided in Subsection 131.03 of this rule, categories to be tested for equalization purposes are the primary categories, described in Subsections 130.02 through 130.06 of these rules, provided adequate samples can be obtained. (4-7-11)

03. Follow-Up Ratio Study. When indicated, based on criteria in Paragraph 131.03.a. and 131.03.b. of this rule, a follow-up ratio study will be conducted to test the assessments for January 1 of the year following the year tested by the annual ratio study and will be based on property sales occurring during the calendar year immediately preceding that date. A follow-up ratio study will be indicated whenever: (4-2-08)

a. The annual ratio study, provided in Subsections 131.01 and 131.02 of this rule, discloses that assessments in any primary category as described in Subsections 130.02 through 130.06 of these rules are out of compliance with the equalization standards of this rule; or (4-2-08)

b. The Tax Commission is informed after the county board of equalization adjourns and before the state board of equalization adjourns of the implementation of assessment changes likely to result in a finding that a category found in compliance with equalization standards following the annual ratio study would be found out of compliance with these standards for the current year's assessments. The follow-up ratio study authorized under this option will be conducted for the primary category likely to be out of compliance with equalization standards and for any secondary categories comprising the primary category, provided adequate samples can be obtained. (4-7-11)

04. Notice of Follow-Up Ratio Study. The Tax Commission will notify the county assessor of the reason for and results of the follow-up ratio study. If the follow-up ratio study is conducted as provided in Paragraph 131.03.b. of this rule, the notice will be sent to the county board of equalization and county assessor and will describe the assessment changes that resulted in the need for the follow-up ratio study. The notice will indicate whether any adjustments will be considered by the Tax Commission at its next equalization meeting in August based on either the annual, or any follow-up ratio study, and the reason for the proposed adjustments. (4-2-08)

05. Use of Ratio Study Results. The results of the annual ratio study or any follow-up ratio study will be one (1) source of information upon which the Tax Commission may rely when testing assessments for equalization

purposes under Section 63-109, Idaho Code. When the results of any ratio study on any primary, or, if applicable under the provisions of Subsection 131.03.b. of this rule, secondary category, described in Subsections 130.02 through 130.07 of these rules, show, with reasonable statistical certainty as defined in Subsection 131.09 of this rule, that the appropriate measure of level of the category studied is less than ninety percent (90%) or greater than one hundred ten percent (110%), the assessment of property within that category may be considered not equalized. When this occurs, the Tax Commission may, at its annual meeting commencing on the second Monday in August, order the county auditor to adjust the value of all property in the category or any portion of the category included in the analysis conducted in an amount the Tax Commission finds necessary to accomplish equalization of assessments of property. Within any primary category, except as provided in Subsection 131.06 of this rule, adjustment will not be considered for any secondary category, described in Rule 510, 511, or 512 of these rules, that does not have at least one (1) observation in the ratio study conducted for that primary category. (4-7-11)

06. Exception from Requirement for at Least One (1) Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment applies to any assessed value in secondary category 10, provided there is at least one observation (sale) of property identified in either secondary category 12 or 15. Such adjustment will also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. (3-30-07)

07. Use of Alternate Ratio Study. When the follow-up ratio study required by Subsection 131.03 of this rule does not measure the true assessment level, the Tax Commission may consider adjustment based on the most recent annually conducted ratio study or other information relevant to equalization. If the Tax Commission has reason to question the representativeness of the sample used in an annual or follow-up ratio study conducted on any primary category, the Tax Commission may delay implementation of any order to adjust property values until two (2) successive years' ratio studies fail to produce an appropriate measure of level between ninety percent (90%) and one hundred ten percent (110%). (3-30-07)

08. Submission of Additional Information. Any party may petition the Tax Commission to consider any information or studies relevant to equalization. The petition will include a description of the information to be presented and the petitioner's conclusions drawn from the information. (4-5-95)

09. Reasonable Statistical Certainty. For the purposes of Rule 131 and equalization pursuant to Section 63-109, Idaho Code, "reasonable statistical certainty" that any primary category is not equalized means that the appropriate measure of level determined by the ratio study for any category tested for equalization must be provably less than ninety percent (90%) or greater than one hundred ten percent (110%) of market value for assessment purposes. Such a determination will occur if: (4-7-11)

a. The appropriate measure of level for the category(ies) being tested is less than ninety percent (90%) or greater than one hundred ten percent (110%) and a ninety percent (90%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%); or (4-7-11)

b. The appropriate measure of level for the category(ies) being tested has been less than ninety percent (90%) or greater than one hundred ten percent (110%) as determined by the most recent previous two (2) ratio studies on the category(ies) and an eighty percent (80%) two-tailed confidence interval around the appropriate measure of level fails to include ninety percent (90%) or one hundred ten percent (110%). No ratio study completed prior to August 31, 2007 will be considered as one of the most recent previous two (2) ratio studies. (4-7-11)

10. Cross References. The primary categories are described in Subsections 130.02 through 130.06 of these rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. (3-30-07)

132. -- 204. (RESERVED)

205. PERSONAL AND REAL PROPERTY -- DEFINITIONS AND GUIDELINES (RULE 205).
Sections 39-4105, 39-4301, 63-201, 63-302, 63-309, 63-602KK, 63-1703, 63-2801, Idaho Code

01. Real Property. Real property is defined in Section 63-201, Idaho Code. Real property consists of land and improvements. (5-8-09)

a. Land. Land is real property as well as all rights and privileges thereto belonging or any way appertaining to the land. (5-8-09)

b. Law and Courts. Real property also consists of all other property which the law defines, or the courts may interpret, declare, and hold to be real property under the letter, spirit, intent, and meaning of the law. (5-8-09)

c. Improvements. Improvements are buildings, structures, fences, and similar properties that are built upon land. Improvements are real property regardless of whether or not such improvements are owned separately from the ownership of the land upon or to which the same may be erected, affixed, or attached. (4-11-15)

02. Personal Property. Personal property is defined in Section 63-201, Idaho Code, as everything that is the subject of ownership that is not real property. (5-8-09)

03. Fixtures. Fixtures are defined in Section 63-201, Idaho Code, as articles that were once moveable personal property items but have become real property as determined by the application of the three factor test. (4-11-15)

a. The three factor test consists of annexation, adaptation and intent as explained below. (4-11-15)

i. Annexation. Although once moveable chattels, articles become accessory to and a part of improvements to real property by having been physically or constructively incorporated therein or annexed or affixed thereto in such a manner that removing them would cause material injury or damage to the real property; and (5-8-09)

ii. Adaptation. The use or purpose of an item is integral to the use of the real property to which it is affixed; and (5-8-09)

iii. Intent. Items should be considered personal property unless a person would reasonably be considered to intend to make the articles, during their useful life, permanent additions to the real property. The intent depends on an objective standard and what a reasonable person would consider permanent and not the subjective intention of the owner of the property. (5-8-09)

b. If an item of property satisfies all three factors of the three factor test, the item becomes a fixture and therefore real property. (4-11-15)

04. Operating Property. Operating Property is defined in Section 63-201, Idaho Code. For any purpose for which the distinction between personal property and real property is relevant or necessary for operating property, operating property will be characterized as personal or real based upon the criteria stated in this guideline and the rules of the Tax Commission. (5-8-09)

206. -- 216. (RESERVED)

217. RULES PERTAINING TO MARKET VALUE DUTY OF COUNTY ASSESSORS (RULE 217).
Section 63-208 Idaho Code

01. Market Value Definition. Market value is the most probable amount of United States dollars or equivalent for which a property would exchange hands between a knowledgeable and willing seller, under no compulsion to sell, and an informed, capable buyer, under no compulsion to buy, with a reasonable time allowed to consummate the sale, substantiated by a reasonable down or full cash payment. (7-1-97)

a. The assessor will value the full market value of the entire fee simple interest of property for taxation. Statutory exemptions will be subtracted. (7-1-97)

b. Personal property will be valued at retail level. (7-1-93)

02. Appraisal Approaches. Three (3) approaches to value will be considered on all property. The three (3) approaches to market value are: (3-30-07)

a. The sales comparison approach; (3-30-01)

b. The cost approach; and (3-30-01)

c. The income approach. (3-30-01)

03. Appraisal Procedures. Market value for assessment purposes will be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the Tax Commission. The appraisal procedures, methods, and techniques using the income approach to determine the market value for assessment purposes of income producing properties must use market rent, not contract rent. (3-29-10)

218. ASSESSOR'S PLAT BOOK (RULE 218).
Sections 50-1304, 63-209, 63-210, 63-212, 63-219, and 63-307, Idaho Code

01. Plat Maps. The assessor will prepare plat maps for all land. (4-4-13)

a. Plat map format. Plat maps may be drafted and maintained either in ink, on drafting film, or in a digital format. When such maps are on drafting film, thirty (30) inch by thirty-six (36) inch, 0.003 inch drafting film (minimum thickness) should be used. Smaller plat map sizes are permitted as long as they clearly depict parcel boundaries and dimensions. (4-4-13)

b. Maintenance of plat maps. Plat maps of townships, sections, aliquot parts, subdivisions, and parcel boundaries completed after July 1, 2013 will be updated and maintained in accordance with the "Manual of Surveying Instructions" referenced in Rule 003 of these rules. (4-4-13)

c. Maintenance of parcel numbers and all other desired information. Parcel numbers, and all other desired information, will be maintained in a digital format or drafted with ink. Annotative information will be added as necessary and, if plotted by computer be of appropriate font style and size to be easily readable. The minimum letter height will be one point two five (1.25) millimeters. (4-4-13)

02. Section Outlines. Section outlines will be mapped according to: (4-4-13)

a. Technical descriptions of Bureau of Land Management, formerly the General Land Office (GLO), surveys, (Section 31-2709, Idaho Code); (7-1-97)

b. Descriptions on recorded surveys (Sections 55-1901 through 55-1911, Idaho Code); (7-1-97)

c. Recorded corner perpetuation records (Sections 55-1603 through 55-1612, Idaho Code); (7-1-97)

d. Recorded subdivision plats and assessor's plats (Sections 50-1301 through 50-1330, 63-209, and 63-210(2) Idaho Code); (7-1-97)

e. Deeds or contracts with metes and bounds descriptions (Section 31-2709, Idaho Code); (7-1-97)

f. Highway, railroad, and other engineering quality route surveys; (7-1-97)

g. Relevant court decisions; and (7-1-97)

h. Unrecorded data from registered land surveyors (Section 31-2709, Idaho Code). (7-1-97)

03. Subdivision of Sections. Subdivision of sections will be mapped in accordance with Sections 31-2709 and 63-209, Idaho Code. (4-4-13)

04. Map Scales. Non-Computer and computer generated maps will be scaled. (7-1-97)

a. Non-computer generated maps. Non-computer generated maps will be: (4-4-13)

i. One (1) township at one (1) inch = fourteen thousand four hundred (14,400) inches (1,200 feet), 1:14,400; (5-8-09)

ii. Four (4) sections at one (1) inch = four thousand eight hundred (4,800) inches (400 feet), 1:4,800; one (1) section at one (1) inch = twenty four hundred (2400) inches (200 feet), 1:2,400; (5-8-09)

iii. One (1) quarter section at one (1) inch = twelve hundred (1,200) inches (100 feet), 1:1,200. (5-8-09)

b. Mapping done from aerial photographs. Mapping done from aerial photographs will have the scale recalculated and shown on the map. (4-4-13)

c. Plat maps of subdivision, townsite, and metes and bounds parcels. Subdivision, townsite, and metes and bounds parcels will be mapped to include the basis of bearing with monuments and their coordinates relative to the "Idaho Coordinate System" as described by Sections 31-2709, 50-1301, 50-1303, and 50-1304, Idaho Code. (4-4-13)

d. Drafting of plat titles, subdivision names, and parcel dimensions. Plat titles, subdivision names, and parcel dimensions will be drafted with ink, or generated by computer at an appropriate scale. The minimum letter height will be one point two five (1.25) millimeters. (4-4-13)

05. Property Ownership Records. Ownership will be shown on the property ownership records. (7-1-97)

a. Ownership notations. Ownership notations include the reputed owner of the property or note that the owner is unknown, or list other persons with interests of record. Ownership may be ascertained from numerous recorded sources as described in Sections 63-212 and 63-307, Idaho Code. (4-4-13)

b. Insertion of additional names. Purchasers, agents, guardians, executors, administrators, heirs, and claimants may have their names inserted with the recorded owner's name as explained in Sections 63-212 and 63-307, Idaho Code. (4-4-13)

219. UNIFORM PARCEL NUMBERING SYSTEM (RULE 219).

Sections 63-209, 63-210, and 63-219, Idaho Code

01. Definitions. The following definitions apply to this rule. (5-8-09)

a. Parent parcel. A parcel of land in its original state prior to being segregated. The parcel may be described by a metes and bounds description, lot and block, aliquot part, or government lot. (5-8-09)

b. Child parcel. A parcel of land which has been segregated from the parent parcel. At the time a parent parcel is segregated into one or more parts, the parcels being segregated from the parent parcel will be known as child parcels. The child parcel may be described by a metes and bounds description, a portion of a lot and block, a portion of an aliquot part, or a portion of a government lot. (5-8-09)

02. Parcel Number Functions. The uniform parcel numbering system will be used for mapping and record keeping. Each parcel will be assigned a parcel number that will appear on the plat map and on a companion sheet. This assigned parcel number may also be the tax number. (5-8-09)

03. Parcel Number Cancellation or Retention Upon Property Transfers. As long as the property boundary does not change, the new owner's name will be assigned to the same parcel number on the companion

sheet. A parcel number that exists at the time a property is divided or added to may be canceled and a new number(s) assigned. If the parent parcel number is not canceled, it will be assigned to the child parcel complying with the directions in this rule relating to assigning parcel numbers based on geographic location. (5-8-09)

04. Property Split by County Line, Section Line, or Tax Code Area Boundary. Properties contiguous under common ownership but split by county line or tax code area boundary will require separate parcel numbers. Properties contiguous under common ownership but split by section line(s) and entirely located within the same county and tax code area will not require separate parcel numbers and the lowest section number will be included in the parcel number as explained in Paragraph 219.05.c. of this rule. (3-29-12)

05. Rural Land Not Subdivided. Assign parcel numbers to rural land that is not subdivided as follows: (5-8-09)

a. Positions 1, 2, and 3 will be the township descriptor minus the "T." (5-8-09)

b. Positions 4, 5, and 6 will be the range descriptor minus the "R." (5-8-09)

c. Positions 7 and 8 will be the section number. For properties contiguous under common ownership and split by section line(s) so that the parcel is located in multiple sections, the lowest section number will be used. If the section number is less than ten (10), the section number is in position 8, preceded by a zero ("0") in position 7. (3-29-12)

d. Positions 9, 10, 11, and 12 will be the quarter section numbers. To assign the quarter section number, begin numbering in the northeast quarter (NE1/4) of the northeast quarter (NE1/4) and proceed counterclockwise. Starting in the NE1/4 of the section the numbers used range from zero to two thousand three hundred ninety nine (0000 to 2399). Continuing counterclockwise, beginning in the NE1/4 of the northwest quarter (NW1/4), the numbers continue from two thousand four hundred to four thousand seven hundred ninety nine (2400 to 4799), thence, starting in the NE1/4 of the southwest quarter (SW1/4), assign numbers from four thousand eight hundred to seven thousand one hundred ninety nine (4800 to 7199), and beginning in the NE1/4 of the southeast quarter (SE1/4), assign quarter section numbers from seven thousand two hundred to nine thousand nine hundred ninety nine (7200 to 9999). The following quarter section breakdown key shows the sequence for assigning quarter section numbers for land not subdivided. (5-8-09)

06. Urban Land not Subdivided. Assign parcel numbers to urban land that is not subdivided as follows: (5-8-09)

a. Position 1 will be the city letter. Each city will have a unique letter. (5-8-09)

b. Positions 2, 3, 4, 5, and 6 will each be the number zero ("0"). (5-8-09)

c. Positions 7 and 8 will be the section number. Number these positions as directed in Paragraph 219.05.c. of this rule. (3-29-12)

d. Positions 9, 10, 11, and 12 will be the quarter section number. Number these positions as directed in Paragraph 219.05.d. of this rule. (3-29-12)

e. When a metes and bounds parcel inside city limits is being numbered, positions 9, 10, 11, and 12 locate the parcel to the nearest quarter section. (5-8-09)

f. If a government lot is within a section, or an extended government lot is an extension of a section, the quarter section numbering will be assigned as rural land not subdivided. For a government lot within a quarter section, the assigned number will be a number within the sequence of numbers for the quarter section. For an extended section, the assigned number will be within the sequence from the extended quarter section. (5-8-09)

g. The following parcel number example denotes a parcel in the NE1/4 of section 29 in the city identified by the letter "A": A00000292163. (5-8-09)

07. Subdivided Rural Land. Assign parcel numbers to subdivided rural land as follows: (5-8-09)

a. Position 1 will be the number zero ("0"). (5-8-09)

b. Positions 2, 3, 4, and 5 will be the subdivision number. The subdivision number will not contain alphabetic characters. Each subdivision, whether the original townsite or new subdivision, will be assigned a four (4) digit number. (5-8-09)

c. Positions 6, 7, and 8 will be the block number. (5-8-09)

d. Positions 9, 10, and 11 will be the lot number designated on the subdivision plat or an assigned number if characters on the subdivision plat are not acceptable as a parcel number. (5-8-09)

e. Position 12 will be the number zero ("0") if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter "A." If split a second time, the letter becomes a "B," etceteras. These splits or combinations will be listed on the companion sheet. (5-8-09)

f. The following parcel number example denotes a subdivided parcel not in any city, identified by the number zero ("0"), subdivision number 62, block number 200, and lot number 29: 000622000290. (5-8-09)

08. Subdivided Urban Land. Assign parcel numbers to subdivided urban land as follows: (5-8-09)

a. Position 1 will be the city letter. Each city will have a unique letter. (5-8-09)

b. Positions 2, 3, 4, and 5 will be the subdivision number. The subdivision number will not contain alphabetic characters. Each subdivision, whether the original townsite or a new subdivision, will be assigned a four (4) digit number. (5-8-09)

c. Positions 6, 7, and 8 will be the block number. (5-8-09)

d. Positions 9, 10, and 11 will be the lot number designated on the subdivision plat. An assigned subdivision plat number may be used if numbers comply with the parcel numbering system. (5-8-09)

e. Position 12 will be the number zero ("0") if the lot is as originally platted. If a lot has been split once or combined once, then this becomes the letter "A." If split a second time, the letter becomes a "B," etceteras. These splits or combinations will be listed on the companion sheet. (5-8-09)

f. When one (1) whole lot and part of another adjoining lot are under common ownership, one (1) parcel number may be assigned. That parcel number will be written using the whole lot's number and position 12 will be a letter. (5-8-09)

g. *Example: A parcel in a city identified by the letter "A", in a subdivision with number 0062, in a block with number 200, a lot with number 029, and modified once will have the parcel number A0062200029A.* *( )*

09. Patented Mines and Patented Mining Claims. Assign parcel numbers to patented mines and mining claims as follows: (5-8-09)

a. The number nine (**"9"**) will be in positions 1 and 2. (5-8-09)

b. Positions 3 through 8 will denote the township and range, as in the land not subdivided format. (5-8-09)

c. Positions 9 through 12 will be a county assigned sequential account number for individual mines. (5-8-09)

d. The following parcel number example denotes a parcel that is a patented mine in township 10

North, Range 36 East, with county assigned number 58: 9910N36E0058. (5-8-09)

10. Condominiums. Assign parcel numbers to condominiums as follows: (5-8-09)

a. Condominiums in a city will have a letter in position 1 of the parcel number. The letter will be unique for each city. For condominiums not in any city, position 1 is the number zero ("0"). (5-8-09)

b. Positions 2, 3, 4, and 5 will be the condominium number and will be four numbers. To differentiate between condominiums and subdivisions, numbers 0001 through 8999 are to be used for subdivisions, and numbers 9000 through 9999 for condominiums. Fill positions preceding the number with zeros to occupy all four (4) positions ("0000"). (5-8-09)

c. Positions 6, 7, and 8 will be the block or building number. Position 6 may be a **"**C**"** to differentiate between a typical block or building number and a condominium common area. (5-8-09)

d. Positions 9, 10, and 11 will be the lot or unit number designated on the condominium plat or an assigned number. An assigned condominium plat number may be used if numbers comply with the parcel numbering system. (5-8-09)

e. Position 12 will be the number zero ("0") if the parcel has not been modified since originally platted. If it has been split once or combined once, then this character becomes an "A." If split a second time, the character becomes a "B," etceteras. These splits or combinations will be listed on the companion sheet. (5-8-09)

f. The following parcel number example denotes a parcel that is in the city identified by the letter "A," with condominium number 9062, block or building number 007, lot or unit number 029, and has not been modified since originally platted: A90620070290. (5-8-09)

220. RULES PERTAINING TO ASSESSMENT OF INTERNAL REVENUE CODE (IRC) SECTION 42 LOW-INCOME PROPERTIES (RULE 220).
Section 63- 205A, Idaho Code

01. Definitions. The following definitions apply to the appraisal of IRC section 42 low-income properties as used in Section 63-205A, Idaho Code, and in this rule. (3-29-10)

a. Amount of Housing Tax Credits. The "Amount of Housing Tax Credits" is the Housing Tax Credits divided by the number of years of the term of the Tax Credit Regulatory Agreement. (3-29-10)

b. Asset Management Fee. "Asset Management Fee" is an annual fee paid to the limited partner for property management oversight, tax credit compliance monitoring, and related services. (3-29-10)

c. Audit Fee. "Audit Fee" is the fees and costs that may be charged by accountants for preparation and review of financial statements on behalf of the owner or investor. (3-29-10)

d. Compliance Fee. "Compliance Fee" is the fees and costs, if any, that may be charged by the Idaho Housing Financing Association (IHFA), or its agent, for review and inspection of the owner's records, or the physical inspection of the project, as are required by the Regulatory Agreement or federal law. (3-29-10)

e. Existing Section 42 Project. An "Existing Section 42 Project" is a Section 42 low-income project for which Housing Tax Credits were entirely distributed before January 1, 2009. (3-29-10)

f. Federal Project Based Assistance. "Federal Project Based Assistance" means: (3-29-10)

i. Rental assistance of any kind provided by the Department of Housing and Urban Development or other agencies of the United States federal government which allow for rental assistance payments to the owner on behalf of the project and not on behalf of any individual tenant; or (3-29-10)

ii. Apartment projects that have federal financing at below market terms at the time when the

financing was put in place, which financing is transferable without change in terms and conditions to subsequent transferees; or (3-29-10)

iii. Apartment projects that receive financing from the federal Hope VI programs administered under 42 USC section 1437v. (3-29-10)

g. Financial Statements. "Financial Statements" are profit and loss statements, or equivalent reports, that include a detailed schedule showing income and expense line items, the project's rent roll showing the rent charged for each unit, and a copy of the IHFA's Annual Occupancy Report that is submitted annually by each project's owner or agent to the IHFA. (3-29-10)

h. General Partner Fee. "General Partner Fee" is the portion of cash flow that is paid to the general partner to compensate the general partner for managing the partnership's operating assets and coordinating the preparation of the required IHFA's, federal, state, and local tax and other required filings and financial reports. (3-29-10)

i. Housing Tax Credits. The "Housing Tax Credits" are the final total federal income tax credits as shown on the first year's form 8609 and allocated by the IHFA to the project either in an original allocation or a new allocation and reported to the Tax Commission by the IHFA. (3-29-10)

j. Tax Credit Regulatory Agreement. The "Tax Credit Regulatory Agreement" means the original agreement, or the extended agreement, between the section 42 project owner and the IHFA. (3-29-10)

02. Appraisal Approaches. The cost approach, the sales comparison approach, and the income approach will be considered when appraising section 42 properties. The individual values produced by each approach will be correlated into a single property value. (3-29-10)

a. The Cost Approach. The cost approach will be adjusted for any economic obsolescence caused by rent restrictions imposed by the Tax Credit Regulatory Agreement. ( )

b. The Sales Comparison Approach. When available, sales of section 42 low-income properties that are similar and comparable will be used. When non-section 42 comparable sales are used in this approach, the sales must be adjusted for the appropriate property attributes. (3-29-10)

c. The Income Approach. The application of the income approach will include the following procedures and provisions: (3-29-10)

i. Market rents of section 42 properties and normalized expenses of section 42 properties must be used to determine net income unless the taxpayer fails to provide the Financial Statements in accordance with Subsection 220.03 of this rule. If the Financial Statements are not provided, the assessor may use market rents of non-section 42 properties and normalized expenses of non-section 42 properties to determine net income. If Financial Statements are not provided, the Amount of Housing Tax Credits will not be added to the capitalized net income. (3-29-10)

ii. The Amount of Housing Tax Credits will not be used in the appraisal of Existing Section 42 Projects. (3-29-10)

iii. The Amount of Housing Tax Credits will, for the duration of the Tax Credit Regulatory Agreement, be included in the appraisal of section 42 properties that have received or will receive an allocation of Housing Tax Credits after January 1, 2009. (3-29-10)

iv. The Amount of Housing Tax Credits, when applicable to the appraisal, will not be included in the net income capitalized to value but will be added to the capitalized net income. (3-29-10)

v. The Tax Commission's determination of capitalization rates derived from sales will not preclude the use by the assessor of other methods for determining the capitalization rate, provided however, such other methods are consistent with Section 63-205A, Idaho Code, and this rule. (3-29-10)

03. Financial Statements to be Provided by the Owners. The owners of section 42 properties will, by April 1 of each year, provide to the Tax Commission the prior year's Financial Statements. Failure to provide the Financial Statements by April 1 will result in the appraisal of the section 42 property as if it were an unrestricted rent, non-section 42 property. The Tax Commission will forward to the assessor all Financial Statements received from the owners of section 42 properties and the information received from the IHFA by April 15. The assessor will use the Financial Statements to develop normalized income and expense information to be used in the appraisal of section 42 properties. (3-29-10)

04. Tax Commission to Provide Information on Section 42 Property Sales. The Tax Commission will gather information from sale transactions of section 42 properties and will compute the capitalization rate for each sale. The Tax Commission will, for sales acquired during the immediate prior year, send capitalization rates and all information used to determine these rates to each county assessor by April 15. If information from three (3) or more comparable sale transactions of section 42 properties is sent to the assessors, the assessors will consider these sales' capitalization rates in their determination of the capitalization rate to be used in appraising the particular section 42 property or group of section 42 properties. (3-29-10)

05. Cross Reference. For an explanation of why income tax credits should be allowed in section 42 assessments, see Brandon Bay, Ltd. Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (2006). (3-29-10)

221. -- 224. (RESERVED)

225. DOCUMENTATION FOR NEWLY ORGANIZED OR ALTERED TAXING DISTRICTS OR REVENUE ALLOCATION AREAS (RAAS) UNDER THE JURISDICTION OF URBAN RENEWAL AGENCIES (RULE 225).
Sections 31-1411, 50-2907, 50-2908, 63-215, 63-807, 63-1202, 63-3029B, and 63-3638, Idaho Code

01. Definitions. The following definitions apply for cities, taxing districts, or revenue allocation areas (RAAs) under the jurisdiction of urban renewal agencies being organized or formed or altering boundaries. (3-15-02)

a. Taxing Districts. The term taxing districts as used in this rule means taxing districts and taxing units. (3-15-02)

b. Alter. Alter or any derivatives of the word as used in Section 63-215, Idaho Code, means annex, deannex, or consolidate or derivatives of these words. (3-15-02)

c. Contiguous. Contiguous means being in actual contact or touching along a boundary or at a point and is synonymous with abutting on. (3-15-02)

d. Deannex. Deannex means to delete or remove a portion but not all of a boundary for a city, taxing district, or RAA by completing all legal requirements to establish a new boundary for the city, taxing district or RAA. (4-6-05)

e. Disincorporate. Disincorporate or any derivatives of the word as used in Section 63-3638, Idaho Code, means completing all legal requirements to end the existence of a city. (4-6-05)

f. Dissolve. Dissolve or any derivatives of the word as used in Section 63-3638, Idaho Code, means completing all legal requirements to end the existence of a taxing district or RAA. (4-6-05)

g. Legal Description. Legal description means a narrative that describes by metes and bounds a definite boundary of an area of land that can be mapped on a tax code area map and will include: (3-15-02)

i. Section, township, range and meridian. (3-15-02)

ii. An initial point, being a government surveyed corner, such as a section corner, quarter corner or mineral survey corner. (3-15-02)

iii. A true point of beginning, defined by bearings and distances from the initial point, that begins a new city, taxing district, RAA or any alteration thereto. (3-15-02)

iv. Bearings and distances that continuously define the boundary of any area with a closure accuracy of at least one (1) part in five thousand (5,000). Variations from this closure requirement may be approved by the Tax Commission if the description is sufficiently certain and accurate to ensure that the property is assigned to the proper tax code area. Such variations may include: (3-15-02)

(1) Boundaries which follow mountain ranges, rivers, highways, lakes, canals and other physical features that are clearly delineated on published U.S. Geological Survey quadrangle maps at scale 1:24,000; or (3-15-02)

(2) References to cardinal directions, government survey distances, and section or aliquot part corners; or (3-15-02)

(3) References to recorded subdivision or town site plats, with copies of such plats; or (3-15-02)

(4) Legislatively established boundaries as defined by reference to Idaho Code sections. (3-15-02)

v. The legal description to annex to or deannex from an existing city, taxing district, or RAA will plainly and clearly define the boundary lines of the deannexed or annexed area and include a reference to existing boundaries where contiguous. (3-15-02)

h. Map Prepared in a Draftsman-like Manner. Map prepared in a draftsman-like manner means an original graphic representation or precise copy matching the accompanying legal description and drafted to scale using standard mechanical drawing instruments or a computer. The map will include: (3-15-02)

i. Section, township, range, and meridian identifications. (3-15-02)

ii. North arrow, bar scale, and title block. (3-15-02)

iii. District name and ordinance number or order date. (3-15-02)

iv. Bearing and distance annotation between boundary points or a legend or table identifying the bearing and distance between each set of boundary points. (3-15-02)

v. Clearly defined boundary lines of the newly formed city, taxing district, or RAA or of the alteration to an existing one together with reference to the existing boundary where contiguous. (3-15-02)

vi. Variations from the requirements of Paragraph 225.01.h. of this rule for what must be included on the map may be approved by the Tax Commission if the map is sufficiently certain and accurate to ensure that the property is assigned to the proper tax code area. (4-6-05)

i. Countywide taxing district. A countywide taxing district is a taxing district having the same boundaries as one (1) or more counties. (5-8-09)

02. Documentation to Be Filed for Newly Created or Altered Cities, Taxing Districts, or RAAs. The following documentation will be filed with the county assessor, county recorder, and the Tax Commission no later than thirty (30) days following the effective date of any action creating or altering a city, taxing district, or RAA boundary, but no later than January 10 of the following year when any action creating or altering said boundary occurs after December 10. (3-15-02)

a. A legal description which plainly and clearly defines the boundary of a newly formed city, taxing district, or RAA or the boundary of an alteration to an existing one. (3-15-02)

b. A copy of a map prepared in a draftsman-like manner or a record of survey as defined by Chapter 19, Title 55, Idaho Code, which matches the legal description. (4-5-00)

c. A copy of the ordinance or order effecting the formation or alteration. (4-5-00)

d. For fire districts annexing territory within an existing fire district and/or city, a copy of the written approval from that existing fire district and/or city. (3-30-07)

e. In cases where newly created taxing district boundaries are countywide a copy of the ordinance or order effecting the formation which clearly states that the newly formed district is to be countywide will fulfill the requirements of documents to be filed in Paragraphs 225.02.a. through 225.02.c. of this rule. (5-8-09)

03. Documentation to Be Filed for Disincorporated Cities or Dissolved Taxing Districts, or RAAs. (3-15-02)

a. No later than thirty (30) days following the effective date of the final action disincorporating a city or dissolving a taxing district or RAA, but no later than January 10 of the following year when the final action occurs after December 10, for the distributions of revenue as provided for in Sections 50-2908, 63-1202, 63-3029B and 63-3638, Idaho Code, the disincorporating or dissolving entity will file a copy of the ordinance or order causing the disincorporation or dissolution with the county assessor, county recorder and the Tax Commission. (4-4-13)

b. Upon receipt of the ordinance or order from a disincorporating city or dissolving taxing district, or RAA, the Tax Commission will prepare and send a list of the affected tax code area number(s) to the city, taxing district, or urban renewal agency and to the appropriate assessor(s) and recorder(s) within thirty (30) days except for any ordinance or order received after January 1 when the list will be sent by the fourth Friday of January. (4-4-13)

c. After fourteen (14) days from the date of the mailing of the list of the affected tax code area(s), the Tax Commission will process the disincorporation or dissolution unless it receives a response from the disincorporating city, or dissolving taxing district, appropriate urban renewal agency, appropriate recorder(s) or appropriate assessor(s) that an error exists in the identification of the tax code area(s). (3-15-02)

d. For RAAs formed prior to July 1, 2011, within thirty (30) days of the earlier of one (1) year prior to any dissolution date found in the formation ordinance or the date as of which an RAA has been in existence for twenty-three (23) years, the Tax Commission will notify the urban renewal agency of the date by which the RAA will be considered dissolved. Such notice will include a statement indicating that the RAA may remain in existence if necessary to pay off existing bonded indebtedness, provided that, within thirty (30) days of receipt of this notice, the urban renewal agency notifies the Tax Commission of such bonded indebtedness. Failure to provide notice of the dissolution date by the Tax Commission to the urban renewal agency does not negate the statutory requirement for the urban renewal agency to dissolve. (3-29-12)

e. For RAAs formed beginning July 1, 2011, the notification procedures in Paragraph 225.03.d. of this rule will be initiated within thirty (30) days of the earlier of one (1) year prior to any dissolution date found in the formation ordinance or the date as of which an RAA has been in existence for twenty (20) years. (3-29-12)

04. Digital Map Information. Digital map information in a format usable by the Tax Commission may be submitted in addition to or as a substitute for any cloth, film, or paper copy maps. Such information will be accompanied by metadata that clearly defines map projection, datum and attributes. (3-15-02)

05. Deadline for Completion. December 31 of the current year will be the deadline for completing of any action that creates, alters, or dissolves any taxing district or RAA or creates, alters or disincorporates any city requiring a revision of the Tax Commission's tax code area maps for the following year, unless the law provides otherwise. (3-15-02)

06. Approval of Property Tax Levy or Revenue Allocation. For the purpose of levying property taxes or receiving revenue allocations no newly formed or altered city, taxing district, or RAA will be considered formed or altered by the Tax Commission if it: (3-15-02)

a. Fails to provide the correct documentation plainly and clearly designating the boundaries of a newly formed city, taxing district, or RAA or of an alteration to an existing one; or (3-15-02)

b. Fails to provide the correct documentation in sufficient time for the Tax Commission to comply with Rule 404 of these rules; or (4-5-00)

c. Has boundaries which overlap with like cities, taxing districts or RAAs. (3-15-02)

d. Has had one (1) previous annexation on or after July 1, 2011 and is requesting to annex additional area. In this case, the annexation request will be denied, and the area of the RAA established prior to the new annexation will be considered to comprise the entire RAA. (3-29-12)

07. Notification of Approval or Disapproval. The Tax Commission will send a letter of approval or disapproval to the taxing district or municipality. A copy of said letter will be submitted to any affected urban renewal agency and the auditor(s) and assessor(s) of the involved county(ies). In the case of disapproval said letter will state the reason(s) for disapproval, the corrective action(s) needed for approval, and the time within which such corrective action(s) must be taken. The Tax Commission will send such letter within thirty (30) days of receipt of the document to which the disapproval relates, but not later than the fourth Friday of January except during the first quarter of the calendar year for documents relating to the next tax year. (4-6-05)

08. One Uniform System. The Tax Commission will prepare one (1) uniform system of tax code area numbers and maps which will be used by each county for property tax purposes. (4-5-00)

09. Tax Code Areas. The Tax Commission will create a separate, unique number for each tax code area. If any area annexed to an existing RAA includes a taxing district with any fund levying prior to January 1, 2008, and continuing to levy but which is not to be used to generate funds to be distributed to an urban renewal agency, the boundaries of the area added to the existing RAA will constitute a separate tax code area. Only the Tax Commission will initiate or change a tax code area number. (5-8-09)

10. Furnished By The Tax Commission. (3-29-12)

a. Annually, the Tax Commission will post the following documents on the Tax Commission's website: (3-29-12)

i. Updated tax code area maps: (3-29-12)

ii. Updated taxing district maps; (3-29-12)

iii. Updated urban renewal revenue allocation area maps; and (3-29-12)

iv. Documentation of changes related to the above maps. (3-29-12)

b. This information is available to all parties. Upon specific request, the Tax Commission will furnish without charge, one (1) hardcopy set of the above documents to each appropriate assessor, recorder, treasurer, and entity with operating property assessed by the Tax Commission. There will be a charge for all other hardcopy maps. (3-29-12)

226. -- 229. (RESERVED)

230. EXTENSIONS OF STATUTORY DEADLINES FOR DISASTER RELIEF (RULE 230).
Section 63-220, Idaho Code

01. Application by County Officials. A county official who, because of any extension of time authorized by Section 63-220, Idaho Code, is unable to comply with a statutory deadline imposed in Title 63, Idaho Code, may apply to the Tax Commission for a reasonable delay, not to exceed sixty (60) days, of any such act. (3-23-98)

02. Contents of Application. The application will be submitted prior to the statutory deadline in regard to which the approval of delay is sought and will include: (3-23-98)

a. A description of the nature of the relief granted, or expected to be granted, to taxpayers pursuant to Section 63-220(1), Idaho Code, by the Board of County Commissioners; and (3-30-01)

b. Identification of any statutory deadline in regard to which the delay is sought; and (3-23-98)

c. The date by which the official making the application expects to accomplish the action in regard to which the delay is sought; and (3-23-98)

d. A request that the Tax Commission approve the delay sought. (3-23-98)

03. Procedure. Within five (5) working days of receipt of the request the Tax Commission will respond in writing to the official requesting the delay. The Tax Commission will approve any request for extension that complies with Subsections 230.01 and 230.02 of this rule. (3-30-01)

231. -- 303. (RESERVED)

304. MANUFACTURED HOME DESIGNATED AS REAL PROPERTY (RULE 304).
Sections 63-304 and 63-305, Idaho Code

01. Statement of Intent to Declare (SID). To declare a manufactured home real property, the homeowner will complete a "Statement of Intent to Declare," SID form, as prescribed by the Tax Commission. (4-6-05)

a. All information and signatures requested on the form will be provided prior to recordation. (3-23-94)

b. The homeowner will record the completed form. (3-23-94)

c. The homeowner will provide the assessor a copy of the recorded SID form and the title or Manufacturer's Statement of Origin (MSO). If proof of ownership is being provided through the MSO, the buyer's purchase agreement will be accepted by the assessor pending receipt of the MSO. For the purpose of this rule, the Manufacturer's Statement of Origin and Manufacturer's Certificate of Origin are synonymous. (3-30-01)

d. For new manufactured homes, the assessor will verify that sales or use tax has been collected or will collect such tax. Any sales or use tax collected by the assessor will be remitted to the Tax Commission. (3-30-01)

e. The assessor will forward a copy of the SID form and the title or MSO to the Idaho Transportation Department. The Idaho Transportation Department will cancel the title. (3-23-94)

02. Reversal of Declaration of Manufactured Home as Real Property. To provide for the reversal of the declaration of the manufactured home as real property, the homeowner will complete the "Reversal of Declaration of Manufactured Home as Real Property" form as prescribed by the Tax Commission. The homeowner will submit this completed form to the assessor within the required time period. (3-30-01)

a. The homeowner will also submit to the assessor a title report with the appropriate signatures of consent attached and will make application for a title to the manufactured home. (5-3-03)

b. The assessor will transmit to the Idaho Transportation Department a copy of the completed reversal form, title report with appropriate signatures of consent, and the application for title to the manufactured home. (3-23-94)

03. Definition of Permanently Affixed. In the year any manufactured home is to be declared to be real property, permanently affixed means complying with the Idaho Manufactured Home Installation Standard as adopted by IDAPA 07.03.12, "Rules Governing Manufactured Home Installations," Section 004. (4-6-05)

04. Status of Manufactured Housing Previously Declared Real. All manufactured housing upon which a "non-revocable option to declare the mobile home as real property" or SID was correctly completed and properly recorded and filed will be treated as real property until such time as a reversal (as provided for in Section 63-305, Idaho Code, and this rule) is correctly completed and properly recorded and filed. This status as real property is based on all criteria existing when said manufactured housing was originally declared real property. This property must be treated as real property and considered "permanently affixed" without any need to be retrofitted to comply with subsequent changes to the requirements for "permanently affixed," including changes to the Idaho Manufactured Home Installation Standard as adopted by IDAPA 07.03.12, "Rules Governing Manufactured Home Installations," Section 004, that occur after the manufactured home was originally declared real property. (4-6-05)

305. -- 311. (RESERVED)

312. PARTIAL YEAR ASSESSMENT OF REAL AND PERSONAL PROPERTY (RULE 312).
Sections 63-311 and 63-602Y, Idaho Code

01. Quarterly Assessment. For each partial year assessment of any non-transient personal property, the assessment will comply with the quarterly schedules provided in Sections 63-311 and 63-602Y, Idaho Code. (5-3-03)

02. Change of Status. The real or personal property that has a change of status as described in Section 63-602Y, Idaho Code, includes exempt governmental property. Such property of the United States, this state and its instrumentalities, including counties, cities, urban renewal agencies, school districts, and other taxing districts, that is transferred to a non-exempt owner or otherwise ceases to qualify for a property tax exemption is to be assessed as described in Section 63-602Y, Idaho Code. (3-26-19)

03. Cross Reference. The partial year assessment of any non-transient personal property will comply with the Idaho Supreme Court decision in Xerox Corporation v. Ada County Assessor, 101 Idaho 138, 609 P.2d 1129 (1980). When assessing all non-transient personal property, each assessor should be aware of the following quotation from this decision: "Where the county undertakes to update its initial (personal property) declarations during the course of the tax year, it cannot increase a taxpayer's tax burden to reflect the taxpayer's acquisition of non-exempt property without decreasing that tax burden to reflect the fact that property reported by the taxpayer in an earlier declaration was no longer subject to the county's ad valorem tax." (Clarification added.) (5-3-03)

04. Effective Date. In the interest of addressing all property transfers made from the public sector to private ownership within the same year (2019) in a consistent manner, as per the proration schedule in Section 63-602Y, Idaho Code, the effective date for "Rule 312" is to be January 1, 2019. (3-26-19)

313. ASSESSMENT OF TRANSIENT PERSONAL PROPERTY (RULE 313).
Sections 63-213, 63-313, and 63-602KK, Idaho Code

01. Definitions. The following definitions apply for the assessment of transient personal property. (5-3-03)

a. Home County. Home county is identified in Section 63-313, Idaho Code, as the county selected by the owner of any transient personal property as that county where that transient personal property is usually kept. That county selected by the owner will be a county in the state of Idaho. (5-3-03)

b. Periods of Thirty (30) Days or More. Periods of thirty (30) days or more mean increments of no less than thirty (30) consecutive, uninterrupted days, during which any transient personal property is located in any one (1) county. For any period of less than thirty (30) days, the property owner will report the transient personal property as being in the home county. (4-4-13)

c. Prorated Assessment. Prorated assessment means the ratio of the number of days, exceeding twenty-nine (29), to three hundred sixty-five (365) days multiplied by the total market value of the transient personal property. For additional clarification, refer to the following examples. (5-3-03)

i. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive,

uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (5-3-03)

ii. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the total market value in the second county and for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. (5-3-03)

iii. If located in a second Idaho county (not the home county) for thirty-one (31) consecutive, uninterrupted days, in a third Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, and in the home county for the remainder of the year, the transient personal property should be assessed for thirty-one/three hundred sixty-five (31/365) of the total market value in the second county, fifty-nine/three hundred sixty-five (59/365) of the total market value in the third county, and two hundred seventy-five/three hundred sixty-five (275/365) of the total market value in the home county. (5-3-03)

iv. If located in a second Idaho county (not the home county) for twenty-nine (29) consecutive, uninterrupted days and later in that same county for twenty-nine (29) consecutive, uninterrupted days and in the home county for the remainder of the year, the transient personal property should be assessed for the total market value in the home county. (5-3-03)

v. If located in a second Idaho county (not the home county) for fifty-nine (59) consecutive, uninterrupted days, outside the state of Idaho for any thirty-five (35) days and taxed in the other state, and in the home county for the remainder of the year, the transient personal property should be assessed for fifty-nine/three hundred sixty-five (59/365) of the value in the second county and for two hundred seventy-one/three hundred sixty-five (271/365) of the total market value in the home county. However, if the property in this example that was outside the state of Idaho for thirty-five (35) days was not taxed in the other state, then the time should be counted in the home county, and the property therefore should be assessed for three hundred six/three hundred sixty-five (306/365) of the total market value in the home county. (4-4-13)

d. Transient Personal Property. Transient personal property is defined in Section 63-201, Idaho Code. (5-3-03)

02. Overassessment Prohibited. Section 63-213, Idaho Code, prohibits the assessment of any property in any one (1) county for the same period of time that property has been assessed in another county. The sum of the assessments of transient personal property in the home county and each other county where the property has been located will not exceed the market value of the property. (5-3-03)

03. Non-taxable Transient Personal Property. (3-20-04)

a. Transient Personal Property in Transit. Under Subsection 63-313(4), Idaho Code, any transient personal property only in transit through the home county or any other county and not remaining in any county for the purpose of use is not subject to property taxation. (3-20-04)

b. Sold Transient Personal Property on Which Taxes Have Been Paid. Under Subsection 63-313(4), Idaho Code, any transient personal property, which was sold by the owner in the home county and upon which the full current year's property taxes were paid, is not subject to property taxation for the current year in any other county regardless of whether that property is to be used in or only in transit through any other county. (3-20-04)

c. Qualified Investment Exemption. For information and directions relating to the qualified investment exemption, see Rule 988 of these rules. (3-20-04)

04. Exempt Transient Personal Property. (5-8-09)

a. Section 63-602KK, Idaho Code, when applicable provides for exemption of each eligible taxpayer's personal property to the extent of one hundred thousand dollars ($100,000) within each county. The limit on the exemption will apply to the sum of the taxpayer's non-transient personal property and transient personal property. Prior to applying the exemption, transient personal property will be allocated among the counties based on

the prorated value as provided in Subsection 63-313(2), Idaho Code. (5-8-09)

b. In cases where the taxpayer has transient personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply. Should the taxpayer not make an election as to where to apply the exemption, the county will have discretion regarding the property to which the exemption will apply. (5-8-09)

314. COUNTY VALUATION PROGRAM TO BE CARRIED ON BY ASSESSOR (RULE 314).
Sections 63-314 and 63-316, Idaho Code

01. Definitions. (7-1-99)

a. Continuing Program of Valuation. "Continuing program of valuation" means the program by which each assessor completes the assessment of all taxable properties each year. (7-1-99)

b. Field Inspection. The "field inspection" will include an observation of the physical attributes of all structures which significantly contribute to the property value, the visible land amenities, and a notation of any other factors which may influence the market value of any improvements. (7-1-99)

c. Index. "Index" refers to any annual adjustment or trending factor applied to existing assessed values to reflect current market value. Ratio studies or other market analyses can be used to develop indexes based on property type, location, size, age or other characteristics. (7-1-99)

d. Prediction of Market Value. As used in Section 63-314, Idaho Code, "prediction of market value" means an estimate of market value. (7-1-99)

e. Category to be Assessed at Current Market Value. The level of assessment of each category will be considered to be current market value unless there is reasonable statistical certainty that the category is not equalized pursuant to Section 63-109, Idaho Code, and Rule 131. (3-30-01)

02. Plan for Continuing Program of Valuation. The plan for continuing program of valuation will include: (7-1-99)

a. General Contents. A parcel count by category, the number of parcels to be appraised each year, maps that show each of the market areas, an analysis of staff requirements, a budget analysis that provides adequate funding for labor costs, capital and supply costs, travel and education costs and the method of program evaluation. (3-30-01)

b. Market Data Bank. A market data bank including collection, verification and analysis of sales, income and expense data, building cost information, and application of this information to estimate market value. To mail assessment notices by the first Monday in June as required by Section 63-308, Idaho Code, assessors should include income and expense data submitted by property owners by the first Monday in April. Income and expense data for low-income housing properties receiving tax credits under Section 42 of the Internal Revenue Code includes actual rents, the monetary benefit of income tax credits, and expenses. (4-2-08)

c. Maps. Maps prepared in accordance with Section 63-209, Idaho Code, which identify characteristics of each geographic area. (7-1-99)

d. Property Record. A property record for each parcel, complete with the assigned secondary category and property characteristics necessary for an estimate of the current market value. Such characteristics may include data elements as described in the International Association of Assessing Officers (IAAO) Standard on Mass Appraisal of Real Property and the IAAO Standard on Digital Cadastral Maps and Parcel Identifiers. Common elements identified in these standards include: (3-29-12)

i. Date of most current physical review. (3-29-12)

ii. Significant improvements, buildings and structures. (3-29-12)

iii. Photographs of significant improvements. (3-29-12)

iv. Sketches and/or blue prints of significant improvements. (3-29-12)

v. Location data, such as market area, neighborhood, site amenities and external nuisances. (3-29-12)

vi. Year built, effective age and/or condition of significant improvements. (3-29-12)

vii. Land size or diagram of all taxable parcels within the county. (3-29-12)

e. Date plan is submitted. The plan must be submitted to the Tax Commission on or before the first Monday of February in 2017, and every fifth year thereafter. (3-28-18)

f. Request for extension. As provided in Section 63-314, Idaho Code, a county may request an extension to the current five (5) year county valuation plan. (3-30-01)

i. Amended Plan. Any request for an extension must include an amended plan incorporating an inventory of the parcels to be appraised during the period of the approved extension. This inventory will constitute the schedule of required appraisals for the initial year or years of the subsequent five (5) year valuation program. Parcels appraised during the extension will be considered appraised during both the current and subsequent five (5) year plan valuation program periods, maintaining the same five (5) year cycle for all counties. (3-30-01)

ii. Approval of the Extension and Amended Plan. A county will be notified of the Tax Commission's decision regarding the granting of an extension as provided in Section 63-314, Idaho Code, within thirty (30) days of receipt of the written request for the extension when accompanied by an amended plan. (3-30-01)

iii. Approval of the Amended Plan. The Tax Commission's approval of any extension will specify timing and nature of progress reports. (3-30-01)

iv. Voiding of the Extension. The Tax Commission can void an extension unilaterally. (3-30-01)

03. Field Inspections. The methods of observation of the physical attributes of property as described in the International Association of Assessing Officers (IAAO) "Standard on Mass Appraisal of Real Property" referenced in Rule 003 of these rules should be followed to the extent that resources are available. This includes the use of aerial photographs and other digital imaging technology tools, which may be used to supplement, but not replace physical inspections. (3-28-18)

04. Testing for Current Market Value. Assessed values will be tested annually by the Tax Commission as described in Section 63-109, Idaho Code, and Rule 131 of these rules to determine whether the level of assessment reflects "current market value." (3-30-01)

315. USE OF RATIO STUDY TO EQUALIZE BOISE SCHOOL DISTRICT (RULE 315).

Sections 63-315, 33-802(6), Idaho Code

01. Procedures for Boise School District Ratio Studies. The ratio study conducted by the Tax Commission to comply with the requirements of Section 63-315, Idaho Code, will be conducted in accordance with the "Standard on Ratio Studies" referenced in Rule 003 of these rules. The following specific procedures will be used. (4-2-08)

a. Information on property sales, which meet the requirements of arm's length and market value sales, will be obtained and assembled into samples representing various primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules, within designations defined in Subsection 315.02 of this rule in the Boise School District. Except when sales or appraisals must be added or deleted to improve representativeness, sales used will be those occurring within the Boise School District between October 1 of the year preceding the year for which adjusted market value is to be computed and September 30 of the year for which adjusted market value is to be computed. Each sale price is to be adjusted for

time and compared to market value for assessment purposes for the year for which adjusted market value is to be computed, to compute ratios to be analyzed. The Tax Commission may use sales from extended time periods and may add appraisals when data is lacking. The Tax Commission may delete sales when necessary to improve representativeness. (4-2-08)

b. A ratio will be determined for each sale by dividing the market value for assessment purposes of the property by the adjusted sale price or appraised value. (7-1-98)

c. A statistical analysis is to be conducted for the sales and any appraisals in each property designation described in Subsection 315.02 of this rule in the Boise School District and appropriate measures of central tendency, uniformity, reliability, and normality computed. (4-2-08)

d. With the exception of any property designations with extended time frames or added appraisals, if fewer than five (5) sales and appraisals are available, no adjustment to the taxable value of the designation will be made. (7-1-98)

e. If there are five (5) or more sales and appraisals and it is determined with reasonable statistical certainty that the property designation is not already at market value for assessment purposes, an adjusted market value will be computed for the Boise School District by dividing the taxable value for the year for which adjusted market value is to be determined by the appropriate ratio derived from the ratio study. The appropriate ratio to be used will be the weighted mean ratio calculated from the sample for each designation, unless it can be clearly demonstrated that this statistic has been distorted by non-representative ratios. In this case the median may be substituted: (4-2-08)

f. Within the Boise School District, adjusted market value or taxable value for each primary and each applicable secondary category of real, personal and operating property will be summed to produce the total adjusted market value for the Boise School District. The Boise School District taxable value will then be divided by this adjusted market value to produce the overall ratio of assessment in the Boise School District. Statewide totals are to be calculated by compiling county totals. (4-2-08)

g. Urban renewal increment values will not be included in the taxable value or the adjusted market value for the Boise School District. Upon receipt of an urban renewal agency's resolution recommending the adoption of an ordinance for termination of a revenue allocation area by December 31 of a given year, the increment value in the immediate prior year will be included in the taxable value and the adjusted market value for the Boise School District. If the resolution is received prior to the first Monday in April, the actual value for the immediate prior year will be adjusted by adding the increment value. If any ratio study-based adjustments are warranted, as provided in this rule, they applies to the actual value including the increment value. If the resolution is received on or after the first Monday in April, but by September 1, a corrected certification of actual and adjusted values will be provided as soon as practical. (3-25-16)

h. "Reasonable statistical certainty," that the property designation in question is not at market value for assessment purposes, is required. Such certainty is tested using ninety percent (90%) confidence intervals about the weighted mean or median ratios. If the appropriate confidence interval includes ninety-five percent (95%) or one hundred five percent (105%), there is not "reasonable statistical certainty" that the property designation is not at market value for assessment purposes. (3-30-01)

i. Primary and secondary categories subject to adjustment following the procedure outlined in this rule and ratio study designations from which measures of central tendency used for adjustments will be derived are:

Secondary Categories	Primary Categories	Ratio Study Designations
12, 15, 18, or 20	Vacant Residential Land	Residential
10, 12, 15, 18, 20, 26, 31, 34, 37, 40, 41, 46, 47, 48, or 50	Improved Residential Property	Residential

Secondary Categories	Primary Categories	Ratio Study Designations
47, 49, or 65	Manufactured Home on Leased Land	Residential
11, 13, 14, 16, 17, 21, or 22	Vacant Commercial or Industrial Land	Commercial
11, 13, 14, 16, 17, 21, 22, 27, 33, 35, 36, 38, 39, 42, 43, or 51	Improved Commercial or Industrial Property	Commercial

(3-30-07)

j. For all secondary categories, described in Rule 510, 511, or 512 of these rules but not contained in the list in Paragraph 315.01.i. of this rule, adjusted market value will equal taxable value. (3-30-07)

k. "Appraisal" or "appraised value" refers to any Tax Commission provided independently conducted property appraisal. (7-1-98)

02. Use of Property Designations. In computing the ratio for the Boise School District, the Tax Commission will designate property as residential or commercial and will assign appropriate primary categories, described in Subsections 130.02 through 130.06 of these rules, and secondary categories, described in Rules 510, 511, and 512 of these rules, to these designations as shown in Paragraph 315.01.i. of this rule. For the Boise School District, adjusted market value will be computed by dividing the appropriate ratio ascertained for each of these designations into the sum of the taxable values for each primary and secondary category assigned to a designation. Except as provided in Subsection 315.06 of this rule, for the taxable value in any secondary category to be included in said sum, at least one (1) observation (sale or appraisal) from that secondary category must be present in the ratio study. If the ratio for any given designation in the Boise School District indicates that the market value for assessment purposes cannot be determined with reasonable statistical certainty to differ from statutorily required market value, the taxable value shown on the Boise School District abstract(s) required pursuant to Subsection 315.04 of this rule for each of the secondary categories included in that designation will be the adjusted market value for said designation for said school district. (4-2-08)

03. Assessor to Identify Boise School Districts. Each county assessor will identify for the Tax Commission which sales submitted for the ratio study are located within the Boise School District. (4-2-08)

04. Abstracts of Value for the Boise School District. Each applicable county auditor will provide to the Tax Commission abstracts of the taxable value of all property within the portion of the Boise School District in that county. These abstracts will be submitted in the same manner and at the same time as provided for county abstracts of value. (4-2-08)

05. Urban Renewal Increment and Exemption to be Subtracted. The taxable value of each primary or secondary category within the Boise School District will not include the value that exceeds the value on the base assessment roll in any urban renewal district pursuant to Chapter 29, Title 50, Idaho Code, and will not include the value of any property exempt from property tax. (4-11-15)

06. Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination. Properties identified as secondary categories 10 and 31 rarely sell separately from farms and therefore do not appear in any ratio study. However, the level of assessment typically is similar to that of other rural residential property, including property in secondary categories 12, 15, 34, and 37. For any ratio study where there is an adjustment to be made to the assessed values in the residential designation, such adjustment applies to any assessed value in secondary category 10, provided there is at least one (1) observation (sale) of property identified in either secondary category 12 or 15. Such adjustment will also be applied to any assessed value in secondary category 31, provided there is at least one (1) observation (sale) of property identified in either secondary category 34 or 37. (3-30-07)

07. Certification of Values. The values required to be certified to the county clerk by the first Monday

in April each year under Section 63-315, Idaho Code, will be published on the Tax Commission's web site or provided in an alternate format on request by the first Monday in April each year to satisfy this required certification. (3-30-07)

08. Cross References. The primary categories are described in Subsections 130.02 through 130.06 of these Rules, and the secondary categories are described in Rules 510, 511, and 512 of these rules. The requirement to add increment value following dissolution of an urban renewal revenue allocation area is found in Section 33-802(6), Idaho Code. (3-25-16)

316. COMPLIANCE OF CONTINUING VALUATION PROGRAM (RULE 316).
Sections 63-314 and 63-316, Idaho Code

01. Definitions. (5-3-03)

a. Continuing Appraisal. "Continuing appraisal" means the program by which each assessor completes the assessment of all taxable properties each year. This term includes any appraising or indexing done to accomplish the continuing program of valuation as defined in Rule 314 of these rules. (5-3-03)

b. Monitor. "Monitor" means collecting data and compiling statistical reports that show the number and percentage of parcels physically inspected at scheduled intervals within each year of each five (5) year appraisal cycle. The term "monitor" also includes an examination of and summary report of compliance with the most recently completed ratio study under Section 63-109, Idaho Code, and Rule 131 of these rules showing the status of appraisal and indexing to achieve market value. (5-3-03)

c. Progress Reports. "Progress reports" mean any informational or statistical report compiled and distributed by the Tax Commission regarding the physical appraisal progress of a county. (5-3-03)

d. Appraisal Cycle. "Appraisal cycle" means consecutive five (5) year periods beginning with appraisals completed for the 1998 property roll, as established by the requirement in Section 63-314, Idaho Code. (5-3-03)

e. Remediation Plan. "Remediation plan" means, a written statement of the actions that will be taken by the county not in compliance with the requirements of Section 63-314, Idaho Code, to bring the continuing program of valuation into compliance with said Section. (5-3-03)

02. Monitoring Procedure. The Tax Commission will monitor compliance with the continuing program of valuation in each county no less than annually. The Tax Commission will monitor the completion of the appraisal of not less than fifteen percent (15%) of all parcels by the end of the first year of the appraisal cycle, not less than thirty-five percent (35%) by the end of the second year, not less than fifty-five percent (55%) by the end of the third year, not less than seventy-five percent (75%) by the end of the fourth year, and not less than one hundred percent (100%) by the end of the fifth year in order that all parcels are appraised not less than every five (5) years. As a result of the monitoring process, the Tax Commission will prepare and distribute progress reports to each county assessor at the end of each monitoring period. Each monitoring period will be conducted in the following manner: (3-20-04)

a. The Tax Commission will compile a progress report each July. The Tax Commission will use this progress report in each county to determine compliance with Section 63-314, Idaho Code. This report will consist of an analysis of the county's progress within the current appraisal cycle as well as a summary report of the most recently completed ratio study showing the status of appraisal and indexing to achieve market value. The Tax Commission will notify each county assessor on or before August 15 each year of the current status of the continuing program of valuation progress and any necessary corrective action. The Tax Commission will notify the board of county commissioners that this report has been provided to the county assessor. (5-3-03)

b. Upon receipt of a written request from the county assessor, the Tax Commission will complete and distribute a six (6) month progress report in January. This January report will show the total parcels in the county, the number of parcels that need to be physically inspected for the current year's assessment, a summary report of the most recently completed ratio study, and the number of parcels upon which physical inspections were completed during the preceding six (6) months. The Tax Commission will distribute any January progress report only to inform the county

assessor of the status of the continuing program of valuation and will not use the data gathered for this report to determine compliance with Section 63-314, Idaho Code. The Tax Commission will notify the board of county commissioners that this report has been provided to the county assessor. (5-3-03)

03. Remediation Plans. If the results of any July report show that a county has not achieved the adequate appraisal of the required percent of the parcels, as stated in Subsection 316.02 of this rule, the assessor and board of county commissioners will be required to submit to the Tax Commission, a remediation plan that demonstrates how compliance will be achieved. The remediation plan will be submitted to the Tax Commission on or before September 15. The Tax Commission will determine whether the plan is acceptable on or before October 1. Once a remediation plan has been approved, the continuing valuation program of the county will be considered in compliance so long as the county meets the terms of the remediation plan. The Tax Commission will monitor progress toward successful completion of any remediation plan at intervals scheduled with the county assessor. (5-3-03)

04. Tax Commission To Ensure Corrective Action. (5-3-03)

a. During the first four (4) years of any appraisal cycle, if any July progress report shows that a county assessor has not achieved the adequate appraisal of the required percent of parcels, as stated in Subsection 316.02 and implementation of the subsequent remediation plan does not achieve the required percent or the next July progress report shows the number of completed appraisals continues to be less than the required percent, the Tax Commission will begin proceedings to ensure corrective action is taken up to and including taking exclusive and complete control of the continuing program of valuation as provided for in Section 63-316, Idaho Code. (5-3-03)

b. If, at the end of any appraisal cycle a county has not achieved adequate appraisal of all parcels, the Tax Commission may begin proceedings to ensure corrective action is taken, up to and including taking exclusive and complete control of the continuing program of valuation as provided for in Section 63-316, Idaho Code. If, at the end of an appraisal cycle, a county has not met the requirements of Section 63-314, Idaho Code, and no extension has been granted pursuant to the provisions of Section 63-316(6), Idaho Code, the county plan for the next appraisal cycle submitted to the Tax Commission must include provision for field inspection of those parcels not field inspected by the end of the expired appraisal cycle and an additional field inspection of the same parcels for the current plan for the continuing program of valuation. (5-3-03)

05. Compliance Procedure Examples. (5-3-03)

a. Example 1: The following chart outlines what will occur if a county assessor fails to complete the appraisal of the required number of parcels for 2003 and subsequently fails to complete the appraisal of the required number of parcels for 2004.

January 2003 (If requested.)	-	Informational Progress Report
July 2003	-	First Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Remediation Plan and Monitoring
January 2004 (If requested.)	-	Informational Progress Report
July 2004	-	Second Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Enforcement of Section 63-316, Idaho Code (Tax Commission may start proceedings to take exclusive and complete control of the program.)

(5-3-03)

b. Example 2: The following chart outlines what will occur if a county assessor successfully completes the appraisal of the required number of parcels for 2003, 2004, and 2005 but fails to complete the appraisal

of the required number of parcels for 2006 and subsequently fails to complete the appraisal of the required number of parcels for 2007.

January 2003 (If requested.)	-	Informational Progress Report
July 2003	-	First Compliance Progress Report
Compliance	-	No Action
January 2004 (If requested.)	-	Second Informational Progress Report
July 2004	-	Second Compliance Progress Report
Compliance	-	No Action
January 2005 (If requested.)	-	Informational Progress Report
Compliance	-	No Action
July 2005	-	Third Compliance Progress Report
Compliance	-	No Action
January 2006 (If requested.)	-	Informational Progress Report
July 2006	-	Fourth Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Remediation Plan and Monitoring
January 2007 (If requested.)	-	Informational Progress Report
July 2007	-	Fifth Compliance Progress Report
Compliance	-	No Action
Non-compliance	-	Enforcement of Section 63-316, Idaho Code (Tax Commission may start proceedings to take exclusive and complete control of the program.)

(5-3-03)

317. OCCUPANCY TAX ON NEWLY CONSTRUCTED IMPROVEMENTS ON REAL PROPERTY (RULE 317).
Section 63-317, Idaho Code

01. Property Subject to Occupancy Tax. Excluding additions to existing improvements, the occupancy tax will apply to improvements upon real property, whether under the same or different ownership. The occupancy tax will also apply to new manufactured housing, as defined in Section 63-317, Idaho Code, excluding additions to existing manufactured housing. (4-6-05)

02. Prorated Market Value. The market value for occupancy tax purposes will be the full market value on January 1 and will be prorated at least monthly from the occupancy date to the end of the year. (3-29-10)

03. Notice of Appraisal. When notifying each owner of the appraisal, the county assessor will include at a minimum the full market value before any exemptions and before any prorating of the value, the length of time subject to the occupancy tax, and the prorated value. (5-3-03)

04. Examples for Calculation of Value Less Homestead Exemption (HO). The following examples show the procedure for the calculation of the taxable value subject to the occupancy tax less the homestead exemption (HO): (3-30-07)

a. Example for prorated market value exceeding maximum amount of the homestead exemption for

improvements subject to the occupancy tax beginning July 1, 2016.

Full Market Value of Home	- $300,000
Prorated Market Value for 11 Month Occupancy	- $300,000 x 11/12 = $275,000
Taxable Value	- $275,000 - $100,000 (HO) = $175,000

(3-29-17)

b. Example for prorated market value resulting in less than the maximum amount of the homestead exemption.

Full Market Value of Home	- $120,000
Prorated Market Value for 3 Month Occupancy	- $120,000 x 3/12 = $30,000
Taxable Value	- $30,000 - $15,000 (HO) = $15,000

(3-30-07)

05. Market Value. The market value for occupancy tax purposes will be entered on an occupancy tax valuation roll. Occupancy tax valuation will not be included in the assessed value of any taxing district, but occupancy tax must be declared in the certified budget. (3-30-07)

06. Allocation to Urban Renewal Agencies. Occupancy tax revenue will be distributed to urban renewal agencies in the same manner as property taxes. (4-7-11)

a. The portion of the occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules must be distributed to the taxing districts levying property taxes for those funds and, therefore, must not be distributed to the urban renewal agency. (5-8-09)

b. Except for occupancy tax raised for funds specified in Section 50-2908, Idaho Code, and Rule 804 of these rules, for parcels within a newly formed revenue allocation area or within an area newly annexed to an existing revenue allocation area, occupancy tax for the tax year during which the formation or annexation took effect must be distributed to the urban renewal agency. (4-7-11)

07. Property Qualifying for the Homestead Exemption on Occupancy Value. When property is subject to occupancy tax, only the improvements will be eligible for the homestead exemption found in Section 63-602G, Idaho Code. (3-30-07)

318. -- 403. (RESERVED)

404. OPERATOR'S STATEMENT -- CONTENTS (RULE 404).
Sections 63-401 and 63-404, Idaho Code

01. Operator's Statement. In the operator's statement, the number of miles of railroad track, electrical and telephone wire, pipeline, etc., must be reported to the hundredth mile in decimal form (0.00) in each taxing district or taxing authority and must be reported by the uniform tax code area method. (7-1-99)

02. Tax Code Area Maps. By March 1 of each year, the Tax Commission will furnish to all entities having operating property within the state of Idaho, except private railcar fleets, a list of all changes in tax code area boundary lines. In case the Tax Commission receives corrections to any tax code area boundaries, these changes must be furnished by March 15. Every day that the tax code area map deadline is extended beyond March 1 allows for an automatic extension in the filing requirement, equal to the delay, for the portion of the operator's statement that includes taxing district or taxing authority specific information that is to be reported by tax code area as required in Section 404.01 of this rule. All other information, excluding the mileage as required in Sections 404.01 and 404.03 of this rule will still be required by April 30 as required in Section 404.06 of this rule. The reporting entity will review

the list of changes to identify any tax code areas, within which any of the entity's operating property is located. The reporting entity will report, under Subsection 404.01 of this rule based on these identified tax code areas. The Tax Commission will provide the tax code areas maps to the reporting entity as provided for in Rule 225 of these rules. (3-28-18)

03. Reporting of Mileage. The following procedures apply for reporting mileage. (7-1-99)

a. Railroad Track Mileage. The railroad track mileage will be reported by the name of the main line and branch lines with the track mileage for the main line and branch lines reported as Main Track Miles. Track miles consisting of passing track, yard switching, spurs, sidings, etc., will be reported as Secondary Track Miles. (5-3-03)

b. Electric Power Line Mileage. The electric power companies will report electric power line mileage by transmission and distribution lines. The transmission lines are the lines at a primary source of supply to change the voltage or frequency of electricity for the purpose of its more efficient or convenient transmission; lines between a generating or receiving point and the entrance to a distribution center or wholesale point; and lines whose primary purpose is to augment, integrate, or tie together the sources of power supply. The distribution lines are the lines between the primary source of supply and of delivery to customers, which are not includable in transmission lines. Cooperative electrical associations may include lines designed to accommodate thirty-four thousand five hundred (34,500) volts or more as transmission or distribution lines. Transmission or distribution lines will be reported by single linear wire mile. (5-3-03)

c. Telephone Wire Mileage. All telephone wire mileage will be reported on a single linear wire mile basis, and include any ground wires. (5-3-03)

d. Natural Gas Pipeline and Gathering Line and Water Distribution Pipeline Mileage. Beginning January 1, 2013, all natural gas and water distribution companies will report pipeline and gathering line miles on a three (3) inch comparison basis. For example, a company with five (5) miles of six (6) inch pipe will report ten (10) pipeline miles: five (5) times six (6) divided by three (3) equals ten (10) miles. (4-4-13)

e. Transmission Pipeline Mileage. All transmission pipeline companies will report pipeline miles on a one-inch (1") comparison basis. (4-2-08)

04. Situs Property. Situs property includes microwave stations and radio relay towers. This property also includes facilities, used for and in conjunction with thermal generation of electricity, constructed after January 1, 2004, and located in or within five (5) miles of an incorporated city. The investment in this property will be reported in the tax code area(s), within which it is located. (4-2-08)

05. Record of Property Ownership. The following procedures apply for maintaining records of operating property ownership. (7-1-99)

a. STC Form R. A record of each property owned, leased, or otherwise operated by each railroad, private railcar fleet or public utility will be maintained by the Tax Commission, the appropriate railroad, private railcar fleet or public utility, and the appropriate county assessor's office. Each record will be maintained on a form identified as STC Form R. The Tax Commission will send a copy of each STC Form R to the appropriate company and the appropriate county assessor's office. (7-1-99)

b. Identification of Operating Property and Non-operating Property. On the STC Form R, the Tax Commission will identify which property is operating property and which property is non-operating property. (5-3-03)

c. Filing of Property Ownership by Railroad Companies. Each railroad company will file the original railroad right-of-way maps with the Tax Commission. Each railroad will file an STC Form R, only, for property that is acquired, leased, or transferred between operating and non-operating status, or sold during the prior year. (7-1-99)

06. Filing Date for Operator's Statement. By April 30 each year, each railroad, private railcar fleet, and or public utility operating in Idaho will file information pertinent to the entity's ownership and operation with the

Tax Commission. This information must be reliable for preparing an estimate of market value. For each entity submitting a written request for an extension on or before April 30, the Tax Commission may grant an extension of the filing date until May 31. An automatic extension beyond April 30 may be granted as set out in Subsection 404.02 of this rule. Such automatic extension will apply only to the taxing district, taxing authority, and tax code area specific information contained in the operator's statement. (3-28-18)

07. Cross Reference. For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules. For valuation, allocation, and apportionment information, see Section 63-405, Idaho Code, and Rule 405 of these rules. (4-2-08)

405. ASSESSMENT OF OPERATING PROPERTY (RULE 405).
Section 63-405, Idaho Code

01. The Unit Method. The unit method of valuation is preferred for valuing a railroad or public utility when the individual assets function collectively, are operated under one ownership and one management, are interdependent, and the property would be expected to trade in the marketplace as a unit. Under the unit method, the value of the tangible and intangible property is equal to the value of the going concern. The market value of the unit will be referred to as the system value. For interstate property, allocation factors will be used to determine what part of the system value is in Idaho. (7-1-99)

02. Identify the Unit. The unit includes all property used or useful to the operation of the system, property owned, used or leased by the business and the leased fee and leasehold interests. Assess all title and interest in unit property will be assessed to the owner, lessee or operating company. (4-2-08)

03. Appraisal Approaches. The three (3) approaches to value may be considered for all property. (7-1-99)

04. Appraisal Procedures. Market value will be determined through procedures, methods, and techniques accepted by nationally recognized appraisal and valuation organizations. For operating property, the direct capitalization techniques or derivatives thereof will not be used in estimating value. (7-1-99)

05. The Cost Approach. For operating property, the appraiser may consider replacement, reproduction, original or historical cost. (7-1-99)

a. Contributions in aid of construction. Contributions in aid of construction are valued at zero in the cost approach. (7-1-99)

b. Construction work in progress. Construction work in progress may be considered in the cost approach. (7-1-99)

c. Obsolescence. The appraiser will attempt to measure obsolescence, if any exists. If obsolescence is found to exist, it may be considered in the cost approach. (7-1-99)

06. The Income Approach. For operating property, the income approach is based on the premise that value can be represented by the present worth of future benefits derived from the ownership, use or operation of the unit. The appraiser will consider yield capitalization in processing the income approach. (7-1-99)

07. The Market Approach. In the market approach for operating property, the appraiser will consider the sales comparison approach or the stock and debt approach. (7-1-99)

08. Reconciliation. Reconciliation, also called correlation, is an opinion regarding the weight that should be placed on each approach. The appropriate weight to be given each indicator is based on the appraiser's opinion of the inherent strengths and weaknesses of each approach and the data utilized. The appraisal report will disclose the weight given to the indicators. (7-1-99)

09. Allocation. Use readily available data from existing records to calculate the factors that are multiplied by the correlated system value to allocate that value to Idaho. (4-2-08)

10. Situs Property Apportionment. For situs property, as described in Subsection 404.04 of these rules, apportionment is based on physical location meaning the taxable value will not be apportioned based on mileage but only to the tax code area(s) within which said property is situs or physically located. (4-2-08)

11. Cross Reference. For reporting information, see Section 63-404, Idaho Code, and Rule 404 of these rules. For information relating to the exemption of certain intangible personal property, see Section 63-602L, Idaho Code, and Rule 615 of these rules. (4-2-08)

406. RULES PERTAINING TO MARKET VALUE OF OPERATING PROPERTY OF RATE REGULATED ELECTRIC UTILITY COMPANIES (RULE 406).
Section 63-105(2) and Section 63-205(1), Idaho Code

01. Valuation of Operating Property of Rate Regulated Electric Utility Companies. The market value for assessment purposes of operating property of rate regulated electric utility companies will be determined by the Tax Commission using statute, these rules as referenced in Rule 001 of these rules, any other applicable law, and the following: (3-20-14)

a. Depending on the weighting placed on the income approach, as described in Subsection 406.01.d. of this rule, no more than twenty percent (20%) weight will be placed on the cost indicator when utilizing the Historic Cost Less Depreciation (HCLD) method in the system value correlation. (3-20-14)

b. In the income approach, income to be capitalized will be normalized, utilizing the Gross Domestic Product Implicit Price Deflator found in Table 1.1.9 from the United States Department of Commerce, Bureau of Economic Analysis, by using an average of at least the previous four (4) years' net operating incomes and by adjusting each year's net operating income for unusual non-recurring items. (3-28-18)

c. In the income approach, a market discount rate will be determined to which a flotation cost component of twenty hundredths of one percent (0.20%) will be added. (3-28-18)

d. A weighting between eighty percent (80%) and one hundred percent (100%) will be placed on the income approach in the system value correlation. (3-20-14)

e. Within the market approach, as prescribed in Rule 405 of these rules, a sales comparison approach may be used if reliable data is available and appropriate comparison adjustments can be made. No weight will be placed on a stock and debt approach in the system value correlation. (3-20-14)

f. For rate regulated electric utility companies, the weightings prescribed in this rule will supersede any weightings in the system correlation prescribed in Subsection 405.08 of this rule. (3-20-14)

02. Accounting For Obsolescence. Subsection 406.01.a. of this rule will be construed to mean that the use of no more than twenty percent (20%) weight placed on the cost indicator, when utilizing HCLD method to calculate the cost approach, accounts for any and all forms of depreciation, including any and all forms of obsolescence, and the appraiser will not consider any further obsolescence as provided for in Subsection 405.05 of these rules. (3-20-14)

407. HEARING TO REVIEW OPERATING PROPERTY APPRAISALS (RULE 407).
Section 63-407, Idaho Code

01. Procedure Governed. This rule will govern all practice and procedure before the Tax Commission sitting as a Board of Equalization in hearings under Section 63-407, Idaho Code. Hearings are not contested cases under the Idaho Administrative Procedures Act. Hearings are open meetings under the Idaho open meetings law and all written materials are subject to Idaho public records law. The taxpayer may request that the board of equalization go into executive session to discuss confidential materials. (3-20-14)

02. Liberal Construction. These rules will be liberally construed to secure just, speedy and economical determination of all issues presented to the Tax Commission. For good cause the Tax Commission may

permit deviation from these rules and the taxpayer may request a stipulated finding that would result in an appealable decision in lieu of a hearing before the state board of equalization. (3-20-14)

03. Communication. All notices and petitions required to be filed with the Tax Commission must be in writing. Each notice must identify the filing party, be signed by the filing party, be dated and give the filing party's mailing address and telephone number. The provisions of Section 63-217, Idaho Code, apply to the filing of documents with the Tax Commission. (7-1-99)

04. Service by Tax Commission. All notices and orders required to be served by the Tax Commission may be served by mail. Service will be complete when a true copy of the document, properly addressed and stamped, is deposited in the United States mail. (7-1-99)

05. Notice to County Assessors. When the calendar of hearings under Section 63-407, Idaho Code, is final, the Tax Commission will send a copy of this calendar to the assessor of each county. (7-1-99)

06. Parties. The following are parties to a hearing of the Tax Commission meeting as Board of Equalization. (7-1-99)

a. Petitioner. A person petitioning for a hearing will be called the petitioner. (7-1-99)

b. Staff. The Tax Commission staff may appear as a party at the hearing and may be represented by one (1) or more Deputy Attorneys General assigned to the Tax Commission. (7-1-99)

c. Legal advisor to the Tax Commission. When sitting as a Board of Equalization, the Tax Commission may obtain legal advice from a Deputy Attorney General who is not representing the Tax Commission staff. (7-1-99)

07. Appearances and Practice. The following apply for appearances and practice in a hearing. (7-1-99)

a. Rights of parties. At any hearing, both parties may appear, introduce evidence, ask questions through the presiding officer, make arguments, and generally participate in the conduct of the proceeding. (3-20-14)

b. Taking of appearances. The presiding officer conducting the hearing will require appearances to be stated and will see that both parties present are identified on the record. (7-1-99)

c. Representation of taxpayers. An individual may represent himself or herself or be represented by an attorney. A partnership may be represented by a partner, authorized employee or by an attorney. A corporation may be represented by an officer, authorized employee or by an attorney. (7-1-99)

08. Pre-Hearing Conferences. (3-20-14)

a. The Tax Commission may, upon notice to both parties, hold a pre-hearing conference for the following purposes: (3-20-14)

i. Formulating or simplifying the issues; (7-1-99)

ii. Obtaining admissions of fact and of documents which will avoid unnecessary proof; (7-1-99)

iii. Arranging for the exchange of proposed exhibits or prepared expert testimony; (7-1-99)

iv. Limiting the number of witnesses; (7-1-99)

v. Setting the hearing procedure, and including allocation of an amount of time for the hearing; and (3-20-14)

vi. Reviewing other matters to expedite the orderly conduct and disposition of the proceedings.

(7-1-99)

vii. Allowing any continuance. (3-20-14)

b. Action taken. Any action taken at the conference and any agreement made by the parties concerned may be recorded and the Tax Commission may issue a pre-hearing order which will control the course of subsequent proceedings unless modified. (7-1-99)

c. Compromise and offers to compromise. Evidence of an offer or agreement to compromise the dispute and the conduct and statements made in compromise negotiations are not admissible at the hearing. (7-1-99)

09. Hearings. The following apply to the hearings. (7-1-99)

a. Request for hearing. A request for a hearing will be in writing and filed with the Tax Commission on or before August 1 of the current year. The request will state the factual and legal basis on which the request is based. (3-20-14)

b. Notice of hearing. The Tax Commission will notify both parties and all counties of the place, date and time of the hearing. (7-1-99)

c. Submission of documents and other evidence. The taxpayer's operating statement, applicable yield studies, the staff's appraisal and the taxpayer's notice of appeal and request for hearing are deemed a part of the record of the hearing. Other written appraisals, exhibits, statements, arguments and other documents for the Commissioners to consider will be submitted by both parties at least three (3) days in advance of the hearing. Additional information may be presented by either party at the time of their oral presentations, but such additional information should be limited to subject matter and evidence provided at least three days prior to the hearing. Parties will submit ten (10) copies. (3-20-14)

d. Presiding officer. The Chairman of the Tax Commission will appoint an individual who is not a member of the Tax Commission's staff to conduct the hearing. In the absence of a conflict of interest or other good cause, this person will normally be the Commissioner overseeing the centrally assessed property section of the Tax Commission or the designee thereof. A Commissioner will not vote on any matters where he has oversight. (7-1-99)

e. The proceeding. In a non-adversarial proceeding witnesses will present evidence and arguments directly to the Commissioners. The presentation may include written materials including a transcript of the witnesses' oral statements. Copies of written materials (including copies of visual presentations) will be provided each Commissioner, the Tax Commission's secretary and the Staff. At the conclusion of a witness' testimony, Commissioners may pose questions. The party with the burden of proof on the matter to be considered will present first and may make a closing presentation. This closing presentation should be limited to the subject matter and evidence presented during the proceeding. (3-20-14)

f. Testimony under oath. All testimony to questions of fact to be considered by the Tax Commission in hearings, except matters noticed officially or entered by stipulation, will be under oath. Before testimony is presented each person will swear, or affirm, that the testimony he is about to give will be the truth. Attorneys may present oral and written legal argument on behalf of clients as part of the presentation by the party they represent. (3-20-14)

g. Rules of evidence. No informality in any proceeding or in the manner of taking testimony will invalidate any order or decision made by the Tax Commission. Unless otherwise provided in these rules the Idaho Rules of Evidence will be generally followed but may be modified at the discretion of the Tax Commission to aid in ascertaining the facts. When objection is made to the admissibility of evidence, the evidence may be received subject to later ruling by the Tax Commission. The Tax Commission, at its discretion either with or without objection may limit or exclude inadmissible, incompetent, cumulative or irrelevant evidence. Parties objecting to the introduction of evidence will briefly state the grounds of objection at the time such evidence is offered. (3-20-14)

h. Recessing hearing for conference. In any proceeding the presiding officer may, in at his discretion, call both parties together for a conference prior to the taking of testimony, or may recess the hearing for a conference.

The presiding officer will state on the record the results of the conference. (7-1-99)

i. Transcript. An official electronically recorded transcript of the hearing may be taken at the discretion of the Tax Commission when requested by a party. A petitioner desiring the taking of stenographic notes by a qualified court reporter may notify the Tax Commission in writing and will arrange for the hiring of a reporter and bear the expense of the reporter's fees. If the reporter's transcript is deemed by the Commission or presiding officer as the official transcript of the hearing, the petitioner will furnish the Commission a transcript free of charge. (3-20-14)

j. Transcript copies. A request for a copy of a transcript of proceedings at any hearing must be in writing or on the record. Upon completion of the transcript, the Tax Commission will notify the person requesting a copy of the fee for producing the transcript. Upon receipt of the fee, the Tax Commission will send a copy of the transcript. (3-20-14)

408. RE-EXAMINATION OF VALUE -- COMPLAINT BY ASSESSOR (RULE 408).
Section 63-408, Idaho Code

01. Request for Reexamination of Value. Section 63-408, Idaho Code, entitles the assessor (complainant) of any county in which the value of operating property is apportioned, to request that the Tax Commission reexamine the valuation. (7-1-99)

02. Information to be Provided by the Tax Commission. After preliminary values are established and sent to the respective taxpayers, the Tax Commission will send to each County Assessor a statement of the value allocated to Idaho for each centrally assessed taxpayer, together with the previous year's Idaho value for that taxpayer. (3-26-19)

03. Complaint. On or before July 15, a complainant may file a complaint under Section 63-408, Idaho Code. A complaint by an assessor to the Tax Commission to examine the valuation and allocation of value of operating property must be in writing and contain clear and concise questions regarding the valuation and allocation in question. The Tax Commission will send a copy of the complaint promptly to the taxpayer. (7-1-99)

04. Meeting to Examine Valuation and Allocation. Upon receipt of a complaint under Section 63-408, Idaho Code, the staff of the Tax Commission will schedule a meeting between the staff appraiser(s) who performed the valuation and allocation and the complainant. Notice of this meeting will be sent to the taxpayer in question. At this meeting, the staff appraiser(s) will answer the complainant's questions to the best of his knowledge. The taxpayer or representative may participate in this meeting. (7-1-99)

409. -- 410. (RESERVED)

411. PRIVATE CAR REPORTING BY RAILROAD COMPANIES (RULE 411).
Section 63-411, Idaho Code. The president or other officer of each railroad company whose railroad tracks run through, in or into Idaho will, by April 15 of each year file a report with the Tax Commission. The report form is available from the Tax Commission upon request. The completed report will include the following: (5-3-03)

01. Name of Reporting Railroad Company. Report the name of the railroad company making the report. (5-3-03)

02. Name of Private Railcar Fleet. Report the name of each private railcar fleet, defined under Sections 63-201(14) and 63-411, Idaho Code, having traveled on the reporting railroad company's track. (5-3-03)

03. Private Railcar Fleet's Address. Report the business address of each reported private railcar fleet. (5-3-03)

04. Car Type. Report the type of cars by symbol, according to the edition of the "Official Railway Equipment Register" referenced in Rule 003 of these rules. (5-3-03)

05. Marks. Report the car marks. (5-3-03)

06. Miles Traveled. Report the total number of miles traveled on the reporting railroad's track, including main line, branches, sidings, spurs, and warehouse or industrial track in Idaho during the year ending December 31 of the preceding year. (5-3-03)

412. (RESERVED)

413. SPECIAL PROVISIONS FOR PRIVATE RAILCAR FLEETS (RULE 413).
Section 63-411, Idaho Code

01. Definitions. The following terms are defined for the valuation, allocation and apportionment of private railcar fleets. (7-1-99)

a. Idaho Miles. The Idaho miles are the total number of miles traveled in Idaho by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year. (7-1-99)

b. Idaho Taxable Value. The Idaho taxable value is that portion of the system value that reflects the value of that part of the private railcar fleet located in Idaho during all or part of a tax year. (7-1-99)

c. System Miles. The system miles are the total number of miles, both in and out of Idaho, traveled by all cars in the private railcar fleet during the calendar year immediately preceding the current tax year. (7-1-99)

d. System Value. The system value is the value of the entire private railcar fleet regardless of the location of its various components. (7-1-99)

02. Railcar Valuation, Allocation and Apportionment. For tax years beginning on or after 1998, the Tax Commission will appraise the system value of each private railcar fleet and allocate a portion of the system value to Idaho to obtain the Idaho taxable value as set forth below. The Idaho taxable value will be apportioned to the appropriate counties in Idaho pursuant to section 63-411, Idaho Code. (7-1-99)

03. Allocation. System value is allocated using the "miles to miles" method of allocation. (7-1-99)

04. "Miles to Miles" Method of Allocation. The Tax Commission will divide Idaho miles by system miles and multiply the quotient by five-tenths (0.5). The product of this calculation will be multiplied by the system value to determine Idaho taxable value. (7-1-99)

414. (RESERVED)

415. APPORTIONMENT OF RAILCAR FLEET'S ASSESSED VALUES WITHIN THE STATE (RULE 415).
Section 63-411, Idaho Code

01. Private Railcar Fleet Apportionment. Railroad track miles will be used for the apportionment of each private railcar fleet's assessed value when the value within Idaho equals five hundred thousand dollars ($500,000) or more. The Idaho value of each private railcar fleet will be multiplied by a ratio of this private railcar fleet's mileage for each railroad to this private railcar fleet's total mileage in Idaho and divided by the in service main track mileage of that particular railroad, to obtain a rate per mile. This rate per mile is multiplied by the in service main track mileage in each county and tax code area to calculate the apportioned value. For the purpose of apportioning value by miles traveled, main track includes branch lines, as well as main lines, but does not include industrial spurs, sidings or passing tracks. (7-1-99)

02. Determination of Average Tax Rate -- Private Railcar Fleets Under Five Hundred Thousand Dollars Assessed Value. For private railcar fleets having an assessed value of less than five hundred thousand dollars ($500,000), the average tax rate is computed each year by dividing the current taxes for all private railcar fleets with assessed value of five hundred thousand dollars ($500,000) or more by the current Idaho value of all such fleets. By November 15 of each year, each county treasurer must provide the Tax Commission with the amount of taxes due from all private railcar fleets in the county. (4-2-08)

416. (RESERVED)

417. PENALTY FOR FAILURE TO MAKE STATEMENT (RULE 417).
If a private railcar fleet fails or refuses to file the operator's statement as provided by Section 63-404, Idaho Code, by April 30 of each year, the Tax Commission will add a penalty. The penalty is fifty percent (50%) of the assessed value, determined by the Tax Commission, as provided by Section 63-411, Idaho Code. When an emergency exists, the company may petition the Tax Commission for an extension of time for filing, not to exceed thirty (30) days. For such petition to be valid it must be submitted in writing to the Tax Commission by April 30 of each year. (7-1-99)

418. -- 508. (RESERVED)

509. ABSTRACTS OF VALUE (RULE 509).
Sections 63-105A and 63-509, Idaho Code

01. Definitions. The following definitions apply for the purposes of testing for equalization under Section 63-109, Idaho Code, notification under Sections 63-301 and 63-308, Idaho Code, and reporting under Section 63-509, Idaho Code. (3-30-07)

a. Increment Value. Increment value means, as defined in Section 50-2903, Idaho Code, the total value calculated by summing the differences between the current equalized value of each taxable property in the revenue allocation area and that property's current base value on the base assessment roll, provided such difference is positive. (3-30-07)

b. Primary Category. Primary category means the categories established and described by Subsections 130.02 through 130.06 of these rules and used by the Tax Commission to test for equalization under Section 63-109, Idaho Code. (3-30-07)

c. Secondary Category. Secondary category means the categories established and described by Rules 510, 511, and 512 of these rules and used by county assessors to list property values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and report values to the Tax Commission under Section 63-509, Idaho Code, and this Rule. Secondary categories may also be tested for equalization purposes, provided they meet the criteria in Subsection 131.05 of these rules. (3-29-12)

d. Abstract. A document summarizing taxable (net taxable value) and market value for assessment purposes (full market value) by secondary category of property. Abstracts are prepared for the county, cities, the Boise School District, and any taxing district or unit of government which does not levy property tax against all otherwise taxable property. Abstracts are to be prepared for the property roll and the combined missed and subsequent property rolls. (3-28-18)

02. Additional Information to be Included. In addition to the taxable value and the market value for assessment purposes of property on the property rolls, the abstract must report the value of exemptions required to be reported under Section 63-509, Idaho Code, any increment value and the value of any exemption provided under Sections 63-602W(4), 63-602GG, 63-602HH, 63-602II, 63-602NN, 63-4502, 63-606A, and 63-3029B, Idaho Code. Increment value and exemption value thus reported will be subtracted from the market value for assessment purposes shown for each secondary category of property on each abstract. (3-28-18)

03. Verification of Abstracts. For the purposes of this rule and meeting the requirements of Section 63-509, Idaho Code, the abstract of the property rolls prepared by the county auditor will be considered duly verified provided that the auditor signs a document indicating: (3-28-18)

a. That the required summary information is based on the most current available information received from the assessor following the conclusion of the county board of equalization, and; (3-28-18)

b. That the assessor certifies to the auditor that all changes, corrections, additions, and exemptions entered onto the rolls as a result of county board of equalization action have been duly entered. (3-28-18)

04. Nature of Verification Document. The abstract verification document will include the signatures

of the county assessor and auditor or duly appointed representatives. The substance of the verbiage in the document will be equivalent to that found in the following sample:

(Name of county auditor), being first duly sworn, deposes and says that he/she is the duly qualified and acting auditor in and for the county of (Name), State of Idaho, and that the above and foregoing is a full, true and correct abstract of the valuation of all property entered on the property roll (or subsequent and missed property rolls) for the year (Year), as certified by the assessor to the auditor and equalized by the Board of County Commissioners of said county in session as a board of equalization. (3-28-18)

05. Submittal of Corrections to Erroneous Abstracts or Related Documents. When completing the procedures set forth in Section 63-810, Idaho Code, boards of county commissioners should submit the corrections to the taxable values submitted on the abstracts or related documents under provisions of Section 63-509, Idaho Code, and this rule, no later than when they submit the corrected levies under Section 63-810, Idaho Code. (4-2-08)

06. Cross Reference. See Rule 115 of these rules for requirements to submit city, Boise School District, and special district or unit of government abstracts. For the descriptions of the categories used to test for equalization, see Subsections 130.02 through 130.06 of these rules. For descriptions of secondary categories used to list and report land values, see Rule 510 of these rules, used to list and report the value of improvements, see Rule 511 of these rules, or used to list and report all property values other than that for land or improvements, see Rule 512 of these rules. For information relating to notification of corrections to erroneous levies, see Sections 63-809 and 63-810, Idaho Code, and Rule 809 of these rules. (3-29-12)

510. SECONDARY CATEGORIES FOR LAND - LISTING AND REPORTING (RULE 510).

Section 63-509, Idaho Code. County assessors will use the secondary categories described in the following subsections, indicated by numbers, to list land values on the valuation assessment notices under Sections 63-301 and 63-308, Idaho Code. County assessors will use these secondary categories described in the following subsections, indicated by numbers, and the secondary categories described in the following paragraphs, indicated by letters, to report land values to the Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. For all of the above listed functions, assign all appropriate secondary land categories to parcels of property put to multiple uses. (4-2-08)

01. Secondary Category 1 - Irrigated Agricultural Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be capable of and normally producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

02. Secondary Category 2 - Irrigated Grazing Land. Irrigated land and only such irrigated land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This irrigated land must be used for grazing and not normally capable of producing harvestable crops and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

03. Secondary Category 3 - Non-Irrigated Agricultural Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This non-irrigated land must be capable of and normally producing harvestable crops without man-made irrigation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

04. Secondary Category 4 - Meadow Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This meadow land must be capable of lush production of grass and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

05. Secondary Category 5 - Dry Grazing Land. Land and only such land eligible for and granted the partial exemption for the current year's assessment roll as actively devoted to agriculture. (See Sections 63-604 and 63-602K, Idaho Code, and Rule 645 of these rules.) Only place land meeting the definition of "land actively devoted to agriculture" under Section 63-604, Idaho Code, or the requirements for "wildlife habitat" or "conservation agreement" under Section 63-605, Idaho Code, for the current assessment year in this secondary category. This land must be capable of supporting grasses and not normally capable of supporting crops on regular rotation and may be located inside or outside the boundaries of a subdivision without restrictions on such use or the boundaries of an incorporated city. (3-30-07)

06. Secondary Category 6 - Productivity Forestland. All land and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(a), Idaho Code, for the current year's assessment roll. This land must be assessed as forest land under the productivity option and may be located inside or outside the boundaries of an incorporated city. Also included is all land assessed under Section 63-1704, Idaho Code. (3-30-07)

07. Secondary Category 7 - Bare Forestland. All land and only such land designated by the owner for assessment, appraisal, and taxation under Section 63-1703(b), Idaho Code, for the current year's assessment roll. This land must be assessed as bare land with the yield tax option and may be located inside or outside the boundaries of an incorporated city. (3-30-07)

08. Secondary Category 8. Not presently used. (4-4-13)

09. Secondary Category 9 - Patented Mineral Land. All land used solely for mines and mining claims and only the part of such land not used for other than mining purposes for the current year's assessment roll. This land may be located inside or outside the boundaries of an incorporated city. See Section 63-2801, Idaho Code. (3-30-07)

10. Secondary Category 10 - Homesite Land. Rural non-subdivided land being utilized for homesites with secondary categories 1 through 9. Note: This land is always land with improvements located on it since land with no improvements should be in one (1) or more of categories 1 through 9. (4-2-08)

11. Secondary Category 11 - Recreational Land. Rural land used in conjunction with recreation but not individual homesites. (3-30-07)

a. Secondary Category 11 - Vacant Recreational Land. Vacant rural land used for recreational purposes but not individual homesites or in a properly recorded subdivision. (3-30-07)

b. Secondary Category 11 - Improved Recreational Land. Rural land with improvements, including exempt improvements, used for recreational purposes on that land but not individual homesites or in a properly recorded subdivision. (3-30-07)

12. Secondary Category 12 - Rural Residential Tracts. Rural residential land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 12 - Vacant Rural Residential Tracts. Vacant rural land used for residential purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 12 - Improved Rural Residential Tracts. Rural land with improvements, including exempt improvements, used for residential purposes on that land but not in a properly recorded subdivision. (3-30-07)

13. Secondary Category 13 - Rural Commercial Tracts. Rural commercial land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 13 - Vacant Rural Commercial Tracts. Vacant rural land used for commercial purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 13 - Improved Rural Commercial Tracts. Rural land with improvements, including exempt improvements, used for commercial purposes on that land but not in a properly recorded subdivision. (3-30-07)

14. Secondary Category 14 - Rural Industrial Tracts. Rural industrial land not in a properly recorded subdivision. (3-30-07)

a. Secondary Category 14 - Vacant Rural Industrial Tracts. Vacant rural land used for industrial purposes but not in a properly recorded subdivision. (3-30-07)

b. Secondary Category 14 - Improved Rural Industrial Tracts. Rural land with improvements, including exempt improvements, used for industrial purposes on that land but not in a properly recorded subdivision. (3-30-07)

15. Secondary Category 15 - Rural Residential Subdivisions. Rural residential land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 15 - Vacant Rural Residential Subdivisions. Vacant rural land used for residential purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 15 - Improved Rural Residential Subdivisions. Rural land with improvements, including exempt improvements, used for residential purposes on that land and in a properly recorded subdivision. Also use this category for rural homesites within subdivisions when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code. (4-2-08)

16. Secondary Category 16 - Rural Commercial Subdivisions. Rural commercial land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 16 - Vacant Rural Commercial Subdivisions. Vacant rural land used for commercial purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 16 - Improved Rural Commercial Subdivisions. Rural land with improvements, including exempt improvements, used for commercial purposes on that land and in a properly recorded subdivision. (3-30-07)

17. Secondary Category 17 - Rural Industrial Subdivisions. Rural industrial land in a properly recorded subdivision. (3-30-07)

a. Secondary Category 17 - Vacant Rural Industrial Subdivisions. Vacant rural land used for industrial purposes and in a properly recorded subdivision. (3-30-07)

b. Secondary Category 17 - Improved Rural Industrial Subdivisions. Rural land with improvements, including exempt improvements, used for industrial purposes on that land and in a properly recorded subdivision. (3-30-07)

18. Secondary Category 18 - Other Land. Land not compatible with other secondary categories. (3-30-07)

a. Secondary Category 18 - Vacant Other Land. Vacant land not compatible with other secondary categories. (3-30-07)

b. Secondary Category 18 - Improved Other Land. Land with improvements, including exempt improvements, on that land but not compatible with other secondary categories. (3-30-07)

19. Secondary Category 19 - Waste. Public Rights-of-Way includes roads, ditches, and canals. Use this secondary category to account for total acres of land ownership. Only list acres, not value, in this secondary category on the abstract. (3-30-07)

20. Secondary Category 20 - Residential Lots or Acreages. Land used for residential purposes and inside city limits. (3-30-07)

a. Secondary Category 20 - Vacant Residential Lots Or Acreages. Vacant land used for residential purposes and inside city limits. (3-30-07)

b. Secondary Category 20 - Improved Residential Lots Or Acreages. Land with improvements, including exempt improvements, used for residential purposes on that land and inside city limits. Also use this category for urban homesites when the remaining acreage qualifies as actively devoted to agriculture under Section 63-604, Idaho Code, or has been designated forestland under Chapter 17, Title 63, Idaho Code. (4-2-08)

21. Secondary Category 21 - Commercial Lots or Acreages. Land used for commercial purposes and inside city limits. (3-30-07)

a. Secondary Category 21 - Vacant Commercial Lots Or Acreages. Vacant land used for commercial purposes and inside city limits. (3-30-07)

b. Secondary Category 21 - Improved Commercial Lots Or Acreages. Land with improvements, including exempt improvements, used for commercial purposes on that land and inside city limits. (3-30-07)

22. Secondary Category 22 - Industrial Lots or Acreages. Land used for industrial purposes and inside city limits. (3-30-07)

a. Secondary Category 22 - Vacant Industrial Lots Or Acreages. Vacant land used for industrial purposes and inside city limits. (3-30-07)

b. Secondary Category 22 - Improved Industrial Lots Or Acreages. Land with improvements, including exempt improvements, used for industrial purposes on that land and inside city limits. (3-30-07)

23. Secondary Category 25 - Common Area Vacant Land. Common area vacant land not included in individual property assessments. (3-30-07)

24. Secondary Category 45 - Utility System Vacant Land. Vacant land used for locally assessed utility systems not under the jurisdiction of the Tax Commission for appraisal. (3-30-07)

25. Secondary Category 57 - Equities In Vacant Land Purchased From the State. For identification purposes under Section 63-211, Idaho Code, vacant land purchased from the state under contract. (3-30-07)

26. Secondary Category 81 - Exempt Land. Category 81 is for county use to keep an inventory, including acreage, of exempt land. (3-30-07)

27. Cross Reference. For descriptions of secondary categories used to list values for improvements, see Rule 511 of these rules, or used to list property values other than that for land or improvements, see Rule 512 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules. (3-30-07)

511. SECONDARY CATEGORIES FOR IMPROVEMENTS - LISTING AND REPORTING (RULE 511).

Section 63-509, Idaho Code. County assessors will use the following secondary categories to list improved property

values on the valuation assessment notice under Sections 63-301 and 63-308, Idaho Code, and to report improved property values to the Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. For all of the above listed functions, assign all appropriate secondary improvement categories to parcels of property put to multiple uses. (4-2-08)

01. Secondary Category 25 - Common Area Land and Improvements. Common area land and improvements on that land not included in individual property assessments. (3-30-07)

02. Secondary Category 26 - Residential Condominiums. Land and improvements included in individual assessments of condominiums or townhouses and used for residential purposes. (3-30-07)

03. Secondary Category 27 - Commercial or Industrial Condominiums. Land and improvements included in individual assessments of condominiums and used for commercial or industrial purposes. (3-30-07)

04. Secondary Category 30 - Improvements. Improvements, other than residential, located on secondary category 20. (3-30-07)

05. Secondary Category 31 - Improvements. Improvements used for residential purposes and located on secondary category 10. (3-30-07)

06. Secondary Category 32 - Improvements. Improvements, other than residential, located on secondary categories 1 through 12 and 15. (3-30-07)

07. Secondary Category 33 - Improvements. Improvements used in conjunction with recreation but not associated with homesites and located on secondary category 11. (3-30-07)

08. Secondary Category 34 - Improvements. Improvements used for residential purposes and located on secondary category 12. (3-30-07)

09. Secondary Category 35 - Improvements. Improvements used for commercial purposes and located on secondary category 13. (3-30-07)

10. Secondary Category 36 - Improvements. Improvements used for industrial purposes and located on secondary category 14. (3-30-07)

11. Secondary Category 37 - Improvements. Improvements used for residential purposes and located on secondary category 15. (3-30-07)

12. Secondary Category 38 - Improvements. Improvements used for commercial purposes and located on secondary category 16. (3-30-07)

13. Secondary Category 39 - Improvements. Improvements used for industrial purposes and located on secondary category 17. (3-30-07)

14. Secondary Category 40 - Improvements. Improvements located on secondary category 18. (3-30-07)

15. Secondary Category 41 - Improvements. Improvements used for residential purposes and located on secondary category 20. (3-30-07)

16. Secondary Category 42 - Improvements. Improvements used for commercial purposes and located on secondary category 21. (3-30-07)

17. Secondary Category 43 - Improvements. Improvements used for industrial purposes and located on secondary category 22. (3-30-07)

18. Secondary Category 44. Not presently used. (4-4-13)

19. Secondary Category 45 - Utility System Land and Improvements. Locally assessed land and improvements used as utility systems and not under the jurisdiction of the Tax Commission for appraisal. (3-30-07)

20. Secondary Category 46 - Manufactured Housing. Structures transportable in one (1) or more sections, built on a permanent chassis, for use with or without permanent foundation located on land under the same ownership as the manufactured home but assessed separate from the land. Include any manufactured home located on land under the same ownership as the manufactured home on which a statement of intent to declare as real property has been filed but becomes effective the following year. (3-30-07)

21. Secondary Category 47 - Improvements to Manufactured Housing. Additions not typically moved with manufactured housing. (3-30-07)

22. Secondary Category 48 - Manufactured Housing. Manufactured housing permanently affixed to land under the same ownership as the manufactured home and on which a statement of intent to declare as real property has been filed and has become effective. (3-30-07)

23. Secondary Category 49 - Manufactured Housing. Manufactured housing permanently affixed to leased land and on which a statement of intent to declare as real property has been filed and has become effective. (3-30-07)

24. Secondary Category 50 - Residential Improvements on Leased Land. Improvements used for residential purposes and located on leased land, including railroad rights-of-way under separate ownership, exempt land, or any other land under different ownership than the improvements. (4-4-13)

25. Secondary Category 51 - Commercial or Industrial Improvements on Leased Land. Improvements used for commercial or industrial purposes and located on leased land, including railroad rights-of-way under separate ownership, exempt land, or any other land under different ownership than the improvements. (4-4-13)

26. Secondary Category 57 - Equities in Land With Improvements Purchased From the State. Land with the improvements on that land that are purchased from the state under contract. (3-30-07)

27. Secondary Category 60. Not presently used. (4-4-13)

28. Secondary Category 61. Not presently used. (4-4-13)

29. Secondary Category 62. Not presently used. (4-4-13)

30. Secondary Category 65 - Manufactured Housing. Manufactured housing not designated real property and located on exempt, rented or leased land under separate ownership. Include any manufactured home located on exempt, rented or leased land on which a statement of intent to declare as real property has been filed but becomes effective the following year. (3-30-07)

31. Secondary Category 69 - Recreational Vehicles. Unlicensed recreational vehicles. (3-30-07)

32. Secondary Category 81 - Exempt Improvements. Category 81 is for county use to keep an inventory of exempt improvements. (3-30-07)

33. Cross Reference. For descriptions of secondary categories used to list land values, see Rule 510 of these rules, or used to list property values other than that for land or improvements, see Rule 512 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see Subsections 130.02 through 130.06 of these rules. (3-30-07)

512. SECONDARY CATEGORIES, OTHER THAN LAND OR IMPROVEMENTS - LISTING AND REPORTING (RULE 512).

Section 63-509, Idaho Code

County assessors will use the following secondary categories to list property values, other than that for land or improvements, on assessment notices under Sections 63-301 and 63-308, Idaho Code, and will use these secondary categories to report values for property, other than land or improvements, to the Tax Commission on the abstracts under Section 63-509, Idaho Code, and Rule 509 of these rules. (3-30-07)

01. Secondary Category 45 - Utility System Personal Property. Personal property that is part of locally assessed utility systems not under the jurisdiction of the Tax Commission for appraisal. (3-30-07)

02. Secondary Category 55 - Boats or Aircraft. Unlicensed watercraft or unregistered aircraft. (3-30-07)

03. Secondary Category 56 - Construction Machinery, Tools, and Equipment. Unlicensed equipment such as cranes, tractors, scrapers, and rock crushers, used in the building trade or road construction. (3-30-07)

04. Secondary Category 57 - Equities in Personal Property Purchased From the State. Personal property purchased from the state under contract. (3-30-07)

05. Secondary Category 59 - Furniture, Libraries, Art, and Coin Collections. Trade articles used commercially for convenience, decoration, service, storage, including store counters, display racks, typewriters, office machines, surgical and scientific instruments, paintings, books, coin collections, and all such items held for rent or lease. (4-11-15)

06. Secondary Category 63 - Logging Machinery, Tools, and Equipment. Unlicensed logging machinery, shop tools, and equipment not assessed as real property. (3-30-07)

07. Secondary Category 64 - Mining Machinery, Tools, and Equipment. Unlicensed mining machinery, shop tools, and equipment not assessed as real property. (3-30-07)

08. Secondary Category 66 - Net Profits of Mines. That amount of money or its equivalent received from the sale or trade of minerals or metals extracted from the Earth after deduction of allowable expenses. See Section 63-2802, Idaho Code, and Rule 982 of these rules. (3-30-07)

09. Secondary Category 67 - Operating Property. Property assessed and apportioned by the Tax Commission. (3-30-07)

10. Secondary Category 68 - Other Miscellaneous Machinery, Tools, and Equipment. Unlicensed machinery, tools, and equipment not used in construction, logging, mining, or not used exclusively in agriculture. (3-30-07)

11. Secondary Category 70 - Reservations and Easements. Reservations, including mineral rights reserved, divide ownership of property rights. Easements convey use but not ownership. (3-30-07)

12. Secondary Category 71 - Signs and Signboards. Signs and signboards, their bases and supports. (3-30-07)

13. Secondary Category 72 - Tanks, Cylinders, Vessels. Containers. (3-30-07)

14. Secondary Category 81 - Exempt Property, Other Than Land or Improvements. Category 81 is for county use to keep an inventory of exempt property other than land or improvements. (3-30-07)

15. Cross Reference. For descriptions of secondary categories used to list land values on the valuation assessment notice or report land values on the abstracts, see Rule 510 of these rules or used to list values for improvements on the valuation assessment notice or report improvement values on the abstracts, see Rule 511 of these rules. For the descriptions of primary categories and the assignment of secondary categories therein, see

Subsections 130.02 through 130.06 of these rules. (3-30-07)

513. -- 599. (RESERVED)

600. PROPERTY EXEMPT FROM TAXATION (RULE 600).
Section 63-602, Idaho Code

01. Burden of Proof. The burden of proof of entitlement to the exemption is on the person claiming exemption for the property. (4-4-13)

02. Notice of Decision. (4-4-13)

a. For property subject to local assessment with exemptions requiring annual application as specified in the statute providing the exemption or in Section 63-602(3), Idaho Code, the taxpayer must be notified of the decision of the county commissioners to grant or deny the exemption by May 15 unless a different date is prescribed in the law providing the exemption. (4-4-13)

b. For property subject to assessment by the Commission, application for any exemption will be included with the operator's statement to be submitted as provided in Section 404, of these rules. (4-4-13)

03. Confidentiality. Information disclosed as part of an application for an exemption is confidential to the extent provided by in Section 74-107, Idaho Code, or elsewhere in law. Information disclosed to the county commissioners as part of the application process for an exemption will be deemed submitted to the assessor and entitled to any confidentiality that would have been conferred had such information been disclosed initially to the assessor. (4-4-13)

601. -- 602. (RESERVED)

603. PROPERTY EXEMPT FROM TAXATION – RELIGIOUS CORPORATIONS OR SOCIETIES (RULE 603).
Section 63-602B, Idaho Code

01. Valuing the Taxable Part of Qualifying Property. Under Section 63-602B(2), Idaho Code, a county will determine the value of the part of the property used or leased for business or commercial purposes by considering the particular facts of each case, examining the amount of time, during the calendar year, the property is used for business or commercial purposes, the percentage of the property used for business or commercial purposes, or a combination thereof. The county may require reporting by the religious corporation or society of any use of the property for business or commercial usage in such form, and by such date, as the county establishes. (4-2-08)

02. Comparable Valuation Methodology to Partially Exempt Property Under Section 63-602C, Idaho Code. To value the taxable part of any otherwise qualifying property exempt under Section 63-602B, Idaho Code, each county should use comparable methods to those being used to value the taxable part of qualifying exempt property under Section 63-602C, Idaho Code. (4-2-08)

604. (RESERVED)

605. PROPERTY EXEMPT FROM TAXATION - PROPERTY USED FOR SCHOOL OR EDUCATIONAL PURPOSES (RULE 605).
Section 63-602E, Idaho Code

01. Eligibility of Leased Property. Leased property used exclusively for non-profit school or educational purposes, including charter school purposes, will be eligible for the exemption provided in Section 63-602E, Idaho Code, provided the following criteria are met: (4-4-13)

a. Leased real property must be exclusively used for the educational purposes identified in Subsection 605.01 of this rule. Such leased real property may be part of a multi-use property, in which case only the portions of the property used for the educational purposes will be eligible for the exemption. (4-4-13)

b. Leased personal property must be exclusively used for the educational purposes identified in Subsection 605.01 of this rule. To be considered exclusively used in this manner, such personal property must: (4-4-13)

i. Be used exclusively at a non-profit school or charter school facility; or (4-4-13)

ii. Have its use constrained or restricted in such a way as to effectively eliminate the possibility of use for other than educational purposes. (4-4-13)

02. Application for Exemption for Leased Personal Property. Only the owner of leased personal property can apply for this exemption. Proof of compliance with the requirements of Paragraph 605.01.b. of this rule is required and may be provided by the lessee. (4-4-13)

606. -- 607. (RESERVED)

608. PROPERTY EXEMPT FROM TAXATION - HOMESTEAD - CONTINUED ELIGIBILITY AFTER DEATH OF CLAIMANT (RULE 608).
Section 63-602G, Idaho Code

01. Ownership Interest. For the homestead previously qualifying for the exemption provided in Section 63-602G, Idaho Code, to continue to qualify in the year following the death of the qualifying claimant, the homestead must continue to be part of the claimant's estate, without change in record owner. If the ownership interest upon which the exemption had been granted was a life estate, the continuation provided in Section 63-602G(8), Idaho Code, does not apply. (4-4-13)

02. Occupancy. The continuation of this exemption will not be affected by occupancy status of the property during the year following the claimant's death. For example, the property may be vacant or rented during that period and may be used for something other than residential purposes. (4-4-13)

609. PROPERTY EXEMPT FROM TAXATION -- HOMESTEAD (RULE 609).
Sections 63-602G, 63-701, 63-703, and 63-3077, Idaho Code

01. Homestead Exemption. The Homestead Exemption granted in 63-602G, Idaho Code will also be known as the homeowner's exemption. (3-30-07)

02. Maximum Amount of Homestead Exemption. The homestead exemption is limited to the lesser of fifty percent (50%) of assessed value or one hundred thousand dollars ($100,000). (3-29-17)

03. Partial Ownership. Any partial ownership will be considered ownership for determining qualification for the homeowner's exemption; however, the amount of the exemption will be decided on the reduced proportion of the value commensurate with the proportion of partial ownership. The proportional reduction will not apply to the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than five percent (5%) ownership interest in the entity unless any ownership interest is shared by any entity other than the limited partnership, limited liability company or corporation. For tenants in common with two (2) improvements located on one (1) parcel of land, determine the applicable value for the homeowner's exemption using the procedure shown in Example 1 of Paragraph 609.03.a., of this rule unless the owner-occupant provides documented evidence of a different ownership interest in the improvement. See Examples 2, 3, and 4 in Paragraphs 609.03.b., 609.03.c., and 609.03.d. of this rule for additional partial ownership guidance. To calculate property tax reduction benefits when partial ownership exists, see Paragraph 700.05.b. of these rules. (3-29-17)

a. Example 1. John Smith and Bob Anderson own a property as tenants in common with two (2) residential improvements located on the property. Each residential improvement is owner occupied by one (1) of the tenants in common. The homeowner's exemption is calculated as follows:

Description	Value	Notes
Land	$42,000	
Residential Improvement	$82,000	Occupied by Mr. Smith
Prorated Ownership Interest (land and improvement)	$62,000	Mr. Smith's interest
Homeowner's Exemption	$31,000	For Mr. Smith as owner occupant
Residential Improvement	$67,000	Occupied by Mr. Anderson
Prorated Ownership Interest (land and improvement)	$54,500	Mr. Anderson's interest
Homeowner's Exemption	$27,250	For Mr. Anderson as owner occupant

(3-30-07)

b. Example 2. John Smith and Bob Anderson own a parcel of land as tenants in common with two (2) residential improvements located on the parcel. Mr. Smith has documented evidence of one hundred percent (100%) interest in one (1) residential improvement and Mr. Anderson has documented evidence of one hundred percent (100%) interest in the remaining residential improvement. Each residential improvement is owner occupied. The homeowner's exemption is calculated as follows:

Item Description	Value	Notes
Land	$42,000	Split 50% to each owner
Residential Improvement	$82,000	Owned and occupied by Mr. Smith
Homeowner's Exemption	$51,500	For Mr. Smith
Residential Improvement	$67,000	Owned and occupied by Mr. Anderson
Homeowner's Exemption	$44,000	For Mr. Anderson

(3-29-17)

c. Example 3. Tom Johnson and Marie Johnson, husband and wife, and June Smith jointly own a property and occupy one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

Description	Value	Notes
Land	$95,000	
Residential Improvement	$215,000	
Land and Improvement	$310,000	
Prorated ownership interest (land and improvement) ($310,000 X 50%)	$155,000	Mr. & Mrs. Johnson's interest
Homeowner's Exemption Maximum for 2010 ($100,000 X 50%)	$50,000	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement) ($310,000 X 50%)	$155,000	Ms. Smith's interest

Description	Value	Notes
Homeowner's Exemption Maximum for 2017 ($100,000 X 50%)	$50,000	Ms. Smith's Homeowner's Exemption

(3-28-18)

d. Example 4. John and Susan Doe, husband and wife, and Mike Person jointly own a property, and Mr. and Mrs. Doe occupy the one (1) residential improvement located on the property. The following example shows how to calculate each homeowner's exemption.

Description	Value	Notes
Land	$65,000	
Residential Improvement	$195,000	
Land and Improvement	$260,000	
Prorated ownership interest (land and improvement) ($260,000 X 50%)	$130,000	Mr. & Mrs. Doe's interest
Homeowner's Exemption (Maximum for 2017 is 50% up to $100,000)	$65,000	Mr. & Mrs. Doe's Homeowner's Exemption
Prorated ownership interest (land and improvement) ($260,000 X 50%)	$130,000	Mr. Person's interest
Homeowner's Exemption	$0	Mr. Person does not qualify for a homeowner's exemption on this property.

(3-28-18)

04. Part Year Ownership. For qualifying taxpayers who claimed the homeowner's exemption on an eligible property, the homestead that qualified on January 1 of the current tax year will continue to receive the exemption, provided however, the assessor may remove that property's exemption if, by April 15 of the tax year, the taxpayer owns a different homestead and requests that the exemption be transferred to the second homestead. (4-11-15)

05. Determination of Residency. The Commission may release pertinent information from any Idaho income tax return to the county assessor and the county Board of Equalization for the sole purpose of providing one (1) indicator of eligibility for the homeowner's exemption. According to Section 63-3077(4), Idaho Code, this information is confidential and is not subject to public disclosure. (4-11-06)

06. Notification of Erroneous Claims. When it is determined that an exemption granted under this Section to a taxpayer who has also received property tax relief under Chapter 7, Idaho Code, should not have been granted, the county assessor will notify the Commission of the determination. (3-29-10)

610. PROPERTY EXEMPT FROM TAXATION -- RESIDENTIAL IMPROVEMENTS -- SPECIAL SITUATIONS (RULE 610).
Sections 63-602G and 63-701(2), Idaho Code

01. Scope. This rule addresses issues relating to the homeowner's exemption as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. (7-1-99)

02. Definitions. The following definitions apply to this rule: (4-7-11)

a. Dual Residency Couples. As used in this rule, "dual residency couple" means a husband and wife, each of whom has established a different dwelling place as his or her primary dwelling place as defined in Section 63-602G, Idaho Code, and Subsection 609.03 of these rules. (4-2-08)

b. Multidwelling or Multipurpose Building. "Multidwelling or Multipurpose Building" means a building which is the primary dwelling place of the owner and which has a portion used for any purpose other than the primary dwelling place of the owner. (4-7-11)

c. Related Land. "Related Land" means land, not to exceed one (1) acre, that is reasonably necessary for the use of the dwelling as a home. (4-7-11)

03. Dual Residency Couples -- General Principles. (7-1-99)

a. Whether a particular residential improvement is an individual's primary dwelling place is a question of fact for each individual. Each spouse of a dual residency couple can maintain a separate primary dwelling place for purposes of the homeowner's exemption. The test to be applied is the general test set out in Subsection 609.03 of these rules. (4-2-08)

b. If a residential improvement is community property, either the husband or wife may exercise full management or control over it, except that neither the husband nor the wife can sell or encumber the property without the written consent of the other. Thus, either the husband or the wife can file an application for the homeowner's exemption regarding community property on his or her own authority. The signature of the other spouse is not required on the application. See Section 32-912, Idaho Code. (7-1-99)

c. Neither spouse is a partial owner of community property. (This principle is an exception to laws generally governing community property interests. It applies only for matters relating to the homeowner's exemption or the circuit breaker property tax relief program. See Section 63-701(7) Idaho Code.) Thus, there is no authority to reduce the value of the improvement proportionally to reflect one (1) spouse's ownership in community property before determining the amount of the homeowner's exemption. For purposes of the homeowner's exemption, a community property interest is treated the same as a full ownership interest. (3-15-02)

d. An owner may apply only once for the homeowner's exemption. See Section 63-602G(c), Idaho Code. Thus, an application by one (1) spouse regarding a residential improvement that is community property, precludes the other spouse from making a second application on any other residential improvement whether held by the other spouse as community or separate property except as provided in Subsection 610.07. (3-15-02)

04. Example -- Both Residences are Community Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid because the couple can not make more than one (1) application. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

05. Example -- One Residence Is Community Property, the Other Is Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement. One (1) is owned by the spouse who resides in it as his or her separate property, the other is owned by the couple as community property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. The first application is valid. Any subsequent application, though filed by the other spouse, is not valid. If the first application relates to the community property, it is an application on behalf of both members of the community. Thus, the other spouse can not file a second application relating to his or her separate property. If the first

application relates to the separate property, then the subsequent application relating to the community property is a second application by the spouse owning the separate property and is not valid. The homeowner's exemption applies to the full value of the first residential improvement to qualify without any proportional reduction. The other residential improvement does not qualify. (3-15-02)

06. Example -- Both Residences are Separate Property. (7-1-99)

a. Each member of a dual residency couple maintains his or her primary dwelling in a different residential improvement, each of which is owned by the spouse residing in it as his or her separate property. Each applies for the homeowner's exemption for the residence in which he or she resides. (7-1-99)

b. Both residential improvements qualify for the full homeowner's exemption. Neither application is a second application by the same owner. Each spouse is a sole owner of the residential improvement, so the proportional reduction provisions for partial ownership do not apply. (7-1-99)

07. Apportionment of Homeowner's Exemption by Dual Residency Couples. Both spouses of a dual residency couple may elect to equally apportion the homeowner's exemption between the two (2) residential improvements if each files a written election with the county assessor of the county in which each property is located. When the election is made each residential improvement will be entitled to one-half (1/2) of the exemption applicable to that property alone. The total exempted value of both properties will not exceed the amount of exemption available to the individual residential improvement with the greatest market value if no election were made. (4-5-00)

08. Multiple Ownerships Including Community Interests as Partial Owners. A community property interest in a residential improvement is a partial ownership when combined with the ownership of another individual who is not a member of the marital community. For example, if a deed conveys title to real property to a husband and wife and to an adult child of theirs, the husband and wife hold a community property interest in the improvement and the child is a tenant-in-common provided ownership interests are not specified in the deed. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Ownership interests specified in the deed supersede this guidance. Qualification of the property for the homeowner's exemption is as follows: (3-26-19)

a. If the residential improvement is the primary dwelling of the husband and wife but not the child, the homeowner's exemption applies to one-half (1/2) of the value of the improvement. (3-28-18)

b. If the residential improvement is the primary dwelling of the child, but not of the husband or wife, the homeowner's exemption applies to one-half (1/2) of the value of the improvement. (3-28-18)

c. If the residential improvement is the primary dwelling of the husband, wife and child, the homeowner's exemption applies to the full value of the improvement. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the homeowner's exemption applies to one-half (1/2) of the value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. The one-half (1/2) qualification results from the statutory provision that a community property interest is not considered a partial interest of either spouse. See Paragraph 610.03.c. of this rule. (3-28-18)

e. If the residential improvement is the primary dwelling of one (1) spouse and the child, the homeowner's exemption applies to the full value of the improvement unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption under the dual residency couple rules set out in Subsections 610.02 through 610.07. (3-15-02)

09. Determining the Qualifying Portion of a Multidwelling or Multipurpose Building and the Related Land. The portion of a Multidwelling or Multipurpose Building and Related Land used for the primary dwelling place of the owner qualifies for the homeowner's exemption. When determining the value of the qualifying portion, the assessor will include the Related Land value. (4-7-11)

611. VALUE OF RESIDENTIAL PROPERTY IN CERTAIN ZONED AREAS (RULE 611).
Sections 63-602H, Idaho Code

01. Residential Property. Residential property that may qualify for the special valuation exemption provided in Section 63-602H, Idaho Code, may include land and residential improvements. Such property may be owner or non-owner occupied, but must have been in continuous residential use from the time zoning was changed to other than residential. If use of any portion of the property changes to other than residential, the property loses this exemption. (4-5-00)

02. Qualifying Residential Improvements. Qualifying residential improvements are those improvements categorized by the assessor as residential and not consisting of more than four (4) residential units within any qualifying structure. (4-5-00)

612. PROPERTY EXEMPT FROM TAXATION -- MOTOR VEHICLES, RECREATIONAL VEHICLES, AND VESSELS PROPERLY REGISTERED (RULE 612).
Sections 49-123, 49-401, 49-402A, 49-422, 49-432, 49-445, 49-446, and 63-602J, Idaho Code

01. Motor Vehicle Defined. Motor vehicle means any vehicle as defined in Section 49-123(2), Idaho Code, and any recreational vehicle as defined in Section 49-119(6,) Idaho Code, and any personal property permanently affixed to any of those vehicles. (3-28-18)

02. Exempt Motor Vehicles. Except as provided in Subsection 612.03 of this rule, any motor vehicle, as defined in Subsection 612.01 of this rule, registered for any part of the previous year under Chapter 4, Title 49, Idaho Code, is exempt from property taxation under Sections 49-401 and 63-602J, Idaho Code. (4-11-06)

03. Taxable Vehicles. The following registered or permitted vehicles are taxable and not eligible for the exemption under Sections 49-401 and 63-602J, Idaho Code. (4-11-06)

a. Any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. (4-11-06)

b. Any manufactured home registered under Section 49-422, Idaho Code. (4-11-06)

04. Exempt Permanently Affixed Personal Property. Except as provided in Subsection 612.05 of this rule, any personal property permanently affixed to any motor vehicle registered as described in Subsection 612.02 of this rule is part of that vehicle. Hence, that permanently affixed personal property is exempt from property taxation under Section 63-602J, Idaho Code. (4-11-06)

05. Taxable Personal Property. The following personal property, not otherwise exempt under Chapter 6, Title 63, Idaho Code, is taxable and not eligible for the exemption under Section 63-602J, Idaho Code. (4-11-06)

a. Any personal property on, but not permanently affixed to, any motor vehicle registered as described in Subsection 612.02 of this rule. (4-11-06)

b. Any personal property on or affixed, permanently or otherwise, to any vehicle issued a permit in lieu of registration under Section 49-432, Idaho Code. (4-11-06)

c. Any personal property on or affixed, permanently or otherwise, to any utility trailer registered under Section 49-402A, Idaho Code. (4-11-06)

06. Recreational Vehicles. The owner of a recreational vehicle, as defined in Section 49-119(6), Idaho Code, must pay a recreational vehicle annual license fee as authorized by Section 49-445, Idaho Code, and as computed in accordance with Rule 020 of these rules in order to be exempt under Section 63-602J, Idaho Code. (3-28-18)

a. Recreational vehicles that qualify for licensing and registration and have paid the required registration fee by August 31 each year are eligible for the exemption provided in Section 63-602J, Idaho Code. The owners of recreational vehicles that do not qualify or have not paid the fee must be sent a valuation assessment notice for the recreational vehicle after the August 31 deadline. The assessment of the recreational vehicle is subject to

cancellation as provided in Rule 020, provided any applicable registration fee is paid before the fourth Monday of November. (3-28-18)

b. The provisions of Paragraph 612.06.a. of this rule apply to a park model recreational vehicle unless it is determined by the assessor to: (3-28-18)

i. Be permanently attached to a foundation; or (3-28-18)

ii. Have an attached building addition; or (3-28-18)

iii. Have been substantially modified and no longer meet the definition of a park model recreational vehicle. (3-28-18)

07. Taxable Real Property Associated with Vehicles. Associated property, other than the vehicle itself, is taxable unless another exemption applies. Examples include the land on which the vehicle is located, fences, buildings, and appurtenances. Such property may be eligible for the exemption provided in Section 63-602G, Idaho Code, regardless of whether the vehicle is exempt as provided in Section 63-602J, Idaho Code. (3-28-18)

613. PROPERTY EXEMPT FROM TAXATION -- SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND (RULE 613).

Section 63-602K, Idaho Code

01. Definitions. (4-5-00)

a. Taxable Value of Agricultural Land. The taxable value of agricultural land will be the landlord's share of net income per acre, capitalized by the annual rate required by Section 63-602K, Idaho Code, plus a component for the local tax rate. The component for local taxes achieves the necessary allowance for the expense of property taxes. (4-5-00)

b. Speculative Portion. The speculative portion is the difference between the current market value and the taxable value of agricultural land. The market value of agricultural land is established from market sales of similar land. (4-5-00)

c. Economic Rent. Economic rent is the average gross income per acre received by a landlord from either a cash rent or crop share rental agreement. The rent attributable to exempt irrigation equipment is not included in economic rent. Only the rent solely attributable to the agricultural land is included in economic rent. (4-7-11)

d. Net Income. Net income is determined by deducting the landlord's share of current expenses from economic rent per acre. (4-5-00)

02. Calculation of Net Income from Cash Rent. Net Income from cash rent is calculated in the following manner. (4-5-00)

a. Crops Grown. Determine the crops typically grown in the area. (4-5-00)

b. Economic Rent. Determine the average per acre gross income from individual crop rents typical to the area over the immediate past five (5) years. (4-5-00)

c. Landlord's Expenses. Determine the landlord's share of typical contracted expenses paid in the immediately preceding growing season. (4-5-00)

d. Landlord's Net Income. Subtract the landlord's share of typical contracted expenses from the average gross income per acre for the immediately preceding growing season to determine net income. (4-5-00)

03. Calculation of Net Income from Crop Share Rent. Net income from crop share rent is calculated in the following manner. (4-5-00)

a. Crops Grown. Determine the crops typically grown in the area. (4-5-00)

b. Average Crop Production. Determine average crop production per acre based on the most recent five (5) years. (4-5-00)

c. Average Commodity Prices. Determine average commodity prices based on the most recent five (5) years. (4-5-00)

d. Gross Income. Multiply average crop production per acre times the average commodity price to determine gross income per acre. (4-5-00)

e. Landlord's Share of Gross Income. Determine the landlord's share of gross income per acre from a crop rotation typical to the area. (4-5-00)

f. Expenses. Determine the landlord's share of water, fertilizer, chemical, seed and harvest cost per acre for the immediately preceding growing season. (4-5-00)

g. Net Income. Subtract the landlord's share of expenses from the landlord's share of gross income to determine net income. (4-5-00)

04. Determination of Five Year Average Crop Prices. The Commission will determine five (5) year average crop prices to be used in determining net income by surveying publicly available data from various sources, including the annual crop summary published by the Idaho Agricultural Statistics Service. Average crop prices determined in this manner by the Commission should be considered guidelines subject to modification based on local market data. (4-6-05)

05. Farm Credit System Interest Rate. Annually, the Commission will calculate the five (5) year rolling average Farm Credit System interest rate (FSCIR). Using the twenty (20) year fixed rate interest rates received bi-monthly from Northwest Farm Credit Services in Spokane, Washington, calculate the average Farm Credit System interest rate for the prior year applying the formula in Paragraph 613.05.a. of this rule. Calculate the five (5) year rolling average Farm Credit System interest rate applying the formula in Paragraph 613.05.b. of this rule. (3-30-07)

a. Formula for Calculating Average Farm Credit System Interest Rate for Prior Year. $FCSIR5 = (R_1 + R_2 + R_3 + R_4 + R_5 + R_6 + R_7 + R_8 + R_9 + R_{10} + R_{11} + R_{12})/12$.

$FCSIR_5$	is the average Farm Credit System interest rate for the prior year.
R_1	is the interest rate received for January of the prior year.
R_2	is the interest rate received for February of the prior year.
R_3	is the interest rate received for March of the prior year.
R_4	is the interest rate received for April of the prior year.
R_5	is the interest rate received for May of the prior year.
R_6	is the interest rate received for June of the prior year.

R_7	is the interest rate received for July of the prior year.
R_8	is the interest rate received for August of the prior year.
R_9	is the interest rate received for September of the prior year.
R_{10}	is the interest rate received for October of the prior year.
R_{11}	is the interest rate received for November of the prior year.
R_{12}	is the interest rate received for December of the prior year.

(3-30-07)

b. Formula for Calculating Five (5) Year Rolling Average Farm Credit System Interest Rate. FCSIR = $(FCSIR_1 + FCSIR_2 + FCSIR_3 + FCSIR_4 + FCSIR_5)/5$.

$FCSIR_5$	is the average Farm Credit System interest rate for the prior year.
$FCSIR_4$	is the average Farm Credit System interest rate for two (2) years ago.
$FCSIR_3$	is the average Farm Credit System interest rate for three (3) years ago.
$FCSIR_2$	is the average Farm Credit System interest rate for four (4) years ago.
$FCSIR_1$	is the average Farm Credit System interest rate for five (5) years ago.

(3-30-07)

06. Notification. In addition to providing notification of the Farm Credit System interest rate, the Commission will annually notify each county assessor of the most recent five (5) year average crop prices for the state. (4-6-05)

07. Cross Reference. For agricultural land taxable value calculation examples, see Rule 614 of these rules. For eligibility criteria, see Rule 645 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules. (3-30-07)

614. SPECULATIVE PORTION OF VALUE OF AGRICULTURAL LAND - EXAMPLES (RULE 614). Sections 63-602K and 63-604, Idaho Code. The following examples show calculations for the taxable value of agricultural land. The example in Subsection 614.01 of this rule shows one (1) calculation of an average property tax rate, the example in Subsection 614.02 of this rule shows one (1) calculation of a capitalization rate (cap rate), the example in Subsection 614.03 of this rule shows calculations using cash rent agreements, and the example in Subsection 614.04 of this rule shows calculations using crop share agreements. The choice to use cash rent or crop

share analysis in determining the taxable value of agricultural land should be predicated on the quantity and quality of data available and the analysis that produces the most reliable and supportable value conclusion. (4-7-11)

01. Average Property Tax Rate Calculation Example.

	Tax Code Areas	Property Tax Rates
	8	1.1323951%
	9	1.1186222%
	10	1.1226782%
	11	1.1714841%
	12	1.1674300%
	13	1.0692041%
	15	1.1603100%
	16	1.1323951%
	17	1.1323951%
Average Property Tax Rate		**1.1341015%**

(3-30-07)

02. Capitalization Rate Calculation Example.

Average Property Tax Rate	1.13%
5-Year Average Farm Credit Bank Interest Rate	8.22%
Total Capitalization Rate (Cap Rate)	**9.35%**

(3-30-07)

03. Cash Rent Agreement Calculation Example.

Crops	Contract Rents Per Acre (Land Only)	Rotation In Percent	Weighted Income Per Acre
Barley	$100.00	14.42%	$14.42
Beans	$100.00	22.46%	$22.46
Beets	$170.00	20.33%	$34.56
Corn/Grain	$100.00	0.00%	$0.00
Corn/Silage	$110.00	0.00%	$0.00
Hay/Alfalfa	$120.00	21.32%	$25.58
Potatoes	$200.00	0.00%	$0.00
Wheat	$100.00	21.48%	$21.48
Peas	$125.00	0.00%	$0.00
Oats	$110.00	0.00%	$0.00

Crops	Contract Rents Per Acre (Land Only)	Rotation In Percent	Weighted Income Per Acre
		Total Income Per Acre	$118.50

Value per acre equals net income per acre divided by Cap rate:

Total Income Per Acre	$118.50
Less Water Costs	$23.00
Less Management (@ 5%)	$5.93
Net Income Per Acre	$88.57
Cap Rate	9.35%
Value Per Acre	$958

(4-7-11)

04. Crop Share Agreement Calculation Example:

Crop	Yield	Price	Gross Income	Landlord Share	Landlord Share Gross Income to Land	Rotation Percent	Per Acre Share of Gross Inc. to Land
Barley	100.00	$2.83	$283.00	33.33%	$94.32	14.42%	$13.60
Beans	20.00	$21.20	$424.00	33.33%	$141.32	22.46%	$31.74
Beets	23.00	$39.74	$914.02	25.00%	$228.51	20.33%	$46.46
G/Corn	0.00	$3.22	$0.00	33.33%	$0.00	0.00%	$0.00
S/Corn	0.00	$24.40	$0.00	33.33%	$0.00	0.00%	$0.00
Hay	5.50	$84.10	$462.55	50.00%	$231.28	21.32%	$49.31
Potatoes	0.00	$4.74	$0.00	25.00%	$0.00	0.00%	$0.00
Wheat	98.00	$3.73	$365.54	33.33%	$121.83	21.48%	$26.17
Peas	0.00	$8.68	$0.00	33.33%	$0.00	0.00%	$0.00
Oats	0.00	$1.66	$0.00	33.33%	$0.00	0.00%	$0.00
					Total Income Per Acre	100.00%	$167.28

Value per acre equals net income per acre divided by Cap rate:

Total Income Per Acre $167.28		Expenses
Water	=	$23.00
Fertilizer	=	$14.77
Chemicals	=	$9.04
Seed	=	$2.05
Management	=	$8.36

Total Income Per Acre $167.28		Expenses
Harvest	=	$14.67
Total Expense Per Acre	=	$71.89
Net Income	=	$95.39
Cap Rate	=	9.35%
Value Per Acre	=	$1,020

(4-7-11)

05. Cross Reference. For definitions and general principles relating to the taxable value of land actively devoted to agriculture, see Rule 613 of these rules. For eligibility criteria, see Rule 645 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules. (3-30-07)

615. PROPERTY EXEMPT FROM TAXATION - CERTAIN INTANGIBLE PERSONAL PROPERTY (RULE 615).
Section 63-602L, Idaho Code

01. Definitions. The following definitions apply to the exemption for certain intangible personal property. (1-1-99)

a. Contracts and contract rights. Contracts and contract rights are enforceable agreements, which establish mutual rights and responsibilities, and rights created under such agreements. Contracts and contract rights do not include tax credits received by low-income housing properties under Section 42 of the Internal Revenue Code. (3-30-07)

b. Copyrights. Copyrights are rights granted to the author or originator of literary or artistic productions, by which he or she is invested with the sole and exclusive privilege of making, publishing or selling copies for a specified time. (1-1-99)

c. Custom computer programs. Custom computer programs means those programs defined in Section 63-3616, Idaho Code. (1-1-99)

d. Customer lists. Customer lists are proprietary lists containing information about a business enterprise's customers. (1-1-99)

e. Franchises. Franchises are special privileges. (1-1-99)

f. Goodwill. Goodwill is the expectation of continued public patronage of a business. Goodwill is the ability of a business to generate income in excess of a normal rate due to such things as superior managerial skills, superior market position, favorable community and customer reputation and high employee morale. (1-1-99)

g. Licenses. Licenses are permissions to do acts, which are not allowed without such permissions. (1-1-99)

h. Method A. Method A is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the system level. (1-1-99)

i. Method B. Method B is the method by which the value of exempt intangible personal property is excluded from the value of operating property by subtracting the market value of exempt intangible personal property from the market value of the operating property at the state level. (1-1-99)

j. Method C. Method C is the method by which the value of exempt intangible personal property is

excluded from the value of operating property by using valuation models which value only the non-exempt assets. (1-1-99)

k. Patents. Patents are grants from the government conveying and securing the exclusive right to make, use and sell inventions. (1-1-99)

l. Rights-of-way which are possessory only and not accompanied by title. Rights-of-way, which are possessory only and not accompanied by title, are easements by which grantees acquire only the rights to pass over or to access for installation or maintenance, without acquiring exclusive use of the rights-of-way. (1-1-99)

m. Trademarks. Trademarks are marks of authenticity, through which products of particular manufacturers or vendible commodities of particular merchants may be distinguished from those of others. (1-1-99)

n. Trade secrets. Trade secrets are formulas, patterns, compilations, programs, devices, methods, techniques or processes, deriving independent economic values from not being generally known by other persons who can obtain economic values from disclosure or use. Trade secrets are the subjects of efforts that are reasonable to maintain secrecy. (1-1-99)

02. Tangible Property Value Not Affected by Intangible Personal Property Value. The values of the exempt intangible personal properties will not affect the values of any tangible properties or the value of the attributes of any tangible properties, regardless of the role of the intangible personal properties in the use of the tangible properties. The exempt values will not include any values attributable to availability of a skilled work force, condition of surrounding property, geographic features, location, rights-of-way, accompanied by title, view, zoning, and attributes or characteristics of real properties. (1-1-99)

03. Operating Property Election, Reporting and Methods. The following apply to operating property for the identification of valuation methods to be used by the Commission, election of Method A, Method B or Method C by the property owners, reporting by owners and valuation using Method C. (1-1-99)

a. Identification of valuation methods. When the Commission mails the blank Operators' Statements to the property owners, the Commission will identify proposed changes in valuation methods compared to those relied on in the prior year. (1-1-99)

b. Election default. In the event of default of the taxpayer to make an election, the Commission will use the method proposed in the notice accompanying the Operator's Statement. (1-1-99)

c. Election of exclusion method. When submitting the Operator's Statement, the owner has the right to elect the method for exclusion of the values of the exempt intangible personal properties from the operating property value. (1-1-99)

d. Amending Election. An owner may amend the elected method if written notice is received at least seven (7) business days prior to a hearing under Rule 407 of these rules. (1-1-99)

e. Reporting. The Commission will consider the value and supporting data provided by the owners. If no supporting intangibles valuation information is provided by the owners, known exempt intangible personal property will be subtracted or will not be impounded in the value. (1-1-99)

f. Valuation using Method C. When the owner elects Method C, the Commission will give primary consideration to the cost less depreciation model, without regulatory adjustment, in valuing tangible personal property and non-exempt intangible personal property. Only if this model fails to produce market value of the tangible personal property and nonexempt intangible personal property, will the Commission consider other appropriate valuation models. (1-1-99)

04. Personal Property Reporting for Locally Assessed Property. The exemption for custom software, contracts and contract rights will be claimed by scheduling such property on the owner's personal property declaration form. (1-1-99)

05. Cross Reference. For clarification of contracts and contracts rights, see Brandon Bay, Ltd. Partnership v. Payette County, 142 Idaho 681, 132 P.3d 438 (2006). (3-30-07)

616. -- 617. (RESERVED)

618. COMPUTATION OF THE IDAHO IRRIGATION EXEMPTION (RULE 618).
Section 63-602N, Idaho Code

01. Production and Delivery Ratio. This ratio is computed by comparing the Idaho investment in production and delivery property to the investment for all Idaho unitary property. The resulting ratio will be known as the production and delivery ratio. (4-5-95)

02. Idaho Production and Delivery Value. This is computed by multiplying the allocated Idaho unitary value, before any exemptions, by the production and delivery ratio. (4-5-95)

03. Irrigation Use Ratio. This ratio is computed by comparing Idaho irrigation revenue to the total Idaho revenue from unitary operations. The resulting ratio will be known as the irrigation use ratio. (4-5-95)

04. Idaho Irrigation Exemption. This is computed by multiplying the Idaho production and delivery value by the irrigation use ratio. (4-5-95)

619. PROPERTY EXEMPT FROM TAXATION -- FACILITIES FOR WATER OR AIR POLLUTION CONTROL (RULE 619).
Section 63-602P, Idaho Code

01. Exempt Property. Only those portions of installations, facilities, machinery, or equipment which are devoted exclusively to elimination, control, or prevention of water or air pollution are exempt. The owner of the property will annually apply for exemption. (4-4-13)

02. Calculation of Partial Exemption. The exemption will not include the percentage of the value for any portion of the facility which is used for the production of marketable by-products. The exempted value is the difference between the market value of the pollution control facilities and the present value of the net income from the sale of by-products. Net income will be determined by subtracting the expenses of sale, raw materials required to produce by-products, and transportation to F.O.B. point from gross sales of recovered by-product. ( )

03. Ineligibility. Landfills, toxic waste dumps, or storage facilities deriving revenue from processing or storing pollution or pollution by-products generated by other persons or businesses are ineligible for this exemption. (7-1-97)

04. Filing Procedure. Application for exemption will be made in the following manner: (4-4-13)

a. The property owner may obtain the application form issued by the Commission from the county assessor or the Commission. (4-4-13)

b. The property owner completes the application to report an itemized listing of all installations, facilities, machines or equipment qualifying for exemption. Each component part of the system must be identified by a brief description (e.g., Dust Collector), the date of original acquisition, dollar amount of the original cost, and the percentage of the component devoted exclusively to pollution control. The application must be signed by the owner or duly authorized agent. Lack of required information will be grounds for denial. (4-4-13)

c. The completed application must be filed with the county commissioners by April 15 for locally assessed property or with the Commission by April 30 for centrally assessed property. (3-28-18)

05. Inspection. The county or Commission representative may inspect the property or audit the owner's records to identify components for which the exemption has been applied. Those components listed on the application must be identifiable as capital assets of the property. (4-4-13)

06. Exemption Reported on Abstracts. For locally assessed property, exempt value will be reported on the property abstracts. (4-4-13)

07. Exemption for Portion of Water Corporation Property. A portion of water corporation property may be exempt from taxation. (3-30-01)

a. On or before April 30, each year, the Commission will receive a notice from the Idaho Public Utilities Commission listing the value of the investment percentage of the total plant of each water company that is devoted exclusively to the elimination, control, or prevention of water pollution or air pollution. (3-30-01)

b. In estimating the market value of the company for assessment purposes, the Commission will take into consideration the investment as certified by the Public Utilities Commission that such equipment bears to the total invested plant of the company. (3-30-01)

c. The Commission will notify the water company of the estimated market value, gross assessed value, and the amount of exemption allowed under Section 63-602P, Idaho Code, on or before July 15. (4-4-13)

d. Any person or party wishing to contest the percentage of exemption reported to the Commission by the Public Utilities Commission may submit a written request for a public hearing to the Commission by August 1 of the current tax year. The request for a hearing will state the petitioner's grounds for contesting the percentage reported by the Public Utilities Commission. On or before the second Monday of August the Commission will notify the petitioner of the hearing time and place. (4-4-13)

620. EXEMPTION FOR NEVER OCCUPIED RESIDENTIAL IMPROVEMENTS (RULE 620).
Section 63-602W, Idaho Code

01. Qualifying Residential Improvements. Improvements to any land parcel that are residential and have never been occupied for residential purposes may qualify for the exemption pursuant to Section 63-602W, Idaho Code. This rule is effective January 1, 1998. Such qualifying improvements can include the following: (1-1-98)

a. Single family residences, residential townhouses, and residential condominiums; and (1-1-98)

b. Attached or unattached ancillary structures which are not intended for commercial use and are constructed contemporaneously with the improvements identified in Paragraph 620.01.a. Such structures may include sheds, fences, swimming pools, garages, and other similar improvements, subject to the limitations of Subsection 620.02. (1-1-98)

02. Non-Qualifying Improvements. Never previously occupied residential improvements listed in the following Subsections do not qualify for this exemption. (1-1-98)

a. Location. Ancillary structures (see Paragraph 620.01.b.) that are not located on the parcel on which the improvement is located, identified in Subsection 620.01.a. of this rule, will not qualify for the exemption provided pursuant to Section 63-602W, Idaho Code. (1-1-98)

b. Remodeled improvements. Remodeling of previously occupied residential improvements does not qualify for the exemption. (1-1-98)

c. Improvements included in land value. Improvements included in land value, such as septic tanks, wells, improvements designed to provide utility services or access, and other similar improvements will not qualify for the exemption. (1-1-98)

621. -- 624. (RESERVED)

625. HOMEOWNERS EXEMPTION ON OCCUPANCY TAX ROLL (RULE 625).
Sections 63-317 and 63-602G, Idaho Code

01. Eligibility for Multiple Exemptions. Obtaining the exemption in Section 63-602G, Idaho Code,

will not preclude a property owner from eligibility for the exemption granted by Section 63-317, Idaho Code. More than one (1) property may be eligible for this exemption provided that ownership and occupancy of the properties occurs at different times during the year and application is made on the owner's primary residence. (3-29-17)

02. Separate Applications. The application for this exemption may substitute for the application required by Section 63-602G, Idaho Code. (3-29-17)

626. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY (RULE 626).
Sections 63-105(A), 63-201, 63-302, 63-308, 63-313, 63-602Y, and 63-602KK, Idaho Code

01. Locally Assessed Property - Application Required. (3-20-14)

a. The taxpayer must file one (1) or more of the lists of taxable personal property as required by Section 63-302, Section 63-313, or Section 63-602Y, Idaho Code if the total market value of the property to be listed is greater than one hundred thousand dollars ($100,000). The filing of said list(s) will constitute the filing of an application for exemption. For purposes of reporting personal property, the value is to be based on market value, not book value. (3-20-14)

b. Taxpayers establishing initial eligibility for the exemption provided in Section 63-602KK(2), Idaho Code, may in lieu of a list, file only an application attesting to ownership of otherwise taxable personal property having a cost of one hundred thousand dollars ($100,000) or less. In providing such cost, newly acquired personal property items acquired at a price of three thousand dollars ($3,000) or less, that are exempt pursuant to Section 63-602KK(1), Idaho Code, will not be included. The application must be filed no later than April 15th of the first year for which the exemption is claimed. (3-20-14)

02. Locally Assessed Property - Taxpayers' Election of Property Location. (3-20-14)

a. Multiple Locations Within A County. In cases where the taxpayer has personal property located in multiple places within the county, the taxpayer may elect the location of the property to which the exemption will apply by filing the "Idaho Personal Property Exemption Location Application Form" available from the Commission (Commission) for this purpose. To make the election for property required to otherwise be listed as provided in Section 63-302, Idaho Code, the form must be filed with the county assessor by April 15. For taxpayers with personal property required to be listed as provided in Sections 63-602Y and 63-313, Idaho Code, any application specifying the location of the property to which the exemption provided for in Section 63-602KK(2) will apply, must be filed by the dates specified for filing the lists required by these Sections. Should the taxpayer not make an election as to where to apply the exemption, the county will have discretion regarding the property to which the exemption will apply. However, to the extent possible and assuming the assessor is not aware of any changes in eligibility, the exemption will be first applied to the same property to which it applied in the immediate prior year. (3-20-14)

b. Multiple locations in different counties. The one hundred thousand dollar ($100,000) limit on the exemption applies to a taxpayer's otherwise taxable personal property within any county. If the taxpayer owns qualifying personal property in more than one county, the limit is one hundred thousand dollars ($100,000) in market value per county. (3-20-14)

03. Centrally Assessed Property - Application Required. (3-20-14)

a. Except for private railcar fleets, the taxpayer may file a list of personal property located in Idaho with the operator's statement filed pursuant to Rule 404 of these rules. The filing of such a list will constitute the filing of an application for this exemption. Except as provided in Subsections 626.03.b. and 03.c. of this rule, for such personal property to be considered for the exemption, the operator's statement must include: (3-25-16)

i. A description of the personal property located in Idaho; (3-25-16)

ii. Cost and depreciated cost of the personal property located in Idaho. (3-25-16)

b. For private railcar fleets subject to assessment by the Commission, the Idaho taxable value will be

reduced by subtracting the lesser of the Idaho taxable value before the exemption or the product of one hundred thousand dollars ($100,000) times the number of counties in Idaho in which the fleet operates. Provided that the remaining taxable value is five hundred thousand dollars ($500,000) or more, this value is to be apportioned to each taxing district and urban renewal revenue allocation area in accordance with procedures described in Rule 415 of these rules. (3-25-16)

c. After subtraction of the personal property exemption calculated as provided in Subsection 626.03.b. of this rule, for private railcar fleets subject to assessment by the Commission, and having an Idaho taxable market value of less than five hundred thousand dollars ($500,000), neither the final amount of the exemption nor the taxable value of the fleet will be subject to apportionment, and the remaining taxable value will be taxed as provided in Rule 415 of these rules. (3-25-16)

d. When operating property companies have locally assessed property, any exemption pursuant to Section 63-602KK(2), Idaho Code must be applied to the locally assessed property first. In this case, the county assessor must notify the Commission of the value of the exemption granted. If such exemption is entered on the property roll, such notification must be made by the third Monday in July. The Commission will then reduce the amount of the exemption otherwise to be granted to the centrally assessed operating property of the company by the exemption value reported by the assessor. The Commission will notify the company of the reduction in exemption by the fourth Monday in July. This reduction will be made before determining the company's Idaho taxable value. No additional exemption pursuant to Section 63-602KK(2), Idaho Code, will be granted for any locally assessed property of operating property companies. (3-25-16)

04. Valuation Assessment Notice. The valuation assessment notice required by Section 63-308, Idaho Code, must show the taxable market value before granting the exemption provided in Section 63-602KK(2), Idaho Code, the exempt market value pursuant to the exemption provided in Section 63-602KK(2), Idaho Code, and the net taxable market value of the personal property. After the year of initial eligibility, if the net taxable market value is zero, no valuation assessment notice is required. (4-11-15)

05. Correction of Personal Property Tax Replacement Amounts. If subsequent to finalization of the amount of replacement money to be paid to any county, an amount paid on behalf of any taxpayer is disapproved by the county, the county will so notify the Commission, which will adjust the payment to the county. The county may begin proceedings to recover any remaining excessive amounts paid on behalf of any taxpayer, pursuant to the recovery procedures found in Section 63-602KK(7), Idaho Code. (4-11-15)

06. Limitation on Eligibility for the Exemption. (3-20-14)

a. Except for taxpayers claiming and receiving the exemption provided for in Section 63-4502, Idaho Code, taxpayers receiving the personal property exemption provided in Section 63-602KK, Idaho Code, may be eligible for, and are not precluded from, other applicable exemptions. (3-20-14)

b. Personal property exempt in accordance with statutes other than Section 63-602KK, Idaho Code, will not be included in determining when the one hundred thousand dollar ($100,000) limit provided in Section 63-602KK(2) is reached. (3-20-14)

c. Taxpayers with requirements to annually apply for, or list personal property for, which other statutorily provided personal property exemptions are sought, must continue to comply with the requirements of these statutes. (3-20-14)

d. Improvements, as defined or described in Sections 63-201 and 63-309, Idaho Code, will not be eligible for the exemption provided in Section 63-602KK. Improvements will be deemed to include mobile and manufactured homes and float homes, regardless of whether such property is considered personal property. Leasehold real properties and other leasehold improvements that are structures or buildings will be considered improvements, and therefore ineligible for the exemption. Structures, such as cell towers, are improvements and therefore are not personal property eligible for the exemption. (3-20-14)

07. Special Rules for the Exemption Provided in Section 63-602KK(1), Idaho Code. (3-20-14)

a. Newly acquired items of personal property, exempt as provided in Section 63-602KK(1), are not to be reported on any list otherwise required pursuant to Sections 63-302, 63-602Y, and 63-313, Idaho Code. (3-20-14)

b. The exemption provided in Section 63-602KK(1), Idaho Code, is in addition to the one hundred thousand dollar ($100,000) per taxpayer, per county exemption provided in Section 63-602KK(2), Idaho Code. (3-20-14)

c. No application for the exemption provided in Section 63-602KK(1),Idaho Code, is necessary. (3-20-14)

d. The requirement in Section 63-602KK(6) requiring the assessor to provide the application by no later than March 1, applies only to taxpayers who have an obligation to file any application. (3-20-14)

08. Limitation on Replacement Money. (3-20-14)

a. In addition to replacement money reductions due to corrections as provided in Subsection 626.06 of this rule, there may be changes and reductions as follow: (4-11-15)

i. If a taxing district dissolves, the state will make no payment of the amount previously certified for that district, and when an urban renewal district revenue allocation area dissolves and is no longer receiving any allocation of property tax revenues, the state will discontinue payment of amounts previously certified for that revenue allocation area, beginning with the next scheduled distribution. (3-20-14)

ii. If taxing districts or revenue allocation areas within urban renewal districts are consolidated, the amounts of replacement money attributed to each original district or revenue allocation area will be summed and, in the future, distributed to the consolidated taxing or urban renewal district. (3-20-14)

iii. No urban renewal district will receive replacement money based on exempt personal property within any revenue allocation area (RAA) established on or after January 1, 2013, or within any area added to an existing RAA on or after January 1, 2013. (3-20-14)

iv. Any payment made to the Idaho Department of Education, as provided in Subsection 626.09 of this rule will be discontinued if the state authorized plant facilities levy is not certified in any year. Certification in subsequent years will not cause any resumption of this payment. (3-25-16)

b. There will be no adjustment to replacement money if personal property not receiving the exemption found in Section 63-602KK(2), Idaho Code, receives this exemption in the future. (4-11-15)

09. Special Provision For Replacement Money For State Authorized Plant Facilities Levy. The amount of replacement money calculated based on any 2013 state authorized plant facilities levy will be remitted directly to the Idaho Department of Education for deposit to the Public School Cooperative Fund. (4-11-15)

10. Special Provision For Exempt Personal Property Within Urban Renewal Revenue Allocation Areas (RAAs). When personal property subject to the exemption in Section 63-602KK(2), Idaho Code, is within an RAA, any adjustment will first be to the increment value, and there will be no adjustment to the base value of the RAA unless the remaining taxable market value of the parcel is less than the most current base value of the parcel. In that case, the base value will be reduced. The amount to be subtracted is to be determined on a parcel by parcel basis in accordance with procedures found in Rule 804 of these rules. (3-20-14)

11. No Reporting of Exempt Value. Beginning in 2014, taxing district values submitted to the Commission as required in Section 63-510, Idaho Code, will not include or indicate the otherwise taxable value exempt pursuant to Section 63-602KK(2), Idaho Code. (4-11-15)

12. Cross Reference. For information on transient personal property, see Rule 313 of these rules. For information on the definition of personal property see Rule 205 of these rules. For information on the definition of a taxpayer, see Rule 627 of these rules. For the purpose of this rule, “taxpayer” means the claimant of the exemption pursuant to section 63-602KK(2), Idaho Code, and must be a person, as that term is defined in Section 63-201, Idaho

Code. (3-25-16)

627. PROPERTY EXEMPT FROM TAXATION -- CERTAIN PERSONAL PROPERTY – OWNERSHIP CLARIFICATION (RULE 627).
Section 63-602KK(2), Idaho Code

01. Idaho Code Section 63-602KK(2) Provides Persons With One Exemption in Each Idaho County in Which They Meet the Ownership Rules. Although persons are limited to receiving one (1) exemption per county, a person owning more than one (1) business within one (1) county may be entitled to more than one (1) exemption within the county. (3-25-16)

02. Illustration of Common Enterprise and IRC Section 267 Restriction. For purposes of the Idaho Code Section 63-602KK(2) exemption, a person includes two (2) or more individuals or organizations using the property in a common enterprise, and the individuals or organizations are within a relationship described in Section 267 of the Internal Revenue Code. This is illustrated in the following chart:

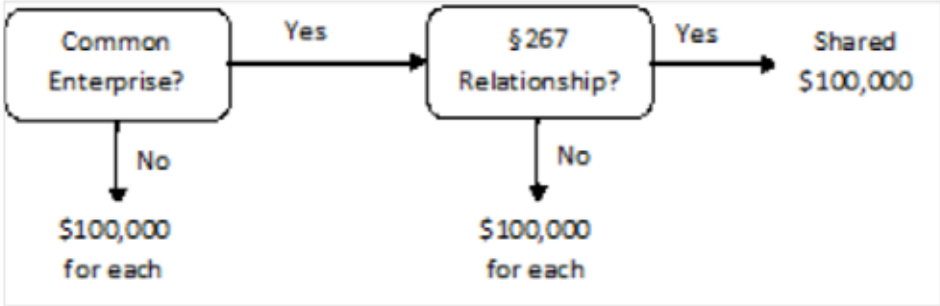

(3-25-16)

a. First, an analysis must be made to determine if a common enterprise exists. If entities or individuals are organized to manage a common scheme of business, they would be in a common enterprise. (4-11-15)

i. Horizontal Commonality is demonstrated by the following chart:



Here, the usual functions involved in a working car manufacturing company are split between several LLCs, all of which own the property involved with the functions they perform. The operation of the business is no different than if all the functions were combined in just Car Manufacturing, LLC

(4-11-15)

ii. Vertical Commonality is demonstrated by the following chart:

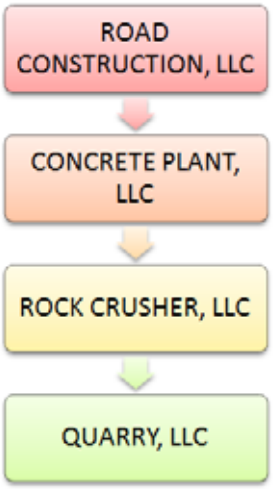

Here, a business operation is split so that each step in a process is designated to a different LLC. All the steps rely on the one below in order to produce the final product, or process.

(4-11-15)

b. Second, an analysis would be made to determine whether the ownership between the entities is within the relationships identified in Section 267 of the Internal Revenue Code. If such a relationship is found to exist, and the businesses are in a common enterprise, then the entities or individuals would be considered one (1) person for purposes of this exemption. (3-25-16)

c. Ownership alone does not determine whether entities are considered one (1) person for purposes of this exemption. Two (2) businesses can have identical ownership, and each receive the exemption, providing they do not operate as a common enterprise. In addition, entities in a common enterprise can receive separate exemptions, providing that their ownership does not consist of a relationship identified in Section 267 of the Internal Revenue Code. (3-25-16)

d. The following examples are given to illustrate eligibility situations related to common enterprise and related ownerships: (4-11-15)

i. Example 1. This is an example of a common enterprise, that is entitled to two (2) exemptions because the owners are not related in a manner as described in Section 267 of the Internal Revenue Code.

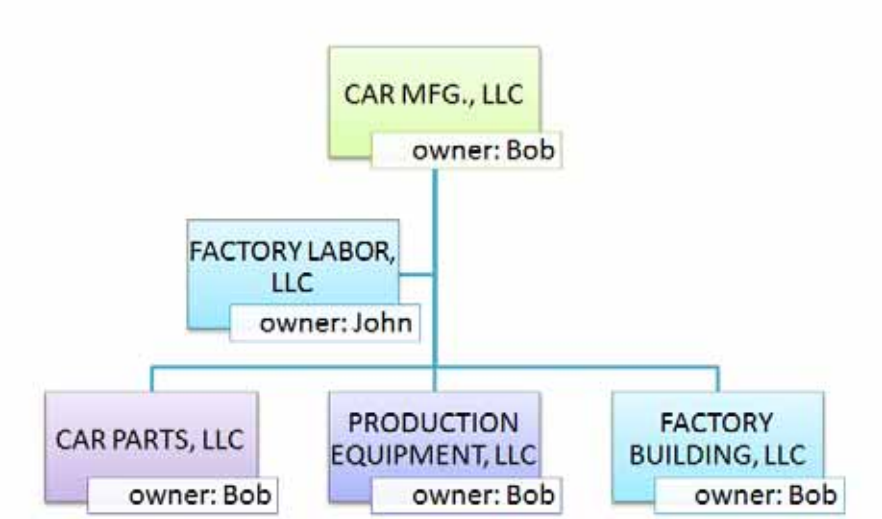

So long as Bob and John are not related in a manner identified in IRC 267, two (2) exemptions exist. One (1) for Factory Labor, LLC. The other for all of Bob's businesses, because they are in a common enterprise and are all owned by him.

(4-11-15)

ii. Example 2. This is an example of the same owner with multiple businesses not all united in a common enterprise. Bob's car businesses are common enterprises, and therefore entitled to only one (1) exemption for all the car businesses. Bob's used furniture business is not involved with Bob's car businesses, so Bob is entitled to an additional exemption related to his used car business.

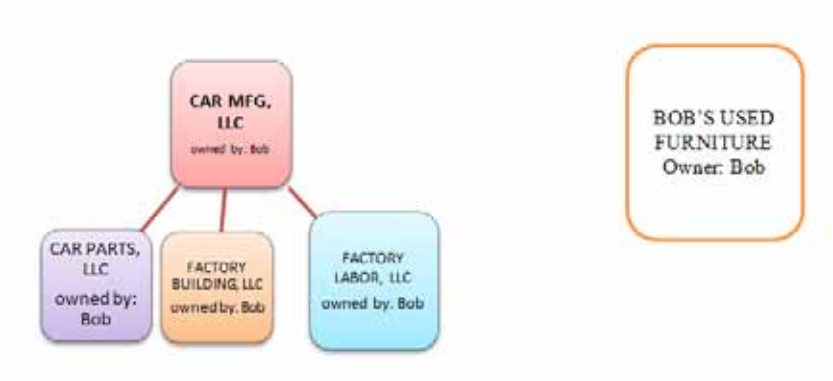

(4-11-15)

iii. Example 3. This is an example of multiple businesses being entitled to only one (1) exemption because a common enterprise exists and all the businesses are constructively owned in a manner identified in IRC 267. (4-11-15)

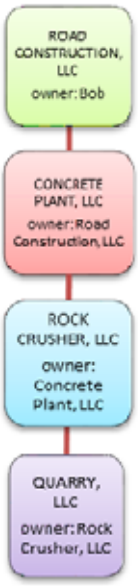

Here, one (1) exemption exists for all of the entities because they are in a common enterprise, due to their vertical commonality, and are all constructively owned by Bob, pursuant to IRC 267.

(4-11-15)

iv. Example 4. This is an example showing how owners of common enterprises may intersect.
(4-11-15)

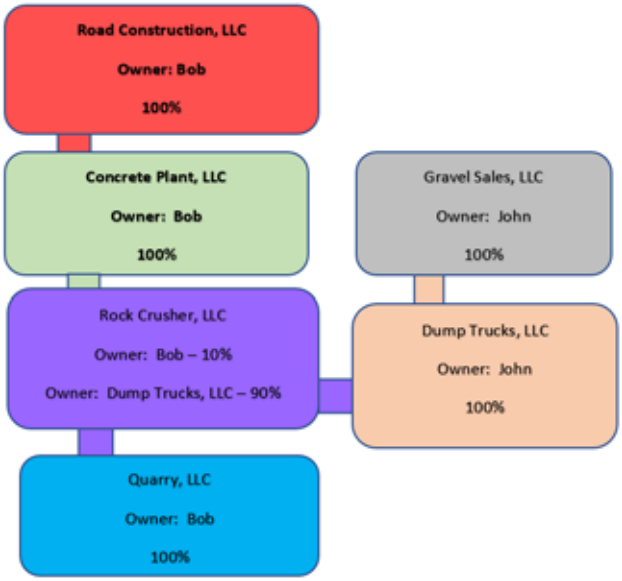

This is an example of how common enterprises can intersect with one another. The companies Bob owns completely receive one exemption; John's companies also receive one exemption, including Rock Crusher, LLC, because John's ownership interest in that company falls within IRC 267.

(4-11-15)

e. In cases of partial ownership as noted in example four wherein Bob owns ten percent (10%) and Dump Trucks, LLC owns ninety percent (90%) only the majority owner is eligible to receive this exemption. (4-11-15)

03. Cross Reference. For information on applying for the exemption provided in Section 63-602KK(2), Idaho Code, see Rule 626 of these rules. (4-11-15)

628. PARTIAL EXEMPTION FOR REMEDIATED LAND (RULE 628).
Sections 63-602BB, 39-7203, 39-7204, and 39-7207, Idaho Code

01. Definitions. For the purpose of implementing the partial exemption for remediated land the following terms are defined. (7-1-98)

a. Application for Partial Exemption. The "application for partial exemption" is the form, provided by the Commission, available from the Commission or the county assessor and used to apply for the exemption provided by Section 63-602BB, Idaho Code. (7-1-98)

b. Certificate of Completion. The "certificate of completion" is the document issued by the Department of Environmental Quality after the successful completion of a voluntary remediation work plan pursuant to Section 39-7207(1), Idaho Code. The person receiving the "certificate of completion" will record a copy of the "certificate of completion" with the deed for the "site" on which the remediation took place pursuant to Section 39-7207(2), Idaho Code. (7-1-98)

c. Covenant Not to Sue. The "covenant not to sue" is the document issued by the Department of Environmental Quality pursuant to Section 39-7207(4), Idaho Code, upon request from a person receiving the "certificate of completion." (7-1-98)

d. Qualifying Owner. The "qualifying owner" is the entity identified as the owner on the deed to the property at the time the "certificate of completion" is issued by the Department of Environmental Quality. (7-1-98)

e. Remediated Land. The "remediated land" is the "site" on which the remediation, as defined in Section 39-7203(7), Idaho Code, has been completed. (7-1-98)

f. Remediated Land Value. The "remediated land value" is the market value for assessment purposes of the land on January 1 of the year following the issuance of the "certification of completion" (after remediation) less the market value for assessment purposes of the land on January 1 prior to the issuance of the "certification of completion" (before remediation). (7-1-98)

g. Site. As defined in Section 39-7203(8), Idaho Code, a "site" is a parcel of real estate for which an application has been submitted under Section 39-7204, Idaho Code. The "site" will be that parcel identified on the application as described in IDAPA 58.01.18, "Idaho Land Remediation Rules," Subsection 020.02.c., including the assessor's parcel numbers(s) and on the voluntary remediation work plan as described in IDAPA 58.01.18, Section 022. (7-1-98)

02. Procedures to Qualify for the Exemption. The "qualifying owner," or agent thereof, must complete the following procedures for the "site" to qualify for the exemption. (7-1-98)

a. Obtain and complete the "application for partial exemption." (7-1-98)

b. Submit the "application for partial exemption" and copies of the "certificate of completion" and the "covenant not to sue" to the county assessor of the county in which the "site" is located. If the legal description of the "site" and a map identifying the location and size of facilities and relevant features is included in the information supporting the voluntary remediation work plan, pursuant to IDAPA 58.01.18, "Idaho Land Remediation Rules," Subsection 022.03.a.i., a copy of this information will be included with the "application for partial exemption." (7-1-98)

c. File the "application for partial exemption" with the county assessor on or before March 15 of the year for which the exemption is claimed. The "application for partial exemption" must be filed only once, during the first year of seven (7) year exemption period. (7-1-98)

03. Calculation of the Exemption. The exemption is fifty percent (50%) of the "remediated land value." This exempt value is constant throughout the term of the exemption. The amount of the exemption will never exceed the current market value of the land. ( )

04. Exempt Value Subject to Taxation. For any property eligible for the exemption provided by Section 63-602BB, Idaho Code, the exempt value will immediately be subject to taxation when any of the following events occur: (3-30-01)

a. If the "covenant not to sue" is rescinded during any year the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. Pursuant to IDAPA 58.01.18, Subsection 025.02, the Department of Environmental Quality will notify the assessor of the county in which the "site" is located that the "covenant not to sue" is rescinded. (3-30-01)

b. If the "site" is transferred to a new owner during any year in which the exemption is in effect, the exempt value will immediately be subject to taxation for the entire year. (7-1-98)

c. The seven (7) year exemption period expires. (3-30-01)

05. Sites Previously Granted the Exemption are Ineligible. No "site" will be granted the exemption provided in this section if said "site" had been previously granted this exemption regardless of whether the entire seven (7) years of the exemption had been used. (3-30-01)

629. PROPERTY EXEMPT FROM TAXATION -- QUALIFIED EQUIPMENT UTILIZING POST CONSUMER OR POST INDUSTRIAL WASTE (RULE 629).
Section 63-602CC, Idaho Code

01. Qualified Personal Property. Only that qualified personal property, located in Idaho, which utilizes postconsumer waste or post industrial waste in the production of a "product," will be exempt from taxation as personal property. The owner of the equipment will, annually, petition the assessor for exemption. (7-1-97)

02. Application. The exemption will be allowed only if the owner files the form prescribed by the Tax Commission, which reports for the previous calendar year, the actual time each piece of qualified equipment is in use in the production of qualified "product" and non-qualified "product." (7-1-97)

03. Exempt Petition's Definitions. Petition for exemption will be filed in the following manner: (7-1-97)

a. Forms. Declaration forms for the reporting of personal property qualifying for exemption may be obtained from the county assessor or Tax Commission. (7-1-97)

b. Declaration - qualified equipment. The declaration will contain an itemized listing of all machinery or equipment qualifying for exemption. Each component part of the system must be identified by a brief description, the date of purchase and original cost, and the percentage of production time the component is devoted exclusively to the production of "product." The petition must be signed by the owner or duly authorized agent. Lack of required information will be grounds for denial. (3-30-01)

c. Declaration - non-qualifying equipment. The declaration will contain an itemized listing of all non-qualifying machinery or equipment used in the production of "product." This declaration will list all non-qualifying taxable personal property as described in Section 63-302, Idaho Code. (3-30-01)

d. Timing. The completed declarations must be filed with the county assessor by March 15th of each year. (7-1-97)

e. Inspection. The county or Tax Commission representative may inspect the property or the owner's records to identify components petitioned for exemption. Those components listed on the declaration must be identifiable as qualifying personal property assets of the claimant. (3-30-01)

630. TAX EXEMPTION FOR NEW CAPITAL INVESTMENTS (RULE 630).
Section 63-4502, Idaho Code

01. Notification of New Capital Investment – Locally Assessed Property. (3-26-19)

a. Prior to receiving the benefit of the tax exemption, the taxpayer will notify the county in which the project site is located that the taxpayer expects to meet the criteria of the New Capital Investments Tax exemption. Notification will be accomplished by submitting a written declaration or notification with the board of county commissioners containing the following information: (4-4-13)

i. The name and address of the taxpayer; (3-29-12)

ii. A description of the new capital investment project; (3-29-12)

iii. The assessor's parcel number(s) identifying the location of the project site; (3-29-12)

iv. The date that the qualifying period began; (3-29-12)

v. A statement that the taxpayer will make a qualified new capital investment of at least one billion dollars ($1,000,000,000) within the qualifying period, which will be specified. (3-29-12)

b. The notification required hereunder may be submitted by the taxpayer to the board of county commissioners at any time after the qualifying period begins. However, if the notification is submitted after April 15 in a given year, a taxpayer may receive the benefit of the exemption only for tax years following the year in which the notification is filed. Submittal of the notification required hereunder will constitute application for the exemption in compliance with Section 63-602, Idaho Code. Until the taxpayer meets all the requirements for the New Capital Investments Tax exemption, for each year after the first year in which the exemption is granted, the notice must identify the name and address of the taxpayer and the location of the project site, but does not need to provide additional information as required in Paragraph 630.01.a. of this rule. (4-4-13)

02. Notification of New Capital Investment – Centrally Assessed Operating Property. For taxpayers applying for the exemption for operating property subject to assessment by the Tax Commission, the taxpayer will provide notice to the Tax Commission no later than April 30 of the first year the exemption is sought, as part of the operator's statement required pursuant to Section 63-404, Idaho Code, and Rule 404 of these rules, that the taxpayer expects to meet the criteria of the New Capital Investments Tax exemption. (3-26-19)

a. To be eligible for the exemption, information to be provided on the operator's statement must include: (3-26-19)

i. A description of the new capital investment project; (3-26-19)

ii. The location of the project site, including county and tax code area(s); (3-26-19)

iii. The date that the qualifying period began; (3-26-19)

iv. A statement that the taxpayer will make a qualified new capital investment of at least one billion

dollars ($1,000,000,000) within the qualifying period, which will be specified. (3-26-19)

b. The notification required hereunder may be submitted by the taxpayer to the Tax Commission at any time after the qualifying period begins. However, if the notification is submitted after April 30 in a given year, a taxpayer may receive the benefit of the exemption only for tax years following the year in which the notification is filed. Submittal of the operator's statement including notification information required hereunder will constitute application for the exemption in compliance with Section 63-602, Idaho Code. Until the taxpayer meets all the requirements for the New Capital Investments Tax exemption, for each year after the first year in which the exemption is granted, the notice must identify the location of the project site, but does not need to provide additional information as required in Paragraph 630.02.a. of this rule. (3-26-19)

03. Notification of New Capital Investment – Taxpayers Applying on Behalf of both Locally and Centrally Assessed Property. A taxpayer may apply for this exemption on behalf of both locally and centrally assessed property located in the same county. (3-26-19)

a. The taxpayer must comply with notice requirements in Subsection 630.01 of this rule for locally assessed property and for centrally assessed property the April 30 filing deadline found in Paragraph 630.02.b. of this rule will apply. (3-26-19)

b. Once the taxpayer notifies the Tax Commission as provided in Subsection 630.02 of this rule, the Tax Commission will notify the county commissioners and county assessor by the second Monday in May of the taxpayer's new capital investment project property to be locally assessed and of the taxpayer's filing an application for the exemption. By the later of the fourth Monday in July or the conclusion of the county board of equalization, as provided in Section 63-501, Idaho Code, the county clerk must provide to the Tax Commission a statement of the equalized assessed value of the taxpayer's locally assessed property. (3-26-19)

c. The exemption will be granted by the Tax Commission, which will notify the county commissioners and taxpayer by the first Monday in September of the amount of the exemption and the remaining taxable value of the centrally assessed operating property of the taxpayer. This remaining value is to be calculated so that the sum of the centrally and locally assessed property of the taxpayer in the county in which the exemption is being granted does not exceed four hundred million dollars ($400,000,000). (3-26-19)

d. The exemption will apply to the combined total value of the locally and centrally assessed property of the taxpayer within the county in which the project site is located. For continuation of the exemption for both locally and centrally assessed property, Subsections 630.07 and 630.08 of this rule will apply, and, upon satisfaction of the requirements therein, the Tax Commission will notify the county of the continuing exemption. (3-26-19)

04. Property of the Taxpayer. Property of a taxpayer includes all real, personal, or operating property that is owned by or leased to the taxpayer under an agreement that makes the taxpayer responsible for the payment of any property taxes on the property. (3-26-19)

05. New Construction. Property taxable under Section 63-4502, Idaho Code and that qualifies for listing on the new construction roll as described by Section 63-301(A)3, Idaho Code, should be listed on the new construction roll. (3-29-12)

06. Failure to Make the Qualifying New Capital Investment. (4-4-13)

a. If the taxpayer fails to make the qualifying new capital investment during the qualifying period, the property will lose the exemption granted by this section at the conclusion of the qualifying period. (4-4-13)

b. In the event that, at any time during the qualifying period, the taxpayer receiving the exemption for locally assessed property no longer intends to fulfill the qualified new capital investment requirements, the taxpayer must notify the county commissioners who will notify the county assessor. Upon receipt of such notification, the property previously granted the exemption will become taxable for the remainder of the year in which the notification is provided, pursuant to Section 63-602Y, Idaho Code. Failure of the taxpayer to provide such notice does not prevent the county assessor from discovering the taxpayer's intent through alternate procedures and then notifying the county commissioners that the requirements for the exemption are no longer met. In such an instance, the taxpayer must be

notified and may appeal loss of the exemption to the county board of equalization as provided in Section 63-501A, Idaho Code. (3-26-19)

c. In the event that, at any time during the qualifying period, the taxpayer receiving the exemption for operating property no longer intends to fulfill the qualified new capital investment requirements, the taxpayer must notify the Tax Commission. Upon receipt of such notification, the property previously granted the exemption will become taxable. If the notification is received before the Tax Commission has completed the assessment of the operating property for a given year, the exemption will not be granted for that year. If the notification is received after the assessment is completed, the exemption will be rescinded beginning the following tax year. If the taxpayer owns centrally and locally assessed property, the Tax Commission will also notify the county commissioners and assessor of the rescinding of the exemption. (3-26-19)

07. Continuation of Tax Exemption Following the End of the Qualifying Period – Locally Assessed Property. (3-26-19)

a. At any time during the qualifying period, but not later than ninety (90) days after the conclusion of the qualifying period, the taxpayer must provide notice to the county commissioners with sufficient evidence to prove that the required qualifying new capital investment has been made. (4-4-13)

b. Once the taxpayer has successfully met all the requirements pursuant to Section 63-4502, Idaho Code, and provided notice to the county commissioners pursuant to Paragraph 630.07.a. of this rule, the county commissioners will notify the county assessor and taxpayer of the taxpayer's continuing qualification for the exemption for all years thereafter. The county assessor will retain this notice. (3-26-19)

c. After the year in which the taxpayer has been notified of continuing qualification as provided in Paragraph 630.07.b. of this rule, the taxpayer must continue to notify the county annually to identify the property to be exempted pursuant to Subsection 630.07. Failure to make such notification will not invalidate the exemption; the county assessor must then apply the exemption against the assessed value of the taxpayer's highest value parcel within the county. (3-26-19)

08. Continuation of Tax Exemption Following the End of the Qualifying Period – Centrally Assessed Operating Property. (3-26-19)

a. At any time during the qualifying period after the requirements for this exemption have been met, but not later than ninety (90) days after the conclusion of the qualifying period, the taxpayer must provide notice to the Tax Commission with sufficient evidence to prove that the required qualifying new capital investment has been made. (3-26-19)

b. Once the taxpayer has successfully met all the requirements pursuant to Section 63-4502, Idaho Code, and provided notice to the Tax Commission pursuant to Paragraph 630.08.a. of this rule, the Tax Commission will notify the taxpayer that the exemption will continue to be granted in perpetuity, and will notify the taxpayer annually prior to the due date for the operator's statement that they must identify the property qualifying for the exemption in these statements. Failure to provide either notification will not invalidate the exemption; the Tax Commission must then apply the exemption against the assessed value of the taxpayer's operating property within the county. Centrally assessed taxable property otherwise permitted to be included on the new construction roll will be reported to the county assessor for inclusion on the next available new construction roll. (3-26-19)

09. Cross Reference. For an explanation of the treatment of new construction relating to Sections 63-802 and 63-301A, Idaho Code, see Rule 802 of these rules. (3-29-12)

631. TAX EXEMPTION FOR INVESTMENT IN NEW OR EXISTING PLANT AND BUILDING FACILITIES UPON COUNTY COMMISSIONERS' APPROVAL (RULE 631).

Section 63-602NN, Idaho Code

01. The Investment in Plant. In order to qualify for this exemption a taxpayer must invest at least the minimum required investment as established by county ordinance in new or existing plant or building facilities excluding the investment in land. (3-28-18)

a. Ordinance to establish the minimum required investment. The county commissioners must pass an ordinance to establish any minimum required investment amount of not less than five hundred thousand dollars ($500,000). Once passed, any minimum so established will remain in place until superseded by another ordinance. (3-28-18)

b. Frequency of ordinances to establish minimum required investment. Any ordinance establishing a minimum required investment must remain in effect during the tax year in which it is first in effect. After that tax year, the county commissioners may provide a different required investment amount by passing a new ordinance. However, any agreement entered into under minimum investment criteria established by prior ordinance will be effective for the duration of the exemption time period granted. (3-28-18)

02. The Exemption. The board of county commissioners may agree to exempt all or a portion of the value of non-retail commercial and industrial real property improvements and associated personal property that would otherwise be in excess of the base value for property designated as the defined project for a period of up to five (5) years. Real property improvements owned or leased, and personal property owned, by the taxpayer applying for the exemption may be granted the exemption. Land is not eligible to be included in this exemption. (3-28-18)

a. Base value. The base value is the taxable value, as found on the property roll, subsequent property roll, or missed property roll, of the property associated with the plant investment for the tax year immediately preceding the first year in which the exemption is to be granted. This includes the taxable value of existing buildings and personal property but not the taxable value of land. (3-28-18)

b. Site improvements. Site improvements, which may add value to land, but are not otherwise categorized as improvements for property tax purposes, are not eligible for this exemption. (3-28-18)

c. Mixed use properties. Non-retail portions of any mixed use building or structure otherwise used for commercial or industrial purposes may qualify. (3-28-18)

d. Application. Except as provided in Paragraph 631.02.f. with respect to occupancy tax, the taxpayer must make application by April 15 of the first year for which the exemption is sought. Such application must be made with the county commissioners who have complete discretion to accept or deny the application. (3-28-18)

e. Agreement for exemption. The agreement granting the exemption will be considered a contract arrangement between the county and the taxpayer for the exemption time period as granted by the county commissioners, not to exceed five (5) years. The amount of exemption as provided by the agreement may be any amount related to taxable value added due to the investment, to the extent the property's total taxable value before considering the exemption exceeds the base value and the increase in value is not associated with or due to an increase in land value. (3-28-18)

f. Occupancy tax. As provided in Section 63-602Z, Idaho Code, the exemption may apply to property subject to occupancy tax. Granting of the exemption from occupancy tax will not reduce the period during which the property tax exemption provided in Section 63-602NN, Idaho Code, may be granted. The April 15 application deadline is not applicable to exemption from occupancy tax, which may be granted any time during the year. (3-28-18)

03. Examples. The exemption applies only to plant or building facilities in which the required investment is to be made during the project period and that are located at the project site. The exemption may be applied to any value increases if these increases are directly attributable to the investment. See the following clarifying examples, all of which are based on the assumptions that the county has established five hundred thousand dollars ($500,000) as the required minimum amount of investment and the county enters into an agreement with the taxpayers for the period shown in the examples. (3-28-18)

a. A company chooses your community to tear down an existing facility and build a new manufacturing facility. Prior to the project, the base value is four million dollars ($4,000,000) which is comprised of the market value of the land three million dollars ($3,000,000) and the market value of the existing facility at one million dollars ($1,000,000), thus, the base value is one million dollars ($1,000,000). After construction, the land and

facility have a taxable value of thirteen million dollars ($13,000,000), three million ($3,000,000) of which is the land value. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be nine million dollars ($9,000,000). (3-28-18)

b. An existing company chooses to expand and build a new processing line. Prior to the project, the base value of the existing building and land is twelve million dollars ($12,000,000). After the expansion project is complete, the new processing line increased the value of the building and land to sixteen million dollars ($16,000,000), with all of the increase in value attributed to the building. Providing all conditions of the agreement have been met and the commissioners previously agreed to a full exemption, the exempt amount will be four million dollars ($4,000,000). No portion of the original taxable value of twelve million dollars ($12,000,000) can be granted this exemption. (3-28-18)

c. A company purchases an existing building and land which are valued at eight million dollars ($8,000,000). The company will purchase new equipment in the amount of three million dollars ($3,000,000). After the investment is made, the existing land, building and equipment are now valued at twelve million dollars ($12,000,000). The additional one million dollars ($1,000,000) in building value is attributed to the contributory value of the investment. The investment did not add value to the land. Providing all conditions of the agreement have been met and the commissioners agreed to a full exemption, the exempt amount will be four million dollars ($4,000,000). No portion of the original taxable value of eight million dollars ($8,000,000) can be granted this exemption. (3-28-18)

d. A company buys a building with a prior year's value of one million dollars ($1,000,000). The company makes application to the county commissioners requesting a full exemption for the next five (5) years for any increases in value that are directly related to its plan to invest in the facility. An agreement is reached whereby the taxpayer will be granted a limited exemption for the increase in market value up to two million dollars ($2,000,000) for three years. In the first year, the company invests two million dollars ($2,000,000) in the facility and the market value of the building increases to two million five hundred thousand dollars ($2,500,000) (not all of the investment contributes to market value). Providing all conditions of the agreement have been met, the first year exempt amount will be one million five hundred thousand dollars ($1,500,000). In year two (2), the company invests an additional eight hundred thousand dollars ($800,000) and the value of the building increases to three million three hundred thousand dollars ($3,300,000). The exemption in year two (2) will be two million dollars ($2,000,000). This is the difference between the original base value of one million dollars ($1,000,000) and the current value in year two (2), but is limited by the agreed-upon two million dollar ($2,000,000) maximum. In year three (3), the company makes additional investments and the building value increases to four million dollars ($4,000,000). The exemption in year three (3) is limited to two million dollars ($2,000,000) as provided in the original agreement. Beginning in year four (4), there will be no exemption allowed under the original agreement. (3-28-18)

04. Cross Reference. See Rule 802 of these rules for instructions relating to the valuation of new construction. (5-8-09)

632. PROPERTY EXEMPT FROM TAXATION - OIL OR GAS RELATED WELLS (RULE 632).
Section 63-602OO, Idaho Code

01. Definitions of Oil or Gas Well. (3-20-14)

a. Wells drilled for the production of oil, gas or hydrocarbon condensate may include the well, casing, and other structures permanently affixed inside the well, and the land inside the perimeter of the well. (3-20-14)

b. The well will include the part where the gas producing stratum has been successfully cased off from any oil. (3-20-14)

02. Ineligible Land and Equipment. (3-20-14)

a. Wellheads and gathering lines or any line extending above ground level will not qualify. Equipment used for the extraction, storage, or transportation of oil, gas, or hydrocarbon condensate will not qualify. (3-20-14)

b. Land, other than that used for the well as defined in Subsection 632.01 of these rules, will not

qualify. If the presence of the well increases the market value of nearby land, the assessed value of such land will reflect the increase, unless the land qualifies independently for any other property tax exemption. (3-20-14)

633. -- 644. (RESERVED)

645. LAND ACTIVELY DEVOTED TO AGRICULTURE DEFINED (RULE 645).
Section 63-604, Idaho Code

01. Definitions. The following definitions apply for the implementation of the exemption for the speculative value portion of agricultural land. (7-1-99)

a. Homesite. The "homesite" is that portion of land, contiguous with but not qualifying as land actively devoted to agriculture, and the associated site improvements used for residential and farm homesite purposes. (7-1-99)

b. Associated Site Improvements. The "associated site improvements" include developed access, grading, sanitary facilities, water systems and utilities. (7-1-99)

c. Nursery Stock. Nursery stock is defined in Section 22-2302, Idaho Code. (3-15-02)

d. Land Used to Produce Nursery Stock. "Land used to produce nursery stock" means land used by an agricultural enterprise to promote or support the promotion of nursery stock growth or propagation, not land devoted primarily to selling nursery stock or related products. This term also includes land under any container used to grow or propagate nursery stock. This term does not include land used for parking lots or for buildings sites used primarily to sell nursery stock or related items or any areas not primarily used for the nurturing, growth or propagation of nursery stock. (3-15-02)

e. Speculative Value Exemption. The "speculative value exemption" is the exemption allowed on land actively devoted to agriculture. (7-1-99)

02. Homesite Assessment. Effective January 1, 1999, each homesite and residential and other improvements, located on the homesite, will be assessed at market value each year. (7-1-99)

a. Accepted Assessment Procedures. Market value will be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (7-1-99)

b. Appropriate Market and Comparable Selection. The appropriate market is the market most similar to the homesite and improvements located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (7-1-99)

c. Homesite Independent of Remaining Land. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (7-1-99)

03. Valuing Land, Excluding the Homesite. The assessor will value land, excluding the homesite, on the following basis: (5-3-03)

a. Land Used for Personal Use or Pleasure. Any land, regardless of size, utilized for the grazing of animals kept primarily for personal use or pleasure and not a portion of a for profit enterprise, will be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule and will not qualify for the speculative value exemption. (4-11-06)

b. Land in a Subdivision. Land in a subdivision with restrictions prohibiting agricultural use will be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule and will not qualify for the speculative value exemption. Land meeting the use qualifications identified in Section 63-604, Idaho Code,

and in a subdivision without restrictions prohibiting agricultural use will be valued as land actively devoted to agriculture using the same procedures as used for valuing land actively devoted to agriculture and not located in a subdivision. (4-11-06)

c. Land, Five (5) Contiguous Acres or Less. Land of five (5) contiguous acres or less will be presumed non-agricultural, will be valued at market value using appraisal procedures identified in Paragraph 645.02.a of this rule, and will not qualify for the speculative value exemption. If the owner produces evidence that each contiguous holding of land under the same ownership has been devoted to agricultural use for the last three (3) growing seasons and it agriculturally produced for sale or home consumption fifteen percent (15%) or more of the owner's or lessee's annual gross income or it produced gross revenue in the immediate preceding year of one thousand dollars ($1,000) or more, the land actively devoted to agriculture, will qualify for the speculative value exemption. For holdings of five (5) contiguous acres or less gross income is measured by production of crops, nursery stock, grazing, or gross income from sale of livestock. Income will be estimated from crop prices at harvest or nursery stock prices at time of sale. The use of the land and the income received in the prior year must be certified with the assessor by April 15, each year. (3-25-16)

d. Land, More Than Five (5) Contiguous Acres. Land of more than five (5) contiguous acres under one (1) ownership, producing agricultural field crops, nursery stock, or grazing, or in a cropland retirement or rotation program, as part of a for profit enterprise, will qualify for the speculative value exemption. Land not annually meeting any of these requirements fails to qualify as land actively devoted to agriculture and will be valued at market value using appraisal procedures identified in Paragraph 645.02.a. of this rule. (4-11-06)

04. Cross Reference. For definitions and general principles relating to the taxable value of land actively devoted to agriculture, see Rule 613 of these rules. For agricultural land taxable value calculation examples, see Rule 614 of these rules. For information relating to Christmas tree farms, other annual forest products, and yield tax, see Rule 968 of these rules. (3-30-07)

646. -- 699. (RESERVED)

700. DEFINITIONS FOR PROPERTY TAX REDUCTION BENEFIT (RULE 700).
Section 63-701, Idaho Code

01. Blind. A person for whom there exists the medically documented opinion that the person is functionally blind as defined in Section 67-5402(2), Idaho Code. (3-30-01)

02. Burden of Proof. See Rule 600 of these rules. (3-15-02)

03. Claimant's Income. All income defined in Section 63-701(5), Idaho Code, that is received by either spouse is included in household income even if one spouse lives in a medical care facility or otherwise lives outside the home except as provided in Rule 709 of these rules. For the purposes of excluding from claimant's income any return of principal paid by the recipient of an annuity, follow these guidelines. (3-30-07)

a. An annuity means a contract sold by an insurance company to the claimant or claimant's spouse and designed to provide payments to the holder at specified equally spaced intervals or as a lump sum payment with the following conditions: (3-30-07)

i. The annuity must not be part of any pension plan available to an employee; (3-30-07)

ii. No tax preference is given to the money spent to purchase the annuity (purchase payments must not reduce the buyer's taxable income); (3-30-07)

iii. The buyer of the annuity must have purchased the annuity voluntary and not as a condition of employment or participation in an employer provided pension system; and (3-30-07)

iv. Earnings from investments in the annuity must be tax-deferred prior to withdrawal. (3-30-07)

b. Annuities do not include KEOGH plans, Individual Retirement Accounts (IRAs), employer

provided pensions, and similar financial instruments. Life insurance premiums will not be treated as the principal of an annuity. (3-30-07)

c. The recipient of the annuity payment(s), the claimant or claimant's spouse, has the burden of proving the income is the principal paid by the recipient. Such proof includes copies of the holder's annuity contract and any other documentation clearly indicating the conditions listed in Subparagraphs 700.03.a.i. through 700.03.a.iv. of this Rule are met. IRS form 1099 does not provide sufficient proof. (3-30-07)

04. Fatherless/Motherless Child. Fatherless/Motherless child for purposes of Section 63-701(1), Idaho Code, means a child judicially determined to be abandoned, as defined by Sections 16-1602 or 16-2005, Idaho Code, by the child's male/female parent or a child whose male/female parent has had his parental rights terminated pursuant to court order or is deceased. (3-30-01)

05. Proportional Reduction of Value. Proportional reduction of value pursuant to Section 63-701(7), Idaho Code, is required for partial ownership of otherwise eligible property. (3-15-02)

a. There is no reduction of value for community property with no other interests except as provided in Rules 610.07 and 709.04 of these rules. Additionally, there is no reduction in value for the ownership interests of a partner of a limited partnership, a member of a limited liability company or a shareholder of a corporation when that person has no less than a five percent (5%) interest in the entity unless any interests are shared by any entity other than the limited partnership, limited liability company or corporation. (3-15-02)

b. In other cases, benefits are to be calculated by applying the claimant's property tax reduction benefit to the eligible net taxable value of the claimant's share of the property. This value is determined by multiplying the market value of the land and of the improvement times the claimant's percent of ownership and subtracting the claimant's homeowner's exemption. (4-2-08)

i. Example 1. The claimant is the sole occupant of the property but only owns fifty percent (50%) of the property. In this example, the claimant's property tax reduction benefit applies to the tax on his/her net taxable market value of $50,000.

Land Market Value	$50,000
Improvement Market Value	$150,000
Gross Market Value	$200,000
Percent of Ownership of Claimant	50%
Claimant's Share of Land Market Value & Improvement Market Value (Land Market Value & Improvement Market Value x Percentage of Ownership)	$100,000
Claimant's Homeowner's Exemption (Claimant's Share of Improvement and Land Market Value x 50%, not to exceed $100,000)	<$50,000>
Claimant's Eligible Net Taxable Value equals Claimant's Share of Market Value less Homeowner's Exemption ($100,000 - $50,000 = $50,000)	$50,000

(3-28-18)

ii. Example 2. Tom Johnson and Marie Johnson, husband and wife, and property tax reduction claimant June Smith jointly own a property and occupy one (1) residential improvement located on the property. Calculate both homeowners' exemptions, and apply Ms. Smith's property tax reduction benefit to the tax on the net taxable value of her interest in the property.

Description	Value	Notes
Land	$95,000	
Residential Improvement	$215,000	
Land and Improvement	$310,000	
Prorated ownership interest (land and improvement) ($310,000 X 50%)	$155,000	Mr. & Mrs. Johnson's interest
Homeowner's Exemption Maximum (100,000 X 50%)	$50,000	Mr. & Mrs. Johnson's Homeowner's Exemption
Prorated ownership interest (land and improvement) ($310,000 X 50%)	$155,000	Ms. Smith's interest
Homeowner's Exemption Maximum ($100,000 X 50%)	$50,000	Ms. Smith's Homeowner's Exemption
Value of prorated interest less homeowner's exemption.	$105,000	Ms. Smith's property tax reduction benefit is applied to the tax on the net taxable value.

(3-28-18)

06. **Physician**. Physician means a licensed physician, as defined in Section 54-1803(3), Idaho Code. (3-30-01)

07. **Widow/Widower**. A widow/widower is a person who has not remarried after the death of their spouse or whose subsequent marriage has been annulled. (3-15-02)

08. **Cross Reference**. See Chapter 79, Title 67, Idaho Code, for requirements relating to lawful presence in the United States. See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules," Subsection 702.02.c. for information concerning authorization to release applicant information to a state or federal elected official. (3-20-14)

701. HOW TO VERIFY THAT CLAIMANTS ARE LAWFULLY PRESENT IN THE UNITED STATES (RULE 701).
Sections 63-701 through 710 and Sections 67-7901 through 7903, Idaho Code

01. **Lawful Presence in the United States**. The county assessor will verify that any claimant for property tax reduction pursuant to Sections 63-701 through 710, Idaho Code, who is eighteen (18) years of age or older is lawfully present in the United States by doing the following: (3-29-12)

a. Providing to the Tax Commission electronically and by paper copies documentation verifying that the claimant's name, social security number, and date of birth used for social security records of the claimant and the claimant's spouse, if married, are correct. Examples of documentation that would verify that the information is correct include, but are not limited to the following: (4-2-08)

i. Federal Form W-2; (4-2-08)

ii. Federal Form 1099; (4-2-08)

iii. Form 1099 received by the claimant from the Social Security Administration or the Railroad Retirement Board, or the federal Personnel Management System; (4-2-08)

iv. Social Security Card; (4-2-08)

v. Birth Certificate; or (4-2-08)

vi. Documents listed under paragraph 701.01.b. of this rule. (4-2-08)

b. If the claimant or the claimant's spouse, if married, is not currently receiving benefits from the Social Security Administration, the Railroad Retirement Board, or the federal Personnel Management System, then requiring the claimant to submit the following, a copy of which will be attached to the application for property tax reduction: (4-2-08)

i. An Idaho driver's license or an Idaho identification card issued pursuant to Section 49-2444, Idaho Code; or (4-2-08)

ii. A valid driver's license or similar document issued for the purpose of identification by another state or territory of the United States, if such license or document contains a photograph of the individual or the claimant's age, sex, race, height, weight, or other such personal identifying information relating to the individual sufficient to show that the individual is the person identified in the other state or territory of the United States driver's license or similar identification document; or (4-2-08)

iii. A United States military card or a military dependent's identification card; or (4-2-08)

iv. A United States coast guard merchant mariner card; or (4-2-08)

v. A Native American tribal document; or (4-2-08)

vi. A valid United States passport. (4-2-08)

c. Attestation of Lawful Presence. In addition to the documentation provided in Paragraphs 701.01.a. and 701.01.b. of this rule the claimant is also required to attest, under penalty of perjury and on a form designated by the Tax Commission, that; (4-2-08)

i. The social security number(s) provided is/are valid; and (4-2-08)

ii. The claimant and the claimant's spouse, if married, are United States citizens or legal permanent residents; or (4-2-08)

iii. The claimant and the claimant's spouse, if married, are otherwise lawfully present in the United States pursuant to federal law. (4-2-08)

d. Audit. During audit the Tax Commission will: (4-2-08)

i. Verify the claimant's and the claimant's spouse's, if married, social security number(s) electronically with the Social Security Administration or through other appropriate governmental agencies or means. (4-2-08)

ii. Presume the attestation to be proof of lawful presence for purposes of this section until such verification of lawful presence is made. (4-2-08)

e. Successive Applications. Once a claimant and the claimant's spouse, if married, have been verified as lawfully present in the United States pursuant to this rule, a claimant and the claimant's spouse, if married, in successive years will be presumed to be lawfully present in the United States if the claimant and the claimant's spouse, if married, continue to attest in each successive application that no change has occurred in their status. (4-2-08)

702. VETERAN'S BENEFIT – CONTINUED ELIGIBILITY AFTER DEATH OF CLAIMANT (RULE 702).
Sections 63-701, and 63-705A, Idaho Code

01. Surviving Spouse. The veteran's benefit applies to the qualifying homestead, as defined in Section 63-701(2), Idaho Code, of the veteran and surviving spouse. The surviving spouse may not transfer the benefit to a different homestead. (4-11-19)

02. Application By Surviving Spouse. The surviving spouse may file an application on behalf of the deceased spouse if the deceased spouse qualified or would have qualified as a claimant on January 1 or before April 15 of the year in which the claim is filed. (4-11-19)

703. -- 708. (RESERVED)

709. PROPERTY TAX REDUCTION BENEFIT PROGRAM -- SPECIAL SITUATIONS (RULE 709).
Section 63-701, Idaho Code

01. Scope. This rule addresses issues relating to the property tax reduction benefit program as it applies to certain unusual factual situations. It states general principles applicable to unusual cases and provides some illustrative examples. The rule cannot address every conceivable situation that may arise, but the principles established may apply to the resolution of situations not addressed in the rule. The following examples apply to qualified property tax reduction claimants. (3-30-01)

02. General Principles. Benefits under the property tax reduction program are only available to owners of property that have first qualified for the homeowner's exemption under Section 63-602G, Idaho Code. See Rule 610 of these rules. (3-15-02)

03. Dual Residency Couples. The definition of "dual residency couple" in Rule 610.02 of these rules applies to this rule. (3-15-02)

a. Example -- Both residences are community property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.04 of these rules. (3-15-02)

b. Example -- One (1) residence is community property, the other is separate property. Property tax reduction is available in regard only to the residential improvement qualifying for the homeowner's exemption. See Rule 610.05 of these rules. (3-15-02)

c. Example -- Both residences are separate property. Property tax reduction is available in regard to both residential improvements. See Rule 610.06 of these rules. (3-15-02)

d. Household income. In the three (3) examples in Subsection 709.03, the household income upon which qualification is determined is the total of one-half (1/2) the community income plus any separate income of the spouse residing in the residence. (3-15-02)

04. Apportionment of Property Tax Reduction Benefits by Dual Residency Couples. If a dual residency couple makes the election provided in Subsection 610.07 of these rules and the applicable county assessor provided the Tax Commission with a copy of the election required under that rule, each spouse will be entitled to one-half (1/2) of the amount of any property tax reduction available to that spouse alone. The household income of the spouse will be one-half (1/2) of the community income plus any separate income of the spouse residing in the residence. The total property tax reduction benefit will not exceed the amount of benefit available to the individual spouse with the least household income if no election were made. (3-15-02)

05. Multiple Ownerships Including Community Interests as Partial Owners. Example: A deed conveys title to real property to a husband and wife and to an adult child of theirs. The husband and wife hold a community property interest in the improvement and the child is a tenant-in-common provided ownership interests are not specified in the deed. The parents collectively hold a one-half (1/2) partial interest and the child holds a one-half (1/2) partial interest in the property. Ownership interests specific in the deed supersede this guidance. For clarification of the calculation of the net taxable value, see Rule 700.05.b. of these rules. Qualification for the property tax reduction is as follows: (3-26-19)

a. If the residential improvement is the primary dwelling of the husband and wife but not of the child, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses. (3-28-18)

b. If the residential improvement is the primary dwelling of the qualifying child, but neither the husband or wife, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the homeowner's exemption. Household income is the total of the child's income. (3-28-18)

c. If the residential improvement is the primary dwelling of the husband, wife and a qualifying child, the claimant qualifies for the full benefits applied on full value of the property less the homeowner's exemption. Household income is the total of the community and separate income of the spouses and the income of the child. (3-15-02)

d. If the residential improvement is the primary dwelling of one (1) spouse but of neither the other spouse nor the child, the claimant qualifies for full benefits applied on one-half (1/2) of the value of the property less the homeowner's exemption unless the residential improvement of the other spouse has qualified for the homeowner's exemption. Household income is the total income of both spouses. (3-28-18)

e. If the residential improvement is the primary dwelling of one (1) spouse and a qualifying child, the claimant qualifies for the full benefits applied on the full value of the property less the homeowner's exemption unless the residential improvement of the other spouse has previously qualified for the homeowner's exemption. Household income is the total income of both spouses plus the income of the child. (3-15-02)

710. -- 716. (RESERVED)

717. PROCEDURE AFTER CLAIM APPROVAL (RULE 717).
Sections 63-115, 63-317, and 63-707, Idaho Code

01. Formatting Requirements. The property tax reduction roll and supplemental occupancy tax reduction roll will be formatted as required by Section 63-707, Idaho Code. (1-1-19)T

02. Preliminary Property Tax Reduction Roll. Except as provided in Subsections 717.06 and 717.07 of this rule, the roll, certified by the assessor to the county auditor and the Tax Commission by June 1st of each year, will be termed the preliminary property tax reduction roll. The preliminary property tax reduction and occupancy tax reduction roll will list property tax reduction claimants in alphabetical order unless the Tax Commission grants permission for claimants to be listed in an alternate order. Each original claim form will be submitted to the Tax Commission in the same order as shown on the preliminary property tax reduction roll. (1-1-19)T

03. Final Property Tax Reduction Roll. Except as provided in Subsections 717.06 and 717.08 of this rule, the completed property tax reduction roll, certified by each county clerk to the Tax Commission by the fourth (4th) Monday in October, will be termed the final property tax reduction roll. The final property tax reduction roll will list property tax reduction claimants and occupancy tax reduction claimants who applied by September 1, in the same order as shown on the preliminary property tax reduction roll. Erroneous claims which are partially or fully disapproved by the Tax Commission will be shown on the final property tax reduction roll after the county clerk has made all adjustments or corrections listed on the notice sent to the county auditor pursuant to Section 63-707(6), Idaho Code, termed county change letter. (1-1-19)T

04. Certification of Electronic Property Tax Reduction Roll by County Assessor. The county assessor will certify the property tax reduction roll to the county auditor and send a copy to the Tax Commission by June 1st of each year. In addition, each county assessor will send a copy of all claims listed on the roll to the Tax Commission. Claims are to be sent in a password protected electronic data file formatted as directed or approved by the Tax Commission. This password protected electronic roll will contain the following information: (1-1-19)T

a. Claimant's Social Security Number. (1-1-19)T

b. Claimant's Date of Birth. (1-1-19)T

c. Claimant's Last Name. (1-1-19)T

d. Claimant's First Name. (1-1-19)T

e. Claimant's Spouse's Social Security Number. (1-1-19)T

f. Claimant's Spouse's Date of Birth. (1-1-19)T

g. Claimant's Spouse's Last Name. (1-1-19)T

h. Claimant's Spouse's First Name. (1-1-19)T

i. Claimant's Telephone Number. (1-1-19)T

j. Claimant's Address. (1-1-19)T

k. Claimant's City. (1-1-19)T

l. Claimant's State. List the postal abbreviation for the state. (1-1-19)T

m. Claimant's Zip Code. (1-1-19)T

n. Claimant's Parcel Number(s). List the parcel number for the property on which the claimant is receiving the homeowner's exemption. When more than one (1) parcel owned by the claimant is eligible, list all eligible parcel numbers. (3-30-07)

o. Current Year. (1-1-19)T

p. Claimant's County Number. (1-1-19)T

q. Income Data. (1-1-19)T

r. Identify New Applicants. Identify claimants did not receive this benefit in the previous year. (1-1-19)T

s. Maximum Benefit. (1-1-19)T

t. Qualifying Eligibility Status. Identify all of the following status criteria that the claimant meets. (1-1-19)T

i. Sixty-five (65) years old or older. (4-2-08)

ii. Blind. (3-30-07)

iii. Disability granted by the Social Security Administration, Railroad Retirement Board, or federal civil service. (3-30-07)

iv. Orphan, under eighteen (18) years of age. (3-30-07)

v. Prisoner of war or hostage, certified by Veteran's Affairs. (3-30-07)

vi. Non-service connected disability or service connected disability at ten percent (10%) to thirty percent (30%), certified by Veteran's Affairs. (3-30-07)

vii. Service connected disability at forty percent (40%) or more, certified by Veteran's Affairs. (3-30-07)

viii. Widow or widower, include date of spouse's death. (3-30-07)

ix. Whether the claimant is lawfully present in the United States. (4-2-08)

x. 100% Service connected veteran, certified by Veterans Affairs. (1-1-19)T

u. Occupancy tax reduction claimants. (1-1-19)T

05. Certification of Completed Property Tax Reduction Roll by County Auditor. Except as provided in Section 63-317, Idaho Code, and Subsections 717.06, 717.07, and 717.08 of this rule, no later than the fourth Monday in October, each county auditor will certify the property tax reduction roll to the Tax Commission. The roll will contain the preliminary roll information plus the additional occupancy tax reduction claims submitted between June 1 and September 1 as provided in Subsection 717.06 of this rule, and the following information formatted as directed or approved by the Tax Commission. (1-1-19)T

a. Current Year's Levy. List the current year's levy for the tax code area where each claimant's property is located. (3-30-07)

b. Current Year's Taxable Value. List the current year's taxable value for each claimant's qualifying property. (3-30-07)

c. Claimed Property Tax Reduction or Occupancy Tax Reduction Amount. For each claimant, list the amount of property tax or property tax reduction claimed based on the current year's levy and the current year's eligible taxable value. (1-1-19)T

06. Occupancy Tax Reduction Claims. Claims submitted to the county assessor between January 1 and May 15 will be listed on the preliminary property tax reduction roll and submitted to the Tax Commission by June 1. Claims submitted to the county assessor between June 1 and September 1 will be submitted to the Tax Commission by the third Monday in September. These claims will be added to the final property tax reduction roll by the county change letter pursuant to Subsection 717.03 of this rule. Claims submitted to the county assessor after September 1 until the fourth Monday in January of the following year will be listed and submitted as follows in Subsections 717.07 and 717.08 of this rule. (1-1-19)T

07. Preliminary Supplemental Occupancy Tax Reduction Roll. This roll will be certified by the assessor to the county auditor and the Tax Commission by the first Monday in March of the following tax year. Claims submitted to the county assessor after September 1 will be listed on the preliminary supplemental occupancy tax reduction roll in the manner outlined in Subsection 717.02 of this rule. Occupancy tax reduction claims will be subject to the procedures outlined in Section 63-707, Idaho Code. (1-1-19)T

08. Final Supplemental Occupancy Tax Reduction Roll. By the first Monday in April in the following year, the Tax Commission will notify the county auditor of all adjustments or corrections. By the fourth Monday in April of that year, the county auditor will certify the final supplemental occupancy tax reduction roll which will list occupancy claimants in the same order as shown on the preliminary supplemental occupancy tax reduction roll after the county auditor makes corrections. Claims included on the final supplemental occupancy tax reduction roll will be formatted as outlined in Subsection 717.05 of this rule. (1-1-19)T

718. -- 799. (RESERVED)

800. BUDGET CERTIFICATION RELATING TO OPERATING PROPERTY ANNEXATION VALUE (RULE 800).
Section 63-802, Idaho Code

01. "Appropriate County Auditor" Defined. The "appropriate county auditor" is the county auditor of each county within which any taxing district with an annexation is located. (4-5-00)

02. Annexation Values for Operating Properties. Pursuant to Section 63-802, Idaho Code, the Tax Commission will certify the current year's taxable values of operating properties within annexations made during the

previous calendar year. This certification will be a list summarizing the values of said operating properties for each applicable taxing district or unit. The Tax Commission will send this list to the appropriate county auditor on or before the third Monday in July. The Tax Commission will calculate these values based on the best available information. (4-5-00)

03. Corrected Annexation Values for Operating Properties. If any annexation values reported pursuant to Subsection 800.02 require correction, the Tax Commission will report such corrections on or before the first Monday of September. The Tax Commission will send these values to the appropriate county auditor. (4-5-00)

04. County Auditor to Notify Taxing Districts or Units. As soon as possible, but not later than fourteen (14) days after receipt of the list pursuant to Subsection 800.02 or the corrected values pursuant to Subsection 800.03, the appropriate county auditor will send these values to the affected taxing districts or units. (4-5-00)

801. LIMITATION ON BUDGET REQUESTS -- SPECIAL PLANT FACILITIES FUND LEVY PROVISIONS (RULE 801).
Sections 63-802, 33-804, 33-317A, and 33-909, Idaho Code

01. Limits on Plant Facilities Funds. For any school or library district with a plant facilities fund created pursuant to Section 33-804, Idaho Code, the amount of property tax to be budgeted for said fund in any year cannot exceed four tenths of one percent (0.4%) multiplied by the market value for assessment purposes of the taxing district as of December 31 of the year prior to the first year in which a plant facilities fund levy is made. This limitation will not apply to any state-authorized plant facilities levy, established under Section 33-909, Idaho Code, or to any cooperative service agency school plant facility levy established under Section 33-317A, Idaho Code. (3-29-10)

02. No Additional Plant Facilities Fund Permitted. Any school or library district with an existing plant facilities fund is not allowed to levy for an additional plant facilities fund in any tax year until the period of the existing plant facilities fund has expired. This limitation will not apply to any state-authorized plant facilities levy, established under Section 33-909, Idaho Code or the cooperative service agency school plant facility levy established under Section 33-317A, Idaho Code. (3-29-10)

03. Plant Facilities Fund Extensions or Increases. Except for increases related to cooperative service agency school plant facility levies, any school or library district may hold an election to increase the amount to be levied pursuant to the requirements of Section 33-804, Idaho Code. For the purpose of such increase, the "total levy for school or library plant facilities and bonded indebtedness" will be computed as follows. (3-29-10)

a. For the first year in which the increased or extended plant facilities fund levy is to be made, sum of the amount to be levied for the plant facilities fund and for any bond fund in existence prior to the new plant facilities fund. (3-15-02)

b. Divide the sum computed in Subsection 801.03.a. by the district's actual market value for assessment purposes as of December 31 of the year immediately preceding the year in which the increased or extended plant facilities fund is to be levied. (3-15-02)

c. The value used for this calculation will include any portion of increment value in any Revenue Allocation Area in the district, provided that property tax revenue resulting from the levy of the plant facilities fund against such increment value is allocated to the school district and not to any urban renewal agency. For example, an existing plant facilities fund levy raises one hundred thousand dollars ($100,000) per year. The district wishes to increase this by fifty thousand dollars ($50,000) per year. The "total levy" would be computed excluding the increment value for the one hundred thousand dollars ($100,000) portion, but including the increment value for the fifty thousand dollars ($50,000) new portion of the amount to be levied. (3-29-10)

d. Any plant facilities fund levy that is extended, pursuant to Section 33-804, Idaho Code, will be considered passed after December 31, 2007 for the purposes of section 50-2908, Idaho Code, and increment value will be included in the calculation of the "total levy" and the actual levy. (3-29-10)

04. Cooperative Service Agency School (COSA) Plant Facility Fund Increases. Any school district may hold an election to increase the amount to be levied pursuant to the requirements of Section 33-317A. For the purpose of determining whether the increase has been approved by the electors, the "total levy for school plant facilities" will be computed as follows. (3-29-10)

a. The first year's dollar amount of the proposed COSA plant facility levy will be divided by the school district's actual market value for assessment purposes, including any increment value in any Revenue Allocation Area in the district, as of December 31 of the year immediately preceding the first year in which the COSA plant facility levy is to be made. (3-29-10)

b. The dollar amount most recently certified by the school district for an existing plant facilities fund levy will be divided by the district's actual market value for assessment purposes as of December 31 of the year immediately preceding the first year in which the COSA plant facility levy is to be made. The value used for this calculation will include any portion of increment value in any Revenue Allocation Area in the district, provided that property tax revenue resulting from the levy of the plant facilities fund against such increment value is allocated to the school district and not to any urban renewal agency. (3-29-10)

c. The quotients computed in Paragraphs 801.04.a. and 801.04.b. will be summed. (3-29-10)

05. Maximum Amount of Increased Plant Facilities Fund. Except as provided in Subsection 801.04, when any district increases its plant facilities fund amount to be levied, the maximum amount will not in any year exceed four tenths of a percent (0.4%) multiplied by the actual market value for assessment purposes as of December 31 of the year immediately preceding the first year the increased fund is to be levied. This limitation will not apply to Cooperative Service Agency school plant facility levies, which, in any year, will not exceed four tenths of a percent (0.4%) multiplied by the actual market value for assessment purposes as of December 31 of the immediate prior year. (3-29-10)

06. Special Reporting Requirements for State-Authorized Plant Facilities Levy. When the state Department of Education certifies a state-authorized plant facilities levy to any county under Section 33-909, Idaho Code, the county clerk will forward a copy of such certification to the Tax Commission as an attachment to the L-2 Form described in Rule 803 of these rules and submitted for the affected school district. (3-30-07)

07. Special Reporting for COSA and Increased Plant Facilities Levies. Any COSA plant facilities levy will be reported on a separate line on the L-2 Form defined in Rule 803 of these rules. In addition, the increased amount of a plant facilities levy originally approved on or before December 31, 2007 will be reported on a separate line on the L-2 Form. (3-29-10)

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

Sections 63-802, 63-301A, 63-602W, and 63-602NN, Idaho Code

01. Definitions. (4-5-00)

a. "Change of Land Use Classification." "Change of land use classification" means any change in land use resulting in a secondary category change and in a change in taxable land value to be reflected on the current property roll. (4-7-11)

b. "Incremental Value as of December 31, 2006." "Incremental value as of December 31, 2006" means the total of the increment values on the property roll, subsequent property roll, missed property roll, and operating property roll for the 2006 tax year. (4-7-11)

c. "Non-residential Structure." "Non-residential structure" means any structure listed by the assessor in any secondary category not described as residential, manufactured homes, or improvements to manufactured homes in Rule 511 of these rules. (4-2-08)

02. New Construction Roll Listing. "Listing" means a summary report of the net taxable value of property listed on the new construction roll. This listing will include the taxable value of qualifying new construction

throughout each taxing district or unit, but will not include otherwise qualifying new construction, the value of which will be included in the increment value of any revenue allocation area (RAA) within any urban renewal district encompassed by the taxing district or unit. In addition, new construction related to change of land use classification, but required by section 50-2903(4) to be added to the base assessment roll, cannot be added to any new construction roll. This report is to summarize the value reported on the new construction roll by taxing district or unit. Taxing districts and units will be listed in the same order that is used for the certification of value required pursuant to Section 63-510(1), Idaho Code. (3-29-12)

a. Qualifying new construction which is valued by the Tax Commission will be reported to the county assessor for each applicable taxing district by October 1 and will be listed by the assessor on the immediate next new construction roll. (3-25-16)

b. Previously allowable new construction that has never been included. When a taxing district proves new construction described by Section 63-301A(3), Idaho Code, occurred during any one of the immediately preceding five (5) years and has never been included on a new construction roll, the county assessor must list that property on the immediate next new construction roll at the value proven by the taxing district. Any such additional new construction must also be separately listed for each taxing district or unit. The taxing district has the burden of proving the new construction was omitted from a new construction roll and the value that would have been listed for that property had it been listed on the appropriate new construction roll. No taxing district will ever be granted any increase in budget authority greater than the amount that would have resulted had the property been listed on the appropriate new construction roll. Regardless of the year that the new construction should have been listed on the appropriate new construction roll, additional budget authority resulting from new construction previously omitted from a new construction roll and listed on the current year's new construction roll will be permitted only if the taxing district is in compliance with the budget hearing notification requirements of Section 63-802A, Idaho Code, for the current year. (3-29-12)

c. Reporting the amount of taxable market value to be deducted. For each taxing district or unit, the new construction roll listing will separately identify the total amount of taxable market value to be deducted as required in Section 63-301A(1)(f), Idaho Code, and Paragraph 802.02.e. of this rule. In addition to other requirements, the amount of value deducted will never exceed the amount originally added to a new construction roll. (3-26-19)

d. Determining the amount of taxable market value to be deducted – appeals. The amount of taxable market value to be deducted under Section 63-301A(1)(f)(i), Idaho Code, will be determined by the highest authority to which the assessment is ultimately appealed. Accordingly, adjustments should not be made until there has been a final decision on any appeal. In addition, the deduction for lower values resulting from appeals will be made only for property that was placed on a new construction roll within the immediately preceding five (5) years. (3-26-19)

e. Determining the amount of taxable market value to be deducted – provisional exemptions. Provided the addition occurred within the immediate preceding five (5) years but not earlier than 2016, the amount of taxable market value added to any new construction roll for property subsequently granted a provisional exemption under Section 63-1305C, Idaho Code, will be deducted from the taxable market value otherwise included on the immediate next new construction roll prepared following the granting of the provisional exemption. (3-26-19)

03. Special Provisions for Value Increases and Decreases. Special provisions for value increases and decreases related to change of land use classification as defined in Paragraph 802.01.a. of this rule or increases in land value resulting from loss of the exemption provided in Section 63-602W(4), Idaho Code. (4-4-13)

a. Value increases. Certain related land value increases are to be included on the new construction roll. (4-7-11)

i. Except as provided in Subparagraph 802.03.a.iii., increases in land value will be reported on the new construction roll in the year in which the new category appears on the current property roll. (4-4-13)

ii. Except as provided in Subparagraph 802.03.a.iii., the increase in taxable land value to be reported will be computed by subtracting the taxable land value, had the land remained in its previous use category, from the taxable land value in the current use category. (4-4-13)

iii. Subject to the limitations found in Paragraph 802.06.a. of this rule, increases in land value resulting from loss of the exemption provided in Section 63-602W(4), Idaho Code, will be reported on the new construction roll in the year the exemption is lost, provided this occurs no later than June 30 of that year. If the exemption is lost after June 30 of a given year, the resulting increase in land value will be reported on the new construction roll in the immediate following year. (4-4-13)

b. Value decreases. Certain related land value decreases are to be included on the new construction roll and subtracted from total new construction value for any taxing district. The amount of decrease in any one year will never exceed the amount of value originally added to the new construction roll for the same property. (4-4-13)

i. Value decreases are to be reported only for land for which taxable market value was reduced as a result of change of land use classification or granting of the exemption for site improvements provided in Section 63-602W(4), Idaho Code, during any one (1) of the immediately preceding five (5) years and for which an increase in value due to addition of site improvements or change of land use classification during the same five-year period had been added to a new construction roll. For the site improvement exemption provided in Section 63-602W(4), Idaho Code, the five-year period will commence with the year following the year the exemption is first granted. For example, if a parcel first received the exemption in 2012, any site improvement related addition to a new construction roll for 2008 or more recently must be subtracted from the 2013 new construction roll, unless the exemption is lost by June 30, 2013, in which case there is no subtraction and no addition to the new construction roll for the loss of this exemption. (4-4-13)

ii. If the current land category is the same as the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted will equal the amount originally added. For example, a dry grazing land parcel that would have had a value of ten thousand dollars ($10,000) became commercial land and was assessed at fifty thousand dollars ($50,000). The forty thousand dollar ($40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as dry grazing land and is to be assessed at fifteen thousand dollars ($15,000). The forty thousand dollar ($40,000) difference that was added to the year one (1) new construction roll must be deducted from the value shown on the new construction roll in year two (2). (4-7-11)

iii. If the current land category is different than the category prior to the change that resulted in an addition to the new construction roll, the amount to be subtracted will be the lesser of the amount originally added or the amount that would have been added had the first change in land use been from the current land category. For example, a dry grazing land parcel that would have had a value of ten thousand dollars ($10,000) became commercial land and was assessed at fifty thousand dollars ($50,000). The forty thousand dollar ($40,000) difference was reported on the new construction roll in year one (1). In year two (2), the parcel is reclassified as irrigated agricultural land and would have had a value in year one (1) of twenty thousand dollars ($20,000). The amount to be subtracted from the value shown on the new construction roll in year two (2) is thirty thousand dollars ($30,000). (4-7-11)

iv. Provided the criteria in Subparagraph 802.03.b.i. are met, value decreases resulting from previously included land value becoming exempt are to be reported and subtracted. (4-4-13)

v. Except as provided in Subparagraph 802.03.b.vi., only land value decreases that meet the criteria listed in Subparagraphs 802.03.b.i. or 802.03.b.iv. of this rule and include and result from a change in land secondary category can be considered. (4-4-13)

vi. Provided the criteria in Subparagraph 802.03.b.i. are met, land value decreases resulting from the exemption provided in Section 63-602W(4), Idaho Code, are to be subtracted from the new construction roll in the year immediately following the most recent year in which the exemption has been granted. To comply with the budget adjustments required by Section 63-802, Idaho Code, which limits taxing district budgets based on the highest amount of property tax revenue requested during the previous three (3) years, such subtraction will be required for up to three (3) years, provided the property continues to receive the exemption. ( )

04. Manufactured Housing. "Installation" of new or used manufactured housing means capturing the net taxable market value of the improvement(s) that did not previously exist within the county. (7-1-97)

05. Partial New Construction Values. Except as provided in Subsection 802.06 of this rule, the net taxable market value attributable directly to new construction will be reported on the new construction roll in the tax year it is placed on the current assessment roll. Except as provided in Subsection 802.06 of this rule, any increase in a non-residential parcel's taxable value, due to new construction, will be computed by subtracting the previous year's or years' partial taxable value(s) from the current taxable value. If any of this difference is attributable to inflation, such value, except as provided in Subsection 802.06 of this rule, will not be included on the new construction roll.
( )

06. Change in Status. (4-2-08)

a. A previously exempt improvement which becomes taxable will not be included on the new construction roll, unless the loss of the exemption occurs during the year in which the improvement was constructed or unless the improvement has lost the exemption provided in Section 63-602W(3) or (4), Section 63-602E(3), or Section 63-602NN, Idaho Code. For any such property, the amount that may be included on the new construction roll will be the value of the portion of the property subject to the exemption at the time the exemption was first granted. For otherwise qualifying property that loses the exemption provided in Section 63-602NN, Idaho Code, but that has had its value added to the base assessment roll in a revenue allocation area as provided in Rule 804 of these rules, the value so added may be added to the new construction roll. Examples of special cases for the exemption provided in Section 63-602W(4), Idaho Code, follow: (3-26-19)

i. If the exemption is lost by June 30 of the year in which the exempt amount was to be subtracted from the new construction roll, then there will be no subtraction, nor will the formerly exempt amount be added, to the new construction roll, unless it had been previously subtracted from a new construction roll. For example, the property first became exempt in 2012, but lost the exemption by June 30, 2013. The 2013 new construction roll was not adjusted downward, so any previous inclusion of the exempt value would not be added in the future. Had the property lost the exemption later in 2013, there would have been a subtraction from the 2013 new construction roll and a subsequent addition to the 2014 new construction roll. (4-4-13)

ii. If the exemption was granted to property for which no value had been added to any new construction roll, the value of the property (site improvements) at the time the exemption was first granted may be added to the new construction roll following loss of the exemption. (4-4-13)

b. Except as provided in Paragraph 802.06.d. of this rule, upon receipt by the Tax Commission of a resolution recommending adoption of an ordinance for termination of an RAA under Section 50-2903(5), Idaho Code, any not previously included positive difference of the most current increment value minus the "incremental value as of December 31, 2006," or the entire current increment value, if there was no such value as of December 31, 2006, will be added to the appropriate year's new construction roll. Upon the effective date of any de-annexation of a portion of an RAA, the immediate prior year's increment value associated with the parcels in the de-annexed area is to be included in the appropriate year's new construction roll as described in Paragraph 802.06.d. of this rule, provided such value has not been previously included on any new construction roll. When this information is received after the fourth Monday in July, this positive net increment value will be added to the following year's new construction roll. (3-26-19)

c. Upon receipt by the Tax Commission of an attestation indicating that an urban renewal plan has been modified in such a way as to result in resetting the base value in an RAA, as provided in Section 50-2903A, Idaho Code, increases in base value due to the addition of previously determined increment value may be added to the new construction roll as described in Section 63-301A(3)(j), Idaho Code, provided such value has not previously been included on any new construction roll. In such a case, at termination of the RAA, only new additional increment value following the reset of the base value will be included on the new construction roll. (3-29-17)

d. When a portion of an RAA is de-annexed, the following steps must be used to determine the amount to be added to the current year's new construction roll and the amount to be subtracted from the "incremental value as of December 31, 2006." (4-7-11)

i. Step 1. For the parcels in the de-annexed area, determine the December 31, 2006, increment value. (4-7-11)

ii. Step 2. Subtract the increment value determined in Step 1 from the immediate prior year's increment value for the parcels in the de-annexed area. (3-29-17)

iii. Step 3. Add any positive difference calculated in Step 2 to the current year's new construction roll value. (4-7-11)

iv. Step 4. Adjust the "incremental value as of December 31, 2006" for the RAA by subtracting the increment value determined in Step 1. (4-7-11)

v. The following table shows the amount to be added to the current year's new construction roll and the amount to be subtracted from the "incremental value as of December 31, 2006" applicable to the adjusted remaining RAA. The table assumes an area is de-annexed from an original RAA effective December 31, 2016.

Steps (as designated in Paragraph 802.06.d.)	Area	Value
	December 31, 2006, increment value of the original RAA	$10,000,000
Step 1	December 31, 2006, increment value of the de-annexed area	$1,000,000
	December 31, 2015, increment value of the de-annexed area	$3,000,000
Steps 2 and 3	Amount related to the de-annexed area to be added to the 2017 new construction roll	$2,000,000
Step 4	Adjustment amount to be deducted from the original RAA's "incremental value as of December 31, 2006"	<$1,000,000>
	Adjusted "incremental value as of December 31, 2006" for the remaining RAA (base for future new construction roll additions upon dissolution of all or part of remaining RAA)	$9,000,000

(3-29-17)

vi. If the de-annexation in the example in sub-paragraph v. had taken effect prior to the fourth Monday of July 2016, the 2015 increment value for the affected parcels would have been added to the 2016 new construction roll after subtracting the 2006 increment value. (3-29-17)

vii. The value of operating property increment value to be included on the new constriction roll when a de-annexation occurs is computed as shown in the following example:

Sum the previous year's increment values of the locally assessed parcels in the area to be de-annexed	$15,000,000
Divide this sum by the previous year's increment value of all locally assessed parcels in the RAA	$15,000,000 ÷ $130,000,000=.1154
Multiply by 100 to determine the percentage applicable to the locally assessed parcels located within the area to be de-annexed	.1154 x 100 = 11.54%
Determine the difference between the operating property increment value in the whole RAA for the year preceding the de-annexation from the 2006 increment value of all operating in the whole RAA	$2,000,000 - $500,000 = $1,500,000
Multiply the locally assessed percentage by the increase in the operating property increment value	11.54% x $1,500,000 = $173,100
The value of operating property increment to be included on the new construction roll when a de-annexation occurs	$173,100

(3-29-17)

e. For taxing districts formed after December 31, 2006, or annexing or being annexed into a revenue allocation area after that date, the amount of increment value to be added to the new construction roll will equal any positive difference between the increment value at the time of formation of the taxing district or annexation by or into the revenue allocation area and the increment value at the time of dissolution of the revenue allocation area or the increment value within the area deannexed from the revenue allocation area. (3-26-19)

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

08. Notification of New Construction Roll and Annexation Values. On or before the fourth Monday in July, each county auditor must report the net taxable values on the new construction roll and of locally assessed property within annexed areas for each appropriate taxing district or unit to that taxing district or unit. Annexation value contributed by centrally assessed operating property will be provided to each county auditor by the first Monday in September. (3-26-19)

803. BUDGET CERTIFICATION -- DOLLAR CERTIFICATION FORM (L-2 FORM) (RULE 803).
Sections 63-602G(5), 63-802, 63-803, 63-3029B(4), 63-3502B, 50-2903A, 50-2913, 63-3638(11), and (13), and 63-1305C, Idaho Code

01. Definitions. (4-5-00)

a. "Dollar Certification Form" (L-2 Form). The Dollar Certification Form (L-2 Form) is the form used to submit to the Tax Commission the budget request from each board of county commissioners for each taxing district. This form will be presumed a true and correct representation of the budget previously prepared and approved by a taxing district. The budget will be presumed adopted in accordance with pertinent statutory provisions unless clear and convincing documentary evidence establishes that a budget results in an unauthorized levy and action as provided in Section 63-809, Idaho Code. (4-6-05)

b. "Prior Year's Market Value for Assessment Purposes." Prior year's market value for assessment purposes means the value used to calculate levies during the immediate prior year. This value will be used for calculating the permanent budget increase permitted for cities, pursuant to Section 63-802(1)(g), Idaho Code. (3-26-19)

c. "Annual Budget." For the purpose of calculating dollar amount increases permitted pursuant to Section 63-802(1), Idaho Code, the annual budget includes any amount approved as a result of an election held pursuant to Sections 63-802(1)(g) or 63-802(1)(h), Idaho Code, provided that said amount is certified on the L-2 Form as part of the budget request. If the amount certified does not include the entire amount approved as a result of the election held pursuant to Sections 63-802(1)(g) or 63-802(1)(h), Idaho Code, then the amount not used will be added to the foregone increase amount determined for the taxing district. ( )

d. "Property Tax Funded Budget." Property tax funded budget means that portion of any taxing district's budget certified to the board of county commissioners, approved by the Tax Commission, and subject to the limitations of Section 63-802, Idaho Code. (3-20-04)

e. "Recovered/Recaptured Property Tax and Refund List." Recovered/recaptured property tax and refund list means the report sent by the county auditor to the appropriate taxing district(s) by the first Monday in August and to the Tax Commission with the L-2 Forms, listing the amount of revenue distributed, or refunds charged, to each appropriate taxing district during the twelve (12) month period ending June 30 each year under the following sections: (3-26-19)

i. Section 63-602G(5), Idaho Code; (3-26-19)

ii. Section 63-3029B(4), Idaho Code; (3-26-19)

iii. Section 63-602KK(7), Idaho Code, for personal property exempted after 2013 for which no replacement money was paid; (3-26-19)

iv. Section 63-3502B(2), Idaho Code, for distributions of gross earnings tax on solar farms; (3-26-19)

v. Section 50-2903A(3), Idaho Code, for distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, when required; (3-26-19)

vi. Section 50-2913(3)(c), Idaho Code, for distributions of urban renewal allocations in excess of the amount received during the immediate prior tax year, when required; (3-29-17)

vii. Section 63-1305C(3), Idaho Code, for revoked provisional property tax exemptions; and (3-26-19)

viii. Section 63-1305C(6), Idaho Code, for refunds related to provisional property tax exemptions. (3-26-19)

f. "Taxing District/Unit." Taxing district/unit means any governmental entity with authority to levy property taxes as defined in Section 63-201, Idaho Code, and those governmental entities without authority to levy property taxes but on whose behalf such taxes are levied by an authorized entity such as the county or city. (3-26-19)

g. "New Taxing District." For property tax budget and levy purposes, new taxing district means any taxing district for which no property tax revenue has previously been levied. See the Idaho Supreme Court case of Idaho County Property Owners Association, Inc. v. Syringa General Hospital District, 119 Idaho 309, 805 P.2d 1233 (1991). (4-2-08)

02. Budget Certification. The required budget certification will be made to each board of county commissioners representing each county in which the district is located by submitting the completed and signed L-2 Form prescribed by the Tax Commission. Unless otherwise provided for in Idaho Code, budget requests for the property tax funded portions of the budget will not exceed the amount published in the notice of budget hearing if a budget hearing notice is required in Idaho Code for the district. The levy approved by the Tax Commission will not exceed the levy computed using the amount shown in the notice of budget hearing. (3-20-14)

03. Budget Certification Requested Documents. Using the completed L-2 Form, each board of county commissioners will submit to the Tax Commission a budget request for each taxing district in the county that certifies a budget request to finance the property tax funded portion of its annual budget. The board of county commissioners will only submit documentation specifically requested by the Tax Commission. (3-28-18)

a. Foregone Increase Documentation. For any taxing district submitting a budget including previously forgone increases, required documentation includes a copy of the resolution certifying the amount of the forgone increase being included and the specific purpose for which this increase is being budgeted. Each such taxing district must submit the resolution to the board of county commissioners representing each county in which the district is located along with the L-2 Form. The board of county commissioners must attach a copy of the resolution to be submitted to the Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the Tax Commission. (3-28-18)

b. Forgone increase disclaimer. Any resolution to disclaim the right to recover an annual increase in the forgone amount must state the amount of such forgone increase being disclaimed and must be submitted to the board of county commissioners representing each county in which the district is located along with the L-2 Form. The board of county commissioners must attach a copy of the resolution to be submitted to the Tax Commission along with the L-2 Form. Such submittal will constitute submittal to the Tax Commission. The following table illustrates calculation of the maximum forgone amount that may be disclaimed in 2018:

Step	Description	Comments
1	2017 maximum property tax $10,000. This is an increase of $1,000 from 2016.	The district has no prior forgone balance.
2	The district certifies $9,800 in 2017.	The district now has $200 in forgone balance.
3	2018 maximum property tax $11,000 (not including $200 forgone).	
4	2018 property tax budgeted (to be submitted for certification) is $10,600.	This amount is approved to be levied and would generate $400 in additional forgone balance.
5	2018 maximum amount of forgone increase that may be disclaimed by the district is $400.	If the district disclaims the full $400, their forgone balance remains at $200.

(3-28-18)

04. L-2 Form Contents. Each taxing district or unit completing an L-2 Form will include the following information on or with this form. (3-20-04)

a. "Department or Fund." Identify the department or fund for which the taxing district is requesting a budget for the current tax year. (4-5-00)

b. "Total Approved Budget." List the dollar amount of the total budget for each department or fund identified. The amounts must include all money that a taxing district has a potential to spend at the time the budget is set, regardless of whether funds are to be raised from property tax. (4-5-00)

c. "Cash Forward Balance." List any money retained, but intended to fund the approved budget being certified on the L-2 form. (3-26-19)

d. "Other Revenue not Shown in Column 5." List the revenue included in the total approved budget to be derived from sources other than property tax or money brought forward from a prior year. For example, sales tax revenue is included. (3-15-02)

e. "Property Tax Replacement." Report the following amounts received for the twelve (12) month period ending June 30 of the current tax year: (3-26-19)

i. The amount of money received annually under Section 63-3638(11), Idaho Code, as replacement revenue for the agricultural equipment exemption under Section 63-602EE, Idaho Code; (4-11-15)

ii. The amount of money received as recovery of property tax exemption under Section 63-602G(5), Idaho Code, and listed on the "Recovered/recaptured property tax and refund list"; (3-26-19)

iii. The amount of money received as recapture of the property tax benefit under Section 63-3029B(4), Idaho Code, and listed on the "Recovered/recaptured property tax and refund list"; (3-26-19)

iv. The amount of money received under Section 63-3638(13), for the personal property exemption under 63-602KK(2), Idaho Code; (3-26-19)

v. The amount of money received under Section 63-602KK(7), Idaho Code, for personal property exempted after 2013, for which no replacement money was paid, and listed on the "Recovered/recaptured property tax and refund list"; (3-26-19)

vi. The amount of money received as a result of distributions of the gross earning tax on solar farms, as provided in Section 63-3502B(2), Idaho Code., and listed on the "Recovered/recaptured property tax and refund list"; (3-26-19)

vii. The amount of money received as a result of distributions of urban renewal allocations in excess of the amount necessary to pay indebtedness, as provided in Section 50-2903A(3), Idaho Code, and listed on the "Recovered/recaptured property tax and refund list"; (3-26-19)

viii. The amount of money received as a result of distributions of urban renewal allocations in excess of the amount received by the urban renewal agency in the immediate prior year, as provided in Section 50-2913(3)(c), Idaho Code and listed on the "Recovered/recaptured property tax and refund list"; and (3-26-19)

ix. The amount of money received as a result of distributions of recovered property tax for revoked provisional property tax exemptions pursuant to Section 63-1305C(3), Idaho Code. (3-26-19)

f. "Balance to be Levied." Report the amount of money included in the total approved budget to be derived from property tax. (3-15-02)

g. Other Information. Provide the following additional information. (4-5-00)

i. The name of the taxing district or unit; (3-20-04)

ii. The date of voter approval (if required by statute) and effective period for any new or increased fund which is exempt from the budget limitations in Section 63-802, Idaho Code; (4-5-00)

iii. The signature, date signed, printed name, address, and phone number of an authorized representative of the taxing district; and (5-3-03)

iv. For a hospital district which has held a public hearing, a signature certifying such action. (4-5-00)

v. For any taxing district including previously forgone increases in their budget or disclaiming any forgone increase, an attestation to having held the required public hearing on the resolution to include or disclaim the forgone amount. (3-28-18)

h. Attached Information. Other information submitted to the county auditor with the L-2 Form. (4-6-05)

i. For all taxing districts, L-2 worksheet. (3-20-04)

ii. For newly formed recreation or auditorium districts, a copy of the petition forming the district showing any levy restrictions imposed by that petition. (3-20-04)

iii. For any new ballot measures (bonds, overrides, permanent overrides, supplemental maintenance and operations funds, cooperative service agency funds, and plant facility funds), notice of election and election results. (3-26-19)

iv. Voter approved fund tracker. (3-20-04)

v. For fire districts, a copy of any new agreements with utility companies providing for payment of property taxes by that utility company to that fire district. (3-20-04)

vi. For any city with city funded library operations and services at the time of consolidation with any library district, each such city must submit a certification to the board of county commissioners and the board of the library district reporting the dedicated portion of that city's property tax funded library fund budget and separately reporting any portion of its property tax funded general fund budget used to fund library operations or services at the time of the election for consolidation with the library district. (3-20-04)

vii. For any library district consolidating with any city that had any portion of its property tax funded budget(s) dedicated to library operations or services at the time of the election for consolidation, each such library district must submit to the board of county commissioners a copy of the certification from that city reporting the

information provided for in Subparagraph 803.04.h.vi. of this rule. (4-6-05)

viii. For any taxing district including previously forgone increases in their budget or disclaiming any forgone increase, a copy of the resolution describing the amount of the forgone increase being disclaimed, or the amount included and specific purpose for which it is being included. (3-28-18)

05. Special Provisions for Fire Districts Levying Against Operating Property. To prevent double counting of public utility property values, for any year following the first year in which any fire district increases its budget using the provision of Section 63-802(2), Idaho Code, such fire district will not be permitted further increases under this provision unless the following conditions are met: (3-30-01)

a. The fire district and public utility have entered into a new agreement of consent to provide fire protection to the public utility; and (3-30-01)

b. Said new agreement succeeds the original agreement; and (3-30-01)

c. In the first year in which levies are certified following the new agreement, the difference between the current year's taxable value of the consenting public utility and public utility value used in previous budget calculations made pursuant to this section is used in place of the current year's taxable value of the consenting public utility. (3-30-01)

06. Special Provisions for Property Tax Replacement and Refunds Pursuant to Section 63-1305C(6), Idaho Code. Property tax replacement monies must be reported on the L-2 Form and separately identified on accompanying worksheets. Except as provided in Paragraph 803.06.f. of this rule, for all taxing districts, these monies must be subtracted from or, in the case of refunds, not included in, the "balance to be levied". The reduced balance will be used to compute levies. The maximum amount permitted pursuant to Section 63-802(1), Idaho Code, will be based on the sum of these property tax replacement monies including recoveries received pursuant to Section 63-1305C(3), Idaho Code, but excluding monies received pursuant to Section 63-3502B(2), Idaho Code, and the amount actually levied. Each taxing district's proportionate share of refunds pursuant to Section 63-1305C(6), Idaho Code, as reported in Paragraph 803.01.e. of this rule, must be subtracted from the maximum amount permitted pursuant to Section 63-802(1), Idaho Code. (3-26-19)

a. The Tax Commission will, by the fourth Monday of July, notify each county clerk if the amount of property tax replacement money, pursuant to Sections 63-3638(11) and (13), Idaho Code, to be paid to a taxing district changes from the amount paid in the preceding year. By the first Monday of May, the Tax Commission will further notify each school district and each county clerk of any changes in the amount of property tax replacement money to be received by that school district pursuant to Sections 63-3638(11) and (13), Idaho Code. (4-11-15)

b. By no later than the first Monday of August of each year, each county clerk will notify each appropriate taxing district or unit of the total amount of property tax replacement monies, and the type of replacement money, as described in Paragraph 803.04.e. of this rule. For charter school districts subject to the provisions of Paragraph 803.06.f. of this rule, the amount to be subtracted will be reported. (3-29-17)

c. Except as provided in Paragraph 803.06.d. of this rule, the subtraction required in Subsection 803.06 of this rule may be from any fund(s) subject to the limitations of Section 63-802, Idaho Code. For school districts these subtractions must be first from funds subject to the limitations of Section 63-802, Idaho Code, then from other property tax funded budgets. (3-26-19)

d. For taxing districts receiving distributions of the gross earning tax on solar farms described in Section 63-3502B(2), Idaho Code, the amount of any such distribution received during the 12 (twelve) months ending June 30 of the current tax year will be subtracted from the maximum amount of property tax revenue permitted pursuant to Section 63-802, Idaho Code. In addition to the amounts reported as described in Paragraph 803.06.b. of this rule, the county clerk will, by the first Monday in August, notify each taxing unit of the total amount of the gross earnings tax on solar farms billed for the current tax year. (3-26-19)

e. Levy limits will be tested against the amount actually levied. (3-15-02)

f. For charter school districts with a levy in 2013 for maintenance and operations, as provided in Section 33-802(6), Idaho Code, a portion of the property tax replacement money received for property subject to the exemption in Section 63-602KK, Idaho Code, is not required to be subtracted in determining the "balance to be levied." Said portion will be the amount calculated by applying the 2013 levy rate for the maintenance and operations levy amount, as authorized in the district's charter, to the 2013 exempt value of personal property used to compute replacement money provided to the school district. (4-11-15)

g. For recovered personal property exemptions, as provided in Section 63-602KK(7), Idaho Code, for personal property exempted in 2013 for which replacement money was paid, recovered amounts will be distributed to the Tax Commission. Once received, the amount of future payments to the affected taxing districts will be reduced by the amount received. (3-25-16)

07. Special Provisions for Library Districts Consolidating with Any City's Existing Library Operations or Services. For any library district consolidating with any city's existing library operations or services, the amount of the dedicated property tax funded general fund and library fund budgets certified by the city under Subparagraph 803.04.h.vi., of this rule will be added to that library district's property tax funded budget in effect at the time of the election for consolidation. This total will be used as this district's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

08. Special Provisions for Cities with Existing Library Operations or Services Consolidating with Any Library District. For any city with existing library operations or services at the time of consolidation with any library district, the amount of the dedicated property tax funded library fund budget included in the certification by the city under Subparagraph 803.04.h.vi., of this rule will be subtracted from that city's total property tax funded budget in effect at the time of the election for the consolidation. This difference will be used as this city's property tax funded budget for the most recent year of the three (3) years preceding the current tax year for the purpose of deciding the property tax funded budget that may be increased as provided by Section 63-802, Idaho Code. (4-6-05)

09. Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units with Multiple Funds. Whenever the "Calculated Levy Rate" column of the L-2 Form indicates that a levy rate has been calculated for more than one (1) fund for any taxing district or unit, the "Column Total" entry must be the sum of the levy rates calculated for each fund. Prior to this summation, the levy rates to be summed must be rounded or truncated at the ninth decimal place. No additional rounding is permitted for the column total. (4-6-05)

10. Special Provisions for School Districts' Tort Funds - Hypothetical New Construction Levy. To calculate the new construction portion of the allowed annual increase in a school district's tort fund under Section 63-802(1), Idaho Code, calculate a Hypothetical New Construction Levy. To calculate this hypothetical levy, sum the amount of the school district's tort fund levied for the prior year, the agricultural equipment replacement revenue, and the personal property replacement revenue, then divide this sum by the school district's taxable value used to determine the tort fund's levy for the prior year. For the current year, the allowed tort fund increase for new construction is this Hypothetical New Construction Levy times the current year's new construction roll value for the school district. (3-25-16)

11. Special Provisions for Interim Abatement Districts. When an interim abatement district transitions into a formally defined abatement district under Section 39-2812, Idaho Code, the formally defined abatement district will not be considered a new taxing district as defined in Paragraph 803.01.g. of this rule for the purposes of Section 63-802, Idaho Code. For the formally defined abatement district, the annual budget subject to the limitations of Section 63-802, Idaho Code, will be the amount of property tax revenue approved for the interim abatement district. (4-2-08)

12. Special Provisions for Consolidating Cemetery Districts. When two (2) or more cemetery districts consolidate, the first year in which the consolidated cemetery district levies property tax, the maximum budget subject to the limitations of Section 63-802, Idaho Code, will be computed as follows: (3-26-19)

a. Determine the highest levy rate of any of the former cemetery districts now consolidating, based on the sum of the immediate prior year's levies subject to the limitations of Section 63-802, Idaho Code. (3-26-19)

b. Multiply this levy rate by the current taxable value of property within the area of the former cemetery districts other than the district with the highest rate. (3-26-19)

c. Multiply this levy rate by the current taxable value of new construction, as reported on the new construction roll, within the area of the former cemetery district with the highest levy rate. (3-26-19)

d. Add: (3-26-19)

i. The amounts computed in Paragraphs 803.12.b. and 803.12.c., of this rule; (3-26-19)

ii. Three percent (3%) of the highest amount of property taxes certified by the former cemetery district determined in Paragraph 803.12.a. of this rule, to have had the highest levy rate, for its annual budget, as defined in Section 63-802(1)(a), Idaho Code; and (3-26-19)

iii. Any forgone amounts of the former cemetery districts now consolidating. (3-26-19)

13. Cross Reference for School Districts with Tuition Funds. School district tuition fund levies are exempt from the limitations of Section 63-802, Idaho Code. See Section 33-1408, Idaho Code. (4-11-15)

804. TAX LEVY - CERTIFICATION - URBAN RENEWAL DISTRICTS (RULE 804).

Sections 50-2908, 50-2033, 50-1903, 50-2903A, 50-2905A, 50-2913, 63-803, and 63-811, Idaho Code

01. Definitions. (4-5-00)

a. "Urban renewal district." An urban renewal district, as referred to in Section 63-215, Idaho Code, means an urban renewal area formed pursuant to an urban renewal plan adopted in accordance with Section 50-2008, Idaho Code. Urban renewal districts are not taxing districts. (4-5-00)

b. "Revenue allocation area (RAA)." A revenue allocation area (RAA) as referred to in Section 50-2908, Idaho Code, will be the area defined in Section 50-2903, Idaho Code, in which base and increment values are to be determined. A new urban renewal plan is required when an urban renewal agency establishes a new RAA. Revenue allocation areas (RAAs) are not taxing districts. (3-29-17)

c. "Current base value." The current base value of each parcel in a taxing district or unit will be the value of that parcel on the current base assessment roll as defined under Section 50-2903, Idaho Code. Current base value does not include value found on the occupancy roll. (4-5-00)

d. "Initial base value." The initial base value for each parcel is the sum of the taxable value of each category of property in the parcel for the year the RAA is established. In the case of annexation to an RAA, initial base value of each annexed parcel will be the value of that parcel as of January 1 of the year in which the annexation takes place. (4-11-15)

e. "Increment value." The increment value is the difference between the current equalized value of each parcel of taxable property in the RAA and that parcel's current base value, provided such difference is a positive value. (4-5-00)

f. "Revenue allocation financing provision." A revenue allocation area (RAA) will be considered to be a revenue allocation financing provision. (3-29-17)

02. Establishing and Adjusting Base and Increment Values. (4-5-00)

a. Establishing initial base value. If a parcel's legal description has changed prior to computing initial base year value, the value that best reflects the prior year's taxable value of the parcel's current legal description must be determined and will constitute the initial base year value for such parcel. The initial base value includes the taxable value, as of the effective date of the ordinance adopting the urban renewal plan, of all otherwise taxable property, as defined in Section 50-2903, Idaho Code. Initial base value does not include value found on the occupancy roll. (4-5-00)

b. Adjustments to base value - general value changes. Adjustments to base values will be calculated on a parcel by parcel basis, each parcel being a unit and the total value of the unit being used in the calculation of any adjustment. Base values are to be adjusted downward when the current taxable value of any parcel in the RAA is less than the most recent base value for such parcel. In the case of parcels containing some categories of property which increase in value and some which decrease, the base value for the parcel will only decrease provided the sum of the changes in category values results in a decrease in total parcel value. Any adjustments will be made by category and may result in increases or decreases to base values for given categories of property for any parcel. Adjustments to base values for any real, personal, or operating property will establish new base values from which future adjustments may be made. In the following examples the parcel's initial base value is one hundred thousand dollars ($100,000), including Category 21 value of twenty thousand dollars ($20,000) and Category 42 value of eighty thousand dollars ($80,000). (4-5-00)

i. Case 1: Offsetting decreases and increases in value. One (1) year later the parcel has a one thousand dollar ($1,000) decrease in value in Category 21 and a one thousand dollar ($1,000) increase in Category 42 value. There is no change in the base value for the parcel. (4-5-00)

ii. Case 2: Partially offsetting decreases and increases in value. One (1) year later the parcel has a three thousand dollars ($3,000) decrease in value in Category 21 and a one thousand dollars ($1,000) increase in Category 42 value. The base value decreases two thousand dollars ($2,000) to ninety-eight thousand dollars ($98,000). (4-5-00)

iii. Case 3: Future increase in value following decreases. One (1) year after the parcel in Case 2 has a base value reduced to ninety-eight thousand dollars ($98,000), the value of the parcel increases by five thousand dollars ($5,000) which is the net of category changes. The base value remains at ninety-eight thousand dollars ($98,000). (4-5-00)

c. Adjustments to base value - splits and combinations. Before other adjustments can be made, the most recent base value must be adjusted to reflect changes in each parcel's legal description. This adjustment will be calculated as described in the following subsections. (4-5-00)

i. When a parcel has been split, the most recent base year value is transferred to the new parcels, making sure that the new total equals the most recent base year value. Proportions used to determine the amount of base value assigned to each of the new parcels will be based on the value of the new parcels had they existed in the year preceding the year for which the value of the new parcels is first established. (4-11-15)

ii. When a parcel has been combined with another parcel, the most recent base year values are added together. (4-5-00)

iii. When a parcel has been split and combined with another parcel in the same year, the value of the split will be calculated as set forth in Subparagraph 804.02.c.i. and then the value of the combination will be calculated as set forth in Subparagraph 804.02.c.ii. (4-5-00)

d. Adjustments to base values when exempt parcels become taxable. Base values will be adjusted as described in the following subsections. (4-5-00)

i. Fully exempt parcels at time of RAA establishment. When a parcel that was exempt at the time the RAA was established becomes taxable, the base value is to be adjusted upwards to reflect the estimated value of the formerly exempt parcel as it existed at the time the RAA was established. (3-26-19)

ii. Partially exempt parcels losing the speculative value exemption. When a partially exempt parcel with a speculative value exemption that applies to farmland within the RAA becomes fully taxable, the base value of the RAA will be adjusted upwards by the difference between the taxable value of the parcel for the year in which the exemption is lost and the taxable value of the parcel included in the base value of the RAA. For example, assume a parcel of farmland within an RAA had a taxable value of five hundred dollars ($500) in the year the RAA base value was established. Assume also that this parcel had a speculative value exemption of two thousand dollars ($2,000) at that time. Two (2) years later the parcel is reclassified as industrial land, loses the speculative value exemption, and has a current taxable value of fifty thousand dollars ($50,000). The base value within the RAA would be adjusted

upwards by forty-nine thousand five hundred dollars ($49,500), the difference between fifty thousand dollars ($50,000) and five hundred ($500). The preceding example applies only in cases of loss of the speculative value exemption that applies to land actively devoted to agriculture and does not apply to timberland. Site improvements, such as roads and utilities, that become taxable after the loss of the speculative value exemption are not to be added to the base value. For example, if, in addition to the fifty thousand dollars ($50,000) current taxable value of the undeveloped land, site improvements valued at twenty-five thousand dollars ($25,000) are added, the amount reflected in the base value remains fifty thousand dollars ($50,000), and the additional twenty-five thousand dollars ($25,000) is added to the increment value. In addition, this example applies only to land that loses the speculative value exemption as a result of changes occurring in 2010 or later and first affecting taxable values in 2011 or later. Parcels that lost speculative value exemptions prior to 2010 had base value adjustments as described in Subparagraph 804.02.d.iii. of this rule. (3-29-12)

iii. Partially exempt parcels other than those losing the speculative value exemption. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a partially exempt parcel, other than one subject to the speculative value exemption that applies to farmland, within the RAA becomes fully taxable, the base value of the RAA will be adjusted upwards by the difference between the value that would have been assessed had the parcel been fully taxable in the year the RAA was established and the taxable value of the parcel included in the base value of the RAA. For example, assume a residential parcel within an RAA had a market value of one hundred thousand dollars ($100,000), a homeowner’s exemption of fifty thousand dollars ($50,000), and a taxable value of fifty thousand dollars ($50,000) in the year the RAA base value was established. After five (5) years, this parcel is no longer used for owner-occupied residential purposes and loses its partial exemption. At that time the parcel has a taxable value of one hundred eighty thousand dollars ($180,000). The base value within the RAA would be adjusted upwards by fifty thousand dollars ($50,000) to one hundred thousand ($100,000) to reflect the loss of the homeowner’s exemption, but not any other value increases. (3-26-19)

iv. Partially exempt properties for which the amount of the partial exemption changes. For partially exempt properties that do not lose an exemption, but for which the amount of the exemption changes, there will be no adjustment to the base value, unless the current taxable value is less than the most recent base value for the property. For example, assume a home has a market value of two hundred thousand dollars ($200,000) and a homeowner's exemption of one hundred thousand dollars ($100,000), leaving a taxable value of one hundred thousand dollars ($100,000), all of which is base value. The following year the homeowner's exemption limit changes to ninety thousand dollars ($90,000), so the property's taxable value increases to one hundred ten thousand dollars ($110,000). The base value remains at one hundred thousand dollars ($100,000). Alternatively, assume the property in the preceding example increases in market value to two hundred twenty thousand dollars ($220,000) and the homeowner's exemption drops to ninety thousand dollars ($90,000) because of the change in the maximum amount of this exemption. The base value remains at one hundred thousand dollars ($100,000). Finally, assume the property decreases in value to one hundred eighty-eight thousand dollars ($188,000) at the same time the homeowner's exemption limit changes to ninety thousand dollars ($90,000). The property now has a taxable value of ninety-eight thousand dollars ($98,000), requiring an adjustment in the base value to match this amount, since it is lower than the original base value of one hundred thousand dollars ($100,000). (3-29-12)

v. Change of exempt status. Except as provided in Subparagraph 804.02.d.vi. of this rule, when a parcel that is taxable and included in the base value at the time the RAA is established subsequently becomes exempt, the base value is reduced by the most current value of the parcel included in the base value. If this parcel subsequently becomes taxable, the base value is to be adjusted upward by the same amount that was originally subtracted. For example, assume a land parcel had a base value of twenty thousand dollars ($20,000). One (1) year later the parcel has a value of nineteen thousand dollars ($19,000), so the base value is reduced to nineteen thousand dollars ($19,000). Three (3) years later, an improvement valued at one hundred thousand dollars ($100,000) was added. The land at this later date had a value of thirty thousand dollars ($30,000). Both land and improvements were purchased by an exempt entity. The base would be reduced by nineteen thousand dollars ($19,000). Five (5) years later, the land and improvement becomes taxable. The base value is to be adjusted upwards by nineteen thousand dollars ($19,000). (3-26-19)

vi. Special case for exemption provided in Section 63-602NN, Idaho Code. Upon loss of the exemption, any newly taxable value in excess of the taxable value of the property in the year immediately preceding the first year of the exemption is to be added to the increment value provided the property was within an RAA when the exemption was granted and remains within the RAA at the time the exemption expires. If the parcel was annexed

to an RAA during the period of the exemption, the value that would have been added to the base value at the time of annexation had the property not received the exemption would be added to the base at the time the exemption expires, while any remaining taxable value would be added to the increment. If the exemption has been granted in part, the adjustments provided in this subparagraph will only apply to the portion of the property granted the exemption. (3-26-19)

e. Adjustments to base values when property is removed. Base values are to be adjusted downward for real, personal, and operating property removed from the RAA. Property will be considered removed only under the conditions described in the following subsections. (4-5-00)

i. For real property, all of the improvement is physically removed from the RAA, provided that there is no replacement of said improvement during the year the original improvement was removed. If said improvement is replaced during the year of removal, the reduction in base value will be calculated by subtracting the value of the new improvement from the current base value of the original improvement, provided that such reduction is not less than zero (0). (4-5-00)

ii. For personal property, all of the personal property associated with one (1) parcel is physically removed from the RAA or any of the personal property associated with a parcel becomes exempt. In the case of exemption applying to personal property, the downward adjustment will first be applied to the increment value and then, if the remaining taxable value of the parcel is less than the most current base value, to the base value. Assume, for example that a parcel consists entirely of personal property with a base value of twenty thousand dollars ($20,000) and an increment value of ninety thousand dollars ($90,000). The next year the property receives a one hundred thousand ($100,000) personal property exemption. The increment value is reduced to zero and the base value is reduced to ten thousand dollars ($10,000). (4-11-15)

iii. For operating property, any of the property under a given ownership is removed from the RAA. (4-5-00)

f. Adjustments to base value for annexation. When property is annexed into an RAA, the base value in the RAA will be adjusted upwards to reflect the value of the annexed property as of January 1 of the year in which the annexation takes effect. As an example, assume that parcels with current taxable value of one million dollars ($1,000,000) are annexed into an RAA with an existing base value of two million dollars ($2,000,000). The base value of the RAA is adjusted upwards to three million dollars ($3,000,000). (4-11-15)

g. Adjustments to increment values. In addition to the adjustment illustrated in Subparagraph 804.02.e.ii. of this rule, decreases in total parcel value below the initial base value decrease the base value for the parcel. This leads to greater increment value if the parcel increases in value in future years. For example, if a parcel with a initial base value of one hundred thousand dollars ($100,000) decreases in value to ninety-five thousand dollars ($95,000), but later increases to ninety-eight thousand dollars ($98,000), an increment value of three thousand dollars ($3,000) is generated. If the same parcel increases in value to one hundred two thousand dollars ($102,000) after the decrease to ninety-five thousand dollars ($95,000), the increment value would be seven thousand dollars ($7,000). (4-11-15)

h. Apportioning operating property values. For operating property, the original base value will be apportioned to the RAA on the same basis as is used to apportion operating property to taxing districts and units. The operating property base value will be adjusted as required under Section 50-2903, Idaho Code. (4-5-00)

03. Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts. Beginning in 2008, levies will be computed in one (1) of two (2) ways as follows: (5-8-09)

a. For taxing district or taxing unit funds other than those meeting the criteria listed in Subsection 804.05 of this rule, the property tax levy will be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the value of each parcel on the current base assessment roll (base value), but excluding the increment value. For example, if the taxable value of property within a taxing district or unit is one hundred million dollars ($100,000,000) but fifteen million dollars ($15,000,000) of that value is increment value, the levy of the taxing district must be computed by dividing the property tax portion of the district's or unit's budget by eighty-five

million dollars ($85,000,000). (5-8-09)

b. For taxing district or taxing unit funds meeting the criteria listed in Subsections 804.05 and 804.07 of this rule, the property tax levy will be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. Given the values in the example in Paragraph 804.03.a. of this rule, the levy would be computed by dividing the property tax portion of the fund by one hundred million dollars ($100,000,000). (3-28-18)

04. Modification of an Urban Renewal Plan. Except when inapplicable as described in Paragraphs 804.04.a, b, or c, of this rule, when an authorized municipality passes an ordinance modifying an urban renewal plan containing a revenue allocation financing provision, for the tax year immediately following the year in which the modification occurs, the base value of property in the RAA will be reset by being adjusted to reflect the current taxable value of the property. All modifications to boundaries of RAAs must comply with the provisions of Rule 225 of these rules. (3-29-17)

a. Modification by consolidation of RAAs. If such modification involves combination or consolidation of two (2) or more RAAs, the base value will be determined by adding together independently determined current base values for each of the areas to be combined or consolidated. The current taxable value of property in an area not previously included in any RAA will be added to determine the total current base value for the consolidated RAA. (4-5-00)

b. Modification by annexation. (5-8-09)

i. If an RAA is modified by annexation, the current taxable value of property in the area annexed will be added to the most current base value determined for the RAA prior to the annexation. (5-8-09)

ii. For levies described in Paragraphs 804.05.b., c., or d. of this rule approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007, the property tax levy will be computed by dividing the dollar amount certified for the property tax portion of the budget of the fund by the market value for assessment purposes of all taxable property within the taxing district or unit, including the increment value. The example below shows the value to be used for setting levies for various funds within an urban renewal district "A" that annexes area "B" within a school district. Area (B) was annexed after December 31, 2007. Therefore, the Area (B) increment was added back to the base for all funds shown except the tort fund. The Area (A) increment value was added back to the base for the bond and override funds which were certified or passed after December 31, 2007.

2009 Value Table	School District (base only)	$500 Million
	RAA (A) increment	$40 Million
	RAA annexation (B) increment	$10 Million

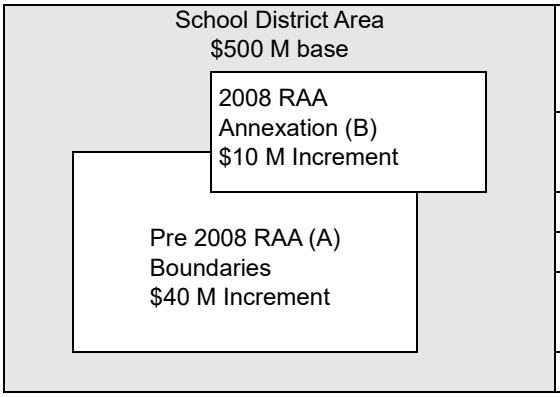

2009 School Levies	
Fund	Value for Setting Levies $ Millions
Tort	500
2001 Plant	510
2008 Bond (Passed and first levied in 2008)	550
2009 Supplemental	550

(3-29-17)

iii. An annexation permitted pursuant to section 50-2033, Idaho Code, to an RAA in existence prior to July 1, 2016 will not change the status of the urban renewal agency or the RAA and its related plan regarding inapplicability of the base reset or attestation provisions found in section 50-2903A, Idaho Code. (3-29-17)

c. Other modifications – attestation requirements. Modification resulting in adjustment of base value to reflect the current taxable value of the property within the RAA will not be deemed to have occurred when the urban renewal agency attests to having made no modifications to a plan or is not required to attest to plan modifications. Certain urban renewal agencies are required to attest annually to having made or not made plan modifications. These include: (3-29-17)

i. Urban renewal agencies that establish new RAAs on or after July 1, 2016, provided however that such agencies are only required to attest to having made or not made modifications with regard to any new RAA. (3-29-17)

ii. Urban renewal agencies that enact new plans including an RAA on or after July 1, 2016. (3-29-17)

d. Modifications when there is outstanding indebtedness. When any urban renewal agency attests to having had a plan modification that is not an exception identified in Paragraphs 804.04.a. or b. or c. of this rule or fails to provide the required attestation, the base value will be determined without regard to the modification, provided that the agency certifies to the Tax Commission by June 30 of the tax year that there is outstanding indebtedness as defined in Section 50-2903A(2), Idaho Code. In this case, the allocation of revenue to the urban renewal agency will be limited to the amount certified as necessary to pay the indebtedness. Any additional revenue will be distributed to each taxing district or unit in the same manner as property taxes. Such revenue will be treated as property tax revenue for the purpose of the limitations in Section 63-802, Idaho Code. The county clerk will notify the Tax Commission of the amount so distributed for each year beginning July 1 of the prior year and ending June 30 of the current tax year. (3-28-18)

e. Failure to submit attestation regarding plan modification. For any urban renewal agency subject to the requirements of Section 50-2903A, Idaho Code, attestation of plan modification or attestation that there has been no plan modification is required to be made to the Tax Commission by the first Monday of June each year. Except as provided in Paragraph 804.04.d. of this rule, if such agency fails to provide the required attestation, the Tax Commission will proceed to reset the base value or limit allocation of property tax to the urban renewal agency as otherwise required in Section 50-2903A, Idaho Code. Provided there is no new plan, an urban renewal agency with a plan including one or more revenue allocation financing provisions (RAAs) in existence prior to July 1, 2016 will only be required to provide this attestation or be subject to base resetting or other limitations for failure to submit this attestation with respect to new RAAs formed on or after July 1, 2016. If such an agency develops a new plan, on or after July 1, 2016, or provides for a new RAA under an existing plan, the agency will be subject to the attestation requirements and other provisions of Section 50-2903A, Idaho Code, with respect to any RAAs formed July 1, 2016 or later. (3-28-18)

f. Notice of actions related to base reset or revenue allocation limitations. (3-29-17)

i. The Tax Commission will notify any urban renewal agency within thirty (30) days of the time the Tax Commission receives an attestation that an urban renewal plan has been modified, or by July 30 in any year in which an attestation is required but none is received, of the Tax Commission's intent to initiate the process to reset the base value in the following tax year. Said notice will be provided to affected county commissioners and city officials. (3-29-17)

ii. In the case of base reset due to failure to attest to a modification or to having made no modification in an urban renewal plan, despite being required to provide this attestation, the agency and county and city officials will be so notified and will be given an opportunity to provide the necessary attestation. This further notice will provide that, if the Tax Commission has not received the attestation by December 31 of the tax year, the base will be reset in the immediate following year. (3-29-17)

iii. In the case of a revenue allocation limitation pursuant to Section 50-2913, Idaho Code, notice will be provided to the agency, county, and city officials including the county assessor and county clerk, within thirty (30) days of the due date of the plan or plan update. (3-29-17)

iv. In the case of a revenue allocation limitation due to a plan modification but outstanding indebtedness, notice will be provided to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of receipt by the Tax Commission of the certification of the amount needed to repay the indebtedness. (3-29-17)

v. Once decisions about base reset or revenue allocation limitations are final, additional notice will be sent to the agency and county and city officials, including the county assessor and county clerk, within thirty (30) days of any such final decision. Said notice will include an identification of the year in which the reset or revenue allocation limitation will take effect and the amount of any revenue allocation limitation. (3-29-17)

05. Criteria for Determining Whether Levies for Funds Are to Be Computed Using Base Value or Market Value for Assessment Purposes. Beginning in 2008, levies to be certified for taxing district or unit funds meeting the following criteria or used for any of the following purposes will be computed as described in Paragraph 804.03.b. of this rule. (5-8-09)

a. Refunds or credits pursuant to Section 63-1305, Idaho Code, and any school district judgment pursuant to Section 33-802(1), Idaho Code, provided the refunds, credits, or judgments were pursuant to actions taken no earlier than January 1, 2008; (5-8-09)

b. Voter approved overrides of the limits provided in Section 63-802, Idaho Code, provided such overrides are for a period not to exceed two (2) years and were passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

c. Voter approved bonds and plant facilities reserve funds passed after December 31, 2007, or earlier as provided in the criteria found in Paragraph 804.05.e.; (5-8-09)

d. Voter approved school or charter school district temporary supplemental maintenance and operation levies passed after December 31, 2007; or (3-29-10)

e. Levies described in Paragraphs 804.05.b., c., or d. approved prior to December 31, 2007, and included within the boundaries of a revenue allocation area by a change in the boundaries of either the revenue allocation area or the area subject to the levy by the taxing district or unit fund after December 31, 2007; (3-29-10)

f. Levies authorized by Section 33-317A, Idaho Code, known as the cooperative service agency school plant facility levy. (3-29-10)

g. Levies authorized by Section 33-909, Idaho Code, known as the state-authorized plant facility levy. (4-11-15)

h. Levies authorized by Section 33-805, Idaho Code, known as school emergency fund levy. (3-29-17)

06. Setting Levies When There is a De-annexation From an RAA. In any de-annexation from an RAA, levies will be set using the base value and, as indicated in Subsection 804.05 of this rule, the appropriate amount of increment value associated with the parcels and operating property remaining in the RAA after the de-annexation, provided that the de-annexation is in effect no later than September 1 of the current tax year and provided further that the de-annexation is approved by the Tax Commission in accordance with Section 225 of these rules. (3-29-17)

07. Setting Levies When There is a Refinancing of Bonded Indebtedness. Refinancing of bonded indebtedness in existence as of December 31, 2007 does not create new bonded indebtedness for any taxing district with respect to the levy setting criteria in Subsection 804.05 of this rule. (3-28-18)

08. Cross Reference. The county auditor will certify the full market value by taxing district as specified in Rule 995 of these rules. See also Rule 802 of these rules for calculation of new construction given de-annexation from an RAA and see Rule 805 of these rules for penalties for failure to submit plans. (3-29-17)

805. PENALTY FOR FAILURE TO COMPLY WITH REPORTING REQUIREMENTS (RULE 805).
Sections 63-802A, 50-2913, and 67-450E, Idaho Code

01. Property Tax Limitation Penalties for Non-compliance. Penalties applies to any taxing district that fails, by April 30 of each year, to provide each appropriate county clerk with written notification of the budget hearing information required pursuant to Section 63-802A, Idaho Code, or, beginning in 2015, that is found by September 1 to be out of compliance with the requirements of section 67-450E, Idaho Code. There will be no increase in the portion of the budget subject to the limitations of Section 63-802, Idaho Code. This restriction will apply to otherwise available budget increases from the three percent (3%) growth factor, new construction or change of land use classification, and annexation. There will also be no increase resulting from adding previously accrued foregone increase amounts to the budget and the total accrued foregone amount will not change for a non-complying district. (4-11-15)

02. Exceptions. Voter approved budget increases permitted pursuant to Section 63-802(4), Idaho Code, will be allowed. (3-15-02)

03. County Clerks to Submit Lists. By the fourth Monday of May, each county clerk will submit to the Tax Commission a list of taxing districts out of compliance with the requirements of Section 63-802A, Idaho Code, along with other documents required pursuant to Rule 803 of these rules and Section 63-808, Idaho Code. (4-11-15)

04. Notification by Tax Commission. By September 3 each year, the Tax Commission will provide each county clerk a list of all taxing districts in the county that are subject to the penalties in Section 63-802A, Idaho Code. The Tax Commission will also notify each county clerk when a previously non-complying taxing district is found to be in compliance with the requirements of Section 67-450E, Idaho Code. Such notification will be done by September 3 of the year in which the compliance status is re-established. (4-11-15)

05. Additional Penalties. For taxing districts that fail to comply with the requirements of Section 67-450E, Idaho Code, additional penalties affect the distribution of sales tax money for which the district may be eligible. See Rule 995 of these rules. (4-11-15)

06. Applicability to Urban Renewal Agencies. Urban renewal agencies failing to annually submit to the Tax Commission plans as required pursuant to Section 50-2913, Idaho Code, will be subject to penalties found in that Section. (3-29-17)

a. Urban renewal agencies having once submitted such plans, and having made no modification or amendment to such plans, may, by December 1 each year, attest to the currency of the previously submitted plan in lieu of re-submitting that plan. (3-29-17)

b. Providing the Tax Commission with, and updating links to, plans on urban renewal agency websites will constitute compliance with submittal requirements. (3-29-17)

806. ELECTION TO CREATE A NEW TAXING DISTRICT -- CLERK'S MAILED NOTICE (RULE 806).
Section 63-802C, Idaho Code. The sponsors of a new taxing district, including interim abatement districts, will submit an estimate of the first year's property tax budget to the county clerk sixty (60) days prior to the election. When the estimate of the first year's budget is received, the county clerk will estimate the levy rate based on the most recent actual or estimated taxable value information available. If the sponsors fail to provide the budget information, the county clerk will, for taxing districts with funds subject to maximum levy rates, estimate the amount of property taxes to be raised in the proposed district by multiplying the maximum levy rate permitted by law times the most current available estimate of taxable value. Pertaining to the estimate of the first year's levy only, the estimated levy rate, computed based on the information supplied by the sponsors, or the maximum levy rate permitted by law if the information has not been supplied, will be used to compute the estimated taxes per one hundred thousand dollars ($100,000) of net taxable value. The maximum levy rate means the sum of every maximum statutory levy rate for any fund subject to such rates for the taxing district type. (5-8-09)

807. LEVY BY NEW TAXING UNITS - DUTIES OF AUDITOR (RULE 807).
Section 63-807, Idaho Code

01. Levy by Newly Formed or Organized Taxing Districts. Regardless of whether other formation or organization requirements have been met, newly formed or organized taxing districts that fail to meet the requirements of Rule 225 of these rules, will not be authorized to levy property taxes. (5-3-03)

02. Levy by Taxing Districts Altering Boundaries. Regardless of whether other boundary alteration requirements have been met, taxing districts that alter their boundaries and fail to meet the requirements of Rule 225 of these rules, will not be authorized to levy property taxes within any area added to the district. If area is withdrawn from any district that fails to meet the requirements of Rule 225 of these rules, any levy by the district applies to taxable property within the withdrawn area. (5-3-03)

03. Levy Considered Not Authorized. If a taxing district fails to meet the requirements of Subsection 807.01 or 807.02 of this rule, the district's levy or its levy within an altered area will be considered not authorized, pursuant to Section 63-809, Idaho Code. (5-3-03)

808. ADDITIONAL DOCUMENTATION BY TAXING DISTRICTS NOT LEVYING AGAINST ALL TAXABLE PROPERTY (RULE 808).
Sections 25-2401, 31-1425, 42-3115, 42-3708, 42-4116, 50-3113, 63-510 and 63-803, Idaho Code

01. Tax Levy Rate Calculations and Documentation of Categories to be Taxed. For any taxing district which does not levy property taxes against all taxable property within the district, the tax levy is to be calculated by dividing the taxing district's property tax budget by the taxable value of property against which the levy is to be applied. If the taxing district elects the property categories to be taxed, documentation of such election must be either: (3-29-12)

a. If initiated by the taxing district and not currently available to each county clerk, submitted by the taxing district to each county clerk, who will then submit the documentation to the Tax Commission by the first Monday in August in the first year in which the election takes place or in 2012, and in any year in which the categories elected to be taxed change; or (3-29-12)

b. If elected by an action of the Board of County Commissioners, submitted by the county clerk to the Tax Commission by the first Monday in August in the first year in which the election takes place or in 2012, and in any year in which the categories elected to be taxed change. (3-29-12)

02. Fire Districts. Fire districts may levy against property of public utilities provided there is an agreement between the fire district and the public utility to do so. In addition, fire districts may exempt all or a portion of unimproved real property and taxable personal property. (3-29-12)

a. Public Utility Agreements. Written agreements with public utilities permitting property taxes to be levied for fire protection of all or a portion of the property of the public utility, pursuant to Section 31-1425(1), Idaho Code, must be submitted as documentation required in Subsection 808.01 of this rule. Such agreements need only be submitted once, provided there is no change and such agreements are on file with the county clerk and Tax Commission in 2012. (3-29-12)

b. Exemption of all or a portion of unimproved real property and taxable personal property. Exemption of all or a portion of unimproved real property and taxable personal property must be documented in the fire district's formation ballot or other documents creating the fire district or by an ordinance enacted pursuant to Section 31-1425(2), Idaho Code, by the Board of County Commissioners, of each county in which the fire district is located. If the county does not have the necessary documentation, it must be submitted by the fire district by the third Monday in July, 2012 or, for fire districts created during or after 2012, by the third Monday in July of the first year in which the fire district intends to levy property taxes. If such documentation is not available, the fire district will be presumed to be levying against all otherwise taxable real and personal property. (3-29-12)

03. Flood Control, Levee, Watershed Improvement, Community Infrastructure Districts, and Herd Districts. Property tax may only be levied against real property. No special documentation is required. (3-29-12)

04. Ambulance Districts. Exemption of all or a portion of unimproved real property and taxable personal property must be documented by an ordinance enacted pursuant to Section 31-3908A, Idaho Code, by the county commissioners of the county in which the ambulance district is located. If such documentation is not available, the ambulance district will be presumed to be levying against all otherwise taxable real and personal property. (3-29-12)

05. Abstracts Showing Value of Property Against Which Levy is to be Applied. For taxing districts not levying property tax against all otherwise taxable property, abstracts must be submitted as required in Rule 115 of these rules. (3-29-12)

809. CORRECTION OF ERRONEOUS LEVY (RULE 809).

Sections 63-809 and 63-810, Idaho Code

01. Errors Discovered by the Fourth Monday in October. When the Tax Commission receives by the fourth Monday in October from a board of county commissioners notice of corrections for unintentional clerical, mathematical, or electronic errors under Section 63-810, Idaho Code, the Tax Commission will make the corrections to any approved levies by the fourth Monday in October. (4-2-08)

02. Errors Discovered After the Fourth Monday in October. When the Tax Commission receives after the fourth Monday in October and prior to the following February 15 notices of corrections for any unintentional errors, as referenced in Subsection 809.01 of this rule, the Tax Commission will make the corrections and approve the appropriate corrected levies within one (1) week. (1-1-17)

03. Cross Reference. For information on reporting of corrections for unintentional clerical, mathematical, or electronic errors, see Sections 63-809 and 63-810, Idaho Code, and Rule 509 of these rules. (4-2-08)

810. (RESERVED)

811. COMPUTATION OF PROPERTY TAXES (RULE 811).

Section 63-811, Idaho Code

01. Duty of the County Auditor. Upon distribution of the approved final levy rates for the current year from the Tax Commission by the fourth Monday in October, the county auditor will deliver the final levy rates and the total tax charge for each taxing district or unit that is levying for the current year within the county to the county treasurer by the first Monday in November for the property roll and operating property roll, by the first Monday in December for the subsequent property roll, and by the first Monday in March of the following year for the

missed property roll. (4-2-08)

02. Duty of the County Treasurer. Upon receipt of the final levy rates and total tax charge for each taxing district or unit, the county treasurer will compute the individual tax charge for each taxable property in the county and prepare and mail the property tax bill for each taxable property according to Section 63-902, Idaho Code, and Rule 902 of these rules. (4-2-08)

812. -- 901. (RESERVED)

902. PROPERTY TAX NOTICE AND RECEIPTS - DUTY OF TAX COLLECTOR (RULE 902).
Sections 63-704 and 63-902, Idaho Code. The tax notice required to be mailed to taxpayers under Section 63-902, Idaho Code, must include taxpayers whose property taxes are to be paid in full as a result of the property tax reduction approved under Section 63-704, Idaho Code. For these taxpayers, the tax notice will show the amount to be paid on behalf of the taxpayer and zero taxes owed. (3-20-14)

903. -- 935. (RESERVED)

936. CANCELLATION OF TAXES BY BOARD OF COUNTY COMMISSIONERS (RULE 936).
Section 63-1302, Idaho Code authorizes boards of county commissioners to cancel property taxes that for any lawful reason should not be collected. The board may cancel taxes for double payment of taxes or the double or erroneous assessment of any property for the same year or other errors. Additionally, when the canceled taxes have been paid, the board may refund the taxes. The authority to cancel taxes under Section 63-1302, Idaho Code, extends neither to hardship situations nor to cancellation of tax resulting from unequal or excessive valuation by the assessor. Mere unequal or excessive valuation by the assessor does not make the assessment illegal, nor constitute any lawful reason that the taxes should not be collected. A taxpayer who believes the value placed on his property is excessive must file his appeal with the county board of equalization within the time prescribed by law. A taxpayer seeking relief due to hardship must apply pursuant to Section 63-602AA, Idaho Code. (7-1-98)

937. -- 938. (RESERVED)

939. COURT OR BOARD OF TAX APPEALS ORDERED REFUNDS OR CREDITS - LEVY RESTRICTIONS (RULE 939).
Section 63-1305, Idaho Code. Section 63-1305, Idaho Code, allows taxing districts to certify and levy a judgment levy for an amount equal to property tax refunds or credits ordered by a court or the board of tax appeals and to include such amount with amounts certified and levied under Sections 63-802 through 63-807, Idaho Code. For each affected taxing district, the decision to certify and levy such amounts is permissive. For any taxing district to use this provision, amounts to be levied must be certified within the two years immediately following the order becoming final. Any amount, not certified and levied within that two-year period, is lost. In the second year following the order, the amount remaining will be lost for any taxing district for which such amount is less than $100. (3-30-07)

940. -- 959. (RESERVED)

960. DEFINITIONS (RULE 960).
Section 63-1701, Idaho Code

01. Present Use. Present use means that the land contains trees of a marketable species which are being actively managed to produce a forest crop for eventual harvest and which may be accepted by a commercial mill. (7-1-97)

02. Silviculture. Silviculture includes the following activities: site preparation, planting, vegetation control, precommercial thinning, commercial thinning, fertilization, mechanical or chemical pest and disease control, pruning, inventorying, cruising, or regeneration surveys, fencing established to protect seedlings, and genetic tree improvement. (4-11-06)

03. Custodial Expenses. Custodial expenses are some of the expenses incurred in the management of forestlands. (4-11-06)

a. Included Expenses. Custodial expenses include the following expenses, except as provided in Paragraph 960.03.b of this rule: (4-11-06)

i. Reforestation expenses are the cost of seeds, seedlings, and planting for the establishment of a forest to the specifications of the Idaho Forest Practices Act (Title 38, Chapter 13, Idaho Code); (4-11-06)

ii. Road maintenance expenses are those costs necessary to prevent major deterioration or maintain the integrity of forest roads including culvert maintenance, public access control, and erosion prevention, but not including the cost of original construction, opening the road for silviculture, driveway maintenance, or recreation access; (4-11-06)

iii. Managing public use expenses are limited to the costs of installing and maintaining gates and signage; (4-11-06)

iv. Forest inventory expenses are the costs of collection and analysis of forest inventory data; (4-11-06)

v. Forest management planning expenses are the costs associated with a geographic information system (GIS) or similar information database and those activities integral to the planning process; (4-11-06)

vi. Facility operations and maintenance expenses are those costs of maintaining and operating facilities necessary for forestland management; (4-11-06)

vii. Environmental analysis and documentation expenses are analysis and documentation costs associated with federal and state environmental requirements; (4-11-06)

viii. Appeals and litigation expenses are those costs associated with litigating items associated with federal and state environmental requirements; (4-11-06)

ix. Land survey expenses are those costs associated with surveying forestland; (4-11-06)

x. Forest fire suppression expenses are the portion of those costs associated with the suppression of wildfires on forestlands borne by the forestland owner, that exceed the annual fire protection fee under Section 38-111, Idaho Code; (4-11-06)

xi. Other management expenses are unspecified costs agreed to by the committee on forestland taxation methodologies (CFTM) and determined to be annualized custodial expenses by the forest management cost study conducted pursuant to Section 63-1705, Idaho Code. (4-11-06)

b. Excluded Expenses. Custodial expenses exclude the following: (4-11-06)

i. Fertilization; (4-11-06)

ii. Precommercial thinning; (4-11-06)

iii. Tree improvement; (4-11-06)

iv. Genetic improvement; (4-11-06)

v. Site preparation; (4-11-06)

vi. Harvesting; (4-11-06)

vii. Road building; (4-11-06)

viii. Timber harvest layout and silvicultural layout; (4-11-06)

ix. Slash management; (4-11-06)

x. Brush control; (4-11-06)

xi. Litigation pertaining to Subparagraphs 960.03.b.i. through 960.03.b.xi., of this rule. (4-11-06)

04. Forestland Management Plan. Forestland management plan means a written management plan reviewed by a professional consulting forester, Idaho Department of Lands private forestry specialist, professional industry forester, or federal government forester, to include eventual harvest of the forest crop. Professional forester is defined as an individual holding at least a Bachelor of Science degree in forestry from an accredited four (4) year institution. The forestland management plan will include as a minimum: (7-1-97)

a. Date of the plan preparation; (7-1-97)

b. Name, address, and phone number of the land owner, and person preparing and/or reviewing the plan; (7-1-97)

c. The legal description of the property; (7-1-97)

d. A map of the property of not less than 1:24,000 scale; (7-1-97)

e. A general description of the forest stand(s) including species and age classes; (7-1-97)

f. A general description of the potential insect, disease, and fire hazards that may be present and the management systems which will be used to control them; (7-1-97)

g. The forest management plans of the landowner over the next twenty (20) years. (7-1-97)

05. Bare Forestland. Bare forestland will qualify as forestland only if, within five (5) years after harvest or initial assessment, they are planted or regenerated naturally to minimum stocking levels as specified by the Idaho Forest Practices Act. (Title 38, Chapter 13, Idaho Code). (7-1-97)

06. County Weighted Average Forestland Levy Rate. The county weighted average forestland levy rate is calculated by summing the products of the levy rate times the number of forested acres for each forested tax code area in each county and dividing this sum by the total number of forested acres in all forested tax code areas in each county. (4-11-06)

07. Weighted Average Forestland Levy Rate. The weighted average forestland levy rate is the weighted average forestland levy rate defined in Subsection 960.06 of this rule multiplied by the total number of designated forestland acres in each county. The sum of the product of this calculation for each county in a forest value zone is then divided by the total number of designated forestland acres in the forest value zone. (4-11-06)

08. Guiding Discount Rate. The guiding discount rate will be determined in accordance with procedures found in the User's Guide and derived from ten (10) year treasury constant maturity rates as reported by the federal reserve system, the producer price index (PPI) published by the U.S. bureau of labor statistics, and a risk premium. (4-11-06)

09. Real Price Appreciation of Stumpage. A real price appreciation (RPA) of stumpage in Idaho will be determined in accordance with procedures found in the User's Guide and will be benchmarked to the PPI for softwood logs and bolts as reported by the U.S. bureau of labor statistics, less inflation as reported in the PPI. (4-11-06)

10. Joint Ownership. Joint ownership as used in Subsections 963.01 and 966.01 of these rules includes ownership of a single parcel of forestland by two (2) or more legal entities irrespective of their proportionate ownership interests in the parcel, but will not include the community property interests of a spouse. (3-30-01)

961. HOMESITE ASSESSMENT AND FORESTLANDS OF LESS THAN FIVE ACRES AND CONTIGUOUS PARCELS (RULE 961).
Sections 63-1702 and 63-1703, Idaho Code

01. Definitions. The following definitions apply to the valuation of residential parcels that are contiguous to lands classified as forestlands. (4-7-11)

a. Homesite. The "homesite" is that portion of land, contiguous with but not qualifying as forestlands, and the associated site improvements used for residential purposes. (4-7-11)

b. Associated Site Improvements. The "associated site improvements" include developed access, grading, sanitary facilities, water systems, and utilities. (4-7-11)

02. Homesite Assessment. Each homesite and residential and other improvements, located on the homesite, will be assessed at market value each year. (4-7-11)

a. Accepted Assessment Procedures. Market value will be determined through procedures, methods, and techniques recommended by nationally recognized appraisal and valuation associations, institutes, and societies and according to guidelines and publications approved by the Tax Commission. Acceptable techniques include those that are either time tested in Idaho, mathematically correlated to market sales, endorsed by assessment organizations, or widely accepted by assessors in Idaho and other states. (4-7-11)

b. Appropriate Market and Comparable Selection. The appropriate market is the market most similar to the homesite and improvements located on the homesite. In applying the sales comparison approach, the appraiser should select comparables having actual or potential residential use. (4-7-11)

c. The value and classification of the homesite will be independent of the classification and valuation of the remaining land. (4-7-11)

03. Forestlands of Less Than Five Acres and Contiguous Parcels. A parcel of forestland that is less than five (5) acres is not eligible for valuation and taxation as forestland unless the land is contiguous with one (1) or more other parcels of forestland under the same ownership and the contiguous parcels together constitute five (5) acres or more of forestland as defined in Section 63-1701, Idaho Code. The five (5) acre minimum requirement must exclude any homesite. In the following examples each parcel of land is forestland as defined in Section 63-1701, Idaho Code, unless otherwise stated in the example. (4-7-11)

a. Example 1. A landowner owns a fifteen (15) acre parcel which contains four (4) acres of forestland, nine (9) acres of irrigated row crop, and two (2) acres of homesite. The four (4) acres of forestland is not eligible for valuation and taxation as forestland. (4-6-05)

b. Example 2. A landowner owns five hundred and six (506) acres consisting of one (1) five hundred (500) acre parcel of forestland and six (6) one (1) acre parcels of forestland, that are not contiguous either to one another or to the five hundred (500) acre parcel. The five hundred (500) acre parcel is eligible for valuation and taxation as forestland. The six (6) one (1) acre parcels, are not eligible for valuation and taxation as forestland. (4-6-05)

c. Example 3. A landowner owns five hundred and six (506) acres consisting of one (1) five hundred (500) acre parcel of forestland and six (6) one (1) acre parcels of forestland that are contiguous to the five hundred (500) acre parcel but may or may not be contiguous to one another. The entire five hundred and six (506) acres are eligible for valuation and taxation as forestland. (4-6-05)

d. Example 4. A landowner owns six (6) non-contiguous one (1) acre parcels of forestland. The six (6) one (1) acre parcels are not eligible for valuation and taxation as forestland. (4-6-05)

e. Example 5. A landowner owns six (6) contiguous one (1) acre parcels of forestland. The six (6) one (1) acre parcels are eligible for valuation and taxation as forestland. (4-6-05)

962. TAXATION OF DESIGNATED FORESTLANDS (RULE 962).
Section 63-1705, Idaho Code

01. Forestland Valuation Process. The process used to determine the forestland value under the productivity option will be as specified in the User's Guide referenced in Section 63-1701, Idaho Code. (4-11-06)

02. Forest Valuation Zones. The state will be divided into four (4) forest valuation zones: (7-1-99)

a. ZONE 1 - Boundary, Bonner, Kootenai counties. (7-1-97)

b. ZONE 2 - Benewah, Shoshone, Latah, Clearwater, Nez Perce, Lewis, Idaho counties. (7-1-97)

c. ZONE 3 - Adams, Valley, Washington, Payette, Gem, Boise, Canyon, Ada, Elmore, Camas, Blaine, Gooding, Lincoln, Jerome, Minidoka counties. (7-1-97)

d. ZONE 4 - The remaining nineteen (19) counties. (7-1-97)

03. Classification of Forestlands. In all forest valuation zones, there will be three (3) separate productivity classes of forestland: poor, medium, and good. These broad classes are related in the following manner by definition to the "Meyer Tables" published in "Yield of Even-Aged Stands of Ponderosa Pine" and "Haig Tables" published in "Second-Growth Yield, Stand, and Volume Table for the Western White Pine Type" as both documents are referenced in Rule 003 of these rules. These classes apply to forestland which may or may not be stocked with commercial or young growth timber. (4-11-06)

a. Poor productivity class is defined as forestland having a mean annual increment, MAI, of one hundred twenty-five (125) board feet per acre per year, based on a seventy-three (73) year rotation. This productivity class includes western white pine site index 35-45 and Ponderosa pine site index 45-80. One hundred twenty-five (125) board feet per acre MAI will be used in the valuation process. (4-11-06)

b. Medium productivity class is defined as forestland having a mean annual increment, MAI, of two hundred twenty-five (225) board feet per acre per year, based on an sixty-eight (68) year rotation. This productivity class includes western white pine site index 46-60 and Ponderosa pine site index 81-110. Two hundred twenty-five (225) board feet per acre MAI will be used in the valuation process. (4-11-06)

c. Good productivity class is defined as forestland having a mean annual increment, MAI, of three hundred fifty (350) board feet per acre per year, based on an sixty-three (63) year rotation. This productivity class includes western white pine site index 61 and above and Ponderosa pine site index 111 and above. Three hundred fifty (350) board feet per acre MAI will be used in the valuation process. (4-11-06)

d. For forest valuation zones 1 and 2, forestland will be stratified into areas of similar productive potential using the habitat typing methodology described in "Forest Habitat Types of Northern Idaho: A Second Approximation," referenced in Rule 003 of these rules. Within these stratified areas, site index trees will be selected and measured that will identify the site index to be used to place the land in one (1) of the three (3) productivity classes listed above. (5-3-03)

e. For forest valuation zones 3 and 4, the criteria for stratification will be generally the same as that used in zones 1 and 2 based on the habitat typing methodology described in "Forest Habitat Types of Central Idaho," as referenced in Rule 003 of these rules, with the following adjustments made in growth rates for lower moisture levels; (3-26-19)

i. For poor productivity class, one hundred twenty-five (125) board feet per acre MAI will be used in the valuation process; (3-26-19)

ii. For medium productivity class, two hundred thirteen (213) board feet per acre MAI will be used in the valuation process; and (3-26-19)

iii. For good productivity class, three hundred twenty (320) board feet per acre MAI will be used in the valuation process. (3-26-19)

04. Deficient Areas. Lakes, solid rock bluffs, talus slopes, and continuously flooded swampy areas, larger than five contiguous acres in size which can be identified through remote sensing will be valued at forty percent (40%) of the poor bare land value as defined in Section 63-1706, Idaho Code. These areas are defined as being incapable of growing trees. (4-11-06)

05. Reclassification of Forestlands. Except as provided in Subsection 962.06 of this rule, no parcel's productivity classification can be changed from the classification as of January 1, 2016, until requirements for landowner notification, inspector qualifications, and document retention have been met. (3-26-19)

a. Landowner notification. Notice of intent to change classification must be provided in writing to the landowner of record or their designee within two (2) weeks of any determination by the county assessor of intent to change classification. Such notice must be provided no later than the first Monday in November for the change to be in effect during the following year. Notice may be delivered in person or by U.S. mail, or, if agreed to by the assessor and the landowner, by electronic mail. Notice of intent to change classification includes: (3-26-19)

i. A statement of intent to change the classification; (3-26-19)

ii. A statement of the present classification and the intended new classification; (3-26-19)

iii. A statement that the intent notice is not an assessment notice and that the assessment notice will be sent by the first Monday in June in the following year; (3-26-19)

iv. A statement that both the taxable value stated on the assessment notice and the classification may be appealed to the county board of equalization as provided in Section 63-501A, Idaho Code; and (3-26-19)

v. Contact information indicating assessor's office staff who may be contacted and how to do so. (3-26-19)

b. Inspector qualifications. The inspector is the person assigned by the county assessor to review property characteristics and complete a timberland classification form provided by the Tax Commission. The inspector must be proficient in each of the following: (3-26-19)

i. Navigating forest locations; (3-26-19)

ii. Skilled mapping techniques; (3-26-19)

iii. Establishment of plot locations; (3-26-19)

iv. Plant and tree identification; and (3-26-19)

v. Site tree identification and measurements. (3-26-19)

c. Inspector proficiency. Inspector proficiency must be established by a minimum of twelve (12) months of experience doing fieldwork, including reviewing the characteristics of timberland and: (3-26-19)

i. Passing a Tax Commission sponsored class on timberland appraisal and inspection; or (3-26-19)

ii. Passing equivalent courses from an accredited college or university; or (3-26-19)

iii. Obtaining a degree in forestry or a related field from an accredited institution. (3-26-19)

d. Documentation and retention. Documentation related to timberland productivity classification will be retained for no less than ten (10) years following classification determination. Documentation will include, but is not limited to: (3-26-19)

i. Timberland characteristics, on a form provided by the Tax Commission, with sufficient detail to verify the classification, including the calculation of productivity class as set forth in Subsection 962.03 of this rule; (3-26-19)

ii. The location of any field plots and any site trees using map or Global Positioning System (GPS) coordinates; (3-26-19)

iii. A map illustrating property boundaries, habitat type based stratifications as provided in Subsection 962.03 of these rules, and plot locations used in the determination of productivity class; (3-26-19)

iv. Any imagery used to assess the parcel prior to field review; (3-26-19)

06. Alternate Method to Establish Productivity Classification. Provided the county assessor and forestland owner agree and the data is deemed by the county to be acceptable and accurate, the data used to establish any parcel's productivity classification may be provided by the forestland owner. In this case, inspector qualifications and proficiency provisions of this rule will not apply. (3-26-19)

a. Data to be considered confidential. When productivity data is provided to the county by the forestland owner, it will be deemed confidential financial information and not subject to public disclosure, as provided in Rule 004 of these rules. (3-26-19)

b. Inspector certification not required. When the alternate method described in this section is to be used, the county will not be required to have a certified inspector to review property characteristics. (3-26-19)

c. Acceptable classification. To be considered acceptable, the classification of the timberland so established must result in market value for assessment purposes as defined in Section 63-1705(3), Idaho Code. (3-26-19)

963. CERTAIN FORESTLANDS TO BE DESIGNATED FOR TAXATION BY OWNER -- LIMITATIONS (RULE 963).

Section 63-1705 and 63-1706, Idaho Code

01. Designation of Forest Parcels. A forest landowner may choose to have the total acreage of forestland parcels owned within the state designated under the provisions of either Section 63-1705 or 63-1706, Idaho Code. The forest landowner cannot have parcels in both designations. If the new owner owns no forestland in the state designated under Section 63-1705 or 63-1706, Idaho Code, he may choose the option of forest taxation he desires. Designation will be made on or before December 31st, of the year preceding assessment and will be effective for the following year. Where forest property is held in joint ownership, all co-owners must mutually agree on a property designation under Section 63-1703(a) and (b), Idaho Code. Each co-owner must make a timely designation. Where co-owners are unable to agree on a mutual designation or fail to make a designation, the forestland will be subject to appraisal and assessment as provided in Section 63-1702, Idaho Code. (7-1-97)

02. Change in Use. Failure to notify the assessor of the change in use when lands have been designated will cause forfeiture of the designation as to the changed acres, and the property will be appraised, assessed and taxed, as provided in Section 63-1702, Idaho Code, from the date of latest designation or renewal. (7-1-97)

03. Certain Lands With No Deferred Taxes. There are no deferred taxes on lands designated under Section 63-1705, Idaho Code. (7-1-97)

964. YIELD TAX ON APPLICABLE FOREST PRODUCTS (RULE 964).

01. Calculation. The calculation described below will be used to update the bare forestland value for tax assessment purposes on an annual basis:

$$BLVz = ([0.5] \times [(Tz - Tn)/Tn)] + 1) \times (BLVy)$$

STEP 1:	Subtract Tn from Tz

STEP 2:	Divide the Answer in Step 1 by Tn	
STEP 3:	Multiply the Answer in Step 2 by **0.5**	
STEP 4:	Add **1** to the Answer in Step 3	
STEP 5:	Multiply **BLVy** by the Answer in Step 4	
KEY:		
BLVz	=	Bare forestland value for next year
BLVy	=	Bare forestland value for current year
Tz	=	Five year average stumpage value ($/MBF) for the period ending in the current year
Tn	=	Five year average stumpage value ($/MBF) for the period ending one year ago

(4-11-06)

02. Stumpage Value. The stumpage value will be the same as that used in the productivity valuation process by zone. (4-11-06)

03. Bare Forestland Value. After review of the productivity valuation process by March 1 each year, the Tax Commission will review and adjust, as appropriate, the bare forestland values for the current year. (4-11-06)

04. Landowner's Report. By June 1, of each year the county treasurer will make a written report to include the forest landowner's name, legal description of forest property owned, and yield taxes paid for the current assessment year. This report will be submitted to the county auditor and a record will be maintained for ten (10) years and not disposed of until the eleventh year. (4-11-06)

965. (RESERVED)

966. RECAPTURE OF DEFERRED TAXES ON LANDS DESIGNATED UNDER SECTION 63-1706, IDAHO CODE (RULE 966).
Section 63-1703, Idaho Code

01. Ownership Interest/Deferred Taxes. Where forestland is held in joint ownership, a transfer of ownership for purposes of recapturing deferred taxes will occur when any one (1) of the legal entities holding an ownership interest in the subject property will convey, transfer, or otherwise dispose of their ownership interest or portion thereof. Any such transfer of ownership will subject the entire parcel to recapture of deferred taxes, unless the new owner timely redesignates their ownership interest under Section 63-1706, Idaho Code. (7-1-97)

02. Deferred Tax Responsibility. Deferred taxes will be the responsibility of the selling landowner. Deferred taxes will constitute a lien on the land. (3-30-01)

03. Change in Use/Deferred Taxes. For forestland designated under Section 63-1706, Idaho Code, but subject to recapture of deferred taxes as provided in Section 63-1703, Idaho Code, because of a change in use with no change in ownership, recapture of deferred taxes will be calculated in the following manner: (5-8-09)

a. The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current market value for assessment purposes of the property during the current year; (3-30-01)

b. Multiplied by the current levy for the tax code area or areas in which the parcel lies; (3-30-01)

c. Multiplied by the number of years, including the entire current year, the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit will be allowed for any yield tax paid up to the amount of the deferred taxes. (3-30-01)

04. Transfer of Ownership/Deferred Taxes. For forestland designated under Section 63-1706, Idaho Code, but subject to recapture of deferred taxes as provided in Section 63-1703, Idaho Code, because of a change in ownership or a removal of the designation, recapture of deferred taxes will be calculated in the following manner: (5-8-09)

a. The difference between the current bare land value for the correct class of land in the forest value zone in which the parcel lies and the current productivity value for the correct class of land in the forest value zone in which the parcel lies, for the current year; (3-30-01)

b. Multiplied by the current levy for the tax code area or areas in which the parcel lies; (3-30-01)

c. Multiplied by the number of years, including the entire current year, which the lands have been subject to designation under Section 63-1706, Idaho Code, not to exceed ten (10) years. Additionally, a credit will be allowed for any yield tax paid up to the amount of the deferred taxes. (3-30-01)

05. Investment Lands. Investment lands are defined as those in secondary categories 1, 2, 3, 4, 5, and 9, as defined in Rule 510 of these rules. (4-2-08)

967. -- 981. ***(RESERVED)***

982. REPORTING NET PROFITS OF MINES (RULE 982).
Sections 63-2801, 63-2802 and 63-2803, Idaho Code

01. Amount to be Reported. The amount of money received from the sale of minerals or mined metals during the calendar year immediately preceding the current tax year will be reported by the owner of the mine or mining claim. If there is no sale, but minerals or mined metals are shipped to a smelter or other facility, an amount of money equivalent to that which would have been received from sale of the shipped minerals or mined metals will be reported. Moneys received from rents, commissaries, discounts on purchases, and investments are not to be included. A separate annual net profit statement will be filed by the owner of mines or mining claims, for each mine or mining claim located in any county in Idaho. The statement filed with any county assessor will not include amounts received pursuant to mines or mining claims located outside the county. The owner will complete the statement on forms prescribed by the Tax Commission. (4-5-00)

02. Additional Allowable Deductions. In addition to deductions specified in Section 63-2802, Idaho Code, the following expenditures can be subtracted from the amount of money or equivalent to be reported. (4-5-00)

a. Expenses for Social Security, worker's compensation, insurance provided by the employer for the benefit of employees at the mine, fire and water protection, first aid and safety devices, mine rescue materials, experimental work reasonably connected with reduction of the ores. (4-5-00)

b. Expenses for improvements made during the year immediately preceding the current tax year. (4-5-00)

c. Expenses for reclamation or remediation not previously deducted, including payments into a sinking fund mandated by law for reclaiming or remediating the mining site. (4-5-00)

03. Non-deductible Items. In addition to expenditures specified as non-deductible pursuant to Section 63-2802, Idaho Code, the following expenditures can not be subtracted from the amount of money to be reported. (4-5-00)

a. Federal, state and local taxes and license fees. (4-5-00)

b. Depreciation, depletion, royalties, and donations. (4-5-00)

c. Insurance except as listed in Subsection 982.02.a. (5-3-03)

d. Construction repair, and operation of dwellings, community buildings and recreational facilities. (4-5-00)

e. Miscellaneous administrative and other expenses not related to labor, machinery or supplies needed for mining, reducing ores, construction of mills and reduction works, transporting ore and extracting metals and minerals from ore. (4-5-00)

983. -- 987. (RESERVED)

988. QUALIFIED PROPERTY FOR EXEMPTION (RULE 988).
Sections 63-302, 63-313, 63-404, and 63-3029B, Idaho Code

01. Definitions. The following definitions apply for the purposes of the property tax exemption under Section 63-3029B, Idaho Code, and do not decide investment tax credit eligibility for Idaho income tax purposes. (3-20-04)

a. Year in which the investment is placed in service. "Year in which the investment is placed in service" means the calendar year the property was put to use or placed in a condition or state of readiness and availability for a specifically assigned function in the production of income. (4-6-05)

b. Operator's Statement. The "operator's statement" is the annual statement listing all property subject to assessment by the Tax Commission and prepared under Section 63-404, Idaho Code. (3-20-04)

c. Personal Property Declaration. A "personal property declaration" is any form required for reporting personal property or transient personal property to the county assessor under Sections 63-302 or 63-313, Idaho Code, respectively. (3-20-04)

d. Qualified Investment. "Qualified investment" means property that would have otherwise been taxable for property tax purposes and is eligible or qualified under Section 63-3029B, Idaho Code, provided that property is reported on the personal property declaration or operator's statement and is designated as exempt from property tax for two (2) years on Form 49E. (3-20-04)

e. Qualified Investment Exemption. The "qualified investment exemption" (QIE) referred to in this rule is the property tax exemption under Section 63-3029B, Idaho Code. (3-20-04)

f. Assessor. The "assessor" is the representative of the county assessor's office or the Tax Commission who is responsible for the administration of the QIE. (3-29-12)

02. Designation of Property for Which Exemption Is Elected. The owner will designate the property on which the QIE is elected. The owner will make this designation on Form 49E and attach it to a timely filed personal property declaration or, for operating property, the timely filed operator's statement. The description of the property on Form 49E must be adequate to identify the property to be granted the exemption. In addition to all other steps required to complete the personal property declaration or operator's statement, the owner must provide on the personal property declaration or operator's statement the date the item elected for the QIE was placed in service. (4-11-15)

03. Election for Investments Not Otherwise Required to Be Listed on the Personal Property Declaration. For investments, like single purpose agricultural or horticultural structures, that are not otherwise required to be listed on the personal property declaration, the owner must list that property to elect the QIE. As with any property designated for the QIE, the owner must attach Form 49E to the personal property declaration. (3-20-04)

04. Continuation of Listing. For all property designated for QIE, even though that property is exempt for two (2) years, the owner must list that property on the personal property declaration or operator's statement in the initial year for which the QIE is claimed and the following four (4) consecutive years, unless that property has been sold, otherwise disposed of, or ceases to qualify pursuant to Section 63-3029B, Idaho Code. (3-20-04)

05. Period of QIE. The QIE will be granted for the two (2) calendar years immediately after the end of

the calendar year in which the property acquired as a qualified investment was first placed in service in Idaho. (3-20-04)

06. Election Specificity. The QIE election provided by Section 63-3029B, Idaho Code, will be specific to each qualified item listed on the personal property declaration or operator's statement. An item that is a qualified investment, but for which there is no QIE election during the year after the "year in which the investment is placed in service" in Idaho, is not eligible for the QIE. (4-6-05)

07. Notification by Assessor. (4-6-05)

a. Upon Receipt of Form 49E or a Listing. Upon receiving Form 49E or any listing provided to comply with Subsection 988.08 or 988.12 of this rule, the assessor will review the application and determine if the taxpayer qualifies for the property tax exemption under Section 63-3029B, Idaho Code. If the assessor determines that the property tax exemption should be granted, the assessor will notify the taxpayer and, if applicable, send a copy of this form or listing to the Tax Commission. (3-29-12)

b. Upon Discovery of Changes. Upon discovering that property granted the QIE was sold, otherwise disposed of, or ceased to qualify under Section 63-3029B, Idaho Code, within the five (5) year period beginning with the date the property was placed in service, the assessor will notify the Tax Commission and the taxpayer immediately. The assessor will also provide this notification upon discovery that the owner first claiming the QIE failed to list the item on any personal property declaration or failed to file a personal property declaration in any year during this five (5) year period. This notice will include: (3-29-12)

i. Owner. Name of the owner receiving the QIE. (4-6-05)

ii. Property description. A description of the property that received the QIE. (4-6-05)

iii. New or used. State whether the individual item was purchased new or used. (4-6-05)

iv. Date placed in service. The date the owner reported the item was first placed in service in Idaho. (4-6-05)

v. First year value of QIE. For each item, the amount of exempt value in the first year the QIE was elected and an identification of the year. (4-6-05)

vi. Second year value of QIE. For each item, the amount of exempt value in the second year after the QIE was elected. (4-6-05)

vii. Tax code area number. For each item, the number of the tax code area within which that item was located. (4-6-05)

c. Denial of the QIE. Upon review of the taxpayer's application, if the assessor determines that the property tax exemption should not be granted for all or part of the market value of any item or items, then the assessor will deny the exemption for those items. The assessor will notify the taxpayer electing the QIE and will identify the basis for the denial. The assessor's notification cancels the election with respect to those items. Upon receiving this notification, the taxpayer is then free to pursue the income tax credit under Section 63-3029B, Idaho Code, for those items denied the QIE by the assessor. (3-29-12)

08. Moved Personal Property. In order to provide unmistakable identification of the property, certain taxpayers must send written notification by the date provided in Section 63-302, 63-313, or 63-404, Idaho Code, when moving property that previously received the QIE. This notification: (3-20-04)

a. Is required of taxpayers moving locally assessed property between counties in Idaho during the five (5) year period beginning the date that property was placed in service; (4-6-05)

i. The taxpayers send this notification to the assessor in the county that granted the QIE and the assessor in any Idaho county to which the property has been moved. (4-6-05)

ii. The taxpayers must include a listing which describes the property exactly as it was described on the original Form 49E or cross references the property originally listed on Form 49E. (4-6-05)

b. Is not required of taxpayers when the property is Tax Commission assessed non-regulated operating property. (4-6-05)

09. Notification Regarding Transient Personal Property. For transient personal property elected for the QIE, the definition of home county in Section 63-313, Idaho Code, and Rule 313 of these rules, applies. When a home county receives information of an election for QIE and a notice that the exempt property was used in another county in Idaho, the home county must forward information identifying that property to the other county(ies) in accordance with procedures in Section 63-313, Idaho Code. Also, the home county assessor will send a copy of this notice to the Tax Commission. (3-20-04)

10. Partial-Year Assessments. Property assessed based on a value prorated for a portion of the year in which the property is first placed in service may still be eligible for the QIE in the subsequent two (2) calendar years, provided the QIE is elected. (3-20-04)

11. Limitation on Amount of Exemption. (3-20-04)

a. New Property. The QIE will be for the full market value for assessment purposes for new property that is a qualifying investment. (3-20-04)

b. Used Property. The QIE for used property placed in service during a taxable year for income tax purposes will be limited. For each taxpayer, the QIE will be the lesser of the QIE cost or the current year's market value in accordance with the following procedure: (4-6-05)

i. QIE cost will be determined for each item of used property upon which the QIE is claimed. QIE cost is the lesser of an item's cost or one hundred fifty thousand dollars ($150,000); provided, however, that the QIE cost for all elected used property will not exceed one hundred fifty thousand dollars ($150,000) in a taxable year (See Example B in Subparagraph 988.11.c.ii., of this rule). In the event the cost of one (1) or more items of used property exceeds one hundred fifty thousand dollars ($150,000), QIE cost will reflect the reduction necessary to stay within the one hundred fifty thousand dollar ($150,000) limit (See IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719 for information on the selection of items of used property). (4-6-05)

ii. For each item purchased used, the QIE will be limited to the lesser of the QIE cost or the current year's market value (See Example B in Subparagraph 988.11.c.ii., of this rule). (4-6-05)

c. Examples. In the following examples, all of the property is owned by the same taxpayer and is a qualified investment. (4-6-05)

i. Example A. In Example A, 2004 is the first year during which the qualified investment receives the QIE. The taxpayer may decide which of the used items placed in service in 2003 is considered first for the exemption. In this example, computer 1 has been given the exemption first. Since the limitation is based on cost, the remaining used property exemption cannot exceed one hundred thirty thousand dollars ($130,000) and the QIE cost is determined accordingly. The conveyor belt is a new investment, first eligible for the QIE in 2005. In 2006, the assembly line, computer 1, and computer 2 would be fully taxable at the market value as of January 1, 2006.

Example A										
Property Description (same taxpayer)	Year Placed in Service	Cost	New or Used	QIE Cost	2004 Market Value	2004 Exempt Value	2004 Taxable Value	2005 Market Value	2005 Exempt Value	2005 Taxable Value
Computer 1	2003	$20,000	Used	$20,000	$12,000	$12,000	$0	$8,000	$8,000	$0
Assembly line	2003	$160,000	Used	$130,000	$140,000	$130,000	$10,000	$110,000	$110,000	$0

Example A										
Property Description (same taxpayer)	Year Placed in Service	Cost	New or Used	QIE Cost	2004 Market Value	2004 Exempt Value	2004 Taxable Value	2005 Market Value	2005 Exempt Value	2005 Taxable Value
Computer 2	2003	$50,000	New	N/A	$40,000	$40,000	$0	$30,000	$30,000	$0
Conveyor belt	2004	$200,000	Used	$150,000	N/A	N/A	N/A	$200,000	$150,000	$50,000

(4-6-05)

ii. Example B. In Example B, the property was purchased at auction for a cost much less than its market value.

Example B										
Property Description	Year Placed in Service	Cost	New or Used	QIE Cost	2006 Market Value	2006 Exempt Value	2006 Taxable Value	2007 Market Value	2007 Exempt Value	2007 Taxable Value
Construction Equipment	2005	$20,000	Used	$20,000	$80,000	$20,000	$60,000	$70,000	$20,000	$50,000

(4-6-05)

d. Used Property Placed in Service by Fiscal Year Taxpayer. If a taxpayer had a fiscal year beginning July 1, 2004, and placed one hundred fifty thousand dollars ($150,000) of qualifying used property in service on May 15, 2004, and an additional one hundred fifty thousand dollars ($150,000) of qualifying used property in service on August 1, 2004, the taxpayer would qualify for an exemption of up to three hundred thousand dollars ($300,000) on this used property in 2005 and 2006. The exempt value in the second year of the exemption could not exceed the lesser of three hundred thousand dollars ($300,000) or the (depreciated) market value of this used property. (4-6-05)

12. Multi-County Taxpayers. (3-20-04)

a. Except taxpayers electing QIE for property that is Tax Commission assessed operating property, any taxpayers electing the QIE for properties purchased new must indicate on Form 49E the county where each property is located or must complete a separate Form 49E and attach it to the personal property declaration submitted to each county. (3-20-04)

b. Except taxpayers electing QIE for property that is Tax Commission assessed operating property, any taxpayers electing the QIE for properties purchased used must attach any Form 49E listing property purchased used to the personal property declaration sent to each county. A Form 49E listing only property purchased used may be provided to comply with this requirement. (3-20-04)

c. Any taxpayers electing QIE for property that is Tax Commission assessed non-regulated operating property and purchased new or used must indicate on Form 49E each county where each property is located and attach it to the operator's statement. (4-6-05)

d. If multiple Form 49Es are submitted to one (1) or more assessors, a copy of each Form 49E must be attached to the correct year's income tax return. (3-20-04)

13. Special Provisions for Non-regulated Operating Property. (4-6-05)

a. For non-regulated operating property, the market value of the QIE is calculated by multiplying the

depreciated original cost of the property times the ratio of the correlated value determined under Subsection 405.08 of these rules to the cost approach value determined under Subsection 405.02 of these rules. (4-6-05)

b. The following special provisions apply for the reduction in market value of non-regulated operating property resulting from QIE being elected. (4-6-05)

i. Reduction in Idaho value. For non-regulated operating property except situs property, the reduction in market value will be made by subtracting the market value of the QIE from the allocated Idaho value before apportionment to any taxing district or unit. (4-6-05)

ii. Reduction in market value of situs property owned by non-regulated operating property companies. For situs property owned by non-regulated operating property companies, the reduction in market value will be made by subtracting the market value of the specific investment in the specific location. (4-6-05)

14. Cross Reference. For more information relating to procedures and requirements for QIE, refer to Section 63-3029B, Idaho Code, and IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 719. For information relating to recapture of QIE, refer to Rule 989 of these rules. (4-6-05)

989. QUALIFIED INVESTMENT EXEMPTION (QIE) RECAPTURE (RULE 989).

Section 63-3029B, Idaho Code

01. In General. If a taxpayer has elected the property tax exemption (also known as the QIE) allowed by Section 63-3029B, Idaho Code, for property sold or otherwise disposed of prior to being held five (5) full years, or property that ceases to qualify or failed to originally qualify pursuant to Section 63-3029B, Idaho Code, the property tax benefit will be subject to recapture. (3-29-10)

02. Notification by Taxpayer That Property Ceases to Qualify. If an item on which a taxpayer claimed the QIE ceases to qualify during the recapture period or was incorrectly claimed by the taxpayer as qualified investment, the taxpayer will provide notification of the amount owing and will remit said amount to the Tax Commission by the due date of that taxpayer's income tax return, irrespective of any income tax extensions of the income tax payment, for the income taxable year in which such event occurs. Notification will be accomplished by filing Tax Commission Form 49ER. For each item of property, for each year in which the QIE was granted, the taxpayer will include with such notification the following: (3-29-10)

a. A description of the item that ceases to qualify, (4-6-05)

b. The county where the item was located, (4-6-05)

c. The date the item was placed in service, (4-6-05)

d. The date the item was no longer qualified for the QIE, (4-6-05)

e. The amount of value exempted from property tax each year, and (4-6-05)

f. The amount of the property tax benefit recapture. (4-6-05)

03. Notification in Case of Failure by Taxpayer to File Form 49ER. If any taxpayer who is required to file Form 49ER fails to do so by the date specified in Subsection 989.02 of this rule, the Tax Commission will issue a Notice of Deficiency in the manner provided in Section 63-3045, Idaho Code, to the taxpayer who claimed the QIE. The notice will show the calculation of the recaptured property tax benefit. (4-6-05)

04. Protest of Recapture. If a taxpayer does not agree with the Notice of Deficiency issued to assert the recapture, the taxpayer may file a protest with the Tax Commission to request a redetermination of the deficiency. The protest will meet the requirements as provided in Section 63-3045, Idaho Code, and IDAPA 35.02.01, "Tax Commission Administrative and Enforcement Rules," Rule 320. (4-6-05)

05. Property Tax Benefit Subject to Recapture. For any item determined to be subject to the

recapture of the property tax benefit under Section 63-3029B(4)(d), Idaho Code, the taxpayer will multiply the exempt value of the property by the applicable average property tax levy determined by the Tax Commission under Subsection 989.06 or 989.07 of this rule. The result of this calculation will be multiplied by the recapture percentage found in the following table.

Table for Reduction of Property Tax Benefit Subject to Recapture	
Time Held/Time Qualifying	**Recapture Percentage**
Less than one (1) year	100%
Equal to one (1) year but less than two (2) years	80%
Equal to two (2) years but less than three (3) years	60%
Equal to three (3) years but less than four (4) years	40%
Equal to four (4) years but less than five (5) years	20%

The taxpayer will report this calculation on Form 49ER and will submit this form and remit the amount calculated to the Tax Commission no later than the date indicated in Section 989.02 of this rule. (3-30-07)

06. County Average Property Tax Levy -- Locally Assessed Property Located in One (1) County or Non-apportioned Centrally Assessed Property. For locally assessed property located in one (1) county or non-apportioned centrally assessed property, the Tax Commission will compute and report the county average property tax levy according to the following procedure. (4-6-05)

a. Property Tax Budget Summation - General. Except as provided in Paragraph 989.06.b. of this rule, for each year, sum the property tax portion of the annual budget of each taxing district wholly located within the county for which the average levy is to be calculated. This is the approved amount found on the taxing district's L-2 Form in the column entitled "Balance to be levied" as described in Rule 803 of these rules. To this amount, add the prorated portion of the approved "Balance to be levied" for any taxing district located partially within the county for which the average levy is to be calculated. The prorated portion is determined by multiplying the levy for the taxing district by the taxable value (as defined in Section 63-803(4), Idaho Code) of the portion of the taxing district within the county for which the average levy is to be calculated. (4-7-11)

b. Property Tax Budget Summation - Special Rules for Counties with Urban Renewal Revenue Allocation Areas. This provision is applicable when taxing districts in the county have funds with levies calculated including all or part of an urban renewal revenue allocation area increment value pursuant to Sections 50-2908(1)(a) through (e), Idaho Code. (4-7-11)

i. For any such fund, the prorated portion is determined by multiplying the levy of the fund by the taxable value within the county, including the increment value, used to determine the levy for that fund. (4-7-11)

ii. For any such fund for which the entire increment value is added to the taxable value before computing the levy, the sum of the property tax portion of the annual budgets and prorated portions of such budgets must be determined. (4-7-11)

iii. For any such fund for which part of the increment value is added to the taxable value before computing the levy, the sum of the property tax portion of the annual budgets and prorated portions of such budgets must be determined. (4-7-11)

iv. Provided that some taxing district funds within the county are subject to the levy calculation procedures identified in Subparagraphs 989.06.b.ii. and/or iii. of this rule, for all funds other than those identified in this rule, the sum of the property tax portion of the annual budgets and prorated portions of such budgets must be determined. (4-7-11)

c. Average Property Tax Levy. (4-7-11)

i. For counties without urban renewal revenue allocation areas, the average property tax levy will be computed by dividing the total of the property tax budgets computed in Paragraph 989.06.a. of this rule, by the taxable value (as defined in Section 63-803(4), Idaho Code) of the county for which the average levy is to be calculated. (4-7-11)

ii. For counties with urban renewal revenue allocation areas and funds with levies calculated including all or part of urban renewal revenue allocation area increment value pursuant to Sections 50-2908(1)(a) through (e), Idaho Code, the average property tax levy will be computed by summing the quotients determined by dividing the sums determined in Subparagraphs 989.06.b.ii., iii., and iv., by the taxable value of the county including the entire increment value, part of the increment value, or none of the increment value, depending on whether all, part, or none of the increment value has been used to determine the levy. (4-7-11)

d. Notice to Each County Auditor. The Tax Commission will notify each county auditor of the county's current year's average property tax levy no later than the first Monday in December each year. (4-6-05)

07. Statewide Average Property Tax Levy -- Locally Assessed Property Located in More Than One County or Apportioned Centrally Assessed Property. For locally assessed property located in more than one (1) county or apportioned centrally assessed property, the Tax Commission will determine the average urban property tax levy of the state and will notify each county auditor of said average no later than the first Monday in December each year. (4-6-05)

08. Noticing Remittance for the Recapture of the Property Tax Benefit. When the Tax Commission remits to a county the property tax benefit recaptured under Section 63-3029B(4)(f), Idaho Code, it will include with this remittance a notice identifying the following: (4-6-05)

a. Owner. Name of the owner receiving the QIE; (4-6-05)

b. Property Description. A description of the property that received the QIE; (4-6-05)

c. First Year Value of QIE. The amount of exempt value in the first year the QIE was elected and an identification of the year; (4-6-05)

d. Second Year Value of QIE. The amount of exempt value in the second year after the QIE was elected; (4-6-05)

e. Tax Code Area Number. The number of the tax code area within which that item was located; and (4-6-05)

f. Amount Remitted. The amount of money remitted for any item. (4-6-05)

09. No Allocation of Remittances to Urban Renewal Agencies. Remittances received by a county for property tax benefits recaptured under Section 63-3029B(4)(f), Idaho Code, will not be subject to allocation to urban renewal agencies. (4-6-05)

10. Penalty and Interest. Penalty and interest will be determined as provided in Sections 63-3045 and 63-3046, Idaho Code. Penalty and interest will be computed from the due date found in Subsection 989.02 of this rule. (4-6-05)

11. Cross Reference. For more information relating to QIE, refer to Section 63-3029B, Idaho Code, and Rule 988 of these rules. (4-6-05)

990. -- 994. (RESERVED)

995. CERTIFICATION OF SALES TAX DISTRIBUTION (RULE 995).
Section 63-3638, Idaho Code

01. Most Current Census. Population will be from the most current population census or estimate of

incorporated city populations available from "Table 4, Annual Estimates of the Resident Population for Incorporated Places in Idaho" and estimate of county populations from "Table 1, Annual Estimates of the Resident Population for Counties of Idaho" available from the Bureau of the Census during the quarter of the year for which any distribution of sales tax money is to be made. If the Tax Commission is notified that the Bureau of the Census has revised any city or county population estimates, the revised estimates will be used for the distribution of sales tax money. (4-4-13)

02. Market Value for Assessment Purposes. Market value for assessment purposes means the market value certified to the Tax Commission pursuant to Section 63-510, Idaho Code, and will include homeowner's exemptions and the value of personal property exempt pursuant to Section 63-602KK(2), Idaho Code, as determined for tax year 2013, and the amount of real and personal property value which exceeds the assessed value shown on the base assessment roll for a revenue allocation area as defined in Section 50-2903(15), Idaho Code, for the calendar year immediately preceding the current fiscal year. (4-11-15)

03. Current Fiscal Year. For the purposes of this section, current fiscal year means the current fiscal year of the state of Idaho. For distribution purposes, the current fiscal year will begin with the distribution made in October, following collection of sales taxes in July, August, and September. (3-30-01)

04. Incorporated City. Incorporated city will, for the current fiscal year, have a duly elected mayor and city council. (4-4-13)

05. Valuation Estimates. Valuation estimates for distribution of revenue sharing monies will be updated at least annually. Updated estimates will be used beginning with the October distribution. (4-4-13)

06. Determination Date and Eligibility. (4-11-15)

a. General eligibility. Except as provided in Paragraph 995.06.b. of this rule, the eligibility of each city for revenue sharing monies pursuant to Section 63-3638(10)(a), Idaho Code, will be determined as of July 1 of the current year. Cities formed after January 1, 2001, will also be entitled to a share of the money pursuant to the provisions of Section 63-3638(10)(c), Idaho Code. (4-11-15)

b. Ineligibility as a result of non-compliance. Otherwise eligible taxing districts that are found to be out of compliance with the requirements of Section 67-450B, Idaho Code, or Section 67-450E, Idaho Code, will be ineligible for distributions provided under Section 63-3638(10), Idaho Code, commencing with the next scheduled quarterly distribution following the Tax Commission's receipt of notification of non-compliance and continuing until the distribution following the Tax Commission's receipt of notification of compliance. At that time the Tax Commission will add to the current quarterly distribution any amount previously withheld under these provisions. (3-28-18)

07. Quarterly Certification. Except if shares are required to be withheld pursuant to Sections 67-450B and 67-450E, Idaho Code, the Tax Commission will certify quarterly to each county clerk the base and excess shares of the distributions required pursuant to Section 63-3638(10)(c) and 63-3638(10)(d), Idaho Code, and the distributions to cities and counties required pursuant to Section 63-3638(10)(a) and 63-3638(10)(b), Idaho Code. Each county clerk will calculate and certify the distribution of these monies to the eligible taxing districts based on the directives of the Tax Commission. (4-11-15)

a. City and County Base Shares. For cities and counties, the initial base share will be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. In addition, the initial base share will be adjusted proportionally to reflect increases that become available or decreases that occur, unless increases exceed five percent (5%) of the initial base share. (3-30-01)

b. Special Purpose Taxing District Base Shares. For special purpose taxing districts the initial base share will be the amount of money to which they were entitled for the fourth calendar quarter of 1999, based on the provisions of Section 63-3638(e), Idaho Code, as such section existed prior to July 1, 2000. Special purpose taxing district initial base shares will be proportionally reduced to reflect decreases in the amount of sales tax available to be distributed. (3-30-01)

c. Excess Shares. Excess shares will be any amounts above the base share that any city, county or special purpose taxing district is entitled to receive pursuant to Section 63-3638(10)(c) or 63-3638(10)(d), Idaho Code. These amounts will not be subject to redistribution provisions of Section 40-801, Idaho Code. (4-6-05)

d. Shares Pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code. Shares to be distributed pursuant to Section 63-3638(10)(a) or 63-3638(10)(b), Idaho Code, will be termed "revenue sharing." Such shares will be subject to quarterly distribution and for this purpose, the one million three hundred twenty thousand dollars ($1,320,000) distribution pursuant to Section 63-3638(10)(b)(i), Idaho Code, will be considered an annual amount and will be divided into four (4) equal shares. (4-6-05)

e. Amounts authorized to be paid to counties for redistribution to taxing districts will be withheld if necessary to comply with the requirements of Sections 67-450B and 67-450E, Idaho Code. The Tax Commission will identify the district for which amounts are being withheld and the amount being withheld. The county should notify the district accordingly and notify them that they will receive the withheld funds following a determination by the legislative services office that they are in compliance with the provisions of these statutes. Withheld funds will be distributed by the Tax Commission no later than the next quarterly sales tax distribution due date following receipt by the Tax Commission of a determination by the Legislative Services Office that a previously non-compliant taxing district is in compliance. (3-28-18)

f. Amounts authorized to be paid to an urban renewal agency pursuant to Section 63-3638(13), Idaho Code, will be withheld if the agency has not complied with the reporting requirements of Section 50-2913, Idaho Code. The Tax Commission will notify the urban renewal agency of the amount being withheld and notify the urban renewal agency that the withheld funds will be distributed by the Tax Commission no later than the next quarterly sales tax distribution due date after the urban renewal agency has complied with the reporting requirements of Section 50-2913, Idaho Code. (3-28-18)

08. Notification of Value. The county auditor will notify the Tax Commission of the value of each taxing district and unit as specified in Section 63-510, Idaho Code. (3-30-01)

09. Corrections. (3-30-01)

a. When distributions have been made erroneously, corrections will be made to the following quarterly distribution(s) so as to provide the quickest practicable restitution to affected taxing districts. Corrections will be made to reconcile erroneous distributions made for the current fiscal year. Errors made in distributions for the last quarter of the current fiscal year will be corrected as soon as practicable in distributions made for the following fiscal year. (4-6-05)

b. The Tax Commission will notify affected county clerks when the Tax Commission becomes aware of an error in the distribution of the base or excess shares. (3-30-01)

c. The Tax Commission will notify affected cities or county clerks when the Tax Commission becomes aware of an error in the distribution of city or county revenue sharing monies. (3-30-01)

996. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with sections 63-105(2), 63-2427, 40-312 and 41-4909, Idaho Code, the *State* Tax Commission *(Commission)* has promulgated rules implementing the *Idaho Fuels Tax Act,* provisions of the *Motor Vehicle Registration Ace,* and the *Transfer Fee* provisions of the Idaho Clean Water Trust Fund Act. *( )*

001. TITLE AND SCOPE (RULE 001).

01. Title. These rules are titled IDAPA 35.01.05, "Idaho Motor Fuels Tax Administrative Rules." (4-11-15)

02. Scope. These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority for: (4-11-15)

a. Motor Fuels Tax. The imposition of a motor fuel tax on each gallon of motor fuel received and on the use of or other consumption of motor fuel in this state. This also includes the administration of the International Fuel Tax Agreement (IFTA). (4-11-15)

b. Transfer Fee. The imposition of a transfer fee upon each gallon of petroleum or petroleum products received and subject to the transfer fee as authorized by Chapter 49, Title 41, Idaho Code. (4-11-15)

c. Registration Records. The imposition of records requirements for Idaho International Registration Plan (IRP) and Full Fee registration audits authorized by Chapter 4, Title 49, Idaho Code. (4-11-15)

***002*. ADMINISTRATIVE APPEALS (RULE *002*).**
Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code This chapter allows administrative relief as provided under Sections 63-2434, 63-2442A, 63-2470, 41-4909, 49-439, and 63-3045 through 63-3049, Idaho Code and pursuant to Rules adopted by the Commission found in the Commission's administration and enforcement rules relating to income taxation, IDAPA 35.02.01. (3-29-17)

***003*. INCORPORATION BY REFERENCE (RULE *003*).**
Sections 63-2434, 63-2442A, 41-4909, and 49-439, Idaho Code

01. Income Tax Administration and Enforcement Rules. These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." *( )*

02. *IFTA*. These rules incorporate the IFTA governing documents: the IFTA Articles of Agreement (revised January 1, 2017), the IFTA Procedures Manual (revised January 1, 2017), and the IFTA Audit Manual (revised January 1, 2017). IFTA is an international agreement between jurisdictions to encourage use of the highway system by uniformly administering fuels use tax laws. The IFTA governing documents are equally binding on all IFTA member jurisdictions and licensees. Motor fuels users licensed or required to be licensed to operate under an Idaho IFTA license must comply with all applicable rules contained in these rules. These documents can be found on the IFTA website at http://www.iftach.org. *( )*

03. *IRP*. These rules incorporate the IRP governing documents: The IRP Plan (revised July 1, 2016) and IRP Audit Procedures Manual (revised January 1, 2016). IRP is an international registration reciprocity agreement. The documents are included to aid the Commission in complying with IRP registration application audits authorized in Chapter 4, Title 49, Idaho Code. These documents can be found on the IRP website at http://www.irponline.org. *( )*

***004*. -- 009. (RESERVED)**

010. DEFINITIONS (RULE 010).
Section 63-2401, Idaho Code
The definitions provided by statute, including the definitions in Section 63-2401, Idaho Code, apply to these rules. Additionally, the following definitions apply. (6-23-94)

0*1*. Commercial Motor Boat. A commercial motor boat, as defined in Section 63-2401, Idaho Code, includes a motor boat used in a business that rents boats to others who use the boats for pleasure. (6-23-94)

0*2*. Indian-Owned Retail Outlet. An Indian-owned retail outlet is: (4-11-06)

a. Located within the boundaries of a federally recognized Indian reservation; and (4-11-06)

b. Owned and operated by: (4-11-06)

i. The Coeur d'Alene, Kootenai, Nez Perce, Shoshone/Bannock, or Shoshone/Paiute tribe; or (4-11-06)

ii. An enterprise owned by one (1) of the tribes listed above; or (4-11-06)

iii. An enrolled member of one (1) of the listed tribes on whose reservation the retail outlet is located. (4-11-06)

03. Pay, Paid, Payable or Payment. When used in reference to any amount of tax, penalty, interest, fee or other amount of money due to the Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Commission of lawful money of the United States. *L*awful money of the United States means currency or coin of the United States at face value and negotiable checks that are payable in *lawful* money *except* any check *not* honored by the bank upon which it is drawn will not constitute payment. Additionally, the Commission *has the authority* to refuse to accept any check drawn upon the account of a taxpayer who has previously tendered any check that was dishonored by the bank upon which it was drawn. All amounts due the state must be paid by electronic funds transfer whenever the total amount of tax due plus any related fee, interest, penalty or other additional amount is one hundred thousand dollars ($100,000) or more, according to rules promulgated by the Idaho State Board of Examiners. *( )*

011. -- 109. (RESERVED)

110. CALCULATION OF MOTOR FUELS TAX ON GASEOUS SPECIAL FUELS (RULE 110).
Section 63-2424, Idaho Code

01. In General. The following applies to gaseous special fuels: (4-11-15)

a. A gaseous special fuel is a special fuel that is a gas at sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute. (4-11-15)

b. A gaseous special fuel may be sold at volumes or weights other than those listed in this section, but, must be converted to the volumes and weights used in this section for reporting purposes to ensure that the gaseous special fuels are taxed at the energy equivalent to a gallon of gasoline. (4-11-15)

02. Computing Gaseous Special Fuel Tax Equivalents. The gaseous special fuel tax is computed by multiplying the percentage of gasoline gallon energy equivalent times the current gasoline tax rate for each type of gaseous special fuel. Gaseous special fuel distributors are required to report the volumes and tax as required on the fuel distributor form.

Motor Fuel	BTUs per Gallon or Gallon Equivalent	Equivalent Volume	Percentage of Gasoline Gallon Energy Equivalent
Gasoline	127,000	1 gallon	100%
Propane	92,000	4.25 lbs. or 1 gallon	72.44%
Compressed Natural gas (CNG)	127,000 per GGE	126.67 cu. ft. or 5.66 lbs.@ 60° F	100%
Liquefied Natural Gas (LNG)	138,400 per DGE	6.06 lbs.	108.98%

(3-25-16)

111. -- 129. (RESERVED)

130. DISTRIBUTOR'S FUEL TAX REPORTS (RULE 130).
Sections 63-2406, 63-2407, 63-2408, and 41-4909, Idaho Code

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

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

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

04. Timely Reporting. Any motor fuel and other petroleum product shipments that are: (4-7-11)

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

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

05. Motor Fuels Receipts. All gasoline, natural gasoline, gasoline blend stocks, ethanol, ethanol blended fuels, aircraft engine fuel, biodiesel, biodiesel blends, and undyed diesel fuel or other special fuels received by a distributor are subject to the fuels tax and transfer fee. All receipts of dyed diesel fuel and other petroleum products that are not subject to the special fuels tax are subject to the transfer fee. The special fuels tax is not imposed on gaseous fuels when the fuels are received. Refer to Rule 132 of these rules for the taxation and reporting of gaseous fuels used in motor vehicles. (4-7-11)

06. Motor Fuels and Other Petroleum Products Presumed to be Distributed. Unless the contrary is established, it is presumed that all motor fuels and other petroleum products imported into this state by a distributor, which are no longer in the possession of that distributor, have been distributed. If the licensed distributor has returned to the refinery or pipeline terminal motor fuels and other petroleum products on which the tax and transfer fee has been paid or has had an accidental loss, the licensed distributor has the burden of showing the petroleum products were returned to the refinery or pipeline terminal or documenting the accidental loss. No refund of the transfer fee is allowed for accidental losses of motor fuels or other petroleum products. (3-29-17)

07. Exported Fuel. Motor fuels or other petroleum products claimed as exported from Idaho must be supported by records. Records must include the following: (3-29-17)

a. Tax reports or other evidence that will verify that the exported product was reported to and any tax due was paid to the jurisdiction into which the product was claimed to have been exported or evidence that the purchaser is a licensed distributor in the jurisdiction to which the exported product is destined; and (3-29-17)

b. Common carrier shipping documents, bills of lading, manifests, and cost billings; or (3-29-17)

c. Invoices, manifests, bills of lading or other documentation, signed by the receiving party to

acknowledge receipt of the product; or (3-29-17)

d. Accounts payable or receivable information for verifying payments to common carriers or payment by out-of-state parties to verify receipt of exported product. (3-29-17)

e. In addition to the above, for a licensed distributor who maintains operations in Idaho, as well as other jurisdictions, evidence such as product inventory and transfer records must be retained to prove the transfer of product out of Idaho. (3-29-17)

131. REQUIREMENT TO FILE MOTOR FUELS DISTRIBUTOR REPORTS ELECTRONICALLY (RULE 131).
Section 63-2406, Idaho Code

01. Electronic Filing Requirement. A motor fuels distributor who reports twenty-five (25) or more receipts or disbursements of motor fuels on its monthly distributor report is required to file the distributor report electronically. (3-29-10)

02. *Not* Report*ing* Electronically *as Required*. A motor fuels distributor who is required to file its distributor report electronically but does not file the report electronically is treated as if the distributor did not file the monthly report. *( )*

03. Waiver from Requirement to File Report Electronically. A motor fuels distributor can request a waiver from the requirement to file motor fuel distributor reports electronically. The distributor making the request for waiver must show that the cost to comply with this rule is unreasonable. The Commission will review each request for waiver and issue a determination. (3-29-10)

132. LICENSED GASEOUS SPECIAL FUELS DISTRIBUTOR'S REPORTS (RULE 132).
Section 63-2424, Idaho Code

01. Monthly Reports. Every licensed gaseous special fuels distributor (distributor) will file with the Commission a monthly tax report*, using equivalents from Rule 110 of these rules, with* supporting detailed schedules on forms *and in a manner* prescribed by the Commission. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report includes such information as the Commission may require*.* *( )*

02. Report Due and Payment Required. The report is due on or before the last day of the month following the month to which the report relates together with the payment of any tax, penalty or interest due. See Rule 010 of these rules relating to method of payment and requirement for payments of one hundred thousand dollars ($100,000) or more. (3-25-16)

03. *Not* Pay*ing* Tax. Any distributor required to pay the tax imposed by Section 63-2424, Idaho Code, who *does not* pay such tax is liable to the Commission for the amount of tax not paid plus any applicable penalty or interest. The Commission may collect such amounts in the manner provided in Section 63-2434, Idaho Code. *( )*

04. Receipt of Gaseous Fuels. The motor fuels tax is not imposed on gaseous special fuels when the fuels are received, as defined in Section 63-2403, Idaho Code. Propane and natural gas are presumed to be tax-exempt fuels unless delivered into the main supply tank of a licensed, or required to be licensed, motor vehicle. (3-25-16)

05. Documentation of Exempt Sales of Gaseous Special Fuels Delivered into Motor Vehicles. Gaseous special fuels delivered into the fuel supply tank of a licensed, or required to be licensed, motor vehicle are taxable except for: (3-25-16)

a. Government. Gaseous special fuels used by vehicles owned or leased, and operated by the federal government, or by an instrumentality of the state of Idaho, including all of its political subdivisions, are exempt from the motor fuels tax on gaseous special fuels. In this case, the distributor must record the name of the governmental entity, the license or identification number of the vehicle, and the type of vehicle on the sales document. (3-25-16)

b. Manned and Unmanned Stations. A manned station must have a representative at the point of sale to visually inspect the vehicle in order to make exempt sales of gaseous special fuels. Exempt sales of gaseous special fuels from an unmanned station are allowed when each sale is recorded by other visual means. When a distributor cannot meet the previous two requirements, it must request approval from the Commission before making exempt sales of gaseous special fuels. (3-25-16)

133. -- 134. (RESERVED)

135. *QUALIFIED CONSUMERS* (RULE 135).
Section 63-2427A, Idaho Code

01. ***Point of Taxation and Receipt Defined***. The state of Idaho imposes an excise tax on all motor fuel, except dyed diesel, and the transfer fee on all petroleum and petroleum products received in Idaho. See Rule 510 of these rules for the definition of petroleum and petroleum products. Motor fuel imported into Idaho is received at the time the fuel arrives in Idaho by the person who is the owner of the motor fuel when the fuel arrives in Idaho. Motor fuel produced in Idaho is received when it is placed into any tank or other container from which sales or deliveries not involving transportation are made. Motor fuels are also received by a qualified consumer who produces motor fuels when the motor fuels are placed into storage tanks. For example: *fifty-five (*55*)* gallon barrels, above ground tanks, stilt tanks, underground tanks, tank wagons, old delivery trucks, old tanker trucks, slip tanks in pickups, and any other storage tank used to store the motor fuel. The excise tax and transfer fee due on the motor fuel received in Idaho during a month are normally reported on a monthly Idaho Motor Fuels Distributor Report. *( )*

02. Alternative to Monthly Reporting for Qualified Consumers. As an alternative to obtaining an Idaho motor fuel distributor license and filing monthly reports, a qualified consumer may file an annual report to remit the motor fuel tax and transfer fee due to the state of Idaho or to receive a refund of excess tax or transfer fee paid. (7-1-99)

a. A qualified consumer is not required to pay the transfer fee on the biodiesel he produces. (3-29-10)

03. Qualifications. To be a qualified consumer under this rule, a person must: (7-1-99)

a. Use the produced biodiesel or imported motor fuel only in its own aircraft, motor vehicles, or equipment; and (3-29-10)

b. Import into Idaho one-hundred thousand (100,000) gallons or less of motor fuel in a calendar year; or (5-8-09)

c. Produce in Idaho five thousand (5,000) gallons or less of biodiesel in a calendar year. (3-29-10)

04. Documentation of Export. To claim an export of motor fuel or other petroleum products a qualified consumer must have tax reports or other evidence that will verify that the exported fuel was reported to and any tax due was paid to the jurisdiction into which the fuel was claimed to have been exported. (3-30-01)

05. Limitations. (7-1-99)

a. A qualified consumer may not claim an export from Idaho for fuel in the supply tank of a motor vehicle or aircraft. (7-1-99)

b. A licensed Idaho fuel distributor may not file this report. (7-1-99)

136. (RESERVED)

137. INSTATE PIPELINE TERMINAL, PRODUCTION TERMINAL, AND STORAGE REPORTS (RULE 137).
Section 63-2437, Idaho Code

01. Monthly Reports. Every instate pipeline terminal operator and production terminal operator will file with the Commission a monthly tax report*, in gross gallons, with* supporting detailed schedules on forms *and in a manner* prescribed by the Commission. The pipeline terminal operator and production terminal operator must keep detailed inventory records. The pipeline terminal operator and production terminal operator will report the quantity of motor fuels and other petroleum products received during the month including a listing of each person from inside or outside Idaho supplying motor fuels and other petroleum products to the pipeline terminal or production terminal. Such reports must contain a declaration by the person filing the report that the statements contained therein are true and are made under penalties of perjury. The report will include such information as the Commission may require. *( )*

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

138. -- 140. (RESERVED)

141. *FUEL DISTRIBUTOR CREDIT AND REFUND CLAIMS* (RULE 141).
Sections *63-2410,* 63-2423, Idaho Code

01. *Fuel Distributor Credit and Refund Claims*. *F*uel *credit and refund claims must be made on a* distributor*'s fuel tax report unless authorized otherwise by this chapter. A licensed distributor can claim credits or refunds by filing original or amended returns. Any distributor* may use the Line Flush Allowance. *All claims must establish both of the following*: *( )*

a. *The basis for the credit or refund claim, and* *( )*

b. *The amount of the credit or refund*. *( )*

02. *Line Flush Allowance*. *Undyed, tax-paid diesel is contaminated with red dye when a distributor delivers dyed diesel then flushes the line with undyed diesel. The contaminated undyed diesel will be put into the delivery truck's dyed diesel fuel tank and sold as untaxed, dyed diesel. A distributor will claim a fuel tax refund using the Form 75, Idaho Fuel Use Report, and Line Flush Allowance worksheet.* *( )*

03. *Methods to Determine the Line Flush Allowance*. *The distributor can claim a refund based on the actual gallons used to flush the line or a standard allowance. Check the box on the worksheet to indicate the method used to calculate nontaxable gallons. Use the following procedure for method chosen*: *( )*

a. Standard allowance. *Multiply by five (5) gallons by the number of flushes using l*ogs prepared by the delivery truck driver *including* the truck number, date, *and* number of flushes; or *( )*

b. Actual gallons. *The actual gallons used to flush the lines.* Delivery tickets or totalizer log readings for each flush *including the truck number, date, and gallons used to flush the line*. *( )*

142. -- 149. (RESERVED)

150. *FUEL SALE* DOCUMENTATION REQUIRED (RULE 150).
Section 63-2429, Idaho Code

01. Retail Sales Invoices for Delivered, Bulk Plant, and Station Sales. Any distributor who sells motor fuels and other petroleum products in this state must issue an original invoice to the purchaser; provided, however, that when sales are accounted for on a monthly basis the invoices may be issued to the purchaser at the time of billing. All sales invoices (including a credit card receipt used as a sales invoice) for motor fuels and other petroleum products sold at retail stations, bulk plants, or delivered to the customer's location must contain the following: (4-11-06)

a. A preprinted identification number, except when invoices are automatically assigned a unique

identification number by a computer or similar machine when issued; (4-11-06)

b. Name and address of the distributor; (7-1-98)

c. Name of the purchaser; (7-1-98)

d. Date of sale or delivery; (7-1-98)

e. Type of fuel; (7-1-98)

f. Gallons invoiced - reported as required in Section 130 of these rules; (7-1-98)

g. Price per gallon and total amount charged. When taxable motor fuels products are sold, at least one (1) of the following must be used to establish that the Idaho state fuel tax has been charged: (7-1-98)

i. The amount of Idaho state fuels tax; (7-1-98)

ii. The rate of Idaho state fuels tax; or (7-1-98)

iii. A statement that the Idaho state fuels tax is included in the price. (7-1-98)

h. Delivered sales invoices must also contain the purchaser's address along with the Origin and Destination of the motor fuels and other petroleum products. (7-1-98)

i. The sales invoice will contain double-faced carbons on the original of the first copy, unless invoices are automatically prepared by a computer or similar machine when issued. (7-1-98)

02. Correcting Sales Invoice Errors. When an original invoice is issued containing incorrect information, it may be canceled by a credit invoice and cross-referenced to all copies of the invoice covering the transaction being corrected. If a second sales invoice is issued, it will show the date and serial number of the original invoice and that the second invoice is in replacement or correction. *( )*

03. *Disallowing Tax-Paid Credit*. *Not* includ*ing* all the above documentation will result in an invalid sales invoice for a tax-paid fuel claim by the distributor's customer. *( )*

04. Documentation Requirements for Dyed Diesel Fuel. The state of Idaho is following the Internal Revenue Service requirements for sales of dyed diesel fuel. The Internal Revenue Code requires that a notice stating "Dyed Diesel Fuel, Nontaxable Use Only, Penalty for Taxable Use" must be: (7-1-98)

a. Provided by the terminal operator to any person who receives dyed diesel fuel at a terminal rack of that operator; and (7-1-98)

b. Provided by any seller of dyed diesel fuel to the buyer if the fuel is located outside the bulk transfer/terminal system and is not sold from a posted retail pump; and (7-1-98)

c. Posted by a seller on any retail pump where the dyed diesel fuel is sold for use by the buyer. (7-1-98)

d. The documentation notice found in this rule must be provided at the time of removal or sale and must appear on shipping papers, bills of lading, and sales invoices accompanying the sale or removal of the fuel. Any person who *does not* provide or post the required notice is presumed to know that the fuel is used for a taxable use and is subject to penalties imposed by the Internal Revenue Service. *( )*

151. -- 169. (RESERVED)

170. INFORMATION ON DYED & UNDYED DIESEL FUEL (RULE 170).
Section 63-2425, Idaho Code

01. Undyed Diesel Fuel Used for Heating Purposes. The consumer must apply directly to the Commission for a refund of the special fuels taxes included in the purchase price of undyed diesel used for heating a dwelling or building. The distributor may assist the consumer claiming a refund of the special fuels tax from the Commission by: (4-11-19)

a. Properly documenting information on the sales invoice; and (7-1-98)

b. Providing the customer with a Form 75. (3-29-10)

02. Red-Dyed Diesel. It is illegal to use red-dyed diesel in the main supply tank of a licensed, or required to be licensed, motor vehicle in this state unless the type of user is listed below. Penalties for illegal use of red-dyed diesel in a motor vehicle are found in Section 63-2460, Idaho Code. The Internal Revenue Code does allow certain types of users to purchase tax-exempt red-dyed diesel for use in their vehicles. Red-dyed diesel may be used: (4-11-19)

a. By state and local governments (political subdivisions of the state) for their exclusive use; (7-1-98)

b. In the engine of a train; (7-1-98)

c. In a school bus, *owned or leased and operated by a political subdivision of the State of Idaho,* while the bus is engaged in the transportation of students and school employees; *( )*

d. In a vehicle (such as a ground servicing vehicle for aircraft) owned by an aircraft museum; (4-11-06)

e. In a highway vehicle that is not registered (and is not required to be registered) for highway use under the laws of any state or foreign country and is used in the operator's trade or business or for the production of income; (4-11-06)

f. In a highway vehicle owned by the United States that is not used on a highway; (4-11-06)

g. Exclusively by a nonprofit educational organization as defined in Internal Revenue Code Section 4221 (d)(5). (4-11-06)

171. MOTOR FUELS EXEMPTION FROM SALES TAX (RULE 171).
Sections 63-2431 and 63-3622C, Idaho Code
Any sale of motor fuels by any fuel distributor that is subject to motor fuels tax is exempt from Idaho sales tax under Chapter 36, Title 63, Idaho Code. If such purchases are later included in credits or refunds for motor fuels tax paid and not subject to taxes imposed by Title 63, Chapter 24, Idaho Code, and no other exemption applies, sales and use taxes is applicable. If dyed fuel products are sold without the motor fuels tax, the sale is subject to the Idaho sales tax unless exempted under the Idaho Sales Tax Act and Rules. Sales of dyed fuel that do not include the motor fuels tax are exempt from Idaho sales tax only if the seller has taken from the purchaser a sales tax exemption certificate in the manner required by IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules," Rule 128. However, if the dyed fuel product delivered into a bulk storage tank is used exclusively for home heating purposes, a sales tax exemption certificate is not required. (3-29-10)

172. -- 184. ***(RESERVED)***

185. AUTHORITY TO GIVE THE CONSENT TO JURISDICTION OF IDAHO COURTS (RULE 185).
Section 63-2427A, Idaho Code

01. Authorized Signature on Application. All Idaho Fuel Distributor License Applications must be signed by an individual with the authority to give the consent to jurisdiction of Idaho courts on behalf of the applicant. (5-8-09)

02. Authority to Waive Sovereign Immunity. If the applicant is a state, local or tribal governmental entity, the application must be accompanied by a separate authorization by the governing authority of the entity

waiving sovereign immunity that the entity may otherwise assert against any action to enforce Idaho motor fuels tax laws in state court and setting forth the authority of the individual who signs the application to bind the applicant. (5-8-09)

03. Irrevocable Submission and Waiver of Sovereign Immunity. The application constitutes an irrevocable submission to the jurisdiction of Idaho state courts, and the waiver of any sovereign immunity that may otherwise be asserted, as to all disputes related to the enforcement of Title 63, Chapter 24 of the Idaho Code. (5-8-09)

186. -- 229. (RESERVED)

230. MOTOR FUELS SUBJECT TO USE TAX -- REPORTING (RULE 230).
Section 63-2421, Idaho Code
*Any person using t*ax-exempt motor fuels in a licensed motor vehicle, not subject to Rule 400 of these rules, upon highways in Idaho, will annually report to the Commission the amount of motor fuels tax due. *( )*

01. Reporting. A person who wishes to pay their fuel taxes due more frequently may file *on forms prescribed by the Commission* for any time period that is not less than one (1) month*, but not more than one (1) year*. The report may be made together with the claimant's Idaho income tax return, if *it* is required. The amount of fuels tax due on motor fuels may be off-set against any refund due from other motor fuels taxes or income taxes. *( )*

02. Lack of Records to Compute Fuel Consumption Rate. *When a* motor fuels consumer *does not* keep sufficiently detailed records to determine motor fuels consumed by its motor vehicles, the consumption rates found in Subsection 290.05 of these rules are presumed to be correct. *( )*

03. Fuel Records. If the motor fuels consumer *does not* keep sufficiently detailed records to determine taxable gallons, all tax-exempt motor fuels purchased is subject to the fuels tax unless the number of gallons placed into the supply tank of the licensed or required to be licensed motor vehicle can be determined. *( )*

231. -- 249. (RESERVED)

250. REFUND CLAIMS -- REPORTING (RULE 250).
Sections 63-2410 and 63-2423, Idaho Code

01. Requirements of a Valid Refund Claim. Before the Commission can credit or refund motor fuels taxes, the taxpayer making the claim must establish both of the following: (4-2-08)

a. The basis for the credit or refund claim, and (4-2-08)

b. The amount of the credit or refund. (4-2-08)

02. Refund May Be Claimed Only by Final Consumer. Refunds of motor fuels taxes may be claimed on *forms prescribed by the Commission* by the person who purchased and used the motor fuels upon which the tax has been paid and for which a refund may be claimed. In the case of all partnerships and any corporations filing Idaho Form 41S, relating to S Corporations, any refund of motor fuels taxes paid by the partnership or S Corporation must be claimed by the partnership or corporation. The refund may not be applied to the individual returns filed by partners or shareholders. *( )*

03. Refund Applied to Taxes Due. Any refund due to a consumer is applied first to any liability due under any law administered by the Commission, including any liability under IFTA, which is due and unpaid at the time the claim is filed. In addition, no refund will be paid if the claimant has not filed any tax return required to be filed with the Commission. Any balance of the refund exceeding taxes due *will be* paid as a refund to the entity filing the return. *( )*

251. -- 269. (RESERVED)

270. REFUND CLAIMS – GENERAL AND BULK DOCUMENTATION (RULE 270).

Sections 63-2410, 63-2421, 63-2423, Idaho Code

01. Refunds to Consumers. Tax-paid fuel used in a nontaxable manner according to Sections 63-2410 and 63-2423, Idaho Code, qualifies for a fuel tax refund. *Refund claims and required worksheets must be made on forms provided or approved by the Commission*. *( )*

02. Records Retention Requirements. All claimants must keep records for the greater of either: (3-28-18)

a. Three (3) years from the due date, including extensions, of the income tax return; (3-28-18)

b. The time during which the taxpayer's income tax return is subject to adjustment by either the Commission or voluntary action by the taxpayer if the refund claim is filed with the taxpayer's Idaho income tax return; (3-28-18)

c. Four (4) years, if an IFTA licensee. *( )*

03. Records Required – Generally. A claimant must have fuel purchase records and records showing fuel was placed into the supply tank of vehicles or equipment using the fuel in a nontaxable manner. Fuel purchase records must contain the information required by Rule 150 of these rules. Fuel purchase records must be reissued if altered or corrected. (3-28-18)

04. Records Required – Retail Fuel Purchases. When claiming a refund of tax for fuel purchased from a retail outlet, a receipt is required. The vehicles or piece of equipment using the fuel must be recorded on the receipt. If claiming refunds for fuel used in more than one vehicle or piece of equipment, make sure all the vehicles and equipment are identified on each receipt. When placing fuel into containers for use in vehicles, pieces of equipment, or commercial motorboats, identify into which the fuel is placed on the receipt. No other records are required if the fuel from the container isn't used in licensed or required to be licensed motor vehicles. (3-28-18)

05. Records Required – Bulk Fuel Purchases. When claiming a *fuel* tax *refund* on fuel delivered in bulk, the claimant must provide the following documentation: *( )*

a. Seller Invoices. (3-28-18)

b. Withdrawal Logs. (3-28-18)

i. Complete withdrawal logs must give the date, the vehicle or piece of equipment, and the amount of fuel withdrawn. (3-28-18)

ii. Withdrawal logs aren't required for claimants with two (2) or more bulk storage tanks at the same location with Idaho tax-paid fuel of the same type for taxable and nontaxable uses. Claimants must identify each storage tank for taxable or nontaxable use. The seller must mark the invoices at the time of delivery and identify the storage tanks into which the fuel was delivered. (3-28-18)

c. Bulk Fuel Inventory Reconciliations. Reconciliations must include beginning inventory, purchases, withdrawals, calculated ending inventory, and actual ending inventory determined by a physical reading. (3-28-18)

06. Alternate Method for Bulk Tanks – Authorized Percentage. A claimant can request an authorized percentage if using Idaho tax-paid fuel from one (1) bulk tank in both a taxable and nontaxable manner. IFTA licensees and owners of multiple bulk storage tanks containing tax-paid and tax-exempt fuels of the same type at the same location can't use an authorized percentage. The claimant must submit a completed authorized percentage request form before using any percentage to claim a refund. The request must itemize all taxable and nontaxable uses by vehicle and piece of equipment based on previous experience or anticipated use. Records to support an authorized percentage must be kept and presented upon request. Equipment lists must be provided and supported by: *( )*

a. Equipment purchase records; (3-28-18)

b. Sales or rental receipts; and (3-28-18)

c. Depreciation schedules. (3-28-18)

07. Untaxed Motor Fuel. Untaxed motor fuel cannot be used in licensed or required to be licensed motor vehicles unless authorized in the Fuels Tax Act or these rules. Under the audit and enforcement provisions of Sections 63-2410 and 63-2434, Idaho Code, all fuel tax refund claims are subject to audit by the Commission and no part of these rules may be construed to imply that an audit may not be performed. Tax-paid motor fuel is not exempt from taxes imposed by the Idaho Sales Tax Act when the motor fuel tax is refunded. (3-28-18)

08. Indian-Owned Retail Outlet. Motor fuels purchased after December 1, 2007, from an Indian-owned retail outlet do not include the Idaho motor fuels tax and do not qualify as an Idaho tax-paid purchase, unless otherwise provided in an agreement between the state and appropriate tribe under the authority of Sections 63-2444 or 67-4002, Idaho Code. See definition of Indian-owned retail outlet in Rule 010 of these rules. (3-28-18)

271. -- 289. (RESERVED)

290. MOTOR VEHICLES REFUND CLAIMS – NONTAXABLE MILES (RULE 290).
Section 63-2423, Idaho Code

01. Refunds to Consumers – Nontaxable Miles. Tax-paid special fuels used as described in Section 63-2423, Idaho Code, qualifies for a fuels tax refund. *Refund claims and required worksheets must be made on forms provided or approved by the Commission*. The records retention and fuel record requirements in Subsections 270.02 through 270.05 of these rules also apply to this section. *( )*

02. Nontaxable Miles Defined. Nontaxable miles are miles driven on roads: (3-28-18)

a. Not open to the public; or (3-28-18)

b. Not maintained by a governmental entity; or (3-28-18)

c. Located on private property maintained by the property owner; or (3-28-18)

d. Under construction and not open to the public; or (3-28-18)

e. Constructed and maintained by the United States Forest Service, the United States Bureau of Land Management, the Idaho Department of Lands, or forest protective associations with which the state of Idaho has contracted or become a member pursuant to Chapter 1, Title 38, Idaho Code. Miles traveled on these roads are nontaxable when the contractor or subcontractor is required to pay the cost of maintaining these roads by contract or permit. (3-28-18)

03. Records Required – Mileage Records. Mileage records are required to claim a refund of tax when using special fuels on nontaxable roads. Claimants operating under the authority of the IFTA or IRP are required to follow the recordkeeping requirements of IFTA and IRP in addition to the requirements of this section. Idaho Full Fee registrants must follow the requirements of Rule 422 of these rules and this section. *( )*

04. Records Required – Actual Nontaxable Miles. Nontaxable miles must be documented for each trip using odometer, hubometer, or GPS readings. (3-28-18)

05. Alternate Methods. A claimant may use an alternate method to determine nontaxable miles or use a presumed MPG to determine fuel use unless they are an IFTA licensee or IRP registrant in any participating jurisdiction. Claimants may estimate using one of the methods below. (3-28-18)

a. Estimating Nontaxable Miles. Nontaxable miles may be estimated by using maps, contracts, or a Commission approved trip analysis. Upon request, the claimant must provide the documents supporting the estimation. Maps other than the Official Idaho Highway map miles are estimates. (3-28-18)

b. Estimating Nontaxable Gallons. Nontaxable gallons may be estimated using presumed MPGs. Upon request, the claimant must provide the tax-paid fuel purchase records supporting the total gallons claimed.

(3-28-18)

i. Presumed MPGs by Weight. The following are presumed MPGs by gross vehicle weight (GVW) or registered GVW:

Over 40,000 GVW	4.0 MPG
Over 26,000 GVW to 40,000 GVW	5.5 MPG
Over 12,000 GVW to 26,000 GVW	7.0 MPG
12,000 GVW or less	10.0 MPG

(3-28-18)

ii. Presumed MPGs by Operation. The following are presumed MPGs for vehicles over 40,000 GVW or registered GVW used in certain industries:

Logging	4.3 MPG
Agricultural	4.5 MPG
Sand, gravel & rock hauling	4.0 MPG
Construction	4.4 MPG

(3-28-18)

291. (RESERVED)

292. REFUND CLAIMS – POWER TAKE-OFF (PTO) AND AUXILIARY ENGINES (RULE 292).
Sections 63-2410, 63-2423, Idaho Code

01. Refund to Consumers — PTO and Auxiliary Engines. Tax-paid fuel used in PTO and auxiliary engines qualifies for a fuels tax refund under Sections 63-2410 and 63-2423, Idaho Code. PTO refunds are only allowed for special fuels. Auxiliary engine refunds are allowed for gasoline or special fuels. *Refund claims and required worksheets must be made on forms provided or approved by the Commission.* The records retention and fuel record requirements in Subsections 270.02 through 270.05 of these rules also apply to this section. *( )*

02. PTO and Auxiliary Engines Defined. A PTO uses fuel from the main supply tank to operate the main engine for a purpose other than operating or propelling the vehicle on the road. An auxiliary engine uses fuel from the vehicle's main supply tank to operate an engine other than the vehicle's main engine. (3-28-18)

03. Records Required – Actual Consumption Refunds. Actual fuel consumption for PTO and auxiliary engines may be claimed when the PTO or auxiliary engines are equipped with an electronic monitoring device. The monitoring device must provide the date, time of use, and gallons metered. The Commission may request verification that the electronic monitoring device is reporting consumption correctly. (3-28-18)

04. Alternate Methods – Standard Allowances. The following are standard allowances adopted by the Commission. An IFTA licensee isn't allowed to use alternate methods to determine nontaxable fuel use. Claimants may estimate using unit quantities, percentages, or the nonstandard allowance method. *( )*

a. Allowances based on unit quantities:

Allowance Type	Allowance Rates	x	Unit Quantities
Gasoline/fuel oil	0.00015 gallons	x	Gallons pumped
Bulk cement	0.1858 gallons	x	Tons pumped

Allowance Type	Allowance Rates	x	Unit Quantities
Refrigeration unit/reefer	0.75 gallons	x	Hours unit operated
Tree length timber/logs	0.0503 gallons	x	Tons Hauled
Tree length timber/logs	3.46 gallons	x	Hours unit operated
Carpet cleaning	0.75 gallons	x	Hours unit operated
Concrete Pumping	0.142857 gallons	x	Yards pumped

(3-28-18)

b. Allowances based on percentages:

Allowance Type	Percentage Per Gallon	x	Gallons Consumed
Concrete mixing	30%	x	Gallons consumed
Garbage trucks	25%	x	Gallons consumed

(3-28-18)

05. Nonstandard Allowances. A claimant must request a nonstandard allowance from the Commission if they want to use an allowance different from those listed in this section. A claimant must request approval of the proposed allowance in writing with a copy of the supporting calculations used to compute the proposed allowance. The Commission may request additional information or documentation as needed in order to make a determination on the request. (3-28-18)

293. -- 299. (RESERVED)

300. ADMINISTRATION, RULES AND DELEGATION OF AUTHORITY (RULE 300).
Section 63-2442, Idaho Code

Transportation Department Personnel as Deputies of the Commission. Pursuant to the authority of Sections 63-2434 and 63-2442, Idaho Code, those individuals employed by the Idaho Transportation Department in the operation of stationary or mobile Ports of Entry are designated as deputies of the Commission for exercising the powers necessary to enforce the provisions of the special fuels tax laws. Such authority includes exercise of the powers described in Rule 400 of these rules. ( )

301. -- 309. (RESERVED)

310. EXEMPTION FROM REQUIREMENT FOR BONDS.
Section 63-2428, Idaho Code

01. Exemption to Bond Requirements for Licensed Distributors. Bonds are required of all licensed distributors unless the distributor is found to be financially responsible. A licensed distributor seeking exemption from the bonding requirement must apply for the exemption by filing a written petition with the Commission. The petition must contain information relating to the requirements of Section 63-2428, Idaho Code, for establishing financial solvency and responsibility. Together with the petition, the distributor must submit any information required in the following Subsections 310.01.a. through 310.01.e. ( )

a. If all or any part of the unencumbered property offered to show financial solvency is real property, the petition must include both a title report from an independent title company reporting on the state of the title of the real property as of a time not more than fifteen (15) days before the filing of the petition and a copy of the most recent valuation notice issued by the county assessor for ad valorem property tax purposes. (6-23-94)

b. If all or any part of the unencumbered property is licensed motor vehicles, the petition must include copies of the titles of the vehicles and evidence of the value of the vehicles from a source independent from the distributor. (6-23-94)

c. If all or any part of the unencumbered property is personal property other than motor vehicles, the petition must include a description of the property, evidence of ownership of the property, an independent appraisal of the property, and evidence that the property is unencumbered. Copies of all documents relating to all of the distributor's current and long-term liabilities, including contingent liabilities, lawsuits or potential lawsuits to which the distributor is or may become a party, are required to establish that no security interests or other encumbrances exist. (6-23-94)

d. The petitioner must arrange, at the petitioner's expense, for an established, independent commercial credit rating company to submit directly to the Commission a current and complete credit report about the licensed distributor; or, the distributor must include with the petition its most recent financial statements, including a current income statement, balance sheet, and statement of cash flows. If the petitioner is a publicly held company, the financial statements must be accompanied by an opinion issued by an independent certified public accountant and a responsible company officer must also certify that the financial statements provided present fairly the financial position of the company. If the petitioner is a privately held company, the financial statements must be reviewed by a certified public accountant or licensed public accountant and a responsible company officer must also certify that the financial statements provided present fairly the financial position of the company. (3-30-01)

e. The Commission may require the distributor to supplement its petition with such further information as the Commission, in its discretion, finds necessary to determine financial responsibility. If incomplete or substitute submissions are received by the Commission, the information submitted is reviewed on a case-by-case basis to determine whether an exemption from the bonding requirement is granted. (3-30-01)

02. Conditions for Termination of Exemption. If granted, the exemption from the bonding requirement will terminate: (6-23-94)

a. One (1) year after the date on which it was granted. (6-23-94)

b. Ninety (90) days after the occurrence of any delinquency in motor fuels tax unless the delinquency has been paid within that time period. (3-29-12)

c. Upon the occurrence of any encumbrance of any of the property upon which the finding of financial responsibility was based. (6-23-94)

d. Upon the occurrence of any change in the business activity of the distributor that would cause the amount of bond required to be increased to an amount greater than the value of the distributor's unencumbered assets. (6-23-94)

e. Upon the occurrence of any event prejudicing the distributor's solvency or financial responsibility. (6-23-94)

03. Bond Requirement upon Termination of Exemption. Immediately upon any termination of the exemption from the requirement for a bond the distributor must supply the required bond according to Section 63-2428, Idaho Code. (3-30-01)

04. Pending Application Does Not Excuse the Bond Requirement. Having an application pending for exemption from the requirement for a bond does not excuse the bond. If a bond exemption is due to expire, the distributor must submit a new petition applying for a continuation of the exemption no later than ninety (90) days before the day the exemption is due to expire to prevent a lapse in the exemption. The petition must meet all of the requirements of this rule. (6-23-94)

05. Conditions for Renewal of Bond Exemption. The following must be submitted to renew a bond exemption: (7-1-97)

a. A written request for renewal of waiver; (7-1-97)

b. The information required in Subsections 310.01.a. through 310.01.e. of this rule. (7-1-97)

311. IFTA LICENSE BOND (RULE 311).
Sections 63-2442A, 63-2470, Idaho Code

01. General. The Commission (Commission) may require an IFTA licensee to post a bond following the requirements of the IFTA Agreement in order to maintain his license. A bond may be required when he files returns or remits taxes, separately or in combination, after the due date at least three times within a three year period. When a bond is required, the licensee must post the bond within thirty (30) days from the date of the request. When no bond is posted within the thirty (30) days, the license is automatically revoked and it must be surrendered to the Commission. An assessment may be made for any unreported tax liability based on actual records or an estimate. *( )*

02. Reinstating Revoked Licenses. An applicant may be required to post a bond when he has previously had his IFTA license revoked or is related to a person who has previously had his IFTA license revoked. An applicant is related to a person who has previously had his IFTA license revoked when: (4-11-15)

a. The applicant is owned at least twenty-five percent (25%) by a person or persons who has previously had his IFTA license revoked. (4-11-15)

b. The applicant is operated or controlled by a person or persons who has previously had his IFTA license revoked. Operation and control includes, but is not limited to, an officer or director or other person authorized by the applicant to engage in the business or commercial activity of the applicant. (4-11-15)

03. Amount and Type of Bond. The amount of the bond is one thousand dollars ($1,000) or twice the estimated tax liability for the licensee's quarterly tax reporting period, whichever is greater, without regard to actual or anticipated tax-paid credits. Any type of bond allowed by the IFTA Agreement or these rules may be secured. The bond amount is reviewed annually, but may be reviewed at any time, thereafter. The licensee's returns and records may be reviewed to determine if the bond amount is raised, lowered, or remain unchanged. (4-11-15)

04. Bond Waiver Request. The licensee may request a waiver of bond requirement within thirty (30) days from the approval of the license renewal request. The licensee must be a quarterly filer. The licensee must have submitted the quarterly returns and paid the tax due by the due date for one calendar year. An annual filer may not request a bond waiver. (4-11-15)

05. Denial of Bond Waiver Request and Appeal of Denial. The Commission may deny a bond waiver request when it determines that waiving the bond requirement puts the financial interests of IFTA jurisdictions in jeopardy. The licensee must follow the appeal procedure in Section 63-2470, Idaho Code, to appeal the denial of a bond waiver request. (3-29-17)

312. -- 319. (RESERVED)

320. RECORDS RETENTION REQUIREMENTS (RULE 320).
Section 63-2429, Idaho Code

01. Records Required. Any person importing, manufacturing, refining, dealing in, transporting, storing or selling any motor fuels in this state will keep such records, receipts and invoices as will show all purchases, sales, receipts, or deliveries of motor fuels in this state. Such records is maintained for at least three (3) years. (6-23-94)

02. Motor Fuels Subject to Use Tax. Any person who has purchased tax-exempt motor fuel and subsequently uses the fuel in a *taxable* manner, must maintain *enough* records to establish the tax *due*. *( )*

03. Original Invoice Retention. The original invoices required by Rule 270 of these rules, relating to refunds of motor fuels tax paid on certain fuel used off-road, must be retained for the greater of either three (3) years or the time during which the taxpayer's Idaho income tax return is subject to adjustment by either the Commission or by voluntary action of the taxpayer. (4-7-11)

321. -- 399. (RESERVED)

400. IFTA LICENSING AND SPECIAL FUELS PERMITTING (RULE 400).
Sections 49-432, 63-2401, 63-2438 through 63-2440, and 63-2442A, Idaho Code

01. In General. It is unlawful for any person to operate a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels as defined in Section 63-2401, Idaho Code, on the highways of this state without having obtained one (1) of the following: (3-30-07)

a. A registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code. (7-1-98)

b. A temporary fuel tax permit from the Idaho Transportation Department. (3-29-17)

c. An IFTA license. (7-1-98)

02. Federal or In-State Governmental Vehicles. Motor vehicles owned or leased and operated by the federal government or the state of Idaho or their instrumentalities or political subdivisions are exempt from these requirements. (3-15-02)

03. Out-of-State Governmental Vehicles. Motor vehicles owned or operated by another state of the United States or any agency or subdivision thereof are exempt from permitting and reporting under this rule if the state in which they are owned grants a reciprocal privilege to Idaho and its agencies and subdivisions. (7-1-98)

04. Temporary Fuel Tax Permits. Any person who operates a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state and is not registered solely for operation in this state under Section 49-434, Idaho Code, or IFTA licensed, must secure a temporary fuel tax permit from the Idaho Transportation Department in the manner provided and required by that department. (3-29-17)

05. *Not* Obtain*ing* an IFTA License, or Temporary Fuel Tax Permit. Operation of a motor vehicle over twenty-six thousand (26,000) pounds maximum registered gross weight or a motor vehicle with three (3) or more axles regardless of weight, that uses special fuels on the highways of this state without a registration to operate the motor vehicle solely within this state under Section 49-434, Idaho Code, an IFTA license, or an Idaho temporary fuel tax permit is hereby deemed to be an act tending to prejudice the collection of the special fuels tax and an act that renders wholly or partially ineffective the procedures for collection of that tax. Accordingly, any deputy of the Commission, including those designated as deputies in Section 300 of these rules, may issue a jeopardy assessment under the authority of Section 63-2434, Idaho Code. Such deputy is authorized to institute immediate collection procedures, including issuance of a tax warrant and distraint of the motor vehicle required to display, but *not* display*ing*, either an IFTA license or a temporary fuel tax permit. *( )*

401. -- 419. (RESERVED)

420. DOCUMENTATION FOR IFTA LICENSEE REPORTING (RULE 420).
Sections 63-2439, Idaho Code

01. Records Required for Idaho IFTA Licensee. Records are required to verify the accuracy of any tax report or worksheet filed with the Commission. The taxpayer displaying, or required to display, an IFTA decal or a temporary permit must retain originals of all invoices or other documents relating to purchases of special fuels and all records relating to the mileage of the motor vehicles. (3-28-18)

02. Fuel Records. In order for the IFTA licensee to obtain credit for tax-paid purchases, a receipt or invoice, a credit card receipt, or microfilm/microfiche of the receipt or invoice must be retained showing evidence of such purchases and tax having been paid. An acceptable receipt or invoice for tax-paid purchases taken as credit must include, but is not limited to, the following: (3-28-18)

a. The date of each receipt of fuel; (7-1-98)

b. The name and address of the person from whom purchased or received; (7-1-98)

c. The number of gallons received; (7-1-98)

d. The type of fuel; (7-1-98)

e. The specific vehicle into which the fuel was placed; and (3-28-18)

f. Detailed records of all withdrawals from bulk storage tanks, including the date of withdrawal, the number of gallons withdrawn, the fuel type, the unit number, the equipment type, and inventory records. (3-28-18)

03. Mileage Records. All IFTA licensees must maintain detailed mileage records, such as trip logs or trip sheets, on an individual-vehicle basis. Such records must contain, but not be limited to: (3-28-18)

a. Total trip miles, including vicinity miles; (3-28-18)

b. Miles traveled for taxable and nontaxable use; (3-28-18)

c. Mileage totaled by jurisdiction in which the IFTA vehicle operated; (3-28-18)

d. Starting and ending dates of trips; (7-1-98)

e. Trip origin and destination; (3-28-18)

f. Hubometer or odometer readings from the beginning and ending of each trip; (3-28-18)

g. Complete routes of travel, that includes interim stops such as pick-up and delivery locations; and (3-28-18)

h. Vehicle license number or unit number. (3-28-18)

04. Additional Records Requirements. Other records may be requested, such as: (3-28-18)

a. Bills of lading or manifest documents; (7-1-98)

b. Vehicle dispatch ledgers; (7-1-98)

c. Accounts payable and receivable; (7-1-98)

d. Lease agreements; (7-1-98)

e. Driver pay records; (7-1-98)

f. Driver logs; (7-1-98)

g. Fuel use trip permits; and (7-1-98)

h. Other documents used in preparing fuel tax reports. (7-1-98)

05. Summaries. Individual trips must be accumulated into monthly summaries in total and by jurisdiction. These summaries must be used as the basis for the miles submitted on the IFTA quarterly or annual

reports. (3-28-18)

06. Computer Support. Computer summaries must be supported by trip sheets or logs verifying mileage traveled. (3-28-18)

07. Mileage Information. Information recorded on trip sheets must be legible and reflect actual miles traveled. Mileage records must include all movement of the vehicle including loaded, empty, and tractor-only (bobtail) miles. (3-28-18)

08. Records Retention. *IFTA licensees* must retain *records at least* four (4) years. *( )*

09. Mileage Disputes. Whenever a mileage dispute arises between the taxpayer and the Commission, the official mileage map distributed by the appropriate authority in each jurisdiction is used to resolve the point-to-point mileage differences. (4-6-05)

421. DOCUMENTATION FOR IDAHO REGISTRANTS (RULE 421).
Section 49-439, Idaho Code

Records Required For Idaho *IRP*. Registrants must keep records to verify the accuracy of any Idaho IRP application submitted to the Idaho Transportation Department. Registrants must keep the records required by Rule 420 of these rules for all IRP registered vehicles. Also, registrants must keep individual vehicle records by registered fleet for each application reporting period of July 1st through June 30th. *( )*

422. DOCUMENTATION FOR IDAHO FULL FEE REGISTRANTS (RULE 422).
Section 49-439, Idaho Code

01. Records Required For Idaho Full Fee Registrations. Registrants must keep records to verify the accuracy of any Idaho Full Fee registration application submitted to the Idaho Transportation Department. No records are required for full fee vehicles registered at less than sixty-two thousand (62,000) lbs. gvw or those registered at the maximum tier, of over fifty thousand (50,000) miles per reporting period. Registrants must keep records by individual vehicle for each reporting period of July 1st through June 30th. Examples of records include, but are not limited to: (7-1-16)

a. Distance Measuring Devices. Odometer, hubometer, GPS or perpetual life-to-date readings. Records must include the date the reading was recorded and the reading. When changing devices, the change must be properly documented. (7-1-16)

b. Daily Trip Logs. Logs include the date of travel, origin and destination of the trip, and number of miles traveled. Logs may be supported by load tickets, billing invoices, or other original source documents that can verify miles traveled. (7-1-16)

c. Number of Trip/Round Trip Miles. When making numerous short trips from the same origin to the same destination, records include the origin, destination, and round-trip miles. Computations must be supported by scale tickets, load tickets, a route map, or a Commission approved trip analysis. (7-1-16)

d. Fuel Purchases. Retail fuel purchases are fuel invoices with the date, location, quantity, and type of fuel purchased. Bulk fuel records must be sufficient to prove the accuracy of the fuel use. Fuel purchase records must show the usage per unit. The records must document how the average miles-per-gallon (MPG) was calculated. (7-1-16)

02. Credit for Off-Road Miles and Documentation Required. Credit for off-road miles may be given for roads not maintained by a government entity or roads built or maintained by the registrant pursuant to a contract, according to Section 290 of these rules. These include roads on private property, roads under construction but not open to the public, and may include designated Forest Service roads. Off-road miles must be documented by using odometer readings, maps, contracts, GPS readings, or a Commission approved trip analysis. (3-29-10)

03. IFTA Licensees with Full Fee Registration. An IFTA licensee with full fee registration must

maintain records required by IFTA. ( )

423. -- 499. (RESERVED)

500. IDAHO CLEAN WATER TRUST FUND TRANSFER FEE (RULE 500).
Section 41-4909, Idaho Code

The Transfer Fee. The fee imposed by Section 41-4909, Idaho Code, is The Idaho Clean Water Trust Fund *is called the* Transfer Fee. ( )

501. TRANSFER FEE REINSTATED (RULE 501).
Section 41-4909, Idaho Code

The Transfer Fee was suspended as of October 1, 1999. *The* Transfer Fee was reinstated on September 1, 2007. ( )

502. -- 509. (RESERVED)

510. APPLICATION AND REPORTING OF THE TRANSFER FEE (RULE 510).
Section 41-4909, Idaho Code

01. Application. (6-23-94)

a. The Transfer Fee applies to the first receipt of any petroleum or petroleum product within this state. The amount of the fee is one cent ($0.01) for each gallon of petroleum or petroleum product received. The fee is paid by the distributor who receives any petroleum or petroleum product not excluded from the fee, unless the fee has previously been paid on the same petroleum or petroleum product. Only licensed Idaho fuel distributors may receive refunds or credits of the transfer fee. The refunds or credits must be claimed on the distributor report required in Section 63-2406, Idaho Code, according to Rule 180. ( )

b. The legal incidence of the fee is on the first distributor which receives any petroleum or petroleum product. This distributor is required to report and pay the transfer fee to the Commission. The fee is not required to be separately stated on any invoice, receipt, or other billing document. A choice to state separately the fee does not change its legal incidence or its nature. (3-20-14)

02. Receipt of Petroleum Products. Receipt of petroleum or petroleum products is determined according to Section 63-2403, Idaho Code. Receipt is determined by the movement of petroleum or petroleum products from permanent storage facility (terminal) or crossing the border of this state. Storage of petroleum or petroleum products is incidental to the movement of the petroleum or petroleum products. (3-20-14)

03. Exemption to Application of the Transfer Fee. The Transfer Fee does not apply to petroleum or petroleum products that are: ( )

a. Returned to the refinery or pipeline terminal. (6-23-94)

b. Exported from this state. No fuel is considered exported, unless the distributor can prove the export by documentation required by Rule 130 of these rules. (7-1-99)

c. Received by a railroad or railroad corporation or any employee of them. Petroleum or petroleum products sold by a licensed distributor to a railroad or railroad corporation or any employee of them is subject to the Transfer Fee unless the petroleum or petroleum products are "received" by the railroad or railroad corporation as defined in Section 63-2403, Idaho Code. The exclusion for railroad employees applies only when the activity relating to the fuel is part of their employment with the railroad or railroad corporation. ( )

d. Received in retail containers of fifty-five (55) gallons or less or petroleum products to be packaged or repackaged into retail containers of fifty-five (55) gallons or less, if such containers are intended to be transferred to the ultimate consumer of the petroleum or petroleum products. (6-23-94)

04. Casualty Loss and Two Percent (2%) Allowance Not Deductible. All petroleum and petroleum products received in this state that are not within an exemption or exclusion listed in this rule are subject to the fee, without further deductions or discounts despite the product's use. Deductions allowed to motor fuel distributors in Section 63-2407, Idaho Code, for casualty loss and the two percent (2%) allowance are not deductions applicable to the Transfer Fee. ( )

05. Petroleum and Petroleum Products. The products subject to the Transfer Fee are crude oil or any fraction of it that is liquid at a temperature of sixty (60) degrees Fahrenheit and a pressure of fourteen and seven tenths (14 7/10) psi. These products are all products refined from crude oil including but not limited to motor gasoline, alcohol blended fuels, such as E-10 and E-85, including the alcohol content of blended fuel, diesel fuel (#1 - #6), biodiesel blended fuels, such as B-20, including the biodiesel content of the blended fuel, heating oil, aviation fuel, naphtha, naphtha-type jet fuel, kerosene-type jet fuel (JP#1 - #8), motor oil, brake fluid, tractor fuel, distillate fuel oil, stove fuel, unfinished oils, turpentine substitutes, lamp fuel, diesel oils (#1 - #6), engine oils, railroad oils, kerosene, commercial solvents, lubricating oils, fuel oil, boiler fuel, refinery fuel, industrial fuel, bunker fuel, residual fuel oil, road oils, and transmission fluids. Ethanol (E00), natural gasoline, and biodiesel (B00) are also defined as petroleum and petroleum products that are subject to the Transfer Fee. ( )

06. Exclusion of Petroleum and Petroleum Products on Which the Fee Has Previously Been Paid. Used oil as defined by 40 CFR Part 279 (July 1, 2000) is presumed to be comprised of petroleum or petroleum products on which the transfer fee has previously been paid when generated in Idaho. The distributor will not report used oil generated in Idaho on the distributor report nor pay or receive a credit of the transfer fee on used oil generated in Idaho. When used oil is not generated in Idaho it is presumed to be subject to the transfer fee. The distributor must report and pay the transfer fee unless an exemption or exclusion applies. ( )

07. Motor Fuel Distributor License and Limited Distributor License. Any person holding a motor fuel distributor license issued by the Commission under Chapter 24, Title 63, Idaho Code, is also licensed for the Transfer Fee. No additional license is required. Any person who receives any petroleum or petroleum product in this state, but who is not a licensed distributor nor required to obtain a motor fuel distributor license applies to the Commission for a limited distributor license. The limited distributor license is only for reporting the Transfer Fee. ( )

08. Reporting Requirements. (6-23-94)

a. A motor fuel distributor will report and pay the Transfer Fee with the distributor's report required by Section 63-2406, Idaho Code. For fuel subject to the taxes imposed by Sections 63-2402 and 63-2408, Idaho Code, the Transfer Fee is included in the report in which the distributor is required to report the tax on the same fuel. ( )

b. Persons holding a limited distributor license will file a monthly report with the Commission on forms prescribed by the Commission on or before the last day of the month following the month to which the report relates. (3-25-16)

c. The *Transfer Fee must be reported according to* Rule 130 of these rules. ( )

09. Payment. (6-23-94)

a. Payment of the fee is due on the due date of the report. For method of payment, including required use of electronic funds transfer, see Rule 010 of these rules. (6-23-94)

b. Any partial payment or collection of amounts shown due or required to be shown due on a distributor's report, plus any additional amount of penalty or interest due, is allocated between the motor fuels tax and the Transfer Fee in the same proportion that the liability for the tax and the fee bear to the total liability. ( )

511. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with Sections 63-105, 67-4718, and 67-4917B, Idaho Code, the Commission has promulgated rules implementing the provisions of the Idaho Code relating to hotel/motel room charges. These rules do not apply to sales taxes imposed by resort cities, unless such taxes are administered by the Commission.
(7-1-98)

001. TITLE AND SCOPE (RULE 001).
Sections *63-3612,* 67-4711, 67-4718, *67-4902,* 67-4917B & *C,* 63-1801 through 63-1804, Idaho Code

01. Title. These rules will be titled IDAPA 35.01.06, "Hotel/Motel Room and Campground Sales Tax Administrative Rules." (3-28-18)

02. Scope. These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority for accommodations. The imposition of a tax *for* providing a place to sleep *or occupy*. *( )*

***002.* ADMINISTRATIVE APPEALS (RULE *002*).**

01. Administrative Relief. This chapter allows administrative relief as provided in Sections 63-3626, 63-3631, 63-3633, 63-3634, and 63-3049, Idaho Code. (4-11-19)

02. Cross Reference. (4-11-19)

a. See IDAPA 35.01.02.121, "Idaho Sales and Use Tax Administrative Rules." (4-11-19)

b. See IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." (4-11-19)

***003*. LODGING OPERATORS AND SHORT-TERM RENTAL MARKETPLACES (RULE *003*).**
Sections, 63-1801 through 63-1804, 63-3612, 63-4711, 67-4718, 67-4917B, Idaho Code

01. In General. These rules apply to the Short-term Rental and Vacation Rental Act, Section 63-1801 through 63-1804, Idaho Code. (3-28-18)

02. Applicable Taxes. Any state or local government taxes imposed according to Section 63-1804, Idaho Code, will be collected, reported, paid, and administered according to these rules or as further explained by the Commission's rules in IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules." (3-28-18)

03. Registration. Registration *with the Commission* will be in the same manner and in the same form as is required for obtaining a seller's permit for state sales tax. However, a short-term rental marketplace that has not facilitated a lodging transaction in Idaho has forty-five (45) days from the completion of their first lodging transaction in Idaho to register to collect room sales tax. *( )*

00*4*. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).

01. Campground. Campground means a person, partnership, trustee, receiver, or other association, regularly engaged in the business of renting, for a consideration, or which holds itself out as being in the business of renting, for a consideration, any area, space or place for camping, parking campers, travel trailers, motor homes or tents when such areas, spaces or places are to be rented for the purpose of providing an individual or individuals a place to sleep. (7-1-93)

02. Hotel or Motel. The words hotel or motel means any person, partnership, corporation, trustee, receiver, or other association, regularly engaged in the business of furnishing rooms for use or occupancy, whether personal or commercial, in return for a consideration or which holds itself out as being regularly engaged in such business. (7-1-93)

a. *Providing* rooms for consideration includes rooms *rented* for personal occupancy and rooms *rented* for meeting, convention, or other commercial purposes. *( )*

b. The *following* rentals *are* tax*able*, unless exempted under the provisions of Rule 016 of these rules. *( )*

i. Condominiums or townhouses ( )

ii. Rooms that a public or private educational institution rents ( )

iii. Rooms that hospitals, nursing homes, or similar institutions rent to nonpatients. ( )

011. *ACCOMMODATIONS* TAX (RULE 011).
Sections 50-1046, 63-3612, 67-4711, 67-4718, 67-4902, 67-4917B & C, 63-1801 through 63-1804, Idaho Code

01. In General. These rules apply to: (7-1-93)

a. *Room Sales Tax. The room sales tax includes Travel and Convention Tax and Auditorium or Community Center District Tax when those taxes are administered by the Tax Commission. In these rules, they are referred to collectively as the room sales tax: ( )*

i. Travel and Convention Tax. The tax *imposed* by Section 67-4718, Idaho Code, is a gross receipts type sales tax on the receipts derived from providing a place to sleep to an individual by operators of hotels, motels, and campgrounds as defined in these rules. *( )*

ii. Auditorium *or Community Center* District Tax. The tax *imposed* by Section 67-4917B, Idaho Code, is a retail sales tax levied upon the user or occupant of a hotel/motel room collected by the hotel or motel from the occupant or user and remitted to the Commission. *( )*

b. Sales Tax ***for Accommodations***. These rules explain the application of the state sales tax *on accommodations*. See *also* IDAPA 35.01.02*.028*, "Idaho Sales and Use Tax Administrative Rules." *( )*

012. *DISTRICT* BOUNDARIES (RULE 012).
Maps showing the district boundaries for each of the auditorium or community center districts administered by the Commission can be found on our website and are available upon request. ( )

013. REGISTRATION (RULE 013).
Registration *with the Commission* will be in the same manner and in the same form as is required for obtaining a seller's permit for state sales tax. *( )*

014. ROOM OR CAMPGROUND CHARGE DEFINED (RULE 014).

01. Room or Campground Charge Definition. As used in these rules, the charge for providing rooms or campground spaces *is* to the total *paid*, whether in money or otherwise, for the *rental* of the room or space. *This* include*s* amounts charged for temporary use of tangible personal property used in conjunction with the room such as a charge for an extra bed. In the case of campgrounds any charges for water, electrical or sewer hookups are part of the charge for the use of the space and are included in the amount subject to tax. *( )*

02. Not Included*. Separately stated charges that are not part of the rental of the room or campground space. Examples include separately stated charges for telephone, food, beverage or laundry charges. ( )*

015. SEPARATE STATEMENT OF TAX (RULE 015).

01. Amount of Tax Charged. *The total tax charged for lodging accommodations needs to be separately stated from all other charges on the customers receipt and can appear on the receipt as either; ( )*

a. *Separate Statement. A separate line item for each of the applicable taxes. ( )*

b. *Combined Statement. A single line item that includes all applicable taxes. ( )*

02. Fractional Parts of One Cent. If the amount of tax computed in accordance with this rule is a fractional part of one cent ($.01), the amount will be rounded to the nearest full cent. (7-1-93)

016. EXEMPTIONS (RULE 016).
Sections, 63-3612(g), 63-3624, 63-3622O, 67-4718, 67-4917B & C, 63-1804, Idaho Code.

01. Exemptions. Except as otherwise provided in this rule, all charges for room occupancy which are exempt from Idaho sales tax are also exempt from the room sales tax. (7-1-93)

02. Exempt Entities. Rooms or campground spaces furnished to governmental entities, educational institutions, or hospitals are exempt from the taxes if and only if the charge for the room or campground space occupancy is billed directly to and paid directly by the governmental entity, educational institution, or hospital. (7-1-93)

a. "Governmental entity" includes the federal government and any of its instrumentalities, the state of Idaho and any of its agencies or any city, county or taxing district of the state of Idaho. Governmental entity does not include states other than Idaho or their political subdivisions. (7-1-96)

b. "Educational institution" means any nonprofit colleges, universities, primary, and secondary schools in which systematic instruction in the usual branches of learning is given. The exemption does not include educational institutions that operate for profit or schools primarily teaching special accomplishments, such as business or cosmetology. (7-1-96)

c. "Hospital" means a nonprofit institution licensed as a hospital by any state. This exemption does not include hospitals that operate for profit, nursing homes, or similar institutions. (7-1-96)

d. "Billed directly to" means a contractual agreement between the facility operator and the governmental entity, educational institution, or hospital whereby the charge for the room or campground space is directed to and is the responsibility of the governmental agency or institution. "Billed directly to" also includes credit card charges billed to an account opened by an exempt agency, educational institution, or hospital. (7-1-96)

e. "Paid directly by" means a remittance tendered directly by the governmental entity, educational institution, or hospital to the facility operator. It does not include a payment by the governmental entity or institution to an employee or agent for reimbursement of expenses incurred during business travel. However, "paid directly by" does include payments made by an exempt entity to a financial institution for credit card charges made on a charge account in the name of the exempt entity with a credit card issued to the entity itself and not to any individual or employee. (7-1-96)

f. Credit cards issued to employees of governmental agencies are NOT considered to be billed directly to and paid directly by the governmental entity when the employee is responsible for making payment to the credit card company. (7-1-93)

03. Continuous Occupancy Exemptions. *All hotel/motel room sales and campground space rentals are presumed to be short term unless evidence can be provided documenting continuous occupancy.* Continuous occupancy means maintaining residency *under the terms of a lease or similar agreement* for a continuous period of time by the same individual or individuals. The continuous occupancy exemption does not apply when a room or campground space is furnished to a business enterprise that rotates numerous employees as occupants of the room or space with no one (1) employee remaining continuously for the minimum number of days required to meet the continuous stay requirements. *( )*

a. *Hotels and Motels. The room charges are exempt from the following taxes when continuous residency is maintained in a hotel or motel by the same individual or individuals for a period that exceeds thirty (30) days: ( )*

i. Sales and Use Tax; ( )

ii. Travel and Convention Tax; and ( )

iii. Auditorium or Community Center District Tax if the hotel or motel is located within the boundaries of the auditorium or community center district. ( )

b. *Campgrounds. The rental of a campground space is exempt from the following taxes when continuous residency is maintained by the same individual or individuals in a campground space for a period that exceeds thirty (30) days:* *( )*

i. Sales and Use Tax; *( )*

ii. Travel and Convention Tax; and *( )*

iii. Auditorium or Community Center District Tax does not apply to campground spaces. See Subsection 016.05 of this rule. *( )*

c. *This can be documented by* a lease or other documentation *that shows* the period the occupancy is maintained. A guest registration card verifiable by a billing document is acceptable documentation. *See Rule 017 of these rules for documentation requirements.* *( )*

04. Rooms *Rented* for Purposes Other Than Sleeping. Travel and Convention tax applies only to rooms *rented* to an individual as a place to sleep. The tax does not apply to rooms *rented* for other purposes, such as for meetings. However, both the state sales tax and the Auditorium *or Community Center* District tax apply to rooms *rented* by a hotel or motel for purposes other than sleeping. Rooms supplied with beds are presumed to be *rented* for the purpose of sleeping unless the contrary is established by the operator. Rooms, other than dormitory rooms, *rented* by an educational institution for purposes other than sleeping, are not taxable as a sale of lodging; however, it is possible that renting such a room may be taxable as a fee for the privilege of using a facility for a recreational purpose. *( )*

05. Campgrounds Exempted. The Auditorium District *or Community Center* tax does not apply to campground charges. The state sales tax and the travel and convention tax apply to the charge for campground spaces. Sales of spaces in campgrounds owned or operated by the state of Idaho, its agencies or political subdivisions are subject to the state sales tax but not the travel and convention tax. *( )*

06. Foreign Diplomats. The United States Government grants immunity from state taxes to diplomats from certain foreign countries. The diplomat is issued a federal tax exemption card by the U.S. Department of State. The card bears a photograph of the holder, a federal tax exemption number, and specific instructions as to the extent of the exemption granted to the diplomat. Vendors document an exempt charge to a foreign diplomat by: (7-1-93)

a. Retaining a photocopy of the front and back of the federal tax exemption card; or (7-1-93)

b. Recording for their permanent record the name of the bearer, the mission represented, the federal tax exemption number displayed on the card, the date of expiration, and the nature of the exemption granted to the diplomat. (7-1-93)

07. Direct Pay Authority. A taxpayer granted direct pay authority as provided by IDAPA 35.01.02, "Idaho Sales and Use Tax Administrative Rules," Rule 112 may not use this authority for hotel/motel room or campground space charges. State sales tax, Travel and Convention tax, and, when applicable, Auditorium *or Community Center* District tax is charged by the hotel, motel, or campground and paid to the hotel, motel, or campground by the direct pay authority permittee. *( )*

017. RECORDS REQUIRED (RULE 017).

Sections 63-3622, 63-3624, 67-4711, 67-4718 and 67-4917C, Idaho Code

Any person that provides accommodations subject to the accommodations tax will maintain the records required in IDAPA 35.01.02*.111*, *and the records and exemption certificates required in IDAPA 35.01.06.016* necessary to document exemptions from the *accommodations* tax. The*se* records are to be maintained for a period of four (4) years and are subject to audit by the Commission or, Auditorium *and Community Center* District*s organized under chapter 49, title 67, Idaho Code*. *( )*

018. RETURNS (RULE 018).

01. Filing Returns. Each hotel, motel, campground, lodging operator, and short-term rental marketplace providing *taxable* accommodations file*s* with the Commission on forms prescribed by the Commission returns showing the amount of tax required to be paid to the Commission and such other information as the Commission require*s*. The return, together with the remittance shown to be due thereon, is to be received by the Commission or postmarked on or before the twentieth (20th) day of the month following the period to which the return relates. All *taxable sales made* to the user or occupant are to reported on the return for the period during which such use or occupancy occurred without regard to whether the charge was a cash or credit transaction. *( )*

019. DEFICIENCIES, COLLECTIONS, AND ENFORCEMENT (RULE 019).
Sections 63-3629, & 63-3634, Idaho Code

01. Remittance of Taxes. In the event that taxes required to be collected and remitted by a hotel, motel, campground, lodging operator, and short-term rental marketplace are not remitted to the Commission together with a return in a timely manner or in the event that the Commission finds any deficiency in the amount of tax reported to or remitted to the Commission, the Commission will issue a Notice of Deficiency Determination pursuant to the provisions of Section 63-3629, Idaho Code. A hotel, motel, campground, lodging operator, and short-term rental marketplace to which such a Notice of Deficiency Determination has been issued may file a written protest requesting a redetermination of the deficiency pursuant to the provisions of IDAPA 35.02.01.320 - 328, "Tax Administration and Enforcement Administrative Rules." (3-28-18)

02. Penalties. In the event that any deficiency in reporting or remitting taxes by a hotel, motel, campground, lodging operator, and short-term rental marketplace is due to negligence, failure to comply with this Commission's rules, or fraud, or in the event that any hotel, motel, campground, lodging operator, and short-term rental marketplace required to file a return with the Commission fails to do so, the penalties provided in the Idaho Income Tax Act as applicable to the Idaho Sales Tax Act applies to the room sales tax. See IDAPA 35.01.01, "Income Tax Administrative Rules," Rule 410. (3-28-18)

03. Cross Reference. See Rule 003 of these rules, Administrative Appeals. (6-30-19)T

020. DISTRIBUTION (RULE 020).
Sections 67-4710 through 67-4718 and 67-4917C, Idaho Code

01. Travel and Convention Tax. Amounts collected by the Commission for the state Travel and Convention tax will be paid *distributed according to Section 67-4718, Idaho Code*. *( )*

02. Auditorium or Community Center District Tax. The amounts collected by the Commission for *any* Auditorium *or Community Center* District will be distributed by the Commission to the Auditorium *or Community Center* District *according to Section 67-4917C, Idaho Code. Funds to be distributed according to Section 67-4917C(2)(c), Idaho Code will be distributed* no later than one month following receipt by the Commission of the revenues from such district. *( )*

021. SALES TAX RULES APPLY UNLESS OTHERWISE PROVIDED (RULE 021).
The rules promulgated by the Commission relating to the enforcement and collection of the Idaho sales tax applies to the room sales tax unless the provisions of Sections 67-4710 through 67-4719, Idaho Code, inclusive or Sections 67 4917A, 67-4917B or 67-4917C, Idaho Code, or these rules are expressly contrary to the Sales Tax Rules. (7-1-93)

022. -- 999. (RESERVED).

000. LEGAL AUTHORITY (RULE 000).
In accordance with Sections 63-105 and 63-2701, Idaho Code, the Tax Commission has promulgated rules implementing the provisions of the Idaho Kilowatt Hour Tax Act. The rules relating to the administration and enforcement of kilowatt hour taxes, as well as other taxes, are promulgated as IDAPA 35.02.01. (7-1-97)

001. TITLE AND SCOPE (RULE 001).
These rules are titled IDAPA 35.01.07.000, et seq., Idaho State Tax Commission Rules IDAPA 35.01.07, "Kilowatt Hour Tax Administrative Rules." They are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on producers of electricity from hydroelectric generation. (7-1-97)

002. **ADMINISTRATIVE APPEALS (RULE *002*).**
This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. (7-1-98)

00*3*. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).

01. Idaho Customer. Idaho customer means a customer who has a point of delivery for the transfer of power and energy that is located in Idaho. This includes wholesale power transactions with customers or wheeling agents that have a delivery point located in Idaho. (7-1-97)

02. Point of Delivery. Point of delivery means the point at which a change in ownership of electrical facilities occurs between the filing party and the wholesale customers or wheeling agents for the transfer of power and energy. (7-1-97)

03. These Rules. The term these rules refers to IDAPA 35.01.07, relating to Idaho kilowatt hour tax. (7-1-97)

04. Wheeling Agent. Wheeling agent means an entity that receives kilowatt hours from a source or sources of supply and makes power or energy available at another point on its system for a delivering entity or a third party. (7-1-97)

011. -- 019. (RESERVED)

020. ELECTRICAL PRODUCERS SUBJECT TO TAX (RULE 020).
Section 63-2701, Idaho Code

01. In General. Title 63, Chapter 27, Idaho Code, and these rules apply to all producers of electricity who generate electricity from hydroelectric sources in Idaho, except as provided in Subsection 020.02. Producers of electricity from hydroelectric generation who sell all the power they produce for sale to another producer, for example, cogeneration, are required to file returns and remit the kilowatt hour tax. (7-1-97)

02. Municipal Corporations. The tax does not apply to power generated by facilities owned and operated by a municipal corporation organized pursuant to the laws of Idaho. Municipal corporations are not required to file kilowatt hour tax returns or to pay tax. As used in these rules, the term municipal corporation does not include a producer, as defined in Section 63-2701, Idaho Code, who produces electricity pursuant to a contract with a governmental entity. (7-1-97)

021. -- 029. (RESERVED)

030. KILOWATT HOUR TAX RETURNS (RULE 030).
Section 63-2701, Idaho Code

01. Required Statement. The statement required by Section 63-2701, Idaho Code, and by these rules shall be made on the kilowatt hour tax return, Form 48, 48C, or 48CM, provided by the Tax Commission. All information requested on the return must be provided and the return must be signed. (7-1-97)

02. Monthly Returns. All producers whose previous year's annual tax liability was greater than fifteen thousand dollars ($15,000) must file a monthly return with the Tax Commission no later than the last day of the month following the month to which the return relates. (7-1-97)

03. Quarterly Returns. Producers whose previous year's annual tax liability was equal to or less than fifteen thousand dollars ($15,000) may, at the discretion of the Tax Commission, be allowed to file a quarterly return with the Tax Commission no later than the last day of the month following the end of the calendar quarter to which the return relates. When a filing cycle is changed, the change will take effect on January 1 of the following year. (3-29-12)

04. Previous Year's Annual Tax Liability. If the previous year's annual tax liability is not available, the estimated current year's liability may be used. (7-1-97)

031. -- 039. (RESERVED)

040. COMPUTATION OF KILOWATT HOURS SUBJECT TO TAX AND CALCULATION OF TAX (RULE 040).
Section 63-2704, Idaho Code

01. Kilowatt Hours Subject to Tax Before Exemptions. To compute kilowatt hours subject to tax before exemptions, the taxpayer shall begin with gross hydroelectric generation in Idaho. The number of kilowatt hours generated shall be measured at the point of production. From kilowatt hours generated, deduct the amounts in Subsections 040.01.a. and 040.01.b.: (7-1-97)

a. Kilowatt hours used by the facility and kilowatt hours lost by the transformer during the hydroelectric generating period. These net kilowatt hours are known as the Idaho hydroelectric generated kilowatt hours to system. (7-1-97)

b. Idaho hydroelectric kilowatt hours consumed or lost in transmission and distribution services, including substations, during the generating period. To determine the transmission and distribution losses, the Idaho hydroelectric generated kilowatt hours to system shall be adjusted as follows: (7-1-97)

i. Divide the total of the kilowatt hours bartered, sold, or exchanged out by the total of the kilowatt hours the taxpayer generated, purchased, or exchanged in; and (7-1-97)

ii. Multiply the percentage derived by Subsection 040.01.b.i., by the Idaho hydroelectric generated kilowatt hours to system. (7-1-97)

02. Kilowatt Hours Subject to Tax. Kilowatt hours subject to tax is computed by subtracting the exemption amount as computed in Rule 045.02 of these rules from the kilowatt hours calculated in Subsection 040.01. (7-1-97)

03. Calculation of Kilowatt Hour Tax. The kilowatt hours subject to tax are multiplied by one-half mill ($0.0005) to calculate the total tax due for that period. (7-1-97)

041. -- 044. (RESERVED)

045. EXEMPTIONS (RULE 045).
Section 63-2705, Idaho Code

01. In General. An exemption shall be allowed from the kilowatt hours calculated in Subsection 040.01 of these rules for that portion of kilowatt hours used by the taxpayer or sold to Idaho customers for use in: (7-1-97)

a. Manufacturing, mining, milling, smelting, refining, and processing; or (7-1-97)

b. Pumping water for irrigation or pumping water for drainage on or from lands in Idaho. (7-1-97)

02. Computing the Exemption. The amount of the exemption shall be determined by multiplying the exempt sales in Subsection 045.01, by the percentage of Idaho customer sales from Idaho hydroelectric generation.

This percentage is derived by dividing the Idaho hydroelectric kilowatt hours as computed in Subsection 040.01 of these rules by the total kilowatt hours sold to Idaho customers. (7-1-97)

03. Wheeled Energy. (7-1-97)

a. If the taxpayer is a wheeling agent for another entity, the wheeled energy may not be included in the calculation of the exemptions. (7-1-97)

b. Example. Assume that Company A sells kilowatt hours to Company B and delivers this energy to Company C for wheeling and delivery to Company B at an Idaho delivery point. Company C, as a wheeling agent, would not include these kilowatt hours in the denominator of the percentage to be applied to the exempt sales. Company A would include these kilowatt hours in the denominator of the percentage to be applied to the exempt sales if the transfer between Companies A and C was at a delivery point in Idaho. (7-1-97)

046. -- 049. (RESERVED)

050. PAYMENT OF TAX (RULE 050).
Section 63-2702, Idaho Code. The full amount of tax shall be due and payable on the due date of the return and shall accompany the return when it is filed. Delinquent taxes shall be subject to interest at the rate applicable to delinquent taxes as provided in Rule 310 of the Administration and Enforcement Rules. (7-1-97)

051. -- 059. (RESERVED)

060. NOTICE OF DEFICIENCY -- ENFORCEMENT (RULE 060).
If the Tax Commission or its authorized agents or employees finds that a taxpayer has failed to file the returns required by these rules or to pay any kilowatt hour tax due, the Tax Commission shall issue a notice in substantially the same form as required for a notice of deficiency determination pursuant to Section 63-3045, Idaho Code, and related rules. The taxpayer may protest the notice of deficiency within the time and in the manner provided by Section 63-3045, Idaho Code, and related rules. If the taxpayer fails to file a protest or the Tax Commission rules against the protest, in whole or in part, and the tax is not paid, the Tax Commission shall direct its legal representative to commence the action authorized in Section 63-2708, Idaho Code. (7-1-97)

061. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with Section 63-105, Idaho Code, the Tax Commission has promulgated rules implementing the provisions of the Idaho Mine License Tax Act. The rules relating to the administration and enforcement of mine license taxes, as well as other taxes, are promulgated as IDAPA 35.02.01. (7-1-97)

001. TITLE AND SCOPE (RULE 001).
These rules are titled IDAPA 35.01.08.000, et seq., Idaho State Tax Commission Rules, IDAPA 35.01.08, "Mine License Tax Administrative Rules." They are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a license tax. (3-15-02)

002. **ADMINISTRATIVE APPEALS (RULE *002*).**
This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. (7-1-97)

003. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).
Section 47-1205, Idaho Code

01. These Rules. The term these rules refers to IDAPA 35.01.08, relating to Idaho mine license tax. (3-29-12)

02. Valuable Mineral. The term "valuable mineral," for purposes of the Idaho Mine License Tax, is defined to include not only gold, silver, copper, lead, zinc, coal, phosphate and limestone, but also any other substance not gaseous or liquid in its natural state, which makes real property more valuable by reason of its presence thereon or thereunder and upon which depletion is allowable pursuant to Section 613 of the Internal Revenue Code. This includes, but is not limited to, calcium carbonates, garnet, granite, pumice, quartzite, scoria, shale, slate, and stone (including dimension and ornamental stone). However, sand and gravel are not included in this definition. (3-29-12)

011. -- 014. (RESERVED)

015. REFERENCE TO INCOME TAX RULES (RULE 015).
Section 47-1205, Idaho Code. All income tax rules promulgated by the Tax Commission that relate to sections of the Idaho Code incorporated by reference in the Mine License Tax Act apply to the mine license tax. (7-1-97)

016. -- 019. (RESERVED)

020. ADVANCE ROYALTIES (RULE 020).
Section 47-1201, Idaho Code. Payments received from mining properties in Idaho from which no minerals or ores were extracted, sold, or used during the taxable year shall not be subject to the mine license tax. Provided, however, the tax arising from payments of advance royalties shall be deferred until the year during which the ore to which the advance royalty relates is actually extracted. (7-1-97)

021. -- 029. (RESERVED)

030. NET VALUE OF ORE TO BE USED AS MEASURE OF TAX -- HOW DETERMINED (RULE 030).
Section 47-1202, Idaho Code. (7-1-97)

01. Election. The taxpayer may elect to use one (1) of the methods prescribed in Section 47-1202, Idaho Code, for the measurement of the mine license tax. This election must be made in writing and attached to the first mine license tax return filed. If no timely written election is made, the taxpayer shall be presumed to have elected to compute the mine license tax in accordance with the method described in Section 47-1202(a), Idaho Code. Once an election is made, the taxpayer may not change the method of computing his tax unless he receives written permission from the Tax Commission prior to the due date of the return. (7-1-97)

a. This election is not available to taxpayers whose only taxable mining activity is receiving royalties. Such taxpayers must determine their mine license tax liability by use of the method described in Section 47-1202(a), Idaho Code. (7-1-97)

b. Taxpayers whose mining activity includes both the receiving of royalties and the extracting of ores

must separately determine that portion of their mine license tax liability arising from the royalty received by using the method described in Section 47-1202(a), Idaho Code. However, the taxpayer may elect to determine that portion of their mine license tax liability arising from their extraction of ores by use of either method for which a proper election has been made. The separate determination may not be netted together or offset against each other. (7-1-97)

02. Method Under Section 47-1202(a). For each taxpayer using the method described in Section 47-1202(a), Idaho Code, the net value of ores mined shall be the amount of taxable income from the property as defined by Section 613, Internal Revenue Code, and Treasury Regulation 1.613-5 less the deduction for depletion expense on the property that was allowed in the taxpayer's federal income tax return. For taxpayers receiving royalties, gross royalties shall be reduced by the deduction for depletion expense on the royalty that was allowed in the taxpayer's federal income tax return. (7-1-97)

03. Method Under Section 47-1202(b). For each taxpayer using the method described in Section 47-1202(b), Idaho Code, the net value of ores mined shall be the result of the computations in Subsections 030.03.a. through 030.03.c. (7-1-97)

a. Gross value of the ores shall be equal to that determined by the U.S. Department of Interior during the same taxable year for purposes of identifying the amount of mineral royalties to be paid for the privilege of mining public lands. This value shall apply regardless of whether the ore is extracted from public, tribal, or private land. If the taxpayer is mining properties for which a royalty must be paid, the taxpayer must attach to the mine license tax return a copy of the value determination made by the U.S. Department of the Interior. (7-1-97)

b. From the gross value determined in Subsection 030.03.a., the taxpayer shall deduct direct mining costs attributable to the Idaho production of the ores and Idaho transportation costs to the point at which they are valued by the U.S. Department of the Interior. (7-1-97)

c. From the amount in Subsection 030.03.b., the taxpayer shall also deduct a portion of the depletion expense attributable to the property that was allowed as a deduction in the taxpayer's federal income tax return for the same taxable year. The deductible portion shall be determined by multiplying the depletion expense allowed on the federal income tax return by the ratio of the gross value of ores for mine license tax purposes to the gross value of ores for federal percentage depletion purposes. For purposes of this computation, all references to gross value and depletion expense shall be limited to those arising from mining conducted in Idaho. (7-1-97)

031. -- 034. (RESERVED)

035. MINE LICENSE TAX RATE (RULE 035).
Section 47-1201, Idaho Code. (3-15-02)

01. Tax Rate Prior to July 1, 2001. The mine license tax shall be two percent (2%) of the net value of the royalties received or the ores mined or extracted prior to July 1, 2001. (3-15-02)

02. Tax Rate After June 30, 2001. The mine license tax shall be one percent (1%) of the net value of the royalties received or the ores mined or extracted after June 30, 2001. (3-15-02)

03. Application of Tax Rate Change. If a taxpayer's taxable year includes days before and after July 1, 2001, the taxpayer shall separately compute the net value of royalties received and the ores mined or extracted as if the taxable year were two (2) separate tax periods. For the period prior to July 1, 2001, the mine license tax rate of two percent (2%) shall apply. For the period after June 30, 2001, the mine license tax rate of one percent (1%) shall apply. The two (2) tax amounts shall then be added together to arrive at the total mine license tax for that taxable year. (3-15-02)

036. -- 039. (RESERVED)

040. MINE LICENSE TAX RETURNS (RULE 040).
Section 47-1203, Idaho Code. In addition to the requirements of a valid return provided in Rule 150 of the Tax Commission Administration and Enforcement Rules, a mine license tax return shall include a schedule listing the name, address, and employer identification number or social security number, of each recipient of royalties paid by the taxpayer filing the return. The royalties shall be separately stated for each mining operation. Each mine license tax

return shall also include a copy of the depletion expense computation applicable to Idaho mining properties that was included in the taxpayer's federal income tax return. (3-30-01)

041. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with Section*s* 63-105*, 23-1051,* and 23-1323, Idaho Code, the Commission *(Commission)* has promulgated rules implementing the provisions of the *Idaho Beer Act and the* Idaho County Option Kitchen and Table Wine Act *(The Acts)*. *( )*

001. TITLE AND SCOPE (RULE 001).
These rules are titled IDAPA 35.01.09, "Idaho *Beer and* Wine Tax*es* Administrative Rules" are to be construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on*:* *( )*

a. *All barrels or fractional amounts of beer sold or disposed of by a wholesaler and also used or consumed in Idaho.* *( )*

b. *All gallons of wine sold or disposed of by a distributor and also used or consumed in Idaho.* *( )*

002. **ADMINISTRATIVE APPEALS (RULE *002*).**
Section*s 23-1050A and* 23-1322A, Idaho Code
These rules only apply to the imposition and collection of *beer and* wine *taxes*. This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code, and related rules. *( )*

003. **INCORPORATION BY REFERENCE (RULE 00*3*).**
Section*s 23-1050A and* 23-1322A, Idaho Code

01. Tax Commission Administration and Enforcement Rules. These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." *( )*

02. Declaratory Rulings*. Declaratory Rulings may be made by the Commission under the provisions of Section 67-5255, Idaho Code, and Tax Commission Administration and Enforcement Rule 110.* *( )*

004. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).
Section*s 23-1001 and* 23-1303, Idaho Code

Definitions provided by statute, including the definitions in Sections 23-1001 and 23-1303, Idaho Code, apply to these rules. The following definitions apply for the purpose of these rules. *( )*

01. Disposition. *A d*isposition *is* any *decrease* of *beer or* wine from inventory due to any sale, transfer, loss, breakage, spoilage or any other cause or means. *( )*

02. Taxpayer*. A taxpayer is a person liable to report and pay the beer tax or wine tax according to the Acts and these rules.* *( )*

0*3*. Wine Direct Shipper. A wine direct shipper is a winery that has been issued *wine direct shipper* a permit by the Idaho State Police to ship wine directly to residents of Idaho. *( )*

011. *BEER AND WINE* SALES SUBJECT TO TAX (RULE 011).
Sections *23-1001, 23-1003, 23-1006, 23-1008, 23-1303, 23-1309A,* 23-1314*,* and 23-1319, Idaho Code

01. In General. Section*s 23-1008 and* 23-1319, Idaho Code, imposes an excise tax *on beer sales by beer wholesalers and* wine *sales* by *wine* distributor*s for use or consumption* in Idaho. *( )*

a. *Every disposition of beer by a wholesaler or wine by a distributor to a retailer or consumer constitutes a sale for resale or use. Beer wholesalers or wine distributors are liable for the payment of taxes on the sales. Any person making sales or dispositions of beer or wine, whether licensed or not, is liable for the taxes.* *( )*

b. *Wine direct shippers are liable for payment of wine tax imposed by Chapter 13, Title 23, Idaho Code, as well as the sales and use taxes imposed by Chapter 36, Title 63, Idaho Code, on all shipments of wine to Idaho.* *( )*

c. *Any brewer, brewery, producer, or manufacturer of beer within Idaho will be considered a beer dealer within the meaning of the definitions provided in Section 23-2001(d), Idaho Code. However, to ensure payment*

of tax on beer, any entity holding a brewery license will be considered a wholesaler to the extent of any disposition from the brewery for the purpose of resale or consumption in, by, or through any retail facilities including, tasting rooms on or near the brewery's premises. *( )*

d. *Any vintner, winery, producer, or manufacturer of wine within Idaho will be considered a wine importer within the meaning of the definitions provided in Section 23-1303(1)(e), Idaho Code. However, to ensure payment of tax on wine, any entity holding a winery license will be considered a distributor to the extent of any disposition from the winery for the purpose of resale or consumption in, by, or through any retail facilities including, tasting rooms on or near the winery's premises.* *( )*

e. *Ales, strong beer, new beer, or any other alcoholic beverages containing more than four percent (4%) alcohol by weight are taxed at the wine tax rate.* *( )*

f. *Premixed cocktails with an alcoholic content of fourteen percent (14%) or less by volume are taxed at the wine tax rate.* *( )*

g. *Illegal Sales or Dispositions. In addition to the remedies of Sections 23-1055 and 23-1309, Idaho Code, the Commission may assess taxes against persons making illegal sales of beer or wine who otherwise would be liable for payment of taxes.* *( )*

02. ***Supplementing Inventory****. If a brewery or winery supplements inventory, adequate records are required to support any tax paid. The Commission will presume no tax is paid on beer or wine in the inventory of a brewery or winery without evidence of the payment of tax. Wineries are not supplementing their inventory when purchasing wine or grape juice from other wineries to blend and produce wine.* *( )*

03. **All Sales Presumed Taxable**. Every sale or disposition *from* inventory is presumed *to be a* taxable sale, *unless the sale or* disposition is exempt *from tax* by the Act*s or* these rules. *( )*

012. EXEMPTIONS (RULE 012).
Section*s 23-1048, 23-1051,* 23-1319*,* and 23-1323, Idaho Code

01. Burden of Proof. The burden of proving any exemption, deduction, credit, or refund allowed by the Act*s* and these rules is upon the person claiming it. *( )*

02. Wholesale *Exports*. Every resale of *beer or* wine by a *beer wholesaler, brewery, wine* distributor*,* or winery for the purpose of and resulting in *an* export of *beer or* wine from this state for resale outside this state is exempt from *beer or wine* tax. *( )*

03. Sales By Wine Direct Shippers Outside This State. *When* an Idaho wine direct shipper is licensed as a wine direct shipper in another state, *they are licensed to sell wine to residents of the other state. S*ales of wine by the *Idaho* wine direct shipper*, using another state's wine direct shipper license,* to a resident of that state and delivered to a location in that state are exempt from Idaho *wine* tax. *( )*

04. Sales to Purchasers on Military Reservations. Sales to authorized purchasers on military reservations for the purpose of and resulting in sale*s* or consumption on *the* reservation are exempt from *beer or wine* tax. *( )*

05. Sales to Idaho State Liquor Dispensary. Sales of *beer or* wine to the Idaho State Liquor Dispensary are exempt from *beer or wine* tax. *( )*

06. Dispositions From One Distributor *or Wholesaler* to Another. Any disposition of *beer or* wine by transfer or sale or any other means from one (1) distributor *or wholesaler* to another is exempt *from beer or wine tax*. *( )*

013. BREAKAGE OR SPOILAGE (RULE 013).
Section*s 23-1051 and* 23-1319, Idaho Code

01. ***Percentage Method***. When a *beer or* wine container *is* damaged*, contents* spoiled*,* or *is* otherwise unfit for sale, the *beer wholesaler or wine* distributor may claim a *percentage* deduction of the*ir* total inventory purchases during the *reporting period when* the breakage or spoilage occurred*. The taxpayer may claim a deduction* without *prior* written approval *when* adequate records *are maintained* to verify actual breakage or spoilage. *The maximum percentage deductions are one-half of one percent (0.50%) for beer and three-quarters of one percent (0.75%) for wine.* *( )*

a. The Commission may *revoke* the use of *the percentage* method for any taxpayer *at any time*. The Commission *will* notify the taxpayer in writing that future destructions of breakage or spoilage will require written approval from the Commission. *( )*

b. Any taxpayer who has received written notice *revoking the percentage method* must file *the destruction request form required by the Commission*. *( )*

02. **Destruction *Request Method***. *Taxpayers must submit the destruction request form before claiming breakage or spoilage when the amount claimed exceeds the maximum percentages allowed or the Commission revokes the percentage method*. *( )*

a. *A destruction request form must be submitted ten (10) days before the proposed destruction date.* *( )*

b. The taxpayer must receive written approval from the Commission prior to destruction of any products referred to on the request. (7-1-93)

c. The Commission reserves the right to observe the destruction of *beer or* wine *in person* and to delay the destruction until *a mutually agreed upon time* can be arranged. *( )*

03. ***Deduction for Breakage or Spoilage***. A *deduction* may be claimed by the taxpayer *for breakage or spoilage when reporting beer or* wine *tax due*. *( )*

014. ***FINANCIAL*** **SECURITY (RULE 014).**
Section*s 23-1049 and* 23-1320, Idaho Code

01. ***Financial*** **Security for Payment of Tax**. *Any* person *required to pay* tax *under the Acts must* have *security* on file with the Commission *unless excused or waived by the Commission*. The security is to be *payable to the Commission* in the form and an amount acceptable to the Commission*. The security is* conditioned upon *payment* of all taxes imposed on *beer or* wine by this state for which *the* person is liable, including any penalty and interest. *( )*

0*2*. ***Types of*** **Security**. *A person required to provide security must use the forms of security allowed by Tax Commission Administration and Enforcement Rule 600*. *( )*

0*3*. **Security for a New *Taxpayer***. When a new *taxpayer* applies for a *tax account the* security required *is one thousand dollars ($1,000) unless one of the following conditions applies:* *( )*

a. If a *beer or* wine tax reporting history is available from a previous ownership, the security required *may* be based on the most recent twelve (12) month *filing* history of the prior ownership. *( )*

b. *If an out-of-state wine direct shipper is applying for an initial account, they may request a bond waiver*. *( )*

c. *If the taxpayer can establish a lesser amount should apply based on the average monthly amount payable according to Section 23-1049, Idaho Code.* *( )*

0*4*. **Petition to Waive Security *Requirement***. *T*he taxpayer *must petition the Commission for waiver of the* security require*ment*. *( )*

a. The Commission may release a taxpayer from the security *requirement* if the taxpayer has filed all

required tax returns including supplemental schedules and paid *the* tax due *on time* for the preceding twenty-four (24) month*s*. *( )*

b. *When* the taxpayer *petitions* the Commission*,* the taxpayer*'s account will be examined within sixty (60) days, if necessary*. The Commission will *notify the taxpayer of its decision within* ninety (90) days from the date the taxpayer's petition *was received. The notification will include the Commission's decision and reasons for the decision*. *( )*

c. If at any time after *the* release of a security requirement the taxpayer *is late* filing returns or *paying* tax*,* the Commission *may immediately revoke the waiver and demand the taxpayer post security*. *( )*

d. *If* a petition for release of security is denied or a demand for posting of security is made*,* the Commission *will notify* the taxpayer by certified mail. The notice will include the reasons for the Commission's *decision*. *T*he taxpayer *has* thirty (30) days from the date *of* the notice *to request, in writing, a redetermination of the Commission's decision*. *( )*

e. *Not* post*ing* security upon demand *is* a violation of the*se* rules and may be immediately reported to the Director of the Idaho State Police, *along* with a request to suspend or revoke the taxpayer's license *or permit*. *( )*

015. *BEER OR* WINE TAX *ACCOUNTS* (RULE 015).
Section*s 23-1051 and* 23-1323, Idaho Code

01. *Tax Accounts*. *B*efore engaging in business*, taxpayers need to have a beer tax or wine tax account from the Commission to report and pay tax. As evidence of the tax account, a tax permit is issued. The terms tax account and tax permit are used interchangeably in this section*. No fee is required *for a tax account*. *( )*

02. *Tax Accounts Are* Non-*transferable*. *Where there is a* change of ownership, it is the responsibility of the *tax account* holder to *cancel the tax account by giving written notice* to the Commission. *( )*

a. *N*otice *requirements include* the date of closure *or last date of operation*, date of sale or lease*,* and the name of the new owner or lessee. *( )*

b. If the new owner or lessee *uses* the previous owner's tax *account*, the *registered tax* holder may be responsible for all tax*, penalty, and interest* incurred during *that time* period. *( )*

03. *Tax Account* Cancellation. The Commission may cancel *an inactive tax account*. *A tax account is considered inactive when returns are filed with no reportable beer or wine activity for twelve (12) consecutive months. The Commission will provide notice of cancellation to the last known address of the tax account holder.* *( )*

016. *BEER OR* WINE TAX RETURNS (RULE 016).
Section*s 23-1047, 23-1051,* 23-1322, *and 23-1323,* Idaho Code

01. Report*ing Periods*. *Returns are due* on or before the 15th day of the month following the end of the reporting period, *or the next business day when the due date is a Saturday, Sunday, or legal holiday. All returns must be filed monthly unless the Commission approves an alternate* reporting period. *( )*

a. Request to File Quarterly or Semiannually. *Taxpayers owing* six hundred dollars ($600) or less per quarter *with a* timely filing and payment *history* may request *a* quarterly or semiannual *reporting period*. *( )*

b. Request to File Annually. Wine direct shippers, *taxpayers with* seasonal activities*, and other taxpayers with minimal activity* may request *an annual reporting period*. *( )*

c. Final *Return*. *A* taxpayer *will* mark cancel on the last *return* file*d. Tax, penalty, and interest will apply if* the taxpayer continues business activity after filing a final, *return and canceling the tax account*. *( )*

02. Prescribed Forms. *All sales or other dispositions of beer or wine in Idaho must be reported on forms provided or approved by the Commission.* ( )

***03. Inventory Reporting**. Taxpayers are to* report all additions to and sales or dispositions out of inventory, whether taxable or tax exempt, using inventory reporting methods *and* forms provided *or approved* by the Commission. ( )

04. Requirements of a Valid Return. A *valid* return *includes the tax return, all supplemental schedules, and worksheets with information to compute the tax liability. The return* must meet the *requirements of these rules and the information must be legible*. ( )

017. (RESERVED)

018. PENALTY AND INTEREST (RULE 018).
Section*s 23-1050A and* 23-1322A, Idaho Code

If *a taxpayer files returns or pays* taxes *late, penalty and interest apply. Penalty is authorized* by Section 63-3046, Idaho Code. *I*nterest *is authorized* by Section 63-3045, Idaho Code. ( )

019. RECORDS REQUIRED (RULE 019).
Section*s, 23-1006, 23-1051, 23-1314, and* 23-1323, Idaho Code

01. In General. Every person liable for the payment of taxes on *beer or* wine must keep and preserve the following records: ( )

a. A daily record of all cash and credit sales including invoices, receipts, journals, and other related records. (7-1-93)

b. A record of the amount of all merchandise purchased, including all bills of lading, invoices, *sales receipts, bank statements, canceled checks,* and copies of purchase orders arranged *in numerical and chronological order*. ( )

c. *S*upporting documents for all deductions and exemptions allowed by law or claimed *on a* tax return. ( )

d. True and complete *physical counts* of the *beer and* wine *inventory* taken at the end of each *reporting period*. ( )

e. True and complete records of breakage and spoilage claimed as a deduction from inventory. (7-1-93)

***f.** Any records used to complete a return, including but not limited to those listed above, are to be kept in numerical and chronological order so they can be balanced with the corresponding return.* ( )

02. Record Retention. These records are to be kept for a *minimum* of four (4) years *If a taxpayer appeals an* assessment*, all records* are to be kept until final disposition of the appeal. ( )

03. Location and Condition of Records. *All r*ecords and files are to be kept *clean, legible, and free from deterioration* on the premises of the business. ( )

02*0*. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with Sections 63-105, 63-2501, and 63-2553, Idaho Code, the State Tax Commission *(Commission)* has promulgated rules implementing the provisions of the Idaho Cigarette and Tobacco Products *Taxes* Act*s*. *( )*

001. TITLE AND SCOPE (RULE 001).
These rules are titled IDAPA 35.01.10, "Idaho Cigarette and Tobacco Products Tax*es* Administrative Rules." These rules are construed to reach the full jurisdictional extent of the state of Idaho's authority to impose a tax on all cigarettes and tobacco products sold, used, consumed, handled or distributed within this state. *( )*

***002*. ADMINISTRATIVE APPEALS (RULE *002*).**
Sections 63-2516 and 63-2563, Idaho Code
This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code, and related rules. (4-11-19)

***003*. INCORPORATION BY REFERENCE (RULE *003*).**
Sections 63-2516 and 63-2563, Idaho Code
These rules incorporate the sections of IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." *( )*

00*4*. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).
Sections 63-2502, 63-2528, and 63-2551, Idaho Code
Definitions provided by statute, including the definitions in Sections 63-2502, 632528, and 63-2551, Idaho Code, apply to these rules. Additionally, the following definitions apply for the purposes of these rules. ( )

01. Distributor. The term distributor, as defined by Section 63-2551, Idaho Code, includes persons who receive tobacco within this state for purposes of blending and/or repackaging. (7-1-93)

02. Manufacturer. The term manufacturer means a person who manufactures and sells cigarettes. The term manufacturer, as defined by Section 63-2551, Idaho Code, does not include persons who receive tobacco within this state for purposes of blending and/or repackaging. (7-1-93)

03. Person. The term "person" includes any individual, firm, partnership, LLC, venture, association, social club, fraternal organization, corporation, estate, trust, business trust, receiver, trustee, syndicate, cooperative, assignee, or any other group or combination acting as a unit. (4-2-08)

011. DISTRIBUTION OF FREE OR BELOW COST TOBACCO PRODUCTS (RULE 011).

01. Distribution of Free or Below Cost Tobacco Products. The distribution of tobacco products for free or below the cost of such products to the sellers or distributors of the products is prohibited by Section 39-5707, Idaho Code. If a free package is given away in a sales promotion that requires the purchaser to buy a specified number of packages, such as buy two (2) get one (1) free, all the packages must bear an Idaho tax stamp. (4-11-06)

012. PERMITS (RULE 012).
Section 63-2503, Idaho Code
Every wholesaler of cigarettes is required to obtain a cigarette wholesaler's permit from the Commission and post a bond as required by Rule 017 of these rules before engaging in business. The wholesaler must apply for the permit on the form prescribed by the Commission, accompanied by a fee of fifty dollars ($50). Application forms may be obtained by contacting the Commission. The permit holder will at all times conspicuously display the permit at his place of business. (7-1-93)

01. Permit Is Non-Assignable. A cigarette wholesaler's permit is non-assignable. Upon any change of ownership, it is the responsibility of the permit holder to immediately give written notification to the Commission. (7-1-93)

a. The notice will set forth the date of closure, date of sale, or date of lease of the business. If a sale or lease, the notice must state the last day of operation and the name of the new owner or lessee. The permit holder must return the permit or send a written statement that the permit has been destroyed. (7-1-93)

b. If this information is not furnished to the Commission and the new owner or lessee continues

operation of the business on the previous owner's cigarette wholesaler's permit without filing for and obtaining a new permit, the original permit holder may be held responsible for all tax liability incurred during the period that the new owner or lessee operated the business under the previous owner's permit. (7-1-93)

02. Seller's Permit. Every retailer of cigarettes must obtain an Idaho seller's permit from the Commission before engaging in business as required by Section 63-3620, Idaho Code. When a wholesaler sells stamped cigarettes to a retailer of cigarettes, he must obtain from the retailer a Sales Tax Resale or Exemption Certificate, Form ST-101. (7-1-93)

013. SHIPMENTS IN INTERSTATE COMMERCE (RULE 013).

Section 63-2505, Idaho Code

Sales of cigarettes in the course of interstate commerce for purposes of Section 63-2505, Idaho Code, include only those sales where title is transferred outside the state of Idaho, or on U.S. military reservations, or on Indian reservations. (5-3-03)

01. Types of Conveyances. Shipments of cigarettes to U.S. military reservations or Indian reservations must be made by conveyance used in the normal operation of the wholesaler's business, or by common carrier hired by the wholesaler. (7-1-93)

a. In the case of shipment by common carrier, a copy of the bill of lading must be kept on file at the wholesaler's place of business for three (3) years. (7-1-93)

b. In the case of shipments by the wholesaler's conveyance, an itemized receipt must be obtained by the wholesaler bearing the signature of the receiver's representative and the wholesaler's employee making such delivery. Receipts must be serially numbered. (7-1-93)

02. Records of Unstamped Deliveries. In addition, all deliveries made outside the state and all deliveries made to U.S. military reservations or Indian reservations, and which are delivered without state tax stamps of another state must be listed in a chronological log by delivery date and customer. The log must contain the following information: delivery date, number of cigarettes delivered, and an itemized receipt number, as described in Subsection 013.01.b. of this rule. (4-2-08)

014. SHIPMENTS DELIVERED ON INDIAN RESERVATIONS (RULE 014).

01. Shipments Without Idaho Stamps. Cigarette wholesalers may deliver cigarettes which do not have Idaho stamps affixed to Idaho Indian reservations when: (4-2-08)

a. The purchaser is an enrolled member of an Idaho Indian tribe. (7-1-93)

b. The purchaser is a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe. (7-1-93)

c. The purchaser is a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

02. Reservation Means Lands Which Are: (7-1-93)

a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; or established by formal decision of the Executive Branch of the United States. (7-1-93)

b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 014.02.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

03. Sales of Cigarettes to Non-Indians Within Reservation Boundaries. Sales of cigarettes by wholesalers to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation must

have Idaho cigarette stamps affixed. (4-2-08)

04. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell cigarettes upon which Idaho cigarette stamps have not been affixed. (7-1-93)

015. STAMPS-SOURCE, AMOUNT, AND LIMITATIONS (RULE 015).
Sections 63-2510 and 63-2510A, Idaho Code

01. Obtaining Stamps. Cigarette stamps may only be obtained from the Boise office of the Commission. (4-11-19)

02. Unused Stamp Inventory. Wholesalers may not hold an inventory of unused Idaho cigarette stamps, the face value of which exceeds the amount of their bond. Where no bond is required, wholesalers may not hold an inventory of unused Idaho cigarette stamps, the face value of which exceeds two (2) times the wholesaler's average monthly tax liability. (4-11-19)

03. Filing and Paying Timely. Failure to file a cigarette tax return or pay the tax on a timely basis will result in no additional stamps being issued by the Commission to a wholesaler until clear and convincing evidence is received by the Commission that the return has been filed or the tax has been paid. (4-11-19)

04. Physical Security. Wholesalers are responsible for the face value of all stamps received from the Commission. Wholesalers must provide physical security for the stamps in their possession. (4-11-19)

016. WHOLESALER'S CREDIT CLAIMS FOR UNMARKETABLE STAMPS (RULE 016).

01. Destroyed Stamps. On and after July 1, 1989, stamps destroyed by the manufacturer as a result of the return of stale or otherwise unmarketable cigarettes may be redeemed by the wholesaler for credit against future tax due if: (4-6-05)

a. The manufacturer provides an affidavit to the Commission indicating that said stamped cigarettes were received from an Idaho licensed wholesaler and detailing the number and package type received. (7-1-93)

b. The wholesaler provides to the Commission a returned goods receipt obtained from the manufacturer's representative verifying the number of packages, the package type, and the date the cigarettes were returned and a bill of lading traceable to the returned goods receipt. The credit must be claimed on the wholesaler's cigarette tax return and all required documentation must be attached. (7-1-93)

02. Stale and Unmarketable Cigarettes. When stamps are to be destroyed by a wholesaler as a result of stale or otherwise unmarketable cigarettes that cannot be returned to the manufacturer, a credit will be allowed against future tax only if: (4-6-05)

a. The wholesaler notifies the Commission in writing at least ten (10) working days prior to destruction. The notice must include a complete description of the number of packages, the package type, and the time and manner the cigarettes and stamps will be destroyed. (7-1-93)

b. The Commission reserves the right to observe the destruction of all cigarette stamps and further reserves the right to delay the destruction until such time as a mutual appointment can be arranged for witnessing such destruction. (7-1-93)

03. Unused, Unfit or Damaged Stamps. Stamps that are unused, unfit, or damaged may be returned to the Commission by the wholesaler for credit. (7-1-93)

04. Manufacturers Removed From Directory. It is unlawful for a wholesaler to affix stamps to a package of cigarettes manufactured by a manufacturer or belonging to a brand family not included in the directory of certified manufacturers and brands published by the Idaho Attorney General. See Section 39-8403, Idaho Code. It is possible for a wholesaler to affix stamps to cigarettes manufactured by a manufacturer that is later removed from the directory. The cigarettes would then become unmarketable. In such a case a wholesaler may apply for a credit by

following the procedures described in Subsection 016.02 of this rule. No credit will be allowed if the cigarettes are purchased after the manufacturer or brand family has been removed from the directory. (4-6-05)

05. Credits and Refund. All credits and refunds of cigarette tax will be reduced by the amount of the compensation provided for by Section 63-2509, Idaho Code. (4-6-05)

017. SECURITY FOR TAX REQUIRED (RULE 017).
Sections 63-2510A, Idaho Code

01. Security for Payment of Taxes. Every wholesaler liable for payment of cigarette taxes provided by Chapter 25, Title 63, Idaho Code, will always have in effect and on file with the Commission security for payment of the excise tax. The security will be in the form and amount acceptable to the Commission, will be payable to the Commission, and will be conditioned upon remittance of taxes imposed on cigarettes by this state for which such wholesaler will be liable, including any penalty and interest. (7-1-98)

a. The amount of the security will be the greater of two (2) times the amount of the tax due on an average monthly cigarette tax return, using the previous twelve (12) month period as a base or the value of stamps in the wholesaler's inventory including the value of stamps ordered but not yet received. (3-29-17)

b. If a wholesaler wishes to hold an inventory of unused Idaho cigarette stamps in excess of the limitations set by Rule 015 of these rules, the wholesaler must increase the amount of the security on file with the Commission accordingly, or pay a deposit to the Commission for future taxes due which exceed the limitations. (3-20-04)

c. Example: A wholesaler has an average monthly tax liability of two thousand dollars ($2,000). The wholesaler is required by the Commission to post a security in the amount of four thousand dollars ($4,000). The wholesaler wishes to hold an unused Idaho cigarette stamp inventory of ten thousand eight hundred dollars ($10,800). The wholesaler must increase the amount of the security on file with the Commission by six thousand eight hundred dollars ($6,800), or pay a deposit of six thousand eight hundred dollars ($6,800) to be applied to future tax due to the Commission. (7-1-98)

02. Reviewing Security on File. The Commission will review the amount of security on file periodically, but no less than annually, and may increase or decrease the amount of the required security in accordance with the increase or decrease of the wholesaler's average monthly tax liability. (7-1-98)

03. New Wholesaler Application. When a new wholesaler applies for a cigarette wholesaler's permit, as provided by Section 63-2503, Idaho Code, the security required will be determined as follows: (7-1-93)

a. If a cigarette tax reporting history is available from a previous ownership of the business, the new wholesaler will furnish security based on the most recent twelve (12) month history of the prior ownership. (7-1-93)

b. If there is no cigarette tax reporting history available from a previous ownership of the business, the new wholesaler will furnish security in the amount of an estimated two (2) month tax liability of the new business, or the value of stamps in the wholesaler's inventory including the value of stamps ordered but not yet received, whichever is greater. The estimate will be prepared by the new wholesaler and will be subject to review and approval by the Commission. (3-29-17)

04. Types of Security. A person required to *provide* security *must use the forms of security allowed by* Tax Commission *Administration and Enforcement Rule 600*. *( )*

05. Taxpayer Petition for Release from Security Requirements. A security will be required in all instances unless the Commission, upon petition by the taxpayer, determines that a security is not required. (7-1-98)

a. The following conditions must be met before the Commission will release a taxpayer from the posting of a security: The taxpayer has filed all cigarette tax returns including supplemental schedules on a timely basis for a period of not less than twelve (12) months, and the taxpayer has paid all cigarette tax due on a timely basis for a period of not less than twelve (12) months. (7-1-98)

b. Upon written petition from the taxpayer, the Commission will review the filing record of the taxpayer and, if determined necessary, examine his books and records within sixty (60) days. The Commission will advise the taxpayer of its determination no later than ninety (90) days from the date of receipt of the taxpayer's petition. (7-1-98)

c. If a petition for release of security is denied, notice will be mailed to the taxpayer by certified mail. The notice will include the reasons for the Commission's determination. If the taxpayer wishes to seek a redetermination of the decision, he must file a petition for redetermination in the manner set forth in Section 63-3045, Idaho Code. The petition for redetermination must be filed no later than thirty (30) days from the date on which the notice of determination is mailed to or served upon the claimant. (7-1-98)

06. Failure to File Timely After Release from Security. If a taxpayer has been released from security requirements and fails to file a cigarette tax return or fails to pay the cigarette tax due by the due date specified in Chapter 25, Title 63, Idaho Code, the Commission may immediately make demand for the tax return or payment, and demand that a security be posted. (7-1-98)

a. The demand will be in writing and will be personally served on the taxpayer or mailed to him by certified mail. (7-1-93)

b. If the taxpayer wishes to petition for redetermination of the demand, he must do so in writing within ten (10) days of the date upon which the demand is mailed to or served on him. (7-1-93)

c. Failure to file a petition for redetermination will cause the demand to become final and a jeopardy assessment will be issued. Immediate collection actions will be taken which may include seizing all Idaho cigarette stamps held by the taxpayer, filing liens of record, seizing all cigarettes held in the inventory of the taxpayer, revoking the taxpayer's cigarette permit, or notifying the manufacturers of the cigarettes held in the taxpayer's inventory of all actions taken. (7-1-93)

018. CIGARETTE TAX RETURN (RULE 018).
Section 63-2510, Idaho Code

01. Cigarette Tax Return. All cigarette wholesalers required to affix Idaho stamps to cigarettes, or who make sales to U.S. military or Indians on reservations, or who have a stamping warehouse or business located within this state and sell cigarettes in interstate commerce are required to file an Idaho cigarette tax return. (7-1-93)

02. Filing Returns. The return will be in a form prescribed by the Commission and will be filed on a monthly basis. (7-1-93)

03. Due Date. The return will be filed by the wholesaler on or before the twentieth day of the month immediately following the month to which the return applies. If the twentieth day falls on a Saturday, Sunday, or legal holiday, the return will be due on the next following day which is not a Saturday, Sunday, or legal holiday. The return must account for and tax must be paid on all cigarette stamps affixed during the month to which the return applies. (4-11-06)

04. Requirements of a Valid Return. A tax return or other documents required to be filed in accordance with Section 63-2510, Idaho Code, and this rule must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return will be considered to have filed no return. A taxpayer's failure to properly file in a timely manner may cause certain penalties to be imposed by Sections 63-3030A, 63-3046, and 63-3075, Idaho Code, and rules thereunder. (7-1-93)

a. All cigarette tax return forms must be completed and copies of all pertinent supporting schedules or computations must be attached. The results of supporting computations must be carried forward to applicable lines on the cigarette tax return form. (7-1-93)

b. All cigarette tax returns or other documents filed by the taxpayer must include his cigarette wholesaler's permit number and Federal Taxpayer Identification Number in the space provided. (7-1-93)

c. A cigarette return that does not provide sufficient information to compute a tax liability does not constitute a valid cigarette tax return. (7-1-93)

d. Perfect accuracy is not a requirement of a valid return, even though each of the following conditions is required: it must be on the proper form, as prescribed by the Commission; it must contain a computation of the tax liability and sufficient supporting information to demonstrate how that result was reached; and it must show an honest and genuine effort to satisfy the requirement of the law. (7-1-93)

05. Failure to File a Return. Any wholesaler required to file a return who fails to file such return will be in violation of this regulation and will be required to appear before the Commission to show cause as to why his permit should not be revoked. See Section 63-2503, Idaho Code. (7-1-93)

06. Implementation of Tobacco Master Settlement Agreement. Chapter 78, Title 39, Idaho Code, enacted as part of the settlement agreement with several cigarette manufacturers requires nonparticipating manufacturers to place certain funds in escrow accounts. The Commission is required to ascertain the amount of state excise tax paid on cigarettes manufactured by manufacturers that are not participating in the Master Settlement Agreement. Therefore, as part of the cigarette tax return, cigarette wholesalers must report separately the number of Idaho cigarette stamps affixed to products manufactured by manufacturers that are not participating in the Master Settlement Agreement. (4-5-00)

07. Wholesale Sales of Stamped Cigarettes. Every wholesaler who imports unstamped cigarettes into this state must file a return, however; a cigarette wholesaler who buys only stamped cigarettes for resale is not required to file a return. (4-11-19)

019. TOBACCO MANUFACTURERS AND DISTRIBUTORS (RULE 019).

01. Shipments to Retailers/Distributors. In the case where a person who is not a registered Idaho tobacco dealer ships tobacco products to a person who is both a retailer, as defined in Section 63-2551(5), Idaho Code, and a distributor, as defined in Section 63-2551(3)(b), Idaho Code, and Rule 010 of these rules, the shipper will be considered a manufacturer for purposes of all shipments of products intended for blending and/or repackaging and the receiver will be primarily liable for the tax. In the case where shipments are made to a person who is both a retailer and a distributor and products are prepackaged for retail sale, the shipper will be considered a distributor, Section 63-2551(3)(c), Idaho Code, and held primarily liable for the tax. (3-30-07)

02. Nontaxed Tobacco Purchases from Outside the State. Any person purchasing tobacco products from without this state and making any type of sale, as defined in Section 63-2551(6), Idaho Code, will be deemed to be the distributor and held liable for the unpaid tax on said tobacco products not otherwise taxed. (7-1-93)

03. Determining Wholesale Sales Price. Any time a distributor makes a purchase of tobacco products from a manufacturer or any person upon which the tax has not been paid, and the documents pertaining to that purchase do not clearly indicate the wholesale sales price, as defined by Section 63-2551(7), Idaho Code, wholesale sales price will be determined to be the purchase price of that product, or the wholesale sales price of that same or a like product in the course of normal commerce whichever is greater. It is the responsibility of the distributor to provide the accuracy of the wholesale sales price of any product it may be held liable for. (3-20-14)

a. Separately Stated Nontaxable Charges. Separately stated nontaxable charges for shipping, handling, transportation, and delivery may not be used to avoid tax on the wholesale sales price of tobacco products. If the allocation of the wholesale sales price is unreasonable, the Idaho Commission may adjust it. (3-20-14)

b. An out-of-state distributor with nexus in the state of Idaho must use the same method in determining "wholesale sales price" as other distributors that distribute tobacco products in Idaho. If an out-of-state distributor without nexus in Idaho applies for and receives a tobacco tax permit voluntarily, that distributor must also use the same method in determining "wholesale sales price" as other distributors that distribute tobacco products in Idaho. (3-20-14)

i. Example 1. An out-of-state tobacco manufacturer manufactures tobacco and acts as its own

distributor. The manufacturer distributes its products to Idaho distributors, retailers, and end users. In this case, the manufacturer is acting as both manufacturer and distributor. The wholesale sales price will be the price at which it sells to the Idaho distributor, retailer or end user. (3-20-14)

ii. Example 2: An out-of-state importer (Company X) purchases tobacco products. Company X sells its product to its sister company (Company Y) which then acts as the distributor. The dollar amount for which Company X sells its product to Company Y is not disclosed. Company Y then ships the product into Idaho to Idaho distributors and retailers. In this case, the purchase price from the manufacturer to Company X is unknown. Additionally, there are no records provided to show the sales price between Company X and Company Y. There are records showing the price between Company Y and the Idaho distributors and retailers. Under this subsection, where the wholesale sales price is unknown, the wholesale sales price will be the greater of the purchase price of that product or the wholesale sales price of that same or a like product in the course of normal commerce. The "purchase price of the product" is the price the Idaho distributor or retailer actually paid Company Y to purchase the product. The wholesale sales price of the same or similar product in the normal course of commerce could be interpreted as the price a manufacturer would sell the same or similar product to a distributor. (3-20-14)

iii. Example 3: An out-of-state distributor buys tobacco products from a manufacturer that is not a related party as defined in IRC Section 267. The distributor ships its products to Idaho distributors and retailers. If the wholesale sales price (the price paid by the distributor to the manufacturer for the product) is known, then that is the wholesale sales price. If the distributor does not know the wholesale sales price paid to the manufacturer, then this subsection requires the wholesale sales price to be the price paid by the Idaho distributors and retailers for the product OR the wholesale sales price of the same or similar products, whichever is greater. (3-20-14)

020. TOBACCO TAX RETURN (RULE 020).

01. Tobacco Tax Return. All tobacco distributors who make wholesale purchases are required to file a tobacco products tax return. (7-1-93)

02. Timing of Filing Return. The return will be in a form prescribed by the Commission and will be filed on a monthly basis. (7-1-93)

03. Due Date of Return. The return will be filed by the distributor on or before the twentieth (20th) day of the month immediately following the month to which the return applies. If the twentieth (20th) day falls on a Saturday, Sunday, or legal holiday, the return will be due on the next following day which is not a Saturday, Sunday, or a legal holiday. (7-1-93)

04. Requirements of a Valid Return. A tax return or other document required to be filed in accordance with Section 63-2552, Idaho Code, and these rules must meet the conditions prescribed below. Those which fail to meet these requirements are invalid. They may be rejected and returned to the taxpayer to be redone in accordance with these requirements and refiled. A taxpayer who does not file a valid return will be considered to have filed no return. A taxpayer's failure to properly file in a timely manner may cause certain penalties to be imposed by Section 63-3046 and 63-3075, Idaho Code, and related rules. (7-1-93)

a. The tobacco products tax return form must be completed and copies of all pertinent supporting documentation must be attached. The results of supporting documentation must be carried forward to applicable lines on the tobacco products return form. (7-1-93)

b. All tobacco products tax returns or other documents filed by the taxpayer must include his tobacco products tax permit number and Federal Taxpayer Identification Number in the space provided. (7-1-93)

c. A tobacco products tax return that does not provide sufficient information to compute a tax liability does not constitute a valid return. (7-1-93)

d. Perfect accuracy is not a requirement of a valid return, even though each of the following conditions is required it must be on the proper form, as prescribed by the Commission; it must contain a computation of the tax liability and sufficient supporting information to demonstrate how that result was reached; and it must show an honest and genuine effort to satisfy the requirement of the law. (7-1-93)

021. SALES TO OTHER IDAHO DISTRIBUTORS (RULE 021).

01. Sales for Eventual Resale. When a registered Idaho tobacco products distributor sells tobacco products other than cigarettes to other tobacco products distributors located within this state the duty to pay the tax is on the distributor who first causes the tobacco products to be shipped to Idaho. (3-30-07)

02. First Receiver. The first receiver, the tobacco products distributor who first causes the tobacco products to be shipped to Idaho will report the tax on his tobacco products tax return for the month in which the sales occur. The sales invoice to the second receiver must clearly indicate that the first receiver has paid the tax. (4-11-06)

03. Subsequent Receiver. Any subsequent receiver will not be required to pay the tax as long as he maintains records showing that the first receiver has paid the tax. (3-30-07)

022. EXEMPTIONS (RULE 022).

01. Credit for Taxes Paid. Tobacco distributors may claim a credit for taxes paid on tobacco products other than cigarettes that are: (7-1-93)

a. Sold and delivered to retailers or distributors at locations outside the state of Idaho; (5-8-09)

b. Sold and delivered to the United States Government on U.S. Military reservations located within Idaho; (7-1-93)

c. Sold and delivered to a purchaser within the boundaries of an Idaho Indian reservation when the purchaser is an enrolled member of an Idaho Indian tribe; a business enterprise wholly owned and operated by an enrolled member or members of an Idaho Indian tribe; or a business enterprise wholly owned and operated by an Idaho Indian tribe. (7-1-93)

02. Documentation. Distributors must maintain adequate records to show the validity of credits claimed under this subsection, including delivery records and invoices. If the distributor is selling to an enrolled member of an Indian tribe he should keep a copy of the purchaser's tribal identification card in his files. If he is selling to a tribally owned entity, he should keep a certificate of tribal ownership or some other form of clear and convincing evidence that the purchaser is a business wholly owned and operated by an Idaho Indian tribe. (4-2-08)

03. Indian Reservations. Indian reservation means lands which are: (7-1-93)

a. Indian lands federally declared to be reservations because they are reserved for Indian tribes by treaty between Indian tribes and any territorial governments, state government, or the United States Government; established by acts of the United States Congress; established by formal decision of the Executive Branch of the United States; or (7-1-93)

b. Held by an Idaho Indian tribe not holding lands which meet the definition of Subsection 022.03.a., above, and are tribal lands held in trust by the United States for the use and benefit of such tribe. (7-1-93)

04. Non-Indian Enterprises. Tobacco distributors may not claim a credit for taxes paid on tobacco products sold to non-Indian enterprises or persons located within the boundaries of an Idaho Indian reservation. (7-1-93)

05. Non-Indian Retailers. Non-Indian retailers located within the boundaries of an Idaho Indian reservation may not sell tobacco products upon which tobacco products tax has not been paid. (7-1-93)

023. CREDIT FOR RETURNED TOBACCO PRODUCTS (RULE 023).

01. Credit Allowed. When tobacco products have been returned to the manufacturer, credit will be allowed against future tax only if: (7-1-93)

a. The distributor has an itemized credit memorandum or credit invoice from the manufacturer; and (7-1-93)

b. The distributor has a bill of lading or manufacturer's credit receipt which can be traced to the credit memorandum and which verifies the amount shipped to the manufacturer. (7-1-93)

02. Notice of Returned Tobacco Products. The Commission reserves the right to require the distributor to notify the Commission in writing at least five (5) working days prior to shipment of any tobacco products returned to the manufacturer. If required, the notice must include a complete description of the item returned, the quantity to be returned, and the wholesale sales price of the item, and the date items will be shipped. (7-1-93)

03. Verifying Shipments. The Commission reserves the right to verify the shipment of all tobacco products returned to the manufacturer and further reserves the right to delay the shipment until such time as a mutual appointment can be arranged for verifying such shipment. (7-1-93)

024. CREDIT FOR DESTRUCTION OF TOBACCO PRODUCTS (RULE 024).

01. Destroyed Tobacco. When tobacco products are to be destroyed by a distributor, credit will be allowed against future tax only if: (7-1-93)

a. The distributor notifies the Commission in writing at least ten (10) working days prior to destruction. The notice must include a complete description of the items to be destroyed, the quantity of each item, the wholesale sales price of each item and the time and manner the items will be destroyed; and (7-1-93)

b. The distributor has a verifiable credit memorandum from the manufacturer. (7-1-93)

02. Observing Destruction. The Commission reserves the right to observe the destruction of all tobacco products and further reserves the right to delay the destruction until such time as a mutual appointment can be arranged for witnessing such destruction. (7-1-93)

025. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
Section 63-3039, Idaho Code. (3-20-97)

01. In General. In accordance with Sections 63-105 and 63-3039, Idaho Code, the Tax Commission shall promulgate rules implementing the provisions of the Idaho Income Tax Act. (3-20-97)

02. Related Taxes. This chapter contains rules relating to provisions of the Idaho Income Tax Act, Title 63, Chapter 30, Idaho Code, that are incorporated by reference into statutes relating to other taxes. These include: (3-20-97)

a. Sales and Use Taxes, Title 63, Chapter 36, Idaho Code; (3-20-97)

b. Motor Fuels Taxes, Title 63, Chapter 24, Idaho Code; (3-20-97)

c. Petroleum Transfer Fee, Title 41, Chapter 49, Idaho Code; (3-20-97)

d. Estate Taxes, Title 14, Chapter 4, Idaho Code; (3-20-97)

e. Cigarette and Tobacco Products Taxes, Title 63, Chapter 25, Idaho Code; (3-20-97)

f. Beer Taxes, Title 23, Chapter 10, Idaho Code; (3-20-97)

g. Wine Taxes, Title 23, Chapter 13, Idaho Code; (3-20-97)

h. Illegal Drug Taxes, Title 63, Chapter 42, Idaho Code; (3-20-97)

i. Mine License Taxes, Title 47, Chapter 12, Idaho Code; (3-20-97)

j. Kilowatt Hour Taxes, Title 63, Chapter 27, Idaho Code; and (3-20-97)

k. The Uniform Unclaimed Property Act, Title 14, Chapter 5, Idaho Code. (3-20-97)

001. TITLE AND SCOPE (RULE 001).
Section 63-3039, Idaho Code. (3-20-97)

01. Title. These rules are titled IDAPA 35.02.01.000, et seq., Idaho State Tax Commission Rules IDAPA 35.02.01, "Tax Commission Administration and Enforcement Rules." (3-20-97)

02. Effective Date. To the extent allowed by statute, rules in this chapter are applied on their effective date to all taxable years open for determining tax liability. (3-20-97)

03. Closed Years or Issues. Taxable years closed by the statute of limitations remain closed and are not reopened by the promulgation, repeal or amendment of any rule. Issues resolved by the expiration of appeal time, a notice of deficiency determination, or a final decision of the Tax Commission will not be reopened by the promulgation, repeal, or amendment of any rule. (3-20-97)

04. Transactions Before an Effective Date. A rule will not be applied to transactions occurring before its effective date in a case where, in the opinion of the Tax Commission, to do so would create an obvious injustice. (3-20-97)

***002*. ADMINISTRATIVE APPEALS (RULE *002*).**
This chapter allows administrative relief as provided in Sections 63-3045, 63-3045A, 63-3045B, and 63-3049, Idaho Code. (3-20-97)

***003*. -- 009. (RESERVED)**

010. DEFINITIONS (RULE 010).
Section 63-3003, Idaho Code. (3-20-97)

01. Date of Filing or Payment. (4-6-05)

a. When returns or other documents or payments are delivered to the Tax Commission by United States mail, the date of filing or payment means the date shown by the post office cancellation mark. If a cancellation

mark is omitted, illegible or erroneous, the document will be deemed filed on the date the taxpayer establishes by competent evidence that the material was deposited with the United States Postal Service. A postage meter cancellation shall not be deemed a post office cancellation mark. Refer to Section 63-217, Idaho Code. (4-6-05)

b. When returns or other documents or payments are delivered to the Tax Commission by a private delivery service designated as qualifying under Section 7502, Internal Revenue Code, the date of filing or payment means the date treated as the postmark date for purposes of Section 7502, Internal Revenue Code, as provided by the special rules in Notice 97-26, 1997-1 C.B. 413 and subsequent Notices. (4-6-05)

c. Materials not mailed with the United States Postal Service or a private delivery service designated as qualifying under Section 7502, Internal Revenue Code, are filed when physically received by the Tax Commission. (4-6-05)

d. Returns or other documents or payments transmitted electronically are deemed received or paid on the date provided in Section 63-115, Idaho Code. (4-6-05)

02. Pay, Paid, Payable or Payment. When used in reference to an amount of tax, penalty, interest, fee or other amount of money due to the Tax Commission, the words pay, paid, payable, or payment mean an irrevocable tender to the Tax Commission of lawful money of the United States. (4-11-06)

a. As used herein, lawful money of the United States means; (4-11-06)

i. Currency or coin of the United States at face value; and (4-11-06)

ii. Negotiable checks drawn on a United States bank or other financial institution that are payable in full in money of the United States. (4-11-06)

b. The words pay, paid, payable, or payment do not include: (4-11-06)

i. Submission to the Tax Commission of a check or draft that is subsequently dishonored by the institution on which it is drawn. (4-11-06)

ii. Submission to the Tax Commission of a check or draft drawn on a foreign bank or other financial institution in regard to which any processing fees may be incurred by the state of Idaho. (4-11-06)

03. Return or Tax Return. Return and tax return mean a form or other document that an individual, corporation or other legal entity reports information, including information necessary to calculate taxes due to the Tax Commission or another governmental agency that requires a return be filed. See Rule 150 of these rules for the requirements of a valid tax return. (3-20-97)

04. Tax Commission. Tax Commission means the Idaho State Tax Commission established by Article VII, Section 12 of the Idaho Constitution and referred to in Sections 63-101 and 63-3038, Idaho Code. (3-20-97)

011. -- 109. (RESERVED)

110. DECLARATORY RULINGS (RULE 110).
Sections 67-5232 and 67-5255, Idaho Code. (3-20-97)

01. Findings Pursuant to Section 67-5206, Idaho Code. (4-5-00)

a. The Tax Commission finds that the Attorney General's Administrative Rules on declaratory rulings found at IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 400 through 402 do not adequately address the needs of taxpayers seeking a declaratory ruling on applications of the tax law. The Attorney General's Administrative Rules do not: (4-5-00)

i. Protect taxpayer confidentiality; (4-5-00)

ii. Define the taxpayer's right to rely on the ruling; or (4-5-00)

iii. Identify the circumstances justifying the denial or withdrawal of a ruling. (4-5-00)

b. Accordingly, this rule will govern declaratory rulings issued by the Tax Commission. (4-5-00)

02. Filing a Petition. (3-20-97)

a. Any person, group, or other association may file a written petition with the Tax Commission asking for an interpretation or determination as to the applicability of a statute, rule, or order issued by the Tax Commission to the party filing the petition. To obtain the determination the petitioner's tax liability must be directly affected by the determination or the petitioner must demonstrate a direct financial interest in the determination sought. (3-20-97)

b. A petition must be submitted to the Tax Commission in writing and contain an express statement that it is intended to be a petition for a declaratory ruling pursuant to this rule or the Administrative Procedure Act. (3-20-97)

03. Tax Commission's Response to Petition. After receiving a petition, the Tax Commission shall: (3-20-97)

a. Issue a written declaratory ruling; (3-20-97)

b. Require the petitioner to submit additional facts, evidence, or information as the Tax Commission deems necessary to make a declaratory ruling; or (3-20-97)

c. Decline to make a declaratory ruling. The Tax Commission shall decline to make a declaratory ruling in the following circumstances: (3-20-97)

i. The identity of the taxpayer is not disclosed; (3-20-97)

ii. The request fails to include sufficient facts, evidence, or other information on which a declaratory ruling may be based; (3-20-97)

iii. The issue on which a declaratory ruling is sought is the subject of pending litigation or administrative appeal; (3-20-97)

iv. The petitioner is not a person directly affected by a resolution of the issue presented; or (3-20-97)

v. It appears there are other good or compelling reasons why a declaratory ruling should not be made. (3-20-97)

04. Factual Circumstances. A declaratory ruling applies only to the factual circumstances as submitted by the petitioner and applies only to the petitioner seeking the declaratory ruling. The declaratory ruling may not be relied on by a person not named as a petitioner. The declaratory ruling is void if the facts changed significantly, all relevant facts were not disclosed at the time of the petition, or the facts were not accurately represented to the Tax Commission. If the statutory provisions or administrative rules affecting the declaratory ruling are amended by the legislature or the Tax Commission, the declaratory ruling is void as of the date of the amendment to the statute or rule. (3-20-97)

05. Withdrawal of Ruling. If after issuing a declaratory ruling the Tax Commission believes the declaratory ruling is erroneous, it may withdraw the declaratory ruling by giving written notice to the petitioner at his last known address. If the petitioner has relied on the declaratory ruling in good faith, the Tax Commission may not assess any tax liability accruing between the dates the declaratory ruling was issued and its withdrawal. (3-20-97)

06. Confidentiality. Declaratory rulings by the Tax Commission are information subject to the confidentiality requirements of Sections 63-3076 and 63-3077, Idaho Code and Rule 700 of these rules. Factual, financial, or other information relating to a taxpayer is not public record and may not be disclosed to any person

except as provided by Sections 63-3076 and 63-3077, Idaho Code, or as authorized by the taxpayer. (3-20-97)

07. Appeals. Sections 67-5270 through 67-5279, Idaho Code, govern the judicial review of declaratory rulings. (3-20-97)

111. -- 129. (RESERVED)

130. ELECTRONIC TRANSFER OF FUNDS (RULE 130).
Section 67-2026, Idaho Code. (3-15-02)

01. In General. All taxes, interest, penalties, fees, and other amounts due the state of Idaho shall be paid by electronic funds transfer when the amount is one hundred thousand dollars ($100,000) or greater, in accordance with Sections 67-2026 and 67-2026A, Idaho Code. See Subsection 130.02 for the exception for individuals who pay amounts related to individual income taxes. (3-15-02)

02. Individuals Paying Amounts Pursuant to Section 63-3024, Idaho Code. An individual taxpayer is not required to pay his individual income taxes, fees or amounts payable pursuant to Section 63-3024, Idaho Code, by electronic funds transfer. If an individual elects to pay such amounts by electronic funds transfer, he must comply with the requirements of Section 67-2026, Idaho Code. (3-15-02)

131. UNACCEPTABLE PAYMENTS (RULE 131).
Section 63-3034, Idaho Code. (4-11-06)

01. Checks and Drafts Previously Dishonored. Nothing herein shall limit the authority of the Tax Commission to refuse to accept a check drawn on the account of a taxpayer who has previously tendered a check dishonored by the institution on which it was drawn. (4-11-06)

02. Checks and Drafts From Foreign Institutions. The Tax Commission may reject a check or draft drawn on a foreign bank or other foreign financial institution. (4-11-06)

03. Checks and Drafts That Result in Processing Fees. The Tax Commission may reject a check or draft that, if accepted, may result in the state of Idaho incurring a processing fee. (4-11-06)

132. -- 139. (RESERVED)

140. APPLICATION OF PARTIAL PAYMENT (RULE 140).
Sections 63-4001 and 63-4007, Idaho Code. (3-15-02)

01. In General. If bad check charges, penalties, or interest accrue as a result of any deficiency in tax, partial payments shall apply in the following order: to bad check charges, interest, tax, and penalty. (3-15-02)

02. Taxpayers With Multiple Tax Obligations. If a taxpayer owes multiple tax obligations, the taxpayer may direct how the Tax Commission will apply payments not made with a tax return. Such directions shall apply to tax types or tax years. (3-15-02)

03. Examples. (3-15-02)

a. A taxpayer has an income tax liability and a sales tax liability for a previous year. The taxpayer directs the Tax Commission to apply a partial payment to his income tax liability. The Tax Commission will apply the payment first to any bad check charge related to the income tax liability, then to interest, next to the income tax, and finally to any penalty for that year as provided in Subsection 140.01. The Tax Commission will apply any remaining payment to the sales tax liability in the same order. (3-15-02)

b. A taxpayer has an income tax liability for three (3) previous tax years. The taxpayer directs the Tax Commission to apply a partial payment to his income tax liability for the earliest year. The Tax Commission will apply the payment to the income tax liability in the earliest year by first applying the payment to any bad check charge related to that year, then to interest, next to the income tax, and finally to any penalty for that year as provided in Subsection 140.01. (3-15-02)

141. -- 149. (RESERVED)

150. REQUIREMENTS OF A VALID TAX RETURN (RULE 150).
Section 63-3076(5), Idaho Code

01. In General. All tax returns filed with the Tax Commission shall be complete and copies of all pertinent schedules or computations shall be attached. (3-20-97)

02. Supporting Computations and Schedules. The results of supporting computations shall be carried forward to applicable lines on the tax forms. A statement referencing an attached schedule is not acceptable if the taxpayer does not enter the necessary information from the attachments on the tax form. For purposes of this subsection, a return shall be deemed valid if the Tax Commission does not reject the return by mailing it back to the taxpayer. (3-20-97)

03. Information to Compute Tax. A return that does not provide sufficient financial information to compute a tax liability is not a valid tax return. (3-20-97)

04. Accuracy and Required Information. A return need not be totally accurate to be a valid return. However, for the return to be valid it must: (3-20-97)

a. Be identified as a return; (3-20-97)

b. Be filed using the proper form prescribed by the Tax Commission; (3-20-97)

c. Include the taxpayer's social security number, federal employer identification number, or Internal Revenue Service processing number; (7-1-99)

d. Include the taxpayer's name and address; (7-1-99)

e. Include the taxpayer's Idaho permit or license number, if applicable; (7-1-99)

f. Identify the reporting or tax period; (7-1-99)

g. Contain a computation of the tax liability and sufficient supporting information to show how the taxpayer reached that result; and (3-20-97)

h. Reflect the taxpayer's honest and genuine effort to satisfy the requirements of the law. For purposes of determining if these requirements are met, documents that contain the following are clearly insufficient: (3-20-97)

i. Broad unspecified constitutional claims; (3-20-97)

ii. Unsupported statements that claim no Idaho activity or income exists; and (3-20-97)

iii. Language that demonstrates a protest against the tax law or its administration. (3-20-97)

05. Signing of Returns. (3-20-97)

a. Paper Returns. The taxpayer or an authorized officer or representative shall manually sign the tax return. Both spouses shall sign a joint return. If a taxpayer is deceased or cannot sign his name, a duly authorized person, such as a surviving spouse, executor, administrator or person holding power of attorney may sign the return, indicating his status or relationship. If a taxpayer signs with an X, a witness shall attest his mark. The signature of the taxpayer constitutes a written declaration of the return's accuracy. (3-20-97)

b. Electronically Filed Returns. The name of the taxpayer, the name of the taxpayer's authorized agent, the taxpayer's identification number, or personal identification number, shall constitute a signature when transmitted as part of an electronically filed return by the taxpayer or at the taxpayer's direction. The tax preparer

shall keep a copy of the tax return on file for the applicable statute of limitations as required by Section 48-603B, Idaho Code. (7-1-99)

06. Reproduced and Substitute Forms. Any reproduced or substitute form or schedule must meet the requirements of the Tax Commission's original form. (3-20-97)

a. Specific instructions for substitute forms are available on request from the Tax Commission. The use of substitute forms requires prior approval of the Tax Commission. The Tax Commission may reject nonapproved forms. (3-20-97)

b. Reproduced forms and photocopies of official Tax Commission forms are acceptable if the weight and size of the paper are comparable to that used in the official forms. These forms and schedules must be sufficiently legible so they may be reproduced. (3-20-97)

151. -- 152. (RESERVED)

153. TAX PREPARERS -- ALTERNATIVE METHODS OF SIGNING INCOME TAX RETURNS (RULE 153).
A tax preparer, as defined in Section 48-603B, Idaho Code, may sign an Idaho income tax return in a manner allowed by Internal Revenue Service Notice 2004-54. This includes signing the return by means of a rubber stamp, mechanical device, or computer software program. The requirements for using the alternative methods under Internal Revenue Service Notice 2004-54 must be followed for Idaho income tax purposes if this method of signing a return is used for the Idaho return. Use of the alternative signature for the tax preparer does not alter the requirement for the taxpayer or authorized officer or representative to sign the return as provided in Rule 150 of these rules or to follow the requirements of Section 48-603B, Idaho Code. Section 63-3002, Idaho Code (IRS Notice 2004-54) (4-7-11)

154. (RESERVED)

155. TAX RETURNS AND OTHER DOCUMENTS FILED ELECTRONICALLY (RULE 155).
Sections 63-115, 63-3039, and 74-107, Idaho Code. (4-2-08)

01. Tax Returns Filed Electronically. Pursuant to Section 63-115, Idaho Code, a taxpayer may file a tax return with the Tax Commission electronically only when the Tax Commission has established and implemented procedures permitting electronic filing of a specific tax return. A return may only be filed electronically by using the procedures and formats established by the Tax Commission for the particular return. (7-1-99)

02. Signatures. See Rule 150 of these rules. (7-1-99)

03. Acknowledgment of Data Transmissions. Persons filing returns by electronic data stream may be sent an acknowledgment of receipt of a successfully transmitted return. An acknowledgment means only that the Tax Commission received the return. An acknowledgment is not a finding by the Tax Commission about the correctness of the return. If any transmission is received in an unintelligible, unreadable, or corrupted form and the Tax Commission cannot identify the taxpayer, no acknowledgment will be sent. (4-7-11)

04. Methods Allowed for Filing Motor Fuels Tax Returns Electronically. The following methods are acceptable methods for filing motor fuels tax returns electronically. (4-7-11)

a. Secured methods. Encrypted e-mail secured through public or private key encrypting. (4-7-11)

b. Unsecured methods. Non-encrypted e-mail. (4-7-11)

05. Risks of Disclosure. By filing a return electronically, the taxpayer agrees to the risks of disclosure in submitting information electronically. A taxpayer or third party may not hold the Tax Commission responsible for any loss, liability, damage, whether direct, indirect or consequential, personal injury, or expenses of any nature whatsoever that may be suffered by the taxpayer or any third party as a result of or which may be attributable, directly or indirectly, from transmitting the taxpayer's information to the Tax Commission. (4-7-11)

156. -- 199. (RESERVED)

200. EXAMINATION OF RECORDS: DEFINITIONS (RULE 200).
Sections 63-3042 and 63-3043, Idaho Code. For purposes of Rules 200 through 204, the following definitions apply: (3-29-10)

01. Books and Papers. Books and papers means and include any kind of written, printed, typed, or recorded matter of any kind or nature, however produced or reproduced including, but not limited to: all mechanical, electronic, sound or video recordings or their transcripts; microfilm and microfiche records; papers; service orders; repair orders; agreements; contracts; notes; memoranda; correspondence; letters; telegrams; statements; books; reports; studies; minutes; records; accounting books; maps; plans; drawings; diagrams; photographs; analyses or studies; and all drafts prepared in connection with such items. "Books and papers" also include electronic files and computer stored data. (3-29-10)

02. Database Management System. Database Management System means a software system that controls, relates, retrieves, and provides accessibility to data stored in a database. (3-29-10)

03. Electronic Data Interchange or EDI Technology. Electronic data interchange or EDI technology means the computer-to-computer exchange of business transactions in a standardized structured electronic format. (3-29-10)

04. Hard Copy. Hard copy means any documents, records, reports or other data printed on paper. (3-29-10)

05. Machine-Sensible Record. Machine-sensible record means a collection of related information in an electronic format. Machine-sensible records do not include hard-copy records that are created or recorded on paper or stored in or by an imaging system such as microfilm, microfiche, or storage-only imaging systems. (3-29-10)

06. Photocopy (Photocopied). Photocopy (photocopied) means a copy or reproduction of an original document including books and papers; to make a photographic reproduction of any document, printed, pictorial, or other medium of information or recordkeeping. (3-29-10)

07. Records. Records, as used in this rule, has the same meaning as "books and papers." (3-29-10)

08. Storage-Only Imaging System. Storage-only imaging system means a system of computer hardware and software that provides for the storage, retention and retrieval of documents originally created on paper. It does not include any system, or part of a system, that manipulates or processes any information or data contained on the document in any manner other than to reproduce the document in hard copy or as an optical image. (3-29-10)

201. EXAMINATION OF RECORDS: RECORDKEEPING AND PRODUCTION REQUIREMENTS (RULE 201).
Sections 63-3042 and 63-3043, Idaho Code. (3-29-10)

01. In General. (3-29-10)

a. A taxpayer shall maintain all records that are necessary to a determination of the correct tax liability. Required records must be made available on request by the Tax Commission or its authorized representatives. The time and place for production shall be reasonable and shall occur during regular business hours. When books and papers are requested they will be relevant and reasonable documentation for the issues under examination. The request for information is relevant if it is germane to or applicable to an audit issue. (3-29-10)

b. Books and papers must be provided either as a photocopy, an electronic reproduction, or be made available for photocopying, scanning or other electronic reproduction at a specified time and place for the purposes of administering and verifying compliance with the tax laws. Photocopying is a benefit to both the Tax Commission and the taxpayer as the photocopy provides objective evidence supporting a tax position and allows for expediting the audit. (3-29-10)

c. All books and papers that are acquired during an audit or examination are confidential. (3-29-10)

d. If the requirement to produce records creates a hardship for a taxpayer, the auditor or agent will work with the taxpayer to come to a reasonable solution for both parties. (3-29-10)

e. If a taxpayer retains records in both machine-sensible and hard-copy formats, the taxpayer shall make the records available to the Tax Commission in machine-sensible format upon request of the Tax Commission. (3-29-10)

f. Nothing in this rule shall be construed to prohibit a taxpayer from demonstrating tax compliance with traditional hard-copy documents or reproductions thereof, in whole or in part, whether or not such taxpayer also has retained or has the capability to retain records on electronic or other storage media. However, this subsection shall not relieve the taxpayer of the obligation to comply with Paragraph 201.01.e. of this rule. (3-29-10)

02. Machine-Sensible Records. (3-29-10)

a. General Requirements. (3-29-10)

i. Machine-sensible records used to establish tax compliance shall contain sufficient transaction-level detail information so that the details underlying the machine-sensible records can be identified and made available to the Tax Commission upon request. A taxpayer has discretion to discard duplicated records and redundant information provided its responsibilities under this rule are met. (3-29-10)

ii. At the time of an examination, the retained records must be capable of being retrieved and converted to a standard record format. (3-29-10)

iii. Taxpayers are not required to construct machine-sensible records other than those created in the ordinary course of business. A taxpayer who does not create the electronic equivalent of a traditional paper document in the ordinary course of business is not required to construct such a record for tax purposes. (3-29-10)

b. Electronic Data Interchange Requirements. (3-29-10)

i. Where a taxpayer uses electronic data interchange (EDI) processes and technology, the level of record detail, in combination with other records related to the transactions, must be equivalent to that contained in an acceptable paper record. For example, the retained records should contain such information as vendor name, invoice date, product description, quantity purchased, price, amount of tax, indication of tax status, shipping detail, etc. Codes may be used to identify some or all of the data elements, provided that the taxpayer provides a method which allows the Tax Commission to interpret the coded information. (3-29-10)

ii. The taxpayer may capture the information necessary to satisfy Subparagraph 201.02.b.i. of this rule at any level within the accounting system and need not retain the original EDI transaction records provided the audit trail, authenticity, and integrity of the retained records can be established. For example, a taxpayer using electronic data interchange technology receives electronic invoices from its suppliers. The taxpayer decides to retain the invoice data from completed and verified EDI transactions in its accounts payable system rather than to retain the EDI transactions themselves. Since neither the EDI transaction nor the accounts payable system captures information from the invoice pertaining to product description and vendor name (i.e., they contain only codes for that information), the taxpayer also retains other records, such as its vendor master file and product code description lists and makes them available to the Tax Commission. In this example, the taxpayer need not retain its EDI transaction for tax purposes. (3-29-10)

c. Electronic Data Processing Systems Requirements. The requirements for an electronic data processing accounting system should be similar to that of a manual accounting system, in that an adequately designed accounting system should incorporate methods and records that will satisfy the requirements of this rule. (3-29-10)

d. Business Process Information. (3-29-10)

i. Upon the request of the Tax Commission, the taxpayer shall provide a description of the business process that created the retained records. Such description shall include the relationship between the records and the tax documents prepared by the taxpayer and the measures employed to ensure the integrity of the records. (3-29-10)

ii. The taxpayer shall be capable of demonstrating: (3-29-10)

(1) The functions being performed as they relate to the flow of data through the system; (3-29-10)

(2) The internal controls used to ensure accurate and reliable processing; and (3-29-10)

(3) The internal controls used to prevent unauthorized addition, alteration, or deletion of retained records. (3-29-10)

iii. The following specific documentation is required for machine-sensible records retained pursuant to this rule: (3-29-10)

(1) Record formats or layouts; (3-29-10)

(2) Field definitions (including the meaning of all codes used to represent information); (3-29-10)

(3) File descriptions (e.g., data set name); and (3-29-10)

(4) Detailed charts of accounts and account descriptions. (3-29-10)

03. Cost Reimbursement to a Third-Party. If the Tax Commission summonses a third-party to produce records, the Tax Commission may reimburse the third-party at a rate not to exceed seventy-five cents ($0.75) per copy. The Tax Commission may require the originals to be produced pursuant to the summons. (3-29-10)

04. Failure to Comply. In addition to other enforcement provisions provided by statute, failure to produce records supporting amounts or information shown on a return may result in appropriate adjustments by the Tax Commission, including either or both of the following: (3-29-10)

a. The disallowance of claimed deductions, credits, or exemptions to which the requested information relates; (3-29-10)

b. The presumption that the information not provided is prejudicial to the taxpayer's position in regard to the issue or issues to which the requested information relates. (3-29-10)

202. EXAMINATION OF RECORDS: ACCESS TO MACHINE-SENSIBLE RECORDS (RULE 202).
Sections 63-3042 and 63-3043, Idaho Code. (3-29-10)

01. In General. The manner in which the Tax Commission is provided access to machine-sensible records as required by Rule 201 may be satisfied through a variety of means that shall take into account a taxpayer's facts and circumstances through consultation with the taxpayer. (3-29-10)

02. Access Alternatives. Such access will be provided in one (1) or more of the following manners: (3-29-10)

a. The taxpayer may arrange to provide the Tax Commission with the hardware, software and personnel resources to access the machine-sensible records. (3-29-10)

b. The taxpayer may arrange for a third party to provide the hardware, software and personnel resources necessary to access the machine-sensible records. (3-29-10)

c. The taxpayer may convert the machine-sensible records to a standard record format specified by the Tax Commission, including copies of files, on a magnetic medium that is agreed to by the Tax Commission. (3-29-10)

d. The taxpayer and the Tax Commission may agree on other means of providing access to the machine-sensible records.. (3-29-10)

203. EXAMINATION OF RECORDS: RECORDS MAINTENANCE (RULE 203).

Sections 63-3042 and 63-3043, Idaho Code. (3-29-10)

01. Requirements. (3-29-10)

a. The Tax Commission recommends, but does not require, that taxpayers refer to the National Archives and Record Administration's (NARA) standards for guidance on the maintenance and storage of electronic records, such as the labeling of records, the location and security of the storage environment, the creation of back-up copies, and the use of periodic testing to confirm the continued integrity of the records. [The NARA standards may be found at 36 Code of Federal Regulations, Part 1234, July 1, 1995, edition.] (3-29-10)

b. The taxpayer's computer hardware or software shall accommodate the extraction and conversion of retained machine-sensible records. (3-29-10)

02. Taxpayer Responsibility and Discretionary Authority. (3-29-10)

a. In conjunction with meeting the requirements of Rule 201, a taxpayer may create files solely for the use of the Tax Commission. For example, if a data base management system is used, it is consistent with this rule for the taxpayer to create and retain a file that contains the transaction-level detail from the data base management system and meets the requirements of Rule 201. The taxpayer should document the process that created the separate file to show the relationship between that file and the original records. (3-29-10)

b. A taxpayer may contract with a third party to provide custodial or management services of the records. Such a contract shall not relieve the taxpayer of its responsibilities under this rule. (3-29-10)

03. Effect on Hard-Copy Recordkeeping Requirements. (3-29-10)

a. Except as otherwise provided in this section, the provisions of these rules do not relieve taxpayers of the responsibility to retain hard-copy records that are created or received in the ordinary course of business as required by existing law and rules. Hard-copy records may be retained on a recordkeeping medium as provided in Rule 204 of these rules. (3-29-10)

b. If hard-copy records are not produced or received in the ordinary course of transacting business (e.g., when the taxpayer uses electronic data interchange technology), such hard-copy records need not be created. (3-29-10)

c. Hard-copy records generated at the time of a transaction using a credit or debit card must be retained unless all the details necessary to determine correct tax liability relating to the transaction are subsequently received and retained by the taxpayer in accordance with this rule. Such details include those listed in Paragraph 201.02.b. (3-29-10)

d. Computer printouts that are created for validation, control, or other temporary purposes need not be retained. (3-29-10)

e. Nothing in this section shall prevent the Tax Commission from requesting hard-copy printouts in lieu of retained machine-sensible records at the time of examination. (3-29-10)

204. EXAMINATION OF RECORDS: ALTERNATIVE STORAGE MEDIA (RULE 204).
Sections 63-3042 and 63-3043, Idaho Code. (3-29-10)

01. In General. For purposes of storage and retention, taxpayers may convert hard-copy documents received or produced in the normal course of business and required to be retained under this rule to microfilm, microfiche or other storage-only imaging systems and may discard the original hard-copy documents, provided the conditions of this section are met. Documents that may be stored on these media include, but are not limited to, general books of account, journals, voucher registers, general and subsidiary ledgers, and supporting records of details, such as sales invoices, purchase invoices, exemption certificates, and credit memoranda. (3-29-10)

02. Requirements of Storage-Only Imaging Systems. Microfilm, microfiche and other storage-only imaging systems shall meet the following requirements: (3-29-10)

a. Documentation establishing the procedures for converting the hard-copy documents to microfilm, microfiche or other storage-only imaging system must be maintained and made available on request. Such documentation shall, at a minimum, contain a sufficient description to allow an original document to be followed through the conversion system as well as internal procedures established for inspection and quality assurance. (3-29-10)

b. Procedures must be established for the effective identification, processing, storage, and preservation of the stored documents and for making them available. (3-29-10)

c. Upon request by the Tax Commission, a taxpayer must provide facilities and equipment for reading, locating, and reproducing any documents maintained on microfilm, microfiche or other storage-only imaging system. (3-29-10)

d. When displayed on such equipment or reproduced on paper, the documents must exhibit a high degree of legibility and readability. For this purpose, legibility is defined as the quality of a letter or numeral that enables the observer to identify it positively and quickly to the exclusion of all other letters or numerals. Readability is defined as the quality of a group of letters or numerals being recognizable as words or complete numbers. (3-29-10)

e. All data stored on microfilm, microfiche or other storage-only imaging systems must be maintained and arranged in a manner that permits the location of any particular record. (3-29-10)

f. There is no substantial evidence that the microfilm, microfiche or other storage-only imaging system lacks authenticity or integrity. (3-29-10)

205. ACTION TO COLLECT UNPAID TAX OR DEFICIENCY (RULE 205).
Section 63-3050, Idaho Code. (3-20-97)

01. In General. A debtor-creditor relationship exists between the taxpayer and the state of Idaho with regard to taxes imposed by the state of Idaho. The only exception is if a trust relationship is imposed. (3-20-97)

02. Authority for Collection. Sections 63-3050, 63-3063, and 63-3064, Idaho Code, authorize the Tax Commission to pursue any legal action for the payment of taxes owing. This authority is in addition to the specific collection authority granted by Sections 63-3051 through 63-3061, Idaho Code. (3-20-97)

206. -- 209. (RESERVED)

210. PROPERTY SUBJECT TO LIEN (RULE 210).
Section 63-3051, Idaho Code. (3-20-97)

01. Statutory Lien. A statutory lien is created when demand for payment of any assessed deficiency in tax, interest, penalties, or other charges is made and the taxpayer fails to pay the assessment. The lien extends to all real and personal property, or rights therein, owned or acquired by the taxpayer from the date the lien is created until the time it expires. The lien is deemed to be created on the date demand for payment is made. The lien is not effective as to third-parties until a notice of lien is filed. (3-20-97)

02. Duration of Lien. A notice of lien remains in effect for five (5) years from the date the lien notice is first filed in the Secretary of State's office. The lien may be extended by filing an amendment to continue the tax lien with the office of the Secretary of State within that period. The lien, as extended, is valid and applies against only the real property of the taxpayer. (4-6-05)

211. -- 214. (RESERVED)

215. RELEASE OR SUBORDINATION OF TAX LIEN (RULE 215).
Section 63-3055, Idaho Code. (3-20-97)

01. Request for Release of Lien. A request for a release of all or a portion of the property subject to a state tax lien, must be in writing and addressed to the Tax Commission. The request must include: (3-20-97)

a. The lien number and date; (3-20-97)

b. The reasons for the request; and (3-20-97)

c. Supporting documentation. (3-20-97)

02. Erroneous Lien. If a lien is filed in error, the lien shall be released as soon as possible. The statement "This release is based on a finding that the lien herein released was filed in error" shall be shown on the release filed. (3-20-97)

216. -- 219. (RESERVED)

220. LEVY OR DISTRAINT WARRANT (RULE 220).
Section 63-3059, Idaho Code. (3-20-97)

01. In General. Levy and distraint is the summary method of collecting taxes when the assessment and lien remain unsatisfied. The Idaho Income Tax Act provides that if the taxpayer fails to pay assessed taxes or deficiencies, the tax may be collected by levy on all property or property rights belonging to the taxpayer. (3-20-97)

02. Serving of Levy. A levy or notice of levy may be served on a person in possession of or obligated with respect to property rights of the taxpayer. Property identified as belonging to the taxpayer may be levied on. The authority to execute a levy or warrant is vested in a member of the Tax Commission, a deputy commissioner, a sheriff, constable, or a deputy of the Tax Commission. (3-20-97)

03. Surrender of Property. A person in possession of property or property rights on which a levy has been made shall surrender the property to the process server on demand. If the holder fails to surrender the property, he may be personally liable to the Tax Commission for the amount or value of the property so held and retained. (3-20-97)

221. -- 224. (RESERVED)

225. PROCEEDINGS ON LEVY OR DISTRAINT (RULE 225).
Section 63-3060, Idaho Code. (3-20-97)

01. In General. The proceedings on levy or distraint have the same force and effect as a writ of execution issued by a court on final judgment except that the right to claim exemption from execution is limited by Section 63-3058, Idaho Code. The sale or liquidation of property seized will proceed in the manner provided by the general statutes of the state of Idaho relating to execution on judgment. See Title 11, Idaho Code. (4-4-13)

02. Sale of Property. All costs of execution and sale are the responsibility of the taxpayer and will be collected as part of the obligation owing the state. Any moneys obtained on the sale of the taxpayer's property will be applied in the following order: to costs incurred, interest, tax, and penalty. Any moneys received in excess of the total obligation will be paid to the taxpayer unless, prior to disbursement, other creditors file a claim on the state. See Section 11-202, Idaho Code. (4-4-13)

226. -- 229. (RESERVED)

230. JEOPARDY ASSESSMENTS (RULE 230).
Section 63-3065, Idaho Code. (3-20-97)

01. Termination of Tax Periods. The Tax Commission may terminate the tax period of a taxpayer at any time when payment of a tax is in jeopardy. This termination causes the tax for the terminated period, and any unpaid tax for the preceding tax period, to be immediately due and payable. (3-20-97)

a. No particular form of notice of the jeopardy assessment is required. Notice may be served on the

taxpayer or his authorized agent, or mailed to his last known address. (3-20-97)

b. Notwithstanding any action by the Tax Commission pursuant to Section 63-3065, Idaho Code, and this rule, a taxpayer shall file a tax return at the end of his regular accounting period. Any tax collected as a result of termination pursuant to this statute is applied against the tax due at the end of the current tax period. (3-20-97)

02. Appeals Procedure. If the taxpayer does not agree with the jeopardy assessment, the taxpayer may file a petition for redetermination. The petition must be in writing and filed within sixty-three (63) days after notice of the jeopardy assessment. The taxpayer must either pay the assessment in full or file with the Tax Commission a bond in the manner set forth in Section 600 of these rules. The bond must be conditioned on the payment of any tax, penalty, and interest that may be found due. (3-20-97)

03. Property Under Distraint. Property under distraint that has not been sold or otherwise disposed of may be returned to the taxpayer on payment of the assessment in full, plus the costs of the distraint. Property may also be returned if the taxpayer files with the Tax Commission a bond in the amount of the assessment, executed by a surety licensed and authorized to do business in Idaho and conditioned on payment of the full amount of the assessment plus the interest and costs. Either action shall begin within the time prescribed by Section 63-3065(b), Idaho Code, or an extension ordered by the Tax Commission. (3-20-97)

04. Request for Return of Seized Property. A taxpayer may file a written petition for the return of property seized to satisfy a jeopardy assessment. The petition must be filed prior to the Tax Commission or a sheriff posting or publishing a notice of sale or other disposition of property, or within fifteen (15) days from the date of seizure, whichever time is greater. The Tax Commission may grant the petition based on facts disclosed or found that indicate the taxpayer will pay the assessment within a reasonable time. (3-20-97)

231. -- 299. (RESERVED)

300. ASSESSMENT OF TAX (RULE 300).
Sections 63-3045 and 63-3045A, Idaho Code. (3-30-07)

01. In General. When a tax return is filed, tax and interest are assessed on the date the return showing tax owing is received, even if the return is corrected by the Tax Commission for mathematical errors. If the taxpayer does not compute a tax on an otherwise properly filed return, any tax calculated by the Tax Commission to be owed is assessed the date payment was due. (3-30-07)

02. Deficiency of Tax. If the Tax Commission determines a deficiency of tax, the additional tax is assessed when the deficiency determination becomes final. A deficiency determination becomes final when the taxpayer fails to timely petition for redetermination of the deficiency or to timely appeal the decision of the Tax Commission. If the taxpayer timely appeals the decision of the Tax Commission, the deficiency determination becomes final when the decision of the Board of Tax Appeals, or the judgment of the court, becomes final and can no longer be appealed. (3-20-97)

03. The Record of Assessment. The record of assessment shall be the Notice and Demand for payment of taxes that also functions as the required notice for the distraint and sale of a taxpayer's personal property pursuant to Section 63-3057, Idaho Code. For a jeopardy assessment as provided for in Sections 63-3065, 63-3630, and 63-4208, Idaho Code, the Notice of Jeopardy Assessment is the record of assessment. In cases where the tax is self-assessed and no Notice and Demand is issued, the record of assessment shall be the Tax Commission's processing record of the filing of the self-assessed return. (3-20-97)

04. Admission to Understatement of Tax. A taxpayer may admit to an understatement of tax at any time. An admission is not considered a compromise of tax, and does not affect the statutory period of limitations for an audit or additional assessment or for a claim for refund filed by the taxpayer. (3-20-97)

301. -- 309. (RESERVED)

310. INTEREST RATES (RULE 310).
Sections 63-3045 and 63-3073, Idaho Code

01. In General. The annual rate of interest applicable to delinquent taxes accruing or unpaid during all or any part of a calendar year is determined in accordance with Section 63-3045, Idaho Code. The rates starting with the rate applicable at July 1, 1981, and the Internal Revenue Service Revenue Rulings, if applicable for the calculation of the rate, are listed in Subsection 310.02 of this rule. These interest rates also apply to the allowance of a credit or refund of tax erroneously or illegally assessed or collected as provided in Section 63-3073, Idaho Code. (4-6-05)

02. Idaho Interest Rates and Applicable Revenue Rulings.

PERIOD	RATE OF INTEREST	INTERNAL REVENUE SERVICE REVENUE RULING
July 1, 1981, through December 31, 1993	12% simple interest	Not Applicable
Calendar Year 1994	7% simple interest	Revenue Ruling 93-64
Calendar Year 1995	9% simple interest	Revenue Ruling 94-61
Calendar Year 1996	8% simple interest	Revenue Ruling 95-67
Calendar Year 1997	9% simple interest	Revenue Ruling 96-49
Calendar Year 1998	8% simple interest	Revenue Ruling 97-41
Calendar Year 1999	7% simple interest	Revenue Ruling 98-50
Calendar Year 2000	8% simple interest	Revenue Ruling 99-41
Calendar Year 2001	8% simple interest	Revenue Ruling 2000-45
Calendar Year 2002	7% simple interest	Revenue Ruling 2001-49
Calendar Year 2003	5% simple interest	Revenue Ruling 2002-61
Calendar Year 2004	6% simple interest	Revenue Ruling 2003-107
Calendar Year 2005	6% simple interest	Revenue Ruling 2004-69
Calendar Year 2006	6% simple interest	Revenue Ruling 2005-57
Calendar Year 2007	7% simple interest	Revenue Ruling 2006-44
Calendar Year 2008	7% simple interest	Revenue Ruling 2007-57
Calendar Year 2009	5% simple interest	Revenue Ruling 2008-46
Calendar Year 2010	5% simple interest	Revenue Ruling 2009-29
Calendar Year 2011	4% simple interest	Revenue Ruling 2010-20
Calendar Year 2012	4% simple interest	Revenue Ruling 2011-20
Calendar Year 2013	3% simple interest	Revenue Ruling 2012-24
Calendar Year 2014	4% simple interest	Revenue Ruling 2013-18
Calendar Year 2015	4% simple interest	Revenue Ruling 2014-22
Calendar Year 2016	4% simple interest	Revenue Ruling 2015-19
Calendar Year 2017	3% simple interest	Revenue Ruling 2016-20
Calendar Year 2018	4% simple interest	Revenue Ruling 2017-17
Calendar Year 2019	5% simple interest	Revenue Ruling 2018-23

(4-11-19)

311. -- 319. (RESERVED)

320. NOTICE OF DEFICIENCY: FILING A PROTEST (RULE 320).
Section 63-3045, Idaho Code

01. In General. If a taxpayer does not agree with a deficiency determination, the taxpayer may file a protest with the Tax Commission to request a redetermination of the deficiency. The protest must be in writing and filed within sixty-three (63) days from the date the Notice of Deficiency is mailed. (3-29-10)

02. Perfected Protest. The protest must contain the information in Paragraphs 320.02.a. through 320.02.d. of this rule to be perfected. A protest meets the requirements of Paragraphs 320.02.c. and 320.02.d. of this rule if the allegations of fact or contentions of law, viewed in the light most favorable to the taxpayer, raise factual or legal issues that, if correct, would entitle the taxpayer to relief. (3-29-10)

a. Name, address and pertinent identification number; (3-20-97)

b. The period to which the deficiency relates; (3-20-97)

c. The specific item or items in the Notice of Deficiency to which the taxpayer objects; and (3-20-97)

d. The factual or legal basis for the objections made. (3-20-97)

03. Receipt of Protest. Once a protest is received by the Tax Commission, the sixty-three (63) day period ends. (3-20-97)

04. Unperfected Protest. (3-20-97)

a. A protest is unperfected if it does not include all the items required by this rule. If the Tax Commission determines the protest is unperfected, the Tax Commission shall notify the taxpayer of the items needed to perfect the protest. The taxpayer has twenty-eight (28) days from the date the notice is mailed to provide the information. (3-29-10)

b. Example. A Notice of Deficiency is mailed to a taxpayer on August 31. He has sixty-three (63) days from August 31 to protest his deficiency determination. The Tax Commission receives his protest on September 10. The sixty-three (63) day period stops on September 10. The Tax Commission determines the protest is not perfected and mails notification to the taxpayer on September 15. The taxpayer has twenty-eight (28) days or through October 13 to perfect the protest. After October 13, he may no longer perfect his protest or submit a new protest even though the original sixty-three (63) day period would have run through November 2. (3-20-97)

05. Failure to Timely Perfect a Protest. Failure to perfect a protest within twenty-eight (28) days is treated the same as if no protest had been filed, pursuant to Section 63-3045(6), Idaho Code. (3-20-97)

321. -- 324. (RESERVED)

325. NOTICE OF DEFICIENCY: PROTEST PROCEDURES (RULE 325).
Sections 63-3045 and 63-3045B, Idaho Code

01. In General. Once a perfected protest has been filed with the Tax Commission, the taxpayer may: (3-20-97)

a. Request a hearing; (3-20-97)

b. Submit additional documents; or (3-20-97)

c. Request a final decision from the Tax Commission. (3-20-97)

02. Hearings. A Commissioner or other person designated by the Tax Commission shall conduct a hearing in the form of an informal conference. If the taxpayer chooses to be represented by another person, a valid power of attorney form must be provided to the Tax Commission. The taxpayer has the right to be accompanied by another person, however, the Tax Commission may limit the number of people accompanying the taxpayer. If a protestant fails to comply with a summons or subpoena or fails to appear for the informal conference, the Tax Commission may issue a decision without further hearing. (3-20-97)

03. Submission of Additional Documents. A taxpayer may submit additional statements, documents, or other materials he desires to have the Tax Commission consider before deciding the protest. If the one hundred eighty (180) day period for issuing a final decision has begun, the Tax Commission may require that a taxpayer execute an extension of the one hundred eighty (180) day period before the additional information or documentation will be considered. The one hundred eighty (180) day period is provided by Section 63-3045B, Idaho Code. (3-20-97)

04. Request for a Final Decision. A request for a final decision must be in a letter addressed to the employee or agent of the Tax Commission from whom the acknowledgment of the protest was received or to the individual subsequently assigned to resolve the protest. The request must be the sole subject of the letter and must clearly identify the taxpayer and the Notice of Deficiency. (3-20-97)

05. Simultaneous Request for a Final Decision and a Hearing. If the taxpayer makes a simultaneous request for both a final decision and a hearing, the Tax Commission shall treat this as a request for a hearing. The one hundred eighty (180) day period begins when the hearing concludes. (3-20-97)

06. Issues. Redetermination of any tax or refund due is not limited to the specific issue or issues protested for the taxable year, unless limited by Section 63-3068(f), Idaho Code. (3-20-97)

07. Amended Return After Audit. An amended return will be accepted for a taxable year for which a protest is pending only in the following circumstances: (3-20-97)

a. The taxpayer demonstrates that the changes on the amended return are unrelated to issues examined in the audit; (3-20-97)

b. The changes are the result of federal audit adjustments; or (3-20-97)

c. The amended return is submitted as part of the procedure for resolving the protest. (3-20-97)

08. Failure to Schedule a Hearing. The Tax Commission may issue a decision after forty-two (42) days from the date the notification of right to request a hearing is mailed to the taxpayer; if (4-5-00)

a. The taxpayer does not request a hearing; (4-5-00)

b. The taxpayer requests a hearing but does not schedule a date for the hearing; or (4-5-00)

c. A hearing is scheduled but later cancelled by the taxpayer and the taxpayer does not reschedule. (4-5-00)

326. COMMUNICATIONS BETWEEN THE APPEALS UNIT AND THE ORIGINATING DIVISION AND OTHERS DURING THE REDETERMINATION: DEFINITIONS (RULE 326).
Section 63-3045, Idaho Code
For purposes of Rules 327 and 328, the following definitions apply: (3-28-18)

01. Appeals Unit. Appeals unit means the unit created within the State Tax Commission with the responsibility for performing the independent administrative redetermination provided for in Section 63-3045, Idaho Code. (3-28-18)

02. Appeals Officer. Appeals officer means the staff of the appeals unit performing the redetermination. (3-28-18)

03. Originating Division. Originating division means the division within the State Tax Commission that issued the notice of deficiency determination or other determination under dispute. (3-28-18)

04. Petitioner. Petitioner means the taxpayer or the taxpayer's authorized representative. (3-28-18)

05. Unable to Participate. Unable to participate means the petitioner had expressed intent to participate in the discussion with the originating division but did not participate and did not provide adequate notice to the appeals officer to reschedule the discussion. (3-28-18)

327. COMMUNICATIONS BETWEEN THE APPEALS UNIT AND THE ORIGINATING DIVISION AND OTHERS DURING THE REDETERMINATION: RESTRICTIONS, EXCEPTIONS, AND PERMITTED COMMUNICATIONS (RULE 327).
Section 63-3045, Idaho Code

01. In General. Section 63-3045, Idaho Code, does not adopt the formal ex parte restrictions on communications that would apply in a judicial proceeding or under Section 67-5253, Idaho Code. However, the State Tax Commission will apply the following procedures as part of its redetermination process. The provisions contained within this rule do not create substantive rights affecting the taxpayer's tax liability, or the State Tax Commission's ability to determine, assess, or collect the tax liability (including statutory interest and any penalties, if applicable). (3-28-18)

02. Restrictions on Certain Communications. An appeals officer may engage in discussions relating to the petitioner's petition with employees of the originating division, including the strengths and weaknesses of the issues, new issues, and the parties' positions, only after having provided the petitioner the opportunity to participate in the discussions. (3-28-18)

03. Exceptions. The limitation on communications contained within Subsection 327.02 of this rule does not apply to communications with or by: (3-28-18)

a. A Commissioner of the State Tax Commission; (3-28-18)

b. An employee of a State Tax Commission outside of the originating division; (3-28-18)

c. An employee of the Idaho office of Attorney General; (3-28-18)

d. An employee of another state agency that the State Tax Commission has entered into an exchange agreement with; (3-28-18)

e. An employee of the Internal Revenue Service; or (3-28-18)

f. An employee of the Multi State Tax Commission. (3-28-18)

04. Permitted Communications. Communications with the originating division that do not require an appeals officer to first provide the petitioner with an opportunity to participate in the communication include: (3-28-18)

a. Any matters that are ministerial, administrative, or procedural including routine account inquiries, transcript requests, and other similar inquiries because they do not involve more than a limited amount of dialogue or interaction between appeals and the originating division. (3-28-18)

b. Communications in which the petitioner is given an opportunity to participate and is unresponsive, declines, or is unable to participate in a discussion between an appeals officer and the originating division. (3-28-18)

c. Assisting an appeals officer in locating or indexing documents within the originating division's audit file that were relied upon by the originating division when it issued its notice of deficiency determination. (3-28-18)

d. Requesting verification of calculations that an appeals officer may utilize as part of a settlement or decision. (3-28-18)

e. Obtaining a response from the originating division when the petitioner provides new information or makes new legal arguments during the redetermination. The originating division's response must be in writing and a copy of the written response provided to the petitioner. (3-28-18)

f. Requesting confirmation of calculations that the petitioner has provided during the redetermination process. (3-28-18)

g. Requesting verification that information provided by the petitioner during the redetermination is the same or different from what was previously submitted to the originating division. (3-28-18)

h. A settlement meeting conducted in accordance with Rule 501 of these rules. (3-28-18)

328. OPPORTUNITY TO PARTICIPATE: NOTICE TO PETITIONER (RULE 328).
Section 63-3045, Idaho Code

01. Notification and Participation. If an appeals officer believes a discussion with staff from the originating division is warranted to review matters restricted by Subsection 327.02 of these rules, an appeals officer shall provide petitioner reasonable notice of the time and date of any discussion. Such notice may be provided to the petitioner by telephone, mail or electronic form and pursuant to Section 63-4003, Idaho Code. An appeals officer shall make a reasonable effort to accommodate the petitioner's schedule but will not unduly delay the discussion. The petitioner may participate by telephone or in-person at the State Tax Commission office in Boise, Idaho, and any discussion will be held during normal business hours. (3-28-18)

02. Additional Petitioner Participation Information. Any discussion held under this rule that includes petitioner participation is not an informal hearing under Rule 325 of these rules and does not start the one hundred and eighty (180) day period for issuing a final decision. (3-28-18)

329. -- 399. (RESERVED)

400. PENALTIES: GENERAL RULES (RULE 400).
Sections 63-3033 and 63-3046, Idaho Code

01. Penalty Presumed Appropriate. If a taxpayer becomes liable to pay the Internal Revenue Service a penalty similar to one provided in Section 63-3046, Idaho Code, it shall be presumed the penalty is appropriate as part of the related state tax deficiency. (3-20-97)

02. Computation of Tax Due Amounts for Extension of Time Criteria. For purposes of computing whether the taxpayer has met the extension of time criteria provided in Section 63-3033, Idaho Code, the terms, total tax due on the income tax return when it is filed, total tax due on the income tax return for the prior year, and total tax due under the provisions of this chapter shall mean amounts computed as follows: (3-20-04)

a. Include the income tax, the permanent building fund tax, tax from recapture of Idaho income tax credits, and any income tax credits. (3-20-04)

b. Exclude items reported on the income tax return that are not included in Title 63, Chapter 30, Idaho Code, such as sales or use tax due, fuels tax due, and special fuels or gasoline tax refunds. Payments for the amounts included in Subsection 400.02.a. are also excluded for purposes of this calculation. (3-20-04)

03. Computation of Tax Due Amounts for Failure to File, Failure to Pay, Delinquent Filing, Substantial Understatement, and Extension Penalties. For purposes of computing the failure to file, failure to pay, substantial understatement, or delinquent filing penalties, provided by Section 63-3046, Idaho Code, and the penalty for failing to meet the extension criteria, provided by Section 63-3033, Idaho Code, the terms tax shown thereon to be due, tax required to be shown on the return, tax due on such return, and the amount on which the extension penalty is

applied shall mean amounts computed as follows: (3-25-16)

a. Include the income tax, the permanent building fund tax, tax from recapture of Idaho income tax credits, income tax credits, and any payments for these taxes for that year. (3-20-04)

b. Exclude items reported on the income tax return that are not included in Title 63, Chapter 30, Idaho Code, such as sales or use tax due, fuels tax due, and special fuels or gasoline tax refunds. (3-20-04)

04. Net Operating Loss and Capital Loss Carrybacks. If the tax due for the taxable year is reduced after the application of a net operating loss carryback or a capital loss carryback, the penalty shall be computed on the tax due prior to the application of the carryback. (5-3-03)

05. Minimum Penalty. A ten dollar ($10) minimum penalty applies to each penalty imposed by Subsection (a), (b), (c)(1), (d) or (e) of Section 63-3046 and by Section 63-3033, Idaho Code. For example, if a taxpayer fails to file only one (1) withholding tax statement, which generally results in a penalty of two dollars ($2) pursuant to Section 63-3046(e)(1), Idaho Code, a penalty of ten dollars ($10) will be applied. (3-15-02)

06. Dishonored Checks. The charge provided by Section 63-3046(h), Idaho Code, for each dishonored check or instrument is: (2-23-01)

a. Ten dollars ($10) if dishonored prior to July 1, 2001. (2-23-01)

b. Twenty dollars ($20) if dishonored on or after July 1, 2001. (2-23-01)

c. This charge may be added even if sufficient funds are in the taxpayer's account after the date of dishonor. (2-23-01)

401. -- 409. (RESERVED)

410. NEGLIGENCE PENALTIES (RULE 410).
Section 63-3046(a), Idaho Code. (3-20-97)

01. Negligence Defined. Negligence is the breach of a duty or obligation, recognized by law, that requires conformance to a certain standard of conduct. (3-20-97)

02. Imposition of Penalty. A five percent (5%) negligence penalty shall be imposed if the deficiency results from either negligence by the taxpayer or from disregard by the taxpayer or his agent of state or federal tax laws, rules of the Tax Commission, or Treasury Regulations. Examples of situations that justify the penalty include the following: (3-20-97)

a. Taxpayer continues to make errors in reporting income, sales or assets, or claims erroneous deductions, exemptions, or credits even though these mistakes have been called to his attention in previous audit reports. (3-20-97)

b. Taxpayer fails to maintain proper records and files returns containing unsubstantiated claims or substantial errors. (3-20-97)

c. Taxpayer makes unsubstantiated or exaggerated claims of deductions or exemptions. (3-20-97)

d. Taxpayer fails to offer any explanation for understating taxes. (3-20-97)

e. Unreported taxable income is a material amount as compared with the reported income. (3-20-97)

f. Taxpayer exhibits a careless disregard of his tax obligations. (3-20-97)

g. For sales or use tax deficiencies, failure to keep valid files of resale and exemption certificates. (3-20-97)

h. Failure to make the required estimated payment when requesting an extension of time for filing a return. (3-20-97)

i. Taxpayer fails to provide the Tax Commission with a copy of a final federal determination within sixty (60) days of the date of the determination. See Rule 890 of the Income Tax Administrative Rules. (3-20-97)

j. Taxpayer fails to file an Idaho amended return within sixty (60) days after filing a federal amended return. (3-20-97)

k. Taxpayer fails to respond to requests to produce records substantiating items shown on the return. (3-20-97)

l. Taxpayer fails to make available the fifty-one (51) state apportionment factor detail when requested. (7-1-98)

03. Negligence Penalty for Sales and Use Tax Deficiencies. For sales tax purposes, pertinent computations relating to substantial errors in Subsection 410.02.b. or material amount in Subsection 410.02.e., might include the following: (7-1-98)

a. The ratio of untaxed sales that should have been taxed to total taxable sales; (3-20-97)

b. The ratio of untaxed sales that should have been taxed to total sales; (3-20-97)

c. The ratio of untaxed purchases subject to use tax to total taxable purchases and to total purchases; or (3-20-97)

d. Other computations bearing on negligence. (3-20-97)

04. Waiver of Negligence Penalty. (3-20-97)

a. The Tax Commission may waive the penalty if the taxpayer can show reasonable cause for the failure that resulted in the deficiency. (3-20-97)

b. The Tax Commission shall consider all factors when determining whether to waive a negligence penalty. One (1) factor is the taxpayer's record for filing and paying state taxes. A good record for filing and paying tax on returns filed annually is not by itself a sufficient reason to waive the penalty. (3-20-97)

05. Circumstances Precluding Waiver of Penalty. The following circumstances do not constitute sufficient cause to waive the penalty: (3-20-97)

a. An invalid or unapproved request for an extension of time to file or to do acts required by Idaho tax laws; (3-20-97)

b. An unsettled dispute between the Tax Commission and the taxpayer concerning a tax liability; or (3-20-97)

c. Inability to pay the tax. (3-20-97)

411. -- 419. (RESERVED)

420. FRAUD PENALTIES (RULE 420).
Section 63-3046(b), Idaho Code. (3-20-97)

01. In General. In determining fraud penalties, the Tax Commission shall review all facts and circumstances surrounding preparation of a taxpayer's return including all of the following: (3-20-97)

a. Public and private statements regarding income or sales of the taxpayer; (3-20-97)

b. Business and financial practices of the taxpayer; (3-20-97)

c. Taxpayer's knowledge of principles of finance, accounting, law, or taxation; (3-20-97)

d. Objective and subjective evidence showing or tending to show intent to evade payment of taxes. (3-20-97)

02. Interaction Between Fraud and Negligence Penalties. Assessment of the fraud penalty precludes assessment of the negligence penalty on the deficiency. (3-20-97)

421. -- 429. (RESERVED)

430. PENALTY FOR FAILURE TO FILE, FAILURE TO PAY, OR DELINQUENT FILING (RULE 430). Sections 63-3033 and 63-3046, Idaho Code. (3-15-02)

01. In General. (2-23-01)

a. As used in this rule, due date means the date prescribed for filing without regard to extensions. (2-23-01)

b. A penalty of two percent (2%) of the tax due per month may be imposed on a taxpayer who fails to meet the extension criteria provided in Section 63-3033, Idaho Code. (2-23-01)

c. A penalty of five percent (5%) of the tax due per month, may be imposed on a taxpayer who files a delinquent return or who fails to file a return as provided in Section 63-3046, Idaho Code. (2-23-01)

d. If a taxpayer files a return but does not pay the tax due, a penalty of one-half percent (0.5%) of the tax due per month may be imposed. (2-23-01)

e. The penalties computed in this subsection may not exceed twenty-five percent (25%) of the tax due. (2-23-01)

f. For purposes of computing the penalties in Subsection 430.01, tax due includes subsequent adjustments. (2-23-01)

02. Calculations of Penalty When a Taxpayer Satisfies the Extension of Time Criteria. (2-23-01)

a. A taxpayer is entitled to an automatic extension of time for filing the Idaho income tax return if, by the due date, the taxpayer satisfies either of the following extension criteria provided in Section 63-3033, Idaho Code: (2-23-01)

i. Paying eighty percent (80%) of the total tax due on his income tax return when it is filed; or (2-23-01)

ii. Paying the total tax due on the income tax return for the prior year if one was filed. (2-23-01)

b. If the payment computed in Subsection 430.02.a. is fifty dollars ($50) or less, a payment is not required to qualify for the extension. (3-15-02)

c. If the taxpayer satisfies the extension criteria, files the return on or before the extended due date, and pays the tax with the return or before filing the return, no penalties apply. (3-30-07)

d. If the taxpayer satisfies the extension criteria and files the return on or before the extended due date, but pays the tax after filing the return, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the date the return is filed to the date the tax is paid. For returns filed in 2006, if the return is filed before July 1, 2006,

but the tax due is not paid by that date, the late payment penalty shall apply from July 1, 2006 to the date the tax is paid. (3-30-07)

e. If the taxpayer satisfies the extension criteria but fails to file the return and pay the tax due on or before the extended due date, a penalty of five percent (5%) of the tax due per month shall apply from the return's extended due date to the earlier of the date the return is filed or the date the tax is paid. If the tax is paid after the return is filed, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the date the return is filed until the date the tax is paid. (3-15-02)

03. Calculations of Penalty When a Taxpayer Fails to Satisfy the Extension of Time Criteria. If a taxpayer fails to satisfy the extension criteria, the following penalties may apply: (2-23-01)

a. If the return is filed by the due date, but the tax is paid after the due date, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the return's due date to the date the tax is paid. (2-23-01)

b. If the return is filed and the tax is paid on or before the extended due date, a penalty of two percent (2%) of the tax due per month shall apply from the return's due date to the earlier of the date the return is filed or the date the tax is paid. If the tax is paid after the return is filed, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the date the return is filed to the date the tax is paid. (2-23-01)

c. If the return is filed after the extended due date but the tax is paid on or before the extended due date, a penalty of two percent (2%) of the tax due per month shall apply from the return's due date to the date the tax is paid. (2-23-01)

d. If the return is filed after the extended due date and the tax is paid after the extended due date, a penalty of five percent (5%) of the tax due per month shall apply from the due date of the return to the earlier of the date the return is filed or the date the tax is paid. If the tax is paid after the return is filed, a penalty of one-half percent (0.5%) of the tax due per month shall apply from the date the return is filed to the date the tax is paid. (3-15-02)

04. Other Penalties. Imposing a penalty for failure to meet the extension criteria, failure to file a return timely, or failure to pay the tax due timely does not preclude the imposition of another penalty pursuant to Section 63-3046, Idaho Code. (2-23-01)

05. Insufficient Postage. The proper amount of prepaid postage is required on returns mailed to the Tax Commission. If a tax return is returned to the sender due to insufficient postage, it may result in the return becoming delinquent and subject to the delinquency penalty specified by Section 63-3046(c), Idaho Code. (3-20-97)

06. Month Defined. If the due date falls on the last day of a calendar month, each succeeding calendar month, or fraction of it, during which the failure to file continues constitutes a month. If the due date is not the last day of the calendar month, the period that ends with the same date of the next month constitutes a month. If the succeeding month has no corresponding date, the last day of the month is substituted. Any fraction of a month from the date ending the preceding monthly period to the date of payment constitutes a full month. (3-20-97)

431. -- 499. (RESERVED)

500. SETTLEMENTS (RULE 500).
Sections 63-3047 and 63-3048, Idaho Code. (3-29-10)

01. Grounds for Settlement. The Tax Commission may settle any taxes, penalties, or interest of a case if one (1) or more of the following circumstances exist: (4-4-13)

a. Disputed liability, (3-29-10)

i. A disputed liability exists where there is a reasonable disagreement as to the existence or amount of the correct tax liability under the law. A disputed liability does not exist where the liability has been established by a final court judgment concerning the existence of the liability. (3-29-10)

ii. An offer to settle a disputed liability generally will be considered acceptable if it reasonably reflects

the likelihood the Commission could expect to collect through litigation. This analysis includes consideration of the hazards and costs of litigation that would be involved if the liability were litigated. The evaluation of the hazards and costs of litigation is not an exact science and is within the discretion of the Commission. (3-29-10)

b. Doubt as to collectibility; (3-29-10)

i. Doubt as to collectibility exists in any case where the taxpayer's assets and income may not satisfy the full amount of the liability. (3-29-10)

ii. An offer to settle based on doubt as to collectibility generally will be considered acceptable if it is unlikely that the tax, penalty, and interest can be collected in full and the offer reasonably reflects the amount the Commission could collect through other means, including administrative and judicial collection remedies. This amount is the reasonable collection potential of a case. In determining the reasonable collection potential of a case, the Commission will take into account the taxpayer's reasonable basic living expenses. In some cases, the Commission may accept an offer of less than the total reasonable collection potential of a case if there are special circumstances. (3-29-10)

c. Economic hardship of the taxpayer. (3-29-10)

i. The Commission may settle where it determines that, although collection in full could be achieved, collection of the full amount would cause the taxpayer economic hardship. Economic hardship is defined as the inability to pay reasonable basic living expenses. (3-29-10)

ii. An offer to settle based on economic hardship generally will be considered acceptable when, even though the tax, penalty, and interest could be collected in full, the amount offered reflects the amount the Commission can collect without causing the taxpayer economic hardship. The determination to accept a particular amount will be based on the taxpayer's individual facts and circumstances. (3-29-10)

d. Promotion of effective tax administration. (3-29-10)

i. The Commission may settle to promote effective tax administration where compelling public policy or equity considerations identified by the taxpayer provide a sufficient basis for settling the liability that is equitable under the particular facts and circumstances of the case. Settlements pursuant to this paragraph will be justified only where, due to exceptional circumstances, collection of the full liability may undermine public confidence that the tax laws are being administered in a fair and equitable manner. The taxpayer will be expected to demonstrate circumstances that justify settlement even though a similarly situated taxpayer may have paid his liability in full. (3-29-10)

ii. The State Tax Commission may decline a settlement for reasons promoting effective tax administration if the settlement of the liability would undermine compliance by taxpayers with the tax laws. (3-29-10)

02. Agreement Final. A settlement agreement relates to the issues agreed to for the tax periods in question. The agreement is final and conclusive and neither the Tax Commission nor the taxpayer will be permitted to open the case again except in the case of changes to the federal return or a showing of fraud or malfeasance or misrepresentation of a material fact or as provided in the agreement. Recalculation of carryback or carryover items may not be construed as opening the case and will not affect the tax liability of a closed period or closed issue. (4-4-13)

03. Form of Settlement. The taxpayer must submit an offer to settle in writing. An offer may not be considered accepted until the taxpayer is notified in writing. Acceptance may be made only by a Tax Commissioner or an authorized delegate. If the offer is rejected, the Tax Commission will promptly notify the taxpayer. (4-4-13)

04. Withdrawal of Offer. A taxpayer may withdraw his offer to settle at any time prior to its acceptance by the Tax Commission. (3-29-10)

501. PROCEDURES ON SETTLEMENTS OVER FIFTY THOUSAND DOLLARS (RULE 501).
Section 63-3048, Idaho Code. (3-29-10)

01. Signatures for Settlement. For settlement agreements where the amount in issue equals or exceeds fifty thousand dollars ($50,000), the signature of two (2) commissioners is required on the settlement agreement to make it binding and complete. One of the commissioners signing must be delegated the responsibility for oversight of the tax type subject to the settlement. (3-29-10)

02. Amount in Issue. The amount in issue is defined as the Notice of Deficiency amount, plus or minus any adjustments previously communicated in writing to the taxpayer, minus the proposed settlement amount. (3-29-10)

a. Example 1. The audit staff issues a Notice of Deficiency to the taxpayer for one hundred fifty thousand dollars ($150,000). The taxpayer then submits documentation for additional examination by the Commission or its staff. As a result of the examination, the amount claimed due is reduced to one hundred twenty thousand dollars ($120,000), and the taxpayer is notified in writing. The taxpayer then submits an offer to settle for eighty thousand dollars ($80,000). The amount in issue is forty thousand dollars ($40,000). (3-29-10)

b. Example 2. Same facts as in Paragraph 501.02.a., except the taxpayer makes the offer to settle before the Commission communicates the reduction in the amount claimed due based on the additional documentation. In this case, the amount in issue is seventy thousand dollars ($70,000) (NOD amount of $150,000 - settlement offer of $80,000 = $70,000), because the Commission has not communicated the allowance of the deduction to the taxpayer, and the taxpayer is not aware of the adjustment at the time he made the offer. (3-29-10)

c. Example 3. The taxpayer files a refund claim of one hundred thousand dollars ($100,000). The audit staff reviews the claim and determines the taxpayer is entitled to a refund of twenty thousand dollars ($20,000). The taxpayer protests the denial of the remaining eighty thousand dollars ($80,000). The taxpayer makes an offer to settle by proposing a refund of seventy-five thousand dollars ($75,000). The amount in issue is fifty-five thousand dollars ($55,000), which is the difference between the refund allowed and the proposed settlement amount. The calculation is as follows:

Audit staff NOD amount	($20,000)
Less settlement offer	- ($75,000)
Amount in issue	($55,000)

(3-29-10)

d. Example 4. The taxpayer files a refund claim of one hundred thousand dollars ($100,000). The audit staff reviews the claim and determines the taxpayer is not entitled to a refund and instead owes fifty thousand dollars ($50,000). The audit staff issues a Notice of Deficiency for fifty thousand dollars ($50,000) and a denial of the refund claim. The taxpayer submits additional documentation for examination by the Commission or its staff. After review, the amount claimed due is reduced to thirty thousand dollars ($30,000), and this is communicated to the taxpayer in writing. The taxpayer then offers to settle by proposing a refund of forty thousand dollars ($40,000). The amount in issue is seventy thousand dollars ($70,000). The calculation is as follows:

Audit staff NOD amount	$50,000
Less adjustment submitted to taxpayer	- ($20,000)
Amount claimed due	$30,000
Less settlement offer	- ($40,000)
Amount in issue	$70,000)

(3-29-10)

e. For purposes of the amount in issue, interest will be updated to the date of the offer. (3-29-10)

03. Final Review. When considering a proposed settlement, and the amount in issue equals or exceeds fifty thousand dollars ($50,000), the Commission will hold a final review before deciding to finalize the settlement. The meeting on the final review will be attended by at least two (2) commissioners, the tax appeals manager or

designee, a deputy attorney general, and a representative from the division in which the Notice of Deficiency originated. The representative will be either the division administrator or the bureau chief. One of the commissioners must be the commissioner delegated oversight responsibility for the tax at issue, and the other commissioner signing the settlement agreement must attend the final review. The purpose of the final review is to evaluate the merits of the proposed settlement. (4-11-15)

04. Written Summary. The deputy attorney general or tax policy designee at the final review will prepare a written summary of the proposed settlement. The summary will include recommendations of the audit staff as well as recommendations of the preparer. The summary will be provided to those attending the review. This summary does not preclude the Commission from seeking a separate analysis from other agents of the Commission. A copy of the summary, along with a copy of the related settlement agreement, will be maintained in separate files of the Commission. Such files may not be disclosed or inspected under the public records law. (4-11-15)

05. Final Review When the Offer to Settle is Based on Inability to Pay. If the taxpayer's offer is based on inability to pay, a representative of the Collection Division will be provided a copy of the Written Summary and given an opportunity to participate in the final review. The representative attending the final review on behalf of the Collection Division will be the division administrator or the designee. (4-11-15)

06. Annual Summary. The Commission will submit an annual report to the governor and legislature by March 1 of each year summarizing all settlement agreements entered into during the previous calendar year in which the amount in issue equals or exceeds fifty thousand dollars ($50,000). The annual summary will be based on the written summary for all applicable cases. The annual summary will not contain any confidential taxpayer information but will include a brief general description of each settlement. The annual summary will be a public record subject to disclosure and inspection. (4-11-15)

07. Applicable Settlements. This rule applies to those matters when a protest has been timely filed pursuant to Section 63-3045, Idaho Code, and before the tax has been assessed, and to cases in which a decision of the Tax Commission has been appealed to the Board of Tax Appeals or to a court. However, this rule will not apply to settlements where the amount in issue is less than fifty thousand dollars ($50,000). (4-11-15)

502. -- 599. (RESERVED)

600. JUDICIAL REVIEW: REQUIRED SECURITY (RULE 600).
Section 63-3049(b), Idaho Code. (3-20-97)

01. Acceptable Security. For purposes of obtaining judicial review, the taxpayer must submit one (1) of the following securities: (3-20-97)

a. Cash in the form of a cashier's check, money order, or other certified funds that are payable to the Tax Commission. (3-20-97)

b. A bond executed by a surety company licensed and authorized to do business in Idaho, conditioned on the payment of any tax, penalty, and interest that may be found due by the court. (3-20-97)

c. Bearer bonds or other similar obligations of the United States having a market value not less than twenty percent (20%) of the amount asserted. (4-11-06)

d. Automatically renewable time certificates of deposit, not exceeding the federally insured amount, issued by a bank doing business in Idaho and insured by the Federal Deposit Insurance Corporation. They must be made in the name of the depositor, payable to the Tax Commission, and contain a provision that interest earned shall be payable to the depositor. (3-20-97)

e. Investment certificates or share accounts, not exceeding the federally insured amount, issued by a savings and loan association doing business in Idaho and insured by the Federal Savings and Loan Insurance Corporation. Evidence of the insured account, either certificate or passbook, must be delivered to the Tax Commission, along with a properly executed assignment form whereby the funds on deposit are assigned and made payable to the Tax Commission. (3-20-97)

f. Irrevocable letters of credit not exceeding the federally insured amount, issued by a bank doing business in Idaho and insured by the Federal Deposit Insurance Corporation, made to the benefit of the Tax Commission. The terms of the letter of credit must permit the Tax Commission to make demand directly against the issuer of the letter of credit for not less than twenty percent (20%) of the amount asserted, on which the taxpayer's rights to appeal have expired, and for which the letter of credit was submitted to secure. (4-11-06)

02. Other Security. Other security may be accepted by the Tax Commission to secure a taxpayer's right of appeal if the Tax Commission has previously agreed in writing to accept the other security in lieu of a cash payment. (3-20-97)

03. Amount Asserted. For purposes of this rule, amount asserted is defined in Section 63-3049, Idaho Code. (4-11-06)

601. -- 699. (RESERVED)

700. DISCLOSURE OF INFORMATION: SCOPE (RULE 700).
Sections 63-3076 and 63-3077, Idaho Code. (3-20-97)

01. In General. Rules 700 through 709 of these rules provide guidelines for disclosure of information gained by the Tax Commission in administering and enforcing tax laws when the information is confidential pursuant to Sections 63-3076 and 63-3077, Idaho Code. (3-20-97)

02. Information That Is Not Return Information. The following are examples of information not considered return information for purposes of Rules 700 through 709 of these rules: (3-20-97)

a. Decisions published pursuant to Section 63-3045B, Idaho Code; (3-20-97)

b. Data in a form that cannot be associated with or otherwise identify, directly or indirectly, a particular taxpayer. (3-20-97)

03. Auditing Standards. Standards used when selecting returns for examination and data used when determining these standards may not be disclosed. (3-20-97)

701. (RESERVED)

702. DISCLOSURE OF INFORMATION: THIRD PARTIES (RULE 702).
Sections 63-3076 and 63-3077, Idaho Code. (3-20-97)

01. In General. The Tax Commission may not disclose returns or return information about a taxpayer to any person other than that taxpayer or an authorized representative of the taxpayer except as provided by statute or rule. (3-20-97)

02. Written Authorization to Disclose Information. (3-20-97)

a. The Tax Commission may disclose a taxpayer's returns or return information to a person designated in writing by that taxpayer. (3-20-97)

b. The written authorization must contain: (3-20-97)

i. The taxpayer's name, address and social security number, employer identification number, or other identifying number that relates to the returns or return information to be disclosed; (4-5-00)

ii. The name and address of the person to whom disclosure is authorized; (3-20-97)

iii. Language indicating the taxpayer's consent to disclosure of information; (3-20-97)

iv. The tax period or periods for which disclosure may be made; and (3-20-97)

v. The signature of the taxpayer, or if the taxpayer is a corporation or other business organization or an entity other than an individual, the signature of an authorized employee or officer of the taxpayer. (3-20-97)

c. A written complaint or inquiry by a taxpayer to an elected official of the executive or legislative branches of state or federal government relating to the Tax Commission's actions or positions relating to that taxpayer is an authorization for the Tax Commission to disclose information relevant to the complaint or inquiry to the official, or the official's delegate. (3-20-97)

03. Audits or Investigations. Tax Commission employees and authorized agents may make inquiries of any person or any employee of a person to collect or ascertain any tax liability, to determine the correctness of a return or return information, or for any other purpose relating to the Tax Commission's duties of administering or enforcing Idaho tax laws. Disclosures necessary to these inquiries are authorized. (3-20-97)

04. Testimony in Judicial or Administrative Proceedings. If a Tax Commissioner, Tax Commission employee or agent is required to appear in court in an action where the Commission, employee or agent is not a party or where taxation is not in issue, by subpoena or otherwise, he may appear but shall refuse to testify without written authorization from the taxpayer, and may object to his appearance on the basis of this rule and Section 63-3076, Idaho Code. Information requested in a subpoena issued by a United States Grand Jury shall be provided. (3-20-97)

703. DISCLOSURE OF INFORMATION: GENERAL PUBLIC (RULE 703).
Sections 63-3076 and 63-3077, Idaho Code. (3-20-97)

01. Public Information. The Tax Commission may disclose information about a taxpayer that is public information. This includes information introduced as evidence in any court, before the Board of Tax Appeals, through the filing of liens, or through publication other than by the Tax Commission. (3-20-97)

02. Correction of Information. The Tax Commission, after notifying the taxpayer, may disclose information necessary to correct misleading statements or misrepresentations publicized by the taxpayer or his agents or employees regarding his liability to the state of Idaho, his conduct in relation to the Tax Commission, or proceedings, audits or investigations of the taxpayer by the Tax Commission. (3-20-97)

03. Written Decisions of the Tax Commission. Written decisions of the Tax Commission shall be available to the public as required by Section 63-3045B, Idaho Code. Before publishing a decision, the taxpayer shall first have the opportunity to review the decision and request in writing that specific information be deleted. If the Tax Commission does not receive a written request from the taxpayer for deletions within ninety-one (91) days following the date of the final decision, it will be presumed that the taxpayer does not object to publication of any information in the decision. (3-20-97)

704. DISCLOSURE OF INFORMATION: GOVERNMENT AGENCIES AND OFFICIALS (RULE 704).
Sections 23-907, 39-8405, 49-326, 50-1049, 54-1904A, 56-231, 63-602G, 63-2442, 63-3029B, 63-3077, 63-3077A, 63-3077B, 63-3077C, 63-3077D, 63-3077E, 63-3634A, and 67-4917C, Idaho Code

01. Legislature. The Tax Commission will disclose returns or return information to the Idaho Legislature on the written request of the chair of any committee of either branch of the Idaho Legislature on behalf of the committee. When authorized by statute, the Tax Commission will disclose information to the Legislative Council, the Joint Legislative Oversight Committee, or to the Joint Finance and Appropriations Committee. (4-4-13)

02. Government Agencies or Officials. The Tax Commission will disclose information necessary to comply with provisions of the Idaho Code requiring reports or information to be provided to government agencies or officials. This includes the disclosure of tax returns and return information for use in enforcing child support obligations pursuant to Section 56-231, Idaho Code. (4-4-13)

03. Exchange of Information. Information may be exchanged between the Tax Commission and: (4-5-00)

a. The Internal Revenue Service, as allowed by Sections 63-3077(1)(a) and 63-3077D, Idaho Code; (3-30-07)

b. Other states, if reciprocal provisions for information exchanges are granted under Section 63-3077(1)(b), Idaho Code; (5-3-03)

c. County assessors, limited to: (3-20-04)

i. Information relating to the taxpayer's residence or domicile and his claim of the homeowner's property tax exemption as provided in Sections 63-3077(4) and 63-602G, Idaho Code; and (4-6-05)

ii. Information related to the property tax exemption claimed in lieu of the Idaho investment tax credit, as allowed by Section 63-3029B, Idaho Code. (3-20-04)

d. Department of Labor, as allowed by Section 63-3077A, Idaho Code; (4-5-00)

e. Industrial Commission, as limited by Section 63-3077B, Idaho Code; (4-5-00)

f. Multistate Tax Commission, as allowed by Section 63-3077(1)(b), Idaho Code; (5-3-03)

g. Idaho Transportation Department, relating to: (3-20-04)

i. Fuels tax, as allowed by Section 63-2442, Idaho Code; and (3-20-04)

ii. Residency information, as allowed by Section 63-3634A, Idaho Code. (3-20-04)

iii. Tax declaration for blindness as required by Section 49-326, Idaho Code. (4-4-13)

h. Financial Management Services of the U. S. Department of the Treasury, as allowed by Sections 63-3077(1)(a) and 63-3077D, Idaho Code; (3-30-07)

i. Governing entity of the International Fuel Tax Agreement, IFTA, Inc., as allowed by Section 63-3077(1)(b), Idaho Code; (4-6-05)

j. Department of Fish and Game, limited to information relating to an individual's place of residence or domicile, as allowed by Section 63-3077C, Idaho Code; (3-29-12)

k. Attorney General, as limited by Section 39-8405, Idaho Code; (3-20-04)

l. Resort cities, as allowed by Section 50-1049, Idaho Code; (4-6-05)

m. Auditorium districts, as allowed by Section 67-4917C, Idaho Code; (4-11-06)

n. County treasurers and boards of county commissioners, limited to information related to a claim of the homeowner's property tax exemption, as allowed by Section 63-602G, Idaho Code; and (4-11-06)

o. The administrator of the Division of Building Safety, limited to information relating to public works contracts as provided in Section 54-1904A, Idaho Code. (4-11-06)

p. The Alcohol Beverage Control Bureau within the Idaho State Police, as provided in Section 23-907, Idaho Code. (3-29-10)

q. The State Treasurer, as provided in Section 63-3077E, Idaho Code, limited to: (3-29-12)

i. The names and addresses of businesses in Idaho; (4-4-13)

ii. The names and addresses of individuals or entities identified as owners or potential owners of unclaimed property in the custody of the State Treasurer; and (4-4-13)

iii. The taxpayer identifying numbers. (4-4-13)

r. The Idaho Department of Correction, as limited by Section 63-3077G, Idaho Code. (3-25-16)

s. The Idaho Department of Health and Welfare, as limited by Section 63-3077H, Idaho Code.

(3-25-16)

705. DISCLOSURE OF INFORMATION -- IDENTITY THEFT (RULE 705).
Section 63-3077F, Idaho Code.

01. In General. The Tax Commission may disclose to a victim of identity theft the name and address of an individual using the victim's social security number or other tax identification number. If the victim of identity theft is a minor, the Tax Commission may disclose the information to the parent or legal guardian. If the victim is deceased, the Tax Commission may disclose the information to the surviving spouse or executor of the estate. (3-20-14)

02. Written Authorization to Disclose Information. (3-20-14)

a. The Tax Commission may disclose the name and address to the victim upon receipt of a valid written information request. (3-20-14)

b. The written request must contain: (3-20-14)

i. The victim's name, address, and social security number or other tax identification number; (3-20-14)

ii. The tax year affected; (3-20-14)

iii. The signature of the victim or legal representative; (3-20-14)

iv. Copies of the victim's driver's license and social security card or passport, if applicable. (3-20-14)

v. If the victim is a minor, a copy of the birth certificate along with the driver's license or passport of the parent or legal guardian. (3-20-14)

vi. If the victim is deceased, a copy of the legal document authorizing the executor of the estate along with the executor's driver's license or passport. (3-20-14)

706. -- 799. (RESERVED)

800. DEFINITIONS FOR PURPOSES OF THE TAXPAYERS' BILL OF RIGHTS (RULE 800).
Title 63, Chapter 40, Idaho Code. (3-20-97)

01. Collection and Enforcement. For purposes of the taxpayers' bill of rights, the terms collection and enforcement include only post-assessment processes. (3-20-97)

02. Publication. For purposes of the taxpayers' bill of rights, publication means communicating to the general public. Publication does not include internal communication or communication with other governmental agencies as provided for by statute. (3-20-97)

03. Written Notification of Representation. A taxpayer's written notification that he will be represented by another person must include the information required for a valid power of attorney. If the notification is not valid, the revenue officer shall communicate with the taxpayer. The revenue officer should exercise reasonable care in determining whether a power of attorney exists. (3-20-97)

801. -- 809. (RESERVED)

810. ACQUISITION OF LOCATION INFORMATION (RULE 810).
Section 63-4002, Idaho Code. A revenue officer may contact a person again if it is reasonable to believe that the person may have acquired new location information since the prior contact. (3-20-97)

811. -- 819. (RESERVED)

820. COMMUNICATION IN CONNECTION WITH TAX COLLECTION (RULE 820).
Section 63-4003, Idaho Code. A revenue officer may contact a taxpayer before 8 a.m. or after 9 p.m. if it is reasonable

to believe that these times are more convenient for the taxpayer. (3-20-97)

821. -- 999. (RESERVED)

IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS

DOCKET NO. 36-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 63-3808, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 36, rules of the Idaho Board of Tax Appeals:

IDAPA 36
- 36.01.01, *Idaho Board of Tax Appeals Rules*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 5905 through 5925**. Technical changes and housekeeping changes were pursued in order to simplify, clarify, and reduce rule language.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The Board of Tax Appeals operates with one fee rule, Board Rule 151.03. The rule provides a ten-dollar ($10) cost for providing a certified copy of a hearing recording. This fee or charge is being imposed pursuant to Section 63-3808, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Steve Wallace at (208) 334-3354.

Dated this 5th day of September, 2019.

Steve Wallace, Director
Idaho Board of Tax Appeals
1673 W. Shoreline Drive, Suite 120, Boise, ID 83702
P.O. Box 36, Boise, ID 83720-0088
Phone: (208) 334-3354
Fax: (208) 334-4060

000. LEGAL AUTHORITY (RULE 0).
These rules are promulgated in accordance with Section 63-3808, Idaho Code. (3-25-13)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled IDAPA 36.01.01, "Idaho Board of Tax Appeals Rules." (4-5-00)

02. Scope. These rules govern procedures before the Idaho Board of Tax Appeals (hereinafter "Board"). *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
As used in this chapter: (2-18-05)

***01*. Appellant**. A party filing an appeal with the Board. *( )*

***02*. Board**. The Idaho Board of Tax Appeals, board members, presiding officer, or hearing officer as the context may dictate whenever it occurs in this chapter. (3-25-13)

***03*. Case File**. The official record maintained by the Board regarding an appeal. (3-25-13)

***04*. Comparable Sales**. Recently sold properties that are similar in locational and physical characteristics to the property being appraised. "Recently sold property" is property with a sale date prior to the effective date of valuation. (3-25-13)

***05*. De Novo**. The Board *decides* questions of fact and of law based on the evidence and legal arguments presented before the Board. A de novo review means the parties must present anew any previously submitted evidence or argument they wish to have considered. New evidence and argument may also be presented. *( )*

***06*. Ex Parte**. A communication on behalf of one (1) party with the Board where the other side is not present or included. (3-25-13)

***07*. Parcel**. Each separate property ownership as represented by the county assessment rolls. (2-18-05)

***08*. Party**. A person or governmental subdivision or agency authorized to appear before the Board. *( )*

***09*. Presiding Officer or Hearing Officer**. A member of the Board or other person assigned to conduct a conference or hearing for the Board. (3-25-13)

***10*. Respondent**. A party answering or otherwise responding to an appeal. (2-18-05)

***11*. Subject Property**. The property under discussion. (2-18-05)

***12*. Substantive Issue**. An issue where a right, interest or privilege of any party is involved that may be prejudiced as opposed to minor or mere procedural matter. (3-25-13)

011. ABBREVIATIONS (RULE 11).

01. BTA. Idaho Board of Tax Appeals. (2-18-05)

02. BOE. County Board of Equalization. (2-18-05)

03. STC. Idaho State Tax Commission. (2-18-05)

012. ORGANIZATION (RULE 12).
The Chairman of the Board serves as the administrative officer. (2-18-05)

01. Election. The Chairman will be elected annually by the board members in consideration of experience with the Board and the member's availability to serve and support the Board's administrative duties. (2-18-05)

02. Power. The Chairman will oversee the issuance of acknowledgment letters and notices, and is authorized to perform all other procedural duties such as issuing orders on nonsubstantive rulings without a formal meeting of the Board. (3-25-13)

013. -- 019. (RESERVED)

020. PROCEDURE GOVERNED (RULE 20).

01. Procedure. These rules govern all practice and procedure before the Board. Except as provided in Rules 800 through 860, these rules are affirmatively promulgated to supersede IDAPA 04.11.01, et seq., "Idaho Rules of Administrative Procedure of the Attorney General". (3-25-13)

02. Purpose. The purpose for the establishment of the Idaho Board of Tax Appeals is to provide *a fully* independent, fair, and less expensive opportunity for taxpayers and other parties to appeal from most tax related decisions of county boards of equalization and the State Tax Commission. *( )*

021. LIBERAL CONSTRUCTION (RULE 21).
These rules will be liberally construed to secure just, speedy, and economical determination of all issues presented to the Board. (2-18-05)

***022*. -- 029. (RESERVED)**

030. REPRESENTATION AND PRACTICE BEFORE THE BOARD (RULE 30).
To the extent authorized by law the right to appear and practice before the Board is limited as follows: (3-25-13)

01. Natural Persons. A natural person may represent himself or herself or be represented by an attorney. (4-11-06)

02. Corporations. Duly authorized directors or officers of corporations representing the corporations for which they are, respectively, directors or officers; (4-11-06)

03. Limited Liability Company (LLC). A duly authorized member, or a manager of a manager-managed LLC, representing the LLC for which they are, respectively, a member or manager; (3-25-13)

04. Partnerships, Joint Ventures and Trusts. Duly authorized partners, joint venturers, or trustees representing their respective partnerships, joint ventures or trusts; (4-11-06)

05. Authorized Attorneys. Attorneys duly authorized *and* qualified to practice in the courts of the state of Idaho; *( )*

06. Public Officers. Public officers or designated representatives when representing the governmental agency; (4-11-06)

031. INITIAL PLEADING -- LISTING OF REPRESENTATIVES (RULE 31).
The initial pleading of each party must name the party's qualified representative for service of documents and *include* the representative's address for *receiving* documents. Service of documents on the named representative is valid service upon the party. If no person is explicitly named as representative, the person signing the initial pleading will be considered the representative. *( )*

032. SUBSTITUTION OF REPRESENTATIVE (RULE 32).
A party's representative may be changed by notice to the Board and to all other parties when the proceedings are not unreasonably delayed. The presiding officer may permit substitution of a representative at hearing. (3-25-13)

033. PARTICIPATION BY TAXING AUTHORITY (RULE 33).
In proceedings where a taxing authority may participate, or in any instance where a report or recommendation of the taxing authority may be considered in reaching a decision, at the timely request of a party or upon the Board's motion, an informed representative of the taxing authority shall appear at hearing and be available for examination. When such a representative is summoned, the taxing authority *may* further participate in the hearing as a party.
( )

034. (RESERVED)

035. CONDUCT (RULE 35).
A party, representative or witness shall conduct themselves in all Board proceedings in an ethical, respectful, and courteous manner. (3-25-13)

036. ENFORCEMENT (RULE 36).
The Board and each party to an appeal are responsible for the efficient, just, and speedy conduct of the formal hearing and other proceedings before the Board. Board members or the assigned hearing officer may impose sanctions on a party for delays, the failure to comply with a subpoena or discovery order, for discovery procedure abuses, and for any other matter regarding conduct of the appeal. Board sanctions include, but *are* not limited to, dismissal of an appeal or the granting of default judgment.
( )

037. EX PARTE COMMUNICATIONS (RULE 37).

01. Prohibited Ex Parte. Unless permitted by law, the Board shall not communicate regarding any substantive issue with any party, except upon notice and opportunity for all parties to participate in the communication. (3-25-13)

02. Permitted Ex Parte. The Board may communicate ex parte with a party concerning a procedural or administrative matter. (3-25-13)

038. -- 044. (RESERVED)

045. NOTICE OF APPEAL: CONTENTS (RULE 45).

01. Basic Contents. An appeal must be in writing and contain clear and concise statements of the matters that lay foundation for the relief claim that may be granted by the Board.
( )

02. Additional Contents. The appeal shall further contain: (3-25-13)

a. Appellant's full name, mailing address and telephone number; (3-25-13)

b. The tax year(s) associated with the appeal; and (3-25-13)

c. A signed statement by a natural person/appellant or by a qualified representative that the notice of appeal contents are correct. (3-25-13)

03. Appeal Filed by an Attorney or Representative. An appeal filed by a qualified representative shall contain: (3-25-13)

a. The representative's name, official title, mailing and street addresses, telephone number; and (3-25-13)

b. If the representative is an attorney, the Idaho State Bar License number. (3-25-13)

04. Change in Address or Phone Number. A party or representative must provide written notice to the Board and other parties of any change in contact information. (3-25-13)

046. NOTICE OF APPEAL: BOE APPEALS (RULE 46).

01. Separate Notice. Each parcel assessment appealed must use a separate Board Appeal Form or separate notice of appeal. ( )

02. BOE Appeal. An appeal brought under Section 63-511, Idaho Code, the notice of appeal shall contain: (3-25-13)

a. A legal description of the property relating to the appeal; (3-25-13)

b. A copy of the county board of equalization's final decision, and when available, the decision's postmarked mailing envelope or any accompanying certificate of service; (3-25-13)

c. For a valuation appeal, a clear declaration of the alleged market value for the subject property. For a property tax exemption claim, the Idaho Code section(s) associated with the claim and a summary of the factual basis supporting why exempt status should be granted or denied; and (3-25-13)

d. A copy of the final tax assessment notice for the assessment appealed. (3-25-13)

03. Filing Place. *A BOE* appeal must be filed with the county auditor in the county in which the property assessment originated. ( )

047. NOTICE OF APPEAL: STC APPEALS (RULE 47).
An appeal brought under Section 63-3049 or 63-707, Idaho Code, shall contain: (3-25-13)

01. Attachment. A copy of the written decision being appealed; (3-25-13)

02. Objections. A list of objections to the STC's decision *and the basis for said objections*; ( )

***03*. Amount in Dispute**. A statement of the amount in dispute for each applicable tax year or period; and (3-25-13)

***04*. Security Deposit**. When applicable, proof of compliance with the deposit requirements in Section 63-3049(b), Idaho Code, in the form of a receipt or documented acknowledgment from the STC**.** (3-25-13)

048. ACKNOWLEDGMENT (RULE 48).

01. Acknowledgment Letter. An acknowledgment letter will be mailed within fourteen (14) days of the receipt of an appeal in the Board's office. The Board may acknowledge multiple appeals by the same party with a single letter. Such acknowledgment does not constitute a formal consolidation of the appeals. ( )

02. Defective Appeal. If an appeal is found to be materially defective, untimely, or not substantially in compliance with the requirements of this chapter the Board may dismiss such appeal. ( )

049. (RESERVED)

050. ANSWER TO APPEAL (RULE 50).
A respondent or intervenor may file with the Board an answer to a notice of appeal. The answer shall be filed at least fifteen (15) days prior to hearing. (3-25-13)

051. (RESERVED)

052. COUNTY AUDITOR REQUIREMENT (RULE 52).

01. Contents. Upon receiving a notice of appeal to the Board under Section 63-511, Idaho Code, the county auditor shall transmit to the Board: (3-25-13)

a. A copy of the notice of appeal including the date of receipt, and if received by mail, a copy of the

mailing envelope; (3-25-13)

b. The exhibits or other evidence considered by the BOE; (3-25-13)

c. A copy of the initial appeal to the BOE; (3-25-13)

d. A copy of any decision made or action taken by the BOE together with the mailing date of the notice of decision or other proof of service; (3-25-13)

e. A copy of the certified minutes *for* related BOE proceeding*s*, or a verbatim record *provided on its own distinct storage device*; and *( )*

f. When applicable, a certificate that the BOE failed to act on the appeal in the time required. (3-25-13)

02. Minutes. The minutes should include at a minimum: (2-18-05)

a. The full name of persons appearing before the BOE in the appeal; (2-18-05)

b. Clear identification of the parcel number associated with the assessment appealed; and (3-25-13)

c. The decision made by the BOE specifying the value determined or exempt status decided for each parcel. (3-25-13)

053. -- 054. (RESERVED)

055. CONSOLIDATION (RULE 55).
Whenever two (2) or more ad valorem cases from the same county or different counties involve the same or substantially similar issues and the same or similar property, or where the same or similar issues exist in other tax type cases, the Board may issue a written or verbal order consolidating the cases. There shall be no consolidation of cases where the rights of any party would be prejudiced. Parties may also request *a consolidation*. Prior to issuing a consolidation order, the Board will consider whether the parcels are contiguous, any response given to a consolidation request, and any other matters deemed appropriate in judging whether consolidation would likely be beneficial. *( )*

056. -- 059. (RESERVED)

060. FORM OF PLEADINGS (RULE 60).

01. Form. *P*leadings, except those filed on Board forms, submitted by a party and intended to be part of the record *should* be double-spaced: *( )*

a. State the title of the pleading and the appeal number at the top of the cover page; (3-25-13)

b. Include the name, mailing and street address, and if available, the telephone and FAX number of the person filing the document; *and* *( )*

c. Be signed by a qualified representative. *( )*

061. SERVICE OF DOCUMENTS (RULE 61).

01. Service. A notice, motion, *brief*, or other document submitted to the Board will be served upon all other parties' representatives of record. Service by regular mail *is* adequate service. A Board notice, order, or final decision *is* served upon a party's representative of record. The Board may direct documents be served on persons who are not parties. *( )*

02. Proof of Service. Every document filed with the Board must be accompanied by a certificate of service. The following is an example:

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this day of , 20XX I caused to be served a true copy of the foregoing attached document by the method indicated below and addressed to each of the following:

(representative's name) _____ U.S. Mail, Postage Prepaid
(mailing address) _____ Hand Delivered
_____ Overnight Mail
_____ Certified Mail

(Signature)

(printed name of person signing)

(3-25-13)

062. DEFECTIVE, INSUFFICIENT OR LATE PLEADING (RULE 62).
A defective, insufficient, or untimely pleading may be returned, *denied,* or dismissed. *( )*

063. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS (RULE 63).
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a*n appeal should* file a notice of withdrawal and serve all parties with a copy. *( )*

064. (RESERVED)

065. COMPUTATION OF TIME (RULE 65).
In computing any period of time prescribed or allowed by these rules or by any applicable statute, the day of the act, event or default from which the designated period begins to run shall not be included. The last day of the period so computed shall be included in the count unless it is a *weekend or legal* holiday, in which event the period runs until the end of the next *business* day. *( )*

066. FILING (RULE 66).

01. Document Filing Place. A document filed with the Board shall be filed at the Board's mailing address or street address. *( )*

02. Number of Copies. Unless otherwise indicated by the Board, one (1) copy shall be filed. (2-18-05)

03. Fax Filing. A filing by facsimile (fax) transmission is permitted for a notice of withdrawal or settlement, and for a notice or motion requiring an immediate response by the Board. *Except for* a notice of withdrawal, an original must be mailed to the Board and served on all other parties the same day. *( )*

a. The transmission must be legible and received in its entirety during office hours for it to be considered filed on the transmission date. *( )*

b. When making a filing by fax, if another party to the case is equipped with fax facilities, the service on that party *should* include fax service. *( )*

c. The originating party shall assume the risk in fax filing and retain proof of filing by fax. (3-25-13)

067. -- 069. (RESERVED)

070. PREHEARING CONFERENCE (RULE 70).

01. Subject of Conference. The Board may direct parties to appear before it to consider: (3-25-13)

a. Any and all matters that can be agreed upon. (7-1-93)

b. Formulating or simplifying the issues. (4-5-00)

c. Stipulations which will avoid unnecessary proof. (7-1-93)

d. Preliminary motions to be made prior to the hearing. (7-1-93)

e. Requiring respondent and appellant to furnish to each other and the Board a list of all witnesses to be called by the parties at the hearing. (4-5-00)

f. The limitation of the number of expert or lay witnesses and the disclosure of the identity of persons having knowledge of relevant facts and who may be called as a witness. (4-5-00)

g. The scheduling of discovery, hearings, or other time sensitive matters. (4-5-00)

h. Discussing settlement. (4-5-00)

i. Fair hearing procedures. (4-5-00)

j. Such other matters that may expedite orderly and speedy conduct as will aid in the disposition of the controversy. (4-5-00)

02. Notice of Prehearing Conference. Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference contain the same information as notices of hearing *regarding* the Board's obligations under the American with Disabilities Act. *( )*

03. Failure to Appear. Failure of either party to appear at the time and place appointed by the Board under Rule 70 may result in a dismissal of the appeal or the granting of said appeal. (3-25-13)

04. Prehearing Order. The Board or its designate may prepare or require the preparation of an order reciting the findings and action taken at such conference. A prehearing order will control the course of subsequent proceedings unless modified by the Board for good cause. (3-25-13)

05. Determination Upon Results of Conference. If, after the prehearing conference provided for in Rule 70, and after appropriate notice to the parties, the Board determines that there is sufficient evidence and stipulation upon which it can make a decision, it may determine the appeal without conducting a hearing. (3-25-13)

071. (RESERVED)

072. MOTIONS (RULE 72).

01. Form and Contents. A motion *should*: *( )*

a. Fully state the facts upon which it is based; (2-18-05)

b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which it is based; and (2-18-05)

c. State the relief sought. (2-18-05)

02. Oral Argument. If the moving party desires oral argument on the motion it must state so in the motion. ( )

03. Prehearing Motions. Unless otherwise provided in these rules, a prehearing motion must be filed at least fifteen (15) days prior to a scheduled hearing to be considered by the Board. (3-25-13)

04. Answer to Motion. An answer to a motion*, or a request for additional time to respond,* may be filed within ten (10) days after the filing of the motion. ( )

073. (RESERVED)

074. BRIEFS (RULE 74).
The Board may order briefs from the parties prior to the hearing of the evidence or after said hearing. (3-25-13)

075. DISCOVERY (RULE 75).

01. Written Permission. A party to a pending appeal may engage in discovery limited to a single discovery request upon the written order of the Board. The following procedures govern discovery: (3-25-13)

a. The *request* for discovery must be filed within twenty (20) days of the mailing date of the Board's appeal acknowledgment letter. ( )

b. The *request should* contain a statement covering the reasons the discovery is useful to the preparation of the appeal. ( )

c. The *request* must *include* a complete copy of the discovery request. ( )

d. Discovery must be completed at least ten (10) days prior to the scheduled hearing, unless otherwise ordered by the Board. (3-25-13)

e. The Board may deny a discovery *request* that does not comply with the requirements of this chapter. ( )

f. Discovery responses shall be served simultaneously on all other parties. At the same time, the responding party shall file with the Board a notice stating when and on whom the response was served. The actual contents of discovery responses will not be filed with the Board unless the order so directs. Discovery responses shall be signed by a qualified representative, and in the instance of interrogatory answers, the response shall also be signed by the person answering. Such signatures constitute a certification that the signer has reviewed the responses or answers and attests to their completeness and accuracy. (3-25-13)

g. The discovery *order* may provide that voluminous answers need not be served so long as the documents are made available for inspection and copying under reasonable terms. ( )

02. Scope and Method of Discovery: BOE Appeals. The method of discovery is limited to production requests and written interrogatories. The scope of discovery must pertain to the subject property*,* comparable sale*,* or *a* comparable rental. ( )

a. The scope of discovery also includes: ( )

i. Information or records concerning an appraisal, assessment, financial statement or related schedule, a completed study or report, and contracts including a sale agreement; (3-25-13)

ii. The identity of individuals who will be called to testify as witnesses and a summary of their expected testimony; and (3-25-13)

iii. For an exemption appeal, information or documents relating to the claimed *exemption*. *( )*

b. In a valuation case the request for production of documents or written interrogatories is limited to information from the last three (3) years preceding the assessment date unless otherwise specified by the Board. (3-25-13)

c. The request for production of documents shall specifically identify each document requested. The request for inspection of land or other property shall be in accordance with the Idaho Rules of Civil Procedure. (2-18-05)

d. The Board may limit or expand the *above* scope and method of discovery when it deems such action is appropriate. *( )*

03. Scope and Method of Discovery: STC Appeals. (3-25-13)

a. Production requests, requests for admissions and written interrogatories are permissible methods of discovery. The Board may limit the scope and method of discovery when it deems such action appropriate. *( )*

b. A deposition may be taken *when allowed by* the Board. *( )*

04. Supplementation of Response. The party responding to a discovery order is under a continuing duty to promptly supplement an earlier response upon the availability of new information. (3-25-13)

05. Special Case. The Board may order additional or *reciprocal* discovery not provided by this rule. *( )*

06. Sanctions. Failure to substantially comply with Board ordered discovery in a good faith attempt at full compliance, may result in one or more sanctions up to and including a dismissal or default judgment of the appeals. (3-25-13)

076. -- 084. (RESERVED)

085. INTERVENTION (RULE 85).

01. Intervention of Right. Upon written application received fifteen (15) days prior to the hearing of an appeal, anyone shall be permitted to intervene in an appeal when: (3-25-13)

a. The applicant demonstrates in writing an interest relating to the property or transaction which is the subject of the action that is not adequately represented by existing parties*; and* *( )*

b. The Idaho State Tax Commission may intervene as a matter of right. (3-25-13)

02. Permissive Intervention. Upon written application received at least fifteen (15) days prior to the hearing of an appeal a person may be permitted to intervene: *( )*

a. In an appeal brought under Section 63-511, Idaho Code, when an applicant can show in writing that he is a person aggrieved by the BOE decision; (3-25-13)

b. When an applicant's claim or defense and the main action have a question of law or fact in common; or (3-25-13)

c. When a party to an action relies for ground of claim or defense upon any statute or executive order administered by a federal or a state governmental officer or agency or upon any regulation, order, requirement or agreement issued or made pursuant to the statute or executive order, the officer or agency may be permitted to intervene in the action. (3-25-13)

d. The Board may deny or conditionally grant a petition to intervene for untimely filing that fails to state good cause for the late filing, to prevent disruption or undue delay, due to prejudice to existing parties or undue broadening of the issues, or for other reasons. An intervener who does not file a timely petition is bound by orders and notices earlier entered as a condition of granting the untimely petition. (3-25-13)

086. -- 099. (RESERVED)

100. FAIR HEARING (RULE 100).

01. Hearing Opportunity. *A*ll parties shall be afforded an opportunity for a fair hearing *to present evidence and argument*. *( )*

02. Purpose of Hearing. The Board's goal in conducting hearings *is* the acquisition of sufficient, accurate evidence to support a fair and just determination of the issues *on* appeal. *( )*

03. Notice of Hearing -- Mailing. A notice of hearing shall be mailed at least twenty (20) days before the date set for hearing. (3-25-13)

04. Setting of Hearing. *T*he Board will schedule a reasonably convenient time and place where each party may appear and offer evidence and argument in support of their position. *( )*

05. Telephonic Hearing. The Board may conduct a telephonic hearing wherein each participant has an opportunity to participate in the entire hearing. *( )*

06. Notice of Hearing -- Contents. The notice of hearing shall include: (2-18-05)

a. A statement of the place, date, and time of the hearing; (3-25-13)

b. A statement of the legal authority under which the hearing is to be held; (3-25-13)

c. A reference to the sections of statute or rule concerning the conduct of the hearing; *( )*

d. The name of the hearing officer who is scheduled to conduct the hearing; and (3-25-13)

e. A short and simple statement of the matters asserted or the issues involved. (3-25-13)

07. Conference or Recess. The presiding officer may convene the parties before hearing or recess the hearing to discuss formulation of issues, admissions of fact or identification of documents to avoid unnecessary proof, exchange of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite an orderly hearing. (3-25-13)

101. FAILURE TO APPEAR (RULE 101).

01. Default or Dismissal. Failure of either party to appear at the time and place appointed by the Board may result in a dismissal of that appeal or of the granting of the appeal. (4-5-00)

02. **Waiver of Appearance**. Upon written stipulation of parties that no facts are at issue, an appeal may be submitted to the Board without oral argument. However, the Board may require appearance for argument or presentation of evidence. *( )*

102. WITHDRAWAL (RULE 102).
An appellant may withdraw the notice of appeal in writing, by *electronic* filing, or on the record at hearing. *( )*

103. -- *104.* (RESERVED)

105. INFORMAL DISPOSITION -- SETTLEMENT (RULE 105).
Any *appeal* may be dismissed by the Board by stipulation, agreed settlement, consent order, or default. For good

cause shown and upon written motion made within ten (10) days of entry of a Board order, the Board may set aside such order. ( )

01. Formalizing Agreements. An agreement by the parties may be put on the record or may be reduced to writing and filed with the Board. (3-25-13)

02. Confidentiality. Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations are not part of the record. (3-25-13)

***03*. Consideration of Settlement**. The Board may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the Board's charge under the law. ( )

***04*. Burden of Proof**. Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. (3-25-13)

106. PRESIDING OFFICER (RULE 106).

Any member of the Board or assigned hearing officer may preside at the hearing and shall have power to: (3-25-13)

01. Oath or Affirmation. Administer oaths or affirmations, call a party or other person present at hearing as a witness, examine witnesses and receive evidence; (4-5-00)

***02*. Hearing**. Regulate the course of the hearing and maintain an orderly proceeding; (4-5-00)

***03*. Motions**. Dispose of procedural requests, motions or similar matters; ( )

***04*. Certification by Board**. Make decisions or proposals for decisions subject to certification by a majority of the Board; (3-25-13)

***05*. Official Record**. Develop a full and accurate record and certify the record of said appeal on behalf of the Board; and (3-25-13)

***06*. Other Action**. Take any other appropriate action reasonable under the circumstances. (4-5-00)

107. PROCEDURE AND TESTIMONY (RULE 107).

01. Preliminary Procedure. The presiding officer shall call the proceeding for hearing and proceed to take the appearances and act upon any pending motion. Parties may then make opening statements. (3-25-13)

02. Testimony. All testimony, except matters noticed officially or entered by stipulation at hearings or prehearing conference, shall be taken only on oath or affirmation. (3-25-13)

03. Order of Procedure. The appellant shall present first with the respondent and any intervenor then presenting. Parties may then make closing statements. The presiding officer may require the submission of briefs in addition to, or in lieu of, closing arguments. A maximum of two (2) weeks *is normally* allowed to submit these briefs. The presiding officer may prescribe a different procedure than herein provided. ( )

04. Presentation of Evidence. Evidence may be presented in the following order: (4-5-00)

a. Evidence is presented by appellant. (4-5-00)

b. Evidence is presented by any intervening or opposing party. (4-5-00)

c. Rebuttal evidence is presented by appellant. (4-5-00)

d. Surrebuttal evidence is presented by any intervening or opposing party. (4-5-00)

05. Examination of Witness. *Regarding* any witness who testifies, the following examination may be conducted: *( )*

a. Direct examination by the party who called the witness. (3-25-13)

b. Cross-examination by any intervening or opposing party. (4-5-00)

c. Redirect examination by the party who called the witness. (4-5-00)

d. Recross-examination by any intervening or opposing party. (4-5-00)

e. Examination by the *presiding officer*. *( )*

108. -- 109. (RESERVED)

110. STIPULATIONS (RULE 110).
With the approval of the presiding officer the parties may stipulate as to any fact at issue. The stipulation may be filed, or offered through an exhibit or by oral statement shown upon the hearing record. Any such stipulation shall be binding upon all parties so stipulating and may be regarded by the Board as evidence. The Board, however, may require evidence of the facts stipulated, notwithstanding the stipulation. (3-25-13)

111. CONTINUANCE (RULE 111).

01. Continuances. A continuance may be ordered by the Board upon filing of a timely and written motion containing the stipulated agreement and signature of all parties. *T*imely *means* at least fifteen (15) days prior to *a noticed* hearing *date*. The motion shall show *a detailed* good cause and contain the specific time extension requested. *( )*

02. Consideration. Continuances *are* disfavored by the Board. The Board *may* grant a *single* continuance only when unusual and highly pressing circumstances are present. In no instance shall an extension cause a delay in proceedings for more than three (3) months. In no instance *may* a second continuance be granted. *( )*

112. -- 114. (RESERVED)

115. OFFICIAL NOTICE (RULE 115).
The Board may take official notice of judicially cognizable facts. In addition, the Board may take notice of general, technical, financial, or scientific facts within the Board's specialized knowledge. Parties shall be notified either before or during the hearing of the material noticed. Parties shall be given a reasonable opportunity to object, review, examine, and rebut or contest the information sought to be noticed. (3-25-13)

116. OPEN HEARINGS AND CLOSED DELIBERATIONS (RULE 116).

01. Public Hearings. *H*earings conducted by the Board *are* open to the public except where confidential evidence is being taken under a protective order. *( )*

02. Closed Deliberations. *T*he Board may recess to closed deliberations for the limited purpose of deciding the matter before it. *( )*

117. RULES OF EVIDENCE (RULE 117).

01. Evidence, Admissibility and Evaluation. Evidence should be taken by the Board to assist the parties' development of the record. The presiding officer is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates evidence. The presiding officer may exclude evidence that is irrelevant, immaterial, unduly repetitious, or inadmissible on constitutional or statutory grounds, or on the basis of any privilege recognized in Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of serious affairs. When proceedings will be expedited and the *parties'* interests not substantially prejudiced, evidence may be received in written form. The Board's experience, technical

competence and specialized knowledge may be used in *the* evaluation of evidence. *( )*

02. Documentary Evidence. Upon request, parties shall be given an opportunity to compare the copy with the whole of the original document. Filing of a document does not signify its receipt in evidence, and only those documents which have been received in evidence shall be considered as evidence in the official record of the case. (2-18-05)

03. **Prepared Testimony**. The presiding officer may order a witness's prepared testimony previously distributed to all parties be included in the record of hearing as if read. Admissibility of prepared testimony is subject to the standards expressed in this rule. (2-18-05)

04. **Objections**. Where objections are made to the admission or exclusion of evidence, the grounds relied upon shall be stated briefly at the time of objection and before the start of closing statements. *( )*

05. **Evidentiary Rulings**. The presiding officer shall rule on the admissibility of all evidence and may grant exceptions to the requirements of this rule in the interest of justice. Such rulings may be reviewed by the Board. *An* evidence ruling may be deferred to the entire Board by the presiding officer or taken under advisement. The presiding officer may receive evidence subject to a motion to strike at the conclusion of the hearing. *( )*

06. **Offer of Proof**. An Offer of Proof for the record *consists* of a statement of the substance of the evidence to which objection has been sustained. *W*here the presiding officer rules evidence inadmissible, the party seeking to introduce such evidence *makes* an Offer of Proof to have such evidence considered by the Board. *( )*

07. **Failure to Produce Evidence -- Adverse Inference**. The Board may draw an adverse inference when a party or witness fails to produce requested evidence which is reasonably in the party or witness's control. (2-18-05)

08. **Post-Hearing Evidence**. Unless allowed by the presiding officer, no post-hearing evidence will be accepted. (3-25-13)

118. EXHIBIT (RULE 118).

01. Custody. The Board shall keep all original exhibits unless otherwise provided by law. (3-25-13)

02. Marking. Exhibits will be marked to indicate the sponsoring and offering party. (3-25-13)

03. Form. An exhibit prepared for hearing should be typed or printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except a map, chart, photograph or non-documentary exhibit may be introduced on the size or kind of medium customarily used for them. (3-25-13)

04. Copies. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. (2-18-05)

05. Objection. An exhibit identified at hearing is subject to appropriate and timely objection before the start of closing statements. A presented exhibit to which no objection is made is automatically admitted into evidence without motion. (3-25-13)

119. -- 124. (RESERVED)

125. CONFIDENTIALITY -- PROTECTIVE ORDERS (RULE 125).
The decisions and official records in appeals before the Board are public records and *are subject to disclosure* unless otherwise provided by Title 74, Chapter 1, Idaho Code, or when a protective order, consistent with Title 74, Chapter 1, Idaho Code, is issued. A party may file a motion for a protective order showing good cause why specific information should remain confidential. The motion must include *an* affidavit as to the truthfulness of the contents. If another party opposes the request, that party must file a written objection within ten (10) days. *( )*

126. -- *138*. (RESERVED)

139. SCOPE OF APPEAL IN AD VALOREM CASE (RULE 139).
In an appeal brought under Section 63-511, Idaho Code, where the appellant challenges only the value or exempt status upon either the land or the improvements on the land, the Board shall have jurisdiction to determine the value or exempt status over the entire property. The Board shall have the power to increase or decrease the value of property in a market value appeal. If the Board finds that a property classification is in error, it shall determine the correct classification. (3-25-13)

140. DECISIONS AND ORDERS (RULE 140).

01. Submission for a Decision. The proceeding will stand submitted for decision after the record is closed by the presiding officer or as otherwise prescribed by the Board. ( )

02. Proposed Orders. Prior to a final decision on the merits the Board may request proposed findings of fact and conclusions of law from each party. (3-25-13)

03. Notice. Parties' representatives shall be notified by mail of any final decision or order. (3-25-13)

04. Decisions. A decision of the Board will be based on the official record for the case. The Board shall hear and determine appeals as de novo proceedings. Decisions shall contain *factual* findings and conclusions of law upon which the Board's determination is based. ( )

141. -- 144. (RESERVED)

145. RECONSIDERATION -- REHEARING (RULE 145).

01. Time for Filing and Service. A party adversely affected by a final decision may move for reconsideration or rehearing within ten (10) days of the time the decision is mailed. *Service on other parties is required.* The petitioner must file a supporting brief making a strong showing of good cause why reconsideration or rehearing should be granted. Where the presentation of additional evidence is sought, the motion shall include the reason why such evidence was not presented previously. ( )

02. Consideration. Reconsideration or rehearing may be granted if, in reaching the decision the Board has overlooked or misconceived some material fact or statement of law; misconceived a material question in the case; *found insufficient evidence in the record*; or a party is found to have been denied the opportunity for a fair hearing. ( )

03. Answer. Within ten (10) days after a motion for reconsideration or rehearing is filed, *another* party may file a response in support of or in opposition to said motion. ( )

04. Disposition. A motion for reconsideration or rehearing shall be deemed denied if, within thirty (30) days from the date the petition is received by the Board, no response is made by the Board. (3-25-13)

146. -- 150. (RESERVED)

151. OFFICIAL RECORD (RULE 151).

01. Content. The record shall include: (3-25-13)

a. All notices of proceedings; (2-18-05)

b. All appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; ( )

c. All intermediate or interlocutory rulings; (2-18-05)

d. All evidence received; (3-25-13)

e. All offers of proof, however made; (2-18-05)

f. All briefs, memoranda, proposed orders of the parties, statements of position or support, and objections, but not discovery responses; *( )*

g. All evidentiary rulings on testimony, exhibits, or offers of proof; (2-18-05)

h. All taxing authority data submitted in connection with the consideration of the proceeding; (2-18-05)

i. A statement of matters officially noticed; (2-18-05)

j. All preliminary orders, final orders, and orders on reconsideration or rehearing; *and* *( )*

k. The recording or transcript specified in Rule 151.02. (3-25-13)

02. Verbatim Record. The official recording of hearings will be taken by means of a recorder. A party requesting a court reporter shall bear the expense of the reporter's fees. If the reporter's transcript is deemed by the Board to be the official transcript, the party requesting the reporter shall furnish the Board a transcript free of charge. *( )*

03. Cost. A certified copy of a recording will be provided at the cost of ten dollars ($10). A party may receive one (1) copy at no charge. (3-25-13)

152. -- 154. (RESERVED)

155. SUBPOENA (RULE 155).

01. Issuance of Subpoena. Upon a motion in writing, or upon the Board's own initiative without motion, the Board may issue a subpoena requiring: (3-25-13)

a. The attendance of a witness from any place in Idaho; (3-25-13)

b. The production of documents from any place in Idaho; or (3-25-13)

c. The production of any book, paper, document, or tangible thing kept within or without Idaho to any designated place of deposition or hearing for the purpose of taking testimony or examining a document before the Board. (3-25-13)

02. Motion Contents and Timing. The motion shall be in writing and include a showing of relevance and the reasonable scope of the testimony or specific items sought. The motion for subpoena shall be filed at least fifteen (15) days before the date and time set forth in the subpoena, exceptions may be granted upon a showing of good cause. (3-25-13)

03. Service. Service, and the filing of the proof of such service with the Board, shall be the responsibility of the requesting party. (3-25-13)

04. Fees. A witness summoned pursuant to subpoena shall be paid by the party at whose instance they appear the same fees and mileage allowed by law to a witness in civil cases in the district court. (3-25-13)

05. Motion to Quash. The Board, upon motion to quash may: *( )*

a. Quash or modify the subpoena if it is unreasonable or requires evidence not relevant to any matter in issue; or (7-1-93)

b. Condition denial of the motion upon reasonable conditions. (3-25-13)

***156*. REQUEST FOR TRANSCRIPT (RULE 165).**
The party requesting a *written* transcript shall make the arrangements for preparation of transcript and payment of the fee directly with the transcriber. *( )*

***157*. -- 999. (RESERVED)**

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO WATER RESOURCE BOARD

DOCKET NO. 37-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 42-238, 42-603, 42-1414, 42-1701A, 42-1714, 42-1709, 42-1721, 42-1734D, 42-1761, 42-1762, 42-1765, 42-1414, 42-1805(8), 42-3803, 42-3913, 42-39-14, 42-3915, 42-4001, and 42-4015 Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 37, rules of the Idaho Department of Water Resources and Idaho Water Resource Board:

IDAPA 37
- 37.02.01, *Comprehensive State Water Plan Rules*
- 37.02.04, *Shoshone-Bannock Tribal Water Supply Bank Rules*
- 37.03.11, *Rules for Conjunctive Management of Surface and Ground Water Resources*
- 37.03.12, *Idaho Department of Water Resources Water Distribution Rules - Water District 34*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 5296 - 5956

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mathew Weaver, Deputy Director at (208) 287-4800.

Dated this 16th day of October, 2019.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

000. LEGAL AUTHORITY (RULE 0).
The Board promulgates these rules pursuant to authority provided by Sections 42-1734D and 67-5203, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. The 1988 Idaho Legislature passed House Bill 780, 1988 Session Laws, ch. 370, p. 1090, amending Chapter 17, Title 42, Idaho Code, effective July 1, 1988, to provide for the development of a comprehensive state water plan which may include protected rivers designated either as natural or recreational rivers. The legislative purpose states that selected rivers possessing outstanding fish and wildlife, recreational, aesthetic, historic, cultural, natural or geologic values should be protected for the public benefit and enjoyment. The legislation provides that a waterway may be designated as an interim protected river prior to the preparation of a comprehensive plan for the waterway. (7-1-93)

02. Scope. The purpose of these rules is to establish the procedures used by the Idaho Water Resource Board for designating a waterway as an interim protected river, adopting a comprehensive plan for a waterway, and providing adequate notice of any petitions filed or actions contemplated pursuant to the State Comprehensive Water Plan Act, 1988 Sess. Laws, ch. 370, p. 1090, codified as Sections 42-1730--1731 and 42-1734A--1734I, Idaho Code. (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Alteration. Any activity using mechanized equipment that moves or overturns gravel or earth. (7-1-93)

02. Board. The Idaho Water Resource Board. (7-1-93)

03. Comprehensive State Water Plan. The plan adopted by the Board pursuant to Section 42-1734A, Idaho Code, or a component of such plan developed for a particular water resource, waterway or waterways and approved by the Legislature. (7-1-93)

04. Director. The director of the Idaho Department of Water Resources. (7-1-93)

05. Dredge or Placer Mining. Any dredge or other placer mining operation to recover minerals with the use of a dredge boat or sluice washing plant whether fed by bucket line as a part of such dredge or by a separate dragline or any other method including, but not limited to, suction dredges that are capable of moving more than two (2) cubic yards per hour of earth material. (7-1-93)

06. Hydropower Project. Any development that uses a flow of water as a source of electrical or mechanical power, or that regulates the flow of water for the purpose of generating electrical or mechanical power. A hydropower project development includes all powerhouses, dams, water conduits, transmission lines, water impoundments, roads, and other appurtenant works and structures. (7-1-93)

07. Interim Protected River. A waterway designated pursuant to Section 42-1734D or 42-1734H, Idaho Code, as protected for up to two (2) years while a component of the comprehensive state water plan is prepared for that waterway. (7-1-93)

08. Natural River. A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, is free of substantial existing man-made impoundments, dams or other structures, and has riparian areas that are largely undeveloped, although accessible in places by trails and roads. (7-1-93)

09. Publicize. To notify the public through press releases to the media, published notice in local, regional or statewide publications, and other procedures, as may be appropriate to inform and notify the local and general public of an impending action or decision. (7-1-93)

10. Protected River. A waterway protected in the comprehensive state water plan by designation as either a natural river or a recreational river. (7-1-93)

11. Recreational River. A waterway that possesses outstanding fish and wildlife, recreation, geologic or aesthetic values, and might include some man-made development within the waterway or within the riparian area of the waterway. (7-1-93)

12. Riparian Area. That area within one hundred (100) feet of the mean highwater mark of a waterway. (7-1-93)

13. State Agency. Any board, commission, department or executive agency of the state of Idaho. (7-1-93)

14. Stream Bed. A natural water course of perceptible extent with definite bed and banks that confines and conducts the water of a waterway that lies below and between the ordinary high water mark on either side of that waterway. (7-1-93)

15. Waterway. A river, stream, creek, lake or spring, or a portion thereof, and does not include any tributary thereof. (7-1-93)

011. -- 014. (RESERVED)

015. INTERIM PROTECTED RIVERS (RULE 15).

01. Legislative Directive. Pursuant to the legislative directive of Section 42-1734H, Idaho Code, the Board by resolution at a regularly scheduled meeting on July 1, 1988, designated the following waterways as interim protected rivers: (7-1-93)

a. Priest River, from the Canadian Border to the confluence of Priest Lake; (7-1-93)

b. South Fork of the Boise River, from Anderson Ranch Dam to Neal Bridge; (7-1-93)

c. Snake River, from Section 5, Township 11 South, Range 20 East, B.M. to King Hill; (7-1-93)

d. The following waterways within the Payette River Basin: (7-1-93)

i. North Fork of the Payette River, from Cabarton Bridge to Banks; (7-1-93)

ii. South Fork of the Payette River, from the Sawtooth Wilderness Boundary to Banks; (7-1-93)

iii. Main Payette River, from Banks to Black Canyon Dam; and (7-1-93)

e. Henry's Fork of the Snake River from its point of origin at Henry's Lake to the point of its confluence with the backwaters of Ashton Reservoir. (7-1-93)

02. Designation. Prior to the adoption of a comprehensive plan for a waterway the board may designate a waterway as an interim protected river. (7-1-93)

03. Board Initiative. The board may consider a waterway for designation as an interim protected river upon its own initiative. (7-1-93)

04. Petitions. The board will accept petitions requesting the board to designate a waterway as an interim protected river only from a state agency. The acceptability of a petition requiring clarification or corrections shall be determined by the director. (7-1-93)

05. Form. Petitions shall be in writing, signed by the agency head, and shall describe the waterway, or portion thereof, requested to be designated as an interim protected river. (7-1-93)

06. Filing. Petitions shall be filed with the director. No petition will be considered by the board at a board meeting unless filed with the director at least thirty (30) days prior to such board meeting. (7-1-93)

07. Notice of Consideration. The petitioning agency will be notified at least ten (10) days prior to the meeting of the time, place, and agenda for the board meeting at which the petition will first be considered. (7-1-93)

08. Board Agenda. The board agenda will include time for representatives of the petitioning agency to describe the affected waterway and the agency's reasons for seeking interim protection for that waterway. (7-1-93)

09. Public Notice. The board will publicize the proposed interim designation of the waterway. (7-1-93)

10. Public Input. The board will hold either a public information meeting or a hearing, as the board deems appropriate, to obtain public input on the merits of a proposed interim protected river designation. The board is not limited to one (1) meeting or hearing, and may elect to hold more than one (1) of each, or any combination thereof, as the board deems appropriate. (7-1-93)

11. Board Determination. At a board meeting not more than six (6) months after a petition for interim protected river designation has been filed with the director, the board shall determine whether the nominated waterway merits designation as an interim protected river. The results of the board decision, including identification of any prohibited activities under Rule 25, shall be publicized. (7-1-93)

a. Basis of Determination. Designation of a waterway as an interim protected river shall be based upon a determination by the board that: (7-1-93)

i. It is probable that the waterway would be designated a protected river in the comprehensive state water plan; and (7-1-93)

ii. Interim protected river status is necessary to protect the values that would support such waterway's designation as a protected river in a comprehensive state water plan. (7-1-93)

b. Staff and Funding Considerations. Since the designation of a waterway as an interim protected river is limited to a term of two (2) years, unless extended by law, the board shall consider in its determination process the availability of staff and funding to complete a comprehensive plan for the designated waterway during the two (2) years following designation. (7-1-93)

c. Repeat Filing of Denied Petitions. If the board determines not to afford interim protection to a nominated waterway, the board shall not subsequently entertain petitions seeking interim designation for that same waterway for a period of one (1) year from the date of board action. (7-1-93)

d. Lack of Review. There shall be no review of any board decision rejecting or accepting a nomination for an interim protected waterway. (7-1-93)

12. Relation to Comprehensive Water Plan. If a waterway is designated as an interim protected river, then the board shall, pursuant to Subsection 6 of Section 42-1734D, Idaho Code, proceed to prepare a comprehensive state water plan for the waterway. The board shall in preparing the state comprehensive water plan for the waterway consider, after review of all relevant factors contained in Section 42-1734A, Idaho Code, whether the designation should continue or whether modification of the designation is warranted. (7-1-93)

13. Duration of Interim Protected Status. The designation of a waterway as an interim protected river shall remain in effect, pursuant to Subsection 4 of Section 42-1734D, Idaho Code, until the earliest of: (7-1-93)

a. The adoption of a comprehensive state water plan for the waterway designated as an interim protected river; (7-1-93)

b. Two (2) years following the designation of an interim protected river unless extended by law. (7-1-93)

c. The revocation of a waterway's interim protected river status by law. (7-1-93)

14. Subsequent Designations. If the designation of a waterway as an interim protected river is either revoked by law, or terminated as provided in Section 42-1734D, Idaho Code, then the waterway shall not be eligible for designation as an interim protected river for a period of two (2) years following the revocation or termination of its interim protected river status. (7-1-93)

016. -- 024. (RESERVED)

025. PROHIBITED ACTIVITIES ON INTERIM PROTECTED RIVERS (RULE 25).

01. Board Identification. Upon designating a waterway for interim protected river status, the board shall indicate which of the following activities listed in Subsection 5 of Section 42-1734A, Idaho Code, shall be prohibited: (7-1-93)

a. Construction or expansion of dams or impoundments; (7-1-93)

b. Construction of hydropower projects; (7-1-93)

c. Construction of water diversion works; (7-1-93)

d. Dredge or placer mining; (7-1-93)

e. Alterations of the stream bed; and (7-1-93)

f. Mineral or sand and gravel extraction within the stream bed. (7-1-93)

02. Petitions to Exempt Specific Action or Projects. Any person who is the owner, operator, or authorized official of an organization proposing to undertake or construct a prohibited activity or project may petition the board seeking a determination that the particular proposed action or project will not significantly impair the values supporting a waterway's designation as an interim protected river. (7-1-93)

a. Form. Petitions shall be in writing, signed by the owner, operator, or designated official of the petitioner, and describe the proposed action or project and its location. (7-1-93)

b. Filing. Petitions shall be filed with the director. No petition will be considered by the board at a board meeting unless filed with the director at least thirty (30) days prior to such board meeting. (7-1-93)

03. Notice of Consideration. Petitioning parties will be notified at least ten (10) days prior to the meeting of the time, place, and agenda for the board meeting at which their petition will first be considered. (7-1-93)

04. Board Agenda. The board agenda will include time for the petitioner or his representative to describe the affected waterway or stream reach and to explain how the particular proposed action or project would not significantly impair the values supporting a waterway's designation as an interim protected river. (7-1-93)

05. Public Notice. The board will publicize the fact that the board is considering exempting the particular proposed action or project from one or more of the activities prohibited by the designation of the waterway as an interim protected river. (7-1-93)

06. Public Input. The board will hold a public hearing, and may hold one (1) or more information meetings in the affected area if the board deems this to be appropriate, to obtain public input on the merits of a proposed exemption. The public hearing may be scheduled in conjunction with the board meeting provided for in Rule Subsection 025.07. (7-1-93)

07. Board Determination. At a board meeting not more than four (4) months after a petition for exemption from the prohibitions of interim protected river status has been received by the director, the board shall determine whether the proposed action or project would impair those values being protected by interim designation. In unusual circumstances, the board may extend the four (4) month period allowed for board action. (7-1-93)

a. Basis of Determination. In determining whether a particular proposed action or project will significantly impair the values supporting a waterway's designation as an interim protected river, the board may consider any relevant information including environmental impact statements, technical studies and any other relevant comments or recommendations prepared for use before other state or federal agencies. The burden shall be on the petitioner to show that the proposed action will not impair those values supporting a waterway's designation as an interim protected river. (7-1-93)

b. Approved Exemptions -- Conditions. If the board determines the proposed action or project will not significantly impair the values supporting the waterway's designation as an interim protected river, then the proposed action or project shall be allowed to proceed, except that the board, after consultation with relevant state agencies, may impose appropriate conditions on such action or project, and shall advise any affected regulatory agency of such conditions. (7-1-93)

c. Emergency Waiver. The board delegates to the director the authority to determine if immediate action is required because of a potential for loss of life, damage to structures, or damage to public utilities or thoroughfares. In such cases alterations of a stream bed shall be allowed even though otherwise prohibited by board action. Such alterations shall meet all other applicable state law. (7-1-93)

08. Judicial Review. Pursuant to Subsection 5 of Section 42-1734D, Idaho Code, an aggrieved party may seek judicial review of the board's decision in accordance with Sections 67-5215 and 67-5216, Idaho Code. (7-1-93)

026. -- 029. (RESERVED)

030. COMPREHENSIVE STATE WATER PLAN (RULE 30).

01. Planning Authority. Pursuant to the provisions of Sections 42-1734A and 42-1734B, Idaho Code, the board shall, subject to legislative approval, progressively formulate, adopt and implement a comprehensive state water plan for conservation, development, management and optimum use of all unappropriated water resources and waterways of the state in the public interest. As part of the comprehensive state water plan, the board may designate selected waterways as protected rivers. The comprehensive state water plan shall contain a description of existing and planned uses, and the impact of such uses at the local, state, and regional level for those resources and uses identified in Subsection 3 of Section 42-1734A, Idaho Code. The plan shall quantify, insofar as possible, the unappropriated waters of the planning area, and shall plan the allocation of such waters among the various competing uses. (7-1-93)

a. Coordination. The comprehensive state water plan shall be based upon studies and public hearings in affected areas. In addition, the board will encourage the cooperation, participation and assistance of the state departments of Lands, Parks and Recreation, Fish and Game, Health and Welfare, and Transportation, as well as federal agencies, local units of government, and affected Indian tribes. (7-1-93)

b. Local Advisory Group. The board will seek the involvement of volunteers from the geographic area to be affected by a portion of the comprehensive water plan. These volunteers shall constitute a local advisory group that shall inform the board of local concerns. (7-1-93)

02. Public Hearings. Prior to developing a comprehensive plan for any waterway, river basin, drainage area, river reach, ground water aquifer or other geographic area, the board will hold at least one information meeting in the affected area at which all interested parties will be given the opportunity to advise the board on the scope of the proposed planning effort. Prior to adopting a comprehensive plan for any area the board will hold at least one (1) hearing in the affected area at which all interested parties will be given the opportunity to appear or to present written testimony in response to published proposals for adoption of a comprehensive plan. (7-1-93)

a. Public Notice. The board will publicize both information meetings and hearings that impact on the development or adoption of a comprehensive plan for any area. (7-1-93)

b. Written Comments. A minimum of sixty (60) days shall be allowed by the board between the announcing of a proposal for the adoption of a comprehensive state water plan or any component thereof and the

close of the comment period for such proposed action. (7-1-93)

03. Legislative Review. Upon adoption of a comprehensive state water plan or any component thereof, the board shall present such plan for review to the Idaho legislature at the next regular legislative session following adoption. (7-1-93)

031. -- 034. (RESERVED)

035. AMENDING THE COMPREHENSIVE STATE WATER PLAN (RULE 35).

01. Petitions. The board will accept written petitions seeking amendment of the comprehensive state water plan only from a state agency. (7-1-93)

02. Form. Petitions shall be in writing, signed by the agency head, and shall describe those portions of the comprehensive water plan to be amended and the reasons for the proposed amendments. (7-1-93)

03. Filing. Petitions shall be filed with the director. No petition shall be considered by the board at a board meeting unless filed with the director at least thirty (30) days prior to such board meeting. (7-1-93)

04. Notice of Consideration. The petitioning state agency will be notified at least ten (10) days prior to the meeting of the time, place, and agenda for the board meeting at which the agency's petition will first be considered. (7-1-93)

05. Board Agenda. The board agenda will include time for representatives of the petitioning agency to explain why amending the comprehensive state water plan is considered necessary. (7-1-93)

06. Board Determination. At a board meeting not more than six (6) months after a petition to amend the comprehensive state water plan has been filed with the director, the board shall either commence action to amend the comprehensive plan or set forth its reason for denying the request in writing. (7-1-93)

07. Amending Procedure. If the board chooses to amend the comprehensive state water plan, the board shall do so in the same manner as provided for adoption of the original plan. (7-1-93)

08. Amendment by Board Initiative. Nothing in these rules shall prevent the board from reviewing and reevaluating portions of the plan upon its own initiative, and amending the plan in the same manner as provided for adoption of the original plan. (3-15-02)

09. Requests to Amend. The board will entertain requests from individuals to amend a component of the comprehensive state water plan. (7-1-93)

10. Board Evaluation. The board shall determine whether to consider a proposed amendment based on those factors contained in Section 42-1734A(3), Idaho Code, and their charge to plan for the conservation, development, management and optimum use of all unappropriated water resources and waterways of the state in the public interest. (7-1-93)

11. Legislative Review. The board shall submit the comprehensive state water plan and any component thereof for a particular waterway, or any modification of the plan, to the legislature for review and possible amendment by law at the next regular legislative session following adoption by the board. (7-1-93)

036. -- 999. (RESERVED)

37.02.04 – SHOSHONE-BANNOCK TRIBAL WATER SUPPLY BANK RULES

000. LEGAL AUTHORITY (RULE 0).
These rules have been adopted pursuant to Sections 42-1761 to 42-1765, Idaho Code, Idaho Water Resources Board Water Supply Bank Rule 40 and The 1990 Fort Hall Indian Water Rights Agreement (Agreement) to assure orderly operation of the Shoshone-Bannock Tribal Water Supply Bank. (7-8-94)

001. TITLE AND SCOPE (RULE 1).

01. Purpose. The purpose of establishing this Shoshone-Bannock Water Supply Bank is to allow for rental for any beneficial use all or any part of the water accruing to the federal contract storage rights in the American Falls Reservoir and the Palisades Reservoir as described in Article 7.3.1 of the Agreement not used on Indian lands or otherwise required to fulfill the exchange established by Article 8 of the Michaud Contract. (7-8-94)

02. Intent. These rules are not intended to prohibit the Tribes from renting the storage contract water from Palisades and American Fall Reservoirs for any beneficial use within the exterior boundaries of the Reservation. (7-8-94)

03. Agreement. The Idaho Water Resources Board or its successors, pursuant to Section 7.3.6 of the Agreement, agrees not to take any action that will interfere with the nature, scope, spirit and purposes of the Shoshone-Bannock Water Supply Bank. (7-8-94)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
In addition to the definitions set forth below, the definitions in "The 1990 Fort Hall Indian Water Rights Agreement" are incorporated to the extent they are applicable. (7-8-94)

01. Acre Foot. The amount of water necessary to cover one (1) acre of land to a depth of one (1) foot and is equivalent to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons of water. (7-8-94)

02. Agreement. "The 1990 Fort Hall Indian Water Rights Agreement" as ratified by the Shoshone-Bannock Tribes in June, 1991, and as approved by the United States in Public Law 101-602, 104 Stat. 3061 on November 16, 1990, and by the state of Idaho in 1991 Idaho Session Laws Chapter 228 at 547. (7-8-94)

03. Annual. The period starting on the day following the first Monday in March of each year and ending on the first Monday of March of the succeeding year. (7-8-94)

04. Bank. The "Shoshone-Bannock Tribal Water Supply Bank." (7-8-94)

05. Beneficial Use. Any use of water for DCMI, irrigation, hydropower generation, recreation, stock watering, fish propagation and instream flow uses as well as any other uses that provide a benefit to the user of the water. (7-8-94)

06. Bureau. The United States Department of Interior Bureau of Reclamation. (7-8-94)

07. Chairperson. The person selected by the Tribal Rental Pool Committee to be the head of the Committee. (7-8-94)

08. Committee. The Tribal Rental Pool Committee. (7-8-94)

09. Council. The Fort Hall Business Council. (7-8-94)

10. IDWR. The Idaho Department of Water Resources an executive agency of the state of Idaho created by Section 42-1701, Idaho Code, or any successor agency. (7-8-94)

11. IWRB. The Idaho Water Resource Board an agency constituted in accordance with Idaho Const. art. XV, Section 7, or any successor agency. (7-8-94)

12. Rent. A temporary legal conveyance by the Tribes of the right to use storage water pursuant to Section 42-1761, Idaho Code, for a fixed period of time during which ownership of the federal contract storage right is retained for the benefit of the Tribes. (7-8-94)

13. **Rental Pool**. The Tribal stored water assigned to the Bank. (7-8-94)

14. **Renter**. The person renting water from the rental pool. (7-8-94)

15. **Reservation**. The Fort Hall Indian Reservation. (7-8-94)

16. **Reservation Watermaster**. The Tribal Water Engineer or any successor designated by the Tribes to administer the Tribal water rights under the Tribal Water Code. (7-8-94)

17. **Snake River Watermaster**. The watermaster of Water District 01 or any successor. (7-8-94)

18. **Tribal Stored Water**. The storage water accruing to the federal contract storage space identified in Article 7.3.1 of the Agreement. (7-8-94)

19. **Tribal Water Engineer**. The Tribal officer or any successor designated to administer the Tribal Water Code. (7-8-94)

20. **Tribes**. The Shoshone-Bannock Tribes. (7-8-94)

011. -- 024. (RESERVED)

025. GENERAL (RULE 25).

01. **Priority of Use**. Before stored water is assigned to the rental pool, Tribal stored water shall be maintained and made available for Tribal uses as determined by the Council and to meet the commitment of the Tribes under Article 8 of the Michaud Contract. The water is to be rented for beneficial use and may be rented outside the Reservation subject to the provisions of Rule 45 of these Water Supply Bank Rules. (7-8-94)

02. **Bank Operation**. The operation of the Bank shall be consistent with the Agreement. The Bank shall be for the exclusive purpose of rental of Tribal stored water. (7-8-94)

03. **Authority of Bank**. The Shoshone-Bannock Water Supply Bank is created pursuant to the provisions of the following Sections 42-1761, 42-1762, 42-1763, 42-1764, and 42-1765, Idaho Code. (7-8-94)

04. **Incorporation of Articles**. These rules incorporate by reference the provisions set forth in Article 7.3.5, 7.3.10 and 7.3.11 of the Agreement. (7-8-94)

05. **Consistency**. The operation of the Bank shall be consistent with provisions of the Tribes' spaceholder contracts with the United States. (7-8-94)

06. **Storage Water**. Tribal stored water rented from the pool shall be deemed storage water of the renter. (7-8-94)

07. **Evaporation Losses**. Evaporation losses associated with any Tribal stored water assigned to the Bank shall be charged to storage space from which the water is released. (7-8-94)

026. -- 029. (RESERVED)

030. MANAGEMENT (RULE 30).

01. **Bank Operation**. The Bank shall be operated by the Tribal Rental Pool Committee in conformity with these rules and the Agreement. (7-8-94)

02. **Committee Composition**. The Tribal Rental Pool Committee shall be composed of the following members: the Bureau Snake River Area Manager, the Snake River Watermaster, the Tribal Reservation Watermaster and three (3) individuals designated by the Council. The composition of this Committee shall only be changed as provided in the Agreement. (7-8-94)

03. Chairperson Selection. The Committee shall select its own Chairperson from the Committee as determined by a majority vote of the Committee. Each term of the Chairperson of the Committee shall not exceed four (4) years; however, nothing precludes the same person from being re-elected as Chairperson by the members for more than one (1) term. (7-8-94)

04. Committee Responsibilities. The Tribal Rental Pool Committee shall have the following responsibilities: (7-8-94)

a. The Committee shall ensure that the Bank is operated in compliance with these rules and the Agreement and shall establish such other polices for the operation of the Bank as are consistent with these rules and the Agreement. (7-8-94)

b. The Committee shall advise the Fort Hall Business Council on water banking activities upon request. (7-8-94)

05. Chairperson Duties. The Chairperson shall be responsible for such duties as are delegated by the Committee. (7-8-94)

031. -- 034. (RESERVED)

035. ASSIGNMENTS OF TRIBAL STORED WATER TO THE BANK (RULE 35).

01. Assignments of Stored Water. Assignments of Tribal stored water to the Bank should identify the reservoir from which the assignment is being made. If no reservoir is identified, the Tribal stored water shall be deemed to come first from the Palisades Reservoir and secondly from American Falls Reservoir. (7-8-94)

02. Assignment Forms. Assignments of Tribal stored water to the Bank shall be in writing on forms provided by the Committee and shall bear the date received by the Chairperson. Copies of all assignments shall be provided to all the Committee members and a copy shall be provided to the Council. (7-8-94)

03. Term of Assignment. Assignments of Tribal stored water may be made for any period of time. (7-8-94)

04. Control of Assigned Water. All Tribal stored water assigned to the Bank by the Council shall be under the control of the Committee for the duration of the term of the assignment to be rented in accordance with these rules and the terms of the assignment. (7-8-94)

05. Space Assignment. Whenever Tribal stored water is made available for rental, it shall be deemed that it is the intention of the Tribes to assign sufficient space to yield the amount of water designated. (7-8-94)

06. Return of Unrented Water. Any Tribal stored water assigned to the rental pool that is not rented shall be returned to the credit of the Tribes. (7-8-94)

036. -- 039. (RESERVED)

040. RENTAL OF WATER FROM THE RENTAL POOL (RULE 40).

01. Rental Priorities. Tribal stored water assigned to the Bank shall be made available for rental in accordance with the priorities established by the Committee, provided that the Fort Hall Indian Irrigation Project water users shall have a right of first refusal to rent any tribal stored water assigned to the rental pool. Notice shall be given in accordance with procedures established by agreement of the Tribes and the Fort Hall Indian Irrigation Project water users. (7-8-94)

02. Rental Application. A request to rent water shall be in writing on a form provided by the Committee. A copy of the request shall be provided to each member of the Committee and forwarded to the Council. (7-8-94)

03. Content of Agreements. All rental agreements shall contain the following information: (7-8-94)

a. Name and address of the renter, (7-8-94)

b. Amount of tribal stored water obligated, (7-8-94)

c. The beneficial use, (7-8-94)

d. The rental price, (7-8-94)

e. The legal description of the point of diversion and place of use, (7-8-94)

f. The duration of the rental agreement, (7-8-94)

g. The understanding of responsibilities and exposures if reservoir space does not fill at some time during the term of the rental agreement. (7-8-94)

h. The understanding that transportation losses occurring between the reservoir and the place of use shall be deducted from water delivered under the rental agreement. (7-8-94)

041. -- 044. (RESERVED)

045. GEOGRAPHIC SCOPE OF RENTING (RULE 45).

01. Palisades Storage. Tribal stored water from the Palisades Reservoir may be rented for use within the Snake River Basin above Milner Dam. (7-8-94)

02. American Falls Storage. Tribal stored water from the American Falls Reservoir may be rented for use within the Snake River Basin within the state of Idaho. (7-8-94)

046. -- 049. (RESERVED)

050. RENTAL PAYMENTS (RULE 50).

01. Rental Price. The price for rental Tribal stored water from the bank shall be set by the Council. (7-8-94)

02. Management of Rental Income. Rental payments shall be made directly to the Council. The Council shall be responsible for the management of the rental income. The Council shall give written notice to the Committee that payment was properly received and that water may be released under the rental agreement. If payments are made over time, and payment is not received by the Council, the Council shall promptly notify the Committee to hold back on release of the water until payment is properly received. (7-8-94)

051. -- 054. (RESERVED)

055. TERM OF RENTALS (RULE 55).
The Committee may rent tribal stored water for a period of up to five (5) years. Any request to rent water for a period in excess of five (5) years shall be subject to negotiations between the Tribes and the IWRB. (7-8-94)

056. -- 059. (RESERVED)

060. LIABILITY (RULE 60).
Nothing in these rules shall be construed as modifying or altering any provisions of the Agreement, including but not limited to Article 7.3.12. (7-8-94)

061. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
These rules are promulgated pursuant to Chapter 52, Title 67, Idaho Code, the Idaho Administrative Procedure Act, and Section 42-603, Idaho Code, which provides that the Director of the Department of Water Resources is authorized to adopt rules and regulations for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources as necessary to carry out the laws in accordance with the priorities of the rights of the users thereof. These rules are also issued pursuant to Section 42-1805(8), Idaho Code, which provides the Director with authority to promulgate rules implementing or effectuating the powers and duties of the department. (10-7-94)

001. TITLE AND SCOPE (RULE 1).
These rules may be cited as "Rules for Conjunctive Management of Surface and Ground Water Resources." The rules prescribe procedures for responding to a delivery call made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right in an area having a common ground water supply. It is intended that these rules be incorporated into general rules governing water distribution in Idaho when such rules are adopted subsequently. (10-7-94)

00*3*. OTHER AUTHORITIES REMAIN APPLICABLE (RULE 5).
Nothing in these rules limits the Director's authority to take alternative or additional actions relating to the management of water resources as provided by Idaho law. (10-7-94)

00*4*. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
For the purposes of these rules, the following terms will be used as defined below. (10-7-94)

01. Area Having a Common Ground Water Supply. A ground water source within which the diversion and use of ground water or changes in ground water recharge affect the flow of water in a surface water source or within which the diversion and use of water by a holder of a ground water right affects the ground water supply available to the holders of other ground water rights. (Section 42-237a.g., Idaho Code) (10-7-94)

02. Artificial Ground Water Recharge. A deliberate and purposeful activity or project that is performed in accordance with Section 42-234(2), Idaho Code, and that diverts, distributes, injects, stores or spreads water to areas from which such water will enter into and recharge a ground water source in an area having a common ground water supply. (10-7-94)

03. Conjunctive Management. Legal and hydrologic integration of administration of the diversion and use of water under water rights from surface and ground water sources, including areas having a common ground water supply. (10-7-94)

04. Delivery Call. A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. (10-7-94)

05. Department. The Department of Water Resources created by Section 42-1701, Idaho Code. (10-7-94)

06. Director. The Director of the Department of Water Resources appointed as provided by Section 42-1801, Idaho Code, or an employee, hearing officer or other appointee of the Department who has been delegated to act for the Director as provided by Section 42-1701, Idaho Code. (10-7-94)

07. Full Economic Development of Underground Water Resources. The diversion and use of water from a ground water source for beneficial uses in the public interest at a rate that does not exceed the reasonably anticipated average rate of future natural recharge, in a manner that does not result in material injury to senior-priority surface or ground water rights, and that furthers the principle of reasonable use of surface and ground water as set forth in Rule 42. (10-7-94)

08. Futile Call. A delivery call made by the holder of a senior-priority surface or ground water right that, for physical and hydrologic reasons, cannot be satisfied within a reasonable time of the call by immediately curtailing diversions under junior-priority ground water rights or that would result in waste of the water resource. (10-7-94)

09. Ground Water Management Area. Any ground water basin or designated part thereof as

designated by the Director pursuant to Section 42-233(b), Idaho Code. (10-7-94)

10. Ground Water. Water under the surface of the ground whatever may be the geological structure in which it is standing or moving as provided in Section 42-230(a), Idaho Code. (10-7-94)

11. Holder of a Water Right. The legal or beneficial owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose. (10-7-94)

12. Idaho Law. The constitution, statutes, administrative rules and case law of Idaho. (10-7-94)

13. Junior-Priority. A water right priority date later in time than the priority date of other water rights being considered. (10-7-94)

14. Material Injury. Hindrance to or impact upon the exercise of a water right caused by the use of water by another person as determined in accordance with Idaho Law, as set forth in Rule 42. (10-7-94)

15. Mitigation Plan. A document submitted by the holder(s) of a junior-priority ground water right and approved by the Director as provided in Rule 043 that identifies actions and measures to prevent, or compensate holders of senior-priority water rights for, material injury caused by the diversion and use of water by the holders of junior-priority ground water rights within an area having a common ground water supply. (10-7-94)

16. Person. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. (10-7-94)

17. Petitioner. Person who asks the Department to initiate a contested case or to otherwise take action that will result in the issuance of an order or rule. (10-7-94)

18. Reasonable Ground Water Pumping Level. A level established by the Director pursuant to Sections 42-226, and 42-237a.g., Idaho Code, either generally for an area or aquifer or for individual water rights on a case-by-case basis, for the purpose of protecting the holders of senior-priority ground water rights against unreasonable lowering of ground water levels caused by diversion and use of surface or ground water by the holders of junior-priority surface or ground water rights under Idaho law. (10-7-94)

19. Reasonably Anticipated Average Rate of Future Natural Recharge. The estimated average annual volume of water recharged to an area having a common ground water supply from precipitation, underflow from tributary sources, and stream losses and also water incidentally recharged to an area having a common ground water supply as a result of the diversion and use of water for irrigation and other purposes. The estimate will be based on available data regarding conditions of diversion and use of water existing at the time the estimate is made and may vary as these conditions and available information change. (10-7-94)

20. Respondent. Persons against whom complaints or petitions are filed or about whom investigations are initiated. (10-7-94)

21. Senior-Priority. A water right priority date earlier in time than the priority dates of other water rights being considered. (10-7-94)

22. Surface Water. Rivers, streams, lakes and springs when flowing in their natural channels as provided in Sections 42-101 and 42-103, Idaho Code. (10-7-94)

23. Water District. An instrumentality of the state of Idaho created by the Director as provided in Section 42-604, Idaho Code, for the purpose of performing the essential governmental function of distribution of water among appropriators under Idaho law. (10-7-94)

24. Watermaster. A person elected and appointed as provided in Section 42-605, and Section 42-801, Idaho Code, to distribute water within a water district. (10-7-94)

25. Water Right. The legal right to divert and use or to protect in place the public waters of the state of Idaho where such right is evidenced by a decree, a permit or license issued by the Department, a beneficial or

constitutional use right or a right based on federal law. (10-7-94)

011. -- 019. (RESERVED)

020. GENERAL STATEMENTS OF PURPOSE AND POLICIES FOR CONJUNCTIVE MANAGEMENT OF SURFACE AND GROUND WATER RESOURCES (RULE 20).

01. Distribution of Water Among the Holders of Senior and Junior-Priority Rights. These rules apply to all situations in the state where the diversion and use of water under junior-priority ground water rights either individually or collectively causes material injury to uses of water under senior-priority water rights. The rules govern the distribution of water from ground water sources and areas having a common ground water supply. (10-7-94)

02. Prior Appropriation Doctrine. These rules acknowledge all elements of the prior appropriation doctrine as established by Idaho law. (10-7-94)

03. Reasonable Use of Surface and Ground Water. These rules integrate the administration and use of surface and ground water in a manner consistent with the traditional policy of reasonable use of both surface and ground water. The policy of reasonable use includes the concepts of priority in time and superiority in right being subject to conditions of reasonable use as the legislature may by law prescribe as provided in Article XV, Section 5, Idaho Constitution, optimum development of water resources in the public interest prescribed in Article XV, Section 7, Idaho Constitution, and full economic development as defined by Idaho law. An appropriator is not entitled to command the entirety of large volumes of water in a surface or ground water source to support his appropriation contrary to the public policy of reasonable use of water as described in this rule. (10-7-94)

04. Delivery Calls. These rules provide the basis and procedure for responding to delivery calls made by the holder of a senior-priority surface or ground water right against the holder of a junior-priority ground water right. The principle of the futile call applies to the distribution of water under these rules. Although a call may be denied under the futile call doctrine, these rules may require mitigation or staged or phased curtailment of a junior-priority use if diversion and use of water by the holder of the junior-priority water right causes material injury, even though not immediately measurable, to the holder of a senior-priority surface or ground water right in instances where the hydrologic connection may be remote, the resource is large and no direct immediate relief would be achieved if the junior-priority water use was discontinued. (10-7-94)

05. Exercise of Water Rights. These rules provide the basis for determining the reasonableness of the diversion and use of water by both the holder of a senior-priority water right who requests priority delivery and the holder of a junior-priority water right against whom the call is made. (10-7-94)

06. Areas Having a Common Ground Water Supply. These rules provide the basis for the designation of areas of the state that have a common ground water supply and the procedures that will be followed in incorporating the water rights within such areas into existing water districts or creating new districts as provided in Section 42-237a.g., and Section 42-604, Idaho Code, or designating such areas as ground water management areas as provided in Section 42-233(b), Idaho Code. (10-7-94)

07. Sequence of Actions for Responding to Delivery Calls. Rule 30 provides procedures for responding to delivery calls within areas having a common ground water supply that have not been incorporated into an existing or new water district or designated a ground water management area. Rule 40 provides procedures for responding to delivery calls within water districts where areas having a common ground water supply have been incorporated into the district or a new district has been created. Rule 41 provides procedures for responding to delivery calls within areas that have been designated as ground water management areas. Rule 50 designates specific known areas having a common ground water supply within the state. (10-7-94)

08. Reasonably Anticipated Average Rate of Future Natural Recharge. These rules provide for administration of the use of ground water resources to achieve the goal that withdrawals of ground water not exceed the reasonably anticipated average rate of future natural recharge. (Section 42-237a.g., Idaho Code) (10-7-94)

09. Saving of Defenses. Nothing in these rules affects or in any way limit any person's entitlement to assert any defense or claim based upon fact or law in any contested case or other proceeding. (10-7-94)

10. Wells as Alternate or Changed Points of Diversion for Water Rights from a Surface Water Source. Nothing in these rules prohibits any holder of a water right from a surface water source from seeking, pursuant to Idaho law, to change the point of diversion of the water to an inter-connected area having a common ground water supply. (10-7-94)

11. Domestic and Stock Watering Ground Water Rights Exempt. A delivery call shall not be effective against any ground water right used for domestic purposes regardless of priority date where such domestic use is within the limits of the definition set forth in Section 42-111, Idaho Code, nor against any ground water right used for stock watering where such stock watering use is within the limits of the definition set forth in Section 42-1401A(11), Idaho Code; provided, however, this exemption shall not prohibit the holder of a water right for domestic or stock watering uses from making a delivery call, including a delivery call against the holders of other domestic or stockwatering rights, where the holder of such right is suffering material injury. (10-7-94)

021. -- 029. (RESERVED)

030. RESPONSES TO CALLS FOR WATER DELIVERY IN AN UNORGANIZED WATER DISTRICT OR WITH NO GROUND WATER REGULATION (RULE 30).
Responses to calls for water delivery made by the holders of senior-priority surface or ground water rights against the holders of junior-priority ground water rights within areas of the state not in organized water districts or within water districts where ground water regulation has not been included in the functions of such districts or within areas that have not been designated ground water management areas shall be as follows: (10-7-94)

01. Delivery Call (Petition). When a delivery call is made by the holder of a surface or ground water right (petitioner) alleging that by reason of diversion of water by the holders of one (1) or more junior-priority ground water rights (respondents) the petitioner is suffering material injury, the petitioner shall file with the Director a petition in writing containing, at least, the following in addition to the information required by IDAPA 37.01.01, "Rules of Procedure of the Department of Water Resources," Rule 230: (10-7-94)

a. A description of the water rights of the petitioner including a listing of the decree, license, permit, claim or other documentation of such right, the water diversion and delivery system being used by petitioner and the beneficial use being made of the water. (10-7-94)

b. The names, addresses and description of the water rights of the ground water users (respondents) who are alleged to be causing material injury to the rights of the petitioner in so far as such information is known by the petitioner or can be reasonably determined by a search of public records. (10-7-94)

c. All information, measurements, data or study results available to the petitioner to support the claim of material injury. (10-7-94)

d. A description of the area having a common ground water supply within which petitioner desires junior-priority ground water diversion and use to be regulated. (10-7-94)

02. Contested Case. The Department will consider the matter as a petition for contested case under the Department's Rules of Procedure, IDAPA 37.01.01. The petitioner shall serve the petition upon all known respondents as required by IDAPA 37.01.01, "Rules of Procedure of the Department of Water Resources," Rule 203. In addition to such direct service by petitioner, the Department will give such general notice by publication or news release as will advise ground water users within the petitioned area of the matter. (10-7-94)

03. Informal Resolution. The Department may initially consider the contested case for informal resolution under the provisions of Section 67-5241, Idaho Code, if doing so will expedite the case without prejudicing the interests of any party. (10-7-94)

04. Petition for Modification of an Existing Water District. In the event the petition proposes regulation of ground water rights conjunctively with surface water rights in an organized water district, and the water rights have been adjudicated, the Department may consider such to be a petition for modification of the organized water district and notice of proposed modification of the water district shall be provided by the Director pursuant to

Section 42-604, Idaho Code. The Department will proceed to consider the matter addressed by the petition under the Department's Rules of Procedure. (10-7-94)

05. Petition for Creation of a New Water District. In the event the petition proposes regulation of ground water rights from a ground water source or conjunctively with surface water rights within an area having a common ground water supply which is not in an existing water district, and the water rights have been adjudicated, the Department may consider such to be a petition for creation of a new water district and notice of proposed creation of a water district shall be provided by the Director pursuant to Section 42-604, Idaho Code. The Department will proceed to consider the matter under the Department's Rules of Procedure. (10-7-94)

06. Petition for Designation of a Ground Water Management Area. In the event the petition proposes regulation of ground water rights from an area having a common ground water supply within which the water rights have not been adjudicated, the Department may consider such to be a petition for designation of a ground water management area pursuant to Section 42-233(b), Idaho Code. The Department will proceed to consider the matter under the Department's Rules of Procedure. (10-7-94)

07. Order. Following consideration of the contested case under the Department's Rules of Procedure, the Director may, by order, take any or all of the following actions: (10-7-94)

a. Deny the petition in whole or in part; (10-7-94)

b. Grant the petition in whole or in part or upon conditions; (10-7-94)

c. Determine an area having a common ground water supply which affects the flow of water in a surface water source in an organized water district; (10-7-94)

d. Incorporate an area having a common ground water supply into an organized water district following the procedures of Section 42-604, Idaho Code, provided that the ground water rights that would be incorporated into the water district have been adjudicated relative to the rights already encompassed within the district; (10-7-94)

e. Create a new water district following the procedures of Section 42-604, Idaho Code, provided that the water rights to be included in the new water district have been adjudicated; (10-7-94)

f. Determine the need for an adjudication of the priorities and permissible rates and volumes of diversion and consumptive use under the surface and ground water rights of the petitioner and respondents and initiate such adjudication pursuant to Section 42-1406, Idaho Code; (10-7-94)

g. By summary order as provided in Section 42-237 a.g., Idaho Code, prohibit or limit the withdrawal of water from any well during any period it is determined that water to fill any water right is not there available without causing ground water levels to be drawn below the reasonable ground water pumping level, or would affect the present or future use of any prior surface or ground water right or result in the withdrawing of the ground water supply at a rate beyond the reasonably anticipated average rate of future natural recharge. The Director will take into consideration the existence of any approved mitigation plan before issuing any order prohibiting or limiting withdrawal of water from any well; or (10-7-94)

h. Designate a ground water management area under the provisions of Section 42-233(b), Idaho Code, if it appears that administration of the diversion and use of water from an area having a common ground water supply is required because the ground water supply is insufficient to meet the demands of water rights or the diversion and use of water is at a rate beyond the reasonably anticipated average rate of future natural recharge and modification of an existing water district or creation of a new water district cannot be readily accomplished due to the need to first obtain an adjudication of the water rights. (10-7-94)

08. Orders for Interim Administration. For the purposes of Rule Subsections 030.07.d. and 030.07.e., an outstanding order for interim administration of water rights issued by the court pursuant to Section 42-1417, Idaho Code, in a general adjudication proceeding shall be considered as an adjudication of the water rights involved. (10-7-94)

09. Administration Pursuant to Rule 40. Upon a finding of an area of common ground water supply and upon the incorporation of such area into an organized water district, or the creation of a new water district, the use of water shall be administered in accordance with the priorities of the various water rights as provided in Rule 40. (10-7-94)

10. Administration Pursuant to Rule 41. Upon the designation of a ground water management area, the diversion and use of water within such area shall be administered in accordance with the priorities of the various water rights as provided in Rule 41. (10-7-94)

031. DETERMINING AREAS HAVING A COMMON GROUND WATER SUPPLY (RULE 31).

01. Director to Consider Information. The Director will consider all available data and information that describes the relationship between ground water and surface water in making a finding of an area of common ground water supply. (10-7-94)

02. Kinds of Information. The information considered may include, but is not limited to, any or all of the following: (10-7-94)

a. Water level measurements, studies, reports, computer simulations, pumping tests, hydrographs of stream flow and ground water levels and other such data; and (10-7-94)

b. The testimony and opinion of expert witnesses at a hearing on a petition for expansion of a water district or organization of a new water district or designation of a ground water management area. (10-7-94)

03. Criteria for Findings. A ground water source will be determined to be an area having a common ground water supply if: (10-7-94)

a. The ground water source supplies water to or receives water from a surface water source; or (10-7-94)

b. Diversion and use of water from the ground water source will cause water to move from the surface water source to the ground water source. (10-7-94)

c. Diversion and use of water from the ground water source has an impact upon the ground water supply available to other persons who divert and use water from the same ground water source. (10-7-94)

04. Reasonably Anticipated Average Rate of Future Natural Recharge. The Director will estimate the reasonably anticipated average rate of future natural recharge for an area having a common ground water supply. Such estimates will be made and updated periodically as new data and information are available and conditions of diversion and use change. (10-7-94)

05. Findings. The findings of the Director will be included in the Order issued pursuant to Rule Subsection 030.07. (10-7-94)

032. -- 039. (RESERVED)

040. RESPONSES TO CALLS FOR WATER DELIVERY IN AN ORGANIZED WATER DISTRICT (RULE 40)

Responses to calls for water delivery made by the holders of senior-priority surface or ground water rights against the holders of junior-priority ground water rights from areas having a common ground water supply in an organized water district shall be as follows: (10-7-94)

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority water right (petitioner) alleging that by reason of diversion of water by the holders of one (1) or more junior-priority ground water rights (respondents) from an area having a common ground water supply in an organized water district the petitioner is suffering material injury, and upon a finding by the Director as provided in Rule 42 that material

injury is occurring, the Director, through the watermaster, shall: (10-7-94)

a. Regulate the diversion and use of water in accordance with the priorities of rights of the various surface or ground water users whose rights are included within the district, provided, that regulation of junior-priority ground water diversion and use where the material injury is delayed or long range may, by order of the Director, be phased-in over not more than a five-year (5) period to lessen the economic impact of immediate and complete curtailment; or (10-7-94)

b. Allow out-of-priority diversion of water by junior-priority ground water users pursuant to a mitigation plan that has been approved by the Director. (10-7-94)

02. Regulation of Uses of Water by Watermaster. The Director, through the watermaster, shall regulate use of water within the water district pursuant to Idaho law and the priorities of water rights as provided in Section 42-604, Idaho Code, and under the following procedures: (10-7-94)

a. The watermaster shall determine the quantity of surface water of any stream included within the water district which is available for diversion and shall shut the headgates of the holders of junior-priority surface water rights as necessary to assure that water is being diverted and used in accordance with the priorities of the respective water rights from the surface water source. (10-7-94)

b. The watermaster shall regulate the diversion and use of ground water in accordance with the rights thereto, approved mitigation plans and orders issued by the Director. (10-7-94)

c. Where a call is made by the holder of a senior-priority water right against the holder of a junior-priority ground water right in the water district the watermaster shall first determine whether a mitigation plan has been approved by the Director whereby diversion of ground water may be allowed to continue out of priority order. If the holder of a junior-priority ground water right is a participant in such approved mitigation plan, and is operating in conformance therewith, the watermaster shall allow the ground water use to continue out of priority. (10-7-94)

d. The watermaster shall maintain records of the diversions of water by surface and ground water users within the water district and records of water provided and other compensation supplied under the approved mitigation plan which shall be compiled into the annual report which is required by Section 42-606, Idaho Code. (10-7-94)

e. Under the direction of the Department, watermasters of separate water districts shall cooperate and reciprocate in assisting each other in assuring that diversion and use of water under water rights is administered in a manner to assure protection of senior-priority water rights provided the relative priorities of the water rights within the separate water districts have been adjudicated. (10-7-94)

03. Reasonable Exercise of Rights. In determining whether diversion and use of water under rights will be regulated under Rule Subsection 040.01.a. or 040.01.b., the Director shall consider whether the petitioner making the delivery call is suffering material injury to a senior-priority water right and is diverting and using water efficiently and without waste, and in a manner consistent with the goal of reasonable use of surface and ground waters as described in Rule 42. The Director will also consider whether the respondent junior-priority water right holder is using water efficiently and without waste. (10-7-94)

04. Actions of the Watermaster Under a Mitigation Plan. Where a mitigation plan has been approved as provided in Rule 42, the watermaster may permit the diversion and use of ground water to continue out of priority order within the water district provided the holder of the junior-priority ground water right operates in accordance with such approved mitigation plan. (10-7-94)

05. Curtailment of Use Where Diversions Not in Accord With Mitigation Plan or Mitigation Plan Is Not Effective. Where a mitigation plan has been approved and the junior-priority ground water user fails to operate in accordance with such approved plan or the plan fails to mitigate the material injury resulting from diversion and use of water by holders of junior-priority water rights, the watermaster will notify the Director who will immediately issue cease and desist orders and direct the watermaster to terminate the out-of-priority use of ground water rights otherwise benefiting from such plan or take such other actions as provided in the mitigation plan to ensure protection

of senior-priority water rights. (10-7-94)

06. Collection of Assessments Within Water District. Where a mitigation plan has been approved, the watermaster of the water district shall include the costs of administration of the plan within the proposed annual operation budget of the district; and, upon approval by the water users at the annual water district meeting, the water district shall provide for the collection of assessment of ground water users as provided by the plan, collect the assessments and expend funds for the operation of the plan; and the watermaster shall maintain records of the volumes of water or other compensation made available by the plan and the disposition of such water or other compensation. (10-7-94)

041. ADMINISTRATION OF DIVERSION AND USE OF WATER WITHIN A GROUND WATER MANAGEMENT AREA (RULE 41).

01. Responding to a Delivery Call. When a delivery call is made by the holder of a senior-priority ground water right against holders of junior-priority ground water rights in a designated ground water management area alleging that the ground water supply is insufficient to meet the demands of water rights within all or portions of the ground water management area and requesting the Director to order water right holders, on a time priority basis, to cease or reduce withdrawal of water, the Director shall proceed as follows: (10-7-94)

a. The petitioner shall be required to submit all information available to petitioner on which the claim is based that the water supply is insufficient. (10-7-94)

b. The Director will conduct a fact-finding hearing on the petition at which the petitioner and respondents may present evidence on the water supply, and the diversion and use of water from the ground water management area. (10-7-94)

02. Order. Following the hearing, the Director may take any or all of the following actions: (10-7-94)

a. Deny the petition in whole or in part; (10-7-94)

b. Grant the petition in whole or in part or upon conditions; (10-7-94)

c. Find that the water supply of the ground water management area is insufficient to meet the demands of water rights within all or portions of the ground water management area and order water right holders on a time priority basis to cease or reduce withdrawal of water, provided that the Director shall consider the expected benefits of an approved mitigation plan in making such finding. (10-7-94)

d. Require the installation of measuring devices and the reporting of water diversions pursuant to Section 42-701, Idaho Code. (10-7-94)

03. Date and Effect of Order. Any order to cease or reduce withdrawal of water will be issued prior to September 1 and shall be effective for the growing season during the year following the date the order is given and until such order is revoked or modified by further order of the Director. (10-7-94)

04. Preparation of Water Right Priority Schedule. For the purposes of the Order provided in Rule Subsections 041.02 and 041.03, the Director will utilize all available water right records, claims, permits, licenses and decrees to prepare a water right priority schedule. (10-7-94)

042. DETERMINING MATERIAL INJURY AND REASONABLENESS OF WATER DIVERSIONS (RULE 42).

01. Factors. Factors the Director may consider in determining whether the holders of water rights are suffering material injury and using water efficiently and without waste include, but are not limited to, the following: (10-7-94)

a. The amount of water available in the source from which the water right is diverted. (10-7-94)

b. The effort or expense of the holder of the water right to divert water from the source. (10-7-94)

c. Whether the exercise of junior-priority ground water rights individually or collectively affects the quantity and timing of when water is available to, and the cost of exercising, a senior-priority surface or ground water right. This may include the seasonal as well as the multi-year and cumulative impacts of all ground water withdrawals from the area having a common ground water supply. (10-7-94)

d. If for irrigation, the rate of diversion compared to the acreage of land served, the annual volume of water diverted, the system diversion and conveyance efficiency, and the method of irrigation water application. (10-7-94)

e. The amount of water being diverted and used compared to the water rights. (10-7-94)

f. The existence of water measuring and recording devices. (10-7-94)

g. The extent to which the requirements of the holder of a senior-priority water right could be met with the user's existing facilities and water supplies by employing reasonable diversion and conveyance efficiency and conservation practices; provided, however, the holder of a surface water storage right shall be entitled to maintain a reasonable amount of carry-over storage to assure water supplies for future dry years. In determining a reasonable amount of carry-over storage water, the Director shall consider the average annual rate of fill of storage reservoirs and the average annual carry-over for prior comparable water conditions and the projected water supply for the system. (10-7-94)

h. The extent to which the requirements of the senior-priority surface water right could be met using alternate reasonable means of diversion or alternate points of diversion, including the construction of wells or the use of existing wells to divert and use water from the area having a common ground water supply under the petitioner's surface water right priority. (10-7-94)

02. Delivery Call for Curtailment of Pumping. The holder of a senior-priority surface or ground water right will be prevented from making a delivery call for curtailment of pumping of any well used by the holder of a junior-priority ground water right where use of water under the junior-priority right is covered by an approved and effectively operating mitigation plan. (10-7-94)

043. MITIGATION PLANS (RULE 43).

01. Submission of Mitigation Plans. A proposed mitigation plan shall be submitted to the Director in writing and shall contain the following information: (10-7-94)

a. The name and mailing address of the person or persons submitting the plan. (10-7-94)

b. Identification of the water rights for which benefit the mitigation plan is proposed. (10-7-94)

c. A description of the plan setting forth the water supplies proposed to be used for mitigation and any circumstances or limitations on the availability of such supplies. (10-7-94)

d. Such information as shall allow the Director to evaluate the factors set forth in Rule Subsection 043.03. (10-7-94)

02. Notice and Hearing. Upon receipt of a proposed mitigation plan the Director will provide notice, hold a hearing as determined necessary, and consider the plan under the procedural provisions of Section 42-222, Idaho Code, in the same manner as applications to transfer water rights. (10-7-94)

03. Factors to Be Considered. Factors that may be considered by the Director in determining whether a proposed mitigation plan will prevent injury to senior rights include, but are not limited to, the following: (10-7-94)

a. Whether delivery, storage and use of water pursuant to the mitigation plan is in compliance with Idaho law. (10-7-94)

b. Whether the mitigation plan will provide replacement water, at the time and place required by the senior-priority water right, sufficient to offset the depletive effect of ground water withdrawal on the water available in the surface or ground water source at such time and place as necessary to satisfy the rights of diversion from the surface or ground water source. Consideration will be given to the history and seasonal availability of water for diversion so as not to require replacement water at times when the surface right historically has not received a full supply, such as during annual low-flow periods and extended drought periods. (10-7-94)

c. Whether the mitigation plan provides replacement water supplies or other appropriate compensation to the senior-priority water right when needed during a time of shortage even if the effect of pumping is spread over many years and will continue for years after pumping is curtailed. A mitigation plan may allow for multi-season accounting of ground water withdrawals and provide for replacement water to take advantage of variability in seasonal water supply. The mitigation plan must include contingency provisions to assure protection of the senior-priority right in the event the mitigation water source becomes unavailable. (10-7-94)

d. Whether the mitigation plan proposes artificial recharge of an area of common ground water supply as a means of protecting ground water pumping levels, compensating senior-priority water rights, or providing aquifer storage for exchange or other purposes related to the mitigation plan. (10-7-94)

e. Where a mitigation plan is based upon computer simulations and calculations, whether such plan uses generally accepted and appropriate engineering and hydrogeologic formulae for calculating the depletive effect of the ground water withdrawal. (10-7-94)

f. Whether the mitigation plan uses generally accepted and appropriate values for aquifer characteristics such as transmissivity, specific yield, and other relevant factors. (10-7-94)

g. Whether the mitigation plan reasonably calculates the consumptive use component of ground water diversion and use. (10-7-94)

h. The reliability of the source of replacement water over the term in which it is proposed to be used under the mitigation plan. (10-7-94)

i. Whether the mitigation plan proposes enlargement of the rate of diversion, seasonal quantity or time of diversion under any water right being proposed for use in the mitigation plan. (10-7-94)

j. Whether the mitigation plan is consistent with the conservation of water resources, the public interest or injures other water rights, or would result in the diversion and use of ground water at a rate beyond the reasonably anticipated average rate of future natural recharge. (10-7-94)

k. Whether the mitigation plan provides for monitoring and adjustment as necessary to protect senior-priority water rights from material injury. (10-7-94)

l. Whether the plan provides for mitigation of the effects of pumping of existing wells and the effects of pumping of any new wells which may be proposed to take water from the areas of common ground water supply. (10-7-94)

m. Whether the mitigation plan provides for future participation on an equitable basis by ground water pumpers who divert water under junior-priority rights but who do not initially participate in such mitigation plan. (10-7-94)

n. A mitigation plan may propose division of the area of common ground water supply into zones or segments for the purpose of consideration of local impacts, timing of depletions, and replacement supplies. (10-7-94)

o. Whether the petitioners and respondents have entered into an agreement on an acceptable mitigation plan even though such plan may not otherwise be fully in compliance with these provisions. (10-7-94)

044. -- 049. (RESERVED)

050. AREAS DETERMINED TO HAVE A COMMON GROUND WATER SUPPLY (RULE 50).

01. Eastern Snake Plain Aquifer. The area of coverage of this rule is the aquifer underlying the Eastern Snake River Plain as the aquifer is defined in the report, Hydrology and Digital Simulation of the Regional Aquifer System, Eastern Snake River Plain, Idaho, USGS Professional Paper 1408-F, 1992 excluding areas south of the Snake River and west of the line separating Sections 34 and 35, Township 10 South, Range 20 East, Boise Meridian. (10-7-94)

a. The Eastern Snake Plain Aquifer supplies water to and receives water from the Snake River. (10-7-94)

b. The Eastern Snake Plain Aquifer is found to be an area having a common ground water supply. (10-7-94)

c. The reasonably anticipated average rate of future natural recharge of the Eastern Snake Plain Aquifer will be estimated in any order issued pursuant to Rule 30. (10-7-94)

d. The Eastern Snake Plain Aquifer area of common ground water supply will be created as a new water district or incorporated into an existing or expanded water district as provided in Section 42-604, Idaho Code, when the rights to the diversion and use of water from the aquifer have been adjudicated, or will be designated a ground water management area. (10-7-94)

051. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
The Idaho Department of Water Resources (IDWR) is authorized under Section 42-603, Idaho Code, to adopt rules for the distribution of water from the streams, rivers, lakes, ground water and other natural water sources. (10-26-94)

001. TITLE AND SCOPE (RULE 1).
These rules are titled IDAPA 37.03.12, "Idaho Department of Water Resources Water Distribution Rules – Water District 34." This chapter contains the rules that govern the distribution of surface and ground water within Water District 34, the Big Lost River Basin, by the duly appointed watermaster pursuant to the provisions of Chapter 6, Title 42, Idaho Code, and applicable court decrees. This chapter shall not be construed to limit the authority of the Director of the Idaho Department of Water Resources in exercising the duties and responsibilities of the director or the department under other provisions of Idaho law. (10-26-94)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
For the purposes of these rules, the following terms will be used as defined below. (10-26-94)

01. 2-B Gage. The U.S. Geological Survey gaging station located below Mackay Dam in the SW1/4SW1/4NE1/4, Section 18, Township 7 North, Range 24 East, B.M. (10-26-94)

02. Acre-Foot (AF). The unit commonly used to measure a volume of water which is equal to the amount of water to cover one (1) acre of land one (1) foot deep and is equal to forty-three thousand five hundred sixty (43,560) cubic feet or three hundred twenty-five thousand eight hundred fifty-one (325,851) gallons. (10-26-94)

03. Acre-Foot Per Year (AFY). Acre foot per calendar year. (10-26-94)

04. Arco Gage. The U.S. Geological Survey gaging station located near the town of Arco in the SW1/4SE1/4SW1/4, Section 17, Township 3 North, Range 27 East, B.M. (10-26-94)

05. Cubic Foot Per Second (CFS). The unit used to express a rate of flow of water equal to fifty (50) miner's inches or about four hundred forty-eight and eight tenths (448.8) gallons per minute. (10-26-94)

06. Delivery Call. A request from the holder of a water right for administration of water rights under the prior appropriation doctrine. (10-26-94)

07. Director. The Director of the Idaho Department of Water Resources (IDWR) or the director's duly authorized designee. (10-26-94)

08. Eastside Canal. The Eastside Canal diverts from the east side of the Big Lost River in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. and extends southerly to the point it discharges back into the Big Lost River in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. (10-26-94)

09. Holder of a Water Right. The legal owner or user pursuant to lease or contract of a right to divert or to protect in place surface or ground water of the state for a beneficial use or purpose. (10-26-94)

10. Howell Gage. The U.S. Geological Survey gaging station located above Mackay Reservoir in the SE1/4NE1/4NW1/4, Section 30, Township 8 North, Range 21 East, B.M. (10-26-94)

11. Rotation Credit. Water impounded in Mackay Reservoir pursuant to a water right whose source of water is the Big Lost River and which does not include storage as a purpose of use. The impoundment of water as rotation credit is described in Rule Subsection 040.02. (10-26-94)

12. Small Domestic and Stock Water Uses. Water uses meeting the definition of Section 42-111 or Section 42-1401A(12), Idaho Code. (10-26-94)

13. Storage Water. Water impounded in a storage facility, including Mackay Reservoir, pursuant to a water right which includes storage as a purpose of use. (10-26-94)

14. Watermaster. The duly elected and appointed state watermaster of Water District 34 who is

authorized to perform duties pursuant to Chapters 6 and 8, Title 42, Idaho Code, and the decree, or order for interim administration, of water rights for Basin 34. (10-26-94)

011. -- 024. (RESERVED)

025. RIVER REACHES (RULE 25).

01. Divisions of the Big Lost River. For the purposes of quantifying river gains, losses, and calculating and accounting for natural flow, the Big Lost River shall be divided into the reaches identified below. Reference to a specific river reach will be by the name of the downstream station or terminus point. (6-30-19T)

a. Above Howell Gage. (10-26-94)

b. Howell Gage to Chilly Bridge located in the NW1/4NE1/4NW1/4, Section 5, Township 8 North, Range 22 East, B.M. (10-26-94)

c. Chilly Bridge to the 2-B Gage. (10-26-94)

d. 2-B Gage to Leslie Gage located in the NW1/4SW1/4SE1/4, Section 10, Township 6 North, Range 25 East, B.M. (10-26-94)

e. Leslie Gage to Moore diversion located in the NW1/4SE1/4SE1/4, Section 4, Township 5 North, Range 26 East, B.M. (10-26-94)

f. Moore diversion to Arco diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. (10-26-94)

g. Below Arco diversion to the Arco Gage. (10-26-94)

02. River Reach Computations. For each reach of the river the natural flow will be computed as the natural flow entering the reach plus gains entering the reach minus losses from the reach. The natural flow thus calculated will be allocated as described in Rule 40. (10-26-94)

03. Gage Station or Other Flow Measuring Facility. A gage station or other flow measuring facility, as approved by the director, shall be located at the Howell Gage, Chilly Bridge, 2-B Gage, Leslie Gage, Moore diversion, Arco diversion and Arco Gage. The Howell, 2-B and Arco gages shall be maintained as part of the USGS Cooperative Program, or equivalent measurement program, and operated continuously. Water District 34 shall continue to contribute to the maintenance and operation of these gage sites in the same proportion as is currently contributed. All other gages shall be operated when water diversions, other than solely storage in Mackay Reservoir, are being made from the river. The cost of installation, operation and maintenance of these other measuring facilities is the responsibility of Water District 34. (10-26-94)

026. -- 029. (RESERVED)

030. NATURAL FLOWS (RULE 30).
Natural flow shall be delivered through the natural river channel to the point of diversion of record except as provided in these rules. (10-26-94)

01. Eastside Canal. The watermaster, with the approval of the director and after consultation with the Big Lost River Irrigation District, may elect to deliver the natural flow of the river through the Eastside Canal when the following conditions are met: (10-26-94)

a. The full flow of the river, including impounded water, to be delivered downstream of the Moore diversion is not greater than the capacity of the Eastside Canal. (10-26-94)

b. More natural flow water can be delivered to calls for natural flow than could be delivered by using the natural river channel. (10-26-94)

c. No water right is injured. (10-26-94)

d. Measuring devices of a type acceptable to the director are installed and maintained where the flow leaves the river channel and where it returns to the river channel. (10-26-94)

e. When used for the delivery of natural flow to the Arco diversion, the Eastside Canal is considered to be the river channel for water delivery accounting purposes and the watermaster shall protect the natural flow for delivery to prior water rights. Water rights diverting water from the river channel downstream from the point the Eastside Canal returns to the river channel shall be measured at their point of diversion from the river downstream from the Eastside Canal return. (10-26-94)

f. Conveyance losses in the Eastside Canal, when considered to be the river channel, shall be proportioned between the river flow, the diversions from the Eastside and pumps that inject ground water into the Eastside Canal. The proportioning will be based upon the ratio of total Eastside diversions and injected ground water to the total inflow to the canal. (10-26-94)

02. Alternate Point of Diversion. The watermaster may elect, with the approval of the director, to deliver natural flow water rights to the alternate point of diversion described in Rule Subsection 030.02.a. below when conditions in Rule Subsections 030.02.b. through 030.02.f. below are met: (10-26-94)

a. This rule may be used to deliver water rights through the Munsey diversion located in the NW1/4NW1/4NW1/4, Section 26, Township 4 North, Range 26 East, B.M. as an alternate point of diversion for water rights with a recorded point of diversion at the McLaughlin diversion located in the NE1/4NW1/4SE1/4, Section 12, Township 3 North, Range 26 East, B.M. (10-26-94)

b. The additional delivery losses through the natural channel to the recorded point of diversion for a water right prevents delivery of natural flow to one (1) or more other water rights then calling for water. (10-26-94)

c. The user receives the same amount of water at the field headgate from the natural flow water right that would be delivered to the field headgate had the natural flow right been delivered at the recorded point of diversion. (10-26-94)

d. Delivery of the water right at the alternate point of diversion is limited to the period of time the water right could have been delivered to the recorded point of diversion based upon the natural flow available at any time delivery is called for and the loss of the river channel at the time the alternate point of diversion began to be used for the delivery of this water right. (10-26-94)

e. No water right is injured by the use of the alternate point of diversion. (10-26-94)

f. The owner of the diversion works at the alternate point of diversion and the ditch(es) used to deliver the water to the field headgate from the alternate point of diversion concurs in the use of those facilities. (10-26-94)

031. -- 034. (RESERVED)

035. MEASURING DEVICES AND CONTROL WORKS (RULE 35).

01. Installation and Maintenance of Measuring Devices and Control Works. In addition to measuring devices or control works specifically described in the listing of the water right, each water user, except small domestic and stock water users from ground water, shall, at the water user's expense, install and maintain measuring devices and control works of a type acceptable to the director, at all points of diversion and any other points, as determined necessary by the director for the proper administration of the use of water. The director may prohibit or prevent the diversion of water by a water user who refuses or fails to comply with this rule in accordance with the provisions of Chapter 7, Title 42, Idaho Code. (10-26-94)

02. Access to Diversion Works. Water users shall provide the water district staff continual access to

all diversion works, measuring devices and control structures, except ground water diversions for small domestic and stock water uses. (10-26-94)

03. Diversions Which May Be Exempt. Diversions below the Chilly Bridge and above the Mackay Reservoir that divert water from the Big Lost River, whose place of use is within the flood plain of the Big Lost River as determined by the director, may be exempt from the requirement for measuring devices and control works with the approval of the director. Flow rates through exempt diversions will be estimated by the watermaster for accounting purposes by assuming the recorded flow rate of the water right is being diverted. (10-26-94)

036. -- 039. (RESERVED)

040. ALLOCATION OF NATURAL FLOW (RULE 40).

01. Administration of Surface Water Rights. Water not diverted or rotated for credit is available for the next in time water right. Natural flow rights are delivered to the point of diversion with no conveyance loss assessment. A natural flow water right delivered through a lateral or canal of a water conveyance entity shall be assessed the conveyance loss for the canal through which the water right is delivered. (6-30-19)T

a. All water deliveries must be called for by the water user at least forty-eight (48) hours in advance of the actual water delivery. Water which can be delivered by the watermaster in less than forty-eight (48) hours may be used by the water user. (10-26-94)

b. The water user must notify the watermaster of the water users intent to use water as required by Rule Subsection 040.05. (10-26-94)

02. Rotation Credit. Water rights that do not include storage as a purpose of use may not be stored. Water rights whose source is Big Lost River with their point of diversion below the Mackay Dam may, however, be rotated for credit when such practice improves the efficiency of water use as contemplated by the Big Lost River Irrigation District's plan of operation subject to the following conditions: (10-26-94)

a. Rotation for credit must be approved by the director as provided by these rules. (10-26-94)

b. Rotation for credit must be pursuant to the Big Lost River Irrigation District's approved plan of operation. (10-26-94)

c. Any water credited under such a rotation, if not used in the same irrigation season in which it is credited, shall become storage water of the Big Lost River Irrigation District at the end of the irrigation season. (10-26-94)

d. Rotation for credit cannot occur prior to the need for irrigation water on the land, as determined pursuant to these rules, in any year. (10-26-94)

i. Natural flow must be available at the river headgate point of diversion for the water right requesting rotation credit. (10-26-94)

ii. The water user must have operable delivery and use facilities and an actual need for the water on the land in the year rotation is sought. (10-26-94)

iii. If natural flow can not be delivered to a point of diversion at the beginning of the irrigation season and the watermaster determines rotation credit is needed to make possible the delivery of water rights being called for, and there is room in Mackay Reservoir for rotation credit, the watermaster may rotate natural flow rights, which would not otherwise be deliverable to their point of diversion, for credit of up to a combined total of three thousand five hundred (3,500) AF to be released from the reservoir under the control of the watermaster to make natural flow rights deliverable to their point of diversion. The watermaster may use storage water to assist the delivery of natural flow water rights at the beginning of the irrigation season when requested to do so by the storage holder. (10-26-94)

e. Water rotated for credit may only be used on the land to which the water right being rotated is

appurtenant (water rotated for credit may not be marketed) except under the provisions of Section 42-222A, Idaho Code. (10-26-94)

f. If the reservoir fills after rotation has begun in any year, (or would have filled except for flood operations) and the natural flow is sufficient to allow diversion of water by 1905 or junior water rights while the reservoir is full, all rotation credits accrued at that time are lost and all water in Mackay Reservoir at that time becomes storage water of the Big Lost River Irrigation District for reallocation. For purposes of this rule Mackay Reservoir will be considered full when the elevation of the water in the reservoir reaches or exceeds a four (4) day average of six thousand sixty-six and twelve one hundredths (6,066.12) feet MSL (spillway crest). Rotation for credit stops at the time Mackay Reservoir fills, and while it remains full, but if the natural flow does not increase sufficiently to allow 1905 or junior water rights to divert after the reservoir fills the rotation credit in the reservoir shall remain the credit of the water user(s) who accrued the rotation credit. (10-26-94)

g. Water rights being rotated must be identified to the watermaster as being rotated into Mackay Reservoir. Water rights identified as such will have the Mackay Reservoir as the temporary point of diversion during the time rotation is occurring. (10-26-94)

h. The rate of diversion for a water right being rotated for credit combined with other water rights for the same place of use being diverted at the same time cannot exceed the combined diversion limit specified in the listing of water rights. This rule does not limit the rate at which rotation credit, once impounded, can be used. (10-26-94)

03. Assessment of Evaporation and Conveyance Losses to Impounded Water. (10-26-94)

a. Evaporation losses from Mackay Reservoir shall be estimated daily by the watermaster by applying correlated evapotranspiration data and shall be assessed to all impounded water. (6-30-19)T

b. Conveyance losses in the natural channel shall be proportioned by the watermaster between natural flow and impounded water. The proportioning shall be done on a river reach basis. Impounded water flowing through a river reach that does not have a conveyance loss will not be assessed a loss for that reach. Impounded water flowing through any river reach that does have a conveyance loss will be assessed the proportionate share of the loss for each losing reach through which the impounded water flows. (6-30-19)T

i. An exception is made for impounded water delivered through the Beck and Evan diversion located in the SW1/4SE1/4SW1/4, Section 11, Township 6 North, Range 25 East, B.M. Conveyance loss for this impounded water will be assessed the conveyance loss of the Leslie reach, if any, and the additional conveyance loss to the Beck and Evan diversion but not the conveyance loss of the entire Moore reach. (10-26-94)

04. Initiation and Duration of Surface Water Allocation for Irrigation. Any time after May 1 an irrigation water user can make a delivery call on the natural flow if the water user can make beneficial use of the water for irrigation. If sufficient natural flow exists to deliver the called for water right in a useable amount to the water users place of use, the watermaster shall deliver the right. In addition, the director may allow the diversion of rights or portions of rights for irrigation use from the Big Lost River as early as April 20 and as late as October 31, and from surface water tributaries to the Big Lost River either before or after the period of use for irrigation described in the water right where: (10-26-94)

a. The water so diverted is applied to a beneficial use resulting in an immediate benefit to growing plants or is necessary to allow performance of an agricultural practice generally accepted in the community, as determined by the director. (10-26-94)

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. (10-26-94)

c. The diversion and use of the water does not conflict with the public interest as determined by the director. (10-26-94)

05. Notice to Initiate Delivery. Water users must initiate delivery of their water right(s) by notifying the watermaster that they are ready to put water to beneficial use. (10-26-94)

06. Diversion of Additional Flows. The director may allow the diversion of surface water in addition to the quantity of surface water described in a water right for irrigation use to be diverted for irrigation of the described place of use where: (10-26-94)

a. The waters so diverted are applied to a beneficial use, as determined by the director. (10-26-94)

b. All surface water rights, regardless of priority, unless subordinated to the water right or class of water rights being called for, (now existing or developed subsequent to these rules), existing at the time of diversion that are within their period of use can be satisfied. (10-26-94)

c. The diversion and use of the water does not conflict with the public interest as determined by the director. (10-26-94)

d. Additional flows diverted pursuant to Rule 040.06 are natural flows and will not be assessed as impounded water. (10-26-94)

07. Mackay Dam Minimum By-Pass. Mackay Dam and Reservoir shall be operated to maintain a minimum flow of fifty (50) CFS at the 2-B gage. (10-26-94)

08. Canal or Lateral Delivery. In the event a water user feels inappropriate delivery of natural flow water is occurring on any lateral or canal, the water user can request the watermaster to investigate. In the event the watermaster determines that delivery of natural flow water rights within a lateral or canal is being improperly conducted he shall: (10-26-94)

a. Notify the ditch rider and the water delivery entity of the results of his investigation and coordinate efforts to make proper delivery of the natural flow. (10-26-94)

b. If the situation has not been sufficiently resolved within twenty-four (24) hours the watermaster will notify the director who may take all actions authorized by law to remedy the situation. (10-26-94)

041. -- 054. (RESERVED)

055. WATER USAGE (RULE 55).

01. Incidental Stock Water. When stock water is not specifically included for a water right that includes irrigation, a portion of the quantity described for irrigation use may be diverted and used, from the same point of diversion and at the same place of use as the irrigation use, for purposes of maintaining a reasonable water supply for stock watering use during the period of use for irrigation described in the water right. (10-26-94)

02. Winter (Non-Irrigation Season) Stock Water. During the non-irrigation season, from October 16 through April 30 except as modified by Rule 040.04, the storage of water in Mackay Reservoir is superior to all rights from the Big Lost River with points of diversion downstream from Mackay Dam, subject to minimum release. (6-30-19)T

a. Winter stock water can be called for and delivered pursuant to the list of water rights if it does not interfere with storage in Mackay Reservoir. (6-30-19)T

b. A right holder calling for delivery of stock water must have access to a diversion point and delivery system to convey the right to the place of use recorded in the list of water rights. If the headgate and delivery system are controlled by an entity other than the water user, the watermaster will only deliver the water with the concurrence of the owner of the headgate and delivery system and then only when such delivery does not constitute unreasonable waste as determined by the director. (10-26-94)

056. -- 059. (RESERVED)

060. ACCOUNTING FOR WATER DELIVERY (RULE 60).
Water diversions shall be accounted for continuously, throughout the year by the watermaster. (10-26-94)

061. -- 999. (RESERVED)

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES
IDAHO WATER RESOURCE BOARD

DOCKET NO. 37-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Sections 42-238(12), 42-603, 42-1414, 42-1701A(1), 42-1714, 42-1709, 42-1721, 42-1734(19), 42-1761, 42-1762, 42-1765, 42-1414, 42-1805(8), 42-3803, 42-3913, 42-3914, 42-3915, 42-4001 42-4010, 67-2356, and 67-5206(5), Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 37, rules of the Idaho Department of Water Resources and Idaho Water Resource Board:

IDAPA 37
- 37.01.01, *Rules of Procedure of the Idaho Department of Water Resources*
- 37.02.03, *Water Supply Bank Rules*
- 37.03.01, *Adjudication Rules*
- 37.03.02, *Beneficial Use Examination Rules*
- 37.03.03, *Rules and Minimum Standards for the Construction and Use of Injection Wells*
- 37.03.04, *Drilling for Geothermal Resources Rules*
- 37.03.05, *Mine Tailings Impoundment Structures Rules*
- 37.03.06, *Safety of Dams Rules*
- 37.03.07, *Stream Channel Alteration Rules*
- 37.03.08, *Water Appropriation Rules*
- 37.03.09, *Well Construction Standards and Rules*
- 37.03.10, *Well Driller Licensing Rules*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 5957 - 6170

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

IDAPA 37.01.01 establishes the rules of procedure governing contested case proceedings before IDWR and the IWRB. It also addresses filing fees associated with such proceedings. This chapter was adopted under the legal authority of Sections 42-1701A(1), 42-1734(19), 42-1805(8), 67-2356 and 67- 5206(5), Idaho Code.

IDAPA 37.02.03 governs IWRB's operation and management of the water supply bank authorized by statute. The purpose of the water supply bank is to encourage the highest beneficial use of water; provide a source of adequate water supplies to benefit new and supplemental water users; and provide a source of funding for improving water user facilities and efficiencies. It also establishes lease and rental fees that are used to carry out the program which are credited to IWRB's revolving development and water management accounts. This chapter was adopted under the legal authority of Section 42-1762, Idaho Code.

IDAPA 37.03.01 implements the filing of notices of claims to water rights claimed under state law and the

collection of fees for filing notices of claims to water rights acquired under state law in general adjudications. Idaho is currently in the midst of the North Idaho Adjudication (NIA) and IDWR has recently commenced the Palouse Basin Adjudication and anticipates commencing the final phase of the NIA—the Clark Fork-Pend Oreille River Basin adjudication—sometime after 2020. The rule is integral to the processing of these general adjudications. This chapter was adopted under the legal authority of Sections 42-1414, and 42-1805(8), Idaho Code.

IDAPA 37.03.02 governs the examination requirements necessary to consider and determine the extent of application of water to beneficial use accomplished under a water right permit. The rule also establishes that field examinations can be conducted by certified water right examiners appointed by the Director. Finally, the rule governs licensing examination fees which are used to offset costs incurred by IDWR in reviewing and determining the extent of beneficial use. This chapter was adopted under the legal authority of Section 42-1805(8), Idaho Code.

IDAPA 37.03.03 governs injection wells in Idaho. The rule requires all injection wells to be permitted and constructed in accordance with the Well Construction Standards Rules (IDAPA 37.03.09), which protect ground water resources from quality impairment. It is also necessary to maintain this rule in order for the IWRB to maintain compliance with federal law, under which authority Idaho regulates the permitting, construction, and operation of certain injection wells within the state. Finally, the rule governs inventory and permit fees which are used to partially fund the operation of the Underground Injection Control program in Idaho. This chapter was adopted under the legal authority of Sections 42-3913, 42-3914, and 42-3915, Idaho Code.

IDAPA 37.03.04 governs the regulation of geothermal resource exploration and development and ensure that such activities occur in the public interest. The rule allows Idaho's geothermal policy, "to maximize the benefits to the entire state which may be derived from the utilization of our geothermal resources, while minimizing the detriments and costs of all kinds which could results from their utilization" is met. The rule also requires fees for geothermal exploratory wells, production wells, injection wells, and amendments to permits, as set forth in Idaho Code Sections 42-4003 and 4011.

IDAPA 37.03.05 establishes acceptable construction standards and governs IDWR's design and technical review of mine tailing and water impoundment structures. The rule also supports the collection of a fee to review plans, drawings, and specifications pertaining to any mine tailings impoundment structure.

IDAPA 37.03.06 establishes acceptable standards for construction of dams and establishes guidelines for safety evaluation of new or existing dams. The rule applies to all new dams, to existing dams to be enlarged, altered or repaired, and maintenance of certain existing dams, as specifically provided in the rule. This chapter also establishes the collection of a fee to review plans, drawings, and specifications pertaining to the construction, enlargement, alteration, or repair of small high-risk, intermediate, or large dams. This chapter was adopted pursuant to Section 42-1714, Idaho Code.

IDAPA 37.03.07 governs the permitting of stream channel alterations that are of a common type, which do not propose alterations which will be a hazard to the stream channel and its environment. This chapter also establishes the collection of stream channel alteration statutory filing fees as authorized in Idaho Code Section 42-3803.

IDAPA 37.03.08 governs appropriations from all sources of unappropriated public water in the state of Idaho under the authority of Chapter 2, Title 42, Idaho Code. Sources of public water include rivers, streams, springs, lakes and groundwater. The rules are also applicable to the reallocation of hydropower water rights (i.e. Swan Falls Trust Water) held in trust by the state of Idaho. The rule also implements the application, re-advertisement, and mailing fees set forth in Idaho Code Sections 42-221F and 42-203(A)3.

IDAPA 37.03.09 governs IDWR's statutory responsibility for the statewide administration of the rules governing well construction. These rules establish minimum standards for the construction of all new wells and the modification and decommissioning (abandonment) of existing wells. The intent of the rule is to protect ground water resources of the state against waste and contamination. The rule also implements the drilling permit fees set forth in Idaho Code Section 42-235.

IDAPA 37.03.10 establishes the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all

individuals and companies drilling or contracting to drill wells. The rules also implement the application licensing fees set forth in Idaho Code Section 42-238.

In summary, the fee categories described in the attached rules include: (1) administrative appeals filing fees; (2) water supply bank lease and rental fees; (3) adjudication application fees; (4) water right licensing examination fees; (5) injection well inventory and permit fees; (6) geothermal well permit fees; (7) design review fees for mine tailings impoundment structure and select dams; (8) stream channel alteration statutory filing fees; (9) water right application, re-advertisement, and mailing fees; (10) well drilling permit fees; and (11) application licensing fees for well drillers.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning the pending fee rule, contact Mathew Weaver Deputy Director at (208) 287-4800.

Dated this 16th day of October, 2019.

Gary Spackman, Director
Idaho Department of Water Resources
322 E. Front Street
PO Box 83720
Boise, ID 83720
Phone: (208) 287-4800

37.01.01 – RULES OF PROCEDURE OF THE IDAHO DEPARTMENT OF WATER RESOURCES

Subchapter A -- General Provisions
(Rules 0 Through 99 -- General Provisions)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Sections 42-1701A(1), 42-1734(19), 42-1805(8), 67-2356 and 67-5206(5), Idaho Code. (4-5-00)

001. TITLE AND SCOPE (RULE 1).

01. **Title**. The title of this chapter is "Rules of Procedure of the Idaho Department of Water Resources." (4-5-00)

02. **Scope**. This chapter contains the rules of procedure that govern contested case proceedings before the Department of Water Resources and the Water Resource Board of the state of Idaho. (4-5-00)

002. -- 004. ***(RESERVED)***

005. DEFINITIONS (RULE 5).
As used in this chapter: (7-1-93)

01. **Administrative Code**. The Idaho administrative code established in Chapter 52, Title 67, Idaho Code. (7-1-93)

02. **Agency**. The Department of Water Resources or the Water Resource Board acting within their respective authority to make rules or to determine contested cases. (7-1-93)

03. **Agency Action**. Agency action means: (7-1-93)

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

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

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

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

05. **Board**. The Idaho Water Resource Board. (7-1-93)

06. **Bulletin**. The Idaho administrative bulletin established in Chapter 52, Title 67, Idaho Code. (7-1-93)

07. **Contested Case**. A proceeding which results in the issuance of an order. (7-1-93)

08. **Coordinator**. The Administrative Rules Coordinator Prescribed in Section 67-5202, Idaho Code. (7-1-93)

09. **Department**. The Idaho Department of Water Resources. (7-1-93)

10. **Director**. The agency head of the Idaho Department of Water Resources. (7-1-93)

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

12. **Electronically Signed Communication**. A message that has been processed by a computer in such a manner that ties the message to the individual that signed the message in accordance with Rules 306 through 311 of these rules. (4-5-00)

13. License. The whole or part of any agency permit, certificate, approval, registration, charter, or similar form of authorization required by law, but does not include a license required solely for revenue purposes. (7-1-93)

14. Official Text. The text of a document issued, prescribed, or promulgated by an agency in accordance with this chapter, and is the only legally enforceable text of such document. (7-1-93)

15. Order. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (7-1-93)

16. Party. Each person or agency named or admitted as a party, or properly seeking and entitled as of right to be admitted as a party. (7-1-93)

17. Person. Any individual, partnership, corporation, association, governmental subdivision or agency, or public or private organization or entity of any character. For purposes of electronic signature rules, a human being or any organization capable of signing a document, either legally or as a matter of fact. (4-5-00)

18. Provision of Law. The whole or a part of the state or federal constitution, or of any state or federal: (7-1-93)

a. Statute; or (7-1-93)

b. Rule or decision of the court. (7-1-93)

19. Publish. To bring before the public by publication in the bulletin or administrative code, or as otherwise specifically provided by law. (7-1-93)

20. Rule. The whole or a part of an agency statement of general applicability that has been promulgated in compliance with the provisions of Chapter 52, Title 67, Idaho Code, and that implements, interprets, or prescribes: (7-1-93)

a. Law or policy, or (7-1-93)

b. The procedure or practice requirements of an agency. The term includes the amendment, repeal, or suspension of an existing rule, but does not include: (7-1-93)

i. Statements concerning only the internal management or internal personnel policies of an agency and not affecting private rights of the public or procedures available to the public; (7-1-93)

ii. Declaratory rulings issued pursuant to Section 67-5232, Idaho Code; (7-1-93)

iii. Intra-agency memoranda; or (7-1-93)

iv. Any written statements given by an agency which pertain to an interpretation of a rule or to the documentation of compliance with a rule. (7-1-93)

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

22. Signer. A person who signs a communication, including an electronically signed communication with the use of an acceptable technology to uniquely link the message with the person sending it. (4-5-00)

006. (RESERVED)

007. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS (RULE 7).

01. State Office. The mailing address of the state office of the Idaho Department of Water Resources

and the office of the Idaho Water Resource Board is P.O. Box 83720, Boise, Idaho 83720-0098; the street address, subject to change, is 322 East Front Street, 6th Floor, Boise, Idaho 83702; the telephone number is (208) 287-4800; and the Facsimile Machine number is (208) 287-6700. Documents may be filed at the state office during regular business hours of 8:00 am to 5:00 pm Monday through Friday. (4-5-00)

008. FILING OF DOCUMENTS -- NUMBER OF COPIES (RULE 8).
In all rulemakings or contested cases, an original of all documents shall be filed with the Director of the Department of Water Resources or the Chairman of the Idaho Water Resource Board, as the case may be, showing service upon all other parties. No copies in addition to the original document need be filed with the agency unless requested by the agency. (7-1-93)

009. -- 049. (RESERVED)

050. PROCEEDINGS GOVERNED (RULE 50).
Rules 100 through 799 govern procedure before the Department and the Board in contested cases, unless otherwise provided by rule, notice or order of the agency. The Department and the Board through the promulgation of these rules decline in whole to adopt the contested case portion of the "Idaho Rules of Administrative Procedure of the Attorney General," cited as IDAPA 04.11.01.100 through 04.11.01.799. Rulemaking before the Department and the Board shall be governed by Rules 800 through 860 of the "Idaho Rules of Administrative Procedure of the Attorney General," cited as IDAPA 04.11.01.800 through 04.11.01.860. (7-1-93)

051. REFERENCE TO AGENCY (RULE 51).
Reference to the agency in these rules includes the agency director, the board, hearing officer appointed by the agency or the board, or presiding officer, as context requires. Reference to the agency head means the agency director or the board, as context requires, or such other officer designated by the agency head or the board to review recommended or preliminary orders. (7-1-93)

052. LIBERAL CONSTRUCTION (RULE 52).
The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless prohibited by statute, the agency may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. Unless required by statute, or otherwise provided by these rules, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (4-5-00)

053. COMMUNICATIONS WITH AGENCY (RULE 53).
All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the officer designated by the agency. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed, or otherwise transmitted. (7-1-93)

054. IDENTIFICATION OF COMMUNICATIONS (RULE 54).
Parties' communications addressing or pertaining to a given proceeding should be written under that proceeding's case caption and case number, if applicable. General communications by other persons should refer to case captions, case numbers, permit or license numbers, or the like, if this information is known. (7-1-93)

055. SERVICE BY AGENCY (RULE 55).
Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, complaints, and orders issued by the agency may serve these documents by regular mail or by certified mail, return receipt requested, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail, or the Statehouse mail if the party is a state employee or state agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices in a proceeding on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. (4-5-00)

056. COMPUTATION OF TIME (RULE 56).
Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a

given day, the given day is not included in the count, but the last day of the period so computed is included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not Saturday, Sunday or a legal holiday. (7-1-93)

057. ADDITIONAL TIME AFTER SERVICE BY MAIL (RULE 57).
Whenever a party has the right or is required to do some act or take some proceedings within a prescribed period after the service of a notice or other paper upon the party and the notice or paper is served upon the party by mail, three (3) days shall be added to the prescribed period. This rule, however, shall not extend the time for filing a protest, a petition for reconsideration of a preliminary, recommended or final order before the agency, the time for filing exceptions with the agency head to a preliminary or recommended order, or the time for filing an appeal with the district court from a final decision of the agency. (4-5-00)

058. FEES AND REMITTANCES (RULE 58).
If submitted by mail, fees and remittances to the agency may be paid by money order, bank draft or check payable to agency. Remittances in currency or coin, submitted by mail, are strongly discouraged and are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. The agency may, upon the completion of necessary arrangements by the agency, accept the payment of fees and remittances by credit card. Filings required to be accompanied by a fee are not complete until the fee is paid. (4-5-00)

059. -- 099. (RESERVED)

100. INFORMAL PROCEEDINGS DEFINED (RULE 100).
Informal proceedings are proceedings in contested cases authorized by statute, rule or order of the agency to be conducted using informal procedures, i.e., procedures without a record to be preserved for later agency or judicial review, without the necessity of representation according to Rule 230, without formal designation of parties, without the necessity of hearing examiners or other presiding officers, or without other formal procedures required by these rules for formal proceedings. Unless prohibited by statute, an agency may provide that informal proceedings may precede formal proceedings in the consideration of a rulemaking or a contested case. (7-1-93)

101. INFORMAL PROCEDURE (RULE 101).
Statute authorizes and these rules encourage the use informal proceedings to settle or determine contested cases. Unless prohibited by statute, the agency may provide for the use of informal procedure at any stage of a contested case. Informal procedure may include individual contacts, consistent with Rule 417, by or with the agency staff asking for information, advice or assistance from the agency staff, or proposing informal resolution of formal disputes under the law administered by the agency. Informal procedures may be conducted in writing, by telephone or television, or in person. (7-1-93)

102. FURTHER PROCEEDINGS (RULE 102).
If statute provides that informal procedures shall be followed with no opportunity for further formal administrative review, then no opportunity for later formal administrative proceedings must be offered following informal proceedings. Otherwise, except as provided in Rule 103, any person participating in an informal proceeding must be given an opportunity for a later formal administrative proceeding before the agency, at which time the parties may fully develop the record before the agency. (7-1-93)

103. INFORMAL PROCEEDINGS DO NOT EXHAUST ADMINISTRATIVE REMEDIES (RULE 103).
Unless all parties agree to the contrary in writing, informal proceedings do not substitute for formal proceedings and do not exhaust administrative remedies, and informal proceedings are conducted without prejudice to the right of the parties to present the matter formally to the agency. Settlement offers made in the course of informal proceedings are confidential and shall not be included in the agency record of a subsequent formal proceeding. (7-1-93)

104. FORMAL PROCEEDINGS (RULE 104).
Formal proceedings, which are governed by rules of procedure other than Rules 100 through 103, must be initiated by a document (generally a notice, order or complaint if initiated by the agency) or another pleading listed in Rules 210 through 280 if initiated by another person. Formal proceedings may be initiated by a document from the agency informing the party(ies) that the agency has reached an informal determination that will become final in the absence of further action by the person to whom the correspondence is addressed, provided that the document complies with the requirements of Rules 210 through 280. Formal proceedings can be initiated by the same document that initiates

informal proceedings. (7-1-93)

105. -- 149. (RESERVED)

150. PARTIES TO CONTESTED CASES LISTED (RULE 150).
Parties to contested cases before the agency are called applicants or claimants or appellants, petitioners, complainants, respondents, protestants, or intervenors. On reconsideration or appeal within the agency parties are called by their original titles listed in the previous sentence. (7-1-93)

151. APPLICANTS/CLAIMANTS/APPELLANTS (RULE 151).
Persons who seek any right, license, award or authority from the agency are called "applicants" or "claimants" or "appellants." (7-1-93)

152. PETITIONERS (RULE 152).
Persons not applicants who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case (other than an application or complaint), or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners." (7-1-93)

153. COMPLAINANTS (RULE 153).
Persons who charge other person(s) with any act or omission are called "complainants." In any proceeding in which the agency itself charges a person with an act or omission, the agency is called "complainant." (7-1-93)

154. RESPONDENTS (RULE 154).
Persons against whom complaints are filed or about whom investigations are initiated are called "respondents." (7-1-93)

155. PROTESTANTS (RULE 155).
Persons who oppose an application or claim or appeal and who have a statutory right to contest the right, license, award or authority sought by an applicant or claimant or appellant are called "protestants." (7-1-93)

156. INTERVENORS (RULE 156).
Persons, not applicants or claimants or appellants, complainants, respondents, or protestants to a proceeding, who are permitted to participate as parties pursuant to Rules 350 through 354 are called "intervenors." (7-1-93)

157. RIGHTS OF PARTIES AND OF AGENCY STAFF (RULE 157).
Subject to Rules 558, 560, and 600, all parties and agency staff may appear at hearing or argument, introduce evidence, examine witnesses, make and argue motions, state positions, and otherwise fully participate in hearings or arguments. (7-1-93)

158. PERSONS NOT PARTIES -- INTERESTED PERSONS (RULE 158).
Persons other than the persons named in Rules 151 through 156 are not parties for the purpose of any statute or rule addressing rights or obligations of parties to a contested case. Persons not parties who have an interest in a proceeding are called "interested persons." Interested persons may participate in a proceeding as "public witnesses" in accordance with Rule 355. (7-1-93)

159. -- 199. (RESERVED)

200. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES (RULE 200).
The initial pleading of each party at the formal stage of a contested case (be it an application or claim or appeal, petition, complaint, protest, motion, or answer) must name the party's representative(s) for service and state the representative's(s') address(es) for purposes of receipt of all official documents. No more than two (2) representatives for service of documents may be listed in an initial pleading. Service of documents on the named representative(s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the person signing the pleading will be considered the party's representative. If an initial pleading is signed by more than one (1) person without identifying the representative(s) for service of documents, the presiding officer may select the person(s) upon whom documents are to be served. If two (2) or more parties or persons file

identical or substantially like initial pleadings, the presiding officer may limit the number of parties or persons required to be served with official documents in order to expedite the proceeding and reasonably manage the burden of service upon the parties and the agency. (7-1-93)

201. TAKING OF APPEARANCES -- PARTICIPATION BY AGENCY STAFF (RULE 201).
The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the agency staff will participate, or any report or recommendation of the agency staff (other than a recommended order or preliminary order prepared by a hearing officer) will be considered or used in reaching a decision, at the timely request of any party the agency staff must appear at any hearing and be made available for cross-examination and otherwise participate in the hearing, at the discretion of the presiding officer, in the same manner as a party. (7-1-93)

202. REPRESENTATION OF PARTIES AT HEARING (RULE 202).

01. Appearances and Representation. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: (7-1-93)

a. Natural Person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, or family member, or by a next friend if the person lacks full legal capacity to act for himself or herself. (4-5-00)

b. A partnership may be represented by a partner, duly authorized employee, or attorney. (7-1-93)

c. A corporation may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

e. A state, federal or tribal governmental entity or agency may be represented by an officer, duly authorized employee, or attorney. (7-1-93)

02. Representatives. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. (7-1-93)

203. SERVICE ON REPRESENTATIVES OF PARTIES AND OTHER PERSONS (RULE 203).
From the time a party files its initial pleading in a contested case, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties' representatives designated pursuant to Rule 200, unless otherwise directed by order or notice or by the presiding officer on the record. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The presiding officer may order parties to serve past or future documents filed in the case upon persons not parties to the proceedings before the agency. (7-1-93)

204. WITHDRAWAL OF PARTIES (RULE 204).
Any party may withdraw from a proceeding in writing or at hearing. (7-1-93)

205. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE (RULE 205).
A party's representative may be changed and a new representative may be substituted by notice to the agency and to all other parties so long as the proceedings are not unreasonably delayed. The presiding officer at hearing may permit substitution of representatives at hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding before the agency must immediately file in writing a notice of withdrawal of representation and serve that notice on the party represented and all other parties. (7-1-93)

206. CONDUCT REQUIRED (RULE 206).
Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. Smoking is not permitted at hearings. (7-1-93)

207. -- 209. (RESERVED)

210. PLEADINGS LISTED -- MISCELLANEOUS (RULE 210).
Pleadings in contested cases are called applications or claims or appeals, petitions, complaints, protests, motions, answers, and consent agreements. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Rule 200, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with Rules 300 through 303. A party may adopt or join any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (7-1-93)

211. -- 219. (RESERVED)

220. APPLICATIONS/CLAIMS/APPEALS -- DEFINED -- FORM AND CONTENTS (RULE 220).
All pleadings requesting a right, license, award or authority from the agency are called "applications" or "claims" or "appeals." All pleadings must be submitted on Department approved forms if available. Applications or claims or appeals not submitted on Department approved forms should: (7-1-93)

01. **Facts**. Fully state the facts upon which they are based. (7-1-93)

02. **Refer to Provisions**. Refer to the particular provisions of statute, rule, order, or other controlling law upon which they are based. (7-1-93)

03. **Other**. State the right, license, award, or authority sought. (7-1-93)

221. -- 229. (RESERVED)

230. PETITIONS -- DEFINED -- FORM AND CONTENTS (RULE 230).

01. **Pleadings Defined**. All pleadings requesting the following are called "petitions:" (7-1-93)

a. Modification, amendment or stay of existing orders or rules; (7-1-93)

b. Clarification, declaration or construction of the law administered by the agency or of a party's rights or obligations under law administered by the agency; (7-1-93)

c. The initiation of a contested case not an application, claim or complaint or otherwise taking action that will lead to the issuance of an order or a rule; (7-1-93)

d. Rehearing; or (7-1-93)

e. Intervention. (7-1-93)

02. **Petitions**. Petitions should: (7-1-93)

a. Fully state the facts upon which they are based; (7-1-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; (7-1-93)

c. State the relief desired; and (7-1-93)

d. State the name of the person petitioned against (the respondent), if any. (7-1-93)

231. -- 239. (RESERVED)

240. COMPLAINTS -- DEFINED -- FORM AND CONTENTS (RULE 240).

01. Complaints - Defined. All pleadings charging other person(s) with acts or omissions under law administered by the agency are called "complaints." (7-1-93)

02. Form and Contents. Complaints must: (7-1-93)

a. Be in writing; (7-1-93)

b. Fully state the acts or things done or omitted to be done by the persons complained against by reciting the facts constituting the acts or omissions and the dates when they occurred; (7-1-93)

c. Refer to statutes, rules, orders or other controlling law involved; (7-1-93)

d. State the relief desired; (7-1-93)

e. State the name of the person complained against (the respondent). (7-1-93)

241. -- 249. (RESERVED)

250. PROTESTS -- DEFINED -- FORM AND CONTENTS (RULE 250).

01. Protests - Defined. All pleadings opposing an application or claim or appeal as a matter of right are called "protests." (7-1-93)

02. Form and Contents. Protests should: (7-1-93)

a. Fully state the facts upon which they are based, including the protestant's claim of right to oppose the application or claim; (7-1-93)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based; and (7-1-93)

c. State any proposed limitation (or the denial) of any right, license, award or authority sought in the application. (7-1-93)

251. -- 259. (RESERVED)

260. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING (RULE 260).

01. Motions - Defined. All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called "motions." (7-1-93)

02. Form and Contents. Motions should: (7-1-93)

a. Fully state the facts upon which they are based; (7-1-93)

b. Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and (7-1-93)

c. State the relief sought. (7-1-93)

03. Other. If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit an application or claim or appeal, complaint, petition, or protest must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer. Other motions may be

filed at any time upon compliance with Rule 565. (7-1-93)

261. -- 269. (RESERVED)

270. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING (RULE 270).
All pleadings responding to the allegations or requests of applications or claims or appeals, complaints, petitions, or motions are called "answers." (4-5-00)

01. Answers to Pleadings Other than Motions. Answers to applications, claims, appeals, complaints, or petitions when required to be filed by provision of statute, rule, or order must be filed and served on all parties of record within twenty-one (21) days after service of the pleading being answered, unless order or notice modifies the time within which answer may be made, or a motion to dismiss is made within twenty-one (21) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent pursuant to Rule 700. Answers to applications or claims, complaints, or petitions, must admit or deny each material allegation of the applications or claims, complaint, or petition. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. This rule does not prevent a party from filing a responsive pleading in instances not required under these rules. (4-5-00)

02. Answers to Motions. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion within fourteen (14) days of the filing of the motion. The time to file an answer to a motion may be enlarged or shortened by the presiding officer upon a showing of good cause by a party. The presiding officer may act upon a prehearing motion under Rule 565. (4-5-00)

271. -- 279. (RESERVED)

280. CONSENT AGREEMENTS -- DEFINED -- FORM AND CONTENTS (RULE 280).
Agreements between the agency or agency staff and another person(s) in which one (1) or more person(s) agree to engage in certain conduct mandated by statute, rule, order, case decision, or other provision of law, or to refrain from engaging in certain conduct prohibited by statute, rule, order, case decision, or other provision of law, are called "consent agreements." Consent agreements are intended to require compliance with existing law. (7-1-93)

01. Requirements. Consent agreements must: (7-1-93)

a. Recite the parties to the agreement; and (7-1-93)

b. Fully state the conduct proscribed or prescribed by the consent agreement. (7-1-93)

02. Additional. In addition, consent agreements may: (7-1-93)

a. Recite the consequences of failure to abide by the consent agreement; (7-1-93)

b. Provide for payment of civil or administrative penalties authorized by law; (7-1-93)

c. Provide for loss of rights, licenses, awards or authority; (7-1-93)

d. Provide for other consequences as agreed to by the parties; and (7-1-93)

e. Provide that the parties waive all further procedural rights (including hearing, consultation with counsel, etc.) with regard to enforcement of the consent agreement. (7-1-93)

281. -- 299. (RESERVED)

300. FILING DOCUMENTS WITH THE AGENCY -- NUMBER OF COPIES -- FACSIMILE TRANSMISSION (FAX) -- ELECTRONICALLY SIGNED DOCUMENTS (RULE 300).
An original and necessary copies (if any are required by the agency) of all documents intended to be part of an agency record must be filed with the officer designated by the agency to receive filing in the case. Pleadings and other

documents not exceeding ten (10) pages in length requiring urgent or immediate action may be filed by facsimile transmission (FAX). Whenever any document is filed by FAX, the original must be mailed by United States mail or physically delivered to the agency the next working day. A document required to be accompanied by a filing fee shall not be filed with the agency until the fee is received. There shall be no limit as to the number of pages of a facsimile copy which was not transmitted directly to the agency by the facsimile machine process. The Department will accept electronic signatures and electronically signed communications complying with the requirements of Rules 306 through 311 and Sections 67-2351 through 67-2357, Idaho Code, for all communications, filings and transactions with the Department. (4-5-00)

301. FORM OF PLEADINGS (RULE 301).

01. Pleadings. All pleadings, except those on agency forms, submitted by a party and intended to be part of an agency record should: (7-1-93)

a. Be submitted on white eight and one-half inch (8 1/2") by eleven inch (11") paper copied on one (1) side only; (7-1-93)

b. State the case caption, case number, if applicable, and title of the document; (7-1-93)

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (7-1-93)

d. Have at least one inch (1") left and top margins. (7-1-93)

02. Form. Documents complying with this rule will be in the following form:

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative for (Name of Party)

BEFORE THE AGENCY

(Title of Proceeding)	)	CASE NO.
	)	
	)	(TITLE OF DOCUMENT)
	)	

(7-1-93)

302. SERVICE ON PARTIES AND OTHER PERSONS (RULE 302).
All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing the original with the officer designated by the agency to receive filings in the case. (7-1-93)

303. PROOF OF SERVICE (RULE 303).
Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have this day of, served the foregoing (name(s) of document(s) upon all parties of record in this proceeding, (by delivering a copy thereof in person: (list names)) (by mailing a copy thereof, properly addressed with postage prepaid, to: (list names)).
(Signature) (7-1-93)

304. DEFECTIVE, INSUFFICIENT OR LATE PLEADINGS (RULE 304).
Defective, insufficient or late pleadings may be returned or dismissed. (7-1-93)

305. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS (RULE 305).
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. (7-1-93)

306. ELECTRONICALLY SIGNED COMMUNICATIONS (RULE 306).
The Department will accept electronic signatures and electronically signed communications complying with the requirements of Rules 306 through 311 and Sections 67-2351 through 67-2357, Idaho Code, for all communications, filings and transactions with the Department. For an electronic signature to be valid for use by the Department, it must be created by a technology that is accepted for use by the Department. (4-5-00)

307. CRITERIA FOR ACCEPTABLE ELECTRONIC SIGNATURE TECHNOLOGY (RULE 307).
For an electronic signature technology to be accepted for use by the Department, it must comply with the following criteria: (4-5-00)

01. Statutory Criteria. An acceptable electronic signature technology must be capable of creating signatures that conform to the requirements set forth in Section 67-2354, Idaho Code: (4-5-00)

a. It is unique to the person using it; (4-5-00)

b. It is capable of verification; and (4-5-00)

c. It conforms to the applicable rules promulgated by the Department pursuant to Section 67-2356, Idaho Code. (4-5-00)

02. Additional Criteria. An electronic signature technology acceptable to the Department also must be capable of creating a signature that satisfies the following additional criteria: (4-5-00)

a. It is under the sole control of the person using it; (4-5-00)

b. It is linked to the data in such a manner that if the data are changed, the electronic signature is invalidated; and (4-5-00)

c. It meets International Standards Organization ISO X.509 standard. (4-5-00)

308. PUBLIC KEY CRYPTOGRAPHY (RULE 308).
The technology known as Public Key Cryptography is an accepted technology for use by the Department, provided that the electronic signature is created consistent with the provisions in these rules. (4-5-00)

01. Terminology. For purposes of Rules 306 through 311, and unless the context expressly indicates otherwise, the following terms shall have the meanings here ascribed to them: (4-5-00)

a. Approved certification authority. The Certification Authority authorized and accepted by the State of Idaho to issue certificates for electronic signature transactions involving the State; (4-5-00)

b. Asymmetric cryptosystem. A computer algorithm or series of algorithms that utilize(s) two (2) different keys with the following characteristics: (4-5-00)

i. Identifies the certification authority issuing it; (4-5-00)

ii. One (1) key verifies a given message; and (4-5-00)

iii. The keys have the property that, knowing one (1) key, it is computationally infeasible to discover the other key. (4-5-00)

c. Certificate. A computer-based record that: (4-5-00)

i. Identifies the certification authority issuing it; (4-5-00)

ii. Names or identifies its subscriber; (4-5-00)

iii. Contains the subscriber's public key; (4-5-00)

iv. Is electronically signed by the Certification Authority issuing or amending it; and (4-5-00)

v. Conforms to widely-used industry standards. (4-5-00)

d. Certification authority. A person or entity that issues a certificate, or in the case of certain certification processes, certifies amendments to an existing certificate; (4-5-00)

e. Electronic message. An electronic representation of information intended to serve as a written communication with the Department; (4-5-00)

f. Electronically signed communication. A message that has been processed by a computer in such a manner that ties the message to the individual that signed the message; (4-5-00)

g. Key pair. A private key and its corresponding public key in an asymmetric cryptosystem. The keys have the property that the public key can verify an electronic signature that the private key creates; (4-5-00)

h. Private key. The key of a key pair used to create an electronic signature; (4-5-00)

i. Proof of identification. The document or documents presented to a Certification Authority to establish the identity of a subscriber; (4-5-00)

j. Public key. The key of a pair used to verify an electronic signature; (4-5-00)

k. Subscriber. A person who: (4-5-00)

i. Is the subject listed in a certificate; (4-5-00)

ii. Accepts the certificate; and (4-5-00)

iii. Holds a private key which corresponds to a public key listed in that certificate. (4-5-00)

l. Technology. The computer hardware or software-based method or process used to create electronic signatures. (4-5-00)

02. Electronic Signature to Be Unique. Section 67-2354, Idaho Code, requires that an electronic signature be "unique to the person using it." A public key-based electronic signature may be considered unique to the person using it if: (4-5-00)

a. The private key used to create the signature on the document is known only to the signer; (4-5-00)

b. The electronic signature is created when a person runs a message through a one-way function, creating a message digest, then encrypting the resulting message digest using an asymmetrical cryptosystem and the signer's private key; (4-5-00)

c. Although not all electronically signed communications will require the signer to obtain a certificate, the signer is capable of being issued a certificate to certify that he or she controls the key pair used to create the signature; and (4-5-00)

d. It is computationally infeasible to derive the private key from knowledge of the public key. (4-5-00)

03. Signature Capable of Verification. Section 67-2354, Idaho Code, requires that an electronic signature be "capable of verification." A public-key based electronic signature is capable of verification: (4-5-00)

a. If the acceptor of the electronically signed document can verify the document was electronically signed by using the signer's public key; (4-5-00)

b. If a certificate is a required component of a transaction, the certificate was valid; and (4-5-00)

c. If a certificate is a required component of a transaction, the issuing Certification Authority identifies which, if any, form(s) of proof of identification it required of the signer prior to issuing the certificate. (4-5-00)

04. Electronic Signature Must Meet ISO X.509 Standards. The electronic signature must meet International Standards Organization ISO X.509 standards. (4-5-00)

05. Approved Certification Authority. The Department shall only accept certificates from an Approved Certification Authority. (4-5-00)

309. CRITERIA FOR ACCEPTING AN ELECTRONIC SIGNATURE (RULE 309).
The following criteria shall be used in determining the acceptability of electronic signatures: (4-5-00)

01. Level of Security Used to Identify the Signer. Prior to accepting an electronic signature, the Department shall ensure that the level of security used to identify the signer of a document is sufficient for the transaction being conducted. (4-5-00)

02. Level of Security Used to Transmit the Signature. Prior to accepting an electronic signature, the Department shall ensure that the level of security used to transmit the signature is sufficient for the transaction being conducted. (4-5-00)

03. Certificate Format Used by the Signer. If a certificate is a required component of an electronic signature transaction, the Department shall ensure that the certificate format used by the signer is sufficient for the security and interoperability needs of the Department. (4-5-00)

310. RETENTION OF CERTIFICATES (RULE 310).
All electronically signed messages received by the Department in accordance with this rule, as well as any information resources necessary to permit access to the message and to verify the electronic signature, shall be retained by the Department as necessary to comply with applicable law pertaining to records retention requirements for that message. (4-5-00)

311. ELECTRONIC SIGNATURE REPUDIATION (RULE 311).
It is the responsibility of the rightful holder of the private key to maintain the private key's security. Repudiation of an electronically signed and transmitted message may only occur by the determination of a court of competent jurisdiction that the private key of the rightful holder was compromised through no fault of the rightful holder and without knowledge on the part of the rightful holder. It is the legal prerequisite for a claim of repudiation that the repudiator have filed a notice of revocation with the Certification Authority prior to making the claim of repudiation. (4-5-00)

312. -- 349. (RESERVED)

350. ORDER GRANTING INTERVENTION NECESSARY (RULE 350).
Persons not applicants or claimants or appellants, petitioners, complainants, protestants, or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party, if a formal hearing is required by statute to be held in the proceeding. (7-1-93)

351. FORM AND CONTENTS OF PETITIONS TO INTERVENE (RULE 351).

Petitions to intervene must comply with Rules 200, 300, and 301. The petition must set forth the name and address of the potential intervenor and must state the direct and substantial interest of the potential intervenor in the proceeding. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (7-1-93)

352. TIMELY FILING OF PETITIONS TO INTERVENE (RULE 352).
Petitions to intervene must be filed at least fourteen (14) days before the date set for formal hearing, or by the date of the prehearing conference, whichever is earlier, unless a different time is provided by order or notice. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors who do not file timely petitions are bound by orders and notices earlier entered as a condition of granting the untimely petition. (4-5-00)

353. GRANTING PETITIONS TO INTERVENE (RULE 353).
If a timely-filed petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding and does not unduly broaden the issues, the presiding officer will grant intervention, subject to reasonable conditions, unless the applicant's interest is adequately represented by existing parties. If it appears that an intervenor has no direct or substantial interest in the proceeding, the presiding officer may dismiss the intervenor from the proceeding. (4-5-00)

354. ORDERS GRANTING INTERVENTION -- OPPOSITION (RULE 354).
No order granting a petition to intervene will be acted upon sooner than seven (7) days after its filing, except in a hearing in which any party may be heard or except where no objection to the intervention is made. Any party opposing a petition to intervene by motion must file the motion within seven (7) days after receipt of the petition to intervene and serve the motion upon all parties of record and upon the person petitioning to intervene. (4-5-00)

355. PUBLIC WITNESSES (RULE 355).
Persons not parties and not called by a party who testify at hearing are called "public witnesses." Public witnesses do not have parties' rights to examine witnesses or otherwise participate in the proceedings as parties. Public witnesses' written or oral statements and exhibits are subject to examination and objection by parties. Subject to Rules 557 and 559, public witnesses have a right to introduce evidence at hearing by their written or oral statements and exhibits introduced at hearing, except that public witnesses offering expert opinions at hearing or detailed analysis or detailed exhibits must comply with Rule 528 with regard to filing and service of testimony and exhibits to the same extent as expert witnesses of parties. A person intending to present public witness testimony shall provide five (5) days notice prior to the hearing. The notice shall include the name and address of the witness and the general nature or subject matter of the testimony to be given. If the notice is not given, the public testimony will be allowed only at the discretion of the presiding officer upon a finding of good cause. (4-5-00)

356. -- 399. (RESERVED)

400. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS (RULE 400).
Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule. (7-1-93)

01. Form. The petition shall: (7-1-93)

a. Identify the petitioner and state the petitioner's interest in the matter; (7-1-93)

b. State the declaratory ruling that the petitioner seeks; and (7-1-93)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (7-1-93)

02. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (7-1-93)

401. NOTICE OF PETITION FOR DECLARATORY RULING (RULE 401).
Notice of petition for declaratory ruling may be issued in a manner designed to call its attention to persons likely to be

interested in the subject matter of the petition. (7-1-93)

402. PETITIONS FOR DECLARATORY RULINGS TO BE DECIDED BY ORDER (RULE 402).

01. Final Agency Action. The agency's decision on a petition for declaratory ruling on the applicability of any statute, rule or order administered by the agency is a final agency action decided by order. (7-1-93)

02. Content. The order issuing the declaratory ruling shall contain or must be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a final agency action issuing a declaratory ruling. (7-1-93)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this declaratory ruling may appeal to district court by filing a petition in the District Court in the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The declaratory ruling was issued; (7-1-93)

iii. The party appealing resides; or (7-1-93)

iv. The real property or personal property that was the subject of the declaratory ruling is located. (7-1-93)

c. This appeal must be filed within twenty-eight (28) days of the service date of this declaratory ruling. See Section 67-5273, Idaho Code. (7-1-93)

403. -- 409. (RESERVED)

410. APPOINTMENT OF HEARING OFFICERS (RULE 410).
A hearing officer is a person other than the agency head appointed to hear contested cases on behalf of the agency. Unless otherwise provided by statute or rule, hearing officers may be employees of the agency or independent contractors. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the agency. The appointment of a hearing officer is a public record available for inspection, examination and copying. (7-1-93)

411. HEARING OFFICERS CONTRASTED WITH AGENCY HEAD (RULE 411).
Agency heads are not hearing officers, even if they are presiding at contested cases. The term "hearing officer" as used in these rules refers only to officers subordinate to the agency head. (7-1-93)

412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES (RULE 412).
Pursuant to Section 67-5252, Idaho Code hearing officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may promptly petition for the disqualification of a hearing officer after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, without awaiting the designation by a presiding officer. A hearing officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer's determination. Disqualification of agency heads, if allowed, will be pursuant to Sections 74-404 and 67-5252(4), Idaho Code. (7-1-93)

413. SCOPE OF AUTHORITY OF HEARING OFFICERS (RULE 413).
The scope of hearing officers' authority may be restricted in the appointment by the agency. (7-1-93)

01. Scope of Authority. Unless the agency otherwise provides hearing, officers have the standard scope of authority, which is: (7-1-93)

a. Authority to schedule cases assigned to the hearing officer, including authority to issue notices of default, of prehearing conference and of hearing, or to provide for the use of informal procedure, as appropriate; (4-5-00)

b. Authority to schedule and compel discovery, when discovery is authorized before the agency, and to require advance filing of expert testimony, when authorized before the agency; (7-1-93)

c. Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, rule on dispositive motions upon completion of the applicant's or petitioner's case in chief, and otherwise oversee the orderly presentations of the parties at hearing; and (4-5-00)

d. Authority to issue a written decision of the hearing officer, including a narrative of the proceedings before the hearing officer and findings of fact, conclusions of law, and recommended or preliminary orders by the hearing officer, following the submission of evidence through stipulation of the parties, affidavits, exhibits, or hearing testimony. (4-5-00)

02. Limitation. The hearing officer's scope of authority may be limited from the standard scope, either in general, or for a specific proceeding. For example, the hearing officer's authority could be limited to scope in Rule Subsection 413.01.c. (giving the officer authority only to conduct hearing), with the agency retaining all other authority. Hearing officers can be given authority with regard to the agency's rules as provided in Rule 416. (7-1-93)

414. PRESIDING OFFICER(S) (RULE 414).

One (1) or more members of the agency board, the agency director, or duly appointed hearing officers may preside at hearing as authorized by statute or rule. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one (1) of them to be the presiding officer. (7-1-93)

415. CHALLENGES TO STATUTES (RULE 415).

A hearing officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority has preempted a state statute or rule, and the hearing officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the hearing officer, then the hearing officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the hearing officer and decide the proceeding before the hearing officer in accordance with the precedent of the court or the preemptive action of the federal authority. (7-1-93)

416. REVIEW OF RULES (RULE 416).

When an order is issued by the agency head in a contested case, the order may consider and decide whether a rule of that agency is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure. The agency head may delegate to a hearing officer the authority to recommend a decision on issues of whether a rule is within the agency's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (7-1-93)

417. EX PARTE COMMUNICATIONS (RULE 417).

Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). Ex parte communications from members of the general public not associated with any party are not required to be reported by this rule. A party to a contested agency proceeding shall not communicate directly or indirectly with the presiding officer or the agency head regarding any substantive issue in the contested case. When a presiding officer or the agency head becomes aware of an ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer or agency head shall place a copy or written summary of the communication in the file for the case and order the party providing the communication to serve a

copy of the communication or written summary upon all parties of record. Repeated violations of this rule shall be cause for the presiding officer to dismiss an action or to dismiss a party from an action. Written communications from a party showing service upon all other parties are not ex parte communications. (4-5-00)

418. -- 499. (RESERVED)

500. ALTERNATIVE RESOLUTION OF CONTESTED CASES (RULE 500).
The Idaho Legislature encourages informal means of alternative dispute resolution (ADR). For contested cases, the means of ADR include, but are not limited to, settlement negotiations, mediation, fact finding, minitrials, and arbitration, or any combination of them. These alternatives can frequently lead to more creative, efficient and sensible outcomes than may be attained under formal contested case procedures. An agency may use ADR for the resolution of issues in controversy in a contested case if the agency finds that such a proceeding is appropriate. An agency may, for example, find that using ADR is not appropriate if it determines that an authoritative resolution of the matter is needed for precedential value, that formal resolution of the matter is of special importance to avoid variation in individual decisions, that the matter significantly affects persons who are not parties to the proceeding, or that a formal proceeding is in the public interest. (7-1-93)

501. NEUTRALS (RULE 501).
When ADR is used for all or a portion of a contested case, the agency may provide a neutral to assist the parties in resolving their disputed issues. The neutral may be an employee of the agency or of another state agency or any other individual who is acceptable to the parties to the proceeding. A neutral shall have no official, financial, or personal conflict of interest with respect to the issues in controversy, unless such interest is disclosed in writing to all parties and all parties agree that the neutral may serve. (7-1-93)

502. CONFIDENTIALITY RULE 502).
Communications in an ADR proceeding shall not be disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or is required by court order, statute or agency rule to be make public. (7-1-93)

503. -- 509. (RESERVED)

510. PURPOSES OF PREHEARING CONFERENCES (RULE 510).
The presiding officer, or an authorized employee of the agency, may by order or notice issued to all parties convene a prehearing conference in a contested case for the purposes of formulating or simplifying the issues, obtaining concessions of fact or identification of documents to avoid unnecessary proof, scheduling discovery (when discovery is allowed), arranging for the exchange of proposed exhibits or prepared testimony, limiting witnesses, discussing settlement offers or making settlement offers, scheduling hearings, establishing procedure at hearings, and addressing other matters that may expedite orderly conduct and disposition of the proceeding or its settlement. (4-5-00)

511. NOTICE OF PREHEARING CONFERENCE (RULE 511).
Notice of the place, date and hour of a prehearing conference will be served at least fourteen (14) days before the time set for the prehearing conference, unless the presiding officer finds it necessary or appropriate for the conference to be held earlier. Notices for prehearing conference must contain the same information as notices of hearing with regard to an agency's obligations under the American with Disabilities Act. (7-1-93)

512. RECORD OF CONFERENCE (RULE 512).
Prehearing conferences may be held formally (on the record) or informally (off the record) before or in the absence of a presiding officer, according to order or notice. Agreements by the parties to the conference may be put on the record during formal conferences or may be reduced to writing and filed with the agency after formal or informal conferences. (7-1-93)

513. ORDERS RESULTING FROM PREHEARING CONFERENCE (RULE 513).
The presiding officer, or an authorized employee of the agency, may issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. (4-5-00)

514. FACTS DISCLOSED NOT PART OF THE RECORD (RULE 514).

Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record. (7-1-93)

515. -- 519. (RESERVED)

520. KINDS AND SCOPE OF DISCOVERY LISTED (RULE 520).

01. Kinds of Discovery. The kinds of discovery recognized and authorized by these rules in contested cases are: (7-1-93)

a. Depositions; (7-1-93)

b. Production requests or written interrogatories; (7-1-93)

c. Requests for admission; (7-1-93)

d. Subpoenas; and (7-1-93)

e. Statutory inspection, examination (including physical or mental examination), investigation, etc. (7-1-93)

02. Rules of Civil Procedure. Unless otherwise provided by statute, rule, order or notice, the scope of discovery, other than statutory inspection, examination, investigation, etc., is governed by the Idaho Rules of Civil Procedure (see Idaho Rule of Civil Procedure 26(b)). (7-1-93)

521. WHEN DISCOVERY AUTHORIZED (RULE 521).
No party before the agency is entitled to engage in discovery unless the party moves for an order authorizing discovery and the agency issues an order authorizing the requested discovery, or upon agreement of all parties to the discovery that discovery may be conducted. The presiding officer shall provide a schedule for discovery in the order authorizing discovery, but the order authorizing and scheduling discovery need not conform to the timetables of the Idaho Rules of Civil Procedure. A party, upon reasonable notice to other parties and all persons affected thereby, may apply for an order compelling discovery in a manner consistent with the provisions of Rule 37(a) of the Idaho Rules of Civil Procedure. The agency or agency staff may conduct statutory inspection, examination, investigation, etc., at any time without filing a motion to authorize discovery. (4-5-00)

522. RIGHTS TO DISCOVERY RECIPROCAL (RULE 522).
All parties to a proceeding have a right of discovery of all other parties to a proceeding according to Rule 521 and to the authorizing statutes and rules. The presiding officer may by order authorize or compel necessary discovery authorized by statute or rule. (7-1-93)

523. DEPOSITIONS (RULE 523).
Depositions may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (7-1-93)

524. PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND REQUESTS FOR ADMISSION (RULE 524).
Production requests or written interrogatories and requests for admission may be taken in accordance with the Idaho Rules of Civil Procedure for any purpose allowed by statute, the Idaho Rules of Civil Procedure, or rule or order of the agency. (7-1-93)

525. SUBPOENAS (RULE 525).
The agency may issue subpoenas upon a party's motion or upon its own initiative. The agency upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. (7-1-93)

526. STATUTORY INSPECTION, EXAMINATION, INVESTIGATION, ETC. -- CONTRASTED WITH OTHER DISCOVERY (RULE 526).

This rule recognizes, but does not enlarge or restrict, an agency's statutory right of inspection, examination (including mental or physical examination), investigation, etc. This statutory right of an agency is independent of and cumulative to any right of discovery in formal proceedings and may be exercised by the agency whether or not a person is party to a formal proceeding before the agency. Information obtained from statutory inspection, examination, investigation, etc., may be used in formal proceedings or for any other purpose, except as restricted by statute or rule. The rights of deposition, production request or written interrogatory, request for admission, and subpoena, can be used by parties only in connection with formal proceedings before the agency. (7-1-93)

527. ANSWERS TO PRODUCTION REQUESTS OR WRITTEN INTERROGATORIES AND TO REQUESTS FOR ADMISSION (RULE 527).
Answers to production requests or written interrogatories and to requests for admission shall be filed or served as provided by the order compelling discovery. Answers must conform to the requirements of the Idaho Rules of Civil Procedure. The order compelling discovery may provide that voluminous answers to requests need not be served so long as they are made available for inspection and copying under reasonable terms. (7-1-93)

528. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS (RULE 528).
Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection under Rule 527, and objections to discovery must be filed and served as provided in the order authorizing discovery. (4-5-00)

529. EXHIBIT NUMBERS (RULE 529).
The agency assigns exhibit numbers to each party. (7-1-93)

530. PREPARED TESTIMONY AND EXHIBITS (RULE 530).
Order, notice or rule may require a party or parties to file before hearing and to serve on all other parties prepared expert testimony and exhibits to be presented at hearing. Assigned exhibits numbers should be used in all prepared testimony. (7-1-93)

531. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY (RULE 531).
The agency may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery, including but not limited to the sanctions listed in paragraphs (A), (B), and (C) of Rule 37(b)(2) of the Idaho Rules of Civil Procedure. (4-5-00)

532. PROTECTIVE ORDERS (RULE 532).
As authorized by statute or rule, the agency may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. (7-1-93)

533. -- 549. (RESERVED)

550. NOTICE OF HEARING (RULE 550).
Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the agency finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Rule 551. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officers who will hear the case, the name, address and telephone number of the person to whom inquires about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. (7-1-93)

551. FACILITIES AT OR FOR HEARING AND A.D.A. REQUIREMENTS (RULE 551).
All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the Americans with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the

Americans with Disabilities Act in order to participate in or understand the hearing, the agency will supply that assistance upon request a reasonable number of days before the hearing. The notice of hearing shall explicitly state the number of days before the hearing that the request must be made. (4-5-00)

552. HOW HEARINGS HELD (RULE 552).
Hearings may be held in person or by telephone or television or other electronic means, if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. (7-1-93)

553. CONDUCT AT HEARINGS (RULE 553).
All persons attending a hearing must conduct themselves in a respectful manner. Smoking is not permitted at hearings. The presiding officer may exclude persons from the hearing who refuse to conduct themselves in a respectful manner. Disruptive conduct that is serious in nature shall be cause for dismissal of a disrupting party from the proceeding. (4-5-00)

554. CONFERENCE AT HEARING (RULE 554).
In any proceeding the presiding officer may convene the parties before hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (7-1-93)

555. PRELIMINARY PROCEDURE AT HEARING (RULE 555).
Before taking evidence the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (7-1-93)

556. CONSOLIDATION OF PROCEEDINGS (RULE 556).
The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding. (7-1-93)

557. STIPULATIONS (RULE 557).
Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The agency may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The agency is not bound to adopt a stipulation of the parties, but may do so. If the agency rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (7-1-93)

558. ORDER OF PROCEDURE (RULE 558).
The presiding officer may determine the order of presentation of witnesses and examination of witnesses. (7-1-93)

559. TESTIMONY UNDER OATH (RULE 559).
All testimony presented in formal hearings will be given under oath. Before testifying each witness must swear or affirm that the testimony the witness will give before the agency is the truth, the whole truth, and nothing but the truth. (7-1-93)

560. PARTIES AND PERSONS WITH SIMILAR INTERESTS (RULE 560).
If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (7-1-93)

561. CONTINUANCE OF HEARING (RULE 561).
The presiding officer may continue proceedings for further hearing. (7-1-93)

562. RULINGS AT HEARINGS (RULE 562).
The presiding officer rules on motions and objections presented at hearing. When the presiding officer is a hearing

officer, the presiding officer's rulings may be reviewed by the agency head in determining the matter on its merits and the presiding officer may refer or defer rulings to the agency head for determination. (7-1-93)

563. ORAL ARGUMENT (RULE 563).
The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (7-1-93)

564. BRIEFS -- MEMORANDA -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION -- PROPOSED ORDER OF THE PRESIDING OFFICER (RULE 564).
In any contested case, any party may ask to file briefs, memoranda, proposed orders of the parties or statements of position, and the presiding officer may request briefs, proposed orders of the parties, or statements of position. The presiding officer may issue a proposed order and ask the parties for comment upon the proposed order. (7-1-93)

565. PROCEDURE ON PREHEARING MOTIONS (RULE 565).
The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. Unless otherwise provided by the presiding officer upon a showing of good cause by a party, when a motion has been filed, all parties joining in, answering to or responding to the motion(s) will have fourteen (14) days from the time of filing of the motion in which to respond. (4-5-00)

566. JOINT HEARINGS (RULE 566).
The agency may hold joint hearings with federal agencies, with agencies of other states, and with other agencies of the state of Idaho. When joint hearings are held, the agencies may agree among themselves which agency's rules of practice and procedure will govern. (7-1-93)

567. -- 599. (RESERVED)

600. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE (RULE 600).
Evidence should be taken by the agency to assist the parties' development of a record, not excluded to frustrate that development. The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted if it is of a type commonly relied upon by prudent persons in the conduct of their affairs. The agency's experience, technical competence and specialized knowledge may be used in evaluation of evidence. (7-1-93)

601. DOCUMENTARY EVIDENCE (RULE 601).
Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. (7-1-93)

602. OFFICIAL NOTICE -- AGENCY STAFF MEMORANDA (RULE 602).
Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and of generally recognized technical or scientific facts within the agency's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source of the material noticed, including any agency staff memoranda and data. Notice that official notice will be taken should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material officially noticed. Parties must be given an opportunity to contest and rebut the facts or material officially noticed. When the presiding officer proposes to notice agency staff memoranda or agency staff reports, responsible staff employees or agents shall be made available for cross-examination if any party timely requests their availability. (7-1-93)

603. DEPOSITIONS (RULE 603).
Depositions may be offered into evidence. (7-1-93)

604. OBJECTIONS -- OFFERS OF PROOF (RULE 604).
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. Formal exceptions to rulings admitting or excluding evidence are unnecessary and need not be taken. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to

the admission of evidence, the presiding officer will rule on the objection, or, if the presiding officer is a hearing officer, the presiding officer may receive the evidence subject to later ruling by the agency head or refer the matter to the agency head. (7-1-93)

605. PREPARED TESTIMONY (RULE 605).
The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Rule 600. (7-1-93)

606. EXHIBITS (RULE 606).
Exhibit numbers may be assigned to the parties before hearing. Exhibits prepared for hearing should ordinarily be typed or printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except that maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper customarily used for them. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits identified at hearing are subject to appropriate and timely objection before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. Neither motion pictures, slides, opaque projections, videotapes, audiotapes nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without approval of the presiding officer prior to the hearing. (7-1-93)

607. -- 609. (RESERVED)

610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS (RULE 610).
Settlement negotiations in a contested case are confidential, unless all participants to the negotiation agree to the contrary in writing. Facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in settlement negotiations in a contested case are not part of the record. (7-1-93)

611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS (RULE 611).
Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (7-1-93)

612. CONSIDERATION OF SETTLEMENTS (RULE 612).
Settlements must be reviewed under this rule. When a settlement is presented to the presiding officer, the presiding officer will prescribe procedures appropriate to the nature of the settlement to consider the settlement. For example, the presiding officer could summarily accept settlement of essentially private disputes that have no significant implications for administration of the law for persons other than the affected parties. On the other hand, when one (1) or more parties to a proceeding is not party to the settlement or when the settlement presents issues of significant implication for other persons, the presiding officer may convene an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the agency's charge under the law. (7-1-93)

613. BURDENS OF PROOF (RULE 613).
Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (7-1-93)

614. SETTLEMENT NOT BINDING (RULE 614).
The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (7-1-93)

615. -- 649. (RESERVED)

650. RECORD FOR DECISION (RULE 650).

01. Official Record. The agency shall maintain an official record for each contested case and (unless

statute provides otherwise) base its decision in a contested case on the official record for the case. (7-1-93)

02. Contents of Record. The record for a contested case shall include: (7-1-93)

a. All notices of proceedings; (7-1-93)

b. All applications or claims or appeals, petitions, complaints, protests, motions, and answers filed in the proceeding; (7-1-93)

c. All intermediate or interlocutory rulings of hearing officers or the agency head; (7-1-93)

d. All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (7-1-93)

e. All offers of proof, however made; (7-1-93)

f. All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; (7-1-93)

g. All evidentiary rulings on testimony, exhibits, or offers of proof; (7-1-93)

h. All staff memoranda or data submitted in connection with the consideration of the proceeding; (7-1-93)

i. A statement of matters officially noticed; and (7-1-93)

j. All recommended orders, preliminary orders, final orders, and orders on reconsideration. (7-1-93)

651. RECORDING OF HEARINGS (RULE 651).
All hearings shall be recorded on audiotape or videotape at the agency's expense. The agency may provide for a transcript of the proceeding at its own expense. Any party may have a transcript prepared at its own expense. If the transcript prepared at the expense of a party is deemed by the presiding officer to be the official transcript of the hearing, the party shall furnish the agency a transcript without charge. (7-1-93)

652. -- 699. (RESERVED)

700. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR OR RESPOND (RULE 700).
If an applicant or claimant or appellant, petitioner, protestant, complainant, or moving party fails to appear at the time and place set for hearing, or prehearing conference, on an application or claim or appeal, petition, complaint, or motion, or fails to respond to a written information inquiry, the presiding officer may serve upon all parties a notice of a proposed default order denying the application or claim or appeal, petition, complaint, or motion. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the applicant or claimant or appellant, petitioner, complainant or moving party to appear at the time and place set for hearing or prehearing conference, or to respond to the information inquiry. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. (4-5-00)

701. SEVEN DAYS TO CHALLENGE PROPOSED DEFAULT ORDER (RULE 701).
Within seven (7) days after the service of the notice of proposed default order, the party against whom it was filed may file a written petition requesting that a default order not be entered. The petition must state the grounds why the petitioning party believes that default should not be entered. (7-1-93)

702. ISSUANCE OF DEFAULT ORDER (RULE 702).
The agency shall promptly issue a default order or withdraw the notice of proposed default order after expiration of the seven (7) days for the party to file a petition contesting the default order or receipt of a petition. If a default order is issued, all further proceedings necessary to complete the contested case shall be conducted without participation of the party in default (if the defaulting party is not a movant) or upon the results of the denial of the motion (if the defaulting party is a movant). All issues in the contested case shall be determined, including those affecting the

defaulting party. Costs may be assessed against a defaulting party. (7-1-93)

703. -- 709. (RESERVED)

710. INTERLOCUTORY ORDERS (RULE 710).
Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the agency may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review by reconsideration or appeal, but is not final on other issues. Unless an order contains or is accompanied by a document containing one (1) of the paragraphs set forth in Rules 720, 730 or 740 or a paragraph substantially similar, the order is interlocutory. The following orders are always interlocutory: orders initiating complaints or investigations; orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention; orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders compelling or refusing to compel discovery. Interlocutory orders may be reviewed by the officer issuing the order pursuant to Rules 711, 760, and 770. (7-1-93)

711. REVIEW OF INTERLOCUTORY ORDERS (RULE 711).
Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (7-1-93)

712. CONTENTS OF ORDERS (RULE 712).
Pursuant to Section 67-5248, Idaho Code, an order that determines the legal rights or interests of one (1) or more parties must be in writing and shall include the following: (4-5-00)

01. Findings of Fact and Conclusions of Law. An order shall contain a reasoned statement in support of the decision. Findings of fact, if set forth in statutory language, shall be accompanied by a concise and explicit statement of the underlying facts of record supporting the findings. Findings of fact must be based exclusively on the evidence in the record of the contested case and on matters officially noticed in that proceeding. (4-5-00)

02. Statement of Available Procedure. An order shall contain a statement of the available procedures and applicable time limits for seeking reconsideration or other administrative relief. (4-5-00)

713. -- 719. (RESERVED)

720. RECOMMENDED ORDERS (RULE 720).

01. Recommended Orders -- Definition. Recommended orders are orders issued by a person other than the agency head that will become a final order of the agency only after review of the agency head (or the agency head's designee) pursuant to Section 67-5244, Idaho Code. (7-1-93)

02. Contents of Recommended Orders. Every recommended order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a recommended order of the hearing officer. It will not become final without action of the agency head. Any party may file a petition for reconsideration of this recommended order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this recommended order will dispose of any petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

b. Within fourteen (14) days after (a) the service date of this recommended order, (b) the service date of a denial of a petition for reconsideration from this recommended order, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration from this recommended order, any party may in writing support or take exceptions to any part of this recommended order and file briefs in support of the party's position with the agency head or designee on any issue in the proceeding. If no party files exceptions to the recommended order with the agency head or designee, the agency head or designee will issue a final order within fifty-six (56) days after: (4-5-00)

i. The last day a timely petition for reconsideration could have been filed with the hearing officer; (4-5-00)

ii. The service date of a denial of a petition for reconsideration by the hearing officer; or (4-5-00)

iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration by the hearing officer. (4-5-00)

c. Written briefs in support of or taking exceptions to the recommended order shall be filed with the agency head (or designee of the agency head). Opposing parties shall have fourteen (14) days to respond. The agency head or designee may schedule oral argument in the matter before issuing a final order. The agency head or designee will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (4-5-00)

721. -- 729. (RESERVED)

730. PRELIMINARY ORDERS (RULE 730).

01. Preliminary Orders -- Definition. Preliminary orders are orders issued by a person other than the agency head that will become a final order of the agency unless reviewed by the agency head (or the agency head's designee) pursuant to Section 67-5245, Idaho Code. (7-1-93)

02. Contents of Preliminary Order. Every preliminary order must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a preliminary order of the hearing officer. It can and will become final without further action of the agency unless any party petitions for reconsideration before the hearing officer issuing it or appeals to the hearing officer's superiors in the agency. Any party may file a petition for reconsideration of this preliminary order with the hearing officer issuing the order within fourteen (14) days of the service date of this order. The hearing officer issuing this order will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5243(3), Idaho Code. (7-1-93)

b. Within fourteen (14) days after: (4-5-00)

i. The service date of this preliminary order; (4-5-00)

ii. The service date of the denial of a petition for reconsideration from this preliminary order; or (4-5-00)

iii. The failure within twenty-one (21) days to grant or deny a petition for reconsideration from this preliminary order, any party may in writing appeal or take exceptions to any part of the preliminary order and file briefs in support of the party's position on any issue in the proceeding to the agency head (or designee of the agency head). Otherwise, this preliminary order will become a final order of the agency. (4-5-00)

c. If any party appeals or takes exceptions to this preliminary order, opposing parties shall have fourteen (14) days to respond to any party's appeal within the agency. Written briefs in support of or taking exceptions to the preliminary order shall be filed with the agency head (or designee). The agency head (or designee) may review the preliminary order on its own motion. (4-5-00)

d. If the agency head (or designee) grants a petition to review the preliminary order, the agency head (or designee) shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The agency head (or designee) will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived by the parties or for good cause shown. The agency head (or designee) may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (7-1-93)

e. Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department or the Board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing. (4-5-00)

f. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The final agency action was taken; (7-1-93)

iii. The party seeking review of the order resides; or (7-1-93)

iv. The real property or personal property that was the subject of the agency action is located. (7-1-93)

g. This appeal must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (7-1-93)

731. -- 739. (RESERVED)

740. FINAL ORDERS (RULE 740).

01. Final Order -- Definition. Final orders are preliminary orders that have become final under Rule 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the agency head pursuant to Section 67-5246, Idaho Code, or emergency orders, including cease and desist or show cause orders, issued by the agency head pursuant to Section 67-5247, Idaho Code. (7-1-93)

02. Content of Final Order. Every final order issued by the agency head must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (7-1-93)

a. This is a final order of the agency. Any party may file a petition for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code. (7-1-93)

b. Pursuant to Section 42-1701A(3), Idaho Code, unless the right to a hearing before the Department or the Board is otherwise provided by statute, any person aggrieved by any decision, determination, order or action of the director of the Department or any applicant for any permit, license, certificate, approval, registration, or similar form of permission required by law to be issued by the director, who is aggrieved by a denial or conditional approval ordered by the director, and who has not previously been afforded an opportunity for a hearing on the matter shall be entitled to a hearing before the director to contest the denial or conditional approval upon filing with the director, within fifteen (15) days after receipt of the denial or conditional approval, a written petition stating the grounds for contesting the action by the director and requesting a hearing. (4-5-00)

c. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which: (7-1-93)

i. A hearing was held; (7-1-93)

ii. The final agency action was taken; (7-1-93)

iii. The party seeking review of the order resides; or (7-1-93)

iv. The real property or personal property that was the subject of the agency action is located. (7-1-93)

d. An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code, and Rule 84 of the Idaho Rules of Civil Procedure. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal. (4-5-00)

741. -- 749. (RESERVED)

750. ORDER NOT DESIGNATED (RULE 750).
If an order does not designate itself as recommended, preliminary or final at its release, but is designated as recommended, preliminary or final after its release, its effective date for purposes of reconsideration or appeal is the date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. (7-1-93)

751. -- 759. (RESERVED)

760. MODIFICATION OF ORDER ON PRESIDING OFFICER'S OWN MOTION (RULE 760).
A hearing officer issuing a recommended or preliminary order may modify the recommended or preliminary order on the hearing officer's own motion within fourteen (14) days after issuance of the recommended or preliminary order by withdrawing the recommended or preliminary order and issuing a substitute recommended or preliminary order. The agency head may modify or amend a final order of the agency (be it a preliminary order that became final because no party challenged it or a final order issued by the agency head itself) at any time before notice of appeal to District Court has been filed or the expiration of the time for appeal to District Court, whichever is earlier, by withdrawing the earlier final order and substituting a new final order for it. (7-1-93)

761. -- 769. (RESERVED)

770. CLARIFICATION OF ORDERS (RULE 770).
Any party or person affected by an order may petition to clarify any order, whether interlocutory, recommended, preliminary or final. Petitions for clarification from final orders do not suspend or toll the time to petition for reconsideration or appeal the order. A petition for clarification may be combined with a petition for reconsideration or stated in the alternative as a petition for clarification and/or reconsideration. (7-1-93)

771. -- 779. (RESERVED)

780. STAY OF ORDERS (RULE 780).
Any party or person affected by an order may petition the agency to stay any order, whether interlocutory or final. Interlocutory or final orders may be stayed by the judiciary according to statute. The agency may stay any interlocutory or final order on its own motion. (7-1-93)

781. -- 789. (RESERVED)

790. PERSONS WHO MAY APPEAL (RULE 790).
Pursuant to Section 67-5270, Idaho Code, any party aggrieved by a final order of an agency in a contested case may appeal to district court. Pursuant to Section 67-5271, Idaho Code, a person is not entitled to judicial review of an agency action in district court until that person has exhausted all administrative remedies available with the agency, but a preliminary, procedural, or intermediate agency action or ruling is immediately reviewable in district court if

review of the final agency action would not provide an adequate remedy. (7-1-93)

791. NOTICE OF APPEAL (RULE 791).
The notice of appeal must be filed with the district court and served on the agency and all parties. (4-5-00)

01. Filing Appeal. Pursuant to Section 67-5272, Idaho Code, appeals may be filed in the district court of the county in which: (4-5-00)

a. The hearing was held; (7-1-93)

b. The final agency action was taken; (7-1-93)

c. The party seeking review of the agency action resides; or (7-1-93)

d. The real property or personal property that was the subject of the agency is located. (7-1-93)

02. Filing Deadline. Pursuant to Section 67-5273, Idaho Code, and Rule 84 of the Idaho Rules of Civil Procedure a petition for judicial review of a final order in a contested case must be filed within twenty-eight (28) days: (4-5-00)

a. Of the service date of the final order; (7-1-93)

b. Of the denial of the petition for reconsideration; or (7-1-93)

c. The failure within twenty-one (21) days to grant or deny the petition for reconsideration. (7-1-93)

792. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
This chapter is adopted under the legal authority of Section 42-1762, Idaho Code. (3-20-04)

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is IDAPA 37.02.03, "Water Supply Bank Rules." (3-20-04)

02. Scope. These rules were first adopted by the Water Resource Board in October 1980 as mandated by Section 42-1762, Idaho Code enacted in 1979. The rules govern the Board's operation and management of a Water Supply Bank provided for in Sections 42-1761 to 42-1766, Idaho Code. The purposes of the Water Supply Bank, as defined by statute, are to encourage the highest beneficial use of water; provide a source of adequate water supplies to benefit new and supplemental water uses; and provide a source of funding for improving water user facilities and efficiencies. These rules are to be used by the Water Resource Board in considering the purchase, sale, lease or rental of natural flow or stored water, the use of any funds generated therefrom, and the appointment of local committees to facilitate the lease and rental of stored water. The purchase, sale, lease or rental of water shall be in compliance with state and federal law. The adoption of these rules is not intended to prevent any person from directly selling or leasing water by transactions outside the purview of the Water Supply Bank Rules where such transactions are otherwise allowed by law. (3-20-04)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Board. The Idaho Water Resource Board. (7-1-93)

02. Board's Water Supply Bank. The water exchange market operated directly by the Board to facilitate marketing of water rights. (7-1-93)

03. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

04. Department. The Idaho Department of Water Resources. (7-1-93)

05. Lease. To convey by contract a water right to the Board's water supply bank or stored water to a rental pool operated by a local committee. (7-1-93)

06. Local Committee. The committee which has been designated by action of the Board to facilitate marketing of stored water by operating a rental pool pursuant to Section 42-1765, Idaho Code. (7-1-93)

07. Natural Flow. Water or the right to use water that exists in a spring, stream, river, or aquifer at a certain time and which is not the result of the storage of water flowing at a previous time. (7-1-93)

08. Rent. To convey by contract a water right from the Board's water supply bank or stored water from a rental pool. (7-1-93)

09. Rental Pool. A market for exchange of stored water operated by a local committee. (7-1-93)

10. Stored Water. Water made available by detention in surface reservoirs or storage space in a surface reservoir. (7-1-93)

11. Water Right. The right to divert and beneficially use the public waters of the state of Idaho including any storage entitlement. (7-1-93)

12. Water Supply Bank. The water exchange market operated by the Water Resource Board pursuant to Section 42-1761 through 42-1766, Idaho Code, and these rules and is a general term which includes the Board's water supply bank and rental pools. (7-1-93)

13. Year. A time period of twelve (12) consecutive months. (7-1-93)

14. Person. Any company, corporation, association, firm, agency, individual, partnership, Indian tribe, government or other entity. (7-1-93)

011. -- 024. (RESERVED)

025. ACQUISITION OF WATER RIGHTS FOR THE BOARD'S WATER SUPPLY BANK (RULE 25).

01. General. The Board may purchase, lease, accept as a gift or otherwise obtain rights to natural flow or stored water and credit them to the Board's water supply bank. These water rights may then be divided or combined into more marketable blocks provided that there is no injury to other right holders, or enlargement of use of the water rights, and the change is in the local public interest. Any person proposing to sell or lease water rights to the Board's water supply bank, or to otherwise make water available through the water supply bank for the purposes of Section 42-1763A, Idaho Code, shall file a completed application with the Director on a forms or in a format provided by the Department and provide such additional information as the Board or Director may require in evaluating the proposed transaction. The completed application form shall state the period of time a water right is offered for lease, or the period of time that storage water will be released for fish migration purposes in accordance with Section 42-1763A, Idaho Code, and the payment terms, if any, requested by the applicant. (7-1-93)

02. Application. Submitted with the completed application shall be: (7-1-93)

a. Evidence that the water right has been recorded through court decree, permit or license issued by the Department. If the right is included in an ongoing adjudication, a copy of the claim is required; (7-1-93)

b. Proof of current ownership of the water right by the applicant; (7-1-93)

c. Information that the water right has not been lost through abandonment, or forfeiture as defined by Section 42-222(2), Idaho Code; (7-1-93)

d. Evidence to demonstrate the relative availability of water in the source to fill the water right; and (7-1-93)

e. The written consent of such company, corporation or irrigation district to the proposed sale or lease must accompany the application if the right to the use of the water, or the use of the diversion works or irrigation system is represented by shares of stock in a company or corporation, or if such works or system is owned or managed by an irrigation district. (7-1-93)

f. A lease application filing fee of two hundred fifty dollars ($250) per water right up to a maximum total of five hundred dollars ($500.00) for overlapping water rights which have a common place of use or common diversion rate or diversion volume. The lease filing fee described herein shall be deposited in the Water Administration Account and shall not apply to applications to lease stored water into rental pools described in Rule 40. (4-7-11)

03. Review. Upon receipt of the completed application the Director will review it for completeness and make such further review as he deems necessary to adequately brief the Board on the proposed transaction. (7-1-93)

04. Inadequate Application. If an application is not complete, the Director will correspond with the applicant to obtain the needed information. If the requested information is not returned in thirty (30) days, the application will no longer be considered a valid request to place a water right into the Board's water supply bank. (7-1-93)

05. Consideration. The Board may consider an application at any regular or special meeting. (7-1-93)

06. Criteria. The Board will consider the following in determining whether to accept an offered water right into the Board's water supply bank: (7-1-93)

a. Whether the applicant is the current owner, title holder or contract water user of the water right proposed to be transferred to the Board's water supply bank or has authority to act on behalf of the owner; (7-1-93)

b. Whether all necessary consents have been filed with the Board; (7-1-93)

c. Whether the information available to the Board indicates that the water right has been abandoned or forfeited; (7-1-93)

d. Whether the offering price or requested rental rate is reasonable; (7-1-93)

e. Whether acquisition of the water right will be contrary to the State Water Plan; (7-1-93)

f. Whether the application is in the local public interest as defined in Section 42-1763, Idaho Code; (7-1-93)

g. The probability of selling or renting the water right from the Board's water supply bank. (7-1-93)

h. Whether there are sufficient funds on hand to acquire the water right for the Board's water supply bank, provided that, if there are insufficient funds, or if in the opinion of the Board, existing funds should not immediately be expended for such acquisition, the Board may find that the water right should be acquired on a contingency basis, with payment to be made to the seller or lessor only after water is subsequently sold or rented from the Board's water supply bank, and (7-1-93)

i. Such other factors as determined to be appropriate by the Board. (7-1-93)

07. Resolution of Board. The Board may by resolution accept an application to sell or lease a water right to the Board's water supply bank, or to otherwise make water available through the water supply bank for the purposes of Section 42-1763A, Idaho Code. An application to lease together with the resolution accepting it becomes a lease and the water right is placed into the Board's water supply bank upon adoption of the resolution. A resolution accepting an application to sell a right to the Board's water supply bank will provide authority for the chairman of the Board to enter an agreement to purchase the water right. The resolution may include conditions of approval, including but not limited to, the following: (7-1-93)

a. A condition providing the length of time the water right will be retained in the Board's water supply bank. (7-1-93)

b. A condition describing the terms for payment to the owner of the water right and the sale or rental price from the Board's water supply bank. (7-1-93)

c. Other conditions as the Board determines appropriate, including a condition recognizing that water is being made available through the water supply bank pursuant to the provisions of Section 42-1763A, Idaho Code, for purposes of fish migration. (7-1-93)

08. Placement of Water Right. Effect of placement of a water right into the Board's water supply bank. (7-1-93)

a. Upon acceptance of a water right into the Board's water supply bank, the owner of the right may withdraw the right within thirty (30) days of acceptance into the bank if the owner does not agree with the conditions of acceptance. (7-1-93)

b. Upon acceptance of a water right into the Board's water supply bank, the owner of the water right is not authorized to continue the diversion and use of the right while it is in the Board's water supply bank, unless the water right is for hydropower and is placed in the Board's water supply bank to be released for salmon migration and power production purposes. (7-1-93)

c. A water right which has been accepted shall remain in the Board's water supply bank for the period designated by the Board unless removed by resolution of the Board. (7-1-93)

d. The owner of the water right shall remain responsible to take actions required to claim the water right in an adjudication or other legal action concerning the water right and to pay taxes, fees, or assessments related to the water right. (7-1-93)

e. The forfeiture provisions of Section 42-222(2), Idaho Code are tolled during the time period the water right is in the Board's water supply bank, pursuant to the provisions of Section 42-1764, Idaho Code. (7-1-93)

026. -- 029. (RESERVED)

030. SALE OR RENTAL OF WATER RIGHTS FROM THE BOARD'S WATER SUPPLY BANK (RULE 30).

01. General. The Board may in its discretion initiate the process to sell or rent water rights from the Board's water supply bank to achieve the purposes stated in Rule 1. The Board may from time to time, as water rights are available, authorize the Director to announce the availability of the rights from the Board's water supply bank, establishing a time and date for receiving applications in the office of the Director to purchase or rent the water rights. An application shall be on a form or in a format provided by the Director. The sale or rental price shall be the price, if any, as determined by the Board. The Director will evaluate applications with respect to the purposes of Rule 1, as to whether there will be injury to other water rights, whether the proposal would constitute an enlargement of the water right, whether the water will be put to a beneficial use, whether the water supply available from applicable rights in the Board's water supply bank is sufficient for the use intended, and whether the proposal is in the local public interest. For applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code, the Director will only make an evaluation as to whether the proposed use of water will cause injury to other water rights. The Director may defer the evaluation of potential injury to other water rights conditioned upon the right of any affected water right holder to petition the Director pursuant to Section 42-1766, Idaho Code, to revoke or modify the rental approval upon a showing of injury. (7-1-93)

02. Notice. The Director may give notice of an intended rental as he deems necessary, provided that prior to approving any application for purchase, or for rental for a period of more than five (5) years, he shall give notice as required in Section 42-222(1), Idaho Code. (7-1-93)

03. Approval. Sale or rental shall be approved only for use of water within the state of Idaho. The Director shall consider in determining whether to approve a rental of water for use outside of the state of Idaho those factors enumerated in Section 42-401(3), Idaho Code, except that this evaluation shall not be required for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code. (7-1-93)

04. Consideration. All applications received on or prior to the announced date for receiving applications shall be considered as having been received at the same time. Applications received after the close of the application date may be considered only if sufficient available water remains in the Board's water supply bank after all acceptable, timely applications have been filed. (7-1-93)

05. Authorized to Rent. The Director is authorized to rent water rights offered by the Board from the Board's water supply bank for a period up to five (5) years, but shall submit applications for purchase, or rental for a period of more than five (5) years to the Board for action. The Director will advise the Board on applications which require Board approval under Rule Subsection 025.06 whether he can approve the application in whole or in part or with conditions to comply with Section 42-1763, Idaho Code. (7-1-93)

06. Board Review. The Board will review applications for purchase or which propose the rental of water rights for a duration of more than five (5) years, and may approve, approve with conditions or may reject the applications as the Board determines to best meet the purposes of Rule 1 and promote the interest of the people of the state of Idaho. (7-1-93)

07. Order of Consideration. When renting water from the bank, the Director and the Board shall consider rental of water rights in the order the rights were leased to the bank, with first consideration for the rights which have continuously been in the bank the longest period of time provided the rights are suitable for the purpose of the renter. (7-1-93)

031. -- 034. (RESERVED)

035. HANDLING OF MONEY ASSOCIATED WITH THE BOARD'S WATER SUPPLY BANK (RULE 35).

Payments received by the Department from the sale or rental of water rights from the Board's water supply bank shall be handled as follows: (7-1-93)

01. Credited Amount. Ten percent (10%) of the gross amount received from the sale or rental of a water right from the Board's water supply bank and the entire lease application fee received pursuant to Rule 025 shall be credited to the Water Administration Account created by Section 42-238a, Idaho Code, or to the federal grant fund if the payment is received from a federal agency, for administrative costs of operating the Water Supply Bank. The ten percent (10%) charge described herein shall not apply to stored water rented from the rental pools described in Rule 040. (4-7-11)

02. Excess Funds. Any funds in excess of the amount needed to compensate the owner of the water right in accordance with the resolution accepting the water right into the Board's water supply bank and the administrative charge of Rule Subsection 035.01 shall be credited to the Water Management Account created by Section 42-1760, Idaho Code, for use by the Board for the purposes of Rule 1. (7-1-93)

036. -- 039. (RESERVED)

040. APPOINTMENT OF LOCAL RENTAL POOL COMMITTEES (RULE 40).

01. Board Meetings for Committee Appointments. The Board may at any regular or special meeting to consider appointing an entity to serve as a local committee to facilitate the lease and rental of stored water. At least ten (10) days prior to the meeting, the entity seeking appointment shall provide to the Director information concerning the organization of the entity, a listing of its officers, a copy of its bylaws and procedures, if applicable, a copy of the proposed local committee procedures, pursuant to which the local committee would facilitate the lease and rental of stored water, together with a copy of each general lease and rental form proposed to be used by the local committee. The local committee procedures must be approved by the Board and must provide for the following: (7-1-93)

a. Determination of priority among competing applicants to lease stored water to the rental pool and to rent stored water from the rental pool; (7-1-93)

b. Determination of the reimbursement schedule for those leasing stored water into the rental pool; (7-1-93)

c. Determination of the rental price charge to those renting stored water from the rental pool; (7-1-93)

d. Determination of the administrative charge to be assessed by the local committee; (7-1-93)

e. Allocation of stored water leased to the bank but not rented; (7-1-93)

f. Notification of the Department and the watermaster of any rentals where stored water will be moved from the place of use authorized by the permit, license, or decree establishing the stored water right; (7-1-93)

g. Submittal of applications to rent water from the rental pool for more than five (5) years to the Board for review and approval as a condition of approval by the local committee; (7-1-93)

h. Prevention of injury to other water rights; (7-1-93)

i. Protection of the local public interest, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code; (7-1-93)

j. Consistency with the conservation of water resources within the state of Idaho, except for applications submitted pursuant to the interim authority provided by Section 42-1763A, Idaho Code; (7-1-93)

k. Management of rental pool funds as public funds pursuant to the Public Depository Law, Chapter 1, Title 57, Idaho Code. (7-1-93)

02. Local Committee Procedures. The local committee procedures shall provide that a surcharge of ten percent (10%) of the rental fee charged per acre foot of stored water rented from the rental pool shall be assessed and credited to the revolving development account and the water management account established in Sections 42-1752 and 42-1760, Idaho Code, in such proportion as the Board in its discretion shall determine. Such moneys, together with moneys accruing to or earned thereon, shall be set aside, and made available until expended, to be used by the Board for the purposes of Rule 1 unless the surcharge is prohibited by statute, compact or inter-governmental agreement. (7-1-93)

03. Review by Director. The Director will review the local committee procedures and submit them along with the Director's recommendation to the Board. The lease and rental form must receive the Director's approval. The Board may designate the applying entity as the local committee for a period not to exceed five (5) years. A Certificate of Appointment will be issued by the Board. The Board may extend the appointment for additional periods up to five (5) years, upon written request of the local committee. The Board may revoke a designation upon request of the local committee, or after a hearing pursuant to the promulgated Rules of Practice and Procedure of the Board, if the Board determines that the local committee is no longer serving a necessary purpose or is not abiding by its own approved procedures, these rules or applicable statutes. (7-1-93)

04. Annual Report. The local committee shall report annually on the activity of the rental pool on forms provided by the Board. (7-1-93)

05. Submission of Amendments to Procedures to Board. Amendments to the approved procedures of an appointed local committee which change the amount charged for the rental of stored water shall be submitted to the Board by April 1st of any year. The amendment will be considered approved by the Board unless specifically disapproved at the first regular Board meeting following the amendment action of the local committee. The Board may, upon good cause being determined by the Board, specifically approve of amendments submitted after April 1 of any year. (3-20-04)

041. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
These rules are adopted under the legal authorities of Section 42-1414, and 42-1805(8), Idaho Code. (5-8-09)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 37.03.01, "Adjudication Rules." (5-8-09)

02. Scope. These rules implement statutes governing the filing of notices of claims to water rights acquired under state law and the collection of fees for filing notices of claims to water rights acquired under state law in general adjudications, as provided in Sections 41-1409, 42-1414 and 42-1415, Idaho Code. (5-8-09)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Amendment Fee. The additional fee payable at the time of filing an amendment to a claim, as provided in Section 42-1414(2), Idaho Code. (5-8-09)

02. Aquaculture. The use of water for propagation of fish, shell fish, and any other animal or plant product naturally occurring in an underwater environment. (7-1-93)

03. Aquaculture Fee. The variable fee payable for aquaculture use, as provided in Section 42-1414(1)(b)(iii), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar. (5-8-09)

04. Claim. A notice of claim to a water right acquired under state law, as provided in Section 42-1409(4), Idaho Code. (5-8-09)

05. Department. The Idaho Department of Water Resources. (7-1-93)

06. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

07. Domestic Use. Domestic use as defined in Section 42-1401A(4), Idaho Code. (5-8-09)

08. Flat Fee. The per claim fee for filing claims, as provided in Section 42-1414(1)(a), Idaho Code. (5-8-09)

09. Late Fee. The additional fee payable for the filing of late claims, as provided in Section 42-1414(3), Idaho Code. (5-8-09)

10. Per Acre Fee. The variable fee for irrigation use, as provided in Section 42-1414(1)(b)(i), Idaho Code, which shall be calculated for each acre and fraction thereof rounded to the next whole acre. (5-8-09)

11. Per Cfs Fee. The variable fee payable for other uses, as provided in Section 42-1414(1)(b)(iii), (iv) and (v), Idaho Code, which shall be calculated for each cfs and fraction thereof to the nearest dollar. (5-8-09)

12. Per Kilowatt Fee. The variable fee payable for power generation use, as provided in Section 42-1414(1)(b)(ii), Idaho Code, which shall be calculated for each kilowatt and fraction thereof. (5-8-09)

13. State Law Claim Form. The department's form entitled "Notice of Claim to a Water Right Acquired Under State Law as provided in Section 42-1409(4), Idaho Code. (5-8-09)

14. Stock Watering Use. Stock watering use as defined in Section 42-1401A(11), Idaho Code. (5-8-09)

15. Total Fee. The fee payable for filing a claim, which consists of the flat fee plus any applicable variable fee and late fee. (5-8-09)

16. Variable Fee. The fee payable for filing claims in addition to the flat fee, as provided in Section 42-1414(1)(b), Idaho Code. (5-8-09)

17. Water Delivery System. All structures and equipment used for diversion, storage, transportation, and use of water from the water source to and including each place of use. (7-1-93)

18. Water Delivery Organization. An irrigation district, a water utility, a municipality, or any similar claimant of a water right who diverts water pursuant to the water right claimed and delivers the water to others who make beneficial use of the water diverted by the water delivery organization pursuant to the water right claimed by the water delivery organization. (7-1-93)

011. ABBREVIATIONS.

01. AF. An acre foot (feet). (5-8-09)

02. CFS. Cubic foot (feet) per second. (5-8-09)

03. NA. Not applicable. (5-8-09)

04. PIN. Parcel identification number. (5-8-09)

012. -- 024. (RESERVED)

025. GENERAL.

01. Requirement to Pay. All persons filing claims to water rights acquired under state law or amendments to claims to water rights acquired under state law shall be required to pay filing fees as set forth by statute and these rules. (7-1-93)

02. Method of Payment. Fees shall be paid in legal tender of the United States; or by money order, certified check, cashier's check, personal check, or by electronic payment on-line payable to the department in legal tender of the United States. Two-party checks will not be accepted. (5-8-09)

03. Personal Check. If a personal check in payment of a flat fee, a variable fee, or a late fee, is returned unpaid to the department or the debit or credit card payment is rejected by the financial institution, the claims covered by the returned check or the rejected debit or credit card will be rejected and returned to the claimant. If a personal check in payment of an amendment fee is returned unpaid to the department or the debit or credit card payment is rejected by the financial institution, the amended claim will be rejected and returned to the claimant, but the original claim will still be in effect. (5-8-09)

04. Time of Payment. Flat fees and variable fees shall be payable to the department at the time of filing a claim. Amendment fees shall be payable to the department at the time of filing the amended claim. Late fees shall be payable at the time of filing the late claim. (5-8-09)

05. Government Voucher. Fees payable by government agencies (other than agencies of foreign governments) may be paid when due by government voucher. If full payment of the voucher is not received within forty-five (45) days of the date the voucher is received, the unpaid voucher will be treated as a returned check as provided in Subsection 025.03. (5-8-09)

06. Rejection of Claim. Claims submitted without the correct filing fee shall be rejected and returned to the claimant. (5-8-09)

07. Fire-Fighting. A claim is not required to be filed for water used solely to extinguish an existing fire on private or public lands, structures, or equipment, or to prevent an existing fire from spreading to private or public lands, structures, or equipment endangered by an existing fire pursuant to Section 42-201(3), Idaho Code. A claim is required for the use of water for domestic purposes in regularly maintained firefighting stations and for the storage of water for fighting future fires. (5-8-09)

026. -- 029. (RESERVED)

030. FLAT FEES.

01. Small Domestic and Stock Water. A flat fee of twenty-five dollars ($25) shall be payable for each claim for domestic use and/or stock watering use meeting the definition of domestic use and/or stock watering use in Rule 010. (5-8-09)

02. Other Claims. A flat fee of fifty dollars ($50) shall be payable for each claim that does not meet the criteria of Subsection 030.01. (5-8-09)

031. -- 034. (RESERVED)

035. VARIABLE FEES.

01. General. For each claim not meeting the criteria of Subsection 030.01, there may be a variable fee in addition to the flat fee. (5-8-09)

02. Per Acre Fee. (7-1-93)

a. A fee of one dollar ($1.00) per acre shall be required for claims for irrigation use. (5-8-09)

b. The per acre fee shall only be charged once against a particular acre, regardless of the number of claims filed for the irrigation of that acre or the number of claimants filing claims for the irrigation of that acre. (7-1-93)

c. The per acre fee shall be payable by the first person to file a claim for the irrigation of a particular acre. (7-1-93)

d. The per acre fee for an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or irrigation districts organized and existing as such under the laws of the state of Idaho, or for beneficial use by more than five (5) water users in an area of less than twenty-five thousand (25,000) acres shall be determined based upon the acreage claimed to be irrigated by the project or irrigation district within the boundaries of the project or irrigation district. (5-8-09)

03. Per Kilowatt Fee. (7-1-93)

a. A per kilowatt of capacity (manufacturer's nameplate rating) fee of three dollars and fifty cents ($3.50) per kilowatt, or two hundred fifty thousand dollars ($250,000.00), whichever is less, shall be required for claims for power use. (5-8-09)

b. The per kilowatt fee shall be determined based upon the total generating capacity of all generators in which the water right claimed is used. (7-1-93)

c. The total per kilowatt fee for all claims filed for a single hydropower facility shall not exceed the per kilowatt fee for the total generating capacity of all generators in the hydropower facility. (7-1-93)

04. Per CFS Fee. (7-1-93)

a. A fee of ten dollars ($10) per cfs for aquaculture shall be required. A fee of one hundred dollars ($100) per cfs for all other uses shall be required except for irrigation, power, and domestic and stock watering uses meeting the definition of domestic and stock watering use in Section 010. (5-8-09)

b. For a claim to water for more than one (1) public purpose, the per cfs fee shall only be charged once per cfs claimed. Public purposes shall include public in-stream flows, lake level maintenance, wildlife, aesthetic beauty, and recreation. (5-8-09)

c. If there is a seasonal variation in the number of cfs claimed, the per cfs fee shall be based upon the maximum number of cfs claimed for any period during a single calendar year. (7-1-93)

d. The per cfs fee shall apply to claims for water quality improvement, recreation, aesthetic purposes, and any other purpose not expressly listed at Section 42-1414(1), Idaho Code, except as otherwise provided by these rules. (5-8-09)

05. Claims Including Storage. (7-1-93)

a. The variable fee for a claim that includes storage shall be based upon the ultimate use of the water stored. If the claim states purposes other than diversion to storage, storage, and diversion from storage, the total variable fee will be determined as provided in Subsection 035.06. (5-8-09)

b. No variable fee shall be payable for water claimed for ground water recharge purposes. (5-8-09)

c. For purposes of determining the per cfs fee for amounts of water claimed in af, one (1) cfs equals one and ninety-eight one-hundreths (1.98) af per day of diversion to storage. (7-1-93)

d. No variable fee shall be payable for minimum by-pass flows. (7-1-93)

06. Multiple Purpose Claims. If a claimant claims more than one (1) purpose of use on a single claim, the variable fee will be the total of the variable fees payable for each purpose of use. (7-1-93)

07. Exceptions. No variable fee shall be payable for claims or portions of claims for fire-fighting purposes if a claim is required under Subsection 025.07 or for domestic use and/or stock watering use meeting the definitions of domestic use and stock watering use in Section 010. (7-1-93)

036. -- 044. (RESERVED)

045. AMENDMENT FEES.
When a claimant files an amendment to a claim, the total fee shall be recalculated as if the amended claim were the original claim. If the total fee as recalculated is greater than the total fee paid at the time the claim was filed, the amendment fee shall be the difference between the two (2) amounts. No refund shall be made if the total fee as recalculated is less than the total fee paid at the time the claim was filed. (5-8-09)

046. -- 049. (RESERVED)

050. LATE FEES.

01. Late Fee Payable. A late fee shall be payable when a claim is filed after the date set forth in the first commencement notice mailed to the claimant or the claimant's predecessor in interest pursuant to Sections 42-1414(3), Idaho Code. (5-8-09)

02. Waiver. The late fee may be waived by the director for good cause shown. (7-1-93)

051. -- 054. (RESERVED)

055. REFUNDS.
Fees shall not be refunded or returned except where the fee was miscalculated at the time the claim was filed or as expressly provided in these rules. (7-1-93)

056. -- 059. (RESERVED)

060. SUFFICIENCY OF CLAIMS.

01. Single Claim. Except for claims based on both state law and federal law, a single claim may describe only one (1) water right. A claim that describes more than one (1) water right will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (5-8-09)

02. State Law Claim Form -- Minimum Requirements. Claims filed on the state law claim form shall contain the following information: (5-8-09)

a. Name, Address and Phone Number of Claimant. The name, address, and phone number of the claimant and all co-claimants claiming the water right jointly with the claimant shall be listed at item one (1) of the form. (7-1-93)

b. Date of Priority. The date of priority shall be listed at item two (2) of the form, and shall include month, day and year. Only one (1) priority may be stated unless the claim is based upon both state and federal law as provided in Subsection 060.01. If more than one (1) priority date is stated, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (5-8-09)

i. Within thirty (30) days, unless an extension by the director or his designee is approved, the claimant shall provide evidence of the priority date to support the water right claimed. If the claimant fails to provide evidence of priority, the form may be rejected and returned with no refund of the fees paid. (5-8-09)

c. Source of Water Supply. The source of water supply shall be stated at item three (3) of the form. (7-1-93)

i. For surface water sources, the source of water shall be identified by the official name listed on the U.S. Geological Survey Quadrangle map. If no official name has been given, the name in local common usage should be listed. If there is no official or common name, the source should be described as "unnamed stream" or "spring." The first named downstream water source to which the source is tributary shall also be listed. For ground water sources, the source shall be listed as "ground water." (7-1-93)

ii. Only one (1) source shall be listed unless the claim is for a single water delivery system that has more than one (1) source, or the claim is for a single licensed or decreed right that covers more than one (1) water delivery system. If more than one (1) source is listed and the claim is not for a single water delivery system that has more than one (1) source, and the claim is not for a single licensed or decreed water right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)

d. Location of Point of Diversion. For claims other than in-stream flows, the location of the point(s) of diversion shall be listed at item four (4) part (a) of the form. For claims to in-stream flows, the beginning and ending points of the claimed in-stream flow shall be listed at item four (4) part (b) of the form. (5-8-09)

i. The location of the point of diversion shall be described to nearest forty (40) acre tract (quarter-quarter section) or government lot number, and shall include township number (including north or south designations), range number (including east or west designations), section number, and county. (5-8-09)

ii. The claimant shall also list the Parcel Number or Parcel Identification Number (PIN) as assigned by the county assessor's office for the parcel where the water is diverted unless no Parcel Number or PIN is recorded for the property at the point of diversion. (5-8-09)

iii. If the point of diversion is located in a platted subdivision, a plat of which has been recorded in the county recorder's office for the county in which the subdivision is located, the claimant shall also list the subdivision name, block number and lot number in item thirteen (13) of the form (remarks section). (5-8-09)

iv. A claim to a water right that includes storage shall state the point at which water is impounded (applicable only to on-stream reservoirs) or the point at which water is diverted to storage (applicable only to off-stream reservoirs), the point at which water is released from storage into a natural stream channel (applicable only where a natural stream channel is used to convey stored water), and the point at which water is rediverted (applicable only where a natural channel is used to convey stored water). (5-8-09)

v. Only one (1) point of diversion shall be listed unless the claim is for a single water delivery system that has more than one (1) point of diversion, or the claim is for a single licensed or decreed water right that covers more than one (1) water delivery system. If more than one (1) point of diversion is listed and the claim is not for a

single water delivery system that has more than one (1) point of diversion, and the claim is not for a single licensed or decreed water right that covers more than one (1) water delivery system, the claim will be rejected and returned along with any fees paid, and must be refiled as multiple claims. (7-1-93)

e. Description of Diversion Works. The diversion works shall be described at item five (5) of the form. (7-1-93)

i. The description shall include all major components of the water delivery system, such as dams, reservoirs, ditches, pipelines, pumps, wells, headgates, etc. The description shall also include those dimensions of major components which affect the diversion capacity of the water delivery system. The description shall also state whether the ditches are lined and/or covered, the depth of wells, the horsepower capacity of pumps, and whether headgates are automatic or equipped with locks and/or measuring devices. (7-1-93)

ii. The description shall include the dates and a description of any changes in use (including change in point of diversion, place of use, purpose of use, and period of use) or enlargements in use (including an increase in the amount of water diverted, the number of acres irrigated, or additional uses of water), and as to those dimensions required to be described above, the dimensions as originally constructed and as enlarged. (7-1-93)

iii. Water delivery organizations shall describe the water delivery system up to and including the point where responsibility for water distribution is assumed by entities other than the water delivery organization. (7-1-93)

f. Purpose of Use and Period of Use. Each purpose for which water is claimed, the period of use for each purpose for which water is claimed, and the amount of water claimed for each purpose for which water is claimed shall be listed at item six (6) of the form. Period of use shall include the month and day of the first and last day of use. For example, the period of use for domestic use is often January 1st through December 31st. (5-8-09)

i. The purpose may be described in general terms such as irrigation, industrial, municipal, mining, power generation, fish propagation, domestic, stock watering, etc. (7-1-93)

ii. A claim to a water right that includes storage shall be broken down into component purposes with the ultimate use(s) of the stored water indicated. The component purposes of a storage right are diversion to storage (not applicable to on-stream reservoirs), storage, and diversion from storage (not applicable where the ultimate use is an in-reservoir public purpose). Detention of water in a holding pond that can be filled in less than twenty-four (24) hours at the claimed diversion rate is not required to be claimed as storage. The amount of water claimed shall be limited to the active storage capacity of the reservoir unless a past practice of refilling the reservoir during the water year (October 1 to September 30) is shown or the claim is for a licensed or decreed right that includes refill. If a past practice of refilling the reservoir is shown or if the claim is for a licensed or decreed right that includes refill, the total amount of water claimed for the calendar year and the entire period during which diversion to storage or impoundment occurs shall be indicated. (5-8-09)

iii. The amount of water claimed for each purpose for which water is claimed shall not exceed the amount of water beneficially used for the purpose claimed, and the period of use for each purpose claimed shall not exceed the period in which water is beneficially used for the purpose claimed. (7-1-93)

iv. The amount of water diverted shall be listed in cfs, and the amount of water stored shall be listed in af per annum. (7-1-93)

g. Amount of Water Claimed. The total amount of water claimed shall be listed at item seven (7) of the form. The total amount of water claimed shall not exceed the total of the amounts listed at item six (6) of the form, or the total diversion capacity of the diversion system, whichever is less. (7-1-93)

h. Description of Non-Irrigation Uses. Non-irrigation uses shall be fully described at item eight (8) of the form. For domestic uses, the number of households served shall be described; for stock watering uses, the type of stock and number of each type of stock shall be described. (5-8-09)

i. If the claimant's domestic use does not meet the definition of domestic use in Subsection 010.07, the form will be rejected and returned unless the appropriate variable fee is paid. (5-8-09)

ii. The claimant shall also state whether the stock watering use is in-stream, or whether water is diverted from the source for stock watering. Both types of stock watering cannot be filed on the same claim form; each type requires a separate claim. (5-8-09)

iii. Domestic use for organization camps and public campgrounds shall be fully described, including but not limited to the number of camp units, water faucets, flush toilets, showers, and sewer connections. Description of domestic use for organization camps and public campgrounds shall also include the average and peak number of individuals using the facility, and the periods when peak or average rates of usage occur. (5-8-09)

i. Place of Use. The place of use for each purpose for which water is claimed shall be listed at item nine (9) of the form, except that the place of use for in-stream flows for public purposes need not be listed if the place of use is fully described as the stream between the beginning and ending points listed as the points of diversion. (5-8-09)

i. Except claims for irrigation projects and irrigation districts meeting the criteria described in Subsection 060.i.ii. below, the number of acres irrigated shall be described by entering the appropriate numbers in the appropriate boxes for each forty (40) acre tract or government lot on the form. For other uses, a symbol or letter corresponding to the purpose for which water is claimed shall be placed in the appropriate box for each forty (40) acre tract or government lot on the form. (5-8-09)

ii. Claims for an irrigation project where the canals constructed cover an area of twenty-five thousand (25,000) acres or more, or irrigation districts organized and existing as such under the laws of the state of Idaho, or for beneficial use by more than five (5) water users in an area of less than twenty-five thousand (25,000) acres shall be accompanied by a map showing the boundaries of the project or irrigation district, and shall state the total number of acres irrigated within the boundaries of the project or irrigations district. The project or district shall submit a map of the boundary of the place of use and, when available, a digital boundary defined in Section 42-202(B)(2), Idaho Code. (5-8-09)

iii. The claimant shall also list the Parcel Number or Parcel Identification Number (PIN) as assigned by the county assessor's office for the parcel where the water is used unless no Parcel Number or PIN is recorded for the property at the place of use or the PIN is the same as the PIN shown in item four (4) for the point of diversion. (5-8-09)

j. County of Place of Use. The county(ies) in which the place(s) of use is (are) located shall be listed at item ten (10) of the form. (5-8-09)

k. Authority to Assert Claim. The claimant shall indicate at item eleven (11) of the form whether the claimant is the owner of the place(s) of use. If the claimant is not the owner of the place(s) of use, the claimant shall describe in the remarks section of the form the claimant's authority to assert the claim. Unless the claimant is a water delivery organization, the claimant shall also state the name, address, and phone number of the owner(s) of the place of use in item thirteen (13) (remarks section) of the form. (5-8-09)

l. Other Water Rights. The claimant shall describe at item twelve (12) of the form any other water rights used at the same place and for the same purpose as the right claimed. If there are no other water rights used at the same place and for the same purpose as the right claimed, the claimant shall state "NA" or "none." (5-8-09)

m. Remarks. At item thirteen (13) of the form, the claimant may submit any additional, relevant information not specifically requested. If the space provided is not sufficient, remarks shall be set forth on a separate piece of paper and attached to the form. All separate attachments must be specifically referenced in the remarks section of the form. (5-8-09)

n. Maps. An aerial photograph or USGS quadrangle map shall be included with the claim, unless the claim meets the definition of domestic use and stock watering use as defined in Section 010 or unless the claim is submitted electronically through the department's online claim filing website. The point(s) of diversion, place(s) of use, and the water delivery system shall be identified on the aerial photograph or USGS quadrangle map. (5-8-09)

o. Basis of Claim. The basis of the claim shall be indicated at item fourteen (14) of the form. If a water right number has been assigned by the department to the right claimed, the water right number shall also be indicated. If a water right number has not been assigned and the water right is based upon a decree, the claimant shall list the title and date of the decree, the case number, and the court that issued the decree. If the basis of claim is a beneficial use (also known as the constitutional method of appropriation), the claimant shall provide a short description of events or history of the development of the water right. (5-8-09)

p. Signature. Each claim must be signed by the claimant at item fifteen (15) of the form, unless the claim is submitted electronically through the department's online claim filing website. Each claimant, through submission of a signed claim or through submission of a claim by means of the department's online claim filing website, solemnly swears or affirms under penalty of perjury that the statements contained in the notice of claim are true and correct. (5-8-09)

i. For claims submitted through the department's online claim filing website, the form shall be submitted by a person listed as the claimant at item one (1) of the form unless the person submitting the form has authority to submit the form for the claimant or claimants. Claims by corporations, municipalities or other organizations shall be submitted by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to submit the form. (5-8-09)

ii. For claims that are not submitted by means of the internet, the form must be signed by each of the persons listed as claimants at item one (1) of the form unless the signatory has authority to sign for the claimant or claimants. Claims by corporations, municipalities or other organizations shall be signed by an officer of the corporation or an elected official of the municipality or an individual authorized by the organization to sign the form. The signatory's title shall be indicated with the signature. (5-8-09)

q. Notice of Appearance. If notices to be sent by the director to the claimant are to be sent to the claimant's attorney, the claimant's attorney shall list the attorney's name and address and sign and date the form at item sixteen (16) of the form. (5-8-09)

03. State Law Claim Form -- Insufficient Claims, Waivers. (5-8-09)

a. Claims filed on the state law claim form that do not contain the information required by Subsection 060.02 shall be rejected and returned along with any fees paid, unless otherwise provided by these rules. (5-8-09)

b. The director may waive the minimum information requirements of Subsection 060.02 and accept the claim for good cause shown. (5-8-09)

04. Further Information. This Rule 060 sets forth minimum requirements for the filing of claims. The director may request further information in support of the assertions contained in a claim as part of the investigation of the water system and the claims pursuant to Section 42-1410, Idaho Code. (7-1-93)

061. -- 064. (RESERVED)

065. REJECTED AND RETURNED CLAIMS.

01. Rejected Claims. Rejected claims shall be returned to the claimant by ordinary mail at the most recent address shown by department records. The rejected claim shall be accompanied by a notice of rejection that states generally the reason(s) for rejection. (7-1-93)

02. Refiled Claims. Claims that have been rejected and returned to the claimant may be refiled with the appropriate fees and appropriate information at any time prior to the deadline for filing the original claim. Claims refiled after the deadline for filing the original claim will be subject to the late fee, unless the claim is refiled within thirty (30) days from the date of mailing the rejected claim by the department. (7-1-93)

066. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
The director of the Department of Water Resources adopts these rules under the authority provided by Section 42-1805(8), Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
Sections 42-217 and 42-221, Idaho Code, requires a license examination fee be submitted together with the written proof of beneficial use or that a field examination report prepared by a certified water right examiner be submitted together with the written proof of beneficial use. The statutes also provided that field examinations could be conducted by certified water right examiners appointed by the director. (7-1-93)

01. Examination Requirements. The examination requirements listed are intended as a guide to establish acceptable standards to determine the extent of application of water to beneficial use. The requirements are not intended to restrict the application of other sound examination principles by water right examiners. The director will evaluate any deviation from the standards hereinafter stated as they pertain to the review of any given examination. Water right examiners are encouraged to submit new ideas which will advance the art and provide for the public benefit. (7-1-93)

02. Rules. These rules shall not be construed to deprive or limit the director of the Department of Water Resources of any exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount or character of data, or information which may be required by the director from any owner of a water right permit or authorized representative for the proper administration of the law. (7-1-93)

002. -- 008. (RESERVED)

009. APPLICABILITY (RULE 9).

01. Proof of Beneficial Use. These rules apply to all permits for which proof of beneficial use is not yet due and has not been submitted to the department. (3-29-12)

02. Examination. These rules apply to all permits for which an examination has not been conducted. (3-29-12)

03. Re-Examination. These rules apply to all permits that have been examined but the license has not been issued due to a request for a re-examination by the permit holder. (3-29-12)

04. Examination Fee. The examination fee requirements of these rules do not apply to a permit for single family domestic use, stockwatering, or other small uses for which the use does not exceed four one-hundredths (0.04) cfs or four (4) AF/year. The examination fee is required for multiple use permits which exceed four one-hundredths (0.04) cfs or four (4) AF/year even though single family domestic use or stockwater use is included as one (1) of the uses on the permit. (3-29-12)

010. DEFINITIONS (RULE 10).
Unless the context otherwise requires, the following definitions govern these rules. (7-1-93)

01. Acre-Foot (AF). A volume of water sufficient to cover one (1) acre of land one (1) foot deep and is equal to forty-three thousand, five hundred sixty (43,560) cubic feet. (7-1-93)

02. Acre-Foot/Annum. An annual volume of water that may be diverted under a given use or right. (7-1-93)

03. Amendment. A change in point of diversion, place, period or nature of use or other substantial change in the method of diversion or use of a permitted water right. (7-1-93)

04. Capacity Measurement. The maximum volume of water impounded in the case of reservoirs or the maximum rate of diversion from the source as determined by actual measurement of the system during normal operation. (7-1-93)

05. Certified Water Right Examiner. A professional engineer or professional geologist, qualified and registered in the state of Idaho who has the knowledge and experience necessary to satisfactorily complete water right field examinations as determined by the Director, and who has been appointed by the Director, Idaho Department of Water Resources as a certified water right examiner. A certified water right examiner is commonly termed a field

examiner, water right examiner or examiner. A certified water right examiner is an impartial investigator and reporter of the information required by the Director to determine the extent of beneficial use established in compliance with a permit. Department employees are authorized to conduct water right examinations at the discretion of the Director. (3-29-12)

06. Conveyance Works. The ditches, pipes, conduits or other means by which water is carried or moved from the point of diversion to the place of use. Storage works, if any, such as a dam can be considered part of the conveyance works. (7-1-93)

07. Cubic Foot Per Second (CFS). A rate of flow approximately equal to four hundred forty-eight and eight tenths (448.8) gallons per minute and also equals fifty (50) miner's inches. (7-1-93)

08. Department. The Idaho Department of Water Resources. (7-1-93)

09. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

10. Duty of Water. The quantity of water necessary when economically conducted and applied to land without unnecessary loss as will result in the successful growing of crops. (7-1-93)

11. Examination or Field Examination. An on-site inspection or investigation to determine the extent of application of water to beneficial use and to determine compliance with terms and conditions of the water right permit. (3-29-12)

12. Field Report. The form provided by the Department upon which the examiner records the data gathered and describes the extent of diversion of water and application to beneficial use. The report is fully termed beneficial use field report and is also termed a field examination report. (7-1-93)

13. Headworks or Diversion Works. The constructed barriers or devices on the source of water (surface water or ground water) by which water can be diverted from its natural course of flow and/or measured. (7-1-93)

14. License. The certificate issued by the Director in accordance with Section 42-219, Idaho Code confirming the extent of diversion and beneficial use of the water that has been made in conformance with the permit conditions. (7-1-93)

15. License Examination Fee. The fee required in Section 42-221K, Idaho Code, and is also termed an examination fee. (7-1-93)

16. Legal Subdivision. A tract of land described by the government land survey and usually is described by government lot or quarter-quarter, section, township and range. A lot and block of a subdivision plat recorded with the county recorder may be used in addition to the government lot, quarter-quarter, section, township and range description. (7-1-93)

17. Measuring Device. A generally accepted structure or apparatus used to determine a rate of flow or volume of water. Examples are weirs, meters, and flumes. Less typical devices may be accepted by the Director on a case-by-case basis. (7-1-93)

18. Nature of Use. The characteristic use for which water is applied. Examples are domestic, irrigation, mining, industrial, fish propagation, power generation, municipal, etc. (7-1-93)

19. Period of Use. The time period during which water under a given right can be beneficially used. (7-1-93)

20. Permit Holder or Owner. The person, association, or corporation to whom a permit has been issued or assigned as shown by the records of the Department. (7-1-93)

21. Permit or Water Right Permit. The water right document issued by the Director authorizing the

diversion and use of unappropriated public water of the state or water held in trust by the state. (7-1-93)

22. Place of Use (P.U. or POU). The location where the beneficial use is made of the diverted water. (3-29-12)

23. Point of Diversion (P.D. or POD). The location on the public source of water from which water is diverted. Examples are pump intake, headgate, well locations, and dam locations. (3-29-12)

24. Project Works. A general term which includes diversion works, conveyance works, and any devices which may be used to measure the water or to apply the water to the intended use. Improvements which have been made as a result of application of water, such as land preparation for cultivation, are not a part of the project works. (7-1-93)

25. Proof of Beneficial Use. The submittal required in Section 42-217, Idaho Code. This submittal is commonly termed proof. (7-1-93)

26. Source. The name of the natural water body at the point of diversion. Examples are Snake River, Smith Creek, ground water, spring, etc. (3-29-12)

011. ABBREVIATIONS.

01. AF. Acre-Foot or Acre-Feet. (3-29-12)

02. CFS. Cubic Foot Per Second. (3-29-12)

03. P.D. or POD. Point of Diversion. (3-29-12)

04. P.U. or POU. Place of Use. (3-29-12)

05. USGS. United States Geological Survey. (3-29-12)

012. -- 024. (RESERVED)

025. AUTHORITY OF REPRESENTATIVE (RULE 25).

01. Proof of Beneficial Use. When the proof of beneficial use, field report, and drawings are filed by the water right examiner on behalf of an owner, written evidence of authority to represent the owner shall be filed with the proof, field report, and drawings. (7-1-93)

02. Responsibility. It is the responsibility of the permit holder or authorized representative to submit proof of beneficial use and provide for the timely submission of a completed field report by the due date in acceptable form to the director by either paying the required examination fee to the department or by employing a certified water right examiner. (7-1-93)

026. -- 029. (RESERVED)

030. QUALIFICATION, EXAMINATION AND APPOINTMENT OF CERTIFIED WATER RIGHT EXAMINER (RULE 30).

01. Consideration. Any professional engineer or geologist qualified and registered in the state of Idaho who has the knowledge and experience necessary to satisfactorily complete water right field examinations as determined by the Director shall be considered for appointment as a water right examiner upon application to the Director. The application shall be in the form prescribed by the Director and shall be accompanied by a non-refundable fee in the amount provided by statute. (7-1-93)

02. Information. The Director may require an applicant for appointment to the position of water right examiner to provide detailed information of past experience, provide references, and to satisfactorily complete a

written or oral examination. (7-1-93)

03. Denial. If the Director determines an applicant is not qualified, the application will be denied. If the Director determines an applicant is qualified, a certificate of appointment will be issued. (7-1-93)

04. Expiration. Every water right examiner certificate of appointment shall expire March 31 of each year unless renewed by application in the manner prescribed by the Director. A non-refundable fee in the amount provided by statute shall accompany an application for renewal. (7-1-93)

05. Refusal or Revocation. An appointment or renewal may be refused or revoked by the Director at any time upon a showing of reasonable cause. A party aggrieved by an action of the Director may request an administrative hearing pursuant to Section 42-1701A (3), Idaho Code. (7-1-93)

06. Reconsideration. An application for appointment or renewal which has been refused or revoked by the Director may not be reconsidered for six (6) months. (7-1-93)

07. Liability. The state of Idaho shall not be liable for the compensation of any water right examiner other than department employees. The permit holder shall be responsible for costs associated with proof submittal including examination and field report preparation. (7-1-93)

08. Examinations. The Director may authorize sufficiently knowledgeable and experienced department employees to conduct water right examinations during the course and scope of their employment with the department. Upon termination of employment with the department, such examiners, unless reappointed as a non-department certified examiner under provisions of these rules, are not authorized to conduct field examinations. The fee provisions of these rules do not apply to department employees. (3-29-12)

09. Ingress or Egress Authority. Appointment as a water right examiner does not grant ingress or egress authority to non-department examiners and does not convey authority unless explicitly prescribed in these rules. (7-1-93)

10. Reports. The Director will not accept a field examination report prepared by a certified water right examiner or a department employee who has any past or present interest, direct or indirect, in either the water right permit, the land or any enterprise benefiting, or likely to benefit, from the water right. Among those that the Director will presume to have an actual or potential conflict of interest and from whom he will not accept a field examination report are the following: (3-29-12)

a. The person or persons owning the water right permit or the land or enterprise benefiting from the water right permit, members of their families (spouse, parents, grandparents, lineal descendants including those that are adopted, lineal descendants of parents; and spouse of lineal descendants), and their employees. (7-1-93)

b. The person or persons, who sold or installed the diversion works or distribution system. (7-1-93)

11. Money Received. All moneys received by the department under the provisions of these rules shall be deposited in the water administration fund created under Section 42-238a, Idaho Code. (7-1-93)

031. -- 034. (RESERVED)

035. EXAMINATION FOR BENEFICIAL USE (RULE 35).

01. Field Report. (7-1-93)

a. All items of the field report must be completed and must provide sufficient information for the Director to determine the extent of the water right developed in order for the report to be acceptable to the Director. (7-1-93)

b. Permitted uses partially developed by the permit holder shall be described in detail. Permitted uses which were not developed by the permit holder shall be noted. Uses determined to exist which are not authorized by

the permit being examined shall also be described in detail. (3-29-12)

c. A concise description of the diversion works and a general description of the distribution works shall be given. This description must trace the water from the point of diversion to the place of use and the return to a public water source, if any. Any reservoir, diversion dam, headgate, well, canal, flume, pump and other related structure shall be included. If water is stored, the timing and method of storage, release, rediversion and conveyance to the place of use shall be described. The make, capacity, serial number and model number of all pumps, boosters or measuring devices associated with the point of diversion at the source of the water supply shall be described on the field examination report. Schematic diagrams, photographs, and maps sufficient to locate and describe the diversion, conveyance and usage systems shall also be provided in the examination report. (3-29-12)

d. Any interconnection of the water use being examined with other water rights or with other conveyance systems shall be described on the field report. Interconnection includes, but is not limited to, sharing the same point of diversion, distribution system, place of use, or beneficial use. The examination report shall also include an evaluation of how the water use being examined is distinct from prior existing water rights and provides an alternate source of water or increment of beneficial use not authorized by prior existing water rights. (3-29-12)

e. If water is returned to a public water source after use, a legal description of the point where the water is returned and source to which discharge is made shall be provided. Examples of uses which generally have an effluent discharge include fish propagation and power facilities. (7-1-93)

f. The method of compliance with each condition of approval of a permit shall be shown on the field report by the examiner. (7-1-93)

g. If the water is used for irrigation, the boundaries of the irrigated areas and the location of the project works providing water to each shall be platted on the maps submitted with the report and the full or partial acreage in each legal subdivision of forty (40) acres or government lot shall be shown. (3-29-12)

h. Irrigated acreage shall be shown on the field report to the nearest whole acre in a legal subdivision except the acreage shall be shown to the nearest one-tenth (0.10) acre for permits covering land of less than ten (10) acres. (3-29-12)

i. Where a permit has been developed as separate distribution systems from more than one point of diversion, the separate areas irrigated from each point of diversion shall be shown on the maps submitted with the report and the legal subdivisions embracing the irrigated areas for each such respective point of diversion together with the total irrigated area shall be described. (3-29-12)

j. For each use of water the examiner shall report an annual diversion volume based on actual beneficial use during the development period for the permit. The method of determining the annual diversion volume shall be shown. The annual diversion volume shall account for seasonal variations in factors affecting water use, including seasonal variations in water availability. For irrigation, the volume shall be based on the field headgate requirements in the map titled Irrigation Field Headgate Requirement appended to these rules (see Appendix A located at the end of this chapter). Annual diversion volumes for heating and cooling uses may be adjusted to account for documented weather conditions during any single heating or cooling season from among the fifty (50) years immediately prior to submitting proof of beneficial use for the permit. For storage uses that include filling the reservoir and periodically replenishing evaporation and seepage losses throughout the year, the annual diversion volume shall be the sum of the amounts used for filling and for replenishment. Volumes may include reasonable conveyance losses actually incurred by the water user. The following water uses are exempt from the volume reporting requirement: (3-29-12)

i. Diversion to storage. (Volume should be reported for the storage use, such as irrigation storage.) (3-29-12)

ii. Domestic uses as defined in Section 42-111, Idaho Code. (3-29-12)

iii. In-stream watering of livestock. (3-29-12)

iv. Fire protection. (Volume is required for fire protection storage.) (3-29-12)

v. On-stream, run-of-the-river, non-consumptive power generation uses. (3-29-12)

vi. Minimum stream flows established pursuant to Chapter 15, Title 42, Idaho Code. (3-29-12)

vii. Municipal use by an incorporated city or other entity serving users throughout an incorporated city, except the following situations that do require a volume to be reported: (3-29-12)

(1) The permit or amended permit was approved with a volume limitation; or (3-29-12)

(2) The permit was not approved for municipal use but can be amended and licensed for a municipal use established during the authorized development period for the permit. (3-29-12)

viii. Irrigation using natural stream flow diverted from a stream or spring. (Volumes must be reported for irrigation uses from ponds, lakes and ground water and for irrigation storage and irrigation from storage.) (3-29-12)

k. The total number of holding/rearing ponds and the dimensions and volume of the ponds shall be shown on the field report for fish rearing or fish propagation use. The annual volume shall be calculated based on the changes of water per hour. (7-1-93)

l. Information shall be submitted concerning the beneficial use that has been made of the water unless the purpose of use is for irrigation. For example, for stockwater use, the number and type of stock watered shall be provided. Similar indications of the extent of beneficial use shall be provided for all other non-irrigation uses. (7-1-93)

m. The period during each year that the water is used shall be described for each use. (6-30-19)T

n. For permits having more than one (1) use, the diversion rate measured for each use, the annual diversion volume determined for each use (unless specifically exempted by rule or statute), and the place of use for each use shall be described. (3-29-12)

o. The amount (rate and/or volume) of water shall be limited by the smaller of the permitted amount, the amount upon which the license examination fee is paid, the capacity of the diversion works or the amount beneficially used prior to submitting proof of beneficial use, including any statutory limitation of the duty of water. (3-29-12)

p. Suggested amendments shall be noted on the field report when the place of use, point of diversion, period or nature of use is different from the permit. Suggested amendments shall be based on actual use, not on potential use. (3-29-12)

q. An aerial photo marked to depict the point(s) of diversion and place(s) of use for each use must accompany each field report unless waived by the Director. If existing photos are not available, the Director will accept a USGS Quadrangle map at the largest scale available. (3-29-12)

r. Unless required as a condition of permit approval, an on-site examination and direct measurement of the diversion rate are not required for the following water uses if the beneficial use, place of use, season of use, and point of diversion can be confirmed by documentary means such as well driller reports, property tax records, receipts and other records of the permit holder, or photographs, including aerial photographs: (3-29-12)

i. Irrigation up to five (5) acres. (3-29-12)

ii. Storage of up to fourteen point six (14.6) acre-feet of water solely for stock watering purposes. (3-29-12)

iii. Any uses other than irrigation or storage if the total combined diversion rate for all the uses

established in connection with the permit does not exceed twenty-four one hundredths (0.24) cubic feet per second. (3-29-12)

02. Field Report Acceptability. (7-1-93)

a. All field reports shall be prepared by or under the supervision of certified water right examiners or authorized department employees. Reports submitted by certified water right examiners must be properly endorsed with an engineer or geologist seal and signature. Field reports received from certified water right examiners will be accepted if the report includes all the information required to complete the report and provides the information required by Rule Subsection 035.01. (3-29-12)

b. Field reports not completed as required by these rules will be returned to the certified water right examiner for completion. If the date for submitting proof of beneficial use has passed, the penalty provisions of Rule 055 shall apply. (7-1-93)

c. If the Director determines that a field report prepared by a certified water right examiner is acceptable but that additional information is needed to clarify the field report, he will notify the examiner in writing of the information required. If the additional information is not submitted within thirty (30) days or within the time specified in the written notice, the priority date of the permit will be advanced one (1) day for each day the information submittal is late. Failure to submit the required information within one (1) year of the date of the department's request is cause for the Director to take action to cancel the permit. (3-29-12)

d. Field reports which indicate that a measuring device or lockable controlling works, required as a condition of approval of the permit, has not been installed, are not acceptable and will be returned to the examiner unless the measuring device requirement or lockable controlling works requirement has been formally waived or modified by the Director. (3-29-12)

03. General. (7-1-93)

a. For irrigation purposes, the duty of water shall not exceed five (5) acre feet of stored water for each acre of land to be irrigated or more than one (1) cubic foot per second for each fifty (50) acres of land to be irrigated unless it can be shown to the satisfaction of the Director that a greater amount is necessary. (7-1-93)

b. For irrigated acreage of five (5) acres or less, a diversion rate up to three one-hundredths (0.03) cfs per acre may be allowed on the license to be issued by the Director. (3-29-12)

c. Conveyance losses of water from the point of diversion to the place of use which are determined by actual measurement may be allowed by the Director if the loss is determined by the Director to be reasonable. (7-1-93)

d. The duty of water described in Subsections 035.03.a. or 035.03.b. may be exceeded if the department has authorized a greater diversion rate per acre when the permit was issued and good cause acceptable to the Director has been demonstrated. (3-29-12)

e. For irrigation systems which cover twenty-five thousand (25,000) acres or more, within irrigation districts organized and existing under the laws of the state of Idaho, and for irrigation projects developed under a permit held by an association, company, corporation, or the United States to deliver surface water to more than five (5) water users under an annual charge or rental, the field report does not need to describe the irrigated land by legal subdivision, but may describe generally the lands under the project works if the total irrigated acres has been accurately determined and is shown on the field report. The amount of water beneficially used under such projects must be shown on the field report. (3-29-12)

036. -- 039. (RESERVED)

040. WATER MEASUREMENT (RULE 40).

01. Measurement Terminology. (7-1-93)

a. Rate of flow measurements shall be shown in units of cubic feet per second (cfs) with three (3) significant figures and no more precision than hundredths. (7-1-93)

b. Volume measurements shall be shown in units of acre-feet (AF) with three (3) significant figures, and no more precision than tenths. (7-1-93)

02. Rate of Diversion. The rate of diversion measurement shall be conducted as close as reasonably possible to the source of supply and shall be measured with the project works fully in place operating at normal capacity. For example, if a sprinkler system is used for irrigation purposes, discharge from the pump must be measured with the sprinkler system connected. (7-1-93)

03. Measurements. Water measurements may be made by vessel, weir, meter, rated flume, reservoir capacity table or other standard method of measurement acceptable to the Director. The field report shall describe the method used in making the measurement, the date when made, the name of the person making the measurement, the legal description of the location where the measurement was taken and shall include sufficient information, including current meter notes, rating tables, and/or calibration information to enable the Director to check the quantity of water measured in each case. (3-29-12)

04. Unacceptable Measurements. Theoretical diversion rates or theoretical carrying capacities are not acceptable as a measure of the rate of diversion except as indicated in these rules and for some diversion systems where the flow rate cannot be measured accurately due to the physical characteristics of the diversion and distribution system. (3-29-12)

05. Method. Rate of flow measurements shall be determined using equipment and methods capable of obtaining an accuracy of plus or minus ten percent (10%). (7-1-93)

041. -- 044. (RESERVED)

045. DRAWINGS, MAP, AND SCHEMATIC DIAGRAM (RULE 45).
The following provisions shall apply to the submittal of drawings, maps, photos and the schematic diagrams. (7-1-93)

01. Submittal of Drawings, Maps, Photos and Schematic Diagrams. Drawings, maps, photos and schematic diagrams used as an attachment to the field report shall be on eight and one-half by eleven (8 1/2 x 11) inch paper whenever possible. (6-30-19)T

02. Attachment Sheets. Attachment sheets shall depict information on one (1) side only. (7-1-93)

03. Scale of Map. The map depicting the point of diversion and place of use shall be of a reasonable scale but not less than two (2) inches equals one (1) mile. The map shall show the location of the point(s) of diversion to the nearest forty (40) acre tract or to a ten (10) acre tract for springs. The location of ditches, canals, mainlines, distribution systems and the place of use by forty (40) acre tract must be shown. (7-1-93)

04. Drawings. Drawings need to generally depict the size and type of diversion works, measuring device, conveyance system, water application method, and the location of any measurements taken. (7-1-93)

05. Photographs. Photographs of the diversion works, the typical distribution works and other prominent features of the system shall be provided with the field report. (7-1-93)

046. -- 049. (RESERVED)

050. LICENSE EXAMINATION FEE (RULE 50).

01. Examinations Conducted by Department Staff. (3-29-12)

a. The examination fee shall be payable to the Department of Water Resources unless the field

examination is conducted by a certified water right examiner. (3-29-12)

b. The department will not conduct an examination for which the fee has not been paid to the department unless exempted in Rule Subsection 009.04, except that for any prior examination, whether conducted by a certified water right examiner or by department staff, the department may conduct a supplemental examination on its own initiative at any time. No examination fee shall be charged for a supplemental examination conducted by the department on its own initiative. (3-29-12)

c. A license shall not be issued for an amount of water in excess of the amount covered by the examination fee. Subsequent to the examination and prior to a license being issued, the Director will notify the permit holder that the licensed amount will be limited because an insufficient examination fee was paid. The permit holder will be allowed thirty (30) days after the notice is mailed to pay the additional examination fee, along with a late payment penalty of twenty-five dollars ($25) or twenty percent (20%) of the amount of the additional required fee whichever is more. If payment is received within the thirty (30) day period, the rate or volume licensed shall not be reduced by reason of the examination fee. If payment is not received within the thirty (30) day period, the rate or volume licensed shall be limited by the original examination fee paid. For the purpose of determining advancement of priority for late fee as provided in Section 42-217, Idaho Code, fees shall not be considered as having been paid until paid in full, including any subsequent fee. (7-1-93)

d. Excess examination fees are non-refundable. (7-1-93)

e. An examination fee equal to the initial examination fee paid to the department shall be paid for a re-examination made at the request for the permit holder except upon a showing of error by the department on the initial examination. (7-1-93)

02. Examinations Conducted by Non-Department Certified Water Right Examiners. (7-1-93)

a. The examination fee required by Section 42-217, Idaho Code is not applicable for examination conducted by or under the supervision of certified water right examiners. (3-29-12)

b. A permit holder may choose to have the examination conducted by the department after selecting a certified water right examiner. (6-30-19)T

c. After submitting proof of beneficial use and paying an examination fee to the department, but before the department's actual examination, a permit holder may submit an examination report completed by a certified water right examiner. Because the examination fee is an essential component of timely proof submittal, the department will not refund the examination fee. (3-29-12)

051. -- 054. (RESERVED)

055. PENALTY (RULE 55).

01. Permits for Which Proof Has Not Been Submitted. The submittal required is the proof and the examination fee or the proof and a completed field report. (7-1-93)

02. Failure to Submit. Failure to submit either the license examination fee or an acceptable field examination report prepared by or under the supervision of a certified water right examiner by the proof due date is cause to lapse the permit pursuant to Section 42-218a, Idaho Code, unless an extension of time pursuant to Section 42-204, Idaho Code, extending the proof of beneficial use due date has been approved. (7-1-93)

056. -- 999. (RESERVED)

Appendix A

Appendix A

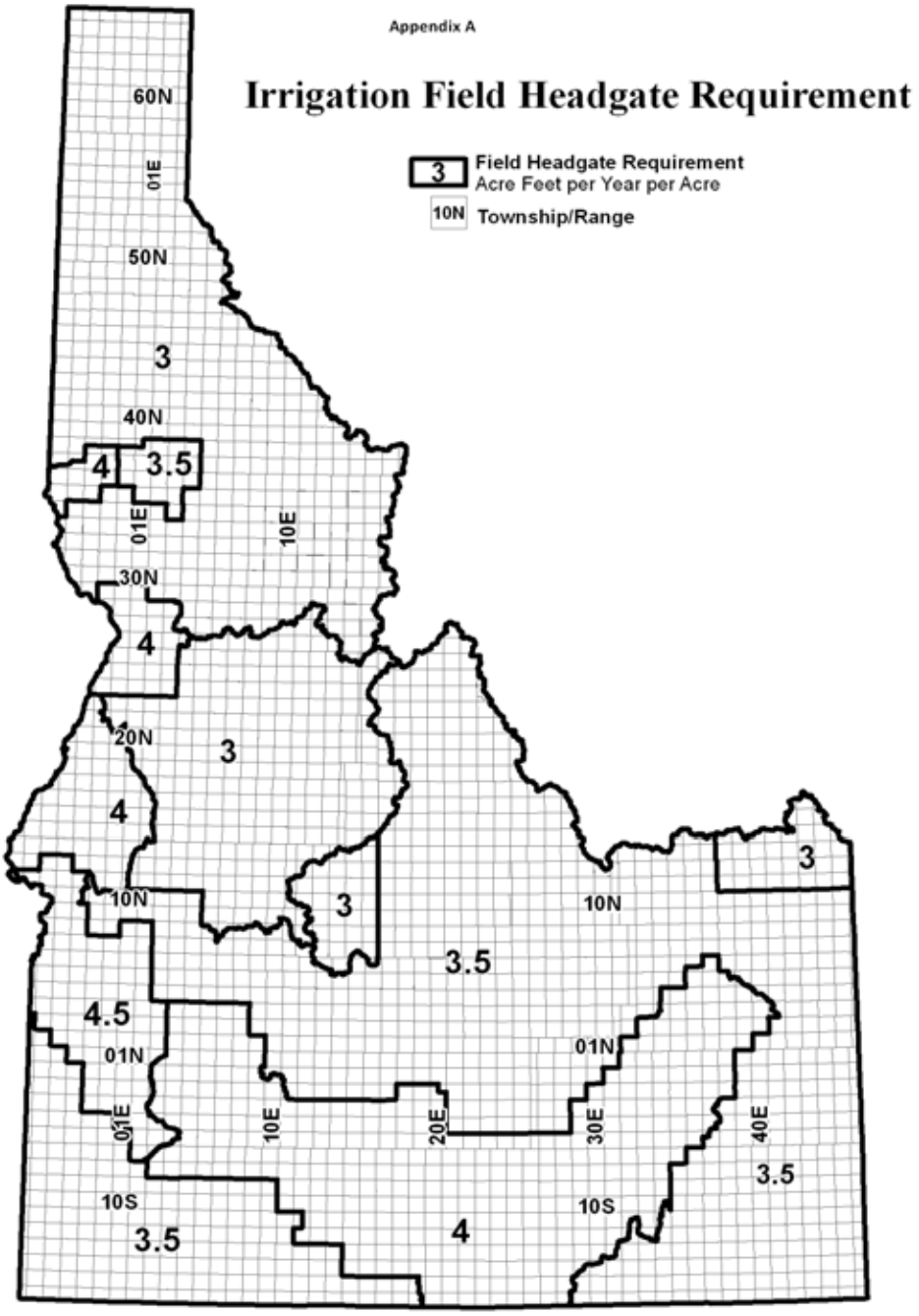
Irrigation Field Headgate Requirement
3 Field Headgate Requirement
Acre Feet per Year per Acre
10N Township/Range
60N
01E
50N
3
40N
4
3.5
01E
10E
30N
4
20N
3
4
10N
3
3
10N
3.5
4.5
01N
01E
10E
20E
30E
40E
01N
3.5
10S
3.5
4
10S

37.03.03 – RULES AND MINIMUM STANDARDS FOR THE CONSTRUCTION AND USE OF INJECTION WELLS

000. LEGAL AUTHORITY.

This Chapter is adopted under the legal authority of Sections 42-3913, 42-3914, and 42-3915, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 37.03.03 "Rules and Minimum Standards for the Construction and Use of Injection Wells." (5-3-03)

02. Scope. These rules and minimum standards are for construction and use of injection wells in the state of Idaho. Upon promulgation, these rules apply to all injection wells (see Rule Subsection 035.01). The construction and use of Class I, III, IV, or VI injection wells are prohibited by these rules. Class IV wells are also prohibited by federal law. These rules and minimum standards for construction and use of injection wells apply to all injection wells in the state of Idaho, except in Indian lands. All injection wells shall be permitted and constructed in accordance with the "Well Construction Standards Rules" found in IDAPA 37.03.09 which are authorized under Section 42-238, Idaho Code. (4-4-13)

03. Rule Coverage. In the event that a portion of these rules is less stringent than the minimum requirements for injection wells as established by Federal regulations, the correlative Federal requirement will be used to regulate the injection well. (4-4-13)

04. Variance of Methods. The Director may approve the use of a different testing method or technology if it is no less protective of human health and the environment, will not allow the migration of injected fluids into a USDW, meets the intent of the rule, and yields information or data consistent with the original method or technology required. A request for review by the Director must be submitted in writing by the applicant, permit holder, or operator and be included with all pertinent information necessary for the Director to evaluate the proposed testing method or technology. (4-4-13)

002. INCORPORATION BY REFERENCE (RULE 4).

01. Incorporated Document. IDAPA 37.03.03 adopts and incorporates by reference those ground water quality standards found in Section 200 of IDAPA 58.01.11, "Ground Water Quality Rule," of the Department of Environmental Quality. (5-3-03)

02. Document Availability. Copies of the incorporated document may be found at the central office of the Idaho Department of Water Resources, 322 East Front Street, Boise, Idaho, 83720-0098 or online through the department or state websites. (5-3-03)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Abandonment. See "permanent decommission. (4-4-13)

02. Abandoned Well. See "permanent decommission". (4-4-13)

03. Agricultural Runoff Waste. Excess surface water from agricultural fields generated during any agricultural operation, including runoff of irrigation tail water, as well as natural drainage resulting from precipitation, snowmelt, and floodwaters, and is identical to the statutory phrase "irrigation waste water" found in Idaho Code 42-3902. (4-4-13)

04. Applicant. Any owner or operator submitting an application for permit to construct, modify or maintain an injection well to the Director of the Department of Water Resources. (7-1-93)

05. Application. The standard Department forms for applying for a permit, including any additions, revisions or modifications to the forms. (4-4-13)

06. Aquifer. Any formation that will yield water to a well in sufficient quantities to make production of water from the formation reasonable for a beneficial use, except when the water in such formation results solely from fluids deposited through an injection well. (5-3-03)

07. Beneficial Use. One (1) or more of the recognized beneficial uses of water including but not limited to, domestic, municipal, irrigation, hydropower generation, industrial, commercial, recreation, aquifer recharge and storage, stockwatering and fish propagation uses, as well as other uses which provide a benefit to the user of the water as determined by the Director. Industrial use as used for purposes of these rules includes, but is not limited to, manufacturing, mining and processing uses of water. (5-3-03)

08. Best Management Practice (BMP). A practice or combination of practices that are more effective than other techniques at preventing or reducing contamination of ground water and surface water by injection well operation. (4-4-13)

09. Casing. A pipe or tubing of appropriate material, of varying diameter and weight, lowered into a borehole during or after drilling in order to support the sides of the hole and thus prevent the walls from caving, to prevent loss of drilling fluid into porous ground, or to prevent water, gas, or other fluid from entering or leaving the hole. (4-4-13)

10. Cementing. The operation whereby a cement slurry is pumped into a drilled hole and/or forced behind the casing. (4-4-13)

11. Cesspool. An injection well that receives sanitary waste without benefit of a treatment system or treatment device such as a septic tank. Cesspools sometimes have open bottom and/or perforated sides. (4-4-13)

12. Coliform Bacteria. All of the aerobic and facultative anaerobic, gram-negative, non-spore forming, rod-shaped bacteria that either ferment lactose broth with gas formation within forty-eight (48) hours at thirty-five degrees Celsius (35C), or produce a dark colony with a metallic sheen within twenty-four (24) hours on an Endo-type medium containing lactose. (7-1-93)

13. Confining Bed. A body of impermeable or distinctly less permeable material stratigraphically adjacent to one (1) or more aquifers. (4-4-13)

14. Construct. To create a new injection well or to convert any structure into an injection well. (7-1-93)

15. Contaminant. Any physical, chemical, biological, or radiological substance or matter. (4-4-13)

16. Contamination. The introduction into the natural ground water of any physical, chemical, biological, or radioactive material that may: (4-4-13)

a. Cause a violation of Idaho Ground Water Quality Standards found in IDAPA 58.01.11 "Ground Water Quality Rule" or the federal drinking water quality standards, whichever is more stringent; or (4-4-13)

b. Adversely affect the health of the public; or (4-4-13)

c. Adversely affect a designated or beneficial use of the State's ground water. Contamination includes the introduction of heated or cooled water into the subsurface that will alter the ground water temperature and render the local ground water less suitable for beneficial use. (4-4-13)

17. Conventional Mine. An open pit or underground excavation for the production of minerals. (4-4-13)

18. Decommission. To remove a well from operation such that injection through the well is not possible. See "permanent decommission" and "unauthorized decommission". (4-4-13)

19. DEQ. The Idaho Department of Environmental Quality. (5-3-03)

20. Deep Injection Well. An injection well which is more than eighteen (18) feet in vertical depth below land surface. (4-4-13)

21. **Department**. The Idaho Department of Water Resources. (7-1-93)

22. **Director**. The Director of the Idaho Department of Water Resources. (7-1-93)

23. **Disposal Well**. A well used for the disposal of waste into a subsurface stratum. (4-4-13)

24. **Draft Permit**. A prepared document indicating the Director's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a "permit." Permit conditions, compliance schedules, and monitoring requirements are typically included in a "draft permit". A notice of intent to terminate a permit, and a notice of intent to deny a permit are types of "draft permits." A denial of a request for modification, revocation and reissuance, or termination is not a "draft permit." (4-4-13)

25. **Drilling Fluid**. Any number of liquid or gaseous fluids and mixtures of fluids and solids (such as solid suspensions, mixtures and emulsions of liquids, gases, and solids) used in operations to drill boreholes into the earth. (4-4-13)

26. **Drywell**. An injection well completed above the water table so that its bottom and sides are typically dry except when receiving fluids. (5-3-03)

27. **Endangerment**. Injection of any fluid which exceeds Idaho ground water quality standards, or federal drinking water quality standards, whichever is more stringent, that may result in the presence of any contaminant in ground water which supplies or can reasonably be expected to supply any public or non-public water system, and if the presence of such contaminant may result in such a system not complying with any ground water quality standard or may otherwise adversely affect the health of persons or result in a violation of ground water quality standards that would adversely affect beneficial uses. (4-4-13)

28. **Exempted Aquifer**. An "aquifer" or its portion that meets the criteria in the definition of USDW but which has been recategorized as "other" according to the procedures in IDAPA 58.01.11 "Ground Water Quality Rule". (4-4-13)

29. **Existing Injection Well**. An "injection well" other than a "new injection well." (4-4-13)

30. **Experimental Technology**. A technology which has not been proven feasible under the conditions in which it is being tested. (4-4-13)

31. **Facility or Activity**. Any UIC "injection well," or another facility or activity that is subject to regulation under the UIC program. (4-4-13)

32. **Fault**. A surface or zone of rock fracture along which there has been displacement. (4-4-13)

33. **Flow Rate**. The volume per time unit given to the flow of gases or other fluid substance which emerges from an orifice, pump, turbine or passes along a conduit or channel. (4-4-13)

34. **Fluid**. Any material or substance which flows or moves, whether in a semisolid, liquid, sludge, gaseous or any other form or state. (7-1-93)

35. **Formation**. A body of consolidated or unconsolidated rock characterized by a degree of lithologic homogeneity which is prevailingly, but not necessarily, tabular and is mappable on the earth's surface or traceable in the subsurface. (4-4-13)

36. **Generator**. Any person, by site location, whose act or process produces hazardous waste identified or listed in 40 CFR part 261. (4-4-13)

37. **Ground Water**. Any water that occurs beneath the surface of the earth in a saturated formation of rock or soil. (5-3-03)

38. **Ground Water Quality Standards**. Standards found in IDAPA 58.01.11, "Ground Water Quality

Rule," Section 200. (5-3-03)

39. Hazardous Waste. Any substance defined by IDAPA 58.01.05, "Rules and Standards for Hazardous Waste." (5-3-03)

40. Indian Lands. "Indian Country" as defined in 18 U.S.C. 1151. That section defines Indian Country as: (4-4-13)

a. All land within the limits of any Indian reservation under the jurisdiction of the United States government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (4-4-13)

b. All dependent Indian communities within the borders of the United States whether within the original or subsequently acquired territory thereof, and whether within or without the limits of a State; and (4-4-13)

c. All Indian allotments, the Indian titles to which have not been extinguished, including rights-of-way running through the same. (4-4-13)

41. Individual Subsurface Sewage Disposal System. For the purpose of these rules, any standard or alternative disposal system which injects sanitary waste from single family residential septic systems, or non-residential septic systems which are used solely for the disposal of sanitary waste and have the capacity to serve fewer than twenty (20) people a day. (4-4-13)

42. Improved Sinkhole. A naturally occurring karst depression or other natural crevice found in volcanic terrain and other geologic settings which have been modified by man for the purpose of directing and emplacing fluids into the subsurface. (4-4-13)

43. Injection. The subsurface emplacement of fluids through an injection well. (4-4-13)

44. Injection Well. Any feature that is operated to allow injection which also meets at least one (1) of the following criteria: (4-4-13)

a. A bored, or driven shaft whose depth is greater than the largest surface dimension; (4-4-13)

b. A dug hole whose depth is greater than the largest surface dimension; (4-4-13)

c. An improved sinkhole; or (4-4-13)

d. A subsurface fluid distribution system. (4-4-13)

45. Injection Zone. A geological "formation", or those sections of a formation receiving fluids through an "injection well." (4-4-13)

46. IWRB. Idaho Water Resource Board. (5-3-03)

47. Large Capacity Cesspools. Any cesspool used by a multiple dwelling, community or regional system for the disposal of sanitary wastes (for example: a duplex or an apartment building) or any cesspool used by or intended to be used by twenty (20) or more people per day (for example: a rest stop, campground, restaurant or church). (5-3-03)

48. Large Capacity Septic System. Class V wells that are used to inject sanitary waste through a septic tank and do not meet the criteria of an individual subsurface sewage disposal system. (4-4-13)

49. Maintain. To allow, either expressly or by implication, an injection well to exist in such condition as to accept or be able to accept fluids. Unless a well has been permanently decommissioned pursuant to the criteria contained in these rules it is considered to be capable of accepting fluids. (4-4-13)

50. **Modify**. To alter the construction of an injection well, but does not include cleaning or redrilling operations which neither deepen nor increase the dimensions of the well. (7-1-93)

51. **Motor Vehicle Waste Disposal Wells**. Injection wells that receive or have received fluids from vehicle repair or maintenance activities, such as an auto body repair shop, automotive repair shop, new and used car dealership, specialty repair shop (transmission and muffler repair shop), or any facility that does any vehicular repair work. (5-3-03)

52. **New Injection Well**. An "injection well" which began to be used for injection after a UIC program for the State applicable to the well is approved or prescribed. (4-4-13)

53. **Open-Loop Heat Pump Return Wells**. Injection wells that receive surface water or ground water that has been passed through a heat exchange system for cooling or heating purposes. (4-4-13)

54. **Operate**. To allow fluids to enter an injection well by action or inaction of the operator. (7-1-93)

55. **Operator**. Any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, federal agency or other entity that operates or proposes to operate any injection well. (7-1-93)

56. **Owner**. Any individual, group of individuals, partnership, company, corporation, municipality, county, state agency, taxing district, federal agency or other entity owning land on which any injection well exists or is proposed to be constructed. (7-1-93)

57. **Packer**. A device lowered into a well to produce a fluid-tight seal. (4-4-13)

58. **Perched Aquifer**. Ground water separated from an underlying main body of ground water by an unsaturated zone. (7-1-93)

59. **Permanent Decommission**. The discontinuance of use of an injection well in a method approved by the Director such that the injection well no longer has the capacity to inject fluids and the upward or downward migration of fluid is prevented. This also includes the disposal and proper management of any soil, gravel, sludge, liquids, or other materials removed from or adjacent to the injection well in accordance with all applicable Federal, State, and local regulations and requirements. (4-4-13)

60. **Permit**. An authorization, license, or equivalent control document issued by the Department. (4-4-13)

61. **Person**. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law. (4-4-13)

62. **Point of Beneficial Use**. The top or surface of a USDW, directly below an injection well, where water is available for a beneficial use. (4-4-13)

63. **Point of Diversion for Beneficial Use**. A location such as a producing well or spring where ground water is taken under control and diverted for a beneficial use. (7-1-93)

64. **Point of Injection**. The last accessible sampling point prior to waste being released into the subsurface environment through an injection well. For example, the point of injection for a Class V septic system might be the distribution box. For a drywell, it is likely to be the well bore itself. (4-4-13)

65. **Pressure**. The total load or force per unit area acting on a surface. (4-4-13)

66. **Radioactive Material**. Any material, solid, liquid or gas which emits radiation spontaneously. Radioactive geologic materials occurring in their natural state are not included. (7-1-93)

67. **Radioactive Waste**. Any fluid which contains radioactive material in concentrations which exceed those established for discharges to water in an unrestricted area by 10 CFR 20.1302.(b)(2)(i) and Table 2 in Appendix B of 10 CFR 20. (5-3-03)

68. **RCRA**. The Solid Waste Disposal Act as amended by the Resource Conservation and Recovery Act of 1976. (4-4-13)

69. **Remediation Project**. Use of an injection well for the removal, treatment or isolation of a contaminant from ground water through actions or the removal or treatment of a contaminant in ground water as approved by the Director. (4-4-13)

70. **Residential (Domestic) Activities**. Human activities that generate liquid or solid waste in any public, private, industrial, commercial, municipal, or other facility. (4-4-13)

71. **Sanitary Waste**. Any fluid generated through residential (domestic) activities, such as food preparation, cleaning and personal hygiene. This term does not include industrial, municipal, commercial, or other non-residential process fluids. (4-4-13)

72. **Schedule of Compliance**. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with the standards. (7-1-93)

73. **Septic System**. An injection well that is used to inject sanitary waste below the surface. A septic system is typically comprised of a septic tank and subsurface fluid distribution system or disposal system. (5-3-03)

74. **Shallow Injection Well**. An injection well which is less than or equal to eighteen (18) feet in vertical depth below land surface. (7-1-93)

75. **Site**. The land or water area where any "facility or activity" is physically located or conducted, including adjacent land used in connection with the facility or activity. (4-4-13)

76. **State**. The state of Idaho. (7-1-93)

77. **Stratum (plural strata)**. A single sedimentary bed or layer, regardless of thickness, that consists of generally the same kind of rock material. (4-4-13)

78. **Subsidence**. The lowering of the natural land surface in response to: Earth movements; lowering of fluid pressure; removal of underlying supporting material by mining or solution of solids, either artificially or from natural causes; compaction due to wetting (Hydrocompaction); oxidation of organic matter in soils; or added load on the land surface. (4-4-13)

79. **Subsurface Fluid Distribution System**. An assemblage of perforated pipes, drain tiles, or other similar mechanisms intended to distribute fluids below the surface of the ground. (4-4-13)

80. **UIC**. The Underground Injection Control program under Part C of the Safe Drinking Water Act, including an "approved State program." (4-4-13)

81. **Unauthorized Decommission**. The decommissioning of any injection well that has not received the approval of the Department prior to decommissioning, or was not decommissioned in a method approved by the Director. These wells may have to be properly decommissioned when discovered by the Director to ensure that the well prevents commingling of aquifers or is no longer capable of injection. (4-4-13)

82. **Underground Injection**. See "injection. (4-4-13)

83. **Underground Source of Drinking Water (USDW)**. An aquifer or its portion: (4-4-13)

a. Which: (4-4-13)

i. Supplies any public water system; or (4-4-13)

ii. Contains a sufficient quantity of ground water to supply a public water system; or (4-4-13)

(1) Currently supplies drinking water for human consumption; or (4-4-13)

(2) Contains fewer than ten thousand (10,000) mg/l total dissolved solids; and (4-4-13)

b. Which is not an exempted aquifer. (4-4-13)

84. Unreasonable Contamination. Endangerment of a USDW or the health of persons or other beneficial uses by injection. See "endangerment." (4-4-13)

85. Water Quality Standards. Refers to those standards found in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards" and IDAPA 58.01.11, "Ground Water Quality Rule." (5-3-03)

86. Well. For the purposes of these rules, "well" means "injection well." (5-3-03)

011. -- 014. (RESERVED)

015. VIOLATIONS, FORMAL NOTIFICATION AND ENFORCEMENT.

01. Violations. It shall be a violation of these rules for any owner or operator to: (7-1-93)

a. Fail to comply with a permit or authorization, or terms or conditions thereof; (5-3-03)

b. Fail to comply with applicable standards for water quality; (7-1-93)

c. Fail to comply with any permit application notification or filing requirement; (7-1-93)

d. Knowingly make any false statement, representation or certification in any application, report, document or record filed pursuant to these rules, or terms and conditions of an issued permit; (7-1-93)

e. Falsify, tamper with or knowingly render inaccurate any monitoring device or method required to be maintained or utilized by the terms and conditions of an issued permit; (7-1-93)

f. Fail to respond to any formal notification of a violation when a response is required; or (5-3-03)

g. Decommission a well in an unauthorized manner. (4-4-13)

02. Additional. It shall be a violation of these rules for any person to construct, operate, maintain, convert, plug, decommission or conduct any other activity in a manner which results or may result in the unauthorized injection of a hazardous waste or of a radioactive waste by an injection well. (4-4-13)

03. Formal Notification. Formal notification of violations may be communicated to the owner or operator with a letter, a notice of violation, a compliance or enforcement order or other appropriate means. (7-1-93)

04. Enforcement. Violation of any of the provisions of the Injection Well Act (Chapter 39, Title 42, Idaho Code) or of any rule, regulation, standard or criteria pertaining to the Injection Well Act may result in the Director initiating an enforcement action as provided under Chapters 17 and 39, Title 42, Idaho Code. (4-4-13)

016. -- 019. (RESERVED)

020. HEARING BEFORE THE WATER RESOURCE BOARD.

01. General. All hearings before the IWRB will be conducted in accordance with Chapter 52, Title 67,

Idaho Code, at a place convenient to the owner and/or operator. For purposes of such hearings, the IWRB or its designated hearing officer shall have power to administer oaths, examine witnesses, and issue in the name of the said Board subpoenas requiring testimony of witnesses and the production of evidence relevant to any matter in the hearing. Judicial review of the final determination by the IWRB may be secured by the owner by filing a petition for review as prescribed by Chapter 52, Title 67, Idaho Code, in the District Court of the county where the injection well is situated or proposed to be located. The petition for review shall be served upon the Chairman of the IWRB and upon the Attorney General. (7-1-93)

02. Hearings on Conditional Permits, Disapproved Applications, or Petitions for Exemption. Any owner or operator aggrieved by the approval or disapproval of an application, or by conditions imposed upon a permit, or any person aggrieved by the Director's decision on a petition for exemption under Section 025 of these rules, shall be afforded an opportunity for a hearing before the IWRB or its designated hearing officer. Written notice of such grievance shall be transmitted to the Director within thirty (30) days after receipt of notice of such approval, disapproval or conditional approval. Such hearing shall be held for the purpose of determining whether the permit shall be issued, whether the conditions imposed in a permit are reasonable, whether a change in circumstances warrants a change in conditions imposed in a valid permit, or whether the Director's decision on a petition for exemption should not be changed. (4-4-13)

03. Hearings on Permit Cancellations. When the Director has reason to believe the operation of an injection well for which a permit has been issued is interfering with the right of the public to withdraw water for beneficial uses, or is causing unreasonable contamination of a drinking or other ground water source as provided for in Title 42, Chapter 39, Idaho Code, the permit may be canceled by the Director. Prior to the cancellation of such permit there shall be a hearing before the IWRB for the purpose of determining whether or not the permit should be canceled. At such hearing, the Director shall be the complaining party. At least thirty (30) days prior to the hearing, a notice, which shall be in accordance with Chapter 52, Title 67, Idaho Code, shall be sent by certified mail to the owner or operator whose permit is proposed to be canceled. The Board shall affirm, modify, or reject the Director's decision and make its decision in the form of an order to the Director. (7-1-93)

021. -- 034. (RESERVED)

035. CLASSIFICATION OF INJECTION WELLS.

01. Classification of Injection Wells. For the purposes of these rules, injection wells are classified as follows: (7-1-93)

a. Class I: (4-4-13)

i. Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to inject hazardous waste beneath the lowermost formation containing, within one-quarter (1/4) mile of the well bore, an underground source of drinking water. (4-4-13)

ii. Other industrial and municipal disposal wells which inject fluids beneath the lowermost formation containing, within one-quarter (1/4) mile of the well bore, an underground source of drinking water. (4-4-13)

iii. Radioactive waste disposal wells which inject fluids below the lowermost formation containing an underground source of drinking water within one-quarter (1/4) mile of the well bore. (4-4-13)

b. Class II. Wells used to inject fluids: (4-4-13)

i. Which are brought to the surface in connection with natural gas storage operations, or conventional oil or natural gas production and may be commingled with waste waters from gas plants, dehydration stations, or compressor stations which are an integral part of production operations, unless those waters are classified as a hazardous waste at the time of injection. (4-4-13)

ii. For enhanced recovery of oil or natural gas; and (4-4-13)

iii. For storage of hydrocarbons which are liquid at standard temperature and pressure. (4-4-13)

c. Class III. Wells used to inject fluids for extraction of minerals including: (4-4-13)

i. Mining of sulfur by the Frasch process; (4-4-13)

ii. In situ production of uranium or other metals; this category includes only in-situ production from ore bodies which have not been conventionally mined. Solution mining of conventional mines such as stopes leaching is included in Class V. (4-4-13)

iii. Solution mining of salts or potash. (4-4-13)

d. Class IV: (4-4-13)

i. Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste into a formation which within one-quarter (1/4) mile of the well contains an underground source of drinking water. (4-4-13)

ii. Wells used by generators of hazardous waste or of radioactive waste, by owners or operators of hazardous waste management facilities, or by owners or operators of radioactive waste disposal sites to dispose of hazardous waste or radioactive waste above a formation which within one-quarter (1/4) mile of the well contains an underground source of drinking water. (4-4-13)

iii. Wells used by generators of hazardous waste or owners or operators of hazardous waste management facilities to dispose of hazardous waste, which cannot be classified under Subparagraphs 035.01.a.i. or 035.01.d.i. or 035.01.d.ii. of this rule (e.g., wells used to dispose of hazardous waste into or above a formation which contains an aquifer which has been exempted pursuant to Section 025 of these rules). (4-4-13)

e. Class V -- All injection wells not included in Classes I, II, III, IV, or VI. (4-4-13)

f. Class VI. (4-4-13)

i. Wells that are not experimental in nature that are used for geologic sequestration of carbon dioxide beneath the lowermost formation containing a USDW; or (4-4-13)

ii. Wells used for geologic sequestration of carbon dioxide that have been granted a waiver of the injection depth requirements pursuant to requirements at 40 CFR Section146.95; or (4-4-13)

iii. Wells used for geologic sequestration of carbon dioxide that have received an expansion to the areal extent of an existing Class II enhanced oil recovery or enhanced gas recovery aquifer exemption pursuant to Section 025 of these rules. (4-4-13)

02. Subclassification. Class V wells are subclassified as follows: (7-1-93)

a. 5A5-Electric Power Generation. (7-1-93)

b. 5A6-Geothermal Heat. (7-1-93)

c. 5A7-Heat Pump Return. (7-1-93)

d. 5A8-Aquaculture Return Flow. (7-1-93)

e. 5A19-Cooling Water Return. (7-1-93)

f. 5B22-Saline Water Intrusion Barrier. (7-1-93)

g. 5D2-Storm Runoff. (7-1-93)

h. 5D3-Improved Sinkholes. (7-1-93)

i. 5D4-Industrial Storm Runoff. (7-1-93)

j. 5F1-Agricultural Runoff Waste. (7-1-93)

k. 5G30-Special Drainage Water. (7-1-93)

l. 5N24[1]-Radioactive Waste Disposal. (4-4-13)

m. 5R21-Aquifer Recharge. (7-1-93)

n. 5S23-Subsidence Control. (7-1-93)

o. 5W9-Untreated Sewage. (7-1-93)

p. 5W10-Cesspools. (7-1-93)

q. 5W11-Septic Systems (General). (7-1-93)

r. 5W12-Waste Water Treatment Plant Effluent. (4-4-13)

s. 5W20-Industrial Process Water. (7-1-93)

t. 5W31-Septic Systems (Well Disposal). (7-1-93)

u. 5W32-Septic System (Drainfield). (7-1-93)

v. 5X13-Mine Tailings Backfill. (7-1-93)

w. 5X14-Solution Mining. (7-1-93)

x. 5X15-In-Situ Fossil Fuel Recovery. (7-1-93)

y. 5X16-Spent Brine Return Flow. (7-1-93)

z. 5X25-Experimental Technology. (7-1-93)

aa. 5X26-Aquifer Remediation. (7-1-93)

bb. 5X27-Other Wells. (7-1-93)

cc. 5X28[1]-Motor Vehicle Waste Disposal Wells. (4-4-13)

dd. 5X29-Abandoned Water Wells. (5-3-03)

[1] The construction and operation of wells in these subclasses is currently illegal in Idaho.

036. -- 039. (RESERVED)

040. AUTHORIZATIONS, PROHIBITIONS AND EXEMPTIONS.

01. Authorizations. Construction and use of Class V deep injection wells may be authorized by permit as approved by the Director in accordance with these rules. (4-4-13)

02. Prohibitions. (4-4-13)

a. These rules prohibit the permitting, construction, or use of any Class I, III IV, or VI injection well. (4-4-13)

b. No owner or operator shall construct, operate, maintain, convert, plug, abandon, or conduct any other injection activity in a manner that allows or causes the movement of fluid containing any contaminant into underground sources of drinking water, if the presence of that contaminant may cause a violation of any primary or secondary drinking water regulation, under IDAPA 58.01.11, "Ground Water Quality Rule," Section 200 or may otherwise adversely affect the health of persons. The applicant for a permit shall have the burden of showing that the requirements of Paragraph 040.02.c. are met. (4-4-13)

c. Notwithstanding any other provision of this section, the Director may take emergency action upon receipt of information that a contaminant which is present in or likely to enter a public water system or underground source of drinking water may present an imminent and substantial endangerment to the health of persons. (4-4-13)

d. Construction of large capacity cesspools, motor vehicle waste disposal wells, radioactive waste disposal wells, and untreated sewage disposal wells is prohibited. Construction and use of other Class V shallow injection wells are authorized by these rules without permit provided that: (4-4-13)

i. Required inventory information is submitted to the Director pursuant to Subsection 070.01 of this rule. (4-4-13)

ii. Use of the shallow injection well shall not result in unreasonable contamination of a USDW or cause a violation of surface or ground water quality standards that would affect a beneficial use. (4-4-13)

e. Class IV injection wells used to inject contaminated ground water that has been treated and is being reinjected into the same formation from which it was drawn are not prohibited by these rules if such injection is approved by EPA, or Idaho, pursuant to provisions for cleanup of releases under the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), 42 U.S.C. 9601–9657, or pursuant to requirements and provisions under the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901 through 6987. (4-4-13)

f. All large capacity cesspools must be properly decommissioned by January 1, 2005. A cease and desist order may be issued to the owner or the operator when a large capacity cesspool is found to be a threat to the ground water resources as described in Paragraph 070.01.c. (4-4-13)

g. All motor vehicle waste disposal wells must be properly decommissioned by January 1, 2005. A cease and desist order may be issued to the owner or the operator when a motor vehicle waste disposal well is found to be a threat to the ground water resources as described in Paragraph 070.01.c. (4-4-13)

h. The Construction, operation or maintenance of any non-experimental Class V geologic sequestration well is prohibited. (4-4-13)

i. Owners or operators of shallow injection wells are prohibited from injecting into the well upon failure to submit inventory information in a timely manner pursuant to Paragraph 070.01.a. of these rules. (4-4-13)

03. Exemptions. (4-4-13)

a. The UIC inventory and fee requirements of these rules do not apply to individual subsurface sewage disposal system wells. These systems are, however, subject to the permitting and fee requirements of IDAPA 58.01.03 "Individual/Subsurface Sewage Disposal Rules," Title 39, Chapter 1 and Title 39, Chapter 36, Idaho Code. (4-4-13)

b. State or local government entities are exempt from the permit requirements of these rules for wells associated with highway and street construction and maintenance projects, but shall submit shallow injection well inventory information for said wells and shall comply with all other requirements of these rules. (4-4-13)

c. Mine tailings backfill (5X13) wells are authorized by rule as part of mining operations. They are

therefore exempt from the ground water quality standards and permitting requirements of these rules provided that their use is limited to the injection of mine tailings only. The use of any 5X13 well(s) shall not result in water quality standards at points of diversion for beneficial use being exceeded or otherwise affect a beneficial use. Should water quality standards be exceeded or beneficial uses be affected, the Director may order the wells to be put under the permit requirements of these rules, or the wells may be required to be remediated or closed. As a condition of their use, the Director may require the construction and sampling of monitoring wells by the owner/operator. 5X13 wells are subject to the inventory requirements of Subsection 070.01. (4-4-13)

041. -- 069. (RESERVED)

070. CLASS V: CRITERIA AND STANDARDS.

01. Class V Shallow Injection Well Requirements. (4-4-13)

a. Authorization. As a condition of authorization, all owners or operators of shallow Class V injection wells, including improved sinkholes used for aquifer recharge, that dispose of nonhazardous and nonradioactive wastes are required to submit a Shallow Injection Well Inventory Form to the Department no later than thirty (30) days prior to commencement of construction for each new well or no later than thirty (30) days after the discovery of an existing injection well that has not previously been inventoried with the Department. Forms are available from any Department office or at the Department website at http://www.idwr.idaho.gov. State or local government entities shall submit the following inventory information for wells associated with highway and street construction and maintenance projects. (4-4-13)

i. Facility name and location; and (7-1-93)

ii. County in which the injection well(s) is (are) located; and (7-1-93)

iii. Ownership of the well(s); and (7-1-93)

iv. Name, address and phone number of legal contact; and (7-1-93)

v. Type or function of the well(s); and (7-1-93)

vi. Number of wells of each type; and (7-1-93)

vii. Operational status of the well(s). (7-1-93)

b. Inventory Fees. For shallow injection wells constructed after July 1, 1997, the Shallow Injection Well Inventory Form shall be accompanied by a fee as specified in Section 42-3905, Idaho Code, payable to the Department of Water Resources. State or local government entities are exempt from Shallow Injection Well Inventory Form filing fees for wells associated with highway and street construction and maintenance, but shall comply with all other requirements of these rules. (4-4-13)

c. Permit Requirements. If operation of a shallow Class V injection well is causing or may cause unreasonable contamination of a USDW, or cause a violation of the ground water quality standards at a place of beneficial use, the Director shall require immediate cessation of the injection activity. Where a Class V injection well is owned or operated by an entity other than a state or local entity involved in highway and street construction and maintenance, the Director may authorize continued operation of the well through a permit that specifies the terms and conditions of acceptable operation. (4-4-13)

d. Permanent Decommission. Owners or operators of shallow injection wells shall notify the Director not less than thirty (30) days prior to permanent decommissioning of any shallow injection well. Permanent decommissioning shall be accomplished in accordance with procedures approved by the Director. (4-4-13)

e. Inter-Agency Cooperation. The Department may seek the assistance of other government agencies, including cities and counties, health districts, highway districts, and other departments of state government to inventory, monitor and inspect shallow injection wells, where local assistance is needed to prevent deterioration of

ground water quality, and where injection well operation overlaps with water quality concerns of other agencies or local governing entities. Assistance is to be negotiated through a memorandum of understanding between the Department and the local entity, agency, or department, and is subject to the approval of the Director. (5-3-03)

02. **Class V Deep Injection Well Requirements**. (4-4-13)

a. Application Requirements. (4-4-13)

i. No person shall continue to maintain or use an unauthorized injection well after the effective date given in Section 42-3903, Idaho Code, unless a permit therefor has been issued by the Director. No injection well requiring a permit under Subsection 070.02 shall be constructed, modified or maintained after the effective date given in Section 42-3903, Idaho Code, unless a permit therefor has been issued by the Director. No injection well requiring a permit shall continue to be used after the expiration of the permit issued for such well unless another application for permit therefor has been received by the Director. All applications for permit shall be on forms furnished by the Director. (4-4-13)

ii. Each application for permit to construct, modify or maintain an injection well, as required by these rules, shall be accompanied by a filing fee as specified in Section 42-3905, Idaho Code, payable to the Department of Water Resources. For the purposes of these rules, all wells or groups of wells associated with a "Remediation Project" may be administered as one (1) "well" at the discretion of the Director. (5-3-03)

b. Application Information Required. An applicant shall submit the following information to the Director for all injection wells to be authorized by permit, unless the Director determines that it is not needed in whole or in part, and issues a written waiver to the applicant: (5-3-03)

i. Facility name and location; (7-1-93)

ii. Name, address and phone number of the well operator; (7-1-93)

iii. Class, subclass and function of the injection well (see Section 035); (4-4-13)

iv. Latitude/longitude or legal description of the well location to the nearest ten (10) acre tract; (5-3-03)

v. Ownership of the well; (7-1-93)

vi. County in which the injection well is located; (7-1-93)

vii. Construction information for the well; (7-1-93)

viii. Quantity and general character of the injected fluids; (7-1-93)

ix. Status of the well; (4-4-13)

x. A topographic map or aerial photograph extending one (1) mile beyond property boundaries, depicting: (7-1-93)

(1) Location of the injection well and associated facilities described in the application; (7-1-93)

(2) Locations of other injection wells; (7-1-93)

(3) Approximate drainage area, if applicable; (7-1-93)

(4) Hazardous waste facilities, if applicable; (7-1-93)

(5) All wells used to withdraw drinking water; (7-1-93)

(6) All other wells, springs and surface waters. (7-1-93)

xi. Distance and direction to nearest domestic well; (7-1-93)

xii. Depth to ground water; and (5-3-03)

xiii. Alternative methods of waste disposal. (7-1-93)

c. Additional Information. The Director may require the following additional information for Class V injection wells to assess potential effects of injection: (5-3-03)

i. A topographic map showing locations of the following within a two (2) mile radius of the injection well: (5-3-03)

(1) All wells producing water; (7-1-93)

(2) All exploratory and test wells; (7-1-93)

(3) All other injection wells; (7-1-93)

(4) Surface waters (including man-made impoundments, canals and ditches); (7-1-93)

(5) Mines and quarries; (7-1-93)

(6) Residences; (7-1-93)

(7) Roads; (7-1-93)

(8) Bedrock outcrops; and (5-3-03)

(9) Faults and fractures. (7-1-93)

ii. Additional maps or aerial photographs of suitable scale to accurately depict the following: (7-1-93)

(1) Location and surface elevation of the injection well described in this permit; (7-1-93)

(2) Location and identification of all facilities within the property boundaries; (7-1-93)

(3) Locations of all wells penetrating the proposed injection zone or within a one-quarter (1/4) mile radius of the injection well; (7-1-93)

(4) Maps and cross sections depicting all underground sources of drinking water to include vertical and lateral limits within a one-quarter (1/4) mile radius of the injection well, their position relative to the injection zone and the direction of water movement: local geologic structures; regional geologic setting. (7-1-93)

iii. A comprehensive report of the following information: (7-1-93)

(1) A tabulation of all wells penetrating the proposed injection zone, listing owner, lease holder and operator; well identification (permit) number; size, weight, depth and cementing data for all strings of casing; (7-1-93)

(2) Description of the quality and quantity of fluids to be injected; (7-1-93)

(3) Geologic, hydrogeologic, and physical characteristics of the injection zone and confining beds; (5-3-03)

(4) Engineering data for the proposed injection well; (7-1-93)

(5) Proposed operating pressure; (7-1-93)

(6) A detailed evaluation of alternative disposal practices; (7-1-93)

(7) A plan of corrective action for wells penetrating the zone of injection, but not properly sealed or decommissioned; and (4-4-13)

(8) Contingency plans to cope with all shut-ins or well failures to prevent the migration of unacceptable fluids into underground sources of drinking waters. (7-1-93)

iv. Name, address and phone number of person(s) or firm(s) supplying the technical information and/or designing the injection well; (7-1-93)

v. Proof that the applicant is financially responsible, through a performance bond or other appropriate means, to decommission the injection well in a manner approved by the Director. (4-4-13)

d. Other Information. The Director may require of any applicant such additional information as may be necessary to demonstrate that the proposed or existing injection well will not endanger a USDW. The Director will not complete the processing of an application for which additional information has been requested until such time as the additional information is supplied. The Director may return any incomplete application and will not process such application until such time as the application is received in complete form. (4-4-13)

03. Application Processing. (4-4-13)

a. Draft Permit. After all application information is received and evaluated, the Director will prepare a draft permit or denial, which will include the application for permit, permit conditions or reasons for denial, and any compliance schedules or monitoring requirements. In preparing the draft permit or denial, the Director shall consider the following factors: (4-4-13)

i. The availability of economic and practical alternative means of disposal; (7-1-93)

ii. The application of best management practices to the facilities and/or area draining into the well; (7-1-93)

iii. The availability of economical, practical means of treating or otherwise reducing the amount of contaminants in the injected fluids; (7-1-93)

iv. The quality of the receiving ground water, its category, its present and future beneficial uses or interconnected surface water; (7-1-93)

v. The location of the injection well with respect to drinking water supply wells; and (5-3-03)

vi. Compliance with the IDAPA 58.01.11, "Ground Water Quality Rule." (5-3-03)

b. Public Notice. The Director will provide public notice of any draft permit to construct, maintain or modify a Class V injection well by means of a legal notice in a newspaper of general circulation in the county in which the well is located. The Director may give additional notice as necessary to adequately inform the interested public and governmental agencies. There shall be a period of at least thirty (30) days following publication for any interested person to submit written comments and to request a fact-finding hearing. The hearing will be held by the Director if deemed necessary. (7-1-93)

c. Review by the Directors of Other State Agencies. The Directors of other state agencies, as determined by the Director, shall be provided the opportunity to review and comment on draft permits. Comments shall be submitted to the Director within thirty (30) days of the public or legal notice. (7-1-93)

d. Open-Loop Heat Pump Return Wells (Subclass 5A7). (4-4-13)

i. An open-loop heat pump return well greater than eighteen (18) feet in depth to be used solely for disposal of heat pump water at a rate not exceeding fifty (50) gpm does not require a draft permit and is not subject to a recurring permit cycle, however, registration of the well with the Department and submittal of a filing fee as specified in Section 42-3905, Idaho Code is required. The Director reserves the right to override the exemptions from the draft permit and permit cycle requirements. (4-4-13)

ii. An open-loop heat pump return well greater than eighteen (18) feet in depth to be used solely for disposal of heat pump return water at a rate exceeding fifty (50) gpm is subject to the requirements of Subsections 070.02 and 070.03 of these rules. (4-4-13)

e. Fact-Finding Hearings. At the Director's discretion, or upon motion of any interested individual, the Director may elect to hold a fact-finding hearing. Said hearing will be held at a location in the geographical area of the injection well. Notice of said hearing will be provided at least thirty (30) days in advance of the hearing by regular mail to the applicant and to the person or persons requesting the hearing. Public notice of the fact-finding hearing will be made by means of press release to a newspaper of general circulation in the county of the application. (4-4-13)

04. **The Director's Action On Draft Permits and Duration Of Approved Permits**. The role of the Director is to determine whether or not the injection wells and their respective owners or operators are in compliance with the intent of these rules, thus protecting the ground waters of the state against unreasonable contamination or deterioration of quality and preserving them for diversion to beneficial uses. (7-1-93)

a. Consideration. The Director will consider the following factors in taking final action on draft permits: (7-1-93)

i. The likelihood and consequences of the injection well system failing; (7-1-93)

ii. The long term effects of such disposal or storage; (7-1-93)

iii. The recommendations and related justifications of the Directors of other state agencies and the public; (5-3-03)

iv. The potential for violation of ground water quality standards at the point of injection or the point of beneficial use; and (5-3-03)

v. Compliance with the Idaho Ground Water Quality Plan. (5-3-03)

b. Issuance of Permit. After considering the draft permit for construction, modification, or maintenance, and all matters relating thereto, the Director shall issue a permit if the standards and criteria of Subsection 070.05 will be met and USDW's will not otherwise be unreasonably affected. If the Director finds that the standards and criteria cannot be met or that ground water sources cannot otherwise be protected from unreasonable contamination at all times, the draft permit may be denied or a permit may be issued with conditions designed to protect ground water sources. The Director's decision shall be in writing and a copy shall be mailed by regular mail to the applicant and to all persons who commented in writing on the draft permit or appeared at a hearing held to consider the draft permit. (4-4-13)

c. Permit Conditions and Requirements. Any permit issued by the Director shall contain conditions to insure that ground water sources will be protected from waste, unreasonable contamination, or deterioration of ground water quality that could result in violations of the ground water quality standards. In addition to specific construction, operation, maintenance and monitoring requirements that the Director finds necessary, each permit shall be subject to the standard conditions and requirements of this rule. (5-3-03)

d. Construction Requirements. (7-1-93)

i. Well drillers or other persons involved with the construction of any injection well requiring a permit shall not commence construction on the facility until a certified copy of the approved permit is obtained from

the Director. (7-1-93)

ii. Deep injection wells shall be constructed by a licensed water well driller to conform with the current Minimum Well Construction Standards and the conditions of the permit, except that a driller's license is not required for the construction of a driven mine shaft or a dug hole. (7-1-93)

iii. Shallow injection wells authorized by permit shall be constructed in accordance with the conditions of the permit. Rule-authorized shallow injection wells shall be constructed as shown or described in the inventory submittal. (5-3-03)

iv. Injection wells shall be constructed to prevent the entrance of any fluids other than specified in the permit. (7-1-93)

v. Injection wells shall be constructed to prevent waste of artesian fluids or movement of fluids from one aquifer into another. (7-1-93)

vi. When construction or modification of an injection well has been completed, the owner or operator shall inform the Director of completion on a form provided by the Department. (7-1-93)

vii. A sampling port shall be provided if the injection well system is enclosed. (5-3-03)

viii. All new injection wells constructed into alluvial formations shall have a minimum ten (10) foot separation from the bottom of the well and seasonal high ground water. (5-3-03)

(1) Injection wells installed into fractured basalt are exempt from separation distances. (5-3-03)

(2) The Director may reduce separation distance requirements if the quality of injected fluids are improved through additional treatment or BMPs. (5-3-03)

(3) Heat pump return wells (sub-class 5A7) are exempt from the separation distance requirement of this section. (4-4-13)

e. Operational Conditions. (7-1-93)

i. The injection well shall not be used until the construction, operation and maintenance requirements of the permit are met and provisions are made for any required inspection, monitoring and record keeping. (7-1-93)

ii. Injection of any contaminant at concentrations exceeding the standards set in Paragraph 070.05.c. into a present or future drinking or other ground water source that may cause a health hazard or adversely affect a designated and protected use is prohibited. (4-4-13)

iii. The injection well owner or operator shall develop approved procedures to detect constructional or operational failure in a timely fashion, and shall have contingency plans to cope with the well failure. (7-1-93)

iv. Authorized representatives of the Department shall be allowed to enter, inspect and/or sample: (7-1-93)

(1) The injection well and related facilities; (7-1-93)

(2) The owner or operator's records of the injection operation; (7-1-93)

(3) Monitoring instrumentation associated with the injection operation; and (7-1-93)

(4) The injected fluids. (7-1-93)

v. The injection facilities shall be operated and maintained to achieve compliance with all terms and conditions of this permit. (7-1-93)

(1) Proper operation and maintenance includes effective performance, adequate funding, operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures; (7-1-93)

(2) If compliance cannot be met, the owner shall take corrective action as determined by the Director or terminate injection. (4-4-13)

vi. The owner shall mitigate any adverse effects resulting from non-compliance with the terms and conditions of the permit. (7-1-93)

vii. If the injection well was constructed prior to issuance of the permit, the well shall be brought into compliance with the terms and conditions of the permit in accordance with the schedule of compliance issued by the Director. (7-1-93)

viii. The permit shall not convey any property rights. (7-1-93)

f. Conditions of Permanent Decommissioning. (4-4-13)

i. Notice of intent to permanently decommission a well shall be submitted to the Director not less than thirty (30) days prior to commencement of the decommissioning activity. (4-4-13)

ii. The method of permanent decommissioning for all injection wells shall be approved by the Director prior to commencement of the decommissioning activity. (4-4-13)

iii. Notice of completion of permanent decommission shall be submitted to the Director within thirty (30) days of completion. (4-4-13)

iv. All deep injection wells that are to be permanently decommissioned shall be plugged in accordance with current Well Construction Standards. (4-4-13)

v. Following permanent cessation of use, or where an injection well is not completed, the Director shall be notified. Decommissioning procedures or other action, as prescribed by the Director, shall be conducted. (4-4-13)

vi. The injection well owner or operator has the responsibility to insure that the injection operation is decommissioned as prescribed. (4-4-13)

g. Duration of Approved Permits. The length of time that a permit may be in effect for Class V wells requiring permits shall not exceed ten (10) years. (7-1-93)

05. Standards For The Quality of Injected Fluids and Criteria For Location and Use. (4-4-13)

a. General. These standards, which are minimum standards that are to be adhered to for all deep injection wells and shallow injection wells requiring permits and rule-authorized wells not requiring permits, are based on the premise that if the injected fluids meet ground water quality standards for physical, chemical and radiological contaminants, and if ground water produced from adjacent points of diversion for beneficial use meets the water quality standards as defined in Section 010 of these rules, then that aquifer will be protected from unreasonable contamination and will be preserved for diversion to beneficial uses. The Director may, however, when it is deemed necessary, require specific injection wells to be constructed and operated in compliance with additional requirements, such as best management practices (BMPs), so as to protect the ground water resource from deterioration and preserve it for diversion to beneficial use. (4-4-13)

b. Waivers. A waiver of one (1) or more standards may be granted by the Director if it can be demonstrated by the applicant that the contaminants in injected fluid will not endanger a ground water source for any present or future beneficial use. (5-3-03)

c. Standards for Quality of Fluids Injected into Class V Wells. (4-4-13)

i. Ground water quality standards for chemical and radiological contaminants in injected fluids. After the effective date of these standards, the following limits shall not be exceeded in injected fluids from a well when such fluids will or are likely to reach a USDW: (4-4-13)

(1) Chemical contaminants. The concentration of each chemical contaminant in the injected fluids shall not exceed the ground water quality standard for that chemical contaminant, or the concentration of each contaminant in the receiving water, whichever requirement is less stringent; and (5-3-03)

(2) Radiological contaminants. Radiological levels of the injected fluids shall not exceed those levels specified by the ground water quality standards. (5-3-03)

ii. Restrictions on injection of fluids containing biological contaminants. The following restrictions apply to biological contaminants included in the ground water quality standard in injected fluids. Coliform bacteria: injected fluids containing coliform bacteria are subject to the following restrictions: (5-3-03)

(1) Contamination of ground water produced at any existing point of diversion for beneficial use, or any point of diversion for beneficial use developed in the future, by injected fluids is prohibited; (4-4-13)

(2) The Director may require the use of best management practices (BMPs) to reduce the concentration of coliform bacteria in the injected fluids; (5-3-03)

(3) The Director may require the use of water treatment technology, including ozonation and chlorination devices, sand filters, and settling pond specifications to reduce the concentration of coliform bacteria in injected fluids; (5-3-03)

(4) Ground water produced from points of diversion for beneficial use adjacent to injection wells that dispose of fluids containing coliform bacteria in concentrations greater than the current ground water quality standard shall be subject to monitoring for bacteria by the owner/operator of the injection well. A waiver of the monitoring requirement may be granted by the Director when it can be demonstrated that injection will not result in unreasonable contamination of ground water produced from these adjacent points; (5-3-03)

(5) Construction of new Subclass 5F1 injection wells, and other shallow and deep injection wells, as specified by the Director, that are likely to exceed the current ground water quality standard for coliform bacteria at the point of beneficial use is prohibited; and (5-3-03)

(6) At no time shall any fluid containing or suspected of containing fecal contaminants of human origin be injected into any Class V injection well authorized under these rules. (7-1-93)

iii. Physical, visual and olfactory characteristics. The following restrictions apply to physical, visual and olfactory characteristics of injected fluids. Temperature, color, odor, turbidity, conductivity and pH: the temperature, color, odor, conductivity, turbidity, pH or other characteristics of the injected fluid may not result in the receiving ground water becoming less suitable for diversion to beneficial uses, as determined by the Director. (7-1-93)

iv. Contamination by an injection well of ground water produced at an existing point of diversion for beneficial use, or a point of diversion for beneficial use developed in the future, shall not exceed water quality standards defined in Section 010 of these rules. (4-4-13)

d. Criteria for Location and Use of Class V Wells Requiring Permits. (7-1-93)

i. A Class V well requiring a permit may be required to be located a minimum distance, as determined from Table 1, from any point of diversion for beneficial use that could be harmed by bacterial contaminants. This requirement is not applicable to injection wells injecting wastes of quality equal to or better than adopted ground water quality standards in all respects. In addition, Class V wells may be required to be located at such a distance from a point of diversion for beneficial use as to minimize or prevent ground water contamination resulting from unauthorized or accidental injection, as determined by the Director. (5-3-03)

ii. These location requirements in Table 1 may be waived, as per Paragraph 070.05.b., when the applicant can demonstrate that any springs or wells within the calculated perimeter of the generated perched water zone will not be contaminated by the applicant's waste disposal or injection well. Monitoring by the applicant of the production wells or springs in question may be required to demonstrate that they are not being contaminated.

Determined Radii of Perched Water Zones Based on Maximum Average Weekly Injection Rates (cfs) of Class V Injection Wells *	
Injection (cfs)	**Radius of Generated Perched Water Zone (ft)**
0 - 0.20	800
0.20 - 0.60	1,400
0.61 - 1.00	1,800
1.01 - 2.00	2,500
2.01 - 3.00	3,000
3.01 - 4.00	3,500
4.01 - 5.00	4,000
Greater than 5.00	As determined by the Director

* Injection rates shall be based on the average volume of wastes injected by the well during the week of greatest injection in an average water year. (4-4-13)

e. Standards for the Quality of Fluids Injected by Subclass 5A7 Wells (Open-Loop Heat Pump Return). (4-4-13)

i. The quality of fluids injected by a Subclass 5A7 injection well shall comply with ground water quality standards or shall be equal to the quality of the ground water source to the heat pump, whichever is less stringent. (4-4-13)

ii. If the quality of the ground water source does not meet ground water quality standards, the injected fluids must be returned to the formation containing the ground water source. (5-3-03)

iii. The temperature of the injected fluids shall not impair the designated beneficial uses of the receiving ground water. (7-1-93)

iv. All Rule-authorized Injection Wells shall conform to the ground water quality standards at the point of injection and not cause any water quality standards to be violated at any point of beneficial use. (5-3-03)

06. Monitoring, Record Keeping and Reporting Requirements. The Director may require monitoring, record keeping and reporting by any owner or operator if the Director finds that the well may adversely affect a ground water source or is injecting a contaminant that could have an unacceptable effect upon the quality of the ground waters of the state. (5-3-03)

a. Monitoring. (7-1-93)

i. Any injection authorized by the Director shall be subject to monitoring and record keeping requirements as conditions of the permit. Such conditions may require the installation, use and maintenance of monitoring equipment or methods. The Director may require where appropriate, but is not limited to, the following: (7-1-93)

(1) Monitoring of injection pressures and pressures in the annular space between casings; (7-1-93)

(2) Flow rate and volumes; (7-1-93)

(3) Analysis of quality of the injected fluids for contaminants that are subject to limitation or reduction under the conditions of the permit; or contaminants which the Director determines could have an unacceptable effect on the quality of the ground waters of the state, and which the Director has reason to believe are in the injected fluids; (7-1-93)

(4) Monitoring of ground water through special monitoring wells or existing points of diversion for beneficial use in the zone of influence as determined by the Director; (7-1-93)

(5) A demonstration of the integrity of the casing, tubing or seal of the injection well. (7-1-93)

ii. The frequency of required monitoring shall be specified in the permit when issued, except that the Director at any time may, in writing, require additional monitoring and reporting. (7-1-93)

iii. All monitoring tests and analysis required by permit conditions shall be performed in a state certified laboratory or other laboratory approved by the Director. (4-4-13)

iv. Any field instrumentation used to gather data, when specified as a condition of the permit, shall be required by the Director to be tested and maintained in such a manner as to ensure the accuracy of the data. (7-1-93)

v. All samples and measurements taken for the purpose of monitoring shall be representative of the monitoring activity and fluids injected. (7-1-93)

b. Record Keeping. The permittee shall maintain records of all monitoring activities to include: (7-1-93)

i. Date, time and exact place of sampling; (7-1-93)

ii. Person or firm performing analysis; (7-1-93)

iii. Date of analysis, analytical methods used and results of analysis; (7-1-93)

iv. Calibration and maintenance of all monitoring instruments; and (7-1-93)

v. All original tapes, strip charts or other data from continuous or automated monitoring instruments. (7-1-93)

c. Reporting. (7-1-93)

i. Monitoring results obtained by the permittee pursuant to the monitoring requirements prescribed by the Director shall be reported to the Director as required by permit conditions. (7-1-93)

ii. The Director shall be notified in writing by the permittee within five (5) days after the discovery of violation of the terms and conditions of the permit. If the injection activity endangers human health or a public or domestic water supply, use of the injection well shall be immediately discontinued and the owner or operator shall immediately notify the Director. Notification shall contain the following information: (7-1-93)

(1) A description of the violation and its cause; (7-1-93)

(2) The duration of the violation, including dates and times; if not corrected or use of the well discontinued, the anticipated time of correction; and (5-3-03)

(3) Steps being taken to reduce, eliminate and prevent recurrence of the injection. (7-1-93)

iii. Where the owner or operator becomes aware of failure to submit any relevant facts in any permit

application or report to the Director, that person shall promptly submit such facts or information. (7-1-93)

iv. The permittee shall furnish the Director, within a time specified by the Director, any information which the Director may request to determine compliance with the permit. (7-1-93)

v. All applications for permits, notices and reports submitted to the Director shall be signed and certified. (7-1-93)

vi. The Director shall be notified in writing of planned physical alterations or additions to any facility related to the permitted injection well operation. (7-1-93)

vii. Additional information to be reported to the Director in writing: (7-1-93)

(1) Transfer of ownership; (7-1-93)

(2) Any change in operational status not previously reported; (7-1-93)

(3) Any anticipated noncompliance; and (5-3-03)

(4) Reports of progress toward meeting the requirements of any compliance schedule attached or assigned to this permit. (7-1-93)

07. Permit Assignable. Permits may be assignable to a new owner or operator of an injection well if the new owner or operator, within thirty (30) days of the change, notifies the Director of such change. The new owner or operator shall be responsible for complying with the terms and conditions of the permit from the time that such change takes place. (4-4-13)

071. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
The Idaho Department of Water Resources, through authority granted by Section 42-4001 through Section 42-40l5, Idaho Code, is the regulatory agency for the drilling, operation, maintenance, and abandonment of all geothermal wells in the state. The Department's authority also includes regulatory jurisdiction over other related operations and environmental hazards pertaining to the exploration and development of geothermal resources. (7-1-93)

001. TITLE AND SCOPE (RULE 1).
The geothermal policy of the state of Idaho as stated in Section 42-4001, Idaho Code, is as follows: "It is the policy and purpose of this state to maximize the benefits to the entire state which may be derived from the utilization of our geothermal resources, while minimizing the detriments and costs of all kinds which could result from their utilization. This policy and purpose is embodied in this act which provides for the immediate regulation of geothermal resource exploration and development in the public interest." (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
For the purpose of these rules, the following definitions apply. (7-1-93)

01. Applicant. Any person submitting an application to the Department of Water Resources for a permit for the construction and operation of any well or injection well. (7-1-93)

02. Board. The Idaho Water Resource Board. (7-1-93)

03. BOPE. An abbreviation for Blow Out Prevention Equipment which is designed to be attached to the casing in a geothermal well in order to prevent a blow out of the drilling mud. (7-1-93)

04. Completion. A well is considered to be completed thirty (30) days after drilling operations have ceased unless a suspension of operation is approved by the Director, or thirty (30) days after it has commenced producing a geothermal resource, whichever occurs first, unless drilling operations are resumed before the end of the thirty (30) day period or at the end of the suspension. (7-1-93)

05. Conductor Pipe. The first and largest diameter string of casing to be installed in the well. This casing extends from land surface to a depth great enough to keep surface waters from entering and loose earth from falling in the hole and to provide anchorage for blow out prevention equipment prior to setting surface casing. (7-1-93)

06. Department. The Idaho Department of Water Resources. (7-1-93)

07. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

08. Drilling Logs. The recorded description of the lithologic sequence encountered in drilling a well. (7-1-93)

09. Drilling Operations. The actual drilling, redrilling, or recompletion of the well for production or injection including the running and cementing of casing and the installation of well head equipment. Drilling operations do not include perforating, logging, and related operations after the casing has been cemented. (7-1-93)

10. Exploratory Well. A well drilled for the discovery and/or evaluation of geothermal resources either in an established geothermal field or in unexplored areas. Exploratory well does not include holes six (6) inches in diameter or less if they are used for gathering geotechnical data such as, but not limited to, heat flow, earth temperature, temperature gradient and/or seismic measurements, provided said holes are not greater than one thousand (1000) feet in depth below land surface and provided the material medium is not intended to be encountered. (7-1-93)

11. Geothermal Area. The same general land area which in its subsurface is underlain or reasonably appears to be underlain by geothermal resources from or in a single reservoir, pool, or other source or interrelated sources, as such area or areas may be designated from time to time by the Director. (7-1-93)

12. Geothermal Field. An area designated by the Director which contains a well or wells capable of commercial production of geothermal resources. (7-1-93)

13. Geothermal Resource. The natural heat energy of the earth, the energy in whatever form which may be found in any position and at any depth below the surface of the earth, present in, resulting from, or created by, or which may be extracted from such natural heat and all minerals in solution or other products obtained from the material medium of any geothermal resource. Geothermal resources are found and hereby declared to be sui generis, being neither a mineral resource nor a water resource but they are also found and hereby declared closely related to and possibly affecting and affected by water and mineral resources in many instances. (7-1-93)

14. Injection Well. Any special well, converted producing well, or reactivated or converted abandoned well employed for injecting material into a geothermal area or adjacent area to maintain pressures in a geothermal reservoir, pool, or other source, or to provide new material or to serve as a material medium therein, or for reinjecting any material medium or the residue thereof, or any by-product of geothermal resource exploration or development into the earth. (7-1-93)

15. Intermediate String or Casing. The casing installed within the well to seal out brackish water, caving zones, etc., below the bottom of the surface casing. Such strings may either be lapped into the surface casing or extend to land surface. (7-1-93)

16. Material Medium. Any substance including, but not limited to, naturally heated fluids, brines, associated gasses and steam in whatever form, found at any depth and in any position below the surface of the earth, which contains or transmits the natural heat energy of the earth, but excluding petroleum, oil, hydrocarbon gas, or other hydrocarbon substances. (7-1-93)

17. Notice of Intent or Notice. A written statement to the Director that the applicant intends to do work. (7-1-93)

18. Observation Well. A small diameter well drilled strictly for monitoring purposes. In no case shall an observation well be completed for production of geothermal resources or for use as an injection well. (7-1-93)

19. Operator. Any person drilling, maintaining, operating, pumping, or in control of any well. The term operator also includes owner when any well is or has been or is about to be operated by or under the direction of the owner. (7-1-93)

20. Owner. The owner of the geothermal lease or well and includes operator when any well is operated or has been operated or is about to be operated by any person other than the owner. (7-1-93)

21. Permit. A permit issued pursuant to these rules for the construction and operation of any well or injection well. (7-1-93)

22. Person. Any individual natural person, general or limited partnership, joint venture, association, cooperative organization, corporation, whether domestic or foreign, agency or subdivision of this or any other state or municipal or quasi-municipal entity whether or not it is incorporated. (7-1-93)

23. Production String. The casing or tubing through which a geothermal resource is produced. This string extends from the producing zone to land surface. (7-1-93)

24. Production Well. Any well which is commercially producing or is intended for commercial production of a geothermal resource. (7-1-93)

25. Surface Casing. The first string of casing which is run after the conductor pipe to anchor blow out prevention equipment and to seal out all existing groundwater zones. (7-1-93)

26. Suspension of Operations. The cessation of drilling, redrilling, or alteration of casing before the well is officially abandoned or completed. All suspensions must be authorized by the Director. (7-1-93)

27. Waste. Any physical waste including, but not limited to: (7-1-93)

a. Underground waste resulting from inefficient, excessive, or improper use, or dissipation of

geothermal energy, or of any geothermal resource pool, reservoir, or other source; or the locating, spacing, constructing, equipping, operating, or producing of any well in a manner which results, or tends to result in reducing the quantity of geothermal energy to be recovered from any geothermal area in the state; (7-1-93)

b. The inefficient above-ground transporting and storage of geothermal energy; and the locating, spacing, equipping, operating, or producing of any well or injection well in a manner causing or tending to cause unnecessary or excessive surface loss or destruction of geothermal energy; the escape into the open air from a well of steam or hot water in excess of what is reasonably necessary in the efficient development or production of a well. (7-1-93)

28. Well. Any excavation or other alteration in the earth's surface or crust by means of which the energy of any geothermal resource and/or its material medium is sought or obtained. (7-1-93)

011. -- 024. (RESERVED)

025. DRILLING (RULE 25).

01. General. All wells shall be drilled in such a manner as to protect or minimize damage to the environment, waters usable for all beneficial purposes, geothermal resources, life, health, or property. (7-1-93)

02. Permits and Notices. (7-1-93)

a. Permit to Drill for Geothermal Resources. Any person, owner, or operator who proposes to construct a well for the production of or exploration for geothermal resources or to construct an injection well shall first apply to the Director for permit. Application for permit shall be on department form 4003-1. Any person, owner, or operator who proposes to construct a hole for the gathering of geotechnical data shall file a notice of intent with the Director twenty (20) days prior to construction. Written approval of the Director is required before construction may begin. The notice of intent shall show the hole location, proposed depth, hole size, construction methods, intended use and abandonment plan together with other information as required by the Director. (7-1-93)

b. Permit to Deepen or Modify an Existing Well. If the owner or operator plans to deepen, redrill, plug, or perform any operation that will in any manner modify the well, an application shall be filed with the Director and written approval must be received prior to beginning work. Application for permit to alter a geothermal well shall be on department form 4003-2. (7-1-93)

c. Application for Permit to Convert to Injection. If the owner or operator plans to convert an existing geothermal well into an injection well with no change of mechanical condition, an application for permit shall be filed with the Director and written approval must be received prior to beginning injection. Application for permit shall be made on department form 4003-3. (7-1-93)

d. Amendment of Permit. No well may be owned or operated by any person whose name does not appear on the permit or permit application and no changes in departure from the procedures, location, data, or persons specified on the face of a permit shall be allowed until an amendment to such permit is approved by the Director. Application for amendment shall be made on department form 4003-1. (7-1-93)

e. Notice to Other Agencies. Notice of applications, permits, orders, or other actions received or issued by the Director may be given to any other agency or entity which may have information, comments, or jurisdiction over the activity involved. The Director may enter into a memorandum of understanding with other agencies to eliminate duplication of applications or other efforts. (7-1-93)

f. No filing fee shall be charged for filing a notice of intent to construct a hole for gathering geotechnical data, for abandonment, or for the drilling of an observation well. (7-1-93)

g. No application shall be accepted and filed by the Director until such filing fee has been deposited with the Director. (7-1-93)

03. Bonds. (7-1-93)

a. The Director shall require as a condition of every permit every operator or owner who engages in the construction, alteration, testing, or operation of the well to file with the Director on a form prescribed by the Director a bond indemnifying the state of Idaho providing good and sufficient security conditioned upon the performance of the duties required by these regulations and the Geothermal Resource Act and the proper abandonment of any well covered by such permit. Such bond shall be in an amount which is not less than ten thousand dollars ($10,000) for each individual well. (7-1-93)

b. Bonds remain in force for the life of the well or wells and may not be released until the well or wells are properly abandoned or another valid bond is substituted therefor. Any person who acquires the ownership or operation of any well or wells shall within five (5) days after acquisition file with the Director an indemnity bond in the sum of ten thousand dollars ($10,000) for each well acquired. The Director reserves the right to request additional bonding prior to abandonment if deemed necessary. (7-1-93)

04. Well Spacing. (7-1-93)

a. Any well drilled for the discovery and production of geothermal resources or as an injection well shall be located more than one hundred (l00) feet from and within the outer boundary of the parcel of land on which the well is situated, or more than one hundred (l00) feet from a public road, street, or highway dedicated prior to the commencement of drilling. This requirement may be modified or waived by the Director upon written request. (7-1-93)

b. For several contiguous parcels of land in one or different ownerships that are operated as a single geothermal field, the term outer boundary line means the outer boundary line of the land included in the field. In determining the contiguity of any such parcels of land, no street, road, or alley lying within the lease or field shall be determined to interrupt such contiguity. (7-1-93)

c. The Director shall approve the proposed well spacing programs or prescribe such modifications to the programs as he deems necessary for proper development giving consideration to such factors as, but not limited to, topographic characteristics of the area, hydrologic, geologic, and reservoir characteristics of the area, the number of wells that can be economically drilled to provide the necessary volume of geothermal resources for the intended use, minimizing well interference, unreasonable interference with multiple use of lands, and protection of the environment. (7-1-93)

d. Directional Drilling. Where the surface of the parcel of land containing one acre or more is unavailable for drilling, the surface well location may be located upon property which may or may not be contiguous. Such surface well locations shall not be less than twenty five (25) feet from the outer boundary of the parcel on which it is located, nor less than twenty-five (25) feet from an existing street or road. The production or injection interval of the well shall not be less than one hundred (100) feet from the outer boundary of the parcel into which it is drilled. Directional surveys must be filed with the Director for all wells directionally drilled. (7-1-93)

05. Casing. (7-1-93)

a. General. All wells shall be cased in such a manner as to protect or minimize damage to the environment, usable ground waters, geothermal resources, life, health, and property. The permanent well head completion equipment shall be attached to the production casing or to the intermediate casing if production casing does not reach the surface. No permanent well head equipment may be attached to any conductor or surface casing alone. The specification for casing strength shall be determined by the Director on a well-to-well basis. All casing reaching the surface shall provide adequate anchorage for blow out prevention equipment, hole pressure control, and protection for natural resources. Sufficient casing shall be run to reach a depth below all known or reasonably estimated groundwater levels to prevent blow outs or uncontrolled flows. The following casing requirements are general but should be used as guidelines in submitting applications for permit to drill. (7-1-93)

b. Conductor Pipe. A minimum of forty (40) feet of conductor pipe shall be installed. The annular space is to be cemented solid to the surface. A twenty-four (24) hour cure period for the grout must be allowed prior to drilling out the shoe unless additives sufficient, as determined by the Director, are used to obtain early strength. An annular blow out preventer shall be installed on all exploratory wells and on development wells when deemed

necessary by the Department. (7-1-93)

c. Surface Casing. The surface casing hole shall be logged with an induction electrical log or equivalent or gamma-neutron log before running casing. This requirement may be waived by the Director. Permission to waive this requirement must be granted by the Director in writing prior to running surface casing. This casing shall provide for control of formation fluids, protection of shallow usable groundwater, and for adequate anchorage for blow out prevention equipment. All surface casing shall be cemented solid to the surface. A twenty-four (24) hour cure period shall be allowed prior to drilling out the shoe of the surface casing unless additives sufficient, as determined by the Director, are used to obtain early strength. (7-1-93)

i. A minimum of two hundred (200) feet of surface casing shall be set in areas where pressures and formations are unknown. In no case may surface casing be set at a depth less than ten percent (10%) of the proposed total depth of the well. (7-1-93)

ii. In areas of known high formation pressure, surface casing shall be set at the depth determined by the Director after a study of geologic conditions in the area. (7-1-93)

iii. In areas where subsurface geological conditions are variable or unknown, surface casing shall be in accordance with specifications as outlined in a. above. The casing must be seated through a sufficient series of low permeability, competent lithologic units such as claystone, siltstone, basalt, etc., to insure a solid anchor for blow out prevention equipment and to protect usable groundwater from contamination. Additional casing may be required if the first string has not been cemented through a sufficient series of such beds, or a rapidly increasing thermal gradient or formation pressures are encountered. (7-1-93)

iv. The temperature of the return drilling mud shall be monitored continuously during the drilling of the surface casing hole. Either a continuous temperature-monitoring device shall be installed and maintained in a working condition or the temperature shall be read manually. In either case, the return temperature shall be entered into the log book for each thirty (30) feet of depth drilled. (7-1-93)

v. Blow out prevention equipment capable of shutting in the well during any operation shall be installed on the surface casing and maintained ready for use at all times. BOPE pressure tests shall be performed by the operator for department personnel on all exploratory wells prior to drilling out the shoe of the surface casing. The decision to perform BOPE pressure tests on other types of wells shall be made on a well-to-well basis by the Director. The Director must be notified five (5) days in advance of a scheduled pressure test. Permission to proceed with the test sooner may be given orally by the Director upon request by the operator. (7-1-93)

d. Intermediate Casing. Intermediate casing shall be required for protection against anomalous pressure zones, cave-ins, washouts, abnormal temperature zones, uncontrollable lost circulation zones or other drilling hazards. Intermediate casing strings when installed shall be cemented solidly to the surface or to the top of the casing. (7-1-93)

e. Production Casing. Production casing may be set above or through the producing or injection zone and cemented either below or just above the objective zones. Sufficient cement shall be used to exclude overlying formation fluids from the geothermal zone, to segregate zones, and to prevent movement of fluids behind the casing into possible fresh groundwater zones. Production casing shall either be cemented solid to the surface or lapped into the intermediate casing if run. If the production casing is lapped into an intermediate string, the casing overlap shall be at least fifty (50) feet, the lap shall be cemented solid, and the lap shall be pressure tested to insure its integrity. (7-1-93)

06. Electric Logging. All wells except observation wells shall be logged with an induction electrical log or equivalent or gamma-neutron log from the bottom of the hole to the bottom of the conductor pipe. This requirement may be modified or waived by the Director upon written request. (7-1-93)

026. -- 029. (RESERVED)

030. RECORDS (RULE 30).

01. General. The owner or operator of any well shall keep or cause to be kept a careful and accurate log, core record, temperature logs, and history of the drilling of the well. These records shall be kept in the nearest office of the owner or operator or at the well site and together with all other reports of the owner and operator regarding the well shall be subject to inspection by the Director during business hours. All records unless otherwise specified must be filed with the Director within thirty (30) days of completion of the well. (7-1-93)

02. Records to Be Filed with the Director. (7-1-93)

a. Drilling Logs and Core Record. The drilling log shall include the lithologic characteristics and depths of formations encountered, the depth and temperatures of water-bearing and steam-bearing strata, the temperatures, chemical compositions and other chemical and physical characteristics of fluids encountered from time to time so far as ascertained. The core record shall show the depth, lithologic character, and fluid content of cores obtained so far as determined. (7-1-93)

b. Well History. The history shall describe in detail in chronological order on a daily basis all significant operations carried out and equipment used during all phases of drilling, testing, completion, and abandonment of any well. (7-1-93)

c. Well Summary Report. The well summary report shall accompany the core record and well history reports. It is designed to show data pertinent to the condition of a well at the time of completion of work done. (7-1-93)

d. Production Records. The owner or operator of any well producing geothermal resources shall file with the Director on or before the 20th day of each month for the preceding month a statement of production utilized in such a form as the Director may designate. Copies of monthly geothermal energy report forms are available from the Director; however, production data can be submitted on non-department forms such as computer print-outs if they have been approved by the Director. (7-1-93)

e. Injection Records. The owner or operator of any well injecting geothermal fluids or waste water for any purpose shall file with the Director on or before the twentieth day of each month for the preceding month a report of the injection in such form as the Director may designate. Copies of monthly injection report forms are available from the Director. Injection data may be submitted on non-department forms if they have been approved by the Director. (7-1-93)

f. Electric Logs and Directional Surveys, If Conducted. Electric logs and directional surveys shall be filed with the Director within sixty (60) days of completion, cessation of drilling operations, excluding any approved suspension of operations, or abandonment of any well. Like copies shall be filed upon recompletion of any well. Upon a showing of hardship, the Director may extend the time within which to comply for a period not to exceed six (6) additional months. (7-1-93)

03. Confidential Status. Information on file with the Director is open to public inspection except any reports, logs, records, or histories derived from the drilling of a well and filed with the Director shall not be available for public inspection and shall be kept confidential by the Director for a period of one year from receipt provided, however, that the Director may use any such reports, logs, records, or histories in any action in any court to enforce the provisions of the Geothermal Act or any order or regulation adopted hereunder. (7-1-93)

04. Inspection of Records. The records filed by an operator with the Director which relates to the data gathered from the drilling operation shall be open to inspection only to those authorized in writing by the operator and designated personnel. The records of any operator filed for a completed or producing well that has been transferred by sale, lease, or otherwise shall be available to the new owner or lessee for his inspection or copying and shall be available for inspection or copying by others upon written authorization of such new owner or lessee. (7-1-93)

031. -- 034. (RESERVED)

035. BLOW OUT PREVENTION (RULE 35).

01. Unexplored Areas. (7-1-93)

a. A department employee may be present at the well at any time during the initial phases of drilling until the surface casing has been cemented and the BOPE has been satisfactorily pressure tested. The Department employee may be present during any drilling operations at the well and if in his opinion conditions warrant he may order additional casing to be run. (7-1-93)

b. A logging unit equipped to continuously record the following data shall be installed and operated continuously by a technician approved by the Director after drilling out the shoe of the conductor pipe until the well has been drilled to the total depth. (7-1-93)

i. Drilling mud temperature (in and out). (7-1-93)

ii. Drilling mud pit level. (7-1-93)

iii. Drilling mud pump volume. (7-1-93)

iv. Drilling mud weight. (7-1-93)

v. Drilling rate. (7-1-93)

vi. Hydrocarbon and hydrogen sulfide gas volume (with alarm). (7-1-93)

c. An annular BOPE with a minimum working pressure of one thousand (1,000) PSI shall be installed on the surface casing. If unusual conditions are anticipated, a BOPE may be required on the conductor pipe. (7-1-93)

d. If drilling mud temperature out, reaches one hundred twenty-five (125) Degrees C (Celsius), drilling operations shall cease, drilling mud circulation will continue and the Director must be notified immediately. The operator must obtain the Director's approval of his proposed course of action prior to resuming drilling operations. (7-1-93)

e. The above requirements for BOPE may be modified by the Director and any proposed modification by the applicant must be approved by the Director in writing. (7-1-93)

02. Explored Areas. (7-1-93)

a. A gate valve with a minimum working pressure rating of three hundred (300) PSI must be installed on the well head. (7-1-93)

b. The temperature of the return mud shall be monitored continuously. Either a continuous temperature monitoring device shall be installed and maintained in working condition or the temperature shall be read manually. In either case, return mud temperatures shall be entered into the log book for each thirty (30) feet of depth drilled. (7-1-93)

c. An annular BOPE with a minimum working pressure of one thousand (1,000) PSI shall be installed on the surface casing. (7-1-93)

d. Additional requirements may be set forth by the Director depending upon the knowledge of the area. Such requirements will be set forth on the approved application for permit to drill a geothermal well. Modification of said requirements may be made in the field by Department personnel monitoring construction of the well. (7-1-93)

036. -- 039. (RESERVED)

040. INJECTION WELLS (RULE 40).

01. Construction. The owner or operator of a proposed injection well or series of injection wells shall provide the Director with such information he deems necessary for evaluation of the impact of such injection on the

geothermal reservoir and other natural resources. Such information shall include existing reservoir conditions, method of injection, source of injection fluid, estimates of daily amount of material medium to be injected, zones or formations affected, and analysis of fluid to be injected and of the fluid from the intended zone of the injection. Such information shall be on department form 4003-3. (7-1-93)

02. Surveillance. (7-1-93)

a. When an operator or owner proposes to drill or modify an injection well or convert a producing or idle well to an injection well, he shall be required to demonstrate to the Director by means of a test that the casing has complete integrity. This test shall be conducted in a method approved by the Director. (7-1-93)

b. To establish the integrity of the annular cement above the shoe of the casing, the owner or operator shall make sufficient surveys within thirty (30) days after injection is started into a well to prove that all the injected fluid is confined to the intended zone of injection. Thereafter, such surveys shall be made at least every two (2) years or more often if necessary. The Director shall be notified forty-eight (48) hours in advance of such surveys in order that a representative may be present if deemed necessary. If in the Director's opinion such tests are not necessary, he may grant a waiver excepting the operator from such tests. (7-1-93)

c. After the well has been placed on injection, the injection well site will be visited periodically by Department personnel. The operator or owner will be notified of any necessary remedial work. Unless modified by the Director, this work must be performed within ninety (90) days or approval for the injection well issued by the Director will be rescinded. (7-1-93)

041. -- 044. (RESERVED)

045. ABANDONMENT (RULE 45).

01. Objectives. The objectives of abandonment are to block interzonal migration of fluids so as to: (7-1-93)

a. Prevent contamination of fresh water or other natural resources; (7-1-93)

b. Prevent damage to geothermal reservoirs; (7-1-93)

c. Prevent loss of reservoir energy; (7-1-93)

d. Protect life, health, environment and property. (7-1-93)

02. General Requirements. The following are general requirements which are subject to review and modification for individual wells or field conditions. (7-1-93)

a. A notice of intent to abandon geothermal resource wells is required to be filed with the Director five (5) days prior to beginning abandonment procedures. A permit to abandon may be given orally by the Director provided the operator submits a written request for said abandonment on a form approved by the Director within twenty-four (24) hours of the oral request. (7-1-93)

b. A history of geothermal resource wells shall be filed within sixty (60) days after completion of abandonment procedures. (7-1-93)

c. All wells abandoned shall be monumented and the description of the monument shall be included in the history of well report. Such monument shall consist of a four (4) inch diameter pipe ten (10) feet in length of which four (4) feet shall be above ground. The remainder shall be imbedded in concrete. The name, number, and location of the well shall be shown on the monument. Alternate methods of monumentation may be approved by the Director where land surface use indicates the above described method is not satisfactory. (7-1-93)

d. Good quality heavy drilling fluid shall be used to replace any water in the hole and to fill all portions of the hole not plugged with cement. (7-1-93)

e. All cement plugs with a possible exception of the surface plug shall be pumped into the hole through drill pipe or tubing. (7-1-93)

f. All open annuli shall be filled solid with cement to the surface. (7-1-93)

g. A minimum of one hundred (100) feet of cement shall be emplaced straddling the interface or transition zone at the base of groundwater aquifers. (7-1-93)

h. One hundred (100) feet of cement shall straddle the placement of the shoe plug on all casings including conductor pipe. (7-1-93)

i. A surface plug of either neat cement or concrete mix shall be in place from the top of the casing to at least fifty (50) feet below the top of the casing. (7-1-93)

j. All casing shall be cut off at least five (5) feet below land surface. (7-1-93)

k. Cement plugs shall extend at least fifty (50) feet over the top of any liner installed in the well. (7-1-93)

l. Abandonment. Injection wells are required to be abandoned in the same manner as other wells. (7-1-93)

m. Other abandonment procedures may be approved by the Director if the owner or operator can demonstrate that the geothermal resource, groundwaters, and other natural resources will be protected. Such approval must be given in writing by the Director prior to the beginning of any abandonment procedures. (7-1-93)

n. Within five (5) days after the completion of the abandonment of any well or injection well, the owner or operator of the abandoned well or injection well shall report in writing to the Director on such form as may be prescribed by the Director on all work done with respect to the abandonment. (7-1-93)

046. -- 049. (RESERVED)

050. MAINTENANCE (RULE 50).

01. General. All well heads, separators, pumps, mufflers, manifolds, valves, pipelines, and other equipment used for the production of geothermal resources shall be maintained in good condition in order to prevent loss of or damage to life, health, property, and natural resources. (7-1-93)

02. Corrosion. All surface well head equipment and pipelines and subsurface casing and tubing will be subject to periodic corrosion surveillance in order to safeguard health, life, property, and natural resources. (7-1-93)

03. Tests. The Director may require such tests or remedial work as in his judgment are necessary to prevent damage to life, health, property, and natural resources, to protect geothermal reservoirs from damage or to prevent the infiltration of detrimental substances into underground or surface water suitable for irrigation or other beneficial uses to the best interest of the neighboring property owners and the public. Such tests may include, but are not limited to, casing tests, cementing tests, and equipment tests. (7-1-93)

051. -- 054. (RESERVED)

055. HEARINGS, NOTICE, PROCEDURE (RULE 55).

Any applicant or the Director shall have the right to a hearing concerning the propriety of issuing a permit for which an application has been filed. Any applicant who desires a hearing pursuant to Section 42-4004, Idaho Code, must file a written request therefor with the Director of the Department of Water Resources. Any person may file a petition with the Director requesting that the Director hold a hearing concerning the propriety of issuing a permit for which an application has been filed. The petitioner must serve a copy of the petition upon the applicant and set forth in the petition all reasons for requesting the hearing. The applicant may respond to the petition within ten (10) days of its

service. However, failure of the applicant to respond shall not be prejudicial to his right to appear at the hearing and present such evidence as he deems proper, if the Director grants the petition for such hearing. The hearing shall be set by the Director at any location deemed appropriate. Notice of the time and location shall be served on the applicant and/or the petitioner by the Director at least twenty (20) days before said date by certified mail addressed to applicant's address as stated in the application and to the petitioner at the address given in the petition. The hearing shall be conducted in the manner prescribed in the general rules and procedures of the Department. (7-1-93)

056. -- 059. (RESERVED)

060. HEARINGS ON REFUSED, LIMITED, OR CONDITIONED PERMIT (RULE 60).
Any applicant who is granted a limited or conditioned permit, or who is denied a permit or any person aggrieved by a decision of the Director may seek a hearing on said action of the Director by serving on the Director written notice and request for a hearing before the Board within thirty (30) days of service of the Director's decision. Said hearing will be set, conducted, and notice given as set forth in Rule 055 above. Any applicant may appeal the decision of the Board to the District Court within thirty (30) days of service of the decision. All hearings under this rule shall be conducted in the manner prescribed in the general rules and procedures of the Department. (7-1-93)

061. -- 064. (RESERVED)

065. PENALTIES (RULE 65).

01. Order by Director. If the Director finds that any person is constructing, operating, or maintaining any hole, well or injection well not in accordance with any applicable permit or in a fashion so as to involve an unreasonable risk of, or so as to cause, damage to life or property or subsurface, surface, or atmospheric resources, the Director may issue an order to such person to correct or to stop such practices as are found to be improper and to mitigate any injury of any sort caused by such practices. (7-1-93)

02. Enforcement by Director. The Director may enforce any provision of this act or any order or regulation issued or adopted pursuant thereto by an appropriate action in the District Court. The Director may bring action in the District Court to have enjoined any threatened noncompliance with any provision of this act or any order or regulation adopted pursuant hereto or any threatened harm to life, property, or surface, subsurface or atmospheric resources which would be caused by such noncompliance. (7-1-93)

03. Willful Violations or Failure to Comply. Any willful violations of or failure to comply with any provision of these rules, or if such order or regulation has been served on such person or is otherwise known to him, any valid order or regulation issued or adopted hereto shall be a misdemeanor punishable by fine of up to five thousand dollars ($5,000) for each offense or a sentence of up to six (6) months in a county jail or both; each day of a continuing violation shall be a separate offense under this subdivision. A responsible or principal executive officer or any corporate person may be liable under this subdivision if such corporate person is not in compliance with any provision of this act or with any valid order or regulation adopted pursuant hereto. (7-1-93)

066. -- 069. (RESERVED)

070. FORMS (RULE 70).
Forms required by these rules. (7-1-93)

01. Samples of Forms. Samples of all forms required by these rules are available from the Department to interested parties upon request. (7-1-93)

02. Forms. The forms include the following: (7-1-93)

a. Form 4003-1, Application for Permit to Drill for Geothermal Resources; (7-1-93)

b. Form 4003-2, Application for Permit to Alter a Geothermal Well; (7-1-93)

c. Form 4003-3, Application for Permit to Convert a Well to a Geothermal Injection Well; (7-1-93)

d. Form 4005, Geothermal Resources Surety Bond; (7-1-93)

e. Form 4007, Notice of Intent to Abandon a Well; (7-1-93)

f. Form 4009, Report of Abandonment of a Well; (7-1-93)

g. Form 4010-1, Monthly Injection Report for Geothermal Wells; and (7-1-93)

h. Form 4010-2, Monthly Energy Report for Geothermal Wells. (7-1-93)

071. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted pursuant to Section 42-1714, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled IDAPA 37.03.05, "Mine Tailings Impoundment Structures Rules." (7-1-93)

02. Scope. (7-1-93)

a. These rules and standards will only apply to structures upon which construction, lift construction, enlargement, or alteration is underway on or after July l, 1978. Under no circumstances shall these rules be construed to deprive or limit the Director of the Department of Water Resources of any exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount or character of data, or information which may be required by the Director from any owner of a mine tailings impoundment structure for the proper administration of the law. (7-1-93)

b. The design requirements listed are intended as a guide to establish acceptable standards of construction. They are not intended to restrict the application of other sound design principles by engineers. The Director will evaluate any deviation from the standards hereinafter stated as they pertain to the safety of any given mine tailings impoundment structure. Engineers are encouraged to submit new ideas which will advance the art and provide for the public safety. (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
Unless the context otherwise requires, the following definitions govern these rules. (7-1-93)

01. Board. The Idaho Water Resource Board. (7-1-93)

02. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

03. Department. The Idaho Department of Water Resources. (7-1-93)

04. Mine Tailings Impoundment Structure. Any artificial embankment which is or will be more than thirty (30) feet in height measured from the lowest elevation of the toe to the maximum crest elevation constructed for the purpose of storing mine tailings slurry. (7-1-93)

05. Mine Tailings Slurry. All slurry wastes from a mineral processing or mining operation. (7-1-93)

06. Mine Tailings Storage Capacity. The total storage volume of the impoundment when filled with tailings to the maximum approved design storage elevation. (7-1-93)

07. Borrowed Fill Embankment. Any embankment constructed of borrowed earth materials and which is designed for construction by conventional earth moving equipment. (7-1-93)

08. Reservoir. Any basin which contains or will contain the material impounded by the mine tailings impoundment structure. (7-1-93)

09. Owner. Includes any of the following who own, control, operate, maintain, manage, or propose to construct a mine tailings impoundment structure or reservoir. (7-1-93)

a. The state of Idaho and any of its departments, agencies, institutions and political subdivisions; (7-1-93)

b. The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America are not required to pay any of the fees required by Section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by Section 42-1721, Idaho Code, for information purposes only; (7-1-93)

c. Every municipal or quasi-municipal corporation; (7-1-93)

d. Every public utility; (7-1-93)

e. Every person, firm, association, organization, partnership, business, trust, corporation or company; (7-1-93)

f. The duly authorized agents, lessees, or trustees of any of the foregoing; (7-1-93)

g. Receivers or trustees appointed by any court for any of the foregoing. (7-1-93)

10. Alterations, Repairs or Either of Them. Only such alterations or repairs as may directly affect the safety of the mine tailings impoundment structure or reservoir, as determined by the Director. (7-1-93)

11. Enlargement. Any change in or addition to an existing mine tailings impoundment structure or reservoir, which raises or may raise the storage capacity of the structure, as defined in Rule Subsection 010.06. (7-1-93)

12. Days Used in Establishing Deadlines. Calendar days including Sundays and holidays. (7-1-93)

13. Certificate of Approval. A certificate issued by the Director for the mine tailings impoundment structure listing restrictions imposed by the Director, and without which no new mine tailings impoundment structures shall be allowed to impound mine tailings slurry or water and no existing impoundment shall be allowed to impound water or continue deposition of mine tailings slurry. The structure will be recertified every two (2) years, unless the Director determines that the structure is unsafe. (7-1-93)

14. Engineer. A registered professional engineer, licensed as such by the state of Idaho. (7-1-93)

011. -- 024. (RESERVED)

025. AUTHORITY OF REPRESENTATIVE (RULE 25).
When plans, drawings and specifications are filed by another person in behalf of an owner, written evidence of authority to represent the owners shall be filed with the plans, drawings and specifications. (7-1-93)

026. -- 029. (RESERVED)

030. FORMS (RULE 30).
Forms required by these rules. (7-1-93)

01. Samples of Forms. Samples of all forms required by these rules are available from the Department to interested parties upon request. (7-1-93)

02. Form 1721. Construction of a mine tailings impoundment structure requires the filing of Form 1721. (7-1-93)

031. -- 034. (RESERVED)

035. PLANS, DRAWINGS, AND SPECIFICATIONS (RULE 35).
The following provisions apply in submitting plans, drawings, and specifications. (7-1-93)

01. Submission of Plans, Drawings, and Specification. Any owner who shall desire to construct, or enlarge, or alter or repair any mine tailings impoundment structure shall submit duplicate copies of plans, drawings, and specifications prepared by an engineer for the proposed work to the Director with required fees. An owner who desires to construct a continuously raised tailings impoundment structure shall submit duplicate copies of plans, drawings, and specifications prepared by an engineer, showing the stages of lift height, by periods of time, and ultimate design height. (7-1-93)

02. Application for and Receipt of Written Approval. Construction of a new mine tailings impoundment structure or enlargement, or non-emergency alteration or repairs on existing mine tailings impoundment structures shall not be commenced until the owner has applied and obtained written approval of the plans, drawings, and specifications covering the work. In emergency situations, the owner shall make the required alterations or repairs necessary to relieve the emergency, and notify the Director. (7-1-93)

03. Preparation and Submission of Plans. Plans must be prepared on a good grade of tracing linen or a good quality vellum or mylar. Transparent copies reproducible by standard duplicating processes, if accurate, legible and permanent, will be accepted. Plans may initially be submitted in the form of nonreproducible paper prints. After reviewing the plans, the Director will notify the owner of any required changes. (7-1-93)

04. Scale of Plans and Drawings. Plans and drawings shall be of sufficiently large scale with an adequate number of views and proper dimensions, so that drawings may be readily interpreted and studied. (7-1-93)

05. Dimensions of Plans. All sheets for a set of plans shall have an outside dimension of twenty-four by thirty-six (24 x 36) inches. A margin of two (2) inches on the left-hand end and a margin of one-half (1/2) inch on the other three sides must be provided, making the available work space twenty-three (23) x thirty-three and one-half (33 1/2) inches. (7-1-93)

06. Plans. The plans shall include the following: (7-1-93)

a. A topographic map of the mine tailings impoundment structure site showing the location of the proposed mine tailings impoundment structure by section, township and range, and location of spillway or diversion structures, outlet works, and all borings, test pits, borrow pits; (7-1-93)

b. A profile along the mine tailings impoundment structure axis showing the locations, elevations, and depths of borings or test pits, including logs of bore hole and/or test pits; (7-1-93)

c. A maximum cross-section of the mine tailings impoundment structure showing elevation and width of crest, slopes of upstream and downstream faces, thickness of any proposed riprap, zoning of the earth embankment (if any), location of cutoff and bonding trenches, elevations, size and type of decant systems, valves, operating mechanism, and dimensions of all other essential structural elements such as cutoff walls, filters, embankment zones, etc.; (7-1-93)

d. Detailed drawings describing the outlet system, i.e., decant line, barge pump system, siphon system; (7-1-93)

e. If a spillway is used, a curve showing the discharge capacity in cubic feet per second of the spillway vs. gage height of the storage pool level above the spillway crest up to the maximum high water level, and the formula used in making such determinations; (7-1-93)

f. If a stream diversion is created, a tabulation of the discharge capacity in cubic feet per second of any diversion works and of the diversion channel vs. flow depth through the diversion works or channel up to maximum capacity of the system, and the formulas used in making such determinations; (7-1-93)

g. Where staged construction will take place and no spillway exists, a curve showing maximum safe operating level for the tailings as a function of embankment height and the design criteria used to arrive at this; (7-1-93)

h. Detailed plans, including cross-sections and profile, of the spillway or diversion works and any associated channels; (7-1-93)

i. Plans for monitoring and/or recovering seepage from the reservoir in those instances where safety of the impoundment may be affected; (7-1-93)

j. An operation plan; (7-1-93)

k. An emergency procedure plan for protection of life and property; (7-1-93)

l. An abandonment plan that assures the Director to his satisfaction that, upon completion of the mining operation, the site will be in a safe maintenance-free condition. (7-1-93)

07. Specifications. Specifications shall include provisions acceptable to the Director for adequate observation, inspection and control of the work by a registered professional engineer during the period of construction. (7-1-93)

08. Provision Included with Plans. The specifications shall provide that the plans and specifications may not be materially changed without prior written consent of the Director. (7-1-93)

09. Provisions Included with Specifications. The specifications shall provide that certain stages of construction shall not proceed without the approval of the Director. Those stages requiring approval are as follows: (7-1-93)

a. After clearing and excavation of foundation and prior to placing any fill material; (7-1-93)

b. After installation of the decant conduit and any proposed collars and before placing any backfill material around conduit; (7-1-93)

c. After construction is completed (first stage starter dike if staged construction) and before any water or mine tailings slurry is stored in the reservoir; (7-1-93)

d. Before each successive enlargement of the impoundment structure; (7-1-93)

e. After each stage of enlargement of the impoundment structure is completed and before storage is allowed to exceed the level approved for the previous approved stage; (7-1-93)

f. At such other times as determined necessary by the Director. The Director will, within seven (7) days after notification by the engineer, inspect and if satisfactory, approve the completed stage of construction. Owners are encouraged to give prior notice to the Department, so that the inspection can be scheduled to prevent delays. (7-1-93)

10. Inspections, Examinations, and Tests. All materials and workmanship may be subject to inspection, examination and test by the Director at any and all reasonable times during manufacture and/or construction and at any and all places where such manufacture and/or construction are carried on. (7-1-93)

11. Rejection of Defective Material. The Director shall have the right to require the owner or engineer to reject defective material and workmanship or require its correction. Rejected workmanship shall be corrected and rejected material shall be replaced with proper material. (7-1-93)

12. Suspension of Work. The Director may order the engineer to suspend any work that may be subject to damage by climatic conditions. (7-1-93)

13. Responsibility of Engineer. These provisions shall not relieve the engineer of his responsibility to assure that construction is accomplished in accordance to approved plans and specifications or to suspend work on his own motion. (7-1-93)

14. Detailing Provisions of Specifications. The specifications shall state in sufficient detail, all provisions necessary to ensure that construction is accomplished in an acceptable manner and provide needed control for construction to ensure that a safe structure is constructed. (7-1-93)

15. Required Information. The following information shall be submitted with the plans and specifications. (7-1-93)

16. Engineer's Report. An engineer’s report giving details necessary for analysis of the structure and

appurtenances. Included as a part of the report where applicable shall be the following: (7-1-93)

a. Formulas and assumptions used in designs; (7-1-93)

b. Hydrologic data used in determining runoff from the drainage areas; (7-1-93)

c. Engineering properties of each type of material to be used in the embankment and of the foundation areas; (7-1-93)

d. Stability analysis, including an evaluation of overturning, sliding, upstream and downstream slopes and foundation stability; (7-1-93)

e. Geologic description of reservoir area, including evaluation of landslide potential; (7-1-93)

f. Chemical analysis of all materials composing the slurry; (7-1-93)

g. Earthquake design loads must be evaluated at all sites located east of Range 22 E., Boise Meridian. This area corresponds to Seismic Zone 3 as designated by the Recommended Guidelines of the National Dam Safety Program. Earthquake analysis may be required at other impoundment structure sites if deemed necessary by the Director; (7-1-93)

h. A seepage analysis of the embankment and reservoir bottom; (7-1-93)

i. A hydraulic analysis of the outlet system and spillway, diversion work or diversion channel; (7-1-93)

j. Engineering properties and the weathering characteristics of the proposed tailings to be stored in the impoundment; (7-1-93)

k. Other information which would aid in evaluating the safety of the design. (7-1-93)

17. Filing of Additional Information. The Director may require the filing of such additional information which in his opinion is necessary to assess safety or waive any requirement herein cited if in his opinion it is unnecessary. (7-1-93)

036. -- 039. (RESERVED)

040. BONDING (RULE 40).
An active surety bond or other means of acceptable surety payable to the Director of the Department of Water Resources shall be on file with the Director throughout the active life of the tailings disposal site. The purpose of this bond is to provide a means by which the tailings impoundment can be placed in a safe maintenance-free condition if abandoned by the owner without conforming to an abandonment plan approved by the Director. (7-1-93)

01. Filing of Bond. The bond shall be filed prior to any issuance by the Director of a certificate of approval for use of the mine tailings impoundment structure to impound mine tailings slurry and shall run for the two (2) year approval period covered on the certificate of approval. (7-1-93)

02. Provisions of Bond. Bond provisions shall provide that the surety may be held liable for a period of up to five (5) years following notice of default on the bond. (7-1-93)

03. Amount of Bond. The bond amount will be set by the Director and is subject to revision each time it is renewed. The owner must obtain approval for the amount of his surety bond prior to each renewal. (7-1-93)

04. Cost Estimate Submitted by Engineer. In order to provide a basis for setting the bond amount, the engineer shall submit a cost estimate acceptable to the Director, together with conceptual details needed to arrive at the estimate, for abandonment of the facility at each proposed stage of its construction. (7-1-93)

05. Current Costs for Abandonment. Bond amount will be based on current costs for abandonment of the facility based on the approved cost estimate for abandonment at the present construction condition or the next approved proposed stage, whichever represents the larger bond amount. (7-1-93)

06. Determination of Bond Amount. If the final abandonment is determined to be the most costly condition, the owner may elect to use this as a basis for bonding throughout the life of the project. The Director may, however, revise the bonding amount to reflect updated costs when he feels it is necessary in order to maintain a realistic bond. (7-1-93)

07. Filing Initial Bond. The initial bond shall be filed upon completion of the first stage of construction and before the required certificate of approval is issued to allow storage of mine tailings slurry in the impoundment. No certificate of approval shall be renewed prior to filing by the owner of a bond renewal in an amount approved by the Director. (7-1-93)

08. Filing Copy of Performance Bond. Upon the filing of a copy of a performance bond with the Director, covering the terms and conditions of a state of Idaho mineral lease or an approved reclamation plan, in which these documents specify compliance with a plan of restoration of all mining operations, including the tailings impounding structure, the Director may determine the bond required of this section has been met, if the amount of the bond accurately reflects the cost associated with the abandonment plan provided by the owner. (7-1-93)

041. -- 044. (RESERVED)

045. MINE TAILINGS IMPOUNDMENT STRUCTURES DESIGN CRITERIA (RULE 45).
The following minimum design criteria shall be used for all mine tailings impoundment structures designed for installation in Idaho. These limitations are intended to serve as guidelines for a broad range of circumstances, and engineers should not consider them as a restriction to the use of other sound design criteria. Deviation from this established criteria will be considered by the Director in approving plans and specifications. (7-1-93)

01. Embankment Slopes. (7-1-93)

a. For construction of borrowed fill embankments, in the absence of a stability analysis, the slopes shall be:

Upstream slope	2:1 or flatter
Downstream slope	2:1 or flatter

(7-1-93)

b. Construction by the upstream method shall not be used in the area of the state east of Range 22 E., Boise Meridian, unless the engineer can provide evidence that the construction and operation of the tailings impoundment will achieve a relative density of sixty percent (60%) or greater in the embankment and tailings to prevent liquefaction during earthquake loading. (7-1-93)

c. Safety factors for the embankment shall be at least one and five-tenths (1.5) for static loads and a minimum of one (1) for the static plus the appropriate earthquake load. (7-1-93)

d. To insure sufficient permeability and stability of the embankment, designs will require utilizing materials other than the tailings, when the tailings materials: (7-1-93)

i. Contain greater than seventy-five percent (75) passing the #200 standard U.S. sieve, or fifty percent (50%) passing the #325 standard U.S. sieve; (7-1-93)

ii. Contain phosphate clays; (7-1-93)

iii. The design calls for the water to be impounded against the embankment; (7-1-93)

iv. Have other properties which makes them unsuitable for use as construction materials. (7-1-93)

e. Embankments designed for the storage of hazardous levels of radioactive materials shall, in addition to any requirements of these regulations, meet the criteria outlined in the Nuclear Regulatory Commission Regulatory Guide 3.11 and the Idaho Radiation Control Regulations administered by the Idaho Department of Environmental Quality. (7-1-93)

f. The design shall consider the need for drains and/or operational procedures to promote consolidation and insure that a low phreatic surface is maintained within the embankment. Drainage pipe shall not be used beneath embankments where excessive or differential settlement may cause failure of the pipes and subsequent piping of the tailings or embankment. When the quality of the mine tailings slurry is such that it will adversely affect the quality of the existing groundwater, the design should be coordinated with the Department and the Department of Environmental Quality to insure that all applicable permits are obtained. (7-1-93)

g. Instrumentation of the embankment and/or foundation will be required to insure that the structure is functioning satisfactorily. Standpipe piezometers with an inside diameter greater than one-half (1/2) inch will not be acceptable for use in fine-grained or cohesive soils in order to minimize response time. (7-1-93)

h. Tailings impoundment structures which are constructed using the tailings shall not be constructed or raised during freezing weather to prevent frost lenses in the embankment. Sufficient freeboard must be provided during the summer construction season if the disposal operation is to continue during the winter. (7-1-93)

i. If tailings are to be discharged during times of freezing weather and the embankment is to be constructed using either the upstream or centerline method, the pond shall be of sufficient size to insure that any ice formed in the tailings pond area melts during the next warm season. (7-1-93)

02. Top Width Embankment. (7-1-93)

a. In the absence of a stability analysis, the minimum top width for mine tailings impoundment structures shall be:

W = 2 (H to 1/2 power) + 4, minimum
W = Top width
H = Embankment height (7-1-93)

b. The minimum top width for any tailings embankment is ten (10) feet. (7-1-93)

03. Cutoff Trenches or Walls. (7-1-93)

a. Cutoff trenches, if needed, shall be used to bond the fill through relatively pervious material to an impervious stratum or zone. The bond area shall extend up the abutments to the maximum high water or tailings impoundment elevation. Cutoff (keylock) trenches which are to be backfilled with compacted fill shall be wide enough to allow the free movement of excavation and compaction equipment. Side slopes shall be no steeper than 1:1 for depths up to twelve (12) feet, and no steeper than one and one-half (1 1/2) to one (1) for greater depths to provide for proper compaction. Flatter slopes may be required for safety and stability. (7-1-93)

b. Concrete cutoff walls may be used to bond fills to smooth rock surfaces in a similar manner as cutoff trenches and they shall be entrenched in the rock to a depth approximately one-half (1/2) the thickness of the cutoff wall. Concrete cutoff walls shall be doweled into the rock a minimum of twelve (12) inches with a maximum spacing of eighteen (18) inches for three-quarter (3/4) inch steel dowels. Concrete walls shall have a minimum projection of three (3) feet perpendicular to the rock surface and shall have a minimum thickness of twelve (12) inches. (7-1-93)

04. Borrowed Fill Embankment. (7-1-93)

a. The approved earth materials (silt soils are seldom acceptable) shall be zoned as shown in the plans and placed in the embankment in continuous, approximately level layers. Compaction shall be based on ASTM D-698 for cohesive soils and a minimum compaction of ninety-five percent (95%) of the laboratory Standard Proctor

dry density is required. Compaction of cohesionless soils shall insure a relative density of sixty percent (60%) or greater. (7-1-93)

b. An acceptable working range of moisture content for the fill material shall be established and maintained. (7-1-93)

c. The material shall be compacted by means of a loaded sheepsfoot roller, vibratory roller, or other acceptable means, to the required density. (7-1-93)

d. No rock shall be left in the fill material which has a maximum dimension exceeding the lift thickness. The fill material shall be free of brush and organic materials. (7-1-93)

e. The fill shall be carried up simultaneously the full design width of the structure, and the top of the fill shall be kept substantially level at all times or slope slightly toward the reservoir. (7-1-93)

f. No frozen or cloddy fill material shall be used, and no material shall be place upon frozen, muddy or unscarified surfaces. (7-1-93)

g. All materials used in the embankment shall meet all the stability and seepage requirements as shown by a design analysis of the structure and shall be properly installed to meet these requirements. (7-1-93)

05. Riprap. (7-1-93)

a. All dams shall be protected from wave action. In cases where water is stored directly against the mine tailings impoundment structure or where wave action at maximum pool level during design inflow events would affect the integrity of the embankment, the Director may require use of riprap or other protective measures. (7-1-93)

b. If riprap is used the design shall specify the rock size and extent of blanket required to prevent erosion. (7-1-93)

06. Outlet Systems. (7-1-93)

a. Reservoirs must safely handle the design inflow for all areas draining into the reservoir. This may be done either by storing the entire design inflow or by having an outlet system or combination of systems adequate to safely pass the design inflow. If the tailings reservoir is situated on a stream channel, an outlet system or an approved alternative system capable of meeting downstream flow requirements must be provided. (7-1-93)

b. The minimum design inflow for all reservoirs shall be the flood with one percent (1%) probability of occurrence. The Director may require a greater design inflow be used in instances of high hazard, for larger mine tailings impoundment structures, or when the inflow is to be entirely stored in the reservoir during the flood period. (7-1-93)

c. The outlet system may be composed of one (1) or a combination of the following: decant line, spillway, stream channel diversion to bypass the reservoir. The system will be determined by individual reservoir conditions. Unless removal of the mine tailings impoundment structure and reservoir is part of the abandonment plan, the outlet system shall be maintained in perpetuity, unless it is demonstrated that an outlet system is not needed. (7-1-93)

d. Outlet systems will not be allowed if their use would release toxic, highly turbid, radioactive or otherwise hazardous flows from the reservoir. In these cases the design inflow must either be entirely stored or diverted around the reservoir. (7-1-93)

e. All spillways shall be stabilized to discharge flow through the use of concrete, masonry, riprap or sod, if not constructed in resistant rock. (7-1-93)

f. Wherever possible, the spillway shall be constructed independent of the impoundment structure. It shall lead the water far enough away from the mine tailings impoundment structure so as not to endanger the structure. (7-1-93)

g. A diversion system must not subject the mine tailings impoundment structure to erosion during the design inflow event. All stream diversions shall conform to the minimum standards for stream channel alterations as written by this Department. (7-1-93)

h. Decant conduits, if under the embankment, shall be laid on a firm, stable foundation and normally must not be placed on fill. They shall have a minimum inside diameter of twelve (12) inches and one (1) of the following provisions included in the design: (7-1-93)

i. The owner shall have the conduit inspected by photographic or video tape equipment and a copy of the inspection provided to the Department, if a problem is suspected; or (7-1-93)

ii. The conduit shall be completely plugged with concrete and/or suitable material, for that portion which extends through the embankment, if a nonrepairable problem occurs within the conduit. The conduit shall consist of material which has been shown to possess the qualities necessary to perform in the environment of the specific tailings impoundment. The design life of the conduit shall be greater than the life of the mine tailings impoundment structure. The portion of the conduit through the embankment shall be completely filled with concrete, or other suitable material, and the riser portion of the conduit capped, upon abandonment of the mine tailings impoundment structure. (7-1-93)

i. All decant conduits, if under the embankment, shall have a seepage path through the impervious zone at least equivalent in length to the maximum head above the downstream end of the system. Only one third (1/3) the horizontal distance through the impervious zone will be utilized when calculating the length of the seepage path. Collars may be used to satisfy this requirement, but all collars shall extend a minimum of three (3) feet outside the conduit. Collars shall be spaced at intervals of at least seven (7) times their height and no collar may be closer to the outer surface of the impervious zone than the distance it extends out from the conduit. (7-1-93)

j. More than two (2) decant conduits are not to be used, unless special conditions warrant. (7-1-93)

07. Freeboard. A minimum freeboard of two (2) feet plus wave height (H) shall be provided on the crest of the mine tailings impoundment structure during passage of the design inflow.

H = 1.95 (F to 1/2 power)
F = Fetch in miles across water surface at a design maximum level. (7-1-93)

08. Records. All instrumentation shall be read and recorded on a regular basis, and all records must be available for inspection by Department personnel on request. (7-1-93)

09. Inspection and Completion Reports. (7-1-93)

a. It is the responsibility of the engineer to submit test reports along with periodic inspection and progress reports to the Director. (7-1-93)

b. Upon completion of each approved stage of construction, a letter shall be sent to the Director, giving a short, narrative account covering all items of work. As-built plans shall be submitted to the Director if the completed project was substantially changed from the plans originally approved. (7-1-93)

10. Abandonment. An abandonment plan which provides a stable, maintenance-free condition when the mine tailings impoundment is no longer being regularly maintained by the owner or the owner has ceased to use the site for disposal of mine tailings slurry, shall be submitted to the Director by the owner. The plan shall provide a safe condition by providing for removal of the tailings, or construction of a maintenance-free spillway or diversion works where needed to accommodate runoff. The plan shall include provisions to prevent water storage behind, and erosion of, the mine tailings impoundment structure and the impounded tailing. A conceptual plan which includes an engineering design report, detailed enough to provide the required cost estimate for bonding purposes, will be required prior to the approval of the proposed project. Detailed construction plans must be approved by the Director prior to implementation of any abandonment work. The Director shall notify the owner upon acceptance of completion of abandonment in accordance with the approved plan. (7-1-93)

046. -- 049. (RESERVED)

050. DAMS STORING TAILING AND WATER (RULE 50).
Construction of dams intended to store water in excess of the water being decanted in the tailing placement operation shall also meet the requirements for water storage reservoirs specified in the Department's Rules for the Safety of Dams. The Director may waive any or all of these requirements if, in the opinion of the Director, sound engineering design supplied by the owner indicates such requirements are not applicable. (7-1-93)

051. -- 054. (RESERVED)

055. PROVISIONS OF CHAPTER 17, TITLE 42, IDAHO CODE (RULE 55).
The provisions of Sections 42-1709 through 42-1721, Idaho Code, are a part of these rules. (7-1-93)

056. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
These rules are adopted pursuant to Chapter 17, Section 42-1714, Idaho Code, and implement the provisions of Sections 42-1709 through 42-1721, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled IDAPA 37.03.06, "Saftey of Dams Rules." (7-1-93)

02. Scope. (7-1-93)

a. The requirements that follow are intended as a guide to establish acceptable standards for construction and to provide guidelines for safety evaluation of new or existing dams. The rules apply to all new dams, to existing dams to be enlarged, altered or repaired, and maintenance of certain existing dams, as specifically provided in the rules. The Director will evaluate any deviation from the standards hereinafter stated as they pertain to the safety of any given dam. The standards are not intended to restrict the application of other sound engineering design principles. Engineers are encouraged to submit new ideas which will advance the state of the art and provide for the public safety. (7-1-93)

b. Under no circumstances shall these rules be construed to deprive or limit the Director of the Department of Water Resources of any exercise of powers, duties and jurisdiction conferred by law, nor to limit or restrict the amount or character of data, or information which may be required by the Director from any owner of a dam for the proper administration of the law. State sovereignty as expressed in Policy 1A of the adopted State Water Plan for independent review and approval of dam construction, operation and maintenance will not be waived due to any overlapping jurisdiction from federal agencies. (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
Unless the context otherwise requires, the following definitions govern these rules. (7-1-93)

01. Active Storage. The water volume in the reservoir stored for irrigation, water supply, power generation, flood control, or other purposes but does not include flood surcharge. Active storage is the total reservoir capacity in acre-feet, less the inactive and dead storage. (7-1-93)

02. Alterations, Repairs or Either of Them. Only such alterations or repairs as may directly affect the safety of the dam or reservoir, as determined by the Director. Alterations, repairs does not include routine maintenance items. (See Rule Subsections 055.02.a. and 055.02.b.) (7-1-93)

03. Appurtenant Structures. Ancillary features (e.g. outlets, tunnels, gates, valves, spillways, auxiliary barriers) used for operation of a dam, which are owned by the dam owner or the owner has responsible control. (7-1-93)

04. Board. The Idaho Water Resource Board. (7-1-93)

05. Certificate of Approval. A certificate issued by the Director for all dams listing restrictions imposed by the Director, and without which no new dams shall be allowed by the owner to impound water. A certificate of approval is also required for existing dams before impoundment of water is authorized. (7-1-93)

06. Dam. Any artificial barrier together with appurtenant works, which is or will be ten (10) feet or more in height or has or will have an impounding capacity at maximum storage elevation of fifty (50) acre-feet or more. Height of a dam is defined as the vertical distance from the natural bed of the stream or watercourse at the downstream toe of the barrier, as determined by the Director, or from the lowest elevation of the outside limit of the barrier, if it is not across a stream channel or watercourse, to the maximum water storage elevation. (7-1-93)

07. Small Dams. Artificial barriers twenty (20) feet or less in height that are capable of storing less than one hundred (100) acre-feet of water. (7-1-93)

08. Intermediate Dams. Artificial barriers more than twenty (20) feet, but less than forty (40) feet in height, or are capable of storing one hundred (100) acre-feet or more, but less than four thousand (4,000) acre-feet of water. (7-1-93)

09. Large Dams. Artificial barriers forty (40) feet or more in height or are capable of storing four thousand (4,000) acre-feet or more of water. (7-1-93)

10. Department Jurisdiction. The following are not subject to department jurisdiction: (7-1-93)

a. Artificial barriers constructed in low risk areas as determined by the Director, which are six (6) feet or less in height, regardless of storage capacity. (7-1-93)

b. Artificial barriers constructed in low risk areas as determined by the Director, which impound ten (10) acre-feet or less at maximum water storage elevation, regardless of height. (7-1-93)

c. Artificial barriers in a canal used to raise or lower water therein or divert water therefrom. (7-1-93)

d. Fills or structures determined by the Director to be designed primarily for highway or railroad traffic. (7-1-93)

e. Fills, retaining dikes or structures, which are under jurisdiction of the Department of Environmental Quality, designed primarily for retention and treatment of municipal, livestock, or domestic wastes, or sediment and wastes from produce washing or food processing plants. (7-1-93)

f. Levees, that store water regardless of storage capacity. Levee means a retaining structure alongside a natural lake which has a length that is two hundred (200) times or more greater than its greatest height measured from the lowest elevation of the toe to the maximum crest elevation of the retaining structure. (7-1-93)

11. Days Used in Establishing Deadlines. Calendar days including Sundays and holidays. (7-1-93)

12. Dead Storage. The water volume in the bottom of the reservoir stored below the lowest outlet and generally is not withdrawn from storage. (7-1-93)

13. Department. The Idaho Department of Water Resources. (7-1-93)

14. Design Evaluation. The engineering analysis required to evaluate the performance of a dam relative to earthquakes, floods or other site specific conditions that are anticipated to affect the safety of a dam or operation of appurtenant facilities. (7-1-93)

15. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

16. Engineer. A registered professional engineer, licensed as such by the state of Idaho. (7-1-93)

17. Enlargement. Any change in or addition to an existing dam or reservoir, which raises or may raise the water storage elevation of the water impounded by the dam. (7-1-93)

18. Factor of Safety. A ratio of available shear strength to shear stress, required for stability. (7-1-93)

19. Flood Surcharge. A variable volume of water temporarily detained in the upper part of a reservoir, in the space (or part thereof) that is filled by excess runoff or flood water, above the maximum storage elevation. Flood surcharge cannot be retained either because of physical or administrative factors but is passed through the reservoir and discharged by the spillway(s) until the reservoir level has been drawn down to the maximum storage elevation. (7-1-93)

20. Inflow Design Flood (IDF). The flood specified for designing the dam and appurtenant facilities. (7-1-93)

21. Maximum Credible Earthquake. The largest earthquake that reasonably appears capable of occurring under the conditions of the presently known geological environment. (7-1-93)

22. **Operation Plan**. A specific plan that will assure the project is safely managed for its intended purpose and which provides reservoir operating rule curves or specific limits and procedures for controlling inflow, storage, and/or release of water, diverted into, passed through or impounded by a dam. (7-1-93)

23. **Owner**. Includes any of the following who own, control, operate, maintain, manage, hold the right to store and use water from the reservoir or propose to construct a dam or reservoir. (7-1-93)

a. The state of Idaho and any of its departments, agencies, institutions and political subdivisions; (7-1-93)

b. The United States of America and any of its departments, bureaus, agencies and institutions; provided that the United States of America are not required to pay any of the fees required by Section 42-1713, Idaho Code, and shall submit plans, drawings and specifications as required by Section 42-1712, Idaho Code, for information purposes only; (7-1-93)

c. Every municipal or quasi-municipal corporation. (7-1-93)

d. Every public utility; (7-1-93)

e. Every person, firm, association, organization, partnership, business trust, corporation or company; (7-1-93)

f. The duly authorized agents, lessees, or trustees of any of the foregoing; (7-1-93)

g. Receivers or trustees appointed by any court for any of the foregoing. (7-1-93)

24. **Reservoir**. Any basin which contains or will contain the water impounded by a dam. (7-1-93)

25. **Storage Capacity**. The total storage in acre-feet at the maximum storage elevation. (7-1-93)

26. **Water Storage Elevation**. The maximum elevation of the water surface which can be obtained by the dam or reservoir. It is further defined as the storage level attained when the reservoir is filled to capacity (i.e. to the spillway crest) or an authorized storage level attained by installing flashboards to increase the reservoir capacity, or a specified upper storage limit, which is attained by operation of moveable gates that raises the reservoir to a controlled operating level. The maximum storage elevation is an equivalent term of water storage elevation. (7-1-93)

27. **Release Capability**. The ability of a dam to pass excess water through the spillway(s) and outlet works and otherwise discharge. (7-1-93)

011. -- 024. **(RESERVED)**

025. DAM SIZE CLASSIFICATION AND RISK CATEGORY (RULE 25).

01. **Size Classification**. The following table defines the height and storage capacity limits used by the Department to classify dams:

Size Classification	Height (ft)		Storage Capacity
Small	20 ft. or less	and	Less than 100 acre-ft.
Intermediate	More than 20 ft. but less than 40 ft.	or	100 Acre-ft or more, but less than 4000 acre ft
Large	40 ft. or more	or	4000 acre-ft., or more

(7-1-93)

02. **Risk Category**. The following table describes categories of risk used by the Department to classify

losses and damages anticipated in down-stream areas, that could be attributable to failure of a dam during typical flow conditions.

Risk Category	Dwellings	Economic Losses
Low	No permanent structures for human habitation.	Minor damage to land, crops, agricultural, commercial or industrial facilities, transportation, utilities or other public facilities or values.
Significant	No concentrated urban development, 1 or more permanent structures for human habitation which are potentially inundated with flood water at a depth of 2 ft. or less or at a velocity of 2 ft. per second or less.	Significant damage to land, crops, agricultural, commercial or industrial facilities, loss of use and/or damage to transportation, utilities or other public facilities or values.
High	Urban development, or any permanent structure for human habitation which are potentially inundated with flood water at a depth of more than 2 ft. or at a velocity of more than 2 ft. per second.	Major damage to land, crops, agricultural, commercial or industrial facilities, loss of use and/or damage to transportation, utilities or other public facilities or values.

(7-1-93)

03. Determination of Size and Risk Category. The Director shall determine the size and risk category of a new or existing dam. (7-1-93)

026. -- 029. (RESERVED)

030. AUTHORITY OF REPRESENTATIVE (RULE 30).
When plans, drawings and specifications are filed by another person on behalf of an owner, written evidence of authority to represent the owner shall be filed with the plans, drawings and specifications. (7-1-93)

031. -- 034. (RESERVED)

035. FORMS (RULE 35).
Forms required by these rules are available from the Department to interested parties upon request. Construction of a small dam requires the filing of Form 1710 and construction of an intermediate or large dam requires the filing of Form 1712. (7-1-93)

036. -- 039. (RESERVED)

040. CONSTRUCTION PLANS, DRAWINGS AND SPECIFICATIONS (RULE 40).
The following provisions shall apply in submitting plans, drawings and specifications. (7-1-93)

01. Submission of Duplicate Plans, Drawings and Specifications. Any owner who shall desire to construct, enlarge, alter or repair any intermediate or large dam, shall submit duplicate plans, drawings and specifications prepared by an engineer for the proposed work to the Director with required fees. The Director may, however, require the submittal of plans, drawings and specifications prior to the construction of any dam. (7-1-93)

02. Applying for and Obtaining Written Approval. Construction of a new dam or enlargement, alteration or repairs on existing dams shall not be commenced until the owner has applied for and obtained written approval of the plans, drawings and specifications. Alteration or repairs do not include routine maintenance for which prior approval is not required. (See Rule Subsections 055.02.a and 055.02.b) (7-1-93)

03. Plans Shall Be Prepared on a Good Quality Vellum or Mylar. Transparent copies reproducible by standard duplicating processes, if accurate, legible and permanent, will be accepted. Plans may initially be

submitted in the form of nonreproducible paper prints. After reviewing the plans, the Director will notify the owner of any required changes. (7-1-93)

04. Preparation and Submission of Plans. Plans and drawings shall be of a sufficient scale with an adequate number of views showing proper dimensions, so that the plans and drawings may be readily interpreted and so that the structure and appurtenances can be built in conformance with the plans and drawings. (7-1-93)

05. Information Included with Plans. Plans for new dams shall include the following information and plans for enlargement, alteration or repair of an existing dam shall include as much of the following information as required by the Director to adequately describe the enlargement, alteration or repair and the affect on the existing dam or its appurtenant facilities: (7-1-93)

a. A topographic map of the dam site showing the location of the proposed dam by section, township and range, and location of spillway, outlet works, and all borings, test pits, borrow pits; (7-1-93)

b. A profile along the dam axis showing the locations, elevations, and depths of borings or test pits, including logs of bore holes and/or test pits; (7-1-93)

c. A maximum cross-section of the dam showing elevation and width of crest, slopes of upstream and downstream faces, thickness of riprap, zoning of earth embankment, location of cutoff and bonding trenches, elevations, size and type of outlet conduit, valves, operating mechanism and dimensions of all other essential structural elements such as cutoff walls, filters, embankment zones, etc.; (7-1-93)

d. Detailed drawings showing plans, cross and longitudinal sections of the outlet conduits, valves and controls for operating the same, and trash racks; (7-1-93)

e. A curve or table showing the capacity of the reservoir in acre-feet vs gauge height (referenced to a common project datum) of the reservoir storage level, and the computations used in making such determinations. (7-1-93)

f. A curve or table showing the outlet discharge capacity in cubic feet per second vs gauge height of reservoir storage level, and the equation used in making such determination; (7-1-93)

g. A curve showing the spillway discharge capacity in cubic feet per second vs gauge height of the reservoir or flood surcharge level above the spillway crest and the equation used in making such determinations; (7-1-93)

h. Detailed drawings of spillway structure(s), cross-sections of the channel heading to and from the spillway and a spillway profile; (7-1-93)

i. Plans for flow measuring devices capable of providing an accurate determination of the flow of the stream above and below the reservoir, and a permanent reservoir or staff gauge near the outlet of the reservoir plainly marked in feet and tenths of a foot referenced to a common project datum; (7-1-93)

j. Plans or drawings of instruments, recommended by the owner's engineer to monitor performance of intermediate or large dams to assure safe operation, or as may be required by the Director to monitor any dam regardless of size, that is situated upstream of a high risk area. (7-1-93)

06. Specifications. Specifications shall include provisions acceptable to the Director for adequate observation, inspection and control of the work by a registered professional engineer, during the period of construction. (7-1-93)

07. Changes to Specifications. The specifications shall not be materially changed without prior written consent of the Director. Significant design changes, while construction is underway, shall be submitted for the Director's review and approval. (7-1-93)

08. Inspections. The owner shall provide for and allow inspections by the Department to assure the

dam and appurtenant structures are constructed in conformance with the approved plans and specifications, or as may be revised by the engineer and approved by the Director if there are unforeseen conditions discovered during site excavation or construction of the dam which potentially jeopardize the future integrity and safety of the dam. Certain stages of construction shall not proceed without inspection and approval by the Director, including the following: (7-1-93)

a. After clearing and excavation of the foundation area and cutoff trench and prior to placing any fill material. (7-1-93)

b. After installation of the outlet conduit and collars and before placing any backfill material around the conduit; (7-1-93)

c. After construction is completed and before any water is stored in the reservoir. (7-1-93)

d. At such other times as determined necessary by the Director. The Director will, upon seven (7) days notice, inspect and if satisfactory, approve the completed stage of construction. The Director may conduct inspections upon shorter notice upon good reason being shown or upon a schedule jointly agreed upon by the Director and the owner. (7-1-93)

09. Inspection, Examination and Testing of Materials. All materials and workmanship shall be subject to inspection, examination and testing by the Director at any and all times. (7-1-93)

10. Rejection of Defective Material. The Director shall have the right to require the owner or engineer to reject defective material and workmanship or require its removal or correction respectively. Rejected workmanship shall be corrected and rejected material shall be replaced with proper material. (7-1-93)

11. Suspension of Work. The Director may order the engineer to suspend any work that may be subject to damage by inclement weather conditions. (7-1-93)

12. Responsibility of Engineer. These provisions shall not relieve the engineer of his responsibility to assure that construction is accomplished in accordance with the approved plans and specifications or to suspend work on his own motion. (7-1-93)

13. Detailing Provisions of Specifications. The specifications shall state in sufficient detail, all provisions necessary to insure that construction is accomplished in an acceptable manner and provide needed control of construction to insure that a safe structure is constructed. (7-1-93)

14. Design Report. Owners proposing to construct, enlarge, alter or repair an intermediate or large dam shall submit an engineering or design evaluation report with the plans and specifications. The engineering report shall include as much of the following information as necessary to present the technical basis for the design and to describe the analyses used to evaluate performance of the structure and appurtenances. (7-1-93)

a. All technical reference(s); equations and assumptions used in the design; (7-1-93)

b. Hydrologic data used in determining runoff from the drainage areas; reservoir flood routing(s); and hydraulic evaluations of the outlet(s) and the spillway(s). (7-1-93)

c. Engineering properties of the foundation area and of each type of material to be used in the embankment. (7-1-93)

d. A stability analysis, including an evaluation of overturning, sliding, slope and foundation stability and a seepage analysis; (7-1-93)

i. Seismic design loads shall be evaluated and applied at all large dams to be located in significant or high risk areas, in Seismic Zone 3, which for purposes of these rules is the area in Idaho east of Range 22 East, Boise Meridian. The evaluation required of large dams, that are classified significant or high risk, shall use the maximum ground motion/ acceleration generated by the maximum credible earthquake, which could affect the dam site. (7-1-93)

ii. Seismic analysis may be required as determined by the Director for large dams located above high risk areas in Seismic Zone 2, which for purposes of these rules is the area in Idaho west of Range 22 East, Boise Meridian. (7-1-93)

15. Additional Information/Waiver. The Director may require the filing of such additional information which in his opinion is necessary or waive any requirement herein cited if in his opinion it is unnecessary. (7-1-93)

16. Alternate Plans. The Director may accept plans and specifications or portions thereof prepared for other agencies which are determined to meet the requirements of Rule 40. (7-1-93)

041. -- 044. (RESERVED)

045. OPERATION PLAN (RULE 45).
An operation plan is required as described in the following rules and shall provide procedures for emergency operations and include guidelines and procedures for inspection, operation and maintenance of the dam and appurtenances, including any instruments required to monitor performance of the dam during normal operating cycles, critical filling or flood periods, or as may be required to monitor new or existing dams subject to earthquake effects. (7-1-93)

01. New, Reconstructed or Enlarged Dams. Prior to the initial filling of the reservoir or refilling the reservoir for a reconstructed or enlarged dam in the following categories, the owner shall file with the Director an operation plan for review and approval: (7-1-93)

a. Small, high risk. (7-1-93)

b. Intermediate, significant risk. (7-1-93)

c. Intermediate, high risk. (7-1-93)

d. Large, any risk category. (7-1-93)

02. Existing Dams. Unless exempted by the Director, owners of the following categories of dams shall file an operation plan with the Director on or before July 1, 1992 for review and approval: (7-1-93)

a. Intermediate, high risk. (7-1-93)

b. Large, significant risk. (7-1-93)

c. Large, high risk. (7-1-93)

03. Alternate Plans. The Director may accept existing studies or plans in lieu of an operation plan if the Director determines the information provided fulfills the requirements of Rule 45. (7-1-93)

046. -- 049. (RESERVED)

050. NEW INTERMEDIATE OR LARGE DAMS (RULE 50).
The following minimum criteria shall be used to evaluate the design of intermediate or large earthfill dams in Idaho. These standards are intended to serve as guidelines for a broad range of circumstances, and engineers should not consider them as a restriction to the use of other sound engineering design principles. Exclusion from this established criteria will be considered by the Director on a case-by-case basis in approving plans and specifications and evaluating dams. Dams constructed of other materials shall comply with these criteria as found appropriate by the Director and with other engineering criteria approved by the Director. (7-1-93)

01. Embankment Stability. Slope stability analyses shall determine the appropriate upstream and downstream slopes. Unless slope stability analysis determines otherwise, the embankment slopes shall be:

Upstream slope	3:1 or flatter
Downstream slope	2:1 or flatter

(7-1-93)

a. For large high and significant hazard dams and intermediate high hazard dams the embankment shall be designed, constructed and maintained to assure stability under static loads and prevent instability due to seepage or uplift forces, or drawdown conditions. Transmission of seepage through the embankment, abutments and foundation shall be controlled to prevent internal removal of material and instability where seepage erodes or emerges. (7-1-93)

b. The design analysis shall consider the need for installing filters, filter fabric and/or toe drains to stabilize the fill and protect against piping of the embankment fill material. (7-1-93)

c. The minimum factor of safety for a dam under steady state condition shall be 1.5. During rapid drawdown of the reservoir, the minimum factor of safety for the embankment shall be 1.2. For dams constructed in Seismic Zone 3, the minimum factor of safety under seismic load shall be 1.0. (7-1-93)

d. The stability of an embankment subjected to earthquake ground motions can be analyzed by dynamic response or pseudo-static analyses. Pseudo-static analyses are acceptable for embankment dams constructed of soils that will not build-up excess pore pressures due to shaking, nor sustain more than fifteen percent (15%) strength loss during earthquake events, otherwise the stability of an embankment dam shall be analyzed by a dynamic response method. A pseudo-static analysis simplifies the structural analysis (i.e. the resultant force of the seismic occurrence is represented by a static horizontal force applied to the critical section to derive the factor of safety against sliding along an assumed shear surface). The value of the horizontal force used in the pseudo-static analysis, is the product of the seismic coefficient and the weight of the assumed sliding mass. (7-1-93)

e. Slope deformation analyses are required for dams located in Seismic Zone 3, that are constructed of cohesionless soils and/or on foundations which are subject to liquefaction, when the peak acceleration at the site is anticipated to exceed 0.15g. (7-1-93)

f. The design analyses for new dams located in high risk areas (in Seismic Zone 2 or 3) shall include geologic and seismic reports, location of faults and history of seismicity. (7-1-93)

g. Where in the opinion of the Director, embankment design or conditions warrant, instrumentation of the embankment and/or foundation will be required. (7-1-93)

h. The design analyses for new large dams located in high risk areas (in Seismic Zone 3) shall include an evaluation of potential landslides in the vicinity of the dam or immediate area of the reservoir, which could cause damage to the dam or appurtenant structures, obstruct the spillway or suddenly displace water in the reservoir causing the dam to overtop. If potential landslides pose such a threat, they shall be stabilized against sliding, with a minimum factor of safety of 1.5. (7-1-93)

02. Top Width. The crest width shall be sufficient to provide a safe percolation gradient through the embankment at the level of the maximum storage elevation. The minimum crest width (top of embankment) shall be determined by:

W = H / 5 + 10 W = Width, in feet
H = Structural Height, in feet

The minimum top width for any dam is twelve (12) feet. (7-1-93)

03. Cutoff Trenches or Walls. Cutoff trenches shall be excavated through relatively pervious foundation material to an impervious stratum or zone. The trench shall be backfilled with suitable material, compacted to the specified density. The cutoff trench shall extend up the abutments to the maximum storage elevation. (7-1-93)

a. Cutoff trenches shall be wide enough to allow the free movement of excavation and compaction equipment. Side slopes shall be no steeper than one to one (1:1) for depths up to twelve (12) feet, and no steeper than one and one half to one (1 1/2:1) for greater depths to provide for proper compaction. Flatter slopes may be required for safety and stability. (7-1-93)

b. Concrete cutoff walls may be used to bond fills to smooth rock surfaces in a similar manner as cutoff trenches and shall be entrenched in the rock to a depth approximately one-half the thickness of the cutoff wall. Concrete cutoff walls shall be doweled into the rock a minimum of eight (8) inches with a maximum spacing of eighteen (18) inches for three-fourths (3/4) inch steel dowels. Concrete walls shall have a minimum projection of three (3) feet perpendicular to the rock surface and shall have a minimum thickness of twelve (12) inches. (7-1-93)

04. Impervious Core Material. The approved earth materials (silt soils are seldom acceptable) shall be zoned as shown in the plans and placed in the embankment in continuous, approximately level layers, having a thickness of not more than six (6) inches before compaction. Compaction shall be based on ASTM D-698. A minimum compaction of ninety-five percent (95%) is required. (7-1-93)

a. An acceptable working range of moisture content for the core material shall be established and maintained. (7-1-93)

b. The material shall be compacted by means of a loaded sheepsfoot or pneumatic roller to the required density. (7-1-93)

c. No rock shall be left in the core material which has a maximum dimension of more than four (4) inches. The core material shall be free of organic and extraneous material. (7-1-93)

d. The core material shall be carried up simultaneously the full width and length of the dam, and the top of the core material shall be kept substantially level at all times, or slope slightly toward the reservoir. (7-1-93)

e. No frozen or cloddy material shall be used, and no material shall be placed upon frozen, muddy or unscarified surfaces. (7-1-93)

f. All materials used in the dam shall meet the stability and seepage requirements as shown by a design analysis of the structure and shall be properly installed to meet these requirements. (7-1-93)

05. Drains. Toe or chimney drains or free draining downstream material shall be installed where necessary to maintain the phreatic line within the downstream toe. (7-1-93)

a. Filter design for chimney drains, filter blankets and toe drains in clay and silt soils shall be selected using the following design criteria, unless deviations are substantiated by laboratory tests. All tests are subject to review and approval by the Director.

D15 filter/D15 base > 5 but < 20

D15 filter/D85 base < 5

D50 filter/D50 base < 25

D85 filter > 2 times diameter of pipe perforations, or 1.2 times width of pipe slots. (7-1-93)

b. Filter material requirements are determined by comparing the particle size distribution of the filter to the particle size distribution of the materials to be protected;

e.g. D50 filter
D50 material to be protected

Where D is the particle size passing a mechanical (sieve) analysis expressed as a percentage by weight. (7-1-93)

c. The base material should be analyzed considering the portion of the material passing the No. 4 sieve, for designing filters for base materials that contain gravel size particles. To assure internal stability and prevent segregation of the filter material, the coefficient of uniformity (D60/D10) shall not be greater than 20. (7-1-93)

d. The minimum thickness of filter blankets and chimney drains shall be twelve (12) inches, with the maximum size particle passing the one (1) inch sieve. The maximum particle size may be increased with increasing thickness of the filter, by the rate of one (1) inch per foot of filter. However, the maximum particle shall not exceed three (3) inches. Zoned filters and chimney drains must not be less than twelve (12) inches thick per each zone. The width of granular filters shall not be less than the width of the installation equipment unless the plans and specifications include construction procedures adequate to insure the integrity of a narrower width. (7-1-93)

e. Perforated drain pipes must have a minimum of six (6) inches of drain material around the pipe. The maximum particle size shall not exceed one-half (1/2) inch unless the layer thickness is increased at the rate of one (1) inch per foot of filter. Underdrains and collection pipes must be constructed of noncorrosive material. (7-1-93)

06. Freeboard. The elevation of the top of the embankment shall be constructed and maintained above the flood surcharge level to prevent the dam from overtopping during passage of the inflow design flood and to provide freeboard for wind generated waves. Camber shall be included in the design and incorporated in the construction of the top of the embankment, unless waived by the Director. Camber may be estimated by multiplying the structural height of the dam by five percent (5%). (7-1-93)

a. The height of wind generated waves (H) moving across a surcharged reservoir can be estimated by the following equation:

H = 1.95 (F1/2) where F = fetch, the distance in miles across the reservoir, measured perpendicular to the major axis of the dam. (7-1-93)

b. For large, high risk dams the minimum freeboard shall be two (2) feet plus wave height during passage of the one percent (1%) flood or equal to the surcharge elevation of the reservoir during passage of the inflow design flood whichever is greater. (7-1-93)

c. Estimation of the height of the wind generated wave using the empirical equation in Rule 050.06.a. shall not preclude a more conservative design including consideration of fill materials, embankment zoning, slope surface protection, drainage or other safety factors. (7-1-93)

07. Riprap. All dams which are subject to erosion shall be protected from wave action. The design engineer, with approval of the Director, shall determine whether or not rock riprap or other protection is necessary. (7-1-93)

a. Where rock riprap is used, it shall be placed on a granular bedding material, and extend up the slope, from three (3) feet below the normal minimum operating level to the top of the dam. (7-1-93)

b. Where riprap is required by Rule Subsection 055.07, pipes, cables, brush, tree growth, dead growth, logs, or floating debris are not acceptable substitutes for rock riprap and granular bedding material. (7-1-93)

08. Outlet Conduits. All reservoirs shall be provided with an outlet conduit of sufficient capacity to prevent interference with natural streamflow through the reservoir to the injury of downstream appropriators unless waived by the Director. In addition to any natural flow releases, the outlet conduit should be of sufficient capacity to pass at the same time, the maximum water requirement of the owner. A larger outlet conduit may be required to provide adequate release capability as determined by the Director. (7-1-93)

a. Outlet conduits shall be laid on a firm, stable foundation and normally not be placed on fills which can consolidate, allow differential settlement, and cause separation or misalignment of the pipe. Unless otherwise required, the outlet shall have a minimum inside diameter of twelve (12) inches. The conduits shall be of reinforced concrete or of metal pipe encased in concrete, poured with a continuous seal between the concrete and the trench

except as otherwise approved by the Director. Void spaces and uncompacted areas shall not be covered over when the outlet trench is backfilled. Outlets shall be properly aligned on an established grade and may be supported on a concrete cradle, or otherwise supported and kept aligned when the outlet is covered. (7-1-93)

b. Asphalt dipped or other metal pipe is not acceptable unless it is encased in concrete. Exceptions may be made only where conditions warrant, but in no case shall the reasonable life expectancy of the pipe be less than the design life of the dam. (7-1-93)

c. All outlet conduits shall have a seepage path through the impervious zone at least equivalent in length to the maximum head above the downstream end of the system. Only one-third (1/3) the horizontal distance through the impervious zone will be utilized when calculating the length of the seepage path. Collars may be used to satisfy this requirement but all collars shall extend a minimum of two (2) feet outside the conduit for dams up to thirty (30) feet in height and a minimum of three (3) feet for dams above that height. Collars shall be spaced at intervals of at least seven (7) times their height and no collar may be closer to the outer surface of the impervious zone than the distance it extends out from the conduit. (7-1-93)

d. The use of multiple conduits is allowed only upon the written approval of the Director. (7-1-93)

09. Gates. All conduits shall be gated on the upstream end, unless otherwise approved by the Director, with either a vertical or an inclined gate. All conduits shall be vented directly behind the gate unless otherwise determined by the Director. Reservoirs storing water during the winter and subject to severe ice conditions shall have inclined gate controls enclosed in a protective sleeve which is buried. All gate stem pedestals shall be made of concrete. All trash racks shall slope toward the reservoir. At least one (1) of the sides of the inlet structure shall be open to allow water to flow into the outlet conduit and shall be covered with a trash rack. Trash racks should be designed with bars primarily in one (1) direction so they can be cleaned. If fish screens are used, they shall be placed over the trash rack and shall be removable for cleaning, or of the self-cleaning type. (7-1-93)

10. Outlet Controls. Outlet controls shall be installed at a stable location, on the crest or on an elevated platform, or within an enclosure when required, which is readily accessible, but secured to prevent unauthorized operation. (7-1-93)

11. Release Capability. Based on the size of the dam and on the risk category assigned by the Director, the release capability of a dam shall equal or exceed the inflow design flood in the following table:

Downstream Risk Category	Size Classification	Inflow Design Flood
Low	Small	Q50
	Intermediate	Q100
	Large	Q500
Significant	Small	Q100
	Intermediate	Q500
	Large	0.5 PMF
High	Small	Q100
	Intermediate	0.5 PMF
	Large	PMF

NOTE: The inflow design flood(s) indicated in the table include specific frequency floods (2%/50yr, 1%/100 yr.) expressed in terms of exceedance with a probability the flood will be equaled or exceeded in any given year (a fifty (50) year flood has a two percent (2%) chance of occurring in any given year and a one hundred (100) year flood has a one percent (1%) chance of occurring in any given year); or PMF - probable maximum flood, which may be

expected from the most severe combination of meteorologic and hydrologic conditions that are reasonably possible in the region. The PMF is derived from the probable maximum precipitation (PMP) which is the greatest theoretical depth of precipitation for a given duration that is physically possible over a particular drainage area at a certain time of year. (7-1-93)

a. All spillways shall be stabilized for the discharge of flow by the use of concrete, masonry, riprap or sod, if not constructed in resistant rock. (7-1-93)

b. Where site conditions allow, the spillway shall be constructed independent of embankment dams. The spillway(s) shall guide the discharge of water away from the dam embankment so as not to erode or endanger the structure. (7-1-93)

c. The minimum base width of an open-channel spillway shall be ten (10) feet. Conduits or siphon pipes other than glory hole spillways are not acceptable substitutes for an open-channel spillway. (7-1-93)

d. The effectiveness of spillways shall be undiminished by bridges, fences, pipelines or other structures. (7-1-93)

e. Unless expressly authorized in writing by the Director, or approved as an integral part of an operation plan, stop logs or flashboards shall not be installed in spillways. (7-1-93)

12. Reservoir Site. The dam site shall be cleared of all trees, brush, large rocks, and debris unless otherwise waived by the Director. The reservoir site shall be cleared of all woody material, growth or debris that is large enough to lodge in the spillway, or outlet works, except as otherwise approved by the Director. (7-1-93)

13. Inspection and Completion Reports. As construction proceeds, it is the responsibility of the engineer to submit test reports (e.g. soil material analyses, density tests, concrete strength tests) along with periodic inspection and progress reports to the Director. (7-1-93)

a. Upon completion of construction the owner or his engineer shall provide the Director a short, written narrative account of all items of work. Record drawings and revised specifications shall be submitted to the Director if the completed project has been substantially changed from the plans and construction specifications originally approved. (7-1-93)

b. The engineer representing the owner shall certify that construction, reconstruction, enlargement, replacement or repair of the dam and appurtenances was completed in accordance with the record drawings and specifications, or as revised. (7-1-93)

051. -- 054. (RESERVED)

055. EXISTING INTERMEDIATE OR LARGE DAMS (RULE 55).
All dams regulated by the department shall be operated and maintained to retain the embankment dimensions and the hydraulic capacity of the outlet works and spillway(s) as designed and constructed, or as otherwise required by these rules. (7-1-93)

01. Analyses Required. The analyses required by Rule 40 are not applicable to existing dams except as required in Rule Subsections 055.01.a. and 055.01.e. unless for good cause, the Director specifically requires the analyses. Dams constructed of other than earth material shall comply with these criteria, as determined by the Director, or with other engineering criteria approved by the Director. (7-1-93)

a. For large, significant or high risk dams, the release capability required by Rule Subsection 050.11 shall be evaluated and applied to the structure. Dams of other size and risk are required to provide the release capability of Rule Subsection 050.11 but are not required to conduct the analyses. (7-1-93)

b. Every dam, unless exempted by the Director shall have a spillway with a capacity to pass a flood of one percent (1%) (two percent (2%) for small low hazard dams) occurring with the reservoir full to the spillway crest at the beginning of the flood while maintaining the freeboard required by Rule Subsection 050.06. (7-1-93)

c. The Director may waive the spillway requirement for dams proposing off stream storage or upon a showing acceptable to the Director. (7-1-93)

d. The release capability can include the capacity of spillway(s) and outlet(s), diversion facilities, or other appurtenant structures, and any approved operating procedures which utilize upstream storage, diversion and flood routing storage to pass flood events. The remainder of the required release capacity, if any, may be met by the following: (7-1-93)

i. Reconstruction, enlargement or addition of spillway(s), outlet(s), diversion facilities or other appurtenant structures. (7-1-93)

ii. A showing acceptable to the Director that failure of the dam during a flood of the specified magnitude described in Rule Subsection 050.11 would not substantially increase downstream damages over and above the losses and damages that would result from any natural flood up to that magnitude. (7-1-93)

iii. A showing acceptable to the Director that the release capability of the dam together with other emergency release modes such as a controlled failure or overtopping of the dam would not result in a larger rate of discharge than the rate of inflow to the reservoir. (7-1-93)

iv. A showing acceptable to the Director that limiting physical factors unique to the dam site exist that prevent construction of a spillway or other release capability mechanisms during a flood of the specified magnitude described in Rule Subsection 050.11 provided the owner implements storage operational procedures and/or provides for emergency warning to protect life and property. (7-1-93)

e. For large, high risk dams, the seismic design loads shall be evaluated and applied to dams located east of Range 22E, B.M. The evaluation shall use the maximum ground motion/acceleration generated by the maximum credible earthquake. (7-1-93)

f. The Director may accept existing studies relative to requirements of Rule Subsections 055.01.a. and 055.01.e., if the Director determines the information provided fulfills the requirements of Rule Subsections 055.01.a. and 055.01.e. (7-1-93)

g. The Director may allow until July 1, 1992 for completion of the analyses required in Rule Subsections 055.01.a. and 055.01.g. and may allow the owner of an existing dam a compliance period of up to ten years for completing the studies, to complete structural modifications or implement other improvements necessary to provide the release capability determined to be required (Rule Subsection 055.01.a.) or complete structural modifications necessary to assure the dam and appurtenant facilities will safely function under earthquake loads (Rule Subsection 055.01.g.). (7-1-93)

h. Within thirty (30) days after completing the analyses required in Rule Subsection 055.01.a. or 055.01.g., the owner of an existing dam that is deficient in either case (Rule Subsection 055.01.a. or 055.01.g.) shall file with the Director a schedule outlining the dates work or construction items will be completed. (7-1-93)

02. Other Requirements. (7-1-93)

a. Routine maintenance items include the following: (7-1-93)

i. Eradication of rodents and filling animal burrows. (7-1-93)

ii. Removal of vegetation and debris from the dam. (7-1-93)

iii. Restoring original dimensions of the dam by the addition of fill material. (7-1-93)

iv. Addition of bedding or riprap material which will not increase the height or storage capacity. (7-1-93)

v. Repair or replacement of gates, gate stems, seals, valves, lift mechanisms or vent pipes with similar equipment. (7-1-93)

vi. Repair or replacement of wingwalls, headwalls or aprons including spalling concrete. (7-1-93)

b. The following are not routine maintenance items: (7-1-93)

i. Reconstruction of embankment slopes. (7-1-93)

ii. Replacement, reconstruction or extension of outlets. (7-1-93)

iii. Foundation stabilization. (7-1-93)

iv. Filter or drain construction or replacement. (7-1-93)

v. Spillway size alteration or modification. (7-1-93)

vi. Installation of instrumentation or piezometers. (7-1-93)

vii. Release capability modification. (7-1-93)

c. Items not specifically described in Rule Subsections 055.02.a. and 055.02.b. will be determined by the Director to be included in one rule or the other upon receipt of a written request from the owner or his representative seeking such a determination. (7-1-93)

d. Where riprap is required to prevent erosion and to maintain a stable embankment, pipes, cables, brush, tree growth, logs, or floating debris are not acceptable substitutes for rock riprap and granular bedding material. Dams or portions thereof which are stable without riprap, are not required to have riprap. (7-1-93)

e. Upon completion of reconstruction of a dam or feature of a dam included in Rule Subsection 055.02.b., the owner or his engineer shall provide the Director a short written narrative account of all items of work. Record drawings and revised specifications shall be submitted to the Director if the completed project has been substantially changed from the plans and construction specifications originally approved. (7-1-93)

f. Upon request, the owner of every dam shall provide his name and address to the Director and shall advise the Director of future changes in ownership. If the owner does not reside in Idaho, the owner shall provide the name and address of the person residing in Idaho who is responsible for the operation, maintenance and repair of the dam. (7-1-93)

056. -- 061. (RESERVED)

060. SMALL DAM DESIGN CRITERIA (RULE 60).
The following provisions apply to small dams. (7-1-93)

01. Design and Construction of Small Dams. Design and construction of small dams located in high risk areas as determined by the Director require submittal of fees, plans and specifications prepared by an engineer and shall follow the same general criteria established under Rules 40, 45, 50, and 55. Other small dams not determined to be in a high risk area shall follow the same general criteria established under Rules 50 and 55 or larger dams, except that submittal of plans, specifications and test results is not required. (7-1-93)

02. Notification Prior to Construction. The owner shall notify the Director in writing ten (10) calendar days prior to commencing construction. (7-1-93)

03. Approval Required. The owner shall not proceed with the following stages of construction without approval from the Director. (7-1-93)

a. After clearing and excavation of the foundation area and cutoff trench, and prior to placing any fill material; (7-1-93)

b. After installation of the outlet conduit, and before placing any backfill material around the conduit; (7-1-93)

c. After construction is completed, and before any water is stored in the reservoir; (7-1-93)

d. At such other times as determined necessary by the Director. The Director, will, upon seven (7) day notice, inspect and, if satisfactory, approve the completed stage of construction. (7-1-93)

04. Notification upon Completion of Construction. The owner shall in writing notify the Director upon completion of construction. (7-1-93)

061. -- 064. (RESERVED)

065. DAMS STORING TAILINGS AND WATER (RULE 65).

01. Construction of Dams Storing Fifty Acre-Feet or More. Construction of dams intended to store or likely to store fifty (50) acre-feet or more of water in excess of the water contained in the tailings material shall meet the requirements specified in Rules 40, 45, 50 and 55 of these rules. The Director may waive any or all of these requirements if, in the opinion of the Director, sound engineering design provided by the owner indicates such requirements are not applicable. (7-1-93)

02. Abandonment Plan. An abandonment plan which provides a stable, maintenance-free condition at any time tailings are not being actively placed for an extended period of time, as determined by the Director, shall be submitted to the Director by the owner of a dam storing tailings and water. This rule may be waived by the Director if determined not to be applicable. (7-1-93)

066. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 0).
The purpose of these rules and minimum standards is to specify procedures for processing and considering applications for stream channel alterations under the provisions of Title 42, Chapter 38, Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled IDAPA 37.03.07, "Steam Channel Alteration Rules." (7-1-93)

02. Scope. The minimum standards are intended to enable the Director to process, in a short period of time, those applications which are of a common type and which do not propose alterations which will be a hazard to the stream channel and its environment. It is intended that these rules and minimum standards be administered in a reasonable manner, giving due consideration, to all factors affecting the stream and adjacent property. (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).

01. Alteration. To obstruct, diminish, destroy, alter, modify, relocate or change the natural existing shape of the channel or to change the direction of flow of water of any stream channel within or below the mean high water mark. It includes removal of material from the stream channel and emplacement of material or structures in or across the stream channel where the material or structure has the potential to affect flow in the channel as determined by the director. (7-1-93)

02. Applicant. Any individual, partnership, company, corporation, municipality, county, state or federal agency, their agent, or other entity proposing to alter a stream channel or actually engaged in constructing a channel alteration, whether authorized or not. (7-1-93)

03. Board. The Idaho Water Resource Board. (7-1-93)

04. Continuously Flowing Water. A sufficient flow of water that could provide for migration and movement of fish, and excludes those reaches of streams which, in their natural state, normally go dry at the location of the proposed alteration. IDWR will assume, subject to information to the contrary, that the USGS quadrangle maps accurately depict whether a stream reach is continuously flowing, at the location of the proposed alteration. Such exclusion does not apply to minor flood channels that are a part of a stream which is continuously flowing in the reach where the alteration is located. Also, such exclusion does not apply to streams which may be dry as a result of upstream diversion or storage of water. (7-1-93)

05. Department. The Idaho Department of Water Resources. (7-1-93)

06. Drop Structures, Sills and Barbs. Physical obstructions placed within a stream channel for the purpose of stabilizing the channel by decreasing stream gradient and velocity and by dissipating stream energy. (7-1-93)

07. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

08. Mean High Water Mark. A water level corresponding to the "natural or ordinary high water mark" as defined in Section 58-104(9), Idaho Code, and is the line which the water impresses on the soil by covering it for sufficient periods of time to deprive the soil of its terrestrial vegetation and destroy its value for commonly accepted agricultural purposes. (7-1-93)

09. Non-Powered Sluice Equipment. Equipment which is powered only by human strength. (7-1-93)

10. Plans. Maps, sketches, engineering drawings, photos, work descriptions and specifications sufficient to describe the extent, nature, and location of the proposed stream channel alteration and the proposed method of accomplishing the alteration. (7-1-93)

11. Repair. Any work needed or accomplished, to protect, maintain, or restore any water diversion structure and the associated stream channel upstream and downstream as necessary for the efficient operation of the water diversion structure. (7-1-93)

12. Stream Channel. A natural water course of perceptible extent with definite beds and banks which confines and conducts continuously flowing water. The channel referred to is that which exists at the present time, regardless of where the channel may have been located at any time in the past. For the purposes of these rules only, the beds of lakes and reservoir pool areas are not considered to be stream channels. (7-1-93)

13. Base Flood Elevation. The Base Flood (BF) is referred to as the one hundred (100) year flood and is a measure of flood magnitude based on probability. The base flood has a one percent chance of occurring or being exceeded in any given year, with the Base Flood Elevation (BFE) being the level of flooding reached during the BF or the one hundred (100) year flood event. (7-1-93)

011. -- 024. (RESERVED)

025. EXEMPTIONS (RULE 25).

01. Work on Existing or Proposed Reservoir Projects. Permits are not required under the provisions of Title 42, Chapter 38 for construction work on any existing or proposed reservoir project, including the dam, and such areas downstream as the Director may determine is reasonably necessary for construction and maintenance of the dam. (7-1-93)

02. Snake and Clearwater Rivers. Permits are not required for work within that portion of the Snake and Clearwater rivers from the state boundary upstream to the upper boundary of the Port of Lewiston Port District as it now exists or may exist in the future. (7-1-93)

03. Cleaning, Maintenance, Construction or Repair Work. No permit is required of a water user or his agent to clean, maintain, construct, or repair any diversion structure, canal, ditch, or lateral or to remove any obstruction from a stream channel which is interfering with the delivery of any water under a valid existing water right or water right permit. (7-1-93)

04. Removal of Debris. No permit is required for removal of debris from a stream channel provided that no equipment will be working in the channel and all material removed will be disposed of at some point outside the channel where it cannot again reenter the channel. (7-1-93)

026. -- 029. (RESERVED)

030. APPLICATIONS (RULE 30).

01. Joint Application Permit Form. The Department of Water Resources, Department of Lands, and the U.S. Army Corps of Engineers have developed a joint application for permit form which will suffice for the required application under the Stream Protection Act. An application should be filed at least sixty (60) days before the applicant proposes to start the construction and shall be upon the joint application form furnished by the Department. The application shall be accompanied by plans which clearly describe the nature and purpose of the proposed work. (7-1-93)

02. Applicant Following Minimum Standards. In those cases where the applicant intends to follow the minimum standards (Rule 055), detailed plans may be eliminated by referring to the specific minimum standard; however, drawings necessary to adequately define the extent, purpose, and location of the work will still be required. Plans shall include some reference to water surface elevations and stream boundaries to facilitate review. The application should show the mean high water mark on the plans; however, any water surface or water line reference available will be helpful as long as this reference is described. (Examples: present water surface, low water, high water.) (7-1-93)

03. Submission of Copies. The applicant shall submit one (1) copy of all necessary plans along with the application form. When drawings submitted are larger than eight and one half by eleven (8 1/2 x 11), the applicant shall provide the number of copies specified by the department. (7-1-93)

04. Stream Channel Alteration Permit. Any applicant proposing to operate a vacuum or suction dredge within or below the mean high water mark of a stream channel shall apply for and obtain a stream channel

alteration permit. The vacuum or suction dredge shall only be operated in accordance with the conditions of the permit and with the applicable rules. (7-1-93)

031. -- 034. (RESERVED)

035. APPLICATION REVIEW (RULE 35).

01. Prior to Issuance of Permit. The following items shall be among those considered by the Director prior to issuing a permit: (7-1-93)

a. What is the purpose of doing the work? (7-1-93)

b. What is the necessity and justification for the proposed alteration? (7-1-93)

c. Is the proposal a reasonable means of accomplishing the purpose? (7-1-93)

d. Will the alteration be a permanent solution? (7-1-93)

e. Will the alteration pass anticipated water flows without creating harmful flooding or erosion problems upstream or downstream? (7-1-93)

f. What effect will the alteration have on fish habitat? (7-1-93)

g. Will the materials used or the removal of ground cover create turbidity or other water quality problems? (7-1-93)

h. Will the alteration interfere with recreational use of the stream? (7-1-93)

i. Will the alteration detract from the aesthetic beauty of the area? (7-1-93)

j. What modification or alternative solutions are reasonably possible which would reduce the disturbance to the stream channel and its environment and/or better accomplish the desired goal of the proposed alteration? (7-1-93)

k. Is the alteration to be accomplished in accordance with the adopted minimum standards? (7-1-93)

l. Are there public safety factors to consider? (7-1-93)

02. Proposed Alteration Which Does Not Follow Minimum Standards. In those cases where a proposed alteration does not follow the minimum standards, a copy of the application will be sent for review to those state agencies requesting notification. The Director shall provide for review by the Department of Lands, copies of applications on navigable rivers. The Director will provide a copy of any other application requested by the Department of Lands and may request review by other state agencies regardless of whether or not the proposed alteration will comply with the minimum standards. (7-1-93)

036. -- 039. (RESERVED)

040. APPROVAL (RULE 40).

01. Conformance to Application. All work shall be done in accordance with the approved application, subject to any conditions specified by the department. (7-1-93)

02. Permits Allowed Without Review. A permit may be approved by the Director of the Department of Water Resources without review by other agencies in situations where the work is of a nature not uncommon to the particular area and where it is clear that the work will not seriously degrade the stream values except on navigable rivers which require review by the Department of Lands. All work approved in this manner shall be accomplished in accordance with the minimum standards. (7-1-93)

03. Reinstatement of Expired Permit. A permit which has expired may be reinstated by the Director after review by other agencies as determined by the Director. (7-1-93)

041. -- 044. (RESERVED)

045. ENFORCEMENT OF ACT (RULE 45).

01. Written Orders Issued by Designated Employees of Department. Employees of the Department designated by the Director may issue written orders directing an applicant to cease and desist, to ensure proper notice to applicants who are found to be altering a stream without a permit or not in compliance with the conditions of a permit. Such orders shall be in effect immediately upon issuance and will continue in force until a permit is issued or until the order is rescinded by the Director. (7-1-93)

02. Failure to Comply with Stream Protection Act. Failure to comply with any of the provisions of the Stream Protection Act (Chapter 38, Title 42, Idaho Code), may result in issuance of an Idaho uniform citation and/ or the cancellation of any permit by the Director without further notice and the pursuit in a court of competent jurisdiction, such civil or criminal remedies as may be appropriate and provided by law. The Director may allow reasonable time for an applicant to complete stabilization and restoration work. (7-1-93)

046. -- 049. (RESERVED)

050. EMERGENCY WAIVER (RULE 50).

01. Waiver of Provisions of Stream Protection Act. Section 42-3808, Idaho Code, provides for waiver of the provisions of the Stream Protection Act in emergency situations where immediate action must be taken to protect life or property including growing crops. The Director will not consider failure to submit an application for a stream channel alteration far enough ahead of the desired starting time of the construction work as an emergency situation. (7-1-93)

02. Verbal Waivers. A verbal waiver may be granted initially; however, all verbal requests for waivers shall be followed up by the applicant in writing within fifteen (15) days of any initial authorization to do work. If the applicant is unable to contact the Director to obtain an emergency waiver, he may proceed with emergency work; however, he must contact the Director as soon as possible thereafter. Proving that a bonafide emergency did actually exist will be the responsibility of the applicant. (7-1-93)

03. Emergency Waiver. Work authorized by an emergency waiver shall be limited to only that which is necessary to safeguard life or property, including growing crops, during the period of emergency. (7-1-93)

04. Conformance to Conditions of Waiver. The applicant shall adhere to all conditions set by the Director as part of a waiver. (7-1-93)

05. Waivers Granted by Designated Employees. The Director may delegate the authority to grant waivers to designated employees of the Department. Names and telephone numbers of such employees will be made available to any interested applicant upon request. (7-1-93)

051. -- 054. (RESERVED)

055. MINIMUM STANDARDS (RULE 55).

These standards are intended to cover the ordinary type of stream channel alteration and to prescribe minimum conditions for approval of such construction. Unless otherwise provided in a permit, these standards shall govern all stream channel alterations in this state. An applicant should not assume that because an application utilizes methods set forth in these standards it will automatically be approved. These minimum standards include the following items: (7-1-93)

01. Construction Procedures. (7-1-93)

02. Dumped Rock Riprap. (7-1-93)

03. Drop Structures, Sills and Barbs. (7-1-93)

04. Culverts and Bridges. (7-1-93)

05. Removal of Sand and Gravel Deposits. (7-1-93)

06. Suction Dredges and Non-Powered Sluice Equipment. (7-1-93)

07. Piling. (7-1-93)

08. Pipe Crossings. (7-1-93)

09. Concrete Plank Boat Launch Ramps. (7-1-93)

056. CONSTRUCTION PROCEDURES (RULE 56).

01. Conformance to Procedures. Construction shall be done in accordance with the following procedures unless specific approval of other procedures has been given by the Director. When an applicant desires to proceed in a manner different from the following, such procedures should be described on the application. (7-1-93)

02. Operation of Construction Equipment. No construction equipment shall be operated below the existing water surface without specific approval from the Director except as follows: Fording the stream at one (1) location only will be permitted unless otherwise specified; however, vehicles and equipment will not be permitted to push or pull material along the streambed below the existing water level. Work below the water which is essential for preparation of culvert bedding or approved footing installations shall be permitted to the extent that it does not create unnecessary turbidity or stream channel disturbance. Frequent fording will not be permitted in areas where extensive turbidity will be created. (7-1-93)

03. Temporary Structures. Any temporary crossings, bridge supports, cofferdams, or other structures that will be needed during the period of construction shall be designed to handle high flows that could be anticipated during the construction period. All structures shall be completely removed from the stream channel at the conclusion of construction and the area shall be restored to a natural appearance. (7-1-93)

04. Minimizing Disturbance of Area. Care shall be taken to cause only the minimum necessary disturbance to the natural appearance of the area. Streambank vegetation shall be protected except where its removal is absolutely necessary for completion of the work adjacent to the stream channel. (7-1-93)

05. Disposal of Removed Materials. Any vegetation, debris, or other material removed during construction shall be disposed of at some location out of the stream channel where it cannot reenter the channel during high stream flows. (7-1-93)

06. New Cut of Fill Slopes. All new cut or fill slopes that will not be protected with some form of riprap shall be seeded with grass and planted with native vegetation to prevent erosion. (7-1-93)

07. Fill Material. All fill material shall be placed and compacted in horizontal lifts. Areas to be filled shall be cleared of all vegetation, debris and other materials that would be objectionable in the fill. (6-30-19)T

08. Limitations on Construction Period. The Director may limit the period of construction as needed to minimize conflicts with fish migration and spawning, recreation use, and other uses. (7-1-93)

057. DUMPED ROCK RIPRAP (RULE 57).

01. Placement of Riprap. Riprap shall be placed on a granular bedding material or a compact and stable embankment. (7-1-93)

02. Sideslopes of Riprap. Sideslopes of riprap shall not be steeper than 2:1 (2' horizontal to 1' vertical) except at ends of culverts and at bridge approaches where a 1 1/2:1 sideslope is standard. (7-1-93)

03. Minimum Thickness of Riprap. The minimum thickness of the riprap layer shall equal the dimension of the largest size riprap rock used or be eighteen (18) inches, whichever is greater. When riprap will be placed below high water level, the thickness of the layer shall be fifty percent (50%) greater than specified below. (7-1-93)

04. Riprap Protection. Riprap protection must extend at least one (1) foot above the anticipated high water surface elevation in the stream. (7-1-93)

05. Rock Used for Riprap. Rock for riprap shall consist of sound, dense, durable, angular rock fragments, resistant to weathering and free from large quantities of soil, shale, and organic matter. The length of a rock shall not be more than three (3) times its width or thickness. Rounded cobbles, boulders, and streambed gravels are not acceptable as dumped riprap. (7-1-93)

06. Size and Gradation of Riprap. Riprap size and gradation are commonly determined in terms of the weight of riprap rock. The average size of riprap rock shall be at least as large as the maximum size rock that the stream is capable of moving. The maximum size of riprap rock used shall be two (2) to five (5) times larger than the average size. (7-1-93)

07. Methods Used for Determining Gradation of Riprap. There are many methods used for determining the gradation of riprap rock. One of these many acceptable methods is shown in Table 1 below the Far West States (FWS) method shown in APPENDIX A - Table 1A at the end of this chapter.

GRADATION OF RIPRAP IN POUNDS		
Max. Weight of Stone required (lbs)	**Min. and Max. Range in weight of Stones (lbs)**	**Weight Range 75 percent of Stones (lbs)**
150	25 - 150	50 - 150
200	25 - 200	50 - 200
250	25 - 250	50 - 250
400	25 - 400	100 - 400
600	25 - 600	150 - 600
800	25 - 800	200 - 800
1000	50 - 1000	250 - 1000
1300	50 - 1300	325 - 1300
1600	50 - 1600	400 - 1600
2000	75 - 2000	600 - 2000
2700	100 - 2700	800 - 2700

(7-1-93)

08. Use of Filter Material. A blanket of granular filter material or filter fabric shall be placed between the riprap layer and the bank in all cases where the bank is composed of erodible material that may be washed out from between the riprap rock. Filter material shall consist of a layer of well-graded gravel and coarse sand at least six (6) inches thick. (7-1-93)

09. Toe Protection. Some suitable form of toe protection shall be provided for riprap located on erodible streambed material. (7-1-93)

a. Various acceptable methods of providing toe protection are shown in APPENDIX B at the end of this chapter. (7-1-93)

b. In addition to the approved methods of providing toe protection as shown in APPENDIX B at the end of this chapter, any other reasonable method will be considered by the Director during review of a proposed project. (7-1-93)

10. Extension of Riprap Area. Riprap shall extend far enough upstream and downstream to reach stable areas, unless protected against undermining at ends by the method shown in APPENDIX C, Figure 3 at the end of this chapter. On extremely long riprap sections, it is recommended that similar cutoff sections be used at several intermediate points to reduce the hazard that would be created if failure of the riprap occurred at any one (1) location. (7-1-93)

11. Finished Surface. Placement shall result in a smooth, even finished surface. Compaction is not necessary. (7-1-93)

12. Placement of Riprap. The full course thickness of the riprap shall be placed in one (1) operation. Dumping riprap long distances down the bank or pushing it over the top of the bank with a dozer shall be avoided if possible. Material should be placed with a backhoe, loader, or dragline. Dumping material near its final position on the slope or dumping rock at the toe and bulldozing it up the slope is a very satisfactory method of placement, if approval is obtained for the use of equipment in the channel. (7-1-93)

13. Design Procedure. Design procedure using the Far West States (FWS) method. (7-1-93)

a. The FWS method uses a single equation to deal with variables for riprap. (7-1-93)

D75 = 3.5/CK WDS for Channel Banks

where: D75 = Size of the rock at seventy five percent (75%) is finer in gradation, in inches.

W	=	Specific weight of water, usually 62.4 lbs./cu.ft.
D	=	Depth of flow in stream, in feet in flood stage
S	=	Channel slope or gradient, in ft/ft.
C	=	A coefficient relating to curvature in the stream
K	=	A coefficient relating to steepness of bank slopes

(7-1-93)

b. The coefficient, C, is based on the ratio of the radius of curvature of the stream, (CR), to the water surface width, (WSW), so it is necessary for the user to make field determination of these values. The coefficient varies from 0.6 for a curve ratio of 4 to 6, up to 1.0 for a straight channel. If the computed ratio for a particular project is less than 4, the designer should consider some modification less than 4.

CR/WSW	C
4 - 6	0.60
6 - 9	0.75
9 - 12	0.90
Straight Channel	1.00

(7-1-93)

c. The coefficient, K, ranges from 0.5 for a 1.5:1 sideslope to 0.87 for 3:1 sideslope. No values are given for steeper or flatter slopes. Slopes steeper than 1.5:1 are not recommended. If slopes flatter than 3:1 are desired, it would be conservative to use the K-value for 3:1 slopes.

Bankslope	K
1.5:1	0.50
1.75:1	0.63
2.0:1	0.72
2.5:1	0.80
3.0:1	0.87

(7-1-93)

Table 1A in APPENDIX A, located at the end of this chapter.

058. DROP STRUCTURES, SILLS AND BARBS (RULE 58).

01. Drop Structures. A drop structure shall be constructed of rocks, boulders and/or logs placed within a stream channel to act as a low level dam. Placement of a drop structure perpendicular to stream flow will decrease the stream gradient, dissipate stream energy and decrease stream velocity through an increase in water surface elevation immediately above the structure. Drop structures shall comply with the following criteria: (7-1-93)

a. Maximum water surface differential across (upstream water surface elevation minus downstream water surface elevation) a drop structure shall not exceed two (2) feet. The department shall approve the final elevation of any structure. (7-1-93)

b. Rock drop structures shall be constructed of clean, sound, dense, durable, angular rock fragments, and/or boulders of size and gradation, such that the stream is incapable of moving the material during peak flows. Rocks shall be keyed into the stream banks to minimize the likelihood of bank erosion, (See Figure 8 in APPENDIX H located at the end of this chapter). (7-1-93)

c. Log drop structures are acceptable in four (4) designs including the single log dam, the stacked log dam, the three (3) log dam, and the pyramid log dam. Log ends shall be keyed into both banks at least one-third (1/3) of the channel width or a distance sufficient to prevent end erosion. To prevent undercutting, the bottom log shall be imbedded in the stream bed or hardware cloth, cobbles or boulders shall be placed along the upper edge. Minimum log size for a single log structure shall be determined by on-site conditions and shall be placed to maintain flow over the entire log to prevent decay. Each log drop structure must be accompanied by downstream scour protection, such as a rock apron (See Figure 9 in APPENDIX I located at the end of this chapter. (7-1-93)

d. All drop structures shall be constructed to facilitate fish passage and centralized scour pool development. (7-1-93)

02. Sills. A sill shall be constructed of the same material and in the same manner as a drop structure. The top of the sill may not exceed the elevation of the bottom of the channel. The purpose of a sill is to halt the upstream movement of a headcut, thus precluding the widening or deepening of the existing channel. (See Figure 10 in APPENDIX J located at the end of this chapter). (7-1-93)

03. Barb or Partial Drop Structure. A barb or partial drop structure shall be constructed in the same manner and of the same material as a drop structure and placed into the stream channel to act as a low level dam and grade control structure. The barb will decrease stream gradient, dissipate stream energy and redirect stream flow. (7-1-93)

a. Barbs shall be constructed of clean, sound, dense, angular rock fragments, of size and gradation such that the stream is incapable of moving the material during peak flows. (7-1-93)

b. Barbs shall be constructed with a downstream angle of no less than one hundred (100) degrees and no greater than one hundred thirty-five (135) degrees unless otherwise specified. (7-1-93)

c. Barbs shall "extend" into the channel a distance of not more than twenty percent (20%) of the width of the channel unless otherwise specified by the Director. (7-1-93)

d. Barbs shall be keyed into the bank a distance equal to or greater than the width of the structure and down to bed level. Whenever moisture is encountered in the construction of the keyways, willow cuttings or clumps shall be placed before and during rock placement in such a manner that the base of the cutting is in permanent moisture and the top extends a minimum of six (6) inches above grade (see Figure 11 in APPENDIX K located at the end of this chapter). (7-1-93)

059. CULVERTS AND BRIDGES (RULE 59).

01. Culverts and Bridges. Culverts and bridges shall be capable of carrying streamflows and shall not significantly alter conditions upstream or downstream by causing flooding, turbidity, or other problems. The appearance of such installations shall not detract from the natural surroundings of the area. (7-1-93)

02. Location of Culverts and Bridges. Culverts and bridges should be located so that a direct line of approach exists at both the entrance and exit. Abrupt bends at the entrance or exit shall not exist unless suitable erosion protection is provided. (7-1-93)

03. Ideal Gradient. The ideal gradient (bottom slope) is one which is steep enough to prevent silting but flat enough to prevent scouring due to high velocity flows. It is often advisable to make the gradient of a culvert coincide with the average streambed gradient. (7-1-93)

a. Where a culvert is installed on a slope steeper than twenty percent (20%), provisions to anchor the culvert in position will be required. Such provisions shall be included in the application and may involve the use of collars, headwall structures, etc. Smooth concrete pipe having no protruding bell joints or other irregularities shall have such anchoring provisions if the gradient exceeds ten percent (10%). (7-1-93)

04. Size of Culvert or Bridge Opening. The size of the culvert or bridge opening shall be such that it is capable of passing design flows without overtopping the streambank or causing flooding or other damage. (7-1-93)

a. Design flows shall be based upon the following minimum criteria:

Drainage Area	Design Flow Frequency
Less than 50 sq. mi.	25 Years
Over 50 sq. mi. or more	50 years or greatest flow of record, whichever is more

(7-1-93)

b. For culverts and bridges located on U.S. Forest Service or other federal lands, the sizing should comply with the Forest Practices Act as adopted by the federal agencies or the Department of Lands. (7-1-93)

c. For culverts or bridges located in a community qualifying for the national flood issuance program, the minimum size culvert shall accommodate the one hundred (100) year design flow frequency. (7-1-93)

d. If the culvert or bridge design is impractical for the site, the crossing may be designed with additional flow capacity outside the actual crossing structure, provided there is no increase in the Base Flood Elevation.
(NOTE: When flow data on a particular stream is unavailable, it is almost always safe to maintain the existing

gradient and cross-section area present in the existing stream channel. Comparing the proposed crossing size with others upstream or downstream is also a valuable means of obtaining information regarding the size needed for a proposed crossing.) (7-1-93)

e. Minimum clearance shall be at least one (1) foot at all bridges. This may need to be increased substantially in the areas where ice passage or debris may be a problem. Minimum culvert sizes required for stream crossings: (7-1-93)

i. Eighteen (18) inch diameter for culverts up to seventy (70) feet long; (7-1-93)

ii. Twenty-four (24) inch diameter for all culverts over seventy (70) feet long. (7-1-93)

f. In streams where fish passage is of concern as determined by the director, an applicant shall comply with the following provisions and/or other approved criteria to ensure that passage will not be prevented by a proposed crossing. (7-1-93)

g. Minimum water depth shall be approximately eight (8) inches for salmon and steelhead and at least three (3) inches in all other cases. (7-1-93)

h. Maximum flow velocities for streams shall not exceed those shown in Figure 17 in APPENDIX N, located at the end of this chapter, for more than a forty-eight (48) hour period. The curve used will depend on the type of fish to be passed. (7-1-93)

i. Where it is not feasible to adjust the size or slope to obtain permissible velocities, the following precautions may be utilized to achieve the desired situation. (7-1-93)

j. Baffles downstream or inside the culvert may be utilized to increase depth and reduce velocity. Design criteria may be obtained from the Idaho Fish and Game Department. (7-1-93)

k. Where multiple openings for flow are provided, baffles or other measures used in one (1) opening only shall be adequate provided that the opening is designed to carry the main flow during low-flow periods. (7-1-93)

05. Construction of Crossings. When crossings are constructed in erodible material, upstream and downstream ends shall be protected from erosive damage through the use of such methods as dumped rock riprap, headwall structures, etc., and such protection shall extend below the erodible streambed and into the banks at least two (2) feet unless some other provisions are made to prevent undermining. (7-1-93)

a. Where fish passage must be provided, upstream drops at the entrance to a culvert will not be permitted and a maximum drop of one (1) foot will be permitted at the downstream end if an adequate jumping pool is maintained below the drop. (7-1-93)

b. Downstream control structures such as are shown in Figure 18 in APPENDIX O, located at the end of this chapter, can be used to reduce downstream erosion and improve fish passage. They may be constructed with gabions, pilings and rock drop structures. (7-1-93)

06. Multiple Openings. Where a multiple opening will consist of two (2) or more separate culvert structures, they shall be spaced far enough apart to allow proper compaction of the fill between the individual structures. The minimum spacing in all situations shall be one (1) foot. In areas where fish passage must be provided, only one (1) opening shall be constructed to carry all low flows. Low flow baffles may be required to facilitate fish passage. (7-1-93)

07. Areas to be Filled. All areas to be filled shall be cleared of vegetation, topsoil, and other unsuitable material prior to placing fill. Material cleared from the site shall be disposed of above the high water line of the stream. Fill material shall be reasonably well-graded and compacted and shall not contain large quantities of silt, sand, organic matter, or debris. In locations where silty or sandy material must be utilized for fill material, it will be necessary to construct impervious sections both upstream and downstream to prevent the erodible sand or silt from

being carried away (see Figure 19, APPENDIX P, located at the end of this chapter), Sideslopes for fills shall not exceed one and one half to one (1.5:1). Minimum cover over all culvert pipes and arches shall be one (1) foot. (7-1-93)

08. Installation of Pipe and Arch Culvert. All pipe and arch culverts shall be installed in accordance with manufacturer's recommendations. (7-1-93)

a. The culvert shall be designed so that headwaters will not rise above the top of the culvert entrance unless a headworks is provided. (7-1-93)

060. REMOVAL OF SAND AND GRAVEL DEPOSITS (RULE 60).

01. Removal of Sand and Gravel. This work consists of removal of sand and gravel deposits from within a stream channel. The following conditions shall be adhered to unless other methods have been specified in detail on the application and approved by the Director. (7-1-93)

02. Removal Below Water Surface. Sand and gravel must not be removed below the water surface existing at the time of the work. Where work involves clearing a new channel for flow, removal of material below water level will be permitted to allow this flow to occur; however, this must not be done until all other work in the new channel has been completed. (7-1-93)

03. Buffer Zone. A buffer zone of undisturbed streambed material at least five (5) feet in width or as otherwise specified by the Director shall be maintained between the work area and the existing stream. The applicant shall exercise reasonable precautions to ensure that turbidity is kept to a minimum and does not exceed state water quality standards. (7-1-93)

04. Movement of Equipment. Equipment may cross the existing stream in one (1) location only, but shall not push or pull material along the streambed while crossing the existing stream. (7-1-93)

05. Disturbing Natural Appearance of Area. Work must be done in a manner that will least disturb the natural appearance of the area. Sand and gravel shall be removed in a manner that will not leave unsightly pits or other completely unnatural features at the conclusion of the project. (7-1-93)

061. SUCTION DREDGES AND NON-POWERED SLUICE EQUIPMENT (RULE 61).

01. Standards for Suction Dredges. The following standards shall apply only to uses of suction dredges with nozzle diameter of five (5) inches or less and rated at fifteen (15) HP or less and non-powered sluice equipment moving more than one-quarter (1/4) cubic yard per hour. (7-1-93)

02. Operating Permit. A permit for the operation of a suction dredge may authorize the use of the dredge within a drainage basin or a large portion of a drainage basin except as otherwise determined by the Director. (7-1-93)

03. Mechanized Equipment Prohibited Below High Water Mark. There shall be no use of mechanized equipment below the mean high water mark except for the dredge itself, and any life support system necessary to operate the dredge. (7-1-93)

04. Operation of Dredge. The operation of the dredge shall be done in a manner so as to prevent the undercutting of streambanks. (7-1-93)

05. Permit Required for Non-Powered Operation -- More Than Five People. A permit shall be required for any non-powered operation in which more than five (5) people are working the same area. (7-1-93)

06. Permit Required for Non-Powered Operation -- More Than Thirty-Three Percent of Stream Width. A permit shall be required for any non-powered operation if the disturbed area exceeds thirty-three percent (33%) of the stream width at the mining location. (7-1-93)

07. Limitation of Mining Sites. Only one (1) mining site per one hundred (100) linear feet of stream channel shall be worked at one (1) time unless waived by the Director. (7-1-93)

062. PILING (RULE 62).

01. Standards for Pilings. The following standards apply to a piling associated with a boat or swimming dock, a log boom, a breakwater, or bridge construction. (7-1-93)

02. Replacement of Pilings. In replacing a piling the old piling shall be completely removed from the channel, secured to the new piling or cut at stream bed level. (7-1-93)

03. Condition of Pilings. Chemicals or compounds used for protection of piles and lumber shall be thoroughly dried to prevent bleeding, weeping or dissolution before placing such piles and lumber over, in or near water. (7-1-93)

04. Prohibited Materials. The application of creosote, arsenicals or phentachlorophenol (Penta) to timber shall not occur in, or over water. (7-1-93)

063. PIPE CROSSINGS (RULE 63).

01. Standards for Pipe Crossings. The following standards apply to pipe crossings to be installed below the bed of a stream or river such as utility crossings of a gas line, sewer line, electrical line, communication line, water line or similar line. (7-1-93)

02. Depth of Line. The line shall be installed below the streambed to a depth which will prevent erosion and exposure of the line to free flowing water. In areas of high stream velocity where scouring may occur, the pipe shall be encased in concrete or covered with rock riprap to prevent the pipeline from becoming exposed. (7-1-93)

03. Pipe Joints. The joints shall be welded, glued, cemented or fastened together in a manner to provide a water tight connection. (7-1-93)

04. Construction Methods. Construction methods shall provide for eliminating or minimizing discharges of turbidity, sediment, organic matter or toxic chemicals. A settling basin or cofferdam may be required for this purpose. (7-1-93)

05. Cofferdam. If a cofferdam is used, it shall be completely removed from the stream channel upon completion of the project. (7-1-93)

06. Revegetation of Disturbed Areas. Areas disturbed as a result of the alteration shall be revegetated with plants and grasses native to these areas. (7-1-93)

064. CONCRETE PLANK BOAT LAUNCH RAMPS (RULE 64).

01. Construction of Concrete Plank Boat Launch Ramps. Concrete plank boat launch ramps, shall be constructed with individual sections of precast, reinforced concrete planks linked together to provide a stable non-erosive water access. Typical plank size is twelve feet by fourteen inches by four inches (12' x 14" x 4"). (See Figure 20, APPENDIX Q, located at the end of this chapter). (7-1-93)

02. Construction of Planks. All planks shall be constructed with Type II low alkali cement. (7-1-93)

03. Concrete Planks. All concrete planks shall have a smooth form finish, free of rock pockets and loose materials. Figure 22 shows a typical launch plank detail. (See Figures 21 and 22 in APPENDIXES R and S). (7-1-93)

04. Assembly of Planks. The planks shall be assembled out of the water and slid into place on a constructed launch ramp where water velocities do not exceed two (2) feet per second. In waters exceeding (2) feet

per second the ramp sections shall be linked together and fastened to pre-positioned stringers anchored into the launch ramp. (See Figure 23, APPENDIX T, located at the end of this chapter). (7-1-93)

05. Water Depth. The water depth above the lower end of the ramp section shall not be less than three (3) feet during low level or low flow periods. (See Figure 20, APPENDIX Q, located at the end of this chapter). (7-1-93)

06. Construction of Boat Ramp. The boat launch ramp shall have a base constructed of sound, dense, durable, angular rock resistant to weathering and free from soil, shale and organic materials. Rounded cobbles, boulders and streambed material are not acceptable as base material in areas with stream flow velocities greater than two (2) fps. Base materials shall be covered with a layer of (three-fourths inches (3/4") min.) crushed rock with a minimum depth of two inches (2"). The ramp shall have a minimum and maximum slope of ten percent (10%) and fifteen percent (15%) respectively, and shall be constructed in a manner to avoid long incursions into the stream channel. All ramps and fill material shall be protected with rock riprap in accordance with Rule 057 when stream flow velocities exceed two (2) fps. (See Figure 24, APPENDIX U, located at the end of this chapter). (7-1-93)

065. -- 069. (RESERVED)

070. HEARINGS ON DENIED, LIMITED, OR CONDITIONED PERMIT OR OTHER DECISIONS OF THE DIRECTOR (RULE 70).

Any applicant who is granted a limited or conditioned permit, or who is denied a permit, may seek a hearing on said action of the Director by serving on the Director written notice and request for a hearing before the Board within fifteen (15) days of receipt of the Director's decision. Said hearing will be set, conducted, and notice given as set forth in the Rules promulgated by the Board under the provisions of Title 67, Chapter 52, Idaho Code. (7-1-93)

071. -- 999. (RESERVED)

APPENDIX A
Table 1A

Riprap Gradation Using FWS Method

% Finer by Weight (Lbs.)	Minimum Size (Lbs.)	Maximum Size (Lbs.)
D_{100}	1.33 X D_{75}	2.0 X D_{75}
D_{75}	1.0 X D_{75}	1.67 X D_{75}
D_{50}	0.67 X D_{75}	1.17 X D_{75}
D_{25}	0.33 X D_{75}	0.77 X D_{75}
D_{0}	None	0.33 X D_{75}

APPENDIX B

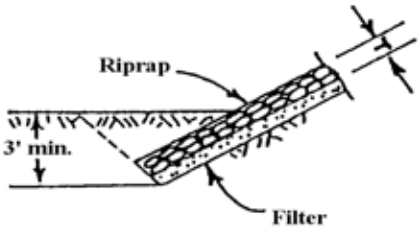

METHOD 1: This is most suited to areas where the toe is dry during construction.

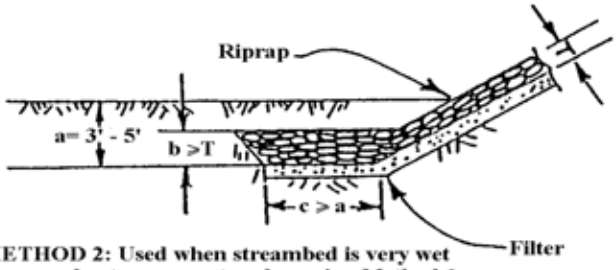

METHOD 2: Used when streambed is very wet or groundwater presesnt makes using Method 1 impractical.

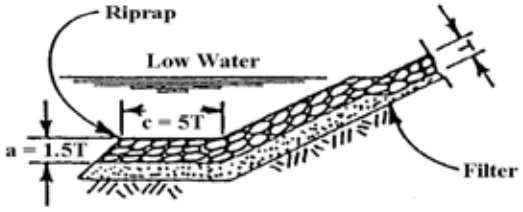

METHOD 3: Often used when toe is underwater during construction. Both Methods 2 and 3 utilize the idea that undermining will cause rock at toe blanket to settle into eroded area providing protection during scouring.

FIGURE 2. Acceptable toe protection

APPENDIX B (CONTINUED)

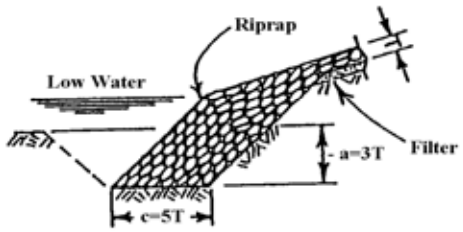

METHOD 4: Used underwater in areas with extremely bad streambed erosion conditions which make Method 3 unfeasible. This method may also be preferred where Mehtod 3 would destroy fish spawing beds.

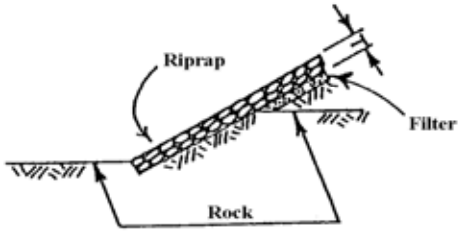

METHOD 5: When the streambed is non-erodible, no special provisions for toe protection are needed other than insuring that the riprap is well keyed to the rock.

FIGURE 2. Acceptable toe protection ***continued***

APPENDIX C

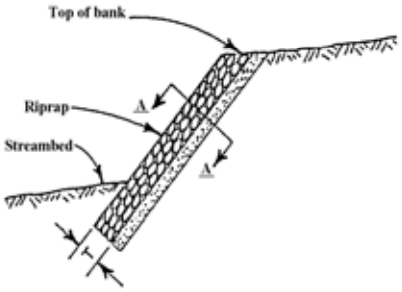

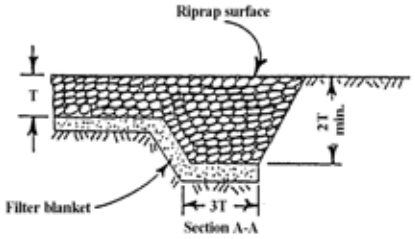

View shown above is cross section at end of riprap looking down along the sideslope toward streambed.

FIGURE 3. Protction against undermining

APPENDIX D

FIGURE 4. Mattress Construction

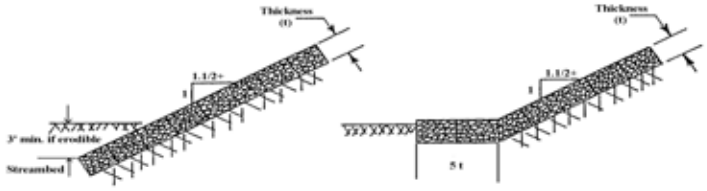

APPENDIX E

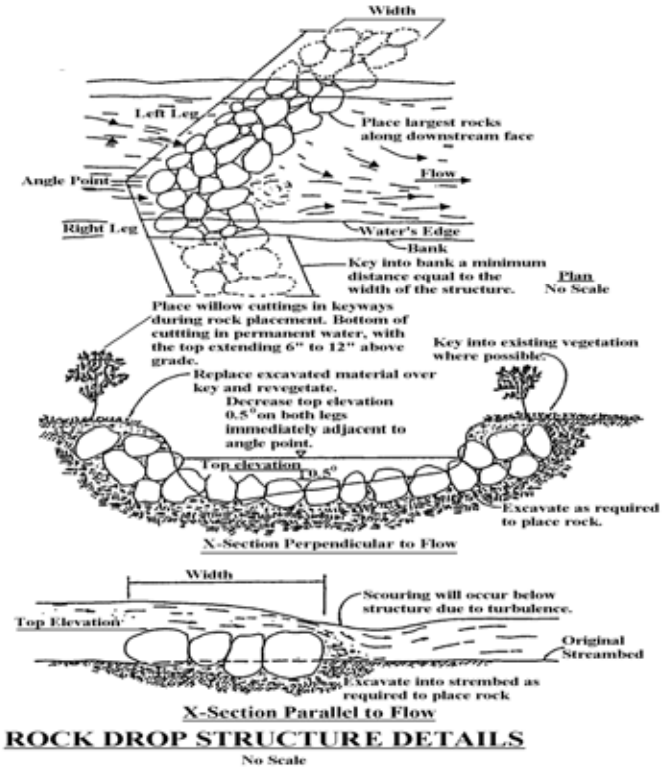
Width
Left Leg
Place largest rocks along downstream face
Angle Point
Flow
Right Leg
Water's Edge
Bank
Key into bank a minimum distance equal to the width of the structure.
Plan
No Scale
Place willow cuttings in keyways during rock placement. Bottom of cuttting in permanent water, with the top extending 6" to 12" above grade.
Key into existing vegetation where possible.
Replace excavated material over key and revegetate.
Decrease top elevation 0.5' on both legs immediately adjacent to angle point.
Top elevation
To 5'
Excavate as required to place rock.
X-Section Perpendicular to Flow
Width
Scouring will occur below structure due to turbulence.
Top Elevation
Original Streambed
Excavate into strembed as required to place rock
X-Section Parallel to Flow
ROCK DROP STRUCTURE DETAILS
No Scale

APPENDIX F

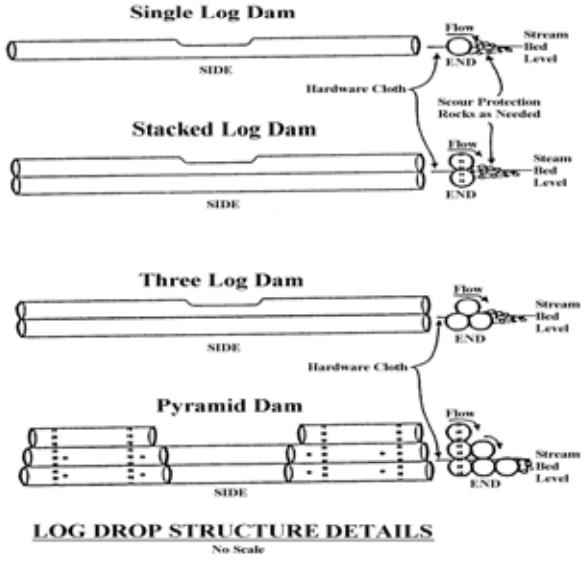
Single Log Dam
Flow
Stream Bed Level
SIDE
END
Hardware Cloth
Scour Protection Rocks as Needed
Stacked Log Dam
Flow
Steam Bed Level
SIDE
END
Three Log Dam
Flow
Stream Bed Level
SIDE
END
Hardware Cloth
Pyramid Dam
Flow
Stream Bed Level
SIDE
END
LOG DROP STRUCTURE DETAILS
No Scale

APPENDIX G

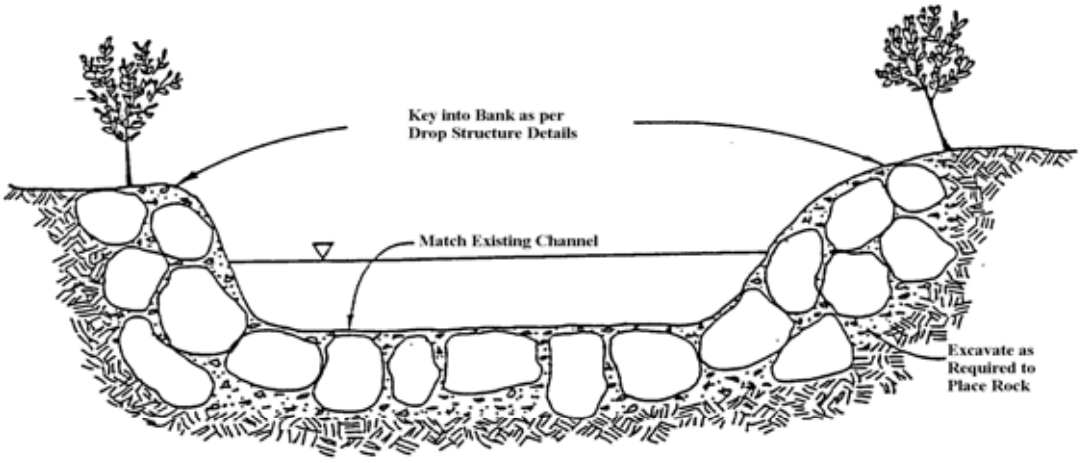

X-Section Perpendicular to Flow

SILL DETAILS

No Scale

APPENDIX H

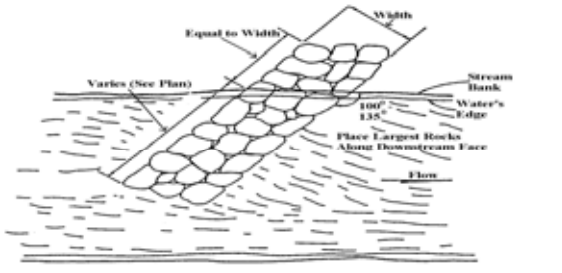

Plan View

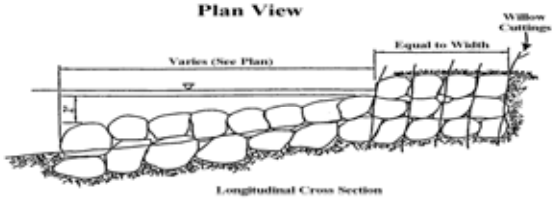

Longitudinal Cross Section

BARB DETAILS

No Scale

APPENDIX I

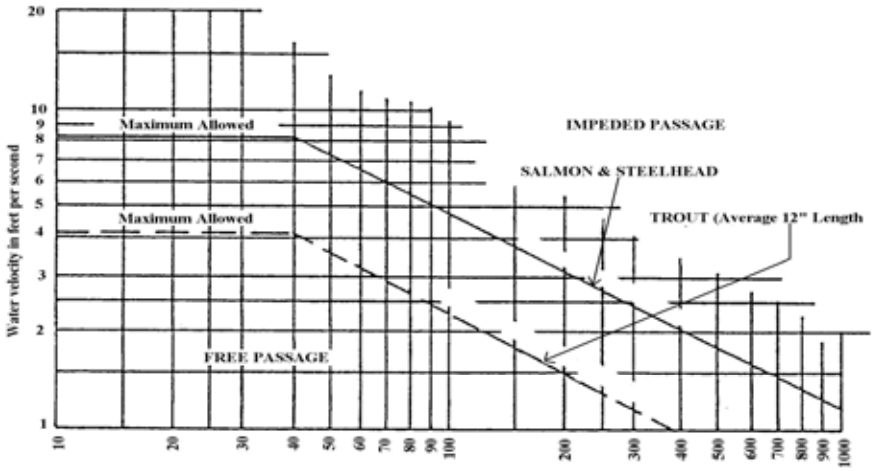

FIGURE 17. Swimming capability of migrating salmon and trout
(Alaskan Curve)

APPENDIX J

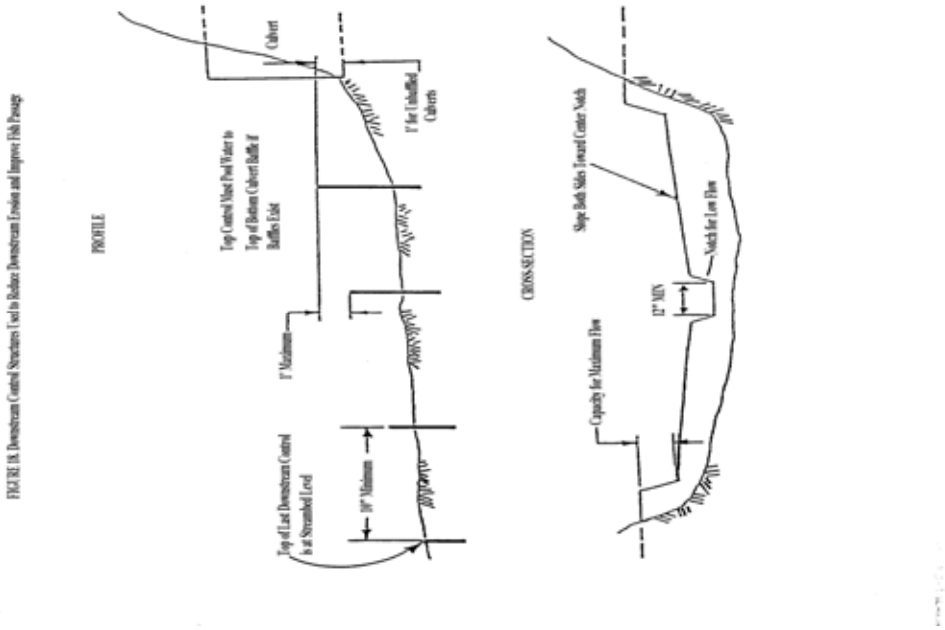

APPENDIX K

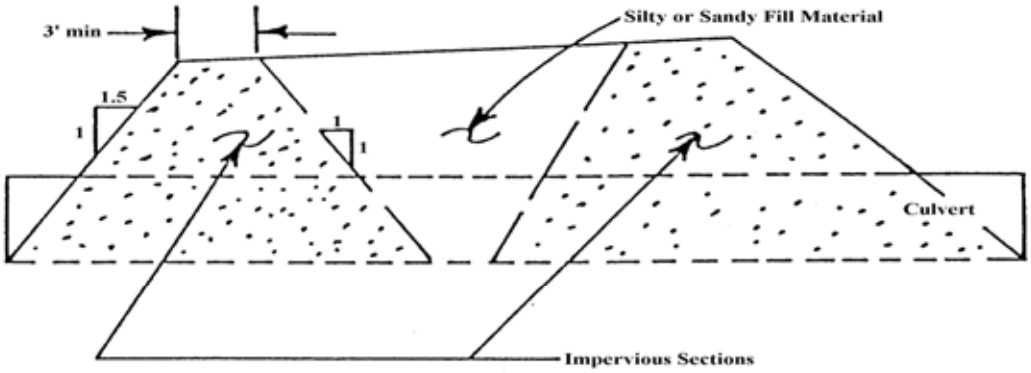

FIGURE 19. Culvert Backfill Using Silty or Sandy Material

APPENDIX L

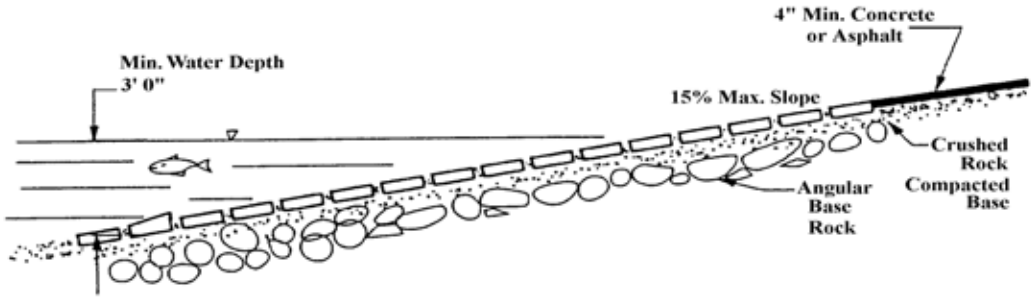

LAUNCH RAMP SECTION

No Scale
Figure 20

APPENDIX M



CONCRETE PLANK

No Scale
Figure 21

APPENDIX N

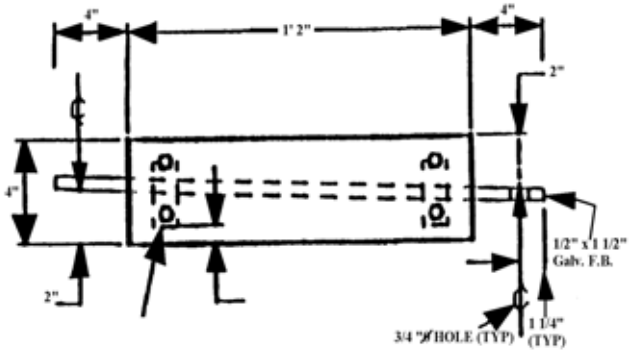

CONCRETE LAUNCH PLANK DETAIL

No Scale
Figure 22

APPENDIX O

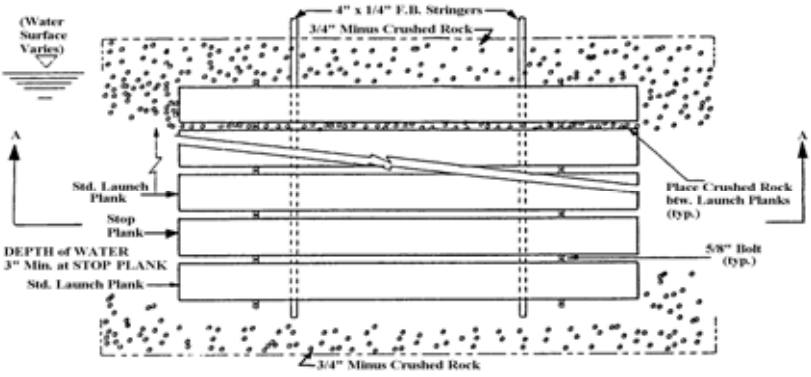

Place crushed rock as shown. Position stringers under planks in order shown and secure with 5/8" bolts. Slide planks on stringers, adding planks as needed, to desired water depth. Stringers consist of 2 - 4" x 1/4" x 20' lng. stl. flat bar w/clevis pin hole one end. Pull flat bar stringers up grade from water when planks are positioned and bolted together, remove when last plank has been set in place.

CONCRETE LAUNCH-PLAN VIEW

Figure 23
No Scale

APPENDIX P

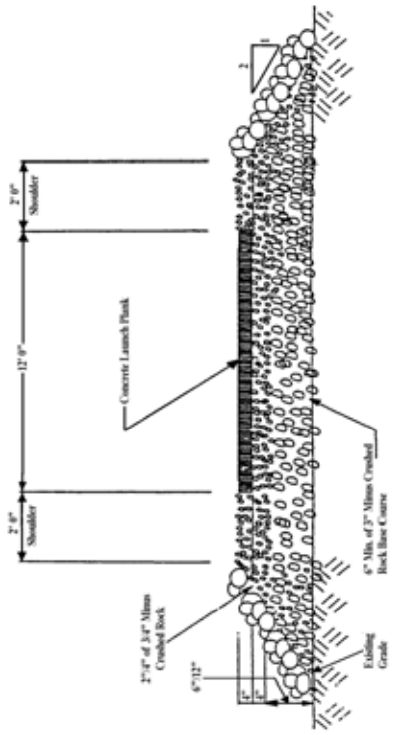

CONCRETE LAUNCH - CROSS-SECTION

No Scale
Figure 24

000. LEGAL AUTHORITY (RULE 0).
The Director of the Department of Water Resources adopts these rules under the authority provided by Section 42-1805(8), Idaho Code. (7-1-93)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are titled IDAPA 37.03.08, "Water Appropriation Rules." (7-1-93)

02. Scope. (7-1-93)

a. Background and Purpose. The 1985 Idaho Legislature authorized reallocation of certain hydropower water rights to new upstream beneficial uses. The reallocation is to be accomplished using statutes designed to provide for the appropriation of unappropriated public water supplemented by a public interest review of those reallocations which significantly reduce existing hydropower generation. These rules provide the procedures for obtaining the right to divert and use unappropriated public water as well as water previously appropriated for hydropower use which has been placed in trust with the State of Idaho and is subject to reallocation. Guidelines are provided for the filing and processing of applications, and criteria are established for determining the actions to be taken by the Director. (7-1-93)

b. Scope and Applicability. These rules are applicable to appropriations from all sources of unappropriated public water in the state of Idaho under the authority of Chapter 2, Title 42, Idaho Code. Sources of public water include rivers, streams, springs, lakes and groundwater. The rules are also applicable to the reallocation of hydropower water rights held in trust by the state of Idaho. The rules are applicable to all applications to appropriate water filed with the Department of Water Resources prior to the effective date of these rules upon which an action to approve or deny the application is pending and to all applications filed subsequent to adoption of the rules and regulations. In addition, the rules are applicable to existing permits to appropriate water required to be reviewed under the provisions of Section 42-203D, Idaho Code. (7-1-93)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
Unless the context otherwise requires, the following definitions govern these rules: (7-1-93)

01. Acre-Foot (AF). A volume of water sufficient to cover one (1) acre of land one (1) foot deep and is equal to forty-three thousand five hundred sixty (43,560) cubic feet. (7-1-93)

02. Advertisement. The action taken by the Director to provide notice, usually by publication of a legal notice in one (1) or more newspapers, of a proposed appropriation or other notice required in administration of his duties and responsibilities. (7-1-93)

03. Applicant. The person, corporation, association, firm, governmental agency or other entity, or the holder of a permit being reprocessed pursuant to Section 42-203D, Idaho Code, who initiates an appropriation of water or related water matter for the Director's consideration. (7-1-93)

04. Application for Permit. The written request to the department on forms furnished by the department proposing to appropriate the public waters or trust waters of the state. (7-1-93)

05. Board. The Idaho Water Resource Board. (7-1-93)

06. Beneficial Use. One (1) or more of the recognized beneficial uses of water including but not limited to, domestic, municipal, irrigation, hydropower generation, industrial, commercial, recreation, stockwatering and fish propagation uses for which permits to appropriate water can be issued as well as other uses which provide a benefit to the user of the water as determined by the Director. Industrial use as used for purposes of these rules includes, but is not limited to, manufacturing, mining and processing uses of water. (7-1-93)

07. Cubic Foot Per Second (CFS). A rate of flow approximately equal to four hundred forty-eight and eight-tenths (448.8) gallons per minute and also equals fifty (50) Idaho miner's inches. (7-1-93)

08. DCMI. An acronym for domestic, commercial, municipal and industrial. In these rules it designates certain classes of these uses presumed to satisfy public interest requirements. Domestic use, for purposes

of this definition, is water for one or more households and water used for all other purposes including irrigation of a residential lot in connection with each of the households where the diversion to each household does not exceed thirteen thousand (13,000) gallons per day. Also for purposes of this definition, commercial, municipal and industrial uses are any such uses which do not deplete the system containing the trust water more than two (2) acre feet per day. (7-1-93)

09. Department. The Idaho Department of Water Resources. (7-1-93)

10. Director. The Director of the Idaho Department of Water Resources. (7-1-93)

11. Legal Subdivision. A tract of land described by the government land survey and usually is described by government lot or quarter-quarter, section, township and range. A lot and block of a subdivision plat recorded with the county recorder may be used in addition to the quarter-quarter, section, township and range description. (7-1-93)

12. Permit or Water Right Permit. The water right document issued by the Director authorizing the diversion and use of unappropriated public water of the state or water held in trust by the state. (7-1-93)

13. Priority, or Priority of Appropriation, or Priority Date. The date of appropriation established in the development of a water right. The priority of a water right for public water or trust water is used to determine the order of water delivery from a source during times of shortage. The earlier or prior date being the better right. (7-1-93)

14. Project Works. A general term which includes diversion works, conveyance works, and any devices which may be used to apply the water to the intended use. Improvements which have been made as a result of application of water, such as land preparation for cultivation, are not a part of the project works. (7-1-93)

15. Single Family Domestic Purposes. Water for household use or livestock and water used for all other purposes including irrigation of up to one half (l/2) acre of land in connection with said household where total use is not in excess of thirteen thousand (l3,000) gallons per day. (7-1-93)

16. Subordinated Water Right. A water right used for hydropower generation purposes that is subject to depletion without compensation by upstream water rights which are initiated later in time and which are for a purpose other than hydropower generation purposes. (7-1-93)

17. Trust Water. That portion of an unsubordinated water right used for hydropower generation purposes which is in excess of a minimum stream flow established by state action either with agreement of the holder of the hydropower right as provided by Section 42-203B(5), Idaho Code or without an agreement as provided by Section 42-203B(3), Idaho Code. (7-1-93)

18. Unappropriated Water. The public water of the state of Idaho in streams, rivers, lakes, springs or groundwater in excess of that necessary to satisfy prior rights including prior rights reserved by federal law. (7-1-93)

011. -- 024. (RESERVED)

025. GENERAL DESCRIPTION OF THE PROCEDURE TO BE USED FOR ALLOCATION (RULE 25).

01. Applications to Appropriate Unappropriated Water and Water Held in Trust. Applications to appropriate unappropriated water and water held in trust as provided by Section 42-203B(3), Idaho Code, will be evaluated using the criteria of Section 42-203A, Idaho Code, which requires an assessment to be made of the impact of the proposed use on water availability for existing water rights, the adequacy of the water supply for the proposed use, whether the application is filed for speculative purposes, the financial ability of the applicant to complete the project, and the effect of the proposed use on the local public interest. (7-1-93)

02. Applications to Appropriate Water from Sources Held by State in Trust. Applications to appropriate water from sources on which the state holds water in trust, pursuant to Section 203B(5), Idaho Code, will be processed in a three-step analysis. Evaluation will consider the purposes of "trust water" established in Section 42-203B, Idaho Code. (7-1-93)

a. First, the proposed use must be evaluated using the procedures and criteria of Section 42-203A, Idaho Code. If all criteria of Section 42-203A(5), Idaho Code, are satisfied, the application may be approved for unappropriated water. If the application does not satisfy the criteria of Section 42-203A(5) b, c, d, and e, Idaho Code, or is found to reduce the water to existing water rights other than those held in trust by the state, the application will be denied. If the application satisfies all criteria of Section 42-203A(5), Idaho Code, except Section 42-203A(5)a, Idaho Code, but is found to reduce water held in trust by the state, the application will be reviewed under criteria of Section 42-203C, Idaho Code. (7-1-93)

b. Second, Section 42-203C, Idaho Code, requires a determination of whether the proposed use will significantly reduce, individually or cumulatively with existing uses and other uses reasonably likely to exist within twelve months of the proposed use, the amount of trust water available to the holder of the water right used for power production that is defined by agreement pursuant to subsection (5) of Section 42-203B, Idaho Code (hereinafter termed "significant reduction"). If a significant reduction will not occur, the application may be approved without an evaluation of the public interest criteria of Section 42-203C(2), Idaho Code. (7-1-93)

c. Third, based upon a finding of significant reduction, the proposed use will be evaluated in terms of the public interest criteria of Section 42-203C(2), Idaho Code. (7-1-93)

026. -- 029. (RESERVED)

030. LOCATION AND NATURE OF TRUST WATER (RULE 30).

01. Snake River Water Rights Agreement. The legislation ratifying the Snake River water rights agreement between the state of Idaho and Idaho Power Company places in trust a part of the flows available to Idaho Power Company under its hydropower water rights in the Snake River Basin between Swan Falls Dam and Milner Dam. The flows subject to the trust water provisions and reallocation under Section 42-203C(2), Idaho Code, are as follows: (7-1-93)

a. Trust water flows under the Snake River water rights agreement are located in the Snake River between Swan Falls Dam located in Section 18, Township 2 South, Range 1 East, Boise Meridian (B.M.) and Milner Dam located in Sections 28 and 29, Township 10 South, Range 21 East, Boise Meridian (B.M.) and all surface and groundwater sources tributary to the Snake River in that reach. (7-1-93)

b. Surface water and groundwater tributary to the Snake River upstream from Milner Dam is not trust water. After giving notice and considering public comment, the Director will designate the area in which groundwater is presumed to be tributary to the Snake River upstream from Milner Dam. Modification or changes in the designated boundary may be made only after providing notice and considering public comment. The area presently designated as tributary to the Snake River in the Milner Dam to Swan Falls Dam reach is appended to these rules (See Attachment A in APPENDIX A located at the end of this chapter), for information purposes only. (7-1-93)

c. Trust water flows under the Snake River water rights agreement are those occurring in the Snake River and tributaries in the geographic area designated in Subsection 030.01.a. that exceed the established minimum stream flows but are less than the water rights for hydropower generating facilities in the Swan Falls Dam to Milner Dam reach of Snake River, to the extent such rights were unsubordinated prior to the Snake River water rights agreement. Minimum average daily flows have been established by action of the Board and legislature at the U.S. Geological Survey gauging station located near Murphy (Section 35, Township 1 South, Range 1 West B.M.) in the amount of three thousand nine hundred (3900) cfs from April 1 to October 31 and five thousand six hundred (5600) cfs from November 1 to March 31, and at Milner gauging station located in Section 29, Township 10 South, Range 21 East, B.M. in the amount of zero (0) cfs from January 1 to December 31. (7-1-93)

02. Trust Water Created by State Action. Section 42-203B(3), Idaho Code, provides that trust water can be created by state action establishing a minimum flow without an agreement with the holder of the hydropower water right. Allocation of trust water so established will be pursuant to state law except the criteria of Section 42-203C, Idaho Code, will not be considered. (7-1-93)

03. Sources of Public Water Not Trust Water. The following sources of public water are not trust

water and are not subject to the public interest provisions of Section 42-203C, Idaho Code: (7-1-93)

a. Sources or tributaries to sources upon which no hydropower generating facilities are located downstream within the state of Idaho. (7-1-93)

b. Sources or tributaries to sources which have a state hydropower water right permit or license or Federal Energy Regulatory Commission license which have not been subordinated, and the state of Idaho has not entered into an agreement with the holder of the hydropower water right pursuant to Section 42-203B(2), Idaho Code, and the State of Idaho has not established a minimum stream flow for purposes of protecting hydropower generation. (7-1-93)

c. Sources or tributaries to sources for which a state hydropower water right permit or license, or the Federal Energy Regulatory Commission license included a subordination condition. Such flows are considered to be public waters subject to appropriation under the provisions of Section 42-203A, Idaho Code. (7-1-93)

d. Flows in excess of established rights including rights used for hydropower purposes. Such flows are unappropriated waters subject to allocation under Section 42-203A, Idaho Code. (7-1-93)

e. Flows in the Snake River upstream from Milner Dam and all surface and groundwater tributaries to that reach. Such flows are subject to allocation under Section 42-203A, Idaho Code, without consideration of water rights existing downstream from Milner Dam (Reference: 42-203B(2), Idaho Code). (7-1-93)

031. -- 034. (RESERVED)

035. APPLICATION REQUIREMENTS (RULE 35).

01. General Provisions. (7-1-93)

a. No person shall commence the construction of any project works or commence the diversion of the public water or trust water of the state of Idaho from any source without first having filed an application for permit to appropriate the water or other appropriate form with the department and received approval from the Director, unless exempted by these rules or by statute. (7-1-93)

b. Any person proposing to commence a diversion of the public water or the trust water of the state of Idaho from a groundwater source for single family domestic purposes is exempt from the application and permit requirements of Subsection 035.01.a. (6-30-19)T

c. Any person watering livestock directly from a natural stream or natural lake without the use of a constructed diversion works is exempt from Subsection 035.01.a. (7-1-93)

d. All applications for permit to appropriate public water or trust water of the state of Idaho shall be on the form provided by the department entitled "Application for Permit to Appropriate the Public Waters of the State of Idaho" and include all necessary information as described in Subsection 035.03. An application for permit that is not complete as described in Subsection 035.03 will not be accepted for filing and will be returned along with any fees submitted to the person submitting the application. No priority will be established by an incomplete application. Applications meeting the requirements of Subsection 035.03. will be accepted for filing and will be endorsed by the department as to the time and date received. The acceptability of applications requiring clarification or corrections shall be determined by the Director. (7-1-93)

e. The department will correspond with the applicant concerning applications which have been accepted for filing by the department which require clarification or correction of the information required by Subsection 035.03. If the additional or corrected information is supplied after thirty (30) days, the priority date of the application will be determined by the date the additional or corrected information is received by the department unless the applicant has requested within the thirty (30) day period additional time to provide the information, has shown good reasons for needing additional time, and the Director has granted additional time. (7-1-93)

f. Failure to submit the additional or corrected information is cause for the Director to void the

department's records of the application. (7-1-93)

02. Effect of an Application. (7-1-93)

a. Any application that seeks to appropriate water from a source upon which the state holds trust water shall be considered an application for appropriation of unappropriated water. If the Director determines unappropriated water is not available, the application, if otherwise approvable, will be reviewed for compliance with provisions of Section 42-203C, Idaho Code. (6-30-19)T

b. The priority of an application for unappropriated or trust water is established as of the time and date the application is received in complete form along with the statutory fee in any official office of the department. The priority of the application remains fixed unless changed by action of the Director in accordance with applicable law. (7-1-93)

c. An application for permit to appropriate water is not a water right and does not authorize diversion or use of water until approved by the Director in accordance with statutes in effect at the time the application is approved. (7-1-93)

d. An applicant's interest in an application for permit to appropriate water is personal property. An assignment of interest in an application must include evidence satisfactory to the Director that the application was not filed for speculative purposes. (7-1-93)

03. Requirements for Applications to Be Acceptable for Filing. (7-1-93)

a. The following information shall be shown on an application for permit form and submitted together with the statutory fee to an office of the department before the application for permit may be accepted for filing by the department. (7-1-93)

i. The name and post office address of the applicant shall be listed. If the application is in the name of a corporation, the names and addresses of its directors and officers shall be provided. If the application is filed by or on behalf of a partnership or joint venture, the application shall provide the names and addresses of all partners and designate the managing partner, if any. (7-1-93)

ii. The name of the water source sought to be appropriated shall be listed. For surface water sources, the source of water shall be identified by the official geographic name listed on the U.S. Geological Survey Quadrangle map. If the source has not been named, it can be described as "unnamed," but the system or river to which it is tributary shall be identified. For groundwater sources, the source shall be listed as "groundwater." Only one source shall be listed on an application unless the application is for a single system which will have more than one source. (6-30-19)T

iii. The legal description of the point of diversion and place of use shall be listed. The location of the point(s) of diversion and the place of use shall be described to the nearest forty (40) acre subdivision or U.S. Government Lot of the Public Land Survey System. The location of springs shall be described to the nearest ten (10) acre tract. Subdivision names, lot and block numbers and any name in local common usage for the point of diversion, or place of use shall be included in the comments section of the application form. If irrigation is listed as a purpose of use, the number of acres in each forty (40) acre subdivision of the place of use shall be listed. (7-1-93)

iv. The quantity of water to be diverted shall be listed as a rate of flow in cubic feet per second and/or as a volume to be stored in acre-feet per year for each purpose of use requested. (7-1-93)

v. Impoundment (storage) applications shall show the maximum acre-feet requirement per year which shall not exceed the storage capacity of the impoundment structure unless the application describes a plan of operation for filling the reservoir more than once per year. (7-1-93)

vi. Every offstream storage impoundment application shall show a maximum rate of diversion to storage as well as the total storage volume. (7-1-93)

vii. The nature of the proposed beneficial use or uses of the water shall be listed. While the purpose may be described in general terms such as irrigation, industrial or municipal, a description sufficient to identify the proposed use or uses of the water shall also be included. (7-1-93)

viii. The period of each year during which water will be diverted, stored and beneficially used shall be listed. The period of use for irrigation purposes shall coincide with the annual periods of use shown in Figure 1 in APPENDIX B (located at the end of this chapter), unless it can be shown to the satisfaction of the Director that a different period of use is necessary. (7-1-93)

ix. The proposed method of diversion, conveyance system and system for distributing and using the water shall be described. (7-1-93)

x. The period of time required for completion of the project works and application of water to the proposed use shall be listed. This period of time shall not exceed the time required to diligently and uninterruptedly apply the water to beneficial use and shall not exceed five (5) years. (7-1-93)

xi. A map or plat of sufficient scale (not less than two (2) inches equal to one (1) mile) to show the project proposed shall be included. The map or plat shall agree with the legal descriptions and other information shown on the application. (7-1-93)

xii. The application form shall be signed by the applicant listed on the application or evidence must be submitted to show that the signator has authority to sign the application. An application in more than one (1) name shall be signed by each applicant unless the names are joined by "or" or "and/or." (7-1-93)

xiii. Applications by corporations, companies or municipalities or other organizations shall be signed by an officer of the corporation or company or an elected official of the municipality or an individual authorized by the organization to sign the application. The signator's title shall be shown with the signature. (7-1-93)

xiv. Applications may be signed by a person having a current "power of attorney" authorized by the applicant. A copy of the "power of attorney" shall be included with the application. (7-1-93)

xv. Applications to appropriate water in connection with Carey Act or Desert Land Entry proposals shall include evidence that appropriate applications have been filed for the lands involved in the proposed project. (7-1-93)

xvi. The application form shall be accompanied with a fee in the amount required by Section 42-221A, Idaho Code. (7-1-93)

04. Amended Applications. (7-1-93)

a. Applications for permit shall be amended whenever significant changes to the place, period or nature of the intended use, method or location of diversion or proposed use of the water or other substantial changes from that shown on the pending application are intended. An application shall be amended if the proposed change will result in a greater rate of diversion or depletion (see Subsection 035.04.c.), if the point of diversion, place of use, or point of discharge of the return flow are to be altered, if the period of the year that water will be used is to be changed, or if the nature of the use is to be changed. (7-1-93)

b. An application can be amended to clarify the name of the source of water but may not be amended to change the source of water. (7-1-93)

c. An amendment which increases the rate of diversion, increases the volume of water diverted per year or the volume of water depleted, lengthens the period of use, or adds an additional purpose of use shall result in the priority of the application for permit being changed to the date the amended application is received by the department. (7-1-93)

d. An application for permit may be amended by endorsement by the applicant or his agent on the original application for permit form which endorsement shall be initialed and dated. If the changes required to the

information on the application are, in the judgment of the Director, substantial enough to cause confusion in interpreting the application form, the amended application shall be submitted on a new application for permit form to be designated as an amended application. (7-1-93)

e. An amended application shall be accompanied by the additional fee required by Section 42-221A, Idaho Code, if the total rate of diversion or total volume of storage requested is increased and by the fee required by Section 42-221F, Idaho Code, for readvertising if notice of the original application has been published. (7-1-93)

f. If the applicant's name or mailing address changes, the applicant shall in writing notify the department of the change. (7-1-93)

036. -- 039. (RESERVED)

040. PROCESSING APPLICATIONS FOR PERMIT AND REPROCESSING PERMITS (RULE 40).

01. General. (7-1-93)

a. Unprotested applications, whether for unappropriated water or trust water, will be processed using the following general steps: (7-1-93)

i. Advertisement and protest period; (7-1-93)

ii. Department review of applications and additional information, including department field review if determined to be necessary by the Director; (7-1-93)

iii. Fact finding hearing if determined to be necessary by the Director; (7-1-93)

iv. Director's decision; (7-1-93)

v. Section 42-1701A, Idaho Code, hearing, if requested; and (7-1-93)

vi. Director's decision affirmed or modified. (7-1-93)

b. Protested applications, whether for unappropriated water or trust water, will be processed using the following general steps: (7-1-93)

i. Advertisement and protest period; (7-1-93)

ii. Hearing and/or conference; (7-1-93)

iii. Department review of applications, hearing record and additional information including department field review if determined to be necessary by the Director. (7-1-93)

iv. Proposed decision (unless waived by parties); (7-1-93)

v. Briefing or oral argument in accordance with the department's adopted Rules of Procedure. (7-1-93)

vi. Director's decision accepting or modifying the proposed decision. (7-1-93)

c. The Director's decision rejecting and denying approval of an application for permit filed for diversion from a source previously designated as a critical groundwater area or upon which a moratorium has previously been entered may be issued without advertisement of the application. (7-1-93)

d. An applicant may request in writing that commencement of processing of his or her application be delayed for a period not to exceed one (1) year or that processing be interrupted for a period not to exceed six (6) months. The Director at his discretion may approve the request unless he determines that others will be injured by the

delay or that the applicant seeks the delay for the purpose of speculation, or that the public interest of the people of Idaho will not be served by the delay. The Director may approve a request for delay for a shorter period of time or upon conditions, and may renew the approval upon written request. (7-1-93)

02. Public Notice Requirement. (7-1-93)

a. Applications for permit which have not been advertised. (7-1-93)

i. Advertisement of applications for permit proposing a rate of diversion of ten (10) cfs or less or storage of one thousand (1000) AF or less shall comply with Section 42-203A, Idaho Code. The first required advertisement will be published on the first or third Thursday of a month when published in daily newspapers and on the first or third publishing day of the month for weekly newspapers. (7-1-93)

ii. Advertisement of applications for permit in excess of the amounts in Subsection 040.02.a.i. shall comply with Subsection 040.02.a.i. and shall also be published in a newspaper or newspapers to achieve statewide circulation. (7-1-93)

iii. Statewide circulation with respect to Section 42-203A(2), Idaho Code, shall be obtained by publication of a legal notice at least once each week for two (2) successive weeks in a newspaper, as defined in Section 60-106, Idaho Code, of general circulation in the county in which the point of diversion is located and by publication of a legal notice at least once each week for two (2) successive weeks in at least one (1) daily newspaper, as defined in Section 60-107, Idaho Code, published in each of the department's four (4) administrative regions and determined by the Director to be of general circulation within the department's region within which it is published. The administrative regions of the department are identified on Figure 2 in APPENDIX C (located at the end of this chapter). The names of newspapers used for statewide publication are available from any department office. (7-1-93)

b. Applications for permit which have been advertised. (7-1-93)

i. Notice of applications for permit for water from the Snake River between Swan Falls Dam and Milner Dam or surface and groundwater tributaries to that reach of Snake River which were advertised prior to July 1, 1985 and have been held without final action by the department due to the Swan Falls controversy shall be readvertised by the Director in accordance with Subsection 040.02.a. as appropriate to allow opportunity for protests to be entered with respect to the public interest criteria of Section 42-203C(2), Idaho Code. (7-1-93)

ii. Applications for permit from the Snake River or surface and groundwater sources upstream from Milner Dam which have been held without action due to the Swan Falls controversy may be processed without readvertisement. (7-1-93)

iii. The applicant shall pay the readvertisement fee provided in Section 42-221F, Idaho Code, prior to the readvertisement. (7-1-93)

iv. Failure to pay the readvertising fee within thirty (30) days after the applicant is notified to do so is cause for the Director to void the application. (7-1-93)

c. Notice of existing permits. (7-1-93)

i. Existing permits appropriating water held in trust by the state of Idaho issued prior to July 1, 1985, unless exempted by Subsection 040.02.c.ii. shall be subject to the review requirements of Section 42-203D, Idaho Code, and shall be readvertised in accordance with Subsection 040.02.a. as appropriate. The review is limited to the criteria described in Section 42-203C(2), Idaho Code. (7-1-93)

ii. Permits exempt from the provisions of Section 42-203D, Idaho Code, include: (7-1-93)

(1) Permits appropriating water not held in trust by the state of Idaho; (7-1-93)

(2) Permits for DCMI uses, stockwater uses and other essentially non-consumptive uses as determined by the Director; and (7-1-93)

(3) Permits for which an acceptable proof of beneficial use submittal was received by the department prior to July 1, 1985, or permits for which an acceptable proof of beneficial use was submitted after July 1, 1985, if evidence satisfactory to the Director has been received to show that the permit was fully developed prior to July 1, 1985 to the extent claimed on the proof of beneficial use. (7-1-93)

iii. Holders of permits subject to the review requirement of Section 42-203D, Idaho Code, shall pay in advance, upon the request of the Director, the readvertising fee required by Section 42-221F, Idaho Code. (7-1-93)

iv. Failure to pay the readvertising fee within thirty (30) days after the applicant is notified to do so is cause for the Director to cancel the permit. (7-1-93)

03. Protests, Intervention, Hearings, and Appeals. (7-1-93)

a. Protests. (7-1-93)

i. Protests against the approval of an application for permit or against a permit being reprocessed shall comply with the requirements for pleadings as described in the department's adopted Rules of Procedure. (7-1-93)

ii. Protests against the approval of an application for permit or against a permit being reprocessed will only be considered if received by the department after receipt of the application by the department and prior to the expiration of the protest period announced in the advertisement unless the protestant successfully intervenes in the proceeding. (7-1-93)

iii. General statements of protest (blanket protests) against appropriations for a particular class of use or from a particular source of water will not be considered as valid protests by the Director. (7-1-93)

b. Intervention. Requests to intervene in a proceeding pending before the department shall comply with the Department's adopted Rules of Procedure. (7-1-93)

c. Hearings. Hearings will be scheduled and held in accordance with the department's adopted Rules of Procedure. (7-1-93)

d. Appeals. Any final decision of the Director may be appealed in accordance with Section 42-1701A, Idaho Code. (7-1-93)

04. Burden of Proof. (7-1-93)

a. Burden of proof is divided into two (2) parts: first, the burden of coming forward with evidence to present a prima facie case, and second, the ultimate burden of persuasion. (7-1-93)

b. The burden of coming forward with evidence is divided between the applicant and the protestant as follows: (7-1-93)

i. The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criteria (a) through (d) of Section 42-203A(5), Idaho Code; (7-1-93)

ii. The applicant shall bear the initial burden of coming forward with evidence for the evaluation of criterion (e) of Section 42-203A(5), Idaho Code, as to any factor affecting local public interest of which he is knowledgeable or reasonably can be expected to be knowledgeable. The protestant shall bear the initial burden of coming forward with evidence for those factors relevant to criterion (e) of Section 42-203A(5), Idaho Code, of which the protestant can reasonably be expected to be more cognizant than the applicant. (7-1-93)

iii. The protestant shall bear the initial burden of coming forward with evidence for the evaluation of the public interest criteria of Section 42-203C(2), Idaho Code, and of demonstrating a significant reduction, except that the applicant shall provide details of the proposed design, construction, and operation of the project and directly

associated operations to allow the impact of the project to be evaluated. (7-1-93)

c. The applicant has the ultimate burden of persuasion for the criteria of Section 42-203A, Idaho Code, and the protestant has the ultimate burden of persuasion for the criteria of Section 42-203C, Idaho Code. (7-1-93)

d. For unprotested applications or permits to be reprocessed, the Director will evaluate the application, information submitted pursuant to Subsection 040.05.c. and information in the files and records of the department, and the results of any studies the department may conduct to determine compliance with the appropriate criteria. (7-1-93)

e. In protested matters the Director will take official notice of information as described in the department's adopted Rules of Procedure, and will, prior to considering, circulate to the parties information from department studies and field examinations concerning the protested application or permit being reprocessed, if such information has not otherwise been made a part of the hearing record. (7-1-93)

05. Additional Information Requirements. (7-1-93)

a. For unprotested applications and permits being reprocessed, the additional information required by Subsection 040.05.c. shall be submitted within thirty (30) days after the Director notifies the applicant that the application or permit is being reviewed for decision. The Director may extend the time within which to submit the information upon request by the applicant and upon a showing of good cause. Failure to submit the required information within the time period allowed will be cause for the Director to void an application or to advance the priority of a permit being reprocessed by the number of days that the information submittal is late. The Director will provide opportunity for hearing as provided in Section 42-1701A, Idaho Code. (7-1-93)

b. For protested applications or protested permits being reprocessed, the information required by Subsection 040.05.c. may be requested by the Director to be submitted within thirty (30) days after notification by the Director, may be made a part of the record of the hearing held to consider the protest, or may be made available in accordance with any pre-hearing discovery procedures. Failure to submit the required information within the time period allowed will be cause for the Director to void an application or to advance the priority of a permit being reprocessed by the number of days that the information submittal is late. (7-1-93)

c. The following information shall be submitted for applications to appropriate unappropriated water or trust water and for permits being reprocessed for trust water. The additional information submittal requirements of this rule are waived for filings which seek to appropriate five (5) cfs or less or storage of five hundred acre-feet (500 AF) or less and for filings seeking reallocation of trust water which the Director determines will reduce the flow of the Snake River measured at Murphy Gauge by not more than two (2) acre-feet per day. For filings proposing irrigation as a purpose of use, the additional information is required if more than two hundred (200) acres will be irrigated. However, the Director may specifically request submittal of any of the following information for any filing, as he determines necessary. Information relative to the effect on existing water rights, Section 42-203A(5)(a), Idaho Code, shall be submitted as follows: (7-1-93)

i. For applications appropriating springs or surface streams with five (5) or fewer existing users, either the identification number, or the name and address of the user, and the location of the point of diversion and nature of use for each existing water right shall be submitted. (7-1-93)

ii. For applications appropriating groundwater, a plat shall be submitted locating the proposed well relative to all existing wells and springs and permitted wells within a one-half mile radius of the proposed well. (7-1-93)

iii. Information shall be submitted concerning any design, construction, or operation techniques which will be employed to eliminate or reduce the impact on other water rights. (7-1-93)

d. Information relative to sufficiency of water supply, Section 42-203A(5)(b), Idaho Code, shall be submitted as follows: (7-1-93)

i. Information shall be submitted on the water requirements of the proposed project, including, but not limited to, the required diversion rate during the peak use period and the average use period, the volume to be diverted per year, the period of year that water is required, and the volume of water that will be consumptively used per year. (7-1-93)

ii. Information shall be submitted on the quantity of water available from the source applied for, including, but not limited to, information concerning flow rates for surface water sources available during periods of peak and average project water demand, information concerning the properties of the aquifers that water is to be taken from for groundwater sources, and information on other sources of supply that may be used to supplement the applied for water source. (7-1-93)

e. Information relative to good faith, delay, or speculative purposes of the applicant, Section 42-203A(5)(c), Idaho Code, shall be submitted as follows: (7-1-93)

i. The applicant shall submit copies of deeds, leases, easements or applications for rights-of-way from federal or state agencies documenting a possessory interest in the lands necessary for all project facilities and the place of use or if such interest can be obtained by eminent domain proceedings the applicant must show that appropriate actions are being taken to obtain the interest. Applicants for hydropower uses shall also submit information required to demonstrate compliance with Sections 42-205 and 42-206, Idaho Code. (7-1-93)

ii. The applicant shall submit copies of applications for other needed permits, licenses and approvals, and must keep the department apprised of the status of the applications and any subsequent approvals or denials. (7-1-93)

f. Information Relative to Financial Resources, Section 42-203A(5)(d), Idaho Code, shall be submitted as follows: (7-1-93)

i. The applicant shall submit a current financial statement certified to show the accuracy of the information contained therein, or a financial commitment letter along with the financial statement of the lender or other evidence to show that it is reasonably probable that financing will be available to appropriate the water and apply it to the beneficial use proposed. (7-1-93)

ii. The applicant shall submit plans and specifications along with estimated construction costs for the project works. The plans shall be definite enough to allow for determination of project impacts and implications. (7-1-93)

g. Information Relative to Conflict with the Local Public Interest, Section 42-203A(5)(e), Idaho Code, shall be submitted as follows: The applicant shall seek comment and shall submit all letters of comment on the effects of the construction and operation of the proposed project from the governing body of the city and/or county and tribal reservation within which the point of diversion and place of use are located, the Idaho Department of Fish and Game, the Idaho Department of Environmental Quality, and any irrigation district or canal company within which the proposed project is located and from other entities as determined by the Director. (7-1-93)

h. The following information Relative to the Public Interest Criteria of Section 42-203C(2), Idaho Code, shall be submitted by an applicant seeking reallocation of trust water for a project which the Director determines will reduce the flow of the Snake River by more than two (2) acre-feet per day. For filings proposing irrigation as a purpose of use, the additional information is required if more than two hundred (200) acres will be irrigated. The Director may request any or all of the following information for any filing seeking the reallocation of trust water. (7-1-93)

i. A project design and estimate of cost of development shall be submitted. For applications appropriating more than twenty-five (25) cfs, or ten thousand (10,000) AF of storage, or generating more than five (5) megawatts, the information shall be prepared and submitted by a qualified engineer licensed under the provisions of Chapter 12, Title 54, Idaho Code, unless waived by the Director. The design shall be definite enough to reflect the project's impacts and implications as required in subsequent rules. (7-1-93)

ii. If the project proposes development for irrigation purposes, information shall be submitted on crop

rotation, including acreages, for lands when newly developed. (7-1-93)

iii. Information shall be submitted concerning the number and kinds of jobs that will be created or eliminated as a direct result of project development including both the construction and operating phases of the project. If jobs are seasonal, the estimated number of months per year of employment shall be submitted. (7-1-93)

iv. For applications or permits being reprocessed for more than twenty-five (25) cfs, or more than ten thousand (10,000) AF of storage, or more than five (5) megawatts, information shall be submitted concerning the changes to community services that will be required during the construction and operation phases of the project including, but not limited to, changes to schools, roads, housing, public utilities and public health and safety facilities, if any. (7-1-93)

v. Information shall be submitted concerning the source of energy for diverting and using water for the project, the estimated instantaneous demand and total amount of energy that will be used, the efficiency of use, and energy conservation methods. (7-1-93)

vi. Information shall be submitted concerning the location, amount, and quality of return flow water, and any water conservation features of the proposed project. (7-1-93)

vii. If the project proposes irrigation as a use, information shall be submitted concerning the kinship, if any, of the operator of the land to be irrigated by the project to the applicant, the location and acreage of other irrigated lands owned, leased, or rented by the applicant, the names, addresses and number of shares held by each shareholder if the applicant is a corporation, evidence of tax-exempt status if a corporation is so claiming, a soil survey prepared in accordance with the U.S. Soil Conservation Service irrigatable land classification system, and a schedule for bringing into production the project lands. (7-1-93)

041. -- 044. (RESERVED)

045. EVALUATION CRITERIA (RULE 45).

01. Criteria for Evaluating All Applications to Appropriate Water. The Director will use the following criteria in evaluating whether an application to appropriate unappropriated water or trust water should be approved, denied, approved for a smaller amount of water or approved with conditions. (7-1-93)

a. Criteria for determining whether the proposed use will reduce the quantity of water under existing water rights. A proposed use will be determined to reduce the quantity of water under an existing water right (i.e., injure another water right) if: (7-1-93)

i. The amount of water available under an existing water right will be reduced below the amount recorded by permit, license, decree or valid claim or the historical amount beneficially used by the water right holder under such recorded rights, whichever is less. (7-1-93)

ii. The holder of an existing water right will be forced to an unreasonable effort or expense to divert his existing water right. Protection of existing groundwater rights are subject to reasonable pumping level provisions of Section 42-226, Idaho Code; or (7-1-93)

iii. The quality of the water available to the holder of an existing water right is made unusable for the purposes of the existing user's right, and the water cannot be restored to usable quality without unreasonable effort or expense. (7-1-93)

iv. An application that would otherwise be denied because of injury to another water right may be approved upon conditions which will mitigate losses of water to the holder of an existing water right, as determined by the Director. (7-1-93)

v. The provisions of Subsection 045.01.a.v. are not intended to require compensation or mitigation for loss of flow to holders of subordinated hydropower rights or those from which trust water is reallocated. (7-1-93)

b. Criteria for determining whether the water supply is insufficient for the proposed use. The water supply will be determined to be insufficient for the proposed use if water is not available for an adequate time interval in quantities sufficient to make the project economically feasible (direct benefits to applicant must exceed direct costs to applicant), unless there are noneconomic factors that justify application approval. In assessing such noneconomic factors, the Director will also consider the impact on other water rights if the project is abandoned during construction or after completion, the impact on public resource values, and the cost to local, state and federal governments of such an abandonment. (7-1-93)

c. Criteria for determining whether the application is made in good faith. The criteria requiring that the Director evaluate whether an application is made in good faith or whether it is made for delay or speculative purposes requires an analysis of the intentions of the applicant with respect to the filing and diligent pursuit of application requirements. The judgment of another person's intent can only be based upon the substantive actions that encompass the proposed project. Speculation for the purpose of this rule is an intention to obtain a permit to appropriate water without the intention of applying the water to beneficial use with reasonable diligence. Speculation does not prevent an applicant from subsequently selling the developed project for a profit or from making a profit from the use of the water. An application will be found to have been made in good faith if: (7-1-93)

i. The applicant shall have legal access to the property necessary to construct and operate the proposed project, has the authority to exercise eminent domain authority to obtain such access, or in the instance of a project diverting water from or conveying water across land in state or federal ownership, has filed all applications for a right-of-way. Approval of applications involving Desert Land Entry or Carey Act filings will not be issued until the United States Department of Interior, Bureau of Land Management has issued a notice classifying the lands suitable for entry; and (7-1-93)

ii. The applicant is in the process of obtaining other permits needed to construct and operate the project; and (7-1-93)

iii. There are no obvious impediments that prevent the successful completion of the project. (7-1-93)

d. Criteria for determining whether the applicant has sufficient financial resources to complete the project. (7-1-93)

i. An applicant will be found to have sufficient financial resources upon a showing that it is reasonably probable that funding is or will be available for project construction or upon a financial commitment letter acceptable to the Director. This showing is required as described in Subsection 040.05.c. or at the time the hearing provided by Subsection 040.05.c. is conducted. (7-1-93)

ii. A governmental entity will be determined to have satisfied this requirement if it has the taxing, bonding or contracting authority necessary to raise the funds needed to commence and pursue project construction in accordance with the construction schedule. (7-1-93)

e. Criteria for determining whether the project conflicts with the local public interest. The Director will consider the following, along with any other factors he finds to be appropriate, in determining whether the project will conflict with the local public interest: (7-1-93)

i. The effect the project will have on the economy of the local area affected by the proposed use as determined by the employment opportunities, both short and long term, revenue changes to various sectors of the economy, short and long term, and the stability of revenue and employment gains; (7-1-93)

ii. The effect the project will have on recreation, fish and wildlife resources in the local area affected by the proposed use; and (7-1-93)

iii. An application which the Director determines will conflict with the local public interest will be denied unless the Director determines that an over-riding state or national need exists for the project or that the project can be approved with conditions to resolve the conflict with the local public interest. (7-1-93)

02. Criteria for Evaluating Whether a Proposed Use of Trust Water Will Cause a Significant

Reduction. Reference: Section 42-203C(1), Idaho Code and Subsection 025.02.b. For purposes of reallocating trust water made available by the Snake River water rights agreement, an application for permit or a permit being reprocessed, will be presumed to not cause a significant reduction if the Director determines that it complies with both the individual and cumulative tests for evaluating significant reduction as provided in Subsections 045.02.a. and 045.02.b. (7-1-93)

a. Individual test for evaluating significant reduction. A proposed use will be presumed to not cause a significant reduction if when fully developed and its impact is fully felt, the use will individually reduce the flow of the Snake River measured at Murphy Gauge by not more than two (2) acre-feet per day. An irrigation project of two hundred (200) acres or less located anywhere in the Snake River Basin above Murphy Gauge proposing to use trust water is presumed to not reduce the flow at Murphy Gauge by more than two (2) acre-feet per day. The presumption of this section is not applicable to applications or permits to be reprocessed which the Director determines to be part of a larger development. (7-1-93)

b. Cumulative test for evaluating significant reduction. A proposed use will be presumed to not cause a significant reduction, if the use, when fully developed and its impact is fully felt and when considered cumulatively with other existing uses and other uses reasonably likely to exist within twelve (12) months of the proposed use, will not deplete the flow of Snake River measured at Murphy Gauge by more than: (7-1-93)

i. Forty thousand (40,000) acre-feet per calendar year when considered with all other uses approved for development of trust water during that calendar year; (7-1-93)

ii. Forty thousand (40,000) acre-feet per calendar year using a four (4) year moving average when considered with all other uses approved for development of trust water during that four (4) year period; and (7-1-93)

iii. Twenty thousand (20,000) acre-feet per calendar year from filings approved for reallocation of trust water which meet the criteria of Subsection 045.02.a. (6-30-19)T

c. The Director will determine on a case-by-case basis from available information whether a permit to be reprocessed or an application for trust water which exceeds the flow depletion limits of Subsection 045.02, or one which meets the flow depletion limits but has been protested, will cause a significant reduction. In making this determination, the Director will consider: (7-1-93)

i. The amount of the reduction in hydropower generation that the proposed use will cause individually and cumulatively with other uses expected to be developed within twelve (12) months of the proposed use as compared to the existing hydropower generation output of the affected facility or facilities. (7-1-93)

ii. The relative importance of the affected hydropower facility or facilities to other sources of electrical power generation available to the holder of the facility or facilities. (7-1-93)

iii. The timing of the reduction in hydropower generation both on an annual basis and on a long-term basis considering the lag time between the beginning of diversion by the proposed use and the resulting reduction in hydropower generation. (7-1-93)

iv. The effect of the reduction in hydropower generation on the unit cost of hydropower from the facility or facilities and the average cost of electrical power offered by the holder of the facility. (7-1-93)

v. The terms of contracts, mortgages, or regulatory permits and licenses which require the holder of the hydropower generation facility to retain the capability to produce hydroelectric power at a specific level. (7-1-93)

d. Other provisions of these rules not withstanding, applications or permits to be reprocessed proposing a direct diversion of water for irrigation purposes from the Snake River between Milner Dam and Swan Falls Dam or from tributary springs in this reach are presumed to cause a significant reduction. (7-1-93)

e. Other provisions of these rules not withstanding, applications or permits to be reprocessed for DCMI purposes are presumed to not cause a significant reduction. (7-1-93)

03. Criteria for Evaluating Public Interest. If the Director determines that a proposed use of trust water held by the state pursuant to Section 42-203B(5), Idaho Code, will cause a significant reduction, the Director will consider the criteria of Section 42-203C(2), Idaho Code, before acting on the application or permit being reprocessed. The Director shall consider and balance the relative benefits and detriments for each factor required to be weighed under Section 42-203C(2), Idaho Code, to determine whether a proposed reduction of the amount of water available for power production serves the greater public interest. The Director shall evaluate whether the proposed use sought in the permit being reprocessed or the application will provide the greater benefit to the people of the state of Idaho when balanced against other uses for the same water resource. In evaluating the public interest criteria, the Director will use the following guidelines: (7-1-93

a. The Director will consider the potential benefits both direct and indirect, and that the proposed use would provide to the state and local economy. The economic appraisal shall be based upon generally accepted economic analysis procedures which uniformly evaluate the following factors within the state of Idaho and the county or counties directly affected by the project: (7-1-93)

i. Direct project benefits. (7-1-93)

ii. Indirect benefits including net revenues to the processing, transportation, supply, service and government sectors of the economy. (7-1-93)

iii. Direct project costs, to include the opportunity cost of previous land use. (7-1-93)

iv. Indirect project costs, including verifiable costs to government in net lost revenue and increased regulation costs, verifiable reductions in net revenue resulting from losses to other existing instream uses, and the increased cost of replacing reduced hydropower generation from unsubordinated hydropower generating facilities. (7-1-93)

b. The Director will consider the impact the proposed use would have upon the electric utility rates in the state of Idaho, and the availability, foreseeability and cost of alternative energy sources to ameliorate such impact. These evaluations will include the following considerations: (7-1-93)

i. Projections of electrical supply and demand for Idaho and the Pacific Northwest made by the Bonneville Power Administration and the Northwest Power Planning Council and information available from the Idaho Public Utilities Commission or from the electric utility from whose water right trust water is being reallocated. (7-1-93)

ii. The long term reliability of the substitute source and the cost of alternatives including the resulting impact on electrical rates. (7-1-93)

c. The Director will consider whether the proposed use will promote the family farming tradition in the state of Idaho. For purposes of this evaluation, the Director will use the following factors. (7-1-93)

d. If the total land to be irrigated by the applicant, including currently owned and leased irrigated land and land proposed to be irrigated in the application and other applications and permits of the applicant, do not exceed nine hundred sixty (960) acres, the application will be presumed to promote the family farming tradition. (7-1-93)

e. If the requirement of Subsection 045.03.c.i. is not met, the Director will consider the extent the applicant conforms to the following characteristics: (7-1-93)

i. The farming operation developed or expanded as a result of the application is operated by the applicant or a member of his family (spouse, parents or grandparents, lineal descendants, including those that are adopted, lineal descendants of parents; and spouse of lineal descendants); (7-1-93)

ii. In the event the application is filed in the name of a partnership, one or more of the partners shall operate the farming operation; and (7-1-93)

iii. If the application is in the name of a corporation, the number of stockholders does not exceed

fifteen (15) persons, and one or more of the stockholders operates the farming operation unless the application is submitted by an irrigation district, drainage district, canal company or other water entity authorized to appropriate water for landowners within the district or for stockholders of the company all of whom shall meet the family farming criteria. (7-1-93)

f. The Director will consider the promotion of full economic and multiple use development of the water resources of the state of Idaho. In this regard, the extent to which the project proposed complies with the following factors will be considered: (7-1-93)

i. Promotes and conforms with the adopted State Water Plan; (7-1-93)

ii. Provides for coordination of proposed and existing uses of water to maximize the beneficial use of available water supplies; (7-1-93)

iii. Utilizes technology economically available to enhance water and energy use efficiency; (7-1-93)

iv. Provides multiple use of the water, including multipurpose storage; (7-1-93)

v. Allows opportunity for reuse of return flows; (7-1-93)

vi. Preserves or enhances water quality, fish, wildlife, recreation and aesthetic values; (7-1-93)

vii. Provides supplemental water supplies for existing uses with inadequate supplies. (7-1-93)

g. The Director will consider whether a proposed use, which includes irrigation, will conform to a staged development policy of up to twenty thousand (20,000) acres per year or eighty thousand (80,000) acres in any four (4) year period in the Snake River drainage above Murphy Gauge. In applying this criteria, the Director will consider the following: (7-1-93)

i. "Above Murphy gauge" means the Snake River and any of its surface or groundwater tributaries upstream from Murphy gauge which gauge is located on the Snake River approximately four (4) miles downstream from Swan Falls Dam from which trust water is to be reallocated; (7-1-93)

ii. Twenty thousand (20,000) acres per year or eighty thousand (80,000) acres per four (4) year period is a four (4) year moving average of Twenty thousand (20,000) acres/year of permits issued during a calendar year for irrigation development. If permits for development of less than twenty-thousand (20,000) acres are issued in a year, additional development in excess of twenty-thousand (20,000) acres can be permitted in succeeding years. Likewise, if more than twenty thousand (20,000) acres is permitted in one year (recognizing that a single large project could exceed twenty thousand (20,000) acres) the permitted development in succeeding years must be correspondingly less to maintain no greater than a twenty thousand (20,000) acres/year average for any four (4) year period; (7-1-93)

iii. The criteria of Subsection 045.03.g. applies to multiple-use projects with irrigation as a principal purpose. Projects which use irrigation as only an incidental purpose, such as the land treatment of waste, shall not be included within this policy; and (7-1-93)

iv. An application determined by the Director to be otherwise approvable but found to exceed the acreage limitations, when considered with other applications approved for development, may be approved with conditions providing for the construction of project works and beneficial use of water to be commenced in a future year. (7-1-93)

h. No single public interest criterion will be entitled to greater weight than any other public interest criterion. (7-1-93)

i. Until such time as the studies prescribed in Policy 32 I of the State Water Plan are completed and accepted by the Idaho Water Resource Board, applications and permits reprocessed which propose to divert water to surface storage from the Snake River and surface tributaries upstream from Murphy Gauging Station shall be presumed to satisfy the public interest criteria of Section 42-203C(2), Idaho Code. Applications or reprocessed permits which are approved prior to completion of the studies, will not be subject to additional reprocessing. (7-1-93)

j. Applications for permit for trust water sources filed prior to July 1, 1985, for projects for which diversion and beneficial use was complete prior to October 1, 1984, are presumed to satisfy the public interest criteria of Section 42-203C(2), Idaho Code. (7-1-93)

k. Applications or permits to be reprocessed proposing a direct diversion of water for irrigation purposes from the Snake River between Milner Dam and Swan Falls Dam or from tributary springs in this reach are presumed not to be in the public interest as defined by Section 42-203C, Idaho Code. Such proposals, are presumed to prevent the full economic and multiple use of water in the Snake River Basin and to adversely affect hydropower availability and electrical energy rates in the state of Idaho. (7-1-93)

l. Proposed DCMI uses which individually do not have a maximum consumptive use of more than two acre-feet/day are presumed to meet the public interest criteria of Section 42-203C(2), Idaho Code, unless protested. (7-1-93)

046. -- 049. (RESERVED)

050. CONDITIONS OF APPROVAL (RULE 50).

01. Issuance of Permits with Conditions. The Director may issue permits with conditions to insure compliance with the provisions of Title 42, Chapter 2, Idaho Code, other statutory duties, the public interest, and specifically to meet the criteria of Section 42-203A, Idaho Code, and to meet the requirements of Section 42-203C, Idaho Code, to the fullest extent possible including conditions to promote efficient use and conservation of energy and water. (7-1-93)

02. Requirements to Mitigate Impact of Flow Depletion. Permits to be reprocessed or applications approved to appropriate water from the main stem of the Snake River between Milner and Murphy gauging station for diversion to off-stream storage during the period November l to March 3l shall include requirements to mitigate, in accordance with the State Water Plan, the impact of flow depletions on downstream generation of hydropower. (7-1-93)

03. Applications and Existing Permits That Are Junior and Subordinate. Applications and existing permits approved for hydropower generation shall be junior and subordinate to all rights to the use of water, other than hydropower, within the state of Idaho that are initiated later in time than the priority of the application or existing hydropower permit. A subordinated permit shall not give rise to any right or claim against future rights to the use of water, other than hydropower, within the state of Idaho initiated later in time than the priority of the application or existing hydropower permit. A permit issued for hydropower purposes shall contain a term condition on the hydropower use in accordance with Section 42-203B(6), Idaho Code. (7-1-93)

04. Permanent Flow Measuring Device Requirement. Applications approved for on-stream storage reservoirs will, unless specifically waived by the Director, require permanent flow measuring devices both upstream and downstream from the reservoir. (7-1-93)

05. Well Spacing and Well Construction Requirements. Applications approved for diversion of groundwater may include conditions requiring well spacing and well construction requirements. (7-1-93)

06. Reprocessed Permits. Permits reprocessed pursuant to Section 42-203D, Idaho Code, may be cancelled, modified or conditioned by the Director to make the permit comply in every way with any permit that would be issued for the same purpose based upon a new application processed under these rules. (7-1-93)

07. Voiding Approval of Permit. Permits may be conditioned to authorize the Director to void the approval of the permit if he determines that the applicant submitted false or misleading information on the application or supporting documents. (7-1-93)

08. Retention of Jurisdiction. The Director may condition permits to retain jurisdiction to insure compliance with the design, construction and operation provisions of the permit. (7-1-93)

09. Insuring Minimum Stream Flows and Prior Rights. The Director may condition permits to insure that established minimum stream flows and prior rights including prior rights reserved by federal law are not injured. (7-1-93)

10. Insuring Compliance with Water Quality Standards. The Director may condition permits to insure compliance with Idaho's water quality standards. (7-1-93)

11. Insuring Assignment of Interest. The Director may condition a permit issued for trust water to require that any amendment (Section 42-211, Idaho Code), transfer (Section 42-222, Idaho Code), or assignment of interest in the permit by any method whatsoever shall not result in the project failing to meet the public interest criteria of Section 42-203C, Idaho Code except, however, lenders obtaining title to the project through default will have a reasonable period of time, as determined by the Director, to meet such criteria or to convey the project to a person or entity that does meet the criteria. (7-1-93)

051. -- 054. (RESERVED)

055. MORATORIUM (RULE 55).

01. Applications for Permit. (7-1-93)

a. The Director may cease to approve applications for permit in a designated geographical area upon finding a need to: (7-1-93)

i. Protect existing water rights; (7-1-93)

ii. Insure compliance with the provisions of Chapter 2, Title 42, Idaho Code; and (7-1-93)

iii. Prevent reduction of flows below a minimum stream flow which has been established by the Director or the board pursuant to applicable law. (7-1-93)

b. Notice of the Director's action to cease application approval will be by: (7-1-93)

i. Summary Order served by certified mail upon the then existing affected applicants; and (7-1-93)

ii. Publication of the order for three (3) consecutive weeks in a newspaper or newspapers of general circulation in the area affected. (7-1-93)

c. Objections to the Director's action shall be considered under the department's adopted Rules of Procedure and applicable law. (7-1-93)

02. Permits. (7-1-93)

a. To the extent a permit has not been developed, the Director may cancel, or modify permits for which proof of beneficial use has not been submitted in a designated geographical area as an extension of Subsection 055.01. (7-1-93)

b. Notice of the Director's action to cancel or modify permits shall be by: (7-1-93)

i. Summary Order served by certified mail upon the affected permit holders in the designated area. (7-1-93)

ii. Publication of the order for three (3) consecutive weeks in a newspaper or newspapers of general circulation in the area. (7-1-93)

c. Objections to the Director's action shall be considered under the department's adopted Rules of Procedure and applicable law. (7-1-93)

056. -- 999. (RESERVED)

APPENDIX A

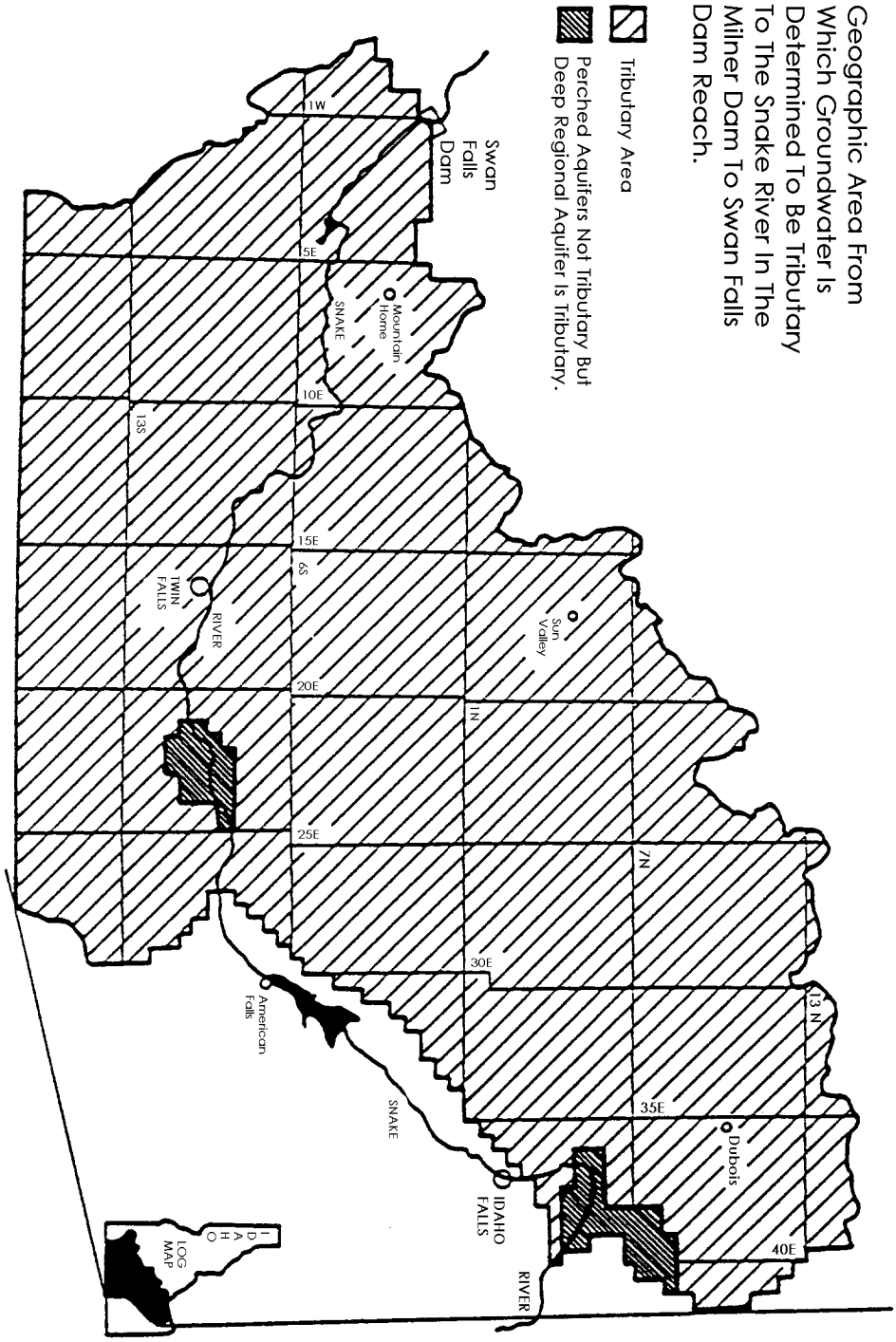

APPENDIX B

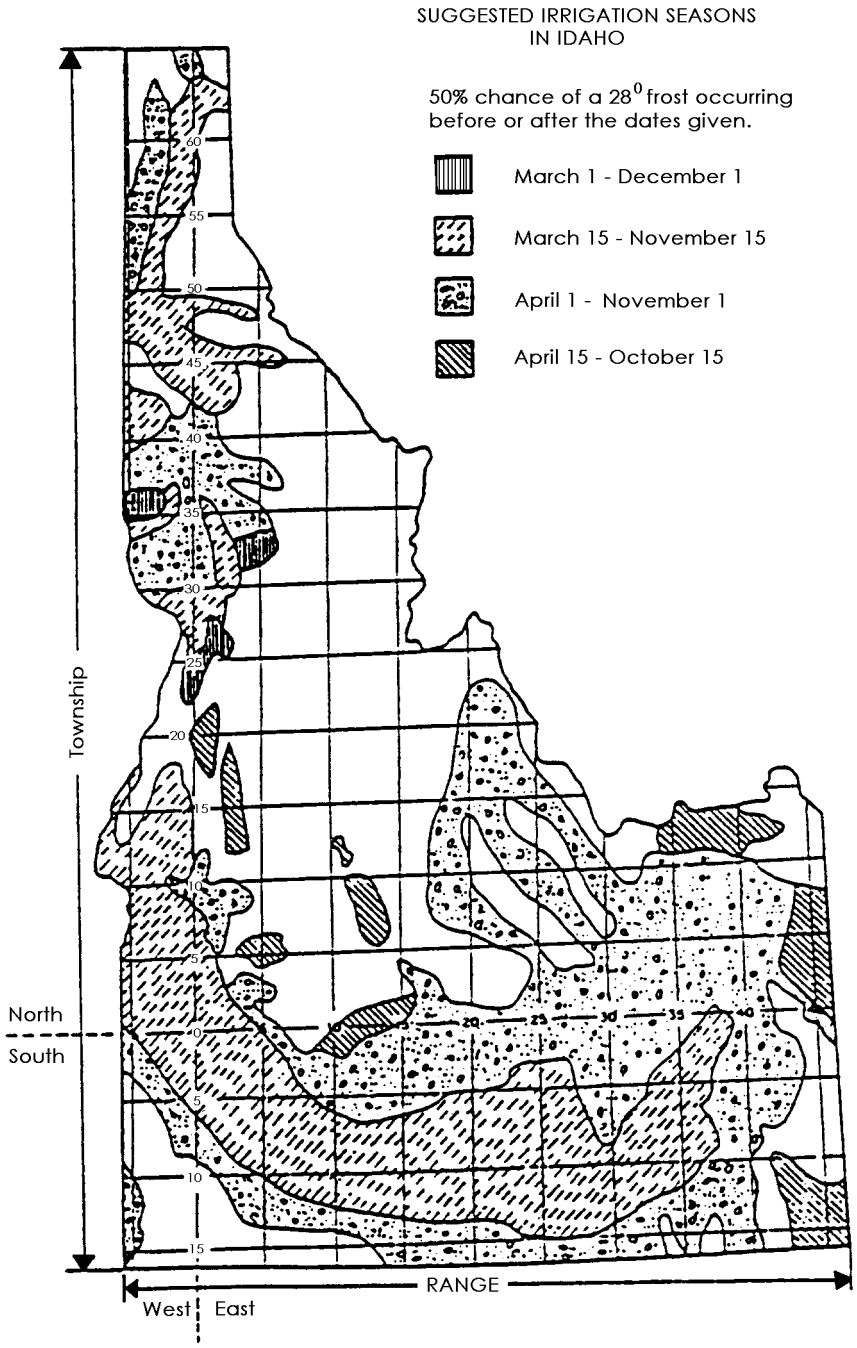
SUGGESTED IRRIGATION SEASONS
IN IDAHO
50% chance of a 28° frost occurring
before or after the dates given.
March 1 - December 1
March 15 - November 15
April 1 - November 1
April 15 - October 15
Township
North
South
RANGE
West
East

APPENDIX C

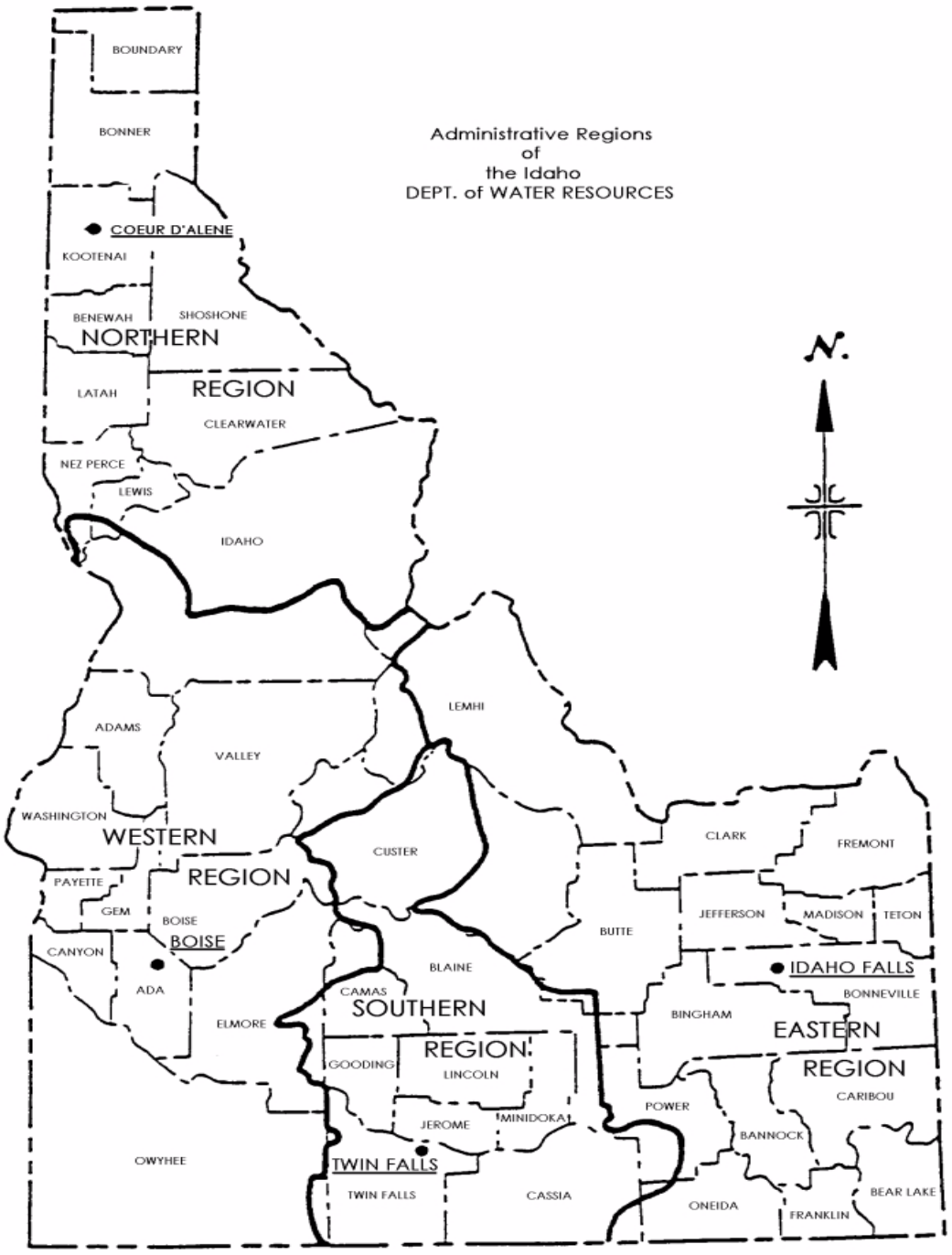
Administrative Regions
of
the Idaho
DEPT. of WATER RESOURCES
N.
BOUNDARY
BONNER
COEUR D'ALENE
KOOTENAI
BENEWAH
SHOSHONE
NORTHERN
REGION
LATAH
CLEARWATER
NEZ PERCE
LEWIS
IDAHO
LEMHI
ADAMS
VALLEY
WASHINGTON
WESTERN
REGION
CUSTER
PAYETTE
GEM
BOISE
BOISE
CANYON
ADA
BLAINE
CAMAS
SOUTHERN
REGION
ELMORE
GOODING
LINCOLN
JEROME
MINIDOKA
OWYHEE
TWIN FALLS
TWIN FALLS
CASSIA
CLARK
FREMONT
JEFFERSON
MADISON
TETON
BUTTE
IDAHO FALLS
BONNEVILLE
BINGHAM
EASTERN
REGION
CARIBOU
POWER
BANNOCK
ONEIDA
FRANKLIN
BEAR LAKE

000. LEGAL AUTHORITY (RULE 0).
The Idaho Water Resource Board adopts these administrative rules with the authority provided by Section 42-238(12), Idaho Code. (5-8-09)

001. TITLE AND SCOPE (RULE 1).

01. Title. These rules are cited as IDAPA 37.03.09, "Well Construction Standards Rules." (5-8-09)

02. Scope. The Department of Water Resources has statutory responsibility for the statewide administration of the rules governing well construction. These rules establish minimum standards for the construction of all new wells and the modification and decommissioning (abandonment) of existing wells. The intent of the rules is to protect the ground water resources of the state against waste and contamination. These rules are applicable to all water wells, monitoring wells, low temperature geothermal wells, injection wells, cathodic protection wells, closed loop heat exchange wells, and other artificial openings and excavations in the ground that are more than eighteen (18) feet in vertical depth below land surface as described in these rules pursuant to Section 42-230 Idaho Code. Some artificial openings and excavations do not constitute a well. For the purposes of these rules, artificial openings and excavations not defined as wells are described in Subsection 045.03 of these rules. Any time that such an artificial opening or excavation is constructed, modified, or decommissioned (abandoned) the intent of these rules must be observed. If waste or contamination is attributable to this type of artificial opening or excavation, the artificial opening or excavation must be modified, or decommissioned (abandoned) as determined by the Director. (5-8-09)

002. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
Unless the context otherwise requires, the following definitions apply to these rules. (5-8-09)

01. Approved Seal or Seal Material. Seal material must consist of bentonite chips, pellets, or granules, bentonite grout, neat cement, or neat cement grout as defined by these rules. No other materials may be used unless specifically authorized by the Director (5-8-09)

02. Annular Space. The space, measured as one-half (1/2) the difference in diameter between two (2) concentric cylindrical objects, one of which surrounds the other, such as the space between the walls of a drilled hole (borehole) and a casing or the space between two (2) strings of casing. (5-8-09)

03. Aquifer. Any geologic formation(s) that will yield water to a well in sufficient quantities to make the production of water from the formation feasible for beneficial use. (5-8-09)

04. Area of Drilling Concern. An area designated by the Director in which drillers must comply with additional standards to prevent waste or contamination of ground or surface water due to such factors as aquifer pressure, vertical depth of the aquifer, warm or hot ground water, or contaminated ground or surface waters, in accordance with Section 42-238(7), Idaho Code. (5-8-09)

05. Artesian Water. Any water that is confined in an aquifer under pressure so that the water will rise in the well casing or drilled hole above the elevation where it was first encountered. This term includes water of flowing and non-flowing wells. (5-8-09)

06. Artificial Filter Pack. Clean, rounded, smooth, uniform, sand or gravel placed in the annular space around a perforated well casing or well screen. A filter pack is frequently used to prevent the movement of finer material into the well casing and to increase well efficiency. (5-8-09)

07. Bentonite. A commercially processed and packaged, low permeability, sodium montmorillonite clay certified by the NSF International for use in well construction, sealing, plugging, and decommissioning (abandonment). All bentonite products used in the construction or decommissioning (abandoning) of wells must have a permeability rating not greater than 10^{-7} (ten to the minus seven) cm/sec. (5-8-09)

a. Chips. Bentonite composed of pieces ranging in size from one-quarter (1/4)-inch to one (1) inch on their greatest dimension. (5-8-09)

b. Granules (also Granular). Bentonite composed of pieces ranging in size from one thirty-seconds (1/32) inch (#20 standard mesh) to seven thirty-seconds (7/32) inch (#3 standard mesh) on their greatest dimension. (5-8-09)

c. Bentonite Grout. A mixture of bentonite specifically manufactured for use as a well sealing or plugging material and potable water to produce a grout with an active solids content not less than twenty-five percent (25%) by weight e.g., (twenty-five percent (25%) solids content by weight = fifty (50) pounds bentonite per eighteen (18) gallons of water). (5-8-09)

d. Pellets. Bentonite manufactured for a specific purpose and composed of uniform sized, one-quarter (1/4) inch, three-eighths (3/8) inch, or one-half (1/2) inch pieces on their greatest dimension. (5-8-09)

08. Board. The Idaho Water Resource Board. (7-1-93)

09. Bore Diameter. The diameter of the hole in the formation made by the drill bit or reamer. (7-1-93)

10. Borehole (also Well Bore). The subsurface hole created during the drilling process. (5-8-09)

11. Bottom Hole Temperature of an Existing or Proposed Well. The temperature of the ground water encountered in the bottom of a well or borehole. (5-8-09)

12. Casing. The permanent conduit installed in a well to provide physical stabilization, prevent caving or collapse of the borehole, maintain the well opening and serve as a solid inner barrier to allow for the installation of an annular seal. Casing does not include temporary surface casing, well screens, liners, or perforated casing as otherwise defined by these rules. (5-8-09)

13. Cathodic Protection Well. Any artificial excavation in excess of eighteen (18) feet in vertical depth constructed for the purpose of protecting certain metallic equipment in contact with the ground. Commonly referred to as cathodic protection. (7-1-93)

14. Closed Loop Heat Exchange Well. A ground source thermal exchange well constructed for the purpose of installing any underground system through which fluids are circulated but remain isolated from direct contact with the subsurface or ground water. (5-8-09)

15. Conductor Pipe. The first and largest diameter string of permanent casing to be installed in a low temperature geothermal resource well. (5-8-09)

16. Confining Layer. A subsurface zone of low-permeability earth material that naturally acts to restrict or retard the movement of water or contaminants from one zone to another. The term does not include topsoil. (5-8-09)

17. Consolidated Formations. Naturally-occurring geologic formations that have been lithified (turned to stone) such as sandstone and limestone, or igneous rocks such as basalt and rhyolite, and metamorphic rocks such as gneiss and slate. (5-8-09)

18. Contaminant. Any physical, chemical, ion, radionuclide, synthetic organic compound, microorganism, waste, or other substance that does not occur naturally in ground water or that naturally occurs at a lower concentration. (5-8-09)

19. Contamination. The introduction into the natural ground water of any physical, chemical, biological or radioactive material that may: (7-1-93)

a. Cause a violation of Idaho Ground Water Quality Standards; or (5-8-09)

b. Adversely affect the health of the public; or (7-1-93)

c. Adversely affect a designated or beneficial use of the State's ground water. Contamination includes the introduction of heated or cooled water into the subsurface that will alter the ground water temperature and render the local ground water less suitable for beneficial use, or the introduction of any contaminant that may cause a

violation of IDAPA 58.01.11, "Ground Water Quality Rule." (5-8-09)

20. Decommissioned (Abandoned) Well. Any well that has been permanently removed from service and filled or plugged in accordance with these rules so as to meet the intent of these rules. A properly decommissioned well will not: (5-8-09)

a. Produce or accept fluids; (5-8-09)

b. Serve as a conduit for the movement of contaminants inside or outside the well casing; or (5-8-09)

c. Allow the movement of surface or ground water into unsaturated zones, into another aquifer, or between aquifers. (5-8-09)

21. Decontamination. The process of cleaning equipment intended for use in a well in order to prevent the introduction of contaminants into the subsurface and contamination of natural ground water. (5-8-09)

22. Department. The Idaho Department of Water Resources. (7-1-93)

23. Dewatering Well. A well constructed for the purpose of improving slope stability, drying up borrow pits, or intercepting seepage that would otherwise enter an excavation. (5-8-09)

24. Director. The Director of the Idaho Department of Water Resources or his duly authorized representatives. (7-1-93)

25. Disinfection. The introduction of chlorine or other agent or process approved by the Director in sufficient concentration and for the time required to inactivate or kill fecal and Coliform bacteria, indicator organisms, and other potentially harmful pathogens. (5-8-09)

26. Draw Down. The difference in vertical distance between the static water level and the pumping water level. (5-8-09)

27. Drive Point (also known as a Sand Point). A conduit pipe or casing through which ground water of any temperature is sought or encountered created by joining a "drive point unit" to a length of pipe and driving the assembly into the ground. (5-8-09)

28. Exploratory Well. A well drilled for the purpose of discovering or locating new resources in unproven areas. They are used to extract geological, hydrological, or geophysical information about an area. (5-8-09)

29. Global Positioning System (GPS). A global navigational receiver unit and satellite system used to triangulate a geographic position. (5-8-09)

30. Hydraulic Conductivity. A measurement of permeability. (5-8-09)

31. Hydraulic Fracturing. A process whereby water or other fluid is pumped under high pressure into a well to further fracture the reservoir rock or aquifer surrounding the production zone of a well to increase well yield. (5-8-09)

32. Injection Well. Any excavation or artificial opening into the ground which meets the following three (3) criteria: (7-1-93)

a. It is a bored, drilled or dug hole, or is a driven mine shaft or driven well point; and (7-1-93)

b. It is deeper than its largest straight-line surface dimension; and (7-1-93)

c. It is used for or intended to be used for subsurface placement of fluids. (7-1-93)

33. Intermediate String or Casing. The casing installed and sealed below the surface casing within a low temperature geothermal resource well to isolate undesirable water or zones below the bottom of the surface casing. Such strings may either be lapped into the surface casing or extend to land surface. (5-8-09)

34. Liner. (5-8-09)

a. A conduit pipe that can be removed from the borehole or well that is used to serve as access and protective housing for pumping equipment and provide a pathway for the upward flow of water within the well. (5-8-09)

b. Liner does not include casing required to prevent caving or collapse, or both, of the borehole or serve as a solid inner barrier to allow for the installation of an annular seal. (5-8-09)

35. Mineralized Water. Any naturally-occurring ground water that has an unusually high amount of chemical constituents dissolved within the water. Water with five thousand (5000) mg/L or greater total dissolved solids is considered mineralized. (5-8-09)

36. Modify. To deepen a well, increase or decrease the diameter of the casing or the well bore, install a liner, place a screen, perforate existing casing or liner, alter the seal between the casing and well bore, or alter the well to not meet well construction standards. (5-8-09)

37. Monitoring Well. Any well more than eighteen (18) feet in vertical depth constructed to evaluate, observe or determine the quality, quantity, temperature, pressure or other characteristics of the ground water or aquifer. (7-1-93)

38. Neat Cement. A mixture of water and cement in the ratio of not more than six (6) gallons of water to ninety-four (94) pounds of Portland cement (neat cement). Other cement grout mixes may be used if specifically approved by the Director. (5-8-09)

39. Neat Cement Grout. Up to five percent (5%) bentonite by dry weight may be added per sack of cement (neat cement grout) and the water increased to not more than six and one-half (6.5) gallons per sack of cement. Other neat cement mixes may be used if specifically approved by the Director. These grouts must be mixed and installed in accordance with the American Petroleum Institute Standards - API Class A through H. As found in API RP10B, "Recommended Practice for Testing Oil Well Cements and Cement Additives," current edition or other approved standards. (5-8-09)

40. Oxidized Sediments. Sediments, characterized by distinct coloration, typically shades of brown, red, or tan, caused by the alteration of certain minerals in an environment with a relative abundance of oxygen. (5-8-09)

41. Perforated Well Casing. Well casing that has been modified by the addition of openings created by drilling, torch cutting, saw cutting, mechanical down-hole perforator, or other method. (5-8-09)

42. Pitless Adaptor or Pitless Unit. An assembly of parts designed for attachment to a well casing which allows buried pipe to convey water from the well or pump and allows access to the interior of the well casing for installation or removal of the pump or pump appurtenances, while maintaining a water tight connection through the well casing and preventing contaminants from entering the well. (5-8-09)

43. Potable Water. Water of adequate quality for human consumption. (5-8-09)

44. Pressure Grouting (Grouting). The process of pumping and placing an approved grout mixture into the required annular space, by positive displacement from bottom to top using a tremie pipe, Halliburton method, float shoe, or other method approved by the Director. (5-8-09)

45. Production Casing. The casing or tubing through which a low temperature geothermal resource is produced. This string extends from the producing zone to land surface. (5-8-09)

46. **Public Water System**. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: (5-8-09)

a. Any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and (5-8-09)

b. Any collection or pretreatment storage facilities not under such control that are used primarily in connection with such system. (5-8-09)

c. Such term does not include any "special irrigation district." (5-8-09)

d. A public water system is either a "community water system" or a "non-community water system." (5-8-09)

47. **Reduced Sediments**. Sediments, characterized by distinct coloration, typically shades of blue, black, gray, or green, caused by the alteration of certain minerals in an oxygen poor environment. (5-8-09)

48. **Remediation Well**. A well used to inject or withdraw fluids, vapor, or other solutions approved by the Director for the purposes of remediating, enhancing quality, or controlling potential or known contamination. Remediation wells include those used for air sparging, vapor extraction, or injection of chemicals for remediation or in-situ treatment of contaminated sites. (5-8-09)

49. **Sand**. Any sediment particle retained on a U.S. standard sieve #200 (Seventy-five hundreths (0.075) mm to two (2) mm). (5-8-09)

50. **Screen (Well Screen)**. A commercially produced structural tubular retainer with standard sized openings to facilitate production of sand free water. (5-8-09)

51 **Seal or Sealing**. The placement of approved seal material in the required annular space between a borehole and casing, between casing strings, or as otherwise required to create a low permeability barrier and prevent movement or exchange of fluids. Seals are required in the construction of new wells, repair of existing wells, and in the decommissioning (abandonment) of wells. Seals are essential to the prevention of waste and contamination of ground water. (5-8-09)

52. **Start Card**. An expedited drilling permit process for the construction of cold water, single-family residential wells. (5-8-09)

53. **Static Water Level**. The height at which water will rise in a well under non-pumping conditions. (5-8-09)

54. **Surface Casing**. The first string of casing in a low temperature geothermal resource well which is set and sealed after the conductor pipe to anchor blow out prevention equipment and to case and seal out all existing cold ground water zones. (5-8-09)

55. **Temporary Surface Casing**. Steel pipe used to support the borehole within unstable or unconsolidated formations during construction of a well that will be removed following the installation of the permanent well casing and prior to or during placement of an annular seal. (5-8-09)

56. **Thermoplastic/PVC Casing**. Plastic piping material meeting the requirements of ASTM F 480 and specifically designed for use as well casing. (5-8-09)

57. **Transmissivity**. The capacity of an aquifer to transmit water through its entire saturated thickness. (5-8-09)

58. **Tremie Pipe**. A small-diameter pipe used to convey grout, dry bentonite products, or filter pack materials into the annular space, borehole, or well from the bottom to the top of a borehole or well. (5-8-09)

59. **Unconfined Aquifer**. An aquifer in which the water table is in contact with and influenced by atmospheric pressure through pore spaces in the overlying formation(s). (5-8-09)

60. **Unconsolidated Formation**. A naturally-occurring earth formation that has not been lithified. Alluvium, soil, sand, gravel, clay, and overburden are some of the terms used to describe this type of formation. (7-1-93)

61. **Unstable Unit**. Unconsolidated formations, and those portions of consolidated formations, that are not sufficiently hard or durable enough to sustain an open borehole without caving or producing obstructions without the aid of fluid hydraulics or other means of chemical or physical stabilization. (5-8-09)

62. **Unusable Well**. Any well that can not be used for its intended purpose or other beneficial use authorized by law. (5-8-09)

63. **Waiver**. Approval in writing by the Director of a written request from the well driller and the well owner proposing specific variance from the minimum well construction standards. (5-8-09)

64. **Waste**. The loss, transfer, or subsurface exchange of a ground water resource, thermal characteristic, or natural artesian pressure from any aquifer caused by improper construction, misuse, or failure to properly maintain a well. Waste includes: (5-8-09)

a. The flow of water from an aquifer into an unsaturated subsurface zone; (5-8-09)

b. The transfer or mixing, or both, of waters from one aquifer to another (aquifer commingling); or (5-8-09)

c. The release of ground water to the land surface whenever such release does not comply with an authorized beneficial use. (5-8-09)

65. **Water Table**. The height at which water will rise in a well; also the upper surface of the zone of saturation in an unconfined aquifer. This level will change over time due to changes in water supply and aquifer impacts. (5-8-09)

66. **Well**. (5-8-09)

a. An artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is considered to be obtained for the purpose of these rules; or (5-8-09)

b. Any waste disposal and injection well, as defined in Section 42-3902, Idaho Code. (5-8-09)

c. Well does not mean: (5-8-09)

i. A hole drilled for mineral exploration; or (5-8-09)

ii. Holes drilled for oil and gas exploration which are subject to the requirements of Section 47-320, Idaho Code; or (5-8-09)

iii. Holes drilled for the purpose of collecting soil samples above the water table. (5-8-09)

67. **Well Development**. The act of bailing, jetting, pumping, or surging water in a well to remove drilling fluids, fines, and suspended materials from within a completed well and production zone in order to establish

the optimal hydraulic connection between the well and the aquifer. (5-8-09)

68. Well Driller or Driller. Any person who operates drilling equipment, or who controls or supervises the construction of a well, and is licensed under Section 42-238, Idaho Code (5-8-09)

69. Well Drilling or Drilling. The act of constructing a new well or modifying or changing the construction of an existing well. (5-8-09)

70. Well Owner. Any person, firm, partnership, co-partnership, corporation, association, or other entity, or any combination of these, who owns the property on which the well is or will be located or has secured ownership of the well by means of a deed, covenant, contract, easement, or other enforceable legal instrument for the purpose of benefiting from the well. (5-8-09)

71. Well Rig (Drill Rig). Any power driven percussion, rotary, boring, digging, jetting or auguring machine used in the construction of a well. (5-8-09)

011. -- 024. (RESERVED)

025. CONSTRUCTION OF COLD WATER WELLS (RULE 25).
All persons constructing wells must comply with the requirements of Section 42-238, Idaho Code, and IDAPA 37.03.10, "Well Driller Licensing Rules." The standards specified in Rule 25 apply to all wells with a bottom hole temperature of eighty-five (85) degrees Fahrenheit or less. Wells with a bottom hole temperature greater than eighty-five (85) degrees Fahrenheit, but less than two hundred twelve (212) degrees Fahrenheit, must meet the requirements of Rule 30 in addition to meeting the requirements of Rule 25. These standards also apply to any waste disposal and injection well as defined in Section 42-3902, Idaho Code. (5-8-09)

01. General. The well driller must construct each well as follows: (5-8-09)

a. In accordance with these rules and with the conditions of approval of any drilling permit issued pursuant Section 42-235, Idaho Code, and in a manner that will prevent waste and contamination of the ground water resources of the state of Idaho. The adopted standards are minimum standards which must be adhered to in the construction of all new wells, and in the modification or decommissioning (abandonment) of existing wells. The well driller is charged with the responsibility of preventing waste or contamination of the ground water resources during the construction, modification or abandonment of a well. The Director may add conditions of approval to a drilling permit issued pursuant to Rule 45 of these rules to require that a well be constructed, modified, or decommissioned (abandoned) in accordance with additional standards when necessary to protect ground water resources and the public health and safety from existing contamination and waste or contamination during the construction, modification or decommissioning (abandonment) of a well. (5-8-09)

b. In consideration of the geologic and ground water conditions known to exist or anticipated at the well site. (5-8-09)

c. Such that it is capable of producing, where obtainable, the quantity of water to support the allowed or approved beneficial use of the well, subject to law; (5-8-09)

d. Meet the siting and separation distance requirements in the table in this Subsection (025.01.d.). Additional siting and separation distance requirements are set forth by the governing district health department and the Idaho Department of Environmental Quality rules at IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules," and IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems".

Separation of Well from:		Minimum Separation Distance (feet)
Existing Public Water Supply well, separate ownership	-	50

Separation of Well from:		Minimum Separation Distance (feet)
Other existing well, separate ownership	-	25
Septic drain field	-	100
Septic tank	-	50
Drainfield of system with more than 2,500 GPD of sewage inflow	-	300*
Sewer line - main line or sub-main, pressurized, from multiple sources	-	100
Sewer line - main line or sub-main, gravity, from multiple sources	-	50
Sewer line - secondary, pressure tested, from a single residence or building	-	25
Effluent pipe	-	50
Property line	-	5
Permanent buildings, other than those to house the well or plumbing apparatus, or both	-	10
Above ground chemical storage tanks	-	20
Permanent (more than six months) or intermittent (more than two months) surface water	-	50
Canals, irrigation ditches or laterals, & other temporary (less than two months) surface water	-	25
*This distance may be less if data from a site investigation demonstrates compliance with IDAPA 58.01.03, “Individual/Subsurface Sewage Disposal Rules,” separation distances.		

(5-8-09)

02. Waivers. In unique cases where the Director concludes that the ground water resources will be protected against waste and contamination and the public health and safety are not compromised, a waiver of specific standards required by these rules may be approved prior to constructing, decommissioning, or modifying a well. (5-8-09)

a. To request a waiver the well driller and well owner must: (5-8-09)

i. Jointly submit a detailed plan and written request identifying a specific Rule or Rules proposed to be waived. Additionally, the plan must detail the well construction process that will be employed in lieu of complete Rule compliance: (5-8-09)

ii. Prior to submittal, the well driller and the well owner must sign the plan and written request acknowledging concurrence with the request; and (5-8-09)

iii. Submit the plan and request by facsimile, e-mail, or letter. (5-8-09)

b. The Director will evaluate and respond to the request within ten (10) business days of receiving the request. (5-8-09)

i. If the request for waiver is approved, the intent of the rules will be served and all standards not waived will apply. Waivers approved by the Director will not supersede requirements of other regulatory agencies without specific concurrence from that agency. Work activity related to a waiver request will not proceed until a written or verbal approval is granted by the Director. (5-8-09)

ii. Any verbal approval will be followed by a written approval. (5-8-09)

03. Records. In order to enable a comprehensive survey of the extent and occurrence of the state's ground water resource, the coordinates of every newly constructed, modified or decommissioned (abandoned) well location must be identified by latitude and longitude with a global positioning system (GPS) and recorded on the driller's report in degrees and decimal minutes and within the nearest 40 acre parcel using the Public Land Survey System. Every well driller must maintain records as described in IDAPA 37.03.10 "Well Driller Licensing Rules," pursuant to Section 42-238(11), Idaho Code, and provide the well owner with a copy of the approved well drilling permit and a copy of the well driller's report when submitted to the Director. (5-8-09)

04. Casing. The well driller must install casing in every well. Steel or thermoplastic casing may be installed in any well with a bottom hole temperature of eighty-five (85) degrees Fahrenheit or less. Thermoplastic pipe must not be installed in a well with a bottom hole temperature greater than eighty-five (85) degrees Fahrenheit. All casing to be installed must be new or in like-new condition, free of defects, and clearly marked by the manufacturer with all specifications required by these rules. For all wells the casing must extend at least twelve (12) inches above land surface and finished grade and to a minimum depth below land surface as required by these rules. Concrete slabs around a well casing will be considered finished grade (Figure 01, Appendix A).The well driller must install casing of sufficient strength to withstand calculated and anticipated subsurface forces and corrosive effects. The well driller must install casings sufficiently plumb and straight to allow the installation or removal of screens, liners, pumps and pump columns without causing adverse effects on the operation of the installed pumping equipment. (5-8-09)

a. Steel Casing. When steel casing lengths are joined together, they must be joined by welded joints or screw-couple joints. All connection must be water tight. If steel casing joints are welded, the weld must be at least as thick as the well casing and fully penetrating. Welding rods or flux core wire of at least equal quality to the casing metal must be used. Casing ends to be joined by welding must be properly prepared, beveled and gapped to allow full penetration of the weld. All stick welded joints must have a minimum of two (2) passes including a "root" pass and have minimal undercut when complete. (5-8-09)

i. In addition to meeting these standards, all wells that are constructed for public water systems must meet all of the casing wall thickness requirements set forth by the Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (5-8-09)

ii. The well driller must install steel casing that meets or exceeds the American Society of Testing and Materials (ASTM) standard A53, Grade B or American Petroleum Institute (API) 5L Grade B, and that meets the following specifications for wall thickness:

Minimum Single-Wall Steel Well Casing Thickness1 for Selected Diameters (inches)

Nominal Diameter (in.)[3]	**6[2]**	**8**	**10**	**12**	**14**	**16**	**18**	**20**	**22**	**24**	**26**	**28**	**30**
Depth (ft.)	Nominal Wall Thickness (in.)[1]												
<100	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250
100-200	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250
200-300	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250
300-400	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375
400-600	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375	0.375
600-800	0.250	0.250	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375	0.375	0.375	0.375
800-1000	0.250	0.250	0.250	0.250	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375
1000-1500	0.280	0.322	0.365	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375

Minimum Single-Wall Steel Well Casing Thickness1 for Selected Diameters (inches)													
Nominal Diameter (in.)[3]	**6[2]**	**8**	**10**	**12**	**14**	**16**	**18**	**20**	**22**	**24**	**26**	**28**	**30**
1500-2000	0.280	0.322	0.365	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375	0.375

1 Compliance with the minimum nominal wall thicknesses listed is required for any depth or location where casing is used to prevent caving or collapse, or both, of the borehole or serves as a solid inner barrier to allow for the installation of an annular seal.
2 For nominal casing diameters less than six (6) inches, the minimum nominal wall thickness must be equivalent to ASTM Schedule 40.
3 For any other casing diameter not addressed herein, prior approval by the Director is required.

b. Thermoplastic Casing. Thermoplastic casing may be used in monitoring wells and cold water wells if drilling of the borehole confirms its suitability for use. (5-8-09)

i. Thermoplastic casing must conform to ASTM F 480 and NSF-WC. The well driller must not use thermoplastic casing under any condition where the manufacturer's resistance to hydraulic collapse pressure (RHCP) or total depth specifications are exceeded. Thermoplastic casing extending above-ground must be protected from physical and ultraviolet light damage by enclosing it within steel casing extending at least twelve (12) inches above land surface and finished grade and to a minimum depth of eighteen (18) feet below land surface or five (5) feet below land surface for monitoring wells. (5-8-09)

ii. Thermoplastic pipe used in wells as casing or liner must have a minimum rating of SDR-21. For nominal diameters of four (4) inches or less, a minimum rating of Schedule 40 is required. If used as casing within unconsolidated or unstable consolidated formations, thermoplastic pipe must be centralized and fully supported throughout the unstable zone(s) with filter pack or seal material as required by these rules. (5-8-09)

iii. All thermoplastic casing and liner must be installed in accordance with the manufacturer's recommendations and specifications, and as required by these rules. The well driller will not treat thermoplastic pipe in any manner that would adversely affect its structural integrity. The well driller must: (5-8-09)

(1) Ensure that the weight of the pump assembly, if secured to the thermoplastic pipe, does not exceed the weight limitations per manufacturer's recommendations or cause damage to the pipe resulting in breaks or leaks. (5-8-09)

(2) Not use Type III (high-early strength) Portland cement-based seal materials in direct contact with thermoplastic pipe unless approved by the Director. (5-8-09)

(3) Not drive, drop, force, or jack thermoplastic pipe into place. Thermoplastic pipe must be lowered or floated into an oversized, obstruction-free borehole. (5-8-09)

c. Perforated Well Casing. Perforated well casing may be used in the construction or decommissioning of a well when such application does not violate any standards required by these rules. (5-8-09)

05 Liner. In addition to well casing, liners may be installed in wells to prevent damage to pumping equipment. Steel or thermoplastic pipe may be installed as liner in a well with a bottom hole temperature of eighty-five (85) degrees Fahrenheit or less. Thermoplastic liner must conform to ASTM F 480 and NSF-WC. Thermoplastic liners must not be used in unconsolidated formations or unstable units. (5-8-09)

06. Screen. Well screens must be used in constructing a well when necessary to avoid sand production (see sand production, Rule 25, Subsection 025.24). Well screens must be commercially manufactured, be slotted, louvered or wire wrapped, and be installed according the manufacturers specifications. (5-8-09)

a. Screens may require a filter pack consisting of sand or gravel to further reduce the quantity of sand produced from the well. (5-8-09)

b. The well driller will not install well screens, perforated casing or filter pack across a confining layer(s) separating aquifers of different pressure, temperature, or quality. (5-8-09)

07. Use of Approved Sealing Materials and Required Annular Space. Well casings must be sealed in the required annular space with approved material to prevent the possible downward movement of contaminated surface waters or other fluids in any annular space around the well casing (Figure 02, Appendix A). Proper sealing is also required to prevent the movement of groundwater either upward or downward from zones of different pressure, temperature or quality within the well or outside the casing. The well driller must notify by phone the Department's appropriate Region Office at least four (4) hours in advance of placing any annular seal to provide Department staff the opportunity to observe seal placement. (5-8-09)

a. All casing to be sealed must be adequately centralized to ensure uniform seal thickness around the well casing. Surface seals must extend to not less than thirty-eight (38) feet below land surface for well depths greater than thirty-eight (38) feet. For well depths less than thirty-eight (38) feet, seals must extend to depths as hereafter required. (5-8-09)

b. Seals are required at depths greater than thirty-eight (38) feet in artesian wells or to seal through confining layers separating aquifers of differing pressure, temperature, or quality in any well. (5-8-09)

c. When a well is modified and the existing casing is moved or the original seal is damaged, or a well driller discovers that a seal was not installed or has been damaged, the well driller must repair, replace, or install a seal around the permanent casing that is equal to or better than required when the well was originally constructed. (5-8-09)

d. Manufactured packers and shale traps may be used as devices to retain approved seal material when installing a required annular seal. Whenever these devices are used to retain seal material, the well driller must comply with the manufacturer's recommendations for installation. (5-8-09)

e. If a temporary casing has been installed, upon completion of the drilling, the annular space must be filled with approved seal material and kept full while withdrawing the temporary casing. Bentonite chips should be used with caution when the annular space between a temporary casing and permanent casing is filled with water. (5-8-09)

i. When attempts at removing a temporary casing are unsuccessful, the casing must be sealed in place by a method approved by the department. (5-8-09)

ii. The well driller must notify the department whenever a temporary casing can not be removed and propose a plan to adequately seal the casing to prevent waste and contamination of the ground water. The plan must detail how the casing will be sealed on the outside to a sufficient depth below land surface in addition to placement of any required formation seals through the interval at which the casing will remain. (5-8-09)

f. For mixed grout seals the minimum annular space required must provide for a uniform seal thickness not less than one (1) inch on all sides of the casing or a borehole at least two (2) inches larger than the outside diameter (OD) of the casing to be sealed (Figure 02, Appendix A). (Note: a seven and seven-eighths (7 7/8) inch diameter (eight (8) inch nominal) borehole around a six and five-eighths (6 5/8) inch OD (six (6) inch nominal casing does not satisfy the minimum annular space requirements). (5-8-09)

i. When placing grout seals with a removable tremie pipe between casing strings or between a borehole and casing, the required annular space must be at least one (1) inch or equal to the OD of the tremie pipe whichever is greater. Permanent tremie pipes will be considered as a casing string and subject to minimum annular space requirements in addition to the annular space requirements around the well casing (Figure 03, Appendix A). (5-8-09)

ii. All grout seals must be placed from the bottom up, by using an approved method. Bentonite grout must not be used above the water table unless specifically designed and manufactured for such use and approved by the Director in advance. (5-8-09)

iii. If cement-based grout (neat cement or neat cement grout) is used to create a seal, the casing string sealed must not be moved or driven after the initial set. Construction must not resume for a minimum of twenty-four (24) hours following seal placement; (5-8-09)

g. For dry bentonite seals the minimum annular space required must provide for a uniform seal thickness not less than one and five-eighths (1 5/8) inches on all sides of the casing or a borehole at least four (4) inches larger than the "nominal diameter" of the casing to be sealed. e.g., (six and five-eighths (6 5/8) inch OD (six (6) inch nominal) casing requires a ten and three fourths (10 3/4) inch OD (ten (10) inch nominal) temporary casing or a nine and seven-eighths (9 7/8) inch (ten (10) inch nominal) minimum borehole). Listed below are additional annular space requirements and limitations for placement of dry bentonite seals: (5-8-09)

i. All dry bentonite seals must be tagged during placement and consider volumetric calculations to verify placement. (5-8-09)

ii. Installation of dry bentonite seals must be consistent with the manufacturers' recommendations and specifications for application and placement. (5-8-09)

iii. Granular bentonite must not be placed through water. (5-8-09)

iv. If a granular bentonite seal is placed deeper than two hundred (200) feet, the minimum annular space must be increased by at least one (1) inch e.g., (six and five-eighths (6 5/8) inch OD (six (6) inch nominal) casing requires a twelve and three fourths (12 3/4) inch OD (twelve (12) inch nominal) temporary casing or an eleven and seven eights (11 7/8) inch (twelve (12) inch nominal) minimum borehole). (5-8-09)

v. Bentonite chips may be placed through water or drilling fluid of appropriate viscosity. Bentonite chip seals placed through more than fifty (50) feet of water or drilling fluid will require the minimum annular space to be increased by at least one (1) inch e.g., (six and five-eighths (6 5/8) inch OD (six (6) inch nominal) casing requires a twelve and three fourths (12 3/4) inch OD (twelve (12) inch nominal) temporary casing or an eleven and seven eights (11 7/8) inch (twelve (12) inch nominal) minimum borehole). (5-8-09)

08. Sealing of Wells. Sealing requirements described herein are minimum standards that apply to all wells. The Director may establish alternate minimum sealing requirements in specific areas when it can be determined through detailed studies of the local hydrogeology that a specific alternate minimum will provide protection of the ground water from waste and contamination. (5-8-09)

a. Consolidated Formations. When a water well is drilled into and acquires water from an aquifer that consists of consolidated formations that are above the water table, casing must be installed so that it extends and is sealed to a depth not less than thirty-eight (38) feet (Figure 04, Appendix A). If the well depth is less than thirty-eight (38) feet from land surface, well casing must be installed and sealed five (5) feet into the consolidated formation or to a depth of eighteen (18) feet, whichever is greater. (5-8-09)

b. Unconsolidated Formations without Confining Layers of Clay. When a water well is drilled into and acquires water from an unconfined aquifer that is overlain with unconsolidated formations, such as sand and gravel without confining layers of clay, well casing must extend to at least five (5) feet below the water table and be sealed to a depth not less than thirty-eight (38) feet (Figure 05, Appendix A). If the well depth is less than thirty-eight (38) feet well casing must extend to at least five (5) feet below the water table or eighteen (18) feet, whichever is greater, and be sealed to a depth of at least eighteen (18) feet. (5-8-09)

i. The extensive (for example, one hundred fifty (150) feet thick or more) unconsolidated, non-stratified, sand and gravel of the Rathdrum Prairie are characterized by extremely high transmissivity and hydraulic conductivity. Under these conditions, sealing wells to depths greater than eighteen (18) feet may not be additionally protective. When a water well is drilled within the boundaries of the Rathdrum Prairie, (shown in Figure 06, Appendix A of these rules), well casing must extend to at least five (5) feet below the water table and be sealed to a

depth not less than eighteen (18) feet (Figure 07, Appendix A). (5-8-09)

c. Unconsolidated Formations with Confining Layers of Clay. When a well is drilled into and acquires water from an aquifer that is overlain by unconsolidated deposits such as sand and gravel, and there are confining layers of clay above the water table, well casing must be installed from the land surface to the confining layer immediately above and in contact with the production zone and sealed to a depth not less than thirty-eight (38) feet (Figure 08, Appendix A). If the well depth is less than thirty-eight (38) feet from land surface, well casing must extend and be sealed into the first confining layer or to a depth of eighteen (18) feet, whichever is greater. (5-8-09)

09. Sealing Artesian Wells. (5-8-09)

a. Unconsolidated Formations. When artesian water is encountered in unconsolidated formations, the production zone or open interval must be limited to zones of like pressure, temperature, and quality. Water encountered in oxidized sediments must not be comingled with water encountered in reduced sediments. Well casing must extend from land surface into the lower most confining layer above the production zone, and must be sealed: (5-8-09)

i. From land surface to a depth of at least thirty-eight (38) feet; and (5-8-09)

ii, Through all confining layer(s); and (5-8-09)

(1) A minimum of five (5) feet of seal material must be placed into or through the lower most confining layer above the production zone (Figure 09, Appendix A); or (5-8-09)

(2) Five (5) feet into or through the lowermost confining layer above the production zone and continuously to land surface (Figure 09, Appendix A). (5-8-09)

iii. If the well depth is less than thirty-eight (38) feet, the well must be cased and sealed from land surface to the confining layer in direct contact with the production zone or to a depth of eighteen (18) feet, whichever is greater. (5-8-09)

b. Consolidated Formations. When artesian water is encountered in a consolidated formation, well casing must be installed and sealed from land surface to a depth of at least thirty-eight (38) feet; and (5-8-09)

i. If the consolidated formation is overlain by a permeable formation(s) and water will rise above the consolidated formation, well casing must extend and be sealed at least five (5) feet into the confining portion of the consolidated formation (Figure 10, Appendix A). (5-8-09)

ii. If the well depth is less than thirty-eight (38) feet, the well must be cased and sealed from land surface five (5) feet into the confining consolidated formation or to a depth of eighteen (18) feet, whichever is greater. (5-8-09)

c. Control Device. Pursuant to Section 42-1603, Idaho Code, if the well flows at land surface, it must be equipped with a control device approved by the Director, so that the flow can be completely stopped. If leaks occur around the well casing or adjacent to the well, the well must be completed with seals, casing or cement grout to eliminate the leakage. (5-8-09)

i. Flowing artesian wells must be equipped with an approved pressure gage fitting that will allow access for measurement of shut-in pressure of a flowing well. All pressure gage fittings must include control valves such that the pressure gage can be removed without resulting in artesian flow from the well. (5-8-09)

ii. The well driller must not move his well drilling rig from the site until all requirements have been satisfied. Some mixing of water may be allowed to develop an adequate water well; however, the mixing must be restricted to water zones of similar pressure, temperature and quality. The driller must take precautions to case and seal out zones which may lead to waste or contamination. (5-8-09)

10. Alternative Methods for Sealing Wells. To accommodate for new technology, and in consideration of the wide variety of drilling equipment used to construct wells, other methods of sealing wells not specifically addressed in these rules may be allowed. The Director may consider specific proposals for alternative methods of sealing on a case by case basis. Director approval or acceptance of such procedures will not constitute a "waiver" of any requirements of these rules. In such cases, the well driller must provide sufficient information for the Director to determine that the full intent of the sealing requirements will be satisfied if an alternative method is employed. If it is determined that a specific alternate method will provide protection of the ground water from waste and contamination, the Director may issue a statement of acceptance qualifying the use and implementation of such methods. (5-8-09)

11. Injection Wells. In addition to meeting the requirements of Rule 25 of these rules, the construction, modification, or decommissioning (abandonment) of all injection wells over eighteen (18) feet in vertical depth must also comply with the IDAPA 37.03.03, "Rules for the Construction and Use of Injection Wells," and the injection well permit. Drillers must obtain from the Director a certified copy of the permit authorizing construction or modification of an injection well before beginning work. (5-8-09)

12. Cathodic Protection Wells. All cathodic protection wells must be constructed by a licensed well driller in compliance with these rules. A detailed construction plan must be included with the drilling permit application. (5-8-09)

13. Monitoring and Remediation Wells. All monitoring wells and remediation wells must be constructed and maintained in a manner that will prevent waste or contamination and as otherwise required by these rules. When a monitoring well or a remediation well is no longer useful or needed, the owner or operator of the well must decommission (abandon) the well in accordance with Rule 25, Subsection 025.16 of these rules. No person may divert ground water from a monitoring well or a remediation well for any purpose not authorized by the Director. The application for a permit for all monitoring wells and all remediation wells must include a design proposal prepared by a licensed engineer or registered geologist pursuant to Section 42-235, Idaho Code. Blanket permits for monitoring well and remediation well networks may be approved for site-specific monitoring and remediation programs. The designs and specification for monitoring wells and remediation wells must demonstrate that: (5-8-09)

a. The ground water resources are protected against waste and contamination; (5-8-09)

b. The well(s) will inject or withdraw only fluids, gasses or solutions approved by the Director; (5-8-09)

c. The well(s) will be constructed so as to prevent aquifer commingling; and (5-8-09)

d. The well(s) will be properly decommissioned (abandoned) upon project completion and in accordance with these rules. (5-8-09)

14. Closed Loop Heat Exchange Wells. The well driller must construct closed loop heat exchange wells consistent with these rules. The well driller is not required to install steel casing in such wells. When constructing a closed loop heat exchange well, the well driller must: (5-8-09)

a. Construct each borehole of sufficient size to provide the annular space required by these rules. (5-8-09)

b. Seal the annular space of each borehole with approved seal material in accordance with these rules; (5-8-09)

c. Install fluid-tight circulating pipe, composed of high-density polyethylene, grade PE3408, minimum cell classifications PE355434C or PE345434C conforming to ASTM Standard D3350, or other Director-approved pipe; (5-8-09)

d. Join pipe using thermal fusion techniques according to ASTM Standards D-3261 or D-2683. All personnel creating such system joints must be trained in the appropriate thermal fusion technologies; (5-8-09)

e. Use only propylene glycol, or other circulating fluid approved by the Director; (5-8-09)

f. Ensure that any other system additive is NSF approved and has prior approval from the Director; (5-8-09)

g. Pressure test each loop with potable water prior to grout installation; (5-8-09)

h. Pressure test the system with potable water prior to installation of the circulating fluid at one hundred percent (100%) of the designed system operating pressure for a minimum duration of twenty-four (24) hours; and (5-8-09)

i. Properly repair or decommission (abandon) all loops failing the test by pressure pumping approved seal material through the entire length of each failed loop. After grouting, loop ends must be fused together or capped. (5-8-09)

15. Access Port or Pressure Gage. Upon completion of a well and before removal of the well rig from the site, the well must be equipped with an access port that will allow for measurement of the depth to water or an approved pressure gage fitting that will allow access for measurement of shut-in pressure of an artesian flowing well. All pressure gage fittings must include control valves such that the pressure gage can be removed. Approved access ports are illustrated in Figure 11, APPENDIX A, together with approved locations for pressure gage fittings. Air lines are not a satisfactory substitution for an access port. Nonflowing domestic and stock water wells that are to be equipped with a sanitary seal with a built-in access port are exempt from this requirement. (5-8-09)

16. Decommissioning (Abandoning) of Wells. (5-8-09)

a. The well owner is charged with maintaining and properly decommissioning (abandoning) a well in a manner that will prevent waste or contamination, or both, of the ground water. No person is allowed to decommission a well in Idaho without first obtaining a driller's license or receiving a waiver of the license requirement from the Director of the Department of Water Resources. Authorization is required from the Director prior to decommissioning any well. Upon decommissioning, the person who decommissioned the well must submit to the Director a report describing the procedure. (5-8-09)

b. The Director may require decommissioning of a well in compliance with the provisions of these rules, if the well: (5-8-09)

i. Does not meet minimum well construction standards; (5-8-09)

ii. Meets the definition of an unusable well; (5-8-09)

iii. Poses a threat to human health and safety; (5-8-09)

iv. Is in violation of IDAPA 58.01.11, "Ground Water Quality Rule"; or (5-8-09)

v. Has no valid water right or other authorization acceptable to the Director for use of the well. (5-8-09)

c. When required by the Director, decommissioning must be done in accordance with the following: (5-8-09)

i**.** Cased wells and boreholes without a continuous seal from the top of the intakes or screen to the surface. The well driller must use one (1) of the following methods as applicable: (5-8-09)

(1) The Director may require that well casing be perforated every five (5) feet from the bottom of the casing to within five (5) feet of the surface. Perforations made must be adequate to allow the free flow of seal material into any voids outside the well casing. There must be at least four equally spaced perforations per section circumference. Approved grout must be pressure pumped to fill any voids outside of the casing. A sufficient volume must be used to completely fill the well and annular space; or (5-8-09)

(2) Fill the borehole with approved seal material as the casing is being removed. (5-8-09)

ii. Cased wells and boreholes with full-depth seals. If the well is cased and sealed from the top of the screen or production zone to the land surface, the well must be completely filled with approved seal material. (5-8-09)

iii. Uncased wells must be completely filled with approved seal material. (5-8-09)

iv. Dry hole wells or wells from which the quantity of water to meet a beneficial use cannot be obtained must be decommissioned with cement grout, concrete or other approved seal material in accordance with these rules. (5-8-09)

17. Completion of a Well. The Director will consider that every well is completed when the well drilling equipment has been removed, unless written notice has been given to the Director by the well driller that he intends to return and do additional work on the well within a specified period of time. Upon completion of the well, the well must meet all of the required standards. (5-8-09)

a. Upon completion of drilling and prior to removal of well drilling equipment from a water well site, the top of the casing must be completely covered with: (5-8-09)

i. A one-fourth inch (1/4") thick solid, new or like-new steel plate with a three-fourths inch (3/4) threaded and plugged access port, welded to and completely covering the casing (Figure 12, Appendix A); or (5-8-09)

ii. A threaded cap, or a commercially manufactured watertight sanitary well cap (Figure 12, Appendix A); or (5-8-09)

iii. A commercially manufactured water-tight, snorkel-vented or non-vented well cap on any well susceptible to submergence; or (5-8-09)

iv. A control device approved by the Director per Section 42-1603, Idaho Code, on any well that flows at land surface (Figure 11, Appendix A). (5-8-09)

b. Upon the completion of every well, the well driller must permanently affix the stainless steel well tag to the steel surface casing in a manner and location that maintains tag legibility. For closed loop heat exchange wells, the well driller must obtain approval for the well tag placement and method of attachment. The well driller must secure each tag by: (5-8-09)

i. A full-length weld across the top and down each side of the tag; or (5-8-09)

ii. Using one (1) stainless steel, closed-end domed rivet near each of the four (4) corners of the tag. (5-8-09)

iii. Prior to welding or riveting, the tag must be pre-shaped to fit the casing such that both sides to be welded or riveted touch the casing and no gaps exist between the tag and casing. (5-8-09)

18. Pitless Adapters. When a pitless adaptor is used (Figure 12, Appendix A), the adaptor should be of the type approved by the NSF International testing laboratory or the approval code adopted by the Pitless Adaptor Division of the Water Systems Council. The pitless adaptor, including the cap or cover, casing extension, and other attachments, must be so designed and constructed to be water tight and to prevent contamination of the potable water supply from external sources. If a permanent surface or outer casing is installed and is cut off or breached to install the pitless adapter on an inner well casing or liner, the space between the permanent outer casing and the liner or inner casing must be sealed. The well owner or person installing the pitless adaptor must then seal the excavation surrounding the pitless adaptor using an approved seal material. (5-8-09)

19. Pump Installation. No person is allowed to install a pump into any well that would cause a

violation of Rule 25, of these rules or other applicable rules or state law. (5-8-09)

20. Explosives. Explosives used in well construction must never be detonated inside the required well casing. Approved explosive casing perforators may be exempted by the Director. (5-8-09)

21. Hydraulic Fracturing. Hydraulic fracturing must be performed only by well drillers licensed in Idaho. The pressure must be transmitted through a drill string and must not be transmitted to the well casing. The driller must provide a report to the Director of the fracturing work which must include well location, fracturing depth, fracturing pressures and other data as requested by the Director. (5-8-09)

22. Drilling Fluids or Drilling Additives. The well driller must use only potable water and drilling fluids or drilling additives that are manufactured for use in water wells, are NSF International, American Petroleum Institute (API), or ASTM/ANSI approved; and do not contain a concentration of any substance in excess of Primary Drinking Water Standards, as set forth in IDAPA 58.01.08, "Rules for Public Drinking Water Systems," according to manufacturer's specifications. The well driller may seek approval from the Director to use specific, non-certified products on a case-by-case basis. In addition, the well driller must ensure the containment of all drilling fluids and materials used or produced to the immediate drilling site, and will not dispose of such fluids or materials into any streams, canals, boreholes, wells, or other subsurface pathways. (5-8-09)

23. Disinfection and Decontamination. Upon completion of a well, the driller is responsible for adding the appropriate amount of disinfecting chemical compound and distributing it throughout the well to achieve a uniform concentration for "in place" disinfection of the well. Chlorine compounds used in accordance with the table listed below will satisfy this requirement. Other methods may be used if approved by the Director in advance.

Amount of Chlorine Needed Per 100 Feet of Water in Well

Casing Diameter (in.)	Gallons of water in casing per 100 ft. of water depth	Amount of 5.25% Sodium Hypochlorite (Unscented Laundry Bleach)	Amount of 65% Calcium Hypochlorite (Chlorine Granules)
6	147	2 ¼ cups	3 tbsp
8	261	4 cups	5 tbsp
10	408	6 ¼ cups	½ cup
12	588	9 cups	¾ cup
16	1044	1 gal	1 ¼ cup

Note: 1 gal = 4 qt = 8 pt = 16 cups; 1 cup = 16 tbsp

Chlorine granules or tablets must be dissolved and placed into the well as a solution.

If another concentration of hypochlorite solution is used, the following equation should be used for calculating amounts.

(Volume of water in gallons) X (0.08) / % Hypochlorite (e.g. 50% = 50) = cups of hypochlorite

Example: To treat 147 gallons of water using a 50% concentration of hypochlorite solution:
(147 gallons water) X (0.08) / 50 = .23 (or approximately 1/4) cup of 50% Hypochlorite solution

(5-8-09)

24. Sand Production. The maximum sand content produced from a well after initial well development must not exceed fifteen (15) ppm. For the purpose of this rule, sand is considered to be any sediment particle retained on a U.S. standard sieve #200 (seventy-five hundreths (0.075) mm to two (2) mm). (5-8-09)

a. When necessary to mitigate sand production the well driller must: (5-8-09)

i. Construct each well with properly sized casing, screen(s) or perforated intake(s); and (5-8-09)

ii. Install properly sized filter pack(s); or (5-8-09)

iii. Install pre-packed well screens; or (5-8-09)

iv. Employ other methods approved by the Director. (5-8-09)

b. The Director may grant a waiver exempting a well producing water that exceeds the maximum sand content only if the well driller has met the requirements of Rule 25, Subsection 025.24.a. (5-8-09)

c. Sand production in public water system wells. Wells used in connection with a public water system have more stringent requirements. See IDAPA 58.01.08, "Idaho Rules for Public Water Systems." (5-8-09)

25. Well Development and Testing. For each well the well driller must measure and record the static (non-pumping) water level and the pumping water level, and the production rate. The production rate will be determined by a pump, bailer, air-lift, or other industry approved test of sufficient duration to establish production from the well. For wells with no returns the driller must report no returns and the static water level. This information must be documented on the well driller's report. (5-8-09)

026. -- 029. (RESERVED)

030. CONSTRUCTION OF LOW TEMPERATURE GEOTHERMAL RESOURCE WELLS AND BONDING (RULE 30).

01. General. Drillers constructing low temperature geothermal resource wells (bottom hole temperature more than eighty-five (85) degrees Fahrenheit and less than two hundred twelve (212) degrees Fahrenheit) must be qualified under the Well Driller Licensing Rules. All low temperature geothermal resource wells must be constructed in such a manner that the resource will be protected from waste due to lost artesian pressure and temperature. The owner or well driller is required to provide bottom hole temperature data, but the Director may make the final determination of bottom hole temperature, based upon information available to him. (5-8-09)

a. All standards and guidelines for construction and decommissioning (abandonment) of cold water wells apply to low temperature geothermal resource wells except as modified by Rule 30, Subsections 030.03, 030.04, and 030.06. (5-8-09)

b. A drilling prospectus must be submitted to and approved by the Director prior to the construction, modification, deepening or decommissioning (abandonment) of any low temperature geothermal resource well. The well owner and the well driller are responsible for the prospectus and subsequent well construction. (5-8-09)

02. Well Owner Bonding. The owner of any low temperature geothermal resource well must file a surety bond or cash bond as required by Section 42-233, Idaho Code, with the Director in an amount not less than five thousand dollars ($5,000) nor more than twenty thousand dollars ($20,000) payable to the Director prior to constructing, modifying or deepening the well after July 1, 1987. The bond amount will be determined by the Director within the following guidelines. The bond will be kept in force for one (1) year following completion of the well or until released in writing by the Director, whichever occurs first. (5-8-09)

a. Any well less than three-hundred (300) feet deep with a bottom hole temperature of less than one hundred twenty (120) degrees Fahrenheit and a shut-in pressure of less than ten (10) pounds per square inch gage (psig) at land surface must maintain a bond of five thousand dollars ($5,000). (5-8-09)

b. The owner of any well three hundred (300) feet to one thousand (1,000) feet deep with a bottom hole temperature of less than one hundred fifty (150) degrees Fahrenheit and a shut-in pressure of less than fifty (50) psig at land surface must maintain a bond of ten thousand dollars ($10,000). (5-8-09)

c. The owner of any low temperature geothermal resource well not covered by Rule 30, Subsections

030.02.a. and 030.02.b. must maintain a bond of twenty thousand dollars ($20,000). (5-8-09)

d. The Director may decrease or increase the bonds required if it is shown to his satisfaction that well construction or other conditions merit an increase or decrease. (7-1-93)

e. The bond requirements of Section 42-233, Idaho Code, are applicable to wells authorized by water right permits or licenses having a priority date earlier than July 1, 1987, if the well authorized by the permit or license was not constructed prior to July 1, 1987 or if an existing well constructed within the terms of the permit or license is modified, deepened or enlarged on or after July 1, 1987. (7-1-93)

03. Casing. Low temperature geothermal resource wells must be properly cased and sealed to protectfrom cooling by preventing intermingling with cold water aquifers. (5-8-09)

a. Steel casing which meets or exceeds the minimum specifications for permanent steel casing of Rule 25, Subsection 025.04 must be installed in every well. The Director may require a more rigid standard for collapse and burst strength as depths or pressures may dictate. Every low temperature geothermal resource well which flows at land surface must have a minimum of forty (40) feet of conductor pipe set and cemented its entire length. (5-8-09)

b. Casing must be installed from twelve (12) inches above land surface into the overlying confining strata of the thermal aquifer. The casing schedule may consist of several different casing strings (i.e. conductor pipe, surface casing, intermediate casing, production casing) which may all extend to land surface or may be overlapped and sealed or packed to prevent fluid migration out of the casing at any depth (Figure 13, Appendix A). (5-8-09)

i. Low temperature geothermal resource wells less than one thousand (1,000) feet deep and which encounter a shut-in pressure of less than fifty (50) psig at land surface must have two (2) strings of casing set and cemented to land surface. Conductor pipe must be a minimum of forty (40) feet in length or ten percent (10%) of the total depth of the well whichever is greater. Surface casing must extend into the confining stratum overlying the aquifer. (5-8-09)

ii. Low temperature geothermal resource wells one thousand (1,000) feet or more in depth or which will likely encounter a shut-in pressure of fifty (50) psig or more at land surface require prior approval of the drilling plan by the Director and must have three strings of casing cemented their total length to land surface. Conductor pipe must be a minimum length of forty (40) feet. Surface casing must be a minimum of two hundred (200) feet in length or ten percent (10%) of the total depth of the well, whichever is greater. Intermediate casing must extend into the confining stratum overlying the aquifer. (5-8-09)

c. Subsection 030.03.b. may be waived if it can be demonstrated to the Director through the lithology, electrical logs, geophysical logs, injectivity tests or other data that formations encountered below the last casing string set, will neither accept nor yield fluids at anticipated pressure to the borehole. (5-8-09)

d. A nominal borehole size of two (2) inches in diameter larger than the Outside Diameter (O.D.) of the casing or casing coupler (whichever is larger) must be drilled. All casing designations must be by O.D. and wall thickness and must be shown to meet a given specification of the American Petroleum Institute, the American Society for Testing and Materials, the American Water Works Association or the American National Standards Institute. The last string of casing set during drilling operations must, at the Director's option, be flanged and capable of mounting a valve or blow out prevention equipment to control flows at the surface before drilling resumes. (5-8-09)

04. Sealing of Casing. All casing must be sealed its entire length with cement or a cement grout mixture unless waived by the Director. The seal material must be placed from the bottom of the casing to land surface either through the casing or tubing or by use of a tremie pipe. The cement or cement grout must be undisturbed for a minimum of twenty-four (24) hours or as needed to allow adequate curing. (5-8-09)

a. A caliper log may be run for determining the volume of cement to be placed with an additional twenty-five (25%) percent on site ready for mixing. If a caliper log is not run, an additional one hundred (100%) percent of the calculated volume of cement must be on site ready for placement. (5-8-09)

b. If there is no return of cement or cement grout at the surface after circulating all of the cement

mixture on site, the Director will determine whether remedial work should be done to insure no migration of fluids around the well bore. (5-8-09)

c. The use of additives such as bentonite, accelerators, retarders, and lost circulation material must follow manufacturer's specifications. (5-8-09)

05. Blow Out Prevention Equipment. The Director may require the installation of gate valves or annular blow out prevention equipment to prevent the uncontrolled blow out of drilling mud and geothermal fluid. (7-1-93)

06. Repair of Wells. The well driller must submit a drilling prospectus to the Director for review and approval prior to the repair or modification of a low temperature geothermal resource well. (5-8-09)

07. Decommissioning (Abandoning) of Wells. Proper decommissioning (abandonment) of any low temperature geothermal resource well requires the following: (5-8-09)

a. All cement plugs must be pumped into the hole through drill pipe or tubing. (5-8-09)

b. All open annuli must be completely filled with cement. (5-8-09)

c. A cement plug at least one hundred (100) feet in vertical depth must be placed straddling (fifty (50) feet above and fifty (50) feet below) the zone where the casing or well bore meets the upper boundary of each ground water aquifer. (5-8-09)

d. A minimum of one hundred (100) feet of cement must be placed straddling each drive shoe or guide shoe on all casing including the bottom of the conductor pipe. (5-8-09)

e. A surface plug of either cement grout or concrete must be placed from at least fifty (50) feet below the top of the casing to the top of the casing. (5-8-09)

f. A cement plug must extend at least fifty (50) feet above and fifty (50) feet below the top of any liner installed in the well. The Director may waive this rule upon a showing of good cause. (5-8-09)

g. Other decommissioning (abandonment) procedures may be approved by the Director if the owner or operator can demonstrate that the low temperature geothermal resource, ground waters, and other natural resources will be protected. (5-8-09)

h. Approval for decommissioning (abandonment) of any low temperature geothermal well must be in writing by the Director prior to the beginning of any decommissioning (abandonment) procedures. (5-8-09)

031. -- 034. (RESERVED)

035. HEALTH STANDARDS (RULE 35).

01. Public Water System Wells. In addition to meeting these standards, all wells that are constructed for public supply of domestic water must meet all of the requirements set forth by the Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (5-8-09)

02. Special Standards for Construction of Wells When Mineralized or Contaminated Water Is Encountered. Any time in the construction of a well that mineralized or contaminated water is encountered, the well driller must take the appropriate steps necessary to prevent the poor quality waters from entering the well or moving up or down the annular space around the well casing. The method employed to case and seal out this water will be determined by the well driller, provided all other minimum standards are met. The well driller will take special precautions in the case of filter-packed wells to prevent water of inferior quality from moving vertically in the filter packed portions of the well. All actions taken will be clearly documented on the well driller's report. (5-8-09)

03. Distances From Contaminant Sources. All water wells constructed for domestic use must

comply with minimum distances from septic tanks, drain fields, drainfield replacement area and other siting requirements as set forth in Rule 25, Subsection 025.01.d. (5-8-09)

036. OWNERS RESPONSIBILITIES FOR WELL USE AND MAINTENANCE (RULE 36).
After a well is completed the well owner is responsible for water quality testing, properly maintaining the well, and reporting problems with a well to the Director. All wells must be capped, covered and sealed such that debris cannot enter the well, persons or animals cannot fall into the well, and water cannot enter the well around the outside of the casing. Pursuant to Section 42-1603, Idaho Code, the owner of any artesian well that will flow at land surface is required to apply to the Director for approval of a flow control device. (5-8-09)

01. Use. The well owner must not operate any well in a manner that causes waste or contamination of the ground water resource. Failure to operate, maintain, knowingly allow the construction of any well in a manner that violates these rules, or failure to repair or properly decommission (abandon) any well as herein required will subject the well owner to civil penalties as provided by statute. (5-8-09)

02. Maintenance. The well owner must: (5-8-09)

a. Not allow modification to wells under their control without first obtaining an approved Idaho Department of Water Resources (IDWR) permit, pursuant to Section 42-235, Idaho Code; (5-8-09)

b. Maintain the minimum casing height of twelve (12) inches above land surface and finished grade; (5-8-09)

c. Maintain the appropriate well cap, and control device if required, according to these Rules; and (5-8-09)

d. Not install or allow the installation of any well pump that would cause a violation of the sand production requirements in accordance with these Rules or allow the well to pump in excess of that allowed by a valid water right or domestic exemption. (5-8-09)

e. Maintain the well to prevent waste or contamination of ground waters through leaky casings, pipes, fittings, valves, pumps, seals or through leakage around the outside of the casings, whether the leakage is above or below the land surface. Any person owning or controlling a non-compliant well must have the well repaired by a licensed well driller under a permit issued by the Director in accordance with these Rules. (5-8-09)

03. New Construction. The well owner must not construct or allow construction of any permanent building, except for buildings to house a well or plumbing apparatus, or both, closer than ten (10) feet from an existing well. (5-8-09)

04. Maintain All Other Separation Distances. The well owner must not construct or install, or allow the construction or installation of any object listed in a location closer than that allowed by the table of Rule 25, Subsection 025.01.d. (5-8-09)

05. Unusable Wells. The well owner must have any unusable well repaired or decommissioned (abandoned) by a licensed well driller under a permit issued by the Director in accordance with these Rules. (5-8-09)

06. Wells Posing a Threat to Human Health and Safety or Causing Contamination of the Ground Water Resource. The well owner must have any well shown to pose a threat to human health and safety or cause contamination of the ground water resource immediately repaired or decommissioned (abandoned) by a licensed well driller under a permit issued by the Director in accordance with these Rules. (5-8-09)

037. -- 039. (RESERVED)

040. AREAS OF DRILLING CONCERN (RULE 40).

01. General. (7-1-93)

a. The Director may designate an "area of drilling concern" to protect public health, or to prevent waste and contamination of ground or surface water, or both, because of factors such as aquifer pressure, vertical depth to the aquifer, warm or hot ground water, or contaminated ground or surface waters. (7-1-93)

b. The designation of an area of drilling concern does not supersede or preclude designation of part or all of an area as a Critical Ground Water Area (Section 42-233a, Idaho Code), Ground Water Management Area (Section 42-233b, Idaho Code), or Geothermal Resource Area (Sections 42-4002 and 42-4003, Idaho Code). (7-1-93)

c. The designation of an area of drilling concern can include certain aquifers or portions thereof while excluding others. The area of drilling concern may include low temperature geothermal resources while not including the shallower cold ground water systems. (7-1-93)

02. Bond Requirement. (7-1-93)

a. The minimum bond to be filed by the well driller with the Director for the construction or modification of any well in an area of drilling concern is ten thousand dollars ($10,000) unless it can be shown to the satisfaction of the Director that a smaller bond is sufficient. (5-8-09)

b. The Director may determine on a case-by-case basis if a larger bond is required based on the estimated cost to repair, complete or properly decommission (abandon) a well. (5-8-09)

03. Additional Requirements. (7-1-93)

a. A driller must demonstrate to the satisfaction of the Director that he has the experience and knowledge to adequately construct or decommission (abandon) a well which encounters warm water or pressurized aquifers. (5-8-09)

b. A driller must demonstrate to the satisfaction of the Director that he has, or has immediate access to, specialized equipment or resources needed to adequately construct or decommission (abandon) a well. (5-8-09)

041. -- 044. (RESERVED)

045. DRILLING PERMIT REQUIREMENTS (RULE 45).

01. General Provisions. (7-1-93)

a. Drilling permits are required pursuant to Section 42-235, Idaho Code, prior to construction or modification of any well. (5-8-09)

b. Drilling permits will not be issued for construction of a well which requires another separate approval from the department, such as a water right permit, transfer, amendment or injection well permit, until the other separate permitting requirements have been satisfied. (5-8-09)

c. The Director may allow the use of a start card permit or give verbal approval to a well driller for the construction of cold water single family domestic wells. Start cards must be received by the Department at least two office hours prior to commencing construction of the well. (5-8-09)

d. The Director may give verbal approval to a well driller for the construction of a well for which other permitting requirements have been met, provided that the driller or owner has filed the drilling permit application and appropriate fee. (5-8-09)

e. The Director will not give a verbal approval or allow the use of a start card permit for wells constructed in a designated Area of Drilling Concern, Critical Ground Water Area, or Ground Water Management Area. (5-8-09)

f. A well driller will not construct, drill or modify any well until a drilling permit has been issued, or verbal approval granted. (5-8-09)

02. Effect of a Permit. (7-1-93)

a. A drilling permit authorizes the construction or modification of a well in compliance with these rules and the conditions of approval on the permit. (5-8-09)

b. A drilling permit does not constitute a water right, injection well permit or other authorization which may be required, authorizing use of water from a well or discharge of fluids into a well. (5-8-09)

c. A drilling permit may not be assigned from one owner to another or from one driller to another. (5-8-09)

d. A drilling permit authorizes the construction of one (1) well, except for blanket monitoring well and blanket remediation well drilling permits. (5-8-09)

03. Exclusions.For the purposes of these Rules, artificial openings and excavations that do not constitute a well and are not subject to the drilling permit requirements must be modified, constructed, or decommissioned (abandoned) in accordance with minimum well construction standards. The Director may require decommissioning (abandonment) of artificial openings and excavations constructed pursuant to Rule 45, Subsection 045.03 of these rules, when the use ceases or if the holes may contribute to waste or contamination of the ground water. The following types of artificial openings and excavations are not considered wells: (5-8-09)

a. Artificial openings and excavations with total depth less than eighteen (18) feet. (5-8-09)

b. Artificial openings and excavations for collecting soil or rock samples, determining geologic properties, or mineral exploration or extraction, including gravel pits. (5-8-09)

c. Artificial openings and excavations for oil and gas exploration for which a permit has been issued pursuant to Section 47-320, Idaho Code. (5-8-09)

d. Artificial openings and excavations constructed for de-watering building or dam foundation excavations. (5-8-09)

04. Converting an Artificial Openings or Excavations Not Constructed as a Well for Use as a Well. Artificial openings and excavations that were not constructed as a well pursuant to a drilling permit, if subsequently converted to obtain water, monitor water quantity or quality, or to dispose of water or other fluids, must be reconstructed by a licensed driller in compliance with well construction standards and drilling permit requirements. (5-8-09)

05. Fees. (7-1-93)

a. Drilling permit fees are as prescribed by Section 42-235, Idaho Code. (5-8-09)

b. The difference between the drilling permit fee required by Section 42-235 Idaho Code as applicable, must be paid when an existing well constructed on or after July 1, 1987, for which the lower drilling permit fee was paid, is authorized by the Director for a use which would require the larger drilling permit fee. (5-8-09)

046. -- 049. (RESERVED)

050. PENALTIES (RULE 50).
A person owning or controlling a well that allows waste or contamination of the state's ground water resources or causes a well not to meet the construction standards provided in these Rules is subject to the civil penalties as provided by statute. A driller who violates the foregoing provisions of these well construction standards Rules is subject to enforcement action and the penalties as provided by Statute. (5-8-09)

051. -- 999. (RESERVED)

APPENDIX A
Figure 01. Concrete Slabs and Finished Grade

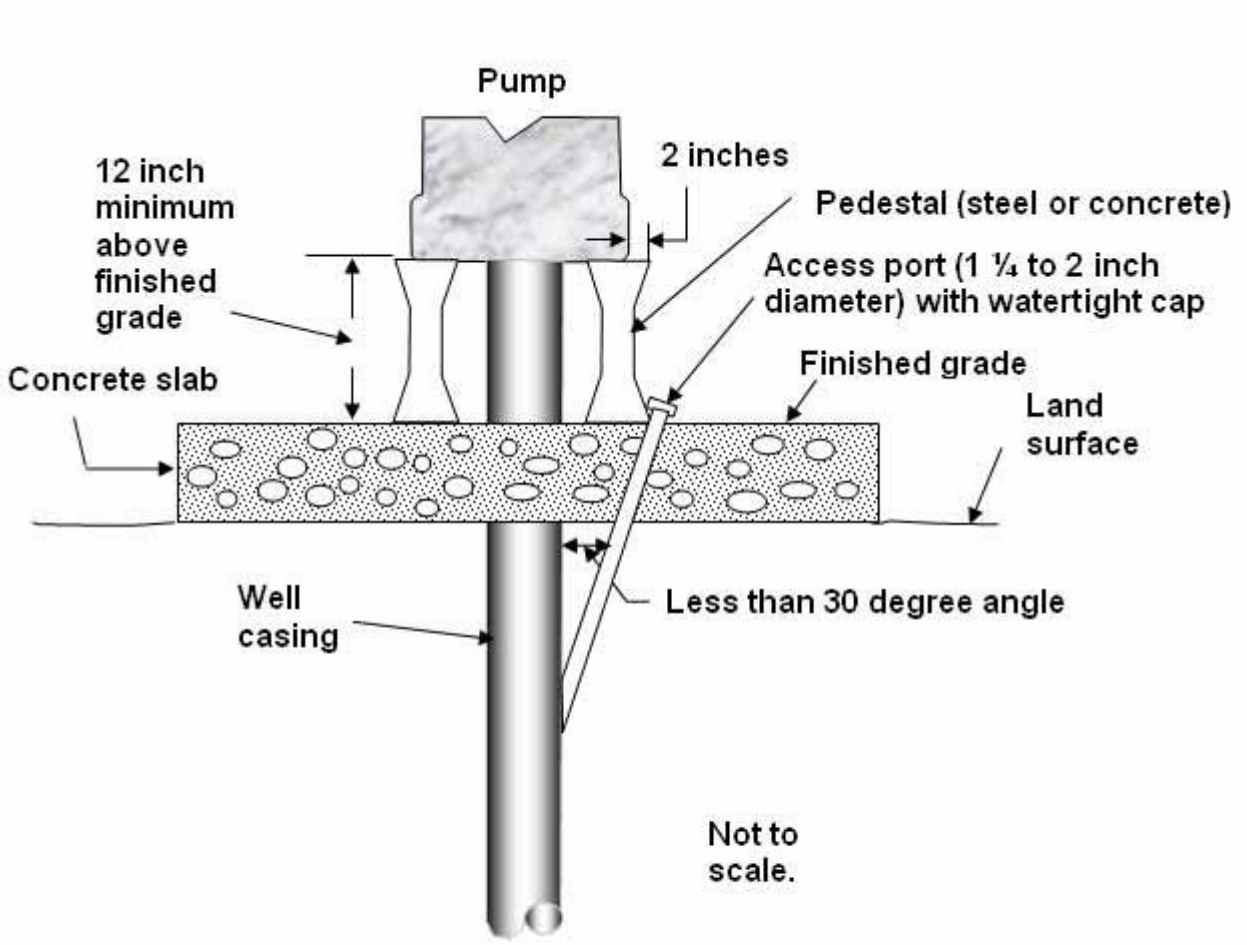

Note. Pedestal shall not extend more than two (2) inches past pump base in horizontal direction.

Figure 02. Annular Space and Overbore

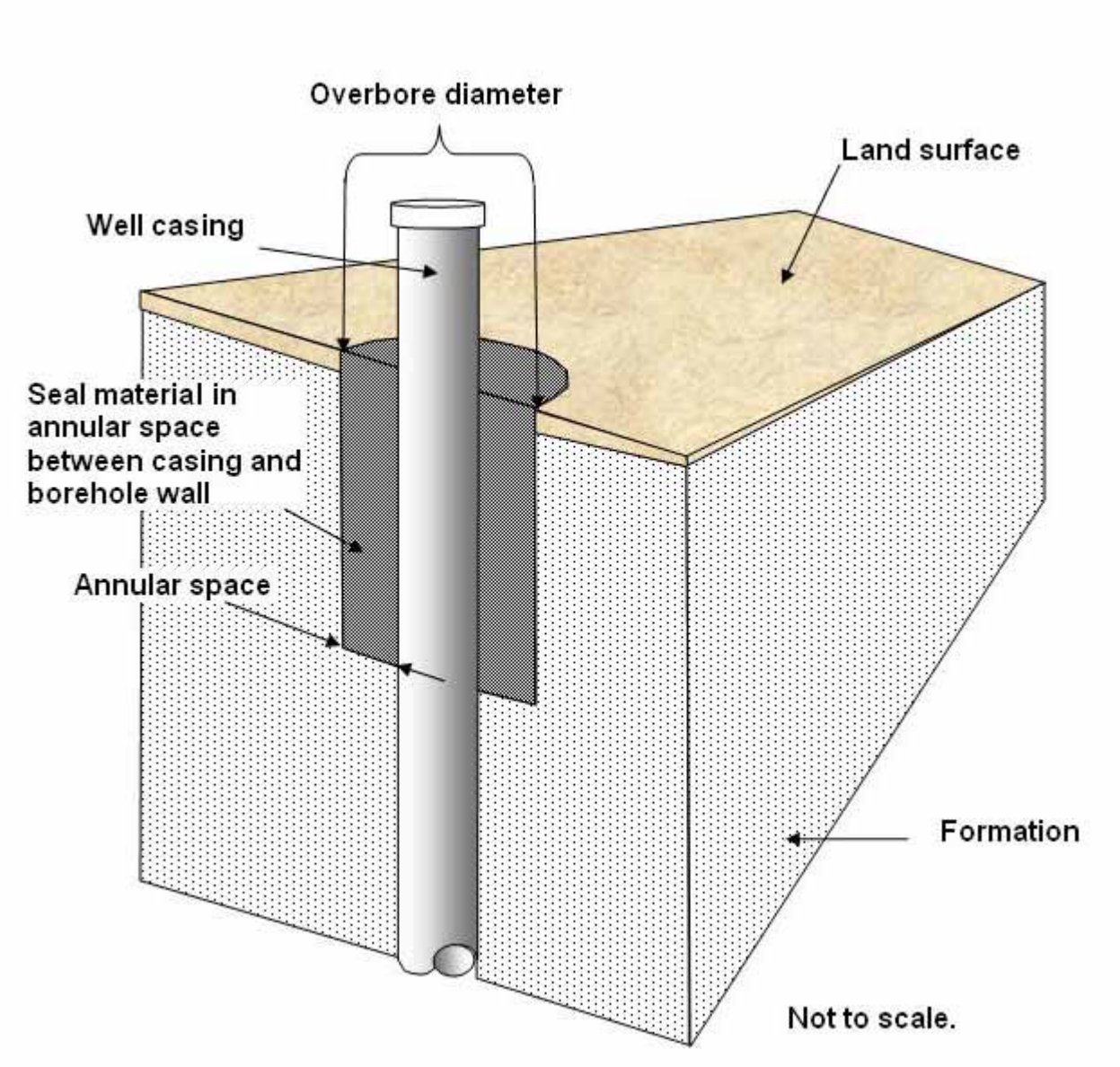

Figure 03. Overbore Requirements When a Tremie Pipe is Left in Place and A Grout Seal Installed

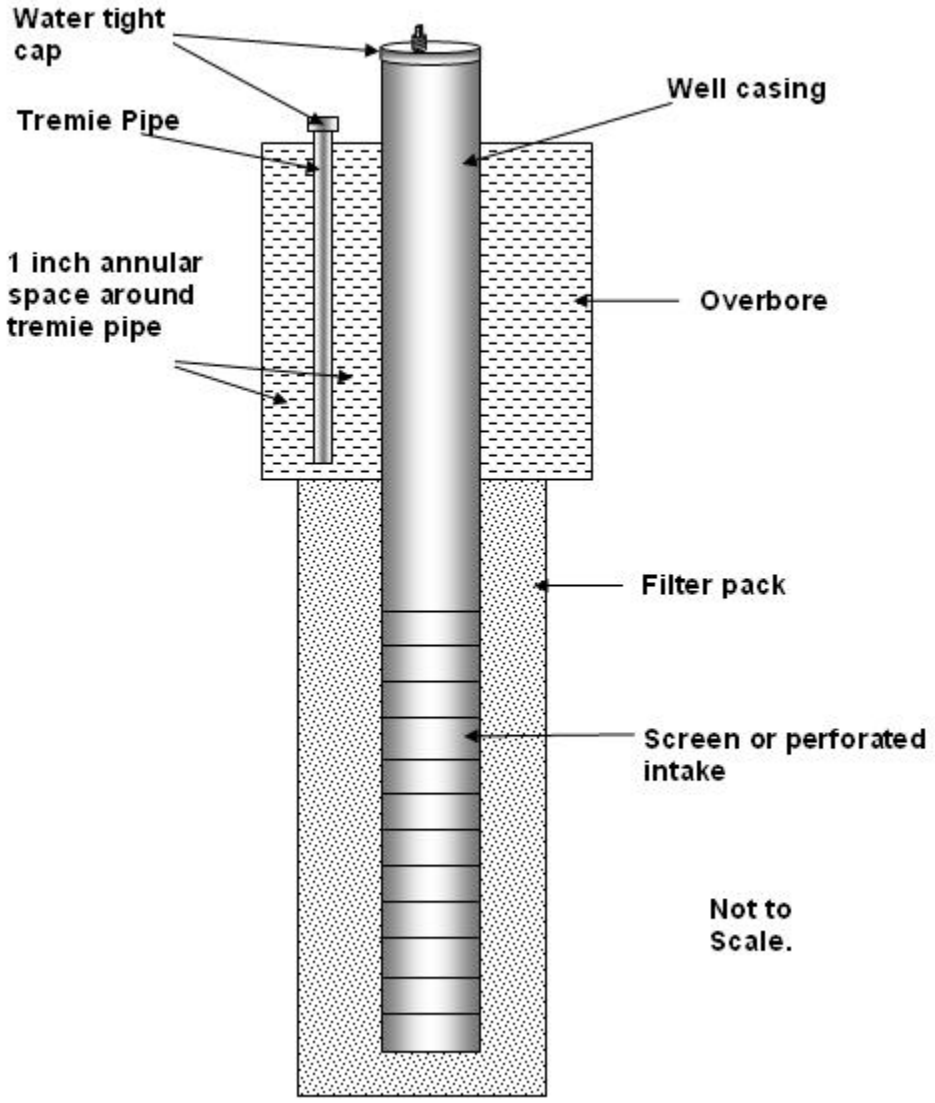

Figure 04. Sealing Requirements in Consolidated Formations

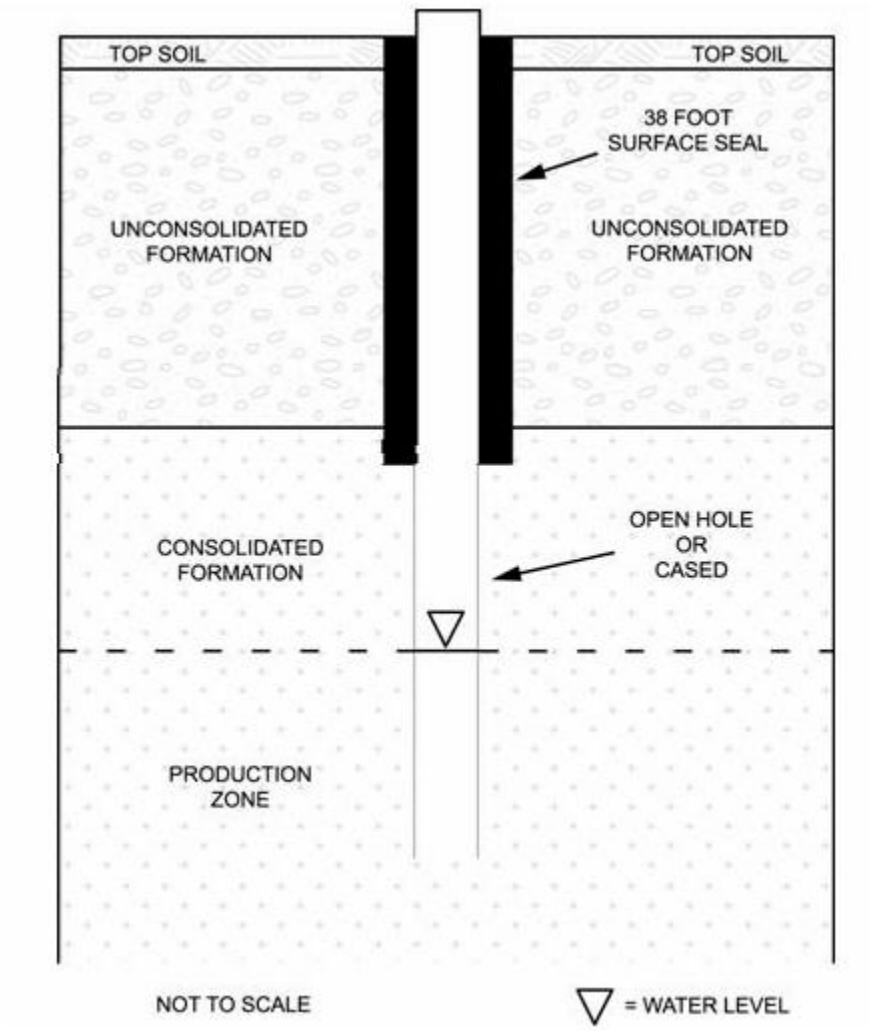

Figure 05. Sealing Requirements in Unconsolidated Formation without Confining Layers

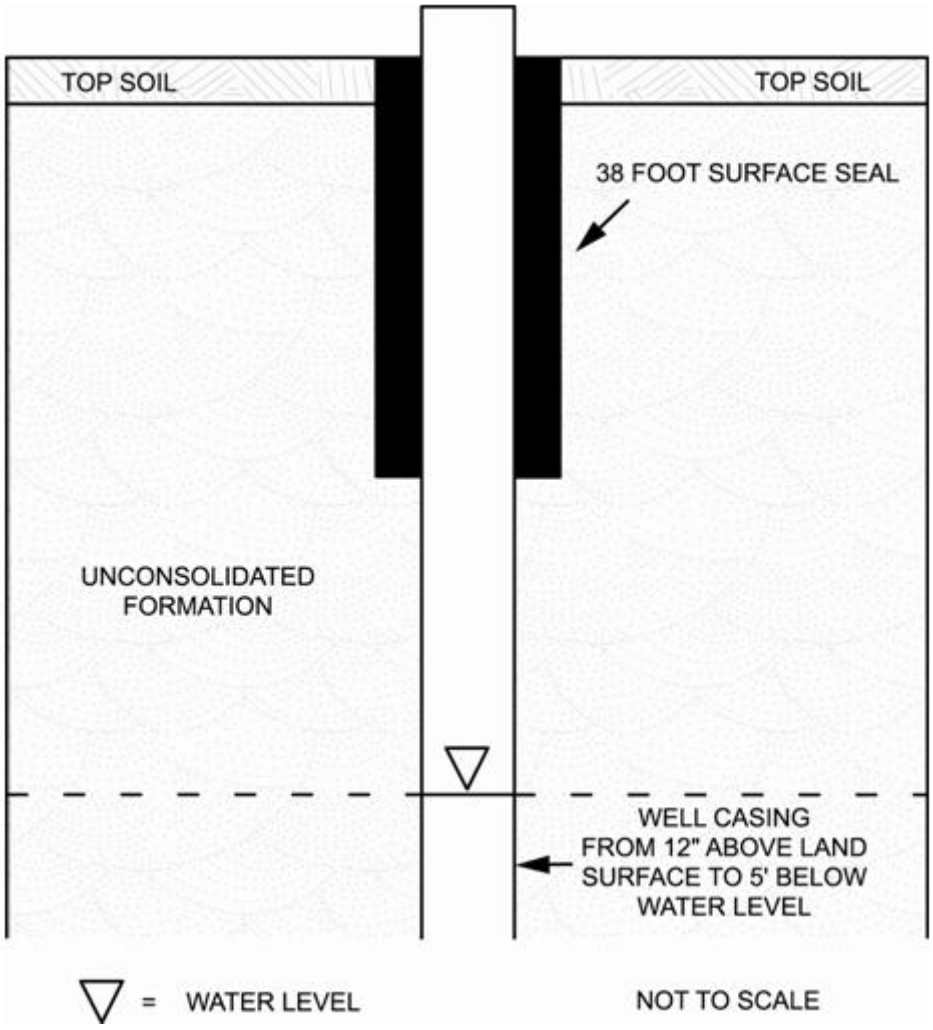

Figure 06. Rathdrum Prairie Boundary

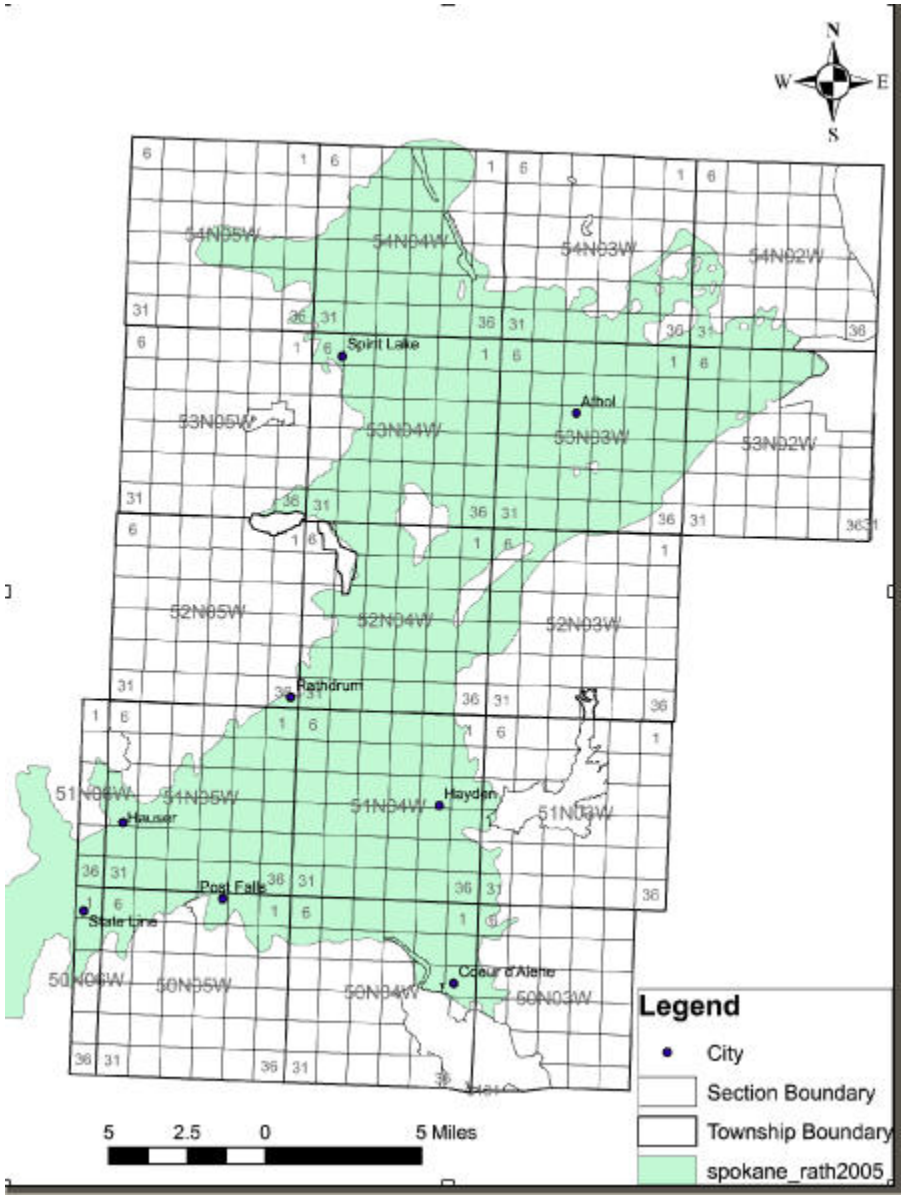

Figure 07. Sealing Requirements in the Rathdrum Prairie

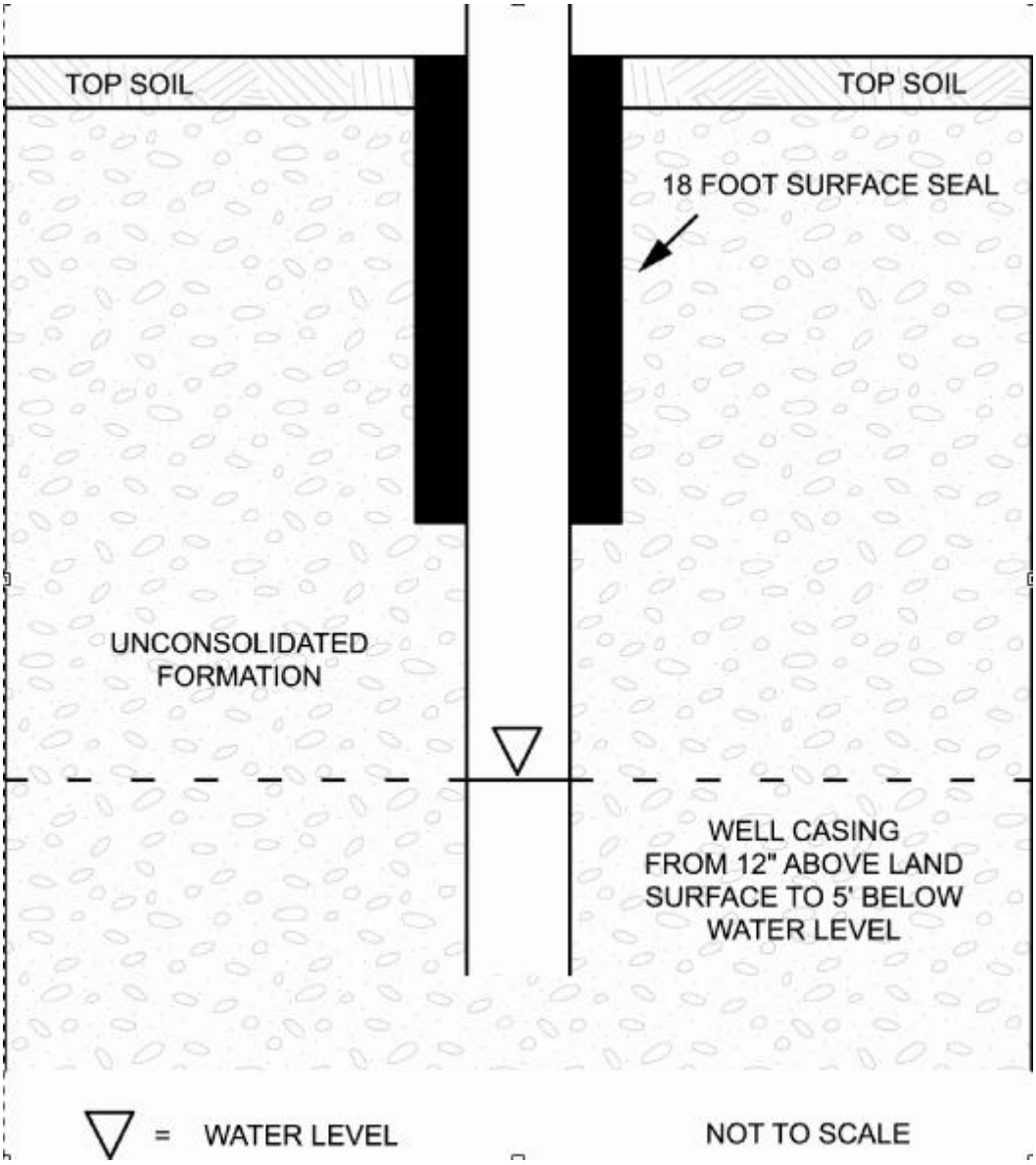

Figure 08. Sealing Requirements in Unconsolidated Formations with Confining Layers

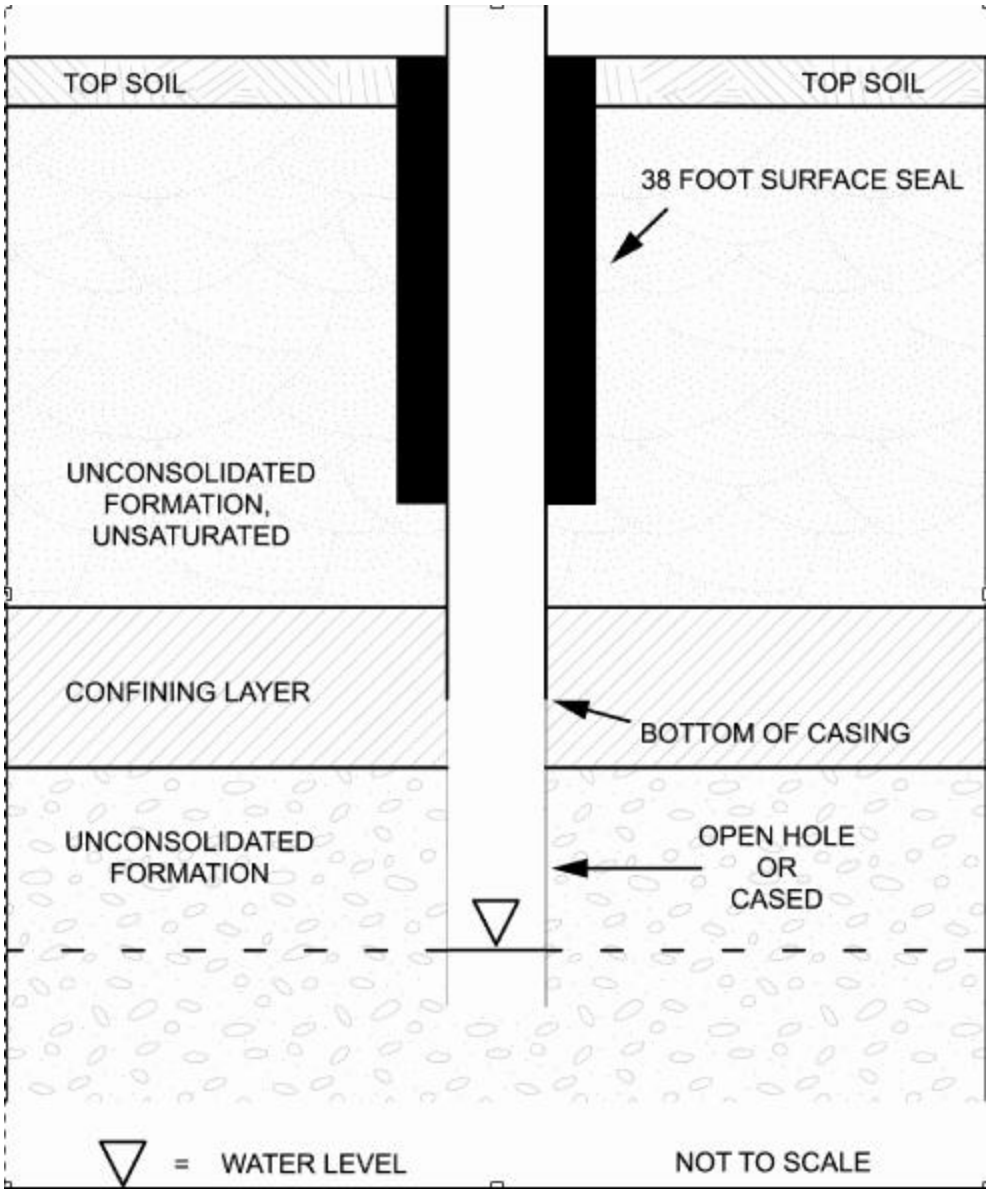

Figure 09. Sealing Requirements for Artesian Wells in Unconsolidated Formations

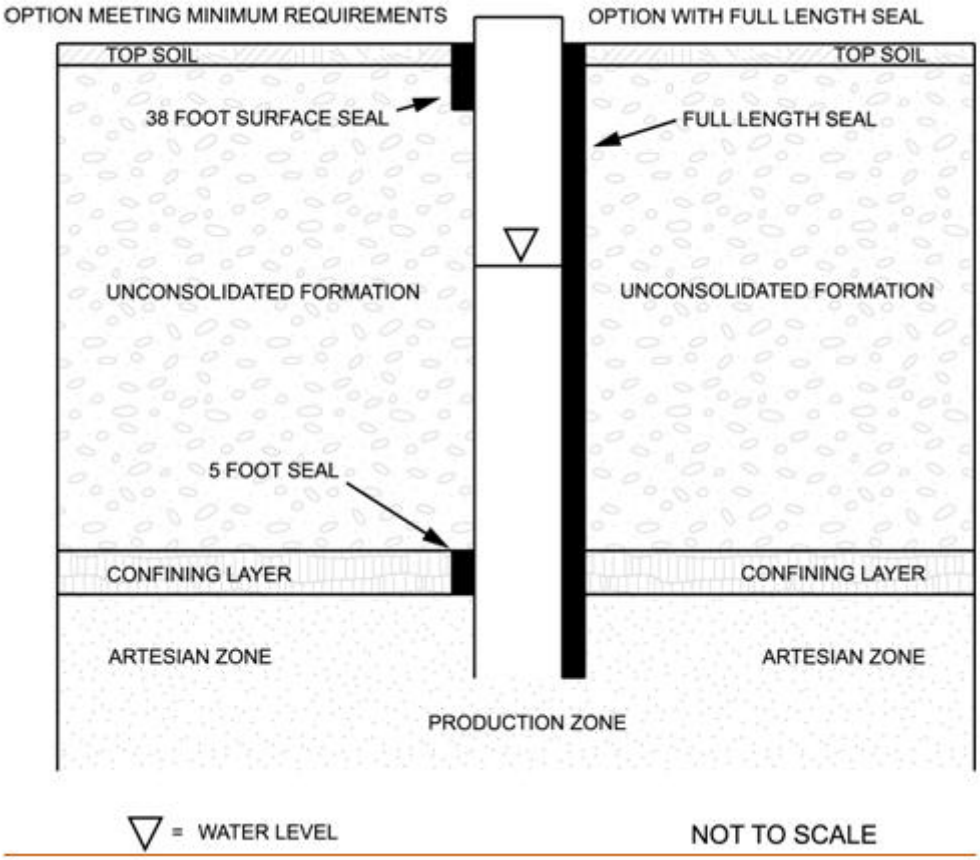

Figure 10. Sealing Requirements for Artesian Wells in Consolidated Formations

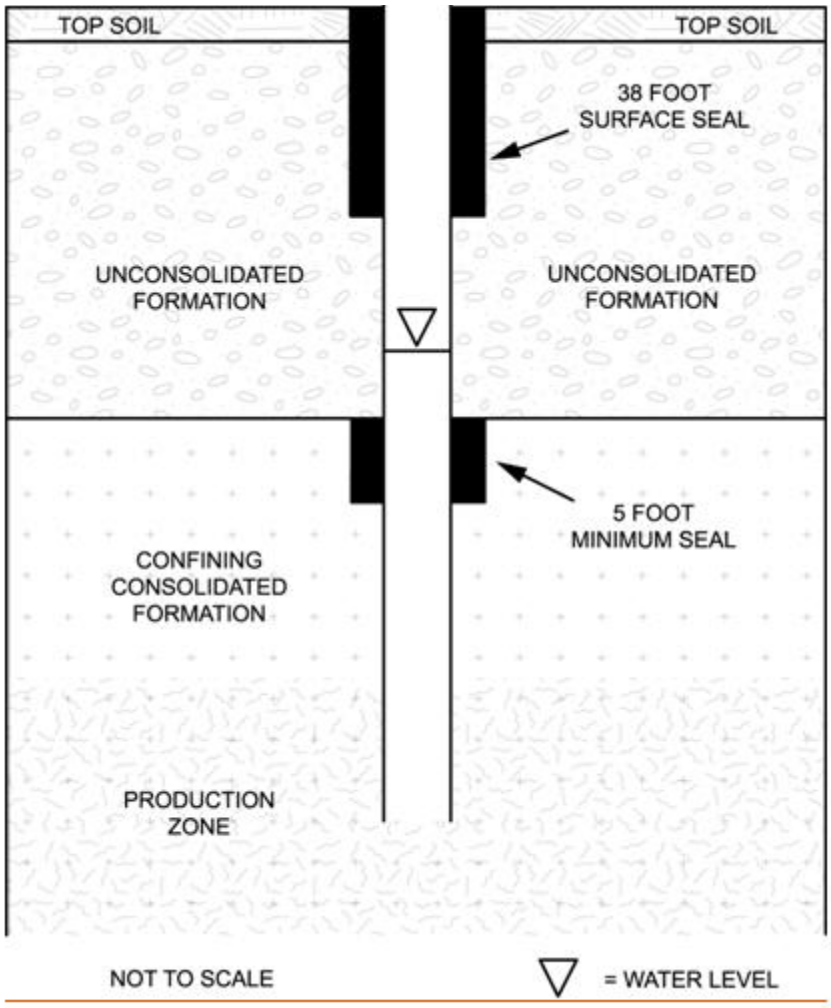

Figure 11. Access Ports, Pressure Gauges, and Control Valves

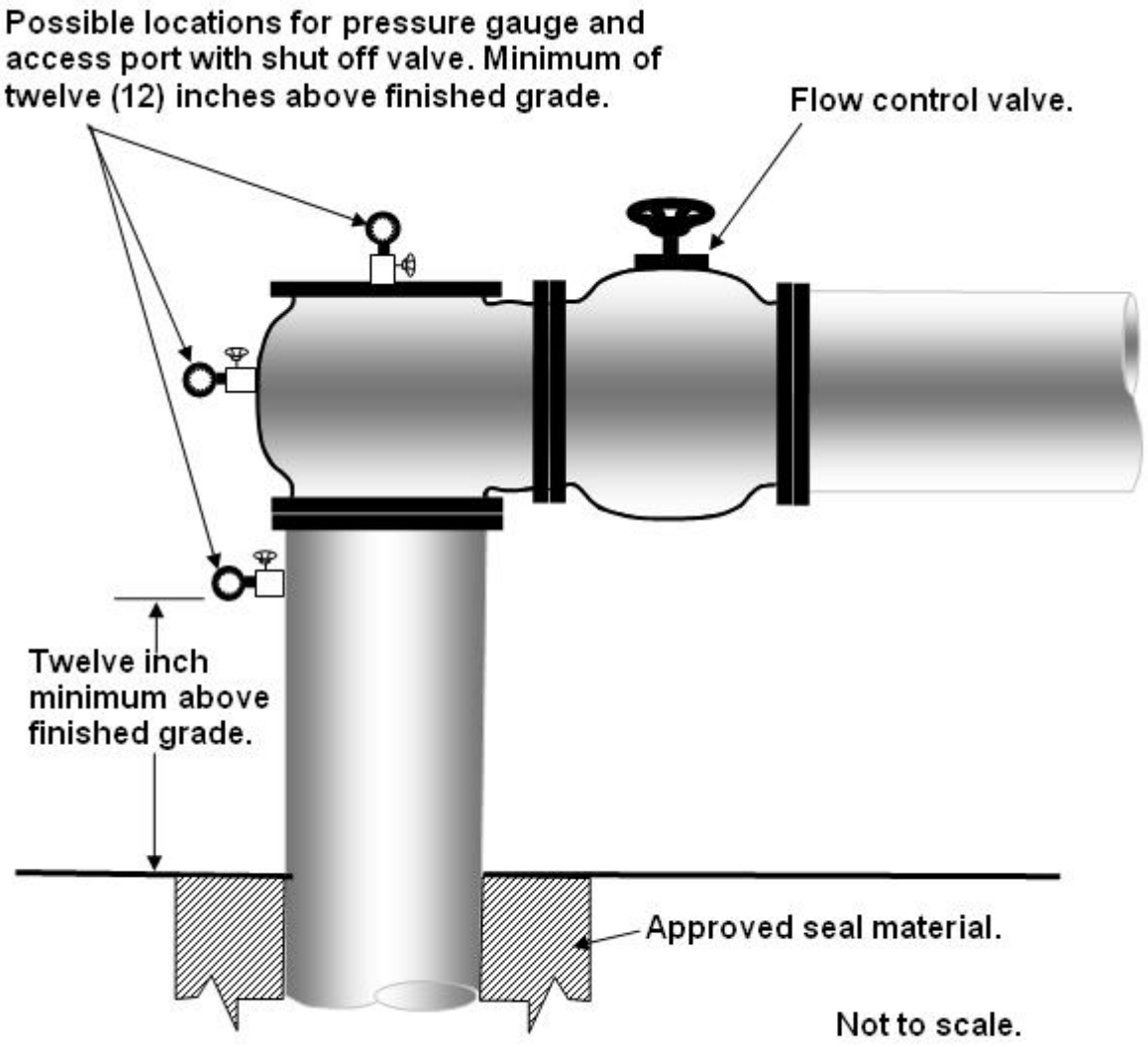

Note. Application and approval of control device is required on any flowing artesian well per Section 42-1603, Idaho Code.

Figure 12. Well Cap and Access Port

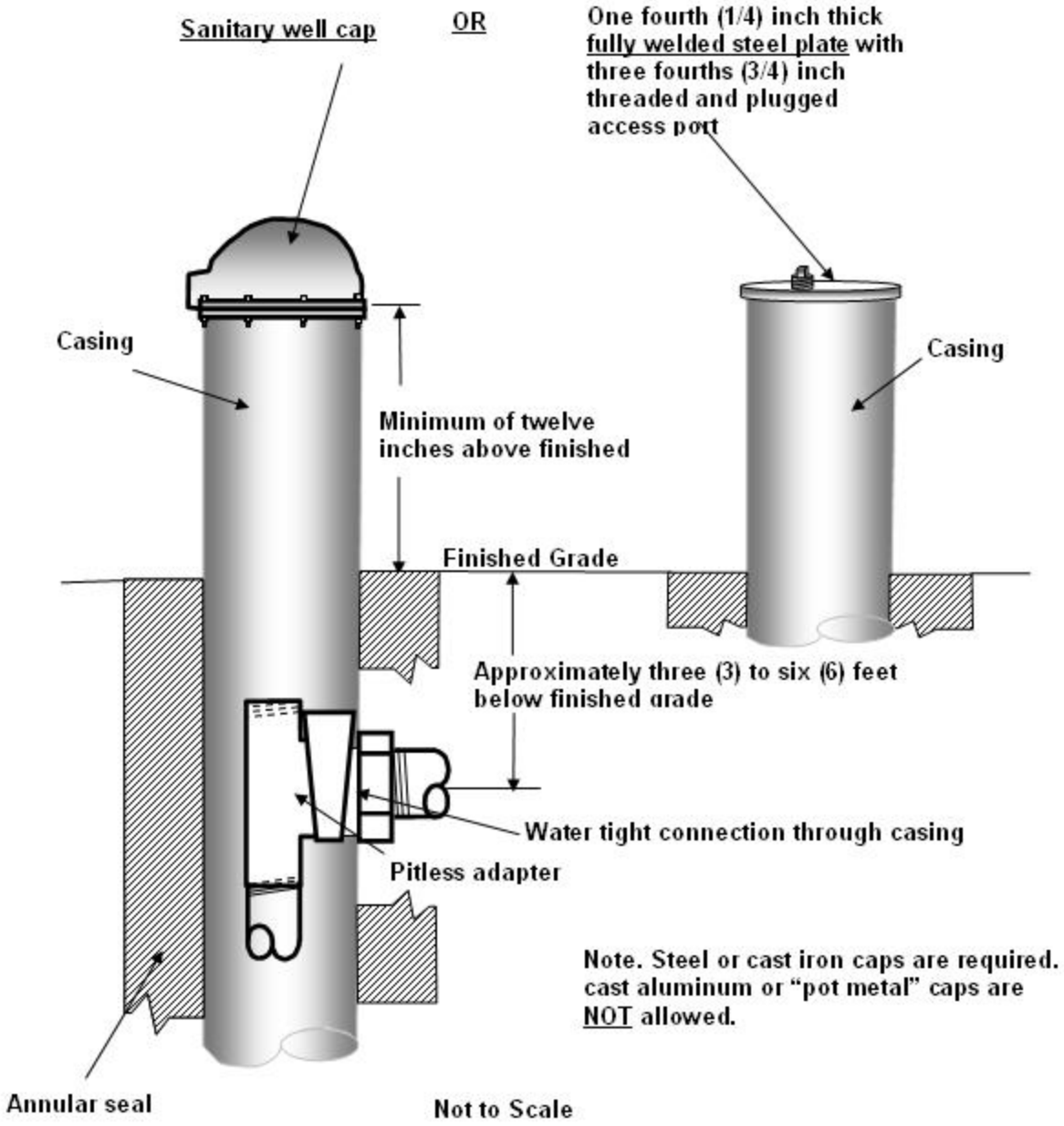

Figure 13. Casing Requirements for Low Temperature Geothermal Wells

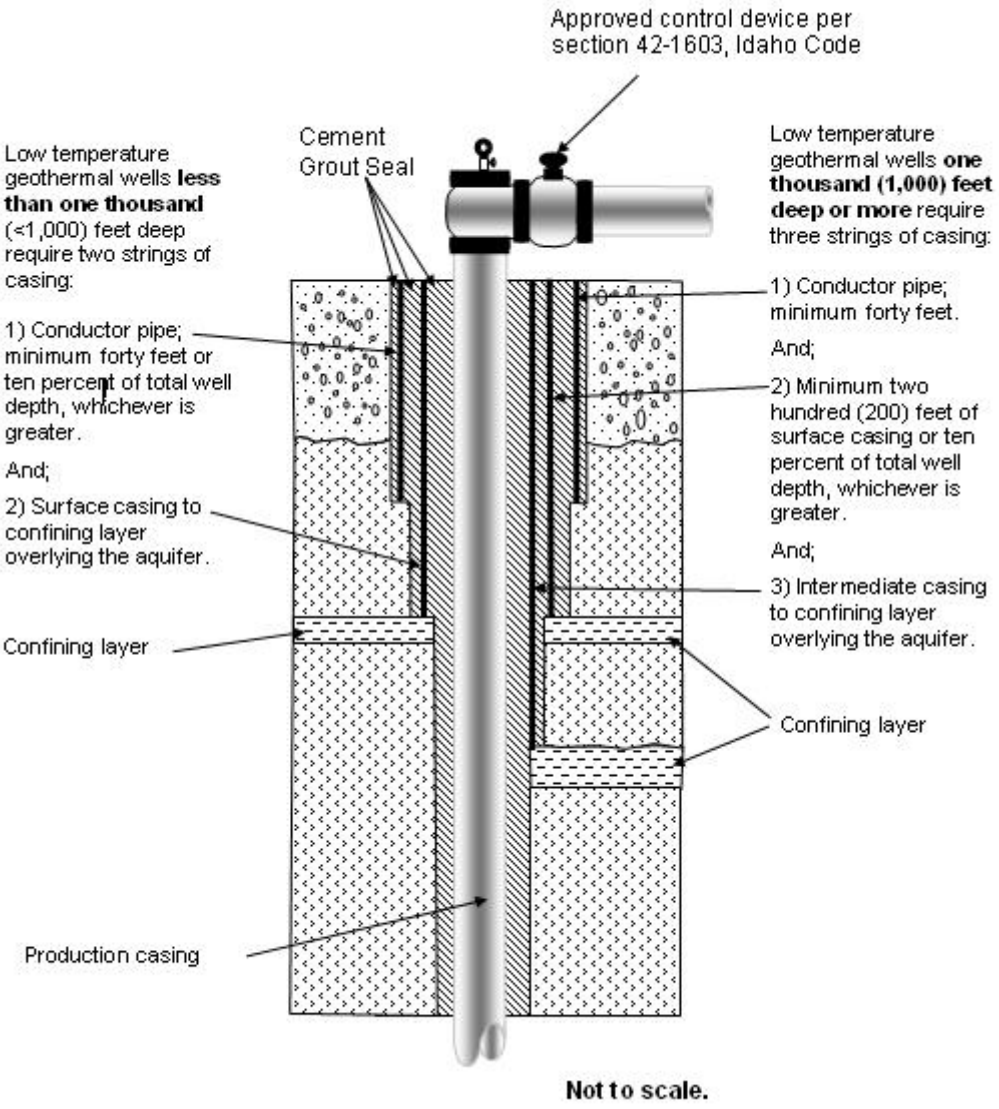

000. LEGAL AUTHORITY (RULE 0).
The Idaho Water Resource Board adopts these rules under the authority provided by Section 42-238, Idaho Code. (4-5-00)

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is "Well Driller Licensing Rules." (4-5-00)

02. Scope. These rules establish the requirements and procedures for obtaining and renewing authorization to drill wells in the state of Idaho. The rules also establish the requirements and procedures for obtaining authorization to operate drilling equipment under the supervision of a licensed driller. The licensing rules are applicable to all individuals and companies drilling or contracting to drill wells. (4-5-00)

002. OTHER AUTHORITIES REMAIN APPLICABLE (RULE 4).
Nothing in these rules limits the director's authority to take alternative or additional actions relating to the licensing of well drillers and permitting of operators as provided by Idaho law. (4-5-00)

003. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
Unless the context otherwise requires, the following definitions govern these rules. (4-5-00)

01. Abandonment. See Decommissioned Well. (4-7-11)

02. Adequate Supervision. Inspection and observation of each drilling operation and the associated drilling site by the licensed driller that has responsible charge during the critical phases of drilling to assure compliance with well construction standards and drilling permit conditions. (4-5-00)

03. Applicant. An individual that submits to the department a complete application for a license or operator's permit or a company that submits a complete application for a license. (4-5-00)

04. Area of Drilling Concern. An area designated by the director in accordance with Section 42-238, Idaho Code, within which special drilling procedures and equipment are needed to prevent waste or contamination of the ground water. (4-5-00)

05. Auxiliary Equipment. Powered equipment, other than the drill rig, used for grouting, installing or advancing casing, welding casings and screens, and other tasks necessary for drilling a well. (4-5-00)

06. Board. The Idaho Water Resource Board. (4-5-00)

07. Bond. A cash or surety bond obtained by a licensed driller or company payable to the director to provide funding for abandonment or repair should the driller fail to comply with well construction standards, and to allow information to be collected concerning the drilling of the well if the driller fails to submit a timely, accurate driller's report. (4-5-00)

08. Bottom Hole Temperature of an Existing or Proposed Well. The temperature of the ground water encountered in the bottom of a well or borehole. (4-7-11)

09. Company. A firm, co-partnership, corporation or association licensed in accordance with these rules to drill or contract to drill wells. (4-5-00)

10. Compliance History. An applicant's record of compliance with the laws and rules of Idaho and other states relating to drilling of wells. The record includes, but is not limited to, the applicant's record of obtaining and complying with drilling permits; filing accurate and complete well driller's reports on time; adhering to well construction standards and other rules relating to drilling; and the number, nature and resolution of violations of laws, rules and conditions on licenses, operator's permits and drilling permits. (4-5-00)

11. Continuing Education. Education or training pertinent to the drilling industry and the construction, modification or decommissioning of wells. (4-7-11)

12. Continuing Education Committee (CEC). A committee whose purpose is to review and approve activities related to continuing education credit. (4-7-11)

13. Credit Unit. The unit of measurement for continuing education requirements. (4-5-00)

14. Critical Phases of Drilling. Drilling tasks that require the added experience of a licensed driller to assure completion of the well in accordance with the well construction standards and conditions of drilling permits. These tasks include, but are not limited to, placement of required casings and seals, testing of casings and seals, and resolving problems such as casing or joint failures, heaving formations, lost circulation, and encountering high pressure or high temperature water. (4-5-00)

15. Decommissioned (Abandoned) Well. Any well which has been permanently removed from service and filled or plugged in accordance with these rules so as to meet the intent of these rules. A properly decommissioned well will not: (4-7-11)

a. Produce or accept fluids; (4-7-11)

b. Serve as a conduit for the movement of contaminants inside or outside the well casing; or (4-7-11)

c. Allow the movement of surface or ground water into unsaturated zones, into another aquifer, or between aquifers. (4-7-11)

16. Department. The Idaho Department of Water Resources. (4-5-00)

17. Director. The director of the Idaho Department of Water Resources or his duly authorized representative. (4-5-00)

18. Drilling or Well Drilling. The act of constructing a new well, or modifying, changing the construction, or decommissioning an existing well. (4-7-11)

19. Drilling Permit. Authorization by the department to drill a well as provided in Section 42-235, Idaho Code. (4-5-00)

20. Drilling Site. The location of the drill rig and immediate area where the drill rig and auxiliary equipment are set up to drill a well. (4-5-00)

21. Global Positioning System (GPS). A global navigational receiver unit and satellite system used to triangulate a geographic position. (4-7-11)

22. License. A certificate issued by the director to an individual or a company upon meeting the requirements of Section 42-238, Idaho Code, and these rules authorizing the drilling of wells permitted in accordance with Section 42-235, Idaho Code. (4-5-00)

23. Licensed Driller. An individual having a license to drill wells and is authorized and required to supervise operators in the state of Idaho. (4-7-11)

24. Modify. To deepen a well, increase or decrease the diameter of the casing or the well bore, install a liner, place a screen, perforate existing casing or liners, alter the seal between the casing and the well bore, or alter the well to not meet well construction standards. (4-5-00)

25. Operator. An individual holding either a class I or class II operator's permit issued in accordance with these rules. (4-5-00)

26. Operator's Permit. A certificate issued by the director upon meeting the requirements of Section 42-238, Idaho Code, and these rules allowing the holder to operate a drill rig as provided in these rules. (4-5-00)

27. Principal Driller. A licensed driller in responsible charge of a company's drilling activities, which

has been designated the principal driller by the company with the department. (4-5-00)

28. **Responsible Charge**. The responsibility for direction and control of a drilling operation to meet the requirements of these rules including, but not limited to, the following activities: (4-5-00)

a. Contracting to drill a well; (4-5-00)

b. Coordinate with property owner to locate a well to comply with applicable well construction standards; (4-5-00)

c. Setting up drilling equipment at the drilling site; (4-5-00)

d. Drilling operations; and (4-5-00)

e. Testing the adequacy of casing and seal; (4-5-00)

f. Properly completing the well. (4-7-11)

29. **Start Card**. An expedited drilling permit process for the construction of cold water Single Family residential wells. (4-7-11)

30. **Well**. An artificial excavation or opening in the ground more than eighteen (18) feet in vertical depth below land surface by which ground water of any temperature is sought or obtained. The depth of a well is determined by measuring the maximum vertical distance between the land surface and the deepest portion of the well. Any water encountered in the well is considered to be obtained for the purpose of these rules. Well also means any waste disposal and injection well as defined by Section 42-3902, Idaho Code. (4-5-00)

31. **Well Construction Standards**. IDAPA 37.03.09, "Well Construction Standards Rules," adopted by the board. (4-5-00)

32. **Well Driller's Report or Driller's Report**. A report required by Section 42-238, Idaho Code, describing drilling of the well and supplying information required on forms provided by the department. (4-5-00)

33. **Well Log**. A diary maintained at the drilling site consistent with Section 42-238, Idaho Code. (4-7-11)

34. **Well Rig or Drill Rig**. Any power-driven percussion, rotary, boring, digging, jetting, or augering machine used in the drilling of a well. (4-5-00)

011. -- 019. (RESERVED)

020. APPLICABILITY OF LICENSING REQUIREMENTS (RULE 20).

01. **Licensing Requirements**. A well shall only be drilled by or under the responsible charge of a licensed driller except that a property owner, who is not licensed, can construct a well on his property for his own use without the aid of power-driven mechanical equipment. (4-5-00)

02. **Driller to Have Responsible Charge of Other Workers**. A licensed driller shall have responsible charge of all others engaged in a well drilling operation. (4-5-00)

03. **Operators to Have Permits**. An individual assisting a licensed driller whose duties include operation of a drill rig or auxiliary equipment shall possess an operator's permit as provided in these rules. If the driller is not present at the well site at all times that drilling operations are being conducted, one or more of those operating the equipment in the driller's absence shall have a class II operator's permit. The driller shall provide adequate supervision of class II operators. An individual having a class I operator permit shall be supervised by a licensed driller or a class II operator at all times when operating the drill rig or auxiliary equipment. (4-5-00)

04. Laborer Exempted. An individual whose duties at the drilling site do not include operation of the drill rig or auxiliary equipment at any time is not required to have either a driller's license or an operator's permit. (4-5-00)

05. Company to be Licensed. No company shall drill or contract to drill a well or wells unless the company has been issued a license and has employed a principal driller as described in accordance with these rules. (4-5-00)

06. Drillers to Decommission (Abandon) Wells. Only licensed drillers may decommission (abandon) wells, except that wells may be decommissioned (abandoned) by the owner after receiving a specific waiver from the Director. (4-7-11)

021. CONSTRUCTION AND USE OF HOLES THAT ARE NOT WELLS (RULE 21).

01. When a License Is Not Required. A person drilling a hole that does not meet the definition of a well does not need a driller's license or operator's permit. (4-5-00)

02. Holes Not Defined as Wells. The following list describes the types of holes that are not wells for purposes of these rules: (4-5-00)

a. Holes with total depth less than eighteen (18) feet. (4-5-00)

b. Holes for collecting soil or rock samples, determining geologic properties, or mineral exploration or extraction, including gravel pits. (4-5-00)

c. Holes for oil and gas exploration for which a permit has been issued pursuant to Section 47-320, Idaho Code. (4-5-00)

d. Holes for constructing building foundations or de-watering building or dam foundation excavations. (4-5-00)

e. Holes for the installation of standpipes or piezometers to monitor the saturation of dam embankments or foundations or to measure uplift forces on buildings, dams and other structures. (4-5-00)

03. Converting a Hole Not Constructed as a Well for Use as a Well. A hole that was not constructed as a well by or under the responsible charge of a driller, if subsequently converted to obtain water, to monitor water quantity or quality, or to dispose of water or other fluids, shall be reconstructed by a driller to comply with well construction standards and drilling permit conditions. The owner shall obtain a drilling permit, a water right or other approval if needed, and have the hole inspected and modified by a licensed driller as necessary to meet well construction standards. The driller shall file a driller's report for the well. (4-5-00)

022. -- 029. (RESERVED)

030. OBTAINING A LICENSE FOR AN INDIVIDUAL DRILLER (RULE 30).

01. Application Requirements. An individual desiring a license shall file with the department a completed application on a form provided by the department accompanied by the following: (4-5-00)

a. The application fee required by Section 42-238, Idaho Code. (4-5-00)

b. Written documentation of drilling experience, compliance history, and the names and addresses of three (3) references to confirm the applicant's drilling experience. (4-5-00)

c. A list of all drill rigs used by or under the responsible charge of the applicant providing the make, model, and type. (4-5-00)

d. The names and addresses of all licensed drillers and permitted operators that will work under the

responsible charge of the applicant. (4-5-00)

02. Experience Requirements. (4-5-00)

a. An applicant shall have a minimum of twenty-four (24) months of drilling experience. An applicant will be credited with one (1) month of drilling experience for each one hundred sixty (160) hours of employment as a driller or operator, or the equivalent, as determined by the director. Experience drilling monitoring wells, geothermal wells or other cased wells will be credited as experience by the Director if the equipment and drilling methods are applicable to water well construction. (4-7-11)

b. An applicant for driller's license shall submit evidence to establish that the applicant, as an operator or driller, has successfully constructed a sufficient number of wells within the preceding twenty-four (24) months to demonstrate competency. Evidence of this experience can be demonstrated by the submission of driller's reports bearing the applicant's signature, well reports upon which the driller having responsible charge attests that the applicant drilled the wells or other documentation acceptable to the director. (4-7-11)

c. Twelve (12) of the twenty-four (24) months drilling experience must have occurred within the five (5) year period immediately preceding the filing of the application. (4-7-11)

d. Successful completion of classroom study in geology, well drilling, map reading, and other related subjects may be substituted for up to, but not exceeding, twelve (12) months of drilling experience. The director will determine the number of months of classroom study, up to twelve (12), to be credited as experience. (4-5-00)

03. Examination. An applicant determined by the director to have adequate experience and an acceptable compliance history, as confirmed by references acceptable to the director, is eligible to take a written examination. The examination may include separate sections and shall test the applicant's knowledge of the following: (4-5-00)

a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. (4-5-00)

b. Land description by government lot, quarter-quarter, section, township and range, and the use of portable GPS units. (4-7-11)

c. Geologic material identification including the use of correct terminology in describing the geologic material. (4-5-00)

d. Well construction principles relating to the proper design, construction, development, and abandonment of wells. (4-5-00)

e. The occurrence, nature, and movement of ground water. (4-5-00)

f. The use of various types of drill rigs and auxiliary equipment. (4-5-00)

031. OBTAINING A LICENSE FOR A COMPANY (RULE 31).

01. Application Requirements. A company shall file with the department a complete application for a company license upon a form provided by the department to be accompanied by the following: (4-5-00)

a. The names and addresses of three (3) persons not affiliated with the company, whom the department can contact for information regarding the company's past well drilling operations, if any, and related business activities. (4-7-11)

b. A complete record of the compliance history of the company and the owners and employees of the company. (4-5-00)

c. Designation of a principal driller who shall be a full time employee of the company and shall drill wells only for the company. A licensed driller who renders only occasional, part-time or consulting drilling services to or for a company may not be designated as the principal driller. (4-5-00)

d. The names and addresses of drillers and operators presently employed. (4-5-00)

e. A list of all drill rigs and other related equipment owned or used by the company providing the make, model, and type. (4-5-00)

02. Application Processing. Applications received under this rule will be processed in accordance with Rule 33. (4-5-00)

032. OBTAINING AN OPERATOR'S PERMIT (RULE 32).

01. Application for Class I Operator's Permit. A licensed driller or company proposing to employ a class I operator shall submit a completed application on a form provided by the director. The application shall: (4-5-00)

a. Be accompanied by the fee required by Section 42-238, Idaho Code. (4-5-00)

b. Be signed by the individual seeking the operator's permit and the licensed driller or principal driller of the company proposing to employ the operator. (4-5-00)

02. Application for Class II Operator's Permit. A licensed driller or company proposing to employ an individual who does not currently hold a class II operator's permit shall submit the following: (4-5-00)

a. A completed application on a form provided by the department. (4-5-00)

b. The fee required by Section 42-238, Idaho Code. No fee is required if the applicant is presently permitted as a class I operator, but the expiration date of the permit when converted to a class II operator's permit will remain as originally issued. (4-5-00)

c. Documentation that the operator has successfully constructed a sufficient number of wells, or has constructed wells for a sufficient length of time, or a combination of both to demonstrate competency. (4-5-00)

03. Written Examination. An examination is not required for a class I operator's permit. An otherwise qualified applicant for a class II operator's permit shall obtain a satisfactory score on an examination as provided in Rule 34. The examination may be comprised of separate sections and shall test the applicant's knowledge of the following: (4-5-00)

a. Idaho statutes and rules relating to appropriation and use of ground water, well drilling, construction and use of injection wells and geothermal wells, and well driller licensing under the provisions of Title 42, Idaho Code. (4-5-00)

b. Land description by government lot, quarter-quarter, section, township, and range, and the use of portable GPS units. (4-7-11)

c. Geologic material identification including the use of correct terminology in describing geologic material. (4-5-00)

d. Well drilling principles relating to proper design, construction, development, and abandonment of wells. (4-5-00)

e. The occurrence, nature, and movement of ground water. (4-5-00)

04. Operator Drills Only for Licensed Driller or Company. An operator shall only drill for the licensed driller or company approved by the director. If an operator changes employment to another licensed driller or

company, an application for an operator's permit shall be filed as provided in this rule. (4-7-11)

05. Processing an Application for Operator's Permit. The department will process an application for operator's permit in accordance with Rule 33. (4-5-00)

033. PROCESSING APPLICATION FOR A DRILLER'S LICENSE OR OPERATOR'S PERMIT (RULE 33).

01. Incomplete Application. If an application is incomplete, not properly signed, or does not include the information required by these rules, the department will advise the applicant in writing of the deficiency. If the deficiencies are not satisfied within ninety (90) days of sending the notice of the deficiency, the application will be void. The application fee is not refundable. (4-7-11)

02. Issuance of License. If the director, upon review of the application, determines that an applicant for license is qualified and the driller has subsequently taken and passed an examination, a notice will be sent to the applicant requesting a bond in an amount determined in accordance with Rule 60 be filed with the department. Upon receipt of a satisfactory bond, the director will issue a license to the applicant. (4-5-00)

03. Issuance of Operator's Permits. If the director determines that an applicant is qualified and has passed an examination, if required, the department will mail a notice and operator's permit card to the principal driller on behalf of the applicant. (4-5-00)

04. Driller's License or Operator's Permit Issued With Conditions or Denial of License or Operator's Permit. The Director may issue a license or operator's permit with specific conditions or limitations based on the applicant's experience and compliance history. The Director may refuse to issue or renew a driller's license permanently or for a designated period of time if the driller has previously constructed wells improperly or constructed a well without a valid driller's license. If the Director determines that the applicant is not qualified, the Director will deny the application. Notice of a denied application or a conditioned license or operator's permit will be given to the applicant in accordance with IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (4-7-11)

034. EXAMINATION PROCEDURES (RULE 34).

01. Written Examination. Written examinations will be offered at department offices on the first Monday of each quarter. If the first Monday is a legal holiday, written examination will be offered on the first Tuesday. Re-examination may be taken at a regularly scheduled examination date during a following quarter and shall be scheduled with the department office originally testing the applicant. (4-7-11)

02. Oral Examination. Successful passage of an oral examination may satisfy all or a part of the written testing requirements under the following circumstances: (4-5-00)

a. The applicant requests an oral rather than a written examination and shows cause acceptable to the director why the examination should be oral rather than written. Applicants desiring to take the examination orally shall request that an oral examination be scheduled allowing at least fifteen (15) days to set an examination date. (4-5-00)

b. The director determines that because of the applicant's compliance history, additional testing is needed to determine the applicant's qualifications. (4-5-00)

03. Examination Scoring. The applicant shall pass each section of the examination with a score of seventy percent (70%) or higher. (4-5-00)

04. Assistance Must Be Authorized. The use of written materials, equipment or other individuals to assist an applicant during an examination is prohibited unless specifically authorized by the department. An applicant receiving unauthorized assistance during an examination may be disqualified and the application may be rejected. An application filed by a disqualified applicant will not be processed for a period of up to one (1) year from the time of disqualification. (4-5-00)

035. EXPIRATION AND RENEWAL OF LICENSE (RULE 35).

01. Expiration of Licenses. All licenses expire at the end of the licensing period for which they are issued. The licensing period begins April 1 and ends March 31 of the second year following issuance. (4-7-11)

02. Renewal Application. A license may be renewed by submitting a license renewal application including the following: (4-5-00)

a. A completed application on a form provided by the department. An application to renew a license for an individual licensed driller shall be signed by the individual and an application to renew a license for a company shall be signed by the principal driller. (4-5-00)

b. The renewal fee required by Section 42-238, Idaho Code. (4-5-00)

c. A new bond or continuation certificate for an existing bond covering the licensed driller or company. (4-5-00)

d. If the application is for renewal of a license held by an individual, the application shall include verification that the applicant has obtained the required continuing education credits. (4-5-00)

03. Continuing Education Requirements. Fourteen (14) credit units are required for renewal of a license for an individual for any licensing period beginning on or after April 1, 2011. (4-7-11)

04. Welding Competency. A driller that has been issued a Notice of Violation for welding that does not comply with the well construction standards may be required to obtain a certificate of welding competency from the American Welding Society or similar organization. (4-7-11)

036. EXPIRATION AND RENEWAL OF AN OPERATOR'S PERMIT (RULE 36).

01. Expiration of Operator's Permits. Class I and class II operator's permits shall expire on March 31 of the same year that the license of the licensed driller and company employing the operator expires. (4-5-00)

02. Renewal Application. An operator's permit may be renewed by submitting to the department an application for renewal including the following: (4-5-00)

a. A completed application on a form provided by the department. The operator seeking renewal and the driller under whose responsible charge the operator works shall sign the form. (4-5-00)

b. The renewal fee required by Section 42-238, Idaho Code. (4-5-00)

c. For renewal of a class II operator's permit, verification of the required continuing education credit units. (4-5-00)

03. Continuing Education Required for Renewals. Fourteen (14) credit units are required for renewal of a class II operator's permit for a licensing period beginning on or after April 1, 2011. (4-7-11)

04. Welding Competency. An operator's work that has resulted in a Notice of Violation for welding that does not comply with the Well Construction Standards may be required to obtain a certificate of welding competency from the American Welding Society or similar organization. (4-7-11)

037. PROCESSING APPLICATION TO RENEW LICENSE OR OPERATOR'S PERMIT (RULE 37).

01. Processing Applications for Renewal. Applications for renewal will be processed in the order received by the department. The department shall receive a complete application for renewal no later than March 15 to assure that the license or operator's permit will remain in force without interruption. If the director determines that the application is complete and the applicant is qualified, the license or operator's permit will be renewed for the

period ending on March 31 of the second year after approval of the renewal. (4-5-00)

02. Regulatory Compliance Required for Renewals. A license or operator's permit will not be renewed if the applicant has not submitted all required driller's reports, applications for drilling permits, fees, agreed civil penalties, has not complied with all orders requiring repair or abandonment of improperly constructed wells or is not otherwise in compliance with Sections 42-235 and 42-238, Idaho Code, and the applicable rules. (4-5-00)

03. Compliance History. If the Director determines that the applicant has exhibited an unacceptable compliance history, the Director may deny renewal, refuse renewal for a specified time, or renew with conditions, including but not limited to an increased bond amount. (4-7-11)

04. Renewal of Expired Licenses or Operator's Permits. A license or an operator's permit which has expired or otherwise not been in effect for a period not exceeding three (3) years shall be renewed in accordance with the requirements of Rule 35 or Rule 36 as appropriate. An applicant for renewal shall provide verification of earned credit units required for the entire period since the license or class II operator's permit was last issued. If a license or operator's permit has been expired or otherwise not effective for a period of more than three (3) years, an application for a new license shall be submitted in accordance with Rule 30 for an individual license, Rule 31 for a company or Rule 32 for an operator's permit. The director may waive the examination requirement if the applicant has been previously licensed or permitted in the state of Idaho. (4-5-00)

05. Reuse of Identification Numbers. The identification number assigned to a license by the department will not be reused if the license has been expired or otherwise not in effect for three (3) years or more except, at the director's discretion, the number may be reissued to the original owner. (4-5-00)

06. Condition or Denial of an Application for Renewal. If the Director determines that the applicant has not or cannot fully comply with these rules, a license or operator's permit may be issued with conditions. If the Director determines that the applicant is not qualified, the Director will deny the application. When there are documented violations of well drilling laws and/or rules, including well construction standards, the Director may consult with the Driller's Advisory Committee, created in accordance with Rule 80, prior to making a decision to issue a conditional license or operator's permit or to deny an application based on the applicant's compliance history. Notice of a denied application or a conditioned license will be given as provided in IDAPA 37.01.01, "Rules of Procedure of the Idaho Department of Water Resources." (4-7-11)

038. -- 049. (RESERVED)

050. DUTIES AND RESPONSIBILITIES OF DRILLERS, COMPANIES AND OPERATORS (RULE 50).

01. Licensed Drillers and Principal Drillers. All licensed drillers and principal drillers shall:(4-5-00)

a. Allow drilling only by those authorized by and under the supervision required by these rules and according to any conditions of the license or permit. (4-5-00)

b. Complete each well in compliance with IDAPA 37.03.09, "Well Construction Standards Rules," and drilling permit conditions. (4-7-11)

c. Have a valid cash or surety bond in effect, as defined in Rule 60. (4-5-00)

d. Have the license number displayed in a conspicuous place on the drill rig using a metal identification plate provided by the department or other permanent marking approved by the director. The displayed license number shall represent the company or individual driller license under which the well is being drilled. One plate will be issued upon initial licensure with replacement and additional plates available for a fee. (4-5-00)

e. Keep current the department's list of operators and drillers employed by the licensed driller or company, including current addresses for the company, drillers, and operators. The licensed driller or principal driller shall be held responsible for all drilling activity of a driller or operator under their supervision until such notification has been submitted in writing to the department that the driller or operator is no longer employed by the licensed

driller or company. (4-5-00)

f. Have at the drilling site the driller's license and drilling permit or other written authorization from the director to drill the well. (4-5-00)

g. Only drill wells in contaminated areas identified by the department or in areas of drilling concern so designated by the department with specific written authorization of the director. Verbal authorizations to drill and pre-approved drilling permits (start cards) do not authorize drilling in these areas. (4-5-00)

h. Only drill a public drinking water supply well, as defined in IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," low temperature geothermal resource or geothermal resource well with specific written authorization from the director. Verbal authorizations and start card permits (start cards) are not authorized for these uses. (4-7-11)

i. Monitor and record bottom-hole temperature in areas where low temperature geothermal resources are known or suspected or when the well is being constructed pursuant to IDAPA 37.03.09, Rule 30, as a low temperature geothermal resource well. Bottom-hole temperature of every well being constructed pursuant to IDAPA 37.03.09, Rule 30, must be measured, recorded, and reported on the well drillers report. (4-7-11)

j. Maintain a daily well log at the drilling site acceptable to the department and as required by Section 42-238(11), Idaho Code. Pertinent data required to be recorded on the daily log must include information sufficient to complete a well drillers report acceptable to the Director. The driller shall retain the well log for at least one (1) year after the driller's report is submitted to the department. (4-7-11)

k. Submit driller's reports, acceptable to the Director, on forms approved by the department within thirty (30) days following removal of the drill rig from the drilling site at completion of the well. Driller's reports shall be prepared from information recorded on the daily well log. Driller's reports returned to the driller due to deficiencies must be corrected and returned to the department within thirty (30) days of mailing by the department. (4-7-11)

l. Attach a well tag supplied by the department to every well drilled for which a drilling permit is required. The tag shall be affixed permanently to the casing, or other permanent object attached to the well, by a method approved by the Director prior to removing the well rig from the drilling site. (4-5-00)

m. Cause all drilling activity under the supervision of the driller to cease when the driller's license expires, becomes invalid, or is suspended or revoked. (4-5-00)

02. Companies. Companies shall: (4-5-00)

a. Have a principal driller designated with the department at all times. (4-5-00)

b. Notify the department within ten (10) days of the principal driller leaving employment with the company. The company's license shall immediately become void and of no effect when the principal driller leaves employment with the company and shall remain so until the department has been notified in writing that a new principal driller has been employed and designated by the company. Failure to designate a principal driller within ninety (90) days of the departure of the designated principal driller is cause for the director to take action to cancel the company's license. (4-5-00)

c. Maintain a bond in force at all time as required in Rule 60. (4-5-00)

03. Operators. Operators shall: (4-5-00)

a. Have in their possession a valid operator's permit while drilling wells. (4-5-00)

b. Only drill wells as authorized by the operator's permit. (4-5-00)

c. Maintain a complete and accurate well log at the drilling site. (4-5-00)

d. Co-sign with the driller a driller's report upon completion of the well. (4-5-00)

051. -- 059. (RESERVED)

060. BONDING (RULE 60).

01. Bonding Requirements. Each licensed driller or company shall submit a surety bond or cash bond in an amount determined by the director, within the limits of 42-238, Idaho Code, for each driller employed by the company, payable to the director for the licensing period. (4-5-00)

a. A company shall have a bond, which covers the drilling activities of each driller and operator employed by the company. If the licensed driller drills wells as an individual and not for a company, a separate bond must be filed with the director. (4-5-00)

b. Drillers proposing to drill wells in an area of drilling concern, monitoring wells, public water supply wells, or wells to obtain or likely to encounter water with a bottom hole temperature greater than eighty-five (85) degrees Fahrenheit, shall submit an upgraded bond, in an amount determined by the director, at the time the drilling permit application is processed. Drillers anticipating drilling such wells may, instead, submit adequate bonding at the time of driller license application or renewal. (4-5-00)

c. The amount of the bond, within the limits prescribed in Section 42-238, Idaho Code, will be determined by the director based on the applicant's compliance history, the size and depth of wells the applicant proposes to construct and is authorized to drill, the complexity of the wells, the resource to be recovered, the area of operation of the applicant, the number of drillers and operators employed by a company, and other relevant factors. (4-5-00)

d. All bonds and continuation certificates must be on forms provided or approved by the department. (4-5-00)

02. Cash Bonds. (4-5-00)

a. Acceptable Cash Bonds. Cash bonds shall be in a separate account readily accessible to the director for use as provided in these rules. The director will review cash bond proposals made by an applicant. Cash bonds shall be retained in financial institutions within the state of Idaho unless waived by the director. (4-5-00)

b. Retention. The director will hold cash bonds for two (2) years from the date the driller requests that the bond be released unless replaced by another bond or the director determines that all wells drilled by the driller satisfy well construction standards. The release of a cash bond must be requested in writing. (4-5-00)

03. License Void Without Bond. If the issuing company cancels a bond, the bond expires or otherwise becomes non-effective during the term of a license, the license shall immediately become void and of no further effect until an adequate replacement bond is received by the department. (4-5-00)

061. -- 069. (RESERVED)

070. CONTINUING EDUCATION (RULE 70).

01. Requirements. Every licensed driller or permitted operator must have earned at the time of renewal the applicable number of credit units required by these rules. The credit units shall have been obtained during the licensing period preceding the application for renewal. (4-7-11)

02. Earning Credit Units. Credit units may be earned for time spent in attendance at workshops, seminars, short courses, and other educational opportunities devoted to drilling or related subjects acceptable to the Director and approved by the continuing education committee (CEC) and in compliance with the CEC guidelines. These may include completion of college courses, correspondence courses, videotaped courses, and other endeavors such as authoring appropriate publications. (4-7-11)

03. Documentation. Documentation to support credit units claimed is the responsibility of the licensed driller and permitted operator. Records required include but are not limited to: (4-7-11)

a. A log showing the type of activity claimed, sponsoring organization, duration, instructor's name, and credit units. (4-5-00)

b. Attendance verification records in the form of completion certificates or other official documents providing evidence of attendance and completion. (4-7-11)

04. Submittal and Maintenance of Records. Copies of continuing education records for the preceding license period shall be submitted with applications to renew licenses or permits. These records shall be maintained for a period of three (3) years and shall be available for review by the department at the request of the director. (4-5-00)

05. Insufficient Credit Units. If at the time of renewal, the applicant is unable to provide verification of the required credit units, the director will deny renewal of the driller's license or operator's permit, except as otherwise provided in the following: (4-5-00)

a. The director may withhold action on an application for renewal for a period not to exceed ninety (90) days to allow the applicant to provide verification of the required credit units. The applicant is not authorized to drill until the verification is provided and the renewal is issued. (4-5-00)

b. The director may exempt an applicant from all or part of the continuing education requirements if the applicant served on active duty in the armed forces of the United States for one hundred twenty (120) consecutive days or more during the licensing period prior to filing the application for renewal; or the applicant suffered physical disability, serious illness, or other extenuating circumstances that prevented the applicant from earning the required units. (4-5-00)

c. A licensed driller or operator who has chosen to allow his license or permit to expire or otherwise become of no effect shall be exempt from continuing education requirements unless an application for renewal is filed less than three (3) years after the license or permit expired or otherwise became of no effect. (4-5-00)

06. Out-of-State Residents. The continuing education requirements for a non-resident applicant for a license or operator's permit shall be the same as for resident applicants. (4-5-00)

07. Responsibility for Education Development and Implementation. The Idaho Ground Water Association (IGWA) is delegated responsibility to develop and implement a program for continuing education for review and approval by the director. (4-5-00)

071. CONTINUING EDUCATION COMMITTEE CONTINGENCY PLAN (RULE 71).
Should the memorandum of understanding (MOU) and/or the contract between the department and the IGWA be breached, revoked, or not renewed, the CEC shall be organized and administered by the department. (4-7-11)

072. -- 079. (RESERVED)

080. DRILLER'S ADVISORY COMMITTEE (RULE 80).

01. Selection and Duties. The Director may appoint a driller's advisory committee from the list of drillers holding valid licenses. The Director will solicit appointment recommendations from the IGWA and other licensed drillers. The Director will determine the term of appointment for members of the committee. The committee shall provide recommendations and suggestions concerning revision of these rules, the minimum standards for well construction, significant violations and other matters regarding well drilling. The committee members shall serve on a voluntary basis without compensation. The department will hold meetings at the discretion of the Director. (4-7-11)

02. Reimbursement. Travel costs shall be paid to members of the advisory committee for travel and per diem and for costs associated with attendance of advisory committee meetings held by the department.

Reimbursement shall be based on existing department policy covering travel and per diem expenses. (4-5-00)

081. -- 089. (RESERVED)

090. ENFORCEMENT (RULE 90).

01. Violations. Violations of these rules or Sections 42-235 or 42-238, Idaho Code, will be enforced as provided in Sections 42-238 and 42-1701B, Idaho Code. (4-5-00)

02. Enforcement Policy. An administrative policy providing guidelines for enforcement shall be published and maintained by department staff. A copy of the enforcement guidelines is available upon request at no charge. (4-5-00)

091. -- 999. (RESERVED)

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

DOCKET NO. 38-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section(s) 67-5709, 67-1604, 67-9205(11), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 38, rules of the Idaho Department of Administration:

IDAPA 38
- 38.04.06, *Rules Governing Use of the Exterior of State Property in the Capitol Mall and other State Facilities*
- 38.04.07, *Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities*
- 38.04.08, *Rules Governing Use of Idaho State Capitol Exterior*
- 38.04.09, *Rules Governing Use of the Chinden Office Complex*
- 38.05.01, *Rules of the Division of Purchasing*

This pending rule vacates the following proposed rule previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA38, rules of the Idaho Department of Administration:

- ***(VACATED)*** *38.05.02, Rules Governing Contested Case Hearing on Bid Appeals at the Division of Purchasing*

The June 19 submission included two separate chapters, 38.05.01 and 38.05.02 that have been condensed into a single chapter to eliminate redundant definitions and eliminate definitions separately included in statute. Deleting redundant definitions enhances usability and eliminates potential conflict between code and between chapters.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 6203 – 6224**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Keith Reynolds at (208) 332-1812.

Dated this 10th day of September, 2019.

Keith Reynolds, Deputy Director
Department of Administration
650 West state Street, Room 100
P.O. Box 83720
Boise, ID 83720-0004
Phone: 208-332-1812
Fax: 208-334-2307

38.04.06 – RULES GOVERNING USE OF THE EXTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

000. LEGAL AUTHORITY.
Section 67-5709, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing the state properties in the Capitol Mall and other state facilities. (3-27-13)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 38.04.06, "Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities." (3-27-13)

02. Scope. These rules contain the provisions for use of the exterior of the Capitol Mall Office Properties, the Capitol Annex, the Parking Facilities, the Other State Properties, and the Multi-agency Facilities. Rules governing the interior of the Capitol Office Mall Properties, the Other State Properties, and the Multi-agency Facilities are codified under IDAPA 38.04.07, "Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities." Rules governing the use of the exterior of the Capitol are codified under IDAPA 38.04.08, "Rules Governing Use of Idaho State Capitol Exterior." Rules governing parking are codified under IDAPA 38.04.04, "Capitol Mall Parking Rules." (3-27-13)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Camping. Any activity prohibited under Section 67-1613, Idaho Code. (3-27-13)

02. Capitol Annex. The grounds, exterior of buildings, exterior of improvements, and real property located at 514 West Jefferson Street, Boise, Idaho and occupying block 65 as shown on the Boise City original townsite plat filed in the Ada County Recorder's office in Book 1 on page 1. (3-27-13)

03. Capitol Mall Office Properties. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Office Properties do not include the Idaho State Capitol or its grounds or the Capitol Mall Annex. (3-27-13)

04. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (3-27-13)

05. Department. The Department of Administration. (3-27-13)

06. Director. The Director of the Department of Administration or his designee. (3-27-13)

07. Multi-Agency Facilities. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 102 of these rules. (3-27-13)

08. Other State Properties. The grounds, exterior of buildings, exterior of improvements, and real property set forth in Section 101 of these rules. (3-27-13)

09. Parking Facilities. The facilities, exterior of buildings, exterior of improvements, and real property set forth in Section 67-5709(2)(b), Idaho Code. (3-27-13)

10. Private Event or Private Exhibit. Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (3-27-13)

11. Public Use. Use that is not: (3-18-14)

a. A State Event or Exhibit; (3-18-14)

b. Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; or (3-18-14)

c. State Maintenance and Improvements. (3-18-14)

12. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (3-27-13)

13. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (3-27-13)

14. State Facilities. The Capitol Mall Office Properties, the Capitol Annex, the Multi-agency Facilities, the Parking Facilities and the Other State Properties. Use of the phrase "at the State Facilities" includes the exterior of buildings, exterior of improvements and the grounds and real property comprising the State Facilities. (3-27-13)

15. State Maintenance and Improvements. Maintenance or improvement of the State Facilities by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (3-27-13)

011. -- 100. (RESERVED)

101. OTHER STATE PROPERTIES.
These rules apply to the following Other State Properties pursuant to the request of the state of Idaho public entity owning or controlling the property: (3-27-13)

01. Idaho State Historical Society Properties. (3-27-13)

a. The following properties owned or operated by the Idaho State Historical Society are Other Properties under these rules: (3-27-13)

i. Idaho State Historical Museum, located at 610 North Julia Davis Drive, Boise, Idaho. (3-27-13)

ii. Old U.S. Assay Office, located at 210 Main Street, Boise, Idaho. (3-27-13)

iii. Old Penitentiary site located in Boise, Idaho and defined in Section 58-337, Idaho Code. (3-27-13)

iv. Idaho History Center, located at 2205 Old Penitentiary Road, Boise, Idaho. (3-27-13)

v. Franklin Historic Properties, located in Franklin, Idaho. The Franklin Historic Properties include the Franklin Co-operative Mercantile Institution Building, the Hatch House, the Doney House, and the Relic Hall. (3-27-13)

vi. Pierce Courthouse, located in Pierce, Idaho. (3-27-13)

vii. Rock Creek Station and Stricker Homesite, located at 3715 Stricker Cabin Road, Hansen, Idaho. (3-27-13)

b. The following sections of these rules apply to the Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules only as modified by this Paragraph 101.01.b.: (3-27-13)

i. Subsection 010.06. "Director" means the Executive Director of the Idaho State Historical Society when these rules are applied to the Idaho State Historical Society Properties. (3-27-13)

ii. Subsection 200.01. "Authorized Uses by the Public" applies except that the Director may authorize Private Events or Exhibits and the exclusion of members of the public from attending Private Events and Exhibits. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public

from a Private Event or Exhibit. (3-27-13)

iii. Section 302. "Maintenance and Improvements" applies as if the Idaho State Historical Properties were Capitol Mall Office Properties unless otherwise designated at the property, or posted on the Idaho State Historical Society website. (3-18-14)

iv. Subsection 305.02. "Domestic Animals" applies unless a sign at the property specifies that domestic animals are not permitted. (3-27-13)

c. The Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules may be licensed or leased and such license or lease may vary the provisions of these rules applicable to use of the property under this chapter, including but not limited to the following: commercial use; Public Use; Private Events or Exhibits; consumption and distribution of alcohol; affixing of materials to the Idaho State Historical Society Properties; use of sound amplification; fireworks displays; and, use of utilities. (3-18-14)

102. MULTI-AGENCY FACILITIES.
These rules apply to the following Multi-agency Facilities managed and administered by the Department. (3-27-13)

01. Lewiston State Office Building. Lewiston State Office Building, 1118 F Street, Lewiston, Idaho 83501. (3-27-13)

02. Idaho Falls State Office Building. Idaho Falls State Office Building, 150 Shoup Avenue, Idaho Falls, Idaho 83401. (3-27-13)

103. -- 199. (RESERVED)

200. USE OF STATE FACILITIES.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Facilities are available for Public Use. (3-18-14)

02. Prohibited Uses. The following uses are prohibited at the State Facilities: (3-27-13)

a. Commercial Activity. The State Facilities shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service at the State Facilities. The following are not commercial activity prohibited by this subsection: (3-27-13)

i. Meetings or conferences for public employees or their relatives describing employee benefits and approved by a state of Idaho agency. (3-27-13)

ii. Concessions authorized by law. (3-27-13)

iii. Vaccinations may be provided in exchange for a fee without the prior written permission of the Director where approved by a state of Idaho agency, board, commission or elected official. (3-27-13)

b. Camping. (3-27-13)

c. Private Events and Exhibits. (3-27-13)

03. Priority of Uses. State Maintenance and Improvements shall have priority over all other use of the State Facilities. (3-18-14)

201. (RESERVED)

202. EQUIPMENT AND SUPPLIES.
Except as provided in these rules, the Department will not provide equipment or supplies for use of the State Facilities. (3-27-13)

203. ESTABLISHMENT OF PERIMETERS.
Security Personnel and law enforcement may establish perimeters separating participants in Public Use of the State Facilities or State Events and Exhibits. Participants in and observers of any Public Use or State Events and Exhibits shall observe perimeters set pursuant to this section. (3-18-14)

204. AREA CLOSURES.
The Director may direct that any portion of the State Facilities be closed for Public Use upon a finding that the closed portion of the State Facilities has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Facilities closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Facilities. Circumstances presenting an imminent danger of damage to the State Facilities include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. (3-18-14)

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.
The restrictions and limitations on use of the State Facilities set forth in Sections 301 through 399 of these rules shall apply to all Public Use of the State Facilities. (3-18-14)

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference with Primary Use of Facility or Real Property. Public Use of the State Facilities shall not interfere with the primary use of the facility or real property adjoining the facility. The primary uses of the State Facilities include, but are not limited to, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the affected facility or the real property adjoining the facility. (3-18-14)

02. Interference with Access. Public Use of the State Facilities shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Facilities. (3-18-14)

302. MAINTENANCE AND IMPROVEMENTS.
Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the website address set forth in Section 005 of these rules. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. (3-18-14)

303. MOTORIZED VEHICLES.
Motorized vehicles not owned or operated by the state of Idaho or law enforcement must remain on designated roadways and parking areas. Parking of motorized vehicles shall be governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Wheelchairs, motorized scooters, and other equipment providing individual mobility to the disabled are not motorized vehicles for the purposes of this section. (3-27-13)

304. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.
Bicycles, skates, skateboards, and scooters may not be used at the State Facilities. Users of all other non-motorized transportation must remain on designated pathways during use. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising a State Facility, users must store non-motorized transportation in a designated storage area on the exterior of a State Facility. Wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. (3-27-13)

305. ANIMALS.

The following shall apply to animals at the State Facilities: (3-27-13)

01. Wildlife. Unless authorized by the Director no person shall: (3-27-13)

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot, or throw any object at a wild animal at the State Facilities. (3-27-13)

b. No person shall feed, give, or offer food or any noxious substance to a wild animal at the State Facilities. (3-27-13)

02. Domestic Animals. (3-27-13)

a. Domestic animals are not allowed at the State Facilities unless leashed and under the control of the person bringing the animal to the State Facility. (3-27-13)

b. The person bringing the animal to the State Facilities shall have in his possession the equipment necessary to remove the animal's fecal matter and shall immediately remove all fecal matter deposited by the animal. (3-27-13)

306. LANDSCAPING.
Unless authorized by the Director, no person shall: (3-27-13)

01. Plants. Damage, cut, carve, transplant or remove any plant, including but not limited to trees, at the State Facilities. (3-27-13)

02. Grass. Dig in or otherwise damage grass areas at the State Facilities. (3-27-13)

03. Irrigation Equipment. Interfere with, damage or remove irrigation equipment at the State Facilities. (3-27-13)

04. Landscaping Materials. Move or alter landscaping materials at the State Facilities including, but not limited to, rock, edging materials, and bark or mulch. (3-27-13)

05. Climbing. Climb or scale buildings, memorials, statues, trees, fences, or improvements at the State Facilities. (3-27-13)

307. FOOD AND BEVERAGES.
Consumption of food and beverages at the State Facilities is subject to the following: (3-27-13)

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the State Facilities. (3-27-13)

02. Alcohol. Alcohol may not be consumed or distributed at the State Facilities. (3-27-13)

308. SMOKING.
All persons shall observe the smoke free entrance notices and shall smoke only in designated exterior areas of the State Facilities. (3-27-13)

309. FIRES, CANDLES, AND FLAMES.
No fires, candles, or other sources of open flame are permitted at the State Facilities. (3-27-13)

310. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (3-27-13)

02. Railings and Stairways. No items may be placed on railings or stairways and no persons shall sit or stand on railings or stairways. (3-27-13)

03. Tossing or Dropping Items. No items may be tossed or dropped over railings or from one level of a facility to another level or to the ground. (3-27-13)

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the State Facilities, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. (3-27-13)

05. Attaching, Affixing, Leaning, or Propping Materials. Posters, placards, banners, signs, and displays, including any printed materials, shall not be affixed on any exterior surface of the State Facilities not designed for that purpose or on any permanent Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and displays must be free-standing or supported by individuals. No items may be leaned or propped against any exterior surface of the State Facilities or embedded into the ground, including, but not limited to, placement of a stake, post or rod into the ground to support materials. (3-27-13)

06. Materials Causing Damage to Exterior Surface. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface at the State Facilities or any systems or utilities of the State Facilities including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. (3-27-13)

07. Free Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the State Facilities that such material is not discarded outside of designated trash receptacles. (3-27-13)

08. Surface Markings. Users shall not use any material to mark on any surface of the State Facilities including chalk, paint, pens, ink, or dye. (3-27-13)

311. ITEMS SUBJECT TO SEARCH.

To enhance security and public safety, Security Personnel or law enforcement may inspect: (3-27-13)

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. (3-27-13)

02. Items. Items brought to the State Facilities, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property at the State Facilities. (3-27-13)

312. PROHIBITED ITEMS.

The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the State Facilities: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or law enforcement may direct that any person at the State Facilities immediately remove from the State Facilities any club, bat, or other item that can be used to injure, damage, or harm persons or property. (3-27-13)

313. RESERVED

314. UTILITY SERVICE.

The public may not use the utility services of the State Facilities other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Facilities or the equipment or apparatus using utility service fails to comply with applicable rules or codes. (3-18-14)

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, Security Personnel and state

employees or officials may direct all persons off of the State Facilities and delay or postpone any activity until the emergency or threat is abated. (3-18-14)

316. COMPLIANCE WITH LAW.
All use of the State Facilities shall comply with applicable law including, but not limited to, fire and safety codes. (3-27-13)

317. HEALTH, SAFETY, AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the State Facilities in reasonably clean condition after use, including depositing all trash in designated receptacles. (3-27-13)

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the use. (3-18-14)

03. Public Health. No person shall excrete human waste at the State Facilities except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. (3-27-13)

04. Fireworks. No person shall possess or use fireworks at the State Facilities. (3-27-13)

318. -- 399. (RESERVED)

400. LIABILITY AND INDEMNIFICATION.

01. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. (3-27-13)

02. No Endorsement. Action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the State Facilities. (3-18-14)

401. -- 999. (RESERVED)

38.04.07 – RULES GOVERNING USE OF THE INTERIOR OF STATE PROPERTY IN THE CAPITOL MALL AND OTHER STATE FACILITIES

000. LEGAL AUTHORITY.
Section 67-5709, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing the State Properties in the Capitol Mall and other state facilities. (4-4-13)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 38.04.07, "Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities." (4-4-13)

02. Scope. These rules contain the provisions for use of the interior of the Capitol Mall Office Properties, the Parking Facilities, the Other State Properties, and the Multi-agency Facilities. The interiors of such facilities occupied by a tenant under lease may be subject to additional requirements imposed by the tenant. Rules governing the exterior of the Capitol Mall Properties, the Other State Properties, and the Multi-agency Facilities are codified under IDAPA 38.04.06, "Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities." Rules governing the use of the exterior of the Idaho State Capitol are codified under IDAPA 38.04.08, "Rules Governing Use of Idaho State Capitol Exterior." Rules governing parking are codified under IDAPA 38.04.04, "Capitol Mall Parking Rules." (3-25-16)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Camping. Any activity prohibited under Section 67-1613, Idaho Code. (4-4-13)

02. Capitol Annex. The interior of improvements located at 514 West Jefferson Street, Boise, Idaho. (4-4-13)

03. Capitol Mall Office Properties. The interior of improvements set forth in Section 67-5709(2)(a) and (b), Idaho Code. The Capitol Mall Office Properties do not include the Idaho State Capitol or its grounds. (3-25-16)

04. Common Space. The portion of the Interior State Facility that is not Tenant Space. Common Space includes but is not limited to interior lobbies not within Tenant Space and restrooms not accessed through Tenant Space. Common Space does not include Tenant Space or any area marked "private," "no admission," "staff only," or similarly designated as not open to the public. (4-4-13)

05. Department. The Department of Administration. (4-4-13)

06. Director. The Director of the Department of Administration or his designee. (4-4-13)

07. Interior State Facilities. The interior spaces within the Capitol Mall Office Properties, the Parking Facilities, the Multi-agency Facilities, and the Other State Properties. (3-25-16)

08. Multi-Agency Facilities. The interior of buildings and improvements set forth in Section 102 of these rules. (4-4-13)

09. Other State Properties. The interior of buildings and improvements set forth in Section 101 of these rules. (4-4-13)

10. Parking Facilities. The interior of improvements set forth in Section 67-5709(2)(b), Idaho Code. (4-4-13)

11. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (4-4-13)

12. State Business Day. Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (4-4-13)

13. Tenant Space. The portion of the Interior State Facilities occupied by a state of Idaho officer, official, agency, board or commission or leased to a public agency or a private individual or entity. (4-4-13)

011. -- 100. (RESERVED)

101. OTHER STATE PROPERTIES.
These rules apply to the following Other State Properties pursuant to the request of the state of Idaho public entity owning or controlling the property: (4-4-13)

01. Idaho State Historical Society Properties. (4-4-13)

a. The interior of the following properties owned or operated by the Idaho State Historical Society are Other Properties under these rules: (4-4-13)

i. Idaho State Historical Museum, located at 610 North Julia Davis Drive, Boise, Idaho. (4-4-13)

ii. Old U.S. Assay Office, located at 210 Main Street, Boise, Idaho. (4-4-13)

iii. Old Penitentiary site located in Boise, Idaho and defined in Section 58-337, Idaho Code. (4-4-13)

iv. Idaho History Center, located at 2205 Old Penitentiary Road, Boise, Idaho. (4-4-13)

v. Franklin Historic Properties, located in Franklin, Idaho. The Franklin Historic Properties include the Franklin Co-operative Mercantile Institution Building, the Hatch House, the Doney House, and the Relic Hall. (4-4-13)

vi. Pierce Courthouse, located in Pierce, Idaho. (4-4-13)

vii. Rock Creek Station and Stricker Homesite, located at 3715 Stricker Cabin Road, Hansen, Idaho. (4-4-13)

b. The following sections of these rules apply to the Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules only as modified by this Paragraph 101.01.b.: (4-4-13)

i. Subsection 010.06. "Director" means the Executive Director of the Idaho State Historical Society when these rules are applied to the Idaho State Historical Society Properties. (4-4-13)

ii. Subsection 200.01. "Authorized Uses by the Public" applies except that the Director may authorize public or private uses of the interior of the Idaho Historical Society Properties and the exclusion of members of the public from attending such events. For the purpose of this subsection, the grant of a lease or a license is authorization to exclude members of the public from the interior of the Idaho Historical Society Properties. (4-4-13)

iii. Section 302. "Hours and Locations of Use" applies as if the Idaho State Historical Properties were Capitol Mall Office Properties unless other hours of use or access restrictions are designated at the property, or posted on the Idaho State Historical Society website. (4-4-13)

c. The Idaho State Historical Society Properties set forth in Paragraph 101.01.a. of these rules may be licensed or leased and such license or lease may vary the provisions of these rules applicable to use of the property under this chapter, including but not limited to the following: hours of use; authorized uses; consumption and distribution of alcohol; affixing of materials to the Idaho State Historical Society Properties; use of sound amplification; and, use of utilities. (4-4-13)

102. MULTI-AGENCY FACILITIES.
These rules apply to the following Multi-agency Facilities managed and administered by the Department: (4-4-13)

01. Lewiston State Office Building. 1118 F Street, Lewiston, Idaho 83501. (4-4-13)

02. Idaho Falls State Office Building. 150 Shoup Avenue, Idaho Falls, Idaho 83401. (4-4-13)

103. -- 199. (RESERVED)

200. USE OF INTERIOR STATE FACILITIES.

01. Authorized Uses by the Public. Public access to the Interior State Facilities is limited to the conduct of business with a tenant. Public access to the Tenant Space is limited to the conduct of business with the tenant. (4-4-13)

02. Prohibited Uses. The following uses are prohibited at the Interior State Facilities: (4-4-13)

a. Events. The Interior State Facilities shall not be used by the public for press conferences, performances, ceremonies, presentations, meetings, rallies, receptions or gatherings. (4-4-13)

b. Exhibits. The Interior State Facilities shall not be used by the public for attended or unattended displays, including but not limited to equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (4-4-13)

c. Commercial Activity. The Common Space shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service in the Common Space. (4-4-13)

201. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.
Except as otherwise provided, the restrictions and limitations on use of the Interior State Facilities set forth in Sections 301 through 399 of these rules shall apply to all use of the Interior State Facilities. (4-4-13)

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference With Primary Use of Facility or Real Property. No person shall interfere with the primary use of the Interior State Facilities. The primary uses of the Interior State Facilities include but are not limited to public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use Interior State Facilities and the conduct of business by a tenant of a state facility. (4-4-13)

02. Interference With Access. No person shall block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the Interior State Facilities. (4-4-13)

302. HOURS AND LOCATIONS OF USE.

01. Capitol Mall Office Properties and Multi-Agency Facilities. The hours for public access to the interior of the Capitol Mall Office Properties and the Multi-agency Facilities are 8 a.m. to 5 p.m. on State Business Days. (4-4-13)

02. Parking Facilities. The hours of use of the Parking Facilities shall be governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." (4-4-13)

303. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.
Bicycles, skates, skateboards, scooters, and other non-motorized transportation may not be used in the Interior State Facilities. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising a state facility, users must store non-motorized transportation in a designated storage area on the exterior of a state facility. Child strollers and wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. (4-4-13)

304. ANIMALS.

Animals are not allowed at the Interior State Facilities unless the animal is a service animal necessary to assist persons with disabilities or an animal in the service of law enforcement. Service animals must be leashed and under the control of the person bringing the animal to the Interior State Facilities. The person bringing the animal to the Interior State Facilities shall have in his possession the equipment necessary to remove the animal's urine and fecal matter and shall immediately remove all urine and fecal matter deposited by the animal. (4-4-13)

305. FOOD AND BEVERAGES.
Consumption of food and beverages at the Interior State Facilities is subject to the following: (4-4-13)

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the Interior State Facilities. (4-4-13)

02. Alcohol. Alcohol may not be consumed or distributed in the Common Space. (4-4-13)

306. SMOKING.
Smoking is not allowed in the Interior State Facilities. (4-4-13)

307. FIRES, CANDLES, AND FLAMES.
No fires, candles or other sources of open flame are permitted in the Interior State Facilities. (4-4-13)

308. LIMITS ON USE OF COMMON SPACE.
The following provisions apply to the Common Space. (4-4-13)

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (4-4-13)

02. Railings and Stairways. No items may be placed on railings or stairways and no persons shall sit or stand on railings or stairways. (4-4-13)

03. Tossing or Dropping Items. No items may be tossed or dropped over railings or from one level of a facility to another level or to the ground. (4-4-13)

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the Interior State Facilities, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. (4-4-13)

05. Attaching, Affixing, Leaning or Propping Materials. Posters, placards, banners, signs, and displays, including any printed materials, shall not be affixed on any interior surface of the Common Space not designed for that purpose. No items may be leaned or propped against any interior surface of the Common Space. (4-4-13)

06. Materials Causing Damage to Interior Surface. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface in the Common Space or any systems or utilities of the Interior State Facilities, including but not limited to fire suppression systems, drains, ventilation systems, and lighting systems. (4-4-13)

309. ITEMS SUBJECT TO SEARCH.
To enhance security and public safety, Security Personnel and law enforcement may inspect: (4-4-13)

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. (4-4-13)

02. Items. Items brought to the Interior State Facilities, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property at the Interior State Facilities. (4-4-13)

310. PROHIBITED ITEMS.
The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the State Facilities; bombs,

destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or law enforcement may direct that any person at the State Facilities immediately remove from the State Facilities any club, bat or other item that can be used to injure, damage, or harm persons or property at the Interior State Facilities. (4-4-13)

311. UTILITY SERVICE.
The public may not use the utility services of the Interior State Facilities except restrooms. (4-4-13)

312. LAW ENFORCEMENT AND FACILITY EXIGENCY.
In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, Security Personnel and state employees or officials may direct all persons out of the Interior State Facilities and delay or postpone any activity until the emergency or threat is abated. (4-4-13)

313. COMPLIANCE WITH LAW.
All use of the Interior State Facilities shall comply with applicable law, including but not limited to fire and safety codes. (4-4-13)

314. MAINTENANCE OF INTERIOR STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the Interior State Facilities in reasonably clean condition after use, including depositing all trash in designated receptacles. (4-4-13)

02. Items Return to Proper Location. Users shall return all items, including but not limited to movable furniture and trash receptacles to their location at the conclusion of use. (4-4-13)

315. -- 999. (RESERVED)

38.04.08 – RULES GOVERNING USE OF IDAHO STATE CAPITOL EXTERIOR

000. LEGAL AUTHORITY.
Section 67-1604, Idaho Code, gives the Director of the Department of Administration authority to promulgate rules governing access to and use by the public of the capitol building and its grounds. Section 67-5709, Idaho Code, gives the Director authority to promulgate rules governing certain public facilities. (3-27-13)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 38.04.08, "Rules Governing Use of Idaho State Capitol Exterior." (3-27-13)

02. Scope. These rules contain the provisions for use of the exterior of the Idaho State Capitol. Rules governing the exterior of the other state facilities are codified under IDAPA 38.04.06, "Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities." Rules governing the interior of the Capitol Mall properties, other state properties, and the multi-agency facilities are codified under IDAPA 38.04.07, "Rules Governing Use of Interior State Property in the Capitol Mall and Other State Facilities." Rules governing parking are codified under IDAPA 38.04.04, "Capitol Mall Parking Rules." (3-27-13)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Camping. Any activity prohibited under Section 67-1613, Idaho Code. (3-27-13)

02. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (3-27-13)

03. Department. The Department of Administration. (3-27-13)

04. Director. The Director of the Department of Administration or his designee. (3-27-13)

05. Jefferson Steps. The building entrance at the second floor of the State Capitol, the steps extending from the entrance, and the hard surface extending between the steps and the public sidewalk along Jefferson Street. (3-27-13)

06. Permit. A written authorization issued by the Director allowing use of the State Capitol Exterior as set forth in the Permit. A Permit serves as a reservation to use a portion of the State Capitol Exterior with the priority for use set forth in Subsection 200.04 of these rules. (3-27-13)

07. Private Event or Private Exhibit. Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (3-27-13)

08. Public Use. Use that is not: (3-18-14)

a. A State Event or Exhibit; (3-18-14)

b. Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; or (3-18-14)

c. State Maintenance and Improvements. (3-18-14)

09. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (3-27-13)

10. State Business Day. Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (3-27-13)

11. State Capitol Exterior. The exterior of the Idaho State Capitol, the real property, the grounds, and the improvements on the exterior of the Idaho State Capitol or its grounds, all of which is located at capitol square as identified on the Boise City original townsite plat filed in the Ada County Recorder's office in book 1 on page 1. The

State Capitol Exterior is bounded by the following streets: State Street, Sixth Street, Jefferson Street, and Eighth Street. (3-27-13)

12. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (3-27-13)

13. State Maintenance and Improvements. Maintenance or improvement of the State Capitol Exterior by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, resodding, fertilizing and planting, and structural maintenance such as pressure washing, painting, window cleaning and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (3-27-13)

011. -- 199. (RESERVED)

200. USE OF STATE CAPITOL EXTERIOR.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the State Capitol Exterior is available for Public Use. (3-18-14)

02. Prohibited Uses. The following uses are prohibited in the State Capitol Exterior: (3-27-13)

a. Commercial Activity. The State Capitol Exterior shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service on the State Capitol Exterior. (3-27-13)

b. Camping. (3-27-13)

c. Private Events and Private Exhibits. (3-27-13)

03. Priority of Uses. State Maintenance and Improvements shall have priority over all other use of the State Capitol Exterior. Public Use held under a Permit shall have priority over other Public Use. (3-18-14)

201. (RESERVED)

202. EQUIPMENT AND SUPPLIES.
Except as provided in these rules, the Department will not provide equipment or supplies for use on the State Capitol Exterior. Where requested in a Permit application for use of the Jefferson Street Steps, the Department may provide a podium and a public address system. (3-27-13)

203. ESTABLISHMENT OF PERIMETERS.
Security personnel and law enforcement may establish perimeters separating participants in Public Use of the State Capitol Exterior or State Events or Exhibits. Participants in and observers of any Public Use or State Events or Exhibits shall observe perimeters set pursuant to this section. (3-18-14)

204. AREA CLOSURES.
The Director may direct that any portion of the State Capitol Exterior be closed for Public Use upon a finding that the closed portion of the State Capitol Exterior has sustained damage or is in imminent danger of sustaining damage. The closure directive shall identify the portion of the State Capitol Exterior closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the State Capitol Exterior. Circumstances presenting an imminent danger of damage to the State Capitol Exterior include, but are not limited to, the saturation of soil, turf, or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. (3-18-14)

205. -- 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.
The restrictions and limitations on use of the State Capitol Exterior set forth in Sections 301 through 399 of these rules shall apply to all Public Use of the State Capitol Exterior. (3-18-14)

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference With Primary Use of State Capitol Exterior. Events, exhibits, and Public Use of the State Capitol Exterior shall not interfere with the primary use of the Idaho State Capitol or the adjacent real property and improvements. The primary use of the Idaho State Capitol includes, but is not limited to, the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the Idaho State Capitol or the State Capitol Exterior. (3-18-14)

02. Interference With Access. Public Use of the State Capitol Exterior shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the State Capitol Exterior. (3-18-14)

302. LOCATIONS.

01. Locations. In addition to limitations on the interference with access set forth in Section 301 of these rules and compliance with all fire and safety codes, Public Use on the State Capitol Exterior shall be: (3-18-14)

a. On the Jefferson Street Steps or on hard surfaces, including concrete and granite, on the State Capitol Exterior; and (3-18-14)

b. At least fifteen (15) feet from the exterior walls and windows of the Idaho State Capitol. (3-18-14)

303. MAINTENANCE AND IMPROVEMENTS.
Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the website address set forth in Section 005 of these rules. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. (3-18-14)

304. MOTORIZED VEHICLES.
Motorized vehicles not owned or operated by the state of Idaho or law enforcement must remain on designated roadways and parking areas. Parking of motorized vehicles shall be governed by IDAPA 38.04.04, "Capitol Mall Parking Rules." Wheelchairs, motorized scooters, and other equipment providing individual mobility to the disabled are not motorized vehicles for the purposes of this section. (3-27-13)

305. BICYCLES, SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.
Bicycles, skates, skateboards, and scooters may not be used on the State Capitol Exterior. Users of all other non-motorized transportation must remain on designated pathways during use. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising the State Capitol Exterior, users must store non-motorized transportation in a designated storage area on the State Capitol Exterior. Wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. (3-27-13)

306. ANIMALS.
The following shall apply to animals on the State Capitol Exterior: (3-27-13)

01. Wildlife. Unless authorized by the Director no person shall: (3-27-13)

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot or throw any object at a wild animal on the State Capitol Exterior. (3-27-13)

b. No person shall feed, give or offer food or any noxious substance to a wild animal on the State Capitol Exterior. (3-27-13)

02. Domestic Animals. (3-27-13)

a. Domestic animals are not allowed on the State Capitol Exterior unless leashed and under the control of the person bringing the animal to the State Capitol Exterior. (3-27-13)

b. The person bringing the animal to the State Capitol Exterior shall have in his possession the equipment necessary to remove the animal's fecal matter and shall immediately remove all fecal matter deposited by the animal. (3-27-13)

307. LANDSCAPING.
No person other than state employees or contractors designated by the Director shall: (3-27-13)

01. Plants. Damage, cut, carve, transplant or remove any plant including, but not limited to, trees, on the State Capitol Exterior. (3-27-13)

02. Grass. Dig in or otherwise damage grass areas on the State Capitol Exterior. (3-27-13)

03. Irrigation Equipment. Interfere with, damage or remove irrigation equipment on the State Capitol Exterior. (3-27-13)

04. Landscaping Materials. Move or alter landscaping materials on the State Capitol Exterior including, but not limited to, rock, edging materials, and bark or mulch. (3-27-13)

05. Climbing. Climb or scale buildings, Commemorative Installations, trees, fences, posts or other improvements on the State Capitol Exterior. (3-27-13)

308. FOOD AND BEVERAGES.
Consumption of food and beverages on the State Capitol Exterior is subject to the following: (3-27-13)

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the State Capitol Exterior. (3-27-13)

02. Alcohol. Alcohol may not be consumed or distributed on the State Capitol Exterior. (3-27-13)

309. SMOKING.
All persons shall observe the smoke free entrance notices and shall smoke only in designated areas of the State Capitol Exterior. (3-27-13)

310. FIRES, CANDLES, AND FLAMES.
No fires, candles or other sources of open flame are permitted on the State Capitol Exterior. (3-27-13)

311. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (3-27-13)

02. Railings. No items may be placed on railings and no persons shall sit or stand on railings. (3-27-13)

03. Tossing or Dropping Items. No items may be tossed or dropped over railings or from one level of the Idaho State Capitol or improvements on the grounds of the State Capitol Exterior to another level or to the ground. (3-27-13)

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the State Capitol Exterior, or to restrict the follow of individuals using the facility, or to restrict emergency egress or ingress. (3-27-13)

05. Attaching, Affixing, Leaning or Propping Materials. Posters, placards, banners, signs, and displays, including any printed materials, shall not be affixed on any exterior surface of the State Capitol Exterior or on any permanent Commemorative Installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and displays must be free-standing or supported by individuals. No items may be leaned or propped against any exterior surface of the State Capitol Exterior or embedded into the ground including, but not limited to, placement of a stake, post or rod into the ground to support materials. (3-27-13)

06. Materials Causing Damage to Surfaces. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface on the State Capitol Exterior or any systems or utilities of the State Capitol Exterior including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. (3-27-13)

07. Free Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the State Capitol Exterior that such material is not discarded outside of designated trash receptacles. (3-27-13)

08. Surface Markings. Users shall not use any material to mark on any surface of the State Capitol Exterior including chalk, paint, pens, ink, or dye. (3-27-13)

312. ITEMS SUBJECT TO SEARCH.

To enhance security and public safety, Security Personnel and law enforcement may inspect: (3-27-13)

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. (3-27-13)

02. Items. Items brought onto the State Capitol Exterior, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property on the State Capitol Exterior. (3-27-13)

313. PROHIBITED ITEMS.

The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the State Capitol Exterior: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security Personnel or law enforcement may direct that any person at the State Capitol Exterior immediately remove from the State Capitol Exterior any club, bat, or other item that can be used to injure, damage, or harm persons or property. (3-27-13)

314. UTILITY SERVICE.

The public may not use the utility services of the State Capitol Exterior other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules. Utility services include, but are not limited to, electrical, sewage, water, heating, and geothermal services. The Director may terminate the use of utilities if such use interferes with the utility services of the State Capitol Exterior or the equipment or apparatus using utility service fails to comply with applicable rules or codes. (3-18-14)

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.

In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, security personnel and state employees or officials may direct all persons off of the State Capitol Exterior and delay or postpone any activity until the emergency or threat is abated. (3-18-14)

316. COMPLIANCE WITH LAW.

All use of the State Capitol Exterior shall comply with applicable law including, but not limited to, fire and safety codes. (3-27-13)

317. HEALTH, SAFETY AND MAINTENANCE OF STATE FACILITIES.

01. Clean Condition After Use. Users shall leave the State Capitol Exterior in reasonably clean condition after use, including depositing all trash in designated receptacles. (3-27-13)

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the event or exhibit. (3-18-14)

03. Public Health. No person shall excrete human waste at the State Capitol Exterior except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. (3-27-13)

04. Fireworks. No person shall possess or use fireworks on the State Capitol Exterior. (3-27-13)

318. -- 399. (RESERVED)

400. PERMITS.

01. Use Without a Permit. A Permit grants a reservation providing priority for use of the area specified in the Permit as set forth in Subsection 200.04 of these rules. Applicants desiring to obtain a Permit for use of the State Capitol Exterior outside of the Permit areas, hours or duration or who have not submitted an application within the application period may use the State Capitol Exterior, subject to the provisions of these rules, on a first-come, first used basis. Permits will be issued to groups of two (2) or more people. (3-18-14)

02. Permit Areas, Hours and Duration, and Number of Participants. (3-18-14)

a. The Director will consider and grant Permits only for Public Use of the Jefferson Street Steps. (3-18-14)

b. The Director will issue Permits reserving use of the Jefferson Street Steps only for the period between the hours of 7 a.m. and 6 p.m. on State Business Days. (3-18-14)

c. The duration of a Permit will not exceed four (4) consecutive hours. (3-27-13)

d. The Director will issue a Permit only for Public Use involving two (2) or more persons. (3-18-14)

03. Application Period. Permit applications must be received and complete at least two (2) State Business Days prior to the requested date and time period of the Permit. The Department will not accept applications submitted more than six (6) months prior to the requested date of the Permit. (3-18-14)

04. Validity. Permits are valid only for the dates, times, and locations specified on the Permit as approved by the Director. (3-27-13)

05. Distribution. Permits shall be granted by the Director on a first-come, first-served basis, subject to Subsection 200.03 of these rules. Only one (1) Permit will be granted for the Jefferson Street Steps during any period of time. (3-27-13)

06. Application Requirements. Applications for a Permit shall be in writing on a form prescribed by the Director and available at the office of the Division of Public Works and the Department's website. The Director will only process applications that are complete and signed by the individual making a request or an authorized representative of the entity or organization making the request. The Director may make reasonable inquiry to confirm the accuracy of the application and the authority of the party signing the application. (3-27-13)

07. Conditions. The Director may impose reasonable conditions on the use of the State Capitol Exterior in the Permit for the purpose of protecting persons and property. Conditions may include the acquisition of

liability insurance and a bond as security for costs arising from the use. (3-27-13)

08. Transferability. Permits are non-transferable. (3-27-13)

401. APPROVALS AND DENIALS OF A PERMIT APPLICATION.

01. Period for Approval or Denial. The Department will approve or deny a complete application within two (2) State Business Days of the submission of the application. (3-18-14)

02. Basis for Denial. Permits may be denied for one (1) or more of the following: (3-27-13)

a. A Permit has been granted for all or part of the requested location during all or part of the requested time period. (3-27-13)

b. A public entity or official will be using all or part of the requested location during all or part of the requested time period. (3-27-13)

c. The requested use would violate any provision of these rules or applicable law. (3-27-13)

d. These rules do not authorize the use for the location or times requested or do not authorize the issuance of a Permit for the location requested. (3-27-13)

e. The Permit application is incomplete, contains a material falsehood, or contains a material misrepresentation. (3-27-13)

f. The Permit applicant has not certified that the applicant will comply with these rules or applicable law. (3-27-13)

g. The party signing the application is not legally competent to bind themselves or the organization or entity submitting the application. (3-27-13)

h. The individual, organization or entity submitting the application: (3-27-13)

i. Failed to pay costs or damages arising from an earlier use of any state facility; (3-27-13)

ii. Made a material misrepresentation regarding the nature or scope of the use on a prior Permit application; (3-27-13)

iii. Violated the terms of prior Permits issued to the individual, organization or entity; or (3-27-13)

iv. Violated any applicable law in the course of previous Public Use of state of Idaho facilities. (3-18-14)

i. The requested use would cause a clear and present danger to the orderly processes of state of Idaho government or to the use of the State Capitol Exterior due to advocacy of: (3-27-13)

i. The violent overthrow of the government of the United States, the state of Idaho, or any political subdivision thereof; (3-27-13)

ii. The willful damage or destruction, or seizure and subversion of public property; (3-27-13)

iii. The forcible disruption or impairment of or interference with the regularly schedule functions of the state of Idaho; (3-27-13)

iv. The physical harm, coercion, intimidation or other invasions of the lawful rights of public officials or the public; or (3-27-13)

v. Other disorders of a violent nature. (3-27-13)

402. REVOCATION OF A PERMIT.
A Permit may be revoked by the Director for the violation of any term or condition of the Permit or the violation of law including, but not limited to, the violation of any provision of these rules. (3-27-13)

403. APPEALS.

01. Time for Appeal. The individual or the organization or entity submitting an application may request that the Department initiate a contested case within the period set forth below. The Department will not initiate a contested case after the following periods. (3-27-13)

a. Seven (7) State Business Days following the written denial of an application for a Permit. (3-27-13)

b. Seven (7) State Business Days following the revocation of a Permit. (3-27-13)

c. Seven (7) State Business Days following the date the Department was required to approve or deny the application for a Permit pursuant to Subsection 401.01 of these rules. (3-27-13)

02. Requesting an Appeal. The individual or the organization or entity submitting an application shall request an appeal in writing, with a physical copy delivered to the Director at the address set forth in Section 005 of these rules. Electronic delivery shall not be deemed a physical copy. The written request shall contain the following: (3-27-13)

a. The name, address, and contact information of the appellant; (3-27-13)

b. A concise statement of the reason the appeal should be granted; (3-27-13)

c. Whether the appellant requests informal disposition to expedite the contested case; and (3-27-13)

d. A description of the Permit sought. (3-27-13)

03. Informal Disposition. If an appellant requests informal disposition, the Director will accept written evidence submitted within five (5) State Business Days of the appeal request, or as otherwise agreed by the Director and the appellant. The Director will issue a final written order affirming, reversing or modifying the denial or revocation of the Permit. (3-27-13)

04. Contested Cases. If an appellant does not request informal disposition, the Director will schedule a hearing and proceed as set forth in Title 67, Chapter 52, Idaho Code. Contested cases will be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-27-13)

05. Judicial Review. Judicial review of orders issued in an appeal is provided as set forth in Title 67, Chapter 52, Idaho Code. (3-27-13)

404. -- 499. (RESERVED)

500. LIABILITY AND INDEMNIFICATION.

01. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. (3-27-13)

02. No Endorsement. The grant of a Permit and any action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the State Facilities. (3-18-14)

501. -- 999. (RESERVED)

38.04.09 – RULES GOVERNING USE OF THE CHINDEN OFFICE COMPLEX

000. LEGAL AUTHORITY.
Section 67-5709, Idaho Code, gives the Director of the Department of Administration authority to manage state facilities and to promulgate rules governing state facilities. (4-11-19)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 38.04.09, "Rules Governing Use of the Chinden Office Complex." (4-11-19)

02. Scope. These rules contain the provisions for use of the exterior and interior of the Chinden Office Complex. (4-11-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Camping. Any activity prohibited under Section 67-1613, Idaho Code. (4-11-19)

02. Chinden Office Complex. The Chinden Office Complex is bounded to the north by West Chinden Boulevard, to the west by North Cloverdale Road, to the east by North Five Mile Road, and to the south by the Jones-Stiburek, Orchid Point, De Meyer Estates No. 7, Hickories No. 1, 9 and 12, Hickories East and EMS Avenue Subdivisions. The following buildings and the grounds adjacent to such buildings located in Boise, Idaho shall be the Chinden Office Complex under these rules: (4-11-19)

a. 11301 West Chinden Boulevard, identified as Building 1 of the Chinden Office Complex. (4-11-19)

b. 11311 West Chinden Boulevard, identified as Building 3 of the Chinden Office Complex. (4-11-19)

c. 11321 West Chinden Boulevard, identified as Building 2 of the Chinden Office Complex. (4-11-19)

d. 11331 West Chinden Boulevard, identified as Building 8 of the Chinden Office Complex. (4-11-19)

e. 11341 West Chinden Boulevard, identified as Building 4 of the Chinden Office Complex. (4-11-19)

f. 11351 West Chinden Boulevard, identified as Building 6 of the Chinden Office Complex. (4-11-19)

g. 11361 West Chinden Boulevard, identified as Building 7 of the Chinden Office Complex. (4-11-19)

h. 11371 West Chinden Boulevard, identified as Building 5 of the Chinden Office Complex. (4-11-19)

03. Commemorative Installation. Any statue, monument, sculpture, memorial or landscape feature designed to recognize a person, group, event or element of history. (4-11-19)

04. Common Space. The portion of the Chinden Office Complex that is not Tenant Space. Common Space includes but is not limited to interior lobbies not within Tenant Space and restrooms not accessed through Tenant Space. Common Space does not include Tenant Space or any area marked "private," "no admission," "staff only" or similarly designated as not open to the public. (4-11-19)

05. Department. The Department of Administration. (4-11-19)

06. Director. The Director of the Department of Administration or his designee. (4-11-19)

07. Private Event or Private Exhibit. Any activity sponsored or initiated by a member of the public that is open only to invited or qualifying individuals or groups. Private Events and Private Exhibits include, but are not limited to, weddings, dinners, award ceremonies, memorials, and seminars. (4-11-19)

08. Public Use. Use that is not: (4-11-19)

a. A State Event or Exhibit; (4-11-19)

b. Use by a public officer, official, employee, contractor, agency, or board or commission for state of Idaho business; (4-11-19)

c. State Maintenance and Improvements; or (4-11-19)

d. Use by a Tenant. (4-11-19)

09. Recreational Facilities. Facilities designated by the Director for Recreational Use. (4-11-19)

10. Recreational Use. Use for leisure or athletic purposes such as picnicking and sports practices or informal sports games. (4-11-19)

11. Security Personnel. A state of Idaho employee or a staff member of a state of Idaho contractor whose job duties include monitoring compliance with and enforcing these rules. (4-11-19)

12. State Business Day. Monday through Friday, excluding the holidays set forth in Section 73-108, Idaho Code. (4-11-19)

13. State Events and Exhibits. All functions initiated and controlled by any state of Idaho agency, board, commission, officer or elected official acting on behalf of the state of Idaho. (4-11-19)

14. State Maintenance and Improvements. Maintenance or improvement of the Chinden Office Complex by the state of Idaho or its contractors. Maintenance for the purpose of this definition includes, but is not limited to, grounds maintenance such as mowing, watering, landscaping, aerating, turf installation and repair, fertilizing and planting, and structural maintenance such as pressure washing, painting, and window cleaning and re-glazing. Improvement for the purpose of this definition includes, but is not limited to, the following: construction of new buildings or portions of buildings; renovations to existing buildings; the installation of permanent structures and equipment such as benches, sprinklers, flagpoles, monuments and memorials; and, the installation of temporary equipment and structures such as construction fencing, generators and portable buildings. (4-11-19)

15. Tenant. A state of Idaho officer, official, agency, board or commission or a public agency or a private individual or entity with a license or lease to use the Chinden Office Complex. (4-11-19)

16. Tenant Space. The portion of the exterior of the Chinden Office Complex licensed or leased to a private individual or entity and the portion of the interior of the Chinden Office Complex occupied by a state of Idaho officer, official, agency, board or commission or leased to a public agency or a private individual or entity. (4-11-19)

011. – 199. (RESERVED)

200. USE OF THE CHINDEN OFFICE COMPLEX.

01. Authorized Uses by the Public. Except as provided otherwise in these rules, the Chinden Office Complex is available for Public Use. (4-11-19)

02. Prohibited Uses. The following uses are prohibited at the Chinden Office Complex: (4-11-19)

a. Commercial Activity. The Chinden Office Complex shall not be used for any activity conducted for profit and no persons shall solicit to sell any merchandise or service at the Chinden Office Complex. The following are not commercial activity prohibited by this subsection: (4-11-19)

i. Meetings or conferences for public employees or their relatives describing employee benefits and approved by a state of Idaho agency. (4-11-19)

ii. Concessions authorized by law. (4-11-19)

iii. Vaccinations may be provided in exchange for a fee without the prior written permission of the Director where approved by a state of Idaho agency, board, commission or elected official. (4-11-19)

iv. The conduct of business by a Tenant. (4-11-19)

b. Camping. (4-11-19)

c. Private Events and Exhibits, except use of the Recreational Facilities as authorized by these rules. (4-11-19)

d. Use by the public for press conferences, performances, ceremonies, presentations, meetings, rallies, receptions or gatherings. (4-11-19)

e. Use by the public for attended or unattended displays, including but not limited to equipment, machines, vehicles, products, samples, paintings, sculptures, arts and crafts, photographs, signs, banners or other graphic displays. (4-11-19)

03. Public Access to Interior. Public access to the interior of the buildings at the Chinden Office Complex and to exterior Tenant Space at the Chinden Office Complex is limited to the conduct of business with the Tenant. (4-11-19)

04. Priority of Uses. State Maintenance and Improvements shall have priority over all other use of the Chinden Office Complex. (4-11-19)

201. HOURS OF USE.

01. Hours for Use by the Public. The hours for public access to the exterior of the Chinden Office Complex are from sunrise to sunset. The hours for public access to interior Common Space shall be as posted on the public entrance to each building at the Chinden Office Complex. (4-11-19)

02. Public Parking Hours. Unless approved by the Director, the public shall not park motorized vehicles overnight at the Chinden Office Complex. (4-11-19)

202. USE OF RECREATIONAL FACILITIES.
The Director may authorize reservation of Recreational Facilities under this subsection by a Tenant and the exclusion of members of the public from use of Recreational Facilities during reserved periods. Unless reserved by a Tenant, Recreational Facilities are available for Recreational Use by the public on a first-come, first-used basis from sunrise to sunset daily. (4-11-19)

203. EQUIPMENT AND SUPPLIES.
Except as provided in these rules, the Department will not provide equipment or supplies for use of the Chinden Office Complex. (4-11-19)

204. ESTABLISHMENT OF PERIMETERS.
Security personnel and law enforcement may establish perimeters separating participants in Public Use of the Chinden Office Complex or State Events and Exhibits. Participants in and observers of any Public Use or State Events and Exhibits shall observe perimeters set pursuant to this section. (4-11-19)

205. AREA CLOSURES.
The Director may direct that any portion of the Chinden Office Complex be closed for Public Use upon a finding that the closed portion of the Chinden Office Complex has sustained damage or is in imminent danger of sustaining

damage. The closure directive shall identify the portion of the Chinden Office Complex closed, the damage that has occurred or that will occur without closure, and the estimated period of closure to restore or prevent the damage. A notice of closure and information on how to obtain a copy of the closure directive shall be posted at the closed portion of the Chinden Office Complex. Circumstances presenting an imminent danger of damage to the Chinden Office Complex include, but are not limited to, the saturation of soil, turf or landscaped areas with water, excessive foot traffic over landscaped areas, preventing turf or plants from obtaining adequate sunlight, and the buildup of ice or snow on landscaped areas. (4-11-19)

206. – 299. (RESERVED)

300. RESTRICTIONS AND LIMITATIONS ON USE.
The restrictions and limitations on use of the Chinden Office Complex set forth in Sections 301 through 399 of these rules shall apply to all Public Use of the Chinden Office Complex. The lease or license of Tenant Space may vary these rules for use by the Tenant, its employees, and its invited guests. (4-11-19)

301. USES INTERFERING WITH ACCESS OR USE OF FACILITY.

01. Interference with Primary Use of Facility or Real Property. Public Use of the Chinden Office Complex shall not interfere with the primary use of the facility or real property adjoining the facility. The primary uses of the Chinden Office Complex include, but are not limited to, the conduct of business by private Tenants leasing or licensing a portion of the Chinden Office Complex, public meetings and hearings, court proceedings, and the conduct of public business by agencies or officials of the state of Idaho that normally occupy and use the affected facility or the real property adjoining the facility. (4-11-19)

02. Interference with Access. Public Use of the Chinden Office Complex shall not block fire hydrants, fire or emergency vehicle lanes, vehicular drives, pedestrian walkways, doorways, steps or similar access routes through, in or out of the Chinden Office Complex. (4-11-19)

302. MAINTENANCE AND IMPROVEMENTS.
Public Use shall not interfere with State Maintenance and Improvements. The Department will publish the regular maintenance and improvement schedule at the website address set forth in Section 005 of these rules. The regular maintenance and improvement schedule may be modified due to weather, staffing, emergency repairs, equipment failures, funding changes, contract modifications, State Events and Exhibits or other causes arising after the schedule's publication. (4-11-19)

303. MOTORIZED VEHICLES.
Motorized vehicles parked outside of designated parking areas may be towed without notice at the vehicle owner's expense. Public parking at the Chinden Office Complex is limited to the period the operator or passengers are using the Chinden Office Complex. Wheelchairs, motorized scooters, and other equipment providing individual mobility to the disabled are not motorized vehicles for the purposes of this section. (4-11-19)

304. SKATES, SKATEBOARDS, SCOOTERS, AND OTHER NON-MOTORIZED TRANSPORTATION.
Skates, skateboards, and scooters may not be used at the Chinden Office Complex. Users of all other non-motorized transportation must remain on roadways or designated pathways during use. Where indicated by a posted notice or where requested by Security Personnel, law enforcement or a state employee or agent supervising the Chinden Office Complex, users must store non-motorized transportation in a designated storage area on the exterior of the Chinden Office Complex. Wheelchairs and other equipment providing individual mobility to the disabled are not non-motorized transportation for the purposes of this section. (4-11-19)

305. ANIMALS.
The following shall apply to animals at the Chinden Office Complex: (4-11-19)

01. Wildlife. Unless authorized by the Director no person shall: (4-11-19)

a. Interfere with, hunt, molest, harm, frighten, kill, trap, chase, tease, annoy, shoot, or throw any object at a wild animal at the Chinden Office Complex. (4-11-19)

b. No person shall feed, give, or offer food or any noxious substance to a wild animal at the Chinden Office Complex. (4-11-19)

02. Domestic Animals. (4-11-19)

a. Domestic animals are not allowed at the Chinden Office Complex unless leashed and under the control of the person bringing the animal to the Chinden Office Complex. (4-11-19)

b. The person bringing the animal to the Chinden Office Complex shall have in his possession the equipment necessary to remove the animal's fecal matter and shall immediately remove all fecal matter deposited by the animal. (4-11-19)

c. Persons bringing domestic animals to the Chinden Office Complex shall not permit the animal to swim or wade in irrigation ponds or canals at the Chinden Office Complex. (4-11-19)

306. LANDSCAPING.
Unless authorized by the Director, no person shall: (4-11-19)

01. Plants. Damage, cut, carve, transplant or remove any plant, including but not limited to trees, at the Chinden Office Complex. (4-11-19)

02. Grass. Dig in or otherwise damage grass areas at the Chinden Office Complex. (4-11-19)

03. Irrigation Equipment. Interfere with, damage or remove irrigation equipment at the Chinden Office Complex. (4-11-19)

04. Landscaping Materials. Move or alter landscaping materials at the Chinden Office Complex including, but not limited to, rock, edging materials, and bark or mulch. (4-11-19)

05. Climbing. Climb or scale buildings, memorials, statues, trees, fences, or improvements at the Chinden Office Complex. (4-11-19)

307. FOOD AND BEVERAGES.
Consumption of food and beverages at the Chinden Office Complex is subject to the following: (4-11-19)

01. Consumption May Be Prohibited. The consumption of food and beverages may be prohibited by a notice posted at the entrance to all or a portion of the Chinden Office Complex. (4-11-19)

02. Alcohol. Alcohol may not be consumed or distributed in the Common Space. (4-11-19)

308. SMOKING.
All persons shall observe the smoke free entrance notices and shall smoke only in designated exterior areas of the Chinden Office Complex. (4-11-19)

309. FIRES, CANDLES, AND FLAMES.
Except in designated barbecue facilities, no fires, candles, or other sources of open flame are permitted at the Chinden Office Complex. (4-11-19)

310. POSTERS, PLACARDS, BANNERS, SIGNS, EQUIPMENT, TABLES, MATERIALS, AND DISPLAYS.

01. Electrical Cords. Electrical cords must be protected by cord covers or gaffers tape to prevent an electrical or trip hazard. (4-11-19)

02. Railings and Stairways. No items may be placed on railings or stairways and no persons shall sit or stand on railings or stairways. (4-11-19)

03. Tossing or Dropping Items. No items may be tossed or dropped over railings or from one level of a facility to another level or to the ground. (4-11-19)

04. Ingress or Egress. No item, including tables, chairs, exhibits, equipment, materials, and displays shall be located so as to block ingress or egress to any portion of the Chinden Office Complex, or to restrict the flow of individuals or motor vehicles using the facility, or to restrict emergency egress or ingress. (4-11-19)

05. Attaching, Affixing, Leaning, or Propping Materials. Materials, including posters, placards, banners, signs, displays, including any printed materials, ropes, and chains shall not be affixed on any exterior surface of the Chinden Office Complex not designed for that purpose or on any permanent commemorative installation, post, railing, fence or landscaping, including trees. All posters, placards, banners, signs, and displays must be free-standing or supported by individuals. No items may be leaned or propped against any exterior surface of the Chinden Office Complex or embedded into the ground, including, but not limited to, placement of a stake, post or rod into the ground to support materials. (4-11-19)

06. Materials Causing Damage to Exterior Surface. Stages, risers, chairs, tables, sound equipment, props, materials, displays, and similar items shall be constructed and used in a manner that will not damage, scratch, dent, dig or tear any surface at the Chinden Office Complex or any systems or utilities of the Chinden Office Complex including, but not limited to, fire suppression systems, storm drains, ventilation systems, and landscape watering systems. (4-11-19)

07. Distribution of Literature and Printed Material. All literature and printed material must be distributed at no charge. The party distributing literature and printed material shall ensure periodically and at the conclusion of its use of the Chinden Office Complex that such material is not discarded outside of designated trash receptacles. Literature and printed materials shall not be placed on parked vehicles at the Chinden Office Complex. (4-11-19)

08. Surface Markings. Users shall not use any material to mark on any surface of the Chinden Office Complex including chalk, paint, pens, ink, or dye. (4-11-19)

09. Removal of Items. All items brought to the Chinden Office Complex by the public shall be removed prior to the expiration of each day's hours of use by the public. Unless items are subject to report and transfer to the state treasurer as unclaimed property pursuant to Idaho law, the Director may authorize disposal of items left at the Chinden Office Complex. (4-11-19)

311. ITEMS SUBJECT TO SEARCH.
To enhance security and public safety, security personnel or law enforcement may inspect: (4-11-19)

01. Packages and Bags. Packages, backpacks, purses, bags, and briefcases reasonably suspected of concealing stolen items or items prohibited by these rules. (4-11-19)

02. Items. Items brought to the Chinden Office Complex, if there is a reasonable suspicion that an item may be capable of injuring, damaging or harming persons or property at the Chinden Office Complex. (4-11-19)

312. PROHIBITED ITEMS.
The following, as defined in Title 18, Chapter 33, Idaho Code, are not permitted at the Chinden Office Complex: bombs, destructive devices, shrapnel, weapons of mass destruction, biological weapons, and chemical weapons. Security personnel or law enforcement may direct that any person at the Chinden Office Complex immediately remove from the Chinden Office Complex any club, bat, or other item that can be used to injure, damage, or harm persons or property. (4-11-19)

313. (RESERVED)

314. UTILITY SERVICE.
The public may not use the utility services of the Chinden Office Complex other than restrooms; provided, however, the Director may authorize limited use of electrical service for the duration of Public Use authorized by these rules.

Utility services include, but are not limited to, electrical, sewage, water, and heating services. The Director may terminate the use of utilities if such use interferes with the utility services of the Chinden Office Complex or the equipment or apparatus using utility service fails to comply with applicable rules or codes. (4-11-19)

315. LAW ENFORCEMENT AND FACILITY EXIGENCY.
In case of a fire, bomb threat, utility malfunction, structural failure or other unforeseen emergency or threat endangering public safety or health, or endangering public property, law enforcement, security personnel and state employees or officials may direct all persons off of the Chinden Office Complex and delay or postpone any activity until the emergency or threat is abated. (4-11-19)

316. COMPLIANCE WITH LAW.
All use of the Chinden Office Complex shall comply with applicable law including, but not limited to, fire and safety codes. (4-11-19)

317. HEALTH, SAFETY, AND MAINTENANCE OF CHINDEN OFFICE COMPLEX.

01. Clean Condition After Use. Users shall leave the Chinden Office Complex in reasonably clean condition after use, including depositing all trash in designated receptacles. (4-11-19)

02. Items Return to Proper Location. Users shall return all items including, but not limited to, movable furniture and trash receptacles, to their location at the conclusion of the use. (4-11-19)

03. Public Health. No person shall excrete human waste at the Chinden Office Complex except in designated restroom facilities. For purposes of this section, excrete means the discharge of human waste from the body, including the acts of defecation and urination. For purposes of this section, human waste means human feces or human urine. (4-11-19)

04. Fireworks. No person shall possess or use fireworks at the Chinden Office Complex. (4-11-19)

05. Use of Waterways. No person shall swim, fish, or wade in waterways at the Chinden Office Complex. (4-11-19)

318. -- 399. (RESERVED)

400. LIABILITY.

01. State Liability. Nothing in these rules shall extend the liability of the state of Idaho beyond that provided in the Idaho Tort Claims Act, Title 6, Chapter 9, Idaho Code. (4-11-19)

02. No Endorsement. Action or inaction of the Department shall not imply endorsement or approval by the state of Idaho of the actions, objectives or views of participants in Public Use of the Chinden Office Complex. (4-11-19)

401. – 999. (RESERVED)

000. LEGAL AUTHORITY.
The following rules are promulgated in accordance with Section 67-9205(11), Idaho Code, by the administrator of the division of purchasing. (4-7-11)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 38.05.01, "Rules of the Division of Purchasing," Department of Administration, IDAPA 38, Title 05, Chapter 01. (3-15-02)

02. Scope. These rules shall be utilized by any other state agency acquiring property under these rules or through delegated authority. *These rules also govern the contested case hearing process.* *( )*

002. -- 010. (RESERVED)

011. DEFINITIONS.
Unless defined otherwise in these rules, the definitions set forth in Section 67-9203, Idaho Code, apply to this chapter. (3-29-17)

01. Alternate. Property or services that are not at least a functional equal in features, performance or use of the brand, model or specification designated as the standard. (3-15-02)

02. Brand Name or Equal Specification. A specification that uses a brand name to describe the standard of quality, performance or other characteristics being solicited and that invites the submission of equivalent products. (3-29-17)

03. Brand Name Specification. A specification calling for one (1) or more products by manufacturers' names or catalogue numbers. (3-29-17)

04. Buyer. An employee of the division of purchasing designated as a buyer, contract-administrator, purchasing agent, contracting officer, or similar designation by the administrator, including, where appropriate, the administrator and other management personnel. The term also includes authorized employee(s) of a purchasing authority. (3-29-17)

05. Competitive Negotiation. Procedure by which the buyer negotiates with one (1) or more responsive offerors in accordance with the provisions of an invitation to negotiate. (3-20-19)

06. Concession Services. The granting by the purchasing authority of a right, franchise, authority, property interest or option to a contractor, regardless of whether an expenditure of state or other funds occurs. (3-29-17)

07. Consultant Services. Work, rendered by either individuals or firms who possess specialized knowledge, experience, and expertise to investigate assigned problems or projects and to provide counsel, review, design, development, analysis or advice in formulating or implementing programs or services or improvements in programs or services, including but not limited to such areas as management, personnel, finance, accounting and planning. The consultant's services, opinions or recommendations will be performed according to the consultant's methods without being subject to the control of the agency except as to the result of the work. (3-29-17)

08. Contract Administration. Actions taken related to changes to contracts, including amendments, renewals and extensions; as well as receipt, review and retaining of the contract and contract-related documents; and exercise of remedies. (3-29-17)

09. Contract Management. Actions taken to ensure that both the agency and contractor comply with the requirements of the contract. Includes some functions related to solicitation development and contract development and close-out; also includes, but is not limited to regular monitoring of the contractor's day-to-day performance, evaluation of deliverables, invoice review, payment approval, progress tracking, regular status meetings, and management of state-owned property and other resources used in contract performance management. (3-29-17)

10. Division. The division of purchasing of the department of administration as established by Section 67-9204, Idaho Code. Whenever a purchase is made by the division on behalf of another agency, the division shall be

deemed to be acting as the agent for such agency. (3-15-02)

11. Document. When used in these rules, may include electronic documents. (3-15-02)

12. Equal. Property that meets or exceeds the quality, performance and use of the brand, model or specifications in the invitation to bid, request for proposals or request for quote. (3-20-19)

13. Formal Sealed Procedure. Procedure by which the buyer solicits competitive sealed bids or competitive sealed proposals by means of an invitation to bid or request for proposals. (3-15-02)

14. Informal Solicitation. Procedure by which the buyer solicits informal competitive quotes by means of a request for quote. (3-29-17)

15. Invitation to Bid. All documents, whether attached or incorporated by reference, utilized for soliciting formal sealed bids. (3-29-17)

16. Invitation to Negotiate. All documents, whether attached or incorporated by reference, utilized for soliciting proposals for a competitive negotiation. (3-20-19)

17. Offeror. A vendor who has submitted a response to a request for proposals or invitation to negotiate for property to be acquired by the state. (3-20-19)

18. Professional Services. Work rendered by an independent contractor whose occupation is the rendering of such services and who has a professional knowledge of some department of learning or science used by its practical application to the affairs of others or in the practice of an art founded on it, including but not limited to accounting and auditing, legal, medical, nursing, education, actuarial, veterinarian, information technology and research. The knowledge is founded upon prolonged and specialized intellectual training that enables a particular service to be rendered. The word "professional" implies professed attainments in special knowledge as distinguished from mere skills. (3-29-17)

19. Proposal. A written response including pricing information to a request for proposals that describes the solution or means of providing the property requested and which proposal is considered an offer to perform a contract in full response to the request for proposals. Price may be an evaluation criterion for proposals, but will not necessarily be the predominant basis for contract award. When used in conjunction with an invitation to negotiate, a proposal may or may not initially include pricing information, as provided in the solicitation. (3-20-19)

20. Public Agency. Has the meaning set forth in Section 67-2327, Idaho Code. (3-15-02)

21. Purchase. The act of acquiring or procuring property for state use or the result of an acquisition action. (3-15-02)

22. Purchase Order. Notification to the contractor to provide the stated property under the terms and conditions set forth in the purchase order. It may include the form of the state's acceptance of a vendor's quote, proposal or bid. See also definition of contract. (3-29-17)

23. Purchasing Authority. The division or an agency exercising authority based on a delegation of authority by the administrator to an individual or an agency; or as otherwise provided under these rules to engage in the conduct of purchasing. (3-29-17)

24. Quote. An offer to supply property in response to a request for quote and generally used for informal solicitation procedures. (3-29-17)

25. Request for Proposals. Includes all documents, whether attached or incorporated by reference, utilized for soliciting competitive proposals as a component of the formal sealed procedure and is generally utilized in the acquisition of services or other complex purchases. (3-29-17)

26. Request for Quote. The document, form or method generally used for purchases solicited in

accordance with informal solicitation procedures. (3-29-17)

27. **Requisition**. A standard state or agency specific form that serves as a purchasing request and that requests that the purchasing authority acquire the property. (3-29-17)

28. **Sealed**. Includes invitations to bid and requests for proposals electronically sealed and submitted in accordance with requirements or standards set by the division and bids and proposals manually sealed and submitted. (3-29-17)

29. **Sealed Procedure Limit**. That dollar amount, as established by these rules, above which the formal sealed procedure will be used. The amount may be lowered by the administrator to maintain full disclosure or competitive purchasing or otherwise achieve overall state efficiency and economy. (3-29-17)

30. **Small Purchase**. An acquisition that costs less than the sealed procedure limit. (3-15-02)

31. **State**. The state of Idaho including each agency unless the context implies other states of the United States. (3-29-17)

32. **Telecommunications**. All present and future forms of hardware, software or services used or required for transmitting voice, data, video or images. (3-29-17)

33. **Written**. When used in these rules, may include an electronic writing. (3-15-02)

SUBCHAPTER A - RULES GOVERNING PURCHASING

012. PRESERVATION OF RECORDS.
Records of a purchasing authority, which are created or held pursuant to these rules, may be kept in such format as prescribed by the purchasing authority responsible for record retention; and otherwise in accordance with record preservation and retention policies established by the agency designated by the legislature for such purpose. (3-20-19)

013. FORM OF COMMUNICATION.
Any written communication authorized or required by these rules may be provided electronically, or in another format as designated by the administrator. (3-20-19)

014. -- 020. (RESERVED)

021. DELEGATION OF AUTHORITY OF ADMINISTRATOR.
Whenever a purchase is made by the division of purchasing on behalf of another agency, the division shall be deemed to be acting as the agent for such agency. The division shall administer the acquisition of all property for agencies except those for which the agencies have separate statutory purchasing authority. The administrator may delegate in writing such authority as deemed appropriate to employees of the division, an agency or employees of an agency. Such delegations shall remain in effect unless modified or until revoked in writing. All delegations must be given in writing prior to the acquisition of the property. All acquisitions under delegated authority must be made according to these purchasing rules, the policies developed by the division, and the conditions established by the administrator in the delegation. Delegations shall be subject to periodic reporting and review as directed by the administrator. (3-29-17)

01. **Manner of Submission**. Request for delegated purchasing authority must be submitted in writing, on a form and in a manner established by the administrator. (3-29-17)

02. **Accompaniments to Application**. Application for authority must be accompanied by the following: (3-29-17)

a. Documentation that the proposed designee demonstrates sufficient purchasing knowledge and ability to accommodate the agency's particular needs; (3-29-17)

b. A demonstrated need for the dollar limit of authority requested; (3-29-17)

c. An agency purchasing manual outlining internal operational processes and procedures related to the conduct of purchasing within the agency; and (3-29-17)

d. A written plan for continual training for staff which includes routine participation in training sessions, workshops and conferences offered by the division. (3-29-17)

03. Policy. The administrator will establish a delegated purchasing authority policy applicable to all designees; and may place additional conditions on individual delegated authority, in order to ensure consistency in the procurement process as well as proper oversight and compliance with state purchasing code, rules and applicable policy. (3-29-17)

04. Designee Responsibility. Agency designee(s) are responsible for all procurement-related activities conducted for designee's agency under authority delegated by the administrator. (3-29-17)

05. Sub-delegation. Designees may sub-delegate purchasing authority within their respective agencies consistent with the designee's capacity to monitor and oversee such activity. (3-29-17)

06. Authority Not Transferable. Authority is not transferable and will automatically terminate when the designee leaves the employment of the requesting agency; however, an agency may apply to the administrator for the immediate designation of an interim designee to exercise delegated purchasing authority for a time period not exceeding ninety (90) days, subject to conditions outlined by the administrator, relative to the purchasing competency of the interim designee. (3-29-17)

07. Quarterly Review. The administrator will review the activities of a designee with delegated purchasing authority on no less than a quarterly basis. (3-29-17)

08. Failure to Comply. Failure to comply with the conditions included in the written authorization provided by the administrator may result in immediate rescission of authority, increased monitoring, reduction in authority level, additional training, or other action deemed appropriate by the administrator to ensure compliance with purchasing code, rules and applicable policy. (3-29-17)

022. -- 030. (RESERVED)

031. COOPERATIVE PURCHASING POLITICAL SUBDIVISIONS.
The various bid statutes relating to municipal corporations, school districts, and counties may authorize these political subdivisions to utilize any contract entered into by the state. A public agency may use open contracts as authorized by statute and the terms of the open contract; and the state may otherwise cooperate with political subdivisions in the acquisition of property. (3-29-17)

032. ACQUISITION OF CONCESSION SERVICES.
If there is no expenditure of state funds, the acquisition of concession services, including but not limited to, exclusive-rights contracts, franchises, vending services, options, pouring contracts, service contracts, advertising contracts, broadcast rights to sporting events or other similar types of property, may be conducted by each purchasing authority as it determines to be in its best interest; provided, however, concessions within the definition of a food service facility set forth in Section 67-6902, Idaho Code, shall comply with the provisions of Title 67, Chapter 69, Idaho Code. The purchasing authority is encouraged to utilize a competitive process if determined to be in its best interest. (3-29-17)

033. PURCHASE OF TELECOMMUNICATIONS OR INFORMATION TECHNOLOGY PROPERTY.
Unless otherwise exempted by statute or these rules, all agency requests exceeding the sealed procedure limit for telecommunications or information technology property must be reviewed and approved by the office of information technology services within the office of the governor before submission to the division. It is the requesting agency's responsibility to attach any approvals to any requisitions submitted to the division. Acquisitions of these types of property are subject to these rules and so agencies should plan in advance to allow for review by the office of

information technology services. All acquisitions of telecommunications and information technology property will conform to the guidelines and policies established or adopted by the governing or policy board or council created by statute or directive for the purpose of information technology oversight or review. (3-29-17)

034. PUBLIC NOTICE.
Public notice of all solicitations shall be made in accordance with Section 67-9208, Idaho Code. Notice of solicitations shall be posted electronically unless the administrator exempts the solicitation from the requirement to post to the state's electronic procurement (e-procurement) system, as provided in Section 044 of these rules. Notice of sole source acquisitions shall be posted electronically, and otherwise in accordance with Section 67-9221, Idaho Code. (3-29-17)

035. -- 040. (RESERVED)

041. PROCEDURE FOLLOWED IN THE SOLICITATION OF BIDS AND PROPOSALS.
Except as otherwise provided, the acquisition of property exceeding one hundred thousand dollars ($100,000) (the sealed procedure limit) shall be by the formal sealed procedure. All vendors submitting responses to solicitations issued by the state must be qualified. All vendors are qualified unless disqualified as defined by Section 67-9217, Idaho Code. (4-7-11)

042. EXCEPTIONS TO COMPETITION.
Purchases meeting the following criteria need not be purchased by competitive solicitation, unless otherwise directed by the administrator: (3-29-17)

01. Emergency Purchases. Emergency purchases as authorized by Section 67-9221, Idaho Code, and Section 043 of these rules. (3-29-17)

02. Sole Source Purchases. Sole source purchases made through direct solicitation with documented source selection, in accordance with Section 67-9221, Idaho Code, and Section 045. (3-15-02)

03. Reverse Auctions. Purchases through reverse public auctions as authorized by Section 67-9221, Idaho Code. (3-15-02)

04. Federal Government Acquisitions. Acquisitions from the United States of America or any agency thereof. (3-15-02)

05. Contracts with Other Public Agencies. Contracts with other public agencies as defined in Section 67-2327, Idaho Code, and authorized by Section 67-2332, Idaho Code. (3-20-19)

06. Rehabilitation Agency Acquisitions. Acquisitions of property that is provided by non-profit corporations and public agencies operating rehabilitation facilities serving the handicapped and disadvantaged and that is offered for sale at fair market price as determined by the administrator in accordance with these rules. (3-15-02)

07. Correctional Industries. Purchases of property marketed directly by Correctional Industries in accordance with Section 20-245, Idaho Code. (3-29-17)

08. Purchases from General Services Administration Federal Supply Contractors. Acquisitions of property may be made from General Services Administration federal supply contractors without the use of competitive bid upon written approval of the administrator. The administrator shall determine whether such property meets the requesting agency's requirements and whether the price of acquisition is advantageous to the state. The administrator shall commemorate the determination in a written statement that shall be incorporated in the applicable file. If the administrator determines that the acquisition of property from General Services Administration contractors is not advantageous to the state, the acquisition shall be in accordance with competitive solicitation procedures and requirements. (3-29-17)

09. Existing Open Contracts. Except as provided in these rules, property available under these contracts shall be purchased under such contracts in accordance with the provisions or requirements for use thereof. (3-29-17)

10. Exempt Purchases. By written policy the administrator may exempt from the formal sealed procedure or the requirement for competitive solicitation that property for which bidding is impractical, disadvantageous or unreasonable under the circumstances. (3-29-17)

a. Examples include, but are not limited to: (3-15-02)

i. Special market conditions; (3-15-02)

ii. Property requiring special contracting procedures due to uniqueness; (3-15-02)

iii. Legal advertising, publication or placement of advertisements by state agency personnel directly with media sources; (3-29-17)

iv. Property for which competitive solicitation procedures are impractical; (3-20-19)

v. Used property; (3-20-19)

vi. Ongoing maintenance, upgrades, support or additional licenses for software or other information technology solutions, including a change in the manner of solution delivery; which software or solution was originally acquired in compliance with the purchasing laws in effect at the time of acquisition; or (3-20-19)

vii. Acquisition of property for direct resale. (3-20-19)

b. Such policy shall describe the property exempted, the duration of the exemption, and any other requirements or circumstances appropriate to the situation. (3-15-02)

043. EMERGENCY PURCHASES.

01. Definition of Emergency Conditions. An emergency condition is a situation that creates a threat to public health, welfare or safety such as may arise by reason of floods, epidemics, riots, equipment failures or other similar circumstances. The existence of such condition must create an immediate and serious need for property that cannot be met through normal acquisition methods. The buyer or the agency official responsible for purchasing shall make a written determination stating the basis for an emergency purchase and for the selection, if applicable, of the particular supplier. Such determination shall be sent promptly to the administrator for review and written approval that the purchase be undertaken as an emergency purchase. (3-15-02)

02. Conditions. Emergency purchases shall be limited to only that property necessary to meet the emergency. The director or administrator may delegate authority in writing to an agency or purchasing authority to make emergency purchases of up to an amount set forth in the delegation of authority. (3-29-17)

044. SMALL PURCHASES.

01. Small Purchase Categories. (3-29-17)

a. Exempt. Property expected to cost less than ten thousand dollars ($10,000). (3-29-17)

b. Informal. Purchase of any property expected to cost at least ten thousand dollars ($10,000) and less than the sealed procedure limit. (3-29-17)

c. Professional and consultant services. The acquisition of professional or consultant services expected to cost less than the sealed procedure limit, for projects limited to one (1) year in duration. (3-29-17)

02. Procedure. Agencies acquiring property under this rule are encouraged to work with legal counsel to develop solicitation and contract terms that serve the best interests of the state. The terms of procurements under this rule are subject to the provisions of Section 112 of these rules. (3-29-17)

a. Professional and consultant small purchases and exempt small purchases may be acquired as each agency sees fit, in accordance with good business practice and agency-established policy, in the best interest of the state, subject to the limitations in Subsection 044.03 of this rule. (3-29-17)

b. Informal small purchases may be made using informal solicitation procedures, subject to the limitations in Subsection 044.03 of this rule. Unless exempted by the administrator, informal solicitations shall be issued through the division's electronic procurement (e-procurement) system. The purchasing authority will establish the quoting time based on factors such as complexity, urgency, and the number and location of vendors, in an effort to allow vendors sufficient time to prepare and return a quote. Agencies procuring property under this rule shall maintain a purchasing file containing the following: (3-29-17)

i. The solicitation document posted and quotes received. If the acquisition was not publicly posted, the agency shall include a statement in the purchasing file describing the basis for determining posting was impractical or impossible, along with the administrator's authorization. (3-29-17)

ii. If not posted on the division's e-procurement system, the agency shall document the quotes received (or its attempt to obtain quotes) from at least three (3) vendors having a significant Idaho economic presence as defined in Section 67-2349, Idaho Code. (3-29-17)

03. Limitations. The following limitations apply to all small purchases: (3-29-17)

a. Property available under single agency or open contracts shall be purchased under such contracts and not as a small purchase under this rule unless otherwise authorized by the administrator. (3-29-17)

b. Acquisition requirements shall not be artificially divided to avoid bid statutes, rules or policies. (3-29-17)

c. Small purchases not issued for a fixed price shall include a not to exceed price of no more than the applicable sealed procedure limit. (3-29-17)

045. SOLE SOURCE PURCHASES.

01. Only a Single Supplier. Sole source purchase shall be used only if the required property is reasonably available from a single supplier. A requirement for a particular proprietary property item does not justify a sole source purchase if there is more than one (1) potential supplier that can provide the required property. (3-29-17)

02. Examples of Sole Source. Examples of circumstances that could necessitate a sole source purchase are: (3-15-02)

a. Where the compatibility of equipment, components, accessories, computer software, replacement parts or service is the paramount consideration. (3-15-02)

b. Where a single supplier's property is needed for trial use or testing. (3-29-17)

c. Purchase of mass produced movie or video films or written publications distributed or sold primarily by the publisher. (3-15-02)

d. Purchase of property for which it is determined there is no functional equivalent. (3-15-02)

03. Administrator Makes Determination. The determination as to whether an acquisition shall be made as a sole source will be made by the administrator. Each request must be submitted in writing by the requesting agency. The administrator may specify the application of such determination and its duration, and may apply additional conditions to an approval. In cases of reasonable doubt, competition should be solicited. Any request by an agency that an acquisition be restricted to a single supplier shall include a justification for the property, as well as an explanation as to why no other supplier is acceptable. (3-29-17)

04. Negotiation in Sole Source Purchase. After receipt of authorization from the administrator for a

sole source purchase, the agency shall conduct negotiations, as appropriate, as to price, delivery and terms, in accordance with the authorization and in the best interest of the state. (3-29-17)

046. DETERMINATION OF FAIR MARKET PRICE FOR REHABILITATION AGENCY ACQUISITIONS.
Upon receipt of a rehabilitation agency proposal accompanied by detailed cost data, the administrator will conduct a survey of the market appropriate for the property being sought. The fair market price of a rehabilitation agency shall not be greater than one hundred twenty-five percent (125%) of the lowest price received during the survey. The administrator will notify by letter the rehabilitation agency concerned advising it as to whether it is offering property at fair market price. (3-29-17)

047. -- 050. (RESERVED)

051. CONTENT OF SOLICITATIONS ISSUED UNDER A FORMAL SEALED PROCEDURE.
The following shall be included in an invitation to bid or a request for proposals: (3-29-17)

01. Submission Information. Information regarding the applicable closing date, time and location. (3-20-19)

02. Specifications. Specifications developed in accordance with Section 111 of these rules. (3-29-17)

03. Contract Terms. Terms and conditions applicable to the contract, subject to the provisions of Section 112 of these rules. (3-29-17)

04. Evaluation Criteria. Any evaluation criteria to be used in determining property acceptability. (3-15-02)

05. Trade-In Property. If trade-in property is to be included, a description of the property and location where it may be inspected. (3-15-02)

06. Incorporation by Reference. A brief description of any documents incorporated by reference that specifies where such documents can be obtained. (3-15-02)

07. Pre-Proposal or Pre-Bid Conference. The date, time and location of the conference must be included in the solicitation. (3-29-17)

052. CHANGES TO INVITATION TO BID OR REQUEST FOR PROPOSALS.
A solicitation issued under a formal sealed procedure may be changed by the buyer through issuance of an amendment, provided the change is issued in writing prior to the solicitation closing date and is made available to all vendors receiving the original solicitation. Any material information given or provided to a prospective vendor with regard to a solicitation shall be made available in writing by the buyer to all vendors receiving the original solicitation. Oral interpretations of specifications or contract terms and conditions shall not be binding on the state unless confirmed in writing by the buyer and acknowledged by the purchasing authority prior to the date of the closing. Changes to the solicitation shall be identified as such and shall require that the vendor acknowledge receipt of all amendments issued. The right is reserved to waive any informality. (3-29-17)

053. -- 060. (RESERVED)

061. FORM OF SUBMISSION FOR SOLICITATIONS ISSUED UNDER A FORMAL SEALED PROCEDURE.

01. Manual Submissions. Unless otherwise provided in these rules, to receive consideration, in addition to any specific requirements set forth in the invitation to bid or request for proposals, bids or proposals submitted manually must be made on the form provided, which form must be properly completed and signed in ink or contain an electronic signature as defined in Section 28-50-102, Idaho Code. All changes or erasures on manual submissions shall be initialed in ink. Unsigned or improperly submitted bids or proposals will be rejected. The purchasing authority assumes no responsibility for failure of the United States Postal Service, any private or public

delivery service, or any computer or other equipment to deliver all or a portion of the bid or proposal at the time or to the location required by the solicitation. (4-6-15)

02. Electronic Submissions. To receive consideration, in addition to any specific requirements set forth in the invitation to bid or request for proposals, bids or proposals submitted electronically must be submitted in accordance with and meet all applicable requirements of these rules and contain an electronic signature as defined in Section 28-50-102, Idaho Code. The purchasing authority assumes no responsibility for failure of any electronic submission process, including any computer or other equipment to deliver all or a portion of the bid or proposal at the time or to the location required by the solicitation. (4-6-15)

062. -- 069. (RESERVED)

070. PRE-PROPOSAL CONFERENCE.
All request for proposals will have a pre-proposal conference for vendors and will be conducted by the procurement team and project personnel. The conference will consist of a general overview of the procurement process as well as the scope of work and requirements of the solicitation. The procurement team will allow attendees to submit written questions and may provide an opportunity for a verbal question and answer period, provided, however, that only questions submitted and answered in written form and posted to the state's e-procurement system as an amendment to the solicitation, will have any force or effect. (3-29-17)

071. PRE-OPENING WITHDRAWAL OR MODIFICATION.
Manual submissions may be withdrawn or modified only as follows: Bids or proposals may be withdrawn or modified prior to the closing by written communication signed in ink by the submitting vendor. Bids or proposals may be withdrawn prior to closing in person upon presentation of satisfactory evidence establishing the individual's authority to act on behalf of the submitting vendor. Bids or proposals may be withdrawn or modified by electronic communication provided the communication is received prior to the closing. The withdrawal or modification, if done via electronic communication, must be confirmed in a writing signed in ink or containing an electronic signature as defined in Section 28-50-102, Idaho Code. Any withdrawing or modifying communication, including an electronic communication, must clearly identify the solicitation. A modifying communication should be worded so as not to reveal the amount of the original bid or proposal. (4-6-15)

072. LATE BIDS/PROPOSALS, LATE WITHDRAWALS AND LATE MODIFICATIONS.
Any bid or proposal, withdrawal, or modification received after the time and date set for closing at the place designated in the solicitation is late. No late bid or proposal, late modification or late withdrawal will be considered. All late bids and proposals, other than clearly marked "no bids", will be returned to the submitting vendor. Time of receipt will be determined by the official time stamp or receipt mechanism located at the designated place for receipt of responses. The purchasing authority assumes no responsibility for failure of the United Postal Service, any private or public delivery service, or any computer or other equipment to deliver all or a portion of the bid or proposal at the time or to the location required by the solicitation. (3-29-17)

073. RECEIPT, OPENING, AND RECORDING OF BIDS AND PROPOSALS.
Upon receipt, all bids, proposals and modifications properly marked and identified will be time stamped, but not opened. They shall be stored in a secure place until the time specified for opening. Time stamping and storage may be through electronic means. Bids shall be opened publicly at the date and time specified in the invitation to bid. Proposals shall be opened publicly, identifying only the names of the offerors unless otherwise stated in the request for proposals. Bid and proposal openings may be electronic virtual openings. (3-29-17)

074. MISTAKES.
The following procedures are established relative to claims of a mistake. (3-15-02)

01. Mistakes in Submission. If a mistake is attributable to an error in judgment, the submission may not be corrected. Correction or withdrawal by reason of an inadvertent, nonjudgmental mistake is permissible, but at the discretion of the administrator and to the extent it is not contrary to the interest of the state or the fair treatment of other submitting vendors. (3-29-17)

02. Mistakes Discovered Before Opening. Mistakes discovered by a vendor prior to closing may be corrected by the submitting vendor by submitting a timely modification or withdrawing the original submission and

submitting a corrected submission to the purchasing authority before the closing. Vendors who discover a mistake after closing but prior to opening may withdraw the submission by written notification to the purchasing authority and signed by an individual authorized to bind the vendor if such notification is received by the purchasing authority prior to opening. (4-6-15)

03. Mistakes Discovered After Opening But Before Award. This subsection sets forth procedures to be applied in three (3) situations described below in which mistakes are discovered after opening but before award. (3-15-02)

a. Minor Informalities. Minor informalities are matters of form rather than substance evident from the bid or proposal document, or insignificant mistakes that can be waived or corrected without prejudice to other submitting vendors, that is, the effect of the mistake on price, quantity, quality, delivery or contractual conditions is not significant. The buyer may waive such informalities. Examples include the failure of a submitting vendor to: (3-15-02)

i. Return the required number of signed submissions. (3-15-02)

ii. Sign in ink or provide an electronic signature, but only if it is clear from the submission that the submitting vendor intended to be bound by its terms. (3-20-19)

iii. Acknowledge the receipt of an amendment, but only if: (3-29-17)

(1) It is clear from the submission that the submitting vendor received the amendment and intended to be bound by its terms; or (3-29-17)

(2) The amendment involved had a negligible effect on price, quantity, quality or delivery. (3-29-17)

b. Mistakes Where Intended Submission is Evident. If the mistake and the intended submission are clearly evident on the face of the document, the submission shall be corrected to the intended submission and may not be withdrawn. Examples of mistakes that may be clearly evident on the face of the document are typographical errors, errors in extending unit prices (unit prices will always govern in event of conflict with extension), transposition errors and arithmetical errors. (3-15-02)

c. Mistakes Where Intended Submission is not Evident. A vendor may be permitted to withdraw a low bid if: (3-15-02)

i. A mistake is clearly evident on the face of the submission document but the intended submission is not similarly evident; or (3-15-02)

ii. The vendor submits timely proof of evidentiary value that clearly and convincingly demonstrates that a mistake was made. (3-15-02)

04. Mistakes Discovered After Award. Mistakes shall not be corrected after award of the contract. (3-15-02)

05. Written Approval or Denial Required. In the event of a mistake discovered after the opening date, the administrator shall approve or deny, in writing, a request to correct or withdraw a submission. (3-15-02)

075. -- 080. (RESERVED)

081. EVALUATION AND AWARD.
Any contract award shall comply with these provisions. (3-15-02)

01. General. The contract is to be awarded to the lowest responsible and responsive bidder or offeror (or for requests for quotes, vendor submitting a quote). The solicitation shall set forth the requirements and criteria that will be used to make the lowest responsive and responsible determination. (3-29-17)

02. Standards of Responsibility. Nothing herein shall prevent the buyer from establishing additional responsibility standards for a particular purchase. Factors to be considered in determining whether a vendor is responsible include, but are not limited to, whether the vendor has: (3-29-17)

a. Available the appropriate financial, material, equipment, facility and personnel resources and expertise, or the ability to obtain them, necessary to indicate capability to meet all contractual requirements; (3-15-02)

b. A satisfactory record of integrity; (3-15-02)

c. Qualified legally to contract with the purchasing authority and qualified to do business in the state of Idaho; (3-29-17)

d. Unreasonably failed to supply any necessary information in connection with the inquiry concerning responsibility; (3-15-02)

e. Requisite experience; or (3-29-17)

f. A satisfactory prior performance record, if applicable. (3-29-17)

03. Information Pertaining to Responsibility. A submitting vendor shall supply information requested by the buyer concerning its responsibility. If such submitting vendor fails to supply the requested information, the buyer shall base the determination of responsibility upon any available information or may find the submitting vendor nonresponsible if such failure is unreasonable. (3-15-02)

04. Written Determination of Nonresponsibility Required. If a submitting vendor that otherwise would have been awarded a contract is found nonresponsible, a written determination of nonresponsibility setting forth the basis of the finding shall be prepared by the buyer. (3-15-02)

05. Extension of Time for Acceptance. After opening, the buyer may request submitting vendors to extend the time during which their bids or proposals may be accepted. The reasons for requesting such extension shall be documented. (3-29-17)

06. Partial Award. A buyer shall have the discretion to award on an all or nothing basis or to accept any portion of a response to a solicitation, excluding other portions of a response and other offers, unless the vendor stipulates all or nothing in its response to the solicitation. (3-29-17)

07. Only One Submission Received. If only one (1) responsive submission is received in response to a solicitation, an award may be made to the single submitting vendor. In addition, the buyer may pursue negotiations in accordance with applicable conditions and restrictions of these rules. Otherwise, the solicitation may be canceled, and a new solicitation issued, as the purchasing authority determines to be in its best interest. (3-29-17)

082. TIE RESPONSES.

01. Tie Responses -- Definition. Tie responses are low responsive bids, proposals or quotes from responsible bidders or offerors (or for requests for quotes, from vendors submitting a quote) that are identical in price or score. Responsibility is determined based upon the standards of responsibility set forth in Section 081 of these rules. (3-29-17)

02. Award. Award shall not be made by drawing lots, except as set forth below, or by dividing business among tie responses. In the discretion of the buyer, award shall be made in any permissible manner that will resolve tie responses. Procedures that may be used to resolve tie responses include: (3-29-17)

a. If price is considered excessive or for another reason such responses are unsatisfactory, reject all responses, resolicit and seek a more favorable contract in the open market or enter into negotiations pursuant to Section 084 of these rules; (3-29-17)

b. Award to an Idaho resident or an Idaho domiciled vendor or for Idaho produced property where other tie response(s) are from out of state or to a vendor submitting a domestic property where other tie responses are for foreign (external to Idaho) manufactured or supplied property; (3-29-17)

c. Where identical low responses include the cost of delivery, award the contract to the vendor located (or shipping from a point) farthest from the point of delivery; (3-29-17)

d. Award to the vendor with the earliest delivery date. (3-29-17)

03. Drawing Lots. If no permissible method will be effective in resolving tie responses and a written determination is made so stating, award may be made by drawing lots or tossing a coin in the presence of witnesses if there are only two (2) tie responses. (3-29-17)

083. PROPOSAL DISCUSSION WITH INDIVIDUAL OFFERORS.

01. Classifying Proposals. For the purpose of conducting proposal discussions under this rule, proposals shall be initially classified as: (3-15-02)

a. Acceptable; (3-15-02)

b. Potentially acceptable, that is reasonably susceptible of being made acceptable; or (3-15-02)

c. Unacceptable. (3-15-02)

02. "Offerors" Defined. For the purposes of this rule, the term "offerors" includes only those vendors submitting proposals that are acceptable or potentially acceptable. The term shall not include vendors that submitted unacceptable proposals. (3-29-17)

03. Classification of Proposals. For the purposes of this rule, the purchasing authority may establish criteria within the solicitation to classify proposals. (3-20-19)

04. Purposes of Discussions. Discussions are held to facilitate and encourage an adequate number of potential offerors to offer their best proposals, by amending their original offers, if needed. (3-15-02)

05. Conduct of Discussions. The solicitation document must provide for the possibility of discussions. Offerors shall be accorded fair and equal treatment with respect to any opportunity for discussions and revisions of proposals. The buyer should establish procedures and schedules for conducting discussions. If during discussions there is a need for clarification or change of the request for proposals, it shall be amended to incorporate such clarification or change. Auction techniques (revealing one offeror's price to another) and disclosure of any information derived from competing proposals are prohibited. Any oral clarification or change of a proposal shall be reduced to writing by the offeror. (3-15-02)

06. Best and Final Offer. The buyer shall establish a common time and date for submission of best and final offers. Best and final offers shall be submitted only once unless the buyer makes a written determination before each subsequent round of best and final offers demonstrating another round is in the purchasing authority's interest, and additional discussions will be conducted or the requirements will be changed. Otherwise, no discussion of, or changes in, the best and final offers shall be allowed prior to award. Offerors shall also be informed that if they do not submit a notice of withdrawal or another best and final offer, their immediate previous offer will be construed as their best and final offer. (3-29-17)

07. Application to Other Solicitation Types. The provisions of this Section 083 may be utilized in other types of solicitations, in addition to requests for proposals, so long as the solicitation document provides for the possibility of discussions and includes a reference to this section. (3-29-17)

084. NEGOTIATIONS.

In accordance with Section 67-9205(12), Idaho Code, the administrator may negotiate acquisitions as follows: (3-15-02)

01. Use of Negotiations. Negotiations may be used under these rules when the administrator determines in writing that negotiations may be in the best interest of the state including but not limited to the following circumstances: (3-20-19)

a. Negotiations undertaken pursuant to a solicitation for competitive negotiation, in accordance with the provisions of Section 094 of these rules. (3-20-19)

b. A competitive solicitation has been unsuccessful because, without limiting other possible reasons, all offers are unreasonable, noncompetitive or all offers exceed available funds and the available time and circumstances do not permit the delay required for resolicitation; (3-15-02)

c. There has been inadequate competition; (3-29-17)

d. During the evaluation process it is determined that more than one (1) vendor has submitted an acceptable proposal or bid and negotiations could secure advantageous terms or a reduced cost for the state; or (3-29-17)

e. During the evaluation process it is determined that all responsive offers exceed available funds and negotiations could modify the requirements of the solicitation to reduce the cost to available funds and avoid the extended time and expenditure of resources for a resolicitation. (3-29-17)

02. Examples. Examples of situations in which negotiations may be appropriate include but are not limited to: (3-29-17)

a. Ensuring that the offering vendor has a clear understanding of the scope of work required and the requirements that must be met; (3-15-02)

b. Ensuring that the offering vendor will make available the required personnel and facilities to satisfactorily perform the contract; or (3-15-02)

c. Agreeing to any clarifications regarding specifications or contract terms. (3-29-17)

03. Conditions of Use. Negotiations, as permitted by Paragraph 084.01.d. of this rule, are subject to the following: (3-20-19)

a. The solicitation must specifically allow for the possibility of negotiation and describe, with as much specificity as possible, how negotiations may be conducted; (3-15-02)

b. Submissions shall be evaluated and ranked based on the evaluation criteria in the solicitation; (3-15-02)

c. Only those vendors whose proposals or bids are determined to be acceptable, in accordance with criteria for negotiations set forth in the solicitation, shall be candidates for negotiations; (3-15-02)

d. Negotiations shall be conducted first with the vendor that is the apparent low responsive and responsible bidder, unless concurrent negotiations are permissible, in accordance with the terms of the solicitation; (3-20-19)

e. If one (1) or more responsive offers does not exceed available funds, negotiations shall be against the requirements of and criteria contained in the solicitation and shall not materially alter those criteria or the specifications; (3-29-17)

f. Auction techniques (revealing one vendor's price to another) and disclosure of information derived from competing proposals is prohibited; (3-15-02)

g. Any clarifications or changes resulting from negotiations shall be documented in writing;(3-15-02)

h. If the parties to negotiations are unable to agree, the administrator shall formally terminate negotiations and may undertake negotiations with the next ranked vendor; and (3-15-02)

i. If negotiations as provided for in this rule fail to result in a contract, as determined by the administrator, the solicitation may be canceled and the administrator may negotiate in the best interest of the state with any qualified vendor. (3-15-02)

04. Timing of Use. If conducted as part of a small purchase or under the formal sealed procedure, negotiations are the last step in the procurement process. Use of oral interviews or best and final procedures, as provided for in a solicitation, must precede negotiations as provided for in this rule, unless the administrator makes a written determination that it is in the state's best interest to proceed directly to negotiations in lieu of first conducting oral interviews and the best and final procedures. (3-20-19)

05. Termination of Negotiations. The purchasing authority may terminate negotiations at any time, in the best interest of the state. (3-20-19)

085. PRICE AGREEMENTS.

The administrator may authorize and negotiate price agreements with vendors when such agreements are deemed in the best interest of the state. Price agreements shall provide for termination for any reason upon not more than thirty (30) days' written notice. Price agreements may be in the best interest of the state when: (3-29-17)

01. Dollar Value. The dollar value of individual procurements of property is less than the maximum dollar value of an exempt small purchase under Section 044 of these rules and multiple individual procurements are anticipated within a state of Idaho fiscal year; (3-29-17)

02. Property. The property may not be conducive to standard competitive bidding procedures; (3-29-17)

03. Multiple Agreements. There exists a need to establish multiple agreements with vendors supplying property that is similar in nature or function but is represented by different manufacturers or needed in multiple locations; or (3-29-17)

04. Non-exclusive Agreements. Non-exclusive agreements for periods not exceeding two (2) years are deemed necessary to establish consistent general business terms, including without limitation, price, use of catalogs, delivery or credit terms. (3-29-17)

086. -- 090. (RESERVED)

091. ACCEPTANCE OR REJECTION OF BIDS AND PROPOSALS.

Prior to the issuance of a contract, the administrator shall have the right to accept or reject all or any part of a bid or proposal or any and all bids or proposals when: (3-29-17)

01. Best Interest. It is in the best interests of the state of Idaho; (3-15-02)

02. Does Not Meet Specifications. The submission does not meet the minimum specifications; (3-15-02)

03. Not Lowest Responsible Bid. The submission is not the lowest responsible submission; (3-15-02)

04. Bidder Is Not Responsible. A finding is made based upon available evidence that a submitting vendor is not responsible or otherwise capable of currently meeting specifications or assurance of ability to fulfill contract performance; or (3-15-02)

05. Deviations. The item offered deviates to a major degree from the specifications, as determined by the administrator (minor deviations, as determined by the administrator, may be accepted as substantially meeting the requirements of the state of Idaho). Deviations will be considered major when such deviations appear to frustrate the

competitive process or provides a submitting vendor an unfair advantage. (3-15-02)

092. CANCELLATION OF SOLICITATION.
Prior to the issuance of a contract, the purchasing authority reserves the right to reject all bids, proposals or quotes or to cancel a solicitation. In the event of the cancellation of an invitation to bid or request for proposals, all submitting vendors will be notified. Examples of reasons for cancellation are: (3-29-17)

01. Inadequate or Ambiguous Specifications. (3-15-02)

02. Specifications Have Been Revised. (3-15-02)

03. Cancellation Is in the Best Interest of the State. (3-29-17)

093. NOTICE OF REJECTION.
Bidders or offerors whose bids or proposals are rejected as non-responsive will be notified in writing of the reasons for such rejection. (3-15-02)

094. COMPETITIVE NEGOTIATIONS.
Notwithstanding the provisions of Section 041 of these rules applicable to the formal sealed procedure, the administrator may authorize the use of competitive negotiations when it is determined that the use of negotiations may enable the state to more effectively identify and refine potential solutions, especially where the business need is complex or requires innovation. (3-20-19)

01. Written Authorization. The administrator shall establish guidelines on how and when agencies may request to use competitive negotiations. Requests for authorization to utilize competitive negotiations must be provided in writing, in a format designated by the administrator. The request must provide the reasons that a formal sealed procedure is not practicable; as well as support for the use of competitive negotiations in order to meet a complex business need, solicit innovative solutions, enable the state to keep within approved program budgets, or to otherwise facilitate the receipt of the most cost-effective solution. Written authorization must be provided by the administrator in order for a purchasing authority to use competitive negotiations under this rule. (3-20-19)

02. Form of Solicitation. Proposals under this rule shall be solicited pursuant to an invitation to negotiate. (3-20-19)

03. Applicability of Other Rules. An invitation to negotiate shall be subject to the rules applicable to a request for proposals, except as otherwise provided. Modifications under Section 072 of these rules will be allowed after closing to the extent authorized within the invitation to negotiate. Section 083 of these rules, proposal discussion with individual offerors, shall not apply to an invitation to negotiate. (3-20-19)

04. Content of Solicitation for Competitive Negotiation. Notwithstanding Section 051 of these rules, the following shall be included in an invitation to negotiate: (3-20-19)

a. Submission Information. Information regarding the applicable closing date, time and location. (3-20-19)

b. Solicitation Procedure. An outline of the invitation to negotiate process. (3-20-19)

c. Specifications. Specifications developed in accordance with Section 111 of these rules, to the extent the purchasing authority determines adequate to inform interested vendors of the desired result. (3-20-19)

d. Contract Terms. Terms and conditions applicable to the contract, subject to the provisions of Section 112 of these rules. (3-20-19)

e. Trade-In Property. If trade-in property is to be included, a description of the property and location where it may be inspected. (3-20-19)

f. Incorporation by Reference. A brief description of any documents incorporated by reference that

specifies where such documents can be obtained. (3-20-19)

g. Pre-Proposal or Pre-Bid Conference. The date, time and location of the conference must be included in the solicitation. (3-20-19)

h. Evaluation and Award Criteria. A summary of evaluation criteria to be used in determining property acceptability; evaluation criteria to classify proposals and determine the competitive threshold for negotiations; as well as the criteria that will be used to make the lowest responsive and responsible determination. (3-20-19)

05. Cost. The buyer may request cost proposals at any time during the invitation to negotiate process; and may elect to request cost proposals only from those offerors determined to be in the competitive range for award ("finalists"), in accordance with the instructions contained within the solicitation. (3-20-19)

06. Conduct of Negotiations. Negotiations shall be conducted in accordance with the procedure outlined in the invitation to negotiate, which may include multiple iterations of submissions and discussions in order to classify proposals; allow for revisions to the solicitation proposal(s), including any requirements, terms, conditions or specifications; and to determine finalists. The negotiation process ends upon submission of the best and final offer(s) from the finalists, after which time vendors shall not be allowed to make further modifications to their proposal(s). (3-20-19)

095. -- 100. (RESERVED)

101. LEASES.

01. Lease for Personal Property. A lease for personal property may be entered into provided the lease is subject to the same requirements of competition that govern the purchase of property. Leases for periods exceeding one (1) year specifically require the approval of the administrator. (3-15-02)

02. Lease Purchase Option. Unless a specific exemption is granted by the administrator or unless otherwise exempt by these rules, a lease purchase option may be exercised only if the lease containing the purchase option was awarded using the competitive process. Before exercising such an option, the buyer shall meet all applicable requirements of Section 67-9222, Idaho Code, including providing notice of the exercise of option as a sole source or competitively bidding the property by soliciting bids for new or used property. (3-15-02)

102. -- 110. (RESERVED)

111. SPECIFICATIONS -- POLICIES AND DEVELOPMENT.

01. Purpose. Unless exempted by these rules or by the administrator, all solicitations require specifications. Specifications set forth the characteristics of the property to be acquired. Specifications serve as the basis for obtaining property adequate and suitable for the using agency's needs in a cost effective manner, taking into account the costs of ownership and operation as well as initial acquisition costs. Specifications shall be drafted clearly to describe the agency's needs and to enable the vendors to determine and understand the agency's requirements. Specifications shall, as much as practical, be nonrestrictive to provide an equal basis for participation by an optimum number of vendors and to encourage competition. This information may be in the form of a description of the physical, functional or performance characteristics, a reference brand name or both. It may include a description of any required inspection, testing or preparation or delivery. Specifications may be incorporated by reference or contained in an attachment. (3-29-17)

02. Use of Functional or Performance Descriptions. Specifications shall, to the extent practicable, emphasize functional or performance criteria while limiting design or other detailed physical descriptions to those necessary to meet the needs of the agency. To facilitate the use of such criteria, using agencies shall endeavor to include as a part of purchase requisitions their principal functional or performance needs. (3-15-02)

03. Preference for Commercially Available Products. Requirements shall be satisfied by standard commercial products whenever practicable. (3-15-02)

04. Brand Name or Equal Specification. (3-15-02)

a. A brand name or equal specifications may be used when the buyer determines that such a specification is in the agency's best interest. (3-15-02)

b. A brand name or equal specification shall seek to designate as many different brands as are practicable as "or equal" and shall state that products substantially equivalent to those designated will be considered for award. (3-15-02)

c. Unless the buyer authorized to finally approve specifications determines that the essential characteristics of the brand names included in the specifications are commonly known in the industry or trade, brand name or equal specifications shall include a description of the particular design and functional or performance characteristics required. (3-15-02)

d. Where a brand name or equal specification is used, the document shall contain explanatory language that the use of a brand name is for the purpose of designating the standard of quality, performance, and characteristics desired and is not intended to restrict competition. (3-15-02)

05. Brand Name Specification. (3-15-02)

a. Since use of a brand name specification is restrictive, such a specification may only be used when the administrator or designee makes a written determination. Such determination may be in any form, such as a purchase evaluation or a statement of single manufacturer justification. The written statement must state specific reasons for use of the brand name specification. (3-15-02)

b. The administrator shall seek to identify sources from which the designated brand name item or items can be obtained and shall solicit such sources to achieve whatever degree of competition is practicable. If only one (1) source can supply the requirement, the acquisition shall be made under Section 67-9221, Idaho Code. (3-15-02)

06. Specification of Alternates May Be Included. A specification may provide alternate descriptions of property where two (2) or more design, functional or performance criteria will satisfactorily meet the agency's requirements. (3-15-02)

112. CONTRACT TERMS - POLICIES AND LIMITATIONS.

01. Prohibited Terms. Purchasing authorities do not have the authority to bind the state of Idaho or an agency to the following terms. If a contract contains such a term, the term shall be void pursuant to Section 67-9213, Idaho Code. (4-6-15)

a. Terms waiving the sovereign immunity of the state of Idaho. (4-6-15)

b. Terms subjecting the state of Idaho or its agencies to the jurisdiction of the courts of other states. (4-6-15)

c. Terms limiting the time in which the state of Idaho or its agencies may bring a legal claim under the contract to a period shorter than that provided in Idaho law. (4-6-15)

d. Terms imposing a payment obligation, including a rate of interest for late payments, less favorable than the obligations set forth in Section 67-2302, Idaho Code. (4-6-15)

02. Terms Requiring Special Consideration. (4-6-15)

a. Unless specifically authorized by the Idaho legislature, terms requiring an agency or the state of Idaho indemnify a vendor shall be subject to the provisions of Section 59-1015, Idaho Code, and require an appropriation by the Idaho legislature. Indemnification terms not specifically authorized by the Idaho legislature or

subject to appropriation shall be void pursuant to Section 67-9213, Idaho Code, and Section 59-1016, Idaho Code. (4-6-15)

b. Purchasing authorities shall consult with legal counsel prior to accepting terms submitting the contract to arbitration or waiving the state of Idaho's right to a jury trial. (4-6-15)

113. CONTRACT OVERSIGHT.

01. Contract Management and Contract Administration. (3-29-17)

a. Agencies which issue their own contracts pursuant to their delegated authority (or as otherwise exempt from the requirements of these rules) will be responsible for all aspects of contract management and contract administration, as those terms are defined in Section 011 of these rules. (3-29-17)

b. When the division of purchasing issues a contract on behalf of an agency, in its role as the state's contracting agent, the division of purchasing is responsible for contract administration and the agency is responsible for contract management. (3-29-17)

02. Contract Management. Each state agency which manages one (1) or more contracts, whether entered into directly by the agency or by the division of purchasing acting as the statutory purchasing agency for the agency, will perform the following minimum contract management functions at a level consistent with the dollar value, complexity, and risk associated with each contract (3-29-17)

a. Designate a competent contract manager as the single point of contact for each agency contract; (3-29-17)

b. Document the contract manager's responsibilities and reporting requirements relative to the contract, including activities such as management of the invoice and payment process, budget tracking, and invoice review and reconciliation with contract requirements and deliverables, to ensure compliance; (3-29-17)

c. Document a communication and escalation plan, as between the contract manager, identified agency personnel and the contract administrator, designed to ensure timely and effective contract monitoring and issue resolution (the communication and escalation plan must include the division of purchasing for contracts for which the division of purchasing is acting as the statutory purchasing agent for the agency); (3-29-17)

d. Develop and implement internal contract monitoring tools, including a reporting structure, based on the dollar value and/or potential risk associated with contract failure; and (3-29-17)

e. Close out each contract, including, but not limited to documenting receipt of goods or services in compliance with contract requirements as well as a review of vendor performance and lessons learned. (3-29-17)

03. Service Contracts Exceeding $1,500,000 in Total Value. For each contract which is valued at more than one million five hundred thousand dollars ($1,500,000) over the duration of the contract and which consists primarily of the purchases of services, the agency responsible for contract management must develop and implement contract reporting requirements that capture, at a minimum, information on compliance with financial provisions and delivery schedules; the status of any corrective action plans; as well as any liquidated damages assessed or collected under the contract during the current reporting period. Reports will be submitted to the designated agency purchasing representative as well as the division of purchasing on no less than a biannual basis, with a schedule for each contract determined by the contract manager in consultation with the agency purchasing representative and the division of purchasing. (3-29-17)

114. INFORMATION TECHNOLOGY RESALE.

01. Purpose. The use of resellers is common in the acquisition of information technology; however, the use of a reseller to acquire information technology attempts to separate the application of the State Procurement Act from the contract terms required by the information technology owner for use of the information technology. The requirements of this rule are in place to apply Idaho law to the contract terms required by the information technology owner, when information technology is acquired through a reseller. (3-20-19)

02. Terms. All license, sale, or use terms imposed by the information technology owner shall be subject to the following: (3-20-19)

a. Licensing, sale, or use terms required by a third party owner of information technology sold through a reseller shall be subject to these rules, specifically including Subsection 112.01 and Paragraph 112.02.a. of these rules. If a contract contains a term prohibited by Section 112 of these rules, the term shall be void pursuant to Section 67-9213, Idaho Code. (3-20-19)

115. -- 199. (RESERVED)

SUBCHAPTER B - RULES GOVERNING CONTESTED CASE HEARINGS ON BID APPEALS AT THE DIVISION OF PURCHASING

200. FILING OF APPEAL.
The notice of appeal must be filed in accordance with Section 67-9232(3)(a)(iii), Idaho Code. *( )*

201. NOTICE OF CONTESTED CASE HEARING.
A notice of a contested case hearing shall be provided to the bidder, giving at least ten (10) days' advance notice of the contested case hearing. The contested case hearing will be held in Ada County, at such place as may be designated in the hearing notice. Upon concurrence of the parties and the determinations officer, contested case hearings may be conducted telephonically. *( )*

202. BRIEFS AND MEMORANDA.
Any party may make a request in writing to the determinations officer to file briefs, memoranda, proposed orders or statements of position and the determinations officer shall grant or deny such request as the determinations officer deems appropriate under the circumstances of a particular case. The determinations officer may request briefs, memoranda, proposed orders, or statements of position. *( )*

203. RULES OF EVIDENCE.
The determinations officer shall control the hearing and direct the order or presentation. A party shall be entitled to introduce evidence, examine and cross-examine witnesses, make arguments, and generally participate in the conduct of the proceedings. *( )*

204. ADMISSION OF EVIDENCE.
The admission of evidence at contested case hearings shall be governed by IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 600 through 609. *( )*

205. TESTIMONY.
Testimony to be considered by the determinations officer in the hearing shall be by sworn testimony, except for matters noticed or entered by stipulation. *( )*

206. DISCOVERY.
Discovery may be conducted in the manner and to the extent allowed by the Idaho Rules of Civil Procedure only if first formally agreed to by the parties, or by order of the determinations officer after an application has been filed and a showing that discovery is required to clarify issues, identify witnesses, or preserve testimony. The order may limit the scope of discovery and the method of discovery as the determinations officer deems appropriate under the circumstances of a particular case. *( )*

207. RECORDING AND TRANSCRIPTION.
The hearing will be recorded by electrical device. A written transcript will be produced by the department upon request of either party. A bidder requesting such transcript shall be responsible for the cost of the transcript. Any party wishing to have the hearing recorded by a qualified court reporter must request such no less than five (5) business days in advance of the date set for hearing. The requesting party shall pay the cost of the reporter's fees and shall provide a copy to the determinations officer. The non-requesting party may pay for an additional copy for its own use. *( )*

208. WITNESSES AND EVIDENCE.
The determination officer, on his own or upon application of the bidder or the Department of Administration, may issue subpoenas for the attendance of witnesses and production of documents. ( )

209. FINDINGS OF FACT AND CONCLUSIONS OF LAW.
Once the matter is fully submitted, the determinations officer shall issue findings of fact, conclusions of law and preliminary order. Copies shall be provided to all parties. ( )

210. FINAL ORDER.
Upon receipt of the determination officer's preliminary order, the director shall issue a final order affirming, modifying, or reversing the original selection determination. Copies shall be provided to all parties. ( )

211. MOTIONS FOR RECONSIDERATION.
Motions for reconsideration of the determination officer's preliminary order or of the Director's final order are not allowed. ( )

212. APPEALS.
Appeals from the final order shall be taken in accordance with Section 67-5270, Idaho Code. ( )

213. -- 999. (RESERVED)

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

DOCKET NO. 38-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 67-5708, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 38, rules of the Idaho Department of Administration:

IDAPA 38
- 38.04.04, *Rules Governing Capitol Mall Parking*

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

- Elected Officials Parking Permits – The Governor may request four additional parking permits at the cost of the reserved parking permit monthly fee not to exceed forty dollars ($40) per month.
- Directors of Executive Branch Departments will be provided a reserved parking space at a cost not to exceed forty dollars ($40) per month.
- Reserved parking permits shall not exceed forty dollars ($40) per month.
- General parking permits shall not exceed ten dollars ($10) per month.
- State-Owned vehicles belonging to tenant departments will receive a permit for a fee not to exceed fifteen dollars ($15) per month.
- Replacement permits if lost, stolen or destroyed the official, Legislator, or Capitol Mall employee will be charged a fee equal to the general permit monthly fee for a new permit.
- Enforcement:

- A ticket may be issued by Capitol Mall Parking for a fine of at lease two dollars ($2), but no more than twenty-five dollars ($25).

- If an individual is determined to have altered, counterfeited or otherwise misused a parking permit, a ticket may be issued by Capitol Mall Parking, or its authorized representative, for a fine not to exceed fifty dollars ($50).

This fee or charge is being imposed pursuant to Section 67-5708, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Keith Reynolds at 208-332-1812.

Dated this 10th day of September, 2019.

Keith Reynolds, Deputy Director
Department of Administration
650 West state Street, Room 100
P.O. Box 83720
Boise, ID 83720-0004
Phone: 208-332-1812
Fax: 208-334-2307

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

38.04.04 – RULES GOVERNING CAPITOL MALL PARKING

000. LEGAL AUTHORITY.
The following rules are promulgated pursuant to the authority of Section 67-5708, Idaho Code, and Senate Concurrent Resolution No. 135 (1976). (3-29-10)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 38.04.04, "Rules Governing Capitol Mall Parking." (3-29-10)

02. Scope. These rules govern parking in the Capitol Mall. (3-29-10)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. **Capitol Mall**. The Capitol Mall consists of the following buildings: State Capitol (700 W. Jefferson Street), Joe R. Williams (700 W. State Street), Len B. Jordan (650 W. State Street), State parking garage #1 (550 W. State Street), Pete T. Cenarrusa (450 W. State Street), Division of Public Works (502 N. 4th Street), Alexander House (304 W. State Street), State Library (325 W. State Street), 954 Jefferson (954 W. Jefferson Street), Capitol Annex (514 W. Jefferson Street), Blind Commission (341 W. Washington Street), Borah Building (304 N. 8th Street), State Parking Garage #2 (608 W. Washington Street); and Idaho Supreme Court (451 W. State Street). (4-6-15)

02. **Capitol Mall Employee**. A state employee whose assigned work area is in the Capitol Mall, and who receives a state of Idaho-issued paycheck from a tenant of the Capitol Mall. (3-29-10)

03. **Carpool**. A vehicle carrying two (2) or more Capitol Mall employees who work at the Capitol Mall at least four (4) work days per week. (4-6-15)

04. **Employee with a Disability**. An employee with a disability as defined in Section 49-117(7)(b), Idaho Code. (3-29-10)

05. **Executive Branch Departments**. Pursuant to Section 67-2402, Idaho Code, and for purposes of this rule, the following are the departments of the executive branch: Department of Administration, Department of Agriculture, Department of Commerce, Department of Correction, Department of Environmental Quality, Department of Finance, Department of Fish and Game, Department of Health and Welfare, Idaho State Police, Idaho Transportation Department, Industrial Commission, Department of Insurance, Department of Juvenile Corrections, Department of Labor, Department of Lands, Department of Parks and Recreation, Department of Revenue and Taxation, State Board of Education and Department of Water Resources. This definition excludes the Department of Self-Governing Agencies. (4-6-15)

06. **Facilities Services**. Bureau of Facilities Services, Division of Public Works, Department of Administration. (3-29-10)

07. **General Parking**. A parking space used for all Capitol Mall employees registered for general parking. (3-29-10)

08. Legislative Personnel. An employee hired by the Legislative branch that receives a state of Idaho-issued paycheck during the Legislative session or is a year round employee of the Legislative branch. (4-6-15)

09. **Legislator**. A member of the Idaho Senate or the Idaho House of Representatives for the state of Idaho. (3-29-10)

10. **Reserved Parking**. A parking space assigned to a specific person, vehicle or agency. (4-6-15)

11. **State Elected Officials**. The governor, lieutenant governor, secretary of state, attorney general, state controller, state treasurer and superintendent of public instruction, for the state of Idaho. (3-29-10)

12. **Temporary Contract Employee**. An employee of a temporary employment service company who

is working temporarily for a tenant of the Capitol Mall, and who does not receive a pay check issued by the state of Idaho. (4-6-15)

13. **Visitor**. Any person visiting the Capitol Mall to carry out state business or attend a state-sponsored event. (3-29-10)

011. -- 019. (RESERVED)

020. PARKING LOT LOCATIONS.
All Capitol Mall parking lots will be identified by signage. Capitol Mall Parking manages the state-owned parking lots at the following locations: 550 W. State Street Parking Garage, State Parking Garage #1; 608 W. Washington Street, State Parking Garage #2; 10th and Jefferson Streets, 8th Street between State and Jefferson Streets, and 3rd and Washington Streets. Capitol Mall Parking also manages parking spaces in and around the following Capitol Mall buildings: Capitol Annex, Len B. Jordan, Pete T. Cenarrusa, Division of Public Works, Borah Building and Idaho State Library. (4-6-15)

021. TYPES OF AVAILABLE PARKING.
Designated parking spaces are available for reserved parking, state elected officials and directors of executive branch departments, Legislators, carpool, disabled employees and state agency vehicles. All other parking spaces, unless designated as public or visitor parking, are considered general parking. (3-29-10)

022. PARKING SPACE ALLOCATION.

01. **Reserved Parking Spaces**. (3-29-10)

a. Reserved parking spaces are available for state elected officials and directors of executive branch departments as defined in Subsections 010.05 and 010.11 of these rules. Capitol Mall Parking will assign a reserved space to each state elected official and director of executive branch departments upon request. (4-6-15)

b. Reserved parking spaces will be made available to the Senate pro-tem, and the speaker of the House of Representatives. Capitol Mall Parking will assign a reserved space to each individual. (3-29-10)

c. All other Capitol Mall employees may apply for a reserved parking space. General reserved parking spaces are assigned to Capitol Mall employees on a first-come, first-served basis when designated reserved parking spaces become available. (3-29-10)

d. Reserved parking spaces for state elected officials, directors of executive branch departments and Capitol Mall employees are located in the following parking lots only: the first floor of State Parking Garage #1; the first and second floors of State Parking Garage #2, the Pete T. Cenarrusa Building parking lot, and the 8th Street parking lot between State and Jefferson Streets. (4-6-15)

e. Capitol Mall Parking will determine the location of all reserved parking spaces. (3-29-10)

f. Reserved parking spaces for state elected officials, directors of executive branch departments and Capitol Mall employees will not exceed twenty-five percent (25%) of parking spaces available within the Capitol Mall. (4-6-15)

g. Capitol Mall employees may not sell, trade or barter the right to use their assigned reserved parking space. Capitol Mall Parking retains the right to assign, reassign, suspend or revoke Capitol Mall employees' reserved parking spaces at any time. (3-29-10)

02. **Legislators' Parking Spaces**. During Legislative sessions and special sessions, Capitol Mall Parking will make available up to one hundred three (103) reserved Legislator parking spaces to Legislators. (4-6-15)

a. Each Legislator will be assigned a reserved Legislator parking space. A Legislator who elects to park in the Capitol Mall is required to pay the fee for the reserved parking permit. (4-6-15)

b. During the Legislative session, Legislator reserved parking spaces will be on the third floor of State Parking Garage #1, 8th Street parking lot, and the Capitol Annex parking lot and will be clearly marked. The Legislator reserved parking permit is only valid in the assigned reserved parking space; the permit is not valid in any other CMP general parking space during the Legislative session. When the Legislature is not in session, all Legislator parking spaces will be redesignated as general parking spaces. (3-25-16)

c. When the Legislature is not in session, Legislators or Legislative personnel who hold a valid Capitol Mall parking permit, may park in any general parking space. (4-6-15)

03. **Disabled Employee Parking Spaces**. Capitol Mall Parking will make available reserved disabled employee parking spaces for employees who have a proven disability. (3-29-10)

a. A temporarily or permanently disabled employee who has obtained an Americans with Disabilities Act (ADA) placard issued by the Idaho Transportation Department may request a reserved disabled employee parking space as close as possible to the employee's work location. (3-29-10)

b. A disabled employee requesting a reserved disabled employee parking space must provide either a copy of his Americans with Disabilities Act (ADA) placard issued by the Idaho Transportation Department or a copy of the application to the Idaho Department of Transportation for an Americans with Disabilities Act (ADA) placard. (3-29-10)

c. A temporary reserved disabled employee parking space will be provided to any eligible employee who has applied for an Americans with Disabilities Act (ADA) placard with the Idaho Department of Transportation but has not yet received the placard. A temporary reserved disabled parking space will be made available for five (5) working days only per disabled employee. (4-6-15)

d. Reserved disabled employee parking spaces will be marked with signage. (3-29-10)

e. A permit for a reserved disabled employee parking space will be the same fee as a permit for a general parking space. (3-29-10)

04. **Carpool Parking Spaces**. Capitol Mall Parking will make available an indeterminate number of carpool parking spaces, which will be clearly marked, to employees who carpool at least four (4) work days per week. (3-29-10)

a. Capitol Mall employees who carpool may request a carpool parking permit from Capitol Mall Parking to use a designated carpool space. (3-29-10)

b. Carpool parking spaces will be available on a first-come, first-served basis for vehicles carrying two (2) or more Capitol Mall employees. All carpooling employees must be employees of the Capitol Mall and at least one (1) carpooling employee must have a general parking space permit. (3-29-10)

c. A permit for a carpool parking space will be the same fee as a permit for a general parking space. (3-29-10)

d. All unoccupied reserved carpool parking spaces will be redesignated as general parking spaces after 9 a.m. work days. (3-29-10)

e. It is a parking violation to park in a reserved carpool parking space when the vehicle is carrying less than two (2) Capitol Mall employees before 9 a.m. (3-29-10)

05. **State-Owned Vehicles Parking Spaces**. Capitol Mall Parking will make available designated state-owned vehicle parking spaces. (3-29-10)

a. Capitol Mall Parking will make available an indeterminate number of designated state-owned vehicle parking spaces to department tenants of the Capitol Mall. (3-29-10)

b. Designated state-owned vehicle parking spaces will be on the fifth level of the State Parking Garage #1, and will be clearly marked "State Vehicle Only." (4-6-15)

c. A Capitol Mall employee may park his personal vehicle in a designated state-owned vehicle parking space when removing a state vehicle for state purposes. The Capitol Mall employee's personal vehicle must display the reserved state-owned vehicle parking space permit. (3-29-10)

d. A visiting agency employee conducting official business at the Capitol Mall may park a state vehicle in an unoccupied designated state-owned vehicle parking space or in any Capitol Mall visitor parking space. (4-6-15)

06. **Motorcycle Parking Spaces**. Capitol Mall Parking will make available designated motorcycle parking spaces. (3-29-10)

a. Capitol Mall employees may request a special motorcycle parking permit for motorcycles, at no additional cost, to park in the designated motorcycle parking areas. (3-29-10)

b. In order to receive a motorcycle permit, the Capitol Mall employee must possess a valid general or reserved parking permit. (3-29-10)

07. **General Parking Spaces**. All other undesignated parking is considered general parking. (3-29-10)

a. All Capitol Mall employees whose parking fees are deducted from their paychecks by the State Controller's Office may request a general parking permit from Capitol Mall Parking. (4-6-15)

b. General parking spaces are available on a first-come, first-served basis, and possession of a valid general parking permit does not guarantee the Capitol Mall employee a general parking space. (3-29-10)

08. **Visitor Parking Spaces**. Capitol Mall Parking will make available a limited number of parking spaces for visitors and the public visiting the Capitol Mall. (3-29-10)

a. Non-metered three (3) hour visitor parking spaces will be available at the parking lot at the Capitol Annex at 514 W. Jefferson Street and on the south side of the parking lot at the State Library Building at 325 W. State Street, and will be clearly marked. (3-25-16)

b. State-owned vehicles that do not belong to the departments' tenants of the Capitol Mall, and non-Capitol Mall employees visiting the Capitol Mall on business, may park in visitor parking spaces. (3-29-10)

c. Capitol Mall employees may not park in visitor parking spaces between 6 a.m. and 6 p.m., Monday through Friday, excluding legal holidays with the exception of Human Rights Day and Presidents' Day. (4-6-15)

d. The maximum period of use of visitor parking spaces in the Capitol Mall is three (3) hours per day per vehicle. A change from one visitor parking space to another visitor parking space does not increase the maximum period of use for each vehicle beyond three (3) hours per day. (3-25-16)

023. -- 029. (RESERVED)

030. PARKING PERMITS.
Capitol Mall Parking will issue applicable parking permits to all eligible persons who apply for a permit. (4-6-15)

01. **Parking Permits for Reserved, Legislator, Disabled Employee, Carpool, State-Owned Vehicles and General Parking**. (3-29-10)

a. Capitol Mall Parking will reissue parking permits once a year. Outdated parking permits must be returned to Capitol Mall Parking. (3-29-10)

b. Capitol Mall Parking will issue the applicable parking permit to each Capitol Mall state elected official, director of an executive branch department, Legislator or employee, with the exception of the carpool parking permit and the special motorcycle parking permit. (4-6-15)

c. Capitol Mall Parking will issue only one (1) parking permit per employee. Capitol Mall Parking will not provide duplicate general parking permits. State elected officials, directors of executive branch departments, and Capitol Mall employees with reserved parking spaces may request a duplicate reserved parking permit for a one-time fee equal to the general permit monthly fee. (4-6-15)

d. All individuals and department tenants are responsible for displaying the parking permit in the front windshield or other prominent location of the parked vehicle at all times. (3-29-10)

e. In the event that a parking permit is stolen, lost or destroyed, the official, Legislator or employee must sign a statement attesting that the parking permit was lost, stolen or destroyed and pay a replacement fee before Capitol Mall Parking will issue a new permit. The replacement fee is equal to the general permit monthly fee. (4-6-15)

02. **Temporary Monthly Parking Permits**. (4-6-15)

a. An individual performing work or providing services to a department tenant as a Temporary Contract Employee in the Capitol Mall, but who does not receive a state of Idaho-issued paycheck, may purchase a general monthly parking permit at the same cost as a general parking permit from Capitol Mall Parking. (4-6-15)

b. Upon request and receipt of the general parking permit fee, Capitol Mall Parking may issue a monthly general parking permit to the following: (3-25-16)

i. Individuals who do not receive a paycheck issued by the state of Idaho but are performing work or providing services to a department tenant in the Capitol Mall. This includes, but is not limited to, employees of the Idaho Central Credit Union, employees of vendors of the Commission for the Blind and Visually Impaired, and Capitol Mall tenant departments' temporary contract employees. (3-25-16)

ii. Individuals who are employed by the state of Idaho, whose assigned work area is in the Capitol Mall, and who receive a state of Idaho-issued paycheck that is not issued by the State Controller's Office. This includes, but is not limited to, employees of the University of Idaho whose assigned work area is the Capitol Annex occupied by the University of Idaho. (3-25-16)

03. Temporary Meeting Parking Permits. Upon submission of an application by a department tenant in the Capitol Mall, Capitol Mall Parking may issue temporary daily parking permits for meetings hosted by the department tenant. Parking will be allowed only in a limited number of parking spaces in the area designated by the permit and for the date set forth on the permit. (3-25-16)

031. PARKING PERMIT FEES.
Pursuant to Sections 67-5701 and 67-5708, Idaho Code, parking permit fees will be established by the Department of Administration and administered by Capitol Mall Parking. (4-6-15)

01. **Elected Officials Parking Permits**. The governor, lieutenant governor, secretary of state, attorney general, state controller, state treasurer, superintendent of public instruction, Senate pro-tem, and the speaker of the House of Representatives will be provided a reserved parking space at no charge. Additionally, upon request, Capitol Mall Parking will provide the governor four (4) additional reserved parking spaces. The fee for each additional reserved parking space provided to the governor will be the reserved parking permit monthly fee. (4-6-15)

02. **Directors of Executive Branch Departments**. Directors of executive branch departments will be provided a reserved parking space at a cost not to exceed forty dollars ($40) per month. Executive branch departments will be charged for the reserved parking spaces annually by Capitol Mall Parking. (4-6-15)

03. **Reserved Parking Permits**. The fee for a reserved parking space permit will not exceed forty dollars ($40) per month. (4-6-15)

04. **General Parking Permits**. The fee for a general parking space permit will not exceed ten dollars ($10) per month. (4-6-15)

05. **Payment for Parking Permits**. Capitol Mall employees will be charged the respective permit fee in the first paycheck of each month through a payroll deduction or as determined by the State Controller. (4-6-15)

06. **Legislators**. Legislators who request a Legislator parking space permit must pay the parking permit fee. Legislators and Legislative personnel who request parking spaces must pay the associated space fee for every month that the Legislature is in session. (4-6-15)

07. **State-Owned Vehicles**. State-owned vehicles belonging to the tenant departments will receive state vehicle parking permits for a monthly fee not to exceed fifteen dollars ($15). (4-6-15)

08. **Replacement Permits**. If a parking permit is lost, stolen or destroyed, the official, Legislator, or Capitol Mall employee will be charged a fee equal to the general permit monthly fee for a new permit. A statement attesting that the parking permit was lost, stolen or destroyed must be signed before Capitol Mall Parking will issue a new permit. (4-6-15)

032. -- 039. (RESERVED)

040. PARKING LOT VIOLATIONS.

01. **Driving Violations**. Any driving violation in a Capitol Mall parking lot or garage may result in the suspension or loss of parking privileges. (3-29-10)

a. It is a violation of these rules to drive or operate a personal vehicle negligently or recklessly in any Capitol Mall parking lot or garage. It is a violation of these rules to drive or operate a vehicle under the influence of illegal substances or alcohol in any Capitol Mall parking lot or garage. (3-29-10)

b. It is a violation for any individual to drive above the posted speed limits or drive against posted directional arrows. (3-29-10)

02. Parking Violations. Any parking violation in a Capitol Mall parking lot or garage may result in the suspension or loss of parking privileges. (3-29-10)

a. It is a violation of these rules to park in a location that is not marked as a parking space within the Capitol Mall. This includes, but is not limited to, parking in or on a driveway, sidewalk or other common driving areas of any parking lot or garage. It is also a violation to park one (1) vehicle in more than one (1) parking space. (3-29-10)

b. It is a violation to park in a Legislator parking space without displaying the appropriate reserved parking permit during the Legislative session or to park in a general parking space without displaying the appropriate general parking permit. (3-25-16)

c. It is a violation to park in a reserved parking space, in a reserved disabled employee parking space, ADA space, or in a reserved carpool parking space before 9 a.m., without displaying the appropriate parking permit. (4-6-15)

d. It is a violation to park a motorcycle in any space not designated for motorcycle parking, unless a valid reserved parking permit is displayed and the motorcycle is parked in the designated reserved parking space. (4-6-15)

e. It is a violation to park or store a personal trailer in a Capitol Mall parking lot. (4-6-15)

f. It is a violation of these rules to: (3-29-10)

i. Use an invalid parking permit; (3-29-10)

ii. Use a parking permit reported lost or stolen; (3-29-10)

iii. Fail to properly display a valid Capitol Mall parking permit; or (3-29-10)

iv. Transfer an invalid permit to another person. (3-29-10)

g. It is a violation of these rules to park in one or more visitor parking spaces for a period in excess of the maximum period of use set forth in these rules. (3-25-16)

h. It is a violation of these rules for a CMP permit holder to park in a visitor parking space at any time. (3-25-16)

03. **Other Violations**. The Capitol Mall parking lots and garages are private property, and any tampering or other physical defacement of any vehicle parked on the lots or in the garage is considered a violation. (4-6-15)

a. The distribution of flyers or other materials on vehicles parked on Capitol Mall parking lots and in State Parking Garages #1and #2 is prohibited, and violators will be escorted off the property. (4-6-15)

b. Any individual engaging in suspicious activity or threatening behavior, or an individual loitering in a Capitol Mall parking lot or in State Parking Garages #1 and #2, will be escorted off the property. (4-6-15)

c. Public access is not allowed in State Parking Garages #1 and #2 before 6 a.m. and after 6 p.m. Violators will be considered trespassers. (4-6-15)

04. Administrative Appeals. Alleged violations of these rules are not subject to the provisions of Title 67, Chapter 52, Idaho Code, regarding administrative appeals. (4-6-15)

041. ENFORCEMENT.

01. Security and Patrol. Capitol Mall parking lots and State Parking Garages #1 and #2 are secured and patrolled by Capitol Mall Parking, or its authorized representative. (4-6-15)

02. Notice of Violation. Upon witnessing or finding a violation of these rules, Capitol Mall Parking, or its authorized representative, will leave notice with the occupant of the vehicle or on the vehicle parked in violation of these rules. (4-6-15)

a. Notice may be in the form of a warning or a ticket. The warning or ticket will indicate the date and hour of the violation, the nature of the violation, and the name of the Capitol Mall Parking employee or its authorized representative. A warning or ticket may be issued only for those violations that do not cause the loss of a parking space and do not cause a safety hazard. (4-6-15)

b. A ticket may be issued by Capitol Mall Parking, or its authorized representative, for a fine of at least two dollars ($2), but not more than twenty-five dollars ($25). (4-6-15)

c. If an individual is determined to have altered, counterfeited or otherwise misused a parking permit, a ticket may be issued by Capitol Mall Parking, or its authorized representative, for a fine not to exceed fifty dollars ($50). (3-29-10)

d. All tickets issued by Capitol Mall Parking, or its authorized representative, will be forwarded to the city of Boise, county of Ada, for collection or prosecution. (3-29-10)

e. Capitol Mall Parking retains the right to suspend or revoke an individual's parking privileges if the warnings or tickets have been issued or fines imposed for repeated violations. (4-6-15)

042. SUSPENSION OR REVOCATION OF PARKING PRIVILEGES.

01. Delinquent Payment. Capitol Mall Parking may suspend or revoke any individual's parking permit if the parking permit fee is unpaid and at least thirty (30) days delinquent. Upon payment in full, Capitol Mall Parking will restore the individual's parking permit. (3-29-10)

02. Parking Privileges Suspension. (3-29-10)

a. Capitol Mall Parking may suspend an individual's parking permit and privileges for up to six (6) months for a violation of these rules. (3-29-10)

b. Any Capitol Mall Parking permit holder, including a temporary parking permit holder, who has been cited for three (3) violations of these rules within six (6) months, may have his parking permit and privileges revoked for up to twelve (12) months. (3-29-10)

03. Towing and Impounding. (3-29-10)

a. Capitol Mall Parking or its authorized representative may tow any vehicle from any Capitol Mall parking lot or the or State Parking Garages #1 and #2, belonging to an individual who has been cited for three (3) or more Capitol Mall parking violations within a twelve-month period. The owner of the vehicle is liable for any service fee owed for releasing the towed and impounded vehicle. (4-6-15)

b. In the event that a vehicle is considered a security risk, Capitol Mall Parking will make reasonable efforts to locate the owner of the vehicle before it is towed. (4-6-15)

04. Reactivating a Suspended Permit. A suspended parking permit may be reactivated after the applicable suspension period ends by reapplying for the automatic payroll deduction plan through Capitol Mall Parking and paying in full of any delinquent parking fees. (4-6-15)

043. SURRENDER OF PARKING PERMIT.

01. Surrender of Permit. When an official, Legislator or Capitol Mall employee no longer works in the Capitol Mall or no longer needs to utilize Capitol Mall parking, the individual must submit a request to Capitol Mall Parking to cease automatic payroll deduction or billing for Capitol Mall parking. The individual must surrender the parking permit to Capitol Mall Parking within ten (10) days of the effective date of termination. (3-29-10)

02. Cancellation of Automatic Payroll Deduction. (3-29-10)

a. Capitol Mall Parking will notify the individual's agency's payroll clerk to cease the monthly parking fee deduction. Capitol Mall Parking will not refund a monthly parking fee after a monthly payroll deduction has been made. (3-29-10)

b. Agency payroll clerks must receive a written request from Capitol Mall Parking prior to deleting the monthly parking fee from the employee's payroll deduction schedule. (3-29-10)

044. -- 049. (RESERVED)

050. LOADING ZONE PARKING SPACES.
Capitol Mall Parking will designate and mark a limited number of parking spaces to be used for short-term collection or delivery services or by authorized service contractors. It is a violation to park in loading zone parking spaces for any unauthorized purpose. (4-6-15)

051. WAIVER OF RULES.
Pursuant to Section 67-5708, Idaho Code, the administrator for the Division of Public Works may waive any or all of the provisions of these rules if the administrator determines that application could result in discrimination among employees or otherwise violate law. (3-29-10)

052. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

DOCKET NO. 39-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 39, rules of the Idaho Transportation Department:

IDAPA 39

- 39.02.01, *Rules Governing Vehicle Manufacturer and Distributor Franchise Requirements*
- 39.02.02, *Rules Governing Vehicle & Vessel Dealer License Requirements - Motor Vehicles*
- 39.02.03, *Rules Governing Vehicle Dealer's Principal Place of Business*
- 39.02.27, *Rules Governing Titling and Registration of Non-Resident Commercial Vehicles and Transient Farm Labor Vehicles*
- 39.02.42, *Temporary Vehicle Registration When Proof of Ownership Is Insufficient*
- 39.02.43, *Rules Governing Registration and Title Fee Refunds*
- 39.02.45, *Rules Governing Fees for Lapsed Registration Periods*
- 39.02.70, *Rules Governing Restricted Driving Permits*
- 39.02.71, *Rules Governing Driver's License Violation Point System*
- 39.02.72, *Rules Governing Administrative License Suspensions*
- 39.02.73, *Rules Governing Accident Prevention Course*
- 39.02.75, *Rules Governing Names on Drivers' Licenses and Identification Cards*
- 39.02.76, *Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process*
- 39.02.80, *Rules Governing Motor Carrier Financial Responsibility*
- 39.03.01, *Rules Governing Definitions Regarding Special Permits*
- 39.03.02, *Rules Governing Movement of Disabled Vehicles*
- 39.03.04, *Rules Governing Special Permits – Overweight Non-Reducible*
- 39.03.05, *Rules Governing Special Permits – Oversize Non-Reducible*
- 39.03.06, *Rules Governing Special Permits for Extra-Length/Excess Weight Up to 129,000 Pound Vehicle Combinations*
- 39.03.07, *Rules Governing Special Permits for Reducible Loads*
- 39.03.08, *Rules Governing Self-Propelled Snowplows*
- 39.03.40, *Rules Governing Junkyards and Dumps*
- *39.03.41, *Rules Governing Traffic Control Devices*
- 39.03.42, *Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way*
- 39.03.43, *Rules Governing Utilities On State Highway Right-of-Way*
- 39.03.44, *Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs*
- 39.03.47, *Rules Governing Certification of Local Improved Road Mileage*
- 39.03.48, *Rules Governing Routes Exempt From Local Plans and Ordinances*
- 39.03.49, *Rules Governing Ignition Interlock Breath Alcohol Devices*
- 39.03.50, *Rules Governing Safety Rest Areas*
- *39.03.60, *Rules Governing Outdoor Advertising*
- 39.03.65, *Rules Governing Traffic Minute Entries*
- 39.03.80, *Rules Governing Legalization of Overloaded Vehicles*
- 39.03.81, *Rules Governing Issuance of Temporary Permits In Lieu of Full Registration*
- *39.04.01, *Rules Governing Aeronautics and Aviation (New Chapter)*

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 39, rules of the Idaho Transportation Department:

- ***(VACATED)*** *39.02.05, Rules Governing Lien Filing on Certificate of Title*
- ***(VACATED)*** *39.02.09, Rules Governing Requirements for Manufacturer's Certificate of Origin (MCO)*
- ***(VACATED)*** *39.02.11, Rules Governing Odometer Readings on Title Records*
- ***(VACATED)*** *39.02.12, Rules Governing Issuing Certificates of Title and Bonded Certificates of Title*
- ***(VACATED)*** *39.02.24, Rules Governing 'Gray Market' Vehicle Registration and Titling*
- ***(VACATED)*** *39.02.46, Rules Governing Temporary Motor Vehicle Registration Permit*
- ***(VACATED)*** *39.02.61, Rules Governing License Plates for Governmental Agencies and Taxing Districts*
- ***(VACATED)*** *39.03.62, Rules Governing Logo Signs*
- ***(VACATED)*** *39.03.64, Rules Governing Tourist Oriented Directional Signs (TODS)*
- ***(VACATED)*** *39.03.61, Rules Governing Directional and Other Official Signs and Notices*
- ***(VACATED)*** *39.03.63, Rules Governing Traffic Accident Memorials*
- ***(VACATED)*** *39.04.01, Rules Governing Federal Aviation Regulations*
- ***(VACATED)*** *39.04.02, Rules Governing Marking of Hazards to Air Flight*
- ***(VACATED)*** *39.04.03, Rules Governing Restriction of Flight in Designated Emergency Areas*
- ***(VACATED)*** *39.04.04, Rules Governing Idaho Airport Aid Program*
- ***(VACATED)*** *39.04.05, Rules Governing Aircraft Registration*
- ***(VACATED)*** *39.04.06, Rules Governing Commercial and Through-the-Fence Operations and Hangar Construction at State Airports*
- ***(VACATED)*** *39.04.07, Rules Governing Aerial Search and Rescue of Lost Aircraft and Airmen*
- ***(VACATED)*** *39.04.08, Rules Governing Operations at State Airports*

The consolidation of various rule chapters was done in an effort to support the Governor's Red Tape Reduction Act. The changes enhance customer usability and also allowed for the deletion of antiquated and outdated information. Specifically, IDAPA 39.03.63 and 39.03.64 are combined and consolidated into **IDAPA 39.03.41**; 39.03.61 and 39.03.63 are combined and consolidated into **IDAPA 39.03.60**; and 39.04.01, 39.04.02, 39.04.03, 39.04.04. 39.04.05, 39.04.06, 39.04.07 and 39.04.08 are consolidated into **IDAPA 39.04.01**.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, Vol. 19-6SE, pages 6236-6473.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending rules, please contact Ramón Hobdey-Sánchez at (208) 334-8810. Additionally, please visit ITD's rulemaking website at itd.idaho.gov/rulemaking for rules drafts and educational materials.

DATED this October 11, 2019.

Ramón S. Hobdey-Sánchez, J.D.
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
Boise, ID 83703
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

39.02.01 – RULES GOVERNING VEHICLE MANUFACTURER AND DISTRIBUTOR FRANCHISE REQUIREMENTS

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201, 49-501, 49-504, 49-519, 49-1602 and 49-1606, Idaho Code. (9-14-92)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.02.01, "Rules Governing Vehicle Manufacturer and Distributor Franchise Requirements." and clarifies the operating procedures of vehicle manufacturers and distributors who franchise through vehicle dealers. (12-26-90)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Finished Vehicle. A vehicle offered for sale and delivered by the manufacturer for sale at retail. (12-26-90)

02. New Vehicle. A vehicle that has not been previously titled or registered and has not been previously required to be titled or registered. (9-14-92)

03. Used Vehicle. A vehicle that has been previously titled or registered or previously required to have been titled or registered. (9-14-92)

04. MCO/MSO. Manufacturer's certificate of origin or manufacturer's statement of origin. (9-14-92)

05. Motor Home. A vehicle designed to provide temporary living quarters which are built into or permanently attached to a self-propelled vehicle chassis or van. In addition to sleeping and dining facilities, the vehicle must contain permanently installed independent life support systems that provide at least four (4) of the following: (9-14-92)

a. A potable water supply system including plumbing, a faucet and a sink, designed as either self-contained or to be connected with an external water supply, or both; (12-26-90)

b. Permanently installed cooking facilities; (12-26-90)

c. A permanently installed ice box or refrigeration unit; (12-26-90)

d. A permanently installed 110-125 volt electrical power supply or L.P. gas supply, or both; (12-26-90)

e. A permanently installed heating or air conditioning system, or both; (12-26-90)

f. A permanently installed, self-contained toilet. (12-26-90)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Vehicle Manufacturer or Distribution Licensing. The Department shall issue a manufacturer or distributor license to firms that own the finished vehicle and either: (12-26-90)

a. Completely manufacture and assemble new vehicles; (2-26-90)

b. Install on previously assembled vehicle chassis: equipment designed for non-transportation, contractor purposes such as cranes, backhoes, etc.; equipment designed for ambulance or mortuary purposes or for the transportation of physically handicapped persons confined to wheelchairs; equipment designed for special purpose use, such as van conversions, tank trucks, ambulances, etc.; or (12-26-90)

c. Construct or convert and equip previously assembled vehicles or chassis for use as motor homes. (12-26-90)

02. Licensed Manufacturers Provisions. Licensed Manufactures may franchise any Idaho dealer; shall display the make, name and chassis identification number approved by the Society of Automotive Engineers on each vehicle; and furnish an MCO/MSO for each completed vehicle to dealers. (12-26-90)

03. Motor Home MCO/MSO Requirements. MCOs for motor homes shall indicate the independent life support system features installed on the vehicle. (12-26-90)

101. -- 999. (RESERVED)

39.02.02 – RULES GOVERNING VEHICLE AND VESSEL DEALER LICENSE REQUIREMENTS – MOTOR VEHICLES

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-1602, and 49-1606(7), Idaho Code. (9-14-92)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.02, "Rules Governing Vehicle and Vessel Dealer License Requirements – Motor Vehicles." (3-30-01)

02. Scope. This rule clarifies the requirements for the issuance of dealer licenses, clarifies allowable locations for "supplemental lot" and "temporary supplemental lot" licenses, and specifies provisions for refunds of dealer and salesman licensing fees, dealer thirty-day (30) temporary permits, dealer license plates, and dealer validation sticker fees. (3-30-01)

002. -- 099. (RESERVED)

100. DEALER LICENSE REQUIREMENTS.
A dealer license is required in the following situations: (12-26-90)

01. Seller Not Titled Owner. Selling or exchanging; or (12-26-90)

02. Maximum Sales. Selling, or exchanging, or soliciting the sale of five (5) or more vehicles or vessels in any one (1) calendar year even though titled in seller's name; or (3-30-01)

03. Display for Sale. Displaying for sale or exchange, five (5) or more vehicles or vessels at any one (1) time even though titled in the displayer's name; or (3-30-01)

04. Displaying Vehicles or Vessels. Displaying vehicles or vessels for sale, exchange or consign on property not legally controlled by the owner of the vehicle or vessel. (3-30-01)

101. SALESPERSON LICENSE.
Dealers shall not allow a person to act as a salesperson in their behalf unless such person holds a valid salesperson license containing a current photograph of the salesperson, and the date of expiration of the salesperson's license. (9-14-92)

01. Temporary Salesperson. A new or transferring salesperson may act as a temporary salesperson for a sponsoring dealer for a period, not to exceed sixty (60) days, if the person has: (9-14-92)

a. Made application to the Department; and (9-14-92)

b. Paid the required fees; and (9-14-92)

c. Has retained a copy of the completed application. (9-14-92)

02. Temporary Salesperson Sales Authorization. A copy of the application must be carried by the temporary salesperson as authorization to act as a salesperson. (9-14-92)

102. -- 199. (RESERVED)

200. OFF-PREMISE SALES ACTIVITIES.
The Department will not issue a "supplemental lot" or "temporary supplemental lot" license, unless the proposed sale or display activity is located within the same or adjacent county as the dealership's principal place of business location or unless the dealership satisfies the requirements of Section 49-121(1), Idaho Code. Display of vehicle(s) or vessel(s) for sale or exchange at a location other than the location specified on the license issued to the dealer is a violation of this rule and the Dealer and Salesman Licensing Act. (3-30-01)

201. -- 299. (RESERVED)

300. REQUEST FOR REFUND OF DEALER OR SALESPERSON LICENSING FEES.
The fees established for dealer and salesperson licenses are based on the costs to set up the files and to issue the necessary documents to begin operation of the enterprise. Therefore, the Department will only process requests for refunds of licensing fees if: (9-14-92)

01. Application Denial. The application is denied prior to the issuance of a temporary license. (9-14-92)

02. Prior to License Issuance. The applicant requests a refund prior to the issuance of a license. (9-14-92)

03. Prior to Renewal Issuance. The licensee pays a renewal license fee and then requests a refund prior to the issuance of the renewed license. (9-14-92)

04. Over-Payment. The applicant over-pays the fees required. (9-14-92)

301. REFUND OF DEALER THIRTY DAY TEMPORARY PERMITS, LICENSE PLATES, AND VALIDATION STICKER FEES.
The Department will process requests for refunds if: (9-14-92)

01. Unused Permits. The thirty (30) day temporary permits are returned unused by a dealership that is going out of business. (9-14-92)

02. Plates Not Ordered. The dealer license plates have not been ordered through the plate manufacturer. (9-14-92)

03. Validation Stickers Unused. The dealer validation stickers have not been applied to the dealer's license plates. (9-14-92)

302. -- 999. (RESERVED)

39.02.03 – RULES GOVERNING VEHICLE DEALER'S PRINCIPAL PLACE OF BUSINESS

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Section 49-201(1), Idaho Code and the Vehicle Dealer Act, Chapter 16, Title 49, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.

01. Title. This rule are titled IDAPA 39.02.03, "Rules Governing Vehicle Dealer's Principal Place of Business." (3-29-12)

02. Scope. This rule clarifies terms used in the definition of "principal place of business" and provisions regarding these terms. (3-29-12)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Vehicle Dealer File System. Books, records and files, necessary to conduct the business of a vehicle dealership. In accordance with the Vehicle Dealer Act, records shall be securely kept by the dealership in such order that they can be readily inspected by a Department Investigator. Such records and files may be kept electronically, as long as such records can be verified by the dealership as true and correct copies of the original records. Physical records or files retained by the dealership may be stored at an off-site location. The dealership must notify the department 30 days in advance of the address of the off-site location prior to moving such records. Records or files stored off-site must be made available to the department within 3 business days upon request. The files and records shall contain but are not limited to: (3-29-12)

a. Physical or electronic sales invoices for current and two (2) preceding years; (3-29-12)

b. Physical or electronic copies of purchase orders for vehicles purchased for current and two (2) preceding years; (3-29-12)

c. Physical or electronic copies of title application forms accessible in numerical order; (3-29-12)

d. Written or electronic records of vehicles bearing new or used dealers' number plates and their use by a manufacturer, vehicle dealer, or full-time licensed salespersons searchable by date, time or plate number; (3-29-12)

e. Written or electronic records for loaner plates searchable by date, time or plate number; (3-29-12)

f. Copies or electronic records of Wholesale Dealer Forms records showing, all transactions, as applicable searchable by date or name of consignee; (3-29-12)

g. Physical or electronic odometer disclosure records for non-exempt vehicles; and (3-29-12)

h. Physical or electronic records of consignment agreements, as specified in Section 49-1636, Idaho Code. (3-29-12)

i. All electronic records must be created in a secure manner to prevent such records from being altered. Electronic copies of records must be legible, complete, and an accurate reproduction of the original business record. (3-29-12)

j. All electronic copies of records shall be supplemented with a back-up copy of the electronic records, either retained on-site or an off-site location, which permits the business record to be retrieved within three (3) business days. (3-29-12)

k. Any device, server, network device, or any internal or external storage medium which stores the electronic records must have security access controls and physical security measures to protect the records from unauthorized access, viewing, or alteration. (3-29-12)

l. Any dealer storing electronic or physical records that contain personal information shall ensure that disposal of any records be completed in a secure manner, by shredding, erasing, or otherwise modifying the personal information to make it unreadable or undecipherable through any means. (3-29-12)

02. Vehicle Dealer Sign Requirements. An exterior sign permanently affixed to the land or building, with clearly visible letters, visible to major avenue of traffic meeting local building or zoning codes with the trade name of the dealership clearly visible is required. Wholesale dealer signs may be painted on the window of the office next to the entrance door of sufficient size to be easily read by prospective customers. A suggested retail sign size is twenty-four (24) square feet, with a minimum of four (4) inch letters. (3-29-12)

03. Telephone. A business phone that has a published business number and listing in a local telephone directory in the name of the dealership. Business phones shall be answered during declared business hours, in the name of the licensed dealer. The telephone may be answered in person, by an answering machine, or at a remote location in person. (3-29-12)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Physical or Electronic Records System Inspection. A vehicle dealer shall make available all books, records and files maintained at the dealership location for immediate inspection for cause or complaint, or within three (3) business days if records are stored at an approved off-site location for random compliance review by a peace officer or authorized agent of the Department. (3-29-12)

02. Title Fee Disclosure. A dealer may reflect the payment of a state-required title fee as specified by Section 49-202(2)(b), Idaho Code, however: (7-2-92)

a. The fee must be clearly identified as a "TITLE FEE"; (7-2-92)

b. The fee must be shown as the exact amount required by law; (7-2-92)

c. Any documentation fees charged must be clearly listed separately from other fees and identified to the customer as dealer document preparation fees that are subject to sales tax as part of the purchase price of the vehicle. (7-2-92)

03. Surety Bond. A valid bond in the amount required by Section 49-1608D, Idaho Code, for three (3) years after initially licensed, unless otherwise provided by code; (4-11-15)

04. Idaho Consumer Asset Recovery (ICAR) Fund. (4-11-15)

a. All licensed dealers shall pay the annual fee as set by the Idaho Consumer Asset Recovery (ICAR) Board as required by Section 49-1608C, Idaho Code, unless otherwise provided by code. (4-11-15)

b. The ICAR fund fee shall be set by the ICAR Board annually to be effective the following January 1. Such fee shall be posted on the Department web site and all applicable forms for dealer licensing. (4-11-15)

05. Liability Insurance. A valid liability insurance policy as required by Section 49-1608A, Idaho Code. (4-11-15)

06. Declared Business Hours. All licensed dealers shall declare in writing to the Department the regular business hours that their dealerships are open and when they are available to be contacted by the Department or their customers. All wholesale dealers shall declare in writing to the department the regular hours that their dealerships are open and when they are available to be contacted by the department or their customers. (3-25-16)

07. Vehicle Dealer License Suspension. Any dealer not meeting the requirements of the Vehicle Dealer Act shall be subject to suspension of an existing dealer license or refusal by the Department to issue a new dealer license. (7-2-92)

a. The Department's agent will give written notice of deficiencies to the dealer or applicant. (12-26-90)

b. At its discretion the Department may give the licensed dealership a reasonable amount of time to comply. (12-26-90)

c. Upon compliance, the license shall be reinstated or issued. (12-26-90)

101. -- 299. (RESERVED)

300. PENALTIES.
A dealer violating this rule shall be subject to license suspension for a period not to exceed six (6) months. (12-26-90)

301. -- 999. (RESERVED)

39.02.27 – RULES GOVERNING TITLING AND REGISTRATION OF NON-RESIDENT COMMERCIAL VEHICLES AND TRANSIENT FARM LABOR VEHICLES

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201, 49-441 and 49-501, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.
This rule establishes the procedures for the titling and registering of non-resident commercial vehicles and transient farm labor vehicles. (12-26-90)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Established Place of Business. Means a physical structure owned, leased or rented by the registrant, designated by street number or road location, open during business hours, contains a telephone publicly listed in the name of the registrant and is the location where the operational records of the registrant can be made available. (12-26-90)

02. Idaho Trucking Company. Means any entity located within Idaho which meets the requirement of "established place of business." (12-26-90)

03. Lessee. Means a person, firm or corporation which has legal possession and control of a vehicle and/or motor vehicle under the terms of a written lease agreement. (12-26-90)

04. Lessor. Means an owner of a vehicle who, pursuant to the terms of a lease agreement, grants the legal right of possession, control and responsibility for the operations of the vehicle and/or motor vehicle to another person or entity. (12-26-90)

05. Non-Resident Owner-Operator. Means an owner-operator of a vehicle and/or motor vehicle who is not a resident of Idaho, but is leasing transportation equipment, titled in another state, to an Idaho trucking company. (12-26-90)

06. Transient Farm Labor Vehicles. Means a vehicle, or combination of vehicles, owned by a transient farm laborer, used in hauling unprocessed agricultural products for hire, and not exceeding sixty thousand (60,000) pounds maximum gross weight. (12-26-90)

011. -- 099. (RESERVED)

100. GENERAL PROCEDURE.

01. Out-of-State Title Required. A non-resident owner-operator leasing equipment to an Idaho trucking company must submit a copy of the out-of-state title with a registration application to complete registration requirements. (12-26-90)

02. Temporary Clearance. If the copy is not immediately available, temporary vehicle clearance or temporary registration may be issued. (12-26-90)

03. Idaho Title Required. Non-resident owner-operators who lease to Idaho trucking companies and intend to obtain an Idaho registration in the name of the owner-operator must obtain an Idaho title for the equipment to be registered in Idaho. The non-resident owner-operator must meet the requirements of "established place of business." (12-26-90)

04. Documentation Provided. Once the copy of the out-of-state title has been provided to the Motor Vehicle Bureau the lessee shall not be required to provide further copies if the lease arrangement and vehicle(s) remain unchanged. (12-26-90)

05. Registration Only. If no Idaho title is issued, the registration document shall indicate "Reg. Only" in the title space. (12-26-90)

101. -- 199. (RESERVED)

200. NON-RESIDENT REGISTRATIONS.

01. No Reciprocity Agreement. Non-resident companies operating on an intrastate basis in Idaho when no specific agreement exists between Idaho and the state where the non-resident vehicle(s) are registered must register in Idaho. Idaho titling will not be required. (12-26-90)

02. Prorate Privilege. Non-resident companies operating in Idaho on an intrastate basis, having prorate privileges through a reciprocal agreement between Idaho and the state of registration must either prorate in Idaho, or purchase an Idaho registration or trip permit. (12-26-90)

03. Registration Required. Vehicles used on an intrastate basis in Idaho by an out-of-state company and are housed or garaged in Idaho, and do not return to the state where registered each day, must register in Idaho. (12-26-90)

04. Proof of Ownership Required. Applicants registering transient farm labor vehicles must provide proof of ownership by one of the following means: (12-26-90)

a. Certificate of title in the name of the applicant; (12-26-90)

b. Valid registration certificate from another state in the name of the applicant; or (12-26-90)

c. Certified copy of the title in the name of the applicant. (12-26-90)

05. Employee Owned Vehicles. Employees of companies who are working in Idaho on a contract or project must purchase Idaho registration for their privately owned vehicles if they establish a place of residence in Idaho. Non-resident employees who return to their state of residence on a daily basis are not required to purchase Idaho registration for their privately owned vehicles. If the assignment is for the duration of the project or contract only, no Idaho titling is required. (12-26-90)

201. -- 299. (RESERVED)

300. RECIPROCITY.

01. Equal Registration Reciprocity. Idaho shall deal fairly and equally in all reciprocity agreements, the International Registration Plan (IRP) and the Uniform Prorate Agreement. (12-26-90)

02. Equal Treatment. Idaho shall treat out-of-state residents on the same basis as Idaho residents are being treated by the other state. (12-26-90)

301. -- 999. (RESERVED)

39.02.42 – TEMPORARY VEHICLE REGISTRATION WHEN PROOF OF OWNERSHIP IS INSUFFICIENT

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-501, 49-507 and 49-523, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.02.42, "Temporary Vehicle Registration When Proof of Ownership is Insufficient," and provides for temporary vehicle registration when the applicant does not have sufficient proof of ownership. This rule does not apply to Idaho licensed dealers, non-residents of Idaho; or owners and/or operators of non-Idaho based commercial vehicles operated in interstate commerce under the various proportional registration plans or agreements with other states of which Idaho is a participant. (12-26-90)

002. -- 099. (RESERVED)

100. INSUFFICIENT PROOF OF OWNERSHIP INCLUDES.

01. Vehicle Record. The vehicle for which record of ownership is unavailable; (12-26-90)

02. Title. The applicant does not have the title from the previous owner; (12-26-90)

03. Release of Interest. The previous owner of record has not released interest in the title; (12-26-90)

04. Bill of Sale. The possessor has the unreleased title but does not have a bill of sale to support transfer of ownership; (12-26-90)

05. Vehicle Identification Number. The title vehicle identification number (VIN) and the VIN on the vehicle do not match (except for obvious typographical errors); or (12-26-90)

06. Documentation for Component Part. Component parts of a homemade, reconstructed or specially constructed vehicle cannot be documented. (12-26-90)

101. -- 199. (RESERVED)

200. PROCEDURE.

01. Conditional Registration. "Registration Only" (conditional registration until titling requirements are met) may be processed for a one (1) year period without benefit of title. (12-26-90)

02. Altered VINs. "Registration Only" shall not be issued on vehicles with altered VINs, vehicles confirmed as stolen or vehicles where there is a recorded and unpaid lien. (12-26-90)

03. Conditional Registration Procedure. "Registration Only" procedure is as follows: (12-26-90)

a. VIN Inspection: The vehicle must be inspected by an agent of the county assessor's office or a city, county or state peace officer. The inspecting officer will verify the identification number and provide the applicant with a signed inspection form containing the vehicle description, other pertinent information and recommendations. If the VIN has been altered or is missing, the officer may ask for the assistance of a motor vehicle investigator before issuing the VIN inspection. (12-26-90)

b. Indemnifying Affidavit. The "Registration Only" applicant must complete an indemnifying affidavit explaining how and where the vehicle came into his/her possession, and why proper documentation is not available. The indemnifying affidavit must be signed in the presence of the county assessor or deputy assessor, and must fully indemnify and save harmless the department. (12-26-90)

c. Registration of the Vehicle: The vehicle can be registered for one (1) year. The title block of the registration document will show "Registration Only" in bold letters. The applicant must obtain adequate proof of ownership prior to the end of the tenth (10th) month of the registration period to allow adequate time for title processing. The one (1) year "Registration Only" period shall not be extended. (12-26-90)

d. The county shall hold the VIN inspection and the indemnifying affidavit in file until the applicant complies with requirements in Subsection 200.04. (12-26-90)

04. Applicant Responsibility. By the end of the tenth (10th) month of the "Registration Only" period, the applicant must present a properly executed title and bill of sale for the vehicle or apply for a bonded title. (12-26-90)

05. Action by the County Assessor. When the applicant has complied with Subsection 200.04, the county assessor shall remove the VIN inspection and indemnifying affidavit from file; prepare an Application for Title; and submit the application form with the title, bill of sale, indemnifying affidavit and VIN inspection for title processing. (12-26-90)

06. Proof of Ownership. If the applicant cannot prove ownership within the one (1) year "Registration Only" period, no further registration (permanent or temporary) will be issued until after the title requirement is met. (12-26-90)

07. Abandoned Vehicles. "Abandoned Vehicles" as provided for in Chapter 18, Title 49, Idaho Code, must be processed in accordance with abandoned vehicle statutes and are not affected by this rule. (12-26-90)

201. -- 999. (RESERVED)

39.02.43 – RULES GOVERNING REGISTRATION AND TITLE FEE REFUNDS

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201 and 49-507, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.02.43, "Rules Governing Registration and Title Fee Refunds," and specifies provisions for the refund of title and registration fees on vehicles and/or motor vehicles. (12-26-90)

002. -- 099. (RESERVED)

100. REQUEST FOR REFUND OF TITLE FEES.
A refund will be granted if: (12-26-90)

01. Withdrawal of Application. The applicant requests the title application be withdrawn before the county assessor transmits the application to the Motor Vehicle Bureau; or (12-26-90)

02. Process of Documents. The title application has been mailed directly to the Motor Vehicle Bureau in Boise and the request is made before the documents are processed. (12-26-90)

101. -- 199. (RESERVED)

200. REQUEST FOR REFUND OF REGISTRATION FEES.

01. Refund Granted. A refund may be granted if: (12-26-90)

a. The applicant can show the motor vehicle was registered in error by the Department or County; and (12-26-90)

b. All plates, stickers and registration certificates are returned to the County. (12-26-90)

02. Refund Denied. A refund shall not be granted if: (12-26-90)

a. An error by the Department or County in registering the motor vehicle exists but all plates, validation stickers and registration certificates are not returned to the Department. (12-26-90)

b. The motor vehicle is registered and: The registrant is incapacitated, out of state, in the armed forces, or is otherwise unable to operate the motor vehicle; or the motor vehicle is damaged, destroyed by accident or fire, or is no longer operational; or the registration is rescinded for any violation of the Uniform Motor Vehicle Registration Act or other provisions of Section 49-202 and Section 49-456, Idaho Code. (12-26-90)

03. Mailing and Handling Fees. The decision to refund the administrative mailing and handling fees for valid refund requests shall be determined by individual counties. (12-26-90)

201. -- 999. (RESERVED)

39.02.45 – RULES GOVERNING FEES FOR LAPSED REGISTRATION PERIODS

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201 and 49-401, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.02.45, "Rules Governing Fees for Lapsed Registration Periods," and ensures an applicant for motor vehicle registration renewal will not be charged for time periods when the registration was allowed to lapse beyond the current registration period. (12-26-90)

002. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Expired Registration Renewal. An applicant for motor vehicle registration renewal shall be assessed registration fees for the current registration period only. Registration fees shall not be assessed retroactively for any time period following expiration of a former registration period. (12-26-90)

02. Expired License Plate Renewal. The applicant's license plate may be used for renewal under the following conditions: (12-26-90)

a. The license plate was originally issued to the applicant. (12-26-90)

b. The license plate is designed and numbered correctly. (12-26-90)

c. The license plate is in serviceable condition. (12-26-90)

101. -- 999. (RESERVED)

39.02.70 – RULES GOVERNING RESTRICTED DRIVING PERMITS

000. LEGAL AUTHORITY.
Under authority of Sections 18-8002A, 49-325, and 49-326, Idaho Code, the Idaho Transportation Board adopts the following Rule for the issuance of Restricted Driving Permits for licensed drivers who face certain suspension or revocation of driving privileges in the state of Idaho. (3-29-12)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.70 "Rules Governing Restricted Driving Permits," IDAPA 39, Title 02, Chapter 70. (3-29-12)

02. Scope. This rule contains guidelines for issuance of non-commercial restricted driving privileges for those individuals whose driving privileges have been suspended or revoked under authority of Idaho law; and establishes minimum standards for the issuance, denial and cancellation of non-commercial Restricted Driving Permits pursuant to Sections 18-8002A, 49-325 and 49-326, Idaho Code. (3-29-12)

002. -- 099. (RESERVED)

100. ELIGIBILITY.
In establishing these standards, the Idaho Transportation Board has determined that individuals eligible for restricted driving privileges in the state of Idaho must meet three (3) general criteria: (8-31-89)

01. Need. It must be shown that driving privileges are essential to maintain a livelihood and/or to provide necessities of life; (8-31-89)

02. Safety. It must be shown that restricted driving privileges will not jeopardize the safety of the traveling public; and (8-31-89)

03. Rehabilitation. It must be shown that restrictions upon a person's driving privileges would improve the person's driving skills and habits. (8-31-89)

101. -- 199. (RESERVED)

200. DURATION AND EXPIRATION OF RESTRICTED DRIVING PERMIT.

01. Duration and Expiration. The Restricted Driving Permit shall remain in effect for the period of time the driver's privileges have been suspended or revoked unless cancelled by the department or otherwise provided by law. (3-29-12)

02. Reinstatement Action. Satisfactory completion of the terms and conditions of the Restricted Driving Permit will be noted in the driving records of the participant as maintained by the Department, and the Department shall reinstate the applicant's regular driving privileges at the expiration of the Restricted Driving Permit if he has complied with all conditions of the Restricted Driving Permit and reinstatement requirements. Any convictions or notices of suspension or revocation shall remain a part of the driver's file. (3-29-12)

201. -- 299. (RESERVED)

300. RESTRICTED DRIVING PERMITS MAY BE ISSUED.
The Department may only issue Restricted Driving Permits to individuals whose driving privileges have been suspended or revoked for: (10-1-94)

01. Reckless Driving. Conviction of reckless driving per Sections 49-1401 and 49-326(1)(f), Idaho Code. (3-29-12)

02. Fleeing or Eluding an Officer. Conviction of fleeing or attempting to elude a peace officer per Sections 49-1404 and 49-326(1)(f), Idaho Code. (3-29-12)

03. Points. Accumulation of excessive "point" violations per Sections 49-326(1)(i) and (j), Idaho Code. (3-29-12)

04. Leaving Scene of Accident. Conviction of leaving the scene of an accident involving damage to a

vehicle per Sections 49-1301, and 49-326(1)(l), Idaho Code. (3-29-12)

05. Using Motor Vehicle. Conviction of using a motor vehicle in the commission of a felony per Section 49-325(1)(b), Idaho Code. (3-29-12)

06. Offense in Another State. Conviction of an offense in another state that would be grounds for suspension/revocation in this state per Section 49-326(1)(e), Idaho Code. (3-29-12)

07. Restricted License. Conviction of violation of a restricted license per Sections 49-317 and 49-326(l)(k), Idaho Code. (3-29-12)

08. Administrative License Suspension. An administrative suspension of driving privileges for a first-time failure of an evidentiary test for the last sixty (60) days of that suspension, for Class D privileges only per Section 18-8002A, Idaho Code. (3-29-12)

301. -- 399. (RESERVED)

400. RESTRICTED DRIVING PERMITS SHALL NOT BE ISSUED.
Restricted Driving Permits shall not be issued by the Department to: (8-31-89)

01. Privileges Suspended. Individuals who have had their driving privileges suspended or revoked by the Court and/or Department three (3) or more times during the three (3) year period prior to the effective date of the current suspension. (10-1-94)

02. Like Offense. Individuals who have been issued a Restricted Driving Permit by the Department or by an Idaho Court for a like offense within a previous two (2) year period prior to the effective date of the current suspension or revocation. (10-1-94)

03. Violation of Restrictions. An individual found to be in violation of restrictions on any court or Department-issued permit. (3-29-12)

04. Revoked Out-of-State Drivers. An individual who was an out-of-state resident at the time driving privileges were revoked or suspended in that state or any other state. (10-1-94)

05. Under Seventeen. An individual who is not at least seventeen (17) years of age at the time of issuance of the permit. (3-29-12)

401. -- 499. (RESERVED)

500. GENERAL APPLICATION PROCEDURE FOR A NON-COMMERCIAL RESTRICTED DRIVING PERMIT.

01. Applicant Submissions. Applicant must submit the following before their suspension or revocation is stayed: (10-1-94)

a. Completed Form No. ITD-3227, Application for Restricted Driving Permit; (8-31-89)

b. Completed Form No. ITD-3208, Work Verification; (8-31-89)

c. Proof of motor vehicle liability insurance coverage in the amount required by Idaho law to cover any and all vehicles to be used by the applicant; (3-29-12)

d. All applicable reinstatement requirements must be satisfied; (3-29-12)

e. A non-refundable application fee pursuant to Section 49-306, Idaho Code; (3-29-12)

02. Written Agreement. If the Department determines that an applicant is eligible for a non-

commercial Restricted Driving Permit, the applicant must then sign written agreements, prepared by the Department, affirming that: (3-29-12)

a. Cause exists to suspend or revoke the driver's license or privileges of the applicant and that the driver's license of the applicant is suspended or revoked; (3-29-12)

b. The applicant shall obey all motor vehicle laws; (10-1-94)

c. The applicant shall provide and maintain adequate motor vehicle liability insurance; (10-1-94)

d. The applicant shall notify the Department within one (1) business day following arrest, citation, accident or warnings by any law enforcement officer with regard to motor vehicle violations or alleged violations, and any change of address, telephone number, place of employment; (3-29-12)

e. The applicant shall not operate any motor vehicle after consuming any alcohol, drugs, or other intoxicating substances; (3-19-99)

f. The applicant shall submit to any evidentiary testing to determine alcohol concentration at any time at the request of any peace officer; (9-14-92)

g. The applicant shall operate a motor vehicle only for those reasons specified on the Restricted Driving Permit (See Section 600); (10-1-94)

h. The applicant shall abide by all rules and regulations concerning the Restricted Driving Permit; (8-31-89)

i. The applicant's Restricted Driving Permit may be cancelled by the Department without a hearing for violation of the terms of the agreement or other conditions specified on the Restricted Driving Permit; and (10-1-94)

j. The applicant understands that if, while driving on a Restricted Driving Permit, he/she receives an additional Department or court suspension that results in cancellation of the restricted permit, the applicant will not be eligible to receive another Restricted Driving Permit for said suspension. (10-1-94)

03. Restricted Driving Permit Approval. Approval will be given and a Restricted Driving Permit shall be issued if the following conditions are met: (7-1-94)

a. Submission and approval of all requirements listed in Subsection 500.01; and (10-1-94)

b. No other suspensions or revocations are in effect which preclude issuance of a Restricted Driving Permit. (10-1-94)

501. -- 599. (RESERVED)

600. DRIVING RESTRICTIONS SPECIFIED.
The Department may impose the following restrictions upon an applicant's driving privileges and such restrictions shall be specified on the Restricted Driving Permit: (10-1-94)

01. Operation of Vehicle. Time of operation of a motor vehicle, i.e. restricted to certain days, or hours of a day. (8-31-89)

02. Geographic Area. Geographic limitations within limits of states, counties, cities. (8-31-89)

03. Purpose of Permit. Purposes of travel such as to and from employment, to and from counseling sessions, to and from medical appointments, to and from grocery store, church, etc. (10-1-94)

04. Purpose of Permit Administrative License Suspension. To travel to and from work and for work

purposes, to attend an alternative high school, work on a GED, for post-secondary education, or to meet the medical needs of the person or their family. (3-19-99)

601. -- 699. (RESERVED)

700. CANCELLATION OF RESTRICTED DRIVING PERMIT.
The Department may cancel a Restricted Driving Permit and shall re-activate the suspension or revocation order which will expire according to the original order if: (10-1-94)

01. Violation of Terms. There is a violation of terms of the written driver's agreement set forth in Section 500.02. herein. (8-31-89)

02. Violation of Restrictions. There is a violation of any of the restrictions set forth in the applicant's Restricted Driving Permit, see Section 600. (10-1-94)

701. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under authority of Sections 49-201 and 49-326, Idaho Code, the Idaho Transportation Board adopts the following rule for Violation Point Count System for drivers licensed in Idaho. (7-20-89)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.71, "Rules Governing Driver's License Violation Point System." (3-30-01)

02. Scope. It is the purpose of this rule to establish guidelines for the implementation of a driver's license violation point system for drivers convicted of moving traffic violations and convictions. (3-30-01)

002. -- 099. (RESERVED)

100. VIOLATION POINT COUNT SYSTEM.

01. Points for Moving Traffic Violations. The Idaho Code authorizes the Department to establish a violation point count system for drivers convicted of various moving traffic violations and infractions occurring either within the state of Idaho, or outside the state of Idaho. Therefore, a schedule of violation points for moving traffic violations and infractions has been established. Moving traffic violations and infractions are violations that occur while operating a motor vehicle. (7-1-97)

02. Violation Point Count List. The following violation point count list includes moving violations and infractions in Idaho Code, and the appropriate sections. Convictions of moving violations and infractions not herein listed which are violations of a state law or municipal ordinance will receive three (3) violation points, except those for which mandatory suspension/revocation is required by statute or the statute provides a point exemption. (1-1-14)

03. Points Assessed. Each moving traffic conviction and infractions shall be assessed from one (1) point for less serious violations to a maximum of four (4) points for more serious violations. The degree of seriousness of moving traffic violations and infractions has been determined by considering the possibility of bodily injury or property damage resulting from such violation. (7-1-97)

04. Dual Violation. In cases where the driver is convicted of more than one (1) violation arising from one (1) occasion of arrest or citation, only one (1) conviction will be counted and assessed points against the driver's record. The conviction counted will be the one with the greater amount of points. (1-1-14)

05. Speeding Violation. Drivers convicted of traveling sixteen (16) miles per hour or more over the posted maximum speed limit or exceeding the speed limit in a work zone will receive four (4) points. Driving convictions of other speeding violations will receive three (3) points. (1-1-14)

06. Exemptions. No points will be assessed to an Idaho driving record for texting as defined per Section 49-1401A(2), Idaho Code, and Safety Restraint Use as defined per Sections 49-673(3) and (4), Idaho Code. (1-1-14)

101. -- 199. (RESERVED)

200. LIST OF MOVING TRAFFIC CONVICTIONS AND/OR VIOLATIONS POINT COUNT.

Idaho Code	Convictions Reported by Court	Point Count
49-603	Starting Parked Vehicle	two (2)
49-604	Limitations On Backing	one (1)
49-605	Driving Upon Sidewalk	three (3)
49-606	Coasting Prohibited	two (2)
49-612	Obstruction To Driver's View Or Driving Mechanism	three (3)

Idaho Code	Convictions Reported by Court	Point Count
49-614	Stopping When Traffic Obstructed	one (1)
49-615	Drivers To Exercise Due Care	three (3)
49-616	Driving Through Safety Zone Prohibited	two (2)
49-619	Slow Moving Vehicles	two (2)
49-623(4)	Authorized Emergency Or Police Vehicles	three (3)
49-624	Duty Upon Approaching A Stationary Police Vehicle Or An Emergency Vehicle Displaying Flashing Lights	three (3)
49-625	Operation Of Vehicles On Approach Of Authorized Emergency Or Police Vehicles	three (3)
49-626	Following Fire Apparatus Prohibited	three (3)
49-627	Crossing Fire Hose	one(1)
49-630	Drive On Right Side Of Roadway - Exceptions	three (3)
49-631	Passing Vehicles Proceeding In Opposite Directions	two (2)
49-632	Overtaking A Vehicle On Left	three (3)
49-633	When Passing On The Right Is Permitted	two (2)
49-634	Limitations On Overtaking On The Left	three (3)
49-635	Further Limitations On Driving On Left Of Center Of Highway	three (3)
49-636	One-way Highways	one (1)
49-637	Driving On Highways Laned For Traffic	one (1)
49-638	Following Too Closely	three (3)
49-639	Turning Out Of Slow Moving Vehicles	two (2)
49-640	Vehicles Approaching Or Entering Unmarked Or Uncontrolled Intersection	three (3)
49-641	Vehicle Turning Left	three (3)
49-642	Vehicle Entering Highway	three (3)
49-643	Highway Construction And Maintenance	three (3)
49-644	Required Position And Method Of Turning	three (3)
49-645	Limitations On Turning Around	three (3)
49-648	Obedience To Signal Indicating Approach Of Train	four (4)
49-649	Compliance With Stopping Requirement At All Railroad Grade Crossings	four (4)
49-650	Moving Heavy Equipment At Railroad Grade Crossings	three (3)
49-651	Emerging From Alley, Driveway Or Building	three (3)
49-652	School Safety Patrols – Failure to Obey Unlawful	three (3)
49-654	Basic Rule And Maximum Speed Limits	three (3) four (4)
49-655	Minimum Speed Regulation	three (3)

Idaho Code	Convictions Reported by Court	Point Count
49-656	Special Speed Limitations	three (3) four (4)
49-657	Work Zone Speed Limits	four (4)
49-658	School Zone Speed Limit	three (3)
49-663	Restricted Use Of Neighborhood Electric Vehicles On Highways	two (2)
49-673(3)&(4)	Safety Restraint Use	Exempt
49-702	Pedestrians' Right Of Way In Crosswalks	three (3)
49-706	Blind And/Or Hearing Impaired Pedestrian Has Right-of-Way	three (3)
49-707	Pedestrians' Right-of-Way On Sidewalks	three (3)
49-801	Obedience To And Required Traffic Control Devices	three (3)
49-802	Traffic Control Signal Legend	three (3)
49-804	Flashing Signals	three (3)
49-806	Lane Use Control Signals	three (3)
49-807(2)	Stop Signs	three (3)
49-807(3)	Failure To Yield – Signed Intersection	three (3)
49-808	Turning Movements And Required Signals	three (3)
49-1302	Duty To Give Information In Accident Involving Damage To A Vehicle	four (4)
49-1303	Duty Upon Striking Unattended Vehicle	four (4)
49-1304	Duty Upon Striking Fixtures Upon Or Adjacent To A Highway	four (4)
49-1401(3)	Inattentive Driving	three (3)
49-1401A	Texting While Driving	Exempt
49-1419	Obedience To Traffic Direction	two (2)
49-1421(1)	Driving On Divided Highways	one (1)
49-1421(2)	Restricted Access	one (1)
49-1422	Overtaking And Passing School Bus	four (4)
49-1424	Racing On Public Highways	four (4)

(3-28-18)

201. -- 299. (RESERVED)

300. SUSPENSION OF LICENSE.

01. Twelve Points. When a driver accumulates twelve (12) or more points in any twelve (12) month period of time, the suspension period shall be for thirty (30) days. (7-20-89)

02. Eighteen Points. When a driver accumulates eighteen (18) or more points within any twenty-four (24) month period of time, the suspension period shall be for ninety (90) days. (7-20-89)

03. Twenty-Four Points. When a driver accumulates twenty-four (24) or more points within any

thirty-six (36) month period of time, the suspension period shall be for six (6) months. (7-20-89)

301. -- 399. (RESERVED)

400. COMPLETION OF A DEFENSIVE DRIVING CLASS OR TRAFFIC SAFETY EDUCATION PROGRAM.

01. Removal of Points Upon Completion of Defensive Driving Class or Traffic Safety Education Program. Three (3) points may be removed from an Idaho driving record upon the driver's completion of an approved defensive driving class or points may be removed from an infraction upon the driver's completion of an approved traffic safety education program. Points may only be removed from a driver's record once every three (3) years. This time restriction begins on the completion date of either a defensive driving class or traffic safety education program. (1-1-14)

a. For completion of a defensive driving class, points are only removed from the violation point count total on the driving record. (1-1-14)

b. For completion of a traffic safety education program as provided in Section 50-336, Idaho Code, points are removed from the conviction for which the traffic safety education program was taken. (1-1-14)

02. Driving Conviction Cannot Be Removed. A driver may not remove a driving conviction from his record by attending a defensive driving class or a traffic safety education program. (1-1-14)

03. Suspension for Excessive Points. Once the department has suspended a driver for excessive points, that driver may not waive the suspension action by attending a defensive driving class or traffic safety education program. (1-1-14)

04. Driver May Not Reserve Point Reduction. When a driver completes a defensive driving class or traffic safety education program but has no violation points on his driver record, he may not reserve a point reduction for use on a future point-assessing violation. (1-1-14)

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
In accordance with Section 18-8002A, Idaho Code, the Idaho Transportation Board adopts the following rule governing Administrative License Suspensions (ALS). (10-1-94)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.72, "Rules Governing Administrative License Suspensions." (4-5-00)

02. Scope. The purpose of this Rule is to establish driver's license suspension procedures for persons driving under the influence of alcohol or other intoxicating substances as indicated by an evidentiary test of blood, breath, or urine, pursuant to Section 18-8002A, Idaho Code. This rule also includes the procedures for administrative hearings to review the propriety of administrative license suspensions. (4-5-00)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Petitioner. A person who has been served with a Notice of Suspension pursuant to Section 18-8002A, Idaho Code. (10-1-94)

02. Received by the Department. A document that has been: (10-1-94)

a. Personally delivered to the Department's Driver Services Section at 3311 W. State Street, Boise, Idaho; or (10-1-94)

b. Delivered by mail and addressed to P.O. Box 7129, Boise, ID 83707-1129; or (10-1-94)

c. Transmitted by facsimile machine to telephone number (208) 332-4124. (3-29-12)

d. Sent by e-mail to driverrecords@itd.idaho.gov. (3-29-12)

03. Business Days. All days of the week except Saturday, Sunday, and legal holidays as defined by Section 73-108, Idaho Code. (10-1-94)

04. Certified Copy. A reproduction of an original record that has been certified by a custodian of such record to be a true and accurate copy. (10-1-94)

05. Duplicate Original. A counterpart produced by the same impression as the original, or from the same matrix. (3-19-99)

06. Evidentiary Test. An analysis of blood, breath, or urine to determine the presence of alcohol, drugs, or other intoxicating substances. (10-1-94)

011. -- 099. (RESERVED)

100. HEARING REQUESTS.

01. Written Requests. Hearing requests must be made in writing. Hearing requests must contain the following information: (10-1-94)

a. The petitioner's full name, complete mailing address, and telephone number where hearing will be conducted; (3-19-99)

b. The driver's license number; (10-1-94)

c. The petitioner's date of birth; (10-1-94)

d. The date of arrest; (10-1-94)

e. A brief statement of the issues the petitioner proposes to raise at the hearing; and (10-1-94)

f. Any dates or times that the petitioner or attorney cannot be available for the hearing. (10-1-94)

02. Timely Requests. Hearing requests must be received by the Department no later than 5 p.m. of the seventh day following the service of the Notice of Suspension. Hearing requests received after that time will be considered untimely. The Department shall deny an untimely hearing request unless the petitioner can demonstrate that a request should be granted. (10-1-94)

03. Request Withdrawal. Petitioners may withdraw their hearing requests at any time. (10-1-94)

101. HEARING NOTICES.

01. Notification. Upon timely receipt of hearing requests, the Department will notify petitioners of the time and date of the hearing as soon as practicable, but no later than seven (7) days prior to the hearing. Hearing notices will be mailed or e-mailed to the address provided in the hearing requests, or if no address was provided, notices will be mailed to the most current address contained in the petitioner's driver's license records. (3-29-12)

02. Hearings Conducted by Telephone. Hearings will be conducted by telephone unless the hearing officer will determine that the petitioner or other participant would be denied the opportunity to participate in the entire hearing if held by telephone. Face to face hearings will be held in Ada County (or other locations within the state as may be determined by the Department). (3-19-99)

03. Hearing Date. Hearings shall be conducted within twenty (20) days of receipt of the hearing request. However, the Hearing Officer may extend the hearing date for one (1) ten (10) day period upon a showing of good cause. Such extension shall not stay the suspension. (3-29-12)

102. -- 199. (RESERVED)

200. DOCUMENT SUBMISSION.

01. Forwarding Documents to the Department. Upon service of a Notice of Suspension, a law enforcement agency shall, in accordance with Section 18-8002A, Idaho Code, forward the following documents to the Department within five (5) business days: (3-19-99)

a. Notice of Suspension. (3-29-12)

b. The sworn statement of the officer incorporating any arrest or incident reports relevant to the arrest and evidentiary testing. (10-1-94)

c. A certified copy or duplicate original of the test results or log of test results if the officer has directed an evidentiary test of the petitioner's breath. (3-19-99)

02. Compliance. The documents shall be considered forwarded in a timely manner if they are postmarked within five (5) business days of the date of service of the Notice of Suspension or are accompanied by a certificate, certifying the documents were deposited with: (3-19-99)

a. The United States mail or overnight delivery service; or (10-1-94)

b. Hand delivered, within five (5) business days of the date of service of the suspension notice. (3-19-99)

03. Blood and Urine Tests. If an evidentiary test of blood or urine was administered rather than a breath test, the Notice of Suspension shall not be served until the results of the test are obtained. In such cases, the peace officer may forward the sworn statement and accompanying reports to the Department and the Department shall have the responsibility of serving the Notice of Suspension, if necessary. (10-1-94)

201. -- 299. (RESERVED)

300. SUBPOENAS.

01. Request. The Hearing Officer assigned to the matter may, upon written request, issue subpoenas requiring the attendance of witnesses or the production of documentary or tangible evidence at a hearing. (10-1-94)

02. Serving Subpoenas. Parties requesting subpoenas shall be responsible for having the subpoenas served. Witnesses shall not be compelled to attend and testify at hearings unless served with subpoenas at least one hundred and twenty (120) hours prior to the time of hearing. (3-29-12)

03. Proof of Service. Parties responsible for service of the subpoena shall provide proof of service of the subpoena prior to the scheduled hearing. (3-29-12)

301. -- 399. (RESERVED)

400. DOCUMENT DISCOVERY.

01. Obtaining Photocopies. To obtain a photocopy of a document which is public record, relates to the petitioner hearing, and is in the possession of the Department, petitioners shall make a written request to the Department. The Department shall attempt to provide the requested copies prior to the hearing date, but failure to do so shall not be grounds for staying or rescinding a suspension. (10-1-94)

02. Further Document Discovery. Further discovery shall only be conducted in accordance with IDAPA 04.11.01.521, "Idaho Rules of Administrative Procedure of the Attorney General." (10-1-94)

401. -- 499. (RESERVED)

500. RECORDS OF PROCEEDINGS.

01. Required Records. The Hearing Officer shall make a record of hearing proceedings. This record shall consist of: (10-1-94)

a. An audio recording of the hearing, except in instances where the Hearing Officer authorizes a different method of reporting the hearing. (3-29-12)

b. Exhibits and other items of evidentiary nature. (10-1-94)

02. Requesting Copies. Any party may make a written request for a copy of the audio recording of the hearing from the Department. The requesting party shall reimburse the Department for the actual cost of providing the copy. (3-29-12)

501. -- 599. (RESERVED)

600. FINAL ORDER REQUEST FOR RECONSIDERATION.
The Hearing Officer shall make Findings of Fact, Conclusions of Law and Order either sustaining or vacating the license suspension in question. The Findings of Fact, Conclusions of Law and Order shall be the final order of the Department. A request for reconsideration must be made within fourteen (14) days of the issuance of the Findings of Fact, Conclusions of Law and Order. The request for reconsideration shall contain a request to submit new evidence if the party wishes the hearing officer to consider any new evidence. (3-19-99)

01. Issuing Facts and Findings. The Hearing Officer shall issue the Findings of Fact, Conclusions of Law and Order following the hearing. (3-29-12)

02. Mailing Final Order. The Findings of Fact, Conclusions of Law and Order is issued when a copy is deposited in the United States Mail addressed to the petitioner or the petitioner's attorney or e-mailed to the petitioner or the petitioner's attorney. (3-29-12)

601. -- 699. (RESERVED)

700. FAILURE TO APPEAR.

01. Proposed Order of Default. Should the petitioner fail to appear at the scheduled hearing, either in person or through an attorney, the Hearing Officer shall promptly issue a notice of proposed order of default. This notice is deemed served when mailed or e-mailed to the petitioner or petitioner's attorney at the address shown in the request for hearing, or if no address was provided, the notice shall be mailed to the most current address contained in the petitioner's driver's license records. (3-29-12)

02. Filing Petition. The petitioner may, within seven (7) days of service of the notice of proposed order of default, file a petition requesting that the order of default not be entered and stating the grounds for such a request. If the Hearing Officer grants the petitioner's request, the hearing shall be rescheduled. Granting the petitioner's request shall not stay or vacate the suspension. (3-29-12)

03. Denied Petitions. If the Hearing Officer denies the petitioner's request that the default order not be entered, the Hearing Officer shall make a determination to sustain or vacate the suspension based upon the documentary record submitted by the Department. (10-1-94)

04. Attending a Hearing. A petitioner or witness shall be deemed to have appeared if present within fifteen (15) minutes after the time the Hearing Officer is ready to begin the hearing. In the case of a telephone hearing, the petitioner or witness shall be deemed to have appeared if contacted by telephone on the second attempt to do so within a fifteen (15) minute period from the commencement of the hearing. (3-19-99)

701. -- 799. (RESERVED)

800. FORMS.
The Department shall develop appropriate forms to be used throughout the state including, but not limited to, forms for Notice of Suspension and officer's sworn statement. Each law enforcement agency shall use the forms supplied by the Department in carrying out the requirements of Section 18-8002A, Idaho Code, and this Rule. However, the sworn statement may be in the form of a law enforcement agency's affidavit of probable cause or equivalent document, so long as it contains the elements required by Section 18-8002A, Idaho Code. (3-29-12)

801. -- 999. (RESERVED)

39.02.73 – RULES GOVERNING ACCIDENT PREVENTION COURSE

000. LEGAL AUTHORITY.
Under authority of Sections 49-201 and 41-2515, Idaho Code, the Idaho Transportation Board adopts the following rule for criteria for a motor vehicle accident prevention course. (8-31-89)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.73 "Rules Governing Accident Prevention Course," IDAPA 39, Title 02, Chapter 73. (5-3-03)

02. Scope. This rule establishes minimum standards for approval of a motor vehicle accident prevention course, as provided in Section 41-2515, Idaho Code. (3-30-07)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accident Prevention Course. A structured course of study, either in a traditional classroom setting, field driving or internet based format, with curriculum focusing on becoming a safer driver and avoiding accidents, by being cautious, aware, responsible, and respectful of other drivers while abiding by Idaho's rules of the road. The terms "accident prevention course" and "defensive driving class" are interchangeable, and the course standards established for the accident prevention course in this rule shall be the same standards for the defensive driving class for violation point count reduction as provided in IDAPA 39.02.71, "Rules Governing Driver's License Violation Point Count System." (3-30-07)

011. -- 099. (RESERVED)

100. CRITERIA.

01. Instructor Certification. For classroom and field driving instruction, instructors must be certified by the Idaho Department of Education as a Driver and Traffic Safety Education instructor, or the National Safety Council, American Automobile Association's program (AAA), American Association of Retired Persons (AARP), or an equivalent program, as determined by the Idaho Transportation Department. (5-3-03)

02. Contents of Course. Other than courses provided by the National Safety Council, AAA, or AARP, all accident prevention course outlines must be approved by the Idaho Transportation Department. (5-3-03)

03. Length of Class. The course must be a minimum of six (6) hours, which may include any combination of classroom instruction, field driving instruction, or on-line instruction time. (5-3-03)

04. Proof of Insurance. For field driving instruction, if any, the course provider must confirm adequate proof of insurance. (5-3-03)

05. Provider Location. The course provider must confirm location(s) of established place of business, and a telephone number or e-mail address of a contact person who can be reached during regular working hours 8 a.m. to 5 p.m. (5-3-03)

06. Participant Certification. Each participant shall be issued a certificate of completion by the instructor or course provider. (5-3-03)

101. -- 199. (RESERVED)

200. COURSE REVIEW.
Accident Prevention Courses are subject to periodic review by the Department. As a part of the review process, the provider may be asked to confirm course and instructor information and resubmit instruction materials. (5-3-03)

201. WITHDRAWAL OF COURSE APPROVAL.
The Department may withdraw course approval if minimum standards are no longer met or if course providers have failed to respond to a course review. In the event the Department proposes to withdraw approval for a course, written notification will be sent to the provider. Requests for reconsideration will be reviewed by the Motor Vehicle Administrator. (5-3-03)

202. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under the authority of Sections 49-201, 49-306, 49-315, 49-318, 49-319, and 49-2443, Idaho Code, the Department adopts the following rule. (3-29-12)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.75 "Rules Governing Names on Drivers' Licenses and Identification Cards," IDAPA 39, Title 02, Chapter 75. (4-2-08)

02. Scope. The purpose of this rule is to provide procedures and criteria for County Sheriffs and the Idaho Transportation Department to record and format names, and to allow surnames and hyphenated names on drivers' licenses and identification cards. (4-2-08)

002. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Punctuation Marks. The only punctuation marks which may be used in a name are the comma (,), apostrophe (‘), and the hyphen (-). A hyphen is allowed in the last name only, and may occur once. A comma can only be used between the last name and the first name. (4-2-08)

02. Full Name Requirements. If a full name has more characters than the department automated system allows, the last name and first name must be written out fully. The middle name can be initialized and then the full middle name entered on the comment line of the application. If there is a designator, it will follow the middle initial. If the name still has more characters than the department automated system allows, the first and middle names can be initialized and the full first and middle names entered on the comment line of the application. (3-29-12)

101. -- 199. (RESERVED)

200. CRITERIA.

01. Legal Name. The name on the certified original birth certificate will be used unless a name changes due to: (3-29-12)

a. Marriage; (5-13-91)

b. Divorce; or (5-13-91)

c. Court Order. (5-13-91)

02. Stepparents' Name. An applicant is not allowed to use a stepparent's last name, except by court order or other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (7-1-96)

03. Driver's License and Identification Card Names. The name printed on the driver's license or identification card will be maintained in the Idaho Transportation Department records in the following order: (1) Last name, (2) First name, (3) Middle name, (4) Designator (if applicable (see Subsection 200.04)). An applicant may not have a driver's license and an identification card in different names. An applicant may add a middle name by providing a certified original copy of the applicant's: (3-29-12)

a. Birth Certificate; (3-29-12)

b. Court Order; or (3-29-12)

c, Divorce Decree. (3-29-12)

04. Designations of Names. The designations of I, II, III, etc., will become first (1st), second (2nd), third (3rd), etc., and will appear after the middle name. The designators of JR and SR (no periods allowed) will be permitted and will appear after the middle name. The JR and SR designators will be permitted only if there is proof that the other individual exists, by way of an original certified copy of a birth certificate. (7-1-96)

05. Married Applicant's Name. (3-29-12)

a. A married applicant is permitted to use the maiden name of the woman or surname of the man as the last name or as the middle name, or may hyphenate the surname and maiden name to form the last name. In no case under any of these stated options shall any applicant have more than one (1) hyphen in his or her last name. (3-29-12)

b. When married applicants choose to use different hyphenated names or only one (1) applicant chooses to hyphenate his or her name, a woman will hyphenate her last name as "maiden-married" and a man will hyphenate his last name as "surname-maiden". (3-29-12)

c. Married applicants who choose to have the same hyphenated last name may hyphenate their name as either "maiden-married" or "surname-maiden". (4-2-08)

d. Married applicants who already have hyphenated last names may: (3-29-12)

i. Use the hyphenated name of the man or the hyphenated name of the woman; or (3-29-12)

ii. Combine part of the hyphenated name of the man and part of the hyphenated name of the woman. (3-29-12)

e. An applicant who is established in department records with a hyphenated last name due to marriage and wants to drop the first part or the second part of the hyphenated name must provide, as required by the department, the following: (3-29-12)

i. A certified copy of a birth certificate; and/or (3-29-12)

ii. A certified copy of a marriage certificate; and/or (3-29-12)

iii. A certified copy of a divorce decree; and/or (3-29-12)

iv. A certified copy of a death certificate. (3-29-12)

06. Divorced Applicant's Name. A divorced applicant who wants to use his or her original surname or maiden name, or a surname from a previous marriage, but does not have a divorce decree indicating the new name, is allowed to submit the following documents to the County Sheriff or the Idaho Transportation Department: (3-29-12)

a. Original certified copy of the birth certificate showing the original maiden or surname; or (3-29-12)

b. Original certified copies of the marriage certificate and the divorce decree, as evidence to change the name. (3-29-12)

07. Applicant's First Name. An applicant is not allowed to change his or her first name except by court order. (5-13-91)

08. Common Law Marriage. Common law marriages created prior to January 1, 1996 will, for the purposes of this rule, be treated as a valid marriage. An affidavit of agreement is required, which includes: (7-1-96)

a. The signatures of both the husband and the wife; (5-31-91)

b. The date they became married under common law; and (5-13-91)

c. Other documents verifying the marriage (subject to the approval of the Idaho Transportation Department). (5-13-91)

09. Change of Name on Record. Once a name is established in the Idaho Transportation Department records, a court order, marriage license, or divorce decree will be required to change the name and record. (3-29-12)

10. Titles or Nicknames. An applicant is not allowed to use titles or nicknames. (7-1-96)

201. -- 299. (RESERVED)

300. PROCEDURES.

01. Verification of Name. First-time applicants for a driver's license or identification card must provide the County Sheriff's issuing office with one (1) of the following in order to verify their name: (5-13-91)

a. Original certified copy of the birth certificate; (7-1-96)

b. Court order; (5-13-91)

c. Original certified copy of the marriage license; or (7-1-96)

d. Divorce decree (if applicable); or (7-1-96)

e. Driver's license from another state or country that is current or if expired, has been expired for less than five (5) years. (7-1-96)

02. Surrendering Driver's License or Identification Card. Applicants for license or identification card renewals must surrender the previous driver's license or identification card. Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

03. Surrendering Duplicate Driver's License or Identification Cards. Applicants for duplicate drivers' licenses or identification cards must surrender the previous driver's license or identification card (if applicable). Name changes are allowed if the criteria in Section 200 are met. (7-1-96)

04. Document Approval by the Department. Other documents may be accepted to change a name, on approval by the Idaho Transportation Department. (5-13-91)

301. -- 999. (RESERVED)

39.02.76 – RULES GOVERNING DRIVER'S LICENSE RENEWAL-BY-MAIL AND ELECTRONIC RENEWAL PROCESS

000. LEGAL AUTHORITY.

In accordance with Section 49-319(10), Idaho Code, the Idaho Transportation Board adopts the following rule to establish a process that may allow Idaho residents to renew their Class D drivers' licenses by mail or electronically. (3-29-12)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.76, "Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process". (3-29-12)

02. Scope. The purpose of this rule is to establish standards by which Class D drivers' licenses may be renewed by mail or electronically for those individuals who are licensed Idaho residents and whose licenses are about to expire. The driver's license renewal-by-mail and electronic systems are designed to reduce the length of driver's license renewal waiting lines at county driver's license offices. (3-29-12)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. CDL. Commercial Driver's License. (7-1-96)

02. Class D Driver's License. A license issued and valid for the operation of a motor vehicle that is not a commercial vehicle as defined in Section 49-123, Idaho Code. (7-1-96)

03. Expiration Date. The date a driver's license expires. (7-1-96)

04. Photo License. A valid Idaho driver's license displaying a color photograph of the license holder. (7-1-96)

011. ELIGIBILITY.

01. Eligibility. The renewal by mail or electronic renewal may be granted on the expiration date of a person's Idaho Class D driver's license, in lieu of requiring the person to renew a driver's license in person. Licenses renewed by mail or electronically shall only be renewed once in an eight (8) year period, and shall have a four-year validity period. (3-29-12)

02. License Renewal. Drivers' licenses shall not be renewed by mail or electronically for persons who: (3-29-12)

a. Hold a driver's license with a "J" restriction (e.g. limited to a five (5) mile driving radius of residence, driving privileges limited to one (1) or two (2) counties, cannot drive without parent for a specified time period, etc.); (7-1-96)

b. Have changes in the information shown on their licenses, other than address changes; (7-1-96)

c. Have any changes in physical, mental, and/or emotional condition, including vision, which may impair the ability to safely operate a motor vehicle; (7-1-96)

d. Have drivers' licenses or driving privileges which are suspended, revoked, canceled, denied, refused, or disqualified; (7-1-96)

e. Are operating on department or court restricted driving permits; (7-1-96)

f. Are required to provide documentation proving lawful presence in the United States; (3-29-12)

g. Are not lawfully present in the United States; (3-29-12)

h. Have a driving record which has been marked for special handling (e.g., verification of identity or date of birth, possible fraud, etc.); (7-1-96)

i. Already have an existing extension; (7-1-96)

j. Wish to add a motorcycle endorsement; (7-1-96)

k. Are under twenty-one (21) years of age; or (7-1-96)

l. Are seventy (70) years of age or older. (7-1-96)

012. RENEWAL BY MAIL PROCEDURES.

01. Use of Fax or Phone Prohibited. Driver's license renewal-by-mail or electronic renewal applications shall not be processed by fax or telephone. Eligible persons must mail or electronically submit their driver's license renewal application to the driver's license office in their county of residence, or deliver their application in person together with the renewal fee for the same class of license, pursuant to Section 49-306, Idaho Code. (3-29-12)

02. Updating Driving Records. The county driver's license office shall update driving records to reflect the new expiration year, followed by the notation "RM," and issue a driver's license to eligible licensees within three (3) business days after receipt of the completed application form. (3-29-12)

03. If The Driver's License Card Is Lost, Mutilated or Destroyed After Receipt. If a driver's license is lost, mutilated, or destroyed after the applicant receives it, the applicant must apply in person at the county office for a duplicate driver's license. (3-29-12)

04. If Lost or Destroyed in Mail. If a drivers' license is lost or destroyed in the mail, a written statement detailing the loss or destruction must be mailed or hand-delivered to the applicant's county of residence. Upon receipt of the letter, the county can issue a no-charge replacement driver's license to the applicant. (3-29-12)

05. Temporarily Residing Out-of-State. Individuals temporarily residing out-of-state may apply for a renewal by mail, electronic renewal, or an extension, but not both, in an eight (8) year period. (3-29-12)

013. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Section 49-1233(5) Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.80, "Rules Governing Motor Carrier Financial Responsibility," IDAPA 39, Title 02, Chapter 80. (4-5-00)

02. Scope. It is the purpose of this rule to establish the amount of liability coverage to be carried by motor carriers for personal injury suffered by one (1) person while being transported in a vehicle, any additional amounts for all persons receiving personal injury, and such amount for damage to the property of any person other than the insured. (4-5-00)

002. INCORPORATION BY REFERENCE.
The Idaho Transportation Board incorporates by reference 49 CFR 171.8, 49 CFR 172.101 and its appendix, 49 CFR 173.403, 49 CFR 387 and 49 CFR 387.5, published in the Code of Federal Regulations volume dated October 1, 1997. (4-5-00)

003. -- 009. (RESERVED)

010. DEFINITIONS.

01. Common Carrier. Any person who holds itself out to the general public to engage in the transportation by motor vehicle in commerce in the state of Idaho of passengers or property for compensation. (4-5-00)

02. Contract Carrier. Any person who, under individual contracts or agreements, engages in the transportation by motor vehicle of passengers or property in commerce in the state of Idaho for compensation. (4-5-00)

03. Environmental Restoration. Restoration for the loss, damage, or destruction of natural resources arising out of the accidental discharge, dispersal, release or escape into or upon the land, atmosphere, watercourse, or body of water of any commodity transported by a motor carrier. This includes the cost of removal and the cost of necessary measures taken to minimize or mitigate damage to human health, the natural environment, fish, shellfish, and wildlife. See 49 CFR 387.5. (4-5-00)

04. Hazardous Material. A substance or material, that has been determined by the Secretary of Transportation to be capable of posing an unreasonable risk to health, safety, and property when transported in commerce, and which has been so designated. The term includes hazardous substances, hazardous wastes, marine pollutants, and elevated temperature materials and materials designated as hazardous under the provisions of 49 CFR 172.101, and materials that meet the defining criteria for hazard classes and divisions in 49 CFR 173. See 49 CFR 171.8. (4-5-00)

05. Injury. Harm to the body, sickness, or disease resulting from a motor carrier accident, including death from an injury. (4-5-00)

06. Interstate Carrier. Any person who owns or operates any motor vehicle in the state of Idaho or on the highways of the state of Idaho, in commerce between the States, or between the States and a foreign Nation, used or maintained for the transportation of persons or property. (4-5-00)

07. Private Carrier. Any person not included in the terms "common carrier" or "contract carrier" who or which transports in commerce in the state of Idaho by motor vehicle property of which such person is the owner, lessee, or bailee, when such property is for the purpose of sale, lease, rent or bailment, or in the furtherance of any commercial enterprise; provided, that a motor vehicle of a private carrier, not in excess of eight thousand (8,000) pounds gross vehicle weight, not engaged in the transport of a hazardous substance, shall be exempt from the provisions of the Motor Carrier Financial Responsibility Rules. (4-5-00)

08. Property Damage. Damage to or loss of use of tangible property. (4-5-00)

011. -- 019. (RESERVED)

020. INSURANCE REQUIREMENTS.

01. Insurance Required. No motor carrier subject to the jurisdiction of the Department may transport property or passengers until the carrier has obtained and has in effect the minimum levels of insurance or a surety bond set forth in this rule. (4-5-00)

02. Passenger Carriers. The minimum levels of insurance or surety bond coverage (for injury, death, or property damage) in any one (1) accident for common/contract passenger carriers are: (4-5-00)

a. For any vehicle with a seating capacity of twenty-five (25) passengers or more -- five million dollars ($5,000,000); (4-5-00)

b. For any vehicle with a seating capacity of twenty-four (24) passengers or less -- one million, five hundred thousand ($1,500,000). (4-5-00)

03. Property Carriers -- Certain Risky or Perilous Cargoes. The minimum levels of insurance or surety bond coverage (for injury, death, environmental restoration, or property damage in any one accident) for common and contract property carriers are: (4-5-00)

a. Five million dollars ($5,000,000) for carriers of: (4-5-00)

i. Any quantity of Division 1.1, 1.2, or 1.3; (4-5-00)

ii. Any quantity of Division 2.3, Hazardous Zone A, or Division 6.1, Packing Group 1, Hazardous Zone A; (4-5-00)

iii. Highway route controlled quantity of Class 7 material as defined in 49 CFR 173.403; (4-5-00)

iv. Hazardous substances, as defined in 49 CFR 171.8, transported in cargo tanks, portable tanks, or hopper-type vehicles with capacities in excess of three thousand, five hundred (3,500) water gallons; (4-5-00)

v. Division 2.1 or 2.2 in bulk; (4-5-00)

b. One million dollars ($1,000,000) for carriers of: (4-5-00)

i. Oil listed in 49 CFR 172.101; or (4-5-00)

ii. Hazardous waste, hazardous materials or hazardous substances as defined in 49 CFR 171.8 and listed in 49 CFR 172.101 or its Appendix, but not mentioned in Subsection 020.03.a. (4-5-00)

04. Other Property Carriers. The minimum level of insurance or surety bond coverage (for injury, death or property damage in any one (1) accident) for common and contract carriers of all other property (including drive away and tow away units transported by the carrier) is seven hundred fifty thousand dollars ($750,000). (4-5-00)

05. Private Carriers. Private carriers must maintain the insurance required by Section 49-1229, Idaho Code, except private carriers transporting certain risky or perilous cargoes described in Subsection 020.03 must carry insurance as required by that Subsection. (4-5-00)

021. CERTIFICATES OF INSURANCE.

01. Filing. Common/contract carriers and interstate carriers who participate in the base state agreement by registering in Idaho as their base state must file with the Department certificates that the insurance or bond described by the certificate of insurance and required by Section 020 is in effect for the account of the motor carrier. (4-5-00)

02. Forms. The certificates for intrastate common/contract carriers must be either Form E, Form E-1 (available from the Department) or W.C. 3091 that is completed and signed by the insurance company's underwriting department or its authorized representative. For interstate carriers registered under the single state registration system the federal forms authorized by the U.S. Department of Transportation as set forth in Subpart C of 49 CFR 387. Surety bonds must be completed on a form provided by the Department. The Administrator of the Division of Motor Vehicles may prescribe additional forms as necessary. (4-5-00)

03. Coverage. Policies of insurance and surety bonds required and filed with the Department under IDAPA 39.02.80, "Rules Governing Motor Carrier Financial Responsibility," remain in effect as described on the certificate filed with the Department until terminated according to Section 49-1233(3), Idaho Code. When certificates of insurance on file with the Department show that insurance has lapsed, the Department shall refuse to renew the carrier's vehicle registrations or shall revoke the carrier's motor vehicle registrations under the authority of Section 49-202(10)(12), Idaho Code. (4-5-00)

022. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Section 40-312, Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.01, "Rules Governing Definitions Regarding Special Permits," IDAPA 39, Title 03, Chapter 01. (7-1-19)

02. Scope. This rule gives the definitions for terms used in rules in IDAPA 39, Title 03 regarding special permitting. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accessories. Additional parts of the single item load that have been removed to reduce width, length or height. (7-1-19)

02. Administrative Cost. The government's cost of processing, issuing and enforcing a permit. (7-1-19)

03. Analysis. A mathematical study of a vehicle or combination of vehicles and the stress they cause over bridges or specific sections of highways conducted by a professional engineer. (7-1-19)

04. Annual. Twelve (12) consecutive months. (7-1-19)

05. Automobile Transporter. See Section 49-102, Idaho Code. (7-1-19)

06. Base Width. The measurement below the eaves of a manufactured home, modular building, or office trailer. (7-1-19)

07. Boat Transporter. See Section 49-103, Idaho Code. (7-1-19)

08. Cargo Unit. A full truck, a semi-trailer, a full trailer, or a semi-trailer converted to a full trailer by means of a dolly or a converter gear mounting a fifth wheel. A dromedary tractor equipped with conventional fifth wheel, not stinger steered, shall be excluded from the definition of a cargo unit. (7-1-19)

09. Convoy. A group of two (2) or more motor vehicles traveling together for protection or convenience. (7-1-19)

10. Department. Idaho Transportation Department. (7-1-19)

11. Designated Agent. An employee or relative of the farmer. (7-1-19)

12. Dromedary Tractor. See Section 49-105, Idaho Code. (7-1-19)

13. Economic Hardship. The loss of a substantial amount of money caused by economic changes. (7-1-19)

14. Emergency Movement. A vehicle or vehicle combination hauling a load traveling to the site of an emergency for the purpose of aiding in eliminating the emergency. (7-1-19)

15. Escort Vehicle. See Pilot Vehicle. (7-1-19)

16. Excess Weight. Vehicle combinations hauling reducible loads operating on any highway with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) per tandem, not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code, and for the front steer axle not to exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle; whichever is less. The maximum allowable load for all other vehicle tires shall not exceed six hundred (600) pounds per inch width of tire

for vehicles manufactured after July 1, 1987, or not to exceed eight hundred (800) pounds per inch width of tire for vehicles manufactured prior to that date as established by Section 49-1002, Idaho Code. (7-1-19)

17. Extra-Length. Any vehicle combination in excess of the legal limits, but not more than one hundred fifteen (115') feet as established in Section 49-1010, Idaho Code, that normally haul reducible loads. (7-1-19)

18. Extra-Ordinary Hazard. Any situation where the traveling public's safety or the capacity of the highway system is endangered. (7-1-19)

19. Farm Tractor. See Section 49-107, Idaho Code. (7-1-19)

20. Gross Vehicle Weight. See Section 49-108, Idaho Code. (7-1-19)

21. Heavily Loaded. Exceeding legal weight or hauling a load that obstructs the driver's view. (7-1-19)

22. Heavy Duty Wrecker Truck. A motor vehicle designed and used primarily for towing disabled vehicles. (7-1-19)

23. Height. The total vertical dimension of a vehicle above the ground surface including any load and load-holding device thereon. (7-1-19)

24. Implement of Husbandry. See Section 49-110, Idaho Code. (7-1-19)

25. Incidentally Operated. See Section 49-110, Idaho Code. (7-1-19)

26. Legal. In compliance with the Idaho Code on size and weight. (7-1-19)

27. Length. The total longitudinal dimension of a single vehicle, a trailer, or a semi-trailer. Length of a trailer or semi-trailer is measured from the front of the cargo-carrying unit to its rear, exclusive of all overhang and any appurtenances listed in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

28. Light Truck. See Section 49-121, Idaho Code. (7-1-19)

29. Longer Combination Vehicle (LCV). Any combination of a truck-tractor and two (2) or more trailers or semi-trailers that operate on the National System of Interstate and Defense Highways with a gross vehicle weight (GVW) greater than thirty-six thousand two hundred eighty-eight (36,288) kilograms (eighty thousand (80,000) pounds). (7-1-19)

30. Manufactured Home. A structure, constructed according to HUD/FHA mobile home construction and safety standards, transportable in one (1) or more sections, that, in the traveling mode, is eight (8') body feet or more in width or is forty (40') body feet or more in length, or when erected on site, is three hundred twenty (320) or more square feet, and that is built on a permanent chassis and designed to be used as a dwelling with or without a permanent foundation when connected to the required utilities, and includes the plumbing, heating, air conditioning, and electrical systems contained therein, except that such term shall include any structure that meets all the requirements of this subsection except the size requirements and with respect to which the manufacturer voluntarily files a certification required by the secretary of housing and urban development and complies with the standards established under 42 U.S.C. 5401 et seq. Similarly constructed vehicles used permanently or temporarily for offices, advertising, sales, display or promotion of merchandise or services are included in this definition. (7-1-19)

31. Mobile Home. A structure similar to a manufactured home, but built to a state mobile home code that existed prior to the Federal Manufactured Housing and Safety Standards Act (HUD Code) dated June 15, 1975. (7-1-19)

32. Modular Buildings. A facility designed as a building or building section that is constructed to

standards contained in the Uniform Building Code (UBC), adopted by Section 39-4109, Idaho Code. (7-1-19)

33. Non-Reducible. Any load or vehicle exceeding applicable length or weight limits that, if separated into smaller loads or vehicles, would: (7-1-19)

a. Compromise the intended use of the vehicle, i.e., make it unable to perform the function for which it was intended; (7-1-19)

b. Destroy the value of the load or vehicle, i.e., make it unusable for its intended purpose; or (7-1-19)

c. Require more than eight (8) work hours to dismantle using appropriate equipment. The applicant for a nondivisible load permit has the burden of proof of establishing the number of work hours required to dismantle the load. (7-1-19)

34. Off-Tracking. The difference in the path of the first inside front wheel and of the last inside rear wheel as a vehicle negotiates a curve. (7-1-19)

35. Office Trailer. See definition of Manufactured Homes. (7-1-19)

36. Overall Combination Length. The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s). (7-1-19)

37. Overall Length. The total length of a combination of vehicles, i.e. truck tractor-semitrailer-trailer combination, measured from front bumper of the motor vehicle to the back bumper or rear extremity of the last trailer including the connecting tongue(s) plus any load overhang. (7-1-19)

38. Overdimensional. Any vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

39. Overheight. A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

40. Overlength. Any load non-reducible in length being hauled or towed that is in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

41. Oversize. A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

42. Overweight. A single vehicle or a vehicle combination hauling or towing a non-reducible load whose weight is in excess of eighty thousand (80,000) pounds and/or legal axle weights. (7-1-19)

43. Overwidth. A vehicle or load in excess of the limits established in Section 49-1010, Idaho Code. (7-1-19)

44. Pilot Vehicle. Passenger cars or trucks equipped as specified in IDAPA 39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible." (7-1-19)

45. Reducible Load. A single item or multiple items for transport that could reasonably be repositioned so that the load conforms to legal size and weight dimensions. The determination of ability to reduce the load primarily depends on the intended disposition of the contents of the load upon delivery to its destination (i.e. made into smaller pieces). (7-1-19)

46. Single Axle. An assembly of two (2) or more wheels whose centers are in one (1) transverse vertical plane or may be included between two (2) parallel transverse planes forty (40") inches apart extending across the full width of the vehicle. (7-1-19)

47. Special Permit. A permit issued by the Idaho Transportation Department that authorizes the movement of vehicles or loads on the state highway system in excess of the sizes and weights allowed by Sections 49-1001, 49-1002, or 49-1010, Idaho Code. (7-1-19)

48. Steering Axle. The axle or axles on the front of a motor vehicle that are activated by the operator to directly accomplish guidance or steerage of the motor vehicle and/or combination of vehicles. (7-1-19)

49. Stinger-Steered. A truck-tractor semi-trailer combination where the kingpin is located five (5) feet or more to the rear of the centroid of the rear axle(s). (7-1-19)

50. Tandem Axle. Any two (2) axles whose centers are more than forty (40") inches but not more than ninety-six (96") inches apart and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

51. Tridem Axle. Any three (3) consecutive axles whose extreme centers are not more than one hundred forty-four (144") inches apart, and are individually attached to and/or articulated from a common attachment to the vehicle including a connecting mechanism designed to equalize the load between axles. (7-1-19)

52. Variable Load Suspension Axle. See Section 49-123, Idaho Code. (7-1-19)

53. Vocational Vehicle. A vehicle specifically designed to enable the operator to perform specific tasks none of which are primarily for the purpose of transporting loads. Cranes, loaders, scrapers, motor graders, and drill rigs are examples of vocational vehicles. (7-1-19)

54. Width. The total outside transverse dimension of a vehicle including any load or load-holding devices thereon, but excluding any appurtenances listed in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

011. – 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule, governing the movement of disabled vehicles allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.02, "Rules Governing Movement of Disabled Vehicles," IDAPA 39, Title 03, Chapter 02. (7-1-19)

02. Scope. This rule provides the requirements for the movement of disabled vehicles. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Refer to IDAPA 39.03.01, "Rules Governing Definitions Regarding Special Permits," for definitions of the terms used in this rule. (7-1-19)

011. – 099. (RESERVED)

100. GENERAL.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

101. – 199. (RESERVED)

200. REMOVAL OF DISABLED VEHICLES.
Annual Disabled Vehicle permits will be issued to heavy duty wrecker trucks or other vehicles used for the removal and secondary movement of disabled trucks and/or trailers or combinations and their unladen return, subject to the following rules: (7-1-19)

01. Permitted Vehicle. The permitted vehicle involved in the removal of disabled vehicles shall be the proper class of vehicle and shall have adequate gross vehicle weight and traction to control the combination of wrecker and attached vehicles, and shall provide brakes to the trailer axles and stop signal and clearance lights to such towed disabled vehicle or vehicle combinations. (7-1-19)

02. Loaded Weight. Loaded weight of the permitted vehicle's drive axle(s) will be permitted up to the basic allowable unit weight as shown on the current Idaho Transportation Department Route Capacity Map for the corresponding colored route, unless the highway route is posted with a weight restriction. The current Route Capacity Map is maintained by the Special Permit Office and is available to the public from the Special Permit Office at the address listed in rule 39.03.03, and Idaho Ports of Entry or on line at itd.idaho.gov. Length of the combination will be limited to the legal or permitted length of the disabled combination plus forty-five (45') feet. Width will be limited to ten (10') feet or to the permitted width of the permitted disabled over-width vehicle/load. All VLS axles must be fully deployed when exceeding legal axle weights. (7-1-19)

a. Disabled Vehicle and Snowplow permits involving overweight loadings will be available at the following levels: (7-1-19)

i. Red Routes – The red routes contain posted bridges and require approval or analysis from the Department. A vehicle configuration may be issued an annual Disabled Vehicle and Snowplow permit for travel on red routes, upon completion of an analysis verifying the requested weights are acceptable. The annual permit will be issued for a specific vehicle configuration, operating on a specific route, at specific weights. All information will be listed on the annual permit and will be subject to revocation at such time the vehicle configuration changes (such as axle spacings), the approved weights change, or a bridge rating changes. (7-1-19)

ii. Yellow Routes – The yellow overweight level is based on a single axle loading of twenty-two thousand five hundred (22,500) pounds, a tandem axle loading of thirty-eight thousand (38,000) pounds, and a tridem axle loading of forty-eight thousand (48,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula $W = 560 ((LN/N-1) + 12N + 36)$. (7-1-19)

iii. Orange Routes – The orange overweight level is based on a single axle loading of twenty-four thousand (24,000) pounds, a tandem axle loading of forty-one thousand (41,000) pounds, and a tridem axle loading of fifty-one thousand five hundred (51,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 600 ((LN/N-1) + 12N + 36). (7-1-19)

iv. Green Routes – The green overweight level is based on a single axle loading of twenty-five thousand five hundred (25,500) pounds, a tandem axle loading of forty-three thousand five hundred (43,500) pounds and a tridem axle loading of fifty-four thousand five hundred (54,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 640 ((LN/N-1) + 12N +36). (7-1-19)

v. Blue Routes – The blue overweight level is based on a single axle loading of twenty-seven thousand (27,000) pounds, a tandem axle loading of forty-six thousand (46,000) pounds, and a tridem axle loading of fifty-seven thousand five hundred (57,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 675 ((LN/N-1) + 12N + 36). (7-1-19)

vi. Purple Routes – The purple overweight level is based on a single axle loading of thirty thousand (30,000) pounds, a tandem axle loading of fifty-one thousand five hundred (51,500) pounds, and a tridem axle loading of sixty-four thousand five hundred (64,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 755 ((LN/N-1) + 12N + 36). (7-1-19)

vii. Black Routes – The black overweight level is based on a single axle loading of thirty-three thousand (33,000) pounds, a tandem axle loading of fifty-six thousand (56,000) pounds, and a tridem axle loading of seventy thousand five hundred (70,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 825 ((LN/N-1) + 12N + 36). (7-1-19)

viii. Vehicles or loads exceeding the axle weights, groups of axle weights, or total gross weights allowed on any of the overweight levels must operate by single trip permit only. (7-1-19)

ix. Weight Formula. “W” is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. “L” is the distance in feet between the extremes of any group of two (2) or more consecutive axles, “N” is the number of axles under consideration and “F” is the load factor most appropriate based on the most critical bridge on the highway route. (7-1-19)

b. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire nor the maximum weights authorized by IDAPA 39.03.04, “Rules Governing Special Permits – Overweight Non-Reducible,” Subsection.08. (7-1-19)

c. Disabled Vehicle and Snowplow permits shall become invalid subject to the conditions of IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements.” (7-1-19)

03. Time of Travel Restrictions. Time of travel restrictions shall be waived during the first movement of the disabled vehicle or vehicle combinations when necessary to clear the travel way. Disabled vehicles that are overwidth and moving at night shall be required to operate in accordance with the lighting requirements as listed in IDAPA 39.03.03, “Rules Governing Special Permits – General Conditions and Requirements.” A front pilot vehicle will be required when disabled vehicle exceeding ten (10’) feet wide are moved at night. (7-1-19)

04. First Movement. First movement of disabled vehicles will be authorized from the point at which the vehicle or vehicle combination were disabled to a location (i.e. towing company, repair or company facility) where it can be safely secured. Secondary movements of disabled vehicles that have been separated shall be covered by the disabled vehicles permit as long as the weight/size limits as listed in Subsection 200.02 of this rule are not exceeded. (7-1-19)

a. First Movement of disabled vehicle or vehicle combination shall be defined as follows: point of original disablement to a location where it can safely secured (i.e. towing company, repair or company facility). (7-1-19)

b. Secondary Movement of disabled vehicles shall be defined as follows: a single vehicle or combination of disabled vehicles that have been separated into single vehicles and are moving from other than the original point of disablement. (7-1-19)

05. Annual Disabled Vehicle Permit. The permitted vehicle involved in the removal of a disabled vehicle shall be allowed (under annual disabled vehicle permit) to tow a functional replacement vehicle to the point of disablement, to replace the disabled vehicle. (7-1-19)

06. Height Restrictions. The disabled vehicle height shall not exceed the height of fifteen (15') feet on the first movement. (7-1-19)

300. HAZARDOUS TRAVEL CONDITIONS RESTRICTIONS.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

301. –999. (RESERVED)

000. LEGAL AUTHORITY.
This rule, governing the movement of vehicles or loads which are in excess of the sizes or weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code, is adopted under the authority of Sections 40-312 and 49-1004, Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible," IDAPA 39, Title 03, Chapter 04. (7-1-19)

02. Scope. This rule states the responsibility of the permittee, the travel restrictions, and maximum weight authorized for special loads. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Refer to IDAPA 39.03.01, "Rules Governing Definitions," for definitions of the terms used in this rule. (7-1-19)

011. GENERAL RULES AND CONDITIONS.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements" for conditions required for the issuance of special permits. (7-1-19)

012. – 099. (RESERVED)

100. RESPONSIBILITY OF PERMITTEE.

01. General Responsibilities. The permittee shall determine and declare the gross weight, distribution of weight, and the dimensions of the vehicle and load and shall submit all other required information before issuance of the permit. The acceptance of a special permit by the permittee is his agreement that the vehicle and load covered by the permit can and will be moved in compliance with the terms and limitations set forth in the permit. When a permit has been accepted by the permittee, such action shall be deemed an unequivocal assurance that he has complied, or will comply with all operating, licensing, and financial responsibility requirements. (7-1-19)

02. Permit to Be Carried in Vehicle. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

03. Certification Load is Non-Reducible. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

04. Basic Limitations Shall not be Exceeded. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

05. Movement, Traffic Control Plans, Loading, Parking on State Highways. (7-1-19)

a. The movement of special loads shall be made in such a way that the traveled way will remain open as often as feasibly possible and to provide for frequent passing of vehicles traveling in the same direction. In order to achieve this, a traffic control plan is required to be submitted when operating on two (2) lane highways and exceeding the following dimensions: (7-1-19)

i. Width exceeds twenty (20) feet. (7-1-19)

ii. Length exceeds one hundred fifty (150) feet. (7-1-19)

b. The traffic control plan shall be prepared by a licensed engineer or an American Traffic Safety Services Association (ATSSA) certified traffic control supervisor and include the following information: (7-1-19)

i. Locations and mileposts of where the vehicle/load can pull over to allow for traffic relief; (7-1-19)

ii. How pilot cars and traffic control personnel will be utilized; (7-1-19)

iii. Identification of any railroad tracks being crossed and the emergency contact number for the governing entity; and (7-1-19)

iv. Procedure for allowing emergency vehicles to navigate around the vehicle/load when necessary. (7-1-19)

c. The permitted vehicle shall not be loaded, unloaded, or parked upon any State highway, except for emergencies, without the specific permission or by direction of the Department or policing agency having jurisdiction over such highway. (7-1-19)

d. Overwidth Hauling Vehicles, Restrictions. Refer to IDAPA 09.03.05 "Rules for Governing Special Permits – Oversize Non-Reducible." (7-1-19)

06. Application for Special Permits. (7-1-19)

a. How To Apply. The Special Permit Form ITD-217 becomes a valid application when signed by the Permittee. A separate application Form ITD-217C may be completed by the applicant from which the necessary information may be transferred to the permit by the permit writer. Such applications on Form ITD-217C will usually be received through Ports of Entry and applications may also be accepted by letter or by telephone provided all pertinent and necessary information is submitted. (7-1-19)

b. Information To Be Furnished By Applicant. Any application for a special permit shall provide for the submittal of all pertinent information required to establish the necessity of the proposed movement and the requisite to an engineering determination of the feasibility of the proposed movement. The following information shall be furnished: (7-1-19)

i. Name. Name of owner, operator, or lessee of vehicle or vehicles concerned. (7-1-19)

ii. Description of Load. Manufacturer, model number, etc. (7-1-19)

iii. Identification of Vehicles. License number, if registered, otherwise serial number, unit number. (7-1-19)

iv. Weight. Licensed capacity of vehicles subject to registration, if overweight is involved. (7-1-19)

v. Axles. Number of axles, spacing between axles, number and size of tires. (7-1-19)

vi. Gross Weight. Gross weight, distribution of weight, overall dimensions. (7-1-19)

vii. Route. Point of origin and destination, preferred route by road number. (7-1-19)

viii. Start Date. Date of movement and days required. (7-1-19)

ix. If House Trailer. License number if privately owned, serial number if caravan permit. (7-1-19)

x. Insurance. Evidence of insurance, if required. (7-1-19)

xi. Necessity. Necessity for movement. (7-1-19)

xii. Special Instructions. Special instructions regarding address to which permit is to be sent and any other pertinent information. (7-1-19)

xiii. Signature. Signature of applicant. (7-1-19)

xiv. Registration. Any vehicle hauling or towing non-reducible loads subject to registration is not required to register for the maximum legal weight it can haul to be eligible for an overweight permit. Farm tractors, off road equipment, etc., are exempt from registration but are not exempt from weight limitations. (7-1-19)

xv. Overweight Permit Requirements. Overweight permits will be issued for non-reducible vehicles and/or loads that exceed legal axle weights and/or eighty thousand (80,000) pounds, with weight reduced to a practical minimum, except that a permit may be issued for a machine with an accessory and loaded separately on the transporting vehicle. Vehicles hauling overweight loads will be required to have five (5) or more axles to qualify for an overweight permit. Self-propelled vocational vehicles or vehicles towing overweight loads may have less than five (5) axles to qualify for an overweight permit. (7-1-19)

xvi. Variable Load Suspension Axle Requirements. Any vehicle which is equipped with variable load suspension axles (lift axles) transporting overweight loads shall have lift axles fully deployed when adjacent axles exceed legal axle weights. (7-1-19)

xvii. Maximum Tire Weights. The maximum overweight levels shall not exceed eight hundred (800) pounds per inch width of tire. (7-1-19)

xviii. Single Axle Weight Restriction. When a single axle or steer axle is over thirty five thousand (35,000) pounds, bridge approval shall be required. (7-1-19)

xix. Hauling Equipment in Excess of Ten Feet. Special overwidth hauling vehicles exceeding ten (10) feet in width will be permitted, and may be required, in the hauling of excessively heavy loads to improve the lateral distribution of weight, or when a combination of weight, width, or height makes extra width in the hauling vehicle desirable in the public interest. The use of such vehicles more than ten (10) feet in width shall be restricted to loads requiring an overwidth hauling vehicle and the backhaul permit shall be for the unladen vehicle. (7-1-19)

101. – 199. (RESERVED)

200. TIME OF TRAVEL RESTRICTIONS FOR SPECIAL LOADS.
Oversize loads may be transported on Idaho Highways subject to the following conditions: (7-1-19)

01. Red-Coded Routes. Daylight travel until 2 p.m. on Friday or the day before a holiday, no Saturday, no Sunday. Due to low traffic volumes on these routes early in the mornings of Saturday and Sunday, single trip permits may be issued for dawn to 8 a.m. If the movement is not completed by 8 a.m. the permittee will be required to safely park and not proceed until the next day. (7-1-19)

02. Black-Coded Routes. Loads not in excess of ten (10) feet wide, one hundred (100) feet long or fifteen (15) feet high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred (100) feet long, or fifteen (15) feet high may travel daylight hours seven (7) days per week. (7-1-19)

03. Interstate. Loads not in excess of ten (10) feet wide, one hundred and twenty (120) feet long or fifteen (15) feet high may travel twenty-four (24) hours per day, seven (7) days per week; loads in excess of ten (10) feet wide, one hundred and twenty (120) feet long, or fifteen (15) feet high may travel daylight hours, seven (7) days per week. (7-1-19)

04. Nez Perce – Clearwater Forest Safety and Travel Requirements. As per a Federal Court decision, the United States Forest Service has the duty to regulate oversize loads traveling through the Nez Perce – Clearwater Forest (US 12 from milepost 74 to 174). (7-1-19)

a. The Forest Service has issued the following written criteria to determine which "oversize" loads will be subject to Forest Service review: (7-1-19)

i. Load exceeds sixteen (16) feet wide, one hundred and fifty thousand pounds (150,000 lbs.), and/or one hundred and fifty (150) feet in length. (7-1-19)

ii. Load movement requires longer than twelve (12) hours to travel through the designated mileposts. (7-1-19)

iii. Load movement requires physical modification of the roadway or adjacent vegetation to facilitate

passage beyond normal highway maintenance. (7-1-19)

b. For those loads meeting any of the criteria in Paragraph 200.04.a.i. through 200.04.a.iii. of this rule, there will be additional safety requirements for the movement of such loads on US 12 from milepost 74 to 174. These additional safety requirements include, at a minimum, the following: (7-1-19)

i. Ambulances and possible law enforcement escorts to ensure public safety. (7-1-19)

ii. Safety lighting will be addressed so as to not create a safety hazard to the traveling public. (7-1-19)

iii. Loads cannot utilize turnouts, which are designated for recreational vehicles for non-emergency parking. (7-1-19)

iv. Time of travel will be determined based on traffic volume and best interest of the public. Night time movement may be required and/or movement may be restricted during holidays or weekends. (7-1-19)

v. Loads require a vehicle safety inspection by the Idaho State Police or equivalent agency of another jurisdiction prior to issuance of a permit. (7-1-19)

vi. ITD shall monitor the loads as they travel the highway and ensure only one (1) load shall operate on this section of highway at any one time. (7-1-19)

05. Additional Restrictions. (7-1-19)

a. Red-Coded Routes – No travel for any load after 2 p.m. on the day preceding a holiday or holiday weekend. A holiday weekend occurs as three (3) consecutive days, when a designated holiday occurs on a Friday or Monday, or when the designated holiday occurs on a Saturday or Sunday, in which case the preceding Friday or the following Monday shall be included in such three (3) day holiday weekend. Travel may be resumed at dawn on the day following the holiday or holiday weekend. (7-1-19)

b. Black-Coded Routes and Interstate Routes – Loads in excess of ten (10) feet wide, one hundred (100) feet long, or fifteen (15) feet high may not travel after 4:00 p.m. on the day preceding a holiday. Travel may be resumed at dawn on the day following the holiday. (7-1-19)

c. The following days are designated as holidays: (7-1-19)

i. New Year’s Day; (7-1-19)

ii. Memorial Day; (7-1-19)

iii. Independence Day; (7-1-19)

iv. Labor Day; (7-1-19)

v. Thanksgiving; and (7-1-19)

vi. Christmas. (7-1-19)

d. Additional restrictions relating to movement of buildings and houses are: (7-1-19)

i. Excessively Oversize Loads. Excessively oversize loads shall be restricted to the time of day, or day of the week, when traffic interference will be at a minimum. (7-1-19)

ii. Buildings. Time of travel of loads in the building size category shall be restricted to the time of day and/or day of the week, when traffic interference will be at a minimum. (7-1-19)

iii. Early Morning Moves. In metropolitan areas and in certain other cases where a serious disruption

of traffic would otherwise be unavoidable, the movement of excessively oversize buildings may be permitted, at the discretion of the District Engineer, between 2 a.m. and daybreak to avoid traffic congestion. (7-1-19)

e. Other time of travel restrictions may be noted on the permit due to special circumstances. (7-1-19)

f. Overlength restrictions. Oversize vehicles operating under authority of an special permit which exceed seven (7) feet of front overhang, on any vehicle in the combination, are restricted to daylight travel only on two (2) lane, two (2) way highways. (7-1-19)

06. Hours of Darkness. Hours are defined as extending from sunset to sunrise or at any other time when visibility is restricted to less than five hundred (500) feet. (7-1-19)

07. Heavy Commuter Traffic Restrictions. (7-1-19)

a. The movement of oversize permitted vehicles or loads which are in excess of thirteen (13) feet in width may be prohibited from movement on highways on all state and interstate routes at times of heavy commuter traffic within one (1) mile of the city limits of the following cities: (7-1-19)

i. Boise; (7-1-19)

ii. Caldwell; (7-1-19)

iii. Coeur d'Alene; (7-1-19)

iv. Eagle; (7-1-19)

v. Emmett; (7-1-19)

vi. Idaho Falls; (7-1-19)

vii. Meridian; (7-1-19)

viii. Middleton; (7-1-19)

ix. Nampa; (7-1-19)

x. Pocatello; (7-1-19)

xi. Star; (7-1-19)

xii. Twin Falls; (7-1-19)

xiii. Garden City; and (7-1-19)

xiv. Chubbuck. (7-1-19)

b. Authorized oversize permitted vehicles operating during hours of heavy commuter traffic shall be restricted to the furthest right hand lane. Emergency movement of vehicles/loads responding to imminent hazards to persons or property shall be exempt from the provisions of Section 200. Unless otherwise defined on the permit, the times of heavy commuter traffic shall be considered to be 6:30 a.m. to 8:30 a.m., and 4 p.m. to 6 p.m. Monday through Friday except as noted under Holiday restrictions. Restrictions to the operation of oversize permitted vehicles and/or loads during times of heavy commuter traffic shall appear either on the face of the permit or in the attachments for annual permits. (7-1-19)

08. Hazardous Travel Conditions Restrictions. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

09. Delaying Movement. Enforcement personnel responsible for any section of highway shall carry out enforcement action for violations involving special permit operations and may delay movements. (7-1-19)

10. Map Resources. The Pilot/Escort Vehicle and Travel Time Requirement Map available at the Idaho Transportation Department Special Permit Office, and Ports of Entry. (7-1-19)

11. Additional District Approval and Allowance for Approval Time. District approval will be obtained by the Special Permit office and may require up to twenty-four (24) working hours. District approval is required when vehicles or loads exceed: (7-1-19)

a. Sixteen (16) feet wide on red coded routes; (7-1-19)

b. Eighteen (18) feet wide on black coded routes and interstate highways; (7-1-19)

c. Sixteen (16) feet high on any route; or (7-1-19)

d. One hundred twenty (120) feet long on any route. (7-1-19)

300. MAXIMUM OVERWEIGHT LEVELS FOR ANNUAL OVERWEIGHT/OVERSIZE PERMITS.

01. Allowable Gross Vehicle Weight. The gross vehicle weight allowable by overweight permit is subject to the seasonal stability of the roadway and the capacity of the structures on the route of travel. For the purpose of issuing special permits, seven (7) levels of overweight are established, based on the weight formula of W = 500((LN/N-1) + 12N + 36) and routes for carrying the various levels of overweight are designated by color coding. The Weight Formula ("W") is the maximum weight in pounds (to the nearest five hundred (500) pounds) carried on any group of two (2) or more consecutive axles. "L" is the distance in feet between the extremes of any group of two (2) or more consecutive axles, "N" is the number of axles under consideration. The load factor based on the most critical bridge on the highway route will also be used in determining allowable weights. (7-1-19)

a. Red Routes – The red routes contain posted bridges and require approval or analysis from the Department. A vehicle configuration may be issued an annual overweight/oversize permit for travel on red routes only, upon completion of an analysis verifying the requested weights are acceptable. The annual permit will be issued for a specific vehicle configuration, operating on a specific route, at specific weights. All information will be listed on the annual permit and will be subject to revocation at such time the vehicle configuration changes (such as axle spacings), the approved weights change, or a bridge rating changes. Annual permits issued for red routes will be in addition to the annual permit required for other routes. (7-1-19)

b. Yellow Routes – The yellow overweight level is based on a single axle loading of twenty-two thousand five hundred (22,500) pounds, a tandem axle loading of thirty-eight thousand (38,000) pounds, and a tridem axle loading of forty-eight thousand (48,000) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 560 ((LN/N-1) + 12N + 36). (7-1-19)

c. Orange Routes – Orange overweight level is based on a single axle loading of twenty-four thousand (24,000) pounds, a tandem axle loading of forty-one thousand (41,000) pounds, and a tridem axle loading of fifty-one thousand five hundred (51,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 600 ((LN/N-1) + 12N + 36). (7-1-19)

d. Green Routes – The green overweight level is based on a single axle loading of twenty-five thousand five hundred (25,500) pounds, a tandem axle loading of forty-three thousand five hundred (43,500) pounds, and a tridem axle loading of fifty-four thousand five hundred (54,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 640 ((LN/N-1) + 12N + 36). (7-1-19)

e. Blue Routes – Blue overweight level is based on a single axle loading of twenty-seven thousand (27,000) pounds, a tandem axle loading of forty-six thousand (46,000) pounds, and a tridem axle loading of fifty-seven thousand five hundred (57,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 675 ((LN/N-1) + 12N + 36). (7-1-19)

f. Purple Routes – The purple overweight level is based on a single axle loading of thirty thousand (30,000) pounds, a tandem axle loading of fifty-one thousand five hundred (51,500) pounds, and a tridem axle loading of sixty-four thousand five hundred (64,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 755 ((LN/N-1) + 12N + 36). (7-1-19)

g. Black Routes – The black overweight level is based on a single axle loading of thirty-three thousand (33,000), pounds a tandem axle loading of fifty-six thousand (56,000) pounds, and a tridem axle loading of seventy thousand five hundred (70,500) pounds or the equivalent loading as determined by spacings and number of axles and computed by applying the formula W = 825 ((LN/N-1) + 12N + 36). (7-1-19)

02. Vehicles or Loads Exceeding Annual Permitted Weights. Vehicles or loads exceeding the axle weights, groups of axle weights, or total gross weights allowed on any of the overweight levels described in Subsection 300.01 of this rule must operate by single trip permits only if approved. (7-1-19)

301. – 399. (RESERVED)

400. OVERWEIGHT PERMITS REQUIRING BRIDGE ANALYSIS.
Requests to transport vehicles and/or loads at weights in excess of the weights allowed on a routine basis will require, at a minimum, an additional review and approval from the special permit office and may require an engineering analysis when structures are involved on the route(s) to be traveled. The Department may waive the requirement for engineering analysis provided sufficient prior analyses for similar loadings have been performed by the Department for the involved structures. The following information may be requested, to be provided to the special permit office when an engineering analysis is required: (7-1-19)

01. Drawing of Vehicle. A schematic drawing or other specific information with regard to placement of axles, distance between axles and/or wheels, and distribution of gross weight on axles and/or wheels. (7-1-19)

401. – 499. (RESERVED)

500. BRIDGE ANALYSIS CRITERIA AND TIME FRAMES.
The Department may take up to five (5) business days for an analysis on a vehicle or vehicle combination not in excess of two hundred fifty thousand (250,000) pounds and up to ten (10) business days for an analysis on a vehicle or vehicle combination over two hundred fifty thousand (250,000) pounds. Up to ten (10) business days will also be used for the review process of an analysis done by a third party. The following criteria will be used to determine bridge analysis work and whether it is to be completed by the Department or a qualified and pre-approved third party. If a third party is required, the applicant is responsible for finding, initiating and paying for the cost of that analysis. (7-1-19)

01. Vehicle Combinations in Excess of Eight Hundred Thousand (800,000) Pounds. Vehicle combinations in excess of eight hundred thousand (800,000) pounds will be required to have a third party complete the bridge analysis. The analysis will then be reviewed by the Department for final approval or denial. (7-1-19)

02. Preliminary Information or Bid Work. When a permit request is placed and paid for, the Department will complete the analysis, otherwise a third party will be required to complete the bridge analysis. An analysis completed by a third party may be used when a permit request is made and it will be reviewed by the Department for final approval or denial. (7-1-19)

03. Overweight Permit Requests with Multiple Configurations. Requests made to analyze multiple vehicle configurations for a specific route to determine which vehicle combination will be approved requires the analysis to be completed by a third party. The analysis will then be reviewed by the Department for final approval or denial. (7-1-19)

04. Overweight Permit Requests with Multiple Routes. Requests made to analyze multiple routes for a specific vehicle combination in order to determine which route will be approved requires the analysis to be completed by a third party. The analysis will then be reviewed by the Department for final approval or denial. (7-1-19)

05. Extenuating Circumstances. The Department may under extenuating circumstances require that a bridge analysis be completed by a third party. (7-1-19)

501. – 599. (RESERVED)

600. SPECIAL PERMITS FOR SELF PROPELLED VEHICLES.
Permitted overweight/oversize self-propelled vocational vehicles (such as cranes, loaders, motor graders, drills) may haul or tow a motorized vehicle provided that the motorized vehicle or combination of vehicles being towed (trailer and motorized vehicle) does not exceed eight thousand (8,000) pounds and the motorized vehicle is used solely for return trip after delivery of the permitted vehicle. (7-1-19)

601. – 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule, governing the movement of vehicles or loads that are in excess of the sizes allowed by Sections 49-940, 49-1001, 49-1002, 49-1004, or 49-1010, Idaho Code, is adopted under the authority of Section 49-201 and 49-312, Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible," IDAPA 39, Title 03, Chapter 05. (7-1-19)

02. Scope. This rule states the requirements for the movement of oversize loads. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Refer to IDAPA 39.03.01, "Rules Governing Definitions Regarding Special Permits," for definitions of the terms used in this rule. (7-1-19)

011. – 049. (RESERVED)

050. SAFETY INSPECTION REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required in this rule. (7-1-19)

051. – 059. (RESERVED)

060. BRAKES.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required in this rule. (7-1-19)

061. – 069. (RESERVED)

070. GENERAL OVERSIZE LIMITATIONS.

01. Maximum Dimensions Allowed. The maximum dimensions of oversize vehicles or oversize loads shall depend on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. (7-1-19)

02. Practical Minimum Dimension of Load. Oversize loads shall be reduced to a practical minimum dimension. Except where noted below, permits will not be issued to exceed legal size if the load is more than one (1) unit in width, height, or length that results in them exceeding legal overhang. Additionally, permits shall not be utilized for multiple unit loads that may be re-positioned to meet legal dimensions established in Section 49-1010, Idaho Code. (7-1-19)

03. Overwidth Loads on Single or Double Trailers. Non-reducible loads may be transported on double trailer combinations not exceeding seventy-five (75') feet combination length and single trailers not exceeding fifty-three (53') feet exclusive of load overhang. (7-1-19)

04. Overwidth Overhang. Overwidth loads shall distribute overhang to the sides of the trailer as evenly as possible. (7-1-19)

05. Oversize. Special permits may be issued for continuous operation to haul or transport nonreducible loads having specified maximum oversize dimensions provided such permits for multiple trips can maintain the same measure of protection to highway facilities and to the traveling public as is provided by single trip permits. (7-1-19)

a. Permits for continuous operation, oversize only. (7-1-19)

i. Permits for continuous operation shall be issued to one (1) specified power unit. The permittee may tow various units with the specified power unit, either as towaway vehicles or as trailers hauling oversize loads. Oversize loads shall be nonreducible in width, length, or height. In the case of specially constructed equipment,

mounted on a towed vehicle, or if the towed vehicle is only hauling an oversize but not overweight load, the permit may be issued to the towed vehicle. (7-1-19)

ii. Maximum size of loads or vehicles transported under authority of an annual oversize for black and interstate routes shall be limited to a width of sixteen (16') feet, a height of fifteen feet six inches (15'6"), and to a combination length of one hundred ten (110') feet including load overhang. Annual oversize permits for red coded routes shall be limited to a width of twelve feet six inches (12'6"). A current Pilot/Escort Vehicle and Travel Time Requirements Map shall accompany such permits for extended operations and shall be considered to be a part of the permit. (7-1-19)

06. Passing Lane Must Be Provided. Except for short movements in urban areas, and on routes having very low Average Daily Traffic (ADT), permits will not be issued for a load of such dimension that continuous passage of opposing traffic and frequent passing of following traffic cannot be maintained. Ten (10') feet or more of travelway should be provided for passage of traffic unless there are frequent turnouts, intersections, etc., to provide relief of accumulated traffic to the rear. (7-1-19)

07. Hazardous Travel Conditions Restrictions. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

071. – 079. (RESERVED)

080. OVERWIDTH HAULING VEHICLES, RESTRICTIONS.

01. Width of Hauling Equipment. Special permits may be issued for up to ten (10') foot wide trailers hauling non-reducible loads smaller than ten (10') feet wide. The permit issued for oversize loads being hauled on oversize equipment will be valid for the unladen movement and the laden movement, which shall not include commodities either to or from the point of loading or unloading of the oversize load. (7-1-19)

02. Load Dimensions. Any load exceeding the dimensions of the trailer shall be non-reducible in size. (7-1-19)

03. Hauling Equipment in Excess of Ten Feet. Special overwidth hauling vehicles exceeding ten (10') feet in width will be permitted, and may be required, in the hauling of excessively heavy loads to improve the lateral distribution of weight, or when a combination of weight, width, or height makes extra width in the hauling vehicle desirable in the public interest. The use of such vehicles more than ten (10') feet in width shall be restricted to loads requiring an overwidth hauling vehicle and the backhaul permit shall be for the unladen vehicle. (7-1-19)

04. Buildings. Buildings that are too wide to be safely transported on legal-width hauling vehicles shall be moved either on house moving dollies or on trailers that can be reduced to legal width for unladen travel. (7-1-19)

081. – 089. (RESERVED)

090. GENERAL CONDITIONS AND REQUIREMENTS.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

091. – 099. (RESERVED)

100. LIGHTING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS TRAVELING AFTER DARK.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions in this rule. (7-1-19)

101. – 199. (RESERVED)

200. FLAGGING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for

conditions in this rule. (7-1-19)

201. – 299. (RESERVED)

300. SIGNING REQUIREMENTS OF TOWING VEHICLES, OVERSIZE VEHICLES AND/OR LOADS.
Oversize load signs shall meet the following specifications: (7-1-19)

01. Dimensions. A minimum of twelve (12") inches high by five (5') feet wide and eight (8") inch high letters, one (1") inch stroke width and black letters on yellow background. (7-1-19)

02. Displaying Signs. Signs shall be displayed on: (7-1-19)

a. The front or the roof top of the towing vehicle and the rear of the oversize load; or (7-1-19)

b. The front and back or the roof top of self-propelled oversize vehicles. (7-1-19)

03. When Signs Are Required. Oversize load signs shall be required on all vehicles and/or loads exceeding legal width or vehicle combinations inclusive of loads that exceed seventy five (75') feet. Signs shall not be displayed when the vehicle is empty and of legal dimensions. (7-1-19)

301. – 399. (RESERVED)

400. PILOT/ESCORT VEHICLES.
Pilot/escort vehicle(s) shall be furnished by the permittee and shall be either passenger car(s), truck(s), or vehicles authorized by the Special Permit Office, however shall not exceed sixteen (16,000) pounds. The truck(s) used as pilot/escort vehicle(s) shall not be loaded in such a manner as to cause confusion to the public as to which vehicle is the one under escort. Vehicles towing trailers shall not qualify as pilot/escort vehicles. (7-1-19)

01. Loads Over Sixteen Feet High. Height poles are required in the front of the pilot/escort vehicles leading all loads over sixteen (16') feet high with a non-metallic height pole deployed. (7-1-19)

401. PILOT/ESCORT VEHICLE SIGN REQUIREMENTS.

01. Oversize Load Signs. All pilot/escort vehicles while escorting an oversize load shall display a sign on the roof top of the vehicle having the words OVERSIZE LOAD. Such signs shall not be displayed and shall be considered illegal except when the pilot/escort vehicle is actually piloting/escorting an oversize load. (7-1-19)

02. Dimensions. Twelve (12") inches high by five (5') feet wide and eight (8") inch high letters, one (1") inch stroke width, and black letters on yellow background. (7-1-19)

402. PILOT/ESCORT VEHICLE LIGHTING REQUIREMENTS.

01. Multiple Lights. Flashing or rotating amber lights displayed on the pilot/escort vehicle shall be mounted at each end of the required OVERSIZE LOAD sign above the roofline of the vehicle and be visible from the front, rear, and sides of the pilot/escort vehicle. These lights shall meet the minimum standards outlined under oversize vehicle and/or load lighting requirements and shall be on at all times during escorting movements. (7-1-19)

02. Single Light. As an alternate, a pilot/escort vehicle may display one (1) rotating or flashing amber beacon visible from a minimum of five hundred (500') feet, mounted above the roofline and visible from the front, and rear, and sides of the pilot/escort vehicle. The light shall be on at all times during escorting movements. (7-1-19)

03. Light Bars. Light bars, when in use shall display amber colored lights meeting the minimum visibility requirements, found in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," Section 070. (7-1-19)

04. Pilot/Escort Lights On During Movement of Escorted Load. The pilot/escort vehicle's headlights and taillights shall be on while escorting the permitted load. (7-1-19)

403. PILOT/ESCORT VEHICLE EQUIPMENT.

01. Required Equipment to be Carried in a Pilot/Escort Vehicle. A pilot/escort vehicle shall carry the following items of equipment when piloting/escorting an over dimensional vehicle and/or load. (7-1-19)

a. Standard eighteen (18") inch STOP and SLOW paddle sign. (7-1-19)

b. Three (3) bi-directional emergency reflective triangles. (7-1-19)

c. A minimum of one (1) five (5) pound B, C, fire extinguisher. (7-1-19)

d. An ANSI Class 2 or 3 safety vest, shirt, or jacket either orange or yellow, which must be worn by the operator when working out of the vehicle during daylight hours. An ANSI Class3 safety vest, shirt or jacket either orange or yellow, which must be worn by the operator when working out of the vehicle during nighttime hours. (7-1-19)

e. Two (2) spare oversize load signs for escorted loads meeting the size requirements of Section 300 of these rules. (7-1-19)

f. Non-conductive non-destructive height pole with a flexible tip on the front of the pilot/escort vehicle for determining vertical clearances (when required). (7-1-19)

g. Valid drivers license. (7-1-19)

h. Two-Way Radio. (7-1-19)

i. Hardhat. (7-1-19)

j. Flashlight (operable). (7-1-19)

k. First Aid Kit. (7-1-19)

02. Two-Way Radio. On all movements requiring a pilot/escort vehicle, both the towing unit and the pilot/escort vehicle(s) shall be equipped with two-way radio equipment licensed under Federal Communications Commission regulations adequate to provide reliable voice communication between the drivers thereof at all times during the movement of the piloted/escorted vehicle and/or load. Transmitting and receiving capabilities of the radio equipment used shall be adequate to provide the required communication over a minimum distance of one-half (1/2) mile separation under conditions normally encountered along the proposed route. (7-1-19)

404. PILOT/ESCORT VEHICLE PLACEMENT.

01. Front Pilot/Escort Vehicle. The movement of an oversize vehicle and/or load may be preceded by a pilot/escort vehicle on those sections of highway where the vehicle and/or load cannot travel within its proper travelway lane. (7-1-19)

02. Rear Pilot/Escort Vehicle. As authorized by Section 49-940, Idaho Code, when the width of a load obstructs the driver's view to the rear so they cannot see two hundred (200') feet behind them, a rear escort shall be required to accompany the oversize load and to communicate with the driver of the permitted load concerning impeded overtaking traffic for the purpose of providing passing opportunity. (7-1-19)

03. Advance Pilot/Escort Vehicle. A third pilot/escort vehicle may be required when the load is of such extreme dimensions for the route of travel as to require holding opposing traffic at turnouts and intersections to provide for passage of the load. (7-1-19)

04. First Movement from the Forest. A pilot/escort vehicle is not required on the first movement from the forest of tree-length logs or poles if the overall length does not exceed one hundred ten (110') feet.

Secondary movements must comply with the requirements stated on the Pilot/Escort Vehicle and Travel Time Requirements map. (7-1-19)

05. Spacing. Approximately one thousand (1,000') feet shall be maintained in rural areas between the piloting/escorting vehicle and any oversize load. This spacing may be reduced in urban areas when necessary to provide traffic control for turning movements. (7-1-19)

405. – 499. (RESERVED)

500. TIME OF TRAVEL RESTRICTIONS FOR SPECIAL LOADS.
Refer to IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible," for conditions required in this rule. (7-1-19)

501. – 549. (RESERVED)

550. MOVEMENT, TRAFFIC CONTROL PLANS, LOADING, PARKING ON STATE HIGHWAYS.
Refer to IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible," for conditions required in this rule. (7-1-19)

01. Additional District Approval and Allowance for Approval Time. District approval will be obtained by the Special Permit office and may require up to twenty-four (24) working hours. District approval is required when vehicles or loads exceed: (7-1-19)

a. Sixteen (16') feet wide on red coded routes; (7-1-19)

b. Eighteen (18') feet wide on black coded routes and interstate highways; (7-1-19)

c. Sixteen (16') feet high on any route; or (7-1-19)

d. One hundred twenty (120') feet long on any route. (7-1-19)

551. – 599. (RESERVED)

600. OVERWIDTH PERMITS FOR IMPLEMENTS OF HUSBANDRY.

01. Farm Tractors on Interstate Highways. Farm tractors transported on Interstate Highways are required to have special permit authority if width exceeds nine (9') feet. A farm tractor when attached to an implement of husbandry or when drawing an implement of husbandry shall be construed to be an implement of husbandry and is not required to have a permit. Farmers, equipment dealers, or custom operators may be issued single trip or annual permits under this rule for transportation of farm tractors, having a width in excess of nine (9') feet to or from a farm involving Interstate Highway travel. The transportation of farm tractors or implements of husbandry for hire, or not being transported from one farm operation to another, is a common-carrier operation. Exemptions from legal width limitation do not apply to common-carrier operations. Farm tractors or implements of husbandry hauled for hire, or used in the furtherance of a business (not to include farming operations), are subject to the same special permit regulations as other oversize loads when the width of the load exceeds legal-width limitations, and must operate under oversize permits. (7-1-19)

02. Other Than Farm to Farm. Implements of husbandry exceeding eight feet six inches (8'6") in width being transported other than from one (1) farm operation to another farm operation shall require special permits except when the farmer or their designated agents, including without limitation, equipment dealers transporting implements of husbandry and equipment for the purpose of: (7-1-19)

a. The repair or maintenance of such implements of husbandry and equipment when traveling to or from a farm to a repair or maintenance facility during daylight hours; or (7-1-19)

b. The purchase, sale, lease or rental of such implements of husbandry or equipment when traveling between a farm and a dealership, auction house, or other facility during daylight hours. (7-1-19)

03. Farm Permits. Single trip permits must be ordered at the permit office. Annual permits will be issued to towing units or to self-propelled farm tractors or towed units, or blanket permits may be issued to an Idaho domicile applicant without vehicle identification. Such blanket permits may be transferred from one (1) vehicle to another vehicle but shall be valid only when the permit is with the overwidth vehicle and/or load. A photocopy of the permit is valid, provided that the Pilot/Escort Vehicle and Travel Time Requirements Map and Vertical Clearance of Structures Map furnished by the Idaho Transportation Department are included. Such annual permits for implements of husbandry or farm tractors are subject to the same maximum dimensions, travel time exclusions, and safety requirements as other overwidth annual permits and are valid for continuous travel for twelve (12) consecutive months. (7-1-19)

04. Overwidth Farm Trailers. Trailers or semi-trailers exceeding eight feet six inches (8' 6") wide, but not wider than the implement of husbandry, used for the transportation of implements of husbandry to or from a farm for agricultural operations, shall be exempt from special permitting requirements. This exemption does not apply to trailers or semi-trailers used in common carrier operations, hauling for hire or used in the furtherance of a business (not to include farming operations). (7-1-19)

a. Exempt trailers, as listed above, may not be used to haul implements of husbandry that are narrower than the overwidth trailer. (7-1-19)

b. Empty trailers, as listed above, being used to pick up or drop off an implement of husbandry from a farm to a farm are also exempt and must be reduced to a practical minimum dimension (i.e. dropping side extensions). (7-1-19)

601. – 699. (RESERVED)

700. MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILERS.

01. Registration and Licensing Requirements. All manufactured homes moved on their own axles on any public highway are required to be licensed, permanently or temporarily, with the exception of, new manufactured homes, being transported either prior to first sale at retail or to the initial setup location of the original purchaser. The manufactured home registration (if required) and general property tax receipt shall be made available for inspection upon demand of any enforcement officer. (7-1-19)

02. Insurance Requirements. The permittee or the driver of the vehicle hauling or towing overwidth manufactured homes, modular buildings, and office trailers shall be required to carry evidence of general liability insurance in the permitted vehicle written by a company licensed in Idaho showing coverage in the minimum amounts of three hundred thousand dollars ($300,000) when hauling permittee's own manufactured home. When hauling for hire permittee must carry a minimum amount of seven hundred and fifty thousand dollars ($750,000) insurance coverage, and have proper authority. (7-1-19)

03. Manufactured Homes, Modular Buildings, and Office Trailers Being Towed on Their Own Axles. (7-1-19)

a. Connection Device. Shall meet the requirements of Federal Motor Carrier Safety Regulations, 49 CFR part 393. (7-1-19)

b. Length. Not in excess of eighty (80') feet including tongue. (7-1-19)

c. Width. Shall be limited to a maximum of sixteen (16') feet at the base and shall not exceed eighteen (18') feet overall width including the eaves, except on a case-by-case basis as approved by the Department. All movements with a base width in excess of sixteen (16') feet and an overall width in excess of eighteen (18') feet must submit a written request for movement of these units prior to being manufactured and a traffic control plan may also be required with the submission. Prior approval for the movement must be granted before a special permit is issued. Determination of manufactured home, modular building, or office trailer width shall be exclusive of such appurtenances as clearance lights, door handles, window fasteners, door and window trim, moldings and load securement devices up to but not in excess of three (3") inches on each side of load. (7-1-19)

d. Eaves. No restrictions on eaves as long as the eighteen (18') feet maximum overall width limitation is not exceeded, or for those movements approved by the Department on a case-by-case basis. (7-1-19)

e. Weight. The maximum allowable load for any vehicle tire operated on any public highway shall be in accordance with Code of Federal Regulations, Title 24, Chapter 20, Office of Assistant Secretary for Housing - Federal Housing Commissioner, Department of Housing and Urban Development, Part 3280, Subpart J, (CFR Title 24). (7-1-19)

f. Running Gear Assembly – General. The entire system (frame, drawbar, and coupling mechanism, running gear assembly including brake systems, axles and lights) shall be in accordance with CFR Title 24, for the year the manufactured home was built. In addition thereto, all tires used in transportation of manufactured homes under this category shall be in accordance with Federal Motor Carrier Safety Regulations, part 393. (7-1-19)

g. Construction. Construction shall be in accordance with CFR Title 24, for the year the manufactured home was built. (7-1-19)

h. Axles. All axles shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have a minimum of four (4) axles. (7-1-19)

i. Brakes. Brakes shall be in accordance with CFR Title 24, for the year the manufactured home was built, except that sixteen (16) foot wide (at the base) manufactured homes shall be required to have brakes on a minimum of three (3) axles. (7-1-19)

j. Lights. The unit shall have stop lights, turn signals, and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (7-1-19)

k. Safety Chains. Two (2) safety chains shall be used, one (1) each on right and left sides of, but separate from, the coupling mechanism connecting the tow vehicle and the manufactured home while in transit. Chain shall be three-eighths (3/8) inch diameter steel. Chains shall be strongly fastened at each end to connect the tow vehicle and manufactured home and assure that in the event of a coupling failure the manufactured home will track behind the tow vehicle. (7-1-19)

04. Vehicles for Towing/Hauling Manufactured Homes, Modular Buildings, and Office Trailers. (7-1-19)

a. Towing Vehicle. Tow vehicles for manufactured homes, modular buildings, and office trailers shall comply with the following minimum requirements:

Manufactured Homes and Office Trailers Width	Tire Width	Drive Axle Tire Rating	Min. Unladen Weight	Rear Axle Rating
Over 8 feet to 10 feet	7.00 inches	6 Ply	6,000#	None
Over 10 feet to 12 feet	8.00 inches	8 Ply	8,000#	15,000#
Over 12 feet	8.25 inches	10 Ply	12,000#	15,000#

(7-1-19)

b. Brakes. Shall be in accordance with Federal Motor Carrier Safety Regulations part 393. (7-1-19)

c. Rear Axle. Towing vehicle shall have a minimum of a single axle with dual mounted tires. (7-1-19)

d. Connection Device. Shall meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (7-1-19)

e. Horsepower Requirement. When towing/hauling a manufactured home, modular building, or office trailer a minimum speed of twenty-five (25) mph must be maintained. (7-1-19)

f. Operator Requirements. Operators of vehicles towing manufactured homes, modular buildings and office trailers over ten (10') feet wide at the base shall have a class A or B Commercial Driver's License (CDL) as appropriate. (7-1-19)

g. Speed Limit Requirements. Vehicles towing manufactured homes or office trailers on their own axles shall be limited to a maximum of sixty (60) miles per hour. (7-1-19)

05. Manufactured Home, Modular Building, Or Office Trailer Being Hauled. (7-1-19)

a. Length. Not in excess of eighty (80') feet. (7-1-19)

b. Width. Not in excess of sixteen (16') feet at the base and eighteen (18') feet overall, except on a case-by-case basis as approved by the Department. All movements with a base width in excess of sixteen (16') feet and an overall width in excess of eighteen (18') feet must submit a written request for movement of these units prior to being manufactured and a traffic control plan may also be required with the submission. Prior approval for the movement must be granted before a special permit is issued. (7-1-19)

c. Eaves. No restrictions on eaves as long as the eighteen (18') foot maximum overall width limitation is not exceeded, or for those movements approved by the department on a case-by-case basis. (7-1-19)

701. – 729. (RESERVED)

730. HAULING EQUIPMENT FOR A MANUFACTURED HOME, MODULAR BUILDING, OR OFFICE TRAILER.

01. Hauling Equipment. Vehicles used to haul manufactured homes, modular buildings, and office trailers shall be combinations designed to meet the requirements of Federal Motor Carrier Safety Regulations for vehicles engaged in interstate commerce. Such vehicles shall be of structural capacity to safely accommodate the loading at all times. (7-1-19)

02. Lights. The unit shall have stop lights, turn signals, and tail lights that meet the requirements of Federal Motor Carrier Safety Regulations, part 393. (7-1-19)

03. Securing Loads. A minimum of four (4) steel, three fourths (3/4") inch diameter bolts will be used to directly connect the main support members of the modular building, manufactured home, or office trailer to the support frame of moving equipment. Two (2) bolts each shall be located not less than twelve (12') feet from the forward and rear ends of the modular building, manufactured home or office trailer. Each of the four (4) bolts shall be at least four (4') feet apart. Equivalent methods of fastening, such as chains or binders, may be used as alternatives. (7-1-19)

731. – 749. (RESERVED)

750. GENERAL PROVISIONS – MANUFACTURED HOMES, MODULAR BUILDINGS, AND OFFICE TRAILER.

01. Paneling of Open Sides of Multi-Section Modular Buildings, Manufactured Homes, or Office Trailers. Shall be rigid material, or six (6) mil plastic sheathing (or stronger) backed by a grillwork to prevent billowing and fully enclose open sides of section in transit. (7-1-19)

02. Interior Loading. If the manufactured home, modular building, or office trailer is to transport furnishings or other loose objects, they shall be secured in position for safe travel. (7-1-19)

03. Construction. Modular buildings shall be constructed in accordance with the Uniform Building Code as applies to design and construction requirements that will affect overall structural strength and roadability.

Manufactured homes and office trailers shall be constructed in accordance with Federal HUD Manufactured Home Construction and Safety Standards. (7-1-19)

751. – 799. (RESERVED)

800. RELOCATION OF BUILDING OR HOUSES – GENERAL REQUIREMENTS.

01. Buildings Exceeding Sixteen Feet Wide. Special permits for the transportation of buildings or houses having a basic width in excess of sixteen (16') feet shall be limited to the relocation of previously used buildings. The transportation of new, centrally manufactured houses, buildings, building sections, mobile or modular homes, etc., may be denied special permits if the width at the base is in excess of sixteen (16') feet. (7-1-19)

02. Requirements for Permit. The requirements of each permit for relocation of a used building or house shall depend on the dimensions of the load as well as a consideration of the width and alignment of the roadway, passing opportunity for the traveling public, vertical or horizontal clearance of bridges or other structures along the route of travel, and traffic volumes. (7-1-19)

03. Additional Restrictions Relating to Movement of Buildings and Houses: (7-1-19)

a. Excessively Oversize Loads. Excessively oversize loads shall be restricted to the time of day, or day of the week, when traffic interference will be at a minimum. (7-1-19)

b. Buildings. Time of travel of loads in the building size category shall be restricted to the time of day and/or day of the week when traffic interference will be at a minimum. (7-1-19)

c. Early Morning Moves. In metropolitan areas and in certain other cases where a serious disruption of traffic would otherwise be unavoidable, the movement of excessively oversize buildings may be permitted, at the discretion of the District Engineer, between 2 a.m. and daybreak to avoid traffic congestion. (7-1-19)

d. Overlength restrictions. Oversize vehicles operating under authority of a special permit that exceed seven (7') feet of front overhang, on any vehicle in the combination, are restricted to daylight travel only on two-lane, two-way highways. (7-1-19)

e. Other time of travel restrictions may be noted on the permit due to special circumstances. (7-1-19)

801. – 849. (RESERVED)

850. VERTICAL CLEARANCE REQUIREMENTS.

01. Permit for Over height. The issuance of any permit for movement of over height loads will be subject to the vertical clearance of any structure involved along the route of travel. The Department may require a minimum of twenty-four (24) working hours to allow for the proposed route to be evaluated and approved or denied. (7-1-19)

02. Overhead Traffic Signals. Any movement of a building, or other over height load, having a loaded height of sixteen feet six inches (16'6") or more may require advance notice if overhead traffic signals are involved in the route. (7-1-19)

03. Overhead Power Lines. Carriers whose load/vehicle combinations exceed seventeen (17') feet high must contact local utility company(s) for approval and assistance with power lines. (7-1-19)

851. – 869. (RESERVED)

870. INSURANCE AND BONDING REQUIREMENTS.

01. Insurance. The permittee when hauling buildings fourteen (14') feet or more in width shall be required to carry evidence of insurance in the permitted vehicle in the same minimum amounts as is required for those

permits issued for the movement of overwidth manufactured homes. Minimum requirements are three hundred thousand dollars ($300,000) combined single limit, (when hauling permittee's own building) and seven hundred fifty thousand dollars ($750,000) when hauling for hire. (7-1-19)

02. Permittee Responsibility. The permittee shall be responsible for the protection of sign-posts, guideposts, delineators, and may be required to post bond to cover the costs of repairs or replacements of such facilities. (7-1-19)

03. Bond Requirements. When an expense to the state can be presumed in providing clearance for an over height load, or for repair of signposts or other such facilities, a cash bond based on estimated costs to the State may be required before issuance of such permit. Any part of the cash bond in excess of material costs, labor, and equipment rental will be returned to the permittee after the actual costs to the State have been determined and deducted. (7-1-19)

871. – 879. (RESERVED)

880. FEES.
Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

881. – 889. (RESERVED)

890. APPLICATION FOR PERMIT.
Refer to IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible," for conditions required for the issuance of special permits. (7-1-19)

891. – 899. (RESERVED)

900. CONVOY OF OVERSIZE LOADS.

01. Convoying Oversize Loads. Oversize loads that individually would require a pilot/escort vehicle, except overwidth manufactured homes, office trailers, and modular buildings, may be permitted to travel in convoy with pilot/escort vehicles in front of and behind the convoy, but such convoys shall not exceed four (4) oversize loads or vehicles between pilot/escort vehicles. Maximum width of units in a convoy shall be limited to fourteen (14') feet wide on black-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and to twelve feet six inches (12'6") on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Oversize loads that do not individually require a pilot/escort vehicle may travel in convoy without pilot/escort vehicles. Maximum length of units in a convoy shall be limited to one hundred (100') feet on black-coded routes and seventy five (75') feet on red-coded routes of the pilot/escort vehicle and travel time requirements map and one hundred twenty (120') feet on the interstate system. (7-1-19)

02. Convoying Manufactured Homes, Office Trailers, and Modular Buildings. No convoy of overwidth manufactured homes, modular buildings, or office trailers shall include more than two (2) units between two (2) piloting/escorting vehicles. On those routes where pilot/escort vehicles are required in front and to the rear of an overwidth manufactured home or office trailer, two (2) units may travel in convoy between such piloting/escorting vehicles. On routes requiring only a front pilot/escort vehicle, the manufactured home or office trailer mover may have the option of convoying two (2) units between front and rear pilots/escorts. At no time shall more than one (1) manufactured home or office trailer be piloted/escorted by one (1) pilot/escort vehicle. Maximum width of units in a convoy shall be limited to fourteen (14') feet wide on black-coded routes and to ten (10') feet wide on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map. Minimum spacing of approximately one thousand (1,000') feet shall be maintained between all units in a convoy except when a pilot/escort is required to control traffic in turning movements. Maximum length of units in a convoy shall be limited to one hundred (100') feet on black-coded routes and seventy five (75') feet on red-coded routes of the Pilot/Escort Vehicle and Travel Time Requirements Map and one hundred twenty (120') feet on the interstate system. (7-1-19)

901. – 999. (RESERVED)

39.03.06 – RULES GOVERNING SPECIAL PERMITS FOR EXTRA-LENGTH/EXCESS WEIGHT, UP TO 129,000 POUND VEHICLE COMBINATIONS

000. LEGAL AUTHORITY.
This rule, governing the movement of vehicles which are in excess of eighty thousand (80,000) pounds, and the sizes allowed by 49-1004, 49-1004A, and 49-1010, is adopted under the authority of Section 40-312, Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.06, "Rules Governing Special Permits for Extra-Length/ Excess Weight, Up to 129,000 Pound Vehicle Combinations" IDAPA 39, Title 03, Chapter 06. (7-1-19)

02. Scope. This rule states the requirements and routes for extra-length/excess weight over eighty thousand (80,000) pounds and up to one hundred twenty-nine thousand (129,000) pound vehicle combinations. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Refer to IDAPA 39.03.01, "Rules Governing Definitions Regarding Special Permits," for definitions of the terms used in this rule. (7-1-19)

011. – 049. (RESERVED)

050. GENERAL RULES AND CONDITIONS.
Refer to IDAPA 39.03.03, "Rule Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

051. – 099. (RESERVED)

100. DESIGNATED ROUTES FOR EXTRA LENGTH VEHICLE COMBINATIONS CARRYING UP TO ONE HUNDRED FIVE THOUSAND FIVE HUNDRED (105,500) POUNDS SHALL BE DESIGNATED IN FOUR CATEGORIES.
The "Extra Length Map" listing the designated routes for vehicles operating up to one hundred five thousand five hundred (105,500) pounds is available at the Idaho Transportation Department offices. This map is not the same as the "Designated Routes Up to 129,000 Pound Map" listed in Section 200 of these rules. (7-1-19)

01. Blue-Coded Routes. Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (blue-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. (7-1-19)

02. Red-Coded Routes. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (red-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. (7-1-19)

03. Black-Coded Routes. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seventy-five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seventy-five (8.75) feet off-tracking. (7-1-19)

04. Green-Coded Routes. Selected state highway routes (green coded routes) for operation of a vehicle combination whereby its maximum off-tracking will not exceed three (3) feet on a one hundred sixty-five (165) foot radius when computed, and its overall length including load overhang does not exceed eighty-five (85) feet. Route approval shall be subject to analysis of pavement condition, bridge capacity, safety considerations, pavement width, curvature, traffic volumes, and traffic operations. (7-1-19)

101. – 199. (RESERVED)

200. DESIGNATED ROUTES FOR VEHICLE COMBINATIONS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS.
In addition to the requirements listed in Sections 300 and 400, vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds, must meet the following requirements: (7-1-19)

01. Brakes. All axles shall be equipped with brakes that meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-19)

02. Designated Routes. All designated state approved routes for vehicle combinations to operate at weights above one hundred five thousand five hundred (105,500) pounds will be identified on the "Designated Routes Up to 129,000 Pound Map" which is available at the Idaho Transportation Department. (7-1-19)

a. Black-Coded Routes. Interstate system routes and specified interchanges providing access to approved breakdown areas located in close proximity to the Interstate system (black-coded routes). A vehicle combination operating on routes in this category shall be designed and assembled in such a manner that its off-tracking may exceed six point five zero (6.50) feet but shall not exceed eight point seven five (8.75) feet when computed. Specified interchanges providing access to approved breakdown areas are required to be used by combinations that exceed six point five zero (6.50) feet off-tracking. The specified interchanges will be authorized for either combinations in excess of six point five zero (6.50) feet off-tracking, but not in excess of seven (7) feet off-tracking, or for combinations in excess of seven (7) feet off-tracking but not in excess of eight point seven five (8.75) feet off-tracking. (7-1-19)

b. Magenta-Coded Routes. Routes for combinations of vehicles not exceeding one hundred fifteen (115) feet in overall length including load overhang (magenta-coded routes). A vehicle combination operating on routes designated for up to one hundred fifteen (115) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed six point five zero (6.50) feet on a one hundred sixty-five (165) foot radius when computed. (7-1-19)

c. Brown-Coded Routes. Routes for combinations not exceeding ninety-five (95) feet in overall length including load overhang (brown-coded routes). A vehicle combination operating on routes designated for up to ninety-five (95) feet shall be designed and assembled in a manner whereby its maximum off-tracking will not exceed five point five zero (5.50) feet on a one hundred sixty-five (165) foot radius when computed. (7-1-19)

d. Routes for combinations operating on non-state maintained highways (orange-coded routes). Local jurisdictions adding, modifying or deleting non-state maintained routes for vehicle combinations operating up to one hundred twenty-nine thousand (129,000) pounds shall provide the route information to the Department. (7-1-19)

03. Requests for Adding Idaho Transportation Department Maintained Non-Interstate Routes. Routes not currently designated to operate at up to one hundred twenty-nine thousand (129,000) pounds may be added as follows: (7-1-19)

a. Request Form Submission. The request form (ITD form number 4886) will be completed and submitted to the Idaho Transportation Department Office of the Chief Engineer by the requestor. The requestor will forward the form to the adjacent local jurisdictions. (7-1-19)

b. Request Review/Analysis Process. (7-1-19)

i. Once submitted, the request will be reviewed for completeness and the department's analysis will be completed for engineering and safety criteria. The criteria shall include assessment of pavement and bridges to allow legal tire, axle, and gross weight limits as per Section 49-1001 and 49-1002, Idaho Code, and route off-track requirements which includes road width and curvature. Additional consideration shall be given to traffic volumes and other safety factors. (7-1-19)

ii. Once the analysis is completed, the request will be submitted to the Chief Engineer, who will report to the Idaho Transportation Board Sub-committee. (7-1-19)

iii. The Idaho Transportation Board Sub-committee will make a recommendation (proceed to hearing, reject, or request additional information) to the Idaho Transportation Board based upon the Department's analysis. (7-1-19)

iv. If the Idaho Transportation Board recommends that the request proceed to hearing, it shall instruct the Chief Engineer to schedule a hearing in the district(s) where the requested route is located. The hearing will be conducted pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (7-1-19)

v. The Chief Engineer or designee will conduct the hearing(s) and make a determination after the hearing(s) are held. Following the determination, the Chief Engineer will issue Findings and a Preliminary Order, hereafter referred to as Preliminary Order. (7-1-19)

vi. The Department will notify the requestor of the Chief Engineer's Preliminary Order and post to the Idaho Transportation Department Web site. (7-1-19)

vii. An appeal of the Preliminary Order may be made pursuant to the Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. The appeal shall be made to the Director of the Idaho Transportation Department. (7-1-19)

c. Local Highways Approved for Travel Up to 129,000 Pounds. Local routes will be added or removed on the "Designated Routes Up to 129,000 Pound Map" when information and approval is provided to the Department by the local jurisdiction having authority over the local route. (7-1-19)

201. – 299. (RESERVED)

300. OPERATING REQUIREMENTS FOR EXTRA-LENGTH/EXCESS WEIGHT PERMITS UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS VEHICLE COMBINATIONS.
All vehicle combinations shall be subject to the following conditions, limitations, and requirements: (7-1-19)

01. Cargo Carrying Units. Vehicle combinations operating with an overall length in excess of the limits imposed in Section 49-1010, Idaho Code, shall consist of not more than four (4) units, shall not exceed one hundred fifteen (115) feet overall and no such vehicle combination shall include more than three (3) cargo units except that a full truck and full trailer may have an overall length in excess of seventy-five (75) feet but not in excess of eighty-five (85) feet including load overhang. (7-1-19)

02. Power Unit. The power unit of all vehicle combinations shall have adequate power and traction to maintain a minimum of twenty (20) miles per hour under normal operating conditions on any up-grade over which the combination is operated. (7-1-19)

03. Connecting Devices. Fifth wheel, drawbar, and other coupling devices shall be as specified by Federal Motor Carrier Safety Regulations, Part 393. (7-1-19)

04. Hazardous Travel Conditions Restrictions. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," for limitations on travel during hazardous conditions. (7-1-19)

05. Trailer Weight Sequence. In any extra-length combination, the respective loading of any trailer shall not be substantially greater than the weight of any trailer located ahead of it in the vehicle combination. (Substantially greater shall be defined as more than four thousand (4,000) pounds heavier.) (7-1-19)

06. Operating Restrictions. Operators of all vehicle combinations governed by this rule shall comply with the following operating restrictions: (7-1-19)

a. A minimum distance of five hundred (500) feet shall be maintained between combinations of vehicles except when overtaking and passing. (7-1-19)

b. Except when passing another vehicle traveling in the same direction, the combination shall be driven so as to remain at all times on the right hand side of the centerline of a two (2) lane, two (2) way highway, or on the right hand side of a lane stripe or marker of a highway of four (4) or more lanes. (7-1-19)

c. Be in compliance with all Federal Motor Carrier Safety Regulations. (7-1-19)

07. Insurance Requirements. Every vehicle combination operated under this rule shall be covered by insurance of not less than five hundred thousand dollars ($500,000) combined single limit. The permittee or driver of the permitted vehicle combination shall carry in the vehicle evidence of insurance written by an authorized insurer to certify that insurance in this minimum amount is currently in force. (7-1-19)

08. Tire Limitations. Single axles on vehicle combinations shall be equipped with four (4) tires except on the steering axle, or variable load suspension axles (VLS-lift axles), unless equipped with fifteen (15) inch wide or wider single tires. Multiple axle configurations may be equipped with single tires on each of the axles as long as the pounds-per-inch width of tire does not exceed six hundred (600) pounds, the manufacturers rating or legal weights whichever is less. Load for inch width of tire for the front steer axle may not exceed the manufacturer's load rating per tire or the load rating of the axle or twenty thousand (20,000) pounds per axle whichever is less. (7-1-19)

09. Brakes. Brakes shall meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. Refer to IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

10. Drivers. Drivers of LCVs shall meet the special training requirements for Longer Combination Vehicles as outlined in 49 CFR Part 380. (7-1-19)

11. Permits. Permits will be vehicle specific. (7-1-19)

301. – 399. (RESERVED)

400. SPECIAL PERMITS FOR OPERATIONS OF EXTRA-LENGTH/EXCESS WEIGHT PERMIT UP TO ONE HUNDRED TWENTY-NINE THOUSAND (129,000) POUNDS VEHICLE COMBINATIONS.

01. Permit Attachments. All vehicles in operation shall be allowed to travel under the authority of special permits issued to the power unit. A copy of this rule shall accompany and shall be a part of all annual extra-length/excess weight, up to one hundred twenty-nine thousand (129,000) pound permits. An allowable gross loads table shall accompany and be referred to on the face of the permit. Operations shall be valid only on routes of the state highway system designated for such purposes as set forth on the "Extra Length Map" of designated routes, or the "Designated Routes Up to 129,000 Pound Map," which shall accompany the permit, and is available at the special permit office and ports of entry. (7-1-19)

02. Permit Requirements and Special Requirements. Permits issued for operations of extra-length / excess weight up to 129,000 pound vehicle combinations shall be subject to the general requirements of Section 300, and to the following special conditions. (7-1-19)

a. The operator of any extra-length, excess weight, and up to one hundred twenty-nine thousand (129,000) pound vehicle combination shall complete the Idaho Off-Track Computation Form to provide internal dimensions of the combination and computation of off-track as evidence of compliance with maximum off-track requirements specified for the designated route being traveled. The completed Idaho Off-Track Computation Form, when required, shall be available for inspection by enforcement officers with the permit for the vehicle combination. When the Idaho Off-Track Computation Form is required, permit shall be invalid until the form is completed and available for inspection. (7-1-19)

b. Permits shall become automatically invalid subject to conditions cited in IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

03. Exceeding Allowed Length and/or Idaho Off-Track Limitations. Extra-length/excess weight permit up to one hundred twenty-nine thousand (129,000) pound vehicle combinations apprehended for exceeding allowed length and/or off-track limitations as set forth in this rule shall be subject to the following course of action: (7-1-19)

a. The vehicle combination will be escorted by the apprehending officer to the first safe parking location; and (7-1-19)

b. The driver of the vehicle combination will be issued a single trip, one (1) day permit via a specified route to the nearest permitted route. The condition of this permit shall require an advance pilot/escort vehicle to escort the vehicle combination, and the pilot/escort vehicle shall meet the pilot/escort vehicle requirements as set forth in IDAPA 39.03.05, "Rules Governing Special Permits - Oversize Non-Reducible." (7-1-19)

401. – 499. (RESERVED)

500. GENERAL WEIGHT REQUIREMENTS AND CONDITIONS.

01. Weights Allowed on Interstate. The Federal Highway Amendment Act of 1974 established allowable legal weight limits on Interstate System Highways at twenty thousand (20,000) pounds on single axles, thirty-four thousand (34,000) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. (7-1-19)

02. Weights Allowed on Non-Interstate Highways. Allowable legal weight limits on non-interstate highways are set at twenty thousand (20,000) pounds on single axles, thirty-seven thousand eight hundred (37,800) pounds on tandems, and total gross loads not exceeding eighty thousand (80,000) pounds. (7-1-19)

03. Permit Types to Exceed Eighty Thousand Pounds Gross Weight. Permits will be issued for vehicle combinations operating on Interstate and non-interstate highways with total gross loads exceeding eighty thousand (80,000) pounds but not to exceed twenty thousand (20,000) per single axle, thirty-four thousand (34,000) pounds per tandem, and not to exceed the weight limit for any group of two (2) or more consecutive axles established by Section 49-1001, Idaho Code. (7-1-19)

a. Extra Length/Excess Weight Permit Up to One Hundred Twenty-Nine Thousand (129,000) Pounds. Gross weight limited to one hundred five thousand five hundred (105,500) pounds on interstate, non-interstate and local highways and length limited to those specified in these rules. Except that no vehicle combination weighing more than one hundred five thousand five hundred (105,500) pounds shall operate on local highways contrary to the provisions of Section 49-1004A, Idaho Code, and these rules. (7-1-19)

b. Extra Length/Excess Weight Permit Up to One Hundred Twenty-Nine Thousand (129,000) Pounds. Gross weight not to exceed one hundred twenty-nine thousand (129,000) pounds on designated routes, as specified in Section 49-1004 and Section 49-1004B, Idaho Code. (7-1-19)

501. – 999. (RESERVED)

39.03.07 – RULES GOVERNING SPECIAL PERMITS FOR REDUCIBLE LOADS

000. LEGAL AUTHORITY.
This rule, governing the movement of vehicles and/or loads that are in excess of the sizes allowed by Sections 49-1004 and 49-1010, Idaho Code, is adopted under the authority of Section 49-201, Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.07, "Rules Governing Special Permits for Reducible Loads," IDAPA 39, Title 03, Chapter 07. (7-1-19)

02. Scope. This rule states the maximum sizes allowed by special permit for reducible loads. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Refer to IDAPA 39.03.01, "Rules Governing Definitions Regarding Special Permits," for definitions of the terms used in this rule. (7-1-19)

011. – 099. (RESERVED)

100. GENERAL REQUIREMENTS.
Refer to IDAPA 39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible," for conditions required for the issuance of special permits. (7-1-19)

01. Maximum Dimensions Allowed. The maximum dimensions of oversize vehicles or oversize loads shall depend on the character of the route to be traveled: width of roadway, alignment and sight distance, vertical or horizontal clearance, and traffic volume. (7-1-19)

02. Overwidth Overhang. Overwidth loads shall distribute overhang to the sides of the trailer as evenly as possible. (7-1-19)

101. – 199. (RESERVED)

200. PERMITS FOR MULTIPLE-WIDTH OR MULTIPLE-HEIGHT LOADING.

01. Cylindrical Hay Bales. Special permits may be issued for overwidth transportation of cylindrical hay bales, produced by balers having bale chambers which may be five (5') feet or more in width. Such bales may be loaded two (2) bales wide and two (2) bales high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operation of such overwidth loads shall be subject to the same time of travel and other safety requirements as other overwidth loads having a similar width, see IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible." This type of operation is intended as an option to the use of farm tractors hauling such loads on size-exempt implement of husbandry vehicles. Maximum width of such loads without tolerance may not exceed eleven feet six inches (11'6"). (7-1-19)

02. Reducible Height Loads. Special permits may be issued to allow the transportation of reducible loads in excess of fourteen (14') feet high but not in excess of fifteen (15') feet high on designated highways. The vehicle height must not exceed fourteen (14') feet. A map listing the vertical clearances is available at the Idaho Transportation Department Special Permit Office and online at itd.idaho.gov. (7-1-19)

03. Kiln Lumber Stacks. Special permits may be issued to allow the transportation of specifically produced kiln lumber stacks in excess of eight feet six inches (8'6") wide but not in excess of nine feet three inches (9'3') wide on designated highways. Each kiln lumber stack shall be considered a single non-reducible unit and may be hauled two (2) stacks wide and two (2) stacks high. Hauling vehicles eligible for permit for this purpose shall be legal size vehicles registered for travel on public highways. Operations of such overwidth loads shall be subject to the same type of travel restrictions and other safety requirements as other overwidth loads having a similar width, see IDAPA 39.03.04, "Rules Governing Special Permits – Overweight Non-Reducible." (7-1-19)

201. – 999. (RESERVED)

39.03.08 – RULES GOVERNING SELF-PROPELLED SNOWPLOWS

000. LEGAL AUTHORITY.
The rule is adopted under authority of Sections 40-312, 49-929, and 49-1004, Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.08, "Rules Governing Self-Propelled Snowplows," IDAPA 39, Title 03, Chapter 08. (7-1-19)

02. Scope. Self-propelled snowplows cannot comply with the safety requirements as other oversize loads due to the nature of their operation. Therefore, this rule is promulgated to state the regulations, safety, and standardizes the lighting systems for overwidth self-propelled snowplows operating under special permit authority. These specifications and standards supersede Administrative Policy A-05-26 (dated 6-23-82) and Board Policy B-05-26 (dated 6-16-82).The self-propelled snowplows will be permitted at the rates listed in Rule 39.03.03, "Rules Governing Special Permit – General Conditions and Requirements," for oversize loads. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
In addition to the definitions set forth in IDAPA 39.03.01, "Rules Governing Definitions Regarding Special Permits," the following terms are used in this rule. (7-1-19)

01. Snow Removal Equipment. Any private or publicly-owned vehicle classified as a motorized vehicle as defined in Section 49-123, Idaho Code, that has been equipped with snow removal equipment and is being used for snow removal on any public highway. (7-1-19)

011. – 099. (RESERVED)

100. CONDITIONS AND REQUIREMENTS FOR OPERATION OF SELF-PROPELLED SNOWPLOWS ON THE STATE HIGHWAY SYSTEM.

01. General Conditions. Refer to IDAPA 39.03.03, "Rules for Governing Special Permits – General Conditions and Requirements," for conditions required for the issuance of special permits. (7-1-19)

02. No Pilot/Escort Vehicles Required. Self-propelled snowplows utilized to clear roads, streets, and other locations of snow or debris may operate with no escort vehicles required twenty-four (24) hours a day, seven (7) days a week, including holidays. (7-1-19)

03. Warning Flags. An eighteen (18") inch by eighteen (18") inch red or fluorescent orange flag shall be mounted near the extremities of the blade if it exceeds eight feet six inches (8'6") inches in width. (7-1-19)

04. Clearance Light or Reflector Requirements. When operating during hours of darkness, a clearance light or a clearance reflector that meets the specifications listed in Sections 49-910 and 49-911, Idaho Code, shall be mounted near the extremities of the blade if the blade exceeds eight feet six inches (8'6") inches in width. (7-1-19)

05. Headlamps, Turn Signals, and Flashing Lights. Headlamps, turn signals, and flashing lights shall be mounted on snow removal equipment at sufficient height to clear all snow removal apparatus. (7-1-19)

06. Visibility Requirements. Flashing identification lights on snow removal equipment must be amber or red colored, and mounted on the cab or truck bed. They shall be mounted so as to be visible from the front, amber only in color, and rear, red or amber in color, regardless of vehicle configuration, for example, when the truck bed is raised. Flashing lights shall be visible from a distance of not less than one thousand (1,000') feet in normal sunlight, and not less than two thousand five hundred (2,500') feet under average visibility conditions at night. (7-1-19)

07. Lights to Meet Idaho Code Requirements. Tail lamps, stop lamps, and clearance lamps on snow removal equipment must meet standards specified in Idaho Code. (7-1-19)

101. – 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Transportation Board adopts this rule under the authority of Section 40-312, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.03.40, "Rules Governing Junkyards and Dumps," and provides guidelines for the control of junkyards and dumps within one thousand (1,000) feet of the nearest edge of the right-of-way for interstate, primary freeways and primary highways of the state of Idaho pursuant to Chapters 1 and 19, Title 40, Idaho Code. (12-26-90)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Abandoned Junkyard. A junkyard that was operated as a business enterprise in the past, now existing with inventory, but without proprietorship or claim of ownership. The underlying fee title holder has no interest in the inventory. (12-26-90)

02. Acceptable Fencing Materials. Steel or other metals, durable woods, or other woods treated with a preservative or walls of masonry. (12-26-90)

03. Acceptable Planting Materials. Shrubs, trees, flowering plants and foliage. (12-26-90)

04. Destroyed Junkyard. A junkyard that was operated as a business enterprise in the past that has been partially or totally destroyed by act of God or other means; and where the proprietor is not presently buying or selling junk. (12-26-90)

05. Discontinued Junkyard. A junkyard that was operated as a business enterprise in the past and where the proprietor is retaining the inventory for the present, but is not actively engaged in buying or selling junk. (12-26-90)

06. Industrial Activities. Those permitted only in industrial zones, or in less restrictive zones by the nearest zoning authority within the State, except that none of the following shall be considered industrial activities. (12-26-90)

a. Outdoor advertising structures. (12-26-90)

b. Forest, farms and ranches. (12-26-90)

c. Activities normally and regularly in operation less than three (3) months of the year. (12-26-90)

d. Transient or temporary activities. (12-26-90)

e. Activities not visible from the traffic lanes of the main traveled way. (12-26-90)

f. Activities more than three hundred (300) feet from the nearest edge of the main traveled way. (12-26-90)

g. Activities conducted in a building principally used as a residence. (12-26-90)

h. Railroad tracks, minor sidings and passenger depots. (12-26-90)

i. Junkyards, as defined in Section 136, Title 23, U.S.Code. (12-26-90)

07. Junkyard. A place of business which is maintained, used, or operated for storing, keeping, buying, or selling ten (10) or more wrecked, scrapped, ruined, or dismantled motor vehicles or other types of machines; or equivalent amounts of old scrap copper, brass, rope, rags, batteries, paper, trash, junk, rubber, debris, waste, iron, steel, and other old or scrap ferrous or non-ferrous material or any combination of the above. (12-26-90)

08. Non-Conforming Junkyard. One (1) which was lawfully established, but which does not comply with the provisions of state law or state regulations passed at a later date or which later fails to comply with state

regulations due to changed conditions. An example of changed conditions would be a junkyard lawfully in existence in an area which at a later date becomes non-industrial and thus subject to control, or a junkyard established on a non-primary highway later upgraded to a primary highway. Illegally established or maintained junkyards are not non-conforming junkyards. (12-26-90)

09. Screening. The use of any vegetative planting, fencing, ornamental wall of masonry, or other architectural treatment, earthen embankment, or a combination of any of these which will render invisible any deposit of junk from the main traveled way. (12-26-90)

10. Unzoned Industrial Area. The land occupied by the regularly used building, parking lot, storage or processing area of an industrial activity, and that land within one thousand (1,000) feet thereof which is: (12-26-90)

a. Located on the same side of the highway as the principal part of said activity. (12-26-90)

b. Not predominately used for residential or commercial purposes. (12-26-90)

c. Not zoned by state or local law, regulation or ordinance. (12-26-90)

011. -- 099. (RESERVED)

100. APPLICATIONS, LICENSES, AND PERMITS.

01. General. (12-26-90)

a. A license or permit shall be issued to any person for the operation of a junkyard or dump when such person has made application for and obtained approval for such license or permit on the form provided for that purpose by the Department. (12-26-90)

b. Any person operating a junkyard or dump shall submit a basic plan for screening the same, together with his application, which shall first be approved by the Department, before the installation of such screening and before a license or permit for the operation of such junkyard or dump shall be issued. (12-26-90)

c. All junkyards and dumps requiring screening by the owner so as not to be visible from the roadway by motorists using the roadway shall provide such screening, which may include shrubs, trees, flowering plants, foliage, fencing, buildings, or some other type of screening as shall first have been approved by the Department. (12-26-90)

d. Every junkyard or dump shall be operated and maintained in accordance with the plan for screening which has been approved by the Department for the issuance of the license or permit. Failure of any person to so operate or maintain said junkyard or dump shall result in the revocation of the license or permit issued. (12-26-90)

e. Applications for junkyard licenses or dump permits may be secured at the Idaho Transportation Department, 3311 West State Street, Boise, Idaho 83707, or at the following District offices: District One, 605 Prairie, Coeur d'Alene, Mailing address -- P.O. Box D, Coeur d'Alene, Idaho 83814; District Two, 26th and North and South Highway, Lewiston, Mailing address -- P.O. Box 837, Lewiston, Idaho 83501; District Three, 8150 Chinden Blvd., Boise, Mailing address -- P.O. Box 8028, Boise, Idaho 83707; District Four, 216 Date Street, Shoshone, Mailing address -- P.O. Box 2-A, Shoshone, Idaho 83352; District Five, 5151 South 5th, Pocatello, Mailing address -- P.O. Box 4700, Pocatello, Idaho 83201; District Six, 206 North Yellowstone, Rigby, Mailing address -- P.O. Box 97, Rigby, Idaho 83442. (12-26-90)

02. Conformity. (12-26-90)

a. A non-conforming junkyard may continue as long as it is not abandoned, destroyed or voluntarily discontinued. Once a junkyard is abandoned, destroyed or voluntarily discontinued for a period of six (6) months or more, it becomes subject to laws and rules of a new junkyard. (12-26-90)

b. Junkyards shall be allowed in areas zoned industrial by local zoning ordinances, except that where such ordinances create several classes or zones of industrial use and one (1) or more classes or zones do not permit junkyards, local zoning shall control. (12-26-90)

101. -- 199. (RESERVED)

200. SCREENING.

01. General Screening Requirements. (12-26-90)

a. The screening shall be located on the owner's land and not on any part of the highway right-of-way. (12-26-90)

b. The screen shall be in place prior to the time the junk is deposited. (12-26-90)

c. At no time after the screen is established shall the junk be stacked high enough to be visible above the screen. No junk shall be placed outside of the screened areas or in the areas not covered by license. (12-26-90)

02. Screening Plan. (12-26-90)

a. The screening plan should provide a practical irrigation or watering system where necessary. (12-26-90)

b. The screening plan should provide a replacement and fertilization program. (12-26-90)

c. The screening plan should provide for landscaping that is relatively maintenance free. (12-26-90)

d. The screening plan can provide a living screen which may be used in conjunction with a fence or wall. (12-26-90)

201. FENCES.

01. Location. Fences must be located in such a manner as to not be hazardous to the traveling public. (12-26-90)

02. Uniformity. Construction shall be uniform and no patch work type of construction shall be permitted. (12-26-90)

03. Required Painting. Fences shall be painted where the composition is such that painting is required. The paint used shall be of such color so as to blend into the environs of the highway right-of-way. (12-26-90)

04. Specifications. Fences shall be constructed as specified in Department's "Standard Drawings." (12-26-90)

05. Strength. Fences shall be designed and constructed to withstand adverse wind pressures. (12-26-90)

06. Gate Openings. Fences shall have gates that are kept closed except for ingress and egress of moving vehicles or have gateways so constructed to screen the inventory and operation from the highway user at all times. (12-26-90)

07. Visibility. Some of the types of fences acceptable to preclude "see through" are: (12-26-90)

a. Chain link type with aluminum, steel, plastic or wooden slat inserts. (12-26-90)

b. Wooden types of basket weave, palisade, louver, or other suitable design. (12-26-90)

c. Wall of masonry including plain or ornamental concrete block, brick, stone or other suitable masonry material. (12-26-90)

d. Any other design of fencing constructed of other materials may be submitted for consideration. (12-26-90)

202. PLANTING MATERIALS.

01. Species. Plant materials indicated on the plans shall specify the common and botanical name of the plant materials used, the size at the time of planting and the spacing between plants. (12-26-90)

02. Growth and Conformity. Plant materials should be native to the area which grow to an appropriate height within a three (3) year period and are long-lived. The plantings should complement the existing highway and adjacent land use environmental condition. (12-26-90)

03. Caretaking. Plant material shall be watered, cultivated, or mulched, and given any required maintenance including spraying for insect control, to keep the planting material in a good healthy condition. (12-26-90)

04. Replacement. Dead plant material will be removed immediately and shall be replaced during the next spring or fall planting season following death. The replacement plants shall be at least as large as the initial planting. (12-26-90)

203. EARTHEN EMBANKMENTS.
Such as berms or mounds may be considered. (12-26-90)

01. Conformity. After grading, landscaping must be done to maintain a natural environmental appearance. (12-26-90)

02. Mix. May be used in conjunction with fences and plant materials. (12-26-90)

204. -- 299. (RESERVED)

300. ADMINISTRATIVE HEARINGS.
Any person desiring an administrative hearing before the Idaho Transportation Board on any question involving this rule or any person desiring to appeal any administrative decision made by the Department of Transportation under this rule shall do so in accordance with the Department of Transportation's administrative procedure manual and as provided by law. (12-26-90)

301. -- 399. (RESERVED)

400. PENALTIES.
Any person violating the provisions of this regulation or operating a junkyard without a license or a dump without a permit as provided for herein, shall be subject to the penalties provided in Section 40-1926, Idaho Code. (12-26-90)

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Transportation Board adopts this rule under the authority of Section 40-312(1), Idaho Code, to meet the provisions of Sections 40-313(1) and 49-201(3), Idaho Code. (3-29-12)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.41, "Rules Governing Traffic Control Devices," IDAPA 39, Title 03, Chapter 41. (3-30-01)

02. Scope. It is the purpose of this rule to establish standards, guidance, *options,* and supporting information for the design, construction and implementation of traffic control devices. *( )*

002. – 003. (RESERVED)

004. INCORPORATION BY REFERENCE.
The "Manual on Uniform Traffic Control Devices for Streets and Highways" is published by the Federal Highway Administration of the U.S. Department of Transportation. The 2009 edition including revisions 1 and 2 of the Manual with an effective date of June 13, 2012, is hereby incorporated by reference and made a part of the Rules of the Idaho Transportation Department. The following conforming additions to the Manual are adopted by the Idaho Transportation Board: (4-4-13)

***01. Section 1A.10, Interpretations, Experimentations, Changes, and Interim Approvals**. On page 7, delete paragraphs 19 and 20. ( )*

02. Section 1A.11, Relation to Other Documents. *( )*

a. On page 7, *replace* paragraph *01* as follows:

01 To the extent that they are incorporated by specific reference, the latest editions of the following publications, or those editions specifically noted, shall be a part of this Manual: "Standard Highway Signs and Markings" book, the Idaho Transportation Department Supplement to the Standard Highway Signs and Markings book; and "Color Specifications for Retroreflective Sign and Pavement Marking Materials" (appendix to subpart F of Part 655 of Title 23 of the Code of Federal Regulations).

( )

b. *Add the following to the end of paragraph 04:*

43. "Standards and Procedures for Specific Service Signs," 20XX Edition (ITD)
44. "Standards and Procedures for Tourist Oriented Directional Signs (TODS) for Motorist Services Facilities Along the State Highway System Except Fully Controlled Access Highways," 20XX Edition (ITD)

( )

***03. Table 2B-1. Regulatory Sign and Plaque Sizes**. On page 46, remove R1-5b, "Stop Here for Peds," R1-5c, "Stop Here for Pedestrians," R1-6a, and R1-9a. ( )*

***04. Section 2B.11. Yield Here To Pedestrians Signs and Stop Here For Pedestrian Signs (R1-5 Series)**. On page 54 delete "and Stop Here For Pedestrian" from the title. Replace the Section with the following:*

Standard:
01 Yield Here To Pedestrians (R1-5, R1-5a) signs (see Figure 2B-2) shall be used if yield lines are used in advance of a marked crosswalk that crosses an uncontrolled multi-lane approach. The legend Stop Here For Pedestrians shall not be used.

Support:
02 Idaho law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.

Guidance:
03 If yield lines and Yield Here To Pedestrian signs are used in advance of a crosswalk that crosses an uncontrolled multi-lane approach, they should be placed 20 to 50 feet in advance of the nearest crosswalk line (see Section 3B.16 and Figure 3B-17), and parking should be prohibited in the area between the yield line and the crosswalk.

04 Yield lines and Yield Here To Pedestrian signs should not be used in advance of crosswalks that cross an approach to or departure from a roundabout.

Option:
05 Yield Here To Pedestrian signs may be used in advance of a crosswalk that crosses an uncontrolled multi-lane approach to indicate to road users where to yield even if yield lines are not used.

06 A Pedestrian Crossing (W11-2) warning sign may be placed overhead or may be post-mounted with a diagonal downward pointing arrow (W16-7P) plaque at the crosswalk location where Yield Here To Pedestrian signs have been installed in advance of the crosswalk.

07 The legend STATE LAW may be displayed at the top of the R1-5 and R1-5a signs.

Standard:
08 If a W11-2 sign has been post-mounted at the crosswalk location where a Yield Here To Pedestrians sign is used on the approach, the Yield Here To Pedestrian sign shall not be placed on the same post as or block the road user's view of the W11-2 sign.

Option:
09 An advance Pedestrian Crossing (W11-2) warning sign with an AHEAD or a distance supplemental plaque may be used in conjunction with a Yield Here To Pedestrians sign on the approach to the same crosswalk.

10 In-Street Pedestrian Crossing signs and Yield Here To Pedestrian signs may be used together at the same crosswalk.

( )

05. Section 2B.12, In-Street and Overhead Pedestrian Crossing Signs (R1-6, R1-6a, R1-9, and R1-9a). *( )*

a. *On page 55 delete R1-6a and R1-9a from the title. Replace paragraph 01 as follows:*

Option:
01 The In-Street Pedestrian Crossing (R1-6) sign (see Figure 2B-2) or the Overhead Pedestrian Crossing (R1-9) sign (see Figure 2B-2) may be used to remind road users of laws regarding right-of-way at an unsignalized pedestrian crosswalk. The legend STATE LAW may be displayed at the top of the R1-6 and R1-9 signs. On the R1-6 sign, the legend YIELD may be used instead of the YIELD sign symbol.

( )

b. *On page 56, replace paragraphs 08 and 09 and add paragraph 09a as follows:*

Standard:
08 The In-Street Pedestrian Crossing sign and the Overhead Pedestrian Crossing sign shall not be used at crosswalks on approaches controlled by a traffic control signal, pedestrian hybrid beacon, or an emergency vehicle hybrid beacon.

09 The legend STOP FOR PEDESTRIANS shall not be used on In-Street Pedestrian Crossing signs or Overhead Pedestrian Crossing signs.

Support:
09a Idaho law requires drivers to yield to a pedestrian in an uncontrolled crosswalk.

( )

c. *On page 56, add paragraph 11a as follows:*

11a The In-Street Pedestrian Crossing sign or the Overhead Pedestrian Crossing sign may be used at intersections or midblock pedestrian crossings with flashing beacons.

( )

d. *On page 56, replace paragraph 15 as follows:*

15 In-Street Pedestrian Crossing signs, Overhead Pedestrian Crossing signs, and Yield Here To Pedestrian signs may be used together at the same crosswalk.

( )

06. Figure 2B-2. Unsignalized Pedestrian Crosswalk Signs*. On page 55, delete signs R1-5b, R1-5C, R1-6a and R1-9a.* *( )*

07. Section 2B.69, SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS (R16-101) sign*. On page 102, add the following section:*

Support:
01 State law requires drivers approaching stationary police, emergency, tow truck, or highway incident response vehicles to slow on two-lane highways and to slow and move over on multi-lane highways.

Option:
02 The SLOW AND MOVE OVER FOR STOPPED VEHICLES WITH FLASHING LIGHTS (R16-101) sign (see Figure 2B-33) may be used to inform road users of the state law on multi-lane highways.

Standard:
03 If used, the SLOW AND MOVE OVER FOR STOPPED VHICLES WITH FLASHING LIGHTS sign shall only be used on highways with two or more lanes in each direction.

Option:
04 The legend STATE LAW may be displayed at the top of the SLOW AND MOVE OVER FOR STOPPED VHICLES WITH FLASHING LIGHTS sign.

Standard:
05 If used, the legend STATE LAW shall be black with a black border on a yellow background.

( )

08. Figure 2B-33. Slow and Move Over for Stopped Vehicles with Flashing Lights Sign*. On page 102, add the following figure:*

Figure 2B-33. Slow And Move Over For Stopped Vehicles With Flashing Lights Sign

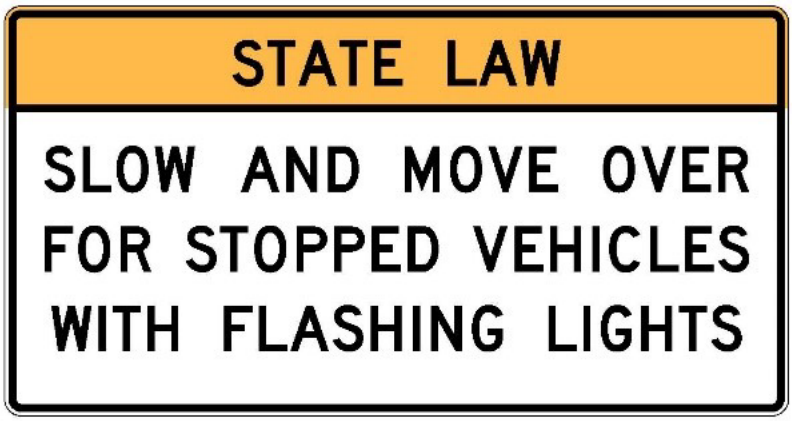

( )

09. Section 2B.70, CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) sign*. On page 102, add the following section:*

Standard:
01 CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES (R16-201) signs (see Figure 2B-34) shall be installed when mountain passes are determined to be unsafe by the Idaho Transportation Department. If used, two or more CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES signs shall be installed in advance of an area that has been provided for drivers to pull off of the highway to install chains on their tires (see Section 2I.07).

Support:
02 Commercial vehicles required to use chains include:
- *Vehicles with a combined weight in excess of 26,000 pounds including a trailer with a rating of more than 10,000 pounds*
- *Vehicles with weight in excess of 26,000 pounds*

03 Commercial vehicles exempt from chain requirements include:
- *Idaho Transportation Department vehicles used in the maintenance of the highway*
- *School busses or other vehicles used to transport school children and teachers*
- *Vehicles used by farmers to transport agricultural products, supplies, or farm equipment*
- *Mail carrier vehicles*
- *Motor carriers transporting forest products or chips*
- *Motor carriers transporting mining products including sand, gravel, and aggregates, but not petroleum products*
- *Tow trucks*

Standard:
04 The CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES signs shall be removed or covered when the condition no longer applies.

05 The CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES sign shall have a black legend and border on a white background.

Option:
06 The legend STATE LAW may be displayed at the top of the CHAINS REQUIRED ON NON-EXEMPT COMMERCIAL VEHICLES sign.

Standard:
07 If used, the legend STATE LAW shall be black with a black border on a yellow background.

( )

10. Figure 2B-34. Chains Required on Non-Exempt Commercial Vehicles Sign*. On page 102, add the following figure:*

Figure 2B-34. Chains Required On Non-Exempt Commercial Vehicles Sign

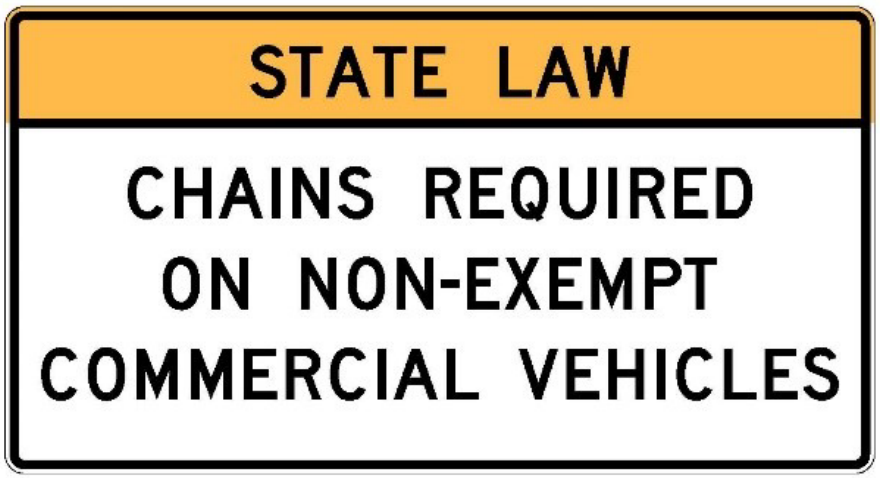

( )

11. **Section 2D.43, Street Name Signs (D3-1 or D3-1a).** (3-29-12)

a. On page 162, change the fifteenth paragraph under the Option statement to read as follows: The border may be omitted from a *S*treet *N*ame sign *except* on State Highway*s*. *( )*

12. Table 2E-1. Freeway or Expressway Guide Sign and Plaque Sizes*. On page 186, replace the first 16 lines of the table with the following:*

Sign or Plaque	Sign Designation	Section	Minimum Size
Exit Number (plaque)			
1-, 2-Digit Exit Number	E1-5P	2E.31	114 x 36
3-Digit Exit Number	E1-5P	2E.31	132 x 36
1-, 2-Digit Exit Number (with single letter suffix)	E1-5P	2E.31	138 x 36
3-Digit Exit Number (with single letter suffix)	E1-5P	2E.31	156 x 36
1-, 2-Digit Exit Number (with dual letter suffix)	E1-5P	2E.31	168 x 36
3-Digit Exit Number (with dual letter suffix)	E1-5P	2E.31	186 x 36
Left (plaque)	E1-5aP	2E.33	72x36
Left Exit Number (plaque)			
1-, 2-Digit Exit Number	E1-5bP	2E.31	114 x 60

Sign or Plaque	Sign Designation	Section	Minimum Size
3-Digit Exit Number	E1-5bP	2E.31	132 x 60
1-, 2-Digit Exit Number (with single letter suffix)	E1-5bP	2E.31	138 x 60
3-Digit Exit Number (with single letter suffix)	E1-5bP	2E.31	156 x 60
1-, 2-Digit Exit Number (with dual letter suffix)	E1-5bP	2E.31	168 x 60
3-Digit Exit Number (with dual letter suffix)	E1-5bP	2E.31	186 x 60

( )

13. **Section 2E.31, Interchange Exit Numbering**. On page 212, *substitute the following for* the fourth sentence *of paragraph 04*: "The exit number plaque (E1-5P) (see Figure 2E-22) shall be thirty-six (36) inches in height and shall include the word "EXIT" along with the appropriate exit number." *( )*

14. ***Section 2M.10, Memorial or Dedication Signing****. On page 339, replace the section with the following:*

Support:
01 Legislative bodies will occasionally adopt an act or resolution memorializing or dedicating a highway, bridge, or other component of the highway. State law identifies the following as memorial highways or bridges in Idaho:

- *Bennett Bay Bridge on I-90 as Veterans Memorial Centennial Bridge*
- *US-93 bridge over the Snake River as I B Perrine Bridge*
- *US-95 between Midvale and Cambridge as Stu Dopf Memorial Highway*
- *I-90 as the Purple Heart Trail*
- *SH-3 as North Idaho Medal of Honor Highway*
- *I-84 as Vietnam Veterans Memorial Highway*
- *US-20 as Idaho Medal of Honor Highway*

Guidance:
02 Except as provided in Paragraphs 03 and 04, memorial or dedication names should not appear on or along a highway, or be placed on bridges or other highway components. If a route, bridge, or highway component is officially designated as a memorial or dedication, and if notification of the memorial or dedication is to be made on the highway right-of-way, such notification should consist of installing a memorial or dedication marker in a rest area, scenic overlook, recreational area, or other appropriate location where parking is provided with the signing inconspicuously located relative to vehicle operations along the highway.

Option:
03 If the installation of a memorial or dedication marker off the main roadway is not practical, memorial or dedication signs may be installed on the mainline.

Guidance:
04 Except as provided in paragraphs 06 and 07, freeways and expressways should not be signed as memorial or dedicated highways.

Standard:
05 Where memorial or dedication signs are installed on the mainline, (1) memorial or dedication names shall not appear on directional guide signs, (2) memorial or dedication signs shall not interfere with the placement of any other necessary signing, and (3) memorial or dedication signs shall not compromise the safety or efficiency of traffic flow. Except as provided in paragraph 07, the memorial or dedication signing shall be limited to one sign at an appropriate location in each route direction, each as an independent sign installation. Sign location shall be determined by engineering judgement.

06 Memorial or dedication signs shall be installed for the Veterans Memorial Centennial Bridge, I B Perrine Bridge, and North Idaho Medal of Honor Highway.

07 The Purple Heart Trail, Vietnam Veterans Memorial Highway, and Idaho Medal of Honor Highway shall have memorial or dedication signs installed at each end of the highway and at intermediate locations along the highway.

Guidance:
08 Memorial or dedication signs should have a white legend and border on a brown background.

Standard:
09 Memorial or dedication signs shall be rectangular in shape. The legend displayed on memorial or dedication signs shall be limited to the name of the person or entity being recognized and a simple message preceding or following the name, such as "Dedicated to" or "Memorial Parkway." Additional legend, such as biographical information, shall not be displayed on memorial or dedication signs. Except as provided in paragraph 10, decorative or graphical elements, pictographs, logos, or symbols shall not be displayed on memorial or dedication signs. All letters and numerals displayed on memorial or dedication signs shall be as provided in the "Standard Highway Signs and Markings" book (see Section 1A.11). The route number or officially mapped name of the highway shall not be displayed on the memorial or dedication sign

10 The design of the Idaho Medal of Honor Highway sign shall include three different designs of the medal of honor.

Option:
11 The lettering for the name of the person or entity being recognized may be composed of a combination of lower-case letters with initial upper-case letters.

Standard:
12 Memorial or dedication names shall not appear on supplemental signs or on any other information sign on or along the highway or its intersecting routes.

Support:
13 Named highways are officially designated and shown on official maps and serve the purpose of providing route guidance, primarily on unnumbered highways. A highway designated as a memorial or dedication is not considered to be a named highway. Section 2D.53 contains provisions for the signing of named highways.

( )

***15. Section 2J.11, Signing Policy**. On page 319, add the following after paragraph 01:*

Support:
01a The Idaho Transportation Department's specific service signs policy can be found in "Standards and Procedures for Specific Service Signs" (see Section 1A.11).(X-XX-19)

( )

***16. Section 2K.07, State Policy**. On page 324, add the following after paragraph 02:*

Support:
03 The Idaho Transportation Department's tourist-oriented directional signing policy can be found in "Standards and Procedures for Tourist Oriented Directional Signs (TODS) for Motorist Services Facilities Along the State Highway System Except Fully Controlled Access Highways" (see Section 1A.11).

( )

17. **Section 4D.04, Meaning of Vehicular Signal Indications**. On page 451- in the second paragraph of Item C.1, substitute the following for the first sentence: "Except when a *traffic control device* is in place prohibiting a turn on red or a *steady* RED ARROW signal indication is displayed, vehicular traffic facing a steady CIRCULAR RED signal indication *is permitted to enter the intersection to* turn right or turn left from a one-way or two-way *street* into a one-way street, after stopping." *( )*

***18. Table 6F-1. Temporary Traffic Control Zone Sign and Plaque Sizes**. On page 578, remove R2-6aP, "Begin Higher Fines Zone," R2-6bP, "Fines Double (plaque)," and R2-10, "$XX Fine (plaque)." ( )*

***19. Figure 6F-3. Regulatory Signs and Plaques in Temporary Traffic Control Zones**. On page 584, remove figures R2-6aP, R2-6bP, and R2-10. ( )*

***20. Section 6B.12, Work Zone and Higher Fines Signs and Plaques**. On page 586, replace the section with the following:*

Standard:
01 Where increased fines are imposed for exceeding a reduced speed limit, a FINES HIGHER (R2-6P) plaque (see Figure 6F-3) shall be installed as a supplement to a Speed Limit (R2-1) sign to identify the beginning point of the higher fines zone.

Support:
02 Law enforcement can assess higher fines if signs indicate the TTC zone, the reduced speed limit, and notice of the enhanced penalty for exceeding the reduced speed limit.

Guidance:
03 If a FINES HIGHER plaque is used with a Speed Limit sign, an END HIGHER FINES ZONE (R2-11) sign (see Figure 6F-3) should be installed at the downstream end of the zone to notify road users of the termination of the increased fines zone.

Option:
04 Individual signs and plaques for TTC zone speed limits and higher fines may be combined into a single sign or may be displayed as an assembly of signs and plaques.

05 An END WORK ZONE SPEED LIMIT (R2-12) sign (see Figure 6F-3) may be installed at the downstream end of the reduced speed limit zone

06 A WORK ZONE (G20-5aP) plaque (see Figure 6F-3) may be installed above a Speed Limit sign to emphasize the speed limit in a TTC zone.

( )

***2*1. Table 7B-1. School Area Sign and Plaque Sizes**. On page 733, remove *R1-6a, "In-Street Ped Crossing," R1-6c, "In-Street Schoolchildren Crossing," and* S4-2P, "When Children Are Present." *( )*

22. **Figure 7B-1. School Area Signs**. On page 735, remove figure S4-2P. (3-29-12)

***23. Section 7B.11. School Advance Crossing assembly**. On page 736, delete "or R1-6a" from the first sentence of paragraph 05. ( )*

***24. Figure 7B-6. In-Street Signs in School Areas**. On page 741, delete signs R1-6a and R1-6c and remove "and R1-6a" from note 2.* *( )*

***25. Section 7B.12. School Crossing Assembly**.* *( )*

***a.** On page 741, replace paragraph 04 with the following:*

Option:
04 The In-Street Pedestrian Crossing (R1-6) sign (see Section 2B.12 and Figure 7B-6) or the In-Street Schoolchildren Crossing (R1-6b) sign (see Figure 7B-6) may be used at unsignalized school crossings. If used at a school crossing, a 12 x 4-inch SCHOOL (S4-3P) plaque (See Figure 7B-6) may be mounted above the sign. The STATE LAW legend on the R1-6 series signs may be omitted.

( )

***b.** On page 742, replace paragraphs 06 and 07 with the following:*

06 A 12-inch reduced size in-street School (S1-1) sign (See Figure 7B-6) may be used at an unsignalized school crossing instead of the In-Street Pedestrian Crossing (R1-6) or the In-Street Schoolchildren Crossing (R1-6b) sign. A 12 x 6-inch reduced size diagonal downward pointing arrow (W16-7P) plaque may be mounted below the reduced size in-street School (S1-1) sign.

Standard:
07 If an In-Street Pedestrian Crossing sign, an In-Street Schoolchildren Crossing sign, or a reduced size in-street School (S1-1) sign is placed in the roadway, the sign support shall comply with the mounting height and special mounting support requirements for In-Street Pedestrian Crossing (R1-6) signs (see Section 2B.12).

( )

2*6*. Section 7B.15. School Speed Limit Assembly (S4-1P, S4-2P, S4-3P, S4-4P, S4-6P, S5-1). (3-29-12)

a. On page 742, remove S4-2P in the title; and (3-29-12)

b. On page 743, in paragraph *09,* remove the S4-2P. *( )*

005. AVAILABILITY OF THE "MANUAL ON UNIFORM TRAFFIC CONTROL DEVICES FOR STREETS AND HIGHWAYS *AND OTHER REFERENCED DOCUMENTS*."

0*1*. *Review* of *Documents*. The Manual with an effective date of June 13, 2012, may be viewed and printed from the Federal Highway Administration website at http://mutcd.fhwa.dot.gov. *Other referenced documents may be reviewed at the Idaho Transportation Department central office or district offices. Office locations can be found at* https://itd.idaho.gov. *( )*

***006*. -- 999. (RESERVED)**

000. LEGAL AUTHORITY.
The Idaho Transportation Board adopts this rule under the authority of Sections 40-310, and 40-312, and per the requirements of Sections 40-311, 40-313, 49-202(19), (23) and (28), and 49-221, Idaho Code. (3-27-13)

001. TITLE AND SCOPE.

01. Title. This rule shall be known as IDAPA 39.03.42, "Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way," IDAPA 39, Title 03, Chapter 42. (3-30-01)

02. Scope. It is the purpose of this rule to establish standards and guidelines for encroachments on state highway rights-of-way. (3-30-01)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Shall/Will, Should, May. The use of "shall" or "will," "should," and "may" denote the following conditions: (3-30-01)

a. Shall/Will. A mandatory condition or requirement. (3-27-13)

b. Should. An advisory or recommended condition, or usage, but not mandatory. (3-27-13)

c. May. A permissive condition. No requirement is mandated. (3-27-13)

02. Access. The ability to enter or leave a public highway or highway right-of-way from an abutting private property or another public highway or public highway right-of-way. (3-27-13)

03. ADT. Average Daily Traffic. The total volume of traffic during a given time period in whole days greater than one (1) day and less than one (1) year divided by the number of days within that time period. (3-30-01)

04. Applicant. Agency, owner, or an authorized representative of the property owner, or utility facility applying for a permit to encroach within state highway rights-of-way. (3-27-13)

05. Appraisal. A written statement independently and impartially prepared by a qualified appraiser setting forth an opinion of monetary value for a specific property based on a specific use, as of a specific date, supported by the presentation and analysis of relevant market information. (3-27-13)

06. Approach. A connection between the outside edge of the shoulder or curb line and the abutting property at the highway right-of-way line, intended to provide access to and from said highway and the abutting property. An approach may include a driveway, alley, street, road or highway. (3-30-01)

07. Approach Flare. The approved radius connecting the edge of the approach to the edge of the highway. The term "approach radius" is interchangeable with "approach flare." (3-30-01)

08. Approach Transition. The area from the edge of an urban approach sloped to match the curb and border area elevations. The term "approach apron" is interchangeable with "approach transition." (3-30-01)

09. Approach Skew Angle. For all approaches, the angle of deflection between a line perpendicular to the highway centerline and the approach centerline. (3-30-01)

10. Approach Width. The distance between the outside edges of the approach measured perpendicular to the approach centerline along the curb line or the edge of pavement, excluding flares, transitions and radii. (3-30-01)

11. Authorized Representative. Any applicant, other than the property owner, having notarized written verification signed by the owner giving authorization to act on the owner's behalf. (3-27-13)

12. Auxiliary Lane. The portion of the roadway adjoining the traveled way used for speed change, turning, storage for turning, weaving, truck climbing, and other purposes supplementary to through-traffic movement. (3-30-01)

13. **Board**. The Idaho Transportation Board, as established by Title 40, Chapter 3, Idaho Code. (3-30-01)

14. **Border Area**. The area between the outside edge of the shoulder or back of curb and the highway right-of way line. (3-30-01)

15. **Boulevard Approach**. A two-way approach intended for high ADT volumes of large commercial vehicles, having a maximum width of eighty-four (84) feet in which opposing traffic is separated by a raised four (4) foot wide non-traversible median. (3-27-13)

16. **Capacity**. The maximum number of vehicles that can reasonably be expected to travel along a lane of a highway during a given time period under prevailing roadway and traffic conditions. (3-30-01)

17. **Clear Zone**. An area outside the traveled way, auxiliary lanes and shoulders that is constructed and maintained as free from physical obstructions as practical, for use as a recovery area by errant vehicles. (3-30-01)

18. **Commercial Approach**. An approach serving a business or businesses. (3-30-01)

19. **Conduit**. A tube or trough for receiving and protecting utility-related structures including, but not limited to, electrical wires, fiber optic cable, and fluids. (3-27-13)

20. **Construction**. The building of new facilities or the modifification of existing facilities. Does not include maintenance. (3-27-13)

21. **Corner Clearance**. The distance along the curb line or outside edge of the shoulder measured from the beginning or end of the intersecting roadway flare to the nearest edge of the adjacent approach, excluding flares or transitions. (3-30-01)

22. **Department**. The Idaho Transportation Department (ITD). (3-30-01)

23. **Distance Between Approaches**. The distance measured along the curb line or outside edge of the shoulder between the nearest edges of adjacent approaches, excluding the flares, transitions or radii. (3-30-01)

24. **District**. An administrative and maintenance subdivision of the Idaho Transportation Department encompassing a particular geographical region of the state of Idaho, per Section 40-303, Idaho Code. (3-27-13)

25. **District Engineer**. The administrator of an Idaho Transportation Department administrative district, or a delegated representative. (3-30-01)

26. **District Route**. A state highway that accommodates trips of limited mobility and provides high levels of access to communities, to include distributing trips to geographical areas and serving major commercial and industrial districts. District routes may provide intra-community continuity and connection, to include local bus routes, but should not be used to provide direct access to residential lots. (3-27-13)

27. **Economic Opportunity**. Facilitate the increase in Idaho Gross Domestic Product, job creation, increased business, revenue; improve the efficiency in which goods are transported; and reduction in travel times for commuting, commerce, recreation, and tourism. (3-27-13)

28. **Emergency**. Any unscheduled work required to correct or prevent a hazardous situation that poses an imminent threat to life or property. (3-30-01)

29. **Encroachment**. Any authorized or unauthorized use of highway right-of-way or the air space immediately above the highway right-of-way. (3-27-13)

30. **Encroachment Permit**. Written authorization from the Department to use state highway right-of-way or the airspace above it under the conditions set forth in the permit. (3-27-13)

31. **Expressway**. A segment of a highway designated by the Idaho Transportation Board for use as a through highway, with partially controlled access, accessible only at locations specified by the Idaho Transportation Department, and characterized by medians, limited at-grade intersections, and high speeds. An existing segment of state highway may only be designated as an expressway if payment is made to adjacent property owners for the restriction of existing access rights. (3-27-13)

32. **Farming**. Any activity associated with crops, including seed. (3-30-01)

33. **FHWA**. The Federal Highway Administration, a division of the U. S. Department of Transportation. (3-30-01)

34. **Fiber Optic Cable**. A cable containing one (1) or more glass or plastic fibers that has the ability to transmit light along its axis. (3-30-01)

35. **Field Approach**. An approach that serves only non-residential agricultural property, including farmyards. (3-30-01)

36. **Flare Tangent Distance**. The distance of the approach radius measured along the edge of pavement. (3-30-01)

37. **Freeway**. A segment of a highway designated by the Idaho Transportation Board for use as a through highway, with fully controlled access, accessible only by interchanges (ramps), and characterized by medians, grade separations at cross roads, and ramp connections for entrance to and exit from the traveled way. An existing non-Interstate segment of state highway may only be designated as a freeway if payment is made to adjacent property owners for the restriction of existing access rights. (3-27-13)

38. **Frontage Road**. A road auxiliary to and located to the side of the highway for service to abutting properties and adjacent areas for the purpose of controlling access to the highway. (3-30-01)

39. **Frontage Boundary Line**. A line perpendicular to the highway centerline that begins at the point of intersection of the abutting property line and the highway right-of-way line. (3-30-01)

40. **Full Control of Access**. Any section of a highway system where access is prohibited except for interchange connections. (3-30-01)

41. **Government Agency**. As used in these rules, the term includes federal, state, county, city, or local highway jurisdictions. (3-27-13)

42. **Highway Right-of-Way**. Property used for highway purposes, open to the public, and under the jurisdiction of a government agency. Such property may be owned by the government agency in fee simple or be subject to an easement for highway purposes. (3-27-13)

43. **Imminent Threat**. Includes major traffic control deficiencies or safety situations that are likely to result in serious injury or loss of life. (3-30-01)

44. **Interstate Highway**. As identified by federal code, a segment of the Dwight D. Eisenhower National System of Interstate and Defense Highways consisting of an FHWA-approved freeway. (3-27-13)

45. **Joint-Use Approach**. An approach constructed at a common boundary between adjacent properties that abut the highway. A joint-use approach is equally owned and shared as common access by both property owners. (3-30-01)

46. **Landscaping**. Any action taken to change the features or appearance of the highway right-of-way or abutting property with plants, soil, rock and related material. (3-30-01)

47. Loaded Payroll Rate. A rate of compensation that includes hourly wages plus the associated employer overhead and benefit costs. (3-27-13)

48. Local Highway Agency. Any city, county, highway district or other local board or body having authority to enact regulations, resolutions, or ordinances relating to traffic on the highways, highway rights-of-way and streets within their respective jurisdiction. (3-30-01)

49. Local Road. A city, county or highway district highway whose primary function is to provide access to adjacent properties. (3-30-01)

50. Median. The portion of a divided highway or approach that separates opposing traveled ways. Medians may be raised, flush, or depressed relative to the roadway surface, and may be landscaped or paved. (3-30-01)

51. Median Opening. A paved area bisecting opposite directions of a divided roadway that is designed to permit traffic to cross at least one (1) direction of travel. (3-30-01)

52. MUTCD. The Manual on Uniform Traffic Control Devices for Streets and Highways, latest edition, as adopted by the Idaho Transportation Board in accordance with Section 49-201(3), Idaho Code. A manual written by the Federal Highway Administration that sets national minimum standards for signing, striping, and traffic control devices. (3-30-01)

53. Non-Standard Approach. Any approach that does not meet Department standards. (3-30-01)

54. Performance Bond. A statutory bond, issued by a surety company authorized to do business in the state of Idaho, that guarantees performance of work in accordance with permit requirements. (3-30-01)

55. Permittee. Person or persons, utility facilities, and other agencies granted permission to encroach within the highway right-of-way for authorized purposes other than normal travel. (3-30-01)

56. Private Approach. Every privately owned traveled way that is used for ingress to and egress from the highway right-of-way and an abutting property. (3-30-01)

57. Property Line Clearance. The distance measured along the curb line or outside shoulder edge from the frontage boundary line to the nearest edge of the approach width, excluding flares, transitions and radii. (3-30-01)

58. Public Approach. Any approach that serves the public without restriction and is maintained by a government agency. (3-27-13)

59. Public Highway. Any highway open to public use and maintained by a government agency. (3-27-13)

60. Public Highway Agency. The state transportation department, any city, county, highway district, or any other state agency, or any federal or Indian reservation, which has jurisdiction over public highway systems and highway rights-of-way. (3-30-01)

61. Regional Route. A state highway that accommodates trips of moderate length with a lower level of mobility than a Statewide Route and that provides moderate access to communities, to include providing mobility for people and freight through and between communities and major activity centers of the region. (3-27-13)

62. Roadside. Any area beyond the main traveled way that may or may not be within the highway right-of-way. (3-30-01)

63. Roadway. That portion of a highway improved, designed, or ordinarily used for vehicular travel, exclusive of sidewalks, shoulders, berms and other portions of the rights-of-way. (3-30-01)

64. **Rural**. State highway rights-of-way and right-of-way corridors outside the limits of Urban and Transitional areas. (3-27-13)

65. **Setback**. The horizontal distance between the highway right-of-way line and permanent fixtures, including but not limited to gas pump islands, signs, display stands and buildings, measured at right angles to the highway centerline. (3-30-01)

66. **Shoulder**. The portion of the right-of-way contiguous with the traveled way that accommodates stopped vehicles, emergency use, and lateral support of the sub-base, base, and surface courses. (3-27-13)

67. **Signal Spacing**. The distance between signalized intersections measured from the center of intersection to the center of intersection. (3-30-01)

68. **Slope**. Slope is expressed as a non-dimensional ratio between vertical and horizontal distance. For side slopes, the vertical component is shown first, then the horizontal. (3-30-01)

69. **Speed**. The rate of vehicular travel as measured in miles per hour. All speeds used in this document shall be the eighty-fifth percentile speed as determined by an engineering study. (3-27-13)

70. **State Highway System**. The principal highway corridors in the state, including connections and extensions through cities and roads to every county seat in the state, as approved by the Idaho Transportation Board and officially designated as a state highway. (3-30-01)

71. **Statewide Route**. A state highway that provides the highest level of mobility and speeds over long distances. Access from a statewide route to communities and major activity centers should be by way of public roads with spacing that supports mobility and speed. (3-27-13)

72. **Stopping Sight Distance**. The sum of: (3-27-13)

a. The brake reaction distance, which is the distance traveled by the vehicle from the instant the driver perceives an object necessitating a stop, to the moment the brakes are applied; and (3-27-13)

b. The braking distance, which is the distance the vehicle travels from the moment the brakes are applied until the vehicle comes to a complete stop. (3-27-13)

73. **Structure**. Includes, but is not limited to, bridges, culverts, siphons, headwalls, retaining walls, buildings and any incidental construction not otherwise defined herein. (3-27-13)

74. **Subdivision**. A division of real property into three (3) or more separately platted parcels. (3-30-01)

75. **Temporary Encroachment**. Any encroachment that is not approved as a permanent placement within the highway right-of-way. (3-30-01)

76. **Traffic**. Pedestrians, bicycles, animals, vehicles, streetcars, buses and other conveyances, either singly or together, that use the highway right-of-way for the purpose of travel. (3-30-01)

77. **Traffic Control Device**. Any marking or device whether manually, electronically, or mechanically operated, placed or erected by an authority of a government agency or official having jurisdiction, for the purpose of regulating, warning or guiding traffic. (3-27-13)

78. **Traffic Impact Study**. A comprehensive analysis of the anticipated transportation network conditions with and without an applicant's proposed new or modified access, including an analysis of mitigation measures. (3-27-13)

79. **Transitional**. State highway rights-of-way and right-of-way corridors within the area of city impact of any incorporated city, or areas designated as an area of city impact by city or county comprehensive plans. (3-27-13)

80. **Traveled Way**. The portion of the roadway for the movement of vehicles, exclusive of shoulders. (3-30-01)

81. **Travel Lane**. That portion of the traveled way designated for use by a single line of vehicles. (3-30-01)

82. **Trenching**. A method in which access is gained by excavation from ground level to the required underground depth for the installation, maintenance, removal, or inspection of a cable, casing, conduit or pipe. The excavation is then back filled with approved material and the surface is then returned to a condition specified by the Department. (3-27-13)

83. **Turnouts**. Roadside areas immediately adjacent to highways which may be utilized by vehicles for purposes of short-term parking or turning. They are extensions of the traveled way. (3-27-13)

84. **Unauthorized Encroachment**. Any encroachment that has been placed, modified, or maintained, or removed within the highway right-of-way without authorization by the Department. (3-27-13)

85. **Urban**. State highway rights-of-way and right-of-way corridors within the limits of any incorporated city. (3-27-13)

86. **Utility Facility**. All privately, publicly or cooperatively owned systems used for the production, transmission, or distribution of communications, cable television, power, electricity, light, heat, petroleum products, ore, water, steam, waste, irrigation, storm water not connected with highway drainage, and other similar items, including communication towers, guy wires, fire and police signal systems, and street lighting systems, that directly or indirectly serve the public or comprise part of the distribution systems which directly or indirectly serve the public. (3-30-01)

87. **Utility Locating Service**. Any locally or regionally recognized service that locates and maintains records of existing utility facilities. (3-30-01)

88. **Vehicle**. Every device in, upon, or by which any person or property is or may be transported or drawn upon a highway, excepting devices used exclusively upon rails or tracks. (3-30-01)

89. **Vision Triangle**. An area delineated by extending perpendicular lines along the face of curb or edge of pavement from their point of intersection forty (40) feet in either direction and by a height between three (3) feet and ten (10) feet above the existing centerline highway elevation. (3-27-13)

90. **Volume**. The number of vehicles estimated to use a certain type of travel lane during a twelve-month period. A highway with "high" volumes is at or near capacity; a highway with "medium" volumes is at or near fifty percent (50%) of capacity. (3-27-13)

91. **Warrant**. An evaluation of need based on an engineering study. (3-30-01)

92. **Working Day**. Any day except for Saturday, Sunday and any holiday as defined in Section 67-5302(15), Idaho Code. (3-27-13)

011. -- 099. (RESERVED)

100. GENERAL.

01. **Access Control**. (3-30-01)

a. The Department shall retain the authority to issue all encroachment permits on the State Highway System. (3-27-13)

b. No change may be made to the control of access on any Interstate Highway without the approval of

the Idaho Transportation Board and FHWA. (3-27-13)

02. Safety Requirements. (3-30-01)

a. It is the permittee's responsibility to provide for safe, efficient passage and protection of vehicles, pedestrians, and workers during any permitted work within the highway right-of-way. (3-30-01)

b. The permittee shall submit, for Department approval, a traffic control plan for the installation, maintenance, or removal of any state highway right-of-way encroachment. The permittee shall provide advance notification to the Department prior to implementing any traffic control. (3-30-01)

c. During the progress of the work, barricades, signs and other traffic control devices shall be erected and maintained by the permittee in conformance with the current "Manual on Uniform Traffic Control Devices." The permittee shall be required to meet the minimum requirements of the latest edition of the Manual on Uniform Traffic Control Devices (MUTCD), as adopted by the Department. (3-30-01)

d. All flaggers working on the State Highway System shall be certified in or recognized by the state of Idaho. They shall carry on their person a current flagger identification card that is recognized by the state of Idaho. All traffic control devices used on the State Highway System shall comply with current FHWA crash criteria. (3-30-01)

e. When required, a striping plan for the placement of temporary and permanent pavement markings shall accompany the approved permit to use the right-of-way. Materials, placement, and removal of all pavement markings shall conform to current Department specifications and standards. (3-30-01)

03. Maintenance of Encroachments. Once an encroachment has been constructed by the permittee to Department standards, maintenance of the encroachment, unless otherwise provided, shall be as follows: (3-30-01)

a. Paved public approach - State maintains to the right-of-way line. (12-26-90)

b. Paved private approach - State maintains to end of radii, permittee maintains beyond the radii. (12-26-90)

c. Gravel public approach. State installs an asphalt wedge sufficient to protect the roadway pavement edge (three (3) to six (6) feet back from the edge of road for the width of the approach). It is desirable to pave the approach to the right-of-way line when the road is reconstructed. State maintains to the right-of-way line. (3-30-01)

d. Gravel private approach. The permittee maintains beyond the wedge. (3-30-01)

e. Gravel turnouts. State maintains turnouts, other than mailbox turnouts, to the right-of-way line. The permittee maintains mailbox turnouts. (3-30-01)

f. Maintenance of all other encroachments shall be the responsibility of the permittee. (3-30-01)

101. -- 199. (RESERVED)

200. APPLICATIONS AND PERMITS.

01. Required. To help preserve the highways as constructed and provide responsible growth where allowed, any individual, business, or other entity planning to add, modify, change use, relocate, maintain, or remove an encroachment on the state highway or use highway right-of-way for any purpose other than normal travel, shall obtain a permit to use state highway right-of-way. Encroachment permits approved by the Department are required for private and public approaches (driveways and streets), utilities and other miscellaneous encroachments. (3-27-13)

02. Work Prior to Approval. No activities shall be allowed on State highway rights-of-way until an approved permit has been issued by the Department or a delegated local highway agency. In an emergency, that effects highway operations and motorist safety, approval may be given by the Department or a delegated highway

agency in advance of processing the permit. (3-30-01)

03. Local Highway Agency Authority. The department may delegate authority to a local highway agency to issue permits to use state highway rights-of-way if adequate local ordinances are in place and are enforceable. The Department shall retain final approval for all permits issued by a local highway agency on the State Highway System. (3-15-02)

04. Administration. Permitting process shall be administered by the Department or their delegated representative, within the representative's respective jurisdiction. Department District offices are located in Coeur d'Alene, Lewiston, Boise, Shoshone, Pocatello and Rigby.
(3-27-13)

05. Application Forms. All applications to use State highway right-of-way shall be made on approved Department forms. (3-30-01)

06. Applicant to Be Informed. Applicants shall be informed of Department policies and regulations concerning encroachments. (3-27-13)

07. Payment for Impacted Highway Features. Applicants shall pay for any changes or adjustments of highway features or fixtures brought about by actions, operations or requirements caused by the applicant.
(3-27-13)

08. Encroachment Conflicts. Conflicts between proposed encroachments and highway maintenance or construction projects, utilities or other encroachments shall be resolved before an application is approved.
(3-27-13)

09. Review Process. The review process shall commence on the day the applicant submits the signed application and makes payment of the initial application fee(s). If the Department determines there is insufficient documentation to process the application, the process will be placed on hold until such documentation has been received. All applications for encroachment permits shall be reviewed and evaluated for current access control requirements, deed restrictions, safety and capacity requirements, design and location standards, or an approved variance of these standards, environmental impacts, location conflicts, long-range planning goals, and the need for an appraisal. A time table for the review process is available at the Idaho Transportation Department Headquarters Office or any District Office. (3-27-13)

10. Department Held Harmless. In accepting an approved permit, the permittee, their successors and assigns, shall agree to hold harmless and defend, regardless of outcome, the state from the expenses of and against all suits or claims, including costs, expenses and attorney fees that may be incurred by reason of any act or omission, neglect or misconduct of the permittee or its contractor in the design, construction, maintenance or operation of the encroachment. (3-30-01)

11. Permit Requirements. All permits shall specify approach location and use, and be accompanied by approved traffic control plans, design details and specifications that address dust control, site reclamation, environmental protection and work site safety. The applicant shall be required to submit construction plans stamped by an engineer licensed in the state of Idaho to the Department for approval. (3-27-13)

12. Void Application. Once an application is submitted, if the permitting process is not completed within one (1) year as a result of inactivity on the applicant's part, the application shall be considered void. (3-30-01)

13. Denial of Application. Applications for encroachments not allowed shall be verbally denied. If the applicant insists on proceeding with the application, the non-refundable fee shall be accepted and a permit denial issued by certified letter. Upon receipt of the denial letter, the applicant can appeal the Department's action.(3-30-01)

201. PERMIT COMPLIANCE AND EXPIRATION.

01. Permitted Work. If work does not begin immediately, the permittee shall notify the Department or local highway agency five (5) working days prior to commencing such work. Local highway agency shall promptly

notify the Department, when applicable. (3-30-01)

02. Work Site Documents. The permittee or contractor for the permittee, shall maintain a copy of the approved permit, all special provisions and any related documents, at the work site while work is in progress. (3-30-01)

03. Completion of Work. All permitted work shall be completed and available for final inspection within thirty (30) days after construction begins, unless otherwise stated in the special provisions of the permit. If the permitted work is not completed within one (1) year of permit issuance, the permit shall be considered void. At the discretion of the Department, a one-time extension not to exceed six (6) months may be granted if requested in writing by the permittee prior to permit expiration. New applications shall be required for additional work following permit expiration. (3-30-01)

04. Temporary Encroachments. Temporary encroachment permits shall have an effective time period not to exceed one (1) calendar year and shall be removed within ten (10) days following permit expiration. (3-30-01)

202. -- 299. (RESERVED)

300. GENERAL REGULATIONS FOR APPROACHES.

01. Required. All new or additional approaches, or the modification in design or use, relocation or removal of existing approaches require an approved State highway right-of-way use permit and shall meet all access control requirements that correspond to the state highway being affected. (3-27-13)

02. General. Requests for approaches shall be reviewed and considered for approval based on the needs of the total development, regardless of the number of individual parcels it contains. (3-30-01)

03. Joint-Use Approach. Only an owner of property abutting the state highway right-of-way, or their designated representative, can apply for access. Applications for a joint-use approach that serves two (2) or more abutting properties sharing common boundary lines shall be accompanied by a legal recorded joint-use access agreement and shall be signed by all deeded owners or authorized representatives. (3-30-01)

04. Applicable Standards. The location, design, and construction of all approaches shall comply with Department standards. Information regarding applicable standards is available at Department headquarters and all District offices listed in Subsection 003.01. (3-30-01)

05. Approach Locations. Approaches shall be located where the highway alignment and profile meet approved geometric standards, where they do not create undue interference with or hazard to the free movement of normal highway or pedestrian traffic, and where they do not restrict or interfere with the placement or proper function of traffic control signs, signals, lighting or other devices. (3-30-01)

06. Denial of Approach Application. Failure to comply with these requirements may be sufficient cause for the Department to deny an approach application, prohibit specific approach usage, or remove an existing approach. (3-30-01)

07. New Approaches in Highway Construction. Applications for an encroachment located within a state highway construction project shall be processed by the Department. (3-27-13)

08. Modification of Approaches by Department. The Department reserves the right to make any modifications, additions, repairs, relocations, or removals to any approach or its appurtenances within the highway right-of-way, when necessary for maintenance, rehabilitation, reconstruction or relocation of the highway and/or to provide proper protection of life and property on, or adjacent to, the highway. (3-30-01)

09. Modification of Approaches by Permittee. Modifications of approach use, construction, or design shall include but not be limited to width, grade, surface type, landscaping, and drainage. Such modifications by the permittee require Department approval. (3-27-13)

301. -- 399. (RESERVED)

400. LOCATION AND DESIGN STANDARDS FOR APPROACHES.

01. Required. Location, design, construction and operations of all approaches shall comply with current Department geometric standards and design principles. (3-30-01)

02. Guidelines. The following access management guidelines shall be considered on all approach applications: (3-30-01)

a. Design approaches for current and future property access requirements; and (3-30-01)

b. Reduce conflicts associated access points through the application of channelization, auxiliary lanes, joint-use approaches, frontage and other local roads, restricted on-street parking and off-street traffic circulation. (3-30-01)

03. Signal and Approach Spacing. In order to maintain system capacity, safety and efficiency, maximize signal progression and minimize delays to the traveling public, all approaches and signals shall be spaced in accordance with the following standards: (3-27-13)

a. All traffic signal locations shall meet Department signal warrant requirements and a signal operational analysis; (3-30-01)

b. Location preference shall be given to State highways that meet or may be reasonably expected to meet signal warrants within five (5) years; and (3-30-01)

c. Minimum recommended distances between approaches and signals are as follows:

TABLE 1 – ACCESS SPACING*

HIGHWAY TYPE	AREA TYPE	Signalized Road Spacing	Public Road Spacing (A)	Driveway Distance Upstream From Public Road Intersection (B)	Driveway Distance Downstream From Unsignalized Public Road Intersection (C)	Distance Between Unsignalized Accesses Other Than Public Roads (D)
Interstate	All	Accessible only by interchanges (ramps) and requires approval by the Board and Federal Highway Administration.				
Freeway	All	Accessible only by interchanges (ramps).				
Expressway	All	Accessible only at locations specified by the Department.				
Statewide Route	Rural	5,280 ft	5,280 ft	1,000 ft	650 ft	650 ft
	Transitional	5,280 ft	2,640 ft	760 ft	500 ft	500 ft
	Urban >35 mph	2,640 ft	1,320 ft	790 ft	500 ft	500 ft
	Urban ≤35 mph	2,640 ft	1,320 ft	790 ft	250 ft**	250 ft**

TABLE 1 – ACCESS SPACING*						
HIGHWAY TYPE	**AREA TYPE**	**Signalized Road Spacing**	**Public Road Spacing (A)**	**Driveway Distance Upstream From Public Road Intersection (B)**	**Driveway Distance Downstream From Unsignalized Public Road Intersection (C)**	**Distance Between Unsignalized Accesses Other Than Public Roads (D)**
Regional Route	Rural	5,280 ft	2,640 ft	1,000 ft	650 ft	650 ft
	Transitional	2,640 ft	1,320 ft	690 ft	360 ft**	360 ft**
	Urban >35 mph	2,640 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban ≤35 mph	2,640 ft	660 ft	660 ft	250 ft**	250 ft**
District Route	Rural	2,640 ft	1,320 ft	760 ft	500 ft	500 ft
	Transitional	2,640 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban >35 mph	1,320 ft	660 ft	660 ft	360 ft**	360 ft**
	Urban ≤35 mph	1,320 ft	660 ft	660 ft	250 ft**	250 ft**
*Distances in table are minimums based on optimal operational and safety conditions such as adequate sight distance and level grade. Definitions of spacing designated by (A), (B), (C), and (D) are represented on Figure 1.						
** Where the public road intersection or private access intersection is signalized, the distances in the table are for driveways restricted to right-in/right-out movements only. For unrestricted driveways the minimum distance shall be 500 feet from a signalized intersection.						

(3-27-13)

Figure 1:

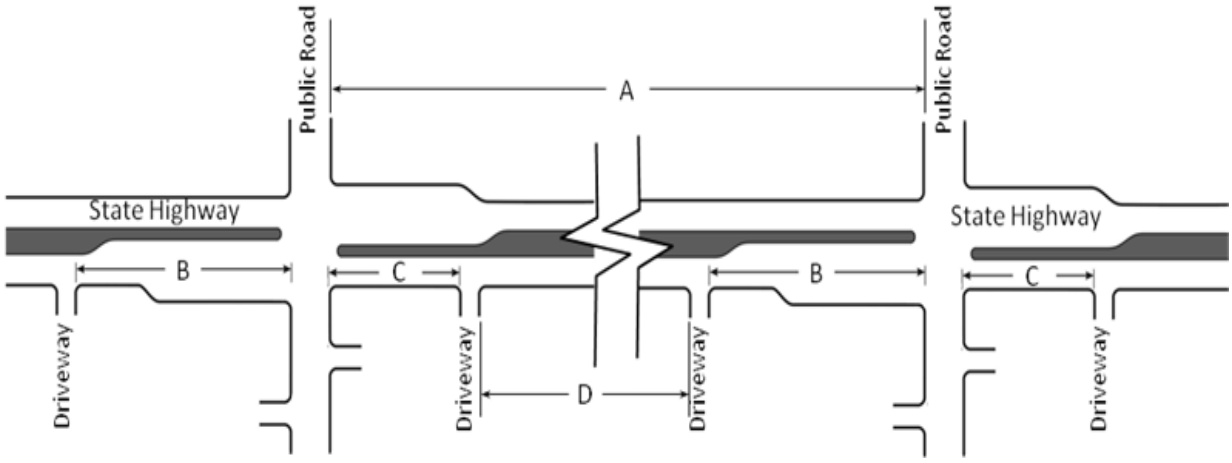

(3-27-13)

d. The District Engineer shall have the authority to deny an encroachment permit or require the applicant to provide a Traffic Impact Study when an on-site review indicates that the optimal conditions (such as sight

distance and queue length) assumed in Table 1 do not exist, and that operational or safety problems may result from the encroachment spacing. (3-27-13)

e. The District Engineer shall have the authority to approve a decrease in the minimum access spacing distances set forth in Table 1, provided that the basis for any exception is justified and documented. The basis for the exception may include overriding economic opportunity considerations. For any exception that would result in a decrease in access spacing of more than ten percent (10%) of the distances set forth in Table 1, a Traffic Impact Study will be required in order to determine whether auxiliary lanes or other appropriate mitigation must be included in the permit's conditions. (3-27-13)

f. Unless the requirement is waived by the District Engineer, a Traffic Impact Study shall also be required when a new or expanded development seeks direct access to a state highway, and at full build out will generate one hundred (100) or more new trips during the peak hour, the new volume of trips will equal or exceed one thousand (1000) vehicles per day, or the new vehicle volume will result from development that equals or exceeds the threshold values in Table 2. If the District Engineer waives the requirement for a Traffic Impact Study, the basis for such waiver shall be justified and documented. (3-27-13)

g. When required, the Traffic Impact Study shall document access needs and impacts and whether any highway modifications are necessary to accommodate the new traffic volumes generated by the development. Such modifications could include, for example, turn lanes, additional through lanes, acceleration or deceleration lanes, medians, traffic signals, removal and/or consolidation of existing approaches, approaches limited to right-in/right-out access only, etc. (3-27-13)

h. If a District Engineer denies an encroachment permit application and the denial is appealed to the board, the board or its delegate shall have the authority to approve exceptions to the access and signal spacing distances in Table 1 if, in the judgment of the board, overriding economic considerations cause the exceptions to be in the best interests of the public. (3-27-13)

Table 2

LAND USE TYPE	THRESHOLD VALUE
Residential	100 Dwelling Units
Retail	35,000 square feet
Office	50,000 square feet
Industrial	70,000 square feet
Lodging	100 rooms
School (K-12)	All (Sections 67-6508 & 67-6519, Idaho Code)

(3-27-13)

04. Corner Clearance. (3-30-01)

a. Approaches should be located as far as practical from intersections: to preserve visibility at the intersection, to permit safe vehicle movement, and to accommodate the installation of traffic signs, signals and lighting where required. (3-30-01)

b. Approach transitions or flares shall not encroach upon curbs or pavement edges forming the corner radii of the intersection. (3-30-01)

c. Minimum corner clearances between signalized and unsignalized urban and rural intersections shall comply with current Department standards. (3-30-01)

05. Approach Alignment. Whenever possible, all new or relocated approaches shall intersect the state highway at right angles and shall be aligned on centerline with existing approaches to facilitate highway safety and the development and use of turn lanes and/or signals. Approach skew angles shall be in conformance with current Department standards. (3-30-01)

06. Width and Radius. (3-30-01)

a. An approach shall be wide enough to properly serve the anticipated type and volume of traffic. Minimum widths should be used only when space limitations apply. (3-30-01)

b. An approach that is adjacent to a public alley may include the alley as part of the approach if approved by the local jurisdiction, however, the width of the combined approach shall not exceed forty (40) feet. (3-27-13)

c. Commercial approaches with volumes exceeding fifty (50) vehicles per hour during a total of any four (4) hours per day should be designed to public road standards. (3-30-01)

d. A Boulevard Approach may be required to improve operation and/or aesthetics of commercial approaches and some public highways, when warranted, by a combination of vehicle length and higher traffic volumes. The approach shall be designed to serve the traffic with a right-turn lane, a left-turn lane, a median, and one (1) or more entrance lanes. (3-30-01)

e. Minimum and maximum recommended approach widths and radii are as follows:

APPROACH USE	< 35 MPH		≥ 35 MPH		RADII	
	Minimum	Maximum	Minimum	Maximum	Minimum	Maximum
Single Residential, Farmyard, Field	12ft	40ft	20ft	40ft	20ft	30ft
Multiple Residential	28ft	40ft	28ft	40ft	20ft	30ft
Commercial (One-Way)	15ft	30ft	20ft	30ft	30ft	40ft
Commercial (Two-Way)	25ft	40ft	25ft	40ft	30ft	40ft
Boulevard Approach	84ft	84ft	84ft	84ft	Contact Department	
Joint-Use Residential/Farm	25ft	40ft	25ft	40ft	20ft	30ft
Joint-Use Commercial	12ft	40ft	20ft	40ft	30ft	40ft
Public Highways	28ft	N/A	28ft	N/A	30ft	50ft

(3-27-13)

07. Property Line Clearance. (3-30-01)

a. In curbed sections, there shall be a minimum property line clearance of six (6) feet to accommodate approach transitions. Approaches shall be constructed so that all approach flares and any extensions of the approach remain within applicant's property. (3-27-13)

b. In rural or uncurbed sections, property line clearances shall be equal to approach radius. Approaches shall be constructed so that all approach radii remain within applicant's property. (3-30-01)

c. Approach transitions or radii may be allowed to abut the adjacent property line when required for proper utilization of property. Joint-use approaches shall be required whenever property frontage is insufficient to include full width of the approach, including both radii. (3-30-01)

08. Setback. (3-30-01)

a. Improvements intended to serve patrons on private property adjacent to state highway right-of-way shall be setback from the highway right-of-way line so that stopping, standing, parking or maneuvering of vehicles on the right-of-way is not necessary. A minimum setback of fourteen (14) feet from state highway right-of-way line is recommended, unless a greater minimum is established by an engineering study. When an ordinance requires a certain number of parking spaces per square footage of building, the parking spaces shall not be included within state highway right-of-way. (3-27-13)

b. Traffic movements into and out of a business shall be designed, whenever possible, to utilize existing local roads. Existing approaches along traveled way should serve as exits only from the business onto the state highway. Entrance to the property should be made from a local road. (3-30-01)

09. Sight Distance. Any encroachment, including but not limited to hedges, shrubbery, fences, walls, or other sight obstructions of any nature, that constitutes a traffic hazard within the "vision triangle" of vehicle operators at the intersection of roads with other roads, private approaches, alleys, bike or pedestrian paths, or railroad crossings shall be removed. (3-30-01)

10. Transitions and Flares. (3-30-01)

a. In curb and gutter sections, the transition connecting the edge of the approach to the curb shall meet minimum Department standards. (3-30-01)

b. In sections not having a curb and gutter, approach flares should connect the outside edge of the approach to the outside edge of the roadway shoulders and shall meet minimum Department standards. The approach flare tangent distance should not exceed twenty (20) feet unless a larger radius is warranted by an engineering study. (3-27-13)

c. The distance between approaches shall be such that the curb approach transition or radii of the one (1) approach does not encroach upon the transition or radii of the adjacent approach. (3-30-01)

11. Grade. (3-30-01)

a. If the maximum allowable slope is not great enough to bring the approach to the level of the sidewalk or back of curb, a depressed sidewalk should be installed, when required. If sidewalks exist, the connection between the original sidewalk and the depressed sidewalk shall be made through a transition area with a slope no steeper than twelve horizontal to one vertical (12:1) from the longitudinal grade of the original sidewalk. All new curbs or sidewalks should be constructed to the line and grade of the existing curb or sidewalk with every effort to construct a sidewalk that is uniformly graded and free of dips. (3-27-13)

b. To accommodate emergency service vehicles, the Department recommends a maximum approach grade of plus or minus ten percent (±10%). (3-30-01)

12. Border Area. (3-30-01)

a. Border area work (including grading, seeding and landscaping) shall insure that adequate sight distance, proper drainage, desirable slopes for maintenance operations, and a pleasing appearance are provided. The border area shall be free of encroachments and designed as needed to prevent vehicular use through the incorporation of appropriate methods such as ditching, special grading, use of concrete or bituminous curbs, fencing, guard rail, and

guide posts. The design or devices should not impair adequate sight distance or constitute a hazard to pedestrians, bicycles, or vehicles. (3-30-01)

b. The maximum slope beyond the outside edge of shoulder, back of curb, or back of sidewalk to the right-of-way line shall meet minimum Department standards. The creation of ponds, pools, or drainage/evaporation swales within the highway right-of-way shall be prohibited. (3-30-01)

13. Drainage. (3-30-01)

a. All approaches shall be graded so that private properties abutting the highway right-of-way do not drain onto the traveled way, do not impair the drainage within the right-of-way, alter the stability of the roadway subgrade or materially alter the drainage of areas adjacent to the right-of-way. Post-development drainage flows shall not exceed predevelopment drainage flows. (3-30-01)

b. Culverts and drop inlets shall be installed where required and shall be the type and size specified by the Department. Where the border area is regraded, landscaped or reclaimed (seeded), it shall have sufficient slope, ditches, culverts, and drop inlets for adequate drainage. Slopes, where practical, should be a six-horizontal-to-one vertical (6:1) maximum. (3-27-13)

14. Base and Surfacing. (3-30-01)

a. It shall be the responsibility of the permittee to supply, place and properly compact the approach fill and base material. All base and surfacing materials and compaction requirements shall meet minimum Department design and construction standards. (3-30-01)

b. All rural private, commercial and public approaches shall be paved to the right-of-way line or to the back of the approach radius. Farmyard and field gravel approaches that are occasionally used shall be paved a minimum of five (5) feet from the edge of pavement. (3-27-13)

c. In curb and gutter areas, approaches shall be paved to the right-of-way line. (3-30-01)

401. MEDIANS.

01. Median Placement. The placement of medians shall meet the following considerations: (3-30-01)

a. Where a traffic engineering study indicates that medians would be beneficial to control access, maintain street capacity, and improve traffic safety. (3-30-01)

b. When medians are selected, non-traversable medians are the preferred median type; however, traversable medians in urban areas may be considered to accommodate emergency vehicles. (3-30-01)

c. Pedestrian/bicycle safety shall be given consideration in the choice and design of medians in areas that are frequently used by pedestrians/bicycles. (3-30-01)

d. construction requirements for all new or modified public approaches to the state highway right-of-way, including private approaches to subdivisions and businesses, shall be reviewed for the need to place medians on the state highway. (3-30-01)

e. Channelization formed by raised curbs, solid painted islands, left turn lanes, or other traffic control installations may be required to create a mandatory right-in/right-out and/or left-in/left-out approach condition. (3-30-01)

02. Median Openings. Median openings shall be as follows: (3-30-01)

a. Placed on multi-lane state highways at all signalized intersections, at locations which currently meet the criteria for a signal warrant and fulfill traffic signal coordination requirements, at locations that are anticipated to meet future traffic signal considerations, and at locations where there will be no significant reduction in

safety or operational efficiency. (3-30-01)

b. Designed with a left turn lane and sufficient storage for left turning traffic. (3-30-01)

c. Median openings allowing U-turns shall be provided only at locations having sufficient roadway width. (3-30-01)

402. AUXILIARY LANES.
Review Required. Reviews shall be conducted to determine the need to provide turn lanes, deceleration lanes and acceleration lanes on the state highway prior to issuing an approach permit. Consideration of auxiliary lanes shall meet the following conditions: (3-30-01)

01. **Traffic Engineering Study**. A traffic engineering study shall be made that considers highway operating speed, traffic volumes, projected turning movement volumes, availability of passing opportunities, sight distance, and collision history. (3-27-13)

02. **Auxiliary Lanes to Enhance Roadside Business**. Auxiliary lanes shall not be constructed to enhance a new roadside business, unless the applicant is willing to pay the full cost. (3-30-01)

03. **Auxiliary Lanes Required by Planned Development**. Auxiliary lanes required as a result of a planned development, shall be paid for by the developer. When the need for an auxiliary lane exists prior to an application for a planned development, the developer may not be required to pay for the lane unless such construction precedes the Department's construction schedule. (3-30-01)

403. -- 499. (RESERVED)

500. LOCATION AND DESIGN STANDARDS FOR UTILITIES.

01. Approved Permit Required. An approved right-of-way encroachment permit shall be required for all utility encroachments, including new utility installation and the relocation, maintenance, modification, or removal of existing utility facilities prior to the initiation of any work within the state highway right-of-way. (3-30-01)

02. Utility Locations. Final utility locations shall be identified on the appropriate roadway and bridge plans. (3-30-01)

03. Interstate Highways. As addressed in the 1996 Telecommunications Act, longitudinal placement of telecommunication utilities in any Interstate right-of-way shall require a permit approved by the Department for the installation of utilities. Longitudinal placement of all other utilities in Interstate right-of-way shall require a utility permit approved by both the Department and the FHWA. (3-27-13)

04. Utility Maintenance and Emergency Repair. Right-of-way encroachment permits, approved annually by the Department, shall be required for all maintenance or emergency repairs of utility facilities. The utility shall notify the Department in advance of any work that affects the traveling public. (3-15-02)

05. Conduits Under the Roadway. (12-26-90)

a. Conduits crossing under highways that carry utility structures including, but not limited to, water, sewage, chemicals, electrical wire, and communications cables, shall be installed by jacking, driving or boring unless trenching can be justified. Acceptable justification would only be poor soil conditions, such as rock or boulders, inadequate room for a boring pit, or conflicts with other utility lines which cannot be located accurately (gas lines, multiple telephone conduits). If gravel or boulders prevent boring or jacking on the first attempt, at least two (2) other documented attempts should be made at different locations before contacting the District about an alternate installation method, unless the utility can provide documentation from a qualified agency or engineer that indicates the strata is not conducive to boring, driving or jacking. Normally installation of conduit twenty-four (24) inches or less outside diameter should be attempted by jacking, driving or boring before consideration of trenching as an alternative. (3-27-13)

b. The applicant is required to submit for review and approval, a set of construction plans stamped by an engineer licensed in the state of Idaho. The plans shall show all details on casing, conduits, bulkheads and placement, vertical and horizontal dimensions of the pit and shoring, method of installing the conduit, drainage, void filling, and traffic control devices. Sluicing or jetting shall not be allowed. If required by the engineer, casings should be installed from highway right-of-way line to highway right-of-way line to allow for servicing of the utility facility with minimal disruption to traffic flows. Casings should be installed wherever feasible to allow for placement of multiple conduits. (3-15-02)

c. Conduits under interstate highways shall not be installed by cutting through the pavement under any circumstance. (3-30-01)

06. Conduits Attached to Structure. Conduits attached to any structure shall meet the following requirements: (3-30-01)

a. A set of construction plans showing all details and calculations of a crossing or proposed attachments, stamped by an engineer licensed in the state of Idaho, shall be submitted to the Department for review and approval at the time of permit application. A copy of the existing structure plans shall also be submitted that are marked to show the proposed structure modifications. (3-30-01)

b. Reinforcement shall be located prior to the placement of threaded inserts to suspend utilities using a method approved by the Department. (3-30-01)

c. All attaching hardware shall be galvanized or coated as directed by the Department. (3-30-01)

d. Bolts for the attachment clamps shall be a minimum of one-half (1/2) inche in diameter. (3-27-13)

e. Slip joints shall be installed as directed by the Department. (3-30-01)

f. Drilling of any bridge structural element shall be prohibited without approval from the Department. (3-30-01)

g. Utilities shall be attached to bridges in an interior bay, unless interior attachment is not practical due to the bridge diaphragm or end beam construction. (3-30-01)

h. Placing brackets along or around the structure rail is prohibited. (3-30-01)

i. The installing utility shall relinquish exclusive rights to future use of a hanger system, once installed. However, the responsibility for required maintenance shall remain with the installing utility until the hangar system is placed into a joint-use system. At that time, the responsibility for maintenance shall become a shared responsibility. (3-30-01)

j. A set of "as-built" plans for all conduit or utility crossings and structure attachments shall be submitted to the Department and the local utility locating service with all details of construction within thirty (30) days of the work completion. All "as-built" plans are required to be stamped by an engineer licensed in the state of Idaho. (3-30-01)

501. -- 599. (RESERVED)

600. LOCATION AND DESIGN STANDARDS FOR OTHER ENCROACHMENTS.

01. Approved Permit Required. An approved right-of-way encroachment permit shall be required for all portable objects or signs, memorials, urban improvements, landscaping, farming, irrigation or drainage, mailbox stands or turnouts, recreational parking facilities, park-and-ride lots, school bus turnouts, or structures within the state highway right-of-way other than those authorized or installed by the Department, or those which the government entity deems necessary for regulating, warning, and guiding of traffic. (3-30-01)

02. Benches, Planters, and Other Urban Structures. Structures, including protrusions and

overhangs, shall be a minimum of eighteen (18) inches behind the face of curb. When a structure is within a sidewalk area, at least four (4) feet of unobstructed space shall be available for pedestrians. (3-27-13)

03. Overhanging Displays, Canopies and Marquees. In a curb section, encroachments shall not extend closer than eighteen (18) inches behind face of curb. In a non-curb section, encroachments supported by a building shall not extend more than twelve (12) inches into right-of-way. Signs or displays shall be no lower than twelve (12) feet above the sidewalk or ground level. Canopies and marquees shall be no lower than eight (8) feet. (3-27-13)

04. Landscaping, Farming and Associated Irrigation. Repair of landscaping in the state highway right-of-way shall be the responsibility of the permittee, and the Department will not be responsible for, or participate in, any repair or maintenance costs. All requests for landscaping, farming and irrigation shall require a review of current access control records for restrictive covenants. Applications may be approved provided the following conditions are met: (3-30-01)

a. Landscaping, farming, and irrigation systems shall maintain the structural integrity of the state highway right-of-way. No undercutting of the present highway fill and ballast section nor shall access to a state highway from unprotected bare soil be allowed. (3-27-13)

b. Unless otherwise specified, the degree of landscaping will be limited to what is necessary to insure that the appearance of the state highway right-of-way is compatible with the appearance of the surrounding area and shall not interfere with public safety and overall maintenance operations. (3-30-01)

c. Landscaping, farming, and irrigation systems shall not disturb, obstruct, or add to the normal drainage patterns of the state highway right-of-way. No new ditches shall be constructed without prior approval. (3-30-01)

d. Landscaping, farming, and irrigation systems shall not interfere with utility installations, removals, or operations. (3-30-01)

e. Provisions shall be established for the responsibility of future maintenance. (3-30-01)

f. Only planting of forage plants, grasses, flowers, and shrubs with a mature height not to exceed three (3) feet will be allowed within the clear zone of the state highway right-of-way. Type and size of grasses, flowers, and shrubs will be determined by the Department. (3-27-13)

g. No trees shall be allowed within the clear zone of the state highway right-of-way. (3-15-02)

h. All work within the highway right-of-way shall be required to return the right-of-way to either original condition or to the requirements of the encroachment permit as approved by the Department. (3-27-13)

i. Irrigation systems shall be no closer than five (5) feet from the pavement edge and shall be adjusted so water does not cover any portion of the highway pavement. (3-27-13)

j. No grading, excavation or other ground disturbing activities will be performed during rainy periods. If work cannot be avoided during rainy periods, the permittee will install check dams or other approved device(s) or structure(s) in drainage channels and provide a sediment retention basin to avoid discharging sediment containing runoff into the drainage system, or any wetlands, or water bodies (streams, rivers, lakes and ponds). No work shall be performed in or adjacent to any wetland or water body without providing the Department with copies of the appropriate permits from the Army Corps of Engineers, Idaho Department of Water Resources, and the Idaho Division of Environmental Quality. (3-30-01)

k. All areas within the state highway right-of-way disturbed by construction shall be returned to its original condition and reclaimed (re-seeded, fertilized and mulched) as directed by the Department or delegated local highway agency. (3-30-01)

l. Appropriate best management practices to temporarily control erosion and resulting sediment shall

be used. Typical soil surface protection practices include erosion control blankets, tacified mulches of straw, wood fiber, paper fiber, soil amendments, or rock mulch. Typical sediment control practices may include silt fences, fiber wattles, rock check dams, sediment basins/ponds, inlet culvert risers, and inlet rock filters. For further information on best management practices, contact the Department. (3-30-01)

m. Travel lanes shall be kept reasonably free of dirt, rocks and other debris resulting from construction or maintenance of landscaping, farming, or irrigation. (3-30-01)

05. Recreational Parking and Park-and-Ride Lots. (3-30-01)

a. Parking areas shall be designed to safely accommodate an adequate number of parking spaces as determined by the Department. (3-30-01)

b. Access points shall be located so that adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. (3-30-01)

c. Approaches shall be constructed in accordance with Department standards. (3-15-02)

d. Installation of fencing and delineation should be considered to restrict ingress and egress locations and widths. (3-30-01)

e. Unrestricted drainage shall be provided and shall comply with Department standards. (3-15-02)

f. Construction and maintenance of parking areas, including snow removal shall be the responsibility of the permittee. (3-30-01)

06. Mailbox Turnouts. (3-30-01)

a. Mailbox turnouts in rural areas may be combined with an adjacent approach or may be independent of the approach. For safety reasons, the mail carrier should be able to stop out of the traveled way whenever possible. The applicant should be required to construct a mailbox turnout at the same time a mailbox is installed. (3-30-01)

b. Mailbox turnouts and mailbox supports shall be constructed in accordance with Department standards. The box-to-post attachments shall resist separation when struck by a vehicle. No massive metal, concrete, stone or other hazardous supports shall be allowed. Owners of mailboxes that do not meet minimum installation requirements shall be notified that correction is required. (3-15-02)

07. School Bus Turnouts. (3-30-01)

a. School bus turnouts shall be constructed with sufficient length and width to accommodate bus length and turning maneuvers as determined by the Department. (3-30-01)

b. Turnouts shall be located so adequate sight distance is maintained for the safety of approaching traffic and so that minimal interference with the normal flow of traffic on the traveled way results. (3-30-01)

c. All permitted school bus turnouts shall include approved advance warning signs installed at Department expense. (3-30-01)

601. -- 699. (RESERVED)

700. APPLICATION FEES.

01. Fee Administration. Fees for applications for permits shall be based on the Department's cost to produce the permit and administer the program. Fees for permits are not refundable in the event of denial of the permit or in the event the permittee fails to comply with the permit. Applications shall not be processed until all applicable permit fees are received. (3-13-02)

02. **Fee Schedule**. The permit application fees shall be as follows: (3-13-02)

a. Approaches:

Land Use Category	Permit Application Fee
Residential, < 100 units (includes farm and field approaches)	$50
Residential, ≥ 100 units	$100
Retail, < 35,000 sq. ft.	$50
Retail, ≥ 35,000 sq. ft.	$100
Office, < 50,000 sq. ft.	$50
Office, ≥ 50,000 sq. ft.	$100
Industrial, < 70,000 sq.ft.	$50
Industrial, ≥ 70,000 sq.ft.	$100
Lodging, < 100 rooms	$50
Lodging, ≥ 100 rooms	$100
School (K-12)	$100

(3-27-13)

b. Encroachments other than approaches: fifty dollars ($50). (3-27-13)

c. Utility Permits: (3-13-02)

i. Non-interstate: new, modify, relocate with no prior easement rights, fifty dollars ($50). (3-27-13)

ii. Interstate: fees will be addressed at the time of application. (3-27-13)

iii. Interstate and non-interstate: maintenance or emergency repairs with no prior easement rights - No Charge (3-27-13)

iv. Interstate and non-interstate: new, modify, relocate with prior easement rights within an ITD State highway project) - No Charge. (3-27-13)

03. **Miscellaneous Costs**. In addition to the application fee, the Department may require payment of costs associated with the following: (3-30-01)

a. Study or appraisal review; or (3-30-01)

b. Appraisal fees required to establish the value of property for new, additional, modification in design or use, or relocation of approaches or other encroachments in a controlled access highway. (3-13-02)

c. Inspection fees may be charged at the discretion of the District Engineer when substantial inspection time will be required to monitor and accept work done within the right-of-way. This includes wages, travel, subsistence and other expenses incurred. The intent is to recover only Department costs. When the inspection fee is to be assessed, it shall be stipulated under the application's special provisions. Travel time in excess of one (1) hour, a loaded payroll rate, vehicle rental cost, subsistence, and other expenses incurred. If additional inspections are required, the permittee will be billed a flat fee as determined by the Department at the time the permit is issued. (3-30-01)

d. A performance bond may be required of an applicant at the discretion of the Department. The purpose of this bond is to guarantee completion of the work in accordance with the requirements of the permit. The bond amount should be large enough to cover costs to correct potential damage that might be caused by the permittee. The bond shall be executed by a surety company authorized to conduct business in Idaho. (3-30-01)

e. Construction of highway modifications or improvements, including but not limited to signals, illumination, signs, pavement markings, delineation, guardrail, and culverts; (3-30-01)

f. Changes or adjustments made to highway features or fixtures; or (3-30-01)

g. Expenses relating to photocopying highway plans, permits or related documents. (3-30-01)

04. Waivers. Permit fees may be waived and the justification included with the application for: (3-30-01)

a. Approaches resulting from right-of-way negotiations that are included in plans and completed during construction of a highway project. (3-30-01)

b. Government agencies. (3-30-01)

c. Agricultural uses of the right-of-way as included in the right-of-way agreement. (3-30-01)

d. Approaches and other encroachments where direct benefit to the Department is gained. (3-30-01)

e. Utility adjustments or relocations per project utility agreement, or requested by the Department, or utility maintenance and emergency repairs. (3-30-01)

701. --799. (RESERVED)

800. UNAUTHORIZED AND NONSTANDARD ENCROACHMENTS.

01. Compliance. District Engineers shall ensure compliance with all applicable laws and Department policies relating to the removal or correction of unauthorized and non-standard encroachments in accordance with Department rules and policies. (3-30-01)

02. Prohibition. Approaches and other encroachments on state highway rights-of-way that are installed without an approved state highway right-of-way permit, or not constructed in accordance with the Department requirements as stated in the permit, or are naturally occurring adjacent to the state highway right-of-way line and create a hazard, are prohibited, may be removed or their use may be suspended until corrective action is taken. The application process shall be immediately initiated when applicable or the encroachment removed when such a permit cannot be approved. (3-30-01)

03. Nonstandard Encroachment. When a permitted encroachment does not meet Department standards, the applicant or permittee shall be given one (1) month to upgrade the encroachment to the encroachment standards. Encroachments may be removed by the Department and legal action initiated to collect the removal cost. (Section 40-2319, Idaho Code) The one (1) month period may be shortened if an imminent or immediate threat to the safety of the traveling public is present. Time extensions may be granted by the Department or delegated local highway agency. However, if the permittee does not comply, the permit shall be revoked and the encroachment removed. (3-30-01)

04. Encroachment Removal. Any person or entity maintaining an unauthorized encroachment of any kind upon state highway right-of-way shall be served, according to law, with a notice to remove the same. Failure to remove the encroachment within forty-eight (48) hours shall be followed by a certified letter from the Department requesting removal within ten (10) days. If the encroachment is still not removed, the Department shall institute appropriate legal action to have it removed. The Department may take immediate corrective action if an imminent or immediate threat to the safety of the traveling public is present. (3-27-13)

05. Liability of Applicant. The applicant may be held liable for injury or damages caused by the unauthorized or non-standard encroachment. The Department shall make no reimbursement for removal of unauthorized or non-standard encroachments nor shall compensation be made for any losses that may arise from their removal. The Department may initiate legal action to recover costs for the removal of unauthorized or non-standard encroachments. (3-30-01)

801. PROHIBITIONS.

01. Prohibited Uses. The use of the highway right-of-way or any portion thereof for any of the following uses or purposes shall be prohibited: (12-26-90)

a. Mobile stores, mobile lunch wagons or similar businesses that stop vehicles to offer for sale or sell their wares. (3-30-01)

b. Solicitation or sale of any goods or services, attempts to serve, distribute, petition or recruit, and all associated stopping, standing or parking of vehicles (except Department-approved vending privileges in safety rest areas. (3-30-01)

c. The storage of any substance, equipment or material, including but not limited to logs, lumber, supplies or aggregates. (3-30-01)

d. The abandonment of vehicles or other large objects. (3-30-01)

e. Servicing, refueling and repairing of vehicles, except for emergencies. (3-30-01)

f. The placement of portable objects or signs (material or copy), displays, or other unapproved highway fixtures. (3-30-01)

g. Permanent, temporary or mobile structures, manned or unmanned. (3-30-01)

h. Any obstruction that creates a traffic hazard, including trees, shrubbery, fences, walls, non-standard mailbox stands, or other appurtenances. (3-30-01)

i. Signs or displays that resemble, hide or because of their color, interfere with the effectiveness of traffic signals and other traffic control devices. (3-30-01)

02. Modification of Rule. The Department may modify this rule for emergency, temporary installations for the benefit to the highway user. (3-30-01)

03. Encroachment Hazards. Encroachments shall not interfere with the safety of the highway or the visibility and effectiveness of traffic control devices, form a wall or building support, obstruct crosswalks or wheelchair ramps, or force pedestrians into the highway. (3-30-01)

04. Board Jurisdiction. The Board, by and through the Department, may consummate agreements with cities and villages whereby they may exercise their police powers on those matters within their jurisdiction. (3-30-01)

802. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under authority of Sections 40-312(3) and 67-5229, Idaho Code, the Idaho Transportation Board adopts this rule. (3-20-04)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39, Title 03, Chapter 43, "Rules Governing Utilities On State Highway Right-of-Way." (3-20-04)

02. Scope. The purpose of the policy is to regulate the location, design and methods for installing, relocating, adjusting and maintaining utilities on State highway right-of-way when such use and occupancy is legal, in the public interest and will not adversely affect the highway or its users. The policy applies to new utility installations, to existing utility installations to be retained, relocated, maintained or adjusted because of highway construction or reconstruction, and to the relocation of utility facilities which are found to constitute a definite hazard to the traveling public. (3-20-04)

002. INCORPORATION BY REFERENCE.
The Idaho Transportation Department incorporates by reference the July 2003 Edition of "Utility Accommodation Policy." This publication is available for public inspection and copying at the Office of the Utilities/Railroad Engineer at the Idaho Transportation Department central office, or the District offices, or the Idaho Transportation Department Website at http://itd.idaho.gov. (3-30-07)

003. -- 999. (RESERVED)

39.03.44 – RULES GOVERNING HIGHWAY RELOCATION ASSISTANCE FOR PERSONS DISPLACED BY PUBLIC PROGRAMS

000. LEGAL AUTHORITY.
The Idaho Transportation Board adopts this rule under the authority of Chapters 1 and 20, Title 40, and Chapter 11, Title 58, Idaho Code, and any amendments thereto. (7-1-97)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.03.44, "Rules Governing Highway Relocation Assistance for Person Displaced by Public Programs." The purpose of this rule is to ensure that persons displaced as a result of all state, federal or federally assisted projects are treated fairly, consistently and equitably, so that such persons will not suffer disproportionate injuries as a result of projects designed for the benefit of the public as a whole and further that displaced persons are dealt with in a manner that is efficient and cost effective. (7-1-97)

***002*. INCORPORATION BY REFERENCE.**

01. Regulations Incorporated. 49 CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition Regulations dated March 2, 1989 and amendments thereto. (7-1-97)

02. Availability of Records. Copies of the 49 CFR Part 24 Uniform Relocation Assistance and Real Property Acquisition Regulations can be obtained from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402. (7-1-97)

***003*. -- 999. (RESERVED)**

39.03.47 – RULES GOVERNING CERTIFICATION OF LOCAL IMPROVED ROAD MILEAGE

000. LEGAL AUTHORITY.
Under authority of Sections 40-312 and 40-709, Idaho Code, the Idaho Transportation Board hereby adopts the following rule concerning the annual certification of county and highway district improved road mileage for the apportionment of highway user revenues. (12-26-90)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.47, "Rules Governing Certification of Local Improved Road Mileage," IDAPA 39, Title 03, Chapter 47. (3-30-01)

02. Scope. This rule sets out standards to be followed in determining which roads in counties are improved roads. (3-30-01)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Graded and Drained Earth Road. A traveled way of natural earth, aligned and graded to permit reasonable convenient use by a motor vehicle, and drained by longitudinal and transverse systems, natural or artificial, sufficiently to prevent serious impairment of the roadway by surface water. (12-26-90)

02. Improved Road. A graded and drained earth road or better. (12-26-90)

011. -- 099. (RESERVED)

100. DETERMINATION OF AN IMPROVED ROAD.

01. Status of Improvement. Highways laid out and marked to include four (4) or more travel lanes shall be considered as two (2) roadways and mileage for each roadway will be eligible for inclusion in the inventory dependent on Status of Improvement as provided below. (12-26-90)

02. Road Inventory Determination of an Improved Road. The "Road Inventory Determination of an Improved Road" sets forth standards for an improved road and gives examples and illustrations of roadways that are eligible and are not eligible for inclusion in the inventory. (A copy of "The Road Inventory Determination of an Improved Road" can be obtained at the Idaho Transportation Department.) (3-30-01)

101. -- 200. (RESERVED)

201. BORDER LINE ROADS.

01. City Boundaries. If city corporate boundaries follow the centerline of an approved improved roadway, one-half (1/2) the mileage for each roadway surface along the length of said city boundary shall be included in county or highway district certification. (12-26-90)

02. County or Highway District Boundaries. If county or highway district boundaries follow the centerline of an approved improved roadway, mileage will be determined by agreement of the entities or if there is no agreement, then one-half (1/2) shall be attributed to each entity. (12-26-90)

202. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Transportation Board is authorized by Section 40-312, Idaho Code, to prescribe and enforce rules and regulations affecting state highways; by Section 40-310, Idaho Code, to determine which highways or sections of highways shall be part of the state highway system; and by Section 67-6528, Idaho Code, to identify the major transportation systems of statewide importance which would be exempt from local plans and ordinances as adopted according to Chapter 65, Title 67, Idaho Code. (11-30-89)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.03.48, "Rules Governing Routes Exempt from Local Plans and Ordinances." The purpose of this rule is to follow-up on a provision contained within Idaho's Local Planning Act concerning the designation of transportation systems of statewide importance which are exempt from local plans and ordinances. The intent of this legislative provision is to prevent local control over improvements to transportation systems of statewide importance. However, it is recognized by the Idaho Transportation Board that local regulations are necessary to achieve the future location, relocation, realignment and other improvements to the state highway system in accord with the Idaho Transportation Board's plans. (11-30-89)

002. -- 099. (RESERVED)

100. STATE HIGHWAY SYSTEM DESIGNATION.
The state highway system consists of those major highway transportation routes designated by the Idaho Transportation Board pursuant to Section 40-310, Idaho Code, and is hereby determined to be part of the "transportation systems of statewide importance" for the purposes of Section 67-6528, Idaho Code. (11-30-89)

101. -- 199. (RESERVED)

200. LOCAL AGENCIES.
This rule is not intended to discourage state/local agreements or to preclude the cities and counties from adopting and implementing: Zoning Ordinances (Section 67-6511, Idaho Code); Special Use Permits (Section 67-6512, Idaho Code); Subdivision Ordinances (Section 67-6513, Idaho Code); Planned Unit Developments (Section 67-6515, Idaho Code); Future Acquisition Maps (Section 67-6517, Idaho Code); Standards (Section 67-6518, Idaho Code); and Permit Granting Processes (Section 67-6519, Idaho Code). The Idaho Transportation Board supports a continued cooperative relationship with cities and counties concerning local ordinances pursuant to Section 67-6511 through Section 67-6519, Idaho Code, where such ordinances are beneficial to the state highway system. (11-30-89)

201. -- 299. (RESERVED)

300. EXISTING STATE HIGHWAY SYSTEM.
The state highway system is not a permanent configuration or mileage because of additions or deletions over time. The official system description is kept current in the Department's records and is available to the public upon request. (4-11-19)

301. -- 999. (RESERVED)

39.03.49 – RULES GOVERNING IGNITION INTERLOCK BREATH ALCOHOL DEVICES

000. LEGAL AUTHORITY.
This rule is promulgated pursuant to Section 18-8008, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.
The rule is titled IDAPA 39.03.49, "Rules Governing Ignition Interlock Breath Alcohol Devices," and the purpose of this rule is to establish regulations for certification, installation, repair and removal of ignition interlock breath alcohol devices. (12-26-90)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Alcohol. The generic class of organic compounds known as alcohols and, specifically, the chemical compound ethyl alcohol. For the purpose of Ignition Interlock Devices, there is no requirement expressed or implied that the device be specifically for ethyl alcohol. (12-26-90)

02. Breath Alcohol Concentration (BAC). The weight amount of alcohol contained in a unit volume of breath, measured in grams Ethanol/two hundred ten (210) liters of breath. (12-26-90)

03. Court (Or Originating Court). The particular Idaho state court that has required the use of an ignition interlock breath alcohol device by a particular individual. (12-26-90)

04. Certification. The approval process required by the Idaho Transportation Department. (12-26-90)

05. Department. The Idaho Transportation Department. (7-1-96)

06. Device. An breath alcohol ignition interlock device. (7-1-96)

07. Ignition Interlock Device. An instrument designed to measure the BAC of an individual and which prevents a motorized vehicle from starting when the BAC exceeds a predetermined and preset level. (7-1-96)

08. Independent Testing Laboratory. A laboratory facility that is not subject to the control of the manufacturer of the device. (7-1-96)

09. Interlock. The state in which a motor vehicle is prevented from starting by a device. (12-26-90)

10. Lessee. The person ordered by a court to drive only vehicles which have certified devices installed. (12-26-90)

11. Manufacturer or Manufacturer's Representative. The person, company or corporation who produces the device, or a recognized representative who sells, rents, leases, installs, maintains and removes the device. (7-1-96)

011. -- 099. (RESERVED)

100. CERTIFICATION PROCESS.

01. Equipment Standards. To be certified, a device must meet or exceed the federal National Highway Traffic Safety Administration's (NHTSA) model specifications for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register/Vol. 57, No.67/Tuesday, April 7, 1992 and are subject to any subsequent standards published by NHTSA. Only a notarized statement and a copy of the Certification Test Report, from an independent testing laboratory performing the tests as specified, will be accepted as proof of meeting or exceeding the standards. The statement shall include the calibration dates and the name and signature of the person in charge of the tests under the following sentence: All tests on two (2) samples of (model names) ___ manufactured by _____ were conducted in accordance with specifications listed in [the above referenced Federal Register]. (7-1-96)

a. A manufacturer must report to the Department any changes in the design of the device along with a notarized re-certification statement from an independent testing laboratory thirty (30) days prior to implementing device usage in Idaho. (7-1-96)

b. Devices that were certified under less stringent IDAPA rules governing BAIID devices or previous model specifications as published in the Federal Register will be grandfathered for use in the state for a period no longer than one hundred eighty (180) days from the effective date of the most recent published device specifications. (7-1-96)

02. Proof of Insurance. The manufacturer shall annually provide to the Idaho Transportation Department proof of insurance with minimum liability limits of one million dollars ($1,000,000) per occurrence, with three million dollars ($3,000,000) aggregate total. The liability covered shall include defects in product design and materials, as well as workmanship during manufacture, calibration, installation and removal. The proof of insurance shall include a statement from the insurance carrier that thirty (30) days' notice shall be given to the Idaho Transportation Department prior to cancellation. (7-1-96)

03. Hold Harmless. The manufacturer shall provide to the Idaho Transportation Department a notarized statement that the manufacturer will be totally responsible for product liability and will indemnify the following from any liability resulting from the device or its installation or use: (7-1-96)

a. The state of Idaho; and (7-1-96)

b. The court that ordered the installation of the device. (7-1-96)

c. The county, its employees and designees administering the program. (7-1-96)

04. Manufacturer's Reporting Requirements. The manufacturer shall provide the Department a description of its installation and monitoring procedures, maintenance technician training program, and set of criteria for monitoring and reporting offenders. (7-1-96)

05. Criteria for Certification and/or Revocation. Upon receipt of a statement from a testing laboratory that two (2) samples of a device have successfully passed the test procedures specified in this rule, the required documentation, and the certificate of insurance, the Department shall issue a Letter of Certification for the device. The Letter of Certification shall be valid until voluntarily surrendered by the manufacturer or until revoked by the Department for cause. Reasons for revocation include, but are not limited to: (7-1-96)

a. Evidence of repeated device failures due to gross defects in design, materials and/or workmanship during manufacture, installation or calibration of the device; (12-26-90)

b. Notice of cancellation of manufacturer's liability insurance is received; or (12-26-90)

c. Notification that the manufacturer is no longer in business. (12-26-90)

d. Voluntary request of the manufacturer to remove a device from the certified list; (7-1-96)

e. Any other reasonable cause to believe the device was inaccurately represented to meet the performance standards; or (7-1-96)

f. Failure to submit required reports to the Department. (7-1-96)

06. Notice of Revocation. Unless necessary for the immediate good and welfare of the public, revocation shall be effective ten (10) days after manufacturer's receipt of notice, which shall be sent via certified mail, return receipt requested. A copy of each Notice of Revocation shall be provided to all originating courts or their designees and lessees utilizing the revoked device with notice to contact the manufacturer for a replacement.(7-1-96)

07. Removal of Revoked Devices. Upon revocation or voluntary surrender of a certified device, a manufacturer shall be responsible for removal of all like devices from lessees' vehicles. (7-1-96)

a. A manufacturer shall be responsible for any costs connected with removal of their revoked devices from lessees' vehicles and the installation of certified replacement devices. (7-1-96)

08. Right to Appeal. Upon voluntary surrender, or revocation of a Letter of Certification for a manufacturer's device, manufacturers may request a review of revocation. Such request shall be submitted to the Department, in writing, within twenty (20) days of revocation. (7-1-96)

09. Repository for Letter of Certification. The Idaho Transportation Department shall maintain a file of all existing Letters of Certification. The Department shall provide the administrative office of the courts and each trial court administrator or designee of the court with a copy of each Letter of Certification. (7-1-96)

101. TEST SPECIFICATIONS FOR CERTIFICATION.
A device must meet or exceed the federal National Highway Traffic Safety Administration's safety specifications and safety tests for breath alcohol ignition interlock devices (BAIID) as published in the Federal Register/Vol.57, No.67/ Tuesday, April 7, 1992 and are subject to any subsequent standards published by NHTSA. (7-1-96)

01. Ground Elevation Accuracy. The BAIID must maintain accuracy to ground elevations up to two and one half (2.5) km. (7-1-96)

02. High Altitude and Low Temperature Accuracy. The BAIID must maintain accuracy in combined situations of high altitude (two and one half kilometers (2.5 km.)) and low temperature (minus forty degrees Centigrade (-40° C)). (7-1-96)

102. -- 199. (RESERVED)

200. INSTALLATION STANDARDS.

01. Installer. Device must be installed by a manufacturer or its representative. (12-26-90)

02. Unauthorized Persons. Lessees or other unauthorized persons shall not be allowed to watch the installation of the device. (12-26-90)

03. Security. Adequate security measures must be taken to prevent unauthorized persons from accessing secured materials (tamper seals, installation instructions, etc.) (12-26-90)

04. Installation Instructions. Each manufacturer shall develop written instructions for installation of his device(s). (12-26-90)

05. Vehicle Condition Screen. The installer must screen vehicles for acceptable mechanical and electrical condition, in accordance with the device manufacturer's instructions. (12-26-90)

06. Mandatory Vehicle Maintenance. Conditions that would interfere with the function of the device, (e.g. low battery or alternator voltage, stalling frequent enough to require additional breath tests, etc.) must be corrected to an acceptable level. (12-26-90)

07. Installation Standards. Installations must be made in a workmanlike manner, within accordance to accepted trade standards, and according to the instructions provided by the manufacturer. (12-26-90)

08. Device Removal Standards. Whenever a device is removed, the vehicle must be reasonably restored to its original condition. All severed wires must be permanently reconnected and insulated with heat shrink tubing or its equivalent. (12-26-90)

201. -- 299. (RESERVED)

300. DEVICE MAINTENANCE AND REPORTS.

01. Device Examination Schedule. Each lessee shall have the device examined by a manufacturer or its representative for correct calibration and evidence of tampering every sixty (60) days, or more often as may be ordered by the originating court, or less frequently, as may be ordered by the originating court to a maximum of one hundred and twenty (120) days. (12-26-90)

02. Report of Examination. A report on the results of each check shall be provided to the trial court administrator or designee of the originating court. The report shall reflect what adjustments, if any, were necessary in the calibration of the device, any evidence of tampering, and any other available information the originating court may order. (7-1-96)

03. Corrective Action Report. Complaints by the lessee shall be accompanied by a statement of the actions taken to correct the problem(s). Reports of the problem(s) and action(s) taken shall be submitted to the originating court or its designee within three (3) business days. (7-1-96)

04. Additional Report. An additional report shall be provided to the Idaho Transportation Department on a quarterly basis summarizing all periodic checks ordered by the originating court and all complaints received by the manufacturer from the lessee for each model or type of certified device. These reports shall be categorized by: (7-1-96)

a. Customer error of operation. (12-26-90)

b. Faulty automotive equipment other than the device. (12-26-90)

c. Apparent misuse or attempts to circumvent the device, causing damage. (12-26-90)

d. Device failure due to material defect, design defect, workmanship errors in construction, installation or calibration. (12-26-90)

301. DEVICE SECURITY.

01. Tampering Precaution. The manufacturer shall take all reasonable steps necessary to prevent tampering or physical circumvention of the device. These steps shall include special locks, seals and installation procedures that prevent and/or record evidence of tampering and/or circumvention attempts. (12-26-90)

02. Device Identification. Each device shall be uniquely serial numbered. All reports to the trial court administrator or designee of an originating court concerning a particular device shall include the name and address of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)

03. Warning Label. The manufacturer shall provide a label containing a notice (at least ten (10) point boldface type) on each certified device reading: WARNING: ANY PERSON TAMPERING, CIRCUMVENTING, OR OTHERWISE MISUSING THIS DEVICE MAY BE SUBJECTED TO CRIMINAL SANCTIONS. (Section 18-8009, Idaho Code) (12-26-90)

a. The label shall be capable of being affixed to the device. (12-26-90)

b. The manufacturer shall provide an area on the outside of the device where the label is most likely to be seen by the operator of the vehicle. (12-26-90)

c. The label must be affixed to the device at all times while installed in the lessee's vehicle. (12-26-90)

04. Physical Anti-Tamper Security. (7-1-96)

a. Use unique, easily identifiable wire, covering or sheathing over all wires used to install the device, which are not inside a secured enclosure. (12-26-90)

b. Use unique, easily identifiable covering, seal, epoxy or resin at all exposed electrical connections for the device. (12-26-90)

c. Make all connections to the vehicle under the dash or in an inconspicuous area of the vehicle. (12-26-90)

d. Use unique, easily identifiable tamper seal, epoxy or resin at all openings (except breath or exhaust ports). (12-26-90)

05. Personnel Requirements. Devices must be installed, inspected, tested and maintained by a qualified manufacturer or its representative. (12-26-90)

a. Installers must have the training and skills necessary to install, troubleshoot and check for proper operation of the device, and to screen the vehicle for acceptable condition. (12-26-90)

b. Personnel whose functions and duties include installing, calibrating, and performing tamper inspections and reporting duties, should not have been convicted of a crime substantially related to the convicted lessee's violation. This may include, but is not limited to, persons convicted of: Driving under the influence (DUI) within the last five (5) years; more than one (1) DUI overall; probation violation; and perjury. (7-1-96)

c. For the purposes of this section, "convicted" shall include entering a plea of guilty, nolo contendere, or to have been found guilty or been given a withheld judgment. (12-26-90)

302. -- 399. (RESERVED)

400. MANDATORY OPERATIONAL FEATURES.
Notwithstanding other provisions of this rule, a certified device must comply with the following: (12-26-90)

01. Device Setpoint. The actual setpoint of each device to interlock when the breath sample is provided shall be determined by the originating court. The capability to change this setting shall be made secure, by the manufacturer, to prevent unauthorized adjustment of the device. (7-1-96)

401. OTHER PROVISIONS.
Notwithstanding other provisions of this rule, each manufacturer of a certified device: (12-26-90)

01. Repair Deadline. Shall guarantee repair or replacement of a defective device within the state of Idaho within a maximum of forty-eight (48) hours of receipt of complaint. (12-26-90)

02. Statement of Charges. Shall provide the originating court or its designee and the lessee a statement of charges clearly specifying warranty details, purchased cost, and/or monthly lease amount, any additional charges anticipated for routine calibration and service checks, what items (if any) are provided without charge, and under what conditions a lessee is responsible for payment for service calls and/or damage to the device. (7-1-96)

03. Notice of Installation. Upon installation of each device, the manufacturer or its representative will provide the trial court administrator or designee of the originating court with a notice of installation that includes the name, address and telephone number of the lessee, the originating court's file number, and the unique number of the device. (7-1-96)

04. Notice of Charges. Shall provide written notice to the Idaho Transportation Department and each trial court administrator or designee of the court a statement of charges for each device model. (7-1-96)

05. Nationwide Service Locations. Shall provide to all lessees at the time of installation: (12-26-90)

a. A list of all calibration/service locations in the continental United States. The list shall include the business name, address and telephone number of all such locations. (12-26-90)

b. A twenty-four (24) hour telephone number to call for service support for those who may be traveling outside service areas. (12-26-90)

06. Statewide Service Locations. Shall provide to all lessees at the time of installation: (7-1-96)

a. A list of all calibration/service locations in the state of Idaho. The list shall include the business

name, address and telephone number of all such locations. (7-1-96)

b. Shall notify the Idaho Transportation Department of the location, including address, phone number and contact person, of each installation station in Idaho. (7-1-96)

07. Attempts to Disobey Court Order. Shall report to the originating court or its designee any requests to disconnect or circumvent, without court order, any device of their own or another manufacturer. (7-1-96)

08. Removal of Device. Shall advise the originating court or its designee prior to removing the device under circumstances other than: (7-1-96)

a. Completion of sentence or other terms of a court order. (12-26-90)

b. Immediate device repair needs. (12-26-90)

09. Substitute Device. Whenever a device is removed for repair and cannot immediately be reinstalled, a substitute device shall be utilized. Under no circumstances shall a lessee's vehicle be permitted to be driven without a required device. (12-26-90)

402. REMOVAL PROCEDURES.
When so notified in writing by the originating court, the manufacturer shall remove the device and return the vehicle to normal operating condition. A final report, which includes a summary of all fees paid by the lessee over the life of the contract, shall be forwarded to the originating court or its designee and the Idaho Transportation Department. (7-1-96)

403. -- 499. (RESERVED)

500. PRIMARY RESPONSIBILITIES OF AGENCIES/OFFICES MONITORING THIS RULE.
Listed below are some of the primary responsibilities of the indicated offices/agencies, as outlined in this rule. (12-26-90)

01. Testing Lab. (12-26-90)

a. Test devices for minimum standards. (12-26-90)

b. Submit notarized statement and copy of the Certification Test Report to manufacturer. (7-1-96)

c. Keep log of test results. (12-26-90)

02. Manufacturer. (12-26-90)

a. Submit device to lab for testing. (12-26-90)

b. Install, maintain and remove device as required by court. (12-26-90)

c. Set interlock level as established by court. (12-26-90)

d. Submit quarterly (or more frequent) maintenance reports to originating court or its designee. (7-1-96)

e. Submit quarterly reports to Idaho Transportation Department summarizing periodic device examinations and all complaints received. (7-1-96)

f. Provide court, lessee and Idaho Transportation Department with statement of charges and/or any additional fees. (12-26-90)

g. Provide lessee with service and repair information. (12-26-90)

h. Provide Idaho Transportation Department with proof of insurance annually. (7-1-96)

i. Report any attempt to disconnect any device to originating court or its designee. (7-1-96)

j. Advise court or its designee before removing any device unless authorized or in need of immediate repair. (7-1-96)

03. Idaho Transportation Department. (12-26-90)

a. Maintain a list of known calibration/service locations in the state. (7-1-96)

b. Issue Letter of Certification for each device model to manufacturer (copy to courts or their designees). (7-1-96)

c. When necessary, revoke Letter of Certification (copy to courts or their designees). (7-1-96)

d. Maintain file of all letters. (12-26-90)

e. Maintain file of statement of charges (by device model). (12-26-90)

f. Maintain proof of insurance. (12-26-90)

04. Court. (12-26-90)

a. The judge will order device installation (including interlock setting), maintenance and removal. (12-26-90)

b. The trial court administrator or designee of the originating court will receive maintenance reports on each device installed pursuant to order. (7-1-96)

c. The trial court administrator or designee of the originating court will receive statement of charges. (7-1-96)

d. The trial court administrator or designee of the originating court will receive manufacturer's reports of attempts to disconnect any device. (7-1-96)

05. Lessee. (12-26-90)

a. Have device installed and maintained as ordered by court. (7-1-96)

b. Receive statement of charges and remit fees as scheduled. (7-1-96)

c. Receive and comply with guidelines regarding repairing and maintaining the vehicle in good working order. (7-1-96)

501. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under the authority of Section 40-312, Idaho Code, the Idaho Transportation Board adopts this rule. (12-26-90)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.50, "Rules Governing Safety Rest Areas." (3-6-14)

02. Scope. The purpose of this rule is to regulate use of and set standards of behavior for all persons using or visiting developed rest areas. (3-6-14)

002. -- 099. (RESERVED)

100. SANITATION.
The following acts are prohibited: (12-26-90)

01. Designated Trash Containers. Failing to dispose of all garbage and trash, including paper, cans, bottles and other waste materials by either removal from the site or depositing in designated trash containers. (12-26-90)

02. Vehicle Refuse or Water. Draining or dumping refuse or waste from any trailer or other vehicle except in places or receptacles provided. (12-26-90)

03. Water Facilities. Cleaning fish or other food, washing clothing or household articles at hydrants or water faucets. (12-26-90)

04. Water Systems. Polluting or contaminating water used for human consumption or water systems used for the delivery of such water. (12-26-90)

05. Comfort Station. Depositing body waste in or on any portion of a comfort station not intended for that purpose. (12-26-90)

06. Dumping. Dumping of household or commercial garbage or trash brought as such from private off-site into any on-site refuse containers or other refuse facilities. (3-6-14)

101. -- 199. (RESERVED)

200. PUBLIC BEHAVIOR AND TREATMENT OF PUBLIC PROPERTY.
The following acts are prohibited: (12-26-90)

01. Behavior. Indulging in boisterous, abusive, threatening, or indecent conduct or creating unnecessary noise which interferes with the reasonable use of the area by other visitors. (12-26-90)

02. Treatment of Natural Features or Plants. Destroying, defacing, cutting, sampling, or removing any natural feature or plant. (12-26-90)

03. Treatment of Public Property. Damaging by defacing, plugging, breaking, or removing any facility, fixture, sign or marker provided for use of the public. (12-26-90)

04. Soliciting. Selling or offering for sale any merchandise or service other than emergency services for disabled vehicles, such as towing, vehicle repairs, fire response, ambulance or medical response/transport, or vending machines permitted under the provisions of federal law or federal rule and Section 67-5411, Idaho Code. (4-11-15)

05. Noise Producing Devices. Operating or using any audio devices, including radio, television and musical instrument, and other noise producing devices, such as electrical generator plants and equipment driven by motors or engines, in such a manner and at such times so as to disturb other persons. (12-26-90)

06. Fireworks/Incendiary Devices. Discharging fireworks or any other incendiary device. Fireworks are considered any combustible or explosive substance, but do not include any automotive safety flares or any other emergency or safety device. (4-11-15)

201. -- 299. (RESERVED)

300. OCCUPANCY OF DEVELOPED REST AREAS.
The following acts are prohibited: (12-26-90)

01. Camping/Occupancy of Site. Camping or occupying a rest area for any purpose other than rest and relaxation from the fatigue of travel. (3-6-14)

02. Assembling. Assembling or attracting groups of people except for public service functions by civic, fraternal or religious organizations as approved by the Department. (12-26-90)

03. Time Limits. Occupancy of the rest areas on interstate highways is limited to ten (10) consecutive hours. Occupancy of rest areas on other routes of the State Highway System is limited to sixteen (16) consecutive hours. (4-11-15)

04. Fires. Building fires outside the confines of a stove, grill or fireplace. (3-6-14)

05. Failure to Clean. Failing to clean the space occupied before departing. (3-6-14)

06. Animals. (12-26-90)

a. Bringing a dog, cat or other animal into a rest area unless it is a certified service animal or crated, caged, leashed or otherwise under physical restrictive control at all times. (3-6-14)

b. Permitting a dog, cat or other animal to exercise and/or defecate in areas outside of specifically designated pet areas. (3-6-14)

301. -- 399. (RESERVED)

400. VEHICLES.
The following acts are prohibited: (12-26-90)

01. Rates of Speed. Operating any motor vehicles in excess of fifteen (15) mph speed within the confines of a rest area with the exception of acceleration or deceleration ramps. (3-6-14)

02. Driving or Parking. Driving or parking a vehicle or trailer except in places developed for such purpose. (12-26-90)

03. Careless Driving. Driving a vehicle carelessly and heedlessly in disregard of the rights or safety of others; or driving at a speed, or in a manner which endangers, or is likely to endanger, any person or property. (12-26-90)

04. Paths/Roads/Trails in Rest Areas. Operating any vehicle on paths, roads, or trails in developed rest areas for any purpose other than entering or leaving the area, unless specifically allowed by appropriate signage. (3-6-14)

05. Accelerating Engine. Excessively accelerating the engine of any vehicle or motorcycle when such vehicle is not moving or is approaching or leaving the rest area. (3-6-14)

06. Skateboards/Rollerblades. Use of skateboards or rollerblades on sidewalks or in areas primarily intended for use by motor vehicles. (3-6-14)

401. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
The Idaho Transportation Board adopts this rule under the authority of Section 40-312, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.60 "Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs," IDAPA 39, TITLE 03, Chapter 60. (5-3-03)

02. Scope. This rule contains guidelines for the control of outdoor advertising signs, structures or displays along the interstate, primary system of highways, and National Highway System roads of the state of Idaho pursuant to Chapters 1, 3, and 19, Title 40, Idaho Code. (5-3-03)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The Idaho Transportation Department adopts the definitions set forth in Sections 40-101 through 40-127, Idaho Code. In addition, as used in this chapter: (5-3-03)

01. Advertising Structure(s) or Sign(s), or Advertising Display(s). Any outdoor structure, display, light device, figure, painting, drawing, message, plaque, poster, billboard, or other thing which is designed, intended, or used to advertise or inform. These do not include: (12-26-90)

a. Official notices issued by any court or public body or officer. (12-26-90)

b. Notices posted by any public officer in performance of a public duty or by any person giving legal notice. (12-26-90)

c. Directional, warning, or informational structures required by or authorized by law, informational or directional signs regarding telephone service, emergency telephone signs, buried or underground cable markers and above cable closures. (12-26-90)

d. An official or public structure erected near a city or county, and within its territorial or zoning jurisdiction, which contains the name of such city or county, provided the same is maintained wholly at public expense. (12-26-90)

***02. Bypassed Community Signs**. A form of community official sign erected when a city has been bypassed, but remains within five (5) miles of an interstate highway or primary freeway. Such communities have the right to erect and maintain, at city expense, a billboard displaying the name of the city at a location not to exceed one (1) mile from an interchange primarily serving that city. ( )*

03. Commercial or Industrial Activities. Those activities generally recognized as commercial or industrial by zoning authorities in this State, except that none of the following activities are considered commercial or industrial: (12-26-90)

a. Agricultural, forestry, grazing, farming, and related activities, including but not limited to, wayside fresh produce stands. (12-26-90)

b. Transient or temporary activities. (12-26-90)

c. Activities not visible from the main traveled way. (12-26-90)

d. Activities conducted in a building principally used as a residence. (12-26-90)

e. Railroad tracks and minor sidings. (12-26-90)

f. Outdoor advertising displays. (12-26-90)

04. Commercial or Industrial Zones. The provisions of Section 40-1911, Idaho Code, do not apply to those segments of the interstate and primary system of highways which traverse and abut on commercial, business, or

industrial zones within the boundaries of incorporated municipalities, wherein the use of real property adjacent to and abutting on the interstate and primary system of highways is subject to municipal or county regulation or control, or which traverse and abut on other areas where the land use is clearly established by State law or county zoning regulation, as industrial, business, or commercial, or which are located within areas adjacent to the interstate and primary system of highways which are in unzoned commercial or industrial areas as determined by the Department from actual land uses; provided, however, that the Department will determine the size, lighting, and spacing of signs in such zoned and unzoned industrial, business, or commercial areas. For the purpose of this rule, areas abutting interstate and primary highways of this State which are zoned commercial or industrial by counties and municipalities are be valid as commercial or industrial zones only as to the portions actually used for commerce or industrial purposes and the land along the highway in urban areas for a distance of six hundred (600) feet immediately abutting to the area of the use, and does not include areas so zoned in anticipation of such uses at some uncertain future date nor does it include areas so zoned for the primary purpose of allowing advertising structures. (5-3-03)

***05. Community Official Signs**. Signs approved by a city, erected within its territorial or zoning jurisdiction and maintained wholly at city expense. These signs will display only the name of the city and driver directional information. Specific advertising is not allowed. ( )*

***06. Customary Maintenance**. Repainting the structure, trim, or sign face, changing poster paper, replacing existing electrical components after failure and replacing damaged structural parts. It does not include the installation of a new sign face nor the initial installation of lighting. Substantial replacement begins when repair and other costs exceed fifty percent (50%) of the sign's reproduction cost. ( )*

07. Department. The Idaho Transportation Department, acting through the Idaho Transportation Board. (12-26-90)

***08. Directional Signs**. Signs containing directional information about public places owned or operated by federal, state, or local governments or their agencies; publicly or privately owned natural phenomena, historic, cultural, scientific, educational and religious sites; and areas of natural scenic beauty or naturally suited for outdoor recreation, deemed to be in the interest of the traveling public. ( )*

09. Erect. To construct, build, raise, assemble, place, affix, create, paint, draw, or in any other way bring into being or establish, but does not include any of the foregoing activities when performed incident to the change of an advertising message or customary maintenance of a sign. (12-26-90)

***10. Federal or State Law**. A federal or state constitutional provision or statute, or an ordinance, rule, or regulation enacted or adopted by this state or a federal agency or a political subdivision of this state pursuant to a federal or state constitution or statutes. ( )*

***11. Freeway**. A divided highway with four (4) or more lanes for through traffic and full control of access. ( )*

***12.* Grandfather Sign**. One which was lawfully in existence in a zoned or unzoned commercial or industrial area on the effective date of the State law and which may remain even though it may not comply with the size, lighting, or spacing criteria within this rule. This clause only allows an individual sign at its particular location for the duration of its normal life subject to customary maintenance. (12-26-90)

***13.* Illegal Sign**. One which was erected and/or maintained in violation of State law. (12-26-90)

***14. Interstate System or Interstate Highway**. Any portion of the national system of interstate and defense highways located within the state, as officially designated, or as may hereinafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways." ( )*

***15. Maintain or Place**. To allow to exist, subject to the provision of Chapter 19, Title 40, Idaho Code. ( )*

***16. Maintenance**. To preserve from failure or decline, or repair, refurbish, repaint or otherwise keep an*

existing highway or structure in a suitable state for use. *( )*

17. **Main Traveled Way**. The portion of a roadway for the movement of vehicles, exclusive of shoulders. (12-26-90)

18. **Multiple Message Sign (MMS)**. A sign, display, or device that changes the message or image on the sign electronically by movement or rotation of panels or slats, or electronic billboards that have a programmable display of variable text or symbolic imagery. (5-3-03)

19. **Nonconforming Sign**. One which was lawfully erected, but does not comply with the provisions of State law or State regulation passed at a later date or which later fails to comply with State law or State regulation due to changed conditions. Illegally erected and/or maintained signs are not nonconforming signs. All signs located within an unzoned area are nonconforming if the commercial or industrial activity used in defining the area ceases for a continuous period of six (6) months. (12-26-90)

***20. Official Signs and Notices**. Signs and notices erected and maintained by public officers or public agencies within their territorial or zoning jurisdiction and pursuant to and in accordance with direction or authorization contained in federal, state, or local law for the purposes of carrying out an official duty or responsibility. Historical markers authorized by state law and erected by state or local government agencies or nonprofit historical societies may be considered official signs.* *( )*

***21. Parkland**. Any publicly owned land which is designated or used as a public park, recreation area, wildlife or water fowl refuge or historical site.* *( )*

***22. Permit**. A written approval by the department covering location, size, lighting, spacing, number and message content requirements of permissible directional signs.* *( )*

***23. Permit Application**. The form or format of information and data supplied by an individual, agency, or organization to obtain approval for erection and maintenance of a directional sign.* *( )*

***24. Primary System or Primary Highway**. Any portion of the highways of the state, as officially designated, or as may hereafter be so designated, by the Idaho Transportation Board, and approved by the Secretary of Transportation, pursuant to the provisions of Title 23, U.S. Code, "Highways."* *( )*

***25. Public Service Signs**. Signs located on school bus or other bus stop bench or shelter, which:* *( )*

a. *Identify the donor, sponsor, or contributor of said shelters;* *( )*

b. *Contain public service messages, which will not occupy not less than fifty percent (50%) of the area of the sign;* *( )*

c. *Contain no other message;* *( )*

d. *Are located on school bus or other bench or shelter authorized or approved by city, county, or state law, regulation, or ordinance, and at places approved by the city, county, or state agency controlling the highway involved; and* *( )*

e. *May not exceed thirty-two (32) square feet in area. Not more than one (1) sign on each bench or shelter shall face in any one (1) direction.* *( )*

***26. Public Utility Signs**. Warning signs, informational signs, notices, or markers which are customarily erected and maintained by publicly or privately owned public utilities, as essential to their operations.* *( )*

***27. Regionally Known**. The attraction or activity must be known statewide and in one (1) or more adjoining states.* *( )*

***28. Rest Area**. Any area of particular scenic beauty or historical significance as determined by the federal, state, or local officials having jurisdiction thereof, and includes interests in land which have been acquired for the restoration, preservation, and enhancement of scenic beauty. ( )*

***29. Service Club and Religious Notices**. Signs and notices, whose erection is authorized by law, relating to meeting of nonprofit service clubs or charitable associations, or religious services, which do not exceed eight (8) square feet in area. ( )*

***30. Sign**. An outdoor sign, light, display, device, figure, painting, drawing, message, placard, poster, billboard, or other thing which is designed, intended, or used to advertise or inform, any part of the advertising or informative contents of which is visible from any place on the main traveled way of the interstate or primary highway. ( )*

31. **Sign Face**. The overall dimensions or area of that portion or side of an individual sign structure that is designed, intended, and capable of displaying messages. It includes border and trim, but excludes the base or apron, supports and other structural members. (5-3-03)

32. **Sign Structure**. A construction including the sign face, base or apron, and other structural members. (5-3-03)

***33. State**. State of Idaho. ( )*

***34. Territorial or Zoning Jurisdiction**. The geographical area located outside of any city or county limits for a distance of three (3) miles. ( )*

3*5*. Transient or Temporary Activity. An activity is transient or temporary for the purposes of Chapter 19, Title 40, Idaho Code when: (5-3-03)

a. The activity lacks any business or privilege license required by the city, county or state. (5-3-03)

b. The activity on the property has not been conducted for at least six (6) months at the time of application for a sign permit. (5-3-03)

c. The activity lacks utilities (water, power, telephone, etc.) and which are normally utilized by similar commercial activities. (5-3-03)

d. The activity is not carried on in a permanent building designed, built or modified for its current commercial or industrial use, located within six hundred sixty (660) feet of the nearest edge of the right-of-way. (5-3-03)

e. The property upon which the activity is conducted lacks direct or indirect vehicular access or does not generate vehicular traffic. (5-3-03)

f. The activity does not have employees on-site during normal business hours which is considered normal, usual, and customary. (5-3-03)

g. The activity lacks a frequency of operations which are considered usual, normal and customary for that type of commercial or industrial operation and the activity is visible and recognizable as a commercial or industrial activity. (5-3-03)

36. **Unzoned Commercial or Industrial Area**. Any area not zoned by State or local law, regulation or ordinance which is occupied by one (1) or more industrial or commercial activities, other than outdoor advertising signs, and the land along the highway for a distance of six hundred (600) feet immediately abutting to the area of the activities. All measurements need to be from the outer edge of the regularly used buildings, parking lots, storage, or processing areas of the activities, and shall be along or parallel to the edge of pavement of the highway. (12-26-90)

37. **Urban Areas**. Any geographical area within the city limits of any incorporated city having a population of five thousand (5,000) or more inhabitants. Population numbers referred to in this Subsection shall be determined by the latest United States census. (12-26-90)

38. **Visible**. Capable of being seen (whether or not legible) without visual aid by a person of normal visual acuity. (12-26-90)

011. -- 099. (RESERVED)

100. GENERAL.

01. Visible Informative Content. This rule applies only to advertising displays whose informative content is visible from the main traveled way of interstate or primary highways. (5-3-03)

02. Responsibilities. Both the owner of a sign and the landowner upon whose property the sign is located will be held responsible for violations of this rule. (12-26-90)

03. Nonconforming Signs. Signs which stand without advertising copy, obsolete advertising matter, or continued need for repairs beyond customary maintenance constitute discontinuance and abandonment after a period of six (6) months and will be subject to removal. (12-26-90)

04. Signs Visible from the Main Travel-Way. Signs beyond six hundred and sixty (660) feet from the right-of-way will be considered to have been erected with the purpose of their message being read from the main traveled way when: (12-26-90)

a. The sign angle and size is such that the message content is readily visible from the main traveled way; or (12-26-90)

b. The exposure time is long enough at the maximum speed limit for the sign message to be readable and comprehensible. (12-26-90)

05. Permit or License Revocation. The erection or maintenance of signs from the highway right-of-way; or the destruction of trees or shrubs within the highway right-of-way will be cause for permit or license revocation. (12-26-90)

06. Multiple Sign Faces. Criteria which permit multiple sign faces to be considered as one (1) sign structure for spacing purposes are limited to signs which are physically contiguous, or connected by the same structure or cross-bracing. (12-26-90)

07. Edge of Right-of-Way. Distance from the edge of the right-of-way is measured horizontally along a line normal or perpendicular to the centerline of the highway. (5-3-03)

08. Control Requirement. Where a sign is erected with the purpose of its message being read from two (2) or more highways, one (1) or more of which is a controlled highway, the more stringent of applicable control requirements will apply. (12-26-90)

101. -- 1*0*9. (RESERVED)

***11*0. EXEMPTIONS AUTHORIZED BY SECTION 40-1904, IDAHO CODE.**

01. Signs Erected by Public Officers or Agencies. Directional and other official signs and notices erected by public officers or agencies will be issued permits at no cost to the owners, as described more fully elsewhere in this rule. (12-26-90)

02. Advertising Sale or Lease of Property. Signs advertising the sale or lease of property upon which they are located. These signs shall not advertise any products, services, or anything unrelated to the selling or leasing of the property. (12-26-90)

03. On-Premise Signs. Signs (on-premise) advertising activities conducted on the property upon which they are located are allowed, subject to the following: Not more than one (1) such sign, visible to traffic proceeding in any one (1) direction and advertising activities being conducted upon the real property where the sign is located may be permitted more than fifty (50) feet from the advertised activity. The criteria for determining the limits of the area of the advertised activity from which the fifty (50) feet measurement can be taken are as follows: (12-26-90)

a. When the advertised activity is a business, commercial, or industrial land use, the distance shall be measured from the regularly used buildings, parking lots, storage, or processing areas, or other structures which are essential and customary to the conduct of the business and within its limits of the real property. It is not be measured from driveways, fences, or similar facilities. (12-26-90)

b. When the advertised activity is a noncommercial or nonindustrial land use such as a residence, farm, or orchard, the distance is measured from the major structures on the property. (12-26-90)

c. In no event will a sign site be considered part of the premises on which the advertised activity is conducted if it is located upon a narrow strip of land which is nonbuildable land, such as, but not limited to, swampland, marshland, or other wetland, or which is a common or private roadway, or held by easement or other lesser interest than the premises where the advertised activity is located. (5-3-03)

111. -- 119. (RESERVED)

120. DISPLAYS LOCATED WITHIN ZONED OR UNZONED INDUSTRIAL, BUSINESS OR COMMERCIAL AREAS.

01. Size of Signs. Within zoned and unzoned commercial, business, or industrial areas, and pursuant to the directive of Section 40-312, Idaho Code, the face of an advertising display shall not exceed the following size limits: (5-3-03)

a. Maximum area - one thousand (1000) square feet; (12-26-90)

b. Maximum height - thirty (30) feet; (12-26-90)

c. Maximum length - fifty (50) feet. (12-26-90)

02. Dimensions. The area of a sign face will include all of the border, trim, cutouts, and extensions. (5-3-03)

03. Spacing of Advertising Displays. Within zoned and unzoned commercial, business, or industrial areas, as defined in Section 010 herein and pursuant to directive of Section 40-1912, Idaho Code, the following spacing regulations apply: (12-26-90)

a. Advertising displays on interstate and primary highways may not be located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or to obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. (5-3-03)

b. Advertising displays on interstate and primary highways may not be located within five hundred (500) feet of any of the following which are adjacent to the highway: public parks; public forests; public playgrounds; scenic areas designated as such by the Department or other State agencies having and exercising such authority. (5-3-03)

c. In a case where the highway passes beneath a railroad overpass or beneath a highway grade separation structure where no traffic connection between the crossing highways is provided, no advertising display may be located on the road passing beneath the structure within a distance of five hundred (500) feet from the nearest edge of the overhead route. (12-26-90)

d. Measurement between signs or from a sign to another feature shall be made horizontally along the pavement edge nearest the signs, between points directly opposite the signs or other features. The point of the sign nearest to the highway is used to determine the measurement point. (12-26-90)

e. Two (2) sign faces will be permitted at a single location, arranged back to back, or in a V-type configuration, but shall only have one (1) sign face visible to one (1) direction of travel and will be considered as one (1) sign for spacing regulation. (5-3-03)

f. Signs erected by public agencies or officers and on-premise signs, as defined in Section 010 of this rule, shall not be counted nor shall measurements be made from them for determining compliance with spacing requirements. (12-26-90)

g. Spacing on interstate highways between advertising displays along each side of the highway shall be a minimum of five hundred (500) feet. The spacing between multiple message signs shall be a minimum of five thousand (5,000) feet. (5-3-03)

h. No advertising display on interstate highways shall be erected or maintained within one thousand (1000) feet of an interchange or rest area with the exception of permitted, existing displays which shall have grandfather rights. The minimum spacing between displays as set forth herein for interstate highways shall govern the actual location of any sign display permitted and existing within this zone. No advertising display subject to this regulation shall be permitted along any interstate highways within the actual "interchange area," defined as commencing or ending at the beginning or ending of pavement widening at the exit or entrance to the main traveled way of the interstate freeway. (5-3-03)

i. The spacing of signs on primary highways between advertising displays along each side of the highway must be a minimum of one hundred (100) feet in urban areas and a minimum of two hundred and fifty (250) feet outside of urban areas. The spacing between multiple message signs shall be a minimum of one thousand (1,000) feet in urban areas and a minimum of five thousand (5,000) feet outside urban areas. (5-3-03)

j. Where intersections are more than five hundred (500) feet apart, no off-premise advertising display will be permitted within one hundred (100) feet from the right-of-way line of the intersecting road unless buildings or structures control cross vision; then advertising displays may be permitted up to and on top of the intervening structures. (12-26-90)

k. When intersections are five hundred (500) feet or less apart, off-premise advertising displays will be permitted a minimum of fifty (50) feet from the right-of-way line of the intersecting road; however, all advertising displays between fifty (50) feet and one hundred (100) feet from the right-of-way line of the intersecting road must have the lower extremities of the advertising display (excluding posts) not less than fourteen (14) feet above the traveled way of the roads affected by the intersection for visibility under the signs by road users. Advertising displays may be permitted within one hundred (100) feet of the intersecting road's right-of-way when buildings or structures control cross vision; but such displays must not be located so as to cause greater restriction to vision than the existing buildings or structures. (12-26-90)

l. Alleys, undeveloped rights-of-way, private roads and driveways shall not be regarded as intersecting streets, roads or highways. (12-26-90)

m. Advertising structures may not be located within five hundred (500) feet of the point of pavement widening at the entrance or exit to a rest area, weight checking station, port of entry or other State-operated facility for the use of motorists. (12-26-90)

04. Lighting. (12-26-90)

a. No sign *will* be *allowed if it is* so illuminated that it interferes with the effectiveness of, or obscures an official traffic sign, device, or signal. *( )*

b. Section 40-1910, Idaho Code, prohibits advertising structures which are visible from any interstate or primary highway and display any red or blinking intermittent light likely to be mistaken for a warning or danger

signal. (5-3-03)

c. Section 40-1910, Idaho Code, prohibits advertising displays which include any illumination of such brilliance and so positioned as to blind or dazzle the vision of travelers on adjacent interstate and primary highways. (5-3-03)

05. Variable or Multiple Message Signs. (5-3-03)

a. Multiple message signs shall not include any illumination or image which moves continuously, appears to be in motion or has any moving or animated parts or video displays or broadcasts. No multiple message sign may include any illumination which is flashing or moving, except those giving public service information such as date, time, temperature, weather, or other similar information. (5-3-03)

b. If illuminated with beams or rays of such intensity or brilliance that it would cause glare or impair the vision of the driver or interfere with the operation of a motor vehicle, effective shielding must be in place so as to prevent beams or rays of light from being directed at any portion of the traveled way. (5-3-03)

c. If illuminated, illumination must not obscure or interfere with the effectiveness of official traffic sign, device, or signal. (5-3-03)

d. Multiple message signs must not emit or utilize any sound capable of being detected. (5-3-03)

e. The message or image on a multiple message sign must remain static for a minimum of eight (8) seconds. (5-3-03)

f. An automated change of message or image on a multiple message sign must be accomplished within two (2) seconds or less and contain a default design that will freeze the sign face in one (1) position should a malfunction occur. (5-3-03)

g. If a multiple message sign is in violation of any of the conditions listed in Subsection 300.05.a. through 300.05.g., the permit will be revoked. (5-3-03)

***12*1. -- *12*9. (RESERVED)**

***13*0. LICENSES.**
Pursuant to Sections 40-1905, 40-1906 and 40-1907, Idaho Code, no person *will be allowed to* engage in the business of outdoor advertising without first having secured an outdoor advertising license and paid the required license fee. Licenses must be renewed annually; the Department cannot renew licenses for a period longer than one (1) year at a time. License application forms may be secured at the Idaho Transportation Department District Offices, as listed in Section 005 of this rule. *( )*

131. -- 139. (RESERVED)

1*40*. *OUTDOOR ADVERTISING* PERMITS.
No person may place any advertising display within the areas affected by the provisions of Section 40-1907, Idaho Code, without first having secured a written permit from the Department. *( )*

01. Application Forms. Permit application forms may be secured at the Idaho Transportation Department District Offices. *( )*

02. Expiration of Annual Permits. Annual permits will expire December 31 each year, but a multi-year permit may be issued as a convenience to the outdoor advertiser. An original annual permit fee of ten dollars ($10) shall accompany each original permit application. An annual renewal fee of three dollars ($3) will be assessed for each permit, and the Department will mail a bill to each sign owner annually. Payment for the renewal of a permit must be received at least thirty (30) days prior to the expiration date. Permit fees will not be prorated for a fraction of a year. (5-3-03)

03. Modified Advertising Structures. Whenever an advertising structure is relocated or undergoes

substantial replacement beyond customary maintenance, the modified structure will be considered to be a new sign. Therefore, pursuant to Section 40-1906, Idaho Code, an application for a new display must be submitted before such reconstruction is begun. A permit fee of ten dollars ($10) must accompany the application. Conversion of a sign face to a multiple message sign face will be considered substantial replacement beyond customary maintenance and considered a new sign. (5-3-03)

a. Nonconforming signs which are allowed to be maintained until the State requires their removal cannot be modified so as to increase the reproduction cost. They must remain substantially the same as they were on the effective date of the state law and any subsequent amendments. (12-26-90)

b. The categories of nonconforming signs which may be maintained until they are removed, and nonconforming signs which have been "grandfathered". in commercial and industrial areas cannot include new signs erected in their place or any changes to the existing sign which would be beyond customary maintenance. (12-26-90)

04. Space Requirement Violations. In the event that two (2) or more lawfully erected signs along the interstate and primary highways are in violation of the spacing requirements and the regulations promulgated by the Department, the Department shall accord the interested parties a full opportunity to be heard and shall thereafter make a finding as to the date of erection of each of the signs and award the permit or permits to the applicants whose signs were first erected. (5-3-03)

05. Application. All applications received during the Department's normal office hours during the same mail pickup will be construed to have been received simultaneously. In the case of a tie between applicants and upon notification thereof by the Department, it shall determine by lot which will receive the permit. (12-26-90)

06. Permit Denial. No permit will be issued for a new sign having two (2) or more faces in any one (1) direction. (5-3-03)

07. Physically Connected Signs. Two (2) sign structures which are physically connected will be considered as a single sign for permit purposes. (5-3-03)

08. Standard Permit Application. Owners of displays defined under Sections 40-102(4) and 40-1904, Idaho Code, will be requested to submit a standard permit application for each such display. Identification tags will be issued for such displays at no cost to the owners. No applications will be requested for minor signs, or emergency telephone signs, nor will tags be issued for them. (12-26-90)

09. Lost or Destroyed Identification Tags. Identification tags, except those issued under Subsection 401.08, which are lost or destroyed either before or after being attached to signs will be replaced only upon payment of a three dollar ($3) fee. Tags issued under Subsection 401.08 will be replaced at no cost if lost or destroyed. (12-26-90)

10. Invalid Permit. A permit will only be issued for a sign that is lawfully erected within one hundred and eighty (180) days of the permit issuance date. The identification tag is to be affixed only to the sign for which it was issued and must be so affixed within one hundred and eighty (180) days after being received; otherwise, the permit automatically becomes invalid. (5-3-03)

11. Cancellation of Permit. If the sign for which a permit has been issued is removed, destroyed, or for any reason becomes unusable prior to the expiration date of permit, the permit may be canceled. (12-26-90)

12. Advertising Illegal Activities. Signs advertising activities illegal under Federal, State, or local law are not eligible for permits. (12-26-90)

13. Revoked Permits. When the Department determines a false or misleading statement has been made in the application for a license or permit, said license or permit shall be revoked. (12-26-90)

14. Appeal Process. In the event a permit is denied or revoked, the applicant may obtain instructions for the appeal process at any of the Idaho Transportation Department District Office locations listed in Section 005. (5-3-03)

141. -- 149. (RESERVED)

150. **BONDS OF OUT-OF-STATE PERMITTEES AND LICENSEES.**
As authorized by Section 40-1908, Idaho Code, a bond in the penal sum of one thousand dollars ($1000) shall be *paid by* all non-resident or foreign corporation permittees and licensees. *( )*

151. -- 199. (RESERVED)

200. GENERAL: TRAFFIC ACCIDENT MEMORIALS
In accordance with Section 49-1316, Idaho Code, relatives or friends of a person killed in a traffic accident upon a state highway may apply for a permit to erect a memorial in memory of the decedent. Only one (1) memorial may be placed per fatal accident. Memorials placed before January 1, 2003 may be retained if they meet all of the requirements of Section 202 and Subsections 215.01 thorough 215.03, of this rule. ( )

201. TRAFFIC ACCIDENT MEMORIAL PERMIT.
After January 1, 2003, relatives or friends of a person killed in a traffic accident upon a state highway may obtain an approved encroachment permit from the Department prior to installing, maintaining or removing a memorial within the state highway right-of-way. As a condition of permit approval, the individual(s) wishing to install a memorial needs to provide the Department with the following: ( )

*01. **Written Approval from the Next of Kin**. Written approval from the decedent's next of kin, who are related by blood, marriage or adoption; and ( )*

*02. **Written Approval from the Property Owner**. Written approval from all property owners whose property is within a five hundred foot (500') radius of the proposed memorial location. ( )*

202. PHYSICAL REQUIREMENTS.
The maximum dimensions of a memorial shall be thirty-six (36) inches high, sixteen (16) inches wide and shall weigh no more than seven (7) pounds. The height requirement is measured from the ground level to the highest point on the memorial, the width shall be measured horizontally at the memorial's widest point and the weight is based on the portion above the ground. ( )

*01. **Shape and Color**. Memorials shall not be shaped or colored to portray, resemble or conflict with any traffic control device. The memorial shall not be reflectorized. ( )*

*02. **Memorial Site**. Planting or landscaping at a memorial is not allowed. ( )*

203. -- 214. (RESERVED)

215. LOCATION.
Memorials must be erected as near as practical to the milepost location where the accident occurred. The person installing the memorial is responsible for contacting a utility locating service to identify the location of any utilities in the area prior to placement of the memorial. See call-before-you-dig requirements in Sections 55-2201 through 55-2210 of Idaho Code. The applicant is required to meet on site with the Department highway maintenance supervisor assigned to the area where a memorial is to be erected to review the proposed installation. The Department highway maintenance supervisor will be responsible for final approval of the memorial location. ( )

*01. **Shoulder**. Memorials shall be placed as far as practical from the edge of roadway, but must be placed a minimum of twenty (20) feet from the roadway shoulder where highway right-of-way width permits. ( )*

*02. **Medians**. Placement of an accident memorial in the median of any interstate or non-interstate highway is prohibited. ( )*

*03. **Incorporated Cities**. Memorials are not allowed within the boundaries of incorporated cities. ( )*

216. -- 219. (RESERVED)

220. SAFETY.

***01. Parking**. Those participating in the installation, maintenance, or removal of the memorial shall park their vehicle(s) as far as practical from the travel lanes and in an area where there is adequate sight distance on the highway in both directions. ( )*

***02. Participants and Motorists**. Those participating in the installation, maintenance, or removal of a memorial must wear proper safety attire and obey all safety procedures approved by the Department at the time of permit issuance. A high degree of safety must be maintained for the traveling public and the participants during the installation, maintenance, or removal of a memorial. ( )*

221. -- 239. (RESERVED)

240. MAINTENANCE.
The Department is not responsible for maintenance, vandalism, damage, or theft of a memorial. The permittee is responsible for maintenance of the memorial. All memorials need to be maintained in good condition at all times and in a manner that complies with this rule. ( )

241. COMPLIANCE.

***01. Improper Installation**. Memorials not installed in compliance with this rule are subject to removal by the Department. ( )*

***02. Maintenance**. Memorials not maintained in good condition are subject to removal by the Department. ( )*

***03. Traffic Hazard**. Memorials that have been installed or maintained in such a manner that either the memorial or the participants create a traffic hazard are subject to removal by the Department. ( )*

242. -- 299. (RESERVED)

300. GENERAL: STANDARDS FOR COMMUNITY OFFICIAL SIGNS.

***01. Direction of Sign**. Only one (1) community sign may face the same direction of travel along a single route approaching the community. ( )*

***02. Location of Sign**. A community sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way) or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. Community signs may not be located within two thousand (2,000) feet of a rest area, park land or scenic area. ( )*

***03. Size of Sign**. Community signs shall not exceed the following limits: ( )*

***a.** Maximum area -- Three hundred (300) square feet. ( )*

***b.** Maximum height -- Thirty (30) feet. ( )*

***c.** Maximum length -- Thirty (30) feet. ( )*

301. STANDARDS FOR DIRECTIONAL SIGNS.

***01. Prohibited Directional Signs**. The following directional signs are prohibited: ( )*

a. Signs advertising activities that are illegal under federal or state laws or regulations in effect at the location of those signs or at the location of those activities. ( )

b. Signs located in such a manner as to obscure or otherwise interfere with the effectiveness of an official traffic sign, signal, or device, or obstruct or interfere with the driver's view of approaching, merging, or intersecting traffic. ( )

c. Signs which are erected or maintained upon trees or painted or drawn upon rocks or other natural features. ( )

d. Signs which are structurally unsafe or in disrepair. ( )

e. Signs which move or have any animated or moving parts. ( )

f. Signs located in rest areas, parklands, or scenic areas. ( )

g. Signs that advertise or call attention to an activity or attraction no longer in existence and/or abandoned or obsolete signs. ( )

h. Signs not maintained in a neat, clean, and attractive condition or in good repair. ( )

i. Signs not designed to withstand a wind pressure of thirty (30) pounds per square foot of exposed surface. ( )

j. A sign installation that has not been issued an annual permit. ( )

*02. **Size of Directional Signs**. ( )*

a. Signs shall not exceed the following limits: Maximum area, one hundred and fifty (150) square feet; maximum height twenty (20) feet; maximum length, twenty (20) feet. ( )

b. All dimensions include border and trim, but exclude supports. ( )

*03. **Spacing of Directional Signs**. ( )*

a. Each location of a sign must be approved by the department and the property owner on whose property the sign is installed. ( )

b. A sign may not be located within two thousand (2,000) feet of an interchange, along the interstate system or other freeways (measured along the interstate or freeway from the nearest point of the beginning or ending of pavement widening at the exit from or entrance to the main traveled way), or located within one thousand (1,000) feet of an intersection of a primary route with another designated federal-aid route. ( )

c. A sign may not be located within two thousand (2,000) feet of a rest area, park land, or scenic area. ( )

d. A sign shall not be located within one (1) mile of any other directional sign facing the same direction of travel. ( )

e. Not more than three (3) signs pertaining to the same activity and facing the same direction of travel may be erected along a single route approaching the activity. ( )

f. Signs located adjacent to the interstate system shall be within seventy-five (75) air miles of the activity. ( )

g. Signs located adjacent to the primary system shall be within fifty (50) air miles of the activity. ( )

***04. Message Content**. The message on directional signs shall be limited to the identification of the attraction or activity and directional information useful to the traveler in locating the attraction, such as mileage, route numbers, or exit numbers. Descriptive words or phrases and pictorial or photographic representations of the activity or its environs are prohibited. ( )*

302. -- 131. (RESERVED)

320. LIGHTING, SIGNS MAY BE ILLUMINATED, SUBJECT TO THE FOLLOWING.

***01. Flashing or Moving Lights**. Signs which contain, include, or are illuminated by any flashing, intermittent, or moving light or lights are prohibited. ( )*

***02. Lights Which Impair Driver Vision**. Signs which are not effectively shielded so as to prevent beams or rays of light from being directed toward any portion of the traveled way of a highway or which are of such intensity or brilliance as to cause glare or to impair the vision of the driver of any motor vehicle, or which otherwise interfere with any driver's operation of a motor vehicle are prohibited. ( )*

***03. Interference With Traffic Sign, Device, or Signal**. A sign may not be so illuminated as to interfere with the effectiveness of, or obscure an official traffic sign, device, or signal. ( )*

321. -- 339. (RESERVED)

340. ADMINISTRATION.

***01. Selection Methods and Criteria**. ( )*

***a.** Application for permits to erect and maintain directional and official signs under this regulation shall be filed with the Idaho Transportation Department, Division of Highways. ( )*

***b.** The approval of applications of directional signs is to be based on the following criteria: Nationally or regionally known activity of outstanding interest to the traveling public; location of activity relative to highway and proposed signing plan; dominant attraction must be for edification and enjoyment of motorist, not tourist-oriented business or for generation of activity income; and Attraction or Activity shall have drinking water and toilet facilities meeting the Idaho Department of Health and Welfare standards. ( )*

***c.** The applicant of directional signs will furnish to the department the following data: Proposed sign plans including sign details, color, construction, shape, legend, lighting and location; letter of property owner approval of directional sign installation; department of Health and Welfare certification that water and toilet facilities meet Idaho standards; and documentation and explanation by applicant if it is a regionally known attraction or activity of outstanding interest to the traveling public. ( )*

***d.** Applicants for directional signing will furnish to the department, on request, information relating to the limits of their advertising program, need of directional signing for the traveling public, number of public visits, and such other information as deemed appropriate to assure compliance with federal regulations and state law. The applicant or other representatives may appear before the Idaho Transportation Board in case of controversy. ( )*

***e.** The applicant of community or bypassed community official signs will furnish the department the same information required in Subsection 340.01.c of this rule. ( )*

***02. Permits**. ( )*

***a.** Permit application forms may be secured at any office of the Idaho Transportation Department, Division of Highways. ( )*

***b.** Permits will be issued annually expiring on December 31 each year, but can be issued for a period greater than one (1) year as a matter of convenience. ( )*

c. *The initial permit application fee is ten dollars ($10) with an annual renewal fee of three dollars ($3). The initial application fee is nonrefundable. A fee shall not be prorated for a fraction of a year or be refunded for the balance of a permit period if the sign is removed. ( )*

d. *A permit shall not be issued until the sign has been approved by the department. A valid permit may be transferred to another person or jurisdiction upon written notice to the department. ( )*

e. *A permit shall not be issued for a sign located adjacent to a fully-controlled access highway or freeway unless it has been determined that access to the sign can be obtained without violating the access control provisions of the highway. The department will cancel a permit and require removal of the sign if it is found that the sign has been erected, maintained or serviced from the highway right-of-way at those locations where the department has acquired rights of access to the highway or rights of access have not accrued to the abutting property. In addition, the department may recover from the sign owner or person erecting, maintaining or servicing the sign, the amount of damage of landscaping, sodding, fencing, ditching or other highway appurtenances resulting from such acts. ( )*

f. *The permit can be revoked by the state if the department determines that the applicant has knowingly supplied false or misleading information in his application for a permit or permit renewal. ( )*

g. *Service club, religious notice and community official signs will require a permit but the fees will be waived. For permit purposes, service club and religious notice structures may have more than one (1) face but not more than six (6) faces. ( )*

3*41*. -- 999. (RESERVED)

39.03.65 – RULES GOVERNING TRAFFIC MINUTE ENTRIES

000. LEGAL AUTHORITY.
This rule adopted under the authority of Sections 49-201 and 49-202, Idaho Code. (1-2-93)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.03.65, "Rules Governing Traffic Minute Entries," and establishes the procedures for making Traffic Minute Entries regulating speed zoning, parking, traffic control devices, and the selective exclusion of traffic on the State Highway System. (1-2-93)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Traffic Minute Entries. Official entries made to Department records regulating traffic on the State Highway System. (1-2-93)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Preparation. Traffic Minute Entries (except for temporary speed zones and flashing beacons with warning signs) shall be prepared by the Traffic Section for approval by the Department Director, State Highway Administrator, or the Chief of Highway Operations. (1-2-93)

02. Requests. Each request for a Traffic Minute Entry shall indicate: (1-2-93)

a. The location regulated by the Traffic Minute Entry; (1-2-93)

b. The basis for the request; and (1-2-93)

c. Traffic and engineering study of operational characteristics and observations that support the Traffic Minute Entry. (1-2-93)

03. Temporary Regulations. Temporary traffic regulations for construction or maintenance zones and flashing beacons with warning signs shall be initiated, monitored, corrected, and deleted by written approval of the appropriate District Engineer. (1-2-93)

04. Unresolved Differences. Traffic Minute Entry worksheets regulating traffic on the State Highway System within incorporated cities should have the concurrence of the appropriate local officials. Unresolved differences regarding Traffic Minute Entries shall be documented by the Traffic Section and presented to the Transportation Board for resolution. (1-2-93)

101. -- 199. (RESERVED)

200. REQUIRED ENTRIES.
Traffic Minute Entries shall be made for the following types of traffic regulations on the State Highway System: (1-2-93)

01. Limits. (1-2-93)

a. Permanent speed limits. (1-2-93)

b. Bridge limits (allowable gross loads). (1-2-93)

02. Parking. (1-2-93)

a. Rural parking restrictions. (1-2-93)

b. Approval of angle parking on state highways through cities. (1-2-93)

03. Traffic Control. (1-2-93)

a. Traffic control signals and flashing intersection beacons at locations where there are no cooperative agreements between ITD and local authorities. (1-2-93)

b. Flashing beacons with warning signs approved by District Engineer. (1-2-93)

c. Exceptions to placing stop signs at passively protected railroad crossings. (1-2-93)

d. Selective exclusion of vehicles on controlled-access highways. (1-2-93)

04. Other Entries. Temporary construction, maintenance, and emergency regulations approved by the District Engineer. (1-2-93)

201. -- 299. (RESERVED)

300. PARKING ON STATE HIGHWAYS WITHIN CITIES.
Parking prohibitions and regulations on the State Highway System within incorporated cities shall be approved by the city and the ITD Traffic Section and shall be covered by a local ordinance unless provided for by a cooperative maintenance or construction agreement. Unresolved differences between incorporated cities and ITD shall be presented to the Transportation Board for final resolution. (1-2-93)

301. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 40-312 and 49-1001(8)(c), Idaho Code. (3-3-92)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.03.80, "Rules Governing Legalization of Overloaded Vehicles." Section 49-1001(8), Idaho Code, provides that certain overweight vehicles may not proceed past the place of weighing until brought into compliance with the applicable weight limitations; however, these vehicles may be authorized to proceed to a location where they can be safely brought into compliance if it is determined that it would be unsafe or impractical to do so at the place of weighing. This rule addresses the implementation of this procedure. (3-3-92)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Place of Weighing. That location where a motor vehicle, semitrailer, trailer, or combination thereof, is weighed by enforcement personnel to determine its legal allowable axle, combination of axles, or gross weight. Such locations include: (3-3-92)

a. Permanent ports of entry. (3-3-92)

b. Temporary weigh sites where vehicles are weighed on portable scales; (3-3-92)

c. Privately owned scales which are currently certified by the Idaho Department of Agriculture, Bureau of Weights and Measures (when directed by a peace officer or authorized Idaho Transportation Department employee). (3-3-92)

02. Perishable Commodity. Any product that will spoil, die, or otherwise become unusable for human or animal consumption, or becomes unmarketable when not properly cared for, maintained, or preserved. (3-3-92)

03. Legalization. Bringing a vehicle or load into compliance with applicable weight limitations by adjusting or shifting the load on the vehicle or by off-loading a portion of the load to another vehicle or place of storage. (3-3-92)

04. Safely Legalized. A process which will not create undo risk to the driver of a vehicle, the general public, weight enforcement officials, or the commodity itself during removal of portions of the load from the transport vehicle. (3-3-92)

05. Safe Point of Legalization. That point closest to the place of weighing where qualified personnel, equipment, or material exist to safely shift, off-load, or transfer cargo from a vehicle to a place of storage or to another vehicle. (3-3-92)

06. Travel Authorization. A document authorizing a specific vehicle and its load to travel in an overweight condition from its place of weighing to a safe point of legalization. (3-3-92)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Place to Legalize. All vehicles exceeding the overweight tolerances of Section 49-1001(8), Idaho Code, shall be required to legalize at the place of weighing unless, in the judgment of the weight enforcement official, it would be unsafe and/or impractical to do so. (3-3-92)

02. Travel Authorization. Those overweight vehicles, which in the judgment of the weight enforcement official cannot be safely or practically legalized at the place of weighing, shall obtain a travel authorization to travel to a safe point of legalization by payment of the statutory fee. (3-3-92)

a. The safe point of legalization shall be determined by the weight enforcement official in consultation with the vehicle operator or other persons having interest in the vehicle or load. (3-3-92)

b. Vehicles hauling the following commodities shall be considered unsafe or impractical to legalize at

the place of weighing. This list is illustrative and not all inclusive of the following: Bulk hazardous materials and hazardous waste as defined by Section 49-109, Idaho Code; livestock; hot asphalt; concrete; dead animals or parts thereof; highly perishable commodities (i.e., live fish, fresh milk, etc.); bees; and any load where removal of the tie downs may create a possible safety hazard. (3-3-92)

c. The owner or operator of vehicles required to off-load portions of their load shall adhere to all applicable safety regulations of the Occupational Safety and Health Administration (OSHA), United States Department of Transportation, and the Idaho Department of Commerce and Labor. (3-3-92)

d. A supervisor within the port of entry chain of command shall determine if loads of questionable safety should be off-loaded at the place of weighing or be allowed to purchase a travel authorization. (3-3-92)

03. Permission to Off-Load. No off-loaded commodity shall be left at the place of weighing unless done so with permission of the appropriate authority. (3-3-92)

a. Any commodity left at the place of weighing may be removed and stored by the Department at the hauler's expense. (3-3-92)

b. A trailer as defined by Section 49-121(6), Idaho Code, may be left at the place of weighing for a reasonable time not to exceed five (5) days if the weight enforcement official determines a traffic hazard will not be created. (3-3-92)

c. Any commodity left at a privately owned place of weighing should be done so with the knowledge and express permission of the owner of the site. (3-3-92)

04. Travel Authorization Restrictions. (3-3-92)

a. Travel authorization shall not be issued to vehicles traveling under the authority of an overweight permit issued pursuant to Section 49-1004, Idaho Code. (3-3-92)

b. Travel authorization shall not be issued to allow travel across a restricted structure at weights exceeding its maximum allowable weight or when such weight exceeds the maximum weight that would be permitted under Section 49-1004, Idaho Code. (3-3-92)

101. -- 999. (RESERVED)

39.03.81 – RULES GOVERNING ISSUANCE OF TEMPORARY PERMITS IN LIEU OF FULL REGISTRATION

000. LEGAL AUTHORITY.

This rule is adopted under authority of Sections 49-201 and 49-432, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. The rule is titled IDAPA 39.03.81, "Rules Governing Issuance of Temporary Permits In Lieu of Full Registration." (3-15-02)

02. Scope. This chapter clarifies the requirements governing the issuance of temporary permits for resident and nonresident vehicle operators or owners. (3-15-02)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Combination of Vehicles. A tractor or truck tractor and one (1) or more trailers and/or semitrailers. (5-3-03)

02. First Available Location. The first vendor along an owner's or operator's route of travel from whom one hundred twenty (120) hour temporary permits in lieu of registration can be purchased. (3-15-02)

03. Increased Registered Weight Temporary Permit. Temporary authority to exceed the registered maximum gross weight of a vehicle as authorized by Section 49-432, Idaho Code. (3-15-02)

04. Licensed Vehicle. A vehicle currently registered in any jurisdiction. (3-15-02)

05. One Hundred Twenty Hour Temporary Permit. A one hundred twenty (120) hour temporary permit issued in lieu of an IFTA license/decal and/or vehicle licensing and registration as authorized by Section 49-432, Idaho Code. (3-15-02)

06. Single Vehicle. Any tractor, truck tractor, or motor vehicle that is not combined with nor towing one (1) or more trailers and/or semitrailers. Additionally, any unlicensed trailer or semitrailer may be deemed a single vehicle. (5-3-03)

07. Vendor. A governmental agency, private or commercial business which sells temporary permits as an agent of the Idaho Transportation Department. (3-15-02)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Availability. One hundred twenty (120) hour temporary permits in lieu of registration are available to owners or operators whose jurisdiction of residence allows temporary permits to like vehicles from the state of Idaho. Increased registered weight temporary permits are available to currently registered vehicles capable of legally operating at the higher gross vehicle weight as declared by the owner or operator. (3-15-02)

02. Purchase of Temporary Permits. (3-15-02)

a. Owners or operators electing to use increased registered weight temporary permits must purchase permits prior to movement of vehicles on the public highways or roads. Failure to do so may result in enforcement action and may include mandatory full licensing and registration of such vehicle as required by Section 49-434, Idaho Code. The temporary permit shall be on a form prescribed by the department and prominently displayed on the windshield of the permitted vehicle. (3-15-02)

b. One hundred twenty (120) hour temporary permits in lieu of registration must be purchased by owners or operators of unlicensed vehicles prior to their movement on the highway. Licensed vehicles may purchase one hundred twenty (120) hour permits in lieu of registration at the first available location as defined by this rule. The temporary permit shall be on a form prescribed by the department and prominently displayed on the windshield of the permitted vehicle. (3-15-02)

c. All temporary permits shall be made available for inspection by any law enforcement officer and authorized personnel of the department upon request. (3-15-02)

d. Section 49-432, Idaho Code, provides that owners of motor vehicles or combinations of vehicles subject to registration may, in lieu of licensing and registration, purchase a one hundred twenty (120) hour temporary permit in lieu of registration for the operation of such vehicles for periods of one hundred twenty (120) hours. (3-15-02)

e. Section 49-432, Idaho Code, provides that owners or operators of motor vehicles currently and validly registered over fifty thousand (50,000) pounds gross vehicle weight may purchase an increased registered weight temporary permit for the operation of such vehicles in excess of the registered maximum gross weight for periods of thirty (30) days. Such permits shall be in addition to any other permit that may be required for excess weight as specified by Section 49-1004, Idaho Code. (3-15-02)

f. Section 49-432, Idaho Code, provides that owners or operators of motor vehicles currently and validly registered may purchase an increased registered weight temporary permit for the operation of such vehicles in excess of the registered maximum gross weight for periods of one hundred twenty (120) hours. Such permits shall be in addition to any other permits that may be required for excess weight as specified by Section 49-1004, Idaho Code. (3-15-02)

101. -- 199. (RESERVED)

200. PERMIT REQUIREMENTS.

01. Proof of Ownership. An operator or owner of a vehicle shall show proof of ownership before a permit is issued. (6-4-90)

a. Resident vehicle proof of ownership may be documented by: (3-15-02)

i. A copy of the Idaho title identifying the owner and vehicle; (3-15-02)

ii. A copy of a valid lease agreement identifying the owner and the vehicle; (3-15-02)

iii. A copy of an expired registration identifying the current owner and the vehicle; or (3-15-02)

iv. A copy of a valid bill of sale transferring ownership of the vehicle. (3-15-02)

b. Nonresident vehicle proof of ownership may be documented by: (3-15-02)

i. A copy of a valid registration from a base jurisdiction, which qualifies for a permit, identifying the owner and the vehicle; (3-15-02)

ii. A copy of an expired lease agreement of an owner/operator not acting as a lessee which identifies the owner and the vehicle; (3-15-02)

iii. A copy of a current lease agreement, providing the base jurisdiction qualifies for a permit, which identifies the owner/operator; (3-15-02)

iv. A copy of a valid bill of sale transferring ownership of the vehicle; or (3-15-02)

v. A copy of the title identifying owner and vehicle. (3-15-02)

02. Weight of Vehicle. One hundred twenty (120) hour temporary permits in lieu of registration shall authorize the legal operation of the permitted vehicle to the maximum combined gross weight of a vehicle, not to exceed one hundred five thousand five hundred (105,500) pounds. (3-15-02)

03. Purchase of Multiple Permits. Residents or nonresidents who qualify for permits may purchase

more than one (1) permit at a time to cover a time period not to exceed ninety (90) days. Additional time periods must be purchased in increments of one hundred twenty (120) hours or thirty (30) days and assessed the appropriate fees for each increment. (3-15-02)

04. Permit Denial. Any person who has been notified by mail at his last known business address as it appears on department records, that his registration has been suspended or revoked shall not be allowed to register in Idaho by securing a temporary permit. Any person, having been duly notified, who purchases a permit and subsequently operates a vehicle displaying such permit while his registration is suspended or revoked is in violation of this rule. Any person failing to provide proof of current registration shall not be allowed to temporarily permit for increased registered weight. Any person obtaining a temporary permit for increased registered weight without a current registration is in violation of this rule. (3-15-02)

05. Violation of Permit. If an owner or operator of a vehicle exceeds the operating weight authorized by temporary permit, such owner or operator may be issued a citation for violation of Section 49-438, Idaho Code. The violation shall be limited to the difference between the amount of the actual operating weight and the operating weight authorized by temporary permit. A single temporary permit in lieu of full registration may not be purchased when operating in combination with one (1) or more trailers or semitrailers. Example: Registered or unregistered trailer(s) operating in combination with an unregistered tractor or truck tractor will be required to purchase a temporary permit for a combination of vehicles. (5-3-03)

201. -- 299. (RESERVED)

300. REFUND OF FEES.

01. Cause for Refund. The department will grant refunds for permits sold by its vendors or by Ports of Entry, if the permit was sold as the result of an error made by the department or its vendors. (3-15-02)

02. Request for Refunds. Owners or operators shall address all requests for refunds of temporary permit fees to the Idaho Transportation Department, Ports of Entry Section, P.O. Box 7129, Boise, Idaho 83707-1129. (3-15-02)

03. Documentation for Refunds. The following documentation must accompany refund requests: (6-4-90)

a. Both the yellow display copy and the white receipt copy of the permit; (6-4-90)

b. Proof that the vehicle held a valid Idaho registration at the time the permit was issued; and (6-4-90)

c. Proof that special fuel tax was paid at the pump or that the permitted vehicle was registered with the Idaho Tax Commission for quarterly payment of fuel tax at the time the permit was sold. (6-4-90)

04. Denial of Refund. If the certificate of registration of the permitted vehicle was mailed from Motor Carrier Services or the Division of Motor Vehicles to the correct address of the owner of the vehicle thirty (30) days or more prior to the purchase of the permit or if cause for refund was not provided, a request for refund shall be denied. (3-15-02)

301. -- 399. (RESERVED)

400. TEMPORARY PERMIT VENDOR PROGRAM.

01. Vendor Authorization. Vendors may be established to sell temporary permits provided the vendor meets state requirements. (3-15-02)

02. Payment to Vendor. Vendors shall be paid by the department at the rate of three dollars ($3) per permit sold. Permits sold in multiple increments shall be deemed to be issued as one (1) permit for purposes of payment or remuneration to the vendor. (3-15-02)

401. -- 499. (RESERVED)

500. ADDITIONAL REQUIREMENTS.
Any overlegal permit required pursuant to Section 49-1004, Idaho Code, shall be in addition to those required by this rule. (3-15-02)

501. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under authority of Sections 21-105, 21-111, 21-114, 21-142(9), 21-142(15) and 21-519, Idaho Code, the Idaho Transportation Board adopts this rule. Violators of state law and these rules are subject to the penalties specified in Sections 18-7031, 18-7033 and 21-121, Idaho Code. ( )

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.04.01, "Rules Governing Aeronautics and Aviation." ( )

02. Scope. This rule implements the provisions of Title 21, Idaho Code, related to aeronautics and aviation, including rules governing aircraft registration, marking of hazards to air flight, restriction of flight in designated emergency areas, commercial and through-the-fence operations, aerial search and rescue, operations at state airports, Federal Aviation Regulations and the Idaho Airport Aid Program. Where feasible, all rules and regulations regarding navigation of aircraft within the airspace about the state of Idaho will be kept in conformance with the current federal aviation regulations. ( )

002. INCORPORATION BY REFERENCE.
These rules incorporate the current Federal Aviation Regulations, 14 CFR Parts 1-191, where they are not inconsistent with existing rules or regulations that may, from time to time, be adopted by the Idaho Transportation Board. Copies of Federal Aviation Regulations, 14 CFR parts 1-191, may be obtained from the Superintendent of Documents, U. S. Government Printing Office, Washington, DC 20402 or electronically at the Electronic Code of Federal Regulations, at https://www.ecfr.gov/cgi-bin/ECFR?page=browse. This rule also incorporates the Idaho Airport Aid Program, Implementation Manual (3rd Edition, September 2019), and the Department's Aerial Search and Rescue Manual. ( )

007. – 009. (RESERVED)

010. DEFINITIONS.

01. Adjusted Service Area Population. The adjusted service area population is the subject airports service area population reduced by the population within the service area of a nearby 'more developed' airport(s) that overlaps the subject airports service area. The adjusted service area population is used to determine the match rate for Community airport grants. ( )

02. Aerial Search and Rescue Volunteer. One who volunteers services for humanitarian relief. When accepted in support of SAR missions, SAR volunteer shall become quasi-state employee and be protected by state workman's compensation insurance. ( )

03. Aerial Search and Rescue Volunteer Aircraft. A civil aircraft voluntarily made available to be used in aerial search and rescue operations. ( )

04. Aerial Search and Rescue Volunteer Pilot/Observer. A pilot/observer qualified in accordance with the Idaho Transportation Department Aerial Search and Rescue Manual. ( )

05. AFRCC. Air Force Rescue Coordination Center, the single agency through which federal SAR missions will be prosecuted and federal assistance requested for SAR in the inland region. It is a coordinating agency only. ( )

06. Aircraft Parking Area. A designated site constructed on an airport with or without aircraft tiedown chains or ropes for the purpose of parking unattended aircraft. ( )

07. Airman/Airmen. Any individual who engages, as the person in command or as pilot, mechanic, or member of the crew, in the navigation of aircraft while underway. For the purpose of this regulation, search shall be conducted for airmen and passenger(s) of lost aircraft. ( )

08. Airport. Any area of land or water which is used, or intended for use, for the landing and take-off of aircraft, and any appurtenant areas which are used, or intended for use, for airport buildings or other airport facilities or rights-of-way, together with all airport buildings and facilities located thereon. For the purposes of this chapter, the term "airport" refers to a publicly owned and managed facility that is open for public use without operational restrictions on its use. For the purposes of Subchapter B of this rule, this is limited to airports that are

owned, leased or permitted by the owner of the land and are under the control of, and operated by the Idaho Transportation Department's Division of Aeronautics. ( )

***09. Airport Service Area Population**. The airport service area population is the number of people within the service area boundary based upon the most recent approved census data. An airport's service area is the geographic locale within a thirty (30) minute average drive time from the airport. ( )*

***10. Camping Area**. Any site designated for camping and identified by the placement of picnic tables, fire pits, barbecue stoves or appropriate signing. ( )*

***11. Civil Aircraft**. Aircraft other than public aircraft. ( )*

***12. Department**. Idaho Transportation Department. ( )*

***13. Director**. Director of the Idaho Transportation Department. ( )*

***14. District Aerial Search and Rescue Coordinator**. A designated representative of the State Search and Rescue Coordinator. ( )*

***15. Division**. The Division of Aeronautics of the Idaho Transportation Department, including its officers and employees. ( )*

***16. Fueling**. Any procedure which involves the addition or removal of fuel from aircraft fuel tanks or the transfer of fuel from or into tanks, barrels, or bladders. ( )*

***17. Guyed Tower**. A tower that is supported in whole or in part by guy wires and ground anchors or other means of support besides the superstructure of the tower itself, towers used for military purposes excepted. ( )*

***18. Hazardous Material**. Any material or substance as defined by Sections 49-109(3), 39-4403(7) and (14), 39-4407, or 39-6203(9), Idaho Code. ( )*

***19. Height**. The distance measured from the original grade at the base of the tower to the highest point of the tower. ( )*

***20. Loading Area**. A site designated on an airport for the purpose of loading or unloading passengers and cargo and facilitating the access of designated vehicles. ( )*

***21. Marking**. Shall include illuminating, painting, lighting, or designating in a manner to be approved by the department. ( )*

***22. National Search and Rescue Manual**. That manual for guidance of U.S. Federal Forces, military or civil, participating in search and rescue (SAR) operations. ( )*

***23. National Search and Rescue (SAR) Plan**. Aerospace Rescue and recovery Service Operations Plan Number 9506, entitled, "Inland Search and Rescue." It coordinates the SAR efforts among the states and federal agencies. ( )*

***24. Office of Emergency Management (OEM)**. State agency in charge of preparing for and/or providing assistance during and after natural or man-made disasters. ( )*

***25. Runway**. An airport surface designed specifically for the takeoff and landing of aircraft. ( )*

***26. Search and Rescue**. (SAR) ( )*

***a.** Search - An investigative act to determine the location of lost aircraft or airman. ( )*

b. *Rescue - Deliver from danger, to save.* *( )*

27. SAR Agreements*. SAR agreements involving federal, state, local, and private agencies, and/or individual(s).* *( )*

28. Search Districts*. Those six (6) areas throughout the State which are designated as aerial search and rescue districts by the Idaho aerial search and rescue plan. These areas are the same as the states six (6) highway districts.* *( )*

29. State Aerial Search and Rescue Coordinator*. Director, Idaho Transportation Department, or his duly appointed representative, responsible for directing, coordinating and supervising all phases of aerial search and rescue operations.* *( )*

30. State Aerial Search and Rescue Plan*. Those plans, policies, and procedures set forth in the Department Aerial Search and Rescue Manual.* *( )*

31. Temporary or Permanent Guyed Tower*. A guyed tower erected and standing for any period of time whatsoever.* *( )*

32. Vehicle*. Any motorized vehicle excluding aircraft and including, but not limited to, highway automobile, truck, bus, van, trailer, motorcycle, ATV, recreational vehicle, or snowmobile.* *( )*

011. -- 099. (RESERVED)

SUBCHAPTER A – RULES GOVERNING AIRCRAFT REGISTRATION

100. AIRCRAFT TO BE REGISTERED.
Every resident of this State who operates an aircraft or who owns an aircraft holding a currently valid airworthiness certificate and a currently valid annual inspection or progressive inspection system issued by the Federal government, or a resident or nonresident operating an aircraft for hire, spraying, dusting, seeding, or operated in the transportation of persons or property, shall register such aircraft with the Idaho Division of Aeronautics hereinafter referred to as Division. *( )*

101. REGISTRATION PERIOD.

01. Annual Period*. The period for the registration of aircraft in the state of Idaho runs from January 1 through December 31 of each year.* *( )*

02. Annual Registration Closing Date*. The closing date for the annual registration is the first Monday of November in each year. A list of unregistered aircraft, as of that date, shall be forwarded to the proper county assessor for inclusion in personal property assessment due on the fourth Monday in November, as required by Section 63-301, Idaho Code.* *( )*

102. APPLICATIONS FOR AIRCRAFT REGISTRATION.

01. Current Registration Certificate*. An owner who holds a currently effective registration certificate for an aircraft issued by the Federal government shall make application for an aircraft registration upon appropriate forms to be prescribed and furnished by the Division that contain the applicant's title and the names and addresses of all persons having any interest therein.* *( )*

02. Application Information*. Every application for an aircraft registration shall contain: The name of the manufacturer, model, year, the aircraft identification number and serial number, engine type, and aircraft manufacturer's certified maximum gross weight.* *( )*

103. FEES.
Annual aircraft registration fees are set forth in Section 21-114, Idaho Code. *( )*

104. REGISTRATION TO BE CARRIED AND DISPLAYED.
The certificate of registration issued by the Division shall be carried at all times in said aircraft and must be made available for examination upon reasonable request by any person charged with the duty of enforcing the aviation laws of this state. *( )*

105. TRANSFER OF TITLE OR INTEREST IN AIRCRAFT.

***01. Previous Owner Responsibility**. The owner of an aircraft registered by the Division under Section 21-114, Idaho Code, who transfers or assigns his title or interest in such aircraft, shall:* *( )*

***a.** Within 15 days, notify the Division in writing of such transfer or assignment; and* *( )*

***b.** Furnish the Division with the name and address of the person to whom such transfer or assignment was made; and* *( )*

***c.** Remove or obliterate the decal so as to indicate its cancellation prior to delivery of the aircraft to the transferee or assignee; and* *( )*

***d.** Request the Division to cancel the registration.* *( )*

***02. New Owner Responsibility**. The new owner, if a resident of Idaho or a non-resident qualifying under Section 100 of this rule, shall register the aircraft with the Division.* *( )*

106. EXEMPTIONS.
This rule does not apply to aircraft exempted from registration by Section 21-114(d), Idaho Code. *( )*

107 – 199. (RESERVED)

SUBCHAPTER B – RULES GOVERNING OPERATIONS AT STATE AIRPORTS

200. SPECIAL OPERATING RESTRICTIONS ON AIRPORTS.
The Division may establish special operating restrictions on an airport to assure the safety and convenience of users and the general public when special events or temporary or seasonal factors warrant. Such special restrictions shall be issued in writing at least ten (10) days prior to their effective date and published as a NOTAM (Notice to Airmen) and be conspicuously posted on the airport. When practical, the Division may advise principal users of the airport of the special restrictions. *( )*

201. AIRCRAFT PARKING, LOADING, AND TIEDOWN.
Aircraft that are loading and unloading on state airports shall be parked in the available designated aircraft parking or loading areas. In the event such designated areas are fully occupied, pilots shall park so as to remain clear of the defined runway. All unattended aircraft shall be tied down when tiedowns are available. Persons parking their aircraft where tiedowns are not available shall secure their aircraft with portable tiedown devices, or use other positive means of restraining their aircraft which will assure that their aircraft will not damage other aircraft or property. Aircraft will not remain tied down on an airport in excess of one (1) month without the approval of the Division. *( )*

202. VEHICLES, DOMESTIC ANIMALS, BAGGAGE, AND OBJECTS.

***01. Parking**. No person will operate or park any vehicle on an airport without prior approval of the Division. Vehicles authorized on an airport will not be operated on the runway or parked so as to occupy or block designated tiedowns or loading areas, except that temporary parking necessary for actual loading or unloading of baggage or objects is allowed if no hazard is thus created. Vehicles shall be parked only in designated parking areas.* *( )*

***02. Domestic Animals**. No person will allow any domestic animal on an airport, taxiway or adjacent*

camping area without its being on a leash beyond the minimum time necessary for the loading or unloading of such animal into or from an aircraft without prior approval of the Division. ( )

***03. Livestock**. No person will allow livestock to graze on airport property without permission from the Division. ( )*

***04. Domestic Animal Droppings**. No person will allow domestic animal droppings to be left on an airport, a loading area or in an adjacent camping area. ( )*

***05. Unattended Objects or Baggage**. No person will place any unattended objects or baggage in a tiedown area when such placement creates a hazard, or restricts aircraft parking in such a way that displaced aircraft create a hazard. ( )*

203. CAMPING, TRASH, AND REFUSE.

***01. Camping**. No person will camp on an airport except in designated camping areas without prior approval of Division employees. ( )*

***02. Camping Limits**. No person is permitted to use a camping area adjacent to an airport for more than fourteen (14) consecutive days, however this time limit may be extended by Division employees when existing camp area vacancies exist. ( )*

***03. Fires**. No campfires or open flame camp stoves are allowed within fifty (50) feet of aircraft. ( )*

***04. Trash and Refuse**. All persons on an airport shall place their trash, garbage, and refuse in designated containers or shall otherwise remove it from the airport. ( )*

***05. Trash Disposal**. No person will deposit their trash on an area adjacent to an airport. ( )*

204. AIRCRAFT FUELING, AGRICULTURAL OPERATIONS, AND HAZARDOUS MATERIAL.

***01. Fueling Procedures**. Any person performing aircraft fueling on an airport shall obtain and read a copy of the refueling procedures published by the Division and shall conduct fueling in accordance with these procedures. All persons shall comply with any airport restrictions issued by the Division in connection with recognized fire danger conditions. ( )*

***02. Aerial Application Operations**. No person will perform aerial spraying, dusting, or other aerial chemical application operations from an airport without making formal application to and receiving an approved operational agreement from the Division. Any person spilling, dumping, or disposing of any hazardous, toxic, or otherwise dangerous or offensive substance on an airport shall be responsible for the full cost of the cleanup, disposal, and administrative costs to the Division necessitated by removal of the substance. ( )*

205. COMMERCIAL OPERATIONS.

***01. Operational Agreement**. No person will conduct any commercial or business operations from an airport without making formal application to and receiving an approved operational agreement issued by the Division. ( )*

***02. Airport Use**. No approved commercial operation on an airport by persons or firms engaged in business shall be deemed to have priority over any public or other commercial use of such airport. ( )*

206. -- 299. (RESERVED)

SUBCHAPTER C – RULES GOVERNING COMMERCIAL AND THROUGH-THE-FENCE OPERATIONS AND HANGAR CONSTRUCTION AT STATE AIRPORTS

300. APPLICATION.

Any individual, company, or corporation wishing to establish any aviation facility, private or commercial, on or adjacent to any state airport shall make formal application to the Idaho Division of Aeronautics that contained, at a minimum, a sketch showing the location of proposed facilities; a description, sketch, manufacturer's brochure, etc. of the proposed facilities; and a description of the operation proposed. ( )

301. OPERATIONAL AGREEMENT.

***01. Negotiation and Approval**. Subsequent to Board approval of the application, the Division of Aeronautics will negotiate an operational agreement with the applicant. The terms of the agreement must be approved by the Board prior to ratification of the agreement by any agent of the state. ( )*

***02. Information Required**. The agreement will include, but not be limited to, lease fee, term, any operational limitations deemed appropriate, etc. ( )*

302. SAFETY AND ACCESS.

Aviation safety will be of paramount importance in consideration of any application. Special emphasis will be placed upon developing means of controlling the number of access points for through-the-fence operations, defined as operations which require aircraft to taxi across the airport property boundary. ( )

303. -- 399. (RESERVED)

SUBCHAPTER D – RULES GOVERNING MARKING OF HAZARDS TO AIR FLIGHT

400. REQUIREMENTS.

***01. Hazardous Structures**. Any structure which obstructs the airspace more than two hundred (200) feet above the ground or water level, or at any height near an established airport as defined by Section 21-101(c), Idaho Code, when determined by the Department to be an aviation hazard or a potential aviation hazard, as defined in Section 21-101(n), Idaho Code, to the safe flight of aircraft shall be plainly marked, illuminated, painted, lighted, or designated in a manner approved by the Department. ( )*

***02. Guyed Towers**. Any temporary or permanent guyed tower fifty (50) feet or more in height that is located outside the boundaries of an incorporated city or town on land that is primarily rural or undeveloped or used for agricultural purposes, or that is primarily desert, and where such guyed tower's appearance is not otherwise governed by state or federal law, rule or regulation, shall be lighted, marked and painted or otherwise constructed to be visible in clear air during daylight hours from a distance of not less than two thousand (2,000) feet. ( )*

***a.** Guyed towers shall be painted in seven (7) equal alternating bands of aviation orange and white that begin with orange at the top of the tower and end with orange at the base. ( )*

***b.** Guyed towers shall have one flashing obstruction light at the top of the tower that meets the technical requirements of medium intensity flashing white obstruction light systems as specified in Federal Aviation Administration Advisory Circular AC 70/7460-1K or current edition. ( )*

***c.** For guyed towers the surface area under the footprint of the tower and six (6) feet beyond the outer tower anchors shall have a contrasting appearance with any surrounding vegetation. ( )*

***d.** Guyed towers shall have two (2) marker balls, having a minimum diameter of twenty (20) inches attached to and evenly spaced on each of the outside guy wires. Said spheres to be of the split-sheet, clamp-on type which are to be alternated in two (2) contrasting solid colors of gloss yellow and international orange, and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam. ( )*

***e.** Guyed towers shall have a seven (7) foot long safety sleeve colored to contrast with background vegetation at each anchor point and extend from the anchor point along each guy wire attached to the anchor point. ( )*

f. *The provisions of this Subsection 400.02, do not apply to power poles or structures owned and operated by an electric supplier as defined in Section 61-332A(4), Idaho Code, to facilities used by a federal power marketing agency to serve public utilities or consumer-owned utilities, or any structure whose primary purpose is to support telecommunications equipment, including citizens band (CB) radio towers and all other amateur radio towers.* ( )

03. Lines, Wires, and Cables*. Power lines, communication lines, wires, or cable more than two hundred (200) feet above the terrain crossing canyons, rivers, navigable bodies of water, terrain undulations, or guy structures or any height where such wire, cable or obstruction cross navigable bodies of water near established seaplane bases, if determined by the Department to be a hazard to air navigation, shall be marked at two hundred (200) feet intervals of spacing by sphere-type markers having a minimum diameter of thirty-six (36) inches. Said sphere to be of the split-sheet, clamp-on type which are to be alternated in three (3) contrasting solid colors of gloss white, gloss yellow, and international orange and may be constructed of recommended light-weight materials such as fiberglass, aluminum, or foam.* ( )

04. Spans Between Support Piers*. Long spans that exceed lengths of one-half (1/2) mile between support piers, each pier shall be marked with flashing strobe or beacon lights of a type and brilliance acceptable to the Department if such is deemed pertinent to safety and recognition of obstructions.* ( )

05. Construction*. Any construction sponsor is required to submit a notice to the Aeronautics Division Administrator if his construction meets one (1) or more of the following conditions:* ( )

a. *If the proposed object will be more than two hundred (200) feet above ground level at its location.* ( )

b. *If the proposed object will be within twenty thousand (20,000) feet of an airport (*) or seaplane base with a runway of more than three thousand two hundred (3,200) feet in length; and will penetrate an imaginary surface that is one (1) foot in height for each one hundred (100) feet (100:1) horizontally from the nearest point of the nearest runway.*

** To qualify, an airport as defined in Section 21-101(c), Idaho Code, must be listed in the Idaho Airport Facilities Directory, or in the Airport /Facility Directory published by the US-DOT, National Charting Office or operated by a public entity.* ( )

c. *If the proposed object will be within ten thousand (10,000) feet of an airport having no runway more than three thousand two hundred (3,200) feet in length; and will penetrate an imaginary surface that is one (1) foot in height for each fifty (50) feet (50:1) horizontally from the nearest runway.* ( )

d. *If the proposed object will be within five thousand (5,000) feet of a heliport listed in the "Airport Facilities Directory" or operated by a public entity; and will penetrate an imaginary surface that is one (1) foot in height for each twenty-five (25) feet (25:1), horizontally from the nearest landing and take-off area of that heliport.* ( )

e. *If the proposed object is a traverse way which will exceed at least one (1) of the standards listed in Subsections 400.05.a. through 400.05.c. above, after its height is adjusted upward seventeen (17) feet for an Interstate Highway, fifteen (15) feet for any other public roadway, ten (10) feet (or the height of the highest mobile objects that would normally traverse the road) for a private road, twenty-three (23) feet for a railroad, or an amount equal to the height of the highest mobile objects that would traverse a waterway or any other thoroughfare not previously mentioned.* ( )

06. Notice Submittal*. The notice specified in Subsection 400.05 of this rule must be submitted:* ( )

a. *At least thirty (30) days before the construction or alteration is to begin; or the application for construction permit is to be filed.* ( )

b. *Immediately by telephone or other expeditious means, with written notification submitted within five (5) days thereafter, if immediate construction or alteration is needed as in cases involving public services, health, or safety.* ( )

07. Notice of Proposed Construction. *A notice of proposed construction or alteration is required so that the Department may:* ( )

a. *Depict obstructions on aeronautical charts.* ( )

b. *Identify appropriate markings as promulgated by Section 21-515, Idaho Code.* ( )

c. *Be made aware of potential aeronautical hazards in order to minimize their danger to the flying public.* ( )

d. *Protect the lives and property of persons in the air and on the ground.* ( )

08. Submittal of Notice. *Written notice of intended construction or alteration must be submitted by mail or hand-delivered to the Aeronautics Division Administrator.* ( )

09. Intent. *It is the intent that the resultant markings required in this rule be compatible with FAA policies and directives in order to maintain consistency of object marking and lighting.* ( )

401. EXCEPTIONS.

No person needs to notify the Aeronautics Division Administrator for any of the following construction or alteration: ( )

01. Shielded. *Any object that would be shielded by existing structures of a permanent and substantial character or by natural terrain or topographic features of equal or greater height, and would be located in the congested area of a city, town, or settlement where it is evident beyond all reasonable doubt that the structure so shielded will not adversely affect safety in air navigation.* ( )

02. Antennas. *Any antenna structure of twenty (20) feet or less in height except one that would increase the height of another antenna structure.* ( )

03. Air Navigation. *Any air navigation facility, airport visual approach or landing aid, aircraft arresting device, or meteorological device of a type approved by the Aeronautics Division Administrator, the location and height of which is fixed by its functional purpose.* ( )

402. -- 499. (RESERVED)

SUBCHAPTER E – RULES GOVERNING RESTRICTION OF FLIGHT IN DESIGNATED EMERGENCY AREAS

500. GENERAL.

01. Level of Flight for Non-Search Pilot. *No aircraft shall willfully fly below one thousand (1,000) feet above ground level over or through any designated search and rescue area, or any designated emergency area unless officially flying as an assigned search pilot in an assigned search area, or authorized by the official Search and Rescue Headquarters, or in direct official support of a designated emergency area. This flight restriction will remain in effect within the designated area until rescinded by the Aeronautics Division Administrator.* ( )

02. Level of Flight for Non-Assistance Persons. *Aircraft not officially involved in rendering emergency assistance to persons and property may not fly below two thousand (2,000) feet above ground level over any emergency area created by fire, flood, earthquake, or other natural disasters.* ( )

501 – 599. (RESERVED)

SUBCHAPTER F – RULES GOVERNING AERIAL SEARCH AND RESCUE OF LOST AIRCRAFT AND AIRMEN

600. SEARCH NOTIFICATION.

01. Notification System. The Department shall maintain a twenty-four (24) hour per day search and rescue notification system. ( )

02. Notification Sources. The Department normally receives initial notification of lost, missing, overdue, or suspected downed aircraft from the Federal Aviation Administration flight service station(s), the Air Force Rescue Coordination Center, law enforcement, and/or concerned individuals. ( )

601. SEARCH INITIATION.

When notification is received from agencies, or individual(s) which constitute reasonable probability that an aircraft or airman is down, lost, or missing, a search shall be initiated as described in the National SAR Plan, the Department SAR Manual and/or upon mutual agreement between the Department and the BHS. Safety, weather, darkness, and other operational factors may influence the conduct of the search including time of initiation, duration, and suspension. ( )

602. ORGANIZATION.

01. Staff. The Division of Aeronautics will maintain a qualified staff capable of implementing the state aerial search and rescue plan. ( )

02. Designated Search Districts. The Department's Aerial Search and Rescue Manual (Plan) designates six (6) search districts. Within each district one (1) or more qualified District Aerial Search and Rescue Coordinator(s) shall be designated based on knowledge, experience, and training. They, along with other SAR volunteers, will function under the direction of the State Aerial SAR Coordinator. ( )

603. RESOURCES.

Normally, state volunteer airmen and their aircraft shall be used for aerial search and rescue. State Division of Aeronautics aircraft and crews may also be utilized. In addition to the use of volunteer airmen and aircraft, the Department may request through and under the direct control of respective county sheriffs, the use/assistance of ground search and rescue agencies, organizations, and/or individual(s). ( )

604. PROCEDURE.

01. Search and Rescue Guideline. The Department's Aerial Search and Rescue Manual (Plan) shall provide guidelines for effectively conducting aerial search and rescue operations and establish requirements for crew qualification, adequacy of volunteer search aircraft performance, and District Aerial SAR Coordinator qualifications. In order to effectively implement the State SAR Plan, the State Aerial SAR Coordinator may make SAR agreements as necessary with other agencies/organization(s)/individual(s). They may be either informal verbal agreements or they may be formal written documents. Agreements shall provide for the maximum practicable cooperation of such agencies/organization(s)/individual(s) and the use and coordination of facilities committed to SAR missions. Written agreements will normally involve officials of comparable levels in their respective agencies. Written agreements should be as brief as possible, covering only those specific items for which the agreement is deemed necessary. They should not be repetitious or contradictory of matters contained in the National SAR Plan. ( )

02. District Aerial SAR Coordinators. The State Aerial SAR Coordinator shall assign District Aerial SAR Coordinators who act under the direction of the State Aerial SAR Coordinator, organizing the volunteer personnel and resources of his assigned search district area for maximum efficiency, safety, and economy. Said District Coordinator may be either a volunteer, state employee or other individual as assigned by the State Aerial SAR Coordinator. ( )

***03. Designations by State Aerial SAR Coordinators**. The State Aerial SAR Coordinator will designate airports of primary operational support as necessary in the aerial search effort. The State Aerial SAR Coordinator may designate Temporary Flight Restrictions (TFR) under Federal Aviation Regulation (FAR) 91.137 as required for safety of search aircraft. Normally the State Aerial SAR Coordinator will function in the Division of Aeronautics facilities but the option to dispatch state coordinator to the airport(s) of primary support, State EOC, or other location as necessary, may be exercised. State Division of Aeronautics aircraft may be used as necessary with state crews or with state pilot in command and volunteer pilot/observer(s). Volunteer aircraft and crews shall be screened by the District Aerial SAR Coordinator for availability, qualification, and willingness to participate in the search. Flight logs and mission records shall be maintained and all pertinent information will be screened and recorded and forwarded to the State Aerial SAR Coordinator at the close of the mission or as requested. ( )*

***04. Interstate Coordination**. On some occasions the aerial search and rescue effort may need to extend into bordering states or Canada. Interstate coordination with other states/Canada shall be achieved as necessary by the Department for SAR mission needs. Coordination with other search and rescue organization(s)/ individual(s) may be developed as needed or necessary. Such considerations as weather, time, no flight plan, no emergency locator transmitter signals, no availability, or limited search resources near the objective search area(s) may dictate extending Idaho resources into bordering states/Canada. In a like manner, it may sometime become necessary for bordering states/Canada to extend their resources into Idaho. ( )*

***05. Funds**. Aerial search and rescue funds shall be used solely in support of aerial SAR efforts. Financial support of aerial SAR volunteers includes, but is not limited to, SAR training, education, equipment, coordinating efforts, communications, and aircraft fuel and oil expenses. ( )*

***06. Official Mission Report**. A report shall be made to the State Aerial SAR Coordinator by the District Aerial SAR Coordinator at the termination of daily search activity. The State Aerial Coordinator SAR shall consolidate all necessary report information and relay it to AFRCC. All mission working papers which are accumulated during the course of the search mission will be analyzed for meaningful content upon which to base operational decisions and the final official mission report. ( )*

***07. Time Period of Searches**. Aerial searches shall be continued until either successful or until all reasonable leads are exhausted and/or passage of time has drastically reduced the possibility of survival. If search is unsuccessful and all leads have been exhausted, the search may be suspended upon mutual agreement between the Department and the BHS until either new leads are received or conditions have changed which increases the probability of detection. ( )*

***08. Completion of Search**. Searches will be closed when the search and rescue objective has been located, the respective county sheriff notified, it is certain that authorized ground personnel gain access to the search objective for positive identification of missing or downed aircraft and assistance to possible survivors, and post mission procedures are completed. ( )*

***09. Required Reports**. Upon completion of the mission, all cooperating/participating agencies shall be advised as promptly as possible. News releases shall be made as deemed appropriate by the State Aerial SAR Coordinator. It shall be ascertained that all search aircraft are accounted for. A report of mission activity shall be made to AFRCC. A synopsis of the entire mission shall be developed by the State Aerial SAR Coordinator with the following forms attached to the synopsis: ( )*

***a.** Search and Rescue Information Sheet (2600). ( )*

***b.** Search and Rescue Action Report (2601). ( )*

***c.** Air Search and Rescue Fuel and Oil Record (2602). ( )*

***d.** Mission Authorization, Personnel Register (2604). ( )*

***e.** Mission Flight Plan Briefing and Debriefing Log (2605) ( )*

***f.** Search and Rescue (SAR) Mission Report (2606A). ( )*

10. Final Report. The synopsis and attachments constitute the final official search and rescue mission report. ( )

605. -- 699. (RESERVED)

SUBCHAPTER G – RULES GOVERNING IDAHO AIRPORT AID PROGRAM

700. PROJECT ALLOCATION PRIORITY PRINCIPLES.
For the discretionary allocation programs priority will be given to: ( )

01. Aircraft Operations Safety. Projects involving safety of aircraft operations. ( )

02. Projects Which Protect Prior Public Investments. ( )

03. Federal Funds. Assuring maximum use and benefit of available federal funds. ( )

04. Aircraft Landing Projects. Projects at existing aircraft landing facilities where need is demonstrated. Projects must provide benefits associated with aircraft landing facility utilization on a statewide basis. ( )

05. Preservation and Acquisition. The preservation and acquisition of existing aircraft landing facilities in danger of being lost. ( )

06. Aircraft Landing Development. The development of new, additional aircraft landing facilities in areas of greatest need: ( )

a. Large geographical areas with no "air accessibility." ( )

b. Additional new sites in urban areas where landing sites are rapidly becoming non-existent. ( )

c. Recreational area development where land availability is becoming difficult to obtain. ( )

701. PROGRAM CRITERIA AND LIMITATIONS.
The allocation program is designed to provide the greatest and best utilization of limited Idaho Airport Aid Program Funds. The primary goal of the allocation program is to further the proper development of a statewide system of airports and fair distribution of aviation tax money. This policy requires: ( )

01. Master Plan. To be eligible each city, county, airport authority, political subdivision, or public corporation, hereinafter referred to as airport sponsor, should have a master plan or an airport or heliport layout plan that is approved by the Division of Aeronautics. ( )

02. Face Value Contributions. Labor and equipment contributions by the airport sponsor may be approved at face value in force-account financial evaluation as matching funds. The following items will not be eligible for force-account contribution: ( )

a. Land values previously acquired. ( )

b. Previous building construction or improvements. ( )

c. Previous State or FAA grants. ( )

03. Public Funds Protection. In order to protect the investment of public funds, the Idaho Transportation Board may require proof of ownership or lease of all land upon which any project is proposed, and require that the airport be zoned to prevent incompatible land uses and the creation or establishment of structures or objects of natural growth which would constitute hazards or obstructions to aircraft operating to, from, on, or in the

vicinity of the subject airport. ( )

***04. Projects Other Than Allocation Plan**. All projects other than the annual allocation plan will be individually considered and acted upon at a regular meeting of the Board. All projects will be resolved by eligibility and priorities established by each year's review of the total State need. The availability of funds, or legislative appropriations, is the final determination of grant approvals. Consideration of all factors, including relative needs and priorities involved in an airport construction project will be considered. Attention will be given to effort made at the sponsor's level to assure availability of continuing financing and management support to keep the airport in good repair. ( )*

702. PERCENTAGES OF COST.
Matching percentages not to exceed the following guidelines, are subject to the approval of the Idaho Transportation Board: ( )

***01. Airport Maintenance and Upgrade Funds (Up to 75%)**. Airport sponsors not eligible for Federal funding assistance that have an adjusted service area population of less than five thousand (5,000), may receive up to seventy-five percent (75%) of project cost for maintenance and upgrade of an airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ( )*

***02. Airport Maintenance and Upgrade Funds (Up to 50%)**. Airport sponsors not eligible for Federal funding assistance that have an adjusted service area population of five thousand (5,000) or more may receive up to fifty percent (50%) of the cost for maintenance and upgrade of an airport. Acceptable assurance of continuing operation and maintenance over a twenty (20) year period under the guidance of a Citizen's Advisory Council shall be provided. ( )*

***03. State Funding Assistance**. Airport sponsors eligible for Federal funding assistance, may be considered for State funding assistance up to fifty percent (50%) of the sponsor's share when using Federal aid for the cost of maintenance and upgrade of existing facilities. If no Federal participation, each such project will be considered on its merit. The amount of State financial aid will be negotiated in each case. ( )*

***04. Maintenance and Safety Supplies Program**. All airport sponsors eligible for funding may apply to participate in the maintenance and safety supplies program. This is part of the discretionary allocation program that provides at no charge or a reduced charge for the following such items: ( )*

***a.** Runway and taxiway light fixtures, bulbs, and parts; ( )*

***b.** Rotating beacon fixtures; ( )*

***c.** Windsocks, windsock frames and standards; ( )*

***d.** Tie-down chain sets; ( )*

***e.** Utility light bulbs; and ( )*

***f.** Taxiway reflectors. ( )*

***g.** All municipal airport sponsors eligible for funding may apply to participate in the small projects program which provides grant funding assistance of less than two thousand dollars ($2,000) for unscheduled or emergency improvements, with approval from the aeronautics administrator, from the current years allocation. ( )*

703. GRANTED ALLOCATION ITEMS.
Allocations may be granted for the following items: ( )

***01. Development of Required Airport Planning, Land Ownership, Airspace, Land Use Compatibility, and Land Use Zoning Documents**. ( )*

02. Land Acquisition for Development and Improvement of Aircraft Landing Facilities. ( )

03. Grading and Drainage Necessary for Construction or Reconstruction of Runways or Taxiways. ( )

04. Construction or Reconstruction of Runways or Taxiways. ( )

05. Acquisition of "Runway Protection Zones" as Defined in Current Regulations of the Federal Aviation Administration. ( )

06. Acquisition of Easements through or Other Interests in Airspace as may be Reasonably Required for Safeguarding Aircraft Operations in the Vicinity of an Aircraft Landing Facility. ( )

07. Removal of Natural Obstructions from Runway Protection Zones. ( )

08. Installation or Rehabilitation of "Segmented Circle Airport Marker Systems" as Defined in Current Regulations of the Federal Aviation Administration. ( )

09. Installation or Rehabilitation of Runway, Taxiway, Boundary, or Obstruction Lights, Together with Directly Related Electrical Equipment. ( )

10. Erection or Rehabilitation of Appropriate Security Fencing Around the Perimeter of an Aircraft Landing Facility. ( )

11. Grading and drainage necessary to provide for parking of transient general aviation aircraft. ( )

12. Air Navigation Facilities. ( )

13. Such Other Capital Improvements as may be Designated by the Board. ( )

14. New Building Construction of Public Use Facilities such as Storage Hangars, Pilot Lounge, Rest Rooms, etc., that are Owned by the Airport Sponsor. ( )

704. AIRPORT SPONSOR ELIGIBILITY.

The Idaho Airport Aid Program is available only to public entities that own or lease and operate a landing facility that is open to the public without use restrictions. Allocation may be made only on facilities that are not under exclusive lease or monopoly control of private individuals or corporations. The Idaho Airport Aid Program consists of grants, small projects, and maintenance and safety supplies. The grants (for scheduled projects) and small projects (for unscheduled or emergency projects) are available to municipal entities such as a city, county, airport authority, political subdivision, or public corporation, hereinafter referred to as the airport sponsor, but not to facilities operated by divisions of the state of Idaho or the Federal government. The maintenance and safety supplies are available to all public entities that own or lease and operate a landing facility that is open to the public without use restrictions. ( )

705. APPLICATIONS FOR AID.

*01. **Non-Federal Funding Eligibility**. Each project submitted for funding consideration from airport sponsors not eligible for Federal funding assistance will be presented in a written application for aid which outlines economic capability and source of funds. The application form will be supplied by the Division of Aeronautics. Eligibility and priority will be determined by an annual revision of a State allocation program for airport improvement. ( )*

*02. **Completed Applications**. Each project application submitted for funding consideration from airport sponsors that are eligible for Federal funding assistance will consist of a full and complete copy of the federal application for assistance. ( )*

***03. Via Written, Telephone, or Electronic Request**. Each request for participation in the maintenance and safety supplies program or the small projects program must be made through written, telephone, or electronic request. ( )*

***04. Legislative Support and Consideration**. Projects deemed by the Board to require special legislative appropriations will be submitted for legislative support and consideration. ( )*

706. IAAP IMPLEMENTATION METHOD.

***01. Calculation of Adjusted Service Area Population**. Upon collecting the most recent Census Data, calculate the Service Area Population (SAP) for all eligible airports. Relative to Community Airports, reduce the SAP, of the Community Airport, by the amount of population overlying the Community SAP by the population of a 'more developed' airport. The remainder is the amount used to calculate the Adjusted Service Area Population (ASAP) of the Community Airport. ( )*

***02. Project Prioritization**. Each project gets a priority value based upon number of based aircraft, purpose of the project, component of the airport of the project, pavement condition index (number) of the project and age of the most recent plan. Determine the values for each of the above element and calculate the priority number of each project for future use. ( )*

***03. Community Airport Five-Year Funding Cycle**. Each Community Airport gets ranking number by based aircraft, adjusted service area population and number of IAAP grants accepted. Assign the value to each airport and list such that there are five groups identified for funding in each of the next five years. ( )*

***04. Selection of Eligible Projects**. The FAA, through the ISCIP process, identifies the NPIAS airport projects. Aeronautics lists each community airport project by priority value for the current year. ( )*

***05. Selection Guidelines for Projects**. A set of guidelines directs the selection and order of projects. These guidelines allow latitude in selection of projects to create a 'level playing field.' ( )*

***06. Allocation of Funding for Projects**. Aeronautics developed a five-step process to allocate funds to each project. The process builds funding, for each project, through each step until almost all available funds are allocated. ( )*

***07. Appendix for Aeronautics Advisory Board and Idaho Transportation Board Approval**. Upon the completion of the above six items, an annual appendix is compiled, for use by the AAB, to review, modify and approve the program. Aeronautics modifies the appendix, as directed, and presents it to the ITB for final review, approval, and funding. ( )*

707. -- 999. (RESERVED)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

DOCKET NO. 39-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 40-312 and 49-201, Idaho Code.

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

These pending fee rules adopt and re-publish the following existing and previously approved and codified chapters under IDAPA 39, rules of the Idaho Transportation Department:

IDAPA 39
- 39.02.04, *Rules Governing Manufacturer & New Vehicle Dealer Hearing Fees*
- *39.02.05, *Rules Governing Issuance of Certificates of Title* ***(New Chapter)***
  (*Combines IDAPA 39.02.05, 39.02.07, 39.02.11, 39.02.12, and 39.02.24)
- 39.02.22, *Rules Governing Registration and Permit Fee Administration*
- 39.02.26, *Rules Governing Temporary Vehicle Clearance for Carriers*
- 39.02.41, *Rules Governing Special Provisions Applicable to Fees for Services*
- *39.02.60, *Rules Governing License Plate Provisions (*Combines IDAPA 39.02.61 into this chapter)*
- 39.03.03, *Rules Governing Special Permits – General Conditions and Requirements*

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking as these chapters have been combined and consolidated as follows:

- *IDAPA 39.02.05, Rules Governing Issuance of Certificates of Title (***New Chapter***)
  Combines and consolidates the following:
- ***(VACATED)*** *39.02.05, Rules Governing Lien Filing on Certificate of Title*
- ***(VACATED)*** *39.02.07, Rules Governing Titling of Salvage, Specially Constructed, Replica and Rebuilt Salvage Motor Vehicle*
- ***(VACATED)*** *39.02.11, Rules Governing Odometer Readings on Title Records*
- ***(VACATED)*** *39.02.12, Rules Governing Issuing Certificates of Title and Bonded Certificates of Title*
- ***(VACATED)*** *39.02.24, Rules Governing 'Gray Market' Vehicle Registration and Titling*

- *IDAPA 39.02.60, Rules Governing License Plate Provisions
  Combines and consolidates the following:
- ***(VACATED)*** *39.02.61, Rules Governing License Plates for Governmental Agencies and Taxing Districts*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 6236-6473. The consolidation of rules within 39.02.05 and 39.02.60 were done in an effort to support the Governor's Red Tape Reduction Act. The changes enhance customer usability and also allowed for the deletion of antiquated and outdated information.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules.

39.02.04, Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees: ITD is required to collect filing fees for hearings when requested by a franchised dealer over disputes with a manufacturer. The Department is

required to collect the fees, appoint a hearing officer and ensure all legal expenses including a court reporter, hearing transcripts and witness fees are reimbursed to the Department. Although the Department is not a party to the dispute, Idaho Code and this rule facilitate the hearing process between franchisees and manufacturers. The deposited fee of $2,000 is utilized to cover initial expenses incurred by the Department. Any remaining part of the deposit is refunded to the dealer and additional expenses are billed to the responsible party. (See §49-1617, Idaho Code)

39.02.05, Rules Governing Issuance of Certificates of Title: The $25 fee assessed under this rule is for an inspection of a vehicle to be performed by the Department's Motor Vehicle Investigators on vehicles with a special construction; including glider kits, replicas, street rods, replica street rods, assembled vehicles and specially constructed vehicles. This fee covers administrative costs of the Motor Vehicle Investigator for the physical inspection of the vehicle and preparation of necessary documents for the owner to obtain a title from the Department with the correct physical classification of the vehicle. (See §49-504 and §49-525, Idaho Code)

39.02.22, Rules Governing Registration & Permit Fee Administration: This rule provides for installment payment plans for commercial motor vehicle registrations. It covers administrative costs for services provided by the Department, which includes a $50 fee for setting up each installment payment plan. To reinstate a payment plan that has been suspended, a $40 fee is required. If there are insufficient funds, the rule allows the Department to collect a $20 insufficient funds fee and provides the Department with the ability to collect a $40 fee for reinstatement of a revoked or suspended commercial motor vehicle registration. (See §49-434, Idaho Code)

39.02.26, Rules Governing Temporary Vehicle Clearance for Carriers: This rule allows the Department to authorize and issue temporary clearance for a carrier who needs to immediately operate a commercial motor vehicle and who is in the process of obtaining and submitting requirements for full issuance of vehicle registration and license plates. This temporary permit provides for a 45-day intermediate clearance at a cost of $18. (See §49-501, Idaho Code)

39.02.41, Rules Governing Special Provisions Applicable to Fees for Services: This rule includes fees associated with the costs of providing records (typically bulk data) for requestors other than law enforcement and specified state agencies which receive records free of charge. Depending on the format and nature of the records requested, there is a base charge of $75. (See §49-201, Idaho Code)

39.02.60, Rules Governing License Plate Provisions: This rule encompasses several license plate programs and their identifiers/formats. It provides for dealer and loaner license plates, standard license plates, restricted vehicle license plates, transporter and wrecker license plates, the personalized plate program criteria, legislatively sponsored license plates and many others. Most fees for plate programs are set in Idaho Code; however there are two that are not and they are established by rule. For vehicle dealer registration and plates, the fee is $15 annually or the dealer may purchase single trip permits. These are only valid on boat and utility trailers for demonstration purposes. The other fee within this rule is $12 for standard sample plates to pay for the production of the plate and administrative fees. (See §49-202, Idaho Code)

39.03.03, Rules Governing Special Permits – General Conditions and Requirements: This is a new rule that was part of the Department's efforts to consolidate and streamline commercial motor vehicle permit rules and was presented during the 2019 legislative session. The fees set in this rule cover a variety of commercial motor vehicle permits. These fees simply cover administrative costs for processing, issuing and enforcing special permits. This program is revenue-neutral. (See §49-1004, Idaho Code)

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning these pending fee rules, please contact Ramón Hobdey-Sánchez at (208) 334-8810. Additionally, please visit ITD's rulemaking website at itd.idaho.gov/rulemaking for rules drafts and educational materials.

DATED this October 11, 2019.

Ramón S. Hobdey-Sánchez, J.D.
Governmental Affairs Specialist
Idaho Transportation Department
3311 W. State Street
Boise, ID 83703
Phone: (208) 334-8810
ramon.hobdey-sanchez@itd.idaho.gov

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201 and 49-1617(4), Idaho Code, and the Vehicle Dealer Act, Chapter 16, Title 49, Idaho Code. (12-26-90)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.02.04, "Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees," and clarifies the process of collecting filing fees for hearings conducted by the Department for settling disputes between manufacturers and new vehicle dealers. (12-26-90)

002. -- 099. (RESERVED)

100. GENERAL PROVISIONS.

01. Hearing Officer Appointment. The Director will appoint a hearing officer to hear the dispute who is not a current employee of either a manufacturer or dealer. (12-26-90)

02. Location of Hearings. All hearings will be held in Ada County, Boise, Idaho. (12-26-90)

03. Hearing Filing Fee. The dealer requesting a hearing shall deposit a filing fee of two-thousand dollars ($2,000) with the Department. The Department shall apply the filing fee toward the hearing costs which shall include: (12-26-90)

a. The hearing officer fee and expenses; (12-26-90)

b. Department legal expenses; (12-26-90)

c. Department investigative expenses pertaining to the dispute; (12-26-90)

d. A court recorder, hearing transcript, any witness fees; and (12-26-90)

e. Other Department verifiable expenses. (12-26-90)

04. Hearing Fee Refunds and Additional Charges. If the total verifiable costs of the hearing are less than two-thousand dollars ($2,000), the Department shall refund the balance. If the costs exceed the two-thousand dollars ($2,000) filing fee, the Department shall bill the responsible party for the remainder which is payable after the Department renders a decision. (12-26-90)

101. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under the authority of Sections 49-201, 49-504, 49-507 and 49-525, Idaho Code, the Department adopts the following rule. ( )

001. TITLE AND SCOPE.

01. Title. These rules shall be cited as IDAPA 39.02.05 "Rules Governing Issuance of Certificates of Title." ( )

02. Scope. These rules identify requirements for the issuance of certificates of title, pursuant to Title 49, Chapter 5, Idaho Code. ( )

003. – 009. (RESERVED)

010. DEFINITIONS.

01. Appropriate Governmental Entity. The agency or organization employing the authorized officers who take an abandoned vehicle into custody or direct a vehicle to be stored or towed. ( )

02. Assembled Vehicle. A vehicle which has been constructed using parts from two (2) or more vehicles and has the same appearance as a vehicle that was manufactured under a specific make and model by a manufacturer. Changes may include frame and/or cab changes. See Section 305 for title application requirements. ( )

03. Body/Center Passenger Area. The center structure, either of a unibody or frame-type passenger vehicle, consisting of a unit of sheet metal and structural components that extends from the firewall to the back of the rear seat or to the factory seam separating the rear section or the centerline of the rear wheels, i.e. cowl panel, dash panel, floor pans, center side body panels, side rails, rocker panels, and other such component parts that may be pertinent to this section. ( )

04. Brand. A description on a certificate of title or title record, as determined by the Department or the equivalent agency of another jurisdiction, which indicates and advises future owners and interested parties that: ( )

a. The vehicle has or has had a relevant physical condition, modification, construction, alteration or history of use; or ( )

b. Past or present ownership of the vehicle could not be clearly established to the satisfaction of the Department or the equivalent agency of another jurisdiction. ( )

05. Cab. The passenger compartment of a common truck or pickup truck. It is a unit of sheet metal and structural components including the top/roof and the cowl which may or may not include glass, instrumentation, steering column and seat. ( )

06. Frame. The heavy metal structure that supports the auto body and other external component parts on body-over-frame constructed vehicles only. ( )

07. Gray Market Vehicle. A vehicle manufactured outside of the U.S. for use in other countries that did not meet U.S. Federal Motor Vehicle Safety Standards or Environmental Protection Agency requirements at the time of manufacture. ( )

08. Mileage. Actual distance that a vehicle has traveled. ( )

09. Replica Street Rod. A vehicle made to replicate any pre-1949 vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle and other suspension components. The body will resemble the same as the manufacturer's original issue. See Section 305 for title application requirements. ( )

10. Street Rod Vehicle. Any pre-1949 manufactured vehicle which has had a significant drive train update from a more modern vehicle. Changes may include engine, transmission, rear axle, and other suspension

components. The body will be the same as the manufacturer's original issue. See Section 305 for title application requirements. ( )

***11. Transferee**. Any person to whom the ownership of a motor vehicle is transferred, or any person who, as agent, accepts transfer of ownership of a motor vehicle for another, by purchase, gift or any means other than creation of a security interest. ( )*

***12. Transferor**. Any person who transfers vehicle ownership or any person who, as agent, transfers the ownership of another's motor vehicle by sale, gift or any means other than creation of a security interest. ( )*

011. – 099. (RESERVED)

100. GENERAL.
The Department will issue a Certificate of Title on any vehicle if the applicant can show proper documentation of ownership, there are no undisclosed security interests in the vehicle, and other requirements for titling have been satisfied. Unless otherwise specified in statute or administrative rule, such proper documentation of ownership will be limited to: ( )

***01. Certificate of Title**. A valid Idaho Certificate of Title or a valid Certificate of Ownership issued by another state, province or country according to the applicable laws of another state, province or country, which has been duly assigned or transferred to the applicant if issued in another's name. ( )*

***02. MCO/MSO**. A properly executed Manufacturer's Certificate of Origin (MCO) or Manufacturer's Statement of Origin (MSO) in the case of a new vehicle being titled for the first time. ( )*

***03. Certificate of Registration**. A Certificate of Registration from a non-titling state, province or country, together with a bill of sale from the registrant if other than the applicant. ( )*

***04. Transfer by Operation of Law**. In the case of a transfer by operation of law, a certified copy of a valid court order, decree, or instrument upon which the claim of possession and ownership is founded, passing title to the applicant as a matter of law (for example: a property settlement, divorce decree, or execution sale's certificate of sale or bill of sale), together with an affidavit by the person or agent of the person to whom possession of the vehicle so passed, setting forth facts entitling him to possession and ownership. ( )*

***05. Salvage Vehicles**. For a salvage vehicle, a salvage certificate of title or other salvage ownership document issued by another state, province, or country according to the applicable laws of that state, province, or country, duly assigned or transferred to the applicant if issued in another's name. ( )*

***06. Specially Constructed Vehicles**. ( )*

***a.** For a specially constructed vehicle as defined by Section 49-123(p)(i) or (iii), Idaho Code, the original ownership document for the vehicle from which the body or cab being used has been taken unless the vehicle is from a state that requires the ownership document to remain with the frame in which case a copy of the ownership document verified to be a true and correct copy of the original, together with a bill of sale from the owner to whom the ownership document was issued if different than the applicant, and a bill of sale, invoice, or other proof of acquisition for any of the following major components used in the vehicle's construction: ( )*

i. Frame or rails; ( )

ii. Engine or short block; ( )

iii. Transmission and/or transfer case; ( )

iv. Front and rear clips; or ( )

v. Truck bed or box; ( )

b. Each bill of sale for major component parts is to include the following: ( )

i. Name of purchaser; ( )

ii. Vehicle Identification Number (VIN) or engine number for a motorcycle, if applicable; ( )

iii. Description of major component part (by make, body type, year of manufacture, if applicable); ( )

iv. Purchase price; and ( )

v. Signature of seller. ( )

c. For a specially constructed vehicle as defined by Section 49-123(p)(ii), Idaho Code, bills of sale, receipts, invoices or other proof of acquisition for the materials used in the construction. ( )

d. For a specially constructed vehicle as defined by Section 49-123(p)(iv), Idaho Code, a properly executed manufacturer's certificate of origin (MCO) or manufacturer's statement of origin (MSO) for the custom kit, or if no MCO was issued, a factory invoice or bill of sale from the selling dealer, together with a statement certifying no MCO was issued for the kit. ( )

101. – 199. (RESERVED)

200. LIEN FILING.

01. Date of Lien Filing. All title applications submitted to the Department or its agent for filing will include the date of filing. ( )

a. If a lien is listed on a title application, the date the application is received by the Department or its agent will be the date of the filing of the lien. ( )

b. A lien is perfected as of the date of the filing of a properly completed application with the department or an agent of the department. All liens filed with the department will take priority according to the order in which the properly completed applications are filed with the department or an agent of the department. The priority of liens will not be affected should the department fail to note one or more on the title or on the electronic records of the department due to error. ( )

02. Out-of-State Transfer. If a lien was previously recorded on an out-of-state title, and the title is being surrendered to Idaho for issuance of a new certificate of title and the lien is still in effect, the Department will honor the previously recorded date shown on the out-of-state title, provided that at least one of the previous owners' names will remain on the new Idaho title. If there is no recorded date on the title, the following will be captured as the recorded date if displayed on the title with priority according to the order listed: ( )

a. Application date; ( )

b. Issue date; and ( )

c. Print date ( )

d. If none of the aforementioned dates are present, the Department will consider other evidence provided in the documentation submitted with the title application to determine a filing date. ( )

e. In the event that no other evidence is provided to reasonably determine the date of the lien's filing, the date the title application is filed with the Department will be the recorded date. ( )

03. Name Change Only. If a name change is being requested on a title containing a recorded lien, and the lien is not being released, the original recorded date will be retained for the lien filing, provided that the new title

will retain the name of the same lienholder and at least one (1) of the previous owners. ( )

***04. Taxable Transfer of Ownership**. In the case of a taxable transfer of ownership, where the lien was not released, and the new title will have the same lienholder, a new recorded date will be assigned to the lien, unless the lienholder has specified that the new owners have assumed the lien. ( )*

***05. Lien Assumptions**. If a lienholder specifies that a contract has been assumed by a new owner, and the new owner has assumed the terms of the previous lien, the original date will be retained on the new certificate of title. ( )*

201. ODOMETERS.

***01. Procedures**. ( )*

***a.** Department Requirement. The Department will enter the odometer reading and status as provided by a dealer or private seller or transferor on the Certificate of Title when printed unless previously recorded as exempt with no reading. ( )*

***b.** Used Vehicle Transferor/Seller Requirements. When a used vehicle is transferred, the transferor will record the odometer reading on the title certificate using indelible ink. If the vehicle has not been titled or if the title does not contain a space for the information required, the written disclosure will be executed as a separate statement. ( )*

***c.** New Vehicle Transferor/Seller Requirements. When a new vehicle is retailed, the transferor will provide a written disclosure on the MCO or on a separate document. ( )*

***d.** Use of Power of Attorney. When the transferor's title is physically held by a lienholder or if the transferor to whom the title was issued has lost the title and the transferee obtains a duplicate title on behalf of the transferor; the transferor may give a power of attorney to his transferee for the purposes of mileage disclosure. ( )*

***e.** Reassignments. When all available reassignments on a title certificate have been used, subsequent reassignments will be made on a separate reassignment document printed by the Department or by another state's motor vehicle Department. ( )*

***02. Exemptions**. ( )*

***a.** Transferor/Seller Exemptions. A transferor is not required to disclose the vehicle's odometer reading for any of the following: ( )*

i. A vehicle having a gross vehicle weight rating over sixteen thousand (16,000) pounds; ( )

ii. A vehicle which is not self-propelled; ( )

iii. A vehicle sold directly by the manufacturer to any agency of the United States in conformity with contractual specifications; ( )

iv. A vehicle which is ten (10) years old or older. To calculate the vehicle's age, simply subtract the model year from the calendar year; or ( )

***b.** Manufacturers' Exemptions. A manufacturer of a new vehicle may transfer, for purposes of resale, to a franchised dealer without disclosure of the vehicle's odometer. ( )*

202. VEHICLE IDENTIFICATION NUMBER (VIN) INSPECTIONS.

***01. Authorized Inspectors**. The following individuals, agents or agencies are authorized to complete Vehicle Identification Number (VIN) inspections: ( )*

a. Peace Officers and Special Agencies Inspections. As part of their regular assigned duties, any city, county, state or federal peace officer, or specified agent of the Department, may complete a VIN inspection. ( )

b. Vehicle Dealer Inspections. Licensed Idaho vehicle dealers may complete VIN inspections. ( )

c. Financial Institution Inspections. An employee of any bank that is authorized to do business in Idaho or an employee of any other financial institution registered with the Department of Finance, may complete VIN inspections as a part of normal business activity. ( )

d. Special Agent Inspections. Other special designated agents of the Department may complete VIN inspections, as stipulated in a formal agreement between the Department and the special agent, i.e. vehicle rental companies allocating portions of their fleets to Idaho. ( )

e. Out-of-state Inspectors. For a vehicle located in another state, a VIN inspection is acceptable when completed by any city, county, state or federal peace officer, or any employee of the state's vehicle titling and registration agency. ( )

*02. **VIN Inspections Required**. A VIN inspection is required whenever the current certificate of title was not issued for the vehicle by this state or whenever the Department is dissatisfied with the authenticity or accuracy of the vehicle identification number. ( )*

203. – 299. (RESERVED)

300. TITLE BRANDING.

***01. Brand Disclosure**. ( )*

a. Upon sale by a dealer of any salvage or total loss vehicle or branded vehicle or branded certificate of title, disclosure of the vehicle's salvage or branded status, will be conspicuously disclosed to the buyer and a record must be maintained by the dealer. Disclosure may be made on a form as provided by the Department for a report of sale. The buyer must sign that they have received disclosure of the vehicle brand. Proof of disclosure must be submitted to the Department. ( )

b. Upon sale by a private party of any salvage or total loss vehicle or branded vehicle or vehicle with a branded certificate of title, disclosure of the vehicle's salvage or branded status, will be conspicuously disclosed to the buyer. ( )

*02. **Branding Time Frame**. Each branded vehicle and branded certificate of title will retain that brand throughout the existence of the vehicle regardless of its age or value unless the brand has an expiration date. ( )*

*03. **Brands Removed**. ( )*

a. If any salvage vehicle leaves the state of Idaho with or without an Idaho salvage certificate of title and such vehicle returns to Idaho, it will once again be subject to the requirements under Idaho Code and this rule. ( )

b. If a vehicle with a branded Idaho title leaves Idaho and then returns with a title or other ownership document issued by another jurisdiction that has either no brand or a different brand for the same incident that caused the brand on the Idaho title. ( )

i. If the brand on the Idaho title originated in Idaho, the Idaho brand will be reinstated. This will occur even if the National Motor Vehicle Title Information System (NMVTIS) returns a different brand for the same incident. ( )

ii. If the brand on the Idaho title originated in another state, the Idaho title will be issued with any brand retrieved from NMVTIS if for the same incident that caused the brand on the original Idaho title. If no brand is

retrieved from NMVTIS for this incident, the brand on the previous Idaho title will be reinstated. ( )

301. BONDED TITLE.

***01. Conditions and Requirements**. Application may be made for a "bonded title" when the applicant has actual possession of the vehicle but is unable to provide proper documentation of ownership. ( )*

***a.** Proper Documentation Cannot Be Obtained. The applicant must satisfy the Department that proper documentation to obtain a regular title cannot be obtained. However, the applicant must provide sufficient documentation to satisfy the Department that it is more probable than not that the applicant is the owner of the vehicle. ( )*

***b.** Vehicle Physical Inspection. The applicant must produce the vehicle for a physical inspection by a representative designated by the Department. ( )*

***c.** Affidavit of Explanation. The applicant must provide an affidavit explaining the reasons for the absence of a valid Certificate of Title or Certificate of Ownership or other documentation of ownership identified in Chapter 100 of this rule, and how the vehicle came into the possession of the applicant. A listing of any liens (loans) or encumbrances against the vehicle; the name of the state, province or country where the vehicle was last titled, or last registered if from a non-titling state, province, or country; and the name under which the vehicle was last titled, or last registered if from a non-titling state, province or country is also required. ( )*

***d.** Bond. The applicant will provide the Department with a bond in the amount of one (1) and one-half (1/2) times the value of the vehicle or a cash deposit of like amount, as provided in Section 49-523(b), Idaho Code. A cash bond will be in the form of a cashier's check, money order or certified check made payable to the Idaho Transportation Department. The form of the bond will conform to the form ITD 3909, Vehicle Ownership Bond, which can be obtained by calling 208-334-8663 during regular business hours. ( )*

***e.** Vehicle Appraisal. The applicant will provide an appraisal of the vehicle either by a licensed Idaho automobile dealer on the dealer's letterhead or other form provided by the Department with dealer's number, or by a Motor Vehicle Investigator. The appraisal will reflect the current retail value of the vehicle. This appraisal will be considered by the Department to determine the value of the vehicle. ( )*

***f.** Application for Title. The applicant will apply for title within ninety (90) days of the bond's issuance. Should the application for title occur more than ninety (90) days from the issue date of the bond or any subsequent rider, the applicant will obtain a rider to provide bond coverage for three (3) years. ( )*

***g.** Bonded Title Brand. Upon satisfying the Department's requirements for a bonded title, the applicant will be issued a title bearing the brand "Bonded Title" and the brand's expiration date, which will be three (3) years from the following: ( )*

i. Date of issuance of the bond unless a bond rider was issued; or ( )

ii. If one or more bond riders were issued, the date of issuance of the most recent bond rider; or ( )

iii. Date of receipt of a cash deposit. ( )

***02. Bond Surety**. The bond must be issued by a corporate surety, qualified and licensed to do business in Idaho. ( )*

***03. Claims Against The Bond**. Should any expense, loss or damage occur, for any reason covered by the bond, persons or entities suffering such loss will make claim directly against the principal (applicant) and the surety. If the applicant has made a cash deposit, any claim will be made through the Department's Motor Vehicle Administrator. ( )*

***04. Expiration Of Bonding Requirement**. Upon expiration of the brand, the bond or cash deposit will be returned without interest unless the Department has been notified in writing of a pending claim or action to recover on the bond or deposit. If there has been no claim, the applicant may surrender the bonded title and apply for a Certificate of Title free of the bonded title brand. A Certificate of Title free of the bonded title brand will be issued upon certification of the application and payment of any applicable fees per Idaho Code Title 49, Chapters 2 and 5, and any applicable sales or use tax, per Title 63, Chapter 36, Idaho Code. ( )*

***05. Return Of Bond Prior To Three Year Period**. The bond or cash deposit will be returned prior to the expiration of the brand if the vehicle is no longer registered in this state, and the Department has not been notified of any claim or action to recover on the bond. ( )*

***06. Sales And Use Tax**. Any sales or use tax will be paid to the Department or to the county assessor prior to issuance of a bonded title. ( )*

302. SPECIALLY CONSTRUCTED VEHICLES.

***01. Specially Constructed Vehicle Examples**. Some examples of specially constructed vehicles are: Custom built vehicles, such as, kit conversions, homemade camp trailers, other homemade trailers that exceed two thousand (2,000) pounds unladen weight, motorcycles, vessels, snowmobiles, and slide-in truck-mounted campers. ( )*

***02. Engine Changes**. A vehicle that has an engine of a different make, model or year from the body, frame and running gear is not considered a specially constructed vehicle. These vehicles retain the original title and identification designation. ( )*

***03. Title Application Requirements**. ( )*

***a.** The applicant must provide proof of ownership for all significant parts that are replaced, such as frame, body, and other parts that carry vehicle identification numbers. The body must have a properly released title from the former owner. The frame only may be transferred with a bill of sale given by the legal owner showing the vehicle identification number (VIN). Other significant parts that are replaced must be verified by traceable invoices identifying the part or parts if purchased from an established new or used parts outlet. If the other significant parts are purchased from a private party, a bill of sale showing seller's name and address is required. An MCO must accompany the documents for manufactured kits or if no MCO was issued, a factory invoice or bill of sale from the selling dealer, together with a statement certifying no MCO was issued for the kit, is acceptable. ( )*

***b.** The model year will be the year that the specially constructed vehicle was first titled as a specially constructed vehicle. ( )*

*T **c.** he make code as shown on the certificate of title of a specially constructed vehicle will be identified as "SPCN" and the certificate of title will be branded "Specially Constructed." ( )*

***d.** When the vehicle is in operating condition, an inspection by a motor vehicle investigator is required. A fee of twenty-five dollars ($25) is required for this inspection and the preparation of the statement of fact and indemnifying affidavit. In addition, if a vehicle identification number is assigned, the fee required by Section 49-202(2)(j), Idaho Code, will be charged. If the vehicle is eligible to be registered for road use, the owner will complete a self-certification on a form prescribed by the department stating that the vehicle is in compliance with Chapter 9, Title 49, Idaho Code, and meets the Federal Motor Vehicle Safety Standards in effect for the model. ( )*

303. REBUILT SALVAGE VEHICLES.

***01. Rebuilt Salvage Vehicle**. A rebuilt salvage vehicle, as defined by Section 49-123 (2)(m), Idaho Code, includes every "Salvage or Total Loss Vehicle" that has been rebuilt, in compliance with applicable federal motor vehicle safety standards and the requirements of Chapter 9, Title 49, Idaho Code, as regulated by Sections 49-524 and 49-525, Idaho Code. ( )*

***02. Salvage Vehicles from Other Jurisdictions**. Every vehicle that is coming into Idaho from another jurisdiction with a Salvage Certificate or other equivalent document showing evidence of a total loss payoff such as a*

bill of sale from an insurance company, or other documentation indicating that the vehicle may have been a salvage or total loss vehicle and any vehicle for which information retrieved from the National Motor Vehicle Title Information System (NMVTIS) indicates it has been reported as "salvage" will be considered salvage unless there is sufficient evidence for the department to determine the salvage document or information retrieved from NMVTIS was in error. These vehicles may not be operated on Idaho highways until rebuilt in compliance with Chapter 9, Title 49, Idaho Code and all federal motor vehicle safety and emission standards in effect for the model year and type of vehicle. They will be issued an Idaho Salvage Certificate unless the other jurisdiction has issued a salvage certificate or other equivalent salvage ownership document. If any salvage vehicle is received by a "salvage pool" (as described in Section 49-120(4), Idaho Code), an Idaho salvage certificate of title must be issued, prior to sale unless the vehicle has a salvage certificate or other equivalent salvage ownership document issued by another jurisdiction. Any vehicle which has been declared junk, pursuant to Sections 49-516 and 49-522, Idaho Code, or is coming from another jurisdiction with a similar endorsement, or is designated by the owner or the insurance company as parts only, destroyed, or dismantled, may not be rebuilt for on-road use. Any vehicle for which information retrieved from NMVTIS indicates it has been reported as having been scrapped or crushed may not be retitled. Any vehicle for which information retrieved from NMVTIS indicates it has been reported by a salvage yard will be considered "salvage" and any vehicle for which information retrieved from NMVTIS indicates it has been reported by a junk yard will be considered "junk" unless otherwise indicated. The provisions of this section will not apply if there is sufficient evidence for the department to determine the information retrieved from NMVTIS was in error. ( )

03. Title Application Requirements for Vehicles Defined as Salvage and Rebuilt Salvage Vehicles. *( )*

a. *The applicant must provide a written statement which includes the vehicle information, vehicle identification numbers, salvage date, and the work done personally by the owner or supervised by the owner to restore the vehicle to the operating condition that existed prior to the event causing the vehicle to be salvaged. ( )*

b. *In the event that the applicant did not personally repair the vehicle or supervise its repair, but another party performed the repairs, the applicant will certify to the best of his knowledge the name of the party that did repair the vehicle or personally supervised its repair. This certification shall be made on a salvage vehicle statement. ( )*

c. *In the event that repairs were not necessary to bring the vehicle to operating condition pursuant to Chapter 9, Title 49, Idaho Code, the applicant will certify this on a salvage vehicle statement. ( )*

d. *The applicant must sign an indemnifying statement agreeing to defend the title in all legal disputes arising out of his possession of the title to the vehicle, and attesting to the fact that all information contained in the statement and its attachments are true and correct. ( )*

e. *The new Idaho title issued will be branded "REBUILT SALVAGE." Such notation will remain on the title and on all subsequent transfers of the title. ( )*

04. Salvage Vehicle Damaged Out-of-State. *If a vehicle that is titled in Idaho is damaged in another state or jurisdiction to the extent that the vehicle becomes a "salvage vehicle" as defined by Section 49-123(2)(o), Idaho Code, and the vehicle is not going to be returned to Idaho, the owner or insurer must, upon determining the vehicle to be salvage, notify the purchaser and the Department in writing of the salvage status. If this vehicle returns to Idaho, the title will be branded "Rebuilt Salvage" or carry another jurisdiction's comparable brand forward unless the vehicle has not yet been repaired and has not had a salvage certificate or other salvage ownership document issued by another jurisdiction in which case the owner must obtain an Idaho salvage certificate of title. ( )*

304. GLIDER KITS.

01. Title Application Requirements. *( )*

a. *An MCO for the glider kit must be submitted with the application for title. ( )*

b. *If the applicant dismantles a vehicle presently titled to the applicant and uses the significant parts with the glider kit, either a statement of fact will be prepared or the applicant will complete an affidavit, identifying the significant parts by identifying numbers. If the significant parts were purchased separately from a new or used parts outlet, a bill of sale or invoice is required. If the significant parts were purchased from a private owner, a bill of sale is required.* ( )

c. *If the frame and cab that the parts were stripped from will never be used again, i.e., frame and cab destroyed, not salvageable, the title must be surrendered with the application. If the frame or cab can be used again, the owner or motor vehicle investigator will mark the title "frame only" or "cab only."* ( )

d. *The vehicle must be completely assembled and meet the requirements of Chapter 9, Title 49, Idaho Code, and the federal motor vehicle safety standards in effect for the model year at the time of application.* ( )

02. Assignment of VIN. *The VIN will be the number assigned to the kit by the manufacturer. In the absence of such number, the motor vehicle investigator will assign a VIN.* ( )

03. Model Year. *The model year will be the year of the kit, determined by priority in the following order:* ( )

a. *Written statement from the manufacturer.* ( )

b. *Seventeen (17) character VIN's model year designator;* ( )

c. *Designation of model year shown on an approved MCO; or* ( )

04. Make of Vehicle. *The make of the vehicle will be the make of the glider kit.* ( )

05. Title Branded. *The designation "GLIDER KIT VEHICLE" will be branded on the title.* ( )

305. TITLE APPLICATION REQUIREMENTS FOR REPLICA, STREET RODS, REPLICA STREET RODS, AND ASSEMBLED VEHICLES.

01. Applicant Must Provide Proof of Ownership. *The applicant must provide proof of ownership for all significant parts that are used in replicating or assembling the vehicle. The body must have a properly released title from the previous owner or a title in the applicant's name. The frame only may be transferred with a copy of a bill of sale given by the legal owner showing the vehicle identification number (VIN). Other significant parts that are used must be verified by traceable invoices identifying the significant part or parts if purchased from an established new or used parts outlet. If the other significant parts are purchased from a private party, a bill of sale showing the seller's name and address is required. An MCO must accompany the documents for manufactured kits or if no MCO was issued, a factory invoice or bill of sale from the selling dealer together with a statement certifying no MCO was issued for the kit is acceptable.* ( )

02. Model Year. *The model year for replica vehicles and replica street rods will be the year that the vehicle replicates. The model year for assembled vehicles and street rods will be the model year of the vehicle body.* ( )

03. Inspection by a Motor Vehicle Investigator. *When the vehicle is in operating condition an inspection by a motor vehicle investigator is required. A fee of twenty-five dollars ($25) is required for this inspection and the preparation of the statement of fact and indemnifying statement. In addition, if a vehicle identification number is assigned, the fee required by Section 49-202(2)(j), Idaho Code, will be charged. If the vehicle is eligible to be registered for road use, the owner will complete a self-certification form prescribed by the Department stating that the vehicle is in compliance with Chapter 9, Title 49, Idaho Code, and meets the federal motor vehicle safety and emission standards in effect for the model year and type of vehicle.* ( )

306. -- 399. (RESERVED)

400. ABANDONED VEHICLES.

Abandoned vehicles not claimed before the day of sale will be sold by the appropriate governmental entity if one exists. This regulation will not prevent governmental entities from entering into agreements with other governmental entities to conduct sales. ( )

401. GRAY MARKET VEHICLES.

***01. Required Documents**. When the owner of a gray market vehicle applies for title and registration, the following documents must be presented. ( )*

***a.** Statement indemnifying the Department. ( )*

***b.** Statement of Facts from a motor vehicle investigator, unless waived by the Department based on facts presented by the owner. ( )*

***c.** All documents relating to ownership including but not limited to; manufacturer's certificate of origin, manufacturer's statement of origin, foreign title, or registration (if the vehicle is not from a titling country), and bills of sale. A complete chain of ownership must be presented from the manufacturer (for new vehicles) or from the last titled owner, or registered owner (if the vehicle is not from a titling country) to all subsequent owners of the vehicle both in the foreign market and the United States. ( )*

***d.** U.S. Department of Transportation bond release letter. ( )*

***e.** Environmental Protection Agency (EPA) bond release letter or Independent Commercial Importer (ICI) release letter or Designated Canadian Importer (DCI) release letter or EPA letter of waiver. ( )*

***02. Designation of Model Year**. The model year for titling and registering gray market vehicles will be determined in an order of priority, based on the following criteria: ( )*

***a.** The model year used by a specific manufacturer to designate a discrete vehicle model irrespective of the calendar year in which the vehicle was actually produced; ( )*

***b.** The model year shown on an ownership document issued by that vehicle's country of origin; ( )*

***c.** Any vehicle manufactured during a twelve (12) month period beginning September 1, and ending August 31, will bear the production year of the calendar year in which August 31 occurs; or ( )*

***d.** The model year by certification of the importer of record. The certification can be verified against vehicle production dates, based upon substantially similar models of the same make of vehicle. ( )*

***03. Foreign Documents**. When a foreign manufacturer's certificate of origin, manufacturer's statement of origin, or registration and/or titling documents are presented, a translation of the foreign documents may be required to clarify the information contained in the documents. If required, such translation will be at the owner's expense and certified by the translator as true and correct. ( )*

***04. Conditional Registration**. Until gray market vehicles meet Idaho registration and titling requirements, the county assessor will issue a conditional registration under the "Conditional Registration" program to allow time for the federal government to act upon the required releases or for the owner to obtain legal ownership documentation. ( )*

***05. Exception**. When the owner of a gray market vehicle has a current title issued by another state, the other requirements of Section 401of this rule for title and registration will not apply unless the title carries the brand, "Gray Market Vehicle (not in compliance)" or another brand or notation indicating the vehicle was not brought into compliance with U.S. DOT and EPA requirements. If a gray market vehicle has a current title issued by another state that carries the brand, "Gray Market Vehicle (not in compliance)" or another equivalent brand or notation and the other requirements of Section 401 of this rule have not been met, the vehicle cannot be registered and the owner may only receive an Idaho title issued with same or equivalent brand or notation. ( )*

402. – 899. (RESERVED)

900. WAIVER OF TITLING REQUIREMENTS.

*01. **Purpose**. This rule specifies the circumstances under which a person or entity may waive the thirty (30) day requirement to apply for title to a vehicle which has been acquired by operation of law, and to provide that the person or entity, in lieu of having a certificate of title issued in the person's name, may provide a bill of sale together with the court order or other instrument entitling the person or entity to the vehicle and any existing certificate of title, if available, to the buyer or transferee upon sale or transfer of the vehicle. ( )*

*02. **Law Enforcement Agencies**. Vehicles awarded to law enforcement agencies through operations of law are not required to be titled if the vehicle is not to be put into service by the agency and is to be sold or transferred. In this case, the agency may provide a bill of sale to the purchaser together with a copy of the court order or other instrument awarding the vehicle to the agency, and any existing certificate of title, if available. ( )*

*03. **Inheritance**. Vehicles coming into possession by inheritance will not be required to be titled in the name of the heir when the intent of the heir is not to use or register the vehicle, but to dispose of the vehicle to a transferee. Upon sale or transfer of the vehicle, the heir will provide a bill of sale to the purchaser or gift transfer affidavit to the transferee, together with an affidavit of inheritance or small estate affidavit and any existing certificate of title if available. ( )*

901. – 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule, governing registration and permit fee administration as provided for in Sections 49-434 and 49-439, Idaho Code, is adopted under authority of Section 49-201, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39, Title 02, Chapter 22, "Rules Governing Registration and Permit Fee Administration." (3-19-07)

02. Scope. This rule clarifies the procedures for administering registration and permit fees. (3-19-07)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Combination of Vehicles. A tractor or truck tractor and one (1) or more trailers and/or semitrailers. (11-20-91)

02. Customer. The individual or entity that is registering/permitting the vehicle. The following terms; customer, individual, company or registrant are interchangeable in this rule. (3-19-07)

03. Insufficient Funds (ISF). ISF will be the abbreviation as it pertains to checks written on personal and/or business checking accounts without sufficient funds to cover the check, for payment to the department. (3-19-07)

04. Non-Reducible Load. Defined in IDAPA 39.03.01, "Rules Governing Definitions," Subsection 010.31. (3-19-07)

05. Probable Cause. Information sufficient to create a reasonable belief that the registrant of a motor vehicle(s) has either not paid fees due or has under reported miles traveled or has underpaid fees due. (3-19-07)

06. Quarterly Report. The form for registrants to report the laden miles traveled on Idaho highways during the preceding three (3) months when transporting non-reducible vehicles/loads under annual overweight/oversize permits. (3-19-07)

07. Revocation of Registration. The termination of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the Department and Idaho Code. (3-19-07)

08. Registrant. A person, firm, or corporation in whose name a vehicle or vehicles are registered, with an Idaho account number assigned by the department. (3-19-07)

09. Road Use Fee. The fee per mile paid for non-reducible vehicles or combinations of vehicles hauling non-reducible loads. The fees are based on the number of axles on the vehicle or combination of vehicles and the total gross weight, in addition to the registration fee. (3-19-07)

10. Suspension of Registration. The temporary withdrawal of a registrant's vehicle registrations and authority to operate on Idaho highways for failure to comply with requirements specified by the department and Idaho Code. (3-19-07)

11. Third-Party Checks. Checks payable to one entity, and endorsed over to another entity for payment. (3-19-07)

011. -- 099. (RESERVED)

100. QUARTERLY ROAD USE FEE REPORTS FOR ANNUAL OVERWEIGHT PERMITS.
To comply with Section 49-1001, Idaho Code, the customer will make quarterly reports of laden only mileage to the department for the movements of non-reducible vehicle/loads, at the appropriate permitted weight level of the annual overweight/oversize permits. These fees are in addition to the registration fees required to be paid to the department. Mileage and road use fees for single trip overweight/oversize permits are calculated and collected at the time of issuance and are not reported quarterly. (3-25-16)

101. QUARTERLY ROAD USE FEE REPORTING.

01. Quarterly Reporting Forms Issued. The department will issue a quarterly report form to customers for each valid annual overweight/oversize permit issued to them. (3-19-07)

02. Use of Quarterly Reporting Form. The customer is required to report each quarter's information on the form provided on or before the due date specified on the quarterly report form, even when reporting zero (0) miles traveled. (3-25-16)

a. If the customer does not receive a quarterly report form, it is the customer's responsibility to notify the department allowing adequate time to submit the report before the due date. (3-19-07)

b. Any report transmitted through the US Postal Service shall be considered filed and received by the department on the date shown by the post office cancellation mark stamped on the envelope or wrapper containing the report. A postage meter cancellation shall not be considered as a post office cancellation mark. (3-19-07)

c. If the quarterly report form due date falls on a Saturday, Sunday, or legal holiday, the due date will be extended to the next business day. (3-25-16)

d. Quarterly reports not submitted will result in the account being suspended. (3-25-16)

03. Information Required on the Quarterly Report Form. Customers must report the following: (3-19-07)

a. The number of laden miles traveled on Idaho highways when operating under an annual overweight/oversize permit with non-reducible vehicles and/or load that exceed eighty thousand (80,000) pounds and/or legal axle weights for the appropriate weight category for the quarter specified on the quarterly report form, rounded to the next full mile; and the road use fee due; and penalty, if the report is filed after the due date. (3-25-16)

b. Total amount due. (11-20-91)

c. Signature and title of company official, and date of report. All reports filed with the department must be signed by an authorized representative of the company/individual in order to be considered a valid report even if zero (0) miles are being reported. (3-25-16)

d. Address change, if different from quarterly report form. (11-20-91)

e. Customer telephone number (3-19-07)

102. -- 199. (RESERVED)

200. INSTALLMENT PAYMENTS FOR COMMERCIAL VEHICLE REGISTRATION.
The department offers a Payment Plan for registrants in compliance with Sections 49-434, Idaho Code. (3-19-07)

01. Requirements to Participate in Installment Payments. (3-19-07)

a. Participant must sign participation contract agreement. (3-19-07)

b. Only Full Fee and Idaho IRP registration fees are included in the payment plan. Other jurisdictions' IRP fees shall not be included. (3-19-07)

c. Only full annual registration fees shall be included in payment plan. Registrations for less than one full year shall not be included. (3-19-07)

d. Vehicles not registered within thirty (30) days after the previous year registration has expired shall not be eligible for the installment payment option. Submitted applications for registration that have been invoiced, but

not paid for, by the due date stated on the fee summary sheet shall not be eligible for the installment payment option. (3-29-10)

e. Installment contract requirements do not provide opportunity for registrant to opt out of any remaining installment payments. The balance of the payment plan shall continue to be paid even if the truck is not being operated. (3-19-07)

f. If registrant meets the criteria in Section 300 of this rule, the prorated portion of the Idaho fee shall be credited toward the installment plan or refunded if the plan has been paid in full. (3-29-10)

g. Registrant shall not participate in installment payment plan if the registrant's account has previously been suspended as stated in Subsection 200.06 of this rule. (3-29-10)

h. The contract shall stipulate the payment periods and the installment confirmation letter shall stipulate the due dates of each subsequent payment. (3-19-07)

i. An installment payment plan fee of fifty dollars ($50) shall be required and collected at the time of setup for each installment payment plan created. (3-29-10)

02. Billings, Payments and Due Dates of Installment Plan. (3-19-07)

a. The department shall upon acceptance of the contract by the registrant, receive one-quarter of the annual registration fee along with the installment payment plan fee, and then shall bill the registrant for three (3) equal installments based upon the previously set payment periods outlined in the contract, which are due by the end of the third, sixth, and ninth months after the effective date of the registration. (3-29-10)

b. Courtesy billing notices for the next installment payment due will be mailed approximately one (1) month prior to the due date. (3-29-10)

c. US Postal Service postmark shall be used to determine if payment is received on time. If the envelope is postmarked on or before the last day of the month, the payment shall be considered "on time." (3-19-07)

d. If the last day of the month falls on a Saturday, Sunday or legal holiday, the next business day shall be considered the due date. (3-19-07)

e. Non receipt of the department's billing notice does not relieve the burden of the registrant to pay the installment amount by the due date. (3-19-07)

03. Failure to Pay Installment Payment by Due Date. (3-19-07)

a. The department shall send out courtesy pre-suspension notices approximately five (5) days after the due date to registrants who have failed to remit payment by the due date printed on the quarterly billing. (3-29-10)

b. The pre-suspension letter shall contain a late penalty fee of ten percent (10%) of the amount due and an additional one percent (1%) for each month or portion of a month that the payment is past due. (3-19-07)

c. Registrant shall pay installment amount portion that is due, plus assessed penalties and interest. (3-19-07)

04. Suspension of Registrant's Account Due to Non-Payment of Payment Plan. Approximately two (2) weeks after pre-suspension notices are mailed to the registrant, the department shall suspend accounts of registrant's that have failed to remit installment payment and/or interest and penalty. (3-19-07)

05. Reinstatement Fee for Payment Plan Registration. (3-19-07)

a. A forty dollar ($40) reinstatement fee shall be applied to all payment plan accounts that have been suspended. (3-19-07)

b. Registrant must pay quarterly payment portion, penalty and interest, if applicable, and reinstatement fee before suspension shall be cleared from account. (3-19-07)

06. Repetitive Suspensions Result. (3-29-10)

a. After the registrant's account has been suspended for delinquent installment payments two (2) or more times, the registrant shall not be allowed to participate in future payment plan programs unless; (3-29-10)

i. Customer has twelve (12) consecutive months of no suspensions related to the account starting from the month the account is cleared; and (3-29-10)

ii. Customer requests in writing to the department to participate in future installment payment plans and will be allowed to do so. (3-29-10)

201. -- 299. (RESERVED)

300. REFUNDS.

01. Fees Eligible for Refund. (3-19-07)

a. Commercial vehicle registration is eligible for refund when the criteria in Section 49-434, Idaho Code, are met. (3-19-07)

b. If account has been overpaid, and no other fees are owed to the department. (3-19-07)

c. Unexpired portion of Idaho based fees are refundable for: (3-19-07)

i. A vehicle that has been sold or repossessed; (3-29-10)

ii. A vehicle that has been damaged beyond repair; or (3-19-07)

iii. A vehicle on which the lease has been terminated. (3-19-07)

iv. Other refund requests will be reviewed and approved or denied on a case by case basis. (3-25-16)

02. Fees Not Eligible for Refunds. Other jurisdiction's fees are not refundable by Idaho. (3-25-16)

03. Request for Refunds: (3-19-07)

a. Registrant can make a request for refund of fees from the department. The refund request must include: (3-19-07)

i. Proof of sale or repossession of the vehicle; (3-29-10)

ii. Proof from the insurance company or law enforcement agency that the vehicle has been damaged beyond repair; or (3-19-07)

iii. Proof of lease termination from the leasing company. (3-19-07)

b. Request shall be subject to audit as provided in Idaho Code. (3-19-07)

c. All refund requests shall be reviewed to ensure that all requests are valid and eligible. The Revenue Operations supervisor shall also approve/disapprove refunds. If the refund amount is greater than or equal to one thousand ($1,000) dollars, a Financial Services manager shall also review and approve/disapprove the request before refund is processed. (3-25-16)

d. Approval/disapproval shall be indicated by either signature, or electronic approval by means of the department's financial management system. (3-19-07)

301. -- 599. (RESERVED)

600. INSUFFICIENT FUNDS.
Insufficient Funds will be indicated by the abbreviation ISF. (3-19-07)

01. Payment With Insufficient Fund Check. If a customer pays a fee by check and the check is returned to the department as ISF, the transaction will be cancelled. The department reserves the right to not accept checks from a customer who has written two (2) or more ISF checks within four (4) years to the department. That customer will have to pay with cash, or verifiable check, or credit card. (3-25-16)

02. Suspension of Account. The department will suspend the customer's account until the customer has paid the amount of the ISF check, along with the twenty dollar ($20) ISF fee. (3-25-16)

03. No Further Transactions. The department will not complete further transactions with the customer until the customer has paid the amount of the ISF check along with the twenty dollar ($20) ISF fee. (3-19-07)

601. ACCEPTANCE OF CHECKS.
The department will accept personal checks as form of payment with sufficient proof of identification. If check payment is received by mail, the check will be accepted unless the customer has written two (2) or more ISF checks within four (4) years to the department, per Subsection 600.01 of this rule. (3-25-16)

602. CREDIT CARD PAYMENTS.
The department will accept only Visa or Mastercard for any fees due to or purchases from the department. (3-25-16)

603. -- 699. (RESERVED)

700. SUSPENSION OF REGISTRATION.
The department shall suspend the vehicle registration(s) by notifying the registrant in writing sent via first class pre-paid mail to the registrant's last known address if: (3-19-07)

01. Failure to Comply. The registrant fails to comply with a billing letter requesting payment of fees and penalties. (3-19-07)

02. Non-Filing by the Registrant. The registrant does not file quarterly reports or make installment payments to the department. (3-19-07)

701. REVOCATION OF REGISTRATION.
The department shall revoke the vehicle registration(s) if the registrant fails to comply with a suspension notice within fifteen (15) days of receipt of the notice. (3-19-07)

702. REQUIREMENTS FOR REINSTATEMENT OF REVOKED OR SUSPENDED VEHICLE REGISTRATION.

01. Revocation. In the case of a revocation, a registrant must pay all fees due and a forty dollar ($40) reinstatement fee to be reinstated and must also re-register to resume operating. (3-25-16)

02. Suspension. In the case of a suspension all fees, reports, and records required prior to the suspension must be provided to the department, including a forty dollar ($40) reinstatement fee. (3-25-16)

703. REQUIREMENTS FOR COLLECTIONS.
All unpaid amounts owed to the department may be sent to an external collection agency. Collection agencies may charge a fee for their efforts in collection of a debt as per Section 67-2358, Idaho Code. Accounts that have been assigned to a collection agency must pay the collection agency all fees due. The department will not accept the

payment once assigned to the collection agency. (3-25-16)

704. -- 799. (RESERVED)

800. ENFORCEMENT.

01. Delayed Movement. If the registration of a vehicle is suspended the Ports of Entry shall delay movement of the vehicle until such time as the registrant complies with the condition(s) that caused the suspension. (3-19-07)

02. Revoked Registrations. If a registrant's registrations are revoked for failure to respond to a suspension notice, the motor vehicle cannot be operated on Idaho highways until the registrant complies with Section 702 of this rule. Registrants with outstanding balances owed to the department or revoked registrations are not eligible to purchase trip permits. (3-25-16)

801. -- 899. (RESERVED)

900. APPEAL PROCEDURE.

01. Filing of Appeal. A registrant wishing to contest a penalty or suspension of a registration or an account may file an appeal within ten (10) days of receipt of the notice. (3-19-07)

02. Delivery of Appeal. The appeal must be either hand delivered or mailed to Commercial Vehicle Services Manager, Idaho Transportation Department, P.O. Box 7129, Boise, Idaho 83707-1129. (3-19-07)

03. Delivery of Decision. A copy of the final decision in response to the request will be sent to the registrant. (3-19-07)

901. -- 999. (RESERVED)

39.02.26 – RULES GOVERNING TEMPORARY VEHICLE CLEARANCE FOR CARRIERS

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201, 49-202, and 49-501, Idaho Code. (1-2-93)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.02.26, "Rules Governing Temporary Vehicle Clearance for Carriers," IDAPA 39, Title 02, Chapter 26. (3-24-16)

02. Scope. This rule provides for temporary vehicle clearance (TVC) procedures in Idaho, self issued by carriers or issued by the Department. (3-24-16)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Carrier. The person or company who is qualified for registration in Idaho, and whose vehicles are issued Temporary Vehicle Clearances. (3-24-16)

02. Temporary Vehicle Clearance (TVC). Temporary clearance issued for immediate operation of a vehicle pending receipt of credentials. (3-24-16)

011. -- 099. (RESERVED)

100. ADMINISTRATION.
Temporary Vehicle Clearances, valid for a maximum of forty-five (45) days or to the registration year expiration date, may be issued to a carrier whose account is in good standing. (3-24-16)

101. -- 199. (RESERVED)

200. ISSUANCE OF TVC.

01. Temporary Vehicle Clearances. Carriers may request temporary vehicle clearances online, from the department or an Idaho port of entry. Fees are payable when the clearance is issued. (3-24-16)

201. ISSUANCE OF VEHICLE REGISTRATION (CAB CARD) AND LICENSE PLATE(S).

01. Issuance of Vehicle Registration & License Plate(s). The vehicle registration and license plate(s) may be issued when: (3-24-16)

a. The online application is received by the Department and all licensing requirements are met; (3-24-16)

b. The carrier submits a copy of an Idaho title or title receipt showing that the vehicle is titled in the owners name; (3-24-16)

02. Permanent Identification. When all criteria are met, a registration and a validation plate and/or sticker will be issued. (3-24-16)

202. -- 299. (RESERVED)

300. COST AND PAYMENT.
The fee for temporary vehicle clearances issued via facsimile transceiver equipment or self issued by the carrier is eighteen dollars ($18) per clearance, payable in advance by the carrier. (3-24-16)

301. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule is adopted under the authority of Sections 49-201, Idaho Code. (3-29-10)

001. TITLE AND SCOPE.
This rule is titled IDAPA 39.02.41, "Rules Governing Special Provisions Applicable to Fees for Services," and identifies special provisions applicable to fees for services not specifically outlined in Title 49, Idaho Code. (12-26-90)

002. -- 099. (RESERVED)

100. ADMINISTRATION.
Idaho Code provides for the collection of fees for related services. This rule provides for automation considerations and a fee schedule to uniformly apply the fee provided by Section 49-202(2)(h), Idaho Code. The following fees apply for services and copies of files regarding motor vehicle or other registrations, motor vehicle titles, driver's licenses or commercial driver's licenses, and are based on the per hour charge specified in Section 49-202(2)(h), Idaho Code. (3-29-10)

01. Paper or Imaged Records. Copies of supporting driver's license, registration, or title records from paper or imaged records, based on an average of twenty-four (24) minutes to fully process these requests at the per-hour rate specified in Section 49-202(2)(h), Idaho Code, and rounded to the nearest whole dollar. (3-29-10)

02. Automated Records. Idaho Code does not provide a fee for complete county or statewide automated copies of registration or title files. A fee has been based on the costs to produce special file requests. (4-11-06)

a. A base charge for programs requiring: One (1) to three (3) sorts, seventy-five dollars ($75). Each additional sort, twenty-five ($25). (12-26-90)

b. In addition to the above, the computer cost, printer cost and tape access cost, as established by the information technology section will be charged. (4-11-06)

c. Any mailing, shipping or special handling costs will also be added to the charges. (12-26-90)

03. Electronic Media Must Be Provided. Requestors must provide electronic media for this purpose, unless the file can be transmitted electronically. Data is provided in a standard department format. Vehicle or driver history information is not included. The only selection criterion is by counties. (3-29-10)

04. Records Provided Free of Charge. Motor vehicle and driver records will be provided free of charge to the following: (9-4-91)

a. State Agencies. (9-4-91)

b. County Assessors. (9-4-91)

c. County Sheriffs. (9-4-91)

d. Peace Officers requesting records in the performance of their duties as per Section 49-202(3), Idaho Code. (9-4-91)

05. Rules for Providing Records Free of Charge. The Division of Motor Vehicles will observe the following guidelines when providing records free of charge: (4-11-06)

a. Records will be provided free of charge only if they are a standard computer run that does not require special programming and/or sorting. Records requiring special handling will be provided for a fee equal to the cost of the additional handling. (9-4-91)

b. Records will be provided free of charge electronically or on electronic media supplied by the requestor, or as a standard computer printout. All other formats will be provided for a fee equal to the cost of the additional materials. (3-29-10)

c. The Assessor's Clearinghouse and the Sheriff's Clearinghouse shall each establish a single standardized computer printout that will be used for all motor vehicle and driver requests from their respective agencies. (9-4-91)

d. Records access agreements between the Division of Motor Vehicles and government agencies requesting motor vehicle and driver records shall be negotiated and renewed annually, and shall contain a list of all personnel who will have access to the records and/or on-line terminals. (4-11-06)

e. On-line computer installation and equipment shall be charged at a rate defined in the annual agreement. (9-4-91)

101. -- 199. (RESERVED)

200. LAW ENFORCEMENT INQUIRIES.
The Department provides full access to motor vehicle files by Law Enforcement at no charge through the Idaho Law Enforcement Telecommunication Systems (ILETS). There is also no charge to Law Enforcement for certified motor vehicle or driver record packets to peace officers. For additional services beyond access to motor vehicle records (special reports, etc...), actual costs incurred by the Department will be charged. (3-29-10)

201. JURY LISTS.
Idaho Code provides for the use of motor vehicle records for jury lists. The Department does not charge the counties for this use. (12-26-90)

202. SPECIAL AGREEMENTS.

01. Agreements for Services. The Department may enter into agreements for services and copies of motor vehicle files to requestors with special highway safety and statistical reporting requirements. Initial costs incurred by the Department shall be reimbursed by the requestor. Ongoing charges or fees will be based on the agreement. (12-26-90)

02. Right to Receive Information Subject to Idaho Code. This rule is not intended to imply that a requestor has the right to receive information. The fees, as stipulated in this rule, apply when the requestor is eligible to receive the information, subject to Idaho Code. (12-26-90)

203. MISCELLANEOUS.
The fee for vehicle inquiries by name will be based on the proper fee per vehicle record. Commercial vehicle inquiries shall be based on a per vehicle record fee. (3-29-10)

204. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
This rule, establishing the policies used to administer Idaho's standard and specialized license plate programs, is adopted under the authority of Section 49-201, Idaho Code. (1-3-92)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 39.02.60 "Rules Governing License Plate Provisions." (4-2-08)

02. Scope. This rule governs license plate provisions for standard license plates not otherwise detailed in Title 49, Idaho Code, and provisions for all specialty program license plates, personalized plates, and special eligibility plates. *Subchapter A further establishes provisions for administering the exempt and undercover license plate programs not otherwise detailed in Title 49, Chapter 4, Idaho Code.* *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Authorized Employees. Authorized employee as used in this rule means any non-salesperson or employee who is paid compensation for a minimum of thirty (30) hours each week, and appears on the records of the employer as an employee for which social security, income tax, and all deductions required by law have been made. (1-3-92)

***02. Exempt License Plate**. Standard license plate issued to the entities described in Section 49-426(1), Idaho Code, which are exempt from payment of vehicle operating fees.* *( )*

***03. Exempt Personalized License Plate**. An exempt plate which identifies the agency by a unique identifier specified by the agency that does not conform to the standard exempt identifier listed in Section 400; a plate wherein the serial number portion represents inventory control numbers, badge numbers, radio call signs, or other unique lettering or numbering schemes developed by the requesting agency; plates that are lettered and/or numbered to indicate a person's position in the hierarchy of an agency.* *( )*

04. Furtherance or Pursuance of Business. Furtherance or pursuance of business as used in this rule or in Section 49-1627, Idaho Code, means any lawful use of a dealer or loaner plate by an authorized employee of a dealership for the movement of a vehicle to be sold, repaired or transferred from one (1) location to another. (1-3-92)

05. Leased or Rented Vehicles. Leased or rented vehicles owned by the licensed dealer as used in Section 49-1627, Idaho Code, means vehicles titled in the name of the dealership which are leased or rented on a contractual basis to the public. (1-3-92)

***06. Undercover License Plate**. A standard license plate issued upon application to the Department from an exempt agency with law enforcement authority. Undercover license plates will be randomly issued by the Department, and appear as a standard county plate.* *( )*

07. Vehicles Not Held in Stock. Vehicles not held in stock for sale as used in Section 49-1627, Idaho Code, means vehicles titled in the name of the dealership or vehicles which cannot be titled or for which the dealership does not hold title. (1-3-92)

08. Vehicles Sold. Vehicles which have been sold as used in Section 49-1627, Idaho Code, means vehicles for which a dealer has a signed contract of sale or other vehicles not belonging to the dealership. (1-3-92)

011. LICENSE PLATE PROVISIONS FOR ALL LICENSE PLATES.

***01. Plate Numbering and Lettering**. The Idaho Transportation Department is authorized to assign unique plate letter/number spacing schemes and to use specific letter/number combination schemes as needed for the purpose of ensuring unique numbering systems for all license plate programs and to administer the provisions of this rule.* *( )*

***02. Plate Life Expiration Date**. License plates will be valid for the period described in 49-443 (2) and will expire on the last day of the month, consistent with the month of the registration expiration.*

012. PROOF OF REGISTRATION FOR NEW, REPLACEMENT, OR REISSUED LICENSE PLATES.

01. Proof of Registration Document. Upon receipt of payment for required registration and program fees proof of registration receipt document may be issued, indicating "license plates on order." This option will be used whenever license plates are manufactured after the registration transaction has been completed. The proof of registration receipt document will provide proof that the vehicle has been registered and fees have been paid, and the vehicle may be operated until new plates have been received by the registrant. At the discretion of the Department. more than one (1) proof of registration may be issued, if needed, in order to manufacture license plates. (3-20-14)

02. Placement of Proof of Registration Document. The proof of registration receipt document will be displayed in the rear window *or on the rear* of the vehicle for which it is issued *in a manner that is readily legible for a distance of twenty five (25) feet and will be legible throughout the duration of the permit*. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the proof of registration must be conspicuously displayed where the expiration date of the newly issued plate may be easily read *at a distance of twenty five (25) feet*, and where it is protected from exposure to weather conditions, which would render it illegible. *( )*

03. Issuance of Manually Completed Temporary Registrations When Automated System is Unavailable. Upon receipt of payment for required registration and program fees, the county may issue a manual temporary registration *valid* for thirty (30) days, through use of a temporary form provided by the Department, in the event the automated system is unavailable. When the system resumes normal operation, the county office will enter such registration information *in the system*, and produce the registration form and validation decals and mail to the registered applicant. The manual temporary registration form will be displayed in the rear window of the vehicle for which it is issued *in a manner that is readily legible for a distance of twenty five (25) feet and will be legible throughout the duration of the permit*. When issued to a convertible, motorcycle, or other vehicle in which it is not possible to display in the rear window, the temporary registration must be conspicuously displayed where the expiration date of the permit may be easily read *at a distance of twenty five (25) feet*, and where it is protected from exposure to weather conditions, which would render it illegible. *( )*

013. -- 099. (RESERVED)

100. LICENSE PLATE PROVISIONS FOR STANDARD PLATES.

01. County Designations. The county in which a vehicle is registered will be designated by a number and letter on license plates for passenger cars, pick-up trucks eight thousand (8,000) pounds and under gross weight, hearses, ambulances, wreckers, farm vehicles between eight thousand one (8,001) and sixty thousand (60,000) pounds gross weight, and recreational trailers. The county designators are as follows:

1A	- Ada	2A	- Adams	1B	- Bannock	2B	- Bear Lake
3B	- Benewah	4B	- Bingham	5B	- Blaine	6B	- Boise
7B	- Bonner	8B	- Bonneville	9B	- Boundary	10B	- Butte
1C	- Camas	2C	- Canyon	3C	- Caribou	4C	- Cassia
5C	- Clark	6C	- Clearwater	7C	- Custer	E	- Elmore
1F	- Franklin	2F	- Fremont	1G	- Gem	2G	- Gooding
I	- Idaho	1J	- Jefferson	2J	- Jerome	K	- Kootenai
1L	- Latah	2L	- Lemhi	3L	- Lewis	4L	- Lincoln
1M	- Madison	2M	- Minidoka	N	- Nez Perce	1O	- Oneida
2O	- Owyhee	1P	- Payette	2P	- Power	S	- Shoshone
1T	- Teton	2T	- Twin Falls	V	- Valley	W	- Washington

(1-3-92)

02. Designation for Farm Vehicles. License plates for farm vehicles between eight thousand one (8,001) and sixty thousand (60,000) pounds gross weight will have the county designator, then a unique serial number followed by the letter "T". (4-2-08)

03. Designation for Recreational Vehicles. License plates for recreational trailers will have the county designator, then a unique serial number followed by the letter "R". (4-2-08)

04. Designations for Motor Homes. License plates for motor homes will have the county designator, then a unique serial number followed by the letter "M". (4-2-08)

101. LICENSE PLATE PROVISIONS FOR RESTRICTED VEHICLE PLATES.
Per Section 49-402 (4), Idaho Code, the Idaho Transportation Department will provide restricted vehicle plates for issuance to all-terrain vehicles, utility type vehicles, and motorbikes. *Idaho Transportation Department will provide these plates to county DMV offices and to the Idaho Department of Parks and Recreation (if needed).* Per Section 49-443(1), Idaho Code, such plates will be four inch by seven inch (4" x 7") plates, be printed with a combination of letters and numbers as determined by the department, and be printed in black on a white reflective background. Plates will be printed with "Idaho Restricted Vehicle" on the top and no other inscription. The plate will also have a decal placed in the lower left-hand corner indicating the year it is required to be re-placed. The plate will not be valid without the registration sticker, issued pursuant to Section 67-7122, Idaho Code, affixed to the lower right-hand corner of the plate. Idaho restricted vehicle plates may not be personalized. *( )*

102. -- 149. (RESERVED)

150. VEHICLE DEALER LICENSE PLATES FORMATS.

01. Designation for Manufacturers Plates. Plates issued to manufacturers will bear the designation "MFR" and be numbered from nine thousand (9000) through nine thousand, nine hundred, ninety-nine (9999). (1-3-92)

02. Designation for Dealer Plates. Plates issued to dealers will bear the designation "DLR" and the sequential license plate number will be a maximum of two (2) digits. (1-3-92)

a. If a dealer is issued more than ninety-nine (99) plates, an alpha character will be placed in the first position, followed by a number. (1-8-90)

b. The dealer number will be a maximum of four (4) digits. No dealer number may be preceded by a zero (0): Dealer number one (1), plate number one (1): 1-01; Dealer number one thousand one (1001), plate number one hundred (100): 1001-A1. (1-8-90)

c. Dealer restricted vehicle plates will display the abbreviation "DLR' within the lower left hand box labeled "Restricted Vehicle". The dealer validation sticker will be displayed within the box labeled "Dealer Validation Sticker". (3-2-10)

151. VEHICLE DEALER LICENSE PLATES RESTRICTIONS.

01. Restrictions. Restrictions on the use of manufacturer or dealer plates are provided for by Section 49-1627, Idaho Code. In addition, the following restrictions apply: (1-3-92)

a. Authorized employees may operate vehicles displaying dealer plates only when operated in the furtherance of the dealer's business. The authorized employee must carry an identification card issued by the dealer. The identification card will contain the employee name, dealership, date of issue, dealer number and signature of an authorized representative of the dealership and the signature of the employee. This use will be limited to normal business hours unless the operator is in possession of a letter from the dealer listing the specific reason for the after-hour use. (1-3-92)

b. A manufacturer will not display manufacturer plates on vehicle types other than those

manufactured by the manufacturer. (1-8-90)

c. A new or used motorcycle dealer will not display motorcycle dealer plates on other vehicle types nor on a new motorcycle that the dealer is not enfranchised to sell. (3-2-10)

d. A new vehicle dealer will not display new vehicle dealer plates on new vehicles that the dealer is not enfranchised to sell. (4-2-08)

e. A new or used motorbike, all terrain vehicle, or utility vehicle dealer will not display dealer restricted vehicle plates on other vehicle types nor on any new motorbike, all terrain vehicle, or utility vehicle that the dealer is not enfranchised to sell. (3-2-10)

f. Vehicles displaying a dealer restricted vehicle plate are not required to display the Idaho Department of Parks and Recreation Off-highway registration to be valid, but are required to be validated in the same manner as are standard dealer plates and display the required annual validation sticker on the restricted plate. *Use will be permitted pursuant to Section 49-426 (3) and (4), Idaho Code.* *( )*

g. A prospective purchaser will not have in his possession a vehicle belonging to a dealership after normal business hours without a letter of authority from the dealership. (4-2-08)

h. A dealer or manufacturer will not display a dealer plate for purposes other than provided for by law or regulation. (4-2-08)

02. Penalties. In addition to the penalties for violation of plate use provided for in Section 49-236, Idaho Code, a dealer or manufacturer may have his license to do business in Idaho suspended for a period not less than fifteen (15) days nor more than thirty (30) days. (1-8-90)

152. VEHICLE DEALER LOANER PLATES.

01. Numbering. Plates will be numbered from LAA001 to LZZ999. (1-03-93)

02. Surrender of Plates. If the dealership license becomes invalid, the dealer must surrender the registration and loaner plates that have been issued. There will be no refund of fees. (1-8-90)

03. Vehicle Log. Dealerships will maintain a vehicle log of each vehicle on which a loaner plate is displayed. The log will be available for inspection by any peace officer or agent of the Department and contain the: (1-8-90)

a. Vehicle Identification Number (VIN) or dealership stock number if such stock number can be traced to the vehicle's VIN; (1-8-90)

b. Date(s) the plates were displayed on a vehicle; (1-8-90)

c. Number printed on the plate displayed; (4-2-08)

d. Name of person authorized to use the plate; and (1-8-90)

e. Purpose for which vehicle was used. (1-8-90)

04. Identification Card. The Department will provide an identification card, (registration) for each plate showing the: (4-2-08)

a. Dealership name and address; (1-8-90)

b. Number printed on the plate; (4-2-08)

c. Calendar year for which the registration is valid; (1-8-90)

d. Dealer number; (1-8-90)

e. Date of issue; and (1-8-90)

f. A place for the dealer's signature. (1-8-90)

05. Letter of Authorization. Persons using the plate on loaner vehicles while waiting for their own vehicle to be repaired will have in their possession a letter of authorization or a document showing both the user and dealership name. The document or letter must be signed and dated by an authorized employee of the dealership. (1-3-92)

06. Vehicle Use Donation for Civic and Charitable Events. Licensed dealers may authorize the use of their loaner plates when donating the use of vehicles held in their inventory for civic or charitable events. Such time period will not exceed thirty (30) days. The dealer will provide a letter of authorization to be carried in the vehicle and proof of current liability insurance, as required by Chapter 12, Title 49, Idaho Code. (4-2-08)

07. User Fee. The dealer may charge the user a fee for vehicles held in stock for sale and provided to a customer of a dealership while the customer's vehicle is being repaired. (1-3-92)

08. Fees. The fees charged for dealer loaner plates will be the same as the fees required by Section 49-402, Idaho Code, for new vehicles, and will be in addition to the current Emergency Medical Service (EMS) and plate fees. Applicants for new loaner plates received after January 1 will be charged one-twelfth (1/12) the annual fee required for a new vehicle for each month remaining in the licensing year, including the month of application. The annual EMS and plate fees are not prorated. (1-3-92)

153. VEHICLE DEALER TRANSPORTER REGISTRATION AND PLATE.

01. Purpose. Utility and boat trailers that weigh under two thousand (2,000) pounds unladen may be moved by a manufacturer, dealer, or an employee of either, or by a transporter service contracted by the vehicle's manufacturer or dealer upon registration and payment of an annual fifteen dollar ($15) transporter plate fee to the department, or by purchase of a single trip permit. These plates may be used only on boat trailers and utility trailers for demonstration purposes, and may be used while laden for demonstration purposes. (4-2-08)

02. Numbering of Plates. Transporter plates will be numbered from PA1 TO PZ9999. Transporter plates are required to be displayed on the rear of the trailer. (1-3-92)

03. Renewal of Plates. The transporter registration and plate are valid for one (1) year from January 1 through December 31 and may be renewed by use of a registration sticker showing the year of validation. (1-8-90)

04. Use of Plates. Transporter plates may be moved by registrants from one (1) utility or boat trailer weighing under two thousand (2,000) pounds unladen to another trailer meeting this criteria during the current registration period. Vehicles towing a laden trailer displaying a transporter plate must be registered within the appropriate gross vehicle weight category for the combined load. (4-2-08)

05. Possession of Registration. When transporting a vehicle displaying a transporter plate, the operator of a towing vehicle will carry the transporter registration in the towing vehicle at all times. (1-8-90)

06. Violations. Violations of this section include: (1-3-92)

a. Display of a transporter plate on any vehicle not required to be registered under this Section; and (1-3-92)

b. Display of a transporter plate on a vehicle not lawfully under the control of the registration holder. (1-3-92)

07. Penalties: (1-8-90)

a. Violation of this section will be a misdemeanor as provided for by Section 49-236, Idaho Code; and (1-8-90)

b. The plate and registration of anyone who displays a transporter plate other than provided for by this section may be canceled. (1-8-90)

154. PROVISIONS FOR WRECKER PLATES.

01. Purpose. Wrecker plates are for the exclusive use of businesses engaged in the towing of a wrecked, abandoned, salvaged, or disabled motorized vehicle. Plates will not be used on vehicles being repossessed. (3-2-10)

02. Numbering of Plates. Plates will be numbered as determined by the department and will display the abbreviation "WRKR" vertically on the left hand side of the plate. (3-2-10)

03. Renewal of Plates. The wrecker registration and plate are valid for one (1) year from January 1 through December 31 and may be renewed by use of a registration sticker showing the year of validation. (3-2-10)

04. Use of Plates. Plates are not to be displayed on the towing power unit vehicle nor are they to be used on a vehicle not being towed. Plates are to be displayed on the rear of the towed vehicle in such a manner as to be visible to vehicles approaching from the rear. Wrecker plates may be moved from one (1) towed motorized vehicle to another vehicle under the direct lawful control of the registration holder. (3-2-10)

05. Possession of Registration. When towing a motorized vehicle displaying a wrecker plate, the operator of the towing vehicle will carry the wrecker plate registration in the towing vehicle. (3-2-10)

06. Acquisition/Renewal of Wrecker Plates. Wrecker plates will be issued and renewed through the department by mail or by fax using an application and renewal process determined by the department. (3-2-10)

155. PROVISIONS FOR SPECIAL LICENSE PLATE PROGRAM PREQUALIFICATION AND APPLICATION PROCEDURES.

01. Special License Plate Prequalification. Anyone desiring legislation to establish a Special License Plate Program may make application to the Department on a Special Plate Program application form designed and provided by the Department. If all the prequalification requirements are met by the submission of other documentation, this will also be acceptable. A Special Plate Program Development Guide will also be provided to each applicant, detailing the procedures for the prequalification and application and providing information regarding the steps required to successfully accomplish a special plate program from prequalification through passage of the legislation, statutory requirements and standards for the plate color and license plate design. (3-20-14)

02. Special License Plate Approved by the Legislature. If a special license plate program is approved by the Idaho legislature, prior to production and sale of the special license plates, the sponsor will be meet the requirements outlined in Subsection 155.03 of this rule. (3-20-14)

03. Special Plate Requirements: (3-20-14)

a. The individual responsible for representing the agency requesting the prequalification/application procedure will complete and sign a Special Plate Program application form that will contain a declaration of the responsible individual for certifying compliance with the requirements to the Department. (3-20-14)

b. Responsible individual representing the agency will submit a financial plan detailing the use for the proceeds from the special plate sales. (3-20-14)

c. For non-profit agencies, the responsible individual will provide evidence that the applicant has had 501 (c) Federal Income Tax status for at least two (2) years. (3-20-14)

04. Special License Plate Program Application Approval: (3-20-14)

a. Upon approval of application by Department, applicant will, by September 1, deposit programming and administration fees determined by an estimate of projected programming hours required. One thousand dollars ($1,000) of this fee will not be refundable. (3-20-14)

b. Applicant will complete and submit a list of two hundred fifty (250) applicants, currently registered in Idaho, who intend to purchase the Specialty License Plates when available. The form may be delivered to the Department by mail or electronic means such as e-mail or facsimile. (3-20-14)

05. Submission to the Legislature. (3-20-14)

a. For those desiring legislation, when all requirements have been met, the Department will forward the completed application to the chairmen of the Transportation and Defense Committees of the Senate and the House of Representatives for consideration in the next Legislative Session. This submission will be on a form developed by the Department or other documentation that meets all the requirements listed in this rule. (3-20-14)

b. For those Special License Plate Programs with enacting legislation that fail to meet the requirements of this Section, the Department will report such finding to the chairmen of the Transportation and Defense Committees of the Idaho State Senate and the House of Representatives, and will not proceed with production and sale of the special plates. (3-20-14)

06. Annual Report. An annual report form, designed and provided by the Department, will be made available to special license plate sponsors. The report will require an accounting of revenues and expenditures associated with the funds collected for the special license plate program. The report will be completed and submitted to the Department by January 1 so that by January 15 of each year the Department has the necessary data compiled and the required information forwarded to the chairmen of the Transportation and Defense Committees of the Idaho State Senate and the House of Representatives. If the agency fails to provide the required report, the Department will suspend special license plate sales for that program until the accounting is provided. Military License Plate programs will not be included in this requirement. (3-20-14)

07. Appeals. The appeals process will allow the applicant for a special license plate program to appeal the Department's decision to deny the application (See Section 003 of this rule). The notice of the appeal will be sent in writing via mail, electronic mail or facsimile within twenty (20) days of the denial. (3-20-14)

156. -- 198. (RESERVED)

199. LICENSE PLATE PROVISIONS FOR SPECIAL PROGRAM AND PERSONALIZED PLATES FOR TRAILERS.

Special program and personalized plates may be issued to trailers manufactured primarily for recreational vehicle uses. Such trailers will include camper, tent or fifth-wheel recreational trailers. Trailers with multiple uses such as utility, horse, or boat, with or without recreational vehicle facilities, will be excluded. (4-2-08)

200. LICENSE PLATE PROVISIONS FOR SPECIAL PLATES.

01. Year of Manufacture Plates. (1-3-92)

a. Owners of vehicles manufactured up through 1974, excluding model years 1969, 1971, 1972, and 1973, but including and ending with model year 1974, may apply for the renewal and use of previously canceled Idaho license plates which were originally issued to the same category of vehicle, where the year designation of the plate matches the year of manufacture of a motor vehicle. (4-2-08)

b. The license plate must be in serviceable condition as originally manufactured, i.e., *can*not be marred, bent, faded, or otherwise damaged to the point it is illegible. If the plate is repainted to bring it to a serviceable condition, the colors will match the original colors as closely as possible *and will* equal or exceed the original quality. The plate *number* cannot be a duplicate of a previously manufactured *"year of manufacture"* plate still in use. *( )*

c. The application for use of the plate will include a statement signed by the applicant attesting that the applicant understands, if the plate use is approved, the plate does not have reflectorized material which meets the requirements of Section 49-443, Idaho Code. The responsibility for any accident or injury arising out of the possible consequence of not having this reflectorized safety feature on the license plate will be borne by the registrant. (1-3-92)

d. "Classic" or "Old Timer" plates may be used in conjunction with this revived plate at the option of the registrant. (1-3-92)

02. Centennial License Plates. Personalized and regular number plates are available in the centennial format. (4-2-08)

03. Disabled Veteran License Plates. Disabled veteran license plates may, upon the registrant's request, display the international *disability* symbol to ensure reciprocal parking privileges in all states and provinces. *( )*

201. PROVISIONS FOR LEGISLATIVE LICENSE PLATES.

01. Option to Apply. Members of the Idaho Legislature have the option of applying to the Department's Special Plates Unit for one (1) set of specially numbered license plates bearing the designation "HOUSE" or "SENATE." (1-3-92)

02. Numbering Assignment List. On or before June 15 each year, the Department will request from the Speaker and Pro Tem a current list of license numbers assigned to all legislators. The Department will request that these lists be returned by September 1 or, in an election year, within fifteen (15) days after the election. (1-3-92)

03. Plate Availability. Upon receipt of the lists, the Department will ensure that a complete set of special legislative license plates *will be* available for each legislator. *( )*

202. PROVISIONS FOR PERSONALIZED LICENSE PLATES.

01. Special Characters or Marks. No special characters, or punctuation marks, may be used for personalized messages on license plates. (1-3-92)

a. Up to seven (7) letters or any combination of seven (7) letters and numbers and spaces (no half spaces) may be used for personalized messages on eligible six inch by twelve inch (6" x 12") license plates. (5-8-09)

b. Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on four inch by seven inch (4" x 7") motorcycle plates. (5-8-09)

c. Up to six (6) letters or any combination of six (6) letters and numbers and spaces (no half spaces) may be used for personalized messages on specialty program license plates. (5-8-09)

d. Disability six inch by twelve inch (6" x 12") plates will display the international *disability* symbol followed by up to five (5) letters, numbers, and spaces in the personalized message. Disability four inch by seven inch (4" x 7") motorcycle plates will display the international *disability* symbol followed by up to four (4) letters, numbers, and spaces (no half spaces) in the personalized message. *( )*

02. Issue of Personalized Plates. Personalized plates *may* be issued to vehicles if no specific wording is required on the plate to identify the purpose for which the vehicle is registered. Personalized plates will not be issued if such plates would jeopardize the integrity of unique plate identification requirements. Examples include but are not limited to: *( )*

a. Commercial vehicles registered under the International Registration Plan (IRP), because the designators PRP are required to be printed on the plate; (1-3-92)

b. Vehicles for which the designators "PRP" are required to be printed on the plate to identify the use; and (4-2-08)

c. Utility, horse, or enclosed car hauling trailers with RV facilities or boat trailers. (4-2-08)

03. Specific Requests. Requests for specific plate letters and/or numbers will be issued on a first come, first served basis. In the event of a request for the same plate by more than one (1) individual, the request with the earliest postmark, e-mail transmission time, or fax transmission time will prevail. If the postmarks are the same, the date stamped upon arrival at the Department will prevail. Applications submitted at county assessors' offices will be considered valid *when date* stamped in by the Department. Telephone requests will not be accepted. *( )*

04. Lack of Current Plates. When an applicant for personalized plates does not have current regular number plates: (1-3-92)

a. The Department may issue a thirty (30) day temporary registration to allow time for the billing process for personalized plates. The fee for each thirty (30) day temporary registration will be as required by Section 49-523, Idaho Code. (4-2-08)

b. The Department may, upon payment of all required fees, issue a proof of registration document as provided in Section 012 of these rules. (3-20-14)

05. Credits. When personalized plates are issued before an applicant's current registration is expired, credit will be given for unexpired registration fees only. (1-3-92)

06. Renewing Plates. The applicant will have the choice of renewing existing personalized plates with validation stickers or ordering a new set of plates at the time of renewal. If new plates are requested, the plate fee will be charged in addition to all other fees that are due. New plates must be purchased every seven (7) years as provided in Section 49-443, Idaho Code. (4-2-08)

07. Transfer of Plates. When personalized plates are issued, the vehicle's regular number plates may be transferred to another vehicle belonging to the owner. If registration credit is given from the regular number plates to the personalized, the regular number plate registration is canceled. (1-3-92)

08. Acceptability of Plates Message. Acceptability of the personalized license plate message and issuance, denial or cancellation will be determined by the Department based on the following criteria: (1-3-92)

a. The combination of numbers and letters requested or combinations of same may not duplicate an existing combination in use, with the following exception. A duplication is allowed only when the combination of numbers and letters requested is the same on a small (ie: motorcycle sized plate) and a large (ie: passenger car) sized plate. (3-20-14)

b. The message, in any language, may not carry a sexual connotation nor consist of a term that is considered to be one of obscenity, contempt, prejudice, hostility, insult, racial degradation, ethnic degradation, or profanity, or vulgarity, as defined in dictionaries of general use, including, but not limited to, Webster's Unabridged Dictionary and the Harper & Row New Dictionary of American Slang. (3-20-14)

i. The message may not refer to any of the following: bodily functions, bodily fluids, or intimate body parts; sexual preference or orientation; acts of violence; illegal substances *or the use thereof*. *( )*

ii. The message may not represent a club, membership, or gang that is commonly known to promote violence, illegal substances or illegal acts. (3-20-14)

c. The criteria in Paragraph 202.08.b. of these rules is not to be considered an exhaustive list. A compilation of offensive or obscene words, terms or letter/number combinations gathered from the experience of Idaho and other states may also be used as a guide. The Department may also rely on information obtained from law enforcement agencies within or outside of Idaho. (3-20-14)

d. When a complaint is received from the public concerning an issued plate, the name of the *complainant* will not be recorded nor, if known, revealed. *( )*

e. Final determination regarding applications for questionable messages or cancellation of issued plates will be made by the Division of Motor Vehicles. The determination process will include a first review by technical staff, followed by a second review by supervisory and management staff. An applicant does, however, have a right to a hearing on the decision. (4-2-08)

09. Message Preferences. Applicants may submit three (3) message preferences including the specific meaning of each. The first choice that is available and acceptable will be issued. If none of the preferences are available or acceptable, the applicant will be notified by return mail *or email*. *( )*

10. Recalled Plates. Personalized plates may be recalled by the Department for the following reasons: (1-3-92)

a. Error in manufacturing; or (1-3-92)

b. Clerical error. (1-3-92)

c. Unacceptable personalized messages as outlined in Paragraph 202.08.b. of these rules. (4-2-08)

11. Unexpired Fees. If a set of personalized plates is recalled, the personalized plate program fee, unexpired portion of the registration fee, E.M.S. fee, plate fee, (if plates are returned to the Department), and all other applicable special plate fees, will be refunded or transferred to a new issue of personalized plates. (4-2-08)

12. Expired Plates. Personalized plates that are allowed to expire will become immediately available for reissue to another applicant. There is no grace period. (1-3-92)

203. PROVISIONS FOR FORMER PRISONER OF WAR (POW) LICENSE PLATES.

01. Eligible Person. Any veteran who was a prisoner of war (POW) of an armed enemy of the United States during active service in the armed forces of the United States during the following recognized war periods may be eligible:

WORLD WAR I	April 6, 1917 to November 11, 1918
WORLD WAR II	December 7, 1941 to December 31, 1946
KOREAN WAR	June 27, 1950 to January 31, 1955
VIETNAM WAR	August 5, 1964 to May 7, 1975
USS PUEBLO	January 23, 1968 to December 23, 1968
PERSIAN GULF	August 2, 1990 (Congress has not assigned an ending date.)

(4-2-08)

02. Certified Documentation. Eligibility will be documented by a copy of the applicant's 53.55 or DD-214 Separation from Active Duty papers, or other specific documentation received from the Veterans Administration that certifies that the applicant was a prisoner of war during the recognized war periods stated above. (1-3-92)

204. -- 299. (RESERVED)

300. PROVISIONS FOR SAMPLE PLATES.

Sample plates are issued at on the "Scenic Idaho/Famous Potatoes" red, white, and blue plate *or Special Program License plates* as follows: *( )*

01. Plate Size. Plates carrying the word SAMPLE in both passenger car size (six inches by twelve inches (6" x 12")) and motorcycle size (four inches by seven inches (4" x 7")). (1-3-92)

02. Personalized Sample Plates. Personalized Sample plates are issued on both plate sizes, passenger car with maximum of seven (7) characters and motorcycle size with a maximum of six (6). (1-3-92)

a. The applicant completes an Application for Personalized Sample License Plate Form. (4-2-08)

b. The acceptability screening process used is the same as that used for regular personalized plate application. (1-3-92)

c. The Department will adopt written policy for the issuance of duplicate and replacement sample plates with personalized character combinations. (1-3-92)

d. The department may include other special license plate programs for sample plate sale, when not prohibited by code, or that would not cause a compromise of a special eligibility plate program. (4-2-08)

03. Penalties. There is a penalty for fictitious display of sample plates (Section 49-456, Idaho Code). (1-3-92)

301. -- 399. (RESERVED)

SUBCHAPTER A – RULES GOVERNING LICENSE PLATES FOR GOVERNMENTAL AGENCIES AND TAXING DISTRICTS

400. STANDARD EXEMPT PLATE DESIGNATORS.
The standard exempt license plate designators used to identify the agency, entity, or office will be assigned pursuant to Section 49-443B (2), Idaho Code. *( )*

401. ISSUING AGENCY.
All exempt and undercover license plates will be issued by the Idaho Transportation Department upon receipt of a request from an authorized agency. *( )*

402. INFORMATION TO BE PROVIDED BY AN AUTHORIZED AGENCY.
A request for exempt or undercover plates will contain: *( )*

***01. Actual Name and Address**. The name and address of the requesting agency.* *( )*

***02. Vehicle Description**. The description of the vehicle(s) to be registered, including the year, the make, model, type, vehicle identification (VIN), color and title number, and truck weight if eight thousand one pounds (8,001 lbs.) or more.* *( )*

***03. Fictitious Name and Address**. The name and address of the registrant to appear on the undercover plate registration, and title records of the Department.* *( )*

***04. Authorized Official**. The request must be signed by an authorized official of the authorized agency.* *( )*

403. VEHICLE TITLING.

***01. For Exempt Registration and License Plates**. If the vehicle is not titled, the title transaction will be completed at the local county assessor's office before requesting exempt plates. The control number from the title application may be used in lieu of the title number on the exempt plate request letter.* *( )*

***02. Undercover Vehicle Titling**. The actual name and address of the requesting agency, along with the fictitious name and address of the registrant will be provided directly to the Department on a completed application approved by the authorized official.* *( )*

404. EXEMPT AND UNDERCOVER PLATE FEES.

01. Department Reimbursement. State and federal agencies and taxing districts will reimburse the Department the cost of providing license plates. These costs will be determined by the cost of manufacture and the cost to the Department of processing the transaction. ( )

02. Adjusted Fees. Periodically, fees may be adjusted in accordance with changes in manufacturing costs, postage, employee costs and legislative mandate. ( )

405. EXEMPT PLATE DISPLAY.

Exempt license plates will be displayed in accordance with Section 49-428, Idaho Code. A pressure-sensitive sticker with the designator "EX" will be provided with each exempt plate and be attached to the plate(s) in the space provided for this purpose. The department may have the EX designator printed in the appropriate space on the plate as an alternative to the sticker. ( )

406. UNDERCOVER PLATE DISPLAY.

Undercover license plates will be displayed in accordance with Section 49-428, Idaho Code. A pressure-sensitive sticker displaying an expiration date matching the plate number will be attached to the plate(s) in the space provided for this purpose. There will be no discerning markings to indicate that the plate or registration record is in undercover use. ( )

407. ALTERNATIVE PLATES.

If an authorized agency requests a specialized license plate format normally reserved for the general public, all the statutory special program fees for the plate will be paid, with the exception of the registration (operating) fee, in addition to the department administrative and plate manufacturing fees. Special eligibility plates will not be issued to exempt vehicles. "Special eligibility" requires the individual registrant to meet specific requirements for programs such as: Purple Heart, Disabled Veteran, Disability, Military Reservist, Former Prisoner of War, Congressional Medal of Honor, National Guard and Air National Guard, Radio Amateur, Pearl Harbor Survivor, and Legislative plates. ( )

408. EXEMPT PLATE STATUS.

01. Non-Expiring Plates. Exempt plates are non-expiring and require no annual renewal. ( )

02. Transfer of Plates. Exempt plates may be transferred between vehicles. If an exempt plate is transferred to another vehicle, a transfer request must be made to the Department's Vehicle Services Section/Special Plates Unit. ( )

03. Reissue of Plates. Exempt plates will be reissued in accordance with Section 49-443(2), Idaho Code. ( )

409. UNDERCOVER PLATE STATUS.

01. Expiration of Plates. Undercover license plates will expire annually or biennially based upon the application of the authorized agency. Registration status will appear as valid, until expiration date. Renewals must be made to the Department upon expiration of the undercover license plate. ( )

02. Transfer of Plates. Undercover license plates may be transferred between vehicles. If an undercover license plate is transferred to another vehicle, a transfer request must be made to the Department's Vehicle Services Section/Special Plates Unit. ( )

03. Reissue of Plates. Undercover plates will be reissued in accordance with Section 49-443(2), Idaho Code. ( )

04. Emission Testing of Undercover Vehicles. Vehicles issued undercover license plates who list an address in a county or area of required emission testing will need to check with the emission authority to be exempted from the testing requirement, or test as a typical registered vehicle. ( )

410. -- 999. (RESERVED)

39.03.03 – RULES GOVERNING SPECIAL PERMITS – GENERAL CONDITIONS AND REQUIREMENTS

000. LEGAL AUTHORITY.
This rule, governing the movement of vehicles or loads that are in excess of the sizes or weights allowed by Sections 49-1001, 49-1002 or 49-1010, Idaho Code, is adopted under the authority of Sections 40-312, 49-201, 49-1001, 49-1004, and 49-1005 Idaho Code. (7-1-19)

001. TITLE AND SCOPE.

01. Title. This rule is titled IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements," IDAPA 39, Title 03, Chapter 03. (7-1-19)

02. Scope. This rule states the general conditions and requirements for special permits. (7-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Refer to IDAPA 39.03.01, "Rules Governing Definitions Regarding Special Permits," for definitions of the terms used in this rule. (7-1-19)

01. Loaded Truck. A truck or truck combination equipped with VLS axles shall be considered to be hauling a load when VLS axles need to be fully deployed to reduce loads on fixed axles and groups of axles that would otherwise exceed legally prescribed weight limits as set forth in Section 49-1001, Idaho Code. (7-1-19)

011. – 049. (RESERVED)

050. SAFETY INSPECTION REQUIREMENTS FOR PERMITTED VEHICLES AND/OR LOADS.

01. Inspections. All vehicles, tractors, trailers, and dolly converters operating under the authority of a special permit issued by the Department must have a valid annual inspection at the time a permit is issued. The inspection shall be completed in compliance with 49 CFR Part 396.17. (7-1-19)

02. Inspectors. Inspectors completing required annual inspections shall meet the certifications requirement in 49 CFR 396.19 and brake inspector qualification in 49 CFR 396.25. (7-1-19)

03. Drivers. All drivers shall meet the special training requirements for Longer Combination Vehicles as outlined in 49 CFR Part 380. (7-1-19)

04. Motor Carriers. By applying for a special permit, motor carriers self-certify that they have performed inspections as set forth in 49 CFR Part 396.17. (7-1-19)

05. Exemption. Oversize vehicles and/or loads operating under an exemption outlined in Section 67-2901B (2), Idaho Code, are exempt from this safety inspection requirement. (7-1-19)

051. – 059. (RESERVED)

060. BRAKES.
Brakes shall meet the Federal Motor Carrier Safety Regulations and shall be maintained to the Federal Motor Vehicle Safety Standards No. 121 in effect at the time the commercial motor vehicle was manufactured. (7-1-19)

061. – 069. (RESERVED)

070. LIGHTING REQUIREMENTS FOR LOADS TRAVELING AFTER DARK.
Those over dimensional vehicles and/or loads traveling during hours of darkness shall be required to display lights to mark the extremities of the vehicle and/or loads and shall be in addition to those clearance lights required on legal size vehicles when traveling at night. (7-1-19)

01. Standards for Lights on Oversize Vehicles and/or Loads. (7-1-19)

a. Lights are required on those vehicles traveling sunset to sunrise. (7-1-19)

b. The lights must be visible from a minimum of five hundred (500) feet. (7-1-19)

c. The lights may be flashing or steady burning. (7-1-19)

d. The color of the lights shall be as follows: (7-1-19)

i. Lights visible from the front of the oversized vehicle and/or loads and the extremities in the middle or near the front of the oversized vehicle and/or load shall be amber. (7-1-19)

ii. Lights visible from the back of the oversized vehicle and/or load and the extremities near the back of the oversized vehicle and/or load shall be red. (7-1-19)

02. Standards for Lights on Rear Overhang. Lights are required when rear overhang exceeds the end of the trailer by four (4') feet or more. (7-1-19)

a. If the overhang is two (2') feet wide or less, only one (1) light is required on the end of the overhang. (7-1-19)

b. If the overhang is over two (2') feet wide, two (2) lights are required on the end of the overhang to show the maximum width of the overhang. (7-1-19)

071. – 079. (RESERVED)

080. FLAGGING REQUIREMENTS FOR OVERSIZE VEHICLES AND/OR LOADS.
Warning flags for oversize vehicles and/or loads, excluding extra-length vehicle combinations, shall be marked by warning flags meeting the following: (7-1-19)

01. Warning Flags. Warning flags are required on all overwidth vehicles and/or loads, and when the rear overhang exceeds the end of the trailer by four (4') feet or more. (7-1-19)

02. Size. Minimum size of flags is eighteen (18") inches by eighteen (18") inches. (7-1-19)

03. Color. Red or fluorescent orange. (7-1-19)

04. Placement of Flags. On overwidth vehicles and/or loads flags shall be placed at the four (4) corners and/or extremities of the vehicle and/or load as follows: (7-1-19)

a. Front. Fastened to each front corner of the oversized vehicle and/or load if it exceeds legal width. (7-1-19)

b. Rear. Fastened to each rear corner of the oversized vehicle and/or load if it exceeds legal width. (7-1-19)

c. Side. Fastened to mark any extremity, when extremity is wider than the front or the rear of the vehicle and/or load. (7-1-19)

d. Overhang. If the overhang is two (2') feet wide or less, only one (1) flag is required on the end of the overhang. If the overhang is over two (2') feet wide, two (2) flags are required on the end of the overhang to show the maximum width of the overhang. (7-1-19)

081. – 089. (RESERVED)

090. SIGN REQUIREMENTS FOR VEHICLES COMBINATIONS INCLUSIVE OF LOAD.
Refer to IDAPA39.03.05, "Rules Governing Special Permits – Oversize Non-Reducible," for conditions in this rule. (7-1-19)

091. –099. (RESERVED)

100. RESPONSIBILITY OF ISSUING AUTHORITY.

01. Primary Concerns. The primary concern of the Department, in the issuance of special permits, shall be the safety and convenience of the general public and the preservation of the highway system. (7-1-19)

02. Permit Issuance. The Department shall, in each case, predicate the issuance of a special permit on a reasonable determination of the necessity and feasibility of the proposed movement. (7-1-19)

101. –199. (RESERVED)

200. AUTHORITY TO ISSUE PERMITS.
The authority to issue permits on state highways is described in Subsection 200.01. Subsection 200.02 describes the Department's authority to issue special permits on local jurisdiction highways pursuant to an agreement between the Department and the local highway jurisdictions. (7-1-19)

01. Special Permit. The special permit authority of the Department shall cover travel on state highways only and special permits issued by the Department shall be valid only on completed sections of state highway, described on the permit by route number or otherwise. The right to use county highways or city streets is neither granted nor implied. The special permit authority of the Department shall include those sections of state highways within corporate limits of cities and towns, but will not include sections of state highways intersecting with local highways, when travel is occurring on the local highway(s). Contractors hauling loads within the limits of state highway construction projects do not require special permits, but the loads must comply with the weight limits specified in the state highway contract. (7-1-19)

02. Authority. Special permit authority agreed to by the Department and local highway jurisdiction shall include travel on the local jurisdiction's highways under the rules of this title, IDAPA 39.03.03, "Rules Governing Special Permits – General Conditions and Requirements." (7-1-19)

201. – 299. (RESERVED)

300. OFFICES FOR ISSUANCE OF SPECIAL PERMITS.
The Department shall maintain a centralized special permit office at the Department Headquarters, making permits available electronically at the following listed office and Ports of Entry throughout the State. Permits will be available Monday through Friday, state holidays excluded, from 7:30 a.m. to 5 p.m. Mountain Time. Special permits can also be obtained online at **itd.idaho.gov** or by phone. (7-1-19)

01. Headquarters.
Idaho Transportation Department
Special Permit Office
P.O. Box 7129
3311 West State Street
Boise, Idaho 83707-1129
(208) 334-8420 (7-1-19)

02. Huetter Port of Entry, District One.
Mile Post 8.5 I-90
Coeur d'Alene, Idaho 838145
(208) 769-1551 (7-1-19)

03. Lewiston Port of Entry, District Two.
33443 US Hwy 95
Lewiston, Idaho 83501-0837
(208) 799-4824 (7-1-19)

04. East Boise Port of Entry, District Three.
Mile Post 66.5 I-84 EB
Boise, Idaho 83634
(208) 334-3272 (7-1-19)

05. Cotterell Port of Entry, District Four.
Mile Post 229 I-84 EB
Cotterell, Idaho 8323
(208) 349-5650 (7-1-19)

06. Inkom Port of Entry, District Five.
Mile Post 59 I-15 NB
Inkom, Idaho 83245
(208) 775-3322 (7-1-19)

07. Sage Junction Port of Entry, District Six.
2452 E 1500 N
Terreton, Idaho 83450
(208) 228-3636 (7-1-19)

301. – 399. (RESERVED)

400. INSURANCE OR BOND FOR EXTRAORDINARY HAZARD.
Evidence of insurance or the posting of a bond shall be required when necessary because of loads creating an extraordinary hazard to the traveling public or to protect the public investment when a load presents an extraordinary hazard to the highway system. In such cases of extraordinary hazard to the roadway or structures, the Department may require the posting of a cash bond in such amount as to cover the maximum damage that could be expected to occur to the highway with the permittee also required to reimburse the Department for any engineering required to ascertain the extent of damages, if any, occurring to the roadway during the movement of the excessive load. (7-1-19)

401. – 449. (RESERVED)

450. RESPONSIBILITY OF PERMITTEE.

01. General Responsibilities. The permittee shall determine and declare the gross weight, distribution of weight, and the dimensions of the vehicle and load and shall submit all other required information before issuance of the permit. The acceptance of a special permit by the permittee is his agreement that the vehicle and load covered by the permit can and will be moved in compliance with the terms and limitations set forth in the permit. When a permit has been accepted by the permittee, such action shall be deemed an unequivocal assurance that he has complied, or will comply with all operating, licensing, and financial responsibility requirements. (7-1-19)

02. Permit to Be Carried in Vehicle. (7-1-19)

a. The special permit must be carried or available electronically in the vehicle to which it refers during the time of movement and shall upon demand be delivered for inspection to any peace officer or authorized agent of the Idaho Transportation Board or any officer or employee charged with the care and protection of the public highways. (7-1-19)

b. When the route of the permitted vehicle will not pass in the vicinity of a state operated transceiver station, the applicant may complete Form ITD-216, APPLICATION FOR SPECIAL PERMIT NUMBER, and provide pertinent information by telephone to the special permit office. If the special permit office approves the application, a special permit number will be assigned to complete the Form ITD-216. Form ITD-216 will serve as evidence of intent to obtain the special permit and will be honored by law enforcement subject to the officer checking with the special permit office. The applicant must qualify for this procedure by obtaining a permit fee account number. The special permit office will complete the Special Permit Form ITD-216 and charge the fee to the applicant's permit fee account number. (7-1-19)

03. Certification Load Is Non-Reducible. Upon application, the permittee must certify that steps have been taken to reduce the dimensions, the weight of vehicle, or the load, or all three, concerned in the permit to legal limitations or, if that is impractical, to reduce the excess to a minimum. (7-1-19)

04. Basic Limitations Shall Not Be Exceeded. Special permits shall not be issued for vehicles or loads in excess of the maximum limitations of size or weight or that otherwise exceed the limitations for loads as set forth in these rules unless exception is made by the Transportation Board, or as otherwise provided herein. (7-1-19)

05. Hazardous Travel Conditions Restrictions. Extreme caution in the operation of a special-permitted vehicle shall be exercised when hazardous conditions exist. The driver of a permitted vehicle is responsible for checking the conditions of the permitted route before travel. The movement of vehicles or loads operating on valid permits shall automatically become invalid en route when: (7-1-19)

a. The Idaho Transportation Department, Idaho State Police, or other law enforcement office determines and provides public notice by any available means that a hazardous road condition exists. (7-1-19)

b. The driver reasonably knows that hazardous road conditions exist along route. (7-1-19)

c. Whenever a road is marked "Difficult" on 511 or as having a hazardous condition. (7-1-19)

d. Hazardous road conditions may include, but are not limited to: (7-1-19)

i. Loss of traction on roadways due to ice, snow, frost, excessive water, or mud; (7-1-19)

ii. Whenever a roadway is under conditions of wind over forty (40) mph; (7-1-19)

iii. Visibility is less than five hundred (500) feet due to snow, rain, smoke, dust, or fog; (7-1-19)

iv. Whenever a roadway becomes obstructed due to snow, water, mud, rocks, or other debris; or (7-1-19)

v. Whenever a roadway is subject to a natural disaster or emergency. (7-1-19)

06. Delaying Movement. Enforcement personnel responsible for any section of highway shall carry out enforcement action for violations involving special permit operations and may delay movements. (7-1-19)

451. – 499. (RESERVED)

500. ALLOWABLE TOLERANCE, LEGAL OR PERMITTED SIZE LIMITS.

01. Determination of Vehicular Dimensions. Determination of vehicular length and/or width as defined by Idaho Code or by Board rule shall be exclusive of those external devices or appurtenances whose function is related to safe and efficient operation. (7-1-19)

02. Appurtenances. Rearview mirrors, turn signal lamps, splash and spray suppressant devices; awnings on recreational vehicles, load induced tire bulge, and other noncargo carrying appurtenances shall be excluded from the calculation of allowable width. Front mounted refrigeration units, energy conservation devices, bolsters, mechanical fastening devices, hydraulic lift gates, external front mounted side curtain rollers, and other noncargo carrying appurtenances or devices shall be excluded from a determination of allowable length. (7-1-19)

03. Other Appurtenances. Other appurtenances not listed above may not extend beyond three (3) inches on each side or end of a vehicle or load. Other appurtenances may include, but shall not be limited to, clearance lights, door handles, handholds, window fasteners, door and window trim, moldings, and load securement devices. (7-1-19)

501. – 509. (RESERVED)

510. DROMEDARY TRACTORS.

A truck tractor containing a dromedary box, deck, or plate in legal operation on or before December 1, 1982, shall be authorized to continue to operate, notwithstanding its cargo carrying capacity, throughout its useful life. Proof of such legal operation on December 1, 1982, shall rest upon the operator of the equipment. (7-1-19)

511. – 519. (RESERVED)

520. LOAD OVERHANG.
The overhang or extension of a load shall not extend beyond the limits as set forth in Section 49-1010, Idaho Code. (7-1-19)

521. – 599. (RESERVED)

600. GENERAL.
A special permit, in writing, shall be required for any movement on any completed section of highway under the jurisdiction of the Department by any vehicle or vehicles with reducible or non-reducible loads that exceed the allowable weights or sizes established in Sections 49-1001, 49-1002 and 49-1010, Idaho Code. (7-1-19)

601. – 619. (RESERVED)

620. COMPLIANCE WITH OTHER LAWS AND ORDINANCES.
The special permit will be effective only insofar as the Department has authority for its issue and does not release the permittee from complying with other existing laws, local ordinances or resolutions which may govern the movement. (7-1-19)

621. – 629. (RESERVED)

630. WAIVER OF LIMITATIONS FOR EMERGENCY MOVEMENTS.
Notwithstanding other provisions of these rules, the Idaho Transportation Board may waive existing permit policy limitations in the event of an emergency, subject to such limitations or special requirements as the Board may impose. (7-1-19)

01. Military Emergency Affecting National Security. Any movement by or for a military or other government agency which is in excess of permit policy maximum limits of weight or size or which is otherwise outside established rules must be certified as a military necessity involving national security before receiving any special consideration to provide any waiver of normal permit rules. Certification of military necessity must be made by an official designated as having such authority by the Department of Defense Directory, issued by the Office of the Chief of Transportation, Department of Army. All applications for military emergency movements must be channeled through the Special Permit Office, Idaho Transportation Department. (7-1-19)

02. Emergencies Endangering the Public Health, Safety, or Welfare Including but Not Limited to Fire, Flood, or Earthquake. During an emergency endangering the public health, safety or welfare, there may be an urgent and immediate need for equipment and it will not be in the public interest to require that a special permit be in the vehicle prior to an over legal movement. Verbal approval to proceed without a special permit in the vehicle may be obtained from the Special Permit Office or an Idaho Port-of-Entry. Once the emergency movement is completed, formal application for a Special Permit must be submitted to the Special Permit Office. (7-1-19)

03. Emergency Movement of Implements of Husbandry. It shall be considered an emergency when an implement of husbandry being operated on an official state holiday or a weekend breaks down and a dealer brings replacement equipment to the farmer that exceeds legal height, length, and weight. Verbal approval to proceed without a special permit in the vehicle may be obtained from the Special Permit on-call staff. That verbal authorization may include escort vehicle requirements based on the route of travel and dimensions of load. Once the emergency movement is completed, the permittee shall make formal application for a permit to the Special Permit Office on the first working day after the occurrence. (7-1-19)

04. Economic Emergencies. When a circumstance occurs in which an economic hardship is expected to result due to the application of existing rules or limitations, the Transportation Board may consider a petition for the temporary waiver of those rules or limitations which are perceived as being the cause of such economic hardship. (7-1-19)

631. – 699. (RESERVED)

700. SPRING BREAKUP SEASON TYPE OF LOAD RESTRICTIONS.

Depending upon the type of road construction, the amount of moisture, temperature conditions, and severity of frost heaves and breakup, routes or sections of routes will be posted for restricted loadings to one (1) of the following categories as required to protect the roadway and in the interests of public safety: (7-1-19)

01. Legal Weight. Maximum of legal allowable weight; (7-1-19)

02. 16,000 Pounds. Maximum of sixteen thousand (16,000) pounds on any axle; (7-1-19)

03. 14,000 Pounds. Maximum of fourteen thousand (14,000) pounds on any axle; and (7-1-19)

04. 12,000 Pounds. Maximum of twelve thousand (12,000) pounds on any axle. (7-1-19)

701. – 709. (RESERVED)

710. WEIGHT LIMITS BASED ON TIRE SIZES.
In administering load limits based on tire sizes or width of tires, credit for tubed tires will be based on the manufacturer's width marked on the tire; for example, a ten point zero-zero by twenty-four (10.00 x 24) tire will be given credit for ten (10") inches of tire width. Tubeless tires will be given credit for the width of the conventional tubed tires that they replace. (7-1-19)

711. – 719. (RESERVED)

720. WIDTH LIMITATION ON TWO LANE ROAD.
A spring breakup weight restriction to less than legal weight shall automatically place a restriction on width allowed by special permit. On any section of highway restricted to less than legal weight, the maximum width by special permit shall be restricted to twelve feet six (12'6") inches during the period of the weight restriction. (7-1-19)

721. – 729. (RESERVED)

730. SPEED RESTRICTIONS.
On those sections of highways which are posted for a maximum of legal loads, or to less than legal loads, trucks and buses with a gross weight of ten thousand (10,000) pounds or more will be restricted in critical areas to a maximum speed of thirty (30) miles per hour. Restricted speed zones will be marked by red and green markers. A red marker will mean speed is restricted to thirty (30) miles per hour and a green marker will mean that legal speed may be resumed. These markers will generally be attached to existing highway sign posts and when properly used will afford protection to the highway subgrade and surface as well as speeding the flow of traffic. (7-1-19)

731. – 739. (RESERVED)

740. SPECIAL PERMIT POLICY DURING SPRING BREAKUP.

01. Suspended Weight Limits. Normal overweight special permit limits will be suspended on all highways in the area when seasonal load and speed restrictions are imposed. (7-1-19)

02. Weight Restrictions. Spring breakup weight restrictions are primarily concerned with limiting the weight imposed on the highway by individual axles rather than the total gross weight of vehicles or vehicle combination. It will therefore be permissible to issue special permits that exceed legal allowable total gross load for a vehicle combination subject to these conditions: (7-1-19)

a. Minimum tire width is ten (10") inches or larger. (7-1-19)

b. Maximum axle weight on single axle having two (2) single wheels shall not exceed ten thousand (10,000) pounds. (7-1-19)

c. Maximum axle weight on single axle having four (4) or more tires shall not exceed fourteen thousand (14,000) pounds. (7-1-19)

d. Permits for nonreducible loads only. (7-1-19)

741. – 749. (RESERVED)

750. LEGAL WEIGHT LIMITS MAINTAINED ON CERTAIN HIGHWAYS.
The policy of the Department will be to maintain legal load limits on the Interstate highway system and arterials serving through state traffic or connecting major terminals, unless conditions are such that severe breakup will result. (7-1-19)

751. – 759. (RESERVED)

760. ENFORCEMENT OF POSTED WEIGHT AND/OR SPEED RESTRICTIONS.
The Districts will sign and mark affected state highways the day before the weight and/or speed restrictions are in effect. The weight and/or speed restrictions will be enforced the day after the Districts sign and mark a state highway. (7-1-19)

761. – 769. (RESERVED)

770. TEMPORARY SUSPENSION OF POSTED WEIGHT AND SPEED RESTRICTIONS.

01. Why Required. Spring breakup restrictions are required because of a seasonal characteristic in which freeze/thaw cycles occur, making the roadway unstable and reducing its load-bearing capability. The load-bearing capacity may be temporarily restored by a freeze-up of the pavement after a section has been posted for load and speed restrictions. (7-1-19)

02. Temporary Waiver of Spring Breakup. District Engineers may provide a temporary waiver of the spring breakup restrictions by posting GREEN markers on the speed limit signs, and on other signs, if appropriate, within a section of highway posted for reduced loads. (7-1-19)

771. – 779. (RESERVED)

780. SPECIAL ALLOWANCES FOR EMERGENCY AND CRITICAL SERVICE VEHICLES.
District Engineers may allow exceptions to the spring breakup weight restrictions for emergency and critical service vehicle(s), ie. fire trucks, heating fuel trucks, and other such service vehicles that are critical to the health and safety of the public. Documentation of special allowance shall be in writing from the District Engineer and must be carried in the vehicle. (7-1-19)

781. – 799. (RESERVED)

800. SPECIAL PERMIT FEES COSTS TO BE BORNE BY PERMITTEE.
The movement of oversize or overweight vehicles or vehicles with special loads is a privilege not accorded every user of the highway. Administrative cost incurred in the processing, issuance and enforcement of special permits shall be borne by such permittees and not by the general traveling public through expenditure of highway user funds. Special permits issued for non-reducible, overweight vehicles and/or loads will be charged a road use fee as set forth in Section 49-1004(2), Idaho Code. Tax supported agencies are required to obtain special permits if their loads exceed the sizes or weights stated in Idaho Code, but they are exempt from paying fees for the permits. (7-1-19)

801. – 909. (RESERVED)

910. PAYMENT OF SPECIAL PERMIT FEES.

01. Payment of Fees. The Idaho Constitution prohibits the state from extending credit to any individual, corporation, municipality, or association. Permit fees are collectible at the time of issuance. (7-1-19)

02. Refund. Permit fees are not refundable once they have been processed into the Department's accounting system, unless the permittee contacts the Special Permit Office no more than two (2) working days (during office hours) following the start date of the special permit or the Department issued the special permit in error. (7-1-19)

03. Permit Costs. Special permit fees listed below are intended to cover cost of administration and are subject to periodic change depending on costs incurred in processing, issuance, and enforcement of special permit rules. (7-1-19)

04. Current Schedule of Fees. Periodic changes to the fee schedule will be subject to legislative review and approval procedures in accordance with Chapter 52, Title 67, Idaho Code, Administrative Procedure Act. (7-1-19)

a. Oversize only, single trip, thirty dollars ($30). (7-1-19)

b. Oversize only, two (2) trips, thirty six dollars ($36). (7-1-19)

c. Oversize single trip exceeding sixteen (16') feet wide, or sixteen (16') feet high or one hundred ten (110') feet long, thirty-three dollars ($33). (7-1-19)

d. Reducible Loads, annual, twelve (12) consecutive months: Cylindrical hay bales, two (2) wide, Multiple width loads of kiln stacked lumber, reducible loads, up to and including fifteen (15') feet high, Disabled Vehicle, forty-five dollars ($45). (7-1-19)

e. Oversize Non-Reducible, annual, twelve (12) consecutive months: Manufactured homes, modular building and office trailers; Farm tractors exceeding nine (9') feet width on Interstate and implements of husbandry; Oversize/Overweight Snowplow; Multiple width loads of crane booms; Multiple width loads of conveyer units; East port/Canadian Weight; forty five dollars ($45). (7-1-19)

f. Extra Length/Weight (reducible) annual, twelve (12) consecutive months, authority to exceed eighty thousand (80,000) lbs. on reducible loads up to one hundred twenty nine thousand (129,000) pounds, or exceeding the length limits imposed in Section 49-1010, Idaho Code, forty five dollars ($45). (7-1-19)

g. Overweight/Oversize or Overweight only (non-reducible) single trip, thirty-three dollars ($33). (7-1-19)

h. Overweight/Oversize or Overweight only (non-reducible), two (2) trips, thirty-three dollars ($33). (7-1-19)

i. Overweight/Oversize (non-reducible) single trip, exceeding sixteen (16') feet wide, or sixteen (16') feet high or one hundred ten (110') feet long, thirty- three dollars ($33). (7-1-19)

j. Overweight/Oversize (non-reducible) two (2) trips within seven (7) days, exceeding sixteen (16') feet wide, or sixteen (16') feet high or one hundred ten (110') feet long, thirty-three dollars ($33). (7-1-19)

k. Overweight/Oversize (non-reducible) annual permit fee for twelve (12) consecutive months, one hundred twenty-eight dollars ($128). (7-1-19)

l. Fee for reissuance or transfers, fifteen dollars ($15). (7-1-19)

m. Annual special permits purchased online will be five dollars ($5) less than the listed price. (7-1-19)

05. Additional Fees. The Department may require reimbursement of actual costs incurred for extraordinary services provided, incidental and necessary to the planning and/or movement of loads that require a special permit moving under the requirements of a traffic control plan. (7-1-19)

911. – 949. (RESERVED)

950. REVOCATION OF PERMIT FOR NON-COMPLIANCE WITH THE LIMITATIONS OR PROVISIONS OF THE PERMIT.

01. Disqualification of Permits. The permit shall become invalid and the cited vehicle may be disqualified for reissuance of permits if convicted of the following: (7-1-19)

a. The vehicle combination does not satisfy the requirements of Federal Motor Carrier Safety Regulations Part 393. (7-1-19)

b. The vehicle combination violates permitting conditions (other than weight) for the following: (7-1-19)

i. Failure to travel on Extra Length or Up to 129,000 Pound designated routes. (7-1-19)

ii. Failure to properly display required flags and/or signs. (7-1-19)

iii. Failure to provide required number of pilot cars and/or proper placement. (7-1-19)

iv. Failure to provide required lighting for travel during hours of darkness. (7-1-19)

v. Failure to travel during the hours of operation as specified on the permit. (7-1-19)

vi. Failure to comply with wind velocity requirements when moving manufactured housing, office trailers, and modular buildings. (7-1-19)

vii. Failure to comply when travel conditions become hazardous. Hazardous conditions include, but are not limited to, ice, snow or frost; or when visibility is restricted to less than five hundred (500) feet. (7-1-19)

c. The vehicle combination violates weight limits under Section 49-1001 (1)(2) and (9), Idaho Code. (7-1-19)

i. Violating weight limits for single, tandem, tridem, quad, or other type axle groups by more than fifteen percent (15%). (7-1-19)

ii. Violating gross or bridge weight allowances by more than seven percent (7%). (7-1-19)

d. The motor carrier has violated an Out-of-Service order by the Federal Motor Carrier Safety Administration as described in Part 386 (386.73) of the Federal Motor Carrier Safety Regulations. (7-1-19)

02. Permit Revocation Process. A copy of the judgment of conviction from the court and the special permit authorizing operation must be provided to the Permit Office by enforcement personnel. Paperwork will be reviewed for compliance with the provisions of this rule and, if met, notification will be sent to the company informing them of the pending revocation that will occur within ten (10) days of the letter being issued. (7-1-19)

03. Disqualification Periods. When a permit has become invalid, the vehicle identified on the invalidated permit may be disqualified for reapplication for permit for a period of thirty (30) days after the first violation, for a period of six (6) months after the second violation, and for a period of one (1) year after the third violation. (7-1-19)

04. Penalties. In addition to revocation of permits as authorized in this rule, the permittee shall be subject to all applicable penalties provided by law with regard to the provisions violated. (7-1-19)

951. – 979. (RESERVED)

980. PERMITTEE RESPONSIBLE FOR INJURY TO PERSONS OR PROPERTY.
The permittee shall assume all responsibility for injury to persons or damage to public or private property caused directly or indirectly by the transportation of a vehicle or vehicle and load under special permit; and he shall hold harmless the Department and all its officers, agents, employees, and servants from all suits, claims, damages or proceedings, of any kind, as a direct or indirect result of the transportation of the vehicle or vehicle with a load that requires a special permit. (7-1-19)

981. – 999. (RESERVED)

IDAPA 40 – COMMISSION ON THE ARTS

DOCKET NO. 40-0101-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 67-5605, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 40, rules of the Commission on the Arts:

IDAPA 40
- 40.01.01, *Rules of the Idaho Commission on the Arts*

The rulemaking was prompted by the expiration of the rules. The Idaho Commission on the Arts needs these rules to implement grants and awards under the programs of the Commission. The Board of the Commission promulgated a subsequent rulelmaking under docket no. 40-0101-1901. Negotiated rulemaking was conducted and a proposed rule published in the October 2, 2019 Admininistrative Bulletin. There were four public negotiated rulemaking meetings held around state. The proposed rule under docket no. 40-0101-1901 has been combined with this rulemaking as the efforts of the Board of Commissioners to simplify the rules under the Red Tape Reduction Act were duplicative. This combined rulemaking significantly shortens the rules of the Idaho Commission on the Arts, which govern the grant-making function of the agency. Additionally, minor housekeeping edits have been made to the rules.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Michael Faison, (208) 334-2119.

Dated this 29th day of October, 2019.

Michael Faison
Executive Director
Idaho Commission on the Arts
The Warden's Residence
2410 Old Penitentiary Road
P. O. Box 83720
Boise, ID 83720-0008
Phone: 208-334-2119
Fax: 208-334-2488

IDAPA 40 – COMMISSION ON THE ARTS

40.01.01 – RULES OF THE IDAHO COMMISSION ON THE ARTS

000. LEGAL AUTHORITY.
Section 67-5605, Idaho Code gives the Commission authority to promulgate rules necessary to the discharge of the Commission's duties. (4-6-05)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 40, Title 01, Chapter 01, "Rules of the Idaho Commission on the Arts," IDAPA 40.01.01. (4-6-05)

02. Scope. These rules contain the provisions for consideration for a grant or an award under the Commission's programs. (4-6-05)

002. (RESERVED)

003. ADMINISTRATIVE APPEALS.
This chapter does not provide for appeal of the administrative requirements for applicants under the Commission's programs as contested cases pursuant to the provisions of Title 67, Chapter 52, Idaho Code. The Commission provides for internal requests for reconsideration of applications under *as described in* these rules *and program guidelines*. *( )*

***004.* -- 099. (RESERVED)**

100. DEFINITIONS.

01. Applicant. An individual or organization meeting the criteria set forth in Section 202 of these rules, which has submitted an application for a program offered by the Commission. (4-6-05)

0*2*. Commission. The Idaho Commission on the Arts. (4-6-05)

***03*. Program**. The categories for the award or grant of funds or recognition by the Commission described in *the program guidelines*. *( )*

***04*. Program Guidelines**. The application*,* review*, award, and use* criteria for a program *approved* by the Commission. *( )*

***05*. Recipient**. An applicant receiving an award or grant under a Commission program. (4-6-05)

101. -- 199. (RESERVED)

200. PROGRAMS.
The Commission offers programs to stimulate and encourage the study and presentation of the arts. Provisions governing program applications, review, award, and use are set forth in these rules and in the program guidelines located on the Commission's website at https://arts.idaho.gov/. *( )*

201. – 299. (RESERVED)

***3*00. GENERAL PROGRAM REQUIREMENTS.**
The provisions of Sections 301 through 308, of these rules, apply to each program offered by the Commission. (4-6-05)

***3*01. FUNDING LIMITATIONS.**
The Commission will not provide funding for the activities, costs, or projects set forth in this section. (4-6-05)

01. Excluded Applications. The following *are excluded* from consideration for a grant or award: *( )*

a. Establishment of or contributions to an endowment; (4-6-05)

b. Fund-raising projects that do not raise funds for the arts; (4-6-05)

c. Prizes, scholarships, or free tickets; (4-6-05)

d. Projects or programs to generate or attract audiences; (4-6-05)

e. The offsetting of personal or organizational debts; (4-6-05)

f. Activities that are primarily promotional or created for mass distribution including, but not limited to, duplication of compact disks, creation of portfolios, private gallery announcements, self-published books, flyers, brochures, or Internet sites; (5-8-09)

g. Student exhibitions, anthologies, publications, or performances, unless those activities document an arts education grant; (4-6-05)

h. Costs associated with any degree or professional certification including, but not limited to, tuition, fees, or teaching materials; (5-8-09)

i. Projects or activities already completed or documentation of previously completed projects; (5-8-09)

j. Projects that are primarily recreational, vocational, or religious; ( )

k. Projects restricted to an organization's membership; (4-6-05)

l. Costs for consecutive attendance at annual activities that are routinely within an arts organization's budget including, but not limited to, conferences of the National Assembly of State Arts Agencies, Americans for the Arts, American Folklore Society, or the Western Arts Alliance; (3-29-10)

m. Pageants, festivals, or celebrations unrelated to arts, ethnic, or cultural activities; (4-6-05)

n. Journalism; (4-6-05)

o. Historical or academic documentary film that does not demonstrate significant artistic emphasis, consideration, and distinction; (5-8-09)

p. Scholarly or academic works; (4-6-05)

q. Lobbying expenses or political activities; (4-6-05)

r. Hospitability expenses including, but not limited to, food and drink; (4-6-05)

s. Capital expenditures for individuals; or (4-6-05)

t. Writing intended for youth. (4-6-05)

302. APPLICANTS.

01. Categories of Applicants. Applicants must fall within one (1) of the following categories: (4-6-05)

a. An individual artist or arts administrator meeting the criteria set forth in Subsection 302.02, of this rule, who is submitting an application based solely on the applicant's work. (4-6-05)

b. An organization meeting the criteria set forth in Subsection 302.03 of this rule. (4-6-05)

c. A collaboration of individual artists represented by an individual. The application must identify the primary individual as the applicant and the applicant must sign the application, meet the criteria set forth in Subsection 302.02 of this rule, and accept all legal and contractual obligations of the program. The Commission will consider the applicant as submitting the application and receiving the program award for the purposes of the exclusions related to the number of applications and program awards in this section. (4-11-19)

02. Requirements for Individuals. If the applicant is an individual, the applicant must: (4-6-05)

a. Be a citizen of the United States or a permanent legal resident or a refugee. (4-6-05)

b. Be a resident of the state of Idaho for at least twelve (12) months before the date of the application. (4-6-05)

c. Be over the age of eighteen (18) before the date of the application, unless the applicant is an apprentice. (5-8-09)

03. Requirements for Organizations. If the applicant is an organization, the applicant must: (4-6-05)

a. Have been operating in the state of Idaho for at least twelve (12) months before the date of the application. (4-6-05)

b. Be a school, unit of local, county, tribal, or state government, or an organization determined to be tax exempt by the United States Internal Revenue Service whose primary purpose is the production, presentation, or support of the arts. (4-6-05)

i. Unincorporated organizations may submit an application through another tax-exempt organization as its designated fiscal agent. Service as a fiscal agent does not exclude an organization from applying for programs on behalf of the organization serving as a fiscal agent. (3-29-10)

ii. Tax-exempt organizations must have an independent board of directors empowered to formulate policies and be responsible for the governance and administration of the organization, its programs, and its finances. (4-6-05)

c. Compensate artists and arts administrators at no less than the legal minimum wage or in accordance with a written agreement. (4-6-05)

04. Application and Funding Limits. *The program guidelines may include a limit on the number of program applications, the amount of funding, or both for applicants and recipients of grants and awards.* *( )*

303. APPLICATIONS.

01. Application Forms *and Contents*. *The program guidelines will include the* application format*, length, contents, work samples, and supporting materials required* by the Commission for the applicable program. The Commission may *reject applications not satisfying the program guidelines*. *( )*

02. Submission. Applications shall be delivered to the Commission by the *method and due date specified in the program guidelines*. *( )*

03. Ownership and Return of Applications. Upon submission, applications shall become the property of the Commission. The return of work samples is at the risk and expense of the applicant. The Commission may require pre-payment of packing and shipping costs for the return of work samples. (5-8-09)

304. DISQUALIFICATION.
The Commission may disqualify an applicant for any one (1) of the following: (4-6-05)

01. Non-Compliance with Rules *or Program Guidelines*. Failure to satisfy the requirements of these rules *or the requirements in the program guidelines*. *( )*

02. Application Information, Samples, and Supporting Materials. Failure to provide information requested on the application form, to submit work samples or other supporting materials required by these rules *or program guidelines*, or to sign the application. *( )*

03. Prior Non-Compliance. Failure to comply with the terms and conditions of a prior grant *or award* to the applicant by the Commission. *( )*

305. PROGRAM GRANTS AND AWARD AMOUNTS.
Program grants and awards are subject to funds availability and may be awarded in any amount at the discretion of the Commission. The Commission may decline to accept applications or to issue an award or grant for any program due to a lack of funding. At the discretion of the Commission, a recipient may receive travel expense reimbursement. (4-6-05)

306. FINAL REPORTS.
Recipients must submit a final report to the Commission *as specified in the program guidelines*. *( )*

307. DELEGATION.
The Commission may delegate its roles, responsibilities, or duties under these rules to Commission staff, artists, or community volunteers including, but not limited to, the review of program applications. (4-6-05)

308. RECONSIDERATION OF APPLICATIONS.
Applicants may request reconsideration of an application within thirty (30) days of a program grant or award notification issued by the Commission. Requests for reconsideration must be in writing and filed with the executive director of the Commission at the Commission's offices. The Commission considers requests for reconsideration where the applicant demonstrates a misinterpretation or misunderstanding of the application, work samples, or supporting materials. The Commission will not consider a request for reconsideration based upon incomplete or incorrect applications, work samples, or supporting materials. (4-6-05)

***309.* -- 999. (RESERVED)**

IDAPA 41 – IDAHO PUBLIC HEALTH DISTRICTS (PANHANDLE HEALTH DISTRICT #1)

DOCKET NO. 41-0101-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 39-413, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 41.01.01, rules of the Idaho Public Health District #1 (Panhandle Health District):

IDAPA 41
- 41.01.01, *Rules of Idaho Public Health District #1*

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 6493 to 6521**. The rule making was prompted by the expiration of the rules. The Board considered the Red Tape Reduction Act and the continued efforts to clarify and streamline its rules. Minor housekeeping edits are intended to simplify existing language, and reduce or eliminate unnecessary restrictions.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Mr. Erik Ketner, PHD#1 Environmental Health Section Manager at (208) 415-5224.

Dated this 22nd day of October, 2019

Joe Righello
Division Administrator
Environmental and Health Protection Division
Panhandle Health District
8500 N. Atlas Road
Hayden, Idaho 83835
Phone: (208) 415-5200
Fax: (208) 415-5201

IDAPA 41 – PUBLIC HEALTH DISTRICTS

41.01.01 – RULES OF IDAHO PUBLIC HEALTH DISTRICT #1

000. LEGAL AUTHORITY.
The rules and standards set forth hereinafter shall be known as the Environmental Code of Panhandle Health District 1. This Code shall supersede and replace any county sanitary codes in existence prior to July 1, 1971. This Code is adopted pursuant to the authority granted to the District Board of Health under Chapter 4, Title 39, Idaho Code, and in the manner required in Chapter 52, Title 67, Idaho Code. The provisions of the Code are supplementary, and should be interpreted in a manner consistent with Chapter 1, Title 39, Idaho Code and any state or federal laws which establish exclusivity or primacy in a field of rule for another public entity as a matter of law. (7-1-93)

01. Conflict. In the event of any conflict between city or county ordinances or heretofore existing rules of county health boards and departments and this Code, the respective provision which more completely protects public health or the environment, shall prevail. Nothing in this Code shall be deemed to prevent the enforcement of any standard, or rule relating to air, water, or health quality now existing or hereinafter adopted by the State Board of Health and Welfare or any interested agency of the federal government. Nothing in this Code shall be deemed to conflict with the enactment by any city or county in the District of any ordinance or rule placing additional restrictions or limitations which contribute to enhancement of water, air, land, or health quality. Where the provisions of this Code conflict with state or federal statues or rules which preempt regulation of a particular subject or application of this Code in a particular manner, the preemptive state rule or federal regulation shall prevail to the extent that application of the conflicting rules cannot be accommodated. (7-1-93)

02. Policy. This Environmental Health Code is based on the recognition that pollution of the air, land, and waters of this district constitutes a menace to public health and welfare, creates public nuisances, is harmful to wildlife, fish, and other aquatic life, and impairs domestic, agricultural, industrial, recreational, and other beneficial uses of air, land, and water. It is the duty of the Board to establish the quality standards of the environment in the interest of health, individual and community alike, and to prevent the outbreak and spread of dangerous and infectious disease. (7-1-93)

001. TITLE AND SCOPE.

01. Title. This chapter is titled IDAPA 41.01.01, "Rules of Idaho Public Health District #1." (3-27-07)

02. Scope. These rules shall govern issues concerning the mission of Idaho Public Health District #1 as established by the Idaho Legislature, in particular addressing matters of local concern in order to protect public health and the environment in the counties that comprise the District. (3-27-07)

002. WRITTEN INTERPRETATIONS.
Written interpretations of these rules in the form of explanatory comments accompanying the notice of proposed rulemaking that originally proposed the rules and review of comments submitted in the rulemaking in the adoption of these rules are available for public inspection and copying at cost in the principal place of business of this agency. (3-27-07)

003. ADMINISTRATIVE APPEALS.
All contested cases shall be governed by the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-27-07)

004. OFFICE – OFFICE HOURS – MAILING ADDRESS – STREET ADDRESS.

01. Office Hours. 8 a.m. to 5 p.m., except Saturday, Sunday and legal holidays. (3-27-07)

02. Mailing and Street Address. The District's mailing/street address is: Panhandle Health District, 8500 N. Atlas Road, Hayden, ID 83835. (3-27-07)

005. PUBLIC RECORDS.
Subject to Idaho Code provisions and applicable Federal statutes and regulations, official documents of the Panhandle Health District may be examined after filing of proper written request filed in the office of the Director at the address above. Among others, health-related and personnel- related records are generally not subject to public disclosure.

Additional public records information may be obtained by contacting the Director's office. (3-27-07)

006. -- 009. (RESERVED)

010. DEFINITIONS.
The terms used in this Code shall be interpreted consistent with the definitions set forth in this section. The Board may, by rule, provide such other definitions as may be necessary to clarify this Code or to supplement definitions established by state laws or rules. (7-1-93)

01. Board. The Board of Panhandle Health District 1. (7-1-93)

02. Code. Environmental Health Code of Panhandle Health District 1, including the several sections which follow and the entire series of rules now and hereinafter adopted by the Board and by the State Board of Health and Welfare. (7-1-93)

03. Floathouse. A watercraft that is not self-propelled and with a dwelling place on it for habitation by human beings, whether said habitat is seasonal, itinerant, temporary, or permanent; and whether the floathouse is attached to land, floating free in the water, or tied to a fixed structure. (7-1-93)

04. Health Officer. As used in this Code shall mean the Director of Panhandle Health District 1, or any agent or employee thereof whose duties include enforcement of any provision of this Code. (7-1-93)

05. Public Sewage Treatment Facility. Any sewage collection and treatment system with more than two (2) individual service connections. (7-1-93)

06. Variance. A grant of relief from the literal application of a Panhandle Health District 1 rule upon a showing that undue hardship, related to unique characteristics of a site, would result from literal adherence to such rule. (7-1-93)

011. -- 099. (RESERVED)

100. WATER QUALITY CONTROL.

01. Sewage and Waste Disposal: Political Subdivisions. Any political subdivision within the District may enter into a sewage management plan agreement with the District, the purpose of which will be to establish permanent sewage disposal practices that will fulfill the needs and goals of the political subdivision and the responsibilities of the District. The Board shall have authority to enforce the provisions of sewage management plan agreements. (7-1-93)

02. Sewage and Waste Disposal: Prohibited Conditions. (7-1-93)

a. Domestic sewage, septage, sanitary sewage, industrial waste, agricultural waste, sewage effluent, or human excreta shall not be allowed to remain open to the atmosphere or on the surface of the ground in such a manner so as to be a source of noxious or offensive odors, to be dangerous to health, or to be a public nuisance. (7-1-93)

b. Domestic sewage, sanitary sewage, septage, industrial sewage, industrial waste, agricultural waste, sewage effluent, or human excreta shall not be allowed to endanger any source or supply of drinking water, or cause damage to any public or private property. (7-1-93)

c. Raw or untreated sewage, septage, or industrial waste, or agricultural waste shall not be allowed in any body of water, water course, or any underground water drain, any storm water drain, channel, or other surface water drain. (7-1-93)

101. -- 109. (RESERVED)

110. SEWAGE DISPOSAL ON THE RATHDRUM PRAIRIE IN KOOTENAI COUNTY, IDAHO.

The Board has determined that extensive use of subsurface wastewater disposal on the Rathdrum Prairie presents a threat to the public health by contamination of the Rathdrum Aquifer, which is a drinking water source. It is the intent of the Board to adopt rules to govern subsurface sewage disposal on the Rathdrum Prairie. (7-1-93)

01. Title. These rules, within this Section, are known and cited as the "Rathdrum Prairie Sewage Disposal Rules." (7-1-93)

02. Scope. The provisions of this Section apply to subsurface sewage disposal systems installed on the Rathdrum Prairie. (7-1-93)

03. Definitions. The following definitions apply to the Rathdrum Prairie sections of these rules. (7-1-93)

a. Sewage Loading. The total liquid volume of sewage produced on any given parcel of land and expressed as gallons/day. (7-1-93)

b. Dwelling Equivalent. The total sewage loading from a single family dwelling. When applied to structures or facilities other than housing units, a dwelling equivalent shall be equal to two-hundred and fifty (250) gallons per day or shall be equal to twenty (20) persons using a non-residential facility on forty (40) hour per week basis, with no wastewater generation except from restrooms. (7-1-93)

c. Rathdrum Prairie. That area of land situated in Kootenai County and more particularly defined by the USGS map describing the boundaries of the Rathdrum Prairie Aquifer identified and designated under the authority of Section l424(e) of the Safe Drinking Water Act (PL 93-523) (Federal Register, Vol. 43, No. 28 -Thursday, February 9, l978). (7-1-93)

d. Sewage Management Plan. A method of action, procedure, or arrangement approved by the Panhandle Health District 1 describing how collection, treatment, and disposal of sewage shall be addressed within the boundaries of a political subdivision and shall include a map of the area affected by the Sewage Management Plan. (7-1-93)

04. Subsurface Sewage Disposal Systems. (7-1-93)

a. All installations of subsurface sewage disposal systems must be made in compliance with the Code and the rules of the Idaho Department of Environmental Quality. (3-27-07)

b. A subsurface sewage disposal system for one (1) dwelling equivalent may be installed without requirements other than Subsection 110.04.a., if the system is on a single parcel of land of five (5) acres or larger in surface area and the total loading for that parcel does not exceed one (1) dwelling equivalent per five (5) acres, except where one (1) system is replacing another. Every parcel of land created after December 20, 1977, except as otherwise permitted by these rules, shall maintain the dwelling equivalent(s) allowed for the original parcel of land. (7-1-93)

c. No subsurface sewage disposal system shall be installed on any parcel of land of less than (5) five acres in surface area except under the following conditions: (7-1-93)

i. The parcel of land is located within the boundaries of a public sewer district or municipality where the governing board has adopted a Sewage Management Plan approved by the Board which will result in the construction and operation of, or connection to, a central sewage treatment plant. The Sewage Management Plan area must be entirely within the boundaries of the municipality, and the Sewage Management Plan must include a map delineating the boundaries of the Sewage Management Plan Area; (7-1-93)

ii. Parcels of land less than five (5) acres in size and acquired or established prior to December 20, 1977, will be permitted for a subsurface sewage disposal system for a single-dwelling equivalent, provided such parcels meet all other rules governing individual and subsurface sewage disposal systems; or (7-1-93)

iii. Where one (1) subsurface sewage disposal system is replacing another with no increase in sewage loading. (7-1-93)

d. On all developments subject to the provisions of Subsection 110.04.c.iii., the subsurface sewage disposal system shall have the dry or wet sewer system with necessary laterals installed within the development. All installations shall be done in coordination with local government planning, and approved by the state Department of Environmental Quality where applicable. (7-1-93)

e. Upon notification by the Health Officer the owner of any parcel of land utilizing a subsurface sewage disposal system shall disconnect such system from any buildings on his parcel of land and shall connect the building sewer from the buildings to a collection and treatment system whenever it becomes available for service to his parcel. (7-1-93)

111. -- 199. (RESERVED)

200. OPEN WATER PROTECTION.

01. Boats and Houseboats. (7-1-93)

a. It is unlawful for any boat, motorboat, floathouse, sailboat, or any other kind of boat containing wastewater facilities to be on the waters of any stream, river, or lake in Panhandle Health District 1 unless such wastewater facilities shall be sealed to prevent a discharge into any waters. The method of sealing such wastewater facilities shall be subject to the approval of Panhandle Health District 1. (7-1-93)

b. Any person authorized by the Health Officer or any law enforcement person may stop and board any boat on the said waters and examine the wastewater facilities on such boats to see that such facilities are properly closed and sealed. (7-1-93)

c. It shall be unlawful for any person to throw overboard, dump, or otherwise dispose of or discharge, or cause, permit, or suffer to be discharged, any garbage, refuse, rubbish, waste, or sewage from any boat into or upon the waters of any stream, river, lake, or other body of water within the boundaries of Panhandle Health District 1. (7-1-93)

d. If any watercraft located upon the waters of this District is found to have a marine toilet which is not in compliance with the requirements of this section, the Health Officer shall have the following alternative or cumulative powers to: (7-1-93)

i. Cause the marine toilet to be locked and sealed to prevent usage; (7-1-93)

ii. Require such watercraft to be removed from the waters of Panhandle Health District 1 until the marine toilets are made to conform with the requirements of this Code. (7-1-93)

02. Public and Private Marinas. (7-1-93)

a. Any marinas, whether public or private, providing moorage for vessels equipped with on-board wastewater facilities shall provide sewage waste disposal facilities. These facilities shall consist of a pump station that is capable of adequately cleaning waste retention tanks on the largest boat that could reasonably use the moorage. Such plans must be approved by the Department of Environmental Quality. (3-27-07)

b. All marinas, whether public or private, must provide shore-based toilet facilities for their users. (7-1-93)

03. Floathouses. (7-1-93)

a. All floathouses must have approved wastewater facilities. (7-1-93)

b. All discharges from all floathouses, whether old or new, regardless of source, are prohibited. (7-1-93)

201. -- 399. (RESERVED)

400. CRITICAL MATERIALS AT FIXED FACILITIES ON THE RATHDRUM PRAIRIE IN KOOTENAI COUNTY, IDAHO.

01. Purpose and Intent. The purpose and intent of this section is to provide agencies that are currently involved with emergency planning and emergency response duties and businesses with duties to report their handling of chemicals and other potentially hazardous materials, with a mechanism to meet the mandate of existing rules by facilitating channels of communication. It is also intended to aid in protection of the Rathdrum Prairie Aquifer in Kootenai County, designated as a sole source aquifer by the United States of America, from potential sources of contamination from materials handling and storage at facilities located over or adjacent to the Aquifer. The rules strive to achieve such protection through proper use of secondary containment systems at Fixed Facilities that use, store, manufacture or handle Critical Materials. Reporting these chemicals to the concerned agencies will facilitate coordination among industry, government agencies and response personnel so that they may more successfully meet the requirements of the following: (7-1-93)

a. Title III of the Superfund Amendments and Reauthorization Act of l986 (SARA III). (7-1-93)

b. The International Fire Code. (3-27-07)

c. The International Building Code. (3-27-07)

d. Local building, planning and zoning codes applicable to lands which overlie the Aquifer. (7-1-93)

e. Any applicable rules administered by any other state, federal or local agency which has jurisdiction over matters related to Critical Materials. (7-1-93)

02. Definitions. The following terms shall be construed throughout this Section in a manner consistent with the following definitions: (7-1-93)

a. Container. Any vessel used to hold critical materials. A single container is one not connected to any other container by way of valves, piping, etc. (7-1-93)

b. Critical Material. Any liquid, semi-liquid, flowable, or water soluble solid that is listed on the most current Superfund Amendments and Reauthorization Act, Title III (SARA III) List of Lists published by the Office of Solid Waste and Emergency Response, U.S. Environmental Protection Agency, Washington, D.C. or is required by the U.S. Occupational Safety and Health Administration to have a safety data sheet (SDS). (7-1-93)

c. Critical Materials Compliance Certificate (CMCC). A certificate indicating compliance with the reporting and secondary containment requirements of this rule. (7-1-93)

d. Critical Materials Use Activity. Any undertaking that involves the use, storage, manufacture or handling of Critical Materials at a Fixed Facility above the secondary containment quantity set forth in this rule, or incorporated into this rule by reference. (7-1-93)

e. Director. The Director of Panhandle Health District 1 or his designee. (7-1-93)

f. Fixed Facility. Any established land use, building, dwelling, structure or site upon which or wherein a Critical Material Use Activity is conducted. (7-1-93)

g. Key Box. A durable, locked box that holds keys firefighters or other emergency personnel may use to gain entry into a structure. The key box shall be a type approved by the local fire chief pursuant to Section 10.209 of the Uniform Fire Code. (7-1-93)

h. Local Emergency Planning Committee (LEPC). A standing committee established by the Office of the Governor through the State Emergency Response Commission (SERC) to fulfill Emergency Planning and Community Right to Know requirements pursuant to SARA III. (7-1-93)

i. Safety Data Sheets (SDS). Documentation required by OSHA to provide a description of the characteristics and potential hazards of a wide range of substances that are potentially Critical Materials. (7-1-93)

j. NFPA 704. The National Fire Protection Association's placarding system used to identify the health hazard, flammability, reactivity and potential to react with water of a particular substance. (7-1-93)

k. Secondary Containment Quantity. The quantity of a Critical Material that requires compliance with this rule. For those Critical Materials specifically listed in the SARA III List of Lists (or as otherwise noted) the following quantities of qualifying substances shall be subject to this rule: (7-1-93)

i. SARA Section 302 Extremely Hazardous Substances - ten (10) pounds in the aggregate, exclusive of solvent or other medium or, one hundred (100) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

ii. CERCLA Hazardous Substances (listed in 40 CFR 302, Table 302.4) - one hundred (100) pounds in the aggregate, exclusive of solvent or other medium or, one thousand (1000) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

iii. SARA Section 313 Toxic Chemicals - one hundred (100) pounds in the aggregate, exclusive of solvent or other medium or, one thousand (1000) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

iv. SARA Section 311 and 312 Chemicals (Not listed in the List of Lists) for which OSHA MSDS must be developed pursuant to OSHA Hazard Communication Standards - five thousand (5000) pounds in the aggregate, inclusive of solvent or other medium. (7-1-93)

l. Secondary Containment System. Site improvements and/or development criteria that are designed to isolate and prevent Critical Materials from entering the soil or surface or ground waters. (7-1-93)

m. Rathdrum Prairie Aquifer (Aquifer). The underground water source identified and designated under the authority of Section l424(e) of the Safe Drinking Water Act (PL 93- 523) (Federal Register, Vol. 43, No. 28 - Thursday, February 9, l978). (7-1-93)

03. Applicability. (7-1-93)

a. This rule shall apply to any person, firm, corporation, or government agency owning, operating, or proposing to locate, establish, or operate a Fixed Facility over the Aquifer or within a recognized Aquifer recharge area in Kootenai County, Idaho. Any Fixed Facility so located shall comply with the requirements of this rule prior to initiation of operation or engaging in any Critical Materials Use Activity, if established after the effective date of this rule. Fixed Facilities in operation or engaging in Critical Materials Use Activity on or before September 18, 1990 shall attain compliance by the threshold dates established herein. Every owner or operator of a Fixed Facility shall be required to show compliance with this rule by obtaining a Critical Materials Compliance Certificate appropriate for current operations. (7-1-93)

b. The following activities shall require a new application to the Panhandle Health District 1 to determine compliance with this rule: (7-1-93)

i. Establishing a new use that could qualify as a Fixed Facility. (3-27-07)

ii. Remodeling, operating changes, or expansion of an existing Fixed Facility which would modify the type or quantity of Critical Materials Use Activity. (7-1-93)

iii. Changes in the location or method of use, storage, manufacture or handling of Critical Materials in any Fixed Facility. (7-1-93)

iv. A change in ownership or addition of new Critical Materials meeting the quantity thresholds

established by this rule at a Fixed Facility. (7-1-93)

c. Any CMCC granted is specific to that action and the application filed therefore. Subsequent actions, meeting the criteria set by Subsection 400.03.b., shall require separate plan reviews and approvals to obtain compliance. (7-1-93)

d. All businesses over the Rathdrum Prairie Aquifer in Kootenai County are subject to inspection in order to determine if they are governed by this rule. (3-27-07)

04. Application Requirements of Fixed Facilities Engaged in Critical Materials Use Activities. Each applicant for a Critical Materials Compliance Certificate must provide. (7-1-93)

a. Sufficient information to allow the Director to determine the type, quantity, and physical state of all Critical Materials that are used, stored, manufactured, or handled at the Fixed Facility location. The Director may require the applicant to provide a complete list of Critical Materials present at the Fixed Facility. (7-1-93)

b. Building plans and site development drawings showing compliance with the secondary containment requirements established by this rule. Such plans shall also provide confirmation that the secondary containment methods are compatible with the materials to be contained and that Critical Materials at the Fixed Facility are isolated from storm water or other surface waters on the site. The Director may require that any such plans be certified by a licensed engineer. The required building and/or site plans shall show at least the following: (7-1-93)

i. Location of Critical Materials in buildings and other designated site areas. (7-1-93)

ii. Location of Key Box if required by the local fire chief. (7-1-93)

iii. Location of NFPA 704 placards if required by the local fire chief. (7-1-93)

c. Proof of contact and resultant acknowledgment from the agencies named below which have codes, standards, and/or rules which must be met by the applicant with respect to handling of Critical Materials. The Director will designate the agencies needing contact for each Fixed Facility based upon information provided by the applicant. (7-1-93)

i. Local Fire Department. (7-1-93)

ii. Local Emergency Planning Committee. (7-1-93)

iii. Kootenai County Department of Planning and Zoning. (7-1-93)

iv. Kootenai County Building Department. (7-1-93)

v. Applicable City Building Department. (7-1-93)

vi. Applicable City Planning and Zoning Department. (7-1-93)

vii. Bureau of Pesticides, Department of Agriculture. (7-1-93)

viii. Department of Environmental Quality. (7-1-93)

ix. Idaho Department of Water Resources. (7-1-93)

d. An opportunity for Panhandle Health District 1 to perform an inspection to assure compliance with secondary containment criteria previously approved through the plan review. If approved, and the agency review and reporting checklist (Subsection 400.04.d.) has been completed, a CMCC will be issued. The Director may delegate site inspection duties to officials of a cooperating agency. (7-1-93)

05. Performance Standards for Fixed Facilities. Each Fixed Facility, as defined in this rule, shall conform to the following performance standards: (7-1-93)

a. Shall construct and maintain a secondary containment system for all Critical Materials. Said secondary containment system shall be designed to prevent infiltration of any Critical Materials into the ground in the event that they are released from their original storage containers. (7-1-93)

b. The secondary containment system and methods must be non-reactive and resistant to the materials to be contained and must isolate the Critical Materials at the Fixed Facility from storm water, other surface waters on the site, and from reactive critical materials present in the same Fixed Facility. (7-1-93)

c. Secondary containment systems must be sized to contain at least one-hundred and ten percent (110%) of the volume of the largest container, or ten percent (10%) of the aggregate volume of all containers, whichever is greater, in any containment area within a Fixed Facility. (7-1-93)

d. The owner or operator of any Fixed Facility shall report the presence of any Critical Materials Use Activities to the responsible local, state, and federal agencies as required by statutes, rules, and provisions of this rule. (7-1-93)

e. Any spilling, leaking, emitting, discharging, escaping, or leaching of any Critical Material into the secondary containment system or the environment must be reported to Panhandle Health District 1 or the local fire department immediately upon discovery of the release. (7-1-93)

f. Should conflict arise among the applications of local, state rules, and federal regulations regarding Critical Materials Use Activities, the rule that provides the greatest degree of protection to the Aquifer shall prevail, except where legal preemption of regulatory authority by state or federal agencies may require application of a different standard of protection. (7-1-93)

g. Each Fixed Facility shall be subject to biennial inspection to verify continued compliance with these rules. (6-30-19)T

06. Violation. Any owner or operator of a Fixed Facility shall be deemed to have violated this rule if: (7-1-93)

a. A Fixed Facility is operated or if Critical Materials Use Activities are conducted on any site without first procuring a Critical Materials Compliance Certificate or if changes are made to Critical Materials Use Activities at a Fixed Facility as set forth in Section 400.03.b. without reapplying for a CMCC for the Fixed Facility. (7-1-93)

b. An owner or operator of a Fixed Facility submits knowingly false or incomplete reports to the Panhandle Health District or other responsible agencies or officials concerning the nature or quantity of Critical Materials present at a Fixed Facility governed by this rule. (7-1-93)

c. An owner or operator fails to implement or maintain secondary containment of Critical Materials at a Fixed Facility as required by this rule. (7-1-93)

d. An owner or operator fails to comply with time and reporting standards for any Critical Materials Use Activities or fails to report any discharge of Critical Materials into the secondary containment system required by this rule. (7-1-93)

401. -- 499. (RESERVED)

500. CONTAMINANT MANAGEMENT IN THE BUNKER HILL SUPERFUND SITE, SHOSHONE COUNTY, IDAHO.

01. Legal Authority. The Idaho Legislature has given the Board of Health of the District the authority to promulgate rules governing contaminant management pursuant to Section 39-416, Idaho Code. (3-20-97)

02. Purpose. The purpose of these rules is to ensure that activities involving excavations, building development, construction and renovation and grading within the Bunker Hill Superfund Site provide for the installation and maintenance of Barriers and implementation of other Contaminant management standards to preclude the migration of, and particularly, human exposure to Contaminants within the Site as necessary to protect the public health and the environment. It is imperative that redevelopment and future development proceed in a manner which minimizes the release of Contaminants into the air or water to minimize exposure to workers, Site residents and the communities. Further, it is the purpose of these rules to complement existing land use authorities and permitting processes, and to provide a screening process to determine whether proposed activities are subject to these rules. (3-20-97)

03. Written Interpretations. This agency may have written statements and standards which pertain to the interpretation of the rules of this chapter, or to the documentation of compliance with the rules of this chapter. If available, written statements and standards can be inspected and copied at cost at the Panhandle Health District Office, Kellogg, Idaho. (3-20-97)

04. Administrative Appeals. Persons may be entitled to appeal final agency actions authorized under this chapter pursuant to IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-20-97)

05. Definitions. The following terms shall be construed throughout these rules in a manner consistent with these definitions: (3-20-97)

a. Applicant. Any person, contractor, public utility, government or other entity that is required to apply for an ICP Permit. (3-20-97)

b. Barrier. Any physical structure, material or mechanism which breaks the pathway between contaminants and human receptors, including but not limited to walls, floors, ceilings, soil, asphalt, concrete, fences, control over access, or other structure or covering which separates contaminants from contact with people or keeps contaminants in place. (3-20-97)

c. Board. The Board of Health of the District. (3-20-97)

d. B.O.P. Barrier Option Plan, which will be provided by an Applicant when required; such plans shall set forth the location and type of Barrier which the Applicant intends to construct as part of the permitted work. (3-20-97)

e. Building Renovation. Construction activity to be performed on any structure involving any ceiling or insulation removal or disturbance of soil in basements or crawl spaces. (3-20-97)

f. Contaminants. Soil or other materials containing, or likely to contain, lead in excess of the levels established in Section 510 of these rules. (3-20-97)

g. Director. The Director of the District. (3-20-97)

h. Disposal. The placement of Contaminants into an authorized permanent repository. (3-20-97)

i. District or PHD. The Idaho Public Health District No. 1 (also the Panhandle Health District). (3-20-97)

j. Excavation. Any digging, breaching or disruption of a soil or other protective Barrier which may expose Contaminants to the environment. (3-20-97)

k. Hearing Officer. A lawyer, engineer or other professional trained in conducting hearings, appointed by the Board for purposes of conducting hearings authorized by these rules. (3-20-97)

l. ICP. The Institutional Controls Program for the Site. (3-20-97)

m. ICP Permit. The Contaminant management authorization for projects subject to these rules. (3-20-97)

n. Large Project. A project within the Site where one (1) cubic yard or more of soil containing Contaminants is disturbed or removed. Large Projects also include, but are not limited to, new building construction, demolition of existing buildings and construction of subdivisions and planned unit developments (PUD's) (and the infrastructure necessary to serve them) and construction within and maintenance of rights-of-way. (3-20-97)

o. Owner. Any person, partnership, or corporation having ownership, title, or dominion over property for which an ICP permit is sought. (3-20-97)

p. Record of Compliance. The record maintained by the District pursuant to Section 011 of these rules for Small Projects. (3-20-97)

q. Site. The Area within the boundaries of the Bunker Hill Superfund Site Allocation Map dated December 10, 1993 attached as Appendix 1 to these rules. (3-20-97)

r. Small Project. A project where less than one (1) cubic yard of soil containing Contaminants is disturbed or interior work that is not Building Renovation. (3-20-97)

s. Working Day. Monday through Friday, but shall not include any holiday recognized as such by the state of Idaho. (3-20-97)

06. Statement of Intent. It is the intent of Idaho Public Health District No. 1 (the 'District') to work with local governments, the state of Idaho, the United States Environmental Protection Agency and private parties in managing Contaminants within the regulated area by way of an Institutional Controls Program (herein referred to as the ICP). These rules establish standards for Barrier installation and maintenance, and other Contaminant management practices. These rules govern management of Contaminants by: (3-20-97)

a. Requiring ICP permits and requiring barriers for certain construction and excavation activities; (3-20-97)

b. Licensing contractors, utilities, and government entities which may disrupt or install Barriers, or otherwise disturb Contaminants; (3-20-97)

c. Adopting performance standards; (3-20-97)

d. Inspecting for project compliance as required; (3-20-97)

e. Regulating the movement and disposal of Contaminants; (3-20-97)

f. Making it unlawful to knowingly disrupt a barrier in a fashion likely to expose persons to contaminants. (3-20-97)

07. Additional Provisions by District. In conjunction with these Rules it is the intent of the District to provide, as needed: (3-20-97)

a. Technical assistance and testing; (3-20-97)

b. Health screening and intervention; (3-20-97)

c. That there will be a readily available repository for Contaminants; (3-20-97)

d. Clean soil to restore Barriers for Small Projects; (3-20-97)

e. Disposal containers to assist in removing contaminated soil for Small Projects and transport and

disposal of such soil; (3-20-97)

f. Health and safety information and education to licensees and the public; (3-20-97)

g. Plastic, gravel and use of vacuums for interior projects; (3-20-97)

h. A database tracking system to assist the public, lenders, and potential purchasers of property within the Site; and (3-20-97)

i. Guidelines for managing Contaminants. (3-20-97)

501. -- 509. (RESERVED)

510. THE BUNKER HILL SUPERFUND SITE; APPLICATION OF REGULATIONS.
These rules shall apply to the Bunker Hill Superfund Site in Shoshone County, Idaho, more particularly as shown on the Bunker Hill Superfund Site Allocation Map identified as Appendix 1 to these rules. These rules shall not apply to operations undertaken at the direction of, under the supervision of, and subject to inspection by, the United States Environmental Protection Agency. (3-20-97)

01. Standards Adopted. (3-20-97)

a. All Barriers now or hereinafter constructed within the Site shall be maintained and protected. (3-20-97)

b. Except as otherwise provided in this section, Contaminant management is required in connection with any Large or Small Project or Building Renovation involving the breaching or disturbance of a Barrier or the disturbance or migration of Contaminants exceeding one thousand (1000) ppm lead. (3-20-97)

c. No new PUD or subdivision shall be occupied where the average concentration of Contaminants exceeds three hundred fifty (350) ppm lead or a single lot exceeds one thousand (1000) ppm lead without Contaminant management on any portion of the property that exceeds these levels. (3-20-97)

d. As necessary to protect public health and the environment, PHD may impose Contaminant management requirements, other than Barrier installations, on projects where soils exhibit lead concentrations in excess of three hundred fifty (350) ppm lead, particularly where a property has been remediated with either six (6) or twelve (12) inches of clean fill but Contaminants in the three hundred fifty to one thousand (350 - 1000) ppm lead range remain below the six (6) or twelve (12) inch depth and those Contaminants may be disturbed by a Large or Small Project. (3-20-97)

e. No person shall conduct, except in accordance with these rules, any activity within the Site which breaches a Barrier, may breach a Barrier, or disturbs the same, or otherwise results in a threat to public health or the environment from the migration of Contaminants through tracking on tires or vehicles, visible airborne dust, excavation, transport, disposal, remodeling, demolition, or run-on or run-off from stormwater or in any other manner. (3-20-97)

02. Barriers; Construction and Maintenance Required. (3-20-97)

a. Barriers are required as necessary to attain the standards described in Section 510. Temporary Barriers also may be required to prevent the migration of Contaminants during construction activities. (3-20-97)

b. Types of acceptable Barriers for specific uses and activities are set forth in Appendices 3, 4, and 5. (3-20-97)

c. All twelve (12) inch permanent permeable exterior Barriers required to be installed under the ICP which overlay soils having lead levels in excess of one thousand (1000) ppm shall have an underlying visual delineator at the twelve (12) inch depth. Visual delineators are not required if the soil underlying the Barrier has tested under one thousand (1000) ppm lead. Permanent impermeable Barriers such as concrete and asphaltic concrete

do not require delineators. (3-20-97)

d. The minimum Barrier requirements for residential properties and other properties that are frequently used by children (zero (0) to twelve (12) years) and/or pregnant women are as follows: (3-20-97)

i. All soil which contains lead in excess of one thousand (1000) ppm and lies within twelve inches (12") of the final grade shall be removed, replaced, or covered as appropriate with clean earthen material such that, after all work is completed, the soil remaining in the top twelve inches (12") has less than one thousand (1000) ppm lead. Replacement material must meet the requirements listed in Section 008.06. Acceptable soil removal and Barrier thicknesses for these properties are set forth in Appendix 6. (3-20-97)

ii. Any such property with unrestricted access to an adjacent property not meeting the requirements of Subsection 510.02.a. shall restrict access to such adjacent property. (3-20-97)

e. The minimum Barrier requirements for properties that are not frequently used by children (zero (0) to twelve (12) years) and/or pregnant women are as follows: (3-20-97)

i. All soil which contains lead in excess of one thousand (1000) ppm and lies within six inches (6") of the final grade shall be removed, replaced, or covered as appropriate with clean earthen material such that, after all work is completed, the soil remaining in the top six inches (6") has less than one thousand (1000) ppm lead, and the replacement material meets the requirements listed in Section 510.02.f. (3-20-97)

ii. Acceptable soil removal and Barrier thicknesses for these properties are set forth in Appendix 7. (3-20-97)

f. No earthen materials containing, on average, more than one hundred (100) ppm of lead or arsenic, nor more than five (5) ppm of cadmium, with no individual sample containing more than one hundred fifty (150) ppm of lead, shall be utilized for a Barrier. (3-20-97)

g. Should any inconsistency exist between the wording of these rules and the wording in any appendix, the wording in the rule shall supercede the wording in the appendix. (3-20-97)

03. ICP Permits Required. (3-20-97)

a. ICP Permits shall be required for: (3-20-97)

i. Large projects; (3-20-97)

ii. Building renovations. (3-20-97)

b. A permit is required for a change in use of property which has Contaminants located thereon to a use which requires an additional or more substantial Barrier; constructing or establishing such additional Barriers shall be required, unless waived by the District. (3-20-97)

c. A single annual permit covering a specific list of projects may be obtained from the District by entities eligible under Section 015 at the beginning of each year's construction season. (3-20-97)

511. CONTAMINANT MANAGEMENT RULES IN THE BUNKER HILL SUPERFUND SITE OPERABLE UNIT #3 INSTITUTIONAL CONTROLS ADMINISTRATIVE AREA, SHOSHONE AND KOOTENAI COUNTIES, IDAHO.

01. Purpose. The purpose of these Rules is to ensure that activities associated with excavation and grading such as infrastructure development and maintenance; building construction and renovation; and land development, redevelopment and/or modification within the Institutional Controls Administrative Area of the Bunker Hill Superfund Site Operable Unit #3 (OU-3) provide for the construction and maintenance of Contaminant Barriers and implementation of other Contaminant management requirements to preclude the release and migration of Contaminants as necessary to protect the public health and the environment. It is imperative that current and future

development and construction activities proceed in a manner which minimizes the release of Contaminants into the environment to minimize exposure to Area residents, communities, to workers involved in Area project work, and to environmental receptors. Further, it is the purpose of these Rules to complement existing land use regulations and permitting processes, and to provide a screening process to determine whether proposed activities are subject to these Rules. These Rules will rely upon procedures and provisions applicable to the Institutional Controls Program set forth in Section 500 of these rules. Differences identified in Sections 511 and 512 of these rules, shall be deemed applicable only to the lands encompassed by OU-3. (3-27-07)

02. Implementation Policy and Standards. Implementation policy and standards which pertain to the interpretation and enforcement of these Rules or to the documentation of compliance with these Rules have been developed by PHD and are available for inspection and/or copying at cost at the PHD office, 114 West Riverside Avenue, Kellogg, Idaho. (3-27-07)

03. Administrative Appeals. Persons may be entitled to appeal final PHD actions authorized under this chapter, pursuant to IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General." (3-27-07)

04. Definitions. The following terms shall be construed throughout Sections 511 and 512 of these rules, in a manner consistent with these definitions: (3-27-07)

a. Agricultural Land. Land used for pasturing animals or for cultivation and production of agricultural crops including conservation reserve activities. (3-27-07)

b. Applicant. Any person, contractor, public utility, government or other entity that is required to apply for an Institutional Controls Program (ICP) Permit. (3-27-07)

c. Access Restrictions. Physical barriers such as fences, barricades, curbs, barrier rocks, trenches, etc. that provide restricted access by vehicles, pedestrians, and animals to contaminated areas. (3-27-07)

d. Barrier. Any physical structure, material or mechanism which acts to break the pathway between Contaminants and human receptors, including but not limited to soil, crushed aggregate/gravel, asphalt and Portland cement concrete, fences, access restrictions, or other structure or covering which separates Contaminants from contact with people or keeps Contaminants in place. (3-27-07)

e. Board. The Board of Health of the Idaho Public Health District No. 1. (3-27-07)

f. B.O.P. Barrier Option Plan, a plan which will be provided by an Applicant, when required, that sets forth the location and type of Barrier which the Applicant intends to construct as part of the permitted work. (3-27-07)

g. Building Construction. Construction activity to be performed for any new structure involving disturbance of soil in excess of one cubic yard. (3-27-07)

h. Building Renovation. Construction activity to be performed on any existing structure involving ceiling or insulation removal, work in dirt crawl spaces or basements, or disturbance of soil in excess of one cubic yard. (3-27-07)

i. CERCLA. Comprehensive Environmental Response, Compensation, and Liability Act. (3-27-07)

j. Commercial Property. Retail, wholesale and secondhand businesses; public and common use areas; public buildings; and undeveloped properties accessed by a maintained road or street and zoned for commercial development as of the date of promulgation of these Rules. (3-27-07)

i. Type I. Commercial Property predominantly used by Sensitive Populations (e.g. daycare facilities, municipal parks, playgrounds, etc.) (3-27-07)

ii. Type II. All other Commercial Property. (3-27-07)

k. Contaminants. Soil or other material containing, or likely to contain, concentrations of lead equal to or greater than one thousand (1000) ppm or concentrations of arsenic equal to or greater than one hundred (100) ppm. (3-27-07)

l. Developed Recreation Area. Commercial and public recreation areas containing constructed features such as boat ramps, picnic areas, and campgrounds outside the city limits of incorporated communities in the Coeur d'Alene River corridor as defined in Subsection 511.04.s. of these rules. The Developed Recreation Areas of the Trail of the Coeur d'Alenes includes all constructed trail surfaces, stop and views, oases (rest stops) and trailheads, exclusive of all undeveloped areas within the trail right of way. (3-27-07)

m. Director. The Director of the Idaho Public Health District No. 1. (3-27-07)

n. Disposal. The placement of Contaminants into an authorized repository. (3-27-07)

o. Environmental Office. PHD office in Kellogg, ID. (3-27-07)

p. Excavation – Any digging, breaching or disruption of soil not including cultivation of Agricultural Lands and gardens or mining activities regulated under other state and federal programs which may release or expose Contaminants to the environment. (3-27-07)

q. Health Officer. The Director or designee. (3-27-07)

r. Hearing Officer. An attorney, engineer or other professional trained in conducting hearings, appointed by the Board for purposes of conducting hearings authorized by these Rules. (3-27-07)

s. Institutional Controls Administrative Area. The Area designated by the Administrative Area Map in Appendix 2 which includes areas of mining, milling, and smelting related contamination in the South Fork of the Coeur d'Alene River corridor from its headwaters to the confluence with the North Fork Coeur d'Alene River and from the confluence of the North and South Fork to the mouth of the River and its confluence with Coeur d'Alene Lake including adjacent floodplains, tributaries, and fill areas. The Area also includes the Trail of the Coeur d'Alenes inside and outside the administrative boundary indicated on the map in Appendix 2 except that portion within the exterior boundaries of the Coeur d'Alene Indian Reservation. The Area does not include any area within OU-1 and OU-2 (Box) which has a separate ICP, or any other area excluded under this rule. The Area also includes areas in the Coeur d'Alene River corridor, as defined above, outside the administrative boundary indicated on the map in Appendix 2 where testing has verified that Contaminants related to mining, milling, and smelting have come to lie and remediation is required. (3-27-07)

t. ICP. The Institutional Controls Program for the Institutional Controls Administrative Area as defined in Subsection 511.05.s. of these rules. (3-27-07)

u. ICP Permit. The Contaminant management authorization for projects subject to these Rules. (3-27-07)

v. Infrastructure. Facilities such as trails, roads, streets, highways, bridges; storm water, drinking water, and wastewater systems; flood prevention systems including dikes and levees; and utilities including electrical power and natural gas systems. (3-27-07)

w. Large Project. A project where one cubic yard or more of soil containing Contaminants is disturbed or removed. Large Projects include, but are not limited to, infrastructure construction and maintenance, building construction, renovation, and demolition, land development or any change in the use of land that may result in the release or migration of Contaminants. (3-27-07)

x. Owner. Any person, partnership, or corporation having ownership, title, or dominion over property for which an ICP permit is required. (3-27-07)

y. PHD. The Idaho Public Health District No. 1 (also the Panhandle Health District). (3-27-07)

z. PUD. Planned Unit Development. (3-27-07)

aa. Record of Compliance. The record maintained by the PHD pursuant to Section 523 of these rules for Small Projects. (3-27-07)

bb. Release. Any excavation, spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, dumping, or disposing of Contaminants into the environment. (3-27-07)

cc. Residential Property. Property used by private individuals or families as a residence, and undeveloped properties accessed by a maintained road or street and zoned for residential development as of the date of promulgation of these Rules. (3-27-07)

dd. Sensitive Populations. Pregnant women and children up to twelve (12) years old. (3-27-07)

ee. Small Project. A project where less than one (1) cubic yard of soil containing Contaminants is disturbed or interior work that is not Building Renovation. (3-27-07)

ff. Trail of the Coeur d'Alenes. All Developed Recreation Areas and undeveloped areas within the former Union Pacific Railroad Mullan and Wallace Branch right of way. (3-27-07)

gg. Working day. Monday through Friday, excluding any legal holiday recognized as such by the State of Idaho. (3-27-07)

05. Statement of Intent. It is the intent of the PHD to work with local governments, the State of Idaho, the United States Environmental Protection Agency, Federal Land Management Agencies (Bureau of Land Management, USDA Forest Service), Coeur d'Alene Tribe, and private parties in managing Contaminants within the regulated Institutional Controls Administrative Area by way of an ICP. These Rules establish standards for Barrier construction and maintenance, and other Contaminant management practices. These Rules do not address financial liability for Contaminant management resulting from a failure of a CERCLA remedy due to a natural disaster. These Rules govern management of Contaminants by: (3-27-07)

a. Requiring ICP permits and requiring barriers for certain construction and excavation activities; (3-27-07)

b. Licensing contractors, utilities, and state and local government entities which may disrupt or construct Barriers, or otherwise disturb Contaminants; (3-27-07)

c. Adopting performance standards; (3-27-07)

d. Inspecting for project compliance as required; (3-27-07)

e. Regulating the movement and disposal of Contaminants; (3-27-07)

f. Making it unlawful to knowingly disrupt a barrier in a fashion likely to expose persons or the environment to Contaminants; (3-27-07)

g. Maintaining records of ICP activities. (3-27-07)

06. Additional Provisions by PHD. In conjunction with these Rules it is the intent of the PHD to provide, depending on project size and complexity and at the discretion of PHD: (3-27-07)

a. Technical assistance and soil testing; (3-27-07)

b. Health screening and intervention; (3-27-07)

c. Readily available repositories for disposal of Contaminants; (3-27-07)

d. Clean material to restore Barriers for Small Projects; (3-27-07)

e. Disposal containers for Small Projects to assist in removal, transportation and disposal of contaminated soil; (3-27-07)

f. Health and safety information and education to licensees and the public; (3-27-07)

g. Sheet plastic, crushed aggregate and gravel, or other items as appropriate; (3-27-07)

h. A database tracking system to assist the public, lenders, and prospective purchasers of property within the Institutional Controls Administrative Area; (3-27-07)

i. Guidelines for managing Contaminants. (3-27-07)

512. APPLICATION OF REGULATIONS; INSTITUTIONAL CONTROLS ADMINISTRATIVE AREA. These Rules apply to the Institutional Controls Administrative Area as defined in Subsection 511.05.s. of these rules. These Rules shall not apply to the direct operations of the United States Environmental Protection Agency including directing, supervising, and inspecting project work or on lands owned or otherwise under the jurisdiction, custody and control of the Coeur d'Alene Tribe or the Federal Land Management Agencies such as the USDA Forest Service and the Bureau of Land Management. These Rules do not apply to the Union Pacific Railroad or its contractors when conducting activities within the Trail of the Coeur d'Alenes pursuant to the requirements of the Consent Degree entered August 25, 2000 by the United States District Court for the District of Idaho (Case Nos. 91-0342 and 99-606). (3-27-07)

01. Standards Adopted. (3-27-07)

a. Except as otherwise provided in Section 512 of these rules, contaminant management is required on all properties within the Institutional Controls Administrative Area including properties that have been remediated; properties tested and scheduled for remediation; properties not yet tested; and properties testing below action levels in the top eighteen (18) inches where Large or Small Projects may disturb Contaminants below eighteen (18) inches in excess of one thousand (1000) ppm lead or one hundred (100) ppm arsenic. Contaminant management may include testing of untested areas by the Applicant; testing of deep soils (below eighteen (18) inches) by the Applicant where a project may result in deep excavations; and replacement and repair of remediation Barriers in accordance with Subsection 512.02 of these rules; or other management activities. Contaminant Management on Residential Properties and Commercial Properties existing as of the date of promulgation of these Rules and requiring remediation, but not yet remediated will not require construction of final barriers in accordance with Subsection 512.02 of these rules, by the owner, but may require dust, erosion, health and safety and temporary cap controls to prevent further migration onto lands of others. Final barrier construction will be the responsibility of the state of Idaho and United States Environmental Protection Agency if needed. Applicant performed soil testing will be conducted consistent with sampling and analytic procedures developed by PHD. (3-27-07)

b. Developed Recreation Areas with surface soil containing lead concentrations greater than seven hundred (700) ppm lead and one hundred (100) ppm arsenic shall be capped pursuant to Subsection 512.02.c. of these rules. (3-27-07)

c. Agricultural and undeveloped land within the Institutional Controls Administrative Area are exempt from these Rules unless excavation and grading activities such as soil transport off site or development by the owner or his/her agents on these lands is likely to result in the release or migration of Contaminants from these lands to adjacent non-agricultural or undeveloped areas. (3-27-07)

d. All Barriers existing or hereinafter constructed shall be maintained and protected to original construction specifications. (3-27-07)

e. No new PUD or subdivision containing concentrations of Contaminants exceeding one thousand (1000) ppm lead or one hundred (100) ppm arsenic shall be developed without Contaminant management. (3-27-07)

f. No person shall conduct, except in accordance with these Rules, any activity within the Institutional Controls Administrative Area which breaches a Barrier, may breach a Barrier, or disturbs the same, or otherwise results in a threat to public health or the environment from the migration of Contaminants through tracking on tires or vehicles, visible airborne dust, excavation, transport, disposal, renovation, demolition, or run-on or run-off from stormwater or in any other manner on properties tested and requiring remediation and on properties not yet tested within the Institutional Controls Administrative Area (3-27-07)

02. Barriers; Construction and Maintenance Required. (3-27-07)

a. The minimum Barrier construction requirements for Residential and Type I Commercial Properties are as follows: (3-27-07)

i. All soil which contains lead equal to or in excess of one thousand (1000) ppm or arsenic equal to or in excess of one hundred (100) ppm and lies within twelve (12) inches of the final grade shall be removed and replaced with replacement material meeting the requirements of Subsection 512.02.d. of these rules. (3-27-07)

ii. Any such property with unrestricted access to an adjacent property not meeting the requirements of Subsection 512.01.a. of these rules, shall restrict access to such adjacent property. (3-27-07)

b. The minimum Barrier construction requirement for Type II Commercial Properties is a six (6) inch soil with vegetative cover barrier or six (6) inch crushed rock/gravel barrier or asphalt/Portland cement concrete cap. Excavation may be necessary for the installation of barriers to maintain grade or drainage requirements. (3-27-07)

c. The minimum Barrier construction requirement for Developed Recreation Areas is a six (6) inch soil with vegetative cover barrier or six (6) inch crushed rock/gravel barrier or asphalt/Portland cement concrete cap. Excavation may be necessary for the installation of barriers to maintain grade or drainage requirements. (3-27-07)

d. All twelve (12) inch deep Barriers of soil or crushed rock/gravel required pursuant to the ICP which overlay soils having concentrations of lead equal to or greater than one thousand (1000) ppm or arsenic concentrations equal to or greater than one hundred (100) ppm shall have an underlying visual delineator at the twelve (12) inch depth. Visual delineators are not required if the soil underlying the Barrier has tested under one thousand (1000) ppm lead and one hundred (100) ppm arsenic. Cap Barriers such as Portland cement and asphalt concrete do not require delineators. (3-27-07)

e. Soil and crushed aggregate/gravel imported for barrier material shall contain less than one hundred (100) ppm lead, thirty five (35) ppm arsenic and five (5) ppm cadmium based on average of backfill sampling results. No single sample of replacement materials shall exceed one hundred fifty (150) ppm lead or forty five (45) ppm arsenic. (3-27-07)

f. Barriers shall be maintained and repaired to original construction specifications. (3-27-07)

g. Contaminated waste material generated in the construction, maintenance and repair of Barriers shall be disposed of in designated repositories or as directed by PHD. (3-27-07)

03. ICP Permits Required. (3-27-07)

a. Permits shall be required for Large Projects and Building Renovations. (3-27-07)

b. A permit is required for a project which changes the use of a property containing Contaminants. A new Barrier or additional or more substantial Barrier may be required unless waived by the PHD. (3-27-07)

c. A single annual permit covering a specific list of projects may be obtained from the PHD by entities eligible under Section 531 of these rules, at the beginning of each year's construction season. (3-27-07)

513. -- 519. (RESERVED)

520. PERMIT APPLICATION AND ADMINISTRATION.

01. Application for ICP Permit. Application for an ICP Permit shall be made in writing at the Kellogg office of the District. Application shall be on forms provided by the District. (3-20-97)

02. Required Applicant Information. All Applicants shall provide the following information when applying for an ICP Permit with the District: (3-20-97)

a. Name, address and telephone number of the Applicant and the property owner. (3-20-97)

b. Location of the work and whether the work is being done on private or public property, or both. (3-20-97)

c. Description of work. The description must include methods of handling or storing, and transporting contaminated materials. A site plan may be required by the District if one has not been provided pursuant to the permit process. (3-20-97)

d. Dates work will be started and completed. (3-20-97)

e. Such other information as the District shall require. (3-20-97)

03. Use of Discretion on Requirements by District. The District may, at its own discretion, waive certain application requirements or information, or require additional or alternative actions or information, depending upon the type and extent of the project and conditions encountered. In no instance shall a waiver violate the intent of this rule and/or the Record of Decision for the relevant Operable Unit. (3-27-07)

04. Site Inspection or Waiver When Permit Required. Work which requires a permit shall not commence until a site inspection has been made or waived by the District and a permit has been issued. (3-20-97)

05. Other Inspections and Requirements. All permits granted pursuant to this Rule remain subject to such other inspections and requirements prescribed by state or local governments. (3-20-97)

06. Work Involving Public Right-of-Way. If the permit involves work within any public right-of-way, the appropriate agencies must be notified of the work by the entity receiving the permit. (3-27-07)

521. INSPECTION.
The Applicant shall notify the District by telephone when work is completed. Applicants shall call for inspection in accordance with the terms of the permit; forty-eight (48) hours notice (excluding weekends and holidays) to PHD shall be provided. The inspector shall note approval of the work in writing and shall enter same in the database tracking system, or shall note reasons for disapproval and steps which must be taken to complete the work. Upon completion of the work to the District's satisfaction, the District's final approval shall be noted in the database tracking system. Such entry shall constitute the Record of Compliance for such project. All work governed by these regulations shall be subject to inspection by the District or its designated agents and it shall be unlawful to obstruct or hinder any official, inspector or designated agent making an inspection. The District may obtain an inspection warrant if access to the property is refused. The District reserves the right to waive the inspection requirement. (3-20-97)

522. PERMIT REVOCATION OR STOP WORK ORDER.
Any Permit may be revoked or a Stop Work Order may be issued, without notice by the District, for non-compliance with or violation of any of the provisions of this chapter or any requirement or limitation of the Permit. If a Permit is revoked, the District may take such steps as are necessary to eliminate any danger from contamination, including completion of work by the District. The Applicant, contractor and/or Owner may be required to pay all costs and expenses for abatement of any danger and/or completion of the project, including legal fees incurred by the District to obtain compliance. The District will endeavor to provide written notice, but reserves the right to act summarily to protect public health and the environment. (3-27-07)

523. RECORD OF COMPLIANCE.
A Record of Compliance for Small Projects which documents compliance with the performance standards established

by these rules will be entered into the database tracking system based upon an inspection requested of PHD by the property owner or tenant. The Record signifies the property owner or tenant was informed of and provided with applicable performance standards and guidelines and materially complied with the same. (3-27-07)

524. -- 529. (RESERVED)

530. CONTRACTOR LICENSING.

01. License Required. Any contractor performing Large Projects, Building Renovation or transportation or disposal of Contaminants within the Site or the Institutional Controls Administrative Area which is likely to expose the contractor, workers or others to Contaminants, must be licensed by the District. There will be no charge for a contractor's license. It shall be unlawful for a contractor to work on a project requiring an ICP permit without a current contractor's license issued by PHD. A contractor's license will not be required of an owner working on his or her own property. (3-27-07)

02. Training. In order to obtain a contractor's license from the District, the Contractor must have those supervisors involved in activities dealing with Contaminants participate in training approved by the District and pass an annual examination focusing on the reasons for, and methods of, controlling Contaminants. The purpose of the examination is to assure that all of the Contractor's employees are aware of and observe the procedures and standards that will protect themselves and the public from the Contaminants. The District will create and administer the test. The trained supervisor must pass information on to employees as is necessary to protect their health and safety and assure compliance with these rules. The District will provide training which owners and employees may participate in. (3-20-97)

03. Bonding. Any contractor whose license has been revoked by the District within the past three (3) years must, as a condition of reinstatement and maintaining the status of a licensed contractor, be bonded in the minimum amount of two-thousand dollars ($2000). Said bond shall be at least five percent (5%) of the cost of any contract the contractor is engaged in whichever is greater. Said bond shall be in a form approved by the District and must be suitable to insure payment for completion of Barrier work not completed by the Contractor. A cash deposit or other security acceptable to the District may be utilized in lieu of a bond. The District may establish a bonding program for all contractors, if deemed necessary to carry out these Rules. (3-27-07)

04. Suspension or Revocation of License. (3-20-97)

a. Upon a showing that a licensee has violated any provision of these Rules, or has violated any other health or building code within the boundaries of the Site or Institutional Controls Administrative Area, suspension or revocation of license may be imposed. Suspension may be made by any District health officer. Revocation may be made by the Director upon recommendation of the District health officer. Notification of suspension or revocation must be in writing. No suspension may be made for more than thirty (30) days without approval of the Director. Revocation of license may be made by the Director upon a showing of good cause. (3-27-07)

b. Appeal. Suspension or revocation may be appealed by the licensee to the Board in writing within thirty (30) days of receipt of notice of suspension or revocation. Appeal shall stay the suspension or revocation unless the Director makes a finding that such stay is likely to present a health risk to a person or persons. Appeals shall follow the procedures set forth in Section 020 of these rules. (3-20-97)

c. Any decision by the Board pertaining to a suspension or revocation of a license shall be made only after a licensee has been accorded an opportunity for hearing at which the licensee has a right to appear and be heard, to be represented by counsel, to testify, to present evidence, to call witnesses and to rebut any evidence presented. A transcribable recording of all such hearings shall be made and retained for at least six (6) months. Such hearing may be conducted by a hearing officer designated by the Board or by the Board itself. (3-20-97)

d. If a license is revoked, the contractor may, upon payment of any cleanup or remediation costs related to past work, reapply for reinstatement of license after one (1) year, however, a contractor whose license has been revoked may not obtain a new license under a different corporate or partnership status until this provision is satisfied. (3-20-97)

531. LICENSES FOR PUBLIC UTILITIES AND GOVERNMENT ENTITIES.
Upon a demonstration that supervisory employees of a public utility or government entity (city, county, special purpose district, or state of Idaho) have participated in an education program approved by, or provided by, the District, a utility company or government entity may receive an annual license which will allow their employees to perform excavation and grading operations without obtaining individual ICP permits. This license may be granted by the District and will require that the utility comply with performance standards and all other regulations contained herein or adopted by Resolution of the Board. All supervisory employees involved in and responsible for excavation and grading operations shall have participated in a District approved education program. The trained supervisor must pass information on to employees as is necessary to protect their health and safety and assure compliance with these rules. The District will provide training which owners and employees may participate in. Entities licensed under this section shall maintain a log of all excavations and grading operations on a form approved by the District. Such logs shall be forwarded to the District on a regular basis determined by the District. All licensees shall telephone the Shoshone or Kootenai County one-call locating service, as appropriate, prior to any excavation or grading operations. Licenses shall be renewed annually upon a showing that the utility or government entity has operated in compliance with this rule. This license may also be revoked as provided in Subsection 530.04. (3-27-07)

532. -- 539. (RESERVED)

540. PERFORMANCE OF WORK.

01. Completion of Work. All work done pursuant to an ICP Permit shall be completed in a neat and workmanlike manner and so scheduled as to cause the minimum interference with traffic or public use (if applicable) and a minimum dispersal of Contaminants. (3-20-97)

02. Work Delayed by Applicant. If the work is unduly delayed by the Applicant, and if the public interest reasonably so demands, the District shall have the authority, upon twenty-four (24) hours' written notice to the Applicant, to complete the work to the extent that the Barrier is restored and any hazardous material covered or removed. The actual cost of such work by the District (including legal fees), plus fifteen percent (15%) as an overhead charge, shall be charged to and paid by, the Applicant and/or the Owner. (3-27-07)

541. PERFORMANCE STANDARDS.
The Board will adopt, and from time to time amend, performance standards by Resolution; said standards shall ensure that work is performed in a safe and responsible manner and specify how work will be completed. Said standards shall be applicable to, but not be limited to, the following: materials handling; dust control; erosion/runoff control; disposal; transportation; barrier construction; demolition; renovation; grading; and subdivision development. Performance standards so adopted shall not amend any standard adopted within these rules, and these rules shall apply should any conflict arise between a rule and a performance standard. (3-20-97)

542. APPROVAL OF ALTERNATIVE STANDARDS.
Any person aggrieved by the substantive requirements of these rules or the performance standards, may appeal these requirements by providing a written request for approval of an alternative standard. The appeal shall be accompanied by an engineering report indicating why the appealing party should be relieved of the requirement for compliance or why the requested alternate standard is appropriate. At the Applicant's expense, the District may consult with its own engineer to confirm the applicability of these rules to the proposed project. The District health officer may approve an alternate standard where such approval does not jeopardize the public welfare or existing Barriers. The decision of the District health officer shall be in writing, stating the reasons therefor. (3-27-07)

543. OWNER AND APPLICANT RESPONSIBILITY FOR CLAIMS AND LIABILITIES.
Both the Owner and the Applicant shall be responsible to ensure that all rules contained herein are complied with. Applicant shall be responsible for all claims and liabilities arising out of work performed by the Applicant under the ICP Permit or arising out of the Applicant's failure to perform obligations with respect to these regulations. Owner shall be responsible for all claims and liabilities for work done by the Owner with or without a permit and for work done at the direction of the owner without a permit. Owner shall remain responsible to complete the project or restore the premises to a safe condition to the satisfaction of the District should the Applicant fail to complete or restore it. (3-20-97)

544. -- 899. (RESERVED)

900. ADMINISTRATIVE PROCEDURES, EXCEPTIONS, PENALTIES.

01. Responsibility of Permit Applicant. It shall be the responsibility of any person applying for, or required to apply for, a permit required by this Code, to show affirmatively, by all reasonable means, that his undertaking complies with this Code or with any related rules, statutes, or ordinances. (7-1-93)

02. Permit Revocation. Any permit or permission, actual or implied, granted by the Health Officer or his predecessors may be revoked, for cause, by written notice sent to the permit holder or his agent. Any person, association, or corporation who continues to act under such permit or permission actual or implied, more than ten days after the sending or delivery of notice of revocation shall be presumed to be in violation of this code and subject to the penalties provided herein. (7-1-93)

03. Variance Standards. A variance may be granted only upon an affirmative showing by an applicant that a unique and undue hardship is caused by a physical characteristic of a site that is not of the applicant's making and that approval of the variance would not be contrary to the public interest or to the purposes of the Code. (3-27-07)

04. Variance Procedures. (7-1-93)

a. An applicant for a variance shall obtain a Variance Application Form from Panhandle Health District 1 and, after completing the application form, shall return the application to the Environmental Office. The Variance Application shall require the applicant to provide, in addition to information required by the application form itself, the following: (7-1-93)

i. An accurate site plan showing development of the site in question, present and proposed, depicting all features relevant to the variance request. The Director, or his designee, shall identify information necessary to proper processing of the request if information other than that normally required must be supplied. The applicant shall describe the current and proposed use of the site in question. (7-1-93)

ii. A narrative statement addressing the efforts, including consideration of design alternatives, which the applicant has undertaken to comply with the rule from which a variance is sought. (7-1-93)

iii. A narrative statement explaining the nature of the hardship, if any, imposed by literal compliance with the rule in question. (7-1-93)

iv. A narrative statement explaining the effects of the requested variance on the interests of adjoining landowners and/or of the public at large. (7-1-93)

v. A narrative statement detailing what use could be made of the site in question if the requested variance were not granted. (7-1-93)

b. The completed Variance Application shall be returned to the Environmental Office accompanied by an initial filing fee as established by the Board. The completed application shall be submitted to the Panhandle Health District 1 Hearing Officer who shall determine whether, on its face, it sets forth a colorable claim for a variance from the Code. If the Hearing Officer determines that the application does not set forth a colorable claim for variance, he shall return the application to the applicant with a written explanation of the action taken. Said initial determination and the accompanying explanation shall be forwarded to the Board which shall act upon the Hearing Officer's initial determination by affirming it or remanding it to the Hearing Officer for further proceedings. (3-27-07)

c. If the Hearing Officer determines that the application presents a colorable claim for a variance, he shall return the application to the Environmental Office with instructions to prepare a notice of public hearing concerning the requested variance. The applicant shall pay an additional processing fee if the Hearing Officer makes such a finding. Said fee may be adjusted as with all other Panhandle Health District 1 fees in accordance with a sliding scale coordinated with Federal poverty standards. (3-27-07)

d. The Environmental Office staff shall notify the applicant that his application has passed the initial

screening and that the names and mailing addresses, on self-adhesive labels, of all owners of land located within three hundred (300) feet of the external boundaries of the site in question must be provided. Said names shall be provided or checked by a land title company or other business whose commercial purpose it is to provide such information. The applicant shall be solely responsible for the accuracy of such information. (7-1-93)

e. Using the mailing list provided by the applicant, notice of public hearing shall be sent by first class mail and posted on the site in question in a conspicuous manner. The Environmental Office shall maintain records verifying completion of the notification process. Mailing and posting shall be accomplished at least fifteen (15) days prior to the date of the hearing established by the Hearing Officer. (7-1-93)

f. Upon the appointed date, the Hearing Officer shall conduct a public hearing concerning the variance request. The applicant, Panhandle Health District 1 staff, interested members of the public, and public agency representatives shall be allowed to participate in such hearing. The Hearing Officer may establish time limits or other rules of procedure to expedite hearing of the request. The Hearing Officer shall establish a record of the hearing and shall see that a tape recording is made of the proceedings. Exhibits shall be identified in the record in order that they may be associated with the taped record of the hearing. (7-1-93)

g. Upon completion of the hearing and compilation of the record in each application, the Hearing officer shall prepare a recommended decision which shall be transmitted to the Board for final action. The Hearing Officer may recommend that the application be approved, be approved with conditions, or that the application be disapproved. His recommendation shall set forth facts found relevant to the decision, legal principles applicable to the recommended ruling, and conclusions drawn from the hearing process. (7-1-93)

h. At its next regular meeting, or as soon as the application can be placed upon its agenda, the Board shall consider the record compiled and the Hearing Officer's recommendation and shall decide the request without further hearing by the Board. The Board may accept the recommendation of the Hearing Officer, may reverse the recommendation, or may modify the recommended decision for reasons to be found in the record. If the Board modifies or reverses the Hearing Officer's recommendation it shall set forth its reasons for doing so in writing with reference to parts of the compiled record or conclusions drawn therefrom. The Board may also elect to remand the request to the Hearing Officer for clarification or for further hearings to obtain information the Board deems essential. Confirmation of the Hearing Officer's recommendation may be accomplished by Board action adopting the Hearing Officer's decision as its own. Appeals from Board action may be taken in accord with provisions of Section 39-418, Idaho Code. (7-1-93)

901. (RESERVED)

902. VIOLATION AND ENFORCEMENT.
Violation of any provision of these rules shall be subject to the following enforcement procedures: (3-20-97)

01. Violation of Rules. Any person, association, or corporation, or the officers thereof, violating any of the provisions of these rules shall be deemed guilty of a misdemeanor, and upon conviction thereof shall be punished by a fine not exceeding three hundred dollars ($300), or by imprisonment in the county jail for a term not exceeding six (6) months, or by both such fine and imprisonment. (3-20-97)

02. Liability of Violator. In addition to fine and imprisonment, any person, association, or corporation, or the officers thereof found to be in violation of these rules shall be liable, by civil action or restitution, for any expense incurred by the District in enforcing this act, or in removing or terminating any nuisance or health hazard. (3-27-07)

03. Other Action. Any person, association, or corporation, or the officers thereof shall additionally be subject to civil court action, including an injunction or restraining order, and to such penalties, costs, or fees as may be necessary to compel compliance. (3-20-97)

04. Successive Days in Violation. Each successive day in violation shall be considered a separate offense and shall be subject to individual penalties for each separate offense. (3-27-07)

903. -- 999. (RESERVED)

APPENDIX 1

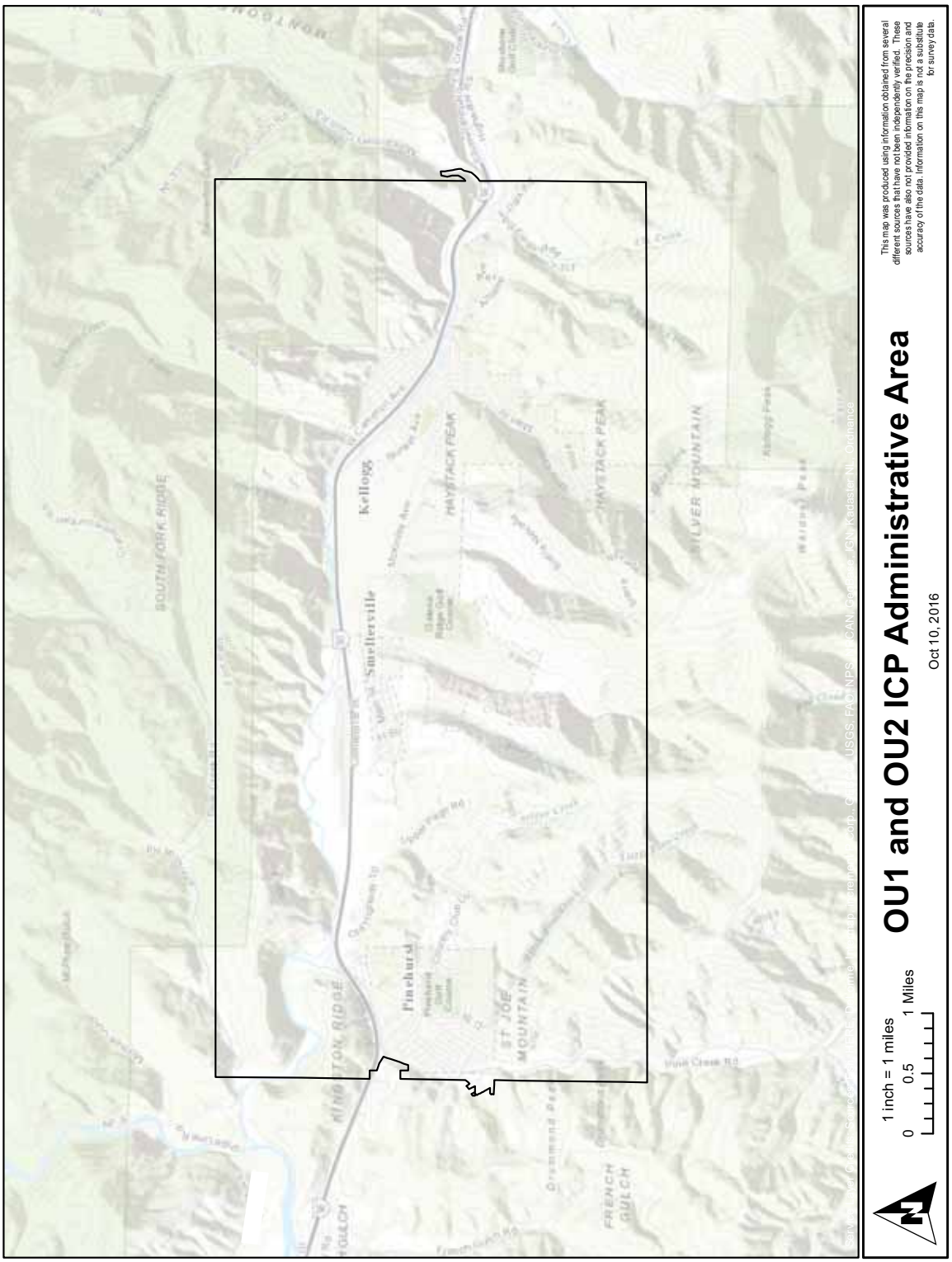
OU1 and OU2 ICP Administrative Area
Oct 10, 2016
1 inch = 1 miles
0 0.5 1 Miles
This map was produced using information obtained from several different sources that have not been independently verified. These sources have also not provided information on the precision and accuracy of the data. Information on this map is not a substitute for survey data.
Kellogg
Smelterville
Pinehurst
HAYSTACK PEAK
SILVER MOUNTAIN
SOUTH FORK RIDGE
KINGSTON RIDGE
ST JOE MOUNTAIN
FRENCH GULCH

APPENDIX 2

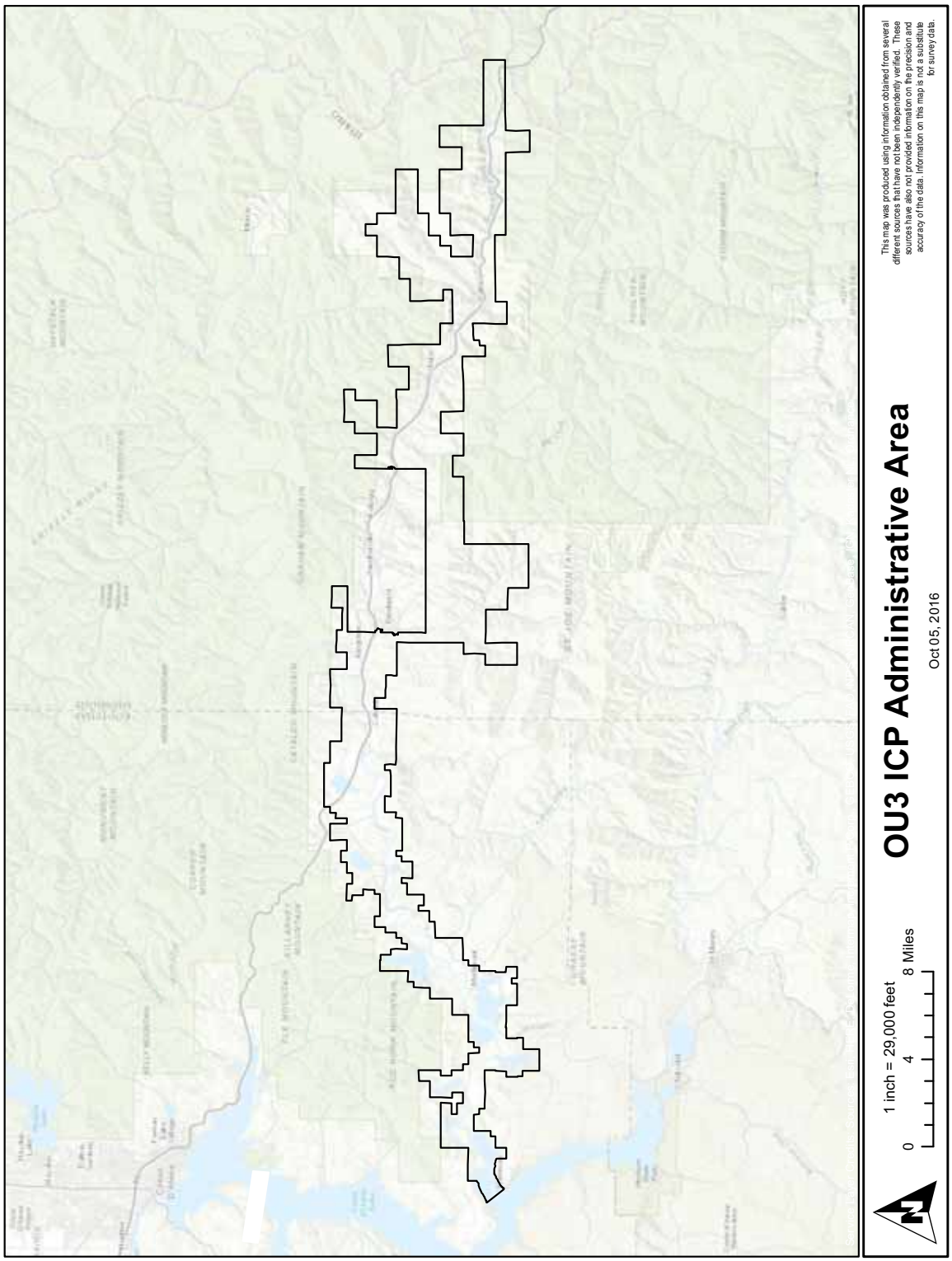
OU3 ICP Administrative Area
Oct 05, 2016
This map was produced using information obtained from several different sources that have not been independently verified. These sources have also not provided information on the precision and accuracy of the data. Information on this map is not a substitute for survey data.
1 inch = 29,000 feet
0
4
8 Miles

APPENDIX 3

APPLICABILITY OF BARRIER TYPES TO SITE USE ACTIVITIES: RESIDENTIAL

SITE USE ACTIVITIES																	
	Building Footprint		Landscaping			Vehicular Areas* Commercial classification of vehicular areas is subject to vehicle weight by volume.						Active Public Use Areas			Open Areas	
Barrier Type	Exposed	Sealed with Crawl Space	Flower/ Shrub Bed	Lawn Areas	Parking/ Loading Areas	Streets	Rural Roads	Alleys & Road Shoulders	Out-door Storage	Drive-ways	Walk-ways	Accessible to Children	Public Out-door Play Equipment	Vacant Lots	
12" Soil Cap	x		x	x							x	x		x	
24" Soil Cap	x		x	x					x		x	x	x	x	
12" Soil Cap with Sod & Grass	x		x	x								x	x	x	
24" Soil Cap with Sod & Grass	x		x						x		x	x	x	x	
6" Compacted Gravel with Restricted Access	x	x		x					x		x			x	
12" Compacted Gravel	x	x							x	x		x	x	x	
6" Clay Cap with Restricted Access	x	x												x	
Synthetic Membranes, Tyvek & Plastic		x													
Chip Seal on 12" Compacted Gravel Base	x						x	x	x		x	x	x	x	
Lignosite Spray on 12"Compacted Gravel Base	x						x	x	x		x		x	x	
Asphaltic Concrete	x				x	x	x	x	x	x	x	x	x	x	
Concrete	x	x			x	x	x	x	x	x	x	x	x	x	
12" Sand Cap			x												

APPENDIX 4

APPLICABILITY OF BARRIER TYPES TO SITE USE ACTIVITIES: COMMERCIAL

SITE USE ACTIVITIES																	
	Building Footprint		Landscaping			Vehicular Areas* Commercial classification of vehicular areas is subject to vehicle weight by volume.						Active Public Use Areas			Open Areas	
Barrier Type	Exposed	Sealed with Crawl Space	Flower/ Shrub Bed	Lawn Areas	Parking/ Loading Areas	Streets	Rural Roads	Alleys & Road Shoulders	Drive-ways	Out-door Storage	Walk-ways	Accessible to Children	Public Out-door Play Equipment	Vacant Lots	
12" Soil Cap	x		x	x								x	x	x	
24" Soil Cap	x		x	x								x	x	x	
12" Soil Cap with Sod & Grass	x		x	x								x	x	x	
24" Soil Cap with Sod & Grass	x		x	x								x	x	x	
6" Compacted Gravel with Restricted Access	x	x												x	
12" Compacted Gravel	x	x					x		x	x	x	x	x	x	
6" Clay Cap with Restricted Access	x													x	
Synthetic Membranes, Tyvek & Plastic		x													
Chip Seal on 12" Compacted Gravel Base	x						x			x	x	x	x	x	
Lignosite Spray on 12"Compacted Gravel Base	x						x			x			x	x	
Asphaltic Concrete	x				x	x	x	x	x	x	x	x	x	x	
Concrete	x	x			x	x	x	x	x	x	x	x	x	x	
12" Sand Cap			x												

APPENDIX 5

APPLICABILITY OF BARRIER TYPES TO SITE USE ACTIVITIES: INDUSTRIAL

SITE USE ACTIVITIES																
	Building Footprint		Landscaping			Vehicular Areas* Commercial classification of vehicular areas is subject to vehicle weight by volume.						Active Public Use Areas			Open Areas	
Barrier Type	Exposed	Sealed with Crawl Space	Flower/ Shrub Bed	Lawn Areas	Parking/ Loading Areas	Streets	Rural Roads	Alleys & Road Shoulders	Drive-ways	Out-door Storage	Walk-ways	Accessible to Children	Public Out-door Play Equipment	Vacant Lots	
12" Soil Cap	x		x	x								x	x	x	
24" Soil Cap	x		x	x								x	x	x	
12" Soil Cap with Sod & Grass	x		x	x								x	x	x	
24" Soil Cap with Sod & Grass	x		x	x								x	x	x	
6" Compacted Gravel with Restricted Access	x	x												x	
12" Compacted Gravel	x	x					x		x	x	x	x	x	x	
6" Clay Cap with Restricted Access	x													x	
Synthetic Membranes, Tyvek & Plastic		x													
Chip Seal on 12" Compacted Gravel Base	x						x			x	x	x	x	x	
Lignosite Spray on 12"Compacted Gravel Base	x						x			x			x	x	
Asphaltic Concrete	x				x	x	x	x	x	x	x	x	x	x	
Concrete	x	x			x	x	x	x	x	x	x	x	x	x	
12" Sand Cap			x												

APPENDIX 6				
If the soil interval tests out **equal** to or **greater than** 1,000 ppm lead		The soil interval tests out **less than** 1,000 ppm lead		The minimum soil removal and replacement depth is
0 - 1”		1 - 6”, 6 - 12”		6”
1- 6”		0 - 1”, 6 -12”		6”
6 - 12”		0 - 1”, 1 - 6”		12”
12 - 18”	AND	0 - 1”, 1 - 6”, 6 - 12”	THEN	No Action
0 - 1”, 1 - 6”		6 - 12”		6”
0 - 1”, 6 - 12”		1 - 6”		12”
1 - 6”, 6 - 12”		0 - 1”		12”
None		0 - 1”, 1 - 6”, 6 - 12”		No Action

APPENDIX 7				
If the soil interval tests out **equal** to or **greater than** 1,000 ppm lead		The soil interval tests out **less than** 1,000 ppm lead		The minimum soil removal and replacement depth is
0 - 1”		1 - 6”		6”
1- 6”	AND	0 - 1”	THEN	6”
6 - 12		0 - 1”, 1 - 6”		No Action
None		0 - 1”, 1 - 6”		No Action

IDAPA 42 – IDAHO WHEAT COMMISSION

DOCKET NO. 42-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Title 22 Chapter 33 of the Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 42.01.01, Rules of the Idaho Wheat Commission:

IDAPA 42
- IDAPA 42.01.01, *Rules of the Idaho Wheat Commission*

The rule making was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to simplify existing language and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 6522 - 6526**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The first purchaser of wheat shall collect and remit to the Idaho Wheat Commission the assessed tax on each bushel of wheat. This fee or charge is being imposed pursuant to Section 22-3315, Idaho Code.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Blaine Jacobson at (208) 334-2353.

Dated this 27th day of September, 2019.

Blaine Jacobson, Executive Director
Idaho Wheat Commission
821 W. State Street
Boise, ID 83706
Phone: (208) 334-2353
Fax: (208) 334-2505

000. LEGAL AUTHORITY.
In accordance with Section 22-3309, Idaho Code, the Idaho Wheat Commission has promulgated rules implementing the provisions of Title 22, Chapter 33, Idaho Code. (3-14-16)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 42.01.01, "Rules of the Idaho Wheat Commission," IDAPA 42, Title 01, Chapter 01. (3-14-16)

02. Scope. Pursuant to Section 22-3301, Idaho Code, the rules of the Idaho Wheat Commission promote the public health and welfare of the citizens of our state by providing means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho wheat. (3-14-16)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The definitions set forth in Section 22-3303, Idaho Code, apply to this chapter. (3-14-16)

011 -- 099. (RESERVED)

100. WHEAT TAX RETURN FORM.

01. Form. Wheat Tax Return forms are available at the Commission office for use by the first purchaser (buyer) of Idaho grown wheat in transmitting the Idaho wheat tax to the Commission. (3-14-16)

02. Procedures. At the end of each quarter, buyers shall execute the Wheat Tax Return (form). One (1) copy of the form and a check covering the entire amount of all wheat tax collections made during the quarter shall be mailed to the Executive Director of the Commission not later than the fifteenth day of the month at the end of each quarter (October 15, January 15, April 15, and July 15, respectively) of each calendar year. If no wheat has been purchased during any quarter, one (1) copy of the Wheat Tax Return form declaring that no wheat has been purchased, shall be signed and mailed to the Executive Director of the Commission. (3-14-16)

101. MIXTURES.
When the grain is purchased as wheat, the tax must be collected on the full net weight of the grain purchased. The tax must also be collected on any mixtures containing fifty percent (50%) or more of wheat. (3-14-16)

102. NET WEIGHT.
The tax must be collected on the net weight of the wheat after deduction of dockage and smut, and not upon the gross weight. (3-14-16)

103. TRUCKERS.
When a trucker purchases wheat from a grower, it is his responsibility under the law to deduct the tax and remit the amount to the Commission. The trucker in such instances is liable for the deduction of tax. Those who purchase wheat from such truckers are not directly liable for the deduction of tax, but buyers should make sure that the trucker has in fact purchased the wheat from a grower and is not the person who produced the wheat. (3-14-16)

104. WHEAT DELIVERED ON ACCOUNT OR EXCHANGED FOR OTHER WHEAT.
When wheat is delivered and credited to the account of a grower who is purchasing mixed feeds and other commodities, such transactions are really sales of the wheat delivered. In these cases, the buyer must deduct the tax from the amount credited to the grower and remit to the Commission just as though the sale had been made for cash. On the other hand, if the grower delivers the wheat in exchange for other wheat and no sale of the wheat is involved, the tax should not be deducted. (7-1-93)

105. END USE.
Idaho wheat is subject to tax when it is first sold or contracted into commercial channels. Beside traditional uses of wheat for flour milling, domestic and export, commercial channels include sale of wheat for use as feed, or any industrial or chemurgic use. (3-14-16)

106. -- 199. (RESERVED)

200. PENALTY FOR LATE PAYMENT OF WHEAT TAX.

01. Interest Penalties. Any person or firm who makes payment of wheat tax collections to the Commission at a date later than the fifteenth day of the month at the end of each quarter as prescribed in Subsection 100.02 of these rules, is subject to a late payment penalty of fifteen percent (15%) per annum on the amount due, unless that person or firm, within fifteen (15) days of the date, notifies the Commission in writing of any delay in payment and submits the payment of wheat tax collections within thirty (30) days of the prescribed due date. (3-14-16)

02. Additional Penalties. The Commission is entitled, in addition to the penalty of fifteen percent (15%) per annum, to recover from the buyer, all costs, fees, and reasonable attorney's fees incurred in collecting the wheat tax collections and penalty as prescribed in Section 22-3315, Idaho Code. (3-14-16)

201. -- 299. (RESERVED)

300. WHEAT UNDER COMMODITY CREDIT CORPORATION LOANS.

01. Payee. The Commission will be named as payee to receive three and one half cents ($.3½) per bushel when the producer's note and loan agreement is executed by the Farm Service Agency (FSA). In such cases, the lending agency will send the tax directly to the Commission. When the producer's note and loan agreement shows that the tax has been deducted and sent to the Commission, it will not be necessary for the buyer to deduct the tax when the wheat is purchased. (3-14-16)

02. Tax. Since the legislature has made the tax a lien prior to all other liens and encumbrances of the wheat, it is necessary for the grain buyer to make sure the tax has been paid in order to obtain clear title to the wheat. The tax should be deducted in all cases where there is not evidence that the tax was previously paid by a lending agency. In case errors occur and the tax is deducted by a lending agency and again deducted by a grain buyer, refund will be made by the Commission. (3-14-16)

301. INVOICES AND RECORDS.

01. Invoices. Section 22-3316, Idaho Code, provides for invoices to be delivered to the grower for each purchase. The Wheat Commission is not providing a special form for this purpose and suggests that buyers use the final settlement vouchers of accounts of sale commonly used in Idaho. The amount of the Idaho state wheat tax deducted must by shown on each settlement voucher. (7-1-93)

02. Vouchers. Buyers do not need to send the Commission copies of their settlement vouchers issued to individual growers but should keep copies available for examination by representatives of the Commission at a later date. Where it is not the practice to issue settlement vouchers of accounts of sale, buyers should be sure that they have accurate records of all wheat bought from growers and the amount of wheat bought from each grower. (7-1-93)

03. Delivery of Documents to Commission. The first purchaser of wheat shall complete and return the Report of Tax, or equivalent, to the Commission office at the end of each production year (July 1 through June 30). The report is due on the same date as the final quarter wheat tax as specified in Section 22-3315(1), Idaho Code, and along with the following: (3-28-18)

a. Name or names of the grower and seller; and (3-28-18)

b. Address or addresses of the grower and seller. (3-28-18)

302. -- 999. (RESERVED)

IDAPA 43 – IDAHO OILSEED COMMISSION

DOCKET NO. 43-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-4716, Idaho Code.

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

This pending fee rule adopts the following existing and previously approved and codified chapters under IDAPA 43, rules Governing the Idaho Oilseed Commission.

IDAPA 43
- IDAPA 43.01.01, *Rules Governing the Idaho Oilseed Commission*

The rule making was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to simplify existing language, and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 6529-6530.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. If a person is late in paying the assessment on oilseed sold or contacted for, the fee rule sets a late payment penalty of twelve percent (12%) per annum on the amount due.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Benjamin Kelly, (208) 888-0988.

Dated this 15th day of October, 2019.

Benjamin Kelly
Administrator
Idaho Oilseed Commission
55 SW 5th Ave, Suite 100
Meridian, Idaho 83642
(208) 888-0988

000. LEGAL AUTHORITY.
The Idaho Oilseed Commission (hereinafter "Commission") promulgates these rules implementing the provisions of Title 22, Chapter 47, Idaho Code. *( )*

001. TITLE AND SCOPE.
These rules are titled IDAPA 43.01.01, "Rules Governing the Idaho Oilseed Commission." (7-1-97)

***002*. -- 009. (RESERVED)**

010. FIRST PURCHASER RULES.

01. Designated Quarters. In accordance with Section 22-4716, Idaho Code, the Commission shall designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed by such statute as follows: (7-1-97)

a. The Commission's first quarter will begin on the first day of July and end the thirtieth day of September. The first quarter tax is due on or before the fifteenth day of October. (7-1-97)

b. The Commission's second quarter will begin on the first day of October and end the thirty-first day of December. The second quarter tax is due on or before the fifteenth day of January. (7-1-97)

c. The Commission's third quarter will begin on the first day of January and end the thirty-first day of March. The third quarter tax is due on or before the fifteenth day of April. (7-1-97)

d. The Commission's fourth quarter will begin on the first day of April and end the thirtieth day of June. The fourth quarter tax is due on or before the fifteenth day of July. (7-1-97)

02. Oilseed Tax Invoice (Form Number 1). Pursuant to Section 22-4719, Idaho Code, the first purchaser of oilseed is required to complete and send the Oilseed Tax Invoice (Form Number 1) to the Commission office each and every quarter on or before the dates specified in these rules. Form Number 1 shall be on official forms as prescribed by the Commission and be provided to the first purchaser by the Commission *and,* at a minimum, require the following legible information: *( )*

a. The date of purchases and tax reporting period. (7-1-97)

b. The name and address of the oilseed seller and purchaser. (7-1-97)

c. The net weight of the oilseed sold in pounds or hundredweights. (7-1-97)

d. The total amount of tax deducted from Idaho oilseed producers by the purchaser. (7-1-97)

e. The total amount of tax due the Commission. (7-1-97)

03. Late Payment Penalty. *Per* Section 22-4716(4), Idaho Code*, a*ny person or firm who makes payment to the Commission at a date later than prescribed by law, is subject to a late payment penalty of twelve percent (12%) per annum on the amount due. *( )*

011. -- 499. (RESERVED)

500. REFUND APPLICATIONS.

01. Assessment Refund. In accordance with Section 22-4717, Idaho Code, any seller may request from the Commission in writing, within thirty (30) days after payment thereof, a refund of all or any portion of an assessment levied on oilseed and paid by such seller. Sellers requesting an oilseed assessment refund, as specified in Section 22-4717, Idaho Code, are required to complete and return a refund application form (Form Number 2) to the Commission office no later than thirty (30) days after payment of the assessment. Form Number 2 will be available through the Commission office. Written requests for refund application forms must be sent to the Commission office. (7-1-97)

02. Refund Application Form Number 2. Form Number 2 shall, at a minimum, require the following

information from the applicant: (7-1-97)

a. The applicant's name and address. (7-1-97)

b. The applicant's federal tax identification number. (7-1-97)

c. The first purchaser or lender who deducted the assessment from the applicant's settlement. (7-1-97)

d. The applicant's date of settlement. (7-1-97)

e. The hundredweight of oilseed sold by the applicant. (7-1-97)

f. The dollar amount of oilseed assessment deducted from the applicant's settlement. (7-1-97)

g. The applicant shall enclose evidence with the application proving the oilseed assessment was deducted by providing a copy of the invoice (Form Number 1) for which the refund is claimed. In the absence of a copy of the invoice, the Commission may, but is not *bound* to, accept other satisfactory evidence of payment. *( )*

501. -- 999. (RESERVED)

IDAPA 45 – IDAHO HUMAN RIGHTS COMMISSION

DOCKET NO. 45-0101-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 45-616, 67-5996(12), and 44-1703(2), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 45, Rules of the Idaho Human Rights Commission:

IDAPA 45
- 45.01.01, *Rules of the Idaho Human Rights Commission*

The text of the pending rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 6,531-6,539**. These rules cover practice before the Idaho Human Rights Commission regarding alleged discrimination or harassment as prohibited by the Idaho Human Rights Act (I.C. § 67-59), and the Discriminatory Wage Rates Based Upon Sex Act (I.C. § 44-17). These rules explains the scope of the Idaho Human Rights Commission, as well as the details of a complaint of discrimination: the parties involved, contents, issues of timing, and process. It describes reasons for dismissal, options for mediation, and potential outcomes of complainants of discrimination. Changes have been made to reduce and clarify language throughout. Unnecessary selected portions of the Americans with Disabilities Act, as amended, which are already referenced in Section 45.012, Idaho Code have been eliminated.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lindsy Glick (208) 334-2873 x3435, **RulesReview@ihrc.idaho.gov**.

Dated this 22nd day of October, 2019.

Brian Scigliano
Idaho Human Rights Commission President
317 W. Main St.
Boise, ID 83735
Phone: (208) 334-2873
Fax: (208) 334-2664
Website: **https://humanrights.idaho.gov/**

000. LEGAL AUTHORITY.
These rules are *promulgated* under Sections 67-5906(12) and 44-1703(2), Idaho Code. *( )*

001. TITLE AND SCOPE.

01. Title. IDAPA 45.01.01, "Rules of the Idaho Human Rights Commission." *( )*

02. Scope. These rules cover practice before the Idaho Human Rights Commission *"Commission,"* pertaining to alleged violations of the Idaho Human Rights Act, Title 67, Chapter 59, Idaho Code, and the Discriminatory Wage Rates Based Upon Sex Act, Title 44, Chapter 17, Idaho Code. *( )*

002. ADMINISTRATIVE APPEAL.
There is no administrative appeal from any proceedings brought pursuant to this chapter. *( )*

003. LIBERAL CONSTRUCTION – NO CONTESTED CASES.
These rules will be liberally construed to secure just, speedy and economical determination of all issues presented to the Commission. Unless prohibited by statute, the Commission may permit deviation from these rules when it finds that compliance with them is impracticable, unnecessary or not in the public interest. The Commission specifically does not adopt the Attorney General's rules regarding Contested Case Proceedings. By statutory authority, the Commission does not conduct contested case proceedings. *( )*

004. DECLARATORY RULINGS.
Any individual who petitions for a declaratory ruling on the applicability of a statute or rule administered by the Commission must substantially comply with this rule. The petition addressed to the Administrator will: *( )*

01. Identify. Identify the petitioner and state the petitioner's interest in the matter; (7-1-93)

02. State. State the declaratory ruling that the petitioner seeks; and (7-1-93)

03. Cite. Cite the statute, rule, or other controlling law and the factual allegations upon which the petitioner relies to support the petition. (3-29-12)

005. -- 009. (RESERVED)

010. DEFINITIONS.

01. Act. The *Idaho* Human Rights Act, *Title 67, Chapter 59*, Idaho Code. *( )*

02. Commission. The Idaho Human Rights Commission. *( )*

03. Complainant. Any individual who files a complaint with the Commission pursuant to the Act. (3-29-12)

04. Complaint. A *written* statement *signed under oath and* filed with the Commission alleging an unlawful practice *under* the Act. *( )*

05. EEOC. The United States Equal Employment Opportunity Commission or any of its designated representatives. (3-29-12)

06. Party or Parties. The Complainant, the Respondent, the Commission, and any other individual or entity authorized by the Commission to intervene in any proceeding. (3-29-12)

07. Respondent. The party against whom a complaint is filed in accordance with the Act and these rules. (3-29-12)

011. REPRESENTATION OF PARTIES.
In proceedings before the Commission, Complainants, Respondents, witnesses and any other individuals or entities authorized by the Commission to intervene must be represented as follows: (3-29-12)

01. ***An*** **Individual**. *By* himself or herself, an attorney, or a family member. *( )*

02. ***A*** **Partnership** ***or limited liability company***. *B*y a partner, *member,* a duly authorized employee, or an attorney. *( )*

03. ***A*** **Corporation**. *B*y an officer, a duly authorized employee, or an attorney. *( )*

04. Other Entity. A municipal corporation, state, or local government agency, or entity, incorporated association, or non-profit organization must be represented by an officer, a duly authorized employee or an attorney. *( )*

012. INTERPRETATION OF STATE LAW.
*T*he Commission will *interpret and construe the Act in a manner consistent with its stated purposes, Section 67-5901, Idaho Code, and the federal anti-discrimination laws described in those purposes*. *( )*

013. -- *2*99. (RESERVED)

300. COMPLAINTS.

01. Who May File. A complaint may be filed *under the Act* by *a person as defined by the Act or a member of the Commission alleging an act, pattern, or practice of unlawful discrimination, or an unlawful reprisal.* *( )*

02. Commission Assistance. *A Commissioner, the Administrator, or staff member may assist* any Complainant *in filing a complaint*. The Commission reserves the right to refuse to accept a complaint for filing if, in the opinion of the Administrator, there is no reason to suspect that illegal discrimination may have occurred, or if the action is barred by the terms of Subsection 300.06.a. *( )*

03. Contents of Complaint. A complaint should contain the following: (7-1-93)

a. The full name, mailing address, and telephone number (if any and if known) of the Complainant or Complainants and Respondent or Respondents; ( )

b. A brief written statement sufficiently clear to identify the practices and describe generally the action or practice alleged to be unlawful; (7-1-98)

c. The date or dates on which the alleged unlawful discriminatory practices occurred and, if the alleged unlawful practice is of a continuous nature, the dates between which said continuing practices are alleged to have occurred; (7-1-93)

d. A statement as to any other action which has been instituted in any other forum or agency based on the same grievance as is alleged in the complaint. (7-1-93)

04. Medical Documentation. Individuals filing disability discrimination complaints may *need* to furnish the Commission with opinions or records from duly licensed health professionals regarding (a) the nature of their disabilities, and (b) any limitations, including work restrictions, caused by the disability. Failure to provide medical reports within a reasonable period of time may be cause for dismissal of a complaint. *( )*

05. Method of Filing. A complaint may be filed by personal delivery, mail, email, or facsimile delivered to the Commission office in Boise. (3-29-12)

06. Time for Filing. A complaint must be filed within one (1) year *of* the alleged unlawful *discrimination*. If the alleged unlawful practice is of a continuing nature, the date of the occurrence of said unlawful practice will be deemed to be any date subsequent to the commencement of the unlawful practice up to and including the date on which the complaint is filed if the alleged unlawful *discrimination* continues. *( )*

a. The date a *signed* complaint is received at the Commission's office will be noted on the complaint. For purposes of compliance with Section 67-5908(4), Idaho Code, the date of notation will be the date of filing. *( )*

07. Complaints Deferred by EEOC. Any complaint deferred to the Commission by the EEOC will be treated, for purposes of filing requirements, according to the rules stated above. (3-29-12)

08. Amended Complaints. A complaint may be amended, before the determination by the Commission and at the discretion of the Administrator, to cure technical defects or omissions, or to clarify or amplify allegations by the Complainant. (3-29-12)

09. Supplemental Complaint. The Complainant may file a supplemental complaint setting forth actions that have allegedly occurred subsequent to the date of the original or amended complaint, and said supplemental complaint, if timely filed, will be considered together in the same proceeding with the original or amended complaint whenever practicable. (3-29-12)

10. Withdrawal of Complaint. *Using a form provided by the Administrator, the Complainant may request that a complaint, or any part thereof, be withdrawn. A withdrawal may be granted at the Administrator's discretion, and both parties will be notified in writing.* *( )*

11. Initial Actions. When filed, a complaint will be docketed, assigned a complaint number, and assigned to the staff for mediation or investigation. (3-29-12)

12. Service on Respondent. *T*he Commission will *promptly* serve a copy of the complaint on the Respondent by personal delivery, mail, email, or facsimile. *( )*

13. Mediation. Upon the filing of a complaint, the Commission or its delegated staff member will endeavor to resolve the matter by informal means. Such informal means may include a mediation conference at a time and place acceptable to all participants, to clarify the positions of the parties to the complaint and explore any bases for no-fault settlement. A mediation conference is not a contested case hearing under Section 67-5209, Idaho Code. *( )*

14. Settlement. Terms of any settlement agreed to by the parties at any time prior to a determination by the Commission on the merits of the charge will be reduced to writing in a Settlement Agreement. Upon the signing of a Settlement Agreement by all parties, the Administrator will close the case. (3-29-12)

15. Answers. The Respondent must answer or otherwise respond to the complaint in writing within thirty (30) days of *service*. A copy of Respondent's answer, including any attachments submitted, will be sent by the Commission staff to the Complainant. Upon application, the Commission may for good cause extend the time within which the answer may be filed. The answer *should* be fully responsive to *the* allegation contained in the complaint*, and may provide supporting documentation and witness statements. The Commission may act on the complaint based on the information provided by the Complainant and other evidence before it if the Respondent fails to timely answer or otherwise respond.* Upon application, the Commission may for good cause shown permit the Respondent to amend its answer to the complaint. Any amendments to the complaint, or any supplemental complaint, will be served upon the Respondent as promptly as possible. Answers to amended or supplemental complaints, if necessary, must be submitted within ten (10) working days *of service*. Time for submitting such answers may be extended by the Commission to thirty (30) days for good cause. *( )*

16. Requests for Information, Answers, and Narrative Statements. At any time after the filing of a complaint, the Commission staff may issue to either *party* requests for information regarding any matter that is not privileged and that is relevant to the subject matter involved. *Commission staff will determine the time allotted for answers to request for information.* *( )*

17. File Briefs. Any party to a complaint filed with the Commission may file briefs or other written memoranda setting out *their* position or interpretation of the law. *( )*

18. Summary of Investigation. At the completion of the investigation, *Commission* staff will prepare a report containing a summary of the investigation and submit it to the Administrator to review. *( )*

19. Administrative Closure. At any point during the handling of a particular case, the Administrator

may close the case for administrative reasons that include, but are not limited to: (3-29-12)

a. Failure of the Complainant to accept a full relief settlement offer; (7-1-93)

b. Failure of the Complainant to cooperate with the Commission in the processing of the case, including failure to answer requests for information or failure to provide medical information as requested; (3-29-12)

c. Inability to locate the Complainant; (7-1-93)

d. *Lack of Commission* jurisdiction; *( )*

e. *F*iling of suit *by Complainant* in either state or federal court alleging the same unlawful practices *as the complaint*. *( )*

20. Notification of Closure. The Administrator will notify the parties of an administrative closure, including the grounds for the decision, as promptly as possible. (3-29-12)

21. Decision on the Merits. *Following* approval of the summary by the Administrator, the Commission or a designated panel of at least three (3) Commissioners will determine whether probable cause *(reasonable grounds) exist* to believe that the Respondent has been or continues to be engaged in any unlawful discriminat*ion as* defined in the Act. *( )*

22. No Probable Cause. If the Commission or designated panel finds no probable cause *supporting* the allegations of the complaint, *the investigative summary, written decision,* and order of dismissal will be issued by the Administrator *and* sent to Complainant and Respondent, thereby closing the case. *( )*

23. Probable Cause. If the Commission or designated panel finds probable cause *to believe unlawful discrimination has occurred, its written decision and investigative summary will be issued and served upon* Complainant and Respondent. *( )*

24. Conciliation. *After a* Commission find*ing of* probable cause, the Commission staff will endeavor through conference with the parties to redress and eliminate the possible unlawful discriminat*ion* by conciliation. *( )*

25. Conciliation Agreement. If conciliation is successful, a written Conciliation Agreement will be prepared that states all measures to be taken by any party, and, if appropriate, compliance provisions. *When a* Conciliation Agreement signed by the parties *is received*, the Administrator will close the case. *( )*

26. Failure of *Conciliation; Commission Court Actions*. If *a Conciliation Agreement cannot be reached*, the Commission*, at its discretion,* will determine whether *to file a court action in the name of the Commission on behalf of Complainant. If it determines not to file such an action, the Administrator will close the case and notify Complainant and Respondent*. *( )*

***27*. Notice of Right to Sue**. *When a* case *is closed*, the Administrator will issue a notice of administrative dismissal notifying the Complainant of *such dismissal and of their* right to file a *court* action within ninety (90) days. *( )*

2*8*. Confidentiality of Records. The records of the Commission are confidential according to Section 74-105(8), Idaho Code. The Commission and its employees will not reveal information about a case to nonparties except as may be necessary to conduct a full and fair investigation*, or as required by law*. All filings *will* be recorded at the Commission office where records are kept. The Administrator is the custodian of records *for the Commission.* *( )*

***29*. Document Destruction**. The Commission may retain closed investigatory files for three (3) years from the date of closure at which time these documents may be destroyed at the discretion of the Administrator. (3-29-12)

301. -- 999. (RESERVED)

IDAPA 46 – IDAHO BOARD OF VETERINARY MEDICINE

DOCKET NO. 46-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 54-2105, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 46.01.01, rules of the Board of Veterinary Medicine:

IDAPA 46
- 46.01.01, *Rules of the State of Idaho Board of Veterinary Medicine*

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 6540-6574**. This rule change includes language cleanup, removal of redundancies, removal of barriers to renewal, and simplification of practice act in compliance with the Red Tape Reduction Act.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Included in the fees are: veterinary license fee, vet license renewal fees, veterinary late fee, reactivation fee, CVT certificate fee, CVT certificate renewal fee, CVT late fee, CVT reactivation fee, CET certificate fee, CET certificate renewal fee, CEA certificate fee, CEA certificate renewal fee. These fees or charges are being imposed pursuant to Section 54-2105, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Jeremy Brown at (208) 332-8588.

Dated this 16th day of October, 2019.

Jeremy Brown
Executive Director
Idaho Board of Veterinary Medicine
2230 Old Penitentiary Road
P.O. Box 7249
Boise, ID 83707-1249
Phone: (208) 332-8588
Fax: (208) 332-8645
bovminfo@isda.idaho.gov
www.bovm.idaho.gov

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Title 54, Chapter 21, Idaho Code. (7-1-97)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is the "Rules of the State of Idaho Board of Veterinary Medicine," hereinafter referred to in these rules as the Board. (3-18-99)

02. Scope. These rules govern the licensing procedures, supervision requirements, standards of practice, inspections, and grounds for discipline of veterinarians, veterinary technicians, Committee on Humane Euthanasia members, and certified euthanasia technicians and agencies. The official citation of this chapter is IDAPA 46.01.01, et seq. For example, this Section's citation is IDAPA 46.01.01.001. (3-18-99)

002. -- 004. (RESERVED)

005. INCORPORATION BY REFERENCE.
The Principles of Veterinary Medical Ethics of the American Veterinary Medical Association (AVMA), as adopted and revised *April 2016, is incorporated herein by reference in accordance with the provisions of Section 67-5229, Idaho Code*. *( )*

006. -- 009. (RESERVED)

010. LICENSE.
Change of address. It is the responsibility of each licensed veterinarian to notify the Board office of any change of address. Failure to receive a renewal form from the Board does not constitute an excuse for failure to pay the renewal fee and fulfill the requirements of Section 54-2112, Idaho Code. *( )*

011. FEES.
Fees are established as authorized under Title 54, Chapter 21, Idaho Code, by action of the Board as follows:

01. Fees.

	New	*Temporary Permit*	*Active Renewal*	*Inactive Renewal*	*Late/ Reinstatement*	*Re-Activation Fee*
Veterinary License	*$317*	*$150*	*$175*	*$50*	*$200*	*$150*
Certified Veterinary Technician	*$167*	*$50*	*$75*	*$25*	*$50*	*$50*
Certified Euthanasia Agency	*$100*		*$200*		*$50*	
Certified Euthanasia Technician	*$100*		*$100*		*$50*	

( )

02. Administrative Services.

Duplicate Wall License/Certificate	*$25*
Veterinary License Verification	*$20*

( )

***012*. MANDATORY CONTINUING VETERINARY EDUCATION.**

01. Statement of Purpose. It is of primary importance to the public that veterinarians continue their veterinary education throughout the period of their active practice of veterinary medicine. These rules establish the minimum continuing veterinary education requirements necessary for veterinarians to maintain a license to engage in the practice of veterinary medicine in the state of Idaho. (7-1-97)

02. Approved Courses. *C*ourses and providers *accredited by* the American Association of Veterinary

State Board's Continuing Education Registry and courses and providers approved by the Board. ( )

03. Education Requirements. (7-1-93)

a. Minimum requirement. *Beginning July 1 after the initial license is issued all* active veterinarian in the state of Idaho shall complete a minimum of twenty (20) credit hours in every two-year period following the date of *their* admission to the practice of veterinary medicine in this state. ( )

b. Credit requirements. The following are the minimum and maximum credits that may be earned for each reporting period and the number of credits that may be obtained by participating in on-line or correspondence courses. (3-30-07)

i. A minimum of fourteen (14) hours of continuing education in veterinary medicine, surgery, and dentistry. (3-30-07)

ii. A maximum of six (6) hours of continuing education in management. (3-30-07)

iii. Veterinarians may obtain a maximum of fifteen (15) credit hours through approved on-line or correspondence courses. (3-30-07)

c. Retention of Original Documentation. The supporting documentation for compliance with continuing education requirements shall not be submitted with the report. Rather, the veterinarian needs to retain original documentation of attendance or completion of twenty (20) credit hours of approved courses at least until December 31 following the two-year (2) renewal period covered by the courses. (3-25-16)

d. *Audit*. Within thirty (30) days of notification of an audit, a veterinarian shall provide to the Board all documentation supporting attendance or completion of the courses reported. ( )

***04*. Credit for Attendance**. ( )

a. Credits *can be earned* by the active member in attendance at an accredited, domestic or foreign, course. No credit will be given for: ( )

i. Time spent in introductory remarks, coffee and lunch breaks, business meetings or other activities not involving the educational aspects of the course. (3-18-99)

ii. Any course attended before admission to practice veterinary medicine in Idaho. (7-1-93)

iii. Journal and magazine articles, videos or correspondence courses, unless specially approved by the Board. (7-1-97)

b. In cases of solo presentation, the presenter of an approved course shall be entitled to claim one (1) credit hour for each fifty (50) minutes of actual course instruction. By way of limitation, in no case shall the presenter be allowed more than eight (8) credit hours for any particular course or substantially related topic during the applicable two (2) year reporting period, regardless of how many times the course is offered or given. (3-20-14)

c. In cases of panel presentations, the number of continuing credit hours each panel member is entitled to claim shall be calculated by multiplying the actual number of course hours by two (2) and dividing that number by the number of panel members involved. (3-20-14)

d. Carryover Credit. No credit for attending approved courses in continuing veterinary education shall be applicable to any reporting period other than that during which the credit is actually earned. (7-1-97)

***013*. -- 099. (RESERVED)**

100. CERTIFICATION OF VETERINARY TECHNICIANS.

01. Certificate Required. Any person representing *themselves* as a veterinary technician, licensed veterinary technician, registered veterinary technician, or certified veterinary technician, shall hold a valid, unexpired certificate to practice veterinary technology in Idaho. *( )*

02. **Application for Certification -- Contents -- Examinations**. An individual desiring to be certified as a veterinary technician shall make written application to the Board upon a form furnished by the Board. *Applicants for certified veterinary technician in Idaho should be of good moral character and reputation*. A complete application is valid for a period of one (1) year, contain the applicant's notarized signature, and include: *( )*

a. A copy of a birth certificate or current passport proving that the applicant is eighteen (18) years of age or older. (4-2-08)

b. Documentation of education/training/experience as follows: (3-30-01)

i. A certified copy of a diploma or transcript, or a letter verifying graduation from a veterinary technology program, accredited by the American Veterinary Medical Association; (3-29-10)

ii. A certified copy of a diploma or transcript, or a letter verifying the award of a D.V.M. or V.M.D. degree or equivalent, from an accredited school of veterinary medicine; or (3-29-10)

iii. If a foreign veterinary graduate, a letter from the Educational Commission for Foreign Veterinary Graduates (ECFVG) certifying completion of the ECFVG program or a copy of the ECFVG certificate. (4-11-15)

c. Verification of a criterion-referenced passing score reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards on the Veterinary Technician National Examination (VTNE) or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board. If such a score is not available, the passing score shall be as reported by the Professional Examination Service or its designee, or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards or by the Board and shall be considered equal to or greater than one and five-tenths (1.5) standard deviation below the mean score of the examination. (3-30-01)

i. The VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board may have been taken at any time. (3-30-01)

ii. Scores for the VTNE or other national examination approved by the American Association of Veterinary State Boards or its designated test vendor or by the Board are to be provided to the Board by the Professional Examination Service or its designee or by other designated test vendors or their designees approved by the American Association of Veterinary State Boards. (3-30-01)

d. A passing score for the jurisprudence examination, which should be ninety percent (90%) or such score as deemed appropriate by the Board. The jurisprudence examination, as prepared by the Board or its designee, may be taken more than once, at three-month intervals. (3-29-10)

e. A completed application, other required documents, and first year's certification fee in the amount established by the Board shall be received at the Board office by the first day of January or June. All application and certification fees are nonrefundable. *( )*

101. TEMPORARY CERTIFICATION.

The Board may, at its discretion, issue a temporary certification. The temporary certification shall be valid for one (1) year or until the next certification review by the Board, whichever comes first, and under no circumstances can a second temporary certification be issued to the same person. A temporary certification will not be issued to any applicant whose certification, license or registration has been revoked in any state for a reason other than nonpayment of fees or failure to fulfill the renewal requirements. An applicant granted a temporary certification shall provide notarized verification of twelve (12) months of active practice during the past year as a veterinary technician in another state or perform all veterinary technology procedures under the direct supervision of an Idaho licensed veterinarian. *( )*

01. Certification Requirements. Requirements for a temporary certification shall be the same as for the original certification. (3-30-01)

02. Responsibility. Nothing herein shall be construed to relieve the temporary certificate holder of any responsibility or liability for any of their own acts and omissions. (3-30-01)

102. MANDATORY CONTINUING EDUCATION FOR CERTIFIED VETERINARY TECHNICIANS.

01. Statement of Purpose. It is of primary importance to the public that certified veterinary technicians continue their veterinary technology education throughout the period of their active practice of veterinary technology. These rules establish the minimum continuing veterinary technology education requirements necessary for certified veterinary technicians to maintain a license to engage in the practice of veterinary technology in Idaho. *( )*

02. Approved Courses. *Includes* courses and providers listed on the American Association of Veterinary State Board's Continuing Education Registry and courses and providers approved by the Board. *( )*

03. Education Requirements. (3-29-17)

a. Minimum requirement. Each active certified veterinary technician in Idaho shall complete a minimum of fourteen (14) credit hours of accredited continuing veterinary technology education activity in each and every two-year period following the date of *their* admission to the practice of veterinary technology in *Idaho*. *( )*

b. Credit requirements. The following are minimum and maximum credits that may be earned for each reporting period and the number of credits that may be obtained by participating in on-line or correspondence courses. (3-29-17)

i. A minimum of ten (10) hours of continuing education in veterinary technology. (3-29-17)

ii. A maximum of four (4) hours of continuing education in management. (3-29-17)

c. Attendance period. The attendance period is based upon the fiscal year (July 1 through June 30). (3-29-17)

i. Retention of original documentation. The supporting documentation for compliance with continuing education requirements shall not be submitted with the report *but* rather*, retained with* the certified veterinary technician at least until December 31 following the two-year (2) renewal period covered by the course. *( )*

ii. Within thirty (30) days of notification of an audit, a certified veterinary technician shall provide to the Board all documentation supporting completion of the courses reported. (3-29-17)

***04*. Credit for Attendance**. Continuing veterinary technology education credits may be earned by attending or presenting approved continuing veterinary technology education. (3-29-17)

a. Credits. One (1) credit hour will be given for each fifty (50) minutes actually spent by the active *certificant* in attendance at an accredited, domestic or foreign, course. No credit will be given for: *( )*

i. Time spent in introductory remarks, coffee and lunch breaks, business meetings or other activities not involving the educational aspects of the courses; (3-29-17)

ii. Any course attended before admission to practice veterinary technology in Idaho; or (3-29-17)

iii. Journal and magazine articles, videos or correspondence courses, unless specially approved by the Board. (3-29-17)

b. In cases of solo presentation, the presenter of an approved course shall be entitled to claim one (1) credit hour for each fifty (50) minutes of actual course instruction. By way of limitation, in no case shall the presenter be allowed more than eight (8) credit hours for any particular course or substantially related topic during the applicable two-year reporting period, regardless of how many times the course is offered or given. (3-29-17)

c. In cases of panel presentations, the number of continuing credit hours each panel member is entitled to claim shall be calculated by multiplying the actual number of course hours by two (2) and dividing that number by the number of panel members involved. (3-29-17)

d. Carryover Credit. No credit for attending approved courses in continuing veterinary technology education is applicable to any reporting period other than that during which the credit is actually earned. (3-29-17)

103. SUPERVISING VETERINARIANS.

01. Statement of Purpose. Veterinarians licensed under the provisions of Title 54, Chapter 21, Idaho Code, are responsible for all temporary licensees and temporary certification holders, certified euthanasia technicians, certified veterinary technicians, veterinary assistants, or any others to whom they delegate the performance of acts pertaining to the practice of veterinary medicine. (3-29-10)

02. A Supervising Veterinarian Shall: (3-30-01)

a. Provide direct supervision for all procedures pertaining to the practice of veterinary medicine that are delegated to a certified veterinary technician, a veterinary technician working under a temporary certification, an assistant or any others with the exception of: (3-29-10)

i. Routine procedures in the practice of veterinary technology that include, but are not limited to, taking radiographs, weight and temperature, or as determined by the standard of practice for the area. These routine procedures may be performed under the indirect supervision of the veterinarian. (3-30-01)

ii. Previously prescribed antibiotics and medications, which may be administered, dispensed, and delivered under the indirect supervision of the veterinarian. Previously prescribed antibiotics and medications does not include injectable controlled substances, injectable tranquilizers, injectable sedatives, and injectable or inhalant anesthetics, which may only be administered under the direct supervision of the veterinarian. (3-20-14)

iii. Emergency situations. In these situations, in order to stabilize the animal, the veterinarian, while en route to the location of the distressed animal, may prescribe treatment and delegate appropriate procedures pertaining to the practice of veterinary medicine under indirect supervision. ( )

b. Be available to supervise and direct all procedures pertaining to the practice of veterinary medicine that are delegated to others. (3-29-10)

c. Bear legal responsibility for the health, safety and welfare of the animal patient that the temporary licensee, temporary certification holder, certified veterinary technician, assistant, or any others serves. (3-29-10)

d. Not delegate an animal health care task to an unqualified individual. (3-30-01)

e. Make all decisions relating to the diagnosis, treatment, management, and future disposition of an animal patient. (3-30-01)

f. Have examined the animal patient prior to the delegation of any animal health care task to a certified veterinary technician, temporary certification holder, or assistant. The examination of the animal patient shall be conducted at such times as acceptable veterinary medical practice dictates, consistent with the particular delegated animal health care task. (3-30-01)

g. Diagnose and perform operative dentistry, oral surgery, and teeth extraction procedures. Operative dentistry and oral surgery are considered to be any dental procedure which invades the hard or soft oral tissue including, but not limited to, a procedure that alters the structure of one (1) or more teeth or repairs damaged and

diseased teeth, or the deliberate extraction of one (1) or more teeth. Operative dentistry and oral surgery do not include, removal of calculus, soft deposits, plaque, stains, floating to shape the teeth, or smoothing, filing or polishing of tooth surfaces above the gum line. (3-30-01)

03. Limitations on Supervising Veterinarians. Unless otherwise provided by law or rule, a supervising veterinarian shall not authorize a certified veterinary technician, a veterinary technician working under a temporary certification, an assistant or anyone else, other than a licensed veterinarian or a veterinarian holding a valid temporary permit to perform the following functions: (3-29-10)

a. Surgery; (7-1-93)

b. Diagnosis and prognosis of animal disease; (7-1-93)

c. Prescribing drugs, medicines and appliances; or (3-30-01)

d. Diagnosis and performance of procedures that constitute operative dentistry/oral surgery as defined by Section 54-2103(13)(b), Idaho Code. (3-30-01)

104. VETERINARY TECHNICIAN CERTIFICATION -- RENEWAL.
Change of address. It is the responsibility of each certified veterinary technician to notify the Board office of any change of address. Failure to receive a renewal form from the Board does not constitute an excuse for failure to pay the renewal fee and completion of the prescribed form. ( )

105. GROUNDS FOR DISCIPLINE OF VETERINARY TECHNICIANS.
In addition to the provisions of Section 54-2118, Idaho Code, the Board may refuse to issue, renew, or reinstate the certification of a veterinary technician, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a veterinary technician, or may impose other forms of discipline, and enter into consent agreements and negotiated settlements with certified veterinary technicians pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for any of the following reasons: (3-30-01)

01. Fraud, Misrepresentation, or Deception. The employment of fraud, misrepresentation or deception in obtaining certification. (3-30-01)

02. Unethical or Unprofessional Conduct. Unethical or unprofessional conduct is conduct that includes, but is not limited to, any of the following: (3-30-01)

a. False or misleading advertising or solicitation; (3-30-01)

b. Providing any procedure to an animal that constitutes the practice of veterinary medicine or veterinary technology and which has not been delegated by the supervising veterinarian, except in the case of an emergency as defined by Section 54-2103(16), Idaho Code; (3-29-10)

c. Working in conjunction with any unlicensed or uncertified person who is practicing veterinary medicine or veterinary technology; (3-30-01)

d. Failing to apply sanitary methods or procedures in the treatment of any animal; (3-30-01)

e. Physically abusing a patient or failing to conform to the currently accepted standards of care in the field of veterinary technology for any animal under their care; (3-30-01)

f. Practicing veterinary technology in a manner that endangers the health and welfare of the patient or the public. A certified veterinary technician shall not practice veterinary technology if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance, or as a result of any mental or physical disability; (3-30-01)

g. Gross ignorance, incompetence or inefficiency in the practice of veterinary technology as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to

practice veterinary technology in *Idaho* and the current teaching at accredited programs in veterinary technology; *( )*

h. Intentionally performing a duty, task or procedure in the field of veterinary technology for which the individual is not qualified; (3-30-01)

i. Swearing falsely in any testimony or affidavits relating to, or in the course of, the practice of veterinary technology. (3-30-01)

j. Engaging in conduct of a character likely to deceive or defraud the public. (3-30-01)

03. Conviction of Violating Any Federal or State Statute, Rule or Regulation. Conviction of a charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances. (3-30-01)

04. Conviction of a Charge or Crime. Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in *Idaho* or any other state of one (1) or more of the following: *( )*

a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or (3-30-01)

b. Any other criminal act that in any way is related to the practice of veterinary technology as defined by Section 54-2103(47), Idaho Code. (3-30-01)

05. Medical Incompetence. Medical incompetence in the practice of veterinary technology, which means lacking in sufficient medical knowledge or skills or both to a degree likely to endanger the health of patients. (3-30-01)

06. Physical or Mental Incompetence. Physical or mental incompetence, which means the individual's ability to practice veterinary technology with reasonable skill and safety is impaired by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals or any other substance, or as a result of any physical or mental disability. (3-30-01)

07. Malpractice or Negligence. Malpractice or negligence, in the practice of veterinary technology, which includes, but is not limited to: (3-30-01)

a. Treatment in a manner contrary to accepted practices in veterinary technology and with injurious results; (3-30-01)

b. Any professional misconduct or unreasonable lack of professional skill or fidelity in the performance of an act that is part of the practice of veterinary technology; (3-30-01)

c. Performance of an act that is part of the practice of veterinary technology without adequate supervision; except in the case of an emergency as defined by Section 54-2103(16), Idaho Code; or (3-30-01)

d. The negligent practice of veterinary technology, as determined by the standard of practice for the area, that results in injury, unnecessary suffering or death. (3-30-01)

08. Cruelty to Animals. Cruelty to animals, including, but not limited to, the intentional and malicious infliction of pain, physical suffering, injury or death, performance of experimental treatments without the owner's consent, deprivation of necessary sustenance, withholding of appropriate pain medications or levels of pain medications, or the administration of unnecessary procedures and treatment. Infliction of pain on any animal in self-defense, or to prevent physical harm to others, or in accordance with local custom and culture in moving, handling, treating, dehorning, castrating or performing other procedures on livestock, shall not be considered cruel or physically abusive unless done in an unnecessary or intentionally malicious manner. This provision does not alter Section 25-3514, Idaho Code. (3-30-01)

09. Revocation, Suspension, Limitation or Subjection. The revocation, suspension, limitation, or subjection of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice veterinary technology in that state or jurisdiction on grounds other than nonpayment of the renewal fee. (3-30-01)

10. Continuing Education. Failure to comply with the continuing education requirements outlined by Board rules. (3-30-01)

11. Failure to Cooperate. (3-30-01)

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder. (3-30-01)

b. Failure to comply with the terms of any order, negotiated settlement or probationary agreement of the Board. (3-30-01)

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees as specified by Section 104 of these rules. (3-30-01)

12. Aiding or Abetting. Knowingly aiding or abetting an unlicensed or uncertified person to practice veterinary medicine or veterinary technology. (3-30-01)

13. Current Certification. Practicing as a certified veterinary technician without a current certification. (3-30-01)

14. Acceptance of Fees. Accepting fees for veterinary technician services from a client. (3-30-01)

15. Unlawful Practice. Representing oneself as a doctor of veterinary medicine, which constitutes the unauthorized practice of veterinary medicine in violation of Title 54, Chapter 21, Idaho Code. (3-30-01)

16. Violation of Law, Rules or Order. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any of the provisions of the veterinary law or rules or a written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code. (3-30-01)

***106*. -- 149. (RESERVED)**

150. VALID VETERINARIAN/CLIENT/PATIENT RELATIONSHIP.
An appropriate veterinarian/client/patient relationship will exist when: (7-1-97)

01. Responsibility. The veterinarian has assumed the responsibility for making medical judgements regarding the health of the animal and the need for medical treatment, and the client (owner or other caretaker) has followed the instructions of the veterinarian. (7-1-97)

02. Medical Knowledge. There is sufficient knowledge of the animal by the veterinarian to initiate at least a general or preliminary diagnosis of the medical condition of the animal. This means that the veterinarian has seen the animal within the last twelve (12) months or is personally acquainted with the keeping and care of the animal, either by virtue of an examination of the animal, or by medically appropriate visits to the premises where the animals are maintained within the last twelve (12) months. (4-7-11)

03. Availability. The practicing veterinarian or designate is readily available for follow-up in case of adverse reactions or failure of the regimen of therapy. (3-30-07)

151. UNPROFESSIONAL CONDUCT.
Any violation of the Principles of the Veterinary Medical Ethics of the American Veterinary Medical Association, *these rules, Chapter 21, Title 54, Idaho Code,* constitute*s* unprofessional conduct. Unprofessional conduct includes,

but is not limited to: ( )

01. Unsanitary Methods or Procedures. Failure to apply sanitary methods or procedures in the treatment of any animal, contrary to *Board* rules. ( )

02. Association with Illegal Practitioners. *Includes*, but *is* not limited to: ( )

a. Having a professional relationship or connection with, lending one's name to, or otherwise aiding and abetting any illegal or unlicensed practice or practitioner of veterinary medicine and the various branches thereof; (4-5-00)

b. Rendering professional service in association with a person who is not licensed and does not hold a temporary permit; or (4-5-00)

c. Sharing fees with any person, except a licensed veterinarian, for services actually performed. (4-5-00)

03. False Testimony. Swearing falsely in any testimony or affidavits relating to, or in the course of, the practice of veterinary medicine, surgery or dentistry. (4-5-00)

04. Gross Ignorance, Incompetence or Inefficiency. In determining gross ignorance, incompetence or inefficiency in the profession, the Board may take into account all relevant factors and practices including, but not limited to, the practices generally and currently followed and accepted by the persons licensed to practice veterinary medicine in *Idaho*, the current teaching at accredited veterinary schools, relevant technical reports published in recognized veterinary medical journals, and the desirability of reasonable experimentation in the furtherance of the art of veterinary medicine. ( )

05. Improper Supervision. *Includes*, but *is* not limited to: ( )

a. Permitting, allowing, causing or directing any individual to perform a duty, task or procedure that they are not qualified to perform. (3-30-01)

b. Providing, permitting, allowing, causing or directing any individual to perform inadequate anesthetic monitoring. Evidence of this monitoring shall be documented in written form and contained within the medical record. (3-30-07)

06. Association with Others. Accepting fees from the providers of animal services or products when referring clients to such providers. (4-5-00)

152. CODE OF PROFESSIONAL CONDUCT.
The Board's code of professional conduct includes, but is not limited to, the following standards of conduct. *A veterinarian shall*: ( )

01. Veterinarian/Client/Patient Relationship. *N*ot dispense or prescribe controlled substances, prescription or legend drugs except in the course of *their* professional practice and after a bona fide veterinarian/client/patient relationship as defined by Section 150 of these rules has been established. ( )

02. Health Certificate. *N*ot issue a certificate of health unless *they have* personal knowledge by means of actual examination and appropriate testing of the animal that the animal meets the requirements for issuance of such a certificate. ( )

03. DEA and Controlled Substance Registration. *N*otify the Board of the suspension, revocation, or voluntary surrender of *their* federal Drug Enforcement Administration (DEA) registration and *their* state controlled substance registration. ( )

04. Ability to Practice. *N*ot practice veterinary medicine as to endanger the health and welfare of *their* patients or the public. A veterinarian shall not practice veterinary medicine if *their* ability to practice with reasonable

skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability. ( )

05. Conflicting Interests. Not represent conflicting interests except by the express consent of all the parties after full disclosure of all the facts. A conflict of interest includes, but not be limited to, accepting a fee from a buyer to inspect an animal for soundness and accepting a fee from the seller. ( )

06. Confidentiality. Maintain a confidential relationship with their clients, except as otherwise provided by law or required by considerations related to public health and animal health. ( )

a. The information contained in veterinary medical records is considered confidential. It is unethical for a veterinarian to release this information except by court order or consent of the patient's owner or other caretaker at the time treatment was rendered. (3-30-01)

b. Without express permission of the practice owner, it is unethical for a veterinarian or certified veterinary technician to remove, copy, or use the medical records or any part of any record belonging to the practice or its owner for any purpose other than the business of the practice. (3-30-07)

07. Physical Abuse-Patient. Not physically abuse a patient or fail to conform to the currently accepted standards of care in the veterinary profession for any animal under their care. ( )

08. Preservation of Patient's Body. Where possible preserve for twenty-four (24) hours the body of any patient that dies while in the veterinarian's care until the owner can be contacted, except as otherwise provided by law. The time of contact or attempted contact with the owner shall be documented in the medical record. The veterinarian is allowed to use the usual manner of disposal if the owner has not made pick-up arrangements within twenty-four (24) hours of the documented contact time. ( )

09. Consent for Transporting. Obtain written consent from a patient's owner or other caretaker before transporting a patient to another facility for veterinary medical care or any other reason, unless circumstances qualifying as an emergency do not permit obtaining such consent. ( )

10. Patient Record. Maintain a patient record for each animal or herd that accurately reflects the veterinary problems and interventions and conforms to the standards set forth in Section 154 of these rules. ( )

11. Supervision. Provide the proper form of supervision required for persons to whom veterinary functions are delegated or assigned. ( )

12. Cooperation with Authorities. Cooperate with authorities in the investigation of the incompetent, unethical or illegal practice of veterinary medicine by any individual including another veterinarian. ( )

13. Refusal to Render Services. Have the right to refuse to render veterinary medical services for any reason, or refuse an owner's request to euthanize a healthy or treatable animal. ( )

14. Improper Disposal of Controlled Substances. Dispose of all controlled substances and the containers, instruments and equipment used in their administration in conformance with the requirements of the Code of Federal Regulations and the Idaho Board of Pharmacy law and rules. ( )

153. STANDARDS OF PRACTICE.

Veterinarians shall adhere to the standards of practice including, but not limited to: ( )

01. Practice Procedures. A licensed veterinarian shall exercise at least the same degree of care, skill, and diligence in treating patients that is ordinarily used in the same or similar circumstances by members of the veterinary medical profession of similar training and experience in the community in which he practices. ( )

02. Immunization. When the primary objective is to protect the patient's health and a professionally acceptable immunization procedure is being sought, an examination of the animal by the veterinarian is required prior to each and every immunization procedure, unless the animal has been examined in the last ninety (90) days, except

in the practice of large animal medicine where mass immunizations of animal herds is involved or when immunization is performed by the patient's owner. For the purpose of this subsection, the definition of "owner" in addition to ownership as defined by the laws of the ownership of property, non-profit organizations dedicated to the care and treatment of animals *is* considered the owners of animals in their custody if such organizations are the primary care giver for the animal or if the true owner of such animal cannot be immediately determined. *( )*

03. Relationship. A veterinarian shall establish a valid veterinarian/client/patient relationship as defined by Section 150 of these rules, prior to dispensing, using, prescribing, or selling any controlled substance or legend drug, or the prescribing of an extra-label use of any drug. *( )*

04. Dispense and Distribute in Good Faith. A veterinarian dispensing or distributing any drug or medicine shall dispense or distribute such drug or medicine in good faith, within the context of a valid veterinarian/client/patient relationship as defined by Section 150 of these rules, and shall, except in the case of any drugs and medicines that are in containers that bear a label of the manufacturer with information describing their contents and that are in compliance with the requirements of the Federal Food, Drug, and Cosmetic Act, 21 CFR 201.105, affix or cause to be affixed to the container containing the drug or medicine a label indicating: *( )*

a. The date on which such drug or medicine is dispensed; (4-5-00)

b. The name of the owner and patient; (4-2-08)

c. The last name of the person dispensing such drug or medicine; (4-5-00)

d. Directions for use thereof, including dosage and quantity; and (4-5-00)

e. The proprietary or generic name of the drug or medicine. (4-5-00)

05. **Anesthesia Standards**. All anesthetized animals shall be appropriately monitored and under supervision. *( )*

154. RECORD KEEPING STANDARDS.
Every veterinarian shall maintain *detailed* daily medical records of the animals treated *that meet the professional standards set out in Section 153 of these rules*. These records may be computerized and shall be readily retrievable to be inspected, duplicated, or submitted when requested by the Board. All records, including electronic records, shall be safeguarded against loss, defacement, tampering, and use by unauthorized personnel. If changes are made to any records (either hard-copy or electronic), the records must clearly reflect what the change is, who made the change, when the change was made, and why. In the case of electronic records, the veterinarian shall keep either a duplicate hard-copy record or a back-up electronic record. Records shall be maintained for a period of three (3) years following the last treatment or examination. Patient medical records shall be maintained for every animal accepted and treated as an individual patient by a veterinarian, or for every animal group (for example, herd, litter, and flock) treated by a veterinarian. *( )*

01. Medical Records. Medical records shall include, but not be limited to: (7-1-97)

a. Name, address and phone number of the animal's owner or other caretaker. (7-1-97)

b. Name and description, sex (if readily determinable), breed and age of animal; or description of group. (7-1-97)

c. Dates (beginning and ending) of custody of the animal. (7-1-97)

d. A short history of the animal's condition as it pertains to the animal's medical status. (7-1-97)

e. Results and notation of *each* examination, *including the animal's* condition and diagnosis suspected. *( )*

f. All medications, treatments, prescriptions or prophylaxis given, including amount, frequency, and

route of administration for both inpatient and outpatient care. (3-29-10)

g. Diagnostic and laboratory tests or techniques utilized, and results of each. (7-1-97)

h. *All anesthetized animals shall be appropriately monitored and under supervision at all times. Evidence of this monitoring shall be documented in writing in the medical record.* *( )*

02. Consent Forms. Consent forms, signed by the patient's owner or other legal caretaker for each surgical or anesthesia procedure requiring hospitalization or euthanasia, shall be obtained, except in emergency situations, for each animal and be maintained on file with the practitioner. (3-30-07)

03. Postoperative Instructions. Postoperative home-care instructions shall be provided in writing and be noted in the medical record. (3-30-07)

04. Treatment Records. Veterinarians who practice with other veterinarians shall indicate by recognizable means on each patient's or animal group's medical record any treatment the veterinarian personally performed and which treatments and procedures were delegated to a technician or assistant to perform. *The patient's record must also include a notation indicating when the animal was handed-off to another veterinarian or a treatment or procedure delegated to a technician or assistant along with a summary of the animal's condition and diagnosis at the time of the hand-off.* *( )*

05. Ownership of Medical Records. Medical records are the personal property of the hospital or the proprietor of the practice that prepares them. Other veterinarians, including those providing subsequent health needs for a patient, and the patient's owner may receive a copy of the patient's medical record, upon the request of the patient's owner or other caretaker. Records shall be supplied within three (3) business days, counting the day of the request if a business day. *( )*

06. Diagnostic Image Identification and Ownership. All diagnostic images shall be labeled in the emulsion film or digitally imprinted to identify the veterinarian or premise, the patient, the owner, the date, and anatomical orientation. A diagnostic image is the physical property of the hospital or the proprietor of the practice that prepares it, and it shall be released upon the request of another veterinarian who has the authorization of the owner of the animal to whom it pertains or to the Board. Such diagnostic images shall be returned within a reasonable time to the veterinarian who originally ordered them to be prepared. (4-2-08)

07. Estimates. A veterinarian shall make available to each client a written estimate on request. (3-30-07)

08. Controlled Substances and Prescription or Legend Drugs. A controlled substance is any substance classified by the federal Food and Drug Administration or the Idaho Board of Pharmacy in Schedules I through V of the state or federal Controlled Substances Act, Title 37, Chapter 27, Idaho Code, or 21 CFR 1308. A prescription or legend drug is any drug that under federal law is required, prior to being dispensed or delivered, to be labeled with one (1) of the following statements: "Caution federal law prohibits dispensing without a prescription"; or "RX Only"; or "Caution: Federal law restricts this drug to used by or on the order of a licensed veterinarian"; or a drug which is required by any applicable federal or state law or regulation or rule to be dispensed on prescription only, or is restricted to use by practitioners only. A veterinarian shall only dispense or distribute a controlled substance or prescription or legend drug within the context of a valid veterinarian/client/patient relationship as defined by Section 150 of these rules. (3-30-01)

a. Records shall be kept *in compliance* with all federal and state laws *and be recorded in the patient records* along with the initials of the veterinarian who authorized the dispensing or distribution of the controlled substances, prescription, or legend drugs. *( )*

b. A separate inventory record shall be kept for each controlled substance by name and strength *including*: *( )*

i. Records of the receipt, which include all information required by federal law, the date of the receipt, the amount received, the source of receipt, and the invoice number. (7-1-97)

ii. Records of dispensing, which include the date the controlled substance was dispensed, the amount dispensed, the animal's name, identification of the patient record, identification of the person who dispensed the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal law. (7-1-97)

c. Records for all dispensed or distributed prescription or legend drugs shall be maintained in the individual patient or herd record and include the date the drug was dispensed or distribution was authorized, the amount dispensed or distributed, identification of the person who dispensed or authorized distribution of the drug, identification of the veterinarian who supervised the dispensing and any other information required by federal or state law, regulation or rule. (3-30-01)

d. Prescription drug order means a lawful written or verbal order of a veterinarian for a drug. (3-30-01)

i. When prescription drug orders are issued by a licensed veterinarian to be distributed to the animal's owner or legal caretaker by a retail veterinary drug outlet, all orders for prescription or legend drugs shall be written on an official numbered three (3) part order form available through the Idaho Department of Agriculture. The veterinarian shall retain the second copy in *their* medical record *with* the original and one (1) copy sent to the retail veterinary drug outlet. The retail veterinary drug outlet shall retain the original and attach the copy of the original to the order for delivery to the animal's owner or legal caretaker. *( )*

ii. Under no circumstances shall a prescription or legend drug be distributed by a retail veterinary drug outlet to an animal's owner or legal caretaker prior to the issuance of either a written or oral prescription drug order from the veterinarian: (3-30-01)

(1) When a written prescription drug order from the veterinarian has been issued to a retail veterinary drug outlet, a copy of the veterinarian's original numbered prescription drug order shall be attached to the prescription or legend drugs that are delivered to the animal's owner or legal caretaker. (5-8-09)

(2) When a retail veterinary drug outlet receives an oral prescription drug order from the veterinarian, the oral order shall be promptly reduced to writing on a Department of Agriculture unnumbered telephone drug order blank. A copy of this completed form shall be attached to the prescription or legend drugs that are delivered to the animal(s)'s owner or legal caretaker. (5-8-09)

(3) When a veterinarian issues an oral prescription drug order to a retail veterinary drug outlet, the oral order shall be followed by a written prescription drug order signed by the veterinarian using the official numbered three (3) part order form and procedures required under these rules. The written order shall be sent promptly by the veterinarian so that it is received by the retail veterinary drug outlet no later than seven (7) days after the retail veterinary drug outlet receives the oral order. The written confirmation order may be hand-delivered, mailed, faxed, attached to an e-mail, or otherwise properly delivered to the retail veterinary drug outlet. *( )*

e. When prescription or legend drugs are dispensed, the labeling on all containers shall be in compliance with the requirements of Paragraph 153.01.d. of these rules. (3-30-01)

f. When controlled substances are dispensed, all containers shall be properly labeled with: (4-5-00)

i. The clinic's name, address, and phone number; (4-5-00)

ii. The name of the client and patient; (3-30-01)

iii. The drug name and quantity; and (3-30-01)

iv. The directions for use, including dosage and quantity. (3-30-01)

g. All controlled substances shall be stored, dispensed, and disposed of in accordance with the requirements of the Uniform Controlled Substances Law and Code of Federal Regulations. (3-29-10)

09. Return or Disposal of Expired Pharmaceuticals and Biologicals. Except for controlled substances, which shall be disposed of in accordance with Paragraph 154.08.g. of these rules, all pharmaceuticals and biologicals that have exceeded their expiration date shall be removed from inventory and disposed of appropriately. (3-29-10)

155. -- 199. (RESERVED)

200. COMMITTEE ON HUMANE EUTHANASIA.
Pursuant to Section 54-2105(8), Idaho Code, a Committee on Humane Euthanasia (COHE) is established for the purpose of training, examining, and certifying euthanasia agencies and euthanasia technicians. The COHE will consist of no fewer than five (5) members appointed by the Board. At its discretion, the Board may appoint itself as the COHE. New members will be nominated by either the Board or the COHE and be confirmed by the Board. Applicants for a COHE position shall be certified euthanasia technicians (CETs) as defined by Section 54-2103(9), Idaho Code, and employed by a certified euthanasia agency as defined by Section 54-2103(8), Idaho Code, or be an Idaho licensed veterinarian (3-29-17)

01. Term. Each member will serve for three (3) years, at the pleasure of the Board. A COHE member may be eligible for reappointment. If there is a vacancy for any cause, the COHE or the Board shall nominate and confirm a successor to fill the unexpired term. ( )

02. Duties. The duties of COHE members include, but are not limited to, the following: (7-1-93)

a. Coordinate and provide euthanasia training classes as needed. (7-1-97)

b. Inspect and certify agencies. (3-30-01)

c. Review the applications, records, performance, methods and procedures used by agencies and persons seeking to be certified or to renew their certification as a Certified Euthanasia Agency (CEA) or Certified Euthanasia Technician (CET). (3-30-01)

d. Conduct written and practical examinations for applicants applying for certification and authorize certification through the Board. (3-30-01)

e. Recommend suspension or revocation of a certification when necessary. (3-30-01)

03. Compensation. Members of the COHE will be compensated as provided by Section 59-509(n), Idaho Code. (7-1-97)

201. METHODS OF EUTHANASIA, PRE-EUTHANASIA SEDATION, AND CHEMICAL CAPTURE.
Methods approved by the COHE and used for the purpose of humanely euthanizing, sedating, or remote chemical capturing injured, sick, homeless, or unwanted pets and animals: (4-7-11)

01. Euthanasia Drugs. Any Schedule II non-narcotic or Schedule III non-narcotic euthanasia drug covered by the Controlled Substances Act that has first been approved in writing by the COHE and the Board. A list of approved euthanasia drugs is on file at the Board office. (4-7-11)

02. Pre-Euthanasia Sedation Drugs. Any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs that have been approved for use by CEAs or CETs at a CEA facility. Such pre-euthanasia sedation drugs shall be limited to those approved in writing by the COHE and the Board. A list of approved pre-euthanasia sedation drugs is on file at the Board office. (4-7-11)

03. Remote Chemical Capture Restraint Drugs. Any Schedule III or Schedule IV narcotic or non-narcotic controlled substance as defined by the Controlled Substances Act, or other legend drugs that have been approved for use by CEAs or CETs. Such remote chemical capture restraint drugs shall be limited to those approved in writing by the COHE and the Board. A list of approved remote chemical capture restraint drugs is on file at the

Board office. Use of remote chemical capture is limited to CEAs and CETs who are classified as law enforcement agencies or law enforcement personnel who have successfully completed a Board-approved course in remote chemical capture. (4-7-11)

202. PROCUREMENT AND ADMINISTRATION OF APPROVED DRUGS.
In order for a certified euthanasia agency to obtain approved drugs for euthanizing animals and a certified euthanasia technician to administer such drugs, the following procedure shall be followed: (3-30-01)

01. DEA Registration. A certified euthanasia agency (CEA) shall appoint a person who will be responsible for ordering the approved drugs and who shall submit an application for the agency's registration as a Euthanasia Agency Practitioner-A.S. to the Drug Enforcement Agency (DEA). The CEA shall also designate a certified euthanasia technician (CET) who will be responsible for the security of the agency's approved drugs. (3-30-01)

02. Controlled Substance Registration. Each CET employed by the agency shall apply for a controlled substance registration from the Idaho Board of Pharmacy under their individual name and using the CEA's DEA registration number. (3-30-01)

03. Purchase of Approved Drugs. After the certified euthanasia agency has received a DEA registration number and the CETs at that agency have received their Idaho Board of Pharmacy controlled substance registrations, the designated individual for the agency may on behalf of the agency purchase approved drugs for storage at the CEA location. Approved drugs shall only be obtained from a drug wholesaler. (5-8-09)

04. Administration of Approved Drugs. Certified euthanasia technicians employed by certified euthanasia agencies and registered with the Idaho Board of Pharmacy may perform euthanasia by the administration of approved drugs. (3-30-01)

203. FEES.

01. Payment. All fees shall be paid prior to training, examination, certification, and renewal. (3-30-01)

02. Refunds. Fees are non-refundable. (7-1-93)

204. CERTIFIED EUTHANASIA AGENCY.
A certified euthanasia agency is a law enforcement agency, an animal control agency, a humane society, or an animal shelter that has been inspected and certified by the COHE or the Board, Section 54-2103(8), Idaho Code. In order to be certified to purchase and store approved drugs, certified euthanasia agencies shall be inspected by the COHE or the Board and meet the following criteria: (4-4-13)

01. Approved Drugs. Approved drugs shall be kept in a locked cabinet securely attached to the building in which it is housed. (3-30-01)

a. Each agency shall maintain a current written list of CET(s). (4-4-13)

b. Access to the drug storage cabinet shall be limited to licensed veterinary supervisors and assigned CET. Such persons shall be responsible for the security of the approved drugs and allow withdrawal of the approved drugs only to a person certified by the Board and registered with the Idaho Board of Pharmacy to administer such drugs. (3-30-01)

c. All approved drugs shall be prepared according to the manufacturer's instructions. (7-1-97)

d. Needles in a range of sizes that are the appropriate gauge for the intended use. Needles shall be of medical quality, and not be used if they are dirty, clogged, barbed, or might otherwise cause unnecessary discomfort for the animal. (4-4-13)

e. Needles and syringes shall not be reused. (4-4-13)

f. Three (3) different syringe sizes are required: three (3), six (6), and twelve (12) cc. An agency may have other syringe sizes according to its needs. Syringes shall be of medical quality. (4-4-13)

g. Spent needles and syringes shall be disposed of in a manner that makes their re-use impossible. (7-1-93)

02. Proper Storage. When no CET is on duty, proper storage for approved drugs is in a locked storage cabinet. (3-30-01)

a. The cabinet shall be of such material and construction that it will withstand strong attempts to break into it. A metal safe is preferred. (7-1-93)

b. The cabinet shall be securely attached to the building in which it is housed. (7-1-93)

c. The temperature and environment in the storage cabinet shall be adequate to assure the proper keeping of the drug. (7-1-93)

03. Proper Labeling. Upon removal from the shipment carton, each individual container of an approved drug shall be labeled with the drug name and strength, the date the drug was prepared, a drug hazard warning label and the name and address of the agency owning the drug. (4-4-13)

04. Temporary Storage. When a CET is on duty and when animals are being euthanized throughout the workday, approved drugs may be kept in a temporary storage cabinet. When approved drugs are transported in a vehicle, the temporary storage cabinet shall be securely bolted to the vehicle. The cabinet shall be constructed of any strong material and be securely locked when not in use. The key to this cabinet shall be secured by a licensed veterinary supervisor or the lead CET designated on the DEA controlled substance registration, and made available to the CET(s) performing euthanasia that day. (4-4-13)

05. Record Keeping. Proper record keeping of approved drugs shall include the following: (4-4-13)

a. Shipment records showing receipt of the approved drugs shall be maintained and include all information required by federal law, the date the shipment was received, the amount, the source, and the invoice number. (4-4-13)

b. Administration records showing the date an approved drug was: (4-4-13)

i. Administered; (4-4-13)

ii. Weight and species of animal; (4-4-13)

iii. Dosage of each drug administered for pre-euthanasia sedation, euthanasia, and remote chemical capture restraint; (4-4-13)

iv. Identification of the person who dispensed the approved drugs; and, if applicable; (4-4-13)

v. Identification of the veterinarian or CET who supervised the dispensing shall be maintained. (4-4-13)

c. Records of wastage shall be maintained and signed by the CET administering the approved drug and the CET responsible for security. (4-4-13)

d. A weekly record of the approved drugs on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security. (4-4-13)

e. Disposal records of any expired or unwanted approved drugs shall be maintained. Disposal of unwanted drugs and the containers, instruments, and equipment used in the administration of the approved drugs shall be in conformance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. (4-4-13)

f. All records shall be filed in chronological order in a binder that is labeled with the name of the agency *and be kept for a period of three (3) years from the calendar date on the record*. *( )*

06. Proper Sanitation. The euthanasia area shall be clean and regularly disinfected. (3-30-01)

07. Other Site Conditions. Other site conditions relevant to the proper euthanasia environment. (7-1-93)

a. Each agency shall have a specific area designated for euthanasia *that is*: *( )*

i. A separate room; or (7-1-93)

ii. An area that is physically separated from the rest of the agency by a wall, barrier or other divider; or (7-1-93)

iii. An area that is not used for any other purpose while animals are being euthanized. (7-1-93)

b. The euthanasia area shall meet the following minimum standards: (7-1-93)

i. Lighting shall be bright and even; (7-1-93)

ii. The air temperature shall be within a reasonable comfort range for both the personnel and animals. A minimum sixty (60) degrees F and maximum ninety (90) degrees F is recommended; (7-1-93)

iii. The area shall have adequate ventilation that prevents the accumulation of odors. At least one (1) exhaust fan vented directly to the outside is recommended; and (7-1-93)

iv. The floor of the area shall provide dry, non-slip footing to prevent accidents. (7-1-93)

c. The euthanasia area shall have the following equipment: (7-1-93)

i. A table or other work area where animals can be handled while being euthanized. (7-1-93)

ii. A cabinet, table or work bench where the drugs, needles, syringes and clippers can be placed. (7-1-93)

d. The following items and materials shall either be kept in the euthanasia area or brought to the area each time an animal is euthanized: (3-29-10)

i. A first aid kit that meets minimum first aid supply standards; (7-1-93)

ii. One (1) or more tourniquets; (7-1-93)

iii. Standard electric clippers with No. 40 blade; (7-1-93)

iv. Animal control stick for dogs and animal net for cats (if the agency handles cats); (7-1-93)

v. Stethoscope; (7-1-93)

vi. Disinfectant. (3-29-10)

vii. The current certification cards for the CEA and all CETs working at the CEA, which shall be kept together. The CEA is strongly encouraged to keep all DEA and Idaho Board of Pharmacy registration cards together with the certification cards. (3-29-10)

e. All equipment shall be in good working order. (7-1-93)

08. Equipment Stored. All equipment shall be stored so that it does not create a safety hazard for the personnel. All drugs and other chemical agents used in the euthanasia area shall be clearly labeled as specified by Subsection 204.03 of these rules. (3-30-01)

09. Certification Renewal. Certifications may be renewed upon successful completion of a facility inspection by a COHE member, a member of the Board or other individual appointed by the COHE and payment of the annual renewal fee. (3-30-01)

205. CERTIFIED EUTHANASIA TECHNICIAN.

01. Training and Examinations. The COHE or the Board will develop training sessions and materials that include, but are not limited to, the following topics: (3-30-01)

a. Euthanasia: (3-30-01)

i. Animal anatomy; (3-30-01)

ii. Proper animal handling to ease trauma and stress; (3-30-01)

iii. Dosages of chemical agents, record keeping and documentation of usage, storage, handling, and disposal of out-dated drugs and their containers, instruments and equipment used in their administration in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations; (3-30-01)

iv. Proper injection techniques; and (3-30-01)

v. Proper use and handling of approved euthanasia drugs and equipment; (3-30-01)

vi. Examination. Following the euthanasia training, a written examination covering the training topics will be given. (3-20-14)

b. Remote Chemical Capture: (3-30-01)

i. An overview of remote chemical capture; (3-30-01)

ii. Description and basic mechanism of action of approved drugs; (3-30-01)

iii. Laws, regulations and rules governing remote chemical capture; (3-30-01)

iv. Post-injection care; (3-30-01)

v. Proper use and handling of approved restraint drugs and equipment; (3-30-01)

vi. Human safety; (3-30-01)

vii. Tactics and strategy; and (3-30-01)

viii. Delivery systems and equipment. (3-30-01)

02. Certification Standards. Applicants for certification as a CET shall be eighteen (18) years of age or older and demonstrate proficiency in compliance with the following standards: (4-7-11)

a. Demonstrate competency in euthanasia techniques in the presence of a COHE or Board member, or a person approved by the Board: (4-4-13)

i. CETs are fully responsible for all actions that take place in the euthanasia area when an animal is brought to the area including, but not limited to, animal handling, use of the proper restraint technique, the proper

drug dosage, and drug handling; (3-30-01)

ii. CETs shall be able to competently perform intravenous injections on dogs and intraperitoneal injections on both dogs and cats. Intravenous injections on cats shall not be required as part of the certification process, but when performed, meet the standards listed in Subparagraph 205.02.a.ii.(1) of these rules. Intracardiac injections on dogs and cats shall not be required as part of the certification process, but when performed, are restricted to the limitations listed in Subparagraph 205.02.a.ii.(3) of these rules. (4-4-13)

(1) Intravenous Injections: The CET shall be able to competently insert the needle into an animal's vein when an animal is injected by this method. A minimum of two (2) people shall be required for any IV injection. One (1) person shall be a CET and one (1) or more people shall be the handler. The handler does not need to be a CET, but the handler should be trained in human safety and animal handling techniques; (4-4-13)

(2) Intraperitoneal Injections: The CET shall be able to competently insert the needle into the proper area of the peritoneal cavity when an animal is injected by this method. It is recommended that animals injected by this method be placed into a cage or carrier with no other animals. The cage or carrier shall be covered with cloth or other material that can keep the injected animal isolated from the normal activities in the euthanasia area. Intraperitoneal injections may be administered by a CET without a handler. (4-4-13)

(3) Intracardiac Injections: Intracardiac injection shall be performed only on an anesthetized animal. CETs shall be able to competently insert the needle into the heart of an anesthetized animal, and intracardiac injections may be administered by a CET without a handler. (4-4-13)

iii. No other euthanasia injection procedures are permitted in any type of animal with the exception of intramuscular and subcutaneous injections for pre-euthanasia sedation; (4-4-13)

iv. Oral administration of approved euthanasia drugs is permitted for any animal that cannot be captured or restrained without serious danger to human safety; (4-4-13)

b. Demonstrate proper record keeping. A record of all approved drugs received and used by the agency shall be kept *containing* the following information: *( )*

i. A weekly verification of the drug stock on hand, minus the amounts withdrawn for administration, signed by the CET responsible for security; (4-4-13)

ii. An entry of the date that a new bottle of any approved drug is opened and the volume of the bottle, signed by the CET responsible for security; (4-4-13)

iii. The species and approximate weight of each animal administered a drug; (3-30-01)

iv. The amount of the drug that was administered; (3-30-01)

v. The date the drug was administered; (4-4-13)

vi. The signature of the CET who administered the drug; (3-30-01)

vii. A record of the amount of the drug wasted, if any, signed by the CET administering the drug and the CET responsible for security; and (4-4-13)

viii. A record of any disposal of expired or unwanted approved drugs, other chemical agent or the containers, instruments and equipment used in their administration, signed by the CET and disposed of in accordance with the Idaho Board of Pharmacy law and rules and the Code of Federal Regulations. (3-30-01)

c. Demonstrate understanding and concern for the needs and humane treatment of individual animals: (4-7-11)

i. All animals shall be handled in a manner that minimizes stress to the animal and maximizes the

personal safety of the CET and the handler. Each animal shall be handled with the least amount of restraint necessary, but human safety is always the primary concern. Handling includes all aspects of moving an animal from one (1) area to another; (4-7-11)

ii. The use of control sticks and other similar devices shall be limited to fractious or potentially dangerous animals; and (3-30-01)

iii. Animals shall not be placed in cages or kennels with other breeds or species that are incompatible with the animal in question *or* be overcrowded in a cage or kennel. *( )*

d. Demonstrate ability to verify death. The animal should become unconscious and show terminal signs within sixty (60) minutes of drug administration. If any animal does not show any of these signs within the designated time period, the CET shall re-administer the drug. An animal that has received an approved drug orally may be injected with the same or another approved drug after it has become unconscious. Verification is the responsibility of the CET and shall be made by physical examination of the individual animal. One (1) of the following two (2) standards for death shall be met: (4-7-11)

i. Rigor mortis; or (7-1-93)

ii. Complete lack of heartbeat (as checked with a stethoscope), complete lack of respiration, and complete lack of corneal and palpebral reflexes. (4-2-08)

e. Demonstrate ability to communicate with handlers during the euthanasia process. (3-18-99)

03. Certification. (3-20-14)

a. An individual shall not be certified as a CET until such time as he has successfully passed all of the following: (3-20-14)

i. A euthanasia written examination; (3-20-14)

ii. A practical or clinical examination; and (3-20-14)

iii. An Idaho euthanasia jurisprudence examination. (3-20-14)

b. The euthanasia written examination is the "written examination" referenced in Subparagraph 205.01.a.vii. of this rule. The practical examination will test the individual's knowledge and skills in the hands-on application of euthanasia procedures and practices in a clinical setting under the direction of a COHE member, a Board member, or a designee of either the COHE or Board. The Idaho euthanasia jurisprudence examination (which can either be a separate written test or combined with the euthanasia written examination) will be an examination testing the individual's understanding of Idaho laws and Board rules addressing the practice of euthanasia. Both the euthanasia written examination and the euthanasia jurisprudence examination will be developed by the Board, the COHE, or a designee of either the Board or the COHE. (3-20-14)

c. A passing score for the euthanasia written examination is eighty percent (80%), or such other score as deemed appropriate by the Board or the COHE. A passing score for the euthanasia jurisprudence examination is ninety percent (90%), or such other score as deemed appropriate by the Board or the COHE. A failed euthanasia jurisprudence examination may be retaken multiple times upon making arrangements acceptable to the Board. (3-20-14)

d. Initial certification and certification renewal training sessions and examinations will be conducted at least once per year prior to July 1, and at such other times deemed necessary by the COHE, the Board, or a designee of either the COHE or the Board. Upon approval of the Board, a COHE member, or the designee of either the Board or the COHE, an individual may take the euthanasia written examination, the practical examination, and the euthanasia jurisprudence examination in any order. (3-20-14)

e. An individual who has passed the written examination, but has not attended a training session and

has not passed the practical examination, may serve as a probationary euthanasia technician under the direct supervision of a currently certified CET until such time as the next training course, practical examination and certification are conducted by a COHE member, a Board member, or the designee of either the COHE or the Board. (3-20-14)

f. An individual who has not passed the written examination may not serve as a euthanasia technician. (3-20-14)

g. An individual who attends a training session and passes the written examination but fails the practical examination may serve on probation until he has been re-examined. If the individual fails to pass the practical examination a second time and wishes to apply again, the individual shall attend the next regular training session and written examination. (3-20-14)

h. Upon termination from an agency as defined in Section 204 of these rules, a CET's certification immediately becomes invalid and the CET shall not perform animal euthanasia until employed by another certified euthanasia agency, at which time the certification may be reinstated. (4-7-11)

i. The agency shall notify the Board office in writing within thirty (30) days from the date the CET's employment at that agency is terminated. (3-29-10)

j. If a CET is employed again by a CEA prior to the expiration of their certification, the CEA employer may request reinstatement of the CET's certification. If a CET has not attended a euthanasia training in the three (3)-year period preceding recertification, the CET may not be recertified and will need to reapply for certification, at COHE discretion. (4-7-11)

k. All certifications expire on July 1 of each year. (4-4-13)

04. Certification Renewal. (4-7-11)

a. Certifications may be renewed each year by payment of the annual renewal fee, provided that, every third year following the date of certification, the CET will need to attend a euthanasia training and pay the current training and certification fee prescribed by Section 014 of these rules. (4-7-11)

b. In addition to the above euthanasia training recertification requirement, CETs classified as law enforcement personnel who use chemical capture must recertify in remote chemical capture every third year following their original remote chemical capture certification. (4-7-11)

05. Duties. The duties of a CET include, but are not limited to: (7-1-97)

a. Preparing animals for euthanasia; (7-1-97)

b. Accurately recording the dosages for drugs that are administered and amounts for drugs wasted; (3-30-01)

c. Ordering supplies; (7-1-93)

d. Maintaining the security of all controlled substances and other approved drugs; (3-30-01)

e. Directly supervising probationary CET; (7-1-97)

f. Reporting to the Board violations or suspicions of a violation of these rules or any abuse of drugs; (3-30-01)

g. Humanely euthanizing animals; and (3-30-01)

h. Proper and lawful disposal of euthanized animals and expired or unwanted drugs, other chemical agent or the containers, instruments and equipment used in the administration of approved drugs. (3-30-01)

206. GROUNDS FOR DISCIPLINE -- CEAS AND CETS.
The Board may refuse to issue, renew, or reinstate the certification of a CEA or CET, or may deny, revoke, suspend, sanction, place on probation, or require voluntary surrender of the certification of a CEA or CET, impose other forms of discipline, and enter into consent agreements and negotiated settlements with CEAs and CETs pursuant to the procedures set forth in Title 67, Chapter 52, Idaho Code, for any of the following reasons: (3-30-01)

01. Failure to Carry Out Duties. Failure to carry out the duties of a CEA or CET. (3-30-01)

02. Abuse of Chemical Substances. Abuse of any chemical substance by: (3-30-01)

a. Selling or giving chemical substances away; or (7-1-97)

b. Stealing chemical substances; or (7-1-97)

c. The diversion or use of any chemical substances for other than legitimate chemical capture or euthanasia purposes; or (4-4-13)

d. Abetting anyone in the foregoing activities. (7-1-97)

03. Euthanizing of Animals Without Proper Supervision. Allowing uncertified individuals or probationary CETs to euthanize animals or personally euthanizing animals without proper supervision. (3-30-01)

04. Administration of Approved Drugs Without Proper Supervision. Allowing uncertified individuals or probationary CETs to administer approved drugs or personally administering approved drugs without proper supervision. (3-30-01)

05. Euthanizing of Animals Without Proper Certification. Allowing individuals or probationary CETs to euthanize animals or personally euthanizing animals without being properly certified to do so. (3-30-01)

06. Fraud, Misrepresentation, or Deception. The employment of fraud, misrepresentation of a material fact, or deception by an applicant or certificate holder in securing or attempting to secure the issuance or renewal of a certificate. (4-4-13)

07. Unethical or Unprofessional Conduct. Unethical or unprofessional conduct means to knowingly engage in conduct of a character likely to deceive or defraud the public and includes, but is not limited to: (3-30-01)

a. Working in conjunction with any agency or person illegally practicing as a CEA or CET; (3-30-01)

b. Failing to provide sanitary facilities or apply sanitary procedures for the euthanizing of any animal; (3-30-01)

c. Euthanizing animals in a manner that endangers the health and welfare of the public. A CET shall not euthanize animals if their ability to practice with reasonable skill and safety is adversely affected by reason of illness, excessive use of alcohol, drugs, narcotics, chemicals, or any other substance or as a result of any mental or physical disability; (3-30-01)

d. Gross ignorance, incompetence or inefficiency in the euthanizing of animals as determined by, but not limited to, the practices generally and currently followed and accepted by persons certified to practice as CETs in *Idaho*; *( )*

e. Intentionally performing a duty, task or procedure involved in the euthanizing of animals for which the individual is not qualified; and (3-30-01)

f. Swearing falsely in any testimony or affidavits relating to practicing as a CEA or CET. (3-30-01)

08. Conviction of Violating Any Federal or State Statute, Rule or Regulation. Conviction of a

charge of violating any federal or state statute or rule or regulation regulating narcotics, dangerous drugs or controlled substances. (3-30-01)

09. Conviction of a Charge or Crime. Being found guilty, convicted, placed on probation, having entered a guilty plea that is accepted by the court, forfeiture of bail, bond or collateral deposited to secure a defendant's appearance, or having received a withheld judgment or suspended sentence by a court of competent jurisdiction in *Idaho* or any other state of one (1) or more of the following: *( )*

a. Any felony, as defined by Title 18, Chapter 1, Idaho Code; or (3-30-01)

b. Any crime constituting or having as an element the abuse of any drug, including alcohol. (4-4-13)

c. Any other criminal act that in any way is related to practicing as a CEA or CET as defined by Section 54-2103(8) and (9), Idaho Code. (3-30-01)

10. Improper Record Keeping. Failure to follow proper record keeping procedures as outlined in *Board* rules. *( )*

11. Improper Security for Approved Drugs. Failure to provide and maintain proper security for approved euthanasia and restraint drugs as outlined in *Board* rules. *( )*

12. Improper Storage of Equipment and Approved Drugs. Failure to properly store equipment or approved drugs as outlined in *Board* rules. *( )*

13. Improper Disposal of Approved Drugs and Equipment. Failure to properly dispose of approved drugs and the containers, instruments and equipment used in their administration as outlined in *Board* rules. *( )*

14. Improper Labeling of Approved Drugs. Failure to properly label approved euthanasia and restraint drugs as outlined by *Board* rules. *( )*

15. Revocation, Suspension, Limitation or Restriction. The revocation, suspension, limitation, or restriction of a license, certificate or registration or any other disciplinary action by another state or U.S. jurisdiction or voluntary surrender of a license, certificate or registration by virtue of which one is licensed, certified or registered to practice as a CEA or CET in that state or jurisdiction on grounds other than nonpayment of the renewal fee. (4-4-13)

16. Failure to Cooperate. (3-30-01)

a. Failure of any applicant or certificate holder to cooperate with the Board during any investigation, even if such investigation does not personally concern the applicant or certificate holder; or (3-30-01)

b. Failure to comply with the terms of any order, negotiated settlement, or probationary agreement of the Board; or (3-30-01)

c. Failure to comply with the terms for certification renewal or to timely pay certification renewal fees. (3-30-01)

17. Aiding and Abetting. Knowingly aiding or abetting an uncertified agency or person to practice as a CEA or CET. (3-30-01)

18. Current Certification. Practicing as a CEA or CET without a current certification. (3-30-01)

19. Improper Drug Preparation. Preparing approved drugs, contrary to manufacturer's instructions. (3-30-01)

20. Violation of any Law, Rules or Orders. Violating or attempting to violate, directly or indirectly, or assisting or abetting the violation or conspiracy to violate any provisions of the veterinary law and rules or a

written order of the Board issued pursuant to Title 54, Chapter 21, Idaho Code, the Idaho Board of Pharmacy law and rules, or the Code of Federal Regulations. (3-30-01)

207. INSPECTION DEFICIENCIES.
If there are inspection deficiencies with either a CEA or CET, a COHE member or the Board will document in writing areas for correction. The CEA or CET, or both, shall make corrections within the time period specified in the notice of deficiency, and correction will be verified by a COHE or Board member as recorded on the deficiency documentation. If the deficiency has not been corrected, the certification may be revoked by the Board, and the Idaho Board of Pharmacy will be notified. (4-4-13)

208. -- 999. (RESERVED)

IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

DOCKET NO. 48-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section(s) 54-3605(15); 54-3610, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 48, Rules of the Idaho Grape Growers & Wine Producers Commission.

IDAPA 48

- 48.01.01, *Rules of the Idaho Grape Growers & Wine Producers Commission*

The rulemaking was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to simplify existing language and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 6577 - 6579.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. The rule specifies the amount of grape and wine tax to be levied in accordance with statute. The rule also adopts a late payment penalty in accordance with statute.

- Seven dollars ($7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho.
- Seven dollars ($7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Seven dollars ($7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.
- Four cents ($.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Brenna Christison, (208) 332-1538.

Dated this 2nd day of October, 2019.

Brenna Christison
Operations & Finance Manager
Idaho Grape Growers and Wine Producers Commission

821 W. State Street
Boise ID 83702
(208) 332-1538

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Section 54-3605(15), Idaho Code. (3-19-07)

001. TITLE AND SCOPE.

01. Title. The title of this chapter is IDAPA 48.01.01, "Rules of the Idaho Grape Growers and Wine Producers Commission." (3-19-07)

02. Scope. These rules include, but are not limited to, levy of taxes and penalties as provided by Section 54-3610, Idaho Code. (3-19-07)

002. DEFINITIONS.
The definitions set forth in Title 54, Chapter 36, Idaho Code, apply to this chapter. *( )*

***003*. -- 019. (RESERVED)**

020. TAX AND LATE PAYMENT PENALTY.

01. Levy and Rate of Tax. In accordance with Section 54-3610, Idaho Code, a tax is levied and imposed on wineries, grapes grown, used, or purchased, and grape juice purchased for the production of wine in Idaho. The rate of each tax is: (3-29-17)

a. Seven dollars ($7) per ton of grapes purchased by producers in Idaho during the previous calendar year for the production of wine in Idaho. (3-29-17)

b. Seven dollars ($7) per ton of grapes harvested by growers in Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

c. Seven dollars ($7) per ton of grapes purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

d. Four cents ($.04) per gallons of grape juice purchased by producers outside Idaho during the previous calendar year for the purpose of the production of wine in Idaho. (3-29-17)

02. Minimum Levy. The minimum taxes paid by any grower or winery is one hundred dollars ($100) annually. (3-29-10)

03. Payment of Tax. *All taxes must be paid on or before June 30 of each year as follows:* *( )*

a. The grower harvesting grapes for the production of wine *pays* the tax levied upon the grower. *( )*

b. Each winery *pays* the tax levied upon the winery for the production of wine. *( )*

c. Purchasers of grapes grown or grape juice produced outside Idaho pay *the* taxes levied on such grapes and grape juice. *( )*

d. Purchasers of grape juice produced in Idaho pay *the* taxes levied on such grape juice. *( )*

04. Opt Out Alternative. A grower or producer may opt out of the levy of tax by submitting a letter to the Commission no later than June 30 of each year stating *the grower or producer's name and address, and their* intent to opt out of the application of the provisions of Title 54, Chapter 36, Idaho Code, for the upcoming fiscal year. *( )*

***021*. -- 999. (RESERVED)**

IDAPA 50 – COMMISSION OF PARDONS AND PAROLE

DOCKET NO. 50-0101-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 20-223, Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 50 rules of the Idaho Commission of Pardons and Parole.

IDAPA 50

- IDAPA 50.01.01, *Rules of the Commission of Pardons and Parole*.

The Commission has identified additional outdated definitions, outdated rules and duplicative statutory language under the Red Tape Reduction Act. The removal of the outdated language is to strive for continued public safety and provides further clarification for offenders, offenders families, victims, and the Idaho Department of Correction.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 6580 - 6609**.

FISCAL IMPACT: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact **mschoele@idoc.idaho.gov**.

Dated this 11th day of October, 2019.

Ashley Dowell
Executive Director
Commission of Pardons and Parole
3056 Elder St.
P.O. Box 83720
Boise, Idaho 83709
208-334-2520 phone
208-334-3501 fax

000. LEGAL AUTHORITY.
This chapter is adopted in accordance with Section 20-223(a), Idaho Code, which provides that the Commission has the power to establish rules, policies, or procedures in compliance with Title 67, Chapter 52, Idaho Code. (4-11-15)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 50.01.01, "Rules of the Commission of Pardons and Parole." (5-3-03)

02. Scope. The rules govern parole, pardons, firearm rights restoration, and commutations for the state of Idaho; and other matters within the authority of the Commission. (3-21-18)

002. -- 009. (RESERVED)

010. DEFINITIONS.

01. Absconder. An offender who has fled supervision, whose whereabouts are unknown, and for whom a warrant for a violation of supervision has been issued or requested. (3-21-18)

02. Case Manager. For purposes of reference, the case manager is an Idaho Department of Correction employee who is involved with assisting offenders regarding their problems, needs, and adjustments. Such case manager may have the title of psycho-social rehabilitation specialist, counselor, social worker, psych-tech, or clinician. *( )*

03. Commission. The Idaho Commission of Pardons and Parole. (4-11-15)

04. Commission Warrant. Warrant of arrest for alleged parole violation issued by the Executive Director or a Commissioner. This warrant is a non-bondable warrant. (3-23-98)

05. Commissioner. A member of the Commission who is appointed by the Governor to carry out decision-making functions regarding parole, parole revocations, pardons, commutations, remission of fines, and firearm rights restoration. (3-21-18)

06. Commutation. Clemency powers granted to the Commission, or the Governor, or both, which allow for a sentence to be modified*, including a final discharge from the remaining period of parole.* *( )*

07. Concurrent Sentence. Sentence served at the same time as another. (3-23-98)

08. Conditions of Parole. Conditions under which an offender is released to parole supervision. (4-11-15)

09. Confidential. Privileged from disclosure. (3-23-98)

10. Consecutive Sentence. Sentence served upon completion of another sentence or before beginning another sentence. (3-23-98)

11. Decision. A determination arrived at after consideration, a conclusion. (3-23-98)

12. Detainer. A document authorizing the detention of an offender in custody for a new felony crime or parole violation. Offender may be housed in a county jail or a correctional institution in state or out of state. (4-11-15)

13. Determinate Sentence. Fixed portion of the sentence. During this time period an offender is not eligible for release on parole. (4-11-15)

14. Dispositional Hearing*. A hearing held before the Commissioners to render a decision whether to reinstate, modify, or revoke parole.* *( )*

15. **DOR**. Disciplinary Offense Report. A report describing rule violations, behavioral issues, or both, committed by an offender while incarcerated. (4-11-15)

16. **Escape**. Flight from confinement. (3-23-98)

17. **Executive Session**. Any meeting or part of a meeting of the Commission that is closed to the public for deliberation on certain matters, as set forth in Section 20-213A, Idaho Code. (4-11-15)

18. **File or Case Review**. Review of central file, Commission file, and/or additional information submitted, without testimony or interview of offender or parolee. (4-11-15)

19. **Full Term Release Date**. The date an offender completes the term of sentence. *( )*

20. **Hearing**. The opportunity to be interviewed by the Commission, a Commissioner, or other designated Commission staff. (4-11-15)

21. **Hearing Officer**. An impartial person employed by the Commission and selected by the Executive Director to conduct an interview and take testimony from an offender regarding offender's history, criminal record, social history, present condition of offender, and offense. (4-11-15)

22. **Hearing Session**. A series of hearings conducted by the Commission. (3-23-98)

23. **Indeterminate Sentence**. Portion of sentence following the determinate sentence, during which time an offender is eligible for release on parole. (4-11-15)

24. **Member or Members**. A member of the Commission, Commissioner, or Commissioners. (3-21-18)

25. **NCIC**. National Crime Information Center. (3-23-98)

26. **Non-Technical Violation**. Violation of parole by absconding *or the commission of, and conviction for,* a felony or misdemeanor offense. *( )*

27. **Offender**. A person under the legal care, custody, supervision, or authority of the board of correction, including a person within or *outside* Idaho pursuant to agreement with another state or contractor. *( )*

28. **On-Site Parole Violation Hearing**. Parole violation hearing to determine guilt or innocence of the alleged parole violator, which must be held reasonably near the site of the alleged violation(s). (3-21-18)

29. **Open Parole Date**. Tentative parole granted without setting an actual tentative release date and subject to release by Commission authorization; offender's parole eligibility date has passed when a tentative parole date is granted. A tentative parole date will become an open parole date if the tentative parole date passes without the offender being released to an acceptable plan on the specific date. (4-11-15)

30. **Pardon**. Clemency powers granted to the Commission or the Governor that allows the applicant to be released from the consequences of conviction of a crime and restores the applicant's civil rights. (3-21-18)

31. **Parole**. Conditional release from a penal institution under a contractual agreement between the Commission of Pardons and Parole and offender. Parole is not a right, but is a matter of grace. (4-11-15)

32. **Parole Eligibility Date**. The earliest date that an offender may be eligible for parole release, which coincides with the date that the indeterminate portion of the offender's sentence begins. In the event there are multiple sentences, the sentence having the latest indeterminate begin date will be used as the offender's parole eligibility date. (4-11-15)

33. **Parole Hearing Interview**. An interview conducted by a hearing officer for the purpose of gathering information and testimony from the offender regarding the offender's history, criminal record, social history, present condition, instant offense, and other factors, when the offender is scheduled for a forthcoming parole consideration hearing. (4-11-15)

34. **Parole Violation Hearing**. A fact-finding hearing conducted by a hearing officer to determine a parolee's guilt or innocence of alleged violations of parole. The hearings are conducted for both technical and non-technical violations, and may be held on-site, or at a location as determined by the Executive Director or the hearing officer. (3-21-18)

35. **Parolee**. Offender being supervised on parole. (4-11-15)

36. **Preliminary Hearing**. A hearing conducted by an objective representative of the supervising authority or an individual appointed by the Executive Director to determine if there is probable cause to believe the alleged violations of the parole contract occurred. (3-21-18)

37. **Reprieve**. Temporary suspension of the execution of sentence; delay a punishment. (3-23-98)

38. **Risk Assessment**. Validated tool developed to determine risk of recidivating based on offender criminogenic needs. (4-11-15)

39. **Self-Initiated Parole Reconsideration (SIPR)**. A process in which an offender may request reconsideration of the last decision of the Commission. *( )*

40. **Session**. See "Hearing Session." (4-11-15)

41. **Supervising Authority**. The agency responsible for community supervision of parolees which is Idaho Department of Correction. (3-21-18)

42. **Technical Violation**. Violation of parole by not conforming to conditions of parole, but not to include absconding or a new criminal conviction. (3-8-16)

011. -- 099. (RESERVED)

100. GENERAL PROVISIONS.
The rules contained herein govern practice and procedure of the Idaho Commission of Pardons and Parole, hereafter referred to as the commission. The commission reserves the right to deviate from established rules whenever special circumstances warrant, and to act, at its discretion, in circumstances not specifically outlined but within confines established by the constitution and Idaho Code. (4-11-15)

101. HEARINGS.

01. Conduct of Hearings. All hearings of the Commission will be conducted in accordance with the open meeting law as provided in Chapter 2, Title 74, Idaho Code, and as modified by Section 20-213A, Idaho Code. The Commission will conduct each hearing assigned and scheduled before them. Each Commissioner will have an opportunity to ask questions or provide comments, or both. The Executive Director or Commission staff may provide information during the hearing or ask questions. (4-11-15)

02. Deliberations. Receipt and exchange of information or opinion relating to a decision concerning the granting, revoking, reinstating, or denial of parole, or related decisions, to include commutations, pardons, and restoration of firearm rights. Deliberations will be made in executive session. Votes of individual members will not be made public. A written record of the vote by each Commission member will be kept confidential and privileged from disclosure and, provided, for all lawful purposes as outlined by Section 20-213A, Idaho Code. *( )*

102. HEARING SESSIONS.
The executive director or designee will schedule hearing sessions according to the number of hearings required for the specific month. *( )*

103. BUSINESS MEETINGS.
The commission schedules a business meeting at least quarterly or at the call of the executive director and notice of such meetings must comply with the open meeting law requirements. Such meeting may be cancelled at the vote of a majority of the commission or by the executive director if the scheduled business cannot be conducted. (4-11-15)

104. RECORD OF HEARINGS AND BUSINESS MEETINGS.

01. Minutes of Hearings and Case Reviews. (3-21-18)

a. Summary minutes of individual hearings and case reviews shall be maintained in the Commission office and will be approved and signed by the Executive Director, or a Commissioner, or designee of the Executive Director. (4-11-15)

b. Audio recordings of open hearings may be made and *may* be maintained by Commission office in digital format. The recordings will be subject to disclosure pursuant to the Idaho Public Records Act, Title 74, Chapter l, Idaho Code. Executive sessions will not be recorded. *( )*

02. Minutes of Business Meetings. Summary minutes of business meetings are reviewed by Commissioners who are present at the next business meeting. The summary minutes as approved by the Commissioners shall be signed by the Executive Director or designee. Summary minutes of business meetings are maintained in the Commission office and published on the Commission's website when the summary minutes are approved. (3-21-18)

03. Official Record of Parole Hearing or Case Review. The official record of a parole hearing or case review will be the summary minutes, once signed, of that hearing or review. The official record will be maintained in the Commission office and subject to public disclosure pursuant to the Idaho Public Records Act, Title 74, Chapter 1, Idaho Code. (3-21-18)

105. PREVIOUS DECISIONS.
The commission reserves the right to review or reconsider any previous decision for any reason and to take whatever action is agreed upon. The executive director may bring forward any case determined to need review before the next hearing session. Information may be sent by electronic mail if considered an emergency. (4-11-15)

106. INDIVIDUAL POLLING OF THE COMMISSION.
The executive director may conduct an individual poll of the commission to obtain a majority vote regarding a case or business matter in which a decision must be made prior to the next session or meeting. (3-23-98)

107. APA APPLICABILITY.
The commission has the authority to establish rules under Chapter 52, Title 67, Idaho Code (Administrative Procedures Act). No other provision or requirement of the Administrative Procedures Act applies to the commission. (3-23-98)

108. RIGHTS, POWERS, AND AUTHORITY OF THE COMMISSION.

01. Decision to Release to Parole. The Commission has the authority to decide whether or not any offender eligible for parole may be released to parole. (4-11-15)

02. Advisory Commission to Board of Correction. The Commission may act as the advisory Commission to the board of correction. The Commission has any and all authority necessary to fulfill the duties and responsibilities and other duties imposed upon it by law under Section 20-201(2), Idaho Code, and other applicable provisions of Idaho law. (4-11-15)

109. -- 149. (RESERVED)

150. COMMISSION AND STAFF.

01. Commission Members. The Commission is composed of seven (7) *members*. *( )*

02. Commission Staff. The Commission has delegated to the Executive Director the authority to approve recommended conditions of parole following the hearing process, issue Commission warrants, issue parole release documents, and all other official documents pertaining, but not limited to paroles, commutations, pardons,

firearms rights restoration, and remissions of fines. (3-21-18)

a. The Executive Director assumes all authority and duties as may be delegated by the Commission and the governor. (3-30-01)

b. The Commission, the Executive Director, and all staff will maintain professional integrity in all matters of Commission business. (3-23-98)

151. -- 199. (RESERVED)

200. HEARING PROCESS.

01. Information for Scheduled Commission Hearings. (3-30-01)

a. A schedule of Commission hearings will be prepared prior to a hearing session and may be updated as necessary at any time. The hearing schedule will be available five (5) business days prior to a hearing session. The hearing schedule may be revised due to offender movement between institutions or other circumstances and may not be published earlier. A person may obtain the offender's hearing date by contacting the Commission office or on the commission website at www.parole.idaho.gov. ( )

b. The hearing schedule will reflect the date, location and starting time of each hearing session and a list of offenders scheduled for hearings and will be published on the Commission website. (4-11-15)

02. Location of Hearings. (3-21-18)

a. The Executive Director will determine the location of hearings, based upon available information when the schedule is set. Due to circumstances beyond the Commission's control, it may be necessary to change the location and date of a hearing or hearing session. (4-11-15)

b. It may be necessary to continue a hearing to a later date to allow for the offender's personal appearance or for other unforeseen reasons. (4-11-15)

03. Interview Method. For parole hearings, commutation hearings, pardon hearings, remission of fines hearings, and restoration of firearm rights hearings, an interview may be conducted face-to-face, by telephone, or by other electronic means. The interview may be conducted by a hearing officer or other designee of the Executive Director. If an interview is not required, the offender may simply appear before the Commission for a hearing. (3-21-18)

a. An in-depth investigational report explaining the offender's social history, criminal history, present condition, and offense will be prepared for the Commission. The in-depth investigational report is exempt from public disclosure pursuant to Section 20-223, Idaho Code. (3-8-16)

b. The Commission will determine if it will conduct another hearing or make a decision based upon the report. (3-21-18)

04. Psychological Reports, Mental Health Evaluations, Sex Offender Risk Assessment (SORA), Substance Abuse Evaluation, or Other. (3-8-16)

a. A psychological report, or SORA, or both, will be prepared for the Commission for all offenders serving a commitment for a sex offense, or whose history and conduct indicate an offender may be a sexually dangerous person as described in Section 20-223, Idaho Code. (4-11-15)

b. The Commission, the Executive Director, or a hearing officer can order any psychological report, evaluation, or assessment for an offender serving a commitment for any crime. (4-11-15)

c. All psychological, SORA, substance abuse evaluations, and mental health reports will be maintained in a confidential manner. (3-8-16)

05. Interview/Hearing. The offender who is the subject of an interview/hearing may be required to be present at a scheduled interview/hearing. (4-11-15)

a. Parole Consideration Hearing. The offender who is the subject of a hearing may be required to be present at a scheduled hearing. If the offender declines to be present at a parole consideration hearing, the offender is required to complete and submit the "Inmate Refusal to Participate in Parole Interview/Hearing Process" form and state the reason for not participating to the Commission. A decision may be made by the Commission based upon available information. (3-8-16)

b. Parole Violation *Hearing*. The parolee is required to be present at the violation hearing, *unless waived by the offender* as explained in Subsection *400.07.g.* *( )*

c. Commutation. The offender is required to be present at the scheduled commutation hearing, unless the Commission determines otherwise. (4-11-15)

d. Pardon and Remission of Fine. The Commission may make such appearance mandatory or may make a final decision based upon the information that is available. *( )*

e. Medical Parole. The offender is encouraged to be present at the hearing; the Commission may make such an appearance mandatory or may make a final decision based on information available. (4-11-15)

f. Restoration of Firearm Rights. The Commission may make such appearance mandatory or may make a final decision based upon the information that is available. *( )*

06. Witnesses and Documents. The Commission allows for the participation of attorneys, families of the offender, parolee, victims, and others who have a direct relationship to the specific hearing or offender/parolee. (3-21-18)

a. Persons who want to participate in a hearing must notify the Commission staff five (5) days in advance of the scheduled hearing. *Minors* will not be allowed to attend the hearings without prior approval of the Executive Director. *( )*

b. All written documents and letters to be considered must be submitted seven (7) days in advance of the scheduled hearing to ensure they will be considered; other documents may be allowed by unanimous consent from the Commissioners present. (4-11-15)

c. An attorney or others as determined by the Executive Director or Commission may be seated with the offender/parolee at the hearing. (3-23-98)

d. Verbal testimony by witnesses, victims, and attorneys may be limited by the number of persons allowed to give testimony and by a certain time limit. The Commission will allow the attorney representing the offender/parolee a designated time frame to provide information to the Commission. Victims will be allowed to testify. Victim testimony is normally taken following comments of offender's attorney and family or friends of the offender/parolee. All persons who testify will direct their comments to the Commission. Persons will keep their comments to the relevance of parole. (4-11-15)

e. *Any communication outside the hearing process directed to a commissioner is prohibited. Communication from any person concerning a hearing, a decision, Commission practice, or to relay a concern, must be forwarded to the executive director.* *( )*

07. *Recusal by Commissioner*. *It is the responsibility of a Commissioner who has personal knowledge of a case to decide whether to recuse himself from participating in deliberations and voting. The Commissioner must inform the executive director of the potential conflict and recusal.* *( )*

a. A Commissioner may remove themselves from the hearing. The Commissioner may step down from the panel and leave the room during the hearing and deliberations. (3-8-16)

08. Decisions. (3-23-98)

a. *Unless otherwise specified below, a*ny decision of the Commission requires a majority vote of *four (4)* Commissioners. *( )*

i. Two (2) members of the Commission may meet to make decisions on the disposition of parole violations. Such decisions must be unanimous. In the event they are not unanimous, then the parole violation disposition decision will be made by a majority of the full Commission at the next quarterly meeting, pursuant to Section 20-210, Idaho Code. *( )*

ii. Three (3) members of the Commission may meet to make decisions to grant or deny parole. Such decisions must be unanimous. In the event they are not unanimous, then the decision to grant or deny parole will be made by a majority of the full Commission at the next quarterly meeting, pursuant to Section 20-210, Idaho Code. (3-21-18)

b. Decisions will be given orally following the hearing and deliberation of a case by the Commission. The decision may be sent to the offender in writing with specific information/conditions. (3-21-18)

c. Following the decision being given orally, further testimony is allowed only at the discretion of the Commission, or the Executive Director, or hearing officer. (4-11-15)

d. In the case of a review without a Commission hearing, the decision will be published within a reasonable time on the Commission website. (3-21-18)

e. Any decision made by the Commission may be reconsidered at any time. The Commission or Executive Director may bring forward any case determined to need reconsideration before the next hearing session as described in Section 105. (3-8-16)

09. Rules of Conduct at Hearings. (3-23-98)

a. All persons attending any hearing will conduct themselves in a manner that does not disrupt the proceedings or they may be removed from the hearing room and/or facility. (3-23-98)

b. All persons attending a hearing or hearing session, must abide by security policies of the department of correction, the facility where the hearing is being held, and pertinent statutes. The number of witnesses allowed in the hearing room will follow the security policies of the institution; and all persons may be screened through metal detectors or similar technology and will be subject to search. (3-21-18)

c. Audio recording or video recording of any hearing or any hearing session may *only* be allowed at the discretion of the Commission or the Executive Director; such recordings will proceed only at the direction of the Commission or the Executive Director as to the placement, manner and type of equipment. *( )*

d. The media is invited to attend any open hearing of the Commission. (3-21-18)

i. Interviews with offenders or witnesses will not be allowed during the hearing process and neither the Commission nor its staff will be responsible for arranging such interviews. (3-21-18)

ii. During the hearing process, interviews with victims are not allowed without the express consent of the victim. (3-23-98)

iii. Arrangements for interviewing the Commission or staff should be made in advance. (4-11-15)

201. -- 249. (RESERVED)

250. PAROLE.

01. Parole Consideration. The Commission will use clear, evidence-based parole guidelines in making parole decisions, while still maintaining discretion in individual cases. (3-21-18)

a. The Commission may release an offender to parole on or after the date of parole eligibility, or not at all. *( )*

b. Parole consideration is determined by the individual merits of each case. (4-11-15)

c. *Parole* guidelines will include the use of a validated risk and needs assessment. *Other* factors to be considered include, but are not limited to: *( )*

i. Seriousness of and aggravating factors involved in the crime. (3-21-18)

ii. Mitigating factors involved in the crime or related to the offender's circumstances. (3-21-18)

iii. Prior criminal history of the offender. (4-11-15)

iv. Failure or success of past probation and parole. (3-23-98)

v. Institutional history to include conformance to established rules, involvement in programs, jobs, and custody level at time of the hearing, and overall behavior. (3-21-18)

vi. Evidence of the development of a positive social attitude and the willingness to fulfill the obligations of a good citizen. (3-23-98)

vii. Information or reports regarding physical or psychological condition. (3-23-98)

viii. The strength and stability of the proposed parole plan, including adequate home placement and employment or maintenance and care. (3-23-98)

ix. Outcome of a validated risk and needs assessment. (4-11-15)

x. Compliance with any order of restitution entered pursuant to Section 19-5304, Idaho Code. (3-21-18)

02. Primary Review. For all offenders eligible for parole, a review for the purpose of setting the initial parole hearing will be conducted. (3-21-18)

a. The Executive Director or a designee will conduct the primary review following receipt of the sentence calculation from the Department of Correction's central records unit. The month and year of the initial parole hearing will be established based upon the sentence calculation. The Commission is responsible for conducting the primary review to set the initial hearing once an official sentence calculation document has been received from the Department of Correction (3-21-18)

i. In cases where an offender is serving both a court-ordered retained jurisdiction period and a current sentence of imprisonment, the primary review will not be conducted on the imprisonment case until the court-retained jurisdiction case has been concluded. (3-21-18)

ii. In cases where the offender has a death sentence, or a life without parole sentence, a primary review will not be conducted. (3-21-18)

iii. In cases with specified fixed terms, the initial hearing will be scheduled approximately six (6) months prior to the offender's parole eligibility date based on the sentence calculation. An initial hearing will not be scheduled until all fixed terms (consecutive and concurrent) the offender is currently serving are within six (6) months of completion. (3-21-18)

iv. If an offender escapes prior to the primary review or the initial hearing, the review or hearing will

be conducted within a reasonable time of notification of the offender's return to custody, taking into consideration any additional commitments and the time to conduct an interview and report. (4-11-15)

v. If an offender is committed to the department of correction and such offender is eligible for parole immediately, or within the first six (6) months of their incarceration, the initial parole hearing will be scheduled within six (6) months from the month the Commission was notified of the commitment. (3-8-16)

vi. Initial parole hearings will be scheduled based on the sentence calculation prepared by Idaho Department of Correction. (3-21-18)

03. General Conditions of Parole. The Commission establishes rules and conditions for every offender released to parole. Rules and conditions of parole will be provided in writing and acknowledged by the parolee. Parolee will sign the agreement indicating the parolee's understanding of the conditions of parole. Conditions of parole include: (3-8-16)

a. The parolee is required to enter into and comply with an agreement of supervision with the Idaho Department of Correction. The agreement of supervision shall include provisions setting forth potential sanctions for a violation of the conditions imposed and potential rewards for compliance with the conditions imposed, as such sanctions and rewards are set forth in rules of the Board. (3-21-18)

b. The parolee will go directly to the destination approved by the Commission and, upon arrival, report as instructed to the parole officer or person whose name and address appear on the arrival notice; any deviation in travel plans will require prior permission from the Commission staff. (3-21-18)

c. The parolee will: (4-11-15)

i. Work diligently in a lawful occupation or a program approved by the Commission or supervising officer and not change employment or designated program without written permission from the Commission or supervising officer. (3-23-98)

ii. Support dependents to the best of parolee's ability. (4-11-15)

d. The parolee must submit a complete and truthful report to the assigned parole officer. (4-11-15)

e. If at any time it becomes necessary to communicate with the assigned parole officer or other official designee who is unavailable, communication will be directed to the district section supervisor. (4-11-15)

f. The parolee will: (3-23-98)

i. Obey all municipal, county, state, and federal laws. (3-23-98)

ii. Not engage in conduct that is, or is intended to be, harmful to himself or others. (3-21-18)

iii. Not purchase, own, sell, or have in the parolee's control, to include storing in residence, vehicle, etc., any type of firearm for whatever purpose. (4-11-15)

iv. Not have in the parolee's control any dangerous weapons used, or intended to be used, for other than normal purposes, such as knives for household use. (3-21-18)

g. The parolee will: (4-11-15)

i. Abstain from use of alcoholic beverages. (3-8-16)

ii. Abstain completely from the possession, procurement, use, or sale of narcotics or controlled substances, except as prescribed by a licensed medical practitioner. (3-23-98)

iii. Freely cooperate and voluntarily submit to medical and chemical tests and examinations for the

purpose of determining if parolee is using or under the influence of alcohol, narcotics, or other substances, which may be at the parolee's expense. (4-11-15)

iv. Participate in treatment programs as specified by the Commission or ordered by the parole officer. (3-23-98)

h. A parolee will submit to a search of person or property, or both, to include residence and vehicle, at any time and place by the supervisory authority or *at* the *direction of the* Commission, and the parolee waives the constitutional right to be free from such searches. *( )*

i. The parolee is fully advised that written permission is required to: (3-23-98)

i. Willfully change employment; (3-23-98)

ii. Willfully change residence; or (3-21-18)

iii. Leave the assigned district. (3-23-98)

j. The parolee will be available for supervision and will not actively avoid supervision. (3-21-18)

04. Special Conditions of Parole. (3-23-98)

a. In addition to general conditions of parole, the Commission may add special conditions appropriate to the individual case. (3-23-98)

b. The Commission delegates the authority to the Executive Director to add additional special conditions, before an offender has been released to parole or while on parole, after the offender has signed a statement acknowledging the special conditions. *( )*

05. Medical Parole. The Commission may parole an offender for medical reasons pursuant to Section 20-223(8), Idaho Code. (3-21-18)

a. Consideration will occur when the offender is permanently incapacitated or terminally ill and when the Commission reasonably believes the offender no longer poses a threat to the safety of society. (4-11-15)

b. An offender or designated department of correction personnel may petition the Commission to consider medical parole. (4-11-15)

c. The Commission may conduct an actual hearing or review of the case, or may designate Commission staff to provide additional information, which will require specific medical information in reference to the offender's condition, as well as a treatment or care plan if released, and any other information deemed necessary. (3-21-18)

06. Discharge from Parole. When the maximum sentence has expired, a final discharge will be issued by the Commission, unless a Commission warrant was issued before the full-term release date. *( )*

07. Detainers. (3-23-98)

a. The Commission may grant a parole to any county, state, or federal detainer that has been lodged against an offender. (4-11-15)

i. While in the custody of the detaining jurisdiction, the parolee is serving parole and is subject to all rules of the housing facility and may be required to submit monthly reports to Commission staff or the supervising authority. (4-11-15)

ii. If the parolee is released from custody by the detaining jurisdiction, the parolee must contact the Commission office immediately and must report to the nearest probation and parole office within five (5) days of

release or as otherwise instructed by the Commission staff. The parolee must abide by all regular rules of parole and any special conditions ordered by the Commission. (4-11-15)

b. The Commission may grant a parole to a federal immigration detainer in order that the offender may be deported to the country of citizenship. (4-11-15)

i. If the parolee is granted a release on bond or is allowed to remain in the United States, the parolee must contact the Commission office immediately and must contact the nearest probation and parole office within five (5) days of release or as otherwise instructed by the Commission staff. (4-11-15)

ii. If the parolee is deported from the United States to the country of citizenship, the parolee is not to return to the United States and doing so is considered a violation of the parole contract. (4-11-15)

iii. The Commission considers this type of parole grant an unsupervised parole, but the parolee is not obligated to submit monthly reports nor maintain contact with the Commission as long as he remains outside of the United States. (4-11-15)

08. Special Progress Reports. A special progress report may be submitted by the supervising authority to request modification of a special condition of parole or advise the Commission of problems that have developed. (3-21-18)

a. An offender must be eligible for transfer of supervision to another state under the Interstate Compact and the receiving state must accept the transfer before the offender is released on parole. (4-11-15)

i. Any person under state parole who applies for a transfer of supervision to another state shall be required to post an application fee pursuant to Section 20-225A, Idaho Code, payable to Idaho Department of Correction, in addition to the Commission's bond. (4-11-15)

b. Any offender granted parole under the Interstate Compact may be required to post a bond prior to release or prior to such acceptance under the Interstate Compact. The amount of the bond set by the Commission is five hundred dollars ($500). (4-11-15)

i. A bond may be posted by the offender, the offender's family, or other interested party. The bond must be posted at the Commission office. A cashier check or money order shall be the only acceptable means of posting bond. (4-11-15)

ii. Failure to successfully complete parole may be grounds for forfeiture of the bond. (4-11-15)

iii. Upon successful completion of parole, the amount of the bond may be returned to payee less an amount for administrative costs as determined by the Commission rule. (4-11-15)

iv. A request must be made for return of the bond within one (1) year of discharge of the offense for which the offender was serving parole. (4-11-15)

251. -- 299. (RESERVED)

300. VICTIMS.

01. Notice of Victim Rights. The Commission will advise the victims of their constitutional and statutory rights to be notified of Parole Commission proceedings. The Commission will use all tools at its disposal and will exercise all due diligence to notify victims of their rights if this official notice has not been received. *( )*

02. **Testimony**. *( )*

a. The victim is invited to attend any and all hearings, except executive sessions, pertinent to the case and to provide testimony. (4-11-15)

b. The Executive Director and the Commission may allow for the victim's testimony away from the actual hearing process. ( )

301. -- 349. (RESERVED)

350. PAROLE PLAN AND RELEASE PROCEDURES.

01. Parole Plan. A parole plan approved by Department of Correction probation and parole staff should provide a positive re-entry into the community for the offender. (3-21-18)

a. The proposed parole plan should be available at the parole hearing interview and parole consideration hearing and should include a stable residence, employment or maintenance and care plan, as well as treatment for alcohol or drug problems, mental health problems, sex offender treatment, after care treatment, or any other treatment deemed necessary. The plan will be developed to manage and mitigate offender risk and will address the offender's needs. ( )

b. Educational programs may be considered, but the offender must demonstrate how normal living, treatment, and transportation expenses, etc., will be paid for. (4-11-15)

c. All parole plans will be investigated by the supervising authority in the area in which the prospective parolee plans to reside. ( )

02. Tentative Parole Dates. All parole release dates granted by the Commission are tentative. (3-23-98)

a. The parole plan must be approved and received at the Commission office before the actual release date can be set to allow time for processing the release. (4-11-15)

b. Should the offender have disciplinary problems following the parole hearing, or the Commission receives information that was not available at the time of the hearing, the Commission may reconsider the decision, and the tentative parole date may be voided or changed. (3-21-18)

03. Contract. Prior to any release to parole, the offender must sign a contract with the Commission and acknowledge all general and special conditions of parole. (3-8-16)

a. The parolee will be issued reporting instructions that will include the address and the telephone number of the supervising office. (3-8-16)

351. -- 399. (RESERVED)

400. PAROLE *DISPOSITION* PROCESS.

01. Initiated. The parole *disposition* process is initiated by a written or verbal report describing the conditions of parole that are alleged to have been violated. The parolee is required to be present at the violation or *revocation* hearing, unless waived by the offender. ( )

02. Warrants. A warrant may be issued for the offender's arrest. (3-23-98)

a. A supervising authority may issue an agent's warrant to authorize local law enforcement to transport the parolee to the appropriate jurisdiction to be housed pending an appearance before the Commission, pursuant to Section 20-227, Idaho Code. ( )

b. *After receipt of a report of violation, a* Commission warrant may be *issued* by the Executive Director or by a member or members of the Commission. Issuance of this warrant suspends the offender's parole until a determination has been made on the merits of the case. ( )

i. If the location of the offender is unknown, the warrant will be entered into NCIC or other law

enforcement database and will designate from which states the Commission will extradite the offender once arrested. At any time the Executive Director or designee may change the area of extradition. (3-21-18)

ii. If an offender is being held in custody on new charges in a state outside of Idaho, the warrant may be placed as a detainer only, and written notice of this action will be submitted to the holding facility. *T*he time limits prescribed by law for service of the factual allegations of the violation of the conditions of parole *will begin on the date the holding facility notifies the Commission either the warrant has been served or is notified the offender is available for return to Idaho, whichever is earlier.* *( )*

iii. If the offender is arrested in a state other than Idaho and refuses extradition to Idaho, it may be necessary to request a governor's warrant. *( )*

c. Parolees who have allegedly absconded from supervision are considered to be a fugitive from justice, starting from the day a Fugitive Warrant is issued by the Commission and ending upon the day of arrest on that warrant. Per Idaho Code Section 20-228, upon issuance of a Fugitive Warrant, parole is suspended. The time that a parolee is considered to be a fugitive from justice will not be counted towards the time on parole or as part of the sentence. (3-21-18)

03. Notice of Hearing Rights. *( )*

a. Every parolee arrested on a Commission warrant for alleged violation(s) of parole is entitled to a fair and impartial hearing of the factual allegations of violation of the conditions of parole. (3-21-18)

b. The parolee shall be provided written, pertinent due process including notice of the date, time and location of any and all *public* hearings involved in the *disposition* process. *( )*

***04*.** **Witnesses**. The accusing parole officer or alleged parole violator may present witnesses in support of the allegations of parole violation or in defense of the charges. *( )*

a. The Commission has no subpoena power to compel any witness to attend a hearing. The alleged parole violator may make a timely written request to the Commission office for certain adverse witnesses to be available for cross-examination, and such request must include the name, address, telephone number, and relationship to the case; the hearing officer will make reasonable efforts to request their participation. (4-11-15)

b. If it is determined by the hearing officer or the Executive Director that the identification of an informant or the personal appearance of a witness would subject such person to potential risk or harm, confrontation or cross-examination will not be allowed, and the record will reflect such determination. (3-21-18)

c. It is the alleged parole violator's responsibility and the accusing parole officer's responsibility to notify their witnesses of the date, time, and location of any and all hearings or change of hearings. (4-11-15)

***05*.** **Attorney**. The alleged parole violator may utilize the services of an attorney at any *public* hearing conducted during the *disposition* process. *( )*

a. An attorney will be paid at the alleged parole violator's expense. (3-21-18)

b. It is the alleged parole violator's responsibility to notify his attorney of the date, time, and location of any and all hearings or change of hearings. The alleged parole violator's attorney may make a request of the Commission office *to be notified* of any hearings and if requested in writing, the Commission office will provide the attorney with copies of reports or documents that are subject to disclosure according to the public records act. *( )*

c. Commission Provided Attorney. Prior to a hearing, the alleged parole violator may request legal representation be provided by the Commission. The Executive Director or designee will determine if the facts presented by the alleged parole violation or the circumstances of the alleged parole violator demonstrate that alleged parole violator does not understand the proceedings *and* is otherwise incapable of representing himself. *( )*

i. If a hearing officer, after meeting with the alleged parole violator, believes that the individual is not

able to fully understand the hearing proceedings or is otherwise incapable of representing himself, the hearing officer shall notify the Executive Director. Upon receipt of such notification, the Executive Director or the Commission will make an attorney available to assist the alleged parole violator at the Commission's expense if the facts presented demonstrate that the alleged parole violator meets the criteria for Commission-provided attorney. In reaching this decision, the Executive Director or Commission shall: (3-21-18)

(1) Review the case file and documents regarding the alleged parole violator's personal history, including his physical and mental health status. (3-21-18)

(2) Consider the alleged parole violator's ability and capacity to understand the proceedings. (3-21-18)

(3) Order a current or competency assessment if such would be helpful in making a decision regarding the request for counsel. (3-21-18)

ii. Specific time limits provided for in these rules may be waived at the discretion of the Executive Director when an attorney is requested or provided, or both, at Commission expense. (3-21-18)

06. **Violation and *Disposition* Hearings**. The alleged parole violator will be notified of any and all hearing dates and locations reasonably in advance of *any public* hearing*s*. The hearing officer or Executive Director will determine the location of all hearings. *( )*

a. The alleged parole violator may request a continuance of, or waive any hearing, subject to the final determination of the hearing officer, Executive Director, or the Commission. (3-21-18)

b. The type of violations raised in the allegations will determine the type of *disposition* hearing available to the alleged parole violator. *( )*

i. Non-technical violations. If the alleged parole violator is *accused of violation of parole by absconding supervision or the commission of and conviction for a felony or misdemeanor offense*, the subject is not entitled to a preliminary *hearing*, but is entitled to a hearing to determine guilt or innocence of the alleged parole violation within a reasonable time following service of a copy of the *report of violation*. *( )*

ii. Technical violations. If the alleged parole violator is *accused of a violation of parole other than by absconding supervision or the commission of, and conviction for, a felony or misdemeanor offense* the *subject* is entitled to a preliminary hearing by the supervising authority within a reasonable amount of time. An on-site hearing will be conducted by a Commission hearing officer to determine guilt or innocence within thirty (30) days from the date the accused was served with the *copy of the report* of violation. *( )*

c. Preliminary hearing. A technical parole violator is entitled to a preliminary hearing to establish whether there is probable cause to believe the violations may have occurred, and such hearing will be conducted by staff of the supervising authority or as otherwise directed by the Executive Director. The alleged parole violator is entitled to a verbal or written decision within a reasonable time following the preliminary hearing. *( )*

d. On-Site Violation Hearing. A technical parole violator is entitled to an on-site fact-finding hearing conducted by a hearing officer. The on-site hearing is conducted reasonably near the site of the alleged parole violation(s). The Executive Director or hearing officer will determine where the hearing will be conducted. In situations where the violation(s) occurred outside the state of Idaho, the Executive Director or hearing officer will determine the location of the hearing. Based on Interstate Compact rules, an on-site hearing may not be possible if charged and arrested in a state other than Idaho. (3-21-18)

e. Violation Hearing. In most cases, a hearing officer will conduct a fact-finding or violation hearing and will make a finding on each allegation as to the guilt or innocence of the alleged parole violator and may dismiss some or all allegations. If a hearing officer is unavailable, the Executive Director will appoint someone to conduct the hearing. *( )*

i. The parolee shall have the right to appear at a violation hearing and personally address the allegations of violation of the conditions of parole at said violation hearing, including the right to present witnesses

and evidence. *( )*

ii. The parolee may confront and cross-examine adverse witnesses who have given information on which the charges have been based. *( )*

iii. The alleged parole violator is entitled to a verbal or written decision. When a verbal decision is rendered, such finding will be noted in the hearing officer's report, If the allegations have been proven by a preponderance of the evidence, the report will be submitted to the Commission for a disposition hearing. When a written decision is rendered, such decision will be issued within twenty (20) days of the violation hearing. *( )*

f. ***Disposition Hearing***. *If* finding of guilt was made on one (1) or more of the violations, the Commission will consider whether *to reinstate the offender on parole on the same or modified conditions, or to revoke parole. The Commission will consider all options available and will state its reasoning if parole is revoked.* *( )*

g. Absentia Hearing. The Commission can hold a *disposition* hearing without the alleged parole violator's appearance if the alleged parole violator has signed the proper document waiving the right to appear before the Commission, and the Commission accepts such a waiver. The Commission will *accept waivers in cases where new criminal charges result in a new commitment or incarceration or if the alleged parole violator has absconded supervision and is re-incarcerated in another state*. *( )*

***07*. Miscellaneous Hearing Information**. (3-23-98)

a. The Commission, through the Executive Director, shall designate the county, state, or other facility where the alleged parole violator shall be held. The Commission's order shall be sufficient authority by law to direct any county sheriff or the Board of Correction to hold an alleged parole violator in custody until such time as the Commission directs his removal or transfer. (3-23-98)

b. The alleged parole violator can request a continuance of any hearing. The hearing officer, Executive Director, or the Commission will determine if the continuance will be granted. If *a continuance is granted at* the alleged parole *violator's* request, said request will constitute a waiver of any and all time limits involved. *( )*

08. Findings/Decisions. (3-23-98)

a. *F*ollowing arrest on a Commission warrant, the *Executive Director or the* Commission will decide if the parolee will be released to continue parole. *( )*

b. If it is determined at the preliminary hearing that there is no probable cause to support the *allegations of violation of the conditions of parole*, the parolee will be released to continue parole. *( )*

c. *Prior to a disposition* hearing, the hearing officer will prepare a report of findings summarizing the violation hearing, to include testimony, and will make specific findings for each allegation. *( )*

***09*. Forfeiture of Time on Parole**. If parole is revoked, the time during which the offender was on parole from the parole release date to the arrest date on an agent's warrant or Commission warrant may be forfeited, in whole or in part. *( )*

a. Any time the offender is incarcerated on an agent's warrant and a Commission warrant will be credited toward the sentence, including discretionary jail time. (3-21-18)

b. The offender will not receive credit for incarceration time if the incarceration was for a new crime and the Commission and parole officer did not initiate violation proceedings. (3-23-98)

c. The offender must provide the hearing officer or the Executive Director with dates of incarceration and the location of the incarceration. (3-23-98)

401. -- 449. (RESERVED)

450. COMMUTATION PURSUANT TO SECTION*S 20-233 AND* 20-240, IDAHO CODE.
Commutation is a process whereby clemency may be considered and granted to modify a sentence imposed by the sentencing jurisdiction. (3-21-18)

01. Petition. A petition must be submitted to initiate the process. *Only forms approved by the Commission will be accepted and must be completed correctly per the instructions on the form. ( )*

a. The petition must contain the reason a modification of sentence is requested and the precise modification which is requested, such as the following. (3-23-98)

i. Change a consecutive sentence to concurrent. (3-23-98)

ii. Reduce the maximum length of sentence. (3-23-98)

iii. Reduce the minimum fixed term of a sentence. (3-30-01)

iv. Change a fixed sentence to indeterminate. (3-23-98)

v. Change a sentence in any other manner not described. (3-23-98)

b. The Commission may consider one (1) application from any one (1) person in any twelve (12) month period *from the date of denial*. *( )*

c. Petitions may be considered at any time by the Commission but are usually scheduled for consideration in the quarterly sessions in January, April, July, and October. (3-21-18)

d. Petitions must be received no later than the first day of the month prior to the next designated quarterly hearing session for which the offender is applying. (3-21-18)

e. Review or deliberation on the petition by the Commission will be conducted in executive session. (3-23-98)

f. Any petition may be continued for additional information or for further consideration. (3-23-98)

g. The petitioner will be sent written notice of the decision. (3-23-98)

h. The petition is limited to no more than six (6) pages; the petition will not be considered if the document exceeds this number. (3-21-18)

i. A parole violator is not eligible to file a petition until the violation has been adjudicated. (3-21-18)

j. *The Commission will not consider a commutation for early discharge from parole in any case until the parolee has served at least one (1) year on parole as outlined in Section 20-233, Idaho Code. ( )*

k. *The Commission will not consider an early discharge for a parolee who has a sex crime or violent crime until one-third (1/3) of the remaining time from the parole release date to full term release date has been served on parole; or until ten (10) years have been served on parole on a life sentence for any crime. ( )*

l. *A parole officer, parole officer designee, or parole officer supervisor can petition the Commission to consider an early discharge upon reaching the timelines established in this section. ( )*

m. *If the parolee is permanently incapacitated or terminally ill, the Commission may consider and grant an early discharge from parole after one (1) year for any crime. ( )*

02. Commutation Hearing. The scheduling of a hearing is at the complete discretion of the

Commission; if a commutation hearing is scheduled, the Commission will determine the date of the hearing. (3-21-18)

a. Notice of a commutation hearing will be published in a newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)

b. A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was committed. (3-23-98)

c. *Victims of the offender will be notified in writing when a hearing is scheduled.* *( )*

d. All rules of procedure governing hearings will apply to a commutation hearing. (3-23-98)

e. The decision and supporting documents regarding a commutation will be filed with the Secretary of State. (3-21-18)

03. **Death Sentence**. (3-23-98)

a. An individual file of each offender under sentence of death may be maintained in the Commission office. (4-11-15)

b. At any time, the Commission may review a file, information, or interview an offender without activating the commutation process. (4-11-15)

c. Commutation *petitions* must be initiated by the petitioner or his legal counsel. *Legal counsel must provide verification that he has been retained by the petitioner or his family to prepare and submit the petition.* *( )*

d. The Commission may elect to receive and consider a petition for a death penalty modification at any time. (3-23-98)

451. -- 499. (RESERVED)

500. SELF-INITIATED PAROLE RECONSIDERATION.

01. Petition. An *incarcerated* offender making a request for reconsideration of parole denial must initiate the process by submitting an application. *( )*

a. The only acceptable form is the one provided by the Commission, and it must be signed by the *offender* and case manager. *( )*

b. The petition must be typed and completed correctly, per the instructions on the form, or it will not be considered. (3-21-18)

c. The petition must state the reason reconsideration is requested and the circumstances that have changed since the last hearing. *The offender must have had no disciplinary issues in the year prior to submitted the petition.* *( )*

d. *The Commission will consider one (1) application from the offender who was denied parole one (1) year after the denial of parole. After the initial SIPR is heard, the Commission will consider applications once per year from the date of the initial SIPR denial unless otherwise stated by the Commission. The Commission will not consider SIPR petition for offenders with a scheduled hearing in the next three (3) years.* *( )*

e. Petitions must be received no later than the first day of the month prior to the next month's hearing session. (3-8-16)

f. Review or deliberation on the petition by the Commission will be conducted in executive session.

(3-23-98)

g. Any petition may be continued for additional information or for further consideration. (3-23-98)

h. The petitioner will be sent written notice of the decision. (3-23-98)

i. The petition is limited to four (4) pages; the petition will not be considered if the petition exceeds this number. (3-21-18)

02. Hearing. The scheduling of a hearing is at the complete discretion of the Commission. (3-23-98)

501. -- 549. (RESERVED)

550. PARDON PURSUANT TO SECTION 20-240, IDAHO CODE.
A pardon may be considered for a person having been convicted of any misdemeanor or felony crime. A pardon does not expunge or remove the crime from the applicant's criminal history. (3-21-18)

01. General. An application for a pardon may not be considered until a period of time has elapsed since the applicant's discharge from custody as defined below. (3-23-98)

a. Applications for pardon for non-violent and non-sex crimes may be submitted for consideration no sooner than *five (5)* years after *the satisfaction of the sentence on the crime for which they are requesting a pardon.* *( )*

b. Applications for pardon for violent or sex crimes or other crimes against a person may be submitted for consideration no sooner than *ten (10)* years after *the satisfaction of the sentence on the crime for which they are requesting a pardon.* *( )*

c. A pardon application will not be considered while an offender is incarcerated *or on supervision*. *( )*

d. The Commission will determine whether a hearing will be granted and the applicant will be advised notified of the decision in writing. (3-21-18)

02. Application. A pardon application can be obtained from the Commission office or on the Commission website. (4-11-15)

a. The application must be completed and returned to the Commission office. (3-23-98)

i. The completed application must include the reasons why the pardon is requested. (3-23-98)

ii. The applicant may attach letters of recommendation or other documents to support the request. (3-23-98)

iii. The applicant must include copies of all court judgments and conviction documents, as well as police reports for each crime for which a pardon is requested. (3-21-18)

iv. A pardon may be requested only once during a twelve-month (12) period *from the date of denial* unless otherwise stated by the Commission. *( )*

v. An application may not be considered if there is significant law enforcement contact since sentence or discharge. (3-21-18)

b. Upon receipt of the completed application and required documentation, eligible applications will be reviewed by the Commission. The Commission may request an investigation of the applicant by Commission staff. The report will contain the following: (3-21-18)

i. A *criminal* records check will be conducted to include any law enforcement contact since the release from supervision or incarceration. *( )*

ii. The applicant's employment history since discharge from supervision or incarceration. (3-21-18)

iii. The applicant's willingness to fulfill the obligations of a law-abiding citizen, including family information, community involvement, volunteer service, hobbies, and related interests. (3-21-18)

iv. The applicant's employment and education status, including any professional or vocational achievements, training, and any additional information as deemed necessary or appropriate. (3-21-18)

v. Confirmation that all restitution and fines as ordered by the sentencing court are paid. (3-21-18)

vi. An interview with the applicant may be conducted and a summary of the interview provided. Said interview may be conducted in person or by electronic means. (3-21-18)

03. Hearing. The scheduling of a hearing is at the complete discretion of the Commission. If a pardon hearing is scheduled, the Commission will determine the date of the hearing. (4-11-15)

a. Notice of a pardon hearing shall be published in a newspaper of general circulation at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)

b. A copy of the publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (3-23-98)

c. *Victims of the offender will be notified in writing when a hearing is scheduled.* *( )*

d. Written notice of the hearing date, time, and location will be sent to the applicant at the address given on the application or as otherwise requested. (3-23-98)

i. The *Commission may make such appearance mandatory or may make a final decision based upon the information available.* *( )*

ii. Upon request, the Commission may *decide whether to* continue the hearing to a later date in order for the applicant to attend. *( )*

e. All rules of procedure governing hearings will apply at a pardon hearing. (3-23-98)

f. The applicant will be given written notice of the decision and such notice will be sent to the last known address. (3-23-98)

g. The granting of a pardon does not expunge the crime from the applicant's criminal history. (3-21-18)

551. RESTORATION OF FIREARMS RIGHTS PURSUANT TO SECTION 18-310, IDAHO CODE.

01. General. An application for restoration of the civil right to ship, transport, possess, or receive a firearm may be considered upon final discharge under Section 18-310(2), Idaho Code. This is not a pardon for the conviction of a crime, nor is the applicant's criminal record expunged. (3-21-18)

02. Application. An application may not be made until five (5) years after the date of final discharge of *the crime for which they are requesting restoration of firearm rights.* *( )*

a. An application may be obtained from the Commission office or on the Commission website. (4-11-15)

b. The application must be the original and returned to the Commission office. (4-11-15)

i. The application must request the restoration of the right to ship, transport, possess, or receive a firearm under Section 18-310, Idaho Code. (4-11-15)

ii. The application must be in writing and legible. (4-11-15)

iii. All court convictions, judgment orders, including any dismissal documents, as well as police reports related to said convictions must accompany the application. (3-21-18)

iv. An application may be submitted once every twelve (12) months *from the date of denial.* *( )*

v. The petition must state the reason for the request. (4-11-15)

vi. Review or deliberation on the petition will be conducted in executive session. (4-11-15)

vii. The Commission will determine whether a hearing will be granted and the applicant will be advised of the decision. (3-21-18)

viii. *No applications will be considered for individuals who are incarcerated or on supervision.* *( )*

c. Upon receipt of the completed application and required documentation, eligible applications will be reviewed by the Commission. The Commission may request an investigation of the applicant by Commission staff. The report shall include, but shall not be limited to, the following: (3-21-18)

i. A *criminal* records check will be conducted to include any law enforcement contact since release from supervision or incarceration. *( )*

ii. The applicant's employment history since *the date of final* discharge *of the crime for which they are requesting restoration of firearm rights*. *( )*

iii. The applicant's willingness to fulfill the obligations of a law-abiding citizen, including family information, community involvement, volunteer service, hobbies, and related interests. (3-21-18)

iv. The applicant's employment and education status, including any professional or vocational achievements, training and any additional information as deemed necessary or appropriate. (3-21-18)

v. Confirmation that all restitution and fines as ordered by the sentencing court have been paid. (3-21-18)

vi. An interview with the applicant may be conducted and a summary of the interview provided. The interview may be conducted in person or by electronic means. (3-21-18)

03. Hearing. The scheduling of a hearing is at the complete discretion of the Commission or the Executive Director. (4-11-15)

a. If a hearing is scheduled, the Commission will determine the date of the hearing. (4-11-15)

b. Any hearing may be continued for additional information. (3-21-18)

c. Written notice of the hearing date, time, and location will be sent to the applicant at the address given on the application or as otherwise requested. (3-21-18)

i. *The Commission may make such appearance mandatory or may make a final decision based upon the information available.* *( )*

d. The applicant will be given written notice of the decision and such notice will be sent to the last known address. (3-21-18)

04. Authority to Grant. The Commission has the full and final authority and discretion to grant restoration of civil rights to ship, transport, possess, or receive a firearm under Section 18-310, Idaho Code*, except as provided therein*. *( )*

552. -- 599. (RESERVED)

600. REMISSION OF FINE OR PENALTY PURSUANT TO SECTION 20-210A, IDAHO CODE.

01. Request. An application for remission of fine or penalty must be made to the Commission. (3-23-98)

a. The application must be in writing. (3-23-98)

b. The application must outline the reasons action is requested to remit such fine or penalty. (3-23-98)

c. The applicant must submit a certified copy of the judgment or order assessing said fine or penalty . *( )*

02. Review. The Commission will review the request to remit a fine or penalty. (3-23-98)

a. The Commission will usually review such application on a month designated as a quarterly session, but may make such review during any session. The review will be conducted by the full Commission. (4-11-15)

b. The Commission will conduct such review in executive session. (3-23-98)

c. Any application may be continued for further consideration or additional information. (3-23-98)

d. The Commission will determine whether a hearing will be granted and the applicant will be notified of the decision in writing. (3-21-18)

03. Hearing. The scheduling of a hearing is at the complete discretion of the Commission. (3-23-98)

a. If a hearing is scheduled, the Commission will determine the date of the hearing. (3-23-98)

b. If a hearing is scheduled, notice of the hearing will be published in a newspaper of general circulation at Boise, Idaho, at least once a week for four (4) consecutive weeks immediately prior to the hearing. (3-23-98)

c. A copy of the notice of publication will be mailed to the prosecuting attorney of the county from which the petitioner was sentenced. (3-23-98)

d. All rules of procedure governing hearings will apply to such scheduled hearing. (3-23-98)

e. Written notice of the hearing date, time, and location will be sent to the applicant at the last known address. (3-23-98)

i. *The Commission may make such appearance mandatory or may make a final decision based upon the information which is available.* *( )*

ii. The Commission may continue the hearing to a later date for any reason. *( )*

04. Satisfaction of Judgment. If the Commission determines that such fine or penalty is to be remitted, an official document of such action will be submitted to the clerk of the court where said fine or penalty was assessed, and this will constitute a satisfaction of the judgment. (3-23-98)

601. -- 799. (RESERVED)

800. FOREIGN NATIONAL TREATY TRANSFER PURSUANT TO SECTION 20-104, IDAHO CODE.
Under Section 20-104, Idaho Code, an offender may be transferred, upon request, to his country of citizenship if a treaty exists between his country and the United States. The Commission's decision is only a recommendation to the Governor as the Governor will have final approval of the transfer. (3-8-16)

01. Request for Transfer. An offender may request a transfer to his country of citizenship. The Commission will receive the application and relevant documents from the Department of Correction. The Commission may request additional information from the applicant, the victim, the Department, or any other source the Commission deems appropriate. (3-21-18)

a. The offender must be a citizen of the country to which he is requesting a transfer. (3-21-18)

b. The United States and the foreign country must be parties to a treaty that provides for the transfer or exchange of convicted offenders. (3-21-18)

c. The offender must not be serving a life sentence. (3-21-18)

d. The offender cannot be less than two (2) years from his parole eligibility date. (3-21-18)

e. The offender must meet the Department of Justice's guidelines for international transfer applications. *( )*

02. Schedule for Review of Application. The Commission will schedule the application for review during a scheduled hearing session at a time and place of its choosing. (3-21-18)

a. The Commission has complete discretion and authority to make a recommendation to the Governor. (3-8-16)

b. The offender is not entitled to be personally present, to have counsel, to present witnesses or evidence, to have any particular evidence considered or to designate the location or time. (3-21-18)

03. Issuance of Written Recommendation. Following the Commission's consideration, a non-binding written recommendation will be issued to the Governor for his consideration. A copy of the recommendation will be sent to the Department's central records. (3-21-18)

a. The offender is not entitled to appeal the Commission's recommendation or the Governor's decision. (3-21-18)

b. The offender may reapply two (2) years from the date of denial by either the Governor or the Commission. (3-8-16)

04. Approval of Transfer Request. If the Governor approves the transfer request, and the receiving country accepts the offender for transfer, the request packet is sent to the Department of Justice for consideration and approval. Once the Department of Justice approves the transfer, the offender is under the jurisdiction of the Department of Justice. (3-21-18)

801. -- 999. (RESERVED)

IDAPA 51 – IDAHO BEEF COUNCIL

DOCKET NO. 51-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 25-2906 (9), Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 51, rules of the Idaho Beef Council:

IDAPA 51
- IDAPA 51.01.01, *Rules of the Idaho Beef Council*.

The rule making was prompted by the expiration of the rules. The Council considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to make the rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 6610 - 6614**.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules Assessments include $1.50 per head of cattle at the time the cattle are sold. This includes one dollar ($1) required by the National Beef Promotion and Research Act, and fifty cents ($.50) authorized by Section 25-2907(1), Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact T.K. Kuwahara at (208) 376-6004.

Dated this 15th day of October, 2019.

T.K. Kuwahara
Chief Executive Officer
Idaho Beef Council
1951 W Frederic Lane
Boise, ID 83705
Phone: (208) 376-6004
Fax: (208) 376-6002

IDAPA 51 – IDAHO BEEF COUNCIL

51.01.01 – IDAHO BEEF COUNCIL RULES

000. LEGAL AUTHORITY.
The Idaho Beef Council is authorized under Section 25-2906(9), Idaho Code, to adopt rules concerning the administration of the Beef Promotion Act. (7-1-93)

001. TITLE AND SCOPE.
These rules are titled IDAPA 51.01.01, "Idaho Beef Council Rules," IDAPA 51, Title 01, Chapter 01. These rules provide for a coordinated federal and state program of beef promotion and research funded by a one dollar and fifty cents ($1.50) assessment on each head of cattle marketed in the state of Idaho. (3-29-10)

002. ADMINISTRATIVE APPEALS.
All contested cases are governed by the procedures set forth by the National Beef Promotion and Research Order, 7 CFR 1260, issued by the United States Department of Agriculture. All written communications and documents that are intended to be part of an official record for a decision in a contested case must be filed with the Chief Executive Officer of the Idaho Beef Council. All such documents are considered filed when the original and one (1) copy of each document is received by the Chief Executive Officer of the Idaho Beef Council. (7-1-93)

003. INCORPORATION BY REFERENCE.
The Idaho Beef Council operates under the rules and regulations of the National Beef Promotion and Research Order. 7 CFR 1260 (Federal Register July 18, 1986). (3-29-10)

004. -- 099. (RESERVED)

100. FUNDING.

01. Assessments. (7-1-93)

a. Each producer shall pay an assessment of one dollar and fifty cents ($1.50) per head of cattle at the time the cattle are sold. This assessment consists of: (3-29-10)

i. One dollar ($1) required by the National Beef Promotion and Research Order, and (3-29-10)

ii. Fifty cents ($.50) authorized by Section 25-2907(1), Idaho Code. (3-29-10)

b. Producers selling or marketing cattle in interstate commerce will pay only one (1) assessment per individual sale of cattle. When cattle leave Idaho for the purpose of sale or slaughter, the assessment will be made at the time of brand inspection. When cattle leave Idaho for feeding or pasture where no change of ownership occurs, the promotion assessment will not be made. (7-1-93)

c. When cattle enter Idaho for sale or slaughter, the assessment will be made only if the assessment has not been paid when the cattle left their state of origin. These cattle will be assessed by the Idaho Brand Inspector, but they will be considered cattle from their state of origin. All assessments will be remitted to the Idaho Beef Council, with these cattle indicated by their state of origin. The Idaho Beef Council will pay to the originating state the assessments due them in a timely manner after payment has been received from the State Brand Inspector. (7-1-93)

d. The assessment implemented by this rule does not apply to the seller of cattle if the seller certifies that the seller's only share in the proceeds of a sale of cattle or beef is a sales commission, handling fee or other service fee; or if the seller certifies that he acquired ownership of cattle to facilitate the transfer of ownership of such cattle to a third party, establishes that such cattle are being resold not later than ten (10) days from the date on which the person acquired ownership and certifies that the assessment was collected from the seller when the person acquired ownership. A completed certificate of "non-producer status" must be given to the brand inspector or his agent at the time of inspection. If no certificate is produced the assessment will be levied. (7-1-93)

02. Collection. The State Brand Inspector shall collect the assessment in addition to and at the same time and manner as the fee charged for state brand inspection. The assessment will be submitted each month to the Beef Council, less collection fee. In addition, the State Brand Inspector will submit monthly, a written accounting of total number of head marketed, number of cattle assessed and not assessed (along with copies of the appropriate non-producer exemption forms), total collections, and state of origin documentation. (3-29-10)

03. Refunds. (3-29-10)

a. *Producers/owners of cattle* from whom an assessment is collected has the right to request a refund of not more than fifty cents ($.50) per head (Section 25-2907, Idaho Code). Refund requests must be mailed to the Idaho Beef Council within ninety (90) calendar days of payment of the assessment *and* include the: *( )*

i. Name and address of the producer; (3-29-10)

ii. Name and address of the entity collecting the assessment (brand inspector or livestock market); (3-29-10)

iii. Number of head on which a refund is requested; (3-29-10)

iv. Total amount of refund requested; (3-29-10)

v. Date of assessment; (3-29-10)

vi. Producer's signature; and (3-29-10)

vii. Proof of payment of the assessment. *( )*

b. The Idaho Beef Council will process the requested refunds on a calendar quarterly basis. Any refund request that is received by the Idaho Beef Council less than fifteen (15) days from the end of the calendar quarter shall be paid at the end of the next quarter. (3-29-10)

101. -- 199. (RESERVED)

200. DISBURSEMENTS.

01. Collection Fee, Brand Inspector. The Idaho Beef Council will reimburse the State Brand Inspector for the reasonable and necessary expenses incurred in the collection of the assessment in an amount determined by the Beef Council and the State Brand Inspector, not to exceed five percent (5%) of gross collections. (7-1-93)

02. National Beef Promotion and Research Board. The Idaho Beef Council will forward fifty cents ($.50) credit per head of cattle assessed to the Cattlemen's Beef Promotion and Research Board. (3-29-10)

03. Idaho Beef Council. Assessment funds remaining after payment of collection fee and disbursement to the National Beef Promotion and Research Board will be retained by the Idaho Beef Council and used to fund its activities and operations. (3-29-10)

201. -- 299. (RESERVED)

300. PERSONNEL.
There will be a full time administrator whose title will be "Chief Executive Officer." Additional staff will be hired based upon Idaho Beef Council program needs and budget. (7-1-93)

301. -- 999. (RESERVED)

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION

DOCKET NO. 52-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 67-7408(1), Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 52, rules of the Idaho State Lottery Commission:

IDAPA 52
- 52.01.03, *Rules Governing Operations of the Idaho State Lottery Commission*.

This pending rule vacates the following proposed rule previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 52, rules of the Idaho State Lottery Commission:

- ***(VACATED)*** **52.01.02, Gaming Rules of the Idaho State Lottery Commission* – (consolidated, in their entirety, into IDAPA 52.01.03, Rules Governing Operations of the Idaho Lottery Commission).

The rule making was prompted by the expiration of the rules. The Commission considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to simplify existing language and reduce or eliminate unnecessary restrictions.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Sub Area 501 allows for an application fee for participating organizations and follow up fees based upon annual gross revenues. Sub Area 601 allows for an annual license fee imposed upon vendors, those businesses or persons who manufacture, sell, distribute, furnish or supply gaming devices to Charitable Gaming organizations. Sub Area 201 allows for an application fee for applicants interested in selling break open (PullTab) products. Rule 205.13 allows for a reduced application fee if a current Lottery product retailer is interested in adding break open (PullTab) products to their portfolio. These fees or charges are being imposed pursuant to Section 67-7412, 67-7706, 67-7712 and 67-7715, Idaho Code.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Becky Schroeder, Chief Operating Officer, at (208) 780-2501.

Dated this 7th day of October, 2019.

Jeffrey R. Anderson, Director
Idaho State Lottery
1199 Shoreline Lane, Suite 100
Boise, ID 83702
Phone: (208) 780-2500

SUBCHAPTER A - INTRODUCTORY PROVISIONS AND DEFINITIONS

000. LEGAL AUTHORITY.
These rules are adopted under the general legal authority of Title 67, Chapter 74, Idaho Code, and the specific legal authority of Sections 67-7401, 67-7404, 67-7406, 67-7408, and 67-7411, Idaho Code. (3-26-08)

001. TITLE AND SCOPE.
The title of these rules is IDAPA 52.01.03, "Rules Governing Operations of the Idaho State Lottery." *The rules govern operations of the Idaho State Lottery. The rules also set forth which bingo games and raffles are legal in the state of Idaho and to bring all legal bingo games and raffles in the state of Idaho under the control of the Lottery.* *( )*

***002*. -- 009. (RESERVED)**

010. DEFINITIONS.
As used throughout these rules these terms have the following definitions: (3-26-08)

01. Commission. The *Idaho State Lottery* Commission established and appointed *according to* Sections 67-740*2, 67-7404(2) and 67-7405*, Idaho Code. See Section *67-7702(4)*, Idaho Code. *( )*

***02*. Commissioner**. A member of the Idaho State Lottery Commission. (3-26-08)

***03*. Director**. The Director of the State Lottery *appointed and confirmed according to* Section 67-7407, Idaho Code. ( )

***04*. Lottery**. The Idaho State Lottery created by Section 67-7402, Idaho Code*, and, as context requires, the Lottery Commission and the Lottery's officers and employees*. *( )*

***05*. Person**. See definition in Section *67-7702*, Idaho Code. *( )*

011. -- 099. (RESERVED)

SUBCHAPTER B - OPERATIONS OF THE IDAHO STATE LOTTERY

100. DEFINITIONS.
These rules apply to Subchapter B only: *( )*

01. Administrative Costs. See definition in Section 67-7404, Idaho Code. (3-26-08)

02. Benefit. Any thing, property or money, favorable consideration or advantage, profit, privileges, gain or interest to which a person is not otherwise entitled. (3-26-08)

03. Certificate. The signed document issued by the Director authorizing a retailer to sell Lottery products. (3-26-08)

***04*. Control Person**. A person in a position of authority that is primarily defined according to organizational type. The following are control persons: (3-26-08)

a. In a privately-owned corporation, the officers, directors, and stockholders of the parent company who own five percent (5%) or more of the company's stock and, if applicable, any of its subsidiaries. (3-26-08)

b. In a publicly-owned corporation, the officers and directors of the parent company and each of its subsidiaries. Additionally, stockholders who own five percent (5%) or more of the corporation's stock are control persons. (3-26-08)

c. In a trust, the trustee and all persons entitled to receive income or benefit from the trust. (3-26-08)

d. In an association, the members, officers, and directors. (3-26-08)

e. In a partnership or joint venture, the general partners, limited partners, or joint venturers. (3-26-08)

f. A member of the immediate family of any of who is a control person under Paragraphs 010.06.a. through 06.e. of this definition. (3-26-08)

g. A subcontractor of a vendor if the subcontractor performs more than half of the vendor's contract with the Lottery. (3-26-08)

05. Executive Staff. The director of Lottery Security Division and the deputy directors appointed by the Director. (3-26-08)

06. Expenses. See definition in Section 67-7404, Idaho Code. (3-26-08)

07. Fiscal Year. The Lottery's fiscal year of twelve (12) months beginning on July 1 and ending on June 30. (3-26-08)

08. Gift. A transfer, exchange or delivery of anything, property or money, of any value whatsoever, with or without an expectation by the giver to receive anything, tangible or intangible, in return. (3-26-08)

09. Immediate Family. A natural person's spouse, children, brother, sister, or parent by blood, marriage, or adoption who resides as a member of the same household in the principal place of residence of any contractor, vendor, retailer, member, or employee of the State Lottery. (3-26-08)

10. Instant Game. A game in which a ticket is purchased and upon removal of a latex or similar secure covering on the front of the ticket, the ticket bearer determines his or her winnings, if any. (3-26-08)

11. Invitation to Bid. The solicitation of competitive offers in which specifications, price, and delivery (or project completion) will be the predominant award criteria. (3-26-08)

12. Lottery Contract or Contract. Any contract entered into either by the Lottery or for the Lottery by another public agency, for the purchase, lease, or sale of goods or services. (3-26-08)

13. Lottery Contractor or Contractor. See definition in Section 67-7404, Idaho Code. (3-26-08)

14. Lottery Employee or Employee. Any person who works full- or part-time for the Lottery. (3-26-08)

15. Lottery Game or Game. Any procedure authorized by the Commission whereby prizes are distributed among persons who have paid, or unconditionally agreed to pay, for tickets or shares which provide the opportunity to win such prizes. Lottery game themes must be approved by the Commission, be consonant with the dignity of the state. (3-26-08)

16. Lottery Game Retailer or Retailer. See definition in Section 67-7404, Idaho Code. (3-26-08)

17. Lottery Revenue. See definition in Section 67-7404, Idaho Code. (3-26-08)

18. Lottery Vendor or Vendor. See definition in Section 67-7404, Idaho Code. (3-26-08)

19. Low, Medium and High Tier Claims. See definition in Section 67-7404, Idaho Code. (3-26-08)

20. Major Procurement. See definition in Section 67-7404, Idaho Code. (3-26-08)

21. Net Income. See definition in Section 67-7404, Idaho Code. (3-26-08)

22. On-Line System. The Lottery's on-line computer wagering system consisting of ticket issuing terminals, central processing equipment, and a communications network. (3-26-08)

23. Play Symbols. The numbers or symbols appearing in the designated area under the removable

covering on the front of the ticket. (3-26-08)

24. **Prize**. Any award, financial or otherwise, awarded by the Director for successfully playing a Lottery game. (3-26-08)

25. **Redemption Value**. See definition in Section 67-7404, Idaho Code. (3-26-08)

26. **Request for Proposal**. The solicitation of competitive proposals, or offers, to be used in part as a basis for making an acquisition, or entering into a contract, when specification and price will not necessarily be the predominant award criteria. (3-26-08)

27. **Retailer Validation Code**. The symbols found under the removable rub-off covering over the play symbols on the front of each ticket. (3-26-08)

28. **Sensitive Procurement**. Those procurement actions or contracts, other than "major procurements," that may either directly or indirectly affect the integrity, security, honesty, and fairness of the operation and administration of the Lottery. A typical example of this class of procurement is the acquisition of security systems that protect the security and integrity of the Lottery. (3-26-08)

29. **Share**. See definition in Section 67-7404, Idaho Code. (3-26-08)

30. **State Lottery Act of 1988 or Act**. The Act approved by the legislature creating the Lottery, which became effective November 23, 1988, as amended, which is codified at Title 67, Chapter 74, Idaho Code. (3-26-08)

31. **Subcontractor**. Any third party not in the employment of a contractor, who is performing all or part of the work in the contractor's agreement with the Lottery under a separate contract with the contractor. The term "subcontractor" means subcontractor of any tier. (3-26-08)

32. **Temporary Retailer**. A retailer under contract with the Lottery for a temporary or seasonal period. A temporary contract may be subject to special conditions or limitations that the Director deems prudent. These limitations or conditions may include, but are not limited to: (3-26-08)

a. Length of ticket sale period; (3-26-08)

b. Hours or days of sale; (3-26-08)

c. Location of sale; (3-26-08)

d. Specific persons who may sell Lottery tickets; (3-26-08)

e. Specific sporting, charitable, social, or other special events where Lottery tickets may be sold. (3-26-08)

33. **Provisional Retailer**. A retailer granted a provisional certificate in accordance with these rules. A provisional certificate may contain some or all of the restrictions of a temporary retailer and additional restrictions deemed necessary by the Director. (3-26-08)

34. **Ticket**. See definition in Section 67-7404, Idaho Code. (3-26-08)

35. **Ticket Bearer**. The person who has signed the ticket or has possession of the unsigned ticket. (3-26-08)

36. **Ticket Validation Number or Validation Number**. The multidigit number found on the front of the ticket. It is either uncovered or found underneath the "Do Not Remove" area on the ticket or any stub. (3-26-08)

37. **Total Annual Revenue or Annual Revenue**. The sum of all of the Lottery's proceeds and accrued income that is characterized as a reduction or recovery of expenses. (3-26-08)

38. **Unclaimed Prize**. Any award, financial or otherwise, of more than twenty-five dollars ($25) for which there is physical, tangible evidence of eligibility but for which the prize has not been paid within one (1) year. (3-26-08)

39. **Value**. See definition in Section 67-7404, Idaho Code. (3-26-08)

101. OPERATING PROVISIONS.

01. **Purpose**. These rules are established by the Commission to define and regulate the operation and administration of the Lottery and the Commission. (3-26-08)

02. **Lottery Commission**. The Commission is charged with the authority and duty to regulate Lottery activities in the state of Idaho, consistent with the Idaho Constitution and the enabling legislation. The headquarters of the Commission and of the Lottery is in Boise. (3-26-08)

03. **Powers and Duties of the Commission**. (3-26-08)

a. Rule Promulgation. The Commission promulgates rules and conditions under which the statewide Lottery will be conducted. Subjects covered in such rules include but need not be limited to: (3-26-08)

i. The types of Lottery games to be conducted; (3-26-08)

ii. The prices of tickets in the Lottery; (3-26-08)

iii. In general the numbers and sizes of prize disbursements, the manner and frequency of prize drawings, and the manner in which payment will be made to holders of winning tickets; (3-26-08)

iv. The locations at which Lottery tickets may be sold, the manner in which they are to be sold, and contracting with Lottery vendors, retailers and contractors; (3-26-08)

v. The manner in which Lottery sales revenues are to be collected; (3-26-08)

vi. The amount of compensation to be paid to retailers; (3-26-08)

vii. Other areas relating to the efficient and economical operation and administration of a statewide Lottery consonant with the public interest. (3-26-08)

b. Delegation to Director. In addition to those duties assigned to the Director in the Act, the Commission may, insofar as is consistent with the Idaho Constitution and the Act, delegate the performance of executive or administrative functions to the Director. (3-26-08)

04. **Time and Place of Meetings**. (3-26-08)

a. Regular meetings of the Commission will be held at least quarterly; the date, time, and place will be set by the Commission and, if possible, with at least two (2) weeks' advance notice. The Commission may meet with the Director to make recommendations and set policy, to approve or reject reports of the Director, to adopt rules, and to transact other business. (3-26-08)

b. Additional meetings necessary to discharge the business of the Commission may be called from time to time by the chairman or by a quorum of the Commission. (3-26-08)

05. **Open Meeting Law**. All meetings of the Commission will be held in accordance with Idaho's Open Meeting Law, Sections 67-2340, et seq., Idaho Code, and in accordance with Section 67-7442, Idaho Code. All meetings of the Commission are open to the public, except when executive session is allowed for part of the meeting under the Open Meeting Law. (3-26-08)

06. Director. The Director is responsible for the operation of the Lottery and for managing the affairs of the Commission. A Deputy Director designated by the Director may act for the Director in the absence of the Director. If there is a vacancy in the office of Director, the Commission will designate the Deputy Director as Interim Director until the vacancy can be filled. (3-26-08)

07. Powers and Duties of the Director. (3-26-08)

a. The Director has the authority to implement and execute procedures that he may deem appropriate for the efficient administration of the Lottery. The Director may also recommend rules governing the establishment, administration, and operation of the Lottery to the Commission for its approval; (3-26-08)

b. The Director is authorized to employ sufficient staff as may be required to carry out the functions of the Commission and the Lottery; (3-26-08)

c. The Director may contract with retailers for the sale of Lottery games and will suspend or terminate any contract in accordance with the provisions of the Act and the rules of the Commission; (3-26-08)

d. The Director will continuously study and investigate all matters pertinent to the efficient operation of the Lottery; and (3-26-08)

e. The Director will maintain full and complete records of the operation of the Lottery *and* report on at least a monthly basis to the Commission and to the governor on the status of the Lottery. *( )*

f. The duties and responsibilities of the Director that are not otherwise specified in Idaho law or the rules adopted by the Commission may be maintained as a policy of the Commission for the purpose of establishing a working relationship between the Director and the Commission. (3-26-08)

***08*. Lottery Budgets and Financial Statements**. The Director must: (3-26-08)

a. Submit quarterly financial statements to the Commission, the governor, the state treasurer, and the legislature. The quarterly financial statements must be prepared in accordance with generally accepted accounting principles and include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The quarterly financial statements must be provided within forty-five (45) days of the last day of each quarter. (3-26-08)

b. Submit annual financial statements to the Commission, the governor, the state treasurer, and each member of the legislature. The annual financial statements must be prepared in accordance with generally accepted accounting principles and must include a balance sheet, a statement of operations, a statement of changes in financial position, and related footnotes. The annual financial statements must be examined by the state controller or a firm of independent certified public accountants in accordance with generally accepted auditing standards and must be provided within ninety (90) days of the last day of the Lottery's fiscal year. (3-26-08)

***09*. Contingency Reserve**. (3-26-08)

a. The Director may, with the approval of the Commission, allot from moneys available to pay administrative expenses an amount to be transferred to a contingency reserve established by the Commission. The money allotted can include amounts retained to fund specific future expenses or can be undesignated as to purpose. (3-26-08)

b. When the Commission approves a contingency reserve, it must determine the amount necessary for a reasonable contingency reserve. (3-26-08)

c. Upon approval of the Commission, money in the contingency reserve may be authorized to be used for specific purposes of the Lottery or to be used to fund general administrative expenses if there is a revenue shortfall. Expenses funded from the contingency reserve cannot be included with other administrative expenses for purposes of determining compliance with current administrative expenditure limitations. (3-26-08)

10. **Special Drawings**. (3-26-08)

a. The Director may authorize special drawings to award prizes, such as vacation trips, automobiles, or other tangible items in addition to, or in lieu of, cash awards. The Director will determine the nature and number of awards for each special drawing. Special drawings for promotional awards may be held independently of the Lottery's regular prize drawings or may be incorporated therein. The promotional drawings may be cosponsored and conducted in conjunction with Lottery retailers or other independent businesses. In view of the temporary nature and indeterminate frequency of the promotional awards drawings, a press announcement and normal advertising media will be used to inform the public of the rules and prizes for each special drawing. (3-26-08)

b. Notwithstanding the provisions of Paragraph 100.11.a. of this rule, the Director may, at his discretion, award in-lieu equivalent cash awards to the winners of tangible items, in those instances where the Director deems it appropriate. The value of noncash items will be estimated by using either the cost of the item or its fair-market value. (3-26-08)

11. **Retail Drawings**. The Director and his designee may authorize retailers to conduct drawings using non-winning Lottery tickets in conjunction with a particular Lottery game. Such authorization will be in writing, specify the type of drawing to be conducted, and forth the methodology to be used in conducting the drawing. (3-26-08)

12. **Retail Ticket Price Discounts**. (3-26-08)

a. Notwithstanding the price adopted for the retail sale of a ticket in the rules for a specific Lottery game, the Commission may offer discounts for the retail sale of Lottery tickets. (3-26-08)

i. Discounts for the retail sale of Lottery tickets may be offered to the public through the use of coupons approved by the Director or by any other method approved by the Director. (3-26-08)

ii. Coupons that offer a discount on the retail price of Lottery tickets will be distributed using methods designed to reach the public. *( )*

b. Rules for a promotion conducted by the Lottery using retail ticket discounts *will be published* by the Director and made available at the Lottery's offices and retailer locations. *( )*

13. **Allocation of Revenues for Prizes**. (3-26-08)

a. Purpose: The primary objective of the Lottery is to produce the maximum amount of net revenues to benefit the public purpose of raising revenue consonant with the dignity of the state and the sensibilities of its citizens. In accomplishing this objective, at least forty-five percent (45%) of the total annual revenues will be returned in the form of prizes. The Lottery may design and conduct games that return more than forty-five percent (45%) of the revenues received from the sale of tickets in the form of prizes as an incentive to increase the total amount of game sales over the level of sales that otherwise would have been reasonably expected using a lower prize percentage. Games may also be authorized that return less than forty-five percent (45%) of that game's revenues so long as forty-five percent (45%) of the total annual revenues is returned as prizes. (3-26-08)

b. Prize payments: In addition to cash prize payments, money set aside by the Lottery and restricted for the payment of prizes is considered in satisfying the requirement of returning at least forty-five percent (45%) of total revenues to the public in the form of prizes. (3-26-08)

c. Averaging game prize payments: Notwithstanding the prize structure adopted for a Lottery game, the amount of revenue returned for prizes among all the games offered by the Lottery may be reallocated so long as at least forty-five percent (45%) of the total revenue earned from all games is returned to the public in the form of prizes on an annual basis. The Director will report to the Commission on any reallocations made pursuant to Section 100 of these rules. (3-26-08)

14. **Ownership of Lottery Tickets**. (3-26-08)

a. Except for tickets claimed jointly in accordance with the provisions of Paragraph 100.14.d. of this rule, until a name is printed or placed upon a Lottery ticket in the designated area, the ticket is owned by the bearer, *who is entitled to any prize attributable to the ticket*. *( )*

b. If more than one (1) name appears on a ticket, the ticket must be claimed in accordance with the joint ownership procedures listed in Paragraph 100.14.d. of this rule. (3-26-08)

c. Groups, family units, clubs, or other organizations may claim a winning ticket if the organization possesses a Federal Employer Identification Number (FEIN) issued by the Internal Revenue Service and that number is shown on the claim form. (3-26-08)

d. If a ticket is claimed to be owned by two (2) or more people, the following steps will be taken for payment of the prize: (3-26-08)

i. All people claiming ownership must complete and sign a claim form and declare their percentage of the prize prior to processing the claim. After the claim form is submitted to the Lottery, the percentage cannot be amended. The percentages claimed must add up to one hundred percent (100%) of the prize. (4-4-13)

ii. At least one (1) of the people claiming ownership of the ticket must sign the ticket *and also sign* the claim form. *( )*

iii. The Lottery reserves the right to issue a single prize check instead of multiple prize checks to the owners of a ticket if the value of each individual prize check would be less than fifty dollars ($50). (3-26-08)

iv. Multiple winners of a Lottery prize will be paid only through the Boise Lottery office. Lottery retailers will not be required to pay more than one (1) winner of a single prize. (3-26-08)

***15*. Claims**. (3-26-08)

a. Liability. By submitting a claim, the player agrees that the state, the Commission, the Lottery and all officials, officers, and employees of each are discharged from all further liability upon payment of the prize. (3-26-08)

b. Publicity. By submitting a claim, the player also agrees that the Lottery may use the prize winner's name and photograph for publicity purposes. (3-26-08)

c. Claim period. Prizes may be claimed for a period of one hundred eighty (180) days after the drawing in which the prize was won or from the last day tickets from the specific instant game were sold. Prizes won through an electronic terminal are payable in accordance with the Lottery's rules. If a claim is not made for the prize within the applicable period, the prize money may be added to future prize pools, to be used in addition to prize allotments already allocated, except as provided in Section 67-7433, Idaho Code. (3-26-08)

d. Invalid tickets. If a ticket presented to the Lottery is invalid pursuant to the terms of these rules or the specific game rules, the ticket is not entitled to prize payment. (3-26-08)

e. Ticket a bearer instrument. A ticket is a bearer instrument until signed in the space designated on the ticket for signature. The person who signs the ticket is considered the owner of the ticket. Payment of any prize may be made to a person in possession of an unsigned ticket. All liability of the state, the Commission, the Lottery, the Director, and Lottery employees terminates upon payment. *( )*

f. Time of prize payment. All prizes will be paid within a reasonable time after a claim is verified by the Lottery and a winner is determined. The date of the first installment payment of any prize to be paid in installment payments is the date the claim is validated and processed, unless a different date is specified for a particular game in these rules or in the specific game rules. Later installment payments will be made approximately weekly, monthly, or annually, from the date the claim is processed and validated in accordance with the type of prize won and the rules applicable to the prize. The Lottery may, at any time, delay any prize payment in order to review a change in circumstances concerning the prize awarded, the payee, or the claim. (3-26-08)

g. Prizes payable for winner's life. If any prize is for the life of the winner, only an individual may claim and receive the prize for life. If a group, corporation, or other organization is the winner, the life of the winner is deemed to be twenty (20) years. (3-26-08)

16. **Prizes Payable After Death of Winner**. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

17. **Disability of Prize Winner**. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, mental deficiency, or physical or mental incapacity. *( )*

18. **Stolen or Lost Tickets**. The Lottery has no responsibility for paying prizes attributable to stolen or lost tickets. (3-26-08)

19. **Effect of Game Rules**. In purchasing a ticket the player agrees to comply with Title 67, Chapter 74, Idaho Code, these rules, the specific game rules, Lottery instructions and procedures, and the final decisions of the Lottery. The Lottery's decisions and judgments in respect to the determination of winning tickets or any other dispute arising from the payment or awarding of prizes will be final and binding upon all participants in the Lottery. If a dispute between the Lottery and a player occurs as to whether a ticket is a winning ticket and the prize is not paid, the Lottery may, solely at the Director's option, replace the ticket with an unplayed ticket of an equivalent price from any game or refund the price of the ticket. This will be the sole and exclusive remedy of the player. (3-26-08)

20. **Disputed Prizes**. If there is a dispute, or it appears that there may a dispute concerning payment or ownership of any prize or any other legal issue involving the prize, the Lottery may refrain from making payment of the prize pending a final determination by the Lottery or by a court of competent jurisdiction as to the proper payment of the prize. (3-26-08)

21. **Sale of Lottery Tickets**. Lottery tickets may be sold for cash, check, money order, credit card, electronic funds transfer, or debit card. (5-8-09)

102. CONFLICT OF INTEREST POLICY.

01. **Persons Subject to Conflict of Interest Policy**. Every Commissioner, the Director, every Deputy Director, and every other Lottery officer and employee is considered a person subject to this rule on conflict of interest. If a statutory provision, rule, or policy applicable to the Lottery conflicts with Section 67-7443, Idaho Code, the more stringent provision applies. (3-26-08)

02. **Statements For Economic Interest**. Every person listed in Subsection 110.01 of this rule, is prohibited from directly or indirectly, individually, or as a member of a partnership, or as a shareholder of a corporation, or as a participant in a joint venture or association with any other person, having an interest in dealing in a Lottery game or in the ownership or leasing of property used by or for a Lottery game. (3-26-08)

03. **Persons Ineligible For Prizes**. Except as provided in Section 67-7440, Idaho Code, the following persons are *disqualified* from purchasing a Lottery ticket or share, and from receiving a Lottery prize: *( )*

a. Every person listed in Subsection 110.01 of this rule; (3-26-08)

b. Any officer, director, or employee of any vendor of Lottery tickets or manufacturer of equipment used to determine winners in computerized Lottery games, and any of their subcontractors who may affect the

security, integrity, or honesty of the Lottery; (3-26-08)

c. Any Lottery contractor or consultant under agreement with the Lottery to review the Lottery's security procedures, and any other contractor or consultant that the Director deems ineligible if the Director reasonably determines that the security, honesty, and integrity of the Lottery may be adversely affected; (3-26-08)

d. An immediate family member of any individual described in Paragraphs 110.03.a., 110.03.b., or 110.03.c. of this rule who is a member of the same household. (3-26-08)

04. Gift Prohibitions. (3-26-08)

a. Except as provided in Paragraph 110.03.b. of this rule, every person listed in Subsection 110.01 of this rule, including members of their immediate family, are prohibited from soliciting or receiving, directly or indirectly, a gift in excess of fifty dollars ($50) from any person who might reasonably be expected to receive a benefit from the Lottery. (3-26-08)

b. In appearances before civic groups and other organizations it is permissible to accept a meal if it is offered and it is the established practice of that group or organization. (3-26-08)

05. Persons Prohibited From Providing Services. The following individuals and entities are prohibited from being a Lottery game retailer, Lottery vendor, or Lottery contractor, and shall not provide audits or study services as specified by Title 67, Chapter 74, Idaho Code: (3-26-08)

a. Every person listed in Subsection 110.01 of this rule; (3-26-08)

b. A member of the immediate family who is a member of the same household of any person listed in Subsection 110.01 of this rule; (3-26-08)

06. Outside Activities Restricted. (3-26-08)

a. The Director, all Deputy Directors, and all full-time Lottery officers and employees are required to render full-time service to the duties of their positions. Part-time, temporary, or seasonal Lottery employees are required to render service to the extent of their employment with the Lottery and are prohibited from accepting other employment that may conflict with the integrity of the Lottery. (3-26-08)

b. Except when assisting another state lottery, no Commissioner, Director, Deputy Director or other Lottery officer or employee may provide consulting or contractual services, or accept an honorarium related to his State Lottery expertise. (3-26-08)

c. When assisting another state lottery, it is permissible for the other state to reimburse normal travel costs to the individual providing the service, but no honorarium or pay to the individual will be accepted. If the other state has a policy of paying for the time of another state's employee while providing assistance, the payment will be made to the State Lottery. (3-26-08)

d. Nothing contained in Paragraphs 110.06.a. through 110.06.c. of this rule precludes the Lottery from negotiating contracts in which the vendor to the Lottery must bear the expense of Lottery personnel making on-site inspections of the vendor's products or manufacturing facility, auditing the vendor, or other legitimate business reasons for traveling to the vendor's place of business or site of the vendor's records, and person listed in Subsection 110.01 of this rule may engage in travel at the vendor's expense for those legitimate business purposes. Nothing contained in Paragraphs 110.06.a. through 110.06.c. of this rule prevents a Commissioner, Director, Deputy Director or other Lottery officer or employee from participating in and traveling to educational or industry related programs. Actual expenses incurred may be reimbursed by a sponsoring entity if the integrity of the State Lottery is not adversely impacted. (3-26-08)

07. Conduct of Commission Business. Business transactions conducted by the Commission, the Director, Deputy Directors, and all other Lottery officers and employees with Lottery vendors should be conducted in the Lottery's offices to the maximum extent possible. (3-26-08)

08. Personal Conduct. Personal conduct that is illegal or generally considered improper or brings discredit to the Lottery may be subject to appropriate disciplinary action by the Director. (3-26-08)

09. Use of Lottery Property. Every person listed in Subsection 110.01 of this rule is prohibited from using any Lottery vehicle or other Lottery property for personal use, except that telephones, computers, etc., may be used for personal use in the manner ordinarily accepted in an office setting when that use does not result in additional expense to the Lottery and when that use does not contravene state policy. (3-26-08)

10. Signature of Conflict Policy Required. Every person listed in Subsection 110.01 of this rule is required to sign the following conflict of interest policy as a condition of employment. "I have read and understand the pertinent Sections of Idaho Constitution Article 7, Section 10, and Title 59, Chapter 7, Idaho Code, and these conflict of interest policies."

Signature
Typed Name
Date (3-26-08)

***103*. -- 199. (RESERVED)**

200. LOTTERY CONTRACTING RULES.

01. Classification of Lottery Contracts. (3-26-08)

a. Lottery contracts for the acquisition of materials, supplies, services and personal and professional services are classified according to relative sensitivity, which in turn determines the level of review, procurement method and the extent of disclosure required by Lottery vendors or if no disclosure is required as in the case of Lottery contractors. The three (3) levels of procurement are as follows: (3-26-08)

i. General procurements: These procurements are the least sensitive and are for materials, supplies, equipment, services and personal and professional services required to satisfy the day-to-day administrative, ministerial and operating needs of the Lottery. Disclosure filings by Lottery vendors are not normally required for this class of procurements. Lottery contractors may supply general procurement items. The Lottery may use formal invitations to bid, informal competitive quotes and requests for proposals to solicit contracts for these acquisitions, as may be determined by the Director to be the most appropriate process for a specific acquisition. (3-26-08)

ii. Sensitive procurements: These procurements are of intermediate sensitivity and are for materials, supplies, equipment, services and personal and professional services which may have direct or indirect impact upon the security, credibility and integrity of the Lottery. Also included are special studies and services required by statute (demographic, communications and performance studies). The normal procedure for acquiring the materials and services is by request for proposal; however, the Director may authorize the use of competitive quotes when the cost of the acquisition is less than fifteen thousand dollars ($15,000). The Director may prescribe special disclosure requirements governing Lottery contractors or vendors for this class of contracts. (3-26-08)

iii. Major procurements: This class is the most sensitive of Lottery contracts. The Lottery Act requires these procurements to be let by the Commission and the filing of comprehensive disclosure statements by Lottery vendors. (3-26-08)

b. The procedures for announcing or soliciting various classes of Lottery contracts outlined in Paragraph 200.01.a. of this rule are intended to be advisory only and do not limit the Commission or the Director in the selection of the most appropriate process to acquire a given product or service. (3-26-08)

02. General Policy. (3-26-08)

a. In all decisions affecting the Lottery, the Commission and Director are specifically directed by statute to take into consideration the particularly sensitive nature of the Lottery and to act in a manner to promote and insure the integrity, security, honesty and fairness of the Lottery. Additionally, the Director, in awarding contracts in

response to solicitations for proposals, must award the contracts to the responsible contractor or vendor submitting the lowest and best proposal that provides maximum benefits to the state in relation to cost in the areas of security, competence, experience, timely performance, and maximization of net revenues to benefit the public purpose of the Lottery. Consistent with these statutory directives, it is the policy of the Lottery, to the extent possible, to conduct its contracting affairs in an open, competitive manner. However, the security and integrity of the Lottery are fundamental and overriding considerations in all decisions. (3-26-08)

b. Although the Lottery is exempt from the provisions of Section 67-5715, Idaho Code, it is the policy of the Lottery to conduct its contracting affairs generally in accordance with the state's competitive bidding principles contained in Section 67-5715 et seq., Idaho Code, and consistent with the specific directives contained in Paragraph 200.02.a. of this rule. In implementing this policy, the Lottery reserves the right to use the procedures developed by the Department of Administration as guidelines to govern its procurement actions. Notwithstanding this reservation, the Lottery also reserves the right to use alternate contracting and purchasing practices that take account of market realities and modern or innovative contracting and purchasing methods that are also consistent with the public policy of encouraging competition. These methods may include, but are not limited to, specialized vendor prequalifications, competitive negotiations, performance incentives and disincentives, life cycle costing and solicitations emphasizing the request for proposal process. (3-26-08)

c. When the Lottery uses a Request for Proposal (RFP) for a planned acquisition, the major considerations in determining the contract award will be the quality of the product or service, the likelihood of timely performance, and price. Qualitative factors normally address issues like the Vendor's demonstrated experience in performing comparable projects, performance credibility, availability of qualified personnel and equipment, and other special factors as may apply to a particular contract. The RFP will normally specify the criteria that will be used in the evaluation of offers and the award of the contract. (3-26-08)

d. Because of the specialized character of Lottery contracts, the Lottery will not normally advertise bid proposals. Rather, the Lottery will circulate bid and proposal requests for materials, equipment and services to vendors known to specialize in the required procurement or to vendors that the Lottery may reasonably expect to have an interest in providing such services. The Lottery will develop its mailing lists as the service need arises. (3-26-08)

e. The Director may prepare standard terms and conditions to govern the acquisition of materials, supplies and services by the State Lottery. To the extent possible, the standard terms and conditions should be as uniform as possible with the standard terms and conditions governing contracts entered into by other state agencies. (3-26-08)

f. All major departures from the state contracting guidelines referred to in Paragraph 200.02.b. of this rule will be approved by the Commission. If there is a conflict between the state guidelines and the Lottery's adopted rules, the Lottery's rules take precedence. (3-26-08)

03. Delegation of Purchasing Authority. (3-26-08)

a. Authority is granted to the Director to initiate all purchase actions and enter into and execute contracts for materials, supplies and services, on behalf of the Commission and the Lottery, except as follows: (3-26-08)

i. General contracts having an estimated one-time or annual cost in excess of fifty thousand dollars ($50,000); (3-26-08)

ii. Contracts defined as Sensitive Procurements having a one-time or annual cost of more than fifty thousand dollars ($50,000); (3-26-08)

iii. Contracts defined as Major Procurements; (3-26-08)

iv. All personal service contracts other than major or sensitive procurements having a one-time or annual cost in excess of fifteen thousand dollars ($15,000); and (3-26-08)

v. Procurement actions which are executed in a manner other than as provided in the contract

exemption guidelines. (3-26-08)

b. Notwithstanding the provisions of Subparagraph 200.03.a.i. of this rule, the Commission, having once approved a planned procurement action involving a general contract acquisition, grants authority to the Director to execute a contract or contracts for the purchase or service without further action by the Commission. (3-26-08)

c. The Commission, having once approved a particular contract, delegates authority to the Director to make all disbursements and payments as provided in the contract, without further, specific approval action by the Commission. (3-26-08)

d. The Commission grants authority to the Director to enter into emergency contracts when immediate and decisive action is required to protect the security, credibility or integrity of the Lottery or a Lottery game. All emergency contracts let by the Director in which the cost exceeds the delegated authority contained in Paragraph 200.03.a. of this rule, must be reported to the Commission within five (5) days of the contract award date, or at the next scheduled Commission meeting, whichever is sooner. Such procurement actions may be taken without competitive bid. The dollar value of a contract awarded by the Director under the provisions of this section may not exceed fifty thousand dollars ($50,000). Any emergency contract for a major procurement in which the cost exceeds fifty thousand dollars ($50,000), if not acted upon at a regularly scheduled Commission meeting, is subject to Commission approval by telephonic or electronic vote. (3-26-08)

04. State Central Services Agenda. As provided in Section 67-7408, Idaho Code, the Lottery may contract with other state agencies for the performance of contracting responsibilities that may be required by the Lottery. Those services may include, but are not limited to, the acquisition of Fidelity and Faithful Performance Bonds covering the Commissioners, officers, and employees of the Lottery; bonding of retailers, annuity contracts; general equipment and supplies; equipment financing agreements; and disposal of surplus Lottery property. The Lottery is bound by all statutes and rules governing the actions of the state agency when the Lottery uses such services. (3-26-08)

05. Idaho Preference. (3-26-08)

a. In all contracts, the Lottery will prefer goods or services that have been manufactured or produced in this state if price, fitness, availability and quality are otherwise equal. (3-26-08)

b. Where a Lottery contract is awarded to a foreign contractor and the contract price exceeds ten thousand dollars ($10,000), the contractor must promptly report to the Idaho Tax Commission (ITC) on forms to be provided by ITC the total contract price, terms of payment, length of contract and such other information as the ITC may require before final payment can be received on the Lottery contract. The Lottery must satisfy itself that the requirements of this Paragraph have been complied with before it issues a final payment on a Lottery contract. For the purposes of this Paragraph, a foreign contractor is one who is not domiciled in or registered to do business in Idaho. (3-26-08)

06. Equal Opportunity/Affirmative Action Contracts. The Lottery is an equal opportunity employer and also participates in any on-going state affirmative action programs. (3-26-08)

07. Personal Services Contract. (3-26-08)

a. Contracts between the Lottery and persons or firms such as advertising agencies, security consultants, auditors, other consultants required to conduct or prepare special studies and reports and other personal services contracts that may be required to fulfill the Lottery's responsibilities, will be awarded as outlined in this Subsection. The award of contracts will be either direct, informal or formal depending upon the sensitivity and estimated dollar value of the contract. In awarding personal services contracts, the Lottery will consider the contractor's qualifications in similar areas of demonstrated competency, availability, experience in successfully performing comparable projects, availability of qualified personnel, likelihood of timely performance, history of cost containment, compensation requirements and other special factors that may apply to a particular contract. (3-26-08)

b. Direct Award Procedures. (3-26-08)

i. Any personal services contract having an estimated one-time or annual value of ten thousand dollars ($10,000) or less may be awarded directly by the Director if the Director believes reasonable steps have been taken to obtain competitive quotes, if feasible, and the award will not negatively affect the security, credibility or integrity of the Lottery. (3-26-08)

ii. The Director, with the approval of the Commission, may directly award personal services contracts in any appropriate or reasonable amount, without competitive solicitations, when the project consists of work that has been substantially described, planned or otherwise studied in an earlier Lottery contract and the new contract would be a continuation of the earlier project, provided that the earlier contract was awarded by a formal selection procedure. In awarding contracts under this provision the Commission and Director will take into account the effects of that action on the security, credibility and integrity of the Lottery and further ensure that the contract awards will not encourage favoritism or substantially diminish competition and will result in substantial cost savings to the Lottery. (3-26-08)

iii. The Director, with the approval of the Commission, may directly award personal service contracts without competitive solicitation when an emergency or other condition exists that requires prompt and decisive action. The Commission and Director may exercise the provisions of this Paragraph only when immediate action is required to correct a situation that would threaten integrity, security, honesty, and fairness in the operation and administration of the Lottery or the objective of raising net revenues for the benefit of the public purpose described in the Act. (3-26-08)

c. Informal Award Procedure: The Director may award any personal services contract having an estimated one-time annual value of more than ten thousand dollars ($10,000), but not more than twenty-five thousand dollars ($25,000), if the following informal award procedure is followed: (3-26-08)

i. An attempt is made to obtain a minimum of three (3) competitive quotes. If three (3) quotes are not available, fewer will suffice provided a written record is made of the effort to obtain three (3) quotes. (3-26-08)

ii. A written record must be maintained of the source and amount of quotes received. (3-26-08)

iii. The contract award will be made to the lowest priced vendor who best meets the contract award criteria of Paragraph 200.07.a. of this rule. (3-26-08)

iv. The Director maintains work papers documenting the basis of the award to ensure that the award will not negatively affect the security, credibility and integrity of the Lottery. (3-26-08)

d. Formal Award Procedures: Unless otherwise awarded under the provisions of Subparagraphs 200.07.b.ii. or 200.07.b.iii. of this rule, all personal services contracts having an estimated one-time or annual cost of more than twenty-five thousand dollars ($25,000) must be awarded according to the formal award procedure, as follows: (3-26-08)

i. The Lottery will distribute copies of the proposal (usually a Request for Proposal) to Lottery vendors or to appropriate contractors who have indicated an interest, or are anticipated to have an interest, in providing the required service to the Lottery. Every Request for Proposal will include a response deadline date. All responses received by the Lottery after the deadline may be rejected. (3-26-08)

ii. The Director will appoint an evaluation panel consisting of at least four (4) persons, at least two (2) of whom are members of the Lottery's staff. The Director of Lottery Security will be one of the appointees to evaluate the responses for any project involving the security of the Lottery. (3-26-08)

iii. The evaluation panel must develop a system to evaluate the vendor responses and score each vendor's response. Based upon this evaluation, the evaluation panel must rank the three (3) best responses and develop an award recommendation. (3-26-08)

iv. The contract will be awarded to the vendor who best meets the award criteria. (3-26-08)

e. No contract or other agreement for the purpose of providing services to the Lottery may be entered

into, renewed, or extended with any person, unless the person certifies in writing, under penalty of perjury, that the person is not in violation of any Idaho tax laws on a form prescribed by the Idaho Tax Commission (ITC). A copy of the certification form may be obtained from the Lottery or the ITC. The original certification must be retained in the Lottery's contract file as required by the state's records retention guidelines. (3-26-08)

08. Major Procurements. (3-26-08)

a. All bid announcements, invitations, or proposals covering major procurements will identify that the planned acquisition is classified as a major procurement. (3-26-08)

b. All contracts or procurement actions classified as major procurements will be subject to the disclosure requirements specified in Section 67-7421, Idaho Code. Subsection 010.05 of these rules defines the term "control person" for purposes of disclosure requirements. The Lottery will enclose a copy of the disclosure requirements with each bid announcement or proposed request for such procurement. All disclosure filings are subject to the review and approval of the Director of the Lottery Security Division. Failure of any Lottery vendor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. (3-26-08)

c. No contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Lottery Security to rigorously enforce this requirement. (3-26-08)

d. The Lottery may prequalify Lottery vendors as having met the disclosure filing requirements for major procurements. The disclosure prequalifications may be renewed by July 1 of each year. The prequalifications will satisfy the disclosure requirements of the Act, providing a certification is received from the Lottery vendor at the time of submitting any subsequent bid, proposal or offer and that no changes have occurred in the vendor's status, or that of its control persons, since the last filing of the complete disclosure statement. (3-26-08)

e. Each Lottery vendor for a major procurement must maintain its disclosure filing in a current status during the tenure of the contract. Unless otherwise provided in the contract document, any changes in the status of the vendor, any of its listed control persons or additional control persons, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. (3-26-08)

f. Each Lottery vendor for a major procurement is required to post a performance bond with the Commission as provided in Section 67-7427, Idaho Code. The performance bond must be issued by a surety licensed to do business in this state and be for the duration specified in the procurement announcement. (3-26-08)

09. Sensitive Procurements. (3-26-08)

a. All bid announcements, invitations, or Requests for Proposal covering sensitive procurements as defined in Subparagraph 200.01.a.ii. of this rule will identify that the planned acquisition is a sensitive procurement and will be subject to the provisions of this rule. (3-26-08)

b. The Director may establish special disclosure requirements governing State Lottery contracts for sensitive procurements that will be included in the procurement announcement. Failure of any Lottery vendor or contractor to properly execute or timely submit the disclosure requirement may be grounds for rejection of the bid or proposal. All disclosure filings are subject to the review and approval of the Director of Lottery Security. (3-26-08)

c. No contract for a major procurement with any Lottery vendor may be entered into if any control person of that Lottery vendor has been convicted of a crime, other than traffic infractions. Background checks must be made by the Director of Lottery Security to rigorously enforce this requirement. (3-26-08)

d. The Lottery may prequalify Lottery vendors as having met the disclosure requirements of this rule. The prequalification will satisfy the disclosure filing requirement providing a certification is received from the Lottery vendor, at the time of submitting any subsequent bid, proposal or offer, that no changes have occurred in the vendor's status or any of its principals since the last filing of the full disclosure statement. (3-26-08)

e. Each Lottery vendor for a sensitive procurement must maintain its disclosure filing in a current status during the tenure of the contract. Unless otherwise provided in the contract document, any changes in the vendor's status or any of its principals, must be reported to the Director within fourteen (14) days of the known change, and will require written submission of the same disclosure information to the Commission. (3-26-08)

f. Each Lottery contractor for a sensitive procurement may be required to post a performance bond with the Lottery. The performance bond must be issued by a surety licensed to do business in this state and be for the amount and duration specified in the procurement announcement. (3-26-08)

10. Advertising and Promotional Contract. Because advertising and promotional contracts involve unique marketing strategies for Lottery games, the acquisition of these services and purchases may be made directly without using competitive procurement procedures. The prudent person rule will apply in the award of these contracts or the acquisition of these services. This exemption applies to all advertising and promotional contracts, whether placed through the Lottery's advertising agency or directly by the Commission or the Director. For the purpose of this rule, advertising and promotional contracts include but are not limited to: agreements with radio and television stations, acquisition of prizes, media selection, placement of advertising contracts, promotional printing, art work and development and placement of all forms of commercials and display presentations. (3-26-08)

11. Investment Contracts. The Lottery may enter into contracts for the acquisition of structured settlements, place investments or acquire annuities related to the pay-off of major prize winners without following competitive bidding procedures. The Lottery will follow the prudent person rule in the placement of such investments. (3-26-08)

12. Prequalification of Annuity Vendors. (3-26-08)

a. For the purpose of acquiring annuities related to the pay-off of major prize winners, the Lottery will maintain an ongoing prequalification list of annuity vendors. A vendor must first be prequalified by the Lottery before submitting a bid to the Lottery for the award of an annuity contract. Vendors may submit their qualifications to the Lottery for evaluation any time in the year. (3-26-08)

b. The following criteria must be met by each vendor before being placed on the prequalification list: (3-26-08)

i. Each bidder must be an insurance company licensed to do business in Idaho and have been in business for a period of two (2) years immediately before submitting its bid. (3-26-08)

ii. An insurance company must be a Best's "A+" rated company and have at least a Best's Class VII financial size classification. (3-26-08)

iii. Each bidder's request for qualification must contain: (3-26-08)

(1) The name, address, telephone number and contact person for the bidder. (3-26-08)

(2) The current financial statement of the bidder certified by an independent certified public accountant. (3-26-08)

(3) The names, addresses and telephone numbers of three (3) current or past annuity client references whom the Lottery may contact. (3-26-08)

c. After a vendor has been prequalified, the vendor may submit bids to the Lottery in accordance with the procedures established by the Director. Furthermore, a vendor must keep its qualifications current by promptly reporting any changes in their status to the Lottery. (3-26-08)

d. The total amount of annuities awarded to an insurance company cannot exceed five percent (5%) of its stated surplus. (3-26-08)

e. Nothing contained in this rule will preclude a brokerage company from representing or submitting a bid on behalf of a qualified bidder. (3-26-08)

201. CRITERIA FOR REVIEW OF RETAILER APPLICATIONS AND CONDUCT OF OPERATIONS.

01. Retailer's Application. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must first file an application on forms provided by the Director. The forms will require disclosure of, but are not limited to, an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. (3-26-08)

02. Fees, Procedure, and Criteria Precluding Issuing Contract. (3-26-08)

a. All certificate applications must be accompanied by a minimum, nonrefundable, fee of twenty-five dollars ($25). If a certificate is awarded, an additional, nonrefundable, certificate fee of one hundred dollars ($100) must be paid. (3-26-08)

b. A current retailer may be required to complete an additional application or application supplements. If a current retailer requests that the existing certificate be modified to allow the sale of additional Lottery products, no additional application fee will be charged. ( )

c. The Lottery may waive the payment of any certificate fee to facilitate an experimental program or a research project. (3-26-08)

03. Provisional Certifications. (3-26-08)

a. The Lottery may issue a provisional certificate to an applicant for a Lottery certificate after receipt of a fully completed certificate application, the authorization of a complete personal background check, completion of a credit check, and completion of a preliminary background check. The provisional certificate will expire at the time of issuance of the requested certificate or ninety (90) days from the date the provisional certificate was issued, whichever occurs first, unless the provisional certificate is extended by the Lottery. (3-26-08)

b. No contract shall be made with an applicant: ( )

i. Who is under eighteen (18) years of age; (3-26-08)

ii. Who will be engaged exclusively in the business of selling tickets; (3-26-08)

iii. Who is an employee of the Lottery; (3-26-08)

iv. Who is, or is owned or controlled or affiliated with, a supplier of instant tickets or a manufacturer of computer equipment used to operate instant or on-line games, or both; (3-26-08)

v. Who is not a resident of Idaho, or a corporation that is not incorporated in Idaho or not authorized to do business in Idaho; (3-26-08)

vi. Who has been found to have violated any rule, regulation, or order of the Commission or the Director; (3-26-08)

vii. When any person, firm, association, or corporation other than the applicant will participate in the management of the affairs of the applicant. (3-26-08)

04. Criteria That May Be Grounds For Refusal. Before contracting with an applicant, the Director will consider the factors set out below. In considering these factors, the Director will seek to determine which applicants will best serve the economical and efficient operation of a statewide Lottery through their ticket sales. If any of these factors lead the Director to determine that contracting with the applicant would not promote the economical and efficient operation of a statewide Lottery consonant with the public interest, or would not serve the public interest, convenience, or trust, the Director may deny the application. (3-26-08)

a. The Director will consider the financial responsibility and security of the person and the person's business or activity *and* consider the person's credit worthiness and integrity in past financial transactions. The Lottery may investigate the credit worthiness of the applicant by using the services of a commercial credit reporting agency. The Director may also consider the physical security of the applicant's place of business to determine whether tickets that will be sold to the applicant and the proceeds from ticket sales will be kept safe. *( )*

b. The Director will consider the accessibility to the public of an applicant's place of business or activity. The Director will contract only with applicants who have regular contact with significant numbers of persons at the applicant's place of business. Before contracting with any organization that has restricted membership policies, the Director must determine whether the restrictions are generally acceptable to the public and whether contracting with that group or organization or similar groups or organizations would best serve the interests of the Lottery. (3-26-08)

c. The Director will consider the sufficiency of existing retailers to serve the public interest. The Director may seek to maximize total ticket sales by encouraging retailers with the highest potential volume in a particular area or neighborhood. (3-26-08)

d. The Director will consider the volume of expected sales by the applicant. In determining the anticipated actual sales volume of the applicant, the Director may rely upon the experience and knowledge of the Lottery's staff as well as any other available professional expertise. The Director will determine whether the volume of an applicant's sales is likely to be sufficient that contracting with the applicant will be economically feasible. (3-26-08)

e. The Director will consider the types of products, services, or entertainment offered at the applicant's place of business. The Director will determine whether the applicant's products, services, or entertainment are generally acceptable to the public and whether they would bear adversely upon the general credibility, integrity, and reputation of the Lottery. (3-26-08)

f. The Director will consider the experience, character, or general fitness of the applicant. Entering into a contract with the applicant must be consistent with the public interest, convenience, and trust. (3-26-08)

g. The Director will consider the veracity and completeness of the information submitted with the retailer's application. The Director will consider the criminal history of the applicant and any person whose name is required to be disclosed under Section 67-7412, Idaho Code, of the Act and may refuse to enter into a contract with any applicant when the applicant or such person has been convicted of violating any of the gambling laws of this state, general or local, or has been convicted at any time of any crime other than traffic infraction. (3-26-08)

***05*. Reporting Changes in Circumstances of The Retailer**. Every change of business structure of a certificated business, such as from a sole proprietorship to a corporation, and every change in the name of a business, must be reported to the Lottery before the change. Substantial changes in the ownership of a certificated business must also be reported to the Lottery before the change. A substantial change of ownership is defined as the transfer of ten percent (10%) or more equity in the certificated business from or to another single individual or legal entity. If a change involves the addition or deletion of one (1) or more existing owners or officers, the certificate holder must submit a certificate application reflecting the change and any other documentation that the Lottery may require. All changes will be reviewed by the Lottery to determine if the existing certificate should be continued. (3-26-08)

***06*. Certificate Not a Vested or Legal Right**. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity is a privilege personal to that person and is not a vested or legal right. The possession of a certificate issued by the Lottery to any person to act as a retailer in any capacity does not automatically entitle that person to sell tickets or obtain materials for any particular game. (3-26-08)

***07*. Suspension or Revocation of a Certificate**. The Lottery may suspend or revoke any certificate issued pursuant to these rules for one (1) or more of the following reasons: (3-26-08)

a. Failing to meet or maintain the eligibility criteria for certificate application and issuance established by Title 67, Chapter 74, Idaho Code, or these rules; (3-26-08)

b. Violation of any of the provisions of Title 67, Chapter 74, Idaho Code, these rules, or the certificate terms and conditions; (3-26-08)

c. Failing to file any return or report or to keep records required by the State Lottery (3-26-08)

d. Failing to maintain an acceptable level of financial responsibility as evidenced by the financial condition of the business, incidents of failure to pay taxes or other debts, or by the giving of financial instruments which are dishonored; (3-26-08)

e. Fraud, deceit, misrepresentation, or other conduct prejudicial to the public confidence in the Lottery; (3-26-08)

f. If the public convenience is adequately served by other certificate holders, failure to sell a minimum number of tickets as established by the Lottery; (3-26-08)

g. A history of thefts or other forms of losses of tickets or revenue from the business; (3-26-08)

h. Violating federal, state, or local law or allowing the violation of any of these laws on premises occupied by or controlled by any person over whom the retailer has substantial control; (3-26-08)

i. Obtaining a certificate by fraud, misrepresentation, concealment or through inadvertence or mistake; (3-26-08)

j. Making a misrepresentation of fact to the Commission or the Lottery on any report, record, application form, or questionnaire required to be submitted to the Commission or the Lottery; (3-26-08)

k. Denying the Lottery or its authorized representative, including authorized local law enforcement agencies, access to any place where a certificate activity is conducted; (3-26-08)

l. Failing to promptly produce for inspection or audit any book, record, document, or other item required to be produced by law, these rules, or the terms of the certificate; (3-26-08)

m. Systemically pursuing economic gain in a manner or context that is in violation of the criminal or civil public policy of this state if there is cause to believe that the participation of such person in these activities is inimical to the proper operation of the authorized Lottery; (3-26-08)

n. Failing to follow the instructions of the Lottery for the conduct of any particular game or special event; (3-26-08)

o. Failing to follow security procedures of the Lottery for the management of personnel, handling of tickets, or for the conduct of any particular game or special event; (3-26-08)

p. Misrepresenting a fact to a purchaser, or prospective purchaser, of a ticket, or to the general public with respect to the conduct of a particular game or special event; (3-26-08)

q. Allowing activities on the licensed premises that could compromise the dignity of the state. (3-26-08)

08. **Surrender of Certificate Upon Revocation**. Upon revocation or suspension of a retailer's certificate, the retailer must surrender to the Lottery, by a date designated by the Lottery, the certificate and all other Lottery property. (3-26-08)

09. **Certified Retailers**. All Lottery retailers must be certified in the manner provided in these rules. Retailers are required to abide by all applicable laws and administrative rules, the terms and conditions of the contract and certificate, and all other directives and instructions issued by the Lottery. (3-26-08)

10. **Requirements For The Sale of Tickets**. (3-26-08)

a. Retailers must be knowledgeable about the Lottery and Lottery products and may be required to take training in the operation of Lottery games. Retailers must make the purchase of tickets convenient to the public. (3-26-08)

b. Tickets must be sold at the price designated by the Lottery. Retailers cannot sell tickets for a greater amount than the amount specified by the Lottery. Retailers may sell tickets for a lesser amount for promotional purposes if authorized by the Lottery. (3-26-08)

c. No retailer or any employee or member of a retailer shall attempt to identify a winning ticket before sale of the ticket. (3-26-08)

d. When a retailer is required by its contract with the Lottery to pay a prize to a winner, the retailer must pay the prize whenever the winner tenders a winning ticket during the retailer's normal business hours at the location designated on the retailer's certificate. (3-26-08)

e. Retailers are prohibited from purchasing tickets previously sold by the retailer. (3-26-08)

11. **Display of Certificate and Other Materials**. Retailers must display the Lottery certificate in an area visible to the general public wherever tickets are being sold *and* also display point-of-sale material provided by the Lottery in a manner that is readily seen by and available to the public. Retailers may advertise and use or display other appropriate promotional and point-of-sale material. The Lottery may require the removal of objectionable material or the discontinuance of objectionable advertising that may have an adverse impact on the Lottery. *( )*

12. **Dishonored Checks and Electronic Fund Transfers**. Any payment made to the Lottery by an applicant for a certificate or by a certificated retailer either by a check that is dishonored or by an electronic funds transfer (EFT) that is not paid by the depository, is grounds for immediate denial of the application for a certificate or for suspension or revocation of an existing certificate. The Lottery may assess a surcharge for each dishonored check or EFT. The Lottery may also alter the payment terms of a retailer's certificate and require a retailer to reimburse the Lottery for costs that occur as a result of a dishonored check or EFT. *( )*

13. **Inspection of Lottery Materials and Retailer Premises**. Retailers must allow the Lottery to enter upon the retailer's certificated premises in order to inspect Lottery materials, tickets, and the premises. All books and records pertaining to the retailer's Lottery activities must be available to the Lottery for inspection and copying during the normal business hours of the retailer and between 8 a.m. and 5 p.m., Monday through Friday. All books and records pertaining to the retailer's Lottery activities are subject to seizure by the Lottery without prior notice. (3-26-08)

202. GENERAL INSTANT TICKET GAME OPERATING RULES.

01. Instant Games -- Authorized -- Director's Authority. The Commission hereby authorizes instant games that meet the criteria set forth in these rules. The Director is hereby authorized to select, operate, and contract relating to and for the operation of instant games that meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Section 202 of these rules, these terms have the following definitions: (3-26-08)

a. Instant Ticket Validation Bar Code. The bar code that enables retailers to validate instant tickets. (3-26-08)

b. ITA System. The Instant Ticket Automation system that validates winning instant tickets. (3-26-08)

c. Pack. A package of instant game tickets with a designated number of tickets that may be (but do not have to be) fanfolded and attached to each other by perforations, which perforations the retailer tears when selling a ticket, and that are packaged in plastic shrink-wrapping, foil or some similar outer wrapping material. (3-26-08)

d. Pack-Ticket Number. The number printed on the ticket. A game identification number must be included in the book-ticket number. (3-26-08)

e. Play Symbol Caption. The small printed material appearing below each play symbol which repeats or explains the play symbol. One (1) and only one (1) play symbol captions appears under each play symbol. (3-26-08)

f. Play Symbols. Figures printed in approved ink that appear under each of the rub-off spots on the front of the ticket. (3-26-08)

g. Retailer Validation Code. The small letters found under the removable rub-off covering over the play symbols on the front of the ticket, which the ticket retailer uses to verify winners of twenty-five dollars ($25) or less. The letters appear in varying locations beneath the removable rub-off covering and among the play symbols. (3-26-08)

h. Ticket. An Idaho instant game ticket. (3-26-08)

i. Ticket Validation Number. The unique number on the front of the ticket. (3-26-08)

03. Sale of Tickets. (3-26-08)

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell Lottery tickets, except that nothing in this section *prevents* a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. *( )*

b. Unless authorized by the Lottery, tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-26-08)

c. Nothing in this section *prohibits* the Commission from designating certain of its agents and employees to sell Lottery tickets directly to the public. *( )*

04. Instant Games Ticket Price. The price of an instant game ticket will be set by the Director. No person may sell a ticket at a price other than that established in accordance with these rules. (3-26-08)

05. Prize Structures. The Director will provide to all Lottery game retailers a detailed tabulation of the estimated number of prizes of each particular prize denomination that are expected to be awarded in each Lottery game and a close approximation of the odds of winning the prizes. (3-26-08)

06. Number and Value of Instant Ticket Prizes. Lottery game prize structures, odds of winning, number of tickets, number and value of prizes, play symbol and captions used for validation will not be adopted by administrative rules. Rather, the Director will submit proposed games to the Commission, who must approve each game's general format before the initiation of each game. All instant games must be conducted in accordance with the rules of the Commission. (3-26-08)

07. Official Start of Game. (3-26-08)

a. Games with a prize structure adopted by the Commission pursuant to Subsection 202.07 of this rule may be started at a time selected by the Director. The Director will publicly announce the starting date of a new game by use of a press release or any other appropriate means. The Director may also issue game information that includes a description of the game, odds of winning a prize, the number and value of prizes, and the play symbols and captions used for prize validation. (3-26-08)

b. Games using a prize structure other than a prize structure previously approved by the Commission must be approved by the Commission before game tickets can be sold to the public. (3-26-08)

08. Determination of Winners. (3-26-08)

a. Winners of an instant game are determined by the matching or specified alignment of the play symbols on the tickets. The play symbols are revealed by scratching or rubbing off the latex or similar secure material that covers spots on the ticket. The ticket bearer must notify the retailer or the Lottery of the win and submit the winning ticket to the retailer or the Lottery as provided in these rules. The winning ticket must be validated by the Lottery through use of the validation number or by any other means specified by the Director. (3-26-08)

b. Unless otherwise provided by game rules, only the highest instant prize amount will be paid on a given ticket. (3-26-08)

c. No portion of the play symbol captions, retailer validation codes, display printing nor any extraneous matter whatever will be usable or playable as a part of the instant game. (3-26-08)

d. The ticket validation number or any portion thereof is not a play spot and is not usable or playable as such. (3-26-08)

e. In all Lottery games, the determination of prize winners is subject to the general ticket validation requirements set forth in Subsection 200.14, et seq., and Subsection 202.11 of this rule, and the requirements set out on the back of each instant game ticket. (3-26-08)

f. The length of operation of an instant game will be determined by the Director. The start date and closing date of the instant game will be publicly announced. (3-26-08)

09. Payment of Prizes. The procedures for claiming instant ticket prizes are as follows: (3-26-08)

a. Instant ticket prizes of less than six hundred dollars ($600) may be claimed by one (1) of the following methods: (3-26-08)

i. The claimant may present the winning ticket to any Lottery retailer. The retailer must verify the claim and, if acceptable, make payment of the amount due the claimant. A retailer may pay prizes in cash or by business check, or money order, or any combination thereof. A retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of the retailer's contract. (3-26-08)

ii. If the retailer cannot verify the claim, the claimant must fill out a claim form *and* the retailer must present the completed form and the disputed ticket to the Director. If the claim is validated, a check will be forwarded to the claimant in payment of the amount due. If the claim is not validated, the claim will be denied and the claimant *will* be promptly notified. *( )*

iii. The claimant may bring the ticket to the Lottery office or complete a claim form and mail it with the ticket to the Idaho State Lottery (registered mail recommended). Claim forms may be obtained from any Lottery game retailer or from the Lottery. *( )*

b. To claim an instant prize of six hundred dollars ($600) or more, the claimant must either bring the winning ticket to the Lottery office or complete a claim form and mail the completed form together with the winning ticket to the Idaho State Lottery (registered mail recommended). *( )*

c. Prizes of six hundred dollars ($600) or more can be paid only from the Boise Lottery office. Upon validation by the Director, a check will be forwarded to the claimant in payment of the amount due, less any applicable federal income tax withholding. (3-26-08)

d. Any ticket not passing all the validation checks is void and ineligible for any prize and will not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or ticket of equivalent sales price from any other current game). If a defective ticket is purchased, the only responsibility or liability of the Lottery is the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sale price from any other current game). (3-26-08)

e. All prizes will be paid within a reasonable time after they are awarded and after the claims are

verified by the Director. For each prize requiring annual payments, all payments after the first payment will be made on the anniversary date of the first payment in accordance with the type of prize awarded. The Director may, at any time, delay any payment in order to review a change of circumstances concerning the prize awarded, the payee, the claim, or any other matter that may have come to his attention. All delayed payments will be brought up to date immediately upon the Director's confirmation and continue to be paid on each original anniversary date thereafter. (3-26-08)

10. Ticket Validation Requirements. In addition to meeting all of the other requirements in these rules or as may be printed on the back of each instant game ticket, the following validation requirements apply with regard to instant game tickets: (3-26-08)

a. To be a valid instant game ticket, *the ticket* must: *( )*

i. *H*ave been issued by the Director in an authorized manner. (3-26-08)

ii. *N*ot be altered, unreadable, or tampered with in any manner. (3-26-08)

iii. *N*ot be counterfeit in whole or in part. (3-26-08)

iv. *N*ot be stolen nor appear on any list of omitted tickets on file with the Lottery. (3-26-08)

v. *B*e complete and not blank (or partially blank), miscut, misregistered, defective, or printed or produced in error. (3-26-08)

vi. Under the opaque covered play area, have play symbols and the correct corresponding captions, exactly one (1) pack-ticket number, exactly one (1) agent verification code, and exactly one (1) validation number as required by each approved set of game rules, all of which must be present in their entirety, legible, right-side up, and not reversed in any manner. (3-26-08)

vii. The validation number of an apparent winning ticket must appear on the Lottery's official list of validation numbers of winning tickets; and a ticket with that validation number cannot have been previously paid. (3-26-08)

viii. *P*ass all additional confidential validation requirements established by the Director. (3-26-08)

ix. *Be signed i*f the prize is for six hundred dollars ($600) or more. *( )*

b. Any ticket not passing all the validation checks in Paragraph 202.11.a. of this rule is void and ineligible for any prize and shall not be paid. However, the Director may, solely at the Director's option, replace an invalid ticket with an unplayed ticket (or tickets of equivalent sales price) from any other current Lottery game. If a defective ticket is purchased, the only responsibility or liability of the Lottery will be the replacement of the defective ticket with another unplayed ticket (or ticket of equivalent sales price from any other current Lottery game). (3-26-08)

c. The Director may authorize reconstruction of an alleged winning ticket that was not received or cannot be located by the Lottery, provided, the person requesting reconstruction must submit to the Lottery sufficient evidence to enable reconstruction and submit a claim for the prize, if any, for that ticket. If the reconstructed ticket is a winning ticket and meets the validation requirements of Paragraph 202.11.a. of this rule and any specific validation requirements contained in the rules for its specific game, the Director may authorize payment of the prize. Provided, the ticket will not be validated nor the prize paid before the one hundred eighty-first (181) day following the official end of that instant game. A ticket(s) validated pursuant to this Subsection will not entitle the claimant to be entered into the grand prize drawing, if any, for that or any subsequent instant game. (3-26-08)

11. Prize Rights Unassignable. No person's right to a prize already drawn is assignable, except that payment of any prize already drawn may be paid to the estate of a deceased prize winner, and a person other than the prize winner may be paid the prize to which the winner is entitled as provided by court order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

12. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho law. For purposes of this Subsection, the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. (3-26-08)

13. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee for the payment of any prize winnings that are or may become due to a person under a disability including, but not limited to, mental deficiency, or physical or mental incapacity. ( )

14. Governing Law. In purchasing a ticket, the customer agrees to comply with, and abide by, Idaho law, and all rules and final decisions of the Lottery, and all procedures and instructions established by the Lottery or the Director for the conduct of the game. (3-26-08)

15. Discharge of All Liability Upon Payment. The state of Idaho, its agents, officers, employees, and representatives, the Lottery, its Director, agents, officers, employees and representatives, will be discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes are final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

16. Unclaimed Prize Money. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery Account. (3-26-08)

17. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)

18. Confidentiality of Tickets. All retailers and their employees and agents are prohibited from attempting to ascertain the numbers or symbols appearing in the designated areas under the removable latex or similar secure coverings or otherwise attempting to identify winning tickets. (3-26-08)

19. Official End of Game. (3-26-08)

a. The official end of an instant game will be announced by the Lottery. Prizes may be claimed up to one hundred eighty (180) days after the official end of the game. If the final day of the claim period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. A player may submit a winning ticket claim for prize payment up to one hundred eighty (180) days after the official end of the game. Depending on the prize amount, the ticket should be submitted to the location specified in Subsection 202.10 of this rule, "Payment of Prizes." To participate in one (1) of the Lottery's special drawings, if any, a player must redeem a ticket that qualifies for entry into that special drawing within the time limits specified by the Director. (3-26-08)

b. A retailer must return to the Lottery all unsold Lottery tickets for each game within ninety (90) days of the official end of that game in order to receive credit from the Lottery as provided in retailer's contract. The Lottery has no obligation to grant credit for tickets returned after the time limit specified in the contract. (3-26-08)

203. (RESERVED)

204. ON-LINE COMPUTER GAMES.

01. On-Line Games -- Authorized -- Director's Authority. The Commission hereby authorizes the Director to select and operate on-line games which meet the criteria set forth in these rules. (3-26-08)

02. Definitions. As used in Rule 204 these terms have the following definitions: (3-26-08)

a. "Drawing." The procedure determined by the Director by which the Lottery selects the winning combination in accordance with the rules of the game. Drawings are open to the public. (4-4-13)

b. "On-line Game." (4-4-13)

i. A Lottery game in which a player selects a combination of numbers or symbols, the type of game and amount of play, and the drawing date by use of a computer. In return for paying the appropriate *price*, the player receives a computer-generated ticket with the player's selection printed on it. Each ticket bearer whose valid ticket includes a winning combination will be entitled to a prize if claim is submitted within the specified time period. *( )*

ii. On-line terminal (OLT) instant ticket game having characteristics as defined in Paragraphs 202.02.a., 202.02.b., 202.02.d. and 202.02.i. of these rules. (4-4-13)

c. "On-line Retailer." A person or business authorized by the Lottery to sell on-line tickets. (3-26-08)

d. "On-line Terminal (OLT)." The computer hardware by which an on-line retailer or player enters the combination selected by the player and by which on-line tickets are generated and claims are validated. (3-26-08)

e. "On-line Ticket." A computer-generated ticket issued by an on-line terminal to a player as a receipt for the combination a player has selected. That ticket is the only acceptable evidence of the combination of numbers or symbols selected. (3-26-08)

f. "Ticket Bearer." The person who has signed the on-line ticket or who has possession of an unsigned ticket. (3-26-08)

g. "Validation." The process of determining whether an on-line ticket presented for payment is a winning ticket. (3-26-08)

h. "Winning Combination." One (1) or more numbers or symbols randomly selected by the State Lottery or its designee in a public drawing. (3-26-08)

03. Distribution of Tickets. (3-26-08)

a. Tickets will be sold by retailers selected by the Director. (3-26-08)

b. The Director is authorized to arrange for the distribution of OLTs, player-activated terminals (PATs), ticket stock, and supplies to certificated retailers. (3-26-08)

04. Sale of Tickets. (3-26-08)

a. No person other than a retailer under a contract for the sale of tickets with the Lottery may sell on-line Lottery tickets, except that nothing in this section will be construed to prevent a person who may lawfully purchase tickets from making a gift of Lottery tickets to another. (3-26-08)

b. Tickets may not be sold at a location other than the address listed on the retailer's contract with the Lottery. (3-26-08)

c. Nothing in this section prohibits the Director from designating certain of its agents and employees to sell Lottery tickets directly to the public. (3-26-08)

05. On-Line Games Criteria. (3-26-08)

a. The base price of an on-line ticket will not be less than fifty cents ($.50), except to the extent of discounts authorized by the Commission. (3-26-08)

b. The price for a ticket in any particular on-line game will be set out in the game rules adopted by the Commission for that game. No person may sell a ticket at a price other than that established in accordance with these rules. On the average, the total of all prizes available to be won in an on-line game will not be less than forty-five percent (45%) of the on-line game's projected revenue. (3-26-08)

c. The manner and frequency of drawings may vary with the type of on-line game as defined in Subparagraph 204.02.b.i. of these rules. (4-4-13)

d. The times, locations, and drawing procedures will be determined by the Director. (3-26-08)

e. OLT instant ticket game as defined in Subparagraph 204.02.b.ii. of these rules will operate with a finite number of tickets per game and a predetermined and guaranteed prize structure approved by the Director. (4-4-13)

f. A ticket bearer entitled to a prize must submit the winning ticket as specified by the Director. The winning ticket must be validated by the Lottery or an on-line retailer through use of the validation number and any other means specified by the Director. (3-26-08)

06. Payment of Prizes. (3-26-08)

a. To claim an on-line game prize of less than six hundred dollars ($600) the claimant may present the winning on-line ticket to any on-line retailer, or to the Lottery office: (3-26-08)

i. If the claim is presented to an on-line retailer, the on-line retailer must validate the claim and, if determined to be a winning ticket, pay the amount due the claimant. If the on-line retailer cannot validate the claim, the claimant may obtain and complete a claim form and submit it with the disputed ticket to the Lottery by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due. If the ticket is determined to be a non winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

ii. If the claim is presented to the Lottery office, the claimant will be required to complete a claim form and submit it with the winning ticket, either by mail or in person. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. (3-26-08)

b. To claim an on-line prize of six hundred dollars ($600) or more, the claimant must obtain and complete a claim form and submit it with the winning ticket to the Lottery office by mail or in person. Prizes of six hundred dollars ($600) or more can be paid only from the Lottery office. Upon determination that the ticket is a winning ticket, the Lottery will present or mail a check to the claimant in payment of the amount due, less any withholding required by the Internal Revenue Code *and the state of Idaho*. The amount due will be calculated according to the rules adopted for the particular on-line game. If the ticket is determined to be a non-winning ticket, the claim will be denied and the claimant will be promptly notified. Non-winning tickets will not be returned to the claimant. *( )*

c. All prizes must be claimed within one hundred eighty (180) days from the drawing in which the prize was won. If the final day of the one hundred eighty (180) day period falls on a Saturday, Sunday or a state holiday, the claim period will be extended to the end of the next business day. Any prize not claimed within the specified period will be forfeited and placed into the State Lottery account. (3-26-08)

07. Drawings and End of Sales Prior to Drawings. (3-26-08)

a. Drawings will be conducted in a location and at days and times designated by the Director. (3-26-08)

b. For each type of on-line game, the Director will establish a time before the drawing for the end of sales. (3-26-08)

c. The Director will designate the type of equipment to be used and will establish procedures to randomly select the winning combination for each type of on-line game. Drawing procedures will include provisions for the substitution of backup drawing equipment if the primary drawing equipment malfunctions or fails for any reason. (3-26-08)

d. The equipment used to determine the winning combination will not be electronically or otherwise connected to the central computer or to any tapes, discs, files, etc., generated or produced by the central computer. The drawing results, including sales, number of winners and numbers drawn, will be audited and reviewed after each drawing to assure proper operation and lack of tampering or fraud. (4-11-19)

e. All drawings may be broadcast live on television, provided the facilities for such broadcasts are available and operational and can be done at a reasonable cost. (5-8-09)

f. The Director will establish procedures governing the conduct of drawings for each type of on-line game. The procedures must include provisions for deviations that include but are not limited to: (3-26-08)

i. Malfunction of the drawing equipment before determination of the winning combination; (3-26-08)

ii. Fouled drawing; (3-26-08)

iii. Delayed drawing; and (3-26-08)

iv. Other equipment, facility or personnel difficulties. (3-26-08)

g. If a deviation occurs, the drawing will be completed under the supervision of the Lottery or its designee. The winning combination will be provided to the public. (4-11-19)

h. If, during any live-broadcasted drawing for a game, a mechanical failure or operator error causes an interruption in the selection of all numbers or symbols, a “foul” will be called by Lottery security or the Lottery’s designee. Any number drawn before a “foul” is called will stand and be deemed official after passing inspection and certification by Lottery security or the Lottery’s designee. (4-11-19)

i. The Director will delay payment of all prizes if any evidence exists or there are grounds for suspicion that tampering or fraud has occurred. Payment will be made after an investigation is completed and the

drawing approved by Lottery security or the Lottery's designee. If the drawing is not approved, it will be void and another drawing will be conducted to determine the actual winner. (4-11-19)

08. Validation Requirements. (3-26-08)

a. To be a valid winning on-line ticket, *the ticket* must: *( )*

i. *Have a*ll printing on the ticket in its entirety, be legible, and correspond, using the computer validation file, to the combination and the date printed on the ticket. (3-26-08)

ii. Be intact*, not be mutilated, altered, or tampered with in any manner.* *( )*

iii. *N*ot be counterfeit or an exact duplicate of another winning ticket. (3-26-08)

iv. *H*ave been issued by an authorized on-line retailer or dispensed by a player-activated terminal in an authorized manner. (3-26-08)

v. *N*ot have been stolen or cancelled. (3-26-08)

vi. *N*ot have been previously paid. (3-26-08)

vii. *P*ass all other confidential security checks of the Lottery. (3-26-08)

viii. *Be signed i*f the prize is for six hundred dollars ($600) or more. *( )*

b. A ticket failing any of the validation requirements listed in Paragraph 204.08.a. of this rule is invalid and ineligible for a prize. The final decision on whether a prize is paid will be made by the Director. (3-26-08)

c. If there is a dispute between the Director and a claimant whether a ticket is a winning ticket, and if the Director determines that the ticket is not valid and a prize is not paid, the Director may replace the disputed ticket with a ticket of equivalent sales price for a future drawing of the same type of game. This will be the sole and exclusive remedy of the claimant. (3-26-08)

d. If a defective on-line ticket is purchased, the only responsibility or liability of the Lottery or of the on-line retailer is the replacement of the defective on-line ticket with another on-line ticket of equivalent value for a future drawing of the same type of game. (3-26-08)

09. Retailer Duties. Retailers with an on-line terminal (OLT) must perform the following duties: (3-26-08)

a. Pay costs associated with providing a telephone line or internet or similar connection that must be located as specified by the Lottery. Payment of the telephone line or internet or similar connection is nonrefundable after installation, except if the Lottery denies, through no fault of retailer, the installation of the on-line terminal. (5-8-09)

b. Pay the Lottery for the local monthly telephone or internet or similar charges per OLT as specified by the Lottery. The Lottery will pay for the mileage charges (if any) between the retailer's location and the Lottery's central site. (3-26-08)

c. Hold funds generated from the sale of on-line tickets in trust for the Lottery. At a time specified by the Lottery, the retailer must pay these funds to the Lottery plus the monthly communications charge specified above in Paragraph 204.09.b. of this rule, less: (3-26-08)

i. Prizes paid; (3-26-08)

ii. Any credit; and (3-26-08)

iii. The retailer discount. (3-26-08)

d. Locate the OLT within the retailer's premises at a point-of-sale location approved by the Lottery. The retailer is prohibited from moving an OLT unless the retailer follows the procedures established by the Director, including reimbursing the State Lottery for any telephone or internet or similar charges associated with the change of OLT location if the retailer requested the change. (3-26-08)

e. Provide dedicated AC power to within approximately five (5) feet of the terminal. Dedicated AC power means that there is no other equipment on the line that is to be used for the on-line terminal. The retailer is responsible for all costs associated with providing dedicated AC power. The Lottery will provide a schematic of outlet requirements to the retailer's electrical contractor. (3-26-08)

f. Sell all Lottery games, including but not limited to instant game tickets offered by the Lottery. The retailer agrees to continue the sale of instant tickets from all cash registers or other points of purchase. (3-26-08)

g. Conduct the sale of on-line tickets during all hours and days that the retailer's business is open and the on-line system is functioning. The retailer must post the hours that redemption of winning tickets may take place if these hours are different from the retailer's normal business hours. The retailer must monitor ticket supply levels and give timely notice when any item is in short supply. (3-26-08)

h. Post winning numbers prominently where tickets are sold as soon as possible following the drawing. (3-26-08)

i. Provide secure storage for OLT supplies and a secure area for the OLT. (3-26-08)

j. Exercise due diligence in the operation of the OLT and immediately notify the Lottery and the central computer facility of any telephone line, internet, radio, or OLT malfunction, such as the issuance of invalid on-line Lottery ticket, inability to sell or redeem an on-line ticket, and non-issuance of an on-line ticket. The retailer is prohibited from performing mechanical or electrical maintenance on the OLT. (3-26-08)

k. Replace ribbons and on-line or instant ticket stock and clear paper jams as required for the OLT per the instructions provided by the Lottery. (3-26-08)

l. Pay, without reimbursement, all electricity charges in connection with the operation of OLT. (3-26-08)

10. Payment of Prizes by On-Line Retailers. (3-26-08)

a. An on-line retailer must pay to the ticket bearer on-line games prizes of less than six hundred dollars ($600) for any validated claims presented to that on-line retailer. These prizes must be paid during all normal business hours of the on-line retailer, unless redemption hours differ from normal business hours that have been posted pursuant to Paragraph 204.09.g. of this rule, provided, that the on-line system is operational and claims can be validated. (3-26-08)

b. An on-line retailer may pay prizes in cash or by business check, certified check, money order, or any combination thereof. An on-line retailer that pays a prize with a check that is dishonored may be subject to suspension or termination of its contract. (3-26-08)

11. Retailer Settlement. (3-26-08)

a. *O*n-line retailers *must* establish an account for deposit of monies derived from on-line games with a financial institution that has the capability of electronic funds transfer (EFT). *( )*

b. The amount deposited must be sufficient to cover monies due the Lottery. The Lottery will withdraw by EFT the amount due the Lottery on the day specified by the Director. If the day specified for withdrawal falls on a state holiday, withdrawal may be delayed until the next business day. (3-26-08)

12. Prize Rights Unassignable. No right of any person to a prize drawn is assignable, except that payment of any prize drawn may be paid to the estate of a deceased prize winner, and that any person may be paid the prize to which the winner is entitled pursuant to an appropriate judicial order. The Director will be discharged of all liability upon payment of a prize pursuant to this rule. (3-26-08)

13. Payment of Prizes to Persons Under Eighteen Years of Age. If a person entitled to a prize for a winning ticket is under the age of eighteen (18) years, the Director may direct payment of the prize to an adult member of the minor's family or to the minor's guardian by a check or draft payable to the adult member of the minor's family or to the minor's guardian. The adult member of the minor's family or the minor's guardian will have the same duties and powers as a person designated as a custodian in accordance with Idaho Law. For purposes of this Subsection the terms "adult member of a minor's family" and "guardian of a minor" have the same meaning as in the Idaho Gifts to Minors Law. The Director will be discharged of all liability upon payment of a prize to a minor pursuant to this rule. (3-26-08)

14. Prizes Payable After Death or Disability of Owner. (3-26-08)

a. All prizes, and portions of prizes, that remain unpaid at the time of the prize winner's death will be payable to the personal representative of the prize winner's estate once satisfactory evidence of the personal representative's appointment has been provided, and the Director is satisfied that payment to the personal representative is lawful and proper. The Director may rely on a certified copy of a court order appointing of a personal representative (or similar person responsible for the prize winner's estate, whether denominated an administrator, executor, executrix, or other representative of the prize winner's estate) or may petition the court to determine the proper payee. Payment to the personal representative of the estate of the deceased owner of any prize winnings will absolve the Director and the Lottery's employees of any further liability for payment of prize winnings. (3-26-08)

b. The Lottery may petition any court of competent jurisdiction for a determination of the rightful payee of any prize winnings that are or may be due to a person under a disability including, but not limited to, minority, mental deficiency, physical or mental incapacity. (3-26-08)

15. Discharge of State Lottery Upon Payment. The state of Idaho, its agents, officers, employees and representatives, the Lottery, its Director, agents, officers, employees and representatives are discharged of all liability upon payment of a prize or any one (1) installment thereof to the holder of any winning Lottery ticket or in accordance with the information set forth on the claim form supplied by the Director. If there is a conflict between the information on a winning Lottery ticket and the information on the claim form, the Lottery may rely on the claim form after the ticket for which it has been filed has been validated as a winning ticket and, in so doing, it will be relieved of all responsibility and liability in the payment of a prize in accordance with the information set forth therein. The Lottery's decisions and judgments in respect to the determination of a winning ticket or of any other dispute arising from payment or awarding of prizes will be final and binding upon all participants in the Lottery unless otherwise provided by law or these rules. If a question arises concerning the winning ticket, a claim form, the payment, or the awarding of any prize, the Lottery may deposit the prize winnings into an escrow fund until it determines the controversy and reaches a decision, or it may petition a court of competent jurisdiction for instructions and a resolution of the controversy. (3-26-08)

16. Disclosure. The Lottery may use the names, addresses, and photographs of winners in any Lottery promotional or publicity campaign. The address used will not contain the winner's street or house number without the winner's consent. The Lottery may condition payment of the prize upon agreement to these terms and conditions. (3-26-08)

205. BREAKOPEN INSTANT TICKET GAMES.

The Commission hereby authorizes the Director to select and operate breakopen instant ticket games that meet the criteria set forth in these rules. (3-26-08)

01. Definitions. As used in Section 205 of these rules, these terms have the following definitions: (3-26-08)

a. "Authorized Dispensing Device" means any machine, or mechanism designed for use of vending or dispensing of breakopen instant tickets. These devices may include mechanical, electrical, electro-mechanical or other devices approved by the Director of the Lottery pursuant to Section 100 of these rules. (3-26-08)

b. "Box" means a group of breakopen instant tickets with the same unique serial number. (3-26-08)

c. "Breakopen Instant Ticket" means a single folded or banded ticket or a card, the face of which is initially covered or otherwise hidden from view to conceal numbers or symbols, or both, a few of which numbers or symbols have been designated in advance and at random as prize winners when, for the opportunity to obtain each such folded or banded ticket or card, view the numbers or symbols thereon and possibly obtain a prize, a person pays an established price to a breakopen instant ticket retailer. (3-26-08)

d. "Breakopen Instant Ticket Game" means a group of breakopen instant ticket boxes with the same thematic design and prize structure. (3-26-08)

e. "Breakopen Instant Ticket Retailer" means any person who has been approved, certified and contracted with by the Lottery to sell breakopen instant tickets. (3-26-08)

f. "Breakopen Instant Ticket Vendor" means any person who produces and provides breakopen instant tickets to the Lottery. (3-26-08)

g. "Distributor" means any person who purchases or otherwise obtains authorized dispensing devices for use in breakopen instant ticket games from any person and sells or otherwise furnishes such device to another person for the resale of or the display or operation of that device. (3-26-08)

i. As used in these rules, the term "distributor" includes a person who services and repairs authorized dispensing devices, so long as the person performing such servicing or repairs is approved by the distributor or distributor's representative, and makes no addition to, or modification or alteration of, the authorized device. (3-26-08)

ii. A manufacturer who sells or otherwise furnishes authorized dispensing devices not manufactured by him to any other person for resale or for display or operation of that authorized device is also a "distributor." (3-26-08)

h. "Distributor's Representative" means any individual who represents a distributor in any of the distributor's activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. (3-26-08)

i. "Flare" means a vendor-provided informational sign that, at a minimum, displays the prize structure, the serial number of the sleeve in play, the odds of winning a prize, and the price of the ticket. (3-26-08)

j. "Manufacturer" means any person who assembles from raw materials or subparts a completed authorized dispensing device or pieces of the authorized device for use in breakopen instant ticket activities and who sells or otherwise furnishes the same to any distributor or retail outlet. (3-26-08)

k. "Manufacturer's representative" means any person who represents a manufacturer in any one of the manufacturer's activities in connection with the sale or furnishing of authorized dispensing device for use in breakopen instant ticket activities. (3-26-08)

l. "Sleeve" is a portion of a box; and is the smallest unit offered. (3-26-08)

02. Breakopen Instant Ticket Special Inspection. The Director or authorized representative has the authority to select any breakopen instant ticket sleeve and examine the quality and integrity of the sleeve in any manner, including pulling all chances remaining thereon: Provided, that if the sleeve so inspected is thereby altered by such inspection in any manner and no defect, alteration, deceptive condition, or other violation is discovered, then the owner shall be reimbursed by the Lottery at the owner's cost for the sleeve or portion thereof, and the sleeve will become the property of the Lottery. Provided further, that for each sleeve inspected which is found to be defective in

any area related to a vendor's quality control deficiency, a fee may be assessed by the Director against the vendor of the breakopen instant ticket. ( )

03. Breakopen Instant Ticket Operation. (3-26-08)

a. No person under the age of eighteen (18) years is allowed to play or sell any breakopen instant tickets. It is the responsibility of the retailer to determine that no unauthorized person is allowed to play or sell breakopen instant tickets. (3-26-08)

b. No retailer is permitted to display or operate any breakopen instant ticket that has in any manner been marked, defaced, tampered with or otherwise placed in a condition, or operated in a manner, that may deceive the public or that affects the chances of winning or losing upon the taking of any chance thereon. (3-26-08)

c. All records, reports, receipts and any unsold tickets relating to a breakopen instant ticket sleeve must be retained on the retailer's premises at least ninety (90) days after the sleeve is removed from play and be made available on demand to representatives of the Idaho Lottery. (3-26-08)

04. Breakopen Instant Ticket Price per Play to Be Posted. No breakopen instant ticket sleeve may be placed for public play unless the cost to the player for each ticket is clearly posted on the flare. The price per ticket will be determined by the Director. (3-26-08)

05. Claiming of Prizes. Prizes must be redeemed on the same day as purchased at the location where the winning ticket was purchased, and prizes will be awarded in cash or by check. (3-26-08)

06. Limitation on Breakopen Instant Ticket Dispensing. No ticket once placed in an authorized dispensing device out for public play may be removed from the authorized device until the sleeve is permanently removed from public play, except only: (3-26-08)

a. Those tickets actually played by *players*; ( )

b. Those tickets removed by representatives of the Lottery inspecting the device or sleeve; and (3-26-08)

c. Those tickets temporarily removed during necessary repair or maintenance of the device. Excepting only tickets removed under Paragraphs 205.06.b. and 205.06.c. of this rule, once a ticket has been removed from public play it cannot again be put out for public play. (3-26-08)

07. All Devices Must Comply With Requirements. No retailer may display or put out for play, and no distributor or manufacturer or their representatives may sell or otherwise furnish any device for the dispensing of breakopen instant tickets, unless the device is approved for use by the Director, thereby making it an authorized device. (3-26-08)

a. No person may sell or transfer to another person in this state or for use within this state, nor shall place out for public play, any device for the dispensing of breakopen instant tickets that is not constructed to allow a consumer to clearly see each ticket within the device before playing the device. (3-26-08)

b. No person may put out for public play any device for the dispensing of breakopen instant tickets that is not constructed to provide for at least one (1) sleeve in play in the device. (3-26-08)

c. No person may put out for public play any device for the dispensing of breakopen instant tickets that is designed, used, or constructed, in a manner that detracts from the breakopen instant tickets or that is deceptive in any way, as determined by the Director. (3-26-08)

08. Breakopen Instant Ticket Series Assembly and Packaging. Vendors of breakopen instant ticket games must manufacture, assemble and package each game sleeve in a manner that none of the winning tickets, nor the location or approximate location of any of the winning tickets, can be determined in advance of opening the tickets. All breakopen instant ticket games must be approved and will be distributed and sold exclusively by the

Lottery. The Lottery may adopt quality control standards for the manufacture of breakopen instant ticket games. (3-26-08)

09. Standards For Flares. The flare advertising prizes available from the operation of any sleeve of breakopen instant tickets must: (3-26-08)

a. Be placed near or upon the upper face, or on the top, of any authorized device used to dispense breakopen instant tickets in a manner clearly visible to the public; and (3-26-08)

b. Clearly set out each of the prizes available and the combination of numbers or symbols which win prizes. Each flare describing the prizes and winning number or symbols for a sleeve of breakopen instant tickets in play must clearly set out the sleeve number assigned to that sleeve by the vendor. The sleeve number will be placed upon the flare by the vendor. The total number of tickets originally in the sleeve will be placed upon the flare by the vendor. (3-26-08)

10. Prize Structure. The Director will establish a prize structure detailing the estimated number of prizes that are expected to be awarded in each sleeve and a close approximation of the odds of winning such prizes. (3-26-08)

11. Retailers Eligible to Sell Breakopen Tickets. Any person interested in obtaining a contract for a certificate to sell Lottery tickets must file an application on forms provided by the Director *that includes*, but *is* not limited to, requiring an applicant's personal, financial, and criminal history, and an authorization to investigate the applicant's criminal and credit history. *( )*

12. Retailer Application and Fee. All applications to sell breakopen instant tickets must be accompanied by a nonrefundable fee of twenty-five dollars ($25). If a certificate is awarded to sell only breakopen instant tickets, no additional certificate fee *is necessary*. *( )*

13. Certificate Modification. (3-26-08)

a. Certified instant ticket retailers may apply for a certificate modification to allow for the sale of breakopen instant tickets. A current instant ticket retailer will be required to complete an additional application or application supplements. If a current instant ticket retailer requests that the existing certificate be modified to allow for the sale of breakopen instant tickets, no additional application fee will be charged upon approval. (3-26-08)

b. Certified breakopen instant ticket retailers may apply for a certificate modification to allow for the sale of instant tickets. A current breakopen instant ticket retailer will be required to complete an additional application or application supplements. If a current breakopen instant ticket retailer requests that the existing certificate be modified to allow for the sale of instant tickets, an additional certificate fee of one hundred dollars ($100) may be charged upon approval. (3-26-08)

206. -- *299*. (RESERVED)

SUBCHAPTER C - CHARITABLE GAMING RULES OF THE IDAHO STATE LOTTERY

300. DEFINITIONS.
As used in these rules, each word defined in this Section has the meaning given here unless a different meaning is clearly required from context: (4-2-08)

01. Audit. The review of documents or other records pertaining to operation of bingo or raffles, including, but not limited to, ledgers, bank statements, checks and deposit records, nightly logs, receipts, register tapes, computer records, contracts and leases, records showing use of all revenues for charitable activities, and tax records, by representatives of the Lottery, the attorney general, other law enforcement agencies, or independent auditors. (2-19-09)

02. Autodaubing Features or Autodaubing. Electronic bingo card daubers, including software or

equipment interfaced with electronic bingo cards that automatically daub the numbers as called without requiring the player to manually input the number called. (4-2-08)

03. Bingo. The traditional game of chance using a card with five (5) rows and five (5) columns containing numbers from a range of one (1) to seventy-five (75) and played for a prize determined before the game begins, as elaborated in Subsection 010.03 of these rules, and other games authorized by Title 67, Chapter 77, Idaho Code, and by these rules, for example, "U-Pick Em." See Section 67-7702(1), Idaho Code: (4-2-08)

a. Bingo Cards, Regular. Regular bingo cards (reusable or disposable) contain five (5) rows and five (5) columns of squares arranged in a five-by-five (5x5) grid; each square is imprinted with randomly placed numbers from a range of one (1) through seventy-five (75), except for the center square, which may be a free space. The letters "B-I-N-G-O" must also be imprinted on the card in order with one (1) letter above each of the five (5) columns (the letter "B" above the first column and so on). (4-2-08)

b. Bingo Cards, Electronic, or Face. An electronic facsimile of a regular bingo card. See Section 67-7702(6), Idaho Code. (4-2-08)

c. Play Method. Players who have paid consideration for the cards that they are holding compete for a prize by covering numbers on their cards when designators with the same number are randomly drawn and called. The balls or other designators in the selection device are numbered in the same manner as the possible numbers on the bingo cards, from one (1) through seventy-five (75). The winner is the first player to cover a predetermined arrangement of numbers on the players' cards, for example, any row, column or diagonal of the five (5) rows and (5) columns and two (2) diagonals of the bingo card. Upon approval of the Bingo-Raffle Advisory Board there may be other forms of bingo games allowed, such as, but not limited to, Blackouts, Bonanza, and "U-Pick Em" games. The game begins when the first number is called and ends when a player has covered the previously designated arrangement and declares a bingo. Each winning card must be independently verified by a floor worker and another player by calling back the winning combination of numbers in the predetermined arrangement or by entering the serial number printed on the bingo card into an electronic verification system that can verify whether a card is a winner. (4-2-08)

d. Exclusions from Bingo. Bingo does not include "instant bingo," which is a game of chance played by the selection of one (1) or more prepackaged cards, with the winner determined by the appearance of a preprinted winning designation on the card. (4-2-08)

04. Bingo-Raffle Advisory Board or Board. The board established and appointed according to Sections 67-7702(2), 67-7703, and 67-7704, Idaho Code. (4-2-08)

05. Blackout. A game of bingo where all numbers are covered on a bingo card. This game is also referred to as "coverall." (4-2-08)

06. Bonanza. A game of bingo that is played on a prefolded card or on another kind of card on which the numbers are not revealed until the card is purchased and in which a designated number of balls are emitted from the machine in the usual manner and displayed. If there is no "Bingo" called on these numbers, the game may continue with one (1) additional ball emitted at a time until there is a winner. (4-2-08)

07. Charitable Contribution Acknowledgement Report Form or CCARF. A form, prepared by the Director, upon which the recipient of a donation for a charitable purpose must indicate the charitable purpose for which the donation will be used; the name, address, and phone number of the person receiving the donation; and acknowledgement that the recipient will provide any and all information necessary in order for the Director or his representatives to verify that the donation was used for a charitable purpose, as well as any other information needed by the Director to assure that the donation is used for a charitable purpose. See Section 67-7709(2), Idaho Code. (4-2-08)

08. Charitable Donation Reporting Form. A form prepared by the Director, upon which each licensed organization shall record all charitable donations made from the proceeds of charitable bingo or raffles held during the license year on which they are reporting. This report shall require the names, addresses, contact person's name, contact person's telephone number, dollar amount and purpose of the donation. This report will be submitted to

the Lottery along with the Annual Bingo Report or Annual Raffle Report and will be subject to audit as defined in Subsection 010.01. (2-19-09)

09. Charitable Organization. See definition in Section 67-7702, Idaho Code. (2-19-09)

10. Charitable Purpose. A purpose of supporting a bona fide charitable organization, as defined by Section 67-7702(3), Idaho Code. (4-2-08)

11. **Concessions**. Food and beverages or other incidental items (for example, caps or tee-shirts) unrelated to gaming that are sold to players at bingo games. (4-2-08)

12. **Disposable Paper Bingo Card**. A non-reusable, paper bingo card. (4-2-08)

13. **Distributor**. Any person who purchases or otherwise obtains or supplies equipment for use in conducting gaming activities, including, but not limited to, bingo or raffles, from any person or entity, and sells or otherwise furnishes such equipment or supplies to any person or entity who engages in gaming activity. (4-2-08)

14. **Duck Race**. A charitable raffle as defined in Section 67-7702(5), Idaho Code. (4-2-08)

15. **Electronic Bingo Device**. An electronic device used to monitor bingo games as defined by Section 67-7702(7), Idaho Code. Electronic bingo devices may be used to monitor bingo cards ("mind cards") only if they meet the requirements of Section 67-7702(7)(a), Idaho Code. No devices described in Section 67-7702(7)(b), Idaho Code, can be lawfully used in a bingo operation. (4-2-08)

16. **Electronic Gaming Devices**. Gaming or gambling devices electronically operated by inserting a coin or token and then pulling a handle or pushing a button to activate the game. Electronic gaming devices can generate points or payout slips for accumulated wins. (4-2-08)

17. **Gaming**. Gambling as defined in Section 18-3801, Idaho Code, including gaming authorized by Title 67, Chapters 74 and 77, Idaho Code. (4-2-08)

18. **Gross Revenues**. See definition in Section 67-7702, Idaho Code. (2-19-09)

a. For Bingo. All moneys paid by players during a bingo game or session of play bingo, including fees for use of electronic bingo cards or electronic bingo devices, but excluding money paid for concessions. Gross revenues are calculated before any deductions for prizes or other expenses. (4-2-08)

b. For Raffles and Other Gaming Authorized by Title 67, Chapter 77, Idaho Code. All moneys or other value paid to or due to any operator of a raffle or other gaming authorized by Title 67, Chapter 77, Idaho Code, activity for any chance taken or other fees for participation in the raffle or other gaming activity. Gross revenues are calculated before any deductions for prizes or other expenses. (4-2-08)

19. **Hard Bingo Cards**. Reusable bingo cards with sliding windows or shutters to cover the numbers on the cards. Hard cards are legal in sessions with less than ten thousand dollars ($10,000) of annual gross revenue or for special occasions. (4-2-08)

20. **Host System**. See definition in Section 67-7702, Idaho Code. (2-19-09)

21. **Instant Bingo**. A Lottery game played by the use of premarked cards which, when opened, scratched or otherwise revealed, determine whether the cardholder is a winner without any competition among players. "Instant Bingo" is not a game of "Bingo" as defined by these rules. (4-2-08)

22. **License**. A permission issued by the Director of the Lottery to operate bingo games or raffles or to manufacture, sell, distribute, furnish or supply gaming machines, equipment or material. (4-2-08)

23. **Licensed Game Operator**. A person who qualifies as a nonprofit or charitable organization who may operate bingo or raffles and who is licensed pursuant to Section 67-7711, Idaho Code. (4-2-08)

24. **Licensed Vendor**. A person who manufactures, sells, distributes, furnishes or supplies gaming machines, equipment or material who is licensed pursuant to Section 67-7715, Idaho Code. (4-2-08)

25. **Manufacturer**. Any person who fabricates or assembles a completed piece of gaming equipment or pieces of gaming equipment, or supplies completed gaming equipment, or pieces of gaming equipment for use in gaming activities, including, but not limited to, bingo and raffles, and who sells or otherwise furnishes the completed gaming equipment or pieces of gaming equipment to any distributor, operator, or retail outlet. (4-2-08)

26. **Net Proceeds of a Charitable Raffle**. The gross revenues of a charitable raffle less the cost of prizes awarded. Net proceeds of a duck race mean gross revenues less the cost of prizes awarded and the rental cost of the ducks used in the race (if there are rental costs). See Section 67-7710(3), Idaho Code. Donated prizes are considered to have no cost and do not reduce the receipts when calculating net proceeds. (3-20-14)

27. **Nonprofit Organization**. See definition in Section 67-7702, Idaho Code. (2-19-09)

28. **Organization**. A charitable organization or a nonprofit organization. (2-19-09)

29. **Raffle**. An event in which prizes are won by random drawings or other selections of a ticket, duck or other means of identifying the one (1) or more persons purchasing chances. See Section 67-7702(14), Idaho Code. Duck races are a form of raffles. See Sections 67-7702(5) and 67-7702(9), Idaho Code. (3-20-14)

30. **Reusable Bingo Cards**. Bingo cards constructed out of a durable material that use sliding windows or shutters or chips to cover the numbers and that can be reused from one (1) game to another. (4-2-08)

31. **Separate Bank Account**. A bank account in the name of, and controlled by, a charitable or nonprofit organization established for purposes of complying with the accounting requirements of Section 67-7709(1), Idaho Code, regarding accounting for revenues and disbursements for bingo operations. All gross revenues received in connection with licensed bingo games must be placed in the separate bank account. Concessions and other moneys received (if any) from non-gaming revenues should not be deposited in the separate bank account. (3-20-14)

32. **Session**. A period of time not to exceed eight (8) hours in any one (1) day in which players are allowed to participate in bingo games operated by a charitable or nonprofit organization. See Sections 67-7702(15) and 67-7708, Idaho Code. (4-2-08)

33. **Site System**. See definition in Section 67-7702, Idaho Code. (2-19-09)

34. **Tracking**. The documentation of sales by sequentially numbered bingo paper or numbered tickets in raffles. See Section 67-7709(3), Idaho Code. (4-2-08)

35. **U-Pick Ems**. A game where players select their own numbers on a two (2) part duplicated bingo card. One (1) copy is retained by the player and used as a bingo card. Numbers are called until there is a winner. The winner is determined by the first player to cover the numbers on a "U-Pick-Em" card. (4-2-08)

36. **Vendor**. See definition in Section 67-7702, Idaho Code. (2-19-09)

SUB AREA: CONDUCT OF BINGO GAMES

301. BINGO BY CHARITABLE OR NONPROFIT ORGANIZATIONS.

All organizations operating bingo games, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct bingo sessions or bingo games in violation of Title 67, Chapter 77, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. See Section 67-7707, Idaho Code. Sections 301 through 306 of these rules apply to all bingo operators. Sections 307 through 310 of these rules apply to operators using paper bingo cards. Sections 311 through 313 of these rules apply to operators using electronic bingo machines, as defined in Section 311 of these rules. Sections 306 through 309 of these rules apply to all bingo operators. (4-2-08)

302. NUMBER OF SESSIONS PER WEEK.

Licensed operators of bingo games are limited to a maximum of three (3) bingo sessions per any calendar week (Sunday-Saturday). None of these sessions may exceed eight (8) consecutive hours in any one (1) day. See Section 67-7708, Idaho Code. A session is determined by the sale of paper for a continuous series of bingo games offered for a predetermined period of time. For special sessions it is permissible to extend the hours past midnight, but all hours past midnight up to 2 a.m. on the following day will count as hours for the day during which the session started. (2-19-09)

303. POSTING OF LICENSE AND HOURS.

The organization's current charitable gaming license issued by the Lottery must be displayed during bingo games and bingo sessions in plain view for all players and interested persons. Lottery Gaming Rules must be kept on site and available during all sessions. Days/hours of operation must be posted in plain view for all players and interested persons. If days or times change, it is the responsibility of the organization to provide written notice to the Lottery. House rules pertaining to bingo must be posted in plain view for all players and interested persons. (3-30-01)

304. MEMBERS OF ORGANIZATION IN ATTENDANCE -- TRAINING OF EMPLOYEES.

At least one (1) member or representative of the licensed organization must be in attendance at each session of bingo to supervise all bingo-related activities of a licensed organization. See Section 67-7711(3), Idaho Code. All bingo game employees, volunteers, and managers of all organizations, whether licensed or unlicensed, must be trained in the proper conduct of the game and the control of funds. (3-20-14)

305. EMPLOYEES INELIGIBLE TO PLAY.

All bingo game employees and managers are prohibited from playing in any game or in any session for which the employee or manager takes part as employee or manager. There should be no conflict of interest perceived by the public. (7-1-97)

306. MINORS.

Persons under the age of eighteen (18) years are prohibited from playing bingo in a game in which a cash prize is offered, or where the prize exceeds twenty-five dollars ($25) in value for merchandise, or where any merchandise is redeemable, in whole or in part, for cash. See Section 67-7707(2), Idaho Code. Bingo operators may allow minors to work in a bingo game or session as per local house rules. (3-20-14)

307. TRACKING REQUIREMENTS IN GAMES USING PAPER BINGO CARDS.

01. Bingo Paper -- For Whom Required. All licensed organizations operating bingo sessions that use paper bingo cards and all organizations exempt from licensing under Section 67-7713, Idaho Code, that use paper bingo cards must track their bingo sales for each session by using sequentially numbered/colored bingo paper. Each such organization must keep a ledger of the numbers of all bingo papers used. The non-reusable colored paper cards must be manufactured with a pre-printed series and a pre-printed serial number on each card. These cards may be assembled in multiple card sheets, single sheets, or packets. A sequential series and serial number must be printed on each individual card. (4-2-08)

02. Tracking by Game For Bingo Paper. The tracking may vary according to games sold at each session (packets, specials, singles, six (6) ons, three (3) ons, etc.) and may be designated by game name or color of paper. (4-2-08)

03. Tracking By Bingo Paper Packet. If sales are completed by packet, then those packets must not be separated for sale as singles. Individual games or packets sold must be recorded sequentially for effective tracking. The tracking records must be retained with permanent records. Tracking records are not required to be submitted with the Annual Bingo Report form. (4-2-08)

04. Late Players When Bingo Paper Used. Packets of bingo paper sold to late players must have the previously played games sheets removed and voided. The tracking must account for sheets removed and voided. (4-2-08)

05. Designation of Bingo Paper Color For Games. Each game is assigned a particular color of paper

card. Other colors will not be accepted. (4-2-08)

06. Documentation For Bingo Paper. All bingo paper must be tracked as either sold, damaged, donated, or omitted from the original distributor or manufacturer. Invoices from the distributor or manufacturer and other documentation of transactions involving bingo funds must be kept with the records for that bingo operation. Operators may contact the Lottery Security Division for clarification concerning proper documentation to track sold, damaged, donated, or omitted bingo paper. (3-20-14)

308. DUTIES OF BINGO CALLER AND EMPLOYEES OR VOLUNTEERS IN GAMES USING PAPER BINGO CARDS.

01. Pre-Game Duties. Before selecting or calling the first number in any game, the bingo caller must check the machine and balls for defects. This can be done by running all of the balls through the machine and placing them in their assigned slots to determine that there is one (1) ball for each number and only one (1) ball for each number. The caller will draw numbers for the Bonanza, Progressive or Hot Ball games if used and verified by a player. The caller must announce the color of paper card assigned to each game, the pattern or arrangement of squares to be covered to win the game, and the prize amount. (4-2-08)

02. Displaying Numbers During Play. Each time that a number is selected, the bingo caller must display the ball or other designator in a receptacle to prevent it from being placed back into the selection pool. If electronic display boards are used the placement of the selected ball should activate the number or if not, the operator is required to manually activate each number on the board. (4-2-08)

03. End of Game. After a winner has been verified as set forth in Section 108 of these rules, the caller must ask if there are additional winners. After asking for and verifying whether there are additional winners, the game *is* declared to be completed, and the ball machine must be cleared for the next game. *( )*

309. DETERMINING WINNERS WHEN A PLAYER USING A PAPER BINGO CARD CLAIMS TO BE A WINNER.

01. Winning Cards. A winning card is a card upon which the numbers drawn by the caller cover the previously designated arrangement of winning squares. (4-2-08)

02. Player's Responsibility. It is the player's responsibility to notify the game operator or caller that the player has a winning card *by yelling* "bingo" loud enough for the caller to hear the player. *( )*

03. Game Stops to Verify Winner. When a player announces a winning card, the game must stop for winner verification before the next number is selected. The game must be secured so that it can be continued if the declaration of a winning bingo card is incorrect. If a player mistakenly announces a winning card and the card is not a winner, the game proceeds until a winner is declared. (4-2-08)

04. Verification of Winning Card. To verify a winning card a bingo operator's employee or volunteer must call back the combination of numbers in the assigned pattern and the color of the paper card. The caller must verify the numbers called back. Electronic verifying devices may be used by entering the serial number of the winning card. A monitor must reveal the card and the winning pattern to verify its status as a valid bingo or an invalid bingo. Once a winner is declared the caller must announce "one (1) good winner" or "two (2)" or more if it applies to the game. (4-2-08)

05. Prizes For Multiple Winners. If more than one (1) winner is declared, cash prizes must be divided equally, and merchandise prizes of equal value awarded. (4-2-08)

310. MISCELLANEOUS RULES FOR GAMES USING NON-ELECTRONIC BINGO CARDS.

01. Hard Cards. Unlicensed charitable or nonprofit organizations with an annual gross bingo revenue of ten thousand dollars ($10,000) or less may use hard cards. A licensed organization may request a special one (1) time use of hard cards for community fund-raising projects that it is sponsoring. No hard cards are allowed to be reserved for any players, with the exception of Braille cards. (4-2-08)

02. Braille Cards. Braille cards are allowed in any bingo game for use by individuals who need them. (3-30-01)

03. Two Part Disposable Cards. Two (2) part disposable cards may be used in "U-Pick-Em" games, if: (7-1-97)

a. Original and Duplicate Copies. The cards are printed on two (2) part, self-duplicating paper that provides for an original and duplicate copy; (7-1-97)

b. Operating Controls. Players mark their numbers on each card in a distinct, clear and legible manner before separation of the duplicate and original card, and operators establish and set forth in plain view house rules setting out any conditions by which an entry may be added, deleted or changed before separation, and changes are verified by a worker authorized by the bingo manager; and (7-1-97)

c. Retention and Play of Duplicate Copy. The player retains and plays the duplicate copy, and all winning cards and their duplicate copies are retained by the operator as part of the operator's daily bingo records. (7-1-97)

04. Card-Minding Devices. Card-minding devices are prohibited unless they meet the requirement for allowable electronic bingo devices set forth in Section 67-7702(7)(a)(i) through 67-7702(7)(a)(iv), Idaho Code. (4-2-08)

05. Autodaubing Features. Autodaubing features are prohibited. (3-30-01)

06. Use of Nonreusable Cards. With the exception of Braille bingo cards authorized for use pursuant to Subsection 310.02 of these rules, every organization that uses nonreusable paper bingo cards must use only nonreusable colored bingo paper or electronic bingo paper so that all sales can be tracked. Nonreusable colored bingo paper must have a series and serial number on each card. After each bingo session, an organization using nonreusable bingo paper must track its bingo sales for that session by recording the series and serial numbers of all paper sold, damaged, donated, used for promotion, or omitted by the manufacturer or distributor. See Section 67-7709(3), Idaho Code. (4-2-08)

311. BINGO OPERATIONS USING ELECTRONIC BINGO MACHINES.

01. Electronic Bingo Machines Defined. Electronic bingo cards, electronic bingo devices, host systems, or site systems are individually and collectively called electronic bingo machines in these rules. (4-2-08)

02. Use of Approved Hardware and Software. All organizations that offer or use any electronic bingo machines during play must use hardware or software, or both, approved by the Commission, provided that printers used in connection with site systems may be obtained from any source. See Sections 67-7716 and 67-7719(1), Idaho Code. (4-2-08)

03. List of Approved Hardware and Software. The Director *will* maintain a list of approved hardware and software for electronic bingo machines *and* promptly update the list after any *changes*. *( )*

04. Requirements For Approved Site Systems. All site systems licensed by the Commission must have the ability to track, either with or without input from the bingo game's operators, the number of games played that are connected to the site system, revenue from the games played that are connected to the site system, the number of winners who are connected to the site system, and the distribution of cash and merchandise prizes to winners connected to the site system for each session played using the site system. (4-2-08)

05. Inspection and Testing. All electronic bingo machines used by bingo game operators and all records that the electronic bingo machines generate must be available to be inspected or tested, or both, to determine whether the electronic bingo machines are properly functioning. Any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, is authorized to conduct an inspection and testing. See Sections 67-7717(8) and 67-7717(9), Idaho Code. (4-2-08)

06. Pre-Game Testing. The Director or Lottery Security Division may by letter or other written communication prescribe appropriate pre-game testing procedures for electronic bingo machines as in their judgment are necessary for the particular hardware and software used. (4-2-08)

312. REQUIREMENTS FOR BINGO GAME OPERATIONS USING ELECTRONIC BINGO MACHINES.

01. Maximum Number of Faces. Electronic bingo devices are hereby prohibited from monitoring more than fifty-four (54) faces (electronic bingo cards) per game. All electronic bingo devices are required to be restricted by their hardware or software so that they can monitor no more than fifty-four (54) faces per game. See Section 67-7717(1), Idaho Code. (4-2-08)

02. Identification Number. Every electronic bingo device that requires a site system to download electronic bingo cards to the device must comply with the requirements of Section 67-7717(2), Idaho Code, concerning identification numbers. (4-2-08)

03. Erasing Numbers. Every electronic bingo device must be programmed to erase electronic bingo cards and bingo card face numbers after a session has been completed, as required by Section 67-7717(3), Idaho Code. (4-2-08)

04. Players Cannot Choose Numbers. No electronic bingo device that allows bingo players to design their own bingo cards by choosing, rearranging, or placing numbers on a card is permitted. See Section 67-7717(4), Idaho Code. (4-2-08)

05. Connections to Site System. Site systems are prohibited from engaging in sales, voids, or reload transactions for an electronic bingo device unless the device is connected to and communicating with the site system. See Section 67-7717(5), Idaho Code. (4-2-08)

06. Printouts. Site systems must be electronically connected to an on-site printer that upon request is capable of printing a transaction log for each player that shows the device identification number and all bingo cards and face numbers loaded into the device. The site system must be able to record and print on-site a receipt showing the device identification number, the date of the bingo session, the number of electronic bingo cards purchased or loaded, and the total amount charged for each of the electronic bingos cards. This receipt must be given to the player on request or as required by any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative. See Section 67-7717(6), Idaho Code. The site system must be connected to an on-site printer that can print the winning game combinations *on demand* for the entire bingo session. See Section 67-7717(7). *( )*

07. Malfunctioning Electronic Bingo Machines. (4-2-08)

a. Whenever the Lottery or any agency or officer listed in Section 67-7709(5), Idaho Code, or their representative, detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue its use as directed by a representative of the Lottery or correct the malfunction or other problem as directed by a representative of the Lottery. Failure to take the directed action may result in confiscation or seizure of the electronic bingo machine that is malfunctioning or has other problems. See Section 67-7717(8), Idaho Code. (4-2-08)

b. Whenever a manufacturer, a distributor, a licensed bingo operation, a player, or any other person detects or discovers a malfunction or other problem with an electronic bingo machine that could affect the security or integrity of a bingo game or of an electronic bingo machine, every bingo operator using such a malfunctioning electronic bingo machine must discontinue the use of that electronic bingo machine and notify the Commission by telephone no later than the next working day of the action taken and the nature of the malfunction or other problem. The Commission may request further written explanation as necessary. See Section 67-7717(9), Idaho Code. For purposes of this paragraph, notification to an officer or employee of the Lottery Security Division will be considered notification to the Commission. (4-2-08)

08. Receipts. The cash register or the site system must provide a receipt for the sale of all bingo cards used in conjunction with an electronic bingo device. Additional paper bingo cards must be separately receipted. The cash register receipt and the player's receipt must identify and show the sale of disposable paper bingo cards separately from receipts for electronic bingo cards. See Section 67-7719(12), Idaho Code. (4-2-08)

313. PLAY USING ELECTRONIC BINGO MACHINES.

01. No Player-Owned Devices. Use of player-owned electronic bingo devices is prohibited. See Section 67-7719(2), Idaho Code. (4-2-08)

02. Provision of Devices. Only the bingo game operator can provide electronic bingo devices. The operator may charge for the use of an electronic bingo device. If there is a charge for use of an electronic bingo device, the fee must be separately stated on the cash register and the bingo player's receipt and be included in the gross revenues. See Section 67-7719(3) and (11), Idaho Code. (4-2-08)

03. Use of Devices On Premises. A player using an electronic bingo device must be on the premises during play to be eligible to play bingo or to win a prize. See Section 67-7719(3), Idaho Code. (4-2-08)

04. Available Devices. Electronic bingo devices must be made available on a first-come, first-served basis, and no device can be reserved for any player, except a device may be reserved for players with a disability (within the meaning of the Americans with Disabilities Act) if the disability would restrict or impair the player's ability to mark bingo cards. A bingo game operator may provide and reserve electronic bingo devices exclusively for persons with disabilities and forbid their use by all other persons. See Section 67-7719(5), Idaho Code. (4-2-08)

05. One Device Per Player. It is prohibited for any player to use more than one (1) electronic bingo device at a time. See Section 67-7719(6), Idaho Code. No electronic bingo device can be used to monitor hard bingo or shutter cards. See Section 67-7719(7), Idaho Code. (4-2-08)

06. Reserve Devices. Every bingo game operator using electronic bingo devices must keep at least one (1) electronic bingo device in reserve as a backup in case a device in use malfunctions. See Section 67-7719(4), Idaho Code. A reserve device is not considered an available device under Subsection 302.04 of this rule. If a reserve device is put in use to replace a malfunctioning electronic bingo device, and if there are no more unused electronic bingo devices available to serve as a reserve device, the operator is not required to take an electronic bingo device from a player that is then using the device in order to maintain a reserve device, and the operator may continue to offer bingo games without a reserve device throughout the remainder of the session, unless one (1) or more electronic bingo devices are turned in before the session ends, in which case a device that was turned in will then become the reserve device. (4-2-08)

07. Loading Electronic Bingo Devices. A bingo operator using an electronic bingo device is prohibited from downloading electronic bingo cards into an electronic bingo device before payment by the player. The player must be on the bingo operator's premises when the device is downloaded with electronic bingo cards. The device can only be downloaded with electronic bingo cards during the session. See Section 67-7719(10), Idaho Code. Players are prohibited from choosing or rejecting individual electronic bingo cards loaded into an electronic bingo device. See Section 67-7719(8), Idaho Code. (4-2-08)

08. Additional Paper Cards. When a player who has purchased fifty-four (54) bingo cards per game is using an electronic bingo device to monitor up to fifty-four (54) cards, a bingo operator may allow the player to purchase additional disposable paper bingo cards to play using a manual daubing or marking method. See Section 67-7719(9), Idaho Code. (4-2-08)

09. Other Requirements. The Director *or the Director of Lottery Security, or his designee* may by letter or other written communication prescribe appropriate procedures for play and determination of winners and other matters generally covered by Sections 307 through 309 of these rules for paper bingo cards whenever it is necessary to do so in conjunction with the use or playing characteristics or other attributes of a given hardware or software. These letters are public records within the meaning of Title 74, Chapter 1, Idaho Code. *( )*

314. MAXIMUM PRIZES.

Maximum prizes are defined in Section 67-7708, Idaho Code. (7-1-97)

315. (RESERVED)

316. LIMITS ON BINGO OPERATION'S PRIZE PAYOUT RATIOS AND ADMINISTRATIVE EXPENSES.

01. Applicability. All organizations conducting bingo games, whether licensed or unlicensed, must adhere to the required limits of statute and of this rule in dedicating their gross revenues from bingo operations. These limits or percentages, or both, pertain to annual gross revenues during a twelve (12) month license year. See Section 67-7708, Idaho Code. (4-2-08)

02. Donated Merchandise. Donated merchandise offered as prizes is not included in the prize amounts paid out when calculating the prize payout ratio. The organization conducting the bingo game must document the value of the donated items, describe the donated items, and list the donated items on the daily reports as prizes. (7-1-97)

03. Donated Cash Funds Prohibited. Donated cash may not be offered as prizes in bingo games nor deposited into the separate bingo account. (7-1-97)

317. PAYMENT OF EXPENSES, WINNINGS, AND CHARITABLE CONTRIBUTIONS.
All payments for expenses and donations for charitable purposes must be paid by check from the Separate Bank Account and recorded in the bingo operation's general ledger. See Section 67-7709, Idaho Code. (2-19-09)

318. MINIMUM CHARITABLE OR NONPROFIT DONATION.
A minimum of twenty percent (20%) of annual gross revenues of a bingo operation must be paid to a charitable or nonprofit organization to be used for charitable purposes. The licensed bingo operation must maintain records showing the charitable activities to which the proceeds are applied. See Section 67-7709, Idaho Code. Organizations are permitted and encouraged to donate more than twenty percent (20%) of their gross revenues from bingo operations to charitable or nonprofit organizations to be used for charitable purposes. No part of this twenty percent (20%) can be used, whether directly or indirectly, for any bingo expense. (2-19-09)

319. MAXIMUM PRIZES.
By this rule the Commission exercises is authority over maximum prizes are set forth in Section 67-7708, Idaho Code. (4-2-08)

01. Maximum Prize For One Game. The maximum prize in cash and merchandise that may be offered for any one (1) bingo game is three thousand dollars ($3,000). (4-2-08)

02. Maximum Prizes For One Session. The total of the maximum prizes in cash and merchandise that may be offered at any one (1) bingo session is twenty-five thousand dollars ($25,000). (4-2-08)

320. (RESERVED)

321. ACCOUNTING AND REPORTING REQUIRED.
Every organization conducting bingo games, whether licensed or unlicensed, must comply with the accounting requirements of Sections 121 through 126 of these rules. (7-1-97)

322. SEPARATE BANK ACCOUNT AND LIMITATIONS ON USE.

01. Establishment of Account. All net proceeds received in connection with a bingo game required to be licensed under Title 67, Chapter 77, Idaho Code, and by these rules must be placed in a Separate Bank Account. See Section 67-7709(1), Idaho Code. Only bingo funds generated from bingo games may be distributed as prizes, administrative expenses, or charitable/nonprofit donations. (3-30-01)

02. Disbursements Use of Funds. All disbursements must be documented as defined in Section 67-7709(1), Idaho Code, and by these rules. (7-1-97)

323. GENERAL LEDGER.

01. Establishment of General Ledger. A general ledger must be established to account separately for the bingo operation *and* track all transactions for the funds generated from bingo. *( )*

02. Documentation. The accounting of revenues from sales of bingo cards or other entry fees and all disbursements must be documented. The accounting should include, but not be limited to, total prize payouts per session, and bingo related expenses per session, charitable contributions per session, wages, date and purpose or payee for each entry. (7-1-97)

03. Annual Report. Copies of general ledgers must accompany the Annual Bingo Report filed with the Lottery. Copies of the Charitable Contribution Acknowledgement Report Forms and Charitable Donation Reporting Form shall also accompany the Annual Bingo Report. All disbursements shall be recorded in the general ledger. (2-19-09)

04. Retention of Records. An accounting of all gross revenues and disbursements required by statute and these rules must be retained in records with the organization for a period of five (5) years, including the date and amount of each transaction, as well as the name and address of each payee for all prize payments exceeding one hundred dollars ($100). A copy of each CCARF and the Charitable Donation Reporting Form shall be retained in permanent records of the organization. (3-20-14)

324. ANNUAL REPORT.

01. When Due. Every licensed charitable or nonprofit organization conducting bingo games shall prepare an annual report within thirty (30) days after the close of its license year and file the annual report with the Lottery. See Section 67-7709(2), Idaho Code. (3-30-01)

02. Information Required By Forms. The nightly reports, receipts, winner records, and payouts must be documented and kept with the organization's records for five (5) years *along with a*ny further information required by the forms prescribed by the Lottery pursuant to statute and rule. *( )*

03. Independent Audit. Organizations that exceed two hundred thousand dollars ($200,000) in annual gross revenue from bingo games, raffle events, or bingo games and raffles combined must submit an independent audit performed by a certified public accountant licensed in Idaho and who meets peer review requirements set forth by the Idaho State Board of Accountancy. This independent audit must be submitted within ninety (90) days of the end of the licensed organization's license year. (3-20-14)

325. RECORDS OF PRIZE DISBURSEMENTS.

Organizations conducting bingo games must record names and addresses of winners for prize disbursements exceeding one hundred dollars ($100). Any prizes exceeding one thousand one hundred ninety-nine dollars ($1,199) must have a W2-G on file for a gaming income for these amounts as required by the Internal Revenue Service. See 26 U.S.C. Section 6041 and 26 CFR 7.6041-1 and 35a.9999-3 (question and answer 19). (7-1-97)

326. ACCOUNTING OF REVENUES AND EXPENSES.

01. Deposit of Receipts. Bingo funds received in check form must be payable to the organization. All funds must be deposited in a Separate Bank Account. (3-20-14)

02. Ledger Entries and Receipts For Expenses. All ledger entries must track disbursements of cash and checks *with e*xpenses documented with receipts. The receipts shall include the payee's name and address, date, and an authorized signature from the licensed organization. *( )*

03. Recording of Wages. Wages paid must be recorded on expense records as gross amounts before withholding of taxes or other withholding and net amount paid, with each item of withholding shown. Wages paid must be documented with copies of pay stubs, or other records showing gross wages and withholding. (7-1-97)

04. Submission With Annual Report. Copies of ledgers containing the documentation of all transactions must be submitted with the Annual Bingo Report. Inventory tracking of sequentially numbered paper must be retained in records for a period of five (5) years and kept available for examination. All documents must be legible and compiled in an orderly manner. *( )*

***327*. INSPECTION OF *FINANCIAL RECORDS AND DOCUMENTS*.**
All financial records and documents of an organization shall be kept as required by these rules and be open to inspection by the county sheriff of the county where the bingo games were held, the chief of police of the city where the bingo games were held, the prosecuting attorney of the county where the bingo games were held, the Attorney General or the Lottery, or any of their agents, at reasonable times and during reasonable hours. All records must be kept for five (5) years. *( )*

***328. -- 399.* (RESERVED)**

SUB AREA: CONDUCT OF RAFFLES

***400*. REQUIREMENTS FOR ORGANIZATIONS CONDUCTING RAFFLES.**
All organizations conducting raffles, whether licensed or unlicensed, must abide by these rules. It is unlawful to conduct raffles in violation of Title 67, Chapter 77, Idaho Code, or in violation of these rules, and persons doing so may be subject to administrative, civil or criminal penalties. See Section 67-7710, Idaho Code. (7-1-97)

***401*. LIMITATION ON ANNUAL NUMBER OF RAFFLES.**
Charitable or non-profit organizations are limited to conducting twelve (12) raffle events per year, provided that this limitation shall not apply to public or private elementary or secondary schools located in the state. See Section 67-7710(2), Idaho Code. (3-30-01)

***402*. OWNERSHIP OF PRIZES.**
Organizations must be able to substantiate ownership of all prizes or other legally enforceable rights to obtain the prizes to be offered in a raffle prior to advertising or selling tickets for such prizes. Proof of ownership of prizes or other legally enforceable rights to obtain prizes must be provided to the Lottery upon request. (2-19-09)

***403*. MAXIMUM PRIZES.**
The maximum aggregate value of cash prizes that may be offered or paid for any single raffle event, which is not a duck race, is one thousand dollars ($1,000). There is no limit on the maximum value of merchandise that may be offered as raffle prizes if the merchandise is not redeemable for cash. There is no limit on the maximum amount of the aggregate cash prizes for a duck race if the cash prize is underwritten by insurance, otherwise the maximum aggregate cash prize for a duck race is one thousand dollars ($1,000). There is no limit on the maximum value for the merchandise used as prizes for a duck race if the merchandise is not redeemable for cash. See Section 67-7710(2), Idaho Code. (3-20-14)

***404*. REQUIREMENTS FOR DONATION TO CHARITY -- LIMITATION ON EXPENSES.**
At least eighty percent (80%) of the net proceeds from sales of raffle tickets or chances and duck races must be donated to a charitable or nonprofit organization to be used for a charitable purpose. (Net proceeds are defined in Subsection 301.30 of these rules.) The name and address of the charitable or nonprofit organizations awarded these funds must be listed on the annual raffle report submitted to the Lottery. The annual raffle report must also include the charitable purpose for which the charitable donation was used by the charitable organization or non-profit organization. A maximum of twenty percent (20%) of net proceeds is allowed for expenses. See Section 67-7710(3), Idaho Code. (4-4-13)

***405*. GENERAL LEDGER AND RECORDKEEPING.**
Every organization conducting a raffle event must establish a general ledger for the raffle. The organization must keep records that show the total number of tickets or chances sold, the revenues from tickets or chances sold, the expenses of conducting the raffle, and the prizes for each raffle. (7-1-97)

***406*. ANNUAL RAFFLE REPORT.**
Every licensed organization conducting a raffle shall prepare an annual raffle report and Charitable Donation Report and submit both reports to the Lottery within thirty (30) days after the close of its license year. See Section 67-7710,

Idaho Code. (2-19-09)

407. INDEPENDENT AUDIT OF LARGE RAFFLES.
Every charitable or non-profit organization whose gross annual revenues exceed two hundred thousand dollars ($200,000) from the operation of raffles shall provide the Commission with a copy of an annual report of raffle events. The audit shall be performed by a certified public accountant licensed in Idaho and who meets the peer review requirements set forth by the Idaho State Board of Accountancy. The audit must be submitted within ninety (90) days after the end of the organizations license year. (3-20-14)

408. -- 499. (RESERVED)

SUB AREA: LICENSING AND LICENSE FEES FOR ORGANIZATIONS CONDUCTING BINGO GAMES OR RAFFLES

500. APPLICATION.
All persons required by statute and by these rules to obtain a license before operating a bingo game or conducting a raffle must pay the license fees and apply for and receive a license under the rules in this sub *area*. See Section 67-7711(1), Idaho Code. *( )*

501. LICENSE FEES.
Each organization that applies to the Lottery for a license under these rules shall pay annually to the Lottery a nonrefundable license fee that is due upon submission of the application. An application approved by the Lottery, complete with all required information, must be submitted along with the appropriate fee to the Lottery Security Division. See Section 67-7712(1), Idaho Code. These non-refundable fees are based on flat initial fee for applicants without a license and a fee based on annual gross revenues from bingo sessions or raffle events for applicants with a license as follows:

$100 fee - initial application
$100 fee - up to $25,000 annual gross revenues
$200 fee - up to $75,000 annual gross revenues
$300 fee - over $75,000 annual gross revenues

(7-1-97)

502. INFORMATION TO BE PROVIDED IN APPLICATION.

01. Background Check of Applicants. The application for an initial license and for a renewal license to operate a bingo game or to conduct a raffle will be reviewed and relevant background investigations will be conducted on all persons listed on the application as officers, directors or members of the charitable or nonprofit organization. The signature from the organization's representative on the application gives the Lottery authority to conduct the required investigations. The persons listed on the application must be officers or directors of the organization applying for a license and the application must be signed by an officer of the organization. (3-20-14)

02. Proper Identification. The application must list the name, address, date of birth, driver's license number and social security or tax identification number of the applicant, if applicable. If the applicant is a corporation, association or similar legal entity, the application must also list the full name, current home address and phone number, date of birth, social security number, driver's license number and state of issuance, of each listed officer and director in order to conduct background investigations. See Section 67-7711(2)(a) and (b), Idaho Code. (3-20-14)

03. Charitable Organizations. The application of a charitable organization must include a copy of the application for recognition of exemptions and a determination letter from the Internal Revenue Service that indicates that the organization is a charitable organization and that states the section of the tax code under which the exemption is granted, except that if the organization is a state or local branch, lodge, post of chapter or a national organization, a copy of the determination letter of the national organization will satisfy this requirement. See Section 67-7711(2)(c)(i), Idaho Code. The applicant must also provide verifiable documentation to prove charitable function,

purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (2-19-09)

04. Incorporated Nonprofit Organizations. The application of an incorporated nonprofit organization must include a copy of the certificate of existence issued by the secretary of state pursuant to Title 30, Chapter 3, Idaho Code, establishing the organization's good corporate standing in the state. See Section 67-7711(2)(c)(ii), Idaho Code. The applicant must also provide verifiable documentation to prove charitable function, purpose and activities. Acceptable documentation includes, but is not limited to, meeting minutes, donation documentation, and membership list. (2-19-09)

05. Locations. The application must list the location or locations at which the applicant will conduct bingo games or bingo sessions or drawings for raffles. See Section 67-7711(2)(d), Idaho Code. (7-1-97)

06. Raffle Drawings. Raffle drawings must be held in Idaho and conducted within the license year for licensed organizations or within twelve (12) months from the date the first ticket was sold for unlicensed organizations. (3-20-14)

07. License Year and Fiscal Year. An organization may apply for a license to coincide with the organization's fiscal year. See Section 67-7711(5), Idaho Code. (4-2-08)

08. Failure to Provide Information. Failure to provide all information required for an application may result in a delay in considering an application or denial or dismissal of an application for a bingo/raffle license. See Section 67-7711(1), Idaho Code. (4-2-08)

503. MULTIPLE CHAPTERS LICENSED TOGETHER.

Different chapters of an organization may apply for and share one (1) raffle license so long as the information required in Subsections 502.01 through 502.06 of these rules is provided to the Lottery before the issuance of the license. See Section 67-7711(4), Idaho Code. When two (2) or more chapters share a license, in aggregate they are subject to the limitations of a single organization with a license; multiple chapters sharing a license are not entitled to multiples of the event or prize limits for a license. (7-1-97)

504. COMPENSATION OF CERTAIN PERSONS AND CONTRACTS WITH CERTAIN PERSONS PROHIBITED.

Persons listed on the application as officers or directors and their relatives and members of their household are prohibited from being compensated for their participation in the organizations bingo operation. No organization shall contract with any person not employed by, or a volunteer for, the organization for the purpose of conducting a bingo game or raffle on the organizations behalf. See Section 67-7711(3), Idaho Code. (7-1-97)

505. ACTION ON LICENSES.

01. Applications For Licenses. An application for a license will be approved, denied or dismissed in writing within fifteen (15) days of receipt of the written application and all other required documentation, except as provided in Section 67-7712(2)(j), Idaho Code, when a criminal prosecution of an applicant is pending or an appeal from a criminal prosecution of an applicant is pending. The application will be denied if the applicant does not meet the requirements of statute and of these rules. If an application is not received thirty (30) days in advance of a proposed event, it is possible that a license may not be granted before the event, and the event will not be allowed to proceed without a license. See Section 67-7711(1), Idaho Code. (2-19-09)

02. Issuance of Licenses. A license will be issued when an application for a license is approved. A license expires one (1) year after its issuance. See Section 67-7711(1), Idaho Code. (4-2-08)

03. Notice of Intended Actions. If the Lottery intends to deny an application for a license or the renewal of a license or intends to revoke, cancel, rescind or suspend a license, it will provide fifteen (15) days' written notice to the applicant or to the licensee of the general basis for its intended action. If the applicant or licensee does not agree to the Lottery's intended action, the applicant or licensee must in writing request a hearing within the fifteen (15) day notice period. If a timely written request for a hearing is made, the hearing will be conducted in the same manner as a contested case hearing under Title 67, Chapter 52, Idaho Code. If a timely written request for a

hearing is not made, the intended action is final and not subject to appeal. See Section 67-7712(3), Idaho Code. *( )*

506. **SUSPENSION OR REVOCATION OF LICENSE -- CIVIL AND CRIMINAL PENALTIES.**
Violation of the bingo and raffle statutes or of these bingo/raffle rules or of any conditions of a license may be grounds for administrative, civil or criminal actions, including, but not limited to, placement on probationary status, suspension of operations, license revocation, penalties, or fines. See Section 67-7707, Idaho Code. See also Sections 500 through 504 of these rules. (3-20-14)

507. **EXEMPTION FROM LICENSING AND LICENSING FEES.**
Section 67-7713, Idaho Code, exempts charitable and non-profit organizations operating certain low-stakes bingo or raffle games from licensing. (4-2-08)

01. Low-Stakes Bingo. A charitable or nonprofit organization conducting a bingo game does not need to obtain a license if its gross annual bingo sales (gross revenues from bingo operations) are less than ten thousand dollars ($10,000). (4-2-08)

02. Low-Stakes Raffle. A charitable or nonprofit organization does not need to obtain a license to conduct a raffle if the maximum aggregate value of merchandise awarded as prizes for the raffle does not exceed five thousand dollars ($5,000). (3-20-14)

03. Exemption From Licensing Not Exemption From Rules. Organizations exempt from licensing under this rule must still comply with applicable requirements of statute and bingo/raffle rules. This information is available by contacting the Lottery. (7-1-97)

508. **RULES AND FORMS.**
The Lottery will provide forms and reports necessary in regulating the charitable or nonprofit bingo and raffle events. The Commission is authorized to promulgate rules consistent with and in compliance with Title 67, Chapter 52, Idaho Code. (7-1-97)

509. -- 599. **(RESERVED)**

SUB AREA: VENDORS AND VENDORS' LICENSES AND FEES
-- APPROVED GAMING DEVICES

600. **VENDOR'S LICENSE REQUIRED.**
All businesses or persons who manufacture, sell, distribute, furnish, or supply to any person or organization any gaming devices, equipment, or materials in this state shall first obtain a vendor's license from the Lottery. See Section 67-7715, Idaho Code. Vendors must file an application and submit all required forms for background investigations. (7-1-97)

601. **LICENSE FEES.**
Each initial application for a vendor's license must be accompanied by a five hundred dollar ($500) non-refundable annual license fee that is due upon submission of the application. An application form approved by the Lottery, completed with all required information, must be submitted with the appropriate fee to the *Director of* Lottery Security*, or his designee*. See Section 67-7715(3)-(5), Idaho Code. *( )*

602. **INFORMATION TO BE PROVIDED IN APPLICATION.**

01. Identification of Applicants. The application for initial license and for renewal of a license must list: (4-2-08)

a. The name, address, date of birth, driver's license number and social security number of the applicant, and if the applicant is a corporation, proprietorship, association, partnership or other similar legal entity, the name, home address, date of birth, driver's license number and social security number of each of the officers of the corporation and their spouses, as well as the name and address of the directors and their spouses, or other persons similarly situated and the financial information required to complete the application form. See Section 67-7715(3)(a),

Idaho Code. (4-2-08)

b. The locations from which or persons with which the applicant will provide any gaming devices, equipment or material in this state or for use in this state. See Section 67-7715(3)(b), Idaho Code. (4-2-08)

02. Incomplete Applications. Financial reports submitted with the license application will be reviewed as part of the background investigation. All requested data must be included on the application to avoid any delay. The application may be dismissed if it is incomplete. (4-2-08)

***603*. APPROVAL, DENIAL OR DISMISSAL OF APPLICATION FOR ISSUANCE OF LICENSE.**
The Lottery *will* approve, deny or dismiss an application for a vendor's license*, within fifteen (15) days. A*t the applicant's request the Lottery may defer decision for a longer time. The application will be approved, denied or dismissed in writing. The Lottery will issue vendor licenses to successful applicants. See Section 67-7715, Idaho Code. *( )*

***604*. SUSPENSION OR REVOCATION OF LICENSE.**
Any licensed vendor in violation of statute or of these rules or of any conditions of its license may face suspension or revocation of its vendor's license. (4-2-08)

***605. -- 609.* (RESERVED)**

***610*. GAMING DEVICES, EQUIPMENT OR MATERIALS.**
Gaming devices, equipment, and materials include but are not limited to: (7-1-97)

01. Number Selectors and Related Equipment. Number selection machines, manual mixing drums, or computerized random selectors, site systems, host systems or other electronic bingo machines used to select numbers for bingo or raffles are gaming devices, equipment or materials. (4-2-08)

02. Bingo Cards. Numbered paper bingo cards and hard bingo cards as described in Paragraphs 310.03.a. *and 301.19* of these rules, including Bonanza cards, "U-Pick-Ems," and electronic bingo cards, are gaming devices, equipment or materials. *( )*

03. Miscellaneous. Daubers, raffle tickets, record keeping materials, electronic bingo devices and other items used in the operation of bingo or raffles are gaming devices, equipment or materials. (4-2-08)

***611*. PAPER BINGO CARD MANUFACTURERS STANDARDS.**
Card manufacturers must follow these standards for paper cards: (4-2-08)

01. Quality of Paper. The paper must be of sufficient weight and quality to allow for clearly readable numbers and to prevent ink from spreading or bleeding through a packet and obscuring other numbers or cards. (4-2-08)

02. Random Assignment of Numbers. Numbers printed on the card must be randomly assigned. (4-2-08)

03. Serial Numbers. Each set of cards must be comprised of cards bearing the same serial number. No serial number may be duplicated by a manufacturer in a given *calendar* year. *( )*

04. Packet Assembly. Cards assembled in books or packets must be glued, not stapled. (4-2-08)

05. Labeling. A label must be placed on the exterior of each carton of bingo paper listing the type of product, number of packets or loose sheets, serial numbers, per (series) numbers, number of cases, cut of paper, and color of paper. (4-2-08)

06. Packing Slips. A packing slip inside each case must list the same information as listed on the label. (4-2-08)

07. Invoice. All orders must be accompanied by an invoice which lists the type of product, number of packets or loose sheets, serial numbers of all packets or loose sheets, per (series) numbers, number of cases, cut of paper, color of paper and pricing by item. The invoice must also include the supplier (vendor) name, and the name and address of the organization purchasing the paper. (2-19-09)

612. NUMBER SELECTORS.

All number selectors for bingo operations must be approved by the Commission after review and advice by the Bingo-Raffle Advisory Board. Electronic random selectors must interact with players. Auto daubing systems for paper bingo cards are prohibited. (4-2-08)

613. DISTRIBUTION AND USE OF ELECTRONIC BINGO MACHINES.

01. Approved Sources. A licensed distributor of electronic bingo machines must purchase, rent, lease or otherwise provide electronic bingo machines only from a licensed manufacturer and purchase, lease, rent, or otherwise provide only electronic bingo machines that have been approved by the Commission. See Section 67-7718(1), Idaho Code. (4-2-08)

02. Approved Users. A licensed distributor of electronic bingo machines is permitted to sell, rent, lease or otherwise provide electronic bingo machines only to licensed bingo operators. See Section 67-7718(2), Idaho Code. (4-2-08)

03. Initial Use. The licensed distributor of electronic bingo machines must notify the Commission in writing of the sale, rental, lease, provision or installation of any electronic bingo machines before a licensed bingo operator's first use of the machines *as follows*: *( )*

a. The complete name and address of the licensed bingo operator and their license number. (4-2-08)

b. The type of equipment and the serial numbers of equipment that was sold, rented, leased, provided or installed. (4-2-08)

c. The expected date upon which the licensed bingo operator will begin to use the equipment. (4-2-08)

d. A copy of any and all agreements or contracts between the licensed distributor and the licensed bingo operator regarding use of the equipment. (4-2-08)

04. Installation, Maintenance, Service and Repair. The licensed distributor must be the initial contact for installation, service, maintenance or repair of electronic bingo machines and for ordering electronic bingo cards. The distributor may enlist the manufacturer's assistance for installation, service, maintenance or repair of electronic bingo machines. With the Commission's approval, a licensed manufacturer may authorize or subcontract with others for service, repair or maintenance of electronic bingo machines, but the licensed manufacturer retains ultimate responsibility and liability for service, maintenance and repair. See Section 67-7718(4), Idaho Code. (4-2-08)

05. Invoices and Payments. The licensed distributor of electronic bingo machines must be the person who invoices for and collects payments for a licensed bingo operator's use of electronic bingo machines. The manufacturer may generate the invoice. All payments must be to the distributor and not the manufacturer. The invoice must contain the licensed distributor's name, complete address and license number of the licensed bingo operator. See Section 67-7718(5), Idaho Code. (4-2-08)

06. Transportation Of Electronic Bingo Devices. A licensed distributor may transport electronic bingo devices from one (1) location to another for use by one (1) or more licensed bingo operator after the distributor has notified the Commission in writing of its schedule for rotating the electronic bingo devices from one (1) location to another. The notification must list the locations at which the devices will be used and name the licensed bingo operators that will be using the devices at each location. See Section 67-7718(6), Idaho Code. (4-2-08)

07. Site Systems and Transportation of Site Systems. Each licensed bingo operator that uses a site

system must have its own site system. A licensed bingo operator that uses a site system cannot transport its site system from one (1) location to another or allow another bingo operator to use its site system without prior written approval from the Commission. See Section 67-7718(6), Idaho Code. (4-2-08)

614. -- 699. (RESERVED)

SUB AREA: SUSPENSION, REVOCATION, OR DENIAL OF A LICENSE

700. SUSPENSION, REVOCATION OR DENIAL OF LICENSE.
Any licensee or applicant for a license found by a court of competent jurisdiction or by the Lottery pursuant to the procedures of Section 67-7712, Idaho Code, to be in violation of any statutes or rules governing operating, supplying of equipment for, participating in, or establishing of gaming in the state of Idaho may be subject to suspension, revocation or denial of its license. See Sections 67-7712 and 67-7715, Idaho Code. (4-2-08)

701. GROUNDS FOR SUSPENSION, REVOCATION OR DENIAL OF LICENSE.
The Lottery may suspend, revoke or deny a license if it finds that the licensee or applicant for a license has violated any provision of Title 67, Chapter 77, Idaho Code, any of these rules, or any county ordinance adopted pursuant to Title 67, Chapter 77, Idaho Code, (See Section 67-7712(2), Idaho Code). (7-1-97)

702. COMPLAINT AGAINST AND INVESTIGATION OF LICENSEES.
The Lottery may, upon its own motion, or upon a written verified complaint of any other person, investigate the operation of any gaming purportedly authorized by Title 67, Chapter 77, Idaho Code, or by these rules, whether the gaming is conducted by a licensed or an exempt operation, and whether gaming equipment or supplies comply with the requirements of Title 67, Chapter 77, Idaho Code. If the Lottery has reasonable cause to believe that any gaming described in Title 67, Chapter 77, Idaho Code, or in these rules, violates the provisions of the Idaho Code or of these rules, in its discretion it may under the procedures set forth in Section 67-7712(3), Idaho Code, and as provided by these rules propose to revoke, cancel, rescind or suspend any license for a period not to exceed one (1) year, or refuse to grant a renewal of the license, or take other action as may be appropriate under Idaho Code or these rules. See Section 67-7712(3), Idaho Code. (4-2-08)

703. PROCEDURE UPON FINDING OF REASONABLE CAUSE.
If the Lottery refuses to grant a license or refuse to grant a renewal of a license or revoke, cancel, rescind or suspend a license, it shall give the applicant or licensee fifteen (15) calendar days' written notice of its intended action stating generally the basis for its action. Within the fifteen (15) calendar days' notice period, the applicant or licensee shall indicate its acceptance of the decision of the Lottery or request a hearing to be held in the same manner as hearings in contested cases pursuant to Title 67, Chapter 52, Idaho Code. See Section 67-7712(3), Idaho Code. (7-1-97)

704. CONDUCT OF HEARING IN CONTESTED CASE.
The hearing in a contested case shall be conducted within twenty-one (21) days of the request. The applicant or licensee may appeal the decisions of the Lottery after the hearing pursuant to Title 67, Chapter 52, Idaho Code. Failure to make the request for hearing as provided in these rules shall render the decision of the Lottery final and not subject to further appeal. See Section 67-7712(3), Idaho Code. (7-1-97)

705. -- 999. (RESERVED)

IDAPA 53 – IDAHO BARLEY COMMISSION

DOCKET NO. 53-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-4009, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter under IDAPA 53, rules of the Idaho Barley Commission:

IDAPA 53
- IDAPA 53.01.01, *Rules of the Idaho Barley Commission*

The text of the pending fee rule has been amended in accordance with Section 67-5227, Idaho Code. Only those sections that have changes that differ from the proposed text are printed in this bulletin. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 6,669-6,673**.

These pending fee rules are necessary to protect the public health, safety, and welfare of the citizens of Idaho and confer a benefit on its citizens. These previously approved and codified rules implement the duly enacted laws of the state of Idaho, provide citizens with the detailed rules and standards for complying with those laws, and assist in the orderly execution and enforcement of those laws. The expiration of these rules without due consideration and processes would undermine the public health, safety and welfare of the citizens of Idaho and deprive them of the benefit intended by these rules. The expiration of these rules would hamper the ability of Idaho barley growers to properly market their barley in export and domestic channels and would force a shutdown of certain barley variety research programs, as well as critical barley related agronomic research programs. In addition, expiration of these rules would hamper Idaho barley growers from receiving important barley industry information and best practices information needed to help them be successful.

The fee or charge imposed by the rule(s) is necessary to avoid immediate danger. The fee(s) or charge(s) reauthorized in this rulemaking are currently existing and have been previously promulgated by the agency and reviewed and approved by the Legislature. These fees and charges are part of the dedicated fund portion of the state budget, which makes up a material portion of the FY2020 budget. The FY2020 budget has already been set by the Legislature and passed into law. That budget relies upon the existence of these fees and charges to meet the state's obligations and provide necessary state services. Failing to reauthorize these fee rules would create immediate danger to the state budget, immediate danger to necessary state functions and services, and immediate danger of a violation of Idaho's constitutional requirement that it balance its budget. An inability to collect the Barley Tax would jeopardize funding for critical research, market development, and education and information programs, causing them to be suspended and significantly negatively impacting Idaho barley growers.

The changes in the proposed rules that differ from the previously proposed text include deleting language that duplicates language in Idaho Code, Chapter 40, Title 22.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Idaho barley growers pay a Barley Tax that is currently $.03 per hundredweight of barley marketed which is collected at point of first purchase and remitted to the Idaho Barley Commission. Idaho statute 22-4015 allows for the Barley Tax of up to $.04 per hundredweight.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Laura Wilder, Administrator of Idaho Barley Commission at 208-334-2090 or 208-608-4519 (mobile) or **lwilder@barley.idaho.gov**.

Dated this 16th day of October, 2019.

Laura Wilder
Administrator
Idaho Barley Commission
821 W. State Street
Boise, ID 83706
Tel: 208-334-2090 (office)
Tel: 208-608-4519 (mobile)
Email: **lwilder@barley.idaho.gov**

IDAPA 53 – IDAHO BARLEY COMMISSION

53.01.01 – RULES OF THE IDAHO BARLEY COMMISSION

000. LEGAL AUTHORITY.
In accordance with Section 22-4009, Idaho Code, the Idaho Barley Commission has promulgated rules implementing the provisions of Chapter 40, Title 22, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.
These rules are titled IDAPA 53.01.01, "Rules of the Idaho Barley Commission," IDAPA 53, Title 01, Chapter 01. These rules provide the means for the protection, promotion, study, research, analysis and development of markets concerning the growing and marketing of Idaho barley. (3-20-14)

002. -- 009. (RESERVED)

010. DEFINITIONS.
The definitions set forth in Section 22-4003, Idaho Code, apply to this chapter *( )*

011. -- 099. (RESERVED)

100. FIRST PURCHASER RULES.
In accordance with Section 22-4015(1), Idaho Code, the Commission will designate the quarters (three (3) month periods) for the purpose of collecting the tax imposed on all barley grown, delivered into, or stored within the state of Idaho and sold or contracted in the state. (3-20-14)

01. Designated Quarters. The quarters designated by the Commission for payment of tax are: *( )*

a. The Commission's first quarter will begin on the first day of July and end the thirtieth day of September. The first quarter barley tax is due on or before the fifteenth day of October. (7-1-93)

b. The Commission's second quarter will begin on the first day of October and end the thirty-first day of December. The second quarter barley tax is due on or before the fifteenth day of January. (7-1-93)

c. The Commission's third quarter will begin on the first day of January and end the thirty-first day of March. The third quarter barley tax is due on or before the fifteenth day of April. (7-1-93)

d. The Commission's fourth quarter will begin on the first day of April and end the thirtieth day of June. The fourth quarter barley tax is due on or before the fifteenth day of July. (7-1-93)

02. Barley Tax Return (Form Number 1). The first purchaser of barley is required to complete and send the Barley Tax Return (Form Number 1) to the commission office each and every quarter on or before the dates specified in *these rules*. The Barley Tax Return (Form Number 1) shall be provided to the first purchaser by the Commission *and*, at a minimum, require the following legible information: *( )*

a. The tax reporting period. (7-1-93)

b. The name and address of the barley purchaser. (7-1-93)

c. The net weight of the barley purchased (if any) in pounds or hundredweights. (7-1-93)

d. The total amount of tax deducted (if any) from sellers by the purchaser. (7-1-98)

e. The tax withheld by Commodity Credit Corporation loans. (7-1-93)

f. The total amount of tax due the Commission (if any). (7-1-93)

03. Delivery of Documents to Commission (Form Number 2). The first purchaser of barley shall complete and return the Report of Tax on Barley (Form Number 2), or equivalent, to the commission office each and every quarter on or before the dates specified in *these rules*. The Commission shall provide blank copies of Form Number 2 to the first purchaser. Form Number 2, or equivalent, will, at a minimum, require the following legible information: *( )*

a. The name and address of the purchaser. (7-1-93)

b. The quarter the barley was purchased. (7-1-93)

c. The name or names and address or addresses of the grower and seller. (7-1-93)

d. The number of pounds of barley purchased. (7-1-93)

e. The total barley tax withheld from each purchase. (7-1-93)

04. Deduction of Tax on Net Weight of Barley. The first purchaser shall deduct the barley tax on the NET weight of the barley after deduction of dockage. (7-1-93)

05. Late Payment Penalty (As specified in Section 22-4018 (2), Idaho Code). Any person or firm who makes payment to the Commission at a date later than prescribed in Section 22-4015, Idaho Code, shall be subject to a late payment penalty of fifteen percent (15%) per annum on the amount due. (7-1-93)

101. -- 199. (RESERVED)

200. EXEMPTIONS.
In accordance with Section 22-4015, Idaho Code, the barley assessment shall be imposed on all barley grown, delivered into or stored within, and sold or contracted in Idaho. If a barley assessment that serves a comparable purpose to the Idaho assessment was previously paid in a jurisdiction outside Idaho, the seller of the barley is exempt from payment of the Idaho barley assessment. The Commission will determine jurisdictions outside of Idaho that collect an assessment that serves a comparable purpose, which includes, as a minimum, funding for research and market development programs. In order to qualify for the exemption, the seller must demonstrate to the first purchaser in the state of Idaho that an assessment has been previously paid to such a jurisdiction. (7-1-98)

201. -- 999. (RESERVED)

IDAPA 54 – OFFICE OF THE STATE TREASURER

DOCKET NO. 54-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 14-532(2), 14-532(3), 14-539, and 33-5402(1), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapters under:

IDAPA 54
- 54.02.01, *Rules Governing the College Savings Program*
- 54.03.01, *Idaho Unclaimed Property Administrative Rules*

The rule making was prompted by the expiration of the rules. The Treasurer and the College Savings Program Board considered the Red Tape Reduction Act and the continued efforts to clarify and streamline the rules. Minor housekeeping edits are intended to make the rules consistent with recent statutory changes, clarify and simplify existing language, and reduce or eliminate unnecessary restrictions.

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 6674 – 6682**.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Lincoln Smyser at (208) 332-2996.

Dated this 23rd day of September, 2019.

Julie A. Ellsworth, State Treasurer
Office of the State Treasurer
Office Hours 8 AM to 5 PM
700 W. Jefferson, Ste. 126
P.O. Box 83720
Boise, ID 83720-0091
Phone (208) 334-3200
Fax (208) 3323-2959

IDAPA 54 – OFFICE OF THE STATE TREASURER

54.02.01 – RULES GOVERNING THE COLLEGE SAVINGS PROGRAM

000. LEGAL AUTHORITY.
Section 33-5402(1), Idaho Code, authorizes the State College Savings Program Board to interpret Title 33, Chapter 54, Idaho Code, in rule as may be necessary or appropriate to carry out the provisions and purposes of the College Savings Program. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules *are titled* IDAPA 54.02.01, "Rules Governing the College Savings Program." *( )*

02. Scope. These rules interpret Title 33, Chapter 54, Idaho Code, and prescribe the conditions and standards for the Program required to be specified in rule under the provisions of Title 33, Chapter 54, Idaho Code. (4-2-08)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Except where supplemented by the definitions in Section 010 of these rules, the definitions in Section 33-5401, Idaho Code, apply to terms used in these rules. (4-2-08)

01. Account Balance Limit on Contributions. The maximum total balance amount for all accounts established under the Program for the benefit of the same designated beneficiary as established by the State College Savings Program Board from time to time and set forth in the Program Documents, but in no event more than the amount permitted under 26 U.S.C. Section 529. (4-2-08)

02. Account Owner. The individual, trust, estate, partnership, association, or corporation identified as the Account Owner in the Program Documents. (4-2-08)

03. Earnings. The total account balance on a particular date minus the deposits to the account as of that date. (4-2-08)

04. Program. The College Savings Program and the Idaho College Savings Trust established under Title 33, Chapter 54, Idaho Code. (4-2-08)

05. Program Documents. Written documents governing the agreement between the Account Owner and the Program, including the following: the written description of terms, policies, and procedures applicable to the Program; the Program application signed by the Account Owner; the participation agreement signed by the Account Owner; and, any form provided by the Program and signed by the Account Owner. (4-2-08)

06. Rollover Distribution. Has the meaning set forth in 26 U.S.C. Section 529(c)(3)(C)(i). (5-3-03)

011. -- 029. (RESERVED)

030. WITHDRAWALS.

01. Minimum Deposit Period. Account Owners may request withdrawal of all or part of the balance in an account if the amount requested has been on deposit in the account for ten (10) days or longer. (4-2-08)

02. Determination of Qualified and Non-Qualified Withdrawals. The Account Owner is responsible for satisfying requirements of the United States Internal Revenue Service and the Idaho Tax Commission concerning proof that a withdrawal is a qualified withdrawal. (4-2-08)

031. -- 039. (RESERVED)

040. ACCOUNT BALANCE LIMIT ON CONTRIBUTIONS.
That portion of a deposit to an account that causes the total balance of the account, together with other accounts

established under the Program for the benefit of the same designated beneficiary, to exceed the Account Balance Limit on Contributions shall be rejected. Accounts that have reached the Account Balance Limit on Contributions may continue to accrue Earnings, and no withdrawal or Rollover Distribution will be required as the result of such accrual. In determining an account's balance for purposes of the Account Balance Limit on Contributions, only balances in accounts established under the Program shall be included. (4-2-08)

041. -- 999. (RESERVED)

000. LEGAL AUTHORITY (RULE 000).
In accordance with Sections 14-532(2), 14-532(3), and 14-539, Idaho Code, the State Treasurer *has authority to* promulgate rules implementing the provisions of the Idaho Unclaimed Property Act. Section 14-501(1), Idaho Code, provides that the State Treasurer, or his or her duly authorized agent(s) or employee(s), is the administrator of the Idaho Unclaimed Property Act. *( )*

001. TITLE AND SCOPE (RULE 001).
These rules *are titled* IDAPA 54.03.01, "Idaho Unclaimed Property Administrative Rules." These rules shall be construed to reach the full jurisdictional extent of the state of Idaho's authority to take custody of any unclaimed property pursuant to Section 14-503(3)(b), Idaho Code. *( )*

002. OFFICE – OFFICE HOURS – STREET AND MAILING ADDRESSES – WEB SITE ADDRESS – PHONE AND FACSIMILE NUMBERS – E-MAIL ADDRESS (RULE 005).

01. Main Office. The State Treasurer's main office is located at 700 West Jefferson Street, Boise, Idaho 83702. The correspondence mailing address is P.O. Box 83720, Boise, Idaho 83720-0091. The State Treasurer's Website is https://sto.idaho.gov. The telephone number is (208) 334-3200 and the facsimile number is (208) 332-2959. The State Treasurer's offices are open from 8 a.m. to 5 p.m. Monday through Friday except for legal holidays. (4-11-06)

02. Unclaimed Property's Address and Phone Numbers. The Unclaimed Property office is located at 304 North 8th Street, Boise, Idaho 83702. The correspondence mailing address is P.O. Box 83720, Boise, Idaho 83720-9101. The telephone number is (208) 332-2942, or toll free at 1-877-388-2942. The facsimile number is (208) 332-2970. The e-mail address for the Unclaimed Property office is UPCGeneralQuestions@sto.idaho.gov. (4-11-06)

003. UNCLAIMED EXPENSES AND CHECKS (RULE 006).
Intangible property required to be reported and delivered to the state includes outstanding or unclaimed expense and vendor checks, payroll checks, claim checks or drafts or other miscellaneous checks and drafts. The term "check" also includes items referred to as "warrants." The term "payroll" includes commissions and any other form of monetary payment to an employee in exchange for services. If the payee has disclaimed ownership, the holder must retain a confirmation letter signed by the payee stating that the amount the holder is showing for them is not due and owing and is to remain on the books of the holder for audit purposes. (4-4-13)

01. Confirmation. A confirmation letter by the payee which claims that the amount is due and owing to the payee should be accompanied by a facsimile instrument issued by the holder in payment of the amount due and owing before the account will be considered not abandoned. (8-24-94)

02. Clearance. A confirmation letter signed by the payee which states that the amount is not due and owing to the payee will be deemed sufficient to relieve the holder of the liability even if the check with which the holder paid the liability has not yet cleared the holder's bank. (7-1-98)

004. -- 009. (RESERVED)

010. DEFINITIONS (RULE 010).
The definitions in Section 14-501, Idaho Code, and the following apply to terms used in these rules: *( )*

01. Credit Memo. Credit Memo shall include all types of refunds and credit balances unless specified elsewhere in Title 14, Chapter 5, Idaho Code. (7-1-93)

02. Return and Tax. Section 14-532, Idaho Code, incorporates several statutes from Title 63, Chapter 30, Idaho Code, into the Unclaimed Property Act. The words "return" and "tax" from Title 63, Chapter 30, Idaho Code, when applied to the Unclaimed Property Act are defined as follows: (4-2-08)

a. The word "return" means the report required by Section 14-517, Idaho Code. (4-2-08)

b. The word "tax" means property presumed abandoned as described by Section 14-502, Idaho Code. (4-2-08)

011. PROPERTY PRESUMED ABANDONED GENERAL RULE (RULE 011).
An owner's interest may be converted only with the owner's consent or by operation of law. (7-1-93)

01. Books of Holder. Property presumed abandoned includes items that have been converted to income, reversed back to the account upon which the check or draft was drawn or any other method used to convert the unclaimed property to an asset of the holder. The books and records of the holder shall provide presumptive evidence of the existence of such intangible property. Evidence which may rebut any presumption arising from the books and records of the holder may include stop payment orders or items that can be verified as accounting errors or which establish that the original check or draft was issued in error or reissued to the original payee. (8-24-94)

02. Holding Period Determined by Type of Liability. The allowable holding period shall be determined by the type of liability, or property payable, not the method of payment. For example, an uncleared cashier's check that paid wages would be reportable after one (1) year. (8-24-94)

03. Notice. (7-1-98)

a. A notice must be mailed by a holder pursuant to Section 14-517, Idaho Code, to an owner at the last known address, according to the records of the holder. (7-1-98)

b. Return of the notice by the Postal Service or other delivery service for any reason will create a presumption of abandonment. To overcome the presumption, the apparent owner must provide to the holder a statement that meets the requirements of Section 14-517, Idaho Code. (7-1-98)

c. A notice that has been signed by the apparent owner and returned to the holder shall be retained by the holder for seven (7) years after the year in which the property would have become reportable. (7-1-98)

012. GENERAL RULES FOR TAKING CUSTODY OF UNCLAIMED PROPERTY (RULE 012).

01. In General. Under the rule established by the United States Supreme Court in Texas v. New Jersey, 379 U.S. 674 (1965), a holder of unclaimed property must report and remit that property to the state of the owner's last known address as shown in the holder's books and records. If the holder does not have a last known address for the owner, then the holder must report and remit the property to the state where the holder is incorporated. The unclaimed property laws of the state where the property is reportable govern the holding period and what is reportable. (7-1-98)

02. Reciprocity Agreements. A holder located in Idaho may report and remit property reportable to another state to the administrator of the Idaho Unclaimed Property Act if there are ten (10) or fewer properties to report with a value of one thousand dollars ($1,000) or less, and the other state allows for reciprocity. If property reportable to another state is reported and remitted to the administrator, that property will be transferred to the other state in accordance with the reciprocity agreement. (4-4-13)

013. SERVICE CHARGES AND INTEREST (RULE 013).

01. Service Charges. Funds which are reportable to the administrator are required by the act to be transmitted to the administrator. Deductions for service charges incurred after the report date are contrary to the statute requiring delivery of all reportable amounts. Holders deducting such charges will be subject to proceedings to collect the deficiency and any applicable penalty and interest. (7-1-93)

02. Interest. Interest accruing on reportable amounts is payable in addition to the reportable amounts, unless the holder and owner have a contract, meeting the criteria of the act and providing for cessation of interest. Funds which are received as non-interest bearing as a result of such contracts will be non-interest bearing when claimed by the owner. (7-1-93)

03. Burden of Proof. The burden of proof of proper notice is on the holder. The holder shall maintain a record of any notice of charges imposed or interest cessation. (7-1-93)

04. Holding Period. Communication from an owner of a dormant savings account stating his desire to maintain the account will restart the allowable holding period. The notice must be from the owner or the owner's duly authorized agent, provided that the agent is not also the holder. (7-1-93)

014. CONTENTS OF SAFE DEPOSIT BOX OR OTHER SAFEKEEPING REPOSITORY (RULE 014).
All tangible and intangible property held in a safe deposit box or any other safekeeping repository in this state in the ordinary course of the holder's business and proceeds resulting from the sale of the property permitted by other law, which remains unclaimed by the owner for the period allowed in Section 14-516, Idaho Code, is presumed abandoned. Safekeeping repositories include boxes, lockers, and safes made available by hospitals, hotels, and transportation companies. (7-1-93)

015. REPORT OF ABANDONED PROPERTY (RULE 015).

01. Incomplete Report. A report filed with the office of the State Treasurer must meet the requirements of a valid tax return as set out in Section 14-517, Idaho Code. A report that does not meet the statutory requirements may be returned to the holder as incomplete. Any report returned to the holder as incomplete will not be treated as filed in compliance with Section 14-517, Idaho Code. (5-8-09)

02. Voluntary Payments of Unclaimed Property. A holder who voluntarily reports and remits any intangible property, as defined in Section 14-501, Idaho Code, with a total value of fifty dollars ($50) or less to the administrator is relieved of all liability in accordance with Section 14-520, Idaho Code, as long as the owner name or other identifying information about the rightful owner is included in the report. Aggregate amounts of unclaimed property will not be accepted. The administrator will remit the funds to the appropriate state. (4-4-13)

03. Underlying Shares and Cumulative Dividends. The holder must report and remit total cumulative dividends to date, together with the stock certificate or the electronic equivalent of the stock certificate, when the certificate or equivalent is in the holder's possession, if the value of total cumulative dividends plus the value of the underlying shares belonging to the apparent owner is more than fifty dollars ($50). (4-11-06)

016. FILING A CLAIM WITH ADMINISTRATOR (RULE 016).

01. Interest. Interest on interest bearing items will accrue from March 31, 1980, or date received, whichever is later, for a maximum of ten (10) years. No interest will be paid on items that are reported as interest bearing, unless the holder reports the rate of interest. (7-1-98)

02. Payment of Claims - Claims Process. (8-24-94)

a. Warrants will be authorized and payment made: (8-24-94)

i. In the name of, and mailed to, the established owner; or (8-24-94)

ii. To the court appointed estate administrator, administratrix, executor, executrix, or personal representative; or (8-24-94)

iii. To the court appointed guardian; or (8-24-94)

iv. In accordance with a court decree of distribution; or (8-24-94)

v. To an heir for distribution to other heirs; if any. (8-24-94)

b. Owner, Cashier's Checks: (8-24-94)

i. The owner of a cashier's check is presumed to be the payee unless the remitter has in his possession the cashiers check. (8-24-94)

ii. A payee is presumed to have received payment for a cashier's check or other instrument, and the payee must establish that the check was not cashed and that the owner is not, in fact, a holder in due course. (8-24-94)

c. It is the responsibility of the payee to disburse any funds or property in accordance with any existing contract or agreement. (8-24-94)

d. When one (1) claimant, who has proven that he has an interest in the unclaimed property, has been paid the full amount of unclaimed property held by the office of the State Treasurer, there is no requirement that the office of the State Treasurer pay other subsequent claimants. The office of the State Treasurer is not required to locate all heirs of owners of unclaimed property. (7-1-98)

e. If there are two (2) or more owners of unclaimed property, or the reported account is in the name of the tenants in common, or the holder report does not specify the percentage or share of co-owners, the office of the State Treasurer will pay each owner an equal share of the account. (7-1-98)

f. Approved utility deposit claim forms and proof of payment to the claimant shall be retained by the utility company for a period of seven (7) years from the date the claim is paid. (7-1-98)

g. The burden is on the claimant to provide sufficient proof to establish the elements of the claim, and it is the claimant's responsibility to contact persons and to search out documents relating to the claim. (4-11-06)

017. ADDITIONS AND PENALTIES (RULE 017).
Penalties and interest may be applied on all delinquent amounts reported or resulting from an audit. These additions and penalties are applicable, even though the delinquent account may be remitted directly from the holder to the owner. Interest is to be computed from the date that the property should have been reported regardless of any extension of time to file granted by the administrator under Section 14-517(4), Idaho Code. A penalty may be imposed if the report is filed after the approved extension date. In the appropriate circumstances, the office of the State Treasurer may waive penalties imposed. (5-8-09)

018. AGREEMENT TO LOCATE REPORTED PROPERTY (RULE 018).
An approved claim for an account that the state has held less than twenty-four (24) months shall be remitted directly to the owner. (7-1-93)

019. PAYMENT OF ABANDONED PROPERTY (RULE 019).
All payments of abandoned property to the administrator must be paid by electronic funds transfer whenever the amount due is one hundred thousand dollars ($100,000) or greater, in accordance with Sections 67-2026 and 67-2026A, Idaho Code. (4-5-00)

020. WELFARE AND PENSION PLANS COVERED UNDER ERISA (RULE 020).

01. In General. An obligation to pay a benefit under a welfare benefit plan normally does not arise until a demand is made by the participant (or beneficiary) which is honored (or required to be honored) by the plan administrator. With respect to pension benefit plans, an obligation to pay a benefit normally does not become fixed and certain until payment of the benefit is required under ERISA or under the plan, whichever is earlier. (7-1-98)

02. Special Rule Relating to Unclaimed Pension Benefits. Account balances otherwise payable to a participant or beneficiary under a qualified retirement plan are not required to be reported to or paid over to the state of Idaho if the participant or beneficiary cannot be located and the plan document provides for the treatment of the unclaimed account balance. For example, an ERISA covered pension benefit plan or trust subject to, and in compliance with, the anti-forfeiture provisions of Section 411(a), Internal Revenue Code, is not required to report or pay over to Idaho any accrued benefit that is not payable to the participant or beneficiary under a plan provision that qualifies as a "permitted forfeiture" under Section 411(a)(3), Internal Revenue Code, and Treasury Regulation Section 1.411(a)-4(b). (7-1-98)

021. PROPERTY HELD FOR DECEASED OWNERS (RULE 021).
If the listed owner is deceased, the claimant must provide a copy of the death certificate. Other required documentation includes, but is not limited to: (4-6-05)

01. Property Valued at Five Thousand Dollars or More. For property valued at five thousand dollars ($5,000) or more, a certified copy of letters of administration or letters testamentary naming claimant as the personal representative of the listed owner, or a certified copy of the decree of distribution of the estate of the listed owner, determining claimant's entitlement to receive unclaimed property. If a court did not order the distribution of the estate,

the administrator will consider other documentation provided it is sufficient to establish the identity of the claimant as the rightful heir of the owner. (4-6-05)

02. Property Valued at Less than Five Thousand Dollars. For property valued at less than five thousand dollars ($5,000), a signed affidavit executed by the claimant, stating that: (4-6-05)

a. The claimant is entitled to receive unclaimed property; (4-6-05)

b. The reason for entitlement to such property; i.e., the exact relationship with the listed owner and the basis of the entitlement; (4-6-05)

c. That there has been no probate of the estate of the deceased owner; (4-6-05)

d. That no such probate is contemplated; and (4-6-05)

e. That claimant will indemnify the state for any loss, including attorney fees, should another claimant assert a prior right to the property. (4-6-05)

022. -- 999. (RESERVED)

IDAPA 56 – IDAHO RANGELAND RESOURCES COMMISSION

DOCKET NO. 56-0101-1900F

NOTICE OF RULEMAKING – VACATION OF OMNIBUS PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 58-1408, Idaho Code.

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

The Idaho Rangeland Resources Commission has performed a review of the rules chapter to comply with the Red Tape Reduction Act. The Commission determined the rules chapter is duplicative of the provisions in Title 58, Chapter 14, Idaho Code; thus, the Commission is vacating this rulemaking Docket No. 56-0000-1900F.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Gretchen Hyde, Executive Director, at (208) 398-7002.

Dated this 1st day of November, 2019.

Gretchen Hyde
Executive Director
Idaho Rangeland Resources Commission
P.O. Box 126, Emmett, ID 83617
(208) 398-7002

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD

DOCKET NO. 57-0101-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending fee rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 18-8314, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 57, rules of the Sexual Offender Management Board:

IDAPA 57.01.01
- 57.01.01, *Rules Governing the Sexual Offender Management Board*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), Vol. 19-6SE, pages 6702 – 6718.

FEE SUMMARY: The following is a specific description of the fee or charge imposed or increased. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. This fee or charge is being imposed pursuant to Section 18-8314, Idaho Code.

Seventy-five dollars ($75) for initial certification applications and fifty dollars ($50) for biennial certification renewal applications for: senior/approved level psychosexual evaluators, associate/supervised level sexual offender treatment provider, and associate/supervised level post-conviction sexual offender polygraph examiners.

Fifty dollars ($50) for initial certification applications and thirty dollars ($30) for annual certification renewal applications for entry-level provisional/supervised psychosexual evaluators and provisional/supervised sexual offender treatment providers.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Nancy Volle at (208) 658-2002.

Dated this 16th day of October, 2019.

Nancy Volle, SOMB Program Manager
Sexual Offender Management Board
1299 N. Orchard St., Ste #110
Boise, ID 83706
Phone: (208) 658-2002
Fax: (208) 287-3322

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD

57.01.01 – RULES OF THE SEXUAL OFFENDER MANAGEMENT BOARD

000. LEGAL AUTHORITY.
This chapter is adopted under the legal authority of Section 18-8314(3), Idaho Code, to implement the provisions of Sections 18-8312 through 18-8316, Idaho Code. (3-20-14)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 57.01.01, "Rules of the Sexual Offender Management Board." (3-20-14)

02. Scope. These rules provide procedures for the Sexual Offender Management Board to: (3-20-14)

a. Establish certified evaluator, sexual offender treatment provider and post conviction sexual offender polygraph examiner qualifications; (3-20-14)

b. Establish standards for psychosexual evaluations and sexual offender treatment programs based on current and evolving best practices; (3-20-14)

c. Approve, issue, renew, deny, suspend, revoke, restrict or otherwise monitor a certification; (3-20-14)

d. Establish fees for initial and renewal certification; (3-20-14)

e. Establish procedures for standards and qualification quality assurance; and (3-20-14)

f. Establish standard protocols for sexual offender management, assessment and classification. (3-20-14)

03. Relationship to the Department of Correction. The Board is created within the Idaho Department of Correction, and relies upon the department for fiscal and administrative support. The governor appoints the Board members. The powers and duties of the Board are separate from the Department of Correction, and are set forth in Section 18-8314, Idaho Code. (3-20-14)

002. ADMINISTRATIVE APPEALS.
Due to the size of this board, the frequency and nature of its proceedings, it is in the best interests of the Board and those it serves to decline to adopt the majority of the procedures regarding contested cases in, IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General," Sections 000 through 799; however, to the extent there is no conflict between the rules of the Board and the rules of the Attorney General, certain provisions of the rules of the Attorney General are adopted or are modified herein to reflect administrative practice before the Board. (3-20-14)

003. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules: (3-20-14)

01. "Bylaws and Constitution of the American Association of Police Polygraphists," effective May, 2010, is herein incorporated by reference and is available from the American Association of Police Polygraphists, PO Box 657, Waynesville, Ohio 45068, website http://www.policepolygraph.org/. (3-20-14)

02. "Bylaws of the American Polygraph Association," effective September 2015, is herein incorporated by reference and is available from the American Polygraph Association, PO Box 8037, Chattanooga, Tennessee 37414, website http://www.polygraph.org/. (3-24-17)

03. "Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices," December 2017 revision, is herein incorporated by reference and is available from the Board's office and on the Board website, http://somb.idaho.gov/. (3-28-18)

04. "Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders," December 2017 revision, is herein incorporated by

reference and is available from the Board's office and on the Board's website, http://somb.idaho.gov/. (3-28-18)

05. The Sexual Offender Management Board's "Required Format for Juvenile Psychosexual Evaluation Reports," December 2016 revision, is herein incorporated by reference and is available from the Board's office and on the Board's website, http://somb.idaho.gov/. (3-24-17)

06. The Sexual Offender Management Board's "Required Format for Adult Psychosexual Evaluation Reports," December 2016 revision, is herein incorporated by reference and is available from the Board's office and on the Board's website, http://somb.idaho.gov/. (3-24-17)

004. -- 009. (RESERVED)

010. DEFINITIONS.

01. Board. The Sexual Offender Management Board described in Section 18-8312, Idaho Code. (3-20-14)

02. Central Roster. A roster of evaluators, treatment providers and polygraph examiners, who meet the qualifications and are certified by the Board to conduct psychosexual evaluations, provide sexual offender treatment or conduct post-conviction sexual offender polygraphs. (3-20-14)

03. Certificate Holder. A person who has been approved by the Board and certified as meeting qualifications to conduct or assist in the conduct of psychosexual evaluations, provide sexual offender treatment or conduct post conviction sexual offender polygraphs. (3-20-14)

04. Certified Evaluator. Either a psychiatrist licensed by this state pursuant to Title 54, Chapter 18, Idaho Code, or a master's or doctoral level mental health professional licensed by this state pursuant to Title 54, Chapters 23, 32, or 34, Idaho Code. The evaluator shall have by education, experience and training, expertise in the assessment and treatment of sexual offenders, shall meet the qualifications and shall be approved by the Board to perform psychosexual evaluations in this state, as described in Section 18-8314, Idaho Code. A person meeting this definition may be certified by the Board as either a senior/approved certified evaluator or an associate/supervised certified evaluator. (3-20-14)

05. Certified Post Conviction Sex Offender Polygraph Examiner. A polygraph examiner who has received specialized post conviction sexual offender testing training, and who is certified by the Board to conduct post conviction sexual offender polygraph examinations as ordered or required by the court, Idaho Department of Correction, or Idaho Commission for Pardons and Parole. A person meeting this definition may be certified by the Board as either a senior/approved post conviction sexual offender polygraph examiner or an associate/supervised post conviction sexual offender polygraph examiner. (3-24-17)

06. Certified Treatment Provider. A person who has been certified by the Board as meeting qualifications to provide sexual offender treatment as ordered by the court, Idaho Department of Correction, Idaho Commission for Pardons and Parole, or Idaho Department of Juvenile Corrections. Such person shall be licensed by this state or another state or jurisdiction as a psychiatrist, or a master's or doctoral level mental health professional, and who has by education, experience and training, expertise in the treatment of sexual offenders. A person meeting this definition may be certified by the Board as either a senior/approved sex offender treatment provider or an associate/supervised sex offender treatment provider. (3-20-14)

07. Client. An adult or juvenile receiving services from a person certified by the Board pursuant to Section 18-8314, Idaho Code. (4-11-15)

08. Established Standards. The "Idaho Sexual Offender Management Board Standards and Guidelines for Adult Sexual Offender Management Practices" and the "Idaho Sexual Offender Management Board Standards and Guidelines for Practitioners, Evaluations and Treatment of Juvenile Sexual Offenders" as referenced in Section 004 of these rules and established pursuant to Section 18-8314, Idaho Code. (4-11-15)

09. Provisional/Supervised Psychosexual Evaluator. A person with limited clinical experience and

specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to assist with the conduct of psychosexual evaluations under the clinical supervision of a senior/approved psychosexual evaluator. A person with a provisional/ supervised psychosexual evaluator certificate is not considered to be a certified evaluator as defined in Section 18-8303, Idaho Code or for the purposes of conducting a psychosexual evaluation in accordance with Section 18-8316, Idaho Code. Certification approval is specific to adult or juvenile clients. (3-24-17)

10. Provisional/Supervised Sex Offender Treatment Provider. A person with limited clinical experience and specialized training, who may be licensed or is working toward licensure as a psychiatrist or master's or doctoral level mental health professional, who is authorized by the Board to provide sexual offender treatment under the clinical supervision of a senior/approved sex offender treatment provider. Certification approval is specific to adult or juvenile clients. (3-24-17)

11. Psychosexual Evaluation. A comprehensive evaluation and assessment specifically addressing a person's sexual development, sexual deviancy, sexual history and risk of re-offense. A psychosexual evaluation for the purpose of these rules is conducted post conviction, as ordered by the court pursuant to Section 18-8316, Idaho Code, or Title 20, Chapter 5, Idaho Code, by a person who has been certified by the Board. (4-11-15)

12. Quality Assurance. Processes established by the Board to review psychosexual evaluations and sexual offender treatment procedures to assure minimum standards and certificate holder qualifications are met. All quality assurance reviews will be conducted under the direction of the Board. (3-20-14)

13. Sexual Offender. A person adjudicated or convicted of an offense as listed in Section 18-8304, Idaho Code, or a substantially equivalent offense under the laws of another state, territory, commonwealth, or other jurisdiction of the United States including tribal courts and military courts; or who has been adjudicated or convicted of a sexual offense-related crime. (4-11-15)

14. Sexual Offender Classification Board. A board in effect from 1998 to 2011 that determined whether a sexual offender should be designated as a violent sexual predator; set certified evaluator qualifications and standards; and administered an evaluator certification process. (3-20-14)

15. Supervision. (3-20-14)

a. For purposes of clinical practice supervision for associate/supervised psychosexual evaluator or associate/supervised sex offender treatment provider certification, supervision is generally considered as face-to-face direct contact, documented teleconferencing, or interactive video conferencing with a Board-approved supervisor using a ratio of one (1) hour of clinical supervision for every twenty (20) hours of direct service provided; or (3-20-14)

b. For purposes of clinical practice supervision for provisional/supervised psychosexual evaluator or provisional/supervised treatment provider certification, supervision is considered as continual face-to-face direct contact with a Board-approved supervisor for the first two hundred fifty (250) hours of direct service provided followed by face-to-face direct contact with a Board-approved supervisor using a ratio of one (1) hour of clinical supervision for every fifteen (15) hours of direct service provided; or (3-24-17)

c. For purposes of supervision for associate/supervised post conviction sexual offender polygraph examiners, supervision is generally considered as face-to-face direct contact with a Board-approved supervisor during conduct of the supervisee's first five (5) PCSOT polygraphs followed by review by a Board-approved supervisor of one (1) PCSOT polygraph for every five (5) PCSOT polygraphs conducted by the supervisee. Such review shall include chart and report review. (3-24-17)

16. Treatment. For purposes of certification eligibility the provision of face-to-face individual, group, or family therapy with a person who has been investigated by law enforcement or child protective services for commission of a sexual offense, or who has been adjudicated or convicted of a sexual offense or sexual offense-related crime. Treatment must be directly relevant to the client's sexually offending behavior. (3-20-14)

17. Violent Sexual Predator. A person who was designated as a violent sexual predator by the Sexual

Offender Classification Board where such designation has not been removed by judicial action or otherwise. (3-20-14)

011. ABBREVIATIONS.

01. APA. The American Polygraph Association. (3-24-17)

02. DSM. The "Diagnostic and Statistical Manual of Mental Disorders," published by the American Psychiatric Association. (3-20-14)

03. IDOC. The Idaho Department of Correction. (3-20-14)

04. IDJC. The Idaho Department of Juvenile Corrections. (4-11-15)

05. PCSOT. "Post conviction sexual offender testing" is specialized instruction beyond the basic polygraph training for the purpose of specific polygraph testing of post convicted sexual offenders. (3-24-17)

06. SOCB. The Sexual Offender Classification Board. (3-20-14)

07. SOMB. The Sexual Offender Management Board. (3-20-14)

012. -- 019. (RESERVED)

020. RECORDKEEPING.

01. Certificate Holders. Records on all applicants and certifications issued, renewed, denied, suspended, revoked, or otherwise monitored shall be maintained for a period not less than five (5) years. (3-20-14)

02. Violent Sexual Predators. The file on a sexual offender who was designated as a violent sexual predator by the SOCB is maintained by the Board and is considered the official file for all purposes. (3-20-14)

021. BOARD MEETINGS.

01. Meetings. The Board meets at least quarterly and may meet more frequently. All business of the Board is conducted in compliance with the open meeting law, pursuant to Title 67, Chapter 23, Idaho Code, and Section 18-8315, Idaho Code. (3-20-14)

02. Agenda. An agenda for each regularly scheduled meeting is posted in compliance with Section 67-2343, Idaho Code. (3-20-14)

022. -- 039. (RESERVED)

040. CERTIFIED EVALUATOR QUALIFICATIONS.

01. Certified Evaluators. Each evaluator who conducts or assists with the conduct of a psychosexual evaluation pursuant to Section18-8316, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. (3-20-14)

a. Certification approval is specific to adult or juvenile clients. (4-11-15)

b. A certificate holder may be separately approved to provide services to both adult and juvenile clients. (4-11-15)

02. Certification Requirements. Minimum requirements for certification as a psychosexual evaluator include criteria, requirements, and expectations in the following categories: (3-20-14)

a. Formal educational requirements; (3-20-14)

b. Professional licensure requirements; (3-20-14)

c. Clinical experience requirements; (3-20-14)

d. Specialized training requirements; and (3-20-14)

e. Continuing education and professional development requirements. (3-20-14)

041. LEVELS OF PSYCHOSEXUAL EVALUATOR CERTIFICATION.
The Board issues certificates within three (3) levels reflective of a person's training and experience specific to the population to be served: (4-11-15)

01. Senior/Approved Psychosexual Evaluator. (3-20-14)

a. Possesses a valid Idaho license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)

b. Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of one thousand five hundred (1,500) hours. Of this requirement, a minimum of five hundred (500) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; and (3-24-17)

c. Has conducted a minimum of nine (9) psychosexual evaluations within the three (3) years preceding an initial application for certification at this level. (3-20-14)

02. Associate/Supervised Psychosexual Evaluator. (3-20-14)

a. Possesses a valid Idaho license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)

b. Has engaged in a combination of supervised direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of five hundred (500) hours. Of this requirement, a minimum of three hundred (300) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; (3-24-17)

c. Has conducted a minimum of six (6) psychosexual evaluations within the three (3) years preceding an initial application for certification at this level; and (3-20-14)

d. Shall only conduct psychosexual evaluations under the clinical practice supervision of a Board-approved supervisor as defined in Paragraph 010.15.a. of these rules, and under the terms of a formal clinical supervision agreement. (3-20-14)

03. Provisional/Supervised Psychosexual Evaluator. (3-20-14)

a. Possesses or is currently enrolled in a graduate program of study toward the attainment of a master's or doctoral degree, preferably with an emphasis on the application of forensic clinical practice; (3-20-14)

b. Possesses or is pursuing a valid license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist; (3-20-14)

c. May assist with the conduct of psychosexual evaluations only under the clinical supervision of a Board-approved supervisor as defined in Paragraph 010.15.b. of these rules, and under the terms of a formal clinical supervision agreement. Face-to-face supervision is required when providing direct clinical services to sex offenders. (3-24-17)

042. -- 079. (RESERVED)

080. SEXUAL OFFENDER TREATMENT PROVIDER QUALIFICATIONS.

01. Certified Sexual Offender Treatment Provider. Each person who provides treatment to sexual offenders as ordered or required by the court, Idaho Department of Correction, Idaho Commission for Pardons and Parole, or the Idaho Department of Juvenile Corrections, in accordance with Section 18-8314, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. (3-20-14)

a. Certification approval is specific to adult or juvenile clients. (4-11-15)

b. A certificate holder may be separately approved to provide services to both adult and juvenile clients. (4-11-15)

02. Certification Requirements. Minimum requirements for certification as a sexual offender treatment provider include criteria, requirements, and expectations in the following categories: (3-20-14)

a. Formal educational requirements; (3-20-14)

b. Professional licensure requirements; (3-20-14)

c. Clinical experience requirements; (3-20-14)

d. Specialized training requirements; and (3-20-14)

e. Continuing education and professional development requirements. (3-20-14)

081. LEVELS OF SEXUAL OFFENDER TREATMENT PROVIDER CERTIFICATION.
The Board issues certificates within three (3) levels reflective of a person's training and experience specific to the population to be served: (4-11-15)

01. Senior/Approved Sexual Offender Treatment Provider. (3-20-14)

a. Possesses a valid license to practice in this state or another state or jurisdiction as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist; and (3-20-14)

b. Has engaged in a combination of direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of one thousand five hundred (1,500) hours. Of this requirement, a minimum of five hundred (500) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board. (3-24-17)

02. Associate/Supervised Sexual Offender Treatment Provider. (3-20-14)

a. Possesses a valid license to practice in this state or another state or jurisdiction as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)

b. Has engaged in a combination of supervised direct, face-to-face clinical practice with sexual offenders and received specialized training for a minimum of five hundred (500) hours. Of this requirement, a minimum of three hundred (300) combined hours shall have been accumulated within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; and (3-24-17)

c. Shall only provide treatment services under the clinical practice supervision of a Board-approved supervisor as defined in Paragraph 010.15.a. of these rules, and under the terms of a formal clinical supervision agreement. (3-20-14)

03. Provisional/Supervised Sexual Offender Treatment Provider. (3-20-14)

a. Possesses or is currently enrolled in a graduate program of study toward the attainment of a master's or doctoral degree, preferably with an emphasis on the application of forensic clinical practice; and (3-20-14)

b. Possesses or is pursuing a valid license to practice as a psychiatrist or master's or doctoral level psychologist, social worker, professional counselor, or marriage and family therapist. (3-20-14)

c. Shall only provide treatment services under the clinical supervision of a Board-approved supervisor as defined in Paragraph 010.15.b. of these rules, and under the terms of a formal clinical supervision agreement. Face-to-face supervision is required when providing direct clinical services to sex offenders. (3-24-17)

082. -- 099. (RESERVED)

100. SPECIALIZED TRAINING FOR PSYCHOSEXUAL EVALUATORS AND SEXUAL OFFENDER TREATMENT PROVIDERS.
For initial certification as a psychosexual evaluator or sexual offender treatment provider, an applicant must have participated in specialized training in the field of sexual abuse, as set forth in the established standards issued by the Board. Sources for such training may be formal conferences, symposia, seminars and workshops in areas such as: (3-20-14)

01. Sexually Abusive Behavior. Contemporary research regarding the etiology of sexually abusive behavior; (3-20-14)

02. Offending Behavior. Research-identified risk factors for the development and continuation of sexually abusive/offending behavior; (3-20-14)

03. Assessment, Treatment, and Management of Adult or Juvenile Sex Offenders. Contemporary research and practice in the areas of assessment, treatment, and management of adult or juvenile sex offenders; (4-11-15)

04. Specific Risk Assessment Tools. Research-supported, sex offender-specific risk assessment tools; and (3-20-14)

05. Deviant Sexual Arousal and/or Interests. Physiological assessment of deviant sexual arousal and/or interests. (3-20-14)

101. CONTINUING EDUCATION FOR PSYCHOSEXUAL EVALUATORS AND SEXUAL OFFENDER TREATMENT PROVIDERS.
To maintain certification as a psychosexual evaluator or sexual offender treatment provider, a certificate holder must receive continuing education in the field of sexual abuse. (3-20-14)

01. Senior/Approved and Associate/Supervised Certification Levels. A psychosexual evaluator or sexual offender treatment provider who is certified at a senior/approved or an associate/supervised level must receive a minimum of forty (40) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training over the course of the two (2) year period prior to each renewal period as set forth in the established standards issued by the Board. (3-20-14)

02. Provisional/Supervised Certification Level. A provisional/supervised psychosexual evaluator or sexual offender treatment provider must receive a minimum of twenty (20) hours of specialized continuing education in the form of formal conferences, symposia, seminars, workshops or on-line training annually as set forth in the established standards issued by the Board. (3-20-14)

102. -- 149. (RESERVED)

150. REQUEST FOR CONDITIONAL WAIVER.

01. Conditional Waiver. The Board may consider an applicant's request for a time limited conditional waiver for deficiencies in experience and specialized training qualifications as set forth in the established standards issued by the Board. (3-24-17)

02. Duration. A conditional waiver is limited to a period of two (2) years. Conditional waivers may not be extended or renewed after the third year. (3-20-14)

03. Frequency. A conditional waiver request shall only be considered one (1) time each for: (3-24-17)

a. An initial certification application for psychosexual evaluator and sexual offender treatment provider applicants at the senior/approved or associate/supervised level; (3-24-17)

b. A renewal certification application for psychosexual evaluator and sexual offender treatment provider applicants at the senior/approved or associate/supervised level; (3-24-17)

c. A renewal certification application for post conviction sexual offender polygraph examiner applicants at the senior/approved level; and (3-24-17)

d. A person certified as an associate/supervised post conviction sexual offender polygraph examiner who, after the two-year (2) time limitation at this status has expired, does not meet qualifications for advancement to post conviction sexual offender polygraph examiner certification at the senior/approved level. (3-24-17)

151. (RESERVED)

152. RECIPROCITY.
The Board may consider reciprocity for any applicant who has been licensed or certified to conduct psychosexual evaluations or sexual offender treatment in another state or jurisdiction as set forth in the established standards issued by the Board. (3-20-14)

153. EXCLUSION.
Each mental health employee of the Idaho Department of Correction or Idaho Department of Juvenile Corrections who conducts psychosexual evaluations or provides sexual offender treatment is exempt from the certification process. This exemption shall only apply while the employee is acting within the course and scope of his employment with the applicable agency. (3-20-14)

154. REQUEST FOR CHANGE IN CERTIFICATION LEVEL.

01. Request to Advance in Level of Certification. A certificate holder may apply at any time during an effective certification to advance to the next higher level of certification provided that he meets the established qualifications and requirements as set forth in the established standards issued by the Board. (3-20-14)

02. Request to Change to a Less Independent Level of Certification. A certificate holder may apply at any time during an effective certification for a reduction in his level of certification in the event that he no longer meets the established qualifications and requirements for his current level of certification as set forth in the established standards issued by the Board. (3-20-14)

155. APPLICATION FOR CHANGE IN CERTIFICATION LEVEL.
Application for change in certification level shall be on a form provided by the Board and shall be submitted with the required supporting documentation and applicable renewal application processing fee: (3-20-14)

01. Advance to Senior/Approved Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of fifty dollars ($50) provided that the application is submitted

three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (3-20-14)

02. Advance to Associate/Supervised Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of thirty dollars ($30) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (3-20-14)

03. Change to a Less Independent Level of Certification Application Fee. A non-refundable renewal application fee payable to the Board in the amount of fifty dollars ($50) provided that the application is submitted three hundred sixty-five (365) days or more after the most recent effective certification date. The application fee shall be waived if submission is within three hundred sixty-five (365) days from the most recent effective certification date. (3-20-14)

156. -- 199. (RESERVED)

200. POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER QUALIFICATIONS.

01. Certified Examiner. Each person who conducts post conviction sexual offender polygraphs as ordered or required by the court, Idaho Department of Correction, or Idaho Commission for Pardons and Parole, in accordance with Section 18-8314, Idaho Code, must meet the qualifications as set forth in the established standards issued by the Board and be certified by the Board. There shall not be a separate certification specific to adult or juvenile clients. (4-11-15)

02. Certification Requirements. Minimum requirements for certification as a sexual offender treatment provider include criteria and requirements in the following categories: (3-20-14)

a. Educational requirements; (3-20-14)

b. Experience requirements; (3-20-14)

c. Specialized training requirements; and (3-20-14)

d. Continuing education and professional development requirements. (3-20-14)

201. LEVELS OF POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINER CERTIFICATION.
The Board issues certificates within two (2) levels reflective of a person's experience in conducting post conviction sexual offender polygraphs. (3-24-17)

01. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner. (3-24-17)

a. Has graduated from an APA-accredited polygraph school; (3-24-17)

b. Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; and (3-24-17)

c. Has successfully completed a minimum of one hundred (100) polygraph examinations. Of this requirement, a minimum of ten (10) sexual history polygraph examinations and a minimum of ten (10) PCSOT maintenance polygraph examinations shall have been conducted within the three (3) years immediately preceding an initial application for certification at this level, as set forth in the established standards issued by the Board; (3-24-17)

02. Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner. (3-24-17)

a. Has graduated from an APA-accredited polygraph school; (3-24-17)

b. Has successfully completed a minimum of forty (40) hours of formal post conviction sexual offender polygraph testing beyond the basic polygraph training course requirements from an APA-accredited program or school; and (3-24-17)

c. Shall only conduct polygraphs under the supervision of a Board-approved supervisor as defined in Paragraph 010.15.c. of these rules, and under the terms of a formal supervision agreement. (3-24-17)

202. -- 230. (RESERVED)

231. CONTINUING EDUCATION FOR POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINERS.
To maintain certification as a post conviction sexual offender polygraph examiner, a certificate holder must receive a minimum of thirty (30) hours of continuing education related to the field of polygraphy in the form of formal conferences, symposia, seminars, or workshops over the course of the two (2) year period prior to each renewal period as set forth in the established standards issued by the Board. (3-24-17)

232. -- 299. (RESERVED)

300. STANDARDS FOR PROFESSIONAL CONDUCT AND CLIENT RELATIONS.

01. General Considerations for Certified Evaluators and Certified Treatment Providers. Each person who is certified by the Board to conduct or assist with the conduct of psychosexual evaluations or provide sexual offender treatment shall: (3-20-14)

a. Adhere to the ethical principles and codes, and all practice standards and guidelines for the person's respective discipline and area of professional licensure; (3-20-14)

b. Be knowledgeable of statutes and scientific data relevant to specialized sexual offender evaluation and sexual offender treatment; (3-20-14)

c. Be familiar with the statutory requirements for assessments and reports for the courts, pursuant to Section 18-8316, Idaho Code; (3-20-14)

d. Be committed to community protection and safety; (3-20-14)

e. Provide services in a manner that ensures humane and ethical treatment of clients; (3-20-14)

f. Conduct testing in accordance with the person's licensing body, qualifications and experience, and in a manner that ensures the integrity of testing data; (3-20-14)

g. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; and (3-20-14)

h. Have no sexual relationships with any client. (3-20-14)

02. General Considerations for Certified Post Conviction Sexual Offender Polygraph Examiners. Each person who is certified by the Board to conduct post conviction sexual offender polygraph examinations shall: (3-20-14)

a. Adhere to the ethical principles and codes, and all practice standards and guidelines for the person's discipline, area of professional practice, or licensure as promulgated by any applicable regulatory board or licensing authority; (3-20-14)

b. Adhere to the standards and guidelines specific to post conviction sexual offender testing as

promulgated by the APA; (3-24-17)

c. Adhere to the ethical principles and codes, and all practice standards and guidelines for the administration of polygraph examinations generally, as promulgated by the APA or the American Association of Police Polygraphists, as referenced in Section 004 of these rules; (3-24-17)

d. Avoid relationships with clients that may constitute a conflict of interest, impair professional judgment and risk exploitation; (4-11-15)

e. Have no sexual relationships with any client; (3-24-17)

f. Take factors such as age, mental capacity and co-occurring mental health concerns into consideration when utilizing polygraphy with juvenile offenders; (4-11-15)

g. Be committed to community protection and safety; and (3-24-17)

h. Provide services in a manner that ensures humane and ethical treatment of clients. (3-24-17)

301. -- 329. (RESERVED)

330. INITIAL CERTIFICATION APPLICATION.
An applicant seeking certification by the Board must submit a completed application on forms provided by the Board for the applicant's area of practice and client population, if applicable, accompanied by documentation as outlined in the established standards issued by the Board and an initial certification application fee made payable to the Board. (4-11-15)

331. EXPIRATION AND RENEWAL OF CERTIFICATION.
No certification shall be renewed, except as follows: (3-20-14)

01. Renewal. At least thirty (30) days prior to the expiration of a certification, a certificate holder shall apply for renewal of the certification on forms provided by the Board for the applicant's area of practice and client population, if applicable, accompanied by documentation as outlined in the established standards issued by the Board and a renewal certification application fee made payable to the Board. (4-11-15)

02. Removal from the Roster. A certificate holder who has not renewed his certification shall be removed from the central roster thirty (30) days after his certification has expired. (3-20-14)

03. Renewal After Certification Expiration. A certificate holder whose certification has expired may reapply at any time for certification as follows: (3-20-14)

a. A certificate holder whose certification has been expired for less than three hundred sixty-five (365) days may reapply following the certification renewal process as referenced in Subsection 331.01 of these rules. (3-20-14)

b. A certificate holder whose certification has been expired for three hundred sixty-five (365) days or longer may reapply for certification following the initial certification process as referenced in Section 330 of these rules. (3-20-14)

332. FEES.
The following non-refundable application processing fees are established by the Board: (3-20-14)

01. Initial Certification. Application processing fees for initial certification shall be: (3-20-14)

a. Senior/Approved Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Seventy-five dollars ($75). (3-24-17)

b. Associate/Supervised Psychosexual Evaluator, Treatment Provide, or Post Conviction Sexual

Offender Polygraph Examiner – Seventy-five dollars ($75). (3-24-17)

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Fifty dollars ($50). (3-20-14)

02. Renewal Certification. Application processing fees for renewal certification shall be: (3-20-14)

a. Senior/Approved Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars ($50). (3-24-17)

b. Associate/Supervised Psychosexual Evaluator, Treatment Provider, or Post Conviction Sexual Offender Polygraph Examiner – Fifty dollars ($50). (3-24-17)

c. Provisional/Supervised Psychosexual Evaluator or Treatment Provider – Thirty dollars ($30). (3-20-14)

03. Change in Certification Level. Application processing fees for a change in certification level shall be as referenced in Section 155 of these rules. (3-20-14)

333. CERTIFICATION PERIOD.
Provided that the certificate holder continues to meet the criteria for certification and such certification has not been suspended, revoked, otherwise restricted or placed on voluntary inactive status, the effective period for certification is as follows: (3-20-14)

01. Senior/Approved Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder's month of birth two (2) years following initial certification and every two (2) years thereafter, unless extended by conditional waiver. (3-24-17)

02. Associate/Supervised Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder's month of birth two (2) years following initial certification and every two (2) years thereafter, unless extended by conditional waiver. (3-24-17)

03. Provisional/Supervised Psychosexual Evaluator or Treatment Provider. Certification shall remain in effect for one (1) year. Certification renewal shall typically occur during the certificate holder's month of birth one (1) year following initial certification and annually thereafter. Certification at the provisional/supervised level is limited to a period of three (3) years, at which time the certificate holder must meet minimum requirements for upgrade to the associate/supervised level to be eligible for certification renewal. (3-20-14)

04. Senior/Approved Post Conviction Sexual Offender Polygraph Examiner. Certification shall remain in effect for two (2) years. Certification renewal shall typically occur during the certificate holder's month of birth two (2) years following initial certification and every two (2) years thereafter unless extended by conditional waiver. (3-24-17)

05. Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner. Certification shall remain in effect for two (2) years from the certificate holder's month of birth following initial certification. Thereafter, the certificate holder must meet minimum requirements for upgrade to the senior/approved level to be eligible for certification renewal, unless extended by conditional waiver. (3-24-17)

334. APPLICABILITY AND NOTIFICATION OF CHANGES.
Certification shall only apply to the person named therein and is not transferable. The Board must be notified in writing within thirty (30) days of any change in the certificate holder's name, business address or phone number. (3-20-14)

335. REQUEST FOR PLACEMENT ON INACTIVE STATUS.
Any certificate holder may request placement on inactive status by submitting a written request to the SOMB

specifying the reasons for the request and indicating the inactive status effective date. A certificate holder who is placed on inactive status shall be removed from the central roster of certified evaluators, treatment providers and post conviction sexual offender polygraph examiners. A person who has been placed on inactive status may reapply for certification in accordance with the established standards issued by the Board. (3-20-14)

336. -- 349. (RESERVED)

350. CENTRAL ROSTER OF PSYCHOSEXUAL EVALUATORS, SEXUAL OFFENDER TREATMENT PROVIDERS AND POST CONVICTION SEXUAL OFFENDER POLYGRAPH EXAMINERS.

01. Identification. The Board shall publish a central roster of psychosexual evaluators, sexual offender treatment providers and post conviction sexual offender polygraph examiners pursuant to Sections 18-8312 through 18-8316, Idaho Code. The central roster shall indicate: (3-24-17)

a. The certificate holder's name; (3-20-14)

b. The certificate holder's business address and telephone number; (3-20-14)

c. Whether the certificate holder is certified or approved by conditional waiver; (3-20-14)

d. The category and applicable level of certification; (3-20-14)

e. The expiration date of the certification or conditional waiver; (4-11-15)

f. Whether the certificate holder is approved to provide services to adult or juvenile clients, or both; and (4-11-15)

g. Current formal disciplinary action imposed on a certificate holder by the Board. (3-20-14)

02. Availability. A copy of the central roster may be obtained from the Board, and shall be posted on the Board's website. (3-20-14)

351. -- 379. (RESERVED)

380. DENIAL AND GROUNDS FOR DISCIPLINE.

01. Cause. The Board may deny, suspend, revoke, restrict or otherwise monitor certification of an applicant or certificate holder for the following reasons: (3-20-14)

a. Failure to meet or maintain the minimum eligibility criteria and qualifications for certification; (3-20-14)

b. Falsification of any information or documentation, or concealing a material fact in the application for certification, or during any investigation or quality assurance review; (3-20-14)

c. Misrepresentation of current level or designation of certification, or practicing outside the scope or current level or designation of certification; (3-20-14)

d. Failure to comply with Section 18-8316, Idaho Code, any portion of this chapter, or the established standards issued by the Board; (3-20-14)

e. Failure to demonstrate an understanding of counter-transference issues and a broad knowledge of sexuality in the general populations, and basic theories and typologies of sexual offenders and sexual assault victims; (3-20-14)

f. Failure or refusal to comply with the quality assurance review process or to cooperate during any

investigation concerning certification, including failure or refusal to provide data, information or records as requested by the Board or designee; (3-20-14)

g. Failure to comply with any informal disciplinary measures, remedial steps, corrective action or final order issued by the Board as a condition of continued certification, including practicing on a suspended or restricted certification; (3-20-14)

h. Engaging in conduct that departs from the established standards issued by the Board; (3-20-14)

i. Revocation, suspension, limitation, reprimand, voluntary surrender or any other disciplinary action or proceeding, including investigation against a license, certificate or privilege to practice by a professional licensing board; (3-20-14)

j. Conviction of, or entry of a withheld judgment or plea of nolo contendre to conduct constituting a felony or crime of moral turpitude; or (3-20-14)

k. Failure to notify the Board in writing of any circumstances that affect a certificate holder's eligibility for certification, including any disciplinary action taken by a respective professional licensing board or conviction of any felony or crime of moral turpitude. (3-20-14)

02. Mirroring Orders. If a state licensing board with authority over a certificate holder's professional license takes action against the professional license which suspends, restricts, limits, or affects the certificate holder's ability to provide services pursuant to their SOMB certification, the SOMB is authorized to issue an order suspending, restricting, limiting, or otherwise affecting the certificate holder's SOMB certification in the same fashion as the professional licensing board's action. (3-20-14)

03. Emergency Suspension. Pursuant to Section 67-5247, Idaho Code, if the Board finds that public health, safety or welfare requires immediate emergency action the Board may take such action necessary to prevent or avoid the immediate danger as outlined in the established standards issued by the Board. (3-20-14)

381. REAPPLICATION FOLLOWING CERTIFICATION DENIAL OR DISCIPLINARY ACTION.

01. Denial. An applicant whose certification was denied may reapply when evidence is available confirming that he meets the required qualifications for the respective area of practice as referenced in Sections 040, 080 or 200 of these rules; (3-20-14)

02. Suspension. A person whose certification has been suspended may apply for reinstatement after the suspension period has expired and following completion of any remedial steps or corrective action ordered by the Board, as outlined in the established standards issued by the Board; (3-20-14)

03. Restriction. A person whose certification has been restricted or otherwise monitored may request removal of the restrictions after the restriction period has expired. If no period of restriction was established, the request may be made following completion of any remedial steps or corrective action ordered by the Board, as outlined in the established standards issued by the Board; (3-20-14)

04. Revocation. A person whose certification has been revoked may request reinstatement after the revocation period has expired, as outlined in the established standards issued by the Board. The Board shall have discretion to impose any monitoring conditions upon a certificate holder whose certification has been reinstated following revocation; (3-20-14)

05. Withheld Discipline and Probation. A certificate holder whose formal discipline was withheld and placed on probationary status may request reinstatement after the probationary period has expired and any conditions imposed have been met, as outlined in the established standards issued by the Board. (3-20-14)

382. LEVELS OF DISCIPLINE.

The levels of disciplinary action utilized by the Board against a certificate holder may generally include formal discipline, informal discipline or withholding formal discipline and probation. (3-20-14)

383. FORMAL DISCIPLINE.
Formal disciplinary action consists of suspension, revocation or other restrictions. Formal disciplinary actions restrict or otherwise impede a certificate holder's ability to perform sexual offender services consistent with their certification level. (3-20-14)

384. INFORMAL DISCIPLINE.
Informal disciplinary action consists of monitoring a certificate holder or issuing letters of informal reprimand or counseling. Informal disciplinary actions do not restrict or otherwise impede a certificate holder's ability to perform sexual offender services consistent with their certification level. (3-20-14)

385. WITHHOLDING FORMAL DISCIPLINE AND PROBATION.
The Board may withhold the imposition of formal discipline and place the certificate holder on a period of probation not to exceed two (2) years. The Board may impose any conditions of probation as deemed necessary to ensure compliance with the established standards issued by the Board. Such probationary conditions may include attendance at specialized training, review of the certificate holder's work product by the Board or its designee, or supervised practice by a senior level certificate holder. Failure to comply with a probationary condition imposed by the Board may result in the imposition of any suspended disciplinary action. (3-20-14)

386. COMPLAINTS.
Any individual may file against a certificate holder by submitting a written complaint to the Board, as outlined in the established standards issued by the Board. (3-20-14)

01. Initial Review. The Board's designee shall conduct an initial review of any complaint or information received to determine if the Board has jurisdiction. (3-20-14)

02. Investigation. The Board's designee shall conduct an investigation upon a determination that the Board has jurisdiction and a possible violation may exist. Investigative findings shall be presented to the Board as outlined in the established standards issued by the Board. (3-20-14)

387. DISCIPLINARY PROCESS.
The disciplinary process may be initiated as a result of a complaint received by the Board or a quality assurance review, or be based upon a review of information submitted to the Board during the certification process, monitoring process or while under formal probation. The Board must provide the applicant or certificate holder with notice of intent to deny, suspend, revoke, restrict or otherwise monitor certification, and the right to appeal. (3-20-14)

01. Notification. The Board shall notify the applicant or certificate holder of the Board's intended action in writing using certified mail. (3-20-14)

02. Notice Contents. The notice shall: (3-20-14)

a. State the basis for the intended action; (3-20-14)

b. May suggest means by which the matter might be remedied; and (3-20-14)

c. Provide the applicant or certificate holder notice of the right to a hearing in the matter. (3-20-14)

388. RESPONSE TO NOTICE OF INTENDED ACTION.
The applicant or certificate holder shall have not more than thirty (30) days from the date on which the Board's notice of intended action is served upon him to request a hearing with the Board. The written request shall include documentation supporting the applicant or certificate holder's argument refuting the Board's intended action and a requested remedy. (3-20-14)

01. Failure to Respond. The board shall issue a final order imposing formal disciplinary action if the applicant or certificate holder fails to respond to the Board's notice of intended action or request a hearing within the designated time frame. (3-20-14)

02. Petition for Reconsideration. A petition for reconsideration may be filed by an applicant or certificate holder who failed to respond or request a hearing within the required time frame. (3-20-14)

389. HEARING.
Hearings in contested cases shall be conducted by a hearing officer appointed by the Board as outlined in the established standards issued by the Board. (3-20-14)

01. Recommended Order. All decisions by the hearing officer are considered to be a recommended order and will be reviewed by the Board prior to the issuance of a final order or remanded back to the hearing officer for further consideration. (3-20-14)

02. Response to Recommended Order. Within twenty-one (21) days of the service of the recommended order, any party may submit in writing to the Board to support or take exceptions to any part of the recommended order and file briefs in support of the party's position on any issue in the proceeding. The request must identify all legal and factual bases of disagreement with the recommended order. A review by the Board will be conducted as outlined in the established standards issued by the Board. (3-20-14)

03. Resolution without a Hearing. Any contested case may be resolved without a hearing on the merits of the notice of intended action by stipulation, settlement, motion to dismiss, summary judgment, default, withdrawal, or for lack of jurisdiction. The hearing officer must dismiss a request for hearing that is not filed within the time limits set forth in these rules. (3-20-14)

390. FINAL ORDER.
The Board will issue a final order or notice of remand within sixty (60) days of the service of the recommended order, unless a review of the recommended order was filed. (3-20-14)

391. APPEAL TO DISTRICT COURT
Any person aggrieved by a final order issued by the Board in a contested case may appeal to district court pursuant to Section 67-5270, Idaho Code, and IDAPA 04.11.01., "Idaho Rules of Administrative Procedure of the Attorney General," Sections 790 through 799. (3-20-14)

392. -- 399. (RESERVED)

400. QUALITY ASSURANCE.
Policies for technical review and quality assurance of psychosexual evaluation reports and sexual offender treatment services are outlined in the established standards issued by the Board. The Board shall develop a quality assurance process for review of post conviction sexual offender polygraph examinations. (3-20-14)

401. -- 449. (RESERVED)

450. PSYCHOSEXUAL EVALUATIONS.

01. Adult Psychosexual Evaluations. Pre-sentence psychosexual evaluations on adult sexual offenders shall be conducted pursuant to the established standards issued by the Board and written utilizing the "Required Format for Psychosexual Evaluation Reports," as referenced in Section 004 of these rules. (4-11-15)

02. Juvenile Psychosexual Evaluations. Psychosexual evaluations on juveniles adjudicated for sexual offenses shall be conducted in accordance with the established standards issued by the Board and written utilizing the "Required Format for Juvenile Psychosexual Evaluation Reports," incorporated by reference in Section 004 of these rules. (4-11-15)

03. Testing. The evaluator shall utilize testing instrumentation and assessment measures as outlined in the established standards issued by the Board. (3-20-14)

04. Client Participation. The client being evaluated may refuse or decline to participate in any testing, assessment measure, or physiological measure used for the pre-sentence psychosexual evaluation. The evaluator shall document the client's refusal or declination in the psychosexual evaluation report. (3-20-14)

451. -- 479. (RESERVED)

480. POLYGRAPH EXAMINATIONS.
Post conviction sexual offender polygraph examinations performed pursuant to an order or requirement by the court or requested by the Idaho Department of Correction or Idaho Commission for Pardons and Parole shall be conducted by a person certified by the Board to conduct such examinations and shall follow the established standards issued by the Board. (3-20-14)

481. -- 499. (RESERVED)

500. SEXUAL OFFENDER TREATMENT.
Specialized sexual offender treatment conducted pursuant to an order or requirement by the court, the Idaho Department of Correction, the Idaho Commission for Pardons and Parole or the Idaho Department of Juvenile Corrections shall be conducted by a person certified by the Board to conduct such treatment and shall follow the established standards issued by the Board. (3-20-14)

501. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to the following Idaho Code provisions:

- IDAPA 58.01.02 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.04 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.10 – Section 39-4405, Idaho Code
- IDAPA 58.01.16 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.21 – Sections 39-105, 39-107, and 74-114(8), Idaho Code
- IDAPA 58.01.22 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.23 – Sections 39-105, 39-107 and 67-5206, Idaho Code
- IDAPA 58.01.24 – Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 58, rules of the Department of Environmental Quality:

- IDAPA 58.01.02, *Water Quality Standards*
- IDAPA 58.01.04, *Rules for Administration of Wastewater Treatment Facility Grants*
- IDAPA 58.01.10, *Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended*
- IDAPA 58.01.16, *Wastewater Rules*
- IDAPA 58.01.21, *Rules Governing the Protection and Disclosure of Records in the Possession of DEQ*
- IDAPA 58.01.22, *Rules for Administration of Planning Grants for Public Drinking Water Facilities*
- IDAPA 58.01.23, *Rules of Administrative Procedure Before the Board of Environmental Quality*
- IDAPA 58.01.24, *Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites*

More information regarding this rule docket is available at **www.deq.idaho.gov/58-0000-1900**.

DEQ received no public comments; however, the text of the rule has been amended in accordance with Idaho Code § 67-5227. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 6719 through 7039**.

Certain sections of IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," were revised as a logical outgrowth of the proposed rule and for consistency with **Executive Order No. 2019-02, Red Tape Reduction Act**, issued by Governor Little on January 21, 2019. IDAPA 58.01.23, Subsections 001.03, 008.01, and 010.07, have been simplified and updated. IDAPA 58.01.23, Section 814, has been identified for deletion as it is included verbatim in Idaho Code § 67-5220(f).

The provisions in IDAPA 58.01.23, Sections 500, 501, 808 through 813, and 815 through 860, are included in IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General" (Attorney General Rules), and have been identified for deletion. With the deletion of those sections, it is necessary to incorporate by reference certain sections of the Attorney General Rules to meet the requirements of Idaho Code § 67-5206(5). IDAPA

04.11.01, Sections 800 through 815 and 830 through 860 (2018 Idaho Administrative Code), have been incorporated by reference and are attached. IDAPA 58.01.23, Sections 004 and 006, have been updated accordingly.

The proposed rule also includes non-substantive clerical revisions made by the Administrative Rules Coordinator using his authority under Idaho Code § 67-5202. "The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules." Idaho Code § 67-5202(2). The revisions are consistent with **Executive Order No. 2019-02**, and did not alter the sense, meaning or effect of the rules (i.e., elimination of restrictive words such as "shall").

The pending rule adopted by the Idaho Board of Environmental Quality includes 1) the described revisions in IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," 2) the Administrative Rules Coordinator's clerical revisions, and 3) the remainder of the rule adopted as initially proposed.

FEE SUMMARY: This rulemaking does not impose a fee or charge.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact the undersigned.

Dated this 20th day of November, 2019.

Paula J. Wilson
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208) 373-0418
Fax No.: (208) 373-0481
paula.wilson@deq.idaho.gov

58.01.02 – WATER QUALITY STANDARDS

000. LEGAL AUTHORITY.
Pursuant to Sections 39-105 and 39-3601 et seq., Idaho Code, the Director is directed to formulate and recommend to the Board, such rules and regulations and standards as may be necessary to deal with the problems related to personal health and water pollution. The Director is further charged with the supervision and administration of a system to safeguard the quality of the waters of the state including the enforcement of standards relating to the discharge of effluent into the waters of the state. Authority to adopt rules, regulations and standards as are necessary and feasible to protect the environment and health of the citizens of the state is vested in the Board pursuant to Section 39-107, Idaho Code. (3-20-97)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.02, "Water Quality Standards." (4-11-06)

02. Scope. These rules designate uses which are to be protected in and of the waters of the state and establish standards of water quality protective of those uses. Restrictions are placed on the discharge of wastewaters and on human activities which may adversely affect public health and water quality in the waters of the state. In addition, unique and outstanding waters of the state are recognized. These rules do not provide any legal basis for an additional permit system, nor can they be construed as granting to the Department any authority not identified in the Idaho Code. (4-2-03)

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255, www.deq.idaho.gov. (4-11-06)

003. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

004. INCORPORATION BY REFERENCE.
Codes, standards and regulations may be incorporated by reference in these rules pursuant to Section 67-5229, Idaho Code. Such incorporation by reference shall constitute full adoption by reference, including any notes or appendices therein, unless expressly provided otherwise in these rules. Copies of the codes, standards or regulations adopted by reference throughout these rules are available in the following locations: (8-24-94)

01. Department. Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255, www.deq.idaho.gov; and (3-28-18)

02. Code of Federal Regulations. Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, www.ecfr.gov, and State Law Library, 451 W. State Street, Boise, Idaho 83720. (3-28-18)

005. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (4-11-06)

006. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and the Rules of the Department of Environmental Quality, IDAPA 58.01.21, "Use and Disclosure of Records in the Possession of the Department of Environmental Quality." (4-5-00)

007. EFFECTIVE FOR CLEAN WATER ACT PURPOSES.

01. Alaska Rule. Water quality standards adopted and submitted to EPA since May 30, 2000, are not

effective for federal Clean Water Act (CWA) purposes until EPA approves them (see 40 CFR 131.21). This is known as the Alaska Rule. The process for revising the Idaho water quality standards subject to EPA review and approval, while also retaining the rules effective for CWA purposes, is set out in Subsections 007.02 and 007.03. (3-28-18)

02. Existing Rule Retained for Clean Water Act Purposes Until EPA Approval of Rule Revisions. (3-28-18)

a. When proposing revisions, the Department will make the proposed revisions using legislative format and, in the same rule docket, retain the existing rule that continues to be effective for CWA purposes until the date EPA issues written notification that the rule revisions have been approved. (3-28-18)

b. Notations explaining the effectiveness of both versions of the rule will be included along with the rule text. (3-28-18)

c. Upon the date EPA issues written notification that the rule revisions have been approved, the revised rule will become effective for CWA purposes and the previous rule and notations will be deleted from the Idaho Administrative Code. (3-28-18)

d. In the event EPA issues written notification that the rule revisions have been disapproved, the existing rule effective for CWA purposes will continue to apply. The disapproved rule revisions and notations will be deleted from the Idaho Administrative Code. (3-28-18)

03. Previously Approved Rules. Pursuant to 40 CFR 131.21(e), previously approved rules remain in effect for CWA purposes until a replacement water quality standard is promulgated by the state and approved by EPA or a more stringent federal standard is promulgated. (3-28-18)

04. Information Regarding the Status of EPA Review. Information regarding the status of EPA review will be posted at http://www.deq.idaho.gov/epa-actions-on-proposed-standards. (3-28-18)

008. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of the rules contained in IDAPA 58.01.02, "Water Quality Standards," the following definitions apply: (4-11-06)

01. Activity. For purposes of antidegradation review, an activity that causes a discharge to a water subject to the jurisdiction of the Clean Water Act. (3-18-11)

02. Acute. A stimulus severe enough to induce a rapid response. In aquatic toxicity tests, acute refers to a single or short-term (i.e., ninety-six (96) hours or less) exposure to a concentration of a toxic substance or effluent which results in death to fifty percent (50%) of the test organisms. When referring to human health, an acute effect is not always measured in terms of lethality. (3-30-07)

03. Acute Criteria. Unless otherwise specified in these rules, the maximum instantaneous or one (1) hour average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from acute toxicity due to exposure to the toxic substance or effluent. Acute criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Maximum Concentration (CMC). There are no specific acute criteria for human health; however, the human health criteria are based on chronic health effects and are expected to adequately protect against acute effects. (3-30-07)

04. Aquatic Species. Any plant or animal that lives at least part of its life in the water column or benthic portion of waters of the state. (8-24-94)

05. Assigned Criteria. Criteria associated with beneficial uses from Section 100 of these rules. (3-18-11)

06. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will determine where background conditions should be measured. (8-24-94)

07. Basin Advisory Group. No less than one (1) advisory group named by the Director, in consultation with the designated agencies, for each of the state's six (6) major river basins which shall generally advise the Director on water quality objectives for each basin, work in a cooperative manner with the Director to achieve these objectives, and provide general coordination of the water quality programs of all public agencies pertinent to each basin. Each basin advisory group named by the Director reflect a balanced representation of the interests in the basin and shall, where appropriate, include representatives from each of the following: agriculture, mining, nonmunicipal point source discharge permittees, forest products, local government, livestock, Indian tribes (for areas within reservation boundaries), water-based recreation, and environmental interests. (3-20-97)

08. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (8-24-94)

09. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality goals. (3-20-97)

10. Bioaccumulation. The process by which a compound is taken up by, and accumulated in the tissues of an aquatic organism from the environment, both from water and through food. (8-24-94)

11. Bioaccumulative Pollutants. A compound with a bioaccumulation factor of greater than one thousand (1,000) or a bioconcentration factor of greater than one thousand (1,000). (4-11-15)

12. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (8-24-94)

13. Board. The Idaho Board of Environmental Quality. (7-1-93)

14. Chronic. A stimulus that persists or continues for a long period of time relative to the life span of an organism. In aquatic toxicity tests, chronic refers to continuous exposure to a concentration of a toxic substance or effluent which results in mortality, injury, reduced growth, impaired reproduction, or other adverse effect to aquatic organisms. The test duration is long enough that sub-lethal effects can be reliably measured. When referring to human health, a chronic effect is usually measured in terms of estimated changes in rates (# of cases/ 1000 persons) of illness over a lifetime of exposure. (3-30-07)

15. Chronic Criteria. Unless otherwise specified in these rules, the four (4) day average concentration of a toxic substance or effluent which ensures adequate protection of sensitive species of aquatic organisms from chronic toxicity due to exposure to the toxic substance or effluent. Chronic criteria are expected to adequately protect the designated aquatic life use if not exceeded more than once every three (3) years. This is also known as the Criterion Continuous Concentration (CCC). Human health chronic criteria are based on lifetime exposure. (3-30-07)

16. Compliance Schedule or Schedule Of Compliance. A schedule of remedial measures including an enforceable sequence of actions or operations leading to compliance with an effluent limitation, other limitation, prohibition, or standard. (8-24-94)

17. Cost-Effective and Reasonable Best Management Practices (BMPs) for Nonpoint Sources. All

approved BMPs specified in Subsections 350.03 and 055.07 of these rules. BMPs for activities not specified are, in accordance with Section 350, determined on a case-by-case basis. (3-18-11)

18. Daily Maximum (Minimum). The highest (lowest) value measured during one (1) calendar day or a twenty-four (24) hour period, as appropriate. For ambient monitoring of dissolved oxygen, pH, and temperature, multiple measurements should be obtained at intervals short enough that the difference between consecutive measurements around the daily maximum (minimum) is less than zero point two (0.2) ppm for dissolved oxygen, zero point one (0.1) SU for pH, or zero point five (0.5) degree C for temperature. (3-30-07)

19. Daily Mean. The average of at least two (2) appropriately spaced measurements, acceptable to the Department, calculated over a period of one (1) day: (3-20-97)

a. Confidence bounds around the point estimate of the mean may be required to determine the sample size necessary to calculate a daily mean; (8-24-94)

b. If any measurement is greater or less than five-tenths (0.5) times the average, additional measurements over the one-day period may be needed to obtain a more representative average; (3-20-97)

c. In calculating the daily mean for dissolved oxygen, values used in the calculation shall not exceed the dissolved oxygen saturation value. If a measured value exceeds the dissolved oxygen saturation value, then the dissolved oxygen saturation value will be used in calculating the daily mean. (8-24-94)

d. For ambient monitoring of temperature, the daily mean should be calculated from equally spaced measurements, at intervals such that the difference between any two (2) consecutive measurements does not exceed one point zero (1.0) degree C. (3-30-07)

20. Degradation or Lower Water Quality. "Degradation" or "lower water quality" means, for purposes of antidegradation review, a change in a pollutant that is adverse to designated or existing uses, as calculated for a new point source, and based upon monitoring or calculated information for an existing point source increasing its discharge. Such degradation shall be calculated or measured after appropriate mixing of the discharge and receiving water body. (3-29-12)

21. Deleterious Material. Any nontoxic substance which may cause the tainting of edible species of fish, taste and odors in drinking water supplies, or the reduction of the usability of water without causing physical injury to water users or aquatic and terrestrial organisms. (8-24-94)

22. Department. The Idaho Department of Environmental Quality. (7-1-93)

23. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (8-24-94)

24. Designated Agency. The department of lands for timber harvest activities, oil and gas exploration and development, and mining activities; the soil conservation commission for grazing and agricultural activities; the transportation department for public road construction; the department of agriculture for aquaculture; and the Department's division of environmental quality for all other activities. (3-20-97)

25. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identified waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. (3-28-18)

26. Desirable Species. Species indigenous to the area or those introduced species identified as desirable by the Idaho Department of Fish and Game. (3-15-02)

27. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (7-1-93)

28. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. For purposes of antidegradation review, means "discharge" as

used in Section 401 of the Clean Water Act. (3-18-11)

29. Dissolved Oxygen (DO). The measure of the amount of oxygen dissolved in the water, usually expressed in mg/1. (7-1-93)

30. Dissolved Product. Petroleum product constituents found in solution with water. (8-24-94)

31. Dynamic Model. A computer simulation model that uses real or derived time series data to predict a time series of observed or derived receiving water concentrations. Dynamic modeling methods include continuous simulation, Monte Carlo simulations, lognormal probability modeling, or other similar statistical or deterministic techniques. (8-24-94)

32. *E. coli* (Escherichia coli). A common fecal and intestinal organism of the coliform group of bacteria found in warm-blooded animals. (4-5-00)

33. Effluent. Any wastewater discharged from a treatment facility. (7-1-93)

34. Effluent Biomonitoring. The measurement of the biological effects of effluents (e.g., toxicity, biostimulation, bioaccumulation, etc.). (8-24-94)

35. EPA. The United States Environmental Protection Agency. (7-1-93)

36. Ephemeral Waters. A stream, reach, or water body that flows naturally only in direct response to precipitation in the immediate watershed and whose channel is at all times above the water table. (4-11-06)

37. Existing Activity or Discharge. An activity or discharge that has been previously authorized or did not previously require authorization. (3-18-11)

38. Existing Beneficial Use Or Existing Use. Those beneficial uses actually attained in waters on or after November 28, 1975, whether or not they are designated for those waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards." (4-11-06)

39. Facility. As used in Section 850 only, any building, structure, installation, equipment, pipe or pipeline, well pit, pond, lagoon, impoundment, ditch, landfill, storage container, motor vehicle, rolling stock or aircraft, area, place or property from which an unauthorized release of hazardous materials has occurred. (8-24-94)

40. Four Day Average. The average of all measurements within a period of ninety-six (96) consecutive hours. While a minimum of one (1) measurement per each twenty-four (24) hours is preferred, for toxic chemicals in Section 210, any number of data points is acceptable. (3-30-07)

41. Free Product. A petroleum product that is present as a nonaqueous phase liquid. Free product includes the presence of petroleum greater than one-tenth (0.1) inch as measured on the water surface for surface water or the water table for ground water. (7-1-93)

42. Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water. Compliance with those levels of water quality criteria listed in Sections 200, 210, 250, 251, 252, 253, and 275 (if applicable) or where no major biological group such as fish, macroinvertebrates, or algae has been modified by human activities significantly beyond the natural range of the reference streams or conditions approved by the Director in consultation with the appropriate basin advisory group. (3-15-02)

43. General Permit. An NPDES permit issued by the U.S. Environmental Protection Agency authorizing a category of discharges under the federal Clean Water Act or a nationwide or regional permit issued by the U.S. Army Corps of Engineers under the federal Clean Water Act. (3-29-12)

44. Geometric Mean. The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (7-1-93)

45. Ground Water. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (3-30-07)

46. Harmonic Mean. The number of daily measurements divided by the sum of the reciprocals of the measurements (i.e., the reciprocal of the mean of reciprocals). (3-25-16)

47. Hazardous Material. A material or combination of materials which, when discharged in any quantity into state waters, presents a substantial present or potential hazard to human health, the public health, or the environment. Unless otherwise specified, published guides such as Quality Criteria for Water (1976) by EPA, Water Quality Criteria (Second Edition, 1963) by the state of California Water Quality Control Board, their subsequent revisions, and more recent research papers, regulations and guidelines will be used in identifying individual and specific materials and in evaluating the tolerances of the identified materials for the beneficial uses indicated. (7-1-93)

48. Highest Statutory and Regulatory Requirements for Point Sources. All applicable effluent limits required by the Clean Water Act and other permit conditions. It also includes any compliance schedules or consent orders requiring measures to achieve applicable effluent limits and other permit conditions required by the Clean Water Act. (3-18-11)

49. Hydrologic Unit Code (HUC). A unique eight (8) digit number identifying a subbasin. A subbasin is a United States Geological Survey cataloging unit comprised of water body units. (4-5-00)

50. Hydrologically-Based Design Flow. A statistically derived receiving water design flow based on the selection and identification of an extreme value (e.g., 1Q10, 7Q10). The underlying assumption is that the design flow will occur X number of times in Y years, and limits the number of years in which one (1) or more excursions below the design flow can occur. (8-24-94)

51. Hypolimnion. The bottom layer in a thermally-stratified body of water. It is fairly uniform in temperature and lays beneath a zone of water which exhibits a rapid temperature drop with depth such that mixing with overlying water is inhibited. (3-30-07)

52. Integrated Report. Refers to the consolidated listing and reporting of the state's water quality status pursuant to Sections 303(d), 305(b), and 314 of the Clean Water Act. (3-18-11)

53. Inter-Departmental Coordination. Consultation with those agencies responsible for enforcing or administering the practices listed as approved best management practices in Subsection 350.03. (7-1-93)

54. Intermittent Waters. A stream, reach, or water body which naturally has a period of zero (0) flow for at least one (1) week during most years. Where flow records are available, a stream with a 7Q2 hydrologically-based unregulated flow of less than one-tenth (0.1) cubic feet per second (cfs) is considered intermittent. Streams with natural perennial pools containing significant aquatic life uses are not intermittent. (4-11-06)

55. Load Allocation (LA). The portion of a receiving water's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (8-24-94)

56. Loading Capacity. The greatest amount of pollutant loading that a water can receive without violating water quality standards. (8-24-94)

57. Lowest Observed Effect Concentration (LOEC). The lowest concentration of a toxic substance or an effluent that results in observable adverse effects in the aquatic test population. (3-30-07)

58. Man-Made Waterways. Canals, flumes, ditches, wasteways, drains, laterals, and/or associated features, constructed for the purpose of water conveyance. This may include channels modified for such purposes prior to November 28, 1975. These waterways may have uniform and rectangular cross-sections, straight channels, follow rather than cross topographic contours, be lined to reduce water loss, and be operated or maintained to promote water conveyance. (3-30-07)

59. Maximum Weekly Maximum Temperature (MWMT). The weekly maximum temperature (WMT) is the mean of daily maximum temperatures measured over a consecutive seven (7) day period ending on the day of calculation. When used seasonally, e.g., spawning periods, the first applicable WMT occurs on the seventh day into the time period. The MWMT is the single highest WMT that occurs during a given year or other period of interest, e.g., a spawning period. (3-30-07)

60. Milligrams Per Liter (mg/l). Milligrams of solute per liter of solution, equivalent to parts per million, assuming unit density. (7-1-93)

61. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (7-1-93)

62. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (8-24-94)

63. Natural Background Conditions. The physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. Natural disturbances including, but not limited to, wildfire, geologic disturbance, diseased vegetation, or flow extremes that affect the physical, chemical, and biological integrity of the water are part of natural background conditions. Natural background conditions should be described and evaluated taking into account this inherent variability with time and place. (3-30-07)

64. Nephelometric Turbidity Units (NTU). A measure of turbidity based on a comparison of the intensity of the light scattered by the sample under defined conditions with the intensity of the light scattered by a standard reference suspension under the same conditions. (8-24-94)

65. New Activity or Discharge. An activity or discharge that has not been previously authorized. Existing activities or discharges not currently permitted or licensed will be presumed to be new unless the Director determines to the contrary based on review of available evidence. An activity or discharge that has previously taken place without need for a license or permit is not a new activity or discharge when first licensed or permitted. (3-18-11)

66. Nonpoint Source Activities. Activities on a geographical area on which pollutants are deposited or dissolved or suspended in water applied to or incident on that area, the resultant mixture being discharged into the waters of the state. Nonpoint source activities on ORWs do not include issuance of water rights permits or licenses, allocation of water rights, operation of diversions, or impoundments. Nonpoint sources activities include, but are not limited to: (3-20-97)

a. Irrigated and nonirrigated lands used for: (7-1-93)

i. Grazing; (7-1-93)

ii. Crop production; (7-1-93)

iii. Silviculture; (7-1-93)

b. Log storage or rafting; (7-1-93)

c. Construction sites; (7-1-93)

d. Recreation sites; (3-20-97)

e. Septic tank disposal fields. (8-24-94)

f. Mining; (3-20-97)

g. Runoff from storms or other weather related events; and (3-20-97)

h. Other activities not subject to regulation under the federal national pollutant discharge elimination system. (3-20-97)

67. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (7-1-93)

68. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (7-1-93)

69. One Day Minimum. The lowest daily instantaneous value measured. (3-20-97)

70. One Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of one (1) hour. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the one-hour period may be needed to obtain a more representative mean. (3-20-97)

71. Operator. For purposes of Sections 851 and 852, any person presently or who was at any time during a release in control of, or having responsibility for, the daily operation of the petroleum storage tank (PST) system. (4-2-03)

72. Outstanding Resource Water (ORW). A high quality water, such as water of national and state parks and wildlife refuges and water of exceptional recreational or ecological significance, which has been designated by the legislature and subsequently listed in this chapter. ORW constitutes an outstanding national or state resource that requires protection from point and nonpoint source activities that may lower water quality. (3-20-97)

73. Owner. For purposes of Sections 851 and 852, any person who owns or owned a petroleum storage tank (PST) system any time during a release and the current owner of the property where the PST system is or was located. (4-2-03)

74. Permit or License. A permit or license for an activity that is subject to certification by the state under Section 401 of the Clean Water Act, including, for example, NPDES permits, dredge and fill permits, and FERC licenses. (3-18-11)

75. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (3-20-97)

76. Petroleum Products. Products derived from petroleum through various refining processes. (7-1-93)

77. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (7-1-93)

78. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (7-1-93)

79. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials

which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials do not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (3-20-97)

80. Project Plans. Documents which describe actions to be taken under a proposed activity. These documents include environmental impact statements, environmental assessments, and other land use or resource management plans. (7-1-93)

81. Public Swimming Beaches. Areas indicated by features such as signs, swimming docks, diving boards, slides, or the like, boater exclusion zones, map legends, collection of a fee for beach use, or any other unambiguous invitation to public swimming. Privately owned swimming docks or the like which are not open to the general public are not included in this definition. (4-11-06)

82. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (7-1-93)

83. Reference Stream or Condition. A water body which represents the minimum conditions necessary to fully support the applicable designated beneficial uses as further specified in these rules, or natural conditions with few impacts from human activities and which are representative of the highest level of support attainable in the basin. In highly mineralized areas or in the absence of such reference streams or water bodies, the Director, in consultation with the basin advisory group and the technical advisors to it, may define appropriate hypothetical reference conditions or may use monitoring data specific to the site in question to determine conditions in which the beneficial uses are fully supported. (3-20-97)

84. Release. Any unauthorized spilling, leaking, emitting, discharging, escaping, leaching, or disposing into soil, ground water, or surface water. (8-24-94)

85. Resident Species. Those species that commonly occur in a site including those that occur only seasonally or intermittently. This includes the species, genera, families, orders, classes, and phyla that: (8-24-94)

a. Are usually present at the site; (8-24-94)

b. Are present only seasonally due to migration; (8-24-94)

c. Are present intermittently because they periodically return or extend their ranges into the site; (8-24-94)

d. Were present at the site in the past but are not currently due to degraded conditions, and are expected to be present at the site when conditions improve; and (8-24-94)

e. Are present in nearby bodies of water but are not currently present at the site due to degraded conditions, and are expected to be present at the site when conditions improve. (8-24-94)

86. Responsible Persons in Charge. Any person who: (8-24-94)

a. By any acts or omissions, caused, contributed to or exacerbated an unauthorized release of hazardous materials; (8-24-94)

b. Owns or owned the facility from which the unauthorized release occurred and the current owner of the property where the facility is or was located; or (8-24-94)

c. Presently or who was at any time during an unauthorized release in control of, or had responsibility for, the daily operation of the facility from which an unauthorized release occurred. (8-24-94)

87. Sediment. Undissolved inorganic matter. (3-30-07)

88. Seven Day Mean. The average of the daily mean values calculated over a period of seven (7) consecutive days. (3-20-97)

89. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (8-24-94)

90. Short-Term or Temporary Activity. An activity which is as short as possible but lasts for no more than one (1) year, is limited in scope and is expected to have only minimal impact on water quality as determined by the Director. Short-term or temporary activities include, but are not limited to, those activities described in Subsection 080.02. (3-30-07)

91. Silviculture. Those activities associated with the regeneration, growing and harvesting of trees and timber including, but not limited to, disposal of logging slash, preparing sites for new stands of trees to be either planted or allowed to regenerate through natural means, road construction and road maintenance, drainage of surface water which inhibits tree growth or logging operations, fertilization, application of herbicides or pesticides, all logging operations, and all forest management techniques employed to enhance the growth of stands of trees or timber. (3-20-97)

92. Specialized Best Management Practices. Those practices designed with consideration of geology, land type, soil type, erosion hazard, climate and cumulative effects in order to fully protect the beneficial uses of water, and to prevent or reduce the pollution generated by nonpoint sources. (3-3-87)

93. State. The state of Idaho. (7-1-93)

94. State Water Quality Management Plan. The state management plan developed and updated by the Department in accordance with Sections 205, 208, and 303 of the Clean Water Act. (3-20-97)

95. Suspended Sediment. The undissolved inorganic fraction of matter suspended in surface water. (3-30-07)

96. Suspended Solids. The undissolved organic and inorganic matter suspended in surface water. (3-30-07)

97. Technology-Based Effluent Limitation. Treatment requirements under Section 301(b) of the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under Section 402 of the Clean Water Act. (8-24-94)

98. Thermal Shock. A rapid temperature change that causes aquatic life to become disoriented or more susceptible to predation or disease. (4-11-15)

99. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and water quality. (8-24-94)

100. Toxicity Test. A procedure used to determine the toxicity of a chemical or an effluent using living organisms. A toxicity test measures the degree of response of an exposed test organism to a specific chemical or effluent. (8-24-94)

101. Toxic Substance. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the State and upon exposure, ingestion, inhalation or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic substances include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to Section 307(a) of the federal Clean Water Act. (8-24-94)

102. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (7-1-93)

103. Treatment System. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment by disposal plants, the necessary intercepting, outfall and outlet sewers, pumping stations integral to such plants or sewers, equipment and furnishing thereof and their appurtenances. A treatment system may also be known as a treatment facility. (4-11-06)

104. Twenty-Four Hour Average. The mean of at least two (2) appropriately spaced measurements, as determined by the Department, calculated over a period of twenty-four (24) consecutive hours. When three (3) or more measurements have been taken, and if any measurement is greater or less than five-tenths (0.5) times the mean, additional measurements over the twenty-four (24)-hour period may be needed to obtain a more representative mean. (3-20-97)

105. Unique Ecological Significance. The attribute of any stream or water body which is inhabited or supports an endangered or threatened species of plant or animal or a species of special concern identified by the Idaho Department of Fish and Game, which provides anadromous fish passage, or which provides spawning or rearing habitat for anadromous or desirable species of lake dwelling fishes. (8-24-94)

106. Use Attainability Analysis. A structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. (3-25-16)

107. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one of its existing or future point sources of pollution. (8-24-94)

108. Wastewater. Unless otherwise specified, sewage, industrial waste, agricultural waste, and associated solids or combinations of these, whether treated or untreated, together with such water as is present. (7-1-93)

109. Water Body Unit. Includes all named and unnamed tributaries within a drainage and is considered a single unit unless designated otherwise. (4-5-00)

110. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (8-24-94)

111. Water Quality-Based Effluent Limitation. An effluent limitation that refers to specific levels of water quality that are expected to render a body of water suitable for its designated or existing beneficial uses. (8-24-94)

112. Water Quality Limited Water Body. After monitoring, evaluation of required pollution controls, and consultation with the appropriate basin and watershed advisory groups, a water body identified by the Department, which does not meet applicable water quality standards, and/or is not expected to meet applicable water quality standards after the application of required pollution controls. A water body identified as water quality limited shall require the development of a TMDL or other equivalent process in accordance with Section 303 of the Clean Water Act and Sections 39-3601 et seq., Idaho Code. (3-20-97)

113. Waters and Waters Of The State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (7-1-93)

114. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-20-97)

115. Watershed Advisory Group. An advisory group appointed by the Director, with the advice of the appropriate Basin Advisory Group, which will recommend to the Department those specific actions needed to control point and nonpoint sources of pollution affecting water quality limited water bodies within the watershed. Members of each watershed advisory group shall be representative of the industries and interests affected by the management of that watershed, along with representatives of local government and the land managing or regulatory agencies with an interest in the management of that watershed and the quality of the water bodies within it. (3-20-97)

116. Whole-Effluent Toxicity. The aggregate toxic effect of an effluent measured directly with a toxicity test. (8-24-94)

117. Zone of Initial Dilution (ZID). An area within a Department authorized mixing zone where acute criteria may be exceeded. This area shall be no larger than necessary and be sized to prevent lethality to swimming or drifting organisms by ensuring that organisms are not exposed to concentrations exceeding acute criteria for more than one (1) hour more than once in three (3) years. The actual size of the ZID will be determined by the Department for a discharge on a case-by-case basis, taking into consideration mixing zone modeling and associated size recommendations and any other pertinent chemical, physical, and biological data available. (4-11-15)

011. -- 049. (RESERVED)

050. ADMINISTRATIVE POLICY.

01. Apportionment of Water. The adoption of water quality standards and the enforcement of such standards is not intended to conflict with the apportionment of water to the state through any of the interstate compacts or court decrees, or to interfere with the rights of Idaho appropriators, either now or in the future, in the utilization of the water appropriations which have been granted to them under the statutory procedure, or to interfere with water quality criteria established by mutual agreement of the participants in interstate water pollution control enforcement procedures. (7-1-93)

02. Protection of Waters of the State. (7-1-93)

a. Wherever attainable, surface waters of the state shall be protected for beneficial uses which for surface waters includes all recreational use in and on the water surface and the preservation and propagation of desirable species of aquatic life; (4-5-00)

b. In all cases, existing beneficial uses of the waters of the state will be protected. (7-1-93)

03. Annual Program. To fully achieve and maintain water quality in the state, it is the intent of the Department to develop and implement a Continuing Planning Process that describes the on-going planning requirements of the State's Water Quality Management Plan. The Department's planned programs for water pollution control comprise the State's Water Quality Management Plan. (4-5-00)

04. Program Integration. Whenever an activity or class of activities is subject to provisions of these rules, as well as other regulations or standards of either this Department or other Governmental agency, the Department will seek and employ those methods necessary and practicable to integrate the implementation, administration and enforcement of all applicable regulations through a single program. Integration will not, however, be affected to the extent that applicable provisions of these rules would fail to be achieved or maintained unless the Department's role in these cases is limited by state statute or federal law. (7-1-93)

05. Revisions. These rules are subject to amendment as technical data, surveillance programs, and technological advances require. Any revisions made to these rules will be in accordance with Sections 39-101, et seq., and 67-5201, et seq., Idaho Code. (8-24-94)

051. ANTIDEGRADATION POLICY.

01. Maintenance of Existing Uses for All Waters (Tier I Protection). The existing in stream water uses and the level of water quality necessary to protect the existing uses shall be maintained and protected. (3-18-11)

02. High Quality Waters (Tier II Protection). Where the quality of the waters exceeds levels necessary to support propagation of fish, shellfish and wildlife and recreation in and on the water, that quality shall be maintained and protected unless the Department finds, after full satisfaction of the intergovernmental coordination and public participation provisions of the Department's continuing planning process, that allowing lower water quality is necessary to accommodate important economic or social development in the area in which the waters are located. In allowing such degradation or lower water quality, the Department shall assure water quality adequate to protect existing uses fully. Further, the Department shall assure that there shall be achieved the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for nonpoint source control. In providing such assurance, the Department may enter together into an agreement with other state of Idaho or federal agencies in accordance with Sections 67-2326 through 67-2333, Idaho Code. (3-18-11)

03. Outstanding Resource Waters (Tier III Protection). Where an outstanding resource water has been designated by the legislature, that water quality shall be maintained and protected from the impacts of point and nonpoint source activities. (3-29-12)

04. Thermal Discharges. In those cases where potential water quality impairment associated with a thermal discharge is involved, antidegradation shall be implemented consistent with Section 316 of the Clean Water Act. (3-18-11)

05. Waters Subject to the Antidegradation Policy. Idaho's antidegradation policy only applies to waters subject to the jurisdiction of the Clean Water Act. (3-18-11)

052. ANTIDEGRADATION IMPLEMENTATION.
The antidegradation policy shall be implemented as follows: (3-18-11)

01. Waters Protected. All waters receive Tier I protection. Waters receiving Tier II protection will be identified using a water body by water body approach during the antidegradation review. Waters given Tier III protection are designated in law. (3-18-11)

02. Restoration Projects. Changes in water quality may be allowed by the Department without an antidegradation review where determined necessary to secure long-term water quality improvement through restoration projects designed to trend toward natural characteristics and associated uses to a water body where those characteristics and uses have been lost or diminished. Restoration projects shall implement best management practices. (3-18-11)

03. General Permits. For general permits issued on or after July 1, 2011, the Department will conduct an antidegradation review, including any required Tier II analysis, at the time at which general permits are certified. For general permits that the Department determines adequately address antidegradation, review of individual applications for coverage will not be required unless it is required by the general permit. For general permits that the Department determines do not adequately address antidegradation, the Department may conclude that other conditions, such as the submittal of additional information or individual certification at the time an application is submitted for coverage under a general permit, may be necessary in the general permit to provide reasonable assurance of compliance with the antidegradation policy. If supported by the permit record, the Department may also presume that discharges authorized under a general permit are insignificant or that the pollution controls required in the general permit are the least degrading alternative as specified in Subsection 052.08.c. (3-29-12)

04. Initiation of Antidegradation Review. Review of degradation potential and application of the appropriate level of protection from degradation will be triggered by an application for a new or reissued permit or license. (3-18-11)

05. Identification of Tier II Waters. The Department will utilize a water body by water body approach in determining where Tier II protection is appropriate in addition to Tier I protection. This approach shall be based on an assessment of the chemical, physical, biological and other information regarding the water body. The most recent federally approved Integrated Report and supporting data will be used to determine the appropriate level of protection as follows: (3-29-12)

a. Water bodies identified in the Integrated Report as fully supporting assessed uses will be provided Tier II protection. (3-29-12)

b. Water bodies identified in the Integrated Report as not assessed will be provided an appropriate level of protection on a case-by-case basis using information available at the time of a proposal for a new or reissued permit or license. (3-29-12)

c. Water bodies identified in the Integrated Report as not fully supporting assessed uses will receive Tier I protection for the impaired aquatic life or recreational use, except as follows: (3-29-12)

i. For aquatic life uses identified as impaired for dissolved oxygen, pH or temperature, if biological or aquatic habitat parameters show a healthy, balanced biological community is present, as described in the "Water Body Assessment Guidance" published by the Idaho Department of Environmental Quality, then the water body shall receive Tier II protection for aquatic life uses. (3-29-12)

ii. For recreational uses, if water quality data show compliance with those levels of water quality criteria listed in Sections 200, 210, 251, and 275 (where applicable), then the water body shall receive Tier II protection for recreational uses. (3-29-12)

06. Evaluation of Effect of an Activity or Discharge on Water Quality. The Department will evaluate the effect on water quality for each pollutant. The Department will determine whether an activity or discharge results in an improvement, no change, or degradation of water quality. (3-18-11)

a. Effect on water quality will be based on the calculated change in concentration in the receiving water as a result of a new or reissued permit or license. With respect to a discharge, this calculation will take into account dilution using appropriate mixing of the receiving water under critical conditions coupled with the design flow of the discharge. For a reissued permit or license, the calculated change will be the difference in water quality that would result from the activity or discharge as authorized in the current permit or license and the water quality that would result from the activity or discharge as proposed in the reissued permit or license. For a new permit or license, the calculated change will be the difference between the existing receiving water quality and water quality that would result from the activity or discharge as proposed in the new permit or license. (3-18-11)

i. Current Discharge Quality. For pollutants that are currently limited, current discharge quality shall be based on limits in the current permit or license. For pollutants not currently limited, current discharge quality shall be based on available discharge quality data collected within five years of the application for a permit or license or other relevant information. (3-18-11)

ii. Proposed Quality for an Existing Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be estimated from available discharge quality data since the last permit or license was issued accounting for any changes in production, treatment or operation. For the proposed discharge of a new pollutant or a proposed increased discharge of a pollutant, future discharge quality will be estimated based on information provided by the applicant or other relevant information. (3-18-11)

iii. New Permit Limits for an Existing Discharge. When new permit limits are proposed for the first time for a pollutant in an existing discharge, then for purposes of calculating the change in water quality, any statistical procedures used to derive the proposed new limits will be applied to past discharge quality as well, where appropriate. (3-18-11)

iv. Proposed Quality for a New Discharge. Future discharge quality shall be based on proposed permit limits. For pollutants not limited in the proposed permit or license, future discharge quality will be based on information provided by the applicant or other relevant information. (3-18-11)

b. Receiving water quality will be the quality measured, or modeled as appropriate, immediately above the discharge for flowing waters and outside any Department authorized mixing zone for lakes and reservoirs. (3-18-11)

c. Offsets. In determining the effect of an activity or discharge on water quality of Tier II or Tier III waters, the Department may take into account reductions in pollution from other sources that are tied to the proposed activity or discharge. These offsets in pollution must be upstream of the degradation in water quality due to the proposed activity or discharge and occur before the activity or discharge is allowed to begin. The applicant seeking a permit or license for an activity or discharge based on offsets will be held responsible for assuring offsets are achieved and maintained as a condition of their permit or license. (3-18-11)

07. Tier I Review. Tier I review will be performed for all new or reissued permits or licenses. Existing uses and the water quality necessary to protect the existing uses must always be maintained and protected. No degradation or lowering of water quality may be allowed that would cause or contribute to violation of water quality criteria as calculated after authorized mixing of the discharge with the receiving water. Identification of existing uses and the water quality necessary for their protection will be based on all available information, including any water quality related data and information submitted during the public comment period for the permit or license. (3-18-11)

08. Tier II Analysis. A Tier II analysis will only be conducted for activities or discharges, subject to a permit or a license, that cause degradation. The Department may allow significant degradation of surface water quality that is better than assigned criteria only if it is determined to be necessary to accommodate important economic or social development in the area in which the waters are located. The process and standard for this determination are set forth below. (3-18-11)

a. Insignificant Degradation. If the Department determines an activity or discharge will cause degradation, then the Department shall determine whether the degradation is insignificant. (4-11-15)

i. A cumulative decrease in assimilative capacity of more than ten percent (10%), from conditions as of July 1, 2011, shall constitute significant degradation. If the cumulative decrease in assimilative capacity from conditions as of July 1, 2011, is equal to or less than ten percent (10%), then, taking into consideration the size and character of the activity or discharge and the magnitude of its effect on the receiving stream, the Department may determine that the degradation is insignificant. (4-11-15)

ii. The Department may request additional information from the applicant as needed to determine the significance of the degradation. (4-11-15)

iii. If degradation is determined to be insignificant, then no further Tier II analysis for other source controls (Subsection 052.08.b.), alternatives analysis (Subsection 052.08.c.), or socioeconomic justification (Subsection 052.08.d.) is required. (4-11-15)

b. Other Source Controls. In allowing any degradation of high water quality, the Department must assure that there shall be achieved in the watershed the highest statutory and regulatory requirements for all new and existing point sources and cost-effective and reasonable best management practices for all nonpoint source controls. In providing such assurance, the Department may enter together into an agreement with other State of Idaho or federal agencies in accordance with Sections 67-2326 through 67-2333, Idaho Code. (3-18-11)

c. Alternatives Analysis. Degradation will be deemed necessary only if there are no reasonable alternatives to discharging at the levels proposed. The applicant seeking authorization to degrade high water quality must provide an analysis of alternatives aimed at selecting the best combination of site, structural, managerial and treatment approaches that can be reasonably implemented to avoid or minimize the degradation of water quality. To identify the least degrading alternative that is reasonable, the following principles shall be followed: (3-18-11)

i. Controls to avoid or minimize degradation should be considered at the earliest possible stage of project design. (3-18-11)

ii. Alternatives that must be evaluated as appropriate, are: (3-18-11)

(1) Relocation or configuration of outfall or diffuser; (3-18-11)

(2) Process changes/improved efficiency that reduces pollutant discharge; (3-18-11)

(3) Seasonal discharge to avoid critical time periods for water quality; (3-18-11)

(4) Non-discharge alternatives such as land application; and (3-18-11)

(5) Offsets to the activity or discharge's effect on water quality. (3-18-11)

iii. The Department retains the discretion to require the applicant to examine specific alternatives or provide additional information to conduct the analysis. (3-18-11)

iv. In selecting the preferred alternative the applicant shall: (3-18-11)

(1) Evaluate economic impacts (total cost effectiveness, incremental cost effectiveness) of all technologically feasible alternatives; (3-18-11)

(2) Rank all technologically feasible treatment alternatives by their cost effectiveness at pollutant reduction; (3-18-11)

(3) Consider the environmental costs and benefits across media and between pollutants; and (3-18-11)

(4) Select the least degrading option or show that a more degrading alternative is justified based on Subsections 052.08.c.iv.(1), 052.08.c.iv.(2), or 052.08.c.iv.(3) above. (3-29-12)

d. Socioeconomic Justification. Degradation of water quality deemed necessary must also be determined by the Department to accommodate important economic or social development. Therefore, the applicant seeking authorization to degrade water quality must at a minimum identify the important economic or social development for which lowering water quality is necessary and should use the following steps to demonstrate this: (3-18-11)

i. Identify the affected community; (3-18-11)

ii. Describe the important social or economic development associated with the activity which can include cleanup/restoration of a closed facility; (3-18-11)

iii. Identify the relevant social, economic and environmental health benefits and costs associated with the proposed degradation in water quality for the preferred alternative. Benefits and costs that must be analyzed include, but are not limited to: (3-18-11)

(1) Economic benefits to the community such as changes in employment, household incomes and tax base; (3-18-11)

(2) Provision of necessary services to the community; (3-18-11)

(3) Potential health impacts related to the proposed activity; (3-18-11)

(4) Impacts to direct and indirect uses associated with high quality water, e.g., fishing, recreation, and tourism; and (3-18-11)

(5) Retention of assimilative capacity for future activities or discharges. (3-18-11)

iv. Factors identified in the socioeconomic justification should be quantified whenever possible but for those factors that cannot be quantified a qualitative description of the impacts may be accepted; and (3-18-11)

v. If the Department determines that more information is required, then the Department may require the applicant to provide further information or seek additional sources of information. (3-18-11)

e. Process. (3-18-11)

i. Analysis. The Department in cooperation with State of Idaho designated management agencies and/or federal agencies will collect information regarding the other source controls specified in Subsection 052.08.b. The applicant for a new or reissued permit or license is responsible for providing information pertinent to determining significance/insignificance of proposed changes in water quality and completing an alternatives analysis and socioeconomic justification as appropriate and submitting them to the Department for review. (3-29-12)

ii. Departmental review. The Department shall review all pertinent information and, after intergovernmental coordination, public notice and input, make a determination as to whether there is assurance that the other source controls specified in Subsection 052.08.b. shall be achieved, and whether degradation of water quality is necessary to accommodate important economic or social development. (3-29-12)

iii. Public Involvement. The Department will satisfy the public participation provisions of Idaho's continuing planning process. Public notice and review of antidegradation will be coordinated with existing 401 certification notices for public review. (3-18-11)

09. Tier III - Outstanding Resource Waters (ORWs). ORWs are designated by the legislature. Subsection 052.09 describes the nomination, public notice and comment, public hearing, and board review process for directing the Department to develop legislation designating ORWs. Only the legislature may designate ORWs. Once designated by the legislature, the ORWs are listed in these rules. (3-18-11)

a. Nominations. Any person may request, in writing to the board, that a stream segment be considered for designation as an Outstanding Resource Water. To be considered for ORW designation, nominations must be received by the board by April 1 or ten (10) days after the adjournment sine die of that year's regular session of the legislature, whichever is later, for consideration during the next regular session of the legislature. All nominations shall be addressed to:

Idaho Board of Environmental Quality
Department of Environmental Quality
Outstanding Resource Water Nomination
1410 N. Hilton
Boise, Idaho 83706-1255

The nomination shall include the following information: (3-18-11)

i. The name, description and location of the stream segment; (3-18-11)

ii. The boundaries upstream and downstream of the stream segment; (3-18-11)

iii. An explanation of what makes the segment a candidate for the designation; (3-18-11)

iv. A description of the existing water quality and any technical data upon which the description is based as can be found in the most current basin status reports; (3-18-11)

v. A discussion of the types of nonpoint source activities currently being conducted that may lower water quality, together with those activities that are anticipated during the next two (2) years, as described in the most current basin status reports; and (3-18-11)

vi. Any additional evidence to substantiate such a designation. (3-18-11)

b. Public Notice and Public Comment. The board will give public notice that one (1) or more stream segments are being considered for recommendation to the legislature as outstanding resource waters. Public notice will also be given if a public hearing is being held. Public comments regarding possible designation will be accepted by the board for a period of at least forty-five (45) days. Public comments may include, but are not limited to, discussion of socioeconomic considerations; fish, wildlife or recreational values; and other beneficial uses. (3-18-11)

c. Public Hearing. A public hearing(s) may be held at the board's discretion on any stream segment nominated for ORW designation. Public notice will be given if a hearing is held. The decision to hold a hearing may

be based on the following criteria: (3-18-11)

i. One (1) or more requests contain supporting documentation and valid reasons for designation; (3-18-11)

ii. A stream segment is generally recognized as constituting an outstanding national resource, such as waters of national and state parks, and wildlife refuges; (3-18-11)

iii. A stream segment is generally recognized as waters of exceptional recreational or ecological significance; (3-18-11)

iv. The board shall give special consideration to holding a hearing and to recommending for designation by the legislature, waters which meet criteria found in Subsections 052.09.c.ii. and 052.09.c.iii.; (3-29-12)

v. Requests for a hearing will be given due consideration by the board. Public hearings may be held at the board's discretion. (3-18-11)

d. Board Review. The board shall review the stream segments nominated for ORW designation and based on the hearing or other written record, determine the segments to recommend as ORWs to the legislature. The board shall submit a report for each stream segment it recommends for ORW designation. The report shall contain the information specified in Subsection 052.09.a. and information from the hearing record or other written record concerning the impacts the designation would have on socioeconomic conditions; fish, wildlife and recreational values; and other beneficial uses. The Department shall then prepare legislation for each segment that will be recommended to the legislature as an ORW. The legislation shall provide for the listing of designated segments in these rules without the need for formal rulemaking procedures, pursuant to Sections 67-5201, et seq., Idaho Code. (3-29-12)

e. Designated Waters. Those stream segments designated by the legislature as ORWs are listed in Sections 110 through 160. (3-18-11)

f. Restriction of Nonpoint Source Activities on ORWs. Nonpoint source activities on ORWs shall be restricted as follows: (3-18-11)

i. The water quality of ORWs shall be maintained and protected. After the legislature has designated a stream segment as an outstanding resource water, no person shall conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of that ORW, except for conducting short term or temporary nonpoint source activities which do not alter the essential character or special uses of a segment, allocation of water rights, or operation of water diversions or impoundments. Stream segments not designated as ORWs that discharge directly into an ORW shall not be subject to the same restrictions as an ORW, nor shall the ORW mixing zone be subject to the same restrictions as an ORW. A person may conduct a new or substantially modify an existing nonpoint source activity that can reasonably be expected to lower the water quality of a tributary or stream segment, which discharges directly into an ORW or an ORW mixing zone, provided that the water quality of that ORW below the mixing zone shall not be lowered. (3-18-11)

ii. After the legislature has designated a stream segment as an outstanding resource water as outlined in Subsection 052.09.e., existing nonpoint source activities may continue and shall be conducted in a manner that maintains and protects the current water quality of an ORW. The provisions of this section shall not affect short term or temporary activities that do not alter the essential character or special uses of a segment, allocation of water rights, or operations of water diversions or impoundments, provided that such activities shall be conducted in conformance with applicable laws and regulations. (3-29-12)

g. Restriction of Point Source Discharges to ORWs. The water quality of ORWs shall be maintained and protected. Point source discharges that may cause degradation to ORWs may be allowed only if they are offset by reductions in other discharges per Subsection 052.06.c. (3-29-12)

053. PUBLIC PARTICIPATION.

In providing general coordination of water quality programs within each basin, in carrying out the duties of the Basin Advisory Groups as assigned, and in carrying out the provisions of Sections 39-3601, et seq., Idaho Code, the Director and the Basin Advisory Groups shall employ all means of public involvement deemed necessary, including the public involvement required under Section 67-2340 through Section 67-2347, Idaho Code, Section 051 of this rule or required in Chapter 52, Title 67, Idaho Code, and shall cooperate fully with the public involvement or planning processes of other appropriate public agencies. (3-20-97)

054. BENEFICIAL USE SUPPORT STATUS.

In determining whether a water body fully supports designated and existing beneficial uses, the Department shall determine whether all of the applicable water quality standards are being achieved, including any criteria developed pursuant to these rules, and whether a healthy, balanced biological community is present. The Department shall utilize biological and aquatic habitat parameters listed below and in the current version of the "Water Body Assessment Guidance," as published by the Idaho Department of Environmental Quality, as a guide to assist in the assessment of beneficial use status. Revisions to this guidance will be made after notice and an opportunity for public comment. These parameters are not to be considered or treated as individual water quality criteria or otherwise interpreted or applied as water quality standards. The Department shall employ a weight of evidence approach in evaluating a combination of water quality data types (including, but not limited to, aquatic habitat and biological parameters), when such a combination of data are available, in making its final use support determination. (3-30-07)

01. Aquatic Habitat Parameters. These parameters may include, but are not limited to, stream width, stream depth, stream shade, measurements of sediment impacts, bank stability, water flows, and other physical characteristics of the stream that affect habitat for fish, macroinvertebrates or other aquatic life. (3-30-07)

02. Biological Parameters. These parameters may include, but are not limited to, evaluation of aquatic macroinvertebrates including Ephemeroptera, Plecoptera and Trichoptera (EPT), Hilsenhoff Biotic Index, measures of functional feeding groups, and the variety and number of fish or other aquatic life to determine biological community diversity and functionality. (3-20-97)

03. Use of Data Regarding pH, Turbidity, Dissolved Oxygen, and Temperature. In making use support determinations, the Department may give less weight to departures from criteria in Section 250 for pH, turbidity, dissolved oxygen, and temperature that are infrequent, brief, and small if aquatic habitat and biological data indicate to the assessor that aquatic life beneficial uses are otherwise supported. Unless otherwise determined by the Department, "infrequent" means less than ten percent (10%) of valid, applicable, representative measurements when continuous data are available; "brief" means two (2) hours or less; and "small" means conditions that avoid acute effects. Subsection 054.03 only applies to use of this data for determination of beneficial use support status. Subsection 054.03 does not apply to or affect the application of criteria for any other regulatory purpose including, but not limited to, determining whether a particular discharge or activity violates water quality standards. (3-18-11)

04. Natural Conditions. There is no impairment of beneficial uses or violation of water quality standards where natural background conditions exceed any applicable water quality criteria as determined by the Department, and such natural background conditions shall not, alone, be the basis for placing a water body on the list of water quality limited water bodies described in Section 055. (3-18-11)

05. Rigor, Quality and Relevance of Data. In making any use support determination, the Department shall consider the scientific rigor associated with the collection of samples or data (e.g., the scientific methods used to collect samples or data); the quality of measurements and/or analysis of the samples (e.g., methodology, instrumentation, accuracy, precision, and limits of detection where applicable); and the relevance of the data (e.g., the relationship to a water quality standard, beneficial use or cause of impairment, and how representative the samples or data are of the water body in question). (3-30-07)

055. WATER QUALITY LIMITED WATERS AND TMDLS.

01. Reporting Water Body Use Support Status. After using the provisions in Section 054, and after consultation with the appropriate basin and watershed advisory groups, the Department shall identify water bodies in the appropriate category in the Integrated Report. The Integrated Report shall be published periodically by the Department in accordance with the applicable provisions of the Clean Water Act and shall be subject to public review

and comment prior to submission to EPA for approval. (4-11-15)

02. Water Bodies Needing Development of a Total Maximum Daily Load (TMDL). (4-11-15)

a. The Department shall develop TMDLs or other equivalent processes, as required under Section 303(d)(1) of the Clean Water Act, for those water bodies identified in the Integrated Report as not fully supporting designated or existing beneficial uses and not meeting applicable water quality standards despite the application of required pollution controls. (4-11-15)

b. Informational TMDLs may be developed for water bodies fully supporting beneficial uses as described under Section 303(d)(3) of the Clean Water Act, however, they will not be subject to the provisions of this Section. (3-18-11)

c. TMDLs do not need to be developed for water bodies where other pollutant control requirements are expected to achieve full support of uses and compliance with water quality standards in a reasonable period of time. Such water bodies shall be identified as Category 4(b) waters in the Integrated Report. (4-11-15)

03. Priority of TMDL Development. The priority of TMDL development for water quality limited water bodies identified in the Integrated Report shall be determined by the Director depending upon the severity of pollution and the uses of the water body, including those of unique ecological significance. In determining the severity of pollution and the effect on uses, the Director shall apply the factors set forth in Section 39-3609, Idaho Code. Water bodies identified as a high priority through this process will be the first to be targeted for development of a TMDL or equivalent process. (4-11-15)

04. Protection of Uses Prior to Completion of TMDLs. Prior to the completion of a TMDL or equivalent process for water quality limited water bodies, the Department shall take those actions required by the antidegradation policy (Section 051), the antidegradation implementation procedures (Section 052), and the provisions in Section 39-3610, Idaho Code. Nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis. (4-11-15)

05. Consistency with TMDLs. Once a TMDL or equivalent process is completed, discharges of causative pollutants shall be consistent with the allocations in the TMDL. Nothing in this section shall be interpreted as requiring best management practices for agricultural operations which are not adopted on a voluntary basis. (4-11-15)

06. Pollutant Trading. Development of TMDLs or equivalent processes or interim changes under these rules may include pollutant trading with the goal of restoring water quality limited water bodies to compliance with water quality standards. (3-20-97)

07. Idaho Agriculture Pollution Abatement Plan. Use of best management practices by agricultural activities is strongly encouraged in high, medium and low priority watersheds. The Idaho Agriculture Pollution Abatement Plan is the source for best management practices for the control of nonpoint sources of pollution for agriculture. (3-20-97)

056. -- 059. (RESERVED)

060. MIXING ZONE POLICY.

Note: Final rule submitted to EPA on December 22, 2016 (docket 58-0102-1401). This revision updates DEQ's Mixing Zone Policy to take into account modern tools for evaluating mixing, lessons learned from years of implementation, and to provide greater clarity for DEQ and the regulated community. Until EPA approves the revisions in this docket, the previous standards published in 2014 Idaho Administrative Code continue to apply and are effective for CWA purposes. The following definitions were updated in docket 58-0102-1401: Bioaccumulative Pollutants, Thermal Shock, and Zone of Initial Dilution. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.

01. Mixing Zones for Point Source Discharges. Whether a mixing zone is authorized, and its size, configuration and location, is determined by the Department on a case-by-case basis. This determination is made in accordance with the provisions of Section 060 at the time a permit is issued, renewed, or materially modified and is in effect as long as the permit remains in effect. Such an authorization is required before a mixing zone can be used to determine the need for, or level of, effluent limits for a particular pollutant. (4-11-15)

a. Mixing zones shall not be authorized for a given pollutant when the receiving water does not meet water quality criteria for that pollutant; provided, however, the Department may authorize a mixing zone when the permitted discharge is consistent with an approved TMDL allocation or other applicable plans or analyses (such as 4b implementation plans, watershed loading analyses, or facility-specific water quality pollutant management plans) that demonstrate that there is available assimilative capacity and authorizing a mixing zone is consistent with achieving compliance with water quality standards in the receiving water. (4-11-15)

b. Water quality within an authorized mixing zone is allowed to exceed chronic water quality criteria for those parameters approved by the Department. If approved by the Department, acute water quality criteria for one (1) or more parameters may be exceeded within the zone of initial dilution inside the mixing zone. Narrative criteria in Subsections 200.03 and 200.05 apply within the mixing zone. All water quality criteria must be met at the boundary of any mixing zone under its design conditions. (4-11-15)

c. The size of mixing zone(s) and the concentration of pollutant(s) present shall be evaluated based on the permitted design flow. The Department shall not authorize a mixing zone that is determined to be larger than is necessary considering siting, technological, and managerial options available to the discharger. (4-11-15)

d. Mixing zones, individually or in combination with other mixing zones, shall not cause unreasonable interference with, or danger to, beneficial uses. Unreasonable interference with, or danger to, beneficial uses includes, but is not limited to, the following: (4-11-15)

i. Impairment to the integrity of the aquatic community, including interfering with successful spawning, egg incubation, rearing, or passage of aquatic life. (4-11-15)

ii. Heat in the discharge that causes thermal shock, lethality, or loss of cold water refugia. (4-11-15)

iii. Bioaccumulation of pollutants (as defined in Section 010) resulting in tissue levels in aquatic organisms that exceed levels protective of human health or aquatic life. (4-11-15)

iv. Lethality to aquatic life passing through the mixing zone. (4-11-15)

v. Concentrations of pollutants that exceed Maximum Contaminant Levels at drinking water intake structures. (4-11-15)

vi. Conditions which impede or prohibit recreation in or on the water body. Mixing zones shall not be authorized for *E. coli*. (4-11-15)

e. Multiple nested mixing zones may be established for a single point of discharge, each being specific for one (1) or more pollutants contained within the discharge. (4-11-15)

f. Multiple mixing zones may be established for a single activity with multiple points of discharge. When these individual mixing zones overlap or merge, their combined area and volume shall not exceed that which would be allowed if there was a single point of discharge. When these individual mixing zones do not overlap or merge, they may be authorized as individual mixing zones. (4-11-15)

g. Adjacent mixing zones of independent activities shall not overlap. (4-11-15)

h. Mixing zones shall meet the following restrictions; provided, however, that the Department may authorize mixing zones that vary from the restrictions under the circumstances set forth in Subsection 060.01.i. below: (4-11-15)

i. For flowing waters: (4-11-15)

(1) The width of a mixing zone is not to exceed twenty-five percent (25%) of the stream width; and (4-11-15)

(2) The mixing zone shall not include more than twenty-five percent (25%) of the low flow design discharge conditions as set forth in Subsection 210.03.b. of these rules. (4-11-15)

ii. For all new discharges to nonflowing waters authorized after July 1, 2015: (4-11-15)

(1) The size of the mixing zone is not to exceed five percent (5%) of the total open surface area of the water body or one hundred (100) meters from the point of discharge, whichever is smaller; (4-11-15)

(2) Shore-hugging plumes are not allowed; and (4-11-15)

(3) Diffusers shall be used. (4-11-15)

iii. For all existing discharges to nonflowing waters authorized prior to July 1, 2015, the total horizontal area allocated to the mixing zone is not to exceed ten percent (10%) of the surface area of the lake. (4-11-15)

iv. Lakes and reservoirs with a mean detention time of fifteen (15) days or greater shall be considered nonflowing waters for this purpose. Detention time will be calculated as the mean annual storage volume divided by the mean annual flow rate out of the reservoir for the same time period. (4-11-15)

i. The Department may authorize a mixing zone that varies from the limits in Subsection 060.01.h. if it is established that: (4-11-15)

i. A smaller mixing zone is needed to avoid an unreasonable interference with, or danger to, beneficial uses as described in Subsection 060.01.d., and the mixing zone meets the other requirements set forth in Section 060; or (4-11-15)

ii. A larger mixing zone is needed by the discharger and does not cause an unreasonable interference with, or danger to, beneficial uses as described in Subsection 060.01.d., and the mixing zone meets the other requirements set forth in Section 060. The discharger shall provide to the Department an analysis that demonstrates a larger mixing zone is needed given siting, technological, and managerial options. (4-11-15)

j. The following elements shall be considered when designing an outfall: (4-11-15)

i. Encourage rapid mixing to the extent possible. This may be done through careful location and design of the outfall; and (4-11-15)

ii. Avoid shore-hugging plumes in those water bodies where the littoral zone is a major supply of food and cover for migrating fish and other aquatic life or where recreational activities are impacted by the plume. (4-11-15)

02. Points of Compliance as Alternatives to Mixing Zones. Specification of mixing zones for some 404 dredge and fill activities, stormwater, and nonpoint source discharges may not be practicable due to the generally intermittent and diffuse nature of these discharges. Rather, the Department may allow limited dilution of the discharge by establishing points for monitoring compliance with ambient water quality criteria. These alternatives to a mixing zone are still subject to requirements outlined in Subsections 060.01.a., 060.01.d., 200.03, and 200.05. (4-11-15)

061. -- 069. (RESERVED)

070. APPLICATION OF STANDARDS.

01. Multiple Criteria. In the application of the use designation, the most stringent criterion of a multiple criteria applies. (4-5-00)

02. Application of Standards to Nonpoint Source Activities. The application of water quality standards to nonpoint source activities shall be in accordance with Section 350. (7-1-93)

03. Application of Standards to Point Source Discharges. The application of water quality standards to point source discharges shall be in accordance with Sections 400 and 401. (4-11-06)

04. Applicability of Gas Supersaturation Standard. The application of gas supersaturation standard shall be in accordance with Section 300. (4-5-00)

05. Mixing Zones. The application of water quality standards to mixing zones shall be in accordance with Section 060. (7-1-93)

06. Application of Standards to Intermittent Waters. Numeric water quality standards only apply to intermittent waters during optimum flow periods sufficient to support the uses for which the water body is designated. For recreation, optimum flow is equal to or greater than five (5) cubic feet per second (cfs). For aquatic life uses, optimum flow is equal to or greater than one (1) cfs. (3-30-01)

07. Temperature Criteria. In the application of temperature criteria, the Director may, at his discretion, waive or raise the temperature criteria as they pertain to a specific water body. Any such determination shall be made consistent with 40 CFR 131.11 and shall be based on a finding that the designated aquatic life use is not an existing use in such water body or would be fully supported at a higher temperature criteria. For any determination, the Director shall, prior to making a determination, provide for public notice and comment on the proposed determination. For any such proposed determination, the Director shall prepare and make available to the public a technical support document addressing the proposed modification. (4-5-00)

08. Protection of Downstream Water Quality. All waters shall maintain a level of water quality at their pour point into downstream waters that provides for the attainment and maintenance of the water quality standards of those downstream waters, including waters of another state or tribe. (3-25-16)

071. -- 079. (RESERVED)

080. VIOLATION OF WATER QUALITY STANDARDS.

01. Discharges Which Result in Water Quality Standards Violation. No pollutant shall be discharged from a single source or in combination with pollutants discharged from other sources in concentrations or in a manner that: (7-1-93)

a. Will or can be expected to result in violation of the water quality standards applicable to the receiving water body or downstream waters; or (7-1-93)

b. Will injure designated or existing beneficial uses; or (8-24-94)

c. Is not authorized by the appropriate authorizing agency for those discharges that require authorization. (8-24-94)

02. Short Term Activity Exemption. The Department or the Board can authorize, with whatever conditions deemed necessary, short term activities even though such activities can result in a violation of these rules; (8-24-94)

a. No activity can be authorized by the provisions of Subsection 080.02 unless: (7-1-93)

i. The activity is essential to the protection or promotion of public interest; (7-1-93)

ii. No permanent or long term injury of beneficial uses is likely as a result of the activity. (7-1-93)

b. Activities eligible for authorization by Subsection 080.02 include, but are not limited to: (7-1-93)

i. Wastewater treatment facility maintenance; (7-1-93)

ii. Fish eradication projects; (7-1-93)

iii. Mosquito abatement projects; (7-1-93)

iv. Algae and weed control projects; (7-1-93)

v. Dredge and fill activities; (3-20-97)

vi. Maintenance of existing structures; (3-20-97)

vii. Limited road and trail reconstruction; (3-20-97)

viii. Soil stabilization measures; (3-20-97)

ix. Habitat enhancement structures; and (3-20-97)

x. Activities which result in overall enhancement or maintenance of beneficial uses. (7-1-93)

03. Temperature Exemption. Exceeding the temperature criteria in Section 250 will not be considered a water quality standard violation when the air temperature of a given day exceeds the ninetieth percentile of a yearly series of the maximum weekly maximum air temperature (MWMT) calculated over the historic record measured at the nearest weather reporting station. (3-15-02)

081. -- 089. (RESERVED)

090. ANALYTICAL PROCEDURES.
These procedures are available for review at the Idaho Department of Environmental Quality, or may be obtained from the U.S. Environmental Protection Agency or U.S. Government Printing Office. (8-24-94)

01. Chemical and Physical Procedures. Sample collection, preservation and analytical procedures to determine compliance with these standards shall conform with the guidelines of the Environmental Protection Agency, 40 CFR, Part 136, or other methods accepted by the scientific community and deemed appropriate by the Department. (8-24-94)

02. Metals Procedures. For the purposes of NPDES permitting, sample collection, preservation and analytical procedures for metals should conform to clean or ultra-clean techniques as described in: (8-24-94)

a. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993; or (8-24-94)

b. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994; or (8-24-94)

c. Other scientifically valid methods deemed appropriate by the Department. (8-24-94)

03. Biological Procedures. Biological tests to determine compliance with these standards should be based on methods as outlined in: (8-24-94)

a. "Methods for Measuring the Acute Toxicity of Effluents to Freshwater and Marine Organisms," Fourth Edition, EPA, 1991; or (8-24-94)

b. "Short-term Methods for Estimating the Chronic Toxicity of Effluents and Receiving Waters to Freshwater Organisms," Second Edition, EPA 1989; or (8-24-94)

c. "Rapid Bioassessment Protocols for Use in Streams and Rivers," EPA, 1989; or (8-24-94)

d. Other scientifically valid methods deemed appropriate by the Department. (7-1-93)

091. -- 099. (RESERVED)

100. SURFACE WATER USE DESIGNATIONS.
Waterbodies are designated in Idaho to protect water quality for existing or designated uses. The designated use of a waterbody does not imply any rights to access or ability to conduct any activity related to the use designation, nor does it imply that an activity is safe. For example, a designation of primary or secondary contact recreation may occur in areas where it is unsafe to enter the water due to water flows, depth or other hazardous conditions. Another example is that aquatic life uses may be designated in areas that are closed to fishing or access is not allowed by property owners. Wherever attainable, the designated beneficial uses for which the surface waters of the state are to be protected include: (3-15-02)

01. Aquatic Life. (7-1-93)

a. Cold water (COLD): water quality appropriate for the protection and maintenance of a viable aquatic life community for cold water species. (4-5-00)

b. Salmonid spawning (SS): waters which provide or could provide a habitat for active self-propagating populations of salmonid fishes. (3-30-07)

c. Seasonal cold water (SC): water quality appropriate for the protection and maintenance of a viable aquatic life community of cool and cold water species, where cold water aquatic life may be absent during, or tolerant of, seasonally warm temperatures. (4-5-00)

d. Warm water (WARM): water quality appropriate for the protection and maintenance of a viable aquatic life community for warm water species. (4-5-00)

e. Modified (MOD): water quality appropriate for an aquatic life community that is limited due to one (1) or more conditions set forth in 40 CFR 131.10(g) which preclude attainment of reference streams or conditions. (4-5-00)

02. Recreation. (7-1-93)

a. Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. (4-5-00)

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

a. Primary contact recreation (PCR): water quality appropriate for prolonged and intimate contact by humans or for recreational activities when the ingestion of small quantities of water is likely to occur. Such activities include, but are not restricted to, those used for swimming, water skiing, or skin diving. PCR includes all activities associated with secondary contact recreation (SCR). (4-11-19)

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

b. Secondary contact recreation (SCR): water quality appropriate for recreational uses on or about the water and which are not included in the primary contact category. These activities may include fishing, boating, wading, infrequent swimming, and other activities where ingestion of raw water is not likely to occur. (4-5-00)

03. Water Supply. (7-1-93)

a. Domestic (DWS): water quality appropriate for drinking water supplies. (4-5-00)

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

a. Domestic (DWS): water quality appropriate for use as untreated raw water (as defined under IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems") for public drinking water. (4-11-19)

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

b. Agricultural: water quality appropriate for the irrigation of crops or as drinking water for livestock. This use applies to all surface waters of the state. (4-5-00)

c. Industrial: water quality appropriate for industrial water supplies. This use applies to all surface waters of the state. (4-5-00)

04. Wildlife Habitats. Water quality appropriate for wildlife habitats. This use applies to all surface waters of the state. (4-5-00)

05. Aesthetics. This use applies to all surface waters of the state. (7-1-93)

101. NONDESIGNATED SURFACE WATERS.

01. Undesignated Surface Waters. Surface waters not designated in Sections 110 through 160 shall be designated according to Section 39-3604, Idaho Code, taking into consideration the use of the surface water and such physical, geological, chemical, and biological measures as may affect the surface water. Prior to designation, undesignated waters shall be protected for beneficial uses, which includes all recreational use in and on the water and the protection and propagation of fish, shellfish, and wildlife, wherever attainable. (3-23-98)

a. Because the Department presumes most waters in the state will support cold water aquatic life and primary or secondary contact recreation beneficial uses, the Department will apply cold water aquatic life and primary or secondary contact recreation criteria to undesignated waters unless Sections 101.01.b and 101.01c. are followed. (4-5-00)

b. During the review of any new or existing activity on an undesignated water, the Department may examine all relevant data or may require the gathering of relevant data on beneficial uses; pending determination in Section 101.01.c. existing activities will be allowed to continue. (3-23-98)

c. If, after review and public notice of relevant data, it is determined that beneficial uses in addition to

or other than cold water aquatic life and primary or secondary contact recreation are appropriate, then the Department will: (4-5-00)

i. Complete the review and compliance determination of the activity in context with the new information on beneficial uses, and (3-23-98)

ii. Initiate rulemaking necessary to designate the undesignated water, including providing all necessary data and information to support the proposed designation. (3-23-98)

02. Man-Made Waterways. Unless designated in Sections 110 through 160, man-made waterways are to be protected for the use for which they were developed. (7-1-93)

03. Private Waters. Unless designated in Sections 110 through 160, lakes, ponds, pools, streams and springs outside public lands but located wholly and entirely upon a person's land are not protected specifically or generally for any beneficial use. (7-1-93)

102. DESIGNATION AND REVISION OF BENEFICIAL USES.

When designating or revising beneficial uses for a water body, the Department shall consult with the basin advisory group and the watershed advisory group with the responsibilities for the water body described in Chapter 36, Title 39, Idaho Code. After consultation, the Director shall identify the designated beneficial uses of each water body in these rules pursuant to the rulemaking and public participation provisions of Chapter 52, Title 67, Idaho Code. (3-25-16)

01. Designation of Beneficial Uses. Beneficial uses shall be designated in accordance with Section 39-3604, Idaho Code, taking into consideration the uses set forth in Section 100, and such physical, geological, chemical, and biological measures as may affect the surface water. Beneficial uses are designated according to water body unit unless designated otherwise. Use designations are made for each water body or segment whether or not they are being attained or are fully supported at the time of designation. (3-25-16)

a. In designating beneficial uses, which a water body can reasonably be expected to attain, the Department shall consider: (3-25-16)

i. Existing uses of the water body; (3-25-16)

ii. The physical, geological, hydrological, atmospheric, chemical and biological measures that affect the water body; (3-25-16)

iii. The beneficial use attainability measures identified in Section 39-3607, Idaho Code; (3-25-16)

iv. The economic impact of the designation and the economic costs required to fully support the beneficial uses; (3-25-16)

v. The attainment and maintenance of the water quality standards of downstream waters, including the waters of downstream states; (3-25-16)

vi. Adopting subcategories of a beneficial use and setting the appropriate criteria to reflect varying needs of such subcategories of beneficial uses, for instance, to differentiate between cold water and warm water fisheries; (3-25-16)

vii. At a minimum, that beneficial uses are deemed attainable if they can be achieved by the imposition of effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and cost-effective and reasonable best management practices for nonpoint source control; and (3-25-16)

viii. Designating seasonal beneficial uses as an alternative to reclassifying a water body or segment thereof to uses requiring less stringent water quality criteria. If seasonal beneficial uses are adopted, water quality criteria may be adjusted to reflect the timing of the beneficial use, e.g., salmonid spawning. However, seasonal beneficial uses and their criteria shall not preclude the attainment and maintenance of a more protective beneficial use at other times. (3-25-16)

b. In no case shall waste transport or waste assimilation be a designated beneficial use for a water body. (3-25-16)

02. Revision of Beneficial Uses. (3-25-16)

a. Designated beneficial uses shall be reviewed and revised when such physical, geological, hydrological, atmospheric, chemical or biological measures indicate the need to do so. Designated beneficial uses may be revised or removed if the designated beneficial use is not an existing use, and it is demonstrated that attaining the designated beneficial use is not feasible due to one of the following factors: (3-25-16)

i. Naturally occurring pollutant concentrations prevent the attainment of the use; (3-25-16)

ii. Natural, ephemeral, intermittent or low flow conditions or water levels prevent the attainment of the use unless these conditions may be compensated for by the discharge of sufficient volume of effluent discharges without violating state water conservation requirements to enable uses to be met; (3-25-16)

iii. Human caused conditions or sources of pollution prevent the attainment of the use and cannot be remedied or would cause more environmental damage to correct than to leave in place; (3-25-16)

iv. Dams, diversions or other types of hydrologic modifications preclude the attainment of the use, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in the attainment of the use; (3-25-16)

v. Physical conditions related to the natural features of the water body, such as the lack of a proper substrate, cover, flow, depth, pools, riffles, and the like, unrelated to water quality, preclude attainment of aquatic life protection uses; or (3-25-16)

vi. Controls more stringent than those required by sections 301(b) and 306 of the federal Clean Water Act would result in substantial and widespread economic and social impact. (3-25-16)

b. Designated beneficial uses may not be removed if: (3-25-16)

i. They are existing uses unless a use requiring more stringent criteria is added; or (3-25-16)

ii. Such uses can be attained by implementing effluent limits required under sections 301(b) and 306 of the federal Clean Water Act and by implementing cost-effective and reasonable best management practices for nonpoint source control. (3-25-16)

c. Where existing water quality standards specify designated uses less than those which are presently being attained, the Department shall revise its standards to reflect the uses actually being attained. (3-25-16)

d. A use attainability analysis is a structured scientific assessment of the factors affecting the attainment of the use which may include physical, chemical, biological, and economic factors as described in Subsection 102.02.a. A use attainability analysis must be conducted whenever: (3-25-16)

i. The Department designates uses for a water body that do not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or (3-25-16)

ii. The Department acts to remove a designated use which provides for protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; to remove a subcategory of such uses; or to designate subcategories of such uses which require less stringent criteria than previously applicable. (3-25-16)

e. A use attainability analysis is not required under this rule whenever: (3-25-16)

i. The Department designates beneficial uses which include protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water; or (3-25-16)

ii. The Department removes a beneficial use that does not include the protection and propagation of fish, shellfish, and wildlife and provides for recreation in and on the water. (3-25-16)

103. -- 108. (RESERVED)

109. HUC INDEX AND ABBREVIATIONS FOR SECTIONS 110, 120, 130, 140, 150, AND 160.

01. Map. The following map depicts the hydrologic units and basins described here in. (4-5-00)

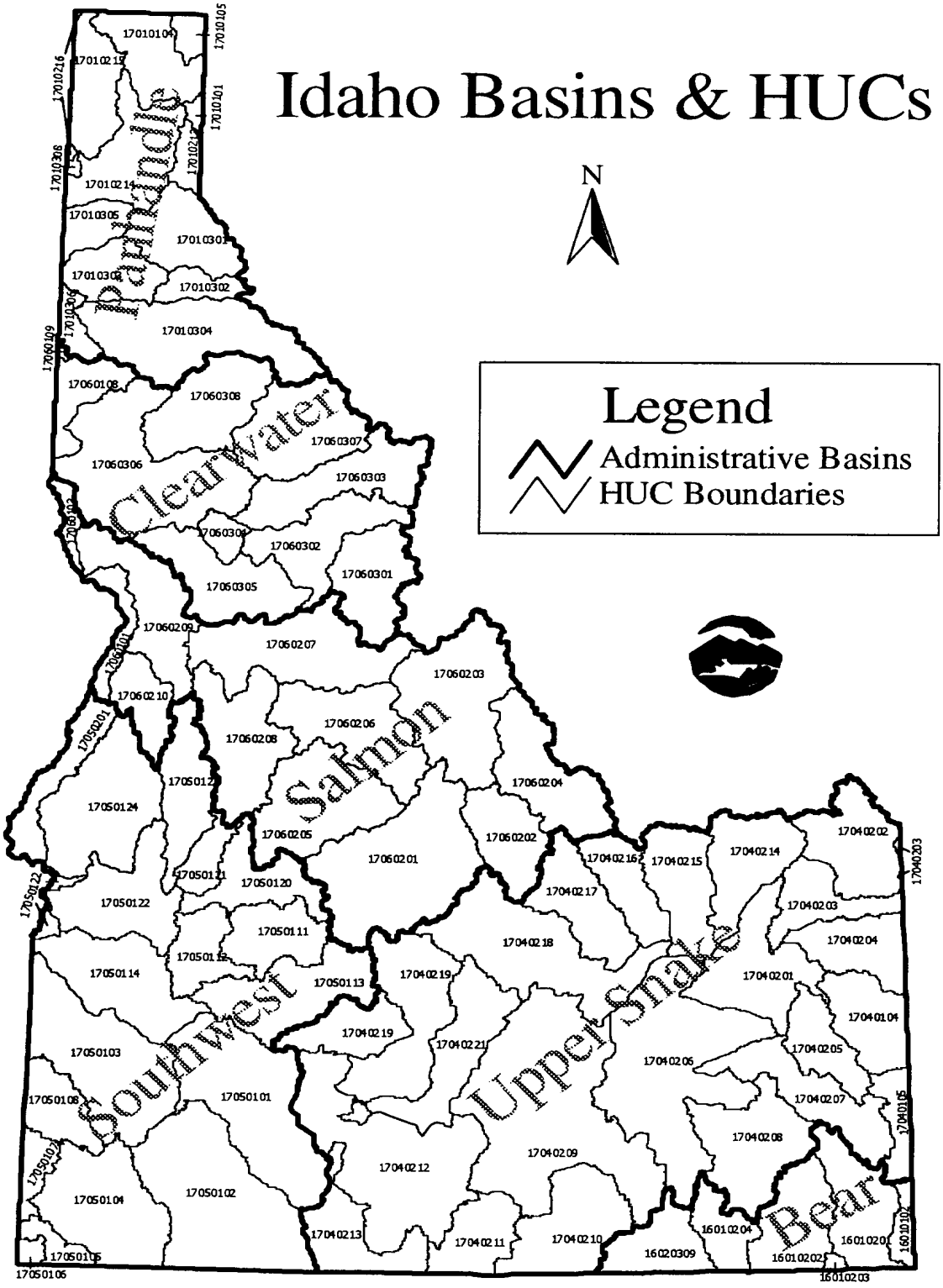
Idaho Basins & HUCs
N
Legend
Administrative Basins
HUC Boundaries
Panhandle
Clearwater
Salmon
Southwest
Upper Snake
Bear

02. **Table**. The following table describes the hydrologic unit code (HUC), associated subbasin name, and the rule section describing the water bodies within the subbasin.

HUC	SUBBASIN	RULE SECTION	HUC	SUBBASIN	RULE SECTION
16010102	Central Bear	160.01	16010201	Bear Lake	160.02
16010202	Middle Bear	160.03	16010203	Little Bear-Logan	160.04
16010204	Lower Bear-Malad	160.05	16020309	Curlew Valley	160.06
17010101	Upper Kootenai	110.01	17010104	Lower Kootenai	110.02
17010105	Moyie	110.03	17010213	Lower Clark Fork	110.04
17010214	Pend Oreille Lake	110.05	17010215	Priest	110.06
17010216	Pend Oreille	110.07	17010301	Upper Coeur d'Alene	110.08
17010302	South Fork Coeur d'Alene	110.09	17010303	Coeur d'Alene Lake	110.10
17010304	St. Joe	110.11	17010305	Upper Spokane	110.12
17010306	Hangman	110.13	17010308	Little Spokane	110.14
17040104	Palisades	150.01	17040105	Salt	150.02
17040201	Idaho Falls	150.03	17040202	Upper Henrys	150.04
17040203	Lower Henrys	150.05	17040204	Teton	150.06
17040205	Willow	150.07	17040206	American Falls	150.08
17040207	Blackfoot	150.09	17040208	Portneuf	150.10
17040209	Lake Walcott	150.11	17040210	Raft	150.12
17040211	Goose	150.13	17040212	Upper Snake-Rock	150.14
17040213	Salmon Falls	150.15	17040214	Beaver-Camas	150.16
17040215	Medicine Lodge	150.17	17040216	Birch	150.18
17040217	Little Lost	150.19	17040218	Big Lost	150.20
17040219	Big Wood	150.21	17040220	Camas	150.22
17040221	Little Wood	150.23	17050101	C.J. Strike Reservoir	140.01
17050102	Bruneau	140.02	17050103	Middle Snake-Succor	140.03
17050104	Upper Owyhee	140.04	17050105	South Fork Owyhee	140.05
17050106	East Little Owyhee	140.06	17050107	Middle Owyhee	140.07
17050108	Jordan	140.08	17050111	North/Middle Fork Boise	140.09
17050112	Boise-Mores	140.10	17050113	South Fork Boise	140.11
17050114	Lower Boise	140.12	17050115	Middle Snake-Payette	140.13
17050120	South Fork Payette	140.14	17050121	Middle Fork Payette	140.15
17050122	Payette	140.16	17050123	North Fork Payette	140.17
17050124	Weiser	140.18	17050201	Brownlee Reservoir	140.19

HUC	SUBBASIN	RULE SECTION	HUC	SUBBASIN	RULE SECTION
17060101	Hells Canyon	130.01	17060103	Lower Snake-Asotin	130.02
17060108	Palouse	120.01	17060109	Rock	120.02
17060201	Upper Salmon	130.03	17060202	Pahsimeroi	130.04
17060203	Middle Salmon-Panther	130.05	17060204	Lemhi	130.06
17060205	U. Middle Fork Salmon	130.07	17060206	L. Middle Fork Salmon	130.08
17060207	Mid. Salmon-Chamberlain	130.09	17060208	South Fork Salmon	130.10
17060209	Lower Salmon	130.11	17060210	Little Salmon	130.12
17060301	Upper Selway	120.03	17060302	Lower Selway	120.04
17060303	Lochsa	120.05	17060304	Middle Fork Clearwater	120.06
17060305	South Fork Clearwater	120.07	17060306	Clearwater	120.08
17060307	U. North Fork Clearwater	120.09	17060308	L. North Fork Clearwater	120.10

(4-5-00)

03. Abbreviations. (4-5-00)

a. COLD -- Cold Water Communities. (4-5-00)

b. SS -- Salmonid Spawning. (4-5-00)

c. SC -- Seasonal Cold Water Communities. (4-5-00)

d. WARM -- Warm Water Communities. (4-5-00)

e. MOD -- Modified Communities. (4-5-00)

f. PCR -- Primary Contact Recreation. (4-5-00)

g. SCR -- Secondary Contact Recreation. (4-5-00)

h. DWS -- Domestic Water Supply. (4-5-00)

i. NONE -- Use Unattainable. (4-5-00)

j. No entry in the Aquatic Life or Recreation columns -- nondesignated waters for those uses. (3-15-02)

110. PANHANDLE BASIN.
Surface waters found within the Panhandle basin total fourteen (14) subbasins and are designated as follows: (4-5-00)

01. Upper Kootenai Subbasin. The Upper Kootenai Subbasin, HUC 17010101, is comprised of six (6) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Star Creek - source to Idaho/Montana border	COLD SS	PCR	
P-2	North Callahan Creek - source to Idaho/Montana border	COLD SS	PCR	
P-3	South Callahan Creek - Glad Creek to Idaho/Montana border	COLD SS	PCR	
P-4	South Callahan Creek - source to Glad Creek	COLD SS	PCR	
P-5	Glad Creek - source to mouth	COLD SS	PCR	
P-6	Keeler Creek - source to Idaho/Montana border	COLD SS	PCR	

(3-30-01)

02. Lower Kootenai Subbasin. The Lower Kootenai Subbasin, HUC 17010104, is comprised of forty (40) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Kootenai River - Shorty's Island to the Idaho/Canadian border	COLD SS	PCR	DWS
P-2	Boundary Creek - Idaho/Canadian border to mouth	COLD SS	PCR	
P-3	Grass Creek - source to Idaho/Canadian border	COLD SS	PCR	
P-4	Blue Joe Creek - source to Idaho/Canadian border	COLD SS	PCR	
P-5	Smith Creek - Cow Creek to mouth	COLD SS	PCR	
P-6	Cow Creek - source to mouth	COLD SS	PCR	
P-7	Smith Creek - source to Cow Creek	COLD SS	PCR	
P-8	Long Canyon Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-9	Parker Creek - source to mouth	COLD SS	PCR	
P-10	Trout Creek - source to mouth	COLD SS	PCR	
P-11	Ball Creek - source to mouth	COLD SS	PCR	
P-12	Kootenai River - Deep Creek to and including Shorty's Island	COLD SS	PCR	DWS
P-13	Myrtle Creek - source to mouth	COLD SS	PCR	--[1] ---------- DWS[2]
P-14	Cascade Creek - source to mouth	COLD SS	PCR	
P-15	Deep Creek - Snow Creek to mouth	COLD SS	PCR	DWS
P-16	Snow Creek - source to mouth	COLD SS	PCR	
P-17	Caribou Creek - source to mouth	COLD SS	PCR	
P-18	Deep Creek - Brown Creek to Snow Creek	COLD SS	PCR	DWS
P-19	Deep Creek - Trail Creek to Brown Creek	COLD SS	PCR	DWS
P-20	Ruby Creek - source to mouth	COLD SS	PCR	
P-21	Fall Creek - source to mouth	COLD SS	PCR	
P-22	Deep Creek - McArthur Lake to Trail Creek	COLD SS	PCR	DWS
P-23	McArthur Lake	COLD		
P-24	Dodge Creek - source to mouth	COLD SS	SCR	
P-25	Deep Creek - source to McArthur Lake	COLD SS	PCR	
P-26	Trail Creek - source to mouth	COLD SS	PCR	
P-27	Brown Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-28	Twentymile Creek - source to mouth	COLD SS	PCR	--[1] ---------- DWS[2]
P-29	Kootenai River - Moyie River to Deep Creek	COLD SS	PCR	DWS
P-30	Cow Creek - source to mouth	COLD SS	SCR	--[1] ---------- DWS[2]
P-31	Kootenai River - Idaho/Montana to Moyie River	COLD SS	PCR	DWS
P-32	Boulder Creek - East Fork Boulder Creek to mouth	COLD SS	PCR	
P-33	Boulder Creek - source to East Fork Boulder Creek	COLD SS	PCR	
P-34	East Fork Boulder Creek - source to mouth	COLD SS	PCR	
P-35	Curley Creek - source to mouth	COLD SS	SCR	
P-36	Flemming Creek - source to mouth	COLD SS	SCR	
P-37	Rock Creek - source to mouth	COLD SS	SCR	
P-38	Mission Creek - Brush Creek to mouth	COLD SS	PCR	
P-39	Brush Creek - source to mouth	COLD SS	SCR	
P-40	Mission Creek - Idaho/Canadian border to Brush Creek	COLD SS	SCR	

(4-11-19)

03. Moyie Subbasin. The Moyie Subbasin, HUC 17010105, is comprised of twelve (12) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Moyie River - Moyie Falls Dam to mouth	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-2	Moyie River - Meadow Creek to Moyie Falls Dam	COLD SS	PCR	DWS
P-3	Skin Creek - Idaho/Montana border to mouth	COLD SS	PCR	--[1] ---------- DWS[2]
P-4	Deer Creek - source to mouth	COLD SS	PCR	
P-5	Moyie River - Round Prairie Creek to Meadow Creek	COLD SS	PCR	DWS
P-6	Moyie River - Idaho/Canadian border to Round Prairie Creek	COLD SS	PCR	DWS
P-7	Canuck Creek - Idaho/Montana border to Idaho/Canadian border	COLD SS	SCR	
P-8	Round Prairie Creek - Gillon Creek to mouth	COLD SS	PCR	
P-9	Gillon Creek - Idaho/Canadian border to mouth	COLD SS	PCR	
P-10	Round Prairie Creek - source to Gillon Creek	COLD SS	PCR	
P-11	Miller Creek - source to mouth	COLD SS	PCR	
P-12	Meadow Creek - source to mouth	COLD SS	PCR	--[1] ---------- DWS[2]

(4-11-19)

04. Lower Clark Fork Subbasin. The Lower Clark Fork Subbasin, HUC 17010213, is comprised of twenty-one (21) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Clark Fork River Delta - Mosquito Creek to Pend Oreille Lake	COLD SS	PCR	DWS
P-2	Johnson Creek - source to mouth			
P-3	Clark Fork River - Cabinet Gorge Dam to Mosquito Creek	COLD SS	PCR	DWS
P-4	Dry Creek - source to mouth			
P-5	Clark Fork River - Idaho/Montana border to Cabinet Gorge Dam	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-6	West Fork Elk Creek - source to Idaho/Montana border			
P-7	West Fork Blue Creek - source to Idaho/Montana border			
P-8	Gold Creek - source to Idaho/Montana border			
P-9	Mosquito Creek - source to mouth			
P-10	Lightning Creek - Spring Creek to mouth	COLD SS	PCR	DWS
P-11	Lightning Creek - Cascade Creek to Spring Creek	COLD SS	PCR	DWS
P-12	Cascade Creek - source to mouth			
P-13	Lightning Creek - East Fork Creek to Cascade Creek	COLD SS	PCR	DWS
P-14	East Fork Creek - Idaho/Montana border to mouth			
P-15	Savage Creek - Idaho/Montana border to mouth			
P-16	Lightning Creek - Wellington Creek to East Fork Creek	COLD SS	PCR	DWS
P-17	Lightning Creek - Rattle Creek to Wellington Creek	COLD SS	PCR	DWS
P-18	Rattle Creek - source to mouth			
P-19	Lightning Creek - source to Rattle Creek	COLD SS	PCR	DWS
P-20	Wellington Creek - source to mouth			
P-21	Spring Creek - source to mouth			

(3-29-12)

05. Pend Oreille Lake Subbasin. The Pend Oreille Lake Subbasin, HUC 17010214, is comprised of sixty-one (61) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Pend Oreille River - Priest River to Albeni Falls Dam	COLD	PCR	DWS
P-2	Pend Oreille River - Pend Oreille Lake to Priest River	COLD	PCR	DWS
P-3	Hoodoo Creek - source to mouth			
P-4	Kelso Lake and outlet	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
P-5	Granite Lake			
P-6	Beaver Lake			
P-7	Spirit Creek - source to mouth			
P-8	Blanchard Lake			
P-9	Spirit Lake	COLD SS	PCR	DWS
P-10	Brickel Creek - Idaho/Washington border to mouth			
P-11	Jewell Lake			
P-12	Cocolalla Creek - Cocolalla Lake to mouth	COLD	PCR	DWS
P-13	Cocolalla Lake	COLD	PCR	DWS
P-14	Cocolalla Creek - source to Cocolalla Lake			--[1] ---------- DWS[2]
P-15	Fish Creek - source to mouth			
P-16	Fry Creek - source to mouth			
P-17	Shepard Lake			
P-18	Pend Oreille Lake	COLD SS	PCR	DWS
P-19	Gamble Lake			
P-20	Mirror Lake			
P-21	Gold Creek - West Gold Creek to mouth			
P-22	West Gold Creek- source to mouth			
P-23	Gold Creek - source to West Gold Creek			
P-24	Chloride Creek - source to mouth			
P-25	North Gold Creek - source to mouth			
P-26	Cedar Creek - source to mouth			
P-27	Granite Creek - source to mouth	COLD SS	SCR	
P-28	Riser Creek - source to mouth			--[1] ---------- DWS[2]
P-29	Strong Creek - source to mouth			--[1] ---------- DWS[2]
P-30	Trestle Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
P-31	Lower Pack River - Sand Creek to mouth	COLD SS	PCR	DWS
P-32	Trout Creek - source to mouth			
P-33	Rapid Lightning Creek - source to mouth			
P-34	Gold Creek - source to mouth			
P-35	Grouse Creek - North Fork Grouse Creek to mouth			
P-36	Grouse Creek - source to North Fork Grouse Creek			
P-37	North Fork Grouse Creek - source to mouth			
P-38	Sand Creek - source to mouth			
P-39	Upper Pack River - Lindsey Creek to Sand Creek	COLD SS	PCR	DWS
P-40	Walsh Lake			
P-41	Upper Pack River - source to and including Lindsey Creek	COLD SS	PCR	DWS
P-42	McCormick Creek - source to mouth			
P-43	Jeru Creek - source to mouth			
P-44	Hellroaring Creek - source to mouth			
P-45	Caribou Creek - source to mouth			
P-46	Berry Creek - source to mouth			--[1] ---------- DWS[2]
P-47	Colburn Creek - source to mouth			
P-48	Sand Creek - Schweitzer Creek to mouth			--[1] ---------- DWS[2]
P-49	Sand Creek - source to Schweitzer Creek			
P-50	Spring Jack Creek - source to mouth			
P-51	Swede Creek - source to mouth			
P-52	Schweitzer Creek - source to mouth			
P-53	Little Sand Creek - source to mouth			--[1] ---------- DWS[2]
P-54	Syringa Creek - source to mouth			
P-55	Carr Creek - source to mouth			
P-56	Hornby Creek - source to mouth			
P-57	Smith Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-58	Johnson Creek - source to mouth			
P-59	Riley Creek - source to mouth			
P-60	Manley Creek - source to mouth			
P-61	Strong Creek - source to mouth			

(4-11-19)

06. Priest Subbasin. The Priest Subbasin, HUC 17010215, is comprised of thirty-one (31) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Lower Priest River - Upper West Branch Priest River to mouth	COLD	PCR	DWS
P-2	Big Creek - source to mouth			
P-3	Middle Fork East River - source to mouth			
P-4	North Fork East River - source to mouth			
P-5	Lower Priest River - Priest Lake to Upper West Branch Priest River	COLD	PCR	DWS
P-6	Priest Lake	COLD SS	PCR	DWS
P-7	Chase Lake			
P-8	Soldier Creek - source to mouth			
P-9	Hunt Creek - source to mouth			
P-10	Indian Creek - source to mouth			
P-11	Bear Creek - source to mouth			
P-12	Two Mouth Creek - source to mouth			
P-13	Lion Creek - source to mouth			
P-14	Priest Lake Thorofare - Upper Priest Lake to Priest Lake	COLD SS	PCR	DWS
P-15	Caribou Creek - source to mouth			
P-16	Upper Priest Lake	COLD SS	PCR	DWS
P-17	Trapper Creek - source to mouth			
P-18	Upper Priest River - Idaho/Canadian border to mouth	COLD SS	PCR	DWS
P-19	Hughes Fork - source to mouth			
P-20	Beaver Creek - source to mouth			
P-21	Tango Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-22	Granite Creek - Idaho/Washington border to mouth			
P-23	Reeder Creek - source to mouth			
P-24	Kalispell Creek - Idaho/Washington border to mouth			
P-25	Lamb Creek - Idaho/Washington border to mouth			
P-26	Binarch Creek - Idaho/Washington border to mouth			
P-27	Upper West Branch Priest River - Idaho/Washington border to mouth			
P-28	Goose Creek - Idaho/Washington border to mouth			
P-29	Quartz Creek - source to mouth			
P-30	Lower West Branch Priest River - Idaho/Washington border to mouth			
P-31	Moores Creek - source to mouth			

(3-29-12)

07. Pend Oreille Subbasin. The Pend Oreille Subbasin, HUC 17010216, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Salmo River - source to Idaho/Washington border			
P-2	Pend Oreille River - Albeni Falls Dam to Idaho/Washington border	COLD	PCR	DWS

(4-5-00)

08. Upper Coeur d'Alene Subbasin. The Upper Coeur d'Alene Subbasin, HUC 17010301, is comprised of thirty-nine (39) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	North Fork Coeur d'Alene River - Yellow Dog Creek to mouth	COLD SS	PCR	DWS
P-2	Graham Creek - source to mouth			
P-3	Beaver Creek - source to mouth			
P-4	Prichard Creek - Butte Creek to mouth	COLD SS	PCR	
P-5	Prichard Creek - source to Butte Creek	COLD SS	PCR	DWS
P-6	Butte Creek - source to mouth			
P-7	Eagle Creek - source to mouth			
P-8	West Fork Eagle Creek - source to mouth			
P-9	Lost Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-10	Shoshone Creek - Falls Creek to mouth			
P-11	Falls Creek - source to mouth			
P-12	Shoshone Creek - source to Falls Creek			
P-13	North Fork Coeur d'Alene River - Jordan Creek to Yellow Dog Creek	COLD SS	PCR	DWS
P-14	Jordan Creek - source to mouth			
P-15	North Fork Coeur d'Alene River - source to Jordan Creek	COLD SS	PCR	DWS
P-16	Cataract Creek - source to mouth			
P-17	Tepee Creek - confluence of Trail Creek and Big Elk Creek to mouth			
P-18	Independence Creek - source to mouth			
P-19	Trail Creek - source to mouth			
P-20	Big Elk Creek - source to mouth			
P-21	Brett Creek - source to mouth			
P-22	Miners Creek - source to mouth			
P-23	Flat Creek - source to mouth			
P-24	Yellow Dog Creek - source to mouth			
P-25	Downey Creek - source to mouth			
P-26	Brown Creek - source to mouth			
P-27	Grizzly Creek - source to mouth			
P-28	Steamboat Creek - source to mouth			
P-29	Cougar Gulch - source to mouth			
P-30	Little North Fork Coeur d'Alene River - source to mouth			
P-31	Bumblebee Creek - source to mouth			
P-32	Laverne Creek - source to mouth			
P-33	Leiberg Creek - source to mouth			
P-34	Bootjack Creek - source to mouth			
P-35	Iron Creek - source to mouth			
P-36	Burnt Cabin Creek - source to mouth			
P-37	Deception Creek - source to mouth			
P-38	Skookum Creek - source to mouth			
P-39	Copper Creek - source to mouth			

(3-29-12)

09. South Fork Coeur d'Alene Subbasin. The South Fork Coeur d'Alene Subbasin, HUC 17010302,

is comprised of twenty (20) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	South Fork Coeur d'Alene River - Canyon Creek to mouth	COLD	SCR	
P-2	Pine Creek - East Fork Pine Creek to mouth	COLD SS	SCR	
P-3	Pine Creek - source to East Fork Pine Creek	COLD SS	PCR	DWS
P-4	East Fork Pine Creek - source to mouth			
P-5	Hunter Creek - source to mouth			
P-6	Government Gulch - source to mouth	COLD SS	SCR	
P-7a	Big Creek - source to mining impact area	COLD SS	PCR	DWS
P-7b	Big Creek - mining impact area to mouth	COLD SS	SCR	
P-8a	Shields Gulch - source to mining impact area	COLD SS	PCR	DWS
P-8b	Shields Gulch - mining impact area to mouth		SCR	
P-9a	Lake Creek - source to mining impact area	COLD SS	PCR	DWS
P-9b	Lake Creek - mining impact area to mouth	COLD SS	SCR	--[1] ---------- DWS[2]
P-10	Placer Creek - source to mouth			--[1] ---------- DWS[2]
P-11	South Fork Coeur d'Alene River - from and including Daisy Gulch to Canyon Creek	COLD	SCR	--[1] ---------- DWS[2]
P-12	Willow Creek - source to mouth			
P-13	South Fork Coeur d'Alene River - source to Daisy Gulch	COLD SS	PCR	DWS
P-14	Canyon Creek - from and including Gorge Gulch to mouth	COLD	SCR	--[1] ---------- DWS[2]

Unit	Waters	Aquatic Life	Recreation	Other
P-15	Canyon Creek - source to Gorge Gulch	COLD SS	PCR	DWS
P-16	Ninemile Creek - from and including East Fork Ninemile Creek to mouth	COLD SS	SCR	
P-17	Ninemile Creek - source to East Fork Ninemile Creek	COLD SS	PCR	DWS
P-18	Moon Creek - source to mouth			
P-19	West Fork Moon Creek - source to mouth			
P-20	Bear Creek - source to mouth	COLD SS	PCR	DWS

(4-11-19)

10. Coeur d'Alene Lake Subbasin. The Coeur d'Alene Lake Subbasin, HUC 17010303, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Coeur d'Alene Lake	COLD SS	PCR	DWS
P-2	Cougar Creek - source to mouth			
P-3	Kid Creek - source to mouth			
P-4	Mica Creek - source to mouth			
P-5	Fighting Creek - source to mouth			
P-6	Lake Creek - Idaho/Washington border to mouth			
P-7	Coeur d'Alene River - Latour Creek to mouth	COLD	PCR	
P-8	Anderson Lake			
P-9	Black Lake			
P-10	Medicine Lake			
P-11	Willow Creek - source to mouth			
P-12	Evans Creek - source to mouth			
P-13	Robinson Creek - source to mouth			
P-14	Bull Run Lake			
P-15	Latour Creek - source to mouth			
P-16	Coeur d'Alene River - South Fork Coeur d'Alene River to Latour Creek	COLD	PCR	
P-17	Skeel and Cataldo Creeks - source to mouth			
P-18	French Gulch - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-19	Hardy and Hayden Gulch and Whitman Draw Creeks Complex - source to mouth			
P-20	Fourth of July Creek - source to mouth			
P-21	Rose Lake			
P-22	Killarney Lake			
P-23	Swan Lake			
P-24	Blue Lake			
P-25	Thompson Lake			
P-26	Carlin Creek - source to mouth			
P-27	Turner Creek - source to mouth			
P-28	Beauty Creek - source to mouth			
P-29	Wolf Lodge Creek - source to mouth	COLD SS	PCR	DWS
P-30	Cedar Creek - source to mouth			
P-31	Marie Creek - source to mouth			
P-32	Fernan Creek - Fernan Lake to mouth	COLD SS	PCR	DWS
P-33	Fernan Lake	COLD SS	PCR	DWS
P-34	Fernan Creek - source to Fernan Lake			

(3-29-12)

11. St. Joe Subbasin. The St. Joe Subbasin, HUC 17010304, is comprised of sixty-nine (69) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Chatcolet Lake			
P-2	Plummer Creek - source to mouth	COLD SS	SCR	
P-3	Pedee Creek - source to mouth			
P-4	Benewah Creek - source to mouth			
P-5	St. Joe River - St. Maries River to mouth	COLD	PCR	
P-6	Cherry Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-7	St. Maries River - Santa Creek to mouth	COLD	PCR	
P-8	Alder Creek - source to mouth			
P-9	John Creek - source to mouth			
P-10	Santa Creek - source to mouth	COLD SS	PCR	
P-11	Charlie Creek - source to mouth			
P-12	St. Maries River - Carpenter Creek to Santa Creek	COLD	PCR	
P-13	Tyson Creek - source to mouth			
P-14	Carpenter Creek - source to mouth			
P-15	St. Maries River - confluence of West Fork and Middle Fork St. Maries Rivers to Carpenter Creek	COLD	PCR	DWS
P-16	Emerald Creek - source to mouth			
P-17	West Fork St. Maries River - source to mouth			
P-18	Middle Fork St. Maries River - source to mouth			
P-19	Gold Center Creek - source to mouth			
P-20	Merry Creek - source to mouth			
P-21	Childs Creek - source to mouth			
P-22	Olson Creek - source to mouth			
P-23	Crystal Creek - source to mouth			
P-24	Renfro Creek - source to mouth			
P-25	Beaver Creek - source to mouth			
P-26	Thorn Creek - source to mouth			
P-27	St. Joe River - North Fork St. Joe River to St. Maries River	COLD SS	PCR	DWS
P-28	Bond Creek - source to mouth			
P-29	Hugus Creek- source to mouth			
P-30	Mica Creek - source to mouth			
P-31	Marble Creek - Hobo Creek to mouth			
P-32	Eagle Creek - source to mouth			
P-33	Bussel Creek - source to mouth			
P-34	Hobo Creek - source to mouth			
P-35	Marble Creek - source to Hobo Creek			
P-36	Homestead Creek - source to mouth			
P-37	Daveggio Creek - source to mouth			
P-38	Boulder Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
P-39	Fishhook Creek - source to mouth			
P-40	Siwash Creek - source to mouth			
P-41	St. Joe River - source to North Fork St. Joe River	COLD SS	PCR	DWS
P-42	Sisters Creek - source to mouth			
P-43	Prospector Creek - source to mouth			
P-44	Nugget Creek - source to mouth			
P-45	Bluff Creek - source to mouth			
P-46	Mosquito Creek - source to mouth			
P-47	Fly Creek - source to mouth			
P-48	Beaver Creek - source to mouth			
P-49	Copper Creek - source to mouth			
P-50	Timber Creek - source to mouth			
P-51	Red Ives Creek - source to mouth			
P-52	Simmons Creek - source to mouth			
P-53	Gold Creek - source to mouth			
P-54	Bruin Creek - source to mouth			
P-55	Quartz Creek - source to mouth			
P-56	Eagle Creek - source to mouth			
P-57	Bird Creek - source to mouth			
P-58	Skookum Creek - source to mouth			
P-59	North Fork St. Joe River - Loop Creek to mouth			
P-60	Loop Creek - source to mouth			
P-61	North Fork St. Joe River - source to Loop Creek			
P-62	Slate Creek - source to mouth			
P-63	Big Creek - source to mouth			
P-64	Trout Creek - source to mouth			
P-65	Falls Creek - source to mouth			
P-66	Reeds Gulch Creek - source to mouth			
P-67	Rochat Creek - source to mouth			--[1] ---------- DWS[2]
P-68	Street Creek - source to mouth			
P-69	Deep Creek - source to mouth			

(4-11-19)

12. Upper Spokane Subbasin. The Upper Spokane Subbasin, HUC 17010305, is comprised of eighteen (18) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Liberty Creek - source to Idaho/Washington border			
P-2	Cable Creek - source to Idaho/Washington border			
P-3	Spokane River - Post Falls Dam to Idaho/Washington border	COLD SS	PCR	DWS
P-4	Spokane River - Coeur d'Alene Lake to Post Falls Dam	COLD SS	PCR	DWS
P-5	Hayden Lake	COLD SS	PCR	DWS
P-6	Yellowbank Creek - source to mouth			
P-7	Jim Creek - source to mouth			
P-8	Mokins Creek - source to mouth			
P-9	Nilsen Creek - source to mouth			
P-10	Hayden Creek -source to mouth			
P-11	Sage Creek and Lewellen Creek - source to mouth			
P-12	Rathdrum Creek - Twin Lakes to mouth			
P-13	Twin Lakes	COLD	PCR	DWS
P-14	Fish Creek - Idaho/Washington border to Twin Lakes			
P-15	Hauser Lake outlet - Hauser Lake to mouth			
P-16	Hauser Lake	COLD	PCR	DWS
P-17	Lost Lake, Howell, and Lost Creeks - source to mouth			
P-18	Hauser Creek - source to mouth			

(3-29-12)

13. Hangman Subbasin. The Hangman Subbasin, HUC 17010306, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	Hangman Creek - source to Idaho/Washington border	COLD	SCR	
P-2	Little Hangman Creek - source to Idaho/Washington border			
P-3	Rock Creek - source to Idaho/Washington border		SCR	
P-4	Middle Fork Rock Creek - source to Idaho/Washington border			
P-5	North Fork Rock Creek - source to Idaho/Washington border			

(4-5-00)

14. Little Spokane Subbasin. The Little Spokane Subbasin, HUC 17010308, is comprised of one (1) water body unit.

Unit	Waters	Aquatic Life	Recreation	Other
P-1	McDonald Creek - source to mouth			

(4-5-00)

111. -- 119. (RESERVED)

120. CLEARWATER BASIN.
Surface waters found within the Clearwater basin total ten (10) subbasins and are designated as follows: (4-5-00)

01. Palouse Subbasin. The Palouse Subbasin, HUC 17060108, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Cow Creek - source to Idaho/Washington border	COLD	SCR	
C-2	South Fork Palouse River - Gnat Creek to Idaho/Washington border	COLD SS	SCR	
C-3	South Fork Palouse River - source to Gnat Creek	COLD SS	SCR	
C-4a	Gnat Creek - source to T40N, R05W, Sec. 26	COLD	SCR	
C-4b	Gnat Creek - T40N, R05W, Sec. 26 to mouth	COLD	SCR	
C-5	Paradise Creek - source to Idaho/Washington border	COLD	SCR	
C-6a	Missouri Flat Creek - source to T40N, R5W, Sec. 17	COLD	SCR	
C-6b	Missouri Flat Creek-T40N, R5W, Sec. 17 to Idaho/Washington border	COLD	SCR	
C-7a	Fourmile Creek - source to T40N, R5W, Sec. 5	COLD	SCR	
C-7b	Fourmile Creek - T40N, R5W, Sec. 5 to Idaho/Washington border	COLD	SCR	
C-8a	Silver Creek - source to T43, R5W, Sec. 29	COLD	SCR	
C-8b	Silver Creek - T43, R5W, Sec. 29 to Idaho/Washington border	COLD	SCR	
C-9	Palouse River - Deep Creek to Idaho/Washington border	COLD	SCR	
C-10	Palouse River - Hatter Creek to Deep Creek	COLD	SCR	
C-11a	Flannigan Creek - source to T41N, R05W, Sec. 23	COLD	SCR	
C-11b	Flannigan Creek - T41N, R05W, Sec. 23 to mouth	COLD	SCR	
C-12	Rock Creek - confluence of West and East Fork Rock Creeks to mouth	COLD	SCR	
C-13a	West Fork Rock Creek - source to T41N, R04W, Sec. 30	COLD	SCR	
C-13b	West Fork Rock Creek - T41N, R04W, Sec. 30 to mouth	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-14a	East Fork Rock Creek - source to T41N, R 04W, Sec. 29	COLD	SCR	
C-14b	East Fork Rock Creek - T41N, R 04W, Sec. 29 to mouth	COLD	SCR	
C-15a	Hatter Creek - source to T40N, R04W, Sec. 3	COLD	SCR	
C-15b	Hatter Creek - T40N, R04W, Sec. 3 to mouth	COLD	SCR	
C-16	Palouse River - Strychnine Creek to Hatter Creek	COLD SS	PCR	DWS
C-17	Flat Creek - source to mouth	COLD	SCR	
C-18	Palouse River - source to Strychnine Creek	COLD SS	PCR	DWS
C-19	Little Sand Creek - source to mouth	COLD SS	SCR	
C-20	Big Sand Creek - source to mouth	COLD SS	SCR	
C-21	North Fork Palouse River - source to mouth	COLD SS	SCR	
C-22	Strychnine Creek - source to mouth	COLD SS	SCR	
C-23	Meadow Creek - East Fork Meadow Creek to mouth	COLD	SCR	
C-24	East Fork Meadow Creek - source to mouth	COLD SS	SCR	
C-25	Meadow Creek - source to East Fork Meadow Creek	COLD SS	SCR	
C-26	White Pine Creek - source to mouth	COLD SS	SCR	
C-27a	Big Creek - source to T42N, R03W, Sec. 08	COLD SS	SCR	
C-27b	Big Creek - T42N, R03W, Sec. 08 to mouth	COLD	SCR	
C-28	Jerome Creek - source to mouth	COLD SS	SCR	
C-29	Gold Creek - T42N, R04W, Sec. 28 to mouth	COLD	SCR	
C-30	Gold Creek - source to T42N, R04W, Sec. 28	COLD SS	SCR	
C-31a	Crane Creek - source to T42N, 04W, Sec. 28	COLD	SCR	
C-31b	Crane Creek - T42N, 04W, Sec. 08 to mouth	COLD	SCR	
C-32a	Deep Creek - source to T42, R05, Sec. 02	COLD	SCR	
C-32b	Deep Creek - T42, R05, Sec. 02 to mouth	COLD	SCR	
C-33a	Cedar Creek - source to T43N, R05W, Sec. 28	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-33b	Cedar Creek - T43N, R05W, Sec. 28 to Idaho/Washington border	COLD	SCR	

(5-3-03)

02. Rock Subbasin. The Rock Subbasin, HUC 17060109, is comprised of three (3) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	South Fork Pine Creek - source to Idaho/Washington border	COLD	SCR	
C-2	North Fork Pine Creek - source to Idaho/Washington border	COLD	SCR	
C-3	Unnamed Tributaries - source to Idaho/Washington border (T44N, R05W, Sec.31 / T43N, R05W, Sec. 6)	COLD	SCR	

(5-3-03)

03. Upper Selway Subbasin. The Upper Selway Subbasin, HUC 17060301, is comprised of fifty-eight (58) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Selway River - Bear Creek to Moose Creek	COLD SS	PCR	DWS
C-2	Magpie Creek - source to mouth			
C-3	Bitch Creek - source to mouth			
C-4	Selway River - White Cap Creek to Bear Creek	COLD SS	PCR	DWS
C-5	Ditch Creek - source to mouth			
C-6	Elk Creek - source to mouth			
C-7	Goat Creek - source to mouth			
C-8	Running Creek - Lynx Creek to mouth			
C-9	Running Creek - source to Lynx Creek			
C-10	South Fork Running Creek - source to mouth			
C-11	Lynx Creek - source to mouth			
C-12	Eagle Creek - source to mouth			
C-13	Crooked Creek - source to mouth			
C-14	Selway River - Deep Creek to White Cap Creek	COLD SS	PCR	DWS
C-15	Little Clearwater River- Flat Creek to mouth			
C-16	Short Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-17	Little Clearwater River - source to Flat Creek			
C-18	Burnt Knob Creek - source to mouth			
C-19	Salamander Creek - source to mouth			
C-20	Flat Creek - source to mouth			
C-21	Magruder Creek - source to mouth			
C-22	Selway River - confluence of Hidden and Surprise Creeks to Deep Creek	COLD SS	PCR	DWS
C-23	Three Lakes Creek - source to mouth			
C-24	Swet Creek - source to mouth			
C-25	Stripe Creek - source to mouth			
C-26	Hidden Creek - source to mouth			
C-27	Surprise Creek - source to mouth			
C-28	Wilkerson Creek - Storm Creek to mouth			
C-29	Wilkerson Creek - source to Storm Creek			
C-30	Storm Creek - source to mouth			
C-31	Deep Creek - source to mouth			
C-32	Vance Creek - source to mouth			
C-33	Lazy Creek - source to mouth			
C-34	Pete Creek - source to mouth			
C-35	Cayuse Creek - source to mouth			
C-36	Indian Creek - source to mouth			
C-37	Schofield Creek - source to mouth			
C-38	Snake Creek - source to mouth			
C-39	White Cap Creek - Canyon Creek to mouth			
C-40	Canyon Creek - source to mouth			
C-41	Cooper Creek - source to mouth			
C-42	White Cap Creek - source to Canyon Creek			
C-43	Paloma Creek - source to mouth			
C-44	Bad Luck Creek - source to mouth			
C-45	Gardner Creek - source to mouth			
C-46	North Star Creek - source to mouth			
C-47	Bear Creek - Cub Creek to mouth			
C-48	Cub Creek - Brushy Fork Creek to mouth			
C-49	Brushy Fork Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-50	Cub Creek - source to Brushy Fork Creek			
C-51	Paradise Creek - source to mouth			
C-52	Bear Creek - Wahoo Creek to Cub Creek			
C-53	Bear Creek - source to Wahoo Creek			
C-54	Granite Creek - source to mouth			
C-55	Wahoo Creek - source to mouth			
C-56	Pettibone Creek - source to mouth			
C-57	Cow Creek - source to mouth			
C-58	Dog Creek - source to mouth			

(3-29-12)

04. Lower Selway Subbasin. The Lower Selway Subbasin, HUC 17060302, is comprised of fifty-five (55) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Selway River - O'Hara Creek to mouth	COLD SS	PCR	DWS
C-2	Goddard Creek - source to mouth	COLD SS	SCR	
C-3	O'Hara Creek - confluence of West and East Fork O'Hara Creeks to mouth	COLD SS	SCR	
C-4	West Fork O'Hara Creek - source to mouth			
C-5	East Fork O'Hara Creek - source to mouth			
C-6	Selway River - Meadow Creek to O'Hara Creek	COLD SS	PCR	DWS
C-7	Falls Creek - source to mouth	COLD SS	SCR	
C-8	Meadow Creek - Buck Lake Creek to mouth	COLD SS	SCR	
C-9	Horse Creek - source to mouth			
C-10	Fivemile Creek - source to mouth			
C-11	Little Boulder Creek - source to mouth			
C-12	Meadow Creek - East Fork Meadow Creek to Buck Lake Creek	COLD SS	SCR	
C-13	Butte Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-14	Sable Creek - source to mouth	COLD SS	SCR	
C-15	Simmons Creek - source to mouth	COLD SS	SCR	
C-16	Meadow Creek - source to East Fork Meadow Creek			
C-17	Butter Creek - source to mouth			
C-18	Three Prong Creek - source to mouth			
C-19	East Fork Meadow Creek - source to mouth			
C-20	Schwar Creek - source to mouth			
C-21	Buck Lake Creek - source to mouth			
C-22	Selway River - Moose Creek to Meadow Creek	COLD SS	PCR	DWS
C-23	Otter Creek - source to mouth			
C-24	Mink Creek - source to mouth			
C-25	Marten Creek - source to mouth			
C-26	Trout Creek - source to mouth			
C-27	Moose Creek - East Fork Moose Creek to mouth			
C-28	East Fork Moose Creek - Cedar Creek to Moose Creek			
C-29	Freeman Creek - source to mouth			
C-30	Monument Creek - source to mouth			
C-31	Elbow Creek - source to mouth			
C-32	Battle Creek - source to mouth			
C-33	East Fork Moose Creek - source to Cedar Creek			
C-34	Chute Creek - source to mouth			
C-35	Dead Elk Creek - source to mouth			
C-36	Cedar Creek - source to mouth			
C-37	Maple Creek - source to mouth			
C-38	Double Creek - source to mouth			
C-39	Fitting Creek - source to mouth			
C-40	North Fork Moose Creek - Rhoda Creek to mouth			
C-41	North Fork Moose Creek - West Moose Creek to Rhoda Creek			
C-42	North Fork Moose Creek - source to West Fork Moose Creek			
C-43	West Fork Moose Creek - source to mouth			
C-44	Rhoda Creek - Wounded Doe Creek to mouth			
C-45	Wounded Doe Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-46	Rhoda Creek - source to Wounded Doe Creek			
C-47	Lizard Creek - Lizard Lakes to mouth			
C-48	Meeker Creek - source to mouth			
C-49	Three Links Creek - source to mouth			
C-50	Gedney Creek - West Fork Gedney Creek to mouth			
C-51	Gedney Creek - source to West Fork Gedney Creek			
C-52	West Fork Gedney Creek - source to mouth			
C-53	Glover Creek - source to mouth	COLD SS	SCR	
C-54	Boyd Creek - source to mouth	COLD SS	SCR	
C-55	Rackliff Creek - source to mouth	COLD SS	SCR	

(3-29-12)

05. Lochsa Subbasin. The Lochsa Subbasin, HUC 17060303, is comprised of sixty-five (65) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Lochsa River - Deadman Creek to mouth	COLD SS	PCR	DWS
C-2	Kerr Creek - source to mouth			
C-3	Lochsa River - Old Man Creek to Deadman Creek	COLD SS	PCR	DWS
C-4	Coolwater Creek - source to mouth			
C-5	Fire Creek - source to mouth			
C-6	Split Creek - source to mouth			
C-7	Old Man Creek - source to mouth			
C-8	Lochsa River - Fish Creek to Old Man Creek	COLD SS	PCR	DWS
C-9	Lochsa River - Indian Grave Creek to Fish Creek	COLD SS	PCR	DWS
C-10	Boulder Creek - source to mouth			
C-11	Stanley Creek - source to mouth			
C-12	Eagle Mountain Creek - source to mouth			
C-13	Lochsa River- Warm Springs Creek to Indian Grave Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-14	Sponge Creek - Fish Lake Creek to mouth			
C-15	Sponge Creek - source to Fish Lake Creek			
C-16	Fish Lake Creek - source to mouth			
C-17	Warm Springs Creek - Wind Lakes Creek to mouth			
C-18	Warm Springs Creek - source to Wind Lakes Creek			
C-19	Wind Lakes Creek - source to mouth			
C-20	Lochsa River - confluence of Crooked Fork, White Sand Creek, and Walton Creek to Warm Springs Creek	COLD SS	PCR	DWS
C-21	Jay Creek - source to mouth			
C-22	Cliff Creek - source to mouth			
C-23	Walton Creek - source to mouth			
C-24	White Sand Creek - Storm Creek to mouth			
C-25	White Sand Creek - source to Storm Creek			
C-26	Colt Creek - source to mouth			
C-27	Big Sand Creek - Hidden Creek to mouth			
C-28	Swamp Creek - source to mouth			
C-29	Big Sand Creek - source to Hidden Creek			
C-30	Hidden Creek - source to mouth			
C-31	Big Flat Creek - source to mouth			
C-32	Storm Creek - source to mouth			
C-33	Beaver Creek - source to mouth			
C-34	Crooked Fork - Brushy Fork to mouth			
C-35	Brushy Fork - Spruce Creek to mouth			
C-36	Spruce Creek - source to mouth			
C-37	Brushy Fork - source to Spruce Creek			
C-38	Crooked Fork - source to Brushy Fork			
C-39	Hopeful Creek - source to mouth			
C-40	Boulder Creek - source to mouth			
C-41	Papoose Creek - source to mouth			
C-42	Parachute Creek - source to mouth			
C-43	Wendover Creek - source to mouth			
C-44	Badger Creek - source to mouth			
C-45	Squaw Creek - source to mouth			
C-46	West Fork Squaw Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-47	Doe Creek - source to mouth			
C-48	Postoffice Creek - source to mouth			
C-49	Weir Creek - source to mouth			
C-50	Indian Grave Creek - source to mouth			
C-51	Bald Mountain Creek - source to mouth			
C-52	Fish Creek - Hungery Creek to mouth			
C-53	Willow Creek - source to mouth			
C-54	Hungery Creek - Obia Creek to mouth			
C-55	Obia Creek - source to mouth			
C-56	Hungery Creek - source to Obia Creek			
C-57	Fish Creek - source to Hungery Creek			
C-58	Bimerick Creek - source to mouth			
C-59	Deadman Creek - East Fork Deadman Creek to mouth			
C-60	East Fork Deadman Creek - source to mouth			
C-61	Deadman Creek - source to East Fork Deadman Creek			
C-62	Canyon Creek - source to mouth			
C-63	Pete King Creek - Walde Creek to mouth			
C-64	Walde Creek - source to mouth			
C-65	Pete King Creek - source to Walde Creek			

(3-29-12)

06. Middle Fork Clearwater Subbasin. The Middle Fork Clearwater Subbasin, HUC 17060304, is comprised of eleven (11) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Middle Fork Clearwater River - confluence of Lochsa and Selway River to mouth	COLD SS	PCR	DWS
C-2	Clear Creek - South Fork Clear Creek to mouth			
C-3	West Fork Clear Creek - source to mouth			
C-4	South Fork Clear Creek - source to mouth			
C-5	Kay Creek - source to mouth			
C-6	Clear Creek - source to South Fork Clear Creek	COLD SS	SCR	
C-7	Middle Fork Clear Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-8	Browns Spring Creek - source to mouth	COLD SS	SCR	
C-9	Pine Knob Creek - source to mouth	COLD SS	SCR	
C-10	Lodge Creek - source to mouth	COLD SS	SCR	
C-11	Maggie Creek - source to mouth			

(3-29-12)

07. South Fork Clearwater Subbasin. The South Fork Clearwater Subbasin, HUC 17060305, is comprised of eighty-two (82) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
C-1	South Fork Clearwater River - Butcher Creek to mouth	COLD SS	PCR	
C-2	Cottonwood Creek - Cottonwood Creek waterfall (9.0 miles upstream) to mouth	COLD SS	PCR	
C-3	Cottonwood Creek - source to Cottonwood Creek waterfall (9.0 miles upstream)	COLD SS	PCR	
C-4	Red Rock Creek - Red Rock Creek waterfall (3.6 miles upstream) to mouth			
C-5	Red Rock Creek - source to Red Rock Creek waterfall (3.6 miles upstream)			
C-6	Stockney Creek - source to mouth			
C-7	Shebang Creek - source to mouth			
C-8	South Fork Cottonwood Creek - source to mouth			
C-9	Long Haul Creek - source to mouth			
C-10	Threemile Creek - source to mouth	COLD SS	SCR	
C-11a	Butcher Creek - unnamed tributary (4.5 miles above mouth) in T30N, R03E, Sec. 1 to mouth	COLD SS	SCR	
C-11b	Butcher Creek - source to unnamed tributary (4.5 miles above mouth) in T30N, R03E, Sec. 1	COLD	SCR	
C-12	South Fork Clearwater River - Johns Creek to Butcher Creek	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-13	Mill Creek - source to mouth			
C-14	Johns Creek - Gospel Creek to mouth	COLD SS	SCR	
C-15	Gospel Creek - source to mouth	COLD SS	SCR	
C-16	West Fork Gospel Creek - source to mouth	COLD SS	SCR	
C-17	Johns Creek - Moores Creek to Gospel Creek	COLD SS	SCR	
C-18	Johns Creek - source to Moores Creek	COLD SS	SCR	
C-19	Moores Creek - source to mouth	COLD SS	SCR	
C-20	Square Mountain Creek - source to mouth	COLD SS	SCR	
C-21	Hagen Creek - source to mouth	COLD SS	SCR	
C-22	South Fork Clearwater River - Tenmile Creek to Johns Creek	COLD SS	PCR	
C-23	Wing Creek - source to mouth	COLD SS	SCR	
C-24	Twentymile Creek - source to mouth			
C-25	Tenmile Creek - Sixmile Creek to mouth			
C-26	Tenmile Creek - Williams Creek to Sixmile Creek	COLD SS	SCR	
C-27	Tenmile Creek - source to Williams Creek	COLD SS	SCR	
C-28	Williams Creek - source to mouth	COLD SS	SCR	
C-29	Sixmile Creek - source to mouth			
C-30	South Fork Clearwater River - Crooked River to Tenmile Creek	COLD SS	PCR	
C-31	Crooked River - Relief Creek to mouth	COLD SS	SCR	
C-32	Crooked River - confluence of West and East Fork Crooked Rivers to Relief Creek	COLD SS	SCR	
C-33	West Fork Crooked River - source to mouth			
C-34	East Fork Crooked River - source to mouth			
C-35	Relief Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
C-36	South Fork Clearwater River - confluence of American River and Red River to Crooked River	COLD SS	PCR	
C-37	Red River- Siegel Creek to mouth	COLD SS	PCR	DWS
C-38	Red River - South Fork Red River to Siegel Creek	COLD SS	PCR	DWS
C-39	Moose Butte Creek - source to mouth			
C-40	South Fork Red River - Trapper Creek to mouth	COLD SS	SCR	
C-41	South Fork Red River - West Fork Red River to Trapper Creek	COLD SS	SCR	
C-42	West Fork Red River - source to mouth	COLD SS	SCR	
C-43	South Fork Red River - source to West Fork Red River	COLD SS	SCR	
C-44	Trapper Creek - source to mouth	COLD SS	SCR	
C-45	Red River - source to South Fork Red River	COLD SS	SCR	DWS
C-46	Soda Creek - source to mouth	COLD SS	SCR	
C-47	Bridge Creek - source to mouth	COLD SS	SCR	
C-48	Otterson Creek - source to mouth	COLD SS	SCR	
C-49	Trail Creek - source to mouth	COLD SS	SCR	
C-50	Siegel Creek - source to mouth	COLD SS	SCR	
C-51	Red Horse Creek - source to mouth			
C-52	American River - East Fork American River to mouth	COLD SS	PCR	DWS
C-53	Kirks Fork - source to mouth			
C-54	East Fork American River - source to mouth			
C-55	American River - source to East Fork American River	COLD SS	PCR	DWS
C-56	Elk Creek - confluence of Big Elk and Little Elk Creeks to mouth			--[1] --- DWS[2]

Unit	Waters	Aquatic Life	Recreation	Other
C-57	Little Elk Creek - source to mouth	COLD SS	SCR	
C-58	Big Elk Creek - source to mouth	COLD SS	SCR	
C-59	Buffalo Gulch - source to mouth			
C-60	Whiskey Creek - source to mouth	COLD SS	SCR	
C-61	Maurice Creek - source to mouth			
C-62	Newsome Creek - Beaver Creek to mouth			
C-63	Bear Creek - source to mouth			
C-64	Nugget Creek - source to mouth			
C-65	Beaver Creek - source to mouth			
C-66	Newsome Creek - Mule Creek to Beaver Creek			
C-67	Mule Creek - source to mouth	COLD SS	SCR	
C-68	Newsome Creek - source to Mule Creek			
C-69	Haysfork Creek - source to mouth			
C-70	Baldy Creek - source to mouth	COLD SS	SCR	
C-71	Pilot Creek - source to mouth			
C-72	Sawmill Creek - source to mouth			
C-73	Sing Lee Creek - source to mouth			
C-74	West Fork Newsome Creek - source to mouth			
C-75	Leggett Creek - source to mouth			
C-76	Fall Creek - source to mouth			
C-77	Silver Creek - source to mouth	COLD SS	SCR	
C-78	Peasley Creek - source to mouth			
C-79	Cougar Creek - source to mouth			
C-80	Meadow Creek - source to mouth			
C-81	Sally Ann Creek - source to mouth			--[1] ---------- DWS[2]
C-82	Rabbit Creek - source to mouth			

(4-11-19)

08. Clearwater Subbasin. The Clearwater Subbasin, HUC 17060306, is comprised of sixty-seven (67) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
C-1	Lower Granite Dam pool	COLD	PCR	DWS
C-2	Clearwater River - Potlatch River to Lower Granite Dam pool	COLD SS	PCR	DWS
C-3	Lindsay Creek - source to mouth	COLD	SCR	
C-4	Lapwai Creek - Sweetwater Creek to mouth	COLD	PCR	
C-5	Sweetwater Creek - Webb Creek to mouth			
C-6	Sweetwater Creek - source to Webb Creek			
C-7	Webb Creek - source to mouth			
C-8	Lapwai Creek - Winchester Lake to Sweetwater Creek	COLD	PCR	
C-9	Winchester Lake	COLD	PCR	DWS
C-10	Lapwai Creek - source to Winchester Lake	COLD SS	PCR	DWS
C-11	Mission Creek - source to mouth			
C-12	Tom Beall Creek - source to mouth			
C-13	Clearwater River - North Fork Clearwater River to mouth	COLD SS	PCR	DWS
C-14	Cottonwood Creek - source to mouth	COLD SS	SCR	
C-15	Jacks Creek - source to mouth			
C-16	Big Canyon Creek - source to mouth	COLD SS	PCR	--[1] ---------- DWS[2]
C-17	Cold Springs Creek - source to mouth			
C-18	Little Canyon Creek - confluence of Holes and Long Hollow Creeks to mouth			
C-19	Holes Creek - source to mouth			
C-20	Long Hollow Creek - source to mouth			
C-21	Clearwater River - Lolo Creek to North Fork Clearwater River	COLD SS	PCR	DWS
C-22	Clearwater River - confluence of South and Middle Fork Clearwater Rivers to Lolo Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-23	Sixmile Creek - source to mouth			
C-24	Lawyer Creek - source to mouth	COLD SS	PCR	
C-25	Sevenmile Creek - source to mouth			
C-26	Lolo Creek - Yakus Creek to mouth			
C-27	Yakus Creek - source to mouth			
C-28	Lolo Creek - source to Yakus Creek			
C-29	Eldorado Creek - source to mouth			
C-30	Yoosa Creek - source to mouth			
C-31	Jim Brown Creek - source to mouth			
C-32	Musselshell Creek - source to mouth			
C-33	Big Creek - source to mouth			
C-34	Jim Ford Creek - Jim Ford Creek waterfall (12.5 miles upstream) to mouth	COLD	PCR	
C-35	Jim Ford Creek - source to Jim Ford Creek waterfall (12.5 miles upstream)	COLD	PCR	
C-36	Grasshopper Creek - source to mouth	COLD	PCR	DWS
C-37	Winter Creek - Winter Creek waterfall (3.4 miles upstream) to mouth			
C-38	Winter Creek - source to Winter Creek waterfall (3.4 miles upstream)			
C-39	Orofino Creek - source to mouth	COLD SS	PCR	--[1] ---------- DWS[2]
C-40	Whiskey Creek - source to mouth			
C-41	Bedrock Creek - source to mouth			
C-42	Louse Creek - source to mouth			
C-43	Pine Creek - source to mouth			
C-44	Potlatch River - Big Bear Creek to mouth	COLD SS	PCR	DWS
C-45	Potlatch River - Corral Creek to Big Bear Creek	COLD SS	PCR	DWS
C-46	Cedar Creek - source to mouth			
C-47	Boulder Creek - source to mouth			
C-48	Potlatch River - Moose Creek to Corral Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-49	Potlatch River - source to Moose Creek	COLD SS	PCR	DWS
C-50	Little Boulder Creek - source to mouth			
C-51	East Fork Potlatch River - source to mouth			
C-52	Ruby Creek - source to mouth			
C-53	Moose Creek - source to mouth			
C-54	Corral Creek - source to mouth			
C-55	Pine Creek - source to mouth			
C-56	Big Bear Creek - confluence of West and East Fork Big Bear Creeks to mouth			
C-57	East Fork Big Bear Creek - source to mouth			
C-58	West Fork Big Bear Creek - source to mouth			
C-59	Dry Creek - source to mouth			
C-60	Little Bear Creek - source to mouth	COLD SS	SCR	
C-61	West Fork Little Bear Creek - source to mouth			--[1] ---------- DWS[2]
C-62	Middle Potlatch Creek - source to mouth	COLD	SCR	
C-63	Bethel Canyon - source to mouth			
C-64	Little Potlatch Creek - source to mouth	COLD	SCR	
C-65	Howard Gulch - source to mouth			
C-66	Catholic Creek - source to mouth			
C-67	Hatwai Creek - source to mouth			

(4-11-19)

09. Upper North Fork Clearwater Subbasin. The Upper North Fork Clearwater Subbasin, HUC 17060307, is comprised of forty-nine (49) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	North Fork Clearwater River - Skull Creek to Aquarius Campground (T40N, R07E, Sec. 05)	COLD SS	PCR	DWS
C-2	North Fork Clearwater River- Washington Creek to Skull Creek	COLD SS	PCR	DWS
C-3	Washington Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-4	North Fork Clearwater River - Orogrande Creek to Washington Creek	COLD SS	PCR	DWS
C-5	Orogrande Creek - French Creek to mouth			
C-6	Orogrande Creek - source to French Creek			
C-7	French Creek - source to mouth	COLD	SCR	
C-8	North Fork Clearwater River - Weitas Creek to Orogrande Creek	COLD SS	PCR	DWS
C-9	Weitas Creek - Hemlock Creek to mouth			
C-10	Hemlock Creek - source to mouth			
C-11	Weitas Creek - Windy Creek to Hemlock Creek			
C-12	Middle Creek - source to mouth	COLD SS	SCR	
C-13	Little Weitas Creek - source to mouth	COLD	SCR	
C-14	Weitas Creek - source to Windy Creek	COLD SS	SCR	
C-15	Windy Creek - source to mouth	COLD	SCR	
C-16	North Fork Clearwater River - Kelly Creek to Weitas Creek	COLD SS	PCR	DWS
C-17	Fourth of July Creek - source to mouth			
C-18	Kelly Creek - Cayuse Creek to mouth			
C-19	Cayuse Creek - Gravey Creek to mouth			
C-20	Monroe Creek - source to mouth	COLD SS	SCR	
C-21	Gravey Creek - source to mouth	COLD SS	SCR	
C-22	Cayuse Creek - source to Gravey Creek			
C-23	Toboggan Creek - source to mouth	COLD	SCR	
C-24	Kelly Creek - confluence of North and Middle Fork Kelly Creek to Cayuse Creek			
C-25	South Fork Kelly Creek - source to mouth			
C-26	Middle Fork Kelly Creek - source to mouth			
C-27	North Fork Kelly Creek - source to mouth			
C-28	Moose Creek - Osier Creek to mouth			
C-29	Little Moose Creek - source to mouth			
C-30	Osier Creek - source to mouth	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
C-31	Moose Creek - source to Osier Creek			
C-32	North Fork Clearwater River - Lake Creek to Kelly Creek	COLD SS	PCR	DWS
C-33	Lake Creek - source to mouth	COLD SS	SCR	
C-34	North Fork Clearwater River - Vanderbilt Gulch to Lake Creek	COLD SS	PCR	DWS
C-35	Long Creek - source to mouth	COLD SS	SCR	
C-36	North Fork Clearwater River - source to Vanderbilt Gulch	COLD SS	PCR	DWS
C-37	Vanderbilt Gulch - source to mouth			
C-38	Meadow Creek - source to mouth			
C-39	Elizabeth Creek - source to mouth	COLD SS	SCR	
C-40	Cold Springs Creek - source to mouth	COLD SS	SCR	
C-41	Sprague Creek - source to mouth			
C-42	Larson Creek - source to mouth	COLD	SCR	
C-43	Rock Creek - source to mouth	COLD SS	SCR	
C-44	Quartz Creek - source to mouth			
C-45	Cougar Creek - source to mouth			
C-46	Skull Creek - Collins Creek to mouth	COLD	SCR	
C-47	Skull Creek - source to Collins Creek			
C-48	Collins Creek - source to mouth	COLD SS	SCR	

(3-29-12)

10. Lower North Fork Clearwater Subbasin. The Lower North Fork Clearwater Subbasin, HUC 17060308, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
C-1	North Fork Clearwater River - Dworshak Reservoir Dam to mouth	COLD SS	PCR	DWS
C-2	Dworshak Reservoir	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
C-3	Reeds Creek - Alder Creek to Dworshak Reservoir	COLD SS	PCR	DWS
C-4	Reeds Creek - source to Alder Creek	COLD SS	PCR	DWS
C-5	Alder Creek - source to mouth			
C-6	Silver Creek - source to Dworshak Reservoir			
C-7	Benton Creek - source to Dworshak Reservoir			
C-8	North Fork Clearwater River - Aquaruis Campground (T40N, R07E, Sec. 05) to Dworshak Reservoir	COLD SS	PCR	DWS
C-9	Beaver Creek - source to mouth	COLD SS	SCR	
C-10	Isabella Creek - source to mouth			
C-11	Little North Fork Clearwater River - Foehl Creek to Dworshak Reservoir			
C-12	Little North Fork Clearwater River - Spotted Louis Creek to Foehl Creek			
C-13	Sawtooth Creek - source to mouth			
C-14	Canyon Creek - source to mouth			
C-15	Spotted Louis Creek - source to mouth			
C-16	Little North Fork Clearwater River - Rutledge Creek to Spotted Louis Creek			
C-17	Rutledge Creek - source to mouth			
C-18	Little North Fork Clearwater River - source to Rutledge Creek			
C-19	Foehl Creek - source to mouth			
C-20	Stoney Creek - Glover Creek to Dworshak Reservoir			
C-21	Floodwood Creek - source to mouth			
C-22	Glover Creek - source to mouth			
C-23	Stoney Creek - source to Glover Creek	COLD SS	SCR	
C-24	Isabella Creek - source to mouth			
C-25	Breakfast Creek - source to mouth			
C-26	Gold Creek - source to Dworshak Reservoir			
C-27	Weitas Creek - source to Dworshak Reservoir			
C-28	Swamp Creek - source to Dworshak Reservoir			
C-29	Cranberry Creek - source to Dworshak Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
C-30	Elk Creek - source to Dworshak Reservoir	COLD SS	PCR	DWS
C-31	Bull Run Creek - confluence of Squaw and Shattuck Creeks to mouth			
C-32	Shattuck Creek - source to mouth			
C-33	Squaw Creek - source to mouth			
C-34	Long Meadow Creek - source to Dworshak Reservoir			
C-35	Dicks Creek - source to Dworshak Reservoir			

(3-29-12)

121. -- 129. (RESERVED)

130. SALMON BASIN.
Surface waters found within the Salmon basin total twelve (12) subbasins and are designated as follows: (4-5-00)

01. Hells Canyon Subbasin. The Hells Canyon Subbasin, HUC 17060101, is comprised of twenty-eight (28) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Snake River - Wolf Creek to Salmon River	COLD SS	PCR	DWS
S-2	Snake River - Sheep Creek to Wolf Creek	COLD SS	PCR	DWS
S-3	Snake River - Hells Canyon Dam to Sheep Creek	COLD SS	PCR	DWS
S-4	Deep Creek - source to mouth			
S-5	Brush Creek - source to mouth			
S-6	Granite Creek - source to mouth			
S-7	Little Granite Creek - source to mouth			
S-8	Bernard Creek - source to mouth			
S-9	Sheep Creek - confluence of West and East Fork Sheep Creeks to mouth			
S-10	West Fork Sheep Creek - source to mouth			
S-11	East Fork Sheep Creek - source to mouth			
S-12	Clarks Fork - source to mouth			
S-13	Caribou Creek - source to mouth			
S-14	Kirkwood Creek - source to mouth			
S-15	Kirby Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-16	Corral Creek - source to mouth			
S-17	Klopton Creek - source to mouth			
S-18	Kurry Creek - source to mouth			
S-19	West Creek - source to mouth			
S-20	Big Canyon Creek - source to mouth			
S-21	Jones Creek - source to mouth			
S-22	Highrange Creek - source to mouth			
S-23	Getta Creek - source to mouth			
S-24	Wolf Creek - Basin Creek to mouth			
S-25	Wolf Creek - source to Basin Creek			
S-26	Basin Creek - source to mouth			
S-27	Dry Creek - source to mouth			
S-28	Divide Creek - source to mouth			

(3-29-12)

02. Lower Snake-Asotin Subbasin. The Lower Snake-Asotin Subbasin, HUC 17060103, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Snake River - Asotin River (Idaho/Oregon border) to Lower Granite Dam pool	COLD	PCR	DWS
S-2	Snake River - Captain John Creek to Asotin River (Idaho/Oregon border)	COLD	PCR	DWS
S-3	Snake River - Cottonwood Creek to Captain John Creek	COLD	PCR	DWS
S-4	Snake River - Salmon River to Cottonwood Creek	COLD	PCR	DWS
S-5	Cottonwood Creek - source to mouth			
S-6	Cave Gulch - source to mouth	COLD	SCR	
S-7	Corral Creek - source to mouth			
S-8	Middle Creek - source to mouth	COLD	SCR	
S-9	Dough Creek - source to mouth	COLD	SCR	
S-10	Billy Creek - source to mouth			
S-11	Captain John Creek - source to mouth			
S-12	Redbird Creek - source to mouth	COLD	SCR	
S-13	Tenmile Canyon - source to mouth	COLD	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
S-14	Tammany Creek - Unnamed Tributary (T34N, R05W, Sec. 24) to mouth	COLD	SCR	
S-15	Unnamed Tributary - source to mouth (T34N, R05W, Sec. 24)	COLD	SCR	
S-16	Tammany Creek - source to Unnamed Tributary (T34N, R05W, Sec. 24)	COLD	SCR	

(3-29-12)

03. Upper Salmon Subbasin. The Upper Salmon Subbasin, HUC 17060201, is comprised of one hundred thirty-five (135) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Pennal Gulch to Pashsimeroi River	COLD SS	PCR	DWS
S-2	Morgan Creek - West Creek to mouth			
S-3	Morgan Creek - source to West Creek			
S-4	West Creek - Blowfly Creek to mouth			
S-5	Blowfly Creek - source to mouth			
S-6	West Creek - source to Blowfly Creek			
S-7	Challis Creek - Darling Creek to mouth			
S-8	Darling Creek - source to mouth			
S-9	Challis Creek - Bear Creek to Darling Creek			
S-10	Eddy Creek - source to mouth			
S-11	Bear Creek - source to mouth			
S-12	Challis Creek - source to Bear Creek			
S-13	Mill Creek - source to mouth			
S-14	Salmon River - Garden Creek to Pennal Gulch	COLD SS	PCR	DWS
S-15	Garden Creek - source to mouth			
S-16	Salmon River - East Fork Salmon River to Garden Creek	COLD SS	PCR	DWS
S-17	Bayhorse Creek - source to mouth			
S-18	Lyon Creek - source to mouth			
S-19	Salmon River - Squaw Creek to East Fork Salmon River	COLD SS	PCR	DWS
S-20	Kinnikinic Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-21	Squaw Creek - Cash Creek to mouth	COLD SS	SCR	
S-22	Cash Creek - source to mouth			
S-23	Squaw Creek - confluence of Aspen and Cinnabar Creeks to Cash Creek	COLD SS	SCR	
S-24	Aspen Creek - source to mouth			
S-25	Cinnabar Creek - source to mouth			
S-26	Bruno Creek - source to mouth			
S-27	Salmon River - Thompson Creek to Squaw Creek	COLD SS	PCR	DWS
S-28	Thompson Creek - source to mouth	COLD SS	SCR	
S-29	Pat Hughes Creek -source to mouth			
S-30	Buckskin Creek - source to mouth			
S-31	Salmon River - Yankee Fork Creek to Thompson Creek	COLD SS	PCR	DWS
S-32	Yankee Fork Creek - Jordan Creek to mouth	COLD SS	PCR	DWS
S-33	Ramey Creek - source to mouth			
S-34	Yankee Fork Creek - source to Jordan Creek	COLD SS	PCR	DWS
S-35	Fivemile Creek - source to mouth			
S-36	Elevenmile Creek - source to mouth			
S-37	McKay Creek - source to mouth			
S-38	Twentymile Creek - source to mouth			
S-39	Tenmile Creek - source to mouth			
S-40	Eightmile Creek - source to mouth			
S-41	Jordan Creek - from and including Unnamed Tributary (T13N, R15E, Sec. 29) to mouth			
S-42	Jordan Creek - source to Unnamed Tributary (T13N, R15E, Sec. 29)			
S-43	West Fork Yankee Fork Creek - Lightning Creek to mouth			
S-44	Lightning Creek - source to mouth			
S-45	West Fork Yankee Fork Creek - source to Lightning Creek			
S-46	Cabin Creek - source to mouth			
S-47	Salmon River - Valley Creek to Yankee Fork Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
S-48	Basin Creek - East Basin Creek to mouth			
S-49	East Basin Creek - source to mouth			
S-50	Basin Creek - source to East Basin Creek			
S-51	Valley Creek - Trap Creek to mouth			
S-52	Stanley Creek - source to mouth			
S-53	Valley Creek - source to Trap Creek			
S-54	Trap Creek - Meadow Creek to mouth			
S-55	Trap Creek - source to Meadow Creek			
S-56	Meadow Creek - source to mouth			
S-57	Elk Creek - source to mouth			
S-58	Stanley Creek - source to mouth			
S-59	Crooked Creek - source to mouth			
S-60	Iron Creek - source to mouth			
S-61	Goat Creek - source to mouth			
S-62	Meadow Creek - source to mouth			
S-63	Salmon River - Redfish Lake Creek to Valley Creek	COLD SS	PCR	DWS
S-64	Redfish Lake Creek - Redfish Lake to mouth			
S-65	Fishhook Creek - source to mouth			
S-66	Redfish Lake			
S-67	Redfish Lake Creek - source to Redfish Lake			
S-68	Salmon River - Unnamed Tributary (T19N, R13E, Sec. 25) to Redfish Lake Creek	COLD SS	PCR	DWS
S-69	Decker Creek - Huckleberry Creek to mouth			
S-70	Decker Creek - source to Huckleberry Creek			
S-71	Huckleberry Creek - source to mouth			
S-72	Salmon River - Fisher Creek to Decker Creek	COLD SS	PCR	DWS
S-73	Salmon River - Alturas Lake Creek to Fisher Creek	COLD SS	PCR	DWS
S-74	Hell Roaring Creek - source to mouth			
S-75	Alturas Lake Creek - Alturas Lake to mouth			
S-76	Toxaway/Farley Lake - source to mouth			
S-77	Pettit Lake			
S-78	Alturas Lake			

Unit	Waters	Aquatic Life	Recreation	Other
S-79	Alturas Lake Creek - source to Alturas Lake			
S-80	Alpine Creek - source to mouth			
S-81	Salmon River - source to Alturas Lake Creek	COLD SS	PCR	DWS
S-82	Beaver Creek - source to mouth			
S-83	Smiley Creek - source to mouth			
S-84	Frenchman Creek - source to mouth			
S-85	Pole Creek - source to mouth			
S-86	Champion Creek - source to mouth			
S-87	Fourth of July Creek - source to mouth			
S-88	Fisher Creek - source to mouth			
S-89	Williams Creek - source to mouth			
S-90	Gold Creek - source to mouth			
S-91	Little Casino Creek - source to mouth			
S-92	Big Casino Creek - source to mouth			
S-93	Rough Creek - source to mouth			
S-94	Warm Springs Creek - Swimm Creek to mouth			
S-95	Warm Springs Creek - Pigtail Creek to Swimm Creek			
S-96	Pigtail Creek - source to mouth			
S-97	Warm Springs Creek - source to Pigtail Creek			
S-98	Swimm Creek - source to mouth			
S-99	Slate Creek - source to mouth			
S-100	Holman Creek - source to mouth			
S-101	Sullivan Creek - source to mouth			
S-102	East Fork Salmon River - Herd Creek to mouth	COLD SS	PCR	DWS
S-103	East Fork Salmon River - Germania Creek to Herd Creek	COLD SS	PCR	DWS
S-104	Big Lake Creek - source to mouth			
S-105	Big Boulder Creek - source to mouth			
S-106	Little Boulder Creek - source to mouth			
S-107	Germania Creek - Chamberlain Creek to mouth			
S-108	Chamberlain Creek - source to mouth			
S-109	Germania Creek - source to Chamberlain Creek			

Unit	Waters	Aquatic Life	Recreation	Other
S-110	East Fork Salmon River - confluence of South and West Fork Salmon Rivers to Germania	COLD SS	PCR	DWS
S-111	West Fork East Fork Salmon River - source to mouth			
S-112	South Fork East Fork Salmon River - source to mouth			
S-113	Ibex Creek - source to mouth			
S-114	West Pass Creek - source to mouth			
S-115	Bowery Creek - source to mouth			
S-116	Pine Creek - source to mouth			
S-117	McDonald Creek - source to mouth			
S-118	Herd Creek - confluence of West Fork Herd Creek and East Pass Creek to mouth			
S-119	East Pass Creek - source to mouth			
S-120	Taylor Creek - source to mouth			
S-121	West Fork Herd Creek - source to mouth			
S-122	East Fork Herd Creek - source to mouth			
S-123	Lake Creek - source to mouth			
S-124	Road Creek - Corral Basin Creek to mouth			
S-125	Road Creek - source to Corral Basin Creek			
S-126	Mosquito Creek - source to mouth			
S-127	Corral Basin Creek - source to mouth			
S-128	Horse Basin Creek - source to mouth			
S-129	Spar Canyon Creek - source to mouth			
S-130	Bradshaw Gulch - source to mouth			
S-131	Warm Spring Creek - Hole-in-Rock Creek to mouth			
S-132	Warm Spring Creek - source to Hole-in-Rock Creek			
S-133	Broken Wagon Creek - source to mouth			
S-134	Hole-in-Rock Creek - source to mouth			
S-135	Pennal Gulch - source to mouth			

(3-29-12)

04. Pahsimeroi Subbasin. The Pahsimeroi Subbasin, HUC 17060202, is comprised of thirty-nine (39) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Pahsimeroi River - Patterson Creek to mouth	COLD SS	PCR	DWS
S-2	Pahsimeroi River - Meadow Creek to Patterson Creek	COLD SS	PCR	DWS
S-3	Lawson Creek - confluence of North and South Fork Lawson Creeks to mouth			
S-4	North Fork Lawson Creek - source to mouth			
S-5	South Fork Lawson Creek - source to mouth			
S-6	Meadow Creek - source to mouth			
S-7	Pahsimeroi River - Furley Road (T15S, R22E) to Meadow Creek	COLD SS	PCR	DWS
S-8	Pahsimeroi River - Big Creek to Furley Road (T15S, R22E)	COLD SS	PCR	DWS
S-9	Grouse Creek - source to mouth			
S-10	Pahsimeroi River - Goldburg Creek to Big Creek	COLD SS	PCR	DWS
S-11	Pahsimeroi River - Unnamed Tributary (T12N, R23E, Sec. 22) to Goldburg Creek	COLD SS	PCR	DWS
S-12	Unnamed Tributary - source to mouth (T12N, R23E, Sec. 22)			
S-13	Doublespring Creek - Christian Gulch to mouth			
S-14	Christian Gulch - source to mouth			
S-15	Doublespring Creek - source to Christian Gulch			
S-16	Mud Spring Canyon Complex			
S-17	Pahsimeroi River - Burnt Creek to Unnamed Tributary (T12N, R23E, Sec. 22)	COLD SS	PCR	DWS
S-18	Pahsimeroi River - Mahogany Creek to Burnt Creek	COLD SS	PCR	DWS
S-19	Mahogany Creek - source to mouth			
S-20	Pahsimeroi River - confluence of Rock Creek and East Fork Pahsimeroi River to Mahogany Creek	COLD SS	PCR	DWS
S-21	Rock Creek - source to mouth			
S-22	East Fork Pahsimeroi River - source to mouth			
S-23	Burnt Creek - Long Creek to mouth			
S-24	Burnt Creek - source to Long Creek			
S-25	Long Creek - Short Creek to mouth			
S-26	Short Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-27	Long Creek - source to Short Creek			
S-28	Goldburg Creek - Donkey Creek to mouth			
S-29	Donkey Creek -source to mouth			
S-30	Goldburg Creek - source to Donkey Creek			
S-31	Big Creek - confluence of North and South Fork Big Creeks to mouth			
S-32	South Fork Big Creek - source to mouth			
S-33	North Fork Big Creek - source to mouth			
S-34	Patterson Creek - Inyo Creek to mouth			
S-35	Patterson Creek - source to and including Inyo Creek			
S-36	Falls Creek - source to mouth			
S-37	Morse Creek - Irrigation junction to mouth			
S-38	Morse Creek - source to Irrigation junction (T15S, R23E)			
S-39	Morgan Creek - source to mouth			

(3-29-12)

05. Middle Salmon-Panther Subbasin. The Middle Salmon-Panther Subbasin, HUC 17060203, is comprised of ninety-two (92) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Panther Creek to Middle Fork Salmon River	COLD SS	PCR	DWS
S-2	Panther Creek - Big Deer Creek to mouth	COLD SS	SCR	
S-3	Garden Creek - source to mouth			
S-4	Clear Creek - source to mouth			
S-5	Big Deer Creek - South Fork Big Deer Creek to mouth			
S-6	Big Deer Creek - source to South Fork Big Deer Creek			
S-7	South Fork Big Deer Creek - Bucktail Creek to mouth			
S-8	South Fork Big Deer Creek -source to Bucktail Creek			
S-9	Bucktail Creek - source to mouth	NONE	NONE	
S-10	Panther Creek - Napias Creek to Big Deer Creek	COLD SS	SCR	
S-11	Panther Creek - Blackbird Creek to Napias Creek	COLD SS	SCR	

Unit	Waters	Aquatic Life	Recreation	Other
S-12a	Blackbird Creek - source to Blackbird Reservoir Dam	COLD SS	SCR	
S-12b	Blackbird Creek - Blackbird Reservoir Dam to mouth	NONE	SCR	
S-13a	West Fork Blackbird Creek - source to concrete channel	COLD SS	SCR	
S-13b	West Fork Blackbird Creek - concrete channel to mouth only	NONE	SCR	
S-14	Panther Creek - Porphyry Creek to Blackbird Creek	COLD SS	PCR	DWS
S-15	Musgrove Creek - source to mouth			
S-16	Porphyry Creek - source to mouth			
S-17	Panther Creek - source to Porphyry Creek	COLD SS	PCR	DWS
S-18	Moyer Creek - source to mouth			
S-19	Woodtick Creek - source to mouth			
S-20	Deep Creek - Little Deep Creek to mouth			
S-21	Little Deep Creek - source to mouth			
S-22	Deep Creek - source to Little Deep Creek			
S-23	Napias Creek - Moccasin Creek to mouth			
S-24	Napias Creek - Arnett Creek to and including Moccasin Creek			
S-25	Napias Creek - source to Arnett Creek			
S-26	Arnett Creek - source to mouth			
S-27	Trail Creek - source to mouth			
S-28	Beaver Creek - source to mouth			
S-29	Salmon River - Indian Creek to Panther Creek	COLD SS	PCR	DWS
S-30	Pine Creek - source to mouth			
S-31	East Boulder Creek - source to mouth			
S-32	Salmon River - North Fork Sheep Creek to Indian Creek	COLD SS	PCR	DWS
S-33	Moose Creek - Little Moose Creek to mouth			
S-34	Little Moose Creek - source to mouth			
S-35	Moose Creek - Dolly Creek to Little Moose Creek			
S-36	Moose Creek - source to Dolly Creek			
S-37	Dolly Creek - source to mouth			
S-38	Dump Creek - Moose Creek to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-39	Salmon River - Carmen Creek to North Fork Salmon River	COLD SS	PCR	DWS
S-40	Wallace Creek - source to mouth			
S-41	Salmon River - Pollard Creek to Carmen Creek	COLD SS	PCR	DWS
S-42	Salmon River - Williams Creek to Pollard Creek	COLD SS	PCR	DWS
S-43	Williams Creek - confluence of North and South Fork Williams Creek to mouth			
S-44	North Fork Williams Creek - source to mouth			
S-45	South Fork Williams Creek - source to mouth			
S-46	Salmon River - Twelvemile Creek to Williams Creek	COLD SS	PCR	DWS
S-47	Salmon River - Iron Creek to Twelvemile Creek	COLD SS	PCR	DWS
S-48	Iron Creek - North Fork Iron Creek to mouth			
S-49	North Fork Iron Creek - source to mouth			
S-50	Iron Creek - source to North Fork Iron Creek			
S-51	West Fork Iron Creek - source to mouth			
S-52	South Fork Iron Creek - source to mouth			
S-53	Salmon River - Pahsimeroi River to Iron Creek	COLD SS	PCR	DWS
S-54	Hot Creek - source to mouth			
S-55	Cow Creek - source to mouth			
S-56	Allison Creek - source to mouth			
S-57	McKim Creek - source to mouth			
S-58	Poison Creek - source to mouth			
S-59	Warm Springs Creek - source to mouth			
S-60	Twelvemile Creek - source to mouth			
S-61	Carmen Creek - Freeman Creek to mouth			
S-62	Freeman Creek - source to mouth			
S-63	Carmen Creek - source to Freeman Creek			
S-64	Tower Creek - source to mouth			
S-65	Fourth of July Creek - Little Fourth of July Creek to mouth			
S-66	Fourth of July Creek - source to Little Fourth of July Creek			
S-67	Little Fourth of July Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-68	North Fork Salmon River - Hughes Creek to mouth	COLD SS	PCR	DWS
S-69	Big Silverlead Creek - source to mouth			
S-70	North Fork Salmon River - Sheep Creek to Hughes Creek	COLD SS	PCR	DWS
S-71	Sheep Creek - source to mouth			
S-72	North Fork Salmon River - Dahlonega Creek to Sheep Creek	COLD SS	PCR	DWS
S-73	Dahlonega Creek - Nez Perce Creek to mouth			
S-74	Dahlonega Creek - source to Nez Perce Creek			
S-75	Nez Perce Creek - source to mouth			
S-76	Anderson Creek - source to mouth			
S-77	North Fork Salmon River - Twin Creek to Dahlonega Creek	COLD SS	PCR	DWS
S-78	North Fork Salmon River - source to Twin Creek	COLD SS	PCR	DWS
S-79	Pierce Creek - source to mouth			
S-80	Twin Creek - source to mouth			
S-81	Hughes Creek - source to mouth			
S-82	Hull Creek - source to mouth			
S-83	Indian Creek - source to mouth			
S-84	Squaw Creek - source to mouth			
S-85	Spring Creek - source to mouth			
S-86	Boulder Creek - source to mouth			
S-87	Owl Creek - East Fork Owl Creek to mouth			
S-88	East Fork Owl Creek - source to mouth			
S-89	Owl Creek - source to East Fork Owl Creek			
S-90	Colson Creek - source to mouth			

(3-29-12)

06. Lemhi Subbasin. The Lemhi Subbasin, HUC 17060204, is comprised of eighty-two (82) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Lemhi River - Kenney Creek to mouth	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
S-2	Mulkey Creek - source to mouth			
S-3a	Withington Creek - diversion (T20N, R23E, Sec. 09) to mouth			
S-3b	Withington Creek - source to diversion (T20N, R23E, Sec. 09)	COLD SS	SCR	
S-4	Haynes Creek - source to mouth			
S-5	Lemhi River - Hayden Creek to Kenney Creek	COLD SS	PCR	DWS
S-6	Baldy Creek - source to mouth			
S-7a	McDevitt Creek - diversion (T19N, R23E, Sec. 36) to mouth			
S-7b	McDevitt Creek - source to diversion (T19N, R23E, Sec. 36)	COLD SS	SCR	
S-8	Muddy Creek - source to mouth			
S-9	Hayden Creek - Basin Creek to mouth	COLD SS	SCR	
S-10	Basin Creek - Lake Creek to mouth	COLD SS	SCR	
S-11	Basin Creek - confluence of McNutt Creek and Trail Creek to Lake Creek	COLD SS	SCR	
S-12	Trail Creek - source mouth			
S-13	McNutt Creek - source to mouth			
S-14	Lake Creek - source to mouth			
S-15	Hayden Creek - Bear Valley Creek to Basin Creek	COLD SS	SCR	
S-16	Bear Valley Creek -Wright Creek to mouth	COLD SS	SCR	
S-17	Bear Valley Creek - source to Wright Creek	COLD SS	SCR	
S-18	Wright Creek - source to mouth			
S-19	Kadletz Creek - source to mouth			
S-20	Hayden Creek -West Fork Hayden Creek to Bear Valley Creek	COLD SS	SCR	
S-21	Hayden Creek - source to West Fork Hayden Creek	COLD SS	SCR	
S-22	West Fork Hayden Creek - source to mouth			
S-23	East Fork Hayden Creek - source to mouth	COLD SS	SCR	
S-24	Lemhi River - Peterson Creek to Hayden Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
S-25	Lemhi River - confluence of Big and Little Eightmile Creeks to Peterson Creek	COLD SS	PCR	DWS
S-26a	Mill Creek - diversion (T16N, R24E, Sec. 22) to mouth			
S-26b	Mill Creek - source to diversion (T16N, R24E, Sec. 22)	COLD SS	SCR	
S-27	Walter Creek - source to mouth			
S-28	Lee Creek - source to mouth			
S-29a	Big Eightmile Creek - diversion (T16N, R25E, Sec. 21) to mouth			
S-29b	Big Eightmile Creek - source to diversion (T16N, R25E, Sec. 21)	COLD SS	SCR	
S-30	Lemhi River - confluence of Eighteenmile Creek and Texas Creek to the confluence of Big and Little Eightmile Creeks	COLD SS	PCR	DWS
S-31	Big Timber Creek - Little Timber Creek to mouth			
S-32a	Little Timber Creek - diversion (T15N, R25E, Sec. 24) to mouth			
S-32b	Little Timber Creek - source to diversion (T15N, R25E, Sec. 24)	COLD SS	SCR	
S-33	Big Timber Creek - Rocky Creek to Little Timber Creek	COLD SS	SCR	
S-34	Rocky Creek - source to mouth			
S-35	Big Timber Creek - source to Rocky Creek	COLD SS	SCR	
S-36	Texas Creek - Deer Creek to mouth			
S-37	Deer Creek - source to mouth			
S-38	Texas Creek - Meadow Creek to Deer Creek			
S-39	Meadow Lake Creek - source to mouth			
S-40	Texas Creek - source to Meadow Lake Creek			
S-41	Eighteenmile Creek - Hawley Creek to mouth			
S-42	Eighteenmile Creek - Clear Creek to Hawley Creek			
S-43	Eighteenmile Creek - Divide Creek to Hawley Creek	COLD	SCR	
S-44	Divide Creek - source to mouth			
S-45	Eighteenmile Creek - source to Divide Creek	COLD SS	SCR	
S-46	Clear Creek - source to mouth			
S-47	Tenmile Creek - Powderhorn Gulch to mouth			
S-48	Tenmile Creek - source to Powderhorn Gulch			
S-49	Powderhorn Gulch - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-50a	Hawley Creek - diversion (T15N, R27E, Sec. 03) to mouth			
S-50b	Hawley Creek - source to diversion (T15N, R27E, Sec. 03)			
S-51a	Canyon Creek - diversion (T16N, R26E, Sec.22) to mouth			
S-51b	Canyon Creek - source to diversion (T16N, R26E, Sec.22)	COLD SS	SCR	
S-52a	Little Eightmile Creek - diversion (T16N, R25E, Sec. 02) to mouth			
S-52b	Little Eightmile Creek - source to diversion (T16N, R25E, Sec. 02)	COLD SS	SCR	
S-53	Peterson Creek - source to mouth			
S-54	Reese Creek - source to mouth			
S-55a	Yearian Creek - diversion (T17N, R24E, Sec. 03) to mouth			
S-55b	Yearian Creek - source to diversion (T17N, R24E, Sec. 03)	COLD SS	SCR	
S-56a	Agency Creek - diversion (T19N, R24E, Sec. 28) to mouth			
S-56b	Agency Creek - Cow Creek to diversion (T19N, R24E, Sec. 28)	COLD SS	SCR	
S-57	Cow Creek - source to mouth	COLD SS	SCR	
S-58	Agency Creek - source to Cow Creek	COLD SS	SCR	
S-59a	Pattee Creek - diversion (T19N, R24E, Sec. 16) to mouth			
S-59b	Pattee Creek - source to diversion (T19N, R24E, Sec. 16)	COLD SS	SCR	
S-60a	Pratt Creek - diversion (T20N, R23E, Sec. 11) to mouth			
S-60b	Pratt Creek - source to diversion (T20N, R23E, Sec. 11)	COLD SS	SCR	
S-61	Kenney Creek - source to mouth	COLD SS	SCR	
S-62a	Sandy Creek - diversion (T20N, R24E, Sec. 17) to mouth			
S-62b	Sandy Creek - source to diversion (T20N, R24E, Sec. 17)	COLD SS	SCR	
S-63	Wimpey Creek - source to mouth	COLD SS	SCR	
S-64a	Bohannon Creek - diversion (T21N, R23E, Sec. 22) to mouth			
S-64b	Bohannon Creek - source to diversion (T21N, R23E, Sec. 22)	COLD SS	SCR	
S-65a	Geertson Creek - diversion (T21N, R23E, Sec. 20) to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-65b	Geertson Creek - source to diversion (T21N, R23E, Sec. 20)	COLD SS	SCR	
S-66a	Kirtley Creek - diversion (T21N, R22E, Sec. 02) to mouth			
S-66b	Kirtley Creek - source to diversion (T21N, R22E, Sec. 02)	COLD SS	SCR	

(3-29-12)

07. Upper Middle Fork Salmon Subbasin. The Upper Middle Fork Salmon Subbasin, HUC 17060205, is comprised of seventy (70) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Middle Fork Salmon River - confluence of Bear Valley Creek and Marsh Creek to Loon Creek	COLD SS	PCR	DWS
S-2	Marble Creek - source to mouth			
S-3	Trail Creek - source to mouth			
S-4	Big Cottonwood Creek - source to mouth			
S-5	Dynamite Creek - source to mouth			
S-6	Indian Creek - source to mouth			
S-7	Pistol Creek - source to mouth			
S-8	Elkhorn Creek - source to mouth			
S-9	Sulphur Creek - source to mouth			
S-10	Boundary Creek - source to mouth			
S-11	Dagger Creek - source to mouth			
S-12	Bear Valley Creek - source to mouth			
S-13	Elk Creek - source to mouth			
S-14	Sheep Trail Creek - source to mouth			
S-15	Cub Creek - source to mouth			
S-16	Cache Creek - source to mouth			
S-17	Fir Creek - source to mouth			
S-18	Marsh Creek - Beaver Creek to mouth			
S-19	Marsh Creek - Knapp Creek to Beaver Creek			
S-20	Cape Horn Creek - Banner Creek to mouth			
S-21	Cape Horn Creek - source to Banner Creek			
S-22	Banner Creek - source to mouth			
S-23	Swamp Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-24	Marsh Creek - source to Knapp Creek			
S-25	Knapp Creek - source to mouth			
S-26	Asher Creek - source to mouth			
S-27	Unnamed Tributary - source to mouth (T12N, R11E, Sec. 11)			
S-28	Beaver Creek - Bear Creek to mouth			
S-29	Beaver Creek - Winnemucca Creek to Bear Creek			
S-30	Winnemucca Creek - source to mouth			
S-31	Beaver Creek - source to Winnemucca Creek			
S-32	Bear Creek - source to mouth			
S-33	Soldier Creek - source to mouth			
S-34	Greyhound Creek - source to mouth			
S-35	Rapid River - Bell Creek to mouth			
S-36	Bell Creek - source to mouth			
S-37	Rapid River - Lucinda Creek to Bell Creek			
S-38	Rapid River - Float Creek to Lucinda Creek			
S-39	Float Creek - source to mouth			
S-40	Rapid River - Vanity Creek to Float Creek			
S-41	Vanity Creek - source to mouth			
S-42	Rapid River - source to Vanity Creek			
S-43	Lucinda Creek - source to mouth			
S-44	Sheep Creek - confluence of North and South Fork Sheep Creek to mouth			
S-45	South Fork Sheep Creek - source to mouth			
S-46	North Fork Sheep Creek - source to mouth			
S-47	Little Loon Creek - source to mouth			
S-48	Loon Creek - Cabin Creek to mouth			
S-49	Loon Creek - Warm Springs Creek to Cabin Creek			
S-50	Loon Creek - Cottonwood Creek to Warm Springs Creek			
S-51	Loon Creek - Shell Creek to Cottonwood Creek			
S-52	Shell Creek - source to mouth			
S-53	Loon Creek - Grouse Creek to Shell Creek			
S-54	Grouse Creek - source to mouth			
S-55	Loon Creek - Canyon Creek to Grouse Creek			
S-56	Canyon Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-57	Loon Creek - Pioneer Creek to Canyon Creek			
S-58	Trail Creek - source to mouth			
S-59	Loon Creek - source to Pioneer Creek			
S-60	Pioneer Creek - source to mouth			
S-61	No Name Creek - source to mouth			
S-62	Mayfield Creek - confluence of East and West Fork Mayfield Creek to mouth			
S-63	West Fork Mayfield Creek - source to mouth			
S-64	East Fork Mayfield Creek - source to mouth			
S-65	Cottonwood Creek - source to mouth			
S-66	South Fork Cottonwood Creek - source to mouth			
S-67	Warm Springs Creek - Trapper Creek to mouth			
S-68	Trapper Creek - source to mouth			
S-69	Warm Springs Creek - source to Trapper Creek			
S-70	Cabin Creek - source to mouth			

(3-29-12)

08. Lower Middle Fork Salmon Subbasin. The Lower Middle Fork Salmon Subbasin, HUC 17060206, is comprised of fifty (50) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Middle Fork Salmon River - Loon Creek to mouth	COLD SS	PCR	DWS
S-2	Papoose Creek - source to mouth			
S-3	Big Creek - source to mouth	COLD SS	PCR	DWS
S-4	Cabin Creek - source to mouth			
S-5	Cave Creek - source to mouth			
S-6	Crooked Creek - source to mouth			
S-7	Big Ramey Creek - source to mouth			
S-8	Beaver Creek - source to mouth			
S-9	Smith Creek - source to mouth			
S-10	Logan Creek - source to mouth			
S-11	Little Marble Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-12	Monumental Creek - source to mouth	COLD SS	PCR	DWS
S-13	Snowslide Creek - source to mouth			
S-14	West Fork Monumental Creek - source to mouth			
S-15	Rush Creek - source to mouth			
S-16	Two Point Creek - source to mouth			
S-17	Soldier Creek - source to mouth			
S-18	Brush Creek - source to mouth			
S-19	Sheep Creek - source to mouth			
S-20	Camas Creek - Yellowjacket Creek to mouth			
S-21	Camas Creek - Forge Creek to Yellowjacket Creek			
S-22	Camas Creek - Duck Creek to Forge Creek			
S-23	Camas Creek - Silver Creek to Duck Creek			
S-24	West Fork Camas Creek - source to mouth			
S-25	Camas Creek - Castle Creek to Silver Creek			
S-26	Camas Creek - Furnance Creek to Castle Creek			
S-27	Camas Creek - White Goat Creek to Furnance Creek			
S-28	Camas Creek - South Fork Camas Creek to White Goat Creek			
S-29	South Fork Camas Creek - source to mouth			
S-30	Camas Creek - source to South Fork Camas Creek			
S-31	White Goat Creek - source to mouth			
S-32	Furnace Creek - source to mouth			
S-33	Castle Creek - source to mouth			
S-34	Silver Creek - source to mouth			
S-35	Duck Creek - source to mouth			
S-36	Forge Creek - source to mouth			
S-37	Yellowjacket Creek - Jenny Creek to mouth			
S-38	Yellowjacket Creek - Hoodoo Creek to Jenny Creek			
S-39	Yellowjacket Creek - Little Jacket Creek to Hoodoo Creek			
S-40	Little Jacket Creek - source to mouth			
S-41	Yellowjacket Creek - Trail Creek to Little Jacket Creek			
S-42	Trail Creek - source to mouth			
S-43	Yellowjacket Creek - source to Trail Creek			
S-44	Hoodoo Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-45	Jenny Creek - source to mouth			
S-46	Wilson Creek - source to mouth			
S-47	Waterfall Creek - source to mouth			
S-48	Ship Island Creek - source to mouth			
S-49	Roaring Creek - source to mouth			
S-50	Goat Creek - source to mouth			

(3-29-12)

09. Middle Salmon-Chamberlain Subbasin. The Middle Salmon-Chamberlain Subbasin, HUC 17060207, is comprised of seventy-seven (77) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - South Fork Salmon River to river mile 106 (T24N, R04E, Sec. 18)	COLD	PCR	DWS
S-2	Fall Creek - source to mouth			
S-3	Carey Creek - source to mouth			
S-4	California Creek - source to mouth			
S-5	Cottontail Creek - source to mouth			
S-6	Rabbit Creek - source to mouth			
S-7	Warren Creek - source to mouth			
S-8	Salmon River - Chamberlain Creek to South Fork Salmon River	COLD SS	PCR	DWS
S-9	Fivemile Creek - source to mouth			
S-10	Little Fivemile Creek - source to mouth			
S-11	Lemhi Creek - source to mouth			
S-12	Fall Creek - source to mouth			
S-13	Trout Creek - source to mouth			
S-14	Richardson Creek - source to mouth			
S-15	Dillinger Creek - source to mouth			
S-16	Hot Springs Creek - source to mouth			
S-17	Big Bear Creek - source to mouth			
S-18	Salmon River - Horse Creek to Chamberlain Creek	COLD SS	PCR	DWS
S-19	Chamberlain Creek - McCalla Creek to mouth			
S-20	Chamberlain Creek - Game Creek to McCalla Creek			

Unit	Waters	Aquatic Life	Recreation	Other
S-21	Queen Creek - source to mouth			
S-22	Game Creek - source to mouth			
S-23	West Fork Game Creek - source to mouth			
S-24	Chamberlain Creek - confluence of Rim and South Fork Chamberlain Creeks to Game Creek			
S-25	Flossie Creek - source to mouth			
S-26	Rim Creek - source to mouth			
S-27	South Fork Chamberlain Creek - source to mouth			
S-28	Moose Creek - source to mouth			
S-29	Lodgepole Creek - source to mouth			
S-30	McCalla Creek - source to mouth			
S-31	Whimstick Creek - source to mouth			
S-32	Disappointment Creek - source to mouth			
S-33	Starvation Creek - source to mouth			
S-34	Hungry Creek - source to mouth			
S-35	Cottonwood Creek - source to mouth			
S-36	Peak Creek - source to mouth			
S-37	Salmon River - Middle Fork Salmon River to Horse Creek	COLD SS	PCR	DWS
S-38	Butts Creek - source to mouth			
S-39	Kitchen Creek - source to mouth			
S-40	Corn Creek - source to mouth			
S-41	Horse Creek - Little Horse Creek to mouth			
S-42	Little Horse Creek - source to mouth			
S-43	Horse Creek - Reynolds Creek to Little Horse Creek			
S-44	Horse Creek - source to Reynolds Creek			
S-45	East Fork Reynolds Creek - source to mouth			
S-46	Reynolds Creek - source to mouth			
S-47	West Horse Creek - source to mouth			
S-48	Little Squaw Creek - source to mouth			
S-49	Harrington Creek - source to mouth			
S-50	Sabe Creek - Hamilton Creek to mouth			
S-51	Hamilton Creek - source to mouth			
S-52	Sabe Creek - source to Hamilton Creek			

Unit	Waters	Aquatic Life	Recreation	Other
S-53	Center Creek - source to mouth			
S-54	Rattlesnake Creek - source to mouth			
S-55	Bargamin Creek - source to mouth			
S-56	Porcupine Creek - source to mouth			
S-57	Prospector Creek - source to mouth			
S-58	Cache Creek - source to mouth			
S-59	Salt Creek - source to mouth			
S-60	Rainey Creek - source to mouth			
S-61	Big Mallard Creek - source to mouth			
S-62	Little Mallard Creek - source to mouth			
S-63	Rhett Creek - source to mouth			
S-64	Big Blowout Creek - source to mouth			
S-65	Jersey Creek - source to mouth			
S-66	Indian Creek - source to mouth			
S-67	Crooked Creek - Lake Creek to mouth			
S-68	Crooked Creek - source to Lake Creek			
S-69	Big Creek - source to mouth			
S-70	Lake Creek - source to mouth			
S-71	Arlington Creek - source to mouth			
S-72	Bull Creek - source to mouth			
S-73	Elk Creek - source to mouth			
S-74	Sheep Creek - source to mouth			
S-75	Long Meadow Creek - source to mouth			
S-76	Wind River - source to mouth			
S-77	Meadow Creek - source to mouth			

(3-29-12)

10. South Fork Salmon Subbasin. The South Fork Salmon Subbasin, HUC 17060208, is comprised of thirty-five (35) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	South Fork Salmon River - East Fork Salmon River to mouth	COLD SS	PCR	DWS
S-2	Raines Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
S-3	Pony Creek - source to mouth	COLD SS	PCR	
S-4	Bear Creek - source to mouth	COLD SS	PCR	
S-5	Secesh River - confluence of Summitt Creek and Lake Creek to mouth	COLD SS	PCR	DWS
S-6	Lake Creek - source to mouth	COLD SS	PCR	
S-7	Summit Creek - source to mouth	COLD SS	PCR	
S-8	Loon Creek - source to mouth	COLD SS	PCR	
S-9	Lick Creek - source to mouth	COLD SS	PCR	
S-10	South Fork Salmon River - source to East Fork of the South Fork Salmon River	COLD SS	PCR	DWS
S-11	Fitsum Creek - source to mouth	COLD SS	PCR	
S-12	Buckhorn Creek - source to mouth	COLD SS	PCR	
S-13	Cougar Creek - source to mouth	COLD SS	PCR	
S-14	Blackmare Creek - source to mouth	COLD SS	PCR	
S-15	Dollar Creek - source to mouth	COLD SS	PCR	
S-16	Six-bit Creek - source to mouth	COLD SS	PCR	
S-17	Trail Creek - source to mouth	COLD SS	PCR	
S-18	Rice Creek - source to mouth	COLD SS	PCR	
S-19	Cabin Creek - source to mouth	COLD SS	PCR	
S-20	Warm Lake	COLD	PCR	
S-21	Fourmile Creek - source to mouth	COLD SS	PCR	
S-22	Camp Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
S-23	East Fork of the South Fork Salmon River - source to mouth	COLD SS	PCR	DWS
S-24	Caton Creek - source to mouth	COLD SS	PCR	
S-25	Johnson Creek - source to mouth	COLD SS	PCR	DWS
S-26	Burntlog Creek - source to mouth	COLD SS	PCR	
S-27	Trapper Creek - source to mouth	COLD SS	PCR	
S-28	Riordan Creek - source to mouth	COLD SS	PCR	
S-29	Sugar Creek - source to mouth	COLD SS	PCR	
S-30	Tamarack Creek - source to mouth	COLD SS	PCR	
S-31	Profile Creek - source to mouth	COLD SS	PCR	
S-32	Quartz Creek - source to mouth	COLD SS	PCR	
S-33	Sheep Creek - source to mouth	COLD SS	PCR	
S-34	Elk Creek - source to mouth	COLD SS	PCR	
S-35	Porphyry Creek - source to mouth	COLD SS	PCR	

(3-29-12)

11. Lower Salmon Subbasin. The Lower Salmon Subbasin, HUC 17060209, is comprised of sixty-five (65) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Salmon River - Rice Creek to mouth	COLD	PCR	DWS
S-2	Flynn Creek - source to mouth			
S-3	Cottonwood Creek - source to mouth			
S-4	Billy Creek - source to mouth			
S-5	Burnt Creek - source to mouth			
S-6	Round Spring Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-7	Rice Creek - source to mouth			
S-8	Salmon River - Slate Creek to Rice Creek	COLD	PCR	DWS
S-9	Sotin Creek - source to mouth			
S-10	Deer Creek - source to mouth			
S-11	Salmon River - Little Salmon River to Slate Creek	COLD	PCR	DWS
S-12	China Creek- source to mouth			
S-13	Cow Creek - source to mouth			
S-14	Race Creek - confluence West and South Fork Race Creek to mouth			
S-15	West Fork Race Creek - source to mouth			
S-16	South Fork Race Creek - source to mouth			
S-17	Kessler Creek - source to mouth			
S-18	Grave Creek - source to mouth			
S-19	Salmon River - river mile 106 (T24N, R04E, Sec. 18) to Little Salmon River	COLD	PCR	DWS
S-20	Lake Creek - source to mouth			
S-21	Partridge Creek - source to mouth			
S-22	Elkhorn Creek - source to mouth			
S-23	French Creek - Little French Creek to mouth			
S-24	Little French Creek - source to mouth			
S-25	French Creek - source to Little French Creek			
S-26	Kelly Creek - source to mouth			
S-27	Van Creek - source to mouth			
S-28	Allison Creek - West Fork Allison Creek to mouth			
S-29	Allison Creek - source to West Fork Allison Creek			
S-30	West Fork Allison Creek - source to mouth			
S-31	Berg Creek - source to mouth			
S-32	Fiddle Creek - source to mouth			
S-33	John Day Creek - source to mouth			
S-34	Slate Creek - from and including Hurley Creek to mouth			
S-35	Little Van Buren Creek - source to mouth			
S-36	Slate Creek - Little Slate Creek to Hurley Creek			
S-37	Little Slate Creek - source to mouth			
S-38	Deadhorse Creek - source to mouth			
S-39	Van Buren Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
S-40	Tumble Creek - source to mouth			
S-41	Slate Creek - source to Little Slate Creek			
S-42	North Fork Slate Creek - source to mouth			
S-43	McKinzie Creek - source to mouth			
S-44	Skookumchuck Creek - confluence North and South Fork Skookumchuck Creeks to mouth			
S-45	South Fork Skookumchuck Creek - source to mouth			
S-46	North Fork Skookumchuck Creek - source to mouth			
S-47	Whitebird Creek - confluence of North and South Fork Whitebird Creeks to mouth	COLD SS	PCR	DWS
S-48	South Fork Whitebird Creek - Little Whitebird Creek to mouth			
S-49	Little Whitebird Creek - source to mouth			
S-50	South Fork Whitebird Creek - source to Little Whitebird Creek			
S-51	Jungle Creek - source to mouth			
S-52	Asbestos Creek - source to mouth			
S-53	Teepee Creek - source to mouth			
S-54	Pinnacle Creek - source to mouth			
S-55	North Fork Whitebird Creek - source to mouth			
S-56	Rock Creek - Grave Creek to mouth	COLD SS	PCR	
S-57	Rock Creek - source to Grave Creek	COLD SS	PCR	
S-58	Grave Creek - source to mouth			
S-59	Telcher Creek - source to mouth			
S-60	Deep Creek - source to mouth			
S-61	Maloney Creek - source to mouth			
S-62	Deer Creek - source to mouth			
S-63	Eagle Creek - source to mouth			
S-64	China Creek - source to mouth			
S-65	Wapshilla Creek - source to mouth			

(3-29-12)

12. Little Salmon Subbasin. The Little Salmon Subbasin, HUC 17060210, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
S-1	Little Salmon River - Round Valley Creek to mouth	COLD SS	PCR	DWS
S-2	Rapid River - source to mouth	COLD SS	PCR	DWS
S-3	West Fork Rapid River - source to mouth			
S-4	Paradise Creek - source to mouth			
S-5	Boulder Creek - source to mouth			
S-6	Round Valley Creek - source to mouth			
S-7	Little Salmon River - source to Round Valley Creek	COLD SS	PCR	DWS
S-8	Mud Creek - source to mouth			
S-9	Big Creek - source to mouth			
S-10	Goose Creek - source to mouth			
S-11	Brundage Reservoir			
S-12	Goose Lake			
S-13	Sixmile Creek - source to mouth			
S-14	Hazard Creek - source to mouth			
S-15	Hard Creek - source to mouth			
S-16	Elk Creek - source to mouth			

(3-29-12)

131. -- 139. (RESERVED)

140. SOUTHWEST IDAHO BASIN.
Surface waters found within the Southwest basin total nineteen (19) subbasins and are designated as follows:
(4-5-00)

01. C.J. Strike Reservoir Subbasin. The C.J. Strike Reservoir Subbasin, HUC 17050101, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - Browns Creek to C.J. Strike Dam	COLD	PCR	DWS
SW-2	Dune's Lake			
SW-3	Browns Creek - source to mouth			
SW-4	West Fork Browns Creek - source to mouth			
SW-5	Snake River - Clover Creek to Browns Creek	COLD	PCR	DWS
SW-6	Sailor Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-7	Pot Hole Creek - source to mouth			
SW-8	Deadman Creek - source to mouth			
SW-9	Rosevear Gulch - source to mouth			
SW-10	King Hill Creek - source to mouth			
SW-11	West Fork King Hill Creek - source to mouth			
SW-12	Little Canyon Creek - source to mouth			
SW-13	Alkali Creek - source to mouth			
SW-14	Cold Springs Creek - source to mouth			
SW-15	Ryegrass Creek - source to mouth			
SW-16	Bennett Creek - source to mouth			
SW-17	Hot Springs Reservoir			
SW-18	Dive Creek - source to mouth			
SW-19	Rattlesnake Creek - source to mouth (T05S, R06E)			
SW-20	Mountain Home Reservoir			
SW-21	Canyon Creek - Fraiser Reservoir Dam to mouth			
SW-22	Fraiser Reservoir			
SW-23	Canyon Creek - confluence of Syrup and Long Tom Creeks to Fraiser Reservoir			
SW-24	Long Tom Creek - source to mouth			
SW-25	Syrup Creek - source to mouth			
SW-26	Squaw Creek - source to mouth			

(3-29-12)

02. Bruneau Subbasin. The Bruneau Subbasin, HUC 17050102, is comprised of thirty-five (35) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	C.J. Strike Reservoir	COLD	PCR	
SW-2	Jacks Creek - confluence of Little and Big Jacks Creeks to C.J. Strike Reservoir			
SW-3	Little Jacks Creek - source to mouth			
SW-4	Big Jacks Creek -source to mouth			
SW-5	Cottonwood Creek - source to mouth			
SW-6	Duncan Creek - source to mouth			
SW-7	Wickahoney Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-8	Sugar Valley Creek - source to mouth			
SW-9	Bruneau River - Hot Creek to C.J. Strike Reservoir	COLD SS	PCR	
SW-10	Hot Creek - source to mouth			
SW-11	Bruneau River - Clover Creek (East Fork Bruneau River) to Hot Creek	COLD SS	PCR	DWS
SW-12	Miller Water - source to mouth			
SW-13	Bruneau River - Jarbridge River to Clover Creek (East Fork Bruneau River)	COLD SS	PCR	DWS
SW-14	Sheep Creek - Idaho/Nevada border to mouth	COLD	PCR	
SW-15	Louse Creek - source to mouth			
SW-16	Marys Creek - source to mouth			
SW-17	Bull Creek - source to mouth			
SW-18	Pole Creek - Idaho/Nevada border to mouth			
SW-19	Cat Creek - Idaho/Nevada border to mouth			
SW-20	Bruneau River - Idaho/Nevada border to Jarbridge River	COLD SS	PCR	DWS
SW-21	Jarbridge River -Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-22	Cougar Creek - source to mouth			
SW-23	Dorsey Creek - Idaho/Nevada border to mouth			
SW-24	East Fork Jarbridge River - Idaho/Nevada border to mouth	COLD SS	PCR	
SW-25	Poison Creek - Idaho/Nevada border to mouth			
SW-26	Unnamed Tributary - source to mouth (T11S, R07E, Sec. 27)			
SW-27	Sheepshead Draw - source to mouth			
SW-28	Clover Creek (East Fork Bruneau River) - confluence of Big Flat, Three, and Deadwood Creeks to mouth	COLD SS	PCR	DWS
SW-29	Juniper Draw - source to mouth			
SW-30	Big Flat Creek - Idaho/Nevada border to mouth			
SW-31	Three Creek - Idaho/Nevada border to mouth			
SW-32	Cherry Creek - Idaho/Nevada border to mouth			
SW-33	Deer Creek - Idaho/Nevada border to mouth			
SW-34	Deadwood Creek - Idaho/Nevada to mouth			
SW-35	Buck Flat Draw - source to mouth			

(3-29-12)

03. Middle Snake-Succor Subbasin. The Middle Snake-Succor Subbasin, HUC 17050103, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - river mile 425 (T02N, R04W, Sec. 02) to Idaho/Oregon border	COLD	PCR	DWS
SW-2	Succor Creek - Idaho/Oregon border to mouth	COLD SS	PCR	
SW-3	Succor Creek - source to Idaho/Oregon border	COLD SS	PCR	
SW-4	McBride Creek - source to Idaho/Oregon border			
SW-5	Jump Creek - source to mouth	COLD	PCR	
SW-6	Snake River - C.J. Strike Dam to river mile 425 (T02N, R04W, Sec. 02)	COLD	PCR	DWS
SW-7	Squaw Creek - source to mouth			
SW-8	Hardtrigger Creek - source to mouth			
SW-9	Reynolds Creek - source to mouth	COLD SS	PCR	
SW-10	West Rabbit Creek - source to mouth			
SW-11	Rabbit Creek - source to mouth			
SW-12	Sinker Creek - source to mouth	COLD SS	PCR	
SW-13	Fossil Creek - source to mouth			
SW-14	Castle Creek - source to mouth	COLD SS	PCR	
SW-15	Catherine Creek - confluence of Hart and Picket Creeks to mouth			
SW-16	Pickett Creek - source to mouth			
SW-17	Bates Creek - source to mouth			
SW-18	Hart Creek - source to mouth			
SW-19	Brown Creek - source to mouth			
SW-20	South Fork Castle Creek - source to mouth			
SW-21	Birch Creek - source to mouth			
SW-22	McKeeth Wash - source to mouth			
SW-23	Vinson Wash - source to mouth			
SW-24	Shoofly Creek - source to mouth			
SW-25	Corder Creek - source to mouth			
SW-26	Rabbit Creek - source to mouth			

(3-29-12)

04. Upper Owyhee Subbasin. The Upper Owyhee Subbasin, HUC 17050104, is comprised of thirty-four (34) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Owyhee River - Juniper Creek to South Fork Owyhee River	COLD SS	PCR	DWS
SW-2	Unnamed Tributaries and playas of YP Desert (T14S, R04W)			
SW-3	Piute Creek - source to mouth			
SW-4	Juniper Creek - Juniper Basin Reservoir Dam to mouth			
SW-5	Juniper Basin Reservoir			
SW-6	Owyhee River - Idaho/Nevada border to Juniper Creek	COLD SS	PCR	DWS
SW-7	Blue Creek - Blue Creek Reservoir Dam to mouth			
SW-8	Boyle Creek Reservoir (Mt. View Lake)	COLD	PCR	
SW-9	Papoose/Mud Creek complex			
SW-10	Payne Creek - source to mouth			
SW-11	Squaw Creek - source to mouth			
SW-12	Little Blue Creek - source to mouth			
SW-13	Blue Creek - source to Blue Creek Reservoir Dam			
SW-14	Shoofly Creek - source to mouth			
SW-15	Harris Creek - source to mouth			
SW-16	Little Jarvis Lake			
SW-17	Rough Little Lake			
SW-18	Ross Lake			
SW-19	Juniper Lake			
SW-20	Henry Lake			
SW-21	Unnamed Tributary - source to mouth (T15S, R01W, Sec. 01)			
SW-22	Yatahoney Creek - source to mouth			
SW-23	Battle Creek - source to mouth			
SW-24	Dry Creek - source to mouth			
SW-25	Big Springs Creek - source to mouth			
SW-26	Deep Creek - source to mouth			
SW-27	Dickshooter Creek - source to mouth			
SW-28	Pole Creek - source to mouth			
SW-29	Camas Creek - source to mouth			
SW-30	Camel Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-31	Nickel Creek - source to mouth			
SW-32	Castle Creek - source to mouth			
SW-33	Beaver Creek - source to mouth			
SW-34	Red Canyon Creek - source to mouth	COLD	PCR	

(3-29-12)

05. South Fork Owyhee Subbasin. The South Fork Owyhee Subbasin, HUC 17050105, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	South Fork Owyhee River - Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-2	Spring Creek - source to mouth			
SW-3	Bull Camp Reservoir			
SW-4	Homer Wells Reservoir			
SW-5	Coyote Flat - source to mouth			

(3-29-12)

06. East Little Owyhee Subbasin. The East Little Owyhee Subbasin, HUC 17050106, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Little Owyhee River - Idaho/Nevada border to mouth	COLD SS	PCR	DWS
SW-2	Tent Creek- Idaho/Oregon border to mouth			

(3-29-12)

07. Middle Owyhee Subbasin. The Middle Owyhee Subbasin, HUC 17050107, is comprised of fourteen (14) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Owyhee River - South Fork Owyhee River to Idaho/Oregon border	COLD SS	PCR	DWS
SW-2	Oregon Lake Creek - source to Idaho/Oregon border			
SW-3	Field Creek - source to Idaho/Oregon border			

Unit	Waters	Aquatic Life	Recreation	Other
SW-4	Middle Fork Owyhee River - source to Idaho/Oregon border	COLD SS	PCR	DWS
SW-5	Pole Creek - source to Idaho/Oregon border			
SW-6	Squaw Creek - source to Idaho/Oregon border	COLD SS	PCR	
SW-7	Cottonwood Creek - source to mouth			
SW-8	North Fork Owyhee River - source to Idaho/Oregon border	COLD SS	PCR	DWS
SW-9	Pleasant Valley Creek - source to mouth	COLD	PCR	
SW-10	Noon Creek - source to mouth	COLD SS	PCR	
SW-11	Cabin Creek - source to mouth	COLD SS	PCR	
SW-12	Juniper Creek - source to mouth	COLD SS	PCR	
SW-13	Cherry Creek - source to Idaho/Oregon border			
SW-14	Soldier Creek - source to Idaho/Oregon border			

(3-29-12)

08. Jordan Subbasin. The Jordan Subbasin, HUC 17050108, is comprised of twenty-three (23) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Jordan Creek - Williams Creek to Idaho/Oregon border	COLD SS	PCR	
SW-2	Lone Tree Creek - source to mouth			
SW-3	Williams Creek - source to mouth	COLD	PCR	
SW-4	Jordan Creek - source to Williams Creek	COLD SS	PCR	
SW-5	Big Boulder Creek - confluence of North and South Fork Boulder Creeks to mouth			
SW-6	South Fork Boulder Creek - source to mouth			
SW-7	North Fork Boulder Creek - source to mouth			
SW-8	Mammoth Creek - source to mouth			
SW-9	Combination Creek - source to mouth			
SW-10	Rock Creek -Triangle Reservoir Dam to mouth			
SW-11	Rose Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-12	Josephine Creek - source to mouth			
SW-13	Rock Creek - source to and including Triangle Reservoir			
SW-14	Louisa Creek - source to Triangle Reservoir			
SW-15	Spring Creek - source to mouth			
SW-16	Deer Creek - source to mouth			
SW-17	Flint Creek - source to mouth			
SW-18	Louse Creek - source to mouth			
SW-19	Trout Creek - source to Idaho/Oregon border			
SW-20	Hooker Creek - source to Idaho/Oregon border			
SW-21	Cow Creek - source to Idaho/Oregon border			
SW-22	Soda Creek - source to mouth			
SW-23	Baxter Creek - source to Idaho/Oregon border			

(3-29-12)

09. North and Middle Fork Boise Subbasin. The North and Middle Fork Boise Subbasin, HUC 17050111, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Boise River - source to mouth	COLD SS	PCR	DWS
SW-2	East Fork Roaring River -source to mouth	COLD SS	PCR	
SW-3	Hot Creek - source to mouth	COLD SS	SCR	
SW-4	Yuba River - source to mouth	COLD SS	SCR	
SW-5	Decker Creek - source to mouth	COLD SS	SCR	
SW-6	Queens River - source to mouth	COLD SS	SCR	
SW-7	Little Queens River - source to mouth	COLD SS	SCR	
SW-8	Black Warrior Creek - source to mouth	COLD SS	SCR	
SW-9	Browns Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-10	North Fork Boise River - source to mouth	COLD SS	PCR	DWS
SW-11	Johnson Creek - source to mouth	COLD SS	SCR	
SW-12	Bear River - source to mouth	COLD SS	SCR	
SW-13	Big Owl/Little Owl Creeks - source to mouth	COLD SS	PCR	
SW-14	Crooked River - source to mouth	COLD SS	PCR	
SW-15	Rabbit Creek - source to mouth	COLD SS	PCR	
SW-16	Meadow Creek - source to mouth	COLD	SCR	
SW-17	French Creek - source to mouth	COLD SS	SCR	

(3-29-12)

10. Boise-Mores Subbasin. The Boise-Mores Subbasin, HUC 17050112, is comprised of seventeen (17) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Lucky Peak Reservoir (Boise River)	COLD SS	PCR	DWS
SW-2	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS
SW-3	Grouse Creek - source to Arrowrock Reservoir			
SW-4	Boise River - confluence of North and Middle Fork Boise Rivers to Arrowrock Reservoir	COLD SS	PCR	DWS
SW-5	Sheep Creek - source to mouth			
SW-6	Brown Creek - source to mouth			
SW-7	Cottonwood Creek - source to Arrowrock Reservoir			
SW-8	Deer Creek - source to Lucky Peak Reservoir			
SW-9	Mores Creek - source to Lucky Peak Reservoir	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
SW-10	Smith Creek - source to mouth			
SW-11	Thorn Creek - source to mouth			
SW-12	Elk Creek - source to mouth			--[1] ---------- DWS[2]
SW-13	Grimes Creek - source to mouth			
SW-14	Granite Creek - source to mouth	COLD	PCR	
SW-15	Macks Creek - source to mouth	COLD SS	PCR	
SW-16	Daggett Creek - source to mouth			
SW-17	Robie Creek - source to Lucky Peak Reservoir	COLD SS	PCR	

(4-11-19)

11. South Fork Boise Subbasin. The South Fork Boise Subbasin, HUC 17050113, is comprised of thirty-three (33) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Arrowrock Reservoir (Boise River)	COLD SS	PCR	DWS
SW-2a	Willow Creek - Cottonwood Creek to Arrowrock Reservoir	COLD SS	PCR	
SW-2b	Willow Creek - source to Cottonwood Creek			
SW-3	Wood Creek - source to mouth	COLD SS	PCR	
SW-4	South Fork Boise River - Anderson Ranch Dam to Arrowrock Reservoir	COLD SS	PCR	DWS
SW-5	Anderson Ranch Reservoir (Boise River)	COLD SS	PCR	DWS
SW-6	Little Camas Creek - Little Camas Reservoir Dam to Anderson Ranch Reservoir			
SW-7	Little Camas Creek Reservoir	SC	PCR	
SW-8	Little Camas Creek - source to Little Camas Creek Reservoir			
SW-9	Wood Creek - source to Anderson Ranch Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
SW-10	Lime Creek - source to Anderson Ranch Reservoir	COLD SS	SCR	
SW-11	South Fork Lime Creek - source to mouth			
SW-12	Deer Creek - source to Anderson Ranch Reservoir	COLD SS	SCR	
SW-13	South Fork Boise River - Willow Creek to Anderson Ranch Reservoir	COLD SS	PCR	DWS
SW-14	Grouse Creek - source to mouth	COLD SS	PCR	
SW-15	South Fork Boise River - Little Smoky Creek to Willow Creek	COLD SS	PCR	DWS
SW-16	Beaver Creek - source to mouth	COLD SS	SCR	
SW-17	Boardman Creek - source to mouth	COLD SS		
SW-18	Little Smoky Creek - source to mouth	COLD SS	SCR	
SW-19	Big Smoky Creek - source to mouth	COLD SS	PCR	
SW-20	Paradise Creek - source to mouth	COLD SS	SCR	
SW-21	South Fork Boise River - confluence of Ross Fork and Johnson Creeks to Little Smoky Creek	COLD SS	PCR	DWS
SW-22	Johnson Creek - source to mouth			
SW-23	Ross Fork - source to mouth	COLD SS	PCR	
SW-24	Skeleton Creek - source to mouth	COLD SS	PCR	
SW-25	Willow Creek - source to South Fork Boise River			
SW-26	Shake Creek - source to mouth	COLD SS	PCR	
SW-27	Feather Creek - source to mouth	COLD SS	PCR	--[1] ---------- DWS[2]
SW-28	Trinity Creek - source to mouth	COLD SS	PCR	
SW-29	Green Creek - source to mouth	COLD SS	SCR	
SW-30	Dog Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-31	Fall Creek - source to Anderson Ranch Reservoir	COLD SS	PCR	
SW-32	Smith Creek - source to mouth	COLD SS	PCR	
SW-33	Rattlesnake Creek - source to Arrowrock Reservoir	COLD SS	SCR	

(4-11-19)

12. Lower Boise Subbasin. The Lower Boise Subbasin, HUC 17050114, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Boise River- Indian Creek to mouth	COLD	PCR	
SW-2	Indian Creek - Sugar Ave. (T03N, R02W, Sec. 15) to mouth	COLD	SCR	
SW-3a	Split between New York Canal and historic creek bed to Sugar Ave. (T03N, R02W, Sec. 15)	COLD SS	SCR	
SW-3b	Indian Creek Reservoir to split between New York Canal and historic creek bed	COLD	SCR	
SW-3c	Indian Creek Reservoir	COLD	PCR	
SW-3d	Indian Creek - source to Indian Creek Reservoir	COLD	SCR	
SW-4	Lake Lowell	WARM	PCR	
SW-5	Boise River - river mile 50 (T04N, R02W, Sec. 32) to Indian Creek	COLD SS	PCR	
SW-6	Mason Creek - New York Canal to mouth		SCR	
SW-7	Fifteenmile Creek - Miller Canal to mouth		SCR	
SW-8	Tenmile Creek - Blacks Creek Reservoir Dam to Miller Canal	COLD	SCR	
SW-9	Blacks Creek - source to and including Blacks Creek Reservoir			
SW-10	Fivemile Creek - source to Miller Canal	COLD	SCR	
SW-11a	Boise River - Diversion Dam to river mile 50 (T04N, R02W, Sec. 32)	COLD SS	PCR	DWS
SW-11b	Boise River - Lucky Peak Dam to Diversion Dam	COLD	PCR	DWS
SW-12	Stewart Gulch, Cottonwood and Crane Creeks -source to mouth			
SW-13	Dry Creek - source to mouth			
SW-14	Big/Little Gulch Creek complex			
SW-15	Willow Creek - source to mouth			
SW-16	Langley/Graveyard Gulch complex			

Unit	Waters	Aquatic Life	Recreation	Other
SW-17	Sand Hollow Creek - source to mouth		SCR	

(3-29-12)

13. Middle Snake-Payette Subbasin. The Middle Snake-Payette Subbasin, HUC 17050115, is comprised of five (5) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River - the Idaho/Oregon border to Weiser River	COLD	PCR	DWS
SW-2	Homestead Gulch - source to mouth			
SW-3	Ashlock Gulch - source to mouth			
SW-4	Hurd Gulch - source to mouth			
SW-5	Sand Hollow - source to mouth			

(3-20-04)

14. South Fork Payette Subbasin. The South Fork Payette Subbasin, HUC 17050120, is comprised of twenty-one (21) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	South Fork Payette River - Trail Creek to mouth	COLD SS	PCR	DWS
SW-2	Rock Creek - source to mouth			
SW-3	Tenmile Creek - source to mouth			
SW-4	Wapiti Creek - source to mouth			
SW-5	South Fork Payette River - source to and including Trail Creek	COLD SS	PCR	DWS
SW-6	Goat Creek - source to mouth			
SW-7	Baron Creek - source to mouth			
SW-8	Bear Creek - source to mouth			
SW-9	Canyon Creek - source to mouth			
SW-10	Warm Spring Creek - source to mouth			
SW-11	Eightmile Creek - source to mouth			
SW-12	Fivemile Creek - source to mouth			
SW-13	Clear Creek - source to mouth			
SW-14	Deadwood River - Deadwood Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-15	Whitehawk Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-16	Warm Springs Creek - source to mouth			
SW-17	Wilson Creek - source to mouth			
SW-18	Deadwood Reservoir	COLD SS	PCR	DWS
SW-19	Deadwood River - source to Deadwood Reservoir	COLD SS	PCR	DWS
SW-20	Scott Creek - source to mouth			
SW-21	Big Pine Creek - source to mouth			

(3-29-12)

15. Middle Fork Payette Subbasin. The Middle Fork Payette Subbasin, HUC 17050121, is comprised of ten (10) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Middle Fork Payette River - Big Bulldog Creek to mouth	COLD SS	PCR	DWS
SW-2	Anderson Creek - source to mouth	COLD SS	PCR	
SW-3	Lightning Creek - source to mouth	COLD SS	PCR	
SW-4	Big Bulldog Creek - source to mouth	COLD SS	PCR	
SW-5	Middle Fork Payette River - source to Big Bulldog Creek	COLD SS	PCR	DWS
SW-6	Rattlesnake Creek - source to mouth	COLD SS	PCR	
SW-7	Silver Creek - source to mouth	COLD SS	PCR	
SW-8	Peace Creek - source to mouth	COLD SS	PCR	
SW-9	Bull Creek - source to mouth	COLD SS	PCR	
SW-10	Scriver Creek - source to mouth	COLD SS	PCR	

(3-29-12)

16. Payette Subbasin. The Payette Subbasin, HUC 17050122, is comprised of twenty-one (21) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Payette River - Black Canyon Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-2	Black Canyon Reservoir	COLD SS	PCR	DWS
SW-3	Payette River - confluence of the North Fork and South Fork Payette Rivers to Black Canyon Reservoir	COLD SS	PCR	DWS
SW-4	Shafer Creek - source to mouth	COLD SS	PCR	--[1] ---------- DWS[2]
SW-5	Harris Creek - source to mouth	COLD SS	PCR	
SW-6	Porter Creek - source to mouth			
SW-7	Hill Creek - source to mouth			
SW-8	South Fork Payette River - Middle Fork Payette River to mouth	COLD SS	PCR	DWS
SW-9	Deer Creek - source to mouth			
SW-10	Squaw Creek - source to mouth	COLD SS	PCR	
SW-11	Little Squaw Creek - source to mouth			
SW-12	Soldier Creek - source to mouth			
SW-13	Pine Creek - source to mouth			
SW-14	Second Fork Squaw Creek - source to mouth			
SW-15	Bissel Creek - source to mouth			
SW-16	Sand Hollow - source to mouth			
SW-17	Big Willow Creek - source to mouth	COLD SS	PCR	
SW-18	Little Willow Creek - Paddock Valley Reservoir Dam to mouth			
SW-19	Indian Creek - source to mouth			
SW-20	Paddock Valley Reservoir			
SW-21	Little Willow Creek - source to Paddock Valley Reservoir			

(4-11-19)

17. North Fork Payette Subbasin. The North Fork Payette Subbasin, HUC 17050123, is comprised of twenty-two (22) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	North Fork Payette River - Cascade Reservoir Dam to mouth	COLD SS	PCR	DWS
SW-2	Round Valley Creek - source to mouth			
SW-3	Clear Creek - source to mouth			
SW-4	Big Creek - source to mouth			
SW-5	Horsethief Reservoir			--[1] ---------- DWS[2]
SW-6	Beaver Creek - source to mouth			
SW-7	Cascade Reservoir	COLD SS	PCR	DWS
SW-8	Gold Fork - source to Cascade Reservoir	COLD SS	PCR	DWS
SW-9	Flat Creek - source to mouth			
SW-10	Kennally Creek - source to mouth			
SW-11	Boulder Creek - source to Cascade Reservoir			
SW-12	Lake Fork - Little Payette Lake to Cascade Reservoir	COLD SS	PCR	DWS
SW-13	Little Payette Lake	COLD SS	PCR	
SW-14	Lake Fork - source to Little Payette Lake	COLD SS	PCR	DWS
SW-15	Mud Creek - source to Cascade Reservoir			
SW-16	North Fork Payette River - Payette Lake to Cascade Reservoir	COLD SS	PCR	DWS
SW-17	Payette Lake	COLD SS	PCR	DWS
SW-18	North Fork Payette River - Upper Payette Lake to Payette Lake	COLD SS	PCR	DWS
SW-19	Upper Payette Lake	COLD SS	PCR	DWS
SW-20	Twentymile Creek - source to mouth	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
SW-21	North Fork Payette River - source to Upper Payette Lake	COLD SS	PCR	DWS
SW-22	Fisher Creek - source to mouth			

(4-11-19)

18. Weiser Subbasin. The Weiser Subbasin, HUC 17050124, is comprised of thirty-three (33) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Weiser River - Keithly Creek to mouth	COLD	PCR	DWS
SW-2	Cove Creek - source to mouth			
SW-3	Crane Creek - Crane Creek Reservoir Dam to mouth	COLD	PCR	
SW-4	Crane Creek Reservoir	COLD	PCR	
SW-5	South Fork Crane Creek - source to Crane Creek Reservoir			
SW-6	North Crane Creek - source to Crane Creek Reservoir			
SW-7	Weiser River - source to Keithly Creek	COLD	PCR	DWS
SW-8	Little Weiser River - source to mouth	COLD SS	PCR	DWS
SW-9	Ben Ross Creek - source to mouth			
SW-10	Mill Creek - source to mouth			
SW-11	Anderson Creek - source to mouth			
SW-12	Grays Creek - source to mouth			
SW-13	Bacon Creek - source to mouth			
SW-14	Middle Fork Weiser River - source to mouth	COLD SS	PCR	DWS
SW-15	Cottonwood Creek - source to mouth			
SW-16	East Fork Weiser River - source to mouth			
SW-17	West Fork Weiser River - source to mouth	COLD SS	PCR	DWS
SW-18	Lost Creek - Lost Valley Reservoir Dam to mouth			
SW-19	Lost Valley Reservoir			
SW-20	Lost Creek - source to Lost Valley Reservoir			
SW-21	Hornet Creek - source to mouth			
SW-22	Johnson Creek - source to mouth	COLD SS	PCR	
SW-23	Goodrich Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-24	Cow Creek - source to mouth			
SW-25	Rush Creek - source to mouth			
SW-26	Spring Creek - source to mouth			
SW-27	Pine Creek - source to mouth	COLD SS	PCR	
SW-28	Keithly Creek - source to mouth			
SW-29	Sage Creek - source to mouth			
SW-30	Mann Creek - Mann Creek Reservoir Dam to mouth	COLD SS	PCR	
SW-31	Mann Creek Reservoir	COLD SS	PCR	
SW-32	Mann Creek - source to Mann Creek Reservoir	COLD SS	PCR	
SW-33	Monroe Creek - source to mouth			

(3-29-12)

19. Brownlee Reservoir Subbasin. The Brownlee Reservoir Subbasin, HUC 17050201, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
SW-1	Snake River (Hells Canyon Reservoir) - Oxbow Dam to Hells Canyon Dam	COLD	PCR	DWS
SW-2	Snake River (Oxbow Reservoir) - Brownlee Dam to Oxbow Dam	COLD	PCR	DWS
SW-3	Snake River (Brownlee Reservoir) - Scott Creek to Brownlee Dam	COLD	PCR	DWS
SW-4	Snake River - Weiser River to Scott Creek	COLD	PCR	DWS
SW-5	Jenkins Creek - source to mouth	COLD	PCR	
SW-6	Scott Creek - source to mouth			
SW-7	Warm Springs Creek - source to mouth			
SW-8	Hog Creek - source to mouth			
SW-9	Grouse Creek - source to mouth			
SW-10	Rock Creek - source to mouth			
SW-11	Wolf Creek - source to mouth			
SW-12	Dennett Creek - source to mouth			
SW-13	Sturgill Creek - source to mouth			
SW-14	Brownlee Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
SW-15	Wildhorse River - confluence of Bear Creek and including Crooked River to mouth	COLD SS	PCR	
SW-16	Bear Creek - source to mouth	COLD SS	PCR	
SW-17	Indian Creek - source to mouth			

(3-29-12)

141. -- 149. (RESERVED)

150. UPPER SNAKE BASIN.
Surface waters found within the Upper Snake basin total twenty-three (23) subbasins and are designated as follows:
(4-5-00)

01. Palisades Subbasin. The Palisades Subbasin, HUC 17040104, is comprised of thirty-one (31) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Black Canyon Creek to river mile 856 (T03N, R41E, Sec. 16)	COLD SS	PCR	DWS
US-2	Antelope Creek - source to mouth			
US-3	Snake River - Fall Creek to Black Canyon Creek	COLD SS	PCR	DWS
US-4	Pritchard Creek - source to mouth			
US-5	Fall Creek - South Fork Fall Creek to mouth			
US-6	Fall Creek - source to South Fork Fall Creek			
US-7	South Fork Fall Creek - source to mouth			
US-8	Snake River - Palisades Reservoir Dam to Fall Creek	COLD SS	PCR	DWS
US-9	Indian Creek - source to mouth			
US-10	Palisades Reservoir	COLD SS	PCR	DWS
US-11	Bear Creek - North Fork Bear Creek to Palisades Reservoir			
US-12	North Fork Bear Creek - source to mouth			
US-13	Bear Creek - source to North Fork Bear Creek			
US-14	McCoy Creek - Fish Creek to Palisades Reservoir			
US-15	McCoy Creek - Iowa Creek to Fish Creek			
US-16	McCoy Creek - Clear Creek to Iowa Creek			
US-17	Wolverine Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-18	Clear Creek - source to mouth			
US-19	McCoy Creek - source to Clear Creek			
US-20	Iowa Creek - source to mouth			
US-21	Fish Creek - source to mouth			
US-22	Trout Creek - source to mouth			
US-23	Burns Creek - source to Idaho/Wyoming border			
US-24	Indian Creek - Idaho/Wyoming border to Palisades Reservoir			
US-25	Big Elk Creek - Idaho/Wyoming border to Palisades Reservoir			
US-26	Little Elk Creek - source to Palisades Reservoir			
US-27	Palisades Creek - source to mouth			
US-28	Rainey Creek - source to mouth			
US-29	Pine Creek - source to mouth			
US-30	Black Canyon Creek - source to mouth			
US-31	Burnt Canyon Creek - source to mouth			

(3-29-12)

02. Salt Subbasin. The Salt Subbasin, HUC 17040105, is comprised of twelve (12) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Tributaries of Salt River - source to Idaho/Wyoming border (T04S, R46E)			
US-2	Jackknife Creek - source to Idaho/Wyoming border			
US-3	Tincup Creek - source to Idaho/Wyoming border			
US-4	South Fork Tincup Creek - source to mouth			
US-5	Tributaries of Salt River - source to Idaho/Wyoming border (T06S, R46E and T07S, R46E)			
US-6	Stump Creek - source to Idaho/Wyoming border			
US-7	Tygee Creek - source to mouth			
US-8	Crow Creek - source to Idaho/Wyoming border			
US-9	Sage Creek - source to mouth			
US-10	Deer Creek - source to mouth			
US-11	Rock Creek - source to mouth			
US-12	Spring Creek - source to mouth			

(4-5-00)

03. Idaho Falls Subbasin. The Idaho Falls Subbasin, HUC 17040201, is comprised of seventeen (17) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Dry Bed Creek to river mile 791 (T01N, R37E, Sec. 10)	COLD SS	PCR	DWS
US-2	South Fork Willow Creek - source to mouth			
US-3	North Fork Willow Creek - source to mouth			
US-4	Dry Bed Creek - source to mouth			
US-5	Sand Creek complex			
US-6	Crow Creek - Willow Creek to mouth			
US-7	Crow Creek - source to Willow Creek			
US-8	Birch Creek - source to mouth			
US-9	Snake River - Annis Slough to Dry Bed Creek	COLD SS	PCR	DWS
US-10	Spring Creek - canal (T05N, R38E) to mouth			
US-11	Spring Creek - source to canal (T05N, R38E)			
US-12	Snake River - Dry Bed to Annis Slough	COLD SS	PCR	DWS
US-13	Snake River - river mile 856 (T03N, R41E, Sec. 16) to Dry Bed Creek	COLD SS	PCR	DWS
US-14	Lyons Creek - source to mouth			
US-15	Unnamed Tributary - source to mouth (T8N, R38E)			
US-16	Market Lake			
US-17	Kettle Butte complex			

(4-5-00)

04. Upper Henrys Subbasin. The Upper Henrys Subbasin, HUC 17040202, is comprised of fifty-two (52) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Henrys Fork - Warm River to Ashton Reservoir Dam	COLD SS	PCR	DWS
US-2	Warm River - Warm River Spring to mouth	COLD SS	PCR	DWS
US-3	Moose Creek - source to confluence with Warm River			
US-4	Partridge Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-5	Warm River - source to Warm River Spring	COLD SS	PCR	DWS
US-6	Robinson Creek - Rock Creek to mouth			
US-7	Porcupine Creek - source to mouth	COLD SS	SCR	
US-8	Rock Creek - Wyoming Creek to mouth			
US-9	Wyoming Creek - Idaho/Wyoming border to mouth			
US-10	Rock Creek - source to Wyoming Creek			
US-11	Robinson Creek - Idaho/Wyoming border and sources west of border to Rock Creek			
US-12	Snow Creek - source to mouth			
US-13	Fish Creek - source to mouth			
US-14	Henrys Fork - Thurman Creek to Warm River	COLD SS	PCR	DWS
US-15	Henrys Fork - Island Park Reservoir Dam to Thurman Creek	COLD SS	PCR	DWS
US-16	Buffalo River - Elk Creek to mouth	COLD SS	PCR	DWS
US-17	Toms Creek - source to mouth			
US-18	Buffalo River - source to Elk Creek	COLD SS	PCR	DWS
US-19	Elk Creek - source to mouth			
US-20	Island Park Reservoir	COLD SS	PCR	DWS
US-21	Henrys Fork - Confluence of Big Springs and Henrys Lake Outlet to Island Park Reservoir	COLD SS	PCR	DWS
US-22	Moose Creek - source to confluence with Henrys Fork			
US-23	Big Springs - source to mouth	COLD SS	PCR	DWS
US-24	Thirsty Creek - Idaho/ Wyoming border to mouth	COLD SS	SCR	
US-25	Henrys Lake Outlet - Henrys Lake Dam to mouth	COLD SS	PCR	DWS
US-26	Meadows Creek - source to mouth			
US-27	Reas Pass Creek - source to sink			
US-28	Jones Creek - source to mouth			
US-29	Jesse Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-30	Twin Creek - source to mouth			
US-31	Tygee Creek - source to sink			
US-32	Henrys Lake	COLD	SCR	
US-33	Howard Creek - source to mouth	COLD SS	SCR	
US-34	Targhee Creek - source to mouth	COLD SS	SCR	
US-35	Timber Creek - source to mouth			
US-36	Duck Creek - source to mouth	COLD SS	SCR	
US-37	Rock Creek - source to mouth			
US-38	Hope Creek - source to mouth			
US-39	Crooked Creek - source to mouth			
US-40	Hotel Creek - source to mouth	COLD SS	SCR	
US-41	Yale Creek - source to mouth	COLD SS	SCR	
US-42	Blue Creek - source to mouth			
US-43	Sheep Creek - source to mouth			
US-44	Icehouse Creek - source to Island Park Reservoir	COLD SS	SCR	
US-45	Sheridan Creek - Kilgore Road (T13N, R41E, Sec. 07) to mouth	COLD SS	SCR	
US-46	Willow Creek - source to mouth			
US-47	Myers Creek - source to mouth			
US-48	Sheridan Creek - source to Kilgore Road (T13N, R41E, Sec. 07)	COLD SS	SCR	
US-49	Sheridan Reservoir			
US-50	Dry Creek - source to Sheridan Reservoir			
US-51	Thurman Creek - source to mouth			
US-52	Rattlesnake Creek - source to mouth			

(3-29-12)

05. Lower Henrys Subbasin. The Lower Henrys Subbasin, HUC 17040203, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Henrys Fork - South Fork Teton River to hydrologic unit boundary	COLD SS	PCR	DWS
US-2	Henry's Fork - North Fork Teton River to South Fork Teton River	COLD SS	PCR	DWS
US-3	Henrys Fork - Falls River to North Fork Teton River	COLD SS	PCR	DWS
US-4	Falls River - Conant Creek to mouth	COLD SS	PCR	DWS
US-5	Conant Creek - Squirrel Creek to mouth			
US-6	Conant Creek - Idaho/Wyoming border to Squirrel Creek			
US-7	Squirrel Creek - Idaho/Wyoming border to mouth			
US-8	Falls River - Boone Creek to Conant Creek	COLD SS	PCR	DWS
US-9	Falls River - Idaho/Wyoming border to Boone Creek	COLD SS	PCR	DWS
US-10	Boone Creek - Idaho/Wyoming border to mouth			
US-11	Boundary Creek - Idaho/Wyoming border (T12N, R46E, Sec. 06) to Idaho/Wyoming border, (T12N, R46E, Sec. 31)			
US-12	Henrys Fork - Ashton Reservoir Dam to Falls River	COLD SS	PCR	DWS
US-13	Sand Creek - Pine Creek to mouth			
US-14	Pine Creek - source to mouth			
US-15	Sand Creek - source to Pine Creek			
US-16	Warm Slough - source to mouth			

(3-29-12)

06. Teton Subbasin. The Teton Subbasin, HUC 17040204, is comprised of sixty-five (65) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	South Fork Teton River - Teton River Forks to Henrys Fork	COLD SS	SCR	
US-2	North Fork Teton River - Teton River Forks to Henrys Fork	COLD SS	SCR	
US-3	Teton River - Teton Dam to Teton River Forks	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-4	Teton River - Canyon Creek to Teton Dam	COLD SS	PCR	DWS
US-5	Moody Creek - confluence of North and South Fork Moody Creeks to canal			
US-6	South Fork Moody Creek - source to mouth			
US-7	North Fork Moody Creek - source to mouth			
US-8	Canyon Creek - Warm Creek to mouth			
US-9	Canyon Creek - source to Warm Creek			
US-10	Calamity Creek - source to mouth			
US-11	Warm Creek - source to mouth			
US-12	Teton River - Milk Creek to Canyon Creek	COLD SS	PCR	DWS
US-13	Milk Creek - source to mouth			
US-14	Teton River - Felt Dam outlet to Milk Creek	COLD SS	PCR	DWS
US-15	Teton River - Felt Dam pool			
US-16	Teton River - Highway 33 bridge to Felt Dam pool	COLD SS	PCR	DWS
US-17	Teton River - Cache Bridge (NW ¼, NE ¼, Sec. 1, T5N, R44E) to Highway 33 bridge	COLD SS	PCR	DWS
US-18	Packsaddle Creek - diversion (NE ¼ Sec. 8, T5N, R44E) to mouth			
US-19	Packsaddle Creek - source to diversion (NE ¼ Sec. 8, T5N, R44E)			
US-20	Teton River - Teton Creek to Cache Bridge NW ¼, NE ¼, Sec. 1, T5N, R44E)	COLD SS	PCR	DWS
US-21	Horseshoe Creek - pipeline diversion (SE ¼, NW ¼, Sec. 27, T5N, R44E) to mouth			
US-22	Horseshoe Creek - source to pipeline diversion (SE ¼, NW ¼, Sec. 27, T5N, R44E)			
US-23	Twin Creek - source to mouth			
US-24	Mahogany Creek - pipeline diversion (NE ¼, Sec. 27, T4N, R44E) to mouth			
US-25	Mahogany Creek - source to pipeline diversion (NE ¼, Sec. 27, T4N, R44E)			
US-26	Teton River - Trail Creek to Teton Creek	COLD SS	PCR	DWS
US-27	Henderson Creek - source to sink			
US-28	Teton River - confluence of Warm Creek and Drake Creek to Trail Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-29	Patterson Creek - pump diversion (SE ¼, Sec. 31, T4N, R44E) to mouth			
US-30	Patterson Creek - source to pump diversion (SE ¼, Sec. 31, T4N, R44E)			
US-31	Grove Creek - source to sink			
US-32	Drake Creek - source to mouth			
US-33	Little Pine Creek - source to mouth			
US-34	Warm Creek - source to mouth			
US-35	Trail Creek - Trail Creek pipeline diversion (SW ¼, SE ¼, Sec 19, T3N, R46E) to mouth			
US-36	Game Creek - diversion (SW ¼, SW ¼, Sec. 17, T3N, R46E) to mouth			
US-37	Game Creek - source to diversion (SW ¼, SW ¼, Sec. 17, T3N, R46E)			
US-38	Trail Creek - Idaho/Wyoming border to Trail Creek pipeline diversion (SW ¼, SE ¼, Sec 19, T3N, R46E)			
US-39	Moose Creek - Idaho/Wyoming border to mouth			
US-40	Fox Creek - SE ¼, SW ¼, Sec. 28, T4N, R45E to confluence with Teton River, including spring creek tributaries			
US-41	Fox Creek - North Fox Creek Canal (NW ¼, Sec 29 T4N, R46E) to SE ¼, SW ¼, Sec. 28, T4N, R45E			
US-42	Fox Creek - Idaho/Wyoming border to North Fox Creek Canal (NW ¼, Sec 29 T4N, R46E)			
US-43	Foster Creek spring creek complex - south to Fox Creek and north to Darby Creek			
US-44	Darby Creek - SW ¼, SE ¼, S10, T4N, R45E, to mouth, including spring creek tributaries			
US-45	Darby Creek - Idaho/Wyoming border to SW ¼, SE ¼, Sec. 10, T4N, R45E			
US-46	Dick Creek spring complex - south to Darby Creek and north to Teton Creek			
US-47	Teton Creek - Highway 33 bridge to mouth, including spring creek tributaries			
US-48	Teton Creek - Idaho/Wyoming border to Highway 33 bridge			
US-49	Driggs Springs spring creek complex - located between Teton Creek and Woods Creek			
US-50	Woods Creek - source to mouth, including spring creek tributaries and spring creek complex north of Woods Creek to latitude 43 degrees, 45.5 minutes north.			

Unit	Waters	Aquatic Life	Recreation	Other
US-51	Dry Creek - Idaho/Wyoming border to sinks (SE ¼, NE ¼, S12, T5N, R45E)			
US-52	South Leigh Creek - SE ¼, NE ¼, Sec. 1 T5N, R44E to mouth			
US-53	South Leigh Creek - Idaho/Wyoming border to SE ¼, NE ¼, Sec. 1 T5N, R44			
US-54	Spring Creek - North Leigh Creek to mouth			
US-55	North Leigh Creek - Idaho/Wyoming border to mouth			
US-56	Spring Creek - source to North Leigh Creek, including Spring Creek complex north of Spring Creek to latitude 43 degrees, 49.9 minutes north			
US-57	Badger Creek - spring (NW ¼, SW ¼, Sec. 26 T7N, R44E) to mouth			
US-58	Badger Creek - diversion (NW ¼, SW ¼, Sec. 9, T6N, R45E) to spring (NW ¼, SW ¼, Sec. 26 T7N, R44E)			
US-59	Badger Creek - source to diversion (NW ¼, SW ¼, Sec. 9, T6N, R45E			
US-60	South Fork Badger Creek - diversion (NE ¼, NE ¼, Sec. 12, T6N, R45E) to mouth			
US-61	South Fork Badger Creek - Idaho/Wyoming border to diversion (NE ¼, NE ¼, Sec. 12, T6N, R45E)			
US-62	North Fork Badger Creek - Idaho/Wyoming border to mouth			
US-63	Bitch Creek - Swanner Creek to mouth			
US-64	Swanner Creek - Idaho/Wyoming border to mouth			
US-65	Bitch Creek - Idaho/Wyoming border to Swanner Creek			

(3-29-12)

07. Willow Subbasin. The Willow Subbasin, HUC 17040205, is comprised of thirty-two (32) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Willow Creek - Ririe Reservoir Dam to Eagle Rock Canal	COLD SS	SCR	
US-2	Ririe Reservoir (Willow Creek)	COLD SS	PCR	DWS
US-3	Blacktail Creek - source to Ririe Reservoir			
US-4	Willow Creek - Bulls Fork to Ririe Reservoir	COLD SS	PCR	DWS
US-5	Willow Creek - Birch Creek to Bulls Fork	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-6	Birch Creek - source to mouth			
US-7	Squaw Creek - source to mouth			
US-8	Willow Creek - Mud Creek to Birch Creek	COLD SS	PCR	DWS
US-9	Mud Creek - source to mouth			
US-10	Sellars Creek - source to mouth			
US-11	Willow Creek - Crane Creek to Mud Creek	COLD SS	PCR	DWS
US-12	Mill Creek - source to mouth			
US-13	Willow Creek - source to Crane Creek	COLD SS	PCR	DWS
US-14	Crane Creek - source to mouth			
US-15	Long Valley Creek - source to mouth			
US-16	Grays Lake outlet - Hell Creek to mouth			
US-17	Grays Lake outlet - Homer Creek to Hell Creek			
US-18	Homer Creek - source to mouth			
US-19	Grays Lake outlet - Brockman Creek to Homer Creek			
US-20	Grays Lake outlet - Grays Lake to Brockman Creek			
US-21	Grays Lake			
US-22	Little Valley Creek - source to mouth			
US-23	Gravel Creek - source to mouth			
US-24	Brockman Creek - Corral Creek to mouth			
US-25	Brockman Creek - source to Corral Creek			
US-26	Corral Creek - source to mouth			
US-27	Sawmill Creek - source to mouth			
US-28	Lava Creek - source to mouth			
US-29	Hell Creek - source to mouth			
US-30	Bulls Fork - source to mouth			
US-31	Tex Creek - source to mouth			
US-32	Meadow Creek - source to Ririe Reservoir			

(3-29-12)

08. American Falls Subbasin. The American Falls Subbasin, HUC 17040206, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	American Falls Reservoir (Snake River)	COLD	PCR	DWS
US-2	Bannock Creek - source to American Falls Reservoir	COLD	SCR	
US-3	Starlight Creek - source to mouth			
US-4	Blind Spring - source to mouth			
US-5	Sunbeam Creek - source to mouth			
US-6	Moonshine Creek - source to mouth			
US-7	Sawmill Creek - source to mouth			
US-8	West Fork Bannock Creek - source to mouth			
US-9	Knox Creek - source to mouth			
US-10	Rattlesnake Creek - source to mouth			
US-11	Clifton Creek - source to mouth			
US-12	Midnight Creek - source to mouth			
US-13	Michaud Creek - source to mouth			
US-14	Ross Fork - Gibson Canal to American Falls Reservoir			
US-15	Ross Fork - Indian Creek to Gibson Canal			
US-16	Indian Creek - source to mouth			
US-17	South Fork Ross Fork - source to mouth			
US-18	Ross Fork - source to South Fork Ross Fork			
US-19	Clear Creek - source to American Falls Reservoir			
US-20	Spring Creek - source to American Falls Reservoir			
US-21	Big Jimmy Creek - source to American Falls Reservoir			
US-22	Snake River - river mile 791 (T01N, R37E, Sec. 10) to American Falls Reservoir	COLD SS	PCR	DWS
US-23	Jeff Cabin Creek - source to mouth			
US-24	McTucker Creek - source to American Falls Reservoir			
US-25	Little Hole Draw - source to American Falls Reservoir			
US-26	Pleasant Valley - source to American Falls Reservoir			

(4-5-00)

09. Blackfoot Subbasin. The Blackfoot Subbasin, HUC 17040207, is comprised of thirty-one (31) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Blackfoot River - Fort Hall Main Canal diversion to mouth		SCR	

Unit	Waters	Aquatic Life	Recreation	Other
US-2	Blackfoot River - Blackfoot Reservoir Dam to Fort Hall Main Canal diversion	COLD SS	PCR	
US-3	Garden Creek - source to mouth			
US-4	Wood Creek - source to mouth			
US-5	Grave Creek - source to mouth			
US-6	Corral Creek - source to mouth			
US-7	Grizzly Creek - source to mouth			
US-8	Thompson Creek - source to mouth			
US-9	Blackfoot Reservoir	COLD	PCR	
US-10	Blackfoot River - confluence of Lanes and Diamond Creeks to Blackfoot Reservoir	COLD SS	PCR	DWS
US-11	Trail Creek - source to mouth			
US-12	Slug Creek - source to mouth			
US-13	Dry Valley Creek - source to mouth			
US-14	Maybe Creek - source to mouth			
US-15	Mill Canyon - source to mouth			
US-16	Diamond Creek - source to mouth			
US-17	Timothy Creek - source to mouth			
US-18	Lanes Creek - source to mouth			
US-19	Bacon Creek - source to mouth			
US-20	Browns Canyon Creek - source to mouth			
US-21	Chippy Creek - source to mouth			
US-22	Sheep Creek - source to mouth			
US-23	Angus Creek - source to mouth			
US-24	Wooley Valley - source to mouth			
US-25	Meadow Creek - source to Blackfoot Reservoir			
US-26	Brush Creek - source to mouth			
US-27	Rawlins Creek - source to mouth			
US-28	Miner Creek - source to mouth			
US-29	Cedar Creek - source to mouth			
US-30	Wolverine Creek - source to mouth			
US-31	Jones Creek - source to mouth			

(3-29-12)

10. Portneuf Subbasin. The Portneuf Subbasin, HUC 17040208, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Portneuf River - Marsh Creek to American Falls Reservoir	COLD SS	SCR	
US-2	City Creek - source to mouth			
US-3	Gibson Jack Creek - source to mouth			
US-4	Mink Creek - source to mouth			
US-5	Indian Creek - source to mouth			
US-6	Marsh Creek - source to mouth	COLD	SCR	
US-7	Walker Creek - source to mouth			
US-8	Bell Marsh Creek - source to mouth			
US-9	Goodenough Creek - source to mouth			
US-10	Garden Creek - source to mouth			
US-11	Hawkins Creek - Hawkins Reservoir Dam to mouth			
US-12	Hawkins Reservoir			
US-13	Hawkins Creek - source to Hawkins Reservoir			
US-14	Cherry Creek - source to mouth			
US-15	Birch Creek - source to mouth			
US-16	Portneuf River - Chesterfield Reservoir Dam to Marsh Creek	COLD SS	PCR	DWS
US-17	Dempsey Creek - source to mouth			
US-18	Twentyfourmile Creek - source to mouth			
US-19	Chesterfield Reservoir			
US-20	Portneuf River - source to Chesterfield Reservoir	COLD SS	PCR	DWS
US-21	Toponce Creek - source to mouth			
US-22	Pebble Creek - source to mouth			
US-23	Rapid Creek - source to mouth			
US-24	Pocatello Creek - confluence of North and South Fork Pocatello Creeks to mouth			
US-25	South Fork Pocatello Creek - source to mouth			
US-26	North Fork Pocatello Creek - source to mouth			

(3-29-12)

11. Lake Walcot Subbasin. The Lake Walcot Subbasin, HUC 17040209, is comprised of thirteen (13) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Heyburn/Burley Bridge (T10S, R23E, Sec.17) to Milner-Gooding Canal	WARM	PCR	
US-2	Snake River - Minidoka Dam to Heyburn/Burley Bridge (T10S, R23E, Sec.17)	COLD SS	PCR	
US-3	Marsh Creek - source to mouth			
US-4	Lake Walcott (Snake River)	COLD	PCR	DWS
US-5	Snake River - Raft River to Lake Walcott	COLD	PCR	DWS
US-6	Snake River - Rock Creek to Raft River	COLD	PCR	DWS
US-7	Fall Creek - source to mouth			
US-8	Rock Creek - confluence of South and East Fork Rock Creeks to mouth	COLD SS	PCR	
US-9	South Fork Rock Creek - source to mouth			
US-10	East Fork Rock Creek - source to mouth			
US-11	Snake River - American Falls Reservoir Dam to Rock Creek	COLD	PCR	DWS
US-12	Warm Creek - source to mouth			
US-13	Craters of the Moon complex			

(4-5-00)

12. Raft Subbasin. The Raft Subbasin, HUC 17040210, is comprised of twenty-three (23) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Raft River - Heglar Canyon Creek to mouth			
US-2	Raft River - Cassia Creek to Heglar Canyon Creek	COLD SS	PCR	
US-3	Cassia Creek - Conner Creek to mouth			
US-4	Conner Creek - source to mouth			
US-5	Cassia Creek - Clyde Creek to Conner Creek			
US-6	Clyde Creek - source to mouth			
US-7	Cassia Creek - source to Clyde Creek			
US-8	Raft River - Cottonwood Creek to Cassia Creek	COLD SS	PCR	
US-9	Cottonwood Creek - source to mouth			
US-10	Raft River - Unnamed Tributary (T15S, R26E, Sec. 24) to Cottonwood Creek	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
US-11	Grape Creek - source to mouth			
US-12	Edwards Creek - source to mouth			
US-13	Raft River - Idaho/Utah border to Edwards Creek	COLD SS	PCR	
US-14	Junction Creek - source to Idaho/Utah border			
US-15	Cottonwood Creek - source to Idaho/Utah border			
US-16	Clear Creek - Idaho/Utah border to mouth			
US-17	Kelsaw Canyon Creek - source to mouth			
US-18	Meadow Creek - source to mouth			
US-19	Sublett Creek - Sublett Reservoir Dam to mouth			
US-20	Sublett Reservoir			
US-21	Sublett Creek - source to Sublett Reservoir			
US-22	Lake Fork - source to Sublett Reservoir			
US-23	Heglar Canyon Creek - source to mouth			

(4-5-00)

13. Goose Subbasin. The Goose Subbasin, HUC 17040211, is comprised of fourteen (14) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Big Cottonwood Creek - source to mouth			
US-2	Lower Goose Creek Reservoir	COLD SS	PCR	
US-3	Trapper Creek - from and including Squaw Creek to Lower Goose Creek Reservoir			
US-4	Trapper Creek - source to Squaw Creek			
US-5	Goose Creek - Beaverdam Creek to Lower Goose Creek Reservoir	COLD SS	PCR	
US-6	Beaverdam Creek - source to mouth			
US-7	Trout Creek - source to Idaho/Utah border			
US-8	Goose Creek - source to Idaho/Utah border	COLD SS	PCR	
US-9	Birch Creek - Idaho/Utah border to mouth			
US-10	Blue Hill Creek - source to mouth			
US-11	Cold Creek - source to mouth			
US-12	Birch Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-13	Mill Creek - source to mouth			
US-14	Land/Willow/Smith Creek complex			

(4-5-00)

14. Upper Snake-Rock Subbasin. The Upper Snake-Rock Subbasin, HUC 17040212, is comprised of forty-one (41) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Snake River - Lower Salmon Falls to Clover Creek	COLD SS	PCR	
US-2	Big Pilgrim Gulch - source to mouth			
US-3	Cassia Gulch - source to mouth			
US-4	Tuana Gulch - source to mouth			
US-5	Snake River - Box Canyon Creek to Lower Salmon Falls	COLD SS	PCR	
US-6	Riley Creek - source to mouth	COLD SS	PCR	DWS
US-7	Snake River - Rock Creek to Box Canyon Creek	COLD SS	PCR	
US-8	Deep Creek - High Line Canal to mouth	COLD SS	SCR	
US-9	Deep Creek - source to High Line Canal	COLD SS	SCR	
US-10	Mud Creek - Deep Creek Road (T09S, R14E) to mouth	COLD SS	SCR	
US-11	Mud Creek - source to Deep Creek Road (T09S, R14E)			
US-12	Cedar Draw - source to mouth	COLD SS	SCR	
US-13	Rock Creek -river mile 25 (T11S, R18E, Sec. 36) to mouth	COLD SS	SCR	
US-14	Cottonwood Creek - source to mouth	COLD	SCR	
US-15	McMullen Creek - source to mouth	COLD	SCR	
US-16	Rock Creek - Fifth Fork Rock Creek to river mile 25 (T11S, R18E, Sec. 36)	COLD SS	PCR	DWS
US-17	Fifth Fork Rock Creek - source to mouth	COLD	SCR	
US-18	Rock Creek - source to Fifth Fork Rock Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-19	Snake River - Twin Falls to Rock Creek	COLD SS	PCR	
US-20	Snake River - Milner Dam to Twin Falls	COLD SS	PCR	
US-21	Murtaugh Lake			
US-22	Dry Creek - source to mouth	COLD SS	SCR	
US-23	West Fork Dry Creek - source to mouth			
US-24	East Fork Dry Creek - source to mouth	COLD	SCR	
US-25	Big Cottonwood Creek - source to mouth			
US-26	Wilson Lake Reservoir			
US-27	Vinyard Creek - Vinyard Lake to mouth	COLD	SCR	
US-28	Clear Lakes	COLD	SCR	
US-29	Banbury Springs		PCR	
US-30	Box Canyon Creek - source to mouth	COLD	SCR	
US-31	Thousand Springs	COLD	SCR	
US-32	Bickel Springs	COLD	SCR	
US-33	Billingsley Creek - source to mouth	COLD SS	PCR	DWS
US-34	Clover Creek - Pioneer Reservoir Dam to mouth	COLD SS	PCR	
US-35	Pioneer Reservoir			
US-36	Clover Creek - source to Pioneer Reservoir	COLD SS	PCR	
US-37	Cottonwood Creek - source to mouth			
US-38	Catchall Creek - source to mouth			
US-39	Deer Creek - source to mouth			
US-40	Calf Creek - source to mouth	COLD	SCR	
US-41	Dry Creek - source to mouth	COLD	SCR	

(3-29-12)

15. Salmon Falls Subbasin. The Salmon Falls Subbasin, HUC 17040213, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Salmon Falls Creek - Devil Creek to mouth	COLD SS	PCR	
US-2	Devil Creek - source to mouth			
US-3	Salmon Falls Creek - Salmon Falls Creek Dam to Devil Creek	COLD SS	PCR	
US-4	Cedar Creek Reservoir			
US-5	House Creek - source to Cedar Creek Reservoir			
US-6	Cedar Creek - source to Cedar Creek Reservoir			
US-7	Salmon Falls Creek Reservoir	COLD SS	PCR	
US-8	China, Browns, Corral, Whiskey Slough, Player Creeks - source to Salmon Falls Creek Reservoir			
US-9	Salmon Falls Creek - Idaho/Nevada border to Salmon Falls Creek Reservoir	COLD SS	PCR	
US-10	North Fork Salmon Falls Creek - source to Idaho/Nevada border			
US-11	Shoshone Creek - Hot Creek to Idaho/Nevada border			
US-12	Hot Creek - Idaho/Nevada border to mouth			
US-13	Shoshone Creek - Cottonwood Creek to Hot Creek			
US-14	Big Creek - source to mouth			
US-15	Cottonwood Creek - source to mouth			
US-16	Shoshone Creek - source to Cottonwood Creek			

(4-5-00)

16. Beaver-Camas Subbasin. The Beaver-Camas Subbasin, HUC 17040214, is comprised of twenty-six (26) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Camas Creek - Beaver Creek to Mud Lake	COLD SS	PCR	
US-2	Camas Creek - Spring Creek to Beaver Creek	COLD SS	PCR	
US-3	Beaver Creek - canal (T09N, R36E) to mouth	COLD SS	PCR	DWS
US-4	Spring Creek - Dry Creek to mouth			
US-5	Dry Creek - source to mouth			
US-6	Ching Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-7	Camas Creek - confluence of West and East Camas Creeks to Spring Creek	COLD SS	PCR	
US-8	Crooked/Crab Creek - source to mouth			
US-9	Warm Creek - Cottonwood Creek to mouth and East Camas Creek - T13N, R39E, Sec. 20, 6400 ft. elevation to Camas Creek			
US-10	East Camas Creek - from and including Larkspur Creek to T13N, R39E, Sec. 20, 6400 ft. elevation			
US-11	East Camas Creek - source to Larkspur Creek			
US-12	West Camas Creek - Targhee National Forest Boundary (T13N, R38E) to Camas Creek			
US-13	West Camas Creek - source to Targhee National Forest Boundary (T13N, R38E)			
US-14	Beaver Creek - Dry Creek to canal (T09N, R36E)	COLD SS	PCR	DWS
US-15	Beaver Creek - Rattlesnake Creek to Dry Creek	COLD SS	PCR	DWS
US-16	Rattlesnake Creek - source to mouth			
US-17	Threemile Creek - source to mouth			
US-18	Beaver Creek - Miners Creek to Rattlesnake Creek	COLD SS	PCR	DWS
US-19	Miners Creek - source to mouth			
US-20	Beaver Creek - Idaho Creek to Miners Creek	COLD SS	PCR	DWS
US-21	Beaver Creek - source to Idaho Creek	COLD SS	PCR	DWS
US-22	Idaho Creek - source to mouth			
US-23	Pleasant Valley Creek - source to mouth			
US-24	Huntley Canyon Creek - source to mouth			
US-25	Dry Creek - source to mouth			
US-26	Cottonwood Creek complex			

(4-5-00)

17. Medicine Lodge Subbasin. The Medicine Lodge Subbasin, HUC 17040215, is comprised of twenty-two (22) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Mud Lake			

Unit	Waters	Aquatic Life	Recreation	Other
US-2	Medicine Lodge Creek - Indian Creek to playas	COLD SS	PCR	DWS
US-3	Indian Creek - confluence of West and East Fork Indian Creeks to mouth			
US-4	East Fork Indian Creek - source to mouth			
US-5	West Fork Indian Creek - source to mouth	COLD SS	SCR	
US-6	Medicine Lodge Creek - Edie Creek to Indian Creek	COLD SS	PCR	DWS
US-7	Middle Creek - Dry Creek to mouth			
US-8	Middle Creek - source to Dry Creek			
US-9	Dry Creek - source to mouth			
US-10	Edie Creek - source to mouth	COLD SS	SCR	
US-11	Medicine Lodge Creek - confluence of Warm and Fritz Creeks to Edie Creek	COLD SS	PCR	DWS
US-12	Irving Creek - source to mouth	COLD SS	SCR	
US-13	Warm Creek - source to mouth	COLD SS	SCR	
US-14	Divide Creek - source to mouth			
US-15	Horse Creek - source to mouth			
US-16	Fritz Creek - source to mouth	COLD SS	SCR	
US-17	Webber Creek - source to mouth	COLD SS	SCR	
US-18	Deep Creek - source to mouth			
US-19	Blue Creek - source to mouth			
US-20	Warm Springs Creek - source to mouth			
US-21	Crooked Creek - source to mouth			
US-22	Chandler Canyon complex			

(3-29-12)

18. Birch Subbasin. The Birch Subbasin, HUC 17040216, is comprised of sixteen (16) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Birch Creek - Reno Ditch to playas	COLD SS	PCR	DWS
US-2	Birch Creek - Pass Creek to Reno Ditch	COLD SS	PCR	DWS
US-3	Birch Creek - Unnamed Tributary (T11N, R11W, Sec. 35) to Pass Creek	COLD SS	PCR	DWS
US-4	Unnamed Tributary - source to mouth; includes Timber Canyon to Worthing Canyon Creeks (T11N, R11W, Sec. 35)			
US-5	Birch Creek - confluence of Mud and Scott Canyon Creeks to Unnamed Tributary (T11N, R11W, Sec. 35)	COLD SS	PCR	DWS
US-6	Scott Canyon Creek - source to mouth			
US-7	Mud Creek - Willow Creek to Scott Canyon Creek	COLD SS	PCR	DWS
US-8	Cedar Gulch and Irish Canyon - source to mouth			
US-9	Willow Creek - source to mouth			
US-10	Mud Creek - Unnamed Tributary (T12N, R11W, Sec. 29) to Willow Creek			
US-11	Mud Creek - source to Unnamed Tributary (T12N, R11W, Sec. 29)			
US-12	Unnamed Tributary - source to mouth (T12N, R11W, Sec. 29)			
US-13	Meadow Canyon Creek - source to mouth			
US-14	Rocky Canyon Creek - source to mouth			
US-15	Pass Creek - source to mouth			
US-16	Eightmile Canyon Creek - source to mouth			

(3-29-12)

19. Little Lost Subbasin. The Little Lost Subbasin, HUC 17040217, is comprised of twenty-nine (29) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Little Lost River - canal (T06N, R28E) to playas	COLD SS	PCR	
US-2	Little Lost River - Big Spring Creek to canal (T06N, R28E)	COLD SS	PCR	
US-3	Big Spring Creek - source to mouth			
US-4	North Creek - source to mouth			
US-5	Uncle Ike Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-6	Unnamed Tributaries - source to mouth (T08N, R28E)			
US-7	Little Lost River - Badger Creek to Big Spring Creek	COLD SS	PCR	
US-8	Badger Creek - source to mouth			
US-9	Little Lost River - Wet Creek to Badger Creek	COLD SS	PCR	
US-10	Little Lost River - confluence of Summit and Sawmill Creeks to Wet Creek	COLD SS	PCR	
US-11	Deep Creek - source to mouth			
US-12	Sawmill Creek - Warm Creek to mouth			
US-13	Warm Creek - source to mouth			
US-14	Sawmill Creek - confluence of Timber Creek and Main Fork to Warm Creek			
US-15	Squaw Creek - source to mouth			
US-16	Bear Creek - source to mouth			
US-17	Main Fork - source to mouth			
US-18	Timber Creek - source to mouth			
US-19	Summit Creek - source to mouth			
US-20	Dry Creek - Dry Creek Canal to mouth			
US-21	Dry Creek - source to Dry Creek Canal			
US-22	Wet Creek - Squaw Creek to mouth			
US-23	Squaw Creek - source to mouth			
US-24	Wet Creek - source to Squaw Creek			
US-25	Deer Creek - source to mouth			
US-26	Taylor Canyon Creek - source to mouth			
US-27	Cabin Fork Creek - source to mouth			
US-28	Hurst Creek - source to mouth			
US-29	Unnamed Tributary - source to mouth (T5N, R29E, Sec. 04 and 09)			

(4-5-00)

20. Big Lost Subbasin. The Big Lost Subbasin, HUC 17040218, is comprised of sixty-one (61) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Big Lost River Sinks (playas) and Dry Channel	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-2	Big Lost River - Spring Creek to Big Lost River Sinks (playas)	COLD SS	PCR	DWS
US-3	Spring Creek - Lower Pass Creek to Big Lost River			
US-4	Big Lost River - Antelope Creek to Spring Creek	COLD SS	PCR	DWS
US-5	King, Lime Kiln, Ramshorn, and Anderson Canyon Creek - source to mouth			
US-6	Lower Pass Creek - source to mouth			
US-7	Big Lost River - Alder Creek to Antelope Creek	COLD SS	PCR	DWS
US-8	Elbow, Jepson, Clark, Maddock, and Jaggles Canyon Creek - source to mouth			
US-9	Pass Creek - source to mouth			
US-10	Big Lost River - Beck and Evan Ditch to Alder Creek	COLD SS	PCR	DWS
US-11	Big Lost River - McKay Reservoir Dam to Beck and Evan Ditch	COLD SS	PCR	DWS
US-12	McKay Reservoir	COLD SS	PCR	DWS
US-13	Big Lost River - Jones Creek to McKay Reservoir	COLD SS	PCR	DWS
US-14	Jones Creek - source to mouth			
US-15	Big Lost River - Thousand Springs Creek to Jones Creek	COLD SS	PCR	DWS
US-16	Thousand Springs Creek - source to mouth			
US-17	Lone Cedar Creek - source to mouth			
US-18	Cedar Creek - source to mouth			
US-19	Rock Creek - source to mouth			
US-20	Willow Creek - source to mouth			
US-21	Arentson Gulch and Unnamed Tributaries - source to mouth (T10N, R22E)			
US-22	Sage Creek - source to mouth			
US-23	Parsons Creek - T8N, R22E, Sec. 24, point of perennial flow north of road to Mackay Reservoir			
US-24	Big Lost River - Burnt Creek to Thousand Springs Creek	COLD SS	PCR	DWS
US-25	Big Lost River - Summit Creek to and including Burnt Creek	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
US-26	Bridge Creek - source to mouth			
US-27	North Fork Big Lost River - source to mouth			
US-28	Summit Creek - source to mouth			
US-29	Kane Creek - source to mouth			
US-30	Wildhorse Creek - Fall Creek to mouth			
US-31	Wildhorse Creek - source to Fall Creek			
US-32	Fall Creek - source to mouth			
US-33	East Fork Big Lost River - Cabin Creek to mouth			
US-34	Fox Creek - source to mouth			
US-35	Star Hope Creek - Lake Creek to mouth			
US-36	Star Hope Creek - source to Lake Creek			
US-37	Muldoon Canyon Creek - source to mouth			
US-38	Lake Creek - source to mouth			
US-39	East Fork Big Lost River - source to Cabin Creek			
US-40	Cabin Creek - source to mouth			
US-41	Corral Creek - source to mouth			
US-42	Boone Creek - source to mouth			
US-43	Warm Springs Creek - source to mouth			
US-44	Navarre Creek - source to mouth			
US-45	Alder Creek - source to mouth			
US-46	Antelope Creek - Spring Creek to mouth			
US-47	Antelope Creek - Dry Fork Creek to Spring Creek			
US-48	Spring Creek - source to mouth			
US-49	Cherry Creek - confluence of Left Fork Cherry and Lupine Creeks to mouth			
US-50	Lupine Creek - source to mouth			
US-51	Left Fork Cherry Creek - source to mouth			
US-52	Antelope Creek - Iron Bog Creek to Dry Fork Creek			
US-53	Bear Creek - source to mouth			
US-54	Iron Bog Creek - confluence of Left and Right Fork Iron Bog Creeks to mouth			
US-55	Right Fork Iron Bog Creek - source to mouth			
US-56	Left Fork Iron Bog Creek - source to mouth			
US-57	Antelope Creek - source to Iron Bog Creek			

Unit	Waters	Aquatic Life	Recreation	Other
US-58	Leadbelt Creek - source to mouth			
US-59	Dry Fork Creek - source to mouth			
US-60	South Fork Antelope Creek - Antelope Creek to mouth			
US-61	Hammond Spring Creek complex			

(3-29-12)

21. Big Wood Subbasin. The Big Wood Subbasin, HUC 17040219, is comprised of thirty (30) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Malad River - confluence of Black Canyon Creek and Big Wood River to mouth	COLD SS	PCR	
US-2	Big Wood River - Magic Reservoir Dam to mouth	COLD SS	PCR	
US-3	Magic Reservoir	COLD	PCR	
US-4	Big Wood River - Seamans Creek to Magic Reservoir	COLD SS	PCR	DWS
US-5	Seamans Creek - Slaughterhouse Creek to mouth			
US-6	Seamans Creek - source to and including Slaughterhouse Creek			
US-7	Big Wood River - North Fork Big Wood River to Seamans Creek	COLD SS	PCR	DWS
US-8	Quigley Creek - source to mouth			
US-9	Indian Creek - source to mouth			
US-10	East Fork Wood River - Hyndman Creek to mouth			
US-11	East Fork Wood River - source to Hyndman Creek			
US-12	Hyndman Creek - source Creek to mouth			
US-13	Trail Creek - Corral Creek to mouth			
US-14	Trail Creek - source to and including Corral Creek			
US-15	Lake Creek - source to mouth			
US-16	Eagle Creek - source to mouth			
US-17	North Fork Big Wood River - source to mouth			
US-18	Big Wood River - source to North Fork Big Wood River	COLD SS	PCR	DWS
US-19	Boulder Creek - source to mouth			
US-20	Prairie Creek - source to mouth			
US-21	Baker Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-22	Fox Creek - source to mouth			
US-23	Warm Springs Creek - Thompson Creek to mouth			
US-24	Warm Springs Creek - source to and including Thompson Creek			
US-25	Greenhorn Creek - source to mouth			
US-26	Deer Creek - source to mouth			
US-27	Croy Creek - source to mouth			
US-28	Rock Creek - source to mouth			
US-29	Thorn Creek - source to mouth			
US-30	Black Canyon Creek - source to mouth			

(3-29-12)

22. Camas Subbasin. The Camas Subbasin, HUC 17040220, is comprised of twenty-seven (27) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Camas Creek - Elk Creek to Magic Reservoir	COLD SS	PCR	
US-2	Camp Creek - source to mouth			
US-3	Willow Creek - Beaver Creek to mouth			
US-4	Beaver Creek - source to mouth			
US-5	Willow Creek - source to Beaver Creek			
US-6	Elk Creek - source to mouth			
US-7	Camas Creek - Solider Creek to Elk Creek	COLD SS	PCR	
US-8	Deer Creek - Big Deer Creek to mouth			
US-9	Deer Creek - source to and including Big Deer Creek			
US-10	Powell Creek - source to mouth			
US-11	Soldier Creek - Wardrop Creek to mouth			
US-12	Soldier Creek - source to and including Wardrop Creek			
US-13	Camas Creek - Corral Creek to Soldier Creek	COLD SS	PCR	
US-14	Threemile Creek - source to mouth			
US-15	Corral Creek - confluence of East Fork and West Fork Corral Creeks to mouth			
US-16	East Fork Corral Creek - source to mouth			

Unit	Waters	Aquatic Life	Recreation	Other
US-17	West Fork Corral Creek - source to mouth			
US-18	Camas Creek - source to Corral Creek	COLD SS	PCR	
US-19	Chimney Creek - source to mouth			
US-20	Negro Creek - source to mouth			
US-21	Wildhorse Creek - source to mouth			
US-22	Malad River - source to mouth			
US-23	Mormon Reservoir			
US-24	Dairy Creek - source to Mormon Reservoir			
US-25	McKinney Creek - source to Mormon Reservoir			
US-26	Spring Creek Complex			
US-27	Kelly Reservoir			

(4-5-00)

23. Little Wood Subbasin. The Little Wood Subbasin, HUC 17040221, is comprised of twenty-three (23) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
US-1	Little Wood River - Richfield (T04S, R19E, Sec. 25) to mouth	COLD	PCR	
US-2	Little Wood River - Carey Lake outlet to Richfield (T04S, R19E, Sec. 25)	COLD SS	PCR	
US-3	Little Wood River - West Canal (north) to West Canal (south)	COLD SS	PCR	
US-4	Carey Lake outlet			
US-5	Carey Lake			
US-6	Fish Creek - Fish Creek Reservoir Dam to mouth			
US-7	Fish Creek Reservoir			
US-8	Fish Creek - source to Fish Creek Reservoir			
US-9	West Fork Fish Creek - source to Fish Creek Reservoir			
US-10	Little Wood River - Little Wood River Reservoir Dam to Carey Lake Outlet	COLD SS	PCR	
US-11	Little Fish Creek - source to mouth			
US-12	Little Wood River Reservoir	COLD SS	PCR	
US-13	Little Wood River - Muldoon Creek to Little Wood River Reservoir	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
US-14	Muldoon Creek -source to mouth			
US-15	South Fork Muldoon Creek - Friedman Creek to mouth			
US-16	South Fork Muldoon Creek - source to Friedman Creek			
US-17	Friedman Creek - Trail Creek to mouth			
US-18	Trail Creek - source to mouth			
US-19	Friedman Creek - source to Trail Creek			
US-20	Little Wood River - source to Muldoon Creek	COLD SS	PCR	
US-21	Baugh Creek - source to mouth			
US-22	Dry Creek - source to mouth			
US-23	Silver Creek - source to mouth	COLD SS	PCR	DWS

(3-29-12)

151. -- 159. (RESERVED)

160. BEAR RIVER BASIN.
Surface waters found within the Bear River basin total six (6) subbasins and are designated as follows: (4-5-00)

01. Central Bear Subbasin. The Central Bear Subbasin, HUC 16010102, is comprised of eight (8) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Bear River - Idaho/Wyoming border to railroad bridge (T14N, R45E, Sec. 21)	COLD SS	PCR	
B-2	Pegram Creek - source to mouth			
B-3	Thomas Fork - Idaho/Wyoming border to mouth	COLD SS	PCR	
B-4	Raymond Creek - Idaho/Wyoming border to mouth; and the Hollows - source to mouth			
B-5	Dry Creek - source to mouth	COLD SS	SCR	
B-6	Preuss Creek - source to mouth	COLD SS	SCR	
B-7	Salt Creek - source to Idaho/Wyoming border	COLD SS	SCR	
B-8	Sheep Creek - source to mouth			

(4-5-00)

02. Bear Lake Subbasin. The Bear Lake Subbasin, HUC 16010201, is comprised of twenty-five (25) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Alexander Reservoir (Bear River)	COLD SS	PCR	
B-2	Bear River -railroad bridge (T14N, R45E, Sec. 21) to Alexander Reservoir	COLD SS	PCR	
B-3	Bailey Creek - source to mouth	COLD SS	SCR	
B-4	Eightmile Creek - source to mouth	COLD SS	SCR	
B-5	Pearl Creek - source to mouth	COLD SS	SCR	
B-6	Stauffer Creek - source to mouth	COLD SS	SCR	
B-7	Skinner Creek - source to mouth	COLD SS	SCR	
B-8	Co-op Creek - source to mouth	COLD SS	SCR	
B-9	Ovid Creek - confluence of North and Mill Creek to mouth			
B-10	North Creek - source to mouth	COLD SS	PCR	
B-11	Mill Creek - source to mouth	COLD SS	PCR	
B-12	Bear Lake Outlet - Lifton Station to Bear River	COLD SS	PCR	DWS
B-13	Paris Creek - source to mouth	COLD SS	PCR	
B-14	Bloomington Creek - source to mouth	COLD SS	PCR	DWS
B-15	Spring Creek - source to mouth			
B-16	Little and St. Charles Creeks - source to Bear Lake	COLD SS	PCR	
B-17	Dry Canyon Creek - source to mouth			
B-18	Bear Lake	COLD SS	PCR	DWS

Unit	Waters	Aquatic Life	Recreation	Other
B-19	Fish Haven Creek - source to Bear Lake	COLD SS	PCR	
B-20	Montpelier Creek - source to mouth			
B-21	Snowslide Creek - source to mouth	COLD SS	SCR	
B-22	Georgetown Creek - source to mouth	COLD SS	PCR	DWS
B-23	Soda Creek - Soda Creek Reservoir Dam to Alexander Reservoir		SCR	--[1] ---------- DWS[2]
B-24	Soda Creek Reservoir		SCR	
B-25	Soda Creek - source to Soda Creek Reservoir		SCR	

(4-11-19)

03. Middle Bear Subbasin. The Middle Bear Subbasin, HUC 16010202, is comprised of twenty-one (21) water body units.

[1]Effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
[2]Not effective for CWA purposes until the date EPA issues written notification that the revisions have been approved.
Docket No. 58-0102-1703 (DWS)

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Spring Creek - source to Idaho/Utah border			
B-2	Cub River - US Hwy 91 Bridge (T16S, R40E, Sec. 20) to Idaho/Utah border	COLD	SCR	
B-3	Cub River - from and including Sugar Creek to US Hwy 91 Bridge (T16S, R40E, Sec. 20)	COLD	PCR	--[1] ---------- DWS[2]
B-4	Cub River - source to Sugar Creek	COLD SS	PCR	DWS
B-5	Worm Creek - source to Idaho/Utah border	COLD	SCR	
B-6	Bear River - Oneida Narrows Reservoir Dam to Idaho/Utah border	COLD SS	PCR	
B-7	Mink Creek - source to mouth	COLD SS	PCR	
B-8	Oneida Narrows Reservoir	COLD SS	PCR	
B-9	Bear River - Alexander Reservoir Dam to Oneida Narrows Reservoir	COLD SS	PCR	

Unit	Waters	Aquatic Life	Recreation	Other
B-10	Williams Creek - source to mouth			
B-11	Trout Creek - source to mouth			
B-12	Whiskey Creek - source to mouth			
B-13	Densmore Creek - source to mouth			
B-14	Cottonwood Creek - source to Oneida Narrows Reservoir			
B-15	Battle Creek - source to mouth	COLD	SCR	
B-16	Twin Lakes Reservoir			
B-17	Oxford Slough			
B-18	Swan Lake Creek Complex			
B-19	Fivemile Creek - source to mouth			
B-20	Weston Creek - source to mouth			
B-21	Jenkins Hollow - source to Idaho/Utah border			

(4-11-19)

04. Little Bear-Logan Subbasin. The Little Bear-Logan Subbasin, HUC 16010203, is comprised of two (2) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Beaver Creek - source to Idaho/Utah border			
B-2	Logan River - source to Idaho/Utah border			

(4-5-00)

05. Lower Bear-Malad Subbasin. The Lower Bear-Malad Subbasin, HUC 16010204, is comprised of thirteen (13) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Malad River - Little Malad River to Idaho/Utah border	COLD	SCR	
B-2	Devil Creek - Devil Creek Reservoir Dam to mouth			
B-3	Devil Creek Reservoir			
B-4	Devil Creek - source to Devil Creek Reservoir			
B-5	Deep Creek - Deep Creek Reservoir Dam to mouth			
B-6	Deep Creek Reservoir			
B-7	Deep Creek - source to Deep Creek Reservoir			
B-8	Little Malad River - Daniels Reservoir Dam to mouth	COLD	PCR	
B-9	Daniels Reservoir			

Unit	Waters	Aquatic Life	Recreation	Other
B-10	Wright Creek - source to Daniels Reservoir	COLD SS	PCR	
B-11	Dairy Creek - source to mouth			
B-12	Malad River - source to Little Malad River	COLD	PCR	DWS
B-13	Samaria Creek - source to mouth			

(4-5-00)

06. Curlew Valley Subbasin. The Curlew Valley Subbasin, HUC 16020309, is comprised of three (3) water body units.

Unit	Waters	Aquatic Life	Recreation	Other
B-1	Deep Creek - Rock Creek to Idaho/Utah border	COLD	PCR	DWS
B-2	Deep Creek - source to Rock Creek	COLD	PCR	DWS
B-3	Rock Creek - source to mouth			

(4-5-00)

161. -- 199. (RESERVED)

200. GENERAL SURFACE WATER QUALITY CRITERIA.
The following general water quality criteria apply to all surface waters of the state, in addition to the water quality criteria set forth for specifically designated waters. (4-5-00)

01. Hazardous Materials. Surface waters of the state shall be free from hazardous materials in concentrations found to be of public health significance or to impair designated beneficial uses. These materials do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)

02. Toxic Substances. Surface waters of the state shall be free from toxic substances in concentrations that impair designated beneficial uses. These substances do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)

03. Deleterious Materials. Surface waters of the state shall be free from deleterious materials in concentrations that impair designated beneficial uses. These materials do not include suspended sediment produced as a result of nonpoint source activities. (8-24-94)

04. Radioactive Materials. (7-1-93)

a. Radioactive materials or radioactivity shall not exceed the values listed in the Code of Federal Regulations, Title 10, Chapter 1, Part 20, Appendix B, Table 2, Effluent Concentrations, Column 2. (8-24-94)

b. Radioactive materials or radioactivity shall not exceed concentrations required to meet the standards set forth in Title 10, Chapter 1, Part 20, of the Code of Federal Regulations for maximum exposure of critical human organs in the case of foodstuffs harvested from these waters for human consumption. (7-1-93)

05. Floating, Suspended or Submerged Matter. Surface waters of the state shall be free from floating, suspended, or submerged matter of any kind in concentrations causing nuisance or objectionable conditions or that may impair designated beneficial uses. This matter does not include suspended sediment produced as a result

of nonpoint source activities. (8-24-94)

06. Excess Nutrients. Surface waters of the state shall be free from excess nutrients that can cause visible slime growths or other nuisance aquatic growths impairing designated beneficial uses. (8-24-94)

07. Oxygen-Demanding Materials. Surface waters of the state shall be free from oxygen-demanding materials in concentrations that would result in an anaerobic water condition. (7-1-93)

08. Sediment. Sediment shall not exceed quantities specified in Sections 250 and 252, or, in the absence of specific sediment criteria, quantities which impair designated beneficial uses. Determinations of impairment shall be based on water quality monitoring and surveillance and the information utilized as described in Section 350. (4-5-00)

09. Natural Background Conditions as Criteria. When natural background conditions exceed any applicable water quality criteria set forth in Sections 210, 250, 251, 252, or 253, the applicable water quality criteria shall not apply; instead, there shall be no lowering of water quality from natural background conditions. Provided, however, that temperature may be increased above natural background conditions when allowed under Section 401. (3-30-07)

201. -- 209. (RESERVED)

210. NUMERIC CRITERIA FOR TOXIC SUBSTANCES FOR WATERS DESIGNATED FOR AQUATIC LIFE, RECREATION, OR DOMESTIC WATER SUPPLY USE.

01. Criteria for Toxic Substances. The criteria of Section 210 apply to surface waters of the state as provided in Tables 1 and 2. (3-28-18)

a. Table 1 contains criteria set for protection of aquatic life. Criteria for metals (arsenic through zinc) are expressed as dissolved fraction unless otherwise noted. For purposes of these criteria, dissolved fraction means that which passes through a forty-five hundredths (0.45) micron filter. (3-28-18)

Table 1. Criteria for Protection of Aquatic Life

Compound	[a] CAS Number	[b] CMC (µg/L)		[b] CCC (µg/L)	
Inorganic Compounds/Metals					
Arsenic	7440382	340	c	150	c
Cadmium	7440439	1.3	f	0.6	f
Chromium III	16065831	570	f	74	f
Chromium VI	18540299	16	c	11	c
Copper	7440508	12.3	k	7.6	k
Lead	7439921	65	f	2.5	f
Mercury	7439976		e		e

Table 1. Criteria for Protection of Aquatic Life					
Compound	**[a] CAS Number**	**[b] CMC (µg/L)**		**[b] CCC (µg/L)**	
Note: In 2005, Idaho adopted EPA's recommended methylmercury fish tissue criterion for protection of human health (docket 58-0102-0302). The decision was made to remove the old tissue-based aquatic life criteria and rely on the fish tissue criterion to provide protection for aquatic life as well as human health. Thus, current Idaho water quality standards do not have mercury water column criteria for the protection of aquatic life. While EPA approved Idaho's adoption of the fish tissue criterion in September 2005, it had withheld judgment on Idaho's removal of aquatic life criteria. On December 12, 2008, EPA disapproved Idaho's removal of the old aquatic life criteria. The water column criteria for total recoverable mercury published in 2004 Idaho Administrative Code continue to apply and are effective for CWA purposes. For more information go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.					
Nickel	7440020	470	f	52	f
Selenium[1]	7782492	20	d	5	d
[1]Effective for CWA purposes. The CMC value and footnote and the CCC value are effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.					
Selenium[2]	7782492	m		l	
[2]Not yet effective for CWA purposes. The CMC footnote **m.** and CCC footnote **l.** are not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.					
Silver	7440224	3.4	f		
Zinc	7440666	120	f	120	f
Inorganic Compounds/Non-Metals					
Chlorine		19	h	11	h
Cyanide	57125	22	g	5.2	g
Organic Compounds					
Acrolein	107028	--[1] ---------- 3[2]		--[1] ---------- 3[2]	
[1]Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved. [2]Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Aldrin	39002	3			
gamma-BHC (Lindane)	58899	2		0.08	
Carbaryl	63252	--[1] ---------- 2.1[2]		--[1] ---------- 2.1[2]	

Table 1. Criteria for Protection of Aquatic Life					
Compound	**[a] CAS Number**	**[b] CMC (µg/L)**		**[b] CCC (µg/L)**	
[1]Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved. [2]Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Chlordane	57749	2.4		0.0043	
4,4'-DDT	50293	1.1		0.001	
Diazinon	333415	--[1] ---------- 0.17[2]		--[1] ---------- 0.17[2]	
[1]Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved. [2]Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.					
Dieldrin	60571	2.5		0.0019	
alpha-Endosulfan	959988	0.22		0.056	
beta-Endosulfan	33213659	0.22		0.056	
Endrin	72208	0.18		0.0023	
Heptachlor	76448	0.52		0.0038	
Heptachlor Epoxide	1024573	0.52		0.0038	
Pentachlorophenol	87865	20	i	13	i
Polychlorinated Biphenyls PCBs	j			0.014	j
Toxaphene	8001352	0.73		0.0002	

Footnotes for Table 1. Criteria for Protection of Aquatic Life

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. See definitions of Acute Criteria (CMC) and Chronic Criteria (CCC), Section 010 of these rules.

c. Criteria for these metals are expressed as a function of the water effect ratio, WER, as defined in Subsection 210.03.c.iii. CMC = CMC column value X WER. CCC = CCC column value X WER.

d. Criterion expressed as total recoverable (unfiltered) concentrations.

e. No aquatic life criterion is adopted for inorganic mercury. However, the narrative criteria for toxics in Section 200 of these rules applies. The Department believes application of the human health criterion for methylmercury will be protective of aquatic life in most situations.

f. Aquatic life criteria for these metals are a function of total hardness (mg/L as calcium carbonate), the pollutant's water effect ratio (WER) as defined in Subsection 210.03.c.iii. and multiplied by an appropriate dissolved conversion factor as defined in Subsection 210.02. For comparative purposes only, the example values displayed in this table are shown as dissolved metal and correspond to a total hardness of one hundred (100) mg/L and a water effect ratio of one (1.0).

Table 1. Criteria for Protection of Aquatic Life					
Compound	[a] CAS Number	[b] CMC (µg/L)	[b] CCC (µg/L)		
g. Criteria are expressed as weak acid dissociable (WAD) cyanide.					
h. Total chlorine residual concentrations.					
i. Aquatic life criteria for pentachlorophenol are expressed as a function of pH, and are calculated as follows. Values displayed above in the table correspond to a pH of seven and eight tenths (7.8). CMC = exp(1.005(pH)-4.830) CCC = exp(1.005(pH)-5.290)					
j. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.					
k. Aquatic life criteria for copper shall be derived in accordance with Subsection 210.03.c.v. For comparative purposes only, the example values displayed in this table correspond to the Biotic Ligand Model output based on the following inputs: temperature = 14.9°C, pH = 8.16, dissolved organic carbon = 1.4 mg/L, humic acid fraction = 10%, calcium = 44.6 mg/L, magnesium = 11.0 mg/L, sodium = 11.7 mg/L, potassium = 2.12 mg/L, sulfate = 46.2 mg/L, chloride = 12.7 mg/L, alkalinity = 123 mg/L CaCO3, and sulfide = 1.00 x 10^{-8} mg/L.					
l. Chronic					**Short-term**
Egg-Ovary (mg/kg dw)	**Fish Tissue (mg/kg dw)**		**Water Column (µg/L)**		**Water Column (µg/L)**
Egg-Ovary	Whole-Body	Muscle	Water Lentic	Water Lotic	Water
15.1[1]	8.5[2]	11.3[2]	1.5 (30 day average)[3]	3.1 (30 day average)[3]	Intermittent Exposure Equation[3.4]
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter					
1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element. 2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole body or muscle data to determine compliance with this criterion element. 3. Water column values are based on dissolved total selenium in water and are derived from fish tissue values via bioaccumulation modeling. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance using methods provided in Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value (June 2016).					

Table 1. Criteria for Protection of Aquatic Life			
Compound	[a] CAS Number	[b] CMC (µg/L)	[b] CCC (µg/L)

4. Intermittent Exposure Equation=

$$\frac{WQC - C_{bkgrnd}(1 - f_{int})}{f_{int}}$$

where WQC is the applicable water column element, for either lentic or lotic waters; C_{bkgrnd} is the average background selenium concentration, and f_{int} is the fraction of any 30-day period during which elevated selenium concentrations occur, with f_{int} assigned a value ≥ 0.033 (corresponding to one day).

(Footnote l. is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.)

m. There is no specific acute criterion for aquatic life; however, the aquatic life criterion is based on chronic effects of the selenium on aquatic life and is expected to adequately protect against acute effects.

(Footnote m. is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.)

(3-28-18)

b. Table 2 contains criteria set for protection of human health. The Water & Fish criteria apply to waters designated for domestic water supply use. The Fish Only criteria apply to waters designated for primary or secondary contact recreation use. (3-28-18)

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	[a] CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Inorganic Compounds/Metals						
Antimony	7440360		5.2	b	190	b
Arsenic	7440382	Y	10	cdj	10	cdj
Note: In 2008, Idaho adopted 10 µg/L as its CWA arsenic criterion for both exposure through fish consumption only and exposure through drinking water+fish consumption, choosing the SDWA MCL due to concerns about background levels that exceed EPA's 304(a) criteria (docket 58-0102-0801). EPA approved this action in 2010. In June 2015, Northwest Environmental Advocates challenged EPA's 2010 approval. Court remanded action back to EPA. On September 15, 2016, EPA disapproved Idaho's adoption of10 µg/L. Neither EPA nor the state of Idaho has promulgated replacement criteria. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.						
Beryllium	7440417			e		e
Cadmium	7440439			e		e
Chromium III	16065831			e		e
Chromium VI	18540299			e		e
Copper	7440508		1300	j		

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	[a] CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Lead	7439921			e		e
Methylmercury	22967926				0.3mg/kg	i
Nickel	7440020		58	b	100	b
Selenium	7782492		29	b	250	b
Thallium	7440280		0.017	b	0.023	b
Zinc	7440666		870	b	1,500	b
Inorganic Compounds/Non-Metals						
Cyanide	57125		3.9	b	140	b
Asbestos	1332214		7,000,000 Fibers/L	j		
Organic Compounds						
Acenaphthene	83329		26	b	28	b
Acenaphthylene	208968			e		e
Acrolein	107028		3.2	b	120	b
Acrylonitrile	107131	Y	0.60	bf	22	bf
Aldrin	309002	Y	2.5E-06	bf	2.5E-06	bf
Anthracene	120127		110	b	120	b
alpha-BHC	319846	Y	0.0012	bf	0.0013	bf
beta-BHC	319857	Y	0.036	bf	0.045	bf
gamma-BHC (Lindane)	58899		1.4	b	1.4	b
delta-BHC	319868			e		e
Benzene	71432		3.0	bf	28	b
Benzidine	92875	Y	0.0014	bf	0.033	bf
Benzo(a)Anthracene	56553	Y	0.0042	bf	0.0042	bf
Benzo(b)Fluoranthene	205992	Y	0.0042	bf	0.0042	bf
Benzo(k)Fluoranthene	207089	Y	0.042	bf	0.042	bf
Benzo(ghi)Perylene	191242			e		e
Benzo(a)Pyrene	50328	Y	0.00042	bf	0.00042	bf
Bis(2-Chloroethoxy) Methane	111911			e		e
Bis(2-Chloroethyl) Ether	111444	Y	0.29	bf	6.8	bf

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	[a] CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Bis(2-Chloroisopropyl) Ether	108601		220	b	1,200	b
Bis(Chloromethyl) Ether	542881	Y	0.0015	bf	0.055	bf
Bis(2-Ethylhexyl) Phthalate	117817	Y	1.2	bf	1.2	bf
Bromoform	75252	Y	62	bf	380	bf
4-Bromophenyl Phenyl Ether	101553			e		e
Butylbenzyl Phthalate	85687		0.33	b	0.33	b
Carbon Tetrachloride	56235	Y	3.6	bf	15	bf
Chlorobenzene	108907		89	b	270	b
Chlordane	57749	Y	0.0010	bf	0.0010	bf
Chlorodibromomethane	124481	Y	7.4	bf	67	bf
Chloroethane	75003			e		e
2-Chloroethylvinyl Ether	110758			e		e
Chloroform	67663		61	b	730	b
2-Chloronaphthalene	91587		330	b	380	b
2-Chlorophenol	95578		30	b	260	b
Chlorophenoxy Herbicide (2,4-D)	94757		1,000	b	3,900	b
Chlorophenoxy Herbicide (2,4,5-TP) [Silvex]	93721		82	b	130	b
4-Chlorophenyl Phenyl Ether	7005723			e		e
Chrysene	218019	Y	0.42	bf	0.42	bf
4,4'-DDD	72548	Y	0.00042	bf	0.00042	bf
4,4'-DDE	72559	Y	5.5E-05	bf	5.5E-05	bf
4,4'-DDT	50293	Y	9.8E-05	bf	9.8E-05	bf
Di-n-Butyl Phthalate	84742		8.2	b	8.3	b
Di-n-Octyl Phthalate	117840			e		e
Dibenzo (a,h) Anthracene	53703	Y	0.00042	bf	0.00042	bf
1,2-Dichlorobenzene	95501		700	b	1,100	b
1,3-Dichlorobenzene	541731		3.5	b	4.8	b
1,4-Dichlorobenzene	106467		180	b	300	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	[a] CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
3,3'-Dichlorobenzidine	91941	Y	0.29	bf	0.48	bf
Dichlorobromomethane	75274	Y	8.8	bf	86	bf
1,1-Dichloroethane	75343			e		e
1,2-Dichloroethane	107062	Y	96	bf	2,000	bf
1,1-Dichloroethylene	75354		310	b	5,200	b
2,4-Dichlorophenol	120832		9.6	b	19	b
1,2-Dichloropropane	78875	Y	8.5	bf	98	bf
1,3-Dichloropropene	542756	Y	2.5	bf	38	bf
Dieldrin	60571	Y	4.2E-06	bf	4.2E-06	bf
Diethyl Phthalate	84662		200	b	210	b
2,4-Dimethylphenol	105679		110	b	820	b
Dimethyl Phthalate	131113		600	b	600	b
Dinitrophenols	25550587		13	b	320	b
2,4-Dinitrophenol	51285		12	b	110	b
2,4-Dinitrotoluene	121142	Y	0.46	bf	5.5	bf
2,6-Dinitrotoluene	606202			e		e
1,2-Diphenylhydrazine	122667	Y	0.25	bf	0.65	bf
2, 3, 7, 8-TCDD Dioxin	1746016	Y	1.8E-08	bf	1.9E-08	bf
alpha-Endosulfan	959988		7.0	b	8.5	b
beta-Endosulfan	33213659		11	b	14	b
Endosulfan Sulfate	1031078		9.9	b	13	b
Endrin	72208		0.011	b	0.011	b
Endrin Aldehyde	7421934		0.38	b	0.40	b
Ethylbenzene	100414		32	b	41	b
Fluoranthene	206440		6.3	b	6.4	b
Fluorene	86737		21	b	22	b
Heptachlor	76448	Y	2.0E-05	bf	2.0E-05	bf
Heptachlor Epoxide	1024573	Y	0.00010	bf	0.00010	bf
Hexachlorobenzene	118741	Y	0.00026	bf	0.00026	bf
Hexachlorobutadiene	87683	Y	0.031	bf	0.031	bf
Hexachlorocyclohexane (HCH)-Technical	608731	Y	0.027	bf	0.032	bf

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	[a] CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
Hexachloro-cyclopentadiene	77474		1.3	b	1.3	b
Hexachloroethane	67721		0.23	b	0.24	b
Ideno (1,2,3-cd) Pyrene	193395	Y	0.0042	bf	0.0042	bf
Isophorone	78591	Y	330	bf	6,000	bf
Methoxychlor	72435		0.0054	b	0.0055	b
Methyl Bromide	74839		130	b	3,700	b
Methyl Chloride	74873			e		e
3-Methyl-4-Chlorophenol	59507		350	b	750	b
2-Methyl-4,6-Dinitrophenol	534521		1.6	b	8.6	b
Methylene Chloride	75092		38	b	960	b
Naphthalene	91203			e		e
Nitrobenzene	98953		12	b	180	b
2-Nitrophenol	88755			e		e
4-Nitrophenol	100027			e		e
N-Nitrosodimethylamine	62759	Y	0.0065	bf	9.1	bf
N-Nitrosodi-n-Propylamine	621647	Y	0.046	bf	1.5	bf
N-Nitrosodiphenylamine	86306	Y	3.14	bf	18	bf
Pentachlorobenzene	608935		0.035	b	0.036	b
Pentachlorophenol	87865	Y	0.11	bf	0.12	bf
Phenanthrene	85018			e		e
Phenol	108952		3,800	b	85,000	b
Polychlorinated Biphenyls PCBs	g	Y	0.00019	bfh	0.00019	bfh
Pyrene	129000		8.1	b	8.4	b
1,2,4,5-Tetrachlorobenzene	95943		0.0093	b	0.0094	b
1,1,2,2-Tetrachloroethane	79345	Y	1.4	bf	8.6	bf
Tetrachloroethylene	127184		15	b	23	b
Toluene	108883		47	b	170	b
Toxaphene	8001352	Y	0.0023	bf	0.0023	bf
1,2-Trans-Dichloroethylene	156605		120	b	1,200	b

Table 2. Criteria for Protection of Human Health (based on consumption of:)						
Compound	[a] CAS Number	Carcinogen?	Water & Fish (µg/L)		Fish Only (µg/L)	
1,2,4-Trichlorobenzene	120821		0.24	b	0.24	b
1,1,1-Trichloroethane	71556		11,000	b	56,000	b
1,1,2-Trichloroethane	79005	Y	4.9	bf	29	bf
Trichloroethylene	79016		2.6	b	11	b
2,4,5-Trichlorophenol	95954		140	b	190	b
2,4,6-Trichlorophenol	88062		1.5	b	2.0	b
Vinyl Chloride	75014	Y	0.21	bf	5.0	bf

Footnotes for Table 2. Criteria for Protection of Human Health

a. Chemical Abstracts Service (CAS) registry numbers which provide a unique identification for each chemical.

b. This criterion is based on input values to human health criteria calculation specified in Idaho's Technical Support Document (TSD) for Human Health Criteria Calculations - 2015. Criteria for non-carcinogens are calculated using the formula:

$$\mathbf{AWQC = RfD * RSC *} \left(\frac{BW}{DI + (FI * BAF)} \right)$$

and criteria for carcinogens are calculated using the formula:

$$\mathbf{AWQC = RSD *} \left(\frac{BW}{DI + (FI * BAF)} \right)$$

Where:
AWQC = Ambient water quality criterion (mg/L)

BW = Human Body Weight (kg), 80 is used in these criteria
DI = Drinking Water Intake, (L/day), 2.4 is used in these criteria
FI = Fish Intake, (kg/day), 0.0665 is used in these criteria

BAF = Bioaccumualtion Factor, L/kg, chemical specific value, see TSD
RfD = Reference dose (mg/kg-day), chemical specific value, see TSD

$$RSD = \frac{\text{Target Incremental Cancer Risk}}{\text{Cancer Potency Factor}}$$ (mg/kg-day), chemical specific value, see TSD

RSC = Relative Source Contribution, chemical specific value, see TSD

c. Inorganic forms only.

d. Criterion expressed as total recoverable (unfiltered) concentrations.

Table 2. Criteria for Protection of Human Health (based on consumption of:)				
Compound	[a] CAS Number	Carcinogen?	Water & Fish (µg/L)	Fish Only (µg/L)
e. No numeric human health criteria has been established for this contaminant. However, permit authorities should address this contaminant in NPDES permit actions using the narrative criteria for toxics from Section 200 of these rules.				
f. EPA guidance allows states to choose from a range of 10-4 to 10-6 for the incremental increase in cancer risk used in human health criteria calculation. Idaho has chosen to base this criterion on carcinogenicity of 10-5 risk.				
g. PCBs are a class of chemicals which include Aroclors, 1242, 1254, 1221, 1232, 1248, 1260, and 1016, CAS numbers 53469219, 11097691, 11104282, 11141165, 12672296, 11096825 and 12674112 respectively. The aquatic life criteria apply to this set of PCBs.				
h. This criterion applies to total PCBs, (e.g. the sum of all congener, isomer, or Aroclor analyses).				
i. This fish tissue residue criterion (TRC) for methylmercury is based on a human health reference dose (RfD) of 0.0001 mg/kg body weight-day; a relative source contribution (RSC) estimated to be 27% of the RfD; a human body weight (BW) of 70 kg (for adults); and a total fish consumption rate of 0.0175 kg/day for the general population, summed from trophic level (TL) breakdown of TL2 = 0.0038 kg fish/day + TL3 = 0.0080 kg fish/day + TL4 = 0.0057 kg fish/day. This is a criterion that is protective of the general population. A site-specific criterion or a criterion for a particular subpopulation may be calculated by using local or regional data, rather than the above default values, in the formula: TRC = [BW x {RfD – (RSCxRfD)}] / Σ TL. In waters inhabited by species listed as threatened or endangered under the Endangered Species Act or designated as their critical habitat, the Department will apply the human health fish tissue residue criterion for methylmercury to the highest trophic level available for sampling and analysis.				
j. This criterion is based on the drinking water Maximum Containment Level (MCL).				

(3-28-18)

02. Factors for Calculating Hardness Dependent Metals Criteria. Hardness dependent metals criteria are calculated using values from the following table in the equations: (5-3-03)

a. CMC=WER exp{mA[ln(hardness)]+bA} X Acute Conversion Factor. (5-3-03)

b. CCC=WER exp{mc[ln(hardness)]+bc} X Chronic Conversion Factor.

Metal	mA	bA	mc	bc	aAcute Conversion Factor	aChronic Conversion Factor
Arsenic	b	b	b	b	1.0	1.0
Cadmium	0.8367	-3.560	0.6247	-3.344	0.944 see footnote a	0.909
Chromium (III)	0.819	3.7256	0.8190	0.6848	0.316	0.860
Chromium (VI)	b	b	b	b	0.982	0.962
Lead	1.273	-1.460	1.273	-4.705	0.791	0.791
Mercury	b	b	b	b	0.85	0.85
Nickel	0.846	2.255	0.8460	0.0584	0.998	0.997
Silver	1.72	-6.52	c	c	0.85	c

Zinc	0.8473	0.884	0.8473	0.884	0.978	0.986

Note to table: The term "exp" represents the base e exponential function.

Footnotes to table:

a. Conversion factors (CF) are from "Stephan, C. E. 1995. Derivation of conversion factors for the calculation of dissolved freshwater aquatic life criteria for metals. U.S. Environmental Protection Agency, Environmental Research Laboratory – Duluth." The conversion factors for cadmium and lead are hardness-dependent and can be calculated for any hardness (see limitations in Subsection 210.03.b.i.) using the following equations. For comparative purposes, the conversion factors for a total hardness of one hundred (100) mg/L are shown in the table. The conversion factor shall not exceed one (1).

Cadmium

Acute: CF=1.136672–[(ln hardness)(0.041838)] NOTE: The cadmium acute criterion equation was derived from dissolved metals toxicity data and thus requires no conversion; this conversion factor may be used to back calculate an equivalent total recoverable concentration.

Chronic: CF=1.101672–[(ln hardness)(0.041838)]

Lead (Acute and Chronic): CF=1.46203–[(ln hardness)(0.145712)

b. Not applicable

c. No chronic criteria are available for silver.

(3-28-18)

03. Applicability. The criteria established in Section 210 are subject to the general rules of applicability in the same way and to the same extent as are the other numeric chemical criteria when applied to the same use classifications. Mixing zones may be applied to toxic substance criteria subject to the limitations set forth in Section 060 and set out below. (3-25-16)

a. For all waters for which the Department has determined mixing zones to be applicable, the toxic substance criteria apply at the boundary of the mixing zone(s) and beyond. Absent an authorized mixing zone, the toxic substance criteria apply throughout the waterbody including at the end of any discharge pipe, canal or other discharge point. (3-25-16)

b. Low flow design conditions. Water quality-based effluent limits and mixing zones for toxic substances shall be based on the following low flows in perennial receiving streams. Numeric chemical criteria may be exceeded in perennial streams outside any applicable mixing zone only when flows are less than these values:

Aquatic Life		Human Health	
CMC ("acute" criteria)	1Q10 or 1B3	Non-carcinogens	Harmonic mean flow
CCC ("chronic" criteria)	7Q10 or 4B3	Carcinogens	Harmonic mean flow

(3-25-16)

i. Where "1Q10" is the lowest one-day flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

ii. Where "1B3" is biologically based and indicates an allowable exceedance of once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

iii. Where "7Q10" is the lowest average seven (7) consecutive day low flow with an average recurrence frequency of once in ten (10) years determined hydrologically; (5-3-03)

iv. Where "4B3" is biologically based and indicates an allowable exceedance for four (4) consecutive days once every three (3) years. It may be determined by EPA's computerized method (DFLOW model); (5-3-03)

v. Where the harmonic mean flow is a long term mean flow value calculated by dividing the number of daily flows analyzed by the sum of the reciprocals of those daily flows. (5-3-03)

c. Application of aquatic life metals criteria. (3-25-16)

i. For metals other than cadmium, for purposes of calculating hardness dependent aquatic life criteria from the equations in Subsection 210.02, the minimum hardness allowed for use in those equations shall not be less than twenty-five (25) mg/l, as calcium carbonate, even if the actual ambient hardness is less than twenty-five (25) mg/l as calcium carbonate. For cadmium, the minimum hardness for use in those equations shall not be less than ten (10) mg/l, as calcium carbonate. The maximum hardness allowed for use in those equations shall not be greater than four hundred (400) mg/l, as calcium carbonate, except as specified in Subsections 210.03.c.ii. and 210.03.c.iii., even if the actual ambient hardness is greater than four hundred (400) mg/l as calcium carbonate. (3-29-10)

ii. The hardness values used for calculating aquatic life criteria for metals at design discharge conditions shall be representative of the ambient hardnesses for a receiving water that occur at the design discharge conditions given in Subsection 210.03.b. (5-3-03)

iii. Except as otherwise noted, the aquatic life criteria for metals (arsenic through zinc in Table 1 in Subsection 210.01) are expressed as dissolved metal concentrations. Unless otherwise specified by the Department, dissolved concentrations are considered to be concentrations recovered from a sample which has passed through a forty-five hundredths (0.45) micron filter. For the purposes of calculating aquatic life criteria for metals from the equations in footnotes c. and f. in Table 1 in Subsection 210.01, the water effect ratio is computed as a specific pollutant's acute or chronic toxicity values measured in water from the site covered by the standard, divided by the respective acute or chronic toxicity value in laboratory dilution water. The water-effect ratio shall be assigned a value of one (1.0), except where the Department assigns a different value that protects the designated uses of the water body from the toxic effects of the pollutant, and is derived from suitable tests on sampled water representative of conditions in the affected water body, consistent with the design discharge conditions established in Subsection 210.03.b. For purposes of calculating water effects ratios, the term acute toxicity value is the toxicity test results, such as the concentration lethal one-half (1/2) of the test organisms (i.e., LC5O) after ninety-six (96) hours of exposure (e.g., fish toxicity tests) or the effect concentration to one-half of the test organisms, (i.e., EC5O) after forty-eight (48) hours of exposure (e.g., daphnia toxicity tests). For purposes of calculating water effects ratios, the term chronic value is the result from appropriate hypothesis testing or regression analysis of measurements of growth, reproduction, or survival from life cycle, partial life cycle, or early life stage tests. The determination of acute and chronic values shall be according to current standard protocols (e.g., those published by the American Society for Testing and Materials (ASTM)) or other comparable methods. For calculation of criteria using site-specific values for both the hardness and the water effect ratio, the hardness used in the equations in Subsection 210.02 shall be as required in Subsection 210.03.c.ii. Water hardness shall be calculated from the measured calcium and magnesium ions present, and the ratio of calcium to magnesium shall be approximately the same in laboratory toxicity testing water as in the site water, or be similar to average ratios of laboratory waters used to derive the criteria. (3-28-18)

iv. Implementation Guidance for the Idaho Mercury Water Quality Criteria. (4-6-05)

(1) The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" describes in detail suggested methods for discharge related monitoring requirements, calculation of reasonable potential to exceed (RPTE) water quality criteria in determining need for mercury effluent limits, and use of fish tissue mercury data in calculating mercury load reductions. This guidance, or its updates, will provide assistance to the Department and the public when implementing the methylmercury criterion. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" also provides basic background information on mercury in the environment, the novelty of a fish tissue criterion for water quality, the connection between human health and aquatic life protection, and the relation of environmental programs outside of Clean Water Act programs to reducing mercury contamination of the environment. The "Implementation Guidance for the Idaho Mercury Water Quality Criteria" is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at www.deq.idaho.gov. (4-6-05)

(2) The implementation of a fish tissue criterion in NPDES permits and TMDLs requires a non-traditional approach, as the basic criterion is not a concentration in water. In applying the methylmercury fish tissue criterion in the context of NPDES effluent limits and TMDL load reductions, the Department will assume change in

fish tissue concentrations of methylmercury are proportional to change in water body loading of total mercury. Reasonable potential to exceed (RPTE) the fish tissue criterion for existing NPDES sources will be based on measured fish tissue concentrations potentially affected by the discharge exceeding a specified threshold value, based on uncertainty due to measurement variability. This threshold value is also used for TMDL decisions. Because measured fish tissue concentrations do not reflect the effect of proposed new or increased discharge of mercury, RPTE in these cases will be based upon an estimated fish tissue methylmercury concentration, using projected changes in waterbody loading of total mercury and a proportional response in fish tissue mercury. For the above purposes, mercury will be measured in the skinless filets of sport fish using techniques capable of detecting tissue concentrations down to point zero five (0.05) mg/kg. Total mercury analysis may be used, but will be assumed to be all methylmercury for purposes of implementing the criterion. (4-6-05)

v. Copper Criteria for Aquatic Life. (3-28-18)

(1) Aquatic life criteria for copper shall be derived using: (3-28-18)

(a) Biotic Ligand Model (BLM) software that calculates criteria consistent with the "Aquatic Life Ambient Freshwater Quality Criteria – Copper": EPA-822-R-07-001 (February 2007); or (3-28-18)

(b) An estimate derived from BLM outputs that is based on a scientifically sound method and protective of the designated aquatic life use. (3-28-18)

(2) To calculate copper criteria using the BLM, the following parameters from each site shall be used: temperature, pH, dissolved organic carbon (DOC), calcium, magnesium, sodium, potassium, sulfate, chloride, and alkalinity. The BLM inputs for humic acid (HA) as a proportion of DOC and sulfide shall be based on either measured values or the following default values: 10% HA as a proportion of DOC, 1.00 x 10^{-8} mg/L sulfide. Measured values shall supersede any estimate or default input. (3-28-18)

(3) BLM input measurements shall be planned to capture the most bioavailable conditions for copper. (3-28-18)

(4) A criterion derived under Subsection 210.03.c.v.(1)(a) shall supersede any criterion derived under Subsection 210.03.c.v.(1)(b). Acceptable BLM software includes the "US EPA WQC Calculation" for copper in BLM Version 3.1.2.37 (October 2015). (3-28-18)

(5) Implementation Guidance for the Idaho Copper Criteria for Aquatic Life. The "Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model" describes in detail methods for implementing the aquatic life criteria for copper using the BLM. This guidance, or its updates, will provide assistance to the Department and the public for determining minimum data requirements for BLM inputs and how to estimate criteria when data are incomplete or unavailable. The "Implementation Guidance for the Idaho Copper Criteria for Aquatic Life: Using the Biotic Ligand Model" is available at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706, and on the DEQ website at www.deq.idaho.gov. (3-28-18)

d. Application of toxics criteria. (3-25-16)

i. Frequency and duration for aquatic life toxics criteria. CMC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a one-hour average more than once in three (3) years unless otherwise specified. CCC column criteria in Table 1 in Subsection 210.01 are concentrations not to be exceeded for a four-day average more than once in three (3) years unless otherwise specified. (3-28-18)

ii. Frequency and duration for human health toxics criteria. Criteria in Table 2 in Subsection 210.01 are not to be exceeded based on an annual harmonic mean. (3-28-18)

04. National Pollutant Discharge Elimination System Permitting. For the purposes of NPDES permitting, interpretation and implementation of metals criteria listed in Subsection 210.02 should be governed by the following standards, that are hereby incorporated by reference, in addition to other scientifically defensible methods deemed appropriate by the Department; provided, however, any identified conversion factors within these documents are not incorporated by reference. Metals criteria conversion factors are identified in Subsection 210.02 of this rule.

(5-3-03)

a. "Guidance Document on Dissolved Criteria -- Expression of Aquatic Life Criteria," EPA, October 1993, http://www.deq.idaho.gov/media/827413-epa-guidance-dissolved-criteria-1093.pdf. (4-5-00)

b. "Guidance Document on Dynamic Modeling and Translators," EPA, August 1993, http://www.deq.idaho.gov/media/827417-epa-guidance-dynamic-modeling-translators-0893.pdf. (4-5-00)

c. "Guidance Document on Clean Analytical Techniques and Monitoring," EPA, October 1993, http://www.deq.idaho.gov/media/827421-epa-guidance-analytical-techniques-1093.pdf. (4-5-00)

d. "Interim Guidance on Determination and Use of Water-Effect Ratios for Metals," EPA, February 1994, http://www.deq.idaho.gov/media/827409-epa-guidance-water-effect-ratios-for-metals-0294.pdf. (4-5-00)

e. "Technical Support Document for Water Quality-Based Toxics Control." EPA, March 1991. http://www.deq.idaho.gov/media/60177101/58-0102-1201-epa-technical-support-document-1991.pdf. (3-25-16)

05. Development of Toxic Substance Criteria. (4-5-00)

a. Aquatic Life Communities Criteria. Numeric criteria for the protection of aquatic life uses not identified in these rules for toxic substances, may be derived by the Department from the following information: (4-5-00)

i. Site-specific criteria developed pursuant to Section 275; (4-5-00)

ii. Effluent biomonitoring, toxicity testing and whole-effluent toxicity determinations; (4-5-00)

iii. The most recent recommended criteria defined in EPA's ECOTOX database. When using EPA recommended criteria to derive water quality criteria to protect aquatic life uses, the lowest observed effect concentrations (LOECs) shall be considered; or (3-25-16)

iv. Scientific studies including, but not limited to, instream benthic assessment or rapid bioassessment. (4-5-00)

b. Human Health Criteria. (4-5-00)

i. When numeric criteria for the protection of human health are not identified in these rules for toxic substances, quantifiable criteria may be derived by the Department using best available science on toxicity thresholds (i.e. reference dose or cancer slope factor), such as defined in EPA's Integrated Risk Information System (IRIS) or other peer-reviewed source acceptable to the Department. (3-25-16)

ii. When using toxicity thresholds to derive water quality criteria to protect human health, a fish consumption rate representative of the population to be protected, a mean adult body weight, an adult 90th percentile water ingestion rate, a trophic level weighted BAF or BCF, and a hazard quotient of one (1) for non-carcinogens or a cancer risk level of 10^{-5} for carcinogens shall be utilized. (3-25-16)

211. -- 249. (RESERVED)

250. SURFACE WATER QUALITY CRITERIA FOR AQUATIC LIFE USE DESIGNATIONS.

01. General Criteria. The following criteria apply to all aquatic life use designations. Surface waters are not to vary from the following characteristics due to human activities: (3-15-02)

a. Hydrogen Ion Concentration (pH) values within the range of six point five (6.5) to nine point zero (9.0); (3-30-01)

b. The total concentration of dissolved gas not exceeding one hundred and ten percent (110%) of

saturation at atmospheric pressure at the point of sample collection; (7-1-93)

02. Cold Water. Waters designated for cold water aquatic life are not to vary from the following characteristics due to human activities: (3-15-02)

a. Dissolved Oxygen Concentrations exceeding six (6) mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

i. The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

ii. The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

iii. Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

b. Water temperatures of twenty-two (22) degrees C or less with a maximum daily average of no greater than nineteen (19) degrees C. (8-24-94)

c. Temperature in lakes shall have no measurable change from natural background conditions. Reservoirs with mean detention times of greater than fifteen (15) days are considered lakes for this purpose. (3-15-02)

d. Ammonia. The following criteria are not to be exceeded dependent upon the temperature, T (degrees C), and pH of the water body: (3-15-02)

i. Acute Criterion (Criterion Maximum Concentration (CMC)). The one (1) hour average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CMC = \frac{0.275}{1 + 10^{7.204 - pH}} + \frac{39.0}{1 + 10^{pH - 7.204}}$$

(3-15-02)

ii. Chronic Criterion (Criterion Continuous Concentration (CCC)). (3-15-02)

(1) The thirty (30) day average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equations: (3-15-02)

(a) When fish early life stages are likely present:

$$CCC = \left(\frac{0.0577}{1+10^{7.688-pH}} + \frac{2.487}{1+10^{pH-7.688}}\right) \bullet MIN(2.85, 1.45 \cdot 10^{0.028 \cdot (25-T)})$$

(3-15-02)

(b) When fish early life stages are likely absent:

$$CCC = \left(\frac{0.0577}{1+10^{7.688-pH}} + \frac{2.487}{1+10^{pH-7.688}}\right) \bullet 1.45 \cdot 10^{0.028 \cdot (25-T)})$$

(3-15-02)

(2) The highest four-day (4) average within the thirty-day (30) period should not exceed two point five (2.5) times the CCC. (3-15-02)

(3) Because the Department presumes that many waters in the state may have both spring-spawning and fall-spawning species of fish present, early life stages of fish may be present throughout much of the year. Accordingly, the Department will apply the CCC for when fish early life stages are present at all times of the year unless: (3-15-02)

(a) Time frames during the year are identified when early life stages are unlikely to be present, and (3-15-02)

(b) The Department is provided all readily available information supporting this finding such as the fish species distributions, spawning periods, nursery periods, and the duration of early life stages found in the water body; and (3-15-02)

(c) The Department determines early life stages are likely absent. (3-15-02)

e. Turbidity, below any applicable mixing zone set by the Department, shall not exceed background turbidity by more than fifty (50) NTU instantaneously or more than twenty-five (25) NTU for more than ten (10) consecutive days. (8-24-94)

f. Salmonid Spawning. The Department shall determine spawning periods on a waterbody specific basis taking into account knowledge of local fisheries biologists, published literature, records of the Idaho Department of Fish and Game, and other appropriate records of spawning and incubation, as further described in the current version of the "Water Body Assessment Guidance" published by the Idaho Department of Environmental Quality. Waters designated for salmonid spawning, in areas used for spawning and during the time spawning and incubation occurs, are not to vary from the following characteristics due to human activities: (3-30-07)

i. Dissolved Oxygen. (8-24-94)

(1) Intergravel Dissolved Oxygen. (8-24-94)

(a) One (1) day minimum of not less than five point zero (5.0) mg/l. (8-24-94)

(b) Seven (7) day average mean of not less than six point zero (6.0) mg/l. (8-24-94)

(2) Water-Column Dissolved Oxygen. (8-24-94)

(a) One (1) day minimum of not less than six point zero (6.0) mg/l or ninety percent (90%) of saturation, whichever is greater. (8-24-94)

ii. Water temperatures of thirteen (13) degrees C or less with a maximum daily average no greater than nine (9) degrees C. (8-24-94)

g. Bull Trout Temperature Criteria. Water temperatures for the waters identified under Subsection 250.02.g.i. shall not exceed thirteen degrees Celsius (13C) maximum weekly maximum temperature (MWMT) during June, July and August for juvenile bull trout rearing, and nine degrees Celsius (9C) daily average during September and October for bull trout spawning. For the purposes of measuring these criteria, the values shall be generated from a recording device with a minimum of six (6) evenly spaced measurements in a twenty-four (24) hour period. The MWMT is the mean of daily maximum water temperatures measured over the annual warmest consecutive seven (7) day period occurring during a given year. (3-30-01)

i. The bull trout temperature criteria shall apply to all tributary waters, not including fifth order main stem rivers, located within areas above fourteen hundred (1400) meters elevation south of the Salmon River basin-Clearwater River basin divide, and above six hundred (600) meters elevation north of the Salmon River basin-Clearwater River basin divide, in the fifty-nine (59) Key Watersheds listed in Table 6, Appendix F of Governor Batt's State of Idaho Bull Trout Conservation Plan, 1996, or as designated under Sections 110 through 160 of this rule. (3-23-98)

ii. No thermal discharges will be permitted to the waters described under Subsection 250.02.g.i.

unless socially and economically justified as determined by the Department, and then only if the resultant increase in stream temperature is less than five-tenths degrees Celsius (0.5C). (4-5-00)

Note: Idaho first adopted bull trout temperature criteria in 1998. These criteria were revised in 2001 (docket 58-0102-0002) and submitted to EPA for approval in 2003. EPA has not taken action, and so the bull trout temperature criterion effective for CWA purposes is the 1997 federally promulgated temperature criterion of 10ºC for 7-day average maximum daily temperatures from June through September for waters specified in the federal rule (see 40 CFR 131.33). However, a few waters identified in Governor Batt's 1996 bull trout conservation plan are not listed in 40 CFR 131.33. For waters not listed in 40 CFR 131.33, the 1998 criteria published in 1998 Idaho Administrative Code continue to apply and are effective for CWA purposes. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.

h. Kootenai River sturgeon temperature criteria. Water temperatures within the Kootenai River from Bonners Ferry to Shorty's Island, shall not exceed a seven (7) day moving average of fourteen degrees celsius (14C) based on daily average water temperatures, during May 1 through July 1. (3-23-98)

03. Seasonal Cold Water. Between the summer solstice and autumn equinox, waters designated for seasonal cold water aquatic life are not to vary from the following characteristics due to human activities. For the period from autumn equinox to summer solstice the cold water criteria will apply: (3-15-02)

Note: Idaho first adopted seasonal cold water use and temperature criteria in April 2000 (docket 58-0102-9704). In March 2001, Idaho revised its temperature criteria for the seasonal cold beneficial use (docket 58-0102-0002). Although the seasonal cold water use and temperature criteria adopted in 2000 have not been acted on by EPA, they were adopted by Idaho and submitted to EPA prior to May 30, 2000. Therefore, the seasonal cold water use and temperature criteria published in 2000 Idaho Administrative Code continue to apply and are effective for CWA purposes. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.

a. Dissolved Oxygen Concentrations exceeding six (6) mg/l at all times. In lakes and reservoirs this standard does not apply to: (4-5-00)

i. The bottom twenty percent (20%) of water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (4-5-00)

ii. The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (4-5-00)

iii. Those waters of the hypolimnion in stratified lakes and reservoirs. (4-5-00)

b. Water temperatures of twenty-six (26) degrees C or less as a daily maximum with a daily average of no greater than twenty-three (23) degrees C. (3-30-01)

c. Temperature in lakes shall have no measurable change from natural background conditions. Reservoirs with mean detention times of greater than fifteen (15) days are considered lakes for this purpose. (3-15-02)

d. Ammonia. Concentration of ammonia are not to exceed the criteria defined at Subsection 250.02.d. (3-15-02)

04. Warm Water. Waters designated for warm water aquatic life are not to vary from the following characteristics due to human activities: (3-30-07)

a. Dissolved oxygen concentrations exceeding five (5) mg/l at all times. In lakes and reservoirs this standard does not apply to: (7-1-93)

i. The bottom twenty percent (20%) of the water depth in natural lakes and reservoirs where depths are thirty-five (35) meters or less. (7-1-93)

ii. The bottom seven (7) meters of water depth in natural lakes and reservoirs where depths are greater than thirty-five (35) meters. (7-1-93)

iii. Those waters of the hypolimnion in stratified lakes and reservoirs. (7-1-93)

b. Water temperatures of thirty-three (33) degrees C or less with a maximum daily average not greater than twenty-nine (29) degrees C. (8-24-94)

c. Temperature in lakes shall have no measurable change from natural background conditions. Reservoirs with mean detention times of greater than fifteen (15) days are considered lakes for this purpose. (3-15-02)

d. Ammonia. The following criteria are to be met dependent upon the temperature, T (degrees C), and pH of the water body: (3-15-02)

i. Acute Criterion (Criterion Maximum Concentration (CMC)). The one (1) hour average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CMC = \frac{0.411}{1 + 10^{7.204 - pH}} + \frac{58.4}{1 + 10^{pH - 7.204}}$$

(3-15-02)

ii. Chronic Criterion (Criterion Continuous Concentration (CCC)). Concentrations of ammonia are not to exceed the criteria defined at Subsection 250.02.d.ii. (3-15-02)

05. Modified. Water quality criteria for modified aquatic life will be determined on a case-by-case basis reflecting the chemical, physical, and biological levels necessary to attain the existing aquatic life community. These criteria, when determined, will be adopted into these rules. (3-15-02)

251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

01. *E. Coli* Bacteria. Waters designated for recreation are not to contain *E. coli* bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-06)

a. Geometric Mean Criterion. Waters designated for primary or secondary contact recreation are not to contain *E. coli* bacteria in concentrations exceeding a geometric mean of one hundred twenty-six (126) *E. coli* organisms per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period. (4-11-06)

b. Use of Single Sample Values. A water sample exceeding the *E. coli* single sample maximums below indicates likely exceedance of the geometric mean criterion, but is not alone a violation of water quality standards. If a single sample exceeds the maximums set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., then additional samples must be taken as specified in Subsection 251.01.c.: (4-11-06)

i. For waters designated as secondary contact recreation, a single sample maximum of five hundred

seventy-six (576) *E. coli* organisms per one hundred (100) mL; or (4-11-06)

ii. For waters designated as primary contact recreation, a single sample maximum of four hundred six (406) *E. coli* organisms per one hundred (100) mL; or (4-11-06)

iii. For areas within waters designated for primary contact recreation that are additionally specified as public swimming beaches, a single sample maximum of two hundred thirty-five (235) *E. coli* organisms per one hundred (100) mL. Single sample counts above this value should be used in considering beach closures. (4-11-06)

c. Additional Sampling. When a single sample maximum, as set forth in Subsections 251.01.b.i., 251.01.b.ii., and 251.01.b.iii., is exceeded, additional samples should be taken to assess compliance with the geometric mean *E. coli* criteria in Subsection 251.01.a. Sufficient additional samples should be taken by the Department to calculate a geometric mean in accordance with Subsection 251.01.a. This provision does not require additional ambient monitoring responsibilities for dischargers. (4-11-06)

251. SURFACE WATER QUALITY CRITERIA FOR RECREATION USE DESIGNATIONS.

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1802 have been approved.

01. Toxics Criteria. Waters designated for recreation must meet the Fish Only water quality criteria set forth in Subsection 210.01.b. (4-11-19)

02. Fecal Indicators. Waters designated for recreation must meet criteria for indicator organisms of fecal contamination. Either of the following indicator criterion would be considered sufficient for determining compliance with the fecal indicator criteria: (4-11-19)

a. *E. Coli* Bacteria. Waters designated for recreation are not to contain *E. coli* bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-06)

i. Geometric Mean Criterion. Not to contain *E. coli* in concentrations exceeding a geometric mean of one hundred twenty-six (126) *E. coli* counts per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period; or (4-11-19)

ii. Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain E. coli bacteria in concentrations exceeding an STV of four hundred and ten (410) E. coli counts per one hundred (100) mL; or (4-11-19)

b. Enterococci. Waters designated for recreation are not to contain enterococci bacteria, used as indicators of human pathogens, in concentrations exceeding: (4-11-19)

i. Geometric Mean Criterion. Not to contain enterococci bacteria in concentrations exceeding a geometric mean of thirty-five (35) enterococci counts per one hundred (100) mL based on a minimum of five (5) samples taken every three (3) to seven (7) days over a thirty (30) day period; or (4-11-19)

ii. Statistical Threshold Value (STV). No greater than ten percent (10%) of valid samples collected over a thirty (30) day period are to contain enterococci bacteria in concentrations exceeding an STV of one hundred and thirty (130) enterococci counts per one hundred (100) mL. (4-11-19)

252. SURFACE WATER QUALITY CRITERIA FOR WATER SUPPLY USE DESIGNATION.

Effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

01. Domestic. Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

a. Radioactive materials or radioactivity not to exceed concentrations specified in Idaho Department of Environmental Quality Rules, IDAPA 58.01.08, "Rules Governing Public Drinking Water Systems." (8-24-94)

b. Small public water supplies (Surface Water). (8-24-94)

i. The following Table identifies waters, including their watersheds above the public water supply intake (except where noted), which are designated as small public water supplies.

TABLE - DESIGNATED SMALL PUBLIC WATER SUPPLIES

County	Water Body	Supply No.*	Supply System Name
Benewah	Spring	1050001	BLM Sheep Springs
Benewah	Spring	1050002	BLM Tingley Springs
Benewah	Adams Ck.	1050011	Fernwood Water Dist.
Benewah	Rochat Ck.	1050024	St Maries, City of
Boise	Elk Ck.	4080025	Idaho City Water Dept.
Boise	McBride Ck.	4080047	Terrace Lakes Rec. Ranch
Bonner	Spring	1090168	Beaver Ck Camp Assn
Bonner	Spring	1090017	Clark Fork U ID Field Campus
Bonner	Berry Ck.	1090021	Colburn Water Assn.
Bonner	Cougar Ck.	1090030	Cougar Creek Water Assn
Bonner	Strong Ck.	1090038	East Hope Water Dept.
Bonner	Composite Spring	1090052	Hope Water System
Bonner	Spring	1090074	Lakeview Townsite Improve Assn
Bonner	Spring	1090031	Midas Water System
Bonner	Little Sand Ck.	1090121	Sandpoint Water Dept
Bonner	Schweitzer Ck.	1090124	Schweitzer Basin Water Co
Bonner	Spring #1	1090123	Schweitzer Mtn Resort
Bonner	Spring #2	1090123	Schweitzer Mtn Resort
Bonner	Springs	1090151	West Bonner WD#1
Boundary	Meadow Ck.	1110001	Bee Line Water Assn.
Boundary	Myrtle Ck.	1110003	Bonners Ferry, City of
Boundary	Spring	1110007	Cow Ck Water Assn
Boundary	Curley Ck.	1110008	Curley Ck. Water Assn.
Boundary	Mission Ck.	1110019	Mission Creek Water Assn.
Boundary	Caribou Ck.	1110020	Moravia Water Assn.
Boundary	Spring	1110044	Northwest Academy/Ascent
Boundary	Ruby Ck.	1110044	Northwest Academy/Ascent

County	Water Body	Supply No.*	Supply System Name
Boundary	Brown Creek and Cedar Ck.	1110023	Paradise Valley Water Assn.
Boundary	Spring #1	1110024	Rocky Mountain Academy
Boundary	Spring #2	1110024	Rocky Mountain Academy
Boundary	Skin Ck.	1110025	Skin Ck. Water Assn.
Boundary	Springs	1110029	Trow Creek Water Assn
Boundary	Twenty Mile Ck.	1110030	Twenty Mile Ck. Water Assn.
Clearwater	N.F. Clearwater R.**	2180001	Ahsahka Water and Sewer District
Clearwater	Reeds Ck.	2180029	Potlatch Corp-Headquarters
Custer	Garden Ck.	7190013	Challis, City of
Elmore	E.F. Montezuma Ck.	4200005	Atlanta Water Assn.
Idaho	Wall Creek	2250011	Clearwater Water Assn.
Idaho	Big Elk Ck.	2250017	Elk City Water/Sewer Assn.
Kootenai	Spring	1280068	Excelsior Beach Water
Kootenai	Rose Spring	1280161	Rose Lake Water Assn
Lemhi	Chick Ck., Jesse Ck., and Pollard Ck.	7300042	Salmon, City of
Nez Perce	Big Canyon Ck.	2350023	Peck Water System
Shoshone	Lake Ck.	1400081	Asarco Galena Unit
Shoshone	Shields Ck.	1400089	Central Shoshone County WD
Shoshone	Big Ck.	1400089	Central Shoshone County WD
Shoshone	McFarren Ck.	1400089	Central Shoshone County WD
Shoshone	Milo Ck.	1400089	Central Shoshone County WD
Shoshone	Sawmill Gulch and Canyon Ck.	1400016	East Shoshone County WD-Burke
Shoshone	Boulder Ck.	1400017	East Shoshone County WD-Mullan
Shoshone	Cranky Gulch	1400019	East Shoshone County WD-Wallace
Shoshone	Weyer Gulch	1400019	East Shoshone County WD-Wallace
Shoshone	Experimental Ck.	1400019	East Shoshone County WD-Wallace
Shoshone	Canyon Ck.	1400016	East Shoshone County WD-Burke
Shoshone	Mill Ck.	1400017	East Shoshone County WD-Mullan
Shoshone	Placer Ck.-main channel	1400019	East Shoshone County WD-Wallace
Shoshone	Placer Ck-WF	1400019	East Shoshone County WD-Wallace
Shoshone	Deadman Ck. MF	1400028	Hecla Mining Co-Lucky Friday
Shoshone	National Tunnel	1400028	Hecla Mining Co-Lucky Friday

County	Water Body	Supply No.*	Supply System Name
Shoshone	Deadman Ck. WF	1400028	Hecla Mining Co-Lucky Friday
Shoshone	Spring	1400067	Lookout Pass Ski Area
Shoshone	Alder Ck. and East Alder Ck.	1400039	Murray Water Works
Shoshone	E.F. Silver Ck.	1400046	Silver Creek Water Assn.
Shoshone	Big Ck #1	1400050	Sunshine Precious Metals
Valley	Boulder Ck.	4430059	Yellowpine Water System, Inc.

* Public water supply number assigned by IDHW/DEQ.

** Only the portion of the watershed below Dworshak Dam is included. (3-30-01)

ii. For those surface waters identified in Subsection 252.01.b.i. turbidity as measured at the public water intake shall not be: (4-5-00)

(1) Increased by more than five (5) NTU above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, when background turbidity is fifty (50) NTU or less. (8-24-94)

(2) Increased by more than ten percent (10%) above natural background, measured at a location upstream from or not influenced by any human induced nonpoint source activity, not to exceed twenty-five (25) NTU, when background turbidity is greater than fifty (50) NTU. (8-24-94)

02. Agricultural. Water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (4-5-00)

03. Industrial. Water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 252 or 275 through 298. (4-5-00)

252. SURFACE WATER QUALITY CRITERIA FOR WATER SUPPLY USE DESIGNATION.

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1703 have been approved.

01. Domestic. Waters designated for domestic water supplies are to exhibit the following characteristics: (4-5-00)

a. Must meet general water quality criteria set forth in Section 200 and the Water & Fish criteria set forth in Subsection 210.01.b. (4-11-19)

b. Turbidity. (4-11-19)

i. Turbidity as measured at any public water intake shall not be: (4-11-19)

(1) Increased by more than five (5) NTU above background when background turbidity is fifty (50) NTU or less; (4-11-19)

(2) Increased by more than ten percent (10%) above background when background turbidity is greater than fifty (50) NTU and less than two hundred and fifty (250) NTU; or (4-11-19)

(3) Increased by more than twenty-five (25) NTU above background when background turbidity is two hundred and fifty (250) NTU or greater. (4-11-19)

ii. Turbidity Background/Criteria Table.

Turbidity Background	Turbidity Criteria
≤ 50 NTUs	5 NTUs above background
> 50 – < 250 NTUs	10% above background
≥ 250 NTUs	25 NTUs

(4-11-19)

02. Agricultural. Water quality criteria for agricultural water supplies will generally be satisfied by the water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, "Water Quality Criteria 1972" (Blue Book), Section V, Agricultural Uses of Water, EPA, March, 1973 will be used for determining criteria. This document is available for review at the Idaho Department of Environmental Quality, or can be obtained from EPA or the U.S. Government Printing Office. (4-5-00)

03. Industrial. Water quality criteria for industrial water supplies will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 252 or 275 through 298. (4-5-00)

253. SURFACE WATER QUALITY CRITERIA FOR WILDLIFE AND AESTHETICS USE DESIGNATIONS.

01. Wildlife Habitats. Water quality criteria for wildlife habitats will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 253 or 275 through 298. (4-5-00)

02. Aesthetics. Water quality criteria for aesthetics will generally be satisfied by the general water quality criteria set forth in Section 200. Should specificity be desirable or necessary to protect a specific use, appropriate criteria will be adopted in Sections 253 or 275 through 298. (4-5-00)

254. -- 259. (RESERVED)

260. VARIANCES FROM WATER QUALITY STANDARDS.

01. Variances. Variances from meeting certain water quality standards may be granted by the Department provided they are consistent with the following requirements: (8-24-94)

a. When granted by the Department, individual variances are to be pollutant and discharger specific, and shall be granted pursuant to the following procedure: (3-15-02)

i. Prior to granting a variance, the Department shall publish notice of the Department's tentative determination to grant a variance and shall receive written comments for not less than thirty (30) days after the date the notice is published. The notice shall contain a clear description of the impacts of the variance upon the receiving stream segment. The Department shall also provide an opportunity for oral presentation of comments, if requested in writing within fourteen (14) days of the notice, by twenty-five (25) persons, a political subdivision, or an agency. (3-15-02)

ii. The Department's final decision with respect to a variance may be appealed pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." The Department shall

maintain and make available to the public an updated list of variances. (3-15-02)

b. In order to obtain a variance from a water quality standard, the discharger must demonstrate that meeting the standard is unattainable based on one or more of the following grounds: (8-24-94)

i. Naturally occurring pollutant concentrations prevent the attainment of the standard; or (8-24-94)

ii. Natural, intermittent, or low flow conditions or water levels prevent the attainment of the standard; or (4-5-00)

iii. Human caused conditions or sources of pollution prevent the attainment of the standard and cannot be remedied or would cause more environmental damage to correct than to leave in place; or (8-24-94)

iv. Dams, diversions or other types of hydrologic modifications preclude the attainment of the standard, and it is not feasible to restore the water body to its original condition or to operate such modification in a way that would result in attainment of the standard; or (8-24-94)

v. Physical conditions related to the natural features of the water body, unrelated to water quality, preclude attainment of the standard; or (8-24-94)

vi. Controls more stringent than technology-based effluent limitations would result in substantial and widespread economic and social impact. (8-24-94)

c. The discharger must submit to the Department documentation that treatment more advanced than required by technology-based effluent limitations have been considered and that alternative effluent control strategies have been evaluated. (8-24-94)

d. Any variance granted by the Department will remain in effect for a period of five (5) years or the life of the permit. (8-24-94)

i. Upon expiration of the five (5) year time period or permit, the discharger must either meet the standard or must re-apply for the variance in accordance with these rules. (8-24-94)

ii. In considering a re-application for a variance, the Department will require the discharger to demonstrate reasonable progress towards meeting the standard. (8-24-94)

02. Specific Variances. In addition to any variances listed separately from these rules as described in Subsection 260.01.a.ii., the following variances have also been granted by the Department in accordance with Subsection 260.01: (3-15-02)

a. The South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility) is granted variances from meeting water quality standards in Section 250 for ammonia and chlorine, and Section 210 for cadmium, lead, and zinc, discharged to the West Page Swamp, located in T49N, R2E, S32, Boise Prime Meridian. (3-30-01)

b. The variances provided in Subsection 260.02.a. are conditioned upon the discharges showing reasonable progress toward reducing their discharge of ammonia and chlorine. Reasonable progress shall be measured according to the terms of the state's certification of the discharges. (3-30-01)

Note: Final rule submitted to EPA on May 29, 2003 (docket 58-0102-0002). This revision grants a variance to the South Fork Coeur d'Alene River Sewer District (Page Wastewater Treatment Facility) from meeting water quality standards for ammonia, chlorine, cadmium, lead, and zinc discharged to the West Page Swamp. On May 7, 2010, EPA disapproved the variance; therefore, Subsections 260.02.a. and b. are not effective for CWA purposes. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.

261. -- 274. (RESERVED)

275. SITE-SPECIFIC SURFACE WATER QUALITY CRITERIA.

01. Procedures for Establishing Site-specific Water Quality Criteria. The water quality criteria adopted in these standards may not always reflect the toxicity of a pollutant in a specific water body. These criteria also represent a limited number of the natural and human-made chemicals that exist in the environment which may pose a threat to designated or existing beneficial uses. Thus, it may be possible in some water bodies to develop new water quality criteria or modify existing criteria through site-specific analyses which will effectively protect designated and existing beneficial uses. (8-24-94)

a. The following are acceptable conditions for developing site-specific criteria: (8-24-94)

i. Resident species of a water body are more or less sensitive than those species used to develop a water quality criterion. (8-24-94)

(1) Natural adaptive processes have enabled a viable, balanced aquatic community to exist in waters where natural background levels of a pollutant exceed the water quality criterion (i.e., resident species have evolved a greater resistance to higher concentrations of a pollutant). (8-24-94)

(2) The composition of aquatic species in a water body is different from those used to derive a water quality criterion (i.e., more or less sensitive species to a pollutant are present or representative of a water body than have been used to derive a criterion). (8-24-94)

ii. Biological availability and/or toxicity of a pollutant may be altered due to differences between the physicochemical characteristics of the water in a water body and the laboratory water used in developing a water quality criterion (e.g., alkalinity, hardness, pH, salinity, total organic carbon, suspended solids, turbidity, natural complexing, fate and transport water, or temperature). (8-24-94)

iii. The affect of seasonality on the physicochemical characteristics of a water body and subsequent effects on biological availability and/or toxicity of a pollutant may justify seasonally dependent site-specific criteria. (8-24-94)

iv. Water quality criteria may be derived to protect and maintain existing ambient water quality. (8-24-94)

v. Other factors or combinations of factors that upon review of the Department may warrant modifications to the criteria. (8-24-94)

b. Any person may develop site-specific criteria in accordance with these rules. To insure that the approach to be used in developing site-specific criteria is scientifically valid, the Department shall be involved early in the planning of any site-specific analyses so that an agreement can be reached concerning the availability of existing data, additional data needs, methods to be used in generating new data, testing procedures to be used, schedules to be followed and quality control and assurance provisions to be used. (8-24-94)

c. Site-specific criteria shall not impair designated or existing beneficial uses year-round (or seasonally for seasonal dependent criteria) and shall prevent acute and chronic toxicity outside of approved mixing zones. If site-specific criteria are seasonally dependent, the period when the criteria apply shall be clearly identified. (8-24-94)

d. Site-specific criteria, if appropriate, shall include both chronic and acute concentrations to more accurately reflect the different tolerances of resident species to the inherent variability between concentrations and toxicological characteristics of a pollutant. (8-24-94)

e. Site-specific criteria shall be clearly identified as maximum (not to be exceeded) or average values. If a criterion represents an average value, the averaging period shall be specified. The conditions, if any, when the

criteria apply shall be clearly stated (e.g., specific levels of hardness, pH, water temperature, or bioavailability). Specific sampling requirements (location, frequency, etc.), if any, shall also be specified. (8-24-94)

f. A site may be limited to the specific area affected by a point or nonpoint source of pollution or, if appropriate, an expanded geographical area (e.g., ecoregion, river basin, sub-basin, etc.). For a number of different water bodies to be designated as one site, their respective aquatic communities cannot vary substantially in sensitivity to a pollutant. Site boundaries shall be geographically defined. (8-24-94)

g. Proposed site-specific water quality criteria must be approved by the Board in accordance with the Idaho Administrative Procedure Act. The Department of Environmental Quality shall determine whether to approve a request for site-specific criteria in accordance with this section and within twenty-eight (28) days after receipt of the request, and will introduce acceptable site-specific criteria for rule-making. (8-24-94)

h. The following are acceptable procedures for developing site-specific criteria for aquatic life protection. (8-24-94)

i. Site-specific analyses for the development of new water quality criteria shall be conducted in a manner which is scientifically justifiable and consistent with the assumptions and rationale in "Guidelines for Deriving Numerical National Water Quality Criteria for the Protection of Aquatic Organisms and Their Uses," EPA 1985. This document is available for review at the Idaho Department of Environmental Quality or may be obtained from EPA or the U.S. Government Printing Office. (8-24-94)

ii. Site-specific analyses for the modification of existing water quality criteria shall be conducted in accordance with one of the following procedures, as described in the "Water Quality Standards Handbook," EPA 1983. This document is available for review at the Idaho Department of Environmental Quality or may be obtained from EPA or the U.S. Government Printing Office. (8-24-94)

(1) Recalculation Procedure. This procedure is used to account for differences in sensitivity to a pollutant between resident species and those species used in deriving the criterion. Bioassays in laboratory water may be required for untested resident species. (8-24-94)

(2) Indicator Species Procedure. This procedure is used to account for differences in biological availability and/or toxicity of a chemical between the physicochemical characteristics of the water in a water body and the laboratory water used in developing criteria. Bioassays in site water are required using resident species or acceptable nonresident species. (8-24-94)

(3) Resident Species Procedure. This procedure is used to account for differences in both resident species sensitivity and biological availability and/or toxicity of a pollutant. Bioassays in site water using resident species are required. (8-24-94)

(4) Water effects ratios as defined by EPA guidance documents. (8-24-94)

(5) Other scientifically defensible procedures such as relevant aquatic field studies, laboratory tests, biological translators, fate and distribution models, risk analyses or available scientific literature. (8-24-94)

(a) Deviations from the above described EPA procedures shall have justifications which are adequately documented and based on sound scientific rationale. (8-24-94)

(b) The data, testing procedures and application factors used to develop site-specific criteria shall reflect the nature of the pollutant (e.g., persistency, bioaccumulation potential, avoidance or attraction responses in fish, etc.), the designated and existing beneficial uses, and the most sensitive resident species of a water body. (8-24-94)

02. Water Quality Criteria for Specific Waters. Standards provided in Sections 276 through 298 for specific waters will supersede Sections 210, 250, 251, 252, and 253 when the application of the standards contained in both sections would present a conflict. (5-3-03)

276. DISSOLVED OXYGEN STANDARDS FOR WATERS DISCHARGED FROM DAMS, RESERVOIRS, AND HYDROELECTRIC FACILITIES.
Under the terms specified under this section, waters discharged from dams, reservoirs and hydroelectric facilities shall not be subject to the provisions of Subsection 250.02.a. or 250.02.f.i. (4-5-00)

01. Applicability. Subsections 276.02, 276.03 and 276.04 shall apply to all waters below dams, reservoirs, and hydroelectric facilities as far downstream as the point of measurement as defined in Subsection 276.05. Downstream of that point of measurement, all discharges to the waters shall be subject to the provisions of Subsections 250.02.a. or 250.02.f.i. (4-5-00)

02. Dissolved Oxygen Concentrations Below Existing Facilities. As of the effective date of these regulations, and except as noted in Subsections 276.03 and 276.04, waters below dams, reservoirs, and hydroelectric facilities shall contain the following dissolved oxygen concentrations during the time period indicated:

	mg/l Dissolved Oxygen		
Time Period (annually)	**30-day Mean**	**7-Day Mean Minimum**	**Instantaneous Minimum**
June 15 - Oct 15	6.0	4.7	3.5

(7-1-93)

03. Dissolved Oxygen Concentrations for Modifications of Existing Facilities or for New Facilities. Modifications of existing facilities or new facilities are subject to the provisions of Subsection 276.02 unless the state has documented the existence of significant fish spawning areas below the facility. If such areas exist, then waters below those facilities shall contain the dissolved oxygen concentrations shown in Subsection 276.02 during the modified time periods indicated for each species below:

Fish Species	**Time Period (annually)**
Cutthroat trout	July 1 - Oct 15
Kokanee and Chinook Salmon	June 15 - Aug 1
Bull Trout	June 15 - Sept 1

(7-1-93)

04. Dissolved Oxygen Concentrations Below American Falls Dam. All waters below American Falls Dam shall contain the following dissolved oxygen concentrations during the time period indicated:

	mg/l Dissolved Oxygen		
Time Period (annually)	**30-Day Mean**	**7-Day Mean Minimum**	**Instantaneous Minimum**
May 15 - Oct 15	5.5	4.7	3.5

(7-1-93)

05. Point of Measurement. For the purpose of determining compliance with Subsections 276.02, 276.03 and 276.04, the dissolved oxygen shall be measured at a single location in the river downstream from the hydroelectric facilities. Such location shall be as close to the facilities as practical to obtain a representative measurement, but in all cases shall be sufficient distance downstream to allow thorough mixing of reaerated waters, spilled by-pass waters, and other waters that have passed through the facility. (7-1-93)

06. Instantaneous Minimum. Any measurement of dissolved oxygen below the applicable instantaneous minimum will be considered a violation unless that measurement is followed by two (2) consecutive measurements at or above the instantaneous minimum and taken within twenty (20) minutes of the initial measurement (at ten (10) minute intervals). (1-10-86)

07. Procedures and Conditions for Variances. The Board may grant a variance, on an individual basis, to the dissolved oxygen standards, the applicable dates of compliance, or both, as listed in Subsections 276.02, 276.03, or 276.04 only if: (7-1-93)

a. A written petition requesting a variance is submitted to the Department; (7-1-93)

b. The petition includes documentation of site-specific biological studies which demonstrate that no significant fishery impacts will occur as a result of the variance, if granted; and (7-1-93)

c. The requested variance will not result in departure from the three point five (3.5) mg/l instantaneous minimum dissolved oxygen requirements of this section. (1-10-86)

277. (RESERVED)

278. LOWER BOISE RIVER SUBBASIN, HUC 17050114 SUBSECTION 140.12.

01. Boise River, SW-1 and SW-5 -- Salmonid Spawning and Dissolved Oxygen. The waters of the Boise River from Veterans State Park to its mouth will have dissolved oxygen concentrations of six (6) mg/l or seventy-five percent (75%) of saturation, whichever is greater, during the spawning period of salmonid fishes inhabiting those waters. (3-15-02)

02. Boise River, SW-5 and SW-11a -- Copper and Lead Aquatic Life Criteria. The water-effect ratio (WER) values used in the equations in Subsection 210.02 for calculating copper and lead CMC and CCC values shall be two and five hundred seventy-eight thousandths (2.578) for dissolved copper and two and forty-nine thousandths (2.049) for lead. These site-specific criteria shall apply to the Boise River from the Lander St. wastewater outfall to where the channels of the Boise River become fully mixed downstream of Eagle Island. (5-3-03)

03. Indian Creek, SW-3a -- Site-Specific Criteria for Water Temperature. A maximum weekly maximum temperature of thirteen degrees C (13ºC) to protect brown trout and rainbow trout spawning and incubation applies from October 15 through June 30. (3-29-12)

04. Boise River, SW-5 and SW-11a -- Site-Specific Criteria for Water Temperature. A maximum weekly maximum temperature of thirteen degrees C (13ºC) to protect brown trout, mountain whitefish, and rainbow trout spawning and incubation applies from November 1 through May 30. (3-29-12)

05. Point Source Thermal Treatment Requirement. With regard to the limitations set forth in Section 401 relating to point source wastewater discharges, only the limitations of Subsections 401.01.a. and 401.01.b. and the temperature limitation relating to natural background conditions shall apply to discharges to any water body within the Lower Boise River Subbasin. (3-29-12)

279. (RESERVED)

280. ROCK CREEK, CEDAR DRAW, DEEP CREEK AND BIG WOOD RIVER - CANAL SYSTEM.

01. Rock Creek, Cedar Draw, and Deep Creek. For the purposes of water quality protection, the following waterways are recognized as used by the Twin Falls Canal Company as spillways, collection and conveyance facilities and such waterways shall also be protected for those uses: Rock Creek from the intersection with the High Line Canal of the Twin Falls Canal System to the mouth; Cedar Draw from the intersection with the High Line Canal of the Twin Falls Canal System to the mouth, Deep Creek from the intersection with the High Line Canal of the Twin Falls Canal system to the mouth, all in Twin Falls County. (7-1-93)

02 Big Wood River -- Canal System. For the purposes of water quality protection, the following waterway is also recognized as used by the North Side Canal Company for the purposes of conveying canal water and shall also be protected for that use: Big Wood River from the point of union with the North Side Canal System, located in Section 31, T. 5 S., R. 15 E., Boise Meridian, downstream to the last irrigation diversion of the North Side Canal Company from the Malad River located in Section 25, T. 6 S., R. 13 E., Boise Meridian. (7-1-93)

281. -- 282. (RESERVED)

283. SPOKANE RIVER, SUBSECTION 110.12, HUC 17010305, UNITS P-3 AND P-4, SITE-SPECIFIC CRITERIA FOR AMMONIA.
The following criteria are to be met dependent upon the temperature, T (degrees C), and pH of the water body: (3-30-01)

01. Acute Criterion (Criterion Maximum Concentration (CMC)). The one (1) hour average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CMC = \frac{0.275}{1 + 10^{7.204 - pH}} + \frac{39.0}{1 + 10^{pH - 7.204}}$$

(3-30-01)

02. Chronic Criterion (Criterion Continuous Concentration (CCC)). (3-30-01)

a. The thirty (30) day average concentration of total ammonia nitrogen (in mg N/L) is not to exceed, more than once every three (3) years, the value calculated using the following equation:

$$CCC = \left(\frac{0.0577}{1+10^{7.688-pH}} + \frac{2.487}{1+10^{pH-7.688}} \right) \bullet MIN(2.85, 1.45 \cdot 10^{0.028 \cdot (25-T)})$$

(3-30-01)

b. The highest four (4) day average within the thirty (30) day period should not exceed two and five tenths (2.5) times the CCC. (3-30-01)

284. SOUTH FORK COEUR D'ALENE SUBBASIN, SUBSECTION 110.09, HUC 17010302, AQUATIC LIFE CRITERIA FOR CADMIUM, LEAD AND ZINC.
The following criteria are to be met dependent upon the hardness, expressed as mg/l of calcium carbonate, of the water. Criterion maximum concentrations (CMC), one (1) hour average concentrations, and criterion continuous concentrations (CCC), four (4) day average concentrations, of the dissolved metals (in µg/l) are not to exceed, more than once every three (3) years, the values calculated using the following equations: (3-15-02)

01. Cadmium. (3-15-02)

a. $CMC = 0.973 \times e^{[(1.0166 \times \ln(\text{hardness})) - 3.924]}$ (3-15-02)

b. $CCC = [1.101672 - (\ln(\text{hardness}) \times 0.041838] \times e^{[(0.7852 \times \ln(\text{hardness})) - 3.490]}$ (3-15-02)

02. Lead. (3-15-02)

a. $CMC = e^{[(0.9402 \times \ln(\text{hardness})) + 1.1834]}$ (3-15-02)

b. $CCC = e^{[(0.9402 \times \ln(\text{hardness})) - 0.9875]}$ (3-15-02)

03. Zinc. (3-15-02)

a. $CMC = e^{[(0.6624 \times \ln(\text{hardness})) + 2.2235]}$ (3-15-02)

b. $CCC = e^{[(0.6624 \times \ln(hardness)) + 2.2235]}$ (3-15-02)

04. Application. (3-15-02)

a. The maximum hardness allowed for use in the equations in Section 284 shall not be greater than four hundred (400) mg/l even if the actual ambient hardness is greater than four hundred (400) mg/l. (3-15-02)

b. The criteria described in Section 284 apply to all surface waters within the subbasin, except for natural lakes, for which the statewide criteria given in Section 210 apply. (3-25-16)

285. SNAKE RIVER, SUBSECTION 140.13, HUC 17050115, UNIT SW1; AND SUBSECTION 140.19, HUC 17050201, UNITS SW1, SW2, SW3 AND SW4, SITE-SPECIFIC CRITERIA FOR WATER-COLUMN DISSOLVED OXYGEN.
A minimum of six and five-tenths (6.5) mg/l of water-column dissolved oxygen shall be met in the Snake River from the Idaho/Oregon border to Hell's Canyon Dam. (3-20-04)

286. SNAKE RIVER, SUBSECTION 130.01, HUC 17060101, UNIT S1, S2, AND S3; SITE-SPECIFIC CRITERIA FOR WATER TEMPERATURE.
Weekly maximum temperatures (WMT) are regulated to protect fall chinook spawning and incubation in the Snake River from Hell's Canyon Dam to the confluence with the Salmon River from October 23 through April 15. Because the WMT is a lagged seven (7) day average, the first WMT is not applicable until the seventh day of this time period, or October 29. A WMT is calculated for each day after October 29 based upon the daily maximum temperature for that day and the prior six (6) days. From October 29 through November 6, the WMT must not exceed fourteen point five degrees C (14.5°C). From November 7 through April 15, the WMT must not exceed thirteen degrees C (13°C). (3-29-12)

Note: Submitted to EPA on June 8, 2012 (docket 58-0102-1102). This revision modified the existing site-specific temperature criterion to protect fall Chinook spawning below Hell's Canyon Dam by providing for a two week transition in temperatures from October 23 through November 6. Until EPA approves this revision, the previous criterion published in 2005 Idaho Administrative Code continues to apply and is effective for CWA purposes. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.

287. SITE-SPECIFIC AQUATIC LIFE CRITERIA FOR SELENIUM.
Site-specific water column values (30-day average) are based on dissolved total selenium in water and are derived using a performance-based approach from fish tissue values via either the mechanistic modeling or empirical bioaccumulation factor (BAF) method in Aquatic Life Ambient Water Quality Criterion for Selenium – Freshwater, EPA-822-R-16-006, Appendix K: Translation of a Selenium Fish Tissue Criterion Element to a Site-Specific Water Column Value (June 2016). (3-28-18)

01. Subsection of Blackfoot Subbasin. Blackfoot River - confluence of Lanes and Diamond Creeks to Blackfoot Reservoir (unit US-10), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term exposure water column criterion elements set out in Subsection 210.01., table footnote **l.**, are also applicable to the water bodies identified in this subsection.

Chronic			
Egg-Ovary (mg/kg dw)	Fish Tissue (mg/kg dw)		Water Column (µg/L)
Egg-Ovary	Whole-Body	Muscle	Water Lotic
24.5[1]	12.5[2]	12.8[2]	11.9[3,4,5]
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter			

1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.

2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.

3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example value displayed in this table represents the lotic water column value for Sheep Creek based on the average BAF for Cutthroat Trout among all sampling locations and years.

4. Lotic Water Column Equation=

$$\frac{Tissue_{criterion}}{BAF}$$

where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.

5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.

(3-28-18)

02. Subsection of Bear Lake Subbasin. Georgetown Creek - source to mouth (unit B-22), and all tributaries thereof. Site-specific egg-ovary, whole-body, and muscle criterion elements for these water bodies are set out in the following table. The lentic and short-term water column criterion elements set out in Subsection 210.01., table footnote **l.**, are also applicable to the water bodies identified in this subsection.

Chronic			
Egg-Ovary (mg/kg dw)	**Fish Tissue (mg/kg dw)**		**Water Column (µg/L)**
Egg-Ovary	Whole-Body	Muscle	Water Lotic
21.0[1]	12.5[2]	12.8[2]	3.8[3,4,5]
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter			

1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.

2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body and muscle data to determine compliance with this criterion element.

3. Water column values are derived using the empirical BAF method. For comparative purposes only, the example displayed in this table represents the lotic water column value for Georgetown Creek, upstream of the intermittent reach, based on the average BAF for Brook Trout in all sampling locations and years.

4. Lotic Water Column Equation=

$$\frac{Tissue_{criterion}}{BAF}$$

where Tissue criterion is the fish tissue element (whole-body), and BAF is the bioaccumulation factor derived by dividing site-specific field-collected samples of fish tissue (whole-body) by site-specific field-collected samples of water.

5. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, surface water from the fishless waters and fish tissue from the nearest downstream waters are used for bioaccumulation modeling. Fish tissue supersedes any site-specific water column values when fish are sampled downstream of fishless waters.

(3-28-18)

03. Subsection of Salt Subbasin — Sage Creek. Sage Creek – source to mouth (unit US-9) including, Hoopes Spring channel downstream of the spring complex, South Fork Sage Creek downstream of the spring complex, Sage Creek downstream of the confluence of Hoopes Spring with Sage Creek to its confluence with Crow Creek, North Fork Sage Creek and tributaries (including Pole Canyon Creek). Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote **l.**, are also applicable to the water bodies identified in this subsection.

Chronic		
Egg-Ovary (mg/kg dw)	**Fish Tissue (mg/kg dw)**	**Water Column (µg/L)**
Egg-Ovary	Whole-Body	Water Lotic
20.5[1]	13.6[2]	16.7[3]
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		

1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element.

2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element.

3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance.

(3-28-18)

04. Subsection of Salt Subbasin — Crow Creek. Crow Creek – Downstream of Sage Creek confluence to Wyoming state line (US-8). Site-specific egg-ovary and whole-body criterion elements for these water bodies are set out in the following table. The muscle, lentic water column, and short-term water column criterion elements set out in Subsection 210.01., table footnote **l.**, are also applicable to the water bodies identified in this

subsection.

Chronic		
Egg-Ovary (mg/kg dw)	**Fish Tissue (mg/kg dw)**	**Water Column (µg/L)**
Egg-Ovary	Whole-Body	Water Lotic
20.5[1]	12.5[2]	4.2[3]
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element. 2. Fish tissue supersedes water column element when both fish tissue (whole-body) and water concentrations are measured. Fish tissue elements are expressed as a single arithmetic average of tissue concentrations from at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body data to determine compliance with this criterion element. 3. Water column values are derived using the empirical BAF method. Water column values are the applicable criterion element in the absence of steady-state condition fish tissue data. In fishless waters, selenium concentrations in fish from the nearest downstream waters may be used to assess compliance.		

(3-28-18)

05. Portions of Idaho. (3-28-18)

a. This site-specific criterion applies in the HUC subbasins set out in the following table.

HUC	Subbasin		HUC	Subbasin
16010102	Central Bear		17040208	Portneuf
16010201	Bear Lake		17040209	Lake Walcott
16010202	Middle Bear		17040210	Raft
16010203	Little Bear-Logan		17040211	Goose
16010204	Lower Bear-Malad		17040214	Beaver-Camas
16020309	Curlew Valley		17040215	Medicine Lodge
17010302	South Fork Coeur d Alene		17040216	Birch
17010306	Hangman		17040218	Big Lost
17010308	Little Spokane		17040220	Camas
17040104	Palisades		17040221	Little Wood
17040105	Salt		17050104	Upper Owyhee
17040201	Idaho Falls		17050105	South Fork Owyhee
17040202	Upper Henrys		17050106	East Little Owyhee
17040203	Lower Henrys		17050107	Middle Owyhee
17040204	Teton		17050108	Jordan

HUC	Subbasin		HUC	Subbasin
17040205	Willow		17060109	Rock
17040206	American Falls			
17040207	Blackfoot			

(3-28-18)

b. Site-specific egg-ovary, whole-body, and muscle criterion elements for the water bodies identified in Subsection 287.05.a. are set out in the following table. The water column criterion elements set out in Subsection 210.01., table footnote **l.**, are also applicable to the water bodies identified in Subsection 287.05.a.

Chronic		
Egg-Ovary (mg/kg dw)	**Fish Tissue (mg/kg dw)**	
Egg-Ovary	Whole-Body	Muscle
19.0[1]	9.5[2]	13.1[2]
mg/kg dw – milligrams per kilogram dry weight, µg/L – micrograms per liter		
1. Egg-ovary supersedes any whole-body, muscle, or water column element when fish egg-ovary concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species. Not to be exceeded; DEQ will evaluate all representative egg-ovary data to determine compliance with this criterion element. 2. Fish whole-body or muscle tissue supersedes water column element when both fish tissue and water concentrations are measured. Single measurement of an average or composite sample of at least five (5) individuals of the same species where the smallest individual is no less than seventy-five percent (75%) of the total length (size) of the largest individual. Not to be exceeded; DEQ will evaluate all representative whole-body or muscle data to determine compliance with this criterion element.		

(3-28-18)

Section 287 is not effective for CWA purposes until the date EPA issues written notification that the revisions adopted under Rule Docket No. 58-0102-1701 have been approved.

288. -- 299. (RESERVED)

300. GAS SUPERSATURATION.

01. Applicability of Gas Supersaturation Standard. The Director has the following authority: (7-1-93)

a. To specify the applicability of the gas supersaturation standard with respect to excess stream flow conditions; and (7-1-93)

b. To direct that all known and reasonable measures be taken to assure protection of the fishery resource; and (7-1-93)

c. To require that operational procedures or project modifications proposed for compliance for dissolved gas criterion do not contribute to increased mortalities to juvenile migrants or impose serious delays to adult migrant fishes. (7-1-93)

02. Interstate Agreements. In making determinations as to the applicability of gas supersaturation standards, the Director can seek and enter into agreements with adjoining state environmental regulatory agencies. (7-1-93)

03. Gas Supersaturation Control Program. Owners or operators of proposed water impoundment facilities subject to excessive spilling which can result in supersaturated water conditions must submit to the Department for approval a program for the detection and control of gas supersaturation. The program must include, but is not limited to: (7-1-93)

a. Time schedules for construction or installation of supersaturation control features and devices; and (7-1-93)

b. When required by the Department, a monitoring and reporting system insuring that supersaturated conditions are detected and reported to the Department. (7-1-93)

301. -- 349. (RESERVED)

350. RULES GOVERNING NONPOINT SOURCE ACTIVITIES.

01. Implementation Policy. (7-1-93)

a. Nonpoint sources are the result of activities essential to the economic and social welfare of the state. The a real extent of most nonpoint source activities prevents the practical application of conventional wastewater treatment technologies. Nonpoint source pollution management, including best management practices, is a process for protecting the designated beneficial uses and ambient water quality. Best management practices should be designed, implemented and maintained to provide full protection or maintenance of beneficial uses. Violations of water quality standards which occur in spite of implementation of best management practices will not be subject to enforcement action. However, if subsequent water quality monitoring and surveillance by the Department, based on the criteria listed in Sections 200, 210, 250, 251, 252, and 253, indicate water quality standards are not met due to nonpoint source impacts, even with the use of current best management practices, the practices will be evaluated and modified as necessary by the appropriate agencies in accordance with the provisions of the Administrative Procedure Act. If necessary, injunctive or other judicial relief may be initiated against the operator of a nonpoint source activity in accordance with the Director's authorities provided in Section 39-108, Idaho Code. In certain cases, revision of the water quality standards may be appropriate. (4-5-00)

b. As provided in Subsections 350.01.a. and 350.02.a. for nonpoint source activities, failure to meet general or specific water quality criteria, or failure to fully protect a beneficial use, shall not be considered a violation of the water quality standards for the purpose of enforcement. Instead, water quality monitoring and surveillance of nonpoint source activities will be used to evaluate the effectiveness of best management practices in protecting beneficial uses as stated in Subsections 350.01.a. and 350.02.b. (12-31-91)

02. Limitation to Nonpoint Source Restrictions. Nonpoint source activities will be subject to the following: (7-1-93)

a. Except as provided in Subsections 350.02.b. and 350.02.c., so long as a nonpoint source activity is being conducted in accordance with applicable rules, regulations and best management practices as referenced in Subsection 350.03, or in the absence of referenced applicable best management practices, conducted in a manner that demonstrates a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the activity will not be subject to conditions or legal actions based on Subsection 080.01. In all cases, if it is determined by the Director that imminent and substantial danger to the public health or environment is occurring, or may occur as a result of a nonpoint source by itself or in combination with other point or nonpoint source activities, then the Director may seek immediate injunctive relief to stop or prevent that danger as provided in Section 39-108, Idaho Code. (3-29-12)

b. If the Director determines through water quality monitoring and surveillance that water quality criteria are not being met, or that beneficial uses are being impaired as a result of a nonpoint source activity by itself or in combination with other point and nonpoint source activities then: (3-3-87)

i. For an activity occurring in a manner not in accordance with approved best management practices, or in a manner which does not demonstrate a knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the Director may with appropriate inter-Departmental coordination. (3-3-87)

(1) Prepare a compliance schedule as provided in Section 39-116, Idaho Code; and/or (2-2-83)

(2) Institute administrative or civil proceedings including injunctive relief under Section 39-108, Idaho Code. (3-3-87)

ii. For activities conducted in compliance with approved best management practices, or conducted in a manner which demonstrates knowledgeable and reasonable effort to minimize resulting adverse water quality impacts, the Director may, with appropriate inter-Departmental coordination: (3-3-87)

(1) For those activities with approved best management practices as listed in Subsection 350.03 formally request that the responsible agency conduct a timely evaluation and modification of the practices to insure full protection of beneficial uses. (12-31-91)

(2) For all other nonpoint source activities which do not have approved best management practices as listed in Subsection 350.03, develop and recommend to the operator control measures necessary to fully protect the beneficial uses. Such control measures may be implemented on a voluntary basis, or where necessary, through appropriate administrative or civil proceedings. (12-31-91)

(3) If, in a reasonable and timely manner the approved best management practices are not evaluated or modified by the responsible agency, or if the appropriate control measures are not implemented by the operator, then the Director may seek injunctive relief to prevent or stop imminent and substantial danger to the public health or environment as provided in Section 39-108, Idaho Code. (3-3-87)

c. The Director may review for compliance project plans for proposed nonpoint source activities, based on whether or not the proposed activity will fully maintain or protect beneficial uses as listed in Sections 200, 250, 251, 252, and 253. In the absence of relevant criteria in those Sections, the review for compliance will be based on whether or not the proposed activity: (4-5-00)

i. Will comply with approved or specialized best management practices; and (3-3-87)

ii. Provides a monitoring plan which, when implemented, will provide information to the Director adequate to determine the effectiveness of the approved or specialized best management practices in protecting the beneficial uses of water; and (3-3-87)

iii. Provides a process for modifying the approved or site-specific best management practices in order to protect beneficial uses of water. (3-3-87)

d. For projects determined not to comply with those requirements, the plan may be revised and resubmitted for additional review by the Department. Any person aggrieved by a final determination of the Director may, within thirty (30) days, file a written request for a hearing before the Board in accordance with the Idaho Administrative Procedures Act. In all cases, implementation of projects detailed in a plan shall be conducted in a manner which will not result in imminent and substantial danger to the public health or environment. (3-3-87)

03. Approved Best Management Practices. The following are approved best management practices for the purpose of Subsection 350.02: (12-31-91)

a. "Rules Pertaining to the Idaho Forest Practices Act," IDAPA 20.02.01, as adopted by Board of Land Commissioners; (12-31-91)

b. Idaho Department of Environmental Quality Rules, IDAPA 58.01.06, "Solid Waste Management Rules and Standards"; (7-1-93)

c. Idaho Department of Environmental Quality Rules, IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules"; (7-1-93)

d. "Stream Channel Alteration Rules," IDAPA 37.03.07, as adopted by the Board of Water Resources; (7-1-93)

e. For the Spokane Valley Rathdrum Prairie Aquifer, "Rathdrum Prairie Sewage Disposal Regulations," as adopted by the Panhandle District Health Department Board of Health and approved by the Idaho Board of Environmental Quality; (7-1-93)

f. "Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities," IDAPA 20.03.02, as adopted by the Board of Land Commissioners; and (7-1-93)

g. "Dredge and Placer Mining Operations in Idaho," IDAPA 20.03.01, as adopted by the Board of Land Commissioners. (7-1-93)

h. "Rules Governing Dairy Waste," IDAPA 02.04.14, as adopted by the Department of Agriculture. (3-20-97)

351. -- 399. (RESERVED)

400. RULES GOVERNING POINT SOURCE DISCHARGES.

01. Implementation Policy. (7-1-93)

a. As provided for in Subsection 080.01, and Sections 200, 210, 250, 251, 252, 253, 275, and 400 for point source discharges, failure to meet general or specific water quality criteria is a violation of the water quality standards. (4-5-00)

b. No unauthorized discharge from a point source shall occur to waters of the state. (4-11-06)

02. Limitations to Point Source Restrictions. So long as a point source discharge or wastewater treatment facility is regulated by the terms and conditions of an authorization pursuant to Subsection 080.02, a Board order, decree or compliance schedule, or a valid NPDES permit issued by the EPA, the discharge or facility will not be subject to additional restrictions or conditions based on Subsection 080.01and Sections 200, 210, 250, 251, 252, and 253. (3-29-12)

03. Compliance Schedules for Water Quality-Based Effluent Limitations. Discharge permits for point sources may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations when new limitations are in the permit for the first time. (3-15-02)

04. Wetlands Used for Wastewater Treatment. (8-24-94)

a. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of wastewater or stormwater treatment, and operated in compliance with NPDES permit conditions, shall not be subject to the application of general water quality-based or site-specific criteria and standards. (8-24-94)

b. Waters contained within wetlands intentionally created from non-wetland sites for the purpose of treatment of nonpoint sources of pollution, and operated in compliance with best management practices, shall not be subject to the application of general water quality-based or site specific criteria and standards. (8-24-94)

c. Discharges from treatment systems described in Sections 400.04.a. and 400.04.b. to waters of the state are subject to all applicable rules and requirements governing such discharges. (8-24-94)

05. Flow Tiered NPDES Permit Limitations. Discharge permits for point sources discharging to waters exhibiting unidirectional flow may incorporate tiered limitations for conventional and toxic constituents at the

discretion of the department. (8-24-94)

06. Intake Credits for Water Quality-Based Effluent Limitations. Discharge permits for point sources may incorporate intake credits for water quality-based effluent limits. These credits are subject to the limitations specified in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." (3-25-16)

401. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.
Unless more stringent limitations are necessary to meet the applicable requirements of Sections 200 through 300, or unless specific exemptions are made pursuant to Subsection 080.02, wastewaters discharged into surface waters of the state must have the following characteristics: (4-11-06)

01. Temperature. The wastewater must not affect the receiving water outside the mixing zone so that: (7-1-93)

a. The temperature of the receiving water or of downstream waters will interfere with designated beneficial uses. (7-1-93)

b. Daily and seasonal temperature cycles characteristic of the water body are not maintained. (7-1-93)

c. If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge due to natural background conditions, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C. (3-29-12)

Note: Submitted to EPA as a temporary rule on July 20, 2011, and as a final rule on August 7, 2012 (docket 58-0102-1101). This revision removed the numeric limits on point source induced changes in receiving water temperature. Until EPA approves this revision, the previous treatment requirements published in 2011 Idaho Administrative Code continue to apply and are effective for CWA purposes. For more information, go to http://www.deq.idaho.gov/epa-actions-on-proposed-standards.

The previous treatment requirements published in 2011 Idaho Administrative Code are effective for CWA purposes until the date EPA issues written notification that the revisions in Docket Nos. 58-0102-1101 or 58-0102-1803 have been approved.

c. If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge due to natural background conditions, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C above the natural background conditions. (4-11-19)

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1803 have been approved.

d. *If temperature criteria for the designated aquatic life use are exceeded in the receiving waters upstream of the discharge, then wastewater must not raise the receiving water temperatures by more than three tenths (0.3) degrees C above applicable numeric criteria.* *(4-11-19)*

Not effective for CWA purposes until the date EPA issues written notification that the revisions in Docket No. 58-0102-1803 have been approved.

02. Turbidity. The wastewater must not increase the turbidity of the receiving water outside the mixing zone by: (7-1-93)

a. More than five (5) NTU (Nephelometric Turbidity Units) over background turbidity, when background turbidity is fifty (50) NTU or less; or (7-1-93)

b. More than ten percent (10%) increase in turbidity when background turbidity is more than fifty (50) NTU, not to exceed a maximum increase of twenty-five (25) NTU. (7-1-93)

402. -- 799. (RESERVED)

800. HAZARDOUS AND DELETERIOUS MATERIAL STORAGE.
Hazardous and deleterious materials must not be stored, disposed of, or accumulated adjacent to or in the immediate vicinity of state waters unless adequate measures and controls are provided to insure that those materials will not enter state waters as a result of high water, precipitation runoff, wind, storage facility failure, accidents in operation, or unauthorized third party activities. (7-1-93)

01. Criteria to Be Evaluated. Measures and controls will be judged by the Department on the basis of the following: (7-1-93)

a. Potential of a given occurrence; and (7-1-93)

b. The potential injury to beneficial uses presented by the nature and quantity of the material and on the physical design of the facility. (7-1-93)

02. Delineation of Materials. Such material includes, but is not limited to, trash, rubbish, garbage, oil, gasoline, chemicals, sawdust, and accumulations of manure. (7-1-93)

801. -- 848. (RESERVED)

849. OIL FILLED ELECTRIC EQUIPMENT.
Releases of Dielectric Oil from oil filled electric equipment are subject to the following requirements: (3-20-97)

01. Unauthorized Releases. In the case of an unauthorized release of dielectric oil to state waters or to land such that there is a likelihood that it will enter state waters, the persons in charge must: (3-20-97)

a. Stop Continuing Releases. Make every reasonable effort to abate and stop a continuing release. Provided however, that seepage normally associated with oil filled electrical equipment occurring in substations or distribution facilities with restricted access and not causing a threat to waters of the state is not considered a continuing release. (3-20-97)

b. Contain Material. Make every reasonable effort to contain released dielectric oil in such a manner that it will not reach surface or ground water of the state. (3-20-97)

c. Department Notification Required. Notify the Department or designated agent within forty-eight (48) hours of discovery of any release over twenty-five (25) gallons, or any release causing a threat to waters of the state, from any piece of electrical equipment. (3-20-97)

d. Collect, Remove, and Dispose. Collect, remove, and dispose of the released dielectric oil and any contaminated media in a manner approved by the Department. (3-20-97)

e. Compliance with Section 852. If collection, removal, and disposal cannot be accomplished within thirty (30) days after discovery of a release, the persons in charge shall comply with Section 852. (3-20-97)

02. Applicability. This section applies only to equipment used in the transmission of electricity such as transformers, regulators, reactors, circuit breakers, switch gear and attendant equipment which is filled with mineral insulating oil of a petroleum origin. This section does not pertain to bulk storage of dielectric oil which is not contained in electrical equipment. (3-20-97)

850. HAZARDOUS MATERIAL SPILLS.
In the case of an unauthorized release of hazardous materials to state waters or to land such that there is a likelihood that it will enter state waters, the responsible persons in charge must: (7-1-93)

01. Stop Continuing Spills. Make every reasonable effort to abate and stop a continuing spill.(7-1-93)

02. Contain Material. Make every reasonable effort to contain spilled material in such a manner that it will not reach surface or groundwaters of the state. (7-1-93)

03. Department Notification Required. Immediately notify the Department or designated agent of the spills. (7-1-93)

04. Collect, Remove and Dispose. Collect, remove, and dispose of the spilled material in a manner approved by the Department. (7-1-93)

851. PETROLEUM RELEASE REPORTING, INVESTIGATION, AND CONFIRMATION.

01. Reporting of Suspected Releases for All Petroleum Storage Tank Systems. Owners and operators of petroleum storage tank (PST) systems shall report to the Department within twenty-four (24) hours and follow the procedures in Subsection 851.03 for any of the following conditions: (7-1-93)

a. The discovery by owners and operators or others of a petroleum release at the PST site or in the surrounding area other than spills and overfills described in Subsection 851.04, such as the presence of free product or dissolved product in nearby surface water or ground water or vapors in soils, basements, sewer or utility lines. (7-1-93)

b. Unusual operating conditions observed by owners and operators such as the erratic behavior of product dispensing equipment, the sudden loss of product from the PST system, or an unexplained presence of water in the PST system, unless system equipment is found to be defective but not leaking, and is immediately repaired or replaced. (7-1-93)

c. Monitoring results from a release detection method that indicate a release may have occurred unless: (7-1-93)

i. The monitoring device is found to be defective, and is immediately repaired, recalibrated or replaced, and additional monitoring does not confirm the initial result; or (7-1-93)

ii. In the case of inventory control, a second month of data does not confirm the initial result. (7-1-93)

02. Investigation Due to Off-Site Impacts. When required by the Department, owners and operators shall follow the procedures in Subsection 851.03 to determine if the PST system is the source of off-site impacts. These impacts include the discovery of petroleum, such as the presence of free product or dissolved product in nearby surface water or ground water or vapors in soils, basements, sewer and utility lines, that has been observed by the Department or brought to its attention by another party. (7-1-93)

03. Release Investigation and Confirmation Steps. Unless corrective action is initiated in accordance with Section 852, owners and operators shall immediately investigate and confirm all suspected releases of petroleum within seven (7) days, or another time period specified by the Department, of discovery and using at least one (1) of the following steps or another procedure approved by the Department: (7-1-93)

a. Owners and operators shall conduct tightness tests that determine whether a leak exists in any portion of the PST system, including the tank, the attached delivery piping, and any connected tanks and piping. All such portions shall be tested either separately or together or in combinations thereof, as required by the Department. (7-1-93)

i. Owners and operators shall repair, replace or upgrade the PST system in accordance with applicable federal, state and local laws, and begin corrective action in accordance with Section 852 if the test results

for the system, tank, or delivery piping indicate that a leak exists. (7-1-93)

ii. Further investigation is not required if the test results for the system, tank, and delivery piping do not indicate that a leak exists and if environmental contamination is not the basis for suspecting a release. (7-1-93)

iii. Owners and operators shall conduct a site check as described in Subsection 851.03.b. if the test results for the system, tank, and delivery piping do not indicate that a leak exists but environmental contamination is the basis for suspecting a release. (7-1-93)

b. Owners and operators shall measure for the presence of a release where contamination is most likely to be present. In selecting sample types, sample locations, and measurement methods, owners and operators shall consider the nature of the petroleum, the type of initial alarm or cause for suspicion, the type of backfill, the depth of ground water, and other factors appropriate for identifying the presence and source of the release. Methods of sample collection and sample analysis are subject to Department approval. (7-1-93)

i. If release has occurred, owners and operators shall begin corrective action in accordance with Section 852. (7-1-93)

ii. If test results for the PST system do not indicate that a release has occurred, further investigation is not required. (7-1-93)

04. Reporting and Cleanup of Above Ground Spills and Overfills. Owners and operators shall contain and immediately clean up an above ground spill or overfill of petroleum only after identifying and mitigating any fire, explosion and vapor hazards. (7-1-93)

a. An above ground spill or overfill of petroleum that results in a release that exceeds twenty-five (25) gallons or that causes a sheen on nearby surface water shall be reported to the Department within twenty-four (24) hours and owners and operators shall begin corrective action in accordance with Section 852. (7-1-93)

b. An above ground spill or overfill of petroleum that results in a release that is less than twenty-five (25) gallons and does not cause a sheen on nearby surface water shall be reported to the Department only if cleanup cannot be accomplished within twenty-four (24) hours. (7-1-93)

852. PETROLEUM RELEASE RESPONSE AND CORRECTIVE ACTION.

01. Release Response. Upon confirmation of a petroleum release in accordance with Section 851 or after a release from the PST system is identified in any other manner, owners and operators shall perform the following initial response actions within twenty-four (24) hours: (7-1-93)

a. Identify and mitigate fire, explosion and vapor hazards; (7-1-93)

b. Take immediate action to prevent any further release of petroleum into the environment; and (7-1-93)

c. Report the release to the Department. (7-1-93)

02. Initial Abatement Measures. Unless directed to do otherwise by the Department, owners and operators shall perform the following abatement measures: (7-1-93)

a. Remove as much of the petroleum from the leaking PST system as is necessary to prevent further release to the environment; (7-1-93)

b. Visually inspect any above ground releases or exposed below ground releases and prevent further migration of the released substance into surrounding soils, surface water and ground water; (7-1-93)

c. Continue to monitor and mitigate any additional fire and safety hazards posed by vapors or free product that have migrated from the PST site and entered into subsurface structures such as sewers or basements; (7-1-93)

d. Remedy hazards posed by contaminated soils that are excavated or exposed as a result of release confirmation, site investigation, abatement, or corrective action activities. If these remedies include treatment or disposal of soils, the owner and operator shall comply with applicable state and local requirements. (7-1-93)

03. Initial Site Characterization. Unless directed to do otherwise by the Department, owners and operators shall assemble information about the site and the nature of the release, including information gained while confirming the release or completing the initial abatement measures in Subsection 852.02. This information shall include, but is not necessarily limited to the following: (7-1-93)

a. Data on the nature and estimated quantity of release; (7-1-93)

b. Data from available sources and/or site investigations concerning the following factors: surrounding populations, water quality, use and approximate location of wells potentially affected by the release, subsurface soil condition, locations of subsurface sewers, climatological conditions and land use; and (7-1-93)

c. Data from measurements that assess the site for the presence of petroleum contamination including: (7-1-93)

i. Measurements for the presence of a release where contamination is most likely to be present, unless the presence and source of the release have been confirmed in accordance with the site check required by Subsection 851.03.b. or the closure site assessments required by applicable federal, state, or local laws. Sample types, sample locations and analytical methods are subject to Department approval and shall be based on consideration of the nature of the petroleum, the type of backfill, depth to ground water and other factors appropriate for identifying the presence and source of the release; and (7-1-93)

ii. Measurements to determine the presence of free product. (7-1-93)

d. Within forty-five (45) days of release confirmation, or another time specified by the Department, owners and operators shall submit the information collected in compliance with Subsection 852.03 to the Department in a manner that demonstrates its applicability and technical adequacy to be reviewed as follows: (7-1-93)

i. If the Department determines that the information shows that no further corrective action is required, owners and operators shall be notified accordingly. (7-1-93)

ii. If the Department determines that the information shows petroleum contamination is limited to soils, owners and operators shall treat or dispose of contaminated soils in accordance with Department guidelines, and need not perform any further corrective action. (7-1-93)

iii. If the Department determines that the information shows that any of the conditions in Subsections 852.05.a. through 852.05.c. exist, owners and operators shall comply with the requirements in Subsections 852.04 through 852.07. (7-1-93)

04. Free Product Removal. At sites where investigations under Subsection 852.03.c.ii. indicate the presence of free product, owners and operators shall remove free product to the maximum extent practicable as determined by the Department while continuing, as necessary, any actions initiated under Subsections 852.01 through 852.03 or preparing for actions required under Subsections 852.05 and 852.06. In meeting the requirements of Subsection 852.04, owners and operators shall: (7-1-93)

a. Conduct free product removal in a manner that minimizes the spread of contamination into previously uncontaminated areas by using recovery and disposal techniques appropriate to the hydrogeologic conditions at the site, and that properly treats, discharges or disposes of recovery by-products in compliance with applicable local, state and federal regulations; (7-1-93)

b. Use abatement of free product migration as a minimum objective for the design of the free product removal system; (7-1-93)

c. Handle any flammable products in a safe and competent manner to prevent fires or explosions; and (7-1-93)

d. Unless directed to do otherwise by the Department, prepare and submit to the Department for review and approval, within forty-five (45) days after confirming a release, a free product removal report that provides at least the following information: (7-1-93)

i. The name of the person(s) responsible for implementing the free product removal measures; (7-1-93)

ii. The estimated quantity, type and thickness of free product observed or measured in wells, boreholes, and excavations; (7-1-93)

iii. The type of free product recovery system used; (7-1-93)

iv. Whether any discharge will take place on-site or off-site during the recovery operation and where this discharge will be located; (7-1-93)

v. The type of treatment applied to, and the effluent quality expected from, any discharge; (7-1-93)

vi. The steps that have been or are being taken to obtain necessary permits for any discharge; and (7-1-93)

vii. The disposition of the recovered free product. (7-1-93)

05. Investigations for Soil and Water Cleanup. If any of the conditions in Subsections 852.05.a. through 852.05.c. exist, and unless directed to do otherwise by the Department, owners and operators shall notify the Department and conduct investigations in accordance with Subsection 852.05.d. of the release, the release site, and the surrounding area possibly affected by the release in order to determine the full extent and location of soils contaminated by the petroleum release and the presence and concentrations of dissolved product contamination in the ground water or surface water: (7-1-93)

a. There is evidence that ground water or surface water has been affected by the release such as found during release confirmation or previous corrective action measures; (7-1-93)

b. Free product is found to need recovery in compliance with Subsection 852.04; (7-1-93)

c. There is evidence that contaminated soils may affect nearby ground water, surface water or the public health and have not been treated or disposed of in accordance with Subsection 852.03.d.ii. (7-1-93)

d. Unless determined otherwise by the Department, investigations conducted under this Subsection, 852.05, shall include, but are not necessarily limited to the following: (7-1-93)

i. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; (7-1-93)

ii. The type and age of the PST system, inventory loss, and type of containment failure; (7-1-93)

iii. The hydrogeologic characteristics of the release site and the surrounding area; (7-1-93)

iv. The background concentrations of contaminants in soil, surface water and ground water; (7-1-93)

v. A site drawing, showing boring and monitoring well locations, nearby structures, under ground utilities, drainage ditches, streams, suspected locations of leakage, direction of ground water flow, and any domestic or irrigation wells within a one-fourth (1/4) mile radius of the site; (7-1-93)

vi. Information on ownership and use of any well identified pursuant to Subsection 852.05.d.v.; (7-1-93)

vii. Site borings and well logs and rationale for choosing drilling locations, and a description of methods and equipment used for all water and soil sampling; (7-1-93)

viii. A description of contaminant stratigraphy with accompanying geologic cross-section drawings; (7-1-93)

ix. A demonstration and description of the horizontal and vertical extent of contamination, free product thickness, modes and rate of contaminant transport, and concentrations of dissolved constituents in surface water and ground water; (7-1-93)

x. The potential effects of residual contamination on nearby surface water and ground water; and (7-1-93)

xi. A discussion of laboratory analytical methods and information pertaining to laboratory certification. (7-1-93)

e. Owners and operators shall submit the information collected in investigating the release site in compliance with Subsection 852.05 for the Department's review and approval in accordance with a schedule established by the Department as provided in Subsection 852.07. (7-1-93)

06. Corrective Action Plan. At any point after reviewing the information submitted in compliance with Subsections 852.01 through 852.05, the Department may require owners and operators to submit additional information or to develop and submit a corrective action plan for responding to contaminated soils, surface water and ground water. If a plan is required, owners and operators shall submit the plan according to a schedule and criteria established by the Department as provided in Subsection 852.07. Alternatively, owners and operators may, after fulfilling the requirements of Subsections 852.01 through 852.05, choose to submit a corrective action plan for responding to contaminated soil, surface water and ground water. In either case, owners and operators are responsible for submitting a plan that provides for adequate protection of human health and the environment as determined by the Department, and shall modify their plan as necessary to meet the Department's standards. (7-1-93)

a. The Department will approve the corrective action plan only after ensuring that implementation of the plan will adequately protect human health and the environment. In making this determination, the Department should consider the following factors as appropriate: (7-1-93)

i. The maximum contaminant levels for drinking water or other health-based levels for water and soil which consider the potential exposure pathway of the petroleum product; (3-18-94)

ii. The physical and chemical characteristics of the petroleum product including its toxicity, persistence, and potential for migration; (7-1-93)

iii. The hydrogeologic characteristics of the release site and the surrounding area; (7-1-93)

iv. The proximity, quality, and current and future uses of nearby surface water and ground water; (7-1-93)

v. The potential effects of residual contamination on nearby surface water and ground water; and (7-1-93)

vi. Other information assembled in compliance with Section 851. (7-1-93)

b. Upon approval of the corrective action plan or as directed by the Department, owners and operators shall implement the plan including modification to the plan made by the Department. Owners and operators shall monitor, evaluate, and report the results of implementing the plan in accordance with a schedule and criteria established by the Department as provided in Subsection 852.07. (7-1-93)

c. Owners and operators may, in the interest of minimizing environmental contamination and promoting more effective cleanup, begin cleanup of soil, surface water, and ground water before the corrective action plan is approved provided that they: (7-1-93)

i. Notify the Department of their intention to begin cleanup; (7-1-93)

ii. Comply with any conditions imposed by the Department, including halting cleanup or mitigating adverse consequences from cleanup activities; and (7-1-93)

iii. Incorporate these self-initiated cleanup measures in the corrective action plan that is submitted to the Department for approval. (7-1-93)

07. Compliance. If the Department determines that any of the conditions in 852.05.a. through 852.05.c. exist, owners and operators shall be given an opportunity to enter into a consent order with the Department. (7-1-93)

a. The Department shall send owners and operators a consent order that sets forth at least the following: (7-1-93)

i. A schedule for owners and operators to submit the information collected in investigating the release site in compliance with Subsection 852.05. (7-1-93)

ii. A schedule for owners and operators to submit, and a criteria for, a corrective action plan in compliance with Subsection 852.06. (7-1-93)

iii. A schedule for the Department to review, modify, and approve the site release investigation and corrective action plan. (7-1-93)

iv. A schedule and criteria for owners and operators to implement a corrective action plan, and monitor, evaluate, and report the results of implementing the corrective action plan. (7-1-93)

b. Owners and operators shall be given thirty (30) days from receipt of the consent order in which to reach an agreement with the Department regarding the terms of the consent order. (7-1-93)

c. If owners and operators cannot reach an agreement with the Department within thirty (30) days, the Department shall establish a schedule and criteria with which owners and operators shall comply in order to meet the requirements of Subsections 852.05 and 852.06. (7-1-93)

853. -- 999. (RESERVED)

000. LEGAL AUTHORITY.

The Idaho Board of Environmental Quality, pursuant to authority granted in Chapters 1 and Chapter 36, Title 39, Idaho Code, adopted the following rules for the administration of a Wastewater Treatment Facility Grants Program in Idaho. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules will be known and cited as Idaho Department of Environmental Quality Rules, IDAPA 58.01.04, "Rules for Administration of Wastewater Treatment Facility Grants." (5-3-03)

02. Scope. The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering a state grant program for providing financial assistance to qualifying entities to prepare a wastewater treatment facility planning document. (3-29-12)

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. (5-3-03)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (4-2-08)

004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.

01. Incorporation by Reference. These rules do not contain documents incorporated by reference. (4-2-08)

02. Availability of Referenced Material. The "Wastewater Facilities Loan Handbook of Procedures" (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, www.deq.idaho.gov. (4-2-08)

005. CONFIDENTIALITY.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-2-08)

006. POLICY.

It is the policy of the Idaho Board of Environmental Quality through the Department of Environmental Quality to administer the Wastewater Treatment Facility Grant Program for the purpose of protecting and enhancing the quality and value of the water resources of the state of Idaho by financially assisting in the prevention, control and abatement of water pollution. It is also the intent of the Board to assign a priority rating to those projects which will most significantly improve the quality of the waters of the state and most adequately protect the public health. (5-3-03)

007. DEFINITIONS.

For the purpose of the rules contained in this chapter, the following definitions apply: (12-31-91)

01. Applicant. Any qualifying entity making application for wastewater treatment facility grant funds. (5-3-03)

02. Board. The Idaho Board of Environmental Quality. (4-2-08)

03. Categorical Exclusion (CE). Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. (4-2-08)

04. Collector Sewer. That portion of the wastewater treatment facility whose primary purpose is to receive sewage from individual residences and other individual public or private structures and which is intended to convey wastewater to an interceptor sewer or a treatment plant. (3-15-85)

05. Department. The Idaho Department of Environmental Quality. (1-3-78)

06. Director. The Director of the Idaho Department of Environmental Quality or the Director's designee. (4-2-08)

07. Domestic Wastewater. Wastewater derived from public or private residences, business buildings or institutions and similar establishments and which contains water and human body wastes, specifically excreta and urine, along with such products designed to come in contact with excreta and urine in the practice of personal hygiene. (3-15-85)

08. Eligible Costs. Costs which are necessary for planning, and/or designing wastewater treatment facilities. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 041. (4-2-08)

09. Environmental Impact Statement (EIS). A document prepared by the applicant when the Department determines that the proposed wastewater project will significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The Environmental Review Procedures contained in Chapter 5 of the Handbook may be used as guidance when preparing the EIS. (4-2-08)

10. Environmental Information Document (EID). Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed wastewater construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted. (3-29-12)

11. Finding of No Significant Impact (FONSI). A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement (EIS) will not be prepared. It shall include the environmental information document or a summary of it and shall note any other environmental documents related to it. (3-29-12)

12. Grant Recipient. An applicant who has been awarded a grant. (3-29-12)

13. Handbook. "Wastewater Facilities Loan Handbook of Procedures." (5-3-03)

14. Ineligible Costs. Costs which are not eligible for funding pursuant to these rules. (3-29-12)

15. Interceptor Sewer. That portion of the wastewater treatment facility whose primary purpose is to transport domestic sewage or nondomestic wastewater from collector sewers to a treatment plant. (3-15-85)

16. National Pollutant Discharge Elimination System. Point source permitting program established pursuant to Section 402 of the federal Clean Water Act (33 U.S.C. Section 1342). (5-3-03)

17. Nondomestic Wastewater. Wastewaters originating primarily from industrial or commercial processes which carry little or no pollutants of human origin. (1-1-82)

18. Operation and Maintenance Manual. A guidance and training manual delineating the optimum operation and maintenance of the wastewater treatment facility or its components. (3-29-12)

19. Person. An individual, corporation, company, association, partnership, state agency, municipality, or federal agency (and includes officers, employees, and agents of any corporation, company, association, state agency, municipality, or federal agency). (4-2-08)

20. Planning Document. A document which describes the condition of a public wastewater system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents shall be prepared by or under the responsible charge of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Requirements for planning documents prepared using grant funds are provided in Section 030 of these rules and in the Handbook. (3-29-12)

21. Point Source. Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be discharged. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (5-3-03)

22. Pollutant. Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other beneficial uses. (3-15-85)

23. Priority List. A list of proposed projects rated by severity as described in Section 020. (5-3-03)

24. Qualifying Entity. Any county, city, special service district, nonprofit corporation, or other governmental entity, or a combination thereof, having authority to collect, treat or dispose of wastewater. (4-2-08)

25. Rehabilitation. The repair or replacement of limited segments of interceptor or collector sewers. (1-3-78)

26. Reserve Capacity. That portion of the treatment works that is designed and incorporated in the constructed facilities to handle future sewage flows and loadings. (1-1-82)

27. Sewer Use Ordinance/Sewer Use Resolution. An ordinance or resolution which requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility. (4-2-08)

28. State. The state of Idaho. (3-15-85)

29. Suspension. An action by the Director to suspend a grant contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (10-6-88)

30. Sustainability. Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-29-12)

31. Termination. An action by the Director to permanently terminate a grant contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (10-6-88)

32. Treatment Plant. That portion of the wastewater treatment facility whose primary purpose is to remove pollutants from domestic and nondomestic wastewater. (3-15-85)

33. User Charge System. A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required, and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the wastewater treatment facility. (4-2-08)

34. Wastewater. A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. (3-15-85)

35. Wastewater Treatment Facility. Any facility, including land, equipment, furnishings and appurtenances thereof, for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems and land disposal systems. (10-6-88)

008. -- 019. (RESERVED)

020. PRIORITY RATING SYSTEM.
Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Information is also received from the Department and consulting engineers. Grant funds are awarded to projects based on priority ratings. Projects are rated by the Department on a standard priority rating form using public health, sustainability, and water quality criteria. (3-29-12)

01. Purpose. A priority rating system shall be utilized by the Department to annually allot available funds to water quality projects determined eligible for funding assistance in accordance with these rules. (3-29-12)

02. Priority Rating. The priority rating system shall be based on a numerical point system. Priority criteria shall contain the following points: (3-29-12)

a. Public health emergency or hazard certified by the Idaho Board of Environmental Quality, the Department, a District Health Department, or by a District Board of Health - one hundred fifty (150) points. (3-29-12)

b. Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies at a wastewater facility) – up to one hundred (100) points. (3-29-12)

c. Watershed restoration (e.g., implementation of best management practices or initiation of construction at wastewater collection and treatment facilities as part of an approved total maximum daily load plan, implementation of nonpoint source management actions in protection of a threatened water, or is part of a special water quality effort) – up to one hundred (100) points. (3-29-12)

d. Watershed protection from impacts (e.g., improvement of beneficial use(s) in a given water body, evidence of community support, or recognition of the special status of the affected water body) – up to one hundred (100) points. (3-29-12)

e. Preventing impacts to uses (nonpoint source pollution projects) – up to one hundred (100) points. (3-29-12)

f. Sustainability efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) – up to fifty (50) points. (3-29-12)

g. Affordability (current system user charges exceed state affordability guidelines) -- ten (10) points. (3-29-12)

03. Rating Forms. Rating criteria for Subsection 020.02 is set forth in a rating form that is available in the Handbook. (3-29-12)

04. Priority List. A list shall be developed from projects rated according to Subsection 020.02. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval. (3-29-12)

a. Priority Reevaluation. Whenever significant changes occur, which in the Department's judgment would affect the basis for or the need for the planning project, a reevaluation of that priority rating will be conducted. (3-29-12)

b. Priority Target Date. An eligible applicant whose project is on the approved priority list, and for which funding is available, will be contacted by the Department and a target date for submission of a completed grant application will be established. (3-29-12)

c. Project Bypass. A project that does not or will not meet the project target date or a Department

schedule that allows for timely utilization of grant funds may be bypassed, substituting in its place the next highest ranking project(s) that are ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. (3-29-12)

05. Amendment of Priority List. The Director may amend the Priority List as set forth in Section 081 of these rules. (3-29-12)

021. -- 029. (RESERVED)

030. PROJECT SCOPE AND FUNDING.
Grant funds awarded under this program will be used entirely to prepare a wastewater treatment facility planning document. The planning document will identify the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.16, "Wastewater Rules," and the federal Clean Water Act, 33 U.S.C. Sections 1381 et seq. The planning document must be approved by the Department. (3-29-12)

01. Planning Document. (3-29-12)

a. A planning document shall include all items required by IDAPA 58.01.16, "Wastewater Rules," Subsection 411.03 or 410.04. Should the grant recipient proceed to construction using federal funds (e.g., a state revolving fund loan), then the items listed in Subsection 030.01.b. of these rules shall be required prior to construction. (3-29-12)

b. A planning document that is prepared anticipating the use of federal funds shall include an environmental review that will require the Department approval of both a draft and final planning document. (3-29-12)

i. The draft planning document shall include all items required by 58.01.16 "Wastewater Rules," Subsection 411.03 or 410.04, as well as the following: (3-29-12)

(1) Description of existing conditions for the proposed project area; (4-2-08)

(2) Description of future conditions for the proposed project area; (4-2-08)

(3) Development and initial screening of alternatives; and (3-29-12)

(4) Development of an environmental review specified by the Department as described in Section 042. (3-29-12)

ii. The final planning document shall include all items required of the draft planning document as well as the following: (3-29-12)

(1) Final screening of principal alternatives and plan adoption; (4-2-08)

(2) Selected plan description and implementation arrangements; (3-25-16)

(3) Relevant engineering data supporting the final alternative; and (3-25-16)

(4) Assessment of the cost and effectiveness, to the maximum extent practicable, of efficient water use, reuse, recapture and conservation, and energy conservation, with cost including construction, operation and maintenance, and replacement. (3-25-16)

iii. The grant recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The grant recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the grant recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the grant recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall

consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document may be prepared. (3-29-12)

c. The draft and final planning document shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (3-29-12)

d. The draft and final planning documents must be reviewed and approved by the Department. (3-29-12)

e. The planning period shall be twenty (20) years for all facilities except for conveyance systems which may be forty (40) years. (4-2-08)

02. Limitation on Funding Assistance. The maximum grant funding provided in a state planning grant award shall not exceed fifty percent (50%) of the total eligible costs for grants awarded. (4-2-08)

031. -- 039. (RESERVED)

040. REVIEW AND EVALUATION OF GRANT APPLICATIONS.

01. Submission of Application. Those eligible systems which received high priority ranking shall be invited to submit an application. The applicant shall submit to the Department, a completed application in a form as prescribed by the Department. (5-3-03)

02. Application Requirements. Applications shall contain the following documentation as applicable: (5-3-03)

a. An authorizing resolution passed by a majority of the governing body authorizing an elected official or officer of the qualifying entity to commit funding; and (5-3-03)

b. Contracts for engineering services or other technical services, and the description of costs and tasks set forth therein shall be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 041. (5-3-03)

c. Planning Document. Plan of study describing the work tasks to be performed in the planning document, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks. (3-29-12)

d. Design: (4-2-08)

i. Planning document; and (3-29-12)

ii. Intermunicipal service agreements between all qualifying entities within the scope of the project, if applicable. (4-2-08)

e. Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum: (5-3-03)

i. Be procured through the selection guidelines and procedures prescribed under Section 67-2320, Idaho Code; and (5-3-03)

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (5-3-03)

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (5-3-03)

iv. Be covered by professional liability insurance in accordance with Subsection 050.05.d. A certification of liability insurance shall be included in the application. (5-3-03)

f. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 041. (5-3-03)

g. A demonstration that the obligation to pay the costs for which funding is requested, is the result or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

h. A statement regarding how the non-grant portion of the project will be funded. (5-3-03)

03. Determination of Completeness of Application. Applications will be reviewed to determine whether they contain all of the information required by Subsection 040.02. (5-3-03)

04. Notification of Incompleteness of Application. Written notification if an application is incomplete, including an explanation of missing documentation, will be sent to the applicant. The applicant may provide the missing documentation. (5-3-03)

05. Reapplication for Grant. The action of disapproving, recalling or terminating a grant in no way precludes or limits the former applicant from reapplying for another grant when project deficiencies are resolved and project readiness is secured, provided the applicant remains on the approved priority list. (10-6-88)

041. DETERMINATION OF ELIGIBILITY OF COSTS.

The Department shall review the application, including any contracts required to be submitted with the application, to determine whether the costs are eligible costs for funding. (5-3-03)

01. Eligible Costs. Eligible costs are those determined by the Department to be: (5-3-03)

a. Necessary costs; (3-29-12)

b. Reasonable costs; and (3-29-12)

c. Costs that are not ineligible as described in Subsection 041.05. (4-2-08)

02. Necessary Costs. The Department shall determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the plan of study for facility planning, the planning document for design of wastewater treatment facilities, and any other relevant information in the application that describes the scope of the project to be funded. (3-29-12)

03. Reasonable Costs. Costs shall be determined by the Department to be reasonable if the obligation to pay the costs is the result of or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

04. Examples of Costs That May Be Eligible. Examples of costs that may be eligible, if determined necessary, reasonable and not ineligible costs include: (5-3-03)

a. Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary operating expenses such as salaries and expenses of a mayor, city council members or a city attorney; (4-2-08)

b. Contracts for professional and consulting services; (4-2-08)

c. Planning directly related to the water pollution control projects; (5-3-03)

d. Sewer system evaluations; (5-3-03)

e. Financial and management capability analysis; (5-3-03)

f. Preparation of construction drawings, specifications, estimates, and construction contract documents; (5-3-03)

g. Public participation for alternative selection; (5-3-03)

h. Development of user charge and financial management systems; (5-3-03)

i. Development of sewer use ordinance or resolution; (4-2-08)

j. Staffing plans and budget development; (5-3-03)

k. Certain direct and other costs as determined eligible by the Department; (5-3-03)

l. Costs of complying with the federal Clean Water Act, 33 U.S.C Sections 1251 et seq., loan requirements applied to specific projects; and (4-2-08)

m. Site acquisition services which could include legal fees, appraisals and surveys for land associated with the cost-effective alternative in the report and for purchase from a willing seller. (3-29-12)

05. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to: (5-3-03)

a. Basin or area wide planning not directly related to the project; (5-3-03)

b. Personal injury compensation or damages arising out of the project; (5-3-03)

c. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (5-3-03)

d. Costs outside the scope of the approved project; (5-3-03)

e. Ordinary operating expenses such as salaries and expenses of a mayor, city council members, city attorney, or district personnel costs and acquiring project funding; and (4-2-08)

f. Cost of refinancing existing indebtedness. (5-3-03)

g. Costs incurred prior to award of the grant unless specifically approved in writing as eligible pre-award costs by the Department. (3-29-12)

06. Notification Regarding Eligible Costs. Prior to providing a grant offer, the Department shall notify the applicant that certain costs are not eligible for funding and the reasons for the Department's determination. If such costs are included in the engineering contract, the Department shall also provide notification to the engineer. The applicant may provide the Department additional information in response to the notice. (5-3-03)

07. Eligible Costs and the Grant Offer. The grant offer shall reflect those costs determined by the Department to be eligible costs. The grant offer, however, may include estimates of some eligible costs that have not yet been set. Actual eligible costs may differ from such estimated costs set forth in the grant offer. In addition, grant disbursements may be increased or decreased if eligible costs are modified as provided in Section 060. (4-2-08)

042. ENVIRONMENTAL REVIEW.

01. Environmental Documentation. The grant recipient may complete an environmental review as part of and in conjunction with a planning document. Guidance on how to complete an environmental review may be found in Chapter 5 of the Handbook. If the grant recipient prepares an environmental review, then the Department shall be consulted at an early stage in the preparation of the planning document to determine the required level of environmental review. Based on review of existing information and assessment of environmental impacts, the grant recipient may complete one (1) of the following: (3-29-12)

a. Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (4-2-08)

b. Prepare an Environmental Information Document (EID) in a format specified by the Department; or (4-2-08)

c. Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. (4-2-08)

02. Categorical Exclusion. If the grant recipient requests a CE, the Department shall review the request and, based upon the supporting documentation, take one (1) of the following actions: (3-29-12)

a. Determine if an action is consistent with categories eligible for exclusion whereupon the Department shall issue a notice of CE from further substantive environmental review. Once the CE is granted for the selected alternative, the Department shall publish a notice of CE in a local newspaper, following which the planning document can be approved; or (3-29-12)

b. Determine if the action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If issuance of a CE is not appropriate, the Department shall notify the grant recipient of the need to prepare an EID. (3-29-12)

03. Environmental Information Document Requirements. When an EID is required, the grant recipient shall prepare the EID in accordance with the following Department procedures: (3-29-12)

a. Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and executive orders. (4-2-08)

b. A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or irretrievable commitment of resources. (4-2-08)

c. The Department shall review the draft EID and either request additional information about one (1) or more potential impacts, or draft a “finding of no significant impact” (FONSI). (4-2-08)

04. Final Finding of No Significant Impact. The Department shall publish the draft FONSI in a newspaper of general circulation in the geographical area of the proposed project and shall allow a minimum thirty (30) day public comment period. Following the required period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI shall become final. The Department shall assess the effectiveness and feasibility of mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. (3-29-12)

05. Environmental Impact Statement (EIS) Requirements. If an EIS is required, the grant recipient shall: (3-29-12)

a. Contact all affected state agencies, and other interested parties, to determine the required scope of the document; (4-2-08)

b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (4-2-08)

c. Conduct a public meeting which may be held in conjunction with a planning document meeting; and (3-29-12)

d. Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (4-2-08)

06. Final EIS. Upon completion of the EIS by the grant recipient and approval by the Department of all requirements listed in Subsection 042.05, the Department shall issue a record of decision, documenting the mitigative measures which shall be required of the grant recipient. The planning document can be completed once the final EIS has been approved by the Department. (3-29-12)

07. Use of Environmental Reviews Conducted by Other Agencies. If an environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public notification process of the other agency. (4-2-08)

08. Validity of Review. Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a grant application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions, and public comments and shall: (3-29-12)

a. Reaffirm the earlier decision; or (5-3-03)

b. Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or record of decision. (5-3-03)

043. -- 049. (RESERVED)

050. GRANT OFFER AND ACCEPTANCE.

01. Grant Offer. Grant offers will be delivered to successful applicants by representatives of the Department or by registered mail. (3-15-85)

02. Acceptance of Grant Offer. Applicants have sixty (60) days in which to officially accept the grant offer on prescribed forms furnished by the State. The sixty (60) day acceptance period commences from the date indicated on the grant offer notice. If the applicant does not accept the grant offer within the sixty (60) day period the grant funds may be offered to the next project of priority. (4-2-08)

03. Acceptance Executed as a Contract Agreement. Upon signature by the Director or the Director's designee as the grantor, and upon signature by the authorized representative of the qualifying entity, as the grant recipient, the grant offer shall become a grant contract agreement. The disbursement of funds pursuant to an agreement is subject to a finding by the Director that the grant recipient has complied with all agreement conditions and has prudently managed the project. The Director may, as a condition of payment, require that a grant recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with grant funds or transfer its claim against such third parties to the Department. Grant contract agreements shall be interpreted according to the law of grants in aid. No third party shall acquire any rights against the State or its employees from a grant contract agreement. (3-29-12)

04. Estimate of Reasonable Cost. Each grant project contract will include the eligible cost of the project. Some eligible costs may be estimated and the grant payments may be increased or decreased as provided in Section 060. (5-3-03)

05. Terms of Agreement. The grant offer shall contain terms of agreement as prescribed by the Department including, but not limited to: (3-15-85)

a. Terms consistent with these rules and consistent with the scope of the grant project; and (3-29-12)

b. Special clauses as determined necessary by the Department for the successful investigation, design, and management of the project; and (4-2-08)

c. Terms consistent with applicable state and federal laws pertaining to planning documents, and design; and (3-29-12)

d. Requirement for the prime engineering firm(s) retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability shall be one hundred thousand dollars ($100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project steps, whether or not such services or steps are state funded, until the certification of project performance is accepted by the Department. (4-2-08)

e. The project documents shall be in accordance with the current edition of Idaho Standards for Public Works Construction (ISPWC) unless the grant recipient otherwise has approved and adopted acceptable public works construction standards approved by the Department. (3-29-12)

051. -- 059. (RESERVED)

060. PAYMENTS.

01. Payments for State Grants. Requests for payment will be submitted to the Department on a form provided by the Department. The Department will pay for those costs that are determined to be eligible. (5-3-03)

02. Limitations on Advance Payments. Advanced payment will not be made on a project unless a written request from the grant recipient for a waiver is approved by the Board. (3-29-12)

03. Grant Increases. Grant amendment increase requests as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation and justification supporting the unavoidable need for a grant increase must be submitted to the Department for approval prior to incurring any costs above the approved eligible cost ceiling. (3-15-85)

04. Increases for Bid Underestimates. Increases for bid underestimates may be considered for grant increase; however, errors of omission or engineering consultant errors will not be considered. (10-6-88)

05. Grant Decreases. If the actual eligible cost is determined to be lower than the estimated eligible cost the grant amount will be reduced proportionately. (3-15-85)

06. Final Project Review to Determine Actual Eligible Costs. The Department may conduct a final project review to determine the actual eligible costs. The financial records of the grant recipient may be reviewed by the Department. (3-29-12)

07. Final Payment. The final payment consisting of five percent (5%) of the total state grant will not be made until the requirements contained in the grant agreement have been satisfied. (3-29-12)

061. -- 079. (RESERVED)

080. SUSPENSION OR TERMINATION OF GRANT.

01. Causes. The Director may suspend or terminate any grant for failure by the grantee or its agents, including its engineering firm(s), contractor(s) or subcontractor(s) to perform. A grant may be suspended or terminated for good cause including, but not limited to, the following: (5-3-03)

a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of

stolen property, or any form of tortious conduct; or (3-15-85)

b. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years imprisonment or any crime involving or affecting the project; or (3-6-85)

c. Violation(s) of any term of agreement of the grant offer or contract agreement; or (3-15-85)

d. Any willful or serious failure to perform within the scope of the project; or (4-2-08)

e. Debarment of a contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (3-15-85)

02. Notice. The Director will notify the grantee in writing and by certified mail of the intent to suspend or terminate the grant. The notice of intent shall state: (3-15-85)

a. Specific acts or omissions which form the basis for suspension or termination; and (3-15-85)

b. That the grantee may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

03. Determination. A determination will be made by the Board pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

04. Reinstatement of Suspended Grant. Upon written request by the grantee and evidence that the causes(s) for suspension no longer exist, the Director may, if funds are available reinstate the grant. (3-15-85)

05. Reinstatement of Terminated Grant. No terminated grant shall be reinstated. (3-15-85)

081. WAIVERS.
Waivers from the requirements of these rules may be granted by the Department on a case-by-case basis upon full demonstration by the entity requesting the waiver that: (10-6-88)

01. Public Health Hazard. A significant public health hazard exists; or (10-6-88)

02. Groundwater Contamination. A significant groundwater contamination problem exists; or (10-6-88)

03. Point Source Pollution. A significant point source of pollution exists, causing a violation of the Idaho Department of Environmental Quality rules, IDAPA 58.01.02, "Water Quality Standards." (4-2-08)

082. -- 999. (RESERVED)

58.01.10 – RULES REGULATING THE DISPOSAL OF RADIOACTIVE MATERIALS NOT REGULATED UNDER THE ATOMIC ENERGY ACT OF 1954, AS AMENDED

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Board of Environmental Quality the authority to promulgate these rules pursuant to Section 39-4405, Idaho Code. (3-15-02)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials Not Regulated Under the Atomic Energy Act of 1954, As Amended." (3-15-02)

02. Scope. These rules regulate the disposal of radioactive materials not regulated under the Atomic Energy Act of 1954, As Amended, at facilities permitted and subject to the requirements of the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and the Idaho Hazardous Waste Facility Siting Act, Chapter 58, Title 39, Idaho Code. These rules do not regulate NORM or TENORM waste from the production of elemental phosphorus or from the production of phosphate fertilizers, which includes the production of wet and purified phosphoric acid. These rules also place restrictions on disposal of certain radioactive materials at municipal solid waste landfills and identify other approved disposal options for radioactive materials. (3-15-02)

002. WRITTEN INTERPRETATIONS.

Any written statements pertaining to the interpretation of these rules shall be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (3-15-02)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

004. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 004.02 shall constitute the full adoption by reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (3-15-02)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (3-15-02)

a. 10 CFR 30.14 through 30.15, revised as of January 1, 2014. (4-11-15)

b. 10 CFR 30.18 through 30.21, revised as of January 1, 2014. (4-11-15)

c. 10 CFR 32.11, revised as of January 1, 2014. (4-11-15)

d. 10 CFR 32.18, revised as of January 1, 2014. (4-11-15)

e. 10 CFR 40.13, revised as of January 1, 2014. (4-11-15)

03. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (3-15-02)

a. Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255. (3-15-02)

b. Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. (3-15-02)

c. U.S. Government Printing Office, www.ecfr.gov. (4-2-08)

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

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. (3-15-02)

006. -- 009. (RESERVED)

010. DEFINITIONS.

01. Accelerator-Produced Radioactive Material. Any material made radioactive by a particle accelerator. (3-29-12)

02. Board. The Idaho Board of Environmental Quality. (3-15-02)

03. Byproduct Material. Byproduct Material means: (3-15-02)

a. Any radioactive material (except special nuclear material) yielded in, or made radioactive by, exposure to the radiation incident to the process of producing or utilizing special nuclear material; and (3-15-02)

b. The tailings or waste produced by the extraction or concentration of uranium or thorium from ore processed primarily for its source material content. (3-15-02)

c. Any discrete source of radium-226 that is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; or any material that: (3-29-12)

i. Has been made radioactive by use of a particle accelerator; and (3-29-12)

ii. Is produced, extracted, or converted after extraction, before, on, or after August 8, 2005, for use for a commercial, medical, or research activity; and (3-29-12)

d. Any discrete source of naturally occurring radioactive material, other than source material, that: (3-29-12)

i. The U.S. Nuclear Regulatory Commission, in consultation with the Administrator of the Environmental Protection Agency, the Secretary of Energy, the Secretary of Homeland Security, and the head of any other appropriate federal agency, determines would pose a threat similar to the threat posed by a discrete source of radium- 226 to the public health and safety or the common defense and security; and (3-29-12)

ii. Before, on, or after August 8, 2005, is extracted for use in a commercial, medical, or research activity. (3-29-12)

04. Department. The Idaho Department of Environmental Quality. (3-15-02)

05. Exempt Quantities and Concentrations of Byproduct Materials. Radioactive materials defined as exempt byproduct materials by the U.S. Nuclear Regulatory Commission (10 CFR 30.14 through 30.15, 10 CFR 30.18 through 30.21, 10 CFR 32.11 and 10 CFR 32.18). (3-29-12)

06. Naturally Occurring Radioactive Material (NORM). Any material containing natural radionuclides at natural background concentrations, where human intervention has not concentrated the naturally occurring radioactive material or altered its potential for causing human exposure. NORM does not include source, byproduct or special nuclear material licensed by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954. (3-15-02)

07. Operator. Any person(s) currently responsible, or responsible at the time of disposal, for the overall operation of a hazardous waste treatment, storage or disposal facility or part of a hazardous waste treatment, storage or disposal site. (3-15-02)

08. Owner. Any person(s) who currently owns, or owned at the time of disposal, a hazardous waste treatment, storage or disposal facility or part of a hazardous waste treatment, storage or disposal site. (3-15-02)

09. Person. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity which is recognized by law as the subject of rights and duties. (3-15-02)

10. Radioactive Material. Radioactive Material includes: (3-15-02)

a. Technologically Enhanced Naturally Occurring Radioactive Material; (3-15-02)

b. Byproduct material authorized for disposal pursuant to 10 CFR 20.2008(b); (3-29-12)

c. Exempt Quantities and Concentrations of Byproduct Materials; (4-2-08)

d. Unimportant Quantities of Source Material; and (4-2-08)

e. Any other byproduct, source material, or special nuclear material or devices or equipment utilizing such material, which has been exempted or released from radiological control or regulation under the Atomic Energy Act of 1954, as amended, to be disposed of in a commercial hazardous waste facility as regulated pursuant to the rules, permit requirements, and acceptance criteria provided for by Chapter 44, Title 39, Idaho Code. (4-11-15)

11. Reasonably Maximally Exposed Individual. That individual or group of individuals who by reason of location has been determined, through the use of environmental transport modeling and dose calculation, to receive the highest total effective dose equivalent from radiation emitted from the site and/or radioactive material transported off-site. (3-15-02)

12. Source Material. Source material means: (3-15-02)

a. Uranium or thorium, or any combination thereof, in any physical or chemical form; or (3-15-02)

b. Ores which contain by weight one-twentieth of one percent (0.05%) or more of: (3-15-02)

i. Uranium; (3-15-02)

ii. Thorium; or (3-15-02)

iii. Any combination thereof. (3-15-02)

c. Source material does not include special nuclear material. (3-15-02)

13. Special Nuclear Material. Special Nuclear Material means: (3-15-02)

a. Plutonium, uranium 233, uranium enriched in the isotope 233 or in the isotope 235, and any other material which the U.S. Nuclear Regulatory Commission determines to be special nuclear material. (3-15-02)

b. Any material artificially enriched by any of the material listed in Subsection 010.12.a. (3-15-02)

14. Technologically Enhanced Naturally Occurring Radioactive Material (TENORM). Any naturally occurring radioactive materials not subject to regulation under the Atomic Energy Act whose radionuclide concentrations or potential for human exposure have been increased above levels encountered in the natural state by human activities. TENORM does not include source, byproduct or special nuclear material licensed by the U.S. Nuclear Regulatory Commission under the Atomic Energy Act of 1954. (3-15-02)

15. Unimportant Quantities of Source Material. Radioactive materials defined as unimportant quantities of source materials by the U.S. Nuclear Regulatory Commission (10 CFR 40.13). (3-15-02)

011. -- 018. (RESERVED)

019. NOTIFICATION OF RADIOACTIVE MATERIALS.

Any person with knowledge of the transfer, or proposed transfer, of radioactive materials for disposal to any location other than a location authorized by Section 020 to receive radioactive materials for disposal shall notify the Department of the transfer as soon as the transfer takes place or as soon as the person learns of the transfer, or proposed transfer, whichever is sooner. (3-20-04)

020. RADIATION PROTECTION STANDARDS.

01. General Protection Standards. (3-15-02)

a. All owners and operators shall conduct operations in a manner consistent with radiation protection standards contained in 10 CFR 20; (3-15-02)

b. No owner or operator shall conduct operations, create, use or transfer radioactive materials in a manner such that any member of the public will receive an annual Total Effective Dose Equivalent (TEDE) in excess of one hundred (100) millirem per year (1 milliseivert/year); and (3-15-02)

c. No person shall release radioactive materials for unrestricted use in such a manner that the reasonably maximally exposed individual will receive an annual TEDE in excess of fifteen (15) millirem per year (fifteen one-hundredths (0.15) milliseivert/year) excluding natural background. (3-15-02)

02. Protection of Workers During Operations. All owners and operators shall conduct operations in a manner consistent with radiation protection standards for occupation workers contained in 10 CFR 20. (3-15-02)

03. Disposal of Radioactive Material. No person, owner, or operator shall dispose of radioactive materials by any method other than: (3-15-02)

a. At a permitted treatment, storage or disposal facility under the authority of the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, provided that the facility owner or operator complies with each of the following: (3-15-02)

i. Department-approved waste acceptance criteria for radioactive material defined in Section 010; (3-15-02)

ii. A Department-approved closure program that provides reasonable assurance that the radon emanation rate from the closed disposal unit will not exceed twenty (20) picocuries per square meter per second averaged across the entire area of the closed disposal unit and meets the requirements in Subsection 020.01.b.; and (3-15-02)

iii. A Department-approved environmental monitoring program that monitors air, ground water, surface water and soil for radionuclides and ambient radiation levels in the environs of the facility and which demonstrates that no member of the general public is likely to exceed a radiation dose of one hundred (100) millirem (one (1) milliseivert) per year from operations conducted at the site. (3-15-02)

b. By transferring wastes for disposal to a facility licensed under requirements for uranium or thorium byproduct materials in either 40 CFR 192 or 10 CFR 40 Appendix A; (3-15-02)

c. By transferring wastes for disposal to a disposal facility licensed by the U.S. Nuclear Regulatory Commission, an agreement state, or a licensing state; or (3-15-02)

d. In accordance with alternate methods authorized by the Department upon application or upon the Department's initiative, consistent with Section 020.01 and all applicable state statutes and regulations. (3-15-02)

04. Prohibit Disposal at a Municipal Solid Waste Landfill. No person shall dispose of radioactive material as defined in these rules at a municipal solid waste landfill, except for individual consumer products containing radioactive material. (3-15-02)

021. -- 029. (RESERVED)

030. RECORDS.
Records of disposal, including manifest, shall be maintained for three (3) years in accordance with 40 CFR 262.40 and 40 CFR 262.23. (3-15-02)

031. -- 039. (RESERVED)

040. VIOLATIONS.

01. Failure to Comply. Failure by any person, owner, or operator to comply with the provisions of these rules shall be deemed a violation of these rules. (3-15-02)

02. Falsification of Statements and Records. It shall be a violation of these rules for any person, owner, or operator to knowingly make a false statement, representation, or certification in any document or record developed, maintained, or submitted pursuant to these rules. (3-15-02)

03. Penalties. Any person violating any provision of these rules or order issued thereunder shall be liable for civil penalty in accordance with Chapter 44, Title 39, Idaho Code. (3-15-02)

041. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Under Chapters 1 and 36, Title 39, Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules. (4-11-06)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.16, "Wastewater Rules." (4-11-06)

02. Scope. These rules establish the procedures and requirements for the planning, design and operation of wastewater facilities and the discharge of wastewaters and human activities which may adversely affect public health and water quality in the waters of the state. (4-11-06)

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (4-11-06)

003. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (4-11-06)

004. INCORPORATION BY REFERENCE.
Sections 401.2.9, 401.3.4 and 401.3.6, 501.3.4, and 505.3.3 of "Idaho Standards for Public Works Construction," 2007 Edition, are incorporated by reference into these rules. These documents are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502 or can be purchased for a fee from the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. (5-8-09)

005. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (4-11-06)

006. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-11-06)

007. USE OF GUIDANCE IN DESIGN AND REVIEW.
Guidance documents are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the Department not substitute its judgment for that of the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents listed in Section 008 for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. (5-8-09)

008. REFERENCED MATERIAL.

01. "Recommended Standards for Wastewater Facilities." A Report of the Wastewater Committee of the Great Lakes-Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers. This document is available through Health Education Services at http://www.healthresearch.org/store. (3-30-07)

02. Memorandum of Understanding. The Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau provides assistance in determining juridiction over water and sewer service lines. Copies of the document are available at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, on the DEQ website at http://www.deq.idaho.gov. (3-30-07)

03. "Idaho Standards for Public Works Construction." This document is available for a fee through the Local Highway Technical Assistance Council (LHTAC) at LHTAC, 3330 Grace Street, Boise, ID, 83703, (208) 344-0565. (3-30-07)

04. Water Environment Federation (WEF) Manuals of Practice. Water Environment Federation, 601 Wythe Street, Alexandria, VA, 22314-1994, 1-800-666-0206, http://www.wef.org. (3-30-07)

05. American Society of Civil Engineers (ASCE) Manuals and Reports on Engineering Practices. American Society of Civil Engineers, 1801Alexander Bell Drive, Reston, VA 20191, 800-548-2723, http://www.asce.org. (3-30-07)

06. "Design Criteria for Mechanical, Electric, and Fluid System and Component Reliability." U.S. EPA (EPA-430-99-74-001), http://www.epa.gov. (3-30-07)

07. American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design. 1819 L Street NW Suite 600, Washington, DC 20036, (202) 293-8020, www.ansi.org. (3-30-07)

08. The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide." (3-30-07)

09. "Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy. (3-30-07)

10. "Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse," National Water Research Institute/American Water Works Association (AWWA) Research Foundation, 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, http://www.awwa.org. (3-30-07)

11. Pumping Station Design - Third Edition 2006. Garr M. Jones. Elsevier Publications. (3-30-07)

12. Plan and Specification Dispute Resolution Policy. PM05-2: Plan and Specification Review Dispute Resolution Advisory Panel for Engineering Disputes can be found on the DEQ website at http://www.deq.idaho.gov. (3-30-07)

13. Nutrient-Pathogen Evaluation Program for On-Site Wastewater Treatment Systems. Nutrient-Pathogen Evaluation Program for On-Site Wastewater Treatment Systems can be found on the DEQ website at http://www.deq.idaho.gov. (3-30-07)

14. Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater. The Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater can be found on the DEQ website at http://www.deq.idaho.gov. (3-30-07)

009. LAWS AND CODES OUTSIDE OF THESE RULES.
Compliance with the following laws and codes are not required by these rules, but may be required by other regulatory entities. (3-30-07)

01. International Building Code. (3-30-07)

02. Uniform Plumbing Code. (3-30-07)

03. National Fire Protection Association Code (NFPA). (3-30-07)

04. Requirements of National Institute for Occupational Safety and Health (NIOSH). (3-30-07)

05. Requirements of the Occupational Safety and Health Administration (OSHA). (3-30-07)

06. National Electrical Code. (3-30-07)

07. International Fire Code. (3-30-07)

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.16, "Wastewater Rules," the following definitions apply: (4-11-06)

01. Available. Based on public wastewater system size, complexity, and variation in raw waste, a licensed wastewater operator must be on site, on call, or able to be contacted as needed to initiate the appropriate action for normal or emergency conditions in a timely manner. (4-11-06)

02. Adequate Emergency Storage Capacity. The emergency storage capacity of a lift station wet well is the volume of the wet well measured between the high water alarm and the gravity sewer invert into the wet well. The collection system shall not be used in the calculation for emergency storage. For the purpose of this definition, "adequate" is defined as twice the estimated emergency response time multiplied by the peak hour flow to the wet well. The high water alarm shall be placed at an elevation below the wet well invert sufficient to achieve the defined volumetric emergency storage capacity. (5-8-09)

03. Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. See also the definition of Wastewater Flows. (5-8-09)

04. Beneficial Use. Any of the various uses which may be made of the water of Idaho, including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. The beneficial use is dependent upon actual use, the ability of the water to support a non-existing use either now or in the future, and its likelihood of being used in a given manner. The use of water for the purpose of wastewater dilution or as a receiving water for a waste treatment facility effluent is not a beneficial use. (4-11-06)

05. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (4-11-06)

06. Blackwaste. Human body waste, such as excreta or urine. This includes toilet paper and other products used in the practice of personal hygiene. (5-8-09)

07. Blackwater. A wastewater whose principal pollutant is blackwaste; a combination of blackwaste and water. (5-8-09)

08. Board. The Idaho Board of Environmental Quality. (4-11-06)

09. Capacity. The capabilities required of a wastewater system in order to achieve and maintain compliance with these rules. It is divided into three (3) main elements: (5-8-09)

a. Technical capacity means the system has the physical infrastructure to safely collect wastewater and consistently meet discharge standards and treatment requirements, and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (5-8-09)

b. Financial capacity means the financial resources of the wastewater system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (5-8-09)

c. Managerial capacity means that the management structure of the wastewater system embodies the aspects of wastewater system operations, including, but not limited to; (5-8-09)

i. Short and long range planning; (5-8-09)

ii. Personnel management; (5-8-09)

iii. Fiduciary responsibility; (5-8-09)

iv. Emergency response; (5-8-09)

v. Customer responsiveness; and (5-8-09)

vi. Administrative functions such as billing and consumer awareness. (5-8-09)

10. Class A Effluent. Class A effluent is treated municipal reclaimed wastewater that must be oxidized, coagulated, clarified, and filtered, or treated by an equivalent process and adequately disinfected. For comprehensive Class A Effluent criteria and permitting requirements refer to IDAPA 58.01.17, "Recycled Water Rules." (3-30-07)

11. Class A Effluent Distribution System. The delivery system for Class A effluent. The distribution system does not include any of the collection or treatment portions of the wastewater facility and is not subject to operator licensing requirements in Section 203 of these rules. (4-11-06)

12. Collection System. That portion of the wastewater system or treatment facility in which wastewater is received from the premises of the discharger and conveyed to the point of treatment through a series of lines, pipes, manholes, pumps/lift stations and other appurtenances. (3-30-07)

13. Compliance Schedule or Compliance Agreement Schedule. A schedule of remedial and preventative measures and sequence of actions leading to compliance with a regulation, statute or rule, enforceable as set forth in Sections 39-116 and 39-116A, Idaho Code, respectively. (5-8-09)

14. Department. The Idaho Department of Environmental Quality. (4-11-06)

15. Design Flow. The critical flow used for steady-state wasteload allocation modeling. (4-11-06)

16. Designated Beneficial Use or Designated Use. Those beneficial uses assigned to identify waters in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," Sections 110 through 160, whether or not the uses are being attained. (4-11-06)

17. Director. The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-11-06)

18. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (4-11-06)

19. Disinfection. A method of reducing the pathogenic or objectionable organisms by means of chemicals or other acceptable means. (4-11-06)

20. Disposal Facility. Any facility used for disposal of any wastewater. Facilities for the disposal of sludge are regulated under Section 650 of these rules. (3-30-07)

21. Effluent. Any treated wastewater discharged from a treatment facility. (5-8-09)

22. Environmental Review. An environmental review document for a specific project includes a description of purpose and need for the project; a description of the affected environment and environmental impacts including, but not limited to, endangered species, historical and archaeological impacts, air impacts, surface and ground water impacts, and noise and visual impacts; a description of the planned mitigation for these impacts; and descriptions of the public process, agencies consulted, referenced documents, and a mailing list of interested parties.

A checklist, which can be used as guidance, can be found on the DEQ website at http://www.deq.idaho.gov. This checklist is for Department grant and loan projects, but can be used in part or in whole as a guide. (5-8-09)

23. **EPA**. The United States Environmental Protection Agency. (4-11-06)

24. **Equivalent Dwelling Unit (EDU)**. A measure where one (1) unit is equivalent to wastewater generated from one (1) single-family detached housing unit. For example, a business generating three (3) times as much wastewater as an average single-family detached housing unit would be considered three (3) equivalent dwelling units. (5-8-09)

25. **Facility Plan**. The facility plan for a municipal wastewater treatment and disposal facility describes the overall system, including the collection system, the treatment systems, and the disposal systems. It is a comprehensive planning document for the existing infrastructure and includes the plan for the future of the systems, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A Facility Plan is sometimes referred to as a master plan or facilities planning study. In general, a Facility Plan is an overall system-wide plan as opposed to a project specific plan. (5-8-09)

26. **Facility and Design Standards**. Facility and design standards are described in Sections 400 through 599 of these rules. Facility and design standards found in Sections 400 through 599 of these rules must be followed in the planning, design, construction, and review of municipal wastewater facilities. (3-30-07)

27. **Geometric Mean**. The geometric mean of "n" quantities is the "nth" root of the product of the quantities. (4-11-06)

28. **Gray Water**. Domestic wastewater that does not contain wastewater from toilets, kitchen sinks, dishwashers, cloth washing machines, and water softeners. (5-8-09)

29. **Ground Water**. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-11-06)

30. **Industrial Wastewater**. Any waste, together with such water as is present, that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater. (4-11-06)

31. **Land Application**. A process or activity involving application of wastewater, surface water, or semi-liquid material to the land surface for the purpose of disposal, pollutant removal, or ground water recharge. (4-11-06)

32. **License**. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-11-06)

33. **Major Wastewater Collection System Project**. A wastewater collection system project that is not a simple wastewater main extension. (5-8-09)

34. **Material Deviation**. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

35. **Material Modification**. Material modifications are those that are intended to increase system capacity or to alter the methods or processes employed. Any project that increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing wastewater system components, or affects the wastewater flow of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (5-8-09)

36. **Maximum Day Flow**. The design maximum day flow is the largest volume of flow to be received

during a continuous twenty four (24) hour period expressed as a volume per unit time. See also Wastewater Flows. (5-8-09)

37. Maximum Month Flow. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)

38. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (4-11-06)

39. Municipal Wastewater. Unless otherwise specified, sewage and associated solids, whether treated or untreated, together with such water that is present. Also called domestic wastewater. Industrial wastewater may also be present, but is not considered part of the definition. (4-11-06)

40. National Pollutant Discharge Elimination System (NPDES). Point source permitting program established pursuant to Section 402 of the federal Clean Water Act. (4-11-06)

41. Natural Background Conditions. No measurable change in the physical, chemical, biological, or radiological conditions existing in a water body without human sources of pollution within the watershed. (4-11-06)

42. Non-Contact Cooling Water. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product (other than heat) or finished product. Non-contact cooling water is not considered wastewater. Non-contact cooling water can be land applied as recharge water as discussed in Section 600 based on a Department approval as described in Subsections 600.04 and 600.05. (3-30-07)

43. Nuisance. Anything which is injurious to the public health or an obstruction to the free use, in the customary manner, of any waters of the state. (4-11-06)

44. Nutrients. The major substances necessary for the growth and reproduction of aquatic plant life, consisting of nitrogen, phosphorus, and carbon compounds. (4-11-06)

45. Non-Potable Mains. The pipelines that collect and convey non-potable discharges from or to multiple service connections. Examples would include sewage collection and interceptor mains, storm sewers, non-potable irrigation mains, and reclaimed wastewater mains. (3-30-07)

46. Non-Potable Services. The pipelines that convey non-potable discharges from individual facilities to a connection with the non-potable main. This term also refers to pipelines that convey non-potable water from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-11-06)

47. Operating Personnel. Any person who is employed, retained, or appointed to conduct the tasks associated with the day-to-day operation and maintenance of a public wastewater system. Operating personnel shall include every person making system control or system integrity decisions about water quantity or water quality that may affect public health. (4-11-06)

48. Owner. The person, company, corporation, district, association or other organizational entity that owns the public wastewater system, and who provides, or intends to provide, wastewater service to system users and is ultimately responsible for the public wastewater system operation. (3-30-07)

49. Peak Instantaneous Flow. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. See also the definition of Wastewater Flows. (5-8-09)

50. Peak Hour Flow. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. See also the definition of Wastewater Flows. (5-8-09)

51. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, which is recognized by law as the subject of rights and duties. (4-11-06)

52. Point Source. Any discernible, confined, and discrete conveyance, including, but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be, discharged to surface waters of the state. This term does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (4-11-06)

53. Pollutant. Dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, silt, cellar dirt; and industrial, municipal and agricultural waste, gases entrained in water; or other materials which, when discharged to water in excessive quantities, cause or contribute to water pollution. Provided however, biological materials shall not include live or occasional dead fish that may accidentally escape into the waters of the state from aquaculture facilities. (4-11-06)

54. Potable Water. A water which is free from impurities in such amounts that it is safe for human consumption without treatment. (4-11-06)

55. Potable Mains. Pipelines that deliver potable water to multiple service connections. (3-30-07)

56. Potable Service. Pipelines that convey potable water from a connection to the potable water main across private property to individual consumers. (3-30-07)

57. Preliminary Engineering Report. The preliminary engineering report for the municipal wastewater treatment or disposal facility is the report that addresses specific portions of the systems as they are being contemplated for design. These reports address specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 411. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. (5-8-09)

58. Primary Treatment. Processes or methods that serve as the first stage treatment of wastewater, intended for removal of suspended and settleable solids by gravity sedimentation; provides no changes in dissolved and colloidal matter in the sewage or wastes flow. (4-11-06)

59. Private Municipal Wastewater Treatment Plant. A wastewater facility that treats municipal wastewater and is under private ownership. These systems are typically initially owned, operated, and maintained by a developer with the ownership, operation and maintenance transferring to a homeowners association, or similar entity as lots are sold within the development. (5-8-09)

60. Public Wastewater System or Wastewater System. A public wastewater system or wastewater system is any publicly or privately owned collection system or treatment system that generates, collects, treats, or disposes of two thousand five hundred (2,500) or more gallons of wastewater per day. This does not include: (3-29-10)

a. Any animal waste system used for agricultural purposes that have been constructed in part or whole by public funds; or (3-29-10)

b. Any industrial or other nonmunicipal wastewater system which is covered under Section 401 of these rules. (3-29-10)

61. Qualified Licensed Professional Engineer (QLPE). A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (5-8-09)

62. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to wastewater or sewer districts. (4-11-06)

63. Receiving Waters. Those waters which receive pollutants from point or nonpoint sources. (4-11-06)

64. Recharge. The process of adding water to the zone of saturation. (4-11-06)

65. Recharge Water. Water that is specifically utilized for the purpose of adding water to the zone of saturation. (4-11-06)

66. Redundancy. Redundancy for wastewater treatment and disposal facilities is generally focused on supplying or installing backup equipment and facilities to make the operation of the systems more reliable. These redundant systems are sometimes required to provide backup for emergencies, taking certain processes off-line, or for treating spikes in wastewater flow or strength. (3-30-07)

67. Reliability. Reliability for wastewater collection and treatment and disposal facilities is usually based on its ability to consistently handle the wastewater flows in the community and to meet the requirements of its permit. This reliability is in part based on the redundancy built into the wastewater infrastructure and proper maintenance of the system. (3-30-07)

68. Reasonably Accessible. The following criteria shall be used to determine whether a project proposing a new private municipal wastewater treatment plant, or a material modification or expansion of an existing private municipal wastewater treatment plant, is reasonably accessible to a public municipal wastewater collection system. (5-8-09)

a. For an existing private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system becomes located within a minimum of one thousand (1,000) feet of any portion of the discharge piping of a private municipal wastewater treatment plant, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. (5-8-09)

b. For a proposed project which includes a new private municipal wastewater treatment plant, reasonably accessible means the public municipal wastewater collection system is located within a minimum of one thousand (1,000) feet of any portion of the proposed development or existing development property boundary, and the owner of the public municipal wastewater collection system will provide a "will serve" letter. (5-8-09)

c. The Department may determine that a private municipal wastewater treatment plant may be reasonably accessible to the public municipal wastewater collection system at distances greater than those distances specified in Paragraphs a. or b. of this Subsection based on site-specific factors. (5-8-09)

69. Responsible Charge (RC). For purposes of Sections 202 through 204, responsible charge means, active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site or on-call direction of employees and assistants. (5-8-09)

70. Responsible Charge Operator. For purposes of Sections 202 through 204, a responsible charge operator is an operator licensed at a class equal to or greater than the classification of the system and who has been designated by the system owner to have direct supervision of and responsibility for the performance of operations of a specified wastewater treatment system(s) or wastewater collection system(s) and the direction of personnel employed or retained at the same system. The responsible charge operator has an active daily on-site or on-call presence at the specified facility. (5-8-09)

71. Reuse. The use of reclaimed wastewater for beneficial uses including, but not limited to, land treatment, irrigation, ground water recharge using surface spreading, seepage ponds, or other unlined surface water features. (3-30-07)

72. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 400.03.b. of these rules, the Qualified Licensed Professional Engineer (QLPE) is also the reviewing authority. (5-8-09)

73. Sanitary Sewer Extension. As used in Section 400, an extension of an existing wastewater collection system that does not require a lift station or force main and is intended to increase the service area of the wastewater collection system. (4-11-06)

74. Secondary Treatment. Processes or methods for the supplemental treatment of wastewater, usually following primary treatment, to affect additional improvement in the quality of the treated wastes by biological means of various types which are designed to remove or modify organic matter. (4-11-06)

75. Septage. Septage is a general term for the contents removed from septic tanks, portable vault toilets, privy vaults, wastewater holding tanks, very small wastewater treatment plants, or semi-public facilities (i.e., schools, motels, mobile home parks, campgrounds, small commercial endeavors) receiving wastewater from domestic sources. Non-domestic (industrial) wastes are not included in this definition. This does not include drinking water treatment residuals that may be held in a holding tank. (3-30-07)

76. Septage Transfer Station. A place where septage from more than one (1) hauler is accumulated for collection and subsequent removal without processing to a treatment facility. (5-8-09)

77. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (4-11-06)

78. Simple Wastewater Main Extension. New or replacement wastewater main(s) that require plan and specification review per these rules and that will be connected by gravity, without the use of pumps or lift stations, to existing wastewater collection facilities that have the capacity to carry the additional wastewater flow. (5-8-09)

79. Sludge. The semi-liquid mass produced and removed by the wastewater treatment process. (3-30-07)

80. Special Resource Water. Those specific segments or bodies of water which are recognized as needing intensive protection: (4-11-06)

a. To preserve outstanding or unique characteristics; or (4-11-06)

b. To maintain current beneficial use. (4-11-06)

81. State. The state of Idaho. (4-11-06)

82. Substitute Responsible Charge Operator. A public wastewater operator holding a valid license at a class equal to or greater than the public wastewater system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-11-06)

83. Surface Water Body. All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. It does not include private waters as defined in Section 42-212, Idaho Code. (4-11-06)

84. Total Maximum Daily Load (TMDL). The sum of the individual wasteload allocations (WLAs) for point sources, load allocations (LAs) for nonpoint sources, and natural background. Such load shall be established at a level necessary to implement the applicable water quality standards with seasonal variations and a margin of safety which takes into account any lack of knowledge concerning the relationship between effluent limitations and

water quality. (3-30-07)

85. **Treatment**. A process or activity conducted for the purpose of removing pollutants from wastewater. (4-11-06)

86. **Treatment Facility**. Any physical facility or land area for the purpose of collecting, treating, neutralizing or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, or wastewater treatment plant. (3-30-07)

87. **User**. Any person served by a public wastewater system. (4-11-06)

88. **Very Small Wastewater System**. A public wastewater system that serves five hundred (500) connections or less and includes a collection system with a system size of six (6) points or less on the system classification rating form (Section 202) and is limited to only one (1) of the following wastewater treatment processes: (3-29-10)

a. Aerated lagoons; (3-29-10)

b. Non-aerated lagoon(s); (3-29-10)

c. Primary treatment; or (3-29-10)

d. Primary treatment discharging to a large soil absorption system (LSAS). (3-29-10)

89. **Wastewater**. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. (5-8-09)

90. **Wastewater Flows**. The following flows for the design year shall be identified as required and used as a basis for design of sewer systems including sewer mains, lift stations, wastewater treatment plants, treatment units, and other wastewater handling facilities. The definition contained in this Subsection applies where any of the terms defined in Paragraphs a. through e. are used in these rules. (5-8-09)

a. Average Day Flow. The average day flow is the average of daily volumes to be received for a continuous twelve (12) month period expressed as a volume per unit time. However, the average day flow for design purposes for facilities having critical seasonal high hydraulic loading periods, such as recreational areas or industrial facilities, shall be based on the average day flow during the seasonal period. (5-8-09)

b. Maximum Day Flow. The design maximum day flow is the largest volume of flow to be received during a continuous twenty-four (24) hour period expressed as a volume per unit time. (5-8-09)

c. Maximum Month Flow. The maximum month flow is the largest volume of flow to be received during any calendar month expressed as a volume per unit time. (5-8-09)

d. Peak Instantaneous Flow. The design peak instantaneous flow is the instantaneous maximum flow rate to be received. (5-8-09)

e. Peak Hour Flow. The design peak hour flow is the largest volume of flow to be received during a one (1) hour period expressed as a volume per unit time. (5-8-09)

91. **Wastewater Lagoon**. Manmade impoundments for the purpose of storing or treating wastewater. (4-11-06)

92. Wastewater Pipelines. The pipelines that collect and convey non-potable discharges from or to multiple service connections. (4-11-06)

93. Wastewater Pumping Station. A wastewater facility that collects wastewater from the collection system or the treatment system and pumps it to a higher elevation. Also called lift station or wastewater lift station. (3-30-07)

94. Wastewater System Operator. The person who is employed, retained, or appointed to conduct the tasks associated with routine day to day operation and maintenance of a public wastewater treatment or collection system in order to safeguard the public health and environment. (4-11-06)

95. Water Main Extension. An extension of the distribution system of an existing public water system that does not require a booster pumping station and is intended to increase the service area of the water system. (4-11-06)

96. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the state, or the discharge of any pollutant into the waters of the state, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (4-11-06)

97. Waters and Waters of the State. All the accumulations of water, surface and underground, natural and artificial, public and private, or parts thereof which are wholly or partially within, which flow through or border upon the state. (4-11-06)

98. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (4-11-06)

011. -- 200. (RESERVED)

201. POINT SOURCE WASTEWATER TREATMENT REQUIREMENTS.

01. Appropriate Control Measures. The Department, through approval or disapproval of plans for wastewater treatment and disposal facilities, the issuance of wastewater discharge permits, orders, compliance schedules, directives or any of the mechanisms at its disposal, will require persons to apply appropriate control measures necessary to achieve and maintain the water quality standards contained in IDAPA 58.01.02, "Water Quality Standards." (4-11-06)

02. Degree of Treatment. The degree of wastewater treatment required to restore and maintain the standards of quality will be determined in each instance by the Department, based upon the following: (4-11-06)

a. The uses which are made or desired of the receiving water; (4-11-06)

b. The volume and nature of flow of the receiving water; (4-11-06)

c. The quantity and quality of the wastewater to be treated; and (4-11-06)

d. The presence or absence of other sources of water pollution on the same watershed, stream segment or aquifer. (4-11-06)

03. Operation. Any person who owns or operates any sewage or other wastewater treatment facility must at all times: (4-11-06)

a. Ensure that such facility is operated under competent supervision and with the highest efficiency that can reasonably be expected; and (5-8-09)

b. Maintain such facility in good repair. (4-11-06)

04. Treatment Records. Any person who owns or operates any facility or carries out any operation which results in the discharge of wastewater must furnish to the Department such information concerning quality and quantity of discharged wastewaters and maintain such treatment records as the Department requires to evaluate the effects of any receiving waters. Required information can include, but is not limited to: (4-11-06)

a. Treated wastewater discharge volumes; and (4-11-06)

b. Treated wastewater discharge biochemical oxygen demand (BOD); and (4-11-06)

c. Treated wastewater discharge suspended solid concentration; and (4-11-06)

d. Discharge pH; and (4-11-06)

e. Discharge temperatures. (4-11-06)

05. Falsification of Records. It is a violation of these rules for any person to falsify or knowingly render inaccurate any treatment record which can be required as provided in these regulations. (4-11-06)

202. CLASSIFICATION OF PUBLIC WASTEWATER SYSTEMS.

01. Classification Requirement. All public wastewater systems shall be classified based on indicators of potential health risks. (4-11-06)

a. Classification rating forms developed in accordance with the criteria in Subsection 202.02 must be completed by the public wastewater system owner or designee for every public wastewater treatment system and wastewater collection system no later than July 1, 2008. Public wastewater treatment and wastewater collection system owners or designee shall submit additional classification rating forms at five (5) year intervals or when directed by the Department to submit a revised classification rating form. (3-29-10)

b. The Department shall review system classification rating forms and issue the final system classification. (3-29-10)

02. Classification Criteria. Public wastewater treatment systems and wastewater collection systems shall be classified under a system that uses the following criteria: (4-11-06)

a. Complexity, size, volume and variability in raw waste for treatment systems using guidelines established by the Department. (4-11-06)

b. Complexity or size of collection systems. (4-11-06)

c. Other criteria deemed necessary to completely classify systems. (4-11-06)

203. PUBLIC WASTEWATER SYSTEM OPERATOR LICENSURE REQUIREMENTS.

01. System Operator Licensure Requirement. Owners of all public wastewater systems must place the direct supervision of their wastewater system(s), including each treatment system and each collection system or each very small wastewater system, under the responsible charge of an operator who holds a valid license equal to or greater than the classification of each treatment system and each collection system or each very small wastewater system. An operator in responsible charge of both a wastewater treatment system and a collection system shall hold two (2) licenses, one (1) for wastewater treatment and one (1) for collection, with the exception of a very small wastewater system for which the responsible charge operator may hold a single very small wastewater system license. Owners shall notify the Department in writing of any change of responsible charge or substitute responsible charge operator within thirty (30) days of such change. (3-29-10)

02. Responsible Charge Operator License Requirement. An operator in responsible charge of a

public wastewater system in Idaho must hold a valid license equal to or greater than the classification of the wastewater system(s), including each treatment system and each collection system or each very small wastewater system, as determined by the Department. (3-29-10)

03. Substitute Responsible Charge Operator. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. (4-11-06)

04. Wastewater System Operator Licensure. All other operating personnel at public wastewater systems, including each treatment system and each collection system or each very small wastewater system, must hold a valid license issued by the Idaho Bureau of Occupational Licenses. (3-29-10)

05. Wastewater System Operator Licensure Exceptions. (3-29-10)

a. Any public wastewater system operating personnel that exclusively operate a Class A Effluent Distribution System of a Class A Municipal Reclaimed Wastewater System permitted in accordance with IDAPA 58.01.17, "Recycled Water Rules," are not subject to operator licensure requirements as outlined in these rules. (3-29-10)

b. Any non-pressurized drainfield and associated septic tank and collection system operating personnel are not subject to operator licensure requirements. (3-29-10)

06. General Compliance Deadline. All public wastewater systems addressed in Sections 202 and 203 shall be in compliance with these rules by April 15, 2006. (4-11-06)

07. Land Application/Reuse Operator Compliance Deadline. Each public wastewater land application/reuse system addressed in these rules shall employ, retain or contract with licensed land application/reuse operating personnel by April 15, 2007. (3-30-07)

204. CONTRACTING FOR SERVICES.
Public wastewater systems may contract with properly licensed operating personnel to provide responsible charge operators and substitute responsible charge operators. Proof of such contract shall be submitted to the Department prior to the contracted operating personnel performing any services at the public wastewater system. (3-29-10)

205. -- 259. (RESERVED)

260. SUBSURFACE SEWAGE OR WASTE DISPOSAL.
Subsurface sewage or wastewater disposal facilities must be designed and located so that pollutants cannot be reasonably expected to enter water of the state in concentrations resulting in injury to beneficial uses. See also IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (4-11-06)

261. -- 399. (RESERVED)

400. REVIEW OF PLANS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.
Plans and specifications for municipal wastewater treatment or disposal facilities must comply with the facility and design standards set forth in Sections 410 through 599. If design issues are not addressed by the facility and design standards, then guidance documents, some of which are listed in Section 008, shall be used as guidance in the design and review of plans and specifications for municipal wastewater treatment or disposal facilities. See also Section 007. (3-30-07)

01. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 400.03. The documentation must show the financial arrangements adequate to demonstrate the ability for construction and operation and maintenance of the system according to these rules. Documentation shall also include the name of the wastewater system; the name, address, and phone number of the wastewater treatment facility; and the name, address, and phone number of the responsible charge operator. (5-8-09)

02. Connection to Existing System. If the proposed project is to be connected to an existing wastewater system, a letter from the existing system must be submitted to the Department stating that the existing system will be able to provide services to the proposed project. The Department may require further documentation showing the ability of the existing system to provide service to the new system. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 400.03. (5-8-09)

03. Plan and Specification Review. (4-11-06)

a. Except as provided in Subsection 400.03.b., all plans and specifications for the construction of new sewage systems, sewage treatment plants or systems, other municipal wastewater treatment or disposal facilities, or for material modifications to existing sewage treatment plants or systems, municipal wastewater treatment or disposal facilities shall be submitted to the Department for review and approval before construction may begin and all construction shall be in substantial compliance therewith. This does not include plan and specifications for facilities for sludge disposal, but does include plans and specifications for treatment or storage of sludge. If construction does not commence within twelve (12) months of the Department's final approval of plans and specifications, the Department may require resubmittal of all or part of the plans and specifications for review. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 400.03.a. with such records including the final decision rendered and the timeliness thereof. No material deviation shall be made to the approved plans and specifications without the prior approval of the Department. (5-8-09)

b. Plans developed for simple wastewater main extensions, when such facilities will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, shall not require preconstruction approval by the Department, provided that such plans and specifications are reviewed and approved by a QLPE to verify compliance with the requirements of these rules prior to initiation of construction. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by this subsection may be referred to the Department for review and approval prior to initiation of construction. The Department has the authority to review plans and specifications approved by a QLPE and can require modifications if the plans and specifications do not meet facility and design standards. Any plans and specifications approved pursuant to Subsection 400.03.b. shall be transmitted to the Department at the time construction is authorized and shall be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 400.03.b.i. through 400.03.b.vii. The plans and specifications must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. (5-8-09)

i. A statement that the author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. (5-8-09)

ii. A statement that the extension project complies with the current facility plan or preliminary engineering report, or a statement that the sewer system/treatment facility has adequate capacity. (5-8-09)

iii. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will serve the project. (5-8-09)

iv. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the wastewater system owner will own and operate the project after construction is complete. (5-8-09)

v. A statement by the QLPE that the plans and specifications are approved for construction. (5-8-09)

vi. A statement by the QLPE that the plans and specifications comply with the facility standards within

these rules. (5-8-09)

vii. A statement recommending whether sanitary restrictions can be released or should remain in force. (5-8-09)

c. Subsections 400.03.c.i. through 400.03.c.vi. outline the projects which QLPEs may approve and which QLPEs may not approve. (5-8-09)

i. A QLPE may approve plans and specifications for simple wastewater main extensions that will be able to discharge to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE. (5-8-09)

ii. A QLPE may approve plans for simple wastewater main extensions which will discharge to an existing wastewater system owned by a city, county, quasi-municipal corporation, or regulated public utility, but are unable to connect to the system at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension. (5-8-09)

iii. A QLPE may not approve plans and specifications which include mechanical systems such as lift stations or treatment works. (5-8-09)

iv. A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design. (5-8-09)

v. A QLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility. (5-8-09)

vi. A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the QLPE is employed. (5-8-09)

04. Professional Engineer. Plans and specifications for construction, alteration or expansion of any sewage system, sewage treatment plant or system, or other municipal wastewater treatment or disposal facility shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. (3-30-07)

05. Record Plans and Specification. (5-8-09)

a. Within thirty (30) calendar days of the completion of construction of facilities covered by Subsection 400.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Director by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the constructed facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the engineer must confirm material compliance with the approved plans and specifications or disclose material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that affect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (5-8-09)

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (5-8-09)

06. Compliance With Applicable Standards and Rules. All plans and specifications submitted to satisfy the requirements of Sections 400 through 599 or approved in compliance with Sections 400 through 599, shall

be in compliance with the requirements of these rules and shall conform in style and quality to regularly accepted engineering standards. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with these rules. (3-30-07)

07. Waiver of Approval Requirement. The Department may waive the plan and specification approval for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. (5-8-09)

08. Requirement to Have Approved Plans and Specifications and Approval Letter On-site During Construction. It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (3-30-07)

09. Construction Inspection Requirement. Except as provided in Subsection 400.03.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a municipal wastewater treatment or disposal facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 400.05. (5-8-09)

401. REVIEW OF PLANS FOR NONMUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES.

01. Plan and Specification Approval Required. The construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility must not begin before plans and specifications for the proposed facility have been submitted to and approved by the Department. Deviations may be allowed as provided in Subsection 401.02. The Department does not require review of industrial in-plant processes. (4-11-06)

02. Deviations from Approved Plans. No material deviations are to be made from the approved plans and specifications without prior approval of the Department. (3-30-07)

03. Professional Engineer. Plans and specifications for construction, alteration or expansion of any nonmunicipal wastewater treatment or disposal facility shall be prepared by or under the supervision of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Construction shall be observed by an Idaho licensed professional engineer or a person under the supervision of an Idaho licensed professional engineer. (5-8-09)

04. Record Plans and Specifications. (5-8-09)

a. If actual construction deviates from the approved plans and specifications, complete and accurate plans and specifications depicting the actual construction, alteration, or modification performed, shall be submitted to the Department for review and approval within thirty (30) days of completion of construction. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (5-8-09)

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must be sealed, signed, and dated by the professional engineer in responsible charge of their preparation. (5-8-09)

05. Waiver of Approval Requirement. The Department can waive the plan and specification approval required in Subsection 401.01 for any particular facility or category of facilities which will have no significant impact on the environment or on the public health. (5-8-09)

06. Applicability of Standards. The facility and design standards for municipal wastewater treatment or disposal facilities set out in these rules do not apply to nonmunicipal wastewater treatment or disposal facilities covered under Section 401. (3-30-07)

402. PLAN AND SPECIFICATION REVIEW DISPUTE RESOLUTION.
The Department's plan and specification review dispute resolution policy is set out in PM06-4 at http://www.deq.idaho.gov/laws-rules-etc/deq-policies/. (3-30-07)

403. -- 408. (RESERVED).

409. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY.
No person shall proceed, or cause to proceed, with construction of a new public wastewater system, a new private municipal treatment plant, a new wastewater treatment facility, or a new privately owned wastewater pumping station until it has been demonstrated to the Department that the wastewater system will have adequate technical, financial, and managerial capacity, as defined in Section 010 of these rules. Demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 400.03 of these rules. The Department shall issue in writing its approval of the new system capacity demonstration. (5-8-09)

01. Technical Capacity. In order to meet this requirement, the public wastewater system shall submit documentation to demonstrate the following: (5-8-09)

a. The system meets the relevant design, construction, and operating requirements of these rules; (5-8-09)

b. A plan is in place to deal with emergencies; (5-8-09)

c. A plan exists for replacement or improvement of infrastructure as necessary; and (5-8-09)

d. The system has trained personnel with an understanding of the technical and operational characteristics of the system. (5-8-09)

02. Financial Capacity. A demonstration of financial capacity must include, but is not limited to, the following information: (5-8-09)

a. Documentation that organizational and financial arrangements are adequate to construct and operate the wastewater system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (5-8-09)

b. Demonstration of revenue sufficiency, that includes, but is not limited to, billing and collection procedures; a proposed rate structure which demonstrates the availability of operating funds; revenues for depreciation and reserves; and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (5-8-09)

c. Adequate fiscal controls must be demonstrated. (5-8-09)

d. For private municipal wastewater treatment plants, a performance bond, maintenance bond, or cash reserve of one (1) year of operation and maintenance costs is required to ensure continuous and adequate operation and maintenance. (5-8-09)

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner or operator of a new wastewater system shall submit at least the following information to the Department: (5-8-09)

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership upon completion of construction or after a period of operation; (5-8-09)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the wastewater system is in compliance with these rules; (5-8-09)

c. The name, address, and telephone number of the responsible charge operator; (5-8-09)

d. A description of the manner in which the wastewater system will be managed. Information such as by-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure shall be provided; (5-8-09)

e. A recommendation of staff qualifications, including training, experience, certification or licensing, and continuing education; (5-8-09)

f. An explanation of how the wastewater system will establish and maintain effective communications and relationships between the wastewater system management, its customers, professional service providers, and any applicable regulatory agencies; and (5-8-09)

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (5-8-09)

04. Consolidation. In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining wastewater service from an established public wastewater system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to wastewater users, and protection of public health. (5-8-09)

410. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: FACILITY PLANS.

01. Facility Plans Required. All new municipal wastewater treatment or disposal facilities, and all existing municipal wastewater treatment or disposal facilities undergoing material modification or expansion, are required to have a current facility plan that shall address all applicable issues specifically required in Sections 410 and 420 through 599 of these rules including, but not limited to, hydraulic capacity, treatment capacity, project financing, and operation and maintenance considerations. The facility plan shall address these issues sufficiently to determine the effects of the project on the overall wastewater infrastructure. Material modification or expansion that requires a facility plan includes upgraded, or rehabilitated municipal wastewater treatment or disposal facilities and major collection, interceptor sewer, pump station projects, and septage transfer station projects. Facility plans must address the entire potential service area of the project. A facility plan may be completed for collection systems only. If such a collection system facility plan is prepared, and flows increase in excess of the design capacity of downstream collection and treatment facilities, the impact of the flow shall be addressed in the facility plan. (5-8-09)

a. Department-reviewed simple wastewater main extension projects. A facility plan is not required if the Department is provided documentation supporting the ability of the wastewater system to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the system and without overloading the existing collection system. Documentation may be in the form of: (5-8-09)

i. Hydraulic modeling; (5-8-09)

ii. Usage data and flow calculations; (5-8-09)

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (5-8-09)

iv. Other documentation acceptable to the Department. (5-8-09)

b. QLPE-Reviewed Simple Wastewater Main Extension Projects. A Department-approved facility plan is not required to be in place prior to the QLPE approving simple wastewater main extensions pursuant to Subsection 400.03.b., provided that the system is in compliance with the facility and design standards in the area served by the extension. If the Department has not approved a facility plan which covers the proposed simple wastewater main extension, then the system owner or the QLPE must include with the transmittal letter

documentation supporting the ability of the system owner to provide service for the simple wastewater main extension without adding wastewater pumping stations or treatment capacity to the system and without overloading the existing collection system. The system owner shall provide this documentation to the QLPE as necessary. Documentation may be in the form of: (5-8-09)

i. Hydraulic modeling; (5-8-09)

ii. Usage data and flow calculations; (5-8-09)

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (5-8-09)

iv. Other documentation acceptable to the Department. (5-8-09)

02. Submittal to Department. Facility plans shall be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan. (5-8-09)

03. Engineer's Seal Required. Facility plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (5-8-09)

04. Facility Plan Contents. The facility plan shall assemble basic information, present criteria and assumptions, and examine alternative solutions with preliminary layouts and cost estimates. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion. The minimum requirements for a facility plan are located in Subsections 410.04.a. through 410.04.c. If specific items are not applicable to a particular facility plan, then the engineer shall state this in the facility plan and state the reason why it is not applicable. (5-8-09)

a. New Wastewater System Facility Plan. The facility plan for a new wastewater system must include sufficient detail to support the requirements of Sections 410 through 520 and address the items listed in Subsections 410.04.a.i. through 410.04.a.vii. of this rule. (5-8-09)

i. Location. Provide a general description and location of the system including service boundaries. (5-8-09)

ii. Population. Provide the estimated design population of the system. (5-8-09)

iii. Wastewater flows. Provide design data for domestic, commercial, and industrial wastewater generation, including average day, maximum day, maximum month, or peak hour flows. (5-8-09)

iv. Collection. Identify and describe any anticipated or proposed wastewater collection systems. Include specific detail on any anticipated or proposed wastewater pumping stations and on any anticipated or proposed wastewater interceptor or trunk lines. (5-8-09)

v. Treatment. Identify and describe any anticipated or proposed treatment works. Provide specific detail on the type and level of treatment and the required capacity of the treatment system. (5-8-09)

vi. Disposal. Identify and describe any anticipated or proposed wastewater disposal system(s). Include specific information on the location and method of disposal and information on any existing disposal permits or estimated timelines to obtain anticipated required permits. (5-8-09)

vii. Drinking water. Describe the drinking water distribution system with reference to the relationship to existing or proposed wastewater structures which may affect the operation and location of the wastewater system. (5-8-09)

b. Existing Wastewater System Facility Plan. The facility plan for an existing wastewater system must include sufficient detail to support the requirements of Sections 410 through 520, address all items in Subsections 410.04.a.i. through 410.04.a.vii., and address all items in Subsections 410.04.b.i. through 410.04.b.viii. (5-8-09)

i. Provide a hydraulic analysis of the collection system if requested by the Department. Any analysis of an existing collection system shall be properly calibrated. The type and sophistication of the analysis shall be dependent on the type of the system. (5-8-09)

ii. Identify and evaluate problems or deficiencies related to the wastewater system. (5-8-09)

iii. Identify the design capacity of existing facilities and the current operating flows. (5-8-09)

iv. Describe financing options for projects identified in the facility plan. (5-8-09)

v. Set forth anticipated charges for users. (5-8-09)

vi. Review organizational and staffing requirements. (5-8-09)

vii. Offer a project(s) recommendation for client consideration. (5-8-09)

viii. Outline official actions and procedures to implement the project. (5-8-09)

c. Wastewater System Facility Plan Funded by the State Revolving Fund. If the project is funded by the state revolving fund or a state grant, the facility plan must meet the requirements of Subsections 410.04.a. and 410.04.b., and other requirements that may also apply. See IDAPA 58.01.12 "Rules for Administration of Water Pollution Control Loans," and IDAPA 58.01.04, "Rules for Administration of Wastewater Treatment Facility Grants." (5-8-09)

d. Facility Plan Guidance. A checklist which can be used for guidance can be found on the DEQ website at http://www.deq.idaho.gov. This checklist is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. (5-8-09)

411. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: PRELIMINARY ENGINEERING REPORTS.

01. Preliminary Engineering Reports Required. Preliminary engineering reports are required for municipal wastewater treatment or disposal facility projects that require plan and specification review and approval pursuant to Subsection 400.03 and shall address all applicable issues specifically required in Sections 411 through 599 of these rules including, but not limited to, purpose, scope, hydraulic capacity, treatment capacity, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall wastewater infrastructure. Preliminary engineering reports must be completed for major wastewater collection system projects, all pump station projects, all treatment plant designs and upgrades, and all septage transfer stations. Preliminary engineering reports are not required for simple wastewater main extensions that are approved in accordance with Subsections 410.01.a. or 410.01.b. (5-8-09)

02. Submittal to Reviewing Authority. Preliminary engineering reports shall be submitted to the Department for review and must be approved by the Department prior to the submission of plans and specifications. (5-8-09)

03. Preliminary Engineering Report Contents. The preliminary engineering report must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The preliminary engineering report generally addresses project specific issues rather than the overall system-wide plan. The preliminary engineering report shall identify and evaluate wastewater related problems; assemble basic information; present criteria and assumptions; examine alternative solutions with preliminary layouts and cost estimates; offer a conclusion with a proposed project; and outline official actions and procedures to implement the project. The items included in Subsections 411.03.a. through 411.03.c., and other items specifically called for in Sections 426 through 599, shall be addressed in detail in the preliminary engineering report. If specific items are not applicable to a particular design, then the designer shall state this in the preliminary engineering report and state the reason why it is not applicable. Items adequately addressed in the facility plan under which the project is being designed, may be addressed by reference for purposes of the preliminary engineering report. (5-8-09)

a. Major Wastewater Collection System Projects. Items applicable to preliminary engineering reports for major wastewater collection system projects are listed in Subsections 411.03.a.i. through 411.03.a.vi. (5-8-09)

i. Coordination with Facility Plan. The preliminary engineering report shall discuss or reference items provided in the Department-approved facility plan. These items include, but are not limited to: (5-8-09)

(1) Location of project; (5-8-09)

(2) Population served by project; (5-8-09)

(3) Existing and proposed wastewater flows; (5-8-09)

(4) Existing and proposed collection system; (5-8-09)

(5) Existing and proposed treatment works; (5-8-09)

(6) Existing and proposed disposal methods; (5-8-09)

(7) Drinking water system impacts; (5-8-09)

(8) Hydraulic analysis; and (5-8-09)

(9) Financing methods. (5-8-09)

ii. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (5-8-09)

(1) Wastewater flow rates including peak hour flows; (5-8-09)

(2) Current project fifty (50) year design and build-out conditions; (5-8-09)

(3) Piping size, material, and installation methods; (5-8-09)

(4) Depth of bury and slope; (5-8-09)

(5) Soil and ground water conditions; (5-8-09)

(6) Corrosion protection; and (5-8-09)

(7) Odor control. (5-8-09)

iii. Code provisions. The preliminary engineering report shall include a summary of applicable codes and standards that apply to the proposed project. (5-8-09)

iv. Cost estimate. The preliminary engineering report shall provide as applicable estimated construction costs for public works projects or projects funded by public monies. (5-8-09)

v. Construction schedule. The preliminary engineering report shall include the proposed construction schedule. (5-8-09)

vi. Environmental review. The preliminary engineering report shall include an environmental review. See the definition for environmental review in Section 010 for additional information. (5-8-09)

b. Wastewater Pump Station Projects. Items applicable to preliminary engineering reports for wastewater pump station projects include all items listed in Subsection 411.03.a. and items listed in Subsections 411.03.b.i. through 411.03.b.iv. (5-8-09)

i. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (5-8-09)

(1) Wastewater flow rates including average day, maximum day, and peak hour flows; (5-8-09)

(2) Influent wastewater characteristics, including characteristics during periods of wet weather flows; (5-8-09)

(3) Size and configuration; and (5-8-09)

(4) Redundancy provisions. (5-8-09)

ii. Site evaluation and layout. The preliminary engineering report shall describe the proposed site and layout of the wastewater pumping station. This information includes, but is not limited to: (5-8-09)

(1) Currently proposed facilities; (5-8-09)

(2) Geotechnical investigation and provisions including buoyancy calculations if required; (5-8-09)

(3) Flood control provisions; (5-8-09)

(4) Security; (5-8-09)

(5) Operations and maintenance assessments; and (5-8-09)

(6) Odor management plans. (5-8-09)

iii. Instrumentation and control system. The preliminary engineering report shall discuss instrumentation and control that will be provided. This information includes, but is not limited to: (5-8-09)

(1) System configuration; (5-8-09)

(2) Operator interface; (5-8-09)

(3) Process and instrumentation diagrams; and (5-8-09)

(4) Alarm systems. (5-8-09)

iv. Emergency operation. The preliminary engineering report shall describe how the system will be operated during power outages, equipment failures, or other unforeseen system failures. (5-8-09)

c. Wastewater Treatment Plants. Items applicable to preliminary engineering reports for wastewater treatment plant designs and upgrades include all items listed in Subsection 411.03.a., Subsection 411.03.b., and Subsections 411.03.c.i. through 411.03.c.iv. (5-8-09)

i. Design criteria. The preliminary engineering report shall discuss and present the design criteria applicable to the proposed project. The design criteria includes, but is not limited to: (5-8-09)

(1) Wastewater flow rates including average day, maximum day, maximum month, and peak hour flows; (5-8-09)

(2) Effluent requirements; (5-8-09)

(3) Solids production, disposal, or recycling requirements; (5-8-09)

(4) Process units design criteria, process selection, and support data; (5-8-09)

(5) Mass balance calculations for process units including, but not limited to, flow and solids; and (5-8-09)

(6) Monitoring and reporting requirements. (5-8-09)

ii. Site evaluation and layout. The preliminary engineering report shall describe the proposed site and layout of the wastewater system. This information includes, but is not limited to: (5-8-09)

(1) Currently proposed facilities; (5-8-09)

(2) Facilities for twenty (20) year design conditions; (5-8-09)

(3) Facilities for build-out conditions; (5-8-09)

(4) Space for facilities potentially necessary to meet higher levels of treatment; (5-8-09)

(5) Liquid process facilities and conveyance; (5-8-09)

(6) Solids process facilities and conveyance; (5-8-09)

(7) Plant access and on-site roads and walkways; (5-8-09)

(8) Process piping and utilities; (5-8-09)

(9) Buffer zones; (5-8-09)

(10) Landscaping; (5-8-09)

(11) Administration and operations buildings; (5-8-09)

(12) Onsite laboratory facilities; and (5-8-09)

(13) Treatment during construction. (5-8-09)

iii. Hydraulic profile. The preliminary engineering report shall provide a hydraulic profile for the proposed system. This information includes, but is not limited to: (5-8-09)

(1) Twenty (20) year design facilities; (5-8-09)

(2) Provision for higher levels of treatment; (5-8-09)

(3) Receiving stream one hundred (100) year surface water elevation; and (5-8-09)

(4) Hydraulics and pipe sizing for build-out conditions. (5-8-09)

iv. Process units. The preliminary engineering report shall describe in detail the proposed process units and discuss how the proposed units will interface with any existing process units. This information includes, but is not limited to: (5-8-09)

(1) Current project and twenty (20) year design and build-out conditions; (5-8-09)

(2) Size and number of units and loading rates; (5-8-09)

(3) Redundancy provisions; (5-8-09)

(4) Equipment type, size, performance criteria, and power requirements; (5-8-09)

(5) Structure, equipment, and piping layout; (5-8-09)

(6) Special code requirements; (5-8-09)

(7) Cold temperature operation; and (5-8-09)

(8) Procedures required for initial start-up of process unit(s), including procedures required for handling initial system flows that are less than minimum flow requirements for the process unit(s). (5-8-09)

04. Engineer's Seal Required. Preliminary engineering reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (5-8-09)

412. -- 419. (RESERVED)

420. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SUBMISSION OF PLANS AND SUPPORT DOCUMENTS.
Submissions to the reviewing authority for construction of municipal wastewater treatment or disposal facilities shall include sealed plans and specifications, design criteria, the appropriate construction permit applications, review forms, and permit fee if required. The plans and specifications shall contain sufficient detail to allow for the contracting and construction of the wastewater systems. (4-11-06)

421. -- 424. (RESERVED)

425. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: OPERATION AND MAINTENANCE MANUALS.

01. Manual Contents. An operation and maintenance manual or manuals shall be provided for all wastewater systems. The manual shall include, but is not limited to, the following contents: daily operating instructions, operator safety procedures, location of valves and other key system features, a parts list and parts order form(s), and information for contacting the responsible charge operators. An operational trouble-shooting section shall be supplied to the wastewater works as part of any proprietary unit installed in system facilities. (5-8-09)

02. Approval Required. Final operation and maintenance manuals for construction of wastewater systems that include lift stations or treatment works must be submitted to the Department for review and approval prior to start-up of the proposed system unless the system components are already covered in an existing manual. (5-8-09)

426. -- 429. (RESERVED).

430. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- DESIGN AND CONSTRUCTION OF WASTEWATER PIPELINES.

01. Design Capacity and Design Flow. In general, sewer capacities shall be designed for the estimated ultimate tributary population, except in considering parts of the systems that can be readily increased in capacity. (4-11-06)

02. Details of Design and Construction. (4-11-06)

a. Minimum Pipe Size. Minimum pipe size for gravity sewer mains shall be eight (8) inches in diameter. Minimum pipe size for gravity sewer services shall be four (4) inches in diameter. Pipe diameters larger than these minimums shall be based on cleaning capability and hydraulic capacity, and shall conform with the required planning documents. (3-30-07)

b. Depth. Wastewater pipelines shall be installed sufficiently deep or specifically designed to prevent freezing and to protect the facilities from surface loading. (4-11-06)

c. Buoyancy. Buoyancy of wastewater pipelines shall be considered and flotation of the pipe shall be prevented with appropriate construction where high groundwater conditions are anticipated. (4-11-06)

d. Slope. Gravity wastewater pipelines shall be designed to have sufficient slope and velocity to "self clean" or transport constituent solids to the treatment facility. Justification for these slopes shall be included in the preliminary engineering report and shall be based on widely used guidance documents or published friction coefficients and Manning's formula. (5-8-09)

i. If the current or future ownership of the system is by a city, county, quasi-municipal corporation or regulated public utility and the velocities are less than self cleaning, the owner shall, as a condition of the Department's approval of plans and specifications, provide justification for the lower velocities and commit to, at a minimum, annually service wastewater pipelines to flush, transport, or remove solids from wastewater pipelines. This would include the use of cutting tools for roots, vactor trucks, and any other method required to keep the pipelines clean, intact and flowing. That commitment shall be in the form of a letter from both the owner and the future owner entity stating said commitment, and shall include a discussion of the current and future owners' capacity to do said flushing. (3-30-07)

ii. If the current or future ownership of the system is by a developer that is passing the operation and maintenance on to a homeowner's association or other similar entity, then the design shall not allow for velocities that are less than self cleaning. (3-30-07)

e. Materials. (4-11-06)

i. Any generally accepted material for wastewater pipelines will be given consideration. The material selected should be adapted to local conditions, such as: character of industrial wastes, possibility of septicity, soil characteristics, exceptionally heavy external loadings, abrasion, corrosion, and similar problems. (4-11-06)

ii. Couplings complying with applicable standard specifications shall be used for joining dissimilar materials. (4-11-06)

iii. For new pipe materials for which standards have not been established, the design engineer shall provide complete pipe specifications and installation specifications developed on the basis of criteria adequately documented and certified in writing by the pipe manufacturer to be satisfactory for the specific application. (4-11-06)

f. Installation. Installation specifications shall contain appropriate requirements based on the criteria, standards, and requirements established by industry in its technical publications. Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications. (3-30-07)

g. Joints and Infiltration. (4-11-06)

i. The installation of joints and the materials used shall be included in the specifications. Wastewater pipeline joints shall be designed to minimize infiltration and to prevent the entrance of roots throughout the life of the system. Reference current edition of the Idaho Standards for Public Works Construction for assistance in designing such specifications. (3-30-07)

ii. Service connections to the wastewater pipeline main shall be water tight and not protrude into the wastewater pipelines. If a saddle type connection is used, it shall be a device designed to join with the types of pipe which are to be connected. All materials used to make service connections shall be compatible with each other and with the pipe materials to be joined and shall be corrosion proof. (4-11-06)

h. Manholes. Manholes shall be installed at the end of each line; at all changes in grade, size, or alignment; at all intersections. Cleanouts may be used only for special conditions and shall not be substituted for manholes nor installed at the end of laterals greater than one hundred fifty (150) feet in length. (4-11-06)

i. Testing. Testing shall conform with Section 501.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004. (3-30-07)

j. Inverted Siphons. Inverted siphons shall have not less than two (2) barrels or pipes. They shall be provided with necessary appurtenances for maintenance, convenient flushing, and cleaning equipment. Design shall provide sufficient head and appropriate pipe sizes to secure sufficient velocities for design average flows. (3-30-07)

k. Wastewater Pipelines in Relation to Surface Water Bodies. The top of all wastewater pipelines entering or crossing surface water bodies shall be at a sufficient depth below the natural bottom of the bed or otherwise designed to protect the wastewater pipeline. (4-11-06)

i. Wastewater pipelines located adjacent to surface water bodies shall be located outside of the bed and sufficiently removed therefrom to provide for future possible stream widening and to prevent pollution by siltation during construction. (3-30-07)

ii. Structures. Wastewater pipeline outfalls, headwalls, manholes, gate boxes, or other structures shall be designed to address anticipated flood flows of the surface water bodies. (4-11-06)

iii. Alignment. Wastewater pipelines crossing surface water bodies should be designed to cross the surface water body as nearly perpendicular to the surface water body flow as possible and shall be free from change in grade. (4-11-06)

iv. Materials. Wastewater pipelines entering or crossing surface water bodies shall be constructed of water transmission pressure rated pipe with restrained joints conforming to Section 401.2.9 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004, or other suitable pipe with restrained joints capable of being installed to remain watertight and free from changes in alignment or grade. Material used to back-fill the trench shall be concrete slurry, stone, coarse aggregate, washed gravel, or other materials which will not readily erode, cause siltation, damage pipe during placement, or corrode the pipe. (3-30-07)

v. Siltation and Erosion. Construction methods that will minimize siltation and erosion shall be employed. (4-11-06)

l. Aerial Crossings. Support shall be provided for all joints in pipes utilized for aerial crossings. Restrained joints or structural casings are required. (4-11-06)

m. Cross Connections Prohibited. There shall be no physical connections between a public or private potable water supply system and a wastewater pipeline, or appurtenance thereto, which would permit the passage of any wastewater or polluted water into the potable supply. No water pipe shall pass through or come into contact with any part of a wastewater pipeline manhole. (4-11-06)

n. Protection of Water Sources, Supplies. When wastewater pipelines are proposed in the vicinity of any drinking water sources or supplies or other drinking water facilities, requirements of IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," shall be used to confirm acceptable isolation distances. (4-11-06)

o. Non-Potable Pipelines in Relation to Potable Water Pipelines. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. and 542.07.b. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority. (5-8-09)

i. Parallel installation requirements. (5-8-09)

(1) Non-potable mains in relation to potable mains: (5-8-09)

(a) Greater than ten (10) feet separation: no additional requirements based on separation distance. (5-8-09)

(b) Ten (10) feet to six (6) feet separation: separate trenches, with potable main above non-potable main, and non-potable main constructed with potable-water class pipe. (4-11-06)

(c) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval that this installation will protect public health and environment and non-potable main constructed with potable-water class pipe. (3-30-07)

(d) Non-potable mains are prohibited from being located in the same trench as potable mains. (3-30-07)

(e) Pressure sewage mains shall be no closer horizontally than ten (10) feet from potable mains. (3-30-07)

(2) New non-potable services in relation to potable services, new non-potable services in relation to potable mains, and new potable services in relation to non-potable mains. (5-8-09)

(a) Greater than six (6) feet separation: no additional requirements based on separation distances. (5-8-09)

(b) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (5-8-09)

(c) New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. (5-8-09)

ii. Requirements for potable water mains or services crossing non-potable mains or services. For the purposes of Subsection 430.02.o.ii., the term "pipeline" applies to both mains and services. (5-8-09)

(1) Eighteen (18) inches or more vertical separation with potable pipeline above non-potable pipeline: non-potable pipeline joint to be as far as possible from the potable water pipeline. (5-8-09)

(2) Eighteen (18) inches or more vertical separation with potable water pipeline below non-potable pipeline: Non-potable pipeline joint to be as far as possible from the potable water pipeline, and non-potable pipeline must be supported through the crossing to prevent settling. (5-8-09)

(3) Less than eighteen (18) inches vertical separation: (5-8-09)

(a) Non-potable pipeline joint to be as far as possible from the potable water pipeline; and either (5-8-09)

(b) Non-potable pipeline constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or (5-8-09)

(c) Sleeve non-potable or potable pipeline with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. (5-8-09)

(d) If the potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling. (5-8-09)

(4) Pressure sewage mains shall be no closer vertically than eighteen (18) inches from potable mains. (5-8-09)

iii. Existing potable services in relation to new non-potable mains, existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 430.02.o.ii., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 430.02.o.ii. (5-8-09)

431. -- 439. (RESERVED)

440. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: WASTEWATER PUMPING STATIONS.

01. General. Section 440 regulates both public and private municipal wastewater collection pump stations and does not regulate individual residence pump stations, individual residence grinder pump stations, or individual residence septic tank effluent pump stations. See Section 441 for regulation of those types of pump stations. (3-30-07)

a. Flooding. Wastewater pumping station structures and electrical and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Wastewater pumping stations shall remain fully operational and accessible during the twenty-five (25) year flood. Regulations of state and federal agencies regarding flood plain obstructions shall be considered. (3-30-07)

b. Accessibility and Security. The pumping station shall be accessible by maintenance vehicles during all weather conditions. (3-30-07)

c. Grit. The wet well and pump station piping shall be designed to avoid operational problems from the accumulation of grit. (3-30-07)

d. Safety. Provisions shall be made to consider the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. See also Subsection 450.07. (3-30-07)

02. Design. Design of wastewater pumping stations shall meet the applicable requirements of Subsections 440.02.a. through 440.02.i. (3-30-07)

a. Type. Wastewater pumping stations in general use fall into four types: wet well/dry well, submersible, suction lift, and screw pump. (3-30-07)

b. Structures. (3-30-07)

i. Separation. Dry wells shall be completely separated from the wet well. Common walls must be gas tight. (3-30-07)

ii. Equipment Removal. Provision shall be made to facilitate removing pumps, motors, and other mechanical and electrical equipment. Individual pump and motor removal must not interfere with the continued operation of remaining pumps. (3-30-07)

iii. Access and Safety Landings. (3-30-07)

(1) Access. Suitable means of access for maintenance personnel wearing self-contained breathing apparatus shall be provided to dry wells and to wet wells. See also Subsection 450.07. (3-30-07)

(2) Safety Landings. Section 009 provides a reference to requirements of the Occupational Safety and Health Administration (OSHA), compliance with which may be required by other law. (3-30-07)

iv. Buoyancy. Where high groundwater conditions are anticipated, buoyancy of the wastewater pumping station structures shall be considered and, if necessary, adequate provisions shall be made for protection. (3-30-07)

v. Construction Materials. Materials shall be selected that are appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. This is particularly important in the selection of metals and paints. (3-30-07)

c. Pumps. (3-30-07)

i. Multiple Units. Multiple pumps shall be provided. Units shall have capacity such that, with any unit out of service, the remaining units will have capacity to handle the design peak hourly flow. (3-30-07)

ii. Protection Against Clogging. Pumps (except screw pumps) handling separate sanitary wastewater from thirty (30) inch or larger diameter sewers shall be protected by bar racks. Appropriate protection from clogging shall also be considered for small pumping stations. (3-30-07)

iii. Pump Openings. Pumps handling unscreened raw wastewater shall be capable of passing spheres of at least three (3) inches in diameter or be a grinder pump. (3-30-07)

iv. Priming. The pump shall be placed so that, under normal operating conditions, it will operate under a positive suction head, except as specified in Subsection 440.03. (3-30-07)

v. Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law. (3-30-07)

vi. Intake. Section 008 provides a reference to the American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design. (3-30-07)

vii. Dry Well Dewatering. Dry wells shall be equipped with a positive means for dewatering. (3-30-07)

viii. Pumping Rates. The pumps and controls of main pumping stations shall be selected to operate with varying rates. The pump control system design shall take into account, and minimize as needed, downstream impact of pump discharge hydraulic surges. The station design capacity shall be based on peak hourly flow as determined in accordance with Section 411 and shall be adequate to maintain a velocity in the force main sufficient to avoid solids deposition. See Subsection 440.09. (3-30-07)

d. Controls. Water level control sensing devices shall be designed to allow for automatic control of pumps. (3-30-07)

e. Valves. (3-30-07)

i. Suction Line. Suitable shutoff valves shall be placed on the suction lines of dry pit pumps. (3-30-07)

ii. Discharge Line. Suitable shutoff and check valves shall be placed on the discharge line of each pump (except on screw pumps). The check valve shall be located between the shutoff valve and the pump. Check valves shall be suitable for the material being handled and shall be placed on the horizontal portion of the discharge piping except for ball checks, which may be placed in the vertical run. Valves shall be capable of withstanding normal pressure and water hammer. All shutoff and check valves shall be operable from the floor level and accessible for maintenance. Outside levers are recommended on swing check valves. (3-30-07)

f. Wet Wells. (3-30-07)

i. Section 008 provides a reference to the American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal and Vertical Pump Intake Design as a guidance document. (3-30-07)

ii. Air Displacement. Covered wet wells shall have provisions for air displacement to the atmosphere, such as an inverted “j” tube or other means. (3-30-07)

g. Safety Ventilation. Adequate ventilation shall be provided for all pump stations unless access is provided using confined space entry procedures. Where the dry well is below the ground surface, mechanical ventilation is required. If screens or mechanical equipment requiring maintenance or inspection are located in the wet well, permanently installed ventilation is required. There shall be no interconnection between the wet well and dry

well ventilation systems. Section 008 provides a reference to guidance documents; see Subsection 008.11. (3-30-07)

h. Flow Measurement. Suitable methods for measuring wastewater flow shall be addressed at all pumping stations. (3-30-07)

i. Water Supply. There shall be no physical connection between any potable water supply and a wastewater pumping station which, under any conditions, might cause contamination of the potable water supply. If a potable water supply connection is made to the station, the connection shall comply with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (3-30-07)

03. Suction Lift Pump Stations - Special Considerations. Suction lift pumps shall meet the applicable requirements of Subsection 440.02. (3-30-07)

a. Pump Priming and Lift Requirements. Suction lift pumps shall be of the self-priming or vacuum-priming type. Suction lift pump stations using dynamic suction lifts exceeding the limits outlined in Subsections 440.03.b. through 440.03.d. may be approved upon submission of factory certification of pump performance and detailed calculations indicating satisfactory performance under the proposed operating conditions. (3-30-07)

b. Self-Priming Pumps. Self-priming pumps shall be capable of rapid priming and re-priming at the "lead pump on" elevation. Such self-priming and re-priming shall be accomplished automatically under design operating conditions. (3-30-07)

c. Vacuum-Priming Pumps. Vacuum-priming pump stations shall be equipped with dual vacuum pumps capable of automatically and completely removing air from the suction lift pump. The vacuum pumps shall be adequately protected from damage due to wastewater. The combined total of dynamic suction lift at the "pump off" elevation and required net positive suction head at design operating conditions shall not exceed twenty-two (22) feet. (3-30-07)

d. Equipment, Wet Well Access, and Valving Location. The pump equipment compartment shall be above grade or offset and shall be effectively isolated from the wet well to prevent a hazardous and corrosive sewer atmosphere from entering the equipment compartment. Wet well access shall not be through the equipment compartment and shall be at least twenty-four (24) inches in diameter. Gasketed replacement plates shall be provided to cover the opening to the wet well for pump units removed for servicing. Valving shall not be located in the wet well. (3-30-07)

04. Submersible Pump Stations - Special Considerations. Submersible pump stations shall meet the applicable requirements of Subsection 440.02, except as modified in Subsection 440.04. (3-30-07)

a. Construction. Submersible pumps and motors shall be designed specifically for raw wastewater use, including totally submerged operation during a portion of each pumping cycle. An effective method to detect shaft seal failure or potential seal failure shall be provided. (3-30-07)

b. Pump Removal. Submersible pumps shall be readily removable and replaceable without personnel entering or dewatering the wet well, or disconnecting any piping in the wet well. (3-30-07)

c. Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law. (3-30-07)

i. Power Supply and Control Circuitry. Electrical supply, control, and alarm circuits shall be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors shall be protected from corrosion by location outside the wet well or through use of watertight seals. (3-30-07)

ii Controls. The motor control center shall be located outside the wet well, be readily accessible, and be protected by a conduit seal or other appropriate measures to prevent the atmosphere of the wet well from gaining access to the control center. The seal shall be located so that the motor may be removed and electrically disconnected without disturbing the seal. When such equipment is exposed to weather, it is recommended that it meet the requirements of weatherproof equipment NEMA 3R or 4. (3-30-07)

iii. Power Cord. Pump motor power cords shall be designed for flexibility and serviceability under conditions of extra hard usage. Ground fault interruption protection shall be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable. Power cord terminal fittings shall be corrosion-resistant and constructed in a manner to prevent the entry of moisture into the cable, shall be provided with strain relief appurtenances, and shall be designed to facilitate field connecting. (3-30-07)

d. Valves. Valves required under Subsection 440.02 shall be located in a separate valve chamber. Provisions shall be made to remove or drain accumulated water from the valve chamber. The valve chamber may be dewatered to the wet well through a drain line with a gas and water tight valve. Check valves that are integral to the pump need not be located in a separate valve chamber provided that the valve can be removed from the wet well in accordance with Subsection 440.04. Access shall be provided in accordance with Subsection 440.02. (3-30-07)

05. Screw Pump Stations - Special Considerations. Screw pump stations shall meet the applicable requirements of Subsection 440.02. (3-30-07)

a. Covers. Covers or other means of excluding direct sunlight shall be provided as necessary to eliminate adverse effects from temperature changes. (3-30-07)

b. Pump Wells. A positive means of isolating individual screw pump wells shall be provided. (3-30-07)

c. Bearings. Submerged bearings shall be lubricated by an automated system without pump well dewatering. (3-30-07)

06. Alarm Systems. Alarm systems with a backup power source shall be provided for pumping stations. The alarm shall be activated in cases of power failure, dry well sump and wet well high water levels, pump failure, unauthorized entry, or other cause of pump station malfunction. Pumping station alarms, including identification of the alarm condition, shall be transmitted to a twenty-four (24) hour response center. Audio-visual alarm systems may be acceptable in some cases in lieu of a transmitting system depending upon location, station holding capacity, and inspection frequency. (3-30-07)

07. Emergency Operation. (3-30-07)

a. Objective. The objective of emergency operation is to prevent the unintended discharge of raw or partially treated wastewater to any waters or land surface and to protect public health by preventing back up of wastewater and subsequent discharge to basements, streets, and other public and private property. (3-30-07)

b. Emergency Pumping Capability. Emergency pumping capability is required for all new lift stations constructed after April 15, 2007. Emergency pumping capability is required for all existing lift stations that undergo a material modification or expansion unless overall system reliability can be proven adequate to the Department as shown in Subsections 440.07.b.i. and 440.07.b.ii. or overflow prevention is provided by adequate emergency storage capacity as defined in these rules. If required, emergency pumping capability shall be accomplished by connection of the station to at least two (2) independent utility substations as determined by and stated in a letter from the appropriate power provider, by provision of portable or in-place internal combustion engine equipment which will generate electrical or mechanical energy, or by the provision of portable pumping equipment. Such emergency standby systems shall have sufficient capacity to start up and maintain the total rated running capacity of the station. Regardless of the type of emergency standby system provided, a portable pump connection to the force main with rapid connection capabilities and appropriate valving shall be provided outside the dry well and wet well. (3-30-07)

i. System reliability is considered adequate if power grid outages average three (3) or less per year based on data for the three (3) previous years with no more than six (6) outages in a single year. (3-30-07)

ii. Outage duration averages less than four (4) hours based on data for the three (3) previous years, with not more than one (1) outage during the three (3) previous year period exceeding eight (8) hours. Power loss for at least thirty (30) minutes qualifies as an outage. (3-30-07)

c. Equipment Requirements. (3-30-07)

i. General. The following general requirements shall apply to all internal combustion engines used to drive auxiliary pumps, service pumps through special drives, or electrical generating equipment: (3-30-07)

(1) Engine Protection. The engine must be protected from operating conditions that would result in damage to equipment. Unless continuous manual supervision is planned, protective equipment shall be capable of shutting down the engine and activating an alarm on site and as provided in Subsection 440.06. Protective equipment shall monitor for conditions of low oil pressure and overheating, except that oil pressure monitoring will not be required for engines with splash lubrication. (3-30-07)

(2) Size. The engine shall have adequate rated power to start and continuously operate under all connected loads. (3-30-07)

(3) Fuel Type. Reliability and ease of starting, especially during cold weather conditions, shall be addressed in the selection of the type of fuel. (3-30-07)

(4) Fuel Storage. Fuel storage and piping facilities if provided shall be constructed in accordance with applicable state and federal regulations. (3-30-07)

(5) Engine Ventilation. The engine shall have adequate ventilation of fuel vapors and exhaust gases. (3-30-07)

(6) Routine Start-up. All emergency equipment shall be provided with instructions indicating the need for regular starting and running of such units at full loads. (3-30-07)

(7) Protection of Equipment. Emergency equipment shall be protected from damage at the restoration of regular electrical power. (3-30-07)

ii. Engine-Driven Pumping Equipment. Where permanently-installed or portable engine-driven pumps are used, the following requirements in addition to general requirements shall apply. (3-30-07)

(1) Pumping Capacity. Engine-driven pumps shall meet the design pumping requirements unless storage capacity is available for flows in excess of pump capacity. Pumps shall be designed for anticipated operating conditions, including suction lift if applicable. (3-30-07)

(2) Operation. The engine and pump shall be equipped to provide automatic start-up and operation of pumping equipment unless manual start-up and operation is justified. Provisions shall also be made for manual start-up. Where manual start-up and operation is justified, storage capacity and alarm system must meet the requirements of Subsection 440.07.c.ii(3). (3-30-07)

(3) Portable Pumping Equipment. Where part or all of the engine-driven pumping equipment is portable, adequate emergency storage capacity with alarm system shall be provided to allow time for detection of pump station failure and transportation and hookup of the portable equipment. (3-30-07)

iii. Engine-Driven Generating Equipment. Where permanently-installed or portable engine-driven generating equipment is used, the following requirements shall apply in addition to the general requirements of Subsection 440.07. (3-30-07)

(1) Generating Capacity. (3-30-07)

(a) Generating unit size shall be adequate to provide power for pump motor starting current and for lighting, ventilation, and other auxiliary equipment necessary for safety and proper operation of the lift station. (3-30-07)

(b) The operation of only one pump during periods of auxiliary power supply must be justified. Such justification may be made on the basis of the design peak hourly flows relative to single-pump capacity, anticipated

length of power outage, and storage capacity. (3-30-07)

(c) Manual or special sequencing controls shall be provided to start pump motors unless the generating equipment has capacity to start all pumps simultaneously with auxiliary equipment operating. (3-30-07)

(2) Operation. Provisions shall be made for automatic and manual startup and load transfer unless only manual start-up and operation is justified. Automatic transfer switches shall be UL listed and meet NEC requirements. The generator must be protected from operating conditions that would result in damage to equipment. Provisions shall be made to allow the engine to start and stabilize at operating speed before assuming the load. Where manual start-up and transfer is justified, storage capacity and alarm system must meet the requirements of Subsection 440.07.c.iii.(3). (3-30-07)

(3) Portable Generating Equipment. Where portable generating equipment and manual transfer is provided, adequate emergency storage capacity with alarm system shall be provided to allow time for detection of pump station failure and transportation and connection of generating equipment. Special electrical connections and double throw switches shall be provided for connecting portable generating equipment. Manual transfer switches shall be UL listed and meet NEC requirements. (3-30-07)

iv. Independent Utility Substations. Where independent substations are used for emergency power, each separate substation and its associated transmission lines shall be capable of starting and operating the pump station at its rated capacity. (3-30-07)

08. Instructions and Equipment. Wastewater pumping stations and portable equipment shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary. (3-30-07)

09. Operation and Maintenance. (3-30-07)

a. An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

b. For private municipal wastewater collection pump stations, documents that detail the technical, managerial, and financial capabilities of the private entity to properly operate and maintain said pump station for the long term shall be submitted to the Department for approval prior to operation. (3-30-07)

10. Force Mains. (3-30-07)

a. Velocity and Diameter. At design pumping rates, a cleansing velocity of at least two (2) feet per second shall be maintained. (3-30-07)

b. Air and Vacuum Relief Valve. An air relief valve shall be placed at high points in the force main to prevent air locking. The force main configuration and head conditions shall be evaluated as to the need for and placement of vacuum relief valves. (3-30-07)

c. Termination. The force mains from other than individual grinder pump stations shall enter a receiving manhole. Corrosion protection for the receiving manhole shall be provided. Control of odors at such discharge points shall be evaluated. (3-30-07)

d. Pipe and Design Pressure. Pipe and joints shall be equal to water main strength materials suitable for design conditions. The force main, reaction blocking, thrust restraint, and station piping shall be designed to withstand water hammer pressures and associated cyclic reversal of stresses that are expected with the cycling of wastewater lift stations. The use of surge valves, surge tanks, or other suitable means to protect the force main against severe pressure changes shall be evaluated. (3-30-07)

e. Special Construction. Force main construction near streams or water works structures and at water main crossings shall meet applicable provisions of Section 430. (3-30-07)

f. Design Friction Losses. (3-30-07)

i. Friction Coefficient. Friction losses through force mains shall be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of "C" shall be evaluated for different types and ages of pipe. (3-30-07)

ii. Maximum Power Requirements. When initially installed, force mains will have a significantly higher "C" factor. The effect of the higher "C" factor shall be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities shall also be considered. (3-30-07)

g. Identification. Where force mains are constructed of material which might cause the force main to be confused with potable water mains, the force main shall be appropriately identified using trench tape saying "raw sewage," "biohazard," or other appropriate wording. (3-30-07)

h. Leakage Testing. Leakage tests shall be specified including testing methods and leakage limits. Testing shall conform with Sections 401.3.6 and 505.3.3 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004. (3-30-07)

i. Thrust Blocking or Restraint. Thrust blocking or restraint shall conform with Sections 401.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004, or specific calculations reviewed and approved by the Department. (3-30-07)

j. Maintenance Considerations. Isolation valves shall be used if force mains connect into a common force main. (3-30-07)

k. Cover. Force mains shall be covered with sufficient earth or other insulation to prevent freezing or other physical damage. (3-30-07)

441. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: INDIVIDUAL RESIDENCE WASTEWATER PUMPING STATIONS.

01. General. Section 441 regulates individual residence pump stations, individual residence grinder pump stations, and individual residence septic tank effluent pump stations. However, this rule does not regulate grinder pumps or their vaults that are inside of individual residences or other structures. Certain individual residence wastewater pumping stations may be under the jurisdiction of the Idaho Division of Building Safety, Plumbing Bureau. For further defining and delineating of the Plumbing Bureau's and the Department's statutory and regulatory duties and responsibilities with respect to individual residence wastewater pumping stations, see the Memorandum of Understanding referred to in Section 008. (5-8-09)

a. Flooding. Wastewater pumping station structures and electrical and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Wastewater pumping stations shall remain fully operational and accessible during the twenty-five (25) year flood. Local, state and federal flood plain regulations shall be considered. (3-30-07)

b. Accessibility and Security. The pumping station shall be accessible by maintenance vehicles during all weather conditions. (3-30-07)

02. Design. Design of wastewater pumping stations shall meet the applicable requirements of Subsections 441.02.a. through 441.02.c. (3-30-07)

a. Pumps. (3-30-07)

i. Multiple Units. Duplex pumps for individual residence wastewater pump stations are not required. However, for developments having five (5) or more similar facilities, one (1) working spare pump for each size shall be provided and be readily available at all times. (3-30-07)

ii. Pump Openings. Pumps handling raw wastewater shall be capable of passing spheres of at least three (3) inches in diameter or be a grinder pump. (3-30-07)

iii. Priming. The pump shall be placed so that, under normal operating conditions, it will operate under a positive suction head. (3-30-07)

b. Controls. Water level control sensing devices shall be designed to allow for automatic control of pumps. (3-30-07)

c. Valves. Suitable means to facilitate pump removal and to prevent backflow shall be provided. All shutoff and check valves shall be accessible for maintenance. (3-30-07)

03. Submersible Pump Stations - Special Considerations. (3-30-07)

a. Construction. Submersible pumps and motors shall be designed specifically for raw wastewater use, including totally submerged operation during a portion of each pumping cycle. An effective method to detect shaft seal failure or potential seal failure shall be provided. (3-30-07)

b. Pump Removal. Submersible pumps shall be readily removable and replaceable without personnel entering or dewatering the wet well, or disconnecting any piping in the wet well. (3-30-07)

c. Electrical Equipment. Section 009 provides a reference to the requirements of the National Electrical Code, compliance with which may be required by other law. (3-30-07)

i. Power Supply and Control Circuitry. Electrical supply, control, and alarm circuits shall be designed to provide strain relief and to allow disconnection from outside the wet well. Terminals and connectors shall be protected from corrosion by location outside the wet well or through use of watertight seals. (3-30-07)

ii. Controls. The motor control center shall be located outside the wet well, be readily accessible, and be protected by a conduit seal or other appropriate measures to prevent the atmosphere of the wet well from gaining access to the control center. The seal shall be located so that the motor may be removed and electrically disconnected without disturbing the seal. When such equipment is exposed to weather, it is recommended that it meet the requirements of weatherproof equipment NEMA 3R or 4. (3-30-07)

iii. Power Cord. Pump motor power cords shall be designed for flexibility and serviceability under conditions of extra hard usage. Ground fault interruption protection shall be used to de-energize the circuit in the event of any failure in the electrical integrity of the cable. Power cord terminal fittings shall be corrosion-resistant and constructed in a manner to prevent the entry of moisture into the cable, shall be provided with strain relief appurtenances, and shall be designed to facilitate field connecting. (3-30-07)

04. Alarm Systems. Audio-visual alarm systems with a backup power source shall be provided for pumping stations. The alarm shall be activated in cases of wet well high water levels and shall be visible from the outside of the structure. (5-8-09)

05. Emergency Operation. The pumping station must be sized to allow for one (1) day's flow between the high water alarm and the building service invert or the pressure discharge pipe, whichever is closer to the high water alarm. (5-8-09)

06. Instructions and Equipment. Wastewater pumping stations shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools, and such spare parts as may be necessary. (3-30-07)

07. Operation and Maintenance. An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

08. Force Mains. (3-30-07)

a. Velocity and Diameter. At design pumping rates, a cleansing velocity of at least two (2) feet per second shall be maintained. (3-30-07)

b. Special Construction. Force main construction near streams or water works structures and at water main crossings shall meet applicable provisions of Section 430. (3-30-07)

c. Design Friction Losses. (3-30-07)

i. Friction Coefficient. Friction losses through force mains shall be based on the Hazen and Williams formula or other acceptable methods. When the Hazen and Williams formula is used, the friction losses for varying values of "C" shall be evaluated for different types and ages of pipe. (3-30-07)

ii. Maximum Power Requirements. When initially installed, force mains will have a significantly higher "C" factor. The effect of the higher "C" factor shall be considered in calculating maximum power requirements and duty cycle time to prevent damage to the motor. The effects of higher discharge rates on selected pumps and downstream facilities shall also be considered. (3-30-07)

d. Identification. Where force mains are constructed of material which might cause the force main to be confused with potable water mains, the force main shall be appropriately identified using trench tape saying "raw sewage," "biohazard," or other appropriate wording. (3-30-07)

e. Leakage Testing. Leakage tests shall be specified including testing methods and leakage limits. Testing shall conform with Sections 401.3.6 and 505.3.3 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004. (3-30-07)

f. Thrust Blocking. Thrust blocking shall conform with Sections 401.3.4 of the "Idaho Standards for Public Works Construction," incorporated by reference into these rules at Section 004. (3-30-07)

g. Maintenance Considerations. Isolation valves shall be used if force mains connect into a common force main. (3-30-07)

h. Cover. Force mains shall be covered with sufficient earth or other insulation to prevent freezing or other physical damage. (3-30-07)

442. – 449. (RESERVED).

450. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: WASTEWATER TREATMENT FACILITIES: GENERAL.

01. Plant Location. (3-30-07)

a. General. The preliminary engineering report or facility plan shall include a detailed discussion for new facilities regarding site selection criteria and alternatives considered. See Sections 410 and 411. (5-8-09)

b. Flood protection. The treatment plant structures, electrical, and mechanical equipment shall be protected from physical damage by the one hundred (100) year flood. Treatment plants shall be designed to remain fully operational and accessible during the one hundred (100) year flood. This requirement applies to new construction and to existing facilities undergoing major modification. Local, state and federal flood plain regulations shall be considered. (3-30-07)

c. Setback distances. Facilities open to the atmosphere such as lagoons, open clarifiers, open aeration basins, and other such facilities shall be placed a minimum of two hundred (200) feet from residential property lines. If such open facilities are adjacent to property zoned as commercial or industrial, a lesser setback will be considered by the Department on a case by case basis. For totally enclosed facilities with noise and odor controls, the minimum

setback shall be fifty (50) feet if approved by the Department. Neighboring property owners may grant long term easements or other types of legal documents tied to the land to allow for similar setbacks from future development or public use. (5-8-09)

02. Quality of Effluent. The required degree of wastewater treatment shall be based on the effluent requirements and water quality standards established by the responsible state agency and appropriate federal regulations including discharge permit requirements. Combined sewer overflows are not allowed. (5-8-09)

03. Design. (3-30-07)

a. Type of Treatment. The preliminary engineering report or facility plan shall include a detailed discussion regarding criteria and alternatives considered in selection of the appropriate type of treatment. See Sections 410 and 411. The plant design shall provide the necessary flexibility to perform satisfactorily within the expected range of waste characteristics and volumes. (5-8-09)

b. Required Engineering Data for New Process and Application Evaluation. The policy of the Department is to encourage rather than obstruct the development of any valid methods or equipment for treatment of wastewater. The lack of inclusion in these standards of some types of wastewater treatment processes or equipment should not be construed as precluding their use. The Department may approve other types of wastewater treatment processes and equipment that meet the performance standards set forth in these rules under the condition that the operational reliability and effectiveness of the process or device shall have been demonstrated under similar conditions with a suitably-sized unit operating at its design load conditions, to the extent required. To determine that such new processes and equipment or applications have a reasonable and substantial chance of success, the Department may require the following: (3-30-07)

i. Monitoring observations, including test results and engineering evaluations, demonstrating the efficiency of such processes. (3-30-07)

ii. Detailed description of the test methods. (3-30-07)

iii. Testing, including appropriately-composited samples, under various ranges of strength and flow rates (including diurnal variations) and waste temperatures over a sufficient length of time to demonstrate performance under climatic and other conditions which may be encountered in the area of the proposed installations. (3-30-07)

iv. Other appropriate information. The Department may require that appropriate testing be conducted and evaluations be made under the supervision of a competent process engineer other than those employed by the manufacturer or developer. (3-30-07)

c. Design period. The design period shall be clearly identified in the preliminary engineering report or facility plan as required in Sections 410 and 411. (5-8-09)

d. Design Loads. (3-30-07)

i. Hydraulic Design. (3-30-07)

(1) Critical Flow Conditions. Flow conditions critical to the design of the treatment plant shall be as described in the preliminary engineering report required by Section 411. Initial low flow conditions must be evaluated in the design to minimize operational problems with freezing, septicity, flow measurements and solids dropout. The appropriate design flows must be considered in evaluating unit processes, pumping, piping, etc. (5-8-09)

(2) Treatment Plant Design Capacity. The treatment plant design capacity shall be as described in Section 411. The plant design flow selected shall meet the appropriate effluent and water quality standards that are set forth in the discharge or other appropriate permit. For plants subject to high wet weather flows or overflow detention pump-back flows, the design maximum flows that the plant is to treat on a sustained basis shall be specified. (3-30-07)

(3) Flow Equalization. Facilities for the equalization of flows and organic shock load shall be considered at all plants which are critically affected by surge loadings. (3-30-07)

ii. Organic Design. Organic loadings for wastewater treatment plant design shall be based on the information provided in the preliminary engineering report required by Section 411. The effects of septage flow which may be accepted at the plant shall be given consideration and appropriate facilities shall be included in the design. See Section 520. (5-8-09)

iii. Shock Effects. The shock effects of high concentrations and diurnal peaks for short periods of time on the treatment process, particularly for small treatment plants, shall be considered. (3-30-07)

e. Conduits. All piping and channels shall be designed to carry the maximum expected flows. Conduits shall be designed to avoid creation of pockets and corners where solids can accumulate. (3-30-07)

f. Gates or Valves. Suitable gates or valves shall be placed in channels to seal off unused sections which might accumulate solids. The use of shear gates, stop plates or stop planks is permitted where they can be used in place of gate valves or sluice gates. Non-corrodible materials shall be used for control gates and conduits. (3-30-07)

g. Arrangement of Units. Component parts of the plant shall be arranged for appropriate operating and maintenance convenience, flexibility, economy, continuity of maximum effluent quality, and ease of installation of future units. (3-30-07)

h. Flow Division Control. Flow division control facilities shall be provided as necessary to ensure organic and hydraulic loading control to plant process units and shall be designed for easy operator access, change, observation, and maintenance. Appropriate flow measurement facilities shall be incorporated in the flow division control design. (3-30-07)

i. Odor Management. An odor management plan shall be submitted to and approved by the Department as a part of the preliminary engineering report described in Section 411. The Water Environment Federation Guidance referenced in Section 008 of these rules provides guidance for use in developing an odor management plan that is inclusive of the facilities being designed. (5-8-09)

j. Cold Weather. Facilities shall be designed with regard for proper operation and maintenance and protection during cold weather temperatures expected at the specific location. The Water Environment Federation Guidance referenced in Section 008 of these rules provides guidance for use in designing, operating and maintaining facilities in cold weather. (3-30-07)

04. Plant Details. (3-30-07)

a. Unit Bypasses. (3-30-07)

i. Removal from Service. Properly located and arranged bypass structures and piping shall be provided so that each unit of the plant can be removed from service independently. The bypass design shall facilitate plant operation during unit maintenance and emergency repair so as to minimize deterioration of effluent quality and ensure rapid process recovery upon return to normal operational mode. The actuation of all bypasses shall require manual action by operating personnel. All power-actuated bypasses shall be designed to permit manual operation in the event of power failure. (3-30-07)

ii. Unit Bypass During Construction. Unit bypassing during construction shall be in accordance with the preliminary engineering report required by Section 411. (5-8-09)

b. Unit dewatering, flotation protection, and plugging. Drains or sumps shall be provided to completely dewater each unit to an appropriate point in the process. Due consideration shall be given to the possible need for hydrostatic pressure relief devices to prevent flotation of structures. Pipes subject to plugging shall be provided with means for mechanical cleaning or flushing. (3-30-07)

c. Construction materials. Materials shall be selected that are appropriate under conditions of exposure to hydrogen sulfide and other corrosive gases, greases, oils, and other constituents frequently present in wastewater. This is particularly important in the selection of metals and paints. (3-30-07)

d. Painting. The contents and direction of flow shall be identified on the piping in a contrasting color. (3-30-07)

e. Operating equipment. Tools, accessories, and spare parts necessary for the plant operator's use shall be provided. (3-30-07)

f. Storage and work space facilities. Readily accessible storage and work space facilities shall be provided, and consideration shall be given to provision of a garage for large equipment storage, maintenance, and repair. (3-30-07)

g. Erosion control during construction. Effective site erosion control shall be provided during construction. (3-30-07)

h. Grading and landscaping. Upon completion of the plant, the ground shall be graded and landscaped in accordance with the preliminary engineering report developed in the preliminary engineering report required by Section 411. (5-8-09)

05. Plant Outfalls. (3-30-07)

a. Discharge impact control. The outfall shall be designed to discharge to the receiving stream in a manner acceptable to various reviewing authorities including, but not limited to, EPA, the Idaho Department of Environmental Quality, U.S. Army Corp of Engineers, Idaho Department of Water Resources, and local jurisdictions. (3-30-07)

b. Protection and Maintenance. The outfall shall be so constructed and protected against the effects of floodwater, ice, or other hazards as to reasonably ensure its structural stability and freedom from stoppage. Hazards to navigation shall be considered in designing outfalls. (3-30-07)

c. Sampling Provisions. All outfalls shall be designed so that a sample of the effluent can be obtained at a point after the final treatment process and before discharge to or mixing with the receiving waters. (3-30-07)

06. Essential Facilities. (3-30-07)

a. Emergency Power Facilities. (3-30-07)

i. General. All wastewater treatment plants shall be provided with an alternate source of electric power or pumping capability to allow continuity of operation during power failures. Refer to Subsection 440.07.c. for design requirements. Methods of providing alternate sources include: (3-30-07)

(1) The connection of at least two (2) independent power sources such as substations. A power line from each substation is required if this method is used. The determination of the independent power sources shall be done by the appropriate power provider and stated in a letter from that provider. (3-30-07)

(2) In-place internal combustion engine equipment which will generate electrical or mechanical energy. (3-30-07)

(3) Portable pumping equipment when only emergency pumping is required. Where part or all of the engine-driven pumping equipment is portable, adequate emergency storage capacity with alarm system shall be provided to allow time for detection of pump station failure and transportation and hookup of the portable equipment. (3-30-07)

ii. Power for Aeration. Standby generating capacity normally is not required for aeration equipment

used in the activated sludge process. In cases where a history of chronic, long-term (four (4) hours or more) power outages have occurred, auxiliary power for minimum aeration of the activated sludge will be required as provided in Subsections 450.06.a.i.(1) or 450.06.a.i.(2). (5-8-09)

iii. Power for Disinfection. Standby generating capacity, as provided in Subsections 450.06.a.i.(1) or 450.06.a.i.(2), is required for disinfection facilities and dechlorination facilities. (3-30-07)

b. Water Supply. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law. (3-30-07)

c. Sanitary Facilities. Section 009 provides a reference to the Uniform Plumbing Code, compliance with which may be required by other law. (3-30-07)

d. Stairways. Stairways shall be installed in lieu of ladders for top access to units requiring routine inspection and maintenance (such as digesters, trickling filters, aeration tanks, clarifiers, tertiary filters, etc.). (3-30-07)

e. Flow Measurement. (3-30-07)

i. Location. Flow measurement devices shall be provided to measure the following flows: (5-8-09)

(1) Plant influent or effluent flow. (3-30-07)

(2) If influent flow is significantly different from effluent flow, both shall be measured or otherwise accounted for by other flow measurement facilities. (3-30-07)

(3) Other flows required to be monitored under the provisions of the discharge permit. (3-30-07)

(4) Other flows such as return activated sludge, waste activated sludge, and recycle required for plant operational control. (3-30-07)

ii. Devices. Indicating, totalizing, and recording flow measurement devices for all influent or effluent flows shall be provided for all plants. Any other flow measurement device may be indicating and totalizing only. All flow measurement equipment must be sized to function to a satisfactory level of accuracy over the full range of flows expected and shall be protected against freezing. (5-8-09)

iii. Hydraulic Conditions. Flow measurement equipment including approach and discharge conduit configuration and critical control elevations shall be designed to ensure the required hydraulic conditions necessary for the measurement accuracy needed for the specific application. (3-30-07)

iv. Calibration and Certification. The flow measurement devices specified in Subsections 450.06.e.i.(1) through 450.06.e.i.(3) shall be calibrated and certified at manufacturer-specified frequencies. (5-8-09)

f. Sampling Equipment. Effluent composite sampling equipment shall be provided at all mechanical plants and at other facilities where necessary to meet discharge permit monitoring requirements. Composite sampling equipment shall also be provided as needed for influent sampling and for monitoring plant operations. The influent sampling point shall be located prior to any process return flows. (3-30-07)

07. Safety. (3-30-07)

a. General. Provisions shall be made to consider the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. Enclosure of the plant site with a fence and signs designed to discourage the entrance of unauthorized persons and animals is required. (3-30-07)

b. Hazardous Chemical Handling. The materials utilized for storage, piping, valves, pumping,

metering, splash guards, etc., shall be specially selected considering the physical and chemical characteristics of each hazardous or corrosive chemical. (3-30-07)

08. Laboratory. (3-30-07)

a. All treatment plants shall include a laboratory for making the necessary analytical determinations and operating control tests, except for those plants utilizing only processes not requiring laboratory testing for plant control and where satisfactory off-site laboratory provisions are made to meet the permit monitoring requirements. The laboratory shall have sufficient size, bench space, equipment, and supplies to perform all self-monitoring analytical work required by discharge permits, and to perform the process control tests necessary for good management of each treatment process included in the design. (3-30-07)

b. Treatment plant laboratory needs may be divided into the following three (3) general categories: (3-30-07)

i. Plants performing only basic operational testing; this typically includes pH, temperature, dissolved oxygen, and chlorine residual. (3-30-07)

ii. Plants performing more complex operational and permit laboratory tests including biochemical oxygen demand, suspended solids, and fecal coliform analysis. (3-30-07)

iii. Plants performing more complex operational, permit, industrial pretreatment, and multiple plant laboratory testing. (3-30-07)

c. Expected minimum laboratory needs for the three (3) plant classifications set out in Subsection 450.08.b. must be addressed in the preliminary engineering report. (5-8-09)

09. Instructions and Equipment. Wastewater treatment equipment shall be supplied with a complete set of operational instructions, including emergency procedures, maintenance schedules, tools and such spare parts as may be necessary. (3-30-07)

10. Operation and Maintenance. An operation and maintenance manual shall be submitted to and approved by the Department as required by Section 425. Adherence to the terms of this approved manual shall be required. The owner shall be responsible for maintaining the wastewater facility in a manner that assures its designed operation. (3-30-07)

451. -- 454. (RESERVED)

455. PRIVATE MUNICIPAL WASTEWATER TREATMENT PLANTS.

01. Scope. Section 455 includes additional requirements for approval of private municipal wastewater treatment plants. Individual extended treatment package systems for on-site systems are not covered by these rules, but are covered by IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." See Technical Guidance Manual for Individual and Subsurface Sewage Disposal Systems at http://www.deq.idaho.gov/. Private municipal wastewater treatment plants may be considered if no other viable alternative is available. (5-8-09)

02. Preliminary Engineering Report. A preliminary engineering report as described in Section 411 must be submitted to the Department for review and must be approved by the Department prior to submittal of plans and specifications. The preliminary engineering report for private municipal wastewater treatment plants shall include the information listed in Subsections 455.02.a. and 455.02.b., as well as information specified in Section 411. (5-8-09)

a. The preliminary engineering report shall evaluate the following alternatives: (5-8-09)

i. Wastewater treatment plants (possibly several technologies). (5-8-09)

ii. Self-contained lagoon. (3-30-07)

iii. Conventional septic tank and drainfield (or alternate drainfield design). (3-30-07)

iv. Surface water discharge including impact on TMDLs. (3-30-07)

v. Gravity or pressure sewer into nearby community (see Subsection 455.04.e. for distances to community systems and required hook-up.) (5-8-09)

vi. Recirculating or intermittent sand filter. (3-30-07)

vii. Annual operation and maintenance costs. (3-30-07)

viii. Land application/reuse. (3-30-07)

b. The preliminary engineering report must thoroughly analyze the effect of the treatment plant discharge on ground water quality, especially bacteria, viruses, phosphorus and nitrates as compared to the alternatives listed in Subsection 455.02.a. (5-8-09)

03. Plan and Specification Approval. (3-30-07)

a. Plans and specifications for the collection and treatment systems will not be approved until the owner is in receipt of one of the following (whichever is applicable): (3-30-07)

i. A draft NPDES permit from EPA for proposed surface water discharges; or (5-8-09)

ii. A draft wastewater land application/reuse permit from the Department for proposed land application or reuse of the effluent. See the Guidance for Reclamation and Reuse of Municipal and Industrial Wastewater at http://www.deq.idaho.gov. (5-8-09)

b. For a subsurface treatment and dispersal system (SSDS): (5-8-09)

i. The plans and specifications for the dispersal system must receive approval from the Department prior to receipt of the SSDS permit from the district health department having jurisdiction; and (5-8-09)

ii. The plans and specifications for the collection system will not be approved by the Department until the owner is in receipt of the SSDS permit from the district health department having jurisdiction. (5-8-09)

c. For private municipal wastewater treatment plants storing their treated effluent prior to irrigation or surface water discharge, the following additional items shall be considered by the Department, prior to approving either the treatment systems or the disposal option. These include, but are not limited to, sealing of storage ponds, filtration and disinfection requirements prior to use or discharge, the degree of treatment, and the intended type and area of irrigation. See IDAPA 58.01.17, "Recycled Water Rules." (5-8-09)

04. Private Municipal Wastewater Treatment Plants. (5-8-09)

a. The private municipal wastewater treatment plant shall have at least two (2) full years of operating data on five (5) separate installations in the United States. The data submittal shall include the name, address, and telephone number for a regulatory agency contact person familiar with the performance of each reported installation. (5-8-09)

b. The owner shall provide for a wastewater system operator in responsible charge of the facility. The operator license classification requirement will depend on the classification of the system based on Section 202 and the licensure requirements of Section 203. If the operator is provided by contract, the contract shall be submitted to the Department for review and approval. (5-8-09)

c. A sludge management plan must be submitted to and approved by the Department. The plan must include collection, treatment and disposal of the sludge. Additionally, a signed contract that provides for ultimate

legal disposal of the sludge shall be submitted to the Department prior to plan and specification approval. (3-30-07)

d. The private municipal wastewater treatment plant shall be a dual train type (or equivalent/greater) with redundant pumps and blowers from influent works to the disposal site and provide sufficient redundancy to continue processing incoming wastewater at peak flows while any one (1) component or process is out of service. Standby or emergency power shall be provided to fully operate the wastewater treatment plant during a power outage unless the water system would also be out during a power outage. (5-8-09)

e. A compliance agreement schedule authorized by Section 39-116A, Idaho Code, shall be required for each private municipal wastewater treatment plant approved unless specifically waived by the Department in writing. If a private municipal wastewater treatment plant installation is only a temporary or interim measure in a long-term plan, a compliance agreement schedule will include a sunset clause with a date for the private municipal wastewater treatment plant to cease operation and will require the plant owner to fund and construct the eventual hookup to the public municipal wastewater collection system when the system becomes reasonably accessible. The compliance agreement schedule shall address such things as operation and maintenance requirements and monitoring, reporting requirements, and other project-specific items as applicable. The owner shall be responsible for complying with the requirements of the compliance agreement schedule. The compliance agreement schedule must be renewed every five (5) years; when ownership of the treatment plant changes; or at the request of the owner(s) or Department, so long as the system is in operation. (5-8-09)

f. If the Department determines that a proposed private municipal wastewater treatment plant is reasonably accessible to a public municipal wastewater collection system, the use of the private municipal wastewater treatment plant may be denied. (5-8-09)

g. Minimum Size. The minimum size of a private municipal wastewater treatment plant allowed under these rules is twenty-five thousand (25,000) gallons per day design capacity based on average day flows. (5-8-09)

i. The minimum size requirements do not apply to proposed systems with suitably configured passive wastewater treatment technologies including, but not limited to, facultative lagoons, free water surface wetlands, and vegetated submerged beds. (5-8-09)

ii. The Department may approve private municipal wastewater treatment plants smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, provided the treatment plant will be maintained under original ownership. (5-8-09)

iii. For the Department to approve the transfer of ownership of a private municipal wastewater treatment plant smaller than twenty-five thousand (25,000) gallons per day design capacity, based on average day flows, to another entity, the technical, financial, and managerial requirements in Section 409 must be demonstrated by the proposed new owner. (5-8-09)

05. Private Municipal Wastewater Treatment Plants with Drainfields. In addition to the applicable requirements of these rules, the subsurface sewage disposal design, construction and operation shall comply with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." The exception to this is for Class A reclaimed wastewater reuse facilities that discharge to the subsurface. These reuse facilities are regulated by IDAPA 58.01.17, "Recycled Water Rules." (5-8-09)

456. -- 459. (RESERVED)

460. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SCREENING AND GRIT REMOVAL.

01. Screening Devices and Comminutors. (3-30-07)

a. Screening, coarse or fine, or comminutors shall be required for all mechanical plants and shall be addressed for other types of plants. These facilities shall be designed for peak hourly flow. Multiple channels shall be provided and equipped with the necessary gates to isolate flow from any screening unit. Provisions shall also be made

to facilitate dewatering each unit. The channel preceding and following the screen shall be shaped to minimize settling of solids. (3-30-07)

b. For mechanical plants with design average flow less than one million gallons per day (1 mgd), and where a single mechanically cleaned screen is used, an auxiliary manually cleaned screen shall be provided. Where two (2) or more mechanically cleaned screens are used, the design shall provide for taking any unit out of service without sacrificing the capability to screen the design peak instantaneous flows. (3-30-07)

02. Grit Removal Facilities. Grit removal and handling facilities shall be provided for all mechanical wastewater treatment plants. Consideration shall be given to possible damaging effects on pumps, comminutors, and other preceding equipment, and the need for additional storage capacity in treatment units where grit is likely to accumulate. (3-30-07)

461. -- 469. (RESERVED)

470. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SETTLING.

01. General. (3-30-07)

a. Where settling is being used, a minimum of two (2) units capable of independent operation are desirable and shall be provided in all plants where design average flows exceed one hundred thousand (100,000) gallons/day. Plants not having multiple units shall include other provisions to assure continuity of treatment. (3-30-07)

b. The design of settling facilities shall include a minimum of two (2) units with flow splitting. Sizing shall be calculated for both design average and design peak hourly flow conditions, and the larger surface area determined shall be used. (3-30-07)

c. The plant design shall allow for isolation of each unit. The plant design shall allow for sludge and scum removal. (3-30-07)

d. Baffling shall be designed to control solids carry-over. (3-30-07)

e. The minimum side depth for primary settling facilities shall be ten (10) feet. (3-30-07)

f. The minimum side depth for secondary settling facilities shall be twelve (12) feet. (3-30-07)

471. -- 479. (RESERVED)

480. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SLUDGE PROCESSING, STORAGE, AND DISPOSAL.

01. Facilities. Facilities for processing sludge shall be provided for all mechanical wastewater treatment plants. Facilities shall be capable of processing sludge to a form suitable for ultimate disposal. Final disposal or utilization shall be in accordance with applicable permit and federal regulations. (3-30-07)

02. Design. Sludge processing, storage and disposal facility design shall comply with the sludge management plan in the Preliminary Engineering Report. (3-30-07)

03. Multiple Units. Multiple units capable of independent operation are desirable and shall be provided in all plants where design average flows exceed one hundred thousand (100,000) gallons/day. Plants not having multiple units shall include other provisions to assure continuity of treatment. The plant design shall allow for isolation of each unit. (3-30-07)

481. -- 489. (RESERVED)

490. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: BIOLOGICAL TREATMENT.

If biological treatment is used, the process shall be determined in the preliminary engineering report. The choice shall be based on influent characteristics and effluent requirements. (5-8-09)

01. Trickling Filters. (3-30-07)

a. General. Trickling filters shall be preceded by effective settling tanks equipped with scum and grease collecting devices or other suitable pretreatment facilities. (3-30-07)

b. Hydraulics. The flow will be uniformly distributed across the surface of the media. The piping system, including dosing equipment and distributor, shall be designed to provide capacity for the design peak hour flow, including recirculation. (5-8-09)

c. Media. (3-30-07)

i. Quality. The media shall be appropriate for the wastewater and shall be of sufficient strength to support itself under design loading and build up of biomass. (3-30-07)

ii. Depth. Trickling filter media shall have a minimum depth of six (6) feet above the underdrains. (3-30-07)

d. Underdrainage System. (3-30-07)

i. Arrangement. Underdrains shall be provided and the underdrainage system shall cover the entire floor of the filter. Inlet openings into the underdrains shall have an unsubmerged gross combined area equal to at least fifteen (15) percent of the surface area of the filter. (3-30-07)

ii. Ventilation. The underdrainage system, effluent channels, and effluent pipe shall be designed to permit free passage of air. (3-30-07)

e. Special Features. (3-30-07)

i. Maintenance. All distribution devices, underdrains, channels, and pipes shall be installed so that they may be properly maintained, flushed or drained. (3-30-07)

ii. Winter Protection. Covers shall be provided to maintain operation and treatment efficiencies when climatic conditions are expected to result in problems due to cold temperatures. (3-30-07)

iii. Recirculation. The piping system shall be designed for recirculation as required to achieve the design efficiency. The recirculation rate shall be variable and subject to plant operator control at the range of 0.5:1 up to 4:1 (ratio of recirculation rate versus design average flow). A minimum of two (2) recirculation pumps shall be provided. (3-30-07)

f. Rotary Distributor Seals. Mercury seals shall not be permitted. (3-30-07)

g. Unit Sizing. Required volumes of filter media shall be based upon pilot testing with the particular wastewater or any of the various empirical design equations that have been verified through actual full scale experience. Such calculations must be submitted to the Department if pilot testing is not utilized. Trickling filter sizing design shall consider peak organic load conditions including the oxygen demands due to solids and process recycle flows. (3-30-07)

02. Activated Sludge. (3-30-07)

a. Aeration. (3-30-07)

i. Capacities and Permissible Loadings. The size of the aeration tank for any particular adaptation of

the process shall be determined by full scale experience, pilot plant studies, or rational calculations based mainly on solids retention time, food to microorganism ratio, and mixed liquor suspended solids levels. Other factors, such as size of treatment plant, diurnal load variations, and degree of treatment required, shall also be considered. In addition, temperature, alkalinity, pH, and reactor dissolved oxygen shall be considered when designing for nitrification. Calculations shall be submitted to the Department in the preliminary engineering report to justify the basis for design of aeration tank capacity. (5-8-09)

ii. Arrangement of Aeration Tanks. (3-30-07)

(1) Dimensions. The dimensions of each aeration tank or return sludge reaeration tank shall be such as to maintain effective mixing and utilization of air. An exception is that horizontally mixed aeration tanks shall have a depth of not less than five point five (5.5) feet. (3-30-07)

(2) Number of Units. Total aeration tank volume plus redundancy requirements shall be divided among two (2) or more equal units, capable of independent operation. (3-30-07)

(3) Inlets and Outlets. (3-30-07)

(a) Controls. Inlets and outlets for each aeration tank unit shall be designed to control flow to any unit with reasonable accuracy and to maintain reasonably constant liquid level. The properties of the system shall permit the design peak day flow to be treated with any single aeration tank unit out of service. The properties of the system shall permit the design peak hour hydraulic flow to be carried with any single aeration tank unit out of service. (3-30-07)

(b) Conduits. Channels and pipes carrying liquids with solids in suspension shall be designed to be self-cleansing. (3-30-07)

(c) Scum and Foam Control. Aeration tanks shall be designed to include adequate control or removal of scum and foam. (3-30-07)

(4) Freeboard. All aeration tanks should have a freeboard of not less than eighteen (18) inches. (3-30-07)

iii. Aeration Equipment. (3-30-07)

(1) General. Oxygen requirements generally depend on maximum diurnal organic loading, degree of treatment, and level of suspended solids concentration to be maintained in the aeration tank mixed liquor. Aeration equipment shall be capable of maintaining a minimum of two point zero (2.0) mg/L of dissolved oxygen in the mixed liquor at all times and provide thorough mixing of the mixed liquor (for a horizontally mixed aeration tank system, an average velocity of one (1) foot per second must be maintained). In the absence of experimentally determined values, the design oxygen requirements for all activated sludge processes shall be 1.1 lb 0_2 per lb of design peak hour BOD_5 applied to the aeration tanks, with the exception of the extended aeration process, for which the value shall be one point five (1.5) to include endogenous respiration requirements. (5-8-09)

(a) Where nitrification is required or will occur, the oxygen requirement for oxidizing ammonia must be added to the above requirement for carbonaceous BOD_5 removal and endogenous respiration requirements. The nitrogenous oxygen demand (NOD) shall be taken as four point six (4.6) times the diurnal peak hour total Kjeldahl nitrogen content of the aeration tank influent. In addition, the oxygen demands due to recycle flows must be considered due to the high concentrations of BOD_5 and total Kjeldahl nitrogen associated with such flows. (5-8-09)

(b) Meet maximum oxygen demand and maintain process performance with the largest unit out of service. Provide for varying the amount of oxygen transferred in proportion to the load demand on the plant. (3-30-07)

(2) Diffused Air Systems. Air requirements including, but not limited to, process air, channel aeration, aerobic digestion, and miscellaneous plant air shall be submitted to the Department in the preliminary engineering

report. Blowers shall be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand with the single largest unit out of service. The design shall also provide for varying the volume of air delivered in proportion to the load demand of the plant. Aeration equipment shall be easily adjustable in increments and shall maintain solids suspension within these limits. (5-8-09)

(3) Mechanical Aeration Systems. (3-30-07)

(a) Oxygen Transfer Performance. The mechanism and drive unit shall be designed for the expected conditions in the aeration tank in terms of the power performance. Certified testing shall be provided to verify mechanical aerator performance. Refer to applicable provisions of Subsection 490.02. In the absence of specific design information, the oxygen requirements shall be calculated for mechanical aeration systems using a transfer rate not to exceed two (2) pounds of oxygen per horsepower per hour in clean water under standard test conditions. Design transfer efficiencies shall be included in the specifications. (3-30-07)

(b) Design Requirements. Motors, gear housing, bearings, grease fittings, etc., shall be easily accessible and protected from inundation and spray as necessary for proper functioning of the unit. (3-30-07)

(c) Winter Protection. Where extended cold weather conditions occur, the aerator mechanism and associated structure shall be protected from freezing due to splashing. Due to high heat loss, subsequent treatment units shall be protected from freezing. (3-30-07)

b. Non-Aerated Tanks or Zones. Non-aerated tanks or zones within aeration tanks shall have mixing equipment adequate to fully mix the contents. Provide calculations in the preliminary engineering report for sizing of this equipment. (5-8-09)

c. Return Sludge Equipment. (3-30-07)

i. Return Sludge Rate. The return sludge rate of withdrawal from the final settling tank is a function of the concentration of suspended solids in the mixed liquor entering it, the sludge volume index of these solids, and the length of time these solids are retained in the settling tank. The rate of sludge return shall be varied by means of adjustable weirs, variable speed pumps, or timers (small plants) to pump sludge. (3-30-07)

ii. Return Sludge Pumps. If a consolidated return sludge pump facility is used, the maximum return sludge capacity shall be obtained with the largest pump out of service. If individual sludge pumps are used at each settling basin, the pumps shall be designed to facilitate their rapid removal and replacement with a standby unit stored at the treatment plant site. If air lifts are used for returning sludge from each settling tank hopper, no standby unit will be required provided the design of the air lifts facilitate their rapid and easy cleaning and provided other suitable standby measures are made available. Air lifts should be at least three (3) inches in diameter. (3-30-07)

iii. Return Sludge Piping. Discharge piping should be at least four (4) inches in diameter and shall be designed to maintain a velocity of not less than two (2) feet per second when return sludge facilities are operating at normal return sludge rates. Suitable devices for observing, sampling, and controlling return activated sludge flow from each settling tank hopper shall be provided. (3-30-07)

iv. Waste Sludge Facilities. Means for observing, measuring, sampling, and controlling waste activated sludge flow shall be provided. (3-30-07)

d. Sequencing Batch Reactors. The fill and draw mode of the activated sludge process commonly termed the Sequencing Batch Reactor may be used in Idaho. The design must be based on experience at other facilities and shall meet the applicable requirements under Sections 450, 470 and 490, except as modified in Subsection 490.02.d.i. through 490.02.d.xi. Continuity and reliability of treatment equal to that of the continuous flow through modes of the activated sludge process shall be provided. (3-30-07)

i. At least two (2) tanks shall be provided. (3-30-07)

ii. The decantable volume and decanter capacity of the sequencing batch reactor system with the largest basin out of service shall be sized to pass at least seventy-five (75) percent of the design maximum day flow

without changing cycle times. A decantable volume of at least four (4) hours with the largest basin out of service based on one hundred (100) percent of the design maximum day flow is permissible. (3-30-07)

iii. System reliability with any single tank unit out of service and the instantaneous delivery of flow shall be evaluated in the design of decanter weirs and approach velocities. (3-30-07)

iv. Reactor design shall provide for scum removal and prevent overflow of settled solids. (3-30-07)

v. An adequate zone of separation between the sludge blanket and the decanter(s) shall be maintained throughout the decant phase. Decanters which draw the treated effluent from near the water surface throughout the decant phase are recommended. (3-30-07)

vi. Solids management to accommodate basin dewatering shall be considered. (3-30-07)

vii. The blowers shall be provided in multiple units, so arranged and in such capacities as to meet the maximum air demand in the oxic portions of the fill/react and react phases of the cycle with the single largest unit out of service. See Subsection 490.02. (3-30-07)

viii. Mechanical mixing independent of aeration shall be provided for all systems where biological phosphorus removal or denitrification is required. (3-30-07)

ix. Flow paced composite sampling equipment and continuous turbidity metering for separately monitoring the effluent quality from each basin may be required by the regulatory agency. All twenty-four (24) hour effluent quality composite samples for compliance reporting or monitoring plant operations shall be flow-paced and include samples collected at the beginning and end of each decant phase. (3-30-07)

x. A programmable logic controller (PLC) shall be provided. Multiple PLCs shall be provided as necessary to assure rapid process recovery or minimize the deterioration of effluent quality from the failure of a single controller. An uninterruptible power supply with electrical surge protection shall be provided for each PLC to retain program memory (i.e., process control program, last-known set points and measured process/equipment status, etc.) through a power loss. A hard-wired backup for manual override shall be provided in addition to automatic process control. Both automatic and manual controls shall allow independent operation of each tank. In addition, a fail-safe control allowing at least twenty (20) minutes of settling between the react and decant phases shall be provided. The fail-safe control shall not be adjusted by the operator. (3-30-07)

xi. A sufficient quantity of spare parts shall be on hand. Consideration shall be given to parts with a low mean time between failure such as electrical relays and solid state electronics. (5-8-09)

03. Other Biological Systems. (3-30-07)

a. General. Biological treatment processes not included in these rules shall be considered in accordance with Subsection 450.03. (3-30-07)

b. Membrane Bioreactors. Details for Membrane Bioreactor (MBR) plants shall be submitted and approved in the preliminary engineering report. In addition to the requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity and air required, membrane technology considered and membrane type and model selected, results from similar type MBR plants already in operation, and anticipated sludge production. (5-8-09)

491. -- 492. (RESERVED)

493. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: WASTEWATER LAGOONS.

01. General. (3-30-07)

a. These rules pertain to all new and existing municipal wastewater lagoons, including discharging or

non-discharging lagoons, municipal wastewater treatment lagoons, municipal wastewater storage lagoons, and any other municipal wastewater lagoons that, if leaking, have the potential to degrade waters of the state. Lagoons are also sometimes referred to as ponds. Section 493 does not apply to industrial lagoons or mining tailings ponds, single-family dwellings utilizing a single lagoon, two (2) cell infiltrative system, those animal waste lagoons excluded from review under Section 39-118, Idaho Code, or storm water ponds. (3-30-07)

b. Lagoons utilized for equalization, percolation, evaporation, and sludge storage do not have to meet the requirements set forth in Subsections 493.05 through 493.10, but must comply with all other applicable subsections. (3-30-07)

02. Seepage Testing Requirements. (5-8-09)

a. Existing Lagoons. All existing lagoons covered under these rules shall be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision by April 15, 2012 unless otherwise specified in a current permit issued by the Director. (5-8-09)

b. New Lagoons. As part of the construction process, all new lagoons must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision prior to being put into service. (5-8-09)

c. Subsequent Tests. All lagoons covered under these rules must be seepage tested by an Idaho licensed professional engineer, an Idaho licensed professional geologist, or by individuals under their supervision every ten (10) years after the initial testing. (5-8-09)

d. Testing Due to Change of Conditions to Liner. Prior to being returned to service, lagoons must be seepage tested if a change of condition to the liner occurs that may affect its permeability, including but not limited to liner repair below the high water line, liner replacement, lagoon dewatering of soil-lined lagoons which results in desiccation of the soil liner, seal installation, or earthwork affecting liner integrity. A seepage test may be required after solids removal. Prior to performing activities that may affect liner permeability, the system owner must contact the Department in writing to determine if a seepage test will be required prior to returning the lagoon to service. (5-8-09)

e. Procedures for Performing a Seepage Test. The procedure for performing a seepage test or alternative analysis must be approved by the Department, and the test results must be submitted to the Department. If an existing lagoon has passed a seepage test before April 15, 2012 and submitted the results to the Department, the owner of that lagoon has ten (10) years from the date of the testing to comply with this requirement. (5-8-09)

03. Allowable Seepage Rates. (3-30-07)

a. Design Standard. Lagoons shall be designed for a maximum leakage rate of five hundred (500) gallons per acre per day. (3-30-07)

b. Operating Standard. The leakage rate for lagoons constructed after April 15, 2007 shall be no more than zero point one hundred twenty-five (0.125) inches (1/8 inch) per day, which is approximately thirty-four hundred (3400) gallons per acre per day. The leakage rate for existing lagoons constructed prior to April 15, 2007 shall be no more than zero point twenty-five (0.25) inches (1/4 inch) per day. (3-30-07)

c. For lagoons located over sensitive aquifers or near 303d listed stream segments, the leakage rate shall be no more than zero point one hundred twenty-five (0.125) inches (one-eighth (1/8) inch) per day, which is approximately thirty-four hundred (3400) gallons per acre per day. The operating standard may be considerably lower based on a ground water investigation considering fate and transport of contaminants to determine the effect of the seepage on the aquifer or stream segment and the best capability of measurement at the time of the investigation. (5-8-09)

04. Requirements for Lagoons Leaking Above the Allowable Amount. If a lagoon is found to be leaking at a rate higher than that allowed under Subsection 493.03.b., the owner of the lagoon, in accordance with a schedule negotiated with and approved by the Director, is required to: (3-30-07)

a. Repair the leak and retest for compliance; (3-30-07)

b. Re-line the lagoon and retest for compliance; (3-30-07)

c. Drain the lagoon in an approved manner and stop using the lagoon; or (3-30-07)

d. Determine the impact of the leaking lagoon on the environment based on ground water sampling and modeling. The procedure for performing ground water sampling and monitoring must be approved by the Department. Any impact must comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards." If the impact does not comply with IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.02, "Water Quality Standards," the owner of the lagoon must follow one (1) of the steps set out in Subsections 493.04.a. through 493.04.c. (5-8-09)

05. Location. (3-30-07)

a. Wastewater treatment lagoons shall be placed a minimum of two hundred (200) feet from residential property lines. In all cases, the design location shall consider odors, nuisances, etc. This distance is to the toe of the exterior slope of the dike or to the top of the cut for a lagoon placed into a hillside. More restrictive planning and zoning or other local requirements shall apply. (3-30-07)

b. Ground Water Separation. A minimum separation of two (2) feet between the bottom of the pond and the maximum ground water elevation shall be maintained. (3-30-07)

c. Bedrock Separation. A minimum separation of two (2) feet between the pond bottom and any bedrock formation shall be maintained. (3-30-07)

06. Basis of Design. (3-30-07)

a. Design variables such as climatic conditions, odor, pond depth, multiple units, detention time, and additional treatment units must be considered with respect to applicable standards for BOD_5, total suspended solids (TSS), fecal coliform, dissolved oxygen (DO), pH, and other effluent requirements and limits. (3-30-07)

b. The preliminary engineering report shall include all design criteria for the development of the pond design. (5-8-09)

c. The reaction rate coefficient for domestic wastewater which includes some industrial wastes, other wastes, and partially treated wastewater must be determined experimentally for various conditions which might be encountered in the lagoons or actual data from lagoons in similar climates. Conversion of the reaction rate coefficient at other temperatures shall be made based on experimental data. (3-30-07)

d. Oxygen requirements generally will depend on the design average BOD_5 loading, the degree of treatment, and the concentration of suspended solids to be maintained. If needed, aeration equipment shall be capable of maintaining a minimum dissolved oxygen level of two (2) mg/L in the ponds at all times. Suitable protection from weather shall be provided for electrical controls. Aerated cells shall be followed by a polishing cell with a detention time of a minimum of twenty-four (24) hours. (3-30-07)

e. See Subsection 490.02 for details on aeration equipment. (3-30-07)

07. Industrial Wastes as a Part of the Municipal Wastewater. (3-30-07)

a. Consideration shall be given to the type and effects of industrial wastes on the treatment process. (3-30-07)

b. Industrial wastes shall not be discharged to ponds without assessment of the effects such substances may have upon the treatment process or discharge requirements in accordance with state and federal laws. (3-30-07)

08. Number of Cells Required. (3-30-07)

a. A wastewater treatment pond system shall consist of a minimum of three (3) cells designed to facilitate both series and parallel operations. Two (2) cell systems may be utilized in very small installations of less than fifty thousand (50,000) gallons per day. (3-30-07)

b. All systems shall be designed with piping flexibility to permit isolation of any cell without affecting the transfer and discharge capabilities of the total system. (3-30-07)

09. Pond Construction Details. (3-30-07)

a. Embankments and Dikes. (3-30-07)

i. Material. Dikes shall be constructed of relatively impervious soil and compacted to at least ninety-five (95) percent Standard Proctor Density to form a stable structure. Vegetation and other unsuitable materials shall be removed from the area where the embankment is to be placed. (3-30-07)

ii. Top Width. The minimum dike width shall be ten (10) feet to permit access for maintenance vehicles. (3-30-07)

iii. Maximum Slopes. Inner and outer dike slopes shall not be steeper than one (1) vertical to three (3) horizontal (1:3). (3-30-07)

iv. Minimum Slopes. Inner slopes should not be flatter than one (1) vertical to four (4) horizontal (1:4). Flatter slopes can be specified for larger installations because of wave action but have the disadvantage of added shallow areas being conducive to emergent vegetation. Outer slopes shall be sufficient to prevent surface runoff from entering the ponds. (3-30-07)

v. Freeboard. Minimum freeboard shall be three (3) feet, except that for small systems of less than fifty thousand (50,000) gallons per day, two (2) feet may be acceptable. (3-30-07)

vi. Design Depth. The minimum operating depth shall be sufficient to prevent growth of aquatic plants and damage to the dikes, bottom, control structures, aeration equipment, and other appurtenances. In no case shall pond depths be less than two (2) feet. (3-30-07)

b. Pond Bottom. (3-30-07)

i. Soil. Soil used in constructing the pond bottom (not including the seal) and dike cores shall be relatively incompressible and tight and compacted to at least ninety-five (95) percent Standard Proctor Density. (3-30-07)

ii. Seal. Ponds shall be sealed such that seepage loss through the seal complies with Subsection 493.03. Results of a testing program which substantiates the adequacy of the proposed seal must be incorporated into or accompany the preliminary engineering report. (5-8-09)

c. Miscellaneous. (3-30-07)

i. Fencing. The pond area shall be enclosed with an adequate fence to prevent entering of livestock and discourage trespassing. This requirement does not apply to pond areas which store or impound Class A municipal reclaimed effluent. (5-8-09)

ii. Access. An all-weather access road shall be provided to the pond site to allow year-round maintenance of the facility. (3-30-07)

iii. Warning Signs. Appropriate permanent signs shall be provided along the fence around the pond to designate the nature of the facility and advise against trespassing. At least one (1) sign shall be provided on each side of the site and one (1) for every five hundred (500) feet of its perimeter. (3-30-07)

iv. Flow Measurement. Flow measurement requirements are provided in Subsection 450.06.e. Effective weather protection shall be provided for the recording equipment. (3-30-07)

v. Ground Water Monitoring. A ground water monitoring plan shall be submitted to the Department for review and approval as a part of the preliminary engineering report. An approved system of wells or lysimeters shall be required around the perimeter of the pond site to facilitate ground water monitoring. (5-8-09)

10. Closure. The owner shall notify the Department at least six (6) months prior to permanently removing any wastewater lagoon facility from service, including any treatment or storage pond. Prior to commencing closure activities, the facility shall: (3-30-07)

a. Participate in a pre-closure on-site meeting with the Department; (3-30-07)

b. Develop a site closure plan that identifies specific closure, site characterization, or cleanup tasks with scheduled task completion dates in accordance with agreements made at the pre-site closure meeting; and (3-30-07)

c. Submit the completed site closure plan to the Department for review and approval within forty-five (45) days of the pre-site closure meeting. The facility must complete the Department approved site closure plan. (3-30-07)

494. -- 499. (RESERVED)

500. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: DISINFECTION.

01. General. Disinfection of the effluent shall be provided as necessary to meet applicable standards. The design of new municipal wastewater treatment facilities, or municipal wastewater treatment facilities undergoing material modifications, shall consider meeting both the bacterial standards and the disinfectant residual limit in the effluent. The disinfection process shall be selected after due consideration of waste characteristics, type of treatment process provided prior to disinfection, waste flow rates, pH of waste, disinfectant demand rates, current technology application, cost of equipment and chemicals, power cost, and maintenance requirements as determined in the preliminary engineering report. Where a disinfection process other than chlorination, ultraviolet disinfection, or ozone is proposed, supporting data from pilot plant installations or similar full scale installations shall be required as a basis for the design of the system. (5-8-09)

02. Determining the Necessity For Disinfection of Sewage Wastewater Treatment Plant Effluent. (3-30-07)

a. Disinfection of municipal wastewater treatment facility effluent shall be required when: (3-30-07)

i. Required by an NPDES permit; or (3-30-07)

ii. The effluent is discharged to a land application/reuse facility and is required to meet the disinfection requirements found in IDAPA 58.01.17, "Recycled Water Rules." (3-30-07)

iii. The effluent discharged to a land application/reuse facility, where ground water contamination has exceeded the bacterial limit found in IDAPA 58.01.11, "Ground Water Quality Rules," and it has been determined by the Department that disinfection is required. (3-30-07)

b. The need for disinfection of sewage wastewater treatment plant effluent where treatment consists of lagoons with at least thirty (30) day retention time shall be evaluated on a case by case basis. (3-30-07)

03. Chlorine Disinfection. (3-30-07)

a. Type. Chlorine is available for disinfection in gas, liquid (hypochlorite solution), and pellet

(hypochlorite tablet) form. The type of chlorine should be carefully evaluated during the facility planning or preliminary engineering process. The use of chlorine gas or liquid will be most dependent on the size of the facility and the chlorine dose required. Large quantities of chlorine, such as are contained in ton cylinders and tank cars, can present a considerable hazard to plant personnel and to the surrounding area should such containers develop leaks. Both monetary cost and the potential public exposure to chlorine shall be considered when making the final determination. (3-30-07)

b. Dosage. For disinfection, the capacity shall be adequate to produce an effluent that will meet the applicable bacterial limits specified by the regulatory agency for that installation. Required disinfection capacity will vary, depending on the uses and points of application of the disinfection chemical. The chlorination system shall be designed on a rational basis and calculations justifying the equipment sizing and number of units shall be submitted for the whole operating range of flow rates for the type of control to be used. System design considerations shall include the controlling wastewater flow meter (sensitivity and location), telemetering equipment, and chlorination controls. (3-30-07)

c. Piping and Connections. Piping systems shall be as simple as practicable, specifically selected and manufactured to be suitable for chlorine service, with consideration for minimizing number of joints. Piping should be well supported and protected against temperature extremes. Venting of excess gas shall be provided. Special considerations shall be given to piping and fixture selection for hypochlorite and chlorine use. Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05. (3-30-07)

d. Standby Equipment and Spare Parts. Standby equipment of sufficient capacity should be available to replace the largest unit during shutdowns. Spare parts shall be available for all disinfection equipment to replace parts which are subject to wear and breakage. (3-30-07)

e. Housing. (3-30-07)

i. Feed and Storage Rooms. Gas chlorination equipment and chlorine cylinders shall be housed in a building. If this building is used for other purposes, a gas-tight room shall separate this equipment from any other portion of the building. Floor drains from the chlorine room shall not be connected to floor drains from other rooms. Doors to this room shall open only to the outside of the building and shall be equipped with panic hardware. Rooms shall permit easy access to all equipment. Section 009 provides a reference to requirements of other regulatory entities, compliance with which may be required by other law. (3-30-07)

ii. Ventilation. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law. (3-30-07)

iii. Electrical Controls. Section 009 provides a reference to the requirements of the National Electric Code, compliance with which may be required by other law. (3-30-07)

iv. Protective and Respiratory Gear. Respiratory air-pac protection equipment shall be available where chlorine gas is handled, and shall be stored at a convenient location, but not inside any room where chlorine is used or stored. Instructions for using the equipment shall be posted. Section 008 provides a reference to guidance documents; see Subsections 008.01, 008.04 and 008.05. (3-30-07)

04. Dechlorination. (3-30-07)

a. Types. (3-30-07)

i. Dechlorination of wastewater effluent may be necessary to reduce the toxicity due to chlorine residuals. The most common dechlorination chemicals are sulfur compounds, particularly sulfur dioxide gas or aqueous solutions of sulfite or bisulfite. Pellet dechlorination systems are also available for small facilities. (3-30-07)

ii. The type of dechlorination system should be carefully selected considering criteria including the following: type of chemical storage required, amount of chemical needed, ease of operation, compatibility with existing equipment, and safety. (3-30-07)

b. Dosage. The dosage of dechlorination chemical depends on the residual chlorine in the effluent, the final residual chlorine limit, and the particular form of the dechlorinating chemical used. (3-30-07)

c. Standby Equipment and Spare Parts. The same requirements apply as for chlorination systems. See Subsection 500.04.d. (3-30-07)

d. Housing Requirements/Feed and Storage Rooms. The requirements for housing SO2 gas equipment shall follow the same guidelines as used for chlorine gas. Refer to Subsection 500.04.e. for specific details. When using solutions of the dechlorinating compounds, the solutions may be stored in a room that meets the safety and handling requirements set forth in Subsection 450.07. The mixing, storage, and solution delivery areas must be designed to contain or route solution spillage or leakage away from traffic areas to an appropriate containment unit. (3-30-07)

e. Protective and Respiratory Gear. The respiratory air-pac protection equipment is the same as for chlorine. See Subsection 500.04.e. (Refer to The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide.") (3-30-07)

05. Ultraviolet (UV) Radiation. (3-30-07)

a. The following documents are recommended to be used as references for UV system sizing and facility design: (3-30-07)

i. "Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy, referenced in Section 008. (3-30-07)

ii. For reuse applications, "Ultraviolet Disinfection Guidelines for Drinking Water and Water Reuse," National Water Research Institute/AWWA Research Foundation, referenced in Section 008. (3-30-07)

b. For UV systems to be installed at any existing wastewater treatment facility, collection of one (1) year's worth of UV transmittance (UVT) data (four (4) times per day) prior to predesign is encouraged, especially for facilities larger than five million gallons per day (5 mgd) (design peak hour flow), and facilities that have industries that vary discharge throughout the year. (5-8-09)

c. The preliminary engineering report for all UV disinfection facilities shall include the following: (5-8-09)

i. A minimum of two (2) open channels (or justification for using a smaller system). (3-30-07)

ii. A minimum of two (2) banks of UV lamps per channel (or justification for using a smaller system). (3-30-07)

iii. Description of the redundancy provided. (3-30-07)

iv. Description of the upstream flow splitting device (which splits flow to the two (2) or more UV channels). (3-30-07)

v. Description of water level control device. (3-30-07)

vi. Description of method used to take a channel off-line for maintenance, and method to dewater a channel. (3-30-07)

vii. Type of UV system technology (low-pressure low-intensity, low-pressure high-intensity, medium pressure, etc.), with consideration given to power consumption. (3-30-07)

viii. Summary of UVT data and collimated beam data. (5-8-09)

ix. Description of HVAC system requirements to ensure adequate UV system performance during

summer peak temperature period. (3-30-07)

x. Description of maintenance requirements including removal (cleaning) of biofilms from the channel walls upstream and downstream of the UV system. (3-30-07)

xi. General description of alarming and controls. (3-30-07)

xii. Description of procedure used for UV system sizing. (3-30-07)

xiii. Design criteria: (3-30-07)

(1) Design UVT. (3-30-07)

(2) TSS. (3-30-07)

(3) Design water temperature range. (3-30-07)

(4) Dose. (3-30-07)

(5) End of lamp life factor. (3-30-07)

(6) Fouling factor. (3-30-07)

(7) Quartz sleeve transmittance factor. (3-30-07)

(8) Design peak hour flow. (5-8-09)

(9) Existing minimum flow. (3-30-07)

(10) Number of channels. (3-30-07)

(11) Disinfection requirements (coliform concentration). (3-30-07)

(12) Maximum head-loss from upstream of the first bank to downstream of the last bank of lamps (lamp spacing divided by two (2)). (3-30-07)

d. Use of bioassay method of UV system sizing is encouraged if all manufacturers under consideration have existing bioassays performed using identical protocol, and the bioassay was performed under conditions similar to the design application. Use of the bioassay method of UV system sizing is discouraged if the conditions of Subsection 500.05.d. cannot be met. (3-30-07)

e. Closed chamber units will be reviewed on a case by case basis in accordance with Subsection 450.03.b. (3-30-07)

06. Ozone. Ozone systems for disinfection shall be evaluated on a case-by-case basis. Design of these systems shall be based upon experience at similar full scale installations or thoroughly documented prototype testing with the particular wastewater. (5-8-09)

501. -- 509. (RESERVED)

510. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: SUPPLEMENTAL TREATMENT PROCESSES.

01. Chemical Treatment. Many chemicals in various forms can be applied in wastewater treatment to aid in nutrient removal, pH adjustment, enhanced clarification, and sludge conditioning. Chemicals must be evaluated for each specific treatment process and must be compatible with other liquids, solids and air treatment processes. Laboratory tests such as jar tests or pilot-scale studies on actual process wastewater shall be used to select appropriate

chemicals and dosage ranges. (3-30-07)

a. Phosphorus removal. Chemical phosphorus removal from wastewater involves the addition of metal salts (aluminum or iron) or lime to wastewater to form insoluble phosphate precipitates, removal of the precipitate from the wastewater, and disposal of the precipitate with the settled sludge. Many process options are available, and the designer shall select the chemical to insolubilize the phosphorus, estimate the dosage requirements, and select the point of chemical addition. (3-30-07)

b. Nitrogen Removal. Several chemical processes have been used for nitrogen removal. The three (3) major processes include breakpoint chlorination, selective ion exchange, and air stripping. Although these processes are technically feasible ways of removing nitrogen, the Department does not anticipate widespread use of chemicals for nitrogen removal, and justification to do so shall be demonstrated in the Preliminary Engineering Report. (3-30-07)

c. pH Adjustment. A common chemical process used in wastewater treatment is pH adjustment. Several methods are available to neutralize or adjust low pH wastewater. The methods used shall be mixing acid wastes with lime slurries, or adding the proper amount of concentrated caustic soda (NaOH) or soda ash (Na_2CO_3) as determined in the Preliminary Engineering Report. (3-30-07)

d. Enhanced Primary Clarification. When settling aids are used during the primary clarification process to enhance solids removal in the primary treatment process, the additional solids volume shall be accounted for in pumping, solids handling, stabilization, and disposal processes. The coagulant shall be added and mixed before the sedimentation process. Flocculants, if used, shall be added after the coagulant. The design shall provide for chemical addition points at several locations to give process personnel the opportunity to adjust for optimum performance. (3-30-07)

02. Filtration for Tertiary Treatment. Details for plants with tertiary treatment utilizing filtration shall be submitted and approved in the Preliminary Engineering Report. (3-30-07)

a. Membranes. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity and air required, membrane technology considered and membrane type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

b. Media. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity, media considered and media type selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

c. Cloth. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity, technology considered and type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

d. Reverse Osmosis. In addition to requirements of Section 411, details shall include plant layout, calculations for hydraulic capacity required, technology considered and type and model selected, results from similar type filtration plants already in operation, and anticipated sludge production. (3-30-07)

511. -- 518. (RESERVED)

519. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES -- SEPTAGE TRANSFER STATIONS.

Prior to construction of a new septage transfer station or upon material modification of an approved existing station, the owner of the station must satisfy the following requirements. (5-8-09)

01. Design. Septage holding tanks, transfer/storage tanks, and transfer hoses for either type of tank shall meet the applicable requirements of Subsections 519.01.a. through 519.01.c. (5-8-09)

a. All tanks shall be watertight, not open to the air, and provided with containment structures to prevent the discharge of septage spills to the surrounding environment. (5-8-09)

b. All piping, transfer hoses, valves, and connections shall be watertight, accessible, and capable of being cleaned, repaired, and replaced. (5-8-09)

c. All inlet and outlet connections shall be constructed and maintained such that septage will not leak, spill, or overflow the holding tank. (5-8-09)

d. No septage holding or transfer/storage tank shall be permitted within the one hundred (100) year flood plain as defined and delineated by the flood insurance rate maps published by the Federal Emergency Management Agency. (5-8-09)

e. Odor controls shall be provided to mitigate nuisance odor discharge during transfer. Odor control may be attained by employing appropriate setback distances to neighboring facilities, using appropriate air scrubbing technologies in conjunction with an enclosed transfer station or other suitably engineered configuration that provides assurances of minimal odor nuisances. (5-8-09)

f. The property is owned by the individual(s) operating the septage transfer station, or the property owner has granted permission to so use the property. (5-8-09)

g. Septage transfer stations shall provide total containment for the entire volume of the holding tanks and transfer/storage tanks in the event of spilled septage. (5-8-09)

h. Truck washing facilities shall be constructed to retain all wash water on site. (5-8-09)

02. Plans and Specifications. In addition to the requirements of Section 400, plans and specifications for septage transfer stations must include the requirements of Subsections 519.02.a. through 519.02.f. (5-8-09)

a. A map which identifies the proposed septage holding or transfer/storage tank location. (5-8-09)

b. The footprint of the proposed activity area. (5-8-09)

c. All access roads and access control measures. (5-8-09)

d. All roads, property boundary lines, and structures within two hundred (200) feet of the septage holding or transfer/storage tank location; any structures on the property; and any easements or rights-of-way which exist on the property. (5-8-09)

e. Surrounding land use within two hundred (200) feet of the footprint of the proposed activity area on which the septage holding or transfer/storage tank is proposed to be located. (5-8-09)

f. A spill response plan, describing spill response equipment and disinfection and containment capability at the septage transfer station, shall be submitted to and approved by the Department. (5-8-09)

03. Record Keeping. Every owner of a septage transfer station shall maintain the following records for a minimum of five (5) years. (5-8-09)

a. For each load of septage received: (5-8-09)

i. The date received or picked up; (5-8-09)

ii. The name and address of the client(s) from whom the septage was received; and (5-8-09)

iii. The volume of the septage received, in gallons; and (5-8-09)

b. Records indicating the final disposal destination(s) for septage removed from the transfer/storage tank. (5-8-09)

520. FACILITY AND DESIGN STANDARDS FOR MUNICIPAL WASTEWATER TREATMENT OR DISPOSAL FACILITIES: HANDLING AND TREATMENT OF SEPTAGE AT A WASTEWATER TREATMENT PLANT.

01. General. Septage disposal at a wastewater treatment plant is at the discretion of the owner of the wastewater treatment plant, unless other conditions apply. One method of septage disposal is the discharge to a municipal wastewater treatment plant. All plants require special design considerations prior to the acceptance of septage. Prior to acceptance of septage at a wastewater treatment plant, the plan for doing so must be addressed in the Facility Plan. (3-30-07)

02. Characteristics. Tables No. 1 and No. 2 (Tables 3-4 and 3-8 from the U.S. EPA Handbook entitled "Septage Treatment and Disposal" 1984, EPA-625/6-84-009) give a comparison of some of the common parameters for septage and municipal wastewater. These tables are located at the end of Appendix A-3 of the Recommended Standards for Wastewater Facilities. See Section 008 of these rules. (3-30-07)

03. Considerations. It is essential that an adequate engineering evaluation of the existing plant and the anticipated septage loading be conducted prior to receiving septage at the plant. The wastewater treatment plant owner shall be contacted to obtain the appropriate approvals prior to the acceptance of septage. For proposed plant expansion and upgrading, the Preliminary Engineering Report and Facility Plan shall include anticipated septage loading in addressing treatment plant sizing and process selection. (3-30-07)

521. -- 599. (RESERVED)

600. LAND APPLICATION OF WASTEWATER(S) OR RECHARGE WATERS.
Land application of wastewater or recharge waters is subject to the following requirements: (4-11-06)

01. Land Application/Reuse Permit. Idaho Department of Environmental Quality Rules, IDAPA 58.01.17, "Recycled Water Rules," require a permit prior to land application/reuse of certain types of wastewater. (3-30-07)

02. Applied Waters Restricted to Premises. Wastewater(s) or recharge waters applied to the land surface must be restricted to the premises of the application site. Wastewater discharges to surface water that require a permit under the Clean Water Act must be authorized by the U.S. Environmental Protection Agency. (4-11-06)

03. Hazard or Nuisance Prohibited. Wastewaters must not create a public health hazard or a nuisance condition. (4-11-06)

04. Monitoring. Provision must be made for monitoring the quality of the ground water in proximity of the application site. The ground water monitoring program is subject to approval by the Department. All data and reports resulting from the ground water monitoring program must be submitted to the Department upon request. The minimum frequency of monitoring and data submittal will be determined by the Department and in general will be dependent upon: (4-11-06)

a. The nature and volume of wastewater material or recharge water; (4-11-06)

b. The frequency and duration of application; and (4-11-06)

c. The characteristics of the soil mantle on and lithology underlying the application site. (4-11-06)

05. Basis for Evaluation. The evaluation for an approval to irrigate, either by sprinkling or flooding or surface spreading of wastewater material or by burying wastewater material or recharge water in the upper soil horizon as a method of treatment, must include, but will not necessarily be limited to, consideration of the following items: (4-11-06)

a. The type and quantity of wastewater(s) proposed for land application. In general, the wastewater(s) organic constituents are to be biologically degradable and inorganic constituents must be utilized by vegetation or those organisms normally present in the soil. Other wastewater(s) or recharge waters will be considered provided it

can be shown that land application will not adversely affect beneficial uses of waters of the state. (4-11-06)

b. The nature of the soils and geologic formations underlying the application site. The entity proposing the activity must provide reasonable assurance that the soils and site geology will provide the required level of treatment and will not allow movement of pollutants into the underlying ground water. (4-11-06)

c. The ability of the soil and vegetative cover on the application site to remove the pollutants contained in the applied waters through the combined processes of consumptive use and biological and chemical inactivation. (4-11-06)

601. -- 649. (RESERVED)

650. SLUDGE USAGE.

01. Disposal Plans Required. Sludge can be utilized as soil augmentation only in conformance with: (4-11-06)

a. A Department approved sludge disposal plan; or (4-11-06)

b. Procedures and in a manner approved by the Department on a site-by-site basis. (4-11-06)

02. Basis for Evaluation. Sludge disposal plans and sludge utilization proposals will be evaluated by the Department in regard to their protection of water quality and public health. (4-11-06)

03. Elements of Plans and Proposals. Plans and proposals must at a minimum provide: (4-11-06)

a. That only stabilized sludge will be used. (4-11-06)

b. The criteria utilized for site selection, including: (4-11-06)

i. Soil description; (4-11-06)

ii. Geological features; (4-11-06)

iii. Groundwater characteristics; (4-11-06)

iv. Surrounding land use; (4-11-06)

v. Topography; and (4-11-06)

vi. Climate. (4-11-06)

c. A description of the application process. (4-11-06)

d. A statement detailing procedures to prevent application which could result in a reduction of soil productivity or in the percolation of excess nutrients. (4-11-06)

e. Identification of potential adverse health effects in regard to the sludge and its proposed use. (4-11-06)

f. Delineation of methods or procedures to be used to alleviate or eliminate adverse health effects. (4-11-06)

04. Reference to Federal Regulations. See Code of Federal Regulations, 40 CFR, Part 503, Standards for the Use or Disposal of Sewage Sludge. (3-30-07)

651. -- 659. (RESERVED)

660. WAIVERS.
Waivers from the requirements of these rules may be granted by the Director on a case-by-case basis upon full demonstration by the person requesting the waiver(s) that such activities for which the waivers are granted will have no significant impact on the environment or on the public health. (5-8-09)

661. -- 999. (RESERVED)

58.01.21 – RULES GOVERNING THE PROTECTION AND DISCLOSURE OF RECORDS IN THE POSSESSION OF THE DEPARTMENT OF ENVIRONMENTAL QUALITY

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Board of Environmental Quality the authority to promulgate these rules pursuant to Sections 74-114(8), 39-105, and 39-107, Idaho Code. (4-5-00)

001. TITLE AND SCOPE.

01. **Title**. These rules are titled IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." (4-5-00)

02. **Scope**. These rules adopt measures governing the disclosure and protection of records in the possession of the Idaho Department of Environmental Quality, in accordance with Section 74-114, Idaho Code. These rules affect members of the public submitting records to the Department of Environmental Quality as well as members of the public seeking access to Department of Environmental Quality records. (4-5-00)

002. WRITTEN POLICIES AND GUIDANCE.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Idaho Department of Environmental Quality may have written policies or guidance pertaining to the interpretation and implementation of these rules and the underlying statutes. Such written statements can be inspected and copied at cost at the Idaho Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (4-5-00)

003. APPEALS.

Persons may be entitled to appeal agency actions under these rules pursuant to Sections 74-114(6)(b) or 74-115, Idaho Code, or the IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality."

(3-15-02)

004. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

01. **Air Pollution Emission Data**. The definition set forth in 40 CFR 2.301(a)(2), revised as of July 1, 1998, as follows with reference to any source of emission of any substance into the air: (4-5-00)

a. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of any emission which has been emitted by the source (or of any pollutant resulting from any emission by the source), or any combination of the foregoing; (4-5-00)

b. Information necessary to determine the identity, amount, frequency, concentration, or other characteristics (to the extent related to air quality) of the emissions which, under an applicable standard or limitation, the source was authorized to emit (including, to the extent necessary for such purposes, a description of the manner or rate of operation of the source; and (4-5-00)

c. A general description of the location and/or nature of the source to the extent necessary to identify the source and to distinguish it from other sources (including, to the extent necessary for such purposes, a description of the device, installation, or operation constituting the source). (4-5-00)

d. Notwithstanding Subsections 010.01.a., 010.01.b., and 010.01.c., the following information shall be considered to be emission data only to the extent necessary to allow DEQ to disclose publicly that a source is (or is not) in compliance with an applicable standard or limitation, or to allow DEQ to demonstrate the feasibility, practicability, or attainability (or lack thereof) of an existing or proposed standard or limitation: (4-5-00)

i. Information concerning research, or the results of research, on any project, method, device, or installation (or any component thereof) which was produced, developed, installed, and used only for research purposes; and (4-5-00)

ii. Information concerning any product, method, device, or installation (or any component thereof) designed and intended to be marketed or used commercially but not yet so marketed or used. (4-5-00)

e. For purposes of the definition of emission data, standard or limitation means any emission standard or limitation established or publicly proposed pursuant to the CAA or any program administered by DEQ under

authority delegated to the state of Idaho under the CAA. (4-5-00)

02. **CAA**. The Federal Clean Air Act, 42 U.S.C. Sections 7401, et seq. (4-5-00)

03. **CFR**. The United States Code of Federal Regulations. (4-5-00)

04. **DEQ**. The Idaho Department of Environmental Quality. (4-5-00)

05. **EPA**. The United States Environmental Protection Agency. (4-5-00)

06. **RCRA**. The federal Resource Conservation and Recovery Act, 42 U.S.C., Sections 6901, et seq. (4-5-00)

07. **Trade Secret**. The definition set forth in Section 74-114(2), Idaho Code, which is information, including a formula, pattern, compilation, program, computer program, device, method, technique, or process, that: (4-5-00)

a. Derives independent economic value, actual or potential, from not being generally known to, and not being readily ascertainable by proper means by, other persons who can obtain economic value from its disclosure or use; and (4-5-00)

b. Is the subject of efforts that are reasonable under the circumstances to maintain its secrecy. (4-5-00)

c. The definition of trade secret includes commercial or financial information the disclosure of which could cause substantial competitive harm to the person from whom the record was obtained. (4-5-00)

08. **Trade Secret Claim**. Notice by a person submitting a record to DEQ that a record or a portion of a record is claimed to be a trade secret subject to protection from public disclosure by DEQ. (4-5-00)

011. RECORDS SUBJECT TO DISCLOSURE.

01. **Trade Secrets Subject to Disclosure**. Upon receipt of a request pursuant to Chapter 1, Title 74, Idaho Code, or to comply with public notice, comment or hearing requirements established in state statutes or rules implementing programs delegated or authorized to the state of Idaho under the CAA or RCRA, and after DEQ has followed the procedures set forth in Section 74-114(6), Idaho Code, for information subject to a trade secret claim, DEQ shall disclose: (4-5-00)

a. Air pollution emission data required to be submitted to or obtained by DEQ pursuant the CAA or any program administered by DEQ under authority delegated to the state of Idaho under the CAA; (4-5-00)

b. The contents of any Title V operating permit; and (4-5-00)

c. The name and address of any applicant or permittee for hazardous waste treatment, storage, or disposal facility permit pursuant to Chapter 44, Title 39, Idaho Code. (4-5-00)

02. **Other Program Records**. All DEQ records not listed in Subsection 011.01 and required to be submitted to DEQ, or which DEQ could compel the submission of, under the state statutes and rules implementing programs delegated or authorized to the state of Idaho under the CAA or RCRA, shall be made available for public inspection and copying except to the extent to which such records are a trade secret in which case the record shall be kept confidential according to the procedures set forth in Section 74-114, Idaho Code, and these rules. (4-5-00)

012. NOTICE OF TRADE SECRET CLAIM.

01. **Notice to Be Included in Submittals**. (4-5-00)

a. It shall be the responsibility of any person providing a record to DEQ to give notice of the existence

of a trade secret claim on each page or other portion of information at the time of submittal by the placement of a stamped, typed, or other notation employing such language as "trade secret," proprietary," or "confidential." Such person shall have the burden of demonstrating that the information is a trade secret subject to protection from disclosure by DEQ. (4-5-00)

b. To expedite any subsequent trade secret determinations, persons making a claim are encouraged to include supporting information substantiating a trade secret claim with the original submittal. (4-5-00)

02. Portions of Records. If a portion of a record or a portion of a page is non-confidential and the other portion is subject to a trade secret claim, the two (2) portions shall be clearly identified by the person making the claim at the time of submittal. Information for which a trade secret claim is made is encouraged to be submitted separately if feasible and if such segregation would facilitate identification and handling by DEQ. (4-5-00)

03. Absence of Trade Secret Claim. (4-5-00)

a. If no trade secret claim accompanies a record received by DEQ, the record is subject to disclosure to the public by DEQ in accordance with applicable state law and policy without further notice to the person making the submittal. (4-5-00)

b. If a person has not asserted a trade secret claim for a record for which it might be expected to assert a trade secret claim, DEQ may inquire whether the person asserts a trade secret claim covering the information. (4-5-00)

04. Subsequent Trade Secret Claim. If a trade secret claim covering a record or portion of a record is made after the information is initially submitted to DEQ, DEQ will make such efforts as are practicable in light of prior disclosure, to associate the late trade secret claim with the previously submitted record. (4-5-00)

05. Handling of Records. DEQ records, or portions of records, for which a trade secret claim has been asserted shall be treated as being entitled to confidential treatment until there has been a determination in accordance with the procedures set out in Section 74-114(6), Idaho Code, that the information is not entitled to confidential treatment. (4-5-00)

013. NOTIFICATION TO PERSON REQUESTING DISCLOSURE.

At the time that DEQ provides a request for substantiation to a person making a trade secret claim, DEQ may furnish a notice to the person whose request for release of the record is pending that the information requested may be entitled to protection from public disclosure under these rules and Section 74-114, Idaho Code, that further inquiry by DEQ is required, that the person making the request will be notified when a final confidentiality determination is made, and the approximate time frame within which the determination will occur. (4-5-00)

014. REQUEST FOR SUBSTANTIATION.

01. Timing of Determination. Even though no request for disclosure of the record has been received, DEQ may at any time request substantiation of a trade secret claim. (4-5-00)

02. Preliminary Determination. If request is received by DEQ from a member of the public seeking disclosure of information subject to a trade secret claim or if DEQ determines that information subject to a trade secret claim may be disclosed pursuant to public notice, comment or hearing, and the DEQ Director determines such information may be subject to disclosure, DEQ shall send a written request for substantiation to the person making the claim pursuant to Section 74-114(6), Idaho Code. The request shall inform the person that a public records request is pending or that a public notice, comment or hearing is pending. (4-5-00)

03. Contents of Request for Substantiation. The written request for substantiation shall invite the person making the trade secret claim to comment on the following points: (4-5-00)

a. The specific portions of the record, including portions of each page, which are alleged to be entitled to confidential treatment; (4-5-00)

b. Measures taken by the person making the claim to guard against nonconsensual disclosure of the information to others, and the means by which such measures will be continued in the future; (4-5-00)

c. The extent to which the information has been consensually disclosed to others and the precautions taken in connection therewith; (4-5-00)

d. Pertinent confidentiality determinations, if any, by EPA or other state and federal agencies; (4-5-00)

e. Any relevant facts which would support the claim that the information meets the definition of "trade secret" set out in Section 010 above; and (4-5-00)

f. If appropriate, the reason that the information is not required to be disclosed by state or federal statute including Section 74-114(1), Idaho Code. (4-5-00)

04. Submittal of Substantiation Response. A response to a request for substantiation of a trade secret claim shall be submitted to DEQ by the person claiming the trade secret protection within ten (10) working days after receipt of the request for substantiation or the information subject to the claim shall be disclosed without further notice. (4-5-00)

05. Confidentiality of Substantiation Response. A response to a request for substantiation of a trade secret claim may itself contain information subject to protection from public disclosure. (4-5-00)

015. FINAL DETERMINATION OF TRADE SECRET CLAIM.

01. Final Determination. Within three (3) working days after receipt of the business's timely response to a request for substantiation, the DEQ Director shall make a final determination concerning whether the information is protected from public disclosure pursuant to Section 74-114, Idaho Code, and shall notify the person requesting the information and the person asserting the trade secret claim of the determination. (4-5-00)

02. Criteria for Determination. In making a final determination whether a record or portion of a record is a trade secret, the DEQ Director shall consider whether: (4-5-00)

a. A trade secret claim has been asserted which has not expired by its terms, nor been waived or withdrawn; (4-5-00)

b. The person has satisfactorily shown that reasonable measures to protect the confidentiality of the information have been taken, and that such measures will continue to be taken; (4-5-00)

c. The information is not, and has not been, reasonably obtainable without the business's consent by other persons (other than governmental bodies) by use of legitimate means (other than discovery based on a showing of special need in a judicial or quasi-judicial proceeding); (4-5-00)

d. A state or federal statute does not specifically require disclosure of the information; and (4-5-00)

e. The person has satisfactorily shown that the information meets the definition of "trade secret" set out in Section 010 above. (4-5-00)

016. DISCLOSURE OF RECORDS TO CERTAIN PERSONS UNDER A CONTINUING CLAIM.

01. Situations for a Continuing Claim. DEQ may disclose a record which is a trade secret or which is subject to a trade secret claim under a continuing claim in accordance with Section 74-114(4), Idaho Code, as follows: (4-5-00)

a. To any officer, employee, or authorized representative of the state or the United States as necessary to carry out the provisions of state or federal law, or when relevant to any proceeding thereunder; (4-5-00)

b. As determined necessary by the DEQ Director to protect the public health and safety from imminent and substantial endangerment; and (4-5-00)

c. As required by state or federal law including for discovery in the normal course of judicial or administrative adjudicatory proceedings, subject to the law and rules of evidence and of discovery governing such proceedings. (4-5-00)

02. Notice of a Continuing Claim. (4-5-00)

a. DEQ shall give notice of a continuing trade secret claim by noting its existence in a cover letter, or by other effective means if a cover letter is impractical, at the time the record is disclosed. (4-5-00)

b. DEQ shall notify the person receiving the information subject to a continuing trade secret claim that DEQ's disclosure does not waive the claim nor authorize any further disclosure by the person receiving the record. (4-5-00)

c. DEQ shall disclose a record under Subsections 016.01.a. and 016.01.b. only if the person receiving the record agrees in writing to exercise all means legally available to protect the relevant record or portion of the record from further disclosure. (4-5-00)

03. Record of Disclosures. DEQ shall adopt a procedure to maintain a record of any disclosures of records or portion of records subject to a continuing trade secret claim. (4-5-00)

017. SAFEGUARDING OF TRADE SECRET INFORMATION.

01. Prohibition on Disclosure. No DEQ officer or employee may disclose any information subject to a trade secret claim except as specifically mandated by statute. (4-5-00)

02. Dissemination Within DEQ. Access to information subject to a trade secret claim by DEQ employees, contractors, or other representatives shall be limited to access required to carry out the person's duties on behalf of DEQ. (4-5-00)

03. Segregation of Information. Any information subject to a trade secret claim and received by DEQ after the effective date of these rules shall be placed in a clearly marked, confidential section of the relevant file. (4-5-00)

04. Training. DEQ shall train all new employees, and periodically train existing employees, in the proper filing, tracking and physical handling of records subject to a trade secret claim, and in the procedures established by these rules, Section 74-114, Idaho Code, and any relevant policies adopted by DEQ. Training shall be as frequent and extensive as deemed necessary by the DEQ Director. (4-5-00)

018. -- 999. (RESERVED)

58.01.22 – RULES FOR ADMINISTRATION OF PLANNING GRANTS FOR DRINKING WATER FACILITIES

000. LEGAL AUTHORITY.

The Idaho State Board of Environmental Quality, pursuant to authority granted in Chapters 1 and 36, Title 39, Idaho Code, adopted the following rules for the administration of a Drinking Water Planning Grant Program in Idaho. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules will be known and cited as Rules of the Idaho Department of Environmental Quality, IDAPA 58.01.22, "Rules for Administration of Planning Grants for Drinking Water Facilities." (3-30-01)

02. Scope. The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering a state grant program providing financial assistance to qualifying entities to prepare a drinking water facility planning document. (3-29-12)

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. (3-30-01)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.

01. Incorporation by Reference. These rules do not contain documents incorporated by reference. (4-2-08)

02. Availability of Referenced Material. The "Drinking Water Loan Handbook of Procedures" (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, www.deq.idaho.gov. (4-2-08)

005. CONFIDENTIALITY.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (5-3-03)

006. POLICY.

It is the policy of the Idaho Board of Environmental Quality, through the Idaho Department of Environmental Quality, to administer the Drinking Water Grant Program. The Drinking Water Grant Program provides assistance to eligible public drinking water systems for the planning of facilities to help ensure safe and adequate supplies of drinking water. It is also the intent of the Idaho Board of Environmental Quality to assign a priority rating to those projects which shall facilitate the compliance of any eligible public drinking water system with national primary drinking water regulations applicable to the system, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq. (4-2-08)

007. SYSTEM ELIGIBILITY.

01. Eligible Systems. Community water systems and nonprofit noncommunity water systems. (3-30-01)

02. Systems Not Eligible. The following public drinking water systems will not be considered eligible for project planning grants: (3-30-01)

a. Systems that do not have the financial capability to pay their non-grant share of a planning project. (3-30-01)

b. Systems delinquent in payment of the annual state drinking water fee assessment. (3-30-01)

008. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of the rules contained in this chapter, the following definitions apply: (3-30-01)

01. **Applicant**. Any qualifying entity making application for drinking water planning grant funds. (3-30-01)

02. **Board**. The Idaho Board of Environmental Quality. (4-2-08)

03. **Categorical Exclusion (CE)**. Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. (4-2-08)

04. **Community Water System**. A public drinking water system that: (3-30-01)

a. Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or (3-30-01)

b. Regularly serves at least twenty-five (25) year-round residents. (3-30-01)

05. **Contaminant**. Any physical, chemical, biological, or radiological substance or matter in water. (3-30-01)

06. **Department**. The Idaho Department of Environmental Quality. (3-30-01)

07. **Director**. The Director of the Idaho Department of Environmental Quality or the Director's designee. (4-2-08)

08. **Distribution System**. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-29-12)

09. **Eligible Costs**. Costs which are necessary for planning public drinking water systems. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 032. (5-3-03)

10. **Environmental Impact Statement (EIS)**. A document prepared by the applicant when the Department determines that the proposed drinking water project will significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The Environmental Review Procedures contained in Chapter 5 of the Handbook may be used as guidance when preparing the EIS. (4-2-08)

11. **Environmental Information Document (EID)**. Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed drinking water construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted. (3-29-12)

12. **Financial Capability**. The ability to raise and manage funds to provide the necessary resources for proper operation. (3-30-01)

13. **Finding of No Significant Impact (FONSI)**. A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement (EIS) will not be prepared. It shall include the environmental information document or a summary of it and shall note any other environmental documents related to it. (3-29-12)

14. **Grant Recipient**. An applicant who has been awarded a grant. (3-29-12)

15. **Handbook**. "Drinking Water Loan Handbook of Procedures." (4-2-08)

16. **Ineligible Costs**. Costs which are not eligible for funding pursuant to these rules. (3-29-12)

17. **Maximum Contaminant Level (MCL)**. The maximum permissible level of a contaminant in water which is delivered to any user of a public drinking water system. (3-30-01)

18. **Managerial Capability**. The capabilities of the qualified entity to support the proper financial management and technical operation of the system. (3-30-01)

19. **Noncommunity Water System**. A public water system that is not a community water system. (5-3-03)

20. **Nonprofit Noncommunity Water System**. A public drinking water system that is not a community water system and is governed by Section 501 of the Internal Revenue Code and includes, but is not limited to, state agencies, municipalities and nonprofit organizations such as churches and schools. (5-3-03)

21. **Nontransient Noncommunity Water System**. A public drinking water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (4-2-08)

22. **Person**. An individual, corporation, company, association, partnership, state agency, municipality, or federal agency (and includes officers, employees, and agents of any corporation, company, association, state agency, municipality, or federal agency). (5-3-03)

23. **Planning Document**. A document which describes the condition of a public drinking water system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents shall be prepared by or under the responsible charge of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Requirements for planning documents prepared using grant funds are provided in Section 030 of these rules and in the Handbook. (3-29-12)

24. **Priority List**. A list of proposed projects rated by severity of a risk to public health, the necessity to ensure compliance with, IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C., Sections 300f et seq., population affected, the need on a household basis for protection of Idaho's public drinking water supplies, and as otherwise described in Section 020. (4-2-08)

25. **Public Drinking Water System/Public Water System/Water System**. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system." (4-2-08)

26. **Qualifying Entity**. Any county, city, special service district, nonprofit or investor-owned corporation, or other governmental entity, or a combination thereof, which owns or operates a public drinking water system or irrigation system. (4-2-08)

27. **Rehabilitation**. The repair or replacement of segments of drinking water facilities. (3-30-01)

28. **Reserve Capacity**. That portion of the system in the planned facilities to handle future drinking water demand. (3-30-01)

29. **State**. The state of Idaho. (3-30-01)

30. Suspension. An action by the Director to suspend a grant contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (3-30-01)

31. Sustainability. Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-29-12)

32. Technical Capability. The ability of the public drinking water system to comply with existing and expected drinking water rules. (3-30-01)

33. Termination. An action by the Director to permanently terminate a grant contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (3-30-01)

34. Water Treatment Plant. That portion of the public drinking water system whose primary purpose is to remove contaminants. (3-30-01)

011. -- 019. (RESERVED)

020. PRIORITY RATING SYSTEM.
Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Information is also received from the Department and consulting engineers. Grant funds are awarded to projects based on priority ratings. Projects are rated by the Department on a standard priority rating form using public health, sustainability, and water quality criteria and condition of the existing system. (3-29-12)

01. Purpose. A priority rating system shall be utilized by the Department to annually allot available funds to projects determined eligible for funding assistance in accordance with these rules. (4-2-08)

02. Priority Rating. The priority rating system shall be based on a numerical point system. Priority criteria shall contain the following points: (3-29-12)

a. Public Health Hazard. Any condition which creates, or may create, a danger to the consumer's health, which may include any one (1) or more of the following, may be awarded a maximum of one hundred (100) points: (3-29-12)

i. Documented unresolved violations of the primary drinking water standards including maximum contaminant levels, action levels, and treatment techniques (to include maximum contaminant levels for acute and chronic contaminates); (3-29-12)

ii. Documented unresolved violations of pressure requirements; (3-29-12)

iii. Documented reduction in source capacity that impacts the system's ability to reliably serve water; or (3-29-12)

iv. Documented significant deficiencies (e.g., documented in a sanitary survey) in the physical system that is causing the system to not be able to reliably serve safe drinking water. (3-29-12)

b. General Conditions of Existing Facilities. Points shall be given based on deficiencies (which would not constitute a public health hazard) for pumping, treating, storing, and delivering drinking water - up to sixty (60) points. (3-29-12)

c. Sustainability Efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) - up to fifty (50) points. (3-29-12)

d. Consent Order, Compliance Agreement Schedule, or Court Order. Points shall be given if the system is operating under and in compliance with a Consent Order, Compliance Agreement Schedule, or Court Order

and the proposed construction project will address the Consent Order, Compliance Agreement Schedule, or Court Order - up to thirty (30) points. (3-29-12)

e. Incentives. Bonus points shall be awarded to systems that promote source water protection, conservation, economy, proper operation maintenance, and monitoring - up to ten (10) points. (3-29-12)

f. Affordability. Points shall be given when current system user charges exceed state affordability guidelines - ten (10) points. (3-30-01)

03. Rating Forms. Rating criteria for Subsection 020.02 is set forth in a rating form that is available in the Handbook. (3-29-12)

04. Priority List. A list shall be developed from projects rated according to the priority rating system. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval and adoption. (3-29-12)

a. Priority Reevaluation. Whenever significant changes occur, which in the Department's judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. (3-30-01)

b. Priority Target Date. An eligible applicant whose project is on the approved priority list, and for which funding is available, will be contacted by the Department and a target date for submission of a completed grant application will be established. (3-29-12)

c. Project Bypass. A project that does not or will not meet the project target date or a Department schedule that allows for timely utilization of grant funds may be bypassed, substituting in its place the next highest ranking project that is ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. (3-29-12)

05. Amendment of Priority List. The Director may amend the Priority List as set forth in Section 080 of these rules. (3-29-12)

021. -- 029. (RESERVED)

030. PROJECT SCOPE AND FUNDING.
Grant funds awarded under this program will be used entirely to prepare a drinking water facility planning document. The planning document will identify the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C. Sections 300f et seq. The planning document must be approved by the Department. (3-29-12)

01. Planning Document. (3-29-12)

a. A planning document shall include all items required by IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 503.03 or 502.04. Should the grant recipient proceed to construction using federal funds (e.g., a state revolving fund loan), then the items listed in Subsection 030.01.b. of these rules shall be required prior to construction. (3-29-12)

b. A planning document that is prepared anticipating the use of federal funds shall include an environmental review that will require the Department approval of both a draft and final planning document. (3-29-12)

i. The draft planning document shall include all items required by IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," Subsection 502.04 or 503.03, as well as the following: (3-29-12)

(1) Description of existing conditions for the proposed project area; (3-30-01)

(2) Description of future conditions for the proposed project area; (3-30-01)

(3) Development and initial screening of alternatives; (3-30-01)

(4) Development of an environmental review specified by the Department as described in Section 040. (3-29-12)

ii. The final planning document shall include all items required of the draft planning document as well as the following: (3-29-12)

(1) Final screening of principal alternatives and plan adoption; (3-30-01)

(2) Selected plan description and implementation arrangements; and (3-29-12)

(3) Relevant engineering data supporting the final alternative. (3-29-12)

iii. The grant recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The grant recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the grant recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the grant recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document may be prepared. (3-29-12)

c. The draft and final planning document shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (3-29-12)

d. The draft and final planning documents must be reviewed and approved by the Department. (3-29-12)

e. The planning period shall be twenty (20) years for all facilities except for distribution and transmission systems which may be forty (40) years. (4-2-08)

02. Limitation on Funding Assistance. The maximum grant funding provided in a state planning grant award shall not exceed fifty percent (50%) of the total eligible costs for grants awarded. (3-30-01)

031. REVIEW AND EVALUATION OF GRANT APPLICATIONS.

01. Submission of Application. Those eligible systems which received high priority ranking shall be invited to submit an application. The applicant shall submit to the Department, a completed application in a form prescribed by the Department. (3-30-01)

02. Application Requirements. Applications shall contain the following documentation, as applicable: (5-3-03)

a. An authorizing resolution passed by a majority of the governing body authorizing an elected official or officer of the qualifying entity to commit funding; and (5-3-03)

b. Contracts for engineering services or other technical services and the description of costs and tasks set forth therein shall be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 032; and (3-29-12)

c. A plan of study describing the work tasks to be performed in the planning document, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks; and (3-29-12)

d. Justification for the engineering firm selected. An engineering firm selected by the applicant must

at a minimum: (5-3-03)

i. Be procured through the selection guidelines and procedures prescribed under Section 67-2320, Idaho Code; and (5-3-03)

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (5-3-03)

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (5-3-03)

iv. Be covered by professional liability insurance in accordance with Subsection 050.05.d. A certification of liability insurance shall be included in the application; and (5-3-03)

e. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 032; and (3-29-12)

f. A demonstration that the obligation to pay the costs for which funding is requested, is the result or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code; and (4-2-08)

g. A statement regarding how the non-grant portion of the project will be funded; and (5-3-03)

h. For incorporated nonprofit applicants only, Articles of Incorporation and/or Bylaws showing nonprofit and incorporated status according to Chapter 3, Title 30, Idaho Code. (3-30-01)

03. Determination of Completeness of Application. Applications will be reviewed to determine whether they contain all of the information required by Subsection 031.02. (3-29-12)

04. Notification Regarding Incompleteness of Application. Written notification if an application is incomplete, including an explanation of missing documentation, will be sent to the applicant. The applicant may provide the missing documentation. (5-3-03)

05. Reapplication for Grant. The action of disapproving, recalling, or terminating a grant in no way precludes or limits the former applicant from reapplying for another grant when the project deficiencies are resolved and project readiness is secured. (5-3-03)

032. DETERMINATION OF ELIGIBILITY OF COSTS.
The Department shall review the application, including any contracts required to be submitted with the application, to determine whether the costs are eligible costs for funding. (5-3-03)

01. Eligible Costs. Eligible costs are those determined by the Department to be: (5-3-03)

a. Necessary costs; (3-29-12)

b. Reasonable costs; and (3-29-12)

c. Costs that are not ineligible as described in Subsection 032.05. (3-29-12)

02. Necessary Costs. The Department shall determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the plan of study for the planning document. (3-29-12)

03. Reasonable Costs. Costs shall be determined by the Department to be reasonable if the obligation

to pay the costs is the result of or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

04. Examples of Costs That May Be Eligible. Examples of costs that may be eligible, if determined necessary, reasonable and not ineligible costs include: (5-3-03)

a. Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary expenses such as salaries and expenses of a mayor; city council members; board; or a city, district or board attorney; (4-2-08)

b. Professional and consulting services utilizing a lump-sum contract, specifying costs of individual tasks. (5-3-03)

c. Engineering costs pursuant to a lump-sum contract, specifying costs of individual tasks, directly related to the planning of public drinking water treatment, storage and distribution facilities including but not limited to the preparation of a planning document and environmental review report; (3-29-12)

d. Financial, technical and management capability analysis; (5-3-03)

e. Public participation for alternative selection; (5-3-03)

f. Certain direct and other costs as determined eligible by the Department; and (5-3-03)

g. Site acquisition services which could include legal fees, appraisals and surveys for land associated with the cost-effective alternative in the report and for purchase from a willing seller. (3-29-12)

05. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to: (5-3-03)

a. Basin or area wide planning not directly related to the project; (5-3-03)

b. Personal injury compensation or damages arising out of the project; (5-3-03)

c. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (5-3-03)

d. Costs outside the scope of the approved project; (5-3-03)

e. Ordinary operating expenses such as salaries and expenses of a mayor, city council members, city attorney, district or association personnel costs, and acquiring project funding; (4-2-08)

f. Preparation of a grant application; (5-3-03)

g. All costs related to assessment, defense and settlement of disputes; (5-3-03)

h. Costs of supplying required permits or waivers; (5-3-03)

i. Costs incurred prior to award of the grant unless specifically approved in writing as eligible pre-award costs by the Department; (5-3-03)

j. Engineering costs incurred prior to approval of the engineering contract or those costs in excess of the contract ceiling unless preapproval has been given in writing by the Department; and (5-3-03)

06. Notification Regarding Ineligible Costs. Prior to providing a grant offer, the Department shall notify the applicant that certain costs are not eligible for funding and the reasons for the Department's determination. If such costs are included in the engineering contract, the Department shall also provide notification to the engineer.

The applicant may provide the Department additional information in response to the notice. (5-3-03)

07. Eligible Costs and the Grant Offer. The grant offer shall reflect those costs determined by the Department to be eligible costs. The grant offer, however, may include estimates of some eligible costs that have not yet been set. Actual eligible costs may differ from such estimated costs set forth in the grant offer. In addition, grant disbursements may be increased or decreased if eligible costs are modified. (4-2-08)

033. -- 039. (RESERVED)

040. ENVIRONMENTAL REVIEW.

01. Environmental Documentation. The grant recipient may complete an environmental review as part of and in conjunction with a planning document. Guidance on how to complete an environmental review may be found in Chapter 5 of the Handbook. If the grant recipient prepares an environmental review, then the Department shall be consulted at an early stage in the preparation of the planning document to determine the required level of environmental review. Based on review of existing information and assessment of environmental impacts, the grant recipient may complete one (1) of the following: (3-29-12)

a. Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (4-2-08)

b. Prepare an Environmental Information Document (EID) in a format specified by the Department; or (4-2-08)

c. Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. (4-2-08)

02. Categorical Exclusions. If the grant recipient requests a CE, the Department shall review the request and, based upon the supporting documentation, take one (1) of the following actions: (3-29-12)

a. Determine if an action is consistent with categories eligible for exclusion whereupon the Department shall issue a notice of CE from further substantive environmental review. Once the CE is granted for the selected alternative, the Department will publish a notice of CE in a local newspaper, following which the planning document can be approved; or (3-29-12)

b. Determine if an action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If issuance of a CE is not appropriate, the Department shall notify the grant recipient of the need to prepare an EID. (3-29-12)

03. Environmental Information Document Requirements. When an EID is required, the grant recipient shall prepare the EID in accordance with the following Department procedures: (3-29-12)

a. Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and executive orders. (4-2-08)

b. A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or irretrievable commitment of resources. (4-2-08)

c. The Department shall review the draft EID and either request additional information about one (1) or more potential impacts, or shall draft a "finding of no significant impact" (FONSI). (4-2-08)

04. Final Finding of No Significant Impact. The Department shall publish the draft FONSI in a newspaper of general circulation in the geographical area of the proposed project and shall allow a minimum thirty (30) day public comment period. Following the required period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI shall become final. The Department shall assess the

effectiveness and feasibility of the mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. (3-29-12)

05. Environmental Impact Statement (EIS) Requirements. If an EIS is required, the grant recipient shall: (3-29-12)

a. Contact all affected state agencies, and other interested parties, to determine the required scope of the document; (4-2-08)

b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (4-2-08)

c. Conduct a public meeting which may be held in conjunction with a planning document meeting; and (3-29-12)

d. Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (4-2-08)

06. Final EIS. Upon completion of the EIS by the grant recipient and approval by the Department of all requirements listed in Subsection 040.05, the Department shall issue a record of decision, documenting the mitigative measures which shall be required of the grant recipient. The planning document can be completed once the final EIS has been approved by the Department. (3-29-12)

07. Use of Environmental Reviews Conducted by Other Agencies. If an environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public notification process of the other agency. (4-2-08)

08. Validity of Review. Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a grant application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions, and public comments and shall: (3-29-12)

a. Reaffirm the earlier decision; or (3-30-01)

b. Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or record of decision. (3-30-01)

041. -- 049. (RESERVED)

050. GRANT OFFER AND ACCEPTANCE.

01. Grant Offer. Grant offers will be delivered by certified mail to applicants who received high priority ranking, were invited to submit an application, and provided a complete application. (3-30-01)

02. Acceptance of Grant Offer. Applicants have sixty (60) days in which to officially accept the grant offer on prescribed forms furnished by the State. The sixty (60) day acceptance period commences from the date indicated on the grant offer notice. If the applicant does not accept the grant offer within the sixty (60) day period, the grant funds may be offered to the next project of priority. (3-30-01)

03. Acceptance Executed as a Contract Agreement. Upon signature by the Director or the Director's designee as the grantor, and upon signature by the authorized representative of the qualifying entity, as the grant recipient, the grant offer shall become a grant contract agreement. The disbursement of funds pursuant to an agreement is subject to a finding by the Director that the grant recipient has complied with all agreement conditions and has prudently managed the project. The Director may, as a condition of payment, require that a grant recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly,

with grant funds or transfer its claim against such third parties to the Department. Grant contract agreements shall be interpreted according to the law of grants in aid. No third party shall acquire any rights against the State or its employees from a grant contract agreement. (3-29-12)

04. Estimate of Reasonable Cost. Each grant project contract will include the eligible cost of conducting the planning study. Some eligible costs may be estimated and payments may be increased or decreased as provided in Section 060. (5-3-03)

05. Terms of Agreement. The grant offer shall contain terms of agreement as prescribed by the Department including, but not limited to special conditions as determined necessary by the Department for the successful planning of the project. (3-30-01)

a. Terms consistent with these rules and consistent with the scope of the grant project; and (3-29-12)

b. Special clauses as determined necessary by the Department for the successful investigation and management of the project; and (5-3-03)

c. Terms consistent with applicable state and federal laws pertaining to planning documents; and (3-29-12)

d. Requirement for the prime engineering firm(s) retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors of omission of a professional nature. The total aggregate of the engineer's professional liability shall be one hundred thousand dollars ($100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project steps, whether or not such services or steps are state funded, until the certification of project performance is accepted by the Department. (4-2-08)

051. -- 059. (RESERVED)

060. PAYMENTS.

01. Eligibility Determination. Grant funds will only be provided for eligible costs as defined at Section 010 and determined in accordance with Section 032. (3-29-12)

02. Payments for State Grants. Requests for payment shall be submitted to the Department on a form provided by the Department. The Department shall pay for those costs that are determined to be eligible. (3-30-01)

03. Grant Increases. Grant amendment increase requests as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation and justification supporting the unavoidable need for a grant increase must be submitted to the Department for approval prior to incurring any costs above the approved eligible cost ceiling. (3-30-01)

04. Grant Decreases. If the actual eligible cost is determined to be lower than the estimated eligible cost the grant amount will be reduced proportionately. (3-30-01)

05. Final Project Review to Determine Actual Eligible Costs. The Department may conduct a final project review to determine the actual eligible costs. The financial records of the grant recipient may be reviewed by the Department. (3-29-12)

06. Final Payment. The final payment consisting of five percent (5%) of the total state grant will not be made until the requirements contained in the grant agreement have been satisfied. (3-29-12)

061. -- 069. (RESERVED)

070. SUSPENSION OR TERMINATION OF GRANT.

01. Causes. The Director may suspend or terminate any grant for failure by the grantee or its agents,

including his engineering firm(s), contractor(s) or subcontractor(s) to perform. A grant may be suspended or terminated for good cause including, but not limited to, the following: (3-30-01)

a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; or (3-30-01)

b. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years imprisonment or any crime involving or affecting the project; or (3-30-01)

c. Violation(s) of any term of agreement of the grant offer or contract agreement; or (3-30-01)

d. Any willful or serious failure to perform within the scope of the project; or (4-2-08)

e. Debarment of an engineering firm, contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (3-30-01)

02. Notice. The Director will notify the grantee in writing and by certified mail of the intent to suspend or terminate the grant. The notice of intent shall state: (3-30-01)

a. Specific acts or omissions which form the basis for suspension or termination; and (3-30-01)

b. That the grantee may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

03. Determination. A determination will be made by the Board pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

04. Reinstatement of Suspended Grant. Upon written request by the grantee and evidence that the cause(s) for suspension no longer exist, the Director may, if funds are available reinstate the grant. (3-30-01)

05. Reinstatement of Terminated Grant. No terminated grant shall be reinstated. (3-30-01)

071. -- 079. (RESERVED)

080. WAIVERS.
Waivers from the requirements of these rules may be granted by the Department on a case-by-case basis upon full demonstration that a significant public health emergency exists. (3-30-01)

081. -- 999. (RESERVED)

58.01.23 – RULES OF ADMINISTRATIVE PROCEDURE BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

000. LEGAL AUTHORITY.
Under Sections 39-105, 39-107 and 67-5206, Idaho Code, the Idaho Legislature has granted the Board of Environmental Quality the authority to promulgate these rules. (3-15-02)

001. TITLE, SCOPE, AND APPLICABILITY.

01. Title. These rules are titled IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

02. Scope. These rules establish general standards for contested case proceedings, petitions for rulemaking, and declaratory ruling proceedings as required by law. *( )*

03. Applicability of Contested Case Provisions. Section 39-107, Idaho Code, provides the opportunity to initiate a contested case proceeding. It provides that any person aggrieved by an action or inaction of the Department shall be afforded an opportunity for a fair hearing upon a request therefore in writing pursuant to Chapter 52, Title 67, Idaho Code. These rules govern such proceedings, except *that:* *( )*

a. *Idaho Pollutant Discharge Elimination System permit decisions are governed by IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program," Section 204; and* *( )*

b. *P*ersonnel grievances and employment related actions are governed by IDAPA 15.04.01, "Rules of the Division of Human Resources and Personnel Commission," and the DEQ Personnel Policies and Procedures Manual. *( )*

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (3-15-02)

003. ADMINISTRATIVE PROCEDURES.
These rules govern administrative procedures before the Board of Environmental Quality. (3-15-02)

004. INCORPORATION BY REFERENCE.
IDAPA 04.11.01, "Idaho Rules of Administrative Procedure of the Attorney General (2018 Idaho Administrative Code)," *Sections 500, 501, 800 through 815, and 830 through 860, are incorporated into these rules* by reference. *( )*

005. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 3, Title 9, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (3-15-02)

006. APPLICABILITY OF RULES OF ADMINISTRATIVE PROCEDURE OF THE ATTORNEY GENERAL.
The Environmental Protection and Health Act, Title 39, Chapter 1, Idaho Code, provides specific authority for the Board to adopt contested case rules that are consistent with the rules adopted by the Attorney General under Section 67-5206(4), Idaho Code. To the extent possible given the statutory authority of, and the programs administered by, the Department, the contested case provisions in these rules are consistent with the provisions of IDAPA 04.11.01, "Idaho Rules of Administrative Procedures of the Attorney General" (Attorney General Rules). The majority of the Attorney General Rules are adopted *within these rules. Sections 500, 501, 800 through 815, and 830 through 860 of the Attorney General Rules are incorporated by reference into these rules at Section 004. C*ertain provisions of the Attorney General Rules are not adopted or are modified to reflect administrative practice before the Board and the Environmental Protection and Health Act. *( )*

007. RULES OF GENERAL PROCEDURE AND DEFINITIONS.
Sections 007 through 013 establish provisions and definitions applicable to all proceedings governed by these rules. (3-15-02)

008. FILING AND SERVICE OF DOCUMENTS.

01. Filing of Documents. (3-15-02)

a. All documents concerning actions governed by these rules shall be filed with the hearing coordinator at the following address: Hearing Coordinator, Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706. *Documents may also be filed by fax* or may be filed electronically.The *hearing coordinator's fax number and email address for filing electronically are available at* www.deq.idaho.gov/petitions-for-review. The documents are deemed to be filed on the date received by the hearing coordinator. Upon receipt of the filed document, the hearing coordinator will provide *confirmation* to the originating party. *( )*

b. Upon receipt of a petition initiating a contested case, rulemaking, or declaratory ruling, the hearing coordinator shall serve the petition upon the Department. In any proceeding involving a permit, the hearing coordinator shall serve upon the permit applicant or permit holder the petition and a notice informing the permit applicant or permit holder that they have twenty-one (21) days after the date of service of the petition to intervene in the proceeding and that they may be bound by any decision rendered in the proceeding. (3-15-02)

02. Service of Documents. From the time a party files its petition initiating a contested case, rulemaking or, declaratory ruling, that party must serve and all other parties must serve all future documents intended to be part of the agency record upon all other parties or representatives designated pursuant to Section 044, unless otherwise directed by order or notice or by the presiding officer. The presiding officer may order parties to serve past documents filed in the case upon those representatives. The parties may serve courtesy copies upon the presiding officer. (3-15-02)

009. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. (3-15-02)

010. DEFINITIONS AND ABBREVIATIONS.

01. Aggrieved Person or Person Aggrieved. Any person or entity with legal standing to challenge an action or inaction of the Department, including but not limited to permit holders and applicants for permits challenging Department permitting actions. (3-15-02)

02. Board. The Idaho Board of Environmental Quality. (3-15-02)

03. Contested Case. A proceeding resulting in an order, in which the legal rights, duties, licenses, privileges, immunities, or other legal interests of one (1) or more specific persons are required by law to be determined by the Board after an opportunity for a hearing. Contested case does not include rulemaking or Personnel grievances and employment related actions. (4-6-05)

04. Declaratory Ruling. An interpretation by the Board, rendered pursuant to Section 67- 5232, Idaho Code, as to the applicability of any statute, order, or rule of the Board to a person's circumstances. (3-15-02)

05. Department or DEQ. The Idaho Department of Environmental Quality. (3-15-02)

06. Director. The Director of the Department of Environmental Quality. (3-15-02)

07. Hearing Coordinator. The Person who coordinates, schedules, issues notices, and administers actions governed by these rules on behalf of the presiding officer. The hearing coordinator assigns a permanent docket number to each action for purposes of identification and acts as custodian of records for all information and documentation involving actions governed by these rules. *Hearing coordinator contact information is available at* www.deq.idaho.gov/petitions-for-review. *( )*

08. Hearing Officer. A Person appointed or designated by the Board, who presides over actions

governed by these rules and who may act as the presiding officer. The hearing officer cannot be an employee of the Department. (3-15-02)

09. Idaho Administrative Bulletin. The Idaho Administrative Bulletin established in Chapter 52, Title 67, Idaho Code. (3-15-02)

10. Order. An agency action of particular applicability that determines the legal rights, duties, privileges, immunities, or other legal interests of one (1) or more specific persons. (3-15-02)

11. Party. Each person or agency named or admitted as a party. A party to a contested case shall be one (1) of the following: (3-15-02)

a. Petitioner. Any person aggrieved by an action or inaction of the Department who files, in accordance with these rules and Section 39-107, Idaho Code, a written petition for a determination of or appeal of his rights, duties, licenses or interests and any person who files a petition for a declaratory ruling or petition to initiate rulemaking. (3-15-02)

b. Respondent. Any person who responds to a petition filed in accordance with these rules. (3-15-02)

c. Intervenor. Any person, other than the petitioner or respondent, who is permitted to participate as a party pursuant to Sections 350 through 354. (3-15-02)

12. Person. Any individual, partnership, corporation, association, governmental subdivision, department, agency or instrumentality, or public and private organization or entity of any character. (3-15-02)

13. Petition. Pleadings initiating a contested case, rulemaking, or declaratory ruling, or to intervene filed in accordance with these rules. (3-15-02)

14. Pleadings. All documents filed by any party in a contested case proceeding. (3-15-02)

15. Presiding Officer(s). One (1) or more members of the Board or a duly appointed hearing officer. When more than one (1) officer sits at hearing, they may all jointly be presiding officers or may designate one (1) of them to be the presiding officer. (3-15-02)

011. LIBERAL CONSTRUCTION.
The rules in this chapter will be liberally construed to secure just, speedy and economical determination of all issues presented to the agency. Unless required by statute, or otherwise expressly provided in these rules or order of the presiding officer, the Idaho Rules of Civil Procedure and the Idaho Rules of Evidence do not apply to contested case proceedings conducted before the agency. (3-15-02)

012. IDENTIFICATION OF PLEADINGS.
Parties' pleadings addressing or pertaining to a given proceeding should be written under that proceeding's case caption and case number, if applicable. (3-15-02)

013. COMPUTATION OF TIME.
In computing any period of time prescribed or allowed by these rules or by order of the presiding officer, the date of the act, event, or default after which the designated period of time begins to run is not to be included. The last day of the period so computed is to be included, unless it is a Saturday, a Sunday or a legal holiday, in which event the period runs until the end of the next day which is neither a Saturday, a Sunday nor a holiday. When the period of time prescribed or allowed is less than seven (7) days, intermediate Saturdays, Sundays and holidays are excluded in the computation. (3-15-02)

014. -- 042. (RESERVED)

043. RULES GOVERNING DECLARATORY RULING AND CONTESTED CASE PROCEEDINGS.
Sections 043 through 048 establish provisions governing declaratory ruling and contested case proceedings. (3-15-02)

044. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES.
The initial pleading of each party to a contested case and declaratory ruling must name the party's representative(s) for service and state the representative's(s') address(es) for purposes of receipt of all official documents. No more than two (2) representatives for service of documents may be listed in an initial pleading. Service of documents on the named representative(s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the person signing the pleading will be considered the party's representative. If an initial pleading is signed by more than one (1) person without identifying the representative(s) for service of documents, the presiding officer may select the person(s) upon whom documents are to be served. If two (2) or more parties or persons file identical or substantially like initial pleadings, the presiding officer may limit the number of parties or persons required to be served with official documents in order to expedite the proceeding and reasonably manage the burden of service upon the parties. (3-15-02)

045. REPRESENTATION OF PARTIES.

01. Appearances and Representation. Unless otherwise authorized or required by law, appearances and representation of parties or other persons at contested case or declaratory ruling proceedings must be as follows: (3-15-02)

a. Natural Person. A natural person may represent himself or herself or be represented by an attorney or, if the person lacks full legal capacity to act for himself or herself, then by a legal guardian or guardian ad litem or representative of an estate. (3-15-02)

b. A general partnership may be represented by a partner or an attorney. (3-15-02)

c. A corporation, or any other business entity other than a general partnership, shall be represented by an attorney. (3-15-02)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization shall be represented by an attorney. (3-15-02)

e. A state, federal or tribal governmental entity or agency shall be represented by an attorney. (3-15-02)

02. Representation. The representatives of parties at a hearing, and no other persons or parties, are entitled to examine witnesses and make or argue motions. (3-15-02)

046. (RESERVED)

047. PUBLIC NOTICE OF PETITION FOR CONTESTED CASE AND DECLARATORY RULING.
Within fourteen (14) days of the date a petition for contested case or declaratory ruling is filed with the Board, the Board shall give reasonable notice to the public. The methods for giving notice shall include, at a minimum, the following: (3-20-04)

01. Publication. Publishing a one-time legal notice in the newspaper of general circulation in the county in which the petitioner resides or in which the facility or other subject of the petition is located. The legal notice shall describe the nature of the action initiated by the filing of the petition and shall include the date the petition was filed, the date by which petitions to intervene must be filed, and a method by which interested persons can obtain a copy of the petition. (3-20-04)

02. Mail. Mailing a copy of the legal notice prepared in accordance with Subsection 047.01 to persons on any mailing list developed by the Department relating to the subject matter of the petition for contested case or declaratory ruling. (3-20-04)

048. SUBSTITUTION OF REPRESENTATIVE -- WITHDRAWAL OF REPRESENTATIVE.
A party's representative may be changed and a new representative may be substituted by notice to all parties so long as the proceedings are not unreasonably delayed. The presiding officer may permit substitution of representatives at

the hearing in the presiding officer's discretion. Persons representing a party who wish to withdraw their representation of a party in a proceeding must immediately file a motion to withdraw representation and serve that motion on the party represented and all other parties. (3-15-02)

049. RULES GOVERNING DECLARATORY RULING PROCEEDINGS.
Sections 049 through 052 establish provisions governing declaratory ruling proceedings. (3-15-02)

050. FORM AND CONTENTS OF PETITION FOR DECLARATORY RULINGS.
Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the Department must comply with this rule. (3-15-02)

01. Form. The petition shall: (3-15-02)

a. Identify the petitioner and state the petitioner's interest in the matter; (3-15-02)

b. State the declaratory ruling that the petitioner seeks; and (3-15-02)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition. (3-15-02)

02. Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-15-02)

03. Filing. The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. (3-20-04)

051. (RESERVED)

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

01. Final Agency Action. The Board's decision on a petition for declaratory ruling on the applicability of any statute, rule or order administered by the Department is a declaratory ruling and a final agency action within the meaning of Section 67-5255, Idaho Code. (3-15-02)

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

a. This is a final agency action issuing a declaratory ruling. (3-15-02)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any person aggrieved by this declaratory ruling may appeal to district court by filing a petition for judicial review in the District Court in the county in which: (4-7-11)

i. A hearing was held; (3-15-02)

ii. The declaratory ruling was issued; (3-15-02)

iii. The party seeking review resides, or operates its principal place of business in Idaho; or (4-7-11)

iv. The real property or personal property that was the subject of the declaratory ruling is located. (3-15-02)

c. The petition for judicial review must be filed within twenty-eight (28) days of the service date of the declaratory ruling. See Section 67-5273, Idaho Code. (4-7-11)

053. -- 098. (RESERVED)

099. RULES GOVERNING CONTESTED CASE PROCEEDINGS.
Sections 099 through 791 establish provisions governing contested case proceedings. (3-15-02)

100. TIME PERIOD FOR FILING PETITION TO INITIATE CONTESTED CASE.
The individual program rules for time limitations within which certain actions must be taken or documents filed shall be followed. In the event there is no provision in the Idaho Code or other specific rule, an aggrieved person shall have thirty-five (35) days from the date of the action or inaction of the Department to file a petition initiating a contested case. (3-15-02)

101. DEPARTMENT ACTION NOT STAYED.
An action or inaction of the Department, or any portion thereof, which is the subject of a proceeding governed by these rules, is not stayed unless, upon a motion filed by a party, it is so ordered by the presiding officer. This section does not apply to Department action governed by Section 67-5254(1), Idaho Code. The stay may be ordered upon appropriate terms. (3-20-04)

102. PETITIONER HAS BURDEN OF PROOF.
Unless otherwise provided by statute, the petitioner in a contested case has the burden of proving by a preponderance of the evidence, the allegations in the petition. (3-15-02)

103. DISMISSAL OF INACTIVE CONTESTED CASES.
In the absence of a showing of good cause for retention, any contested case in which no action has been taken for a period of six (6) months shall be dismissed. At least fourteen (14) days prior to such dismissal, the notice of the pending dismissal shall be served on all parties by mailing the notice to the last known addresses most likely to give notice to the parties. (3-15-02)

104. -- 206. (RESERVED)

207. CONDUCT REQUIRED.
Representatives of parties and parties appearing in a proceeding must conduct themselves in an ethical and courteous manner. (3-15-02)

208. TAKING OF APPEARANCES -- PARTICIPATION BY DEPARTMENT STAFF.
The presiding officer at a formal hearing or prehearing conference will take appearances to identify the representatives of all parties or other persons. In all proceedings in which the department staff will participate, or any report or recommendation of the department staff will be considered or used in reaching a decision, at the timely request of any party the department staff must appear at any hearing and be available for cross-examination. (3-15-02)

209. RESERVED.

210. PLEADINGS IN CONTESTED CASES LISTED -- MISCELLANEOUS.
Pleadings in contested cases may include petitions, responses, motions, and objections. Affidavits may also be filed. A party's initial pleading in any proceeding must comply with Section 044. All pleadings filed during the proceeding must be filed in accordance with Sections 008 and 300 through 302. A party may adopt or join in any other party's pleading. Two (2) or more separately stated grounds, claims or answers concerning the same subject matter may be included in one (1) pleading. (3-15-02)

211. PETITIONS TO INITIATE CONTESTED CASE -- DEFINED -- FORM AND CONTENTS.

01. Defined. The pleading inititating a contested case is called a “petition.” (3-15-02)

02. Form and Contents. The form and contents of a petition initiating contested cases shall: (3-15-02)

a. Fully state the facts upon which it is based, including the specific alleged action or inaction of the Department; (3-15-02)

b. Refer to the particular provisions of statute, rule, order or other controlling law upon which it is based; (3-15-02)

c. State the relief sought; and (3-15-02)

d. State the name of the person petitioned against (the respondent), if any. (3-15-02)

e. State the basis for the petitioner's legal standing to initiate the contested case. (3-15-02)

03. Filing. The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. (3-20-04)

212. RESPONSES IN CONTESTED CASES -- DEFINED -- FORM AND CONTENTS.

01. Defined. The pleading filed by the respondent in response to the petition initiating the contested case is called a "response." (3-15-02)

02. Form and Contents. The form and contents of a response to a petition initiating a contested case shall: (3-15-02)

a. Separately admit or deny to each factual averment in the petition; (3-15-02)

b. Separately admit or deny the applicability of each legal authority asserted in the petition; (3-15-02)

c. Fully state any additional facts necessary to decision of the contested case; (3-15-02)

d. Refer to any additional provisions of statute, rule, order or other controlling law upon which it is based; and (3-15-02)

e. State the relief sought. (3-15-02)

03. Filing and Service. Responses to petitions must be filed and served on all parties of record within twenty-one (21) days after service of the petition, unless an order or stipulation modifies the time within which a response may be made, or a motion to dismiss is filed within twenty-one (21) days. When a response is not timely filed under this rule, the presiding officer may enter a default order pursuant to Sections 700 through 702. (3-20-04)

213. MOTIONS -- DEFINED -- FORM AND CONTENTS.

01. Defined. All pleadings requesting the Board or presiding officer to take any action in a contested case, except petitions, are called "motions." Motions include, but are not limited to, those allowed by the Idaho Rules of Civil Procedure. (3-15-02)

02. Procedure on Prehearing Motions. The presiding officer may consider and decide prehearing motions with or without oral argument or hearing. If oral argument or hearing on a motion is requested and denied, the presiding officer must state the grounds for denying the request. Unless otherwise provided by the presiding officer, motions for summary judgment shall be governed by the Idaho Rules of Civil Procedure, including the form, standard for determining, procedure and time frames for filing and responding. For any other motion, unless otherwise provided by the presiding officer, when a motion has been filed, all parties seeking similar substantive or procedural relief must join in the motion or file a similar motion within seven (7) days after receiving the original motion. The party(ies) responding to the motion(s) will have fourteen (14) days to respond. The presiding officer may allow an opportunity for the movant to file a reply brief. (3-15-02)

214. -- 299. (RESERVED)

300. FORM OF PLEADINGS.

01. Pleadings. All pleadings, except those on agency forms, submitted by a party and intended to be

part of an agency record should: (3-15-02)

a. Be submitted on white eight and one-half inch (8 1/2") by eleven inch (11") paper copied on one (1) side only; (3-15-02)

b. State the case caption, case number, if applicable, and title of the document; (3-15-02)

c. Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and (3-15-02)

d. Have at least one inch (1") left and top margins. (3-15-02)

02. Form. Documents complying with this rule will be in the following form:

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative for (Name of Party)

BEFORE THE BOARD OF ENVIRONMENTAL QUALITY

(Title of Proceeding) (CASE NO.)
)
) (TITLE OF DOCUMENT)
)

(3-15-02)

301. (RESERVED)

302. PROOF OF SERVICE.
Every document meeting the requirements for service set out in Section 008 must be attached to or accompanied by proof of service by the following or similar certificate:

I hereby certify that on this (insert date), a true and correct copy of the foregoing (insert name of document) was served on the following as indicated below:
(insert names and addresses of parties and method of delivery (first class U.S. mail, facsimile, hand-delivery, or overnight express))
(Signature) (3-15-02)

303. DEFECTIVE, INSUFFICIENT OR UNTIMELY PLEADINGS.
Defective, insufficient or untimely pleadings shall not be considered unless the presiding officer determines that good cause exists, but the presiding officer shall not consider a petition that is filed outside the time limit set forth in Section 100 unless all parties agree to the tolling of the time limit. (4-7-11)

304. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS.
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties will be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. (3-15-02)

305. -- 349. (RESERVED)

350. INTERVENTION.

Persons not petitioners or respondents to a proceeding who claim a direct and substantial interest in the proceeding may petition for an order from the presiding officer granting intervention to become a party. (3-15-02)

351. FORM AND CONTENTS OF PETITIONS TO INTERVENE.
Petitions to intervene must comply with Sections 008, 044, and 300. The petition must set forth the name and address of the potential intervenor, state the direct and substantial interest of the potential intervenor in the proceeding, and state briefly why the intervention would not unduly broaden the issues and cause delay or prejudice to the parties. If affirmative relief is sought, the petition must state the relief sought and the basis for granting it. (3-20-04)

352. TIMELY FILING OF PETITIONS TO INTERVENE.

01. General. Petitions to intervene must be filed within fourteen (14) days of publication of the notice of filing of the petition initiating a contested case or declaratory ruling as provided in Section 047 unless a different time is provided by order or notice. (3-20-04)

02. Proceedings Involving a Permit. In any proceeding involving a permit, petitions to intervene by the permit applicant or permit holder must be filed within twenty-one (21) days after service of the initiating petition as provided in Subsection 008.01.b. (3-15-02)

03. Petitions Not Timely Filed. Petitions not timely filed must state a substantial reason for delay. The presiding officer may deny or conditionally grant petitions to intervene that are not timely filed for failure to state good cause for untimely filing, to prevent disruption, prejudice to existing parties or undue broadening of the issues, or for other reasons. Intervenors are bound by orders and notices entered earlier in the proceeding. (3-15-02)

353. OBJECTIONS TO PETITIONS TO INTERVENE.
Any party opposing a petition to intervene, must file the objection within seven (7) days after receipt of the petition to intervene and serve the objection upon all parties of record and upon the person petitioning to intervene. Responses shall be filed within seven (7) days after service of the objection. (4-7-11)

354. GRANTING PETITIONS TO INTERVENE.

01, General. If a petition to intervene shows direct and substantial interest in any part of the subject matter of a proceeding, does not unduly broaden the issues, and will not cause delay or prejudice to the parties, the presiding officer may grant intervention, subject to reasonable conditions. In addition, upon timely filing of a petition in accordance with Subsection 352.02, a permit applicant or permit holder may intervene as a matter of right in any contested case in which the permit is contested. (4-7-11)

02. Intervenor Response. Within fourteen (14) days of the service date of the order granting the petition to intervene, the intervenor shall file a response to the petition initiating the contested case. The response shall be in the form and content set out in Subsection 212.02. (4-7-11)

355. REVIEW OF ORDERS GRANTING OR DENYING INTERVENTION.
Any party may petition the Board to review an order granting or denying intervention. Petitions for review shall be filed within fourteen (14) days of the service date of the order. Responses shall be filed within fourteen (14) days after service of the petition for review. The Board may schedule oral argument in the matter before issuing a decision. (4-7-11)

356. -- 409. (RESERVED)

410. BOARD MEMBERS AS PRESIDING OFFICERS, APPOINTMENT OF HEARING OFFICERS -- NOTICE.
One (1) or more members of the Board may act as the presiding officer in a contested case. The Board may appoint a hearing officer to act as the presiding officer on behalf of the Board. Hearing officers may be (but need not be) attorneys. Hearing officers who are not attorneys should ordinarily be persons with technical expertise or experience in issues before the Board. The hearing coordinator shall administer the appointment of the hearing officer. Notice of appointment of a hearing officer and notice of those Board members who will act as presiding officers shall be served on all parties. (3-15-02)

411. (RESERVED)

412. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.
Presiding officers, including hearing officers appointed by the Board, may be disqualified as provided in Section 67-5252, Idaho Code. (3-15-02)

413. SCOPE OF AUTHORITY OF PRESIDING OFFICERS.
Unless the Board otherwise provides, presiding officers have the following authority: (3-15-02)

01. Authority to Schedule Cases. Authority to schedule cases, including authority to issue notices of prehearing conference and of hearing, as appropriate; (3-15-02)

02. Authority to Schedule and Compel Discovery. Authority to schedule, limit or compel discovery and to require advance filing of expert testimony; (3-15-02)

03. Authority to Preside at Hearings. Authority to preside at and conduct hearings, accept evidence into the record, rule upon objections to evidence, and otherwise oversee the orderly presentations of the parties at hearing; and (3-15-02)

04. Authority to Issue a Written Decision. Authority to issue a written decision, including a narrative of the proceedings before the presiding officer and findings of fact, conclusions of law, and preliminary or recommended orders. (3-15-02)

414. (RESERVED)

415. CHALLENGES TO STATUTES.
A presiding officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute or rule unconstitutional and the presiding officer finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the presiding officer, then the presiding officer shall decide the proceeding in accordance with the precedent of the court. (3-15-02)

416. REVIEW OF RULES.
When an order is issued by the Board in a contested case, the order may consider and decide whether a rule is within the Board's substantive rulemaking authority. The Board may also review whether a rule has been promulgated according to proper procedure, if noncompliance with procedural requirements is raised within the time limits set forth in Section 67-5231, Idaho Code. The Board may delegate to a presiding officer the authority to recommend a decision on issues of whether a rule is within the Board's substantive rulemaking authority or whether the rule has been promulgated according to proper procedure or may retain all such authority itself. (3-15-02)

417. EX PARTE COMMUNICATIONS.
Unless required for the disposition of a matter specifically authorized by statute to be done ex parte, a presiding officer serving in a contested case shall not communicate, directly or indirectly, regarding any substantive issue in the contested case with any party, except upon notice and opportunity for all parties to participate in the communication. The presiding officer may communicate ex parte with a party concerning procedural matters (e.g., scheduling). When a presiding officer becomes aware of a written ex parte communication regarding any substantive issue from a party or representative of a party during a contested case, the presiding officer shall place a copy of the communication in the file for the case and order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (3-15-02)

418. -- 509. (RESERVED)

510. PREHEARING CONFERENCE.

01. Prehearing Conference. As soon as reasonably possible after the Department files its response to

the petition for contested case, the presiding officer shall, upon written or other sufficient notice to all parties, hold a prehearing conference for the following purposes: (3-15-02)

a. To determine deadlines for the information exchange required by Section 540, other discovery if allowed and prehearing motions. The presiding officer shall attempt to set deadlines and a schedule that results in a preliminary or recommended order within one hundred eighty (180) days of the date the petition is filed. (3-15-02)

b. To determine limits, if any, on other discovery if allowed, including without limitation, limits on the number of depositions or discovery requests and the areas of inquiry. (3-15-02)

c. To formulate or simplify the issues; (3-15-02)

d. To obtain admissions or stipulations of fact and of documents; (3-15-02)

e. To arrange for exchange of proposed exhibits or prepared expert testimony; (3-15-02)

f. To limit the number of witnesses; (3-15-02)

g. To determine the procedure at the hearing; and (3-15-02)

h. To determine any other matters which may expedite the orderly conduct and disposition of the proceeding. (3-15-02)

02. Additional Prehearing Conferences. Additional prehearing conferences may be held, to address any of the issues listed in Subsection 510.01, at the request of any party or at the presiding officer's own initiative, if the presiding officer determines additional prehearing conferences would be useful. (3-15-02)

511. RECORD OF CONFERENCE.
Prehearing conferences may be held formally (on the record) or informally (off the record). Agreements by the parties to the conference may be put on the record during formal conferences and shall be reduced to writing and filed with the hearing coordinator after formal or informal conferences. (3-15-02)

512. ORDERS RESULTING FROM PREHEARING CONFERENCE.
The presiding officer shall issue a prehearing order or notice based upon the results of the agreements reached at or rulings made at a prehearing conference. A prehearing order will control the course of subsequent proceedings unless modified by the presiding officer for good cause. (3-15-02)

513. -- 528. (RESERVED)

529. EXHIBIT NUMBERS.
The presiding officer assigns exhibit numbers to each party. (3-15-02)

530. -- 539. (RESERVED)

540. EXCHANGE OF INFORMATION, OTHER DISCOVERY.

01. Information Exchange. In accordance with the prehearing order issued by the presiding officer pursuant to Section 512, each party shall file and serve on all other parties an information exchange document. Documents and exhibits identified in the information exchange document shall be exchanged by the parties in accordance with the prehearing order but, unless otherwise determined by the presiding officer, need not be filed. The information exchange document shall include the following: (3-15-02)

a. The names of any experts or other witnesses intended to be called at the hearing, together with a brief narrative summary of their expected testimony, or a statement that no witnesses will be called; and (3-15-02)

b. A description of all documents and exhibits intended to be introduced into evidence at the hearing; and (3-15-02)

c. An identification of any expert reports and prepared testimony; and (3-15-02)

d. A list of all persons with specific knowledge regarding disputed issues of material fact asserted in the petition or the response to the petition. (3-15-02)

02. Additional Discovery. Discovery in addition to the information exchange provided for in Subsection 540.01 may be allowed by the presiding officer in the prehearing order or in response to a motion by any party. In determining whether to allow additional discovery, the presiding officer shall consider the following: (3-15-02)

a. Whether the discovery will unreasonably delay the proceeding or unreasonably burden other persons or parties; (3-15-02)

b. Whether the information sought is most reasonably obtained from the party or person to whom it is directed and that party or person has refused to provide the information voluntarily; (3-15-02)

c. Whether the information sought has significant probative value on a disputed issue of material fact relevant to the contested case. (3-15-02)

03. Scope of Additional Discovery Allowed. If additional discovery is allowed, unless otherwise expressly provided in these rules or order of the presiding officer, the scope and methods of discovery are governed by the Idaho Rules of Civil Procedure. (3-15-02)

04. Supplementation of Information Exchange and Discovery. A party who has made an information exchange or who has exchanged information in response to a request for information or a discovery order, shall promptly supplement or correct the exchange when the party learns that the information exchanged or response provided is incomplete, inaccurate or outdated, and the additional or corrected information has not otherwise been disclosed to the other party. (3-15-02)

541. SUBPOENAS.

Pursuant to Section 39-107(3), Idaho Code, the presiding officer shall have the power to issue subpoenas for the attendance of witnesses and the production of papers, books, accounts, documents and testimony. The presiding officer may, if a witness refuses to attend or testify, or to produce any papers required by such subpoenas, report to the district court in and for the county in which the proceeding is pending, by petition, setting forth that due notice has been given of the time and place of attendance of said witnesses, or the production of said papers, that the witness has been properly summoned, and that the witness has failed and refused to attend or produce the papers required by this subpoena before the presiding officer, or has refused to answer questions propounded to him in the course of said proceedings, and ask an order of said court compelling the witness to attend and testify and produce said papers before the presiding officer. The court, upon the petition of the presiding officer, shall enter an order directing the witness to appear before the court at a time and place to be fixed by the court in such order, the time to be not more than ten (10) days from the date of the order, and then and there shall show cause why he has not attended and testified or produced said papers before the presiding officer. A copy of said order shall be served upon said witness. If it shall appear to the court that said subpoena was regularly issued by the presiding officer and regularly served, the court shall thereupon order that said witness appear before the presiding officer at the time and place fixed in said order, and testify or produce the required papers. Upon failure to obey said order, said witness shall be dealt with for contempt of court. (3-15-02)

542. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS.

Discovery requests and responses thereto shall not be filed with the hearing coordinator. The party serving discovery requests or responses thereto shall file with the hearing coordinator a notice of when the discovery requests or responses were served and upon whom. (3-15-02)

543. DEPOSITIONS, PREPARED TESTIMONY AND EXHIBITS.

Unless otherwise specified in an order pursuant to Section 512, all parties shall serve on all other parties any depositions, prepared expert testimony and/or exhibits to be presented at hearing not later than seven (7) days prior to the hearing. Assigned exhibits numbers should be used in all prepared testimony. (3-15-02)

544. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.
The presiding officer may impose all sanctions recognized by statute or rules for failure to comply with an order compelling discovery. (3-15-02)

545. PROTECTIVE ORDERS.

01. General Authority. The presiding officer may issue protective orders limiting access to information generated or requested during settlement negotiations, discovery, or hearing, including but not limited to orders to protect a party or person from annoyance, embarrassment, oppression or undue burden or expense, orders to avoid an unreasonable delay in the proceedings, or orders to limit discovery of information that has no significant probative value on a disputed issue of material fact relevant to the contested case. (3-15-02)

02. Trade Secrets and Other Confidential Information. Upon motion by a party or by the person from whom discovery is sought, and for good cause shown, the presiding officer may issue an order to protect trade secrets that are to be held confidential as provided in Section 9-342A, Idaho Code, or other confidential research, development or commercial information. The order may include, but need not be limited to, requirements that the trade secrets or other confidential information not be disclosed or be disclosed only in a designated way. The presiding officer's decision regarding a motion for such a protective order is an interlocutory or intermediate agency action that may be immediately reviewable in district court under Section 790 of these rules and Section 67-5271, Idaho Code. (3-15-02)

03. In Camera Review. The presiding officer may review information that is the subject of a motion for a protective order without the presence of parties or persons to whom access to the information has been requested to be limited. (3-15-02)

546. -- 549. (RESERVED)

550. NOTICE OF HEARING.

01. Form and Content. All parties in a contested case proceeding shall receive notice that shall include: (3-15-02)

a. A statement of the time, place and nature of the hearing; (3-15-02)

b. A statement of the legal authority under which the hearing is to be held; (3-15-02)

c. A short and plain statement of the matters asserted or the issues involved; and (3-15-02)

d. A statement that the hearing will be conducted in a facility meeting the accessibility requirements of the Americans with Disabilities Act and that assistance can be provided upon request to the hearing coordinator at least seven (7) days before the date set for hearing. (3-15-02)

02. Time for Service. The Notice of Hearing shall be served on all parties at least fourteen (14) days before the date set for hearing, unless the presiding officer finds by order that it is necessary or appropriate that the hearing be held earlier. (3-15-02)

551. HOW HEARINGS HELD.
Hearings may be held in person or by telephone or television or other electronic means if each participant in the hearing has an opportunity to participate in the entire proceeding while it is taking place. (3-15-02)

552. LOCATION OF HEARINGS AND ADA REQUIREMENTS.
All hearings concerning actions governed by these rules shall be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, shall be open to the public, and shall be held in a location reasonably convenient to all parties to the proceeding. The location shall be arranged by the hearing coordinator. (3-15-02)

553. CONFERENCE AT HEARING.
In any proceeding the presiding officer may convene the parties before the hearing or recess the hearing to discuss formulation or simplification of the issues, admissions of fact or identification of documents to avoid unnecessary proof, exchanges of documents, exhibits or prepared testimony, limitation of witnesses, establishment of order of procedure, and other matters that may expedite orderly conduct of the hearing. The presiding officer shall state the results of the conference on the record. (3-15-02)

554. PRELIMINARY PROCEDURE AT HEARING.
Before taking evidence, the presiding officer will call the hearing to order, take appearances of parties, and act upon any pending motions or petitions. The presiding officer may allow opening statements as necessary or appropriate to explain a party's presentation. (3-15-02)

555. CONSOLIDATION OF PROCEEDINGS.
The presiding officer may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings, the presiding officer determines the order of the proceeding. (3-15-02)

556. STIPULATIONS.
Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The presiding officer may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The presiding officer is not bound to adopt a stipulation of the parties, but may do so. If the presiding officer rejects a stipulation, it will do so before issuing a final order, and it will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. (3-15-02)

557. ORDER OF PROCEDURE.
The presiding officer may determine the order of presentation of witnesses and examination of witnesses. Unless otherwise determined by the presiding officer, the petitioner shall present its case first, followed by the respondent's case. (3-15-02)

558. TESTIMONY UNDER OATH.
All testimony presented at hearings will be given under oath or affirmation. (3-15-02)

559. PARTIES AND PERSONS WITH SIMILAR INTERESTS.
If two (2) or more parties or persons have substantially like interests or positions, to expedite the proceeding and avoid duplication, the presiding officer may limit the number of them who testify, examine witnesses, or make and argue motions and objections. (3-15-02)

560. CONTINUANCE OF HEARING.
The presiding officer may continue proceedings for further hearing for good cause shown. (3-15-02)

561. ORAL ARGUMENT.
The presiding officer may set and hear oral argument on any matter in the contested case on reasonable notice according to the circumstances. (3-15-02)

562. BRIEFS -- MEMORANDA -- PROPOSED ORDERS OF THE PARTIES -- STATEMENTS OF POSITION.
In any contested case, any party may ask to file briefs, memoranda, proposed orders or statements of position, and the presiding officer may request briefs, proposed orders, or statements of position. (3-15-02)

563. -- 599. (RESERVED)

600. RULES OF EVIDENCE -- EVALUATION OF EVIDENCE.
The presiding officer at hearing is not bound by the Idaho Rules of Evidence. No informality in any proceeding or in the manner of taking testimony invalidates any order. The presiding officer, with or without objection, may exclude evidence that is irrelevant, unduly repetitious, inadmissible on constitutional or statutory grounds, or on the basis of

any evidentiary privilege provided by statute or recognized in the courts of Idaho. All other evidence may be admitted. The Department's experience, technical competence and specialized knowledge may be used in evaluation of evidence. (3-15-02)

601. DOCUMENTARY EVIDENCE.
Documentary evidence may be received in the form of copies or excerpts. Upon request, parties shall be given an opportunity to compare the copy with the original if available. To be admissible, document copies must be authentic. (3-15-02)

602. OFFICIAL NOTICE -- DEPARTMENT STAFF MEMORANDA.
Official notice may be taken of any facts that could be judicially noticed in the courts of Idaho and generally recognized technical or scientific facts within the Department's specialized knowledge. Parties shall be notified of the specific facts or material noticed and the source thereof, including any staff memoranda and data. Notice should be provided either before or during the hearing, and must be provided before the issuance of any order that is based in whole or in part on facts or material noticed. Parties must be afforded a timely and meaningful opportunity to contest and rebut the facts or material so noticed. When the presiding officer proposes to notice staff memoranda or reports, a responsible staff member shall be made available for cross-examination if any party so requests. (3-15-02)

603. DEPOSITIONS.
Depositions may be offered into evidence. (3-15-02)

604. OBJECTIONS -- OFFERS OF PROOF.
Grounds for objection to the admission or exclusion of evidence must be stated briefly at the time the evidence is offered. An offer of proof for the record consists of a statement of the substance of the excluded evidence. When a party objects to the admission of evidence, the presiding officer will rule on the objection. (3-15-02)

605. PREPARED TESTIMONY.
The presiding officer may order a witness's prepared testimony previously distributed to all parties to be included in the record of hearing as if read. Admissibility of prepared testimony is subject to Section 600. Upon request of any party, the witness shall be available for cross-examination on the prepared testimony. (3-15-02)

606. EXHIBITS.
Unless already provided before the hearing in accordance with these rules, a copy of each documentary exhibit must be furnished to each party present and to the presiding officer. Copies must be of good quality. Exhibits offered at hearing are subject to appropriate and timely objection. Exhibits to which no objection is made are automatically admitted into evidence unless otherwise excluded by the presiding officer under Section 600. (3-15-02)

607. -- 609. (RESERVED)

610. CONFIDENTIALITY OF SETTLEMENT NEGOTIATIONS.
Evidence of furnishing, offering, or promising to furnish, or accepting, offering, or promising to accept, a valuable consideration in compromising or attempting to compromise a claim which was disputed as to either validity or amount, is not admissible to prove liability for, invalidity of, or amount of the claim or any other claim. Evidence of conduct or statements made in compromise negotiations is likewise not admissible. This section does not require the exclusion of any evidence otherwise discoverable merely because it is presented in the course of compromise negotiations. This section does not require exclusion if the evidence is offered for another purpose, such as proving bias or prejudice of a witness or negating a contention of undue delay. Compromise negotiations encompass mediation. (3-15-02)

611. SUGGESTION FOR OR INQUIRY ABOUT SETTLEMENTS.
Through notice or order or on the record at prehearing conference or hearing, the presiding officer may inquire of the parties in any proceeding whether settlement negotiations are in progress or are contemplated or may invite settlement of an entire proceeding or certain issues. (3-15-02)

612. CONSIDERATION OF SETTLEMENTS.
When one (1) or more parties to a proceeding is not a party to the settlement or when the settlement presents issues of significant implication for other persons, the settlement agreement shall be presented to the presiding officer for

approval. The presiding officer may hold an evidentiary hearing to consider the reasonableness of the settlement and whether acceptance of the settlement is consistent with the Board's charge under the law. (3-15-02)

613. BURDENS OF PROOF REGARDING SETTLEMENTS.
Proponents of a proposed settlement carry the burden of showing that the settlement is in accordance with the law. The presiding officer may require the development of an appropriate record in support of or opposition to a proposed settlement as a condition of accepting or rejecting the settlement. (3-15-02)

614. SETTLEMENT NOT BINDING.
The presiding officer is not bound by settlement agreements that are not unanimously accepted by all parties or that have significant implications for persons not parties. In these instances, the presiding officer will independently review any proposed settlement to determine whether the settlement is in accordance with the law. (3-15-02)

615. -- 649. (RESERVED)

650. RECORD FOR DECISION.

01. Official Record. The Board shall maintain an official record for each contested case and (unless a statute provides otherwise) base its decision in a contested case on the official record for the case. (3-15-02)

02. Contents of Record. The record for a contested case shall include: (3-15-02)

a. All notices of proceedings; (3-15-02)

b. All petitions, responses, motions, and objections filed in the proceeding; (3-15-02)

c. All intermediate or interlocutory rulings of the presiding officer; (3-15-02)

d. All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); (3-15-02)

e. All offers of proof, however made; (3-15-02)

f. All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties; (3-15-02)

g. All evidentiary rulings on testimony, exhibits, or offers of proof; (3-15-02)

h. All staff memoranda or data submitted in connection with the consideration of the proceeding; (3-15-02)

i. A statement of matters officially noticed; and (3-15-02)

j. All preliminary orders and final orders. (3-15-02)

651. RECORDING OF HEARINGS.
All hearings shall be recorded by a certified court reporter and transcribed at the Department's expense. Any party may have a copy of the transcript prepared at its own expense. (3-15-02)

652. -- 699. (RESERVED)

700. NOTICE OF PROPOSED DEFAULT ORDER.
If a party fails to appear at the time and place set for hearing or fails to timely file a response as set out in Section 212, the presiding officer may serve upon all parties a notice of proposed default order. The notice shall include a statement of the grounds for the proposed order. (3-15-02)

701. FOURTEEN DAYS TO RESPOND TO PROPOSED DEFAULT ORDER.

Within fourteen (14) days after service of the notice of proposed default order, the party against whom it was issued may file a written petition requesting the proposed order to be vacated. The petition shall state the grounds relied upon. (3-15-02)

702. DEFAULT ORDER.
The presiding officer shall either issue or vacate the default order promptly after the expiration of the time within which the party may file a petition as provided in Section 701. If the presiding officer issues a default order, the officer shall conduct any further proceedings necessary to complete the adjudication without the participation of the party in default and shall determine all issues in the adjudication, including those affecting the defaulting party. (3-15-02)

703. -- 709. (RESERVED)

710. INTERLOCUTORY ORDERS.
Interlocutory orders are orders that do not decide all previously undecided issues presented in a proceeding, except the presiding officer may by order decide some of the issues presented in a proceeding and provide in that order that its decision on those issues is final and subject to review, but is not final on other issues. Unless an order contains or is accompanied by a document containing one (1) of the statements set forth in Sections 730 or 740 or a statement substantially similar, the order is interlocutory. The following orders are always interlocutory: orders joining, consolidating or separating issues, proceedings or parties; orders granting or denying intervention (an order regarding intervention, however, may be reviewed by the Board as provided in Section 355); orders scheduling prehearing conferences, discovery, hearing, oral arguments or deadlines for written submissions; and orders limiting, compelling or refusing to compel discovery. (3-20-04)

711. RECONSIDERATION OF INTERLOCUTORY ORDERS.
Any party may file a motion for reconsideration of an interlocutory order within fourteen (14) days after service of the order. The presiding officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the presiding officer's own motion, but will not on the presiding officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. (3-20-04)

712. -- 719. (RESERVED)

720. RECOMMENDED ORDERS.

01. Definition. Recommended orders are orders issued by the presiding officer that will become a final order of the Board only after review by the Board pursuant to Section 67-5244, Idaho Code. (3-15-02)

02. Content. Every recommended order must include a schedule for review of the order by the Board and must contain or be accompanied by a document containing the following paragraphs or substantially similar paragraphs: (4-7-11)

a. This is a recommended order of the presiding officer. It will not become final without action of the Board. (3-15-02)

b. The Board shall allow all parties an opportunity to file briefs in support or taking exceptions to the recommended order and may schedule oral argument in the matter before issuing a final order. The hearing coordinator shall issue a notice setting out the briefing schedule and date and time for oral argument. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived or extended by the parties or for good cause shown. The Board may hold additional hearings or may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (4-7-11)

03. No Motions for Reconsideration. Motions for reconsideration of any recommended order shall not be considered. (3-15-02)

721. -- 729. (RESERVED)

730. PRELIMINARY ORDERS.

01. Definition. Preliminary orders are orders issued by the presiding officer that will become a final order of the Board unless reviewed by the Board pursuant to Section 67-5245, Idaho Code. (3-15-02)

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

a. This is a preliminary order of the presiding officer. It can and will become final without further action of the Board unless any party appeals to the Board by filing with the hearing coordinator a petition for review of the preliminary order; (4-7-11)

b. Within fourteen (14) days of the service date of this preliminary order, any party may take exceptions to any part of this preliminary order by filing with the hearing coordinator a petition for review of the preliminary order. Otherwise, this preliminary order will become a final order of the Board. The basis for review must be stated in the petition. The Board may review the preliminary order on its own motion. (4-7-11)

c. If any party files a petition for review of the preliminary order, the Board shall allow all parties an opportunity to file briefs in support of or taking exceptions to the preliminary order and may schedule oral argument in the matter before issuing a final order. The hearing coordinator shall issue a notice setting out the briefing schedule and date and time for oral argument. The Board will issue a final order within fifty-six (56) days of receipt of the written briefs or oral argument, whichever is later, unless waived or extended by the parties or for good cause shown. The Board may hold additional hearings or may remand the matter for further evidentiary hearings if further factual development of the record is necessary before issuing a final order. (4-7-11)

d. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, if this preliminary order becomes final, any party aggrieved by the final order or orders previously issued in this case may appeal the final order and all previously issued orders in this case to district court by filing a petition for judicial review in the district court of the county in which: (4-7-11)

i. A hearing was held, (3-15-02)

ii. The final agency action was taken, (3-15-02)

iii. The party seeking review of the order resides, or operates its principal place of business in Idaho, or (3-15-02)

iv. The real property or personal property that was the subject of the agency action is located. (3-15-02)

e. The petition for judicial review must be filed within twenty-eight (28) days of this preliminary order becoming final. See Section 67-5273, Idaho Code. The filing of a petition for judicial review in district court does not itself stay the effectiveness or enforcement of the order under review. (4-7-11)

03. No Motions for Reconsideration. Motions for reconsideration of any preliminary order shall not be considered. (3-15-02)

731. -- 739. (RESERVED)

740. FINAL ORDERS.

01. Definition. Final orders are preliminary orders that have become final under Section 730 pursuant to Section 67-5245, Idaho Code, or orders issued by the Board pursuant to Section 67-5246, Idaho Code. An order shall be considered a final order pursuant to Section 67-5246, Idaho Code, if issued after a decision by the number of Board members necessary to constitute a quorum. Emergency orders issued under Section 67-5247, Idaho Code, shall be designated as final orders if the Board will not issue further orders or conduct further proceedings in the matter.

(3-15-02)

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

a. This is a final order of the Board. (3-15-02)

b. Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition for judicial review in the district court of the county in which: (4-7-11)

i. A hearing was held; (3-15-02)

ii. The final agency action was taken; (3-15-02)

iii. The party seeking review of the order resides, or operates its principal place of business in Idaho; or (3-15-02)

iv. The real property or personal property that was the subject of the agency action is located. (3-15-02)

c. The petition for judicial review must be filed within twenty-eight (28) days of the service date of this final order. See Section 67-5273, Idaho Code. The filing of a petition for judicial review in district court does not itself stay the effectiveness or enforcement of the order under review. (4-7-11)

03. No Motions for Reconsideration. Motions for reconsideration of any final order shall not be considered. (3-15-02)

741. -- 749. (RESERVED)

750. ORDER NOT DESIGNATED.
If an order is not designated as recommended, preliminary or final at its issuance, but is designated as recommended, preliminary or final after its issuance, its effective date for purposes of judicial review is the service date of the order of designation. If a party believes that an order not designated as a recommended order, preliminary order or final order according to the terms of these rules should be designated as a recommended order, preliminary order or final order, the party may move to designate the order as recommended, preliminary or final, as appropriate. (4-7-11)

751. -- 779. (RESERVED)

780. STAY OF ORDERS.
The filing of the petition for review does not itself stay the effectiveness or enforcement of the Board action. The Board may grant, or the reviewing court may order, a stay upon appropriate terms. (3-15-02)

781. -- 789. (RESERVED)

790. RIGHT OF JUDICIAL REVIEW.
Pursuant to Section 67-5270, Idaho Code, any person aggrieved by a final order of the Board in a contested case is entitled to judicial review. Pursuant to Section 67-5271, Idaho Code, a person is not entitled to judicial review of an agency action in district court until that person has exhausted all administrative remedies available with the Board, but a preliminary, procedural, or intermediate agency action or ruling is immediately reviewable in district court if administrative review of the final agency action would not provide an adequate remedy. (4-7-11)

791. PETITION FOR JUDICIAL REVIEW.

01. Filing and Service. The petition for judicial review must be filed with the hearing coordinator as set out in Section 008 and with the district court and served on all parties. Pursuant to Section 39-107(6), Idaho Code, the petition for judicial review shall also be served upon the Chairman of the Board, the Director of the Department,

and upon the Attorney General of the State of Idaho. Pursuant to Section 67-5272, Idaho Code, petitions for judicial review may be filed in the District Court of the county in which: (4-7-11)

a. The hearing was held; (3-15-02)

b. The final agency action was taken; (3-15-02)

c. The party seeking review of the agency action resides; or (3-15-02)

d. The real property or personal property that was the subject of the agency action is located. (3-15-02)

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

792. -- 798. (RESERVED)

799. RULES GOVERNING PROCEEDINGS ON PETITIONS TO INITIATE RULEMAKING.
Sections 799 through 802 establish provisions governing proceedings on petitions to initiate rulemaking. (3-15-02)

800. FORM AND CONTENTS OF PETITION TO INITIATE RULEMAKING.
This rule addresses petitions to initiate rulemaking as described by Section 67-5230, Idaho Code. (3-15-02)

01. Requirement. Any person petitioning for initiation of rulemaking must comply with this rule. (3-15-02)

02. Form and Contents. The form and contents of a petition to initiate rulemaking shall: (3-20-04)

a. Identify the petitioner and state the petitioner's interest(s) in the matter; (3-15-02)

b. Describe the nature of the rule or amendment to the rule urged to be promulgated and the petitioner's suggested rule or amendment; and (3-15-02)

c. Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the proposed rulemaking. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions. (3-15-02)

03. Filing. The petitioner shall file the original and two (2) copies of the petition with the hearing coordinator in accordance with Section 008. (3-20-04)

801. BOARD RESPONSE TO PETITION.

01. Action of Board. The Board shall have until the first regularly scheduled meeting that takes place fourteen (14) or more days after submission of the petition to initiate rulemaking proceedings in accordance with Sections 67-5220 through 67-5225, Idaho Code, and these rules or deny the petition in writing, stating its reasons for the denial. (3-15-02)

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

a. The Board has denied your petition to initiate rulemaking. This denial is a final agency action within the meaning of Section 67-5230, Idaho Code. (3-15-02)

b. Pursuant to Section 67-5270, Idaho Code, any person aggrieved by this final agency action may seek review of the denial to initiate rulemaking by filing a petition for judicial review in the District Court of the county in which: (4-7-11)

i. The hearing was held; (3-15-02)

ii. This final agency action was taken; (3-15-02)

iii. The party seeking review resides, or operates its principal place of business in Idaho; or (3-15-02)

iv. The real property or personal property that was the subject of the denial of the petition for rulemaking is located. (3-15-02)

c. The petition for judicial review must be filed within twenty-eight (28) days of the service date of this denial of the petition to initiate rulemaking. (4-7-11)

802. NOTICE OF INTENT TO INITIATE RULEMAKING CONSTITUTES ACTION ON PETITION.
The Board may initiate rulemaking proceedings in response to a petition to initiate rulemaking by issuing a notice of intent to promulgate rules in accordance with Section 67-5220, Idaho Code, on the subject matter of the petition if it wishes to obtain further comment whether a rule should be proposed or what rule should be proposed. Publication of a notice of intent to promulgate rules satisfies the Board's obligations to take action on the petition and is not a denial of a petition to initiate rulemaking. (3-15-02)

803. -- 999. (RESERVED)

58.01.24 – STANDARDS AND PROCEDURES FOR APPLICATION OF RISK BASED CORRECTIVE ACTION AT PETROLEUM RELEASE SITES

000. LEGAL AUTHORITY.
Chapters 1, 36, 44, 72 and 74, Title 39, Idaho Code grant authority to the Board of Environmental Quality to adopt rules and administer programs to protect public health and the environment, including the protection of surface water, ground water, and drinking water quality. (5-8-09)

001. TITLE, SCOPE AND APPLICABILITY.

01. Title. These rules are titled IDAPA 58.01.24, "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites." (5-8-09)

02. Scope. These rules establish standards and procedures to determine whether and what risk based corrective action measures should be applied to property subject to assessment and cleanup requirements under IDAPA 58.01.02, Sections 851 and 852, "Water Quality Standards," and associated definitions; IDAPA 58.01.11, Subsection 400.05, "Ground Water Quality Rule;" or when assessment and cleanup requirements are incorporated into compliance documents entered into per Chapter 1, Title 39, Idaho Code. Compliance with these rules shall not relieve persons from the obligation to comply with other applicable state or federal laws. These rules do not apply to previously closed sites. The Department will not require any additional evaluation of petroleum sites previously granted closure unless there is a new petroleum release. (5-8-09)

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (5-8-09)

003. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-8-09)

004. INCORPORATION BY REFERENCE.
These rules do not contain documents incorporated by reference. (5-8-09)

005. AVAILABILITY OF REFERENCED MATERIAL.
Documents and data bases referenced within these rules are available at the following locations: (5-8-09)

01. Idaho Risk Evaluation Manual for Petroleum Releases. Idaho Risk Evaluation Manual for Petroleum Releases and subsequent editions, http://www.deq.idaho.gov. (3-29-12)

02. U.S. EPA RAGS. U.S. EPA RAGS, Volume 1, http://www.epa.gov/oswer/riskassessment/policy.htm#5. (5-8-09)

03. U.S. EPA Exposure Factors Handbook. U.S. EPA Exposure Factors Handbook, http://www.epa.gov/ncea/pdfs/efh/front.pdf. (5-8-09)

04. Idaho Source Water Assessment Plan. Idaho Source Water Assessment Plan, http://www.deq.idaho.gov. (5-8-09)

05. EPA Regional Screening Tables. EPA Regional Screening Tables, http://www.epa.gov/reg3hwmd/risk/human/rb-concentration_table/index.htm. (3-29-12)

006. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, (208) 373-0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (5-8-09)

007. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (5-8-09)

008. TABLES.

01. Chemicals of Interest for Various Petroleum Products. The table of chemicals of interest for various petroleum products is available in Section 800 of these rules. (4-11-19)

02. Screening Level Concentrations for Soil, Ground Water, and Soil Vapor. The table of screening level concentrations for soil, ground water, and soil vapor is available in the Idaho Risk Evaluation Manual for Petroleum Releases at www.deq.idaho.gov. (4-11-19)

03. Default Toxicity Values for Risk Evaluation. The table of default toxicity values for risk evaluation is available in the Idaho Risk Evaluation Manual for Petroleum Releases at www.deq.idaho.gov. (4-11-19)

009. ACRONYMS.

01. EPA. The United States Environmental Protection Agency. (5-8-09)

02. PST. Petroleum Storage Tank System. (5-8-09)

03. RAGS. Risk Assessment Guidance for Superfund. (5-8-09)

04. UECA. Uniform Environmental Covenant Act. See definition in Section 010. (5-8-09)

010. DEFINITIONS.
For the purpose of the rules contained in IDAPA 58.01.24, "Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites," the following definitions apply: (5-8-09)

01. Acceptable Target Hazard Index. The summation of the hazard quotients of all chemicals and routes of exposure to which a receptor is exposed and equal to a value of one (1). If the initial value exceeds one (1), further evaluation, including individual organs, can be completed. (5-8-09)

02. Acceptable Target Hazard Quotient. A hazard quotient of 1 for a specified receptor when applied to individual chemicals. (5-8-09)

03. Acceptable Target Risk Level. Acceptable risk level for human exposure to carcinogens. For exposure to individual carcinogens a lifetime excess cancer risk of less than or equal to one per one million (1 E-6) for a receptor at a reasonable maximum exposure. For combined exposure to all carcinogens and routes of exposure, a lifetime excess cancer risk of less than or equal to one per one hundred thousand (1 E-5) for a receptor at a reasonable maximum exposure. (5-8-09)

04. Activity and Use Limitations. Restrictions or obligations, with respect to real property, created by an environmental covenant. Activity and use limitations may include, but are not limited to, land use controls, activity and use restrictions, environmental monitoring requirements, and site access and security measures. Also known as institutional controls. (5-8-09)

05. Background. Media specific concentration of a chemical that is consistently present in the environment in the vicinity of a site which is the result of human activities unrelated to release(s) from that site under investigation. (5-8-09)

06. Board. The Idaho Board of Environmental Quality. (5-8-09)

07. Corrective Action Plan. A document, subject to approval by the Department, which describes the actions and measures that will be implemented to ensure that adequate protection of human health and the environment is achieved and maintained. A corrective action plan also describes the applicable remediation standards. Also may be known as a risk management plan or a remediation workplan. (5-8-09)

08. Delineated Source Water Protection Area. The physical area around a public drinking water supply well or surface water intake identified in an approved Department source water assessment that contributes water to a well (the zone of contribution). The size and shape of the delineated source water area depend on the

delineation method and site specific factors. The area may be mapped as a one thousand (1000) ft. fixed radius around the well (transient public water systems) or divided into three (3), six (6), and ten (10) year time of travel zones (e.g. zones indicating the number of years necessary for a particle of water to reach a well or surface water intake). For the purposes of these rules, where ground water time of travel zones have been delineated, the three (3) year time of travel zone shall apply. Where surface water systems have been delineated, this area includes a five hundred (500) ft. buffer around a lake or reservoir, or a five hundred (500) ft. buffer along the four (4) hour upstream time of travel of streams. See the Idaho Source Water Assessment Plan. (5-8-09)

09. Department. The Idaho Department of Environmental Quality. (5-8-09)

10. Environmental Covenant. As defined in the Uniform Environmental Covenant Act (UECA), Chapter 30, Title 55, Idaho Code, an environmental covenant is a servitude arising under an environmental response project that imposes activity and use limitations. (5-8-09)

11. Exposure Point Concentration. The average concentration of a chemical to which receptors are exposed over a specified duration within a specified geographical area. The exposure point concentration is typically a conservative estimate of the mean. Also referred to as the representative concentration. (5-8-09)

12. Hazard Quotient. The ratio of a dose of a single chemical over a specified time period to a reference dose for that chemical derived for a similar exposure period. (5-8-09)

13. Method Detection Limit. The minimum concentration of a substance that can be reported with ninety-nine percent (99%) confidence is greater than zero. Method detection limits can be operator, method, laboratory, and matrix specific. (5-8-09)

14. Operator. Any person presently or who was at any time during a release in control of, or responsible for, the daily operation of the petroleum storage tank (PST) system. (5-8-09)

15. Owner. Any person who owns or owned a PST system any time during a release and the current owner of the property where the PST system is or was located. (5-8-09)

16. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body, or any legal entity which is recognized by law as the subject of rights and duties. (5-8-09)

17. Petroleum. Crude oil or any fraction thereof that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). This includes petroleum-based substances comprised of a complex blend of hydrocarbons derived from crude oil through processes of separation, conversion, upgrading, and finishing, such as motor fuels, jet fuels, distillate fuel oils, residual fuel oils, and lubricants. (5-8-09)

18. Petroleum Storage Tank (PST) System. Any one (1) or combination of storage tanks or other containers, including pipes connected thereto, dispensing equipment, and other connected ancillary equipment, and stationary or mobile equipment, that contains petroleum or a mixture of petroleum with de minimis quantities of other regulated substances. (5-8-09)

19. Practical Quantitation Limit. The lowest concentration of a chemical that can be reliably quantified among laboratories within specified limits of precision and accuracy for a specific laboratory analytical method during routine laboratory operating conditions. Specified limits of precision and accuracy are the criteria listed in the calibration specifications or quality control specifications of an analytical method. Practical quantitation limits can be operator, method, laboratory, and matrix specific. (5-8-09)

20. Reasonable Maximum Exposure. The highest exposure that can be reasonably expected to occur for a human or other living organism at a site under current and potential future site use. (5-8-09)

21. Reference Dose. For chronic or long-term exposures an estimate of a daily exposure level to a

chemical for the human population, including sensitive subpopulations, that is likely to be without an appreciable risk of deleterious noncarcinogenic effects during a lifetime, expressed in units of milligrams per kilogram body weight per day. (5-8-09)

22. Release. Any spilling, leaking, emitting, discharging, escaping, leaching, or disposing from a PST into soil, ground water, or surface water. (5-8-09)

23. Remediation Standard. A media specific concentration which, when attained, is considered to provide adequate protection of human health and the environment. (5-8-09)

24. Residential Use. Residential use means land uses which include residential or sensitive populations. (5-8-09)

25. Risk Based Concentration.The residual media specific concentration of a chemical that is determined to be protective of human health and the environment under specified exposure conditions. (5-8-09)

26. Risk Evaluation. The process used to determine the probability of an adverse effect due to the presence of a chemical. A risk evaluation includes development of a site conceptual model, identification of the chemicals present in environmental media, assessment of exposure and exposure pathways, assessment of the toxicity of the chemicals present, characterization of human risks, and characterization of impacts or risks to the environment. (5-8-09)

27. Screening Level. A media specific concentration which, based on specified levels of risk or hazard, exposure pathways and routes of exposure, expected land use, and exposure factors, can be used to assess the need for additional investigation or corrective action. (5-8-09)

28. Slope Factor. A plausible upper-bound estimate of the probability of an individual developing cancer as a result of a lifetime of exposure to a particular level of a potential carcinogen. It is expressed as the probability of a response per unit intake of a chemical over a lifetime. (5-8-09)

29. Uniform Environmental Covenant Act (UECA). UECA is found in Chapter 30, Title 55, Idaho Code. UECA provides a statutory mechanism for creating, modifying, enforcing and terminating environmental covenants. (5-8-09)

011. -- 099. (RESERVED)

100. CHEMICALS EVALUATED AT PETROLEUM RELEASE SITES.

01. General Applicability. For petroleum sites governed by Sections 851 and 852 of IDAPA 58.01.02, "Water Quality Standards," the chemicals listed in Section 800, table of chemicals of interest for various petroleum products, will be evaluated based on the specific petroleum product or products known or suspected to have been released. (4-11-19)

02. Additional Chemicals. Evaluation of non-petroleum chemicals in addition to those in Section 800, table of chemicals of interest for various petroleum products, may be required by the Department when there is a reasonable basis based on site-specific information. A reasonable basis shall be demonstrated by the Department when it can show documentation of releases or suspected releases of other non-petroleum chemicals. (4-11-19)

101. -- 199. (RESERVED)

200. RISK EVALUATION PROCESS.

The following risk evaluation process shall be used for petroleum releases in accordance with the Petroleum Release Response and Corrective Action Rules described in IDAPA 58.01.02, "Water Quality Standards," Section 852. (5-8-09)

01. Screening Evaluation. The screening evaluation may be performed at any time during the release response and corrective action process described in IDAPA 58.01.02, "Water Quality Standards," Section 852. The

screening evaluation shall include, at a minimum: (5-8-09)

a. Collection of media-specific (soil, surface water, ground water) data; and (5-8-09)

b. Identification of maximum soil, ground water, and soil vapor petroleum chemical concentrations for the chemicals identified in Section 800, table of chemicals of interest for various petroleum products, as appropriate for the petroleum product or products released. (4-11-19)

c. Comparison of the maximum media-specific petroleum contaminant concentrations to the screening levels identified in the table of screening level concentrations for soil, ground water, and soil vapor in the Idaho Risk Evaluation Manual for Petroleum Releases. If the maximum media-specific petroleum contaminant concentrations at a site do not exceed the screening levels, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the maximum media-specific concentrations at a site exceed the screening levels, the owner and/or operator shall proceed to: (4-11-19)

i. Adopt the screening levels as cleanup levels and develop a corrective action plan to achieve those levels pursuant to Subsection 200.03; or (5-8-09)

ii. Perform a site specific risk evaluation pursuant to Section 300. The Department may require the collection of additional site-specific data prior to the approval of the risk evaluation. (5-8-09)

02. Results of Risk Evaluation. If the results of the approved risk evaluation do not exceed the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the owner and/or operator may petition for site closure, subject to other Department regulatory obligations. If the results of the approved risk evaluation indicates exceedance of the acceptable target risk level, acceptable target hazard quotient, or acceptable target hazard index specified in Section 300, the risk evaluation shall: (5-8-09)

a. Be modified by collection of additional site-specific data, or review of chemical toxicological information, and resubmitted to the Department for review and approval; or (5-8-09)

b. Provide the basis for the development of risk based concentrations, establishment of remediation standards as described in Section 400, and development of a corrective action plan. (5-8-09)

03. Development and Implementation of Corrective Action Plan. A Corrective Action plan required as a result of the risk evaluation process described in Section 200 shall include, but not be limited to, the following information, as applicable: (5-8-09)

a. Description of remediation standards, points of exposure, and points of compliance where remediation standards shall be achieved; (5-8-09)

b. Description of remedial strategy and actions that will be taken to achieve the remediation standards; (5-8-09)

c. Current and reasonably anticipated future land use and use of on-site and immediately adjacent off-site ground water, and surface water; (5-8-09)

d. Activity and use limitations, if any, that will be required as part of the remedial strategy; (5-8-09)

e. Proposed environmental covenants, developed to implement activity and use limitations, in accordance with Section 600; (5-8-09)

f. Estimated timeline for completion; and (5-8-09)

g. Monitoring Plan to monitor effectiveness of remedial actions. (5-8-09)

h. Description of practical quantitation limits as they apply. (5-8-09)

i. Description of background concentrations as they apply. (5-8-09)

04. Department Review and Approval of Risk Evaluation or Corrective Action Plan. Within thirty (30) days of receipt of the risk evaluation or corrective action plan, the Department shall provide in writing either approval, approval with modifications, or rejection of the risk evaluation or corrective action plan. If the Department rejects the risk evaluation or corrective action plan, it shall notify the owner and/or operator in writing specifying the reasons for the rejection. If the Department needs additional time to review the documents, it will provide written notice to the owner and/or operator that additional time to review is necessary and will include an estimated time for review. Extension for review time shall not exceed one hundred eighty (180) days without a reasonable basis and written notice to the owner and/or operator. (5-8-09)

201. -- 299. (RESERVED)

300. SITE SPECIFIC RISK EVALUATION REQUIREMENTS.

01. General Requirements. The general requirements for human health risk evaluations shall include, at a minimum: (5-8-09)

a. A conceptual site model which describes contaminant sources; release mechanisms; the magnitude, spatial extent, and temporal trends of petroleum contamination in all affected media; transport routes; current and reasonably likely future land use and human receptors; and relevant exposure scenarios. (5-8-09)

b. Toxicity Information derived from appropriate sources including, but not limited to, those listed in Subsection 300.01.e. (4-11-19)

c. Data quality objectives and sampling approaches based on the conceptual site model that support the risk evaluation and risk management process. (5-8-09)

d. Estimated exposure point concentrations for a reasonable maximum exposure based on a conservative estimate of the mean of concentrations of chemicals that would be contacted by an exposed receptor. (5-8-09)

e. Exposure analysis including identification of contaminants of concern, potentially exposed populations, pathways and routes of exposure, exposure point concentrations and their derivation, and a quantitative estimate of reasonable maximum exposure for both current and reasonably likely future land and water use scenarios. Appropriate reference sources of reasonable maximum exposure factor information may include, but are not limited to: (5-8-09)

i. U.S. EPA RAGS, Volume 1; (5-8-09)

ii. U.S. EPA Exposure Factors Handbook; (5-8-09)

iii. Idaho Risk Evaluation Manual for Petroleum Releases; and (3-29-12)

iv. Other referenced technical publications. (5-8-09)

f. Risk characterization presenting the quantitative human health risks and a qualitative and quantitative assessment of uncertainty for each portion of the risk evaluation. (5-8-09)

g. Risk evaluations may include the use of transport and fate models, subject to Department approval of the model and the data to be used for the parameters specified in the model. (5-8-09)

02. Specific Requirements. Human health risk evaluations shall, at a minimum: (5-8-09)

a. Utilize an acceptable target risk level as defined in Section 010; (5-8-09)

b. Utilize an acceptable target hazard index as defined in Section 010; (5-8-09)

c. Utilize an acceptable target hazard quotient as defined in Section 010; (5-8-09)

d. Evaluate the potential for exposure from: (5-8-09)

i. Ground water ingestion; (5-8-09)

ii. Direct contact with contaminated soils resulting from soil ingestion, dermal contact, and inhalation of particulates and vapors; (5-8-09)

iii. Indoor inhalation of volatile chemicals via volatilzation of chemicals from soil, ground water, or free phase product; (5-8-09)

iv. Ingestion, inhalation, or dermal exposure to ground water and/or surface water which has been impacted by contaminants that have leached from the soils; and (5-8-09)

v. Other complete or potentially complete routes of exposure; (5-8-09)

e. Evaluate the potential for exposure to: (5-8-09)

i. Adult and child residential receptors; (5-8-09)

ii. Adult construction and utility workers; (5-8-09)

iii. Aquatic life; (5-8-09)

iv. Recreational receptors; and (5-8-09)

v. Other relevant potentially exposed receptors; (5-8-09)

f. Evaluate the potential for use of impacted ground water for ingestion based on: (5-8-09)

i. The current and historical use of the ground water for drinking water or irrigation; (5-8-09)

ii. The location and approved use of existing ground water wells in a one half (½) mile radius from the contaminated site at the release point; (5-8-09)

iii. The degree of hydraulic connectivity between the impacted ground water and other ground water bearing zones or surface water; and (5-8-09)

iv. The location of delineated source water protection areas for public drinking water systems. (5-8-09)

301. -- 399. (RESERVED)

400. ESTABLISHMENT OF REMEDIATION STANDARDS.
If, as a result of the assessment and risk evaluation completed as described in Section 300, it is determined that corrective action is required, remediation standards shall be established. The remediation standards established in these rules shall be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with Section 121 of the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) (42 U.S.C. Section 9621) and Section 39-107D(2), Idaho Code, taking into consideration site specific conditions. These standards, and any activity use limitations proposed for the site, shall be established as part of a corrective action plan approved in writing by the Department. The standards may consist of the following. (5-8-09)

01. Screening Levels. The petroleum contaminant concentrations in soil, ground water, and soil vapor in the table of screening level concentrations for soil, ground water, and soil vapor in the Idaho Risk Evaluation Manual for Petroleum Releases. (4-11-19)

02. Risk Based Levels. Site-specific, media-specific petroleum contaminant concentrations established in accordance with the risk evaluation procedures and requirements described in Section 300. (5-8-09)

03. Generic Health Standards. An established state or federal generic numerical health standard which achieves an appropriate health-based level so that any substantial present or probable future risk to human health or the environment is eliminated or reduced to protective levels based upon present and reasonably anticipated future uses of the site. (5-8-09)

04. Other. Remediation standards may be a combination of standards found in Subsections 400.01 through 400.03. (5-8-09)

401. -- 499. (RESERVED)

500. FACTORS WHEN PRACTICAL QUANTITATION LIMITS ARE GREATER THAN SCREENING LEVELS AND CLEANUP LEVELS.
Practical quantitation limits may be greater than screening levels or risk based concentrations for certain chemicals. In such cases the following factors may be used in allowing practical quantitation limits as remediation standards: (5-8-09)

01. Analytical Method. The published or expected practical quantitation limit for a specific chemical and method, and the availability of other methods which may enable lower practical quantitation limits to be achieved. (5-8-09)

02. Method Detection Limit. The magnitude of the difference between the stated practical quantitation limit and the method detection limit. (5-8-09)

03. Sampling Procedures. The availability of alternative sampling procedures which may enable lower practical quantitation limits to be achieved. (5-8-09)

04. Estimated Risk Levels. The estimated risk levels when site concentrations are assumed to be at the practical quantitation limit. (5-8-09)

05. Other. Site specific factors other than those listed above. (5-8-09)

501. -- 599. (RESERVED)

600. ACTIVITY AND USE LIMITATIONS.

01. Purpose. The provisions of the Uniform Environmental Covenants Act (UECA), Chapter 30, Title 55, Idaho Code, may be utilized to create restrictions and/or obligations regarding activity and use to protect the integrity of a cleanup action and assure the continued protection of human health and the environment. Activity and use limitations shall be proposed as elements of a corrective action plan in at least the following circumstances: (5-8-09)

a. Where onsite current or proposed land use is not residential and maximum residual site concentrations are greater than screening levels for residential use; (5-8-09)

b. Where onsite current or proposed land use is not residential and the risk or hazard calculated for residential receptors through an approved risk evaluation is unacceptable; (5-8-09)

c. Where off-site ground water concentrations exceed residential use screening levels or risk based concentrations; or (5-8-09)

d. When the Department determines, based upon the proposed corrective action plan, that such activity and use limitations are required to assure the continued protection of human health and the environment or the integrity of the cleanup action. (5-8-09)

02. Documentation of Controls. Activity and use limitations, approved by the Department, shall be described in an environmental covenant executed pursuant to the UECA and shall be incorporated into a corrective action plan. (5-8-09)

03. Removal of Activity and Use Limitations. Activity and use limitations may be removed from a site in accordance with Sections 55-3009 and 55-3010, Idaho Code, of UECA. (5-8-09)

601. -- 699. (RESERVED)

700. DEVELOPMENT OF GUIDANCE MANUAL.
The Department will prepare a risk evaluation manual for petroleum releases which will be used as guidance for implementation of these rules. The Department will, through public notice, invite the Board of Trustees established in Section 41-4904, Idaho Code, and members of the public, including the regulated community, to participate in the process to provide input to the Department in developing this manual. If the Department identifies the need for future substantive revisions of the risk evaluation manual for petroleum releases, the Department will follow the same public notice process as described above. (5-8-09)

701. -- 799. (RESERVED)

800. TABLE.
Chemicals of Interest for Various Petroleum Products:

CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS				
Chemical	**Gasoline/ JP-4/ AVGas**	**Diesel/ Fuel Oil No. 2/ Kerosene**	**Fuel Oil No.4**	**Jet Fuels (Jet A, JP-5, JP-8)**
Benzene	X	X		X
Toluene	X	X		X
Ethyl benzene	X	X		X
Xylenes (mixed)	X	X		X
Ethylene Dibromide (EDB)	X[1]			
1,2 Dichloroethane (EDC)	X[1]			
Methyl Tert-Butyl Ether (MTBE)	X			
Acenaphthene		X	X	X
Anthracene		X	X	X
Benzo(a)pyrene		X	X	X
Benzo(b)fluoranthene		X	X	X
Benzo(k)fluoranthene		X	X	X
Benz(a)anthracene		X	X	X
Chrysene		X	X	X
Fluorene		X	X	X
Fluoranthene		X	X	X
Naphthalene	X	X	X	X

CHEMICALS OF INTEREST FOR VARIOUS PETROLEUM PRODUCTS				
Chemical	**Gasoline/ JP-4/ AVGas**	**Diesel/ Fuel Oil No. 2/ Kerosene**	**Fuel Oil No.4**	**Jet Fuels (Jet A, JP-5, JP-8)**
Pyrene		X	X	X
X[1] Leaded Regular Only				

(4-11-19)

801. -- 999. (RESERVED)

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

DOCKET NO. 58-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to the following Idaho Code provisions:

- IDAPA 58.01.05 – Chapters 44 and 58, Title 39, Idaho Code
- IDAPA 58.01.06 – Sections 39-105, 39-107, and 39-7408C, Idaho Code
- IDAPA 58.01.07 – Chapters 1 and 88, Title 39, Idaho Code
- IDAPA 58.01.08 – Chapter 1, Title 39; Chapter 21, Title 37, Idaho Code
- IDAPA 58.01.12 – Chapters 1 and 36, Title 39, Idaho Code
- IDAPA 58.01.13 – Chapter 1, Title 39, Idaho Code
- IDAPA 58.01.14 – Sections 39-105, 39-107, and 39-119, Idaho Code
- IDAPA 58.01.18 – Sections 39-105, 39-107, 39-4405, and 39-7210, Idaho Code
- IDAPA 58.01.20 – Chapters 1 and 76, Title 39, Idaho Code
- IDAPA 58.01.25 – Chapter 1, Title 39, Idaho Code

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 58, rules of the Department of Environmental Quality:

- IDAPA 58.01.05, *Rules and Standards for Hazardous Waste*
- IDAPA 58.01.06, *Solid Waste Management Rules*
- IDAPA 58.01.07, *Rules Regulating Underground Storage Tank Systems*
- IDAPA 58.01.08, *Idaho Rules for Public Drinking Water Systems*
- IDAPA 58.01.12, *Rules for Administration of Water Pollution Control Loans*
- IDAPA 58.01.13, *Rules for Ore Processing by Cyanidation*
- IDAPA 58.01.14, *Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services*
- IDAPA 58.01.18, *Idaho Land Remediation Rules*
- IDAPA 58.01.20, *Rules for Administration of Drinking Water Loan Program*
- IDAPA 58.01.25, *Rules Regulating the Idaho Pollutant Discharge Elimination System Program*

More information regarding this rule docket is available at **www.deq.idaho.gov/58-0000-1900F**.

DEQ received no public comments; however, the text of the rule has been amended in accordance with Idaho Code § 67-5227. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 7040 through 7422**.

IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program," Subsection 204.13, Filing and Service Requirements, was revised as a logical outgrowth of the proposed rule. The revisions are consistent with updates made to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality," Subsection 008.01, Filing of Documents, in Docket No. 58-0000-1900.

The pending rule also includes non-substantive clerical revisions made by the Administrative Rules Coordinator using his authority under Idaho Code § 67-5202. "The coordinator shall have the authority to make clerical revisions or to correct manifest typographical or grammatical errors to both proposed and existing rules that do not alter the sense, meaning or effect of such rules." Idaho Code § 67-5202(2). The revisions are consistent with **Executive Order No. 2019-02, Red Tape Reduction Act**, issued by Governor Little on January 21, 2019, and do not alter the sense, meaning or effect of the rules (i.e., elimination of restrictive words such as "shall").

The pending rule adopted by the Idaho Board of Environmental Quality includes 1) the described revisions in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program," 2) the Administrative Rules Coordinator's clerical revisions, and 3) the remainder of the rule adopted as initially proposed.

FEE SUMMARY: The following is a specific description of the fee or charge imposed. This rulemaking does not impose a fee or charge beyond what was previously approved and codified in the prior rules. Listed below are the DEQ fee rule chapters, fee categories, and the statutory authority for imposition of the fees.

IDAPA 58.01.05, Rules and Standards for Hazardous Waste
- Idaho Code § 39-5813(3), hazardous waste siting license fee

IDAPA 58.01.06, Solid Waste Management Rules
- Idaho Code § 39-7408(C), commercial solid waste siting license fee

IDAPA 58.01.07, Rules Regulating Underground Storage Tank Systems
– Idaho Code §§ 39-119, 8802(d), annual UST fee

IDAPA 58.01.08, Idaho Rules for Public Drinking Water Systems
– Idaho Code § 39-119, annual drinking water system fee

IDAPA 58.01.12, Rules for Administration of Water Pollution Control Loans
– Idaho Code §§ 39-119, 3627(4), loan fee to offset costs of administering loan program

IDAPA 58.01.13, Rules for Ore Processing by Cyanidation
– Idaho Code § 39-118A(2)(c), permit application fee

IDAPA 58.01.14, Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services
– Idaho Code § 39-119, fees for environmental operating permits, licenses, inspection services and waiver application processing

IDAPA 58.01.18, Idaho Land Remediation Rules
– Idaho Code § 39-7210(5), voluntary remediation program application fee

IDAPA 58.01.20, Rules for Administration of Drinking Water Loan Program
– Idaho Code §§ 39-119, 3627(4), loan fee to offset costs of administering loan program

IDAPA 58.01.25, Rules Regulating the Idaho Pollutant Discharge Elimination System Program
– Idaho Code § 39-175C

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact the undersigned.

Dated this 20th day of November, 2019.

Paula J. Wilson
Department of Environmental Quality
1410 N. Hilton Street
Boise, Idaho 83706
Phone: (208) 373-0418
Fax No.: (208) 373-0481
paula.wilson@deq.idaho.gov

000. LEGAL AUTHORITY.

These rules are adopted pursuant to the authority vested in the Board of Environmental Quality by the Hazardous Waste Management Act of 1983, as amended (HWMA), Sections 39-4401 et seq., Idaho Code, and the authority vested in the Director of the Department of Environmental Quality by the Hazardous Waste Facility Siting Act of 1985, as amended, Sections 39-5801 et seq., Idaho Code. (3-30-07)

001. TITLE.

These rules are titled IDAPA 58.01.05, "Rules and Standards for Hazardous Waste." (2-11-94)

002. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

Any reference in these rules to requirements, procedures, or specific forms contained in the Code of Federal Regulations (CFR), Title 40, Parts 124, 260 - 268, 270, 273, 278, and 279 shall constitute the full adoption by reference of that part and Subparts as they appear in 40 CFR, revised as of July 1, 2018, including any notes and appendices therein, unless expressly provided otherwise in these rules. (4-11-19)

01. Exceptions. Nothing in 40 CFR Parts 260 - 268, 270, 273, 278, 279 or Part 124 as pertains to permits for Underground Injection Control (U.I.C.) under the Safe Drinking Water Act, the Dredge or Fill Program under Section 404 of the Clean Water Act, the National Pollution Discharge Elimination System (NPDES) under the Clean Water Act or Prevention of Significant Deterioration Program (PSD) under the Clean Air Act is adopted or included by reference herein. (5-8-09)

02. Availability of Referenced Material. The federal regulations adopted by reference throughout these rules are maintained at the following locations: (7-2-97)

a. U.S. Government Printing Office, http://www.ecfr.gov/cgi-bin/ECFR; and (3-25-16)

b. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051, (208) 334-3316; and (7-2-97)

c. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (7-2-97)

003. DEFINITIONS.

For the purpose of these rules and any materials incorporated herein by reference, the following definitions apply unless their application would be inconsistent with the Hazardous Waste Management Act, or unless these rules expressly provide for different definitions. (3-1-93)

01. Board. The Idaho Board of Environmental Quality. (6-10-88)

02. CFR. The United States Code of Federal Regulations. (3-1-93)

03. Department. The Idaho Department of Environmental Quality. (6-10-88)

04. Director. When used in the context of 40 CFR, the definition shall be the Director of the Idaho Department of Environmental Quality, or his designee, as the context requires. When used in the context of these rules, the definition shall be the U. S. Environmental Protection Agency Region 10 Regional Administrator. (5-3-03)

05. Environmental Appeals Board. When used in the context of 40 CFR, the definition shall be the Idaho Board of Environmental Quality except as set forth in Section 39-4413(2), Idaho Code, or except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Appeals Board. (3-15-02)

06. U.S. Environmental Protection Agency or EPA, EPA Headquarters, or EPA. When used in the context of 40 CFR, the definition shall be the Idaho Department of Environmental Quality, except when used to refer to an EPA Identification number, EPA hazardous waste number, EPA forms, publications or guidance, and EPA Acknowledgment of Consent, and where noted in these rules. Under the latter circumstances, the definition shall be the U.S. Environmental Protection Agency and the Headquarters of the U.S. Environmental Protection Agency as appropriate. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency. (3-15-02)

07. HWFSA. The Hazardous Waste Facility Siting Act of 1985, Sections 39-5801 et seq., Idaho Code. (3-1-93)

08. **HWMA**. The Hazardous Waste Management Act of 1983, Sections 39-4401 et seq., Idaho Code. (3-1-93)

09. **IDAPA**. The Idaho Administrative Procedures Act, Title 67, Chapter 52, Idaho Code. (3-1-93)

10. **RCRA**. When used in the context of 40 CFR, the definition shall be the comparable sections of the Hazardous Waste Management Act of 1983, Sections 39-4401 et seq., Idaho Code. When used in the context of these rules, the definition shall be The Resource Conservation and Recovery Act, 42 U.S. Code, Sections 6901 et seq. (7-1-97)

11. **Regional Administrator or Administrator**. When used in the context of 40 CFR, the definition shall be the Director of the Idaho Department of Environmental Quality, or his designee, except where noted in these rules. When used in the context of these rules, the definition shall be the U.S. Environmental Protection Agency Administrator or Region 10 Regional Administrator as appropriate. (3-15-02)

12. **TSD**. Treatment, storage or disposal. (6-10-88)

13. **United States or U.S**. When used in the context of 40 CFR, the definition shall be the state of Idaho, except where noted in these rules. When used in the context of these rules, the definition shall be the United States. (7-1-97)

004. HAZARDOUS WASTE MANAGEMENT SYSTEM.

40 CFR Part 260 and all Subparts, except 40 CFR 260.2, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For the purposes of 40 CFR 260.4(a)(4) and 260.5(b)(2), "EPA" shall be defined as the U.S. Environmental Protection Agency. For the purposes of 40 CFR 260.10 in the definition of electronic manifest and electronic manifest system, "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 260.10, in the definition of hazardous waste constituent, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 260.20, "Federal Register" shall be defined as the Idaho Administrative Bulletin. (4-11-19)

005. IDENTIFICATION AND LISTING OF HAZARDOUS WASTE.

40 CFR Part 261 and all Subparts (excluding 261.4(b)(17)), except the language "in the Region where the sample is collected" in 40 CFR 261.4(e)(3)(iii), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR 261.10 and 40 CFR 261.11, "Administrator" shall be defined as the U.S. Environmental Protection Agency Administrator. For purposes of 40 CFR 261.4(b)(11)(ii), 40 CFR 261.39(a)(5), 40 CFR 261.41, and 40 CFR 261 Appendix IX, "EPA" shall be defined as the U.S. Environmental Protection Agency. Copies of annual reports and advance notifications under these sections shall also be sent to the Director. (4-11-19)

01. **Hazardous Secondary Materials Managers Emergency Notification**. In addition to the emergency notification required by 40 CFR 261.411(d)(3) and 261.420(f)(4)(ii), the emergency coordinator must also immediately notify the Idaho Office of Emergency Management by telephone, 1-800-632-8000, to file an identical report. (3-29-17)

02. **Excluded Wastes**. Chemically Stabilized Electric Arc Furnace Dust (CSEAFD) generated by Envirosafe Services of Idaho, Inc. (ESII) at ESII's facility in Grand View, Idaho using the Super Detox(R) treatment process as modified by ESII and that is disposed of in a Subtitle D or Subtitle C landfill is excluded from the lists of hazardous waste provided ESII implements a program that meets the following conditions: (3-16-96)

a. Verification Testing Requirements. Sample Collection and analyses, including quality control procedures, conducted pursuant to Subsections 005.02.b. and 005.02.c., must be performed according to SW-846 methodologies and the RCRA Part B permit, including future revisions. (3-29-17)

b. Initial Verification Testing. (3-16-96)

i. For purposes of Subsections 005.02.b., "new source" means any generator of Electric Arc Furnace Dust (EAFD), EPA and Idaho Department of Environmental Quality Hazardous Waste No. KO61, whose waste has

not previously been processed by ESII using the Super Detox(R) treatment process resulting in processed EAFD which has been subjected to initial verification testing and has demonstrated compliance with the delisting levels specified in Subsection 005.02.d. (3-29-17)

ii. Prior to the initial treatment of any new source of EAFD, ESII must notify the Department in writing. The written notification shall include: (3-16-96)

(1) The waste profile information; and (3-16-96)

(2) The name and address of the generator. (3-16-96)

iii. The first four (4) consecutive batches treated must be sampled in accordance with Subsection 005.02.a. Each of the four (4) samples shall be analyzed to determine if the CSEAFD generated meets the delisting levels specified in Subsection 005.02.d. (3-29-17)

iv. If the initial verification testing demonstrates that the CSEAFD samples meet the delisting levels specified in Subsection 005.02.d., ESII shall submit the operational and analytical test data, including quality control information, to the Department, in accordance with Subsection 005.02.f. Subsequent to such data submittal, the CSEAFD generated from EAFD originating from the new source shall be considered delisted. (3-29-17)

v. CSEAFD generated by ESII from EAFD originating from a new source shall be managed as hazardous waste in accordance with Subtitle C of RCRA until: (3-16-96)

(1) Initial verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.02.d.; and (3-29-17)

(2) The operational and analytical test data is submitted to the Department pursuant to Subsection 005.02.b.iv. (3-29-17)

vi. For purposes of Subsections 005.02.b. and 005.02.c., "batch" means the CSEAFD that results from a single treatment episode in a full scale mixing vessel. (3-29-17)

c. Subsequent Verification Testing. (3-16-96)

i. Subsequent to initial verification testing, ESII shall collect a representative sample, in accordance with Subsection 005.02.a., from each batch of CSEAFD generated by ESII. ESII may, at its discretion, conduct subsequent verification testing on composite samples. In no event shall a composite sample consist of representative samples from more than twenty (20) batches of CSEAFD. (3-29-17)

ii. The samples shall be analyzed prior to disposal of each batch of CSEAFD to determine if the CSEAFD meets the delisting levels specified in Subsection 005.02.d. (3-29-17)

iii. Each batch of CSEAFD generated by ESII shall be subjected to subsequent verification testing no later than thirty (30) days after it is generated by ESII. (3-16-96)

iv. If the levels of constituents measured in a sample, or composite sample, of CSEAFD do not exceed the levels set forth in Subsection 005.02.d., then any batch of CSEAFD which contributed to the sample that does not exceed the levels set forth in Subsection 005.02.d. is non-hazardous and may be managed and/or disposed of in a Subtitle D or Subtitle C landfill. (3-29-17)

v. If the constituent levels in a sample, or composite sample, exceed any of the delisting levels set forth in Subsection 005.02.d., then ESII must submit written notification of the results of the analysis to the Department within fifteen (15) days from receiving the final analytical results, and any CSEAFD which contributed to the sample must be: (3-29-17)

(1) Retested, and retreated if necessary, until it meets the levels set forth in Subsection 005.02.d.; or (3-29-17)

(2) Managed and disposed of in accordance with Subtitle C of RCRA. (3-16-96)

vi. Each batch of CSEAFD shall be managed as hazardous waste in accordance with Subtitle C of RCRA until subsequent verification testing demonstrates that the CSEAFD meets the delisting levels specified in Subsection 005.02.d. (3-29-17)

d. Delisting Levels. (3-16-96)

i. All leachable concentrations for these metals must not exceed the following levels (mg/l):

antimony	0.06		mercury	0.009
arsenic	0.50		nickel	1
barium	7.60		selenium	0.16
beryllium	0.010		silver	0.30
cadmium	0.050		thallium	0.020
chromium	0.33		vanadium	2
lead	0.15		zinc	70

(3-16-96)

ii. Metal concentrations must be measured in the waste leachate by the method specified in 40 CFR Part 261.24. (3-16-96)

e. Modification of Treatment Process. (3-16-96)

i. If ESII makes a decision to modify the Super Detox(R) treatment process from the description of the process as set forth in ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995, ESII shall notify the Department in writing prior to implementing the modification. (3-16-96)

ii. After ESII's receipt of written approval from the Department, and subject to any conditions included with the approval, ESII may implement the proposed modification. (3-16-96)

iii. If ESII modifies its treatment process without first receiving written approval from the Department, this exclusion of waste will be void from the time the process was modified. (3-16-96)

iv. ESII's Petition for Delisting Treated K061 Dust by the Super Detox(R) Process submitted to the Department on July 14, 1995 is available at the Department of Environmental Quality, Waste Management and Remediation Division, 1410 N. Hilton, Boise, Idaho 83706. (3-29-12)

f. Records and Data Retention and Submittal. (3-16-96)

i. Records of disposal site, operating conditions and analytical data from verification testing must be compiled, summarized, and maintained at ESII's Grand View facility for a minimum of five (5) years from the date the records or data are generated. (3-16-96)

ii. The records and data maintained by ESII must be furnished upon request to the Department or EPA. (3-16-96)

iii. Failure to submit requested records or data within ten (10) business days of receipt of a written request or failure to maintain the required records and data on site for the specified time, will be considered by the Department, at its discretion, sufficient basis to revoke the exclusion to the extent directed by the Department. (3-16-96)

iv. All records or data submitted to the Department must be accompanied by a signed copy of the following certification statement to attest to the truth and accuracy of the records or data submitted: "Under civil and/or criminal penalty of law for the making or submission of false or fraudulent statements or representations, I certify that the information contained in or accompanying this document is true, accurate, and complete. As to any identified sections of this document for which I cannot personally verify the truth and accuracy, I certify as the ESII official having supervisory responsibility for the persons who, acting under my direct instructions, made the verification that this information is true, accurate, and complete. In the event that any of this information is determined by the Department in its sole discretion to be false, inaccurate, or incomplete, and upon conveyance of this fact to ESII, I recognize and agree that this exclusion of waste will be void as if it never had effect or to the extent directed by the Department and that ESII will be liable for any actions taken in contravention of ESII's RCRA and CERCLA obligations premised upon ESII's reliance on the void exclusion." (3-16-96)

g. Facility Merger and Name Change. On May 4, 2001, the Department was notified of a stock transfer that resulted in ESII's facility merging with American Ecology. This created a name change from Envirosafe Services of Idaho, Inc. (ESII) to US Ecology Idaho, Inc. effective May 1, 2001. All references to Envirosafe Services of Idaho, Inc. or ESII now refer to US Ecology Idaho, Inc. (3-15-02)

006. STANDARDS APPLICABLE TO GENERATORS OF HAZARDOUS WASTE.

01. Incorporation by Reference. 40 CFR Part 262 and all Subparts, except for the language "for the Region in which the generator is located" in 40 CFR 262.42(a)(2) and 40 CFR 262.42(b), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR 262.82, 262.83, and 262.84, "EPA" shall be defined as the U.S. Environmental Protection Agency. Copies of advance notification, annual reports, and exception reports, required under those sections, shall also be provided to the Director. For purposes of 40 CFR 262.20, 262.21, 262.24, 262.25, and 262.39, EPA or Environmental Protection Agency shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR Part 262, Subpart H, "United States or U.S." shall be defined as the United States. (4-11-19)

02. Generator Emergency Notification. In addition to the emergency notification required by 40 CFR 262.16(b)(9)(iv)(C) and 262.265(d)(2), (see 40 CFR 262.17(a)(6), 263.30(c)(1), 264.56(d)(2), and 265.56(d)(2)) the emergency coordinator must also immediately notify the Idaho Office of Emergency Management by telephone, 1-800-632-8000, to file an identical report. (3-28-18)

007. STANDARDS APPLICABLE TO TRANSPORTERS OF HAZARDOUS WASTE.

40 CFR Part 263 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR 263.20(g), 263.20(g)(1), 263.20(g)(4), 263.21(a)(4), and 263.22(d), "United States" shall be defined as the United States. For the purposes of 40 CFR 263.20(a), "EPA" shall be defined as U.S. Environmental Protection Agency. (4-11-19)

008. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 264 and all Subparts (excluding 40 CFR 264.1(f), 264.1(g)(12), 264.149, 264.150, 264.301(l), 264.1030(d), 264.1050(g), 264.1080(e), 264.1080(f) and 264.1080(g)) are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR Subsection 264.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 264.71 and 264.1082(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency.

(4-11-19)

009. INTERIM STATUS STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE TREATMENT, STORAGE AND DISPOSAL FACILITIES.

40 CFR Part 265, and all Subparts (excluding Subpart R, 40 CFR 265.1(c)(4), 265.1(c)(15), 265.149, 265.150, 265.1030(c), 265.1050(f), 265.1080(e), 265.1080(f), and 265.1080(g)), except the language contained in 40 CFR 265.340(b)(2) as replaced with: "The following requirements continue to apply even when the owner or operator has demonstrated compliance with the MACT requirements of part 63, subpart EEE of this chapter: 40 CFR 265.351 (closure) and the applicable requirements of Subparts A through H, BB and CC of this part," are herein incorporated

by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR Subsection 265.12(a), "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency Region 10 Regional Administrator. For purposes of 40 CFR 265.71 and 265.1083(c)(4)(ii), "EPA" shall be defined as the U.S. Environmental Protection Agency. (4-11-19)

010. STANDARDS FOR THE MANAGEMENT OF SPECIFIC HAZARDOUS WASTES AND SPECIFIC TYPES OF HAZARDOUS WASTE FACILITIES.
40 CFR Part 266 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. (4-11-19)

011. LAND DISPOSAL RESTRICTIONS.
40 CFR Part 268 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018, except for 40 CFR 268.1(e)(3), 268.5, 268.6, 268.13, 268.42(b), and 268.44(a) through (g). The authority for implementing the provisions of these excluded sections remains with the EPA. However, the requirements of Sections 39-4403(17) and 39-4423, Idaho Code, shall be applied in all cases where these requirements are more stringent than the federal standards. If the Administrator of the EPA grants a case-by-case variance pursuant to 40 CFR 268.5, that variance will simultaneously create the same case-by-case variance to the equivalent requirement of these rules. For purposes of 40 CFR 268.(2)(j) "EPA" shall be defined as the U.S. Environmental Protection Agency. For purposes of 40 CFR 268.40(b), "Administrator" shall be defined as U.S. Environmental Protection Agency Administrator. In 40 CFR 268.7(a)(9)(iii), "D009" is excluded, (from lab packs as noted in 40 CFR Part 268 Appendix IV.) (4-11-19)

012. HAZARDOUS WASTE PERMIT PROGRAM.
40 CFR Part 270 and all Subparts, except 40 CFR 270.1(c)(2)(ix), 270.12(a) and 40 CFR 270.14(b)(18), are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR 270.2, 270.5, 270.10(e)(2), 270.10(e)(3), 270.10(f)(2), 270.10(f)(3), 270.10(g), 270.11(a)(3), 270.32(a), 270.32(b)(2), 270.32(c), 270.51, 270.72(a)(5), and 270.72(b)(5), "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator respectively. (4-11-19)

013. PROCEDURES FOR DECISION-MAKING (STATE PROCEDURES FOR RCRA OR HWMA PERMIT APPLICATIONS).
40 CFR Part 124, Subparts A, B and G are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018, except that the last sentence of 40 CFR 124.10(b)(1), 40 CFR 124.15(b)(2) 40 CFR 124.19, the fourth sentence of 40 CFR 124.31(a), the third sentence of 40 CFR 124.32(a), and the second sentence of 40 CFR 124.33(a) are expressly omitted from the incorporation by reference of each of those subsections. For purposes of 40 CFR 124.6(e), 124.10(b), and 124.10(c)(1)(ii) "EPA" and "Administrator" or "Regional Administrator" shall be defined as the U.S. Environmental Protection Agency and the U.S. Environmental Protection Agency Region 10 Regional Administrator, respectively. (4-11-19)

014. (RESERVED)

015. STANDARDS FOR THE MANAGEMENT OF USED OIL.

01. Incorporation by Reference. 40 CFR Part 279 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR 279.43(c)(3)(ii) "Director" shall be defined as the Director, U.S.DOT Office of Hazardous Materials Regulation. (4-11-19)

02. Used Oil as a Dust Suppressant. 40 CFR Part 279 contains a prohibition on the use of used oil as a dust suppressant at 279.82(a), however, States may petition EPA to allow the use of used oil as a dust suppressant. Members of the public may petition the State to make this application to EPA. This petition to the State must: (2-11-94)

a. Be submitted to the Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255; and (2-11-94)

b. Demonstrate how the requirements of 40 CFR 279.82(b) will be met. (2-11-94)

016. STANDARDS FOR UNIVERSAL WASTE MANAGEMENT.
40 CFR Part 273 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. For purposes of 40 CFR 273.32(a)(3), "EPA" shall be defined as the U.S. Environmental Protection Agency. (4-11-19)

017. CRITERIA FOR THE MANAGEMENT OF GRANULAR MINE TAILINGS (CHAT) IN ASPHALT CONCRETE AND PORTLAND CEMENT CONCRETE IN TRANSPORTATION CONSTRUCTION PROJECTS FUNDED IN WHOLE OR IN PART BY FEDERAL FUNDS.
40 CFR Part 278 and all Subparts are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. (4-11-19)

018. STANDARDS FOR OWNERS AND OPERATORS OF HAZARDOUS WASTE FACILITIES OPERATING UNDER A STANDARDIZED PERMIT.
40 CFR Part 267 and all Subparts, except 40 CFR 267.150, are herein incorporated by reference as provided in 40 CFR, revised as of July 1, 2018. (4-11-19)

019. -- 354. (RESERVED)

355. HAZARDOUS WASTE FACILITY SITING LICENSE FEE.
An application for a siting license required by HWFSA shall be accompanied by a siting license fee in an amount established by these rules. The license fee shall not exceed seven thousand five hundred dollars ($7,500) and shall be submitted with the siting license application. (3-1-93)

01. License Fee Criteria. The siting license fee required by HWFSA and these rules shall be based on the costs to the Department of reviewing the siting license application and the characteristics of the proposed hazardous waste facility, including the projected site size, projected waste volume, and the hydrogeological characteristics surrounding the site. (3-1-93)

a. "Projected Waste Volume" means the total actual or potential hazardous waste volume, in gallons or an equivalent measurement, proposed for the hazardous waste facility. (3-1-93)

b. "Site Size" means the sum in acres of all proposed "Hazardous Waste Management Unit(s)" as defined in Section 004 (40 CFR 260.10). (7-1-97)

02. License Fee Scale. Except as provided in Subsection 355.03, the siting license fee required by HWFSA and these rules shall be determined using the table below.

LICENSE FEE SCALE - PROJECTED HAZARDOUS WASTE VOLUME (gallons)			
Site Size	**Up to 10,000**	**10,000 - 20,000**	**More Than 20,000**
1 acre or greater	$3,000	$4,000	$7,500
Equal to or greater than 1/2 acre, but less than 1 acre	$4,000	$5,000	$7,500
Less than 1/2 acre	$5,000	$6,000	$7,500

(7-1-97)

03. License Fee for Facilities Required to Submit Engineering or Hydrogeological Information. For any proposed commercial hazardous waste disposal, treatment or storage facility or any on-site land disposal facility for wastes listed pursuant to Section 201(d)(2) and (e), as modified by Section 209 of the Federal Hazardous and Solid Waste Amendments of 1984, which must submit engineering or hydrogeological information to indicate compliance with technical criteria as adopted in the Hazardous Waste Management Plan, the siting license fee shall be seven thousand five hundred dollars ($7,500). (3-1-93)

04. Expansion, Enlargement or Alteration of a Commercial Hazardous Waste Disposal,

Treatment or Storage Facility or Any On-Site Land Disposal Facility for Wastes Listed Pursuant to Section 201(D)(2) and (E), as Modified by Section 209 of the Hazardous and Solid Waste Amendments of 1984. The significant expansion, enlargement or alteration of a hazardous waste treatment, storage or disposal facility in existence on July 1, 1985, constitutes a new proposal for which a siting license is required and for which a siting license fee must be paid. (9-22-89)

05. Siting License Fee Nonrefundable. The siting license fee required by these rules shall be nonrefundable and may not be applied toward any subsequent application should the siting license application be cancelled or withdrawn, or denied. (3-1-93)

356. VARIANCE APPLICATIONS FOR TSD FACILITIES OR SITES.

01. Application Contents and Standard of Review. Applications for variances shall be submitted in triplicate and shall contain such detailed plans, specifications, and information regarding objectives, procedures, controls, and other pertinent data as the Director may require. A variance shall not exceed one (1) year in duration. The Director may grant a variance only if the applicant demonstrates to the Director's satisfaction that construction and operation of the TSD facility or site in the manner allowed by the variance and any term or condition imposed as part of the variance: (6-10-88)

a. Is required to avert unnecessary and significant hardship; (6-10-88)

b. Is not inconsistent with EPA requirements; and (6-10-88)

c. Will not create a nuisance or a hazard to the public health, safety or the environment. (6-10-88)

02. Public Hearings. The Director may hold a public hearing on an initial application for a variance and shall hold a public hearing on any application to renew or extend a variance. The public hearing shall be held at a location in the county where the operations that are the subject of the application for the variance are conducted unless the Director determines that a different location would be more appropriate and convenient for interested members of the public. The Director shall give at least twenty (20) days' notice of the hearing to the applicant by certified mail and shall cause at least one (1) publication of notice in a newspaper with general circulation in either the county where the operation is conducted or the county where the hearing is to be held. The Director shall cause to be made a complete record of the testimony and the evidence submitted at the hearing. (6-10-88)

03. Public Information. All information submitted as part of a variance application shall be treated as public information and shall not be subject to any claim of confidentiality. The Director shall make the application available for public inspection at the Department's state office and appropriate regional office. The Director shall make available for public inspection at the Department's state office and all regional offices a current list of pending applications for variances and a current schedule of pending variance hearings. (3-1-93)

04. Director's Decision. No variance shall be issued or denied until the Director has considered the relative interests of the applicant, other persons and property affected by the variance and the public. Any variance granted pursuant to this section shall be for a period specified by the Director but not more than one (1) year. No variance shall be issued or denied without a written order stating the findings upon which the decision is based. (3-1-93)

05. Applicant to Bear Costs. The cost of public notice, recording and transcribing of testimony and hearing facilities shall be borne by the applicant, regardless of whether or not a variance is issued. (6-10-88)

357. -- 499. (RESERVED)

500. ROUTING OF HAZARDOUS WASTE SHIPMENTS.

01. Transporting. Any person transporting a quantity of hazardous waste which requires a manifest shall, to the extent possible: (6-10-88)

a. Use state, United States and interstate highways; and (6-10-88)

b. Avoid municipalities and population centers, even when doing so may add miles to the distance traveled. (6-10-88)

02. Director's Conditions. The Director may, upon a finding that a shipment or shipments of hazardous waste constitutes a greater than normal risk to the public health, safety or environment, prescribe by order particular conditions for that shipment or shipments including but not limited to special placarding, pilot vehicles, routing restrictions, parking restrictions and timing restrictions. (6-10-88)

501. -- 799. (RESERVED)

800. INSPECTION PLAN -- FREQUENCY LEVELS.
The Department may, as time and resources permit, conduct regular inspections of persons or entities subject to these rules, their records, and property at approximately the following frequency levels based upon potential risk to the public health or environment. (3-6-91)

01. Commercial TSD Facilities. Commercial TSD facilities or sites or offsite generator TSD facilities or sites, up to every day. (3-6-91)

02. Generator On-Site TSD Facilities. Generator on-site TSD facilities or sites -- up to twenty (20) times per year. (3-1-93)

03. Transport Vehicles. Transport vehicles as necessary. (3-6-91)

04. Transport Facilities. Transport facilities or sites -- up to twelve (12) times per year. (3-1-93)

05. Generators. Generators -- up to twelve (12) times per year. (3-1-93)

06. Conduct Inspections. Nothing in the preceding schedule of frequency levels may be construed as limiting the Department's authority to conduct inspections when there is reasonable cause to suspect a violation of HWMA or these rules. The Director may by policy guidance memorandum modify the inspection frequency levels as necessary for the effective or efficient enforcement of HWMA and these rules. (3-1-93)

801. -- 849. (RESERVED)

850. ILLEGAL ACTIONS.

01. False Statements or Representations. Any person who makes a false statement or representation in any application, label, manifest, record, report, permit or other document filed, maintained or used for the purpose of complying with these rules or HWMA thereby commits a violation. Each false statement or representation constitutes a separate and distinct violation for which civil penalties may be imposed. Any person who knowingly makes a false statement or representation of the type described above is, in addition to civil penalties, subject to criminal prosecution for the commission of a misdemeanor for each statement or representation. (3-1-93)

02. Failure to Comply with These Rules, the HWMA, or Other Requirements. Any person who violates these rules, HWMA, or any permit, standard, condition, requirement, compliance agreement or order issued pursuant to these rules or HWMA thereby commits a violation. Civil penalties may be imposed for each separate violation and for each day of continuing violation. Any person who knowingly commits a violation of the type described above is, in addition to civil penalties, subject to criminal prosecution for the commission of a misdemeanor for each separate violation and for each day of a continuing violation. (3-1-93)

851. -- 899. (RESERVED)

900. EXPENDITURES FROM HAZARDOUS WASTE EMERGENCY ACCOUNT.
The Director may declare a hazardous waste emergency if the public health, safety or the environment are threatened by a release or threat of release of a hazardous waste or a substance which has become a hazardous waste. Following a hazardous waste emergency declaration, the Department may spend or obligate to be spent up to two hundred

thousand dollars ($200,000) from the Hazardous Waste Emergency Account to obtain equipment and materials, conduct investigations, test samples, and employ personnel as necessary or eliminate or mitigate the immediate threat and stabilize the situation. The Director may authorize the expenditure or obligation of more than two hundred thousand dollars ($200,000) from this account in any given situation upon a finding by the Board that a greater expenditure or obligation is prudent and necessary to protect the public health, safety or environment. (5-3-03)

901. -- 995. (RESERVED)

996. ADMINISTRATIVE PROVISIONS.
Administrative appeals of agency actions shall be governed by IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (4-6-05)

997. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules shall be disclosed to the public in accordance with Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-5-00)

998. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Sections 39-105 and 39-107, Idaho Code, authorize the Board of Environmental Quality to adopt rules and administer programs to protect surface water quality, ground water quality and air quality, and to regulate solid waste treatment or disposal and the licensure and certification requirements pertinent thereto. Section 39-7408C, Idaho Code, authorizes the Board of Environmental Quality to establish by rule municipal solid waste commercial siting license fees. (4-2-03)

001. TITLE AND SCOPE.

01. **Title**. These rules are titled IDAPA 58.01.06, "Solid Waste Management Rules." (4-2-03)

02. **Scope**. These rules establish requirements applicable to all solid waste and solid waste management facilities in Idaho, except as specifically provided in Subsections 001.03 and 001.04. (4-2-03)

03. **Wastes Not Regulated Under These Rules**. (4-2-03)

a. These rules do not apply to the following solid wastes: (4-2-03)

i. Liquid wastes when the discharge or potential discharge of the liquid waste is regulated under a federal, state or local water pollution discharge or wastewater land application permit, including management of any solids if management of the solids are addressed in a permit term or condition; (4-2-03)

ii. Hazardous wastes regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and the rules adopted thereunder; (4-2-03)

iii. Polychlorinated biphenyl (PCB) waste regulated under the Toxic Substance Control Act, 15 U.S.C. 2601, et seq., with the exception that the PCB Waste Disposal Act, Chapter 62, Title 39, Idaho Code, and these rules shall apply to PCB waste authorized by federal law to be disposed of at a nonhazardous waste landfill that is permitted, licensed or registered under Idaho Law; (4-2-03)

iv. Slash or slashing areas resulting from the harvesting of timber and the disposal of which is managed pursuant to Chapter 1, Title 38, Idaho Code or log landings or sorting sites; (4-2-03)

v. Wastes used, managed, stored and disposed in accordance with The Wood and Mill Yard Debris Technical Guidance Manual, as amended, published by the Department and developed pursuant to Sections 39-171 through 39-174, Idaho Code; (4-2-03)

vi. Clean soils and clean dredge spoils as regulated under Section 404 of the federal Clean Water Act provided that they are not hazardous wastes regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code and the rules adopted thereunder; (4-2-03)

vii. Septage taken to a sewage treatment plant permitted by either the U.S. Environmental Protection Agency or the Department pursuant to IDAPA 58.01.15, "Rules Governing the Cleaning of Septic Tanks"; (4-2-03)

viii. All radioactive waste and radioactive materials regulated pursuant to Section 39-4405(9), Idaho Code and rules adopted thereunder and radioactive waste and materials regulated under the authority of the Atomic Energy Act of 1954, as amended.; (4-2-03)

ix. Petroleum Contaminated Soils (PCS) from a leaking petroleum storage tank system managed as a one (1) time remediation pursuant to IDAPA 58.01.02, "Water Quality Standards"; or (4-2-03)

x. Asbestos as regulated by the Toxic Substances Control Act, as amended, 15 U.S.C. Sections 2601, et seq., or asbestos as regulated by the Clean Air Act, as amended, 42 U.S.C. Section 7412. (4-2-03)

xi. Nonhazardous wastes disposed in a permitted hazardous waste treatment, storage and disposal unit regulated by the Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code, and rules adopted thereunder; (4-2-03)

xii. Waste otherwise regulated under Department authorities. (4-2-03)

b. These rules do not apply to the following solid waste unless these wastes are mixed with more than

incidental quantities of regulated waste; (4-2-03)

i. Inert wastes; (4-2-03)

ii. Manures and crop (plant) residues ultimately returned to the soils at agronomic rates; (4-2-03)

iii. Any agricultural solid waste which is managed and regulated pursuant to rules adopted by the Idaho Department of Agriculture. The Department reserves the right to use existing authorities to regulate agricultural waste that impacts human health or the environment; (4-2-03)

iv. Overburden, waste dumps, low-grade stockpiles, tailings and other materials uniquely associated with mineral extraction, beneficiation or processing operations; (4-2-03)

v. Slag from the production of elemental phosphorus; (4-2-03)

vi. Phospho-gypsum from the production of phosphate fertilizers, which includes the production of phosphoric acid; and (4-2-03)

vii. Wood waste used for ornamental, animal bedding, mulch and plant bedding, or road building purposes. (4-2-03)

04. Solid Waste Management Facilities Not Regulated Under These Rules. These Rules do not apply to the following solid waste management facilities: (4-2-03)

a. Solid waste management facilities accepting only solid waste excluded by Subsection 001.03; (4-2-03)

b. Recycling centers; or (4-2-03)

c. Backyard composting sites. (4-2-03)

d. Facilities which cease accepting solid waste prior to April 26, 2002 shall be required to only comply with applicable cover, seeding, grading and closure requirements of the former Solid Waste Management Rules and Standards, as follows: (4-2-03)

i. Grading. The entire site, including the landfill surfaces, shall be graded and provided with drainage facilities to minimize runoff onto and into the sanitary landfill to prevent erosion or washing and to prevent the collection of standing water. The grading of the final surface of the fill area must provide a slope of not less than one percent (1%), but not exceeding fifteen percent (15%), except as approved by the Department or as required in Section 39-7415(3), Idaho Code. (4-2-03)

ii. Seeding. Seeding to promote stabilization of the final soil cover shall be done as soon as weather permits seed bed preparation and planting operations and when seasonal conditions are suitable for the type of vegetation to be used. Re-seeding is mandatory until adequate vegetative cover is established to prevent erosion. (4-2-03)

iii. Site Closure. An inspection of the entire site of the completed sanitary landfill, or other solid waste management site that is to be vacated, shall be made by a representative of the District before earth moving equipment or other equipment vital to disposal of solid waste is removed from the site or used on other projects. Any necessary corrective work shall be performed before the operation is accepted as completed. (4-2-03)

(1) An official notice of closure of the site shall be sent to the District at the time the site is closed. (4-2-03)

(2) Arrangements shall be made for the repair of all cracked, eroded, and uneven areas in the final cover during the year following completion of fill operations. (4-2-03)

002. WRITTEN INTERPRETATIONS.
The Department of Environmental Quality may have written statements that pertain to the interpretation of the rules in this chapter. Any such written statements are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (4-2-03)

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (4-2-03)

004. APPLICABILITY.
These rules apply to all solid waste unless excluded by Subsection 001.03 and to all existing, new or modified solid waste management sites in Idaho identified in Subsection 004.01 and 004.02, unless excluded by Subsection 001.04. Compliance with these rules shall not relieve owners and operators from the obligation to comply with other applicable state or federal laws, including but not limited to the IDAPA 58.01.02, "Water Quality Standards," IDAPA 58.01.11, "Ground Water Quality Rule," and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

01. Solid Waste Facility Other Than Municipal Solid Waste Landfills (MSWLF) Applicability. Sections 000 through 060 and Section 999 apply to all solid waste facilities other than MSWLF, as specified therein. (4-2-03)

02. Municipal Solid Waste Landfill Applicability. Sections 000 through 007, and Sections 994 through 999 apply to all MSWLFs, as specified therein. (4-2-03)

005. DEFINITIONS.

01. Active Portion. That part of a new or existing facility or unit where waste had been, or may be, disposed of, treated, or otherwise managed, and that has not been closed in accordance with applicable rules.(4-2-03)

02. Backyard Composting. Composting operations used only by the owner or person in control of a residential dwelling unit to process garbage and yard waste generated at that dwelling unit. (4-2-03)

03. Beneficial Use. Various uses of ground water in Idaho including, but not limited to, domestic water supplies, industrial water supplies, industrial water supplies and agricultural water supplies. A beneficial use is defined as actual current and projected future uses of ground water. (4-2-03)

04. Commercial Solid Waste Facility. A MSWLF owned and operated as an enterprise conducted with the intent of making a profit by any individual, association, firm, or partnership for the disposal of solid waste, but excluding a MSWLF owned or operated by a political subdivision, state or federal agency or, municipality or a MSWLF owned or operated by any individual, association, firm, or partnership exclusively for the disposal of solid waste generated by such individual, association, firm, or partnership. (4-2-03)

05. Composting Facility. See definition of Processing Facility. (4-2-03)

06. Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste. As defined in 40 CFR Part 261.5. (4-2-03)

07. Conditionally Exempt Small Quantity Generator (CESQG) Management Facility. A facility or portion thereof where household hazardous waste or CESQG wastes are transferred from a vehicle or container and subsequently transported to another facility. A CESQG management facility does not include temporary drop off locations or other facilities where individuals or businesses are authorized to store waste for ultimate collection and disposal. (4-2-03)

08. Contamination. The introduction of a substance into the surface or ground water causing: (4-2-03)

a. At or beyond the point of compliance, the concentration of that substance in ground water to result in significant degredation, as determined pursuant to Section 400.02.b of the Idaho Ground Water Rule, or in an

exceedance of the maximum contamination level (MCL) specified in the Idaho Ground Water Rule; (4-2-03)

b. The concentration of that substance in surface water exceeds a numerical criteria or fails to protect designated beneficial uses specified in the Idaho Water Quality Standards, IDAPA 58.01.02; (4-2-03)

c. A statistically significant increase in the concentration of that substance in the ground water at or beyond the point of compliance, or in surface water, where the existing concentration of that substance exceeds the contamination level specified in Subsections 005.08.a. or 005.08.b. of this rule; or (4-2-03)

d. A statistically significant increase in the concentration of that substance in ground water at the point of compliance, or in surface water, above background of a substance which; (4-2-03)

i. Is not specified in Subsections 005.08.a. or 005.08.b. of this rule; and (4-2-03)

ii. Is a result of the disposal of solid waste; and (4-2-03)

iii. Has been determined by the department to present a substantial risk to human health or the environment in the concentrations found in the ground water at the point of compliance, or in surface water. (4-2-03)

09. Degradation. The lowering of ground water quality as measured in a statistically significant and reproducible manner. (4-2-03)

10. Department. The Idaho Department of Environmental Quality. (4-2-03)

11. Director. The Director of the Idaho Department of Environmental Quality. (4-2-03)

12. Disposal. Discharge, deposit, injection, dumping, spilling, leaking, leaching, migration or placing of any solid waste into or on any land or water so that such solid waste or any constituent thereof may enter the environment or be emitted into the air or discharged into any waters, including ground water. (4-2-03)

13. Existing Facility. A facility operating and receiving solid waste on or before April 26, 2002. (4-2-03)

14. Facility. Any area used for any solid waste management activity, including but not limited to: (4-2-03)

a. Storage; (4-2-03)

b. Transfer; (4-2-03)

c. Processing; (4-2-03)

d. Separation; (4-2-03)

e. Incineration; (4-2-03)

f. Treatment; (4-2-03)

g. Salvaging; or (4-2-03)

h. Disposal of solid waste. (4-2-03)

15. Garbage. Any waste consisting of putresible animal and vegetable materials resulting from the handling, preparation, cooking and consumption of food, including wastes materials from households, markets, storage facilities, handling and sale of produce and other food products. (4-2-03)

16. Ground Water. Any water of the state that occurs beneath the surface of the earth in a saturated

geological formation of rock or soil. (4-2-03)

17. Household Waste. Any solid waste, including kitchen wastes, trash and sanitary waste in septic tanks, derived from households, including single and multiple residences, hotels and motels, bunkhouses, ranger stations, crew quarters, campgrounds, picnic grounds and day use recreation areas. (4-2-03)

18. Incinerator. Any source consisting of a furnace and all appurtenances thereto designed for the destruction of solid waste by burning. "Open Burning" is not considered incineration. (4-2-03)

19. Inert Waste. Noncombustible, nonhazardous, and non-putresible solid wastes that are likely to retain their physical and chemical structure and have a de minimis potential to generate leachate under expected conditions of disposal, which includes resistance to biological attack. "Inert waste" includes, but is not limited to, rock, concrete, cured asphaltic concrete, masonry block, brick, gravel, dirt, inert coal combustion by-products, inert precipitated calcium carbonate and inert component mixture of wood or mill yard debris. (4-2-03)

20. Landfill. An area of land or an excavation in which wastes are placed for permanent disposal, and that is not a land application unit, surface impoundment, injection well or waste pile, as those terms are defined under 40 CFR 257.2. (4-2-03)

21. Leachate. A liquid that has passed through or emerged from waste and contains soluble, suspended, or miscible materials removed from such waste. (4-2-03)

22. Lift. A vertical rise of compacted solid waste that is complete when it is no longer practical to add additional height without the addition of a cover layer to provide structural stability. (4-2-03)

23. Modification. Any change in the physical characteristics, waste types managed, method of operation, or lateral expansion beyond the boundaries of a site. The following shall not be considered a modification: (4-2-03)

a. Repair and replacement of existing equipment; (4-2-03)

b. Increase in production rate that does not exceed the Tier level criteria or approved facility capacity; (4-2-03)

c. An increase in hours of operation if more restrictive hours of operation are not specified in an approved operating plan; and (4-2-03)

d. Acquisition of property that is not to be used for the processing or disposal of solid waste. (4-2-03)

24. Municipal Solid Waste Landfill Unit (MSWLF). As regulated under Chapter 74, Title 39, Idaho Code, a discrete area of land or an excavation that receives household waste, and that is not a land application unit, surface impoundment, injection well, or waste pile, as those terms are defined under 40 CFR 257.2. A MSWLF unit also may receive other types of RCRA subtitle D wastes, such as commercial solid waste, nonhazardous sludge, conditionally exempt small quantity generator waste and industrial solid waste. Such a landfill may be publicly or privately owned. A MSWLF unit may be a new MSWLF unit, an existing MSWLF unit or a lateral expansion. (4-2-03)

25. Non-Municipal Solid Waste (NMSW). A solid waste that is: (4-2-03)

a. Not mixed with household waste; or (4-2-03)

b. Not excluded from these rules by Subsection 001.03. (4-2-03)

26. Non-Municipal Solid Waste Landfill (NMSWLF). A landfill that accepts only non-municipal solid waste. (4-2-03)

27. Open Burning. The combustion of solid waste without: (4-2-03)

a. Control of combustion air to maintain adequate temperature for efficient combustion; (4-2-03)

b. Containment of the combustion reaction in an enclosed device so as to provide sufficient residence time and mixing for complete combustion; and (4-2-03)

c. Control of the emission of the combustion products. (4-2-03)

28. Operator. The person(s) responsible for the overall operation of all or part of a site or facility. (4-2-03)

29. Owner. The person(s) who owns land or a portion of the land on which a site or facility is located. (4-2-03)

30. Person. Any individual, association, partnership, firm, joint stock company, trust, political subdivision, public or private corporation, state or federal government department, agency, or instrumentality, municipality, industry, or any other legal entity which is recognized by law as the subject of rights and duties. (4-2-03)

31. Point of Compliance. A vertical surface located no more than one hundred fifty (150) yards hydraulically down gradient from the active portion of a facility or site, located at the facility boundary down gradient of the land area, or located at the point of diversion of an identified beneficial use within the site, whichever is the smallest distance from the active portion. (4-2-03)

32. Processing Facility. A facility that uses biological or chemical decomposition to prepare solid waste for reuse, excluding waste handling at transfer stations or recycling centers. (4-2-03)

33. Projected Waste Volume. The total actual or potential solid waste volume measured in tons per day, cubic yards per day, or an equivalent measurement, proposed to be received or processed at a solid waste facility. (4-2-03)

34. Pumpable Waste. Wastes, including non-domestic septage, sludge, wastewater and non-municipal solid wastes, which are pumped from a holding area or container into a watertight tank truck or equivalent and transported for processing or disposal. (4-2-03)

35. Qualified Professional. Qualified professional means a licensed professional geologist or licensed professional engineer, as appropriate, holding current professional registration in good standing and in compliance with applicable provisions of Chapter 12, Title 54, Idaho Code. (4-2-03)

36. Recyclables. Used, end, or waste products with useful properties that can be reused. (4-2-03)

37. Recycling. The reclamation of solid waste and its subsequent introduction into an industrial process by which the materials are transformed into a new product in such a manner that the original identity as a product is lost. (4-2-03)

38. Recycling Center. A materials recovery facility that receives recyclables, then sorts, bales, loads, or physically alters the material and transports the commodities to markets. (4-2-03)

39. Salvage. The reclamation of solid waste at a disposal site. (4-2-03)

40. Scavenge. The unauthorized removal of materials from a facility. (4-2-03)

41. Septage. A semisolid consisting of settled sewage solids combined with varying amounts of water and dissolved materials generated from a septic tank system. (4-2-03)

42. Site. Any contiguous geographic area with one (1) or more facilities owned or operated by the same person for any of the following activities: (4-2-03)

a. Storage; (4-2-03)

b. Transfer; (4-2-03)

c. Processing; (4-2-03)

d. Separation; (4-2-03)

e. Incineration; (4-2-03)

f. Treatment; (4-2-03)

g. Salvaging; or (4-2-03)

h. Disposal of solid waste. (4-2-03)

43. Site Size. The sum in acres of all proposed or existing facilities. (4-2-03)

44. Solid Waste. Any garbage or refuse, sludge from a waste water treatment plant, water supply treatment plant, or air pollution control facility and other discarded material including solid, liquid, semi-solid, or contained gaseous material resulting from industrial, commercial, mining, and agricultural operations and from community activities, but does not include solid or dissolved materials in domestic sewage, or solid or dissolved material in irrigation return flows or industrial discharges which are point sources subject to permits under Section 402 of the Federal Water Pollution Control Act, as amended (86 Stat. 880), or source, special nuclear, or by-product material as defined by the Atomic Energy Act of 1954, as amended (68 Stat. 923). (4-2-03)

45. Speculative Accumulation. Stock piles of materials or recyclables to be processed for reuse or disposal when fifty percent (50%) of the material is not reused or disposed by the end of the following calendar year after the date of first receipt by the facility, and which may create a nuisance or public health impact. (4-2-03)

46. Storm Water. Accumulation of water from natural precipitation, including snow melt. (4-2-03)

47. Surface Water. All surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state, unless such waters are an integral part of the facility's operation for storm water control and or leachate management. (4-2-03)

48. **Tipping Floor**. An area at a transfer station, processing facility, CESQG management facility or incinerator that receives and contains all waste materials. (4-2-03)

49. Toxic Leachate or Gas. Concentrations of leachate or gas that will cause contamination, as defined by these rules, or that will exceed standards in the IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

50. Transfer Station. A facility or portion thereof where solid wastes are transferred from a vehicle or container and subsequently transported off-site to another facility. A transfer station does not include an authorized rural drop-box or other facilities where persons are authorized to store individual waste for ultimate collection and disposal, or any other facility that stores solid waste generated at the facility for collection and disposal off-site. A transfer station shall include waste tire collection sites as defined in Section 39-6501, Idaho Code. (4-2-03)

51. Wood or Mill Yard Debris Facility. A facility that manages exclusively, solid wood, bark, or wood fiber generated from the process of manufacturing wood products that may include ash from the burning of wood waste in amounts and in conformity with the requirements of the Wood & Mill Yard Technical Guidance Manual, components of soil, rock, or moisture. (4-2-03)

52. Yard Waste. Weeds, straw, leaves, grass clippings, brush, wood, and other natural, organic, materials typically derived from general landscape maintenance activities. (4-2-03)

006. ABBREVIATIONS.

01. BRC. Below Regulatory Concern. (4-2-03)

02. CFR. Code of Federal Regulations. (4-2-03)

03. EPA. Environmental Protection Agency. (4-2-03)

04. ISWFA. Idaho Solid Waste Facilities Act, Chapter 74, Title 39, Idaho Code. (4-2-03)

05. MSWLF. Municipal Solid Waste Land Fill. (4-2-03)

06. NMSW. Non-Municipal Solid Waste. (4-2-03)

07. NMSWLF. Non-Municipal Solid Waste Land Fill. (4-2-03)

08. PCS. Petroleum Contaminated Soils. (4-2-03)

09. RCRA. Resource Conservation and Recovery Act. (4-2-03)

10. U.S.C. United States Code. (4-2-03)

007. INCORPORATION BY REFERENCE.

01. General. Unless expressly provided otherwise, any reference in these rules to any document identified in Subsection 007.02 shall constitute the full adoption by reference, including any notes and appendices therein. The term "documents" includes codes, standards or rules which have been adopted by an agency of the state or of the United States or by any nationally recognized organization or association. (4-2-03)

02. Documents Incorporated by Reference. The following documents are incorporated by reference into these rules: (4-2-03)

a. 40 CFR 257.24(a), revised as of July 1, 2001. (4-2-03)

b. 40 CFR 257.9, revised as of July 1, 2001. (4-2-03)

03. Availability of Referenced Material. Copies of the documents incorporated by reference into these rules are available at the following locations: (4-2-03)

a. Department of Environmental Quality, 1410 N. Hilton, Boise ID 83706-1255. (4-2-03)

b. Idaho State Law Library, 451 W. State Street, P.O. Box 83720, Boise ID 83720-0051. (4-2-03)

c. U.S. Government Printing Office, Superintendent of Documents, Washington, D.C. 20402, or U.S. Government Bookstore, Room 194 Federal Bldg., 915 Second Ave., Seattle, WA 98174, www.ecfr.gov. (4-2-03)

008. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. Monday through Friday. (4-2-03)

009. SOLID WASTE MANAGEMENT FACILITY CLASSIFICATION.

01. BRC Facilities. A facility is below regulatory concern (BRC) provided it is a processing facility that does not manage PCS or pumpable waste, and the cumulative volume of solid waste at the facility at any one (1) time is less than or equal to three hundred (300) cubic yards. (4-2-03)

02. Tier I Facilities. Tier I facilities shall comply with the requirements identified in Section 011. A facility shall be classified as a Tier I facility if the Department determines the facility is: (4-2-03)

a. A landfill that only accepts for disposal materials that are not likely to produce leachate including, but not limited to, glass, plastic, cardboard, wood, composition roofing material, roofing paper, or ceramics, and which has a total disposal capacity of less than or equal to two thousand (2000) cubic yards. (4-2-03)

b. A processing facility that only processes wastes including, but not limited to, untreated or unpainted wood, yard waste, sheet rock, clean paper products, animal manures, plant or crop residues, or garbage without meats or animal fats, and the cumulative volume of wastes at the facility at any one time is less than or equal to six hundred (600) cubic yards. (4-2-03)

c. A processing facility that only manages PCS not excluded under Subsection 001.03.a.ix. or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is less than or equal to two hundred (200) cubic yards; or (4-2-03)

d. An emergency solid waste management facility that only accepts debris resulting from a natural disaster. (4-2-03)

03. Tier II Facility. Tier II facilities shall comply with the Tier II general siting, operational and closure requirements and any applicable Tier II facility specific requirements. Tier II facilities are not required to install ground water monitoring wells, leachate collection systems or liners. Facilities shall be classified as a Tier II facility if the Department determines the facility is not: (1) landfilling or disposing of CESQG hazardous waste; (2) landfilling or disposing of materials with a high human pathogenic potential; (3) managing solid waste in a manner or volume that will form toxic leachate or gas; or (4) managing solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment. A Tier II facility is one that meets the four (4) above criteria and is identified below: (4-2-03)

a. A NMSW landfill which has a total disposal capacity greater than two thousand (2000) cubic yards; or (4-2-03)

b. A processing facility or incinerator that has a cumulative volume of wastes at the facility at any one time that is greater than six hundred (600) cubic yards; or (4-2-03)

c. A processing facility that only manages PCS not excluded under Subsection 001.03.a.ix or pumpable wastes and the cumulative volume of material at the facility at any one (1) time is greater than two hundred (200) cubic yards; or (4-2-03)

d. A transfer station or CESQG waste management facility. (4-2-03)

04. Tier III Facility. Tier III facilities shall comply with the Tier III general siting, operating and closure requirements, ground water monitoring requirements, install leachate collection systems, liners, air contaminant control systems and any applicable Tier III facility specific requirements. Facilities shall be classified as a Tier III facility if the Department determines the facility is: (1) a facility landfilling or disposing of CESQG hazardous waste; (2) a facility landfilling or disposing of materials with a high human pathogenic potential; (3) a facility managing solid waste in a manner or volume that will form toxic leachate or gas; or (4) a facility managing solid waste in a manner or volume that is likely to pose a substantial risk to human health or the environment. (4-2-03)

05. Wood or Mill Yard Debris Facilities. For the period of one (1) year after April 1, 2003, all Wood or Mill Yard Debris Facilities that are not exempt from these Rules as provided in Section 001.03 shall be regulated as Tier I Facilities. Thereafter, all Wood and Mill Yard Debris Facilities that are not exempt from these Rules as provided in Section 001.03 shall be regulated as Tier I Facilities unless, based on site-specific criteria including but not limited to site geology, site soils, groundwater characteristics, distance to surface waters, and site climatic data, the Department determines the facility is more appropriately regulated under a different tier classification. Facilities not regulated as a Tier I Facility shall be regulated as a Tier II Facility unless the Department determines the facility

manages waste in a manner that will form toxic leachate or gas. (4-2-03)

06. Site Specific Classification. An owner or operator of a facility classified as a Tier I, Tier II or Tier III facility may request to be regulated pursuant to the requirements of a lower classification. An owner or operator requesting site specific classification must submit information demonstrating to the Department that, when in compliance with the requirements of a lower classification, the facility would not cause contamination, toxic leachate or gas, or concentrations of a substance that exceed standards in the IDAPA 58.01.01 "Rules for the Control of Air Pollution in Idaho." The information included in any request under this subsection shall include: (4-2-03)

a. Characterization of waste and expected quantities of waste; (4-2-03)

b. Site characterization including; (4-2-03)

i. Site geology report; (4-2-03)

ii. Site soils report; (4-2-03)

iii. Ground water report; (4-2-03)

iv. Site climatic data; (4-2-03)

c. Facility Design Plan; (4-2-03)

d. Operating Plan; and (4-2-03)

e. Closure Plan. (4-2-03)

07. General and Site Specific Classification Process. The Department's review of a request for a site specific classification shall be conducted pursuant to the process set forth in Section 032. (4-2-03)

010. BELOW REGULATORY CONCERN FACILITIES.

01. Applicable Requirements. The owner and operator of a new BRC facility shall comply with the following requirements prior to accepting waste. The owner and operator of an existing BRC facility shall comply with the following requirements within two (2) years from April 26, 2002. During the two-year period from April 26, 2002, existing facilities shall operate in compliance with their approved operating plan and 40 CFR 257.1 through 257.3: (4-2-03)

a. Prohibited Activities. The following activities are prohibited: (4-2-03)

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of Section 010 shall have the same meaning as defined at 29 CFR 1910.1030; (4-2-03)

ii. Speculative accumulation, unless otherwise approved by the Department in writing; and (4-2-03)

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. (4-2-03)

b. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: (4-2-03)

i. Disease or discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; (4-2-03)

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; (4-2-03)

iii. Odor. The facility shall be operated to control malodorous gases; and (4-2-03)

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. (4-2-03)

c. Bird Hazards to Aircraft. No facility may handle putresible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft; and (4-2-03)

d. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by these rules and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

i. No open burning shall be conducted during an air pollution episode, declared in accordance with IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

ii. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations. Materials burned shall not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any other substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors. (4-2-03)

iii. Open burning shall be conducted pursuant to conditions set forth by the Department or local fire authority. The owner and operator of the facility shall contact the Department and the local fire authority prior to conducting open burning to report its nature and location. (4-2-03)

02. Application Content, Review and Approval Requirements. The owner and operator of a BRC facility are not required to submit an application. (4-2-03)

03. Documentation Requirements. The owner and operator shall maintain on site documentation, such as a daily log of the quantity and type of waste received or managed, that verifies the facility's BRC status. (4-2-03)

011. APPLICABLE REQUIREMENTS FOR TIER I FACILITIES.

01. Applicable Requirements. The owner and operator of a new Tier I facility shall comply with the following requirements prior to accepting waste. The owner and operator of an existing Tier I facility shall comply with the following requirements within two (2) years from April 26, 2002. During the two-year period from April 26, 2002, existing facilities shall operate in compliance with their approved operating plan, if any, and 40 CFR 257.1 through 257.3: (4-2-03)

a. Prohibited Activities. The following activities are prohibited: (4-2-03)

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. "Regulated waste" and "decontaminated" for the purpose of Section 011 shall have the same meaning as defined at 29 CFR 1910.1030; (4-2-03)

ii. Speculative accumulation, unless otherwise approved by the Department in writing; and (4-2-03)

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho

Code, and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. (4-2-03)

b. Signs. Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility. The signs shall specify at a minimum the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. (4-2-03)

c. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: (4-2-03)

i. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; (4-2-03)

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; (4-2-03)

iii. Odor. The facility shall be operated to control malodorous gases; and (4-2-03)

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. (4-2-03)

d. Facility Access. Unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. The owner and operator shall maintain the fencing or other access controls for a period of ten (10) years after closure, or another timeframe approved in writing by the Department. (4-2-03)

e. Bird Hazards to Aircraft. No facility may handle putresible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. (4-2-03)

f. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by these rules and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

i. No open burning shall be conducted during an air pollution episode, declared in accordance with IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

ii. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations. Materials burned shall not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any other substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors. (4-2-03)

iii. Open burning shall be conducted pursuant to conditions set forth by the Department or local fire authority. The owner and operator of the facility shall contact the Department and the local fire authority prior to conducting open burning to report its nature and location. (4-2-03)

g. Storm Water Run-On/Run-Off Controls. Implement sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of surface or ground water and prevent the spread and impact of contamination beyond the boundary of the facility. (4-2-03)

h. Variance Request. An owner and operator may submit a written variance request for a variance from the requirements listed in Section 011. The owner and operator must demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 011. (4-2-03)

02. Application Content, Review and Approval Requirements. The owner and operator of a Tier I facility shall submit notification to the Department prior to operating. The notice shall include; the owners name, operators name, physical location of site, mailing address, facility phone number and type of solid waste management facility. (4-2-03)

03. Documentation Requirements. The owner and operator shall maintain on site documentation, such as a daily log of the quantity and type of waste received, that verifies the facility's Tier I status. (4-2-03)

012. APPLICABLE REQUIREMENTS FOR TIER II FACILITIES.
The owner and operator of a new Tier II facility shall establish compliance with the requirements of Section 012 by obtaining Department approval of the applications required in Subsection 012.02 before beginning construction and Subsection 012.04 prior to accepting waste. The owner and operator of an existing Tier II facility shall establish compliance with the requirements of Section 012 by obtaining Department approval of the applications required in Subsection 012.04 within two (2) years from April 26, 2002, and Subsection 012.02 within five (5) years from April 26, 2002. During the two (2) year period from April 26, 2002, existing facilities shall operate in compliance with their approved operating plan, if any, and 40 CFR 257.1 through 257.3. In lieu of submitting an application, the owner and operator of existing facilities may demonstrate to the Department, compliance with Section 012 by submitting copies of existing permits and other approvals that establish compliance with the applicable siting, design, operating, closure, and post-closure requirements of Section 012 and Subsection 032.01. The owner and operator of a Tier II facility shall meet the requirements of Subsection 012.05 prior to facility closure; except that owners and operators closing Tier II facilities within eighteen (18) months from April 26, 2002 shall comply with applicable cover, seeding, grading and closure requirements of the former Solid Waste Management Rules and Standards, as enumerated in Subsection 001.04.d. of these rules. (4-2-03)

01. General Siting Requirements. The owner and operator of a Tier II facility shall comply with the following siting requirements: (4-2-03)

a. Flood Plain Restriction. A facility shall not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. (4-2-03)

b. Endangered or Threatened Species Restriction. The facility shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17. (4-2-03)

c. Surface Water Restriction. The active portion of a facility shall be located such that the facility shall not cause contamination of surface waters, unless such surface waters are an integral part of the non-municipal solid waste management facility's operation for storm water and/or leachate management. (4-2-03)

d. Park, Scenic or Natural Use Restriction. The active portion of a facility shall not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use including, but not limited to, wild and scenic areas, national monuments, wilderness areas, historic sites, recreation areas, preserves and scenic trails. (4-2-03)

e. Variance from Siting Requirement. An owner or operator of an existing or planned facility that cannot meet the siting requirements of Section 012 may apply for a variance from the Department. The Department shall approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of public health and the environment as the siting requirements in Section 012. (4-2-03)

02. Siting Application. Documentation shall be submitted to the Department demonstrating compliance with the siting requirements and restrictions specified in Subsection 012.01 within the time frames specified in Section 012. If the documentation has been certified by a qualified professional, the Director shall approve the siting application unless the Director finds the evidence supports a contrary opinion. A map indicating the following shall also be submitted to the Department as part of a Siting Application: (4-2-03)

a. Highways, roads, and adjacent communities; (4-2-03)

b. Property boundaries; (4-2-03)

c. Total acreage of the site; (4-2-03)

d. Off-site and on-site access roads and service roads; (4-2-03)

e. Type(s) of land use adjacent to the facility and a description of all facilities on the site; (4-2-03)

f. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines; (4-2-03)

g. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; (4-2-03)

h. Proposed or existing fencing; (4-2-03)

i. Proposed and existing structures at the facility and within five hundred (500) feet of the facility boundary. This shall include location of employee buildings, and scales (if provided); and (4-2-03)

j. Direction of prevailing winds. (4-2-03)

03. General Operating Requirements. The owner and operator of a Tier II facility shall comply with the following operating requirements: (4-2-03)

a. Prohibited Activities. The following activities are prohibited: (4-2-03)

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. “Regulated waste” and “decontaminated” for the purpose of Section 012 has the same meaning as defined at 29 CFR 1910.1030; (4-2-03)

ii. Speculative accumulation, unless otherwise approved in an operating plan; and (4-2-03)

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code, and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. (4-2-03)

b. Signs. Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility specifying, at a minimum, the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. (4-2-03)

c. Waste Types. Only the solid waste types listed in the approved operating plan may be accepted for disposal or processing. (4-2-03)

d. Waste Monitoring and Measurement. Provisions shall be made for monitoring or measuring all solid waste delivered to a facility. The waste monitoring program shall include: (4-2-03)

i. A daily written log listing the types and quantities of wastes received; (4-2-03)

ii. A plan for monitoring and handling receipt of unauthorized wastes; (4-2-03)

iii. Routine characterization of the wastes received; and (4-2-03)

iv. Other measures included in an approved Operating Plan. (4-2-03)

e. Communication. Communication devices shall be available or reasonably accessible at the site. (4-2-03)

f. Fire Prevention and Control. Adequate provisions shall be made for controlling or managing fires at the site. (4-2-03)

g. Facility Access. Unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. (4-2-03)

h. Scavenging and Salvaging. Scavenging by the public at a facility is prohibited; however, salvaging may be conducted in accordance with a written operations plan and only by the owner, operator or an authorized agent. (4-2-03)

i. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: (4-2-03)

i. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; (4-2-03)

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; (4-2-03)

iii. Odor. The facility shall be operated to control malodorous gases; and (4-2-03)

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. (4-2-03)

j. Bird Hazards to Aircraft. No facility may handle putresible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. (4-2-03)

k. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by these rules and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

i. No open burning shall be conducted during an air pollution episode, declared in accordance with IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

ii. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations. Materials burned shall not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any other substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors. (4-2-03)

iii. Open burning shall be conducted pursuant to conditions set forth by the Department or local fire authority. The owner and operator of the facility shall contact the Department and the local fire authority prior to conducting open burning to report its nature and location. (4-2-03)

l. Storm Water Run-On/Run-Off Controls. The operating plan shall include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of surface and ground water and prevent the spread and impact of contamination beyond the boundary of the facility. (4-2-03)

m. Variance Request. An owner and operator of an existing or planned facility may submit to the

Department a written variance request for a variance from the operating requirements listed in Section 012. The Department shall approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 012. (4-2-03)

04. Operating Plan. The owner and operator of a Tier II facility shall submit to the Department an Operating Plan containing that information required by Subsection 012.03, within the time frames stated in Section 012. An Operating Plan shall include a description of the wastes to be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Subsection 012.03, and complies with any applicable facility specific requirements found in Subsections 012.09 through 012.11. (4-2-03)

05. Closure Requirement. The owner and operator of a Tier II facility shall comply with the following closure and post-closure care requirements: (4-2-03)

a. Public Notice. For a facility open to the public the owner and operator shall provide public notice of the facility's closure by publishing a notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted; (4-2-03)

i. At least thirty (30) days and no more than ninety (90) days prior to the date of last receipt of waste for a facility that has reached disposal capacity; or (4-2-03)

ii. If the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional waste, a notice shall be published and signs posted at least thirty (30) days and no more than ninety (90) days prior to closure. (4-2-03)

b. Facility Closure. Unless the Department establishes an alternate closure time period, the owner and operator shall close the facility within six (6) months of the Department's approval of the Closure Plan. The facility shall be closed in accordance with the approved Closure Plan. (4-2-03)

c. Clean Site/Access Control. The owner and operator shall close the facility by managing or removing all solid waste to prevent impact to human health or the environment and installing a gate or other device to prevent public access after the last receipt of waste; and (4-2-03)

d. Drainage and Erosion Control. The owner and operator shall install appropriate measures to control erosion and install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility. (4-2-03)

e. Closure Plan Certification. Within thirty (30) days of closure, the owner and operator shall notify the Department in writing that the facility was closed in accordance with the approved Closure Plan. If closure of the facility is different from the approved Closure Plan, the owner and operator shall submit for Department review and approval documents, such as "as-built" plans, showing the final conditions of the facility. (4-2-03)

06. Closure Plan Application. Except as specified in Subsection 012.10, the owner and operator of a Tier II facility shall submit to the Department a Closure Plan Application containing the following information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes or, if the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional wastes, no later than one (1) year after the most recent receipt of wastes: (4-2-03)

a. A complete and accurate legal description of the facility; (4-2-03)

b. A map of the facility, showing pertinent facility features, including: (4-2-03)

i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures; (4-2-03)

ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the facility boundary; (4-2-03)

iii. Location of disposal trenches and description of waste disposed; and (4-2-03)

iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility; (4-2-03)

c. Estimated date of last receipt of waste; (4-2-03)

d. A description of how public access to the closed facility will be controlled; (4-2-03)

e. Estimated total cubic yards, or tons, of waste in place; (4-2-03)

f. Total acreage of the facility and acres containing waste; (4-2-03)

g. Closure equipment and procedures to be used; (4-2-03)

h. Texture, depth and permeability of final cover material; (4-2-03)

i. Design and construction plan for any necessary final cover; (4-2-03)

j. Placement, design, and management of run-on and run-off storm water controls; (4-2-03)

k. Types of vegetation and planting procedures to be used for establishing vegetative cover; (4-2-03)

l. Other closure information the Department determines is necessary to protect human health and the environment. (4-2-03)

07. Documentation Requirements. The owner and operator of a Tier II facility shall maintain on site a copy of each Department-approved Application and Plan required by Section 012. (4-2-03)

08. Modification Application. The owner and operator shall submit to the Department for review and approval a Modification Application describing any proposed modification. The owner and operator of a Tier II facility shall not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator shall comply with the application content, review and approval requirements for the new classification. (4-2-03)

09. Tier II Processing Facilities. In addition to the requirements in Subsections 012.01 through 012.08, the owner and operator of a Tier II processing facility shall also comply with the following requirements: (4-2-03)

a. Siting Requirements: (4-2-03)

i. Ground Water. The active portion of a facility shall be located, designed and constructed such that the facility shall not cause contamination to a drinking water source or cause contamination of the ground water. (4-2-03)

ii. Geologic Restrictions. No facility may be located on land that would threaten the integrity of the design. (4-2-03)

iii. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. (4-2-03)

b. Siting Application. The owner and operator shall provide in the Siting Application documentation that demonstrates compliance with the siting requirements specified in Subsection 012.01 and 012.09.a. (4-2-03)

c. Operating Requirements: (4-2-03)

i. Odor Management Plan. The owner and operator of a Tier II processing facility shall implement a

Department approved Odor Management Plan designed to minimize malodorous gases. An Odor Management Plan shall include specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed, methods used to maintain the specific operating criteria and a monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria. (4-2-03)

ii. Documentation requirement. The owner and operator of a processing facility shall maintain documentation of compliance with Section 012, including an operational log of the methods used to maintain the operating criteria and sampling results. (4-2-03)

d. Operating Plan. The operating plan required in Subsection 012.04 shall identify methods used for maintaining compliance with each applicable operating requirement of Subsection 012.03 and Subsection 012.09.c. (4-2-03)

10. Tier II Incinerators, CESQG Management Facility and Transfer Stations. In addition to the requirements in Subsections 012.01 through 012.04 and Subsections 012.07 and 012.08, the owner and operator of a Tier II incinerator, CESQG management facility or transfer station shall comply with the following requirements: (4-2-03)

a. Design Requirements. The owner and operator shall comply with the following design requirements; (4-2-03)

i. A tipping floor design constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system. Any transfer station that accepts only waste tires will not be required to construct a tipping floor; (4-2-03)

ii. A leachate storage or management system. (4-2-03)

b. Design Application. The following information shall be submitted to the Department in a Design Application: (4-2-03)

i. A description of the tipping floor design; (4-2-03)

ii. A description of the storage or leachate management system design; (4-2-03)

iii. Building and construction design blueprints; (4-2-03)

iv. A map illustrating a storm water run-on/run-off system designed to prevent contamination of surface and ground water, and prevent the spread and impact of contamination beyond the boundary of the facility; and (4-2-03)

v. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes. (4-2-03)

c. Operating Requirements. The owner and operator of a Tier II facility shall comply with the following operating requirements: (4-2-03)

i. Implement cleaning procedures and waste residency times to maintain sanitary conditions on the surface of the tipping floor; and (4-2-03)

ii. Implement and operate a leachate storage or management system. (4-2-03)

d. Waste Tire Collection Site Requirements. Individual tire piles shall not exceed five thousand (5000) square feet of continuous area, nor fifty thousand (50,000) cubic feet in volume or ten (10) feet in height. (4-2-03)

e. Closure Requirement. The owner and operator of a Tier II facility shall comply with the following closure and post-closure care requirements: (4-2-03)

i. Public Notice. For a facility open to the public the owner and operator shall provide public notice of the facility's closure by publishing a notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted at least thirty (30) days prior to closure. (4-2-03)

ii. Facility Closure. The owner and operator shall close the facility by removing all solid waste to prevent impact to human health or the environment and installing a gate or other device to prevent public access after the last receipt of waste; and (4-2-03)

iii. Closure Time Period. Unless the Department establishes an alternate closure time period, the owner and operator shall close the facility within two (2) months of the Department's approval of the Closure Plan. The facility shall be closed in accordance with the approved Closure Plan. (4-2-03)

iv. Closure Plan Certification. Within thirty (30) days of closure, the owner and operator shall notify the Department in writing that the facility was closed in accordance with the approved Closure Plan. If closure of the facility is different from the approved Closure Plan, the owner and operator shall submit for Department review and approval documents, such as "as-built" plans, showing the final conditions of the facility. (4-2-03)

f. Closure Plan Application. The owner and operator shall submit to the Department a Closure Plan Application containing the following information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes: (4-2-03)

i. A complete and accurate legal description of the facility; (4-2-03)

ii. A map of the facility, showing pertinent facility features, including facility boundaries, drainage patterns, and location of access control measures; (4-2-03)

iii. Estimated date of last receipt of waste; (4-2-03)

iv. A description of how public access to the closed facility will be controlled; (4-2-03)

v. Closure equipment and procedures to be used; (4-2-03)

vi. Anticipated future uses for the facility; (4-2-03)

vii. Other closure information the Department determines is necessary to protect human health and the environment. (4-2-03)

11. Tier II NMSWLF. In addition to the requirements in Subsections 012.01 through 012.08, the owner and operator of a Tier II NMSWLF shall also comply with the following requirements: (4-2-03)

a. Siting Requirements: (4-2-03)

i. Wetlands. A facility shall not be located in wetlands, except as provided in 40 CFR 257.9. (4-2-03)

ii. Ground Water. The active portion of a facility shall be located, designed and constructed such that the facility shall not cause contamination to a drinking water source or cause contamination of the ground water. (4-2-03)

iii. Geologic Restrictions. No facility may be located on land that would threaten the integrity of the design. (4-2-03)

iv. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. (4-2-03)

b. Siting Application. The owner and operator shall provide in the Siting Application documentation that demonstrates compliance with the siting requirements specified in Subsections 012.01 and 012.11.a.; (4-2-03)

c. Design Application. The owner and operator shall provide the following information for design approval: (4-2-03)

i. A facility map illustrating: (4-2-03)

(1) Surface water and erosion control systems; (4-2-03)

(2) Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and petroleum contaminated soils; (4-2-03)

(3) Location of borrow areas; (4-2-03)

(4) Design elevation grade of final cover; (4-2-03)

(5) Soil and water table test boring holes, wells, or excavations; (4-2-03)

(6) Proposed receiving, storage, and processing areas; (4-2-03)

(7) Proposed trench layout and development; and (4-2-03)

(8) Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the facility boundary. (4-2-03)

d. Operating Requirements: The owner and operator of a NMSWLF shall comply with the following operating requirements: (4-2-03)

i. Compaction and placement of waste in locations consistent with the approved operating plan; (4-2-03)

ii. Provision for storage of waste during periods when the NMSWLF is inaccessible; (4-2-03)

iii. Application of a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent nuisance and vector conditions at periods consistent with the approved operating plan. An owner and operator may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; (4-2-03)

iv. Placement of an interim cover layer of twelve (12) inches of compacted soil between lifts to provide erosion control and structural stability. An owner and operator may request that the Department approve an alternate interim cover that addresses erosion, and stability for subsequent lifts; (4-2-03)

v. Preservation of existing vegetation where attainable. (4-2-03)

e. Operating Plan. The operating plan required in Subsection 012.04 shall identify the methods used for maintaining compliance with each applicable operating requirement of Subsection 012.03 and Subsection 012.11.d.; (4-2-03)

f. Closure Requirements. The owner and operator of a Tier II NMSWLF shall comply with the following closure requirements: (4-2-03)

i. Final Cover. Within seven (7) days of the date of last receipt of waste, a cover layer shall be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of the date of last receipt of waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains plant growth shall be constructed; (4-2-03)

ii. Facility Stabilization. All disturbed portions of the facility shall be stabilized. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization; (4-2-03)

iii. Slope Stability. Finished grade shall be at a minimum of two percent (2%) and a maximum of thirty- three percent (33%) slope on the final surface of the completed fill area, after settlement; and (4-2-03)

iv. Drainage Control. The completed landfill shall be graded to prevent surface water ponding and erosion, and to conform to the local topography. (4-2-03)

g. Closure Plan. The owner and operator shall provide in the Closure Plan documentation that demonstrates compliance with closure requirements specified in Subsections 012.05 and 012.11.f. (4-2-03)

h. Deed Notation: (4-2-03)

i. After completion and certification of closure of a NMSWLF, the owner and operator shall record a notation on the deed to the landfill facility property, or some other recorded instrument that is normally examined during title search and is commonly recorded in the County where the landfill facility property is located, to provide notice to any potential purchaser that the property has been used as a solid waste processing or disposal facility and its future use may be restricted in accordance with a post-closure care plan. A copy of the notated deed, or other recorded instrument shall be sent to the Department after recording with the county clerk; (4-2-03)

ii. The owner may request permission from the Department to remove the notation from the deed, or to remove the other recorded instrument, if all wastes are removed from the facility; (4-2-03)

iii. Federal agencies with responsibility for management of landfills on federal property shall make a notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent shall be made. (4-2-03)

i. Post-Closure Care Plan. Owners and operators of a NMSWLF shall submit, in accordance with the time frames specified in Subsection 012.06, to the Department for review and approval a Post-Closure Care Plan, shall obtain Department approval of the Plan, and shall conduct post-closure care in accordance with the Plan. The Post-Closure Care Plan shall typically contain: (4-2-03)

i. The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; (4-2-03)

ii. Provisions to maintain the integrity and effectiveness of the final cover; (4-2-03)

iii. Provisions to continue to maintain and operate the systems required in the operating plan including run-on/run-off control systems; (4-2-03)

iv. Provisions to maintain appropriate security of the closed facility; (4-2-03)

v. Provisions for routine facility inspections by the owner and operator to insure compliance with the Post-Closure Care Plan; and (4-2-03)

vi. A description of the planned use(s) of the property during the post-closure care period: (4-2-03)

j. Post-closure care for the NMSWLF shall be conducted for a period of five (5) years, unless the Department establishes in writing an alternate facility-specific post-closure care period. (4-2-03)

k. Post-Closure Standards and Inspection. Post-closure use or operation of the site shall not disturb any final cover or storm water control systems in a manner that will increase the potential to threaten human health or the environment. (4-2-03)

l. The approved Post-Closure Care Plan shall be maintained and available for review on request by the Department. (4-2-03)

013. APPLICABLE REQUIREMENTS FOR TIER III FACILITIES.
The owner and operator of a new Tier III facility shall establish compliance with the requirements of Section 013 by obtaining Department approval of the applications required in Subsection 013.02 before beginning construction and Subsection 013.04 prior to accepting waste. The owner and operator of an existing Tier III facility shall establish compliance with the requirements of Section 013 by obtaining Department approval of the applications required in Subsection 013.04 within two (2) years from April 26, 2002, and Subsection 013.02 within five (5) years from April 26, 2002. During the two (2) year period from April 26, 2002, existing facilities shall operate in compliance with their approved operating plan and 40 CFR 257.1 through 257.3. In lieu of submitting an application, the owner and operator of existing facilities may demonstrate to the Department, compliance with Section 013 by submitting copies of existing permits and other approvals that establish compliance with the applicable siting, design, operating, closure, and post-closure requirements of Section 013 and Subsection 032.01. The owner and operator of a Tier III facility shall meet the requirements of Subsection 012.07 prior to facility closure; except that owners and operators closing Tier III facilities within eighteen (18) months from April 26, 2002 shall comply with applicable cover, seeding, grading and closure requirements of the former Solid Waste Management Rules and Standards, as enumerated in Subsection 001.04.d. of these rules. (4-2-03)

01. General Siting Requirements. The owner and operator of a Tier III facility shall comply with the following siting requirements: (4-2-03)

a. Flood Plain Restriction. A facility shall not be located within a one hundred (100) year flood plain if the facility will restrict the flow of the one hundred (100) year flood, reduce the temporary water storage capacity of the flood plain, or result in a washout of solid waste so as to pose a hazard to human health and the environment. (4-2-03)

b. Endangered or Threatened Species Restriction. The facility shall not cause or contribute to the taking of any endangered or threatened species of plants, fish, or wildlife or result in the destruction or adverse modification of the critical habitat of endangered or threatened species as identified in 50 CFR Part 17. (4-2-03)

c. Surface Water Restriction. The active portion of a facility shall be located such that the facility shall not cause contamination of surface waters, unless such surface waters are an integral part of the non-municipal solid waste management facility's operation for storm water and/or leachate management. (4-2-03)

d. Ground Water. The active portion of the facility shall be located, designed and constructed such that the facility shall not cause contamination to a drinking water source or cause contamination of ground water. (4-2-03)

e. Geologic Restrictions. No facility may be located on land that would threaten the integrity of the design. (4-2-03)

f. Property Line Restriction. The active portion of a facility shall not be located closer than one hundred (100) feet to the property line. (4-2-03)

g. Park, Scenic or Natural Use Restriction. The active portion of a facility shall not be located closer than one thousand (1,000) feet from the boundary of any state or national park, or land reserved or withdrawn for scenic or natural use including, but not limited to, wild and scenic areas, national monuments, wilderness areas, historic sites, recreation areas, preserves and scenic trails. (4-2-03)

h. Variance from Siting Requirement. Any existing or planned facility that does not meet the siting requirements of Section 013 may apply for a variance from the Department. The Department may approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of public health and the environment as the siting requirements in Section 013. (4-2-03)

02. Siting Application. Documentation shall be submitted to the Department demonstrating compliance with the siting requirements and restrictions specified in Subsection 013.01 within the time frames

specified in Section 013. If the documentation has been certified by a qualified professional, the Director shall approve the siting application unless the Director finds the evidence supports a contary opinion. A map indicating the following shall also be submitted to the Department as part of a Siting Application: (4-2-03)

a. Highways, roads, and adjacent communities; (4-2-03)

b. Property boundaries; (4-2-03)

c. Total acreage of the site; (4-2-03)

d. Off-site and on-site access roads and service roads; (4-2-03)

e. Type(s) of land use adjacent to the facility and a description of all facilities on the site; (4-2-03)

f. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the proposed facility property lines; (4-2-03)

g. High tension power line rights-of-way, fuel transmission pipeline rights-of-way, and proposed and existing utilities; (4-2-03)

h. Proposed or existing fencing; (4-2-03)

i. Proposed and existing structures at the facility and within five hundred (500) feet of the facility boundary. This shall include location of employee buildings, and scales (if provided); and (4-2-03)

j. Direction of prevailing winds. (4-2-03)

03. General Operating Requirements. The owner and operator of a Tier III facility shall comply with the following operating requirements: (4-2-03)

a. Prohibited Activities. The following activities are prohibited: (4-2-03)

i. Disposal in a landfill of regulated waste from any business that provides health care, support to health care businesses, or medical diagnostic services that has not been decontaminated. “Regulated waste” and “decontaminated” for the purpose of Section 013 has the same meaning as defined at 29 CFR 1910.1030; (4-2-03)

ii. Speculative accumulation, unless otherwise approved in an operating plan; and (4-2-03)

iii. Disposal of radioactive waste except in a facility regulated pursuant to Section 39-4405(9), Idaho Code and rules adopted thereunder or a facility regulated under the authority of The Atomic Energy Act of 1954, as amended. (4-2-03)

b. Signs. Facilities open to the general public shall clearly post visible and legible signs at each entrance to the facility specifying, at a minimum, the name of the facility, the hours of operation, the waste accepted at the facility and an emergency phone number. (4-2-03)

c. Waste Types. Only the solid waste types listed in the approved operating plan may be accepted for disposal or processing. (4-2-03)

d. Waste Monitoring and Measurement. Provisions shall be made for monitoring or measuring all solid waste delivered to a facility. The waste monitoring program shall include: (4-2-03)

i. A daily written log listing the types and quantities of wastes received; (4-2-03)

ii. A plan for monitoring and handling receipt of unauthorized wastes; (4-2-03)

iii. Routine characterization of the wastes received; and (4-2-03)

iv. Other measures included in an approved Operating Plan. (4-2-03)

e. Communication. Communication devices shall be available or reasonably accessible at the site. (4-2-03)

f. Fire Prevention and Control. Adequate provisions shall be made for controlling or managing fires at the site. (4-2-03)

g. Facility Access. Unauthorized vehicles and persons shall be prohibited access to the facility. A facility open to the public shall accept waste only when an attendant is on duty. The facility shall be fenced or otherwise blocked to access when an attendant is not on duty. (4-2-03)

h. Scavenging and Salvaging. Scavenging by the public at a facility is prohibited; however, salvaging may be conducted in accordance with a written operating plan and only by the owner, operator or an authorized agent. (4-2-03)

i. Nuisance Control. The owner and operator shall control nuisances, including but not limited to: (4-2-03)

i. Disease or Discomfort. Operations at any facility shall not provide sustenance to rodents or insects that cause human disease or discomfort; (4-2-03)

ii. Vector. Vector control procedures shall prevent or control vectors that may cause health hazards or nuisances; (4-2-03)

iii. Odor. The facility shall be operated to control malodorous gases; and (4-2-03)

iv. Litter. Effective measures shall be taken to minimize the loss of debris from the facility. Debris blown from or within the facility shall be collected and properly disposed to prevent objectionable accumulations. (4-2-03)

j. Bird Hazards to Aircraft. No facility may handle putresible wastes in such a manner that may attract birds and increase the likelihood of bird/aircraft collisions. Facilities that are located within ten thousand (10,000) feet of any airport runway used by turbojet aircraft, or within five thousand (5,000) feet of any airport used by only piston-type aircraft shall operate the facility in such a manner that birds are not a hazard to aircraft. (4-2-03)

k. Open Burning and Fires. Open burning is prohibited at facilities except as authorized by these rules and IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

i. No open burning shall be conducted during an air pollution episode, declared in accordance with IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." (4-2-03)

ii. Open burning is authorized only if it is infrequent and the materials are agricultural wastes, silviculture wastes, land clearing debris, diseased trees, or debris from emergency cleanup operations. Materials burned shall not include garbage, dead animals, asphalt, petroleum products, paints, tires or other rubber products, plastics, paper (other than that necessary to start the fire), cardboard, treated wood, construction debris, metal, pathogenic wastes, hazardous wastes, or any other substance (other than natural vegetation) that when burned releases toxic emissions, dense smoke or strong odors. (4-2-03)

iii. Open burning shall be conducted pursuant to conditions set forth by the Department or local fire authority. The owner and operator of the facility shall contact the Department and the local fire authority prior to conducting open burning to report its nature and location. (4-2-03)

l. Storm Water Run-On/Run-Off Controls. The operating plan shall include sufficient storm water management provisions, which may incorporate a NPDES storm water pollution prevention plan, to prevent contamination of ground or surface water and prevent the spread and impact of contamination beyond the boundary

of the facility. (4-2-03)

m. Variance Request. An owner and operator may submit to the Department a written variance request for a variance from the operating requirements listed in Section 013. The Department shall approve a written request for a variance provided the owner and operator demonstrate to the Department that the variance is at least as protective of human health and the environment as the requirements listed in Section 013. (4-2-03)

04. Operating Plan. The owner and operator of a Tier III facility shall submit to the Department an Operating Plan containing that information required by Subsection 013.03, within the time frames stated in Section 013. An Operating Plan shall included a description of the wastes to be accepted, the methods for maintaining compliance with each of the applicable general operating requirements of Subsection 013.03, and complies with any applicable facility specific requirements found in Subsections 013.11 through 013.13. (4-2-03)

05. Ground Water Monitoring Requirements. The owner and operator of a new Tier III facility shall comply with the following ground water monitoring requirements: (4-2-03)

a. Install and maintain ground water monitoring wells at the point of compliance as approved by the Department; (4-2-03)

b. Within thirty (30) days of completion of each well, submit a copy of the geologic log and record of well construction to the Department; (4-2-03)

c. Monitor the ground water quarterly, unless otherwise directed by the Department. Constituents to be monitored shall be those listed in 40 CFR Part 257.24 unless otherwise authorized by the Department; and (4-2-03)

d. The owner and operator of any facility required to monitor ground water pursuant to Section 013 shall continue the approved monitoring schedule for five (5) years following facility closure, unless otherwise approved by the Department upon request of the owner and operator for a modified monitoring schedule. (4-2-03)

06. Ground Water Monitoring Application. The following information shall be submitted to the Department in a Ground Water Monitoring Application: (4-2-03)

a. A map showing soil types, depth to ground water, ground water flow direction and locations of proposed ground water monitoring wells; and (4-2-03)

b. A monitoring schedule indicating sample frequency and constituents to be analyzed. (4-2-03)

07. Closure Requirement. The owner and operator of a Tier III facility shall comply with the following closure requirements: (4-2-03)

a. Public Notice. For a facility open to the public the owner and operator shall provide public notice of the facility's closure by publishing a notice in the local newspaper and posting signs at the facility's entrance. This notice shall be published and the signs posted; (4-2-03)

i. At least thirty (30) days and no more than ninety (90) days prior to the date of last receipt of waste for a facility that has reached disposal capacity; or (4-2-03)

ii. If the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional waste, a notice shall be published and signs posted at least thirty (30) days and no more than ninety (90) days prior to closure. (4-2-03)

b. Facility Closure. Unless the Department establishes an alternate closure time period, the owner and operator shall close the facility within six (6) months of the Department's approval of the Closure Plan. The facility shall be closed in accordance with the approved Closure Plan. (4-2-03)

c. Clean Site/Access Control. The owner and operator shall close the facility by managing or

removing all solid waste to prevent impact to human health or the environment and shall install a gate or other device to prevent public access after the last receipt of waste; (4-2-03)

d. Drainage and Erosion Control. The owner and operator shall install appropriate measures to control erosion and install appropriate measures to control the run-on and runoff from a twenty-five (25) year, twenty-four (24) hour storm event and to provide for the diversion of other surface waters from the closed facility; and (4-2-03)

e. Closure Plan Certification. Within thirty (30) days of closure, the owner and operator shall notify the department in writing that the facility was closed in accordance with the approved Closure Plan. If closure of the facility is different from the approved Closure Plan, the owner and operator shall submit for Department review and approval documents, such as "as-built" plans, showing the final conditions of the facility. (4-2-03)

08. Closure Plan Application. The owner and operator of a Tier III facility shall submit to the Department a Closure Plan Application containing the information no later than ninety (90) days before the date on which the facility receives the known final receipt of wastes or, if the facility has remaining capacity and there is a reasonable likelihood that the facility will receive additional wastes, no later than one (1) year after the most recent receipt of wastes. The following information shall be submitted to the Department in a Closure Application: (4-2-03)

a. A complete and accurate legal description of the facility; (4-2-03)

b. A map of the facility, showing pertinent facility features, including: (4-2-03)

i. Facility boundaries, drainage patterns, location of fill areas, and location of access control measures; (4-2-03)

ii. All water courses, ponds, lakes, reservoirs, canals, irrigation systems, and existing water supplies, within one-quarter (1/4) mile of the facility boundary; (4-2-03)

iii. Location of disposal trenches and description of waste disposed; and (4-2-03)

iv. Proposed final contours of the closed facility, drawn to a reasonable scale with five (5) foot intervals for the operational area, and ten (10) foot intervals for the remainder of the facility; (4-2-03)

c. Estimated date of last receipt of waste; (4-2-03)

d. A description of how public access to the closed facility will be controlled; (4-2-03)

e. Estimated total cubic yards, or tons, of waste in place; (4-2-03)

f. Total acreage of the facility and acres containing waste; (4-2-03)

g. Closure equipment and procedures to be used; (4-2-03)

h. Texture, depth and permeability of final cover material; (4-2-03)

i. Design and construction plan for any necessary final cover; (4-2-03)

j. Placement, design, and management of run-on and run-off storm water controls; (4-2-03)

k. Types of vegetation and planting procedures to be used for establishing vegetative cover; (4-2-03)

l. Details of any proposed changes to any existing groundwater monitoring system; (4-2-03)

m. Details of any proposed changes to any existing landfill gas control system; (4-2-03)

n. Details of any proposed changes to any existing leachate collection system; and (4-2-03)

o. Other closure information the Department determines is necessary to protect human health and the environment. (4-2-03)

09. Documentation Requirements. The owner and operator of a Tier III facility shall maintain on site each Department-approved application required by Section 013. (4-2-03)

10. Modification Application. The owner and operator shall submit to the Department a Modification Application describing the proposed modification no less than sixty (60) days prior to the proposed modification of the facility. The owner and operator of a Tier III facility shall not implement the modification prior to Department approval. If a proposed modification alters the classification of a facility, the owner and operator shall comply with the application content, review and approval requirements for the new classification. (4-2-03)

11. Tier III Processing Facilities. In addition to the requirements in Subsections 013.01 through 013.10, the owner and operator of a Tier III processing facility shall comply with the following requirements: (4-2-03)

a. Odor Management Plan. The owner and operator of a Tier III processing facility shall implement a Department approved Odor Management Plan designed to minimize malodorous gases. An Odor Management Plan shall include specific operating criteria for oxygen, moisture and temperature levels appropriate for the wastes to be processed and processing technologies to be employed; methods used to maintain the specific operating criteria and a monitoring strategy that includes the frequency and parameters for monitoring the specific operating criteria; (4-2-03)

b. Additional Requirements for PCS. Owners and operators of Tier III PCS processing facilities shall comply with the following applicable requirements: (4-2-03)

i. Leachate collection and control system to prevent contamination of ground and surface waters; (4-2-03)

ii. Liner designed to prevent ground and surface water contamination. The liner design shall account for the types of wastes handled and the potential for migration of liquids and gaseous contaminants to ground water; and (4-2-03)

iii. Air emission control system to prevent discharges of air pollutants. (4-2-03)

iv. An owner and operator of a PCS processing facility may submit a written request for a variance from the leachate control and liner requirements. The owner and operator must demonstrate that the variance is at least as protective of surface and ground water as the leachate collection system and liner. (4-2-03)

c. Design Application. The following information shall be submitted to the Department in a Design Application: (4-2-03)

i. Building and construction design blueprints; (4-2-03)

ii. A map illustrating a storm water run-on/run-off system designed to prevent contamination of ground or surface water or and prevent contamination beyond the boundary of the facility; (4-2-03)

iii. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and (4-2-03)

iv. Design and Construction Requirements. The owner and operator of a Tier III PCS processing facility shall submit for Department review and approval the following information as part of the Design Application: (4-2-03)

(1) A hydrogeologic evaluation, including the potential for migration of contamination to ground or surface water; (4-2-03)

(2) A detailed description of treatment methods to be used; (4-2-03)

(3) Design plans for a leachate collection and control system to prevent ground and surface water contamination from the leachate control system; (4-2-03)

(4) Design plans for an air emissions control system to prevent discharges of air pollutants; and (4-2-03)

(5) Design plans for a liner designed to prevent ground or surface water contamination. The liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contaminants to ground water. (4-2-03)

d. Operating Plan. The owner and operator of a PCS processing facility shall submit for Department review and approval the following information as part of the Subsection 013.04, Operating Plan: (4-2-03)

i. A sampling plan that describes the methods and frequency that the owner and operator will use to sample and analyze the wastes when received, during processing, and on final testing of processed material; and (4-2-03)

ii. A description of how the owner and operator will maintain and operate the liner, leachate collection and control system, and air emission control system consistent with the approved design application. (4-2-03)

e. Documentation Requirement. The owner and operator of a processing facility shall maintain documentation of compliance with Section 013, including an operational log of the methods used to maintain the operating criteria and sampling results. (4-2-03)

12. Tier III Incinerators. In addition to the requirements in Subsections 013.01 through 013.04 and Subsections 013.09 and 013.10, the owner and operator of a Tier III incinerator shall comply with the following requirements: (4-2-03)

a. Design Requirements. The owner and operator of an incinerator comply with the following design requirements: (4-2-03)

i. A tipping floor constructed of impermeable and durable material and designed to contain, collect, and convey any liquids to a storage or leachate management system. Any facility that accepts only waste tires will not be required to construct a tipping floor. (4-2-03)

ii. A storage or leachate management system. (4-2-03)

b. Design Application. The following information shall be submitted to the Department in a Design Application: (4-2-03)

i. A description of the tipping floor design; (4-2-03)

ii. A description of the storage or leachate management system design; (4-2-03)

iii. Building and construction design blueprints; (4-2-03)

iv. A map illustrating a storm water run-on/run-off system designed to prevent ground or surface water contamination, or contamination from the facility beyond the boundary of the facility; (4-2-03)

v. Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and (4-2-03)

vi. Any facility specific design elements required by these rules. (4-2-03)

c. Operating Requirements. The owner and operator of an incinerator shall comply with the following

operating requirements: (4-2-03)

i. Maintain and operate the tipping floor to control odors, insects, and rodents; (4-2-03)

ii. Implement cleaning procedures and waste residency times used to maintain sanitary conditions on the surface of the tipping floor; and (4-2-03)

iii. Implement a storage or leachate management system operation. (4-2-03)

d. Waste Tire Collection Site Requirements. Individual tire piles shall not exceed five thousand (5000) square feet of continuous area, nor fifty thousand (50,000) cubic feet in volume or ten (10) feet in height. (4-2-03)

e. If it is determined that the tipping floor or leachate management system integrity has been breached, or waste has been handled or stored outside of the containment of the tipping floor, unless allowed in the facility Operating Plan, the owner and operator of the Tier III incinerator shall comply with Subsections 013.05 through 013.08. (4-2-03)

13. Tier III NMSWLFs. In addition to the requirements in Subsection 013.01 through 013.10, the owner and operator of a Tier III NMSWLF shall comply with the following requirements: (4-2-03)

a. Siting Requirements: A facility shall not be located in wetlands, except as provided in 40 CFR 257.9; (4-2-03)

b. Siting Application. The owner and operator shall include in the Siting Application documentation demonstrating compliance with the requirement specified in Subsection 013.13.a.; (4-2-03)

c. Design and Construction Requirements: The owner and operator of a new NMSWLF shall comply with the following design and construction requirements: (4-2-03)

i. Leachate Collection and Control System. A leachate collection and control system shall be constructed to prevent ground and surface water contamination; (4-2-03)

ii. Liner. A liner designed to prevent ground or surface water contamination shall be installed. The liner design shall account for the types of wastes handled and the potential for migration of liquid and gaseous contamination to ground or surface water; (4-2-03)

iii. Landfill Emission Control System. Appropriate toxic and flammable gas monitoring devices shall be installed where the location, geophysical condition, and waste characteristics indicate that there is a reasonable probability that the facility will generate toxic and flammable gas: exceeding twenty-five (25) percent of the lower explosive limit for gases in facility structures (excluding gas control or gas recovery system components); exceeding the lower explosive limit at the property boundary; or otherwise presenting a potential threat to public health or the environment; and (4-2-03)

iv. An owner or operator may submit a written request for a variance from the leachate collection and control system, liner, or emission control system requirements. The Department may approve the variance upon demonstration by the owner or operator that the variance is at least as protective of human health and the environment as the leachate collection and control system, liner, or emission control system. (4-2-03)

d. Design Application. The following information shall be submitted to the Department in a Design Application: (4-2-03)

i. Design plans shall address the need for and include as required a leachate collection and control system, liner, and emission control systems in Subsection 013.13.c.; (4-2-03)

ii. A facility map illustrating: (4-2-03)

(1) Surface water and erosion control systems; (4-2-03)

(2) Proposed fill area, including the location of waste disposal trenches or cells, noting the locations of trenches used for separated wastes such as animal carcasses, tree trunks, stumps, bulky wastes, car bodies, asbestos, and petroleum contaminated soils; (4-2-03)

(3) Location of borrow areas; (4-2-03)

(4) Design elevation grade of final cover; (4-2-03)

(5) Soil and water table test boring holes, wells, or excavations; (4-2-03)

(6) Proposed receiving, storage, and processing areas; (4-2-03)

(7) Proposed trench layout and development; and (4-2-03)

(8) Contour lines at five (5) foot intervals within the operating area and ten (10) foot intervals to the facility boundary. (4-2-03)

(9) Building and construction design blueprints; (4-2-03)

(10) Operational design and capacity information including a description of the waste types and projected daily and annual waste volumes; and (4-2-03)

e. Operating Requirements: The owner and operator of a NMSWLF shall comply with the following operating requirements: (4-2-03)

i. Compaction and placement of waste in locations consistent with the approved operations plan; (4-2-03)

ii. Provision for storage of waste during periods when the NMSWLF is inaccessible; (4-2-03)

iii. Application of a six (6) inch compacted soil cover layer on exposed waste as necessary to prevent nuisance and vector conditions at periods consistent with the approved operations plan. An owner and operator may request that the Department approve an alternate cover that addresses vectors, litter, fire, odor, and scavenging concerns; (4-2-03)

iv. Placement of an interim cover layer of twelve (12) inches of compacted soil between lifts to provide erosion control and structural stability. An owner and operator may request that the Department approve an alternate interim cover that addresses erosion, and stability for subsequent lifts; (4-2-03)

v. Maintenance and operation of a leachate collection and control system and air emission control system consistent with the approved design application; and (4-2-03)

vi. Preservation of existing vegetation where attainable. (4-2-03)

f. Operating Plan. The operating plan required in Section 013 shall identify the methods used for maintaining compliance with each applicable operating requirement of Subsection 013.03. and Subsection 013.13.e. including but not limited to the type, the method of compaction and the frequency of application of respective cover materials; (4-2-03)

g. Closure Requirements. The owner and operator of a NMSWLF shall comply with the following closure requirements: (4-2-03)

i. Final Cover. Within seven (7) days of the date of last receipt of waste, a cover layer shall be applied to prevent nuisances and vector conditions. Within one hundred and twenty (120) days of the date of last receipt of waste, a final cover layer of eighteen (18) inches of compacted soil with an approved in-place permeability designed to minimize infiltration, or its functional equivalent, and, a six (6) inch soil layer that minimizes erosion and sustains

plant growth shall be constructed; (4-2-03)

ii. Facility Stabilization. All disturbed portions of the facility shall be stabilized. Stabilization practices may include but are not limited to: establishment of vegetation, mulching, geotextiles, and sod stabilization; (4-2-03)

iii. Slope Stability. Finished grade shall be at a minimum of two percent (2%) and a maximum of thirty- three percent (33%) slope on the final surface of the completed fill area, after settlement; and (4-2-03)

iv. Drainage Control. The completed landfill shall be graded to prevent surface water ponding and erosion, and to conform to the local topography. (4-2-03)

h. Deed Notation: (4-2-03)

i. After completion and certification of closure of a NMSWLF, the owner and operator shall record a notation on the deed to the landfill facility property, or some other recorded instrument that is normally examined during title search and is commonly recorded in the County where the landfill facility property is located, to provide notice to any potential purchaser that the property has been used as a solid waste processing or disposal facility and its future use may be restricted in accordance with a post-closure care plan. A copy of the notated deed, or other recorded instrument, shall be sent to the Department after recording with the county clerk. (4-2-03)

ii. The owner may request permission from the Department to remove the notation from the deed, or the other recorded instrument, if all wastes are removed from the facility. (4-2-03)

iii. Federal agencies with responsibility for management of landfills on federal property shall make a notation in the federal property records for the affected property. If the subject property is ever sold or transferred by the federal government, a notation on the deed or patent shall be made. (4-2-03)

i. Closure Plan. The owner and operator shall provide in the Closure Plan documentation that demonstrates compliance with closure requirements specified in Subsections 013.07 and 013.13.g. (4-2-03)

j. Post-Closure Care Plan. Owners and operators of a NMSWLF shall submit, in accordance with the time frames specified in Subsection 013.08, to the Department for review and approval a Post-Closure Care Plan, shall obtain Department approval of the Plan, and shall conduct post-closure care in accordance with the Plan: (4-2-03)

i. Unless the Department determines otherwise, the Post-Closure Care Plan shall contain: (4-2-03)

(1) The name and address of an agent authorized to accept communications or service during the post-closure period. The name may be changed during the post-closure period by providing the Department with twenty (20) days advance written notice of the change; (4-2-03)

(2) Provisions to maintain the integrity and effectiveness of the final cover; (4-2-03)

(3) Provisions to continue to maintain and operate the systems required in the operating plan, including: run-on/run-off control systems, leachate collection and control systems, groundwater monitoring systems, and gas monitoring systems; (4-2-03)

(4) Provisions to maintain appropriate security of the closed facility; (4-2-03)

(5) Provisions for routine facility inspections by the owner and operator to insure compliance with the Post-Closure Care Plan; and (4-2-03)

(6) A description of the planned use(s) of the property during the post-closure care period. (4-2-03)

ii. Post-closure care for the NMSWLF shall be conducted for a minimum of five (5) years, but not more than thirty (30) years, as necessary to protect human health and the environment. (4-2-03)

iii. Post-Closure Standards and Inspection. Post-closure use or operation of the site shall not disturb any final cover, liner or other component of the containment system in a manner that will increase the potential to threaten human health or the environment. (4-2-03)

iv. The approved Post-Closure Care Plan shall be maintained and available for review on request by the Department. (4-2-03)

v. The requirements in Subsection 013.07 shall apply to owners and operators and their successors and assigns. (4-2-03)

014. -- 031. (RESERVED)

032. TIER II AND TIER III APPLICATION AND PLAN REVIEW AND APPROVAL.

01. Application Submittal. The owner and operator shall submit three (3) copies of each required application to the Department. The owner and operator may submit applications for siting, design, operation, or ground water monitoring approval sequentially or concurrently. (4-2-03)

02. Preapplication Conference. The owner or operator may request that the Department convene a preapplication conference with any interested federal, state and local entities to discuss the approval procedures, application content, time tables for application processing, siting and design requirements. (4-2-03)

03. Application Review. (4-2-03)

a. On receipt of an application the Department shall, within thirty (30) days, notify the owner and operator in writing whether the submission is complete and whether the application identifies an appropriate Tier level. The notice shall identify any deficiencies in the application, and the information relied upon in making the determination, and shall state that an applicant may submit additional information in the form of an amended application, withdraw the application or request a conference to discuss the Department's determination. (4-2-03)

b. Upon receipt of the Department's determination that a siting application is complete, the owner and operator shall publish a notice in a newspaper of general circulation as determined in Section 31-819, Idaho Code, in the county and the immediate vicinity of the proposed facility and shall also provide notice to local government. The notice shall include the name and location of the proposed facility, a general description of the proposed operations, the location where the application may be reviewed, and instructions directing the public to submit comments to the Department within thirty (30) days of the date of publication. The owner and operator shall provide a copy of the published notice and notice to local government to the Department within five (5) business days of publication. (4-2-03)

c. The Department shall approve, deny, or approve with conditions each application. Failure to issue a decision within the stated time shall be deemed approval. Approval conditions shall relate to protection of human health and the environment as required in these rules. (4-2-03)

i. For a siting application, the Department shall notify the owner and operator in writing of the Department's decision within thirty (30) days of the date of the close of the public comment period. The Department and the owner and operator may agree, in writing to a longer period of time for the Department's determination. Design, Operating and Ground Water Monitoring Applications shall not be reviewed until the Siting Application is approved. (4-2-03)

ii. For the Design, Operating and Ground Water Monitoring applications, the Department shall notify the owner and operator in writing of the Department's decision within sixty (60) days from the date the application is determined to be complete. (4-2-03)

d. If the Department denies an application, the written decision shall state the basis for the denial, and the information relied upon in making the determination. (4-2-03)

04. Application Valid for Two Years. Unless otherwise stated in the Department's approval of the facility's application, the Department's approval shall become invalid if the owner and operator fail to begin construction within two (2) years from the date of approval, or if after construction has begun, work is suspended for more than two (2) years. Owners and operators may apply for an extension provided that the written request is received by the Department no less than one (1) month prior to expiration of the approval. Within fifteen (15) days from Department receipt of extension request, the Department shall approve the extension request or deny the extension request and state the basis for denial. (4-2-03)

033. -- 059. (RESERVED)

060. VIOLATIONS.

01. Failure to Comply. Failure by any person to comply with the provisions of these rules shall be deemed a violation of these rules. (4-2-03)

02. Falsification of Statements and Records. It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of an approval. (4-2-03)

03. Penalties. Any person violating any provision of these rules or any approved conditions or order issued thereunder shall be liable for civil penalty in accordance with Title 39, Chapter 1, Idaho Code. (4-2-03)

061. -- 993. (RESERVED)

994. COMMERCIAL SOLID WASTE SITING LICENSE FEE.
An application for a commercial solid waste siting license required by the Idaho Solid Waste Facilities Act shall be accompanied by a siting license fee in an amount established by these rules. The license fee shall not exceed seven thousand five hundred dollars ($7,500) and shall be submitted with the siting license application. (4-2-03)

01. Commercial Solid Waste Siting License Fee Criteria. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and these rules shall apply to commercial MSWLFs only and shall be based on the cost of the Department's review and the characteristics of the proposed commercial solid waste facility, including the projected site size, projected waste volume, and the hydrogeological and atmospheric characteristics surrounding the site. (4-2-03)

02. Commercial Solid Waste Siting License Fee Scale. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and these rules shall be determined using the table below. The fee determined using the table below may then be adjusted by the Department if necessary to reflect the cost of the Department's review, taking into account the hydrogeological and atmospheric characteristics surrounding the site.

COMMERCIAL SOLID WASTE SITING LICENSE FEE SCALE PROJECTED SOLID WASTE VOLUME Tons per day (TPD)			
Site Size	**Up to 20 TPD**	**20 to 100 TPD**	**More than 100 TPD**
5 acres or less	$3,500	$4,500	$5,500
5 to 50 acres	$4,500	$5,500	$6,500
more than 50 acres	$5,500	$6,500	$7,500

(4-2-03)

03. Notification of Adjustment of Fee. Within thirty (30) days of receipt of the application and fee, the Department shall notify the applicant if the fee has been adjusted and the date by which any additional fee must be paid by the applicant. (4-2-03)

04. Expansion or Enlargement of a Commercial Solid Waste Facility. The expansion or enlargement of a commercial solid waste facility constitutes a new proposal for which a commercial solid waste siting license is required and for which a siting license fee must be paid. All commercial solid waste facilities not in operation on March 20, 1996 must submit a commercial solid waste license application and fee. (4-2-03)

05. Commercial Solid Waste Siting License Fee Not Refundable. The commercial solid waste siting license fee required by the Idaho Solid Waste Facilities Act and by these rules shall not be refundable and may not be applied toward any subsequent application should the commercial solid waste siting license application be canceled, withdrawn or denied. (4-2-03)

995. COMMERCIAL SOLID WASTE SITING LICENSE APPLICATION.
In addition to the contents of a Siting License Application as required in the Idaho Solid Waste Facilities Act, these rules require the applicant to include in the application the following items: (4-2-03)

01. Location. A map indicating the location of the proposed commercial solid waste facility; (4-2-03)

02. Copies of Application. Ten (10) copies of the completed application; and (4-2-03)

03. Application Format. A copy of the application in a format prepared for photocopying. (4-2-03)

996. -- 998. (RESERVED)

999. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." (4-2-03)

000. LEGAL AUTHORITY.
Chapters 1 and 88, Title 39, Idaho Code, grant authority to the Board of Environmental Quality to promulgate rules for the regulation of underground storage tank systems within the state of Idaho. (4-2-08)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.07, "Rules Regulating Underground Storage Tank Systems." (4-2-08)

02. Scope. These rules establish standards and procedures necessary for the regulation of underground storage tank systems. Compliance with these rules shall not relieve persons from the obligation to comply with other applicable state or federal laws. (4-2-08)

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (4-2-08)

003. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (4-2-08)

004. INCORPORATION BY REFERENCE.
Any reference to any document identified in Subsection 004.01 shall constitute the full adoption by reference into IDAPA 58.01.07. (4-2-08)

01. Documents Incorporated by Reference. Technical Standards and Corrective Action Requirements for Owners and Operators of Underground Storage Tanks, 40 CFR Part 280, revised as of July 1, 2017 with the following exceptions: (3-24-17)

a. 40 CFR 280.12, the definition of "Re7placed" is excluded; (3-24-17)

b. 40 CFR 280.12, the definition of "Under-dispenser containment or UDC" is excluded; (3-24-17)

c. 40 CFR 280.20, the introductory paragraph sentence, "In addition, except for suction piping that meets the requirements of Section 280.41(b)(1)(ii)(A) through (E), tanks and piping installed or replaced after April 11, 2016 must be secondarily contained and use interstitial monitoring in accordance with Section 280.43(g)," is excluded; (3-24-17)

d. 40 CFR 280.20(f), is excluded; (3-24-17)

e. 40 CFR 280.34(b)(9), the citation to Section 280.245 is excluded; (3-24-17)

f. 40 CFR 280.41(a)(1), "installed on or before April 11, 2016…" is excluded; (3-24-17)

g. 40 CFR 280.41(a)(2), is excluded; (3-24-17)

h. 40 CFR 280.41(b)(1), "installed on or before April 11, 2016…" is excluded; (3-24-17)

i. 40 CFR 280.41(b)(2), is excluded; (3-24-17)

j. 40 CFR 280.42, Note to paragraph (a), "for tank installed on or before October 13, 2015." is excluded; (3-24-17)

k. 40 CFR 280.42(e), "installed on or before October 13, 2015…" is excluded; and (3-24-17)

l. 40 CFR Part 280 Subpart J is excluded. (3-24-17)

02. Hazardous Substance Underground Storage Tank Systems. (4-2-08)

a. The following items only apply to hazardous substance underground storage tank systems and do

not apply to petroleum underground storage tank systems: (4-2-08)

i. The definition of "Hazardous substance UST system" in 40 CFR 280.12 and use of this term or regulations regarding hazardous substance in 40 CFR Part 280; and (4-2-08)

ii. 40 CFR 280.42 and any reference to 40 CFR 280.42 in 40 CFR Part 280. (4-2-08)

b. All other provisions of 40 CFR Part 280 and all provisions of IDAPA 58.01.07 shall apply to hazardous substance underground storage tank systems. (4-2-08)

03. Consistency. In the event of conflict or inconsistency between the language in IDAPA 58.01.07 and that found in 40 CFR Part 280, IDAPA 58.01.07 shall prevail. (4-2-08)

04. Stringency. IDAPA 58.01.07 shall be no more stringent than federal law or regulations governing underground storage tank systems. (4-2-08)

05. Availability of Referenced Material. The federal regulations adopted by reference can be obtained at the following locations: (4-2-08)

a. U.S. Government Printing Office, www.ecfr.gov; and (4-2-08)

b. Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502. (4-2-08)

005. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, (208) 373-0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (4-2-08)

006. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-2-08)

007. -- 009. (RESERVED)

010. DEFINITIONS.

For the purpose of the rules contained in IDAPA 58.01.07, "Rules Regulating Underground Storage Tank Systems," the following definitions apply: (4-2-08)

01. Board. The Idaho Board of Environmental Quality. (4-2-08)

02. Community Water System. A public water system that serves at least fifteen (15) service connections used by year-round residents of the area served by the system or regularly serves at least twenty-five (25) year-round residents. (4-2-08)

03. Department. The Idaho Department of Environmental Quality. (4-2-08)

04. Director.The Director of the Idaho Department of Environmental Quality or his authorized agent. (4-2-08)

05. Existing. Solely for purposes of determining when secondary containment is required, existing is when a petroleum underground storage tank, piping, motor fuel dispensing system, facility, public water system or potable drinking water well is in place when a new installation or replacement of a tank, piping, or motor fuel dispensing system begins. (4-2-08)

06. EPA. The United States Environmental Protection Agency. (4-2-08)

07. Installation of a New Motor Fuel Dispenser System. The installation of a new motor fuel dispenser and the equipment necessary to connect the dispenser to the petroleum underground storage tank system. This equipment may include flexible connectors, risers, or other transitional components that are beneath the dispenser, below the shear valve, and connect the dispenser to the piping. It does not mean the installation of a motor fuel dispenser installed separately from the equipment needed to connect the dispenser to the petroleum underground storage tank system. (4-2-08)

08. Installer. Any person who installs a new or replacement petroleum underground storage tank system. (4-2-08)

09. New Underground Storage Tank. Has the same meaning as "underground storage tank or UST" in 40 CFR 280.12, except that such term includes tanks that have been previously used and meet the requirements of 40 CFR 280.20(a). (4-2-08)

10. Non-Community Water System. A public water system that is not a community water system. A non-community water system is either a transient non-community water system or a non-transient non-community water system. (4-2-08)

11. Piping. A hollow cylinder or a tubular conduit constructed of non-earthen materials that routinely contains and conveys regulated petroleum substances from the petroleum underground storage tank(s) to the dispenser(s) or other end-use equipment. It does not mean vent, vapor recovery, or fill lines that do not routinely contain regulated petroleum substances. (4-2-08)

12. Potable Drinking Water Well. Any hole (dug, driven, drilled, or bored) that extends into the earth until it meets ground water which supplies water for a non-community public water system or otherwise supplies water for household use (consisting of drinking, bathing, and cooking, or other similar uses). Such wells may provide water to entities such as a single-family residence, group of residences, businesses, schools, parks, campgrounds, and other permanent or seasonal communities. (4-2-08)

13. Product Deliverer. Any person who delivers or deposits product into a petroleum underground storage tank. This term may include major oil companies, jobbers, petroleum transportation companies, or other product delivery entities. (4-2-08)

14. Public Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under control of the operator of such system and used primarily in connection with such system; and, any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "non-community water system." (4-2-08)

15. Red Tag. A tamper-resistant tag, device, or mechanism attached to the tank's fill pipes that clearly identifies a petroleum underground storage tank as ineligible for product delivery. The tag or device shall be visible to the product deliverer and clearly state that it is unlawful to deliver to, deposit into, or accept product into the ineligible petroleum underground storage tank. (4-2-08)

16. Replace. As it applies to petroleum underground storage tanks and piping, replace is defined as follows: (4-2-08)

a. Petroleum Underground Storage Tank. Replace means to remove an existing tank and install a new tank. (4-2-08)

b. Piping. Replace means to remove and put back in one hundred (100) percent of the piping, excluding connectors, connected to a single petroleum underground storage tank system. This definition does not alter the requirement in 40 CFR 280.33(c) to replace metal pipe sections and fittings that have released product as a

result of corrosion or other damage. A replacement of metal pipe section and fittings pursuant to 40 CFR 280.33(c) shall be considered a replacement under this definition only if one hundred (100) percent of the metal piping, excluding connectors, is replaced. (4-2-08)

17. Under-Dispenser Spill Containment. Containment underneath a dispenser that will prevent leaks from the dispenser from reaching soil or ground water. Such containment must: (4-2-08)

a. At installation or modification, be liquid-tight on its sides, bottom, and at any penetrations; and (4-2-08)

b. Be compatible with the substance conveyed by the piping; and either (4-2-08)

c. Allow for visual inspection and access to the components in the containment system; or (4-2-08)

d. Be monitored for releases using a release detection method that meets the requirements of 40 CFR 280.43(g). (4-2-08)

011. – 099. (RESERVED)

100. ADDITIONAL MEASURES TO PROTECT GROUND WATER FROM CONTAMINATION.

01. Notification. An owner, operator or designee must: (4-2-08)

a. Provide written notice to the Department thirty (30) days prior to the installation of a new piping system or a new or replacement petroleum underground storage tank. (4-2-08)

b. Provide notice to the Department twenty-four (24) hours prior to the installation of a replacement piping system. (4-2-08)

02. Notification Forms. The written notice required in Subsection 100.01.a. shall be made upon forms provided by the Department. (4-2-08)

03. Requirements for Petroleum UST Systems. Owners, operators, and installers of a new or replacement petroleum underground storage tank or piping system shall comply with the following requirements. (4-2-08)

a. Each new petroleum underground storage tank, or piping connected to any such new tank, installed after February 23, 2007, or any existing petroleum underground storage tank, or existing piping connected to such existing tank, that is replaced after February 23, 2007, shall have secondary containment and be monitored for leaks if the new or replaced petroleum underground storage tank or piping is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. At a minimum, secondary containment systems must be designed, constructed, and installed to contain regulated substances released from the tank system until they are detected and removed, prevent the release of regulated substances to the environment at any time during the operational life of the petroleum underground storage tank system, and be checked for evidence of a release at least every thirty (30) days. The following conditions are excluded: (4-2-08)

i. Suction piping that meets the requirements of 40 CFR 280.41(b)(1)(ii)(A) through (E); (3-24-17)

ii. Piping that manifolds two (2) or more petroleum underground storage tanks together; (4-2-08)

iii. Existing piping to which new piping is connected to install a dispenser; and (4-2-08)

iv. Tanks identified in 40 CFR 280.10(b). (4-2-08)

b. If the owner installs, within one (1) year, a potable drinking water well at the new facility that is within one thousand (1,000) feet of the petroleum underground tanks, piping, or motor fuel dispenser system as part of the new underground storage tank facility installation, secondary containment and under-dispenser containment

are required, regardless of whether the well is installed before or after the petroleum underground tanks, piping, and motor fuel dispenser system are installed. (4-2-08)

c. The notice required in Subsection 100.01 shall indicate whether the new or replacement installation is within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well. If the owner and installer certify that the installation is not within one thousand (1,000) feet of an existing public water system or any existing potable drinking water well, the owner, operator or designee shall provide and maintain documentation showing that a reasonable investigation of water systems and drinking water wells was undertaken. A reasonable investigation includes, but is not limited to, a search of the records of: (4-2-08)

i. The public or private water service provider in the area which the new or replacement installation is located (if any); (4-2-08)

ii. The city or county in which the new or replacement installation is located; (4-2-08)

iii. The Idaho Department of Water Resources; and (4-2-08)

iv. The Idaho Department of Environmental Quality. (4-2-08)

d. In the case of a replacement of an existing petroleum underground storage tank or existing piping connected to the petroleum underground storage tank, Section 100 shall apply only to the specific petroleum underground storage tank or piping being replaced, not to other petroleum underground storage tanks and connected pipes comprising such system. (4-2-08)

e. Each installation of a new motor fuel dispenser system shall include under-dispenser spill containment if the new dispenser is within one thousand (1,000) feet of any existing public water system or any existing potable drinking water well. (4-2-08)

04. Requirements for Hazardous Substance UST Systems. Owners, operators, and installers of a new or replacement hazardous substance underground storage tank or piping system shall have secondary containment as required in 40 CFR 280.42. (4-2-08)

05. Certification. Owners and operators shall also comply with the certification requirements of 40 CFR 280.22(f) as incorporated by reference into these rules. (4-2-08)

101. ALTERNATIVE PERIODIC TESTING OF CONTAINMENT SUMPS USED FOR INTERSTITIAL MONITORING OF PIPING.

01. Applicability. (3-24-17)

a. The alternative test method in Subsection 101.02 shall only be used for containment sumps that are performing continuous interstitial monitoring as a piping release detection method where an electronic sump sensor is installed and connected to an electronic monitoring device, such as an automatic tank gauge, or where the piping within a containment sump is continuous to a containment sump which has an electronic sump sensor installed and connected to an electronic monitoring device, such as an automatic tank gauge. (3-24-17)

i. The sump sensor in Subsection 101.01.a. must be positioned in the containment sump according to manufacturer instructions and at the lowest possible point in the containment sump. (3-24-17)

ii. The sump sensor in Subsection 101.01.a. must be wired and programmed appropriately to shut down power to the submersible turbine pump (positive shutdown) when the sensor is in contact with liquid in any containment sump. (3-24-17)

iii. If new dispensers are added and Subsection 101.01.a.ii. cannot be achieved (no electrical conduit, not enough sensor ports, etc.), an electronic stand-alone dispenser containment sump sensor may be used if it is wired appropriately to shut down power to the dispenser when the sensor is in contact with liquid in the dispenser containment sump. (3-24-17)

b. The Department may not allow the alternative test method in Subsection 101.02 if it determines the containment sump, penetration fittings, or containment sump sensors are not constructed or positioned in a manner that will accommodate the alternative testing or prevent releases to the environment (i.e., penetration fittings are too close to the containment sump bottom). (3-24-17)

02. Alternative Test Method Allowed. (3-24-17)

a. As an alternative to the allowable test method in 40 CFR 280.35(a)(1)(ii)(A)-(C), containment sumps used for interstitial monitoring of piping may be tested as follows: (3-24-17)

i. Temporarily remove any interstitial monitoring containment sump sensors before conducting the test; (3-24-17)

ii. Add water to the containment sump up to a point directly beneath the first containment sump penetration fitting from the bottom of the containment sump. The water must be allowed to settle for at least fifteen (15) minutes; (3-24-17)

iii. Place a measuring stick that has one sixteenth (1/16th) inch increments into the lowest point in the containment sump and extending above the water level in the sump; and (3-24-17)

iv. Document the initial water level measurement as measured from the bottom of the containment sump. After one (1) hour, document the ending water level measurement. If the water level changes less than one eighth (1/8th) inch, the containment sump passes the integrity test. If the water level changes one eighth (1/8th) inch or greater, the containment sump fails the integrity test. (3-24-17)

b. Upon completion of the test, remove all water and properly dispose of it. Reinstall any interstitial monitoring sensors. Reinstall all containment sump lids, gaskets, and covers. (3-24-17)

102. -- 199. (RESERVED)

200. RELEASE REPORTING REQUIREMENTS.

01. Information to be Reported. (4-2-08)

a. In addition to the requirements in IDAPA 58.01.02, "Water Quality Standards," Subsection 851.01, owners or operators shall report the following information regarding confirmed petroleum underground storage tank releases to the Department on forms provided by the Department: (4-2-08)

i. The release source; and (4-2-08)

ii. The release cause. (4-2-08)

b. Releases less than twenty-five (25) gallons that are cleaned up within twenty-four (24) hours, and which do not cause a sheen on nearby surface water, do not need to be reported. (4-2-08)

02. Release Sources. Release sources may include, but are not limited to the following: (4-2-08)

a. Petroleum Underground Storage Tanks; (4-2-08)

b. Piping; (4-2-08)

c. Dispensers, which include the dispenser and equipment used to connect the dispenser to the piping. A release from a suction pump or components located above the shear valve would be an example of a release from the dispenser; (4-2-08)

d. Submersible turbine pump area, which includes the submersible turbine pump head (typically

located in the tank sump), the line leak detector, and the piping that connects the submersible turbine pump to the petroleum underground storage tank; and (4-2-08)

e. Delivery problem, which identifies releases that occurred during product delivery to the petroleum underground storage tank. Typical causes associated with this source are spills and overfills. (4-2-08)

03. Release Causes. Release causes may include, but are not limited to the following: (4-2-08)

a. Spills which may occur when the delivery hose is disconnected from the fill pipe of the petroleum underground storage tank or when the nozzle is removed from the vehicle at the dispenser; (4-2-08)

b. Overfills which may occur from the fill pipe at the petroleum underground storage tank or when the nozzle fails to shut off at the dispenser; (4-2-08)

c. Physical or mechanical damage of all types except corrosion. Examples include a puncture of the petroleum underground storage tank or piping, loose fittings, broken components, and components that have changed dimension like elongation or swelling; (4-2-08)

d. Corrosion of a metal tank, piping, flex connector, or other component; and (4-2-08)

e. Installation problem that occurs specifically because the underground storage tank system was not installed properly. (4-2-08)

04. Requirements. The reporting required in Section 200 shall be reported to the Department within ninety (90) days of a confirmed release. The reporting requirement in Section 200 shall not relieve owners or operators from the obligation to comply with 40 CFR Part 280 Subpart E "Release Reporting, Investigation, and Confirmation," IDAPA 58.01.02, "Water Quality Standards," Section 851, "Petroleum Release Reporting, Investigation, and Confirmation," and IDAPA 58.01.02, "Water Quality Standards," Section 852, "Petroleum Release Response and Corrective Action." (3-24-17)

201. -- 299. (RESERVED)

300. TRAINING REQUIREMENTS.

01. Requirements. The Department shall adopt a training program to help owners and operators comply with the requirements of these rules. The training program requirements shall: (4-2-08)

a. Be consistent with 42 U.S.C. 6991i(a), as amended by the Underground Storage Tank Compliance Act, (Pub.L. 109-58, title XV, sec. 1524(a), Aug. 8, 2005); (4-2-08)

b. Be developed in cooperation with petroleum underground storage tank owners and tank operators; (4-2-08)

c. Take into consideration training programs implemented by petroleum underground storage tank owners and operators as of August 8, 2005; (4-2-08)

d. Provide for training to be conducted on site or at another mutually convenient location; and (4-2-08)

e. Be appropriately communicated to petroleum underground storage tank owners and operators. (4-2-08)

02. Operator Designation. For each petroleum underground storage tank system regulated under these rules, the owner or operator shall: (4-2-08)

a. Designate: (4-2-08)

i. The class A operator, who is the individual(s) having primary responsibility for on-site operation and maintenance of the petroleum underground storage tank system. This does not require that the class A operator be on site; (4-2-08)

ii. The class B operator, who is the individual(s) having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank system. This does not require that the class B operator be on site at all times; and (4-2-08)

iii. The class C operator, who is the daily, on-site individual(s) having primary responsibility for addressing emergencies presented by a spill or release from the petroleum underground storage tank system. The class C operator can be designated by the class A or B operator. (4-2-08)

b. Maintain a record at the facility where the petroleum underground storage tank is located listing each person designated in Subsections 300.02.a.i., 300.02.a.ii., and 300.02.a.iii. (4-2-08)

c. Notify the Department in writing of the individual(s) designated in Subsections 300.02.a.i. and 300.02.a.ii. within thirty (30) days of the designation. (4-2-08)

03. Training. The owner or operator of each petroleum underground storage tank system regulated under these rules shall ensure that the individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. participate in the training conducted by the Department or a state of Idaho approved third party. (4-2-08)

a. The individual(s) identified in Subsections 300.02.a.i. or 300.02.a.ii. shall provide training to the persons identified in Subsection 300.02.a.iii. (4-2-08)

b. The individual(s) identified in Subsection 300.02.a.iii. must be trained before assuming responsibility for responding to emergencies. (4-2-08)

c. The individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. shall repeat the training within thirty (30) days if the petroleum underground storage tank system for which they have responsibility is determined to be out of compliance with these rules. (4-2-08)

d. The individual(s) identified in Subsections 300.02.a.i. and 300.02.a.ii. shall be trained within thirty (30) days of assuming operation and maintenance duties. (3-24-17)

04. Unattended Sites. In the case of unattended sites, a sign must be posted in a location visible from the dispensers indicating emergency shut-off procedures and emergency contact phone numbers. (4-2-08)

301. -- 399. (RESERVED)

400. INSPECTIONS.

01. Department Authority. In order to fulfill the statutory requirements of Chapter 88, Title 39, Idaho Code, officers, employees or representatives of the Department, or third-party inspectors as described in Subsection 400.02, are authorized to inspect petroleum underground storage tanks, contents of the tanks, and associated equipment and records relating to such tanks, contents, and associated equipment. (4-2-08)

02. Third-Party Inspections. (4-2-08)

a. Third-party inspectors must be certified, licensed, or registered by an approved state program to perform on-site inspections. At a minimum, third-party inspectors must meet the requirements listed in Subsections 400.02.a.i. through 400.02.a.v.: (4-2-08)

i. Be trained in the state-specific inspection protocols and procedures, and perform inspections pursuant to such protocols and procedures; (4-2-08)

ii. Successfully complete the state's required training program. The training program for third-party

inspectors must be comparable to the training program for Department inspectors; (4-2-08)

iii. Not be the owner or operator of the petroleum underground storage tank, an employee of the owner or operator of the petroleum underground storage tank, or a person having daily on-site responsibility for the operation and maintenance of the petroleum underground storage tank; (4-2-08)

iv. Use an inspection report form developed by the Department. Review of applicable records and other activities that can be accomplished off-site may be combined with activities conducted at the site to fulfill the on-site inspection requirement; and (4-2-08)

v. Complete and submit the inspection report to the Department in the manner and time frame established by the Department. All third-party inspection reports must be submitted electronically to the Department for review and for the Department to make a compliance determination for each site. If requested by the Department, third-party inspectors shall provide all supporting documentation for its inspection reports. (4-2-08)

b. Third-party inspection procedures must contain an audit program, developed by the Department, to monitor third-party inspectors on a routine basis. The audit program must include a sufficient number of on-site inspections to effectively assess inspector performance. (4-2-08)

c. If a third-party inspector fails to demonstrate to the approved state program adequate competence and proficiency to perform petroleum underground storage tank inspections, or the approved state program otherwise determines it is not appropriate for the third-party inspector to conduct on-site inspections as part of a third-party inspection program, the approved state program must take appropriate action against the third-party inspector as provided by law. (4-2-08)

03. Inspections. All inspections shall be done in accordance with the provisions of Section 39-108, Idaho Code. At a minimum, an on-site inspection must assess compliance with the provisions of these rules and 40 CFR Part 280. (3-24-17)

401. -- 499. (RESERVED)

500. DELIVERY PROHIBITION.

01. Prohibition. Effective August 8, 2007, it shall be unlawful for any person to deliver to, deposit into, or accept a regulated petroleum substance into a petroleum underground storage tank at a facility which has been identified by the Department to be ineligible for such delivery, deposit, or acceptance. (4-2-08)

02. Classification as Ineligible. The Department shall classify a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance as soon as practicable after the Department determines one or more of the following conditions exists: (4-2-08)

a. Required spill prevention equipment is not installed; (4-2-08)

b. Required overfill protection equipment is not installed; (4-2-08)

c. Required leak detection equipment is not installed; or (4-2-08)

d. Required corrosion protection equipment is not installed. (4-2-08)

03. Warning of Violations. The Department may classify a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance if the owner or operator of the tank has been issued a written warning for any of the following violations, and the owner or operator fails to initiate corrective action within thirty (30) days of the issuance of the written warning, unless the deadline is extended by the Department: (4-2-08)

a. Failure to properly operate or maintain leak detection equipment; (4-2-08)

b. Failure to properly operate or maintain spill, overfill, or corrosion protection equipment; or (4-2-08)

c. Failure to maintain financial responsibility. (4-2-08)

04. Service of Notice. If the Department classifies a petroleum underground storage tank as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance pursuant to Subsections 500.02 or 500.03, the Department shall provide a written notice of the determination to the owner or operator prior to prohibiting the delivery, deposit, or acceptance of a regulated petroleum substance. Notice is considered properly served by the Department in any of the following ways: (4-2-08)

a. The notice is personally delivered to the owner or operator; or (4-2-08)

b. The notice is clearly posted at a public entrance to the facility where the petroleum underground storage tank is located and a copy of the notice is also sent by certified mail to the last known address of the owner or operator. (4-2-08)

05. Red-Tagging. Once service of the written notice of the ineligible determination is complete, the Department shall then attach a red tag to each fill pipe of the ineligible petroleum underground storage tank clearly identifying the tank as ineligible. The Department shall also maintain a list of all petroleum underground storage tanks that are classified as ineligible for delivery, deposit, or acceptance of a regulated petroleum substance. The Department shall make the list available to the public by posting the list on the Department's website at www.deq.idaho.gov. (4-2-08)

06. Written Notice. The written notice required by Subsection 500.04 must include: (4-2-08)

a. The specific reasons or violations that led to the ineligible classification; (4-2-08)

b. A statement notifying the owner and operator that the petroleum underground storage tank is ineligible for delivery and it is unlawful for any person to deliver to, deposit into, or accept a regulated petroleum substance into the petroleum underground storage tank; (4-2-08)

c. The effective date the petroleum underground storage tank is deemed ineligible for delivery; (4-2-08)

d. The name and address of the department representative to whom a written request for re-inspection can be made, if a re-inspection is necessary; (4-2-08)

e. A statement regarding the right to appeal the Department's action regarding ineligible classification pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality"; and (4-2-08)

f. The option to request a compliance conference pursuant to Subsection 500.07. (4-2-08)

07. Compliance Conference. The owner or operator may request a compliance conference with the Department within fifteen (15) days of receipt of the notice. A compliance conference shall be scheduled within twenty (20) days and conducted in an informal manner by the Department. At the compliance conference, the owner or operator may explain why he believes the petroleum underground storage tank should not be classified as ineligible. During the compliance conference, the owner or operator and the Department will identify and establish appropriate acts and a time schedule for compliance as necessary. (4-2-08)

08. Duration of Ineligible Classification. The classification of a petroleum underground storage tank as ineligible shall remain in effect until the conditions cited in the notice no longer exist. If the Department determines that an ineligible storage tank has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated petroleum substance, the Department or an authorized designee shall, as soon as practicable, remove the red tag from the petroleum underground storage tank and also remove the petroleum underground storage tank from the ineligible list posted on its website. The Department will also send a written notice

to the owner and operator that an ineligible storage tank has returned to compliance and is now eligible for delivery, deposit, or acceptance of a regulated petroleum substance. (4-2-08)

09. Declining Classification. The Director may decline to classify a petroleum underground storage tank as ineligible if the Director decides that classifying the petroleum underground storage tank as ineligible for delivery, deposit, or acceptance is not in the best interest of the public. (4-2-08)

a. The Director may only defer application of delivery prohibition for up to one hundred eighty (180) days after determining a petroleum underground storage tank is ineligible for delivery, deposit, or acceptance of a regulated petroleum substance. (4-2-08)

b. The Director may authorize the delivery, deposit, or acceptance of product into an ineligible petroleum underground storage tank if such activity is necessary to test or calibrate the underground storage tank or dispenser system. (4-2-08)

10. Department Authority. Nothing in Section 500 shall affect or preempt the authority of the Department to prohibit the delivery, deposit, or acceptance of a regulated petroleum substance to a petroleum underground storage tank under other existing authorities. (4-2-08)

11. Proper Notice. A person shall not be in violation of Subsection 500.01 if the Department fails to provide the notice required by Subsections 500.04 and 500.05. (4-2-08)

12. Unlawful to Tamper with Red Tag. It shall be unlawful for any person to tamper with and/or remove the red tag without the Department's approval. (4-2-08)

501. -- 599. (RESERVED)

600. PETROLEUM UNDERGROUND STORAGE TANK DATABASE.

01. Maintenance. The Department shall maintain a database which provides details on the status of all petroleum underground storage tanks in the state of Idaho which are subject to regulation. The database shall be updated no less than the end of each calendar quarter. (4-2-08)

02. Identification. The database shall identify any tanks subject to delivery prohibition. (4-2-08)

03. Petition. Petroleum underground storage tank owners or operators may petition the Department to correct any inaccurate information for their tanks and the Department shall correct any such inaccurate information within thirty (30) days after verification. (4-2-08)

04. Availability. The database shall be available to the public on the Department's website at www.deq.idaho.gov. (4-2-08)

601. FEE SCHEDULE FOR UNDERGROUND STORAGE TANKS.
All regulated underground storage tanks shall pay an annual underground storage tank fee provided in Section 39-119, Idaho Code. The fee shall be assessed to regulated underground storage tanks as provided in Section 601.
. (3-24-17)

01. Fee Criteria. (3-24-17)

a. Compartment and siphon-manifolded underground storage tanks shall be treated as separate underground storage tanks. (3-24-17)

b. Temporarily out of use tanks are included in Section 601. (3-24-17)

02. Fee Amount and Schedule. (3-24-17)

a. Annual fees shall be paid for each fee year beginning January 2. 2018, and continuing for each

succeeding year. (3-24-17)

b. The annual fee per underground storage tank is one hundred dollars ($100). The annual fee shall not exceed one hundred dollars ($100) and will be re-calculated each year if the fee balance exceeds thirty-five thousand dollars ($35,000). Any fee balance above thirty-five thousand dollars ($35,000) will be used to reduce the following year's fee. (3-24-17)

c. New underground storage tanks installed after January 2 will not pay a fee until the following January. (3-24-17)

03. Billing. (3-24-17)

a. An annual fee invoice will be generated and mailed in November for each owner listed in the Department's Underground Storage Tank Database. (3-24-17)

b. Owners will have one (1) month to notify the Department in writing if the number of underground storage tanks is incorrect. (3-24-17)

04. Payment. Payment of the annual fee shall be due on January 2, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. (3-24-17)

05. Delinquent Unpaid Fees. An owner will be delinquent in payment if the annual fee has not been received by the Department by March 1. (3-24-17)

06. Enforcement. Failure to comply with Section 601 shall be subject to enforcement and penalties pursuant to the enforcement provisions of Section 39-108, Idaho Code, (Idaho Environmental Protection and Health Act), and Section 39-8811(2), Idaho Code, (Idaho Underground Storage Tank Act). (3-24-17)

07. Nonrefundable. The annual fee required by these rules shall be nonrefundable. (3-24-17)

08. Fee Report. Prior to February 1 of each year, the Director shall report to the Governor and the Idaho Legislature on the use of fees collected the previous year. At a minimum, the report shall include: (3-24-17)

a. A list of all tanks subject to inspection; (3-24-17)

b. The type of inspection and regulatory authority or guidance used; and (3-24-17)

c. A detailed accounting of how fee funds were spent. (3-24-17)

602. -- 999. (RESERVED)

000. LEGAL AUTHORITY.

The Idaho Legislature has given the Idaho Board of Environmental Quality the authority to promulgate rules governing quality and safety of drinking water, pursuant to Title 37, Chapter 21 and Title 39, Chapter 1, Idaho Code. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems." (10-1-93)

02. Scope. The purpose of these rules is to control and regulate the design, construction, operation, maintenance, and quality control of public drinking water systems to provide a degree of assurance that such systems are protected from contamination and maintained free from contaminants which may injure the health of the consumer. (10-1-93)

002. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIALS.

01. Incorporation by Reference. The following documents are incorporated by reference into these rules. (4-11-06)

a. 40 CFR Part 141, revised as of July 1, 2015 (excluding annual monitoring provisions in 40 CFR 141.854(a)(4),(d),(e),(f) and (h), and the Aircraft Drinking Water Rule in Subsection X), and 40 CFR Part 143, revised as of July 1, 2011. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection of 40 CFR Parts 141 and 143 shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules. (3-25-16)

b. American Water Works Association (AWWA) Standards, effective December 2009, available for a fee from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337, http://apps.awwa.org/ebusmain/OnlineStore.aspx. (4-7-11)

02. Availability of Specific Referenced Material. Copies of specific documents referenced within these rules are available at the following locations: (4-11-06)

a. All federal regulations: Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202)783-3238; U.S. Government Bookstore, Room 194, Federal Bldg., 915 Second Ave., Seattle, WA 98174, (206) 553-4270; or Online at http://www.gpoaccess.gov/ecfr/index.html. (4-7-11)

b. All documents incorporated by reference are available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255, (208) 373-0502. (4-7-11)

c. Recommended Standards for Water Works: a report of the Water Supply Committee of the Great Lakes -- Upper Mississippi River Board of State and Provincial Public Health and Environmental Managers, published by Health Education Services, P.O. Box 7126, Albany, New York 12224, Telephone (518) 439-7286. (4-7-11)

d. Manual of Individual and Non-Public Water Supply Systems (EPA 570/9-91-004), published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238. (5-3-03)

e. U.S. Department of Commerce, National Bureau of Standards Handbook, No. 69, "Maximum Permissible Concentrations of Radionuclides in Air and in Water for Occupational Exposure" as amended in 1963, NCRP Publications, P.O. Box 20175, Washington, D.C. 20014. (12-10-92)

f. Rules of the Idaho Water Resources Board are available at http://www.adminrules.idaho.gov/rules/37/37index.htm, or the Idaho Department of Water Resources, Idaho Water Center, 322 E. Front St., P.O. Box 83720, Boise, Idaho 83720-0098, Telephone (208) 287-4800. (3-30-07)

g. ANSI/NSF Standard 44-2002e -- 2004, Residential Cation Exchange Water Softeners, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

h. ANSI/NSF Standard 53-2002e -- 2003, Drinking Water Treatment Units -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

i. ANSI/NSF Standard 55-2002 -- 2002, Ultraviolet Microbiological Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

j. ANSI/NSF Standard 58-2003 -- 2004, Reverse Osmosis Drinking Water Treatment Systems, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

k. ANSI/NSF Standard 60-2000a -- 2000, Drinking Water Treatment Chemicals -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

l. ANSI/NSF Standard 61-2000a -- 2000, Drinking Water System Components -- Health Effects, available from the National Sanitation Foundation, 789 N. Dixboro Road, Ann Arbor, Michigan 48105, Telephone (734) 769-8010. (4-6-05)

m. American Water Works Association (AWWA) Standards, available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, (800) 926-7337, www.awwa.org. (3-30-07)

n. Cross Connection Control Manual, available from Pacific Northwest Section of the American Water Works Association, P.O. Box 19581, Portland, OR, 97280-0581, Telephone (503) 246-5845. (3-30-07)

o. Manual of Cross-Connection Control, Foundation for Cross-Connection Control and Hydraulic Research, University of Southern California, KAP-200 University Park MC-2531, Los Angeles, CA 90089-2531, (866)545-6340, www.usc.edu/dept/fccchr/. (3-30-07)

p. Manual on Slow Sand Filtration (1991), published by AWWA Research Foundation 6666 West Quincy Avenue, Denver, CO 80235, (800)926-7337, www.awwa.org. (3-30-07)

q. Slow Sand Filtration (1991), published by the American Society of Civil Engineers American Society of Civil Engineers,1801Alexander Bell Drive, Reston, VA 20191, (800)548-2723, www.asce.org. (3-30-07)

r. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, DOH Pub #331-204 (4/03), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. (3-30-07)

s. Water System Design Manual, DOH Pub #331-123 (Rev. 8/01), Washington State Department of Health, Division of Environmental Health, Office of Drinking Water, PO Box 47828, Olympia WA 98504-7828, (360)236-3100 or (800)521-0323, http://www.doh.wa.gov/ehp/dw/Programs/water_sys_design.htm. (3-30-07)

t. Submersible Motors: Application, Installation, Maintenance (Franklin Electric AIM manual), Franklin Electric, Bluffton, Indiana 46714, (800)348-2420, http://www.franklin-electric.com/aim-manual.aspx. (3-30-07)

u. Guidance Manual for Compliance with the Filtration and Disinfection Requirements for Public Water Systems Using Surface Water Sources (March 1991 Edition), U.S. Environmental Protection Agency, http://water.epa.gov/lawsregs/rulesregs/sdwa/swtr/upload/guidsws.pdf. (3-30-07)

v. Standard Methods for the Examination of Water and Wastewater, a joint publication of the American Public Health Association, the Water Environment Federation, and the American Water Works Association, 6666 West Quincy Avenue, Denver, CO 80235, 800-926-7337, www.standardmethods.org (3-30-07)

w. F480-02 Standard Specification for Thermoplastic Well Casing Pipe and Couplings Made in Standard Dimension ratios (SDR), SCH 40 and SCH 80, American Society for Testing and Materials (ASTM Standard F480-02). (3-30-07)

x. "Idaho Standards for Public Works Construction," Local Highway Technical Assistance Council, 3330 Grace Street, Boise, ID 83605, (208)344-0565. (4-4-13)

y. Memorandum of Understanding between the Idaho Department of Environmental Quality and the Idaho Division of Building Safety Plumbing Bureau, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (3-30-07)

z. Idaho General Safety and Health Standards (IGSHS), available from the Idaho Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642, (208)334-3950, http://dbs.idaho.gov/. (3-30-07)

aa. Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (4-2-08)

bb. Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (4-2-08)

cc. Implementation Guidance for the Ground Water Rule, Idaho Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706, www.deq.idaho.gov. (5-8-09)

dd. AWWA Recommended Practice for Backflow Prevention and Cross-Connection Control (M14), available from the AWWA, 6666 West Quincy Avenue, Denver, Colorado 80235, Telephone (800) 926-7337. (4-7-11)

ee. Membrane Filtration Guidance Manual (EPA 815-R-06-009) published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402, Telephone (202) 782-3238, http://www.epa.gov/ogwdw/disinfection/lt2/pdfs/guide_lt2_membranefiltration_final.pdf. (4-4-13)

ff. Ultraviolet Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface water Treatment Rule (EPA 815-R-06-007) published by the U.S. Environmental Protection Agency, available from the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C.20402, Telephone (202) 782-3238, www.epa.gov/safewater/disinfection/lt2/pdfs/guide_lt2_uvguidance.pdf. (4-4-13)

gg. Improving Clearwell Design for CT Compliance, Report #90756, available from the Water Research Foundation, http://waterrf.org/ProjectsReports/PublicReportLibrary/RFR90756_2000_271.pdf. (4-4-13)

hh. Surface Water Treatment Rule Compliance Guidance, dated January 10, 1996, Idaho Department of Environmental Quality, www.deq.idaho.gov. (4-4-13)

ii. Uniform Plumbing Code, available at Division of Building Safety, 1090 E. Watertower St., Meridian, Idaho 83642; and at the Division of Building Safety, 1250 Ironwood Dr., Ste. 220, Coeur d'Alene, Idaho 83814, http://dbs.idaho.gov. (4-4-13)

03. Precedence. In the event of conflict or inconsistency between the language in these rules and that found in any document incorporated by reference, these rules shall prevail. (4-11-06)

003. DEFINITIONS.

The definitions set forth in 40 CFR 141.2 are herein incorporated by reference except for the definition of the terms "action level," "disinfection," "noncommunity water system," and "person." (4-4-13)

01. Action Level. The concentration of lead or copper in water that determines, in some cases, whether a water system must install corrosion control treatment, monitor source water, replace lead service lines, or undertake

a public education program. (12-10-92)

02. **Administrator**. The Administrator of the United States Environmental Protection Agency.(4-5-00)

03. **Annual Samples**. Samples that are required once per calendar year. (12-10-92)

04. **Annular Opening**. As used in well construction, this term refers to the nominal inside diameter of the borehole minus the outside diameter of the casing divided by two (2). (3-30-07)

05. **Aquifer**. A geological formation of permeable saturated material, such as rock, sand, gravel, etc., capable of yielding an economic quantity of water to wells and springs. (5-3-03)

06. **Average Day Demand**. The volume of water used by a system on an average day based on a one (1) year period. See also the definition of Water Demand in these rules. (5-8-09)

07. **Backflow**. The reverse from normal flow direction in a plumbing system or water system caused by back pressure or back siphonage. (12-10-92)

08. **Bag Filters**. Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed of a non-rigid, fabric filtration media housed in a pressure vessel in which the direction of flow is from the inside of the bag to the outside. (4-2-08)

09. **Bank Filtration**. A water treatment process that uses a well to recover surface water that has naturally infiltrated into ground water through a river bed or bank(s). Infiltration is typically enhanced by the hydraulic gradient imposed by a nearby pumping water supply or other well(s). (4-2-08)

10. **Board**. The Idaho Board of Environmental Quality. (5-3-03)

11. **Capacity**. The capabilities required of a public drinking water system in order to achieve and maintain compliance with these rules and the requirements of the federal Safe Drinking Water Act. It is divided into three (3) main elements: (4-5-00)

a. Technical capacity means the system has the physical infrastructure to consistently meet drinking water quality standards and treatment requirements and is able to meet the requirements of routine and emergency operations. It further means the ability of system personnel to adequately operate and maintain the system and to otherwise implement technical knowledge. Training of operator(s) is required, as appropriate, for the system size and complexity. (4-6-05)

b. Financial capacity means the financial resources of the water system, including an appropriate budget; rate structure; cash reserves sufficient for current operation and maintenance, future needs and emergency situations; and adequate fiscal controls. (5-8-09)

c. Managerial capacity means that the management structure of the water system embodies the aspects of water system operations, including, but not limited to; (5-8-09)

i. Short and long range planning; (4-5-00)

ii. Personnel management; (4-5-00)

iii. Fiduciary responsibility; (4-5-00)

iv. Emergency response; (4-5-00)

v. Customer responsiveness; (4-5-00)

vi. Source water protection; (4-5-00)

vii. Administrative functions such as billing and consumer awareness; and (4-5-00)

viii. Ability to meet the intent of the federal Safe Drinking Water Act. (4-5-00)

12. Cartridge Filters. Pressure-driven separation devices that remove particulate matter larger than one (1) micrometer using an engineered porous filtration media. They are typically constructed as rigid or semi-rigid, self-supporting filter elements housed in pressure vessels in which flow is from the outside of the cartridge to the inside. (4-2-08)

13. Clean Compliance History. For the purposes of the Revised Total Coliform Rule in Subsection 100.01, clean compliance history means a record of no maximum contaminant level violations under Subsection 050.05, no monitoring violations under Subsection 100.01, and no coliform treatment technique trigger exceedances or treatment technique violations under Subsection 100.01. (3-25-16)

14. Combined Distribution System. The interconnected distribution system consisting of the distribution systems of wholesale systems and of the consecutive systems that receive finished water. (4-2-08)

15. Community Water System. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

16. Components of Finished Water Storage. Storage is available to serve the system if the storage structure or facility is elevated sufficiently or is equipped with sufficient booster pumping capability to pressurize the system. Components of finished water storage are further defined as: (5-8-09)

a. Dead Storage. Storage that is either not available for use in the system or can provide only substandard flows and pressures. (3-30-07)

b. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of this Subsection. (5-8-09)

c. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of; (3-30-07)

i. The volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed; or (3-30-07)

ii. The volume needed to compensate for the sensitivity of the water level sensors. (3-30-07)

d. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. (3-30-07)

e. Fire Suppression Storage. The water needed to support fire flow in those systems that provide it. (3-30-07)

f. Standby Storage. Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. Normally used for emergency operation, if standby power is not provided, to provide water for eight (8) hours of operation at average day demand. (5-8-09)

17. Composite Correction Program (CCP). A systematic approach to identifying opportunities for improving the performance of water treatment and implementing changes that will capitalize on these opportunities. The CCP consists of two (2) elements: (4-5-00)

a. Comprehensive Performance Evaluation (CPE). A thorough review and analysis of a treatment plant's performance-based capabilities and associated administrative, operation, and maintenance practices. It is conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance and

emphasizes approaches that can be implemented without significant capital improvements. The CPE must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-5-00)

b. Comprehensive Technical Assistance (CTA). The implementation phase that is carried out if the CPE results indicate improved performance potential. During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-5-00)

18. Compositing of Samples. The mixing of up to five (5) samples by the laboratory. (4-5-00)

19. Confining Layer. A nearly impermeable subsurface stratum which is located adjacent to one (1) or more aquifers and does not yield a significant quantity of water to a well. (5-3-03)

20. Confirmation Sample. A sample of water taken from the same point in the system as the original sample and at a time as soon as possible after the original sample was taken. (12-10-92)

21. Connection. Each structure, facility, or premises which is connected to a water system, and which is or could be used for domestic purposes, is considered a single connection. A single family residence is considered to be a premises. Multi-family dwellings and apartment, condominium, and office complexes are considered single connections unless individual units are billed separately for water by the water system, in which case each such unit shall be considered a single connection. (4-7-11)

22. Consecutive System. A public water system that receives some or all of its finished water from one (1) or more wholesale systems. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. (4-2-08)

23. Consumer. Any person served by a public water system. (12-10-92)

24. Consumer Confidence Report (CCR). An annual report that community water systems must deliver to their customers. The reports must contain information on the quality of the water delivered by the systems and characterize the risks (if any) from exposure to contaminants detected in the drinking water in an accurate and understandable manner. (4-5-00)

25. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (12-10-92)

26. Cross Connection. Any actual or potential connection or piping arrangement between a public or a consumer's potable water system and any other source or system through which it is possible to introduce into any part of the potable water system used water, water from any source other than an approved public water system, industrial fluid, gas or substance other than the intended potable water with which the system is supplied. Cross connections include bypass arrangements, jumper connections, removable sections, swivel or change-over devices and other temporary or permanent devices which, or because of which “backflow” can or may occur. (10-1-93)

27. Dead End Main. A distribution main of any diameter and length that does not loop back into the distribution system. (3-30-07)

28. Dead Storage. Storage that is either not available for use in the system or can provide only substandard flows and pressures. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

29. Department. The Idaho Department of Environmental Quality. (12-10-92)

30. Director. The Director of the Department of Environmental Quality or his designee. (12-10-92)

31. Direct Integrity Test (DIT). A physical test applied to a microfiltration or ultrafiltration membrane unit in order to identify integrity breaches. (4-4-13)

32. Disinfection. Introduction of chlorine, other agents, or processes that are approved by the Department (such as ultraviolet light) in sufficient concentration, dosage, or application, and for the time required to kill or inactivate pathogenic and indicator organisms. (4-4-13)

33. Disinfection Profile. A summary of daily Giardia lamblia inactivation through the drinking water treatment plant. The procedure for developing a disinfection profile is contained in 40 CFR 141.172 and 40 CFR 141.530-141.536. (5-3-03)

34. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (5-8-09)

35. Drinking Water. Means "water for human consumption." (3-30-07)

36. Drinking Water System. All mains, pipes, and structures through which water is obtained and distributed, including wells and well structures, intakes and cribs, pumping stations, treatment plants, reservoirs, storage tanks and appurtenances, collectively or severally, actually used or intended for use for the purpose of furnishing water for drinking or general domestic use. (12-10-92)

37. Dual Sample Set. A set of two (2) samples collected at the same time and same location, with one (1) sample analyzed for TTHM and the other sample analyzed for HAA5. Dual sample sets are collected for the purposes of conducting an Initial Distribution System Evaluation (40 CFR Part 141, Subpart U) and for determining compliance with the TTHM and HAA5 MCLs under the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). (4-2-08)

38. Effective Contact Time. For the purpose of these rules, effective contact time means the time in minutes that it takes for water to move from the point of completely mixed chemical application to the point where residual concentration is measured. It is the "T" in contact time (CT) calculations and is either "demonstrated" or "calculated." It is the contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation and must be demonstrated through tracer studies or other evaluations or calculations acceptable to the Department. "Improving Clearwell Design for CT Compliance," referenced in Subsection 002.02, contains information that may be used as guidance for these calculations. (4-4-13)

39. Effective Storage. Effective storage is all storage other than dead storage and is made up of the additive components described in Paragraphs c. through f. of the definition of Components of Finished Water Storage in these rules. (4-4-13)

40. Enhanced Coagulation. The addition of sufficient coagulant for improved removal of disinfection byproduct precursors by conventional filtration treatment. Conventional filtration treatment is defined in 40 CFR 141.2. (5-3-03)

41. Enhanced Softening. The improved removal of disinfection byproduct precursors by precipitative softening. (4-5-00)

42. Equalization Storage. Storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

43. Equivalent Dwelling Unit (EDU). A unit of measure that standardizes all land use types (housing, retail, office, etc.) to the level of demand created by a single-family detached housing unit within a water system. The demand for one (1) equivalent dwelling unit is equivalent to the amount of water provided to the average single-family detached housing unit within a water system. For example, a business designed to use three (3) times as much water as an average single-family detached housing unit would have a demand of three (3) equivalent dwelling units. (5-8-09)

44. Exemption. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only if the system demonstrates to the satisfaction of the Department that the system cannot comply due to compelling factors and the deferment does not cause an unreasonable risk to public health. (12-10-92)

45. Facility Plan. The facility plan for a public drinking water system describes the overall system, including sources of water, treatment processes and facilities, pumping stations and distribution piping, finished water storage, and waste disposal. It is a comprehensive planning document for infrastructure and includes a plan for the future of the system/facility, including upgrades and additions. It is usually updated on a regular basis due to anticipated or unanticipated growth patterns, regulatory requirements, or other infrastructure needs. A facility plan is sometimes referred to as a master plan or facilities planning study. In general, a facility plan is an overall system-wide plan as opposed to a project specific plan. (3-30-07)

46. Facility Standards and Design Standards. Facility standards and design standards are described in Sections 500 through 552 of these rules. Facility and design standards found in Sections 500 through 552 of these rules must be followed in the planning, design, construction, and review of public drinking water facilities. (3-30-07)

47. Fee Assessment. A charge assessed on public drinking water systems based on a rate structure calculated by system size. (10-1-93)

48. Filter Profile. A graphical representation of individual filter performance, based on continuous turbidity measurements or total particle counts versus time for an entire filter run, from startup to backwash inclusively, that includes an assessment of filter performance while another filter is being backwashed. (4-5-00)

49. Filtrate. As the term relates to microfiltration and ultrafiltration, the product water or the portion of the feed stream that has passed through the membrane. (4-4-13)

50. Finished Water. Water that is introduced into the distribution system of a public water system and is intended for distribution and consumption without further treatment, except as necessary to maintain water quality in the distribution system (e.g., booster disinfection, addition of corrosion control chemicals). (4-2-08)

51. Finished Water Storage Structures or Facilities. Finished water storage structures or facilities are defined as: (5-8-09)

a. Above-ground storage structure or facility. A finished water storage structure or facility with a bottom elevation above normal ground surface. (5-8-09)

b. Ground-level storage structure or facility. A finished water storage structure or facility with a bottom elevation at normal ground surface. (5-8-09)

c. Partially buried storage structure or facility. A finished water storage structure or facility with a bottom elevation below normal ground surface and any portion of the structure or facility above normal ground surface. (5-8-09)

d. Below-ground storage structure or facility. A finished water storage structure or facility with a bottom elevation and top elevation below normal ground surface. (5-8-09)

52. Fire Flow Capacity. The water system capacity, in addition to maximum day demand, that is available for fire fighting purposes within the water system or distribution system pressure zone. Adequacy of the water system fire flow capacity is determined by the local fire authority or through a hydraulic analysis performed by a licensed professional engineer to establish required fire flows in accordance with the International Fire Code as adopted by the State Fire Marshal. (4-4-13)

53. Fire Suppression Storage. The water needed to support fire flow in those systems that provide it. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

54. Fixture Protection. The practice of installing backflow prevention assemblies or devices to isolate one (1) or more cross connections within a customer's facility. (5-8-09)

55. Flowing Stream. As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a course of running water flowing in a definite channel. (4-2-08)

56. Flux. The throughput of a pressure-driven membrane filtration process expressed as flow per unit of membrane area, usually in gallons per square foot per day or liters per hour per square meter. (4-4-13)

57. Ground Water System. A public water system which is supplied exclusively by a ground water source or sources. (12-10-92)

58. Ground Water Under the Direct Influence of Surface Water (GWUDI). Any water beneath the surface of the ground with significant occurrence of insects or other macroorganisms, algae, or large diameter pathogens such as Giardia lamblia or Cryptosporidium, or significant and relatively rapid shifts in water characteristics such as turbidity, temperature, conductivity, or pH which closely correlate to climatological or surface water conditions. Direct influence shall be determined by the Department for individual sources. The determination of direct influence may be based on site-specific measurements of water quality, documentation of well construction characteristics and geology with field evaluation, a combination of water quality and documentation, or other information required by the Department. (4-4-13)

59. Haloacetic Acids (Five) (HAA5). The sum of the concentrations in milligrams per liter of the haloacetic acid compounds (monochloroacetic acid, dichloroacetic acid, trichloroacetic acid, monobromoacetic acid, and dibromoacetic acid) rounded to two (2) significant figures after addition. (4-5-00)

60. Health Hazards. Any condition which creates, or may create, a danger to the consumer's health. Health hazards may consist of, but are not limited to, design, construction, operational, structural, collection, storage, distribution, monitoring, treatment or water quality elements of a public water system. See also the definition of Significant Deficiency, which refers to a health hazard identified during a sanitary survey. (5-3-03)

61. Indirect Integrity Monitoring. Monitoring some aspect of filtrate water quality that is indicative of the removal of particulate matter. (4-4-13)

62. Inorganic. Generally refers to compounds that do not contain carbon and hydrogen. (12-10-92)

63. Internal or In-Plant Isolation. The practice of installing backflow prevention assemblies to protect an area within a water customer's structure, facility, or premises from contaminating another part of the structure, facility, or premises. (4-7-11)

64. Lake/Reservoir. As used in the Long Term 2 Enhanced Surface Water Treatment Rule (40 CFR Part 141, Subpart W), this term means a natural or man-made basin or hollow on the Earth's surface in which water collects or is stored that may or may not have a current or single direction of flow. (4-2-08)

65. Level 1 Assessment. A Level 1 Assessment is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. It is conducted by the system operator or owner. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. The system must conduct the assessment consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. (3-25-16)

66. Level 2 Assessment. A Level 2 Assessment is an evaluation to identify the possible presence of sanitary defects, defects in distribution system coliform monitoring practices, and (when possible) the likely reason that the system triggered the assessment. A Level 2 assessment provides a more detailed examination of the system

(including the system's monitoring and operational practices) than does a Level 1 assessment through the use of more comprehensive investigation and review of available information, additional internal and external resources, and other relevant practices. It is conducted by an individual approved by the Department in accordance with Subsection 305.03, which may include the system operator. Minimum elements include review and identification of atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., whether a ground water system is disinfected); existing water quality monitoring data; and inadequacies in sample sites, sampling protocol, and sample processing. (3-25-16)

67. License. A physical document issued by the Idaho Bureau of Occupational Licenses certifying that an individual has met the appropriate qualifications and has been granted the authority to practice in Idaho under the provisions of Chapter 24, Title 54, Idaho Code. (4-6-05)

68. Locational Running Annual Average (LRAA). The average of sample analytical results for samples taken at a particular monitoring location during the previous four (4) calendar quarters, as set forth in the Stage 2 Disinfection Byproducts Requirements (40 CFR Part 141, Subpart V). (4-2-08)

69. Log. Logarithm to the base ten (10). In the context of these rules, it is used in the determination of removal or inactivation efficiencies. It is expressed as the logarithm to the base ten (10) or "log" of the concentration of the feed or raw water minus the log of the concentration in the filtrate or product water. For example, if the incoming feed or raw water concentration is one hundred (100), and the outgoing filtrate or product water concentration is ten (10), a 10-fold reduction was attained; or 1-log removal. 1-log removal also equates to ninety percent (90%) removal, as ninety (90) of the original feed concentration counts had been removed, leaving ten (10) in the filtrate. Similarly, 2-log equates to ninety-nine percent (99%) removal. (4-4-13)

70. Log Removal Value (LRV). LRV is a measure of filtration removal efficiency for a target organism, particulate, or surrogate expressed as Logarithm to the base ten (10). (4-4-13)

71. Material Deviation. A change from the design plans that significantly alters the type or location of facilities, requires engineering judgment to design, or impacts the public safety or welfare. (4-11-06)

72. Material Modification. Those modifications of an existing public water system that are intended to increase system capacity or alter the methods or processes employed. Any project that adds source water to a system, increases the pumping capacity of a system, increases the potential population served by the system or the number of service connections within the system, adds new or alters existing drinking water system components, or affects the water demand of the system is considered to be increasing system capacity or altering the methods or processes employed. Maintenance and repair performed on the system and the replacement of valves, pumps, or other similar items with new items of the same size and type are not considered a material modification. (5-8-09)

73. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (3-30-07)

74. Maximum Day Demand. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. See also the definition of Water Demand in these rules. (5-8-09)

75. Maximum Pumping Capacity. The pumping capacity with the largest source or pump out of service. (5-8-09)

76. Maximum Residual Disinfectant Level (MRDL). A level of a disinfectant added for water treatment that may not be exceeded at the consumer's tap without an unacceptable possibility of adverse health effects. For chlorine and chloramines, a public water system is in compliance with the MRDL, when the running annual average of monthly averages of samples taken in the distribution system, computed quarterly, is less than or equal to the MRDL. For chlorine dioxide, a public water system is in compliance with the MRDL when daily samples are taken at the entrance to the distribution system and no two (2) consecutive daily samples exceed the MRDL. MRDLs are enforceable in the same manner as maximum contaminant levels under Section 1412 of the Safe

Drinking Water Act. There is convincing evidence that addition of a disinfectant is necessary for control of waterborne microbial contaminants. Notwithstanding the MRDLs listed in 40 CFR 141.65, operators may increase residual disinfectant levels of chlorine or chloramines (but not chlorine dioxide) in the distribution system to a level and for a time necessary to protect public health to address specific microbiological contamination problems caused by circumstances such as distribution line breaks, storm runoff events, source water contamination, or cross-connections. (4-4-13)

77. Maximum Residual Disinfectant Level Goal (MRDLG). The maximum level of a disinfectant added for water treatment at which no known or anticipated adverse effect on the health of persons would occur, and which allows an adequate margin of safety. MRDLGs are nonenforceable health goals and do not reflect the benefit of the addition of the chemical for control of waterborne microbial contaminants. (4-5-00)

78. Membrane Filtration. A pressure or vacuum driven separation process in which particulate matter larger than one (1) micrometer (µm) is rejected by an engineered barrier, primarily through a size-exclusion mechanism. This definition includes the common membrane technologies of microfiltration, ultrafiltration, nanofiltration, and reverse osmosis. (4-4-13)

79. Membrane Unit. A group of treatment systems or membrane modules that usually share common control and valving so that the group can be isolated for testing or cleaning. (4-4-13)

80. Method Detection Limit (MDL). The lowest concentration which can be determined to be greater than zero with ninety-nine percent (99%) confidence, for a particular analytical method. (12-10-92)

81. Microfiltration (MF). A low pressure membrane filtration process with pore diameter normally in the range of 0.1 to 0.5 µm. (4-4-13)

82. Module. As the term relates to membrane filtration, it is the smallest component of a membrane unit in which a specific membrane surface area is housed. The component is typically equipped with a feedwater inlet, a filtrate outlet, and concentrate or backwash outlet structure. (4-4-13)

83. Nanofiltration (NF). A membrane filtration process that removes dissolved constituents from water. Nanofiltration is similar to reverse osmosis but allows a higher percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. (4-4-13)

84. New System. Any water system that meets, for the first time, the definition of a public water system provided in Section 1401 of the federal Safe Drinking Water Act (42 U.S.C. Section 300f). This includes systems that are entirely new construction and previously unregulated systems that are expanding. (4-5-00)

85. Noncommunity Water System. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

86. Non-Potable Fluids. Any fluids that do not meet the definition of potable water. This definition also includes any gases that are heavier than air such as propane. (4-4-13)

87. Non-Potable Mains. Pipelines that collect, deliver, or otherwise convey non-potable fluids. (4-4-13)

88. Non-Potable Services or Lines. Pipelines that collect, deliver, or otherwise convey non-potable fluids to or from a non-potable main. These pipelines connect individual facilities to the non-potable main. This term also refers to pipelines that convey non-potable fluids from a pressurized irrigation system, reclaimed wastewater system, and other non-potable systems to individual consumers. (4-4-13)

89. Nontransient Noncommunity Water System. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

90. Operating Shift. That period of time during which water system operator decisions that affect public health are necessary for proper operation of the system. (4-5-00)

91. Operational Storage. Operational storage supplies water when, under normal conditions, the sources are off. This component is the larger of the volume required to prevent excess pump cycling and ensure that the following volume components are full and ready for use when needed or the volume needed to compensate for the sensitivity of the water level sensors. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

92. Operation and Maintenance Manual. An operation and maintenance manual typically covers three main subjects: a water system specific operations plan (see definition of Operations Plan); maintenance information and checklists; and manufacturer's product information (including trouble shooting information, a parts list and parts order form, special tools, spare parts list, etc.). An operation and maintenance manual may cover every aspect of the water system or any part of the water system, including but not limited to the following: treatment, pump stations, storage reservoirs, distribution system, pressure reducing valve stations, etc. (4-4-13)

93. Operations Plan. The operations plan is part of an operation and maintenance manual. Depending on which facilities of the water system are being addressed, the operations plan may cover many types of information including but not limited to the following: daily, weekly, monthly, and yearly operating instructions; information specific to a particular type of treatment; location of valves and other key distribution system features; pertinent telephone and address contact information including the responsible charge water system operator and water system owner; operator safety procedures; alarm system; emergency procedures; trouble-shooting advice; water quality testing; depressurization events; customer service; and response to customer complaints. (4-4-13)

94. Owner/Purveyor of Water/Supplier of Water. The person, company, corporation, association, or other organizational entity which holds legal title to the public water system, who provides, or intends to provide, drinking water to the customers, and who is ultimately responsible for the public water system operation. (5-8-09)

95. Peak Hour Demand. The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. See also the definition of Water Demand in these rules. (5-8-09)

96. Person. A human being, municipality, or other governmental or political subdivision or other public agency, or public or private corporation, any partnership, firm, association, or other organization, any receiver, trustee, assignee, agent or other legal representative of the foregoing or other legal entity. (12-10-92)

97. Pesticides. Substances which meet the criteria for regulation pursuant to the Federal Insecticide, Fungicide, and Rodenticide Act (FIFRA), as amended, and any regulations adopted pursuant to FIFRA. For example, pesticides include, but are not limited to insecticides, fungicides, rodenticides, herbicides, and algaecides. (12-10-92)

98. Plant Design Capacity. The maximum design flow through treatment units. The minimum plant design capacity could be equal to peak hour demand but could also be equal to the maximum day demand if equalization storage is provided. (4-4-13)

99. Plant. A physical facility where drinking water or wastewater is treated or processed. (3-30-07)

100. Point of Use (POU) Treatment Device. A treatment device applied to a single tap used for the purpose of reducing contaminants in drinking water at that one tap. (3-30-07)

101. Point of Use (POU) Treatment System. A collection of POU treatment devices. (3-30-07)

102. Potable Mains. Pipelines that deliver potable water to multiple service connections. (3-30-07)

103. Potable Services. Pipelines that convey potable water from a connection to the potable water main to individual consumers. (3-30-07)

104. Potable Water. Water for human consumption. See the definition of Water for Human

Consumption in Section 003. (4-4-13)

105. Preliminary Engineering Report. The preliminary engineering report for a public drinking water system facility is a report that addresses specific portions of the system or facility for which modifications are being designed. Modifications may include, but are not limited to, significant changes to existing processes or facilities, system expansion, addition of treatment, or installation of other processes and facilities. This report addresses specific purpose and scope, design requirements, alternative solutions, costs, operation and maintenance requirements, and other requirements as described in Section 503. Preliminary engineering reports are generally project specific as opposed to an overall system-wide plan, such as a facility plan. (4-4-13)

106. Premises Isolation or Containment. The practice of separating the customer's structure, facility, or premises from the purveyor's system by means of a backflow prevention assembly installed on the service line before any distribution takes place. (4-7-11)

107. Presedimentation. A preliminary treatment process used to remove gravel, sand, and other particulate material from the source water through settling before the water enters the primary clarification and filtration processes in a treatment plant. (4-2-08)

108. Protected Water Source. For the purposes of the Revised Total Coliform Rule (40 CFR Part 141, Subpart Y), a protected water source is a ground water well that is not susceptible to contamination on the basis of well construction, hydrologic data, or contamination history. (3-25-16)

109. Public Notice. The notification of public water system consumers of information pertaining to that water system including information regarding water quality or compliance status of the water system. (12-10-92)

110. Public Drinking Water System. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system" as further defined as: (5-8-09)

a. Community water system. A public water system which serves at least fifteen (15) service connections used by year-round residents or regularly serves at least twenty-five (25) year-round residents. (5-8-09)

b. Noncommunity water system. A public water system that is not a community water system. A non-community water system is either a transient noncommunity water system or a non-transient noncommunity water system. (5-8-09)

c. Nontransient noncommunity water system. A public water system that is not a community water system and that regularly serves at least twenty-five (25) of the same persons over six (6) months per year. (5-8-09)

d. Transient noncommunity public water system. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. (5-8-09)

111. Public Water System/Water System/System. Means "public drinking water system." (4-5-00)

112. Pump House. A structure containing important water system components, such as a well, hydropneumatic tank, booster pump, pump controls, flow meter, well discharge line, or a treatment unit. Pump houses are often called well houses in common usage, even though in modern construction these structures may not contain either a well or a pump. These terms are used interchangeably in national standards and trade publications. (4-4-13)

113. Qualified Licensed Professional Engineer (QLPE). A professional engineer licensed by the state of Idaho; qualified by education or experience in the specific technical fields involved in these rules; and retained or

employed by a city, county, quasi-municipal corporation, or regulated public utility for the purposes of plan and specification review. (5-8-09)

114. Quasi-Municipal Corporation. A public entity, other than community government, created or authorized by the legislature to aid the state in, or to take charge of, some public or state work for the general welfare. For the purpose of these rules, this term refers to drinking water districts. (4-11-06)

115. Raw Water. Raw water is any ground water, spring water, or surface water utilized as source water prior to treatment for the purpose of producing potable water. (4-4-13)

116. Redundancy. The installation of duplicate components or backup systems that are designed to maintain minimum pressure and capacity of the system should any component fail or otherwise be out of service for maintenance or repair. (4-4-13)

117. Regulated Public Utility. For the purpose of these rules, any public water system that falls under the jurisdiction of the Idaho Public Utilities Commission and is subject to the rules thereof. (3-30-07)

118. Reverse Osmosis (RO). A membrane filtration process that removes dissolved constituents from water. Reverse osmosis is similar to nanofiltration but allows a lower percentage of certain ions to pass through the membrane. These systems typically operate under higher pressure than microfiltration and ultrafiltration. (4-4-13)

119. Repeat Compliance Period. Any subsequent compliance period after the initial compliance period. (12-10-92)

120. Resolution. As the term relates to membrane treatment, it is the size of the smallest integrity breach that contributes to a response from a direct integrity test when testing low pressure membranes. (4-4-13)

121. Responsible Charge (RC). Responsible Charge means active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site, or on-call direction of employees and assistants. (5-8-09)

122. Responsible Charge Operator. An operator of a public drinking water system, designated by the system owner, who holds a valid license at a class equal to or greater than the drinking water system classification, who is in responsible charge of the public drinking water system. (4-6-05)

123. Reviewing Authority. For those projects requiring preconstruction approval by the Department, the Department is the reviewing authority. For those projects allowing for preconstruction approval by others, pursuant to Subsection 504.03.b. of these rules, the qualified Idaho licensed professional engineer (QLPE) is also the reviewing authority. (5-8-09)

124. Sampling Point. The location in a public water system from which a sample is drawn. (12-10-92)

125. Sanitary Defect. A defect that could provide a pathway of entry for microbial contamination into the distribution system or that is indicative of a failure or imminent failure in a barrier that is already in place. Examples of sanitary defects include but are not limited to: cross connections, inadequate distribution system pressures, inadequate or missing sanitary seal, improperly screened storage tank vents, inadequate protection from contamination during flooding, history of treatment failures, deterioration of system components, and water main leaks or breaks. (3-25-16)

126. Sanitary Survey. An onsite review of the water source, facilities, equipment, operation and maintenance of a public water system for the purpose of evaluating the adequacy of such source, facilities, equipment, operation and maintenance for producing and distributing safe drinking water. The sanitary survey will include, but is not limited to the following elements: (4-5-00)

a. Source; (4-5-00)

b. Treatment; (4-5-00)

c. Distribution system; (4-5-00)

d. Finished water storage; (4-5-00)

e. Pumps, pump facilities, and controls; (4-5-00)

f. Monitoring and reporting and data verification; (4-5-00)

g. System management and operation; and (4-5-00)

h. Operator compliance with state requirements. (4-5-00)

127. SDWIS-State. An acronym that stands for "Safe Drinking Water Information System-State Version." It is a software package developed under contract to the U.S. Environmental Protection Agency and used by a majority of U.S. states to collect, maintain, and report data about regulated public water systems. (4-4-13)

128. Seasonal System. A noncommunity water system that is not operated as a public water system on a year-round basis and starts up and shuts down at the beginning and end of each operating season. (3-25-16)

129. Sensitivity. As the term relates to membrane treatment, it is the maximum log removal value (LRV) for a specific resolution that can be reliably verified by the direct integrity test associated with a given low pressure membrane filtration system. (4-4-13)

130. Sewage. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (3-30-07)

131. Significant Deficiency. As identified during a sanitary survey, any defect in a system's design, operation, maintenance, or administration, as well as any failure or malfunction of any system component, that the Department or its agent determines to cause, or have potential to cause, risk to health or safety, or that could affect the reliable delivery of safe drinking water. See also the definition of Health Hazards. (5-3-03)

132. Simple Water Main Extension. New or replacement water main(s) that require plan and specification review by a qualified licensed professional engineer (QLPE) or by the Department per these rules and that is connected to existing water main facilities and does not require the addition of system components designed to control quantity or pressure, including, but not limited to, booster stations, new sources, pressure reducing valve stations, or reservoirs; and continues to provide the pressure and quantity requirements of Subsection 552.01. (4-4-13)

133. Special Irrigation District. An irrigation district in existence prior to May 18, 1994 that provides primarily agricultural service through a piped water system with only incidental residential or similar use where the system or the residential or similar users of the system comply with the exclusion provisions in Section 1401(4)(B)(i)(II) or (III) of the Safe Drinking Water Act. (4-6-05)

134. Spring. A source of water which flows from a laterally percolating water table's intersection with the surface or from a geological fault that allows the flow of water from an artesian aquifer. (12-10-92)

135. Standby Storage. Standby storage provides a measure of reliability or safety factor should sources fail or when unusual conditions impose higher than anticipated demands. See also the definition of Components of Finished Water Storage in these rules. (5-8-09)

136. Substantially Modified. The Department shall consider a public water system to be substantially modified when, as the result of one (1) or more projects, there is a combined increase of twenty-five percent (25%) or more above the system's existing configuration in the population served or number of service connections, the total length of transmission and distribution water mains, and the peak or average water demand. (5-8-09)

137. Substitute Responsible Charge Operator. An operator of a public drinking water system who holds a valid license at a class equal to or greater than the drinking water system classification, designated by the system owner to replace and to perform the duties of the responsible charge operator when the responsible charge operator is not available or accessible. (4-6-05)

138. Surface Water System. A public water system which is supplied by one (1) or more surface water sources or ground water sources under the direct influence of surface water. Also called subpart H systems in applicable sections of 40 CFR Part 141. (4-5-00)

139. Total Organic Carbon (TOC). Total organic carbon in mg/l measured using heat, oxygen, ultraviolet irradiation, chemical oxidants, or combinations of these oxidants that convert organic carbon to carbon dioxide, rounded to two (2) significant figures. (4-5-00)

140. Total Trihalomethanes (TTHM). The sum of the concentration in milligrams per liter of the trihalomethane compounds (trichloromethane [chloroform], dibromochloromethane, bromodichloromethane and tribromomethane [bromoform]), rounded to two (2) significant figures. (4-2-08)

141. Transient Noncommunity Public Water System. A noncommunity water system which does not regularly serve at least twenty-five (25) of the same persons over six (6) months per year. See also the definition of a Public Drinking Water System in these rules. (5-8-09)

142. Treatment Facility. Any place(s) where a public drinking water system or nontransient noncommunity water system alters the physical or chemical characteristics of the drinking water. Chlorination may be considered as a function of a distribution system. (4-5-00)

143. Turbidity. A measure of the interference of light passage through water, or visual depth restriction due to the presence of suspended matter such as clay, silt, nonliving organic particulates, plankton and other microscopic organisms. Operationally, turbidity measurements are expressions of certain light scattering and absorbing properties of a water sample. Turbidity is measured by the Nephelometric method. (12-10-92)

144. Ultrafiltration (UF). A low pressure membrane filtration process with pore diameter normally in the range of five thousandths to one tenth micrometer (0.005 to 0.1 μm). (4-4-13)

145. Ultraviolet (UV) Light Technology. A physical disinfection process that has proven effective against common pathogens in drinking water. (4-4-13)

146. UV Transmittance (UVT). A measure of the fraction of incident light transmitted through a material (e.g., water sample or quartz). The UVT is usually reported for a wavelength of two hundred fifty-four (254) nm and a pathlength of one (1) cm. It is often represented as a percentage. (4-4-13)

147. Unregulated Contaminant. Any substance that may affect the quality of water but for which a maximum contaminant level or treatment technique has not been established. (12-10-92)

148. Use Assessment. For the purpose of obtaining a waiver from certain monitoring requirements, a use assessment is an evaluation as to whether synthetic organic contaminants are being or have been used, manufactured, transported, stored, or disposed of in the watershed for surface water or the zone of influence for ground water. (5-8-09)

149. Variance. A temporary deferment of compliance with a maximum contaminant level or treatment technique requirement which may be granted only when the system demonstrates to the satisfaction of the Department that the raw water characteristics prevent compliance with the MCL or requirement after installation of the best available technology or treatment technique and the determent does not cause an unreasonable risk to public health. (12-10-92)

150. Very Small Public Drinking Water System. A Community or Nontransient Noncommunity Public Water System that serves five hundred (500) persons or less and has no treatment other than disinfection or has only treatment which does not require any chemical treatment, process adjustment, backwashing or media

regeneration by an operator (e.g. calcium carbonate filters, granular activated carbon filters, cartridge filters, ion exchangers). (4-5-00)

151. Volatile Organic Chemicals (VOCs). VOCs are lightweight organic compounds that vaporize or evaporate easily. (10-1-93)

152. Vulnerability Assessment. A determination of the risk of future contamination of a public drinking water supply. (12-10-92)

153. Waiver. (12-10-92)

a. For the purposes of these rules, except Sections 500 through 552, "waiver" means the Department approval of a temporary reduction in sampling requirements for a particular contaminant. (3-30-07)

b. For purposes of Sections 500 through 552, "waiver" means a dismissal of any requirement of compliance. (3-30-07)

c. For the purposes of Section 010, "waiver" means the deferral of a fee assessment for a public drinking water system. (10-1-93)

154. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. See IDAPA 58.01.16, "Wastewater Rules," for additional information. (4-7-11)

155. Water for Human Consumption. Water that is used by humans for drinking, bathing for purposes of personal hygiene (including hand-washing), showering, cooking, dishwashing, and maintaining oral hygiene. In common usage, the terms "culinary water," "drinking water," and "potable water" are frequently used as synonyms. (5-3-03)

156. Water Demand. The volume of water requested by system users to satisfy their needs. Water demand can be further categorized as: (5-8-09)

a. Average day demand. The volume of water used by a system on an average day based on a one (1) year period. (5-8-09)

b. Maximum day demand. The average rate of consumption for the twenty-four (24) hour period in which total consumption is the largest for the design year. (5-8-09)

c. Peak hour demand. The highest hourly flow, excluding fire flow, that a water system or distribution system pressure zone is likely to experience in the design year. (5-8-09)

157. Water Main. A pipe within a public water system which is under the control of the system operator and conveys water to two (2) or more service connections or conveys water to a fire hydrant. The collection of water mains within a given water supply is called the distribution system. (5-8-09)

158. Watershed. The land area from which water flows into a stream or other body of water which drains the area. (3-30-07)

159. Wholesale System. A public water system that treats source water as necessary to produce finished water and then delivers some or all of that finished water to another public water system. Delivery may be through a direct connection or through the distribution system of one (1) or more consecutive systems. (4-2-08)

004. COVERAGE.
40 CFR 141.3 is herein incorporated by reference. (10-1-93)

005. GENERAL PROVISIONS FOR WAIVERS, VARIANCES, AND EXEMPTIONS.
40 CFR 141.4 is herein incorporated by reference. (4-4-13)

01. Waivers. (12-10-92)

a. The Department may waive any requirement of Sections 500 through 552 that is not explicitly imposed by Idaho Statute, if it can be shown to the satisfaction of the Department that the requirement is not necessary for the protection of public health, protection from contamination, and satisfactory operation and maintenance of a public water system. (3-30-07)

b. The Department may at its discretion waive the requirements outlined in Section 010. (10-1-93)

c. Waiver of monitoring requirements is addressed in Subsection 100.07. (5-3-03)

02. Variances. (5-3-03)

a. General Variances. A variance may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(a) (The Safe Drinking Water Act) are met. These include but are not limited to: (5-3-03)

i. The system has installed the best available technology, treatment techniques, or other means to comply with the maximum contaminant level; and (5-3-03)

ii. Alternative sources of water are not reasonably available to the system. (5-3-03)

iii. For provisions of a national primary drinking water regulation which requires the use of a specific treatment technique with respect to a contaminant, the system must demonstrate that the technique is not necessary to protect the health of the system's customers. (5-3-03)

b. Small System Variances. A small system variance for a maximum contaminant level or treatment technique may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1415(e) are met. These include, but are not limited to: (5-3-03)

i. The system serves three thousand three hundred (3,300) or fewer persons; (5-3-03)

ii. If the system serves more than three thousand three hundred (3,300) persons but fewer than ten thousand (10,000) persons, the application shall be approved by the U.S. Environmental Protection Agency; (5-3-03)

iii. The U.S. Environmental Protection Agency has identified a variance technology that is applicable to the size and source water quality conditions of the public water system; (5-3-03)

iv. The system installs, operates and maintains such treatment technology, treatment technique, or other means; and (5-3-03)

v. The system cannot afford to comply with a national primary drinking water regulation in accordance with affordability criteria established by the Department, including compliance through treatment, alternative source of water supply, restructuring or consolidation. (4-4-13)

03. Exemptions. An exemption may be granted by the Department if a public water system submits an application and demonstrates to the satisfaction of the Department that the following minimum requirements as required by 42 USC Section 1416(a) are met. These include but are not limited to: (5-3-03)

a. The system is unable to comply with a maximum contaminant level or treatment technique due to compelling factors, which may include economic factors; (5-3-03)

b. The system was in operation by the effective date of such contaminant level or treatment technique and no reasonable source of water is available to the system; or (5-3-03)

c. If the system was not in operation by the effective date of such contaminant level or treatment technique, then no reasonable alternative source of water is available to the system; and (5-3-03)

d. The granting of an exemption will not result in an unreasonable risk to health; (5-3-03)

e. Management or restructuring changes cannot reasonably be made to comply with the contaminant level or treatment technique to improve the quality of the drinking water; (5-3-03)

f. The system cannot meet the standard without capital improvements which cannot be completed prior to the date established pursuant to 42 USC Section 1412b(10); (5-3-03)

g. If the system needs financial assistance, the system has entered into an agreement to obtain such financial assistance; or (5-3-03)

h. The system has entered into an enforceable agreement to become a part of a regional public water system and is taking all practical steps to meet the standard. (5-3-03)

04. Conditions. A waiver, exemption or variance may be granted upon any conditions that the Department, in its discretion, determines are appropriate. Failure by the public water system to comply with any condition voids the waiver, variance or exemption. (12-10-92)

05. Public Hearing. The Department shall provide public notice and an opportunity for public hearing in the area served by the public water system before any exemption or variance under Section 005 is granted by the Department. At the conclusion of the hearing, the Department shall record the findings and issue a decision approving, denying, modifying, or conditioning the application. (5-3-03)

06. Exceptions. Any person aggrieved by the Department's decision on a request for a waiver, variance or exemption may file a petition for a contested case with the Board. Such petitions shall be filed with the Board, as prescribed in, IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

07. Surface Water Variances. Variances from the requirements of Sections 300 through 303 are not allowed. (4-5-00)

08. Surface Water Exemptions. Exemptions from 40 CFR 141.72(a)(3) and 40 CFR 141.72(b)(2) are not allowed. (4-4-13)

006. SITING REQUIREMENTS.
40 CFR 141.5 is herein incorporated by reference. (10-1-93)

007. DISAPPROVAL DESIGNATION.
The Department or its agent may assign a disapproved designation to a public water system when: (5-3-03)

01. Defects. There are design or construction defects, or some combination of design and construction defects; or (5-8-09)

02. Operating Procedures. Operating procedures constitute a health hazard; or (12-10-92)

03. Quality. Physical, chemical, microbiological or radiological quality does not meet the requirements of these rules; or (10-1-93)

04. Monitoring. The required monitoring as specified in these rules has not been conducted; or (10-1-93)

05. Unapproved Source. An unapproved source of drinking water is used or the system is interconnected with a disapproved water system. (12-10-92)

06. Non-Payment of Annual Fee Assessment. The annual drinking water system fee assessment is not paid as set forth in Section 010. (7-1-97)

07. Public Notification. The Department may require the owner of a water system that has been given a disapproval designation to notify the public. The manner, content, and timing of this notification will be determined by the Department. This requirement is in addition to any public notification requirements set forth in Section 150 that may also apply to the disapproved system. (5-3-03)

008. HEALTH HAZARDS.

01. Prohibited. (10-1-93)

a. No public water system, or portion of a public water system, shall constitute a health hazard, as determined by the Department and defined in Section 003 of these rules. (5-3-03)

b. No public water system, or portion of a public water system, shall create a condition which prevents, or may prevent, the detection of a health hazard, as determined by the Department. (5-3-03)

02. Schedule. Health hazards and conditions which prevent, or may prevent, the detection of a health hazard must be mitigated as required by the Department and terminated within a time schedule established by the Department. (5-3-03)

03. Standards. Design and construction revisions necessary to correct a health hazard or conditions which prevent, or may prevent, the detection of a health hazard, must be reviewed and approved by the Department, and comply with Sections 501 through 552, unless otherwise specified by the Department. (3-30-07)

009. MONITORING.

The Department may, in its discretion, alter the monitoring or sampling requirements for any contaminant otherwise specified in these rules if the Department determines that such alteration is necessary to adequately assess the level of such contamination. (10-1-93)

010. FEE SCHEDULE FOR PUBLIC DRINKING WATER SYSTEMS.

All regulated public drinking water systems shall pay an annual drinking water system fee. The fee shall be assessed to regulated public drinking water systems as provided in this section. (10-1-93)

01. Effective Date. Annual fees shall be paid for each fee year beginning October 1, 1993, and continuing for each succeeding year. (10-1-93)

02. Fee Schedule. (10-1-93)

a. Community and Nontransient noncommunity public drinking water systems shall pay an annual fee according to the following fee schedule:

Number of Connections	Fee
1 to 20	$100
21 to 184	$5 per connection, not to exceed a total of $735 per system
185 to 3,663	$4 per connection, not to exceed a total of $10,988 per system
3,664 or more	$3 per connection

(7-1-97)

b. The annual fee for transient public drinking water systems is twenty-five dollars ($25). (10-1-93)

c. New public drinking water systems formed after October 1 will not pay a fee until the following October. (10-1-93)

03. Fee Assessment. (10-1-93)

a. An annual fee assessment will be generated for each community and nontransient noncommunity public drinking water system listed in the Department's Safe Drinking Water Information System (SDWIS). (4-4-13)

b. Community and nontransient noncommunity public drinking water systems will be notified each year of the official number of connections listed in SDWIS. Systems will have at least one (1) month to notify the Department if the number of connections listed in SDWIS is not in agreement with the system's records. (4-4-13)

c. The official number of connections listed in SDWIS following each yearly update, as required in Subsection 010.03.b., will be used to calculate the annual fee for community and nontransient noncommunity public drinking water systems for the next fee year of October 1 through September 30. (4-4-13)

04. Billing. An annual fee shall be assessed and a statement will be mailed to all community, nontransient noncommunity, and transient public drinking water systems listed in SDWIS by the Department on or before September 1 of each year. (4-4-13)

05. Payment. (10-1-93)

a. Payment of the annual fee shall be due on October 1, unless it is a Saturday, a Sunday, or a legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. (10-1-93)

b. If a public water system consists of two hundred fifty (250) connections or more, the system may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (10-1-93)

c. The Department will notify applicable systems, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (10-1-93)

d. If a public water system has been approved to pay monthly installments then each installment shall be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. (10-1-93)

e. If a public water system has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day. (10-1-93)

06. Delinquent Unpaid Fees. A public water system will be delinquent in payment if its annual fee assessment has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. (10-1-93)

07. Suspension of Services and Disapproval Designation. (7-1-97)

a. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of ninety (90) days, technical services provided by the Department may be suspended except for the following: (7-1-97)

i. Issuance of monitoring waivers; (7-1-97)

ii. Review and processing of engineering reports; and (7-1-97)

iii. Review of plans and specifications for design and construction as set forth in Sections 501 through 552. (3-30-07)

b. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may suspend all technical services provided by the Department including any of the following: (7-1-97)

i. Review and processing of engineering reports; (7-1-97)

ii. Review of plans and specifications for design and construction as set forth in Sections 501 through 552; (3-30-07)

iii. Renewal of monitoring waivers; or (7-1-97)

iv. Granting of new monitoring waivers. (7-1-97)

c. For any system delinquent in payment of fee assessed under Subsections 010.02 and 010.06, in excess of one hundred and eighty (180) days, the Department may disapprove the public water system pursuant to Subsection 007.06. (7-1-97)

08. Reinstatement of Suspended Services and Approval Status. For any public water system for which delinquency of fee payment, pursuant to Subsection 010.07, has resulted in the suspension of technical services, the disapproval of a public water system, or both, continuation of technical services, reinstatement of public water system approval, or both, will occur upon payment of delinquent annual fee assessments. (5-8-09)

09. Enforcement Action. Nothing in Section 010 waives the Department's right to undertake an enforcement action at any time, including seeking penalties, as provided in Section 39-108, Idaho Code. (7-1-97)

10. Responsibility to Comply. Subsection 010.07 shall in no way relieve any system from its obligation to comply with all applicable state and federal drinking water statutes, rules, regulations, or orders. (7-1-97)

011. CONTINUITY OF SERVICE.

01. Transfer of Ownership. No owner shall transfer system ownership without providing written notice to the Department and all customers. Notification shall include a schedule for transferring responsibilities and identification of the new owner. (5-3-03)

02. Maintenance of Standards. The system transferring ownership shall ensure that all health related standards are met during transfer and shall ensure that water rights, operation and maintenance manuals, and all other pertinent documentation is transferred to the new owner. (5-3-03)

012. WRITTEN INTERPRETATIONS.

The Department of Environmental Quality may have written statements in the form of guidance and policy documents that pertain to the interpretation of the rules of this chapter. Such written statements may be inspected and copies obtained at the Department of Environmental Quality, 1410 North Hilton, Boise, Idaho 83706-1255. (5-3-03)

013. USE OF GUIDANCE.

Guidance documents referenced in these rules are to be used to assist both designers and reviewers in determining a reasonable way to achieve compliance with the rules. Nothing in these rules makes the use of a particular guidance or guidance document mandatory. If the plans and specifications comply with applicable facility and design standards as set out in these rules, Section 39-118, Idaho Code, requires that the Department not substitute its judgment for that of

the design engineer concerning the manner of compliance. If the design engineer needs assistance as to how to comply with a particular rule, the design engineer may use the referenced guidance documents for that assistance. However, the design engineer may also use other guidance or provide documentation to substantiate his or her own professional judgment. (5-8-09)

014. ADMINISTRATIVE PROVISIONS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

015. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code. Information submitted under a trade secret claim may be entitled to confidential treatment by the Department as provided in Section 74-114, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality." (3-15-02)

016. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (4-11-06)

017. -- 049. (RESERVED)

050. MAXIMUM CONTAMINANT LEVELS AND MAXIMUM RESIDUAL DISINFECTANT LEVELS.

01. Maximum Contaminant Levels for Inorganic Contaminants. (4-4-13)

a. 40 CFR 141.11 is herein incorporated by reference. (4-4-13)

b. 40 CFR 141.62 is herein incorporated by reference. (4-4-13)

c. The maximum contaminant level for cyanide is two-tenths milligram per liter (0.2 mg/l). (12-10-92)

02. Maximum Contaminant Levels for Organic Contaminants. 40 CFR 141.61 is herein incorporated by reference, except that the best available technology (BAT) treatment listed in 40 CFR 141.61(b) shall be changed to reflect that packed tower aeration will not be listed for toxaphene but will be listed for toluene. (4-4-13)

03. Maximum Contaminant Levels for Turbidity. 40 CFR 141.13 is herein incorporated by reference. (4-4-13)

04. Maximum Contaminant Levels for Radionuclides. 40 CFR 141.66 is herein incorporated by reference. (4-4-13)

05. Maximum Contaminant Levels for Microbiological Contaminants. 40 CFR 141.63 is herein incorporated by reference. (4-4-13)

06. Maximum Contaminant Levels for Disinfection Byproducts. 40 CFR 141.64 is herein incorporated by reference. (4-4-13)

07. Maximum Residual Disinfectant Levels. 40 CFR 141.65 is herein incorporated by reference. (4-4-13)

08. Effective Dates. Effective date information provided in 40 CFR 141.6 and 40 CFR 141.60 is applicable. (4-4-13)

051. -- 099. (RESERVED)

100. MONITORING AND ANALYTICAL REQUIREMENTS.

01. Total Coliform Sampling and Analytical Requirements. The Total Coliform Rule, 40 CFR 141.21, is herein incorporated by reference. The Revised Total Coliform Rule, 40 CFR Part 141, Subpart Y, is herein incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f) and (h). (3-25-16)

a. Routine monitoring requirements for public water systems serving more than one thousand (1,000) people. 40 CFR 141.857 is herein incorporated by reference. (3-25-16)

b. Routine monitoring requirements for community water systems serving one thousand (1,000) or fewer people using only ground water. 40 CFR 141.855 is herein incorporated by reference. (3-25-16)

c. Routine monitoring requirements for subpart H public water system serving one thousand (1,000) or fewer people. 40 CFR 141.856 is herein incorporated by reference. (3-25-16)

d. Routine monitoring requirements for non-community water system serving one thousand (1,000) or fewer people using only ground water. 40 CFR 141.854 is herein incorporated by reference, excluding the annual monitoring provisions in 40 CFR 141.854 (a)(4), (d), (e), (f), and (h). (3-25-16)

02. Turbidity Sampling and Analytical Requirements. 40 CFR 141.22 is herein incorporated by reference. (4-4-13)

03. Inorganic Chemical Sampling and Analytical Requirements. 40 CFR 141.23 is herein incorporated by reference. (4-4-13)

04. Organic Chemicals, Sampling and Analytical Requirements. 40 CFR 141.24 is herein incorporated by reference. (4-4-13)

05. Analytical Methods for Radioactivity. 40 CFR 141.25 is herein incorporated by reference. (4-4-13)

06. Monitoring Frequency and Compliance Requirements for Radioactivity in Community Water Systems. 40CFR 141.26 is herein incorporated by reference. (4-4-13)

07. Monitoring Waivers. 40 CFR 141.23(b) 141.23(c), 141.24(f), 141.24(h) are herein incorporated by reference. (4-4-13)

a. Waivers from sampling requirements in Subsections 100.03, 100.04, 200.01, and 503.03.e.v. may be available to all systems for all contaminants except nitrate, nitrite, and disinfection byproducts and are based upon a vulnerability assessment, use assessment, the analytical results of previous sampling, or some combination of vulnerability assessment, use assessment, and analytical results. (4-4-13)

b. There are two (2) general types of monitoring waivers: (12-10-92)

i. Waivers based exclusively upon previous analytical data (12-10-92)

ii. Waivers based on a use or vulnerability assessment. (12-10-92)

c. Waivers are to be made by the Department on a contaminant specific basis and must be in writing. (12-10-92)

d. Vulnerability assessments may be conducted by the Department, the water system, or a third party organization. The Department shall approve or disapprove all vulnerability assessments in writing. (12-10-92)

e. Water systems which do not receive waivers shall sample at the required initial and repeat

monitoring frequencies. (12-10-92)

f. If a system elects to request a waiver from monitoring, it shall do so in writing at least sixty (60) days prior to the required monitoring deadline date. (10-1-93)

08. Initial Monitoring Schedule. In addition to the requirements specified in 40 CFR 141.23, 40 CFR 141.24, and 40 CFR 141.40, initial monitoring must be completed according to the following schedule unless otherwise specified by the Department: (4-4-13)

a. Public water systems serving more than one hundred (100) people must conduct initial monitoring before January 1, 1995 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving any public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

b. Public water systems serving one hundred (100) or less people must conduct initial monitoring before January 1, 1996 except that: (10-1-93)

i. Initial monitoring for nitrate and nitrite must be completed before January 1, 1994 for all surface water sources serving transient noncommunity public water systems and for all ground water sources serving a public water system. (10-1-93)

ii. Initial monitoring for nitrate and nitrite must be completed before April 1, 1993 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

iii. Initial monitoring required under 40 CFR 141.23(c) must be completed before January 1, 1994 for all surface water sources serving community or nontransient noncommunity public water systems. (10-1-93)

09. Alternate Analytical Techniques. 40 CFR 141.27 is herein incorporated by reference. (10-1-93)

10. Approved Laboratories. 40 CFR 141.28 and 40 CFR 141.852(b) are herein incorporated by reference. All analyses conducted pursuant to these rules, except those listed below, shall be performed in laboratories certified or granted reciprocity by the Idaho Department of Health and Welfare, Bureau of Laboratories, as provided in IDAPA 16.02.13, "Rules Governing Certification of Idaho Water Quality Laboratories." The following analyses may be performed by any person acceptable to the Department of Environmental Quality: (3-25-16)

a. pH; (12-10-92)

b. Turbidity (Nephelometric method only); (12-10-92)

c. Daily analysis for fluoride; (12-10-92)

d. Temperature; (5-8-09)

e. Disinfectant residuals, except ozone, which shall be analyzed using the Indigo Method or an acceptable automated method pursuant to Subsection 300.05.d.; (3-25-16)

f. Alkalinity; (5-8-09)

g. Calcium; (5-8-09)

h. Conductivity; (5-8-09)

i. Silica; and (5-8-09)

j. Orthophosphate. (5-8-09)

11. Monitoring of Consecutive Water Systems. 40 CFR 141.29 is herein incorporated by reference. (4-4-13)

12. Disinfection Residuals, Disinfection Byproducts, and Disinfection Byproduct Precursors. 40 CFR Part 141, Subpart L is herein incorporated by reference. (4-4-13)

101. -- 149. (RESERVED)

150. REPORTING, PUBLIC NOTIFICATION, RECORDKEEPING.

01. Reporting Requirements. 40 CFR 141.31 is herein incorporated by reference. (4-4-13)

02. Public Notification of Drinking Water Violations. 40 CFR Part 141, Subpart Q is herein incorporated by reference. (4-4-13)

03. Record Maintenance. 40 CFR 141.33 is herein incorporated by reference. (4-4-13)

04. Reporting for Unregulated Contaminant Monitoring Results. 40 CFR 141.35 is herein incorporated by reference. (4-4-13)

05. Reporting and Record Keeping Requirements for the Interim Enhanced Surface Water Treatment Rule. 40 CFR 141.175 is herein incorporated by reference. (4-4-13)

06. Reporting and Record Keeping Requirements for the Disinfectants and Disinfectant Byproducts Rule. 40 CFR 141.134 is herein incorporated by reference. (4-4-13)

07. Reporting and Record Keeping Requirements for the Revised Total Coliform Rule. 40 CFR 141.861 is herein incorporated by reference. (3-25-16)

151. CONSUMER CONFIDENCE REPORTS.
40 CFR Part 141, Subpart O is herein incorporated by reference. (4-4-13)

152. -- 199. (RESERVED)

200. SPECIAL REGULATIONS.

01. Monitoring Requirements for Unregulated Contaminants. 40 CFR 141.40 is herein incorporated by reference. (4-4-13)

02. Special Monitoring for Sodium. 40 CFR 141.41 is herein incorporated by reference. (4-4-13)

03. Special Monitoring for Corrosively Characteristics. 40 CFR 141.42 is herein incorporated by reference. (10-1-93)

04. Prohibition on Use of Lead Pipes, Solder, and Flux. 40 CFR 141.43 is herein incorporated by reference. (4-4-13)

201. -- 249. (RESERVED)

250. MAXIMUM CONTAMINANT LEVEL GOALS AND MAXIMUM RESIDUAL DISINFECTION LEVEL GOALS.

01. Maximum Contaminant Level Goals for Organic Contaminants. 40 CFR 141.50 is herein incorporated by reference. (4-4-13)

02. Maximum Contaminant Level Goals for Inorganic Contaminants. 40 CFR 141.51 is herein incorporated by reference. (4-4-13)

03. Maximum Contaminant Level Goals for Microbiological Contaminants. 40 CFR 141.52 is herein incorporated by reference. (4-4-13)

04. Maximum Contaminant Level Goals for Disinfection Byproducts. 40 CFR 141.53 is herein incorporated by reference. (4-4-13)

05. Maximum Residual Disinfectant Level Goals for Disinfectants. 40 CFR 141.54 is herein incorporated by reference. (4-4-13)

06. Maximum Contaminant Level Goals for Radionuclides. 40 CFR 141.55 is herein incorporated by reference. (4-4-13)

251. -- 299. (RESERVED)

300. FILTRATION AND DISINFECTION.

01. General Requirements. 40 CFR 141.70 is herein incorporated by reference. Each public water system using a surface water source or ground water source directly influenced by surface water shall be operated by personnel, as specified in Sections 553 and 554, who have met state requirements for licensing of water system operators. (4-4-13)

02. Filtration. 40 CFR 141.73 is herein incorporated by reference. (4-4-13)

a. Each system which provides filtration treatment shall submit engineering evaluations, other documentation, or some combination of engineering evaluations and other documentation as required by the Department to demonstrate ongoing compliance with these rules. (4-7-11)

b. The Department will establish filtration removal credit on a system-by-system basis. Unless otherwise demonstrated to the satisfaction of the Department, the maximum log removal credit allowed for filtration is as follows:

Maximum Log Removal			
Filtration Type	**Giardia lamblia**	**Viruses**	**Cryptosporidium**
Conventional	2.5	2.0	2.5
Direct	2.0	1.0	2.0
Slow sand	2.0	2.0	2.0
Diatomaceous earth	2.0	1.0	2.0
Microfiltration	3.0	0.5	3.0
Ultrafiltration	3.5	2.0	3.5
Nanofiltration	4.0	3.0	4.0
Reverse Osmosis	4.0	3.0	4.0

Maximum Log Removal			
Filtration Type	**Giardia lamblia**	**Viruses**	**Cryptosporidium**
Alternate technology	2.0	0	2.0

(4-4-13)

c. Filtration removal credit shall be granted for filtration treatment provided the system is: (4-7-11)

i. Operated in accordance with the Operations Plan specified in Subsection 552.03.a.; and (4-7-11)

ii. The system is in compliance with the turbidity performance criteria specified under 40 CFR 141.73; and (4-7-11)

iii. Coagulant chemicals must be added and coagulation and flocculation unit process must be used at all times during which conventional and direct filtration treatment plants are in operation; and (4-7-11)

iv. Slow sand filters are operated at rates not to exceed one-tenth (0.1) gallons per minute per square foot or as approved by the Department; and (3-25-16)

v. Diatomaceous earth filters are operated at a rate not to exceed one point five (1.5) gallons per minute per square foot. (4-7-11)

03. Criteria for Avoiding Filtration. 40 CFR 141.71 is herein incorporated by reference. (4-4-13)

04. Disinfection. 40 CFR 141.72 is herein incorporated by reference. (10-1-93)

a. In addition to the disinfection requirements in 40 CFR 141.72, each system with a surface water source or ground water source directly influenced by surface water shall maintain a minimum of at least two-tenths (0.2) parts per million of chlorine in the treated water after an effective contact time of at least thirty (30) minutes at peak hour demand before delivery to the first customer. Effective contact time is either demonstrated or calculated. (3-25-16)

i. Demonstrated effective contact time is generally determined by tracer studies on a completed contact basin. Prior to conducting a tracer study, a testing plan shall be submitted to the Department for review and approval. The tracer chemical shall not be reactive with anything in the water or be consumed in the process. (3-25-16)

ii. Calculated effective contact time for tank type contact basins is based on tank baffling and inlet/outlet configurations for the maximum hourly flow rate through that contact basin. Calculated effective contact time in a "pipeline type contact basin" (often called a pipeline contactor) is calculated by dividing the internal volume of the pipe by the maximum hourly flow rate through that pipeline contactor. (3-25-16)

b. The Department may allow a system to utilize automatic shut-off of water to the distribution system whenever total disinfectant residual is less than two-tenths (0.2) mg/l rather than provide redundant disinfection components and auxiliary power as required in 40 CFR 141.72(a)(2). An automatic water shut-off may be used if the system demonstrates to the satisfaction of the Department that, at all times, a minimum of twenty (20) psi pressure and adequate fire flow can be maintained in the distribution system when water delivery is shut-off to the distribution system and, at all times, minimum Giardia lamblia and virus inactivation removal rates can be achieved prior to the first customer. (12-10-92)

c. Each system which is required to provide filtration must provide disinfection treatment such that filtration plus disinfection provide at least 3-Log or ninety-nine and nine tenths percent (99.9%) inactivation/removal of Giardia lamblia cysts and at least 4-Log or ninety-nine and ninety-nine hundredths percent (99.99%) inactivation/removal of viruses as specified in 40 CFR 141.72 and Section 300, and at least 2-Log or ninety-nine percent (99%) removal of Cryptosporidium as required by 40 CFR Part 141, Subpart P or Subpart T. However, in all cases the

disinfection portion of the treatment train shall be designed to provide not less than five tenths (0.5) log Giardia lamblia inactivation, irrespective of the Giardia lamblia removal credit awarded to the filtration portion of the treatment train. (4-4-13)

05. Analytical and Monitoring Requirements. 40 CFR 141.74 is herein incorporated by reference. (4-4-13)

a. Each public water system which is required to provide disinfection shall monitor as follows: (4-4-13)

i. Each day the system is in operation, the purveyor shall determine the total level of inactivation of Giardia lamblia cysts and viruses achieved through disinfection based on CT99.9 values provided in 40 CFR 141.74(b)(3) (Tables 1.1 through 1.6, 2.1 and 3.1). (12-10-92)

ii. At least once per day, the system shall monitor the following parameters to determine the total inactivation ratio achieved through disinfection: (12-10-92)

(1) Temperature of the disinfected water at each residual disinfectant concentration sampling point; and (12-10-92)

(2) If using chlorine, the pH of the disinfected water at each chlorine residual sampling point. (12-10-92)

(3) The effective contact time, "T," must be determined each day during peak hour demand. Disinfectant contact time, "T," in pipelines used for Giardia lamblia and virus inactivation shall be calculated by dividing the internal volume of the pipe by the peak hour flow rate through that pipe. Effective contact time, "T," for all other system components used for Giardia lamblia and virus inactivation shall be determined by tracer studies or other evaluations or calculations acceptable to the Department. (4-4-13)

(4) The residual disinfectant concentrations at each residual disinfectant sampling point at or before the first customer, must be determined each day during peak hour demand, or at other times approved by the Department. (5-8-09)

iii. The purveyor may demonstrate to the Department, based on a Department approved on-site disinfection challenge study protocol, that the system is achieving disinfection requirements specified in Subsection 300.04 utilizing CT99.9 values other than those specified in 40 CFR 141.74(b)(3) (Tables 2.1 and 3.1) for ozone, chlorine dioxide, and chloramine. (4-4-13)

iv. The total inactivation ratio shall be calculated as follows: (12-10-92)

(1) If the system applies disinfectant at only one (1) point, the system shall determine the total inactivation ratio by either of the two (2) following methods: (12-10-92)

(a) One inactivation ratio (CTcalc/CT99.9) is determined at/or before the first customer during peak hour demand; or (5-8-09)

(b) Sequential inactivation ratios are calculated between the point of disinfectant application and a point at or before the first customer during peak hour demand. The following method must be used to calculate the total inactivation ratio: (5-8-09)

(i) Step 1: Determine (CTcalc/CT99.9) for each sequence. (12-10-92)

(ii) Step 2: Add the (CTcalc/CT99.9) values for all sequences. The result is the total inactivation ratio. (12-10-92)

(2) If the system uses more than one point of disinfectant application at or before the first customer, the system must determine the CT value of each disinfection sequence immediately prior to the next point of disinfectant

application during peak hour demand. The sum of the (CTcalc/CT99.9) values from all sequences is the total inactivation ratio. (CTcalc/CT99.9) must be determined by the methods described in 40 CFR 141.74(b)(4)(i)(B). (5-8-09)

v. Log removal credit for disinfection shall be determined by multiplying the total inactivation ratio by three (3). (12-10-92)

vi. The Department may reduce the CT monitoring requirements specified under Section 300, for any system which demonstrates that the required inactivation levels are consistently exceeded. Reduced CT monitoring shall be allowed only where the reduction in monitoring will not endanger the health of consumers served by the water system. (12-10-92)

b. Residual disinfectant concentrations for ozone must be measured using the Indigo Method, or automated methods may be used if approved by the Department as provided for in 40 CFR 141.74(a)(2). (3-25-16)

c. Unfiltered Subpart H systems. 40 CFR 141.857(c) is herein incorporated by reference. (3-25-16)

d. As provided for in 40 CFR 141.74(b), the Department may specify interim monitoring requirements for unfiltered systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed. Until filtration is installed, systems shall conduct monitoring for turbidity and disinfectant residuals as follows unless otherwise specified by the Department. (3-25-16)

i. Disinfectant residual concentrations entering the distribution system shall be measured at the following minimum frequencies, and samples must be taken at evenly spaced intervals throughout the workday.

Minimum Frequencies	
Population	**Samples/day**
Less than 500	1
501 - 1000	2
1,001 - 2,500	3
Greater than 2501	4

(12-10-92)

ii. Turbidity shall be measured at least once per day at the entry point to the distribution system. (12-10-92)

iii. The Department may, at its discretion, reduce the turbidity monitoring frequency for any noncommunity system which demonstrates to the satisfaction of the Department: (12-10-92)

(1) A free chlorine residual of two-tenths (0.2) part per million is maintained throughout the distribution system; (12-10-92)

(2) The water source is well protected; (12-10-92)

(3) The total coliform MCL is not exceeded or a Level 1 or Level 2 Assessment has not been triggered in accordance with 40 CFR 141.859; and (3-25-16)

(4) No significant health risk is present. (12-10-92)

e. The Department may allow systems with surface water sources or ground water sources under the direct influence of surface water, to substitute continuous turbidity monitoring for grab sample monitoring as specified in 40 CFR 141.74(b)(2) and 40 CFR 141.74(c)(1) and Subsection 300.05. The Department may allow

continuous turbidity monitoring provided the continuous turbidimeter is operated, maintained, standardized and calibrated per the manufacturer's recommendations. For purposes of determining compliance with turbidity performance criteria, discrete values must be recorded every four (4) hours water is supplied to the distribution system. (10-1-93)

f. The Department may allow systems using both a surface water source(s), or ground water source(s) under the direct influence of surface water, and one (1) or more ground water sources, to measure disinfectant residual at points other than the total coliform sampling points, as specified in 40 CFR 141.74(b)(6)(i) and 40 CFR 141.74(c)(3)(i) and Subsection 300.05. The Department may allow alternate sampling points provided the system submits an alternate monitoring plan to the Department for approval in advance of the monitoring requirement that demonstrates the alternative points are more representative of treated (disinfected) water quality within the distribution system. Heterotrophic bacteria, measured as heterotrophic plate count (HPC) as specified in 40 CFR 141.74(a)(1), may be measured in lieu of residual disinfectant concentration as outlined in 40 CFR 141.74(b)(6)(i). (3-25-16)

g. The Department may allow a reduced turbidity monitoring frequency for systems using slow sand filtration or technology other than conventional, direct, or diatomaceous earth filtration, as specified in 40 CFR 141.74(c)(1) and Subsection 300.05. To be considered for a reduced turbidity monitoring frequency, a system must submit a written request to the Department in advance of the monitoring requirement. (12-10-92)

06. Reporting and Recordkeeping Requirements. 40 CFR 141.75 is herein incorporated by reference. (4-4-13)

a. As provided in 40 CFR 141.75(a) and Section 300, the Department may establish interim reporting requirements for systems notified by the Department or U.S. Environmental Protection Agency that filtration treatment must be installed as specified in 40 CFR 141.75(a) and as referred to in Subsection 300.06. Until filtration treatment is installed, systems required to install filtration treatment shall report as follows: (4-4-13)

i. The purveyor shall immediately report to the Department via telephone or other equally rapid means, but no later than the end of the next business day, the following information: (12-10-92)

(1) The occurrence of a waterborne disease outbreak potentially attributable to that water system; (12-10-92)

(2) Any turbidity measurement which exceeds five (5) NTU; and (12-10-92)

(3) Any result indicating that the disinfectant residual concentration entering the distribution system is below two-tenths (0.2) mg/l free chlorine. (12-10-92)

ii. The purveyor shall report to the Department within ten (10) days after the end of each month the system serves water to the public the following monitoring information using a Department-approved form: (12-10-92)

(1) Turbidity monitoring information; and (12-10-92)

(2) Disinfectant residual concentrations entering the distribution system. (12-10-92)

iii. Personnel qualified under Subsection 300.01 shall complete and sign the monthly report forms submitted to the Department as required in Subsection 300.06. (12-10-92)

b. In addition to the reporting requirements in 40 CFR 141.75(b) pertaining to systems with filtration treatment, each public water system which provides filtration treatment must report the level of Giardia lamblia and virus inactivation/removal achieved each day by filtration and disinfection. (4-4-13)

07. Recycle Provisions. 40 CFR 141.76 is herein incorporated by reference. (4-4-13)

a. The Department shall evaluate recycling records kept by water systems pursuant to 40 CFR 141.76

during sanitary surveys, comprehensive performance evaluations, or other inspections. (5-3-03)

b. The Department may require a system to modify recycling practices if it can be shown that these practices adversely affect the ability of the system to meet surface water treatment requirements. (5-3-03)

301. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING TEN THOUSAND OR MORE PEOPLE.
This Section incorporates, 40 CFR Part 141, Subpart P, of the National Primary Drinking Water Regulations, known as the Interim Enhanced Surface Water Treatment Rule. (4-5-00)

01. General Requirements. 40 CFR 141.170 is herein incorporated by reference. (4-4-13)

02. Criteria for Avoiding Filtration. 40 CFR 141.171 is herein incorporated by reference. (4-4-13)

03. Disinfection Profiling and Benchmarking. 40 CFR 141.172 is herein incorporated by reference. (4-4-13)

04. Filtration. 40 CFR 141.173 is herein incorporated by reference. (4-4-13)

05. Filtration Sampling Requirements. 40 CFR 141.174 is herein incorporated by reference. (4-4-13)

302. SANITARY SURVEYS FOR SYSTEMS USING SURFACE WATER OR GROUND WATER UNDER THE DIRECT INFLUENCE OF SURFACE WATER.
The Department shall conduct a sanitary survey of all public water systems which use surface water or ground water under the direct influence of surface water. (4-5-00)

01. Frequency. For noncommunity water systems, a sanitary survey shall be conducted every five (5) years. For community water systems, a sanitary survey shall be conducted every three (3) years, except that a community water system that has been determined to have outstanding performance, according to criteria established by the Department, may have a sanitary survey conducted every five (5) years. (4-5-00)

02. Report. A report describing the results of the sanitary survey will be provided to the water system. (4-5-00)

a. As part of the sanitary survey report or as an independent action, the Department shall provide written notice to the water system describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. (5-8-09)

b. The Department may, at its discretion, provide this written notice at the time of the sanitary survey. (5-8-09)

03. Response Required. The owner of a public water system must respond in writing, describing how and on what schedule the system will address all significant deficiencies, not later than forty-five (45) days after receiving notification from the Department. (4-4-13)

04. Consultation with the Department. Public water systems shall consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey, unless such corrective actions are specified in detail by the Department in its written notification under Subsection 302.02. (5-8-09)

05. Violation. Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. (4-5-00)

303. SANITARY SURVEYS FOR PUBLIC WATER SYSTEMS USING GROUND WATER.
The Department shall conduct a sanitary survey of all public water systems that use ground water. 40 CFR Part 141,

Subpart S, is herein incorporated by reference. (4-4-13)

01. Frequency. For non-community water systems, a sanitary survey shall be conducted every five (5) years. For community water systems, a sanitary survey shall be conducted every three (3) years, except as provided below. (5-8-09)

a. A community water system may have a sanitary survey conducted every five (5) years if the system provides at least a four (4)-log treatment of viruses (using inactivation, removal, or a Department approved combination of 4-log inactivation and removal) before or at the first customer for all of its ground water sources. (5-8-09)

b. A community water system may have a sanitary survey conducted every five (5) years if it has an outstanding performance record, as determined by the Department and documented in previous sanitary surveys, and has no history of Total Coliform Rule or Revised Total Coliform Rule MCL or monitoring violations under Subsection 100.01 since the last sanitary survey. (3-25-16)

02. Report. A report describing the results of the sanitary survey shall be provided to the water system. (5-8-09)

a. As part of the sanitary survey report or as an independent action, the Department shall provide written notice to the water system describing any significant deficiency within thirty (30) days after the Department identifies the significant deficiency. The notice may specify corrective actions and deadlines for completion of corrective actions. (5-8-09)

b. The Department may, at its discretion, provide this written notice at the time of the sanitary survey. (5-8-09)

03. Significant Deficiencies. For each of the eight (8) elements of a sanitary survey of a ground water system, the following deficiencies shall in all cases be considered significant for the purposes of the notice required in Subsection 303.02. Decisions about the significance of other deficiencies identified during the sanitary survey shall be at the Department's discretion, as indicated in the Department's sanitary survey protocol. (5-8-09)

a. Source: Lack of a sanitary well cap as specified in Subsection 511.06.b. (5-8-09)

b. Treatment: (4-4-13)

i. Chemical addition lacks emergency shut-off as specified in Subsection 531.02.b.ii. (4-4-13)

ii. Chemical addition is not flow proportioned where the rate of flow or chemical demand is not reasonably constant, as specified in Subsection 531.02.b.ii. (4-4-13)

c. Distribution system: No means for flushing dead end water mains, as specified in Subsection 542.09. (5-8-09)

d. Finished water storage: Roof leaking, as specified in Subsections 544.09 and 544.09.c. (5-8-09)

e. Pumps, pump facilities, and controls: No accessible check valve between pump and shut-off valve, as specified in Subsection 511.04. (5-8-09)

f. Monitoring, reporting, and data verification: Repeated failure to collect the required number and type of Total Coliform Rule or the Revised Total Coliform Rule samples during the most recent two (2) year period, as specified in Subsection 100.01. (3-25-16)

g. System management and operation: History of frequent depressurization in the distribution system in violation of Subsection 552.01. (5-8-09)

h. Operator compliance with state licensing requirements: Responsible charge operator is not licensed

as required in Subsection 554.02. (5-8-09)

04. Response Required. The owner of a public water system must respond in writing, describing how and on what schedule the system will address all significant deficiencies, not later than thirty (30) days after receiving notification from the Department. (4-4-13)

05. Consultation with the Department. Public water systems shall consult with the Department prior to taking specific corrective actions in response to significant deficiencies identified during a sanitary survey unless such corrective actions are specified in detail by the Department in its written notification under Subsection 303.02. (5-8-09)

06. Violation. Failure to address significant deficiencies identified in a sanitary survey that are within the control of the public water system and its governing body shall constitute a violation of these rules. (5-8-09)

304. COMPOSITE CORRECTION PROGRAM (CCP).
In accordance with 40 CFR 142.16(g)(1), the Department may require a public water system to conduct a composite correction program, as defined in Section 003 of these rules, for the purpose of identifying and correcting deficiencies in water treatment and distribution. Composite Correction Programs consist of a Comprehensive Performance Evaluation (CPE) and Comprehensive Technical Assistance (CTA). Failure to implement any Department-required performance improvement factors identified through the CCP constitutes a violation of these rules. (4-4-13)

01. Comprehensive Performance Evaluation (CPE). If required, the CPE must be conducted to identify factors that may be adversely impacting a plant's capability to achieve compliance. It must emphasize approaches that can be implemented without significant capital improvements and must consist of at least the following components: assessment of plant performance; evaluation of major unit processes; identification and prioritization of performance limiting factors; assessment of the applicability of comprehensive technical assistance; and preparation of a CPE report. (4-4-13)

02. Comprehensive Technical Assistance (CTA). During the CTA phase, the system must identify and systematically address plant-specific factors. The CTA consists of follow-up to the CPE results, implementation of process control priority setting techniques, and maintaining long term involvement to systematically train staff and administrators. (4-4-13)

305. COLIFORM TREATMENT TECHNIQUE TRIGGERS AND ASSESSMENT REQUIREMENTS FOR PROTECTION AGAINST POTENTIAL FECAL CONTAMINATION.
40 CFR 141.859, excluding 40 CFR 141.859(a)(2)(iii), is herein incorporated by reference. (3-25-16)

01. Treatment Technique Triggers. Systems owners and operators must ensure that assessments are conducted in accordance with Subsection 305.02 after exceeding treatment technique triggers in this subsection. (3-25-16)

a. Level 1 treatment technique triggers: (3-25-16)

i. For systems taking forty (40) or more samples per month, the system exceeds five percent (5.0%) total coliform-positive samples for the month. (3-25-16)

ii. For systems taking fewer than forty (40) samples per month, the system has two (2) or more total coliform positive samples in the same month. (3-25-16)

iii. The system owner or operator fails to take every required repeat sample after any single total coliform-positive sample. (3-25-16)

b. Level 2 treatment technique triggers: (3-25-16)

i. An E.coli MCL violation, as specified in Subsection 050.05 and Subsection 100.01 of these rules; or (3-25-16)

ii. A second or any additional Level 1 triggers as defined in Subsection 305.01.a. within a rolling 12-month period, unless the Department has determined a likely reason that the samples that caused the first Level 1 treatment technique trigger were total coliform-positive and has established that the system has corrected the problem. (3-25-16)

02. Requirements For Assessments. (3-25-16)

a. System owners and operators must ensure that Level 1 and 2 assessments are conducted in order to identify the possible presence of sanitary defects and defects in distribution system coliform monitoring practices. The assessment must be conducted consistent with any Department directives that tailor specific assessment elements with respect to the size and type of the system and the size, type, and characteristics of the distribution system. (3-25-16)

b. When conducting assessments, owners and operators must ensure that the assessor evaluates minimum elements that include review and identification of inadequacies in sample sites; sampling protocol; sample processing; atypical events that could affect distributed water quality or indicate that distributed water quality was impaired; changes in distribution system maintenance and operation that could affect distributed water quality (including water storage); source and treatment considerations that bear on distributed water quality, where appropriate (e.g., small ground water systems); and existing water quality monitoring data. The system owner or operator must ensure the assessments are consistent with the elements in the Department provided forms for Level 1 and Level 2 assessments. (3-25-16)

c. Level 1 Assessments. A system owner or operator must conduct a Level 1 assessment if the system exceeds one of the treatment technique triggers in Subsection 305.01.a. as soon as practical after any trigger level is identified and submit a completed Level 1 assessment report or form to the Department within thirty (30) days after the system learns that it has exceeded a trigger. (3-25-16)

i. The completed assessment report or form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment report or form may also note that no sanitary defects were identified. (3-25-16)

ii. If the Department reviews the completed Level 1 report or form and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Department will consult with the owner or operator of the system. If the Department requires revisions after consultation, the system owner or operator must submit a revised assessment report or form to the Department on an agreed-upon schedule not to exceed thirty (30) days from the date of consultation. (3-25-16)

iii. Upon completion and submission of the assessment report or form by the system owner or operator, the Department will determine if the system has identified a likely cause for the Level 1 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to the Department for correcting the problem. (3-25-16)

d. Level 2 Assessments. A system owner or operator must ensure that a Level 2 assessment is conducted if the system exceeds one of the treatment technique triggers in Subsection 305.01.b. The owner or operator must comply with any expedited actions or additional action required by the Department in the case of an E.coli MCL violation. (3-25-16)

i. The system owner or operator must ensure that a Level 2 assessment is conducted by the Department or a party approved by the Department as described in Subsection 305.03 as soon as practical after any trigger in Subsection 305.01.b. and must submit a completed Level 2 assessment report or form to the Department within 30 (thirty) days after the system learns that it has exceeded a trigger if the assessment was conducted by a party other than the Department. (3-25-16)

ii. The Department will schedule and conduct Level 2 assessments for an E.coli treatment technique trigger in Subsection 305.01.b.i. unless the Department approves another party to conduct the assessment as outlined in Subsection 305.03. (3-25-16)

iii. A second or any additional triggered Level 2 Assessment within a rolling twelve-month period must be conducted by a Department approved third party even if the public water system has staff or management approved under Subsection 305.03. (3-25-16)

iv. The completed assessment report or form must describe sanitary defects detected, corrective actions completed, and a proposed timetable for any corrective actions not already completed. The assessment report or form may also note that no sanitary defects were identified. (3-25-16)

v. If the Department reviews the completed Level 2 report or form and determines that the assessment is not sufficient (including any proposed timetable for any corrective actions not already completed), the Department will consult with the owner or operator of the system. If the Department requires revisions after consultation, the system owner or operator must submit a revised assessment report or form to the Department on an agreed-upon schedule not to exceed 30 (thirty) days from the date of consultation. (3-25-16)

vi. Upon completion and submission of the assessment report or form by the system owner or operator, the Department will determine if the system has identified a likely cause for the Level 2 trigger and, if so, establish that the system has corrected the problem, or has included a schedule acceptable to Department for correcting the problem. (3-25-16)

e. Corrective action. Systems must correct sanitary defects found through either Level 1 or Level 2 assessments conducted under this section. For corrections not completed by the time of submission of the assessment report or form, the system must complete the corrective action(s) in compliance with a timetable approved by the Department in consultation with the system. The system must notify the Department when each scheduled corrective action is completed. (3-25-16)

f. Consultation. At any time during the assessment or corrective action phase, either the water system or the Department may request a consultation with the other party to determine the appropriate actions to be taken. The system may consult with the Department on all relevant information that may impact its ability to comply with a requirement of this Section, including the method of accomplishment, an appropriate timeframe, and other relevant information. (3-25-16)

03. Approved Parties for Level 2 Assessments. The system may conduct a Level 2 assessment if the system has staff or management with the certification or qualifications outlined in this Subsection or if the system hires parties that meet the qualifications in this Subsection. The following parties are approved by the Department to conduct Level 2 assessments: (3-25-16)

a. The Department or persons contracted with the Department who are trained to conduct sanitary surveys; (3-25-16)

b. Currently licensed operators in good standing that are licensed through the Idaho Bureau of Occupational Licensing with a drinking water classification of Distribution I through IV or Treatment I through IV and that are licensed at least to the classification level of the public water system requiring the Level 2 assessment; or (3-25-16)

c. Licensed professional engineers licensed by the state of Idaho and qualified by education and experience in the specific technical fields involved in these rules. (3-25-16)

306. -- 309. (RESERVED)

310. ENHANCED FILTRATION AND DISINFECTION - SYSTEMS SERVING FEWER THAN TEN THOUSAND PEOPLE.
40 CFR 141, Subpart T is herein incorporated by reference. (4-4-13)

311. ENHANCED TREATMENT FOR CRYPTOSPORIDIUM -- LONG TERM 2 ENHANCED SURFACE WATER TREATMENT RULE.
40 CFR Part 141, subpart W is herein incorporated by reference. (4-4-13)

01. Cryptosporidium Treatment Credit for Approved Watershed Control Program. The Department shall award 0.5 (zero point five) logs cryptosporidium removal credit to systems that have a Department approved Watershed Control Program. Requirements for a watershed control program are set forth in 40 CFR 141, Subpart W. Guidance on how to develop a watershed control program and obtain Department approval is provided in "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002. (4-2-08)

02. Assessment of Significant Changes in the Watershed. As part of the sanitary survey process set forth in Section 302, the Department, or an agent approved by the Department, shall assess significant changes in the watershed of a surface water system that have occurred since the system conducted source water monitoring. If changes in the watershed have the potential to significantly increase contamination of the source water with cryptosporidium, the Department shall consult with the water system owner on follow-up actions that may be required under 40 CFR 141, Subpart W, including, but not limited to, source water monitoring and/or additional treatment requirements. "Implementation Guidance for the Long Term 2 Enhanced Surface Water Treatment Rule," as referenced in Section 002, provides a description of factors that will be considered by the Department when making an assessment of changes in the watershed. These factors include, but are not limited to the following: (4-2-08)

a. New NPDES permits or changes in existing NPDES permits that involve increased loading of contaminants. (4-2-08)

b. Changes in land use patterns. (4-2-08)

c. Changes in agricultural cropping, chemical application, or irrigation practices. (4-2-08)

d. Changes in other non-point discharge source activities (such as grazing, manure application, commercial or residential development). (4-2-08)

e. Stream or riverbed modifications. (4-2-08)

f. NPDES permit violations at wastewater treatment plants and confined animal feedlot operations. (4-2-08)

g. Dramatic natural events such as floods, forest fires, earthquakes, and landslides that may transport or expose contaminants. (4-2-08)

h. Prolonged drought conditions that may warrant special preparatory measures to minimize impacts from waste accumulations that are washed into source waters when precipitation returns. (4-2-08)

i. Status of the water system's emergency response plan. (4-2-08)

j. Accidental or illegal waste discharges and spills. (4-2-08)

312. -- 319. (RESERVED)

320. DISINFECTANT RESIDUALS, DISINFECTION BYPRODUCTS, AND DISINFECTION BYPRODUCT PRECURSORS.
This Section incorporates 40 CFR Part 141, Subpart L, of the National Primary Drinking Water Regulations, known as the Disinfectants and Disinfection Byproducts Rule. (4-5-00)

01. General Requirements. 40 CFR 141.130 is herein incorporated by reference. (4-4-13)

02. Analytical Requirements. 40 CFR 141.131 is herein incorporated by reference. DPD colorimetric test kits may be used to measure residual disinfectant concentrations for chlorine, chloramines, and chlorine dioxide. (4-4-13)

03. Monitoring Requirements. 40 CFR 141.132 is herein incorporated by reference. (4-4-13)

04. Compliance Requirements. 40 CFR 141.133 is herein incorporated by reference. (4-4-13)

05. Treatment Techniques for Control of Disinfection Byproduct (DBP) Precursors. 40 CFR 141.135 is herein incorporated by reference. (4-4-13)

321. INITIAL DISTRIBUTION SYSTEM EVALUATIONS.
40 CFR Part 141, Subpart U is herein incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart U. (4-4-13)

322. STAGE 2 DISINFECTION BYPRODUCTS REQUIREMENTS.
40 CFR Part 141, Subpart V is herein incorporated by reference. "Implementation Guidance for the Stage 2 Disinfectants and Disinfection Byproducts Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR Part 141, Subpart V. (4-4-13)

323. GROUND WATER RULE.
40 CFR 141, Subpart S is herein incorporated by reference. "Implementation Guidance for the Ground Water Rule," as referenced in Section 002, provides assistance to public water system owners and operators in understanding and achieving compliance with the requirements of 40 CFR 141, Subpart S. (4-4-13)

01. Discontinuation of Treatment. Systems that wish to discontinue four (4)-log virus treatment at a ground water source must meet the following criteria. Ground water sources on which treatment has been discontinued shall be subject to the triggered source water monitoring requirements of 40 CFR 141, Subpart S. (5-8-09)

a. Demonstration that any known source of contamination has been removed. (5-8-09)

b. Demonstration that structural deficiencies of the well have been rehabilitated and no longer exist. (5-8-09)

c. Provide evidence that the well is drawing from a protected or confined aquifer. (5-8-09)

d. Submit results of one (1) year of monthly monitoring for a fecal indicator organism during which no positive results occurred. (5-8-09)

02. Chlorine Purging Prior to Triggered Source Sampling. 40 CFR 141.402(e) requires that ground water source samples be collected at a location prior to any treatment. Pursuant to this requirement, systems that add chlorine to a source, either in the well bore or near enough to the wellhead that chlorinated water could backflow into the well, shall ensure that all chlorine residual has been purged prior to taking a triggered source water sample. This shall be accomplished by measuring chlorine residual in the source water until a reading of zero is obtained and be recorded in the space provided for chlorine residual on the sample submittal form. (4-4-13)

324. -- 349. (RESERVED)

350. CONTROL OF LEAD AND COPPER.

01. General Requirements. 40 CFR 141.80, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

02. Applicability of Corrosion Control Treatment Steps to Small, Medium-Size, and Large Water Systems. 40 CFR 141.81, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

03. Description of Corrosion Control Treatment Requirements. (12-1-92)

a. 40 CFR 141.82, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

b. The Department may modify its determination of the optimal corrosion control treatment or optimal water quality control parameters where it concludes that such changes are necessary to optimize corrosion control treatment as specified in 40 CFR 141.82(h) and as referred to in Subsection 350.03. The Department may also modify its determination of the optimal corrosion control treatment or water quality control parameters where it finds such changes will provide equivalent or improved treatment in a manner which is simpler or less costly to operate. (12-10-92)

04. Source Water Treatment Requirements. 40 CFR 141.83, revised as of July 1, 2008, is herein incorporated by reference. The Department may modify its determination of optimal source treatment or maximum permissible lead and copper concentrations where it concludes that such changes are necessary as specified in 40 CFR 141.83(b)(6). (5-8-09)

05. Lead Service Line Replacement Requirements. 40 CFR 141.84, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

06. Public Education and Supplemental Monitoring Requirements. 40 CFR 141.85, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

07. Monitoring Requirements for Lead and Copper in Tap Water. 40 CFR 141.86, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

08. Monitoring Requirements for Water Quality Parameters. 40 CFR 141.87, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

09. Monitoring Requirements for Lead and Copper in Source Water. 40 CFR 141.88, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

10. Analytical Methods. 40 CFR 141.89, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

11. Reporting Requirements. 40 CFR 141.90, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

12. Recordkeeping Requirements. 40 CFR 141.91, revised as of July 1, 2008, is herein incorporated by reference. (5-8-09)

351. -- 399. (RESERVED)

400. SECONDARY MCLS.

01. Purpose. 40 CFR 143.1, revised as of July 1, 2003, is herein incorporated by reference. (3-20-04)

02. Definitions. 40 CFR 143.2, revised as of July 1, 2003, is herein incorporated by reference. (3-20-04)

03. Secondary Maximum Contaminant Levels. 40 CFR 143.3, revised as of July 1, 2003, is herein incorporated by reference. (3-20-04)

04. Monitoring. 40 CFR 143.4, revised as of July 1, 2010, is herein incorporated by reference. (4-7-11)

401. -- 449. (RESERVED)

450. USE OF NON-CENTRALIZED TREATMENT DEVICES.

01. Criteria and Procedures for Public Water Systems Using Point of Entry Devices. 40 CFR 141.100 is herein incorporated by reference. (4-4-13)

02. Point of Use (POU) Treatment Devices. (3-30-07)

a. A public water system may use point of use (POU) treatment in order to achieve compliance with certain maximum contaminant levels (MCL) or treatment techniques, in accordance with Subsection 450.02.b., when the following conditions are met: (3-30-07)

i. A program for long-term operation, maintenance, and monitoring of the POU treatment system is approved by the Department, pursuant to Section 450.02.d. (3-30-07)

ii. The public water system or a vendor of POU treatment devices under contract with the public water system shall own, control, and maintain the POU treatment system to ensure proper operation and maintenance and compliance with the MCL or treatment technique. (3-30-07)

iii. Each POU treatment device is equipped with a mechanical warning mechanism to ensure that customers are automatically notified of operational problems. (3-30-07)

iv. The POU treatment device must be certified by an accredited American National Standards Institute (ANSI) certification body to meet applicable ANSI/National Sanitation Foundation (NSF) Standards. (3-30-07)

b. POU treatment devices shall not be used to achieve compliance with a MCL or treatment technique requirement for a microbial contaminant or an indicator of a microbial contaminant. Community water systems may not use POU treatment devices to achieve compliance with a nitrate MCL. (3-30-07)

c. The Department will waive the plan and specification requirements of Section 504 relating to material modifications for the following systems only to the extent that the material modification proposed is limited to the installation or use of a POU treatment device(s): (4-4-13)

i. Community water systems serving two hundred (200) or fewer service connections. (3-30-07)

ii. Non-transient non-community water systems. (3-30-07)

iii. Transient non-community water systems. (3-30-07)

iv. Community water systems serving more than two hundred (200) service connections if approved by the Department through the waiver process outlined in Subsection 005.01.a. (3-30-07)

d. A public water system must obtain written approval by the Department before installation of a POU treatment device for the purpose of achieving compliance with a MCL or treatment technique. The public water system shall submit the following documentation for approval to the Department: (3-30-07)

i. Information identifying the public water system name and number, total number of service connections, contaminant(s) to be treated, type of POU treatment device to be installed, manufacturer and model number of the POU treatment device, type and function of the mechanical warning mechanism (performance indicator) on the POU treatment device, certification verification for ANSI/NSF, installer qualifications, and a proposed date for installation of the POU treatment device(s). (3-30-07)

ii. The manufacturer’s specifications for the POU treatment device including demonstration that the POU treatment device is suited for the water chemistry of the public water system and contaminant(s) of concern and is of sufficient design and capacity for the particular application. (3-30-07)

iii. Information relating to how other drinking water dispensing units, such as instant hot water dispensers and refrigerator water and ice dispensers, whose primary function is to provide drinking water, will be provided with treated water. If water is transported from a POU treatment device to another drinking water dispensing

unit, the conducting tube shall be of non-reactive material. (3-30-07)

iv. For non-transient non-community water systems and transient non-community water systems, demonstration that the drinking water dispensing units are located in areas adequate to protect public health. (3-30-07)

v. Demonstration that all POU treatment devices are owned, controlled, and maintained by the public water system or by a vendor of POU treatment devices under contract with the public water system. (3-30-07)

vi. A sampling plan identifying the location of all service connections and demonstrating how the system will ensure that all POU treatment devices are sampled for compliance with the contaminant(s) being treated during every compliance period or at a frequency designated by the Department. (4-4-13)

vii. Documentation that a customer at each service connection has agreed to installation and use of a POU treatment device and has granted access for installation, maintenance, and sampling. (3-30-07)

viii. A plan that describes how the public water system will address any non-compliance with Subsection 450.02.d.vii. (3-30-07)

ix. A maintenance plan that demonstrates how on-going maintenance activities will be performed and on what frequency, including: frequency of treatment media replacements, frequency of POU treatment device replacements, periodic verification that the mechanical warning device is functional, schedule of planned maintenance activities, plan of how the system will address unscheduled maintenance problems, and a plan and method of waste disposal. (3-30-07)

x. Documentation that the system meets the current requirements for a certified operator pursuant to Section 554. (3-30-07)

xi. A plan for on-going education and outreach to the customers of the public water system, including rental customers, on POU treatment and health effects of the contaminant(s) of concern. (3-30-07)

xii. A plan for how the system will ensure real estate disclosures for the POU treatment system. (3-30-07)

xiii. A statement of recognition that failure to maintain compliance with the MCL, or the failure to operate and maintain compliance with a POU treatment system as approved by the Department, may necessitate installation of centralized treatment. (3-30-07)

e. Within thirty (30) days of installing the approved POU treatment system, the public water system shall notify the Department in writing that the POU treatment system was installed as approved by the Department. (3-30-07)

f. Within thirty (30) days of installing the approved POU treatment system, the public water system shall submit samples from each POU treatment device to a certified laboratory for the contaminant(s) being treated by the POU treatment device. The samples shall be used to demonstrate initial compliance with the MCL. (3-30-07)

g. The water system owner or operator must maintain records for a POU treatment system. Records shall be submitted to the Department at a frequency and in a format specified by the Department. Records to maintain shall include: (3-30-07)

i. Requirements of Subsection 450.02.d.; (3-30-07)

ii. All sampling performed on the POU treatment devices; (3-30-07)

iii. Maintenance logs and schedules; (3-30-07)

iv. Log of installed units; and (3-30-07)

v. Contracts, lease agreements, or other legal documents with vendors and consumers. (3-30-07)

03. Use of Bottled Water. 40 CFR 141.101 is herein incorporated by reference. (4-4-13)

451. TREATMENT TECHNIQUES.

01. General Requirements. 40 CFR 141.110 is herein incorporated by reference. (10-1-93)

02. Treatment Techniques for Acrylamide and Epichlorohydrin. 40 CFR 141.111 is herein incorporated by reference. (4-4-13)

452. -- 499. (RESERVED)

500. FACILITY AND DESIGN STANDARDS: DEMONSTRATION OF TECHNICAL, FINANCIAL, AND MANAGERIAL CAPACITY OF PUBLIC DRINKING WATER SYSTEMS.
No person shall proceed, or cause to proceed, with construction of a new or substantially modified community or nontransient, noncommunity drinking water system until it has been demonstrated to the Department that the water system will have adequate technical, financial, and managerial capacity, as defined in Section 003 of these rules. With the exception of water sources, demonstration of capacity shall be submitted to the Department prior to or concurrent with the submittal of plans and specifications, as required in Section 39-118, Idaho Code, and Subsection 504.03 of these rules. Plans and specifications for water sources may be submitted to the Department prior to demonstration of capacity for the water system. The Department shall issue its approval of the new system capacity demonstration in writing. (4-4-13)

01. Technical Capacity. In order to meet this requirement, the public water system shall submit documentation to demonstrate the following: (4-5-00)

a. The system meets the relevant design, construction, and operating requirements of these rules; (5-8-09)

b. The system has an adequate and consistent source of water; (4-5-00)

c. A plan is in place to protect the water source and deal with emergencies; (4-5-00)

d. A plan exists for replacement or improvement of infrastructure as necessary; and (4-5-00)

e. The system has trained personnel with an understanding of the technical and operational characteristics of the system. (5-3-03)

02. Financial Capacity. A demonstration of financial capacity must include but is not limited to the following information: (4-5-00)

a. Documentation that organizational and financial arrangements are adequate to construct and operate the public water system in accordance with these rules. This information can be provided by submitting estimated construction, operation, and maintenance costs, letters of credit, or other access to financial capital through public or private sources and, if available, a certified financial statement; (5-8-09)

b. Demonstration of revenue sufficiency, that includes but is not limited to billing and collection procedures; a proposed rate structure which demonstrates the availability of operating funds, revenues for depreciation and reserves, and the ability to accrue a capital replacement fund. A preliminary operating budget shall be provided; and (5-8-09)

c. Adequate fiscal controls must be demonstrated. (4-5-00)

03. Managerial Capacity. In order to demonstrate adequate managerial capacity, the owner or operator of a new drinking water system shall submit at least the following information to the Department: (5-8-09)

a. Clear documentation of legal ownership and any plans that may exist for transfer of that ownership upon completion of construction or after a period of operation; (5-8-09)

b. The name, address, and telephone number of the person who will be accountable for ensuring that the water system is in compliance with these rules; (4-5-00)

c. The name, address, and telephone number of the responsible charge operator; (5-8-09)

d. A description of the manner in which the water system will be managed. Information such as by-laws, restrictive covenants, articles of incorporation, or procedures and policy manuals which describe the management organizational structure shall be provided; (5-8-09)

e. A recommendation of staff qualifications, including training, experience, certification or licensing, and continuing education; (5-8-09)

f. An explanation of how the water system will establish and maintain effective communications and relationships between the water system management, its customers, professional service providers, and any applicable regulatory agencies; and (4-5-00)

g. Evidence of planning for future growth, equipment repair and maintenance, and long term replacement of system components. (4-5-00)

04. Submittal Form. The Department shall provide a standard form to be used in preparing a new system capacity demonstration. The submittal form and general guidance on how to prepare a new system capacity document is provided in, "How to Demonstrate Financial, Technical, and Managerial Capacity in New Public Water Systems." This document may be requested from the Department and is available on the DEQ website at http://www.deq.idaho.gov. (5-8-09)

05. Expanding Systems. A public water system which comes into existence as a result of growth in population or number of service connections within a previously unregulated system will be considered a new system under these rules and is subject to all design, construction and operating requirements herein. (4-5-00)

06. Consolidation. In demonstrating new system capacity, the owner of the proposed new system must investigate the feasibility of obtaining water service from an established public water system. If such service is available, but the owner elects to proceed with an independent system, the owner must explain why this choice is in the public interest in terms of environmental protection, affordability to water users, and protection of public health. (4-5-00)

07. Exclusion. New public water systems which are public utilities as defined in Sections 61-104 (Corporation), 61-124 (Water System), 61-125 (Water Corporation), and 61-129 (Public Utility), Idaho Code, must meet the regulatory requirements of the Idaho Public Utilities Commission (IPUC) in Chapter 1, Title 61, Idaho Code, Public Utilities Law, and IDAPA 31.01.01, "Rules of Procedure of the Idaho Public Utilities Commission." Such water systems will not be required to meet any requirements of this Section which are in conflict with the provisions and requirements of the IPUC. (4-5-00)

501. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN REQUIREMENTS FOR PUBLIC DRINKING WATER SYSTEMS.

Unless otherwise specified by the Department, the design of new drinking water systems, or modifications to existing, public drinking water systems, shall be in conformance with the facility and design standards set forth in Sections 006 and 500 through 552 of these rules. The following general design requirements shall apply as applicable for the type of water system and the treatment or other processes employed. (3-30-07)

01. Materials Used in Construction. Products that are used to construct public drinking water systems and have water contact surfaces shall conform to applicable AWWA standards and be certified by an accredited ANSI certification body to meet applicable ANSI/NSF standards, where products meeting such AWWA and ANSI/NSF standards exist. In the absence of such products, products meeting applicable product standards and acceptable to the

reviewing authority may be selected. Corrosion control shall be taken into account during all aspects of public water system design. (5-8-09)

02. Additives Used in Operation. No chemical or other substance shall be added to drinking water, nor shall any process be utilized to treat drinking water, unless specifically approved by the Department. All chemicals shall conform to applicable AWWA standards and be certified by an accredited ANSI certification body to meet ANSI/NSF Standard 60, referenced in Subsection 002.02. (3-30-07)

03. Design Basis. The system, including the water source and treatment facilities, shall be designed to provide either peak hour demand of the system or maximum day demand plus equalization storage at the design year. (5-8-09)

04. Design of Treatment Facilities. Design of treatment facilities shall address: (3-30-07)

a. Functional aspects of facility layout and provisions for future facility expansion; (3-30-07)

b. Provision for expansion of waste treatment and disposal facilities (see Section 540); (4-4-13)

c. Roads constructed to provide year-round access by vehicles and equipment needed for repair and maintenance; (3-30-07)

d. Site grading and drainage; and (3-30-07)

e. Chemical Feed or Injection. Unless otherwise approved by the Department based on documentation provided by the design engineer, all chemical feed or injection systems must be designed to ensure complete mixing through rapid mix devices or other measures. (4-4-13)

f. Redundancy. Unless otherwise approved by the Department or as specified in other sections of these rules, to ensure that minimum quality, quantity, and pressure requirements of these rules are continuously met during maintenance, breakdowns, structural failures, emergencies, or other periods when components must be out of service, water system treatment, filtration, and disinfection components for all new or substantially modified community or nontransient, noncommunity drinking water systems shall be designed such that plant design capacity can be maintained with any component out of service. Raw water intake structures are excluded from the general redundancy requirement but shall be designed to ensure that plant design capacity will be maintained. (4-4-13)

05. Design of Buildings. The design of buildings that are a part of public drinking water systems shall provide for: (3-30-07)

a. Adequate ventilation, lighting, heating, and air conditioning; (3-30-07)

b. Adequate drainage; (3-30-07)

c. Dehumidification equipment, if necessary; (3-30-07)

d. Accessibility of equipment for operation, servicing, and removal; (3-30-07)

e. Flexibility and convenience of operation and safety of operators; and (3-30-07)

f. Separate room(s) for chemical storage and feed equipment that may be required based on type of chemicals and associated hazards. (5-8-09)

06. Electrical. Main switch gear electrical controls shall be located above grade, in areas not subject to flooding. All electrical work shall conform to the requirements of the National Electrical Code or to relevant state/local codes. The National Electrical Code is available from the National Fire Protection Association, 1 Batterymarch Park, Quincy, Massachusetts 02169-7471, (617)770-3000, http://www.nfpa.org. (5-8-09)

07. Reliability and Emergency Operation. New community water systems constructed after April

15, 2007 are required to have sufficient dedicated on-site standby power, with automatic switch-over capability, or standby storage so that water may be treated and supplied to pressurize the entire distribution system during power outages. During a power outage, the water system shall be able to meet the operating pressure requirements of Subsection 552.01.b. for a minimum of eight (8) hours at average day demand plus fire flow where provided. A minimum of eight (8) hours of fuel storage shall be located on site unless an equivalent plan is authorized by the Department. Standby power provided in a public drinking water system shall be coordinated with the standby power that is provided in the wastewater collection and treatment system. (5-8-09)

a. The Department may require the installation of standby power or storage facilities in existing systems if the frequency and duration of power outages a system experiences constitute a health hazard. (3-30-07)

b. Existing community public water systems that are substantially modified after April 15, 2007 shall meet the requirements of Subsection 501.07. in those portions of the system affected by the modifications. (3-30-07)

c. New sources and booster pumps intended to increase system capacity shall be provided with standby power or equivalent unless, during a power outage, the public water system or distribution system pressure zone can already meet the minimum operating capacity and pressure requirements in Subsection 501.07 for a minimum of eight (8) hours at average day demand plus fire flow where provided for each pressure zone. (4-4-13)

d. For both new and existing public water systems, the Department may reduce the requirements of Subsection 501.07 if the system can demonstrate the capacity to adequately protect public health during a power outage. Any decision by the Department will be based on, but not limited to, the following considerations: (3-30-07)

i. An adequate emergency response and operation plan and the capacity to implement that plan. (3-30-07)

ii. The adequacy of the system's cross connection control program and the capacity to protect public health in the event of a system wide depressurization. (3-30-07)

iii. Demonstration of historical and projected reliability of the electrical power supplied to the water system. (3-30-07)

iv. A strategy for providing information to the public during power outages, including instructions to stop irrigation, boil water, etc., until notified otherwise. (3-30-07)

v. The level of reliability acceptable to consumers. This can be accomplished with either a vote of the majority of consumers for privately owned and operated systems or a decision by the governing body for publicly governed systems. (3-30-07)

vi. Other considerations that may be pertinent, including connections to other public water systems, agreements to provide water in emergency situations, and the availability of dedicated portable auxiliary power. (3-30-07)

08. On-Site Analysis and Testing Capabilities. Each public water system shall have equipment and facilities for routine testing necessary to ensure proper operation. Equipment selection shall be based on the characteristics of the raw water source and the complexity of the treatment process involved. (3-30-07)

09. Sample Taps. Sample taps shall be provided so that water samples can be obtained from each water source and from appropriate locations in each unit operation of treatment, and from the finished water. Taps shall be consistent with sampling needs and shall not be of the petcock type. Taps owned by the water system and used for obtaining samples for bacteriological analysis shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing type, and shall not have a screen, aerator, or other such appurtenance. (3-30-07)

10. Facility Potable Water Supply. The facility water supply service line and the plant finished water sample tap shall be supplied from a source of finished water at a point where all chemicals have been thoroughly mixed, and the required disinfectant contact time, if applicable, has been achieved. There shall be no cross connections between the facility water supply service line and any piping, troughs, tanks, or other treatment units

containing wastewater, treatment chemicals, raw or partially treated water. (3-30-07)

11. Meters. All water supplies shall have an acceptable means of measuring the flow from each source, the wash water, the recycled water, any blended water of different quality, and the finished water. (3-30-07)

12. Operation and Maintenance Manual. A new or updated operation and maintenance manual that addresses all water system facilities shall be submitted to the Department for review and approval prior to start-up of the new or materially modified public water system unless the same system components are already covered in an existing operation and maintenance manual. For existing systems with continual operational problems as determined by the Department, the Department may require that an operation and maintenance manual be submitted to the Department for review and approval. The operator shall ensure that the system is operated in accordance with the approved operation and maintenance manual. (4-4-13)

13. Start-Up Training. Provisions shall be made for operator instruction at the start-up of a new plant or pumping station. (3-30-07)

14. Safety. Consideration shall be given to the protection of maintenance personnel and visitors from typical and foreseeable hazards in accordance with the engineering standards of care. The design shall comply with all applicable safety codes and regulations that may include the Uniform Building Code, International Fire Code, National Fire Protection Association Standards, and state and federal OSHA standards. Items to be considered include, but are not limited to, noise arresters, noise protection, confined space entry, protective equipment and clothing, gas masks, safety showers and eye washes, handrails and guards, warning signs, smoke detectors, toxic gas detectors and fire extinguishers. (4-4-13)

15. Security. Appropriate design measures to help ensure the security of water system facilities shall be incorporated. Such measures, at a minimum, shall include means to lock all exterior doorways, windows, gates and other entrances to source, treatment, pumping stations, and water storage facilities. (3-30-07)

16. Other Regulations. Consideration must be given to the design requirements of other federal, state, and local regulatory agencies for items such as safety requirements, special designs for the handicapped, plumbing and electrical codes, and construction in the flood plain. (3-30-07)

17. Ground Water Source Redundancy. New community water systems served by ground water shall have a minimum of two (2) sources if they are intended to serve more than twenty-five (25) connections or equivalent dwelling units (EDUs). Under normal operating conditions, with any source out of service, the remaining source(s) shall be capable of providing either the peak hour demand of the system or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design and redundancy requirements concerning fire flow capacity. (5-8-09)

18. Redundant Fire Flow Capacity. (3-30-07)

a. Public water systems that provide fire flow shall be designed to provide maximum day demand plus fire flow. Fire flow requirements and system adequacy shall be determined by the local fire authority or by a hydraulic analysis by a licensed professional engineer to establish required fire flows in accordance with the International Fire Code as adopted by the State Fire Marshal. Pumping systems supporting fire flow capacity must be designed so that fire flow may be provided with any pump out of service. (4-4-13)

b. The requirement for redundant pumping capacity specified in Subsection 501.18.a. may be reduced to the extent that fire suppression storage is provided in sufficient quantity to meet some or all of fire flow demands. Where fire suppression storage is not provided, the requirement for fire flow pumping redundancy may be reduced or eliminated if the following conditions are met: (5-8-09)

i. The local fire authority justifies that the fire flow capacity of the system is acceptable and is compatible with the water demand of existing and planned fire-fighting equipment and fire-fighting practices in the area served by the system. (4-4-13)

ii. In a manner appropriate to the system type and situation, notification is provided to customers that

describes the design of the system's fire-fighting capability and explains how it differs from the requirements of Subsection 501.18.a. (4-4-13)

19. Pilot Studies. Unless otherwise approved by the Department based on documentation provided by the design engineer, pilot studies are required for treatment processes other than chlorine disinfection or point of use installations. Pilot studies may be performed in the field using the proposed source water or in conjunction with bench scale testing in the lab using the proposed source water. The system shall obtain the Department's approval of a pilot study plan before the pilot study is implemented. A pilot study shall be conducted for a period that shall be determined by the design engineer and approved by the Department. A final pilot study report with results shall be submitted to the Department for review and approval. Upon completion of the pilot study, final approval of equipment and treatment processes is subject to the applicable requirements of Sections 500 through 552. (4-4-13)

a. Pilot Study Plan. A pilot study plan shall include the following and any other items required by the Department: (4-4-13)

i. Introduction and Background. The plan shall discuss general information about the project including the existing system, the reason for conducting the pilot study, and anticipated results of a successful pilot study. (4-4-13)

ii. Alternative Processes. Provide a brief description of alternative processes that could be used if the proposed process is shown to be ineffective from the study. (4-4-13)

iii. Procedures and Methods. The procedures and methods section shall discuss how the pilot study will be conducted, the time frame of the study, source water quality, how source water may be altered to mimic various source water quality conditions, and the water quality parameters that are monitored and evaluated to determine if the treatment process was effective. (4-4-13)

b. Pilot Study Report. The pilot study report shall include the following and any other items required by the Department: (4-4-13)

i. Introduction and Background. (4-4-13)

ii. Results. A discussion of the overall pilot study progress, including any issues or problems and a general discussion of results of the study and what the results indicate. This discussion should determine parameters necessary for full scale implementation. (4-4-13)

iii. Conclusions. Conclusions and recommendation to proceed with the treatment process if the results of the study proved successful. (4-4-13)

c. Additional specific pilot study requirements in Sections 500 through 552 shall be included in pilot study plans and reports. (4-4-13)

d. Engineer's Seal Required. Pilot study plans and pilot study reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (4-4-13)

502. FACILITY AND DESIGN STANDARDS: FACILITY PLANS.

See the definition of Facility Plan in Section 003. (3-30-07)

01. Facility Plans Required. All new public drinking water systems, and existing public drinking water systems undergoing material modification or expansion, are required to have a current facility plan that shall address all applicable issues specifically required in Sections 500 through 552 of these rules including, but not limited to, hydraulic capacity, treatment capacity, standby power, redundancy, fire flows, project financing, and operation and maintenance considerations sufficiently to determine the effects of the project on the overall infrastructure. Facility plans must address the entire potential service area of the project. Facility plans may not be required for simple water main extension projects as detailed in Subsections 502.01.a. and 502.01.b. (5-8-09)

a. Department-reviewed simple water main extension projects. A facility plan is not required if the Department is provided documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the system and while continuing to provide the pressure and quantity requirements of Subsection 552.01. Documentation may be in the form of: (5-8-09)

i. Hydraulic modeling; (5-8-09)

ii. Usage data and flow calculations; (5-8-09)

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (5-8-09)

iv. Other documentation acceptable to the Department. (5-8-09)

b. Qualified Licensed Professional Engineer (QLPE)-reviewed Simple Water Main Extension Projects. A Department-approved facility plan is not required to be in place prior to the QLPE approving a simple water main extension pursuant to Subsection 504.03.b., provided that the service area of the system served by the extension is in compliance with the facility and design standards in Sections 500 through 552 of these rules. If the Department has not approved a facility plan for the system which includes the proposed simple water main extension, then the system purveyor or the QLPE shall provide with the transmittal letter documentation supporting the ability of the purveyor to provide service for the simple water main extension without adding system components designed to control quantity or pressure to the system and while continuing to provide the pressure and quantity requirements of Subsection 552.01. The purveyor shall provide this documentation to the QLPE as necessary. Documentation may be in the form of: (5-8-09)

i. Hydraulic modeling; (5-8-09)

ii. Usage data and flow calculations; (5-8-09)

iii. Declining balance reports that demonstrate the system has the capacity to supply the service area of the system served by the extension; or (5-8-09)

iv. Other documentation acceptable to the Department. (5-8-09)

02. Submittal to the Department. When required, facility plans shall be submitted to the Department for review and approval prior to the submission of plans and specifications for a project related to the facility plan. (5-8-09)

03. Engineer's Seal Required. Facility plans submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (5-8-09)

04. Facility Plan Contents. The facility plan shall include basic information, criteria and assumptions, and alternative solutions with preliminary layouts and cost estimates as applicable. The facility plan is intended to address system wide growth, to identify system deficiencies, and to lay out a plan for system upgrades and expansion. (5-8-09)

a. New public water system facility plan. The minimum requirements for a facility plan for a new public water system are listed in Subsections 502.04.a.i. through 502.04.a.viii. If specific items listed in Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular system, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552. (5-8-09)

i. Location. A general description and location of the system. (5-8-09)

ii. Population. The estimated design population of the system including the number of connections and the number of EDUs proposed. (5-8-09)

iii. Sources of Water. Adequacy, quality, and availability of sources of water for potable use and a description of the non-potable irrigation system. (5-8-09)

iv. Treatment. Identify and describe any anticipated treatment. (5-8-09)

v. Water Quantity. Design data for domestic, irrigation, fire fighting, commercial, or industrial water uses, including peak hour, maximum day, and average day demands. (5-8-09)

vi. Storage. Include the size and location of any anticipated storage structures. (5-8-09)

vii. Operating Pressure. Pressure ranges for all flow conditions prescribed by these rules. (5-8-09)

viii. Sewage. Describe the sewage collection system and sewage treatment works, with reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply. (5-8-09)

b. Existing public water system facility plan. The minimum requirements for a facility plan for an existing public water system must include Subsections 502.04.b.i. through 502.04.b.vii. as well as Subsections 502.04.a.i. through 502.04.a.viii. If specific items listed in Subsections 502.04.b.i. through 502.04.b.vii. or Subsections 502.04.a.i. through 502.04.a.viii. are not applicable to a particular facility plan, then the submitting engineer shall state this in the facility plan and state the reason why the requirement is not applicable. The facility plan must also include sufficient detail to support applicable requirements of Sections 501 through 552. (5-8-09)

i. Hydraulic analysis. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. The type or sophistication of analysis shall be dependent on the type of system. (5-8-09)

ii. Identify and evaluate problems related to the drinking water system. (5-8-09)

iii. Describe financing methods. (5-8-09)

iv. Set forth anticipated charges for users. (5-8-09)

v. Review organizational and staffing requirements. (5-8-09)

vi. Offer a project(s) recommendation for client consideration. (5-8-09)

vii. Outline official actions and procedures to implement the project. (5-8-09)

c. **Public Water System Facility Plan funded by the State Revolving Fund**. If the project is funded by the state revolving fund or a state grant, the facility plan must meet the requirements of Subsections 502.04.a. and 502.04.b., and other requirements that may also apply. See IDAPA 58.01.20, "Rules for Administration of Drinking Water Loan Program," and IDAPA 58.01.22, "Rules for Administration of Planning Grants for Public Drinking Water Facilities." (5-8-09)

d. Facility Plan Guidance. A checklist, which can be used as guidance, can be found on the DEQ website at http://www.deq.idaho.gov. The guidance document is for Department grant and loan projects, but may be used in part or in whole as a guide to assist in the development of any facility plan. (5-8-09)

503. FACILITY AND DESIGN STANDARDS: PRELIMINARY ENGINEERING REPORTS.
See the definition of Preliminary Engineering Report in Section 003. Preliminary engineering reports are required for all new water systems or material modifications to existing water systems that require plan and specification review and approval pursuant to Subsection 504.03. The preliminary engineering report shall be in conformance with the approved facility plan or shall describe any modifications to the facility plan. Preliminary engineering reports must be completed for all major water system projects including, but not limited to, source, pump station, pressure control, storage, and treatment projects. Preliminary engineering reports are not required for simple water main extensions

that are approved in accordance with Subsections 502.01.a. or 502.01.b. (4-4-13)

01. Submittal to Reviewing Authority. Preliminary engineering reports shall be submitted to the Department for review and must be approved by the Department prior to the submission of plans and specifications. The Department may allow well construction plans and specifications to be submitted concurrently with a preliminary engineering report for these projects. (5-8-09)

02. Seal Required. Preliminary engineering reports submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. The Department will accept the seal and signature of an Idaho licensed professional geologist on preliminary reports for well source, spring source, or infiltration gallery site reports, and for well construction. (4-4-13)

03. Preliminary Engineering Report Contents. The preliminary engineering report must include sufficient detail to demonstrate that the proposed project meets applicable criteria. The items included in Subsections 503.03.a. through 503.03.e., and all applicable issues and items specifically required in Sections 500 through 552, shall be addressed in detail. As required, a preliminary engineering report shall also identify and evaluate drinking water related problems, assemble basic information, present criteria and assumptions, examine alternative solutions with preliminary layouts and cost estimates, offer a conclusion with a proposed project, and outline official actions and procedures to implement the project. If specific items in Subsections 503.03.a. through 503.03.e. are not applicable to a particular design, then the designer shall state this in the preliminary engineering report and state the reason why it is not applicable. Items adequately addressed in the facility plan under which the project is being designed may be addressed by reference for purposes of the preliminary engineering report. (4-4-13)

a. All preliminary engineering reports shall include items in Subsection 503.03.a. and the applicable items from Subsections 503.03.b. through 503.03.e. (4-4-13)

i. General information. The preliminary engineering report general information shall include, but is not limited to: (4-4-13)

(1) Project description. A detailed description of the proposed project; (4-4-13)

(2) Site selection. A general description of the location of the project and justification of the site selection; (4-4-13)

(3) Access and utilities. A general discussion of adequacy of local roadways and availability of power or other utilities; (4-4-13)

(4) Surrounding land use. A general discussion of surrounding land use, including any potential sources of contamination; and (4-4-13)

(5) Security. A general discussion of planned security features such as fencing, lighting, alarm systems, etc. (4-4-13)

ii. Coordination with facility plan. The preliminary engineering report shall discuss or reference items provided in the Department-approved facility plan. These items include, but are not limited to: (4-4-13)

(1) Existing System. A general description of the existing system and how the project fits into the overall system and facility plan; (4-4-13)

(2) Size. The estimated system size based on number of persons, number of connections, or number of EDUs served or impacted by the project; (4-4-13)

(3) Water Quantity. Design data for domestic, irrigation, fire fighting, commercial and industrial water uses, including peak hour, maximum day, and average day demands; (4-4-13)

(4) Storage. How the project will affect various storage requirements. See definition of Components of Finished Water Storage in Section 003; (4-4-13)

(5) Operating Pressure. Pressure ranges for all flow conditions prescribed by these rules; (4-4-13)

(6) Hydraulic Analysis. A computer analysis of the hydraulics of the distribution system if requested by the Department; any analysis of an existing distribution system shall be properly calibrated. The type and sophistication of analysis shall be dependent on the type of system; (4-4-13)

(7) Sources of Water. A general discussion of the adequacy, quality and availability of source of water. A water system that is to be served by a separate non-potable irrigation system must provide documentation to demonstrate the actual availability of water in sufficient quantity to ensure that the irrigation system will not compete with or in any way diminish the source of water for the potable water system; (4-4-13)

(8) Sewage. Describe the sewage collection system and sewage treatment works, with special reference to their relationship to existing or proposed water works structures which may affect the operation of the water supply system, or which may affect the quality of the supply; (4-4-13)

(9) Treatment wastes. Assesses and characterize all anticipated waste discharges generated by the project and any activities that could impact the water supply. The location of each waste handling area or discharge point shall be shown on a scale map; (4-4-13)

(10) Financing methods. Provide brief discussion of financing options investigated or planned; and (4-4-13)

(11) Flooding. Discuss mechanisms for protection of the system from flooding. (4-4-13)

iii. Code provisions. The preliminary engineering report shall include a summary of applicable codes and standards that apply to the proposed project. (4-4-13)

iv. Cost estimate. The preliminary engineering report shall provide, as applicable, estimated construction costs for public works projects or projects funded through public monies. (4-4-13)

v. Construction schedule. The preliminary engineering report shall include the proposed construction schedule. (4-4-13)

vi. Potential sources of contamination. Identify sources of contamination and describe how the drinking water sources will be protected. (4-4-13)

vii. Soils and ground water levels. Generally discuss soil, ground water conditions, and potential building foundation problems, including a description of: (4-4-13)

(1) The character of the soil through which water mains are to be laid; (4-4-13)

(2) Characteristics of the soil, water table, and geological substrate that may affect the design and construction of the foundations of proposed structures; and (4-4-13)

(3) The approximate elevation of ground water in relation to subsurface structures. (4-4-13)

b. Drinking water wells and spring construction projects. In addition to items listed in Subsection 503.03.a., a preliminary engineering report for source water construction projects shall include all items listed in Subsection 503.03.b., applicable items in Sections 510 through 514, and Sections 500 to 552 should be evaluated for their relevance to the project. (4-4-13)

i. Anticipated geology and hydrogeology. Include geological data and existing well logs. (4-4-13)

ii. Drilling methodology. Describe the anticipated drilling method and well construction. (4-4-13)

iii. Water quality. Anticipated potability and water quality including monitoring results required for

new sources by these rules. (4-4-13)

iv. Water rights. Provide the appropriate documentation for the water rights for the drinking water source. (4-4-13)

v. Dimensions of the well lot and location of source. Include geographical coordinates of the source location. (4-4-13)

vi. Evaluation of surface water influence. For all new ground water sources, including but not limited to wells, springs, and infiltration galleries, systems shall supply information as required by the Department to determine if these sources are under the direct influence of surface water. (4-4-13)

vii. Provide a site evaluation report as required by Section 510 for wells and 514 for springs. (4-4-13)

c. Well and pump house construction projects. In addition to items listed in Subsection 503.03.a., preliminary engineering reports for well and pump house construction projects shall include all items listed in Subsection 503.03.c., applicable items in Sections 511, 541, 547, and Sections 500 to 552 should be evaluated for their relevance to the project. (4-4-13)

i. Well house. Include information on the anticipated construction and well house equipment such as heating, ventilation, interior lighting, and drain(s). (4-4-13)

ii. Water Level. Provide a brief description of the means for measuring the water level in the well. (4-4-13)

iii. Well pump. Include information on the proposed or planned pump, including the pump curve. (4-4-13)

iv. Controls. Describe the equipment and controls for the well and pump house. This includes but is not limited to system control and data acquisition, variable frequency drive, and other manual or automated controls within the well house. (4-4-13)

v. Piping and appurtenances including but not limited to sample taps, discharge piping, flow meters, check valves, and pressure gauges. Describe the receiving system for the pump to waste volume of water including an evaluation of the capacity of the receiving system and, if applicable, provide documentation that the system owner will accept the estimated volume of water and any limitations the owner places upon that acceptance. (4-4-13)

vi. Well vent. Describe the well vent if applicable. (4-4-13)

vii. Casings and well caps. Describe the anticipated casing and well cap type and materials. (4-4-13)

viii. Pitless adapters and units. Describe the anticipated pitless adapter for the well. (4-4-13)

ix. Soil and water conditions. Describe the soil and ground water conditions that may affect the design and construction of proposed structure(s). (4-4-13)

d. Reservoir and storage construction projects. In addition to items listed in Subsection 503.03.a., preliminary engineering reports for reservoir and storage construction projects shall include all items listed in Subsection 503.03.d., applicable items in Sections 544, and Sections 500 to 552 should be evaluated for their relevance to the project. (4-4-13)

i. Sizing. Describe the required storage capacity and the related components of finished water storage. (4-4-13)

ii. Overflow. Describe the anticipated overflow system for the water storage project and where the overflow will discharge. (4-4-13)

iii. Vents. Describe the venting system used for the water storage project if applicable. (4-4-13)

iv. Construction materials. Describe the construction materials used for the storage project. (4-4-13)

v. Protection from freezing. Describe the protection of storage facility features from freezing especially riser pipes, overflows, and vents. (4-4-13)

vi. Grading. Describe any site work or grading that may be necessary. (4-4-13)

vii. Corrosion prevention. Provide a discussion on methods to prevent corrosion such as coatings, cathodic protection, corrosion resistant materials, and encasement. (4-4-13)

viii. Disinfection. Describe the methods to be used to disinfect the storage facility and the testing to check for proper disinfection. (4-4-13)

e. Surface water and ground water under the direct influence of surface water (GWUDI) treatment construction projects. In addition to items listed in Subsection 503.03.a., preliminary engineering reports for surface water treatment and GWUDI construction projects shall include all items listed in Sections 503.03.e., applicable items in Sections 515 through 540, and Sections 500 to 552 should be evaluated for their relevance to the project. (4-4-13)

i. Intake structures. Describe the intake structures that will be used. (4-4-13)

ii. Off-stream raw water storage. If applicable, describe the proposed off-stream raw water storage. (4-4-13)

iii. Treatment methods. Describe the treatment methods and potential alternatives including the removal of pathogens, disinfection, enhanced disinfection, water quality monitoring, and redundancy provisions. (4-4-13)

iv. Treatment Wastes. Characterize the various wastes from the water treatment processes and, if applicable, their volumes, constituents, and proposed treatment and disposal. If discharging to a sanitary sewage system, verify that the system is capable of handling the flow to the treatment works and that the treatment works is capable and willing to accept the additional loading. (4-4-13)

v. Monitoring Results. Provide applicable raw water monitoring results as required by these rules including anticipated turbidity ranges, microbiological, physical, chemical, radiological, and other parameters as determined by the Department. (4-4-13)

vi. Potential contamination. An assessment of the degree of hazard to the supply by agricultural, industrial, recreational, and residential activities in the watershed, and by accidental spillage of materials that may be toxic, harmful or detrimental to treatment processes. (4-4-13)

vii. Waste discharge. Assess all waste discharges and activities that could impact the water supply. The location of each waste discharge shall be shown on a scale map. (4-4-13)

viii. Hydrological and historical stream flow data. Provide any available records and data. (4-4-13)

ix. Water rights and water quantity. A copy of the appropriate permit(s) or application(s) from the Idaho Department of Water Resources regarding authorization to appropriate public waters of the state of Idaho in sufficient quantity to meet the design requirements of the system. (4-4-13)

x. Turbidity. Anticipated turbidity range. (4-4-13)

xi. Watershed. Assessment of the degree of control the water system will be able to exercise over the watershed. (4-4-13)

xii. Projected future uses of impoundments or reservoirs within the watershed. (4-4-13)

xiii. Water quality. Submit source water sample data over a sufficient period of time to assess the microbiological, physical, chemical and radiological characteristics of the water. (4-4-13)

xiv. Stream characteristics. Provide consideration of currents, wind and ice conditions, and the effect of confluent streams. (4-4-13)

504. FACILITY AND DESIGN STANDARDS: REVIEW OF PLANS AND SPECIFICATIONS.
The facility and design standards set forth in these rules shall be applied in the review of plans and specifications for public water system facilities. If design issues are not addressed by the facility and design standards set out in these rules, then guidance documents, some of which are listed in Subsection 002.02, shall be used as guidance in the design and review of plans and specifications for public drinking water facilities. See also Section 013. (3-30-07)

01. Ownership. Documentation of the ownership and responsibility for operating the proposed system shall be made available to the Department prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. The documentation must show organization and financial arrangements adequate to assure construction, operation and maintenance of the system according to these rules. Documentation shall also include the name of the water system, the name, address, and phone number of the supplier of water, the system size, and the name, address, and phone number of the system operator. (3-30-07)

02. Connection to an Existing System. If the proposed project is to be connected to an existing public water system, a letter from the purveyor must be submitted to the Department stating that the purveyor will be able to provide services to the proposed project. The Department may require documentation supporting the ability of the purveyor to provide service to the new system without diminishing quality of service to existing customers. This letter must be submitted prior to or concurrent with the submittal of plans and specifications as required in Subsection 504.03. (3-30-07)

03. Plans and Specifications Required. (3-30-07)

a. Prior to construction of new public drinking water systems, new drinking water systems designed to serve fifteen (15) or more service connections, or material modifications of existing public water systems, plans and specifications must be submitted to the Department for review and approval. Construction should commence as soon as practical after approval, and if construction is not completed within twelve (12) months of the Department's final approval, an extension or re-approval must be obtained from the Department. The Department may require re-submittal of all or part of the plans and specifications prior to issuing an extension or re-approving the plans and specifications. (4-7-11)

b. Plans and specifications for simple water main extensions shall not require pre-construction approval by the Department when such extensions will be owned and operated by a city, county, quasi-municipal corporation or regulated public utility, provided that such plans and specifications are reviewed and approved by a QLPE who was not involved in the preparation of the plans and specifications being reviewed to verify compliance with the requirements of these rules prior to initiation of construction. Any plans and specifications approved pursuant to Subsection 504.03.b. shall be transmitted to the Department at the time construction is authorized and shall be marked or stamped as "Approved for Construction." Along with the plans and specifications, the transmittal must include the items listed in Subsections 504.03.b.i. through 504.03.b.vii. The plans and specifications must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer, and the approval or transmittal letter must be sealed, signed, and dated by the QLPE that is approving the plans and specifications. (4-4-13)

i. A statement that the author of the transmittal letter is the QLPE representing the city, county, quasi-municipal corporation or regulated public entity. (5-8-09)

ii. A statement that the extension project complies with the current facility plan or preliminary engineering report, or a statement that the water system has adequate capacity. Please see Subsection 502.01.b. for further information. (5-8-09)

iii. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will serve the project. (5-8-09)

iv. A statement from the city, county, quasi-municipal corporation or regulated public entity or its authorized agent that the water system purveyor will own and operate the project after construction is complete. (5-8-09)

v. A statement by the QLPE that the plans and specifications are approved for construction. (5-8-09)

vi. A statement by the QLPE that the plans and specifications comply with the facility standards within these rules. (5-8-09)

vii. A statement recommending whether sanitary restrictions can be released or should remain in force. (5-8-09)

c. Subsections 504.03.c.i. through 504.03.c.vi. outline the projects which QLPEs may approve and which QLPEs may not approve. (5-8-09)

i. A QLPE may approve plans and specifications for simple water main extensions that are able to connect to an existing water system owned by a city, county, quasi-municipal corporation, or regulated public utility at the time the extension is approved for construction by the QLPE. (5-8-09)

ii. A QLPE may approve plans for simple water main extensions which will connect to an existing water system, but are unable to connect to the system at the time the extension is approved for construction by the QLPE, provided sanitary restrictions remain in force for the proposed extension. (5-8-09)

iii. A QLPE may not approve plans and specifications which include mechanical systems such as booster stations. (5-8-09)

iv. A QLPE may not approve plans and specifications for projects which the QLPE was the design engineer or otherwise involved in the design. (5-8-09)

v. A QLPE employed by a city, county, quasi-municipal corporation, or regulated public utility may approve a design that was prepared by a subordinate engineer or an engineer from a separate design group within the city, county, quasi-municipal corporation, or regulated public utility. (5-8-09)

vi. A QLPE who is not employed by a city, county, quasi-municipal corporation, or regulated public utility, but is retained by a city, county, quasi-municipal corporation, or regulated public utility for the purpose of plan and specification review may not approve projects designed by the company with which the QLPE is employed. (5-8-09)

d. At the discretion of the city, county, quasi-municipal corporation or regulated public utility, the plans addressed by Subsection 504.03.b. may be referred to the Department for review and approval prior to initiation of construction. (3-30-07)

04. Criteria for Review. The Department shall review plans and specifications to determine compliance with these rules and engineering standards of care. If the plans and specifications comply with these rules and engineering standards of care, the Department shall not substitute its judgment for that of the owner's design engineer concerning the manner of compliance with the rule. (3-30-07)

05. Schedule for Review. The Department shall review plans and specifications and endeavor to resolve design issues within forty-two (42) calendar days of submittal such that approval can be granted. If the Department and applicant have not resolved design issues within forty-two (42) calendar days or at any time thereafter, the applicant may file a written demand to the Department for a decision. Upon receipt of such written demand, the Department shall deliver a written decision to the applicant within no more than seven (7) calendar days explaining any reasons for disapproval. The Department shall maintain records of all written demands for decision made pursuant to Subsection 504.05 with such records including the final decision rendered and the timeliness

thereof. (3-30-07)

06. Engineer's Seal Required. Plans and specifications submitted to the Department shall bear the imprint of an Idaho licensed professional engineer's seal; except that the Department will accept the seal of an Idaho licensed professional geologist on the following: (3-30-07)

a. Well source, spring source, or infiltration gallery site evaluation reports, as specified in Subsections 510 and 514. (3-30-07)

b. Plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. (3-30-07)

07. Contents of Plans and Specifications. Plans and specifications shall, where pertinent, provide the following: (3-30-07)

a. General layout, including: (3-30-07)

i. Suitable title. (3-30-07)

ii. Name of municipality or other entity or person responsible for the water supply. (3-30-07)

iii. Area or institution to be served. (3-30-07)

iv. Scale of drawings. (3-30-07)

v. North arrow. (3-30-07)

vi. Datum used. (3-30-07)

vii. General boundaries of municipality or area to be served. (3-30-07)

viii. Date, name, and address of the designing engineer. (3-30-07)

ix. Legible prints suitable for reproduction. (3-30-07)

x. Location and size of existing water mains, if applicable. (3-30-07)

xi. For systems undergoing material modification, location and nature of existing water works structures and appurtenances affecting the proposed improvements. (3-30-07)

b. Detailed plans, including: (3-30-07)

i. Stream crossings, providing profiles with elevations of the stream bed and the estimated normal and extreme high and, where appropriate, low water levels. (3-30-07)

ii. Location and size of the property to be used for the development with respect to known references such as roads, streams, section lines, or streets. (3-30-07)

iii. Topography and arrangement of present or planned wells or structures. (3-30-07)

iv. Elevations of the one hundred (100) year flood level in relation to the floor of structures, upper termination of protective casings, and grade surrounding facilities. (3-30-07)

v. Details of well construction, including diameter and depth of drill holes, casing and liner diameters and depths, grouting depths, elevations, and designation of geological formations, water levels and other data as specified in Section 510. (3-30-07)

vi. Location of all known existing and potential sources of pollution within five hundred (500) feet of water sources or underground treated storage facilities. (3-30-07)

vii. Size, length, and materials of proposed water mains. (3-30-07)

viii. Location of existing or proposed streets; water sources, ponds, lakes, and drains; storm sanitary, combined and house sewers; septic tanks, disposal fields and cesspools. (3-30-07)

ix. Schematic flow diagrams and hydraulic profiles showing the flow through various plant units. (3-30-07)

x. Piping in sufficient detail to show flow through the plant including waste lines. (3-30-07)

xi. Locations of all chemical storage areas, chemical feeding equipment, and points of chemical application. (3-30-07)

xii. All appurtenances, specific structures, equipment, water treatment plant waste disposal units and points of discharge having any relationship to the plans for water mains or water works structures. (3-30-07)

xiii. Locations of sanitary or other facilities, such as lavatories, showers, toilets, and lockers, when applicable or required by the Department. (3-30-07)

xiv. Locations, dimensions, and elevations of all proposed plant facilities. (3-30-07)

xv. Locations of all sampling taps owned by the water system. (3-30-07)

xvi. Adequate description of any significant features not otherwise covered by the specifications that may impact public safety or welfare. (3-30-07)

c. Complete, detailed technical specifications shall be supplied for the proposed project, including: (3-30-07)

i. A program for keeping existing water works facilities in operation during construction of additional facilities so as to minimize interruption of service. (3-30-07)

ii. Laboratory facilities and equipment. (3-30-07)

iii. Description of chemical feeding equipment. (3-30-07)

iv. Procedures for flushing, disinfection and testing, as needed, prior to placing the project in service. All wells, pipes, tanks, and equipment which can convey or store potable water shall be disinfected in accordance with AWWA Standards, incorporated into these rules at Subsection 002.01. Plans or specifications shall outline the procedure and include the disinfectant dosage, contact time, and method of testing the results of this procedure. (3-30-07)

v. Materials or proprietary equipment for sanitary or other facilities, including any necessary backflow or back-siphonage protection. (3-30-07)

d. Complete design criteria, as set forth in these rules. (3-30-07)

e. The Department may require additional information which is not part of the construction drawings, including, but not limited to, head loss calculations, proprietary technical data, and copies of contracts. (3-30-07)

08. Notification of Material Deviations. As set forth in Subsection 504.03, during construction or modification, the reviewing authority must be notified of any material deviation from the approved plans. The reviewing authority's prior written approval is required before any material deviation is allowed. (3-30-07)

09. Record Plans and Specifications Required. (5-8-09)

a. Within thirty (30) calendar days of the completion of construction of facilities for which plans are required to be reviewed pursuant to Subsection 504.03, record plans and specifications based on information provided by the construction contractor and field observations made by the engineer or the engineer's designee depicting the actual construction of facilities performed, must be submitted to the Department by the engineer representing the city, county, quasi-municipal corporation or regulated public utility that owns the project, or by the design engineer or owner-designated substitute engineer if the facilities will not be owned and operated by a city, county, quasi-municipal corporation or regulated public utility. Such submittal by the professional engineer must confirm material compliance with the approved plans and specifications or disclose any material deviations therefrom. If the construction does not materially deviate from the approved plans and specifications, the owner may have a statement to that effect prepared by an Idaho licensed professional engineer and filed with the Department in lieu of submitting a complete and accurate set of record drawings. (3-30-07)

b. Record plans and specifications, or a statement submitted in lieu of record plans and specifications, must bear the imprint of an Idaho licensed professional engineer's seal that is both signed and dated by the engineer. (4-4-13)

c. The Department will accept the seal and signature of an Idaho licensed professional geologist on record plans and specifications, or a statement bearing the seal and signature of an Idaho licensed professional geologist in lieu of record plans and specifications, for record plans and specifications for well construction and results of field inspection and testing, as specified in Section 510. (4-4-13)

10. Exception. The Department may waive the plan and specification approval required of any particular facility or category of facilities when doing so will have no significant impact on public health or the environment. (3-30-07)

11. Requirement to Have Approved Plans and Specifications and Approval Letter On-Site During Construction. It is the responsibility of the owner to maintain one (1) copy of the approved plans and specifications and the approval letter from the reviewing authority on-site during construction at all times. (3-30-07)

12. Construction. Except as provided in Subsection 504.03.b., no construction shall commence until all of the necessary approvals have been received from the Department. The owner shall provide for the inspection of the construction of a public drinking water system facility by an Idaho licensed professional engineer to the extent required to confirm material compliance with the approved plans and to produce accurate record documents as required by Subsection 504.09. (3-30-07)

505. -- 509. (RESERVED).

510. FACILITY AND DESIGN STANDARDS: SITING AND CONSTRUCTION OF WELLS.
Written approval by the Department is required before water from any new or reconstructed well may be served to the public. Any supplier of water for a public water system served by one (1) or more wells shall ensure that the following requirements are met: (3-30-07)

01. Site Approval. Prior to drilling, the site of a public water system well must be approved in writing by the Department. The Department shall require the supplier of water to submit a well site evaluation report that takes into account the proposed size, depth, and location of the well. The evaluation may include, but is not limited to the following types of information: (3-30-07)

a. An evaluation of the quality of anticipated ground water. (4-4-13)

b. Identification of the known aquifers and the extent of each aquifer, based on the stratigraphy, sedimentation, and geologic structure beneath the proposed well site. (5-3-03)

c. An estimate of hydrologic and geologic properties of each aquifer and confining layers. (5-3-03)

d. Prediction of the sources of water to be extracted by the well and the drawdown of existing wells,

springs, and surface water bodies that may be caused by pumping the proposed well. This prediction may be based on analytical or numerical models as determined by the Idaho Department of Water Resources permitting process. (3-30-07)

e. Demonstration of the extent of the capture zone of the well, based on the well's design discharge and on aquifer geology, using estimates of hydraulic conductivity and storativity. (5-3-03)

f. Description of potential sources of contamination within five hundred (500) feet of the well site. (5-3-03)

02. Location. Each well shall be staked by the design engineer or licensed professional geologist prior to drilling, be located a minimum of fifty (50) feet from the nearest property line, be located a minimum of fifty (50) feet from any potential source of contamination, and be no closer to specified sources of contamination than set forth in Subsection 900.01. In vulnerable settings, the Department may require engineering or hydrologic analysis to determine if the required setback distance is adequate to prevent contamination. (5-8-09)

03. Construction Standards. In addition to meeting the requirements of these rules, all wells shall be constructed in accordance with IDAPA 37.03.09, "Well Construction Standards Rules," and related rules and laws administered by the Idaho Department of Water Resources. All wells shall comply with the drilling permit requirements of Section 42-235, Idaho Code. (5-3-03)

a. Casing that meets the requirements set forth in Subsection 900.02 (Table 2). The use of plastic well casing for public water system wells may be considered on a case-by-case basis. Plastic casing shall meet or exceed ASTM Standard F480-02 and ANSI/NSF Standard 61. (5-8-09)

b. Public water system wells shall have no less than fifty-eight (58) feet of annular seal of not less than one and one-half (1 ½) inches thickness as measured from land surface to the bottom of the seal unless: (3-30-07)

i. It can be demonstrated to the Department's satisfaction that there is a confining layer at lesser depth that is capable of preventing unwanted water from reaching the intake zone of the well; or (5-3-03)

ii. The best and most practical aquifer at a particular site is less than fifty-eight (58) feet deep; or; (5-3-03)

iii. The Department specifies a different annular seal depth based on local hydrologic conditions. (5-3-03)

iv. More stringent standards are required by applicable Rules of the Idaho Water Resources Board, referenced in Subsection 002.02. (3-30-07)

c. Specifications shall include allowable tolerances for plumbness and alignment in accordance with AWWA Standards, incorporated by reference into these rules at Subsection 002.01, or as otherwise approved by the Department. If the well fails to meet these requirements, it may be accepted by the Department if it does not interfere with the installation or operation of the pump or uniform placement of grout. (3-30-07)

d. Geological data shall be collected at each pronounced change in formation and shall be recorded in the driller's log. Supplemental data includes, but is not limited to, accurate geographical location such as latitude and longitude or GIS coordinates, and other information on accurate records of drillhole diameters and depths, assembled order of size and length of casing, screens and liners, grouting depths, formations penetrated, and water levels. (3-30-07)

e. The owner of each well shall retain all records pertaining to each well until the well has been properly abandoned. (3-30-07)

f. Wells with intake screens shall: (3-30-07)

i. Be constructed of materials resistant to damage by chemical action of ground water or cleaning operations. (3-30-07)

ii. Have openings based on sieve analysis of formation or gravel pack materials. (5-8-09)

iii. Have sufficient length and diameter to provide adequate specific capacity and aperture entrance velocity not to exceed point three (0.3) feet per second, or as otherwise approved by the Department. (3-30-07)

iv. Be installed so that the pumping water level remains above the screen under all operating conditions, or otherwise approved by the Department. Where a bottom plate or sump is utilized, it shall be of the same material as the screen, or as otherwise approved by the Department. Where a washdown assembly, tailpipe or sump is used below the screen, it may be made of a different material than the screen. (3-30-07)

g. Permanent well casing shall be surrounded by a minimum of one and one-half (1 ½) inches of grout to the depth required by Subsection 510.03.b. of these rules, or by the Rules of the Idaho Water Resources Board referenced in Subsection 002.02, whichever is greater. All casing identified in plans and specifications as temporary casing shall be removed prior to well completion. (5-8-09)

i. Neat cement grout consisting of cement that conforms to AWWA Standard A-100, and water, with not more than six (6) gallons of water per ninety-four (94) pounds of cement, shall be used for one and one-half (1 ½) inch openings. Additives may be used to enhance effectiveness and are subject to approval by the reviewing authority and the Idaho Department of Water Resources on a case-by-case basis. (3-30-07)

ii. Bentonite grout shall have a solids content not less than twenty-five (25) percent by weight when mixed with water and be specifically manufactured for use in sealing of well casing. Bentonite grout shall not contain weighting agents to increase solids content. Bentonite grout shall not be used above the water table. All bentonite grout shall be installed by positive displacement from the bottom up through a tremmie or float shoe. (3-30-07)

iii. Where a dry annular space is to be sealed, a minimum of two (2) inches on all sides of the casing shall be required to place bentonite to depths not greater than one hundred (100) feet, using #8 mesh granular bentonite. All dry pour granular bentonite shall be tagged at appropriate intervals to verify placement. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-30-07)

iv. Dry granular bentonite used in wells where a dry annular space is to be sealed with depths greater than one hundred (100) feet shall require an annulus of at least three (3) inches on all sides of the casing, or as approved by the reviewing authority and the Idaho Department of Water Resources. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. (3-30-07)

v. All chip bentonite seals installed through water shall only be used in annular spaces of at least four (4) inches on all sides of the casing. If a bridge occurs, a tremmie pipe shall be washed or jetted through the bridge to allow for pumping of grout. Bentonite chips shall be of sufficient size to accommodate proper placement for the existing subsurface conditions. Chip bentonite seals installed through water shall be: (3-30-07)

(1) Installed in accordance with manufacturer's specifications; or (3-30-07)

(2) Installed by pouring chips over a one-quarter (1/4) inch mesh screen for three-eighths (3/8) inch chips to remove fines to prevent bridging at the water table; or (3-30-07)

(3) Installed using coated pellets to retard hydration if approved by the reviewing authority and the Idaho Department of Water Resources. (3-30-07)

vi. Concrete may be approved on a case-by-case basis by the reviewing authority and the Idaho Department of Water Resources. Upon such approval, the approved method shall use a six (6) sack minus one-half (1/2) inch Portland cement concrete and shall be installed by positive displacement from the bottom up through a tremmie pipe. (3-30-07)

04. Disinfection. All tools, bits, pipe, and other materials to be inserted in the borehole shall be cleaned and disinfected in accordance with the Well Construction Standards and permitting requirements of the Idaho Water Resources Board, referenced in Subsection 002.02 This applies to new well construction and repair of existing wells. (3-30-07)

05. Well Completion Report Required. Upon completion of a well, and prior to its use as a drinking water source, the following information and data must be submitted by the water system to the Department. The well completion report must be submitted to the Department prior to or concurrent with the submittal of the preliminary engineering report for well house construction/modification. The well completion report shall bear the imprint of an Idaho licensed professional engineer's or an Idaho licensed professional geologist's seal that is both signed and dated by the engineer or geologist: (4-7-11)

a. A copy of all well logs; (12-10-92)

b. Results of test pumping, as specified in Subsection 510.06; (4-7-11)

c. As constructed plans showing at least the following: (12-10-92)

i. Annular seal, including depth and sealant material used and method of application; (5-3-03)

ii. Casing perforations, results of sieve analysis used in designing screens installed in sand or gravel aquifers, gravel packs; and (5-3-03)

iii. Recommended pump location. (4-4-13)

d. Other information as may be specified by the Department. (12-10-92)

e. Sampling results for iron, manganese, corrosivity, and other secondary contaminants specified by the Department. Other monitoring requirements are specified in Subsections 510.05.e.i. through 510.05.e.iii. (5-8-09)

i. Community Systems. Results of analysis for total coliform, inorganic chemical contaminants, organic chemicals, and radionuclide contaminants set forth in Subsections 050.01, 050.02, 050.05, 100.01, 100.03, 100.04, 100.05, and 100.06, unless analysis is waived pursuant to Subsection 100.07. (5-8-09)

ii. Nontransient Noncommunity Systems. Results of analysis for total coliform and inorganic and organic chemical contaminants listed in Subsections 050.01, 050.02, 100.01, 100.03, 100.04, unless analysis is waived pursuant to Subsection 100.07. (5-8-09)

iii. Transient Noncommunity Systems. Results of a total coliform, nitrite, and nitrate analysis listed in Subsections 050.01, 100.01 and 100.03. (5-8-09)

06. Test Pumping. Upon completion of a ground water source, test pumping shall be conducted in accordance with the following procedures to meet the specified requirements: (12-10-92)

a. The well shall be test pumped at the desired yield (design capacity) of the well for at least twenty-four (24) consecutive hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. Alternatively, the well may be pumped at a rate of one hundred fifty percent (150%) of the desired yield for at least six (6) continuous hours after the drawdown trend has stabilized, as determined by the supervising engineer or geologist. The field pumping equipment must be capable of maintaining a constant rate of discharge during the test. Discharge water must be piped an adequate distance to prevent recharge of the well during the test. If the well fails the test protocol, design of the water system shall be re-evaluated and submitted to the Department for approval. (3-30-07)

b. Upon completion of well development, the well shall be tested for sand production. Fifteen (15) minutes after the start of the test pumping (at or above the design production rate), the sand content of a new well shall not be more than five (5) parts per million. Sand production shall be measured by a centrifugal sand sampler or

other means acceptable to the Department. If sand production exceeds five (5) ppm, the well shall be screened gravel packed, or re-developed. (3-30-07)

c. The following data shall be provided: (5-3-03)

i. Static water level in the well prior to test pumping; (5-3-03)

ii. Well yield in gpm and duration of the pump test, including a discussion of any discrepancy between the desired yield and the yield observed during the test; (5-3-03)

iii. Water level in the well recorded at regular intervals during pumping; (5-3-03)

iv. Profile of water level recovery from the pumping level projected to the original static water level. (5-3-03)

v. Depth at which the test pump was positioned in the well; (5-3-03)

vi. Test pump capacity and head characteristics; (5-3-03)

vii. Sand production data. (5-3-03)

viii. Results of analysis based on the drawdown and recovery test pertaining to aquifer properties, long term sustained yield, and boundary conditions affecting drawdown. (4-7-11)

d. The Department may allow the use of other pump test protocols that are generally accepted by engineering firms with specialized experience in well construction, by the well drilling industry, or as described in national standards (such as ANSI/AWWA A100-97), as long as the minimum data specified in Subsection 510.06.c. are provided. The Department welcomes more extensive data about the well, such as step-drawdown evaluations used in determining well capacity for test pumping purposes, zone of influence calculations, and any other information that may be of use in source protection activities or in routine water system operations. (3-30-07)

e. Where aquifer yield, sustainability, or water quality are questionable, the Department, at its discretion, may require additional site specific investigations that could include test well construction, long-term pumping tests, or other means to demonstrate that the aquifer yield is sufficient to meet the long-term water requirements of the project. (4-4-13)

07. Conversion of Non-Public Water System Wells for Public Water System Use. Any existing well constructed for use other than as a public water system source may be considered for use as a public water system source on a case-by-case basis. The owner of such a well must demonstrate to the Department's satisfaction that the well site conforms to the requirements of Subsections 510.01, 510.02, and Section 512, the well is constructed in a manner that is protective of public health and that both the quantity and quality of water produced by the well meet public water system standards set forth in these rules. (5-8-09)

08. Observation Wells. If observation wells are used and are intended to remain in service after completion of the water supply well, the observation wells shall be constructed in accordance with the requirements for permanent wells and be protected at the upper terminal to preclude entrance of foreign materials. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. (3-30-07)

09. Well Abandonment. Any water supply well that will no longer be used must be abandoned by sealing the borehole carefully to prevent pollution of the ground water, eliminate any physical hazard, conserve aquifer yield, maintain confined head conditions in artesian wells, and prevent mixing of waters from different aquifers. The objective of proper well abandonment procedures is to restore, as far as possible, the original hydrogeologic conditions. The services of a licensed well driller are required. Instructions for abandoning various types of wells may be obtained from the Idaho Department of Water Resources. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. (3-30-07)

511. FACILITY AND DESIGN STANDARDS: WELL PUMPS, DISCHARGE PIPING, AND APPURTENANCES.

01. Sample Tap Required. A sample tap suitable for collecting bacteriological samples shall be provided on the discharge piping from every well at a point where pressure is maintained but prior to any treatment. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. (5-8-09)

02. Discharge Piping. The discharge line shall be equipped with the necessary valves and appurtenances to allow a well to be pumped to waste at the design capacity of the well via an approved air gap through an approved non-corrodible screen at a location prior to the first service connection, and shall meet the following requirements: (4-4-13)

a. Be designed to minimize friction loss. (3-30-07)

b. Have control valves and appurtenances located above the pump house floor when an above-ground discharge is provided. (3-30-07)

c. Be protected against contamination. (3-30-07)

d. Vertical turbine pumps shall be equipped with an air release-vacuum relief valve, or equivalent, located upstream from the check valve, with exhaust/relief piping terminating in a down-turned position at least eighteen (18) inches above the floor and covered with a twenty-four (24) mesh corrosion resistant screen. (3-30-07)

e. Have all exposed piping, valves and appurtenances protected against physical damage and freezing. (3-30-07)

f. Be properly anchored to prevent movement, and protected against surge or water hammer. (3-30-07)

g. The pump to waste discharge piping shall be valved to ensure that other system components that could be negatively affected by the quality of the discharged water are not pressurized by the water that is being pumped to waste. (4-4-13)

h. Where two (2) or more wells are connected to a common well house, the discharge piping shall be designed to ensure that each well can be pumped to waste independently without affecting the ability of the other well or wells to pressurize the system. (4-4-13)

03. Pressure Gauge Required. A pressure gauge shall be provided on all discharge piping. (4-7-11)

04. Flow Meter and Check Valve. Unless otherwise approved by the Department based on documentation provided by the design engineer, an instantaneous and totalizing flow meter equipped with nonvolatile memory shall be installed on the discharge line of each well in accordance with the manufacturer's specifications. Meters installed on systems with variable frequency drives shall be capable of accurately reading the full range of flow rates. An accessible check valve, which is not located in the pump column, shall be installed in the discharge line of each well between the pump and the shut-off valve. Additional check valves shall be located in the pump column as necessary. (4-4-13)

05. Well Vent. All wells shall be vented, unless it can be demonstrated that the drawdown under maximum pumping conditions will not exceed ten (10) feet. (4-4-13)

a. For wells not in a pump house, the open end of the vent shall be screened with a twenty-four (24) mesh or similar non-corrodible screen and terminated downward at least eighteen (18) inches above the final ground surface. (4-4-13)

b. If the well is in a pump house, the open end of the vent shall be screened with a twenty-four (24) mesh or similar non-corrodible screen and must terminate at least twelve (12) inches above the pump house floor. (4-4-13)

c. Artesian wells equipped with pumps may need venting or an air valve as determined by the Department. (4-4-13)

06. Casings and Sanitary Well Caps. The following requirements apply to well casings and sanitary caps: (3-30-07)

a. Casings shall extend at least eighteen (18) inches above the final ground surface. If the well is located within a pump house, casings shall extend least twelve (12) inches above the pump house floor. For a well located in an area subject to flooding, the Department may require an extension of the casing above the one hundred (100) year or highest known flood level, whichever is higher. (4-4-13)

b. Wells shall be cased and provided with an approved cap in such a manner that surface water cannot enter the well. (4-7-11)

c. For community water systems, a permanent means for measuring water level within the casing must be provided. For other water systems, a temporary means to measure water levels should be made available. All equipment required for conducting water level measurements shall be purchased and made available to the water system operator at the time the well is put into service. Where pneumatic or electronic water level measuring equipment is used, it shall be made using corrosion resistant materials attached firmly to the drop pipe or pump column and in such a manner as to prevent entrance of foreign materials. (4-4-13)

07. Well Houses. For regulatory purposes, a well house is considered a pump house as defined in Section 003. Well houses must meet the requirements for pump houses as set forth in Section 541. All above ground discharge piping shall be contained in a well house or otherwise protected from freezing. (4-7-11)

08. Pitless Adapters and Units. Pitless adapters or pitless units: (3-30-07)

a. Shall be of the type marked approved by the National Sanitation Foundation or Pitless Adapter Division of the Water Systems Council. (12-10-92)

b. Shall be designed, constructed and installed to be watertight including the cap, cover, casing extension and other attachments. (12-10-92)

c. Shall be field tested for leaks before being put into service. The procedure outlined in "Manual of Individual and Non-Public Water Supply Systems," referenced in Subsection 002.02, or other procedure approved by the Department shall be followed. (3-30-07)

d. Pitless adapters with a two (2) inch or smaller discharge line shall be provided with a swing joint outside the pitless adapter unit to reduce strain, deformation, and possible leakage of the pitless seal caused by settling soils in the trench. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. The hole in the casing shall be cut with a saw rather than a torch with an opening large enough to allow seating of gaskets. (3-30-07)

e. Shall be provided with a contamination-proof entrance connection for electrical cable. (3-30-07)

f. In the case of pitless adapters: (3-30-07)

i. Threaded adapters shall be installed by drilling a hole not more than one quarter (1/4) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. The orientation of swing joints shall be such that any settling that occurs will tighten the threads. (3-30-07)

ii. The only field welding permitted will be that needed to connect a pitless adapter to the casing. (3-30-07)

g. In the case of pitless units: (3-30-07)

i. Shall be shop-fabricated from the point of connection with the well casing to the unit cap or cover. (3-30-07)

ii. Shall be constructed of materials and weight at least equivalent to and compatible with the well casing. (3-30-07)

iii. Shall be threaded or welded to the well casing. Threaded units shall be installed by drilling a hole not more than one quarter (¼) inch larger than the outer diameter of the pitless shank. No torch-cut holes shall be accepted. If the connection to the casing is by field weld, the shop-assembled unit must be designed specifically for field welding to the casing. (3-30-07)

iv. Shall terminate at least eighteen (18) inches above final ground elevation or three (3) feet above the 100-year flood level or the highest known flood elevation, whichever is higher, or as otherwise approved by the Department. (3-30-07)

v. Shall be provided with access to disinfect the well. (3-30-07)

vi. Shall have field connection to the lateral discharge from the pitless unit of threaded, flanged, or mechanical joint connection. (3-30-07)

h. After installation of a pitless adapter or unit, the disturbed well seal shall be repaired or replaced to meet original seal specifications unless otherwise proposed by the design engineer and approved by the Department. The engineering proposal shall ensure that the material surrounding the final seal is moisture controlled and compacted such that it equals or exceeds the characteristics of the native soil prior to being disturbed. (4-4-13)

09. Wells Not Allowed in Pits. Wells shall not be located in pits. Exceptions to this requirement will be granted by the Department if the well was constructed prior to November 5, 1964, and the installation is constructed or reconstructed in accordance with the requirements of the Department to provide watertight construction of pit walls and floors, floor drains and acceptable pit covers. (3-30-07)

10. Discharge Pumps. Discharge pumps shall be subject to the following requirements: (3-30-07)

a. Line shaft pumps shall. (3-30-07)

i. Have the casing firmly connected to the pump structure or have the casing inserted into a recess extending at least one-half (1/2) inch into the pump base. (3-30-07)

ii. Have the pump foundation and base designed to prevent water from coming into contact with the joint. (3-30-07)

iii. Use lubricants that meet ANSI/NSF Standard 61. (3-30-07)

b. When a submersible pump is used: (3-30-07)

i. The top of the casing shall be effectively sealed against the entrance of water under all conditions of vibration or movement of conductors or cables. (3-30-07)

ii. The electrical cable shall be firmly attached to the drop pipe at twenty-one (21) foot intervals or less, or at each coupling or joint. (3-30-07)

512. FACILITY AND DESIGN STANDARDS: WELL LOT.

A well lot shall be provided for wells constructed after November 1, 1977. The well lot shall be owned in fee simple by the supplier of water or controlled by lease or easement with a term of not less than the useful life of the well and be large enough to provide a minimum distance of fifty (50) feet between the well and the nearest property line. (3-30-07)

01. Use of Chemicals on the Well Lot. No pesticides, herbicides, or fertilizers shall be applied to a well lot without prior approval from the Department. (3-30-07)

02. Storage of Hazardous Materials on the Well Lot. No pesticides, herbicides, fertilizers, portable containers of petroleum products, or other materials known to be toxic or hazardous shall be stored on a well lot, except that: (3-30-07)

a. An internal combustion engine to drive either a generator for emergency standby power or a pump to provide fire flows, and an associated fuel tank, may be placed on the well lot. (5-3-03)

b. A propane or natural gas powered generator is preferable to reduce risk of fuel spillage. (5-3-03)

c. If a diesel or gasoline-fueled engine is used, the fuel tank and connecting piping must be approved by the Underwriter's Laboratory, Inc., double-walled, meet the requirements of the local fire jurisdiction, and include both spill prevention and overfill protection features. The tank must be above ground and may be contained within the structural base of the generator unit. A licensed water system operator shall be present during filling of the tank following a period of usage, or during periodic extraction and replacement of outdated fuel. (4-6-05)

d. Should the internal combustion engine be located within the pump house, the floor of the pump house shall be constructed so as to contain all petroleum drips and spills so that they will not be able to reach the floor drain(s). Engine exhaust shall be directly discharged outside the pump house. (3-30-07)

e. A spill containment structure shall surround all fuel tanks and be sized to contain at least one hundred ten percent (110%) of the fuel tank volume. The Department may require additional containment capacity in settings where accumulation of snow, ice, or rain water could be expected to diminish the usable capacity of the structure. (4-6-05)

03. Location of Hydrants. Hydrants of the frost free type shall be placed in the buried piping system at a minimum of five (5) feet away from the well casing to prevent drain water from accumulating and compromising the grout seal surrounding the well casing. (5-8-09)

04. Parking Lots and Vehicle Storage. No public parking or vehicle storage shall be allowed on the well lot, except that operation/maintenance vehicles may be temporary parked on the well lot during the normal course of business. (4-7-11)

513. FACILITY AND DESIGN STANDARDS: NUMBER OF GROUND WATER SOURCES REQUIRED – EXISTING SYSTEMS.

Existing community water systems served by ground water and intending to serve more than twenty-five (25) connections or equivalent dwelling units are subject to the following requirements for the number of ground water sources required. (5-8-09)

01. Existing System with All Sources Constructed Prior to July 1, 1985. A community water system served by ground water and with all existing sources constructed prior to July 1, 1985 will be required to comply with Subsection 501.17 upon substantially modifying the system after July 2002. (5-8-09)

02. Existing System with Any Sources Constructed After July 1, 1985. A community water system served by ground water with any sources constructed after July 1, 1985 is required to comply with Subsection 501.17 when a modification is made to the system which increases the population served or number of service connections, increases the length of transmission and distribution water mains, or increases the peak or average water demand. (5-8-09)

514. FACILITY AND DESIGN STANDARDS: SPRING SOURCES.

Written approval by the Department is required before water from any new or reconstructed spring source may be served to the public. For new spring sources, the Department shall require a site evaluation report containing applicable required information listed in Subsection 510.01. This information includes, but is not limited to, the following: an evaluation of the potability and quality of anticipated spring water; an estimate of hydrologic and

geologic properties of the aquifer; and a description of potential sources of contamination within five hundred (500) feet of the spring. Any supplier of water for a public water system served by one (1) or more springs shall ensure that the following requirements are met: (4-7-11)

01. Protection of the Spring. Springs shall be housed in a permanent structure and protected from contamination including the entry of surface water, animals, and dust. (4-4-13)

02. Spring Box or Combined Spring Box/Finished Water Storage Design. To facilitate efficient design and review of spring box or combined spring box/finished water storage designs, these site-specific designs should be coordinated in advance with the Department. Specific issues to be addressed are: (4-4-13)

a. The inlet shall be screened as determined by the Department and located above the floor of the collection chamber. (4-4-13)

b. Unless otherwise approved by the Department based on documentation provided by the design engineer, the spring box or combined spring box/finished water storage tank shall meet the applicable design requirements of Section 544 - Facility and Design Standards: General Design of Finished Water Storage. (4-4-13)

03. Sample Tap Required. A sample tap suitable for collecting bacteriological samples shall be provided. This sample tap shall be of the smooth-nosed type without interior or exterior threads, shall not be of the mixing or petcock type, and shall not have a screen, aerator, or other such appurtenance. The sample tap for collecting bacteriological samples may be used for other sampling purposes. In addition, threaded hose bib taps may also be used for collecting samples, other than bacteriological samples, if equipped with an appropriate backflow prevention device as may be necessary to protect the public water system from contamination. (5-8-09)

04. Flow Measurement. A flow meter or other flow measuring device shall be provided. (3-30-07)

05. Protected Area. The entire area within a one hundred (100) foot radius of the spring box shall be owned by the supplier of water or controlled by a long term lease, fenced to prevent trespass of livestock and void of buildings, dwellings and sources of contamination. Surface water shall be diverted from this area. (3-30-07)

515. FACILITY AND DESIGN STANDARDS: SURFACE SOURCES AND GROUND WATER SOURCES UNDER THE DIRECT INFLUENCE OF SURFACE WATER.
Written approval by the Department is required before water from any new surface source or ground water source that is under the direct influence of surface water may be served to the public. Infiltration collection lines or galleries are considered ground water under the direct influence of surface water unless demonstrated otherwise. Infiltration galleries that are not directly influenced by surface water shall meet the requirements of Section 514. The area around infiltration lines shall be under the control of the water purveyor for a distance acceptable to the Department. (3-30-07)

01. Intake Structures. Design of intake structures shall provide for: (3-30-07)

a. Withdrawal of water from more than one (1) level if quality varies with depth. (3-30-07)

b. Separate facilities for release of less desirable water held in storage. (3-30-07)

c. Where frazil ice may be a problem, holding the velocity of flow into the intake structure to a minimum, generally not to exceed point five (0.5) feet per second. Frazil ice is made up of randomly distributed ice crystals that are formed in flowing water that has cooled below thirty-two (32) degrees Fahrenheit and is prevented from forming into ice sheets by the movement of the water. (3-30-07)

d. Inspection manholes every one thousand (1000) feet for pipe sizes large enough to permit visual inspection. (3-30-07)

e. Cleaning the intake line as needed. (3-30-07)

f. Adequate protection against rupture by dragging anchors, ice, or other hazards. (3-30-07)

g. Ports located above the bottom of the stream, lake or impoundment, but at sufficient depth to be kept submerged at low water levels. (3-30-07)

h. Where shore wells are not provided, a diversion device capable of keeping large quantities of fish or debris from entering an intake structure. (3-30-07)

i. If necessary, provisions shall be made in the intake structure to control the influx of nuisance aquatic organisms. Specific control methods must be approved by the reviewing authority. (3-30-07)

j. When buried surface water collectors are used, sufficient intake opening area must be provided to minimize inlet headloss. Particular attention shall be given to the selection of backfill material in relation to the collector pipe slot size and gradation of the native material over the collector system. (3-30-07)

02. Raw Water Pumps. Raw water pumping wells shall: (3-30-07)

a. Have motors and electrical controls located above grade (except for submersible pumps), and protected from flooding as required by the reviewing authority. (3-30-07)

b. Be accessible and designed to prevent flotation. (3-30-07)

c. Be equipped with removable or traveling screens before the pump suction well. (3-30-07)

d. Provide for introduction of chlorine or other chemicals in the raw water transmission main if necessary for quality control. (3-30-07)

e. Where practical, have intake valves and provisions for back flushing or cleaning by a mechanical device and testing for leaks. (3-30-07)

f. Have provisions for withstanding surges where necessary. (3-30-07)

03. Offstream Raw Water Storage. An off-stream raw water storage reservoir is a facility into which water is pumped during periods of good quality and high stream flow for future release to treatment facilities. These off-stream raw water storage reservoirs shall be constructed to assure that: (3-30-07)

a. Water quality is protected by controlling runoff into the reservoir. (3-30-07)

b. Dikes are structurally sound and protected against wave action and erosion. (3-30-07)

c. Intake structures and devices meet requirements of Subsection 515.01. (3-30-07)

d. Point of influent flow is separated from the point of withdrawal. (3-30-07)

e. Separate pipes are provided for influent to and effluent from the reservoir. (3-30-07)

04. Reservoirs. Impoundments and reservoirs shall provide, where applicable: (3-30-07)

a. Removal of brush and trees to high water elevation. (3-30-07)

b. Protection from floods during construction. (3-30-07)

c. Abandonment of all wells which will be inundated, in accordance with requirements of the Idaho Department of Water Resources. See Rules of the Idaho Water Resources Board referenced in Subsection 002.02. (3-30-07)

516. -- 517. (RESERVED)

518. FACILITY AND DESIGN STANDARDS: ADDITIONAL DESIGN CRITERIA FOR SURFACE WATER TREATMENT.

Performance criteria for surface water treatment facilities are specified in National Primary Drinking Water Regulations, as set forth in Sections 300, 301, and 310 of these rules. Surface water treatment systems must comply with applicable general design requirements in Section 503. In addition, the following design requirements apply specifically to surface water treatment facilities: (3-30-07)

01. Engineering Design Requirements. The system shall ensure that filtration and disinfection facilities for surface water or ground water directly influenced by surface water sources are designed, constructed and operated in accordance with all applicable engineering practices designated by the Department. The design of the water treatment plant must consider the worst raw water quality conditions that are likely to occur during the life of the facility. (3-30-07)

02. Removal of Pathogens. Filtration facilities (excluding disinfection) shall be designed, constructed and operated to achieve at least two (2) log removal of Giardia lamblia cysts, two (2) log removal of Cryptosporidium oocysts, and one (1) log removal of viruses, except as allowed under Subsection 518.09.b. (3-30-07)

03. Disinfection. Disinfection facilities shall be designed, constructed and operated so as to achieve at least point five zero (0.50) log inactivation of Giardia lamblia cysts; and (3-30-07)

a. Two (2) log inactivation of viruses if using conventional and slow sand filtration technology; or (12-10-92)

b. Three (3) log inactivation of viruses if using direct and diatomaceous earth filtration technology; or (12-10-92)

c. Four (4) log inactivation of viruses if using alternate filtration technology. (12-10-92)

d. Four (4) log inactivation of viruses if filtration treatment is not used. (10-1-93)

04. Enhanced Disinfection. Higher levels of disinfection than specified under Subsection 518.03 may be required by the Department in order to provide adequate protection against Giardia lamblia and viruses. (4-4-13)

05. Filter to Waste. For plants constructed after December 31, 1992, each filter unit must be capable of filter to waste. For plants constructed prior to December 31, 1992, each filter unit must be capable of filter to waste unless the system demonstrates through continuous turbidity monitoring or other means acceptable to the Department that water quality is not adversely affected following filter backwashing, cleaning or media replacement. (3-30-07)

06. Continuous Turbidity Monitoring. For conventional, direct, membrane, and diatomaceous earth filtration technology, equipment must be provided to continuously measure the turbidity of each filter unit. (3-30-07)

07. Continuous Monitoring of Disinfectant. Equipment must be provided and operated for continuous measurement of disinfectant residual prior to entry to the distribution system, unless the system serves fewer than three thousand three hundred (3,300) people. (3-30-07)

08. Continuous Operation Required. Diatomaceous earth filtration facilities shall include an alternate power source with automatic startup and alarm, or be designed in a manner to ensure continuous operation. (3-30-07)

09. Acceptable Technology. The purveyor shall select a filtration technology acceptable to the Department. (3-30-07)

a. Conventional, direct, membrane, slow sand, diatomaceous earth, and membrane filtration technologies are generally acceptable to the Department on a case-by-case basis. (4-4-13)

b. Alternate filtration technologies may be acceptable if the purveyor demonstrates all of the following to the satisfaction of the Department: (12-10-92)

i. That the filtration technology: (12-10-92)

(1) Is certified and listed by the National Sanitation Foundation (NSF) under Standard 53, Drinking Water Treatment Units - Health Effects, as achieving the NSF criteria for cyst reduction; or (12-10-92)

(2) Removes at least ninety-nine percent (99%) (two (2) logs) of Cryptosporidium oocysts or surrogate particles and removes or inactivates at least ninety-nine percent (99%) (two (2) logs) of Giardia lamblia cysts or Giardia lamblia cyst surrogate particles in a challenge study acceptable to the Department. (3-30-07)

ii. Based on field studies or other means acceptable to the Department, it must be demonstrated that the filtration technology has the following capabilities: (3-30-07)

(1) In combination with disinfection treatment, consistently achieves at least ninety-nine percent (99%) (two (2) logs) removal of Cryptosporidium oocysts or surrogate particles and at least ninety-nine and nine tenths percent (99.9%) (three (3) logs) removal or inactivation of Giardia lamblia cysts and ninety-nine and ninety-nine hundredths percent (99.99%) (four (4) logs) removal or inactivation of viruses; and (3-30-07)

(2) Meets the turbidity performance requirements of 40 CFR 141.73 (b). (12-10-92)

10. Pilot Studies. The system shall conduct pilot studies in accordance with the following requirements and in accordance with Subsection 501.19 for all proposed filtration facilities and structural modifications to existing filtration facilities, unless the Department modifies the requirements in writing: (4-4-13)

a. The system shall obtain the Department's approval of the pilot study plan before the pilot filter is constructed and before the pilot study is undertaken. (12-10-92)

b. The design and operation of the pilot study shall be overseen by an Idaho licensed professional engineer. (3-30-07)

c. The system's pilot study plan shall identify at a minimum: (12-10-92)

i. The objectives of the pilot study; (12-10-92)

ii. Pilot filter design; (12-10-92)

iii. Water quality and operational parameters to monitor; (12-10-92)

iv. Amount of data to collect; and (12-10-92)

v. Qualifications of the pilot plant operator. (10-1-93)

d. The system shall ensure that the pilot study is: (12-10-92)

i. Conducted to simulate conditions of the proposed full-scale design; (12-10-92)

ii. Conducted for at least twelve (12) consecutive months or for a shorter period upon approval by the Department; (5-3-03)

iii. Conducted to evaluate the reliability of the treatment system to achieve applicable water quality treatment criteria specified for filtration systems in 40 CFR 141.72 and 40 CFR 141.73; and (12-10-92)

iv. Designed and operated in accordance with good engineering practices documented in references acceptable to the Department. (12-10-92)

11. Redundant Disinfection. Surface water systems constructed after July 1, 1985, are required to install redundant disinfection components or maintain a backup unit on site as required to maintain constant

application of disinfectant whenever water is being delivered to the distribution system. (3-30-07)

519. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT; DESIGN STANDARDS FOR MICROSCREENING.
A microscreen may be used to reduce nuisance organisms and organic loadings. It shall not be used in place of filtration or coagulation in the preparation of water for filtration. (3-30-07)

01. Design Considerations. The following shall be taken into account during design: (3-30-07)

a. The nature of the suspended matter to be removed. (3-30-07)

b. The corrosiveness of the water. (3-30-07)

c. The effect of chlorination, when required as pre-treatment. (3-30-07)

d. The duplication of units for continuous operation during equipment maintenance. (3-30-07)

e. Automated backflushing operation when used in conjunction with microfiltration treatment. (3-30-07)

02. Design Requirements. Design shall provide the following: (3-30-07)

a. A durable, corrosion-resistant screen. (3-30-07)

b. A by-pass arrangement. (3-30-07)

c. Protection against back-siphonage when potable water is used for washing. (3-30-07)

d. Proper disposal of water used to wash the microscreen. (3-30-07)

520. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: CLARIFICATION PROCESSES.
Treatment facilities designed to include clarification for processing surface water shall meet the following requirements: (3-30-07)

01. Two Units Required. A minimum of two (2) units for redundancy shall be provided for flocculation and sedimentation such that plant design capacity can be maintained with any component out of service for maintenance or repairs. (4-4-13)

02. Parallel or Serial Operation. The units shall be capable of being operated either in series or parallel where softening is performed. (3-30-07)

03. Independent Units. The units shall be constructed in such a way that each can be taken out of service without disrupting operation, and with drains or pumps sized to allow dewatering in a reasonable period of time. (3-30-07)

04. Manual Start-Up. The units shall be started manually following shutdown. (3-30-07)

05. Pre-Treatment. Waters exhibiting high turbidity may require pretreatment, usually sedimentation with or without the addition of coagulation chemicals. When presedimentation is provided, the following requirements must be met: (3-30-07)

a. Incoming water shall be dispersed across the full width of the line of travel as quickly as possible. Short circuiting must be prevented. (3-30-07)

b. Provisions for bypassing pre-sedimentation basins shall be included. (3-30-07)

c. The need for redundant pretreatment components shall be evaluated according to the type and necessity of the pretreatment. (4-4-13)

06. Rapid Mix. Unless otherwise approved by the Department based on documentation provided by the design engineer, a rapid mix device or chamber is required prior to flocculation, clarification, sedimentation, and settler units. The need for redundant rapid mix components shall be evaluated. Rapid mix shall mean the rapid dispersion of chemicals throughout the water to be treated, usually by violent agitation. The engineer shall submit the design basis for the velocity gradient (G value) selected, considering the chemicals to be added and water temperature, color and other related water quality parameters. Basins or mixing chambers shall be equipped with devices capable of providing adequate mixing for all treatment flow rates. (4-4-13)

07. Flocculation. Flocculation shall mean the gathering together of fine particles in water by gentle mixing after the addition of coagulant chemicals to form larger particles. (3-30-07)

a. Basin inlet and outlet design shall minimize short-circuiting and destruction of floc. A drain, pumps, or a combination of both drain and pumps shall be provided to accomplish dewatering and sludge removal. (5-8-09)

b. The flow-through velocity shall not be less than one-half (0.5) nor greater than one and one-half (1.5) feet per minute with a detention time for floc formation of at least thirty (30) minutes unless otherwise approved by the Department. (3-30-07)

c. Agitators shall be driven by variable speed drives. (3-30-07)

d. Flocculation and sedimentation basins shall be as close together as possible. The velocity of flocculated water through pipes or conduits to settling basins shall be not less than one-half (0.5) nor greater than one and one-half (1.5) feet per second. Allowances must be made to minimize turbulence at bends and changes in direction. (3-30-07)

08. Small Systems May Use Baffling. Baffling may be used to provide for flocculation in small plants upon approval by the Department. (3-30-07)

09. Sedimentation Units. The following criteria apply to conventional sedimentation units: (3-30-07)

a. A minimum of two (2) hours of settling time shall be provided following flocculation unless adequate settling in less time can be demonstrated. (3-30-07)

b. Inlets shall be designed to distribute the water equally and at uniform velocities. (3-30-07)

c. Outlet weirs or submerged orifices shall maintain velocities suitable for settling in the basin and minimize short-circuiting. Outlet weirs shall be designed so that the rate of flow over the outlet weirs or through the submerged orifices shall not exceed twenty-thousand (20,000) gallons per day per foot of the outlet launder. The entrance velocity through the submerged orifices shall not exceed one-half (0.5) feet per second. (3-30-07)

d. The velocity through settling basins shall not exceed one-half (0.5) feet per minute. The basins must be designed to minimize short-circuiting. Fixed or adjustable baffles must be provided as necessary to achieve the maximum potential for clarification. (3-30-07)

e. When an overflow weir or pipe is provided the overflow shall discharge by gravity with a free fall at a location where the discharge will be noted. (3-30-07)

f. Adequate sludge collection equipment that ensures proper basin coverage shall be provided and basins must be provided with a means for dewatering. (3-30-07)

g. Flushing lines or hydrants shall be provided and must be equipped with backflow prevention devices acceptable to the Department. (3-30-07)

h. Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. (3-30-07)

i. Sludge shall be disposed of in accordance with applicable regulations, as set forth in Section 540. (3-30-07)

10. Solids Contact Clarifiers. Solids contact clarifiers are generally acceptable for combined softening and clarification where water characteristics, especially temperature, do not fluctuate rapidly, flow rates are uniform and operation is continuous. A minimum of two (2) units are required for surface water treatment as required in Subsection 520.01. (4-4-13)

a. Chemicals shall be applied at such points and by such means as to ensure satisfactory mixing of the chemicals with the water. (3-30-07)

b. Unless otherwise approved by the Department based on documentation provided by the design engineer, a rapid mix device or chamber ahead of the solids contact clarifier is required to assure proper mixing of the chemicals applied. Mixing devices employed shall be constructed so as to provide good mixing of the raw water with previously formed sludge particles and prevent deposition of solids in the mixing zone. (4-4-13)

c. Flocculation equipment shall be adjustable as to speed, pitch, or a combination of speed and pitch and must provide for coagulation in a separate chamber or baffled zone within the unit. (5-8-09)

d. Sludge removal design shall provide that sludge pipes are not less than three (3) inches in diameter and arranged so as to facilitate cleaning. Entrance to sludge withdrawal piping shall be designed to prevent clogging. Provision shall be made for the operator to observe and sample sludge being withdrawn from the unit. (3-30-07)

e. Blow-off outlets and drains must terminate and discharge at places acceptable to the Department in regard to control of potential cross connections. Cross connection control must be included for the potable water lines used to backflush sludge lines. (3-30-07)

f. The detention time shall be established on the basis of the raw water characteristics and other local conditions that affect the operation of the unit. The Department may request data to support decisions made with respect to detention times. The Department may alter detention time requirements. (3-30-07)

g. Controls for sludge withdrawal which minimize water losses shall be provided. (3-30-07)

h. Unless otherwise approved by the Department based on documentation provided by the design engineer, weirs shall be adjustable and at least equivalent in length to the perimeter of the tank. Weir loading shall not exceed ten (10) gallons per minute per foot of weir length for units used as clarifiers or twenty (20) gallons per minute per foot of weir length for units used for softening. Where orifices are used, the loading rates per foot of launder rates shall be equivalent to weir loadings. Either shall produce uniform rising rates over the entire area of the tank. (4-4-13)

i. Upflow rates shall not exceed one (1) gallon per minute per square foot of area at the sludge separation line for units used as clarifiers or one and three-quarters (1.75) gallons per minute per foot of area at the slurry separation line for units used as softeners. The Department may consider higher rates if supporting data is provided. (3-30-07)

11. Settler Units. Settler units consisting of variously shaped tubes or plates installed in multiple layers and at an angle to the flow may be used for sedimentation following flocculation. (3-30-07)

a. Inlets and outlets shall be designed to maintain velocities suitable for settling in the basin and to minimize short-circuiting. Plate units shall be designed to minimize unequal distribution across the units. (3-30-07)

b. Drain piping from the settler units must be sized to facilitate a quick flush of the settler units and to prevent flooding other portions of the plant. (3-30-07)

c. Although most units will be located within a plant, outdoor installations must provide sufficient freeboard above the top of settlers to prevent freezing in the units. (3-30-07)

d. Water shall be applied to tube settlers at a maximum rate of two (2) gallons per minute per square foot of cross-sectional area for tube settlers, unless higher rates are justified through pilot plant or in-plant demonstration studies. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

e. Water shall be applied to plate settlers at a maximum plate loading rate of one-half (0.5) gallons per minute per square foot, based on eighty (80) percent of the projected horizontal plate area. (3-30-07)

f. Flushing lines shall be provided to facilitate maintenance and must be properly protected against backflow or back siphonage. (3-30-07)

12. High Rate Clarification. High rate clarification processes may be approved upon demonstrating satisfactory performance under on-site pilot plant conditions or documentation of full scale plant operation with similar raw water quality conditions. Reductions in detention times and/or increases in weir loading rates shall be justified. See Subsection 501.19 for general information on conducting pilot studies. Examples of such processes include dissolved air flotation, ballasted flocculation, contact flocculation/clarification, and helical upflow. (4-4-13)

521. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: FILTRATION USING RAPID RATE GRAVITY FILTERS.

01. Pretreatment. The use of rapid rate gravity filters shall require pretreatment in the form of coagulation, flocculation, and sedimentation. (3-30-07)

02. Rate of Filtration. The filter rate must be proposed and justified by the design engineer to the satisfaction of the Department prior to the preparation of final plans and specifications. (3-30-07)

03. Number of Units. A minimum of two (2) units for redundancy shall be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. Where declining rate filtration is provided, the variable aspect of filtration rates, and the number of filters must be considered when determining the design capacity for the filters. (4-4-13)

04. Structure and Hydraulics. The filter structure shall be designed to provide for: (3-30-07)

a. Vertical walls within the filter. There shall be no protrusion of the filter walls into the filter media. (3-30-07)

b. Cover by superstructure with sufficient headroom to permit normal inspection and operation. (3-30-07)

c. Minimum depth of filter box of eight and one-half (8.5) feet. (3-30-07)

d. Minimum water depth over the surface of the filter media of three (3) feet. (3-30-07)

e. Trapped effluent to prevent backflow of air to the bottom of the filters. (3-30-07)

f. Prevention of floor drainage to the filter with a minimum four (4) inch curb around the filters. (3-30-07)

g. Prevention of flooding by providing overflow. (3-30-07)

h. Maximum velocity of treated water entering the filters of two (2) feet per second. (3-30-07)

i. Cleanouts and straight alignment for influent pipes or conduits where solids loading is heavy, or

following lime-soda softening. (3-30-07)

j. Washwater drain capacity to carry maximum flow. (3-30-07)

k. Walkways around filters to be not less than twenty-four (24) inches wide and equipped with safety handrails or walls. (3-30-07)

l. Construction so as to prevent cross connections and common walls between potable water and non-potable fluids. (4-4-13)

05. Washwater Troughs. Washwater troughs shall be constructed to have: (3-30-07)

a. The bottom elevation above the maximum level of expanded media during washing. (3-30-07)

b. A two (2) inch freeboard at the maximum rate of wash. (3-30-07)

c. The top edge level and all at the same elevation. (3-30-07)

d. Spacing so that each trough serves the same number of square feet of filter area. (3-30-07)

e. Maximum horizontal travel of suspended particles to reach the trough not to exceed three (3) feet. (3-30-07)

06. Filter Material. The media shall be clean silica sand or other natural or synthetic media free from detrimental chemical or bacterial contaminants, approved by the Department, and having the following characteristics: (3-30-07)

a. A total depth of not less than twenty-four (24) inches and generally not more than thirty (30) inches. (3-30-07)

b. An effective size range of the smallest material no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. (3-30-07)

c. A uniformity coefficient of the smallest material not greater than one and sixty-five hundredths (1.65). (3-30-07)

d. A minimum of twelve (12) inches of media with an effective size range no greater than forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter and a specific gravity greater than other filtering materials within the filter. (3-30-07)

e. Types of filter media are as follows: (3-30-07)

i. Clean, crushed anthracite or a combination of anthracite and other media may be considered on the basis of experimental data specific to the project. The anthracite shall have the following characteristics: (3-30-07)

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter with uniformity coefficient not greater than sixty-five hundredths (1.65) when used alone. (3-30-07)

(2) Effective size of eight tenths (0.8) of a millimeter to one and two-tenths (1.2) millimeters with a uniformity coefficient not greater than one and eighty-five hundredths (1.85) when used as a cap. (3-30-07)

(3) Effective size for anthracite used as a single media on potable ground water for iron and manganese removal only shall be a maximum of eight tenths (0.8) of a millimeter (effective sizes greater than this may be approved based upon onsite pilot plant studies or other demonstration acceptable to the Department). See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

ii. Sand media shall have the following characteristics: (3-30-07)

(1) Effective size of forty-five hundredths (0.45) of a millimeter to fifty-five hundredths (0.55) of a millimeter. (3-30-07)

(2) Uniformity coefficient of not greater than one and sixty-five hundredths (1.65). (3-30-07)

(3) Larger size sand media may be allowed by the Department where full-scale tests have demonstrated that treatment goals can be met under all conditions. (3-30-07)

iii. Granular activated carbon (GAC) as a single media may be considered for filtration only after pilot or full-scale testing and with prior approval of the Department. See Subsection 501.19 for general information on conducting pilot studies. The design shall include the following: (4-4-13)

(1) The media must meet the basic specifications for filter media as given in Subsections 521.06.a. through d., except that larger size media may be allowed where full scale tests have demonstrated that treatment goals can be met under all conditions. (4-4-13)

(2) There must be a means for periodic treatment of filter material for control of bacterial and other growth. (3-30-07)

(3) Provisions must be made for frequent replacement or regeneration. (3-30-07)

iv. Other media will be considered based on experimental data and operating experience. (3-30-07)

v. A three (3) inch layer of torpedo sand shall be used as a supporting media for filter sand where supporting gravel is used, and shall have an effective size of eight-tenths (0.8) millimeters to two (2.0) millimeters, and a uniformity coefficient not greater than one and seven-tenths (1.7). (3-30-07)

vi. Gravel, when used as the supporting media, shall consist of cleaned and washed, hard, durable, rounded silica particles and shall not include flat or elongated particles. The coarsest gravel shall be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel shall be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the reviewing authority for slow sand filtration or when proprietary filter bottoms are specified.

Size of Gravel	Depth
2 ½ to 1 ½ inches	5 to 8 inches
1 ½ to ¾ inches	3 to 5 inches
¾ to ½ inches	3 to 5 inches
½ to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

(3-30-07)

07. Filter Bottoms and Strainer Systems. Departure from the standards set out in Subsection 521.07 may be acceptable for high rate filters and for proprietary bottoms. Porous plate bottoms shall not be used where iron or manganese may clog them or with waters softened by lime. The design of manifold-type collection systems shall: (3-30-07)

a. Minimize loss of head in the manifold and laterals. (3-30-07)

b. Ensure even distribution of wash water and even rate of filtration over the entire area of the filter. (3-30-07)

c. Provide the ratio of the area of the final openings of the strainer systems to the area of the filter at about three-thousandths (0.003), (3-30-07)

d. Provide the total cross-sectional area of the laterals at about twice the total area of the final openings. (3-30-07)

e. Provide the cross-sectional area of the manifold at one and one-half (1.5) to two (2) times the total area of the laterals. (3-30-07)

f. Lateral perforations without strainers shall be directed downward. (3-30-07)

08. Surface or Subsurface Wash. Surface or subsurface wash facilities are required except for filters used exclusively for iron or manganese removal, and may be accomplished by a system of fixed nozzles or a revolving-type apparatus. All devices shall be designed with: (3-30-07)

a. Provision for water pressures of at least forty-five (45) pounds per square inch. (3-30-07)

b. A properly installed vacuum breaker or other approved device to prevent back siphonage if connected to the treated water system. (3-30-07)

c. Rate of flow of two (2.0) gallons per minute per square foot of filter area with fixed nozzles or one-half (0.5) gallon per minute per square foot with revolving arms. (3-30-07)

d. Air wash can be considered based on experimental data and operating experiences. (3-30-07)

09. Air Scouring. Air scouring can be considered in place of surface wash provided the following conditions are met: (3-30-07)

a. Air flow for air scouring the filter must be three (3) to five (5) standard cubic feet per minute square foot of filter area when the air is introduced in the underdrain; a lower air rate must be used when the air scour distribution system is placed above the underdrains. (3-30-07)

b. A method for avoiding excessive loss of the filter media during backwashing must be provided. (3-30-07)

c. Air scouring must be followed by a fluidization wash sufficient to restratify the media. (3-30-07)

d. Air must be free from contamination. (3-30-07)

e. Air scour distribution systems shall be placed below the media and supporting bed interface with the following exception: if placed at the interface the air scour nozzles shall be designed to prevent media from clogging the nozzles or entering the air distribution system. (3-30-07)

f. Piping for the air distribution system shall not be flexible hose which will collapse when not under air pressure and shall not be a relatively soft material which may erode at the orifice opening with the passage of air at high velocity. (3-30-07)

g. Air delivery piping shall not pass down through the filter media nor shall there be any arrangement in the filter design which would allow short circuiting between the applied unfiltered water and the filtered water. (3-30-07)

h. The backwash water delivery system must be capable of fifteen (15) gallons per minute per square foot of filter surface area (37 m/hr); however, when air scour is provided the backwash water rate must be variable and should not exceed eight (8) gallons per minute per square foot (20 m/hr) unless operating experience shows that a higher rate is necessary to remove scoured particles from filter media surfaces. (3-30-07)

i. The filter underdrains shall be designed to accommodate air scour piping when the piping is installed in the underdrain. (3-30-07)

10. Filter Appurtenances. The following shall be provided for every filter: (3-30-07)

a. Influent and effluent sampling taps. (3-30-07)

b. A gauge capable of indicating loss of head. (3-30-07)

c. A meter indicating rate-of flow. A modified rate controller which limits the rate of filtration to a maximum rate may be used. However, equipment that simply maintains a constant water level on the filters is not acceptable, unless the rate of flow onto the filter is properly controlled. A pump or a flow meter in each filter effluent line may be used as the limiting device for the rate of filtration only if approved by the Department on a site-specific basis. (3-30-07)

11. Backwash. Provisions shall be made for washing filters as follows: (3-30-07)

a. A minimum backwash rate such that a fifty (50) percent expansion of the filter bed is achieved. (3-30-07)

b. Filtered water provided at the required rate by wash water tanks, a wash water pump, from the high service main, or a combination of these. (3-30-07)

c. Wash water pumps in duplicate unless an alternate means of obtaining wash water is available. (3-30-07)

d. Not less than fifteen (15) minutes wash of one filter at the design rate of wash. (3-30-07)

e. A wash water regulator or valve on the main wash water line to obtain the desired rate of filter wash with the wash water valves on the individual filters open wide. (3-30-07)

f. A rate-of-flow indicator, preferably with a totalizer, on the main wash water line, located so that it can be easily read by the operator during the washing process. (3-30-07)

g. Design to prevent rapid changes in backwash water flow. Backwash shall be operator initiated. Automated systems shall be operator adjustable. (3-30-07)

12. Roof Drainage. Roof drains shall not discharge into the filters or basins and conduits preceding the filters. (3-30-07)

522. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: FILTRATION USING DIATOMACEOUS EARTH.

The use of these filters may be considered for application to surface waters with low turbidity and low bacterial contamination, and may be used for iron removal for ground waters providing the removal is effective and the water is of satisfactory sanitary quality before treatment. (3-30-07)

01. Conditions of Use. Diatomaceous earth filters are expressly excluded from consideration for the following conditions: (3-30-07)

a. Bacteria removal; (3-30-07)

b. Color removal; (3-30-07)

c. Turbidity removal where either the gross quantity of turbidity is high or the turbidity exhibits poor filterability characteristics; or (3-30-07)

d. Filtration of waters with high algae counts. (3-30-07)

02. Treated Water Storage. Treated water storage capacity in excess of normal requirements shall be provided to allow operation of the filters at a uniform rate during all conditions of system demand at or below the approved filtration rate, and guarantee continuity of service during adverse raw water conditions without by-passing the system. (3-30-07)

03. Number of Units. A minimum of two (2) units for redundancy shall be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. (4-4-13)

04. Precoat. A uniform precoat shall be applied hydraulically to each septum by introducing a slurry to the tank influent line and employing a filter-to-waste recirculation system. (3-30-07)

05. Body Feed. A body feed system to apply additional amounts of diatomaceous earth slurry during the filter run is required to avoid short filter runs or excessive head losses. (3-30-07)

a. The rate of body feed is dependent on raw water quality and characteristics and must be determined in the pilot plant study. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

b. Continuous mixing of the body feed slurry is required. (3-30-07)

06. Filtration Requirements. (3-30-07)

a. Rate of filtration shall be controlled by a positive means. (3-30-07)

b. Head loss shall not exceed thirty (30) psi for pressure diatomaceous earth filters, or a vacuum of fifteen (15) inches of mercury for a vacuum system. (3-30-07)

c. A recirculation or holding pump shall be employed to maintain differential pressure across the filter when the unit is not in operation in order to prevent the filter cake from dropping off the filter elements. A minimum recirculation rate of one-tenth (0.1) gallon per minute per square foot of filter area shall be provided. (3-30-07)

d. The septum or filter elements shall be structurally capable of withstanding maximum pressure and velocity variations during filtration and backwash cycles, and shall be spaced such that no less than one (1) inch is provided between elements or between any element and a wall. (3-30-07)

e. The filter influent shall be designed to prevent scour of the diatomaceous earth from the filter element. (3-30-07)

07. Backwash. A satisfactory method to thoroughly remove and dispose of spent filter cake shall be provided. (3-30-07)

08. Appurtenances. The following shall be provided for every filter: (3-30-07)

a. Sampling taps for raw and filtered water. (3-30-07)

b. Loss of head or differential pressure gauge. (3-30-07)

c. Rate-of-flow indicator. (3-30-07)

d. A throttling valve used to reduce rates below normal during adverse raw water conditions. (3-30-07)

e. Evaluation of the need for body feed, recirculation, and any other pumps. (3-30-07)

f. Provisions for filtering to waste with appropriate measures for backflow prevention. (3-30-07)

09. Monitoring. A continuous monitoring turbidimeter with recorder is required on each filter effluent

for plants treating surface water. (3-30-07)

523. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: SLOW SAND FILTRATION.
The use of these filters shall require prior engineering studies to demonstrate the adequacy and suitability of this method of filtration for the specific water supply. Slow Sand Filtration and Diatomaceous Earth Filtration for Small Water Systems, Manual on Slow Sand Filtration, and Slow Sand Filtration referenced in Subsection 002.02, may be used as guidance in design of slow sand filtration facilities. (3-30-07)

01. Quality of Raw Water. Slow rate gravity filtration shall be limited to waters having maximum turbidities of ten (10) nephelometric units and maximum color of fifteen (15) units; such turbidity must not be attributable to colloidal clay. Raw water quality data must include examinations for algae. For source water having variable turbidity, the potential use of a roughing filter or other pretreatment technology should be evaluated. The Department may allow the use of a pretreatment technology on raw waters that exceed the normal limits for turbidity and color, if it can demonstrated to the Department's satisfaction that pretreatment will enable slow sand filtration to properly operate and comply with these Rules. (4-4-13)

02. Number of Units. A minimum of two (2) units for redundancy shall be provided for filtration such that plant design capacity can be maintained with any component out of service for maintenance or repairs. The Department may allow a single bed filter if it can be demonstrated to the Department's satisfaction that an alternative water source is available such that the water system can provide plant design capacity with the filter taken out of service for maintenance and repairs. (4-4-13)

03. Structural Details and Hydraulics. Slow rate gravity filters shall be so designed as to provide a cover, unless otherwise approved by the Department based on documentation provided by the design engineer, headroom to permit normal movement by operating personnel for scraping and sand removal operations, adequate access hatches and access ports for handling of sand and for ventilation, filtration to waste, an overflow at the maximum filter water level, and protection from freezing. A permanent means of determining sand depth shall be provided. (4-4-13)

04. Underdrains. Each filter unit shall be equipped with a main drain and an adequate number of lateral underdrains to collect the filtered water. The underdrains shall be so spaced that the maximum velocity of the water flow in the underdrain will not exceed three-fourths (0.75) feet per second. The maximum spacing of laterals shall not exceed three (3) feet if pipe laterals are used. (3-30-07)

05. Filter Material. The following requirements apply: (3-30-07)

a. A minimum depth of thirty (30) inches of filter sand shall be placed on graded gravel layers. (5-8-09)

b. The effective size shall be between fifteen hundredths (0.15) of a millimeter and thirty-five hundredths (0.35) of a millimeter. Larger sizes may be considered by the Department based on the results of a pilot study. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

c. The uniformity coefficient shall not exceed three point zero (3.0). (3-30-07)

d. The sand shall be cleaned and washed free from foreign matter. (3-30-07)

e. The sand shall be rebedded to the original minimum depth of thirty (30) inches when scraping has reduced the bed depth to no less than twenty-four (24) inches. Where sand is to be reused in order to provide biological seeding and shortening of the ripening process, rebedding shall utilize a "throw over" technique whereby new sand is placed on the support gravel and existing sand is replaced on top of the new sand. The maximum filtration rate shall not exceed zero point one (0.1) gallon per minute per square foot for each individual bed. (4-4-13)

06. Filter Sand Support. (5-8-09)

a. A three (3)-inch layer of sand shall be used as a supporting media for filter sand. The supporting sand shall have an effective size of zero point eight (0.8) millimeters to two point zero (2.0) millimeters and a uniformity coefficient not greater than one point seven (1.7). (5-8-09)

b. Gravel shall consist of cleaned and washed, hard, durable, rounded rock particles and shall not include flat or elongated particles. The coarsest gravel shall be two and one-half (2.5) inches in size when the gravel rests directly on a lateral system and must extend above the top of the perforated laterals. Not less than four (4) layers of gravel shall be provided in accordance with the size and depth distribution specified in the table below. Reduction of gravel depths and other size gradations may be considered upon justification to the Department.

Size of Gravel	Depth
2 1/2 to 1 1/2 inches	5 to 8 inches
1 1/2 to 3/4 inches	3 to 5 inches
3/4 to 1/2 inches	3 to 5 inches
1/2 to 3/16 inches	2 to 3 inches
3/16 to 3/32 inches	2 to 3 inches

(5-8-09)

07. Depth of Water Over Filter Beds. The design shall provide a depth of at least three (3) to six (6) feet of water over the sand. Influent water shall not scour the sand surface. (3-30-07)

08. Control Appurtenances. Each filter shall be equipped with a loss of head gauge, an orifice, Venturi meter, or other suitable means of discharge measurement installed on each filter to control the rate of filtration, and an effluent pipe designed to maintain the water level above the top of the filter sand. The effluent piping must not be directly interconnected with the other filter beds. A sample tap shall be provided for each filter bed. (4-4-13)

09. Ripening. Slow sand filters must be filtered-to-waste until they are biologically mature before being put into service following construction, scraping, re-sanding, or reopening after extended shutdown. The period of filter-to-waste shall be as follows: (4-4-13)

a. Filters shall be filtered-to-waste after scraping or cleaning until the effluent turbidity falls consistently below the pre-cleaning level, unless otherwise approved by the Department based on documentation provided by the design engineer. (4-4-13)

b. Filters shall be filtered-to-waste following construction, re-sanding, or extended shutdown based on project specific protocols that have been approved by the Department and then incorporated into a Department approved operation and maintenance manual. These protocols may be based on factors from standard literature such as those listed in Subsection 002.02 but typically include factors such as minimum filter-to-waste time periods, bacteriological testing, and effluent turbidity. Sampling results from the filter-to-waste period shall be provided to the Department for review and the Department must provide authorization prior to restarting service to the public. (4-4-13)

10. Supernatant Drain Required. Filter beds shall be equipped with a supernatant drain to allow for quick removal of water standing over sand that has become impermeable because it requires scraping or rebedding. (3-30-07)

11. Filter Bed Control and Minimum Rate of Flow. Each filter bed shall be controlled separately and filters must be operated at a constant filtration rate with any changes made gradually. The minimum rate of filtration shall be at least two hundredths (0.02) gallons per minute per square foot. (4-4-13)

524. FACILITY AND DESIGN STANDARDS: SURFACE WATER TREATMENT: DIRECT FILTRATION.

Direct filtration, as used herein, refers to the filtration of a surface water following chemical coagulation and possibly flocculation but without prior settling. The nature of the treatment process will depend upon the raw water quality. A full scale direct filtration plant shall not be constructed without prior pilot studies which are acceptable to the reviewing authority. In-plant demonstration studies are required where conventional treatment plants are converted to direct filtration. Where direct filtration is proposed, an engineering report shall be submitted prior to conducting pilot plant or in-plant demonstration studies. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

01. Filtration Requirements. (3-30-07)

a. Filters shall be rapid rate gravity filters with dual or mixed media. The final filter design shall be based on the pilot plant or in-plant demonstration studies, and all portions of Section 518 apply. Pressure filters or single media sand filters shall not be used. (3-30-07)

b. A continuous recording turbidimeter shall be installed on each filter effluent line and on the composite filter effluent line. (3-30-07)

c. Additional continuous monitoring equipment such as particle counting or streaming current metering to assist in control of coagulant dose may be required by the reviewing authority. (3-30-07)

02. Siting Requirements. The plant design and land ownership surrounding the plant shall allow for modifications of the plant. (3-30-07)

03. Redundancy. A minimum of two (2) units shall be provided for filtration such that plant capacity can be maintained with any component out of service for maintenance or repairs. (4-4-13)

525. FACILITY AND DESIGN STANDARDS: LOW PRESSURE MEMBRANE FILTRATION.

Low pressure filtration, as used herein, refers to microfiltration or ultrafiltration processes. Low pressure membrane systems can provide greater than 3-log removal of Giardia lamblia and Cryptosporidium, and ultrafiltration systems can also provide up to 2-log virus removal. The Department will determine maximum available removal credits for the specific membrane under consideration. The actual log removal credit that a low pressure membrane filtration system will receive is the lower of the values determined by the following: the removal efficiency demonstrated during challenge testing, or the maximum log removal that can be verified by direct integrity testing required during the course of normal operation. Membrane systems shall contain sufficient design to allow for offline direct integrity testing of all units or modules at the required interval while retaining the capability to supply maximum day demand to the water system. Membrane systems shall have at least two (2) units unless it can be demonstrated to the satisfaction of the Department that a secondary source or treatment component can supply the required minimum plant design capacity. (4-4-13)

01. Membrane Selection and Design Considerations. (4-4-13)

a. Challenge Testing. Challenge testing involves seeding feed water with an organism or particulate and measuring the log reduction of the organism or particulate between the feed and filtrate. It is a one-time product-specific test event performed by an approved third party designed to demonstrate the removal ability of the membrane. Challenge testing shall be conducted by the third party entity in general conformance with the USEPA Membrane Filtration Guidance Manual referenced in Subsection 002.02 (Membrane Filtration Guidance Manual). The challenge test report shall be submitted to the Department along with the preliminary engineering report for the project. The Department may accept another state's challenge test report approval. (4-4-13)

b. Water Quality Considerations for Design. A review of historical source water data shall be conducted to determine the degree of pretreatment needed if any, the feasibility of membrane filtration, and an estimated cost of the system. At a minimum, the following parameters shall be investigated: Seasonal temperature and turbidity profiles, total organic loading, occurrence of algae, microbial activity, iron, manganese, and hardness levels, and any other inorganic or physical parameters determined to be necessary by the Department. The data shall be used to determine anticipated fouling and scaling, backwash and cleaning cycles and regimens, acceptable trans-

membrane pressure differentials, and design flux, especially during lowest anticipated water temperature. (4-4-13)

c. Pilot Study. A pilot study shall be conducted for a period that shall be determined by the design engineer and approved by the Department. The duration should include the season of lowest water temperatures and the season including the highest anticipated turbidity, algal bloom, TOC, and iron/manganese event or otherwise cover four seasons of source water quality conditions. The Department may approve a shorter duration proof pilot to verify design criteria that affect the reliable production capacity of the membrane system. The Department may approve the use of a full scale pilot study where the full scale facility will act as the pilot study. The Department may also waive the pilot study requirement. Proof pilot studies, full scale pilot studies, and the waiving of the pilot study requirement will only be approved in circumstances where source water conditions and fouling characteristics are already well understood. Such source waters include but are not limited to ground water under the influence of surface water, waters with existing membrane plants, waters where sufficient pilot test data has already been generated, and extensively used or tested membrane products where production or test data on similar waters is available (i.e., same lake, reservoir, or same reach for stream sources). In addition to the requirements in Subsection 501.19, the pilot study shall include: (4-4-13)

i. A means to identify the best membrane to use for the anticipated water quality; (4-4-13)

ii. Analysis of any need for pretreatment; (4-4-13)

iii. Range of anticipated flux rates; (4-4-13)

iv. Operating and transmembrane pressure; (4-4-13)

v. Fouling and scaling potential; (4-4-13)

vi. Backwash and recovery cleaning, cleaning processes, and intervals; (4-4-13)

vii. Efficiency and process mass balance; (4-4-13)

viii. Waste stream volume, characterization, and disposal method; (4-4-13)

ix. Turbidity; and (4-4-13)

x. Integrity testing results and procedures. (4-4-13)

02. Monitoring and Compliance Requirements for Membranes. Public drinking water systems that use low pressure membrane filtration must comply with the following requirements. (4-4-13)

a. Initial Start-Up. (4-4-13)

i. The Department shall be notified at least one (1) week in advance of the planned start-up date. (4-4-13)

ii. The design engineer shall oversee start-up procedures. (4-4-13)

iii. All monitoring equipment shall be calibrated prior to start-up. (4-4-13)

iv. The system shall pass direct integrity testing prior to going on-line and producing water for distribution. (4-4-13)

v. A method for the disposal of start-up water shall be approved by the Department prior to start-up. (4-4-13)

b. Direct Integrity Testing. (4-4-13)

i. Scale of Testing. Testing must be conducted on each membrane skid in service at least daily for the

first year of operation. (4-4-13)

ii. Resolution. The test method used must have a resolution of three (3) µm or less for Cryptosporidium and Giardia lamblia removal credit. (4-4-13)

iii. Sensitivity. The test method used must have sensitivity sufficient to verify the ability of the membrane filtration system to remove the constituent at a level commensurate with the credit awarded by the Department. (4-4-13)

(1) Formulae for sensitivity calculation for pressure-based tests are available in the Membrane Filtration Guidance Manual referenced in Subsection 002.02. The volumetric concentration factor used in the calculation may be either calculated or determined experimentally. (4-4-13)

(2) Formulae for sensitivity calculation for marker-based tests are available in the Membrane Filtration Guidance Manual referenced in Subsection 002.02. (4-4-13)

iv. Control Limit. A control limit must be established within the sensitivity limits of the direct integrity test that is indicative of an integral membrane unit capable of achieving the log removal credit awarded by the Department. (4-4-13)

(1) If the direct integrity test results exceed the control limit for any membrane unit, that unit must be removed from service. (4-4-13)

(2) Any unit taken out of service for exceeding a direct integrity test control limit cannot be returned to service until repairs are confirmed by subsequent direct integrity test results that are within the control limit. (4-4-13)

v. Frequency. Direct integrity testing must be conducted on each membrane unit at a frequency of at least once per day that the unit is in operation. The Department may extend testing frequency up to a duration of once per week after one (1) year of daily testing showing a less than five percent (5%) testing failure rate for the previous year. During weekly testing, if at any time the system fails more than two (2) direct integrity tests within a three (3) month period, the system shall return to daily testing. (4-4-13)

c. Indirect Integrity Monitoring. (4-4-13)

i. Scale of Testing. Testing must be conducted on each membrane unit in service. (4-4-13)

ii. Monitoring Method. Continuous indirect integrity monitoring must be conducted using turbidity monitoring unless the Department approves an alternative method. (4-4-13)

iii. Frequency. Continuous indirect integrity monitoring must be conducted at a frequency of at least one (1) reading every fifteen (15) minutes. The Department may allow a time delay in reporting compliance turbidity measurements if it can be demonstrated that elevated turbidity readings above fifteen hundredths (0.15) NTU immediately following direct integrity testing or maintenance are the result of factors related to entrained air or membrane wettability and are not related to membrane integrity. (4-4-13)

iv. Control Limit. If the continuous indirect integrity monitoring results exceed the specified control limit for any membrane unit for a period greater than fifteen (15) minutes (i.e., two (2) consecutive readings at fifteen (15) minute intervals), direct integrity testing must be immediately conducted on that unit. (4-4-13)

(1) The control limit for turbidity monitoring is fifteen hundredths (0.15) NTU. (4-4-13)

(2) Control limits for Department approved alternative methods shall be established by the Department. (4-4-13)

d. Operations Plan. A project specific operation and maintenance manual shall be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical

contents of an operation and maintenance manual and the included operations plan. The operations plan in the operation and maintenance manual for membrane systems shall include, but is not limited to the following information: (4-4-13)

i. Filtration: (4-4-13)

(1) Control of feed flow to the membrane system; (4-4-13)

(2) Measurement of inlet/outlet pressures and filtrate flows; (4-4-13)

(3) Measurement of transmembrane pressure changes during filter run; and (4-4-13)

(4) Feed flow control in response to temperature changes. (4-4-13)

ii. Membrane backwashing: (4-4-13)

(1) Programming automated frequency; (4-4-13)

(2) Proper backwash venting and disposal; see Section 540; (4-4-13)

(3) Appropriate backwash rate; and (4-4-13)

(4) Monitoring during return of filter to service. (4-4-13)

iii. Chemical cleaning: (4-4-13)

(1) Selection of proper chemical washing sequence; (4-4-13)

(2) Proper procedures for dilution of chemicals; (4-4-13)

(3) Monitoring of pH through chemical cleaning cycle; (4-4-13)

(4) Rinsing of membrane system following chemical clean; and (4-4-13)

(5) Return of filter to service. (4-4-13)

iv. Chemical feeders (in the case that chemical pretreatment is applied): (4-4-13)

(1) Calibration check; (4-4-13)

(2) Settings and adjustments (how they should be made); and (4-4-13)

(3) Dilution of chemicals and polymers (proper procedures). (4-4-13)

v. Monitoring and observing operation: (4-4-13)

(1) Observation of feed water or pretreated water turbidity; (4-4-13)

(2) Observation of trans-membrane pressure increase between backwashes; (4-4-13)

(3) Filtered water turbidity; (4-4-13)

(4) Procedures to follow if turbidity breakthrough occurs. (4-4-13)

vi. Troubleshooting. A troubleshooting checklist or guide shall be included. Suggested troubleshooting items include but are not limited to the following: (4-4-13)

(1) No raw water (feed water) flow to plant; (4-4-13)

(2) Can't control rate of flow of water through equipment; (4-4-13)

(3) Valving configuration for direct flow and cross-flow operation modes; (4-4-13)

(4) Poor raw water quality (raw water quality falls outside the performance range of the equipment); (4-4-13)

(5) Poor filtrate quality; (4-4-13)

(6) Failed membrane integrity test; (4-4-13)

(7) Low pump feed pressure; (4-4-13)

(8) Automatic operation (if provided) not functioning; (4-4-13)

(9) Filtered water turbidity too high; (4-4-13)

(10) Head loss builds up excessively rapidly; (4-4-13)

(11) Reduced flux; (4-4-13)

(12) Machine will not start and "Power On" indicator off; (4-4-13)

(13) Machine will not start and "Power On" indicator on; (4-4-13)

(14) Pump cavitation; (4-4-13)

(15) Valve stuck or won't operate; and (4-4-13)

(16) No electric power. (4-4-13)

e. Reporting. The sensitivity, resolution, and frequency of the direct integrity test proposed for use with the full-scale facility must be reported to the Department prior to initial operation. The following shall be reported to the Department on a monthly basis: (4-4-13)

i. Any direct integrity test results exceeding the control limit, as well as the corrective action taken in response, must be reported to the Department within ten (10) days of the end of the monthly monitoring cycle on a Department reporting form. The form is available at www.deq.idaho.gov; (4-4-13)

ii. Any continuous indirect integrity monitoring results triggering direct integrity testing, as well as any corrective action taken in response, must be reported to the Department within ten (10) days of the end of the monthly monitoring cycle on a Department reporting form. The form is available at www.deq.idaho.gov; (4-4-13)

iii. Any additional information considered necessary by the Department on a case-specific basis to verify proper operation and maintenance of the membrane filtration process; and (4-4-13)

iv. All direct integrity test results and continuous indirect integrity monitoring results must be retained for a minimum of three (3) years. (4-4-13)

526. -- 528. (RESERVED)

529. FACILITY AND DESIGN STANDARDS: DISINFECTION OF DRINKING WATER, ULTRAVIOLET LIGHT.

01. General. (4-4-13)

a. Ultraviolet (UV) light technology is a primary disinfectant typically used for Cryptosporidium, Giardia lamblia, and virus inactivation of both surface water and ground water supplies. Reactor performance in terms of inactivation of any particular organism is a function of the delivered dose which is determined by validation testing. (4-4-13)

b. UV disinfection credit will be awarded for filtered systems and unfiltered systems if the system meets the requirements for unfiltered systems in 40 CFR 141.71. Systems will receive Cryptosporidium, Giardia lamblia, and virus treatment credits by achieving the corresponding UV dose values for the appropriate target pathogen and log reduction shown in Subsection 529.03, calculated to take into account the validation factor and reduction equivalent dose. The target pathogen and the target log inactivation shall be used to identify the corresponding required UV dose. (4-4-13)

c. For water systems using UV light to meet microbial treatment requirements, at least ninety-five percent (95%) of the water delivered to the public every month must be treated by UV reactors operating within validated conditions for the required UV dose. (4-4-13)

d. When reviewing proposed UV disinfection projects, the Department will use the USEPA UV Disinfection Guidance Manual for the Final Long Term 2 Enhanced Surface Water Treatment Rule referenced in Subsection 002.02 (UV Disinfection Guidance Manual) for guidance. (4-4-13)

02. Pilot Studies and Validation. (4-4-13)

a. The Department may allow on-site pilot studies on a case by case basis. Pilot studies are usually used to determine how much fouling occurs on site, to evaluate UV system reliability (e.g. UV sensors, UV transmittance (UVT) monitors, ballast reliability) and to provide operators experience running a UV system. They may also be used to assess lamp aging or impacts of power quality. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

b. Validation testing determines the operating conditions and monitoring algorithms that the UV system will use to define how much UV dose is being delivered by the reactor during operation. The validated dose as determined through validation testing is compared to the required dose in the UV Dose Table (Subsection 529.03) to determine inactivation credit. The validated dose is calculated by dividing the determined reduction equivalent dose by a validation factor to account for biases and experimental uncertainty. UV light treatment reactors shall be validated by a third party entity approved by the Department. At a minimum, validation testing must account for the following: UV absorbance of the water; lamp fouling and aging; measurement uncertainty of on-line UV sensors; UV dose distributions arising from the velocity profiles through the reactor; failure of UV lamps and other critical system components; inlet and outlet piping configuration of the UV reactor; lamp and UV sensor locations; and other parameters required by the Department. The Department may allow alternative test microbes such as MS2 phage where the UV dose response better matches that of Cryptosporidium and Giardia lamblia to provide more accurate and efficient UV dose monitoring. Additional guidance is available in the UV Disinfection Guidance Manual, referenced in Subsection 002.02, or another validation standard as approved by the Department. (4-4-13)

c. Validation testing shall be conducted on full scale testing of a reactor that conforms uniformly to the UV reactors used by the system and inactivation of a test microorganism whose dose response characteristics have been quantified with a low pressure mercury vapor lamp. (4-4-13)

d. Validation testing must determine and establish validated operating conditions under which the reactor delivers the required UV dose in Subsection 529.03. Validated operating conditions include: (4-4-13)

i. Flow rate; (4-4-13)

ii. UV Intensity as measured by a UV sensor; (4-4-13)

iii. UV lamp operating status. (4-4-13)

e. The department may approve an alternative approach to validation testing. (4-4-13)

03. UV Dose Table. The treatment credits listed in the dose table are based on UV light at a wavelength of two hundred fifty-four (254) nm as produced by a low pressure mercury vapor lamp. To receive treatment credit for other lamp types, the system shall demonstrate an equivalent germicidal dose through validation testing.

UV Dose Table (millijoules per square centimeter)			
Log	**Cryptosporidium**	**Giardia lamblia**	**Virus**
0.5	1.6	1.5	39
1.0	2.5	2.1	58
1.5	3.9	3.0	79
2.0	5.8	5.2	100
2.5	8.5	7.7	121
3.0	12	11	143
3.5	15	15	163
4.0	22	22	186

(4-4-13)

04. Reactor Design. Inlet and outlet conditions shall ensure that UV dose delivery at the plant is equal to or exceeds that utilized during validation. At a minimum, design criteria shall address target pathogen(s), required log inactivation and UV dose, flow rate, UVT, and lamp aging and fouling factors. UVT and flow rate shall be selected to account for seasonal changes in UVT. Lamp aging and fouling factors shall be supported by documentation or pilot study data. Recommended approaches of the UV Disinfection Guidance Manual, referenced in Subsection 002.02, shall be used in meeting this requirement. (4-4-13)

a. The reactor systems must be designed to monitor and record parameters to verify the operation within the validated operating conditions approved by the Department. The system must be equipped with facilities to monitor and record UV intensity as measured by a UV sensor, flow rate, lamp status, UVT, and other parameters designated by the Department. (4-4-13)

b. The ultraviolet treatment device shall be designed to provide a UV light dose equal to or greater than that specified in the UV Dose Table for the required log reduction. The UV Disinfection Guidance Manual, referenced in Subsection 002.02, shall be utilized in evaluating the appropriate dose required for the target microbe. The reactor shall also deliver the target dose while operating within the validated operating conditions for that particular unit. (4-4-13)

c. The ultraviolet treatment assemblies shall be designed to allow for cleaning and replacement of the lamp, lamp sleeves, and sensor window or lens. (4-4-13)

d. All ultraviolet treatment device designs shall evaluate lamp fouling and aging issues and manufacturer's recommendations regarding fouling, aging, and replacement shall be discussed in the Operation and Maintenance Manual. (4-4-13)

e. For in-situ cleaning of the lamp sleeve, the design shall protect the potable water from cleaning solutions. (4-4-13)

f. When off-line chemical cleaning systems are used, the UV enclosure shall be removed from service, drained, flushed with an NSF/ANSI Standard 60 certified solution, drained, and rinsed before being placed back in service. (4-4-13)

g. On-line systems that use wipers or brushes may use chemical solutions provided they are NSF/ ANSI Standard 60 certified. (4-4-13)

h. An automatic shutdown valve shall be installed in the water supply line from the ultraviolet treatment device such that if power is not provided to the reactor or valve, the valve shall be in the closed position. (4-4-13)

i. The design of the inlet and outlet piping configuration and the locations of expansions, bends, tees and valves shall assure that the UV dose delivery is equal to or greater than the required UV dose. Approach length prior to each reactor included in the credited dose calculations, downstream length following each reactor, and locations of any cleaning device/mechanism shall be based on validation testing. (4-4-13)

j. For parallel trains, the flow to each reactor shall be equally distributed and metered or otherwise account for uneven flows in the design to ensure that the required UV dose is delivered to each train under varying flow conditions. (4-4-13)

k. Valves shall be provided to allow isolating and removing from service each UV reactor. (4-4-13)

l. Reactors shall be provided with air relief and pressure control valves per manufacturer requirements. (4-4-13)

m. UVT analyzers shall be provided if UVT is part of the dose monitoring strategy. It is recommended that UVT be monitored on a regular basis for all systems to assess UVT variability. (4-4-13)

n. A single train with a standby reactor or a sufficient number of parallel ultraviolet treatment devices shall be installed to ensure that adequate disinfection is provided when one unit is out of service. The Department may approve an alternate method that provides adequate disinfection such as standby chlorination. Any system that produces water on an irregular schedule may provide documentation for the Department's review and approval that a single reactor would be an acceptable design by demonstrating there would be adequate for time for maintenance and cleaning during operation shutdowns. (4-4-13)

o. No bypass of the ultraviolet treatment process may be installed unless an alternate method of providing adequate disinfection is provided. (4-4-13)

05. Controls. (4-4-13)

a. A delay mechanism shall be installed to provide sufficient lamp warm-up prior to allowing water to flow from the ultraviolet treatment unit. (4-4-13)

b. An automatic shutdown shall be designed to activate the shutdown valve in cases where the ultraviolet light dose falls below the approved design dose or outside of the validated specifications. (4-4-13)

06. Reliability. The system must be capable of producing the plant design capacity at all times. (4-4-13)

a. Standby equipment. Unless otherwise approved by the Department based on documentation provided by the design engineer and in accordance with Subsection 529.04.n., a minimum of two (2) reactors is required to maintain disinfection when one unit is taken out of service. Each reactor must be sized to deliver the required UV dose under the operating conditions of flow and UVT that occur at the plant. The conditions shall fall within the validated range of the reactor as determined during validation testing. (4-4-13)

b. Power supply. The quality and reliability of the power supply shall be analyzed and back-up power supplies shall be discussed in the contingency plan. (4-4-13)

c. Validated operating conditions. If UVT is above the validated range of UVT, the UV dose monitoring algorithm shall default to the maximum of the validated range. If UVT is below the validated range, the UV system operation shall be recorded as outside of the validated operating conditions. When UVT falls outside of

ranges identified in the validated operating conditions, the contingency plan shall be enacted if UVT is part of the dose monitoring strategy. (4-4-13)

d. Contingency plan. A contingency plan for total UV disinfection failure, loss of power, or in the event that water quality changes produce water quality unsuitable for UV disinfection shall be described in the preliminary engineering report. (4-4-13)

07. Monitoring. Water systems using UV light must monitor for the parameters necessary to demonstrate operation within the validated conditions of the required UV dose. PWSs must check the calibration of UV sensors and online UVT monitors and recalibrate in accordance with a protocol approved by the Department. At a minimum, the following parameters must be monitored: (4-4-13)

a. Flow rate. If the flow rate is below the validated range, then the UV dose monitoring algorithm shall default to the validated range. If the flow rate is above the validated range, then the UV system operation shall be recorded as outside of the validated operating conditions; (4-4-13)

b. UV intensity as measured by UV sensors; (4-4-13)

c. UVT if UVT is part of the dose monitoring strategy; and (4-4-13)

d. Lamp status. (4-4-13)

08. Alarms. The settings or predetermined set points for the alarms shall be specified in the preliminary engineering report. The report shall also specify the alarms that shall activate the contingency plan response. At a minimum, the following alarms are required: (4-4-13)

a. Low UV intensity; (4-4-13)

b. High turbidity if required by the Department; (4-4-13)

c. Low UVT; (4-4-13)

d. Low UV dose; (4-4-13)

e. Lamp failure; (4-4-13)

f. UVT monitor failure; (4-4-13)

g. UV sensor failure; (4-4-13)

h. Low water level; and (4-4-13)

i. High flow rate. (4-4-13)

09. Initial Startup. The following items shall be tested and verified before UV disinfected water is distributed: (4-4-13)

a. Electrical components; (4-4-13)

b. Water level; (4-4-13)

c. Flow split between reactor trains if applicable; (4-4-13)

d. Controls and alarms; and (4-4-13)

e. Instrument calibration. (4-4-13)

10. Operation and Maintenance Manual. A project specific operation and maintenance manual shall be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. The operations plan in the operation and maintenance manual shall include, but is not limited to the following information: (4-4-13)

a. Lamp aging and replacement intervals. Lamp replacement intervals may be based on the degree of lamp aging as indicated by the UV sensors; (4-4-13)

b. Lamp fouling analysis and cleaning procedures; (4-4-13)

c. Lamp replacement; and (4-4-13)

d. Lamp breakage. (4-4-13)

530. FACILITY AND DESIGN STANDARDS: DISINFECTION OF DRINKING WATER, DISINFECTING AGENTS.

Disinfection may be accomplished with gas and liquid chlorine, calcium or sodium hypochlorites, chlorine dioxide, ozone, or ultraviolet light. Other disinfecting agents will be considered, providing reliable application equipment is available and testing procedures for a residual are recognized in "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, or an equivalent means of measuring effectiveness exists. The required amount of primary disinfection needed shall be specified by the Department. Consideration must be given to the formation of disinfection by-products (DBP) when selecting the disinfectant. See Section 531, Facility Design Standards - Design Standards for Chemical Application. For public water systems using only ground water and that voluntarily chlorinate, see Subsection 552.04. (4-4-13)

01. Chlorination. (3-30-07)

a. In addition to the requirements of Section 531, chlorination equipment shall meet the following requirements: (4-4-13)

i. Solution-feed gas chlorinators or hypochlorite feeders of the positive displacement type must be provided. (3-30-07)

ii. Standby or backup equipment of sufficient capacity shall be available to replace the largest unit. Spare parts shall be on hand to replace parts subject to wear and breakage. (5-8-09)

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. (4-4-13)

iv. Each eductor (submerged jet pump) must be selected for the point of application with particular attention given to the quantity of chlorine to be added, the maximum injector waterflow, the total discharge back pressure, the injector operating pressure, and the size of the chlorine solution line. (3-30-07)

v. The chlorine solution injector/diffuser must be compatible with the point of application to provide a rapid and thorough mix with all the water being treated. (3-30-07)

vi. Automatic switch-over of chlorination treatment units shall be provided, where necessary, to assure continuous disinfection. (5-8-09)

b. Effective contact time and point of application requirements are as follows: (4-4-13)

i. Effective contact time sufficient to achieve the inactivation of target pathogens under the expected range of raw water pH and temperature variation must be demonstrated through tracer studies or other evaluations or calculations acceptable to the Department. Improving Clearwell Design for CT Compliance, referenced in Section 002.02, contains information that may be used as guidance for these calculations. Additional baffling can be added to new or existing basins to minimize short circuiting and increase contact time. (4-4-13)

ii. At least two (2) contactors shall be provided which are each capable of providing the required effective contact time at one-half (1/2) of the plant design capacity. Alternatively, a single contactor that can provide effective contact time at plant design capacity may be designed with separate sections and bypass piping to allow sections to be cleaned or maintained individually during low flow conditions. Any system that produces water on an irregular schedule may provide documentation for the Department's review and approval that a single contactor would be an acceptable design by demonstrating there would be adequate time for maintenance and cleaning during operation shutdowns. (4-4-13)

iii. At plants treating surface water, except slow sand filtration systems: (4-4-13)

(1) Unless otherwise approved by the Department, in addition to the injection point prior to the disinfection contact tank, injection points shall also be provided for applying the disinfectant to the raw water, settled water, and water entering the distribution system. (4-4-13)

(2) Unless otherwise approved by the Department, chemical piping or tubing shall be installed from the disinfectant feed system to each injection system during the initial construction. (4-4-13)

iv. For pipeline contactors, provision shall be made to drain accumulated sediment from the bottom of the contactor if the discharge from the contactor is not located at the bottom. (4-4-13)

c. Chlorine residual test equipment recognized in the "Standard Methods for the Examination of Water and Wastewater," referenced in Subsection 002.02, shall be provided for use by the operator. All surface water treatment plants that serve a population greater that three thousand three hundred (3,300) must have equipment to measure chlorine residuals continuously entering the distribution system. A sample tap shall be provided to measure chlorine residual and shall be located at a point after receiving the required contact time and at or prior to the first service connection. (5-8-09)

d. Chlorinator piping requirements: (3-30-07)

i. Cross connection protection: The chlorinator water supply piping shall be designed to prevent contamination of the treated water supply by sources of questionable quality. At all facilities treating surface water, pre- and post-chlorination systems must be independent to prevent possible siphoning of partially treated water into the clear well. The water supply to each eductor shall have a separate shut-off valve. No master shut-off valve will be allowed. (3-30-07)

ii. The pipes carrying elemental liquid or dry gaseous chlorine under pressure must be Schedule 80 seamless steel tubing or other materials recommended by the Chlorine Institute (never use PVC). Rubber, PVC, polyethylene, or other materials recommended by the Chlorine Institute must be used for chlorine solution piping and fittings. Nylon products are not acceptable for any part of the chlorine solution piping system. (3-30-07)

02. Disinfection with Ozone. Systems that are required to maintain a disinfectant residual in the distribution system shall supplement ozone disinfection with a chemical disinfectant. (3-30-07)

a. The following are requirements for feed gas preparation: (3-30-07)

i. Feed gas can be air, oxygen enriched air, or high purity oxygen. Sources of high purity oxygen include purchased liquid oxygen conforming with AWWA Standard B-304; on site generation using cryogenic air separation; or temperature, pressure or vacuum swing (adsorptive separation) technology. In all cases, the design engineer must ensure that the maximum dew point of -76°F (-60°C) will not be exceeded at any time. (3-30-07)

ii. Air compression: (3-30-07)

(1) Air compressors shall be of the liquid-ring or rotary lobe, oil-less, positive displacement type for smaller systems or dry rotary screw compressors for larger systems. (3-30-07)

(2) The air compressors shall have the capacity to simultaneously provide for maximum ozone

demand, provide the air flow required for purging the desiccant dryers (where required) and allow for standby capacity. (3-30-07)

(3) Air feed for the compressor shall be drawn from a point protected from rain, condensation, mist, fog and contaminated air sources to minimize moisture and hydrocarbon content of the air supply. (3-30-07)

(4) A compressed air after-cooler, entrainment separator, or a combination of the two (2) with automatic drain shall be provided prior to the dryers to reduce the water vapor. (5-8-09)

(5) A back-up air compressor must be provided so that ozone generation is not interrupted in the event of a break-down. (3-30-07)

iii. Air drying: (3-30-07)

(1) Dry, dust-free and oil-free feed gas must be provided to the ozone generator. Dry gas is essential to prevent formation of nitric acid, to increase the efficiency of ozone generation and to prevent damage to the generator dielectrics. Sufficient drying to a maximum dew point of -76°F (-60°C) must be provided at the end of the drying cycle. (3-30-07)

(2) Drying for high pressure systems may be accomplished using heatless desiccant dryers only. For low pressure systems, a refrigeration air dryer in series with heat-reactivated desiccant dryers shall be used.(3-30-07)

(3) A refrigeration dryer capable of reducing inlet air temperature to 40°F (4°C) shall be provided for low pressure air preparation systems. The dryer can be of the compressed refrigerant type or chilled water type. (3-30-07)

(4) For heat-reactivated desiccant dryers, the unit shall contain two (2) desiccant filled towers complete with pressure relief valves, two (2) four-way valves and a heater. In addition, external type dryers shall have a cooler unit and blowers. The size of the unit shall be such that the specified dew point will be achieved during a minimum adsorption cycle time of sixteen (16) hours while operating at the maximum expected moisture loading conditions. (3-30-07)

(5) Multiple air dryers shall be provided so that the ozone generation is not interrupted in the event of dryer breakdown. (3-30-07)

(6) Each dryer shall be capable of venting “dry” gas to the atmosphere, prior to the ozone generator, to allow start-up when other dryers are “on-line.” (3-30-07)

iv. Air filters: (3-30-07)

(1) Air filters shall be provided on the suction side of the air compressors, between the air compressors and the dryers and between the dryers and the ozone generators. (3-30-07)

(2) The filter before the desiccant dryers shall be of the coalescing type and be capable of removing aerosol and particulates larger than 0.3 microns in diameter. The filter after the desiccant dryer shall be of the particulate type and be capable of removing all particulates greater than 0.1 microns in diameter, or smaller if specified by the generator manufacturer. (3-30-07)

v. Piping in the air preparation system can be common grade steel, seamless copper, stainless steel or galvanized steel. The piping must be designed to withstand the maximum pressures in the air preparation system. (3-30-07)

b. The following requirements apply to the ozone generator: (3-30-07)

i. Capacity. (3-30-07)

(1) The production rating of the ozone generators shall be stated in pounds per day and kWhr per

pound at a maximum cooling water temperature and maximum ozone concentration. (3-30-07)

(2) The design shall ensure that the minimum concentration of ozone in the generator exit gas will not be less than one (1) percent (by weight). (3-30-07)

(3) Generators shall be sized to have sufficient reserve capacity so that the system does not operate at peak capacity for extended periods of time resulting in premature breakdown of the dielectrics. (3-30-07)

(4) The production rate of ozone generators will decrease as the temperature of the coolant increases. If there is to be a variation in the supply temperature of the coolant throughout the year, then pertinent data shall be used to determine production changes due to the temperature change of the supplied coolant. The design shall ensure that the generators can produce the required ozone at maximum coolant temperature. (3-30-07)

(5) Appropriate ozone generator backup equipment must be provided. (3-30-07)

ii. Electrical. The generators can be low, medium or high frequency type. Specifications shall require that the transformers, electronic circuitry and other electrical hardware be proven, high quality components designed for ozone service. (3-30-07)

iii. Cooling. Adequate cooling shall be provided. The cooling water must be properly treated to minimize corrosion, scaling and microbiological fouling of the water side of the tubes. Where cooling water is treated, cross connection control shall be provided to prevent contamination of the potable water supply. (3-30-07)

iv. Materials. To prevent corrosion, the ozone generator shell and tubes shall be constructed of Type 316L stainless steel. (3-30-07)

c. The following requirements apply to ozone contactors: (3-30-07)

i. Bubble diffusers. (3-30-07)

(1) Where disinfection is the primary application, a minimum of two (2) contact chambers, each equipped with baffles to prevent short circuiting and induce countercurrent flow, shall be provided. Ozone shall be applied using porous-tube or dome diffusers. (3-30-07)

(2) The minimum contact time shall be ten (10) minutes. A shorter contact time (CT) may be approved by the Department if justified by appropriate design and "CT" considerations. (3-30-07)

(3) Where taste and odor control is of concern, multiple application points and contactors shall be considered. (3-30-07)

(4) Contactors shall be separate closed vessels that have no common walls with adjacent rooms. The contactor must be kept under negative pressure and sufficient ozone monitors shall be provided to protect worker safety. (3-30-07)

(5) Contact vessels can be made of reinforced concrete, stainless steel, fiberglass or other material which will be stable in the presence of residual ozone and ozone in the gas phase above the water level. If contact vessels are made of reinforced concrete, all reinforcement bars shall be covered with a minimum of one and one-half (1.5) inches of concrete. (3-30-07)

(6) Where necessary, a system shall be provided between the contactor and the off-gas destruct unit to remove froth from the air and return the other to the contactor or other location acceptable to the reviewing authority. If foaming is expected to be excessive, then a potable water spray system shall be placed in the contactor head space. (3-30-07)

(7) All openings into the contactor for pipe connections, hatchways, etc. shall be properly sealed using welds or ozone resistant gaskets such as Teflon or Hypalon. (3-30-07)

(8) Multiple sampling ports shall be provided to enable sampling of each compartment's effluent water and to confirm "CT" calculations. (3-30-07)

(9) A pressure/vacuum relief valve shall be provided in the contactor and piped to a location where there will be no damage to the destruction unit. (3-30-07)

(10) The depth of water in bubble diffuser contactors shall be a minimum of eighteen (18) feet. The contactor shall also have a minimum of three (3) feet of freeboard to allow for foaming. (3-30-07)

(11) All contactors shall have provisions for cleaning, maintenance and drainage of the contactor. Each contactor compartment shall also be equipped with an access hatchway. (3-30-07)

(12) Aeration diffusers shall be fully serviceable by either cleaning or replacement. (3-30-07)

ii. Other contactors, such as the venturi or aspirating turbine mixer contactor, may be approved by the Department provided adequate ozone transfer is achieved and the required contact times and residuals can be met and verified. (3-30-07)

d. The following requirements apply to ozone destruction units: (3-30-07)

i. A system for treating the final off-gas from each contactor must be provided in order to meet safety and air quality standards. Acceptable systems include thermal destruction and thermal/catalytic destruction units. (3-30-07)

ii. The maximum allowable ozone concentration in the discharge is 0.1 ppm (by volume). (3-30-07)

iii. At least two (2) units shall be provided which are each capable of handling the entire gas flow. (3-30-07)

iv. Exhaust blowers shall be provided in order to draw off-gas from the contactor into the destruct unit. (3-30-07)

v. Catalysts must be protected from froth, moisture and other impurities which may harm the catalyst. (3-30-07)

vi. The catalyst and heating elements shall be located where they can easily be reached for maintenance. (3-30-07)

e. Piping materials: Only low carbon 304L and 316L stainless steels shall be used for ozone service with 316L preferred. (3-30-07)

f. The following requirements apply to joints and connections: (3-30-07)

i. Connections on piping used for ozone service are to be welded where possible. (3-30-07)

ii. Connections with meters, valves or other equipment are to be made with flanged joints with ozone resistant gaskets, such as Teflon or Hypalon. Screwed fittings shall not be used because of their tendency to leak. (3-30-07)

iii. A positive closing plug or butterfly valve plus a leak-proof check valve shall be provided in the piping between the generator and the contactor to prevent moisture reaching the generator. (3-30-07)

g. The following requirements apply to instrumentation: (3-30-07)

i. Pressure gauges shall be provided at the discharge from the air compressor, at the inlet to the refrigeration dryers, at the inlet and outlet of the desiccant dryers, at the inlet to the ozone generators and contactors, and at the inlet to the ozone destruction unit. (3-30-07)

ii. Each generator shall have a trip which shuts down the generator when the wattage exceeds a certain preset level. (3-30-07)

iii. Dew point monitors shall be provided for measuring the moisture of the feed gas from the desiccant dryers. Where there is potential for moisture entering the ozone generator from downstream of the unit or where moisture accumulation can occur in the generator during shutdown, post-generator dew point monitors shall be used. (3-30-07)

iv. Air flow meters shall be provided for measuring air flow from the desiccant dryers to each of the other ozone generators, air flow to each contactor, and purge air flow to the desiccant dryers. (3-30-07)

v. Temperature gauges shall be provided for the inlet and outlet of the ozone cooling water and the inlet and outlet of the ozone generator feed gas and, if necessary, for the inlet and outlet of the ozone power supply cooling water. (3-30-07)

vi. Water flow meters shall be installed to monitor the flow of cooling water to the ozone generators and, if necessary, to the ozone power supply. (3-30-07)

vii. Ozone monitors shall be installed to measure zone concentration in both the feed-gas and off-gas from the contactor and in the off-gas from the destruct unit. For disinfection systems, monitors shall also be provided for monitoring ozone residuals in the water. The number and location of ozone residual monitors shall be such that the amount of time that the water is in contact with the ozone residual can be determined. (3-30-07)

viii. A minimum of one ambient ozone monitor shall be installed in the vicinity of the contactor and a minimum of one shall be installed in the vicinity of the generator. Ozone monitors shall also be installed in any areas where ozone gas may accumulate. (3-30-07)

h. Safety requirements are as follows: (3-30-07)

i. The maximum allowable ozone concentration in the air to which workers may be exposed must not exceed one-tenth part per million (0.1 ppm) by volume. (3-30-07)

ii. Noise levels resulting from the operating equipment of the ozonation system shall be controlled to within acceptable limits by special room construction and equipment isolation. (3-30-07)

iii. Emergency exhaust fans must be provided in the rooms containing the ozone generators to remove ozone gas if leakage occurs. (3-30-07)

iv. A sign shall be posted indicating "No smoking, oxygen in use" at all entrances to the treatment plant. In addition, no flammable or combustible materials shall be stored within the oxygen generator areas. (3-30-07)

03. Disinfection with Chlorine Dioxide. Chlorine dioxide may be considered as a primary and residual disinfectant, a pre-oxidant to control tastes and odors, to oxidize iron and manganese, and to control hydrogen sulfide and phenolic compounds. When choosing chlorine dioxide, consideration must be given to formation of the regulated by-products, chlorite and chlorate. (3-30-07)

a. Chlorine dioxide generation equipment shall be factory assembled pre-engineered units with a minimum efficiency of ninety-five (95) percent. The excess free chlorine shall not exceed three (3) percent of the theoretical stoichiometric concentration required. (3-30-07)

b. Other design requirements include: (3-30-07)

i. The design shall comply with all applicable portions of Subsections 530.01.a. through 530.01.d. (3-30-07)

ii. The maximum residual disinfectant level allowed shall be zero point eight (0.8) milligrams per liter (mg/l), even for short term exposures. (3-30-07)

iii. Notification of a change in disinfection practices and the schedule for the changes shall be made known to the public; particularly to hospitals, kidney dialysis facilities and fish breeders, as chlorine dioxide and its by-products may have effects similar to chloramines. (3-30-07)

04. Other Disinfecting Agents. Proposals for use of disinfecting agents other than those listed shall be submitted to the Department for approval prior to preparation of final plans and specifications. (3-30-07)

531. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR CHEMICAL APPLICATION.

01. General Equipment Design. General equipment design shall be such that: (3-30-07)

a. Feeders will be able to supply, at all times, the necessary amounts of chemicals at an accurate rate, throughout the range of feed. (3-30-07)

b. Chemical-contact materials and surfaces are resistant to the aggressiveness of the chemical solution. (3-30-07)

c. Corrosive chemicals are introduced in such a manner as to minimize potential for corrosion. (3-30-07)

d. Chemicals that are incompatible are not stored or handled together. At facilities where more than one (1) chemical is stored or handled, tanks and pipelines shall be clearly labeled to identify the chemical they contain. (3-30-07)

e. All chemicals are conducted from the feeder to the point of application in separate conduits. (3-30-07)

f. Chemical feeders are as near as practical to the feed point. (3-30-07)

g. Chemical feeders and pumps shall operate at no lower than twenty percent (20%) of the feed range unless two fully independent adjustment mechanisms such as pump pulse rate and stroke length are fitted when the pump shall operate at no lower than ten percent (10%) of the rated maximum. (3-30-07)

h. Spare parts shall be on hand for parts of feeders that are subject to frequent wear and damage. (5-8-09)

i. Redundant chemical feeders with automatic switchover shall be provided when necessary to ensure adequate treatment. If the water treatment system includes at least two (2) process trains of equipment so that the plant design capacity can be maintained with any component out of service, redundant chemical feeders are not required on each process train. (4-4-13)

02. Facility Design. (3-30-07)

a. Where chemical feed is necessary for the protection of the supply, such as disinfection, coagulation or other essential processes, a minimum of two feeders shall be provided and a separate feeder shall be used for each chemical applied. (3-30-07)

b. Chemical application control systems shall meet the following requirements: (3-30-07)

i. Feeders may be manually or automatically controlled, with automatic controls being designed so as to allow override by manual controls. (3-30-07)

ii. Chemical feeders shall be controlled by a flow sensing device so that injection of the chemicals will

not continue when the flow of water stops. (3-30-07)

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. (4-4-13)

iv. A means to measure water flow must be provided in order to determine chemical feed rates. (3-30-07)

v. Provisions shall be made for measuring the quantities of chemicals used. (3-30-07)

vi. Weighing scales shall be provided for weighing cylinders at all plants utilizing chlorine gas, fluoride solution feed. (3-30-07)

vii. Weighing scales shall be capable of providing reasonable precision in relation to average daily dose. (5-8-09)

viii. Where conditions warrant, for example with rapidly fluctuating intake turbidity, coagulant and coagulant aid addition may be made according to turbidity, streaming current or other sensed parameter. (3-30-07)

c. Dry chemical feeders shall measure chemicals volumetrically or gravimetrically, provide adequate solution water and agitation of the chemical in the solution pot, and completely enclose chemicals to prevent emission of dust to the operating room. (3-30-07)

d. Positive displacement type solution feed pumps must be capable of operating at the required maximum head conditions found at the point of injection. (3-30-07)

e. Liquid chemical feeders shall be such that chemical solutions cannot be siphoned or overfed into the water supply, by assuring discharge at a point of positive pressure, or providing vacuum relief, or providing a suitable air gap, or providing other suitable means or combinations as necessary. (3-30-07)

f. Cross connection control must be provided to assure that the following requirements are satisfied. (3-30-07)

i. The service water lines discharging to solution tanks shall be properly protected from backflow. (5-8-09)

ii. No direct connection exists between any sewer and a drain or overflow from the feeder, solution chamber or tank by providing that all drains terminate at least six (6) inches or two pipe diameters, whichever is greater, above the overflow rim of a receiving sump, conduit or waste receptacle. (3-30-07)

g. Chemical feed equipment shall be readily accessible for servicing, repair, and observation of operation. (3-30-07)

h. In-plant water supply for chemical mixing shall be: (3-30-07)

i. Ample in quantity and adequate in pressure. (3-30-07)

ii. Provided with means for measurement when preparing specific solution concentrations by dilution. (3-30-07)

iii. Properly treated for hardness, when necessary. (3-30-07)

iv. Properly protected against backflow. (3-30-07)

v. Obtained from a location sufficiently downstream of any chemical feed point to assure adequate mixing. (3-30-07)

i. Chemical storage facilities shall satisfy the following requirements: (3-30-07)

i. Storage tanks and pipelines for liquid chemicals shall be specified for use with individual chemicals and not used for different chemicals. Off-loading areas must be clearly labeled to prevent accidental cross-contamination. (3-30-07)

ii. Chemicals shall be stored in covered or unopened shipping containers, unless the chemical is transferred into an approved storage unit. (3-30-07)

j. Bulk liquid storage tanks shall comply with the following requirements: (5-8-09)

i. A means which is consistent with the nature of the chemical solution shall be provided in a solution tank to maintain a uniform strength of solution. Continuous agitation shall be provided to maintain slurries in suspension. (3-30-07)

ii. Means shall be provided to measure the liquid level in the tank. (3-30-07)

iii. Bulk liquid storage tanks shall be kept covered. Bulk liquid storage tanks with access openings shall have such openings curbed and fitted with overhanging covers. (5-8-09)

iv. Subsurface locations for bulk liquid storage tanks shall be free from sources of possible contamination, and assure positive drainage for ground waters, accumulated water, chemical spills and overflows. (5-8-09)

v. Bulk liquid storage tanks shall be vented, but shall not vent through vents common with day tanks. Acid storage tanks must be vented to the outside atmosphere, but not through vents in common with day tanks. (5-8-09)

vi. Each bulk liquid storage tank shall be provided with a valved drain, protected against backflow. (5-8-09)

vii. Bulk liquid storage tanks shall have an overflow that is turned downward with the end screened with a twenty-four (24) mesh or similar non-corrodible screen, have a free fall discharge, and be located where noticeable. (4-7-11)

viii. Bulk liquid storage tanks shall be provided with secondary containment so that chemicals from equipment failure, spillage, or accidental drainage shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The bulk liquid storage tank basin or the common receiving basin shall provide a secondary containment volume sufficient to hold one hundred ten percent (110%) of the volume of the largest storage tank. Piping shall be designed to minimize or contain chemical spills in the event of pipe ruptures. (4-4-13)

ix. Where chemical feed is necessary for the protection of the supply, a means to assure continuity of chemical supply while servicing a bulk liquid storage tank shall be provided. (5-8-09)

k. Day tanks are subject to the requirements in Subsections 531.02.k.i. through 531.02.k.iv. For the purposes of Section 531, day tanks are defined as liquid chemical tanks holding no more than a thirty (30) hour chemical supply. (5-8-09)

i. Day tanks shall be provided where bulk storage of liquid chemicals are provided. The Department may allow chemicals to be fed directly from shipping containers no larger than fifty-five (55) gallons. (5-8-09)

ii. Day tanks shall meet all the requirements of Subsection 531.02.j., with the exception of Subsection 531.02.j.viii. Shipping containers do not require overflow pipes or drains as required by Subsection 531.02.j. and are not subject to the requirements of Subsection 531.02.j.viii. (5-8-09)

iii. Where feasible, secondary containment shall be provided so that chemicals from equipment failure,

spillage, or accidental drainage of day tanks shall be fully contained. A common receiving basin may be provided for each group of compatible chemicals. The common receiving basin shall provide a secondary containment volume sufficient to hold the volume of the largest storage tank. If secondary containment is not feasible, day tanks shall be located and protective curbings provided so that chemicals from equipment failure, spillage, or accidental drainage of day tanks shall not enter the water in conduits, treatment, or storage basins. Secondary containment is not required for a day tank if an Idaho licensed professional engineer demonstrates to the Department that the chemical concentration and volume, if spilled, will not be a safety hazard to employees, will not be hazardous to the public health, and will not harm the environment. (5-8-09)

iv. Day tanks and the tank refilling line entry points shall be clearly labeled with the name of the chemical contained. (5-8-09)

l. Provisions shall be made for measuring quantities of chemicals used to prepare feed solutions. (3-30-07)

m. Vents from feeders, storage facilities and equipment exhaust shall discharge to the outside atmosphere above grade and remote from air intakes. (3-30-07)

03. Chemicals. Chemical shipping containers shall be fully labeled to include chemical name, purity and concentration, supplier name and address, and evidence of ANSI/NSF certification where applicable. (3-30-07)

04. Safety Requirements for Chemical Facilities. (3-30-07)

a. The following requirements apply to chlorine gas feed and storage rooms: (3-30-07)

i. Each storage room shall be enclosed and separated from other operating areas. They shall be constructed in such a manner that all openings between the chlorine room and the remainder of the plant are sealed, and provided with doors equipped with panic hardware, assuring ready means of exit and opening outward only to the building exterior. (3-30-07)

ii. Each room shall be provided with a shatter resistant inspection window installed in an interior wall. (3-30-07)

iii. Each room shall have a ventilating fan with a capacity which provides one (1) complete air change per minute when the room is occupied. Where this is not appropriate due to the size of the room, a lesser rate may be allowed by the Department on a site specific basis. (3-30-07)

iv. The ventilating fan shall take suction near the floor as far as practical from the door and air inlet, with the point of discharge so located as not to contaminate air inlets to any rooms or structures. Air inlets shall be through louvers near the ceiling. (3-30-07)

v. Louvers for chlorine room air intake and exhaust shall facilitate airtight closure. (3-30-07)

vi. Separate switches for the fan and lights shall be located outside of the chlorine room and at the inspection window. Outside switches shall be protected from vandalism. A signal light indicating fan operation shall be provided at each entrance when the fan can be controlled from more than one (1) point. (3-30-07)

vii. Vents from feeders and storage shall discharge to the outside atmosphere, above grade. (3-30-07)

viii. Where provided, floor drains shall discharge to the outside of the building and shall not be connected to any internal drainage systems or external drainage systems unless the external drainage systems drain to an approved discharge point. (4-4-13)

ix. Chlorinator rooms shall be heated to sixty degrees Fahrenheit (60°F) and be protected from excessive heat. Cylinders and gas lines shall be protected from temperatures above that of the feed equipment. (3-30-07)

x. Pressurized chlorine feed lines shall not carry chlorine gas beyond the chlorinator room. (3-30-07)

xi. Critical isolation valves shall be conspicuously marked and access kept unobstructed. (3-30-07)

xii. All chlorine rooms, buildings, and areas shall be posted with a prominent danger sign warning of the presence of chlorine. (3-30-07)

xiii. Full and empty cylinders of chlorine gas shall be isolated from operating areas and stored in definitely assigned places away from elevators, stairs, or gangways. They shall be restrained in position to prevent being knocked over or damaged by passing or falling objects. In addition, they shall be stored in rooms separate from ammonia storage, out of direct sunlight, and at least twenty (20) feet from highly combustible materials. Cylinders shall not be kept in unventilated enclosures such as lockers and cupboards. (3-30-07)

b. Where acids and caustics are used, they shall be kept in closed corrosion-resistant shipping containers or storage units. Acids and caustics shall not be handled in open vessels, but shall be pumped in undiluted form from original containers through suitable hose to the point of treatment or to a covered day tank. (3-30-07)

c. Sodium chlorite for chlorine dioxide generation. Proposals for the storage and use of sodium chlorite shall be approved by the Department prior to the preparation of final plans and specifications. Provisions shall be made for proper storage and handling of sodium chlorite to eliminate any danger of fire or explosion associated with its oxidizing nature. (3-30-07)

i. Chlorite (sodium chlorite) shall be stored by itself in a separate room. It must be stored away from organic materials. The storage structure shall be constructed of noncombustible materials. If the storage structure must be located in an area where a fire may occur, water must be available to keep the sodium chlorite area cool enough to prevent heat-induced explosive decomposition of the chlorite. (3-30-07)

ii. Care shall be taken to prevent spillage. An emergency plan of operation shall be available for the clean up of any spillage. Storage drums shall be thoroughly flushed prior to recycling or disposal. (3-30-07)

d. Where ammonium hydroxide is used, an exhaust fan shall be installed to withdraw air from high points in the room and makeup air shall be allowed to enter at a low point. The feed pump, regulators, and lines shall be fitted with pressure relief vents discharging outside the building away from any air intake and with water purge lines leading back to the headspace of the bulk storage tank. (3-30-07)

e. Where anhydrous ammonia is used, the storage and feed systems (including heaters where required) shall be enclosed and separated from other work areas and constructed of corrosion resistant materials. (3-30-07)

i. Pressurized ammonia feed lines shall be restricted to the ammonia room. (3-30-07)

ii. An emergency air exhaust system, as described in Subsection 531.04.a., but with an elevated intake, shall be provided in the ammonia storage room. (3-30-07)

iii. Leak detection systems shall be fitted in all areas through which ammonia is piped. (3-30-07)

iv. Special vacuum breaker/regulator provisions must be made to avoid potentially violent results of backflow of water into cylinders or storage tanks. (3-30-07)

v. Consideration shall be given to the provision of an emergency gas scrubber capable of absorbing the entire contents of the largest ammonia storage unit whenever there is a risk to the public as a result of potential ammonia leaks. (3-30-07)

05. Operator Safety. The Idaho General Safety and Health Standards, referenced in Subsection 002.02, may be used as guidance in designing facilities to ensure the safety of operators. The following requirements are in addition to the requirements of Subsection 501.12. (3-30-07)

a. Respiratory protection equipment, meeting the requirements of the National Institute for Occupational Safety and Health (NIOSH) shall be available where chlorine gas is handled, and shall be stored at a convenient heated location, but not inside any room where chlorine is used or stored. The units shall use compressed air, have at least a thirty (30) minute capacity, and be compatible with or exactly the same as units used by the fire department responsible for the plant. (3-30-07)

b. Chlorine leak detection. A bottle of concentrated ammonium hydroxide (fifty-six (56) per cent ammonia solution) shall be available for chlorine leak detection. Where ton containers are used, a leak repair kit approved by the Chlorine Institute shall be provided. (3-30-07)

c. Protective equipment. (3-30-07)

i. At least one pair of rubber gloves, a dust respirator of a type certified by NIOSH for toxic dusts, an apron or other protective clothing, and goggles or face mask shall be provided for each operator. (3-30-07)

ii. A deluge shower and eyewashing device shall be installed where strong acids and alkalis are used or stored. A water holding tank that will allow water to come to room temperature shall be installed in the water line feeding the deluge shower and eyewashing device. Other methods of water tempering will be considered on an individual basis. (5-8-09)

iii. For chemicals other than strong acids and alkalis, an appropriate eye washing device or station shall be provided. (5-8-09)

iv. Other protective equipment shall be provided as necessary. (3-30-07)

06. Design Requirements for Specific Applications. In addition to Subsection 531.01 through 531.03, the following design requirements apply for the specific applications within Subsection 531.06 of this rule. (5-8-09)

a. Sodium chlorite for chlorine dioxide generation. Positive displacement feeders shall be provided. Tubing for conveying sodium chlorite or chlorine dioxide solutions shall be Type 1 PVC, polyethylene or materials recommended by the manufacturer. Chemical feeders may be installed in chlorine rooms if sufficient space is provided. Otherwise, facilities meeting the requirements of chlorine rooms shall be provided. Feed lines shall be installed in a manner to prevent formation of gas pockets and shall terminate at a point of positive pressure. Check valves shall be provided to prevent the backflow of chlorine into the sodium chlorite line. (3-30-07)

b. Hypochlorite facilities shall meet the following requirements: (5-8-09)

i. Hypochlorite shall be stored in the original shipping containers or in hypochlorite compatible containers. Storage containers or tanks shall be sited out of the sunlight in a cool and ventilated area. (5-8-09)

ii. Stored hypochlorite shall be pumped undiluted to the point of addition. Where dilution is unavoidable, deionized or softened water shall be used. (3-30-07)

iii. Storage areas, tanks, and pipe work shall be designed to avoid the possibility of uncontrolled discharges and a sufficient amount of appropriately selected spill absorbent shall be stored on-site. (3-30-07)

iv. Hypochlorite feeders shall be positive displacement pumps with compatible materials for wetted surfaces. (5-8-09)

v. To avoid air locking in smaller installations, small diameter suction lines shall be used with foot valves and degassing pump heads. In larger installations flooded suction shall be used with pipe work arranged to ease escape of gas bubbles. Calibration tubes or mass flow monitors which allow for direct physical checking of actual feed rates shall be fitted. (3-30-07)

vi. Injectors shall be made removable for regular cleaning where hard water is to be treated. (3-30-07)

c. When ammonium sulfate is used, the tank and dosing equipment contact surfaces shall be made of corrosion resistant non-metallic materials. Provision shall be made for removal of the agitator after dissolving the solid. The tank shall be fitted with a lid and vented outdoors. Injection of the solution should take place in the center of treated water flow at a location where there is high velocity movement. (3-30-07)

d. When aqua ammonia (ammonium hydroxide) is used, the feed pumps and storage shall be enclosed and separated from other operating areas. The aqua ammonia room shall be equipped as required for chlorinator rooms with the following changes: (3-30-07)

i. A corrosion resistant, closed, unpressurized tank shall be used for bulk storage, vented through an inert liquid trap to a high point outside and an incompatible connector, or lockout provisions shall be made to prevent accidental addition of other chemicals to the storage tank. (3-30-07)

ii. The storage tank shall be designed to avoid conditions where temperature increases cause the ammonia vapor pressure over the aqua ammonia to exceed atmospheric pressure. This capability can be provided by cooling/refrigeration or diluting or mixing the contents with water without opening the system. (5-8-09)

iii. The aqua ammonia shall be conveyed direct from storage to the treated water stream injector without the use of a carrier water stream unless the carrier stream is softened. (3-30-07)

iv. The point of delivery to the main water stream shall be placed in a region of turbulent water flow. (3-30-07)

v. Provisions shall be made for easy access for removal of calcium scale deposits from the injector. (3-30-07)

532. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR SOFTENING.
The softening process selected must be based upon the mineral qualities of the raw water and the desired finished water quality in conjunction with requirements for disposal of sludge or brine waste (see Section 540), cost of plant, cost of chemicals, and plant location. Applicability of the process chosen shall be demonstrated. (4-4-13)

01. Lime or Lime-Soda Process. Rapid mix, flocculation, and sedimentation processes shall meet the requirements of Section 520. In addition the following requirements must be met: (3-30-07)

a. When split treatment is used, an accurate means of measuring and splitting the flow must be provided. (3-30-07)

b. Rapid mix basins must provide not more than thirty (30) seconds detention time with adequate velocity gradients to keep the lime particles dispersed. (3-30-07)

c. Equipment for stabilization of water softened by the lime or lime-soda process is required, see Section 537. (3-30-07)

d. Mechanical sludge removal equipment shall be provided in the sedimentation basin. (3-30-07)

e. Provisions must be included for proper disposal of softening sludges; see Section 540. (3-30-07)

f. The plant processes must be manually started following shut-down. (3-30-07)

02. Cation Exchange Process. (3-30-07)

a. Pre-treatment is required when the content of iron, manganese, or a combination of the two, is one milligram per liter (1 mg/l) or more. (3-30-07)

b. The units may be of pressure or gravity type, of either an upflow or downflow design. Automatic regeneration based on volume of water softened shall be used unless manual regeneration is justified and is approved by the Department. A manual override shall be provided on all automatic controls. (3-30-07)

c. Rate-of-flow controllers or the equivalent shall be used to control the hydraulic loading of cation exchange units. (3-30-07)

d. The bottoms, strainer systems and support for the exchange resin shall conform to the criteria provided for rapid rate gravity filters in Section 521. (3-30-07)

e. Cross Connection Control. Backwash, rinse and air relief discharge pipes shall be installed in such a manner as to prevent any possibility of back-siphonage. (3-30-07)

f. A bypass must be provided around softening units to produce a blended water of desirable hardness. Totalizing meters must be installed on the bypass line and on each softener unit. The bypass line must have a shutoff valve. (3-30-07)

g. When the applied water contains a chlorine residual, the cation exchange resin shall be a type that is not damaged by residual chlorine. (3-30-07)

h. Smooth-nose sampling taps must be provided for the collection of representative samples. The taps shall be located to provide for sampling of the softener influent, effluent, blended water, and on the brine tank discharge piping. The sampling taps for the blended water shall be at least twenty (20) feet downstream from the point of blending. Petcocks are not acceptable as sampling taps. (3-30-07)

i. Brine and salt storage tanks shall meet the following requirements: (3-30-07)

i. Salt dissolving or brine tanks and wet salt storage tanks must be covered and must be corrosion-resistant. (3-30-07)

ii. The make-up water inlet must be protected from back-siphonage. (3-30-07)

iii. Wet salt storage basins must be equipped with manholes or hatchways for access and for direct dumping of salt from truck or railcar. Openings must be provided with raised curbs and watertight covers having overlapping edges similar to those required for finished water reservoirs. (3-30-07)

iv. Overflows, where provided, must be protected with twenty-four (24) mesh or similar non-corrodible screens, and must terminate with either a turned downed bend having a proper free fall discharge or a self-closing flap valve. (4-7-11)

v. The salt shall be supported on graduated layers of gravel placed over a brine collection system. (3-30-07)

vi. Alternative designs which are conducive to frequent cleaning of the wet salt storage tank may be considered. (3-30-07)

vii. An eductor may be used to transfer brine from the brine tank to the softeners. If a pump is used, a brine measuring tank or means of metering shall be provided to obtain the proper dilution. (3-30-07)

j. Suitable disposal must be provided for brine waste; see Section 540. Where the volume of spent brine must be reduced, consideration may be given to using a part of the spent liquid concentrate for a subsequent regeneration. (3-30-07)

k. Pipes and contact materials must be resistant to the aggressiveness of salt. Plastic and red brass are acceptable piping materials. Steel and concrete must be coated with a non-leaching protective coating which is compatible with salt and brine. (3-30-07)

l. Bagged salt and dry bulk salt storage shall be enclosed and separated from other operating areas in order to prevent damage to equipment. (3-30-07)

533. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR TASTE AND ODOR CONTROL.

Provision shall be made for the control of taste and odor. Chemicals shall be added sufficiently ahead of other treatment processes to assure adequate contact time for an effective and economical use of the chemicals. Where severe taste and odor problems are encountered, in-plant studies, pilot plant studies, or both in-plant and pilot plant studies may be required. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

01. Chlorination. When using chlorination as a method of taste and odor control adequate contact time must be provided to complete the chemical reactions involved. (3-30-07)

02. Chlorine Dioxide. Provisions shall be made for proper storing and handling of the sodium chlorite, so as to eliminate any danger of explosion. (3-30-07)

03. Powdered Activated Carbon. (3-30-07)

a. The carbon can be added as a pre-mixed slurry or by means of a dry-feed machine as long as the carbon is properly wetted. (3-30-07)

b. Continuous agitation or resuspension equipment is necessary to keep the carbon from depositing in the slurry storage tank. (3-30-07)

c. Provision shall be made for adequate dust control. (3-30-07)

d. Powdered activated carbon shall be handled as a potentially combustible material. (3-30-07)

04. Granular Activated Carbon. Replacement of anthracite with GAC may be considered as a control measure for geosmin and methyl isoborneol (MIB) taste and odors from algae blooms in surface water applications. Demonstration studies are required by the Department. (3-30-07)

05. Copper Sulfate and Other Copper Compounds. Continuous or periodic treatment of surface water with copper compounds to kill algae or other growths shall be controlled to prevent copper in excess of one point zero (1.0) milligrams per liter as copper in the plant effluent or distribution system. Care shall be taken to assure an even distribution of the chemical within the treatment area. (3-30-07)

06. Potassium Permanganate. Application of potassium permanganate may be considered, providing the treatment shall be designed so that the products of the reaction are not visible in the finished water. (3-30-07)

07. Ozone. Ozonation may be used as a means of taste and odor control. Adequate contact time must be provided to complete the chemical reactions involved. (3-30-07)

08. Other Methods. Other methods of taste and odor control shall be made only after pilot plant tests and approval of the Department. (3-30-07)

534. FACILITY AND DESIGN STANDARDS: AERATION PROCESSES.

Public water systems that install aeration treatment are subject to the Rules of the Department of Environmental Quality, IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho." The system owner or the design engineer shall contact one of the Department's regional offices for information on obtaining a permit or an exemption for the emissions resulting from the aeration process. General information may be found on the DEQ website http://www.deq.idaho.gov. (3-30-07)

01. Natural Draft Aeration. Design shall provide: (3-30-07)

a. Perforations in the distribution pan three sixteenths to one-half (3/16 – ½) inches in diameter, spaced one to three (1-3) inches on centers to maintain a six (6) inch water depth. (3-30-07)

b. For distribution of water uniformly over the top tray. (3-30-07)

c. Discharge through a series of three (3) or more trays with separation of trays not less than twelve (12) inches. (3-30-07)

d. Loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. (3-30-07)

e. Trays with slotted, heavy wire (1/2 inch openings) mesh or perforated bottoms. (3-30-07)

f. Construction of durable material resistant to aggressiveness of the water and dissolved gases. (3-30-07)

g. Protection from insects by twenty-four (24) mesh or similar non-corrodible screen. (4-7-11)

02. Forced or Induced Draft Aeration. Devices shall be designed to: (3-30-07)

a. Include a blower with a weatherproof motor in a tight housing and screened enclosure. (3-30-07)

b. Ensure adequate counter current of air through the enclosed aerator column. (3-30-07)

c. Exhaust air directly to the outside atmosphere. (3-30-07)

d. Include a down-turned and twenty-four (24) mesh or similar non-corrodible screened air outlet and inlet. (4-7-11)

e. Be such that air introduced in the column shall be as free from obnoxious fumes, dust, and dirt as possible. (3-30-07)

f. Be such that sections of the aerator can be easily reached or removed for maintenance of the interior or installed in a separate aerator room. (3-30-07)

g. Provide loading at a rate of one to five (1-5) gallons per minute for each square foot of total tray area. (3-30-07)

h. Ensure that the water outlet is adequately sealed to prevent unwarranted loss of air. (3-30-07)

i. Discharge through a series of five (5) or more trays with separation of trays not less than six (6) inches or as approved by the Department. (3-30-07)

j. Provide distribution of water uniformly over the top tray. (3-30-07)

k. Be of durable material resistant to the aggressiveness of the water and dissolved gases. (3-30-07)

03. Spray Aeration. Design shall provide: (3-30-07)

a. A hydraulic head of between five (5) and twenty-five (25) feet. (3-30-07)

b. Nozzles, with the size, number, and spacing of the nozzles being dependent on the flowrate, space, and the amount of head available. (3-30-07)

c. Nozzle diameters in the range of one (1) to one and one-half (1.5) inches to minimize clogging. (3-30-07)

d. An enclosed basin to contain the spray. Any openings for ventilation must be protected with a twenty-four (24) mesh or similar non-corrodible screen. (4-7-11)

04. Pressure Aeration. Pressure aeration may be used for oxidation purposes only if the pilot plant study indicates the method is applicable; it is not acceptable for removal of dissolved gases. See Subsection 501.19

for general information on conducting pilot studies. Filters following pressure aeration must have adequate exhaust devices for release of air. Pressure aeration devices shall be designed to give thorough mixing of compressed air with water being treated and provide twenty-four (24) mesh or similar non-corrodible screened and filtered air, free of obnoxious fumes, dust, dirt and other contaminants. (4-4-13)

05. Packed Tower Aeration. Packed tower aeration may be used for the removal of volatile organic chemicals, trihalomethanes, carbon dioxide, and radon. Final design shall be based on the results of pilot studies and be approved by the Department. (3-30-07)

a. Process design criteria. (3-30-07)

i. Justification for the design parameters selected (i.e., height and diameter of unit, air to water ratio, packing depth, surface loading rate, etc.) shall be provided to the Department for review. The pilot study shall evaluate a variety of loading rates and air to water ratios at the peak contaminant concentration. Special consideration shall be given to removal efficiencies when multiple contaminations occur. Where there is considerable past performance data on the contaminant to be treated and there is a concentration level similar to previous projects, the Department may approve the process design based on use of appropriate calculations without a pilot study. (4-4-13)

ii. The tower shall be designed to reduce contaminants to below the maximum contaminant level and to the lowest practical level. (3-30-07)

iii. The type and size of the packing used in the full scale unit shall be the same as that used in the pilot study. (3-30-07)

iv. The maximum air to water ratio for which credit will be given is 80:1. (3-30-07)

v. The design shall consider potential fouling problems from calcium carbonate and iron precipitation and from bacterial growth. It may be necessary to provide pretreatment. Disinfection capability shall be provided prior to and after packed tower aeration. (3-30-07)

vi. The effects of temperature shall be considered. (3-30-07)

vii. Redundant packed tower aeration capacity at the design flowrate shall be provided. (3-30-07)

b. The tower may be constructed of stainless steel, concrete, aluminum, fiberglass or plastic. Uncoated carbon steel is not allowed. Towers constructed of light-weight materials shall be provided with adequate support to prevent damage from wind. Packing materials shall be resistant to the aggressiveness of the water, dissolved gases and cleaning materials and shall be suitable for contact with potable water. (3-30-07)

c. Water flow system. (3-30-07)

i. Water shall be distributed uniformly at the top of the tower using spray nozzles or orifice-type distributor trays that prevent short circuiting. (3-30-07)

ii. A mist eliminator shall be provided above the water distributor system. (3-30-07)

iii. A side wiper redistribution ring shall be provided at least every ten (10) feet in order to prevent water channeling along the tower wall and short circuiting. (3-30-07)

iv. Sample taps shall be provided in the influent and effluent piping. The sample taps shall satisfy the requirements of Subsection 501.09. (5-8-09)

v. The effluent sump, if provided, shall have easy access for cleaning purposes and be equipped with a drain valve. The drain shall not be connected directly to any storm or sanitary sewer. (3-30-07)

vi. The design shall prevent freezing of the influent riser and effluent piping when the unit is not operating. (3-30-07)

vii. The water flow to each tower shall be metered. (3-30-07)

viii. An overflow line shall be provided which discharges twelve (12) to fourteen (14) inches above a splash pad or drainage inlet. Proper drainage shall be provided to prevent flooding of the area. (3-30-07)

ix. Means shall be provided to prevent flooding of the air blower. (3-30-07)

d. Air flow system. (3-30-07)

i. The air inlet to the blower and the tower discharge vent shall be down-turned and protected with a non-corrodible twenty-four (24) mesh screen to prevent contamination from extraneous matter. (3-30-07)

ii. The air inlet shall be in a protected location. (3-30-07)

iii. An air flow meter shall be provided on the influent air line or an alternative method to determine the air flow shall be provided. (3-30-07)

iv. A positive air flow sensing device and a pressure gauge must be installed on the air influent line. The positive air flow sensing device must be a part of an automatic control system which will turn off the influent water if positive air flow is not detected. The pressure gauge will serve as an indicator of fouling buildup. (3-30-07)

v. A backup motor for the air blower must be readily available. (3-30-07)

e. Other features that shall be provided: (3-30-07)

i. A sufficient number of access ports with a minimum diameter of twenty-four (24) inches to facilitate inspection, media replacement, media cleaning and maintenance of the interior. (3-30-07)

ii. A method of cleaning the packing material when iron, manganese, or calcium carbonate fouling may occur. (3-30-07)

iii. Tower effluent collection and pumping wells constructed to clearwell standards. (3-30-07)

iv. Provisions for extending the tower height without major reconstruction. (3-30-07)

v. No bypass shall be provided unless specifically approved by the Department. (3-30-07)

vi. Disinfection and adequate contact time after the water has passed through the tower and prior to the distribution system. (3-30-07)

vii. Adequate packing support to allow free flow of water and to prevent deformation with deep packing heights. (3-30-07)

viii. Operation of the blower and disinfectant feeder equipment during power failures. (3-30-07)

ix. Adequate foundation to support the tower and lateral support to prevent overturning due to wind loading. (3-30-07)

x. Fencing and locking gate to prevent vandalism. (3-30-07)

xi. An access ladder with safety cage for inspection of the aerator including the exhaust port and de-mister. (3-30-07)

xii. Electrical interconnection between blower, disinfectant feeder and supply pump. (3-30-07)

06. Other Methods of Aeration. Other methods of aeration may be used if applicable to the treatment

needs. Such methods include but are not restricted to spraying, diffused air, cascades and mechanical aeration. The treatment processes are subject to the approval of the Department. (3-30-07)

07. Protection of Aerators. All aerators except those discharging to lime softening or clarification plants shall be protected from contamination by birds, insects, wind borne debris, rainfall and water draining off the exterior of the aerator. (3-30-07)

08. Disinfection. Ground water supplies exposed to the atmosphere by aeration must receive disinfection as described in Section 530 as the minimum additional treatment. (4-4-13)

535. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR IRON AND MANGANESE CONTROL SYSTEMS.

Iron and manganese control, as used herein, refers solely to treatment processes designed specifically for this purpose. The treatment process used will depend upon the character of the raw water. The selection of one (1) or more treatment processes must meet specific local conditions as determined by engineering investigations, including chemical analyses of representative samples of water to be treated, and receive the approval of the Department. The Department may require a pilot plant study in order to gather all information pertinent to the design. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

01. Removal by Oxidation, Detention and Filtration. (3-30-07)

a. Oxidation may be by aeration or by chemical oxidation with chlorine, potassium permanganate, ozone or chlorine dioxide. (3-30-07)

b. Detention time: (3-30-07)

i. A minimum detention time of thirty (30) minutes shall be provided following aeration to ensure that the oxidation reactions are as complete as possible. This minimum detention may be omitted only where a pilot plant study indicates no need for detention. The detention basin may be designed as a holding tank without provisions for sludge collection but with sufficient baffling to prevent short circuiting. (3-30-07)

ii. Sedimentation basins shall be provided when treating water with high iron or manganese content, or where chemical coagulation is used to reduce the load on the filters. Provisions for sludge removal shall be made. (5-8-09)

c. Filtration. Rapid rate pressure filters are normally used for iron and manganese removal. Pressure filters shall not be used in the filtration of surface or other polluted waters or following lime-soda softening. (3-30-07)

i. The rate of filtration shall not exceed three (3) gallons per minute per square foot of filter area except where in-plant testing as approved by the Department has demonstrated satisfactory results at higher rates. (3-30-07)

ii. The filters shall be designed to provide for: (3-30-07)

(1) Loss of head gauges on the inlet and outlet pipes of each battery of filters. (3-30-07)

(2) An easily readable meter or flow indicator on each battery of filters. (3-30-07)

(3) Filtration and backwashing of each filter individually with an arrangement of piping as simple as possible to accomplish these purposes. (3-30-07)

(4) Minimum side wall shell height of five (5) feet. A corresponding reduction in side wall height is acceptable where proprietary bottoms permit reduction of the gravel depth. (3-30-07)

(5) The top of the wash water collectors to be at least eighteen (18) inches above the surface of the media, (3-30-07)

(6) The underdrain system to efficiently collect the filtered water and to uniformly distribute the backwash water at a rate not less than fifteen (15) gallons per minute per square foot of filter area. (3-30-07)

(7) Backwash flow indicators and controls that are easily readable while operating the control valves. (3-30-07)

(8) An air release valve on the highest point of each filter. (3-30-07)

(9) An accessible manhole to facilitate inspection and repairs for filters thirty-six (36) inches or more in diameter. Sufficient handholds shall be provided for filters less than thirty-six (36) inches in diameter. (3-30-07)

(10) A means to observe the wastewater during backwashing and construction to prevent cross connection. (3-30-07)

02. Removal by Manganese Coated Media Filtration. This process consists of a continuous or batch feed of potassium permanganate to the influent of a manganese coated media filter. (3-30-07)

a. Other oxidizing agents or processes such as chlorination or aeration may be used prior to the permanganate feed to reduce the cost of the chemical. (3-30-07)

b. An anthracite media cap of at least six (6) inches or more as required by the Department shall be provided over manganese coated media. (3-30-07)

c. Normal filtration rate shall be three (3) gallons per minute per square foot. (3-30-07)

d. Normal wash rate shall be eight (8) to ten (10) gallons per minute per square foot with manganese greensand and fifteen (15) to twenty (20) gallons per minute with manganese coated media. (3-30-07)

e. Sample taps shall be provided prior to application of permanganate, immediately ahead of filtration, at points between the anthracite media, and at the filter effluent. The sample taps shall satisfy the requirements of Subsection 501.09. (5-8-09)

03. Removal by Ion Exchange. This process is not acceptable where either the raw water or wash water contains dissolved oxygen or other oxidants. (3-30-07)

04. Biological Removal. Biofiltration to remove manganese, iron, or a combination of manganese and iron requires on-site piloting testing to establish effectiveness. The final filter design shall be based on the on-site pilot plant studies. (5-8-09)

05. Sequestration by Polyphosphates. This process shall not be used when iron, manganese or a combination thereof exceeds one point zero (1.0) mg/l. The total phosphate applied shall not exceed ten (10) mg/l as PO_4. Where phosphate treatment is used, satisfactory chlorine residuals shall be maintained in the distribution system. Possible adverse affects on corrosion must be addressed when phosphate addition is proposed for iron sequestering. (3-30-07)

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless it is demonstrated to the satisfaction of the Department that the phosphate solution is not able to support bacterial growth and the phosphate solution is being fed from the covered shipping container or an approved disinfected tank. Phosphate solutions having a pH of two point zero (2.0) or less may also be exempted from this requirement by the Department. (4-4-13)

b. Polyphosphates shall not be applied ahead of iron and manganese removal treatment. The point of application shall be prior to any aeration, oxidation or disinfection if no iron or manganese removal treatment is provided. (3-30-07)

06. Sequestration by Sodium Silicates. Sodium silicate sequestration of iron and manganese is

allowed only for ground water supplies prior to air contact. On-site pilot studies are required to determine the suitability of sodium silicate for the particular water and the minimum feed needed. Rapid oxidation of the metal ions such as by chlorine or chlorine dioxide must accompany or closely precede the sodium silicate addition. (4-4-13)

a. Sodium silicate addition is applicable to waters containing up to two (2) mg/l of iron, manganese or combination thereof. (3-30-07)

b. Chlorine residuals shall be maintained throughout the distribution system to prevent biological breakdown of the sequestered iron. (3-30-07)

c. The amount of silicate added shall be limited to twenty (20) mg/l as SiO_2, but the amount of added and naturally occurring silicate shall not exceed sixty (60) mg/l as SiO_2. (3-30-07)

d. Sodium silicate shall not be applied ahead of iron or manganese removal treatment. (3-30-07)

07. Sampling Taps. Smooth-nosed sampling taps shall be provided for control purposes. Taps shall be located on each raw water source, each treatment unit influent and each treatment unit effluent. The sample taps shall satisfy the requirements of Subsection 501.09. (5-8-09)

536. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR FLUORIDATION.

01. Chemical Feed Equipment and Methods. In addition to the requirements in Section 531, fluoride feed equipment shall meet the following requirements: (3-30-07)

a. Scales, loss-of-weight recorders or liquid level indicators, as appropriate, accurate to within five (5) percent of the average daily change in reading shall be provided for chemical feeds. (3-30-07)

b. The accuracy of chemical feeders used for fluoridation shall be plus or minus five (5) percent of the intended dose. (3-30-07)

c. Unsealed storage units for fluorosilicic acid shall be vented to the atmosphere at a point outside any building. (3-30-07)

d. Fluoride compound shall not be added before lime-soda softening or ion exchange softening. (3-30-07)

e. The point of application of fluorosilicic acid, if into a horizontal pipe, shall be in the lower half of the pipe. (3-30-07)

f. A fluoride solution shall be applied by a positive displacement pump having a stroke rate not less than twenty (20) strokes per minute, and at a feed rate not less than twenty (20) percent of the rated capacity of the feed pump. (3-30-07)

g. A spring opposed diaphragm type anti-siphon device shall be provided for all fluoride feed lines and dilution water lines. (3-30-07)

h. Except for constant flow systems, a device to measure the flow of water to be treated is required. (3-30-07)

i. The dilution water pipe shall terminate at least two (2) pipe diameters above the solution tank. (3-30-07)

j. Water used for sodium fluoride dissolution shall be softened if hardness exceeds seventy-five (75) mg/l as calcium carbonate. (3-30-07)

k. Fluoride solutions shall be injected at a point of continuous positive pressure or a suitable air gap provided. (3-30-07)

l. The electrical outlet used for the fluoride feed pump shall be interconnected with the well or service pump. (3-30-07)

m. Consideration shall be given to providing a separate room for fluorosilicic acid storage and feed. (3-30-07)

02. Secondary Controls. Secondary control systems for fluoride chemical feed devices shall be provided as a means of reducing the possibility for overfeed; these may include flow or pressure switches or other devices. (3-30-07)

03. Dust Control. Provision must be made for the transfer of dry fluoride compounds from shipping containers to storage bins or hoppers in such a way as to minimize the quantity of fluoride dust which may enter the room in which the equipment is installed. The enclosure shall be provided with an exhaust fan and dust filter which places the hopper under a negative pressure. Air exhausted from fluoride handling equipment shall discharge through a dust filter to the outside atmosphere of the building. (3-30-07)

537. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR STABILIZATION.
Water that is unstable due either to natural causes or to subsequent treatment shall be stabilized. The expected treated water quality shall be evaluated to determine what, if any, treatment is necessary. (3-30-07)

01. Carbon Dioxide Addition. (3-30-07)

a. Recarbonation basin design shall provide the following: (3-30-07)

i. A total detention time of twenty (20) minutes. (3-30-07)

ii. A mixing compartment having a detention time of at least three (3) minutes. (3-30-07)

iii. A reaction compartment. (3-30-07)

iv. The mixing and reaction compartments shall have a depth sufficient to provide a diffuser submergence of not less than seven and one-half (7.5) feet and no greater than the manufacturer's recommendation. (3-30-07)

b. Where liquid carbon dioxide is used, adequate precautions must be taken to prevent carbon dioxide from entering the plant from the recarbonation process. (3-30-07)

c. Recarbonation tanks shall be located outside or be sealed and vented to the outside with adequate seals and adequate purge flow of air to ensure workers safety. (3-30-07)

d. Provisions shall be made for draining the recarbonation basin and removing sludge. (3-30-07)

02. Phosphates. The feeding of phosphates may be used for sequestering calcium, for corrosion control, and in conjunction with alkali feed following ion exchange softening. (3-30-07)

a. Stock phosphate solution must be kept covered and disinfected by carrying approximately ten (10) mg/l free chlorine residual unless the phosphate is not able to support bacterial growth and the phosphate is being fed from the covered shipping container. Phosphate solutions having a pH of two point zero (2.0) or less are exempted from this requirement. (3-30-07)

b. Satisfactory chlorine residuals shall be maintained in the distribution system when phosphates are used. (3-30-07)

03. Split Treatment. Raw water may be blended with lime-softened water to partially stabilize the water prior to secondary clarification and filtration. Treatment plants designed to utilize split treatment shall also contain facilities for further stabilization by other methods. (3-30-07)

04. Water Unstable Due to Biochemical Action in Distribution System. Unstable water resulting from the bacterial decomposition of organic matter in water (especially in dead end mains), the biochemical action within tubercles, and the reduction of sulfates to sulfides shall be prevented by the maintenance of a free or combined chlorine residual throughout the distribution system. (5-8-09)

538. – 539. (RESERVED)

540. FACILITY AND DESIGN STANDARDS: DESIGN STANDARDS FOR TREATMENT AND DISPOSAL OF TREATMENT PLANT WASTE RESIDUALS.
Provisions must be made for proper disposal of water treatment plant waste such as sanitary, laboratory, clarification sludge, softening sludge, iron sludge, filter backwash water, and liquid concentrates. In locating waste disposal facilities, due consideration shall be given to preventing potential contamination of the water supply. (3-30-07)

01. Sanitary Waste. The sanitary waste from water treatment plants, pumping stations, and other waterworks installations must receive treatment. Waste from these facilities shall be discharged directly to a sanitary sewer system, when available and feasible, or to an adequate on-site waste treatment facility approved under the provisions of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (3-30-07)

02. Liquid Concentrates. (3-30-07)

a. Waste from ion exchange plants, demineralization plants, reverse osmosis, on-site chlorine generators, or other plants which produce liquid concentrates may be disposed of by the following methods: (4-4-13)

i. Liquid concentrates that contain radionuclides must be further treated to remove the radioactive constituents as sludge. See Subsection 540.03.e. for disposal requirements for sludge that contains radionuclides. The residual liquids from which radionuclides have been removed may be disposed of in accordance with Subsections 540.02.a.ii. through 540.02.a.iv. (4-4-13)

ii. Controlled discharge to a stream or other receiving water body if adequate dilution is available. Such discharge will require a National Pollution Elimination System Permit from the U.S. Environmental Protection Agency, Region 10, 1200 Sixth Avenue, Seattle, WA 98101, Telephone (206) 553-1200. (3-30-07)

iii. Liquid concentrates may be discharged to a sanitary sewer, if available and feasible. Acceptance of such waste must be approved by the sewer authority. (3-30-07)

iv. Subsurface disposal or land application of liquid concentrates may be permitted, but only if such discharge meets the requirements of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules" for subsurface disposal or the requirements of IDAPA 58.01.17, "Recycled Water Rules" for land application. (5-8-09)

b. Should the nature of the liquid concentrate cause it to be ineligible for permitted discharge as described in Subsection 540.02.a., further onsite treatment of the liquid concentrate may be required in order to produce sludge and liquid waste that will meet the permit criteria for one (1) or more of the disposal options. (3-30-07)

03. Sludge Waste. Sludge is the solid waste resulting from coagulation, precipitation, or passive settling of liquid concentrates. Depending on composition, liquids remaining after sludge removal may be disposed of by methods described in Subsection 540.02, recycled through the treatment plant, or may be pure enough to be unregulated. The following methods of treatment and disposal apply to sludge: (3-30-07)

a. Precipitative Softening Sludge. (3-30-07)

i. At least two (2) temporary storage lagoons must be provided in order to give flexibility in operation. Provisions must be made for convenient cleaning. An acceptable means of final sludge disposal must be provided. (3-30-07)

ii. Liquid or dewatered precipitative softening sludge may be applied to farm land if heavy metals or other contaminants do not exceed the requirements of IDAPA 58.01.02, "Water Quality Standards." (3-30-07)

iii. Dewatered precipitative softening sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. (3-30-07)

b. Alum or Ferric Sludge. (3-30-07)

i. Temporary storage lagoons must contain at least two (2) compartments to facilitate independent filling and dewatering operations. Mechanical concentration may be considered. If mechanical dewatering is used, it shall be preceded by sludge concentration and chemical pre-treatment. A pilot plant study is required before the design of a mechanical dewatering installation. See Subsection 501.19 for general information on conducting pilot studies. (4-4-13)

ii. Alum or ferric sludge may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. (3-30-07)

iii. Dewatered alum or ferric sludge may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste is at the discretion of the landfill authority. (3-30-07)

iv. Alum or ferric sludge may be disposed of by land application if the permitting requirements of IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.17, "Recycled Water Rules," are met. (3-30-07)

v. Water removed from alum or ferric sludge may be disposed of in the same manner as liquid concentrates, as described in Subsection 540.02. (3-30-07)

c. Red Water. Red water is the waste filter wash water from iron and manganese removal plants. (3-30-07)

i. If sand filters are used they shall have the following features: (3-30-07)

(1) Total filter area shall be sufficient to adequately dewater applied solids. Unless the filter is small enough to be cleaned and returned to service in one (1) day, two (2) or more cells are required. (3-30-07)

(2) The "red water" filter shall have sufficient capacity to contain, above the level of the sand, the entire volume of wash water produced by washing all of the production filters in the plant, unless the production filters are washed on a rotating schedule and the flow through the production filters is regulated by true rate of flow controllers. Then sufficient volume shall be provided to properly dispose of the wash water involved. (3-30-07)

(3) Where freezing is a problem, provisions should be made for covering the filters during the winter months. (3-30-07)

(4) "Red water" filters shall not have common walls with finished water. (3-30-07)

ii. Subsurface infiltration lagoons may be permitted, but only if such discharge meets the requirements of IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules." (3-30-07)

iii. "Red water" may be discharged to a sanitary sewer if available and feasible. Acceptance of such waste must be approved by the sewer authority. Design shall prevent cross connections and there shall be no common walls between potable and non-potable fluid. (4-4-13)

d. Filter Backwash Water. (3-30-07)

i. Recycling is permitted if the backwash waters are returned to the head of the treatment plant or another entry point if supported by engineering studies. Backwash water shall be held for a sufficient time prior to

recycling to allow solids to settle out. (3-30-07)

ii. Dewatered sludge from backwash water clarification processes may be disposed of in a sanitary landfill in accordance with the requirements of IDAPA 58.01.06, "Solid Waste Management Rules." Acceptance of such waste must be approved by the landfill authority. (3-30-07)

e. Radioactive Sludge. Waste residuals containing radioactive substances, including, but not limited to granular activated carbon used for radon removal or ion-exchange regeneration waste from uranium removal, must be disposed of in accordance with IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials Not Regulated Under The Atomic Energy Act of 1954, As Amended." (3-30-07)

i. The buildup of radioactive materials such as uranium or radon and its decay products shall be considered and adequate shielding and safeguards shall be provided for operators and visitors. (3-30-07)

ii. Waste residuals containing naturally occurring radioactive materials that have been concentrated by human activities must be disposed of in an approved hazardous waste landfill (Class D), in accordance with the IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended," and IDAPA 58.01.06, "Solid Waste Management Rules." (3-30-07)

iii. Waste residuals containing greater than point zero five (.05) percent by weight of uranium are subject to licensing and disposal under the regulations of the U.S. Nuclear Regulatory Commission, Region IV, 611 Ryan Plaza Drive, Suite 400, Arlington, TX 76011, Phone 817-860-8299. (3-30-07)

f. Arsenic Sludge. Solid waste residuals containing arsenic at a concentration less than five (5) mg/l may be disposed of at a sanitary landfill if permitted under IDAPA 58.01.06, "Solid Waste Management Rules." Solid waste containing arsenic at a concentration greater than five (5) mg/l must be disposed of at an approved hazardous waste landfill. Liquid wastes generated by arsenic treatment processes are subject to the handling and disposal requirements for liquid concentrates, as discussed under Subsection 540.02. (3-30-07)

04. Spent Media. Exhausted ion exchange media, adsorption media, disposable filters, and other components of treatment processes that contain concentrated contaminants shall be disposed of in accordance with IDAPA 58.01.06, "Solid Waste Management Rules," and/or IDAPA 58.01.10, "Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended." (3-30-07)

541. FACILITY AND DESIGN STANDARDS: PUMPING FACILITIES.

Pumping facilities shall be designed to maintain the sanitary quality of pumped water. (3-30-07)

01. Pump Houses. Unless otherwise approved by the Department based on documentation provided by the design engineer, pump house components shall be located above-grade. The following requirements apply to pump houses as defined in Section 003 unless it can be shown that some or all of these requirements are not needed to protect the combination of system components in a given structure: (4-4-13)

a. Pump houses shall be readily accessible for operation, maintenance, and repair at all times and under all weather conditions unless permitted to be out of service for a period of inaccessibility. (3-30-07)

b. Pump houses shall be protected from flooding and shall be adequately drained. The ground surface shall be graded so as to lead surface drainage away from the pump house. Unless otherwise approved by the Department based on documentation provided by the design engineer, the floor surface shall be at least six (6) inches above the final ground surface and pump house components shall be located at least six (6) inches above the floor surface. (4-4-13)

c. Pump houses shall be of durable construction, fire and weather resistant, and with outward-opening doors. All underground structures shall be waterproofed. (3-30-07)

d. Provisions shall be made for adequate heating for the comfort of the operator and the safe and efficient operation of the equipment. In pump houses not occupied by personnel, only enough heat need be provided to prevent freezing of equipment or treatment processes. (3-30-07)

e. Ventilation shall conform to existing local and/or state codes. Adequate ventilation shall be provided for all pumping stations for operator comfort and dissipation of excess heat and moisture from the equipment. In all cases, measures must be taken to minimize corrosion of metallic and electrical components. (3-30-07)

f. Pump houses shall be provided with a locking door or access to prohibit unauthorized entrance and shall be protected to prevent vandalism and entrance by animals. Plans and specifications for pump houses must provide enough detail to enable the reviewing engineer to determine that the facility is secure, safe, accessible, and that it conforms to electrical and plumbing codes. (3-30-07)

g. Pump houses shall be kept clean and in good repair and shall not be used to store toxic or hazardous materials other than those materials required for treatment processes. (3-30-07)

h. A suitable outlet shall be provided for drainage from pump glands without discharging onto the floor. (3-30-07)

i. Floor drains shall not be connected to sewers, storm drains, chlorination room drains, or any other source of contamination unless otherwise approved by the Department based on documentation provided by the design engineer. Gas chlorination room drains shall not be connected to any other drainage system and should terminate in a properly located below ground sump. Sumps for pump house floor drains shall not be closer than thirty (30) feet from any well. (4-4-13)

j. Adequate space shall be provided for the installation of potential additional units and for the safe and efficient servicing of all equipment. (5-8-09)

k. Suction basins shall be watertight, have floors sloped to permit removal of water and settled solids, be covered or otherwise protected against contamination, and have two (2) pumping compartments or other means to allow the suction basin to be taken out of service for inspection maintenance or repair. (3-30-07)

l. Pump houses shall be designed to allow efficient equipment servicing. Crain-ways, hoist beams, eyebolts, or other adequate facilities for servicing or removal of pumps, motors or other heavy equipment shall be provided. Openings in floors, roofs or wherever else shall be provided as needed for removal of heavy or bulky equipment. (3-30-07)

m. All remote controlled stations shall be electrically operated and controlled and shall have signaling apparatus of proven performance. Signaling apparatus shall report automatically when the station is out of service. (3-30-07)

n. Any threaded hose bib installed in the pump house must be equipped with an appropriate backflow prevention device. (3-30-07)

02. Pumping Units. At least two (2) pumping units shall be provided for raw water and surface source pumps. Pumps using seals containing mercury shall not be used in public drinking water system facilities. With any pump out of service, the remaining pump or pumps shall be capable of providing the peak hour demand of the system or a minimum of the maximum day demand plus equalization storage. See Subsection 501.18 for general design requirements concerning fire flow capacity and Subsection 501.07 regarding reliability and emergency operation. The pumping units shall meet the following requirements: (5-8-09)

a. The pumps shall have ample capacity to supply the maximum demand against the required pressure without dangerous overloading. (3-30-07)

b. The pumps shall be driven by prime movers able to meet the maximum horsepower condition of the pumps. (3-30-07)

c. The pumps shall be provided with readily available spare parts and tools. (3-30-07)

d. The pumps shall be served by control equipment that has proper heater and overload protection for air temperature encountered. (3-30-07)

e. Suction lift shall be avoided if possible. When suction lift is used, it shall be within the limits allowed by the manufacturer of the pumps, and provision shall be made for priming the pumps. (3-30-07)

f. Prime water must not be of lesser sanitary quality than that of the water being pumped. Means shall be provided to prevent either backpressure or backsiphonage backflow. When an air-operated ejector is used, the twenty-four (24) mesh or similar non-corrodible screened intake shall draw clean air from a point at least ten (10) feet above the ground or other source of possible contamination, unless the air is filtered by an apparatus approved by the reviewing authority. Vacuum priming may be used. (4-7-11)

03. Appurtenances. The following appurtenances shall be provided for all water pumps. Additional requirements specific to well pumps are provided in Section 511. (4-7-11)

a. Pumps shall be protected against freezing and valved to permit satisfactory operation, maintenance, and repair of the equipment. If foot valves are necessary, they shall have a net valve area of at least two and one-half (2.5) times the area of the suction pipe and they shall be screened. Each pump shall have an accessible check valve on the discharge side between the pump and the shut-off valve or a combination valve that performs both control valve and check valve functions. Surge relief measures shall be designed to minimize hydraulic transients. (4-7-11)

b. In general, piping shall be designed so that it will have watertight joints, be protected against surge or water hammer, be provided with suitable restraints where necessary, be designed so that friction losses will be minimized, and not be subject to contamination. Each pump shall have an individual suction line or the suction lines shall be manifolded such that they will ensure similar hydraulic and operating conditions. (3-30-07)

c. Each pump station shall have a standard pressure gauge on its discharge line and suction line. (3-30-07)

d. Water seals shall not be supplied with water of a lesser sanitary quality than that of the water being pumped. Where pumps are sealed with potable water and are pumping water of lesser sanitary quality, the seal shall: (3-30-07)

i. Be provided with either an approved reduced pressure principle backflow preventer or a break tank open to atmospheric pressure, (3-30-07)

ii. Where a break tank is provided, have an air gap of at least six (6) inches or two (2) pipe diameters, whichever is greater, between the feeder line and the flood rim of the tank. (3-30-07)

e. Pumps, their prime movers, and accessories shall be controlled in such a manner that they will operate at rated capacity without dangerous overload. Where two (2) or more pumps are installed, provision shall be made for alternation. Provision shall be made to prevent energizing the motor in the event of a backspin cycle. Equipment shall be provided or other arrangements made to prevent surge pressures from activating controls which switch on pumps or activate other equipment outside the normal design cycle of operation. (3-30-07)

04. Booster Pumps. In addition to other applicable requirements in Section 541, booster pumps must comply with the following: (3-30-07)

a. In-line booster pumps shall maintain an operating pressure that is consistent with the requirements specified in Subsection 552.01, and shall be supplied with an automatic cutoff when intake pressure is less than or equal to five (5) psi. (3-30-07)

b. Booster pumps with a suction line directly connected to any storage reservoirs shall be protected by an automatic cutoff to prevent pump damage and avoid excessive reservoir drawdown. (3-30-07)

c. Each booster pumping station shall contain not less than two (2) pumps with capacities such that peak hour demand, or a minimum of the maximum day demand plus equalization storage, can be satisfied with any

pump out of service. See Subsection 501.18 for general design requirements concerning fire flow capacity. (5-8-09)

542. FACILITY AND DESIGN STANDARDS - DISTRIBUTION SYSTEM.

01. Protection from Contamination. The distribution system shall be protected from contamination and be designed to prevent contamination by steam condensate or cooling water from engine jackets or other heat exchange devices. (3-30-07)

02. Installation of Water Mains. Division 400 of "Idaho Standards for Public Works Construction," referenced in Subsection 002.02, may be used as guidance for installation of water mains. In addition, the following provisions shall apply: (3-30-07)

a. Installed pipe shall be pressure tested and leakage tested in accordance with the applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. (3-30-07)

b. New, cleaned, and repaired water mains shall be disinfected in accordance with AWWA Standard C651, incorporated by reference into these rules at Subsection 002.01. The specifications shall include detailed procedures for the adequate flushing, disinfection, and microbiological testing of all water mains. (3-30-07)

c. In areas where aggressive soil conditions are suspected or known to exist, analyses shall be performed to determine the actual aggressiveness of the soil. If soils are found to be aggressive, action shall be taken to protect metallic joint restraints and the water main, such as encasement in polyethylene, provision of cathodic protection, or use of corrosion resistant materials. (3-30-07)

d. The Department must approve any interconnection between potable water supplies, taking into account differences in water quality between the two systems. (3-30-07)

e. A continuous and uniform bedding shall be provided in the trench for all buried pipe. Backfill material shall be tamped in layers around the pipe and to a sufficient height above the pipe to adequately support and protect the pipe. Stones found in the trench shall be removed for a depth of at least six (6) inches below the bottom of the pipe. (3-30-07)

f. Water mains shall be covered with sufficient earth or other insulation to prevent freezing. (3-30-07)

g. All tees, bends, plugs and hydrants shall be provided with reaction blocking, tie rods or joints designed to prevent movement. (3-30-07)

03. Pressure Relief Valves. All pumps connected directly to the distribution system shall be designed in conjunction with a water pressure relief valve of type, size, and material approved by the Department unless the Department approves another method that will prevent excessive pressure development. (3-30-07)

04. Flow Meter Required. Unless otherwise approved by the Department based on documentation provided by the design engineer, all source pumps and booster pumps connected directly to the distribution system shall have an instantaneous and totalizing flow meter, equipped with nonvolatile memory, installed in accordance with manufacture's specifications. (4-4-13)

05. Pipe and Jointing Materials. Pipe and jointing materials comply with the standards set forth in Subsection 501.01. Pipe shall be manufactured of materials resistant internally and externally to corrosion and not imparting tastes, odors, color, or any contaminant into the system. Where distribution systems are installed in areas of ground water contaminated by organic compounds: (3-30-07)

a. Pipe and joint materials which do not allow permeation of the organic compounds shall be used; and (4-11-06)

b. Non-permeable materials shall be used for all portions of the system including pipe, joint materials, hydrant leads, and service connections. (4-11-06)

06. Size of Water Mains. When fire hydrants are provided, they shall not be connected to water mains smaller than six (6) inches in diameter, and fire hydrants shall not be installed unless fireflow volumes are available. If fire flow is not provided, water mains shall be no less than three (3) inches in diameter. Any departure from this minimum standard shall be supported by hydraulic analysis and detailed projections of water use. (3-30-07)

07. Separation of Potable, Non-Potable, and Raw Water Pipelines. The requirements for the protection of potable mains from contamination by non-potable pipelines are described in Subsections 542.07.a. through 542.07.c. For the purposes of Subsection 542.07, the term "pipeline" applies to both mains and services. The Department will use the Memorandum of Understanding with the Plumbing Bureau as guidance in determining the relative responsibilities for reviewing service lines. The conditions of Subsections 542.07.a. and 542.07.b. shall apply to all potable services constructed or reconstructed after April 15, 2007 and where the Department or the QLPE is the reviewing authority. Raw water pipelines must be protected from contamination from non-potable pipelines, and must not contaminate potable pipelines. They shall therefore meet equivalent separation distances shown below from either potable or non-potable pipelines. (4-4-13)

a. Parallel installation requirements. (5-8-09)

i. Potable mains in relation to non-potable mains. (5-8-09)

(1) Greater than ten (10) feet separation: no additional requirements. (4-4-13)

(2) Ten (10) feet to six (6) feet separation: separate trenches, with the bottom of the potable main above the top of the non-potable main, and non-potable main constructed with potable water class pipe. (4-4-13)

(3) Less than six (6) feet separation: design engineer to submit data to the Department for review and approval showing that this installation will protect public health and the environment, non-potable main to be constructed of potable water class pipe, and with the bottom of the potable main above the top of the non-potable main. (4-4-13)

(4) Non-potable mains are prohibited from being located in the same trench as potable mains. (3-30-07)

(5) Pressure wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer horizontally than ten (10) feet from potable mains. (4-7-11)

ii. New potable services in relation to non-potable services, new potable services in relation to non-potable mains, and new non-potable services in relation to potable mains. (5-8-09)

(1) Greater than six (6) feet separation: no additional requirements based on separation distance. (5-8-09)

(2) Less than six (6) feet separation: design engineer to submit data that this installation will protect public health and the environment and non-potable service constructed with potable water class pipe. (5-8-09)

(3) New potable services are prohibited from being located in the same trench as non-potable mains or non-potable services. (5-8-09)

b. Requirements for potable water mains or services crossing non-potable water mains or services. (4-4-13)

i. If there is eighteen (18) inches or more vertical separation with the potable water pipeline above the non-potable pipeline, then the potable pipeline joints must be as far as possible from the non-potable water pipeline. (4-7-11)

ii. If there is eighteen (18) inches or more vertical separation with the potable water pipeline below the non-potable pipeline, then the potable pipeline joints must be as far as possible from the non-potable pipeline, and the non-potable pipeline must be supported through the crossing to prevent settling. (4-7-11)

iii. Less than eighteen (18) inches vertical separation: (5-8-09)

(1) Potable pipeline joint to be as far as possible from the non-potable pipeline; and either: (5-8-09)

(a) Non-potable pipeline constructed with potable water class pipe for a minimum of ten (10) feet either side of potable pipeline with a single twenty (20) foot section of potable water class pipe centered on the crossing; or (5-8-09)

(b) Sleeve non-potable or potable pipeline with potable water class pipe for ten (10) feet either side of crossing. Use of hydraulic cementitious materials such as concrete, controlled density fill, and concrete slurry encasement is not allowed as a substitute for sleeving. (5-8-09)

(2) If potable pipeline is below non-potable pipeline, the non-potable pipeline must also be supported through the crossing to prevent settling. (5-8-09)

iv. Pressure wastewater mains or other pressurized mains or lines containing non-potable fluids shall be no closer vertically than eighteen (18) inches from potable mains. (4-7-11)

c. Existing potable services in relation to new non-potable mains, existing non-potable services in relation to new potable mains, and existing potable services in relation to new non-potable services shall meet the requirements of Subsection 542.07.b., where practical, based on cost, construction factors, and public health significance. If the Department determines that there are significant health concerns with these services, such as where a large existing service serves an apartment building or a shopping center, then the design shall conform with Subsection 542.07.b. (5-8-09)

08. Separation from Subsurface Wastewater Systems and Other Sources of Contamination. A minimum horizontal distance of twenty-five (25) feet shall be maintained between any potable water pipe and a septic tank or subsurface wastewater disposal system. Guidance on separation from other potential sources of contamination, such as stormwater facilities, may be found on the DEQ website http://www.deq.idaho.gov. (3-30-07)

09. Dead End Mains. All dead end water mains shall be equipped with a means of flushing and shall be flushed at least semiannually at a water velocity of two and one-half (2.5) feet per second. (3-30-07)

a. Dead ends shall be minimized by making appropriate tie-ins whenever practical in order to provide increased reliability of service and reduce head loss. (4-11-06)

b. Flushing shall be performed in such a way as to minimize any erosion of unprotected areas and, if applicable, shall be coordinated with the owner of the receiving system. No water main flushing device shall be directly connected to any sewer. (4-4-13)

c. Stub outs for future main connections shall meet all requirements for dead end mains listed in Subsection 542.09 as determined by the Department. Flushing devices may be temporary in nature. (4-7-11)

10. Repair of Leaks. Leaking water mains shall be repaired or replaced upon discovery and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01. (3-30-07)

11. Separation from Structures. Water mains shall be separated by at least five (5) feet from buildings, industrial facilities, and other permanent structures. (3-30-07)

12. Meter Vault Required. All new public water systems shall include a meter vault at each service connection. A lockable shut-off valve shall be installed in the meter vault. This requirement shall also apply to extensions of the distribution system of existing public water systems. (3-30-07)

13. Minimum Pressure at Building Sites. Any public water system constructed or undergoing material modification where topographical relief may affect water pressure at the customers' premises shall provide

the Department with an analysis which demonstrates that the pressure at each designated building site will be at least forty (40) psi, based on dynamic pressure in the main, as set forth in Subsections 552.01.b.i. and 552.01.b.v., plus a static compensation from the elevation of the main to the elevation of each building site. (5-8-09)

a. If forty (40) psi cannot be provided at each designated building site, the Department may require that reasonable effort be made to provide notification to existing and potential customers of the expected pressure. (5-3-03)

b. The Department will not authorize a service connection at any designated building site where analysis indicates that pressure will be less than twenty (20) psi static pressure (or twenty-six point five (26.5) psi for two (2) story buildings). (5-3-03)

14. Isolation Valves. A sufficient number of valves shall be provided on water mains to minimize inconvenience and sanitary hazards during repairs. (3-30-07)

15. Air Valves. At high points in water mains where air can accumulate, provisions shall be made to remove the air by means of air release and vacuum relief valves or combination air release/vacuum relief valves. Air release valves, vacuum relief valves, or combination air release/vacuum relief valves may not be required if vacuum relief and air release functions in the pipeline can be adequately handled by approved appurtenances such as fire hydrants. (5-8-09)

a. The open end of an air valve shall be extended to at least one (1) foot above grade and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. When the air vent on an air relief valve cannot be practically installed above ground, the vent may be below grade provided that the valve is manually operated and the air vent is extended to the top of the valve vault and provided with a twenty-four (24) mesh or similar non-corrodible screened, downward-facing elbow. In addition, for below ground vents, the valve vault must be rated for appropriate traffic loading in traffic areas and the vault drained to daylight or provided with adequate drainage to prevent flooding of the vault. (4-7-11)

b. Discharge piping from air valves or combination air release/vacuum relief valves shall not connect directly to any storm drain, storm sewer, or sanitary sewer. (4-7-11)

16. Backflow Protection. Automatic air relief valves shall be equipped with a means of backflow protection. (3-30-07)

17. Surface Water Crossings. For the purposes of Subsection 542.17, surface water is defined as all surface accumulations of water, natural or artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. This includes, but is not limited to, rivers, streams, canals, ditches, lakes, and ponds. Surface water crossings, whether over or under water, shall be constructed as follows: (5-8-09)

a. Above water crossings: the pipe shall be adequately supported and anchored, protected from damage and freezing, and shall be accessible for repair or replacement. (4-11-06)

b. Under water crossings: A minimum cover of two (2) feet shall be provided over the pipe. When crossing a water course that is greater than fifteen (15) feet in width, the following shall be provided: (4-11-06)

i. The pipe shall be of special construction, having flexible, restrained, or welded water-tight joints; and (4-11-06)

ii. Valves shall be provided at both ends of water crossings so that the section can be isolated for testing or repair; the valves shall be easily accessible and not subject to flooding; and (4-11-06)

iii. Permanent taps or other provisions to allow insertion of a small meter to determine leakage and obtain water samples shall be made on each side of the valve closest to the supply source. (4-11-06)

543. FACILITY AND DESIGN STANDARDS: CROSS CONNECTION CONTROL.

There shall be no connection between the distribution system and any pipes, pumps, hydrants, water loading stations, or tanks whereby unsafe water or other contaminating materials may be discharged or drawn into a public water system. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premises isolation or containment, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. (4-7-11)

01. Testable Assemblies. All double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, spill resistant vacuum breakers, and pressure vacuum breakers used must pass a performance test conducted by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research (USC Foundation) and be included on the USC Foundation "List of Approved Assemblies." (4-7-11)

02. Atmospheric Vacuum Breakers. All atmospheric vacuum breakers used shall be marked approved either by the International Association of Plumbing and Mechanical Officials (IAPMO) or by the American Society of Sanitation Engineers (ASSE). (5-8-09)

03. Replacement Parts and Components. All replacement parts and components, including resilient seated shutoff valves, shall meet original manufacturer's specifications or otherwise be approved by the USC Foundation as replacement parts or components for use on double check valve backflow prevention assemblies, reduced pressure principle backflow prevention assemblies, pressure vacuum breakers, and spill resistant pressure vacuum breakers. The design, material, or operational characteristics of any assembly must not be altered during maintenance or repair. (4-4-13)

04. Assembly Selection. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water should be selected from the AWWA Pacific Northwest Section Cross Connection Control Manual, the Uniform Plumbing Code, the AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The selected assembly manufacturer model number must be included on the USC Foundation "List of Approved Assemblies" and must comply with local ordinances. (4-4-13)

544. FACILITY AND DESIGN STANDARDS: GENERAL DESIGN OF FINISHED WATER STORAGE. The materials and designs used for finished water storage structures shall provide stability and durability as well as protect the quality of the stored water. Finished water storage structures shall be designed to maintain water circulation and prevent water stagnation. Steel structures and facilities such as steel tanks, standpipes, reservoirs, and elevated tanks shall be designed and constructed in accordance with applicable AWWA Standards, incorporated by reference into these rules at Subsection 002.01. Other materials of construction are acceptable when properly designed to meet the requirements of Section 544. (5-8-09)

01. Sizing and Isolation Requirements. (4-4-13)

a. Storage facilities shall have sufficient capacity, as determined from engineering studies that consider peak flows, fire flow capacity, and analysis of the need for various components of finished storage as defined under the term "Components of Finished Water Storage" in Section 003. The requirement for storage may be reduced when the source and treatment facilities have sufficient capacity with standby power to supply peak demands of the system. (3-30-07)

b. All storage structures which provide pressure directly to the distribution system, such as elevated storage structures or ground level storage structures with associated pumping systems, shall be designed so they can be isolated and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. (4-4-13)

02. Location. Storage facilities shall be located in a manner that protects against contamination, ensures structural stability, protects against flooding, and provides year-round access by vehicles and equipment needed for repair and maintenance. (5-8-09)

a. If the bottom elevation of a storage reservoir must be below normal ground surface, it shall be

placed above the seasonal high ground water table. (3-30-07)

b. Non-potable mains and services, standing water, and similar sources of possible contamination must be kept at least fifty (50) feet from any partially buried or below-ground storage structure or facility, except that non-potable mains and services constructed of potable water class pipe are allowed as close as twenty (20) feet from a partially buried or below-ground storage structure or facility. Partially buried or below-ground storage structures or facilities shall be located a minimum of fifty (50) feet from the nearest property line. (5-8-09)

c. No public water supply storage tank shall be located within five hundred (500) feet of any municipal or industrial wastewater treatment plant or any land which is spray irrigated with wastewater or used for sludge disposal. (3-30-07)

d. The top of a partially buried storage structure shall not be less than two (2) feet above normal ground surface. (3-30-07)

e. Ground-level or above-ground storage structures or facilities shall be located a minimum of twenty (20) feet from the nearest property line and a minimum of twenty (20) feet from any potential source of contamination. (5-8-09)

03. Protection from Contamination. All finished water storage structures shall have suitable watertight roofs which exclude birds, animals, insects, and excessive dust. The installation of appurtenances, such as antennas, shall be done in a manner that ensures no damage to the tank, coatings or water quality, or corrects any damage that occurred. (3-30-07)

04. Protection from Trespassers. Fencing, locks on access manholes, and other necessary precautions shall be provided to prevent trespassing, vandalism, and sabotage. (3-30-07)

05. Drains. No drain on a water storage structure may have a direct connection to a sewer or storm drain. The design shall allow draining the storage facility for cleaning or maintenance without causing loss of pressure in the distribution system. (3-30-07)

06. Overflow. Overflow pipes of any storage structure or facility shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The overflow pipe shall be of sufficient diameter to permit waste of water in excess of the filling rate. The overflow shall discharge over a drainage inlet structure or a splash plate and, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface. (5-8-09)

a. When an internal overflow pipe is used on above-ground tanks, it shall be located in the access tube. (5-8-09)

b. The overflow for ground-level, partially buried, or below-ground storage structures or facilities shall have a vertical section of pipe at least two (2) pipe diameters in length and either: (5-8-09)

i. Be screened with a twenty-four (24) mesh non-corrodible screen installed within the pipe when practical or an expanded metal screen installed within the pipe plus a weighted flapper valve or check; or (5-8-09)

ii. Be an equivalent system acceptable to the Department. (5-8-09)

07. Access. Finished water storage structures shall be designed with reasonably convenient access to the interior for cleaning and maintenance. At least two (2) manholes shall be provided above the waterline at each water compartment where space permits, as determined by the Department. One (1) manhole may be allowed on smaller tanks on a case-by-case basis. (4-7-11)

a. The following access requirements apply to above-ground and ground-level storage structures. Each access manhole shall be framed a minimum of four (4) inches above the surface of the roof at the opening. The actual height above the surface of the roof must be sufficient to prevent incidental contamination from snow

accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (5-8-09)

b. The following access requirements apply to, partially buried or below-ground storage structures. Each access manhole shall be elevated a minimum of twenty-four (24) inches above the surface of the roof or the ground level, whichever is higher. The actual height above the surface of the roof or the ground level must be sufficient to prevent incidental contamination from snow accumulation, storm water runoff or accumulation, irrigation water, or other potential sources of contamination. (5-8-09)

c. Each manhole shall be fitted with a solid water tight cover designed to prevent the entrance of contaminants. Each cover shall be hinged only on one (1) side and shall have a locking device. Unless otherwise approved by the Department based on documentation provided by the design engineer, each cover shall have a framed opening with the lid extending down around the frame at least two (2) inches, and the frame shall be at least four (4) inches high. (4-4-13)

08. Vents. Finished water storage structures shall be vented. The overflow pipe shall not be considered a vent. Open construction between the sidewall and roof is not permissible. Vents shall: (3-30-07)

a. Prevent the entrance of surface water and rainwater and extend twelve (12) inches above the roof. (3-30-07)

b. Exclude birds and animals. (3-30-07)

c. Exclude insects and dust, as much as this function can be made compatible with effective venting. (3-30-07)

d. On ground-level, partially buried, or below-ground structures, open downward with the opening at least twenty-four (24) inches above the roof or the ground level and covered with twenty-four (24) mesh non-corrodible screen. The screen shall be installed within the pipe at a location least susceptible to vandalism. (5-8-09)

e. On above-ground tanks and standpipes, open downward, and be fitted with twenty-four (24) mesh or similar non-corrodible screen. (4-7-11)

09. Roof and Sidewall. The roof and sidewalls of all water storage structures must be watertight with no openings except properly constructed vents, manholes, overflows, risers, drains, pump mountings, control ports, or piping for inflow and outflow. Particular attention shall be given to the sealing of roof structures which are not integral to the tank body. (3-30-07)

a. Any pipes running through the roof or sidewall of a metal storage structure must be welded, or properly gasketed. In concrete tanks, these pipes shall be connected to standard wall castings which were poured in place during the forming of the concrete. (3-30-07)

b. Openings in the roof of a storage structure designed to accommodate control apparatus or pump columns shall be curbed and sleeved with proper additional shielding to prevent contamination from surface or floor drainage. (3-30-07)

c. The roof of the storage structure shall be sloped to facilitate drainage. Downspout pipes shall not enter or pass through the reservoir. Parapets, or similar construction which would tend to hold water and snow on the roof, will not be approved unless adequate waterproofing and drainage are provided. (3-30-07)

d. Reservoirs with pre-cast concrete roof structures must be made watertight with the use of a waterproof membrane or similar product. (3-30-07)

10. Construction Materials. Materials used in storage facility construction shall meet the requirements for water contact surfaces set forth in Subsection 501.01. Porous materials such as wood or concrete block are not acceptable for use in storage construction. (3-30-07)

11. Protection from Freezing. Finished water storage structures and their appurtenances, especially the riser pipes, overflows, and vents, shall be designed to prevent freezing which will interfere with proper functioning. (3-30-07)

12. Internal Catwalk. Every catwalk over finished water in a storage structure shall have a solid floor with sealed raised edges, designed to prevent contamination from shoe scrapings and dirt. (3-30-07)

13. Silt Stops. Removable silt stops shall be provided to prevent sediment from entering the reservoir discharge pipe. (3-30-07)

14. Grading. The area surrounding a ground-level, partially buried, or below-ground structures shall be graded in a manner that will prevent surface water from standing within fifty (50) feet of it. (5-8-09)

15. Coatings and Cathodic Protection. Proper protection shall be given to metal surfaces by paints or other protective coatings, by cathodic protective devices, or by both. (3-30-07)

16. Disinfection. Storage facilities shall be disinfected in accordance with AWWA Standard C652, incorporated by reference into these rules at Subsection 002.01. Two (2) or more successive sets of samples, taken at twenty-four (24) hour intervals, shall indicate microbiologically satisfactory water before the facility is placed into operation. (3-30-07)

17. Abandonment. All unused subsurface storage tanks shall be removed and backfilled, or abandoned by extracting residual fluids and filling the structure with sand or fine gravel. (3-30-07)

545. FACILITY AND DESIGN STANDARDS: TREATMENT PLANT STORAGE FACILITIES.
The design standards of Section 544 shall apply to treatment plant storage. (3-30-07)

01. Filter Wash Water. Filter wash water tanks shall be sized, in conjunction with available pump units and finished water storage, to provide the backwash water required by Section 521. Consideration must be given to the backwashing of several filters in rapid succession. (3-30-07)

02. Clearwell. When finished water storage is used to provide disinfectant contact time special attention must be given to tank size and baffling. An overflow and vent shall be provided. A minimum of two (2) clearwell compartments shall be provided to allow for cleaning or maintenance. Clearwells constructed under filters may be exempt from the requirements set out in Subsection 544.02.d. when the design provides adequate protection from contamination. (4-7-11)

03. Adjacent Storage. Finished or treated water must not be stored or conveyed in a compartment adjacent to untreated or partially treated water when the two (2) compartments are separated by a single wall, unless approved by the reviewing authority. (3-30-07)

04. Other Treatment Plant Storage Tanks. Unless otherwise allowed by the reviewing authority, other treatment plant storage tanks/basins such as detention basins, backwash reclaim tanks, receiving basins, and pump wet-wells for finished water shall be designed as finished water storage structures. In addition, these tanks/ basins shall be designed to allow for cleaning or maintenance through temporary tanks, standby pumping capabilities, or other means approved by the Department. (4-7-11)

546. FACILITY AND DESIGN STANDARDS: DISTRIBUTION SYSTEM STORAGE FACILITIES.

01. Design. The applicable design standards of Section 544 shall be followed for distribution system storage. (3-30-07)

02. Isolation. Finished water storage structures which provide pressure directly to the distribution system shall be designed so they can be isolated from the distribution system and drained for cleaning or maintenance without causing a loss of pressure in the distribution system. This requirement may be met through available temporary tanks, redundant pumping capabilities, or other temporary means approved by the Department. If the finished water storage structure provides fire flow for the water system, the water system owner shall provide the

local fire authority advance notification of cleaning or maintenance events which isolate the structure from the distribution system and reduce available fire flow to less than the minimum required by the local fire authority. (4-7-11)

03. Drain. Drains shall discharge to daylight in a way that will preclude the possibility of backflow to the reservoir and, where practical, be provided with an expanded metal screen installed within the pipe that will exclude rodents and deter vandalism. The drain shall, when practical, discharge at an elevation between twelve (12) and twenty-four (24) inches above the receiving surface, and discharge over a drainage inlet structure or a splash plate. (5-8-09)

04. Level Controls. Adequate controls shall be provided to maintain levels in distribution system storage structures. Level indicating devices shall be provided at a central location. (3-30-07)

547. FACILITY AND DESIGN STANDARDS: HYDROPNEUMATIC TANK SYSTEMS.
Hydropneumatic tanks use compressed air to regulate pump cycling and to absorb pressure surges (water hammer). These tanks do not provide true storage. Systems serving more than one-hundred-fifty (150) homes are generally better served by providing reservoir storage, as set forth in Sections 544, 545 and 546. (3-30-07)

01. General Design of Hydropneumatic Systems. (3-30-07)

a. Tanks shall be located above normal ground surface and be completely housed. (3-30-07)

b. Tanks shall have bypass piping to permit operation of the system while the tank is being repaired or painted. Exterior surfaces and accessible interior surfaces shall be provided with protective coatings and shall be maintained in good condition. Supports beneath tanks shall be structurally sound. (3-30-07)

c. Tanks shall be sized to limit pump cycles to not more than six (6) per hour unless a pump manufacturer's warranty specifically supports more frequent cycling. The number of pump cycles may be increased in systems with multiple pumps if a means to automatically alternate pumps is provided. The Franklin Electric AIM manual, referenced in Subsection 002.02, Chapter 11 of the Washington State Department of Health Water System Design Manual, referenced in Subsection 002.02, or manufacturer's recommendations may be used as guidance in calculating the size of hydropneumatic tanks. (3-30-07)

d. Tanks of greater than one-hundred twenty (120) gallons volume shall conform with the American Society of Mechanical Engineers (ASME) specifications code for unfired pressure vessels. Tanks of less than one hundred twenty (120) gallons volume shall meet the ASME code or be certified by a nationally recognized testing agency to be capable of withstanding twice the maximum allowable working pressure. (3-30-07)

02. Requirements Specific to Conventional Hydropneumatic Tanks. Conventional tanks are those that have a direct air to water interface and require periodic air recharge to compensate for absorption of air into the water. (3-30-07)

a. Each tank shall have an access manhole, a drain, and control equipment consisting of a pressure gauge, water sight glass, automatic or manual air blow-off, means for adding air that is filtered or otherwise protected from contamination, and pressure operated start-stop controls for the pumps. If tank size allows, the access manhole shall be at least twenty-four (24) inches in diameter. (3-30-07)

b. The gross volume of tanks in systems served by variable speed pumps may be less than that required for systems served by constant speed pumps. Design volumes shall be approved by the Department on a site-specific basis. (3-30-07)

03. Requirements Specific to Bladder Tanks. Bladder tanks have a membrane that separates air and water inside the tank. (3-30-07)

a. Bladder tanks must be pre-charged with air to a pressure of five (5) psi below the setting at which the pump turns on (the low operating pressure for the system). (3-30-07)

b. Each manifold assembly shall have a pressure gauge and pressure operated start-stop controls for the pumps. (3-30-07)

c. The procedure for sizing bladder tanks is to determine the number of a selected size of tanks that are needed to provide pump protection. Reduced tank volume in systems served by variable speed pumps shall be approved by the Department on a site specific basis. (3-30-07)

548. FACILITY AND DESIGN STANDARDS: DISINFECTION OF FACILITIES PRIOR TO USE.
Any supplier of water for a public water system shall ensure that new construction or modifications to an existing system shall be flushed and disinfected in accordance with American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, prior to being placed into service. (4-4-13)

549. -- 551. (RESERVED)

552. OPERATING CRITERIA FOR PUBLIC WATER SYSTEMS.

01. Quantity and Pressure Requirements. Design requirements regarding pressure analysis are found in Section 542.13. (5-8-09)

a. Minimum Capacity. The capacity of a public drinking water system shall be at least eight hundred (800) gallons per day per residence. (5-8-09)

i. The minimum capacity of eight hundred (800) gallons per day shall be the design maximum day demand rate exclusive of irrigation and fire flow requirements. (5-8-09)

ii. The minimum capacity of eight hundred (800) gallons per day is only acceptable if the public drinking water system has equalization storage of finished water in sufficient quantity to compensate for the difference between a water system's maximum pumping capacity and peak hour demand. (5-8-09)

iii. The design capacity of a public drinking water system for material modifications may be less than eight hundred (800) gallons per day per residence if the water system owner provides information that demonstrates to the Department's satisfaction the maximum day demand for the system, exclusive of irrigation and fire flows, is less than eight hundred (800) gallons per day per residence. (5-8-09)

b. Pressure. All public water systems shall meet the following requirements: (4-7-11)

i. Any public water system shall be capable of providing sufficient water during maximum day demand conditions, including fire flow where provided, to maintain a minimum pressure of twenty (20) psi throughout the distribution system, at ground level, as measured at the service connection or along the property line adjacent to the consumer's premises. (4-7-11)

ii. Public Notification. (4-4-13)

(1) During unplanned or emergency situations, when water pressure within the system is known to have fallen below twenty (20) psi, the water supplier must notify the Department, provide public notice to the affected customers within twenty-four (24) hours, and disinfect or flush the system as appropriate. When sampling and corrective procedures have been conducted and after determination by the Department that the water is safe, the water supplier may re-notify the affected customers that the water is safe for consumption. The water supplier shall notify the affected customers if the water is not safe for consumption. (3-25-16)

(2) During planned maintenance or repair situations, when water pressure within the system is expected to fall below twenty (20) psi, the water supplier must provide public notice to the affected customers prior to the planned maintenance or repair activity and shall ensure that the water is safe for consumption. (4-4-13)

iii. If an initial investigation by the water supplier fails to discover the causes of inadequate or excessive pressure, the Department may require the water supplier to conduct a local pressure monitoring study to diagnose and correct pressure problems. Compliance with these requirements by water systems that do not have a

meter vault or other point of access at the service connection or along the property line adjacent to the consumer's premises where pressure in the distribution system can be reliably measured shall be determined by measurements within the consumer's premises, or at another representative location acceptable to the Department. (4-4-13)

iv. Copies of pressure monitoring study reports required under Subsection 552.01.b.iii. detailing study results and any resulting corrective actions planned or performed by the public water system shall be submitted to the Department in accordance with these rules. (4-7-11)

v. The following public water systems or service areas of public water systems shall maintain a minimum pressure of forty (40) psi throughout the distribution system, during peak hour demand conditions, excluding fire flow, measured at the service connection or along the property line adjacent to the consumer's premises. (5-8-09)

(1) Any public water system constructed or substantially modified after July 1, 1985. (5-8-09)

(2) Any new service areas. (5-8-09)

(3) Any public water system that is undergoing material modification where it is feasible to meet the pressure requirements as part of the material modification. (5-8-09)

vi. Any public water system shall keep static pressure within the distribution system below one hundred (100) psi and should ordinarily keep static pressure below eighty (80) psi. Pressures above one hundred (100) psi shall be controlled by pressure reducing valve stations installed in the distribution main. In areas where failure of installed pressure reducing valve stations would result in extremely high pressure, pressure relief valves may be required. The Department may approve the use of pressure reducing devices at individual service connections on a case by case basis, if it can be demonstrated that higher pressures in portions of the distribution system are required for efficient system operation. If system modification will cause pressure to routinely exceed eighty (80) psi, or if a check valve or an individual pressure reducing device is added to the service line, the water system owner shall notify affected customers. Notification may include reasons for the elevated pressure, problems or damage that elevated pressure can inflict on appliances or plumbing systems, and suggested procedures or mitigation efforts affected property owners may initiate to minimize problems or damage. (4-4-13)

vii. The Department may allow the installation of booster pump systems at individual service connections on a case by case basis. However, such an installation may only occur with the full knowledge and agreement of the public water system, including assurance by the water system that the individual booster pump will cause no adverse effects on system operation. (4-11-06)

viii. For elevated storage tanks, pressure calculations during peak hour demand shall be based on the lowest water level after both operational storage and equalization storage have been exhausted. Pressure calculations during fire flow demands shall be based on the lowest water level after operational storage, equalization storage, and fire suppression storage have been exhausted. (4-4-13)

ix. For hydropneumatic tanks, pressure calculations shall be based on the lowest pressure of the pressure cycle and this requirement shall be noted in the operation and maintenance manual. (4-4-13)

c. Fire Flows. Any public water system designed to provide fire flows shall ensure that such flows are compatible with the water demand of existing and planned fire-fighting equipment and fire fighting practices in the area served by the system. (5-3-03)

d. Irrigation Flows. (12-1-92)

i. Any public water system constructed after November 1, 1977, shall be capable of providing water for uncontrolled, simultaneous foreseeable irrigation demand, which shall include all acreage that the system is designed to irrigate. (5-3-03)

(1) The Department must concur with assumptions regarding the acreage to be irrigated. In general, an assumption that no outside watering will occur is considered unsound and is unlikely to be approved. (5-3-03)

(2) An assumption of minimal outside watering, as in recreational subdivisions, may be acceptable if design flows are adequate for maintenance of "green zones" for protection against wildland fire. (5-3-03)

ii. The requirement of Subsection 552.01.d.i. may be modified by the Department if: (5-3-03)

(1) A separate irrigation system is provided; or (12-10-92)

(2) The supplier of water can regulate the rate of irrigation through its police powers, and the water system is designed to accommodate a regulated rate of irrigation flow. The Department may require the water system to submit a legal opinion addressing the enforceability of such police powers. (5-3-03)

iii. If a separate non-potable irrigation system is provided for the consumers, all mains, hydrants and appurtenances shall be easily identified as non-potable. The Department must concur with a plan to ensure that each new potable water service is not cross-connected with the irrigation system. (5-3-03)

02. Ground Water. (12-10-92)

a. Public water systems constructed after July 1, 1985, and supplied by ground water, shall treat water within the system by disinfection if the ground water source is not protected from contamination. (12-10-92)

b. The Department may, in its discretion, require disinfection for any existing public water system supplied by ground water if the system has repeated coliform present samples or E.coli MCL exceedances, and if the system does not appear adequately protected from contamination. Adequate protection will be determined based upon at least the following factors: (3-25-16)

i. Location of possible sources of contamination; (12-10-92)

ii. Size of the well lot; (12-10-92)

iii. Depth of the source of water; (12-10-92)

iv. Bacteriological quality of the aquifer; (12-10-92)

v. Geological characteristics of the area; and (12-10-92)

vi. Adequacy of development of the source. (12-10-92)

03. Operating Criteria. The operating criteria for systems that provide filtration shall be as follows: (4-4-13)

a. A project specific operation and maintenance manual shall be provided as required in Subsection 501.12. See definition of Operation and Maintenance Manual in Section 003 for the typical contents of an operation and maintenance manual and the included operations plan. For the operations plan in the operation and maintenance manual, additional guidance for several types of filtration systems can be found in the Department's SWTR Compliance Guidance referenced in Subsection 002.02. (4-4-13)

b. The system shall conduct monitoring specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (4-4-13)

c. New treatment facilities shall be operated in accordance with Subsection 552.03.a., and the system shall conduct monitoring specified by the Department for a trial period specified by the Department before serving water to the public in order to protect the health of consumers served by the system. (3-30-07)

04. Chlorination. Systems that regularly add chlorine to their water are subject to the provisions of Section 320. Systems using surface water or ground water under the direct influence of surface water, are subject to the disinfection requirements of Sections 300 and 518. (3-30-07)

a. Systems using only ground water that add chlorine for the purpose of disinfection, as defined in Section 003, are subject to the following requirements: (4-6-05)

i. Chlorinator and chlorine contact tank capacity shall be such that the system is able to demonstrate that it is routinely achieving four (4) logs (ninety-nine point ninety-nine percent) (99.99%)) inactivation/removal of viruses. The required effective contact time will be specified by the Department. This condition must be attainable even when the plant design capacity coincides with anticipated maximum chlorine demands. (4-4-13)

ii. A detectable chlorine residual shall be maintained throughout the distribution system. (4-6-05)

iii. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. (4-4-13)

iv. Analysis for free chlorine residual shall be conducted at a location at or prior to the first service connection at least daily and records of these analyses shall be kept by the supplier of water for at least one (1) year. A report of all daily chlorine residual measurements for each calendar month shall be submitted to the Department no later than the tenth day of the following month. The frequency of measuring free chlorine residuals shall be sufficient to detect variations in chlorine demand or changes in water flow. (5-8-09)

v. If gas chlorination equipment is provided, a separate and ventilated room is required. (4-4-13)

vi. The Department may, in its discretion, require a treatment rate higher than that specified in Subsection 552.04.a.i. (3-30-07)

vii. When chlorine gas is used, chlorine leak detection devices and safety equipment shall be provided and equipped with both an audible alarm and a warning light. (5-8-09)

viii. The Department may require redundant chlorine pumping capabilities with automatic switchover for systems with documented source water contamination problems and that lack adequate storage to supply the system during a pump failure. (5-8-09)

b. Systems using only ground water that add chlorine for the purpose of maintaining a disinfectant residual in the distribution system, when the source(s) is not at risk of microbial contamination, are subject to the following requirements: (4-6-05)

i. Automatic proportioning chlorinators are required where the rate of flow or chlorine demand is not reasonably constant. (4-4-13)

ii. Analysis for free chlorine residual shall be made at a frequency that is sufficient to detect variations in chlorine demand or changes in water flow. (4-6-05)

c. Systems using only ground water that add chlorine for other purposes, such as oxidation of metals or taste and odor control, when the source(s) is known to be free of microbial contamination, must ensure that chlorine residual entering the distribution system after treatment is less than four (4.0) mg/L. The requirements in Subsection 552.04.b.ii. also apply if the system maintains a chlorine residual in the distribution system. (3-30-07)

05. Fluoridation. (12-1-92)

a. Commercial sodium fluoride, sodium silico fluoride and hydrofluosilicic acid which conform to the applicable American Water Works Association (AWWA) Standards, incorporated by reference into these rules at Subsection 002.01, are acceptable. Use of other chemicals shall be specifically approved by the Department. (3-30-07)

b. Fluoride compounds shall be stored in covered or unopened shipping containers. (3-30-07)

c. Provisions shall be made to minimize the quantity of fluoride dust. Empty bags, drums, or barrels

shall be disposed of in a manner that will minimize exposure to fluoride dusts. (3-30-07)

d. Daily records of flow and amounts of fluoride added shall be kept. An analysis for fluoride in finished water shall be made at least weekly. Records of these analyses shall be kept by the supplier of water for five (5) years. (12-10-92)

06. Cross Connection Control Program - Community Water Systems. The water purveyor is responsible through its cross connection control program to take reasonable and prudent measures to protect the water system against contamination and pollution from cross connections through premises isolation, internal or in-plant isolation, fixture protection, or some combination of premises isolation, internal isolation, and fixture protection. Pursuant to Section 543, all suppliers of water for community water systems shall implement a cross connection control program to prevent the entrance to the system of materials known to be toxic or hazardous. The water purveyor is responsible to enforce the system's cross connection control program. The program will at a minimum include: (4-7-11)

a. An inspection program to locate cross connections and determine required suitable protection. For new connections, suitable protection must be installed prior to providing water service. (5-8-09)

b. Required installation and operation of adequate backflow prevention assemblies. Appropriate and adequate backflow prevention assembly types for various facilities, fixtures, equipment, and uses of water should be selected from the AWWA Pacific Northwest Section Cross Connection Control Manual, the Uniform Plumbing Code, the AWWA Recommended Practice for Backflow Prevention and Cross Connection Control (M14), the USC Foundation Manual of Cross Connection Control, or other sources deemed acceptable by the Department. The assemblies must meet the requirements of Section 543 and comply with local ordinances. (4-4-13)

c. Annual inspections and testing of all installed backflow prevention assemblies by a tester licensed by a licensing authority recognized by the Department. Testing shall be done in accordance with the test procedures published by the University of Southern California Foundation for Cross-Connection Control and Hydraulic Research. See the USC Foundation Manual of Cross-Connection Control referenced in Subsection 002.02. (4-7-11)

d. Discontinuance of service to any structure, facility, or premises where suitable backflow protection has not been provided for a cross connection. (4-7-11)

e. Assemblies that cannot pass annual tests or those found to be defective shall be repaired, replaced, or isolated within ten (10) business days. If the failed assembly cannot be repaired, replaced, or isolated within ten (10) business days, water service to the failed assembly shall be discontinued. (4-4-13)

07. Cross Connection Control - Non-Community Water Systems. All suppliers of water for non-community water systems shall ensure that cross connections do not exist or are isolated from the potable water system by an approved backflow prevention assembly. Backflow prevention assemblies shall be inspected and tested annually for functionality by an Idaho licensed tester, as specified in Subsections 552.06.c. and 552.06.e. (4-4-13)

08. Start-up Procedures For Seasonal Systems Subject To Subsections 100.01.a., c., and d. (3-25-16)

a. All seasonal system owners and operators must demonstrate completion of a Department approved start-up procedure, including start-up sampling, prior to serving water to the public. The system owner or operator must submit information on a Department provided or approved form that includes a statement certifying that the system owner or operator followed proper start-up procedures. The form shall be submitted to the Department within 30 (thirty) days following the system's start-up date. (3-25-16)

b. The Department may exempt any seasonal system from Subsection 552.08.a. if the entire distribution system remains pressurized during the entire period that the system is not operating, except that the systems that monitor less frequently than monthly must still monitor during the vulnerable period designated by the Department. The Department may exempt a seasonal system from Subsection 552.08.a. if the owner or operator of the system meets all of the following conditions: (3-25-16)

i. Requests an exemption in writing to the Department for approval; (3-25-16)

ii. Demonstrates a clean compliance history as defined in Section 003 for a minimum of five (5) years; (3-25-16)

iii. Has no uncorrected significant deficiencies from the most recent sanitary survey; and (3-25-16)

iv. Total coliform samples submitted to a certified laboratory within 30 (thirty) days prior to serving water to the public demonstrate the absence of total coliform. (3-25-16)

553. CLASSIFICATION OF WATER SYSTEMS.

01. System Classification Required. The Department shall classify community, nontransient noncommunity, and surface water systems based on indicators of potential health risks. (4-6-05)

a. The owner or designee of every community and nontransient noncommunity public water system shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. (4-6-05)

b. The owner or designee of all surface water systems shall submit proof of the current conditions related to the classification of the system every five (5) years or more frequently if required by the Department. (4-6-05)

02. Classification Criteria. Systems shall be classified under a system that uses the following criteria: (4-6-05)

a. Complexity, size, and type of source water for treatment facilities. (3-16-04)

b. Complexity and size of distribution systems. (4-5-00)

c. Other criteria deemed necessary to completely classify systems. (4-5-00)

d. The Department shall develop guidelines for applying the criteria set forth in Section 553. (3-16-04)

554. LICENSE REQUIREMENTS.

01. Licensed Operator Required. (4-6-05)

a. Owners of all community and nontransient noncommunity public drinking water systems must place the direct supervision of their drinking water system, including each treatment facility and distribution system, under the responsible charge of a properly licensed operator. (5-8-09)

b. Owners of all surface water systems must place the direct supervision of their public drinking water system under the responsible charge of a properly licensed operator. (4-6-05)

02. Responsible Charge Operator License Requirement. An operator in responsible charge of a public drinking water system must hold a valid license equal to or greater than the classification of the public water system where the responsible charge operator is in responsible charge. Responsible charge means active, daily on-site or on-call responsibility for the performance of operations or active, on-going, on-site, or on-call direction of employees and assistants. (4-4-13)

03. Substitute Responsible Charge Operator License Requirement. At such times as the responsible charge operator is not available, a substitute responsible charge operator shall be designated to replace the responsible charge operator. A substitute responsible charge operator of a public water system must hold a valid license equal to or greater than the classification of the public water system where the substitute responsible charge operator is in responsible charge. (4-6-05)

04. Shift Operator Requirement. Any public drinking water system subject to these requirements with multiple operating shifts must have a designated properly licensed operator available for each operating shift. An on-duty designated shift operator does not replace the requirements in Subsections 554.01 and 554.03 for responsible charge operator coverage during all operating shifts. (4-6-05)

05. Water Operator License Requirement. All operating personnel at public drinking water systems subject to these requirements making process control/ system integrity decisions about water quality or quantity that affect public health must hold a valid and current license. (4-6-05)

555. -- 559. (RESERVED)

560. CONTRACTING FOR SERVICES.
Public water systems may contract with persons to provide responsible charge operators and substitute responsible charge operators. Proof of such contract shall be submitted to the Department prior to the contracted person performing any services at the public water system. (4-6-05)

561. -- 562. (RESERVED)

563. ADVISORY GROUP.
Stakeholder Involvement. Ongoing stakeholder involvement will be provided through the existing drinking water advisory committee at the Department. (4-5-00)

564. -- 899. (RESERVED)

900. TABLES.

01. Table 1 -- Minimum Distances From a Public Water System Well.

Minimum Distances from a Public Water System Well	
Gravity wastewater line	50 feet
Any potential source of contamination	50 feet
Pressure wastewater line	100 feet
Class A Municipal Reclaimed Wastewater Pressure distribution line	50 feet
Individual home septic tank	100 feet
Individual home disposal field	100 feet
Individual home seepage pit	100 feet
Privies	100 feet
Livestock	50 feet
Drainfield - standard subsurface disposal module	100 feet
Absorption module - large soil absorption system	150 - 300 feet, see IDAPA 58.01.03
Canals, streams, ditches, lakes, ponds and tanks used to store non-potable substances	50 feet
Storm water facilities disposing storm water originating off the well lot	50 feet

Minimum Distances from a Public Water System Well	
Municipal or industrial wastewater treatment plant	500 feet
Reclamation and reuse of municipal and industrial wastewater sites	See IDAPA 58.01.17
Biosolids application site	1,000 feet

(4-7-11)

02. Table 2 - Well Casing Standards for Public Water System Wells.

STEEL PIPE					
				WEIGHT PER FOOT (pounds)	
DIAMETER (inches)			THICKNESS (inches)	Plain Ends	With Threads and Couplings
SIZE	External	Internal		(calculated)	(nominal)
6 (id) *	6.625	6.065	0.280	18.97	19.18
8	8.625	7.981	0.322	28.55	29.35
10	10.750	10.020	0.365	40.48	41.85
12	12.750	12.000	0.375	49.56	51.15
14 (od) *	14.000	13.250	0.375	54.57	57.00
16	16.000	15.250	0.375	62.58	
18	18.000	17.250	0.375	70.59	
20	20.000	19.250	0.375	78.60	
22	22.000	21.000	0.500	114.81	
24	24.000	23.000	0.500	125.49	
26	26.000	25.000	0.500	136.17	
28	28.000	27.000	0.500	146.85	
30	30.000	29.000	0.500	157.53	
32	32.000	31.000	0.500	168.21	
34	34.000	33.000	0.500	178.89	
36	36.000	35.000	0.500	189.57	

* id = inside diameter
od = outside diameter

(3-30-07)

901. -- 999. (RESERVED)

58.01.12 – RULES FOR ADMINISTRATION OF WATER POLLUTION CONTROL LOANS

000. LEGAL AUTHORITY.
The Idaho Board of Environmental Quality, pursuant to authority granted in Chapters 1 and 36, Title 39, Idaho Code, did adopt the following rules for the administration of a Water Pollution Control Loan Program in Idaho. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 58.01.12, "Rules for Administration of Water Pollution Control Loans." (3-30-01)

02. Scope. The provisions of these rules will establish administrative procedures and requirements for establishing, implementing and administering a state loan program for providing financial assistance to eligible applicants of water pollution control projects. The U.S. Environmental Protection Agency provides annual capitalization grants to the state of Idaho for this program. Financial assistance projects must be in conformance with the requirements of the Subchapter VI of the federal Clean Water Act (33 U.S.C. Sections 1381 et seq.). (3-29-12)

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706. (5-3-03)

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

004. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.

01. Incorporation by Reference. These rules do not contain documents incorporated by reference. (5-8-09)

02. Availability of Referenced Material. The "Wastewater Facilities Loan Handbook of Procedures" (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, DEQ website http://www.deq.idaho.gov. (5-8-09)

005. CONFIDENTIALITY.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (3-15-02)

006. POLICY.
It is the policy of the Idaho Board of Environmental Quality through the Idaho Department of Environmental Quality, to administer the Water Pollution Control Loan Program for the purpose of protecting and enhancing the quality and value of the water resources of the state of Idaho by financially assisting in the prevention, control and abatement of water pollution. It is also the intent of the Board of Environmental Quality to assign a priority rating to those projects which will most significantly improve the quality of the waters of the state and most adequately protect the public health. (3-30-01)

007. DEFINITIONS.
For the purpose of the rules contained in this chapter, the following definitions apply: (12-31-91)

01. Applicant. A municipality or nonpoint source project sponsor which has the ability to establish and maintain a loan repayment source. Individuals and for-profit corporations are not eligible. (5-8-09)

02. Best Management Practice. A practice or combination of practices, techniques or measures developed, or identified, by the designated agency and identified in the state water quality management plan which are determined to be the most cost-effective and practicable means of preventing or reducing the amount of pollution generated by nonpoint sources to a level compatible with water quality needs. (3-30-01)

03. Board. The Idaho Board of Environmental Quality. (5-8-09)

04. Categorical Exclusion (CE). Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information

document nor an environmental impact statement is required. (5-8-09)

05. Close or Closing. The date on which the loan recipient issues and physically delivers to the Department the bond or note evidencing the loan to the loan recipient, specifically determining the principal, interest and fee amounts that shall be repaid and the schedule for payment. (3-29-12)

06. Collector Sewer. That portion of the wastewater treatment facility whose primary purpose is to receive sewage from individual residences and other individual public or private structures and which is intended to convey wastewater to an interceptor sewer or a treatment plant. (1-1-89)

07. Construction. The erection, building, acquisition, alteration, reconstruction, improvement or extension of wastewater treatment facilities, including preliminary planning to determine the economic and engineering feasibility of wastewater treatment facilities, the engineering, architectural, legal, fiscal and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures and other action necessary in the construction of wastewater treatment facilities; the inspection and supervision of the construction; and start-up of the associated facilities. (3-29-12)

08. Department. The Idaho Department of Environmental Quality. (1-1-89)

09. Director. The Director of the Idaho Department of Environmental Quality or his/her designee. (5-3-03)

10. Disadvantaged Community. The service area of a wastewater treatment facility that meets affordability criteria established by the Department of Environmental Quality after public review and comment. (3-29-12)

11. Disadvantaged Loans. Loans made to a disadvantaged community. (3-29-12)

12. Eligible Costs. Costs which are necessary for planning, designing and/or constructing wastewater treatment facilities or implementation of water pollution control projects. To be eligible, costs must be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 041. (5-3-03)

13. Environmental Impact Statement (EIS). A document prepared by the applicant when the Department determines that the proposed construction project may significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The environmental review procedures contained in Chapter 5 of the Handbook may be used as guidance when preparing the EIS. (3-29-12)

14. Environmental Information Document (EID). Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed wastewater construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project and ultimately determine if an EIS is warranted. (3-29-12)

15. Financial Management System. Uniform method of recording, summarizing and analyzing financial information about the water pollution control loan applicant. (3-30-01)

16. Finding of No Significant Impact (FONSI). A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an EIS will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. (3-29-12)

17. Handbook. "Wastewater Facilities Loan Handbook of Procedures." (5-8-09)

18. Implementation Plan. Completed project implementation plan or work plan provides detailed documentation of the proposed project including list of tasks, schedule of tasks, agency/contractor/entity responsible for implementation of the project tasks, adequate time schedules for completion of all budget tasks, and the

anticipated results of the project. (3-30-01)

19. Ineligible Costs. Costs which are not eligible for funding pursuant to these rules. (3-29-12)

20. Interceptor Sewer. That portion of the wastewater treatment facility whose primary purpose is to transport domestic sewage or nondomestic wastewater from collector sewers to a treatment plant. (1-1-89)

21. Loan Recipient. An applicant who has been awarded a loan. (3-29-12)

22. National Pollutant Discharge Elimination System. Point source permitting program established pursuant to Section 402 of the federal Clean Water Act (33 U.S.C. Section 1342). (3-30-01)

23. Nondomestic Wastewater. Wastewaters originating primarily from industrial or commercial processes which carry little or no pollutants of human origin. (5-3-03)

24. Nonpoint Source Pollution. Water pollution that enters the waters of the state from nonspecific and diffuse sources and is the result of runoff, precipitation, drainage, seepage, hydrological modification or land disturbing activities. (5-8-09)

25. Nonpoint Source Project Sponsor. Any applicant for water pollution control loan funds for a nonpoint source pollution project. (5-8-09)

26. Operation and Maintenance Manual. For wastewater treatment facilities, a guidance and training manual outlining the optimum operation and maintenance of the wastewater treatment facility or its components. For nonpoint source water pollution control projects, a plan that incorporates applicable sections of the Natural Resources Conservation Service Field Office Technical Guide, for implementation of best management practices. (3-29-12)

27. Planning Document. A document which describes the condition of a public wastewater system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents shall be prepared by or under the responsible charge of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Requirements for planning documents prepared using loan funds are provided in Section 030 of these rules and in the Handbook. (3-29-12)

28. Plan of Operation. A schedule of specific actions and completion dates for construction, start-up and operation of the wastewater treatment facility or for implementation of water pollution control projects. (5-3-03)

29. Point Source. Any discernible, confined and discrete conveyance, including but not limited to any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are, or may be discharged to the waters of the state. This term as used in these rules does not include return flows from irrigated agriculture, discharges from dams and hydroelectric generating facilities or any source or activity considered a nonpoint source by definition. (5-8-09)

30. Pollutant. Any chemical, biological, or physical substance whether it be solid, liquid, gas, or a quality thereof, which if released into the environment can, by itself or in combination with other substances, create a nuisance or render that environment harmful, detrimental, or injurious to public health, safety or welfare or to domestic, commercial, industrial, recreational, aesthetic or other beneficial uses. (1-1-89)

31. Priority List. An integrated list of proposed wastewater treatment facility and nonpoint source pollution control projects rated as described in Section 020. (5-3-03)

32. Rehabilitation. The repair or replacement of limited segments of interceptor or collector sewers. (5-3-03)

33. Reserve Capacity. That portion of the treatment works that is designed and incorporated in the constructed facilities to handle future sewage flows and loadings. (1-1-89)

34. Sewer Use Ordinance/Sewer Use Resolution. An ordinance or resolution which requires new sewers and connections to be properly designed and constructed, prohibits extraneous sources of inflow and prohibits introduction of wastes into the sewer in an amount that endangers the public safety or the physical or operational integrity of the wastewater treatment facility. (5-8-09)

35. State. The state of Idaho. (12-31-91)

36. Supplemental Grants. A state funded grant awarded in conjunction with a loan from the water pollution control loan account. (3-29-12)

37. Suspension. An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (1-1-89)

38. Sustainability. Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-29-12)

39. Termination. An action by the Director to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts will not be reinstated. (1-1-89)

40. User Charge System. A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required and which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the installed equipment or structures. (3-30-01)

41. Wastewater. A combination of the liquid and water-carried wastes from dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any groundwater, surface water and storm water that may be present; liquid and water that is physically, chemically, biologically, or rationally identifiable as containing excreta, urine, pollutants or domestic or commercial wastes; sewage. (1-1-89)

42. Wastewater Treatment Facility. Any facility, including land, equipment, furnishings and appurtenances thereof, used for the purpose of collecting, treating, neutralizing or stabilizing wastewater and removing pollutants from wastewater including the treatment plant, collectors, interceptors, outfall and outlet sewers, pumping stations, sludge treatment and handling systems, land disposal systems; a sewage treatment plant. (1-1-89)

43. Water Pollution Control Project. Any project that contributes to the removal, curtailment, or mitigation of pollution of the surface waters or groundwater of the state, or the restoration of the quality of said waters, and conforms to any applicable planning document which has been approved and/or adopted such as the State Water Quality Management Plan. This includes the planning, design, construction/implementation or any other distinct stage or phase of a project. (3-30-01)

008. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (5-8-09)

009. (RESERVED)

010. FINANCIAL AND MANAGEMENT CAPABILITY ANALYSIS.

No loans shall be awarded for projects unless the applicant has demonstrated and certified that it has the legal, technical, managerial, and financial capabilities as provided for in these rules to ensure construction, operation and maintenance, and to repay principal and interest which would be due on a loan. (5-3-03)

01. Information Needed. Before an application will be considered complete, the applicant must submit all necessary information on a form prescribed by the Department along with substantiating documentation. The information may include, but not be limited to, demographic information of the applicant, estimated construction or implementation costs, annual operating costs, and information regarding the financing of the project, including the

legal debt limit of the applicant and the existence and amount of any outstanding bonds or other indebtedness which may affect the project. (5-8-09)

02. Incorporated Nonprofit Applicants. (7-1-93)

a. In addition to all other information required to be submitted by these rules, an incorporated nonprofit applicant must demonstrate to the satisfaction of the Department by its articles of incorporation and/or bylaws, that: (3-30-01)

i. The corporation is nonprofit and lawfully incorporated pursuant to Chapter 3, Title 30, Idaho Code; (5-8-09)

ii. The corporation is authorized to incur indebtedness to construct, improve or repair wastewater treatment facilities and/or implement water pollution control projects; (5-8-09)

iii. The corporation is authorized to secure indebtedness by pledging corporation property, including any revenues raised through a user charge system; (5-8-09)

iv. The corporation exists either perpetually or for a period long enough to repay a wastewater treatment facility loan or water pollution control project loan; and (3-30-01)

v. The corporation is capable of raising revenues sufficient to repay a loan. (3-30-01)

b. The Department may impose conditions on the making of a wastewater treatment facility loan or water pollution control project to an incorporated nonprofit applicant which are necessary to carry out the provisions of these rules and the provisions of Chapter 36, Title 39, Idaho Code. (3-30-01)

03. Cost Allocation. An applicant proposing a point source or nonpoint source water pollution control project designed to serve two (2) or more entities must show how the costs will be allocated among the participating entities. Such applicants must provide an executed intermunicipal service agreement which, at a minimum, incorporates the following information: (5-8-09)

a. The basis upon which the costs are allocated; (5-8-09)

b. The formula by which the costs are allocated; and (1-1-89)

c. The manner in which the cost allocation system will be implemented. (1-1-89)

04. Waivers. The requirement in Subsection 010.03 may be waived by the Department if the applicant can demonstrate: (12-31-91)

a. Such an agreement is already in place; (5-8-09)

b. There is documentation of a service relationship in the absence of a formal agreement; or (1-1-89)

c. An applicant exhibits sufficient financial strength to continue the project if one (1) or more of the applicants fails to participate. (5-8-09)

011. -- 019. (RESERVED)

020. INTEGRATED PRIORITY RATING SYSTEM.
Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Information is also received from the Department and consulting engineers. Limited loan funds are awarded to projects based on priority ratings. Projects are rated by the Department on a standard priority rating form using public health, sustainability, and water quality criteria. (3-29-12)

01. Purpose. An integrated priority rating system shall be utilized by the Department to annually allot

available funds to water quality projects determined eligible for funding assistance under the water pollution control loan program in accordance with these rules. (5-3-03)

02. Priority Rating. The priority rating system shall be based on a numerical point system. Priority criteria shall contain the following points: (3-29-12)

a. Public health emergency or hazard certified by the Idaho Board of Environmental Quality, the Department, a District Health Department or by a District Board of Health – one hundred and fifty (150) points. (5-8-09)

b. Regulatory compliance issues (e.g., noncompliance and resulting legal actions relating to infrastructure deficiencies at a wastewater facility) -- up to one hundred (100) points. (3-29-12)

c. Watershed restoration (e.g., implementation of best management practices or initiation of construction at wastewater collection and treatment facilities as part of an approved total maximum daily load plan, implementation of nonpoint source management actions in protection of a threatened water, or is part of a special water quality effort) -- up to one hundred (100) points. (3-29-12)

d. Watershed protection from impacts (e.g., improvement of beneficial use(s) in a given water body, evidence of community support, or recognition of the special status of the affected water body) -- up to one hundred (100) points. (3-29-12)

e. Preventing impacts to uses (nonpoint source pollution projects) -- up to one hundred (100) points. (3-29-12)

f. Sustainability efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement) -- up to fifty (50) points. (3-29-12)

g. Affordability (current system user charges exceed state affordability guidelines) -- ten (10) points. (3-29-12)

03. Rating Forms. Rating criteria for Subsection 020.02 is set forth in a rating form that is available in the Handbook. (3-29-12)

04. Integrated Priority List. A list shall be developed from projects rated according to Subsection 020.02. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval. (3-29-12)

a. Priority Reevaluation. Whenever significant changes occur, which in the Department's judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for or scope of any project, a reevaluation of that priority rating will be conducted. (1-1-89)

b. Priority Target Date. An eligible applicant whose project is on the approved priority list, and for which funding is available, will be contacted by the Department and a target date for submission of a completed loan application will be established. (5-3-03)

c. Project Bypass. A project that does not or will not meet the project target date or a Department schedule that allows for timely utilization of loan funds may be bypassed, substituting in its place the next highest ranking project(s) that is ready to proceed. An eligible applicant that is bypassed will be notified in writing of the reasons for being bypassed. (3-29-12)

05. Amendment of Integrated Priority List. The Director may amend the Integrated Priority List as set forth in Section 995 of these rules. (5-8-09)

021. DISADVANTAGED LOANS.

Disadvantaged Loan Awards. In conjunction with the standard loans, the Department may award disadvantaged loans

to applicants deemed disadvantaged using the following criteria: (3-29-12)

01. Qualifying for a Disadvantaged Loan. In order to qualify for a disadvantaged loan, a loan applicant must have an annual user rate for wastewater service for residential customers which exceeds two percent (2%) of the applicant community's median household income or, if the user rate is between one and one-half percent (1½%) and two percent (2%) of the applicant community's median household income, the community must also have: unemployment that exceeds the state average; and a decreasing population. The applicant shall agree to a thirty (30) year loan unless the design life of the project is documented to be less than thirty (30) years. The annual user rate would be based on all operating, maintenance, replacement, and debt service costs (both for the existing system and for upgrades). If the applicant's service area is not within the boundaries of a municipality, or if the applicant's service area's median household income is not consistent with the municipality as a whole, the applicant may use the census data for the county in which it is located or may use a representative survey, conducted by a Department approved, objective third party, to verify the median household income of the applicant's service area. (3-25-16)

02. Adjustment of Loan Terms. DEQ will equally apportion funds available for principal forgiveness to all prospective disadvantaged loan recipients. Consistent with achieving user rates as per the criteria set forth in Subsection 021.01, and where possible with available funds, loan terms may be adjusted in the following order: decreasing the interest rate and providing principal forgiveness. (3-25-16)

a. Decreasing Interest Rate. The loan interest rate may be reduced from the rate established by the Director for standard loans to a rate that results in an annual user rate equaling the criteria set forth in Subsection 021.01. The interest rate may be reduced to as low as zero percent (0%). (3-25-16)

b. Principal Forgiveness. If even at zero percent (0%) interest, the annual user rate per residential user still exceeds the criteria set forth in Subsection 021.01, then the principal which causes the user charge to exceed the criteria set forth in Subsection 021.01 may be partially forgiven or reduced. The principal reduction cannot exceed fifty percent (50%) of the total loan. Principal forgiveness terms may be revised (from initial estimates established in the annual Intended Use Plan) based upon final construction costs, such that loan terms do not result in user rates that are below the criteria set forth in Subsection 021.01. (3-25-16)

022. SUPPLEMENTAL GRANTS.
In conjunction with loans, the Department may award state funded supplemental grants, not to exceed ninety percent (90%) of total eligible costs, to loan recipients in the following manner: (3-29-12)

01. Projects Not Funded by Loans. Planning and design projects may receive grant assistance up to ninety percent (90%) funding of eligible costs not funded by a loan; and (1-1-89)

02. Costs in Excess of Financial Ability. (3-30-01)

a. Loan recipients may receive supplemental grant assistance for eligible costs that exceed the amount a loan recipient is able to pay. In order to qualify for a supplemental grant, a loan recipient must have the following: (3-29-12)

i. An annual user rate per household which exceeds one and one-half percent (1 1/2%) of the median household income from the most recent census data. If the loan recipient's service area is not within the boundaries of a municipality, the loan recipient may use the census data for the county in which it is located or may use an income survey approved by the Department; and (3-29-12)

ii. The annual user rate includes all operating, maintenance, replacement and debt service costs, both for the existing system and for upgrades. (3-29-12)

b. If a loan recipient meets the requirement of Subsections 022.02.i. and 022.02.ii., a supplemental grant may be made for the amount of the project that causes the annual user rate for wastewater service per household to exceed one and one-half percent (1 1/2%) of the median household income, subject to available funds. (3-29-12)

03. Accrued Interest on Loans with Supplemental Grants. Interest will not be accrued during the design and construction phases on loan projects that also have a supplemental grant. (3-30-01)

023. -- 029. (RESERVED)

030. PROJECT SCOPE AND FUNDING.
Loan funds awarded under this program may be used to prepare a wastewater treatment facility planning document which identifies the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.16, "Wastewater Rules," and the Clean Water Act, 33 U.S.C. Sections 1381 et seq., and which is approvable by the Department. Loan funds may also be used for design and construction of the chosen alternative. (3-29-12)

01. Nonpoint Source Implementation Funding. Eligible nonpoint source water pollution control projects may be funded when all of the following criteria are met: (3-30-01)

a. Consistent with and implements the Idaho Nonpoint Source Management Plan. (3-30-01)

b. Data is used to substantiate a nonpoint source pollutant problem or issue exists and is described or directly referenced. (3-30-01)

c. Completed project implementation plan or work plan. (3-30-01)

d. Project commitment documentation through demonstrated ability for loan repayment. (3-30-01)

e. The project includes documentation that the project owner(s), manager(s), or the sponsoring agency will maintain the project for the life of the project (e.g., Maintenance Agreement). (3-30-01)

f. The project provides adequate tracking and evaluation of the effectiveness of the water quality improvements being funded by either the project owner/manager or the sponsoring agency throughout the life of the project. (3-30-01)

g. The project demonstrates nexus/benefit to municipality through a letter of support from one (1) or more affected municipalities. (3-30-01)

02. Wastewater Treatment Facility Funding. Projects may be funded in steps: (3-30-01)

a. Step 1. Planning document prepared in accordance with the Handbook. (3-29-12)

b. Step 2. Design which includes the preparation of the detailed engineering plans and specifications necessary for the bidding and construction of the project. (1-1-89)

c. Step 3. Construction, which includes bidding and actual construction of the project. (1-1-89)

d. Step 4. A combination of Step 2 and Step 3. (1-1-89)

e. Combination Step Funding. Projects may be funded in any combination of the steps with the approval of the Department. Separate loans may be awarded for Step 1 or Step 2 projects. If a Step 1 or Step 2 project proceeds to construction, either the Step 1 or Step 2 loan, or both, may be consolidated with the Step 3 loan. If a project does not proceed to construction, outstanding Step 1 and Step 2 loans will be amortized and a repayment schedule prepared by the Department. (1-1-89)

f. Cost Effective Requirement. Step 2, Step 3 or Step 4 loans shall not be awarded until a final cost effective and environmentally sound alternative has been selected by the Step 1 planning document and approved by the Department. If the planning document has not been completed pursuant to IDAPA 58.01.04, "Rules for Administration of Wastewater Treatment Facility Grants," then the loan recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The loan recipient shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the loan recipient during the public comment period. At the public meeting, the draft planning document shall be

presented by the loan recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document will be prepared. (3-29-12)

g. Funding For Reserve Capacity. Funding for reserve capacity of a treatment plant will not exceed a twenty (20) year population growth and funding for reserve capacity of an interceptor will not exceed a forty (40) year population growth as determined by the Department. (1-1-89)

031. LIMITATION OF PRELOAN ENGINEERING REVIEWS.
Preloan engineering documents prepared by consulting engineers will be reviewed by Department staff only when accompanied by a certificate that the consulting engineer carries professional liability insurance in accordance with Subsection 050.05.d. (5-3-03)

032. LOAN FEE.

01. Loan Fee. The Department may elect to impose a loan fee when necessary to offset the costs of administering the loan program, to provide planning assistance, or to otherwise facilitate the operation of the Clean Water Act State Revolving Fund (CWSRF) effort. The Department may impose a loan fee on loans scheduled to close after January 4, 2006. The loan fee shall not exceed one percent (1%) of the unpaid balance of the loan at the time each loan payment is due. (5-8-09)

02. Determination of Loan Fee. The Department shall determine the amount of the loan fee on a yearly basis and shall assess a loan fee based upon each loan recipient's total interest rate. The amount of the loan fee shall be included in the Intended Use Plan, as described by Section 606(c) of the Clean Water Act. In determining the amount of the loan fee, the Department shall consider: (3-29-12)

a. The Department's anticipated costs of administering the loan program for the upcoming fiscal year, including salaries and overhead; (3-19-07)

b. Any Department costs related to providing technical assistance for the loan program for the upcoming fiscal year; (5-8-09)

c. The amount of money generated from loan fees in previous fiscal years available for use in the upcoming fiscal year; and (3-19-07)

d. The anticipated demand for planning assistance to supplement regular appropriations and other related needs to support the CWSRF loan program. (5-8-09)

03. Effect on Loan Interest Rate. The loan interest rate, as described in Subsection 050.05, will be reduced by the corresponding percentage of the loan fee. (3-19-07)

04. Payment of Loan Fee. The loan fee shall be due and payable concurrently with scheduled loan principal and interest repayments over the repayment period. (3-19-07)

033. -- 039. (RESERVED)

040. LOAN APPLICATION AND REVIEW.

01. Submission of Application. Those eligible systems which received high priority ranking shall be invited to submit an application. The applicant shall submit to the Department, a completed application on a form as prescribed by the Department. (5-3-03)

02. Application Requirements. Applications shall contain the following documentation, as applicable: (5-3-03)

a. A lawful resolution passed by the governing body authorizing an elected official or officer of the

applicant to execute a loan contract and sign subsequent loan disbursement requests; (5-8-09)

b. Contracts for engineering or other technical services and the description of costs and tasks set forth therein shall be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 041; (5-8-09)

c. Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum: (5-3-03)

i. Be procured for design and/or services during construction or previously procured for planning services through the selection guidelines and procedures prescribed under Section 67-2320, Idaho Code; (5-8-09)

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; (5-8-09)

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (5-3-03)

iv. Be covered by professional liability insurance in accordance with Subsection 050.05.d. of these rules. A certification of liability insurance shall be included in the application. (5-8-09)

d. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 041; (5-8-09)

e. A demonstration that the obligation to pay the costs for which funding is requested is the result or will be the result of the applicant's compliance with applicable competitive bidding requirements for construction and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (3-29-12)

f. Step 1 -- Scope of work describing the work tasks to be performed in the preparation of the planning document if required in accordance with Subsection 030.02, a schedule for completion of the work tasks and an estimate of staff hours and costs to complete the work tasks; (3-29-12)

g. Step 2 -- Design, or Step 4 -- Design and Construction: (1-1-89)

i. Planning document, including a final environmental document and decision in accordance with Section 042; (3-29-12)

ii. Financial and management capability analysis as provided in Subsection 010.01; and (12-31-91)

iii. Intermunicipal service agreements between all entities within the scope of the project, if applicable; (5-8-09)

h. Step 3 -- Construction: (1-1-89)

i. Documented evidence of all necessary easements and land acquisition; (5-8-09)

ii. Biddable plans and specifications of the approved wastewater treatment facility alternative; (5-8-09)

iii. A plan of operation and project schedule; (5-8-09)

iv. A user charge system, sewer use ordinance and financial management system; and (1-1-89)

v. A staffing plan and budget; (5-8-09)

i. Step 4 -- Design and Construction. Loan applicants must submit all documentation specified in Subsection 040.02.h. prior to advertising for bids on construction contracts; (5-8-09)

j. Nonpoint Source Implementation Funding: (5-8-09)

i. Information demonstrating that the project is consistent with and implements the Idaho Nonpoint Source Management Plan; (5-8-09)

ii. Data that substantiates a nonpoint source pollution problem or issue exists; (5-8-09)

iii. A project implementation plan or workplan; (5-8-09)

iv. Project commitment documentation that demonstrates the ability for loan repayment; (5-8-09)

v. Documentation that the project owner, manager or sponsoring agency will maintain the project for the life of the project; (5-8-09)

vi. A demonstration that there will be adequate tracking and evaluation of the effectiveness of the water quality improvements being funded by either the project owner/manager or the sponsoring agency throughout the life of the project; and (5-8-09)

vii. A description of the nexus/benefit to a municipality and a letter of support from one (1) or more affected municipalities. (5-3-03)

03. Determination of Completeness of Application. The Department shall review the application to determine whether it includes all of the information required by Subsection 040.02. (5-3-03)

04. Notification of Incompleteness of Application. Written notification if an application is incomplete, including an explanation of missing documentation will be sent to the applicant. The applicant may provide the missing documentation. (5-3-03)

05. Reapplication for Loan. The action of disapproving, recalling or terminating a loan in no way precludes or limits the former applicant from reapplying for another loan when the project deficiencies are resolved and project readiness is secured. (1-1-89)

041. DETERMINATION OF ELIGIBILITY OF COSTS.
The Department shall review the application, including any contracts required to be submitted with the application, to determine whether the costs are eligible costs for funding. (5-3-03)

01. Eligible Costs. Eligible costs are those determined by the Department to be: (5-3-03)

a. Necessary costs; (3-29-12)

b. Reasonable costs; and (3-29-12)

c. Costs that are not ineligible as described in Subsection 041.05. (5-3-03)

02. Necessary Costs. The Department shall determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the plan of study for facility planning planning documents, the project implementation plan or work plan for nonpoint source projects, and any other relevant information in the application that describes the scope of the project to be funded. (3-29-12)

03. Reasonable Costs. Costs shall be determined by the Department to be reasonable if the obligation to pay the costs is the result of or will be the result of the applicant's compliance with applicable competitive bidding requirements for construction and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (5-8-09)

04. Examples of Costs That May Be Eligible. Examples of costs that may be eligible, if determined necessary, reasonable and not ineligible costs include: (5-3-03)

a. Costs of salaries, benefits, and expendable material the applicant incurs in the project except ordinary operating expenses of local government, such as salaries and expenses of mayors, city council members, attorneys, commissioners, board members, or managers; (5-8-09)

b. Costs under construction contracts bid and executed in compliance with state public works construction laws; (5-3-03)

c. Professional and consulting services utilizing a lump sum contract, a negotiated hourly rate contract, a time and materials contract, or cost plus a fixed fee contract; (5-3-03)

d. Planning directly related to the water pollution control projects; (5-3-03)

e. Sewer system evaluations; (5-3-03)

f. Financial and management capability analysis; (5-3-03)

g. Preparation of construction drawings, specifications, estimates, and construction contract documents; (5-3-03)

h. Landscaping; (5-3-03)

i. Removal and relocation or replacement of utilities for which the applicant is legally obligated to pay; (5-8-09)

j. Material acquired, consumed, or expended specifically for the project; (5-3-03)

k. A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations; (5-3-03)

l. Preparation of an operation and maintenance manual; (5-3-03)

m. Preparation of a plan of operation; (5-3-03)

n. Start-up services; (5-3-03)

o. Project identification signs; (5-3-03)

p. Public participation for alternative selection; (5-3-03)

q. Development of user charge and financial management systems; (5-3-03)

r. Development of sewer use ordinance; (5-3-03)

s. Staffing plans and budget development; (5-3-03)

t. Certain direct and other costs as determined eligible by the Department; (5-3-03)

u. Costs of complying with the Federal Water Pollution Control Act (P.L. 92-500) as amended, 33 USC Section 1251 et seq., loan requirements applied to specific projects; and (5-3-03)

v. Site acquisition costs, including sewer right of way, sewage treatment plant site, wastewater land application sites and sludge disposal areas. Land purchase shall be from a willing seller. (3-29-12)

05. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to: (5-3-03)

a. Basin or area wide planning not directly related to the project; (5-3-03)

b. Bonus payments not legally required for completion of construction before a contractual completion date; (5-3-03)

c. Personal injury compensation or damages arising out of the project; (5-3-03)

d. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (5-3-03)

e. Costs outside the scope of the approved project; (5-3-03)

f. Ordinary operating expenses of local government, such as salaries and expenses of mayors, city council members, attorneys, commissioners, board members, or managers; (5-8-09)

g. Construction of privately owned wastewater treatment facilities; (5-3-03)

h. Cost of land in excess of that needed for the proposed project; (5-3-03)

i. Cost of refinancing existing indebtedness; (3-29-12)

j. Reserve funds; and (3-29-12)

k. Costs incurred prior to acceptance of the loan unless specifically approved in writing as eligible pre-award costs by the Department. (3-29-12)

06. Notification Regarding Ineligible Costs. Prior to providing a loan offer, the Department shall notify the applicant if certain costs are not eligible for funding and the reasons for the Department's determination. If such costs are included in the engineering contract, the Department shall also provide notification to the engineer. The applicant may provide the Department additional information in response to the notice. (5-3-03)

07. Eligible Costs and the Loan Offer. The loan offer shall reflect those costs determined by the Department to be eligible costs. The loan offer, however, may include estimates of some eligible costs that have not yet been set, such as construction costs. Actual eligible costs may differ from such estimated costs set forth in the loan offer. In addition, loan disbursements may be increased or decreased if eligible costs are modified as provided in Section 060. (5-3-03)

042. ENVIRONMENTAL REVIEW.

01. Environmental Documentation. Projects may be a nonpoint source activity or a wastewater treatment facility or other point source facility. Guidance on how to complete an environmental review may be found in Chapter 5 of the Handbook. For eligible point source projects funded solely with non-federal funds (i.e. State Revolving Loan Fund repayments), see Subsection 042.10. For eligible point source projects, the loan recipient shall complete an environmental review as part of and in conjunction with a planning document. Projects funded exclusively as nonpoint or estuary management projects may not be required to complete an environmental review. The loan recipient shall consult with the Department at an early stage in the loan process to determine the required level of environmental review. Based on review of existing information, and assessment of environmental impacts, the loan recipient shall complete one (1) of the following per the Department's instruction: (3-29-12)

a. Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (5-8-09)

b. Prepare an Environmental Information Document (EID) in a format specified by the Department; or (5-8-09)

c. Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. (5-8-09)

02. Categorical Exclusions. If the loan recipient requests a CE, the Department shall review the request and, based upon the supporting documentation, take one (1) of the following actions: (3-29-12)

a. Determine if the action is consistent with categories eligible for exclusion whereupon the Department shall issue a notice of CE from substantive environmental review. Once the CE is granted for the selected alternative, the Department will publish a notice of CE in a local newspaper in the geographical area of the proposed project to inform the public of this action, following which the planning document can be approved and the loan award can proceed; or (3-29-12)

b. Determine if the action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If a CE is not issued, the Department shall notify the loan recipient to prepare an EID. (3-29-12)

03. Environmental Information Document Requirements. When an EID is required, the loan recipient shall prepare the EID in accordance with the following Department procedures: (3-29-12)

a. Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and executive orders; (5-8-09)

b. A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or irretrievable commitment of resources; and (5-8-09)

c. The Department shall review the draft EID and either request additional information about one (1) or more potential impacts, or shall draft a "finding of no significant impact" (FONSI). (5-8-09)

04. Final Finding of No Significant Impact. The Department shall publish the draft FONSI in a local newspaper in the geographical area of the proposed project and shall allow a minimum thirty (30) day public comment period. Following the required period of public review and comment, and after any public concerns about project impacts are addressed, the FONSI shall become final. The Department shall assess the effectiveness and feasibility of the mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. (3-29-12)

05. Environmental Impact Statement (EIS) Requirements. If an (EIS) is required, the loan recipient shall: (3-29-12)

a. Consult with all affected federal and state agencies, and other interested parties, to determine the required scope of the document; (5-8-09)

b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (5-8-09)

c. Conduct a public meeting which may be in conjunction with a planning document meeting; and (3-29-12)

d. Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (5-8-09)

06. Final Environmental Impact Statement (EIS). Upon completion of the EIS by the loan recipient and approval by the Department of all requirements listed in Subsection 042.05, the Department shall issue a record of decision, documenting the mitigation measures which shall be required of the loan recipient. The loan agreement can be completed once the final EIS has been approved by the Department. (3-29-12)

07. Partitioning the Environmental Review. Under certain circumstances, the building of a component/partition of a wastewater system may be justified in advance of all environment review requirements for the remainder of the system. The Department shall approve partitioning the environment review in accordance with established procedures. (3-29-12)

08. Use of Environmental Reviews Conducted by Other Agencies. If environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public participation process of the other agency. (5-8-09)

09. Validity of Review. Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a loan application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions and public views and shall: (3-29-12)

a. Reaffirm the earlier decision; or (1-1-89)

b. Require supplemental information to the earlier EIS, EID, or request for CE. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of CE, FONSI, or record of decision. (5-8-09)

10. Exemption From Review. Loan projects may be exempt from certain federal crosscutting authorities at the discretion of the Department as long as in any given year the annual amount of loans, equal to the most recent federal capitalization grant, complies with all of the federal crosscutting authorities. (3-29-12)

043. -- 049. (RESERVED)

050. LOAN OFFER AND ACCEPTANCE.

01. Loan Offer. Loan offers will be delivered to successful applicants by representatives of the Department or by registered mail. (1-1-89)

02. Acceptance of Loan Offer. Applicants have sixty (60) days in which to officially accept the loan offer on prescribed forms furnished by the Department. The sixty (60) day acceptance period commences from the date indicated on the loan offer notice. If the applicant does not accept the loan offer within the sixty (60) day period the loan funds may be offered to the next project of priority. (1-1-89)

03. Acceptance Executed as a Contract Agreement. Upon signature by the Director and upon signature by the authorized representative of the eligible applicant, the loan offer shall become a contract. Upon accepting a loan offer a eligible applicant becomes a loan recipient. The disbursement of funds pursuant to a loan contract is subject to a finding by the Director that the loan recipient has complied with all loan contract conditions and has prudently managed the project. The Director may, as a condition of disbursement, require that a loan recipient vigorously pursue any claims it has against third parties who will be paid in whole or in part, directly or indirectly, with loan funds. No third party shall acquire any rights against the state or its employees from a loan contract. (5-3-03)

04. Estimate of Reasonable Cost. All loan contracts will include the eligible costs of the project. Some eligible costs may be estimated and disbursements may be increased or decreased as provided in Section 060. (5-3-03)

05. Terms of Loan Offers. The loan offer shall contain such terms as are prescribed by the Department including, but not limited to: (1-1-89)

a. Terms consistent with these rules, the project step to be funded under the loan offer, and Title 39, Chapter 36, Idaho Code; (5-8-09)

b. Special clauses as determined necessary by the Department for the successful investigation, design,

construction and management of the project; (5-8-09)

c. Terms consistent with applicable state and federal laws pertaining to planning documents, design, and construction, including the Public Works Contractors License Act and the Public Contracts Bond Act, Chapter 19, Title 54, Idaho Code, and the federal Clean Water Act requirements for projects funded with loan moneys of federal origin; (3-29-12)

d. Requirement for the prime engineering firm(s) and their principals retained for engineering services to carry professional liability insurance to protect the public from the engineer's negligent acts and errors and omissions of a professional nature. The total aggregate of the engineer's professional liability insurance shall be one hundred thousand dollars ($100,000) or twice the amount of the engineer's fee, whichever is greater. Professional liability insurance must cover all such services rendered for all project phases, whether or not such services or phases are state funded, until the certification of project performance is accepted by the Department; (3-29-12)

e. The project shall be bid, contracted and constructed according to the current edition of Idaho Standards for Public Works Construction unless the loan recipient has approved and adopted acceptable public works construction standards approved by the Department; (3-29-12)

f. The loan interest rate for loans made during the state fiscal year beginning July 1 will be established by the Director. The interest rate will be a fixed rate in effect for the life of the loan. The rate may equal but shall not exceed the current market rate; (5-8-09)

g. The loan fee pursuant to Section 032; (5-8-09)

h. All loans must be fully amortized within a period not to exceed thirty (30) years after project completion. The loan contract will contain a schedule of loan repayments stating the due dates and the amount due. The loan recipient may elect for either a schedule of semi-annual or annual repayments at the time the loan is finalized; and (3-29-12)

i. Repayment default will occur when a scheduled loan repayment is thirty (30) days past due. If default occurs, the Department may invoke appropriate loan contract provisions and/or bond covenants. (5-3-03)

051. ACCOUNTING AND AUDITING PROCEDURES.
Loan recipients must maintain project accounts in accordance with generally accepted accounting principles. Eligible nonpoint source water pollution control implementation funding project sponsors may be audited on an annual basis according to government auditing standards issued by the U.S. General Accounting Office. (3-29-12)

052. -- 059. (RESERVED)

060. DISBURSEMENTS.

01. Loan Disbursements. Requests to the Department for actual disbursement of loan proceeds will be made by the loan recipient on forms provided by the Department. (3-30-01)

02. Loan Increases. An increase in the loan amount as a result of an increase in eligible project costs will be considered, provided funds are available. Documentation supporting the need for an increase must be submitted to the Department for approval prior to incurring any costs above the eligible cost ceiling. (1-1-89)

03. Loan Decreases. If the actual eligible cost is determined by the Department to be lower than the estimated eligible cost the loan amount will be reduced proportionately. (1-1-89)

04. Project Review to Determine Final Eligible Costs. A project review by the Department or a Department designee will determine the final eligible costs. (3-30-01)

05. Final Disbursement. The final loan disbursement consisting of five percent (5%) of the total loan amount shall not be made until final inspection, final review, and a final loan repayment schedule have been completed. (3-29-12)

061. LOAN CONSOLIDATION.
If two (2) or more loans are consolidated into one (1) loan, the interest rate for the consolidated loan will be at the same rate as the loan being consolidated with the lowest interest rate. (3-30-01)

062. -- 079. (RESERVED)

080. SUSPENSION OR TERMINATION OF LOAN CONTRACTS.

01. Causes. The Director may suspend or terminate any loan contract prior to final disbursement for failure by the loan recipient or its agents, including engineering firm(s), contractor(s) or subcontractor(s) to perform. A loan contract may be suspended or terminated for good cause including, but not limited to, the following: (5-3-03)

a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; or (1-1-89)

b. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years' imprisonment or any crime involving or affecting the project; or (1-1-89)

c. Violation(s) of any term of the loan contract; or (1-1-89)

d. Any willful or serious failure to perform within the scope of the project, plan of operation and project schedule, terms of engineering subagreements, or contracts for construction; or (5-3-03)

e. Debarment of a contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (1-1-89)

02. Notice. The Director will notify the loan recipient in writing and by certified mail of the intent to suspend or terminate the loan contract. The notice of intent shall state: (1-1-89)

a. Specific acts or omissions which form the basis for suspension or termination; and (1-1-89)

b. That the loan recipient may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

03. Determination. A determination will be made by the Board pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

04. Reinstatement of Suspended Loan. Upon written request by the loan recipient with evidence that the causes(s) for suspension no longer exists, the Director may, if funds are available reinstate the loan contract. If a suspended loan contract is not reinstated, the loan will be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. (1-1-89)

05. Reinstatement of Terminated Loan. No terminated loan shall be reinstated. Terminated loans will be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. (1-1-89)

081. -- 994. (RESERVED)

995. WAIVER OF REQUIREMENTS AND AMENDMENT OF INTEGRATED PRIORITY LIST.

01. Conditions for Waiver. The Director may amend the Integrated Priority List and grant a waiver from the requirements of these rules on a case-by-case basis upon full demonstration by the loan recipient requesting the waiver that the following conditions exist. See also Subsection 020.05 of these rules. (3-29-12)

a. Health Hazard. A significant public health hazard exists; (5-8-09)

b. **Water Contamination**. A significant water contamination problem exists; (5-8-09)

c. **Pollution**. A significant point source of pollution exists causing a violation of Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards"; or (3-29-12)

d. **Affordability Criteria Exceeded**. The project will exceed affordability criteria adopted by the Department in the event the waiver is not granted. (3-29-12)

02. **Availability of Federal Funds**. The waiver will not affect the availability of federal funds for the project where such funding is required by the loan recipient requesting the waiver. (3-29-12)

996. -- 999. (RESERVED)

58.01.13 – RULES FOR ORE PROCESSING BY CYANIDATION

000. LEGAL AUTHORITY.

Title 39, Chapter 1, Idaho Code, grants the authority to the Board of Environmental Quality to adopt rules, regulations and standards to protect the environment and the health of the State; grants authority to the Director to issue permits as prescribed by law and by the rules of the Board; and requires Department of Environmental Quality review and approval of plans and specifications for all new facilities, or for modifications or expansions to existing facilities, that process ore by cyanidation; and authorizes the Director to require a reasonable fee for processing permit applications. (4-11-06)

001. TITLE, SCOPE AND INTENT.

01. Title. These rules are titled IDAPA 58.01.13, "Rules for Ore Processing by Cyanidation." (1-1-88)

02. Scope and Intent. These rules establish the procedures and requirements for the issuance and maintenance of a permit to construct, operate and close that portion of a cyanidation facility that is intended to contain, treat or dispose of process water or process-contaminated water containing cyanide. The provisions of these rules also establish requirements for water quality protection which address performance, construction, operation and closure of that portion of any cyanidation facility that is intended to contain, treat, or dispose of process water. These rules are intended to ensure that process water and process-contaminated water generated in ore processing operations that utilize cyanide as a primary leaching agent and pollutants associated with the cyanidation process are safely contained, controlled, and treated so that they do not interfere with the beneficial uses of the waters of the state and do not endanger public safety or the environment. (4-11-06)

002. WRITTEN INTERPRETATIONS.

As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (3-30-06)

003. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

004. INCORPORATION BY REFERENCE.

These rules do not contain documents incorporated by reference. (3-30-06)

005. OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.

The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8:00 a.m. to 5:00 p.m. mountain time, Monday through Friday. (3-30-06)

006. CONFIDENTIALITY OF RECORDS.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Title 74, Chapter 1, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (3-15-02)

007. DEFINITIONS.

01. Beneficial Use. Any of the various uses which may be made of the surface and/or ground water of the state including, but not limited to, domestic water supplies, industrial water supplies, agricultural water supplies, navigation, recreation in and on the water, wildlife habitat, and aesthetics. Beneficial uses for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards." (1-25-95)

02. Best Management Practices (BMPs). Practices, techniques or measures developed, or identified, by the designated agency or identified in the state water quality management plan, as described in IDAPA 58.01.02, "Water Quality Standards," which are determined to be a cost-effective and practicable means of preventing or reducing pollutants generated from nonpoint sources to a level compatible with water quality goals. (3-30-06)

03. Cyanidation. The method of extracting target precious metals from ores by treatment with a cyanide solution, which is the primary leaching agent for extraction. (4-11-06)

04. Cyanidation Facility. That portion of a new ore processing facility, or a material modification or a

material expansion of that portion of an existing ore processing facility, that utilizes cyanidation and is intended to contain, treat, or dispose of cyanide containing materials including spent ore, tailings and process water. (4-11-06)

05. Department. The Idaho Department of Environmental Quality. (1-1-88)

06. Director. The Director of the Department of Environmental Quality or his designee. (12-31-91)

07. Discharge. When used without qualification, any spilling, leaking, emitting, escaping, leaching, or disposing of a pollutant into the waters of the state. (4-11-06)

08. Groundwater. Any water of the state which occurs beneath the surface of the earth in a saturated geological formation of rock or soil. (4-11-06)

09. Impoundment. For the purpose of these rules an impoundment means a structure such as a pond, reservoir, tank, or vat that collects and confines liquids or slurries. (7-1-97)

10. Land Application. A process or activity involving application of process water, wastewater, surface water, or semi-liquid material to the land for the purpose of disposal, pollutant removal, or groundwater recharge. (3-30-06)

11. Liner. A continuous layer of natural or man-made materials beneath and, if applicable, on the sides of a surface impoundment or leach pad which restricts the downward and lateral movement of liquids. (3-30-06)

12. Material Modification or Material Expansion. (4-11-06)

a. The addition of a new beneficiation process, or a significant change in the capacity of an existing beneficiation process, which was not identified in the original application and that significantly increases the potential to degrade the waters of the state. Such process could include, but is not limited to, heap leaching and process components for milling; or (3-30-06)

b. A significant change in the location of a proposed process component or site condition which was not adequately described in the original application; or (4-11-06)

c. A change in the beneficiation process that alters the characteristics of the waste stream in a way that significantly increases the potential to degrade the waters of the state. (4-11-06)

d. For a cyanidation facility with an existing permit that did not actively add cyanide after January 1, 2005, reclamation and closure related activities shall not be considered to be material modifications or material expansions of the cyanidation facility. (3-30-06)

13. Material Stabilization. Managing or treating spent ore, tailings or other solids and/or sludges resulting from the cyanidation process to minimize waters or all other applied solutions from migrating through the material and transporting pollutants associated with the cyanidation facility to ensure that all discharges comply with all applicable standards and criteria. (3-30-06)

14. National Pollution Discharge Elimination System (NPDES) Permit. A permit issued by the U.S. Environmental Protection Agency for the purpose of regulating discharges into surface waters. (3-30-06)

15. Neutralization. Treatment of process waters such that discharge or final disposal of those waters does not, or shall not, violate any applicable standards and criteria. (4-11-06)

16. Permanent Closure. Those activities which result in neutralization, material stabilization and decontamination of cyanidation facilities and/or the facilities' final reclamation. (3-30-06)

17. Permanent Closure Plan. A description of the procedures, methods, and schedule that will be implemented to meet the intent and purpose of Section 39-118A, Idaho Code, and Chapter 15, Title 47, Idaho Code, in treating and disposing of cyanide-containing materials including spent ore, tailings, and process water and in

controlling and monitoring discharges and potential discharges for a reasonable period of time based on site-specific conditions. (4-11-06)

18. Permit. When used without qualification, any written authorization by the Director, issued pursuant to the application, public participation and appeal procedures in these rules, governing location, operation and maintenance, monitoring, seasonal and permanent closure, discharge response, and design and construction of a new cyanidation facility or a material expansion or material modification to a cyanidation facility. (4-11-06)

19. Permittee. The person in whose name a permit is issued and who is to be the principal party responsible for compliance with these rules and the conditions of a permit. (7-1-97)

20. Person. An individual, corporation, partnership, association, state, municipality, commission, federal agency, special district or interstate body. (1-1-88)

21. Pilot Facility. (7-1-97)

a. A test cyanidation facility that is constructed primarily to obtain data on the effectiveness of the beneficiation process to determine: (3-30-06)

i. The feasibility of metals recovery from an ore; or (7-1-97)

ii. The optimum operating conditions for a predetermined process to extract values from an ore. (7-1-97)

b. A pilot or test facility operates for one (1) year for a single test or two (2) years for multiple tests, during which time no more than ten thousand (10,000) tons of ore are evaluated for the testing process(es), unless the applicant can demonstrate that a greater amount is necessary for a specific purpose in the testing process. (3-30-06)

22. Pollutant. Chemicals, chemical waste, process water, biological materials, radioactive materials, or other materials which, when discharged, cause or contribute adverse effects to any beneficial use, or for any other reason, may impact the surface or ground waters of the state. (3-30-06)

23. Post-Closure. The period of time after completion of permanent closure when the permittee is monitoring the effectiveness of the closure activities. Post-closure shall last a minimum of twelve (12) months but may extend until the cyanidation facility is shown to be in compliance with the stated permanent closure objectives and requirements of Chapter 15, Title 47, Idaho Code, and these rules. (3-30-06)

24. Process Waters. Any liquids which are intentionally or unintentionally introduced into any portion of the cyanidation process. These liquids may contain cyanide or other minerals, meteoric water, ground or surface water, elements and compounds added to the process solutions for leaching or the general beneficiation of ore, or hazardous materials that result from the combination of these materials. (4-11-06)

25. Seasonal Closure. Annual cessation of operations that is due to weather. (1-1-88)

26. Small Cyanidation Processing Facility. A cyanidation facility which chemically processes less than thirty-six thousand five hundred (36,500) tons of ore per year and no more than one hundred twenty thousand (120,000) tons of ore for the life of the project at any one (1) permitted cyanidation facility. No person or applicant may concurrently hold more than one (1) small cyanidation processing facility permit, if the facilities are located within ten (10) miles of each other. (3-30-06)

27. Special Resource Water. Those waters of the state which are recognized as needing intensive protection: (1-1-88)

a. To preserve outstanding or unique characteristics; or (1-1-88)

b. To maintain current beneficial use (refer to Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," for a complete description; special resource waters for specific stream segments are established in Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality

Standards"). (1-25-95)

28. **State**. The state of Idaho. (12-31-91)

29. **Temporary Closure**. Any cessation of operations exceeding thirty (30) days, other than seasonal or permanent. (1-1-88)

30. **Treatment**. Any method, technique or process, including neutralization, designed to change the physical, chemical, or biological character or composition of a waste for the purpose of disposal. (1-1-88)

31. **Water Balance**. An inventory and accounting process, capable of being reconciled, that integrates all potential sources of water that are entrained in the cyanidation facility or may enter into or exit from the cyanidation facility. The inventory must include the water holding capacity of specific structures within the facility that contain process water. The water balance is used to ensure that all process water and other pollutants can be contained as engineered and designed within a factor of safety as determined in the permanent closure plan. (3-30-06)

32. **Water Management Plan**. A document that describes the results of the water balance and the methods that will be used to ensure that pollutants are not discharged from a cyanidation facility into waters of the state unless permitted or otherwise approved by the Department. (4-11-06)

33. **Waters of the State**. All the accumulations of water, surface and underground, natural and artificial, public or private, or parts thereof which are wholly or partially within, which flow through or border upon the state. These waters shall not include municipal or industrial wastewater treatment or storage structures or private reservoirs, the operation of which has no effect on waters of the state. (4-11-06)

34. **Weak Acid Dissociable (WAD) Cyanide**. The cyanide concentration as determined by Method C, Weak Acid Dissociable Cyanide, D2036 of American Society of Testing Materials Book of Standards, "Standard Methods for the Examination of Water and Wastewater," Method 4500-CN- I, or other methods accepted by the scientific community and deemed appropriate by the Department. (4-11-06)

008. -- 009. (RESERVED)

010. APPLICABILITY TO FACILITIES WITH EXISTING PERMITS.

A cyanidation facility with an existing permit approved by the Department prior to July 1, 2005 shall be subject to the applicable laws and rules for ore processing by cyanidation in effect on June 30, 2005. Material modifications or material expansions of such facilities are subject to Section 39-118A, Idaho Code. The rules for ore processing by cyanidation in effect on June 30, 2005 can be obtained by contacting the Department of Environmental Quality, Hearing Coordinator, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, www.deq.idaho.gov. (4-11-06)

011. -- 049. (RESERVED)

050. CONCEPTUAL DESIGN APPROVAL.

01. **Information Required for Conceptual Design Approval**. Submittal of a Conceptual Design Report is not mandatory. The Director may, if requested, give initial approval of the basic operation, design concepts, and environmental safeguards proposed based on the information included in a Conceptual Design Report. Approval of the Conceptual Design Report shall not authorize the construction, modification or operation of the cyanidation facility. It is recommended that the Conceptual Design Report address the contents for a permit application as listed in Subsection 100.03. (3-30-06)

02. **Notice of Conceptual Design Approval or Disapproval**. The Director shall notify the applicant in writing of the decision for conceptual approval or disapproval within a period of thirty (30) days from receiving all information as required under Subsection 050.01. The time required to review and approve, if appropriate, a conceptual design shall be considered separate from and shall not be included as part of the one hundred eighty (180) day time period for processing the formal application and issuance of a Director's determination pursuant to these rules. (4-11-06)

03. Preapplication Conference. Prospective applicants are encouraged to meet with agents of the Department at least one (1) year in advance of the application submittal to discuss environmental baseline data requirements; waste characterization requirements; siting requirements for surface and ground water monitoring stations, mills, tailing impoundments, waste disposal sites and land application sites; monitoring well construction requirements; operation and maintenance plans; emergency and spill response plans; quality control/quality assurance plans for water quality sampling and analyses; required contents for permit applications; application procedures and schedules; public review and comment periods; public meetings; and agency cyanidation facility visits. The preapplication conference may trigger a period of collaborative effort between the applicant, the Idaho Department of Environmental Quality, and the Idaho Department of Lands in development of checklists to be used by the agencies in reviewing an application for completeness, accuracy and protectiveness. (3-30-06)

051. -- 099. (RESERVED)

100. PERMIT AND PERMIT APPLICATION.

01. Permit Required. No person shall construct a new cyanidation facility prior to obtaining a permit from the Director. No person shall materially expand or materially modify a cyanidation facility prior to obtaining a modified permit for such expansion or modification pursuant to Section 750. (3-30-06)

02. Permit Application. The owner or proposed operator of a cyanidation facility or the owner's or operator's authorized representative shall: (3-30-06)

a. Make application to the Director in writing and in a manner or form prescribed herein; and (4-11-06)

b. Provide five (5) paper copies of the application to the Director, unless otherwise agreed to by the Department and the applicant. (4-11-06)

03. Contents of Application. A permit application and its contents shall be used to determine if an applicant can locate, construct, operate, maintain, close and monitor the proposed cyanidation facility in conformance with these and other applicable rules including, but not limited to, Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards"; IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems"; IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; IDAPA 58.01.06, "Solid Waste Management Rules"; and IDAPA 58.01.11, "Ground Water Quality Rule." Information required shall include the following, in sufficient detail to allow the Director to make necessary application review decisions concerning design concepts and protection of human health and the environment: (3-30-06)

a. Name, location, and mailing address of the cyanidation facility. (4-11-06)

b. Name, mailing address, and phone number of the applicant, and a registered agent. (1-1-88)

c. Land ownership status of the cyanidation facility (federal, state, private or public). (4-11-06)

d. Name, mailing address, and phone number of the applicant's construction and operations manager. (3-30-06)

e. The legal structure (corporation, partnership, etc.) and residence of the applicant. (1-1-88)

f. The legal description, to the quarter-quarter section, of the location of the proposed cyanidation facility. (3-30-06)

g. Evidence the applicant is authorized by the Secretary of State to conduct business in the State of Idaho. (3-30-06)

h. A general description of the operational plans for the cyanidation facility from construction through permanent closure. This description shall include any proposed phases for construction, operations, and permanent closure. (3-30-06)

i. The design maximum daily throughput of ore through the cyanidation facility and the total projected volume of material to be processed during the life of the operation. (3-30-06)

j. Cyanidation facility layouts including water management systems designed to segregate storm water from process water. (3-30-06)

k. A geotechnical evaluation of all process water and process chemical containment systems within the proposed cyanidation facility. (3-30-06)

l. A preconstruction topographic site map or aerial photos extending at least one (1) mile beyond the outer limits of the cyanidation facility, identifying and showing the location and extent of the following features: (3-30-06)

i. All wells, perennial and intermittent springs, adit discharges, wetlands, surface waters and irrigation ditches that may be affected by the cyanidation facility; (3-30-06)

ii. All process water supply source(s); (1-1-88)

iii. All public and private drinking water supply source(s) within at least one (1) mile of the cyanidation facility; (4-11-06)

iv. Identified floodplain areas (shown on USGS sectional Quadrangle maps); (3-30-06)

v. All service roads and public roads; (1-1-88)

vi. All buildings and structures within a half (1/2) mile of the cyanidation facility; (4-11-06)

vii. All special resource waters within one (1) mile of the cyanidation facility; (4-11-06)

viii. All Clean Water Act Section 303(d) listed streams, and their listed impairments, within ten (10) miles of the site boundary that may be affected by the cyanidation facility. (3-30-06)

m. To the extent such information is available, a description and location of underground mine workings and adits and a description of the structural geology that may influence ground water flow and direction. (3-30-06)

n. A description of the proposed land application site. The description shall include a potentiometric map, surface and subsurface soil characteristics, geology, hydrogeology and ground water quality. The description of these characteristics must be sufficient to determine anticipated impacts to the affected soils, associated vadose zone as well as anticipated changes in geochemistry that may affect surface and ground water quality. (3-30-06)

o. Siting diagram for land application sites, monitoring wells, lysimeters, surface or ground water discharge sites, or surface water monitoring locations. (3-30-06)

p. A description of measures to protect wildlife that may be affected by the facility. (3-30-06)

q. Proposed post-construction topographic maps. (3-30-06)

r. Engineering Plans and Specifications. Engineering plans and specifications for all portions of the cyanidation facility intended to contain, treat, convey or dispose of all process water and pollutants must be submitted to the Department for review and approval. Prior to construction, all cyanidation facility engineering plans and specifications must be stamped by a professional engineer registered in the state of Idaho. These plans and specifications shall include: (3-30-06)

i. The water balance, ore flow and processing calculations demonstrating the logic behind sizing of facilities. (3-30-06)

ii. The general ore processing overview analyses of chemical compatibility of containment materials with process chemicals and wastes, including a chemical mass balance at inputs and outputs from the cyanidation facility. (3-30-06)

iii. Geotechnical data and analyses demonstrating the logic for plans and specifications of foundation materials and placement. (3-30-06)

iv. Requirements for site preparation. (3-30-06)

v. Pumping and dewatering requirements. (3-30-06)

vi. Procedures for materials selection and placement for backfilling foundation areas. (3-30-06)

vii. Criteria for ensuring slope stabilization of embankments for pads, ponds and tailings impoundment. (3-30-06)

viii. Procedures to classify and modify, if necessary, excavated fill, bedding and cover materials for buildings, pads, ponds, and tailings impoundments. (3-30-06)

ix. Plumbing schematics and component specifications. (3-30-06)

x. Manufacturers' specifications and warranties for all materials that will or may come in contact with process waters. (3-30-06)

xi. Plan views and cross-section drawings of leach pad, permanent heaps, vats, process water storage ponds, tailing ponds and spent ore disposal areas. (3-30-06)

xii. Leak detection and collection system plans and specifications including, but not limited to, schematics and narratives describing liner and geotextile material specifications, sumping capacity and layout, location of monitoring port(s), monitoring port components, construction operation and maintenance procedures for monitoring ports and pumping systems, including backup system, triggers for primary and secondary containment repairs, replacement or other contingency mitigation, frequency of monitoring, and monitoring parameters. (3-30-06)

xiii. Provisions to protect primary and secondary containment systems from heavy equipment, fires, earthquakes and other natural phenomena. (3-30-06)

xiv. Quality control and quality assurance procedures. (3-30-06)

xv. The identity and qualifications of person(s) directly responsible for supervising construction and providing project quality control and quality assurance. (3-30-06)

s. Operation and maintenance plans that includes: (3-30-06)

i. Maintenance plans, including routine service procedures for primary and secondary containment systems, process chemical storage, and disposal of contaminated water or soils, including petroleum-contaminated soils. (3-30-06)

ii. A water management plan that provides for handling and containment of process water including the methods to manage and/or treat all process water and pollutants, and run-off or run-on water, emergency releases, and excess water due to flood, rain, snowmelt, or other similar events. The plan shall include the basis for impoundment volumes and estimations of the need for and operation of a land application site, injection wells, infiltration galleries or leach fields, or the need for an NPDES permit. The plan shall be updated on a regular basis to reflect the reconciliation of the water balance changes in the project through construction, operation, maintenance, and permanent closure, including modifications to the cyanidation facility. (3-30-06)

iii. A proposed water quality monitoring plan that meets the requirements of Subsection 200.08. (3-30-06)

iv. An emergency and spill response plan that describes procedures and methods to be implemented for the abatement and clean up of any pollutant that may be discharged from the cyanidation facility during use, handling or disposal of processing chemicals, petrochemicals and/or fuels, and any other deleterious materials. (3-30-06)

v. A seasonal/temporary closure plan, if applicable, that describes the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility during the period of closure, the control of drainage from the surrounding area, and the secure storage of process chemicals. (3-30-06)

t. Permanent Closure Plan. The permanent closure plan may be the same as the plan submitted to the Idaho Department of Lands pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code. The permanent closure plan shall: (4-11-06)

i. Identify the current owner of the cyanidation facility and the party responsible for the permanent closure and the long-term care and maintenance of the cyanidation facility. (3-30-06)

ii. Include a time line showing the schedule to complete permanent closure activities, including neutralization of process waters and material stabilization, and the time period for which the permittee shall be responsible for post-closure activities. (3-30-06)

iii. Provide the objectives, methods and procedures, that will achieve neutralization of process waters and material stabilization during the closure period and through post-closure. (4-11-06)

iv. Provide a water management plan from the time the cyanidation facility is in permanent closure through the defined post-closure period. (4-11-06)

v. Include the schematic drawings for all BMPs that will be used during the closure period, through the defined post-closure period, a description of how the BMPs support the water management plan, and an explanation of the water conveyance systems that are planned for the cyanidation facility. (4-11-06)

vi. Provide proposed post-construction topographic maps and scaled cross-sections showing the configuration of the final heap or tailing facility, including final cap and cover designs and the plan for long-term operation and maintenance of the cap. Caps and covers used as source control measures for cyanidation facilities must be designed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Prior to issuance of a final permit, engineering plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. (3-30-06)

vii. Include monitoring plans for surface and ground water during closure and post-closure periods adequate to demonstrate water quality trends and to ensure compliance with the stated permanent closure objectives and requirements of these rules. (4-11-06)

viii. Provide an assessment of the potential impacts to soils and vegetation for all areas to be used for land application and provide a mitigation plan as appropriate. (4-11-06)

ix. Provide information on how the permittee will comply with the Resource Conservation and Recovery Act, 42 U.S.C. Sections 6901 et seq.; the Idaho Hazardous Waste Management Act, Chapter 44, Title 39, Idaho Code; the Idaho Solid Waste Management Act, Chapter 74, Title 39, Idaho Code; and appropriate state rules, during operation and permanent closure. (3-30-06)

x. Provide sufficient detail to allow the permittee to prepare an estimate of the reasonable cost for the state of Idaho to hire a third party to implement the closure plan. (3-30-06)

u. The application shall be accompanied by a fee pursuant to Subsection 100.05. (3-30-06)

04. Application for a Small Cyanidation Processing Facility and Pilot Facility. The owner or proposed operator of a small cyanidation processing facility or the owner's or operator's authorized representative shall make application to the Director in writing of the intent to operate a small cyanidation processing facility or a pilot facility. The application shall include an explanation as to why the proposed small cyanidation processing facility qualifies as a small cyanidation processing facility or a pilot facility. The application must provide the information, plans and specifications identified in Subsection 100.03. (3-30-06)

05. Permit Application Fees. (3-30-06)

a. The application shall be accompanied by a fee as described below: (3-30-06)

i. Five thousand dollars ($5,000) for a pilot facility; (3-30-06)

ii. Ten thousand dollars ($10,000) for a small cyanidation processing facility; (3-30-06)

iii. Twenty thousand dollars ($20,000) for a cyanidation facility that is neither a pilot facility nor a small cyanidation processing facility; or (3-30-06)

iv. In lieu of paying a fee at the time the application is submitted, an applicant may enter into an agreement with the Department for actual costs incurred to process an application and issue a final permit. The applicant shall not commence operations at the cyanidation facility until the terms of the agreement have been met, including that the Department has been reimbursed for all actual costs incurred for the permitting process. (3-30-06)

b. Completeness of an application is contingent upon one (1) of the following: (3-30-06)

i. Submission of the applicable fees as described in Subsections 100.05.a.i. through 100.05.a.iii.; or (3-30-06)

ii. The applicant enters into an agreement with the Department as described in Subsection 100.05.a.iv. (3-30-06)

06. Exemptions to Fees. Requests made by the Department to the permittee for any permit modifications shall not be subject to application fees set forth in Subsection 100.05. Requests by the permittee for minor modifications to a permit shall not be subject to application fees set forth in Subsection 100.05. (3-30-06)

101. -- 199. (RESERVED)

200. REQUIREMENTS FOR WATER QUALITY PROTECTION.
The following design and performance standards are intended as the minimum criteria for protection of public health and the waters of the state. These standards shall apply to all facilities unless the Department determines that other site-specific criteria are appropriate to protect water quality and the public health. (3-30-06)

01. Cyanidation Facilities Siting and Preparation. All cyanidation facilities including, but not limited to, the process building, laboratories, process chemical storage and containment facilities, plumbing fixtures that support process water, untreated or treated process water ponds, tailings impoundments, ore stock piles, and spent ore disposal areas must be appropriately sited and prepared for construction. Siting criteria must ensure that, at a minimum, the facilities are structurally sound and that primary and secondary containment systems can be adequately protected against factors such as wild fires, floods, land slides, surface and ground water systems, equipment operation, subsidence of underground workings, public access and public activities. All sites must be properly prepared prior to construction of foundations and facilities. Vegetation, roots, brush, large woody debris and other deleterious materials, top soil, historic foundations and plumbing, or other materials that may adversely affect appropriate construction and long term stability, must be removed from the footprint of the cyanidation facility unless approved by the Department. (3-30-06)

02. Process Water Storage Sizing Criteria. All aspects of the cyanidation facility that entrain, utilize, treat, discharge, pump, or otherwise contain process water and pollutants shall be included in the water balance. The water balance shall include process water ponds, treated process water ponds, tailing impoundments, and water

conveyance systems. The engineered containment criteria for each pond shall be incorporated into the water balance and must be designed to maintain a minimum two (2) foot freeboard at all times. At a minimum, a cyanidation facility shall be designed to contain the maximum expected normal operating water balance and the volume of run-on/run-off water associated with a climatic event that has a frequency of occurrence of one (1) year in one hundred (100) years or one percent (1%). Snowmelt events shall be considered in determining the containment capacity. Contingency plans for managing excesses of process water shall be described in the water management strategy. Each impoundment design must include a spillway, unless otherwise approved by the Department. (3-30-06)

03. Minimum Plans and Specifications for Impoundments, Leach Pads and Other Facilities Designed to Contain Process Water. Engineering plans and specifications, which are signed and stamped by a professional engineer registered in the state of Idaho, must be approved and included in the final permit issued by the Department prior to construction of cyanidation facilities that are designed to contain process waters. The plans and specifications must provide for: (3-30-06)

a. A prepared subbase of compacted soil, which shall be a minimum of twelve (12) inches thick. The soil must be compacted to ninety-five percent (95%) of Standard Proctor Test ASTM 698 or ninety-five percent (95%) of Modified Proctor Test ASTM 1557. The compacted soil layers must be placed in a minimum of two (2) lifts; (3-30-06)

b. A prepared subbase, which shall be free of plus three (3) inch rocks, roots, brush, trash, debris or other deleterious materials; (3-30-06)

c. Primary containment synthetic liners, which shall have a minimum thickness of eighty (80) milli-inches (2.0 mm) consisting of high-density polyethylene (HDPE) material and a maximum coefficient of permeability of 10^{-11} cm/sec, or comparable liners approved by the Department; (3-30-06)

d. A final smoothed and compacted soil layer, which shall not contain particles in excess of point seven five (0.75) inches (nineteen (19) mm) in diameter and have a maximum coefficient of permeability of 10^{-6} cm/sec, or comparable liners approved by the Department; (3-30-06)

e. Primary and secondary liner systems, which shall be constructed according to manufacturers' standards, or Department-approved design standards, and which must protect against cracking, sun damage, ice, frost penetration or heaving, wildlife and wildfires, and damage that may be caused by personnel or equipment operating in or around these facilities; (3-30-06)

f. Compacted clay liners (CCLs), which shall be placed within two percent (2%) of optimum moisture content for the CCL to achieve specified compaction and permeability criteria; (3-30-06)

g. An appropriate interface friction strength plus a factor of safety when either a geosynthetic clay liner (GCL) or CCL is used with a geomembrane liner on a slope; (3-30-06)

h. Minimum factors of safety, and the logic behind their selection, for the stability of the earthworks and the lining systems of heap leach pads and ponds; (3-30-06)

i. Redundant systems, which shall be available if there are failures in primary power and/or pumping systems; (3-30-06)

j. Procedures for loading ore onto the leach pads which will minimize tensile stresses in the primary and secondary containment liners that may result in failure of the liners; and (3-30-06)

k. Leak detection and collection systems, which shall be designed and installed for all facilities, or portions thereof, where process waters may place an average of twelve (12) inches or greater of hydraulic head pressure on primary containment. The engineering plans and specifications shall: (3-30-06)

i. Provide a material between primary and secondary containment synthetic liners to collect, transport and remove all process water that passes through the primary containment synthetic liner at such a rate as to prevent hydraulic head from developing on the secondary containment synthetic liner to the level at which it may be

reasonably expected to result in discharges through the secondary containment synthetic liner; (3-30-06)

ii. Provide routines and schedules for the evaluation of the efficiency and effectiveness of the removal of process waters from the layer placed between primary and secondary containment synthetic liners. The properly working system shall continually relieve head pressures on the secondary containment synthetic liner; (3-30-06)

iii. Provide specific triggers for maintenance routines, which shall be initiated in response to inadequate performance of primary or secondary containment synthetic liners; (3-30-06)

iv. Specify operation and maintenance procedures, which shall be initiated in response to inadequate performance of primary and secondary containment or leak detection and collection systems; and (3-30-06)

v. Provide secondary containment synthetic liners, which shall have a minimum thickness of eighty (80) milli-inches (two (2.0) mm) consisting of HDPE and a maximum coefficient of permeability of 10^{-11} cm/sec, or comparable liners approved by the Department. (3-30-06)

04. Process Buildings, Process Chemical Storage Containment Areas and General Facility Criteria. Storage, handling and use of all process chemicals, process wastes, process water and pollutants must be conducted within a clean, safe and secure work space to prevent unauthorized discharges to soils, ground water or surface water. The plans and specifications must contain sufficient detail, including pump capacity and plumbing for evacuation of collection sumps, triggering systems for sump evacuation, and monitoring and reporting requirements. Plans and specifications must be submitted with the application for the Department's review and approval. Prior to construction, plans and specifications for the process buildings and auxiliary facilities, including process chemical storage and containment facilities and laboratories, must be signed and stamped by a professional engineer registered in the state of Idaho. Where appropriate, these plans and specifications must provide for: (3-30-06)

a. Structural integrity of the foundation, walls and roof for process and process chemical storage buildings. (3-30-06)

b. Restriction of public access. (3-30-06)

c. Protection of wildlife. (3-30-06)

d. Internal sumps and spill cleanup plans. (3-30-06)

e. Grouted and sealed concrete stemmed walls and floors in the process and process chemical storage and containment facilities. (3-30-06)

f. Vapor barriers and frost protection. (3-30-06)

g. Segregation of process chemicals according to compatibility. (3-30-06)

h. Communication systems. (3-30-06)

i. Fire suppression systems, internal and external. (3-30-06)

j. Quality assurance and quality control for construction activities and construction materials. (3-30-06)

05. Cap and Cover Criteria. Caps and covers used as source control measures for facilities must be designed and constructed to minimize the interaction of meteoric waters, surface waters, and ground waters with wastes containing pollutants that are likely to be mobilized and discharged to waters of the state. Caps and covers designed for permanent closure must demonstrate permanence applicable to the permittee's designed and approved permanent closure plan. Prior to issuance of a final permit, engineering plans and specifications for caps and covers must be signed and stamped by a professional engineer registered in the state of Idaho. (3-30-06)

06. Plumbing and Conveyance Criteria. Engineering plans and specifications must be submitted to

the Department for review and approval. Plumbing and conveyance systems shall be structurally sound and chemically compatible with the materials being conveyed; shall provide adequate primary and secondary containment; and shall be protected against heat, cold, mechanical failures, impacts, fires, and other factors which may cause breakage and result in unauthorized discharges. Prior to construction, engineering plans and specifications of all conveyances of materials containing process water must be signed and stamped by a professional engineer registered in the state of Idaho. (3-30-06)

07. Operation and Maintenance Plans. Operation and maintenance plans must be submitted to the Department for review and approval. Operation and maintenance plans must include, but are not limited to:(3-30-06)

a. An overall plan that includes techniques for evaluating the integrity and performance of all primary and secondary containment systems. (3-30-06)

b. Schedule for inspections of all primary and secondary containment systems. (3-30-06)

c. Schedule for inspections on piping and conveyance systems that carry process water. (3-30-06)

d. Response plans that detail specific actions that will result in mitigation of compromised or damaged containment systems. (3-30-06)

08. Water Quality Monitoring and Reporting. The water quality monitoring plan submitted with the application shall be reviewed and, if appropriate, approved by the Department. The approved water quality monitoring plan shall: (3-30-06)

a. Provide for physical, chemical and biological monitoring, including surface water flow measurements, in potentially affected surface and ground water, as appropriate. (3-30-06)

b. Provide for sampling locations and frequency. (3-30-06)

c. Provide an assessment of the existing surface and ground water conditions prior to construction of the proposed cyanidation facility. (3-30-06)

d. Be site specific and dependent on location, design and operation of the cyanidation facilities included in the overall operating plan. (3-30-06)

e. Specify compliance points and associated water quality compliance criteria. (3-30-06)

f. Specify monitoring points, which will provide for early detection of discharges of pollutants. (3-30-06)

g. Provide analytical methods and method detection limits for chemical analysis used in the determination of water quality. (3-30-06)

h. Provide a quality assurance quality control plan for data collection and analysis. (3-30-06)

i. Provide for appropriate and timely analytical data analyses including evaluations of water quality and quantity trends. (3-30-06)

j. Provide an annual environmental monitoring and data analysis report of water quality and quantity trends. (3-30-06)

k. Provide for the reporting and re-sampling of monitoring locations where detectable and statistically significant changes in water quality are found. The permittee shall propose a statistical method to determine the significance of the changes in water quality. (3-30-06)

l. Provide for anticipated changes or modifications to monitoring plans, which may be the result of a phased approach to cyanidation facility construction, operations and permanent closure. (3-30-06)

09. Monitoring Wells Siting and Construction Plans. The applicant is encouraged to submit the purpose, objectives, location and proposed construction of monitoring wells to the Department for review and comment during the initial stages of site characterization. (3-30-06)

a. Monitoring well siting and construction plans shall provide for a minimum of three (3) monitoring wells. One (1) shall be located up gradient and two (2) shall be located down gradient of primary components of the cyanidation facility to determine ground water flow direction. (3-30-06)

b. Siting and planning for additional wells or replacement wells may be required in the permit application and final permit. Specifically, additional wells may be required for: (3-30-06)

i. Large areas with multiple potential sources for pollutants; (3-30-06)

ii. Areas with complex geology, fractured bedrock; and (3-30-06)

iii. Areas with insufficient background hydrogeology. (3-30-06)

c. All monitoring well construction must also conform to the well construction rules listed in IDAPA 37.03.09, "Well Construction Standards Rules." (3-30-06)

d. Record diagrams along with a detailed geologic log shall be provided to the Department for each monitoring well. (3-30-06)

10. Land Application. Prior to issuance of a final permit, plans and specifications for the construction or modification of land application of process water disposal systems shall be submitted to and approved by the Department. All plans and specifications for the construction, operation and closure of land application or other waste treatment or disposal facilities or modification must be signed and stamped by a registered professional engineer licensed in the state of Idaho. Plans and specifications shall include: (3-30-06)

a. An operation and maintenance plan including: (3-30-06)

i. Water balance for the land application site. (3-30-06)

ii. Pretreatment requirements and procedures. (3-30-06)

iii. Operating season for land application. (3-30-06)

iv. Seasonal closeout procedures. (3-30-06)

v. Special soils or vegetative amendments. (3-30-06)

vi. Storm water run-on/run-off controls. (3-30-06)

vii. Best management practices for all areas impacted by the land application system. (3-30-06)

viii. A topographic map of the land application site and adjacent affected areas, of sufficient scale to facilitate site-specific analysis of soils, vegetation, surface water and ground water. (3-30-06)

b. Chemical, physical, and volumetric characteristics of the process water to be land applied. (3-30-06)

c. A complete description of the chemical and physical characteristics of the soils and applicable geology of the land application site. (3-30-06)

d. Methods of process water treatment, distribution and disposal. (3-30-06)

e. Hydraulic loading capacity of the soils. (3-30-06)

f. Constituent loading capacity of the site. (3-30-06)

g. Attenuation capacity of the vegetative covers and soils. (3-30-06)

h. Evapotranspiration capacity of the site. (3-30-06)

i. Testing and analytical procedures for water quality and soils samples prior to, during, and following the land application process. (3-30-06)

j. Trend analysis of the constituent loading in the affected soils, vegetation and water quality of the affected surface or ground water systems. (3-30-06)

k. Reporting requirements including both frequency and form. (3-30-06)

l. Standby power and pumps sufficient to maintain all treatment and distribution works. (3-30-06)

11. Temporary or Seasonal Closure. Temporary and seasonal closure plans for the entire cyanidation facility must be submitted by an applicant to the Department for review and approval prior to issuance of a final permit. Temporary and seasonal closure plans may, subject to Department approval pursuant to Section 750, be modified to provide for changes in operating conditions of the facilities and must incorporate a water management plan for the period of inactivity as well as during shut down and reactivation. (3-30-06)

a. Prior to seasonal closure, process buildings, process chemical storage, process water ponds, tailing ponds, spent ore disposal areas and other ancillary facilities must be stabilized and/or conditioned to prevent any emergency or unauthorized discharges to surface or ground water. (3-30-06)

b. Subsequent to seasonal closure, process buildings, process chemical storage, process water ponds, tailings ponds, spent ore disposal areas and other ancillary facilities must be maintained to prevent any emergency or unauthorized discharges to surface or ground water. Cyanidation facilities shall be conditioned and maintained to provide: (3-30-06)

i. Material stabilization for all solids affected by process waters. (3-30-06)

ii. Optimum freeboard in all ponds, as dictated by the water management plan. (3-30-06)

iii. Fully functional power and pumping systems that are ready for use; both power and pumps shall have incorporated redundant systems to allow for failure of either power or a pumping system. A failed power supply or pump is not an acceptable reason for an unauthorized discharge. (3-30-06)

iv. Protection of all primary and secondary containment. (3-30-06)

v. Sufficient availability of qualified staff to restrict public access, fully implement the water quality monitoring plan, and initiate the emergency and spill response plan. (3-30-06)

12. Employee Education Program. Operators and staff of facilities must be properly oriented and trained to operate, maintain and protect primary and secondary containment systems; waste disposal and discharge systems; and to implement monitoring and emergency and spill response plans. An applicant must submit an employee orientation and continuing training plan to the Department for review prior to issuance of a final permit. The plan must provide the format and contents for training, the general qualifications of the person(s) responsible for training and testing, and the person(s) or positions which should receive such training. (3-30-06)

201. -- 299. (RESERVED)

300. APPLICATION PROCESSING PROCEDURE.

01. Application Processing Time Line for Director's Final Decision. A chart illustrating the application processing time line is located in Appendix A of these rules. (3-30-06)

02. Completeness Review. Within thirty (30) days of receipt of an application, the Department will issue a written notice to the applicant and the Idaho Department of Lands, indicating: (3-30-06)

a. That the application is complete; or (3-30-06)

b. That the Department is rejecting the application as incomplete and shall provide a list of deficiencies. Upon determination that the application is incomplete, the Department shall refund one half (1/2) of the application fee. (3-30-06)

03. Accuracy and Protectiveness Review. Within sixty (60) days of receipt of an application and upon determination by the Department that the application is complete, the Department will review the application for accuracy and protectiveness based on these and other applicable rules including, but not limited to, IDAPA 58.01.02, "Water Quality Standards," and IDAPA 58.01.11, "Ground Water Quality Rule." (3-30-06)

04. Notice of Intent to Deny the Permit Application or to Draft a Permit. Within sixty (60) days of receipt of an application for a new permit or to modify an existing permit, the Director shall: (3-30-06)

a. Provide public notice of intent to deny the permit application; or (3-30-06)

b. Provide public notice that the Director has determined that the application is complete and the Director intends to draft a permit, is seeking public comment, and will hold at least one (1) public meeting on the draft permit in accordance with Section 400. (3-30-06)

05. Basis for Permit Application Denial. The Director shall deny a permit application if: (3-30-06)

a. The application is inaccurate or incomplete; (1-1-88)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or (3-30-06)

c. The applicant has not submitted the appropriate fees. (3-30-06)

06. Permit Fact Sheet. The Director shall prepare a fact sheet, for each denial or draft permit, which briefly states the principal facts and the significant legal and policy questions considered in the Director's decision. The fact sheet shall include, when applicable: (3-30-06)

a. A brief description of the proposed cyanidation facility and the operating plan. (4-11-06)

b. A brief summary of the basis for the decision, including references to applicable requirements and supporting materials. (1-1-88)

c. Reasons why any requested conditions or alternatives to required standards do or do not appear justified. (1-1-88)

d. The name and phone number of the agency representative to contact for additional information. (1-1-88)

301. -- 399. (RESERVED)

400. PUBLIC INVOLVEMENT IN PERMIT PROCEDURES.

01. Public Notice of Permit Actions. No public notice is required when a request for a permit modification is denied. The Director shall give public notice of: (3-30-06)

a. Receipt of an application for a permit; (1-1-88)

b. Any public meeting schedule; (1-1-88)

c. Issuance of a draft permit or a decision to deny the application for a permit; and (3-30-06)

d. An appeal that has been filed. (3-30-06)

02. Public Notice Information. All public notices shall contain the name and address of the Department's office processing the permit action, where the application and draft permit will be available for public review, and a brief description of the public involvement procedures. (1-1-88)

03. Serving the Public Notice. Public notice of permit actions shall be given by the following methods: (1-1-88)

a. By mail to: (1-1-88)

i. The applicant; (1-1-88)

ii. Persons on a mailing list who request to be notified; and (3-30-06)

iii. Other appropriate federal, tribal, state and local government entities. (3-30-06)

b. Publication in a daily or weekly major newspaper of general circulation in the area of the proposed cyanidation facility; and (3-30-06)

c. Any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected. (1-1-88)

04. Participation by Idaho Department of Lands. The Department shall formally request that the Idaho Department of Lands participate in the public meeting with respect to performance criteria for permanent closure. (3-30-06)

05. Public Comment(s), Public Comment Period, and Public Meetings. (3-30-06)

a. Within thirty (30) days after the Director's decision to draft a permit, the Department shall hold a public meeting. Oral or written comments may be submitted by any person at the public meeting. The meeting may be presided by agency personnel appointed by the Director. In order for the Department to address public comments in its Response to Public Comments pursuant to Subsection 450.03., comments must be submitted in writing within sixty (60) days after the Director's decision to draft a permit. (3-30-06)

b. From the time an application is received, until sixty (60) days after issuance of the notice pursuant to Subsection 300.04., the public may provide written comments. All written comments submitted during this public comment period shall be considered by the Director. (3-30-06)

401. -- 449. (RESERVED)

450. FINAL PERMIT DECISION.

01. Issuance. Within sixty (60) days after the close of the public comment period, the Director shall either issue or deny a permit, or major modification of a permit. Provided however, that if weather conditions prevent the Director from inspecting the proposed or existing cyanidation facility site to obtain information needed to approve or reject a submitted application, he may, in writing to the applicant, extend the time not to exceed thirty (30) days after weather conditions permit such inspection. (3-30-06)

02. Notification of the Decision. The Director shall notify the applicant and each person who requested notice of the final permit decision. This notice shall include reference to the procedures for administrative

appeal under Section 003. For the purpose of this section, a final permit decision means a final decision to issue, deny, modify, or revoke a permit. (3-30-06)

03. Response to Public Comments. All written comments and information received during the comment period, together with the Department's final permit decision and the response to relevant written comments shall be made available to the public at the time the Director issues the final permit decision. This response shall: (3-30-06)

a. Specify any differences between the final permit decision and the draft permit and state the reasons for those differences; (3-30-06)

b. Briefly describe and respond to all relevant written comments on the draft permit or denial. (1-1-88)

04. Basis for Permit Denial. The Director shall deny a permit if: (3-30-06)

a. The application is incomplete or inaccurate; (3-30-06)

b. The cyanidation facility as proposed cannot be conditioned for construction, operation, and closure so as to comply with applicable state law; or (3-30-06)

c. The Idaho Department of Lands has determined that the permanent closure plan does not meet the requirements of Chapter 15, Title 47, Idaho Code. (3-30-06)

05. Immediate Effect of the Permit. A valid permit authorizes the construction and operation of a cyanidation facility. (1-1-88)

451. -- 499. (RESERVED)

500. PERMIT CONDITIONS.
The following conditions shall apply to and be specified in all permits: (3-30-06)

01. Compliance Required. The applicant or permittee shall comply with all conditions of the permit. Issuance or possession of a permit issued according to these rules shall not relieve the applicant or permittee of the responsibility to comply with all other applicable local, state, and federal laws. (3-30-06)

02. Record Plans and Specifications. A professional engineer registered in the state of Idaho must confirm in writing that all record drawings and specifications are complete and accurate. These record plans and specifications must be submitted by the permittee to the Director within thirty (30) days after the completion of the construction of each critical phase of facility development as approved by the Department. The record plans and specifications must be accompanied by a final construction report. If the construction proceeded in substantial compliance with the approved plans and specifications, a statement to the effect may be submitted by the registered, professional engineer. (3-30-06)

03. Provide Information. The permittee shall furnish to the Director within a reasonable or specified time any information, including copies of records required by the permit or other applicable rules, which the Director may reasonably require to determine whether cause exists for modifying or revoking the permit or to determine compliance with the permit or other applicable rules. (3-30-06)

04. Notifications. After initial construction and seasonal and/or temporary closure, the permittee shall, within thirty (30) days, provide written notice to the Director of the permittee's intentions to commence or restart operations. At least thirty (30) days prior to completion of operations, and/or temporary or seasonal operations, the permittee shall notify the Director of the permittee's intentions to temporarily, seasonally or permanently close operations. Notification shall provide sufficient time for the Director to provide pre-operational or post-operational inspections, as necessary. (3-30-06)

05. Entry and Access. The permittee shall allow the Director, or a designee obligated by agreement

with the Director to comply with the confidentiality provisions of Section 39-111, Idaho Code, to: (1-1-88)

a. Enter at reasonable times upon the premises of a permitted cyanidation facility or where records required by a permit are kept; (4-11-06)

b. Have access to and copy at reasonable times any records that must be kept under the conditions of the permit; (1-1-88)

c. Inspect at reasonable times any cyanidation facility, equipment, practice, or operation permitted or required by the permit; (4-11-06)

d. Sample or monitor at reasonable times, substance(s) or parameter(s) directly related to permit or regulation compliance. (1-1-88)

06. Reporting. It shall be the permittee's responsibility to report to the Director: (1-1-88)

a. Orally, as soon as possible but no later than twenty-four (24) hours from the time the permittee knows or should reasonably know of any noncompliance which may endanger the public health or the environment. (1-1-88)

b. In writing, within five (5) working days from the time a permittee knows or should reasonably know of any event which may be or which may result in a violation of these rules, or Idaho Department of Environmental Quality Rules, IDAPA 58.01.02, "Water Quality Standards," or IDAPA 58.01.11, "Ground Water Quality Rule." This report shall contain: (3-30-06)

i. A description of the event and its cause; if the cause is not known, steps taken to investigate and determine the cause; (1-1-88)

ii. The period of the event including, to the extent possible, the individual(s) involved in the incident(s) and the time(s) and date(s) of the incidents; (3-30-06)

iii. Measures taken to mitigate or eliminate the event and protect the public health; and (3-30-06)

iv. Steps taken to prevent recurrence of the event. (3-30-06)

c. In writing, confirmation of any conditions which may result in violation of any permit condition. (3-30-06)

d. In writing, when the permittee knows or should reasonably know of relevant facts not submitted or incorrect information submitted in a permit application or any report or notice to the Director or the Department. Those facts or the correct information shall be included as a part of this report. (3-30-06)

07. Discharge Response. If an unauthorized discharge occurs the permittee shall implement the Department approved emergency and spill response plan. (3-30-06)

08. Temporary or Seasonal Closure Plans. Prior to temporary or seasonal closure, the permittee shall submit a temporary or seasonal closure plan to the Director for approval. The plan shall describe the procedures, methods, and schedule to be implemented for the treatment and disposal of process water and pollutants, the control of drainage from the cyanidation facility, the control of drainage from the surrounding area, and the secure storage of chemicals during the period of closure. Within thirty (30) days of receiving the plan, the Director shall approve and/or suggest modifications necessary to protect the waters of the state. The permittee shall ensure that closure complies with an approved plan. In no case shall the permittee complete temporary or seasonal closure prior to implementation of the approved plan. Facilities may not be temporarily or seasonally closed for a period longer than two (2) years unless approved by the Director. (3-30-06)

09. Begin Construction. If the permittee fails to begin construction of a cyanidation facility within one (1) year of the effective date of the permit, the permit will be deemed void. (3-30-06)

10. Permanent Closure. The permanent closure plan, as approved by the Idaho Department of Environmental Quality in coordination with the Idaho Department of Lands, shall be incorporated by reference into the Department-issued permit as a permit condition and shall be enforceable as such. The Department may evaluate permanent closure based on different performance standards than those used by the Idaho Department of Lands. (3-30-06)

501. COMPLETION OF PERMANENT CLOSURE.

01. Implementation of a Permanent Closure Plan. Unless otherwise specified in the approved permanent closure plan, the permittee must begin implementation of the approved permanent closure plan: (3-30-06)

a. Within one (1) year of the final addition of cyanide to the ore processing circuit for pilot or small cyanidation processing facilities; or (4-11-06)

b. Within two (2) years of the final addition of cyanide to the ore processing circuit for all other cyanidation facilities; or (4-11-06)

c. If the product recovery phase of the cyanidation facility has been suspended for a period of more than two (2) years. (4-11-06)

02. Submittal of a Permanent Closure Report. The permittee shall submit a permanent closure report to the Department for review and approval. A permanent closure report shall be of sufficient detail for the directors of the Idaho Department of Environmental Quality and the Idaho Department of Lands to issue a determination that permanent closure, as defined in Section 007 of these rules, has been achieved. The permanent closure report shall address: (3-30-06)

a. The effectiveness of material stabilization. (4-11-06)

b. The effectiveness of the water management plan and adequacy of the monitoring plan. (4-11-06)

c. The final configuration of the cyanidation facility and its operational/closure status. (4-11-06)

d. The post-closure operation, maintenance, and monitoring requirements, and the estimated reasonable cost to complete those activities. (4-11-06)

e. The operational/closure status of any land application site of the cyanidation facility. (4-11-06)

f. Source control systems that have been constructed or implemented to eliminate, mitigate, or contain short and long term discharge of pollutants from the cyanidation facility, unless otherwise permitted. (4-11-06)

g. The short and long term water quality trends in surface and ground water through the statistical analyses of the existing monitoring data collected pursuant to the ore processing by cyanidation permit. (4-11-06)

h. Ownership and responsibility for the cyanidation facility during the defined post-closure period. (4-11-06)

i. The future beneficial uses of the land, surface and ground waters in and adjacent to the closed facilities. (4-11-06)

j. How the permanent closure of the cyanidation facility complies with the Resource Conservation and Recovery Act, Hazardous Waste Management Act, Solid Waste Management Act, and appropriate rules. (4-11-06)

502. DECISION TO APPROVE OR DISAPPROVE OF A PERMANENT CLOSURE REPORT.

01. Issuance of Director's Determination. Within sixty (60) days of receipt of a permanent closure report, the Director shall issue to the permittee a Director's determination of approval or disapproval of the permanent closure report. (4-11-06)

02. Director's Determination to Disapprove a Permanent Closure Report. A Director's determination to disapprove a permanent closure report shall specifically identify and discuss those reasons for disapproval, any administrative actions being considered by the Director, and the permittee's options and procedures for administrative appeal. The Director's determination to disapprove a permanent closure report must include: (4-11-06)

a. Identification of errors or inaccuracies in the permanent closure report. (4-11-06)

b. Issues or details which require additional clarification. (4-11-06)

c. Failures to fully implement the approved permanent closure plans. (4-11-06)

d. Outstanding violations or other noncompliance issues. (4-11-06)

e. Other issues supporting the Department's disagreement with the contents, final conclusions or recommendations of the permanent closure report. (4-11-06)

503. -- 549. (RESERVED)

550. VALIDITY AND DURATION OF PERMITS.
A permit shall remain valid until the Director determines that permanent closure is completed or the Director revokes or modifies the permit. (3-30-06)

551. -- 649. (RESERVED)

650. FINANCIAL ASSURANCE.

01. Financial Assurance Required. The permittee is required to provide financial assurance pursuant to the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code, and the rules promulgated thereunder. The Department shall not issue a permit under these rules to a cyanidation facility unless the cyanidation facility has satisfied such financial assurance requirements. (4-11-06)

02. Insufficiency. In the event the financial assurance is forfeited as described in the Idaho Surface Mining Act, Chapter 15, Title 47, Idaho Code, the Department may seek to recover the amount necessary to implement permanent closure under the Department-issued permit and these rules as provided by law. (4-11-06)

651. -- 749. (RESERVED)

750. PERMIT MODIFICATION.

01. Cause for Permit Modification. Causes for permit modification are: (1-1-88)

a. A material modification or material expansion in the cyanidation facility operation, design or closure plan. (4-11-06)

b. Natural phenomena substantially different from those anticipated in the original permit. (1-1-88)

02. Modification at Request of Permittee. Requests for modification from the permittee shall include: (1-1-88)

a. A written description of the modification(s); (1-1-88)

b. Data supporting the modification request; (1-1-88)

c. Causes and anticipated effects of the modification. (1-1-88)

03. Modification at Request of Director. Pursuant to Subsection 750.01, if the Director determines that cause exists for permit modification, the Director shall notify the permittee in writing and request information necessary for the Director to modify the permit. (12-31-91)

04. Modification Procedure. The Director shall evaluate the request for a permit modification, based on the information provided in Subsection 750.02 or otherwise obtained by the Department, and determine if the modification requires a major permit modification or a minor permit modification. Major permit modifications shall be subject to the provisions of Sections 100, 200, 300, 400, and 450. Minor permit modifications shall not be subject to the provisions of Sections 100, 300 and 400. The permittee shall notify and receive approval from the Department prior to making minor modifications. (3-30-06)

05. Major Permit Modifications. Changes that require a major permit modification include but are not limited to: (3-30-06)

a. Material modifications or material expansions to a cyanidation facility as defined by these rules; or (3-30-06)

b. A significant increase or decrease in the time the cyanidation facility is expected to be in operation. (3-30-06)

c. Requests to modify or change water quality compliance criteria and/or water quality compliance monitoring points. (3-30-06)

06. Minor Permit Modifications. Minor permit modifications are those which, if granted, would not result in any increased hazard to the environment or to the public health. Within thirty (30) days of receipt of a written request for a minor modification, the Department shall complete an evaluation of the request and either approve or deny the request in writing. Minor modifications may include but are not limited to: (3-30-06)

a. The correction of typographical errors in an approved permit. (3-30-06)

b. Legal transfer of ownership or operational control. (3-30-06)

c. A change in the requirements for monitoring or reporting frequency of the quality or quantity of the project air, water or waste generated. (3-30-06)

d. A change in the cost estimates submitted by a permittee to the Idaho Department of Lands to complete permanent closure. (3-30-06)

e. A change or modification that is required by a state or federal requirement that supersedes the authorities of these rules. (3-30-06)

751. -- 799. (RESERVED)

800. TRANSFER OF PERMITS.

01. Transfer of Permits Allowed. A permit shall be transferred to a new permittee if such permittee provides written notice to the Director containing: (3-30-06)

a. A specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees. (3-30-06)

b. Demonstration that the new permittee has established appropriate financial assurance for permanent closure of the facility; and (3-30-06)

c. The information required in Subsections 100.03.b., 100.03.d., 100.03.e. and 100.03.g. (3-30-06)

02. Decision. The Director shall either approve of or deny the transfer of the permit within thirty (30) days of receipt of notice that the current permittee wishes to transfer the permit to a new permittee. (3-30-06)

03. Basis for Permit Denial. The Director shall deny the request for the permit transfer if the new permittee has not provided the information required in Subsection 800.01. (3-30-06)

801. -- 849. (RESERVED)

850. PERMIT REVOCATION.

01. Cause for Revocation. A material violation of a permit or these rules may be grounds for the Director to revoke a permit. A violation that is shown to have occurred as the result of an unforeseeable act of God despite a permittee's reasonable efforts to comply with all applicable legal requirements shall not be grounds for revocation. (1-1-88)

02. Revocation Hearing. If the Director decides to revoke a permit, he shall issue a notice of intent which shall become final within thirty-five (35) days of service upon the permittee, unless the permittee requests in writing an administrative hearing. The hearing shall be conducted in accordance with IDAPA 58.01.23, Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

851. -- 899. (RESERVED)

900. VIOLATIONS.

01. Failure to Comply. Failure by a permittee to comply with the provisions of these rules or with any permit condition shall be deemed a violation of these rules. (1-1-88)

02. Falsification of Statements and Records. It shall be a violation of these rules for any person to knowingly make a false statement, representation, or certification in any application, registration, report, document, or record developed, maintained, or submitted pursuant to these rules or the conditions of a permit. (1-1-88)

03. Discharges. Any unauthorized discharge shall be a violation of these rules. (1-1-88)

901. -- 999. (RESERVED)

APPENDIX A

APPLICATION PROCESSING TIME LINE FOR DIRECTOR'S FINAL DECISION

IDAPA 58.01.13, RULES FOR ORE PROCESSING BY CYANIDATION

The following chart illustrates the time line for processing a permit application and references the corresponding sections from IDAPA 58.01.13.

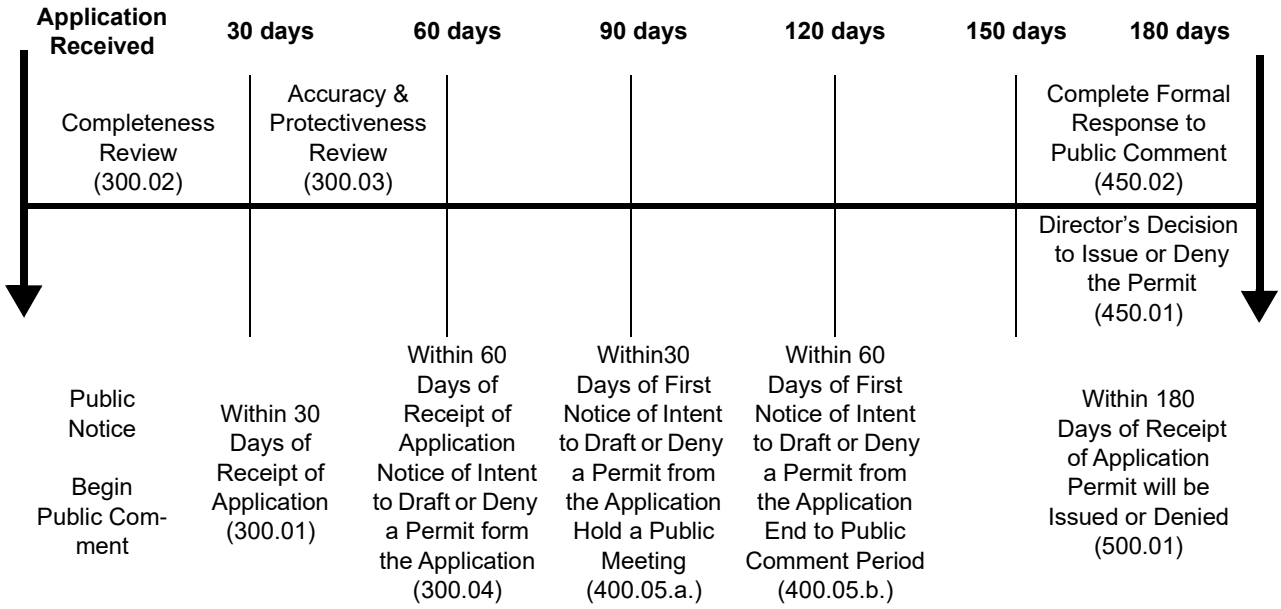
Application Received
30 days
60 days
90 days
120 days
150 days
180 days
Completeness Review (300.02)
Accuracy & Protectiveness Review (300.03)
Complete Formal Response to Public Comment (450.02)
Director's Decision to Issue or Deny the Permit (450.01)
Public Notice
Begin Public Comment
Within 30 Days of Receipt of Application (300.01)
Within 60 Days of Receipt of Application Notice of Intent to Draft or Deny a Permit form the Application (300.04)
Within30 Days of First Notice of Intent to Draft or Deny a Permit from the Application Hold a Public Meeting (400.05.a.)
Within 60 Days of First Notice of Intent to Draft or Deny a Permit from the Application End to Public Comment Period (400.05.b.)
Within 180 Days of Receipt of Application Permit will be Issued or Denied (500.01)

58.01.14 – RULES GOVERNING FEES FOR ENVIRONMENTAL OPERATING PERMITS, LICENSES, AND INSPECTION SERVICES

000. LEGAL AUTHORITY.
Pursuant to Sections 39-105, 39-107 and 39-119, Idaho Code, the Board of Environmental Quality is authorized to promulgate rules establishing reasonable fees to be charged and collected for any service rendered by the Department of Environmental Quality. (4-2-03)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 58.01.14, "Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services." (4-2-03)

02. Scope. These rules establish reasonable fees for environmental operating permits, licenses, inspection services and waiver application processing rendered by the Department of Environmental Quality or its designees. (4-2-03)

002. WRITTEN INTERPRETATIONS.
In accordance with Section 67-5201(19)(b)(iv), any written statements pertaining to the interpretation of these rules will be available for review at the Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (4-2-03)

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under this chapter pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure before the Board of Environmental Quality." (4-2-03)

004. INCORPORATION BY REFERENCE.
These rules do not contain documents incorporated by reference. (4-2-03)

005. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality and the office of the Board of Environmental Quality are located at 1410 N. Hilton, Boise, Idaho 83706-1255, telephone number (208) 373-0502. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (4-2-03)

006. CONFIDENTIALITY OF RECORDS.
Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-2-03)

007. DEFINITIONS.

01. Board. The Idaho Board of Environmental Quality. (4-2-03)

02. Department. The Idaho Department of Environmental Quality or its designee. (4-2-03)

03. Director. The Director of the Idaho Department of Environmental Quality or his designee. (4-2-03)

008. -- 099. (RESERVED)

100. ENVIRONMENTAL FEES.
The fees specified in Sections 101 through 199 shall be charged for the following environmental services rendered by the Department or its designees. Fees for services rendered by designees that are equivalent or greater than the fees listed in Sections 101 through 199 may be adopted by the district health departments or local government. The fees are to be paid by the party receiving the services to the Department or designee performing the service, in the time, place and manner specified by the performing entity. (4-2-03)

101. -- 109. (RESERVED)

110. INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PERMIT.

For those services rendered in the process of issuing installation permits for individual and subsurface sewage disposal systems (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules"), the following fees apply: (4-2-03)

01. Individual Households or Buildings. For individual households or buildings, if the individual and subsurface sewage disposal system is a new installation or a replacement or expansion of an existing system, the fee shall be ninety dollars ($90). (4-2-03)

02. Multiple Households or Buildings. For individual and subsurface sewage disposal systems serving more than one (1) household or building in any combination, the fee shall be ninety dollars ($90) plus ten dollars ($10) per each household or per each two hundred fifty (250) gallons of flow from buildings. (4-2-03)

111. -- 114. (RESERVED)

115. INDIVIDUAL AND SUBSURFACE SEWAGE DISPOSAL SYSTEM PUMPER PERMIT.
For those services rendered in the process of issuing permits to persons operating individual and subsurface sewage disposal system pumping equipment (see IDAPA 58.01.15, "Rules Governing the Cleaning of Septic Tanks"), the fee shall be forty dollars ($40) plus ten dollars ($10) for each tank truck or tank per annum. (4-2-03)

116. -- 119. (RESERVED)

120. SUBSURFACE SEWAGE DISPOSAL SYSTEM INSTALLER'S REGISTRATION PERMIT.
For those services rendered in the process of issuing Installer's Registration Permits (see IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules"), the fee shall be fifty dollars ($50) per annum for a standard and basic alternative system installer's registration permit and one hundred dollars ($100) per annum for a standard, basic and complex alternative system installer's registration permit. (4-2-03)

121. -- 149. (RESERVED)

150. PARCEL SURVEY.
For those services rendered in evaluating existing water supply or sewage disposal systems when such evaluation is a condition for the sale of real property, the fee shall be sixty dollars ($60) excluding laboratory services. (4-2-03)

151. -- 159. (RESERVED)

160. SANITARY RESTRICTION ADMINISTRATION.
For those services rendered in the administration of sanitary restrictions, pursuant to Section 50-1326, Idaho Code, the following fees apply: (4-2-03)

01. Subdivisions or Plats Proposing Individual and Subsurface Sewage Disposal System Discharge to Subsurface. For subdivisions or plats for which sewage treatment and disposal systems are designed to discharge to the subsurface, the fee shall be one hundred dollars ($100) plus twenty dollars ($20) per lot. (4-2-03)

02. Subdivisions or Plats Proposing Other Than Individual and Subsurface Sewage Disposal System Discharge to Subsurface. For subdivisions or plats for which sewage treatment and disposal systems are not designed to discharge to the subsurface, the fee shall be twenty-five dollars ($25). (4-2-03)

161. -- 899. (RESERVED)

900. WAIVER OF FEES.
Upon written application to the Director of the Department of Environmental Quality, a waiver of a specific fee may be granted to an applicant who is required by these rules to pay such a fee. (4-2-03)

01. Determination of Good Cause. Good cause for such a waiver must be shown before it shall be granted by the Director. Good cause may include hardship or extenuating circumstances, as determined by the Director. (4-2-03)

02. Duration of Waiver. If the fee sought to be waived becomes due periodically, the fee may be waived for a designated period of time. (4-2-03)

03. Limitations. Granting of a waiver shall not be considered as precedent or be given any force or effect in any other proceeding. (4-2-03)

901. -- 999. (RESERVED)

000. LEGAL AUTHORITY.
Pursuant to the provisions of Sections 39-105, 39-107, 39-4405, 39-7210, Idaho Code, the Department of Environmental Quality has the authority to promulgate and adopt rules to carry out the purposes of the Idaho Land Remediation Act, Sections 39-7201 to 39-7210, Idaho Code. (3-13-97)

001. TITLE AND SCOPE.

01. Title and Scope. These rules are titled IDAPA 58.01.18, "Idaho Land Remediation Rules," and shall be applicable to eligible persons who wish to enter into a voluntary remediation agreement with the state to minimize risk of harm to public health and the environment and to restore the economic viability of contaminated real property. (3-13-97)

02. Intent. The Idaho Land Remediation rules have been adopted with the purpose of fostering the remediation, transfer, reuse, or redevelopment of sites or groups of sites based on risk to human health and the environment where releases or threatened release of hazardous substances or petroleum exists. It is also the intent of these rules to establish a voluntary program for the remediation of hazardous substance or petroleum contaminated sites that will encourage innovation and cooperation between the state, local communities, and interested persons and will promote the economic revitalization of property. It is intended that this program will provide for an expedited remediation process by eliminating the need for many adversarial enforcement actions and delays in response action plan approvals. (3-13-97)

002. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of the rules of this chapter. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (3-13-97)

003. ADMINISTRATIVE APPEALS.
Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

004. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.
For the purpose of the rules contained in IDAPA 58.01.18, the following definitions and abbreviations apply. (3-13-97)

01. Act. Idaho Land Remediation Act, Title 39, Chapter 72, Idaho Code. (3-13-97)

02. Applicant. A person who submits an application to participate in the voluntary remediation program under the Idaho Land Remediation Act, Title 39, Chapter 72, Idaho Code. (3-13-97)

03. Board. The Idaho Board of Environmental Quality. (3-13-97)

04. Department. The Idaho Department of Environmental Quality. (3-13-97)

05. Director. The Director of Idaho Department of Environmental Quality or his authorized agent. (3-13-97)

06. Hazardous Substance. Has the meaning set forth in Section 101(14) of the Comprehensive Environmental, Response, Compensation and Liability Act (CERCLA), 42 U.S.C. 9601 (14), as amended. (3-13-97)

07. Natural Background Level. The level of any constituent in the affected media within a specified area as determined by representative measurements of the quality of that media unaffected by human activities. (3-13-97)

08. Person. Any individual, association, partnership, firm, joint stock company, trust, estate, political subdivision, public or private corporation, state or federal governmental department, agency or instrumentality, or any other legal entity which is recognized by law as the subject of rights and duties. (3-13-97)

09. Petroleum. Includes petroleum asphalt and crude oil or any part of petroleum asphalt or crude oil

that is liquid at standard conditions of temperature and pressure (sixty (60) degrees Fahrenheit and fourteen and seven-tenths (14.7) pounds per square inch absolute). (3-13-97)

10. Release. Any spilling, leaking, pumping, pouring, emitting, emptying, discharging, injecting, escaping, leaching, dumping, or disposing into the environment, including the abandonment or discarding of barrels, containers, or other closed receptacles containing any hazardous substance or petroleum. (3-13-97)

11. Remediation. Remediation means any of the following: (3-13-97)

a. Actions necessary to prevent, minimize, or mitigate damages to the public health or welfare or to the environment, which may otherwise result from a release or threat of a release; or (3-13-97)

b. Actions consistent with a permanent remedy taken instead of, or in addition to, removal actions in the event of a release or threatened release of a hazardous substance or petroleum into the environment to eliminate the release of hazardous substances or petroleum so that the hazardous substances or petroleum do not migrate to cause substantial danger to present or future public health or welfare or the environment; or (3-13-97)

c. The cleanup or removal of released hazardous substances or petroleum from the environment. (3-13-97)

12. Site. A parcel of real estate for which an application has been submitted under Section 39-7204, Idaho Code. (3-13-97)

011. -- 019. (RESERVED)

020. APPLICATION TO PARTICIPATE.

01. Application Required. In order to participate in the voluntary remediation program as established by the Idaho Land Remediation Act and these rules, a person shall submit an application to the Department. (3-13-97)

02. Contents of Application. The application shall be on a form provided by the Department and include, or be accompanied by, the following: (3-13-97)

a. Identification of the applicant and the applicant's relationship to the site; (3-13-97)

b. Identification of the owner or operator of the site, if different than Subsection 020.02.a. of these rules; (3-13-97)

c. General information pertaining to the site, including the assessors's parcel number(s), site name, and location; (3-13-97)

d. An environmental assessment that conforms to ASTM Standard Practice E 1527, Environmental Site Assessments: Phase I Environmental Site Assessment Process, as amended, or equivalent; (3-13-97)

e. An application fee in the amount of two hundred and fifty dollars ($250); and (3-13-97)

f. Other background information as requested on the application form provided by the Department as necessary to determine eligibility to participate in the voluntary remediation program. (3-13-97)

03. Application Processing Procedure. (3-13-97)

a. Not more than thirty (30) days after receiving an application the Department shall determine if the applicant is eligible to participate in the voluntary remediation program and notify the applicant of the Department's decision. If the Department fails to comply with this subsection, the applicant shall be considered eligible for the purposes of these rules. (3-13-97)

b. As specifically set forth in the Department's application form, an application may be rejected for the reasons set forth in Section 39-7204(4), Idaho Code. (3-13-97)

c. Rejection of an application for any of the reasons set forth in Section 39-7204(4)(a), Idaho Code, or Section 39-7204(4)(b), Idaho Code, is a final agency action. (3-13-97)

021. VOLUNTARY REMEDIATION AGREEMENTS.

01. Negotiation of Voluntary Remediation Agreement. If the Department accepts an application pursuant to Section 39-7204, Idaho Code, the applicant may enter into a voluntary remediation agreement with the Department. The Department shall not evaluate a voluntary remediation work plan until the voluntary remediation agreement is signed by the applicant and the Director. (3-13-97)

02. Contents of Agreement. The voluntary remediation agreement shall include the following: (3-13-97)

a. A provision for the Department's oversight including access to site and pertinent site records; (3-13-97)

b. A timetable for the Department to do the following: (3-13-97)

i. Reasonably review and evaluate the adequacy of the work plan; (3-13-97)

ii. Make a determination concerning the approval or rejection of the work plan; (3-13-97)

iii. Identify, to the extent possible, permits or approvals required to initiate and complete a voluntary remediation work plan. (3-13-97)

c. A provision to modify the voluntary remediation agreement and voluntary remediation work plan based upon unanticipated site conditions; (3-13-97)

d. An estimation of costs the Department may incur associated with performing all of the tasks, duties and services related to the relevant application or voluntary remediation program activities, as specified in Subsection 021.04 of these rules; (3-13-97)

e. A mechanism and schedule for the payment of all actual reasonable costs incurred by the Department in the review and oversight of the work plan; (3-13-97)

f. A requirement that the applicant shall comply with any applicable zoning authorities or other local, state, or federal law, in implementing the voluntary remediation work plan; (3-13-97)

g. Any other conditions considered necessary by the Department or the applicant concerning the effective and efficient implementation of these rules. (3-13-97)

03. Reimbursement of Costs Included in Agreement. (3-13-97)

a. The voluntary remediation agreement shall include a provision for the payment and accounting of reasonable oversight costs incurred by the Department in connection with the person's application and participation in the voluntary remediation program. (3-13-97)

b. Costs incurred by the Department for oversight of voluntary remediation actions will be reimbursed in the following manner, which shall be specified in the voluntary remediation agreement. (3-13-97)

i. The applicant shall deposit two thousand five hundred dollars ($2,500) with the Department. (3-13-97)

ii. The unused portion of the deposit will be returned to the applicant within sixty (60) days of

Department issuance of a certificate of completion. (3-13-97)

iii. Should funding be required for costs incurred in excess of the initial two thousand five hundred dollars ($2,500) deposit, the Department will, in advance, notify the applicant of required successive deposits in the amount of two thousand five hundred dollars ($2,500). (3-13-97)

04. Oversight Costs. Oversight costs shall include the following: (3-13-97)

a. The review, processing and negotiation of the voluntary remediation agreement; (3-13-97)

b. The review, processing and negotiation of the voluntary remediation work plan; (3-13-97)

c. Conducting public hearing and dissemination of public notices; (3-13-97)

d. Oversight of work performed in accordance with the voluntary remediation work plan; (3-13-97)

e. Issuance of the certificate of completion; (3-13-97)

f. Issuance of a covenant not to sue; (3-13-97)

g. Administrative expenses associated with cost recovery activities. (3-13-97)

05. Enforceability of Agreement. Upon signing of the voluntary remediation agreement by the Department and the applicant, the voluntary remediation agreement shall constitute a contract between the Department and the applicant enforceable in accordance with its terms, subject to: (3-13-97)

a. The Department's right to rescind the voluntary remediation agreement as provided in Section 39-7208, Idaho Code; and (3-13-97)

b. The applicant's right to terminate the voluntary remediation agreement under Subsection 021.06 of these rules. (3-13-97)

06. Reasons for Which a Person May Terminate a Voluntary Remediation Agreement. An applicant may terminate the voluntary remediation agreement for any of the following reasons: (3-13-97)

a. The applicant decides to terminate the voluntary remediation agreement rather than submit additional or corrected information to the Department as provided in Section 39-7206(2)(b), Idaho Code; or (3-13-97)

b. The voluntary remediation work plan is modified or rejected as provided in Section 39-7206(5), Idaho Code. (3-13-97)

07. Effect of Termination of Agreement. The termination of a voluntary remediation agreement as provided in Section 39-7206, Idaho Code, shall not relieve the applicant from the obligation to comply with any applicable authorities regarding the contamination at the site, and the Department may initiate administrative or judicial action under applicable authorities. (3-13-97)

022. VOLUNTARY REMEDIATION WORK PLAN.

01. Submittal of Proposed Voluntary Remediation Work Plan. An applicant whose application has been accepted by the Department may submit a proposed voluntary remediation work plan to the Department. The Department will evaluate the work plan according to the terms and conditions of a voluntary remediation agreement signed by the Department and the applicant. (3-13-97)

02. Contents of Voluntary Remediation Work Plan. The voluntary remediation work plan shall include the following: (3-13-97)

a. The current and reasonably anticipated future use of on-site ground and surface water; (3-13-97)

b. The current and reasonably anticipated future uses of the site and immediately adjacent properties; (3-13-97)

c. If a risk-based concentration is proposed as a remediation standard, the voluntary remediation work plan shall include an estimate of the human and environmental risk from releases or threatened releases of hazardous substances or petroleum at the site based upon the current use of the site and adjacent properties and reasonably anticipated future uses of the site; (3-13-97)

d. Proposed remediation standards developed in accordance with Section 023 of these rules; (3-13-97)

e. A proposed statement of work; (3-13-97)

f. A schedule to accomplish the proposed statement of work. (3-13-97)

03. Information Supporting the Voluntary Remediation Work Plan. Sufficient information to support the voluntary remediation work plan shall be submitted and may include the following: (3-13-97)

a. Site assessment information including: (3-13-97)

i. A legal description of the site and a map identifying the location and size of facilities and relevant features, such as property boundaries, surface topography, surface and subsurface structures, and utility lines; (3-13-97)

ii. The physical characteristics of site facilities and contiguous areas, including the location of any surface water bodies and ground water aquifers; (3-13-97)

iii. The location of any wells located on the site or on areas within one-half mile radius of the site and a description of the use of those wells; (3-13-97)

iv. The operational history of the facility, including ownership, and the current use of the facility; (3-13-97)

v. Information on the methods and results of investigations concerning the nature and extent of any releases or threatened releases of hazardous substances or petroleum that have occurred at the site and a map showing general areas of concentrations of these hazardous substances or petroleum; (3-13-97)

vi. A site investigation sampling and analysis plan, and quality assurance project plan; (3-13-97)

vii. Any sampling results or other data that characterizes the soil, air, ground water, surface water, or sediments on the site; and (3-13-97)

viii. Available information on the environmental regulatory and compliance history of the site, including all applicable environmental permits. (3-13-97)

b. Risk evaluation information including: (3-13-97)

i. An evaluation of the data collected during the site investigation including identification of chemicals of potential concern; (3-13-97)

ii. An exposure assessment of all potential pathways of exposure; (3-13-97)

iii. A toxicity assessment estimating the toxicity of both carcinogens and non-carcinogens; (3-13-97)

iv. Identify site conditions which may affect or limit migration of the contamination; and (3-13-97)

v. A risk characterization that evaluates the uncertainties associated with the site investigation, the likelihood of exposures, and the toxicity of the contaminants. (3-13-97)

04. Review and Evaluation of Work Plan. The Department shall review and evaluate the voluntary remediation work plan, provide public notice, accept public comments and may make the determination whether to hold public hearings in accordance with Section 39-7206, Idaho Code, and the voluntary remediation agreement. (3-13-97)

a. For purposes of determining whether to hold a public hearing in accordance with Section 39-7206, Idaho Code, the Department will consider the following a significant number of requests for a public hearing: (3-13-97)

i. Twenty-five (25) written requests from potentially affected persons; or (3-13-97)

ii. One (1) or more written requests from an organization representing twenty-five (25) or more potentially affected members. (3-13-97)

b. The Department shall provide for a public comment period of at least thirty (30) days following publication of a public notice under Section 39-7206(3)(d), Idaho Code. (3-13-97)

c. Pursuant to Section 39-7206, Idaho Code, the Department may approve, modify and approve, or reject a voluntary remediation work plan. (3-13-97)

d. The Department may reject or approve with modification any voluntary remediation work plan that does not achieve the remediation standards developed and approved by the Department pursuant to Section 023 of these rules. (3-13-97)

e. If the Department rejects a voluntary remediation work plan, the Department shall: (3-13-97)

i. Notify the applicant and specify the reasons for rejection; (3-13-97)

ii. Provide the applicant an opportunity according to the schedule in the voluntary remediation agreement to amend the work plan; and (3-13-97)

iii. The applicant may appeal the Department's decision to reject the work plan as provided in Section 39-7206, Idaho Code. (3-13-97)

f. If an applicant determines not to amend a rejected work plan to the satisfaction of the Department, the voluntary remediation agreement shall be terminated as provided in Subsection 021.06 of these rules. (3-13-97)

05. Modification to an Approved Voluntary Remediation Work Plan That Requires Additional Public Notice and Comment. After the close of the public comment period and the Department's approval of the voluntary remediation work plan, situations may arise that result in modification of an approved voluntary remediation work plan. Depending upon the significance of the modification, another opportunity for public notice and comment may be appropriate. (3-13-97)

a. The Department need not provide for an additional public notice and comment period if the proposed modifications to the voluntary remediation work plan are limited to minor changes. A minor change to the voluntary remediation work plan is a change that does not fundamentally alter the overall remedial approach. (3-13-97)

b. The Department shall provide for an additional public notice and comment period if the proposed modifications to the voluntary remediation work plan are fundamental. A fundamental change is a change that requires reconsideration of the remediation proposed in the approved voluntary remediation work plan. (3-13-97)

023. REMEDIATION STANDARDS.

01. Voluntary Remediation Work Plan Must Achieve Health-Based and Environmental Remediation Standards. All hazardous substance or petroleum concentrations in media which exceed the health-based and environmental remediation standards shall be addressed through appropriate remediation and in accordance with the appropriate technical standards based upon the following: (3-13-97)

a. Site characteristics; (3-13-97)

b. Hazardous substances or petroleum; and (3-13-97)

c. Technical guidance approved by the Department. (3-13-97)

02. Establishment of Remediation Standards. The remediation standards utilized in these rules shall be no more stringent than applicable or relevant and appropriate federal and state standards and are consistent with 42 U.S.C. 9621, taking into consideration site specific conditions. An applicant who submits a voluntary remediation work plan for approval by the Department shall select and attain compliance with one (1) or more of the following remediation standards when implementing a voluntary remediation work plan: (3-13-97)

a. Attainment of a natural background level demonstrated by the collection and analysis of representative samples from environmental media of concern where contamination occurs. Evaluation of representative samples shall be conducted through the application of statistical tests specified in a voluntary remediation work plan. (3-13-97)

b. An established state or federal generic numerical health standard which achieves an appropriate health-based level so that any substantial present or probable future risk to human health or the environment is eliminated or reduced to protective levels based upon present and reasonably anticipated future uses of the site. (3-13-97)

c. Risk-based concentrations calculated for the hazardous substance or petroleum using site-specific risk assessment procedures. (3-13-97)

d. An applicant may use a combination of standards from Subsections 023.02.a. through 023.02.c. to implement a voluntary remediation work plan. (3-13-97)

024. IMPLEMENTATION OF VOLUNTARY REMEDIATION WORK PLAN.

01. Implementation. An approved voluntary remediation work plan shall be fully implemented by the applicant according to the terms and conditions of the voluntary remediation agreement, these rules and the Idaho Land Remediation Act. (3-13-97)

02. Permits or Approvals Necessary for Implementation. The Department shall assist in the timely issuance of Department permits or approvals required to initiate and complete a voluntary remediation work plan. (3-13-97)

03. Progress Reports. An applicant implementing a voluntary remediation work plan shall submit periodic progress reports to the Department according to the terms and conditions of the voluntary remediation agreement. (3-13-97)

04. Voluntary Remediation Work Plan Completion Report. When the applicant believes the objectives of the voluntary remediation work plan have been achieved and successfully implemented, the applicant shall submit to the Department a voluntary remediation work plan completion report together with a request that the Department issue a certificate of completion. (3-13-97)

a. The voluntary remediation work plan completion report shall contain information sufficient for the Department to determine whether the voluntary remediation work plan objectives were achieved and the voluntary remediation work plan was successfully implemented. (3-13-97)

b. The Department shall, within thirty (30) days of the receipt of a voluntary remediation work plan completion report and a request for a certificate of completion, notify the applicant whether the voluntary remediation work plan has been successfully implemented. (3-13-97)

c. If the Department notifies the applicant that the voluntary remediation work plan has not been successfully implemented, the applicant shall do the following: (3-13-97)

i. Implement the voluntary remediation work plan to the satisfaction of the Department; and (3-13-97)

ii. Resubmit the voluntary remediation work plan completion report. (3-13-97)

d. If a voluntary remediation work plan completion report demonstrates that the voluntary remediation work plan has been successfully implemented, the Department shall certify such facts by issuing the applicant a certificate of completion. The applicant shall record the certificate of completion with the deed for the site on which the remediation took place. (3-13-97)

e. The Department may provide a certificate of completion conditioned upon continued monitoring, recordation or maintenance of institutional or engineering controls, or other continuing actions by the applicant. (3-13-97)

f. Decisions by the Department involving the voluntary remediation work plan completion reports required under this section are considered final agency actions. (3-13-97)

025. COVENANT NOT TO SUE.

01. Negotiation and Provision of Covenant. Within thirty (30) days of receipt of the Department's certificate of completion, the applicant may request the Department negotiate and provide a covenant not to sue as provided in Section 39-7207, Idaho Code. Any such covenant not to sue may be conditioned upon continuing monitoring, recordation or maintenance of institutional or engineering controls, or other continuing actions required of the applicant pursuant to an approved voluntary remediation work plan. (3-13-97)

02. Rescission of Covenant. The Department may rescind a covenant not to sue in accordance with Section 39-7208, Idaho Code. If the Department rescinds a covenant not to sue, it may initiate administrative or judicial action as provided in Sections 39-7207 and 39-7208, Idaho Code. The Department shall also notify the county in which the site exists of rescission of the covenant not to sue for purposes of determining ad valorem exemptions provided under Section 63-105II, Idaho Code. (3-13-97)

03. Continuing Compliance. During the implementation of an approved voluntary remediation work plan, the Department shall not bring an action, including an administrative or judicial action for any liability for remediation relating to the release or threatened release of a hazardous substance or petroleum that is the subject of the voluntary remediation work plan, against a person who entered into a voluntary remediation agreement and who is implementing the voluntary remediation work plan in accordance with such agreement implementing the voluntary remediation work plan. (3-13-97)

026. LENDER LIABILITY.

01. General Statement. Pursuant to Section 39-7209, Idaho Code, a person who maintains indicia of ownership primarily to protect a security interest in a site, as defined in Subsection 010.12 of these rules, and who does not participate in the management of the site, shall not be considered an owner or operator of that site, nor liable under any pollution control or other environmental protection law, rule or regulation, or otherwise responsible for any environmental contamination or response activity costs consistent with United States environmental protection agency policy, 60 Federal Register 63517, dated December 11, 1995, as amended. This Section 026 sets out the rules of the Board regarding lender liability pursuant to Sections 39-7209 and 39-7210(6), Idaho Code. (3-13-97)

02. Definitions and Operative Provisions. (3-13-97)

a. "Indicia of ownership" means evidence of a security interest, evidence of an interest in a security interest, or evidence of an interest in real or personal property securing a loan or other obligation, including any legal or equitable title or deed to real or personal property acquired through or incident to foreclosure or its equivalents. Evidence of such interests include, but are not limited to, mortgages, deeds of trust, liens, surety bonds and guaranties of obligations, title held pursuant to a lease financing transaction in which the lessor does not select initially the leased property (hereinafter "lease financing transaction"), legal or equitable title obtained pursuant to foreclosure, and their equivalents. Evidence of such interests also includes assignments, pledges or other rights to or other forms of encumbrance against property that are held primarily to protect a security interest. A person is not required to hold title or a security interest in order to maintain indicia of ownership. (3-13-97)

i. A "holder" is a person who maintains indicia of ownership primarily to protect a security interest in a site. A holder includes the initial holder (such as a loan originator); any subsequent holder (such as a successor-in-interest or subsequent purchaser of the security interest on the secondary market); a guarantor of an obligation, surety, or any person who holds ownership indicia primarily to protect a security interest; or a receiver or other person who acts on behalf or for the benefit of a holder. (3-13-97)

ii. A "borrower," "debtor," or "obligor" is a person who owns, leases, occupies or operates a site encumbered by a security interest. (3-13-97)

b. "Primarily to protect a security interest" means that the holder's indicia of ownership are held primarily for the purpose of securing payment or performance of an obligation. (3-13-97)

i. "Security interest" means an interest in a site, created or established for the purpose of securing a loan or other obligation. Security interests include, but are not limited to, mortgages, deeds of trust, liens, security interests under Article 9 of the Uniform Commercial Code, and title pursuant to lease financing transactions. (3-13-97)

ii. "Primarily to protect a security interest" does not include indicia of ownership held primarily for investment purposes, nor ownership indicia held primarily for purposes other than as protection for a security interest. A holder may have other, secondary reasons for maintaining indicia of ownership, but the primary reason why any ownership indicia are held must be as protection for a security interest. (3-13-97)

c. Participation in management defined. The term "participating in the management of a site" means that the holder is engaging in acts of site management, as defined herein. (3-13-97)

i. Actions that are participation in management. Participating in the management of a site means actual participation by the holder in the management or operational affairs of the site by the holder, and does not include the mere capacity or ability to influence, or the unexercised right to control, site operations. A holder is participating in management, while the borrower is still in possession of the site encumbered by the security interest, only if the holder either: (3-13-97)

(1) Exercises decision making control over the borrower's environmental compliance, such that the holder has undertaken responsibility for the borrower's hazardous substance or petroleum handling or disposal practices; or (3-13-97)

(2) Exercises control at a level comparable to that of a manager of the borrower's enterprise, such that the holder has assumed or manifested responsibility for the overall management of the enterprise encompassing the day-to-day decision making of the enterprise with respect to (1) environmental compliance or (2) all, or substantially all, of the operational (as opposed to financial or administrative) aspects of the enterprise other than environmental compliance. (3-13-97)

ii. Actions that are not participation in management. (3-13-97)

(1) Actions at the inception of the loan or other transaction. No act or omission prior to the time that indicia of ownership are held primarily to protect a security interest constitutes evidence of participation in management. A prospective holder who undertakes or requires an environmental inspection of the site or to comply or come into compliance (whether prior or subsequent to the time that indicia of ownership are held primarily to

protect a security interest) with any applicable law or regulation, is not by such action considered to be participating in the site's management. Neither Section 39-7209, Idaho Code, or these rules require a holder to conduct or require an inspection to qualify for the exemption, and the liability of a holder cannot be based on or affected by the holder not conducting or not requiring an inspection. (3-13-97)

(2) Loan policing and workout. Actions that are consistent with holding ownership indicia primarily to protect a security interest do not constitute participation in management. The authority for the holder to take such actions may, but need not, be contained in contractual or other documents specifying requirements for financial, environmental and other warranties, covenants, conditions, representations or promises from the borrower. Loan policing and workout activities cover and include all activities up to foreclosure and its equivalents. (3-13-97)

(a) Policing the security interest or loan. A holder who engages in policing activities prior to foreclosure will remain within the exemption provided that the holder does not by such actions participate in the management of the site. Such actions include, but are not limited to, requiring the borrower to clean up the site during the term of the security interest; requiring the borrower to comply or come into compliance with applicable federal, state and local environmental and other laws, rules and regulations during the term of the security interest; securing or exercising authority to monitor or inspect the site (including on-site inspections) in which indicia of ownership are maintained, or the borrower's business or financial condition during the term of the security interest; or taking other actions to adequately police the loan or security interest (such as requiring a borrower to comply with any warranties, covenants, conditions, representations or promises from the borrower). (3-13-97)

(b) Policing activities also include any activities taken by the holder to require a borrower to comply with a voluntary remediation work plan, or by agreement with the Department, to complete a voluntary remediation work plan, provided that the holder does not otherwise participate in the management of the site. (3-13-97)

(c) Loan workout. A holder who engages in workout activities prior to foreclosure and its equivalents will remain within the exemption provided that the holder does not by such action participate in the management of the site. For purposes of this rule, "workout" refers to those actions by which a holder, at any time prior to foreclosure and its equivalents, seeks to prevent, cure or mitigate a default by the borrower or obligor, or to preserve, or prevent the diminution of, the value of the security. (3-13-97)

d. Foreclosure on a site and post-foreclosure activities. (3-13-97)

i. Foreclosure. Indicia of ownership that are held primarily to protect a security interest include legal or equitable title or deed to real or personal property acquired through or incident to foreclosure and its equivalents. "Foreclosure and its equivalents" includes purchase at foreclosure sale; acquisition or assignment of title in lieu of foreclosure; termination of a lease or other repossession; acquisition to a right to title or possession; an agreement in satisfaction of the obligation; or any other formal or informal manner (whether pursuant to law or under warranties, covenants, conditions, representations or promises from the borrower) by which the holder acquires title to or possession of the secured property. The indicia of ownership held after foreclosure continue to be maintained primarily as protection for a security interest, provided that the holder undertakes to sell, re-lease or otherwise divest itself of the site, in a reasonably expeditious manner, using whatever commercially-reasonable means are relevant or appropriate with respect to the site, taking all facts and circumstances into consideration, and provided that the holder did not participate in management prior to foreclosure. (3-13-97)

ii. Holding foreclosed property for disposition and liquidation. A holder, who did not participate in management prior to foreclosure and its equivalents, may sell, re-lease, liquidate, maintain business activities, wind up operations, undertake any response action under federal, state or local environmental laws, rules or regulations, undertake completion of an approved voluntary remediation work plan by agreement with the Department, and take measures to preserve, protect or prepare the secured asset prior to sale or other disposition, without voiding the exemption provided by Section 39-7209, Idaho Code, and these rules. (3-13-97)

027. INSTITUTIONAL CONTROLS.

01. Purpose. (3-13-97)

a. Institutional controls may be proposed by the applicant or the Department as an element of the

voluntary remediation work plan. Institutional controls are measures undertaken to limit or prohibit activities that may interfere with the integrity of a cleanup action or result in exposure to hazardous substances or petroleum at a site. Such measures may be used to assure both the continued protection of human health and the environment and the integrity of a cleanup action in at least the following circumstances: (3-13-97)

b. Where a cleanup action results in residual concentrations of hazardous substances or petroleum which exceed risk-based health standards; or (3-13-97)

c. When the Department determines such controls are required to assure the continued protection of human health and the environment or the integrity of the cleanup action. (3-13-97)

02. Prohibition of Use. Institutional controls should not be used as a substitute for cleanup actions that would otherwise be technically possible. (3-13-97)

03. Institutional Controls. For the purposes of this section, institutional controls may include: (3-13-97)

a. Physical measures, such as fences and signs, to limit activities that may interfere with the cleanup action or result in exposure to hazardous substances at the site; and (3-13-97)

b. Legal and administrative controls, such as zoning restrictions, restrictive covenants, or equitable servitudes used to ensure such measures are maintained. (3-13-97)

04. Legal Use Restrictions. Institutional controls may be described in an equitable servitude, restrictive covenant, or similar legal mechanism executed by the property owner and recorded in the county in which the site is located. The use of such legal use restrictions may be addressed in the voluntary remediation agreement, the certificate of completion, or the covenant not to sue. (3-13-97)

05. Legal Use Restriction Requirements. Where appropriate, the legal use restriction requirement should: (3-13-97)

a. Prohibit activities on the site that may interfere with a cleanup action, operation and maintenance, monitoring, or other measures necessary to assure the integrity of the cleanup action and continued protection of human health and the environment; (3-13-97)

b. Prohibit activities that may result in the release of a hazardous substance or petroleum which was contained as a part of the remediation; (3-13-97)

c. Require notice to the Department of the owner's intent to convey any interest in the site. Conveyance of title, easement, lease, or other interest in the property may be conditioned upon easement, lease, or other interest in the property for the continued operation, maintenance and monitoring of the cleanup action, and for continued compliance with this subsection; (3-13-97)

d. Require notice and approval by the Department of any proposal to use the site in a manner which is inconsistent with the legal use restriction. (3-13-97)

e. Grant the Department and its designated representatives the right to enter the property at reasonable times for the purpose of evaluating compliance with the voluntary remediation work plan and other required plans, including the right to take samples, inspect any remedial actions taken at the site, and to inspect records. (3-13-97)

f. Contain other restrictions appropriate under the circumstances. (3-13-97)

06. Compliance With Other Laws. It shall be the applicant's responsibility to comply with any applicable zoning authorities or other local, state, or federal law, in implementing the voluntary remediation work plan. (3-13-97)

07. Financial Assurances. The Department may require the applicant to provide financial assurances,

through a trust fund or other appropriate financial mechanism approved by the Department sufficient to cover all costs for ensuring the effectiveness of institutional controls or of operation and maintenance, including compliance monitoring and undertaking appropriate measures to ensure the integrity of institutional controls. (3-13-97)

08. Removal of Restrictions. If the residual hazardous substances or petroleum remaining at the site are subsequently reduced in concentration such that risk-based health standards are met, then the owner may request the restrictive covenant or other restrictions be voided. The restrictive covenant or other restrictions may be removed, if the Department, after public notice and opportunity for comment, concurs. (3-13-97)

028. -- 999. (RESERVED)

58.01.20 – RULES FOR ADMINISTRATION OF DRINKING WATER LOAN PROGRAM

000. LEGAL AUTHORITY.

The Idaho State Board of Environmental Quality, pursuant to authority granted in Chapters 1 and 76, Title 39, Idaho Code, adopted the following rules for the administration of a Drinking Water Loan Program in Idaho. (5-3-03)

001. TITLE AND SCOPE.

01. Title. These rules are titled, IDAPA 58.01.20, "Rules for Administration of Drinking Water Loan Program." (5-3-03)

02. Scope. The provisions of these rules shall establish administrative procedures and requirements for establishing, implementing, and administering a state loan program to provide financial assistance to qualifying entities of public water system facilities. The U.S. Environmental Protection Agency provides annual capitalization grants to the state of Idaho for this program. Financial assistance projects must be in conformance with the requirements of the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.). (3-29-12)

002. WRITTEN INTERPRETATIONS.

As described in Idaho Code Section 67-5201(19)(b)(iv), the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (3-23-98)

003. ADMINISTRATIVE APPEALS.

Persons may be entitled to appeal agency actions authorized under these rules pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (5-3-03)

004. POLICY.

It is the policy of the Idaho Board of Environmental Quality, through the Idaho Department of Environmental Quality, to administer the Drinking Water Loan Program. The Drinking Water Loan Program provides assistance to eligible public drinking water systems for the planning, design, and construction of facilities to ensure safe and adequate drinking water. It is also the intent of the Idaho Board of Environmental Quality to assign a priority rating to those projects which shall facilitate the compliance of any eligible public water system with national primary drinking water regulations applicable to the system or to otherwise significantly further the health protection objectives of these rules and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.). (4-2-08)

005. INCORPORATION BY REFERENCE AND AVAILABILITY OF REFERENCED MATERIAL.

01. Incorporation by Reference. These rules do not contain documents incorporated by reference. (4-2-08)

02. Availability of Referenced Material. The "Drinking Water Loan Handbook of Procedures" (Handbook) is available at the Idaho Department of Environmental Quality, Water Quality Division Loan Program, 1410 N. Hilton, Boise, ID 83706-1255, (208)373-0502, www.deq.idaho.gov. (4-2-08)

006. CONFIDENTIALITY.

Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21, "Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality." (4-2-08)

007. SYSTEM ELIGIBILITY.

01. Eligible Systems. Public and private community water systems and nonprofit noncommunity water systems. (3-23-98)

02. Systems Not Eligible. The following public drinking water systems will not be considered eligible for project loans: (3-23-98)

a. Systems that do not have the technical, managerial, and financial capability to ensure compliance with the requirements of the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08) and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.); (3-23-98)

b. Systems in significant noncompliance with any requirement of the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08) and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.); (3-23-98)

c. Systems under disapproval designation as outlined in the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08); (3-23-98)

d. Systems under current drinking water enforcement action by the Department; or (3-23-98)

e. Systems delinquent in payment of the annual state drinking water fee assessment. (3-23-98)

03. Assistance to Ensure Compliance. Public water systems not eligible for project loans as described in Subsections 006.02.a. through 006.02.d. may receive assistance if: (5-3-03)

a. The use of the assistance will ensure compliance; (3-23-98)

b. The owner or operator of the system agrees to undertake feasible and appropriate changes in operations (including ownership, management, accounting, rates, maintenance, consolidation, alternative water supply, or other procedures); (3-23-98)

c. The Department determines that the measures are necessary to ensure that the system has the technical, managerial, and financial capability to comply with state and federal drinking water requirements over the long term; and (3-23-98)

d. Prior to providing assistance under this section to a public water system that is in significant noncompliance with any requirement of the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08) and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), the Department conducts a review to determine whether this section applies to the system. (4-2-08)

008. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of the rules contained in this chapter, the following definitions apply: (3-23-98)

01. Applicant. Any qualifying entity making application for Drinking Water loan funds. (5-3-03)

02. Board. The Idaho Board of Environmental Quality. (4-2-08)

03. Categorical Exclusion (CE). Category of actions which do not individually or cumulatively have a significant effect on the human environment and for which, therefore, neither an environmental information document nor an environmental impact statement is required. (4-2-08)

04. Close or Closing. The date on which the loan recipient issues and physically delivers to the Department the bond or note evidencing the loan to the loan recipient, specifically determining the principal, interest and fee amounts that shall be repaid and the schedule for payment. (3-29-12)

05. Community Water System. A public drinking water system that: (5-3-03)

a. Serves at least fifteen (15) service connections used by year round residents of the area served by the system; or (3-23-98)

b. Regularly serves at least twenty-five (25) year-round residents. (3-23-98)

06. Construction. The building, erection, acquisition, alteration, reconstruction, improvement, or extension of public drinking water system facilities, including preliminary planning to determine the economic and engineering feasibility of public drinking water system facilities, the engineering, architectural, legal, fiscal, and economic investigations, reports and studies, surveys, designs, plans, working drawings, specifications, procedures,

other action necessary in the construction of public water system facilities, the inspection and supervision of the construction, and start-up of the associated facilities. (5-3-03)

07. Contaminant. Any physical, chemical, biological, or radiological substance or matter in water. (5-3-03)

08. Department. The Idaho Department of Environmental Quality. (3-23-98)

09. Director. The Director of the Idaho Department of Environmental Quality or the Director's designee. (4-2-08)

10. Disadvantaged Community. The service area of a public water system that meets affordability criteria established by the Department of Environmental Quality after public review and comment. (3-23-98)

11. Disadvantaged Loans. Loans made to a disadvantaged community. (3-23-98)

12. Distribution System. Any combination of pipes, tanks, pumps, and other equipment which delivers water from the source(s), treatment facility(ies), or a combination of source(s) and treatment facility(ies) to the consumer. Chlorination may be considered as a function of a distribution system. (3-29-12)

13. Eligible Costs. Costs which are necessary for planning, designing, and/or constructing public water system facilities. To be eligible, costs must also be reasonable and not ineligible costs. The determination of eligible costs shall be made by the Department pursuant to Section 041. (5-3-03)

14. Eligible Systems. Public and private community water systems and nonprofit noncommunity water systems. (3-23-98)

15. Environmental Impact Statement (EIS). A document prepared by the applicant when the Department determines that the proposed drinking water construction project will significantly affect the environment. The major purpose of the EIS will be to describe fully the significant impacts of the project and how these impacts can be either avoided or mitigated. The Environmental Review Procedures contained in Chapter 5 of the Handbook may be used as guidance when preparing an EIS. (4-2-08)

16. Environmental Information Document (EID). Any written environmental assessment prepared by the applicant describing the environmental impacts of a proposed drinking water construction project. This document will be of sufficient scope to enable the Department to assess the environmental impacts of the proposed project and ultimately determine if an environmental impact statement (EIS) is warranted. (3-29-12)

17. Financial Management System. Uniform method of recording, summarizing, and analyzing financial information about the public water system facility. (3-23-98)

18. Finding Of No Significant Impact (FONSI). A document prepared by the Department presenting the reasons why an action, not otherwise excluded, will not have a significant effect on the human environment and for which an environmental impact statement (EIS) will not be prepared. It shall include the environmental assessment or a summary of it and shall note any other environmental documents related to it. (3-29-12)

19. Handbook. "Drinking Water Loan Handbook of Procedures." (5-3-03)

20. Ineligible Costs. Costs which are not eligible for funding pursuant to these rules. (3-29-12)

21. Loan Recipient. An applicant who has been awarded a loan. (3-29-12)

22. Managerial Capability. The capabilities of the qualified entity to support the proper financial management and technical operation of the system. (5-3-03)

23. Maximum Contaminant Level (MCL). The maximum permissible level of a contaminant in water which is delivered to any user of a public water system. (5-3-03)

24. **Noncommunity Water System**. A public water system that is not a community water system. (3-23-98)

25. **Nonprofit Noncommunity Water System**. A public water system that is not a community water system and is governed by Section 501 of the U. S. Internal Revenue Code and includes but is not limited to: state agencies, municipalities, and nonprofit organizations such as churches and schools. (3-23-98)

26. **Nontransient Noncommunity Water System**. A public water system that is not a community water system and that regularly serves at least 25 (twenty-five) of the same persons over six (6) months per year. (3-23-98)

27. **Operation and Maintenance Manual**. Operation and Maintenance Manual is a guidance and training manual outlining the optimum operation and maintenance of the public water system facility or its components. (3-29-12)

28. **Person**. An individual, corporation, company, association, partnership, state agency, municipality, or federal agency (and includes officers, employees, and agents of any corporation, company, association, state agency, municipality, or federal agency). (3-23-98)

29. **Planning Document**. A document which describes the condition of a public drinking water system and presents a cost effective and environmentally sound alternative to achieve or maintain regulatory compliance. Engineering reports and facility plans are examples of such planning documents. The planning documents shall be prepared by or under the responsible charge of an Idaho licensed professional engineer and shall bear the imprint of the engineer's seal. Requirements for planning documents prepared using loan funds are provided in Section 030 of these rules and in the Handbook. (3-29-12)

30. **Plan of Operation**. A schedule of specific actions and completion dates for construction, start-up, and operation of the public water system facility. (5-3-03)

31. **Priority List**. A list of proposed drinking water projects rated by severity of risk to public health, the necessity to ensure compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.), population affected, and need on a household basis for protection of Idaho's public drinking water. (5-3-03)

32. **Public Drinking Water System/Public Water System/Water System**. A system for the provision to the public of water for human consumption through pipes or, after August 5, 1998, other constructed conveyances, if such system has at least fifteen (15) service connections, regardless of the number of water sources or configuration of the distribution system, or regularly serves an average of at least twenty-five (25) individuals daily at least sixty (60) days out of the year. Such term includes: any collection, treatment, storage, and distribution facilities under the control of the operator of such system and used primarily in connection with such system; and any collection or pretreatment storage facilities not under such control which are used primarily in connection with such system. Such term does not include any "special irrigation district." A public water system is either a "community water system" or a "noncommunity water system." (4-2-08)

33. **Qualifying Entity**. Any county, city, special service district, nonprofit or investor-owned corporation, or other governmental entity, or a combination thereof, which owns or operates a public water system or irrigation system and which establishes and maintains a dedicated loan repayment source. (4-2-08)

34. **Rehabilitation**. The repair or replacement of segments of drinking water facilities. (5-3-03)

35. **Reserve Capacity**. That portion of the system in the planned facilities to handle future drinking water demand. (5-3-03)

36. **State**. The state of Idaho. (3-23-98)

37. **Supplier or Provider of Water**. Any person who owns and/or operates a public water system. (3-23-98)

38. Suspension. An action by the Director to suspend a loan contract prior to project completion for a specified cause. Suspended contracts may be reinstated. (3-23-98)

39. Sustainability. Sustainability will include efforts for energy and water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement. (3-29-12)

40. Technical Capability. The ability of the public drinking water system to comply with existing and expected drinking water rules. (5-3-03)

41. Termination. An action by the Director to permanently terminate a loan contract prior to project completion for a specific cause. Terminated contracts shall not be reinstated. (3-23-98)

42. User Charge System. A system of rates and service charges applicable to specific types of users, including any legal enforcement mechanism as may be required, which provides sufficient reserves and/or revenues for debt retirement, operation and maintenance, and replacement of the public water system. (4-2-08)

43. Water System Protection Ordinance. An ordinance adopted pursuant to Chapter 32, Title 42, Idaho Code, or other applicable law which requires new connections to be properly designed and constructed, which prohibits cross-connections with non-potable water sources (and in all ways protects the water system from injection of contaminants), and which provides for fees for service from users or classes of users. (3-23-98)

44. Water Treatment Plant. That portion of the public drinking water system whose primary purpose is to remove contaminants. (5-3-03)

011. FINANCIAL TECHNICAL AND MANAGEMENT CAPABILITY ANALYSIS.

No loans shall be awarded for the construction of projects unless the applicant has demonstrated and certified that it has the legal, technical, institutional, managerial, and financial capabilities to ensure construction, operation and maintenance (including equipment replacement of the proposed public water system facility), and to repay principal and interest which would be due on a loan from the state revolving loan fund. (3-23-98)

01. Information Needed. Before an application shall be considered complete, the applicant must submit all necessary information on a form prescribed by the Department along with an analysis of that information. The information shall include, but not be limited to, demographic information of the applicant, estimated construction costs, annual operating costs, and information regarding the financing of the project, including the legal debt limit of the applicant and the existence and amount of any outstanding bonds or other indebtedness which may affect the project. (3-23-98)

02. Incorporated Nonprofit Applicants. (3-23-98)

a. In addition to all other information required to be submitted by these rules and regulations, an incorporated nonprofit applicant must demonstrate to the satisfaction of the Department by its articles of incorporation and/or bylaws, that: (3-23-98)

i. The corporation is nonprofit and lawfully incorporated pursuant to Chapter 03, Title 30, Idaho Code; (3-23-98)

ii. The corporation is authorized to incur indebtedness to construct, improve, or repair public water systems facilities; (3-23-98)

iii. The corporation is authorized to secure indebtedness by pledging corporation property, including any revenues raised through a user charge system; (3-23-98)

iv. The corporation exists either perpetually or for a period long enough to repay a public water system facility loan; and (3-23-98)

v. The corporation is capable of raising revenues by fixing and collecting user charges. (3-23-98)

b. The Department may impose conditions on the making of a public water system facility loan to an incorporated nonprofit applicant which are necessary to carry out the provisions of these rules and regulations and the provisions of Chapter 76, Title 39, Idaho Code. (3-23-98)

03. Cost Allocation. An applicant proposing to construct public water system facilities designed to serve two (2) or more qualifying entities must show how the costs shall be allocated among the participating entities. Such applicants must provide an executed inter-organizational service agreement which, at a minimum, incorporates the following information: (4-2-08)

a. The basis upon which the costs are allocated; (3-23-98)

b. The formula by which the costs are allocated; and (3-23-98)

c. The manner in which the cost allocation system shall be implemented. (3-23-98)

04. Waivers. The requirement in Subsection 011.03 may be waived by the Department if the applicant can demonstrate: (3-23-98)

a. Such an agreement is already in place; (3-23-98)

b. There is documentation of a service relationship in the absence of a formal agreement; or (3-23-98)

c. The entity providing public drinking water exhibits sufficient financial strength to continue the project if one (1) or more of the entities supplying drinking water fails to participate. (3-23-98)

012. -- 019. (RESERVED)

020. PRIORITY RATING SYSTEM.
Projects are identified for placement on priority lists by surveying eligible entities directly on an annual basis. Information is also received from the Department and consulting engineers. Loan funds are awarded to projects based on priority ratings. Projects are rated by the Department on a standard priority rating form using public health criteria, sustainability criteria, water quality criteria, and condition of the existing system. (3-29-12)

01. Purpose. A priority rating system shall be utilized by the Department to annually allot available funds to projects determined eligible for funding assistance under the Drinking Water Loan Program in accordance with these rules. Projects considered for priority rating shall first be evaluated by Department regional staff. (5-3-03)

02. Priority Rating. The priority rating system shall be based on a numerical points system. Priority criteria shall contain the following points: (3-29-12)

a. Public Health Hazard. Any condition which creates, or may create, a danger to the consumer's health, which may include any one or more of the following, may be awarded a maximum of one hundred (100) points: (3-29-12)

i. Documented unresolved violations of the primary drinking water standards including maximum contaminant levels, action levels, and treatment techniques (to include maximum contaminant levels for acute and chronic contaminates); (3-29-12)

ii. Documented unresolved violations of pressure requirements; (3-29-12)

iii. Documented reduction in source capacity that impacts the system's ability to reliably serve water; or (3-29-12)

iv. Documented significant deficiencies (e.g., documented in a sanitary survey) in the physical system that is causing the system to not reliably serve safe drinking water. (3-29-12)

b. General Conditions of Existing Facilities. Points shall be given based on deficiencies (which would not constitute a public health hazard) for pumping, treating, and delivering drinking water. (up to sixty (60) points) (3-29-12)

c. Sustainability Efforts (e.g., prospective efforts at energy conservation, water conservation, extending the life of capital assets, green building practices, and other environmentally innovative approaches to infrastructure repair, replacement and improvement). (up to fifty (50) points). (3-29-12)

d. Consent Order, Compliance Agreement Schedule, or Court Order. Points shall be given if the system is operating under and in compliance with a Consent Order, Compliance Agreement Schedule, or Court Order and the proposed construction project will address the Consent Order, Compliance Agreement Schedule, or Court Order. (up to thirty (30) points) (3-29-12)

e. Incentives. Bonus points shall be awarded to systems that promote source water protection, conservation, economy, proper operation maintenance, and monitoring. (up to ten (10) points) (3-29-12)

f. Affordability. Points shall be given when current system user charges exceed state affordability guidelines. (ten (10) points) (3-29-12)

03. Rating Forms. Rating criteria for Subsection 020.02 is set forth in a rating form that is available in the Handbook. (3-29-12)

04. Priority List. A list shall be developed from projects rated according to Subsection 020.02. Such list shall be submitted for public review and comment, and shall thereafter be submitted to the Board for approval and adoption. (3-29-12)

a. Priority Reevaluation. Whenever significant changes occur, which in the Department's judgment would affect the design parameters or treatment requirements by either increasing or decreasing the need for, or scope of any project, a reevaluation of that priority rating shall be conducted. (3-23-98)

b. Priority Target Date. A qualifying entity, whose project is on the adopted priority list, and for which funding is available, shall be contacted by the Department and a target date for submission of a completed loan application shall be established. (3-23-98)

c. Project Bypass. A project that does not or shall not meet the project target date or a Department schedule that allows for timely utilization of loan funds may be bypassed, substituting in its place the next highest ranking project or projects that are ready to proceed. An eligible applicant that is bypassed shall be notified in writing of the reasons for being bypassed. (3-29-12)

05. Amendment of Priority List. The Director may amend the Integrated Priority List as set forth in Section 995 of these rules. (3-29-12)

021. DISADVANTAGED LOANS.

Disadvantaged Loan Awards. In conjunction with the standard loans, the Department may award disadvantaged loans to applicants deemed disadvantaged using the following criteria: (3-23-98)

01. Qualifying for a Disadvantaged Loan. In order to qualify for a disadvantaged loan, a loan applicant must have an annual user rater for drinking water service for residential customers which exceeds one and one-half percent (1½%) of the applicant community's median household income. The annual user rate would be based on all operating, maintenance, replacement, and debt service costs (both for the existing system and for upgrades). If the applicant's service area is not within the boundaries of a municipality, or if the applicant's service area's median household income is not consistent with the municipality as a whole, the applicant may use the census data for the county in which it is located or may use a representative survey, conducted by a Department approved, objective third party, to verify the median household income of the applicant's service area. (3-29-12)

02. Adjustment of Loan Terms. DEQ will equally apportion funds available for principal forgiveness

to all prospective disadvantaged loan recipients. Consistent with achieving user rates of one and one-half percent (1½%) of the applicant community's median household income, and where possible with available funds, loan terms may be adjusted in the following order: increasing the repayment period, decreasing the interest rate, and providing principal forgiveness. (3-29-12)

a. Increasing Repayment Period. The length of the loan repayment may be extended in increments of years from twenty (20) years up to a maximum of thirty (30) years until the annual user rate equals one and one-half percent (1½%) of median household income. (3-29-12)

b. Decreasing Interest Rate. If at a thirty (30) year repayment, the annual user rate still exceeds one and one-half percent (1½%) of the median household income, the loan interest rate may be reduced from the rate established by the Director for standard loans to a rate that results in an annual user rate equal to one and one-half percent (1½%) of median household income. The interest rate may be reduced to as low as zero percent (0%). (3-29-12)

c. Principal Forgiveness. If even at zero percent (0%) interest and a thirty (30) year repayment, the annual user rate per residential user still exceeds one and one-half percent (1½%) of median household income, the principal which causes the user charge to exceed one and one-half percent (1½%) may be reduced except the principal reduction cannot exceed fifty percent (50%) of the total loan. Principal forgiveness terms may be revised (from initial estimates established in the annual Intended Use Plan) based upon final construction costs, such that loan terms do not result in user rates that are below one and one-half percent (1½%) of the applicant community's median household income. (3-29-12)

022. -- 029. (RESERVED)

030. PROJECT SCOPE AND FUNDING.
Loan funds awarded under this program may be used to prepare a drinking water facility planning document which identifies the cost effective and environmentally sound alternative to achieve or maintain compliance with IDAPA 58.01.08, "Idaho Rules for Public Drinking Water Systems," and the Safe Drinking Water Act, 42 U.S.C., Sections 300f et seq., and which is approvable by the Department. Loan funds may also be used for design and construction of the chosen alternative. (3-29-12)

01. Project Step Funding. Projects may be funded in steps: (3-23-98)

a. Step 1. Planning document prepared by an Idaho licensed professional engineer who carries professional liability insurance in accordance with Subsection 050.05.d., and in a format prescribed by the Department; (3-29-12)

b. Step 2. Design, which includes the preparation by an Idaho licensed professional engineer of the detailed engineering plans and specifications necessary for the bidding and construction of the project; (4-2-08)

c. Step 3. Construction, which includes bidding and actual construction of the project; or (3-23-98)

d. Step 4. A combination of Step 2 and Step 3. (3-23-98)

02. Combination Step Funding. Projects may be funded in any combination of the steps with approval of the Department. Separate loans may be awarded for Step 1 or Step 2 projects. If a Step 1 or Step 2 project proceeds to construction, either the Step 1 or Step 2 loan, or both, may be consolidated with the Step 3 loan. If a project does not proceed to construction, outstanding Step 1 and Step 2 loans shall be amortized and a repayment schedule prepared by the Department. (3-23-98)

03. Requirements for Awarding a Loan. Step 2, Step 3, or Step 4 loans shall not be awarded until a final cost effective and environmentally sound alternative has been selected by the Step 1 planning document and approved by the Department. If the planning document has not been completed pursuant to IDAPA 58.01.22, "Rules for Administration of Planning Grants for Drinking Water Facilities," then the loan recipient shall provide an opportunity for the public to comment on the draft planning document. The public comment period shall be held after alternatives have been developed and the Department has approved the draft planning document. The loan recipient

shall provide written notice of the public comment period and hold at least one (1) public meeting within the jurisdiction of the loan recipient during the public comment period. At the public meeting, the draft planning document shall be presented by the loan recipient with an explanation of the alternatives identified. The cost effective and environmentally sound alternative selected shall consider public comments received from those affected by the proposed project. After the public meeting and public comment period, the final alternative will be selected and the Environmental Information Document will be prepared. (3-29-12)

04. Funding for Reserve Capacity. Funding for reserve capacity of a drinking water system shall not exceed a twenty (20) year population growth except that distribution and transmission lines which may be planned for a forty (40) year useful life. (5-3-03)

031. LIMITATION OF PRE-LOAN ENGINEERING REVIEWS.
Department staff may review engineering or facility planning documents for any drinking water system. However, in order for the costs of preparation of pre-loan engineering documents to be loan eligible, the consulting engineer must submit a certificate of professional liability indemnification in accordance with Subsection 050.05.d. (4-2-08)

032. LOAN FEE.

01. Loan Fee. The Department may elect to impose a loan fee when necessary to offset the costs of administering the loan program, to provide planning assistance, or to otherwise facilitate the operation of the Drinking Water State Revolving Fund (DWSRF) effort. The Department may impose a loan fee on loans scheduled to close after December 2, 2009. The loan fee shall not exceed one percent (1%) of the unpaid balance of the loan at the time each loan payment is due. (4-7-11)

02. Determination of Loan Fee. The Department shall determine the amount of the loan fee on a yearly basis and shall assess a loan fee based upon each loan recipient's total interest rate. The amount of the loan fee shall be included in the Intended Use Plan, as described by Section 1452 of the Safe Drinking Water Act (42 U.S.C. Section 300j-12). In determining the amount of the loan fee, the Department shall consider: (3-29-12)

a. The Department's anticipated costs of administering the loan program for the upcoming fiscal year, including salaries and overhead; (4-7-11)

b. Any Department costs related to providing technical assistance for the loan program for the upcoming fiscal year; (4-7-11)

c. The amount of money generated from loan fees in previous fiscal years available for use in the upcoming fiscal year; and (4-7-11)

d. The anticipated demand for planning assistance to supplement regular appropriations and other related needs to support the DWSRF loan program. (4-7-11)

03. Effect on Loan Interest Rate. The loan interest rate, as described in Subsection 050.05, will be reduced by the corresponding percentage of the loan fee. (4-7-11)

04. Payment of Loan Fee. The loan fee shall be due and payable concurrently with scheduled loan principal and interest repayments over the repayment period. (4-7-11)

033. -- 039. (RESERVED)

040. LOAN APPLICATION AND REVIEW.

01. Submission of Application. The applicant shall submit to the Department, a completed application on a form as prescribed by the Department. (3-23-98)

02. Application Requirements. Applications shall contain the following documentation, as applicable: (5-3-03)

a. A lawful resolution passed by the governing body authorizing an elected official or authorized individual of the qualifying entity to execute a loan contract and sign subsequent loan disbursement requests; and (5-3-03)

b. Contracts for engineering services or other technical services and the description of costs and tasks set forth therein shall be in sufficient detail for the Department to determine whether the costs associated with the tasks are eligible costs pursuant to Section 041; and (5-3-03)

c. Justification for the engineering firm selected. An engineering firm selected by the applicant must at a minimum: (5-3-03)

i. As applicable, be procured through the selection guidelines and procedures prescribed under Section 67-2320, Idaho Code; and (3-29-12)

ii. Be a registered professional engineer currently licensed by the Idaho Board of Professional Engineers and Land Surveyors; and (5-3-03)

iii. Not be debarred or otherwise prevented from providing services under another federal or state financial assistance program; and (5-3-03)

iv. Be covered by professional liability insurance in accordance with Subsection 050.05.d. A certification of liability insurance shall be included in the application; and (5-3-03)

d. A description of other costs, not included in the contracts for engineering or other technical services, for which the applicant seeks funding. The description of the costs and tasks for such costs must be in sufficient detail for the Department to determine whether the costs are eligible costs pursuant to Section 041; and (5-3-03)

e. A demonstration that the obligation to pay the costs for which funding is requested is the result or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

f. In the case of a privately owned system, demonstrate that there is adequate security for the repayment of the loan. (3-23-98)

g. Step 1. Engineering Report or Facility Plan. Plan of study describing the work tasks to be performed in the preparation of the planning document, a schedule for completion of the work tasks, and an estimate of staff hours and costs to complete the work tasks. (3-29-12)

h. Step 2. Design. (4-2-08)

i. Planning document including a final environmental document and decision in accordance with Section 042; (3-29-12)

ii. Financial, technical, and management capability analysis as provided in Subsection 011.01; (3-23-98)

iii. Inter-organizational service agreements between all qualifying entities within the scope of the project, if applicable; and (4-2-08)

i. Step 3. Construction. (4-2-08)

i. Documented evidence of all necessary easements and land acquisition. (5-3-03)

ii. Biddable plans and specifications of the approved public water system facility alternative; (3-23-98)

iii. A plan of operation and project schedule; (3-23-98)

iv. A water system protection ordinance and financial management system; and (3-29-12)

v. A staffing plan and budget. (3-23-98)

j. Step 4. Design and Construction. Loan applicants must submit all documentation specified in Subsection 040.02.d. prior to advertising for bids on construction contracts. (4-2-08)

03. Determination of Completeness of Application. The Department shall review the application to determine whether it includes all of the information required by Subsection 040.02. (5-3-03)

04. Notification of Incompleteness of Application. Written notification if an application is incomplete, including an explanation of missing documentation shall be sent to the applicant. The applicant may provide the missing documentation. (5-3-03)

05. Reapplication for Loan. The action of disapproving, recalling, or terminating a loan in no way precludes or limits the former applicant from reapplying for another loan when the project deficiencies are resolved and project readiness is secured. (3-23-98)

041. DETERMINATION OF ELIGIBILITY OF COSTS.
The Department shall review the application, including any contracts required to be submitted with the application, to determine whether the costs are eligible costs for funding. (5-3-03)

01. Eligible Costs. Eligible costs are those determined by the Department to be: (5-3-03)

a. Necessary costs; (3-29-12)

b. Reasonable costs; and (3-29-12)

c. Costs that are not ineligible as described in Subsection 041.05. (5-3-03)

02. Necessary Costs. The Department shall determine whether costs are necessary by comparing the tasks for which the costs will be incurred to the scope of the project as described in the plan of study for facility planning, planning document, and any other relevant information in the application that describes the scope of the project to be funded. (3-29-12)

03. Reasonable Costs. Costs shall be determined by the Department to be reasonable if the obligation to pay the costs is the result of or will be the result of the applicant's compliance with applicable competitive bidding requirements and requirements for professional service contracts, including without limitation, the requirements set forth in Sections 67-2801 et seq., 67-2320, 59-1026, and 42-3212, Idaho Code. (4-2-08)

04. Examples of Costs That May Be Eligible. Examples of costs that may be eligible, if determined necessary, reasonable, and not ineligible costs include: (5-3-03)

a. Costs of salaries, benefits, and expendable material the qualified entity incurs in the project except ordinary operating expenses such as salaries and expenses of a mayor, city council members, board; or city, district, or board attorney; (4-2-08)

b. Costs under construction contracts bid and executed in compliance with state public works construction laws; (5-3-03)

c. Professional and consulting services utilizing a lump sum contract, an hourly rate contract, a time and materials contract or cost plus a fixed fee contract; (5-3-03)

d. Engineering directly related to the public water system facilities; (5-3-03)

e. Financial and management capability analysis if it ensures compliance; (5-3-03)

f. Preparation of construction drawings, specifications, estimates, and construction contract documents; (5-3-03)

g. Landscaping; (5-3-03)

h. Removal and relocation or replacement of utilities for which the qualifying entity is legally obligated to pay; (5-3-03)

i. Material acquired, consumed, or expended specifically for the project; (5-3-03)

j. A reasonable inventory of laboratory chemicals and supplies necessary to initiate plant operations; (5-3-03)

k. Preparation of an operation and maintenance manual; (5-3-03)

l. Preparation of a plan of operation; (5-3-03)

m. Start-up services; (5-3-03)

n. Project identification signs; (5-3-03)

o. Public participation for alternative selection; (5-3-03)

p. Development of user charge and financial management systems; (5-3-03)

q. Development of water system protection and backflow prevention ordinance or rule; (5-3-03)

r. Initial staffing plans and budget development; (5-3-03)

s. Site acquisition costs from a willing seller, including right of way and the site for public water system; and (3-29-12)

t. Certain direct and other costs as determined eligible by the Department. (5-3-03)

05. Ineligible Project Costs. Costs which are ineligible for funding include, but are not limited to: (5-3-03)

a. Basin or area wide planning not directly related to the project; (5-3-03)

b. Bonus payments not legally required for completion of construction before a contractual completion date; (5-3-03)

c. Personal injury compensation or damages arising out of the project; (5-3-03)

d. Fines or penalties due to violations of, or failure to comply with, federal, state, or local laws; (5-3-03)

e. Costs outside the scope of the approved project; (5-3-03)

f. Ordinary operating expenses such as salaries and expenses of a mayor, city council members, board, or city, district or board attorney; (4-2-08)

g. Cost of land in excess of that needed for the proposed project; (5-3-03)

h. Cost of condemnations; (3-29-12)

i. Engineering costs incurred without professional liability insurance; (3-29-12)

j. Reserve funds; (3-29-12)

k. Cost of refinancing existing indebtedness; and (3-29-12)

l. Costs incurred prior to the loan acceptance unless specifically approved in writing by the Department. (3-29-12)

06. Notification Regarding Ineligible Costs. Prior to providing a loan offer, the Department shall notify the applicant if certain costs are not eligible for funding and the reasons for the Department's determination. If such costs are included in the engineering contract, the Department shall also provide notification to the engineer. The applicant may provide the Department additional information in response to the notice. (5-3-03)

07. Eligible Costs and the Loan Offer. The loan offer shall reflect those costs determined by the Department to be eligible costs. The loan offer, however, may include estimates of some eligible costs that have not yet been set, such as construction costs. Actual eligible costs may differ from such estimated costs set forth in the loan offer. In addition, loan disbursements may be increased or decreased if eligible costs are modified as provided in Section 060. (5-3-03)

042. ENVIRONMENTAL REVIEW.

01. Environmental Documentation. The loan recipient shall complete an environmental review as part of and in conjunction with a planning document. Guidance on how to complete an environmental review may be found in Chapter 5 of the Handbook. The loan recipient shall consult with the Department at an early stage in the loan process to determine the required level of environmental review. Based on review of existing information and assessment of environmental impacts, the loan recipient shall complete one (1) of the following per the Department's instruction: (3-29-12)

a. Submit a request for Categorical Exclusion (CE) with supporting backup documentation as specified by the Department; (3-23-98)

b. Prepare an Environmental Information Document (EID) in a format specified by the Department; or (3-23-98)

c. Prepare an Environmental Impact Statement (EIS) in a format specified by the Department. (3-23-98)

02. Categorical Exclusions. If the loan recipient requests a CE, the Department shall review the request and, based upon the supporting documentation, take one (1) of the following actions: (3-29-12)

a. Determine if the action is consistent with categories eligible for exclusion whereupon the Department shall issue a notice of CE from substantive environmental review. Once the CE is granted for the selected alternative, the Department will publish a notice of CE in a local newspaper to inform the public of this action, following which the planning document can be approved and the loan award can proceed. (3-29-12)

b. Determine if the action is not consistent with categories eligible for exclusion and that issuance of a CE is not appropriate. If a CE is not issued, the Department shall notify the loan recipient to prepare an EID. (3-29-12)

03. Environmental Information Document Requirements. When an EID is required, the loan recipient shall prepare the EID in accordance with the following Department procedures: (3-29-12)

a. Various laws and executive orders related to environmentally sensitive resources shall be considered as the EID is prepared. Appropriate state and federal agencies shall be consulted regarding these laws and

executive orders. (3-23-98)

b. A full range of relevant impacts, both direct and indirect, of the proposed project shall be discussed in the EID, including measures to mitigate adverse impacts, cumulative impacts, and impacts that shall cause irreversible or irretrievable commitment of resources. (3-23-98)

c. The Department shall review the draft EID and either request additional information about one (1) or more potential impacts, or shall draft a "finding of no significant impact" (FONSI). (4-2-08)

04. Final Finding of No Significant Impact. The Department shall publish the draft FONSI in a newspaper of general circulation in the geographical area of the proposed project and shall allow a minimum thirty (30) day public comment period. Following the required period of public review and comment and after any public concerns about project impacts are addressed, the FONSI shall become final. The Department shall assess the effectiveness and feasibility of the mitigation measures identified in the FONSI and EID prior to the issuance of the final FONSI and approval of the planning document. (3-29-12)

05. Environmental Impact Statement (EIS) Requirements. If an EIS is required, the loan recipient shall: (3-29-12)

a. Contact all affected state agencies, and other interested parties, to determine the required scope of the document; (3-23-98)

b. Prepare and submit a draft EIS to all interested agencies, and other interested parties, for review and comment; (3-23-98)

c. Conduct a public meeting which may be in conjunction with a planning document meeting; and (3-29-12)

d. Prepare and submit a final EIS incorporating all agency and public input for Department review and approval. (3-23-98)

06. Final EIS. Upon completion of the EIS by the loan recipient and approval by the Department of all requirements listed in Subsection 042.05, the Department shall issue a record of decision, documenting the mitigative measures which shall be required of the loan recipient. The loan agreement can be completed once the final EIS has Department approval. (3-29-12)

07. Partitioning the Environmental Review. Under certain circumstances, the building of a component/partition of a drinking water system may be justified in advance of all environment review requirements for the remainder of the system. The Department shall approve partitioning the environment review in accordance with established procedures. (3-23-98)

08. Use of Environmental Reviews Conducted by Other Agencies. If environmental review for the project has been conducted by another state, federal, or local agency, the Department may, at its discretion, issue its own determination by adopting the document and public participation process of the other agency. (4-2-08)

09. Validity of Review. Environmental reviews, once completed by the Department, are valid for five (5) years from the date of completion. If a loan application is received for a project with an environmental review which is more than five (5) years old, the Department shall reevaluate the project, environmental conditions, and public views and shall: (3-29-12)

a. Reaffirm the earlier decision; or (3-23-98)

b. Require supplemental information to the earlier Environmental Impact Statement, Environmental Information Document, or request for Categorical Exclusion. Based upon a review of the updated document, the Department shall issue and distribute a revised notice of Categorical Exclusion, finding of no significant impact, or record of decision. (3-23-98)

10. Exemption From Review. Loan projects may be exempt from certain federal crosscutting authorities at the discretion of the Department as long as in any given year the annual amount of loans, equal to the most recent federal capitalization grant, complies with all of the federal crosscutting authorities. (3-29-12)

043. -- 049. (RESERVED)

050. LOAN OFFER AND ACCEPTANCE.

01. Loan Offer. Loan offers shall be delivered to successful applicants by representatives of the Department or by registered mail. (3-23-98)

02. Acceptance of Loan Offer. Applicants have sixty (60) days in which to officially accept the loan offer on prescribed forms furnished by the Department. The sixty (60) day acceptance period commences from the date indicated on the loan offer notice. If the applicant does not accept the loan offer within the sixty (60) day period, the loan funds may be offered to the next project on the priority list. (3-23-98)

03. Acceptance Executed as a Contract Agreement. Upon signature by the Director or the Director's designee and upon signature by the authorized representative of the qualifying entity, the loan offer shall become a contract. Upon accepting a loan offer, a qualifying entity becomes a loan recipient. The disbursement of funds, pursuant to a loan contract, is subject to a finding by the Director that the loan recipient has complied with all loan contract conditions and has prudently managed the project. The Director may, as a condition of disbursement, require that a loan recipient vigorously pursue any claims it has against third parties who shall be paid in whole or in part, directly or indirectly, with loan funds. No third party shall acquire any rights against the state or its employees from a loan contract. (4-2-08)

04. Estimate of Reasonable Cost. All loan contracts shall include the eligible costs of the project. Some eligible costs may be estimated and disbursements may be increased or decreased as provided in Section 060. (5-3-03)

05. Terms of Loan Offers. The loan offer shall contain such terms as are prescribed by the Department including, but not limited to: (3-23-98)

a. Terms consistent with these rules, the project step to be funded under the loan offer, and Chapter 76, Title 39, Idaho Code; (5-3-03)

b. Special clauses as determined necessary by the Department for the successful investigation, design, construction, and management of the project; (3-23-98)

c. Terms consistent with applicable state and federal laws pertaining to planning documents, design, and construction (including the Public Works Contractors License Act (Idaho Code Sections 54-1901 through 54-1924)); the Public Contracts Bond Act (Idaho Code Sections 54-1925 through 54-1930); and the Safe Drinking Water Act (42 U.S.C. Section 300f et seq.) requirements for projects funded with loan moneys of federal origin; (3-29-12)

d. Requirement for the prime engineering firm(s), retained for engineering services, to carry professional liability insurance to protect the public from negligent acts of the engineer and errors and omissions of a professional nature. The total aggregate of the professional liability of the engineer insurance shall be one hundred thousand dollars ($100,000) or twice the amount of the fee of the engineer, whichever is greater. Professional liability insurance must cover all such services rendered for all project phases which are state funded; (3-29-12)

e. The project shall be bid, contracted, and constructed according to the current edition of Idaho Standards for Public Works Construction and the Idaho Rules for Public Drinking Water Systems (IDAPA 58.01.08) unless the loan recipient has approved and adopted acceptable public works construction standards approved by the Department; (3-29-12)

f. The loan interest rate for loans made during the state fiscal year beginning July 1 shall be established by the Director. The interest rate shall be a fixed rate in effect for the life of the loan. The rate may equal but shall not exceed the current market rate; (5-3-03)

g. The loan fee pursuant to Section 032; (4-7-11)

h. All loans, except disadvantaged loans, must be fully amortized within a period not to exceed twenty (20) years after project completion. Disadvantaged loans must be fully amortized within a period not to exceed thirty (30) years. The loan recipient may elect for either a schedule of semi-annual repayments or annual repayments at the time the loan is finalized; and (3-29-12)

i. Repayment default shall occur when a scheduled loan repayment is thirty (30) days past due. If default occurs, the Department may invoke appropriate loan contract provisions and/or bond covenants. (5-3-03)

051. ACCOUNTING AND AUDITING PROCEDURES.
Loan recipients must maintain project accounts in accordance with generally accepted accounting principles. (4-2-08)

052. -- 059. (RESERVED)

060. DISBURSEMENTS.

01. Loan Disbursements. The loan contract shall include a schedule of estimated disbursements to be made to the loan recipient. The schedule shall include the anticipated dates and amounts of disbursements. Requests to the Department for actual disbursement of loan proceeds shall be made by the loan recipient on forms provided by the Department. (3-29-12)

02. Loan Increases. An increase in the loan amount as a result of an increase in eligible project costs shall be considered, provided funds are available. Documentation supporting the need for an increase must be submitted to the Department for approval prior to incurring any costs above the eligible cost ceiling. (3-23-98)

03. Loan Decreases. If the actual eligible cost is determined by the Department to be lower than the estimated eligible cost, the loan amount shall be reduced proportionately. (3-23-98)

04. Project Review to Determine Final Eligible Costs. A project review by the Department shall determine the final eligible costs. (3-23-98)

05. Final Disbursement. The final loan disbursement consisting of five percent (5%) of the total loan amount shall not be made until final inspection, final review, and a final loan repayment schedule have been completed. (3-23-98)

061. -- 079. (RESERVED)

080. SUSPENSION OR TERMINATION OF LOAN CONTRACTS.

01. Causes. The Director may suspend or terminate any loan contract prior to final disbursement for failure by the loan recipient or its agents including engineering firm(s), contractor(s), or subcontractor(s) to perform. A loan contract may be suspended or terminated for good cause including, but not limited to, the following: (5-3-03)

a. Commission of fraud, embezzlement, theft, forgery, bribery, misrepresentation, conversion, malpractice, misconduct, malfeasance, misfeasance, falsification, or unlawful destruction of records, or receipt of stolen property, or any form of tortious conduct; (3-23-98)

b. Commission of any crime for which the maximum sentence includes the possibility of one (1) or more years of imprisonment or any crime involving or affecting the project; (3-23-98)

c. Violation(s) of any term of the loan contract; (3-23-98)

d. Any willful or serious failure to perform within the scope of the project, plan of operation, project schedule, terms of engineering sub-agreements, or contracts for construction; or (5-3-03)

e. Debarment of a contractor or subcontractor for good cause by any federal or state agency from working on public work projects funded by that agency. (3-23-98)

02. Notice. The Director shall notify the loan recipient in writing, and forwarded by certified mail, of the intent to suspend or terminate the loan contract. The notice of intent shall state: (3-23-98)

a. Specific acts or omissions which form the basis for suspension or termination; and (3-23-98)

b. That the loan recipient may be entitled to appeal the suspension or termination pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

03. Determination. A determination will be made by the Board pursuant to IDAPA 58.01.23, "Rules of Administrative Procedure Before the Board of Environmental Quality." (3-15-02)

04. Reinstatement of Suspended Loan. Upon written request by the loan recipient with evidence that the causes(s) for suspension no longer exist(s), the Director may, if funds are available, reinstate the loan contract. If a suspended loan contract is not reinstated, the loan shall be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. (3-23-98)

05. Reinstatement of Terminated Loan. No terminated loan shall be reinstated. Terminated loans shall be amortized and a repayment schedule prepared in accordance with provisions of the loan contract. (3-23-98)

081. -- 994. (RESERVED)

995. WAIVERS.

01. Conditions for Waiver. Waiver from the requirements of these rules may be granted by the Department Director or the Director's designee, on a case-by-case basis, upon full demonstration by the loan recipient requesting the waiver that the following conditions exist. See also Subsection 020.05 of these rules. (3-29-12)

a. Health Hazard. A significant public health hazard exists; or (3-29-12)

b. Affordability Criteria Exceeded. The project shall exceed affordability criteria adopted by the Department in the event the waiver is not granted. (3-29-12)

02. Availability of Federal Funds. The waiver shall not affect the availability of federal funds for the project where such funding is required by the loan recipient requesting the waiver. (3-29-12)

996. -- 999. (RESERVED)

58.01.25 – RULES REGULATING THE IDAHO POLLUTANT DISCHARGE ELIMINATION SYSTEM PROGRAM

000. LEGAL AUTHORITY.

The Department and the Board are authorized to formulate and adopt rules as are necessary to obtain approval of the IPDES program by EPA pursuant to Section 39-175C, Idaho Code. The Department is authorized to implement and enforce the rules in this chapter pursuant to the Sections 39-175A-C and the provisions of the Environmental Protection and Health Act, Sections 39-101 et.seq., Idaho Code. The rules in this chapter shall not be effective until the requirements in Section 39-175C, Idaho Code, have been met and the United States EPA has approved, under 33 U.S.C. 1342(b), Idaho's administration of the IPDES program. (3-24-16)

001. TITLE AND SCOPE.

01. Title. The rules are titled IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program." (3-24-16)

02. Scope. These rules establish the procedures and requirements for the issuance and maintenance of permits for facilities or activities for which a person is required by Idaho Code and the Clean Water Act to obtain authorization to discharge pollutants to waters of the United States. These permits shall be referred to in these rules as "IPDES permits" or "permits." (3-24-16)

002. CONFIDENTIALITY OF RECORDS.

01. Identifying Confidential Information. Information obtained by the Department under these rules is subject to public disclosure pursuant to the provisions of Chapter 1, Title 74, Idaho Code, and IDAPA 58.01.21 (Rules Governing the Protection and Disclosure of Records in the Possession of the Idaho Department of Environmental Quality). In accordance with Sections 74-101 through 74-119, Idaho Code, any information submitted to the Department pursuant to these rules may be claimed as confidential by the submitter. It shall be the responsibility of the submitter to give notice of the existence of a claim of confidentiality on each page or other portion of information at the time of submittal and such person shall have the burden of demonstrating that the information is confidential. (3-24-16)

02. Denial of Confidential Claims. In accordance with Section 74-114, Idaho Code, a claim of confidentiality, including but not limited to a claim as to information claimed confidential as a trade secret, shall be denied and any person may inspect and copy: (3-24-16)

a. The name and address of any IPDES applicant or permittee; (3-24-16)

b. The content of any IPDES permit; (3-24-16)

c. IPDES permit applications, and information required to be submitted by IPDES application forms under Section 105 (Application for an Individual IPDES Permit), or IPDES General Permit Notice of Intent, and information required to be submitted under Section 130 (General Permits), whether the information is submitted on the application forms themselves or in any attachments used to supply information required by the application forms; and (3-24-16)

d. Effluent data as defined in 40 CFR 2.302. (3-24-16)

003. INCORPORATION BY REFERENCE OF FEDERAL REGULATIONS.

01. Availability of Reference Material. Codes, standards and regulations may be incorporated by reference in this rule pursuant to Section 67-5229, Idaho Code. Codes, standards or regulations adopted by reference throughout this rule are available in the following locations: (3-24-16)

a. Department of Environmental Quality. Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706-1255. (3-24-16)

b. Law Library. State Law Library, 451 W. State Street, P.O. Box 83720, Boise, ID 83720-0051. (3-24-16)

c. Electronic Code of Federal Regulations (eCFR) http://www.ecfr.gov/cgi-bin/ECFR. (3-24-16)

02. Incorporation by Reference. The following documents are incorporated by reference into these

rules. Any reference in these rules to requirements, procedures, or specific forms contained in any section or subsection shall constitute the full adoption by reference of that section or subsection, including any notes and appendices therein, unless expressly provided otherwise in these rules: (3-24-16)

a. 40 CFR 122.21(r), revised as of July 1, 2017 (Application Requirements for Facilities with Cooling Water Intake Structures); (3-28-18)

b. 40 CFR 122.23, revised as of July 1, 2017 (Concentrated Animal Feeding Operations); (3-28-18)

c. 40 CFR 122.24, revised as of July 1, 2017 (Concentrated Aquatic Animal Production Facilities); (3-28-18)

d. 40 CFR 122.25, revised as of July 1, 2017 (Aquaculture Projects); (3-28-18)

e. 40 CFR 122.26(a) through (b) and 40 CFR 122.26(e) through (g), revised as of July 1, 2017 (Storm Water Discharges); (3-28-18)

f. 40 CFR 122.27, revised as of July 1, 2017 (Silvicultural Activities); (3-28-18)

g. 40 CFR 122.29(d), revised as of July 1, 2017 (Effect of Compliance with New Source Performance Standards); (3-28-18)

h. 40 CFR 122.30 and 40 CFR 122.32 through 40 CFR 122.37, revised as of July 1, 2017 (Requirements and Guidance for Small Municipal Separate Storm Sewer Systems); (3-28-18)

i. 40 CFR 122.42(e), revised as of July 1, 2017 (Additional Conditions Applicable to NPDES Permits for Concentrated Animal Feeding Operations); (3-28-18)

j. Appendix A to 40 CFR 122, revised as of July 1, 2017 (NPDES Primary Industry Categories); (3-28-18)

k. Appendix C to 40 CFR 122, revised as of July 1, 2017 (Criteria for Determining a Concentrated Aquatic Animal Production Facility); (3-28-18)

l. Appendix D to 40 CFR 122, revised as of July 1, 2017 (NPDES Permit Application Testing Requirements); (3-28-18)

m. Appendix J to 40 CFR 122, revised as of July 1, 2017 (NPDES Permit Testing Requirements for Publicly Owned Treatment Works); (3-28-18)

n. 40 CFR 125.1 through 40 CFR 125.3 (Subpart A), revised as of July 1, 2017 (Criteria and Standards for Imposing Technology-Based Treatment Requirements Under Sections 301(b) and 402 of the Clean Water Act); (3-28-18)

o. 40 CFR 125.10 through 40 CFR 125.11 (Subpart B), revised as of July 1, 2017 (Criteria for Issuance of Permits to Aquaculture Projects); (3-28-18)

p. 40 CFR 125.30 through 40 CFR 125.32 (Subpart D), revised as of July 1, 2017 (Criteria and Standards for Determining Fundamentally Different Factors Under Sections 301(b)(1)(A) and 301(b)(2)(A) and (E) of the Clean Water Act); (3-28-18)

q. 40 CFR 125.70 through 40 CFR 125.73 (Subpart H), revised as of July 1, 2017 (Criteria for Determining Alternative Effluent Limitations Under Section 316(a) of the Clean Water Act); (3-28-18)

r. 40 CFR 125.80 through 40 CFR 125.89 (Subpart I), revised as of July 1, 2017 (Requirements Applicable to Cooling Water Intake Structures for New Facilities Under Section 316(b) of the Clean Water Act); (3-28-18)

s. 40 CFR 125.90 through 40 CFR 125.99 (Subpart J), revised as of July 1, 2017 (Requirements Applicable to Cooling Water Intake Structures for Phase II Existing Facilities Under Section 316(b) of the Clean Water Act); (3-28-18)

t. 40 CFR 127.11 through 40 CFR 127.16 (Subpart B), revised as of July 1, 2017 (Electronic reporting of NPDES Information from NPDES-Regulated Facilities); (3-28-18)

u. 40 CFR 129.1 through 40 CFR 129.105 (Subpart A), revised as of July 1, 2017 (Toxic Pollutant Effluent Standards and Prohibitions); (3-28-18)

v. 40 CFR 133.100 through 40 CFR 133.105, revised as of July 1, 2017 (Secondary Treatment Regulation); (3-28-18)

w. 40 CFR Part 136, revised as of July 1, 2017 (Guidelines Establishing Test Procedures for the Analysis of Pollutants, including Appendices A, B, C, and D); (3-28-18)

x. 40 CFR Part 401, revised as of July 1, 2017 (General Provisions); (3-28-18)

y. 40 CFR 403.1 through 40 CFR 403.3; 40 CFR 403.5 through 40 CFR 403.18, revised as of July 1, 2017 (General Pretreatment Regulations for Existing and New Sources of Pollution, including Appendices D, E, and G); (4-11-19)

z. 40 CFR Part 405 through 40 CFR Part 471, revised as of July 1, 2017 (Effluent Limitations and Guidelines); and (3-28-18)

aa. 40 CFR 503.2 through 40 CFR 503.48, revised as of July 1, 2017 (Sewage Sludge, including Appendices A and B). (3-28-18)

bb. The term "Waters of the United States or waters of the U.S.," as defined in 40 CFR 122.2, revised as of August 28, 2015 by 80 Federal Register 37054-37127 (June 29, 2015), unless said revision is stayed, overturned or invalidated by a court of law or withdrawn by EPA, in which case the Department incorporates by reference the term "Waters of the United States or waters of the U.S." as defined in 40 CFR 122.2, revised as of July 1, 2015. (3-24-16)

03. Term Interpretation. For the federal regulations incorporated by reference into these rules, unless the context in which a term is used clearly requires a different meaning, terms in this section have the following meanings: (3-24-16)

a. The term Administrator or Regional Administrator means the EPA Region 10 Administrator; (3-24-16)

b. The term Control Authority means the POTW for a facility with a Department-approved pretreatment program and the Department for a POTW without a Department-approved pretreatment program; (3-24-16)

c. The term Director or State Director means the Director of the Department of Environmental Quality with an NPDES permit program approved pursuant to section 402(b) of the Clean Water Act; (3-24-16)

d. The term National Pollutant Discharge Elimination System (NPDES) means the Idaho Pollutant Discharge Elimination System (IPDES); (3-24-16)

e. The term Permitting Authority (also preceded by the terms NPDES or State) means the Idaho Department of Environmental Quality with an NPDES permit program approved pursuant to section 402(b) of the Clean Water Act. (3-24-16)

004. ADMINISTRATIVE PROVISIONS.

Persons may be entitled to appeal final IPDES permit decisions pursuant to Section 204 (Appeals Process) of these rules. (4-11-19)

005. WRITTEN INTERPRETATIONS.
As described in Section 67-5201(19)(b)(iv), Idaho Code, the Department of Environmental Quality may have written statements which pertain to the interpretation of these rules. If available, such written statements can be inspected and copied at cost at the Department of Environmental Quality, 1410 N. Hilton, Boise, Idaho 83706-1255. (3-24-16)

006. OFFICE HOURS -- MAILING ADDRESS AND STREET ADDRESS.
The state office of the Department of Environmental Quality is located at 1410 N. Hilton, Boise, Idaho 83706, (208) 373-0502, www.deq.idaho.gov. The office hours are 8 a.m. to 5 p.m. Monday through Friday. (3-24-16)

007. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of the rules contained in IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program," the following definitions apply. Terms not expressly defined in this section have the meaning provided by IDAPA 58.01.02, Section 010, "Water Quality Standards," or IDAPA 58.01.16, Section 010, "Wastewater Rules." (3-28-18)

01. Animal Feeding Operation. A lot or facility (other than an aquatic animal production facility) where the following conditions are met: (3-24-16)

a. Animals (other than aquatic animals) have been, are, or will be stabled or confined and fed or maintained for a total of forty-five (45) days or more in any twelve (12)-month period; and (3-24-16)

b. Crops, vegetation, forage growth, or post-harvest residues are not sustained in the normal growing season over any portion of the lot or facility. (3-24-16)

02. Applicable Standards and Limitations. All state, interstate, and federal standards and limitations to which a discharge, a sewage sludge use or disposal practice, or a related activity is subject under the Clean Water Act, including effluent limitations, water quality standards, standards of performance, toxic effluent standards or prohibitions, best management practices, pretreatment standards, and standards for sewage sludge use or disposal under the Clean Water Act sections 301, 302, 303, 304, 306, 307, 308, 402 and 405. (3-24-16)

03. Application. The IPDES forms for applying for a permit or the EPA equivalent standard national forms when deemed acceptable by the Department, including any additions, revisions or modifications to the forms. (3-24-16)

04. Approved Program or Approved State. A state or interstate program which has been approved or authorized by EPA under 40 CFR Part 123. (3-24-16)

05. Aquaculture Project. A defined managed water area which uses discharges of pollutants into that designated area for the maintenance or production of harvestable freshwater, estuarine, or marine plants or animals. (3-24-16)

06. Average Monthly Discharge Limitation. The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month. (3-24-16)

07. Average Weekly Discharge Limitation. The highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week divided by the number of daily discharges measured during that week. (3-24-16)

08. Background. The biological, chemical or physical condition of waters measured at a point immediately upstream (up-gradient) of the influence of an individual point or nonpoint source discharge. If several discharges to the water exist or if an adequate upstream point of measurement is absent, the Department will

determine where background conditions should be measured. (3-24-16)

09. Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of waters of the United States. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw material storage. (3-24-16)

10. Biochemical Oxygen Demand (BOD). The measure of the amount of oxygen necessary to satisfy the biochemical oxidation requirements of organic materials at the time the sample is collected; unless otherwise specified, this term will mean the five (5) day BOD incubated at twenty (20) degrees C. (3-24-16)

11. Biological Monitoring or Biomonitoring. The use of a biological entity as a detector and its response as a measure to determine environmental conditions. Toxicity tests and biological surveys, including habitat monitoring, are common biomonitoring methods. (3-24-16)

12. Bypass. The intentional diversion of wastewater from any portion of a treatment facility. (3-24-16)

13. Chemical Oxygen Demand (COD). A bulk parameter that measures the oxygen-consuming capacity of organic and inorganic matter present in water or wastewater. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. (3-24-16)

14. Class I Sludge Management Facility. Any POTW identified under 40 CFR 403.8(a) as being required to have an approved pretreatment program (including such POTWs where the Department has elected to assume local program responsibilities pursuant to 40 CFR 403.10(e)) and any other treatment works treating domestic sewage (TWTDS) classified as a Class I sludge management facility by the Department, because of the potential for its sludge use or disposal practices to adversely affect public health and the environment. (3-24-16)

15. Clean Water Act. Formerly referred to as the Federal Water Pollution Control Act or Federal Water Pollution Control Act Amendments of 1972. Public Law 92-500, as amended by Public Law 95-217, Public Law 95-576, Public Law 96-483 and Public Law 97-117, 33 U.S.C. 1251 et seq. (3-24-16)

16. Clean Water Act and Regulations. The Clean Water Act and applicable regulations promulgated thereunder. In the case of an approved IPDES program, it includes Department program requirements. (3-24-16)

17. Compliance Schedule or Schedule of Compliance. A schedule of remedial measures included in a permit, including an enforceable sequence of interim requirements (for example, actions, operations, or milestone events) leading to compliance with the Clean Water Act and these rules. (3-24-16)

18. Concentrated Animal Feeding Operation (CAFO). Animal feeding operation that is defined as a Large CAFO in accordance with 40 CFR 122.23(b)(4), as a Medium CAFO in accordance with 40 CFR 122.23(b)(6), or that is designated as a CAFO in accordance with 40 CFR 122.23(c). Two (2) or more animal feeding operations under common ownership are considered to be a single animal feeding operation for the purposes of determining the number of animals at an operation, if they adjoin each other or if they use a common area or system for the disposal of wastes. (3-24-16)

19. Concentrated Aquatic Animal Production (CAAP). A hatchery, fish farm, or other facility which meets the criteria in Appendix C of 40 CFR Part 122, or which the Department designates under 40 CFR 122.24(c). (3-24-16)

20. Continuous Discharge. A discharge which occurs without interruption throughout the operating hours of the facility, except for infrequent shutdowns for maintenance, process changes, or other similar activities. (3-24-16)

21. Daily Discharge. The discharge of a pollutant measured during a calendar day or any twenty-four (24)-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the daily discharge is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the daily discharge is calculated as the

average measurement of the pollutant over the day. (3-24-16)

22. Department. The Idaho Department of Environmental Quality. (3-24-16)

23. Design Flow. The average or maximum point source discharge volume per unit time that a facility or system is constructed to accommodate. (3-24-16)

24. Direct Discharge. The discharge of a pollutant to waters of the United States. (3-24-16)

25. Director. The Director of the Idaho Department of Environmental Quality or authorized agent. (3-24-16)

26. Discharge Monitoring Report (DMR). The facility or activity report containing monitoring and discharge quality and quantity information and data required to be submitted periodically, as defined in the discharge permit. These reports must be submitted to the Department on a Department-approved format. (3-24-16)

27. Discharge. When used without qualification means the discharge of a pollutant. (3-24-16)

28. Discharge of a Pollutant. Any addition of any pollutant or combination of pollutants to waters of the United States from any point source. This definition includes additions of pollutants into waters of the United States from: surface runoff which is collected or channeled by man; discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other person which do not lead to a treatment works; and discharges through pipes, sewers, or other conveyances, leading into privately owned treatment works. This term does not include an addition of pollutants by any indirect discharger. (3-24-16)

29. Draft Permit. A document prepared under these rules indicating the Department's tentative decision to issue or deny, modify, revoke and reissue, terminate, or reissue a permit. A notice of intent to terminate a permit, and a notice of intent to deny a permit, as discussed in Subsections 107.01 and 203.02, are types of draft permits. A denial of a request for modification, revocation and reissuance, or termination, as discussed in Subsection 201.01, is not a draft permit. A proposed permit is not a draft permit. (3-24-16)

30. Effluent. Any discharge of treated or untreated pollutants into waters of the United States. (3-24-16)

31. Effluent Limitation. Any restriction imposed by the Department on quantities, discharge rates, and concentrations of pollutants which are discharged from point sources into waters of the United States, in accordance with these rules and the Clean Water Act. (3-24-16)

32. Effluent Limitations Guidelines. A regulation published by the EPA under the Clean Water Act section 304(b) to adopt or revise effluent limitations. (3-24-16)

33. Electronic Signature. Information in digital form that is included in or associated with an electronic document for the purpose of expressing the same meaning and intention as would a handwritten signature. (3-24-16)

34. Environmental Protection Agency (EPA). The United States Environmental Protection Agency. (3-24-16)

35. Equivalent Dwelling Unit (EDU). A measure where one (1) equivalent dwelling unit is equivalent to wastewater generated from one (1) single-family residence. For the purposes of assessing fees associated with this rule, the number of EDUs is calculated as the population served divided by the average number of people per household as defined in the most recent Census Bureau data (for that municipality, county, or average number of persons per household for the state of Idaho). (3-28-18)

36. Existing Source. Any source which is not a new source or a new discharger. (3-24-16)

37. Facilities or Equipment. Buildings, structures, process or production equipment or machinery

which form a permanent part of the new source and which will be used in its operation, if these facilities or equipment are of such value as to represent a substantial commitment to construct. It excludes facilities or equipment used in connection with feasibility, engineering, and design studies regarding the source or water pollution treatment for the source. (3-24-16)

38. Facility or Activity. Any point source or any other facility or activity (including land or appurtenances thereto) that is subject to regulation under the IPDES program. (3-24-16)

39. Fundamentally Different Factors. The factors relating to a discharger's facilities, equipment, processes or other factors related to the discharger are fundamentally different from the factors considered by EPA in development of the national effluent limits. (3-24-16)

40. General Permit. An IPDES permit issued under Section 130 (General Permits) authorizing a category of discharges within a geographical area. (3-24-16)

41. Hazardous Substance. Any substance designated under 40 CFR Part 116 pursuant to the Clean Water Act section 311. (3-24-16)

42. Idaho Pollutant Discharge Elimination System (IPDES). Idaho's program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under these rules and the Clean Water Act sections 307, 402, 318, and 405. (3-24-16)

43. Indian Country. (3-24-16)

a. All land within the limits of any Indian reservation under the jurisdiction of the United States Government, notwithstanding the issuance of any patent, and, including rights-of-way running through the reservation; (3-24-16)

b. All dependent Indian communities within the borders of the United States, whether within the originally or subsequently acquired territory thereof, and whether within or without the limits of the state; and (3-24-16)

c. All Indian allotments, the Indian titles to which have not been extinguished including rights-of-way running through the same. (3-24-16)

44. Indian Tribe. Any Indian tribe, band, group, or community recognized by the Secretary of the Interior and exercising governmental authority over a federal Indian reservation. (3-24-16)

45. Indirect Discharger. A nondomestic discharger introducing pollutants to a privately or publicly owned treatment works. (3-24-16)

46. Industrial Wastewater. Any waste, together with such water as is present that is the by-product of industrial processes including, but not limited to, food processing or food washing wastewater (see Process Wastewater). (3-24-16)

47. Infiltration. Water other than wastewater that enters a sewer system (including sewer service connections and foundation drains) from the ground through such means as defective pipes, pipe joints, connections, or manholes. Infiltration does not include, and is distinguished from, inflow. (3-24-16)

48. Inflow. Water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, street wash waters, or drainage. Inflow does not include, and is distinguished from, infiltration. (3-24-16)

49. Interstate Agency. An agency of two (2) or more states established by or under an agreement or compact, or any other agency of two (2) or more states having substantial powers or duties pertaining to the control of

pollution. (3-24-16)

50. Load Allocation (LA). The portion of a receiving water body's loading capacity that is attributed either to one (1) of its existing or future nonpoint sources of pollution or to natural background sources. (3-24-16)

51. Major Facility. A facility or activity that is: (3-24-16)

a. A publicly or privately owned treatment works with a design flow equal to or greater than one million gallons per day (1 MGD), or serves a population of ten thousand (10,000) or more, or causes significant water quality impacts; or (3-24-16)

b. A non-municipal facility that equals or exceeds the eighty (80) point accumulation as described in the Score Summary of the NPDES Non-Municipal Permit Rating Work Sheet (June 27, 1990) or the Department equivalent guidance document. (3-24-16)

52. Maximum Daily Discharge Limitation. The highest allowable daily discharge. (3-24-16)

53. Maximum Daily Flow. The largest volume of flow to be discharged during a continuous twenty-four-hour period expressed as a volume per unit time. (3-24-16)

54. Mixing Zone. A defined area or volume of the receiving water surrounding or adjacent to a wastewater discharge where the receiving water, as a result of the discharge, may not meet all applicable water quality criteria or standards. It is considered a place where wastewater mixes with receiving water and not as a place where effluents are treated. (3-24-16)

55. Municipality. A city, town, county, district, association, or other public body created by or under state law and having jurisdiction over disposal of sewage, industrial wastes, or other wastes, or an Indian tribe or an authorized Indian tribal organization, or a designated and approved management agency under the Clean Water Act section 208. (3-24-16)

56. National Pollutant Discharge Elimination System (NPDES). The national program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing permits, and imposing and enforcing pretreatment requirements, under the Clean Water Act sections 307, 402, 318, and 405. (3-24-16)

57. New Discharger. Any building, structure, facility, or installation: (3-24-16)

a. From which there is or may be a discharge of pollutants; (3-24-16)

b. That did not commence the discharge of pollutants at a particular site prior to August 13, 1979; (3-24-16)

c. Which is not a new source; and (3-24-16)

d. Which has never received a finally effective NDPES or IPDES permit for discharges at that site. (3-24-16)

e. This definition includes an indirect discharger which commences discharging into waters of the United States after August 13, 1979. It also includes any existing mobile point source such as an aggregate plant, that begins discharging at a site for which it does not have a permit; (3-24-16)

58. New Source. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced: (3-24-16)

a. After promulgation of standards of performance under the Clean Water Act section 306 which are applicable to such source; or (3-24-16)

b. After proposal of standards of performance in accordance with the Clean Water Act section 306

which are applicable to such source, but only if the standards are promulgated in accordance with section 306 within one hundred twenty (120) days of their proposal. (3-24-16)

59. Notice of Intent to Deny. A type of draft permit that shall convey to a permit applicant or permittee, the Department's intent to not issue or renew an IPDES permit. (3-24-16)

60. Notice of Intent to Obtain Coverage under an IPDES General Permit. An applicant seeking discharge coverage under an IPDES general permit shall submit a notice of intent to obtain coverage for discharges to waters of the United States under general permit classifications, including, but not limited to: (3-24-16)

a. Storm Water Construction General Permit (CGP); (3-24-16)

b. Multi-Sector General Permit (MSGP) for Industrial Storm Water Requirements; (3-24-16)

c. Municipal Separate Storm Sewer System (MS4) General Permit; (3-24-16)

d. Concentrated Animal Feeding Operation (CAFO) General Permit; (3-24-16)

e. Concentrated Aquatic Animal Production (CAAP) Facility General Permit; (3-24-16)

f. Ground Water Remediation General Permit; (3-24-16)

g. Suction Dredge General Permit; or (3-28-18)

h. Pesticide General Permit (PGP). (3-24-16)

61. Notice of Intent to Terminate. A notice of intent to terminate shall: (3-24-16)

a. Convey to a permittee the Department's intent to terminate an existing IPDES permit for cause; or (3-24-16)

b. Convey to the Department a permittee's intent to terminate coverage for an activity under an Individual or General Permit. A construction general permit holder is obligated to submit a notice of intent to terminate upon completion of construction activities and, in the case of storm water control, that final stabilization has been achieved. (3-24-16)

62. Owner or Operator. The person, company, corporation, district, association, or other organizational entity that is an owner or operator of any facility or activity subject to regulation under the IPDES program. (3-24-16)

63. Permit. The authorization, license, or equivalent control document issued by the Department to implement the requirements of these rules. This does not include any permit which has not yet been the subject of final Department action, such as a draft permit or a proposed permit. (3-24-16)

64. Person. An individual, public or private corporation, partnership, association, firm, joint stock company, joint venture, trust, estate, state, municipality, commission, political subdivision of the state, state or federal agency, department or instrumentality, special district, interstate body or any legal entity, or an agent or employee thereof, which is recognized by law as the subject of rights and duties. (3-24-16)

65. Point Source. Any discernible, confined, and discrete conveyance, including but not limited to, any pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, landfill leachate collection system, vessel or other floating craft from which pollutants are or may be discharged. This term does not include return flows from irrigated agriculture or agricultural storm water runoff. (3-24-16)

66. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under

the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean: (3-24-16)

a. Sewage from vessels; or (3-24-16)

b. Water, gas, or other material which is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well used either to facilitate production or for disposal purposes is approved by authority of the state in which the well is located, and if the state determines that the injection or disposal will not result in the degradation of ground or surface water resources.
NOTE: Radioactive materials covered by the Atomic Energy Act are those encompassed in its definition of source, byproduct, or special nuclear materials. Examples of materials not covered include radium and accelerator-produced isotopes. See Train v. Colorado Public Interest Research Group, Inc., 426 U.S. 1 (1976). (3-24-16)

67. Potable Water. Water which is free from impurities in such amounts that it is safe for human consumption without treatment. (3-24-16)

68. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e). (3-24-16)

69. Primary Industry Category. Any industry category listed in Appendix A of 40 CFR Part 122. (3-24-16)

70. Privately Owned Treatment Works. Any device or system which is used to treat wastes and is not a Publicly Owned Treatment Works (POTW). (3-24-16)

71. Process Wastewater. Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product (see Industrial Wastewater definition). (3-24-16)

72. Proposed Permit. An IPDES permit prepared after the close of the public comment period (and, when applicable, any public meeting and administrative appeals) which is sent to EPA for review before final issuance by the Department. A proposed permit is not a draft permit. (3-24-16)

73. Publicly Owned Treatment Works (POTW). A treatment works as defined by the Clean Water Act section 212, which is owned by a state or municipality, as defined by the Clean Water Act section 502(4). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in the Clean Water Act section 502(4), which has jurisdiction over the indirect discharges to and the discharges from such a treatment works. (3-24-16)

74. Receiving Waters. Those waters of the United States to which there is a discharge of pollutants. (3-24-16)

75. Recommencing Discharger. A source which renews discharges after terminating operations. (3-24-16)

76. Regional Administrator. The Region 10 Administrator of the Environmental Protection Agency or the authorized representative of the Regional Administrator. (3-24-16)

77. **Secondary Industry Category**. Any industry category which is not a primary industry category. (3-24-16)

78. **Secondary Treatment**. Technology-based requirements for direct discharging POTWs, based on the expected performance of a combination of physical and biological processes typical for the treatment of pollutants in municipal sewage. Standards are expressed as a minimum level of effluent quality in terms of: BOD5, total suspended solids (TSS), and pH (except as provided by treatment equivalent to secondary treatment and other special considerations). (3-24-16)

79. **Secretary**. The Secretary of the Army, acting through the Chief of Engineers. (3-24-16)

80. **Septage**. The liquid and solid material pumped from a septic tank, cesspool, or similar domestic sewage treatment system, or a holding tank when the system is cleaned or maintained. (3-24-16)

81. **Severe Property Damage**. Substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production. (3-24-16)

82. **Sewage**. The water-carried human or animal waste from residences, buildings, industrial establishments or other places, together with such ground water infiltration and surface water as may be present. (3-24-16)

83. **Sewage from Vessels**. Human body wastes and the wastes from toilets and other receptacles intended to receive or retain body wastes that are discharged from vessels and regulated under the Clean Water Act section 312. (3-24-16)

84. **Sewage Sludge**. Any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumpings, type III marine sanitation device pumpings (33 CFR Part 159), and sewage sludge products. Sewage sludge does not include grit or screenings, or ash generated during the incineration of sewage sludge. (3-28-18)

85. **Sewage Sludge Use or Disposal Practice**. The collection, storage, treatment, transportation, processing, monitoring, use, or disposal of sewage sludge. (3-24-16)

86. **Significant Industrial User**. (3-24-16)

a. All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Parts 400 through 471; and (3-24-16)

b. Any other industrial user that: (3-24-16)

i. Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); (3-24-16)

ii. Contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or (3-24-16)

iii. Is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR 403.8(f)(6)). (3-24-16)

87. **Silvicultural Point Source**. Any discernible, confined, and discrete conveyance related to rock crushing, gravel washing, log sorting, or log storage facilities which are operated in connection with silvicultural activities and from which pollutants are discharged into waters of the United States. The term does not include non-point source silvicultural activities such as nursery operations, site preparation, reforestation and subsequent cultural

treatment, thinning, prescribed burning, pest and fire control, harvesting operations, surface drainage, or road construction and maintenance from which there is natural runoff. However, some of these activities (such as stream crossing for roads) may involve point source discharges of dredged or fill material which may require a Clean Water Act section 404 permit. (3-24-16)

88. Site. The land or water area where any facility or activity is physically located or conducted, including adjacent land used in connection with the facility or activity. (3-24-16)

89. Sludge. The semi-liquid mass produced and removed by the wastewater treatment process. (3-28-18)

90. Sludge-Only Facility. Any TWTDS whose methods of sewage sludge use or disposal are subject to regulations promulgated pursuant to the Clean Water Act section 405(d) and is required to obtain an IPDES permit. (3-24-16)

91. Source. Any building, structure, facility, or installation from which there is or may be discharge of pollutants. (3-24-16)

92. Standards for Sewage Sludge Use or Disposal. Regulations promulgated pursuant to the Clean Water Act section 405(d) and these rules which govern minimum requirements for sewage sludge quality, management practices, and monitoring and reporting applicable to sewage sludge or the use or disposal of sewage sludge by any person. (3-28-18)

93. State. The state of Idaho. (3-24-16)

94. State/EPA Agreement. An agreement between the EPA Regional Administrator and the state of Idaho which coordinates EPA and Department activities, responsibilities and programs including those under the Clean Water Act programs. (3-24-16)

95. Storm Water. Storm water runoff, snow melt runoff, and surface runoff and drainage. (3-24-16)

96. Technology-Based Effluent Limitation (TBEL). Treatment requirements under the Clean Water Act that represent the minimum level of control that must be imposed in a permit issued under section 402 of the Clean Water Act. (3-24-16)

97. Total Dissolved Solids. The total dissolved (filterable) solids as determined by use of the method specified in 40 CFR Part 136. (3-24-16)

98. Toxic Pollutant. Any substance, material or disease-causing agent, or a combination thereof, which after discharge to waters of the United States and upon exposure, ingestion, inhalation, or assimilation into any organism (including humans), either directly from the environment or indirectly by ingestion through food chains, will cause death, disease, behavioral abnormalities, malignancy, genetic mutation, physiological abnormalities (including malfunctions in reproduction) or physical deformations in affected organisms or their offspring. Toxic pollutants include, but are not limited to, the one hundred twenty-six (126) priority pollutants identified by EPA pursuant to the Clean Water Act section 307(a), or in the case of sewage sludge use or disposal practices, any pollutant identified in regulations implementing the Clean Water Act section 405(d). (3-24-16)

99. Treatment. A process or activity conducted for the purpose of removing pollutants from wastewater. (3-24-16)

100. Treatment Facility. Any physical facility or land area for the purpose of collecting, treating, neutralizing, or stabilizing pollutants including treatment plants; the necessary collecting, intercepting, outfall and outlet sewers; pumping stations integral to such plants or sewers; disposal or reuse facilities; equipment and furnishing thereof; and their appurtenances. For the purpose of these rules, a treatment facility may also be known as a treatment system, a wastewater system, wastewater treatment system, wastewater treatment facility, wastewater treatment plant, or privately or publicly owned treatment works. (3-24-16)

101. Treatment Works Treating Domestic Sewage (TWTDS). A POTW or any other sewage sludge or waste water treatment devices or systems, regardless of ownership (including federal facilities), used in the storage, treatment, recycling, and reclamation of municipal or domestic sewage, including land dedicated for the disposal of sewage sludge. This definition does not include septic tanks or similar devices. For purposes of this definition, domestic sewage includes waste and waste water from humans or household operations that are discharged to or otherwise enter a treatment works. (3-24-16)

102. Upset. An exceptional incident in which there is unintentional and temporary noncompliance with technology-based permit effluent limitations because of factors beyond the reasonable control of the permittee. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation. (3-24-16)

103. User. Any person served by a wastewater system. (3-24-16)

104. Variance. Any mechanism or provision under the Clean Water Act section 301 or 316 or under 40 CFR Part 125, or in the applicable effluent limitations guidelines allowing modification to or waiver of the generally applicable effluent limitation requirements or time deadlines of the Clean Water Act. This includes provisions which allow the establishment of alternative limitations based on fundamentally different factors or on Clean Water Act sections 301(c), 301(g), 301(h), 301(i), or 316(a). (3-24-16)

105. Wasteload Allocation (WLA). The portion of a receiving water's loading capacity that is allocated to one (1) of its existing or future point sources of pollution. (3-24-16)

106. Wastewater. Any combination of liquid or water and pollutants from activities and processes occurring in dwellings, commercial buildings, industrial plants, institutions and other establishments, together with any ground water, surface water, and storm water that may be present; liquid or water that is chemically, biologically, physically or rationally identifiable as containing blackwater, gray water or commercial or industrial pollutants; and sewage. (3-24-16)

107. Water Pollution. Any alteration of the physical, thermal, chemical, biological, or radioactive properties of any waters of the United States, or the discharge of any pollutant into the waters of the United States, which will or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to fish and wildlife, or to domestic, commercial, industrial, recreational, aesthetic, or other beneficial uses. (3-24-16)

108. Water Quality-Based Effluent Limitation (WQBEL). An effluent limitation determined by selecting the most stringent of the effluent limits calculated using all applicable water quality criteria (e.g., aquatic life, human health, wildlife, translation of narrative criteria) for a specific point source to a specific receiving water. (3-24-16)

109. Water Transfer. An activity that conveys or connects waters of the United States without subjecting the transferred water to intervening industrial, municipal, or commercial use. (3-24-16)

110. Wetlands. Areas inundated or saturated by surface or ground water at a frequency and duration sufficient to support, and that under normal circumstances do support, a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include swamps, marshes, bogs, and similar areas. (3-24-16)

111. Whole Effluent Toxicity. The aggregate toxic effect of an effluent measured directly by a toxicity test. (3-24-16)

011. -- 049. (RESERVED)

050. COMPUTATION OF TIME.

01. Computing Time. In computing any period of time scheduled to begin after or before the occurrence of an act or event, the date of the act or event shall not be included. The last day of the period shall be

included, unless it is a Saturday, a Sunday, or a legal holiday, in which case the period runs until the end of the next day which is neither a Saturday, a Sunday, nor holiday. (3-24-16)

02. Notice by Mail. Whenever a party or interested person has the right or is required to act within a prescribed period after the service of notice or other paper and the notice or paper is served upon him or her by mail, three (3) days shall be added to the prescribed time. (3-24-16)

051. -- 089. (RESERVED)

090. SIGNATURE REQUIREMENTS.

01. Permit Applications and Notices of Intent. All IPDES permit applications and notices of intent must be signed by a certifying official as follows: (3-24-16)

a. For a corporation, a responsible corporate officer shall sign the application or notice of intent. In this subsection, a responsible corporate officer means: (3-24-16)

i. A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or (3-24-16)

ii. The manager of one (1) or more manufacturing, production, or operating facilities, if: (3-24-16)

(1) The manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental statutes and regulations; (3-24-16)

(2) The manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for IPDES permit application requirements; and (3-24-16)

(3) Authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; (3-24-16)

b. For a partnership or sole proprietorship, the general partner or the proprietor, respectively, shall sign the application; and (3-24-16)

c. For a municipality, state, or other public agency, either a principal executive officer or ranking elected official shall sign the application. In this subsection, a principal executive officer of an agency means: (3-24-16)

i. The chief executive officer of the agency; or (3-24-16)

ii. A senior executive officer having responsibility for the overall operations of a principal geographic unit or division of the agency. (3-24-16)

02. Reports and Other Information Submitted. Any report or information required by an IPDES permit, notice of intent, monitoring and reporting provisions, and any other information requested by the Department, must be signed by a person described in Subsection 090.01, or by a duly authorized representative of that person. A person is a duly authorized representative only if: (3-24-16)

a. The authorization is made in writing by a person described in Subsection 090.01; (3-24-16)

b. The authorization specifies either: (3-24-16)

i. An individual or a position having responsibility for the overall operation of the regulated facility

or activity, including the position of manager, operator, superintendent or position of equivalent responsibility; or (3-24-16)

ii. An individual or position having overall responsibility for environmental matters for the company; and (3-24-16)

c. The written authorization is submitted to the Department. (3-24-16)

03. New Authorization. If an authorization is no longer accurate due to a change in staffing or personnel for the overall operation of the facility, a new authorization satisfying the requirements of Subsection 090.01 must be submitted to the Department before or together with any report, information, or application to be signed by an authorized representative. (3-24-16)

04. Certification. Any person signing a document under Subsections 090.01 or 090.02 shall certify as follows: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." (3-24-16)

05. Electronic Signatures. The Department may require any signed, certified, or authorized information required under these rules to be submitted electronically, with an electronic signature approved by the Department. (3-24-16)

06. Electronic Reporting. When documents described in Subsection 090.01 or 090.02 of this rule are submitted electronically by or on behalf of the IPDES-regulated facility, any person providing the electronic signature for such documents shall meet all relevant requirements of this section, and shall ensure that all of the relevant requirements of 40 CFR Part 3 (Cross-Media Electronic Reporting) and 40 CFR Part 127 (NPDES Electronic Reporting Requirements) are met for that submission. (3-28-18)

091. -- 099. (RESERVED)

100. EFFECT OF A PERMIT.

01. Rights. The issuance of, or coverage under, an IPDES permit does not convey any property rights or any exclusive privilege nor does it authorize any injury to persons or property or invasion of other private rights, or any infringement of state or local law or regulations. The issuance of, or coverage under, an IPDES permit does not constitute authorization of the permitted activities by any other state or federal agency or private person or entity, and does not excuse the permit holder from the obligation to obtain any other necessary approvals, authorizations, or permits. (3-24-16)

02. Compliance. Except for any toxic effluent standards and prohibitions imposed under the Clean Water Act section 307, and standards for sewage sludge use or disposal under the Clean Water Act section 405(d), compliance with an IPDES permit during its term constitutes compliance, for purposes of enforcement, with Clean Water Act sections 301, 302, 306, 307, 318, 403, and 405(a) through (b). However, a permit or coverage under a permit may be modified, revoked and reissued, or terminated during its term for cause as set out in Sections 130 (General Permits), 201 (Modification, or Revocation and Reissuance of IPDES Permits), and 203 (Termination of IPDES Permits). (3-24-16)

101. DURATION.

01. Permit Term. IPDES permits shall be issued for a fixed duration not to exceed five (5) years. (3-24-16)

a. The Department may issue a permit for a period of less than five (5) years. An explanation of the reasoning behind issuing a permit for a shorter period shall be provided in the fact sheet. (3-24-16)

b. The duration of a permit may not be modified to lengthen the effective term of the permit past the maximum five (5) year duration. (3-24-16)

c. A permit may be issued to expire on or after the statutory deadline set forth in the Clean Water Act sections 301(b)(2)(A), (C), and (E), if the permit includes effluent limitations to meet the requirements of the Clean Water Act sections 301(b)(2)(A), (C), (D), (E) and (F), whether or not applicable effluent limitations guidelines have been promulgated or approved. (3-24-16)

d. A determination that a particular discharger falls within a given industrial category for purposes of setting a permit expiration date under Subsection 101.01.c. is not conclusive as to the discharger's inclusion in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that a permit based on that determination is formulated. (3-24-16)

e. A federally-issued NPDES permit, the administration of which has been transferred to the Department upon or after EPA approval of the IPDES program, shall continue in effect and be enforceable by the Department, subject to Subsections 101.02 and 101.03. (3-24-16)

02. Continuation of Individual Permits. The conditions of an expired individual permit, whether a federal NPDES permit (except for permits over which EPA retains authority) or a state-issued IPDES permit, will remain fully effective and enforceable until the effective date of a new permit or the date of the Department's final decision to deny the application for the new permit, if: (3-24-16)

a. The permittee has submitted a timely and complete application for a new permit under Section 105 (Application for an Individual IPDES Permit); and (3-24-16)

b. The Department, because of time, resource, or other constraints, but through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit. (3-24-16)

03. Continuation of General Permits. The conditions of an expired general permit, whether a federal NPDES permit or a state-issued IPDES permit, will remain fully effective and enforceable (except for permits over which EPA retains authority) until the date the authorization to discharge under the new permit is determined, if: (3-24-16)

a. The permittee has submitted a timely notice of intent to obtain coverage under the new general permit as specified in Section 130 (General Permits); and (3-24-16)

b. The Department, because of time, resource, or other constraints, but through no fault of the permittee, does not issue a new general permit with an effective date on or before the expiration date of the previous permit. (3-24-16)

04. Continuation of Permits During an Appeal. Whether the conditions of an expired permit remain effective and enforceable during an appeal of a new permit, or an appeal of the denial of a permit application, is governed by Section 204 (Appeals Process). (3-24-16)

102. OBLIGATION TO OBTAIN AN IPDES PERMIT.

01. Persons Who Must Obtain a Permit. Any person who discharges or proposes to discharge a pollutant from any point source into waters of the United States, or who owns or operates a sludge-only facility whose sewage sludge use or disposal practice is regulated by 40 CFR Part 503 or these rules, and who does not have an IPDES or NPDES permit in effect, shall submit a complete IPDES permit application to the Department, unless the discharge, proposed discharge, or TWTDS: (3-24-16)

a. Is covered by one (1) or more general permits in compliance with Section 130 (General Permits). Any applicant must complete a notice of intent for any discharge or proposed discharge that is covered by one (1) or more general permits; (3-24-16)

b. Is excluded from IPDES permit requirements under Subsection 102.05; (3-24-16)

c. Is by a user to a privately owned treatment works, and the Department, under Section 370 (Pretreatment Standards), does not otherwise require the person to apply for a permit; or (3-24-16)

d. Is a TWTDS facility that uses or disposes of sewage sludge to which a standard applicable to its sewage sludge use or disposal practices have not been published. Such facilities shall submit limited background information, as specified in Subsection 105.17.o., within one (1) year after publication of applicable standards. (3-24-16)

02. Operator's Duty to Obtain a Permit. When a facility or activity is owned by one person but is operated by another person, it is the operator's duty to obtain a permit. (3-24-16)

03. Permits Under the Clean Water Act Section 405(f). All new and currently permitted TWTDS whose sewage sludge use or disposal practices are regulated by 40 CFR Part 503 must submit permit applications according to the applicable schedule in Subsection 105.17. The Department may require permit applications from any TWTDS at any time if the Department determines that a permit is necessary to protect public health and the environment from any potential adverse effects that may occur from toxic pollutants in sewage sludge. (3-24-16)

04. Designation of Small Municipal Separate Storm Sewer Systems (MS4s). DEQ shall designate a small MS4 that is not located in an urbanized area, as determined by the latest Decennial Census by the Bureau of Census, as a regulated small MS4 that must be covered by an IPDES permit if the Department determines that: (3-24-16)

a. The storm water discharge results in or has the potential to result in exceedance of water quality standards or other significant water quality impacts; or (3-24-16)

b. The storm water discharge contributes substantially to the pollutant loadings of a physically interconnected municipal separate storm sewer that is regulated by the IPDES storm water program. (3-24-16)

05. Exclusions from Permit. A person shall not discharge pollutants from any point source into waters of the United States without first obtaining an IPDES permit from the Department or coverage under an IPDES general permit, unless the discharge is excluded from IPDES permit requirements or the discharge is authorized by an IPDES or NPDES permit that continues in effect. The Department will not require persons to obtain IPDES permits for facilities or activities that are not required to obtain NPDES permits from EPA under the Clean Water Act and federal Clean Water Act regulations. Discharges excluded from IPDES permit requirements, but that may be regulated by other state or federal regulations include: (3-24-16)

a. Any sewage discharge from vessels and any effluent from properly functioning marine engines, laundry, shower and galley sink wastes, or any other discharge incidental to the normal operation of a vessel of the U.S. Armed Forces within the meaning of the Clean Water Act section 312, and a recreational vessel within the meaning of the Clean Water Act section 502(25). None of these exclusions apply to: (3-24-16)

i. Rubbish, trash, garbage, or other such materials discharged overboard; nor to (3-24-16)

ii. Other discharges when the vessel is operating in a capacity other than as a means of transportation such as when used as: (3-24-16)

(1) An energy or mining facility; (3-24-16)

(2) A storage facility, or when secured to a storage facility; or (3-24-16)

(3) When secured to the bed of the waters of the United States for the purposes of mineral or oil exploration or development; (3-24-16)

b. Any discharge of dredged or fill material into waters of the United States that is regulated under the

Clean Water Act section 404; (3-24-16)

c. Sewage, industrial wastes, or other pollutants discharged into publicly owned treatment works (POTWs) by an indirect discharger who has received a will-serve letter authorizing the discharge to the POTW. Plans or agreements to switch to this method of disposal in the future do not relieve dischargers of the obligation to have and comply with permits until all discharges of pollutants to waters of the United States are eliminated. This exclusion does not apply to the introduction of pollutants to privately owned treatment works or to other discharges through pipes, sewers, or other conveyances owned by a state, municipality, or other party not leading to treatment works; (3-24-16)

d. Any discharge in compliance with the instructions of an on-scene coordinator under 40 CFR Part 300 (The National Oil and Hazardous Substances Pollution Contingency Plan), or 33 CFR 153.10(e) (Control of Pollution by Oil and Hazardous Substances, Discharge Removal); (3-24-16)

e. Any introduction of pollutants from non-point source agricultural and silvicultural activities, including storm water runoff from orchards, cultivated crops, pastures, range lands, and forest lands; however, this exclusion does not apply to discharges from concentrated animal feeding operations (CAFO) as defined in 40 CFR 122.23, discharges from concentrated aquatic animal production (CAAP) facilities, discharges to aquaculture projects, and discharges from silvicultural point sources; (3-24-16)

f. Any return flow from irrigated agriculture; (3-24-16)

g. Discharges into a privately owned treatment works, except as the Department may otherwise require under Subsection 302.15; and (3-24-16)

h. Discharges from a water transfer. This exclusion does not apply to pollutants introduced by the water transfer activity itself to the water being transferred. (3-24-16)

103. PERMIT PROHIBITIONS.
The Department will not issue an IPDES permit for a discharge: (3-24-16)

01. Clean Water Act Compliance. Unless the conditions of the permit provide for compliance with the applicable requirements of IDAPA 58.01.02, "Water Quality Standards" and 58.01.25 "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; (3-24-16)

02. EPA Objection. When the Department has received written objection pursuant to 40 CFR 123.44 from the EPA Regional Administrator to issuance of the permit and until the objections are resolved according to the process identified in the Memorandum of Agreement between EPA and the Department; (3-24-16)

03. Water Quality Requirements. When the imposition of conditions cannot ensure compliance with the applicable water quality requirements of all affected states; (3-24-16)

04. Anchorage and Navigation Impaired. When, in the judgment of the Secretary of the United States Army through the Army Corp Chief of Engineers, anchorage and navigation in or on any of the waters of the United States would be substantially impaired by the discharge; (3-24-16)

05. Banned Content. Of any radiological, chemical, or biological warfare agent or high level radioactive waste; (3-24-16)

06. Area Wide Waste Treatment Management Plans. That is inconsistent with a plan or plan amendment approved under the Clean Water Act section 208(b); or (3-24-16)

07. New Sources or New Dischargers. For a new source or new discharger, if the discharge from its construction or operation will cause or contribute to the violation of water quality standards. (3-24-16)

a. When the owner or operator of a new source or new discharge proposes to discharge into a water segment that does not meet applicable water quality standards, or that is not expected to meet those standards even after the application of the effluent limitations required by Clean Water Act sections 301(b)(1)(A) and (B), and for

which the state or interstate agency has performed a pollutant load allocation for the pollutant to be discharged, then the owner or operator must demonstrate that: (3-24-16)

i. There are sufficient remaining pollutant load allocations to allow for the discharge; and (3-24-16)

ii. The existing dischargers into that segment are subject to compliance schedules designed to bring the segment into compliance with applicable water quality standards. (3-24-16)

b. The Department may waive the submission of the information by the permit applicant required in Subsection 103.07.a. if the Department determines that it already has adequate information to evaluate the request. (3-24-16)

c. An explanation of the development of limitations to meet the criteria of this section is to be included in the fact sheet to the permit. (3-24-16)

104. PRE-APPLICATION PROCESS.
Any person who intends to apply for a permit or who proposes to discharge a pollutant into the waters of the United States should contact the Department to schedule a meeting prior to submitting an application to discuss: (3-24-16)

01. IPDES Permit Applicability. Whether the actions or facility will require an IPDES permit, and whether other suitable permitting options are available; (3-24-16)

02. Application Content. The IPDES permit application requirements; and (3-24-16)

03. Application Schedule. The IPDES permit application submittal schedule. (3-24-16)

105. APPLICATION FOR AN INDIVIDUAL IPDES PERMIT.

01. Electronic Submittals. The Department may require an applicant to electronically submit information required by this section, if the Department approves an electronic method of submittal. (3-24-16)

02. Application Retention Schedule. An applicant shall keep records of all data used to complete a permit application and any supplemental information submitted for a period of at least three (3) years from the date the application is signed. (3-24-16)

03. Time to Apply. Any person required under Subsections 102.01 through 102.03 to obtain an IPDES permit shall submit to the Department a complete application for a permit in compliance with the requirements of this subsection. A permit application must be signed and certified as required by Section 090 (Signature Requirements). (3-24-16)

a. A person proposing a new discharge shall submit an application at least one hundred eighty (180) days before the date on which the discharge is to commence, unless the Department has granted permission to submit the application on a later date as specified in Subsections 105.03.e. and f. A facility proposing a new discharge of storm water associated with industrial activity shall submit an application one hundred eighty (180) days before that facility commences industrial activity that may result in a discharge of storm water associated with that industrial activity, unless the Department has granted permission to submit the application on a later date as specified in Subsections 105.03.e. and f. (3-24-16)

b. Facilities described under 40 CFR 122.26(b)(14)(x) or (b)(15)(i) shall submit an application at least ninety (90) days before the date on which construction is to commence unless otherwise required by the terms of an applicable general permit. (3-24-16)

c. Any TWTDS that commences operations after promulgation of any applicable "standard for sewage sludge use or disposal" must submit an application to the Department at least one hundred eighty (180) days prior to the date proposed for commencing operations. (3-24-16)

d. A person discharging from a permitted facility with a currently effective permit shall submit a new

application at least one hundred eighty (180) days before the expiration date of the existing permit, unless the Department has granted permission to submit the application on a later date as specified in Subsections 105.03.e. and f. (3-24-16)

e. Permission may be granted by the Department for submission of an application in less than one hundred eighty (180) days. The Department's prior approval must be sought and obtained in advance of the one hundred eighty (180) days before expiration of the existing permit or commencement of new discharge. (3-24-16)

f. In no instance shall the application be accepted after the expiration date of the existing permit as an application for renewal of the permit. Any applications received after the expiration of the permit will be received and reviewed as an application for a new source or new discharger. (3-24-16)

04. Individual Permit Application Forms. An applicant must submit an application on one (1) or more Department-approved forms appropriate to the number and type of discharge or outfall at the applicant's facility. A person required by Subsections 102.01 through 102.03 to obtain an individual IPDES permit shall submit an application to the Department providing the information required by this subsection and Subsections 105.05 through 105.19, as applicable. The application must be submitted on one (1) or more of the EPA forms listed in this subsection, or on the Department equivalent of the listed EPA form: (3-24-16)

a. All applicants, other than a POTW and other TWTDS (see Subsection 105.06), EPA Form 1, revised as of August 1, 1990, and the following additional forms, if applicable: (3-24-16)

i. Applicants for a concentrated animal feeding operation (CAFO; see Subsection 105.09) or concentrated aquatic animal production (CAAP; see Subsection 105.10) facility, EPA Form 2B, revised as of November 2008; (3-24-16)

ii. Applicants for an existing industrial facility, including manufacturing facilities, commercial facilities, mining activities, and silviculture activities (see Subsection 105.07), EPA Form 2C, revised as of August 1, 1990; (3-24-16)

iii. Applicants for a new industrial facility that discharges process wastewater (see Subsection 105.16), EPA Form 2D, revised as of August 1, 1990; (3-24-16)

iv. Applicants for a new or existing industrial facility that discharges only non-process wastewater (see Subsection 105.08.a.), EPA Form 2E, revised as of August 1, 1990; (3-24-16)

v. Applicants for a new or existing facility whose discharge is composed entirely of storm water associated with industrial activity (see Subsection 105.19), EPA Form 2F, revised May 31, 1992, unless the applicant is exempted by 40 CFR 122.26(c)(1)(ii). If the applicant's discharge is composed of storm water and non-storm water (see Subsections 105.07, 105.08, and 105.16), EPA Forms 2C, 2D, or 2E, as appropriate, are also required; or (3-24-16)

vi. Applicants that operate a sludge-only facility (see Subsection 105.17), that currently does not have and is not applying for, an IPDES permit for a direct discharge to a surface water body, EPA Form 2S, revised January 14, 1999; (3-24-16)

b. For an applicant that is a new or existing POTW (see Subsections 105.11 through 105.15): (3-24-16)

i. EPA Form 2A, revised January 14, 1999; and (3-24-16)

ii. EPA Form 2S, revised January 14, 1999, if applicable. (3-24-16)

05. Application Information for All Dischargers. In addition to the application information required for specific dischargers, the Department may require the submittal of any information necessary to ensure compliance with Section 103 (Permit Prohibitions). Such information includes, but is not limited to: (3-24-16)

a. Information required to determine compliance with the antidegradation policy and antidegradation implementation provisions set forth in IDAPA 58.01.02.051 and 052, "Water Quality Standards"; (3-24-16)

b. Information required to determine compliance with the mixing zone provisions set forth in IDAPA 58.01.02.060, "Water Quality Standards"; or (3-24-16)

c. Information necessary for the Department to authorize a compliance schedule under IDAPA 58.01.02.400, "Water Quality Standards." (3-24-16)

06. Individual Permit Application Requirements for Dischargers Other than Treatment Works Treating Domestic Sewage (TWTDS) and Publicly Owned Treatment Works (POTWs). An applicant for an IPDES permit other than a POTW and other TWTDS, shall provide the following information to the Department, using the appropriate forms specified in Subsection 105.04: (3-24-16)

a. The applicant's activity that requires an IPDES permit; (3-24-16)

b. The name, mailing address, electronic mail address, and location of the facility for which the application is submitted; (3-24-16)

c. Up to four (4) Standard Industrial Classification (SIC) codes that best identify the principal products or services provided by the facility; (3-24-16)

d. The operator's name, mailing address, electronic mail address, telephone number, ownership status, Employer Identification Number (EIN), and status as federal, state, private, public, or other entity; (3-24-16)

e. A statement that the facility is located in Indian country, if applicable; (3-24-16)

f. A listing of all permits or construction approvals received or applied for under any of the following programs: (3-24-16)

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (3-24-16)

ii. Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; (3-24-16)

iii. IPDES program under IDAPA 58.01.25 "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; (3-24-16)

iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho"; (3-24-16)

v. Nonattainment program under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho"; (3-24-16)

vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for Control of Air Pollution in Idaho"; (3-24-16)

vii. Dredge or fill permits under the Clean Water Act section 404; or (3-24-16)

viii. Other relevant environmental permits, programs or activities, including those subject to state jurisdiction, approval, and permits; and (3-24-16)

g. A topographic map, or other map if a topographic map is unavailable, extending one (1) mile beyond the property boundaries of the source, depicting: (3-24-16)

i. The facility and each of its intake and discharge structures; (3-24-16)

ii. The location of the facility's hazardous waste treatment, storage, or disposal areas; (3-24-16)

iii. The location of each well where fluids from the facility are injected underground; and (3-24-16)

iv. The location of wells, springs, other surface water bodies, and drinking water wells listed in public records or otherwise known by the applicant to exist in the map area; and (3-24-16)

h. A brief description of the nature of the business. (3-24-16)

07. Individual Permit Application Requirements for Existing Manufacturing, Commercial, Mining and Silviculture Dischargers. (3-24-16)

a. Except for a facility subject to the requirements in Subsection 105.08, an applicant for an IPDES permit for an existing discharge from a manufacturing, commercial, mining, or silviculture facility or activity shall provide the following information to the Department, using the applicable forms specified in Subsection 105.04: (3-24-16)

i. For each outfall: (3-24-16)

(1) The latitude and longitude to the nearest second and the name of each receiving water; (3-24-16)

(2) A narrative identifying each type of process, operation, or production area that contributes wastewater to the effluent from that outfall, including process wastewater, cooling water, and storm water runoff; processes, operations, or production areas may be described in general terms, such as dye-making reactor or distillation tower; (3-24-16)

(3) The average flow that each process contributes and a description of the treatment the wastewater receives, including the ultimate disposal of any solid or fluid wastes other than by discharge; (3-24-16)

(4) For a privately owned treatment works, the identity of each user of the treatment works; and (3-24-16)

(5) The average flow of point sources composed of storm water. For this subsection, the average flow may be estimated, and the basis for the rainfall event with the method of estimation must be submitted; (3-24-16)

ii. A description of the frequency, duration, and flow rate of each discharge occurrence for any of the discharges described in Subsection 105.07.a.i.(2). through 105.07.a.i.(5). that are intermittent or seasonal, except for storm water runoff, spillage, or leaks; (3-24-16)

iii. A reasonable measure of the applicant's actual production reported in the units used in the applicable effluent guideline, if an effluent guideline promulgated under the Clean Water Act section 304 applies to the applicant and is expressed in terms of production or other measure of operation. The reported measure must reflect the actual production of the facility as required by Subsection 303.02.b.; (3-24-16)

iv. If the applicant is subject to any present requirements or compliance schedules for construction, upgrading, or operation of waste treatment equipment, an identification of the abatement requirement, a description of the abatement project, and a listing of the required and projected final compliance dates; (3-24-16)

v. A listing of any toxic pollutant that the applicant currently uses or manufactures as an intermediate or final product or byproduct, except that the Department may waive or modify this requirement; (3-24-16)

(1) If the applicant demonstrates that it would be unduly burdensome to identify each toxic pollutant; and (3-24-16)

(2) The Department has adequate information to issue the permit; (3-24-16)

vi. An identification of any biological toxicity tests that the applicant knows or has reason to believe have been made within the last three (3) years on any of the applicant's discharges or on a receiving water in relation to a discharge; and (3-24-16)

vii. The identity of each laboratory or firm and the analyses performed, if a contract laboratory or consulting firm performed any of the analyses required by Subsection 105.07.c. through m. (3-24-16)

b. The owner or operator of a facility subject to this subsection shall submit, with an application, a line drawing of the water flow through the facility with a water balance, showing operations contributing wastewater to the effluent and treatment units. (3-24-16)

i. In the line drawing, similar processes, operations, or production areas may be indicated as a single unit, labeled to correspond to the more detailed identification under Subsection 105.07.a.i.(2) through 105.07.a.i.(5). (3-24-16)

ii. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. (3-24-16)

iii. If a water balance cannot be determined for certain activities, the applicant may instead provide a pictorial description of the nature and amount of any sources of water and any collection and treatment measures. (3-24-16)

c. In addition to the items of information listed in Subsections 105.07.a. through 105.07.b., and except for information on storm water discharges required by 40 CFR 122.26, an applicant for an IPDES permit for an existing facility described in Subsection 105.07.a. shall: (3-24-16)

i. Collect, prepare, and submit information regarding the effluent characteristics and discharge of pollutants specified in this section; and (3-24-16)

ii. When quantitative data for a pollutant are required, collect a sample of effluent and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136, except that when no analytical method is approved, the applicant may use any suitable method but must describe the method. (3-24-16)

d. An applicant for an IPDES permit under this subsection shall: (3-24-16)

i. Use grab samples in providing information regarding cyanide, total phenols, residual chlorine, oil and grease, fecal coliform (including E. coli), Enterococci (previously known as fecal streptococcus), and volatile organics; temperature, pH, and residual chlorine effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; (3-24-16)

ii. For all other pollutants, use twenty-four (24) hour composite samples, except that a minimum of one (1) grab sample may be taken for effluents from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours; (3-24-16)

e. For purposes of Subsection 105.07.c., exceptions to testing and data provision requirements for effluent characteristics include: (3-24-16)

i. When an applicant has two (2) or more outfalls with substantially identical effluents, the Department may allow the applicant to test only one (1) outfall and report that the quantitative data also apply to the substantially identical outfall; and (3-24-16)

ii. An applicant's duty under Subsections 105.07.j., k., and l. to provide quantitative data for certain pollutants known or believed to be present does not apply to pollutants present in a discharge solely as the result of their presence in intake water; however, an applicant shall report that those pollutants are present. (3-24-16)

f. For storm water discharges, associated with an existing facility described in Subsection 105.07.a.,

from storm events which yield more than one-tenth (0.1) inch of rainfall: (3-24-16)

i. All samples must be collected from the discharge resulting from a storm event and at least seventy-two (72) hours after the previously measurable storm event exceeding one-tenth (0.1) inch rainfall. Where feasible, the variance in the duration of the event and the total rainfall of the event should not exceed fifty percent (50%) from the average or median rainfall event in that area; and (3-24-16)

ii. For all applicants, a flow-weighted composite sample must be taken for either the entire discharge or for the first three (3) hours of the discharge, except for the following: (3-24-16)

(1) The sampling may be conducted with a continuous sampler or as a combination of a minimum of three (3) sample aliquots taken in each hour of discharge for the entire discharge or for the first three (3) hours of the discharge, with each aliquot being separated by a minimum period of fifteen (15) minutes. If the Department approves, an applicant for a storm water discharge permit under Subsection 105.18 may collect flow-weighted composite samples using different protocols with respect to the time duration between the collection of sample aliquots; (3-24-16)

(2) A minimum of one (1) grab sample may be taken for storm water discharges from holding ponds or other impoundments with a retention period greater than twenty-four (24) hours; or (3-24-16)

(3) For a flow-weighted composite sample, only one (1) analysis of the composite of aliquots is required; (3-24-16)

iii. For samples taken from discharges associated with industrial activities, quantitative data must be reported for the grab sample taken during the first thirty (30) minutes, or as soon thereafter as practicable, of the discharge for all pollutants specified in Subsection 105.19 except that for all storm water permit applicants taking flow-weighted composites, quantitative data must be reported for all pollutants specified in 40 CFR 122.26(a) through (b) and (e) through (g), Subsections 105.18 and 105.19, but not for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and fecal streptococcus; (3-24-16)

iv. The Department may, on a case-by-case basis, allow or establish appropriate site-specific sampling procedures or requirements, including: (3-24-16)

(1) Sampling locations; (3-24-16)

(2) The season in which the sampling takes place; (3-24-16)

(3) The minimum duration between the previous measurable storm event and the sampled storm event; (3-24-16)

(4) The minimum or maximum level of precipitation required for an appropriate storm event; (3-24-16)

(5) The form of precipitation sampled, whether snow melt or rain fall; (3-24-16)

(6) Protocols for collecting samples under 40 CFR Part 136; and (3-24-16)

(7) Additional time for submitting data; and (3-24-16)

v. An applicant is deemed to know or have reason to believe that a pollutant is present in an effluent if an evaluation of the expected use, production, or storage of the pollutant, or any previous analyses for the pollutant, show that pollutant's presence. (3-24-16)

g. Unless a reporting requirement is waived under Subsection 105.07.h., every applicant subject to this subsection shall report quantitative data for the following pollutants for every outfall: (3-24-16)

i. 5-day biochemical oxygen demand (BOD5); (3-24-16)

ii. Chemical oxygen demand (COD); (3-24-16)

iii. Total organic carbon (TOC); (3-24-16)

iv. Total suspended solids (TSS); (3-24-16)

v. Ammonia, as N; (3-24-16)

vi. Temperature (both winter and summer); and (3-24-16)

vii. pH. (3-24-16)

h. The Department may waive the reporting requirements under Subsection 105.07.g. for individual point sources or for a particular industry category for one (1) or more of the pollutants listed in Subsection 105.07.g. if the applicant demonstrates that information adequate to support issuance of a permit can be obtained with less stringent requirements. (3-24-16)

i. Except as provided in Subsection 105.07.n., an applicant with an existing facility described in Subsection 105.07.a. that has processes that qualify in one (1) or more of the primary industry categories shown in Appendix A to 40 CFR Part 122 contributing to a discharge, must report quantitative data for pollutants in each outfall containing process wastewater as follows: (3-24-16)

i. Data for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part 122 in the fractions designated in Table I of Appendix D to 40 CFR Part 122. For purposes of this subsection: (3-24-16)

(1) Table II of Appendix D to 40 CFR Part 122, lists the organic toxic pollutants in each fraction that result from the sample preparation required by the analytical procedure that uses gas chromatography/mass spectrometry; and (3-24-16)

(2) If the Department determines that an applicant falls within an industrial category for the purposes of selecting fractions for testing, that determination does not establish the applicant's category for any other purpose; see Notes 2 and 3 to 40 CFR 122.21; and (3-24-16)

ii. Data for the toxic metals, cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122. (3-24-16)

j. An applicant for an IPDES permit under this section must disclose, in an application, whether the applicant knows or has reason to believe that any of the conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122 are discharged from each outfall. If an applicable effluent limitations guideline limits the pollutant either directly or indirectly by express limitations on an indicator, the applicant must report quantitative data. For every pollutant discharged that is not limited in an effluent limitations guideline, the applicant must either report quantitative data or briefly describe the reasons the pollutant is expected to be discharged. (3-24-16)

k. An applicant for an IPDES permit under this subsection must disclose, in an application, whether the applicant knows or has reason to believe that any of the organic toxic pollutants listed in Table II or the toxic metals, cyanide, or total phenols listed in Table III of Appendix D to 40 CFR Part 122 for which quantitative data are not otherwise required under Subsection 105.07.i., are discharged from each outfall. Unless an applicant qualifies as a small business under Subsection 105.07.n., the applicant must: (3-24-16)

i. Report quantitative data for every pollutant expected to be discharged in concentrations of ten (10) parts per billion or greater; (3-24-16)

ii. Report quantitative data for acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, if any of these four (4) pollutants are expected to be discharged in concentrations of one hundred (100) parts per billion or greater; and (3-24-16)

iii. For every pollutant expected to be discharged in concentrations less than ten (10) parts per billion, or in the case of acrolein, acrylonitrile, 2,4 dinitrophenol, and 2-methyl-4, 6 dinitrophenol, in concentrations less than one hundred (100) parts per billion, either submit quantitative data, or briefly describe the reasons the pollutant is expected to be discharged and submit any supporting documentation. (3-24-16)

l. An applicant for an IPDES permit under this subsection must disclose, in an application, whether the applicant knows or has reason to believe that asbestos or any of the hazardous substances listed in Table V of Appendix D to 40 CFR Part 122 are discharged from each outfall. For every pollutant expected to be discharged, the applicant must briefly describe the reasons the pollutant is expected to be discharged and report any quantitative data it has for any pollutant. (3-24-16)

m. An applicant for an IPDES permit under this subsection must disclose, in an application, and report qualitative data, generated using a screening procedure not calibrated with analytical standards, for 2,3,7, 8-tetrachlorodibenzo-p-dioxin (TCDD) if the applicant: (3-24-16)

i. Uses or manufactures the following: (3-24-16)

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5,-T); (3-24-16)

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5,-TP); (3-24-16)

(3) 2-(2,4,5-trichlorophenoxy) ethyl, 2,2-dichloropropionate (Erbon); (3-24-16)

(4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); (3-24-16)

(5) 2,4,5-trichlorophenol (TCP); or (3-24-16)

(6) Hexachlorophene (HCP); or (3-24-16)

ii. Knows or has reason to believe that TCDD is or may be present in an effluent. (3-24-16)

n. An applicant under this subsection is exempt from the quantitative data requirements in Subsections 105.07.i. or 105.07.j. for the organic toxic pollutants listed in Table II of Appendix D to 40 CFR Part 122, if that applicant qualifies as a small business under one (1) of the following criteria: (3-24-16)

i. The applicant is a coal mine with an expected total annual production of less than one hundred thousand (100,000) tons per year; or (3-24-16)

ii. The applicant has gross total annual sales averaging less than two hundred eighty-seven thousand, three hundred dollars ($287,300) per year in 2014 dollars. (3-24-16)

o. In addition to the information reported on the application form, an applicant under this subsection shall provide to the Department, at the Department's request, any other information that the Department may reasonably require to assess the discharges of the facility and to determine whether to issue an IPDES permit. The additional information may include additional quantitative data and bioassays to assess the relative toxicity of discharges to aquatic life and information required to determine the cause of the toxicity. (3-24-16)

08. Individual Permit Application Requirements for New or Existing Manufacturing, Commercial, Mining, and Silviculture Facilities that Discharge only Non-Process Wastewater. (3-24-16)

a. An applicant for an IPDES permit that is a manufacturing, commercial, mining, or silvicultural discharger that discharges only non-process wastewater not regulated by an effluent limitations guideline or new source performance standard shall provide the following information to the Department for all discharges, except for storm water discharges, using the applicable forms specified in Subsection 105.04: (3-24-16)

i. The number of each outfall, the latitude and longitude to the nearest second, and the name of each receiving water; (3-24-16)

ii. For a new discharger, the date of expected commencement of discharge; (3-24-16)

iii. An identification of the general type of waste discharged, or expected to be discharged upon commencement of operations, including sanitary wastes, restaurant or cafeteria wastes, or non-contact cooling water; (3-24-16)

iv. An identification of cooling water additives, if any, that are used or expected to be used upon commencement of operations, along with their composition if existing composition is available; (3-24-16)

v. Effluent characteristics prepared and submitted as described in Subsections 105.08.b. and 105.08.c.; (3-24-16)

vi. A description of the frequency of flow and duration of any seasonal or intermittent discharge, except for storm water runoff, leaks, or spills; (3-24-16)

vii. A brief description of any treatment system used or to be used; (3-24-16)

viii. Any additional information the applicant wishes to be considered, such as influent data for the purpose of obtaining net credits under Subsection 303.07; and (3-24-16)

ix. The signature of the certifying official under Section 090 (Signature Requirements). (3-24-16)

b. Except as otherwise provided in Subsections 105.08.d. through g., an IPDES permit application for a discharger described in Subsection 105.08.a. must include quantitative data for the following pollutants or parameters: (3-24-16)

i. 5-day biochemical oxygen demand (BOD5); (3-24-16)

ii. Total suspended solids (TSS); (3-24-16)

iii. Fecal coliform, if believed present or if sanitary waste is or will be discharged; (3-24-16)

iv. Total residual chlorine (TRC), if chlorine is used; (3-24-16)

v. Oil and grease; (3-24-16)

vi. Chemical oxygen demand (COD), if non-contact cooling water is or will be discharged; (3-24-16)

vii. Total organic carbon (TOC), if non-contact cooling water is or will be discharged; (3-24-16)

viii. Ammonia, as N; (3-24-16)

ix. Discharge flow; (3-24-16)

x. pH; and (3-24-16)

xi. Temperature, both in winter and summer, respectively. (3-24-16)

c. For purposes of the data required under Subsection 105.08.b.: (3-24-16)

i. Grab samples must be used for oil and grease, fecal coliform, and volatile organics. Temperature, pH, and TRC effluent data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; (3-24-16)

ii. Twenty-four (24) hour composite samples must be used for pollutants listed in Subsection 105.08.b., other than those specified in Subsection 105.08.c.i. Twenty-four (24) hour composite samples must, at a

minimum, be composed of four (4) grab samples, equally spaced through the twenty-four (24)-hour period, unless specified otherwise at 40 CFR Part 136. For a composite sample, only one (1) analysis of the composite aliquots is required; (3-24-16)

iii. The quantitative data may be collected over the past three hundred sixty-five (365) days, as long as the data is representative of current operations, and must include maximum daily value, average daily value, and number of measurements taken; and (3-24-16)

iv. The applicant shall collect and analyze samples in accordance with 40 CFR Part 136. (3-24-16)

d. The Department may waive the testing and reporting requirements for any of the pollutants or flow listed in Subsection 105.08.c. if the applicant requests a waiver with its application or earlier, and demonstrates that information adequate to support permit issuance can be obtained through less stringent requirements. (3-24-16)

e. If the applicant is a new discharger, the applicant shall: (3-24-16)

i. Complete and submit Item IV of EPA Form 2E, or the Department equivalent, as required by Subsection 105.04.a.iv., by providing quantitative data in compliance with that section no later than two (2) years after the discharge commences, except that the applicant need not complete those portions of Item IV requiring tests that the applicant has already performed and reported under the discharge monitoring requirements of its IPDES or NPDES permit; and (3-24-16)

ii. Include estimates and the source of each estimate instead of sampling data for the pollutants or parameters listed in Subsection 105.08.b.; (3-24-16)

f. For purposes of the data required under this subsection, all pollutant levels must be reported or estimated as concentration and as total mass, except for flow, pH, and temperature. Submittal of all estimated data shall be accompanied by documents supporting the estimated value. (3-24-16)

g. An applicant's duty, under Subsections 105.08.b., c. and e., to provide quantitative data or estimates of certain pollutants does not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant shall report the presence of those pollutants. If the requirements of Subsection 303.07 are met, net credit may be provided for the presence of pollutants in intake water. (3-24-16)

09. Individual Permit Application Requirements for New and Existing Concentrated Animal Feeding Operations (CAFO). An applicant for an IPDES permit for a new or existing CAFO, as defined in 40 CFR 122.23(b) shall provide the following information to the Department, using the applicable forms specified in Subsection 105.04: (3-24-16)

a. The name of the owner or operator; (3-24-16)

b. The facility location and mailing addresses; (3-24-16)

c. Latitude and longitude of the production area to the nearest second, measured at the entrance to the production area; (3-24-16)

d. A topographic map of the geographic area in which the concentrated animal feeding operation is located, showing the specific location of the production area; (3-24-16)

e. Specific information about the number and type of animals, including, if applicable: beef cattle, broilers, layers, swine weighing fifty-five (55) pounds or more, swine weighing less than fifty-five (55) pounds, mature dairy cows, dairy heifers, veal calves, sheep and lambs, horses, ducks, turkeys, or other animals, whether in open confinement or housed under roof; (3-24-16)

f. The type of containment and total capacity in tons or gallons of any anaerobic lagoon, roofed storage shed, storage pond, under-floor pit, above-ground storage tank, below-ground storage tank, concrete pad, impervious soil pad, or other structure or area used for containment and storage of manure, litter, and process

wastewater; (3-24-16)

g. The total number of acres available and under the applicant's control for land application of manure, litter, or process wastewater; (3-24-16)

h. Estimated amounts of manure, litter, and process wastewater generated per year in tons or gallons; (3-24-16)

i. Estimated amounts of manure, litter, and process wastewater transferred to other persons per year in tons or gallons; and (3-24-16)

j. A nutrient management plan that has been completed and will be implemented upon the date of permit coverage. A nutrient management plan must meet, at a minimum, the requirements specified in 40 CFR 122.42(e), including for all CAFOs subject to 40 CFR 412.30 through 412.37, 412.40 through 412.47, or the requirements of 40 CFR 412.4(c), as applicable. (3-24-16)

10. Individual Permit Application Requirements for New and Existing Concentrated Aquatic Animal Production (CAAP) Facilities. An applicant for an IPDES permit for a new or existing CAAP facility shall provide the following information to the Department, using the applicable forms specified in Subsection 105.04: (3-24-16)

a. The maximum daily and average monthly flow from each outfall; (3-24-16)

b. The number of ponds, raceways, and similar structures; (3-24-16)

c. The name of the receiving water and the source of intake water; (3-24-16)

d. For each species of aquatic animal, the total yearly and maximum harvestable weight; and (3-24-16)

e. The calendar month of maximum feeding and the total mass of food fed during that month. (3-24-16)

11. Individual Permit Application Requirements for New and Existing POTWs and Other Dischargers Designated by the Department. (3-24-16)

a. Except as provided in Subsection 105.11.b., an applicant that is a POTW and any other discharger designated by the Department shall provide the information in this subsection to the Department, using the applicable forms specified in Subsection 105.04.b. A permit applicant under this subsection shall submit all information available at the time of permit application; however, an applicant may provide information by referencing information previously submitted to the Department. (3-24-16)

b. The Department may waive any requirement of this subsection if the Department has access to substantially identical information. The Department may also waive any requirement of this subsection if that information is not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional Administrator must include the Department's justification for the waiver. A Regional Administrator's disapproval of a Department's proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information. (3-24-16)

c. An applicant under this subsection must provide the following information: (3-24-16)

i. Name, mailing address, and location of the facility for which the application is submitted; (3-24-16)

ii. Name, mailing address, electronic mail address, EIN, and telephone number of the applicant, and a statement whether the applicant is the facility's owner, operator, or both; (3-24-16)

iii. A list of all environmental permits or construction approvals received or applied for, including dates, under any of the following programs or types of activities: (3-24-16)

(1) Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (3-24-16)

(2) Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; (3-24-16)

(3) IPDES program under IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; (3-24-16)

(4) Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-16)

(5) Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-16)

(6) National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-16)

(7) Dredge or fill permits under the Clean Water Act section 404; (3-24-16)

(8) Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 (Sewage Sludge) of these rules; and (3-24-16)

(9) Other relevant environmental permits, programs, or activities, including those subject to state jurisdiction, approval, and permits; (3-24-16)

iv. The name, population, and equivalent dwelling units (EDU) of each municipal entity served by the facility, including unincorporated connector districts, a statement whether each municipal entity owns or maintains the collection system and, if the information is available, whether the collection system is a separate sanitary sewer or a combined storm and sanitary sewer; (3-28-18)

v. A statement whether the facility is located in Indian country and whether the facility discharges to a receiving stream that flows through Indian country; (3-24-16)

vi. The facility's design flow rate, or the wastewater flow rate the plant was built to handle, annual average daily flow rate, and maximum daily flow rate for each of the previous three (3) years; (3-24-16)

vii. A statement identifying the types of collection systems, either separate sanitary sewers or combined storm and sanitary sewers, used by the treatment works, and an estimate of the percent of sewer line that each type comprises; (3-24-16)

viii. The following information for outfalls to waters of the United States and other discharge or disposal methods: (3-24-16)

(1) For effluent discharges to waters of the United States, the total number and types of outfalls including treated effluent, combined sewer overflows, bypasses, constructed emergency overflows; (3-24-16)

(2) For wastewater discharged to surface impoundments, the location of each surface impoundment, the average daily volume discharged to each surface impoundment, and a statement whether the discharge is continuous or intermittent; (3-24-16)

(3) For wastewater applied to the land, the location of each land application site, the size in acres of

each land application site, the average daily volume in gallons per day applied to each land application site, and a statement whether the land application is continuous or intermittent; (3-24-16)

(4) For effluent sent to another facility for treatment prior to discharge, the means by which the effluent is transported, the name, mailing address, electronic mail address, contact person, and phone number of the organization transporting the discharge, if the transport is provided by a party other than the applicant, the name, mailing address, electronic mail address, contact person, phone number, and IPDES or NPDES permit number, if any, of the receiving facility, and the average daily flow rate from this facility into the receiving facility in million gallons per day (MGD); and (3-24-16)

(5) For wastewater disposed of in a manner not included in Subsections 105.11.c.viii.(1) through (4), including underground percolation and underground injection, a description of the disposal method, the location and size of each disposal site, if applicable, the annual average daily volume in gallons per day disposed of by this method, and a statement whether disposal by this method is continuous or intermittent; and (3-24-16)

ix. The name, mailing address, electronic mail address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the POTW facility. (3-24-16)

d. In addition to the information described in Subsection 105.11.c., an applicant under this subsection with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD) must provide: (3-24-16)

i. The current average daily volume in gallons per day of inflow and infiltration, and a statement describing steps the facility is taking to minimize inflow and infiltration; (3-24-16)

ii. A topographic map, or other map if a topographic map is unavailable, extending at least one (1) mile beyond property boundaries of the treatment plant including all unit processes, and showing: (3-24-16)

(1) The treatment plant area and unit processes; (3-24-16)

(2) The major pipes or other structures through which wastewater enters the treatment plant and the pipes or other structures through which treated wastewater is discharged from the treatment plant, including outfalls from bypass piping, if applicable; (3-24-16)

(3) Each well where fluids from the treatment plant are injected underground; (3-24-16)

(4) Wells, springs, and other surface water bodies listed in public records or otherwise known to the applicant within one-quarter (1/4) mile of the property boundaries of the treatment works; (3-24-16)

(5) Sewage sludge management facilities including on-site treatment, storage, and disposal sites; and (3-24-16)

(6) Each location at which waste classified as hazardous under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," enters the treatment plant by truck, rail, or dedicated pipe; (3-24-16)

iii. A process flow diagram or schematic as follows: (3-24-16)

(1) A diagram showing the processes of the treatment plant, including all bypass piping and all backup power sources or redundancy in the system, including a water balance showing all treatment units, including disinfection, and showing daily average flow rates at influent and discharge points and approximate daily flow rates between treatment units; and (3-24-16)

(2) A narrative description of the diagram; and (3-24-16)

iv. The following information regarding scheduled improvements: (3-24-16)

(1) The outfall number of each affected outfall; (3-24-16)

(2) A narrative description of each required improvement; (3-24-16)

(3) Scheduled dates for commencement and completion of construction, commencement of discharge and attainment of operational level, and actual completion date for any event listed in this subsection that has been completed; and (3-24-16)

(4) A description of permits and authorizations concerning other federal and state requirements. (3-28-18)

e. An applicant under this subsection must provide the following information for each outfall, including bypass points, through which effluent is discharged, as applicable: (3-24-16)

i. For each outfall: (3-24-16)

(1) The outfall number; (3-24-16)

(2) The county, and city or town in which the outfall is located; (3-24-16)

(3) The latitude and longitude, to the nearest second; (3-24-16)

(4) The distance from shore and depth below surface; (3-24-16)

(5) The average daily flow rate, in million gallons per day (MGD); (3-24-16)

(6) If the outfall has a seasonal or periodic discharge, the number of times per year the discharge occurs, the duration of each discharge, the flow of each discharge, and the months in which discharge occurs; and (3-24-16)

(7) A statement whether the outfall is equipped with a diffuser and the type of diffuser used, such as high-rate; (3-24-16)

ii. For each outfall discharging effluent to waters of the United States, the following receiving water information, if the information is available: (3-24-16)

(1) The name of each receiving water; (3-24-16)

(2) The critical flow of each receiving stream; and (3-24-16)

(3) The total hardness of the receiving stream at critical low flow; and (3-24-16)

iii. For each outfall discharging to waters of the United States, the following information describing the treatment of the discharges: (3-24-16)

(1) The highest level of treatment, including primary, equivalent to secondary, secondary, advanced, or other treatment level provided for: (3-24-16)

(a) The design biochemical oxygen demand removal percentage; (3-24-16)

(b) The design suspended solids removal percentage; (3-24-16)

(c) The design phosphorus removal percentage; (3-24-16)

(d) The design nitrogen removal percentage; and (3-24-16)

(e) Any other removals that an advanced treatment system is designed to achieve; and (3-24-16)

(2) A description of the type of disinfection used, and a statement whether the treatment plant dechlorinates, if disinfection is accomplished through chlorination. (3-24-16)

f. In addition to Subsection 105.11.a., and except as provided in Subsection 105.11.h., an applicant under this subsection shall undertake sampling and analysis and submit effluent monitoring information for samples taken from each outfall through which effluent is discharged to waters of the United States, except for combined sewer overflows, including the following if applicable: (3-24-16)

i. Sampling and analysis for the pollutants listed in Appendix J, Table 1A to 40 CFR Part 122; (3-24-16)

ii. For an applicant with a design flow greater than or equal to zero point one (0.1) million gallons per day (MGD), sampling and analysis for the pollutants listed in Appendix J, Table 1 to 40 CFR Part 122, except that a facility that does not use chlorine for disinfection, does not use chlorine elsewhere in the treatment process, and has no reasonable potential to discharge chlorine in the facility's effluent, is not required to sample or analyze chlorine; (3-24-16)

iii. Sampling and analysis for the pollutants listed in Appendix J, Table 2 to 40 CFR Part 122 and for any other pollutants for which the state or EPA has established water quality standards applicable to the receiving waters if the facility is: (3-24-16)

(1) A POTW that has a design flow rate equal to or greater than one (1) million gallons per day (MGD); (3-24-16)

(2) A POTW that has an approved pretreatment program; (3-24-16)

(3) A POTW that is required to develop a pretreatment program; or (3-24-16)

(4) Any POTW, as required by the Department to ensure compliance with these rules; (3-24-16)

iv. Sampling and analysis for additional pollutants, as the Department may require, on a case-by-case basis; (3-24-16)

v. Data from a minimum of three (3) samples taken within four and one-half (4 ½) years before the date of the permit application; to meet this requirement: (3-24-16)

(1) Samples must be representative of the seasonal variation in the discharge from each outfall; (3-24-16)

(2) Existing data may be used, if available, in lieu of sampling done solely for the purpose of this application; and (3-24-16)

(3) Additional samples may be required by the Department on a case-by-case basis; and (3-24-16)

vi. All existing data for pollutants specified in Subsections 105.11.f.i. through iv. collected within four and one-half (4 ½) years of the application. This data must be included in the pollutant data summary submitted by the applicant, except that if the applicant samples for a specific pollutant on a monthly or more frequent basis, only the data collected for that pollutant within one (1) year of the application must be provided. (3-24-16)

g. To meet the information requirements of Subsection 105.11.f., an applicant must: (3-24-16)

i. Collect samples of effluent and analyze the samples for pollutants in accordance with analytical methods approved under 40 CFR Part 136 unless an alternative is specified in the existing IPDES or NPDES permit; (3-24-16)

ii. Use the following methods: (3-24-16)

(1) Grab samples for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, fecal coliform, and volatile organics. Temperature, pH, and residual chlorine data may be obtained from grab samples or from calibrated and properly maintained continuous monitors; (3-24-16)

(2) Twenty-four (24) hour composite samples for all other pollutants; for a composite sample, only one (1) analysis of the composite of aliquots is required; and (3-24-16)

iii. Provide at least the following information for each parameter: (3-24-16)

(1) Maximum daily discharge, expressed as concentration or mass, based upon actual sample values; (3-24-16)

(2) Average daily discharge for all samples, expressed as concentration or mass, and the number of samples used to obtain this value; (3-24-16)

(3) The analytical method used; and (3-24-16)

(4) The threshold level, such as the method detection limit, minimum level, or other designated method endpoint for the analytical method used; and (3-24-16)

iv. Report metals as total recoverable, unless the Department requires otherwise. (3-24-16)

h. When an applicant under this subsection has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit sampling data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone, pursuant to IDAPA 58.01.02, "Water Quality Standards." (3-24-16)

12. Whole Effluent Toxicity (WET) Monitoring for POTWs. (3-24-16)

a. An applicant for a permit under Subsection 105.11 shall submit information on effluent monitoring for WET, including an identification of any WET tests conducted during the four and one-half (4 ½) years before the date of the application on any of the applicant's discharges or on any receiving water near the discharge. (3-24-16)

b. An applicant under Subsection 105.11 shall submit to the Department, in compliance with Subsections 105.12.c. through f., the results of valid WET tests for acute or chronic toxicity for samples taken from each outfall through which effluent is discharged to surface waters, except for combined sewer overflows, if the applicant: (3-24-16)

i. Has a design flow rate greater than or equal to one (1) million gallons per day (MGD); (3-24-16)

ii. Has an approved pretreatment program or is required to develop a pretreatment program; or (3-24-16)

iii. Is required to comply with this subsection by the Department, based on consideration of the following factors: (3-24-16)

(1) The variability of the pollutants or pollutant parameters in the POTW effluent based on chemical-specific information, the type of treatment plant, and types of industrial contributors; (3-24-16)

(2) The ratio of effluent flow to receiving stream flow; (3-24-16)

(3) Existing controls on point or non-point sources, including total maximum daily load calculations for the receiving stream segment and the relative contribution of the POTW; (3-24-16)

(4) Receiving water characteristics, including possible or known water quality impairment, and whether the POTW discharges to a water designated as an outstanding natural resource water; or (3-24-16)

(5) Other considerations, including the history of toxic impacts and compliance problems at the POTW that the Department determines could cause or contribute to adverse water quality impacts. (3-24-16)

c. When an applicant under Subsection 105.11 has two (2) or more outfalls with substantially identical effluent discharging to the same receiving water segment, the Department may, on a case-by-case basis, allow the applicant to submit whole effluent toxicity data for only one (1) outfall. The Department may also allow an applicant to composite samples from one (1) or more outfalls that discharge into the same mixing zone. (3-24-16)

d. An applicant under Subsection 105.12.b. that is required to perform WET testing must provide: (3-24-16)

i. Results of a minimum of four (4) quarterly tests for a year, from the year preceding the permit application or results from four (4) tests performed at least annually in the four and one-half (4 ½) year period before the application, if the results show no appreciable toxicity using a safety factor determined by the Department; (3-24-16)

ii. The number of chronic or acute whole effluent toxicity tests that have been conducted since the last permit reissuance; (3-24-16)

iii. The results using the form provided by the Department, or test summaries, if available and comprehensive, for each WET test conducted under this subsection for which the information has not been reported previously to the Department; (3-24-16)

iv. For WET data submitted to the Department within four and one-half (4 ½) years before the date of the application, the dates on which the data were submitted and a summary of the results; and (3-24-16)

v. Any information on the cause of toxicity and written details of any toxicity reduction evaluation conducted, if any WET test conducted within the past four and one-half (4 ½) years revealed toxicity. (3-24-16)

e. An applicant under Subsection 105.11 must conduct tests with no less than two (2) species, including fish, invertebrate, or plant, and test for acute or chronic toxicity, depending on the range of receiving water dilution. Unless the Department directs otherwise, an applicant shall conduct acute or chronic testing based on the following dilutions: (3-24-16)

i. Acute toxicity testing if the dilution of the effluent is greater than a ratio of one thousand to one (1,000:1) at the edge of the mixing zone; (3-24-16)

ii. Acute or chronic toxicity testing, if the dilution of the effluent is between a ratio of one hundred to one (100:1) and one thousand to one (1,000:1) at the edge of the mixing zone; acute testing may be more appropriate at the higher end of this range (one thousand to one (1,000:1)), and chronic testing may be more appropriate at the lower end of this range (one hundred to one (100:1)); or (3-24-16)

iii. Chronic testing if the dilution of the effluent is less than a ratio of one hundred to one (100:1) at the edge of the mixing zone. (3-24-16)

f. For purposes of the WET testing required by this section, an applicant must conduct testing using methods approved under 40 CFR Part 136. (3-24-16)

13. Individual Permit Application Requirements for POTWs Receiving Industrial Discharges. (3-24-16)

a. An applicant for an IPDES permit as a POTW under Subsection 105.11 shall state in its application the number of significant industrial users (SIU) and categorical industrial users (CIU) discharging to the POTW. A POTW with one (1) or more SIUs shall provide the following information for each SIU that discharges to the POTW: (3-24-16)

i. The name and mailing address of the SIU; (3-24-16)

ii. A description of all industrial processes that affect or contribute to the SIU's discharge; (3-24-16)

iii. The principal products and raw materials of each SIU that affects or contributes to that SIU's discharge; (3-24-16)

iv. The average daily volume of wastewater discharged by the SIU, indicating the amount attributable to process flow and non-process flow; (3-24-16)

v. A statement whether the SIU is subject to local limits; (3-24-16)

vi. A statement whether the SIU is subject to one (1) or more categorical standards, and if so, under which category and subcategory; and (3-24-16)

vii. A statement whether any problems at the POTW, including upsets, pass-through, or interference have been attributed to the SIU in the past four and one-half (4 ½) years. (3-24-16)

b. The information required in Subsection 105.13.a. may be waived by the Department for a POTW with a pretreatment program if the applicant has submitted either of the following that contains information substantially identical to the information required in Subsection 105.13.a.: (3-24-16)

i. An annual report submitted within one (1) year of the application; or (3-24-16)

ii. A pretreatment program. (3-24-16)

14. Individual Permit Application Requirements for POTWs Receiving Discharges from Hazardous Waste Generators and from Waste Cleanup or Remediation Sites. (3-24-16)

a. A POTW receiving hazardous or corrective action wastes or wastes generated at another type of cleanup or remediation site must provide the following information: (3-24-16)

i. If the POTW receives, or has been notified that it will receive by truck, rail, or dedicated pipe, any wastes that are regulated as hazardous wastes under 40 CFR Part 261 and IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," the applicant must report the following: (3-24-16)

(1) The method of delivery, including by truck, rail, or dedicated pipe, by which the waste is received; and (3-24-16)

(2) The applicable hazardous waste number designated in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste" for the transported waste, and the amount received annually of each hazardous waste; and (3-24-16)

ii. If the POTW receives, or has been notified that it will receive, wastewater that originates from remedial activities, including those undertaken under Comprehensive Environmental Response, Compensation, and Liability Act, and the Resource Conservation and Recovery Act sections 3004(u) or 3008(h), the applicant must report the following: (3-24-16)

(1) The identity and description of each site or facility at which the wastewater originates; (3-24-16)

(2) The identity of any known hazardous constituents specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste," in the wastewater; and (3-24-16)

(3) The extent of any treatment the wastewater receives or will receive before entering the POTW. (3-24-16)

b. An applicant under this subsection is exempt from the requirements of Subsection 105.14.a.ii. if the

applicant receives no more than fifteen (15) kilograms per month of hazardous wastes, unless the wastes are acute hazardous wastes as specified in IDAPA 58.01.05, "Rules and Standards for Hazardous Waste." (3-24-16)

15. Individual Permit Application Requirements for POTWs with Combined Sewer Systems and Overflows. A POTW applicant with a combined sewer system must provide the following information on the combined sewer system and outfalls: (3-24-16)

a. A system map indicating the location of: (3-24-16)

i. All combined sewer overflow discharge points; (3-24-16)

ii. Any sensitive use areas potentially affected by combined sewer overflows including beaches, drinking water supplies, shellfish beds, sensitive aquatic ecosystems; (3-24-16)

iii. Outstanding national resource waters potentially affected by combined sewer overflows; and (3-24-16)

iv. Waters supporting threatened and endangered species potentially affected by combined sewer overflows; (3-24-16)

b. A system diagram of the combined sewer collection system that includes the locations of: (3-24-16)

i. Major sewer trunk lines, both combined and separate sanitary; (3-24-16)

ii. Points where separate sanitary sewers feed into the combined sewer system; (3-24-16)

iii. In-line and off-line storage structures; (3-24-16)

iv. Flow-regulating devices; and (3-24-16)

v. Pump stations; (3-24-16)

c. Information on each outfall for each combined sewer overflow discharge point covered by the permit application, including: (3-24-16)

i. The outfall number; (3-24-16)

ii. The county and city or town in which the outfall is located; (3-24-16)

iii. The latitude and longitude, to the nearest second; and (3-24-16)

iv. The distance from shore and depth below surface; (3-24-16)

d. A statement whether the applicant monitored any of the following in the past year for a combined sewer overflow: (3-24-16)

i. Rainfall; (3-24-16)

ii. Overflow volume; (3-24-16)

iii. Overflow pollutant concentrations; (3-24-16)

iv. Receiving water quality; (3-24-16)

v. Overflow frequency; and (3-24-16)

vi. The number of storm events monitored in the past year; (3-24-16)

e. Information regarding the number of combined sewer overflows from each outfall in the past year and, if available: (3-24-16)

i. The average duration per event; (3-24-16)

ii. The average volume for each event; and (3-24-16)

iii. The minimum rainfall that caused a combined sewer overflow event in the last year; (3-24-16)

f. The name of each receiving water; (3-24-16)

g. A description of any known water quality impact caused by the combined sewer overflow operations, including permanent or intermittent beach closings, permanent or intermittent shellfish bed closings, fish kills, fish advisories, other recreational loss, or the exceedance of any applicable state water quality standard, on the receiving water; and (3-24-16)

h. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility. (3-24-16)

16. Individual Permit Application Requirements for New Sources and New Discharges. (3-24-16)

a. An applicant for an IPDES permit for a new manufacturing, commercial, mining, silviculture, or other discharge, except for a new discharge from a facility subject to the requirements of Subsection 105.08 or a new discharge of storm water associated with industrial activity that is subject to the requirements of Subsection 105.19, except as provided by Subsection 105.19.c., shall provide the following information to the Department, using the applicable forms specified in Subsection 105.04.b.: (3-24-16)

i. The latitude and longitude to the nearest second of the expected outfall location and the name of each receiving water; (3-24-16)

ii. The expected date the discharge will commence; (3-24-16)

iii. The following information on flows, sources of pollution, and treatment technologies: (3-24-16)

(1) A narrative describing the treatment that the wastewater will receive, identifying all operations contributing wastewater to the effluent, stating the average flow contributed by each operation, and describing the ultimate disposal of any solid or liquid wastes not discharged; (3-24-16)

(2) A line drawing of the water flow through the facility with a water balance as described in Subsection 105.07.b.; and (3-24-16)

(3) If any of the expected discharges will be intermittent or seasonal, a description of the frequency, duration, and maximum daily flow rate of each discharge occurrence, except for storm water runoff, spillage, or leaks; (3-24-16)

iv. If a new source performance standard promulgated under the Clean Water Act section 306 or an effluent limitation guideline applies to the applicant and is expressed in terms of production or other measure of operation, a reasonable calculation of the applicant's expected actual production reported in the units used in the applicable effluent guideline or new source performance standard, as required by Subsection 303.02.b., for each of the first three (3) years. The applicant may submit alternative estimates if production is likely to vary; (3-24-16)

v. The effluent characteristics information as described in Subsection 105.16.b.; (3-24-16)

vi. The existence of any technical evaluation concerning the applicant's wastewater treatment, along with the name and location of similar plants of which the applicant has knowledge; (3-24-16)

vii. Any optional information the permittee wishes the Department to consider. (3-24-16)

b. An applicant under this section must provide the following effluent characteristics information: (3-24-16)

i. Estimated daily maximum, daily average, and the source of that information for each outfall for the following pollutants or parameters: (3-24-16)

(1) Five (5)-day biochemical oxygen demand (BOD5); (3-24-16)

(2) Chemical oxygen demand (COD); (3-24-16)

(3) Total organic carbon (TOC); (3-24-16)

(4) Total suspended solids (TSS); (3-24-16)

(5) Flow; (3-24-16)

(6) Ammonia, as N; (3-24-16)

(7) Temperature, in both winter and summer; and (3-24-16)

(8) pH. (3-24-16)

ii. Estimated daily maximum, daily average, and the source of that information for each outfall for all the conventional and nonconventional pollutants in Table IV of Appendix D to 40 CFR Part 122, if the applicant knows or has reason to believe any of the pollutants will be present or if any of the pollutants are limited by an effluent limitation guideline or new source performance standard either directly or indirectly through limitations on an indicator pollutant; (3-24-16)

iii. Estimated daily maximum, daily average, and the source of that information for the following pollutants for each outfall, if the applicant knows or has reason to believe the pollutants will be present in the discharge from any outfall: (3-24-16)

(1) All pollutants in Table IV of Appendix D to 40 CFR Part 122; (3-24-16)

(2) The toxic metals, total cyanide, and total phenols listed in Table III of Appendix D to 40 CFR Part 122; (3-24-16)

(3) The organic toxic pollutants in Table II of Appendix D to 40 CFR Part 122 except bis (chloromethyl) ether, dichlorofluoromethane, and trichlorofluoromethane; however, this requirement is waived for: (3-24-16)

(a) An applicant with expected gross sales of less than two hundred eighty-seven thousand three hundred dollars ($287,300) per year in 2014 dollars for the next three (3) years (see also Subsection 105.07.n.ii.); or (3-24-16)

(b) A coal mine with expected average production of less than one hundred thousand (100,000) tons of coal per year (see also Subsection 105.07.n.i.); (3-24-16)

iv. The information that 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD) may be discharged if the applicant uses or manufactures one (1) of the following compounds, or if the applicant knows or has reason to believe that TCDD will or may be present in an effluent: (3-24-16)

(1) 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); Chemical Abstract Service (CAS) #93-76-5; (3-24-16)

(2) 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP) (CAS #93-72-1); (3-24-16)

(3) 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon) (CAS #136-25-4); (3-24-16)

(4) o,o-dimethyl o-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel) (CAS #299-84-3); (3-24-16)

(5) 2,4,5-trichlorophenol (TCP) (CAS #95-95-4); or (3-24-16)

(6) Hexachlorophene (HCP) (CAS #70-30-4); and (3-24-16)

v. The potential presence of any of the pollutants listed in Table V of Appendix D to 40 CFR Part 122 if the applicant believes these pollutants will be present in any outfall, except that quantitative estimates are not required unless they are already available at the time the applicant applies for the permit. (3-24-16)

c. No later than two (2) years after the commencement of discharge from the proposed facility, the applicant is required to complete and submit Items V and VI of EPA application Form 2C or the Department equivalent. The applicant need not complete those portions of Item V or the Department equivalent requiring tests already performed and reported under the discharge monitoring requirements of its permit. (3-24-16)

d. The effluent characteristics requirements in Subsections 105.08.b., c., and e. that an applicant must provide estimates of certain pollutants expected to be present do not apply to pollutants present in a discharge solely as a result of their presence in intake water. However, an applicant must report that a pollutant is present. For purposes of this subsection, net credits may be provided for the presence of pollutants in intake water if the requirements of Subsection 303.07 are met, and (except for discharge flow, temperature, and pH) all levels must be estimated as concentration and as total mass. (3-24-16)

e. The Department may waive the reporting requirements for any of the pollutants and parameters in Subsection 105.16.b. if the applicant requests a waiver with its application, or earlier, and demonstrates that information adequate to support issuance of the permit can be obtained through less stringent reporting requirements. (3-24-16)

17. Individual Permit Application Requirements for Treatment Works Treating Domestic Sewage (TWTDS). All TWTDS with a currently effective NPDES or IPDES permit must submit a permit application at the time of the next IPDES permit renewal application, using Form 2S or another application form approved by the Department. New applicants must submit all information available at the time of permit application. The information may be provided by referencing information previously submitted to the Department. (3-24-16)

a. The Department may waive any requirement of this subsection if there is access to substantially identical information. The Department may also waive any requirement of this subsection that is not of material concern for a specific permit, if approved by the EPA Regional Administrator. The waiver request to the Regional Administrator must include the Department’s justification for the waiver. A Regional Administrator's disapproval of a Department’s proposed waiver does not constitute final agency action, but does provide notice to the state and permit applicant(s) that EPA may object to any state-issued permit issued in the absence of the required information. (3-24-16)

b. All applicants must submit the following information: (3-24-16)

i. The name, mailing address, and location of the TWTDS for which the application is submitted; (3-24-16)

ii. The name, mailing address, EIN, and telephone number of the applicant and indication whether the applicant is the owner, operator, or both; (3-24-16)

iii. Whether the facility is a Class I Sludge Management Facility; (3-24-16)

iv. The design flow rate in million gallons per day (MGD); (3-24-16)

v. The total population and equivalent dwelling units (EDU) served; and (3-28-18)

vi. The TWTDS's status as federal, state, private, public, or other entity. (3-24-16)

c. All applicants must submit the facility's NPDES or IPDES permit number, if applicable, and a listing of all other federal, state, and local permits or construction approvals received or applied for under any of the following programs: (3-24-16)

i. Hazardous waste management program under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (3-24-16)

ii. Underground injection control (UIC) program under the Idaho Department of Water Resources UIC program at IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; (3-24-16)

iii. IPDES program under IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; (3-24-16)

iv. Prevention of significant deterioration (PSD) program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-16)

v. Nonattainment program under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-16)

vi. National emission standards for hazardous pollutants (NESHAPS) preconstruction approval under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-16)

vii. Dredge or fill permits under the Clean Water Act section 404; (3-24-16)

viii. Sludge Management Program under IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 (Sewage Sludge) of these rules; and (3-24-16)

ix. Other relevant environmental permits, programs or activities, including those subject to state jurisdiction, approval, and permits. (3-24-16)

d. All applicants must identify any generation, treatment, storage, land application, or disposal of sewage sludge that occurs in Indian country. (3-24-16)

e. All applicants must submit a topographic map (or other map if a topographic map is unavailable) extending one (1) mile beyond property boundaries of the facility and showing the following information: (3-24-16)

i. All sewage sludge management facilities, including on-site treatment, storage, and disposal sites; and (3-24-16)

ii. Wells, springs, and other surface water bodies that are within one-quarter (¼) mile of the property boundaries and listed in public records or otherwise known to the applicant. (3-24-16)

f. All applicants must submit a line drawing and/or a narrative description that identifies all sewage sludge management practices employed during the term of the permit, including all units used for collecting, dewatering, storing, or treating sewage sludge, the destination(s) of all liquids and solids leaving each such unit, and all processes used for pathogen reduction and vector attraction reduction. (3-24-16)

g. The applicant must submit sewage sludge monitoring data for the pollutants for which limits in sewage sludge have been established in 40 CFR Part 503 for the applicant's use or disposal practices on the date of permit application. (3-24-16)

i. The Department may require sampling for additional pollutants, as appropriate, on a case-by-case basis; (3-24-16)

ii. Applicants must provide data from a minimum of three (3) samples taken within four and one-half (4 ½) years prior to the date of the permit application. Samples must be representative of the sewage sludge and should be taken at least one (1) month apart. Existing data may be used in lieu of sampling done solely for the purpose of this application; (3-24-16)

iii. Applicants must collect and analyze samples in accordance with analytical methods approved under SW-846 (Test Methods for Evaluating Solid Waste, Physical/Chemical Methods) unless an alternative has been specified in an existing sewage sludge permit; and (3-24-16)

iv. The monitoring data provided must include at least the following information for each parameter: (3-24-16)

(1) Average monthly concentration for all samples (mg/kg dry weight), based upon actual sample values; (3-24-16)

(2) The analytical method used; and (3-24-16)

(3) The method detection level. (3-24-16)

h. If the applicant is either the person who generates sewage sludge during the treatment of domestic sewage in a treatment works or the person who derives a material from sewage sludge, the following information must be provided: (3-24-16)

i. If the applicant's facility generates sewage sludge, the total dry metric tons per three hundred sixty-five (365)-day period generated at the facility; (3-24-16)

ii. If the applicant's facility receives sewage sludge from another facility, the following information for each facility from which sewage sludge is received: (3-24-16)

(1) The name, mailing address, and location of the other facility; (3-24-16)

(2) The total dry metric tons per three hundred sixty-five (365)-day period received from the other facility; and (3-24-16)

(3) A description of any treatment processes occurring at the other facility, including blending activities and treatment to reduce pathogens or vector attraction characteristics; (3-24-16)

iii. If the applicant's facility changes the quality of sewage sludge through blending, treatment, or other activities, the following information must be submitted: (3-24-16)

(1) Whether the Class A pathogen reduction requirements in 40 CFR 503.32(a) or the Class B pathogen reduction requirements in 40 CFR 503.32(b) are met, and a description of any treatment processes used to reduce pathogens in sewage sludge; (3-24-16)

(2) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(1) through (b)(8) are met, and a description of any treatment processes used to reduce vector attraction properties in sewage sludge; and (3-24-16)

(3) A description of any other blending, treatment, or other activities that change the quality of sewage sludge; (3-24-16)

iv. If sewage sludge from the applicant's facility meets the ceiling concentrations in 40 CFR 503.13(b)(1), the pollutant concentrations in 40 CFR 503.13(b)(3), the Class A pathogen requirements in 40 CFR 503.32(a), and one (1) of the vector attraction reduction requirements in 40 CFR 503.33(b)(1) through (b)(8), and if

the sewage sludge is applied to the land, the applicant must provide the total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is applied to the land; (3-24-16)

v. If sewage sludge from the applicant's facility is sold or given away in a bag or other container for application to the land, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide the following information: (3-24-16)

(1) The total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is sold or given away in a bag or other container for application to the land; and (3-24-16)

(2) A copy of all labels or notices that accompany the sewage sludge being sold or given away; and (3-24-16)

vi. If sewage sludge from the applicant's facility is provided to another person who generates sewage sludge during the treatment of domestic sewage in a treatment works or a person who derives a material from sewage sludge, and the sewage sludge is not subject to Subsection 105.17.h.iv., the applicant must provide the following information for each facility receiving the sewage sludge: (3-24-16)

(1) The name and mailing address of the receiving facility; (3-24-16)

(2) The total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that the applicant provides to the receiving facility; (3-24-16)

(3) A description of any treatment processes occurring at the receiving facility, including blending activities and treatment to reduce pathogens or vector attraction characteristic; (3-24-16)

(4) A copy of the notice and necessary information that the applicant is required to provide the receiving facility under 40 CFR 503.12(g); and (3-24-16)

(5) If the receiving facility places sewage sludge in bags or containers for sale or give-away to application to the land, a copy of any labels or notices that accompany the sewage sludge. (3-24-16)

i. If sewage sludge from the applicant's facility is applied to the land in bulk form, and is not subject to Subsection 105.17.h.iv., v., or vi., the applicant must provide the following information: (3-24-16)

i. The total dry metric tons per three hundred sixty-five (365)-day period of sewage sludge subject to this subsection that is applied to the land; (3-24-16)

ii. If any land application sites are located in states other than the state where the sewage sludge is prepared, a description of how the applicant will notify the permitting authority for the state(s) where the land application sites are located; (3-24-16)

iii. The following information for each land application site that has been identified at the time of permit application: (3-24-16)

(1) The name (if any), and location for the land application site; (3-24-16)

(2) The site's latitude and longitude to the nearest second, and method of determination; (3-24-16)

(3) A topographic map (or other map if a topographic map is unavailable) that shows the site's location; (3-24-16)

(4) The name, mailing address, and telephone number of the site owner, if different from the applicant; (3-24-16)

(5) The name, mailing address, and telephone number of the person who applies sewage sludge to the site, if different from the applicant; (3-24-16)

(6) Whether the site is agricultural land, forest, a public contact site, or a reclamation site, as such site types are defined under 40 CFR 503.11; (3-24-16)

(7) The type of vegetation grown on the site, if known, and the nitrogen requirement for this vegetation; (3-24-16)

(8) Whether either of the vector attraction reduction options of 40 CFR 503.33(b)(9) or (b)(10) is met at the site, and a description of any procedures employed at the time of use to reduce vector attraction properties in sewage sludge; and (3-24-16)

(9) Other information that describes how the site will be managed, as specified by the permitting authority. (3-24-16)

iv. The following information for each land application site that has been identified at the time of permit application, if the applicant intends to apply bulk sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site: (3-24-16)

(1) Whether the applicant has contacted the permitting authority in the state where the bulk sewage sludge subject to 40 CFR 503.13(b)(2) will be applied, to ascertain whether bulk sewage sludge subject to 40 CFR 503.13(b)(2) has been applied to the site on or since July 20, 1993, and if so, the name of the permitting authority and the name and phone number of a contact person at the permitting authority; (3-24-16)

(2) Identification of facilities other than the applicant's facility that have sent, or are sending, sewage sludge subject to the cumulative pollutant loading rates in 40 CFR 503.13(b)(2) to the site since July 20, 1993, if, based on the inquiry in Subsection 105.17.i.iv.(1) bulk sewage sludge subject to cumulative pollutant loading rates in 40 CFR 503.13(b)(2) has been applied to the site since July 20, 1993; (3-24-16)

v. If not all land application sites have been identified at the time of permit application, the applicant must submit a land application plan that, at a minimum: (3-24-16)

(1) Describes the geographical area covered by the plan; (3-24-16)

(2) Identifies the site selection criteria; (3-24-16)

(3) Describes how the site(s) will be managed; (3-24-16)

(4) Provides for advance notice to the permit authority of specific land application sites and reasonable time for the permit authority to object prior to land application of the sewage sludge; and (3-24-16)

(5) Provides for advance public notice of land application sites in the manner prescribed by state and local law. When state or local law does not require advance public notice, it must be provided in a manner reasonably calculated to apprise the general public of the planned land application. (3-24-16)

j. If sewage sludge from the applicant's facility is placed on a surface disposal site, the applicant must provide the following information: (3-24-16)

i. The total dry metric tons of sewage sludge from the applicant's facility that is placed on surface disposal sites per three hundred sixty-five (365)-day period; (3-24-16)

ii. The following information for each surface disposal site receiving sewage sludge from the applicant's facility that the applicant does not own or operate: (3-24-16)

(1) The site name or number, contact person, mailing address, and telephone number for the surface disposal site; and (3-24-16)

(2) The total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period

placed on the surface disposal site; (3-24-16)

iii. The following information for each active sewage sludge unit at each surface disposal site that the applicant owns or operates: (3-24-16)

(1) The name or number and the location of the active sewage sludge unit; (3-24-16)

(2) The unit's latitude and longitude to the nearest second, and method of determination; (3-24-16)

(3) If not already provided, a topographic map (or other map if a topographic map is unavailable) that shows the unit's location; (3-24-16)

(4) The total dry metric tons placed on the active sewage sludge unit per three hundred sixty-five (365)-day period; (3-24-16)

(5) The total dry metric tons placed on the active sewage sludge unit over the life of the unit; (3-24-16)

(6) A description of any liner for the active sewage sludge unit, including whether it has a maximum permeability of 1×10^{-7} cm/sec; (3-24-16)

(7) A description of any leachate collection system for the active sewage sludge unit, including the method used for leachate disposal, and any federal, state, and local permit number(s) for leachate disposal; (3-24-16)

(8) If the active sewage sludge unit is less than one hundred fifty (150) meters from the property line of the surface disposal site, the actual distance from the unit boundary to the site property line; (3-24-16)

(9) The remaining capacity (dry metric tons) for the active sewage sludge unit; (3-24-16)

(10) The date on which the active sewage sludge unit is expected to close, if such a date has been identified; (3-24-16)

(11) The following information for any other facility that sends sewage sludge to the active sewage sludge unit: (3-24-16)

(a) The name, contact person, and mailing address of the facility; and (3-24-16)

(b) Available information regarding the quality of the sewage sludge received from the facility, including any treatment at the facility to reduce pathogens or vector attraction characteristics; (3-24-16)

(12) Whether any of the vector attraction reduction options of 40 CFR 503.33(b)(9) through (b)(11) is met at the active sewage sludge unit, and a description of any procedures employed at the time of disposal to reduce vector attraction properties in sewage sludge; (3-24-16)

(13) The following information, as applicable to any ground water monitoring occurring at the active sewage sludge unit: (3-24-16)

(a) A description of any ground water monitoring occurring at the active sewage sludge unit; (3-24-16)

(b) Any available ground water monitoring data, with a description of the well locations and approximate depth to ground water; (3-24-16)

(c) A copy of any ground water monitoring plan that has been prepared for the active sewage sludge unit; and (3-24-16)

(d) A copy of any certification that has been obtained from a qualified ground water scientist that the aquifer has not been contaminated; and (3-24-16)

(14) If site-specific pollutant limits are being sought for the sewage sludge placed on this active sewage sludge unit, information to support such a request. (3-24-16)

k. If sewage sludge from the applicant's facility is fired in a sewage sludge incinerator, the applicant must provide the following information: (3-24-16)

i. The total dry metric tons of sewage sludge from the applicant's facility that is fired in sewage sludge incinerators per three hundred sixty-five (365)-day period; (3-24-16)

ii. The following information for each sewage sludge incinerator firing the applicant's sewage sludge that the applicant does not own or operate: (3-24-16)

(1) The name and/or number, contact person, mailing address, and telephone number of the sewage sludge incinerator; and (3-24-16)

(2) The total dry metric tons from the applicant's facility per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; (3-24-16)

iii. The following information for each sewage sludge incinerator that the applicant owns or operates: (3-24-16)

(1) The name and/or number and the location of the sewage sludge incinerator; (3-24-16)

(2) The incinerator's latitude and longitude to the nearest second, and method of determination; (3-24-16)

(3) The total dry metric tons per three hundred sixty-five (365)-day period fired in the sewage sludge incinerator; (3-24-16)

(4) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Beryllium in 40 CFR Part 61 will be achieved; (3-24-16)

(5) Information, test data, and documentation of ongoing operating parameters indicating that compliance with the National Emission Standard for Mercury in 40 CFR Part 61 will be achieved; (3-24-16)

(6) The dispersion factor for the sewage sludge incinerator, as well as modeling results and supporting documentation; (3-24-16)

(7) The control efficiency for parameters regulated in 40 CFR 503.43, as well as performance test results and supporting documentation; (3-24-16)

(8) Information used to calculate the risk specific concentration (RSC) for chromium, including the results of incinerator stack tests for hexavalent and total chromium concentrations, if the applicant is requesting a chromium limit based on a site-specific RSC value; (3-24-16)

(9) Whether the applicant monitors total hydrocarbons (THC) or Carbon Monoxide (CO) in the exit gas for the sewage sludge incinerator; (3-24-16)

(10) The type of sewage sludge incinerator; (3-24-16)

(11) The maximum performance test combustion temperature, as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; (3-24-16)

(12) The following information on the sewage sludge feed rate used during the performance test: (3-24-16)

(a) Sewage sludge feed rate in dry metric tons per day; (3-24-16)

(b) Identification of whether the feed rate submitted is average use or maximum design; and (3-24-16)

(c) A description of how the feed rate was calculated; (3-24-16)

(13) The incinerator stack height in meters for each stack, including identification of whether actual or creditable stack height was used; (3-24-16)

(14) The operating parameters for the sewage sludge incinerator air pollution control device(s), as obtained during the performance test of the sewage sludge incinerator to determine pollutant control efficiencies; (3-24-16)

(15) Identification of the monitoring equipment in place, including (but not limited to) equipment to monitor the following: (3-24-16)

(a) Total hydrocarbons or Carbon Monoxide; (3-24-16)

(b) Percent Oxygen; (3-24-16)

(c) Percent moisture; and (3-24-16)

(d) Combustion temperature; and (3-24-16)

(16) A list of all air pollution control equipment used with this sewage sludge incinerator. (3-24-16)

l. If sewage sludge from the applicant's facility is sent to a municipal solid waste landfill (MSWLF), the applicant must provide the following information for each MSWLF to which sewage sludge is sent: (3-24-16)

i. The name, contact person, mailing address, location, and all applicable permit numbers of the MSWLF; (3-24-16)

ii. The total dry metric tons per three hundred sixty-five (365)-day period sent from this facility to the MSWLF; (3-24-16)

iii. A determination of whether the sewage sludge meets applicable requirements for disposal of sewage sludge in a MSWLF, including the results of the paint filter liquids test and any additional requirements that apply on a site-specific basis; and (3-24-16)

iv. Information, if known, indicating whether the MSWLF complies with criteria set forth in 40 CFR Part 258. (3-24-16)

m. All applicants must provide the name, mailing address, telephone number, and responsibilities of all contractors responsible for any operational or maintenance aspects of the facility related to sewage sludge generation, treatment, use, or disposal. (3-24-16)

n. At the request of the Department, the applicant must provide any other information necessary to determine the appropriate standards for permitting under 40 CFR Part 503, and must provide any other information necessary to assess the sewage sludge use and disposal practices, determine whether to issue a permit, or identify appropriate permit requirements. (3-24-16)

o. TWTDS facilities using or disposing of sewage sludge to which a standard applicable to its sewage sludge use or disposal practices have been published shall submit the following information on EPA Form 2S, Part I, or on the Department equivalent form: (3-24-16)

i. The TWTDS’s name, mailing address, location, and status as federal, state, private, public, or other entity; (3-24-16)

ii. The applicant's name, address, telephone number, and ownership status; (3-24-16)

iii. A description of the sewage sludge use or disposal practices. Unless the sewage sludge meets the requirements of Subsection 105.17.h.iv., the description must include the name and address of any facility where sewage sludge is sent for treatment or disposal, and the location of any land application sites; (3-24-16)

iv. Annual amount of sewage sludge generated, treated, used or disposed (estimated dry weight basis); and (3-24-16)

v. The most recent data the TWTDS may have on the quality of the sewage sludge. (3-24-16)

18. Individual Permit Application Requirements for Municipal Separate Storm Sewer Discharges. The operator of a discharge from a large or medium municipal separate storm sewer or a municipal separate storm sewer that is designated by the Department under 40 CFR 122.26(a)(1)(v), may submit a jurisdiction-wide or system-wide permit application. Where more than one (1) public entity owns or operates a municipal separate storm sewer within a geographic area (including adjacent or interconnected municipal separate storm sewer systems), such operators may be a coapplicant to the same application. Permit applications for discharges from large and medium municipal storm sewers or municipal storm sewers designated under 40 CFR 122.26 (a)(1)(v) shall include: (3-24-16)

a. Part 1 of the application shall consist of: (3-24-16)

i. The applicants' name, address, EIN, telephone number of contact person, ownership status and status as a state or local government entity; (3-24-16)

ii. A description of existing legal authority to control discharges to the municipal separate storm sewer system. When existing legal authority is not sufficient to meet the criteria provided in Subsection 105.18.b.i., the description shall list additional authorities as will be necessary to meet the criteria and shall include a schedule and commitment to seek such additional authority that will be needed to meet the criteria; (3-24-16)

iii. A description of the historic use of ordinances, guidance or other controls which limited the discharge of non-storm water discharges to any POTW serving the same area as the municipal separate storm sewer system. The following information shall be provided: (3-24-16)

(1) A USGS seven point five (7.5) minute topographic map (or equivalent topographic map with a scale between one to ten thousand (1:10,000) and one to twenty-four thousand (1:24,000) if cost effective) extending one (1) mile beyond the service boundaries of the municipal storm sewer system covered by the permit application; (3-24-16)

(2) The location of known municipal storm sewer system outfalls discharging to waters of the United States; (3-24-16)

(3) A description of the land use activities (e.g. divisions indicating undeveloped, residential, commercial, agricultural and industrial uses) accompanied with estimates of population densities and projected growth for a ten (10) year period within the drainage area served by the separate storm sewer. For each land use type, an estimate of an average runoff coefficient shall be provided; (3-24-16)

(4) The location and a description of the activities of the facility of each currently operating or closed municipal landfill or other treatment, storage or disposal facility for municipal waste; (3-24-16)

(5) The location and the permit number of any known discharge to the municipal storm sewer that has been issued a NPDES or IPDES permit; (3-24-16)

(6) The location of major structural controls for storm water discharge (retention basins, detention basins, major infiltration devices, etc.); and (3-24-16)

(7) The identification of publicly owned parks, recreational areas, and other open lands. (3-24-16)

iv. A description of the discharge including: (3-24-16)

(1) Monthly mean rain and snow fall estimates (or summary of weather bureau data) and the monthly average number of storm events; (3-24-16)

(2) Existing quantitative data describing the volume and quality of discharges from the municipal storm sewer, including a description of the outfalls sampled, sampling procedures and analytical methods used; (3-24-16)

(3) A list of water bodies that receive discharges from the municipal separate storm sewer system, including downstream segments, lakes and estuaries, where pollutants from the system discharges may accumulate and cause water degradation and a brief description of known water quality impacts. At a minimum, the description of impacts shall include a description of whether the water bodies receiving such discharges have been: (3-24-16)

(a) Assessed and reported in the Clean Water Act section 305(b) reports submitted by the Department, the basis for the assessment (evaluated or monitored), a summary of designated use support and attainment of Clean Water Act goals (fishable and swimmable waters), and causes of nonsupport of designated uses; (3-24-16)

(b) Listed under the Clean Water Act section 304(l)(1)(A)(i), 304(l)(1)(A)(ii), or 304(l)(1)(B) that is not expected to meet water quality standards or water quality goals; (3-24-16)

(c) Listed in state Nonpoint Source Assessments required by the Clean Water Act section 319(a), without additional action to control nonpoint sources of pollution, cannot reasonably be expected to attain or maintain water quality standards due to storm sewers, construction, highway maintenance and runoff from municipal landfills and municipal sludge adding significant pollution (or contributing to a violation of water quality standards); (3-24-16)

(d) Identified and classified according to eutrophic condition of publicly owned lakes listed in state reports required under the Clean Water Act section 314(a) (include the following: A description of those publicly owned lakes for which uses are known to be impaired, a description of procedures, processes and methods to control the discharge of pollutants from municipal separate storm sewers into such lakes, and a description of methods and procedures to restore the quality of such lakes); (3-24-16)

(e) Recognized by the applicant as highly valued or sensitive waters; (3-24-16)

(f) Defined by the state as wetlands; and (3-24-16)

(g) Found to have pollutants in bottom sediments, fish tissue, or biosurvey data. (3-24-16)

(4) Results of a field screening analysis for illicit connections and illegal dumping for either selected field screening points or major outfalls covered in the permit application. At a minimum, a screening analysis shall include a narrative description, for either each field screening point or major outfall, of visual observations made during dry weather periods. If any flow is observed, two (2) grab samples shall be collected during a twenty-four (24)-hour period with a minimum period of four (4) hours between samples. For all such samples, a narrative description of the color, odor, turbidity, the presence of an oil sheen or surface scum as well as any other relevant observations regarding the potential presence of non-storm water discharges or illegal dumping shall be provided. In addition, a narrative description of the results of a field analysis using suitable methods to estimate pH, total chlorine, total copper, total phenol, and detergents (or surfactants) shall be provided along with a description of the flow rate. Where the field analysis does not involve analytical methods approved under 40 CFR Part 136, the applicant shall provide a description of the method used including the name of the manufacturer of the test method along with the range and accuracy of the test. Field screening points shall be either major outfalls or other outfall points (or any other point of access such as manholes) randomly located throughout the storm sewer system by placing a grid over a drainage system map and identifying those cells of the grid which contain a segment of the storm sewer system or major outfall. The field screening points shall be established using the following guidelines and criteria: (3-24-16)

(a) A grid system consisting of perpendicular north-south and east-west lines spaced one-quarter (¼)

mile apart shall be overlaid on a map of the municipal storm sewer system, creating a series of cells; (3-24-16)

(b) All cells that contain a segment of the storm sewer system shall be identified; one (1) field screening point shall be selected in each cell; major outfalls may be used as field screening points; (3-24-16)

(c) Field screening points should be located downstream of any sources of suspected illegal or illicit activity; (3-24-16)

(d) Field screening points shall be located to the degree practicable at the farthest manhole or other accessible location downstream in the system, within each cell; however, safety of personnel and accessibility of the location should be considered in making this determination; (3-24-16)

(e) Hydrological conditions, total drainage area of the site, population density of the site, traffic density, age of the structures or buildings in the area, history of the area, and land use types; (3-24-16)

(f) For medium municipal separate storm sewer systems, no more than two hundred fifty (250) cells need to have identified field screening points; in large municipal separate storm sewer systems, no more than five hundred (500) cells need to have identified field screening points; cells established by the grid that contain no storm sewer segments will be eliminated from consideration; if fewer than two hundred fifty (250) cells in medium municipal sewers are created, and fewer than 500 in large systems are created by the overlay on the municipal sewer map, then all those cells which contain a segment of the sewer system shall be subject to field screening (unless access to the separate storm sewer system is impossible); and (3-24-16)

(g) Large or medium municipal separate storm sewer systems which are unable to utilize the procedures described in Subsection 105.18.a.iv.(4)(a) through (f), because a sufficiently detailed map of the separate storm sewer systems is unavailable, shall field screen no more than five hundred (500) or two hundred fifty (250) major outfalls respectively (or all major outfalls in the system, if less). In such circumstances, the applicant shall establish a grid system consisting of north-south and east-west lines spaced one-quarter (¼) mile apart as an overlay to the boundaries of the municipal storm sewer system, thereby creating a series of cells. The applicant will then select major outfalls in as many cells as possible until at least five hundred (500) major outfalls (large municipalities) or two hundred fifty (250) major outfalls (medium municipalities) are selected; a field screening analysis shall be undertaken at these major outfalls; and (3-24-16)

(5) Information and a proposed program to meet the requirements of Subsection 105.18.b.iii., which shall include: the location of outfalls or field screening points appropriate for representative data collection under Subsection 105.18.b.iii.(1), a description of why the outfall or field screening point is representative, the seasons during which sampling is intended, a description of the sampling equipment. The proposed location of outfalls or field screening points for such sampling should reflect water quality concerns (see Subsection 105.18.a.iv.(3)) to the extent practicable; (3-24-16)

v. A description of the existing management programs to control pollutants from the municipal separate storm sewer system, which shall provide information on existing structural and source controls, including operation and maintenance measures for structural controls that are currently being implemented. Such controls may include, but are not limited to: procedures to control pollution resulting from construction activities; floodplain management controls; wetland protection measures; best management practices for new subdivisions; and emergency spill response programs. The description may address controls established under state law as well as local requirements; (3-24-16)

vi. A description of the existing program to identify illicit connections to the municipal storm sewer system, which should include inspection procedures and methods for detecting and preventing illicit discharges, and describe areas where this program has been implemented; and (3-24-16)

vii. A description of the financial resources currently available to the municipality to complete part 2 of the permit application. A description of the municipality's budget for existing storm water programs, including an overview of the municipality's financial resources and budget, including overall indebtedness and assets, and sources of funds for storm water programs. (3-24-16)

b. Part 2 of the application shall consist of: (3-24-16)

i. A demonstration that the applicant can operate pursuant to legal authority established by statute, ordinance. or series of contracts which authorizes or enables the applicant at a minimum to: (3-24-16)

(1) Control through ordinance, permit, contract, order or similar means, the contribution of pollutants to the municipal storm sewer by storm water discharges associated with industrial activity and the quality of storm water discharged from sites of industrial activity; (3-24-16)

(2) Prohibit through ordinance, order or similar means, illicit discharges to the municipal separate storm sewer; (3-24-16)

(3) Control through ordinance, order or similar means the discharge to a municipal separate storm sewer of spills, dumping or disposal of materials other than storm water; (3-24-16)

(4) Control through interagency agreements among co-applicants the contribution of pollutants from a portion of the municipal system to another portion of the municipal system; (3-24-16)

(5) Require compliance with conditions in ordinances, permits, contracts or orders; and (3-24-16)

(6) Carry out all inspection, surveillance, and monitoring procedures necessary to determine compliance and noncompliance with permit conditions including the prohibition on illicit discharges to the municipal separate storm sewer. (3-24-16)

ii. The location of any major outfall that discharges to waters of the United States that was not reported under Subsection 105.18.a.iii.(2). Provide an inventory, organized by watershed of the name and address, and a description (such as Standard Industrial Classification (SIC) codes) which best reflects the principal products or services provided by each facility which may discharge, to the municipal separate storm sewer, storm water associated with industrial activity; (3-24-16)

iii. When quantitative data for a pollutant are required under Subsection 105.18.b.iii.(1)(c), the applicant must collect a sample of effluent in accordance with Subsection 105.07.c. through 105.07.m. and analyze it for the pollutant in accordance with analytical methods approved under 40 CFR Part 136. When no analytical method is approved the applicant may use any suitable method but must provide a description of the method. The applicant must provide information characterizing the quality and quantity of discharges covered in the permit application, including: (3-24-16)

(1) Quantitative data from representative outfalls designated by the Department developed as follows (based on information received in part 1 of the application. The Department shall designate between five (5) and ten (10) outfalls or field screening points as representative of the commercial, residential and industrial land use activities of the drainage area contributing to the system or, where there are less than five (5) outfalls covered in the application, the Department shall designate all outfalls): (3-24-16)

(a) For each outfall or field screening point designated under this subsection, samples shall be collected of storm water discharges from three (3) storm events occurring at least one (1) month apart in accordance with the requirements at Subsection 105.07.c. through 105.07.m. (the Department may allow exemptions to sampling three (3) storm events when climatic conditions create good cause for such exemptions); (3-24-16)

(b) A narrative description shall be provided of the date and duration of the storm event(s) sampled, rainfall estimates of the storm event which generated the sampled discharge and the duration between the storm event sampled and the end of the previous measurable (greater than one-tenth (0.1) inch rainfall) storm event; (3-24-16)

(c) For samples collected and described under Subsections 105.18.b.iii.(1)(a) and (b), quantitative data shall be provided for the organic pollutants listed in Table II and the pollutants listed in Table III (toxic metals, cyanide, and total phenols) of Appendix D of 40 CFR Part 122, and for the following pollutants: (3-24-16)

(i) Total suspended solids (TSS); (3-24-16)

(ii) Total dissolved solids (TDS); (3-24-16)

(iii) Chemical oxygen demand (COD); (3-24-16)

(iv) Five (5)-day biochemical oxygen demand (BOD5); (3-24-16)

(v) Oil and grease; (3-24-16)

(vi) Fecal coliform; (3-24-16)

(vii) Fecal streptococcus; (3-24-16)

(viii) pH; (3-24-16)

(ix) Total Kjeldahl nitrogen; (3-24-16)

(x) Nitrate plus nitrite; (3-24-16)

(xi) Total ammonia plus organic nitrogen; (3-24-16)

(xii) Dissolved phosphorus; and (3-24-16)

(xiii) Total phosphorus; (3-24-16)

(d) Additional limited quantitative data required by the Department for determining permit conditions (the Department may require that quantitative data be provided for additional parameters, and may establish sampling conditions such as the location, season of sample collection, form of precipitation (snow melt, rainfall) and other parameters necessary to insure representativeness); (3-24-16)

(2) Estimates of the annual pollutant load of the cumulative discharges to waters of the United States from all identified municipal outfalls and the event mean concentration of the cumulative discharges to waters of the United States from all identified municipal outfalls during a storm event for BOD5, COD, TSS, dissolved solids, total nitrogen, total ammonia plus organic nitrogen, total phosphorus, dissolved phosphorus, cadmium, copper, lead, and zinc. Estimates shall be accompanied by a description of the procedures for estimating constituent loads and concentrations, including any modelling, data analysis, and calculation methods; (3-24-16)

(3) A proposed schedule to provide estimates for each major outfall identified in either Subsection 105.18.b.ii. or 105.18.a.iii.(2) of the seasonal pollutant load and of the event mean concentration of a representative storm for any constituent detected in any sample required under Subsection 105.18.b.iii.(1); and (3-24-16)

(4) A proposed monitoring program for representative data collection for the term of the permit that describes the location of outfalls or field screening points to be sampled (or the location of instream stations), why the location is representative, the frequency of sampling, parameters to be sampled, and a description of sampling equipment; (3-24-16)

iv. A proposed management program covering the duration of the permit, which shall include a comprehensive planning process which involves public participation and where necessary intergovernmental coordination, to reduce the discharge of pollutants to the maximum extent practicable using management practices, control techniques and system, design and engineering methods, and such other provisions which are appropriate. The program shall also include a description of staff and equipment available to implement the program. Separate proposed programs may be submitted by each co-applicant. Proposed programs may impose controls on a system wide basis, a watershed basis, a jurisdiction basis, or on individual outfalls. Proposed programs will be considered by the Department when developing permit conditions to reduce pollutants in discharges to the maximum extent practicable. Proposed management programs shall describe priorities for implementing controls. Such programs shall be based on: (3-24-16)

(1) A description of structural and source control measures to reduce pollutants from runoff from commercial and residential areas that are discharged from the municipal storm sewer system that are to be implemented during the life of the permit, accompanied with an estimate of the expected reduction of pollutant loads and a proposed schedule for implementing such controls. At a minimum, the description shall include: (3-24-16)

(a) A description of maintenance activities and a maintenance schedule for structural controls to reduce pollutants (including floatables) in discharges from municipal separate storm sewers; (3-24-16)

(b) A description of planning procedures including a comprehensive master plan to develop, implement and enforce controls to reduce the discharge of pollutants from municipal separate storm sewers which receive discharges from areas of new development and significant redevelopment. Such plan shall address controls to reduce pollutants in discharges from municipal separate storm sewers after construction is completed (controls to reduce pollutants in discharges from municipal separate storm sewers containing construction site runoff are addressed in Subsection 105.18.b.iv.(4)); (3-24-16)

(c) A description of practices for operating and maintaining public streets, roads and highways and procedures for reducing the impact on receiving waters of discharges from municipal storm sewer systems, including pollutants discharged as a result of deicing activities; (3-24-16)

(d) A description of procedures to assure that flood management projects assess the impacts on the water quality of receiving water bodies and that existing structural flood control devices have been evaluated to determine if retrofitting the device to provide additional pollutant removal from storm water is feasible; (3-24-16)

(e) A description of a program to monitor pollutants in runoff from operating or closed municipal landfills or other treatment, storage, or disposal facilities for municipal waste, which shall identify priorities and procedures for inspections and establishing and implementing control measures for such discharges (this program can be coordinated with the program developed under Subsection 105.18.b.iv.(3)); and (3-24-16)

(f) A description of a program to reduce to the maximum extent practicable, pollutants in discharges from municipal separate storm sewers associated with the application of pesticides, herbicides, and fertilizer which will include, as appropriate, controls such as educational activities, permits, certifications and other measures for commercial applicators and distributors, and controls for application in public right-of-ways and at municipal facilities; (3-24-16)

(2) A description of a program, including a schedule, to detect and remove (or require the discharger to the municipal separate storm sewer to obtain a separate IPDES permit for) illicit discharges and improper disposal into the storm sewer. The proposed program shall include: (3-24-16)

(a) A description of a program, including inspections, to implement and enforce an ordinance, orders or similar means to prevent illicit discharges to the municipal separate storm sewer system. This program description shall address all types of illicit discharges; however, the following category of non-storm water discharges or flows shall be addressed where such discharges are identified by the municipality as sources of pollutants to waters of the United States: water line flushing, landscape irrigation, diverted stream flows, rising ground waters, uncontaminated ground water infiltration (as defined in Section 010) to separate storm sewers, uncontaminated pumped ground water, discharges from potable water sources, foundation drains, air conditioning condensation, irrigation water, springs, water from crawl space pumps, footing drains, lawn watering, individual residential car washing, flows from riparian habitats and wetlands, dechlorinated swimming pool discharges, and street wash water (program descriptions shall address discharges or flows from firefighting only where such discharges or flows are identified as significant sources of pollutants to waters of the United States); (3-24-16)

(b) A description of procedures to conduct on-going field screening activities during the life of the permit, including areas or locations that will be evaluated by such field screens; (3-24-16)

(c) A description of procedures to be followed to investigate portions of the separate storm sewer system that, based on the results of the field screen, or other appropriate information, indicate a reasonable potential of containing illicit discharges or other sources of non-storm water (such procedures may include: sampling

procedures for constituents such as fecal coliform, fecal streptococcus, surfactants (MBAS), residual chlorine, fluorides and potassium; testing with fluorometric dyes; or conducting in storm sewer inspections where safety and other considerations allow. Such description shall include the location of storm sewers that have been identified for such evaluation); (3-24-16)

(d) A description of procedures to prevent, contain, and respond to spills that may discharge into the municipal separate storm sewer; (3-24-16)

(e) A description of a program to promote, publicize, and facilitate public reporting of the presence of illicit discharges or water quality impacts associated with discharges from municipal separate storm sewers; (3-24-16)

(f) A description of educational activities, public information activities, and other appropriate activities to facilitate the proper management and disposal of used oil and toxic materials; and (3-24-16)

(g) A description of controls to limit infiltration of seepage from municipal sanitary sewers to municipal separate storm sewer systems where necessary; (3-24-16)

(3) A description of a program to monitor and control pollutants in storm water discharges to municipal systems from municipal landfills, hazardous waste treatment, disposal and recovery facilities, industrial facilities that are subject to section 313 of title III of the Superfund Amendments and Reauthorization Act of 1986 (SARA), and industrial facilities that the municipal permit applicant determines are contributing a substantial pollutant loading to the municipal storm sewer system. The program shall: (3-24-16)

(a) Identify priorities and procedures for inspections and establishing and implementing control measures for such discharges; and (3-24-16)

(b) Describe a monitoring program for storm water discharges associated with the industrial facilities identified in Subsection 105.18.b.iv.(3), to be implemented during the term of the permit, including the submission of quantitative data on the following constituents: any pollutants limited in effluent guidelines subcategories, where applicable; any pollutant listed in an existing NPDES or IPDES permit for a facility; oil and grease, COD, pH, BOD5, TSS, total phosphorus, total Kjeldahl nitrogen, nitrate plus nitrite nitrogen, and any information on discharges required under Subsections 105.07.j. through l.; (3-24-16)

(4) A description of a program to implement and maintain structural and non-structural best management practices to reduce pollutants in storm water runoff from construction sites to the municipal storm sewer system, which shall include: (3-24-16)

(a) A description of procedures for site planning which incorporate consideration of potential water quality impacts; (3-24-16)

(b) A description of requirements for nonstructural and structural best management practices; (3-24-16)

(c) A description of procedures for identifying priorities for inspecting sites and enforcing control measures which consider the nature of the construction activity, topography, and the characteristics of soils and receiving water quality; and (3-24-16)

(d) A description of appropriate educational and training measures for construction site operators; (3-24-16)

v. Estimated reductions in loadings of pollutants from discharges of municipal storm sewer constituents from municipal storm sewer systems expected as the result of the municipal storm water quality management program. The assessment shall also identify known impacts of storm water controls on ground water; (3-24-16)

vi. For each fiscal year to be covered by the permit, a fiscal analysis of the necessary capital and

operation and maintenance expenditures necessary to accomplish the activities of the programs under Subsections 105.18.b.iii. and iv. Such analysis shall include a description of the source of funds that are proposed to meet the necessary expenditures, including legal restrictions on the use of such funds; (3-24-16)

vii. Where more than one (1) legal entity submits an application, the application shall contain a description of the roles and responsibilities of each legal entity and procedures to ensure effective coordination; and (3-24-16)

viii. Where requirements under Subsections 105.18.a.iv.(5), 105.18.b.ii., 105.18.b.iii.(2), and 105.18.b.iv. are not practicable or are not applicable, the Department may exclude any operator of a discharge from a municipal separate storm sewer which is designated under 40 CFR 122.26(a)(1)(v), (b)(4)(ii) or (b)(7)(ii) from such requirements. The Department shall not exclude the operator of a discharge from a municipal separate storm sewer identified in Appendix F, G, H or I of 40 CFR Part 122, from any of the permit application requirements under this subsection except where authorized under this section. (3-24-16)

19. Individual Permit Application Requirements for Industrial and Construction Storm Water Discharges. Application requirements for storm water discharges associated with industrial activity and storm water discharges associated with small construction activity. (3-24-16)

a. Dischargers of storm water associated with industrial activity and with small construction activity are required to apply for an individual permit or seek coverage under a promulgated storm water general permit. Facilities that are required to obtain an individual permit or any discharge of storm water which the Department is evaluating for designation (see Section 130, General Permits) under 40 CFR 122.26(a)(1)(v) and is not a municipal storm sewer, shall submit an IPDES application in accordance with the requirements of Section 105 (Application for an Individual IPDES Permit) as modified and consistent with this subsection. (3-24-16)

b. Except as provided in Subsections 105.19.c. through e., the operator of a storm water discharge associated with industrial activity subject to this section shall provide: (3-24-16)

i. A site map showing topography (or indicating the outline of drainage areas served by the outfall(s) covered in the application if a topographic map is unavailable) of the facility including: (3-24-16)

(1) Each of its drainage and discharge structures; (3-24-16)

(2) The drainage area of each storm water outfall; (3-24-16)

(3) Paved areas and buildings within the drainage area of each storm water outfall, each past or present area used for outdoor storage or disposal of significant materials, each existing structural control measure to reduce pollutants in storm water runoff, materials loading and access areas, areas where pesticides, herbicides, soil conditioners and fertilizers are applied, each of its hazardous waste treatment, storage or disposal facilities (including each area not required to have a Resource Conservation and Recovery Act permit which is used for accumulating hazardous waste under 40 CFR 262.34); (3-24-16)

(4) Each well where fluids from the facility are injected underground; and (3-24-16)

(5) Springs, and other surface water bodies which receive storm water discharges from the facility; (3-24-16)

ii. An estimate of the area of impervious surfaces (including paved areas and building roofs) and the total area drained by each outfall (within a mile radius of the facility) and a narrative description of the following: (3-24-16)

(1) Significant materials that in the three (3) years prior to the submittal of this application have been treated, stored, or disposed in a manner to allow exposure to storm water; (3-24-16)

(2) Method of treatment, storage or disposal of such materials; materials management practices employed, in the three (3) years prior to the submittal of this application, to minimize contact by these materials with

storm water runoff; (3-24-16)

(3) Materials loading and access areas; (3-24-16)

(4) The location, manner and frequency in which pesticides, herbicides, soil conditioners and fertilizers are applied; (3-24-16)

(5) The location and a description of existing structural and non-structural control measures to reduce pollutants in storm water runoff; and (3-24-16)

(6) A description of the treatment the storm water receives, including the ultimate disposal of any solid or fluid wastes other than by discharge; (3-24-16)

iii. A certification that all outfalls that should contain storm water discharges associated with industrial activity have been tested or evaluated for the presence of non-storm water discharges which are not covered by an IPDES permit. Tests for such non-storm water discharges may include smoke tests, fluorometric dye tests, analysis of accurate schematics, as well as other appropriate tests. The certification shall include a description of the method used, the date of any testing, and the on-site drainage points that were directly observed during a test; (3-24-16)

iv. Existing information regarding significant leaks or spills of toxic or hazardous pollutants at the facility that have taken place within the three (3) years prior to the submittal of this application; (3-24-16)

v. Quantitative data based on samples collected during storm events and collected in accordance with Subsection 105.07 from all outfalls containing a storm water discharge associated with industrial activity for the following parameters: (3-24-16)

(1) Any pollutant limited in an effluent guideline to which the facility is subject; (3-24-16)

(2) Any pollutant listed in the facility's NPDES or IPDES permit for its process wastewater (if the facility is operating under an existing NPDES or IPDES permit); (3-24-16)

(3) Oil and grease, pH, BOD5, COD, TSS, total phosphorus, total Kjeldahl nitrogen, and nitrate plus nitrite nitrogen; (3-24-16)

(4) Any information on the discharge required under Subsections 105.07.j. through l.; (3-24-16)

(5) Flow measurements or estimates of the flow rate, and the total amount of discharge for the storm event(s) sampled, and the method of flow measurement or estimation; and (3-24-16)

(6) The date and duration (in hours) of the storm event(s) sampled, rainfall measurements or estimates of the storm event (in inches) which generated the sampled runoff and the duration (in hours) between the storm event sampled and the end of the previous measurable (greater than one-tenth (0.1) inch rainfall) storm event; (3-24-16)

vi. Operators of a discharge which is composed entirely of storm water are exempt from the requirements of Subsections 105.07.b., 105.07.a.i.(2) through 105.07.a.i.(5), 105.07.a.ii., 105.07.a.iii., 105.07.g., 105.07.h., 105.07.i., and 105.07.m.; and (3-24-16)

vii. Operators of new sources or new discharges (as defined in Section 010, Definitions) which are composed in part or entirely of storm water must include estimates for the pollutants or parameters listed in Subsection 105.19.b.v. instead of actual sampling data, along with the source of each estimate. Operators of new sources or new discharges composed in part or entirely of storm water must provide quantitative data for the parameters listed in Subsection 105.19.b.v. within two (2) years after commencement of discharge, unless such data has already been reported under the monitoring requirements of the IPDES permit for the discharge. Operators of a new source or new discharge which is composed entirely of storm water are exempt from the requirements of Subsections 105.16.a.iii.(2), 105.16.a.iii.(3), and 105.16.b. (3-24-16)

c. An operator of an existing or new storm water discharge that is associated with industrial activity

solely under 40 CFR 122.26(b)(14)(x) or is associated with small construction activity solely under 40 CFR 122.26 (b)(15), is exempt from the requirements of Subsection 105.07 and Subsection 105.19.b. Such operator shall provide a narrative description of: (3-24-16)

i. The location (including a map) and the nature of the construction activity; (3-24-16)

ii. The total area of the site and the area of the site that is expected to undergo excavation during the life of the permit; (3-24-16)

iii. Proposed measures, including best management practices, to control pollutants in storm water discharges during construction, including a brief description of applicable state and local erosion and sediment control requirements; (3-24-16)

iv. Proposed measures to control pollutants in storm water discharges that will occur after construction operations have been completed, including a brief description of applicable state or local erosion and sediment control requirements; (3-24-16)

v. An estimate of the runoff coefficient of the site and the increase in impervious area after the construction addressed in the permit application is completed, the nature of fill material and existing data describing the soil or the quality of the discharge; and (3-24-16)

vi. The name of the receiving water. (3-24-16)

d. The operator of an existing or new discharge composed entirely of storm water from an oil or gas exploration, production, processing, or treatment operation, or transmission facility is not required to submit a permit application in accordance with Subsection 105.19.b., unless the facility: (3-24-16)

i. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 117.21 or 40 CFR 302.6 at any time since November 16, 1987; or (3-24-16)

ii. Has had a discharge of storm water resulting in the discharge of a reportable quantity for which notification is or was required pursuant to 40 CFR 110.6 at any time since November 16, 1987; or (3-24-16)

iii. Contributes to a violation of a water quality standard. (3-24-16)

e. The operator of an existing or new discharge composed entirely of storm water from a mining operation is not required to submit a permit application unless the discharge has come into contact with, any overburden, raw material, intermediate products, finished product, byproduct or waste products located on the site of such operations. (3-24-16)

f. Applicants shall provide such other information the Department may reasonably require under Subsection 105.07.o. to determine whether to issue a permit and may require any facility subject to Subsection 105.19.c. to comply with Subsection 105.19.b. (3-24-16)

106. INDIVIDUAL PERMIT APPLICATION REVIEW.

01. Completeness Criteria. The Department will not begin processing or issue an individual IPDES permit application before receiving a complete application. An application is complete when an application form and any supplemental information are completed and submitted to the Department's satisfaction. The Department will not consider a permit application to be complete until all applicable fees required under Section 110 (Permit Fee Schedule for IPDES Permitted Facilities) are paid. (3-24-16)

02. Sufficiently Sensitive Methods. Except as specified in Subsection 106.02.c., a permit application shall not be considered complete unless all required quantitative data are collected in accordance with sufficiently sensitive analytical methods approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503. (3-24-16)

a. A method approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503 is "sufficiently sensitive" when: (3-24-16)

i. The method minimum level (ML) is at or below the level of the applicable water quality criterion for the measured pollutant or pollutant parameter; or (3-24-16)

ii. The method ML is above the applicable water quality criterion, but the amount of the pollutant or pollutant parameter in a facility's discharge is high enough that the method detects and quantifies the level of the pollutant or pollutant parameter in the discharge; or (3-24-16)

iii. The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Parts 400 through 471 and 501 through 503 for the measured pollutant or pollutant parameter. (3-24-16)

b. For Subsection 106.02.a., consistent with 40 CFR Part 136, applicants have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of "sufficiently sensitive," the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine that the method is not performing adequately and the applicant should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with Subsection 106.02.a. Where no other EPA-approved methods exist, the applicant should select a method consistent with Subsection 106.02.c. (3-24-16)

c. When there is no analytical method that has been approved under 40 CFR Part 136, required under 40 CFR Parts 400 through 471 and 501 through 503, and is not otherwise required by the Department, the applicant may use any suitable method but shall provide a description of the method. When selecting a suitable method, other factors such as a method's precision, accuracy, or resolution, may be considered when assessing the performance of the method. (3-24-16)

03. Independence. The Department shall judge the completeness of any IPDES permit application independently of any other permit application or permit. (3-24-16)

04. Schedule. The Department will notify an applicant in writing whether the application is deemed complete for purposes of this section within: (3-24-16)

a. Thirty (30) days if the application is for a new source or new discharger under the IPDES program, or (3-24-16)

b. Sixty (60) days if the application is for an existing source or sludge-only facility. (3-24-16)

05. Additional Information. Notification that an application is complete does not preclude the Department from requiring the applicant submit additional information for the Department's use in processing the application. This additional information may only be requested when necessary to clarify, modify, or supplement previously submitted material. (3-24-16)

a. Requests for additional information will not render an application incomplete. (3-24-16)

b. If the Department decides that a site visit is necessary for any reason in connection with the processing of an application, the Department shall notify the applicant and a date shall be scheduled. Failure to schedule or refusal of a requested site visit are grounds for permit denial. (3-24-16)

c. The applicant's failure or refusal to correct deficiencies, or supply requested information may result in permit denial, and appropriate enforcement actions may be initiated, if warranted. (3-24-16)

06. Incomplete Due to Waiver Denial. The Department will not consider a permit application to be complete if the Department waived application requirements under Subsection 105.11 or 105.17 and the EPA has

disapproved the waiver. (3-24-16)

07. Impact of Waiver Delay. If a person required to reapply for a permit submits a waiver request to the EPA more than two hundred ten (210) days before an existing permit expires, and the EPA does not disapprove the waiver request one hundred eighty-one (181) days before the permit expires, the Department will consider the permit application to be complete without the information that is the subject of the waiver request. (3-24-16)

08. Application Completeness Date. The completeness date of an application is the date on which the Department notifies the applicant that the application is complete. (3-24-16)

107. DECISION PROCESS.
After the Department has determined that a permit application is complete the Department will decide whether to tentatively deny the application, or prepare an IPDES draft permit. (3-24-16)

01. Application Denial. If the Department decides to tentatively deny the application: (3-24-16)

a. A notice of intent to deny the permit application shall be issued. A notice of intent to deny the permit application is a type of draft permit which follows the same procedures as any draft permit and shall be made available for public comment, and the Department shall give notice of opportunity for a public meeting, as specified in Section 109 (Public Notification and Comment); (3-24-16)

b. The Department shall generate a response to public comment; and (3-24-16)

c. Issue a final decision. The final decision may: (3-24-16)

i. Be to withdraw the notice of intent to deny the application, and proceed to prepare a draft permit and fact sheet as defined in Section 108 (Draft Permit and Fact Sheet); or (3-24-16)

ii. Confirm the decision to deny the application. (3-24-16)

d. The applicant may appeal the final decision to deny the application by adhering to the requirements of Section 204 (Appeals Process). (3-24-16)

02. Draft Permit. If the Department decides to generate a draft permit and fact sheet it will comply with Section 108 (Draft Permit and Fact Sheet). (3-24-16)

a. Upon completion of the draft permit and fact sheet the Department shall issue a public notification as required in Subsection 109.01. (3-24-16)

b. An opportunity for the public to comment and request a public meeting shall be provided. (3-24-16)

c. The Department shall generate a response to public comment as stipulated in Subsection 109.03. (3-24-16)

03. Proposed Permit. After the close of the public comment period on a draft permit, the Department will make appropriate changes in response to comments, and generate a proposed permit and fact sheet. (3-24-16)

04. Final Permit. After the close of the public comment period on a draft permit, and after receipt of comments on the proposed permit, if any, from EPA, the Department shall issue a final permit decision and fact sheet. A final permit decision means a final decision to issue, deny, modify, revoke and reissue, or terminate a permit. (3-24-16)

a. The Department shall notify the applicant and each person who has submitted written comments or requested notice of the final permit decision. (3-24-16)

b. A final permit decision shall become effective twenty-eight (28) days after the service of notice of the decision unless: (3-24-16)

i. A later effective date is specified in the decision; or (3-24-16)

ii. A Petition for Review is filed with the Department as specified in Section 204 (Appeals Process). (3-24-16)

108. DRAFT PERMIT AND FACT SHEET.

01. Draft Permit. (3-24-16)

a. If the Department decides to prepare a draft permit, it shall contain the following information: (3-24-16)

i. All conditions established under Section 300 (Conditions Applicable to All Permits); (3-24-16)

ii. All conditions for specific categories established under Section 301 (Permit Conditions for Specific Categories) and 40 CFR 122.42(e). (3-24-16)

iii. All conditions established under Section 302 (Establishing Permit Provisions); (3-24-16)

iv. All conditions established under Section 303 (Calculating Permit Provisions); (3-24-16)

v. All monitoring requirements established under Section 304 (Monitoring and Reporting Requirements); (3-24-16)

vi. Schedules of compliance established under Section 305 (Compliance Schedules); and (3-24-16)

vii. Any variances that are approved. (3-24-16)

b. General and individual proposed permits shall be available to the EPA Region 10 Administrator for comment as specified in Subsections 107.03 (Proposed Permit) and 107.04 (Final Permit). (3-24-16)

02. Fact Sheets. (3-24-16)

a. A fact sheet containing the information required in Subsection 108.02.b. must accompany the draft permit prepared for: (3-24-16)

i. A major IPDES facility or activity; (3-24-16)

ii. A Class I sludge management facility; (3-24-16)

iii. An IPDES general permit; (3-24-16)

iv. A permit that incorporates a variance or requires an explanation under Subsection 108.02.b.ix. through 108.02.b.x.; (3-24-16)

v. A permit that includes a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix); and (3-24-16)

vi. A permit that the Department finds is the subject of wide-spread public interest or raises major issues. (3-24-16)

b. A fact sheet must briefly set out the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit and must include, if applicable, the following information: (3-24-16)

i. A brief description of the type of facility or activity that is the subject of the draft permit; (3-24-16)

ii. The type and quantity of wastes, fluids, or pollutants that are proposed to be or are being treated, stored, disposed of, injected, emitted, or discharged; (3-24-16)

iii. A brief summary of the basis for the draft permit conditions, including references to applicable statutes or regulations and appropriate supporting references to the administrative record; (3-24-16)

iv. Reasons for the Department's tentative decision on any requested variances or alternatives to required standards; (3-24-16)

v. A description of the procedures for reaching a final decision on the draft permit, including: (3-24-16)

(1) The beginning and ending dates of the comment period under Subsection 109.02 and the address where comments should be submitted; (3-24-16)

(2) The procedure for requesting a public meeting and the nature of that meeting; and (3-24-16)

(3) Any other procedures by which the public may participate in the final decision; (3-24-16)

vi. The name and telephone number of a person to contact for additional information; (3-24-16)

vii. The justification for waiver of any application requirements under Section 105 (Application for an Individual IPDES Permit) for new and existing POTWs; (3-24-16)

viii. Any calculations or other necessary explanation of the derivation of specific effluent limitations and conditions, including a citation to the applicable effluent limitation guideline or performance standard as required by Section 302 (Establishing Permit Provisions), and reasons why the effluent limitations and conditions are applicable, or an explanation of how any alternate effluent limitation was developed; (3-24-16)

ix. If applicable, an explanation of why the draft permit contains the following conditions or waivers: (3-24-16)

(1) Limitations to control toxic pollutants under Subsection 302.07; (3-24-16)

(2) Limitations on internal waste streams under Section 304 (Monitoring and Reporting Requirements); (3-24-16)

(3) Limitations on indicator pollutants under 40 CFR 125.3(g); (3-24-16)

(4) Limitations established on a case-by-case basis under 40 CFR 125.3 (c)(2) or (c)(3) or pursuant to the Clean Water Act section 405(d)(4); (3-24-16)

(5) Limitations to meet the criteria for permit issuance under Subsection 103.07; or (3-24-16)

(6) Waivers from monitoring requirements granted under Subsection 302.03; (3-24-16)

x. For a draft permit for a treatment works owned by a person other than a state or municipality, an explanation of the Department's decision on regulation of users under Subsection 302.15; (3-24-16)

xi. If appropriate, a sketch or detailed description of the location of the discharge or regulated activity described in the application; and (3-24-16)

xii. For permits that include a sewage sludge land application plan under 40 CFR 501.15(a)(2)(ix), a brief description of how each of the required elements of the land application plan are addressed in the permit. (3-24-16)

109. PUBLIC NOTIFICATION AND COMMENT.

01. Public Notification. (3-24-16)

a. The Department will give notice to the public that: (3-24-16)

i. A draft permit has been prepared under Subsection 108.01; (3-24-16)

ii. The Department intends to deny a permit application under Subsection 107.01; (3-24-16)

iii. A public meeting is scheduled; or (3-24-16)

iv. An IPDES new source determination has been made. (3-24-16)

b. A public notice may describe more than one (1) permit or permit action. (3-24-16)

c. The Department will allow at least thirty (30) days for public comment on the items in the notice, and will provide at least thirty (30) days' notice before the public meeting. Notice of the draft permit and the meeting may be combined and given at the same time. (3-24-16)

d. Public notice that a draft permit has been prepared, and any public meeting on the draft permit must be given by the following methods: (3-24-16)

i. By mailing a copy of the notice to the following persons, unless any person entitled to receive notice under this subsection waives that person's right to receive notice for any classes and categories of permits: (3-24-16)

(1) The applicant, unless there is no applicant for an IPDES general permit; (3-24-16)

(2) Any other agency (including EPA when the draft permit is prepared by the state) that the Department knows has issued or is required to issue a permit for the same facility or activity under the following laws and programs: (3-24-16)

(a) Resource Conservation and Recovery Act, under IDAPA 58.01.05, "Rules and Standards for Hazardous Waste"; (3-24-16)

(b) Underground Injection Control (UIC) Program under Idaho Department of Water Resources as authorized under Idaho Code Title 42 Chapter 39 and regulated under IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells"; (3-24-16)

(c) Clean Air Act, under IDAPA 58.01.01, "Rules for the Control of Air Pollution in Idaho"; (3-24-16)

(d) Idaho Pollution Discharge Elimination System Program, under IDAPA 58.01.25, "Rules Regulating the Idaho Pollutant Discharge Elimination System Program"; or (3-24-16)

(e) Sludge Management Program, under IDAPA 58.01.16.650, "Wastewater Rules"; and (3-24-16)

(f) Dredge and Fill Permit Program (Clean Water Act section 404); (3-24-16)

(3) Affected federal and state agencies with jurisdiction over fish, shellfish, wildlife, and other natural resources, state historic preservation officers, and any affected Indian tribe; (3-24-16)

(4) Any state agency responsible for plan development under the Clean Water Act sections 208(b)(2), 208(b)(4), or 303(e), and the United States Army Corps of Engineers, the United States Fish and Wildlife Service, and the National Marine Fisheries Service; (3-24-16)

(5) Any user identified in the permit application of a privately owned treatment works; (3-24-16)

(6) Persons on a mailing list developed by: (3-24-16)

(a) Recording those who request in writing to be on the list; (3-24-16)

(b) Soliciting persons for area lists from participants in past permit proceedings in that area; and (3-24-16)

(c) Publishing notice of the opportunity to be on the mailing list on the Department's website and through periodic publication in the local press and in regional and state-funded newsletters, environmental bulletins, state law journals or similar publications. The Department may update the mailing list from time to time by requesting written indication of continued interest from those listed, and may delete from the list the name of any person who fails to respond to the Department's request; (3-24-16)

(7) Any unit of local government having jurisdiction over the area where the facility is proposed to be located; and (3-24-16)

(8) Each state agency having any authority under state law with respect to the construction or operation of the facility; (3-24-16)

ii. For a major facility permit, a general permit, and a permit that includes sewage sludge land application plans, by publishing a notice in a daily or weekly newspaper within the area affected by the facility or activity; and (3-24-16)

iii. By any other method reasonably calculated to give actual notice of the action in question to the persons potentially affected by it, including press releases or use of any other forum or media to elicit public participation. (3-24-16)

e. A public notice issued under this subsection must contain at least the following information: (3-24-16)

i. Name and address of the office processing the permit action for which notice is being given and where comments may be submitted; (3-24-16)

ii. Name and address of the permittee or permit applicant and, if different, of the facility or activity regulated by the permit, except in the case of IPDES draft general permits; (3-24-16)

iii. A brief description of the business conducted at the facility or activity described in the permit application, or for general permits when there is no application, in the draft permit; (3-24-16)

iv. Name, address, and telephone number of a person from whom interested persons may obtain further information, including copies of the draft permit or draft general permit, fact sheet, and the application; (3-24-16)

v. A brief description of the comment and public meeting procedures required by this subsection and the time and place of any meeting that will be held; if no meeting has already been scheduled, a statement of procedures to request a meeting and other procedures by which the public may participate in the final permit decision; (3-24-16)

vi. A general description of the location of each existing or proposed discharge point and the name of the receiving water; (3-24-16)

vii. The sludge use and disposal practices and the location of each sludge TWTDS and use or disposal sites known at the time of permit application; (3-24-16)

viii. A description of requirements applicable to cooling water intake structures under the Clean Water

Act section 316(b), in accordance with 40 CFR 125.80 through 89, 125.90 through 99, and 125.130 through 139; and (3-24-16)

ix. Directions to the Department's website where interested parties can obtain copies of the draft permit, fact sheet, and the permit application, if any; and (3-24-16)

f. In addition to the information required by Subsection 109.01.e., the public notice for a draft permit for a discharge for which a request has been filed under the Clean Water Act section 316(a) must include: (3-24-16)

i. A statement that the thermal component of the discharge is subject to effluent limitations under the Clean Water Act sections 301 or 306, and a brief description, including a quantitative statement, of the thermal effluent limitations proposed under the Clean Water Act sections 301 or 306; (3-24-16)

ii. A statement that a request has been filed under the Clean Water Act section 316(a), that alternative less stringent effluent limitations may be imposed on the thermal component of the discharge under the Clean Water Act section 316(a), and a brief description, including a quantitative statement, of the alternative effluent limitations, if any, included in the request; and (3-24-16)

iii. If the applicant has filed an early screening request under 40 CFR 125.72 for a variance under the Clean Water Act section 316(a), a statement that the applicant has submitted that early screening request. (3-24-16)

g. In addition to the general public notice described in Subsection 109.01.e., the public notice of a meeting under this section must contain the following information: (3-24-16)

i. Reference to the date of previous public notices relating to the permit; (3-24-16)

ii. Date, time, and place of the meeting; and (3-24-16)

iii. A brief description of the nature and purpose of the meeting, including the applicable rules and procedures. (3-24-16)

h. The Department shall mail a copy of the general public notice described in Subsection 109.01.e. to all persons identified in Subsections 109.01.d.i.(1), (2), (3), and (4). (3-24-16)

i. The Department will hold a public meeting whenever the Department finds, on the basis of requests, a significant degree of public interest in a draft permit. The Department may also hold a public meeting if a meeting might clarify one (1) or more issues involved in the permit decision or for other good reason in the Department's discretion. (3-24-16)

02. Public Comment. (3-24-16)

a. During the public comment period, any interested person may submit written comments on the draft permit. Written comments shall be submitted to the person identified in the notice and as specified in Subsection 109.01.e. (3-24-16)

b. During the public comment period, any interested person may request a public meeting if no public meeting has been scheduled. The Department shall schedule and hold a public meeting if the Department determines that significant public interest exists in the draft permit. (3-28-18)

i. A request for a public meeting shall be in writing and must be submitted to the Department within fourteen (14) days after the date of the public notice required by Subsection 109.01. (3-28-18)

ii. If a public meeting is held for the purpose of receiving comments, the Department will make an audio recording or hire a court reporter to record the meeting and shall prepare a transcript of the meeting if an appeal is filed. (3-28-18)

c. If, during the comment period for an IPDES draft permit, the district engineer of the United States

Army Corps of Engineers advises the Department in writing that anchorage and navigation of any of the waters of the United States would be substantially impaired by the granting of a permit, the Department will deny the permit and notify the applicant of the denial. If the district engineer advises the Department that imposing specified conditions upon the permit is necessary to avoid any substantial impairment of anchorage or navigation, the Department will include the specified conditions in the permit. Review or appeal of denial of a permit or of conditions specified by the district engineer must be sought through the applicable procedures of the United States Army Corps of Engineers and not through the state procedures. If a court of competent jurisdiction stays the conditions or if applicable procedures of the United States Army Corps of Engineers result in a stay of the conditions, those conditions must be considered stayed in the IPDES permit for the duration of the stay. (3-24-16)

d. If, during the comment period for an IPDES draft permit, the United States Fish and Wildlife Service, the National Marine Fisheries Service, or any other state or federal agency with jurisdiction over fish, wildlife, or public health advises the Department in writing that the imposition of specified conditions upon the permit is necessary to avoid substantial impairment of fish, shellfish, or wildlife resources, the Department may include the specified conditions in the permit to the extent the Department determines they are necessary to comply with the provisions of the Clean Water Act. (3-24-16)

e. In some cases, the Department may confer with one (1) or more of the agencies referred to in Subsections 109.02.c. and 109.02.d. before issuing a draft permit and may set out an agency's view in the fact sheet or the draft permit. (3-24-16)

f. The Department will consider all comments in making the final decision and will answer the comments as provided in this subsection. (3-24-16)

g. Requests for extending a public comment period must be received in writing by the Department prior to the last day of the comment period. (3-24-16)

h. After the close of the public comment period and prior to the issuance of the final permit decision, the Department shall afford the permit applicant an opportunity to provide additional information to respond to public comments. In addition, in order to respond to comments, the Department may request the applicant provide additional information. (3-24-16)

03. Response to Comments. When the Department issues a final permit, the Department will issue a response to comments, which must be available to the public. The response must: (3-24-16)

a. Specify which provisions, if any, of the draft permit have been changed in the final permit decision, and the reasons for the change; and (3-24-16)

b. Briefly describe and respond to all significant comments on the draft permit raised during the public comment period, or during any meeting. (3-24-16)

110. FEE SCHEDULE FOR IPDES PERMITTED FACILITIES.

01. Effective Date. Annual fees shall be paid for each fee year beginning one (1) year after the effective date of the IPDES program for the affected category of discharger and continuing for each succeeding year. (3-24-16)

02. Fee Schedule. (3-24-16)

a. Publicly and privately owned treatment works, and any other discharger designated by the Department (Subsection 105.11.a.), shall pay an annual fee based on the number of equivalent dwelling units (EDUs). The fee shall be $1.74 per EDU. EDUs and the appropriate annual fee will be calculated by the following: (3-28-18)

i. The Department calculates facility EDUs according to the definition of EDUs in Section 010; or (3-28-18)

ii. Existing facilities may annually report to the Department the number of EDUs served; or (3-28-18)

iii. New facilities may report to the Department the number of EDUs to be served, based on the facility planning design as part of the IPDES permit application. (3-24-16)

b. All other permitted IPDES dischargers shall pay an annual fee, an application fee, or both according to the following schedule:

Permit Type	Application	Annual
Industrial Permits		
Major	$0	$13,000
Minor	$0	$4,000
Storm Water Permits		
Construction (CGP)		
1-10 acres	$200	$0
10-50 acres	$400	$75
50-100 acres	$750	$100
100-500 acres	$1,000	$400
>500 acres	$1,250	$400
Low Erosivity Waiver (CGP)	$125	$0
Industrial (MSGP) Permits	$1,500	$1,000
Cert. of No Exposure (MSGP)	$250	$100
Other General Permits	$0	$0

(3-24-16)

03. Fee Assessment. (3-24-16)

a. An annual fee assessment will be generated for each IPDES-permitted facility for which an annual fee is required as set forth in Subsection 110.02. Annual fees will be determined based on the twelve (12) months between October 1 and September 30 of the following calendar year. (3-24-16)

b. Application Fees and Annual Fees: (3-24-16)

i. Application fees, as identified in Subsection 110.02.b., are assessed at the time of application for coverage under an individual permit, or notice of intent for coverage under a general permit. (3-24-16)

ii. Owners or operators of multi-year storm water facilities or construction projects are subject to annual fees that will be assessed in the year (October through September) immediately following the receipt of the application or notice of intent for coverage. (3-24-16)

c. Assessment of annual fees will consider the number of months a permittee was covered under either a general or an individual permit in a given year (October through September of the following calendar year). If the permittee was covered for less than a full twelve (12) months, the assessed fee shall be pro-rated to account for less than a full year's coverage under the permit. (3-24-16)

04. Billing. For those permitted facilities subject to an annual fee, the annual fee shall be assessed and a statement will be mailed by the Department on or before July 1 of each year. (3-24-16)

05. Payment. (3-24-16)

a. Payment of the annual fee shall be due on October 1, unless it is a Saturday, Sunday, or legal holiday, in which event the payment shall be due on the successive business day. Fees paid by check or money order shall be made payable to the Idaho Department of Environmental Quality and sent to 1410 North Hilton Street, Boise, ID 83706-1255. (3-24-16)

b. If a POTW serves five hundred seventy-five (575) EDUs or more, the facility may request to divide its annual fee payment into equal monthly or quarterly installments by submitting a request to the Department on the proper request form provided with the initial billing statement. (3-24-16)

i. The Department will notify an applicable POTW, in writing, of approval or denial of a requested monthly or quarterly installment plan within ten (10) business days of the Department receiving such a request. (3-24-16)

ii. If a POTW has been approved to pay monthly installments then each installment shall be due by the first day of each month, unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the successive business day. (3-24-16)

iii. If a POTW has been approved to pay quarterly installments then each installment shall be due by the first day of the month of each quarter (October 1, January 1, April 1, and July 1), unless it is a Saturday, a Sunday, or a legal holiday, in which event the installment shall be due on the first successive business day. (3-24-16)

c. Payment of the application fee is due with the application for an individual permit or notice of intent for coverage under a general permit. (3-24-16)

06. Delinquent Unpaid Fees. A permittee covered under either a general permit or an individual permit will be delinquent in payment if the annual fee assessed has not been received by the Department by November 1; or if having first opted to pay monthly or quarterly installments, its monthly or quarterly installment has not been received by the Department by the last day of the month in which the monthly or quarterly payment is due. (3-24-16)

07. Suspension of Services and Disapproval Designation. (3-24-16)

a. For any permittee delinquent in payment of fee assessed under Subsections 110.02 and 110.06 in excess of ninety (90) days, technical services provided by the Department shall be suspended. The permittee will be informed of the fee delinquency in a warning letter, which shall identify administrative enforcement actions the Department may pursue if the permittee does not comply with the terms of the permit. (3-24-16)

b. For any permittee delinquent in payment of fee assessed under Subsections 110.02 and 110.06, in excess of one hundred and eighty (180) days, the Department shall suspend all technical services provided by the Department and consider the permittee in non-compliance with permit conditions and these rules, and subject to provisions described in Section 500 (Enforcement) of these rules. (3-24-16)

08. Reinstatement of Suspended Services and Approval Status. For any permittee for which delinquency of fee payment pursuant to Subsection 110.07 has resulted in the suspension of technical services, determination of non-compliance of permit condition, or both, the continuation of technical services, determination of compliance based on payment of fee, or both will occur upon payment of delinquent annual fee assessments. (3-24-16)

09. Enforcement Action. Nothing in Section 110 (Fee Schedule for IPDES Permitted Facilities) waives the Department's right to undertake a non-fee related enforcement action at any time, including seeking penalties, as provided in Sections 39-108, 39-109, and 39-117, Idaho Code. (3-24-16)

10. Responsibility to Comply. Subsection 110.07 shall in no way relieve any permittee from its obligation to comply with all applicable state and federal statutes, rules, regulations, permits, or orders. (3-24-16

111. -- 119. (RESERVED)

120. NEW SOURCES AND NEW DISCHARGES.

01. Criteria for New Source Determination. Except as otherwise provided in an applicable new source performance standard, a source is a new source if it meets the definition in Section 010 (Definitions), and: (3-24-16)

a. Is constructed at a site at which no other source is located; or (3-24-16)

b. Totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or (3-24-16)

c. Its processes are substantially independent of an existing source at the same site. In determining whether these processes are substantially independent, the Department shall consider such factors as: (3-24-16)

i. The extent to which the new facility is integrated with the existing plant; and (3-24-16)

ii. The extent to which the new facility is engaged in the same general type of activity as the existing source. (3-24-16)

02. New Source vs. New Discharger. A source meeting the requirements of Subsection 120.01 is a new source only if a new source performance standard is independently applicable to it. If there is no such independently applicable standard, the source is a new discharger, as defined in Section 010 (Definitions). (3-24-16)

03. Modification vs. New Source/Discharger. Construction on a site at which an existing source is located, results in a modification subject to Subsection 201.02, rather than a new source (or a new discharger) if the construction does not create a new building, structure, facility, or installation meeting the criteria of Subsection 120.01, but otherwise alters, replaces, or adds to existing process or production equipment. (3-24-16)

04. New Source Construction. Construction of a new source has commenced if the owner or operator has: (3-24-16)

a. Begun, or caused to begin as part of a continuous on-site construction program: (3-24-16)

i. Any placement, assembly, or installation of facilities or equipment; or (3-24-16)

ii. Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or (3-24-16)

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Items which do not constitute contractual obligations under this section include: (3-24-16)

i. Options to purchase or contracts which can be terminated or modified without substantial loss; (3-24-16)

ii. Contracts for feasibility engineering; and (3-24-16)

iii. Design studies. (3-24-16)

121. -- 129. (RESERVED)

130. GENERAL PERMITS.

01. Coverage. The Department may issue a general permit in accordance with the following: (3-24-16)

a. Within a geographic area, the general permit shall be written to cover one (1) or more categories or subcategories of discharges or sludge use or disposal practices or facilities described in the permit under Subsection 130.01.b.ii., except those covered by individual permits within a geographic area. The area should correspond to existing geographic or political boundaries such as: (3-24-16)

i. Designated planning areas under the Clean Water Act sections 208 and 303; (3-24-16)

ii. Sewer districts or sewer authorities; (3-24-16)

iii. City, county, or state political boundaries; (3-24-16)

iv. State highway systems; (3-24-16)

v. Standard metropolitan statistical areas as defined by state or federal agencies; (3-24-16)

vi. Urbanized areas as designated by the U.S. Census Bureau; or (3-24-16)

vii. Any other appropriate division or combination of boundaries. (3-24-16)

b. The general permit may be written to regulate one (1) or more categories or subcategories of discharges or sludge use or disposal practices or facilities, within the area described in Subsection 130.01.a., where the sources within a covered subcategory of discharges are either: (3-24-16)

i. Storm water point sources; or (3-24-16)

ii. One (1) or more categories or subcategories of point sources other than storm water point sources or TWTDS, if the point sources or TWTDS within each category or subcategory all: (3-24-16)

(1) Involve the same or substantially similar types of operations; (3-24-16)

(2) Discharge the same types of wastes or engage in the same types of sludge use or disposal practices; (3-24-16)

(3) Require the same effluent limitations, operating conditions, or standards for sewage sludge use or disposal; (3-24-16)

(4) Require the same or similar monitoring; and (3-24-16)

(5) In the opinion of the Department, are more appropriately controlled under a general permit than under individual permits. (3-24-16)

c. Where sources within a specific category or subcategory of dischargers are subject to water quality-based limits imposed pursuant to Section 302 (Establishing Permit Provisions), the sources in that specific category or subcategory shall be subject to the same water quality-based effluent limitations. (3-24-16)

d. Other requirements: (3-24-16)

i. The general permit must clearly identify the applicable conditions for each category or subcategory of dischargers or TWTDS covered by the permit; and (3-24-16)

ii. The general permit may exclude specified sources or areas from coverage. (3-24-16)

iii. For general permits issued under Subsection 130.01.b. for small MS4s, the Department must establish the terms and conditions necessary to meet the requirements of 40 CFR 122.34 using one (1) of the two (2) permitting approaches described in Subsections 130.01.d.iii.(1) and (2). The Department must indicate in the permit or fact sheet which approach is being used. (3-28-18)

(1) Comprehensive general permit. The Department includes all required permit terms and conditions in the general permit; or (3-28-18)

(2) Two-step general permit. The Department includes required permit terms and conditions in the general permit applicable to all eligible small MS4s and, during the process of authorizing small MS4s to discharge, establishes additional terms and conditions not included in the general permit to satisfy one (1) or more of the permit requirements in 40 CFR 122.34 for individual small MS4 operators. (3-28-18)

(a) The general permit must require that any small MS4 operator seeking authorization to discharge under the general permit submit a Notice of Intent (NOI) consisting of the minimum required information in Subsection 130.05.b., and any other information the Director identifies as necessary to establish additional terms and conditions that satisfy the permit requirements of 40 CFR 122.34, such as the information required under Subsection 130.05.b. The general permit will explain any other steps necessary to obtain permit authorization. (3-28-18)

(b) The Department must review the NOI submitted by the small MS4 operator to determine whether the information in the NOI is complete and to establish the additional terms and conditions necessary to meet the requirements of 40 CFR 122.34. The Department may require the small MS4 operator to submit additional information. If the Department makes a preliminary decision to authorize the small MS4 operator to discharge under the general permit, the Department must give the public notice of and opportunity to comment and request a public meeting on its proposed authorization and the NOI, the proposed additional terms and conditions, and the basis for these additional requirements. The public notice, the process for submitting public comments and meeting requests, and the meeting process if a request for a meeting is granted, must follow the procedures applicable to draft permits set forth in Sections 108 and 109 except Subsection 109.01.d. The Department must respond to significant comments received during the comment period as provided in Subsection 109.03. (3-28-18)

(c) Upon authorization for the MS4 to discharge under the general permit, the final additional terms and conditions applicable to the MS4 operator become effective. The Department must notify the permittee and inform the public of the decision to authorize the MS4 to discharge under the general permit and of the final additional terms and conditions specific to the MS4. (3-28-18)

02. Electronic Submittals. As of December 21, 2020, all notices of intent submitted in compliance with this section must be submitted electronically by the discharger (or treatment works treating domestic sewage) to the Department unless waived pursuant to 40 CFR 127.15. (3-28-18)

03. Information Retention Schedule. An applicant must keep records of all data used to complete a notice of intent and any supplemental information submitted for a period of at least three (3) years from the date the notice of intent is signed. (3-24-16)

04. Notice of Intent. (3-24-16)

a. Any person required under Subsections 102.01 through 102.03 must submit a notice of intent to the Department for coverage under an IPDES general permit as set out in Subsection 130.05. (3-24-16)

b. A notice of intent must be signed and certified as required by Section 090 (Signature Requirements). (3-24-16)

05. Administration. (3-24-16)

a. General permits may be issued, modified, revoked and reissued, or terminated in accordance with Sections 201 (Modification, or Revocation and Reissuance of IPDES Permits) and 203 (Termination of IPDES Permits). (3-24-16)

b. Authorization to discharge, or authorization to engage in sludge use and disposal practices shall follow these procedures: (3-24-16)

i. Except as provided in Subsections 130.05.b.xi. and 130.05.b.xii., a discharger shall submit, in

accordance with general permit requirements, a complete and timely notice of intent which will fulfill the requirements for permit applications; (3-24-16)

ii. A discharger (or TWTDS) who fails to submit a notice of intent in accordance with the terms of the permit is not authorized to discharge (or in the case of sludge disposal permit, to engage in a sludge use or disposal practice) under the terms of the general permit unless: (3-24-16)

(1) The general permit, in accordance with Subsections 130.05.b.xi., contains a provision that a notice of intent is not required; or (3-24-16)

(2) The Department notifies a discharger (or TWTDS) that it is covered by a general permit in accordance with Subsection 130.05.b.xii.; (3-24-16)

iii. All notices of intent shall be signed as required in Section 090 (Signature Requirements); (3-24-16)

iv. The contents of the notice of intent shall be specified in the general permit and shall require the submission of information necessary for adequate program implementation, including at a minimum: (3-24-16)

(1) The legal name, address, and EIN of the owner or operator; (3-24-16)

(2) The facility name and address; (3-24-16)

(3) Type of facility or discharges; and (3-24-16)

(4) The receiving stream(s); (3-24-16)

v. Coverage under a general permit may be terminated or revoked in accordance with Subsection 130.05.c. through e.; (3-24-16)

vi. Notices of intent for coverage under a general permit for CAFOs must include the information specified in Subsection 105.09 and 40 CFR 122.21(i)(1), including a topographic map; (3-24-16)

vii. A CAFO owner or operator may be authorized to discharge under a general permit only in accordance with the process described in 40 CFR 122.23(h); (3-24-16)

viii. General permits for storm water discharges associated with industrial activity from inactive mining, inactive oil and gas operations, or inactive landfills occurring on federal lands where an operator cannot be identified may contain alternative notice of intent requirements; (3-24-16)

ix. General permits shall specify the deadlines for submitting notices of intent to be covered and the date(s) when a discharger is authorized to discharge under the permit; (3-24-16)

x. General permits shall specify whether a discharger (or TWTDS), who has submitted a complete and timely notice of intent to be covered in accordance with the general permit and is eligible for coverage under the permit, is authorized to discharge (or in the case of a sludge disposal permit, to engage in a sludge use or disposal practice) in accordance with the permit either: (3-24-16)

(1) Upon receipt of the notice of intent by the Department; (3-24-16)

(2) After a waiting period specified in the general permit; (3-24-16)

(3) On a date specified in the general permit; or (3-24-16)

(4) Upon receipt of notification of inclusion by the Department; (3-24-16)

xi. Discharges other than discharges from POTWs, combined sewer overflows, municipal separate storm sewer systems, primary industrial facilities, and storm water discharges associated with industrial activity, may,

at the discretion of the Department, be authorized to discharge under a general permit without submitting a notice of intent where the Department finds that a notice of intent requirement would be inappropriate. The Department shall provide in the public notice of the general permit the reasons for not requiring a notice of intent. In making such a finding, the Department shall consider: (3-24-16)

(1) The type of discharge; (3-24-16)

(2) The expected nature of the discharge; (3-24-16)

(3) The potential for toxic and conventional pollutants in the discharges; (3-24-16)

(4) The expected volume of the discharges; (3-24-16)

(5) Other means of identifying discharges covered by the permit; and (3-24-16)

(6) The estimated number of discharges to be covered by the permit; and (3-24-16)

xii. The Department may notify a discharger (or TWTDS) that it is covered by a general permit, even if the discharger (or TWTDS) has not submitted a notice of intent to be covered. A discharger (or TWTDS) so notified may request an individual permit as specified in Subsection 130.05.d. (3-24-16)

c. The Department may terminate, revoke, or deny coverage under a general permit, and require the discharger or applicant to apply for and obtain an individual IPDES permit. Any interested person may petition the Department to take action under this subsection. Cases where an individual IPDES permit may be required include the following: (3-24-16)

i. The discharger or TWTDS is not in compliance with the conditions of the general permit; (3-24-16)

ii. A change has occurred in the availability of demonstrated technology or practices for the control or abatement of pollutants applicable to the point source or TWTDS; (3-24-16)

iii. Effluent limitation guidelines are promulgated for point sources covered by the general permit; (3-24-16)

iv. A Water Quality Management plan containing requirements applicable to such point sources is approved; (3-24-16)

v. Circumstances have changed since the time of the request to be covered so that the discharger is no longer appropriately controlled under the general permit, or either a temporary or permanent reduction or elimination of the authorized discharge is necessary; (3-24-16)

vi. Standards for sewage sludge use or disposal have been promulgated for the sludge use and disposal practice covered by the general IPDES permit; or (3-24-16)

vii. The discharge(s) is a significant contributor of pollutants. In making this determination, the Department may consider the following factors: (3-24-16)

(1) The location of the discharge with respect to waters of the United States; (3-24-16)

(2) The size of the discharge; (3-24-16)

(3) The quantity and nature of the pollutants discharged to waters of the United States; and (3-24-16)

(4) Other relevant factors. (3-24-16)

d. Any owner or operator authorized by a general permit may request to be excluded from the

coverage of the general permit by applying for an individual permit. (3-24-16)

i. The owner or operator shall submit an application under Section 105 (Application for an Individual IPDES Permit), with reasons supporting the request, to the Department no later than ninety (90) days after the publication of the general permit. (3-24-16)

ii. The Department shall process the request under Sections 106 (Individual Permit Application Review), 107 (Decision Process), 108 (Draft Permit and Fact Sheet) and 109 (Public Notification and Comment). (3-24-16)

iii. The Department shall grant a request by issuing an individual permit if the reasons cited by the owner or operator are adequate to support the request. (3-24-16)

e. When an individual IPDES permit is issued to an owner or operator otherwise subject to a general IPDES permit, the applicability of the general permit to the individual IPDES permittee is automatically terminated on the effective date of the individual permit. (3-24-16)

f. A source excluded from a general permit, solely because it already has an individual permit, may request that the individual permit be revoked, and that it be covered by the general permit. Upon revocation of the individual permit, the general permit shall apply to the source. (3-24-16)

06. Case-by-Case Requirements for Individual Permits. (3-24-16)

a. The Department may require any owner or operator authorized by a general permit to apply for an individual IPDES permit as provided in Subsection 130.05.c., only if the owner or operator has been notified in writing that a permit application is required. This notice shall include a brief statement of the reasons for this decision, an application form, a statement setting a time for the owner or operator to file the application, a statement that on the effective date of the individual IPDES permit, the general permit as it applies to the individual permittee shall automatically terminate, and a statement that the owner or operator may appeal the Department's decision as provided in Section 204 (Appeals Process). The Department may grant additional time upon request of the applicant. (3-24-16)

b. Prior to a case-by-case determination that an individual permit is required for a storm water discharge under this section (see 40 CFR 122.26(a)(1)(v), (a)(9)(iii), and Subsection 105.19), the Department may require the discharger to submit a permit application or other information regarding the discharge described in the Clean Water Act section 308. (3-24-16)

i. In requiring such information, the Department shall notify the discharger in writing and shall send an application form with the notice. (3-24-16)

ii. The discharger must apply for a permit within one hundred eighty (180) days of notice, unless permission for a later date is granted by the Department. (3-24-16)

131. -- 199. (RESERVED)

200. RENEWAL OF IPDES PERMITS.

01. Interim Effluent Limits. Except as provided in Subsection 200.02, when a permit is renewed or reissued, interim effluent limitations, standards or conditions must be at least as stringent as the final effluent limitations, standards, or conditions in the previous permit unless the circumstances on which the previous permit was based: (3-24-16)

a. Have materially and substantially changed since the time the permit was issued; and (3-24-16)

b. Would constitute cause for permit modification or revocation and reissuance under Subsection 201.02. (3-24-16)

02. Final Clean Water Act Section 402(a)(1)(B) Effluent Limits. In the case of effluent limitations established by the Department on the basis of the Clean Water Act section 402(a)(1)(B), a permit may not be renewed, reissued, or modified on the basis of effluent guidelines promulgated under Clean Water Act section 304(b) after the original issuance of a permit, to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit, except a permit may be renewed, reissued, or modified to contain a less stringent effluent limitation applicable to a pollutant, if: (3-24-16)

a. Material and substantial alterations or additions to the permitted facility occurred after permit issuance, which justify the application of a less stringent effluent limitation; (3-24-16)

b. Information is available: (3-24-16)

i. Which was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and which would have justified the application of a less stringent effluent limitation at the time of permit issuance; or (3-24-16)

ii. Which the Department determines indicates that technical mistakes or mistaken interpretations of law were made in issuing the permit under the Clean Water Act section 402(a)(1)(b); (3-24-16)

c. A less stringent effluent limitation is necessary because of events over which the permittee has no control and for which there is no reasonably available remedy; (3-24-16)

d. The permittee has received a permit modification under the Clean Water Act section 301(c), 301(g), 301(i), 301(k), 301(n), or 316(a); or (3-24-16)

e. The permittee has installed the treatment facilities required to meet the effluent limitations in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve the previous effluent limitations. In this case the limitations in the reviewed, reissued, or modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by effluent guidelines in effect at the time of permit renewal, reissuance, or modification). (3-24-16)

03. Final Clean Water Act Section 301(b)(1)(C) or 303 Effluent Limits. In the case of effluent limitations established on the basis of Clean Water Act section 301(b)(1)(C) or section 303(d) or (e), a permit may not be renewed, reissued, or modified to contain effluent limitations which are less stringent than the comparable effluent limitations in the previous permit except when: (3-24-16)

a. One of the exceptions in Subsection 200.02 apply; or (3-24-16)

b. The water to which the discharge occurs is identified as impaired on Idaho's Integrated Report and the effluent limitation is based on a total maximum daily load or other waste load allocation established under Clean Water Act section 303, if the cumulative effect of all revised effluent limitations based on such total maximum daily load or waste load allocation will assure the attainment of applicable water quality standards; or (3-24-16)

c. The water quality in the water to which the discharge occurs meets or exceeds levels required by applicable water quality standards and the effluent limitation is based on a total maximum daily load or other waste load allocation established under Clean Water Act section 303, any water quality standard, or any permitting standard, if such revision is subject to and consistent with the antidegradation policy and implementation procedures in the water quality standards. (3-24-16)

04. Effluent Limits and Water Quality Standards. In no event may a permit with respect to which Subsection 200.02 or 200.03 applies be renewed, reissued, or modified to contain an effluent limitation which is less stringent than required by effluent guidelines in effect at the time the permit is renewed, reissued, or modified. In no event may such a permit to discharge into waters of the United States be renewed, issued, or modified to contain a less stringent effluent limitation if the implementation of such limitation would result in a violation of a water quality standard under IDAPA 58.01.02, "Water Quality Standards." (3-24-16)

201. MODIFICATION, OR REVOCATION AND REISSUANCE OF IPDES PERMITS.

01. Procedures to Modify, or Revoke and Reissue Permits. (3-24-16)

a. Permits may be modified, or revoked and reissued either at the request of any interested person (including the permittee) or upon the Department's initiative. However, permits may only be modified or revoked and reissued for the reasons specified in Subsection 201.02. All requests shall be in writing and shall contain facts or reasons supporting the request. (3-24-16)

b. If the Department tentatively decides to modify or revoke and reissue a permit, the Department shall prepare a draft permit under Section 108 (Draft Permit and Fact Sheet), incorporating the proposed changes. (3-24-16)

i. The Department may request additional information and, in the case of a modified permit, may require the submission of an updated application. If the tentative decision is to revoke and reissue a permit, the Department shall require the submission of a new application. (3-24-16)

ii. In a permit modification under this section, only those conditions to be modified shall be reopened when a new draft permit is prepared. All other aspects of the existing permit shall remain in effect for the duration of the unmodified permit. (3-24-16)

iii. When a permit is revoked and reissued under this section, the entire permit is reopened just as if the permit had expired and was being reissued. During any revocation and reissuance proceeding, the permittee shall comply with all conditions of the existing permit until a new final permit is reissued. (3-24-16)

iv. Minor modifications, as defined in Subsection 201.03, do not require the development of a draft permit, fact sheet, nor must minor modifications be subjected to public notification and comment. (3-24-16)

02. Causes to Modify, or Revoke and Reissue Permits. When the Department receives any pertinent information (for example, inspects the facility, receives information submitted by the permittee as required in the permit, receives a request for modification or revocation and reissuance under Subsection 201.01, or conducts a review of the permit file), the Department may determine whether or not one (1) or more of the causes listed in Subsections 201.02.c. and 201.02.d. for modification or revocation and reissuance or both exist. (3-24-16)

a. If cause exists, the Department may modify or revoke and reissue the permit accordingly, subject to the limitations of Subsection 201.01.b., and may request a new or updated application, if necessary. (3-24-16)

b. If cause does not exist under this section, the Department shall not modify or revoke and reissue the permit. (3-24-16)

c. The following are causes for modification but not revocation and reissuance of permits except when the permittee requests or agrees: (3-24-16)

i. There are material and substantial alterations or additions to the permitted facility or activity (including a change or changes in the permittee's sludge use or disposal practice), which occurred after permit issuance, and which justify the application of permit conditions that are different or absent in the existing permit. (3-24-16)

ii. The Department has received new information. Permits may be modified during their terms for this cause only if the information was not available at the time of permit issuance (other than revised regulations, guidance, or test methods) and would have justified the application of different permit conditions at the time of issuance: (3-24-16)

(1) For IPDES general permits (Section 130) this cause includes any information indicating that cumulative effects on the environment are unacceptable; and (3-24-16)

(2) For new source or new discharger IPDES permits (Section 120), this cause shall include any significant information derived from effluent testing required under Subsection 105.08 or 105.16 after issuance of the

permit. (3-24-16)

iii. The standards or regulations on which the permit was based have been changed by promulgation of amended standards or regulations or by judicial decision after the permit was issued. Permits may be modified during their terms for this cause only as follows: (3-24-16)

(1) For promulgation of amended standards or regulations, when: (3-24-16)

(a) The permit condition requested to be modified was based on a promulgated effluent limitation guideline, EPA approved or promulgated water quality standards, or the Secondary Treatment Regulations under 40 CFR Part 133; (3-24-16)

(b) EPA has revised, withdrawn, or modified that portion of the regulation or effluent limitation guideline on which the permit condition was based, or has approved a state action with regard to a water quality standard on which the permit condition was based; and (3-24-16)

(c) A permittee requests modification in accordance with Subsection 201.01 or 203.01 within ninety (90) days after notice of the action on which the request is based; and (3-24-16)

(2) For judicial decisions, a court of competent jurisdiction has remanded and stayed EPA or Idaho promulgated regulations or effluent limitation guidelines, if the remand and stay concerns that portion of the regulations or guidelines on which the permit condition was based and a request is filed by the permittee in accordance with Subsection 201.01 or 203.01 within ninety (90) days of judicial remand. (3-24-16)

iv. The Department determines good cause exists for modification of a compliance schedule, such as an act of God, strike, flood, or materials shortage or other events over which the permittee has little or no control and for which there is no reasonably available remedy. However, in no case may an IPDES compliance schedule be modified to extend beyond an applicable Clean Water Act statutory deadline. (3-24-16)

v. When the permittee has filed a request for a variance under Clean Water Act section 301(c), 301(g), 301(i), 301(k), or 316(a) or for fundamentally different factors within the time specified in Section 310 (Variances). (3-24-16)

vi. When required to incorporate an applicable Clean Water Act 307(a) toxic effluent standard or prohibition, under Subsection 302.04. (3-24-16)

vii. When required by the reopener conditions in a permit, which are established in the permit under Subsection 302.05 or 40 CFR 403.18(e) (Pretreatment Standards). (3-24-16)

viii. Upon request of a permittee who qualifies for effluent limitations on a net basis, or when a discharger is no longer eligible for net limitations, as provided in Subsection 303.07. (3-24-16)

ix. As necessary under 40 CFR 403.8(e) (Pretreatment Program Requirements: Development and Implementation by POTW). (3-24-16)

x. Upon failure of an approved state to notify, as required by the Clean Water Act section 402(b)(3), another state whose waters may be affected by a discharge from the approved state. (3-24-16)

xi. When the level of discharge of any pollutant which is not limited in the permit exceeds the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (3-24-16)

xii. To establish a notification level as provided in Subsection 302.08. (3-24-16)

xiii. To modify a schedule of compliance to reflect the time lost during construction of an innovative or alternative facility, in the case of a POTW which has received a loan under IDAPA 58.01.12, "Rules for Administration of Water Pollution Control Loans." In no case shall the compliance schedule be modified to extend

beyond an applicable Clean Water Act statutory deadline. (3-24-16)

xiv. For a small MS4, to include an effluent limitation requiring implementation of a minimum control measure or measures as specified in 40 CFR 122.34(b) when: (3-24-16)

(1) The permit does not include such measure(s) based upon the determination that another entity was responsible for implementation of the requirement(s), and (3-24-16)

(2) The other entity fails to implement measure(s) that satisfy the requirement(s). (3-24-16)

xv. To correct technical mistakes, such as errors in calculation, or mistaken interpretations of law made in determining permit conditions. (3-24-16)

xvi. When the discharger has installed the treatment technology considered by the permit writer in setting effluent limitations imposed under the Clean Water Act section 402(a)(1) and has properly operated and maintained the facilities but nevertheless has been unable to achieve those effluent limitations. In this case, the limitations in the modified permit may reflect the level of pollutant control actually achieved (but shall not be less stringent than required by a subsequently promulgated effluent limitations guideline). (3-24-16)

xvii. The incorporation of the terms of a CAFO's nutrient management plan into the terms and conditions of a general permit when a CAFO obtains coverage under a general permit in accordance with 40 CFR 122.23(h) and Section 130 (General Permits) is not a cause for modification pursuant to the requirements of this section. (3-24-16)

xviii. When required by a permit condition to incorporate a land application or sludge disposal plan for beneficial reuse of sewage sludge, to revise an existing land application or sludge disposal plan, or to add a land application or sludge disposal plan as required by IDAPA 58.01.16.650, "Wastewater Rules," and Section 380 (Sewage Sludge) of these rules. (3-24-16)

d. The following are causes to modify or, alternatively, revoke and reissue a permit: (3-24-16)

i. Cause exists for termination under Subsection 203.03, and the Department determines that modification or revocation and reissuance is appropriate; (3-24-16)

ii. The Department has received notification, as required in the permit, of a proposed transfer of the permit; or (3-24-16)

iii. A permit also may be modified to reflect a transfer after the effective date of an automatic transfer (Subsection 202.02) but will not be revoked and reissued after the effective date of the transfer except upon the request of the new permittee. (3-24-16)

03. Minor Modifications of Permits. Upon the consent of the permittee, the Department may modify a permit to make the corrections or allowances for changes in the permitted activity listed in this subsection without following the procedures of Sections 108 (Draft Permit and Fact Sheet), 109 (Public Notification and Comment), and Subsection 201.01. Any permit modification not processed as a minor modification under this subsection must be made for cause and must meet the requirements of Section 108 (Draft Permit and Fact Sheet) and Section 109 (Public Notification and Comment). Minor modifications may: (3-24-16)

a. Correct typographical errors; (3-24-16)

b. Require more frequent monitoring or reporting by the permittee; (3-24-16)

c. Change an interim compliance date in a schedule of compliance, provided the new date is not more than one hundred twenty (120) days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement; (3-24-16)

d. Allow for a change in ownership or operational control of a facility where the Department

determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the Department; (3-24-16)

e. Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge under Section 120 (New Sources and New Discharges), and 40 CFR 122.29(d); (3-24-16)

f. Delete a point source outfall when the discharge from that outfall is terminated and does not result in discharge of pollutants from other outfalls except in accordance with permit limits; (3-24-16)

g. Incorporate conditions of a POTW pretreatment program that has been approved in accordance with the procedures in 40 CFR 403.11 or a modification that has been approved in accordance with the procedures in 40 CFR 403.18 as enforceable conditions of the POTW's permits; (3-24-16)

h. Incorporate changes to the terms of a CAFO's nutrient management plan that have been revised in accordance with the requirements of 40 CFR 122.42(e)(6); or (3-24-16)

i. Require electronic reporting requirements (to replace paper reporting requirements) including those specified in 40 CFR Part 127 (NPDES Electronic Reporting). (3-28-18)

202. TRANSFER OF IPDES PERMITS.

01. Transfers by Modification. Except as provided in Subsection 202.02, a permit may be transferred by the permittee to a new owner or operator only if the permit has been modified or revoked and reissued under Subsection 201.02.d., or a minor modification made under Subsection 201.03, to identify the new permittee and incorporate such other requirements as may be necessary under the Clean Water Act. (3-24-16)

02. Automatic Transfers. As an alternative to transfers by modification, any IPDES permit may be automatically transferred to a new permittee if: (3-24-16)

a. The current permittee notifies the Department at least thirty (30) days in advance of the proposed transfer date; (3-24-16)

b. The notice includes a written agreement between the existing and new permittees containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee; and (3-24-16)

c. The Department does not notify the existing permittee and the proposed new permittee of its intent to modify or revoke and reissue the permit. A modification under this subsection may also be a minor modification under Subsection 201.03. If this notice is not received, the transfer is effective on the date specified in the agreement. (3-24-16)

203. TERMINATION OF IPDES PERMITS.

01. Request to Terminate or Termination Initiated by the Department. Permits may be terminated either at the request of any interested person (including the permittee) or upon the Department's own initiative. However, permits may only be terminated for the reasons specified in Subsection 203.03 or 203.04. (3-28-18)

a. Request for termination by persons other than the permittee shall be submitted in writing to the Department. (3-28-18)

b. As of December 21, 2020, all NOTs submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, the permittee may be required to report electronically if specified by a particular permit. (3-28-18)

02. Tentative Permit Termination. Except as provided in Subsection 203.04, if the Department tentatively decides to terminate a permit under Subsection 203.03, the Department shall issue a notice of intent to terminate. A notice of intent to terminate shall be available for public comment, and the Department shall give notice of an opportunity for public meetings, as specified in Section 109 (Public Notification and Comment). (3-24-16)

03. Cause to Terminate Permits. The following are causes for terminating a permit during its term, or for denying a permit renewal application: (3-24-16)

a. Noncompliance by the permittee with any condition of the permit; (3-24-16)

b. The permittee's failure in the application or during the permit issuance process to disclose fully all relevant facts, or the permittee's misrepresentation of any relevant facts at any time; (3-24-16)

c. A determination that the permitted activity endangers human health or the environment and can only be regulated to acceptable levels by permit modification or termination; or (3-24-16)

d. A change in any condition that requires either a temporary or permanent reduction or elimination of any discharge or sludge use or disposal practice controlled by the permit (for example, plant closure or termination of discharge by connection to a POTW). (3-24-16)

04. Expedited Termination Process for Terminated or Eliminated Discharge. If the entire discharge is permanently terminated by elimination of the flow or by connection to a POTW (but not by land application or disposal into a well), the Department may terminate the permit by notice to the permittee. (3-24-16)

a. Termination by notice shall be effective thirty (30) days after notice is sent (expedited permit termination), unless the permittee objects within that time. (3-24-16)

b. If the permittee objects during that period, the Department shall follow procedures for termination in Subsection 203.02. (3-24-16)

c. Expedited permit termination procedures are not available to permittees that are subject to pending state and/or federal enforcement actions including citizen suits brought under federal law. If requesting expedited permit termination procedures, a permittee must certify that it is not subject to any pending state or federal enforcement actions including citizen suits brought under federal law. (3-24-16)

204. APPEALS PROCESS.

01. Petition for Review of a Permit Decision. Appeal of a final IPDES permit decision, issued under Section 107 (Decision Process), to the Hearing Authority is commenced by filing a Petition for Review with the Department's Hearing Coordinator within the time prescribed in Subsection 204.01.b. The "Hearing Authority" shall be a Hearing Officer appointed by the Director from a pool of Hearing Officers approved by the Board. (3-24-16)

a. Any person who is aggrieved by the final permit decision may file a Petition for Review as provided in this section. A person aggrieved is limited to the permit holder or applicant, and any person or entity who filed comments or who participated in the public meeting on the draft permit. (3-24-16)

b. A Petition for Review must be filed with the Department's Hearing Coordinator within twenty-eight (28) days after the Department serves notice of the final permit decision under Section 107 (Decision Process). A petition is filed when it is received by the Department's Hearing Coordinator at the address specified in Subsection 204.13. (3-24-16)

c. In addition to meeting the requirements in Subsection 204.06, a Petition for Review must: (3-24-16)

i. Be confined to the issues raised during the public comment process or to changes made to the permit by the Department after the close of the public comment period; (3-24-16)

ii. Identify the permit condition or other specific aspect of the permit decision that is being challenged; (3-24-16)

iii. Set forth the legal and factual basis for the petitioner's contentions; (3-24-16)

iv. Set forth the relief sought; and (3-24-16)

v. Set forth the basis for asserting that the petitioner is an aggrieved person. (3-24-16)

02. Public Notice of the Petition for Review. Within fourteen (14) days of the date a Petition for Review has been filed, the Hearing Authority must give reasonable notice to the public of the petition. (3-24-16)

03. Administrative Record Filed By the Department. The Department shall file a certified copy of the administrative record, as identified in Section 600 (Administrative Records and Data Management), with an index within twenty-eight (28) days of the date the Petition for Review was filed. (3-24-16)

04. Participation by the Permit Applicant or Permit Holder. A permit applicant or permit holder who did not file a petition but who wishes to participate in the appeal process must file a notice of appearance within twenty-eight (28) days of the date the Petition for Review was filed. (3-24-16)

05. Petition to Intervene. Any person who has a direct and substantial interest in the outcome of the Petition for Review may file a Petition to Intervene. (3-24-16)

a. The Petition to Intervene must set forth the interest of the intervener, and why intervention would not unduly broaden the issues and cause delay or prejudice to the parties. (3-24-16)

b. Petitions to Intervene must be filed within fourteen (14) days of the notice of filing of the Petition for Review. (3-24-16)

c. Any party opposing a Petition to Intervene must file objections within seven (7) days after service of the Petition to Intervene and serve the objection upon all parties of record and upon the person petitioning to intervene. (3-24-16)

d. If a Petition to Intervene shows direct and substantial interest in the outcome of the Petition for Review, does not unduly broaden the issues, and will not cause delay or prejudice to the parties, the Hearing Authority shall grant intervention. (3-24-16)

06. Content and Form Requirements for Petitions and Briefs. All petitions and briefs filed under this section must: (3-24-16)

a. Identify, in the caption, the permit applicant or holder, the permitted facility, and the permit number. The caption should also include the case number, if available at the time of filing, and the title of the document, and (3-24-16)

b. Specify on the upper left corner of the first page, the name, address, telephone number, e-mail address and facsimile number, if any, of the person filing the document. If the person filing the document is a representative of a party as provided in Subsection 204.11, the document must identify the name of the person or entity represented. No more than two (2) representatives for service of documents may be listed. (3-24-16)

07. Augmenting the Administrative Record. Consideration of the Petition for Review by the Hearing Authority is limited to the certified administrative record unless, upon the request of a party, the Hearing Authority allows the record to be augmented. A request to augment the record must be filed within fourteen (14) days of the filing of the certified administrative record, unless intervention is granted, in which case the request to augment must be filed within fourteen (14) days of the date the order granting intervention is issued. The Hearing Authority may allow the record to be augmented if the requesting party shows that the additional information is material, is relevant to the issues raised in the appeal and that: (3-24-16)

a. There were good reasons for failure to present the information during the permitting proceeding; or (3-24-16)

b. There were alleged irregularities in the permitting proceeding and the party wishes to introduce evidence of the alleged irregularities. (3-24-16)

08. Brief of the Petitioner. Once all requests to augment the record and motions to intervene have been determined, the Hearing Authority shall issue an order notifying the parties that the administrative record has been settled and of the date by which the petitioner must file petitioner's brief in support of the Petition for Review. In addition to meeting the requirements of Subsection 204.06, the brief must include: (3-24-16)

a. The legal arguments and citations to legal authority that support the allegations in the Petition for Review; and (3-24-16)

b. The factual support for the allegations in the Petition for Review, including citations to the administrative record. (3-24-16)

c. A statement regarding whether the party desires an opportunity for oral argument. (3-24-16)

09. Response Briefs. Unless an alternative date is set by the Hearing Authority, the Department and all other parties must file response briefs within twenty-eight (28) days of the service of the petitioner's brief. In addition to meeting the requirements of Subsection 204.06, the response briefs must include: (3-24-16)

a. A response to the arguments and assertions in the petitioner's brief (either in support or opposed); (3-24-16)

b. A citation to all legal authorities and facts in the administrative record relied upon; and (3-24-16)

c. A statement regarding whether the party desires an opportunity for oral argument. (3-24-16)

10. Reply Briefs by the Petitioner. Unless an alternative date is set by the Hearing Authority, the petitioner may file a reply brief within fourteen (14) days after service of response briefs. A petitioner may not raise new issues or arguments in the reply. (3-24-16)

11. Representation of Parties. Unless otherwise authorized or required by law, appearances and representation of parties or other persons shall be as follows: (3-24-16)

a. A natural person may represent himself or herself or be represented by an attorney or, if the person lacks full legal capacity to act for himself or herself, then by a legal guardian or guardian ad litem or representative of an estate; (3-24-16)

b. A general partnership may be represented by a partner or an attorney; (3-24-16)

c. A corporation, or any other business entity other than a general partnership, must be represented by an attorney; (3-24-16)

d. A municipal corporation, local government agency, unincorporated association or nonprofit organization must be represented by an attorney; or (3-24-16)

e. A state, federal or tribal governmental entity or agency must be represented by an attorney. (3-24-16)

12. Substitution and Withdrawal of Representatives. A party's representative may be changed and a new representative may be substituted by notice to all parties so long as the proceedings are not unreasonably delayed. Representatives who wish to withdraw from a proceeding must immediately file a motion to withdraw representation and serve that motion on the party represented and all other parties. (3-24-16)

13. Filing and Service Requirements. (3-24-16)

a. All documents concerning actions governed by these rules must be filed with the Hearing Coordinator at the following address: Hearing Coordinator, Department of Environmental Quality, 1410 N. Hilton, Boise, ID 83706. Documents may also be filed by *fax* or may be filed electronically. The *Hearing Coordinator's fax number and email address for filing electronically are available at* www.deq.idaho.gov/petitions-for-review. The documents are deemed to be filed on the date received by the Hearing Coordinator. Upon receipt of the filed document, the Hearing Coordinator will provide *confirmation* to the originating party. *( )*

b. All documents subsequent to the petition must be served on all parties or representatives, unless otherwise directed by the Hearing Authority. (3-24-16)

c. Service of documents on the named representative is valid service upon the party for all purposes in the proceeding. (3-24-16)

14. Proof of Service. Every document meeting the requirements for service must be attached to or accompanied by proof of service containing the following certificate:

I hereby certify that on this (insert date), a true and correct copy of the foregoing (insert name of document) was served on the following as indicated below: (insert names and addresses of parties and method of delivery (first class U.S. mail, facsimile, hand-delivery, or overnight express)) (Signature)

(3-24-16)

15. Motions. A request for an interlocutory or procedural order or other relief must be made by written motion unless these rules prescribe another form. (3-24-16)

a. A motion must state with particularity the grounds for the motion, the relief sought, and the legal argument necessary to support the motion. In advance of filing a motion, parties must attempt to ascertain whether the other parties concur or object to the motion and must indicate in the motion the attempt made and the response obtained. (3-24-16)

b. Any party may file a response to a motion. Responses must state with particularity the grounds for opposition and the legal argument necessary to support the motion. The response must be filed within fifteen (15) days after service of the motion unless the Hearing Authority shortens or extends the time for response. (3-24-16)

c. Any reply to a response must be filed within ten (10) days after service of the response. A reply must not introduce any new issues or arguments and may respond only to matters presented in the response. (3-24-16)

d. The Hearing Authority may act on a motion for a procedural order at any time without awaiting a response. (3-24-16)

e. Parties must file motions for extensions of time sufficiently in advance of the due date to allow other parties to have a reasonable opportunity to respond to the request for more time and to provide the Hearing Authority with a reasonable opportunity to issue an order prior to the due date. (3-24-16)

16. Oral Argument. The Hearing Authority may hold oral argument on its own initiative or at its discretion in response to a request by one or more of the parties. (3-24-16)

17. Withdrawal of Permit or Portions of Permit by the Department. The Department may, at any time, upon notification to the Hearing Authority and all parties, withdraw the permit or specified portions of the

permit and prepare a new draft permit under Section 108 (Draft Permit and Fact Sheet) addressing the portions so withdrawn. The new draft permit must proceed through the same process of public comment and opportunity for a public meeting as would apply to any other draft permit. If applicable, any portions of the permit that are not withdrawn continue to apply, unless stayed under Sections 205 (Contested Permit Conditions) and 206 (Stays of Contested Permit Conditions). The appeal shall continue with respect to those portions of the permit that are contested in the appeal that the Department does not withdraw. (3-24-16)

18. Request to Dismiss Petition. The petitioner, by motion, may request to have the Hearing Authority dismiss its appeal. The motion must briefly state the reason for its request. (3-24-16)

19. Burden of Proof. The petitioner has the burden of proving the allegations in the Petition for Review. Factual allegations must be proven by a preponderance of the evidence. (3-24-16)

20. Appointment of Hearing Officers. The Hearing Authority shall be a Hearing Officer appointed by the Director from a pool of Hearing Officers approved by the Board. Hearing Officers should be persons with technical expertise or experience in the issues involved in IPDES appeals. Notice of appointment of a Hearing Officer shall be served on all parties. No Hearing Officer shall be appointed that has a conflict of interest as defined in 40 CFR 123.25(c). (3-24-16)

21. Scope of Authority of the Hearing Authority. The Hearing Authority shall have the following authority: (3-24-16)

a. The authority to set schedules and take such other actions to ensure an efficient and orderly adjudication of the issues raised in the Petition for Review; (3-24-16)

b. The authority to hear and decide motions; and (3-24-16)

c. The authority to issue an order that decides the issues raised in the appeal and includes findings of fact and conclusions of law. The required contents of an order are set forth in Subsection 204.24. (3-24-16)

22. Ex Parte Communications. The Hearing Authority shall not communicate, directly or indirectly, regarding any substantive issue in the permit appeal with any party, except upon notice and opportunity for all parties to participate in the communication. The Hearing Authority may communicate ex parte with a party concerning procedural matters (e.g., scheduling). When the Hearing Authority becomes aware of a written ex parte communication regarding any substantive issue from a party or representative of a party during an appeal, the Hearing Authority shall place a copy of the communication in the file for the case and order the party providing the written communication to serve a copy of the written communication upon all parties of record. Written communications from a party showing service upon all other parties are not ex parte communications. (3-24-16)

23. Alternative Dispute Resolution. Parties to the permit appeal may agree to use a means of alternative dispute resolution. (3-24-16)

24. Final Orders. (3-24-16)

a. Final orders are issued by the Hearing Authority upon review of the petitions, briefs and the administrative record on appeal. (3-24-16)

b. Every final order shall contain the following: (3-24-16)

i. A reasoned statement in support of the decision; (3-24-16)

ii. Findings of fact, with reference to the portions of the administrative record that support the findings. The findings of fact must be based exclusively on the administrative record, or if augmented during the appeal, the augmented record; (3-24-16)

iii. Conclusions of law with respect to legal issues raised in the appeal; (3-24-16)

iv. The final order shall either affirm the permitting decision, or vacate and remand the decision to the Department with instructions; and (3-24-16)

v. A statement of the right to judicial review as set forth in Section 204.26. (3-24-16)

c. Motions for reconsideration of any final order shall not be considered. (3-24-16)

25. Final Agency Action for Purposes of Judicial Review. (3-24-16)

a. Filing a Petition for Review is a prerequisite to seeking judicial review of the Department's permitting decision. (3-24-16)

b. For purposes of judicial review under Sections 39-107 and 67-5270, Idaho Code, final agency action or determination regarding an appeal of a permit occurs when a final order that affirms the Department's permitting decision is issued. (3-24-16)

c. An order that vacates and remands the decision to the Department with instructions is not a final agency action for purposes of judicial review. (3-24-16)

26. Petition for Judicial Review. (3-24-16)

a. Any person aggrieved by a final agency action or determination by the Department as defined in Subsection 204.25 has a right to judicial review by filing a petition for judicial review. (3-24-16)

b. The petition for judicial review must be filed with the Hearing Coordinator as set out in Subsection 204.13 and with the district court and served on all parties. The petition for judicial review shall also be served upon the Hearing Authority, the Director of the Department, and upon the Attorney General of the State of Idaho. Pursuant to Section 67-5272, Idaho Code, petitions for judicial review may be filed in the District Court of the county in which: (3-24-16)

i. The hearing was held; (3-24-16)

ii. The final agency action was taken; (3-24-16)

iii. The party seeking review of the agency action resides; or (3-24-16)

iv. The real property or personal property that was the subject of the agency action is located. (3-24-16)

c. Pursuant to Section 67-5273, Idaho Code, a petition for judicial review of a final agency action must be filed within twenty-eight (28) days of the service date of a final order issued by the Hearing Authority. (3-24-16)

27. IPDES General Permits. (3-24-16)

a. Persons affected by an IPDES general permit may not file a petition under this section or otherwise challenge the conditions of a general permit in further Department proceedings. Instead, they may do either of the following: (3-24-16)

i. Challenge the conditions in a general permit by filing an action in court; or (3-24-16)

ii. Apply for an individual IPDES permit under Section 105 (Application for an Individual IPDES Permit), as authorized in Section 130 (General Permits), and may then petition the Hearing Authority to review the individual permit as provided by in these rules. (3-24-16)

b. As provided in Subsection 130.05.c., any interested person may also petition the Department to require an individual IPDES permit for any discharger eligible for authorization to discharge under an IPDES general permit. (3-24-16)

c. The Department's decision to terminate, revoke or deny coverage under a general permit and to require application for an individual permit may be appealed pursuant to the provisions of Section 204 (Appeals Process). (3-24-16)

28. Appeals of Variances. (3-24-16)

a. When the Department issues a permit on which EPA has made a variance decision, separate appeals of the Department permit and of the EPA variance decision are possible. If the owner or operator is challenging the same issues in both proceedings, the EPA Region 10 Administrator will decide, in consultation with the Department, which case will be heard first. (3-24-16)

b. Variance decisions made by EPA may be appealed under the provisions of 40 CFR 124.19. (3-24-16)

c. Stays for variances other than Clean Water Act section 301(g) variances are governed by Section 205 (Contested Permit Conditions) and 206 (Stays of Contested Permit Conditions). (3-24-16)

205. CONTESTED PERMIT CONDITIONS.

01. Force and Effect of Conditions. As provided in Subsection 206.01, if an appeal of a permit decision is filed under Section 204 (Appeals Process), the force and effect of the contested conditions of the permit shall be stayed until final Department action. The Department must notify the discharger and all interested parties of the uncontested conditions of the permit that are enforceable obligations of the discharger in accordance with Subsection 206.01.c. (3-24-16)

02. Control Technologies. When effluent limitations are contested, but the underlying control technology is not, the notice must identify the installation of the technology in accordance with the permit compliance schedules as an uncontested, enforceable obligation of the permit. (3-24-16)

03. Combination of Technologies. When a combination of technologies is contested, but a portion of the combination is not contested, that portion must be identified as uncontested if compatible with the combination of technologies proposed by the requester. (3-24-16)

04. Inseverable Conditions. Uncontested conditions, if inseverable from a contested condition, must be considered contested. (3-24-16)

05. Enforceable Dates. Uncontested conditions shall become enforceable thirty (30) days after the date of notice under Subsection 205.01. (3-24-16)

06. Uncontested Conditions. Uncontested conditions shall include: (3-24-16)

a. Preliminary design and engineering studies or other requirements necessary to achieve the final permit conditions which do not entail substantial expenditures; and (3-24-16)

b. Permit conditions which will have to be met regardless of the outcome of the appeal under Section 204 (Appeals Procedure). (3-24-16)

206. STAYS OF CONTESTED PERMIT CONDITIONS.

01. Stays. (3-24-16)

a. If a Petition for Review of an IPDES permit under Section 204 (Appeals Process) is filed, the effect of the contested permit conditions shall be stayed and will not be subject to judicial review pending final Department action. Uncontested permit conditions shall be stayed only until the date specified in Subsection 206.01.b. If the permit involves a new facility or new injection well, new source, new discharger or a recommencing discharger, the applicant will not be issued a permit for the proposed new facility, injection well, source or discharger pending final

Department action. (3-24-16)

b. Uncontested conditions which are not severable from those contested shall be stayed together with the contested conditions. The Department must identify the stayed provisions of permits for existing facilities, injection wells, and sources. All other provisions of the permit for the existing facility, injection well, or source become fully effective and enforceable thirty (30) days after the date of the notification required in Subsection 206.01.c. (3-24-16)

c. As soon as possible after receiving notification from the Hearing Coordinator of the filing of a Petition for Review, the Department must notify the Hearing Authority, the applicant, and all other parties of the uncontested (and severable) conditions of the final permit that will become fully effective enforceable obligations of the permit as of the date specified in Subsection 206.01.b., and the notice must comply with the requirements of Section 205 (Contested Permit Conditions). (3-24-16)

02. Stays Based on Cross Effects. (3-24-16)

a. The Department may grant a stay based on the grounds that an appeal to the Hearing Authority under Section 204 (Appeals Process) of one permit may result in changes to another Department-issued IPDES permit only when each of the permits involved has been appealed to the Department. (3-24-16)

b. No stay of an EPA-issued NPDES permit shall be granted based on the staying of any Department-issued IPDES permit except at the discretion of the EPA Region 10 Administrator and only upon written request from the Department. (3-24-16)

03. Permittee Responsibilities. Any facility or activity holding an existing permit must: (3-24-16)

a. Comply with the conditions of that permit during any modification or revocation and reissuance proceeding under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits); and (3-24-16)

b. To the extent conditions of any new permit are stayed under this section, comply with the conditions of the existing permit which correspond to the stayed conditions, unless compliance with the existing conditions would be technologically incompatible with compliance with other conditions of the new permit which have not been stayed. (3-24-16)

207. -- 299. (RESERVED)

300. CONDITIONS APPLICABLE TO ALL PERMITS.
The following conditions apply to all IPDES permits. Additional conditions applicable to IPDES permits are in Sections 301 (Permit Conditions for Specific Categories), 302 (Establishing Permit Provisions), and 40 CFR 122.42(e). All conditions applicable to IPDES permits shall be incorporated into the permits either expressly or by reference. If incorporated by reference, a specific citation must be given in the permit. (3-24-16)

01. Duty to Comply. The permittee must comply with all conditions of the permit. (3-24-16)

a. Any permit noncompliance constitutes a violation of Idaho law, the Clean Water Act, and is grounds for: (3-24-16)

i. Enforcement action; (3-24-16)

ii. Permit termination, revocation and reissuance, or modification; or (3-24-16)

iii. Denial of a permit renewal application. (3-24-16)

b. The permittee shall comply with effluent standards or prohibitions established under the Clean Water Act section 307(a) for toxic pollutants and with standards for sewage sludge use or disposal established under the Clean Water Act section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," within the time provided in the regulations that establish these standards or prohibitions or

standards for sewage sludge use or disposal, even if the permit has not yet been modified to incorporate the requirement. (3-24-16)

02. Duty to Reapply. If the permittee wishes to continue an activity regulated by the permit after the expiration date of the permit, the permittee must apply for and obtain a new permit. If the permittee complies with the application requirements of Section 105 (Application for an Individual IPDES Permit), or the notice of intent requirements of Section 130 (General Permits) for a general permit, and a permit is not issued prior to the permit's expiration date, the permit shall remain in force as stipulated in Subsections 101.02 and 101.03. (3-24-16)

03. Need to Halt or Reduce Activity. In an enforcement action, a permittee may not assert as a defense that compliance with the conditions of the permit would have made it necessary for the permittee to halt or reduce the permitted activity. (3-24-16)

04. Duty to Mitigate. The permittee shall take all reasonable steps to minimize or prevent any discharge or sludge use or disposal in violation of the permit which has a reasonable likelihood of adversely affecting human health or the environment. (3-24-16)

05. Proper Operation and Maintenance. The permittee shall at all times properly operate and maintain all facilities and systems of treatment and control (and related appurtenances) which are installed or used by the permittee to achieve compliance with the conditions of the permit. (3-24-16)

a. Proper operation and maintenance also includes adequate laboratory controls and appropriate quality assurance procedures. (3-24-16)

b. This provision requires the operation of back-up or auxiliary facilities or similar systems which are installed by a permittee only when the operation is necessary to achieve compliance with the conditions of the permit or are required by IDAPA 58.01.16 "Wastewater Rules." (3-24-16)

06. Permit Actions. The permit may be modified, revoked and reissued, or terminated for cause. The filing of a request by the permittee for a permit modification, revocation and reissuance, or termination, or a notification of planned changes or anticipated noncompliance does not stay any permit condition. (3-24-16)

07. Property Rights. The permit does not convey any property rights of any sort, or any exclusive privilege. (3-24-16)

08. Duty to Provide Information. The permittee shall furnish to the Department, within a reasonable time, any information which the Department may request to determine whether cause exists for modifying, revoking and reissuing, or terminating the permit or to determine compliance with the permit. The permittee shall also furnish to the Department upon request, copies of records required to be kept by the permit. (3-24-16)

09. Inspection and Entry. The permittee shall provide the Department's inspectors, or authorized representatives, including authorized contractors acting as representatives of the Department, upon presentation of credentials and other documents as may be required by law, access to: (3-24-16)

a. Enter upon the permittee's premises where a regulated facility or activity is located or conducted, or where records must be kept under the conditions of the permit; (3-24-16)

b. Any records that must be kept under the conditions of the permit and, at reasonable times, to copy such records; (3-24-16)

c. Inspect, at reasonable times, any facilities, equipment (including monitoring and control equipment), practices, or operations regulated or required under the permit; and (3-24-16)

d. Sample or monitor at reasonable times, for the purposes of assuring permit compliance or as otherwise authorized by the Clean Water Act, any substances or parameters at any location. (3-24-16)

10. Monitoring and Records. A permittee must comply with the following monitoring and

recordkeeping conditions: (3-24-16)

a. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. (3-24-16)

b. The permittee shall retain the following records: (3-24-16)

i. All monitoring information, for a period of at least three (3) years from the date of the sample, measurement, report or application. This period may be extended by request of the Department at any time; and (3-24-16)

ii. The permittee's sewage sludge use and disposal activities shall be retained for a period of at least five (5) years or longer as required by 40 CFR Part 503. (3-24-16)

c. Records of monitoring information shall include: (3-24-16)

i. All calibration and maintenance records; (3-24-16)

ii. All original strip chart recordings for continuous monitoring instrumentation or other forms of data approved by the Department; (3-24-16)

iii. Copies of all reports required by the permit; (3-24-16)

iv. Records of all data used to complete the application or notice of intent for the permit; (3-24-16)

v. The date, exact place, and time of sampling or measurements; (3-24-16)

vi. The name of any individual(s) who performed the sampling or measurements; (3-24-16)

vii. The date(s) any analyses were performed; (3-24-16)

viii. The name of any individual(s) who performed the analyses; (3-24-16)

ix. The analytical techniques or methods used; and (3-24-16)

x. The results of the analysis. (3-24-16)

d. Monitoring must be conducted according to test procedures approved under 40 CFR Part 136 unless another test method is required by 40 CFR Part 401 through 471 or Part 501 through 503. (3-24-16)

11. Signatory Requirements. All applications, reports, or information submitted to the Department shall be signed and certified in accordance with Section 090 (Signature Requirements) and must include penalty provisions pursuant to Section 500 (Enforcement). (3-24-16)

12. Reporting Requirements. (3-24-16)

a. The permittee shall give notice to the Department as soon as possible of any planned physical alterations or additions to the permitted facility. Notice is required only when: (3-24-16)

i. The alteration or addition to a permitted facility may meet one (1) of the criteria for determining whether a facility is a new source as defined in Section 120 (New Sources and New Discharges) and 010 (Definitions); (3-24-16)

ii. The alteration or addition could significantly change the nature or increase the quantity of pollutants discharged. This notification applies to pollutants which are subject neither to effluent limitations in the permit, nor to notification requirements under Subsection 301.01.a.; or (3-24-16)

iii. The alteration or addition results in a significant change in the permittee's sludge use or disposal practices, and such alteration, addition, or change may justify the application of permit conditions that are different from or absent in the existing permit, including notification of additional use or disposal sites: (3-24-16)

(1) Not reported during the permit application process, or (3-24-16)

(2) Not reported pursuant to an approved land application or sludge disposal plan. (3-24-16)

b. The permittee shall give advance notice to the Department of any planned changes in the permitted facility or activity which may result in noncompliance with permit requirements. (3-24-16)

c. The permit is not transferable to any person except after notice to the Department. The Department may require modification or revocation and reissuance of the permit to change the name of the permittee and incorporate such other requirements as may be necessary under Section 202 (Transfer of IPDES Permits). (3-24-16)

d. Monitoring results shall be reported at the intervals specified in the permit. (3-24-16)

i. Monitoring results must be reported on a Discharge Monitoring Report (DMR) or forms (which may be electronic) provided or specified by the Department for reporting results of monitoring of sludge use or disposal practices. All reports and forms submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to report electronically if specified by a particular permit. (3-28-18)

ii. If the permittee monitors any pollutant more frequently than required by the permit using test procedures approved under 40 CFR Part 136, or another method required for an industry-specific waste stream specified in the permit or under 40 CFR Part 401 through 471 or Part 501 through Part 503, the results of such monitoring shall be included in the calculation and reporting of the data submitted in the DMR or sludge reporting form specified by the Department. (3-24-16)

iii. Calculations for all limitations which require averaging of measurements shall utilize an arithmetic mean unless otherwise specified by the Department in the permit. (3-24-16)

e. A permittee must submit reports of compliance or noncompliance with, or any progress reports on, interim and final requirements contained in any compliance schedule of the permit no later than fourteen (14) days following each schedule date of each requirement. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section. (3-28-18)

f. The permittee shall report to the Department any noncompliance which may endanger health or the environment as follows: (3-24-16)

i. Any information shall be provided orally within twenty-four (24) hours from the time the permittee becomes aware of the circumstances; (3-24-16)

ii. A written submission shall also be provided within five (5) days of the time the permittee becomes aware of the circumstances. The written submission shall contain a description of: (3-24-16)

(1) The noncompliance and its cause; (3-24-16)

(2) The period of noncompliance, including exact dates and times; (3-24-16)

(3) If the noncompliance has not been corrected, the anticipated time it is expected to continue; and (3-24-16)

(4) Steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance; (3-24-16)

(5) As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section. (3-28-18)

iii. The following shall be included as information which must be reported within twenty-four (24) hours: (3-24-16)

(1) Any unanticipated bypass which exceeds any effluent limitation in the permit (see Subsection 300.07, Property Rights); (3-24-16)

(2) Any upset which exceeds any effluent limitation in the permit; and (3-24-16)

(3) Violation of a maximum daily discharge limitation for any of the pollutants listed by the Department in the permit to be reported within twenty-four (24) hours (see Subsection 302.09, Twenty-Four Hour Reporting); and (3-24-16)

iv. The Department may waive the written report on a case-by-case basis for reports under Subsection 300.12.f.iii. if the oral report has been received within twenty-four (24) hours. (3-24-16)

g. The permittee shall report all instances of noncompliance not reported under Subsections 300.12.d., e., and f., at the time monitoring reports are submitted. The reports of noncompliance shall contain the information listed in Subsection 300.12.f. As of December 21, 2020, all reports related to combined sewer overflows, sanitary sewer overflows, or bypass events submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, permittees may be required to electronically submit reports related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section by a particular permit. The Director may also require permittees to electronically submit reports not related to combined sewer overflows, sanitary sewer overflows, or bypass events under this section. (3-28-18)

h. Where the permittee becomes aware that it failed to submit any relevant facts in a permit application, or submitted incorrect information in a permit application or in any report to the Department, it shall promptly submit such facts or correct information. (3-24-16)

13. Bypass Terms and Conditions. (3-24-16)

a. Bypass, as defined in Section 010 (Definitions), is prohibited, and the Department may take enforcement action against a permittee for bypass, unless: (3-24-16)

i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; (3-24-16)

ii. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive

maintenance; and (3-24-16)

iii. The permittee submitted a notice of a bypass to the Department in accordance with Subsections 300.13.c. and d. As of December 21, 2020, all notices submitted in compliance with this section must be submitted electronically by the permittee to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of CFR Part 127, permittees may be required to report electronically if specified by a particular permit. (3-28-18)

b. The Department may approve an anticipated bypass, after considering its adverse effects, if the Department determines that it will meet the three (3) conditions listed in Subsection 300.13.a. (3-24-16)

c. If the permittee knows in advance of the need for a bypass, it shall submit prior notice to the Department, if possible at least ten (10) days before the date of the bypass. (3-24-16)

d. The permittee shall submit notice of an unanticipated bypass as required in Subsection 300.12.f. (24-hour notice). (3-24-16)

e. Bypasses not exceeding limitations, are allowed to occur, and are not subject to Subsection 300.13.a. or 300.13.d. if: (3-24-16)

i. The bypass does not cause effluent limitations to be exceeded, and (3-24-16)

ii. Only if it also is for essential maintenance to assure efficient operation. (3-24-16)

14. Upset Terms and Conditions. (3-24-16)

a. In any enforcement action for noncompliance with technology-based permit effluent limitations, a permittee may claim upset, as defined in Section 010 (Definitions), as an affirmative defense. A permittee seeking to establish the occurrence of an upset has the burden of proof. (3-24-16)

b. Any determination made in administrative review of a claim that noncompliance was caused by upset, before an action for noncompliance is commenced, is not final administrative action subject to judicial review. (3-24-16)

c. The following conditions are necessary for a permittee to demonstrate that an upset occurred. A permittee who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that: (3-24-16)

i. An upset occurred and that the permittee can identify the cause(s) of the upset; (3-24-16)

ii. The permitted facility was at the time being properly operated; (3-24-16)

iii. The permittee submitted twenty-four (24)-hour notice of the upset as required Subsection 300.12.f.iii.(2); and (3-24-16)

iv. The permittee complied with any remedial measures required under Subsection 300.04. (3-24-16)

15. Penalties and Fines. Permits must include penalty and fine requirements pursuant to Section 500 (Enforcement). (3-24-16)

301. PERMIT CONDITIONS FOR SPECIFIC CATEGORIES.

In addition to conditions set forth in Section 300 (Conditions Applicable to all Permits), conditions identified in this section apply to all IPDES permits within the categories specified below. (3-24-16)

01. Existing Manufacturing, Commercial, Mining, and Silvicultural Dischargers. In addition to the reporting requirements under Subsection 300.12, all existing manufacturing, commercial, mining, and

silvicultural dischargers must notify the Department as soon as they know or have reason to believe: (3-24-16)

a. That any activity has occurred or will occur which would result in the discharge, on a routine or frequent basis, of any toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following notification levels: (3-24-16)

i. One hundred micrograms per liter (100 µg/L); (3-24-16)

ii. Two hundred micrograms per liter (200 µg/L) for acrolein and acrylonitrile; (3-24-16)

iii. Five hundred micrograms per liter (500 µg/L) for 2,4-dinitrophenol and for 2-methyl-4,6-dinitrophenol; and (3-24-16)

iv. One milligram per liter (1 mg/L) for antimony; (3-24-16)

v. Five (5) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or (3-24-16)

vi. The level established by the Department in accordance with Subsection 302.08; and (3-24-16)

b. That any activity has occurred or will occur which would result in any discharge, on a non-routine or infrequent basis, of a toxic pollutant which is not limited in the permit if that discharge will exceed the highest of the following notification levels: (3-24-16)

i. Five hundred micrograms per liter (500 µg/L); (3-24-16)

ii. One milligram per liter (1 mg/L) for antimony; (3-24-16)

iii. Ten (10) times the maximum concentration value reported for that pollutant in the permit application in accordance with Subsection 105.07; or (3-24-16)

iv. The level established by the Department in accordance with Subsection 302.08. (3-24-16)

02. Publicly Owned Treatment Works. All POTWs must provide adequate notice to the Department of the following: (3-24-16)

a. Any new introduction of pollutants into the POTW from an indirect discharger which would be subject to the Clean Water Act section 301 or 306 if it were directly discharging those pollutants; and (3-24-16)

b. Any substantial change in the volume or character of pollutants being introduced into that POTW by a source introducing pollutants into the POTW at the time of issuance of the permit. For purposes of this subsection, adequate notice shall include information on: (3-24-16)

i. The quality and quantity of effluent introduced into the POTW, and (3-24-16)

ii. Any anticipated impact of the change on the quantity or quality of effluent to be discharged from the POTW. (3-24-16)

03. Municipal Separate Storm Sewer Systems. The operator of a large or medium municipal separate storm sewer system or a municipal separate storm sewer that has been designated by the Department under 40 CFR 122.26(a)(1)(v) must submit an annual report by the anniversary of the date of the issuance of the permit for such system. As of December 21, 2020, all reports submitted in compliance with this section must be submitted electronically by the owner, operator, or the duly authorized representative of the MS4 to the Department in compliance with this section and 40 CFR Part 127 unless waived pursuant to 40 CFR 127.15. 40 CFR Part 127 is not intended to undo existing requirements for electronic reporting. Prior to this date, and independent of 40 CFR Part 127, the owner, operator, or the duly authorized representative of the MS4 may be required to report electronically if specified by a particular permit. The report shall include: (3-28-18)

a. The status of implementing the components of the storm water management program that are established as permit conditions; (3-24-16)

b. Proposed changes to the storm water management programs that are established as permit conditions. Such proposed changes shall be consistent with Subsection 105.18.b.iii.; (3-24-16)

c. Revisions, if necessary, to the assessment of controls and the fiscal analysis reported in the permit application under Subsection 105.18.b.iv. and 105.18.b.v.; (3-24-16)

d. A summary of data, including monitoring data, that is accumulated throughout the reporting year; (3-24-16)

e. Annual expenditures and budget for the year following each annual report; (3-24-16)

f. A summary describing the number and nature of enforcement actions, inspections, and public education programs; and (3-24-16)

g. Identification of water quality improvements or degradation. (3-24-16)

04. Storm Water Dischargers. The initial permits for discharges composed entirely of storm water issued pursuant to 40 CFR 122.26(e)(7) shall require compliance with the conditions of the permit as expeditiously as practicable but in no event later than three (3) years after the date of issuance of the permit. (3-24-16)

05. Concentrated Animal Feeding Operations (CAFOs). Any applicable permit must include provisions pursuant to 40 CFR 122.42(e). (3-24-16)

302. ESTABLISHING PERMIT PROVISIONS.

The Department shall establish conditions, as required on a case-by-case basis, to provide for and ensure compliance with all applicable requirements of the Clean Water Act and state rules. These shall include conditions under Section 101 (duration of permits), Section 305 (compliance schedules), Section 304 (monitoring), and electronic reporting requirements identified under 40 CFR Part 127. An IPDES permit must include conditions meeting the following requirements, when applicable, in addition to other applicable sections of these rules. (3-28-18)

01. Incorporation. All permit conditions shall be incorporated either expressly or by reference. If incorporated by reference, a specific citation to the applicable regulations or requirements must be given in the permit. (3-24-16)

02. Applicable Requirements. The Department shall establish conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the Clean Water Act and Section 101 (Duration), and Subsections 304.01, and 305.01 of these rules. (3-24-16)

a. Applicable requirements include all statutory or regulatory requirements which take effect prior to final administrative disposition of the permit. (3-24-16)

b. Applicable requirements also include any requirement which takes effect prior to the modification or revocation and reissuance of a permit under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits). (3-24-16)

c. New or reissued permits, and to the extent allowed under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits) for modified or revoked and reissued permits, shall incorporate each of the applicable requirements referenced in Sections 200 (Renewal of IPDES Permits), and 302 (Establishing Permit Provisions) through 304 (Monitoring and Reporting Requirements). (3-24-16)

03. Technology-Based Effluent Limitations and Standards. (3-24-16)

a. Technology-based effluent limitations and standards shall be based on: (3-24-16)

i. Effluent limitations and standards promulgated under the Clean Water Act section 301; (3-24-16)

ii. New source performance standards promulgated under the Clean Water Act section 306; (3-24-16)

iii. Effluent limitations determined on a case-by-case basis under the Clean Water Act section 402(a)(1); or (3-24-16)

iv. A combination of the three (3), in accordance with 40 CFR 125.3. (3-24-16)

b. For new sources or new dischargers, these technology based limitations and standards are subject to the provisions of 40 CFR 122.29(d). (3-24-16)

c. The Department may authorize a discharger, subject to technology-based effluent limitations guidelines and standards in an IPDES permit, to forgo sampling of a pollutant found at 40 CFR Parts 401 through 471, if the discharger has demonstrated through sampling and other technical factors that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger. (3-24-16)

i. This waiver is good only for the term of the permit and is not available during the term of the first NPDES or IPDES permit issued to a discharger. (3-24-16)

ii. Any request for this waiver must be submitted when applying for a reissued permit or modification of a reissued permit. The request must demonstrate through sampling or other technical information, including information generated during an earlier permit term that the pollutant is not present in the discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the discharger. (3-24-16)

iii. Any grant of the monitoring waiver must be included in the permit as an express permit condition and the reasons supporting the grant must be documented in the permit's fact sheet. (3-24-16)

iv. This provision does not supersede certification processes and requirements already established in existing effluent limitations guidelines and standards. (3-24-16)

04. Other Effluent Limitations and Standards. (3-24-16)

a. If any applicable toxic effluent limitations and standards under the Clean Water Act sections 301, 302, 303, 307, 318, and 405 or prohibition (including any schedule of compliance specified in such effluent standard or prohibition) is promulgated under the Clean Water Act section 307(a) for a toxic pollutant and that standard or prohibition is more stringent than any limitation on the pollutant in the permit, the Department shall initiate proceedings under Section 201 (Modification, or Revocation and Reissuance of IPDES Permits) to modify or revoke and reissue the permit to conform to the more stringent toxic effluent standard or prohibition (see also Subsection 300.01). (3-24-16)

b. Standards for sewage sludge use or disposal under the Clean Water Act section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," shall be applied, unless those standards have been included in a permit issued under the appropriate provisions of: (3-24-16)

i. Subtitle C of the Solid Waste Disposal Act; (3-24-16)

ii. Part C of Safe Drinking Water Act; (3-24-16)

iii. The Clean Air Act; or (3-24-16)

iv. State permit programs approved by the EPA. (3-24-16)

c. When there are no applicable standards for sewage sludge use or disposal, the permit may include

requirements developed on a case-by-case basis to protect public health and the environment from any adverse effects which may occur from toxic pollutants in sewage sludge. (3-24-16)

d. If any applicable standard for sewage sludge use or disposal is promulgated under the Clean Water Act section 405(d), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules," that standard is more stringent than any limitation on the pollutant or practice in the permit, the Department may initiate proceedings under these regulations to modify or revoke and reissue the permit, in compliance with Section 201 (Modification, or Revocation and Reissuance of IPDES Permits), to conform to the standard for sewage sludge use or disposal. (3-24-16)

e. Include any requirements applicable to cooling water intake structures under the Clean Water Act section 316(b), in accordance with 40 CFR 125.80 through 125.99. (3-24-16)

05. Reopener Clause. For any permit issued to a TWTDS (including sludge-only facilities), the Department shall include a reopener clause to incorporate any applicable standard for sewage sludge use or disposal promulgated under the Clean Water Act section 405(d). The Department may promptly modify or revoke and reissue any permit containing the reopener clause required by this subsection if the standard for sewage sludge use or disposal: (3-24-16)

a. Is more stringent than any requirements for sludge use or disposal in the permit, or (3-24-16)

b. Controls a pollutant or practice not limited in the permit. (3-24-16)

06. Water Quality Standards and Requirements. Any requirements in addition to or more stringent than promulgated effluent limitations guidelines or standards under the Clean Water Act sections 301, 304, 306, 307, 318 and 405 shall be included in a permit if they are necessary to: (3-24-16)

a. Achieve water quality standards established in IDAPA 58.01.02, "Water Quality Standards," including narrative criteria for water quality and antidegradation provisions. (3-24-16)

i. Effluent limitations in a permit must control all pollutants or pollutant parameters (either conventional, nonconventional, or toxic pollutants) which the Department determines are or may be discharged at a level which will cause, have the reasonable potential to cause, or contribute to an excursion above any water quality standard, including narrative criteria for water quality. (3-24-16)

ii. When the Department determines whether a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative or numeric criteria within a water quality standard, the Department shall use procedures which account for: (3-24-16)

(1) Existing controls on point and nonpoint sources of pollution; (3-24-16)

(2) The variability of the pollutant or pollutant parameter in the effluent; (3-24-16)

(3) The sensitivity of the species to toxicity testing (when evaluating whole effluent toxicity); and where appropriate, (3-24-16)

(4) The dilution of the effluent in the receiving water; (3-24-16)

iii. When the Department determines, using the procedures in Subsection 302.06.a.ii., that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the allowable ambient concentration of a state numeric criteria within a state water quality standard for an individual pollutant, the permit must contain effluent limits for that pollutant. (3-24-16)

iv. When the Department determines, using the procedures in Subsection 302.06.a.ii., that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above the numeric criterion for whole effluent toxicity, the permit must contain effluent limits for whole effluent toxicity. (3-24-16)

v. Except as provided in this subsection, when the Department determines, using the procedures in Subsection 302.06.a.ii., toxicity testing data, or other information, that a discharge causes, has the reasonable potential to cause, or contributes to an in-stream excursion above a narrative criterion within an applicable water quality standard, the permit must contain effluent limits for whole effluent toxicity. Limits on whole effluent toxicity are not necessary where the Department demonstrates in the fact sheet of the IPDES permit, using the procedures in Subsection 302.06.a.ii., that chemical-specific limits for the effluent are sufficient to attain and maintain applicable numeric and narrative state water quality standards. (3-24-16)

vi. When the state has not established a numeric water quality criterion for a specific chemical pollutant that is present in an effluent at a concentration that causes, has the reasonable potential to cause, or contributes to an excursion above a narrative criterion within an applicable state water quality standard, the Department must establish effluent limits using one (1) or more of the following options: (3-24-16)

(1) Establish effluent limits using a calculated numeric water quality target or concentration value for the pollutant which the Department demonstrates will attain and maintain applicable narrative water quality criteria and will fully protect the designated use. Such a target or concentration value may be derived: (3-24-16)

(a) Using a proposed criterion, or an explicit policy or regulation interpreting its narrative water quality criterion, and (3-24-16)

(b) Supplemented with other relevant information which may include EPA's Water Quality Standards Handbook, as currently revised, risk assessment data, exposure data, information about the pollutant from the Food and Drug Administration (FDA), and current EPA criteria documents; (3-24-16)

(2) Establish effluent limits on a case-by-case basis, using EPA's water quality criteria, published under the Clean Water Act section 304(a), supplemented where necessary by other relevant information; or (3-24-16)

(3) Establish effluent limitations on an indicator parameter for the pollutant of concern, provided: (3-24-16)

(a) The permit identifies which pollutants are intended to be controlled by the use of the effluent limitation; (3-24-16)

(b) The required fact sheet sets forth the basis for the limit, including a finding that compliance with the effluent limit on the indicator parameter will result in controls on the pollutant of concern which are sufficient to attain and maintain applicable water quality standards; (3-24-16)

(c) The permit requires all effluent and ambient monitoring necessary to show that during the term of the permit the limit on the indicator parameter continues to attain and maintain applicable water quality standards; and (3-24-16)

(d) The permit contains a reopener clause allowing the Department to modify or revoke and reissue the permit if the limits on the indicator parameter no longer attain and maintain applicable water quality standards. (3-24-16)

vii. When developing water quality-based effluent limits under this subsection, the Department shall ensure that: (3-24-16)

(1) The level of water quality to be achieved by limits on point sources established under this subsection is derived from, and complies with all applicable water quality standards; and (3-24-16)

(2) Effluent limits developed to protect a narrative water quality criterion, a numeric water quality criterion, or both, are consistent with the assumptions and requirements of any available wasteload allocation for the discharge prepared by the state and approved by EPA pursuant to 40 CFR 130.7; (3-24-16)

b. Attain or maintain a specified water quality through water quality related effluent limits established under the Clean Water Act section 302; (3-24-16)

c. Conform to applicable water quality requirements under the Clean Water Act section 402(b)(5) when the discharge affects a state other than Idaho; (3-24-16)

d. Incorporate any more stringent limitations, treatment standards, or schedules of compliance requirements established under federal or state law or regulations in accordance with the Clean Water Act section 301(b)(1)(C); (3-24-16)

e. Ensure consistency with the requirements of a Water Quality Management plan approved by EPA under the Clean Water Act section 208(b); or (3-24-16)

f. Incorporate alternative effluent limitations or standards where warranted by fundamentally different factors, under 40 CFR 125.30 through 125.32. (3-24-16)

07. Technology-Based Controls for Toxic Pollutants. (3-24-16)

a. In determining whether to include limitations on toxic pollutants in a permit under this section, the Department will establish limits in accordance with Subsections 302.03, 302.04, and 302.06 and in a notification under Section 301 (Permit Conditions for Specific Categories), or other relevant information. The fact sheet must explain the development of limitations included in the permit. (3-24-16)

b. An IPDES permit must include limitations to control all toxic pollutants which the Department determines (based on information reported in a permit application under Subsection 105.07 and 301.01.a., or on other information) are or may be discharged at a level greater than the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (3-24-16)

c. The requirement that the limitations control the pollutants meeting the criteria of Subsection 302.07.b. will be satisfied by: (3-24-16)

i. Limitations on those toxic pollutants; or (3-24-16)

ii. Limitations on other pollutants which, in the judgment of the Department, will provide treatment of the pollutants under Subsection 302.07.b. to the levels required by 40 CFR 125.3(c). (3-24-16)

08. Notification Level. An IPDES permit must include a condition requiring a notification level which exceeds the notification level of Subsection 301.01.a., upon a petition from the permittee or on the Department's initiative. This new notification level may not exceed the level which can be achieved by the technology-based treatment requirements appropriate to the permittee under 40 CFR 125.3(c). (3-24-16)

09. Twenty-Four (24) Hour Reporting. A permit shall list pollutants for which the permittee is required to report violations of maximum daily discharge limitations within twenty-four (24) hours under Subsection 300.12.f.iii.(3). This list shall include any toxic pollutant or hazardous substance, or any pollutant specifically identified as the method to control a toxic pollutant or hazardous substance. (3-24-16)

10. Permit Durations. Permits must include permit durations pursuant to Subsection 101.01. (3-24-16)

11. Monitoring Requirements. Permits must include monitoring requirements pursuant to Section 304 (Monitoring and Reporting Requirements). (3-24-16)

12. Pretreatment Program for POTWs. A POTW permit must include pretreatment program conditions requiring the permittee to: (3-24-16)

a. Identify, in terms of character and volume of pollutants, any Significant Industrial Users discharging into the POTW subject to Pretreatment Standards under the Clean Water Act section 307(b) and 40 CFR Part 403; (3-24-16)

b. Submit a local program when required by and in accordance with 40 CFR Part 403, to ensure compliance with pretreatment standards to the extent applicable under the Clean Water Act section 307(b): (3-24-16)

i. The local program shall be incorporated into the permit as described in 40 CFR Part 403, and (3-24-16)

ii. The program must require all indirect dischargers to the POTW to comply with the reporting requirements of 40 CFR Part 403; (3-24-16)

c. Provide written technical evaluation of the need to revise local limits under 40 CFR 403.5(c)(1), following permit issuance or reissuance; and (3-24-16)

d. POTWs which are sludge-only facilities, are required to develop a pretreatment program under 40 CFR Part 403, when the Department determines that a pretreatment program is necessary to assure compliance with the Clean Water Act section 405(d). (3-24-16)

13. Best Management Practices. An IPDES permit must include best management practices (BMPs) to control or abate the discharge of pollutants when: (3-24-16)

a. Authorized under the Clean Water Act section 304(e) for the control of toxic pollutants and hazardous substances from ancillary industrial activities; (3-24-16)

b. Authorized under the Clean Water Act section 402(p) for the control of storm water discharges; (3-24-16)

c. Numeric effluent limitations are infeasible; or (3-24-16)

d. The practices are reasonably necessary to achieve effluent limitations and standards or to carry out the purposes and intent of the Clean Water Act. (3-24-16)

14. Reissued Permits. When a permit is renewed or reissued, it must include provisions pursuant to Section 200 (Renewal of IPDES Permits). (3-24-16)

15. Privately-Owned Treatment Works. For a privately owned treatment works, any conditions expressly applicable to any user, as a limited co-permittee, that may be necessary in the permit issued to the treatment works to ensure compliance with applicable requirements under this section. (3-24-16)

a. Alternatively, the Department may issue separate permits to the treatment works and to its users, or may require a separate permit application from any user. (3-24-16)

b. The Department's decision to issue a permit with no conditions applicable to any user, to impose conditions on one (1) or more users, to issue separate permits, or to require separate applications, and the basis for that decision, shall be stated in the fact sheet for the draft permit for the treatment works. (3-24-16)

16. Grants. An IPDES permit must include any conditions imposed in grants made by the EPA to POTWs under the Clean Water Act sections 201 and 204, which are reasonably necessary for the achievement of effluent limitations under the Clean Water Act section 301. (3-24-16)

17. Sewage Sludge. An IPDES permit must include any requirements under the Clean Water Act section 405 governing the disposal of sewage sludge from POTWs or any other TWTDS for any use for which regulations have been established, in accordance with any applicable regulations. (3-24-16)

18. Navigation. An IPDES permit must include any conditions that the Secretary of the Army considers necessary to ensure that navigation and anchorage will not be substantially impaired, in accordance with Subsection 103.04 and 109.02. (3-24-16)

19. Qualifying State or Local Programs. (3-24-16)

a. For storm water discharges associated with small construction activity disturbing one (1) acre or more, but less than five (5) acres as specified in 40 CFR 122.26(b)(15), the Department may include permit conditions that incorporate by reference qualifying state or local erosion and sediment control program requirements. Where a qualifying state or local program does not include one (1) or more of the elements in this subsection, then the Department must include those elements as conditions in the permit. (3-24-16)

b. A qualifying state or local erosion and sediment control program is one that includes: (3-24-16)

i. Requirements for construction site operators to implement appropriate erosion and sediment control best management practices; (3-24-16)

ii. Requirements for construction site operators to control waste such as discarded building materials, concrete truck washout, chemicals, litter, and sanitary waste at the construction site that may cause adverse impacts to water quality; (3-24-16)

iii. Requirements for construction site operators to develop and implement a storm water pollution prevention plan, which must include: (3-24-16)

(1) Site descriptions; (3-24-16)

(2) Descriptions of appropriate control measures; (3-24-16)

(3) Copies of approved state or local requirements; (3-24-16)

(4) Maintenance procedures; (3-24-16)

(5) Inspection procedures; (3-24-16)

(6) Identification of non-storm water discharges; and (3-24-16)

iv. Requirements to submit a site plan for review that incorporates consideration of potential water quality impacts. (3-24-16)

c. For storm water discharges from a construction activity disturbing five (5) acres or more, including activities that disturb less than acres (5) acres but are part of a larger common plan of development or sale that will ultimately disturb five (5) acres or more, as specified in 40 CFR 122.26(b)(14)(x), the Department may include permit conditions that incorporate by reference qualifying state or local erosion and sediment control program requirements. A qualifying state or local erosion and sediment control program is one that includes the elements listed in Subsections 302.19.a. and b. and any additional requirements necessary to achieve the applicable technology-based standards of best available technology and best conventional technology based on the best professional judgment of the permit writer. (3-24-16)

20. Water Quality Trading. The Department may include provisions in IPDES permits that allow for compliance with water quality based permit limits to be achieved through water quality trading. (3-24-16)

303. CALCULATING PERMIT PROVISIONS.

01. Outfalls and Discharge Points. All permit effluent limitations, standards and prohibitions shall be established for each outfall or discharge point of the permitted facility, except as otherwise provided under Subsection 302.13, (Best Management Practices,) and Subsection 303.08, (Internal Waste Streams.) (3-24-16)

02. Production-Based Limitations. (3-24-16)

a. In the case of POTWs, permit effluent limitations, standards, or prohibitions shall be calculated based on design flow. (3-24-16)

b. Except in the case of POTWs or as provided in Subsection 303.02.b.ii., calculation of any permit limitations, standards, or prohibitions which are based on production (or other measure of operation) shall be based upon a reasonable measure of actual production of the facility. (3-24-16)

i. For new sources or new dischargers, actual production shall be estimated using projected production. The time period of the measure of production shall correspond to the time period of the calculated permit limitations; for example, monthly production shall be used to calculate average monthly discharge limitations. (3-24-16)

ii. The Department may include a condition establishing alternate permit limitations, standards, or prohibitions based upon anticipated increased (not to exceed maximum production capability) or decreased production levels. (3-24-16)

iii. For the automotive manufacturing industry only, the Department shall establish an alternate condition under 303.02.b.ii., if the applicant satisfactorily demonstrates to the Department, at the time the application is submitted, that: (3-24-16)

(1) Its actual production, as indicated in Subsections 303.02.b. and 303.02.b.i. is substantially below maximum production capability, and (3-24-16)

(2) There is a reasonable potential for an increase above actual production during the duration of the permit. (3-24-16)

iv. If the Department establishes permit conditions under Subsection 303.02.b.ii.: (3-24-16)

(1) The permit shall require the permittee to notify the Department at least two (2) business days prior to a month in which the permittee expects to operate at a level higher than the lowest production level identified in the permit. The notice shall specify: (3-24-16)

(a) The anticipated level, and the period during which the permittee expects to operate at the alternate level; and (3-24-16)

(b) If the notice covers more than one (1) month, the notice shall specify the reasons for the anticipated production level increase; and (3-24-16)

(c) New notice of discharge at alternate levels is required to cover a period or production level not covered by prior notice or, if during two (2) consecutive months otherwise covered by a notice, the production level at the permitted facility does not in fact meet the higher level designated in the notice; (3-24-16)

(2) The permittee shall comply with the limitations, standards, or prohibitions that correspond to the lowest level of production specified in the permit, unless the permittee has notified the Department under Subsection 303.02.b.ii., in which case the permittee shall comply with the lower of the actual level of production during each month or the level specified in the notice; and (3-24-16)

(3) The permittee shall submit, with the Discharge Monitoring Report, the level of production that actually occurred during each month and the limitations, standards, or prohibitions applicable to that level of production. (3-24-16)

03. Metals. All permit effluent limitations, standards, or prohibitions for a metal shall be expressed in terms of total recoverable metal as defined in 40 CFR Part 136, unless: (3-24-16)

a. An applicable effluent standard or limitation has been promulgated under the Clean Water Act and specifies the limitation for the metal in the dissolved or valent or total form; (3-24-16)

b. In establishing permit limitations on a case-by-case basis under 40 CFR 125.3, it is necessary to express the limitation on the metal in the dissolved or valent or total form to carry out the provisions of the Clean Water Act; or (3-24-16)

c. All approved analytical methods for the metal inherently measure only its dissolved form (e.g., hexavalent chromium). (3-24-16)

04. Continuous Discharges. For continuous discharges all permit effluent limitations, standards, and prohibitions, including those necessary to achieve water quality standards, shall, unless impracticable, be stated as: (3-24-16)

a. Maximum daily and average monthly discharge limitations for all dischargers other than POTWs; or (3-24-16)

b. Average weekly and average monthly discharge limitations for POTWs. (3-24-16)

05. Noncontinuous Discharges. Discharges which are not continuous, as defined in Section 010 (Definitions), shall be particularly described and limited, considering the following factors, as appropriate: (3-24-16)

a. Frequency (for example, a batch discharge shall not occur more than once every three (3) weeks); (3-24-16)

b. Total mass (for example, not to exceed one hundred (100) kilograms of zinc and two hundred (200) kilograms of chromium per batch discharge); (3-24-16)

c. Maximum rate of discharge of pollutants during the discharge (for example, not to exceed two (2) kilograms of zinc per minute); and (3-24-16)

d. Prohibition or limitation of specified pollutants by mass, concentration, or other appropriate measure (for example, shall not contain at any time more than one-tenth (0.1) mg/L zinc or more than two hundred fifty (250) grams (one-fourth (¼) kilogram) of zinc in any discharge). (3-24-16)

06. Mass Limitations. (3-24-16)

a. All pollutants limited in permits shall have limitations, standards, or prohibitions expressed in terms of mass except: (3-24-16)

i. pH, temperature, radiation, or other pollutants which cannot appropriately be expressed by mass; (3-24-16)

ii. When applicable standards and limitations are expressed in terms of other units of measurement; or (3-24-16)

iii. If in establishing permit limitations on a case-by-case basis under 40 CFR 125.3, limitations expressed in terms of mass are infeasible because the mass of the pollutant discharged cannot be related to a measure of operation (for example, discharges of TSS from certain mining operations), and permit conditions ensure that dilution will not be used as a substitute for treatment. (3-24-16)

b. Pollutants limited in terms of mass, may also be limited in terms of other units of measurement, and the permit shall require the permittee to comply with both limitations. (3-24-16)

07. Pollutant Credits for Intake Water. (3-24-16)

a. The following definitions apply to the consideration of intake credits in determining reasonable potential and establishing technology based and water quality based effluent limits for IPDES permits. (3-24-16)

i. An intake pollutant is the amount of a pollutant that is present in waters of the United States (including ground water as provided in Subsection 303.07.a.iv.) at the time water is removed from the same body of water by the discharger or other facility supplying the discharger with intake water. (3-24-16)

ii. An intake pollutant must be from the same body of water as the discharge in order to be eligible for an intake credit. An intake pollutant is considered to be from the same body of water as the discharge if the Department finds that the intake pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the permittee. This finding will be established if: (3-24-16)

(1) The background concentration of the pollutant in the receiving water (excluding any amount of the pollutant in the facility's discharge) is similar to that in the intake water; (3-24-16)

(2) There is a direct hydrological connection between the intake and discharge points; and (3-24-16)

(3) Water quality characteristics (e.g., temperature, pH, hardness) are similar in the intake and receiving waters. (3-24-16)

iii. The Department may also consider other site-specific factors relevant to the transport and fate of the pollutant to make the finding in a particular case that a pollutant would or would not have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the permittee. (3-24-16)

iv. An intake pollutant from ground water may be considered to be from the same body of water if the Department determines that the pollutant would have reached the vicinity of the outfall point in the receiving water within a reasonable period had it not been removed by the permittee, except that such a pollutant is not from the same body of water if the ground water contains the pollutant partially or entirely due to human activity, such as industrial, commercial, or municipal operations, disposal actions, or treatment processes. (3-24-16)

v. The determinations made under Subsections 303.07.b. and c. will be made on a pollutant-by-pollutant and outfall-by-outfall basis. (3-24-16)

vi. These provisions do not alter Department's obligation under Subsection 302.06.a.vii.(2) to develop effluent limitations consistent with the assumptions and requirements of any available waste load allocations for the discharge, that is part of a TMDL prepared by the Department and approved by EPA pursuant to 40 CFR 130.7, or prepared by EPA pursuant to 40 CFR 130.7(d). (3-24-16)

b. Consideration of intake pollutants for technology based effluent limitations: (3-24-16)

i. Upon request of the discharger, technology-based effluent limitations or standards shall be adjusted to reflect credit for pollutants in the discharger's intake water if: (3-24-16)

(1) The applicable effluent limitations and standards contained in 40 CFR Part 401 through 471, specifically provide that they shall be applied on a net basis; or (3-24-16)

(2) The discharger demonstrates that the control system it proposes or uses to meet applicable technology-based limitations and standards would, if properly installed and operated, meet the limitations and standards in the absence of pollutants in the intake waters. (3-24-16)

ii. Credit for generic pollutants such as BOD or TSS should not be granted unless the permittee demonstrates that the constituents of the generic measure in the effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere. (3-24-16)

iii. Credit shall be granted only to the extent necessary to meet the applicable limitation or standard, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with permit limits. (3-24-16)

iv. Credit shall be granted only if the discharger demonstrates that the intake water is drawn from the same body of water into which the discharge is made. The Department may waive this requirement if the Department finds that no environmental degradation will result. (3-24-16)

v. This section does not apply to the discharge of raw water clarifier sludge generated from the treatment of intake water. (3-24-16)

c. Consideration of intake pollutants for water quality based effluent limitations: (3-24-16)

i. The Department will evaluate if there is reasonable potential for the discharge of an identified intake pollutant to cause or contribute to an exceedance of a narrative or numeric water quality criterion. If the Department determines that an intake pollutant in the discharge does not have the reasonable potential to cause or contribute to an exceedance of an applicable water quality standard, the Department is not required to include a water quality-based effluent limit for the identified intake pollutant in the facility's permit. (3-24-16)

ii. If a reasonable potential exists, then water quality-based effluent limits may be established that reflect a credit for intake pollutants where a discharger demonstrates that the following conditions are met: (3-24-16)

(1) The facility removes the intake water containing the pollutant from the same body of water into which the discharge is made; (3-24-16)

(2) The ambient background concentration of the pollutant does not meet the most stringent applicable water quality criterion for that pollutant; (3-24-16)

(3) The facility does not alter the identified intake pollutant chemically or physically in a manner that would cause adverse water quality impacts to occur that would not occur if the pollutants had not been removed from the body of water; (3-24-16)

(4) The timing and location of the discharge would not cause adverse water quality impacts to occur that would not occur if the identified intake pollutant had not been removed from the body of water; (3-24-16)

(5) For the purpose of determining water quality-based effluent limits, the facility does not increase the identified intake pollutant concentration at the point of discharge as compared to the pollutant concentration in the intake water. (3-24-16)

iii. Where the conditions in Subsection 303.07.c.i. and ii are met, the Department may establish a water quality-based effluent limitation allowing a facility to discharge a mass and concentration of the intake pollutant that are no greater than the mass and concentration found in the facility’s intake water. A discharger may add mass of the pollutant to its waste stream if an equal or greater mass is removed prior to discharge, so there is no net addition of the pollutant in the discharge compared to the intake water. (3-24-16)

iv. Where intake water for a facility is provided by a municipal water supply system and the supplier provides treatment of the raw water that removes an intake water pollutant, the concentration of the intake water pollutant will be determined at the point where the water enters the water supplier’s distribution system. (3-24-16)

v. Where a facility discharges intake pollutants from multiple sources that originate from the receiving water body and from other water bodies, the Department may derive an effluent limit reflecting the flow-weighted amount of each source of the pollutant provided that conditions in 303.07.c.ii. of this subsection are met and adequate monitoring to determine compliance can be established and is included in the permit. (3-24-16)

vi. The permit will specify how compliance with mass and concentration-based limitations for the intake water pollutant will be assessed. This may be done by basing the effluent limitation on background concentration data. Alternatively, the Department may determine compliance by monitoring the pollutant concentrations in the intake water and in the effluent. This monitoring may be supplemented by monitoring internal waste streams or by a Department evaluation of the use of best management practices. (3-24-16)

vii. Effluent limitations must be established to comply with all other applicable state and federal laws and regulations including technology-based requirements and anti-degradation policies. (3-24-16)

viii. When determining whether water quality based effluent limitations are necessary, information from chemical-specific, whole effluent toxicity and biological assessments will be considered independently. (3-24-16)

ix. Permit limits must be consistent with the assumptions and requirement of waste load allocations or other provisions in a TMDL that has been approved by the EPA. (3-24-16)

08. Internal Waste Streams. (3-24-16)

a. When permit effluent limitations or standards imposed at the point of discharge are impractical or infeasible, effluent limitations or standards for discharges of pollutants may be imposed on internal waste streams before mixing with other waste streams or cooling water streams. In those instances, the monitoring required by Section 304 (Monitoring and Reporting Requirements) shall also be applied to the internal waste streams. (3-24-16)

b. Limits on internal waste streams will be imposed only when the fact sheet sets forth the exceptional circumstances which make such limitations necessary, such as: (3-24-16)

i. When the final discharge point is inaccessible (for example, under ten (10) meters of water); (3-24-16)

ii. The wastes at the point of discharge are so diluted as to make monitoring impracticable; or (3-24-16)

iii. The interferences among pollutants at the point of discharge would make detection or analysis impracticable. (3-24-16)

09. Disposal of Pollutants into Wells, into POTWs, or by Land Application. (3-24-16)

a. When part of a discharger's process wastewater is not being discharged into waters of the United States because it is disposed into a well, into a POTW, or by land application thereby reducing the flow or level of pollutants being discharged into waters of the United States, applicable effluent standards and limitations for the discharge in an IPDES permit shall be adjusted to reflect the reduced raw waste resulting from such disposal. Effluent limitations and standards in the permit shall be calculated by one (1) of the following methods: (3-24-16)

i. If none of the waste from a particular process is discharged into waters of the United States, and effluent limitations guidelines provide separate allocation for wastes from that process, all allocations for the process shall be eliminated from calculation of permit effluent limitations or standards; or (3-24-16)

ii. In all cases other than those described in Subsection 303.09.a.i., effluent limitations shall be adjusted by multiplying the effluent limitation derived by applying effluent limitation guidelines to the total waste stream by the amount of wastewater flow to be treated and discharged into waters of the United States, and dividing the result by the total wastewater flow. Effluent limitations and standards so calculated may be further adjusted under 40 CFR Part 125, subpart D, to make them more or less stringent if discharges to wells, POTWs, or by land application change the character or treatability of the pollutants being discharged to receiving waters. This method may be algebraically expressed as:

P=(E x N)/T; where P is the permit effluent limitation, E is the limitation derived by applying effluent guidelines to the total waste stream, N is the wastewater flow to be treated and discharged to waters of the United States, and T is the total wastewater flow.

(3-24-16)

b. Subsection 303.09.a. does not apply to the extent that promulgated effluent limitations guidelines: (3-24-16)

i. Control concentrations of pollutants discharged but not mass; or (3-24-16)

ii. Specify a different specific technique for adjusting effluent limitations to account for well injection, land application, or disposal into POTWs. (3-24-16)

c. Subsection 303.09.a. does not alter a discharger's obligation to meet any more stringent requirements established under Sections 300 (Conditions Applicable to all Permits), 301 (Permit Conditions for Specific Categories), 40 CFR 122.42(e), and 302 (Establishing Permit Provisions). (3-24-16)

d. Disposal of discharge into injection wells is regulated by: (3-24-16)

i. Idaho Department of Water Resources, in compliance with the IDAPA 37.03.03, "Rules and Minimum Standards for the Construction and Use of Injection Wells," for a Class I injection well; or (3-24-16)

ii. Health District having jurisdiction, in compliance with IDAPA 58.01.03, "Individual/Subsurface Sewage Disposal Rules," for a Class V injection well. (3-24-16)

e. Disposal of discharge onto the surface of the land is regulated by the Department under IDAPA 58.01.17, "Recycled Water Rules." (3-24-16)

304. MONITORING AND REPORTING REQUIREMENTS.

01. Monitoring Requirements. A permit must include the following requirements for monitoring: (3-24-16)

a. Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate); (3-24-16)

b. The type, intervals, and frequency of monitoring sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring; (3-24-16)

c. Provisions for reporting the results of monitoring, including frequency, appropriate for the regulated activity based on the impact of that activity and as specified in 40 CFR Part 127 (NPDES Electronic Reporting). Reporting shall be no less frequent than specified in 40 CFR 122.44; (3-28-18)

d. The mass (or other measurement specified in the permit) for each pollutant limited in the permit; (3-24-16)

e. The volume of effluent discharged from each outfall; (3-24-16)

f. Other measurements as appropriate, including: (3-24-16)

i. Pollutants in internal waste streams under Subsection 303.08; (3-24-16)

ii. Pollutants in intake water for net limitations under Subsection 303.07; (3-24-16)

iii. Frequency, rate of discharge, etc., for non-continuous discharges under Subsection 303.05; (3-24-16)

iv. Pollutants subject to notification requirements under Subsection 301.01; and (3-24-16)

v. Pollutants in sewage sludge or other monitoring as specified in 40 CFR Part 503; or as determined to be necessary on a case-by-case basis pursuant to the Clean Water Act section 405(d)(4), Section 380 (Sewage Sludge) of these rules, and IDAPA 58.01.16.650, "Wastewater Rules"; (3-24-16)

g. According to sufficiently sensitive test procedures (i.e., methods) approved under 40 CFR Part 136 for the analysis of pollutants or pollutant parameters, or another method required under 40 CFR Part 401 through 471

or Part 501 through 503. Consistent with 40 CFR Part 136, applicants or permittees have the option of providing matrix or sample specific minimum levels rather than the published levels. Further, where an applicant or permittee can demonstrate that, despite a good faith effort to use a method that would otherwise meet the definition of "sufficiently sensitive," the analytical results are not consistent with the QA/QC specifications for that method, then the Department may determine that the method is not performing adequately and the Department should select a different method from the remaining EPA-approved methods that is sufficiently sensitive consistent with provisions outlined in Subsections 304.01.g.i. and ii. For the purposes of this section, a method is "sufficiently sensitive" when: (3-28-18)

i. The method minimum level (ML) is at or below the level of the effluent limit established in the permit for the measured pollutant or pollutant parameter; or (3-28-18)

ii. The method has the lowest ML of the analytical methods approved under 40 CFR Part 136 or required under 40 CFR Chapter I, Subchapter N or O, for the measured pollutant or pollutant parameter; and (3-28-18)

h. In the case of pollutants or pollutant parameters for which there are no approved methods under 40 CFR Part 136, or methods are not otherwise required under 40 CFR Part 401 through 471 or Part 501 through 503, monitoring shall be conducted according to a test procedure specified in the permit for such pollutants or pollutant parameters. (3-24-16)

02. Reporting Monitoring Results. (3-24-16)

a. Except as provided in Subsections 304.02.d. and 304.02.e., the Department will establish requirements to report monitoring results on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. All results must be electronically reported in compliance with 40 CFR Part 127. (3-28-18)

b. For sewage sludge use or disposal practices, the Department will establish requirements to monitor and report results on a case-by-case basis with a frequency dependent on the nature and effect of the sewage sludge use or disposal practice; minimally this shall be as specified in 40 CFR Part 503, Section 380 (Sewage Sludge) of these rules, and Idaho's Wastewater Rules, IDAPA 58.01.16.650, "Wastewater Rules," (where applicable), but in no case less than once a year. All results must be electronically reported in compliance with 40 CFR Part 127. (3-28-18)

c. The Department will establish requirements to report monitoring results for storm water discharges associated with industrial activity which are subject to an effluent limitation guideline on a case-by-case basis with a frequency dependent on the nature and effect of the discharge, but in no case less than once a year. (3-24-16)

d. The Department will establish requirements to report monitoring results for storm water discharges associated with industrial activity, other than those addressed in Subsection 304.02.c., on a case-by-case basis with a frequency dependent on the nature and effect of the discharge. At a minimum, a permit for such a discharge must require the discharger to: (3-24-16)

i. Conduct an annual inspection of the facility site to identify areas contributing to a storm water discharge associated with industrial activity; (3-24-16)

ii. Evaluate whether measures to reduce pollutant loadings identified in a storm water pollution prevention plan are adequate and properly implemented in accordance with the terms of the permit or whether additional control measures are needed; (3-24-16)

iii. Maintain for a period of three (3) years a record summarizing the results of the inspection and a certification that the facility is in compliance with the plan and the permit, and identifying any incidents of noncompliance; (3-24-16)

iv. Sign the report and certification in accordance with Section 090 (Signature Requirements); and (3-24-16)

v. Permits for storm water discharges associated with industrial activity from inactive mining operations may, where annual inspections are impracticable, require certification that the facility is in compliance with the permit, or alternative requirements, once every three (3) years by an Idaho licensed professional engineer. (3-24-16)

e. A permit that does not require monitoring results reports at least annually must require the permittee to report, at least annually, all instances of noncompliance not reported under Subsection 300.12. (3-24-16)

305. COMPLIANCE SCHEDULES.

01. General. An IPDES permit may, when appropriate, specify a schedule of compliance leading to compliance with the Clean Water Act and these rules. (3-24-16)

a. Any schedules of compliance under this section shall require compliance as soon as possible. (3-24-16)

b. The first IPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction, but less than three (3) years before commencement of the relevant discharge. (3-24-16)

c. For recommencing dischargers, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than three (3) years before recommencement of discharge. (3-24-16)

d. If a permit establishes a schedule of compliance under this section that exceeds one (1) year from the date of permit issuance, the schedule must set out interim requirements and dates for achievement of the interim requirements. If the schedule includes interim requirements: (3-24-16)

i. The time between interim dates shall not exceed one (1) year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six (6) months; or (3-24-16)

ii. If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than one (1) year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date. (3-24-16)

e. Within fourteen (14) days following each interim and final date of compliance, the permittee shall notify the Department in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if Subsection 305.01.d.ii. is applicable. (3-24-16)

f. Permits may incorporate compliance schedules which allow a discharger to phase in, over time, compliance with water quality-based effluent limitations in accordance with IDAPA 58.01.02.400, "Water Quality Standards." (3-24-16)

02. Alternative Schedules of Compliance. An IPDES permit applicant or permittee may cease conducting regulated activities (by terminating direct discharge for point sources) rather than continuing to operate and meet permit requirements as follows: (3-24-16)

a. If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued: (3-24-16)

i. The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or (3-24-16)

ii. The permittee shall cease conducting permitted activities before noncompliance with any interim or

final compliance schedule requirement already specified in the permit. (3-24-16)

b. If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline. (3-24-16)

c. If the permittee is undecided whether to cease conducting regulated activities, the Department may issue or modify a permit to contain two (2) schedules, as follows: (3-24-16)

i. Both schedules shall contain an identical interim deadline requiring a final decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities; (3-24-16)

ii. One (1) schedule shall lead to timely compliance with applicable requirements, no later than the statutory deadline; (3-24-16)

iii. The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline; and (3-24-16)

iv. Each permit containing two (2) schedules shall include a requirement that after the permittee has made a final decision under Subsection 305.02.c., it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities. (3-24-16)

d. The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Department, such as a resolution of the board of directors of a corporation. (3-24-16)

306. -- 309. (RESERVED)

310. VARIANCES.

01. Variance Requests by non-POTWs. (3-24-16)

a. A discharger which is not a POTW may request a variance from otherwise applicable effluent limitations under the following statutory or regulatory provisions, within the times specified in this subsection. (3-24-16)

i. A request for a variance based on the presence of fundamentally different factors from those on which the effluent limitations guideline was based shall be filed as follows: (3-24-16)

(1) For a request from best practicable control technology currently available (BPT), by the close of the public comment period under Section 109 (Public Notification and Comment); or (3-24-16)

(2) For a request from best available technology economically achievable (BAT) and/or best conventional pollutant control technology (BCT), by no later than one hundred eighty (180) days after the date on which an effluent limitation guideline is published in the Federal Register for a request based on an effluent limitation guideline promulgated on or after February 4, 1987. (3-24-16)

ii. The request shall explain how the requirements of the applicable regulatory and/or statutory criteria have been met. (3-24-16)

b. An applicant may request a variance for non-conventional pollutants under this section for the following: (3-24-16)

i. A variance from the BAT requirements for Clean Water Act section 301(b)(2)(F) pollutants (commonly called non-conventional pollutants) pursuant to the Clean Water Act section 301(c) because of the

economic capability of the owner or operator; or (3-24-16)

ii. A variance pursuant to the Clean Water Act section 301(g) provided: (3-24-16)

(1) The variance may only be requested for ammonia; chlorine; color; iron; total phenols (4AAP), when determined by the EPA Administrator to be a pollutant covered by the Clean Water Act section 301(b)(2)(F); and (3-24-16)

(2) Any other pollutant which the EPA Administrator lists under the Clean Water Act section 301(g)(4). (3-24-16)

c. The request for variance as outlined in Subsection 310.01.b. must be made as follows: (3-24-16)

i. For those requests for a variance from an effluent limitation based upon an effluent limitation guideline, by submitting an initial request to the Department no later than two hundred seventy (270) days after promulgation of the applicable effluent limitation guideline followed by a completed request no later than the close of the public comment period under Section 109 (Public Notification and Comment). (3-24-16)

(1) The initial request to the Department shall contain: (3-24-16)

(a) The name of the discharger; (3-24-16)

(b) The permit number; (3-24-16)

(c) The outfall number(s); (3-24-16)

(d) The applicable effluent guideline; and (3-24-16)

(e) Whether the discharger is requesting a Clean Water Act section 301(c) or section 301(g) modification or both. (3-24-16)

(2) The completed request shall demonstrate that the applicable requirements of 40 CFR Part 125 have been met. Notwithstanding this provision, the complete application for a request under the Clean Water Act section 301(g) shall be filed one hundred eighty (180) days before the Department must make a decision (unless the Department establishes a shorter or longer period). (3-24-16)

ii. For those requests for a variance from effluent limitations not based on effluent limitation guidelines, the request need only comply with Subsection 310.01.c.i.(2) and need not be preceded by an initial request under Subsection 310.01.c.i.(1). (3-24-16)

d. A modification under the Clean Water Act section 302(b)(2) of requirements under the Clean Water Act section 302(a) for achieving water quality related effluent limitations may be requested no later than the close of the public comment period under Section 109 (Public Notification and Comment) on the permit from which the modification is sought. (3-24-16)

e. A variance under the Clean Water Act section 316(a) for the thermal component of any discharge must be filed with a timely application for a permit under Section 105 (Application for an Individual IPDES Permit), except that if thermal effluent limitations are established under the Clean Water Act section 402(a)(1) or are based on water quality standards, the request for a variance may be filed by the close of the public comment period under Section 109 (Public Notification and Comment). (3-24-16)

02. Variance Requests by POTWs. A discharger which is a POTW may request a variance from water quality based effluent limitations. A modification under the Clean Water Act section 302(b)(2) of the requirements under the Clean Water Act section 302(a) for achieving water quality based effluent limitations shall be requested no later than the close of the public comment period under Section 109 (Public Notification and Comment) on the permit from which the modification is sought. (3-24-16)

03. Permit Variance Decision Process. (3-24-16)

a. The Department may deny requests for variances. A variance that has been denied by the Department may be appealed according to the process identified in Section 204 (Appeals Process). (3-24-16)

b. The Department may grant (subject to EPA objection under Subsection 103.02 or 40 CFR 123.44): (3-24-16)

i. Variances for extensions under the Clean Water Act section 301(i) based on delay in completion of a POTW; (3-24-16)

ii. Variances after consultation with EPA, extensions under the Clean Water Act section 301(k) based on the use of innovative technology; (3-24-16)

iii. Variances under the Clean Water Act section 316(a) for thermal pollution; or (3-24-16)

iv. Variances from water quality standards under IDAPA 58.01.02.260, "Water Quality Rules." (3-24-16)

c. The Department may forward to EPA with or without a recommendation: (3-24-16)

i. A variance based on the economic capability of the applicant under the Clean Water Act section 301(c); or (3-24-16)

ii. A variance based on water quality related effluent limitations under the Clean Water Act section 302(b)(2). (3-24-16)

d. The Department may forward to EPA with a written concurrence: (3-24-16)

i. A variance based on the presence of fundamentally different factors from those on which an effluent limitations guideline was based (Clean Water Act section 301(n)); or (3-24-16)

ii. A variance based upon certain water quality factors under the Clean Water Act section 301(g). (3-24-16)

e. The EPA may grant or deny a request for a variance that is forwarded by the Department. If the EPA Administrator (or his delegate) approves the variance, the Department shall prepare a draft permit incorporating the variance. (3-24-16)

f. Any public notice of a draft permit for which a variance or modification has been approved or denied shall identify the applicable procedures for appealing that decision under Section 204 (Appeals Process). (3-24-16)

04. Expedited Variance Procedures and Time Extensions. (3-24-16)

a. Notwithstanding the time requirements in Subsections 310.01 and 310.02, the Department may notify a permit applicant before a draft permit is issued under Section 108 (Draft Permit and Fact Sheet) that the draft permit will likely contain limitations which are eligible for variances. (3-24-16)

i. In the notice, the Department may require the applicant, as a condition of consideration of any potential variance request, to submit a request explaining how the requirements of 40 CFR Part 125, applicable to the variance, have been met and may require its submission within a specified reasonable time after receipt of the notice. (3-24-16)

ii. The Department may send the notice before the permit application has been submitted. The draft or final permit may contain the alternative limitations which may become effective upon final grant of the variance. (3-24-16)

b. A discharger who cannot file a timely complete request required under Subsections 310.01.c.i.(2) or 310.01.c.ii. may request an extension. (3-24-16)

i. The extension may be granted or denied at the discretion of the Department. (3-24-16)

ii. The extension shall be no more than six (6) months in duration. (3-24-16)

05. Special Procedures for Decisions on Thermal Variances. (3-24-16)

a. The only issues connected with issuance of a particular permit on which the Department will make a final decision before the final permit is issued, are whether alternative effluent limitations would be justified under the Clean Water Act section 316(a) or whether cooling water intake structures will use the best available technology under section 316(b). (3-24-16)

i. Permit applicants who wish an early decision on these issues should make a request to the Department, furnished with supporting reasons at the time their permit applications are filed. (3-24-16)

ii. The Department will then decide whether or not to make an early decision. If it is granted, both the early decision on Clean Water Act section 316 (a) or (b) issues and the grant of the balance of the permit shall be: (3-24-16)

(1) Considered permit issuance under these regulations, and (3-24-16)

(2) Subject to the same requirements of public notice and comment and the same opportunity for an appeal. (3-24-16)

b. If the Department, on review of the administrative record, determines that the information necessary to decide whether or not the Clean Water Act section 316(a) issue is not likely to be available in time for a decision on permit issuance, the Department may issue a permit for a term up to five (5) years. (3-24-16)

i. The permit shall require achievement of the effluent limitations initially proposed for the thermal component of the discharge, no later than the date otherwise required by law. (3-24-16)

ii. However, the permit shall also afford the permittee an opportunity to file a demonstration under Clean Water Act section 316(a), after conducting such studies as are required under 40 CFR 125.70 through 125.73. (3-24-16)

iii. A new discharger may not exceed the thermal effluent limitation which is initially proposed unless and until its Clean Water Act section 316(a) variance request is finally approved. (3-24-16)

c. Any proceeding held under Subsection 310.05.a. shall be: (3-24-16)

i. Publicly noticed as required by Section 109 (Public Notification and Comment), and (3-24-16)

ii. Conducted at a time allowing the permittee to take necessary measures to meet the final compliance date in the event its request for modification of thermal limits is denied. (3-24-16)

d. Whenever the Department defers the decision under the Clean Water Act section 316(a), any decision under the Clean Water Act section 316(b) may be deferred. (3-24-16)

311. -- 369. (RESERVED)

370. PRETREATMENT STANDARDS.

01. Purpose and Applicability. This section and 40 CFR Part 403 apply to: (3-24-16)

a. Pollutants from non-domestic sources covered by Pretreatment Standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in Subsection 370.04 and 40 CFR 403.3; (3-24-16)

b. POTWs which receive wastewater from sources subject to National Pretreatment Standards; and (3-24-16)

c. Any new or existing source subject to Pretreatment Standards. National Pretreatment Standards do not apply to sources which discharge to a sewer which is not connected to a POTW Treatment Plant. (3-24-16)

02. Objectives of General Pretreatment Regulations. This section and 40 CFR Part 403 fulfill three (3) objectives: (3-24-16)

a. To prevent the introduction of pollutants into POTWs which will interfere with the operation of a POTW, including interference with its use or disposal of municipal sludge; (3-24-16)

b. To prevent the introduction of pollutants into POTWs which will pass through the treatment works or otherwise be incompatible with such works; and (3-24-16)

c. To improve opportunities to recycle and reclaim municipal and industrial wastewaters and sludges. (3-24-16)

03. Department Program in Lieu of a POTW Program. 40 CFR 403.8(a) requires certain POTWs develop a pretreatment program. The Department may, however, assume responsibility for implementing the POTW pretreatment program requirements set forth in 40 CFR 403.8(f) in lieu of requiring the POTW to develop a pretreatment program. This does not preclude POTWs from independently developing pretreatment programs. (3-24-16)

04. Term Interpretation. When used in the context of 40 CFR Part 403, unless the context in which a term is used clearly requires a different meaning, terms 40 CFR Part 403 that are incorporated by reference in these rules have the following meanings: (3-24-16)

a. The terms Administrator or Regional Administrator mean the EPA Region 10 Administrator; (3-24-16)

b. The term Approval Authority means the Department of Environmental Quality; (3-24-16)

c. The term Approved POTW Pretreatment Program or Program or POTW Pretreatment Program means a program administered by a POTW that meets the criteria established in 40 CFR 403.8 and 403.9, and which has been approved by the Department in accordance with 40 CFR 403.1; (3-24-16)

d. The term Control Authority means the POTW for a facility with a Department-approved pretreatment program and the Department for a POTW without a Department-approved pretreatment program; (3-24-16)

e. The term Director means the Department of Environmental Quality with an NPDES permit program approved pursuant to the Clean Water Act section 402(b); (3-24-16)

f. The terms National Pretreatment Standard, Pretreatment Standard, or Standard mean any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307 (b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5; and (3-24-16)

g. The term Water Management Division Director means a Director of the Water Management Division within the Region 10 office of the Environmental Protection Agency or this person's delegated representative. (3-24-16)

05. Exceptions to Incorporation by Reference. The following sections of 40 CFR Part 403 are excluded from the incorporation by reference in Section 003 (Incorporation by Reference) of these rules. (3-24-16)

a. 40 CFR 403.4 (State or Local Law). (3-24-16)

b. 40 CFR 403.19 (Provisions of Specific Applicability to the Owatonna Wastewater Treatment Facility). (3-24-16)

c. 40 CFR 403.20 (Pretreatment Program Reinvention Pilot Projects Under Project XL). (3-24-16)

371. -- 379. (RESERVED)

380. SEWAGE SLUDGE.

01. Purpose. The purpose of this section and 40 CFR Part 503 is to: (3-24-16)

a. Establish standards, which consist of general requirements, pollutant limits, management practices, and operational standards, for the final use or disposal of sewage sludge. (3-24-16)

i. Include standards for sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator. (3-24-16)

ii. Include: (3-24-16)

(1) Pathogen and alternative vector attraction reduction requirements for sewage sludge applied to the land or placed on a surface disposal site; and (3-24-16)

(2) On a case-by-case basis, controls for storm water runoff from lands where sewage sludge or septage has been placed for treatment or disposal. (3-24-16)

b. Include the frequency of monitoring and recordkeeping requirements when sewage sludge is: (3-24-16)

i. Applied to the land; (3-24-16)

ii. Placed on a surface disposal site; or (3-24-16)

iii. Fired in a sewage sludge incinerator; and (3-24-16)

c. Include reporting requirements for: (3-24-16)

i. Class I sludge management facilities; (3-24-16)

ii. POTWs with a design flow rate equal to or greater than one million gallons per day (1 MGD); and (3-24-16)

iii. POTWs that serve ten thousand (10,000) people or more. (3-24-16)

02. Applicability. This section and 40 CFR Part 503 applies to: (3-24-16)

a. Any person, who prepares sewage sludge, applies sewage sludge to the land, or fires sewage sludge in a sewage sludge incinerator and to the owner or operator of a surface disposal site; (3-24-16)

b. Sewage sludge applied to the land, placed on a surface disposal site, or fired in a sewage sludge incinerator; (3-24-16)

c. The exit gas from a sewage sludge incinerator stack; or (3-24-16)

d. Land where sewage sludge is applied, to a surface disposal site, and to a sewage sludge incinerator. (3-24-16)

03. Term Interpretation. When used in the context of 40 CFR Part 503, unless the context in which a term is used clearly requires a different meaning, terms in the 40 CFR Part 503 that are incorporated by reference in these rules have the following meanings: (3-24-16)

a. The terms Administrator or Regional Administrator mean the EPA Region 10 Administrator; (3-24-16)

b. The terms Director or State Program Director mean the Department of Environmental Quality as the agency designated by the Governor as having the lead responsibility for managing or coordinating the approved IPDES program; and (3-24-16)

c. The term permitting authority is the Department of Environmental Quality. (3-24-16)

04. Exceptions to Incorporation by Reference. 40 CFR 503.1 (Purpose and Applicability) is excluded from the incorporation by reference found in Section 003 (Incorporation by Reference) of these rules. (3-24-16)

381. -- 399. (RESERVED)

400. COMPLIANCE EVALUATION.

01. Non-Compliance Actions. When the permittee is not in compliance with any condition of the existing or expired permit that has been administratively continued, the Department may choose to do one (1) or more of the following: (3-24-16)

a. Initiate an enforcement action; (3-24-16)

b. Issue a notice of intent to deny the new application. If the application is denied and the expired permit is no longer effective as provided in Subsection 101.02, the owner or operator must cease the activities authorized by the permit or be subject to enforcement action for operating without a permit; (3-24-16)

c. Issue a new permit with appropriate conditions; or (3-24-16)

d. Take other actions authorized by state law. (3-24-16)

401. -- 499. (RESERVED)

500. ENFORCEMENT.

01. General Enforcement and Penalties. Any person who violates any permit condition, filing or reporting requirement, duty to allow or carry out inspections, entry or monitoring requirements or any other provision in these rules shall be subject to administrative, civil or criminal enforcement and those remedies authorized in the Environmental Protection and Health Act, Sections 39-101 et seq., Idaho Code, including without limitation, civil and criminal penalties as provided in Sections 39-108 and 39-117, Idaho Code. (3-24-16)

02. Truth in Reporting. It is a violation of these rules for any person to falsify, tamper with, or knowingly render inaccurate any monitoring device or method required to be maintained under an IPDES permit. In addition to any other remedy available to the Department, such a violation is punishable by a fine as provided in Section 39-117, Idaho Code. (3-24-16)

03. False Statements. It is a violation of these rules for any person to knowingly make any false statement, representation, or certification in any record or other document submitted or required to be maintained under an IPDES permit, including monitoring reports or reports of compliance or non-compliance. In addition to any

other remedy available to the Department, such a violation is punishable by a fine as provided in Section 39-117, Idaho Code. (3-24-16)

04. Public Participation in Enforcement. The Department shall provide for public participation in the state enforcement process by: (3-24-16)

a. Investigating and providing written responses to citizen complaints; (3-24-16)

b. Not opposing intervention by any citizen when permissive intervention may be authorized by statute, rule, or regulation; and (3-24-16)

c. Publishing notice of and providing at least thirty (30) days for public comment on any proposed settlement of a state enforcement action. (3-24-16)

501. -- 599. (RESERVED)

600. ADMINISTRATIVE RECORDS AND DATA MANAGEMENT.

01. Administrative Record for Draft Permits. (3-24-16)

a. The provisions of a draft permit prepared by the Department under Subsection 108.01 shall be based on the administrative record defined in this section. (3-24-16)

b. For preparing a draft permit, the record shall consist of: (3-24-16)

i. The application, if required, and any supporting data furnished by the applicant; (3-24-16)

ii. The draft permit or notice of intent to deny the application or to terminate the permit; (3-24-16)

iii. The fact sheet; (3-24-16)

iv. All documents cited in the fact sheet; and (3-24-16)

v. Other documents contained in the supporting file for the draft permit. (3-24-16)

c. Material readily available at the Department or published material that is generally available, and that is included in the administrative record under Subsection 600.01, need not be physically included with the rest of the record as long as it is specifically referred to in the fact sheet. (3-24-16)

d. This subsection applies to all draft permits when public notice was given after the effective date of these rules. (3-24-16)

02. Administrative Record for Final Permits. (3-24-16)

a. The Department shall base final permit decisions on the administrative record defined in this section. (3-24-16)

b. The administrative record for any final permit, including issuance, denial, transfer, modification, revocation and reissuance, or termination shall consist of the administrative record for the draft permit and fact sheet, as defined in Subsection 600.01, the proposed permit and associated information, and the following: (3-24-16)

i. All comments received during the public comment period provided under Section 109 (Public Notification and Comment); (3-24-16)

ii. The record of, and any written materials submitted as part of, any meeting(s) held under Section 109 (Public Notification and Comment); (3-24-16)

iii. The application or notice of intent to obtain coverage under a general permit, notice of intent to deny the application, or to terminate the permit, and any supporting data furnished by the applicant; (3-24-16)

iv. The response to comments required by Subsections 109.02 and 109.03 and any new material placed in the record under that section; and (3-24-16)

v. Any other relevant correspondence and documents. (3-24-16)

c. The final permit and fact sheet shall become part of the administrative record after the final permit is issued. (3-24-16)

d. The additional documents identified under Subsection 600.02.b., 107.03, and 109.02 should be added to the record as soon as possible after their receipt or publication by the Department. The record shall be complete on the date the final permit is issued. (3-24-16)

e. This subsection applies to all IPDES permits when the draft permit was included in a public notice. (3-24-16)

f. Material readily available from the Department or published materials which are generally available and which are included in the administrative record under Subsection 600.02 or Section 109 (Public Notification and Comment), need not be physically included in the same file as the rest of the record as long as it is specifically referred to in the fact sheet or in the response to comments. (3-24-16)

03. Electronic Submittals. Any information which the Department requires to be submitted electronically, with an electronic signature approved by the Department, will become part of the Administrative Record in accordance with Subsections 600.01 and 02. (3-24-16)

601. -- 999. (RESERVED)

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

DOCKET NO. 59-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Sections 59-1301, 59-1314, 59-1372, 59-1383, 59-1392, 50-1507, 50-1508, 50-1524, and 72-1405 Idaho Code.

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

This pending rule adopts the following chapter IDAPA 59, rules of the Public Employee Retirement System of Idaho:

IDAPA 59
- *59.01.01, *Rules of the Public Employee Retirement System of Idaho (PERSI)*
- 59.02.01, *Rules for the Judges' Retirement Fund*.

PERSI performed a critical and comprehensive review of its administrative rules to clarify, simplify and remove ineffective language and regulation. IDAPA 59.01.01 has been rewritten and retitled "*Rules for the Public Employee Retirement System of Idaho (PERSI),"* and consolidates previously codified rules under IDAPA 59.01.01 through 59.01.08 with some additional amendments. Language was modified to follow the Legislature's new model for incorporation by reference and to make technical correction, clarify language, and add content from previously codified IDAPA 59.01.07, which expired.

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 59, rules of the Public Employee Retirement System of Idaho:

- ***(VACATED)*** 59.01.01, *PERSI Rules of Administrative Procedure*
- ***(VACATED)*** 59.01.02, *PERSI Rules for Eligibility*
- ***(VACATED)*** 59.01.03, *PERSI General Provisions, Contribution Rate, Miscellaneous, & Interest Rate Rules*
- ***(VACATED)*** 59.01.04, *PERSI Disability Rules*
- ***(VACATED)*** 59.01.05, *PERSI Separation from Service Rules*
- ***(VACATED)*** 59.01.06, *PERSI Retirement Rules*
- ***(VACATED)*** 59.01.08, *PERSI Gain Sharing Rules*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rules was published in the June 19, 2019 Idaho Administrative Bulletin, **Vol. 19-6SE, pages 7423-7476**.

FISCAL IMPACT: The following is a specific description, if applicable, of any negative fiscal impact on the state general fund greater than ten thousand dollars ($10,000) during the fiscal year: This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Cheryl George, (208) 287-9231.

Dated this 16th day October, 2019.

Don Drum, Executive Director
Phone: (208) 287-9230
Fax: (208) 334-3408

Public Employee Retirement System of Idaho
607 N. 8th Street, Boise ID 83702
P.O. Box 83720, Boise, ID 83720-0078

59.01.01 – RULES FOR THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

001. LEGAL AUTHORITY.
All PERSI rules are adopted under the legal authority of Sections 50-1507, 50-1508, 50-1524, 59-1301, 59-1314, 59-1372, 59-1383, 59-1392, and 72-1405, Idaho Code. *( )*

002. INCORPORATION BY REFERENCE.
PERSI adopts through incorporation by reference as if set forth fully herein, the following Idaho Rules of Administrative Procedure of the Attorney General, IDAPA 04.11.01, updated by the Attorney General on April 7, 2011 (IDAPA 04.11.01): 004, 005, 051, 052, 100, 101, 103, 104, 153, 154, 157, 201, 203-206, 240, 280, 304, 416, 417, 500, 501, 510-513, 520-524, 526, 527, 529, 530, 553-555, 558-565, 600-605, 610-614, 651, 701, 702, 710, 720, 750, 760, 770, 780, 791, 800, 810, 812, 814, 815, 820, 822, 832, 834, 840, 850, and 860. *( )*

003. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES.
Written interpretations of these rules, to the extent they exist, are available from PERSI, at the Boise Office at 607 North Eighth Street, Boise, Idaho 83702. *( )*

004. ADMINISTRATIVE APPEAL.
Administrative appeals are conducted pursuant to these rules. *( )*

005. DEFINITIONS.
The definitions in Section 59-1302, Idaho Code, and the following apply to this chapter: *( )*

***01. Active Member**. A member participates in the active member allocation only if they are active and have at least twelve (12) months of accrued membership service on the last day of the fiscal year. For purposes of allocating extraordinary gains, active members also include:* *( )*

***a.** Seasonal employees who have a pattern of employment that includes at least six (6) months of membership service in each of the preceding three (3) consecutive years; and* *( )*

***b.** Employees who are on leave of absence on the last day of the fiscal year and either:* *( )*

i. Return to active service for at least thirty (30) days before December 31 immediately following the end of the fiscal year; or *( )*

ii. Are entitled to benefits under the Uniformed Services Employment and Re-employment Rights Act of 1994 (USERRA). *( )*

***02. Actuary**. This is the actuary retained by the Board.* *( )*

***03. Administrator**. The Board.* *( )*

***04. Applicant**. "Applicant" means an applicant for disability retirement under Section 59-1352, Idaho Code, or an individual requesting resumption of a disability retirement allowance under Section 59-1354A, Idaho Code.* *( )*

***05. Base Plan or Account**. This is the PERSI defined benefit plan not including gain sharing allocations or interest thereon, or the individual accounts therein.* *( )*

***06. Board**. "Board" means the governing authority of the Public Employee Retirement System of Idaho as provided by Section 59-1304, Idaho Code, of the Firefighters' Retirement Fund created by Chapter 14, Title 72, Idaho Code, and the Policeman's Retirement Fund created by Chapter 15, Title 50, Idaho Code.* *( )*

***07. Choice Plan or Account**. This includes two (2) elements:* *( )*

***a.** The defined contribution component of the PERSI plan consisting of gain sharing allocations together with earnings thereon or the individual accounts therein; and* *( )*

***b.** The plan designated to receive voluntary and employer contributions as provided in Section 59-*

1308, Idaho Code, or the individual accounts therein. ( )

***08. Code**. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered. ( )*

***09. Compensation**. "Compensation" as used in Section 59-1342(6), Idaho Code, means "salary" as defined by Section 59-1302(31), Idaho Code. ( )*

***10. Court Security**. "Court Security" as used in Section 59-1303(3)(g), Idaho Code, means the employee's primary responsibilities are designated by court order to quell disturbances in the courthouse, to prevent the escape of prisoners, to exclude weapons from the courthouse, and to perform other related courthouse security matters. ( )*

***11. Date of Retirement**. "Date of retirement" means the effective date on which a retirement allowance becomes payable. ( )*

***12. Designated Beneficiary**. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.40l(a)(9)-4, Q&A-4, of the Treasury regulations. ( )*

***13. Employed In The Same Position Until Retired.** As used in Section 59-1303(7), Idaho Code, "employed in the same position until retired" means the same job classification or position including continued employment in any revised job classification or new position title evolving from the same position as the result of personnel reclassification procedures provided the continued employment remains with the same state agency or within the same department of a political subdivision. ( )*

***14. Employer**. "Employer" means the state of Idaho or any political subdivision or governmental entity, provided such subdivision or entity has elected to come into the system. Governmental entity means any organization composed of units of government of Idaho or organizations funded only by government or employee contributions or organizations who discharge governmental responsibilities or proprietary responsibilities that would otherwise be performed by government. A political subdivision and government entity also means an entity that meets each of the requirements of Paragraphs a. through c. of this definition, taking into account all of the facts and circumstances. Entities that may qualify as political subdivisions include, among others, general purpose governmental entities, such as cities and counties (whether or not incorporated as municipal corporations), and special purpose governmental entities, such as special assessment districts that provide for roads, water, sewer, gas, light, reclamation, drainage, irrigation, levee, school, harbor, port improvements, and other governmental purposes for a State or local governmental unit. ( )*

***a.** Sovereign powers. Pursuant to a State or local law of general application, the entity has a delegated right to exercise a substantial amount of at least one (1) of the following recognized sovereign powers of a State or local governmental unit: The power of taxation, the power of eminent domain, and police power. ( )*

***b.** Governmental purpose. The entity serves a governmental purpose. The determination of whether an entity serves a governmental purpose is based on, among other things, whether the entity carries out the public purposes that are set forth in the entity's enabling legislation and whether the entity operates in a manner that provides a significant public benefit with no more than incidental private benefit. ( )*

***c.** Governmental control. A State or local governmental unit exercises control over the entity. For this purpose, control is defined in Subparagraph c.i. of this rule and a State or local governmental unit exercises such control only if the control is vested in persons described in Subparagraph c.ii. of this rule. ( )*

i. Definition of control. "Control" means an ongoing right or power to direct significant actions of the entity. Rights or powers may establish control either individually or in the aggregate. Among rights or powers that may establish control, an ongoing ability to exercise one or more of the following significant rights or powers, on a discretionary and non-ministerial basis, constitutes control: the right or power both to approve and to remove a majority of the governing body of the entity; the right or power to elect a majority of the governing body of the entity in periodic elections of reasonable frequency; or the right or power to approve or direct the significant uses of funds

or assets of the entity in advance of that use. Procedures designed to ensure the integrity of the entity but not to direct significant actions of the entity are insufficient to constitute control of an entity. Examples of such procedures include requirements for submission of audited financial statements of the entity to a higher level State or local governmental unit, open meeting requirements, and conflicts of interest limitations. ( )

ii. Control vested in a State or local governmental unit or an electorate. Control is vested in persons described as a State or local governmental unit possessing a substantial amount of each of the sovereign powers and acting through its governing body or through its duly authorized elected or appointed officials in their official capacities or an electorate established under applicable State or local law of general application, provided the electorate is not a private faction. ( )

iii. Definition of "private faction." A private faction is any electorate if the outcome of the exercise of control described in Subparagraph c.i. of this rule is determined solely by the votes of an unreasonably small number of private persons. The determination of whether a number of such private persons is unreasonably small depends on all of the facts and circumstances, including, without limitation, the entity's governmental purpose, the number of members in the electorate, the relationships of the members of the electorate to one another, the manner of apportionment of votes within the electorate, and the extent to which the members of the electorate adequately represent the interests of persons reasonably affected by the entity's actions. For purposes of this definition, an electorate is a private faction if any three (3) private persons that are members of the electorate possess, in the aggregate, a majority of the votes necessary to determine the outcome of the relevant exercise of control. Provided however, an electorate is not a private faction if the smallest number of private persons who can combine votes to establish a majority of the votes necessary to determine the outcome of the relevant exercise of control is greater than ten (10) persons. For example, if an electorate consists of twenty (20) private persons with equal, five-percent (5%) shares of the total votes, that electorate is not a private faction because a minimum of eleven (11) members of that electorate is necessary to have a majority of the votes. By contrast, for example, if an electorate consists of twenty (20) private persons with unequal voting shares in which some combination of ten (10) or fewer members has a majority of the votes, then that electorate does not qualify for the safe harbor from treatment as a private faction under this subparagraph. The following rules apply for purposes of determining numbers of voters and voting control in Subparagraph c.iii. of this rule, related parties (as defined in 26 CFR § 1.150–1(b)) are treated as a single person; and in computing the number of votes necessary to determine the outcome of the relevant exercise of control, all voters entitled to vote in an election are assumed to cast all votes to which they are entitled. ( )

***15. Employment**. "Employment" as used in Section 59-1302(14)(B)(b), Idaho Code, shall mean the period of time from a member's date of hire to the member's succeeding date of separation from that state agency, political subdivision or government entity. Placing a member on leave of absence with or without pay shall not be considered as a separation from the employer. ( )*

***16. Firefighters' Retirement Fund**. "Firefighters' Retirement Fund" or "FRF" is the retirement fund provided by Chapter 14, Title 72, Idaho Code. ( )*

***17. Gain Sharing**. This refers to the process of allocating extraordinary gains from the base plan into the defined contribution component of the PERSI plan as permitted in Section 414(k) of the Internal Revenue Code and as provided by Section 59-1309, Idaho Code, and these rules." ( )*

***18. General Member**. "General member" is a PERSI member not classified as a police officer, firefighter, or paid firefighter. ( )*

***19. Likely.** For the purpose of Section 59-1302(12)(b), Idaho Code, "likely" means with reasonable medical certainty. ( )*

***20. Normal Retirement Age**. The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age. ( )*

***21. Occupational Hazard**. "Occupational Hazard" means an injury or ailment solely resulting from the work an applicant does or from the environment in which an applicant works. ( )*

***22. Pension Protection Act Definitions**. Solely for purposes of the implementation by PERSI of section 402(l) of the Internal Revenue Code, the following definitions apply: ( )*

***a. Chaplain**. Any individual serving as an officially recognized or designated member of a legally organized volunteer fire department or legally organized police department, or an officially recognized or designated public employee of a legally organized fire or police department who was responding to a fire, rescue, or police emergency. ( )*

***b. Eligible Retired Public Safety Officer**. An individual who, by reason of disability or attainment of normal retirement age, is separated from service as a public safety officer with the state agency, political subdivision or government entity who maintains the eligible retirement plan from which distributions are made. ( )*

***c. Normal Retirement Age**. The member's age at the time that the member is eligible to retire with an unreduced benefit. ( )*

***d. Public Safety Officer**. An individual serving a public agency in an official capacity, with or without compensation, as a law enforcement officer, as a firefighter, as a chaplain, or as a member of a rescue squad or ambulance crew. ( )*

***23. Permissive Service Credits**. This includes all credits obtained through voluntary purchase but does not include service obtained through repayment of a separation benefit under Section 59-1363, Idaho Code. ( )*

***24. Police Officer**. "Police officer" means an employee who is serving in a position as defined in Section 59-1303, Idaho Code. ( )*

***25. Police Officer Member For Purposes Of Retirement Eligibility.** The words "will be deemed to be a police officer member for purposes of retirement eligibility" as used in Section 59-1303(7), Idaho Code, means the member shall have a service retirement ratio of 1.000 provided for by Section 59-1341, Idaho Code. ( )*

***26. Primary Employer**. The primary employer is the state agency, political subdivision or government entity from whom the employee receives the highest aggregate salary per month. ( )*

***27. Public Employee Retirement System of Idaho**. "Public Employee Retirement System of Idaho" or "PERSI" is the retirement system created by Chapter 13, Title 59, Idaho Code. ( )*

***28. Required Beginning Date**. The date specified in Rule 508.02 of these rules. ( )*

***29. Retiree**. Retiree includes any member, contingent annuitant, or surviving spouse, receiving regular monthly allowances at the close of the fiscal year. It also includes members receiving a monthly disability retirement allowance, surviving spouses who elected an annuity option under Section 59-1361(5), Idaho Code, and members who were inactive at the close of the fiscal year but retire on or before the first day of January following the end of the fiscal year, retroactive to the first day of June of the fiscal year or earlier. ( )*

***30. Same Position**. "Same position" as set forth in Section 59-1303(7), Idaho Code, means the same job classification or position title including continued employment in any revised job classification or new position title evolving from that same position as the result of personnel reclassification procedures provided the continued employment remains within the same state agency or within the same department of a political subdivision. ( )*

***31. Service.** For the purposes of Rules 536 and 540, "service" includes only service for which the member is normally in the administrative offices of the state agency, political subdivision or government entity or normally required to be present at any particular work station for the state agency, political subdivision or government entity. ( )*

***32. Surviving Spouse**. "Surviving spouse" is a person as defined in Section 15-2-802, Idaho Code. ( )*

***33. Teacher**. "Teacher" is defined as a school employee who is required to be certified. ( )*

***34. Transportation Of Prisoners**. "Transportation of prisoners" as used in Section 59-1303(3)(g), Idaho Code, means the employee's primary responsibility is designated by court order to move prisoners from one (1) place to another. ( )*

SUBCHAPTER A – PERSI RULES OF ADMINISTRATIVE PROCEDURE RULES 011 THROUGH 099

011. COMMUNICATIONS WITH AGENCY -- IDENTIFICATION -- FILING.

All written communications and documents that are intended to be a part of an official record for a decision in a contested case must be filed with the officer designated by the agency. Communications addressing or pertaining to a given proceeding must be written under that proceeding's case caption and case number if assigned. Otherwise, such communications must specifically refer to the subject matter. Unless otherwise provided by statute, rule, order or notice, documents are considered filed when received by the officer designated to receive them, not when mailed. ( )

012. SERVICE ON PARTIES AND OTHER PERSONS.

All documents intended to be part of the agency record for decision must be served upon the representatives of each party of record concurrently with filing with the officer designated by the agency to receive filings. In a contested case, when a document has been filed by FAX, it must be served upon all other parties with FAX facilities by FAX and upon the remaining parties by overnight mail, hand delivery, or the next best available service if these services are not available. The presiding officer may direct that some or all of these documents be served on interested or affected persons who are not parties. ( )

013. PROOF OF SERVICE.

Every document filed with and intended to be part of the agency record must be attached to or accompanied by proof of service by the following or similar certificate:

I HEREBY CERTIFY (swear or affirm) that I have this day of_____, served the foregoing name(s) or titles of document(s) upon all parties of record in this proceeding by delivering a copy thereof in person: (list names) by mailing a copy thereof, properly addressed with postage prepaid, to: (list names).

(Signature)
(Title) ( )

014. SERVICE BY AGENCY.

Unless otherwise provided by statute or these rules, the officer designated by the agency to serve rules, notices, summonses, complaints, and orders issued by the agency may serve these documents by United States mail, to a party's last known mailing address or by personal service. Unless otherwise provided by statute, these rules, order or notice, service of orders and notices is complete when a copy, properly addressed and stamped, is deposited in the United States mail or the Statehouse mail, if the party is a State employee or State agency. The officer designated by the agency to serve documents in a proceeding must serve all orders and notices on the representatives of each party designated pursuant to these rules for that proceeding and upon other persons designated by these rules or by the agency. ( )

015. COMPUTATION OF TIME.

Whenever statute, these or other rules, order, or notice requires an act to be done within a certain number of days of a given day, the given day is not included in the count. If the day the act must be done is Saturday, Sunday or a legal holiday, the act may be done on the first day following that is not Saturday, Sunday or a legal holiday. ( )

016. FEES AND REMITTANCES.

Fees and remittances to the agency must be paid by: electronic transfer, money order, bank draft or check payable to

PERSI. Remittances in currency or coin are wholly at the risk of the remitter, and the agency assumes no responsibility for their loss. ( )

017. FURTHER PROCEEDINGS.
Any person aggrieved by any otherwise final decision or inaction of the Board, before filing an appeal to district court, must initiate a formal proceeding before the Board. ( )

018. PARTIES TO CONTESTED CASES LISTED.
Parties to contested cases before the agency are called petitioners, complainants or respondents. On reconsideration or appeal within the agency, parties are called by their original titles listed in the previous sentence. ( )

019. PETITIONERS.
Persons who seek to modify, amend or stay existing orders or rules of the agency, to clarify their rights or obligations under law administered by the agency, to ask the agency to initiate a contested case, or to otherwise take action that will result in the issuance of an order or rule, are called "petitioners." ( )

020. INITIAL PLEADING BY PARTY -- LISTING OF REPRESENTATIVES.
The initial pleading of each party at the formal stage of a contested case (petition, complaint, motion, or answer) must name the party's representative(s) for service and state the representative's(s') address(es) for purposes of receipt of all official documents. Service of documents on the named representative(s) is valid service upon the party for all purposes in that proceeding. If no person is explicitly named as the party's representative, the person signing the pleading will be considered the party's representative. ( )

021. REPRESENTATION OF PARTIES AT HEARING.

***01. Appearances and Representation**. To the extent authorized or required by law, appearances and representation of parties or other persons at formal hearing or prehearing conference must be as follows: ( )*

***a.** Natural person. A natural person may represent himself or herself or be represented by a duly authorized employee, attorney, family member or friend. ( )*

***b.** A partnership may be represented by a partner, duly authorized employee, or attorney. ( )*

***c.** A corporation may be represented by an officer, duly authorized employee, or attorney. ( )*

***d.** A municipal corporation, local government agency, unincorporated association or nonprofit organization may be represented by an officer, duly authorized employee, or attorney. ( )*

***02. Representatives**. The representatives of parties at hearing, and no other persons or parties appearing before the agency, are entitled to examine witnesses and make or argue motions. ( )*

022. PLEADINGS LISTED -- MISCELLANEOUS.
Pleadings in contested cases include, but are not limited to petitions, complaints, motions, answers, consent agreements, briefs, memoranda, statements of position, and orders. Affidavits or declarations under penalty of perjury may be filed in support of any pleading. A party's initial pleading in any proceeding must comply with Rule 020, but the presiding officer may allow documents filed during informal stages of the proceeding to be considered a party's initial pleading without the requirement of resubmission to comply with this rule. All pleadings filed during the formal stage of a proceeding must be filed in accordance with these rules. A party may adopt or join any other party's pleading. Two or more separately stated grounds, claims or answers concerning the same subject matter may be included in one pleading. ( )

023. PETITIONS -- DEFINED -- FORM AND CONTENTS.

***01. Pleadings Defined**. All pleadings requesting the following are called "petitions": ( )*

***a.** Modification, amendment or stay of existing orders or rules; ( )*

b. *Clarification, declaration or construction of the law administered by the agency or of a party's rights or obligations under law administered by the agency; or* ( )

c. *Rehearing or reconsideration.* ( )

02. Petitions. *Petitions must:* ( )

a. *State the facts upon which they are based;* ( )

b. *Refer to the particular provisions of statute, rule, order or other controlling law upon which they are based;* ( )

c. *State the relief desired; and* ( )

d. *State the name of the person petitioned against (the respondent), if any.* ( )

03. Form and Contents of Petition of Declaratory Rulings. *Any person petitioning for a declaratory ruling on the applicability of a statute, rule or order administered by the agency must substantially comply with this rule.* ( )

a. *Form. The petition shall:* ( )

i. *Identify the petitioner and state the petitioner's interest in the matter;* ( )

ii. *State the declaratory ruling that the petitioner seeks; and* ( )

iii. *Indicate the statute, order, rule, or other controlling law, and the factual allegations upon which the petitioner relies to support the petition.* ( )

b. *Legal Assertions. Legal assertions in the petition may be accompanied by citations of cases and/or statutory provisions.* ( )

024. MOTIONS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING -- PROCEDURE.

01. Defined. *All other pleadings requesting the agency to take any other action in a contested case, except consent agreements or pleadings specifically answering other pleadings, are called "motions."* ( )

02. Form and Contents. *Motions must:* ( )

a. *Fully state the facts upon which they are based;* ( )

b. *Refer to the particular provision of statute, rule, order, notice, or other controlling law upon which they are based; and* ( )

c. *State the relief sought.* ( )

03. Other. *If the moving party desires oral argument or hearing on the motion, it must state so in the motion. Any motion to dismiss, strike or limit a complaint or petition must be filed before the answer is due or be included in the answer, if the movant is obligated to file an answer. If a motion is directed to an answer, it must be filed within fourteen (14) days after service of the answer.* ( )

025. ANSWERS -- DEFINED -- FORM AND CONTENTS -- TIME FOR FILING.
All pleadings responding to the allegations or requests of complaints, petitions, or motions are called "answers." ( )

01. Answers to Pleadings Other Than Motions. *Answers to complaints, petitions or appeals must be filed and served on all parties of record within twenty-eight (28) days after service of the pleading being answered,*

unless order or notice modifies the time within which answer may be made, or, a motion to dismiss is made within twenty-eight (28) days. When an answer is not timely filed under this rule, the presiding officer may issue a notice of default against the respondent. Answers must admit or deny each material allegation of the complaint or petition. Any material allegation not specifically admitted shall be considered to be denied. Matters alleged by cross-complaint or affirmative defense must be separately stated and numbered. ( )

***02. Answers to Motions**. Answers to motions may be filed by persons or parties who are the object of a motion or by parties opposing a motion. The person or party answering the motion must do so with all deliberate and reasonable speed. In no event is a party entitled to more than fourteen (14) days to answer a motion or to move for additional time to answer. The presiding officer may act upon a prehearing motion. ( )*

026. FORM OF PLEADINGS.
All pleadings submitted by a party and intended to be part of an agency record must comply with the following: ( )

***01. Requirements**. Pleadings must: ( )*

***a.** Be submitted on white eight and one-half inch (8 1/2") by eleven inch (11") paper copied on one (1) side only; ( )*

***b.** State the case caption, case number and title of the document; ( )*

***c.** Include on the upper left corner of the first page the name(s), mailing and street address(es), and telephone and FAX number(s) of the person(s) filing the document or the person(s) to whom questions about the document can be directed; and ( )*

***d.** Have at least one inch (1") left and top margins. ( )*

***02. Form**. Documents complying with this rule will be in the following form:*

Name of Representative
Mailing Address of Representative
Street Address of Representative (if different)
Telephone Number of Representative
FAX Number of Representative (if there is one)
Attorney/Representative for (Name of Party)

BEFORE THE RETIREMENT BOARD
OF THE PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO

)
In re the Matter of) CASE NO.
)
) (TITLE OF DOCUMENT)

( )

027. AMENDMENTS TO PLEADINGS -- WITHDRAWAL OF PLEADINGS.
The presiding officer may allow any pleading to be amended or corrected or any omission to be supplied. Pleadings will be liberally construed, and defects that do not affect substantial rights of the parties may be disregarded. A party desiring to withdraw a pleading must file a notice of withdrawal of the pleading and serve all parties with a copy. Unless otherwise ordered by the presiding officer, the notice is effective fourteen (14) days after filing. ( )

028. DISQUALIFICATION OF OFFICERS HEARING CONTESTED CASES.
Pursuant to Section 67-5252, Idaho Code, persons designated as presiding officers are subject to disqualification for bias, prejudice, interest, substantial prior involvement in the case other than as a presiding officer, status as an employee of the agency, lack of professional knowledge in the subject matter of the contested case, or any other reason provided by law or for any cause for which a judge is or may be disqualified. Any party may petition for the disqualification of a hearing officer. However, the petition must be filed not later than fourteen (14) days after receiving notice that the officer will preside at a contested case or upon discovering facts establishing grounds for disqualification, whichever is later. Any party may assert a blanket disqualification for cause of all employees of the agency hearing the contested case, other than the agency head, prior to the designation of presiding officer(s). A presiding officer whose disqualification is requested shall determine in writing whether to grant the petition for disqualification, stating facts and reasons for the hearing officer's determination. Challenge to an agency head must be made pursuant to Sections 59-704 and 67-5252(4), Idaho Code. ( )

029. SCOPE OF AUTHORITY OF PRESIDING OFFICERS.
The scope of presiding officers' authority may be restricted in the appointment by the agency. Unless the agency otherwise provides, presiding officers have the standard scope of authority, which is: ( )

***01. Schedule Cases**. Authority to schedule cases assigned to the presiding officers including authority to issue notices of prehearing conference and of hearing, as appropriate. ( )*

***02. Schedule and Compel Discovery**. Authority to schedule and compel discovery when discovery is authorized before the agency, and to require advance filing of expert testimony when authorized before the agency. ( )*

***03. Conduct Hearings**. Authority to preside at and conduct hearings, administer oaths, accept evidence into the record, rule upon objections to evidence, preserve and enforce order, issue subpoenas for and to compel the attendance of witnesses or the production of books, papers, documents and other evidence, and, to examine witnesses. ( )*

***04. Issue Decisions for Review**. Authority to issue a written decision for review and confirmation by the Board, including a narrative of the proceedings before the presiding officer and findings of fact, conclusions of law, and recommended or preliminary orders. ( )*

030. CHALLENGES TO STATUTES.
A presiding officer in a contested case has no authority to declare a statute unconstitutional. However, when a court of competent jurisdiction whose decisions are binding precedent in the state of Idaho has declared a statute unconstitutional, or when a federal authority finds that the same state statute or rule or a substantively identical state statute or rule that would otherwise apply has been challenged in the proceeding before the presiding officer, then the officer shall apply the precedent of the court or the preemptive action of the federal authority to the proceeding before the officer and decide the proceeding in accordance with the precedent of the court or the preemptive action of the federal authority. ( )

031. PRIVILEGE.
Communications in an ADR proceeding, including facts disclosed, offers made and all other aspects of the proceeding, are privileged and shall not be included in the record or disclosed by the neutral or by any party to the proceeding unless all parties to the proceeding consent in writing, the communication has already been made public, or is required by court order, statute or agency rule to be made public. ( )

032. FACTS DISCLOSED NOT PART OF THE RECORD.
Unless parties agree otherwise, facts disclosed, offers made and all other aspects of negotiation (except agreements reached) in prehearing conferences in a contested case are not part of the record. ( )

033. SUBPOENAS.
The agency may issue subpoenas as authorized by statute, upon a party's motion or upon its own initiative. The presiding officer upon motion to quash made promptly, and in any event, before the time to comply with the subpoena, may quash the subpoena, or condition denial of the motion to quash upon reasonable terms. ( )

034. FILING AND SERVICE OF DISCOVERY-RELATED DOCUMENTS.
Notices of deposition, cover letters stating that production requests, written interrogatories or requests for admission have been served, cover letters stating answers to production requests, written interrogatories, or requests for admission have been served or are available for inspection, and objections to discovery must be filed and served as provided in the discovery order. ( )

035. SANCTIONS FOR FAILURE TO OBEY ORDER COMPELLING DISCOVERY.
The presiding officer may impose all sanctions recognized by statute or rule for failure to comply with the discovery order. ( )

036. PROTECTIVE ORDERS.
As authorized by statute or rule, the presiding officer may issue protective orders limiting access to information generated during settlement negotiations, discovery, or hearing. ( )

037. NOTICE OF HEARING.
Notice of the place, date and hour of hearing will be served on all parties at least fourteen (14) days before the time set for hearing, unless the presiding officer finds by order that it is necessary or appropriate that the hearing be held earlier. Notices must comply with the requirements of Rule 038. Notices must list the names of the parties (or the lead parties if the parties are too numerous to name), the case number or docket number, the names of the presiding officer(s) who will hear the case, the name, address and telephone number of the person to whom inquiries about scheduling, hearing facilities, etc., should be directed, and the names of persons with whom the documents, pleadings, etc., in the case should be filed if the presiding officer is not the person who should receive those documents. If no document previously issued by the agency has listed the legal authority of the agency to conduct the hearing, the notice of hearing must do so. The notice of hearing shall state that the hearing will be conducted under these rules of procedure and inform the parties where they may read or obtain a copy. ( )

038. FACILITIES AT OR FOR HEARING AND ADA REQUIREMENTS.
All hearings must be held in facilities meeting the accessibility requirements of the Americans with Disabilities Act, and all notices of hearing must inform the parties that the hearing will be conducted in facilities meeting the accessibility requirements of the American with Disabilities Act. All notices of hearing must inform the parties and other persons notified that if they require assistance of the kind that the agency is required to provide under the Americans with Disabilities Act (e.g., sign language interpreters, Braille copies of documents) in order to participate in or understand the hearing, the agency will supply that assistance provided the person requiring such assistance has made such a request not later than five (5) working days before the hearing or such other time as specified in the notice. ( )

039. HOW HEARINGS HELD.
Hearings may be held in person or by telephone or television or other electronic means, so long as the parties or other authorized participants in the hearing have an opportunity to participate in the entire proceeding while it is taking place. ( )

040. CONSOLIDATION OF PROCEEDINGS.
The agency may consolidate two (2) or more proceedings for hearing upon finding that they present issues that are related and that the rights of the parties will not be prejudiced. In consolidated hearings the presiding officer determines the order of the proceeding. ( )

041. STIPULATIONS.
Parties may stipulate among themselves to any fact at issue in a contested case by written statement filed with the presiding officer or presented at hearing or by oral statement at hearing. A stipulation binds all parties agreeing to it only according to its terms. The presiding officer may regard a stipulation as evidence or may require proof by evidence of the facts stipulated. The presiding officer is not bound to adopt a stipulation of the parties, but may do so. If the presiding officer rejects a stipulation, the officer will do so before issuing a final order and will provide an additional opportunity for the parties to present evidence and arguments on the subject matter of the rejected stipulation. ( )

042. EXHIBITS.

Exhibit numbers may be assigned to the parties before the hearing. Exhibits prepared for hearing must ordinarily be typed or printed on eight and one-half inch (8 1/2") by eleven inch (11") white paper, except maps, charts, photographs and non-documentary exhibits may be introduced on the size or kind of paper or in such other form as is customarily used. A copy of each documentary exhibit must be furnished to each party present and to the presiding officer, except for unusually bulky or voluminous exhibits that have previously been made available for the parties' inspection. Copies must be of good quality. Exhibits offered at hearings are subject to appropriate and timely objections before the close of proceedings. Exhibits to which no objection is made are automatically admitted into evidence without motion of the sponsoring party. Neither motion pictures, slides, opaque projections, videotapes, audiotapes nor other materials not capable of duplication by still photograph or reproduction on paper shall be presented as exhibits without prior approval of the presiding officer. ( )

043. RECORD FOR DECISION.

***01. Official Record**. The agency will maintain an official record for each contested case and (unless statute provides otherwise) base its decision in a contested case on the official record for the case. ( )*

***02. Contents**. The record for a contested case will include: ( )*

***a.** All notices of proceedings; ( )*

***b.** All petitions, complaints, motions, and answers filed in the proceeding; ( )*

***c.** All intermediate or interlocutory rulings; ( )*

***d.** All evidence received or considered (including all transcripts or recordings of hearings and all exhibits offered or identified at hearing); ( )*

***e.** All offers of proof, however made; ( )*

***f.** All briefs, memoranda, proposed orders of the parties or of the presiding officers, statements of position, statements of support, and exceptions filed by parties or persons not parties; ( )*

***g.** All evidentiary rulings on testimony, exhibits, or offers of proof; ( )*

***h.** All staff memoranda or data submitted in connection with the consideration of the proceeding; ( )*

***i.** A statement of matters officially noticed; and ( )*

***j.** All recommended orders, preliminary orders, final orders, and orders on reconsideration. ( )*

044. NOTICE OF PROPOSED DEFAULT AFTER FAILURE TO APPEAR.

If a party fails to appear at the time and place set for hearing, the presiding officer may serve upon all parties a notice of a proposed default order denying or dismissing the matter set for hearing. The notice of a proposed default order shall include a statement that the default order is proposed to be issued because of a failure of the party to appear at the time and place set for hearing. The notice of proposed default order may be mailed to the last known mailing address of the party proposed to be defaulted. ( )

045. REVIEW OF INTERLOCUTORY ORDERS.

Any party or person affected by an interlocutory order may petition the officer issuing the order to review the interlocutory order. The officer issuing an interlocutory order may rescind, alter or amend any interlocutory order on the officer's own motion, but will not on the officer's own motion review any interlocutory order affecting any party's substantive rights without giving all parties notice and an opportunity for written comment. ( )

046. FINAL ORDERS.

***01. Final Order - Definition**. Final orders are orders that have been confirmed or issued by the Board*

pursuant to Section 59-1314(4), Idaho Code. *( )*

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

***a.** This is a final order of the agency. Any party may file a motion for reconsideration of this final order within fourteen (14) days of the service date of this order. The agency will dispose of the petition for reconsideration within twenty-one (21) days of its receipt, or the petition will be considered denied by operation of law. See Section 67-5246(4), Idaho Code.* *( )*

***b.** Pursuant to Sections 67-5270 and 67-5272, Idaho Code, any party aggrieved by this final order or orders previously issued in this case may appeal this final order and all previously issued orders in this case to district court by filing a petition in the district court of the county in which:* *( )*

i. A hearing was held; *( )*

ii. The final agency action was taken; *( )*

iii. The party seeking review of the order resides; or *( )*

iv. The real property or personal property that was the subject of the agency action is attached. *( )*

***c.** An appeal must be filed within twenty-eight (28) days (a) of the service date of this final order, (b) of an order denying petition for reconsideration, or (c) the failure within twenty-one (21) days to grant or deny a petition for reconsideration, whichever is later. See Section 67-5273, Idaho Code. The filing of an appeal to district court does not itself stay the effectiveness or enforcement of the order under appeal.* *( )*

047. PERSONS WHO MAY APPEAL.
Pursuant to Section 59-1314 and 67-5270, Idaho Code, any party aggrieved by a final order of an agency in a contested case may appeal to district court. Pursuant to Section 67-5271, Idaho Code, a person is not entitled to judicial review of an agency action in district court until that person has exhausted all administrative remedies available with the agency, but a preliminary, procedural, or intermediate agency action or ruling is immediately reviewable in district court if review of the final agency action would not provide an adequate remedy. *( )*

048. -- 099. (RESERVED)

SUBCHAPTER B – PERSI RULES FOR ELIGIBILITY
RULE 100 THROUGH 249

100. MANDATORY MEMBERSHIP.
Membership in PERSI is mandatory for all persons who meet the statutory definition of an "employee" in Section 59-1302(14), Idaho Code. *( )*

101. MULTIPLE EMPLOYERS -- MEMBERSHIP ELIGIBILITY.
An employee establishes separate PERSI membership eligibility with each state agency, political subdivision or government entity with which the employee meets the statutory definition of an "employee" as found in Section 59-1302(14), Idaho Code. *( )*

***01. Does Not Meet the Statutory Definition**. Because membership eligibility is established independently with each state agency, political subdivision or government entity, neither employer nor employee contributions are required on salary paid by employers to employees who do not meet the statutory definition of an "employee" as found in Section 59-1302(14), Idaho Code.* *( )*

***02. State Agencies**. The agencies of the state of Idaho shall be considered a single employer; an employee working for more than one (1) state agency establishes eligibility based on the total hours of employment*

worked with all state agencies. ( )

102. ELECTED AND APPOINTED OFFICIALS NOT SUBJECT TO TWENTY HOUR REQUIREMENT.
Elected and appointed officials are not subject to the hourly requirement of Section 59-1302(14)(A)(a), Idaho Code. ( )

103. ELECTED AND APPOINTED OFFICIALS -- MEMBERS OF PERSI.
Elected and appointed officials serving on boards, councils, or commissions who receive salary or honorarium for services performed are members of PERSI even though they receive nominal salary and do not normally work twenty (20) hours or more per week. ( )

104. -- 110. (RESERVED)

111. TEACHER WORKING HALF-TIME OR MORE.
For the purposes of Section 59-1302(14)(A)(a), Idaho Code, a teacher is considered to be working half-time or more if the teacher's contract specifies that the engagement is half or more of a full contract. Teachers and all other school employees not employed under such a contractual arrangement shall be required to meet the requirement of normally working twenty (20) hours or more per week. ( )

112. RESPONSIBILITY OF EMPLOYER TO DETERMINE EMPLOYEE ELIGIBILITY.
It is the responsibility of each state agency, political subdivision or government entity to make the initial determination of which employees within its jurisdiction meet the requirements of eligibility for membership and to withhold the required member contributions from salary paid. ( )

113. NORMALLY WORKS TWENTY HOURS.
If a person works twenty (20) hours or more per week for more than one-half (1/2) of the weeks during the period of employment being considered, then the person meets the requirements of Section 59-1302(14)(A)(a), Idaho Code ("normally works twenty (20) hours or more per week"), and shall be considered an employee if the person meets the other requirements of Section 59-1302(14), Idaho Code. Statutory References: Section 59-1302(14)(A)(a). ( )

114. APPLICATION OF THE FIVE MONTH REQUIREMENT.
An employee working twenty (20) hours or more per week who is hired with the expectation of working less than five (5) consecutive months, becomes retroactively eligible for membership whenever it becomes evident the period of employment will be five (5) consecutive months or longer and the employee meets the other requirements of Section 59-1302(14), Idaho Code. ( )

***01. Employee and Employer Contributions**. Employee and Employer contributions must be immediately withheld by the state agency, political subdivision or government entity and forwarded when it becomes evident the period of employment will be five (5) consecutive months or more, and the employee meets the other requirements of Section 59-1302(14), Idaho Code. Delinquent employee and employer contributions on all prior months of employment, shall be paid by the state agency, political subdivision or government entity pursuant to Rule 114.02 of this chapter. ( )*

***02. Delinquent Contributions**. Employer shall collect and pay delinquent contributions of employer and employee within three (3) months once it becomes evident the period of employment will be five (5) consecutive months or more. If the delinquent contributions are not paid within three (3) months, regular interest will be assessed against the outstanding balance until the delinquent employee contributions are paid in full. ( )*

115. -- 120. (RESERVED)

121. CEASING TO BE AN EMPLOYEE.
A member ceases to be an employee on the day following the effective date that the member is separated from their employer. Membership service credits stop on the day the member ceases to be an employee. ( )

122. LEAVE OF ABSENCE.
A member is ineligible to contribute and receive membership service credit while on leave of absence without pay or while on leave of absence with less than one-half (1/2) pay, unless the absence is occasioned by a worker's

compensation claim approved by a surety. An active member separated from employment under conditions where both the member and the employer plan a later return to employment should be placed on leave of absence without pay during the planned period of absence. ( )

***01. Employer and Employee Contributions -- Leave of Absence**. During the leave of absence without pay, employer and employee contributions cease. If the member is on a leave of absence as a result of an approved worker's compensation claim, employer and employee contributions are due and payable on any salary paid to the member. The member is entitled to a month of membership service credit for each month the member remains on leave of absence as a result of an approved worker's compensation claim and receives salary in addition to income benefits. ( )*

***02. Documentation of Leave of Absence**. The employer shall provide PERSI with documentation, on a form provided by PERSI, of a leave of absence to clarify the member's status and retirement benefit entitlement. ( )*

***03. Status of Employee on Leave of Absence**. An employee placed on a leave of absence by an employer remains in an employee status and is ineligible for payment of any separation benefits or for payment of a service, early, disability, or vested retirement allowance. If a member on leave of absence without pay terminates employment without returning to work, the leave without pay status is negated. ( )*

***04. Leave of Absence -- Effect on Benefit Enhancement**. An employee shall not be placed on a leave of absence without pay prior to the effective date of a benefit enhancement and then return to work after the effective date of the benefit enhancement for the purpose of qualifying for the benefit enhancement. An employee placed on unpaid leave of absence prior to the date of the benefit enhancement who returns to work after the effective date of the benefit enhancement and subsequently applies for retirement shall include with the application for retirement, certification from the state agency, political subdivision or government entity that the leave of absence was not granted for the purpose of allowing the person to qualify for the benefit enhancement. ( )*

123. -- 149. (RESERVED)

150. POLICE OFFICER MEMBERSHIP CERTIFICATION.
The executive director or the executive director's designee may accept or reject the employer's certification that an employee's primary position with the employer is a police officer for retirement purposes as required in Section 59-1303, Idaho Code. Acceptance of the certification shall not limit PERSI's right to review and reclassify the position for retirement purposes based upon an audit or other relevant information presented to PERSI. A position title or occasional assignments to active law enforcement service or hazardous law enforcement duties does not create a condition for designation as a police officer member for retirement purposes. ( )

151. DEFINITION OF ACTIVE LAW ENFORCEMENT SERVICE.
"Active law enforcement service" as used in Section 59-1303, Idaho Code, means the primary duties of an employee's position requires the employee to investigate and arrest persons for criminal or suspected criminal violations or designate the employee to be responsible for the safekeeping and custody of persons held in a duly constituted confinement facility, actively participate in crime prevention or reduction, compel others to comply with the law, and must be able to prescribe and carry out the consequences of non-compliance. ( )

152. HAZARDOUS LAW ENFORCEMENT DUTIES.
In applying Section 59-1303(4)(a)(i), Idaho Code, factors such as job conditions, physical exertion in apprehending suspects and other required knowledge, skill and physical ability will be considered. To qualify under Section 59-1303(4)(a)(ii), Idaho Code, job duties which are associated with life threatening situations must be an integral part of the job requirements. These duties are comparable to the job of patrol officer or detective. Pursuant to Section 59-1303(4)(a)(iii), Idaho Code, the major purpose of the position must be to compel others to comply with the law. The employee must be able to prescribe and carry out the consequences of non-compliance. All of Section 59-1303(4)(a), Idaho Code, must be met to be considered as hazardous law enforcement. PERSI staff is authorized to obtain all information pertinent to the position including questionnaires, job descriptions, interviews and any other pertinent records in order to make a report to the Board. ( )

153. -- 199. (RESERVED)

200. DETERMINATION OF FIREFIGHTER.
A "firefighter" means an employee whose primary occupation with an employer as defined by Section 59-1302(16), Idaho Code, is that of preventing and extinguishing fires. A firefighter member for retirement purposes is an employee appointed to the position of fire chief by a city council but not eligible to be a "paid firefighter," or the chief fire warden of a timber protective association, or is an employee of either the department of lands or of a timber protective association whose primary position and principal accountability in that position either requires direct supervision of employees engaged in the prevention, presuppression and suppression of wild land fires or requires the performance of those duties as the principal function of the position. A firefighter member for retirement purposes does not include an employee who may be required on occasion to engage in those functions as a secondary requirement of the position.
Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. ( )

201. INCORRECT CLASSIFICATION OF FIREFIGHTER.
An employer or agency which believes that any position is incorrectly classified as a firefighter position or a non-firefighter position may petition the Board for inclusion or exclusion of such position as a firefighter position. Such petition shall be in writing and explain in detail the principal duties of the position. The Board will review the petition and evidence, together with such information and evidence as may be presented by the staff of PERSI. The Board may decide the matter based upon the information supplied, may request additional information, or may request an oral presentation before the Board.
Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. ( )

202. PAID FIREFIGHTER EXCLUSION FROM RULES 200 AND 201.
The provisions of Rules 200 and 201 of this subchapter do not apply to a "paid firefighter" as defined by Sections 59-1391(f) or 72-1403(A), Idaho Code, or to any references to "firefighter" found in Title 72, Chapter 14, Idaho Code.
Statutory References: Sections 59-1302(16), 59-1391(f) and 72-1403, Idaho Code. ( )

203. -- 249. (RESERVED)

SUBCHAPTER C - PERSI GENERAL PROVISIONS, CONTRIBUTION RATE, MISCELLANEOUS, AND INTEREST RATE RULES RULES 250 THROUGH 374

250. PERSI EMPLOYER GENERAL MEMBER CONTRIBUTION RATE.
The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, beginning July 1, 2019, shall be eleven point ninety-four percent (11.94%) until next determined by the Board.

Statutory Reference: Sections 59-1302(16), 59-1391, 59-1394, and 59-1397, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) ( )

251. FIREFIGHTER RETIREMENT FUND EMPLOYER RATE.
The Firefighter Retirement Fund employer rate shall be: ( )

01. Option I and II Firefighters. For option I and II firefighters hired before October 1, 1980, as follows:

Option I and II Firefighters	
PERSI Employer Contribution Rate:	The employer contribution rate as provided in Rule 252.
Additional Employer Rate:	One percent (1%)
Social Security Rate:	Seven point sixty-five percent (7.65%)

Option I and II Firefighters	
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate, the additional employer rate, the social security rate and the excess merger costs rate.

( )

02. Class D Firefighters. For class D firefighters (firefighters employed on or after October 1, 1980, by a city or fire district that employs paid firefighters who are participating in the Firefighters' Retirement Fund), as follows:

Class D Firefighters	
PERSI Employer Contribution Rate:	The employer contribution rate as provided in Rule 252.
Excess Merger Costs Rate:	Seventeen point twenty-four percent (17.24%) through December 31, 2014. Beginning January 1, 2015, five percent (5%) until next determined by the Board.
TOTAL Contribution Rate:	The total contribution rate is the sum of the PERSI employer contribution rate and the excess merger costs rate.

Statutory References: Sections 59-1302(16), 59-1391, 59-1394, 59-1397, 72-1403, and 72-1434, Idaho Code. Cross References: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ( )

03. Class E Members. For class E members (general members who meet the definition of paid firefighter under Section 59-1391(f), Idaho Code, but are not firefighters as defined in Section 59-1302(16), Idaho Code) the employer general member contribution rate as provided in Rule 250, plus the excess merger costs specified in Subsection 027.01. ( )

252. PERSI EMPLOYER CLASS II CONTRIBUTION RATE.
The PERSI employer contribution rate as provided in Section 59-1322, Idaho Code, beginning July 1, 2019 for an employee classified as a police officer member excluding those listed in Rule 253 of this subchapter when applicable, and firefighters excluding those listed in Rule 251 of this subchapter, shall be twelve point twenty-eight percent (12.28%) until next determined by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 7-1-03) (Amended 3-20-04) ( )

253. CITY OF IDAHO FALLS CLASS II CONTRIBUTION RATE.
The City of Idaho Falls employer rate for an employee classified as a police member shall be equal to the rate provided in Rule 252, unless further modified by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended Retroactively to 7-1-97) ( )

254. -- 299. (RESERVED)

300. PERSI EMPLOYEE GENERAL MEMBER CONTRIBUTION RATE.

The PERSI employee contribution rate as provided in Section 59-1333, Idaho Code, beginning July 1, 2019 for all members not classified as police members or firefighters, shall be seven point sixteen percent (7.16%) of salary until next determined by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) *( )*

301. PERSI EMPLOYEE CLASS II CONTRIBUTION RATE.
The employee contribution rate as provided in Section 59-1334, Idaho Code, beginning July 1, 2019 for an employee classified as a police officer member shall be eight point seventy-seven percent (8.77%) of salary until next determined by the Board.
Statutory References: Cross Reference: (Amended 10-1-94) (Amended 10-1-97) (Amended 10-1-98) (Amended 10-1-99) (Amended 7-1-00) (Amended 3-30-01) (Amended 3-20-04) *( )*

302. PUBLIC SAFETY OFFICER DISABILITY CONTRIBUTIONS UNDER SECTION 59-1352A, IDAHO CODE.
In accordance with Section 59-1352A, Idaho Code, public safety officers, as that term is used in Section 59-1352A, Idaho Code, shall pay an additional contribution rate of point four percent (.04%) of salary until next determined by the board. *(3-1-10)*

303. EMPLOYEE CONTRIBUTIONS BASED ON GROSS SALARY.
Employee contributions shall be based on the employee's total gross salary regardless of source or employer funds from which the employee is paid. *( )*

304. (RESERVED)

305. MULTIPLE EMPLOYERS -- CONTRIBUTION RATE.
If the employee has met eligibility requirements with more than one (1) employer which would result in different contribution rates, contributions shall be made at the rate for the member's classification with the primary employer. *( )*

306. STATE EMPLOYEE CONTRIBUTIONS.
If an employee establishes membership with the state, the employee and each agency must make contributions on the employee's salary regardless of the number of hours worked at each state agency. *( )*

307. POLICE OFFICER CONTRIBUTIONS WITHHELD INCORRECTLY.
If an employee's contributions are withheld by an employer and received by PERSI at the rate established for police members on the presumption the certification required by Section 59-1303, Idaho Code, will be accepted but if it is rejected, the employer shall adjust the employee's contribution rate to a general member rate and PERSI shall return to the employer any excess employee contributions that have occurred. *( )*

308. CONTRIBUTIONS DUE WHILE MEMBER IS RECEIVING WORKER'S COMPENSATION.

***01. Contributions Due and Payable**. Contributions are due and payable on whatever percentage of salary is paid while the member is on a leave of absence occasioned by an approved worker's compensation claim and the member will be entitled to a month of membership service credit for each month the member remains eligible.* *( )*

***02. Accruing Service**. This means for an employee to continue accruing service the employer must continue to pay salary equal to the lesser of:* *( )*

***a.** The amount necessary to meet the statutory definition of employee (half-time at the pre-injury rate or more), or* *( )*

***b.** The employee's full-time salary less the employee's worker's compensation income benefit.* *( )*

***03. Maintaining Eligibility for Injured Workers**. The intent of this rule is to permit employers to*

maintain eligibility for injured workers without having to pay salary that, when added to the employee's worker's compensation income benefit, would exceed the employee's total salary prior to the injury. Rule 122 is inapplicable to the extent it conflicts with this rule. ( )

309. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS.
Compensation paid for vacation or remaining contractual payments is salary subject to employee and employer contributions and earns membership credit through the effective date of separation from employment at the usual rate of compensation. ( )

310. -- 324. (RESERVED)

325. TRANSFER OF CONTRIBUTIONS TO PERSI.
Employee and employer contributions shall be calculated and forwarded to PERSI by each employer for each employee that meets the statutory definition of "employee" as defined in Section 59-1302 (14), Idaho Code. All Contributions shall be remitted, together with an approved report to PERSI no later than five (5) days after each pay date as provided in Section 59-1325(1), Idaho Code. ( )

325. -- 349. (RESERVED)

350. REGULAR INTEREST.
Regular interest for each calendar year shall be the greater of ninety percent (90%) of the rate of return on the PERSI fund net of all expenses for the fiscal year ending immediately prior to the calendar year as reported in the actuary's annual valuation report or one percent (1%). ( )

351. INTEREST – MEMBER CONTRIBUTIONS.
Regular interest as defined in Section 59-1302(26), Idaho Code, and Rule 300, in this subchapter, shall accrue to and be credited monthly to a member's accumulated contributions. ( )

352. REINSTATEMENT INTEREST.
Reinstatement interest for each calendar year shall equal the average of the prime rate on June 30 of the latest three (3) years, plus one percent (1%). For purposes of this rule, the prime rate is the "prime rate" listed in the "Money Rates" section of the Wall Street Journal on June 30, or in the event no rate is listed on June 30, on the latest date preceding June 30 for which a prime rate is listed. Unless otherwise provided by statute or rule, reinstatement interest shall apply to all amounts owed to the fund. ( )

353. -- 374. (RESERVED)

SUBCHAPTER D - PERSI DISABILITY RULES
RULES 375 THOUGH 499

375. GENERAL RULE.
Only members of PERSI with five (5) years of credited service are eligible for disability retirement except as provided in Section 59-1352(2), Idaho Code. ( )

376. SERVICE RELATED DISABILITY FOR POLICE, GENERAL MEMBERS, AND FIREFIGHTERS.
Police, general members, and certain firefighter members are eligible for disability retirement beginning from the first day of employment when the disability is caused by occupational hazards, as provided in Section 59-1352(2), Idaho Code. ( )

377. -- 399. (RESERVED)

400. APPLYING FOR DISABILITY RETIREMENT.
Eligible members may apply for disability retirement by completing a required form available from any PERSI office. The application process may include an interview by a PERSI representative. Applicants must release all medical records and information to PERSI. The hours worked to qualify as an employee as defined in I.C. § 59-1302(14) is inapplicable for purposes of determining disability. ( )

401. INITIAL APPLICATION REVIEW.
Applications will first be reviewed to determine whether the applicant meets eligibility requirements. If all eligibility requirements are met, the application will proceed to disability assessment review. If all eligibility requirements are not met, the applicant will be notified in writing. ( )

402. DISABILITY ASSESSMENT REVIEW.
Applicants will be assessed to determine whether they qualify for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by PERSI. Failure to timely comply with any request made by PERSI during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, PERSI will notify applicants in writing whether or not they qualify for disability retirement. ( )

403. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION.
Applicants who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted to PERSI within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. ( )

404. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION.
A reconsideration decision shall be considered a final decision under Section 59-1314(2), Idaho Code, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available to PERSI in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available to PERSI during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. ( )

405. DELEGATION.
PERSI may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "PERSI" includes those third parties. When a member requests the resumption of a disability retirement allowance pursuant to Section 59-1354A, Idaho Code, the board may delegate its authority under Section 59-1354A, Idaho Code, to a third party. Where such delegation has been made, the term "Board" includes those third parties. ( )

406. REASSESSMENT OF DISABILITY RETIREES.
Disability retirees are subject to reassessment of their disability at any time to determine whether they continue to be disabled under the standard in Section 59-1302(12), Idaho Code. However, pursuant to Section 59-1302(12)(b), Idaho Code, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. Disability retirees who are notified that they have been selected for reassessment are under the same obligation as applicants to supply information. ( )

407. ATTORNEY'S FEES AND COSTS.
Attorney's fees and costs incurred by an applicant in his efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by PERSI except for fees related to judicial review for which applicant is found to be entitled under applicable law. ( )

408. -- 424. (RESERVED)

425. BURDEN ON APPLICANT.
Applicant must demonstrate that, on or before applicant's last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. When a member requests the resumption of a disability retirement allowance pursuant to Section

59-1354A, Idaho Code, the member must demonstrate that he could not successfully return to work because of the same disability on which his disability retirement was based. ( )

426. STATUTORY STANDARD.
In applying the disability standard in Section 59-1302(12), Idaho Code, substantially all avenues of employment are reasonably closed if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of any occupation for which the applicant is reasonably qualified by education, training or experience. ( )

427. (RESERVED)

428. HIRE-ABILITY OF APPLICANT.
The inability of the applicant to secure employment in and around the area where the applicant resides is not considered in determining whether or not the applicant is disabled. If the applicant is able to perform every substantial and material duty of any jobs existing in the economy for which the applicant is reasonably qualified by education, training or experience, the applicant will not be considered disabled regardless of other factors that might affect the applicant's ability to actually secure employment, such as employer decisions and practices or the fact that there are no open positions or that the applicant is not selected for those positions. ( )

429. -- 449. (RESERVED)

450. COMMENCEMENT AND DURATION OF DISABILITY ALLOWANCE.
The commencement and duration of payment of disability benefits is governed by Section 59-1354, Idaho Code. For purposes of Section 59-1354(1)(b), Idaho Code, a member "becomes eligible" on the first of the month following the date selected by the member which follows the date on which the member is unable to and thereafter does not return to work on a regular basis for two (2) consecutive weeks but not later than the date on which the member ceases to make contributions. ( )

451. DETERMINING WORKER'S COMPENSATION OFFSET.
To determine the offset required by Section 59-1353, Idaho Code, the amount payable under the provisions of any worker's compensation law which represents income benefits as defined in Section 72-102, Idaho Code, shall be converted to a monthly equivalent and deducted from the monthly retirement allowance. ( )

452. EFFECT OF UNUSED SICK LEAVE ON DISABILITY ALLOWANCE.
Unused sick leave entitlement provided for by either Section 33-1228, 33-2109A, or 67-5339, Idaho Code, shall not be considered salary or compensation in the application of Section 59-1354(1), Idaho Code. ( )

453. -- 474. (RESERVED)

475. APPLICATION OF THIS SUBCHAPTER TO FRF DISABILITY RETIREMENT.
All the provisions of this subchapter, except rules 375, 376, 406, 426, 427, 451 and 452, apply also to applications for disability retirement under the FRF plan to the extent they do not conflict with the provisions of Title 72, Chapter 14, Idaho Code. ( )

476. -- 499. (RESERVED)

SUBCHAPTER E - PERSI SEPARATION FROM SERVICE RULES RULES 500 THROUGH 524

500. REPAYMENT OF SEPARATION BENEFITS -- EMPLOYEE STATUS.
Repayment of a separation benefit must commence while the member is an employee, as defined in Section 59-1302(14), Idaho Code. For purposes of this rule the term employee includes employees accruing benefits under the Department of Employment Retirement Plan, the Firefighters' Retirement Fund, and the Policeman's Retirement Fund.
Statutory Reference: Section 59-1360, Idaho Code. ( )

501. INTEREST ACCRUAL AND CALCULATION ON SEPARATION BENEFITS.
Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is after January 23, 1990, shall include payment of interest that shall accrue from the date each separation benefit was issued. Repayment of separation benefits as provided in Section 59-1360, Idaho Code, for employees whose most recent date of reemployment is before January 23, 1990, shall include payment of interest as determined by the law, statutes and rules in effect on the date of last reinstatement to employee status, except as provided in Rule 502, of this subchapter.
Statutory Reference: Section 59-1360, Idaho Code. ( )

502. REPAYMENT OF SEPARATION BENEFITS BY EMPLOYEES PREVIOUSLY PRECLUDED FROM REPAYMENT.
Any employee who was precluded from repaying a separation benefit due to the fact they failed to meet the requirements of Section 59-1360, Idaho Code (previously 59-1307, Idaho Code), may reinstate their previous credited service by repaying the full amount of their accumulated contributions provided such repayment includes payment of regular interest accruing from the date of each such separation benefit payment.
Statutory Reference: Section 59-1360, Idaho Code. ( )

503. METHODS OF REPAYMENT OF SEPARATION BENEFITS.

01. Periodic and Lump-Sum Payments. Where an active member elects to repay a separation benefit to reinstate previous service as provided in Section 59-1360, Idaho Code, the member may request that repayment be made in periodic payments or in a lump-sum payment. No service will be reinstated until the full repayment has been made. ( )

02. Repayments Initiated on or After March 1, 2000. For all repayments initiated on or after March 1, 2000, except as provided in Rule 501 of this subchapter, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at the reinstatement rate in effect on the date of the first periodic payment. ( )

03. Repayments Initiated Before March 1, 2000. For all periodic repayments initiated before March 1, 2000, a repayment amount will be determined which shall be the sum of the separation benefit(s) plus regular interest from the date of the benefit payment(s) until the date of the first payment. The repayment amount will be amortized over the repayment period at four point seventy-five percent (4.75%) interest. This is a grandfathered rate based on the rate in effect December 31, 1999, and will apply so long as payments exceed interest charges on a calendar year basis. If payments fail to exceed interest charges in any calendar year, the grandfathered rate will be forfeited and replaced by the reinstatement rate beginning in January immediately after the year in which the failure occurs. For purposes of these rules, a repayment is initiated by signing an agreement and making a payment. ( )

04. Repayments Under Section 59-1331(2), Idaho Code. For (waiting period) payments made pursuant to Section 59-1331(2), Idaho Code, a repayment amount shall be determined which shall be the sum of contributions that would have been made plus regular interest from December 31, 1975 until the date of the first payment. The repayment amount will be amortized over the payment period at the reinstatement rate in effect on the date of the first periodic payment. ( )

504. IN-SERVICE TRANSFERS TO REINSTATE SERVICE.
To the extent permitted by federal law, and in accordance with any regulation or other guidance issued by the Internal Revenue Service, an active member may transfer funds from a 401(k), a 403(b), or an eligible 457(b) plan, in which they are currently eligible to participate, to the Base Plan for purposes of buying back service previously forfeited due to receiving a separation benefit, purchasing service related to eligible waiting periods, or purchasing service for periods of delinquent contributions. ( )

505. (RESERVED)

506. ROLLOVERS ACCEPTED INTO THE BASE PLAN.
The PERSI Base Plan will accept participant rollover contributions and direct rollovers of distributions made after

December 31, 2001, for purposes of reinstating or purchasing service as permitted under the plan, from the following plans. No after-tax contributions may be rolled over into the Base Plan. ( )

***01. Qualified Plans**. A qualified plan described in section 401(a) or 403(a) of the Internal Revenue Code (Code). ( )*

***02. Annuity Contracts**. An annuity contract described in section 403(b) of the Code. ( )*

***03. 457 Plans**. An eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state. ( )*

***04. IRAs**. Any portion of a distribution from an individual retirement account or annuity described in section 408(a) or 408(b) of the Code that is eligible to be rolled over and would otherwise be includable in gross income. ( )*

507. DIRECT ROLLOVERS OUT OF THE BASE PLAN.
A direct rollover is a payment by the plan to an eligible retirement plan specified by the distributee. ( )

***01. Rollover Election**. Notwithstanding any provision of the plan to the contrary that would otherwise limit a distributee's election under this part, a distributee may elect, at the time and in the manner prescribed by the plan administrator, to have any portion of an eligible rollover distribution that is equal to at least five hundred dollars ($500) paid directly to an eligible retirement plan specified by the distributee in a direct rollover. ( )*

***02. Eligible Rollover Distribution**. An eligible rollover distribution is any distribution of all or any portion of the balance to the credit of the distributee, except that an eligible rollover distribution does not include: ( )*

***a.** Any distribution that is one (1) of a series of substantially equal periodic payments (not less frequently than annually) made for the life (or life expectancy) of the distributee or the joint lives (or joint life expectancies) of the distributee and the distributee's designated beneficiary, or for a specified period of ten (10) years or more; ( )*

***b.** Any distribution to the extent such distribution is required under section 401(a)(9) of the Internal Revenue Code (Code); ( )*

***c.** Any amount that is distributed on account of hardship; ( )*

***d.** The portion of any distribution that is not includable in gross income (determined without regard to the exclusion for net unrealized appreciation with respect to employer securities); and ( )*

***e.** Any other distribution(s) that is reasonably expected to total less than two hundred dollars ($200) during a year. ( )*

***03. After-Tax Contributions**. For purposes of the direct rollover provisions in Subsection 507.02, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includable in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includable in gross income and the portion of such distribution which is not so includable. ( )*

***04. Eligible Retirement Plan**. An eligible retirement plan is an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a Roth IRA described in Section 408A of the Code, an annuity plan described in section 403(a) of the Code, an annuity contract described in section 403(b) of the Code, an eligible plan under section 457(b) of the Code which is maintained by a state, political subdivision of a state, or any agency or instrumentality of a state or political subdivision of a state and which agrees to separately account for amounts transferred into such plan from this plan, or a qualified plan*

described in section 401(a) of the Code, that accepts the distributee's eligible rollover distribution. ( )

***05. Alternate Payees**. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Sections 59-1319 and 1320, Idaho Code, are distributees with regard to the interest of the spouse or former spouse. ( )*

508. REQUIRED MINIMUM DISTRIBUTIONS.

***01. Default Application of Federal Requirements**. With respect to distributions under the Base Plan, and except as provided in Subsection 508.06, the Plan will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code (Code) in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Base Plan to the contrary. ( )*

***02. Required Beginning Date**. Except as otherwise provided in Subsections 508.04 through 508.08, distributions under the Base Plan shall begin not later than April 1 following the later of (a) the commencement year or (b) the year in which the member retires. For purposes of Rule 508, the "commencement year" is the calendar year in which the member reaches age seventy and one-half (70 1/2). ( )*

***03. PERSI Selects Retirement Option**. Any member required to take minimum distributions, as provided in this Rule 508, and fails to complete and submit an approved retirement application and select either a regular or optional retirement allowance by April 1 following the later of (a) the commencement year or (b) the year in which the member retires shall be deemed to have made the following selection: ( )*

***a.** If single, a regular retirement allowance and no other selection shall be required or permitted. ( )*

***b.** If married, Option 1 and no other selection shall be required or permitted, unless proof is provided that spouse has no community property interest in the benefit. ( )*

***04. Lifetime Distributions**. Distribution shall be made over the life of the participant or the lives of the participant and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. ( )*

***05. Timing of Required Distributions**. A required distribution shall be deemed to have been made during the commencement year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the commencement year. ( )*

***06. Adjustment of Required Distributions**. Benefits paid prior to the commencement year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. ( )*

***07. Benefits Deferred Beyond Service Retirement**. The first payment of benefits of an inactive member following deferment beyond service retirement will be in a lump sum that includes payment for those months of service dating from the date of service retirement when a monthly retirement payment would have started through the current monthly payment. Subsequent payments will be for the monthly retirement allowance only. ( )*

***08. Death Benefits**. All death benefits payable under the Base Plan will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. ( )*

509. TRANSFERS TO NON-SPOUSE BENEFICIARIES.

Notwithstanding any other provision of the Base Plan to the contrary that would otherwise limit the options of the beneficiary of a deceased member who is not the member's spouse, the administrator shall, upon the request of such a beneficiary, transfer a lump sum distribution to the trustee of an individual account established under Section 408

of the Code in accordance with the provisions of Section 402(e)(11) of the Code. ( )

510. -- 524. (RESERVED)

SUBCHAPTER F - PERSI RETIREMENT RULES RULES 525 THROUGH 649

525. AVERAGE MONTHLY SALARY COMPUTATION -- EQUITABLE TREATMENT -- DIFFERENT WORK PERIODS.
Equitable treatment for all members can be achieved only if members whose career patterns covering the same time frame and who received identical annual salaries during each of the twelve-month periods of that time frame accrue the same monthly service retirement allowance. To achieve this equity for the member whose annual salary has been paid on other than a twelve-month salary schedule during any contractual or like twelve-month period, the average monthly salary used for each one of those twelve-month periods will be determined from the total base period salary by using a divisor representing the months of membership service which would have been accumulated at that rate over a full base period.
Statutory Reference: Sections 59-1302(5A), 59-1391(b), Idaho Code. ( )

526. UNUSUAL COMPENSATION PATTERN EFFECT ON RETIREMENT CALCULATION.
Upon application for a retirement benefit, any portion of compensation which represents payments in excess of and inconsistent with the usual compensation pattern, for example, but not limited to lump sum contract payouts, excess vacation paid but not taken, paid sick leave, or a clothing allowance will not be considered in determining benefits. ( )

527. MAXIMUM RETIREMENT ALLOWANCE (RULE 111).
If the amount of a member's initial retirement allowance on the date of retirement would exceed the average salary during the member's highest thirty-six (36) consecutive calendar months of salary, then the member's initial retirement allowance will be limited to the greater of: the average salary during the highest thirty-six (36) consecutive calendar months of salary; or the initial retirement allowance based on credited service through April 1990. Optional retirement allowances will be computed after any limitation above has been applied. ( )

528. MEMBER NOTIFIED OF AVAILABLE RETIREMENT OPTIONS PRIOR TO BOARD APPROVAL.
The Retirement Board shall not act on any application for retirement unless the member has previously been provided with notification of the regular retirement option and options one (1) and two (2) election available to the member including the value of the monthly allowance of each. The value of options three (3) and four (4) will be provided if the member so requests the value of the option and provides information required to calculate that option (such as but not limited to social security benefit estimates) which is not available to PERSI but that can be provided by the member. ( )

529. -- 530. (RESERVED)

531. SPOUSAL CONSENT.
Except as provided in this rule, a member is required to complete and submit an approved retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying he/she understands and consents to the election made by the member. The spouse's signature must be notarized. ( )

532. PAYMENT DATE OF EARLY OR SERVICE RETIREMENT ALLOWANCE -- GENERAL MEMBERS.
As set forth by Section 59-1344, Idaho Code, a PERSI member's service retirement allowance or early retirement allowance is payable on the first of the month following the month in which the member ceases to be an employee while eligible for either of these forms of retirement.
Statutory References: Section 59-1344 and 59-1356(2), Idaho Code. ( )

533. ELECTED OR APPOINTED OFFICIAL WORKING FOR MULTIPLE STATE AGENCIES, POLITICAL SUBDIVISIONS OR GOVERNMENT ENTITIES.

An active member separated from employment by one (1) state agency, political subdivision or government entity for whom he or she did normally work twenty (20) hours or more per week and who is age 62 or older and eligible to retire but remains an elected or appointed official with a different state agency, political subdivision or government entity, may retire and continue in that elected or appointed position provided that position is one in which he or she does not normally work twenty (20) hours or more per week. The member shall receive retirement allowances under the conditions provided by Rule 539.
Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. *( )*

534. ELECTED OR APPOINTED OFFICIAL RETIRING IN PLACE.
An active member serving as an elected or appointed official who does not normally work twenty (20) hours or more per week who is age 62 or older and eligible to retire and who is not an eligible employee with another state agency, political subdivision or government entity pursuant to Rule 101 may then retire and continue in that position. The member shall receive retirement allowances under the conditions provided by Rule 539.
Statutory References: Sections 59-1344 and 59-1356(2), Idaho Code. *( )*

535. RESTRICTIONS ON REEMPLOYMENT OF RETIRED MEMBERS.
There are no restrictions placed upon employment or earnings of retired members except with respect to employment by a state agency, political subdivision or government entity member of PERSI. Unless specified otherwise, the conditions of reemployment outlined in this subchapter apply for employment with any state agency, political subdivision or government entity member of the system.
Statutory Reference: Section 59-1356, Idaho Code. *( )*

536. RETIRED MEMBER BECOMING AN ACTIVE MEMBER.
A PERSI retired member employed in a position which involves service of normally twenty (20) hours or more per week for a period of five (5) or more consecutive months or longer will return to the status of an active member. Retirement benefits will suspend on reemployment and employee and employer contributions will resume to provide additional retirement credits. If a retired member is reemployed in a position which involves service of twenty (20) hours or more per week for a period of less than five (5) consecutive months, their monthly retirement benefits will continue to be paid. If the member's reemployment should equal or exceed the five (5) month period for any reason, the member will be required to repay the retirement benefits paid during the five (5) month period which they were reemployed and they will return to the status of an active member. Employee and employer contributions will be due for the five (5) consecutive month period.
Statutory Reference: Section 59-1356, Idaho Code. *( )*

537. (RESERVED)

538. REEMPLOYMENT LESS THAN FIVE CONSECUTIVE MONTHS.
If the period of reemployment develops to be less than five (5) consecutive months, contributions will be refunded and retirement allowances will resume as of the date they were discontinued.
Statutory Reference: Section 59-1356, Idaho Code. *( )*

539. REEMPLOYMENT -- WORKING LESS THAN TWENTY HOURS OR LESS THAN FIVE CONSECUTIVE MONTHS.
Monthly retirement allowances will continue to be paid to the PERSI retired member who returns to employment in a position where the member does not normally work twenty (20) hours or more per week or the reemployment is for a period which does not total five (5) consecutive months and the state agency, political subdivision or government entity so certifies. In such cases, employee and employer contributions are neither required nor acceptable and no new retirement credits can be earned.
Statutory Reference: Section 59-1356, Idaho Code. *( )*

540. RETIRED MEMBER BECOMING AN ELECTED OR APPOINTED OFFICIAL.
A PERSI retired member who is subsequently elected or appointed by an employer to public office and who is not normally required to perform services of twenty (20) hours or more per week in that position may continue to receive retirement allowances in the status of a reemployed retired member under conditions outlined by Rule 539.
Statutory Reference: Section 59-1356, Idaho Code. *( )*

541. SEPARATION FROM EMPLOYMENT AFTER REEMPLOYMENT.

Upon subsequent separation from employment after reemployment, the member's original monthly retirement allowance will resume with appropriate cost-of-living adjustments plus the addition of a separate allowance computed with respect to salary and service credited during the reemployment period.
Statutory Reference: Section 59-1356, Idaho Code. *( )*

542. EARLY RETIREMENT MEMBER -- REEMPLOYMENT.
A PERSI member who had been receiving an early retirement allowance and who returns to employment as an active member may refund all retirement benefits previously paid plus regular interest accrued from the date each monthly allowance had been paid, thereby negating the previous retirement status. The month of last contribution prior to the negated retirement and the month of initial contribution upon return to active membership shall be considered consecutive months of contributions in the determination of an appropriate salary base period upon subsequent retirement.
Statutory Reference: Section 59-1356, Idaho Code. *( )*

543. BENEFIT ENHANCEMENT -- QUALIFICATION.
To qualify for a benefit enhancement, a person must remain an active member through the day following the effective date of the enhancement. *( )*

544. POST RETIREMENT ALLOWANCE ADJUSTMENTS -- PERSI RETIREES.
The Board shall annually determine the post retirement cost of living adjustment (COLA) for the Public Employee Retirement System of Idaho (PERSI) pursuant to Section 59-1355, Idaho Code. The Board shall have discretion in adopting a yearly discretionary and/or retro-active COLA. The Board shall yearly adopt this COLA no later than the December Board meeting of each year with an effective date of March 1 of the next year.
Statutory References: Section 59-1355, Idaho Code. *( )*

545. ACTUARIAL ASSUMPTION TABLES.
The actuarial tables used for determining optional and early retirement benefits are as follows:

TABLE A -- PAGE 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is prior to 10/1/92

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.770	.690	.610	.530	.450
1	.998	.968	.938	.908	.878	.843	.763	.683	.603	.523	
2	.995	.965	.935	.905	.875	.837	.757	.677	.597	.517	
3	.993	.963	.933	.903	.873	.830	.750	.670	.590	.510	
4	.990	.960	.930	.900	.870	.823	.743	.663	.583	.503	
5	.988	.958	.928	.898	.868	.817	.737	.657	.577	.497	
6	.985	.955	.925	.895	.865	.810	.730	.650	.570	.490	
7	.983	.953	.923	.893	.863	.803	.723	.643	.563	.483	
8	.980	.950	.920	.890	.860	.797	.717	.637	.557	.477	
9	.978	.948	.918	.888	.858	.790	.710	.630	.550	.470	
10	.975	.945	.915	.885	.855	.783	.703	.623	.543	.463	

TABLE A -- PAGE 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is prior to 10/1/92

Months	Years										
11	.973	.943	.913	.883	.853	.777	.697	.617	.537	.457	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6667% ( )

TABLE A -- PAGE 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/92 but prior to10/1/93

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.970	.940	.910	.880	.850	.777	.705	.632	.560	.487
1	.998	.968	.938	.908	.878	.844	.771	.699	.626	.554	
2	.995	.965	.935	.905	.875	.838	.765	.693	.620	.548	
3	.993	.963	.933	.903	.873	.832	.759	.687	.614	.542	
4	.990	.960	.930	.900	.870	.826	.753	.681	.608	.536	
5	.988	.958	.928	.898	.868	.820	.747	.675	.602	.530	
6	.985	.955	.925	.895	.865	.814	.741	.669	.596	.524	
7	.983	.953	.923	.893	.863	.808	.735	.663	.590	.518	
8	.980	.950	.920	.890	.860	.802	.729	.657	.584	.512	
9	.978	.948	.918	.888	.858	.796	.723	.651	.578	.506	
10	.975	.945	.915	.885	.855	.790	.717	.645	.572	.500	
11	.973	.943	.913	.883	.853	.784	.711	.639	.566	.494	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.6042% ( )

TABLE A -- PAGE 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/93 but prior to10/1/94

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10

TABLE A -- PAGE 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
If the date of last contribution is on or after 10/1/93 but prior to10/1/94

Months	Years										
0	1.00	.970	.940	.910	.880	.850	.785	.720	.655	.590	.525
1	.998	.968	.938	.908	.878	.845	.780	.715	.650	.585	
2	.995	.965	.935	.905	.875	.839	.774	.709	.644	.579	
3	.993	.963	.933	.903	.873	.834	.769	.704	.639	.574	
4	.990	.960	.930	.900	.870	.828	.763	.698	.633	.568	
5	.988	.958	.928	.898	.868	.823	.758	.693	.628	.563	
6	.985	.955	.925	.895	.865	.817	.752	.687	.622	.557	
7	.983	.953	.923	.893	.863	.812	.747	.682	.617	.552	
8	.980	.950	.920	.890	.860	.807	.742	.677	.612	.547	
9	.978	.948	.918	.888	.858	.801	.736	.671	.606	.541	
10	.975	.945	.915	.885	.855	.796	.731	.666	.601	.536	
11	.973	.943	.913	.883	.853	.790	.725	.660	.595	.530	

First sixty months reduction: 0.2500% Next sixty months reduction: 0.5417% ( )

TABLE A -- PAGE 4
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
Date of last contribution is on or after 10/1/94 or later

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.0	.970	.940	.910	.880	.850	.792	.735	.677	.620	.562
1	.998	.968	.938	.908	.878	.845	.788	.730	.673	.615	
2	.995	.965	.935	.905	.875	.840	.783	.725	.668	.610	
3	.993	.963	.933	.903	.873	.836	.778	.721	.663	.606	
4	.990	.960	.930	.900	.870	.831	.773	.716	.658	.601	
5	.988	.958	.928	.898	.868	.826	.769	.711	.654	.596	
6	.985	.955	.925	.895	.865	.821	.764	.706	.649	.591	
7	.983	.953	.923	.893	.863	.816	.759	.701	.644	.586	

TABLE A -- PAGE 4
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
EARLY RETIREMENT FACTORS
Date of last contribution is on or after 10/1/94 or later

Months	Years										
8	.980	.950	.920	.890	.860	.812	.754	.697	.639	.582	
9	.978	.948	.918	.888	.858	.807	.749	.692	.634	.577	
10	.975	.945	.915	.885	.855	.802	.745	.687	.630	.572	
11	.973	.943	.913	.883	.853	.797	.740	.682	.625	.567	

( )

TABLE B -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify for an Unreduced Service Retirement Allowance AFTER Applying Table A factors

Months	Years										
	0	1	2	3	4	5	6	7	8	9	10
0	1.00	.923	.853	.787	.727	.671	.620	.572	.528	.488	.451
1	.993	.917	.847	.782	.722	.667	.616	.568	.525	.485	
2	.987	.911	.841	.777	.717	.662	.612	.565	.521	.481	
3	.980	.905	.836	.772	.713	.658	.608	.561	.518	.478	
4	.974	.899	.830	.767	.708	.654	.604	.557	.515	.475	
5	.967	.893	.825	.762	.703	.649	.600	.554	.511	.472	
6	.961	.887	.819	.756	.699	.645	.596	.550	.508	.469	
7	.955	.881	.814	.751	.694	.641	.592	.546	.504	.466	
8	.948	.876	.808	.746	.689	.636	.588	.543	.501	.463	
9	.942	.870	.803	.742	.685	.632	.584	.539	.498	.460	
10	.936	.864	.798	.737	.680	.628	.580	.535	.494	.457	
11	.930	.858	.793	.732	.676	.624	.576	.532	.491	.454	

( )

TABLE B -- Page 2
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify for an Unreduced Service Retirement Allowance
AFTER Applying Table A factors

Months	Years										
	10	11	12	13	14	15	16	17	18	19	20
0	.451	.416	.384	.355	.327	.302	.279	.258	.238	.220	.203
1	.448	.413	.382	.352	.325	.300	.277	.256	.236	.218	
2	.445	.411	.379	.350	.323	.298	.276	.254	.235	.217	
3	.442	.408	.377	.348	.321	.296	.274	.253	.233	.215	
4	.439	.405	.374	.345	.319	.294	.272	.251	.232	.214	
5	.436	.402	.372	.343	.317	.293	.270	.249	.230	.213	
6	.433	.400	.369	.341	.315	.291	.268	.248	.229	.211	
7	.430	.397	.367	.339	.313	.289	.267	.246	.227	.210	
8	.427	.394	.364	.336	.311	.287	.265	.244	.226	.208	
9	.424	.392	.362	.334	.308	.285	.263	.243	.224	.207	
10	.422	.389	.359	.332	.306	.283	.261	.241	.223	.206	
11	.419	.387	.357	.330	.304	.281	.260	.240	.221	.204	

( )

TABLE B -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify for an Unreduced Service Retirement Allowance
AFTER Applying Table A Factors

Months	Years					
	20	21	22	23	24	25
0	.203	.187	.173	.160	.148	.136
1	.202	.186	.172	.159	.147	.135

TABLE B -- Page 3
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
RETIREMENT REDUCTION FACTORS FOR OPTIONS 3 AND 4 AND CERTAIN DEATH BENEFITS
Options 3 and 4: Years and Months Until Member Would Be Social Security Retirement Age
Death Benefits: Additional Years and Months Until Member Would Qualify for an Unreduced Service Retirement Allowance AFTER Applying Table A Factors

Months	Years					
2	.200	.185	.171	.158	.146	.134
3	.199	.184	.170	.157	.145	.134
4	.198	.183	.169	.156	.144	.133
5	.196	.181	.167	.155	.143	.132
6	.195	.180	.166	.154	.142	.131
7	.194	.179	.165	.153	.141	.130
8	.192	.178	.164	.152	.140	.129
9	.191	.177	.163	.151	.139	.128
10	.190	.175	.162	.150	.138	.127
11	.189	.174	.161	.149	.137	.127

( )

TABLE C -- Page 1
PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO
CONTINGENT ANNUITANT FACTORS
For persons retiring before July 1, 1995

	Age Difference in Years	Factors	
		Option 1	Option 2
	15 *	0.600	0.750
	14	0.610	0.758
	13	0.621	0.766
	12	0.631	0.775
	11	0.642	0.782
Member	10	0.652	0.789
Older	9	0.663	0.797
Than	8	0.674	0.804

TABLE C -- Page 1 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring before July 1, 1995			
	Age Difference in Years	Factors	
Contingent Annuitant	7	0.685	0.812
	6	0.697	0.821
	5	0.708	0.830
	4	0.720	0.838
	3	0.732	0.846
	2	0.746	0.855
	1	0.762	0.865
	0	0.780	0.876
	1	0.799	0.887
	2	0.823	0.902
	3	0.836	0.910
	4	0.847	0.918
	5	0.856	0.924
Member	6	0.865	0.930
Younger	7	0.873	0.935
Than	8	0.881	0.940
Contingent Annuitant	9	0.888	0.944
	10	0.897	0.949
	11	0.906	0.955
	12	0.916	0.961
	13	0.926	0.967
	14	0.934	0.969
	15 or more	0.940	0.970

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. ( )

TABLE C -- Page 2 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 1995			
	Age Difference in Years	Factors	
		Option 1	Option 2
	15 *	0.690	0.810
	14	0.700	0.816
	13	0.710	0.822
	12	0.720	0.828
	11	0.730	0.834
Member	10	0.735	0.840
Older	9	0.740	0.846
Than	8	0.745	0.852
Contingent Annuitant	7	0.750	0.858
	6	0.755	0.864
	5	0.760	0.870
	4	0.765	0.876
	3	0.770	0.882
	2	0.785	0.888
	1	0.800	0.894
	0	0.815	0.900
	1	0.835	0.915
	2	0.855	0.925
	3	0.875	0.935
	4	0.890	0.945
	5	0.900	0.950
Member	6	0.910	0.955

TABLE C -- Page 2 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 1995			
	Age Difference in Years	Factors	
Younger	7	0.920	0.960
Than	8	0.930	0.965
Contingent Annuitant	9	0.940	0.967
	10	0.944	0.969
	11	0.946	0.971
	12	0.948	0.973
	13	0.950	0.975
	14	0.952	0.977
	15 or more	0.954	0.979

*For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .006 from the factor for Option 2. (Amended 96) ( )

TABLE C -- Page 3 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 2011			
	Age Difference in Years	Factors	
		Option 1	Option 2
	15 *	0.729	0.851
	14	0.736	0.856
	13	0.743	0.861
	12	0.750	0.866
	11	0.757	0.871
Member	10	0.764	0.876
Older	9	0.771	0.881
Than	8	0.778	0.886
Contingent Annuitant	7	0.785	0.891

TABLE C -- Page 3 PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO CONTINGENT ANNUITANT FACTORS For persons retiring on or after July 1, 2011			
	Age Difference in Years	Factors	
	6	0.792	0.896
	5	0.799	0.902
	4	0.808	0.908
	3	0.818	0.914
	2	0.833	0.920
	1	0.848	0.926
	0	0.863	0.932
	1	0.875	0.938
	2	0.887	0.944
	3	0.895	0.949
	4	0.902	0.954
	5	0.909	0.959
Member	6	0.916	0.963
Younger	7	0.923	0.966
Than	8	0.930	0.968
Contingent Annuitant	9	0.940	0.970
	10	0.944	0.972
	11	0.946	0.974
	12	0.948	0.976
	13	0.950	0.978
	14	0.952	0.980
	15 or more	0.954	0.982

**For each year the member is more than fifteen (15) years older than the contingent annuitant subtract .01 from the factor for Option 1 and subtract .01 from the factor for Option 2.* ( )

544. PRE-ERISA VESTING RULES.

01. Termination or Partial Termination. Upon the effective date of any termination or partial termination or upon a complete discontinuation of contributions: ( )

a. No persons who were not theretofore members shall be eligible to become members; ( )

b. No further benefits shall accrue; and ( )

c. The accrued benefits of all members not theretofore vested and not theretofore forfeited shall immediately become fully vested. ( )

545. FORFEITURES.
Forfeitures will not be applied to increase the benefits any employee would otherwise receive under the Base Plan. ( )

546. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED.
Whenever the amount of any Base Plan benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in rule in a manner that precludes employer discretion. ( )

547. COMPENSATION LIMIT.

01. Limit. Except for members of the system prior to July 1, 1996, as provided in Section 59-1302(31)(B), Idaho Code, the annual compensation of each participant taken into account in determining benefit accruals in any plan year beginning after December 31, 2001, shall not exceed two hundred thousand dollars ($200,000). Annual compensation means compensation during the calendar year (the determination period). In determining benefit accruals for determination periods beginning before January 1, 2002, compensation shall be two hundred thousand dollars ($200,000). ( )

02. Limit Adjustment. The two hundred thousand dollars ($200,000) limit on annual compensation in Subsection 547.01 shall be adjusted for cost-of-living increases in accordance with Section 401(a)(17)(B) of the Internal Revenue Code. The cost-of-living adjustment in effect for a calendar year applies to annual compensation for the determination period that begins with or within such calendar year. ( )

548. DEFINED BENEFIT DOLLAR LIMITATION.
The "defined benefit dollar limitation" is one hundred and sixty thousand dollars ($160,000), as adjusted, effective January 1 of each year thereafter, under Section 415(d) of the Internal Revenue Code (Code) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 548.01 and, if applicable, in Subsections 548.02 through 548.04). ( )

01. Less Than Ten Years of Service. If the participant has fewer than ten (10) years of participation in the plan, the defined benefit dollar limitation shall be multiplied by a fraction: ( )

a. The numerator of which is the number of years (or part thereof) of participation in the plan; and ( )

b. The denominator of which is ten (10). ( )

02. Benefit Begins Prior to Age Sixty-Two. If the benefit of a participant begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the participant at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the participant at age sixty-two (62) (adjusted under Subsection 548.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. This Subsection 548.02 does not apply to participants who have at least fifteen (15) years of credited service for which the member was classified as a police officer or firefighter. ( )

***03. Benefit Begins at Age Sixty-Five**. If the benefit of a participant begins after the participant attains age sixty-five (65), the defined benefit dollar limitation applicable to the participant at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the participant at age sixty-five (65) (adjusted under Subsection 548.01, if required). The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. ( )*

***04. Transition**. Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to all current and former participants (with benefits limited by section 415(b)) who have an accrued benefit under the plan immediately prior to the effective date of this Section (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b)). ( )*

549. COMPUTATION OF BENEFITS FOR EMPLOYEES OF WITHDRAWN EMPLOYER

***01. PERSI's Responsibility**. PERSI's responsibility to a withdrawing political subdivision or governmental entity or its employees is limited to the vested accrued actuarial benefits of the system's members upon the date of complete withdrawal, section 59-1326(10) Idaho Code. ( )*

***02. Withdrawal Liability Calculations**. On the occasion that a withdrawing political subdivision or governmental entity fails to pay, in full with accrued interest from date of withdrawal, the withdrawal liability calculated in accordance with section 59-1326(7), Idaho Code, PERSI shall exhaust all efforts to collect the outstanding withdrawal liability as follows: ( )*

***a.** Collect the full withdrawal liability from withdrawing political subdivision or governmental entity at date of withdrawal. If full withdrawal liability is not paid, then; ( )*

***b.** Contract with withdrawing political subdivision or governmental entity, in accordance with section 59-1326(9) and file a lien on the assets of the withdrawing political subdivision or governmental entity. If scheduled payments are not timely made or assets are insufficient or unavailable, then; ( )*

***c.** PERSI will pursue collection efforts against the authorizing state agency, political subdivision or governmental entity that caused the withdrawing political subdivision or governmental entity to be formed. If these collection efforts are ineffective, then; ( )*

***d.** PERSI will cause an actuarial study to be performed for the withdrawing political subdivision or governmental entity and its employees to determine the actuarial value of the accrued benefits at time of withdrawal and will reduce an employee's benefit to match funded status. ( )*

550. COMPUTING VALUE OF SICK LEAVE.

For those members who accrue sick leave based upon each month of service, the rate of pay for purposes of computing the monetary value of a retired member's unused sick leave as outlined in Sections 59-1365, 67-5333, and 33-2109A, Idaho Code, shall be the base hourly rate of compensation reported by the employer during the month of separation from employment prior to retirement, not including any temporary increases, bonuses, or payoffs. For those members employed on a contract basis under Section 33-1228, Idaho Code, the rate of pay for purposes of computing the monetary value of a retiring member's unused sick leave based upon each month of service shall be determined at a daily rate by dividing the annual contract amount by the required days of work. No temporary increases, bonuses or payoffs shall be included in the contract amount. Where the daily rate is affected by changes in the work week such as adoption of a four (4) day work week or similar events, adjustments shall be made to convert the daily rate to maintain equity within the pool. No other forms of leave may be converted to sick leave or otherwise considered in computing the value of unused sick leave. ( )

551. (RESERVED)

552. SICK LEAVE FUNDING RATES.

The sick leave pools shall be funded by employer contributions as follows: ( )

***01. State Agencies and Junior College Districts**. All employer groups participating in the pools*

established by Sections 33-2109A and 67-5333, Idaho Code, shall contribute point sixty-five percent (.65%) of employee covered payroll. ( )

***02. Schools**. All employer groups participating in the pool established by Section 33-1228, Idaho Code, shall contribute the percentage of employee covered payroll based on the number of days of paid sick leave permitted during the contract year for certified teachers as set forth in the following table:*

Beginning:	July 1, 2006
9-10 days	1.16%
11-14 days	1.26%
More than 14 days	Individual rate to be set by the Retirement Board based on current cost and actuarial data and reviewed annually

Where a four (4) day work week or similar policies have been adopted, adjustments shall be made to convert the number of days of paid sick leave to the contribution level necessary to maintain equity within the pool. ( )

***03. Subdivisions**. All political subdivision or government entity groups participating in the pool established by Section 59-1365, Idaho Code, shall make contributions as provided in Rule 578. ( )*

553. LIMITATION ON INSURANCE PROGRAMS.
The health, accident, and life insurance programs maintained by state agencies, political subdivisions or government entities as outlined in Sections 59-1365, 33-1228, and 33-2109A, Idaho Code, are limited to plans where the policy holder is the state agency, political subdivision or government entity or a consortium of state agencies, political subdivisions or government entities. Insurance programs outlined in Section 67-5333, Idaho Code, shall be maintained by the state agency, political subdivision or government entity. The board may require plans to sign an agreement before participating. ( )

554. PAYMENT OF INSURANCE PREMIUMS.
Upon certification by the state agency, political subdivision or government entity and the insurance carrier that a plan qualifies under Rule 553, of this subchapter, the board may pay the monthly premiums for a retired member using unused sick leave account funds as prescribed by Idaho Code. ( )

***01. Adjustments**. Coverage and premium changes or adjustments must be submitted to PERSI no less than thirty (30) days prior to their effective date unless PERSI has previously agreed in writing to a shorter period. ( )*

***02. Duration of Payments**. Premium payments will continue to be made from the unused sick leave account until credits are insufficient to make a premium payment, or until the retiree's death, whichever first occurs. ( )*

555. SEPARATION BY REASON OF RETIREMENT.
Unused sick leave benefits are credited only to employees who are eligible to retire at the time they separate from the state agency, political subdivision or government entity. When an employee separates from service and does not immediately retire, unused sick leave benefits are credited to the member but not available for use unless the member actually retires without intervening employment resulting in PERSI participation. The existence of available unused sick leave credits does not necessarily mean they are usable. A member must also be eligible to participate in the retiree plan offered by the state agency, political subdivision or government entity from which the member retired. Except for school district employees transferring from one (1) district to another, unused sick leave credits may not be transferred from one (1) state agency, political subdivision or government entity to another. If a member negates their retirement under Rule 542 and returns to work for a new PERSI state agency, political subdivision or government entity, unused sick leave credits are also negated and eligibility for unused sick leave credits must be reestablished with the new state agency, political subdivision or government entity. ( )

556. PROHIBITION AGAINST CASH OPTION.
All state agencies, political subdivisions or government entities participating in any PERSI administered sick leave pool are prohibited from offering or permitting any employee to convert unused sick leave to cash, other forms of leave, or any other benefit, even if the employee is not eligible to receive credits. Failure to comply with this prohibition will result in the state agencies, political subdivisions or government entities inability to participate in PERSI administered unused sick leave pools. ( )

557. -- 575. (RESERVED)

576. PARTICIPATION IN SUBDIVISION UNUSED SICK LEAVE POOL.
Any PERSI state agency, political subdivision or government entity meeting the following requirements may elect to participate in the unused sick leave pool authorized by Section 59-1365, Idaho Code: ( )

***01. No Current Plan**. The state agency, political subdivision or government entity does not participate in any other statutorily created plan that offers benefits for unused sick leave, including but not limited to, those plans created under Sections 33-1228, 33-2109, and 67-5333, Idaho Code.* ( )

***02. All Inclusive Participation**. All of a participating state agencies, political subdivisions or government entities employees who are PERSI members and who accrue sick leave must be participants in the plan, except that state agencies, political subdivisions or government entities may exclude certain distinctive classes of employees for legitimate business reasons. For example, a city could exclude employees covered by a collective bargaining agreement, or a county may choose to exclude elected officials.* ( )

***03. No Other Options for Unused Sick Leave**. No employee may be given any option to receive benefits from unused sick leave other than through this plan. For example, no employee, other than those properly excluded under Subsection 576.02, may be given the option of exchanging sick leave for cash or other forms of payment or leave.* ( )

***04. Fixed Annual Accrual of Sick Leave**. State agency, political subdivision or government entity must comply with a policy that offers a fixed amount of sick leave annually that is applicable to all employees or employee groups. A "personal leave" option that fails to distinguish between sick, vacation, or other forms of leave is not permitted.* ( )

***05. Medicare Eligible Retirees**. State agencies, political subdivisions or government entities plan must provide coverage to all retired employees eligible for unused sick leave credits, including retirees that become Medicare eligible.* ( )

***06. Annual Application**. State agency, political subdivision or government entity must annually update and submit an application for participation in the Subdivision Unused Sick Leave Pool on the form prescribed by PERSI.* ( )

577. OPERATION OF SUBDIVISION POOL.
Upon separation from employment by retirement, in accordance with Chapter 13, Title 59, Idaho Code, every employee of a participating state agency, political subdivision or government entity shall, upon payment by the state agency, political subdivision or government entity under Rule 578, receive a credit for unused sick leave in the same manner and under the same terms as provided in Section 67-5333(1), Idaho Code. ( )

578. FUNDING OF SUBDIVISION POOL.
Participating state agencies, political subdivisions or government entities shall, within ten (10) days of retiree's last day in pay status, pay to PERSI a sum equal to the retiree's unused sick leave credit, together with any administrative fees the board may require. Investment earnings on funds paid into this pool will remain in the pool, together with any reversions due to the death of a retiree, and may be used by the board to pay some or all administrative costs. ( )

579. TERMINATION, WITHDRAWAL, OR REMOVAL FROM SUBDIVISION POOL.
Any state agency, political subdivision or government entity failing to meet the requirements of participation provided by Rule 576 shall be terminated from participation in the Subdivision Pool. Any state agency, political subdivision or

government entity failing to meet the funding requirements provided by Rule 578 shall be terminated from participation in the Subdivision Pool, provided however, a state agency, political subdivision or government entity may submit a detailed explanation for its failure to meet the funding requirements as required in Rule 578 and subject to PERSI approval. State agencies, political subdivisions or government entities that have withdrawn or have been terminated shall not be allowed to rejoin. ( )

580. -- 599. (RESERVED)

600. PAYMENT DATE OF RETIREMENT ALLOWANCE FOR FRF MEMBERS.
A paid firefighter who retires under the provisions of Chapter 14, Title 72, Idaho Code, is entitled to a retirement allowance computed from the date following separation from employment, payable at the end of the calendar month following separation from employment. ( )

601. FIREFIGHTER RETIREMENT ALLOWANCE.
Notwithstanding Rules 525 and 526, of this subchapter, the retirement allowances of firefighter members, as defined by Section 59-1391(b), Idaho Code, shall be determined pursuant to the provisions of Chapter 14, Title 72, Idaho Code. ( )

602. REEMPLOYMENT OF RETIRED FRF FIREFIGHTER.
A paid firefighter retired under the provisions of Chapter 14, Title 72, (FRF), Idaho Code, who returns to employment as a paid firefighter with the same fire department from which retired shall be considered reemployed in the manner provided for PERSI members by Section 59-1356(1), Idaho Code. Retirement benefits shall then terminate and contributions shall again commence under conditions specified prior to retirement. The terminated benefit shall resume upon subsequent retirement with adjustments made in the manner prescribed by Section 59-1356(1), Idaho Code, as they would apply to the member's retirement benefit entitlement computed under the provisions of Chapter 14, Title 72, Idaho Code.
Statutory References: Section 59-1356, Idaho Code. ( )

603. -- 624. (RESERVED)

625. PURCHASE OF SERVICE GENERALLY.
No member may purchase more than forty-eight (48) months of membership service, whether purchased under Section 59-1362, or 59-1363, Idaho Code, or a combination thereof. In all cases, the cost of purchasing service shall be the full actuarial costs, as determined by the board, of providing additional benefits resulting from the purchased service. Service may only be purchased at the time of retirement. In no event can a member revoke a purchase of service after payment has been made. ( )

626. TIME OF RETIREMENT.
Within ninety (90) days before a member's effective date of retirement, the member may request the cost of service to be purchased. Costs provided for purchased service are valid only for the effective date requested. Purchased service will be calculated into the member's benefit only to the extent that it is paid by the effective date. In no event shall service be credited for which payment has not been made. Service may be purchased with after-tax dollars or with eligible rollover distributions. The member's service class at the time of purchase determines the class of service that may be purchased. ( )

627. RETIREMENT DELAYED OR NEGATED AFTER PURCHASE.
If a member purchases service and thereafter revokes their application for retirement or negates their retirement as provided in Rule 542, the contributions made to purchase the service shall remain in the system until a distributable event occurs. If the distributable event results in payment of a monthly retirement benefit or an optional death benefit, the purchase price of the service previously purchased will be recalculated based on factors existing on the date the new benefit becomes effective. If, based on the new factors, the purchase price is higher than previously determined, the number of months purchased will be reduced to reflect the higher cost unless the member elects to pay the difference. If the purchase price is lower, the difference will be paid to the member as a lump-sum payment within sixty (60) days after the date of retirement unless the member elects to convert the difference into additional months and can do so without exceeding the forty-eight (48) month limit, the IRS limit referenced in Subsection 705.05, or any other statutory limitation, including the limitation in Section 59-1342(6), Idaho Code. ( )

628. TREATMENT OF PURCHASE OF SERVICE CONTRIBUTIONS.
Contributions made for purposes of purchasing service, and interest earnings thereon, are not considered for purposes of determining death benefits under Section 59-1361(3), Idaho Code, and distributions under Section 59-1309(5), Idaho Code. When determining death benefits under Section 59-1361(3), Idaho Code, first calculate two hundred percent (200%) of accumulated contributions, excluding contributions and interest related to purchased service, then add member contributions and interest related to purchased service. Member contributions and interest will also be included in any separation benefit. In no event shall employer contributions for purchased service be included in any separation benefit or lump-sum death benefit. ( )

629. EMPLOYER PARTICIPATION.
State agency, political subdivision or government entity participation must be in the form of lump-sum payments at the time of retirement. In the event a state agency, political subdivision or government entity makes a contribution on behalf of a member and a distribution other than periodic payments occurs prior to the actual retirement effective date, the state agency, political subdivision or government entity may claim a credit against future contributions equal to the amount of the contribution. State agency, political subdivision or government entity contributions must be accompanied by or preceded by a written statement endorsed by the governing body or officer of the state agency, political subdivision or government entity verifying that the participation is properly authorized and that the state agency, political subdivision or government entity indemnifies PERSI against any loss resulting from failure of the state agency, political subdivision or government entity, or any person acting on its behalf, to act within its authority. ( )

630. ADDITIONAL LIMITS ON PURCHASED SERVICE.
The Internal Revenue Code imposes limits on the amount of retirement benefits that can be paid to a retiree under a defined benefit plan. Benefits acquired through purchase of service are subject to these limits for some purposes. In no event can a member purchase service that would result in the member exceeding the limits imposed in IRC Section 415(n)(1)(A). In addition, a member's initial retirement benefit, including purchased service, continues to be subject to the limitation in Section 59-1342(6), Idaho Code. ( )

631. -- 649. (RESERVED)

SUBCHAPTER G - PERSI GAIN SHARING RULES
RULES 650 THROUGH 755

650. EXISTENCE OF EXTRAORDINARY GAINS.
The existence of extraordinary gains triggers the possibility that allocations will be made as provided in Section 59-1309, Idaho Code. However, the existence of extraordinary gains does not obligate the retirement board to make an allocation. The Board may choose not to allocate extraordinary gains, or it may choose to allocate all or part of the extraordinary gains. Extraordinary gains exist when, at the close of the fiscal year, the value of plan assets exceeds plan liabilities as determined by the actuary, plus a sum necessary to absorb a one (1) standard deviation market event without increasing contribution rates, as determined by the Board. The amount of extraordinary gains available for possible distribution equals the amount by which the assets exceed the sum of the liabilities and the one standard deviation. ( )

651. VALUE OF PLAN ASSETS.
This is the total assets held in the PERSI base plan, as reported in the actuarial valuation at the end of the fiscal year. ( )

652. PLAN LIABILITIES.
This is the actuarial liability of the PERSI base plan, including but not limited to, the cost of the proposed COLA to be effective in March following the close of the fiscal year, the cost of any benefit enhancements to the base plan approved by the legislature, and the cost of actuarial gains and losses, as reported in the actuarial valuation for the fiscal year. ( )

653. ONE STANDARD DEVIATION.
This is the amount of reserve necessary to absorb normal market fluctuations and is a function of the risk associated with investment holdings and strategies, and will be determined by the Board based on those factors. ( )

654. BOARD DISCRETION.
The Board retains full discretion in determining whether to allocate extraordinary gains when they exist. Because of the broad range of factors that might be relevant to such a determination, and to assure that the Board will not be limited in exercising its discretion, these rules do not attempt to identify any of the factors that might be considered in the Board's fiduciary capacity. When extraordinary gains exist, the Board will decide whether they will be allocated no later than the first day of December following the end of the fiscal year. Such decision shall be in writing and shall constitute an amendment to the plan document for purposes of the Internal Revenue Code of 1986, as amended, or any successor thereto. In the absence of any such decision, the allocation for that year shall be zero (0.00). ( )

655. -- 674. (RESERVED)

675. ALLOCATION BETWEEN GROUPS.
If extraordinary gains exist, and the Board determines that all or part of such gains should be allocated, an allocation will be made among the three (3) groups identified by Section 59-1309, Idaho Code. The three (3) groups and allocations are: ( )

a. *Active PERSI members - 38 percent (38%); ( )*

b. *PERSI retirees - twelve percent (12%); and ( )*

c. *PERSI employers - fifty percent (50%) ( )*

676. -- 699. (RESERVED)

700. ACTIVE MEMBER ALLOCATION.
After the amount to be allocated to the active member group has been determined, it shall be allocated among the members of the group. The active member allocation determines each member's initial share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that member's accumulated contributions in the base plan at the close of the fiscal year by the total accumulated contributions in the base plan of all members of the group at the close of the fiscal year, multiplied by the amount allocated to the active member group. In no event shall a member's initial share, before considering individual limits, exceed the maximum annual contribution limit under Section 415(c) of the Internal Revenue Code applicable for the limitation year. ( )

701. MINIMUM ALLOCATION AMOUNT.
Due to the costs associated with maintaining individual choice accounts, no allocation shall be made to any member whose allocation share does not exceed thirty-eight dollars ($38) after considering individual limits, unless the member had a PERSI choice account on the last day of the fiscal year and has not withdrawn funds before the allocation date. ( )

702. ACTIVE MEMBER.
A member participates in the active member allocation only if he is an active member as defined in this subchapter. Whenever a member is placed on leave of absence under circumstances making that member eligible for benefits under USERRA, the employer shall notify PERSI in writing within thirty (30) days and attach a copy of the member's orders. ( )

703. ACCUMULATED CONTRIBUTIONS.
For purposes of allocating extraordinary gains within the active member group, accumulated contributions do not include contributions or interest related to the purchase of permissive service credits or contributions or interest in the Choice Plan or accounts. ( )

704. TRANSFER TO DEFINED CONTRIBUTION CHOICE ACCOUNTS.
After each member's initial share has been determined, it will be transferred to an individual account as permitted under Section 414(k) of the Internal Revenue Code, subject to individual limits imposed by the Internal Revenue Code. The Board may transfer allocations anytime after necessary compensation data is received and processed by the Board. ( )

705. LIMITATIONS ON ALLOCATION.

In no event shall a member's final allocation exceed the limits imposed by Section 415(c) of the Internal Revenue Code, based on compensation earned during the calendar year that included the end of the fiscal year. ( )

706. INTERVENING RETIREMENT.
When a member is included in the active member pool but retires prior to the transfer of allocations, the member's allocation will be made as a one-time payment directly to the member rather than a transfer to an individual account. Such allocations will not be limited by Rule 705 but will be subject to the limitations of Rule 729. ( )

707. INTERVENING WITHDRAWAL OF CONTRIBUTIONS.
When a member is included in the active member pool but terminates prior to the transfer of allocations, the allocation will be made to the member's individual account if the member has not withdrawn contributions from the Base account prior to the date of transfer of the allocation. No member who has withdrawn contributions from the Base account prior to the transfer of the allocation is eligible to receive an allocation. ( )

708. INTERVENING DEATH OF ACTIVE MEMBER.
When a member would have been included in the active member allocation but dies prior to the transfer of allocations, no allocation shall be made to the member, beneficiary or estate except that an optional death benefit recipient will receive the active member's allocation as limited by Rule 729. ( )

709. TREATMENT OF GAIN SHARING ALLOCATIONS IN THE CHOICE ACCOUNT.
Gain sharing allocations transferred to individual Choice Accounts have no effect on an individual's Base Plan benefit. Gain sharing allocations, and the earnings thereon, will be accounted for separately from other Choice Plan contributions but will be treated as one plan for purposes of reporting, investing, distributions, and fees to the extent they are applicable. Related provisions of the Plan adopted by the Board to facilitate voluntary and employer contributions are applicable to gain sharing allocations to the extent not inconsistent with these rules and Sections 59-1308 and 59-1309, Idaho Code. However, no loans or hardship withdrawals may be taken against gain sharing account balances. ( )

710. -- 724. (RESERVED)

725. RETIREE ALLOCATION.
After the amount to be allocated to the retiree group has been determined, it shall be allocated among the members of the group. The retiree allocation determines each member's share before considering any applicable individual limits. Each member's initial share shall be determined by dividing that retiree's monthly benefit at the close of the fiscal year by the total monthly benefits payable to all members of the group at the close of the fiscal year, multiplied by the amount allocated to the retiree group. ( )

726. RETIREE.
For purposes of allocating extraordinary gains, a member must be a retiree as defined in this subchapter. ( )

727. MONTHLY BENEFIT.
This is the monthly benefit for the last month of the fiscal year but does not include benefits related to other months that may also have been paid during the last month of the fiscal year. In no event shall a retiree's share be determined based on more than the retiree's annual benefit, not including any gain sharing allocations, divided by twelve (12). ( )

728. PAYMENT OF ALLOCATION.
After each retiree's initial share has been determined, it will be paid no later than February 1 following the close of the fiscal year directly to the retiree either together with the retiree's monthly benefit or separately, subject to individual limits imposed by the Internal Revenue Code. ( )

729. LIMITATIONS ON ALLOCATION.
Prior to allocation, a retiree's initial share shall be further limited as necessary to comply with the limits of Section 415(b) of the Internal Revenue Code. ( )

730. INTERVENING DEATH OF A RETIREE.
When a retiree is included in the retiree allocation but dies prior to the transfer of allocations, no allocation shall be

made unless benefit payments are continuing to be made to a contingent annuitant. ( )

731. INTERVENING REEMPLOYMENT.
When a retiree is included in the retiree allocation but becomes reemployed as defined in Section 59-1356, Idaho Code, prior to the date of distribution, the retiree allocation shall be made in the form of an active member allocation, and shall be subject to active member limitations. ( )

732. NEGATED RETIREMENT.
Gain sharing allocations received by a retiree are not included in the amounts required to be repaid when negating retirement under Rule 542. ( )

733. -- 749. (RESERVED)

750. EMPLOYER ALLOCATION.
After the amount to be allocated to the employer group has been determined, it shall be allocated among the members of the group. Each employer's share shall be determined by dividing that employer's contribution liability for the fiscal year by the total contribution liability for all members of the group for the fiscal year, multiplied by the amount allocated to the employer group. ( )

751. EMPLOYER.
Participation in the employer pool is limited to those entities defined as an employer in this subchapter. ( )

752. CONTRIBUTION LIABILITY.
This includes only employer contributions that are accrued during the fiscal year and required to be paid by Section 59-1322, Idaho Code, unreduced by gain sharing credits. It does not include contributions made to fund sick leave pools, to pay costs of other plans such as the Firefighters Retirement Fund, or to contributions required by Sections 33-107A and 33-107B, Idaho Code. Only adjustments related to fiscal year contributions will be considered. ( )

753. CREDIT OF ALLOCATION.
After each employer's share has been determined, it will be credited against the employer's future contribution invoices. The credits shall be applied only to offset future employee and employer contributions required to be remitted by Section 59-1325(1), Idaho Code, until the credit is exhausted. An employer may elect to use the credits solely against employer contributions to the extent that no carry-over credits (as described in rule 754) result. ( )

754. CARRY-OVER OF CREDIT.
Should the credit exceed the employer's contribution invoices for the succeeding twelve (12) month period, any remaining credits will carry over to the following year together with an additional credit representing an interest payment. The interest credit shall equal the balance of remaining credits multiplied by a ratio representing the regular rate of interest. This process shall be repeated annually until all credits have been used. ( )

755. WITHDRAWAL OF EMPLOYER.
When an employer is included in the employer pool but withdraws from the system as provided in Section 59-1326, Idaho Code, prior to allocation of credits, the employer shall not be entitled to receive any credits. When an employer is entitled to carry-over credits but withdraws prior to using all its credits, it shall not be entitled to additional credits based on interest payments. ( )

756. -- 999. (RESERVED)

59.02.01 – RULES FOR THE JUDGES' RETIREMENT FUND

Subchapter A -- General Provisions
Rules 001 Through 099

000. LEGAL AUTHORITY (RULE 0).
The Rules for the Judges' Retirement Fund rules are adopted under the legal authority of Section 1-2012, Idaho Code. (7-1-14)

001. TITLE AND SCOPE (RULE 1).

01. Title. The title of this chapter is IDAPA 59.02.01, "Rules for the Judges' Retirement Fund." (7-1-14)

02. Scope. This chapter relates to retirement under the Judges' Retirement Fund. (7-1-14)

002. WRITTEN INTERPRETATIONS – AGENCY GUIDELINES (RULE 2).
Written interpretations of these rules, to the extent they exist, are available from PERSI (Public Employee Retirement System of Idaho), at the locations listed in Rule 4 of these rules. (7-1-14)

003. ADMINISTRATIVE APPEAL (RULE 3).
Administrative appeals are conducted pursuant to IDAPA 59.01.01, "Rules of Administrative Procedure," Rules 101 through 104 and 150 through 789. (7-1-14)

004. OFFICE – OFFICE HOURS – MAILING ADDRESS AND STREET ADDRESS (RULE 4).
Office hours are 8 a.m. to 5 p.m. Monday through Friday. PERSI's mailing and street addresses, telephone numbers, and fax numbers are as follows: (7-1-14)

005. PUBLIC RECORDS ACT COMPLIANCE (RULE 5).
All rules required to be adopted by this chapter are public records. (7-1-14)

006. CITATION (RULE 6).
The official citation of this chapter is IDAPA 59.02.01.000, et seq. For example, this section's citation is IDAPA 59.02.01.006. In documents submitted to the Board or issued by the Board these rules may be cited as Rules for the Judges' Retirement Fund and section number less leading zeros. For example, this rule may be cited as Rules for the Judges' Retirement Fund Rule 7. (7-1-14)

007. EFFECTIVE DATE (RULE 7).
Unless otherwise indicated in the bracketed material following each rule, the effective date of every rule in this chapter is July 1, 2014. (7-1-14)

008. -- 009. (RESERVED)

010. DEFINITIONS (RULE 10).
The following definitions apply to this chapter: (7-1-14)

01. Accrued Benefit. The actuarial value of the retirement benefit to which the Member is entitled under the Judges' Retirement Fund upon attainment of Normal Retirement Age. (7-1-14)

02. Active Member. Each justice or judge who participates in the Judges' Retirement Fund as provided by Idaho Code. (7-1-14)

03. Administrator. The Board. (7-1-14)

04. Annual Additions. Annual additions are the total of all after-tax Member contributions in a year (not including rollovers) and forfeitures allocated to a Member's account under the Judges' Retirement Fund and all other qualified plans to which contributions are made based on the Member's service with the Employer. (7-1-14)

05. Beneficiary. The designated person (or, if none, the Member's estate) who is entitled to receive benefits under the Plan after the death of a Member. (7-1-14)

06. **Board**. The retirement board established in Section 59-1304, Idaho Code. (7-1-14)

07. **Code**. The Internal Revenue Code of 1986, as now in effect or as hereafter amended. All citations to sections of the Code are to such sections as they may from time to time be amended or renumbered. (7-1-14)

08. **Compensation**. All cash compensation for services to the Employer, including salary, wages, fees, commissions, bonuses, and overtime pay, that is includible in the Member's gross income for the calendar year, plus amounts that would be cash compensation for services to the Employer includible in the Member's gross income for the calendar year but for a compensation reduction election under sections 125, 132(f), 401(k), 403(b), or 457(b) of the Code. (7-1-14)

09. **Contingent Annuitant**. The person designated by a Member under certain retirement options to receive payments upon the death of the Member. The person so designated must be born and living on the effective date of retirement. (7-1-14)

10. **Designated Beneficiary**. The individual who is designated as the beneficiary under the Plan and is the designated beneficiary under section 401(a)(9) of the Code and section 1.40l(a)(9)-4, Q&A-4, of the Treasury regulations. (7-1-14)

11. **Differential Wage Payments**. Differential Wage Payments as defined in 26 U.S.C. 3401(h). A differential wage payment generally refers to an employer payment to an employee called to active duty in the uniformed services for more than thirty (30) days that represents all or a portion of the compensation he would have received from the employer if he were performing services for the employer. (7-21-15)

12. **Employer**. The common law employer of a Member. (7-1-14)

13. **Judges' Retirement Fund**. The Judges' Retirement Fund established under Title 1, Chapter 20, Idaho Code, and rules applicable to the Judges' Retirement Fund. The Judges' Retirement Fund is intended to satisfy Code section 401(a) as applicable to governmental plans described in Code section 414(d). It is maintained for the exclusive benefit of Members and their beneficiaries. (7-1-14)

14. **Member**. An individual who is currently accruing benefits or who has previously accrued benefits under the Plan and who has not received a distribution of his entire benefit under the Plan. (7-1-14)

15. **Normal Retirement Age**. The age (or combination of age and years of service) at which a Member is entitled to an actuarially unreduced retirement benefit under the Plan. A Member will be fully vested upon attainment of Normal Retirement Age. (7-1-14)

16. **Plan**. The plan of benefits under the Judges' Retirement Fund. (7-1-14)

17. **Required Beginning Date**. The date specified in Rule 100 of these rules. (7-1-14)

18. **Severance from Employment**. The date that the Member dies, retires, or otherwise has a separation from employment with the Employer, as determined by the Administrator (and taking into account guidance issued under the Code). (7-1-14)

011. -- 099. **(RESERVED)**

Subchapter B -- Distributions
Rules 100 Through 250

100. REQUIRED MINIMUM DISTRIBUTIONS (RULE 100).

01. **Default Application of Federal Requirements**. With respect to distributions under the Judges'

Retirement Fund, and except as provided in Subsection 100.06, the Judges' Retirement Fund will apply the minimum distribution requirements of section 401(a)(9) of the Internal Revenue Code (Code) in accordance with a good faith interpretation of section 401(a)(9), notwithstanding any provision of the Judges' Retirement Fund to the contrary. (7-21-15)

02. Required Beginning Date. Except as otherwise provided in Subsections 100.03 through 100.06, distributions under the Judges' Retirement Fund shall begin not later than April 1 following the later of: (7-21-15)

a. The calendar year (hereinafter referred to as the "Commencement Year") in which the member reaches age seventy and one half (70 ½); and (7-21-15)

b. The year in which he retires. (7-21-15)

03. Lifetime Distributions. Distribution shall be made over the life of the Member or the lives of the Member and his beneficiary; or over a period certain not extending beyond the life expectancy of the member or the joint life and last survivor expectancy of the member and his beneficiary. (7-21-15)

04. Timing of Required Distributions. A required distribution shall be deemed to have been made during the Commencement Year if actually made by the following April 1, but such delayed distribution shall not change the amount of such distribution, and the distribution otherwise required during the subsequent calendar year shall be calculated as if the first distribution had been made on the last day of the Commencement Year. (7-21-15)

05. Adjustment of Required Distributions. Benefits paid prior to the Commencement Year shall reduce the aggregate amount subject to (but shall not otherwise negate) the minimum distribution requirements described herein. (7-21-15)

06. Annuity Benefits Payable on Death of a Member. All death benefits payable in the form of an annuity will begin to be paid as soon as administratively practicable after the member's death, but must in any event begin to be paid before the end of the calendar year following the calendar year in which the member died. (7-21-15)

07. Death Benefits. All death benefits payable in a lump sum will be distributed as soon as administratively practicable after request, but must in any event be distributed within fifteen (15) months of the member's death, unless the identity of the beneficiary is not ascertainable. (7-21-15)

101. MAXIMUM LIMITATIONS ON BENEFITS (RULE 101).

Beginning effective January 1, 2002, the "defined benefit dollar limitation" is one hundred sixty thousand dollars ($160,000), as adjusted, effective January 1 of each year thereafter, under section 415(d) of the Internal Revenue Code (Code) in such manner as the Secretary shall prescribe, and payable in the form of a straight life annuity. A limitation as adjusted under section 415(d) will apply to limitation years ending with or within the calendar year for which the adjustment applies. The "maximum permissible benefit" is the defined benefit dollar limitation (adjusted where required, as provided in Subsection 101.01 and, if applicable, in Subsections 101.02 through 101.04). (7-21-15)

01. Less Than Ten Years of Service. If the Member has fewer than ten (10) years of participation in the Judges' Retirement Fund, the defined benefit dollar limitation shall be multiplied by a fraction: (7-21-15)

a. The numerator of which is the number of years (or part thereof) of participation in the Judges' Retirement Fund; and (7-21-15)

b. The denominator of which is ten (10). (7-21-15)

02. Benefit Begins Prior to Age Sixty-Two. If the benefit of a Member begins prior to age sixty-two (62), the defined benefit dollar limitation applicable to the Member at such earlier age is an annual benefit payable in the form of a straight life annuity beginning at the earlier age that is the actuarial equivalent of the defined benefit dollar limitation applicable to the Member at age sixty-two (62) (adjusted under Rule 101.01, if required). The defined benefit dollar limitation applicable at an age prior to age sixty-two (62) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. (7-21-15)

03. Benefit Begins at Age Sixty-Five. If the benefit of a Member begins after the Member attains age sixty-five (65), the defined benefit dollar limitation applicable to the Member at the later age is the annual benefit payable in the form of a straight life annuity beginning at the later age that is actuarially equivalent to the defined benefit dollar limitation applicable to the Member at age sixty-five (65) (adjusted under Rule 101.01, if required.) The actuarial equivalent of the defined benefit dollar limitation applicable at an age after age sixty-five (65) is determined as set forth in IRS regulation under section 415(b)(2) of the Code. (7-21-15)

04. Transition. Benefit increases resulting from the increase in the limitations of section 415(b) of the Code shall be provided to all current and former Members (with benefits limited by section 415(b)) who have an accrued benefit under the Judges' Retirement Fund immediately prior to the effective date of this Rule (other than an accrued benefit resulting from a benefit increase solely as a result of the increases in limitations under section 415(b).) (7-21-15)

05. Aggregation. If any member participates in two (2) or more qualified defined benefit plans maintained by the employer (or a predecessor employer), the combined benefits from all such plans may not exceed the "maximum permissible benefit" described in this Rule 101. (3-29-17)

102. MAXIMUM LIMITATION ON ANNUAL ADDITIONS (RULE 102).

01. Annual Additions Limitation. Effective January 1, 2002, annual additions shall not exceed the lesser of: (7-1-14)

a. Forty thousand dollars ($40,000); or (7-1-14)

b. One hundred percent (100%) of the Member's compensation. (7-1-14)

02. Annual Adjustments. As of January 1 of each calendar year on and after January 1, 2002, the dollar limitation in Subsection 102.01 of these rules, with respect to both active and retired members, shall be adjusted for increases in the cost of living, taking into consideration applicable guidelines. (7-1-14)

03. Other Qualified Plans. To the extent that any Member of the Judges Retirement Plan is also a member of any other qualified plan, and annual additions to all plans covering the Member would otherwise exceed the limits set forth above, annual additions to such other qualified plan shall be reduced to the extent necessary to avoid exceeding the limitations on annual additions. (7-1-14)

103. ROLLOVER DISTRIBUTIONS (RULE 103).

01. Direct Rollovers. A Member of the Judges' Retirement Fund or a beneficiary of a Member (including a Member's former spouse who is the alternate payee under an approved domestic relations order) who is entitled to an eligible rollover distribution may elect, at the time and in the manner prescribed by the Administrator, to have all or any portion of the distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover. Effective January 1, 2006, in the event of a mandatory distribution greater than one thousand dollars ($1,000), if the Member does not elect to have such distribution paid directly to an eligible retirement plan specified by the Member in a direct rollover or to receive the distribution directly, then the plan administrator will pay the distribution in a direct rollover to an individual retirement plan designated by the plan administrator. (7-1-14)

02. Eligible Rollover Distribution Defined. For purposes of this Rule, an eligible rollover distribution means any distribution of all or any portion of a Member's account balance, except that an eligible rollover distribution does not include (a) any installment payment for a period of ten (10) years or more, (b) any distribution made as a result of an unforeseeable emergency, or (c) for any other distribution, the portion, if any, of the distribution that is a required minimum distribution under Code section 401(a)(9). In addition, an eligible retirement plan means an individual retirement account described in section 408(a) of the Code, an individual retirement annuity described in section 408(b) of the Code, a qualified trust described in section 40l(a) of the Code, an annuity plan described in section 403(a) or 403(b) of the Code, or an eligible governmental plan described in section 457(b) of the Code, that accepts the eligible rollover distribution. Effective January 1, 2008, an eligible retirement plan shall also mean a Roth IRA described in section 408A of the Code. (7-1-14)

03. After-Tax Contributions. For purposes of the direct rollover provisions in Rule 103.01, a portion of a distribution shall not fail to be an eligible rollover distribution merely because the portion consists of after-tax employee contributions that are not includible in gross income. However, such portion may be transferred only to an individual retirement account or annuity described in section 408(a) or (b) of the Code, or to a qualified defined contribution plan described in section 401(a) or 403(a) of the Code that agrees to separately account for the amounts so transferred, including separately accounting for the portion of such distribution which is includible in gross income and the portion of such distribution which is not so includible. (7-21-15)

04. Alternate Payees. A distributee includes an employee or former employee. In addition, the employee's or former employee's surviving spouse and the employee's or former employee's spouse or former spouse, who is the alternate payee under a domestic retirement order, approved as provided in Rule 402 are distributees with regard to the interest of the spouse or former spouse. (7-21-15)

05. Transfers to Non-Spouse Beneficiaries. This Rule 103.05 applies to distributions made on or after July 1, 2008. Notwithstanding any provision of the Judges' Retirement Fund to the contrary that would otherwise limit the options of the Beneficiary of a deceased Member who is not the Member's spouse, the administrator shall, upon the request of such a Beneficiary transfer a lump sum distribution to the trustee of an individual retirement account established under Section 408 of the Code in accordance with the provisions of Code section 402(e)(11). (7-21-15)

104. -- 250. (RESERVED)

Subchapter C -- Assumptions
Rules 251 Through 299

251. ACTUARIAL ASSUMPTIONS TO BE SPECIFIED (RULE 251).
Whenever the amount of any benefit is to be determined on the basis of actuarial assumptions, such assumptions will be specified in a manner that precludes employer discretion. (7-1-14)

252. ACTUARIAL TABLES (RULE 252).
The actuarial tables used for determining optional retirement benefits are set forth in Appendix A, which is hereby incorporated by reference and made a part hereof. (7-1-14)

253. -- 299. (RESERVED)

Subchapter D -- Contribution Rates
Rule 300 Through 349

300. EMPLOYER CONTRIBUTION RATE (RULE 300).
The employer contribution rate shall be fifty-five point twenty-eight percent (55.28%) of salaries until next determined by the Board. Beginning July 1, 2017, the employer contribution rate shall be sixty-two point fifty-three percent (62.53%) of salaries until next determined by the Board. (7-1-17)

301. EMPLOYEE CONTRIBUTION RATE (RULE 301).
The employee contribution rate shall be ten point twenty-three percent (10.23%) of salary until next determined by the Board. Beginning July 1, 2017, the employee contribution rate shall be eleven point fifty-seven percent (11.57%) of salaries until next determined by the Board. (7-1-17)

302. VACATION AND CONTRACTUAL PAYMENTS SUBJECT TO CONTRIBUTIONS (RULE 302).
Compensation paid for vacation is salary subject to employee and employer contributions. (7-1-14)

303. REPORTS (RULE 303).
The Employer shall provide to the Board such reports, including compensation and contribution reports, as are required by the Board to verify contributions benefits required or provided and unless extended in writing by the

executive director such reports shall be provided no later than five (5) business days after each pay date. (7-1-14)

304. -- 349. (RESERVED)

Subchapter E -- Disability Retirement
Rules 350 Through 399

350. APPLYING FOR DISABILITY RETIREMENT (RULE 350).
Eligible members may apply for disability retirement, as provided for in Section 1-2001(4)(a), Idaho Code, by completing a required form available from any PERSI office. The application process may include an interview by a Board representative. Applicants must release all medical records and information to the Board or its agent. (7-1-14)

351. INITIAL APPLICATION REVIEW (RULE 351).
Applications will first be reviewed to determine whether the applicant meets applicable eligibility requirements. If eligibility requirements are met, the application will proceed to disability assessment review. If all eligibility requirements are not met, the applicant will be notified in writing. (7-1-14)

352. DISABILITY ASSESSMENT REVIEW (RULE 352).
An applicant will be assessed to determine whether he qualifies for disability retirement under the applicable standard. The assessment may include without limitation, records review, medical and psychological examinations, vocational assessments, or any combination thereof as determined by the Board. Failure to timely comply with any request made by the Board during the assessment process shall result in automatic denial of disability retirement. At the conclusion of the assessment process, the Board will notify the applicant in writing whether or not he qualifies for disability retirement. (7-1-14)

353. RECONSIDERATION OF DISABILITY ASSESSMENT DECISION (RULE 353).
Applicants, who are denied disability retirement as a result of an adverse disability assessment decision, and wish to contest that decision, are required to participate in a reconsideration process. A request for reconsideration must be made within thirty (30) days of the issuance of the disability assessment decision. Any additional information the applicant wishes to be considered must be submitted within thirty (30) days of the request for reconsideration. The additional information will be reviewed and a reconsideration decision will be issued in writing to the applicant. (7-1-14)

354. ADMINISTRATIVE REVIEW OF THE RECONSIDERATION DECISION (RULE 354).
A reconsideration decision shall be considered a final decision, and may be appealed to the Board for review. In any related administrative hearing, the applicant shall be limited to presenting facts and evidence made available in the reconsideration process. No new or additional evidence may be presented at the hearing. If the applicant has additional facts or evidence that were not made available during the assessment or reconsideration process, the applicant must submit a new application for disability retirement, proceed again through the assessment process, and pay the costs associated with the second or subsequent assessment process. This rule is intended to promote the efficient use of fund resources by encouraging full and complete disclosure of information during the disability assessment process. (7-1-14)

355. DELEGATION (RULE 355).
The Board may, by contract or otherwise, delegate all or part of these processes to third parties. Where such delegation has been made, the term "Board" includes those third parties. Where such delegation has been made, the term "Board" includes those third parties. (7-1-14)

356. REASSESSMENT OF DISABILITY RETIREES (RULE 356).
A disability retiree is subject to reassessment of his disability at any time to determine whether he continues to be disabled under the standard in Section 1-2001(4)(a), Idaho Code. However, after two (2) years of continuous disability retirement, a disability retiree is not required to undergo medical examinations more often than every twelve (12) months. A disability retiree notified that he has been selected for reassessment is under the same obligation as applicants to supply information. (7-1-14)

357. BURDEN ON APPLICANT (RULE 357).

Applicant must demonstrate that, on or before applicant's last day of employment, he was disabled under the disability standard. The last day of employment is the last day applicant earned compensation, including annual leave and sick leave. (7-1-14)

358. STATUTORY STANDARD (RULE 358).
In applying the disability standard in Section 1-2001(4)(a), Idaho Code, the applicant is prevented from further performance of the duties of his office if the applicant is permanently prevented, due to bodily injury or disease, from performing every substantial and material duty of his office. (7-1-14)

359. ATTORNEY'S FEES AND COSTS (RULE 359).
Attorney's fees and costs incurred by an applicant in his efforts to obtain disability retirement are the sole responsibility of the applicant and shall not be paid by the Board except for fees related to judicial review for which applicant is found to be entitled under applicable law. (7-1-14)

360. -- 399. (RESERVED)

Subchapter F - Miscellaneous Provisions
Rules 400 Through 999

400. ADMINISTRATIVE PROCEDURE -- CROSS REFERENCE (RULE 400).
See IDAPA 59.01.01, "Rules of Administrative Procedure of PERSI," concerning rules for administrative procedure. (7-1-14)

401. POST RETIREMENT ALLOWANCE ADJUSTMENTS (RULE 401).

01. Adjustments Under Section 59-1355, Idaho Code. For those retirees whose post retirement allowance adjustment is to be determined in accordance with Section 59-1355, Idaho Code, the Board shall annually consider the post retirement cost of living adjustment (COLA) pursuant to Section 59-1355, Idaho Code. The Board has the discretion afforded under Section 59-1355, Idaho Code, related to a discretionary and/or retro-active COLA. The Board shall annually consider the COLA no later than the December Board meeting of each year with an effective date of July 1 of the next year. (7-1-14)

02. Adjustments Under Section 1-2001(2)(a)(ii). For those retirees whose COLA is to be determined in accordance with Section 1-2001(2)(a)(ii), Idaho Code, the COLA, if any, shall have an effective date of July 1 of the applicable year. (7-1-14)

402. APPROVED DOMESTIC RETIREMENT ORDERS (RULE 402).
As permitted under Code section 414(p)(11), the Plan shall recognize and give effect to domestic retirement orders that have been approved in accordance with Plan procedures. An order shall be approved only if it substantially meets the requirements for a qualified domestic relations order under Code section 414(p), except for subsection (9) thereof, as determined by the Administrator or its agent. Amounts segregated for the accounts of alternate payees pursuant to a Plan approved domestic retirement order shall be available for immediate distribution to the alternate payee. Distributions pursuant to a domestic retirement order to an alternate payee who is a spouse or former spouse of the Member shall be taxable to the alternate payee rather than the Member to the extent permitted under Code Section 414(p)(12). Distributions pursuant to a qualified domestic relations order to an alternate payee who is not a spouse or former spouse of the Member shall be taxable to the Member. (7-1-14)

403. RETIREMENT APPLICATION AND SPOUSAL CONSENT (RULE 403).
A member is required to complete and submit a retirement application and select either a regular or optional retirement allowance. The member's signature must be notarized. The application for retirement indicating the election made by the retiring member shall also be signed by the spouse certifying he understands and consents to the election made by the member. The spouse's signature must be notarized. If an inactive member reaches service retirement age, or an active member who has reached service retirement age separates from service, and has failed to complete and submit an approved retirement application and select either a regular or optional retirement allowance within ninety (90) days thereafter, the member shall be deemed to have selected a regular retirement allowance and no other selection shall be required or permitted. (7-1-14)

404. FORFEITURES (RULE 404).
Forfeitures will not be applied to increase the benefits any member would otherwise receive. (7-1-14)

405. PRE-ERISA VESTING (RULE 405).
Upon any termination of the Plan or upon any complete discontinuance of contributions under the Plan, the rights of all Members to benefits accrued to the date of such termination or discontinuance, to the extent then funded, shall become one hundred percent (100%) vested. (7-1-14)

406. EXCLUSIVE PURPOSE (RULE 406).
The Board shall hold the assets of the Judges' Retirement Fund in trust for the exclusive purpose of providing benefits to Members and Beneficiaries and paying reasonable expenses of administration. It shall be impossible by operation of the Judges' Retirement Fund, by termination, by power of revocation or amendment, by the happening of any contingency, by collateral arrangement or by other means, for any part of the corpus or income of the Judges' Retirement Fund, or any funds contributed thereto, to inure to the benefit of any Employer or otherwise be used for or diverted to purposes other than providing benefits to Members and Beneficiaries and defraying reasonable expenses of administering the Judges' Retirement Fund. (7-21-15)

407. BENEFITS DURING MILITARY SERVICES (RULE 407).

01. Death Benefits. (7-21-15)

a. This subsection 407.01 applies to a member of the Judges' Retirement Fund who dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. (7-21-15)

b. The period of military service that results in the member's death will be counted in the determination of whether the member qualifies for the death benefit described in section 2009-1(b) to the extent required by Code Section 401(a)(37), (7-21-15)

02. Determination of Return to Employment for Benefit Accrual Purposes. (7-21-15)

a. This subsection 407.02 applies to a member of the Judges' Retirement Fund who becomes disabled or dies on or after January 1, 2007, while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. (7-21-15)

b. For benefit accrual purposes, a member of the Judges' Retirement Fund shall be treated as having returned to employment on the day before the death or disability and then terminated on the date of death or disability to the extent permitted by Code Section 414(u)(8). (7-21-15)

03. Differential Wage Payments. (7-21-15)

a. This subsection 407.02 applies to a member of the Judges' Retirement Fund who, on or after January 1, 2009, receives differential wage payments from his or her Employer while performing qualified military service as defined in Chapter 43, Title 38 of the United States Code. (7-21-15)

b. A member of the Judges' Retirement Fund shall be treated as employed by the Employer while performing qualified military service to the extent required by Code Section 3401(h). (7-21-15)

408. -- 999. (RESERVED)

APPENDIX A

Judges' Retirement Fund of the State of Idaho
100% Contingent Annuitant Factors for Spouses
Judges hired before July 1, 2012

	Spouse																	
Judge	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
50	0.92242	0.92474	0.92710	0.92949	0.93192	0.93437	0.93685	0.93933	0.94182	0.94431	0.94678	0.94923	0.95166	0.95406	0.95641	0.95872	0.96097	0.96316
51	0.91758	0.91995	0.92236	0.92482	0.92732	0.92985	0.93241	0.93500	0.93759	0.94019	0.94278	0.94536	0.94792	0.95045	0.95296	0.95541	0.95782	0.96016
52	0.91243	0.91484	0.91731	0.91983	0.92240	0.92500	0.92765	0.93032	0.93302	0.93572	0.93843	0.94113	0.94382	0.94650	0.94915	0.95176	0.95432	0.95683
53	0.90695	0.90940	0.91192	0.91449	0.91712	0.91979	0.92251	0.92527	0.92806	0.93087	0.93369	0.93651	0.93934	0.94215	0.94494	0.94771	0.95043	0.95310
54	0.90114	0.90362	0.90618	0.90880	0.91148	0.91422	0.91701	0.91985	0.92273	0.92563	0.92856	0.93150	0.93445	0.93739	0.94033	0.94325	0.94613	0.94897
55	0.89498	0.89750	0.90009	0.90275	0.90548	0.90827	0.91112	0.91404	0.91699	0.91999	0.92301	0.92606	0.92913	0.93221	0.93529	0.93836	0.94140	0.94440
56	0.88851	0.89105	0.89366	0.89636	0.89913	0.90197	0.90488	0.90785	0.91088	0.91396	0.91708	0.92023	0.92341	0.92662	0.92983	0.93304	0.93624	0.93941
57	0.88174	0.88429	0.88693	0.88965	0.89245	0.89533	0.89829	0.90132	0.90441	0.90756	0.91077	0.91401	0.91730	0.92062	0.92396	0.92731	0.93066	0.93400
58	0.87468	0.87725	0.87990	0.88264	0.88546	0.88837	0.89137	0.89445	0.89760	0.90081	0.90409	0.90741	0.91080	0.91423	0.91769	0.92118	0.92467	0.92816
59	0.86737	0.86994	0.87260	0.87535	0.87819	0.88112	0.88415	0.88727	0.89046	0.89373	0.89707	0.90047	0.90394	0.90747	0.91104	0.91465	0.91828	0.92192
60	0.85979	0.86236	0.86501	0.86777	0.87062	0.87357	0.87662	0.87976	0.88300	0.88631	0.88970	0.89317	0.89671	0.90033	0.90400	0.90772	0.91147	0.91525
61	0.85196	0.85451	0.85717	0.85992	0.86277	0.86573	0.86879	0.87196	0.87521	0.87856	0.88200	0.88552	0.88912	0.89281	0.89657	0.90039	0.90426	0.90816
62	0.84393	0.84647	0.84911	0.85185	0.85470	0.85766	0.86072	0.86390	0.86717	0.87055	0.87401	0.87757	0.88123	0.88498	0.88881	0.89272	0.89669	0.90071
63	0.83567	0.83819	0.84081	0.84354	0.84637	0.84932	0.85238	0.85556	0.85884	0.86223	0.86572	0.86930	0.87300	0.87680	0.88069	0.88467	0.88873	0.89285
64	0.82725	0.82974	0.83233	0.83504	0.83786	0.84079	0.84384	0.84700	0.85028	0.85368	0.85718	0.86078	0.86450	0.86834	0.87228	0.87632	0.88045	0.88465
65	0.81863	0.82108	0.82365	0.82632	0.82912	0.83202	0.83505	0.83820	0.84147	0.84486	0.84836	0.85197	0.85570	0.85956	0.86354	0.86762	0.87181	0.87608
66	0.80982	0.81224	0.81477	0.81741	0.82016	0.82304	0.82604	0.82917	0.83242	0.83578	0.83927	0.84288	0.84662	0.85049	0.85448	0.85859	0.86282	0.86715
67	0.80090	0.80328	0.80576	0.80837	0.81108	0.81392	0.81689	0.81998	0.82320	0.82654	0.83001	0.83360	0.83733	0.84120	0.84520	0.84932	0.85358	0.85794
68	0.79182	0.79415	0.79659	0.79915	0.80182	0.80462	0.80754	0.81059	0.81377	0.81708	0.82051	0.82407	0.82778	0.83164	0.83563	0.83976	0.84402	0.84841
69	0.78251	0.78479	0.78718	0.78968	0.79230	0.79504	0.79792	0.80092	0.80405	0.80732	0.81071	0.81423	0.81791	0.82173	0.82570	0.82981	0.83407	0.83846
70	0.77303	0.77526	0.77759	0.78003	0.78260	0.78528	0.78810	0.79105	0.79412	0.79733	0.80067	0.80414	0.80777	0.81156	0.81549	0.81957	0.82381	0.82818

	Spouse																	
Judge	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
50	0.96529	0.96735	0.96933	0.97125	0.97308	0.97484	0.97653	0.97814	0.97967	0.98112	0.98251	0.98382	0.98506	0.98623	0.98733	0.98837	0.98934	0.99026
51	0.96245	0.96466	0.96681	0.96887	0.97086	0.97277	0.97460	0.97635	0.97802	0.97960	0.98111	0.98254	0.98389	0.98517	0.98637	0.98750	0.98856	0.98956
52	0.95927	0.96165	0.96396	0.96619	0.96835	0.97042	0.97240	0.97431	0.97612	0.97785	0.97950	0.98106	0.98254	0.98393	0.98525	0.98648	0.98764	0.98873
53	0.95571	0.95827	0.96075	0.96316	0.96548	0.96773	0.96988	0.97195	0.97393	0.97582	0.97762	0.97933	0.98095	0.98247	0.98392	0.98527	0.98655	0.98774
54	0.95176	0.95449	0.95715	0.95974	0.96225	0.96468	0.96702	0.96927	0.97143	0.97349	0.97545	0.97732	0.97910	0.98077	0.98236	0.98385	0.98525	0.98656
55	0.94737	0.95028	0.95313	0.95591	0.95861	0.96123	0.96377	0.96621	0.96856	0.97081	0.97296	0.97501	0.97695	0.97880	0.98054	0.98218	0.98373	0.98517
56	0.94255	0.94564	0.94868	0.95166	0.95456	0.95738	0.96012	0.96277	0.96532	0.96778	0.97012	0.97237	0.97450	0.97653	0.97845	0.98026	0.98196	0.98356
57	0.93730	0.94058	0.94381	0.94698	0.95009	0.95313	0.95608	0.95894	0.96171	0.96438	0.96694	0.96939	0.97173	0.97395	0.97607	0.97806	0.97994	0.98171
58	0.93164	0.93509	0.93851	0.94188	0.94520	0.94845	0.95162	0.95471	0.95770	0.96059	0.96338	0.96606	0.96862	0.97106	0.97338	0.97558	0.97766	0.97961
59	0.92556	0.92918	0.93279	0.93636	0.93988	0.94335	0.94674	0.95006	0.95329	0.95642	0.95945	0.96236	0.96516	0.96783	0.97038	0.97280	0.97509	0.97725
60	0.91904	0.92283	0.92662	0.93038	0.93411	0.93779	0.94141	0.94497	0.94844	0.95181	0.95509	0.95825	0.96130	0.96422	0.96701	0.96967	0.97219	0.97458
61	0.91209	0.91605	0.92000	0.92395	0.92788	0.93177	0.93562	0.93941	0.94312	0.94675	0.95029	0.95371	0.95702	0.96021	0.96326	0.96618	0.96895	0.97158
62	0.90477	0.90887	0.91298	0.91711	0.92123	0.92533	0.92940	0.93342	0.93738	0.94127	0.94506	0.94876	0.95235	0.95581	0.95914	0.96232	0.96537	0.96826
63	0.89703	0.90125	0.90552	0.90981	0.91411	0.91841	0.92269	0.92695	0.93115	0.93529	0.93936	0.94333	0.94720	0.95095	0.95457	0.95805	0.96138	0.96455
64	0.88893	0.89328	0.89768	0.90212	0.90659	0.91107	0.91556	0.92004	0.92448	0.92887	0.93321	0.93746	0.94162	0.94566	0.94959	0.95337	0.95700	0.96048
65	0.88045	0.88489	0.88941	0.89399	0.89861	0.90327	0.90795	0.91263	0.91731	0.92195	0.92655	0.93108	0.93553	0.93988	0.94411	0.94821	0.95216	0.95596
66	0.87158	0.87611	0.88073	0.88542	0.89018	0.89499	0.89985	0.90473	0.90962	0.91450	0.91936	0.92417	0.92891	0.93356	0.93812	0.94254	0.94683	0.95096
67	0.86242	0.86702	0.87172	0.87651	0.88139	0.88634	0.89135	0.89641	0.90151	0.90661	0.91171	0.91679	0.92182	0.92677	0.93165	0.93640	0.94104	0.94551
68	0.85292	0.85756	0.86232	0.86719	0.87217	0.87723	0.88239	0.88761	0.89289	0.89820	0.90353	0.90887	0.91417	0.91943	0.92462	0.92971	0.93469	0.93952
69	0.84298	0.84765	0.85245	0.85738	0.86243	0.86759	0.87286	0.87822	0.88366	0.88916	0.89471	0.90028	0.90585	0.91139	0.91690	0.92232	0.92765	0.93285
70	0.83270	0.83738	0.84220	0.84716	0.85226	0.85749	0.86285	0.86833	0.87390	0.87957	0.88530	0.89109	0.89691	0.90272	0.90853	0.91427	0.91996	0.92553

APPENDIX A

Judges' Retirement Fund of the State of Idaho
50% Contingent Annuitant Factors for Spouses
Judges hired on or after July 1, 2012

	Spouse																	
Judge	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
50	0.96636	0.96745	0.96855	0.96966	0.97078	0.97190	0.97304	0.97417	0.97529	0.97641	0.97752	0.97861	0.97968	0.98074	0.98177	0.98278	0.98375	0.98470
51	0.96407	0.96519	0.96633	0.96748	0.96865	0.96982	0.97101	0.97219	0.97338	0.97455	0.97572	0.97688	0.97802	0.97915	0.98025	0.98133	0.98238	0.98340
52	0.96161	0.96277	0.96394	0.96514	0.96635	0.96757	0.96880	0.97004	0.97128	0.97252	0.97376	0.97498	0.97619	0.97739	0.97857	0.97973	0.98085	0.98195
53	0.95896	0.96015	0.96136	0.96260	0.96385	0.96512	0.96640	0.96770	0.96899	0.97030	0.97159	0.97288	0.97417	0.97544	0.97669	0.97793	0.97914	0.98032
54	0.95612	0.95734	0.95859	0.95986	0.96115	0.96247	0.96380	0.96515	0.96650	0.96786	0.96922	0.97058	0.97194	0.97329	0.97462	0.97593	0.97723	0.97849
55	0.95306	0.95432	0.95560	0.95691	0.95824	0.95960	0.96098	0.96238	0.96379	0.96521	0.96664	0.96806	0.96949	0.97091	0.97233	0.97372	0.97510	0.97645
56	0.94981	0.95109	0.95240	0.95375	0.95512	0.95652	0.95795	0.95940	0.96087	0.96234	0.96383	0.96532	0.96682	0.96832	0.96981	0.97129	0.97276	0.97420
57	0.94635	0.94766	0.94901	0.95038	0.95180	0.95324	0.95471	0.95621	0.95772	0.95926	0.96081	0.96237	0.96394	0.96551	0.96708	0.96865	0.97020	0.97173
58	0.94269	0.94403	0.94540	0.94681	0.94826	0.94974	0.95125	0.95280	0.95437	0.95596	0.95757	0.95919	0.96083	0.96247	0.96412	0.96577	0.96741	0.96904
59	0.93884	0.94020	0.94160	0.94304	0.94452	0.94603	0.94759	0.94918	0.95080	0.95244	0.95411	0.95579	0.95749	0.95921	0.96094	0.96267	0.96440	0.96612
60	0.93477	0.93615	0.93758	0.93905	0.94056	0.94211	0.94370	0.94533	0.94700	0.94869	0.95041	0.95216	0.95393	0.95572	0.95752	0.95933	0.96115	0.96296
61	0.93049	0.93190	0.93335	0.93484	0.93638	0.93796	0.93959	0.94126	0.94297	0.94471	0.94649	0.94829	0.95012	0.95198	0.95386	0.95575	0.95765	0.95955
62	0.92603	0.92745	0.92892	0.93043	0.93200	0.93361	0.93527	0.93698	0.93873	0.94052	0.94234	0.94420	0.94609	0.94801	0.94996	0.95193	0.95391	0.95590
63	0.92134	0.92278	0.92427	0.92581	0.92739	0.92903	0.93073	0.93247	0.93425	0.93608	0.93795	0.93986	0.94181	0.94380	0.94581	0.94786	0.94992	0.95200
64	0.91647	0.91792	0.91942	0.92098	0.92259	0.92426	0.92597	0.92775	0.92957	0.93144	0.93335	0.93530	0.93731	0.93935	0.94143	0.94355	0.94569	0.94785
65	0.91138	0.91284	0.91436	0.91593	0.91756	0.91924	0.92099	0.92279	0.92464	0.92655	0.92850	0.93050	0.93255	0.93465	0.93679	0.93897	0.94118	0.94342
66	0.90606	0.90753	0.90906	0.91065	0.91229	0.91400	0.91576	0.91759	0.91947	0.92141	0.92340	0.92543	0.92753	0.92968	0.93188	0.93412	0.93640	0.93872
67	0.90056	0.90204	0.90358	0.90517	0.90683	0.90855	0.91034	0.91218	0.91409	0.91606	0.91808	0.92015	0.92229	0.92449	0.92674	0.92904	0.93138	0.93377
68	0.89484	0.89632	0.89786	0.89947	0.90114	0.90287	0.90467	0.90653	0.90846	0.91045	0.91250	0.91461	0.91678	0.91902	0.92132	0.92367	0.92608	0.92853
69	0.88882	0.89031	0.89185	0.89346	0.89514	0.89688	0.89869	0.90057	0.90252	0.90453	0.90660	0.90874	0.91095	0.91322	0.91556	0.91796	0.92042	0.92293
70	0.88256	0.88404	0.88559	0.88720	0.88888	0.89063	0.89245	0.89434	0.89630	0.89833	0.90042	0.90258	0.90481	0.90712	0.90950	0.91194	0.91445	0.91701

	Spouse																	
Judge	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
50	0.98562	0.98650	0.98735	0.98816	0.98894	0.98968	0.99039	0.99106	0.99170	0.99230	0.99288	0.99342	0.99393	0.99441	0.99487	0.99529	0.99569	0.99606
51	0.98439	0.98535	0.98627	0.98715	0.98799	0.98880	0.98958	0.99031	0.99101	0.99167	0.99230	0.99289	0.99345	0.99398	0.99447	0.99494	0.99537	0.99578
52	0.98302	0.98405	0.98505	0.98600	0.98692	0.98781	0.98865	0.98945	0.99022	0.99094	0.99163	0.99228	0.99289	0.99347	0.99401	0.99452	0.99500	0.99544
53	0.98146	0.98258	0.98366	0.98470	0.98570	0.98666	0.98758	0.98846	0.98929	0.99009	0.99084	0.99156	0.99223	0.99286	0.99346	0.99402	0.99455	0.99503
54	0.97972	0.98093	0.98209	0.98322	0.98431	0.98535	0.98636	0.98732	0.98823	0.98911	0.98993	0.99072	0.99146	0.99216	0.99282	0.99343	0.99401	0.99455
55	0.97778	0.97907	0.98033	0.98155	0.98273	0.98387	0.98496	0.98601	0.98702	0.98797	0.98888	0.98975	0.99056	0.99133	0.99206	0.99274	0.99338	0.99398
56	0.97562	0.97701	0.97836	0.97968	0.98096	0.98220	0.98339	0.98453	0.98563	0.98668	0.98768	0.98863	0.98953	0.99039	0.99119	0.99194	0.99265	0.99331
57	0.97324	0.97473	0.97619	0.97761	0.97899	0.98033	0.98162	0.98287	0.98407	0.98522	0.98632	0.98737	0.98836	0.98930	0.99019	0.99103	0.99181	0.99255
58	0.97065	0.97223	0.97379	0.97532	0.97681	0.97826	0.97966	0.98102	0.98233	0.98359	0.98480	0.98595	0.98704	0.98808	0.98906	0.98999	0.99086	0.99167
59	0.96783	0.96951	0.97118	0.97281	0.97441	0.97598	0.97750	0.97897	0.98040	0.98177	0.98309	0.98436	0.98556	0.98670	0.98779	0.98881	0.98978	0.99069
60	0.96476	0.96655	0.96832	0.97007	0.97179	0.97347	0.97511	0.97670	0.97825	0.97975	0.98119	0.98257	0.98390	0.98516	0.98636	0.98749	0.98856	0.98957
61	0.96145	0.96334	0.96522	0.96708	0.96891	0.97071	0.97248	0.97420	0.97588	0.97750	0.97907	0.98059	0.98204	0.98342	0.98474	0.98600	0.98718	0.98830
62	0.95790	0.95989	0.96188	0.96385	0.96580	0.96772	0.96961	0.97147	0.97328	0.97504	0.97675	0.97840	0.97998	0.98150	0.98296	0.98434	0.98565	0.98689
63	0.95408	0.95617	0.95826	0.96035	0.96242	0.96447	0.96649	0.96848	0.97042	0.97233	0.97418	0.97597	0.97770	0.97937	0.98096	0.98248	0.98393	0.98530
64	0.95002	0.95221	0.95441	0.95660	0.95879	0.96096	0.96311	0.96523	0.96732	0.96937	0.97137	0.97332	0.97520	0.97702	0.97876	0.98043	0.98203	0.98354
65	0.94569	0.94797	0.95026	0.95257	0.95487	0.95716	0.95945	0.96171	0.96394	0.96614	0.96829	0.97039	0.97243	0.97441	0.97632	0.97815	0.97990	0.98157
66	0.94106	0.94344	0.94583	0.94824	0.95065	0.95307	0.95548	0.95788	0.96026	0.96260	0.96491	0.96718	0.96939	0.97153	0.97361	0.97561	0.97754	0.97937
67	0.93619	0.93865	0.94113	0.94364	0.94617	0.94870	0.95124	0.95378	0.95630	0.95880	0.96127	0.96370	0.96608	0.96840	0.97065	0.97283	0.97494	0.97695
68	0.93102	0.93356	0.93614	0.93874	0.94137	0.94402	0.94668	0.94935	0.95202	0.95467	0.95729	0.95989	0.96245	0.96495	0.96739	0.96976	0.97205	0.97425
69	0.92550	0.92811	0.93077	0.93346	0.93619	0.93895	0.94174	0.94453	0.94734	0.95014	0.95293	0.95569	0.95842	0.96111	0.96375	0.96631	0.96880	0.97121
70	0.91964	0.92232	0.92505	0.92783	0.93066	0.93352	0.93642	0.93934	0.94228	0.94523	0.94818	0.95111	0.95402	0.95690	0.95973	0.96249	0.96520	0.96781

or after July 1, 2012

	Spouse													
e	40	41	42	43	44	45	46	47	48	49	50	51	52	53
50	0.89139	0.89464	0.89794	0.90129	0.90469	0.90812	0.91158	0.91507	0.91855	0.92203	0.92549	0.92892	0.93232	0.93568
51	0.88461	0.88792	0.89131	0.89475	0.89825	0.90179	0.90538	0.90900	0.91263	0.91627	0.91989	0.92350	0.92709	0.93064
52	0.87740	0.88078	0.88424	0.88776	0.89135	0.89501	0.89871	0.90245	0.90623	0.91001	0.91380	0.91758	0.92135	0.92510
53	0.86973	0.87316	0.87668	0.88028	0.88396	0.88771	0.89152	0.89538	0.89929	0.90322	0.90717	0.91112	0.91507	0.91901
54	0.86159	0.86507	0.86865	0.87232	0.87607	0.87991	0.88382	0.88779	0.89182	0.89589	0.89998	0.90409	0.90822	0.91235
55	0.85297	0.85650	0.86012	0.86385	0.86767	0.87158	0.87557	0.87965	0.88379	0.88798	0.89222	0.89648	0.90078	0.90510
56	0.84391	0.84747	0.85113	0.85490	0.85878	0.86275	0.86683	0.87099	0.87524	0.87955	0.88391	0.88832	0.89277	0.89726
57	0.83443	0.83801	0.84170	0.84551	0.84943	0.85346	0.85760	0.86185	0.86618	0.87059	0.87507	0.87961	0.88421	0.88886
58	0.82456	0.82815	0.83186	0.83569	0.83965	0.84372	0.84792	0.85223	0.85664	0.86114	0.86572	0.87038	0.87512	0.87992
59	0.81432	0.81791	0.82164	0.82549	0.82947	0.83357	0.83781	0.84217	0.84665	0.85123	0.85590	0.86066	0.86552	0.87046
60	0.80371	0.80730	0.81102	0.81488	0.81887	0.82300	0.82727	0.83167	0.83619	0.84084	0.84559	0.85044	0.85540	0.86046
61	0.79275	0.79632	0.80003	0.80389	0.80788	0.81202	0.81631	0.82074	0.82530	0.82999	0.83480	0.83972	0.84477	0.84994
62	0.78150	0.78506	0.78875	0.79259	0.79658	0.80072	0.80501	0.80946	0.81404	0.81876	0.82362	0.82860	0.83372	0.83897
63	0.76994	0.77346	0.77713	0.78095	0.78492	0.78905	0.79333	0.79778	0.80237	0.80712	0.81200	0.81702	0.82220	0.82752
64	0.75815	0.76163	0.76527	0.76905	0.77300	0.77710	0.78137	0.78581	0.79040	0.79515	0.80005	0.80509	0.81030	0.81568
65	0.74608	0.74952	0.75311	0.75685	0.76076	0.76483	0.76907	0.77349	0.77806	0.78280	0.78770	0.79275	0.79799	0.80339
66	0.73374	0.73713	0.74067	0.74437	0.74823	0.75226	0.75646	0.76084	0.76538	0.77010	0.77498	0.78003	0.78526	0.79068
67	0.72126	0.72459	0.72807	0.73171	0.73552	0.73949	0.74365	0.74798	0.75248	0.75716	0.76201	0.76704	0.77226	0.77767
68	0.70855	0.71181	0.71523	0.71881	0.72255	0.72646	0.73056	0.73483	0.73928	0.74391	0.74872	0.75370	0.75890	0.76429
69	0.69551	0.69870	0.70205	0.70555	0.70922	0.71306	0.71708	0.72129	0.72568	0.73024	0.73499	0.73992	0.74507	0.75042
70	0.68225	0.68536	0.68862	0.69205	0.69564	0.69940	0.70334	0.70747	0.71177	0.71627	0.72094	0.72580	0.73088	0.73618

	Spouse													
e	58	59	60	61	62	63	64	65	66	67	68	69	70	71
50	0.95140	0.95429	0.95707	0.95974	0.96232	0.96478	0.96714	0.96939	0.97153	0.97357	0.97551	0.97735	0.97908	0.98072
51	0.94743	0.95053	0.95353	0.95642	0.95921	0.96188	0.96444	0.96689	0.96922	0.97144	0.97356	0.97556	0.97745	0.97924
52	0.94298	0.94631	0.94955	0.95267	0.95568	0.95858	0.96137	0.96403	0.96657	0.96899	0.97130	0.97348	0.97555	0.97750
53	0.93800	0.94157	0.94505	0.94842	0.95168	0.95482	0.95784	0.96073	0.96351	0.96615	0.96867	0.97106	0.97332	0.97546
54	0.93246	0.93628	0.94001	0.94363	0.94715	0.95055	0.95383	0.95698	0.96000	0.96288	0.96563	0.96825	0.97074	0.97308
55	0.92631	0.93039	0.93438	0.93827	0.94205	0.94573	0.94927	0.95269	0.95598	0.95913	0.96214	0.96501	0.96773	0.97031
56	0.91957	0.92390	0.92815	0.93232	0.93638	0.94034	0.94417	0.94788	0.95145	0.95489	0.95817	0.96131	0.96430	0.96714
57	0.91223	0.91681	0.92133	0.92578	0.93013	0.93438	0.93851	0.94252	0.94640	0.95013	0.95371	0.95715	0.96042	0.96354
58	0.90429	0.90913	0.91391	0.91864	0.92328	0.92783	0.93227	0.93659	0.94078	0.94483	0.94874	0.95248	0.95607	0.95948
59	0.89578	0.90086	0.90590	0.91090	0.91584	0.92069	0.92544	0.93009	0.93461	0.93899	0.94323	0.94731	0.95122	0.95496
60	0.88665	0.89197	0.89727	0.90254	0.90775	0.91291	0.91798	0.92295	0.92781	0.93254	0.93712	0.94155	0.94582	0.94991
61	0.87693	0.88246	0.88800	0.89353	0.89903	0.90448	0.90987	0.91517	0.92037	0.92545	0.93040	0.93520	0.93983	0.94429
62	0.86668	0.87241	0.87818	0.88395	0.88972	0.89546	0.90116	0.90679	0.91233	0.91777	0.92309	0.92827	0.93329	0.93813
63	0.85584	0.86176	0.86773	0.87373	0.87976	0.88578	0.89177	0.89772	0.90361	0.90941	0.91510	0.92067	0.92608	0.93133

APPENDIX A

Judges' Retirement Fund of the State of Idaho
50% Contingent Annuitant Factors for Non-Spouses
For all Judges, irrespective of hire date

	Non-Spouse																		
Judge	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57	
50	0.91590	0.91862	0.92136	0.92414	0.92694	0.92976	0.93259	0.93541	0.93823	0.94102	0.94379	0.94651	0.94920	0.95184	0.95442	0.95694	0.95939	0.96175	
51	0.91017	0.91298	0.91583	0.91871	0.92162	0.92456	0.92752	0.93048	0.93344	0.93638	0.93931	0.94220	0.94506	0.94787	0.95063	0.95333	0.95596	0.95851	
52	0.90402	0.90692	0.90986	0.91284	0.91587	0.91892	0.92201	0.92511	0.92821	0.93131	0.93439	0.93745	0.94048	0.94348	0.94642	0.94931	0.95213	0.95488	
53	0.89740	0.90038	0.90341	0.90649	0.90962	0.91280	0.91601	0.91924	0.92249	0.92574	0.92898	0.93221	0.93542	0.93860	0.94174	0.94482	0.94784	0.95079	
54	0.89029	0.89335	0.89647	0.89965	0.90288	0.90617	0.90950	0.91287	0.91626	0.91966	0.92306	0.92646	0.92985	0.93321	0.93655	0.93983	0.94306	0.94623	
55	0.88266	0.88579	0.88900	0.89227	0.89561	0.89900	0.90246	0.90595	0.90948	0.91303	0.91659	0.92016	0.92373	0.92728	0.93081	0.93431	0.93775	0.94113	
56	0.87452	0.87773	0.88101	0.88437	0.88781	0.89131	0.89488	0.89850	0.90216	0.90586	0.90958	0.91331	0.91706	0.92080	0.92453	0.92824	0.93190	0.93550	
57	0.86588	0.86915	0.87251	0.87596	0.87949	0.88309	0.88677	0.89051	0.89431	0.89815	0.90202	0.90592	0.90984	0.91377	0.91770	0.92161	0.92550	0.92933	
58	0.85673	0.86007	0.86350	0.86703	0.87065	0.87435	0.87813	0.88199	0.88592	0.88989	0.89391	0.89797	0.90206	0.90618	0.91031	0.91443	0.91853	0.92260	
59	0.84709	0.85049	0.85399	0.85760	0.86129	0.86509	0.86897	0.87294	0.87699	0.88110	0.88526	0.88947	0.89374	0.89804	0.90236	0.90669	0.91101	0.91530	
60	0.83693	0.84038	0.84395	0.84762	0.85140	0.85527	0.85926	0.86333	0.86749	0.87173	0.87603	0.88039	0.88482	0.88929	0.89380	0.89834	0.90287	0.90740	
61	0.82624	0.82974	0.83337	0.83710	0.84095	0.84491	0.84898	0.85315	0.85742	0.86178	0.86621	0.87071	0.87530	0.87994	0.88464	0.88937	0.89412	0.89887	
62	0.81507	0.81862	0.82229	0.82609	0.83000	0.83403	0.83819	0.84245	0.84683	0.85130	0.85585	0.86049	0.86522	0.87003	0.87490	0.87983	0.88478	0.88976	
63	0.80336	0.80695	0.81067	0.81451	0.81849	0.82259	0.82682	0.83117	0.83564	0.84021	0.84489	0.84965	0.85452	0.85949	0.86453	0.86964	0.87480	0.87999	
64	0.79117	0.79480	0.79856	0.80245	0.80648	0.81064	0.81494	0.81937	0.82392	0.82860	0.83338	0.83826	0.84327	0.84838	0.85358	0.85886	0.86421	0.86961	
65	0.77844	0.78210	0.78589	0.78982	0.79390	0.79811	0.80247	0.80697	0.81161	0.81637	0.82125	0.82624	0.83137	0.83662	0.84198	0.84743	0.85296	0.85856	
66	0.76515	0.76883	0.77265	0.77662	0.78073	0.78499	0.78941	0.79397	0.79868	0.80352	0.80849	0.81358	0.81883	0.82420	0.82970	0.83530	0.84101	0.84680	
67	0.75140	0.75510	0.75894	0.76294	0.76708	0.77138	0.77584	0.78046	0.78523	0.79014	0.79519	0.80038	0.80572	0.81122	0.81684	0.82259	0.82846	0.83442	
68	0.73709	0.74080	0.74465	0.74867	0.75284	0.75717	0.76167	0.76634	0.77116	0.77613	0.78125	0.78652	0.79196	0.79755	0.80330	0.80918	0.81519	0.82132	
69	0.72206	0.72577	0.72964	0.73366	0.73785	0.74221	0.74674	0.75144	0.75630	0.76133	0.76651	0.77184	0.77736	0.78305	0.78890	0.79491	0.80105	0.80733	
70	0.70640	0.71011	0.71397	0.71800	0.72220	0.72657	0.73112	0.73585	0.74075	0.74582	0.75105	0.75644	0.76203	0.76780	0.77374	0.77985	0.78612	0.79253	

	Non-Spouse																		
Judge	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75	
50	0.96404	0.96624	0.96836	0.97039	0.97234	0.97419	0.97596	0.97765	0.97925	0.98076	0.98220	0.98355	0.98483	0.98604	0.98717	0.98823	0.98923	0.99016	
51	0.96098	0.96337	0.96567	0.96787	0.96999	0.97201	0.97394	0.97578	0.97752	0.97918	0.98075	0.98223	0.98363	0.98494	0.98618	0.98734	0.98843	0.98945	
52	0.95754	0.96012	0.96261	0.96501	0.96731	0.96951	0.97162	0.97363	0.97554	0.97735	0.97907	0.98069	0.98223	0.98367	0.98503	0.98630	0.98749	0.98860	
53	0.95366	0.95645	0.95914	0.96175	0.96425	0.96665	0.96895	0.97114	0.97323	0.97522	0.97711	0.97889	0.98058	0.98216	0.98365	0.98505	0.98636	0.98758	
54	0.94931	0.95232	0.95523	0.95805	0.96077	0.96338	0.96589	0.96829	0.97058	0.97276	0.97484	0.97680	0.97865	0.98040	0.98204	0.98359	0.98503	0.98638	
55	0.94444	0.94767	0.95082	0.95387	0.95682	0.95967	0.96241	0.96503	0.96754	0.96993	0.97221	0.97437	0.97641	0.97834	0.98015	0.98186	0.98346	0.98495	
56	0.93905	0.94252	0.94590	0.94920	0.95240	0.95549	0.95847	0.96133	0.96408	0.96670	0.96920	0.97158	0.97383	0.97596	0.97797	0.97986	0.98163	0.98329	
57	0.93311	0.93683	0.94046	0.94402	0.94747	0.95082	0.95406	0.95719	0.96019	0.96306	0.96581	0.96842	0.97091	0.97326	0.97548	0.97757	0.97953	0.98137	
58	0.92662	0.93058	0.93448	0.93830	0.94202	0.94565	0.94916	0.95256	0.95583	0.95898	0.96199	0.96487	0.96760	0.97020	0.97265	0.97497	0.97715	0.97919	
59	0.91957	0.92379	0.92795	0.93203	0.93604	0.93994	0.94375	0.94744	0.95100	0.95444	0.95773	0.96089	0.96390	0.96676	0.96948	0.97204	0.97445	0.97672	
60	0.91191	0.91638	0.92081	0.92517	0.92946	0.93366	0.93777	0.94176	0.94563	0.94937	0.95298	0.95643	0.95974	0.96289	0.96589	0.96872	0.97140	0.97391	
61	0.90362	0.90835	0.91305	0.91769	0.92227	0.92678	0.93119	0.93550	0.93969	0.94376	0.94769	0.95147	0.95509	0.95856	0.96186	0.96499	0.96796	0.97075	
62	0.89475	0.89973	0.90469	0.90962	0.91449	0.91930	0.92404	0.92867	0.93320	0.93760	0.94187	0.94600	0.94996	0.95376	0.95740	0.96085	0.96413	0.96722	
63	0.88520	0.89044	0.89566	0.90087	0.90604	0.91116	0.91622	0.92119	0.92606	0.93082	0.93544	0.93993	0.94426	0.94842	0.95241	0.95621	0.95983	0.96325	
64	0.87505	0.88053	0.88601	0.89150	0.89696	0.90239	0.90777	0.91309	0.91831	0.92343	0.92843	0.93329	0.93800	0.94254	0.94691	0.95108	0.95507	0.95885	
65	0.86421	0.86992	0.87566	0.88141	0.88717	0.89291	0.89861	0.90427	0.90985	0.91534	0.92072	0.92598	0.93109	0.93603	0.94080	0.94538	0.94976	0.95393	
66	0.85266	0.85859	0.86457	0.87059	0.87663	0.88267	0.88870	0.89470	0.90064	0.90651	0.91229	0.91795	0.92347	0.92883	0.93403	0.93903	0.94384	0.94843	
67	0.84048	0.84662	0.85284	0.85911	0.86542	0.87176	0.87811	0.88444	0.89075	0.89699	0.90317	0.90924	0.91519	0.92099	0.92664	0.93208	0.93734	0.94237	
68	0.82756	0.83390	0.84034	0.84685	0.85343	0.86005	0.86671	0.87338	0.88004	0.88666	0.89324	0.89973	0.90611	0.91236	0.91847	0.92439	0.93012	0.93563	
69	0.81374	0.82027	0.82691	0.83365	0.84048	0.84738	0.85434	0.86133	0.86834	0.87534	0.88231	0.88923	0.89606	0.90277	0.90936	0.91577	0.92201	0.92802	
70	0.79909	0.80580	0.81263	0.81959	0.82665	0.83381	0.84105	0.84836	0.85571	0.86308	0.87044	0.87778	0.88506	0.89224	0.89932	0.90624	0.91299	0.91954	

APPENDIX A

Judges' Retirement Fund of the State of Idaho
100% Contingent Annuitant Factors for Non-Spouses
For all Judges, irrespective of hire date

	Non-Spouse																	
Judge	40	41	42	43	44	45	46	47	48	49	50	51	52	53	54	55	56	57
50	0.84485	0.84948	0.85420	0.85898	0.86384	0.86874	0.87369	0.87867	0.88365	0.88862	0.89356	0.89846	0.90332	0.90811	0.91282	0.91744	0.92194	0.92633
51	NA	0.83989	0.84472	0.84964	0.85464	0.85970	0.86483	0.86999	0.87518	0.88038	0.88556	0.89071	0.89584	0.90091	0.90591	0.91083	0.91564	0.92033
52	NA	NA	0.83462	0.83966	0.84479	0.85001	0.85530	0.86065	0.86604	0.87145	0.87686	0.88226	0.88765	0.89300	0.89830	0.90352	0.90864	0.91365
53	NA	NA	NA	0.82898	0.83423	0.83958	0.84503	0.85055	0.85613	0.86174	0.86738	0.87302	0.87867	0.88430	0.88989	0.89541	0.90086	0.90620
54	NA	NA	NA	NA	0.82296	0.82844	0.83402	0.83970	0.84545	0.85127	0.85712	0.86299	0.86889	0.87479	0.88067	0.88650	0.89226	0.89794
55	NA	NA	NA	NA	NA	0.81654	0.82225	0.82807	0.83399	0.83998	0.84603	0.85212	0.85826	0.86442	0.87058	0.87671	0.88280	0.88881
56	NA	NA	NA	NA	NA	NA	0.80976	0.81570	0.82177	0.82792	0.83416	0.84045	0.84682	0.85323	0.85966	0.86608	0.87248	0.87882
57	NA	NA	NA	NA	NA	NA	NA	0.80264	0.80883	0.81513	0.82153	0.82801	0.83459	0.84124	0.84792	0.85463	0.86132	0.86799
58	NA	NA	NA	NA	NA	NA	NA	NA	0.79520	0.80163	0.80818	0.81483	0.82160	0.82846	0.83538	0.84235	0.84934	0.85632
59	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.78747	0.79415	0.80095	0.80789	0.81494	0.82209	0.82930	0.83656	0.84383
60	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.77941	0.78634	0.79343	0.80065	0.80800	0.81543	0.82294	0.83050
61	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.77103	0.77825	0.78562	0.79314	0.80078	0.80851	0.81632
62	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.76246	0.76996	0.77763	0.78544	0.79338	0.80141
63	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.75360	0.76139	0.76934	0.77746	0.78570
64	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.74456	0.75264	0.76089	0.76931
65	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.73525	0.74361	0.75217
66	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.72564	0.73430
67	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	0.71588
68	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
69	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA
70	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA	NA

	Non-Spouse																	
Judge	58	59	60	61	62	63	64	65	66	67	68	69	70	71	72	73	74	75
50	0.93058	0.93469	0.93867	0.94249	0.94617	0.94969	0.95306	0.95627	0.95933	0.96225	0.96501	0.96764	0.97012	0.97246	0.97466	0.97674	0.97869	0.98051
51	0.92489	0.92932	0.93361	0.93774	0.94172	0.94554	0.94920	0.95270	0.95603	0.95921	0.96222	0.96508	0.96778	0.97034	0.97274	0.97500	0.97713	0.97911
52	0.91855	0.92331	0.92792	0.93239	0.93669	0.94083	0.94481	0.94861	0.95224	0.95571	0.95900	0.96212	0.96507	0.96786	0.97050	0.97297	0.97529	0.97746
53	0.91143	0.91653	0.92150	0.92631	0.93096	0.93545	0.93977	0.94391	0.94786	0.95164	0.95524	0.95866	0.96189	0.96495	0.96783	0.97054	0.97309	0.97547
54	0.90351	0.90897	0.91430	0.91948	0.92450	0.92936	0.93404	0.93854	0.94285	0.94697	0.95091	0.95465	0.95819	0.96155	0.96472	0.96770	0.97050	0.97313
55	0.89473	0.90055	0.90625	0.91181	0.91722	0.92246	0.92753	0.93242	0.93712	0.94162	0.94592	0.95001	0.95390	0.95759	0.96108	0.96436	0.96745	0.97035
56	0.88510	0.89128	0.89736	0.90331	0.90912	0.91477	0.92025	0.92555	0.93065	0.93555	0.94025	0.94473	0.94900	0.95305	0.95689	0.96051	0.96392	0.96712
57	0.87461	0.88116	0.88762	0.89397	0.90018	0.90625	0.91216	0.91789	0.92342	0.92875	0.93388	0.93878	0.94346	0.94791	0.95213	0.95612	0.95989	0.96342
58	0.86327	0.87018	0.87702	0.88377	0.89040	0.89689	0.90324	0.90941	0.91540	0.92119	0.92676	0.93212	0.93724	0.94212	0.94676	0.95116	0.95531	0.95922
59	0.85111	0.85837	0.86558	0.87272	0.87976	0.88669	0.89349	0.90012	0.90658	0.91284	0.91889	0.92472	0.93031	0.93566	0.94076	0.94559	0.95018	0.95449
60	0.83808	0.84567	0.85324	0.86076	0.86822	0.87558	0.88283	0.88993	0.89687	0.90362	0.91018	0.91651	0.92260	0.92844	0.93403	0.93934	0.94439	0.94915
61	0.82419	0.83209	0.84001	0.84790	0.85576	0.86355	0.87124	0.87882	0.88625	0.89351	0.90057	0.90743	0.91405	0.92041	0.92653	0.93235	0.93790	0.94316
62	0.80954	0.81773	0.82597	0.83422	0.84246	0.85066	0.85880	0.86684	0.87476	0.88253	0.89013	0.89752	0.90469	0.91161	0.91828	0.92465	0.93074	0.93652
63	0.79405	0.80251	0.81104	0.81962	0.82822	0.83682	0.84539	0.85389	0.86230	0.87059	0.87872	0.88667	0.89440	0.90189	0.90914	0.91609	0.92276	0.92910
64	0.77786	0.78655	0.79535	0.80424	0.81318	0.82215	0.83112	0.84007	0.84896	0.85775	0.86642	0.87492	0.88324	0.89132	0.89917	0.90673	0.91401	0.92096
65	0.76089	0.76978	0.77882	0.78797	0.79722	0.80654	0.81589	0.82526	0.83461	0.84390	0.85309	0.86216	0.87106	0.87975	0.88822	0.89641	0.90433	0.91192
66	0.74316	0.75222	0.76145	0.77084	0.78036	0.78999	0.79970	0.80946	0.81924	0.82901	0.83872	0.84834	0.85782	0.86712	0.87623	0.88507	0.89366	0.90191
67	0.72485	0.73404	0.74343	0.75302	0.76277	0.77267	0.78270	0.79283	0.80301	0.81323	0.82343	0.83358	0.84364	0.85355	0.86330	0.87281	0.88207	0.89103
68	0.70584	0.71512	0.72464	0.73438	0.74433	0.75447	0.76477	0.77522	0.78577	0.79640	0.80707	0.81773	0.82834	0.83885	0.84924	0.85941	0.86938	0.87905
69	NA	0.69530	0.70490	0.71476	0.72486	0.73518	0.74572	0.75644	0.76732	0.77832	0.78941	0.80055	0.81169	0.82278	0.83379	0.84463	0.85530	0.86570
70	NA	NA	0.68440	0.69432	0.70452	0.71499	0.72571	0.73665	0.74781	0.75913	0.77061	0.78218	0.79382	0.80545	0.81706	0.82855	0.83991	0.85106

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

DOCKET NO. 60-0000-1900

NOTICE OF RULEMAKING – VACATION OF OMNIBUS PROPOSED RULEMAKING

AUTHORITY: In compliance with Section 67-5221, Idaho Code, notice is hereby given that this agency is vacating the rulemaking previously initiated under this docket. The action is authorized pursuant to Section 22-2718, Idaho Code.

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

In compliance with the Governor's Red Tape Reduction Act (Executive Order No. 2019-02), the Idaho Soil and Water Conservation Commission has combined two rules into one. Docket 60-0000-1900F (IDAPA 60.05.01) and docket 60-0000-1900 (IDAPA 60.05.04) have been consolidated into one docket 60-0000-1900F (IDAPA 60.05.01, "*Rules of the Idaho State Soil and Water Conservation Commission*") containing 2 subchapters (A and B). This further simplifies the rules but makes no substantive changes. Consolidating the rules into docket 60-0000-1900F has resulted in the need to vacate docket 60-0000-1900.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this vacation of rulemaking, contact Corrine Dalzell, Rules Review Officer, (208) 332-1792.

Dated this 29th of August, 2019.

Corrine Dalzell
Rules Review Officer
Idaho Soil & Water Conservation Commission
322 E. Front St., Suite 560
P.O. Box 83720
Boise, ID 83720-0083
Phone: (208) 332-1792
Fax: (208) 332-1799

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

DOCKET NO. 60-0000-1900F

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING FEE RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. Pursuant to Section 67-5224(5)(c), Idaho Code, this pending rule will not become final and effective until it has been approved by concurrent resolution of the legislature because of the fee being imposed or increased through this rulemaking. The pending fee rule becomes final and effective upon adoption of the concurrent resolution or upon the date specified in the concurrent resolution unless the rule is rejected.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending fee rule. The action is authorized pursuant to Section 22-2718, 22-2727, and 22-2730, Idaho Code.

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

This pending fee rule adopts and re-publishes the following existing and previously approved and codified chapter(s) that are consolidated into a new chapter under IDAPA 60, rules of the Idaho State Soil and Water Conservation Commission:

IDAPA 60

- *60.05.01, *Rules of the Idaho State Soil and Water Conservation Commission* ***(*New Chapter)***

This pending rule vacates the following proposed rules previously promulgated under this docket number as part of the omnibus proposed rulemaking under IDAPA 60, rules of the Idaho State Soil and Water Conservation Commission:

- ***(VACATED)*** *IDAPA 60.05.01, Rules for Administration of the Idaho Resource Conservation and Rangeland Development Program*
- ***(VACATED)*** *IDAPA 60.05.04, Rules for Allocation of Funds to Conservation Districts*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The original text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin (Special Edition), **Vol. 19-6SE, pages 7497 through 7504**.

In compliance with the Governor's Red Tape Reduction Act (Executive Order No. 2019-02), the Idaho Soil and Water Conservation Commission has combined two rules into one new chapter designated under IDAPA 60.05.01 "Rules of the Idaho State Soil and Water Conservation Commission." IDAPA 60.05.01 and 60.05.04, promulgated under docket 60-0000-1900 have been consolidated into one chapter containing two subchapters (A and B) as part of the pending rulemaking. This further simplifies the rules but makes no substantive changes to the previously codified rules.

Additionally, a proposed rulemaking promulgated under docket no. **60-0501-1901** that published in the October 2, 2019 Administrative Bulletin, and has been adopted as pending by the Commission, makes substantive changes in Sections 103 and 151 and these have been incorporated into the new chapter designated under IDAPA 60.05.01. The vacation of proposed rule 60.05.01 in this docket makes it necessary to incorporate the changes from 60-0501-1901 into the new chapter to ensure the changes are made to the correct rule chapter being promulgated for final legislative approval.

FEE SUMMARY: The preceding section and the attached rules provide a specific description of the fee or charge imposed or increased by this rulemaking. This rulemaking does not impose a fee or charge, or increase a fee or charge, beyond what was previously approved and codified in the prior rules. Rule 60.05.01.102.05 states, "[t]he applicant is required to cover all costs incurred for loan closure, title insurance, and recording fees."

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending fee rule, contact Corrine Dalzell, Rules Review Officer, (208) 332-1792.

Dated this 29th day of August, 2019.

Corrine Dalzell
Rules Review Officer
Idaho Soil & Water Conservation Commission
322 E. Front St., Suite 560
P.O. Box 83720
Boise, ID 83720-0083
Phone: (208) 332-1792
Fax: (208) 332-1799

000. LEGAL AUTHORITY.
This chapter is adopted by the Idaho State Soil and Water Conservation Commission, under the legal authority of Sections 22-2718, 22-2727, and 22-2730, Idaho Code. *( )*

001. TITLE AND SCOPE.

***01. Title**. The title of this chapter is IDAPA 60.05.01, "Rules of the Idaho State Soil and Water Conservation Commission."* *( )*

***02. Scope**. The provisions of these rules set forth procedures and requirements for establishing, implementing, and administering a state loan from the RCRDP fund as provided in Sections 22-2730, through 22-2732, Idaho Code, and provide for the allocation of state funds appropriated for distribution to conservation districts pursuant to Section 22-2727, Idaho Code.* *( )*

002. -- 009. (RESERVED)

010. DEFINITIONS.
For the purpose of these rules, unless the context indicates otherwise, the terms and phrases are used as defined herein: *( )*

***01. Applicant**. An eligible applicant as defined in Section 22-2717, Idaho Code.* *( )*

***02. Application**. The loan request document that sets forth the information required by Section 22-2732, Idaho Code and Subsection 057.03 of these rules, including a conservation plan.* *( )*

***03. Base Funding**. Funds appropriated to the Commission to be allocated equally to the various soil conservation districts in a sum not to exceed eight thousand five hundred dollars ($8,500) per district per year.* *( )*

***04. Board of Supervisors**. Governing body of a district as provided in Section 22-2717(25), Idaho Code.* *( )*

***05. Certify**. To confirm formally as true, accurate, or genuine.* *( )*

***06. Commission**. The Idaho State Soil and Water Conservation Commission as defined in Section 22-2718, Idaho Code.* *( )*

***07. Conservation District or District**. A soil (and water) conservation district as defined in Section 22-2717, Idaho Code.* *( )*

***08. Conservation Plan**. A conservation plan as defined in Sections 22-2717 and 22-2732, Idaho Code that sets forth the information required by Subchapter A. of these rules.* *( )*

***09. Contractee**. The applicant when the loan has been closed and recorded.* *( )*

***10. Coordinated Resource Planning Process**. A process that considers all the resources and resource users within a geographical area and encourages active involvement and input from all interested parties.* *( )*

***11. District**. A Conservation District, Soil Conservation District, or Soil and Water Conservation District as defined in Section 22-2717, Idaho Code.* *( )*

***12. Eligible Land**. Private, state, county, or federal lands within the state of Idaho.* *( )*

***13. Field Office**. The local United States Department of Agriculture Natural Resources Conservation Service (NRCS) office usually located with the principal headquarters of the local District.* *( )*

14. ***Field Office Technical Guide****. The primary scientific reference for NRCS that contains technical information about the conservation of soil, water, air, and related plant and animal resources. Technical guides used in each field office are localized so that they apply specifically to the geographic area for which they are prepared. Copies of the field office technical guides may be obtained from a local District or field office.* ( )

15. ***Financial and Match Report****. Documentation certified by the Board of Supervisors that:* ( )

a. *Itemizes local funds and services received by a district during the previous fiscal year; and* ( )

b. *Describes how state base and match funds were utilized during the previous fiscal year.* ( )

16. ***Fiscal Year****. As set forth in Section 67-2201, Idaho Code, the fiscal year will begin on July 1 and close on June 30 of the following year.* ( )

17. ***Five (5) Year Plan****. The plan reviewed and updated annually by each district pursuant to the Final Agreement to implement an Antidegradation Policy for the State of Idaho (August 18, 1988). The plan will contain the following components, as further specified by Commission policy: physical characteristics, economic condition and outlook, assessment of the District's resource conditions and conservation needs, prioritized objectives, water quality component, and an annual work plan.* ( )

18. ***Fund****. The RCRDP fund established pursuant to Section 22-2730, Idaho Code.* ( )

19. ***Funding Criteria****. Criteria considered by the Commission to determine the amount of base and match funding to be allocated to the conservation districts. Criteria may include district budgets, district budget requests, district programs and work plans, and district work load analysis. The following documents may be required on an annual basis in order to consistently apply the criteria to all districts:* ( )

a. *Five (5) year plans;* ( )

b. *Financial and match reports; and* ( )

c. *Performance reports.* ( )

20. ***Local Funds****. Monies received in the previous fiscal year from local units of government and organizations for the general purposes of a conservation district. Funds received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding.* ( )

21. ***Local Services****. Non-cash contributions received in the previous fiscal year from local units of government and organizations for the general purposes of a conservation district. Services received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding.* ( )

22. ***Local Units of Government****. Any general or special purpose political subdivision of the state which has the power to levy taxes and/or appropriate and spend funds.* ( )

23. ***Match Funding****. Funds appropriated to the Commission for distribution to conservation districts in excess of base funding not to exceed twice the amount of local funds and services received by each district in the previous fiscal year.* ( )

24. ***Maximum Allocation****. The total of base funding and match funding allocated to any one (1) conservation district shall not exceed fifty-eight thousand and five hundred dollars ($58,500) in a fiscal year.* ( )

25. ***Organizations****. A group of two (2) or more persons structured and managed to pursue a collective goal on a continuing basis.* ( )

26. ***Other Funds****. Funds to be dedicated to conservation practice implementation costs which are not*

from the RCRDP fund or provided by the applicant. *( )*

27. ***Performance Report****. Documentation summarizing conservation activities, projects, and programs implemented by a conservation district during the previous fiscal year.* *( )*

28. ***Practice or Eligible Practice for Loans****. A practice listed in the field office technical guide or a special practice approved under Section 058 of these rules.* *( )*

29. ***Practice Life****. The number of years, with proper maintenance and operation, that a practice is expected to last, as shown in the field office technical guide.* *( )*

30. ***Program Year****. The state fiscal year as provided in Section 67-2201, Idaho Code.* *( )*

31. ***Project****. One (1) or more practices to be installed with a RCRDP loan.* *( )*

32. ***Rangeland****. Land used primarily for the grazing of domestic livestock and wildlife.* *( )*

33. ***Riparian Areas****. Riparian areas are sites directly influenced by free water. They have visible vegetation or physical characteristics that reflect free water influence. Lake shores and stream banks are typical riparian areas. Excluded are sites such as ephemeral streams or washes that do not exhibit the presence of vegetation dependent upon free water in the soil.* *( )*

34. ***Security****. Collateral provided by an approved applicant to secure requested RCRDP funds.* *( )*

35. ***Special Practice****. A practice (not listed in the field office technical guide) that includes a proven, modern technique that is necessary to solve a resource problem and meet program objectives.* *( )*

011. ABBREVIATIONS.

01. ***RCRDP****. The Idaho Resource Conservation and Rangeland Development Program.* *( )*

02. ***NRCS****. United States Department of Agriculture Natural Resources Conservation Service.* *( )*

SUBCHAPTER A – RULES FOR ADMINISTRATION OF THE IDAHO RESOURCE CONSERVATION AND RANGELAND DEVELOPMENT PROGRAM

012. PROGRAM POLICY.

01. ***Administration****. It is the policy of the Commission to administer the Resource Conservation and Rangeland Development Program to provide the greatest benefits to all concerned from the agricultural lands and rangelands within the state.* *( )*

02. ***Equal Opportunity****. Each applicant regardless of handicap, race, age, sex, creed, color or national origin, must be given the opportunity to apply for a loan.* *( )*

03. ***Filing Applications****. An application may be filed at anytime during the program year.* *( )*

04. ***Use of Loan Money in Conjunction with State or Federal Programs****. Requests for state or federal cost-share assistance and for loan approval are handled by different governmental agencies and approval for one does not guarantee approval for the other.* *( )*

013. PROGRAM OBJECTIVES.

01. ***Objectives****. The objectives of the RCRDP are to:* *( )*

a. Conserve soil resources. ( )

b. Conserve water resources. ( )

c. Improve riparian areas for multiple use benefits. ( )

d. Protect or improve existing beneficial uses of the state's waters. ( )

e. Conserve and improve fish and wildlife habitat. ( )

f. Increase agricultural productivity of cropland, orchards, pasture and hayland, rangeland, and woodland. ( )

*02. **Achieving Program Objectives**. Decisions concerning the use of program funds must be based on achievement of program objectives. The administration of the program must emphasize coordinated resource management planning and decision-making to ensure maximum benefit of funds. ( )*

014. -- 055. (RESERVED)

056. RESPONSIBILITIES.

*01. **District**. The local District must: ( )*

a. Receive the conservation plan for program participation. ( )

b. Within sixty (60) days of receipt, review and evaluate the conservation plan to determine if the project is consistent with the District's program goals and objectives. ( )

c. Assign a priority of high, medium, or low to the project. ( )

d. Forward conservation plans to the Commission with a recommendation for funding. ( )

e. Prepare and forward to the Commission special practice requests. ( )

f. The local District may assign a priority to practices in the field office technical guide and have that priority ranking apply to all future projects seeking to implement the pre-ranked practices. The local District Board must consider pre-ranking practices at a scheduled Board meeting. The Board's decision including the name and identification number of the practice(s), the assigned ranking and the recommendation for funding must be reflected in the meeting minutes and be forwarded to the Commission. ( )

g. If the local District does not review and evaluate a conservation plan within sixty (60) days of receipt, the Commission may review and evaluate the conservation plan and assign a priority ranking for the project based on the District's five (5) year plan. ( )

*02. **Commission**. The Commission must: ( )*

a. Review and evaluate applications. ( )

b. Approve loans, if: ( )

i. The applicant has adequate assets for security to protect the state from risk of loss. ( )

ii. There is reasonable assurance that the borrower can repay the loan. ( )

iii. Money is available in the RCRDP fund. ( )

c. Disapprove loans for reasons including but not limited to: ( )

i. The purpose of the loan is to pay for conservation plan practices that have been implemented prior to Commission approval. ( )

ii. If all the requirements in Paragraph 056.02.b. of these rules are not met. ( )

d. Reconsider loan disapproval if the applicant, within fifteen (15) business days after notice of disapproval, requests the Commission, in writing, to reconsider its determination in any matter affecting the loan or the amount of loan funds. Reconsideration of the determination must take place within ninety (90) business days from the date the written request is received at the time, place, and date determined by the Commission. The applicant must be notified of the time, place, and date and must have the right to appear. ( )

e. After loan approval, execute a promissory note and other security documents with the applicant for loan repayment. ( )

f. Not less than once per year, determine the loan interest rate not to exceed six percent (6%) annually.

( )

g. Prepare an annual report showing RCRDP accomplishments and benefits resulting from use of loan and grant funds. ( )

h. Administer and monitor loan proceeds to assure that the intent of the law is met. ( )

i. Approve or disapprove special practice requests. ( )

057. APPLICATION FOR LOAN.

*01. **How to Apply**. Any applicant desiring a loan from the RCRDP fund must: ( )*

a. Prepare and submit a conservation plan. The conservation plan must be presented by the applicant (or representative appointed by the applicant) to the local District Board at a scheduled meeting unless the project includes only practices that have been pre-ranked by the local District in accordance with Paragraph 56.01.f. of these rules. If the project includes only pre-ranked practices, the applicant must submit the conservation plan to the Commission. ( )

b. Prepare and submit a completed application. The application including all information required under Subsection 57.03 of these rules must be submitted to the Commission. ( )

*02. **Two or More Applicants**. Two (2) or more applicants may install a practice(s) as a group providing the loan can be adequately collateralized and all parties agree to joint and several liability. ( )*

*03. **Application Form**. The application must be on a form prescribed by the Commission and include: ( )*

a. Name of applicant, and the location, size, and type of agricultural enterprise. ( )

b. Identification and extent of the resource problem (erosion, plant community deterioration, water loss, water quality, low production, etc.). ( )

c. Statement of applicant's objectives and expected benefits. ( )

d. Estimate of costs of implementing the project and of total loan funds needed. ( )

i. Applicant must be required to supply at least five percent (5%) of the total project costs through personal funds or in-kind services. ( )

ii. Total RCRDP loan funds combined with other funds cannot exceed ninety-five percent (95%) of total project costs. ( )

e. *Applicant's statement of security offered. ( )*

f. *Applicant's statement of willingness to allow continued monitoring and evaluation of impacts resulting from applied land treatment and management practices. ( )*

g. *All documentation required under Subsection 101.03 of these rules and any other documentation requested by the Commission needed to determine whether there is reasonable assurance that the applicant can repay the loan. ( )*

h. *A copy of the applicant's conservation plan which becomes a part of the application for assistance. The conservation plan must include: ( )*

i. A map showing project location and extent of the resource problem. ( )

ii. The eligible practices to be installed. ( )

iii. Estimated costs of applying the practices. ( )

iv. An implementation schedule. ( )

v. A statement whereby the applicant agrees to properly maintain and operate installed practices. ( )

vi. Needed clearances, easements and rights of way. ( )

vii. Any other appropriate documentation needed to complete the implementation of the conservation plan as requested by the local District or Commission. ( )

058. SPECIAL PRACTICE(S) APPROVAL FOR LOANS.

01. Special Practice Approval*. A special practice must be approved by the Commission before it becomes an eligible practice. ( )*

02. Special Practice Requests*. Special practice requests may be prepared by the local District or the Commission and must include: ( )*

a. *A description of the proposed practice. ( )*

b. *A justification of need for the special practice. ( )*

c. *Standards and specifications for the proposed practice. ( )*

d. *A statement from the appropriate agency as to the technical adequacy of the special practice in solving the resource problem. ( )*

059. -- 080. (RESERVED)

081. ENCOURAGING PUBLIC BENEFITS WHEN INSTALLING PRACTICES.
District Boards must encourage persons responsible for any aspect of performing practices to promote public benefit by improving or preserving environmental quality and ecological balance when the practices are being installed. Multiple objective achievement and total resource evaluation and treatment must receive high priority consideration for loan funds. When reviewing loan requests the following considerations must be made: ( )

***01. Preventing Degradation**. Preventing or abating pollution and other environmental degradation. ( )*

***02. Benefiting the Community**. Benefiting the community by means such as outdoor recreational opportunities or enhancing the appearance of the area. ( )*

***03. Benefiting Habitat**. Benefiting fish and wildlife habitat. ( )*

082. -- 100. (RESERVED)

101. CREDIT GUIDELINES.

***01. Standards for Acceptable Loans**. There must be adequate assets and collateral for security to protect the state from risk of loss. ( )*

***02. Required Documentation**. The applicant must provide documentation to the Commission sufficient to determine the applicant's ability and willingness to repay the loan. Such documentation may include: financial statements; balance sheets; profit and loss statements; driver's license; income tax returns; budgets; credit reports; estimates/quotes; deeds; leases; and other supporting documents as deemed necessary relative to the size, complexity, and financial responsibility of the individual or entity being financed. ( )*

***03. Duty to Inform**. After submitting the application and before funds are dispersed, the applicant must inform and provide documentation to the Commission of any significant change of circumstance that may impact their financial standing or ability to repay the loan. ( )*

***04. Field Inspections**. The Commission may require a field inspection in order to: ( )*

***a.** Determine loan and security positions, provide repayment estimates and verify assets. ( )*

***b.** Indicate the applicant's management ability. ( )*

***c.** Secure a complete and accurate description of collateral for the security agreement. ( )*

***05. Additional Information Required for Loans Secured with Real Estate**. Where real estate is offered as collateral the following information must be provided: ( )*

***a.** A legal description of the offered collateral. ( )*

***b.** Real estate appraisal, consisting of at least one (1) of the following: ( )*

i. Copy of appraisal made by a licensed professional appraiser approved by the Commission. ( )

ii. Copy of the most recent property tax assessment. ( )

iii. Evaluation made by Commission or the local District according to its knowledge of the estimated average value of the property in the area in which the project is to be implemented. ( )

***c.** A map designating the location of the real estate. ( )*

***06. Other Collateral**. Any item having tangible value may be accepted as security for these loans. Condition of the collateral must be updated periodically and additions to the security agreement may be required over time. ( )*

102. LOAN CLOSURE AND ADMINISTRATION.

***01. Servicing and Documentation**. All loans must be assigned to a loan officer (Commission employee) who must be responsible for servicing the loan. ( )*

***02. Loan Securing Documents**. Following approval of the application, the Commission, must prepare all necessary loan securing documents. ( )*

***03. Loan Note and Security Agreement**. The loan must be secured by utilizing a promissory note and security document listing the parties and the collateral, as well as terms and conditions of the loan. A mortgage or deed of trust must be executed and recorded with the county recorder where the collateral is located if the collateral is real property. A security agreement and any other necessary documents must be executed if the collateral is not real property. Appropriate financing statements must be executed and filed with the Secretary of State on all collateral consisting of personal property. ( )*

***04. Fund Obligation**. Funds must be obligated when all loan conditions established by the Commission have been met and when all necessary loan securing documents are in order and appropriately signed by the applicant. Funds will then be obligated. Upon notification of fund obligation, the applicant who is now the contractee, may complete implementation of the project. ( )*

***05. Cost Incurred**. The applicant is required to cover all costs incurred for loan closure, title insurance, and recording fees. ( )*

103. IMPLEMENTATION OF AGREED TO PRACTICES.

The applicant may, at their own risk, begin installing practices as identified and scheduled in the conservation plan provided the project is not completed before the loan is approved and the conditions of approval are met. Should the applicant choose to begin installing practices prior to the conditions of approval being met, the Commission may require additional title insurance to protect against intervening materialman's liens. The applicant/contractee has the responsibility to obtain appropriate technical assistance to ensure practices are properly designed, constructed, and managed. The applicant/contractee may install practices themselves or contract work out. Whatever method is used, the applicant/contractee is responsible to ensure the quality of materials and workmanship meets the approved standards and specifications for each practice. ( )

***01. Practice Completion**. Upon completion of the scheduled practice the applicant/contractee must notify the provider of technical assistance. The provider of technical assistance must inspect and document the amount and extent of the installed practice and certify its completion if it meets the quality standards and construction specifications of the practice and notify the applicant/contractee. If the practice does not meet practice standards and specifications the applicant/contractee must be notified by the provider of technical assistance, in writing, of the deficiencies and what needs to be done so the practice meets standards and specifications. ( )*

***02. Submitting Vouchers and Bills**. ( )*

***a.** The provider of technical assistance must provide a written certification of completion of the project to the Commission. The applicant/contractee must submit invoices, vouchers and bills for the project to the Commission. ( )*

***b.** Up to ninety-five percent (95%) of loan funds can be disbursed toward submitted bills during the loan installment period. The remaining loan funds will be disbursed upon receipt of written certification of project completion from the provider of technical assistance. ( )*

***03. Warrant Requests**. The Commission staff must prepare warrant request(s). The warrant(s) are paid to the order of the contractee(s) and the vendor, and are mailed to the contractee. ( )*

***04. Drawing Loan Funds**. The applicant/contractee must implement the practices as scheduled and the contractee may draw loan funds in multiple disbursements during installation of the project. ( )*

104. -- 125. (RESERVED)

126. REPAYMENT OF LOAN.

***01. Repayment of the Loan**. Repayment of the loan, together with interest, must commence no later than two (2) full years from the date the note is signed. ( )*

***02. Repayment Schedule**. The repayment schedule must be identified in the loan documents with a fifteen (15) year maximum loan period. One (1) month before payment is due, the commission will mail the contractee a notice of payment due. ( )*

***03. First Payment**. The first payment is due as required on the signed loan documents as prepared by the Commission. Any additional interest incurred during the installment period of the loan will be added to the first payment notice. ( )*

127. FORECLOSURE.
In the event of a contractee not adhering to the payment terms and conditions of the mortgage, promissory note, or security agreement, the Commission may seek foreclosure according to the laws of the state of Idaho. ( )

128. -- 150. (RESERVED)

151. LOAN POLICIES.
The maximum amount of any one (1) loan is six hundred thousand dollars ($600,000). ( )

152. -- 199. (RESERVED)

SUBCHAPTER B – RULES FOR ALLOCATION OF FUNDS TO CONSERVATION DISTRICTS

200. ALLOCATION OF FUNDS TO DISTRICTS.

***01. Base Funding**. The Commission shall determine the dollar amount to allocate equally to conservation districts on an annual basis. As soon as practicable after the start of the fiscal year, the Commission shall immediately distribute base funding to the districts that submitted the required documents during the previous fiscal year. ( )*

***02. Match Funding**. Following determination of base funding, the Commission shall review and approve the additional amount of state appropriations available for proportional allocation to each district in match funding. The amount of match funding allocated will be based upon local funds and services received in the previous fiscal year by each conservation district for the general purposes of the district. Funds received for special projects, used as required match for specific grants or projects, or on a fee-for-service basis will not be used to calculate match funding. Once the required documents for match funding are submitted and determined to be complete, the Commission shall distribute match funding to each district as soon as practicable. ( )*

***03. Required Documents**. The Commission may require submission of certain documents prior to allocation of base and match funding to districts. These documents may include five (5) year plans, financial and match reports, and performance reports. ( )*

***a.** The Board of Supervisors shall certify in writing that the district has examined all documentation submitted and that the statements and representations in the documents are true and accurate. ( )*

***b.** The district shall submit any required documents by a date established by the Commission. ( )*

***04. State Budget Requests**. The Commission shall conduct a public hearing to consider the needs of the conservation districts on or before June 15th of each year, giving twenty (20) days' written notice of the hearing to each conservation district and to all other persons requesting notice of the hearing. The Commission shall hear and consider testimony at the hearing and all information submitted by the districts prior to submission of the annual budget request to the legislature and governor based upon the criteria of Subsection 010.19 of this rule. ( )*

012. -- 999. (RESERVED)

IDAPA 61 – PUBLIC DEFENSE COMMISSION

DOCKET NO. 61-0000-1900

NOTICE OF OMNIBUS RULEMAKING – ADOPTION OF PENDING RULE

EFFECTIVE DATE: This rule has been adopted by the agency and is now pending review by the 2020 Idaho State Legislature for final approval. The pending rule becomes final and effective upon the conclusion of the legislative session, unless the rule is approved or rejected in part by concurrent resolution in accordance with Section 67-5224 and 67-5291, Idaho Code. If the pending rule is approved or rejected in part by concurrent resolution, the rule becomes final and full force and effect upon adoption of the concurrent resolution.

AUTHORITY: In compliance with Section 67-5224, Idaho Code, notice is hereby given that this agency has adopted a pending rule. The action is authorized pursuant to Section 19-850(1)(a), Idaho Code.

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

This pending rule adopts and re-publishes the following existing and previously approved and codified chapter(s) under IDAPA 61, rules of the Public Defense Commission:

IDAPA 61

- 61.01.01, *Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds*
- 61.01.02, *Rules Governing Standards for Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports*
- 61.01.03, *Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services*
- 61.01.04, *Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense Grants*
- 61.01.06, *Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards*
- 61.01.07, *Rules Governing Standards for Defending Attorneys that Utilize Idaho's Principles of an Indigent Delivery System*
- 61.01.08, *Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems-Rule Definitions*

Any amendments to the text of the pending rule have been made in accordance with Section 67-5227, Idaho Code. The complete text of the proposed rule was published in the June 19, 2019 Idaho Administrative Bulletin, Vol. 19-6SE, pages 7505 - 7539. The pending rule changes are intended to simplify the agency's rules and include elimination of non-substantive and redundant or unnecessary text.

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

This rulemaking is not anticipated to have any fiscal impact on the state general fund because the FY2020 budget has already been set by the Legislature, and approved by the Governor, anticipating the existence of the rules and fees being reauthorized by this rulemaking.

ASSISTANCE ON TECHNICAL QUESTIONS: For assistance on technical questions concerning this pending rule, contact Kathleen J. Elliott, (208) 332-1735.

Dated this 13th day of September, 2019.

Kathleen J. Elliott, Executive Director
Public Defense Commission
816 W. Bannock Street, Suite 201
Boise, Idaho 83702
Phone: (208) 332-1735 /Fax: (208) 364-6147

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61.01.01 – RULES GOVERNING TRAINING REQUIREMENTS FOR DEFENDING ATTORNEYS AND THE ADMINISTRATION OF TRAINING FUNDS

000. LEGAL AUTHORITY.
Section 19-850 (1)(a)(i), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules regarding the training and continuing legal education requirements for defending attorneys. Further, Section 19-850(2)(d), Idaho Code, gives the PDC the authority to provide training and continuing legal education for indigent defense providers and defending attorneys in order to assist them in satisfying requirements promulgated pursuant to subsection (1)(a)(i) of 19-850, Idaho Code, and use moneys received from financial assistance or a trust or otherwise received and appropriated to provide such training and continuing legal education. (3-29-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 61, Title 01, Chapter 01, "Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds." (3-29-17)

02. Scope. These rules contain the provision for the allocation of funding designated for training of defending attorneys and staff. (3-29-17)

002. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.
Refer to IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions" for definitions of the terms and abbreviations used in this Rule. *( )*

011. -- 019. (RESERVED)

020. RECIPIENTS OF TRAINING FUNDS.

01. Intended Recipients. Training funds shall be used to train defending attorneys, and those under their regular employ or supervision. With the approval of the PDC, non-attorney staff of defending attorneys or other persons engaged in work related to the representation of indigent defendants, may qualify to attend training programs or for scholarships. (3-29-17)

02. Presumptive Qualification. It is presumed that any attorney who is included on the Public Defense Roster maintained by the PDC qualifies as an intended recipient of training funds for the purposes of these rules. (3-29-17)

021. PUBLIC DEFENSE ROSTER.

01. Roster Membership. The PDC will create and maintain a roster of all indigent defense providers, defending attorneys and non-attorney staff under their regular employ or supervision. (3-29-17)

a. Maintenance of Roster. The roster will be updated in May of each year, but may be updated more frequently in order to accurately reflect staff changes at the county level. (3-29-17)

b. Roster Contents. The roster will include the name of each defending attorney or non-attorney staff, along with their professional contact information, including email address, physical address, and telephone number. (3-29-17)

02. Application for Roster Inclusion. Any attorney who is not employed by an indigent defense provider, or who does not work under an existing indigent defense services contract may apply to the PDC for inclusion on the Public Defense Roster. (3-29-17)

a. Approval. Inclusion on the Public Defense Roster must be approved by the Executive Director. (3-29-17)

022. -- 029. (RESERVED)

030. PDC TRAINING PROGRAMS.

01. Use of Training Funds. The PDC may choose to spend training funds to host its own training programs for the benefit of defending attorneys and their staff. (3-29-17)

a. Equal Access to Training Funds. Where the PDC chooses to host a training program, when determining the allocation of training funds no distinction will be made as to whether the attorney is an employee of an institutional defender, a contract attorney, or an attorney who has qualified for training funds by application. (3-29-17)

i. Registration Fees and Tuition. Where the PDC provides training programs without a registration fee or tuition, the PDC will provide the same discount to all qualifying attendees. (3-29-17)

ii. Travel, Lodging, and Per Diem. Where the PDC agrees to provide travel subsidies to attendees, the PDC will establish a minimum travel distance. All those attendees whose residential or office address is located at a distance over the minimum travel distance from the location of the conference will qualify for the same travel subsidies as set forth in the training program announcement. (3-29-17)

iii. Reimbursement of Expenses. The PDC may determine to provide services, lodging or food in lieu of reimbursement of the same. In the event the PDC determines that any expenses will be provided directly by the PDC, and notifies all registrants at the time of registration, subsequent application of expense reimbursements for the same may be denied. Reimbursement guidelines established by the state of Idaho will apply to all in-state travel. (3-29-17)

02. Types of Training Programs. PDC Training Programs may be designated as open enrollment, restricted enrollment, targeted enrollment, or application enrollment. Notification will be by email for all training programs. (3-29-17)

a. Open Enrollment Training Programs. The PDC may host a training program with an open enrollment. All those who qualify and register in advance will be allowed to attend. (3-29-17)

i. Announcement. The PDC will post available open enrollment training programs on its website, and will notify members of the Public Defense Roster of the training location, dates, and any details regarding the applicability of training funds. (3-29-17)

ii. Registration. The PDC will honor the registration of any qualifying recipient who registers prior to the deadline. The PDC will impose a registration deadline and may require advance registration. Any registration received by the PDC after the deadline may be rejected by the PDC. (3-29-17)

b. Restricted Enrollment. The PDC may host a training program open to all qualifying defending attorney or staff, but impose a registration limit. Targeted invitations may be extended prior to the notification of members of the Public Defense Roster. (3-29-17)

i. Announcement. The PDC will post available restricted enrollment training programs on its website, and will notify members of the Public Defense Roster of the training location, dates, and any details regarding the applicability of training funds. (3-29-17)

ii. Registration. The PDC will impose a registration deadline and may require advance registration. The PDC will honor the registration of any qualifying recipient in the order received until the enrollment limit is reached. Any registration received by the PDC, either after the deadline or after the enrollment limit is reached, may be declined. (3-29-17)

c. Targeted Enrollment. The PDC may host a training program that is open to qualifying recipients by email invitation only. The PDC may identify specific individuals for targeted invitations where the PDC believes that such a training program would be of particular benefit to the individual or where there is a specific desire to obtain broad geographic representation at the training program. (3-29-17)

i. Invitation. The PDC may identify specific individuals for invitation to attend the training program due to the person's length or time of service, experience, the particular area of law or representation to be covered, the geographic location of the qualifying recipient, or because the individual has been designated as a representative of an institutional defender office. The PDC will inform the invited individual of the time and location of the training program, along with the availability of any training funds. Invitees will be notified of a registration deadline. (3-29-17)

ii. Registration. Where an individual accepts an invitation to attend and registration materials are received by the registration deadline, that individual will be guaranteed a place in the training program. (3-29-17)

iii. Announcement. If the registration deadline passes and the PDC determines that there is additional space, the PDC will treat the training program as a restricted enrollment program under Subsection 030.02.b. (3-29-17)

d. Application Enrollment. The PDC may host a training program that is open only to those selected by the PDC after application materials are submitted. (3-29-17)

i. Announcement. Where applications are sought for qualifying recipients, the PDC will post the training program on its website and will notify members of the Public Defense Roster of the training subject, location and dates, and the availability of any training funds. The PDC will also make available the application materials, establish an application deadline, decision deadline and notify applicants of how many places are available and whether non-attorney staff will be considered. (3-29-17)

ii. Decisions. The PDC will evaluate all completed applications that are received by the deadline. The PDC will notify all applicants within fourteen (14) days of the application deadline as to its decision. The PDC will fill all available training program places as long as a sufficient number of completed applications are received. (3-29-17)

iii. Registration. Where an individual accepts an invitation to attend and registration materials are received by the registration deadline, that individual will be guaranteed a place in the training program. (3-29-17)

iv. Delegation of Review and Approval. The PDC may delegate review and approval of applications to PDC staff. (3-29-17)

03. Non-Attorney Staff. Staff and others employed or supervised by a defending attorney may qualify as a recipient of a scholarship. Where a person is not on the Public Defense Roster, that person may still either be identified as a targeted recipient of training funds or apply to attend a training program. (3-29-17)

a. Application Necessary. If training funds are desired, the non-attorney individual must make an application to the PDC for a scholarship, in addition to other enrollment requirements in Subsection 030.03.b. (3-29-17)

b. Application criteria. The PDC will consider (1) whether the individual is full-time staff, (2) the position they hold and the type of assistance they provide in the representation of indigent clients, and (3) the relevance of the materials presented at the training program to their ability to fulfill their duties. (3-29-17)

i. Open Enrollment. Where a non-attorney's application for a scholarship is approved by the PDC in advance of the registration deadline, a completed registration will be treated if the registration was for an attorney. (3-29-17)

ii. Restricted Enrollment. Where a non-attorney's application for a scholarship is approved by the PDC in advance of the registration deadline, a completed registration of an attorney will be given priority over a non-attorney. (3-29-17)

iii. Targeted Enrollment. Where a non-attorney has been identified by the PDC as an individual to be invited to a specific training, their acceptance of the invitation will be honored. (3-29-17)

iv. Application Enrollment. Where applications from non-attorneys is permitted by the PDC, and an application is received by the deadline, the PDC will consider the individual's position in determining whether to accept the application. (3-29-17)

c. Delegation of Review and Approval. The PDC may delegate review and approval of applications to PDC staff. (3-29-17)

031. JOINT TRAINING PROGRAMS.

01. Joint Training Programs Permitted. The PDC may choose to partner with other organizations or agencies (hereinafter referred to as "partner") in hosting and providing training programs to qualifying individuals. The nature of these designated training programs may result in non-qualifying individuals being in attendance. (3-29-17)

a. Qualifying Individuals. In determining whether training funds can be used, the qualification for receipt of benefits will be the same as established in Sections 020 and 021. (3-29-17)

b. Application of training funds. Qualified recipients will be treated in accordance with Subsection 030.01. (3-29-17)

02. Exclusive Use of Training Funds. Where non-qualifying individuals register to attend a Joint Training Program, the PDC shall not use training funds to subsidize the cost of registration, travel, lodging or per diem, other than unavoidable costs of operation. (3-29-17)

a. Training Program Fees and Costs. The PDC will negotiate a reasonable approximate cost per individual of the training program with the partner and agree to pay that cost for all qualifying individuals to attend. If the PDC is responsible for collecting registration fees, each non-qualifying individual will be assessed the negotiated cost of attendance at the time of registration. If the partner is responsible for collecting registration fees, the partner organization may set the cost of attendance for non-qualifying individuals. (3-29-17)

03. Registration. No priority will be given to defending attorneys over non-qualifying individuals in determining which registrants fill the spaces available. (3-29-17)

032. SCHOLARSHIPS.

01. Availability. The PDC may expend training funds on qualifying individuals to pay the cost to attend non-PDC training programs, in whole or in part. (3-29-17)

a. Contingent on Funds. Scholarships in any given fiscal year will depend on the availability of training funds allocated outside of existing training programs. (3-29-17)

b. Effect of scholarship. Any individual who receives a scholarship will not be eligible to receive a PDC scholarship in the same fiscal year. Preference given to applicants not receiving PDC scholarship in previous fiscal year. (3-29-17)

02. Application. The PDC will post on its website an application for scholarship funding. (3-29-17)

a. Deadline. All applications must be received by the PDC thirty (30) days before the end of the fiscal year in which funding is sought. All other scholarships will be considered in the following fiscal year. (3-29-17)

b. Notification. All applications for scholarships will be reviewed by the PDC according to available funding. The PDC will notify applicants of any scholarship reward at least sixty (60) days before the date of the training program. In the event an application is submitted less than sixty (60) days prior to the training program, the PDC will notify the applicant within ten (10) days of the final application submission. (3-29-17)

c. Non-Attorney Persons. Applications for scholarship will be accepted for non-attorneys in accordance with Subsections 030.03.a. and b. (3-29-17)

d. Delegation of Review and Approval. The PDC may delegate review and approval of applications to PDC staff. (3-29-17)

033. – 999. (RESERVED)

61.01.02 – RULES GOVERNING UNIFORM DATA REPORTING REQUIREMENTS AND FORMS FOR DEFENDING ATTORNEY ANNUAL REPORTS

000. LEGAL AUTHORITY.
Section 19-850 (1)(a)(ii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules establishing uniform data reporting requirements and model forms for the Annual Reports submitted pursuant to section 19-864, Idaho Code. (5-1-19)

001. TITLE AND SCOPE.

01. **Title**. These rules are titled IDAPA, Title 01, Chapter 02, "Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports." (5-1-19)

02. **Scope**. These rules contain the provisions of uniform data collection of Idaho's defending attorneys and establish the procedures by which defending attorneys shall report data to the PDC. Data collected by the PDC shall be detailed enough to provide information about Idaho's public defense system, however, shall be redacted in such a manner so as to protect attorney-client confidentiality. (5-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.
Refer to IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions." for definitions of the terms and abbreviations used in this Rule. (5-1-19)

011 – 019. (RESERVED)

020. APPLICATION OF REPORTING REQUIREMENTS.
In accordance with section 19-864, Idaho Code, Indigent Defense Providers and any defending attorney whose information is not otherwise included in a report from an Indigent Service Provider shall submit an Annual Report to the PDC, the board of county commissioners, and the appropriate administrative district judge in conformance with the rules promulgated pursuant to section 19-850(1)(a)(ii), Idaho Code. (5-1-19)

01. **Entities Required to Report**. All Indigent Defense Providers and defending attorneys shall be included in an Annual Report, but not all defending attorneys must submit a report. The following entities or individuals must submit an Annual Report: (5-1-19)

a. Each Chief Defender for an institutional public defense office. (5-1-19)

b. Each Chief Defender for a joint institutional public defense office. (5-1-19)

c. Each Indigent Defense Provider under contract to provide indigent defense services. (5-1-19)

d. Each attorney appointed at public expense to represent an indigent person. (5-1-19)

02. **Exceptions to Reporting Requirements**. The following are exceptions to the entities required to report: (5-1-19)

a. If an Indigent Defense Provider is a law firm, only one Annual Report is required for the firm. (5-1-19)

b. An attorney, appointed at public expense by the court and not under contract to provide indigent defense services for the county in which she was appointed, who handles fewer than ten (10) indigent defense cases in a fiscal year, may receive an exception to the reporting requirement. The attorney must contact the PDC, who may waive the reporting requirement if an alternative method of fulfilling the reporting requirements can be established. (5-1-19)

021. REPORTING REQUIREMENTS.
Information to be included in the Annual Report. (5-1-19)

01. **Case Information**. Each Annual Report for the previous fiscal year shall include for each defending attorney the following: (5-1-19)

a. The number of cases handled; (5-1-19)

b. The types of cases handled; (5-1-19)

c. The method of resolution of each case handled (i.e., plea, dismissal, found guilty at trial, etc.); and (5-1-19)

d. Case outcomes. (5-1-19)

02. Continuing Legal Education Information. Each Annual Report shall contain each defending attorney's Mandatory Continuing Legal Education (MCLE) hours as reported to the Idaho State Bar (ISB) for the previous fiscal year. The Annual Report shall be accompanied by one MCLE report from the ISB for each defending attorney. If the reporting period began during the previous fiscal year, an MCLE report for the entirety of the previous fiscal year must be sent. An attorney may have to request this information from the ISB. (5-1-19)

03. Expenditure Information. Being mindful of attorney-client confidentiality, each Annual Report shall contain expenditures related to indigent defense services. The reports shall not contain expenditure information related to specific cases. Expenditures related to indigent defense services include, but are not limited to: (5-1-19)

a. Investigations; (5-1-19)

b. Expert witnesses; (5-1-19)

c. Interpreters; (5-1-19)

d. Mental and physical health examinations; (5-1-19)

e. Medical records; (5-1-19)

f. Polygraph examinations; (5-1-19)

g. Exhibits for trial demonstrations; (5-1-19)

h. Scientific tests; (5-1-19)

i. Extraordinary travel expenses; (5-1-19)

j. Transcripts; (5-1-19)

k. Discovery costs; and (5-1-19)

l. Costs related to compliance with this rule. (5-1-19)

04. Support Staff. Each Annual Report shall contain a comprehensive listing of support staff, including investigators, employed by an Indigent Defense Provider or a Defending Attorney. Only staff who provide services related to indigent defense services must be included in the report. (5-1-19)

05. Method of Data Collection. Each Annual Report shall contain the method of data collection utilized by the Reporter to obtain the requested information, such as the name of a Case Management System or software program. (5-1-19)

06. Attorney Experience. Each Annual Report shall contain a brief description of each defending attorney's experience, including years of experience. (5-1-19)

022. REPORTING CYCLE.
The PDC shall conduct the reporting cycle in accordance with Section 19-864, Idaho Code, and the following schedule so far as it does not conflict with Idaho Code: (5-1-19)

01. Form Availability. The PDC shall make the Annual Report form available by July 1 each year for the subsequent fiscal year (i.e., July 1, 2019 for the Annual Report due November 1, 2020). (5-1-19)

02. Purpose. The data collected will inform the PDC on how to improve client representation, justify budget and resources, and recommend changes to indigent defense system practices and policies. (5-1-19)

03. Reporting Period. The Annual Report shall reflect the fiscal year immediately prior to the due date. (5-1-19)

023. REPORTING PROCEDURE.
The Annual Report shall be completed and submitted according to these rules. (5-1-19)

01. Forms. A Reporter shall file the appropriate fiscal year form supplied by the PDC and any other requested documents, both of which shall have original or digital signatures. (5-1-19)

02. Method of Delivery. The Annual Report shall be submitted to the PDC via mail, email, or facsimile. (5-1-19)

03. Review. A Reporter may review the Annual Report with PDC staff prior to submitting the Annual Report to ensure it meets the PDC's criteria. (5-1-19)

04. Incomplete Annual Report. Incomplete Annual Reports will be rejected by the PDC unless the Reporter can provide a reasonable explanation as to why the Annual Report is incomplete. Incomplete reports will be considered not submitted to the satisfaction of the Commission, which could prohibit the disbursement of the county's Indigent Defense Financial Assistance Funds. (5-1-19)

05. Due Date. The Annual Report shall be delivered to the PDC on or before November 1 of each year. (5-1-19)

024. EXPLANATION OF DATA NOT TRACKED.
Any data which should be included in the Annual Report but was not tracked during the fiscal year must be reported to the PDC along with an explanation addressing why the data was not tracked. If the PDC determines a failure to track data is justifiable (i.e. non-willful), the disbursement of the county's Indigent Defense Financial Assistance Funds will not necessarily be prohibited. Examples of a justifiable reason include, but are not limited to, the data would violate attorney-client confidentiality, or the data is/was too cumbersome to track. A satisfactory explanation must be provided to support the inability to track such data. (5-1-19)

025. FAILURE TO SUBMIT AN ANNUAL REPORT.
Any defending attorney who fails to submit an Annual Report or fails to be included in an Annual Report may be removed from the public defense roster, as outlined in IDAPA 61.01.06.026. (5-1-19)

026. FRAUDULENT INFORMATION.
Any Reporter who includes fraudulent information in the Annual Report is subject to enforcement as outlined in IDAPA 61.01.06.026. (5-1-19)

027. – 999. (RESERVED)

61.01.03 – RULES GOVERNING CONTRACTS AND CORE REQUIREMENTS FOR CONTRACTS BETWEEN COUNTIES AND PRIVATE ATTORNEYS FOR THE PROVISION OF INDIGENT DEFENSE SERVICES

000. LEGAL AUTHORITY.

Section 19-850(1)(a)(iii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules regarding model contracts and core requirements for contracts between counties and private attorneys for the provision of indigent defense services. (5-1-19)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 61, Title 01, Chapter 03, "Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services." (5-1-19)

02. Scope. These rules establish the standards and guidelines for contracts between counties and private attorneys for the provision of indigent defense services. (5-1-19)

002. -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems — Rule Definitions" for definitions of the terms and abbreviations used in this Rule. (5-1-19)

011. – 019. (RESERVED)

020. CORE TERMS.

If a Contracting Authority elects to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense by contracting with a defending attorney, as provided under Section 19-859(4), Idaho Code, each contract between the parties shall be in writing and include Subsections 01, 02, 03, and 04. Each contract should also include Subsections 05 through 10. (5-1-19)

01. Underlying Bases. The contract shall include a term explaining: (5-1-19)

a. The Contracting Authority's statutorily mandated responsibility to provide public defender services; and (5-1-19)

b. The Contracting Authority's desire to have legal services performed for individuals entitled to representation at public expense, provided by the Contractor. (5-1-19)

02. Parties. The contract shall identify the Contracting Authority and the Contractor. (5-1-19)

03. Term of the Contract. The contract shall specify the term of the contract, including a provision for renewal and for termination by either party. The contract should have a clear start date and end date. (5-1-19)

04. Compensation. The contract shall have a term setting the monetary rate at which the Contractor will be compensated for legal services rendered. (5-1-19)

05. Independent Contractor. The contract shall have a term explaining that the Contractor is an independent contractor for all services rendered pursuant to the contract. (5-1-19)

06. Scope of the Contract. The contract shall establish the case types to be handled pursuant to the contract. (5-1-19)

07. Conflicts of Interest. The contract shall include a provision ensuring the contractor does not provide representation to defendants when doing so would involve a conflict of interest. (5-1-19)

08. Training Requirements. The contract shall require each defending attorney providing services pursuant to the contract to participate in regular training programs on criminal defense law, including a minimum of seven (7) hours of continuing legal education annually in areas relating to their public defense practice, as required by the most recent edition of "Standards for Defending Attorneys." (5-1-19)

09. Experience Requirements. Each Defending Attorney providing services pursuant to the contract shall: (5-1-19)

a. Meet the qualification and training requirements set forth in the most recent edition of "Standards for Defending Attorneys" incorporated by reference in IDAPA 61.01.08; and (5-1-19)

b. Satisfy the minimum requirements for practicing law in Idaho as determined by the Idaho Supreme Court. (5-1-19)

10. Performance Requirements. The contract shall require the contractor to do the following: (5-1-19)

a. Make reasonable efforts to provide the services and comply with the requirements of the Contract; (5-1-19)

b. Utilize adequate support staff to render the necessary competent assistance of counsel required under the contract; (5-1-19)

c. Contact all clients within a specified amount of time from notification of case assignment. The amount of time should take into account the requirements of providing constitutional representation and the ability of the contractor to meet such requirement considering factors like travel time and the ability to engage in such communication; and (5-1-19)

d. Abide by PDC standards as set forth in the most recent edition of "Standards for Defending Attorneys." (5-1-19)

021. ESTABLISHMENT AND MAINTENANCE OF RECORDS.

01. Costs of Services Records. The contract shall require the Contractor to maintain records, including personnel, property, financial, and programmatic records, which reflect costs of services performed under the contract. (5-1-19)

02. Costs of Subcontract and Personal Service Contract Records. The contract shall require the Contractor to maintain records which sufficiently and properly reflect all direct and indirect costs of any subcontracts or personal service contracts. (5-1-19)

03. Duration of Record Keeping. The contract shall require the Contractor to maintain records for a specified period of time after termination of the contract, unless permission to destroy records before that time period is granted by the Contracting Authority. (5-1-19)

04. Copies. A copy of every signed contract between a Contracting Authority and an Indigent Defense Provider shall be sent to the PDC by the Contracting Authority within thirty (30) days of ratification. (5-1-19)

022. REPORTS AND INSPECTIONS.
Each contract shall require the Contractor to submit to the Contracting Authority the following: (5-1-19)

01. Written Notification. Immediate written notification in the case that a complaint is lodged with the Idaho State Bar, which has resulted in reprimand, suspension, or disbarment of the Indigent Defense Provider, or any attorney who is a member of the Indigent Defense Provider's staff or working for the Indigent Defense Provider. (5-1-19)

02. Materials. If requested, materials necessary to verify compliance with all terms of the contract. (5-1-19)

023. – 999. (RESERVED)

61.01.04 – RULES GOVERNING PROCEDURES AND FORMS FOR THE APPLICATION AND DISBURSEMENT OF INDIGENT DEFENSE FINANCIAL ASSISTANCE

000. LEGAL AUTHORITY.
Section 19-850 (1)(a)(iv), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules regarding procedures and forms by which counties may apply to the commission, pursuant to Section 19-862A, Idaho Code, for funds to be used to bring their delivery of indigent defense services into compliance with applicable indigent defense standards. (4-11-19)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 61, Title 01, Chapter 04, "Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense Financial Assistance." (4-11-19)

02. Scope. These rules establish the procedures by which counties may apply for Indigent Defense Financial Assistance to improve the delivery of indigent defense services and come into compliance with Indigent Defense Standards. (4-11-19)

002. -- 009. (RESERVED)

010. DEFINITIONS.
Refer to IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions" for definitions of the terms and abbreviations used in this Rule. (4-11-19)

011. -- 019. (RESERVED)

020. GENERAL PROVISIONS OF THE INDIGENT DEFENSE FINANCIAL ASSISTANCE PROGRAM.
It is the intent of the PDC, through the Indigent Defense Financial Assistance Program, to provide funds and planning assistance to counties of Idaho for the improvement of their trial-level indigent defense delivery systems to promote and meet the mandates of the Sixth Amendment to the U.S. Constitution and Article I, sec. 13 of the Idaho Constitution. Indigent Defense Financial Assistance funds are subject to availability, as appropriated by the Idaho Legislature. (4-11-19)

021. APPLICATION OF INDIGENT DEFENSE STANDARDS.
The established standards apply to all Indigent Defense Providers, defending attorneys, members of the Public Defense Roster, or any attorney who represents at least one indigent defendant or an adult or juvenile at public expense in state courts in a fiscal year. Additionally, as section 19-859, Idaho Code, establishes that the board of county commissioners of each county shall provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney, these standards also apply to the delivery of such services by the county, Section 19-862A(9), Idaho Code. (4-11-19)

022. FINANCIAL ASSISTANCE CYCLE.
The PDC shall conduct the financial assistance process in accordance to Section 19-862A, Idaho Code and the following schedule so far as it does not conflict with Idaho Code: (4-11-19)

01. Application Availability. The PDC shall make an application and guidance available no later than February 28 of each year, which initiates the financial assistance cycle. (4-11-19)

02. Application Purpose. The financial assistance application and any attachments submitted by the applicant shall be the primary source of information for awarding financial assistance. The PDC may review prior financial assistance applications submitted by the County, as well as other relevant information related to the provision of indigent defense services. The PDC may also review reports of county indigent defense services provided by staff, including a county's assigned Regional Coordinator. (4-11-19)

03. Application Period. The applicant shall have through May 1 of that financial assistance cycle to complete and submit the application to the PDC. (4-11-19)

04. Award Notification. The PDC shall issue notification to every applicant regarding the disposition of their financial assistance request within sixty (60) days of submission. (4-11-19)

05. Financial Assistance Approval. Financial assistance disbursement shall occur on or about October 1 of that financial assistance cycle. (4-11-19)

06. Financial Assistance Disapproval. If the PDC disapproves an application, the county shall consult with the PDC and submit a revised application within thirty (30) days of the mailing date of the official notification of the PDC's disapproval. A county may submit two (2) revisions. (4-11-19)

a. If after two (2) revisions, an application is not approved by the PDC, a resolution shall be pursued through the Idaho Administrative Procedure Act, pursuant to Section 67-5201 et seq., Idaho Code. (4-11-19)

b. The PDC will review and issue notification of the disposition of a revised application within thirty (30) days of submission. (4-11-19)

07. Award Amount. Based upon the criteria in Section 026 of this chapter, the PDC shall determine the amount that is needed by the Applicant to meet or improve upon indigent defense standards. The PDC shall award that amount to an eligible Applicant, subject to the availability of funds and the priority rating of the Applicant. (4-11-19)

08. Priority Rating. If funds are not available to fund all of the approved applications, the PDC shall prioritize the disbursement of funds to: (4-11-19)

a. Eligible Applicants not in compliance with any indigent defense standards; (4-11-19)

b. Eligible Applicants in compliance with some indigent defense standards; then (4-11-19)

c. Eligible Applicants in compliance who submit a compliance proposal with a plan to use their IDFA award to improve its indigent defense delivery system in other ways pursuant to Section 19-862A, Idaho Code. (4-11-19)

023. APPLICATION PROCEDURE.

All forms and documents required by these rules and the PDC shall be completed and submitted according to these rules in order for an IDFA application to be considered for approval. (4-11-19)

01. Forms. To be considered for financial assistance, an applicant must file with the PDC a completed IDFA application form, compliance checklist and other documentation requested in the application, all of which shall have original or digital signatures. An applicant must file with the PDC a completed financial assistance agreement form, with original or digital signatures, within sixty (60) days of written notification of financial assistance approval. The application and financial assistance agreement forms shall be provided to the applicant by the PDC. (4-11-19)

02. Review. The applicant or applicant's representative may review the compliance proposal and all associated documentation with the PDC staff prior to submitting the application to ensure it meets the criteria for the Indigent Defense Financial Assistance program. When possible, PDC staff may perform an on-site visit to the county for preliminary fact finding regarding compliance with indigent defense standards. (4-11-19)

03. Incomplete Application. An application which is missing required information shall be excluded from consideration for an award. (4-11-19)

04. Deadline. The deadline for financial assistance applications shall be established pursuant to Section 19-862A, Idaho Code. Applications for the upcoming fiscal year are due by May 1. The PDC shall announce the availability of funds to potential applicants as soon as practically reasonable after appropriated by the Idaho Legislature. (4-11-19)

024. AWARD ELIGIBILITY REQUIREMENTS.

To be considered for an award, an Applicant must meet all of the following requirements: (4-11-19)

01. Compliance with Indigent Defense Standards. To be eligible for any financial assistance award from the PDC, a county must comply with indigent defense standards or provide a suitable plan to comply in their IDFA application. Pursuant to Section 19-862A, Idaho Code, compliance must occur by March 31 of each year for any standards in place by May 1 of the prior year. (4-11-19)

02. Annual Report(s) Submitted. Each defending attorney within an applicant's county must have submitted an annual report pursuant to Section 19-864, Idaho Code, in order for a county to be eligible to receive any financial assistance award from the PDC. (4-11-19)

03. Completed Application. To be eligible, the county must file, to the satisfaction of the PDC, a completed application for an Indigent Defense Financial Assistance. (4-11-19)

04. Curing of Deficiencies. To be eligible, the Applicant must have cured, to the satisfaction of the PDC, any material breach of the terms of a previously approved state IDFA. The PDC may approve an application for an IDFA, even if deficiencies have not been cured, if the application includes a compliance proposal showing how an IDFA is necessary to meet or improve upon indigent defense standards and that the requested amount is imperative to such compliance proposal. (4-11-19)

05. Use of Funds. The Applicant must agree to use any financial assistance funds towards compliance with the applicable indigent defense standards and/or for the improvement of the Applicant indigent defense delivery system pursuant to Section 19-862A, Idaho Code. (4-11-19)

025. AWARD RECOMMENDATION.
If the PDC uses a financial assistance subcommittee, the PDC shall request a recommendation from the financial assistance subcommittee regarding the distribution of financial assistance funds. (4-11-19)

01. Assessment and Validation of Need. The financial assistance subcommittee, if used, shall review financial assistance applications prior to making a recommendation about awards. The subcommittee shall carefully review the compliance proposal and cost analysis to determine eligibility and the amount needed for the applicant to meet the plan contained within the compliance proposal. (4-11-19)

02. Commission Approval. Whether or not a financial assistance subcommittee is used, all awards must be approved by the PDC. If no financial assistance subcommittee is used, the PDC shall review the applications as set forth above. (4-11-19)

026. CRITERIA.
The following criteria shall be used to evaluate applications for IDFA awards: (4-11-19)

01. IDFA Award Eligibility. The PDC shall review the information provided in the application to determine the maximum allowable IDFA award pursuant to Section 19-862A(3), Idaho Code. (4-11-19)

02. Compliance Proposal Provided. The PDC shall approve an application if it includes a plan that is necessary to meet or improve upon indigent defense standards. (4-11-19)

03. Cost Analysis Provided. The PDC shall approve an application if it demonstrates that the amount of the requested state indigent defense financial assistance is necessary to meet or improve upon indigent defense standards. (4-11-19)

04. Annual Report(s) Submitted. Disbursement of IDFA award funds will occur if each defending attorney has submitted, to the satisfaction of the PDC, an annual report pursuant to Section 19-864, Idaho Code. (4-11-19)

05. Deficiencies Cured. The PDC shall determine whether the Applicant has cured, to the satisfaction of the PDC, any material breach of the terms of a previously approved IDFA. In the event the PDC determines that a county has failed to materially comply with indigent defense standards, the PDC shall require that the application specifically address how the noncompliance will be cured in the upcoming fiscal year with the IDFA award. In these cases, the PDC may approve an application for an IDFA award if, to the satisfaction of the PDC, the application compliance proposal includes a plan to cure such deficiencies. (4-11-19)

06. IDFA Funds Accounting. The PDC may review the use, misuse or non-use of prior IDFA awards by an Applicant and consider such use when determining how much an eligible applicant should receive upon

approval of an IDFA application. (4-11-19)

027. UNUSED IDFA FUNDS.
All funds not expended for costs associated with the applicant's award shall be maintained in the Applicant's fund for indigent defense and be specifically earmarked to meet or improve upon indigent defense standards that are in place or might be in place in the future. Unused financial assistance funds may be taken into consideration by the PDC in future IDFA award requests by the applicant. (4-11-19)

028. WITHDRAWAL OF FINANCIAL ASSISTANCE APPLICATION.

01. Withdrawal. Any applicant may withdraw or forfeit an application at any time. (4-11-19)

02. Ability to Apply. The withdrawal of an application does not affect the applicant's ability to reapply in a subsequent financial assistance cycle. (4-11-19)

029. FRAUDULENT INFORMATION ON FINANCIAL ASSISTANCE APPLICATION.
Providing false information on any application or document submitted under these rules is grounds for declaring the applicant ineligible. Any and all funds determined to have been acquired on the basis of fraudulent information must be returned to the PDC. (4-11-19)

030. -- 999. (RESERVED)

61.01.06 – RULES GOVERNING PROCEDURES FOR THE OVERSIGHT, IMPLEMENTATION, ENFORCEMENT, AND MODIFICATION OF INDIGENT DEFENSE STANDARDS

000. LEGAL AUTHORITY.
Section 19-850(1)(a)(vi), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules regarding procedures for the oversight, implementation, enforcement and modification of indigent defense standards so that the right to counsel of indigent persons is constitutionally delivered to all indigent persons in Idaho. Additionally, Section 19-850(1)(c), Idaho Code, directs the PDC to review indigent defense providers and defending attorneys to evaluate compliance with indigent defense standards and the terms of state indigent defense financial assistance. (5-1-18)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 61, Title 01, Chapter 06, "Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards." (5-1-18)

02. Scope. These rules establish the procedures by which the PDC will oversee, implement, enforce and modify indigent defense standards. (5-1-18)

002 -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.
Refer to IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions." for definitions of the terms and abbreviations used in this Rule. (5-1-18)

011. – 019. (RESERVED)

020. OVERSIGHT PROGRAM.
The PDC shall oversee compliance with Indigent Defense Standards by Idaho's counties and defending attorneys. PDC staff shall act as advisors to the PDC, to oversee and monitor the public defense delivery systems provided by the counties to assure compliance with Indigent Defense Standards. (5-1-18)

021. PARTICIPANTS AND ROLES.

01. The PDC. It is the responsibility of the PDC to oversee compliance with Indigent Defense Standards. The PDC is required to develop and adopt such standards to establish an indigent defense delivery system in Idaho that ensures constitutional representation. Other responsibilities of the PDC include, but are not limited to the following: (5-1-18)

a. Assess county and defending attorney compliance with Indigent Defense Standards; and (5-1-18)

b. File compliance report with state. (5-1-18)

02. PDC Staff. PDC staff shall: (5-1-18)

a. Review Indigent Defense Providers, defending attorneys and counties for compliance with Indigent Defense Standards; (5-1-18)

b. Identify and investigate reports of non-compliance; (5-1-18)

c. Prepare and assist in the implementation of corrective action plans; (5-1-18)

d. Report to the PDC with respect to oversight activities; (5-1-18)

e. Review Indigent Defense Financial Assistance Applications and prepare recommendations for PDC; (5-1-18)

f. Review Defending Attorney Annual Reports and prepare recommendations for PDC; (5-1-18)

g. At the request of county commissioners or indigent defense providers, review and assist with the creation of county indigent defense budgets; and (5-1-18)

h. Prepare recommendations to the PDC based upon review of the above. (5-1-18)

03. Indigent Defense Providers and Defending Attorneys. Indigent Defense Providers and defending attorneys are subject to the oversight program described herein. It is the responsibility of indigent defense providers and defending attorneys to cooperate and participate in compliance review. See Section 19-862A(1), Idaho Code. Other responsibilities of indigent defense providers and defending attorneys include but are not limited to the following: (5-1-18)

a. Participate meaningfully in the PDC oversight review process; (5-1-18)

b. Report to the PDC all compliance issues as soon as reasonably practicable and without violating any attorney-client privilege; (5-1-18)

c. Report to the PDC all barriers to compliance despite efforts to comply; and (5-1-18)

d. Assist PDC staff with the collection of records, documents, and data related to the provision of indigent defense. (5-1-18)

04. Counties. Counties, through each board of county commissioners, and other county staff necessary for the administration of indigent defense services, including but not limited to elected county clerks, are subject to the oversight program described herein. It is the responsibility of counties to cooperate and participate in compliance review. See Section 19-862A(1), Idaho Code. Other responsibilities of the counties include but are not limited to: (5-1-18)

a. Anticipate review and be prepared to enable reviewer to issue a report within thirty (30) days of the review date; (5-1-18)

b. Report to the PDC all compliance issues as soon as reasonably practicable; (5-1-18)

c. Report to the PDC all barriers to compliance despite efforts to comply; and (5-1-18)

d. Assist PDC staff with the collection of records, documents, and data related to the provision of indigent defense. (5-1-18)

022. MINIMUM STANDARDS.
The minimum standards for review are Indigent Defense Standards, promulgated pursuant to Section 19-850(1)(a), Idaho Code, and contained in IDAPA 61.01.01 through IDAPA 61.01.08 and all documents incorporated by reference. The PDC does not have the authority to enforce compliance with any standard other than current Indigent Defense Standards. (5-1-18)

023. OVERSIGHT PROGRAM MANAGEMENT.
At a minimum, the oversight program must determine if Indigent Defense Standards are being met, determine if deficiencies are being identified in a timely manner, and determine if deficiencies are being cured in a timely manner or by a schedule implemented by the PDC. (5-1-18)

01. Applicability of Oversight Program. The PDC shall monitor the provision of indigent defense services in Idaho. Pursuant to Section 19-850(1)(a), Idaho Code, the PDC has the duty and authority to monitor the following entities: counties, indigent defense providers and defending attorneys, and other stakeholders, as allowed by law. Such monitoring shall include, but is not limited to a review of indigent defense contracts, Compliance Proposals, indigent defense budgets, annual reports of defending attorneys, court proceedings, court and defending attorney meeting facilities, defending attorney compliance with membership in the Idaho State Bar and "Standards for Defending Attorneys," current edition, to ensure compliance with Indigent Defense Standards. (5-1-18)

a. The PDC delegates such duty and authority to PDC staff, however, the ultimate determination of compliance is solely the responsibility of the PDC. (5-1-18)

02. Ongoing Coordination with Counties, Indigent Defense Providers, and Defending Attorneys. PDC staff will conduct meetings and correspond with counties, indigent defense providers, defending attorneys and

other indigent defense stakeholders as needed. PDC staff will conduct formal status meetings with counties once each quarter (every three months) and defending attorneys once a year (every twelve months). More frequent meetings may be conducted if needed. (5-1-18)

a. Institutional Public Defender Office meetings: If a defending attorney is an employee of an institutional public defender office, a formal status meeting with the chief public defender of that office satisfies the formal status meeting requirement as to that defending attorney. (5-1-18)

b. Contract Public Defender meetings: If a county contracts with a law firm or more than one defending attorney on a single contract, a formal status meeting with one of the defending attorneys working under that contract satisfies the formal status meeting requirement as to every defending attorney working under that contract. (5-1-18)

c. Meetings and correspondence are intended to ensure ongoing communications between the PDC and Stakeholders to ensure the best possible Indigent Defense Delivery System is in place to ensure constitutional representation. (5-1-18)

03. PDC Staff Reporting to PDC. PDC staff must make regular reports to the PDC. All reports must be submitted electronically using a reporting system specified by the executive director, as approved by the PDC. The objective of these reporting requirements is to provide the PDC with information regarding the compliance status of each of Idaho's Indigent Defense Delivery Systems. (5-1-18)

a. Periodic Reviews. (5-1-18)

i. Initial Review. PDC staff shall conduct an initial review of each Indigent Defense Delivery System. Subsequent initial reviews shall occur upon a policy change that modifies the method of delivery in a county. An initial review should be submitted to the PDC within ninety (90) days of the implementation of this rule or when a change in delivery method is instituted, and must include: (5-1-18)

(1) A description of the review process; (5-1-18)

(2) A list of documents reviewed; (5-1-18)

(3) Persons interviewed, observations made, and facilities inspected; (5-1-18)

(4) Completed compliance checklists; (5-1-18)

(5) Findings of Non-compliance if any; and (5-1-18)

(6) Findings of Compliance with Recommendations, if any. (5-1-18)

ii. Other periodic reviews. If significant compliance issues arise within a county or upon request of the PDC, PDC staff shall conduct a review. A periodic review report should be submitted to the PDC within thirty (30) days of notice of the compliance issue or of request and must include: (5-1-18)

(1) Date the PDC became aware of the compliance issue, or date request was made by the PDC for the review; (5-1-18)

(2) Parties contacted during the review; (5-1-18)

(3) Reason the review was conducted; (5-1-18)

(4) Steps taken to resolve the issue; (5-1-18)

(5) The corrective action plan, if one was created; (5-1-18)

(6) Date of next review or follow-up. (5-1-18)

b. Annual Reviews. On or before April 15 of each year, PDC staff must submit to the PDC a report for each county that must include: (5-1-18)

i. A summary of oversight activities for the immediately preceding compliance period, including a description of the provision of indigent defense services; (5-1-18)

ii. A summary of compliance successes, deficiencies and issues; (5-1-18)

iii. Review of implementation of prior year's Compliance Proposal; and (5-1-18)

iv. Any changes to the provision of indigent defense services during the immediately preceding compliance period. (5-1-18)

c. Ongoing Consultation with the PDC. PDC staff shall consult with the PDC regarding appropriate handling of issues within counties that have remained unresolved after the review process or with counties which have not complied with or have disregarded Indigent Defense Standards. At a minimum, PDC staff shall notify the PDC within ten (10) business days of compliance issues that affect the provision of indigent defense services. (5-1-18)

i. PDC staff must ensure that an effective process is in place to identify and record compliance issues. PDC staff should assess the implementation of this identification in an ongoing manner and during oversight review. The executive director will informally assess this identification in the ongoing review of reports provided to the PDC. (5-1-18)

04. PDC Reporting to Executive and Legislative Branches. PDC provides annual reports to the governor of the state of Idaho and the Idaho Legislature. These presentations include updates on the provision of indigent defense delivery in Idaho and makes recommendations for legislation on indigent defense system issues. See Section 19-850(1)(b), Idaho Code. (5-1-18)

05. PDC Reporting to Counties. The PDC will provide ongoing feedback to counties through PDC staff regarding information collected during reviews, compliance issues or concerns discussed by the PDC, or other relevant items related to county provision of indigent defense services. All reports created by PDC staff and submitted as the result of a review of the county or a defending attorney providing services within that county, shall also be issued to an authorized official of the county that is the subject of the report. (5-1-18)

06. PDC Reporting to Indigent Defense Providers and Defending Attorneys. The PDC will provide ongoing feedback to indigent defense providers and defending attorneys individually or through communication via the public defense roster. Such feedback could include, but is not limited to, information collected during reviews, compliance issues or concerns discussed by the PDC, or other relevant items related to the provision of indigent defense services. All reports created by PDC staff and submitted as the result of a review shall also be issued to the subject(s) of the report. (5-1-18)

07. Indigent Defense Providers and Defending Attorneys Reporting to PDC Staff. On an ongoing basis, indigent defense providers and defending attorneys shall report to PDC staff any compliance issues that relate to Indigent Defense Standards. PDC staff shall review such reports and may forward such reports to the PDC. The ultimate assessment of compliance is the responsibility of the PDC. Additionally, indigent defense providers and defending attorneys shall follow requirements of Section 025: Corrective Action Plans and Compliance Verification. (5-1-18)

08. Counties Reporting to PDC Staff. On an ongoing basis, counties shall report to PDC staff any compliance issues or observed deficiencies that relate to indigent defense standards. PDC staff shall review such reports and may forward such reports to the PDC. The ultimate assessment of compliance is the responsibility of the PDC. Additionally, counties shall follow requirements of Section 025: Corrective Action Plans and Compliance Verification. (5-1-18)

09. Other Stakeholders Reporting to PDC Staff. The PDC and PDC staff will seek and accept

reports of compliance issues from stakeholders, though the PDC has no authority to mandate such reporting. Stakeholders may report whether or not a county, indigent defense provider or defending attorney are in compliance with Indigent Defense Standards. PDC staff shall review such reports and may pass such reports on to the PDC. The ultimate assessment of compliance is the responsibility of the PDC. (5-1-18)

024. PROCEDURES FOR OVERSIGHT PROGRAM.
The procedure outlined below applies to all oversight activities performed by PDC staff. On-site review will generally be structured as follows: (5-1-18)

01. Time and Place. PDC staff will work with stakeholders to identify a convenient period of time for on-site oversight activities. (5-1-18)

02. Notification. PDC staff will notify the subject of a review at least thirty (30) days before the review is to take place. (5-1-18)

03. Extension. PDC staff may grant an extension for the conduct of a review, provided the PDC is notified by the party being reviewed within fifteen (15) days of the original notification date of the compliance review. (5-1-18)

04. Items Subject to Review. PDC staff will request and review the most recent Compliance Proposals, Indigent Defense Financial Assistance applications, indigent defense contracts, indigent defense budgets, annual reports, and other items relevant to the provision of indigent defense and compliance with indigent defense standards.

(5-1-18)

05. Items Subject to Observation. PDC staff will conduct field observation of courtroom activities and facilities available to and used by indigent defense providers, defending attorneys, and their staff in the course of the representation of indigent defendants. In this section, "staff" refers to non-attorneys employed or contracted by an indigent defense provider or defending attorney as such employment or contract relates to the provision of indigent defense services. (5-1-18)

06. Persons Subject to Interview. PDC staff will interview county officials, indigent defense providers, defending attorneys and other stakeholders who are involved in the administration of Indigent Defense Services or could be in positions to observe compliance with Indigent Defense Standards. (5-1-18)

07. Timing of Report. PDC staff will issue a report within thirty (30) days of completion of oversight review or by April 15 of each year if an annual review. (5-1-18)

025. CORRECTIVE ACTION PLANS AND COMPLIANCE VERIFICATION.
Corrective Action Plans and Compliance Verification forms are to address how Indigent Defense Standards are to be met and how any deficiencies will be cured. (5-1-18)

01. Corrective Action Plans. Upon report of compliance issue by PDC staff or PDC finding of non-compliance, a county or defending attorney shall describe a proposed corrective action to be taken. The plan shall be submitted to the PDC electronically using a reporting system specified by the executive director, as approved by the PDC. (5-1-18)

a. County Response. Within sixty (60) days of the date of a report issued by PDC staff in which the county is the subject, the county shall respond in writing to each finding of non-compliance or finding of compliance with recommendation. The county shall describe a corrective action to be taken by the county. The county may request from the PDC an extension of up to sixty (60) days in which to describe a corrective action and submit it to the PDC. (5-1-18)

b. Indigent Defense Provider and Defending Attorney Response. Within sixty (60) days of the date of a report issued by a PDC Staff in which an attorney is the subject, the indigent defense provider or defending attorney shall respond in writing to each finding of non-compliance or finding of compliance with recommendation. The attorney shall describe a corrective action to be taken. The attorney may request from the PDC an extension of up to

sixty (60) days in which to describe a corrective action and submit it to the PDC. (5-1-18)

c. Follow-up Reviews. PDC staff shall conduct follow-up reviews of counties, indigent defense providers and defending attorneys when a report included findings of non-compliance. The follow-up review shall occur within a reasonable time, but not more than sixty (60) days following receipt of a response to the report. Such reviews shall occur monthly until complete implementation of the corrective action has occurred. PDC staff shall provide monthly updates to the PDC regarding the subject of the report. Monthly updates by PDC staff to the PDC must include all issues that have not yet been corrected. (5-1-18)

d. Annual Follow-up Review. If implementation of a Corrective Action Plan will take longer than three hundred sixty-five (365) days, PDC staff shall provide a formal yearly report regarding the status of the corrective actions to the PDC and the subject of the report. Within thirty (30) days of the date of the annual follow-up review, the subject of the report shall respond in writing to each continued finding of non-compliance and describe the proposed corrective action to be taken. (5-1-18)

02. Compliance Verification. If in any given fiscal year, a county does not apply for an Indigent Defense Financial Assistance, the county shall submit a compliance verification form. See IDAPA 61.01.04 for further guidance. (5-1-18)

026. ENFORCEMENT.

Pursuant to Section 19-862A(1), Idaho Code, all counties, indigent defense providers and defending attorneys shall cooperate and participate with the PDC in the review of their indigent defense services. (5-1-18)

01. Failure to Submit to a Review. If a county, indigent defense provider or defending attorney fails to cooperate with a review by PDC staff, the following actions will be taken: (5-1-18)

a. Review by the PDC executive director as described in Subsection 023.03.a. and Section 024 of this chapter. (5-1-18)

b. Continued failure to submit to a review will result in a certified letter designating a deficiency and the PDC may take action under Section 19-862A, Idaho Code, as allowed by law. (5-1-18)

02. Failure to Respond to Report. If a county, indigent defense provider, or defending attorney fails to respond to a report within the required time, the PDC will be notified. If the PDC finds no just cause for the failure to respond to the report, a certified letter will be sent to the subject of the report indicating the subject has failed to comply. The PDC may then take action pursuant to Section 19-862A(11), Idaho Code. (5-1-18)

03. County Non-compliance. If a county fails to take steps to correct a finding of non-compliance, the PDC may act pursuant to Section 19-862A(11), Idaho Code. (5-1-18)

04. Defending Attorney Non-compliance. If a defending attorney fails to take steps to correct a Finding of Non-compliance, the following actions will be taken: (5-1-18)

a. The county or counties for which the defending attorney provides indigent defense services will be notified via certified letter as to the non-compliance. (5-1-18)

b. The defending attorney will be removed from the Public Defense Roster. The defending attorney may re-apply for inclusion on the public defense roster after the finding of non-compliance is corrected. The defending attorney may still provide indigent defense services during this time. (5-1-18)

c. If the defending attorney continues to be deemed non-compliant after a period of six (6) months, the defending attorney will be prohibited from accepting any additional indigent defense cases in any county in which said attorney has been deemed non-compliant. Such prohibition shall remain in place until the PDC makes a finding that the defending attorney is compliant. (5-1-18)

05. Designation of a Deficiency. The designation of a deficiency is a formal finding made by the PDC that a county or defending attorney has failed to comply with Indigent Defense Standards within the timeline as

required by Section 19-862A(9), Idaho Code. The PDC will maintain a list of designated deficiencies that will be made available upon request. When a deficiency exists for a period of more than six (6) months or persists through the IDFA application process without a compliance proposal that sufficiently addresses such deficiency, the PDC will assess whether the party responsible has willfully and materially failed to comply. Upon such a finding, the PDC will take action pursuant to Section 19-862A(11), Idaho Code, which may include the withholding of Indigent Defense Financial Assistance funds or the PDC takeover of an indigent defense delivery system. (5-1-18)

06. Material Non-compliance. Established standards are deemed crucial to the constitutional representation of indigent defendants and the effective provision of indigent defense services. A violation of an established standard is material non-compliance. (5-1-18)

07. Willful Non-compliance. The violation of an established standard that is done voluntarily with either an intentional disregard of, or indifference to, the requirements of these rules will be deemed willful non-compliance. (5-1-18)

08. Final Determination of Non-compliance. The PDC is ultimately responsible for the determination that a county or defending attorney has willfully and materially failed to comply with Indigent Defense Standards. Pursuant to Section 19-862A(11), Idaho Code, the PDC may upon review of PDC staff reports, stakeholder reports, Indigent Defense Financial Assistance applications, Compliance Verification reports, information received relevant to the provision of indigent defense services, or observation by PDC staff or the PDC, deem a county or defending attorney has willfully and materially failed to comply. Upon such determination, the PDC will take action pursuant to Section 19-862A, Idaho Code, as allowed by law. (5-1-18)

027 – 999. (RESERVED)

61.01.07 – RULES GOVERNING STANDARDS FOR DEFENDING ATTORNEYS THAT UTILIZE IDAHO'S PRINCIPLES OF AN INDIGENT DEFENSE DELIVERY SYSTEM

000. LEGAL AUTHORITY.

Section 19-850 (1)(a)(vii), Idaho Code, gives the State Public Defense Commission (PDC) authority to promulgate rules establishing the standards for defending attorneys that utilize, to the extent reasonably practicable taking into consideration factors such as case complexity, support services and travel, Idaho's Principles of an Indigent Defense Delivery System (IPIDDS) as referenced in the same section. (5-1-17)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 61, Title 01, Chapter 07, "Rules Governing Standards for Defending Attorneys That Utilize Idaho's Principles of an Indigent Defense Delivery System." (5-1-17)

02. Scope. These rules establish the standards and guidelines for Indigent Defense Providers and defending attorneys practicing in the State of Idaho. As section 19-859, Idaho Code, establishes that the board of county commissioners of each county shall provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney, these rules also apply to the delivery of such services by the county, section 19-862A(9), Idaho Code. (5-1-17)

002 -- 009. (RESERVED)

010. DEFINITIONS AND ABBREVIATIONS.

Refer to IDAPA 61.01.08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems – Rule Definitions" for definitions of the terms and abbreviations used in this Rule. (5-1-18)

011. – 019. (RESERVED)

020. PUBLIC DEFENSE ROSTERS.

01. Public Defense Roster Membership. The PDC will create and maintain a roster of all indigent defense providers, defending attorneys and non-attorney staff under their regular employ or supervision who are compliant with current Indigent Defense Standards. (5-1-18)

a. Maintenance of Public Defense Roster. The public defense roster will be updated in November of each year or whenever there is a change requiring an update. (5-1-18)

b. Public Defense Roster Contents. The public defense roster will include the name of each compliant defending attorney or non-attorney staff, their Idaho State Bar Number, and professional contact information, including email address, physical address, and telephone number. The roster will also indicate the county or counties within which the defending attorney provides indigent defense services. (5-1-18)

c. Secondary Roster. The PDC will create and maintain a secondary roster of all non-compliant indigent defense providers and defending attorneys who continue to provide indigent defense services. The contents of the secondary roster will be the same as the Public Defense Roster but will include information as to how the attorney is not meeting established standards and the date on which the attorney was removed from the Public Defense Roster for such non-compliance. (5-1-18)

d. Availability of Public Defense Roster. The rosters are available from the PDC office upon request. (5-1-18)

02. Application for Public Defense Roster Inclusion. Any attorney who is not employed by an indigent defense provider, who does not work under an existing indigent defense services contract, or who has become compliant after a period of non-compliance with Indigent Defense Standards, may apply to the PDC for inclusion on the Public Defense Roster. The application is available on the PDC website: https://pdc.idaho.gov/forms. (5-1-18)

a. Approval. Inclusion on the Public Defense Roster must be approved by the Executive Director. (5-1-17)

03. Membership Benefits. Membership on the public defense roster ensures access to PDC trainings and scholarships as outlined in IDAPA 61.01.01. (5-1-18)

04. Capital Counsel Roster Membership. The PDC will create and maintain a roster of all qualified capital defending attorneys. Inclusion on the capital counsel roster requires compliance with Standards for Defending Attorneys and current Indigent Defense Standards. (5-1-18)

a. Maintenance of Capital Counsel Roster. The capital counsel roster will be updated in November of each year, but may be updated more frequently in order to accurately reflect changes made throughout the year. (5-1-18)

b. Capital Counsel Roster Contents. The capital counsel roster will include the name of each qualified capital counsel who meets the Standards for Defending Attorneys: Capital Counsel Qualifications and Roster, their Idaho State Bar number and professional contact information including email address, physical address, and telephone number. (5-1-18)

05. Application for Capital Counsel Roster Inclusion. Any defending attorney who represents indigent defendants at public expense in defense of a capital crime shall apply for inclusion on the capital counsel roster. The application is available on the PDC website: https://pdc.idaho.gov/forms. (5-1-18)

a. Approval. The PDC must approve inclusion on the capital counsel roster. (5-1-18)

021. APPLICATION OF ESTABLISHED STANDARDS.
The established standards detailed in the incorporated document, "Standards for Defending Attorneys," shall apply to all Indigent Defense Providers, defending attorneys, members of the Public Defense Roster, or any attorney who is assigned to represent at least one indigent defendant or is otherwise assigned to represent an adult or juvenile at public expense in state courts in a fiscal year. Additionally, as Section 19-859, Idaho Code, establishes that the board of county commissioners of each county shall provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney, these standards also apply to the delivery of such services by the county, Section 19-862A(9), Idaho Code. (5-1-17)

022. – 999. (RESERVED)

61.01.08 – RULES GOVERNING THE ADMINISTRATION OF IDAHO'S INDIGENT DEFENSE DELIVERY SYSTEM – RULE DEFINITIONS

000. LEGAL AUTHORITY.
Sections 19-849 through 19-866, Idaho Code, give the State Public Defense Commission (PDC) authority to adopt rules and standards to improve the delivery of trial-level indigent defense services in Idaho. The PDC is authorized under Sections 19-850(1)(a) and 19-862A, Idaho Code, to supervise and administer the indigent defense delivery system. (5-1-18)

001. TITLE AND SCOPE.

01. Title. These rules are titled IDAPA 61, Title 01, Chapter 08, "Rules Governing the Administration of Idaho's Indigent Defense Delivery System – Rule Definitions." (5-1-19)

02. Scope. These rules contain the definitions used throughout the chapters of rules adopted by the PDC. *( )*

002. INCORPORATION BY REFERENCE.
The following documents are incorporated by reference into these rules: (5-1-18)

01. Idaho's Principles of an Indigent Defense Delivery System. "Idaho's Principles of an Indigent Defense Delivery System, edition 2016," revised as of January 25, 2017, is herein incorporated by reference and is available from the PDC's office and on the PDC website: https://pdc.idaho.gov/wp-content/uploads/sites/11/2017/01/Idahos-Principles-of-PD-System.pdf. (5-1-18)

02. Standards for Defending Attorneys. "Standards for Defending Attorneys, edition 2018," revised as of November 14, 2018, is herein incorporated by reference and is available from the PDC's office and on the PDC website: https://pdc.idaho.gov/rules. (5-1-19)

03. Application for Capital Defense Roster. "Application for Capital Defense Roster, edition 2017," revised as of November 27, 2017, is herein incorporated by reference and is available from the PDC's office and on the PDC website: https://pdc.idaho.gov/rules. (5-1-18)

003. -- 009. (RESERVED)

010. DEFINITIONS.
For the purposes of the Indigent Defense Delivery System chapters of rules, the following definitions apply: (5-1-18)

01. Annual Report. A report submitted to the appropriate Board of County Commissioners, Administrative District Judge and the PDC by a defending attorney pursuant to Section 19-864, Idaho Code, on an annual reporting form created by the PDC. The annual reporting form is available on the PDC website: https://pdc.idaho.gov/forms/. (5-1-18)

02. Applicant – Indigent Defense Financial Assistance. A County that identifies a need for an Indigent Defense Financial Assistance by submission of a compliance proposal, and applies for financial assistance through the PDC. (5-1-18)

03. Approval – IDG Application. An IDG application shall be approved if the applicant meets the requirements for eligibility. An approval does not guarantee the amount or disbursement of an IDG award. The PDC retains the ability to determine the amount of an IDG award based upon the components listed in IDAPA 61.01.04. Disbursement of funds is subject to availability as appropriated by the State Legislature each year. (5-1-18)

04. Capital Counsel Roster. A roster of defending attorneys who may be appointed to represent an indigent defendant in a case in which the death penalty may be imposed. Defending attorneys not on this roster may not represent indigent defendants in such cases. (5-1-18)

05. Case. (5-1-18)

a. A case consists of all related charges from a single incident, transaction or occurrence filed within a single case number, handled by one defending attorney. A probation violation or motion for contempt is counted as a separate case. (5-1-18)

b. A felony case is counted as follows: (5-1-18)

i. A case filed as a felony is counted as one felony, whether it is dismissed, remanded, pled, or tried to completion. (5-1-18)

ii. A case filed as a felony that is remanded to magistrate court is counted once as a felony assuming vertical representation occurs. (5-1-18)

iii. A case filed as a misdemeanor that is subsequently amended to a felony is counted once as a felony, assuming vertical representation occurs. (5-1-18)

c. Post-judgment motions, such as those requesting early termination of probation or a reduction in sentence pursuant to Idaho Criminal Rule 35, are not counted as a case. (5-1-18)

d. If two or more cases are consolidated prior to significant representation being undertaken on each individual case, then the consolidated case is counted as one case. If significant representation has occurred prior to consolidation, the cases in which such representation has occurred shall be counted as separate cases. (5-1-18)

06. Caseload. The number of cases, as defined in this chapter, assigned to a defending attorney in a fiscal year. (5-1-18)

07. Compliance Checklist. A document provided by the PDC each financial assistance cycle to assist an Applicant determine eligibility for an IDG. The checklist will be updated each year and is required as a part of an IDG application. (5-1-18)

08. Compliance Period. The compliance period runs from May 1 through March 31. Indigent defense standards that are in place by May 1 of a given year must be complied with by March 31 of the following year. (5-1-18)

09. Compliance Proposal. A plan that specifically addresses how indigent defense standards shall be met and how any deficiencies previously identified by the PDC will be cured in the upcoming county fiscal year. The plan shall include a cost analysis that specifically identifies the amount of funding in excess of the applicable local share necessary to allow the county to successfully execute the compliance proposal. If the county can execute its plan without exhausting the entirety of the financial assistance for which it may be eligible, the plan may include a request for funding for other improvements to its delivery of indigent defense services, pursuant to Section 19-862A(2), Idaho Code. (5-1-18)

10. Compliance Verification. A form that must be completed and submitted to the PDC by a county that chooses not to file an Indigent Defense Financial Assistance Application. This verification requires the county to describe how IDG funds have been used in the prior year (if applicable) and an explanation as to how the county will fund their indigent defense delivery system in compliance with established standards. (5-1-18)

11. Contracting Authority. The board of county commissioners or its designated agent who enters into a contract with a defending attorney for the provision of representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense. (5-1-19)

12. Contractor. A defending attorney, law firm or office of public defender that enters into a contract with a Contracting Authority for the provision of representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense. (5-1-19)

13. Corrective Action Plan. A plan developed by a county or defending attorney with the assistance of PDC staff that addresses any reported violation of established standards and how those violations will be corrected. (5-1-18)

14. Defending Attorney. Defined in Section 19-851, Idaho Code, as any attorney employed by an indigent defense provider or otherwise assigned to represent adults or juveniles at public expense in state courts. (5-1-18)

15. Deficiency. The violation of an established standard for which the timeline for compliance has passed pursuant to Section 19-862A(9), Idaho Code. (5-1-18)

16. Eligible Applicant – Indigent Defense Financial Assistance. To be considered for an award of an IDG, an applicant must meet the requirements of IDAPA 61.01.04, Section 024, "Award Eligibility Requirements." (5-1-18)

17. Established Standards. Rules promulgated by the PDC pursuant to Section 19-850(1)(a), Idaho Code. (5-1-18)

18. Finding of Compliance with Recommendation. A finding of compliance with recommendation refers to a condition whereby a county or defending attorney may be in compliance with Indigent Defense Standards; however, the provision of indigent defense services could be improved to ensure constitutionally-sound representation or achieve compliance with indigent defense standards yet to be promulgated. This finding is not a PDC determination of deficiency or non-compliance. The PDC does not have the authority to enforce compliance with a recommendation. (5-1-18)

19. Finding of Non-Compliance. A finding of non-compliance refers to an instance where a county or defending attorney is not in compliance with applicable Indigent Defense Standards and may be related to a deficiency in the provision of indigent defense services. This finding is not necessarily a PDC determination of a deficiency and still requires a finding of material and willful non-compliance before the take-over provisions of Section 19-862A, Idaho Code, are invoked. (5-1-18)

20. Fiscal Year. As referred to in this chapter, fiscal year refers to a county fiscal year beginning on October 1 and ending on September 30 of the following calendar year. (5-1-18)

21. Formal Status Meeting. A meeting between PDC staff and a county or defending attorney conducted in accordance with IDAPA 61.01.06, section 023.02. (5-1-18)

22. Indigent Defense Budget. The funds appropriated each fiscal year by the board of county commissioners that is used to provide representation under the Idaho Public Defense Act, Sections 19-848 through 19-866, Idaho Code, that includes the expenses of investigation, other preparation and trial, but does not include amounts received from the Capital Crimes Defense Fund or the Public Defense Commission. The appropriated funds shall not be less than a county's local share for that fiscal year. (5-1-18)

23. Indigent Defense Contract. A written contract between the board of county commissioners and a defending attorney or existing office of public defender that provides representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense. Such contracts shall not include a pricing structure that charges or pays a single fixed fee for the services and expenses of the attorney. (5-1-19)

24. Indigent Defense Delivery System. The system created by the board of county commissioners that is used to provide representation under the Idaho Public Defense Act, Sections 19-848 through 19-866, Idaho Code. The system includes the county, indigent defense provider, defending attorneys, and any other county staff necessary for the administration of indigent defense services. (5-1-18)

25. Indigent Defense Expenditures. Any monies expended for indigent defense services within a county that do not include amounts received from the public defense commission or amounts expended for capital cases by those counties participating in the capital crimes defense program in excess of premiums and deductibles required by guidelines approved by the Idaho capital crimes defense fund board of directors. (5-1-18)

26. Indigent Defense Financial Assistance. Pursuant to Section 19-862A, Idaho Code, any sum of money awarded by the PDC to a county to support compliance with Indigent Defense Standards or for other improvements to its delivery of indigent defense service. (5-1-19)

27. Indigent Defense Financial Assistance Application. An application created by the PDC each year requesting information related to the provision of indigent defense services in an Applicant's county. This application will be updated each year and be provided by February 28, initiating the financial assistance cycle. Counties are required to use this application when requesting an IDG award. (5-1-18)

28. Indigent Defense Provider. Any agency, entity, organization or person selected by a board of county commissioners in accordance with Section 19-859, Idaho Code, or designee of the commission if the commission's actions to remedy specific deficiencies pursuant to Section 19-862A(11)(b), Idaho Code, involve the direct provision of indigent defense services, as a means to provide for the representation of indigent persons and other individuals who are entitled to be represented by an attorney at public expense. (5-1-18)

29. Indigent Defense Services. County services provided to indigent persons and other individuals who are entitled to be represented by an attorney at public expense pursuant to Section 19-859, Idaho Code. (5-1-18)

30. Indigent Defense Stakeholders ("Stakeholders"). A person, agency, entity or other organization with an interest or concern in the delivery of indigent defense in Idaho. (5-1-18)

31. Indigent Defense Standard. Defined in Section 19-851, Idaho Code, as any rule promulgated by the commission pursuant to Section 19-850(1)(a), Idaho Code. (5-1-18)

32. Joint Incentive Indigent Defense Financial Assistance. Pursuant to Section 19-862A, Idaho Code, a sum of money awarded by the PDC to counties who join together to establish and maintain a joint office of public defender pursuant to Section 19-859(2), Idaho Code. (5-1-18)

33. Local Share. Defined in Section 19-851, Idaho Code, as the benchmark figure calculated by the commission to determine the minimum amount of funding that shall be maintained by a county and to determine the award amount of state indigent defense financial assistance for which a county may be eligible pursuant to Section 19-862A, Idaho Code. For any given county fiscal year, a county's local share shall be the median of the annual amount in county funds expended by that county for indigent defense during each of the first three (3) of the preceding five (5) county fiscal years, as certified by the county clerk. (5-1-18)

34. Oversight Review. An annual or periodic review of a county or defending attorney, completed by PDC staff, that considers whether indigent defense standards are being met and if deficiencies are being identified and cured in a timely fashion. (5-1-18)

35. Public Defense Roster. A roster of compliant defending attorneys who may be appointed to represent indigent defendants or other persons entitled to be represented by an attorney at public expense. The roster may also include non-attorney staff under the regular employ or supervision of a defending attorney. (5-1-19)

36. Reporter. An Indigent Defense Provider or defending attorney who submits an Annual Report as required by Section 19-864, Idaho Code, and IDAPA 61.01.02. (5-1-19)

37. Scholarship. Any amount of training funds granted by the PDC to be used toward the costs of attending a training program. (5-1-18)

38. Staff. Any individual employed by the PDC. (5-1-18)

39. Submission Date. The date upon which one mails or digitally submits a document, form, or application to the PDC. (5-1-18)

40. Training Funds. An amount designated in the annual budget of the PDC designated for the benefit of defending attorneys and those under their employ or supervision. These funds are dedicated to provide training and education for persons servicing indigent clients as designated by law, statute, court rule, or appointment. (5-1-18)

41. Training Program. Any program, class, conference, seminar, or educational opportunity whose purpose includes the training of persons servicing indigent clients as designated by law, statute, court rule, or appointment. (5-1-18)

42. Vertical Representation. Continuous representation by the same attorney from assignment through completion of the case. Assignment shall occur immediately following an initial appearance to ensure that the constitutionally required level of advocacy necessary to mount a meaningful defense commences as soon as possible. (5-1-18)

43. **Workload**. The term workload recognizes that a caseload generally consists of a mix of case types that each require differing amounts of time and resources. (5-1-18)

011. ABBREVIATIONS.

01. **MCLE**. Mandatory Continuing Legal Education credit as determined by the Idaho State Bar. (5-1-18)

02. **PDC**. The State Public Defense Commission. (5-1-18)

03. **IPIDDS**. Idaho's Principles of an Indigent Defense Delivery System. (5-1-18)

04. **IDFA**. Indigent Defense Financial Assistance. (5-1-18)

012. – 999. (RESERVED)

Sections Affected Index

IDAPA 01 – BOARD OF ACCOUNTANCY

Docket No. 01-0101-1900F

01.01.01 – Idaho Accountancy Rules

000. Legal Authority (Rule 000). 31
001. Title And Scope (Rule 001). 31
002. -- 003. (Reserved) 31
004. Incorporation By Reference (Rule 004). 31
005. -- 009. (Reserved) 31
010. Definitions (Rule 010). 31
011. -- 017. (Reserved) 31
018. Compliance With These Rules (Rule 018). 31
019. Computation Of Time (Rule 019). 32
020. Good Moral Character (Rule 020). 32
021. Notification Of Change Of Address, Felony Charges, Or Actions Taken (Rule 021). 32
022. -- 099. (Reserved) 32
100. CPA Examination (Rule 100). 32
101. Exam Applications (Rule 101). 33
102. Authorization To Test And Notification To Schedule (Rule 102). 33
103. Failure To Appear (Rule 103). 33
104. CPA Exam Educational Qualifications (Rule 104). 33
105. Testing Period And Credit (Rule 105). 33
106. Cheating (Rule 106). 33
107. Security And Irregularities (Rule 107). 34
108. -- 199. (Reserved) 34
200. Initial Certified Public Accountant Licensure (Rule 200). 34
201. Annual License Renewal And Late Fee (Rule 201). 35
202. Practice Privileges (Rule 202). 35
203. Reciprocal Licensure (Rule 203). 36
204. -- 299. (Reserved) 36
300. Applicability Of Rules (Rule 300). 36
301. Commissions And Contingent Fees (Rule 301). 37
302. Confidential Client Information (Rule 302). 37
303. Records (Rule 303). 37
304. Firm Names (Rule 304). 38
305. Communications (Rule 305). 38
306. -- 399. (Reserved) 38
400. CPE Basic Requirements (Rule 400). 38
401. CPE Reporting, Controls, And Late Fees (RULE 405). 39
402. CPE Exceptions, Extensions, And Exemptions (Rule 402). 39
403. Review And Audit Of CPE Reports (Rule 403). 39
404. Notification (Rule 404). 39
405. Action (Rule 405). 40
406. Reinstatement And Re-Entry (Rule 406). 40
407. Formerly Licensed (Rule 407). 40
408. Continuing Professional Education Committee (Rule 408). 40
409. -- 499. (Reserved) 40
500. Purpose Of Firm Registration And Peer Review (Rule 500). 40
501. Issuance Of Reports And Form Of Practice (Rule 501). 40
502. Peer Review Program Participation (Rule 502). 40

503. Exemption From Participation (Rule 503). 41
504. Scheduling Of The Peer Review (Rule 504). 41
505. Minimum Standards (Rule 505). 41
506. Reporting To The Board (Rule 506). 42
507. Retention Of Documents Relating To Peer Reviews (Rule 507). 42
508. Confidentiality (Rule 508). 42
509. Remedies For Failure To Comply (Rule 509). 42
510. Administering Organizations (Rule 510). 43
511. Peer Review Oversight Committee (Rule 511). 43
512. -- 599. (Reserved) 43
600. Fees (Rule 600). 43
701. -- 999. (Reserved) 44

IDAPA 02 – DEPARTMENT OF AGRICULTURE

Docket No. 02-0000-1900

02.04.24 – Rules Governing Tuberculosis

000. Legal Authority. 47
001. Title And Scope. 47
002. -- 003. (Reserved) 47
004. Incorporation By Reference. 47
005. -- 009. (Reserved) 47
010. Definitions. 47
011. Abbreviations. 48
012. -- 019. (Reserved) 49
020. Applicability. 49
021. Supervision. 49
022. Inspections. 49
023. Tuberculosis Tests. 49
024. Reporting. 49
025. Quarantines. 50
026. Cleaning And Disinfecting. 50
027. (Reserved) 50
028. Tuberculosis Testing. 50
029. Tuberculosis Emergency. 51
030. Tuberculosis Indemnity. 51
031. Tuberculosis Indemnity -- Claims Not Allowed. 51
032. -- 099. (Reserved) 52
100. Official Identification. 52
101. Cattle, Bison, Goats, And Domestic Cervidae Market Release. 52
102. -- 119. (Reserved) 52
120. Classification Of Cattle, Bison, And Domestic Cervidae. 52
121. -- 199. (Reserved) 52
200. Procedures For Infected Herds. 52
201. -- 209. (Reserved) 52
210. Procedures For Tuberculosis - Infected Feedlots. 52
211. -- 219. (Reserved) 52
220. Disposition Of Tuberculin-Responding Cattle, Bison, And Domestic Cervidae. 53
221. -- 249. (Reserved) 53
250. Identification Of Reactor Cattle And Bison. 53
251. -- 259. (Reserved) 53
260. Identification Of Exposed Cattle And Bison. 53
261. -- 299. (Reserved) 53

300. Retesting Of High-Risk Herds. 53
301. -- 399. (Reserved) 53
401. Approved Feedlot. 53
402. Application For Designation As An Approved Feedlot 53
403. Administrator Approval. 53
404. Approved Feedlot Number. 54
405. Expiration Of Approved Status. 54
406. -- 499. (Reserved) 54
500. Movement Of Infected And Exposed Cattle, Domestic Cervidae, Or Bison. 54
501. -- 999. (Reserved) 54

02.05.01 – Rules Governing Produce Safety

000. Legal Authority. 55
001. Title And Scope. 55
002. Incorporation By Reference. 55
003. – 009. (Reserved) 55
010. Definitions. 55
011. Abbreviations. 55
012. Variance. 55
013. – 999. (Reserved) 56

02.01.03 – Airborne Control of Unprotected or Predatory Animals Rules

000. Legal Authority. 60
001. Title And Scope. 60
002. – 009. (Reserved) 60
010. Definitions. 60
011. -- 099. (Reserved) 60
100. Application To Obtain A Permit. 60
101. -- 149. (Reserved) 61
150. Issuance Of Airborne Control Permits. 61
151. Notification To Federal Land Management Agencies. 61
152. -- 199. (Reserved) 61
200. Limitations On Use And Validity Of Airborne Control Permits. 61
201. -- 299. (Reserved) 61
300. Recordkeeping Requirements. 61
301. -- 399. (Reserved) 62
400. Prohibited Acts. 62
401. – 999. (Reserved) 62

02.04.04 – Rules for Artificial Dairy Products

000. Legal Authority. 63
001. Title And Scope. 63
002. – 011. (Reserved) 63
100. General. 63
101. – 999. (Reserved) 63

02.04.13 – Rules Governing Raw Milk

000. Legal Authority. 64
001. Title And Scope. 64
002. -- 003. (Reserved) 64
004. Incorporation By Reference. 64
005. -- 009. (Reserved) 64
010. Definitions. 64
011. (Reserved) 65
012. Adulterated Or Misbranded Raw Milk Or Raw Milk Products. 65

013. Standards For Raw Milk And Raw Milk Products. 65
014. Labeling. 66
015. -- 019. (Reserved) 67
020. Raw Milk Permits. 67
021. -- 029. (Reserved) 67
030. Small Herd Raw Milk Permits. 67
031. -- 039. (Reserved) 68
040. Herd Share Programs. 68
041. -- 049. (Reserved) 69
050. Permit Enforcement. 69
051. -- 999. (Reserved) 69

02.04.20 – Rules Governing Brucellosis

000. Legal Authority. 70
001. Title And Scope. 70
002. – 003. (Reserved) 70
004. Incorporation By Reference. 70
005. -- 009. (Reserved) 70
010. Definitions. 70
011. Abbreviations. 72
012. -- 019. (Reserved) 72
020. Applicability. 72
021. Supervision. 72
022. Inspections. 73
023. Laboratories. 73
024. Reporting. 73
025. Quarantines. 73
026. Cleaning And Disinfecting. 74
027. Wild Bison And Wild Elk. 74
028. Brucellosis Testing. 74
029. Brucellosis Emergency. 75
030. Brucellosis Indemnity. 75
031. Brucellosis Indemnity: Claims Not Allowed. 76
032. -- 099. (Reserved) 76
100. Official Vaccination Required For Cattle And Domestic Bison. 76
101. Official Vaccination. 77
102. Sale Of Female Cattle Or Domestic Bison That Are Not Officially Vaccinated. 77
103. Official Identification Of Cattle And Domestic Bison. 77
104. Re-Identification Of Official Vaccinates. 78
105. Livestock Market Release. 79
106. -- 119. (Reserved) 79
120. Brucellosis Eradication Areas. 79
121. Test Eligible Cattle And Domestic Bison In An Eradication Area. 79
122. Movement Into Or Out Of Eradication Areas. 79
123. Designated Surveillance Area (DSA). 79
124. -- 129. (Reserved). 80
130. Movement Of Infected And Exposed Cattle Or Domestic Bison. 80
131. -- 199. (Reserved) 80
200. Idaho Approved Feedlot. 80
201. Application For Designation As An Idaho Approved Feedlot. 81
202. Administrator Approval. 81
203. Approved Feedlot Number. 81
204. Expiration Of Approved Status. 81

205. -- 249. (Reserved) ... 81
250. Content Of Records For Approved Feedlots. ... 81
251. Records Retention. ... 81
252. Entry Requirements. ... 81
253. Removal Requirements. ... 81
254. Testing. ... 83
255. Inspection. ... 83
256. Revocation Of Approved Feedlot Status. ... 83
257. -- 299. (Reserved) ... 83
300. Official Identification Of Domestic Cervidae. ... 83
301. -- 319. (Reserved) ... 84
320. Testing Requirements. ... 84
321. Domestic Cervidae Brucellosis Eradication Area. ... 84
322. Testing And Movement. ... 84
323. -- 399. (Reserved) ... 84
400. Official Identification Of Swine. ... 84
401. -- 419. (Reserved) ... 84
420. Testing Requirements. ... 84
421. Swine Brucellosis Eradication Area. ... 84
422. Testing And Movement. ... 85
423. -- 999. (Reserved) ... 85

02.04.21 – Rules Governing the Importation of Animals

000. Legal Authority. ... 86
001. Title And Scope. ... 86
002. – 003. (Reserved) ... 86
004. Incorporation By Reference. ... 86
005. -- 009. (Reserved) ... 86
010. Definitions. ... 86
011. Abbreviations. ... 88
012. Applicability. ... 89
013. -- 049. (Reserved) ... 89
050. Requirements of Title 9, Parts 71, 75, 77, 78, 85, 145, 146, 147, and 161, CFR. ... 89
051. Post Entry Inspections. ... 89
052. -- 099. (Reserved) ... 89
100. Certificates Or Permit Required. ... 89
101. Contents Of Certificates. ... 89
102. Extended Validity Equine Certificates. ... 90
103. NPIP Certificate. ... 90
104. Import Permits. ... 90
105. To Whom May Animals Be Consigned. ... 91
106. Diversion Of Animals After Shipment. ... 91
107. Animals Exposed To Disease Or Originating In A Quarantined Area. ... 91
108. Quarantine Imposed If No Certificate Or Permit Issued. ... 91
109. Vesicular Stomatitis. ... 92
110. General Duties Of Carrier. ... 92
111. Additional Import Requirements. ... 92
112. -- 199. (Reserved) ... 92
200. Importation Of Cattle Into Idaho. ... 92
201. Cattle And Bison Imported From Canada. ... 93
202. When Permits Are Required For Cattle. ... 93
203. Official Identification Of Imported Cattle. ... 93
204. -- 209. (Reserved) ... 93

210. Brucellosis Vaccination Requirements. 93
211. Brucellosis Test Requirements. 94
212. Test Eligible Cattle. 94
213. -- 219. (Reserved) 94
220. Grazing Cattle. 94
221. -- 229. (Reserved) 95
230. Emergency Situations. 95
231. -- 239. (Reserved) 95
240. Tuberculosis Test Requirements. 95
241. -- 259. (Reserved) 96
260. Trichomoniasis. 96
261. -- 299. (Reserved) 97
300. Equidae. 97
301. -- 399. (Reserved) 98
400. Importation Of Swine. 98
401. Brucellosis Requirements. 98
402. Pseudorabies Requirements. 98
403. -- 499. (Reserved) 99
500. Dogs And Cats. 99
501. -- 599. (Reserved) 99
600. Importation Of Domestic Cervidae. 99
601. Testing Requirements. 99
602. Individual Identification. 100
603. Destination. 100
604. Import Permit. 100
605. Meningeal Worm. 100
606. Movement Of Cervidae Between AZA and USDA Facilities. 100
607. From Certified CWD Free Herd. 100
608. -- 649. (Reserved) 100
650. Fish. 100
651. -- 659. (Reserved) 100
660. Certificate And Permit. 100
661. Origin Of Fish. 101
662. -- 669. (Reserved) 101
670. VHSV Positive Areas. 101
671. -- 699. (Reserved) 101
700. Avian Species. 101
701. Poultry. 101
702. Poultry Hatching Eggs. 101
703. Ratites. 101
704. Ratite Hatching Eggs. 102
705. Psittacine Birds. 102
706. -- 709. (Reserved) 102
710. Domestic Fur-Bearing Animals. 102
711. -- 719. (Reserved) 102
720. Wildlife And Exotic Animals. 102
721. -- 799. (Reserved) 103
800. Biologics. 103
801. -- 899. (Reserved) 103
900. Violation Of Rules. 103
901. -- 999. (Reserved) 103

02.04.25 – Rules Governing Private Feeding of Big Game Animals

000. Legal Authority. 104
001. Title And Scope. 104
002. -- 009. (Reserved) 104
010. Definitions. 104
011. Abbreviations. 104
012. -- 019. (Reserved) 105
020. Applicability. 105
021. -- 099. (Reserved) 105
100. Eastern Idaho Big Game Private Feeding Prohibition Zone. 105
101. Private Feeding Of Big Game Animals Prohibited. 105
102. Incidental Grazing. 105
103. -- 119. (Reserved) 105
120. Incidental Feeding. 105
121. Spatial Separation. 105
122. -- 149. (Reserved) 105
150. Management Activities. 105
151. Entering Premises. 106
152. -- 999. (Reserved) 106

02.04.27 – Rules Governing Deleterious Exotic Animals

000. Legal Authority. 107
001. Title And Scope. 107
002. -- 003. (Reserved) 107
004. Incorporation By Reference. 107
005. -- 009. (Reserved) 107
010. Definitions. 107
011. Abbreviations. 108
012. -- 019. (Reserved) 108
020. Applicability. 108
021. Delegation Of Authority. 108
022. Inspections. 108
023. -- 099. (Reserved) 108
100. Possession And Propagation Of Deleterious Exotic Animals. 108
101. Possession Permits. 109
102. Temporary Exhibitor Permits. 111
103. -- 109. (Reserved) 112
110. Importation Of Deleterious Exotic Animals. 112
111. Import Permits. 112
112. Certificates Of Veterinary Inspection. 112
113. -- 119. (Reserved) 113
120. Disposition Of Non-Permitted Deleterious Exotic Animals. 113
121. Transfer Of Deleterious Exotic Animals. 113
122. Release Of Deleterious Exotic Animals. 113
123. Revocation Of Permits. 113
124. -- 199. (Reserved) 113
200. Confinement Of Deleterious Exotic Animals. 113
201. Construction Standards For Confinement Areas. 113
202. Escape Of Deleterious Exotic Animals. 113
203. Identification Of Deleterious Exotic Animals. 113
204. -- 299. (Reserved) 114
300. Recordkeeping. 114
301. -- 309. (Reserved) 114
310. Dead Animal Movement And Disposal. 114

311. -- 399. (Reserved) 114
400. List Of Deleterious Exotic Animals. 114
401. Deleterious Exotic Animals - Birds. 114
402. Deleterious Exotic Animals - Mammals: Canidae. 114
403. Deleterious Exotic Animals - Mammals: Cervidae. 114
404. Deleterious Exotic Animals -- Mammals: Felidae. 115
405. Deleterious Exotic Animals - Mammals: Insectivores. 115
406. Deleterious Exotic Animals - Mammals: Marsupials. 115
407. Deleterious Exotic Animals - Mammals: Non-Human Primates. 115
408. Deleterious Exotic Animals - Mammals: Ovidae. 115
409. Deleterious Exotic Animals - Mammals: Procyonidae. 115
410. Deleterious Exotic Animals - Mammals: Rodentia. 115
411. Deleterious Exotic Animals - Mammals: Suidae. 116
412. Deleterious Exotic Animals - Mammals: Tayassuidae. 116
413. -- 999. (Reserved) 116

02.04.29 – Rules Governing Trichomoniasis

000. Legal Authority. 117
001. Title And Scope. 117
002. -- 003. (Reserved) 117
004. Incorporation By Reference. 117
005. -- 009. (Reserved) 117
010. Definitions. 117
011. – 099. (Reserved) 118
100. Trichomoniasis Control And Eradication Program. 118
101. – 109. (Reserved) 119
110. Trichomoniasis Testing Identification. 119
111. -- 199. (Reserved) 119
200. Bulls For Sale. 119
201. -- 209. (Reserved) 119
210. Imported Bulls. 119
211. - 299. (Reserved) 120
300. Public Grazing. 120
301. -- 309. (Reserved) 120
310. Infected Bulls And Herds. 120
311. -- 319. (Reserved) 121
320. Movement Of Infected Cattle. 121
321. Treatment Of Infected Bulls. 121
322. -- 329. (Reserved) 121
330. Official Laboratories. 122
331. Official Trichomoniasis Tests. 122
332. Registered Veterinarians. 122
333. Reporting Of Test Results And Official Identification. 122
334. -- 399. (Reserved) 122
400. Rodeo Bulls. 122
401. -- 409. (Reserved) 123
410. Feeding Bulls Of Unknown Trichomoniasis Status. 123
411. -- 499. (Reserved) 123
500. Infections With Other Types Of Trichomonads. 123
501. -- 999. (Reserved) 123

02.01.04 – Rules Governing the Idaho Preferred® Promotion Program

000. Legal Authority. 126
001. Title And Scope. 126

002. -- 009. (Reserved) 126
010. Definitions. 126
011. -- 014. (Reserved) 127
015. Voluntary Program. 127
016. -- 099. (Reserved) 127
100. Application For Participation. 127
101. Participation Duration And Renewal. 128
102. -- 109. (Reserved) 128
110. Participation Fees. 128
111. Participation Privileges. 128
112. -- 199. (Reserved) 128
200. Product Qualification. 128
201. -- 299. (Reserved) 130
300. Logo. 130
301. Special Promotional Activities. 131
302. Other Idaho Promotion Programs. 131
303. Distribution Of Promotional Material. 131
304. -- 309. (Reserved) 131
310. Self-Certification. 132
311. Compliance. 132
312. -- 314. (Reserved) 132
315. Violation. 132
316. -- 999. (Reserved) 132

02.01.05 – Rules Governing Certificates of Free Sale

000. Legal Authority. 133
001. Title And Scope. 133
002. -- 009. (Reserved) 133
010. Definitions. 133
011. -- 099. (Reserved) 133
100. Application For Certification - Procedures. 133
101. -- 109. (Reserved) 133
110. Applicant Requirements. 133
111. -- 119. (Reserved) 133
120. Special Requests. 133
121. -- 299. (Reserved) 134
300. Fees And Charges. 134
301. -- 999. (Reserved) 134

02.06.33 – Organic Food Products Rules

000. Legal Authority. 135
001. Title And Scope. 135
002. -- 003. (Reserved) 135
004. Incorporation By Reference. 135
005. -- 009. (Reserved) 135
010. Definitions. 135
011. -- 199. (Reserved) 135
200. Idaho Organic Certification Seal. 135
201. Registration Of Approved Materials. 136
202. -- 299. (Reserved) 138
300. Certification Requirements And Fees. 138
301. Graduated Gross Sales Fee Schedule. 138
302. -- 999. (Reserved) 139

02.02.11 – Rules Governing Eggs and Egg Products
000. Legal Authority. ... 144
001. Title And Scope. ... 144
002. -- 011. (Reserved) ... 144
012. Grades And Standards. ... 144
013. -- 049. (Reserved) ... 145
050. Terms Descriptive Of Shell. ... 145
051. -- 099. (Reserved) ... 145
100. Terms Descriptive Of The Air Cell. ... 145
101. -- 149. (Reserved) ... 145
150. Terms Descriptive Of The White. ... 145
151. -- 199. (Reserved) ... 146
200. Terms Descriptive Of The Yolk. ... 146
201. -- 249. (Reserved) ... 146
250. General Terms. ... 146
251. -- 299. (Reserved) ... 147
300. Consumer Grades For Shell Eggs - General. ... 147
301. -- 349. (Reserved) ... 147
350. Grade Standards - Tolerances. ... 147
351. -- 399. (Reserved) ... 148
400. Additional Tolerances -- In Lots Of Two Or More Cases. ... 148
401. -- 449. (Reserved) ... 148
450. Summary Of Idaho Consumer Grades For Shell Eggs. ... 148
451. -- 499. (Reserved) ... 151
500. Egg Products And Breaking Operations. ... 151
501. -- 549. (Reserved) ... 151
550. Sanitation And Storage. ... 151
551. -- 599. (Reserved) ... 152
600. Egg Seals, Tax And Cartons. ... 152
601. -- 999. (Reserved) ... 154
02.02.12 – Bonded Warehouse Rules
000. Legal Authority. ... 155
001. Title And Scope. ... 155
002. -- 009. (Reserved) ... 155
010. Definitions. ... 155
011. (Reserved) 155
012. Licensing. ... 155
013. -- 049. (Reserved) ... 156
050. Receipting. ... 156
051. -- 079. (Reserved) ... 157
080. Forwarding Agricultural Commodities. ... 157
081. -- 099. (Reserved) ... 157
100. Office Records. ... 157
101. -- 129. (Reserved) ... 158
130. License Application And Conditions Of Issuance. ... 158
131. Amount Of Bond, Irrevocable Letter Of Credit, Certificate Of Deposit, Or Single Bond. ... 159
132. -- 149. (Reserved) ... 159
150. Warehouses To Be Kept Clean. ... 159
151. -- 179. (Reserved) ... 159
180. Warehouseman Responsibilities. ... 159
181. -- 199. (Reserved) ... 160

200. Insurance Settlement. 160
201. -- 229. (Reserved) 160
230. Agricultural Commodities -- Warehouse Obligations. 160
231. -- 299. (Reserved) 160
300. Financial Statements. 161
301. -- 329. (Reserved) 161
330. Amending Tariff. 161
331. -- 379. (Reserved) 161
380. License -- Duration. 161
381. -- 399. (Reserved) 161
400. Insurance Deductible. 161
401. -- 429. (Reserved) 161
430. Additional Bonding Requirements. 161
431. -- 479. (Reserved) 162
480. Commodity Indemnity Fund. 162
481. How Assessments Are To Be Calculated. 162
482. Recordkeeping And Payment Schedule. 162
483. Trust Funds. 163
484. Penalties For Failure To Collect, Account For, Or Remit Assessments. 163
485. Return Of Commodity Due To Failure. 163
486. -- 500. (Reserved) 163
501. NPE Contract Claims On The Fund. 163
502. -- 999. (Reserved) 163

02.02.13 – Commodity Dealers' Rules

000. Legal Authority. 164
001. Title And Scope. 164
002. -- 009. (Reserved) 164
010. Definitions. 164
011. Abbreviations. 164
012. Licensing. 164
013. -- 099. (Reserved) 165
100. Office Records. 165
101. -- 149. (Reserved) 165
150. Inspection. 165
151. -- 199. (Reserved) 166
200. Licensing Application Format. 166
201. -- 249. (Reserved) 166
250. Records -- Separate. 166
251. -- 299. (Reserved) 166
300. Financial Statement. 167
301. -- 349. (Reserved) 167
350. Shipping Records. 167
351. -- 399. (Reserved) 167
400. Scale Tickets. 167
401. -- 450. (Reserved) 168
451. Amount Of Bond, Irrevocable Letter Of Credit, Certificate Of Deposit, Or Single Bond. 168
452. -- 499. (Reserved) 168
500. Commodity Indemnity Fund. 168
501. NPE Contract Claims On The Fund. 168
502. How Assessments Are To Be Calculated. 169
503. Recordkeeping And Payment Schedule. 169

504. Trust Funds. ... 169
505. Penalties For Failure To Collect, Account For, Or Remit Assessments -- Other Violations. ... 169
506. Return Of Commodity Due To Failure. ... 170
507. -- 599. (Reserved) ... 170
600. Unlawful Practices. ... 170
601. -- 999. (Reserved) ... 170

02.02.15 – Rules Governing the Seed Indemnity Fund

000. Legal Authority. ... 171
001. Title And Scope. ... 171
002. -- 009. (Reserved) ... 171
010. Definitions. ... 171
011. Abbreviations. ... 171
012. Delivery Voucher. ... 171
013. Warehouse Receipts. ... 171
014. Scale Weight Tickets. ... 172
015. -- 025. (Reserved) ... 172
026. License. ... 172
027. -- 035. (Reserved) ... 173
036. Amount Of Bond For Seed Stored For Withdrawal. ... 173
037. Amount Of Bond, Irrevocable Letter Of Credit, Certificate Of Deposit, Or Single Bond. ... 173
038. -- 046. (Reserved) ... 173
047. Maintenance Of Records. ... 173
048. -- 049. (Reserved) ... 173
050. Insurance Requirements. ... 173
051. -- 059. (Reserved) ... 174
060. Noncompliance -- Requirements. ... 174
061. -- 069. (Reserved) ... 174
070. How Assessments Are To Be Calculated. ... 174
071. -- 079. (Reserved) ... 175
080. Collection And Remittance Of SIF Assessments. ... 175
081. -- 089. (Reserved) ... 175
090. Claim Forms And Payment From The Fund. ... 175
091. -- 099. (Reserved) ... 175
100. Exemptions. ... 175
101. -- 999. (Reserved) ... 175

02.04.19 – Rules Governing Domestic Cervidae

000. Legal Authority. ... 176
001. Title And Scope. ... 176
002. – 003. (Reserved) ... 176
004. Incorporation By Reference. ... 176
005. -- 009. (Reserved) ... 176
010. Definitions. ... 176
011. Abbreviations. ... 179
012. Applicability. ... 180
013. AZA Accredited Facilities And USDA Licensed Facilities. ... 180
014. Importation Of Domestic Cervidae. ... 180
015. -- 019. (Reserved) ... 180
020. Location Of Domestic Cervidae. ... 180
021. Official Identification. ... 181
022. Types Of Official Identification. ... 181
023. National CWD Herd Certification Program Official Identification. ... 181

024. -- 029. (Reserved) ... 182
030. Official Visible Identification. ... 182
031. Reidentification Of Domestic Cervidae. ... 182
032. -- 039. (Reserved) ... 182
040. Inspections. ... 183
041. -- 049. (Reserved) ... 183
050. Genetics. ... 183
051. -- 059. (Reserved) ... 183
060. Wild Cervidae. ... 183
061. -- 069. (Reserved) ... 183
070. Supervision Of Domestic Cervidae Program. ... 183
071. -- 079. (Reserved) ... 183
080. Disposal Of Domestic Cervidae. ... 183
081. -- 089. (Reserved) ... 184
090. Fees. ... 184
091. -- 099. (Reserved) ... 184
100. Domestic Cervidae Ranches. ... 184
101. Domestic Cervidae Ranch Facility Requirements. ... 184
102. Perimeter Fence Requirements. ... 184
103. Gathering And Restraining System. ... 185
104. Water System. ... 185
105. Quarantine Facility. ... 185
106. -- 199. (Reserved) ... 185
200. Records And Reporting. ... 185
201. Annual Inventory Report. ... 186
202. Inventory Verification. ... 186
203. Change Of Address. ... 186
204. Escape Of Domestic Cervidae. ... 187
205. Notice Of Death Of Domestic Cervidae. ... 187
206. (Reserved) ... 188
207. Notification Of Exposure To Disease. ... 188
208. Intrastate Movement Certificate. ... 188
209. Ranch Management Plan. ... 188
210. -- 249. (Reserved) ... 189
250. Intrastate Movement Of Domestic Cervidae. ... 189
251. -- 299. (Reserved) ... 189
300. Disease Control. ... 189
301. Duty To Restrain. ... 189
302. Testing Methods. ... 190
303. Testing, Treatment, Quarantine, Or Disposal Required. ... 190
304. Quarantines. ... 190
305. Declaration Of Animal Health Emergency. ... 190
306. -- 399. (Reserved) ... 190
400. Brucellosis. ... 190
401. -- 449. (Reserved) ... 190
450. Tuberculosis. ... 190
451. -- 499. (Reserved) ... 191
500. Surveillance For CWD. ... 191
501. Collection Of Samples For CWD Testing. ... 191
502. Official CWD Tests. ... 192
503. CWD Status. ... 192
504. Investigation Of CWD. ... 193

505. Duration Of CWD Quarantine. 193
506. Cleaning, Treating, Decontaminating, Or Disinfecting. 194
507. -- 999. (Reserved) 194

02.06.06 – Rules Governing the Planting of Beans

000. Legal Authority. 195
001. Title And Scope. 195
002. -- 009. (Reserved) 195
010. Definitions. 195
011. Abbreviations. 196
012. Regulated Pests (Phaseolus And Non-Phaseolus). 196
013. Regulated Pests (Non-Phaseolus Only). 196
014. -- 049. (Reserved) 197
050. Regulated Articles. 197
051. Edible Harvest Exemption. 197
052. Home Garden Exemption. 197
053. -- 149. (Reserved) 197
150. Inspection (Phaseolus). 197
151. Inspection (Non-Phaseolus) 198
152. -- 199. (Reserved) 198
200. Requirements For Planting Bean Seed In Idaho (Phaseolus). 198
201. Requirements For Planting Bean Seed In Idaho (Non-Phaseolus). 200
202. -- 249. (Reserved) 201
250. Trial Grounds. 201
251. -- 299. (Reserved) 202
300. Special Situations. 202
301. -- 349. (Reserved) 202
350. Detection, Identification, And Reporting Of Regulated Pests. 202
351. -- 399. (Reserved) 202
400. Disposition Of Diseased Seed And Infected Fields. 202
401. -- 449. (Reserved) 202
450. Exemptions From Destruction (Phaseolus). 202
451. Exemptions From Destruction (Non-Phaseolus). 203
452. -- 549. (Reserved) 203
550. Fees And Charges. 203
551. -- 999. (Reserved) 204

IDAPA 02.06 – IDAHO HONEY COMMISSION

Docket No. 02-0616-1900

02.06.16 – Rules Governing Honey Standards

000. Legal Authority. 206
001. Title And Scope. 206
002. – 003. (Reserved) 206
004. Incorporation By Reference. 206
005. -- 009. (Reserved) 206
010. Definitions. 206
011. Complaint Process. 207
012. -- 014. (Reserved) 207
015. Standards Of Identity - Honey. 207
016. Types And Styles Of Honey. 208
017. -- 022. (Reserved) 209
023. Misbranding. 209
024. -- 999. (Reserved) 209

IDAPA 02.07 – IDAHO HOP GROWERS' COMMISSION

Docket No. 02-0701-1900F

02.07.01 – Rules of the Idaho Hop Growers' Commission

000. Legal Authority. ... 211
001. Title And Scope. ... 211
002. -- 009. (Reserved) ... 211
010. Definitions. ... 211
011. -- 099. (Reserved) ... 211
100. Markings Required. ... 211
101. Removal Or Defacing Of Stencils. ... 211
102. Misrepresentation. ... 211
103. Time Of Payment Of Hop Assessment Levy. ... 211
104. Computation Of Assessment. ... 211
105. Collection Of Hop Assessment Levy. ... 211
106. Assessment Return. ... 212
107. -- 999. (Reserved) ... 212

IDAPA 02.08 – IDAHO SHEEP AND GOAT HEALTH BOARD

Docket No. 02-0801-1900F

02.08.01 – Sheep and Goat Rules of the Idaho Sheep and Goat Health Board

000. Legal Authority. ... 214
001. Title And Scope. ... 214
002. – 003. (Reserved) ... 214
004. Incorporation By Reference. ... 214
005. -- 009. (Reserved) ... 214
010. Definitions. ... 214
011. Abbreviations. ... 217
012. Applicability. ... 217
013. Additional Import Requirements. ... 217
014. -- 099. (Reserved) ... 217
100. Sheep And Goat State Entrance Requirements. ... 217
101. Permits. ... 217
102. Scabies. ... 218
103. Animals In Transit. ... 218
104. Dairy Goats. ... 218
105. Importation Of Scrapie Exposed, Suspect And High Risk Animals. ... 218
106. Idaho Origin Sheep Interstate Grazing Permit. ... 219
107. Interstate Shipments. ... 219
108. -- 199. (Reserved) ... 219
200. Scrapie Program Standards, Scrapie Flock Certification, Scrapie Control And Eradication. ... 219
201. Identification Of Breeding Sheep. ... 219
202. Quarantine. ... 220
203. Restriction Of High-Risk Animals. ... 220
204. Movement Of Restricted Animals. ... 220
205. -- 299. (Reserved) ... 221
300. Certified Brucella Ovis Free Flock. ... 221
301. Brucella Ovis Free Flock Program Standards. ... 221
302. -- 399. (Reserved) ... 222
400. Condemnation And Destruction Of Diseased Animals Or Flocks. ... 222
401. -- 499. (Reserved) ... 222

500. Indemnification. 222
501. -- 599. (Reserved) 222
600. Cleaning And Disinfection. 222
601. -- 699. (Reserved) 223
700. Sheep Assessments. 223
701. Goat Assessments. 223
702. -- 899. (Reserved) 223
900. Violations. 223
901. -- 999. (Reserved) 223

IDAPA 04 – OFFICE OF THE ATTORNEY GENERAL

Docket No. 04-0000-1900

04.02.01 – Idaho Rules of Consumer Protection, Office of the Attorney General

000. Legal Authority (Rule 0). 225
001. Title And Scope (Rule 1). 225
002. Written Interpretations--Agency Guidelines (Rule 2). 225
003. Rules Of Construction (Rule 3). 225
004. Non-Inclusive (Rule 4). 225
005. Cumulative (Rule 5). 225
006. Non-Exclusive (Rule 6). 225
007. Exceptions To These Rules (Rule 7). 225
008. Regulated Persons (Rule 8). 225
009. Knowledge (Rule 9). 225
010. -- 019. (Reserved) 226
020. Definitions (Rule 20). 226
021. -- 029. (Reserved) 231
030. General Rule (Rule 30). 231
031. Substantiation (Rule 31). 231
032. Contradictory Representations (Rule 32). 231
033. Violations Of Other Laws And Court Orders (Rule 33). 231
034. Official, Governmental, Or Other Misleading Envelopes Or Offers (Rule 34). 232
035. Invoices And Bills (Rule 35). 232
036. Mailbox Addresses (Rule 36). 232
037. -- 039. (Reserved) 232
040. General Rule (Rule 40). 232
041. Subsequent Disclosure (Rule 41). 232
042. -- 049. (Reserved) 232
050. General Rule (Rule 50). 233
051. Initial Offer (Rule 51). 233
052. Discouragement Of Purchase Of Advertised Merchandise (Rule 52). 233
053. Switch After Sale (Rule 53). 233
054. Pattern Of Conduct (Rule 54). 233
055. Leader Items (Rule 55). 233
056. -- 059. (Reserved) 233
060. Deceptive Pricing -- General Rule (Rule 60). 234
061. Comparative Pricing -- General Rule (Rule 61). 234
062. Comparisons Of Seller's Present Prices To Seller's Former Prices (Rule 62). 234
063. Competitor Retail Price Comparisons (Rule 63). 235
064. Comparable Price Comparisons (Rule 64). 235
065. Reference Retail Pricing Practices (Rule 65). 235
066. Wholesale, Factory Direct, Or Similar Claims (Rule 66). 235
067. Limited Offers (Rule 67). 235

068. Substantiation (Rule 68). 236
069. (Reserved) 236
070. General Rule (Rule 70). 236
071. Tie-In Sales (Rule 71). 236
072. Conditional Offers (Rule 72). 236
073. Use Of Similar Terms (Rule 73). 236
074. Asterisks (Rule 74). 236
075. Delivery Charges (Rule 75). 236
076. -- 079. (Reserved) 236
080. No Purchase Required For Chance Promotions (Rule 80). 237
081. Disclosure Requirements In Gift Promotions (Rule 81). 237
082. Misleading Offers (Rule 82). 237
083. -- 089. (Reserved) 238
090. General Rule (Rule 90). 238
091. Inflating Inventory (Rule 91). 238
092. -- 099. (Reserved) 238
100. General Rule (Rule 100). 238
101. Rain Checks (Rule 101). 238
102. Substitute Goods (Rule 102). 239
103. Determination Of Reasonably Expected Public Demand (Rule 103). 239
104. -- 109. (Reserved) 239
110. General Rule (Rule 110). 239
111. Disclosure Required (Rule 111). 239
112. Acceptable Disclosures (Rule 112). 239
113. Returned Goods (Rule 113). 239
114. -- 119. (Reserved) 239
120. General Rule (Rule 120). 239
121. Unforeseeable Conditions (Rule 121). 239
122. Express Limited Authorization (Rule 122). 240
123. -- 129. (Reserved) 240
130. General Rule (Rule 130). 240
131. Itemized Billing (Rule 131). 240
132. Old Or Replaced Parts (Rule 132). 240
133. -- 139. (Reserved) 241
140. General Rule (Rule 140). 241
141. Mail Order Sales (Rule 141). 241
142. -- 149. (Reserved) 241
150. General Rule (Rule 150). 241
151. Refunds Of Lay-Away Payments (Rule 151). 242
152. Forfeiture And Default (Rule 152). 242
153. -- 159. (Reserved) 242
160. Disclosure Requirements (Rule 160). 242
161. General Rule (Rule 161). 242
162. Prohibited Practices (Rule 162). 243
163. Mail Order And Catalog Sales (Rule 163). 243
164. Application Of Other Rules (Rule 164). 243
165. -- 169. (Reserved) 243
170. General Rule (Rule 170). 243
171. -- 189. (Reserved) 245
190. General Rule (Rule 190). 245
191. Purported Limitations (Rule 191). 245
192. Factors (Rule 192). 245

193. -- 199. (Reserved) 246
200. General Rule (Rule 200). 246
201. Exceptions (Rule 201). 246
202. -- 209. (Reserved) 246
210. General Rule (Rule 210). 246
211. -- 219. (Reserved) 247
220. General Rule (Rule 220). 247
221. -- 229. (Reserved) 247
230. Objective (Rule 230). 247
231. Application Of Other Rules (Rule 231). 247
232. General Advertising Practices (Rule 232). 248
233. Price Advertising (Rule 233). 248
234. Other Advertising Practices (Rule 234). 249
235. Credit Sales Advertising (Rule 235). 251
236. Truth In Leasing Advertising (Rule 236). 252
237. Motor Vehicle Subject-To-Financing Contracts (Rule 237). 252
238. -- 999. (Reserved) 252

04.11.01 – Idaho Rules of Administrative Procedure of the Attorney General

000. Legal Authority (Rule 0). 253
001. Title And Scope (Rule 1). 253
002. Written Interpretations -- Agency Guidelines (Rule 2). 253
003. Administrative Appeal (Rule 3). 253
004. Public Records Act Compliance (Rule 4). 253
005. Definitions (Rule 5). 253
006. Filing Of Documents -- Number Of Copies (Rule 6). 255
007. -- 049. (Reserved) 255
050. Proceedings Governed (Rule 50). 255
051. Reference To Agency (Rule 51). 255
052. Liberal Construction (Rule 52). 255
053. Communications With Agency (Rule 53). 255
054. Identification Of Communications (Rule 54). 255
055. Service By Agency (Rule 55). 256
056. Computation Of Time (Rule 56). 256
057. Fees And Remittances (Rule 57). 256
058. -- 099. (Reserved) 256
100. Informal Proceedings Defined (Rule 100). 256
101. Informal Procedure (Rule 101). 256
102. Further Proceedings (Rule 102). 257
103. Informal Proceedings Do Not Exhaust Administrative Remedies (Rule 103). 257
104. Formal Proceedings (Rule 104). 257
105. -- 149. (Reserved) 257
150. Parties To Contested Cases Listed (Rule 150). 257
151. Applicants/Claimants/Appellants (Rule 151). 257
152. Petitioners (Rule 152). 257
153. Complainants (Rule 153). 257
154. Respondents (Rule 154). 257
155. Protestants (Rule 155). 257
156. Intervenors (Rule 156). 257
157. Rights Of Parties And Of Agency Staff (Rule 157). 258
158. Persons Defined -- Persons Not Parties -- Interested Persons (Rule 158). 258
159. -- 199. (Reserved) 258
200. Initial Pleading By Party -- Listing Of Representatives (Rule 200). 258

201. Taking Of Appearances -- Participation By Agency Staff (Rule 201). 258
202. Representation Of Parties At Hearing (Rule 202). 258
203. Service On Representatives Of Parties And Other Persons (Rule 203). 259
204. Withdrawal Of Parties (Rule 204). 259
205. Substitution Of Representative -- Withdrawal Of Representative (Rule 205). 259
206. Conduct Required (Rule 206). 259
207. -- 209. (Reserved) 259
210. Pleadings Listed -- Miscellaneous (Rule 210). 259
211. -- 219. (Reserved) 259
220. Applications/Claims/Appeals -- Defined -- Form And Contents (Rule 220). 259
221. -- 229. (Reserved) 260
230. Petitions -- Defined -- Form And Contents (Rule 230). 260
231. -- 239. (Reserved) 260
240. Complaints -- Defined -- Form And Contents (Rule 240). 260
241. -- 249. (Reserved) 260
250. Protests -- Defined -- Form And Contents (Rule 250). 260
251. -- 259. (Reserved) 261
260. Motions -- Defined -- Form And Contents -- Time For Filing (Rule 260). 261
261. -- 269. (Reserved) 261
270. Answers -- Defined -- Form And Contents -- Time For Filing (Rule 270). 261
271. -- 279. (Reserved) 261
280. Consent Agreements -- Defined: Form And Contents (Rule 280). 261
281. -- 299. (Reserved) 262
300. Filing Documents With The Agency -- Number Of Copies -- Facsimile Transmission (Fax) (Rule 300). 262
301. Form Of Pleadings (Rule 301). 262
302. Service On Parties And Other Persons (Rule 302). 263
303. Proof Of Service (Rule 303). 263
304. Defective, Insufficient Or Late Pleadings (Rule 304). 263
305. Amendments To Pleadings -- Withdrawal Of Pleadings (Rule 305). 263
306. -- 349. (Reserved) 263
350. Order Granting Intervention Necessary (Rule 350). 263
351. Form And Contents Of Petitions To Intervene (Rule 351). 264
352. Timely Filing Of Petitions To Intervene (Rule 352). 264
353. Granting Petitions To Intervene (Rule 353). 264
354. Orders Granting Intervention -- Opposition (Rule 354). 264
355. Public Witnesses (Rule 355). 264
356. -- 399. (Reserved) 264
400. Form And Contents Of Petition For Declaratory Rulings (Rule 400). 264
401. Notice Of Petition For Declaratory Ruling (Rule 401). 265
402. Petitions For Declaratory Rulings To Be Decided By Order (Rule 402). 265
403. -- 409. (Reserved) 265
410. Appointment Of Hearing Officers (Rule 410). 265
411. Hearing Officers Contrasted With Agency Head (Rule 411). 265
412. Disqualification Of Officers Hearing Contested Cases (Rule 412). 265
413. Scope Of Authority Of Hearing Officers (Rule 413). 266
414. Presiding Officer(s) (Rule 414). 266
415. Challenges To Statutes (Rule 415). 266
416. Review Of Rules (Rule 416). 266
417. Ex Parte Communications (Rule 417). 267
418. -- 419. (Reserved) 267
420. Contrast Between Agency's Prosecutorial/Investigative

And Adjudicatory Functions (Rule 420). 267
421. Public Inquiries About Or Recommendations For Agency Issuance Of A Complaint (Rule 421). 267
422. Consideration Of Consent Agreement Or Other Settlements Before Complaint Issued (Rule 422). 268
423. Procedures After Issuance Of A Complaint And Before The Agency Head's Consideration Of The Complaint (Rule 423). 269
424. Hearing Officers (Rule 424). 270
425. Agency Head's Consideration Of Recommended Or Preliminary Order (Rule 425). 270
426. -- 499. (Reserved) 271
500. Alternative Resolution Of Contested Cases (Rule 500). 271
501. Neutrals (Rule 501). 271
502. Confidentiality Rule 502). 272
503. -- 509. (Reserved) 272
510. Purposes Of Prehearing Conferences (Rule 510). 272
511. Notice Of Prehearing Conference (Rule 511). 272
512. Record Of Conference (Rule 512). 272
513. Orders Resulting From Prehearing Conference (Rule 513). 272
514. Facts Disclosed Not Part Of The Record (Rule 514). 272
515. -- 519. (Reserved) 272
520. Kinds And Scope Of Discovery Listed (Rule 520). 272
521. When Discovery Authorized (Rule 521). 273
522. Rights To Discovery Reciprocal (Rule 522). 273
523. Depositions (Rule 523). 273
524. Production Requests Or Written Interrogatories And Requests For Admission (Rule 524). 273
525. Subpoenas (Rule 525). 273
526. Statutory Inspection, Examination, Investigation, Etc. -- Contrasted With Other Discovery (Rule 526). 273
527. Answers To Production Requests Or Written Interrogatories And To Requests For Admission (Rule 527). 274
528. Filing And Service Of Discovery-Related Documents (Rule 528). 274
529. Exhibit Numbers (Rule 529). 274
530. Prepared Testimony And Exhibits (Rule 530). 274
531. Sanctions For Failure To Obey Order Compelling Discovery (Rule 531). 274
532. Protective Orders (Rule 532). 274
533. -- 549. (Reserved) 274
550. Notice Of Hearing (Rule 550). 274
551. Facilities At Or For Hearing And ADA Requirements (Rule 551). 274
552. How Hearings Held (Rule 552). 275
553. Conduct At Hearings (Rule 553). 275
554. Conference At Hearing (Rule 554). 275
555. Preliminary Procedure At Hearing (Rule 555). 275
556. Consolidation Of Proceedings (Rule 556). 275
557. Stipulations (Rule 557). 275
558. Order Of Procedure (Rule 558). 275
559. Testimony Under Oath (Rule 559). 275
560. Parties And Persons With Similar Interests (Rule 560). 275
561. Continuance Of Hearing (Rule 561). 275
562. Rulings At Hearings (Rule 562). 275
563. Oral Argument (Rule 563). 275
564. Briefs -- Memoranda -- Proposed Orders Of The Parties -- Statements Of Position -- Proposed Order Of The Presiding Officer (Rule 564). 276

565. Procedure On Prehearing Motions (Rule 565). ... 276
566. Joint Hearings (Rule 566). ... 276
567. -- 599. (Reserved) ... 276
600. Rules Of Evidence -- Evaluation Of Evidence (Rule 600). ... 276
601. Documentary Evidence (Rule 601). ... 276
602. Official Notice -- Agency Staff Memoranda (Rule 602). ... 276
603. Depositions (Rule 603). ... 276
604. Objections -- Offers Of Proof (Rule 604). ... 277
605. Prepared Testimony (Rule 605). ... 277
606. Exhibits (Rule 606). ... 277
607. -- 609. (Reserved) ... 277
610. Confidentiality Of Settlement Negotiations (Rule 610). ... 277
611. Suggestion For Or Inquiry About Settlements (Rule 611). ... 277
612. Consideration Of Settlements (Rule 612). ... 277
613. Burdens Of Proof (Rule 613). ... 277
614. Settlement Not Binding (Rule 614). ... 277
615. -- 649. (Reserved) ... 278
650. Record For Decision (Rule 650). ... 278
651. Recording Or Reporting Of Hearings (Rule 651). ... 278
652. -- 699. (Reserved) ... 278
700. Notice Of Proposed Default After Failure To Appear (Rule 700). ... 278
701. Seven Days To Challenge Proposed Default Order (Rule 701). ... 279
702. Issuance Of Default Order (Rule 702). ... 279
703. -- 709. (Reserved) ... 279
710. Interlocutory Orders (Rule 710). ... 279
711. Review Of Interlocutory Orders (Rule 711). ... 279
712. -- 719. (Reserved) ... 279
720. Recommended Orders (Rule 720). ... 279
721. -- 729. (Reserved) ... 280
730. Preliminary Orders (Rule 730). ... 280
731. -- 739. (Reserved) ... 281
740. Final Orders (Rule 740). ... 281
741. Orders Regarding Costs And/Or Fees (Rule 741). ... 281
742. -- 749. (Reserved) ... 283
750. Order Not Designated (Rule 750). ... 283
751. -- 759. (Reserved) ... 283
760. Modification Of Order On Presiding Officer's Own Motion (Rule 760). ... 283
761. -- 769. (Reserved) ... 283
770. Clarification Of Orders (Rule 770). ... 283
771. -- 779. (Reserved) ... 283
780. Stay Of Orders (Rule 780). ... 283
781. -- 789. (Reserved) ... 283
790. Persons Who May Appeal (Rule 790). ... 283
791. Notice Of Appeal (Rule 791). ... 283
792. -- 799. (Reserved) ... 284
800. Formal And Informal Rulemaking (Rule 800). ... 284
801. -- 809. (Reserved) ... 284
810. Legislative Preference For Negotiated Rulemaking Procedures (Rule 810). ... 284
811. Publication In Idaho Administrative Bulletin (Rule 811). ... 284
812. Contents Of Notice Of Intent To Promulgate Rules (Rule 812). ... 285
813. Public Meetings (Rule 813). ... 285
814. Reports To The Agency (Rule 814). ... 285

815. Agency Consideration Of Report (Rule 815). ... 285
816. -- 819. (Reserved) ... 285
820. Form And Contents Of Petition To Initiate Rulemaking (Rule 820). ... 285
821. Agency Response To Petition (Rule 821). ... 286
822. Notice Of Intent To Initiate Rulemaking Constitutes Action On Petition (Rule 822). ... 286
823. -- 829. (Reserved) ... 286
830. Requirements For Notice Of Proposed Rulemaking (Rule 830). ... 287
831. Informal Phases Of Formal Rulemaking (Rule 831). ... 288
832. Comments On Proposed Rules (Rule 832). ... 288
833. Petitions For Oral Presentation (Rule 833). ... 288
834. The Rulemaking Record (Rule 834). ... 289
835. Adoption And Publication Of Pending Rules Following Comment Or Oral Presentation (Rule 835). ... 289
836. Final Rules (Rule 836). ... 290
837. -- 839. (Reserved) ... 290
840. Procedure For Adoption Of Temporary Rules (Rule 840). ... 290
841. -- 849. (Reserved) ... 290
850. Correction Of Typographical, Transcription Or Clerical Errors In Pending Rules (Rule 850). ... 290
851. -- 859. (Reserved) ... 290
860. Persons Who May Seek Judicial Review (Rule 860). ... 291
861. -- 999. (Reserved) ... 291

04.12.01 – Rules of Administrative Procedure for Consideration of Cooperative Agreements Filed by Health Care Providers

000. Legal Authority (Rule 0). ... 292
001. Title And Scope (Rule 1). ... 292
002. Written Interpretations -- Attorney General Guidelines (Rule 2). ... 292
003. Administrative Review (Rule 3). ... 292
004. Public Records Act Compliance (Rule 4). ... 292
005. Definitions (Rule 5). ... 292
006. Filing Of Documents -- Number Of Copies (Rule 6). ... 293
007. Attorney General's Rules Of Administrative Procedure Superseded For Contested Cases (Rule 7). ... 293
008. -- 049. (Reserved) ... 293
050. Proceedings Governed (Rule 50). ... 293
051. (Reserved) 293
052. Adoption By Reference Of Rules Addressing Construction Of These Rules, Communications To The Office, Service By The Office And Computation Of Time (Rule 52). ... 293
053. -- 099. (Reserved) ... 293
100. Adoption By Reference Of Rules Addressing Informal Proceedings (Rule 100). ... 294
101. Informal Procedure (Rule 101). ... 294
102. -- 109. (Reserved) ... 294
110. Notice Of Intent To File Application (Rule 110). ... 294
111. Procedure Upon Receipt Of Notice Of Intent To File Application (Rule 111). ... 294
112. -- 149. (Reserved) ... 294
150. Parties To Contested Cases Listed (Rule 150). ... 294
151. Applicants (Rule 151). ... 294
152. Petitioners (Rule 152). ... 294
153. Complainants (Rule 153). ... 295
154. Respondents (Rule 154). ... 295
155. Intervenors (Rule 155). ... 295
156. Investigative/Prosecutorial Staff (Rule 156). ... 295

157. Rights Of Parties And Of Attorney General Investigative/Prosecutorial Staff (Rule 157)..... 295
158. Persons Defined -- Persons Not Parties -- Interested Persons (Rule 158)..... 295
159. -- 199. (Reserved)..... 295
200. Adoption By Reference Of Rules Addressing Representatives Of Parties (Rule 200)..... 295
201. -- 209. (Reserved)..... 295
210. Pleadings Listed -- Miscellaneous (Rule 210)..... 295
211. -- 219. (Reserved)..... 296
220. Applications -- Defined -- Form And Contents (Rule 220)..... 296
221. -- 229. (Reserved)..... 297
230. Adoption By Reference Of Rules Addressing Petitions, Complaints, Motions, Answers And Consent Agreements (Rule 230). 297
231. -- 299. (Reserved)..... 297
300. Filing Documents -- Number Of Copies -- Facsimile Transmission (Fax) (Rule 300). 297
301. Adoption By Reference Of Rules Addressing Service Of Pleadings And Other Rules On Pleadings (Rule 301). 297
302. -- 349. (Reserved)..... 297
350. Adoption By Reference Of Rules Addressing Intervention And Public Witnesses (Rule 350). 297
351. -- 399. (Reserved)..... 297
400. Adoption By Reference Of Rules Addressing Declaratory Rulings (Rule 400). 298
401. -- 409. (Reserved)..... 298
410. Appointment Of Hearing Officers (Rule 410). 298
411. Hearing Officers Contrasted With Attorney General (Rule 411)..... 298
412. Disqualification Of Officers Hearing Contested Cases (Rule 412)..... 298
413. Adoption By Reference Of Rules Addressing Hearing Officers And Presiding Officers (Rule 413). 298
414.-- 419. (Reserved)..... 298
420. Contrast Between Office Of Attorney General's Investigative/Prosecutorial And Adjudicatory Functions (Rule 420). 299
421. Public Inquiries About Or Recommendations For Complaint (Rule 421). 299
422. Consideration Of Consent Agreement Or Other Settlements (Rule 422)..... 300
423. Procedures After Initiation Of Formal Case (Rule 423)..... 300
424. Hearing Officers (Rule 424). 301
425. Attorney General's Consideration Of Preliminary Order (Rule 425)..... 301
426. -- 499. (Reserved)..... 302
500. Adoption By Reference Of Rules Addressing Alternative Dispute Resolution (ADR) (Rule 500). 302
501. -- 509. (Reserved)..... 302
510. Adoption Of Reference Of Rules Addressing Prehearing Conferences (Rule 510)..... 302
511. -- 519. (Reserved)..... 302
520. Kinds And Scope Of Discovery Listed (Rule 520)..... 302
521. When Discovery Authorized (Rule 521). 302
522. Rights To Discovery Reciprocal (Rule 522). 302
523. Depositions (Rule 523)..... 303
524. Production Requests Or Written Interrogatories And Requests For Admission (Rule 524). 303
525. Answers To Discovery In Public Files (Rule 525). 303
526. (Reserved) 303
527. Adoption By Reference Of Rules Relating To Answers To Production Requests, Filing And Service Of Discovery-Related Documents, Exhibit Numbers, And Prepared Testimony And Exhibits (Rule 527). 303
528. -- 530. (Reserved)..... 303
531. Sanctions For Failure To Obey Order Scheduling Discovery (Rule 531)..... 303
532. -- 539. (Reserved)..... 303

540. Timetable For Processing Application For Certificate Of Public Advantage (Rule 540)..... 303
541. Applicants' Burdens Of Proof (Rule 541). 303
542. Appointment Of Hearing Officer (Rule 542). 304
543. Attorney General's Review Of Preliminary Order Discretionary (Rule 543). 304
544. Order Granting An Application For A Certificate -- Issuance Of Certificate (Rule 544). 304
545. Effect Of Issuance Of Certificate (Rule 545). 305
546. Recommendation For Revocation Of Certificate -- Review By Attorney General (Rule 546). 305
547. Procedure When Complaint Issued (Rule 547). 305
548. Procedure When Revocation Contested (Rule 548). 305
549. Termination Of Cooperative Agreement (Rule 549). 305
550. Adoption By Reference Of Rules Addressing Hearings And Miscellaneous Procedure (Rule 550). 306
551. -- 599. (Reserved) 306
600. Adoption By Reference Of Rules Addressing Evidence (Rule 600). 306
601. -- 609. (Reserved) 306
610. Adoption By Reference Of Rules Addressing Settlements (Rule 610). 306
611. -- 649. (Reserved) 306
650. Adoption By Reference Of Rules Addressing Records For Decision (Rule 650). 306
651. -- 699. (Reserved) 306
700. Adoption By Reference Of Rules Addressing Defaults (Rule 700). 306
701. -- 709. (Reserved) 306
710. Adoption By Reference Of Rules Addressing Interlocutory, Preliminary And Final Orders And Review Or Stay Of Orders (Rule 710). 306
711. -- 789. (Reserved) 307
790. Adoption By Reference Of Rules Addressing Appeal To District Court (Rule 790). 307
791. -- 999. (Reserved) 307

04.20.01 – Rules Implementing the Idaho Tobacco Master Settlement Agreement Complementary Act

000. Legal Authority (Rule 0). 308
001. Title And Scope (Rule 1). 308
002. Written Interpretations -- Agency Guidelines (Rule 2). 308
003. Public Records Act Compliance (Rule 3). 308
004. Administrative Appeals (Rule 4). 308
005. Definitions (Rule 5). 308
006. -- 099. (Reserved) 309
100. Quarterly Certifications And Escrow Deposits (Rule 100). 309
101. Deadline For Quarterly Escrow Deposits (Rule 101). 309
102. Deadline For Submitting Quarterly Certification And Notifying Attorney General Of Quarterly Escrow Deposit (Rule 102). 309
103. Quarterly Periods Defined (Rule 103). 309
104. Untimely Or Incomplete Quarterly Certification Or Quarterly Escrow Deposit (Rule 104). 309
105. -- 199. (Reserved) 310
200. Review Of Attorney General Decisions Related To Excluding Or Removing From The Directory (Rule 200). 310
201. -- 299. (Reserved) 310
300. Directory (Rule 300). 310
301. Publication Of Directory (Rule 301). 310
302. Directory Updates (Rule 302). 310
303. Directory Update Notices -- Stamping Agents (Rule 303). 310
304. Directory Update Notices -- Tobacco Product Manufacturer -- Addition (Rule 304). 311
305. Directory Update Notices -- Tobacco Product Manufacturer --

Noninclusion Or Removal (Rule 305). 311
306. Burden Of Establishing Entitlement To Be Listed In The Directory (Rule 306). 311
308. -- 999. (Reserved) 311

04.02.02 – Idaho Rules of Telephone Solicitations and Pay-Per-Telephone-Call Services, Office of the Attorney General

000. Legal Authority (Rule 0). 313
001. Title And Scope (Rule 1). 313
002. Written Interpretations -- Agency Guidelines (Rule 2). 313
003. Rules Of Construction (Rule 3). 313
004. Non-Inclusive (Rule 4). 313
005. Cumulative (Rule 5). 313
006. Non-Exclusive (Rule 6). 313
007. Exceptions To These Rules (Rule 7). 313
008. -- 019. (Reserved) 313
020. Definitions (Rule 20). 313
021. -- 029. (Reserved) 317
030. Registration (Rule 30). 317
031. Verification (Rule 31). 317
032. Renewal (Rule 32). 317
033. Amended Inform (Rule 33). 317
034. Registration (Rule 34). 317
035. Posting Of Registration (Rule 35). 317
036. Defective Registration (Rule 36). 317
037. Registration Time Period (Rule 37). 318
038. -- 039. (Reserved) 318
040. Information Disclosure (Rule 40). 318
041. -- 049. (Reserved) 320
050. Material Disclosures (Rule 50). 320
051. Incentive Promotions (Rule 51). 320
052. Precious Stones And Mineral Promotions (Rule 52). 320
053. Oil, Gas, And Mineral Field Promotions (Rule 53). 321
054. Office Supplies And Equipment Promotions (Rule 54). 321
055. Compliance With Section 48-603A, Idaho Code (Rule 55). 321
056. Oral Notice Of Cancellation And Telephone Solicitor Identification (Rule 56). 322
057. Notice Of Cancellation (Rule 57). 322
058. -- 059. (Reserved) 322
060. Preamble Message (Rule 60). 322
061. Pay-Per-Telephone-Call Services Aimed At Children (Rule 61). 322
062. Bypass (Rule 62). 322
063. Preamble Message Modification (Rule 63). 323
064. Advertisement Disclosures (Rule 64). 323
065. -- 069. (Reserved) 323
070. Intimidation (Rule 70). 323
071. Refusal To Hang Up (Rule 71). 323
072. Misrepresentations (Rule 72). 323
073. Compliance With Rules (Rule 73). 323
074. -- 079. (Reserved) 323
080. Appointment Of Attorney General As Agent For Service Of Process (Rule 80). 324
081. Service Of Process (Rule 81). 324
082. -- 999. (Reserved) 324

IDAPA 05 – IDAHO DEPARTMENT OF JUVENILE CORRECTIONS

Docket No. 05-0000-1900

05.01.02 – Rules and Standards for Secure Juvenile Detention Centers

000. Legal Authority. 326
001. Title And Scope. 326
002. Administrative Appeals. 326
003. Incorporation By Reference. 326
004. Public Records Act Compliance. 326
005. -- 009. (Reserved) 326
010. Definitions. 326
011. -- 199. (Reserved) 329
200. Inspection Provisions. 329
201. Department Prepared Written Report Or Their Agents. 329
202. Compliance With Standards Enforced. 329
203. Conformity With Applicable Laws And Regulations. 329
204. Standards Committee. 329
205. -- 209. (Reserved) 330
210. Detention Center Administration. 330
211. (Reserved) 330
212. Staff Requirements And Staff Development. 331
213. -- 214. (Reserved) 332
215. Detention Center Information Systems. 332
216. Documentation. 333
217. Medical Information. 335
218. -- 219. (Reserved) 335
220. Prohibited Contact And Prison Rape Elimination Act (PREA) Compliance 335
221. -- 222. (Reserved) 336
223. Safety And Emergency Procedures. 336
224. Detention Center Security. 336
225. Physical Intervention. 337
226. Perimeter Security Checks And Security Inspections. 338
227. Search And Seizure. 338
228. Security Devices. 339
229. (Reserved) 339
230. Food Services. 339
231. (Reserved) 339
232. Special Diets. 339
233. Dietary Records. 340
234. Meals. 340
235. Food Service Sanitation. 340
236. -- 239. (Reserved) 340
240. Sanitation And Hygiene. 340
241. -- 244. (Reserved) 341
245. Personal Hygiene. 341
246. -- 249. (Reserved) 342
250. Health Services. 342
251. -- 254. (Reserved) 343
255. Rules And Discipline. 343
256. Communication And Correspondence. 344
257. -- 260. (Reserved) 345
261. Admission. 345
262. Release. 346

263. -- 264. (Reserved) ... 346
265. Programs And Services Available. ... 346
266. -- 274. (Reserved) ... 346
275. Detention Center Design, Renovation, And Construction. ... 347
276. -- 999. (Reserved) ... 349

05.01.03 – Rules of the Custody Review Board

000. Legal Authority. ... 350
001. Title And Scope. ... 350
002. Administrative Appeals. ... 350
003. Incorporation By Reference. ... 350
004. Public Records Act Compliance. ... 350
005. -- 009. (Reserved) ... 350
010. Definitions. ... 350
011. -- 099. (Reserved) ... 350
100. General Provisions. ... 350
101. Powers And Duties. ... 351
102. Structure And Composition Of The Custody Review Board. ... 351
103. -- 199. (Reserved) ... 351
200. Review Process. ... 351
201. Referral Of Cases To The Board. ... 351
202. Persons To Attend Or Comment. ... 352
203. Conflict Of Interest. ... 353
204. -- 299. (Reserved) ... 353
300. Board Determinations. ... 353
301. -- 399. (Reserved) ... 354
400. Victims. ... 354
401. -- 999. (Reserved) ... 354

05.01.04 – Uniform Standards for Juvenile Probation Services

000. Legal Authority. ... 355
001. Title And Scope. ... 355
002. Administrative Appeals. ... 355
003. Incorporation By Reference. ... 355
004. Public Records Act Compliance. ... 355
005. -- 009. (Reserved) ... 355
010. Definitions. ... 355
011. – 099. (Reserved) ... 355
100. Review Provisions. ... 355
101. – 199. (Reserved) ... 356
200. Administration. ... 356
201. – 299. (Reserved) ... 356
300. Staff Qualifications And Staff Development. ... 356
301. – 399. (Reserved) ... 357
400. Juvenile Probation Services. ... 357
401. -- 999. (Reserved) ... 358

05.02.01 – Rules for Residential Treatment Providers

000. Legal Authority. ... 359
001. Title And Scope. ... 359
002. – 003. (Reserved) ... 359
004. Public Records Act Compliance. ... 359
005. -- 009. (Reserved) ... 359
010. Definitions. ... 359

011. -- 099. (Reserved) 363
100. Initiation Of Services. 363
101. Waiver and Variance. 363
102. Applicability. 363
103. -- 109. (Reserved) 363
110. Authority To Inspect. 363
111. Comprehensive and Current Program Description. 364
112. Disposition Of Referrals From The Department. 365
113. Safety And Maintenance Of Buildings And Grounds. 365
114. Vehicles. 366
115. Transportation. 366
116. Drivers. 367
117. -- 119. (Reserved) 367
120. Administrative Records. 367
121. Staff Qualifications. 368
122. Position Descriptions And Qualification Criteria. 368
123. Program Staffing Requirements. 369
124. General Requirements For Training. 369
125. Subcontractors, volunteers, and interns. 371
126. Background Checks. 373
127. -- 129. (Reserved) 373
130. Juvenile Records. 373
131. Release Forms. 375
132. Juvenile Offender Photographs. 375
133. Research Projects. 375
134. Prohibited Contact And PREA Compliance. 376
135. Suicide Precautions. 377
136. -- 139. (Reserved) 378
140. Juvenile Offender Rights And Responsibilities. 378
141. Discipline Of Juvenile Offenders. 378
142. Grievance Procedures. 379
143. Juvenile Offender Safety. 379
144. Searches For Contraband. 379
145. Religious Services. 380
146. Drug Screens Of Juvenile Offenders. 381
147. – 149. (Reserved) 381
150. Employment Of Juvenile Offenders. 381
151. Community Services And Restitution. 381
152. Programming. 381
153. Juvenile Offender and Parent or guardian Handbook. 383
154. Program Operational Requirements. 383
155. Planning For Release Or Transfer. 384
156. Incident Reporting Requirements. 385
157. Out-of-state Travel. 388
158. Additional Program Policy Requirements. 388
159. First Aid Kits. 389
160. – 199. (Reserved) 389
200. Initiation Of Services. 389
201. Waiver And Variance. 389
202. Applicability. 389
203. Authority To Inspect. 390
204. Compliance With Rules Requirements. 390

205. Minimum Mandatory Staff Training Requirements. 390
206. Clothing And Personal Items. 390
207. Food Service. 390
208. Personal Funds. 391
209. Juvenile Offender Mail. 391
210. Visitation. 392
211. Smoking And Sale Of Cigarettes. 393
212. Room Restrictions. 393
213. Use Of Force Or Physical Restraints. 393
214. – 219. (Reserved) 393
220. Guidelines For Specific Services. 393
221. Case Management Reporting Requirements. 395
222. Individual Community Passes. 397
223. Group Activities Off Facility Grounds. 398
224. Education Services. 399
225. Provision Of Medical Services. 401
226. Admission And Annual Health Services And Treatment Records. 402
227. Privacy Of Medical Records And Information. 402
228. Notification Of Critical Health Incidents. 403
229. Infectious Diseases. 403
230. Pregnancy. 403
231. Refusal Of Treatment. 403
232. Use Of Medications. 404
233. – 299. (Reserved) 404
300. Initiation Of Services. 404
301. Waiver Or Variance. 404
302. Applicability. 404
303. Authority To Inspect. 404
304. Clothing And Personal Items. 404
305. Food Service. 405
306. Personal Funds. 405
307. Juvenile Offender Mail. 406
308. Visitation. 406
309. Guidelines For Specific Services. 406
310. Case Management Reporting Requirements. 407
311. Overnight Community Passes. 408
312. Activities. 409
313. Education Services. 410
314. Provision Of Medical Services. 410
315. Admission Health Services And Treatment Records. 411
316. Privacy Of Medical Records And Information. 411
317. Notification Of Critical Health Incidents. 411
318. Infectious Diseases. 411
319. Pregnancy. 412
320. Refusal Of Treatment. 412
321. Use Of Medications. 412
322. – 999. (Reserved) 412

IDAPA 07 – DIVISION OF BUILDING SAFETY

Docket No. 07-0000-1900

07.03.09 – Rules Governing Manufactured Homes – Consumer Complaints – Dispute Resolution
000. Legal Authority. 415

001. Title And Scope. 415
002. -- 011. (Reserved) 415
012 Complaints. 415
013. Investigation. 415
014. Action. 415
015. Decisions - Appeals - Informal Disposition. 416
016. -- 999. (Reserved) 416

07.03.13 – Rules Governing Mobile Home Rehabilitation

000. Legal Authority. 417
001. Title And Scope. 417
002. -- 003. (Reserved) 417
004. Definitions. 417
005. -- 010. (Reserved) 417
011. Rehabilitation Requirements. 417
012. Rehabilitation Form And Checklist -- Compliance Certificate 418
013. -- 999. (Reserved) 419

07.06.01 – Rules Governing Uniform School Building Safety

000. Legal Authority. 420
001. Title And Scope. 420
002. Incorporation By Reference. 420
003. -- 009. (Reserved) 420
010. Definitions. 420
011. -- 049. (Reserved) 421
050. Violation Of Code. 421
051. -- 999. (Reserved) 422

07.08.01 – Idaho Minimum Safety Standards and Practices for Logging

000. Legal Authority. 423
001. Title And Scope. 423
002. -- 006. (Reserved) 423
007. Definitions A Through C. 423
008. Definitions D Through I. 424
009. Definitions J Through R. 425
010. Definitions S Through Z. 426
011. Interpretation And Application Of These Rules. 428
012. Employer's Responsibility. 429
013. Employee's Responsibility. 431
014. --050. (Reserved) 432
051. First Aid. 432
052. Safety Equipment And Personal Protective Equipment. 434
053. Fire Prevention, Protection And Suppression. 436
054. Designated Logging Camps. 438
055. -- 100. (Reserved) 438
101. Garages And Machine Shops And Related Areas. 438
102. -- 150. (Reserved) 439
151. General Requirements. 439
152. Signaling. 439
153. Electric Signal Systems. 440
154. Radio Signaling Systems. 440
155. -- 200. (Reserved) 441
201. Truck Road Standards. 441
202. -- 250. (Reserved) 442

251. Transportation Of Employees. 442
252. --300. (Reserved) 443
301. Falling And Bucking. 443
302. Illustration Of Undercuts. 445
303. Mechanical Delimbers And Feller Bunchers. 448
304. -- 350. (Reserved) 448
351. Rigging. 449
352. Guylines. 449
353. Lines, Shackles And Blocks. 452
354. -- 400. (Reserved) 454
401. General Requirements. 455
402. Tractors And Similar Logging Equipment. 456
403. -- 450. (Reserved) 457
451. Skidding And Yarding. 457
452. Cable Yarding. 457
453. Yarding Machinery. 458
454. Wire Rope. 462
455. Tree Climbing. 473
456. Typical Rigging Systems. 474
457. -- 500. (Reserved) 479
501. Log Truck Transportation. 479
502. Steered Trailers. 485
503. Common Carriers. 486
504. Self-Loading Log Trucks. 486
505. -- 550. (Reserved) 486
551. Specific Requirements. 487
552. -- 600. (Reserved) 490
601. General Requirements. 490
602. Specific Requirements. 490
603. -- 650. (Reserved) 491
651. Introduction. 492
652. Fire And Safety Policy. 492
653. -- 700. (Reserved) 498
701. Machine Safety Requirements. 498
702. Tethered Line Safety Requirements. 498
703. Operation and Safety Requirements. 499
705. -- 999. (Reserved) 500

07.02.02 – Rules Governing Plumbing

000. Legal Authority. 503
001. Title And Scope. 503
002. Administrative Appeals. 503
003. Incorporation By Reference. 503
004. -- 008. (Reserved) 503
007. Definitions. 503
008. -- 100. (Reserved) 503
101. Permits. 503
102. Permit Fee Schedule. 504
103. Required Inspections. 506
104. -- 199. (Reserved) 506
201. Licensure History. 506
202. Apprentice Registration. 506
203. Journeyman. 507

204. Plumbing Contractor. 508
205. Applications. 509
206. Examinations. 509
207. Certificates Of Competency -- Issuance, Renewal, Expiration, Revival -- Fees. 509
208. Specialty Plumbing Licenses. 510
209. Appliance Plumbing Specialty License. 511
210. Water Pump Plumbing Specialty License. 512
211. -- 300. (Reserved) 513
301. Adoption And Incorporation By Reference Of The Idaho State Plumbing Code. 513
401. Civil Penalties. 518
402. -- 999. (Reserved) 519

07.03.01 – Rules of Building Safety (Building Code Rules)

000. Legal Authority. 520
001. Title And Scope. 520
002. -- 003. (Reserved) 520
004. Adoption And Incorporation By Reference. 520
005. -- 025. (Reserved) 529
026. Definitions. 529
027. Permits. 532
028. Plan Review. 532
029. Fees. 532
030. Right Of Entry. 534
031. Work Proceeding Without Permit Or Approval. 534
032. Stop Work Orders. 534
033. Prohibited Sale Or Occupancy Notice. 534
034. Removal Of Orders And Notices; Sale, Rent, Lease Or Occupancy Of A Unit Bearing Such Order Or Notice. 534
035. Modular Buildings. 534
036. Manufactured Homes. 536
037. (Reserved) 537
038. Integrated Design And Fundamental Commissioning Of Public School Facilities. 537
039. -- 999. (Reserved) 539

07.03.03 – Rules for Modular Buildings

000. Legal Authority. 540
001. Title And Scope. 540
002. -- 009. (Reserved) 540
010. Definitions. 540
011. -- 026. (Reserved) 540
027. Permits. 540
028. Plan Review. 540
029. Fees. 541
030. Right Of Entry. 542
031. Removal Of Orders And Notices Prohibited. 543
032. Modular Buildings. 543
033. Civil Penalties. 544
034. -- 999. (Reserved) 544

07.03.11 – Rules Governing Manufactured/Mobile Home Industry Licensing

000. Legal Authority. 545
001. Title And Scope. 545
002. -- 009. (Reserved) 545
010. Definitions. 545

011. (Reserved) 546
012. License Required. 547
013. The Division's Mailing Address. 549
014. Proof Of Education Required. 549
015. Examination Of Applicant For License. 550
016. Disciplinary Action Against Licensees. 550
017. Procedures For Licensing Suspension, Revocation Or Nonrenewal. 551
018. Application For New License. 551
019. Fees. 551
020. Licensing Complaints. 552
021. Civil Penalties. 553
022. Manufactured Home Buyer's Information And Disclosure Form. 553
023. -- 999. (Reserved) 553

07.03.12 – Rules Governing Manufactured or Mobile Home Installations

000. Legal Authority. 554
001. Title And Scope. 554
002. -- 003. (Reserved) 554
004. Adoption And Incorporation By Reference. 554
005. Application -- Compliance. 554
006. -- 011. (Reserved) 554
012. Use Of Manufacturers' Installation Instructions. 554
013. Installation Permits And Inspections Required. 554
014. Installation Permit Fees. 554
015. Installation Tags Required. 555
016. Approval Of Local Manufactured Home Installation Inspection Programs. 555
017. Withdrawal Of Approval Of Programs. 555
018. Minimum Training Requirements For Inspectors. 555
019. Quality Assurance. 556
020. Minimum Scope Of Installation Inspection. 556
021. Supervision By Responsible Managing Employee. 556
022. -- 999. (Reserved) 556

07.04.02 – Safety Rules for Elevators, Escalators, and Moving Walks

000. Legal Authority. 557
001. Title And Scope. 557
002. Adoption And Incorporation By Reference. 557
003. -- 009. (Reserved) 557
010. Definitions. 557
011. Inspection Requirements. 558
012. Approval Of New Or Alternative Technology. 558
013. -- 999. (Reserved) 558

07.05.01 – Rules of the Public Works Contractors License Board

000. Legal Authority. 559
001. Title. 559
002. -- 009. (Reserved) 559
010. Definitions. 559
011. -- 101. (Reserved) 559
102. Communication. 559
103. Petitions. 559
104. Form And Content Of Petition. 559
105. License Renewal -- Filing Deadlines; Petitions For Extension Of Time To File; Lapsed Licenses. 560

106. Special Provisions Covered In A Petition To Change Or Add Types Of Construction. 560
107. -- 108. (Reserved) 560
109. Notice. 560
110. Application For Licensure -- Documentation; Appraisals; References; Bonding; And Financial Statements. 561
111. Financial Requirements. 562
112. Examination. 562
113. Individual Qualified By Examination. 563
114. -- 198. (Reserved) 563
199. Limitations. 563
200. Type 4-Specialty Construction Categories. 564
201. Fees. 574
202. Complaints. 575
203. -- 299. (Reserved) 575
300. Business Organization -- Changes In Organization Or Structure -- Members Of Joint Ventures - Changes For Reasons Other Than Death. 575
301. -- 399. (Reserved) 575
400. Certificates -- Display And Possession. 575
401. License Number On Bids. 576
402. Changes In License Certificate. 576
403. -- 501. (Reserved) 576
502. Technicalities Of Form. 576
503. Hearings. 576
504. -- 599. (Reserved) 576
600. Construction Manager Examinations. 576
601. -- 999. (Reserved) 576

07.07.01 – Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems, Division of Building Safety

000. Legal Authority. 577
001. Title And Scope. 577
002. – 003. (Reserved) 577
004. Adoption And Incorporation By Reference Of The International Mechanical Code, 2012 Edition. 577
005. Adoption And Incorporation By Reference Of The International Fuel Gas Code, 2012 Edition. 578
006. Adoption And Incorporation By Reference Of Part V (Mechanical) And Part VI (Fuel Gas) Of The International Residential Code For One (1)- And Two (2)-Family Dwellings, 2012 Edition. 578
007. Filing Of Documents. 580
008. -- 009. (Reserved) 580
010. Changes In Name And Address -- Address For Notification Purposes. 580
011. Meetings. 580
012. Definitions. 580
013. Certificates Of Competency -- Issuance, Renewal, Expiration -- Revival. 580
014. -- 019. (Reserved) 581
020. HVAC Contractor And HVAC Journeyman Applications For Examination And Certificates Of Competency, And Registration Of Apprentices. 581
021. HVAC Contractor Certificate Of Competency - Requirements. 581
022. HVAC Specialty Contractor Certificate Of Competency - Requirements. 581
023. HVAC Journeyman Certificates Of Competency: Requirements. 582
024. HVAC Hearth Specialty Journeyman Certificates Of Competency Limitations: Requirements. 582
025. HVAC Apprentice Requirements For Registration. 583
026. HVAC Specialty Apprentice Requirements For Registration. 583

027. HVAC Waste Oil Heating Specialty Journeyman Certificates Of Competency Limitations: Requirements. ... 583
028. HVAC Fuel Gas Piping Specialty Journeyman Certificates Of Competency Limitations: Requirements. ... 583
029. -- 049. (Reserved) ... 584
050. HVAC Permits. ... 584
051. Fees For HVAC Inspections. ... 584
052. -- 059. (Reserved) ... 586
060. Required Inspections. ... 586
061. Inspector Qualifications. ... 586
062. -- 069. (Reserved) ... 586
070. Civil Penalties. ... 586
071. -- 999. (Reserved) ... 587

07.10.01 – Rules Governing the Damage Prevention Board

000. Legal Authority. ... 588
001. Title And Scope. ... 588
002. Administrative Appeals. ... 588
004. -- 006. (Reserved) ... 588
007. Funding Of Board Activities. ... 588
008. Audit Of One-Number Service Records. ... 588
009. -- 014. (Reserved) ... 588
015. Educational And Training Materials. ... 589
016. Adequacy Of Facility Owners Locating Underground Facilities. ... 589
017. Improvement Of Technology And Communications By Stakeholders. ... 589
018. Damage Prevention Complaints. ... 589
019. Claims And Reports Of Damage Or Excavator Downtime. ... 590
020. Civil Penalties. ... 590
021. -- 999. (Reserved) ... 591

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

Docket No. 09-0000-1900

09.01.01 – Rules of Administrative Procedure of the Department of Labor

000. Legal Authority. ... 594
001. Title And Scope. ... 594
002. (Reserved) ... 594
003. Administrative Appeals. ... 594
004. Payments To The Department. ... 594
005. – 009. (Reserved) ... 594
010. Definitions. ... 594
011. – 014. (Reserved) ... 594
015. Exemption From Attorney General Administrative Procedure Rules For Contested Cases. ... 594
016. Reasons For Exemption From Attorney General's Administrative Procedure Rules. ... 594
017. (Reserved) ... 595
018. Declaratory Ruling Procedures. ... 595
019. – 024. (Reserved) ... 595
025. Wage Claims Procedures. ... 595
026. Dismissal Of Wage Claims For Lack Of Prosecution. ... 595
027. Wage Claim And Employment Security Law Determinations. ... 595
028. – 034. (Reserved) ... 596
035. Appeals To Appeals Examiner – Form And Manner Of Filing Of Notices Of Appeal. ... 596
036. Date Of Mailing Of Determinations. ... 596
037. Effect Of Delay or Error of Postal Service or Department. ... 596

038. Dismissal If Filing Is Late. 597
039. – 044. (Reserved) 597
045. Conduct Of Appeals Hearing. 597
046. Communication With Appeals Staff. 598
047. – 059. (Reserved) 599
060. Industrial Commission Review Of Appeals Examiner Decisions. 599
061. – 064. (Reserved) 599
065. Judicial Review Of Wage Claim Decisions. 599
066. – 999. (Reserved) 599

09.01.08 – Rules on Disclosure of Employment Security Information

000. Legal Authority. 600
001. Title And Scope. 600
002. (Reserved) 600
003. Administrative Appeals. 600
004. -- 009. (Reserved) 600
010. Definitions. 600
011. Access By Persons To Information Pertaining To Them. 600
012. Disclosure To Public Officials. 601
013. Disclosure To Third Parties With Written, Informed Consent. 602
014. -- 019. (Reserved) 604
020. Costs Of Disclosure. 604
021. Subpoenas Of Employment Security Information. 604
022. Records Requests Submitted By Electronic Mail. 605
023. -- 999. (Reserved) 605

09.01.30 – Unemployment Insurance Benefits Administration Rules

000. Legal Authority. 606
001. Title And Scope. 606
002. Administrative Appeals. 606
004. -- 009. (Reserved) 606
010. Definitions. 606
011. -- 099. (Reserved) 607
100. Able To Work. 607
101. -- 124. (Reserved) 608
125. Alien Eligibility. 608
126. -- 149. (Reserved) 608
150. Americans With Disabilities Act (ADA). 608
151. -- 174. (Reserved) 609
175. Available For Work. 609
176. -- 199. (Reserved) 611
200. Canceling Claims. 611
201. -- 224. (Reserved) 611
225. Deceased Claimants. 611
226. -- 249. (Reserved) 611
250. Determinations/Appellate Processes. 611
251. -- 274. (Reserved) 612
275. Discharge. 612
276. -- 324. (Reserved) 612
325. Employees Of Educational Institutions. 612
326. -- 349. (Reserved) 613
350. Extended Benefits. 613
351. -- 374. (Reserved) 613
375. Fully Employed/Not Unemployed. 613

376. -- 399. (Reserved) ... 614
400. Labor Dispute/Union Rules. ... 614
401. -- 424. (Reserved) ... 615
425. New Claims/Additional Claims. ... 615
426. -- 449. (Reserved) ... 617
450. Quit. ... 617
451. -- 459. (Reserved) ... 618
460. Professional Athletes Between Seasons. ... 618
461. -- 474. (Reserved) ... 618
475. Refusal Of Work/Failure To Apply. ... 618
476. -- 499. (Reserved) ... 619
500. Reissuing Benefit Payments. ... 619
501. -- 524. (Reserved) ... 619
525. Reportable Income. ... 619
526. -- 549. (Reserved) ... 621
550. Reporting Requirements. ... 621
551. -- 574. (Reserved) ... 621
575. Seeking Work. ... 621
576. -- 599. (Reserved) ... 623
600. Self-Employment. ... 623
601. -- 649. (Reserved) ... 623
650. Signatures Of Illiterates And Witnesses. ... 623
651. -- 674. (Reserved) ... 624
675. Total Temporary Disability Alternate Base Period (TTD). ... 624
676. -- 699. (Reserved) ... 624
700. Partial Payments Of Amounts Owed The Department. ... 624
701. – 724. (Reserved) ... 624
725. Recoveries. ... 624
726. – 749. (Reserved) ... 624
750. Waiver Of Repayment. ... 624
751. – 999. (Reserved) ... 624

09.01.35 – Unemployment Insurance Tax Administration Rules

000. Legal Authority. ... 625
001. Title And Scope. ... 625
002. Administrative Appeals. ... 625
003. -- 010. (Reserved) ... 625
011. General Provisions. ... 625
012. -- 039. (Reserved) ... 626
040. Compromise Of Penalty And Civil Penalty. ... 626
041. -- 050. (Reserved) ... 627
051. Rounding Wages Reported On Contribution Report To Next Lower Dollar Amount. ... 627
052. -- 055. (Reserved) ... 627
056. Application Of Payments On Delinquent Accounts. ... 627
057. -- 060. (Reserved) ... 627
061. Definitions. ... 627
062. Substance VS. Form. ... 629
063. -- 080. (Reserved) ... 629
081. Employer Records. ... 629
082. -- 095. (Reserved) ... 630
096. Employer Status Report. ... 630
097. -- 105. (Reserved) ... 630
106. Claims Of Exemption. ... 630

107. Remuneration Paid Constitutes Both Taxable Wages And Excluded Amounts. 630
108. Election To Exempt Corporate Officers. 630
109. -- 110. (Reserved) 631
111. Services Performed Part In Covered Employment And Part In Excluded Employment. 632
112. Determining Status Of Worker. 632
113. -- 130. (Reserved) 634
131. Farm Commodity Ownership. 634
132. Status. 635
133. (Reserved) 635
134. Professional Employer Organizations. 635
135. -- 165. (Reserved) 636
166. Field Operations Control. 636
167. -- 185. (Reserved) 637
186. Accounting And Delinquency Control. 637
187. -- 220. (Reserved) 637
221. Transfer Of Experience Rating. 637
222. -- 230. (Reserved) 638
231. Experience Rating -- Qualifying Period. 638
232. -- 240. (Reserved) 638
241. Board, Lodging, Meals. 638
242. -- 255. (Reserved) 638
256. Determination Of Fair Value Of Remuneration For Personal Services. 638
257. -- 261. (Reserved) 639
262. Determination Of Proper Quarter In Which To Assign And Report Wages. 639
263. Determination Of Reportable Quarters. 639
264. -- 999. (Reserved) 639

09.01.60 – Complaint Procedures Under the Workforce Innovation and Opportunity Act (WIOA)

000. Legal Authority. 640
001. Title And Scope. 640
002. -- 009. (Reserved) 640
010. Definitions. 640
011. Abbreviations. 640
012. Discrimination Complaints. 641
013. Program Complaints Against Local WIOA Programs And Policies. 641
014. Program Complaints Against Statewide WIOA Programs And Policies. 642
015. -- 999. (Reserved) 642

09.02.01 – Rules of the Disability Determinations Service

000. Legal Authority. 643
001. Title And Scope. 643
002. (Reserved) 643
003. Administrative Appeals. 643
004. -- 009. (Reserved) 643
010. Definitions. 643
011. -- 021. (Reserved) 643
022. Payment For Services. 643
023. -- 999. (Reserved) 643

09.05.03 – Rules For Determining Bargaining Representatives

000. Legal Authority. 644
001. Title And Scope. 644
002. (Reserved) 644
003. Administrative Appeals. 644
004. -- 011. (Reserved) 644

012. Union Agreements And Insulated Period. 644
013. Strikers Deemed Employees. 644
014. Employee Representation. 644
015. -- 999. (Reserved) 646

IDAPA 10 – BOARD OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

Docket No. 10-0000-1900F

10.01.01 – Rules of the Idaho Board of Licensure of Professional Engineers and Professional Land Surveyors

000. Legal Authority. 649
001. Title And Scope. 649
002. -- 009. (Reserved) 649
010. Definitions. 649
011. Fees. 650
012. Reissuance Of Certificates. 650
013. (Reserved) 650
014. Seals. 650
015. Certificates. 650
016. Application For Licensure Or Certification. 650
017. Examinations And Education. 651
018. Reexaminations. 654
019. Licensees Or Certificate Holders Of Other States, Boards, and Countries. 654
020. Discontinued, Retired, And Expired Licenses And Certificates. 657
021. (Reserved) 658
022. Requirements To Be Considered “Exceptional” Under Section 54-1223(2), Idaho Code. 658
023. Professional Engineer Licensure For Faculty Applicants. 658
024. -- 099. (Reserved) 659
100. Responsibility To The Public. 659
101. Competency For Assignments. 660
102. Public Statements. 660
103. Conflict Of Interest. 660
104. Solicitation Of Work. 661
105. Improper Conduct. 662
106. -- 199. (Reserved) 662
200. Requirements. 662
201. Units. 663
202. Determination Of Credit. 663
203. Record Keeping. 663
204. Exemptions. 664
205. Comity/Out-Of-Jurisdiction Residents. 664
206. Use Of NCEES Model CPC Standard. 664
207. -- 299. (Reserved) 665
300. Form. 665
301. Completion Of Form. 665
302. Contents on the form. 665
303. -- 999. (Reserved) 665

IDAPA 11 – IDAHO STATE POLICE

Docket No. 11-0000-1900

11.03.01 – Rules Governing Alcohol Testing

000. Legal Authority. 668

001. Title And Scope. 668
002. Incorporation by Reference. 668
003. -- 009. (Reserved) 668
010. Definitions And Abbreviations. 668
011. (Reserved) 670
012. General Provisions. 670
013. Requirements For Laboratory Alcohol Analysis. 670
014. Requirements For Performing Breath Alcohol Testing. 671
015. -- 999. (Reserved) 674

11.06.01 – Rules Governing Civil Asset Forfeiture Reporting

000. Legal Authority. 675
001. Title And Scope. 675
002. Incorporation By Reference. 675
003. – 009. (Reserved) 675
010. Definitions. 675
011. Contents Of Civil Asset Forfeiture Reporting Form. 675
012. – 999. (Reserved) 675

11.07.01 – Rules Governing Motor Vehicles – General Rules

000. Legal Authority. 676
001. Title And Scope. 676
002. Definitions. 676
003. Incorporated By Reference. 676
004. -- 019. (Reserved) 676
020. Society Of Automotive Engineers (SAE). 676
021. -- 029. (Reserved) 676
030. Idaho State Department Of Education, Standards For Idaho School Buses And Operations Manual. 676
031. -- 039. (Reserved) 677
040. Federal Regulations - 49 C.F.R. Parts 392, 393, And 571. 677
041. -- 999. (Reserved) 677

11.07.02 – Rules Governing Safety Glazing Material

000. Legal Authority. 678
001. Title And Scope. 678
002. Incorporation By Reference. 678
003. -- 009. (Reserved) 678
010. Definitions. 678
011. Standards For Safety Glazing Material. 678
012. -- 999. (Reserved) 679

11.07.03 – Rules Governing Emergency Vehicles/Authorized Emergency Vehicles

000. Legal Authority. 680
001. Title And Scope. 680
002. -- 009. (Reserved) 680
010. Definitions. 680
011. Purpose. 680
012. Authorization Requirements. 680
013. Limited Authorized Emergency Vehicle. 681
014. Authorization Limitations. 681
015. -- 020. (Reserved) 682
021. Equipment Required. 682
022. Procedure. 682
023. -- 999. (Reserved) 682

11.10.03 – Rules Governing the Sex Offender Registry
000. Legal Authority. ... 683
001. Title And Scope. ... 683
002. -- 009. (Reserved) ... 683
010. Definitions. ... 683
011. (Reserved) ... 683
012. Sex Offender Central Registry -- Administration. ... 683
013. -- 999. (Reserved) ... 684
11.13.01 – The Motor Carrier Rules
000. Legal Authority. ... 685
001. Title And Scope. ... 685
002. Incorporation By Reference. ... 685
003. -- 007. (Reserved) ... 685
008. Forms. ... 685
009. Relief From Regulations. ... 686
010. Definitions. ... 686
011. (Reserved) ... 686
012. Safety Fitness Procedures. ... 686
013. -- 017. (Reserved) ... 689
018. Transportation Of Hazardous Materials, Substances, And Wastes. ... 689
019. Carrier Safety Requirements. ... 690
020. -- 029. (Reserved) ... 691
030. Interstate And Foreign Commerce. ... 691
031. Obedience And Compliance With Rules And Regulations. ... 691
032. -- 999. (Reserved) ... 691
11.05.01 – Rules Governing Alcohol Beverage Control
000. Legal Authority. ... 694
001. Title And Scope. ... 694
002. -- 009. (Reserved) ... 694
010. Definitions. ... 694
011. General Provisions. ... 696
012. Transfer Of Alcoholic Beverage Licenses. ... 696
013. Priority Lists. ... 697
014. Conduct Of Licensed Premises. ... 698
015. -- 020. (Reserved) ... 698
021. Age Restriction Requirements. ... 698
022. Age Restriction Requirements For Licensed Movie Theaters - When Minors Permitted. ... 699
023. -- 999. (Reserved) ... 699
11.10.02 – Rules Governing State Criminal History Records and Crime Information
000. Legal Authority. ... 700
001. Title And Scope. ... 700
002. -- 009. (Reserved) ... 700
010. Definitions. ... 700
011. -- 020. (Reserved) ... 700
021. Expungement Procedure. ... 700
022. Transmittal Of Criminal History Records. ... 701
023. Procedure For Contesting The Accuracy And Completeness Of A Criminal History Record Contained In Agency File. ... 701
024. -- 030. (Reserved) ... 701
031. Fees For Services. ... 701
032. -- 999. (Reserved) ... 701

IDAPA 11 – STATE BRAND BOARD

Docket No. 11-0200-1900F

11.02.01 – Rules of the Idaho State Brand Board

000. Legal Authority. ... 704
001. Title And Scope. ... 704
002. -- 004. (Reserved) ... 704
005. Definitions. ... 704
006. -- 010. (Reserved) ... 706
011. Recording, Use And Placement Of Brands. ... 706
012. -- 014. (Reserved) ... 707
015. Brand Alternatives. ... 707
016. Branding Of Sheep. ... 708
017. -- 018. (Reserved) ... 708
019. Brand Inspections. ... 708
020. Baby Calves – Owner Inspection. ... 709
021. Annual Brand Inspection Certificate. ... 709
022. Lifetime Ownership And Transportation Certificates. ... 710
023. -- 029. (Reserved) ... 710
030. Transportation Of Livestock. ... 710
031. Idaho Livestock Moving To Pasture Out Of State. ... 711
032. Livestock Auction Sales. ... 711
033. Brand Inspections At Slaughter Plants And Mobile Slaughter Units. ... 711
034. Schedule Of Fees For The Idaho State Brand Board. ... 711
035. -- 039. (Reserved) ... 713
040. Claims For Funds Or Livestock Subject To A Hold Order. ... 713
041. – 099. (Reserved) ... 713
100. Application Fees. ... 713
101. Financial Information. ... 713
102. Livestock Dealer Bonds. ... 713
104. License Certificates And Cards. ... 714
105. Notification Required. ... 714
106. Brand Inspector To Require Dealer License Number. ... 714
107. Rules Apply To Out Of State Buyers. ... 714
108. -- 999. (Reserved) ... 714

IDAPA 11 – RACING COMMISSION

Docket No. 11-0400-1900

11.04.04 – Rules Governing Disciplinary Hearings and Appeals

000. Legal Authority. ... 716
001. Title And Scope. ... 716
002. -- 009. (Reserved) ... 716
010. Definitions. ... 716
011. -- 019. (Reserved) ... 717
020. Applicability. ... 717
021. -- 029. (Reserved) ... 717
030. Exemption From The Idaho Rules Of Administrative Procedure Of The Attorney General. ... 717
031. Proceedings By The Racing Commission. ... 717
032. -- 039. (Reserved) ... 717
040. Disciplinary Action. ... 717
041. Written Report. ... 717

042. Fines. ... 717
043. Suspensions. ... 718
044. -- 049. (Reserved) ... 718
050. Summary Suspension. ... 718
051. -- 059. (Reserved) ... 718
060. Rights Of The Licensee. ... 718
061. -- 069. (Reserved) ... 718
070. Proper Notice Of All Charges. ... 718
071. Content Of Notice. ... 718
072. Service Of Notice. ... 719
073. Nonappearance. ... 719
074. -- 079. (Reserved) ... 719
080. Continuances. ... 719
081. -- 089. (Reserved) ... 719
090. Evidence. ... 719
091. Rules Of Evidence. ... 719
092. Burden Of Proof. ... 720
093. Record Of Hearing. ... 720
094. -- 099. (Reserved) ... 720
100. Ruling. ... 720
101. Form Of Ruling. ... 720
102. -- 109. (Reserved) ... 720
110. Service Of Ruling. ... 720
111. -- 119. (Reserved) ... 720
120. Notice Of Right Of Appeal. ... 721
121. -- 139. (Reserved) ... 721
140. Transfer Of Horse Prohibited. ... 721
141. -- 149. (Reserved) ... 721
150. Appeals. ... 721
151. Time Frame For Appeal. ... 721
152. Form Of Appeal. ... 721
153. Record For Appeal. ... 721
154. Payment Of Fines During Appeal. ... 721
155. -- 159. (Reserved) ... 721
160. No Appeal From Disqualification For Interference. ... 721
161. -- 169. (Reserved) ... 721
170. Hearing On Appeal. ... 721
171. Written Appeal. ... 722
172. Hearing Officer. ... 722
173. Written Arguments. ... 722
174. Motions. ... 722
175. -- 179. (Reserved) ... 722
180. Record Of Proceedings. ... 722
181. Final Order. ... 722
182. -- 199. (Reserved) ... 722
200. Stay Of Ruling. ... 722
201. Time Frame For Application. ... 722
202. Form Of Application. ... 722
203. Grant Or Denial Of Stay. ... 723
204. Effect Of Stay. ... 723
205. -- 349. (Reserved) ... 723
350. Exclusion. ... 723

351. Hearing On Exclusion. 723
352. -- 399. (Reserved) 723
400. Rulings In Other Jurisdictions. 723
401. Appeals Of Reciprocal Rulings. 723
402. -- 999. (Reserved) 723

11.04.06 – Rules Governing Racing Officials

000. Legal Authority. 724
001. Title And Scope. 724
002. -- 009. (Reserved) 724
010. Definitions. 724
011. -- 014. (Reserved) 726
015. Licensed Racing Officials. 726
016. -- 019. (Reserved) 726
020. Racing Officials. 726
021. Racing Official Qualifications. 727
022. -- 024. (Reserved) 727
025. Prohibited Practices. 727
026. -- 029. (Reserved) 728
030. Report Of Violations. 728
031. -- 034. (Reserved) 728
035. Complaints Against Officials. 728
036. -- 039. (Reserved) 728
040. Substitute Officials. 728
041. Substitute Stewards. 728
042. -- 049. (Reserved) 728
050. Stewards Qualifications. 728
051. Stewards General Authority. 728
052. -- 054. (Reserved) 729
055. Number Of Stewards. 729
056. Stewards On Duty. 729
057. Stewards' Presence. 729
058. -- 059. (Reserved) 729
060. Order Of Finish. 729
061. Cancel Wagering. 729
062. -- 064. (Reserved) 730
065. Substitute Jockey. 730
066. Temporary Charge. 730
067. -- 069. (Reserved) 730
070. Stewards Daily Reports. 730
071. -- 074. (Reserved) 730
075. Presiding Stewards Log. 730
076. -- 079. (Reserved) 730
080. Race Meet Report. 730
081. -- 089. (Reserved) 730
090. Steward's List. 730
091. -- 099. (Reserved) 731
100. Racing Secretary. 731
101. Foal, Health, And Other Eligibility Certificates. 731
102. -- 104. (Reserved) 731
105. List Of Bred Fillies And Mares. 731
106. -- 109. (Reserved) 731
110. Allocation Of Stalls. 731

111. -- 114. (Reserved) ... 731
115. Conditions. ... 731
116. -- 119. (Reserved) ... 731
120. Listing Of Horses. ... 731
121. -- 124. (Reserved) ... 732
125. Posting Of Entries. ... 732
126. -- 129. (Reserved) ... 732
130. Daily Program. ... 732
131. -- 134. (Reserved) ... 732
135. Nominations And Declarations. ... 732
136. -- 139. (Reserved) ... 732
140. Stakes And Entrance Money Records. ... 732
141. -- 149. (Reserved) ... 732
150. Horsemen's Bookkeeper. ... 732
151. Financial Assurance. ... 732
152. -- 154. (Reserved) ... 733
155. Horsemen's Bookkeeper Records. ... 733
156. -- 159. (Reserved) ... 733
160. Monies And Funds On Account. ... 733
161. -- 164. (Reserved) ... 733
165. Payment Of Purses. ... 733
166. -- 169. (Reserved) ... 734
170. Other Monies. ... 734
171. -- 199. (Reserved) ... 734
200. Paddock Judge. ... 734
201. -- 209. (Reserved) ... 734
210. Paddock Judge's List. ... 734
211. -- 219. (Reserved) ... 734
220. Horse Identifier. ... 734
221. -- 229. (Reserved) ... 734
230. Clerk Of Scales. ... 734
231. -- 239. (Reserved) ... 735
240. Jockey Room Custodian. ... 735
241. -- 249. (Reserved) ... 735
250. Starter. ... 735
251. -- 259. (Reserved) ... 735
260. Assistant Starters. ... 735
261. -- 269. (Reserved) ... 735
270. Starter's List. ... 735
271. -- 299. (Reserved) ... 735
300. Timer. ... 735
301. -- 309. (Reserved) ... 736
310. Clocker. ... 736
311. -- 319. (Reserved) ... 736
320. Patrol Judge. ... 736
321. -- 329. (Reserved) ... 736
330. Gate Judge. ... 736
331. -- 339. (Reserved) ... 736
340. Placing Judge. ... 736
341. Photo Finish. ... 736
342. Dead Heats. ... 737
343. -- 349. (Reserved) ... 737

350. Commission Veterinarian Qualifications. 737
351. Commission Veterinarian Authority. 737
352. Examination Of Horses. 737
353. Commission Veterinarian. 737
354. -- 359. (Reserved) 737
360. Additional Racing Officials. 737
361. -- 999. (Reserved) 737

11.04.08 – Rules Governing Pari-Mutuel Wagering

000. Legal Authority. 738
001. Title And Scope. 738
002. -- 009. (Reserved) 738
010. Definitions. 738
011. -- 099. (Reserved) 740
100. General Provisions. 740
101. Pari-Mutuel Wagering. 740
102. Pari-Mutuel Ticket Sales. 741
103. Advance Wagering. 742
104. Claims For Payment From Pari-Mutuel Pool. 742
105. Payment For Errors. 742
106. Betting Explanation. 743
107. Display Of Betting Information. 743
108. Cancelled Contests. 743
109. Coupled Entries And Mutuel Fields. 744
110. Pools Dependant Upon Betting Interests. 744
111. Prior Approval For Betting Pools. 744
112. Closing Of Wagering In A Contest. 745
113. Complaints Pertaining To Pari-Mutuel Operations. 745
114. Licensees -- Duty To Report. 745
115. Emergency Situations. 745
116. Unrestricted Access. 745
117. Pari-Mutuel Cash Vouchers. 745
118. Other Stored Value Instruments And Systems. 746
119. -- 199. (Reserved) 746
200. Calculation Of Payoffs And Distribution Of Pools. 746
201. Win Pools. 748
202. Place Pools. 749
203. Show Pools. 751
204. Double Pools. 754
205. Win Three Pools. 757
206. Pick (n) Pools. 758
207. Quinella Pools. 762
208. Quinella Double Pools. 763
209. Exacta Pools. 764
210. Trifecta Pools. 765
211. Superfecta Pools. 766
212. Twin Quinella Pools. 767
213. Twin Trifecta Pools. 769
214. Tri-Superfecta Pools. 772
215. Twin Superfecta Pools. 774
216. -- 999. (Reserved) 777

11.04.09 – Rules Governing Claiming Races

000. Legal Authority. 778

001. Title And Scope. ... 778
002. -- 009. (Reserved) ... 778
010. Definitions. ... 778
011. -- 019. (Reserved) ... 779
020. Free And Clear Title. ... 779
021. Title Vested. ... 779
022. -- 024. (Reserved) ... 779
025. In-Foal Filly Or Mare. ... 779
026. -- 028. (Reserved) ... 779
029. Rescission Of Claim. ... 779
030. Claimed For Entered Price. ... 779
031. -- 034. (Reserved) ... 780
035. Eligible Horses. ... 780
036. -- 049. (Reserved) ... 780
050. Prohibitions. ... 780
051. -- 059. (Reserved) ... 780
060. Valid Claims. ... 780
061. -- 064. (Reserved) ... 781
065. Claims Are Irrevocable. ... 781
066. -- 069. (Reserved) ... 781
070. No Information Provided. ... 781
071. -- 079. (Reserved) ... 781
080. More Than One Claim. ... 781
081. -- 089. (Reserved) ... 781
090. Sex Or Age Of A Horse Claimed. ... 781
091. -- 099. (Reserved) ... 781
100. Transfer Of Ownership. ... 781
101. -- 109. (Reserved) ... 781
110. Transfer Of Possession. ... 781
111. -- 119. (Reserved) ... 781
120. Delivery Of A Claimed Horse. ... 781
121. -- 129. (Reserved) ... 781
130. Transfer Of Engagements. ... 781
131. -- 139. (Reserved) ... 781
140. Resale Or Transfer Of Ownership. ... 782
141. -- 149. (Reserved) ... 782
150. Control Or Management Of Former Owner. ... 782
151. -- 999. (Reserved) ... 782

11.04.10 – Rules Governing Live Horse Races

000. Legal Authority. ... 783
001. Title And Scope. ... 783
002. -- 009. (Reserved) ... 783
010. Definitions. ... 783
011. -- 019. (Reserved) ... 785
020. Enter, Search, And Inspect. ... 785
021. -- 029. (Reserved) ... 785
030. Illegal Practices. ... 785
031. -- 039. (Reserved) ... 786
040. Consumption Of Alcohol. ... 786
041. -- 049. (Reserved) ... 786
050. Horse Races -- General Rules. ... 786
054. -- 059. (Reserved) ... 787

060. Straightaway Races. 787
061. -- 069. (Reserved) 787
070. Races Around A Turn. 787
071. -- 079. (Reserved) 788
080. Disqualification. 788
081. -- 089. (Reserved) 788
090. Claims Of Foul. 788
091. -- 099. (Reserved) 788
100. Best Effort. 788
101. - 109. (Reserved) 788
110. Entries And Declarations. 788
111. -- 112. (Reserved) 789
113. Coupled Entries. 789
114. (Reserved) 789
115. Written Entries. 789
116. -- 119. (Reserved) 789
120. Registration. 789
121. -- 129. (Reserved) 790
130. Identification. 790
131. -- 139. (Reserved) 790
140. Ownership. 790
141. -- 149. (Reserved) 790
150. Workouts. 790
151. -- 159. (Reserved) 791
160. Entries Closed. 791
161. -- 169. (Reserved) 791
170. Not Qualified To Start. 791
171. -- 189. (Reserved) 791
190. Preference System. 792
191. -- 194. (Reserved) 792
195. Nominations And Engagements. 792
196. -- 199. (Reserved) 792
200. Post Positions. 792
201. -- 209. (Reserved) 793
210. Number Of Starters. 793
211. -- 219. (Reserved) 793
220. Dead Heat. 793
221. -- 229. (Reserved) 793
230. Declarations. 793
231. -- 239. (Reserved) 794
240. Scratches. 794
241. -- 249. (Reserved) 794
250. Colors. 794
251. -- 259. (Reserved) 794
260. Weights. 794
261. -- 262. (Reserved) 794
263. Apprentice Jockey Weight Allowance. 794
264. (Reserved) 795
265. Weights In Handicap Races. 795
266. -- 269. (Reserved) 795
270. Weight For Age. 795
271. -- 279. (Reserved) 796

280. Clerk Of The Scales. 796
281. -- 284. (Reserved) 796
285. Pre-Race Weigh Out. 796
286. -- 289. (Reserved) 797
290. Overweight. 797
291. -- 294. (Reserved) 797
295. Post Race Weigh In. 797
296. -- 299. (Reserved) 797
300. Paddock Judge. 797
301. -- 309. (Reserved) 798
310. Equipment. 798
311. -- 319. (Reserved) 798
320. The Starter. 798
321. -- 329. (Reserved) 799
330. Timer. 799
331. -- 339. (Reserved) 799
340. Patrol Judge. 799
341. -- 349. (Reserved) 799
350. Placing Judges. 799
351. -- 359. (Reserved) 799
360. Photo Finish Camera. 799
361. Placing Errors. 800
362. Video Records. 800
363. -- 369. (Reserved) 800
370. Claiming Races. 800
371. -- 399. (Reserved) 800
400. Stake Race Applications. 800
401. -- 404. (Reserved) 800
405. Stake Race Nominations. 800
406. -- 409. (Reserved) 800
410. Nomination And Entry Fees. 800
411. -- 414. (Reserved) 801
415. Cancellation Of A Stakes Race. 801
416. -- 419. (Reserved) 801
420. Failure Of Stall Gate. 801
421. -- 424. (Reserved) 801
425. Race Off. 801
426. -- 429. (Reserved) 801
430. Stake Trials. 801
431. -- 434. (Reserved) 801
435. Trials Raced Under Same Conditions. 801
436. -- 439. (Reserved) 801
440. Qualification Based On Time. 802
441. -- 444. (Reserved) 802
445. Disqualification. 802
446. -- 449. (Reserved) 802
450. Timer Malfunction In A Time Trial. 802
451. Qualification Based On Order Of Finish. 803
452. -- 454. (Reserved) 803
455. Starting Gate Malfunction. 803
456. -- 459. (Reserved) 803
460. Scratched From Trials. 803

461. -- 464. (Reserved) ... 803
465. Scratched From Finals. ... 803
466. -- 469. (Reserved) ... 803
470. Qualifier Ineligible. ... 803
471. -- 474. (Reserved) ... 804
475. Also Eligible. ... 804
476. -- 499. (Reserved) ... 804
500. Jockey Room Custodian. ... 804
501. -- 529. (Reserved) ... 804
530. Identifier. ... 804
531. -- 999. (Reserved) ... 804

11.04.13 – Rules Governing the Idaho State Racing Commission

000. Legal Authority. ... 805
001. Title And Scope. ... 805
002. -- 009. (Reserved) ... 805
010. Definitions. ... 805
011. -- 014. (Reserved) ... 805
015. General Authority. ... 805
016. Costs And Annual Report. ... 806
017. -- 019. (Reserved) ... 806
020. Meetings. ... 806
021. – 023. (Reserved) ... 806
024. Horsemen's Group. ... 806
025. (Reserved) ... 807
026. Prohibited Acts. ... 807
027. -- 029. (Reserved) ... 807
030. Power Of Entry. ... 807
031. -- 034. (Reserved) ... 807
035. Exclusion. ... 807
036. -- 039. (Reserved) ... 807
040. Allocation Of Race Days And Races. ... 807
041. Public Health Or Safety Hazard. ... 808
042. Cancellation Of Race Days Or Races. ... 808
043. -- 999. (Reserved) ... 808

11.04.14 – Rules Governing Owners, Trainers, Authorized Agents, Jockeys, Apprentice Jockeys, and Jockey Agents

000. Legal Authority. ... 809
001. Title And Scope. ... 809
002. -- 009. (Reserved). ... 809
010. Definitions. ... 809
011. -- 019. (Reserved) ... 811
020. Owners And Trainers. ... 811
021. -- 024. (Reserved) ... 811
025. Enter, Search, And Inspect. ... 811
026. -- 029. (Reserved) ... 811
030. Employees. ... 811
031. -- 034. (Reserved) ... 812
035. Bribes, Gifts, And Gratuities. ... 812
036. -- 039. (Reserved) ... 812
040. Illness Of Horses. ... 812
041. -- 049. (Reserved) ... 812
050. Trainer Changes. ... 812

051. -- 059. (Reserved) ... 812
060. Representation For Entries. ... 812
061. -- 069. (Reserved) ... 812
070. Restrictions On Owners And Trainers. ... 812
071. -- 079. (Reserved) ... 812
080. Powers And Duties Of Authorized Agents. ... 812
081. -- 099. (Reserved) ... 813
100. Trainer Is Absolute Insurer. ... 813
101. -- 109. (Reserved) ... 813
110. Safety Equipment. ... 813
111. -- 114. (Reserved) ... 813
115. Disqualified Person. ... 813
116. -- 129. (Reserved) ... 813
130. Horses In Paddock At Appointed Time. ... 813
131. -- 139. (Reserved) ... 813
140. Trainer's Presence In Paddock. ... 813
141. -- 199. (Reserved) ... 813
200. Preventing Jockeys From Riding. ... 813
201. -- 219. (Reserved) ... 813
220. Physical Examination. ... 813
221. -- 224. (Reserved) ... 813
225. Jockey Falls From Horse. ... 814
226. -- 229. (Reserved) ... 814
230. Jockeys Obligations. ... 814
231. -- 244. (Reserved) ... 814
245. Racing Colors. ... 814
246. -- 249. (Reserved) ... 814
250. Safety Equipment. ... 814
251. -- 254. (Reserved) ... 814
255. Jockey's Valet. ... 814
256. -- 259. (Reserved) ... 814
260. Jockeys Weighed. ... 814
261. -- 269. (Reserved) ... 814
270. Restrictions On Jockeys. ... 814
271. -- 279. (Reserved) ... 815
280. Jockey's Fees. ... 815
281. -- 289. (Reserved) ... 815
290. Jockey Suspensions. ... 815
291. -- 299. (Reserved) ... 815
300. Apprentice Jockeys. ... 815
301. -- 319. (Reserved) ... 816
320. Management Of Apprentice Jockeys. ... 816
321. -- 329. (Reserved) ... 816
330. Apprentice Weight Allowance. ... 816
331. -- 339. (Reserved) ... 816
340. Apprentice Jockey Contracts. ... 816
341. -- 349. (Reserved) ... 816
350. Only One Jockey Agent. ... 816
351. -- 359. (Reserved) ... 816
360. Jockey Agent. ... 816
361. -- 369. (Reserved) ... 817
370. Giving Information. ... 817

371. -- 379. (Reserved) ... 817
380. Jockey Agent Access. ... 817
381. -- 999. (Reserved) ... 817
11.04.02 – Rules Governing Simulcasting
000. Legal Authority. ... 820
001. Title And Scope. ... 820
002. -- 009. (Reserved) ... 820
010. Definitions. ... 820
011. -- 014. (Reserved) ... 821
015. Requirements For Licensure Of A Simulcast Facility. ... 821
016. Criteria For Approval Of Application For Simulcast Operator ... 822
017. -- 025. (Reserved) ... 823
026. Host Association. ... 823
027. Guest Associations. ... 823
028. Interstate Common Pool Wagering. ... 823
029. Net Pool Pricing. ... 824
030. Host Participating In Interstate Common Pools. ... 824
031. -- 034. (Reserved) ... 825
035. Licenses For Simulcast Operators. ... 825
036. Simulcast Purse Money Collection And Distribution. ... 826
037. -- 039. (Reserved) ... 826
040. Duties Of Simulcast Operator. ... 826
041. Prohibition Of Simulcast Signal. ... 827
042. -- 044. (Reserved) ... 827
045. Distribution Of Deposits. ... 827
046. Conflict Of Laws. ... 827
047. Totalizator Or Other Approved Equipment Required. ... 827
048. -- 999. (Reserved) ... 827
11.04.03 – Rules Governing Licensing and Fees
000. Legal Authority. ... 828
001. Title And Scope. ... 828
002. -- 009. (Reserved) ... 828
010. Definitions. ... 828
011. -- 019. (Reserved) ... 830
020. Applicability. ... 830
021. -- 029. (Reserved) ... 830
030. Refusal To Issue License. ... 830
031. -- 039. (Reserved) ... 831
040. Cruelty To Animals. ... 831
041. -- 049. (Reserved) ... 831
050. Fingerprints. ... 831
051. -- 089. (Reserved) ... 832
090. Applications. ... 832
091. -- 094. (Reserved) ... 832
095. Add-On. ... 832
096. Duplicate License. ... 832
097. -- 099. (Reserved) ... 832
100. Licenses Requiring Racing Association Signatures ... 832
101. -- 109. (Reserved) ... 833
110. Apprentice Jockey License. ... 833
111. -- 129. (Reserved) ... 833
130. Assistant Starter License. ... 833

131. -- 139. (Reserved) ... 833
140. Authorized Agent License. ... 833
141. -- 144. (Reserved) ... 833
145. Bad Checks. ... 834
146. -- 159. (Reserved) ... 834
160. Concessionaire License. ... 834
161. -- 165. (Reserved) ... 834
166. Concession Employee License. ... 834
167. -- 189. (Reserved) ... 834
190. Emergency Medical Technician License. ... 834
191. -- 199. (Reserved) ... 834
200. Exercise Person License. ... 834
201. -- 209. (Reserved) ... 834
210. Groom License. ... 834
211. -- 239. (Reserved) ... 834
240. Jockey License. ... 834
241. -- 249. (Reserved) ... 834
250. Jockey Agent License. ... 834
251. -- 279. (Reserved) ... 834
280. Mutuel Employee License. ... 835
281. -- 299. (Reserved) ... 835
300. Official License. ... 835
301. -- 329. (Reserved) ... 835
330. Owner License. ... 835
331. -- 359. (Reserved) ... 835
360. Plater License. ... 835
361. -- 369. (Reserved) ... 835
370. Pony Person License. ... 835
371. -- 389. (Reserved) ... 835
390. Stable Name License. ... 835
391. Stable Name Change. ... 836
392. Stable Names Prohibited. ... 836
393. -- 419. (Reserved) ... 836
420. State Veterinarian License. ... 836
421. -- 429. (Reserved) ... 836
430. Steward License. ... 836
431. -- 459. (Reserved) ... 836
460. Track Security License. ... 836
461. -- 469. (Reserved) ... 836
470. Trainer License. ... 836
471. -- 489. (Reserved) ... 836
490. Veterinarian License. ... 836
491. -- 499. (Reserved) ... 836
500. Vet Assistant License. ... 836
501. -- 599. (Reserved) ... 837
600. License Fees. ... 837
601. -- 989. (Reserved) ... 837
990. Penalties. ... 837
991. -- 999. (Reserved) ... 837

11.04.05 – Rules Governing Advanced Deposit Wagering

000. Legal Authority. ... 838
001. Title And Scope. ... 838

002. -- 009. (Reserved) ... 838
010. Definitions. ... 838
011. -- 014. (Reserved) ... 839
015. Licensing For Advanced Deposit Wagering. ... 839
016. -- 019 (Reserved) ... 839
020. Advanced Deposit Wagering License. ... 839
021. -- 024. (Reserved) ... 839
025. Advance Deposit Wagering License Application. ... 839
026. Detailed Plan Of Operation For Advanced Deposit Wagering. ... 840
027. -- 029. (Reserved) ... 840
030. Investigations Or Inspections. ... 840
031. -- 039. (Reserved) ... 840
040. Claims Of Non-Payment. ... 840
041. -- 049. (Reserved) ... 840
050. Promote And Advertise. ... 840
051. -- 059. (Reserved) ... 840
060. Out-Of-State Providers. ... 840
061. -- 069. (Reserved) ... 841
070. Residence Outside The State Of Idaho. ... 841
071. -- 079. (Reserved) ... 841
080. Establishing An Account. ... 841
081. Account Information. ... 841
082. Identifying An Account Number. ... 841
083. -- 089. (Reserved) ... 842
090. Close Or Refuse To Open An Account. ... 842
091. -- 094. (Reserved) ... 842
095. Account Holder Responsibilities. ... 842
096. -- 099. (Reserved) ... 842
100. Operation Of An Account. ... 842
101. -- 104. (Reserved) ... 842
105. Credits To An Account. ... 842
106. Debits To An Account. ... 843
107. Wagers In Excess Of Account Balance. ... 843
108. Accounts Will Not Bear Any Interest. ... 844
109. Payments On Winning Pari-Mutuel Wagers. ... 844
110. Mailing Address. ... 844
111. -- 119. (Reserved) ... 844
120. Powers Of The Racing Commission To Review And Audit Records. ... 844
121. -- 124. (Reserved) ... 844
125. Confidential Information. ... 844
126. -- 129. (Reserved) ... 844
130. Applicable Laws, Rules, And Regulations. ... 844
131. -- 999. (Reserved) ... 844

11.04.07 – Rules Governing Racing Associations

000. Legal Authority. ... 845
001. Title And Scope. ... 845
002. -- 009. (Reserved) ... 845
010. Definitions. ... 845
011. -- 019. (Reserved) ... 846
020. Enter, Search And Inspect. ... 846
021. -- 039. (Reserved) ... 846
040. Racing Commission. ... 846

041. -- 049. (Reserved) ... 847
050. Employees. ... 847
051. -- 054. (Reserved) ... 847
055. Disturbing The Peace. ... 847
056. -- 059. (Reserved) ... 847
060. Ruled Off. ... 847
061. -- 069. (Reserved) ... 847
070. Prohibited Printed Material. ... 847
071. -- 074. (Reserved) ... 847
075. Handbooks. ... 847
076. -- 079. (Reserved) ... 848
080. Bookmakers. ... 848
081. -- 089. (Reserved) ... 848
090. Idaho Bred Races. ... 848
091. Breeder Awards. ... 848
092. -- 094. (Reserved) ... 848
095. Breed Associations. ... 848
096. -- 099. (Reserved) ... 849
100. Racing Association License. ... 849
101. -- 109. (Reserved) ... 849
110. Racing Association License Fees. ... 849
111. -- 119. (Reserved) ... 849
120. Racing Association License Applications. ... 849
121. -- 129. (Reserved) ... 849
130. Applications For Succeeding Seasons. ... 849
131. -- 139. (Reserved) ... 849
140. Horsemen's Agreement. ... 849
141. -- 149. (Reserved) ... 849
150. Racing Associations Operation. ... 849
151. -- 159. (Reserved) ... 849
160. Report Of Funds. ... 849
161. -- 169. (Reserved) ... 850
170. Approval Of Racing Association Licenses. ... 850
171. -- 179. (Reserved) ... 850
180. License Granted Upon Conditions. ... 850
181. -- 189. (Reserved) ... 850
190. Refusal To Issue License. ... 850
191. -- 199. (Reserved) ... 850
200. Fingerprints -- Photograph. ... 850
201. -- 209. (Reserved) ... 850
210. Racing Dates. ... 850
211. -- 219. (Reserved) ... 850
220. License Not Transferable. ... 850
221. -- 239. (Reserved) ... 851
240. Proposed Officials. ... 851
241. -- 249. (Reserved) ... 851
250. Racing Associations: General Rules. ... 851
251. -- 259. (Reserved) ... 852
260. Horsemen's Account. ... 852
261. -- 269. (Reserved) ... 852
270. Purse Money. ... 852
271. -- 279. (Reserved) ... 852

280. Communication. 852
281. -- 289. (Reserved) 852
290. Documents Filed With Racing Commission. 852
291. -- 299. (Reserved) 853
300. Horse Race Tracks. 853
301. -- 309. (Reserved) 853
310. Jockey Room. 853
311. -- 319. (Reserved) 853
320. Officials' Stands. 853
321. -- 329. (Reserved) 853
330. Photo Finish Devices. 853
331. -- 339. (Reserved) 854
340. Videotaping System. 854
341. -- 349. (Reserved) 854
350. Starting Gate. 854
351. -- 359. (Reserved) 855
360. Distance Markers. 855
361. -- 369. (Reserved) 855
370. Barns. 855
371. -- 379. (Reserved) 855
380. Test Area. 855
381. -- 389. (Reserved) 855
390. Isolation Area. 855
391. -- 899. (Reserved) 855
900. Security. 855
901. -- 909. (Reserved) 856
910. Complaints. 856
911. -- 919. (Reserved) 856
920. Exclusion And Ejection. 856
921. -- 999. (Reserved) 856

11.04.11 – Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses

000. Legal Authority. 857
001. Title And Scope. 857
002. -- 009. (Reserved) 857
010. Definitions And Abbreviations. 857
011. -- 019. (Reserved) 858
020. Enter, Search And Inspect. 858
021. Authority Of The Commission Veterinarian. 858
022. Report Of Disease. 858
023. Restrictions Of Wagering. 859
024. -- 029. (Reserved) 859
030. Treatment Restrictions. 859
031. Administration Of Non-Injectable Substances. 859
032. -- 034. (Reserved) 859
035. Hypodermic Needles. 859
036. -- 039. (Reserved) 859
040. Banned Substances. 859
041. -- 049. (Reserved) 860
050. Non-Permitted Medication. 860
051. -- 059. (Reserved) 860
060. Medications. 860

061. -- 069. (Reserved) ... 860
070. Anti-Ulcer Medications. ... 860
071. -- 074. (Reserved) ... 860
075. Environmental Contaminants And Substances Of Human Use. ... 860
076. -- 099. (Reserved) ... 860
100. Testing Facilities. ... 860
101. -- 104. (Reserved) ... 860
105. Laboratory Minimum Standards. ... 861
106. -- 109. (Reserved) ... 861
110. Testing. ... 861
111. Out-Of-Competition Testing. ... 861
112. -- 114. (Reserved) ... 862
115. Random Or Extra Testing. ... 862
116. -- 119. (Reserved) ... 862
120. Trainer Present. ... 862
121. -- 129. (Reserved) ... 862
130. Specimens. ... 862
131. -- 139. (Reserved) ... 862
140. Determination Of Sample. ... 862
141. -- 149. (Reserved) ... 863
150. Storage And Shipment Of Split Samples. ... 863
151. -- 159. (Reserved) ... 863
160. Testing Split Samples. ... 863
161. -- 179. (Reserved) ... 864
180. Chain Of Custody. ... 864
181. -- 199. (Reserved) ... 864
200. Non-Steroidal Anti-Inflammatory Drugs. ... 864
201. -- 209. (Reserved) ... 864
210. Non-Steroidal Anti-Inflammatory Drug Request Form ... 864
211. -- 219. (Reserved) ... 864
220. Approval Of Non-Steroidal Anti-Inflammatory Drug Request. ... 864
221. -- 229. (Reserved) ... 865
230. Expiration Of Approval. ... 865
231. -- 239. (Reserved) ... 865
240. Permitted Non-Steroidal Anti-Inflammatory Drugs. ... 865
241. -- 249. (Reserved) ... 865
250. Daily Racing Program. ... 865
251. -- 259. (Reserved) ... 865
260. Non-Steroidal Anti-Inflammatory Drug Administration ... 865
261. -- 264. (Reserved) ... 865
265. Bleeder Treatment. ... 865
266. -- 269. (Reserved) ... 865
270. Idaho Bleeder List. ... 866
271. -- 279. (Reserved) ... 866
280. Urine Samples. ... 866
281. -- 289. (Reserved) ... 866
290. Blood Samples. ... 866
291. Hair Testing. ... 867
292. -- 299. (Reserved) ... 867
300. Lasix Administration. ... 867
301. -- 319. (Reserved) ... 867
320. Horses Not Stabled On Grounds. ... 867

321. -- 399. (Reserved) ... 867
400. Bicarbonate Testing. ... 867
401. -- 499. (Reserved) ... 868
500. Protection Of Horses. ... 868
501. Illegal Practices By Trainer. ... 868
502. -- 599. (Reserved) ... 868
600. Non-Approved Medication. ... 868
601. -- 699. (Reserved) ... 868
700. Medication Report Form. ... 868
701. -- 989. (Reserved) ... 869
990. Penalties. ... 869
991. -- 994. (Reserved) ... 869
995. Violations. ... 869
996. -- 999. (Reserved) ... 869

11.04.15 – Rules Governing Controlled Substance and Alcohol Testing of Licensees and Applicants

000. Legal Authority. ... 870
001. Title And Scope. ... 870
002. -- 009. (Reserved) ... 870
010. Definitions. ... 870
011. -- 019. (Reserved) ... 870
020. Primary Purpose. ... 870
021. -- 049. (Reserved) ... 870
050. Use Of Controlled Substances. ... 870
051. -- 059. (Reserved) ... 871
060. Consumption Of Alcohol. ... 871
061. -- 099. (Reserved) ... 871
100. Testing. ... 871
101. -- 119. (Reserved) ... 871
120. Post-Accident Testing. ... 871
121. -- 129. (Reserved) ... 871
130. Refusal To Test. ... 871
131. -- 149. (Reserved) ... 871
150. Testing Procedure. ... 871
151. -- 199. (Reserved) ... 872
200. A Positive Test. ... 872
201. -- 219. (Reserved) ... 872
220. Procedures Following A Positive Chemical Analysis. ... 872
221. -- 249. (Reserved) ... 873
250. Confidentiality Of Test Results. ... 873
251. -- 299. (Reserved) ... 873
300. Testing Expense. ... 873
301. -- 999. (Reserved) ... 873

IDAPA 11 – IDAHO PUBLIC SAFETY AND SECURITY INFORMATION SYSTEM

Docket No. 11-1001-1900F

11.10.01 – Rules Governing Idaho Public Safety and Security Information System

000. Legal Authority. ... 875
001. Title And Scope. ... 875
002. Incorporation By Reference. ... 875
003. -- 009. (Reserved) ... 875
010. Definitions. ... 875

011. (Reserved) 876
012. Executive Officer Of The Board. 876
013. ILETS Board: Meetings And Quorum. 877
014. ILETS Board: Powers And Duties, Chairman, And Ad Hoc Advisory Committees. 877
015. (Reserved) 877
016. ILETS Network. 877
017. Agency Access To ILETS. 878
018. User Access Fees. 879
019. Adjusted Access Fees During Pilot Projects. 880
020. User Responsibilities. 880
021. Information Access And Dissemination. 880
022. -- 023. (Reserved) 881
024. ILETS Security. 881
025. -- 027. (Reserved) 883
028. User Agency Sanctions. 883
029. -- 999. (Reserved) 884

IDAPA 11 – PEACE OFFICER STANDARDS AND TRAINING COUNCIL

Docket No. 11-1101-1900F

11.11.01 – Rules of the Idaho Peace Officer Standards and Training Council

000. Legal Authority. 887
001. Title And Scope. 887
002. Applications And Forms. 887
003. Documentation – Copies. 887
004. – 009. (Reserved) 887
010. Definitions. 887
011. – 029. (Reserved) 891
030. POST Council. 891
031. Powers And Duties Of POST Council. 891
032. POST Hearing Board. 891
033. POST Division Administrator. 892
034 – 049. (Reserved) 892
050. Basic Certification Of Law Enforcement Officers. 892
051. Mandatory And Voluntary Certification. 892
052. Citizenship. 893
053. Education. 893
054. Age. 894
055. Ineligibility Based Upon Past Conduct. 894
056. Documentation Of Criminal, Traffic, And Military Discharge Records. 895
057. Requirements For Basic Certification. 895
058. Standards Of Conduct For Basic Training Academy Students. 897
059. Challenging A Basic Training Academy. 897
060. Agreement To Serve – Reimbursement Requirement. 898
061. – 069. (Reserved) 899
070. Higher Level Certification. 899
071. Law Enforcement Experience, Military Experience, And College Credits For Purposes Of Higher Certification. 900
072. Intermediate And Advanced Certification. 901
073. Supervisor Certification. 904
074. Master Certification. 904
075. Management Certification. 904
076. Executive Certification. 905

077. – 079. (Reserved) 905
080. Certifications For Part-Time Officers. 905
081. Reserve Peace Officer Certification. 906
082. Marine Deputy Certification. 906
083. Part-Time Juvenile Detention Officer Certification. 907
084. – 089. (Reserved) 908
090. Canine-Related Certifications. 908
091. Canine Team Certification. 908
092. Canine Evaluator Certification. 908
093. – 099. (Reserved) 909
100. Lapse Of Basic Certification – Reinstatement. 909
101 – 109. (Reserved) 910
110. Decertification. 910
111. Due Process Procedures In Decertification Proceedings. 911
112. Decertification Proceedings. 911
113. – 119. (Reserved) 913
120. POST Instructor Certification. 913
121. POST Instructor Certification – General Provisions. 913
122. Requirements For Instructors Of Law Enforcement Subjects. 913
123. Requirements For High Liability Instructor Endorsement. 913
124. Requirements For Canine Instructor Certification. 914
125. Master Instructor Certification. 914
126. Maintaining POST Instructor Certifications And Endorsements. 915
127. Suspension And Revocation Of Instructor Certification Or Endorsement. 915
128. – 129. (Reserved) 915
130. In-Service Training Requirements. 915
131. In-Service Training Requirements For Retaining Basic Certification. 915
132. Documentation Of In-Service Training. 916
133. POST Credit For In-Service Training. 916
134. Course Evaluation Fee. 917
135. Alternative Methods Of In-Service Training. 918
136. – 139. (Reserved) 918
140. Law Enforcement Certification Program Approval. 918
141. Law Enforcement Certification Program – General Provisions. 918
142. Administration Of College Or University Program. 918
143. Maintenance Of Records. 919
144. Minimum Attendance Requirements. 919
145. Post-Graduation Self-Evaluation. 919
146. Instruction. 919
147. Standards. 919
148. Periodic Assessment By POST. 920
149. – 999. (Reserved) 920

IDAPA 12 – IDAHO DEPARTMENT OF FINANCE

Docket No. 12-0000-1900

12.01.04 – Rules Pursuant to the Idaho Credit Union Act

000. Legal Authority. 923
001. Title And Scope. 923
002. -- 004. (Reserved) 923
005. Definitions. 923
006. -- 009. (Reserved) 923
010. Charter Applications. 923

011. -- 019. (Reserved) 923
020. Services, Advertising, Reporting Crimes, Bonds. 923
021. -- 039. (Reserved) 924
040. Member Business Loans. 924
041. -- 049. (Reserved) 926
050. Nonpreferential Treatment. 926
051. -- 059. (Reserved) 927
060. Prohibited Fees, Commissions, Compensation. 927
061. -- 999. (Reserved) 927

12.01.09 – Rules Pursuant to the Idaho Credit Code

000. Legal Authority. 928
001. Title And Scope. 928
002. -- 004. (Reserved) 928
005. Incorporation By Reference. 928
006. -- 999. (Reserved) 928

12.01.10 – Rules Pursuant to the Idaho Residential Mortgage Practices Act

000. Legal Authority. 929
001. Title And Scope. 929
002. -- 004. (Reserved) 929
005. Incorporation By Reference (Rule 5). 929
006. Definitions. 929
007. -- 039. (Reserved) 929
040. Deceptive Advertising. 929
041. -- 049. (Reserved) 930
050. Written Disclosures. 930
051. Restrictions On Fees. 930
052. -- 059. (Reserved) 930
060. Prohibited Practices. 930
061. -- 089. (Reserved) 931
090. Borrowers Unable To Obtain Loans. 931
091. -- 999. (Reserved) 931

12.01.11 – Rules Pursuant to the Idaho Collection Agency Act

000. Legal Authority. 932
001. Title And Scope (Rule 1). 932
002. -- 004. (Reserved) 932
005. Incorporation By Reference. 932
006. -- 999. (Reserved) 932

12.01.08 – Rules Pursuant to the Uniform Securities Act (2004)

000. Legal Authority. 935
001. Title And Scope. 935
002. -- 003. (Reserved) 935
004. Securities Exemptions, Opinions, And No-Action Letters. 935
005. Incorporation By Reference. 935
006. -- 009. (Reserved) 936
010. Definitions. 936
011. -- 019. (Reserved) 938
020. Application For Registration Of Securities. 938
021. Amendments To Registration Statement. 939
022. Financial Statements. 940
023. -- 035. (Reserved) 940
036. NASAA Statements Of Policy -- Registered Offerings. 940

037. Registration Of Debt Securities. 940
038. Withdrawal/Abandonment Of A Registration Statement. 940
039. Report Of Completion Of Offering. 941
040. Annual Report For The Renewal Of A Registration Statement. 941
041. Subscription Agreement. 941
042. Delivery Of Prospectus. 941
043. Registrations -- Notice Of Intended Idaho Broker -- Dealer Or Agent. 941
044. Records To Be Preserved By Issuers. 941
045. Examination Of Application. 942
046. On-Site Examination Of Issuers. 942
047. Advertising. 942
048. Department Access. 943
049. -- 051. (Reserved) 943
052. Issuer Agent Registration. 943
053. Federal Covered Securities. 944
054. Not For Profit Debt Securities Notice Filing. 945
055. Mortgage Note Exemption. 946
056. Manual Exemption. 946
057. Mining, Oil Or Gas Exploration Exemption Requirements. 946
058. Stock Exchange Listed Securities. 946
059. (Reserved) 947
060. Registration Or Exemption Of “Blind Pool” Offerings Prohibited. 947
061. Cross-Border Transactions Exemption. 947
062. Designated Matching Services. 947
063. -- 077. (Reserved) 949
078. Implementation Of CRD. 949
079. Implementation Of IARD. 950
080. Broker-Dealer Registration -- Application/Renewal. 951
081. Withdrawal Of Broker -- Dealer And Agent Registration. 952
082. Withdrawal Of Agent Of Issuer Registration. 953
083. Broker-Dealer Agent/Issuer Agent Registration. 953
084. Cross-Border Licensing Exemption. 955
085. Relicensing (Formerly Temporary Agent Transfer (TAT) System). 955
086. Agent Termination. 956
087. Net Capital Requirements For Broker-Dealers. 956
088. Records Required For Broker-Dealers. 956
089. Investment Adviser Registration -- Application/Renewal. 956
090. Investment Adviser Representative Registration – Application/Renewal. 957
091. Withdrawal Of Investment Adviser And Investment Adviser Representative Registration. 958
092. Notice Filing Requirements For Federal Covered Advisers. 959
093. Records Required Of Investment Advisers. 959
094. Client Contracts – Investment Advisers. 959
095. Investment Adviser Brochure Rule. 960
096. Requirements For Custody. 960
097. Investment Adviser Affiliation With Broker-Dealers/Issuers/Agents. 960
098. Names Used By Broker-Dealers And Investment Advisers. 960
099. Circumvention Of Orders Prohibited. 961
100. Waiver By Administrator. 961
101. Notification Of Opening, Closing Or Relocation Of Branch Offices. 961
102. Cancellation Of Registration Or Application -- Grounds. 961
103. Examination Requirements. 961

104. Fraudulent, Dishonest And Unethical Practices - Broker-Dealer, Broker-Dealer Agents, Issuer Agents, Investment Advisers, Investment Adviser Representatives. 962
105. Supervision Of Agents, Investment Adviser Representatives And Employees. 966
106. -- 999. (Reserved) 967

IDAPA 13 – DEPARTMENT OF FISH AND GAME

Docket No. 13-0000-1900

13.01.01 – Rules of Practice and Procedure of the Idaho Fish and Game Commission
000. Legal Authority. 970
001. Title And Scope. 970
002. Administrative Procedure. 970
003. – 010. (Reserved) 970
011. Commission Officers. 970
012. Duties Of Chair And Vice-Chair. 970
013. Director – Commission Secretary. 970
014. Delegation Of Powers. 970
015. Investigations. 970
016. Official Receipt Of Documents. 970
017. Orders. 970
018. – 049. (Reserved) 971
050. Conduct Of Commission Meetings. 971
051. Procedure For Public Testimony At Commission Meetings. 971
052. – 999. (Reserved) 971
13.01.02 – Rules Governing Mandatory Education and Mentored Hunting
000. Legal Authority. 972
001. Title And Scope. 972
002. -- 009. (Reserved) 972
010. Definitions. 972
011. -- 100. (Reserved) 972
101. Mentored Hunting Program. 972
102. Nonresident Junior Mentored License. 973
103. -- 999. (Reserved) 973
13.01.03 – Public Use of Lands Owned or Controlled by the Department of Fish and Game
000. Legal Authority. 974
001. Title And Scope. 974
002. – 009. (Reserved) 974
010. Definitions. 974
011. – 099. (Reserved) 974
100. Public Use Restrictions. 974
101. – 999. (Reserved) 975
13.01.04 – Rules Governing Licensing
000. Legal Authority. 976
001. Title And Scope. 976
002. – 009. (Reserved) 976
010. Definitions. 976
011. – 049. (Reserved) 977
050. Resident Licenses And Lifetime Certificates. 977
051. Purchasing Licenses For Others. 977
052. – 199. (Reserved) 978
200. Licenses, Permits, And Tags For Lifetime License Certificate Holders. 978

201. Certificate Non-Transferable. ... 978
202. Certificate Holders Residing Out-Of-State. ... 978
203. Obtaining Certificates Unlawfully. ... 978
204. Revocation Of Certificate And Licenses. ... 978
205. – 249. (Reserved) ... 978
250. Defaced Or Altered Licenses Invalid. ... 978
251. – 254. (Reserved) ... 978
255. Authorization Number Pending Receipt of License. ... 978
256. – 261. (Reserved) ... 979
262. Resident Licenses – Job Corps Students. ... 979
263. Resident Licenses – Military Personnel – U.S. And Foreign ... 979
264. Resident Licenses – Student. ... 979
265. Foreign Exchange High School Students. ... 980
266. Foreigners/Aliens In Idaho. ... 980
267. – 301. (Reserved) ... 980
302. Disability Licenses. ... 980
303. Disabled Persons Motor Vehicle Hunting Permits. ... 981
304. Disabled Archery Permit. ... 981
305. Reasonable Modification Permit For Special Weapon Hunting Seasons. ... 981
306. Disabled Hunter And Companion: Game Tags, Permits, And Limits. ... 982
307. – 399. (Reserved) ... 983
400. Landowner Appreciation Program (LAP). ... 983
401. Landowner Appreciation Seasons. ... 984
402. – 499. (Reserved) ... 984
500. Nonresident Deer And Elk Tag Outfitter Set-Aside. ... 984
501. – 504. (Reserved) ... 985
505. Deer And Elk Tag Allocation. ... 985
506. Deer And Elk Outfitter Allocated Tag. ... 986
507. – 549. (Reserved) ... 986
550. Nonresident Deer And Elk Tag Quotas. ... 986
551. – 559. (Reserved) ... 987
560. Sale Of Unsold Nonresident Deer And Elk Tags As Second Tags. ... 987
561. – 601. (Reserved) ... 987
602. Special Military Deployment Refund And Rain Check. ... 987
603. – 699. (Reserved) ... 988
700. Bighorn Sheep Auction Tag. ... 988
701. Governor's Wildlife Partnership Tags. ... 988
702. – 799. (Reserved) ... 989
800. Bighorn Sheep Lottery Tag. ... 989
801. – 899. (Reserved) ... 990
900. Children With Special Needs Big Game Tag. ... 990
901. Disabled Veterans Special Big Game Tag. ... 990
902. – 999. (Reserved) ... 991

13.01.06 – Rules Governing Classification and Protection of Wildlife

000. Legal Authority. ... 992
001. Title And Scope. ... 992
002. – 099. (Reserved) ... 992
100. Classification Of Wildlife – Big Game Animals. ... 992
101. Classification Of Wildlife – Upland Game Animals. ... 992
102. Classification Of Wildlife – Game Birds. ... 992
103. Classification Of Wildlife – Game Fish. ... 993
104. Classification Of Wildlife – Furbearing Animals ... 995

105. – 149. (Reserved) 995
150. Threatened Or Endangered Species. 995
151. – 199. (Reserved) 995
200. Protected Nongame Species. 995
201. Predatory Wildlife. 996
202. – 249. (Reserved) 996
250. Unprotected Wildlife. 996
251. – 299. (Reserved) 996
300. Protection Of Wildlife. 996
301. – 999. (Reserved) 997

13.01.07 – Rules Governing the Taking of Upland Game Animals

000. Legal Authority. 998
001. Title And Scope. 998
002. – 009. (Reserved) 998
010. Definitions. 998
011. – 099. (Reserved) 998
100. Methods Of Take. 998
101. – 199. (Reserved) 998
200. Areas Closed To Hunting Of Upland Game Animals. 998
201. – 299. (Reserved) 998
300. Wounding – Retrieving. 998
301. – 399. (Reserved) 999
400. Upland Game Animals Seasons, Bag, And Possession Limits. 999
401. – 999. (Reserved) 999

13.01.08 – Rules Governing the Taking of Big Game Animals

000. Legal Authority. 1000
001. Title And Scope. 1000
002. -- 009. (Reserved) 1000
010. Definitions. 1000
011. -- 199. (Reserved) 1000
200. Bag and Possession Limits. 1000
201. -- 249. (Reserved) 1000
250. Tags And Permits. 1000
251. Archery And Muzzleloader Permits. 1001
252. -- 254. (Reserved) 1001
255. Nonresident Tag Restrictions. 1001
256. (Reserved) 1001
257. Eligibility For Controlled Hunt Application. 1002
258. Controlled Hunt Applications 1003
259. Deadline For Claiming Tags and Unclaimed Tags. 1005
260. Use Of Controlled Hunt Tags. 1005
261. Special Controlled Hunts. 1006
262. Designation of Controlled Hunt Tags to Children. 1007
263 -- 269. (Reserved) 1008
270. Mandatory Hunter Orientation. 1008
271. -- 299. (Reserved) 1008
300. Identification Of Animals That Legally May Be Taken. 1008
301. -- 319. (Reserved) 1009
320. Tag Validation And Attachment. 1009
321. -- 349. (Reserved) 1009
350. Identification of Sex, Size, and/or Species in Possession and During Transportation or Shipment. 1010

351. -- 399. (Reserved) 1010
400. Hunting Hours. 1010
401. Wounding And Retrieving. 1010
402. -- 403. (Reserved) 1010
404. Special Weapon Seasons. 1010
405. Special Weapon Seasons – Archery. 1011
406. Special Weapon Seasons – Muzzleloader. 1011
407. Special Weapon Seasons – Short-Range Weapons. 1011
408. -- 409. (Reserved) 1012
410. Unlawful Methods Of Take – General. 1012
411. Motorized Hunting Rule. 1013
412. Designated Motorized Hunting Rule Units. 1014
413. -- 418. (Reserved) 1014
419. Return Of Tags By Unsuccessful Hunters. 1014
420. Mandatory Check And Report Requirements. 1014
421. Mandatory Pronghorn, Deer, And Elk Report Requirements. 1015
422. Mandatory Telephone Report. 1015
423. -- 499. (Reserved) 1015
500. Areas Closed to Hunting of Big Game Animals. 1015
501. -- 599. (Reserved) 1016
600. Game Management Unit Boundary Descriptions — UNITS 1-5. 1016
601. Game Management Unit Boundary Descriptions — UNITS 6-10A. 1017
602. Game Management Unit Boundary Descriptions — UNITS 11-15. 1018
603. Game Management Unit Boundary Descriptions — UNITS 16-20A. 1019
604. Game Management Unit Boundary Descriptions — Units 21-25. 1021
605. Game Management Unit Boundary Descriptions — Units 26-30A. 1021
606. Game Management Unit Boundary Descriptions — Units 31-35. 1022
607. Game Management Unit Boundary Descriptions — Units 36-40. 1022
608. Game Management Unit Boundary Descriptions — Units 41-45. 1023
609. Game Management Unit Boundary Descriptions — Units 46-50. 1024
610. Game Management Unit Boundary Descriptions — Units 51-55. 1025
611. Game Management Unit Boundary Descriptions — Units 56-60A. 1026
612. Game Management Unit Boundary Descriptions — Units 61-65. 1026
613. Game Management Unit Boundary Descriptions — Units 66-70. 1027
614. Game Management Unit Boundary Descriptions — Units 71-75. 1028
615. Game Management Unit Boundary Descriptions — Units 76-78. 1029
616. -- 649. (Reserved) 1029
650. Elk Zone Descriptions. 1030
651. -- 699. (Reserved) 1031
700. Seasons, Limits, Controlled Hunts, And Tag Numbers. 1031
701. -- 799. (Reserved) 1031
800. Emergency Depredation Hunts. 1031
801. -- 999. (Reserved) 1031

13.01.09 – Rules Governing the Taking of Game Birds

000. Legal Authority. 1032
001. Title And Scope. 1032
002. – 009. (Reserved) 1032
010. Definitions. 1032
011. – 099. (Reserved) 1032
100. Sage And Sharp-Tailed Grouse Tags, Permits, And Validations. 1032
101. Migratory Game Bird Tags, Permits, And Validations. 1032
102. Wild Turkey Tags, Stamps, Permits, And Validations. 1032

103. Pheasant Tags, Permits, And Validations. 1034
104. – 199. (Reserved) 1034
200. Identification Of Species In Possession And During Transportation. 1034
201. – 299. (Reserved) 1034
300. Upland Game Bird Methods Of Take. 1034
301. Migratory Game Bird And American Crow Methods Of Take. 1035
302. – 399. (Reserved) 1035
400. Areas Closed To Hunting Of Game Birds. 1035
401. Game Preserves Open To The Hunting Of Migratory Game Birds. 1037
402. – 449. (Reserved) 1037
450. Wounding – Retrieving. 1037
451. – 499. (Reserved) 1037
500. Official Shooting Hours. 1038
501. – 599. (Reserved) 1038
600. Seasons, Bag, And Possession Limits, And Management Units. 1038
601. – 999. (Reserved) 1038

13.01.10 – Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife

000. Legal Authority. 1039
001. Title And Scope. 1039
002. – 009. (Reserved) 1039
010. Definitions. 1039
011. – 099. (Reserved) 1039
100. Permits For Import, Export, Transport, Possession, Release, And Sale Of Live Wildlife. 1039
101. Import Or Transport Permit Issuance. 1040
102. Possession Of Unlawful Import. 1041
103. – 149. (Reserved) 1041
150. Wildlife In Transit. 1041
151. – 199. (Reserved) 1041
200. Captive Wildlife. 1041
201. Disease Of Captive Wildlife. 1041
202. – 299. (Reserved) 1041
300. Recovery, Possession, And Sale Of Wildlife Parts. 1041
301. Possession, Importation, And Transportation Of Cervid Carcasses Or Parts From Areas With Chronic Wasting Disease (CWD) Unlawful. 1043
302. – 399. (Reserved) 1043
400. Private Parks And Commercial Wildlife Facilities. 1043
401. – 410. (Reserved) 1045
411. Humane Treatment Of Captive Wildlife 1045
412. Responsibility Of Possessor Of Captive Wildlife. 1046
413. – 499. (Reserved) 1046
500. Shooting Preserve Rules. 1046
501. – 599. (Reserved) 1046
600. Captive Wolves. 1046
601. – 699. (Reserved) 1047
700. Violation Grounds For Licensing Action And Animal Removal. 1047
701. – 999. (Reserved) 1047

13.01.11 – Rules Governing Fish

000. Legal Authority. 1048
001. Title And Scope. 1048
002. – 009. (Reserved) 1048
010. Definitions – Fish. 1048
011. Definitions – Conduct Of Fishing. 1048

012. Definitions – Fishing Contests. 1050
013. – 100. (Reserved) 1050
101. Release Of Fish While Fishing. 1050
102. Sturgeon. 1051
103. (Reserved) 1051
104. Identification Of Species And Size In Possession And During Transportation Or Shipment. 1051
105. Purchase, Barter, Or Sale Of Fish. 1051
106. Live Fish – Possession, Transport, Import, And Release. 1051
107. Live Fish And Eggs – Exceptions. 1051
108. – 199. (Reserved) 1052
200. Fishing Methods And Gear. 1052
201. – 299. (Reserved) 1053
300. Fishing Seasons, Limits, Hours, And Regional Exceptions. 1053
301. – 344. (Reserved) 1053
345. Fishing In Boundary Waters. 1053
346. Fish Salvage. 1053
347. – 399. (Reserved) 1053
400. Steelhead And Anadromous Salmon Licenses, Tags, And Permits. 1053
401. – 402. (Reserved) 1054
403. Permit Validation. 1054
404. Identification Of Species In Possession And During Transportation Or Shipment. 1054
405. Steelhead And Anadromous Salmon Methods Of Take. 1054
406. – 407. (Reserved) 1055
408. Steelhead Purchase Report. 1055
409. – 699. (Reserved) 1055
700. Fishing Contests – Permit Requirement And Application. 1055
701. Fishing Contests Permit Issuance. 1055
702. Fishing Contests – Requirements. 1056
703. Fishing Contest Reports. 1056
704. – 999. (Reserved) 1056

13.01.12 – Rules Governing Commercial Fishing

000. Legal Authority. 1057
001. Title And Scope. 1057
002. – 009. (Reserved) 1057
010. Definitions. 1057
011. – 099. (Reserved) 1057
100. Licenses, Tags, And Permits. 1057
101. – 199. (Reserved) 1057
200. Release Of Non-Target Fish And Crustacea. 1057
201. – 299. (Reserved) 1058
300. Possession And Transportation Of Live Fish Or Crustacea. 1058
301. – 399. (Reserved) 1058
400. Size Limits. 1058
401. – 499. (Reserved) 1058
500. Commercial Gear And Methods Of Take For Fish Or Crustacea. 1058
501. Untagged Gear. 1059
502. – 599. (Reserved) 1059
600. Seasons. 1059
601. – 699. (Reserved) 1059
700. Commercial Fishing Areas. 1059
701. Commercial Fishing Restrictions. 1060

702. – 799. (Reserved) 1060
800. Inspections And Reporting Requirements. 1060
801. – 999. (Reserved) 1061
13.01.14 – Rules Governing Falconry
000. Legal Authority. 1062
001. Title and Scope. 1062
002. -- 009. (Reserved) 1062
010. Definitions. 1062
011. -- 099. (Reserved) 1062
100. Permits, Possession, Importation, And Sale. 1062
101. -- 199. (Reserved) 1064
200. Inspection of Raptors, Facilities, Possession and Records 1064
201. -- 299. (Reserved) 1064
300. Approved Species, Wild Capture, Limits, Permits, Hacking, and Rehabilitation. 1064
301. -- 399. (Reserved) 1066
400. Raptor Banding, Radio Transmitters, Transfers, Reporting, And Release 1066
401. -- 499. (Reserved) 1067
500. Falconry Hunting Seasons, Bag and Possession Limits. 1067
501. -- 599. (Reserved) 1067
600. Training Raptors Using Artificially Propagated Game Birds. 1067
601. -- 699. (Reserved) 1067
700. Falconry Meets, Permits, Non-Residents, New U.S. Residents, And Visitors. 1067
701. -- 799. (Reserved) 1067
800. Penalties. 1067
801. -- 999. (Reserved) 1067
13.01.15 – Rules Governing the Use of Dogs
000. Legal Authority. 1068
001. Title and Scope. 1068
002. -- 009. (Reserved) 1068
010. Definitions. 1068
011. -- 099. (Reserved) 1068
100. Use Of Dogs. 1068
101. -- 199. (Reserved) 1068
200. Hound Hunter Permit. 1068
201. -- 299. (Reserved) 1069
300. Bird-Dog Training And Field Trials By Individuals Using Artificially Propagated Game Birds. 1069
301. -- 999. (Reserved) 1070
13.01.16 – The Trapping of Predatory and Unprotected Wildlife and the Taking of Furbearing Animals
000. Legal Authority. 1071
001. Title and Scope. 1071
002. -- 009. (Reserved) 1071
010. Definitions. 1071
011. -- 099. (Reserved) 1071
100. Identification Tags for Traps. 1071
101. -- 149. (Reserved) 1071
150. Controlled Trapping Permits. 1071
151. -- 199. (Reserved) 1072
200. Traps. 1072
201. -- 299. (Reserved) 1073
300. Wounding, Retrieving, and Possession. 1073

301. -- 399. (Reserved) ... 1073
400. Methods Of Take. ... 1073
401. -- 499. (Reserved) ... 1074
500. Mandatory Check And Report – Pelt Tags. ... 1074
501. -- 599. (Reserved) ... 1074
600. Trapping On Game Preserves and Wildlife Management Areas. ... 1074
601. -- 649. (Reserved) ... 1074
650. Areas Closed To The Trapping Of Predatory And Unprotected Wildlife And The Taking Of Furbearing Animals. ... 1074
651. -- 699. (Reserved) ... 1075
700. Common Season Boundaries for Streams and Rivers. ... 1075
701. --749. (Reserved) ... 1075
750. Seasons and Limits. ... 1075
751. -- 799. (Reserved) ... 1075
800. Trapping Reports. ... 1075
801. -- 999. (Reserved) ... 1075

13.01.17 – Rules Governing the Use of Bait and Trapping for Taking Big Game Animals

000. Legal Authority. ... 1076
001. Title and Scope. ... 1076
002. – 009. (Reserved) ... 1076
010. Definitions. ... 1076
011. -- 099. (Reserved) ... 1076
100. Use of Bait for Hunting Big Game. ... 1076
101. -- 199. (Reserved) ... 1077
200. Baiting Permit. ... 1077
201. -- 399. (Reserved) ... 1077
400. Trapping Big Game Animals. ... 1077
401. -- 449. (Reserved) ... 1078
450. Traps. ... 1078
451. -- 459. (Reserved) ... 1079
460. Mandatory Check And Report. ... 1079
461. Mandatory Wolf Trapper Education Class. ... 1079
462. -- 499. (Reserved) ... 1079
500. Tag Validation And Attachment And Proxy Statement; Identification Of Sex, Size, Species In Possession And During Transportation Or Shipment. ... 1079
501. -- 504. (Reserved) ... 1079
505. Areas Closed To Hunting And Trapping, And Trapping On Game Preserves And Wildlife Management Areas. ... 1079
506. -- 999. (Reserved) ... 1079

13.01.18 – Rules Governing Feeding of Pronghorn, Elk, and Deer

000. Legal Authority. ... 1080
001. Title and Scope. ... 1080
002. -- 099. (Reserved) ... 1080
100. Intent. ... 1080
101. Delegation Of Authority To Regional Supervisors. ... 1080
102. Emergency Feeding Criteria. ... 1080
103. Feed Stockpiles. ... 1080
104. -- 199. (Reserved) ... 1080
200. Private Feeding Of Deer And Elk Within Designated CWD Management Zone. ... 1080
201. – 999. (Reserved) ... 1081

13.01.19 – Rules for Selecting, Operating, Discontinuing, and Suspending Vendors

000. Legal Authority. ... 1082

001. Title and Scope. 1082
002. -- 099. (Reserved) 1082
100. Vendor Classification. 1082
101. Application. 1082
102. (Reserved) 1083
103. Active Vendor Ceiling. 1083
104. Licensing System. 1083
105. -- 109. (Reserved) 1083
110. Out-of-State Vendors. 1083
111. Vendor Location Not Movable. 1083
112. Types of Licenses Sold by Vendor. 1083
113. -- 119. (Reserved) 1083
120. Contract Agreement Violations. 1083
121. Termination or Suspension of Vendor. 1084
122. -- 129. (Reserved) 1085
130. Issuing Licenses and Tags. 1085
131. -- 149. (Reserved) 1085
150. Public Monies. 1085
151. Voided and Cancelled Licenses. 1085
152. Loss of Documents and Fees. 1085
153. Inspection and Audit. 1085
154. Transfer and Sale of Documents Issued to Vendors. 1085
155. Return Of Equipment, License Stock, Forms, And Supplies. 1085
156. Internet Service Provider (ISP). 1085
157. -- 199. (Reserved) 1085
200. Contract To Take License Applications By Telephone Or Other Electronic Methods. 1086
201. – 999. (Reserved) 1086

13.01.02 – Rules Governing Mandatory Education and Mentored Hunting
200. Hunter And Archery Education. 1089
201. Trapper Education. 1089

13.01.04 – Rules Governing Licensing
601. Refunds To Nonresidents. 1090

13.01.08 – Rules Governing the Taking of Big Game Animals in the State of Idaho
263. Refunds of Controlled Hunt Fees. 1091

13.01.10 – Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife
410. Large Commercial Wildlife Facilities. 1092

13.01.19 – Rules for Selecting, Operating, Discontinuing, and Suspending Vendors
102. Selection. 1093

IDAPA 15 – IDAHO COMMISSION ON AGING

Docket No. 15-0100-1900

15.01.01 – Rules Governing Senior Services and Older Americans Act Programs
000. Legal Authority. 1095
001. Title And Scope. 1095
002. -- 009. (Reserved) 1095
010. Definitions. 1095
011. Demonstration Projects. 1096
012. Program Purpose. 1096
013. Program Policy. 1096

014. Program Eligibility. 1098
015. Service Priority. 1098
016. Service Limitations. 1098
017. -- 999. (Reserved) 1098

15.01.02 – Rules Governing Adult Protective Services Programs

000. Authority. 1099
001. Title And Scope. 1099
002. -- 009. (Reserved) 1099
010. Definitions. 1099
011. -- 019. (Reserved) 1099
020. Policy Statement. 1099
021. Administrative Requirements. 1099
022. Provision Of Service Requirements. 1099
023. -- 030. (Reserved) 1100
031. Investigative Requirements. 1100
032. Case Closure. 1101
033. -- 999. (Reserved) 1101

15.01.03 – Rules Governing the Ombudsman for the Elderly Program

000. Legal Authority. 1102
001. Title And Scope. 1102
002. -- 009. (Reserved) 1102
010. Definitions. 1102
011. -- 019. (Reserved) 1102
020. Administrative Requirements. 1103
021. Staffing. 1103
022. -- 030. (Reserved) 1104
031. Designation Of Authority Of AAA. 1104
032. Handling Of Complaints. 1104
033. Access. 1105
034. -- 040. (Reserved) 1105
041. Written Consent. 1105
042. Confidentiality. 1106
043. Disclosure. 1107
044. -- 999. (Reserved) 1107

15.01.20 – Rules Governing Area Agency on Aging (AAA) Operations

000. Authority. 1108
001. Title And Scope. 1108
002. -- 009. (Reserved) 1108
010. Definitions. 1108
011. -- 019. (Reserved) 1108
020. Planning And Service Area (PSA) Designation. 1108
021. AAA. 1108
022. AAA Budget Forms And Revisions. 1108
023. -- 040. (Reserved) 1109
041. AAA Responsibilities. 1109
042. Contract Management Requirements. 1109
043. -- 050. (Reserved) 1109
051. Area Advisory Councils On Aging. 1109
052. Area Plans. 1109
053. Service Priority And Appeals. 1110
054. Eligibility. 1110

055. AAA Assessments Of Providers. 1110
056. Reporting Requirements. 1110
057. Civil Rights. 1110
058. -- 065. (Reserved) 1110
066. Financial Management. 1110
067. -- 999. (Reserved) 1110

IDAPA 15 – IDAHO COMMISSION FOR THE BLIND AND VISUALLY IMPAIRED

Docket No. 15-0200-1900

15.02.02 – Vocational Rehabilitation Services

000. Legal Authority. 1112
001. Title And Scope. 1112
002. -- 003. (Reserved) 1112
004. Incorporation By Reference. 1112
005. -- 009. (Reserved) 1112
010. Definitions. 1112
011. -- 099. (Reserved) 1112
100. Provision Of Services On A Statewide Basis. 1112
101. Information, Referral, And Application For VR Services. 1112
102. -- 109. (Reserved) 1113
110. Eligibility. 1113
111. -- 299. (Reserved) 1113
300. Financial Participation. 1113
301. -- 354. (Reserved) 1114
355. Client Appeals. 1114
356. Order Of Selection. 1114
357. -- 999. (Reserved) 1114

15.02.03 – Rules Governing the Independent Living Program

000. Legal Authority. 1115
001. Title And Scope. 1115
002. -- 003. (Reserved) 1115
004. Incorporation By Reference. 1115
005. -- 009. (Reserved) 1115
010. Definitions. 1115
011. -- 099. (Reserved) 1115
100. Provision Of Services On A Statewide Basis And Application. 1115
101. -- 109. (Reserved) 1115
110. Eligibility. 1115
111. -- 149. (Reserved) 1116
150. Independent Living Plan. 1116
151. -- 199. (Reserved) 1116
200. Client Financial Participation. 1116
201. -- 999. (Reserved) 1116

15.02.04 – Rules Governing the Prevention of Blindness and Sight Restoration Program

000. Legal Authority. 1117
001. Title and Scope. 1117
002. -- 009. (Reserved) 1117
010. Definitions. 1117
011. -- 099. (Reserved) 1117
100. Provision Of Services On A Statewide Basis. 1117
101. -- 109. (Reserved) 1117

110. Eligibility. 1117
112 -- 199. (Reserved) 1118
200. Payment For Necessary Expenses. 1118
201. -- 999. (Reserved) 1118
15.02.30 – Business Enterprise Program
000. Legal Authority. 1119
001. Title And Scope. 1119
002. -- 009. (Reserved) 1119
010. Definitions. 1119
011. Purpose. 1120
012. -- 029. (Reserved) 1121
030. Licenses. 1121
031. -- 039. (Reserved) 1121
040. Termination And Suspension Of Licenses. 1121
041. -- 049. (Reserved) 1122
050. Selection Of Operators. 1122
051. -- 059. (Reserved) 1123
060. Access To Program And Financial Information. 1123
061. -- 069. (Reserved) 1123
070. Equipment, Initial Stock And Business Expenses. 1123
071. Maintenance And Replacement Of Equipment. 1123
072. Operator Ownership Of Vending Facilities. 1124
073. -- 099. (Reserved) 1124
100. Setting Aside Of Funds. 1124
101. Distribution And Use Of Income From Vending Machines On Federal Property. 1124
111. -- 119. (Reserved) 1124
120. Operator Benefits. 1124
121. -- 129. (Reserved) 1125
130. Agreements/Contracts. 1125
131. -- 139. (Reserved) 1127
140. Termination And Suspension Of Agreements/Contracts. 1127
141. -- 149. (Reserved) 1128
150. Training Program. 1128
151. -- 159. (Reserved) 1128
160. Idaho Blind Merchant's Committee. 1128
161. -- 169. (Reserved) 1129
170. Meetings Of The Committee. 1129
171. -- 179. (Reserved) 1130
180. Administrative Review. 1130
181. -- 189. (Reserved) 1130
190. Full Evidentiary Hearing. 1130
191. -- 199. (Reserved) 1131
200. Arbitration. 1131
201. -- 209. (Reserved) 1131
210. Explanation To Vendors Of Rights And Responsibilities. 1131
211. -- 219. (Reserved) 1131
220. Discrimination. 1131
221. -- 999. (Reserved) 1131

IDAPA 15 – IDAHO FOREST PRODUCTS COMMISSION

Docket No. 15-0300-1900F

15.03.01 – Rules of Administrative Procedure of the Idaho Forest Products Commission
000. Legal Authority. ... 1133
001. Title And Scope. ... 1133
002. -- 003. (Reserved) ... 1133
004. Definitions. ... 1133
005. -- 099. (Reserved) ... 1133
100. Nominations, Vacancies And Terms. ... 1133
101. -- 199. (Reserved) ... 1133
200. Assessments And Fees. ... 1133
201. -- 299. (Reserved) ... 1134
300. Late Payments And Penalties. ... 1134
301. -- 999. (Reserved) ... 1134

IDAPA 15 – DIVISION OF HUMAN RESOURCES AND PERSONNEL COMMISSION
Docket No. 15-0400-1900

15.04.01 – Rules of the Division of Human Resources and Idaho Personnel Commission
000. Legal Authority. ... 1136
001. Title, Scope, And Compliance. ... 1136
002. -- 005. (Reserved) ... 1136
006. Waiver Of Rules. ... 1136
007. (Reserved) ... 1136
008. Applicability To Health Districts. ... 1136
009. Duties Of The Administrator. ... 1136
010. Definition. ... 1136
011. -- 019. (Reserved) ... 1139
020. Basic Merit Requirements Of The Personnel System. ... 1139
021. Discrimination Prohibited. ... 1139
022. Prohibited Questions. ... 1139
023. Bona Fide Occupational Qualification. ... 1139
024. Conflict Of Interest And Personal Conduct. ... 1139
025. Nepotism. ... 1139
026. Dual Employment. ... 1139
027. -- 039. (Reserved) ... 1139
040. Nonclassified Employees Subject To Classified Service Subsequent To April 5, 1985. ... 1139
041. -- 049. (Reserved) ... 1140
050. Consultants And Persons Employed Under Independent Contract. ... 1140
051. -- 059. (Reserved) ... 1140
060. Adoption Of Classification Schedule. ... 1140
061. Analysis Of Classifications. ... 1140
062. Authority. ... 1141
063. Review Of Classification Schedule. ... 1141
064. Amendment Of Classification Schedule. ... 1141
065. Approval Of New, Revised And Deleted Classifications. ... 1141
066. Abolishment Of Positions. ... 1141
067. Reclassification Of Positions. ... 1141
068. Violations. ... 1141
069. (Reserved) ... 1141
070. Compensation Of Employees. ... 1142
071. Merit Increase Matrix. ... 1142
072. Operation Of Compensation Plan. ... 1142
073. Calculation Of Pay. ... 1143

074. Assignment Of Hay Evaluation Points. 1144
075. Bonuses. 1145
076. -- 079. (Reserved) 1145
080. Recruitment. 1145
081. Purpose Of Examinations. 1145
082. Methods Of Recruitment. 1145
083. Moving Expense Reimbursement. 1145
084. Announcement Of Recruitment. 1145
085. Content Of Announcements. 1146
086. Applications. 1146
087. Denial Of Applications. 1146
088. -- 089. (Reserved) 1147
090. Examinations. 1147
091. Prohibited Factors. 1147
092. Preparation Of Examinations. 1147
093. Conduct And Rating Of Examinations Including Veterans' Preference Points. 1147
094. Elimination Tests. 1148
095. Notice And Record Of Results Of Examination. 1148
096. Review And Appeal. 1148
097. Alternative Examination Process For Persons With Disabilities. 1148
098. -- 100. (Reserved) 1149
101. Eligibility Registers. 1149
102. Placement On Register. 1149
103. Duration Of Eligibility Registers. 1149
104. Removal Of Names. 1149
105. Temporary Unavailability Not Reason For Removal. 1150
106. Restoration Of Names To Eligibility Registers. 1150
107. Revision Of Classification Specifications. 1150
108. (Reserved) 1150
109. Certification And Selection. 1151
110. Number Of Names On Register. 1151
111. Adequate Registers. 1151
112. -- 118. (Reserved) 1151
119. Appointments, Reinstatements, Transfers, And Resignations. 1151
120. Limited Service Appointments. 1151
121. Seasonal Appointment. 1151
122. Temporary Appointments (Non-Classified). 1152
123. Project-Exempt Appointments (Non-Classified). 1152
124. Reinstatements. 1152
125. Transfers. 1153
126. Resignation. 1153
127. -- 128. (Reserved) 1153
129. Acting Appointment To A Position. 1153
130. Limitation On Length Of Appointment. 1154
131. Salary. 1154
132. Expiration Of Appointment. 1154
133. -- 139. (Reserved) 1154
140. Reduction In Force. 1154
141. Calculation Of Retention Points. 1155
142. Credited State Service. 1156
143. Reduction In Force Determination And Notification. 1156
144. Placement On Register With Reemployment Preference. 1157

145. Use Of Registers With Reemployment Preference. 1157
146. (Reserved) 1157
147. Voluntary Demotion In Lieu Of Layoff. 1157
148. -- 149. (Reserved) 1158
150. Probationary Periods. 1158
151. Satisfactory Service. 1159
152. Separation During Probation. 1159
153. Unsatisfactory Performance During A Promotion Probation Period. 1159
154. Failure To Provide Performance Evaluation. 1160
155. -- 158. (Reserved) 1160
159. Status And Tenure. 1160
160. -- 168. (Reserved) 1160
169. Promotions. 1160
170. -- 178. (Reserved) 1160
179. Demotions. 1160
180. (Reserved) 1161
181. Nondisciplinary Demotion Optional. 1161
182. Disciplinary Demotion. 1161
183. -- 189. (Reserved) 1161
190. Disciplinary Actions. 1161
191. -- 199. (Reserved) 1162
200. Problem-Solving And Due Process Procedures. 1162
201. Appeal Procedure. 1163
202. Petition For Review Procedure. 1165
203. Referrals From Federal Agencies On Discrimination Complaints. 1166
204. -- 209. (Reserved) 1166
210. Performance Evaluations. 1166
211. -- 219. (Reserved) 1167
220. Records. 1167
221. -- 229. (Reserved) 1167
230. Vacation Leave. 1167
231. -- 239. (Reserved) 1167
240. Sick Leave. 1168
241. Workers Compensation Or Disability. 1168
242. Family And Medical Leave. 1169
243. Maternity And Paternity Leave. 1169
244. Separation Upon Failure To Return To Work. 1169
245. -- 249. (Reserved) 1169
250. Special Leaves. 1169
251. Administrative Leave. 1171
252. -- 259. (Reserved) 1171
260. Compensable Hours. 1172
261. Hours Worked. 1172
262. Overtime. 1172
263. -- 271. (Reserved) 1172
272. Policy Making Authority. 1172
273. -- 999. (Reserved) 1172

IDAPA 15 – IDAHO MILITARY DIVISION

Docket No. 15-0600-1900

15.06.01 – Rules Governing the Idaho Public Safety Communications Commission

000. Legal Authority. 1175

001. Title And Scope. 1175
002. -- 009. (Reserved) 1175
010. Definitions. 1175
011. (Reserved) 1175
012. Request For Mediation. 1175
013. Scheduled Group Mediation. 1176
014. Requirement Of Submission Of Documents And Exhibits. 1176
015. Individual Position Statements. 1176
016. Judicial Rules. 1176
017. Group Mediation. 1176
018. Supplemental Documentation. 1176
019. Commission Recommendation. 1176
020. Termination Of Mediation. 1176
021. -- 099. (Reserved) 1177
100. Grant Administration. 1177
101. Grant Cycle. 1177
102. Application. 1177
103. Award Eligibility Requirements. 1178
104. Award Recommendation. 1179
105. Criteria For Equipment. 1179
106. Withdrawal, Discontinuance, Assignment. 1180
108. Fraudulent Information On Grant Application. 1180
109. -- 999. (Reserved) 1180

15.06.04 – Rules Governing the Idaho Youth Challenge Program

000. Legal Authority. 1181
001. Title And Scope. 1181
002. -- 009. (Reserved) 1181
010. Definitions. 1181
011. -- 099. (Reserved) 1181
100. Participant Selection Criteria. 1181
101. -- 999. (Reserved) 1182

15.06.05 – Hazardous Substance Response Rules

000. Legal Authority (Rule 0). 1183
001. Title And Scope (Rule 1). 1183
002. -- 009. (Reserved). 1183
010. Definitions (Rule 10). 1183
011. Abbreviations (Rule 11). 1185
012. -- 099. (Reserved). 1186
100. Regional Response Teams, Designation, Location, Jurisdiction, Activation, Liability (Rule 100). 1186
101. -- 199. (Reserved). 1188
200. LERA (Rule 200). 1188
201. -- 299. (Reserved). 1189
300. Cost Reimbursement (Rule 300). 1189
301. Duty To Cooperate. 1190
302. -- 999. (Reserved). 1190

15.06.03 – Public Safety Communications Systems Installation and Maintenance Fee Rules

..... 1192
000. Legal Authority. 1192
001. Title And Scope. 1192
002. -- 009. (Reserved) 1192

010. Definitions. 1192
011. Fees. 1192
012. -- 999. (Reserved) 1192

IDAPA 15 – IDAHO STATE LIQUOR DIVISION

Docket No. 15-1000-1900F

15.10.01 – Rules of the Idaho State Liquor Division

000. Legal Authority. 1195
001. Title And Scope. 1195
002. Definitions. 1195
003. -- 009. (Reserved) 1196
010. Retail Stores. 1196
011. Distributing Stations. 1197
012. Distillery Distributing Stations. 1200
013. -- 019. (Reserved) 1200
020. Store Conversions. 1200
021. Suppliers. 1200
022. Schedule Of Fees. 1202
023. -- 030. (Reserved) 1202
031. State Stores Solicitation And Promotional Presentations. 1202
032. Wines. 1202
033. Liquor Fund. 1202
034. -- 999. (Reserved) 1202

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

Docket No. 16-0000-1900

16.01.02 – Emergency Medical Services (EMS) – Rule Definitions

000. Legal Authority. 1207
001. Title And Scope. 1207
002. -- 009. (Reserved) 1207
010. Definitions And Abbreviations A through B. 1207
011. Definitions And Abbreviations C through E. 1209
012. Definitions And Abbreviations F Through N. 1212
013. Definitions And Abbreviations O Through Z. 1213
014. -- 999. (Reserved) 1215

16.01.03 – Emergency Medical Services (EMS) – Agency Licensing Requirements

000. Legal Authority. 1216
001. Title And Scope. 1216
002. Incorporation By Reference. 1216
003. -- 009. (Reserved) 1216
010. Definitions. 1216
011. -- 074. (Reserved) 1216
075. Investigation Of Complaints For EMS Licensing Violations. 1216
076. Administrative License Or Certification Action. 1216
077. -- 099. (Reserved) 1216
100. Agency License Required. 1216
101. Exemption Of EMS Agency Licensure. 1216
102. Services Provided By A Licensed EMS Agency. 1217
103. Eligibility For EMS Agency Licensure. 1217
104. -- 199. (Reserved) 1217
200. EMS Agency-- Licensing Model. 1217

201. EMS Agency -- Service Types. 1218
202. EMS Agency -- Clinical Levels. 1218
203. EMS Agency -- License Duration. 1219
204. Ground EMS Agency -- Operational Declarations. 1219
205. Air Medical Agency -- Operational Declarations. 1220
206. -- 209. (Reserved) 1220
210. Ambulance EMS Agency -- Patient Transport Or Transfer. 1220
211. Air Medical EMS Agency -- Patient Transport, Transfer, or Support. 1220
212. Non-Transport EMS Agency -- Patient Movement. 1220
213. -- 299. (Reserved) 1221
300. EMS Agency -- General Personnel Requirements. 1221
301. Ambulance EMS Agency -- Personnel Requirements. 1221
302. Air Medical EMS Agency -- Personnel Requirements. 1221
303. Critical Care -- Personnel Requirements. 1222
304. Planned Deployment -- Personnel Requirements. 1222
305. Ambulance-Based Clinicians -- Personnel Requirements. 1222
306. Utilizing Physician Assistants, Licensed Registered Nurses Or Advanced Practice Registered Nurses. 1223
307. -- 399. (Reserved) 1223
400. EMS Agency -- Vehicle Requirements. 1223
401. Non-Transport EMS Agency -- Vehicles. 1223
402. EMS Agency -- Minimum Equipment Inspection Requirements. 1223
403. EMS Agency -- Ground Vehicle Safety Inspection Requirements. 1223
404. -- 499. (Reserved) 1224
500. EMS Agency -- General Equipment Requirements And Modifications. 1224
501. Air Medical EMS Agency -- Equipment Requirements And Modifications. 1225
502. -- 509. (Reserved) 1225
510. EMS Agency -- Communication Requirements. 1225
511. EMS Agency -- Dispatch Requirements. 1225
511. -- 519. (Reserved) 1225
520. EMS Agency -- Response Requirements And Waivers. 1225
521. Non-Transport EMS Agency -- Waiver Of Response Requirement. 1226
522. Non-Transport EMS Agency -- Petition For Waiver. 1226
523. -- 524. (Reserved) 1227
525. Ambulance Or Air Medical EMS Agency -- Waiver Of Response Requirement. 1227
526. Ambulance Or Air Medical EMS Agency -- Petition For Waiver. 1227
527. -- 529. (Reserved) 1227
530. EMS Agency -- Medical Supervision Requirements. 1227
531. -- 534. (Reserved) 1227
535. EMS Agency -- Records, Data Collection, And Submission Requirements. 1227
536. -- 599. (Reserved) 1227
600. EMS Agency -- Agreements, Plans, And Policies. 1227
601. EMS Agency -- Patient Care Integration. 1228
602. Air Medical EMS Agency -- Patient Care Integration. 1228
603. EMS Agency -- Planned Deployment Agreements. 1228
604. -- 649. (Reserved) 1228
650. Air Medical EMS Agency -- Required Policies. 1228
651. -- 699. (Reserved) 1230
700. EMS Agency -- Criteria To Request An Air Medical Response. 1230
701. EMS Agency -- EMS Personnel Request For Air Medical Response. 1231
702. EMS Agency -- Cancellation Of An Air Medical Response. 1231
703. EMS Agency -- Established Criteria For Simultaneous Dispatch. 1231

704. EMS Agency-- Selection Of Air Medical Agency. 1231
705. -- 719. (Reserved) 1231
720. EMS Agency -- Communications With Air Medical Services. 1231
721. -- 729. (Reserved) 1232
730. EMS Agency -- Landing Zone Procedures For Air Medical Response. 1232
731. EMS Agency -- Review Of Air Medical Responses. 1233
732. -- 799. (Reserved) 1233
800. EMS Agency -- Inspections By The Department. 1233
801. EMS Agency -- Inspection Requests And Scheduling. 1233
802. EMS Agency -- Inspection Timeframe After Notification Of Eligibility. 1233
803. -- 804. (Reserved) 1233
805. EMS Agency -- Initial Agency Inspection. 1233
806. EMS Agency -- Demonstration Of Capabilities During Inspection. 1233
807. -- 829. (Reserved) 1233
830. EMS Agency -- Condition That Results In Vehicle Or Agency Out Of Service. 1233
831. -- 839. (Reserved) 1233
840. EMS Agency -- Exemptions For Agencies Currently Accredited By A Nationally Recognized Professional EMS Accreditation Agency. 1234
841. -- 899. (Reserved) 1234
900. EMS Agency -- Application For Initial Licensure. 1234
901. EMS Agency -- Licensure Expiration. 1234
902. -- 970. (Reserved) 1234
971. Lapsed License. 1234
972. -- 979. (Reserved) 1234
980. EMS Agency License -- Nontransferable. 1234
981. Changes To A Current License. 1234
982. -- 999. (Reserved) 1235

16.01.05 – Emergency Medical Services (EMS) – Education, Instructor, and Examination Requirements

000. Legal Authority. 1236
001. Title And Scope. 1236
002. Incorporation By Reference. 1236
003. -- 008. (Reserved) 1236
009. Criminal History And Background Check Requirements. 1236
010. Definitions. 1236
011. -- 074. (Reserved) 1236
075. Investigation Of Complaints For EMS Education Program And Personnel Violations. 1237
076. Administrative Action Imposed For EMS Instructor Certification. 1237
077. Standards Of Professional Conduct For EMS Education Program And Exam Personnel. 1237
078. -- 099. (Reserved) 1237
100. General Requirements For EMS Education Programs. 1237
101. Inspection Of EMS Education Programs. 1237
102. EMS Education Standards. 1237
103. EMS Education Program Eligibility. 1238
104. EMS Education Program Approval Requirements. 1238
105. EMS Education Program Accountability. 1238
106. EMS Education Program Administration. 1238
107. EMS Education Program Course Administration. 1239
108. EMS Education Program Course Documentation. 1239
109. -- 199. (Reserved) 1240

200. Initial EMS Education Requirements. 1240
201. -- 209. (Reserved) 1240
210. Optional Module EMS Education. 1240
211. -- 299. (Reserved) 1241
300. Required Personnel For EMS Education Programs. 1241
301. EMS Education Program Personnel Qualifications. 1241
302. EMS Education Program Personnel Responsibilities. 1241
303. -- 399. (Reserved) 1242
400. EMS Instructor Certification Requirements. 1242
401. EMS Instructor Certificate Renewal. 1242
402. Lapsed EMS Instructor Certificate. 1243
403. Certification Of Currently Approved EMS Instructors. 1243
404. Adult Methodology Requirements For EMS Instructors. 1244
405. -- 499. (Reserved) 1244
500. Standardized EMS Certification Examinations. 1244
501. Optional Module EMS Examinations. 1245
502. EMS Exam Applications. 1245
503. -- 998. (Reserved) 1245
999. Other Violations That May Result In Formal Administrative Action. 1245

16.01.06 – Emergency Medical Services (EMS) – Data Collection and Submission Requirements

000. Legal Authority. 1246
001. Title And Scope. 1246
002. Incorporation By Reference. 1246
003. Confidentiality Of EMS Records. 1246
004. -- 009. (Reserved) 1246
010. Definitions. 1246
011. -- 074. (Reserved) 1246
075. Investigation Of Complaints For EMS Data Collection Or Submission Violations. 1246
076. Administrative License Or Certification Action. 1246
077. -- 099. (Reserved) 1246
100. Each EMS Agency Must Comply With The Following Records, Data Collection, And Submission Requirements. 1246
101. -- 104. (Reserved) 1247
105. EMS Response Records And Data Collected. 1247
106. -- 109. (Reserved) 1247
110. Use Of Submitted Records And Data. 1247
111. -- 199. (Reserved) 1247
200. Data To Be Reported. 1247
201. -- 999. (Reserved) 1247

16.01.12 – Emergency Medical Services (EMS) – Complaints, Investigations, And Disciplinary Actions

000. Legal Authority. 1248
001. Title And Scope. 1248
002. -- 009. (Reserved) 1248
010. Definitions. 1248
011. -- 074. (Reserved) 1248
075. Peer Review Team. 1248
076. Members Of A Peer Review Team. 1248
077. Qualifications Required Of A Peer Review Team Member. 1248
078. -- 099. (Reserved) 1249
100. Complaint Submitted When A Violation Is Suspected. 1249

101. -- 109. (Reserved) ... 1249
110. Reporting Suspected Violation. ... 1249
111. Anonymous Complaints. ... 1249
112. -- 199. (Reserved) ... 1249
200. EMS Bureau Initiates Official Investigation. ... 1249
201. -- 209. (Reserved) ... 1249
210. Violations That May Result In Administrative Actions. ... 1249
211. -- 219. (Reserved) ... 1249
220. Refusal To Participate In An Investigation. ... 1249
221. -- 229. (Reserved) ... 1250
230. Surrender Or Lapse Of License. ... 1250
231. -- 239. (Reserved) ... 1250
240. Investigation Confidentiality. ... 1250
241. -- 249. (Reserved) ... 1250
250. Notice Of The Final Disposition Of An Investigation. ... 1250
251. -- 299. (Reserved) ... 1250
300. Actions Resulting From Investigations. ... 1250
301. -- 319. (Reserved) ... 1251
320. Peer Review. ... 1251
321. -- 329. (Reserved) ... 1251
330. Administrative Actions. ... 1251
331. -- 339. (Reserved) ... 1253
340. Violations That May Result In Fines Being Imposed On EMS Agency. ... 1253
341. Fines Imposed On EMS Agency. ... 1254
342. Collected Fines. ... 1254
343. -- 349. (Reserved) ... 1254
350. Reinstatement Following Revocation. ... 1254
351. -- 999. (Reserved) ... 1255

16.02.02 – Idaho Emergency Medical Services (EMS) Physician Commission

000. Legal Authority. ... 1256
001. Title And Scope. ... 1256
002. Investigations. ... 1256
003. Incorporation By Reference. ... 1256
004. EMS Complaints. ... 1256
005. -- 009. (Reserved) ... 1256
010. Definitions. ... 1256
011. -- 094. (Reserved) ... 1258
095. General Provisions. ... 1258
096. -- 099. (Reserved) ... 1258
100. General Duties Of EMS Personnel. ... 1258
101. -- 199. (Reserved) ... 1259
200. EMS Medical Director, Hospital Supervising Physician, And Medical Clinic Supervising Physician Qualifications. ... 1259
201. -- 299. (Reserved) ... 1259
300. EMS Medical Director, Hospital Supervising Physician, And Medical Clinic Supervising Physician Responsibilities And Authority. ... 1260
301. -- 399. (Reserved) ... 1261
400. Physician Supervision In The Out-Of-Hospital Setting. ... 1261
401. -- 499. (Reserved) ... 1262
500. Physician Supervision In Hospitals And Medical Clinics. ... 1262
501. -- 999. (Reserved) ... 1262

16.02.06 – Quality Assurance for Idaho Clinical Laboratories

000. Legal Authority. 1263
001. Title And Scope. 1263
002. -- 009. (Reserved) 1263
010. Definitions. 1263
011. -- 099. (Reserved) 1263
100. Registration Requirements For Clinical Laboratories. 1263
101. -- 109. (Reserved) 1264
110. Exclusions. 1264
111. -- 119. (Reserved) 1264
120. Department Inspections Of Clinical Laboratories. 1264
121. -- 129. (Reserved) 1264
130. General Requirements For Clinical Laboratories. 1265
131. -- 149. (Reserved) 1265
150. Personnel Requirements For Clinical Laboratories. 1265
151. -- 199. (Reserved) 1265
200. Proficiency Testing Of Clinical Laboratories. 1265
201. -- 209. (Reserved) 1265
210. Quality Control Program Requirements For Clinical Laboratories. 1265
211. -- 219. (Reserved) 1266
220. Department Approval Of Clinical Laboratories. 1266
221. -- 229. (Reserved) 1266
230. Department Revocation Of Approval. 1266
231. -- 239. (Reserved) 1266
240. Revocation Procedure. 1266
241. -- 249. (Reserved) 1266
250. Renewal Of Approval Of Disapproved Test Or Tests. 1266
251. -- 269. (Reserved) 1267
270. List Of Approved Laboratories. 1267
271. -- 299. (Reserved) 1267
300. Penalty For Failure To Register Or Operation Of A Non-Approved Clinical Laboratory. 1267
301. -- 999. (Reserved) 1267

16.02.10 – Idaho Reportable Diseases

000. Legal Authority. 1268
001. Title And Scope. 1268
002. Documents Incorporated By Reference. 1268
003. Disclosure of Information. 1268
004. -- 009. (Reserved) 1268
010. Definitions A Through K. 1268
011. Definitions L Through Z. 1271
012. -- 019. (Reserved) 1272
020. Persons Required To Report Reportable Diseases, Conditions, And School Closures. 1272
021. Access To Medical Records. 1273
022. Penalty Provisions. 1273
023. Delegation Of Powers And Duties. 1273
024. -- 029. (Reserved) 1273
030. Where To Report Reportable Diseases And Conditions. 1273
031. -- 039. (Reserved) 1274
040. Report Contents And Method Of Reporting. 1274
041. -- 049. (Reserved) 1275
050. Reportable Or Restrictable Diseases, Conditions And Reporting Requirements. 1275
051. -- 059. (Reserved) 1280
060. Testing For Certain Reportable Diseases When Informed Consent Is Not Possible. 1280

061. -- 064. (Reserved) 1280
065. Investigation And Control Of Reportable Diseases. 1280
066. -- 067. (Reserved) 1282
068. Preventing Spread Of Health Hazards From Dead Human Bodies. 1282
069. (Reserved) 1283
070. Special Disease Investigations. 1283
071. -- 079. (Reserved) 1283
080. Daycare Facility - Reporting And Control Measures. 1283
081. -- 084. (Reserved) 1283
085. Food Service Facility - Reporting And Control Measures. 1283
086. -- 089. (Reserved) 1284
090. School - Reporting And Control Measures. 1284
091. -- 099. (Reserved) 1284
100. Acquired Immune Deficiency Syndrome (AIDS). 1284
101. -- 109. (Reserved) 1284
110. Amebiasis And Free-Living Amebae. 1284
111. -- 119. (Reserved) 1285
120. Anthrax. 1285
121. -- 124. (Reserved) 1285
125. Arboviral Diseases. 1285
126. -- 129. (Reserved) 1286
130. Biotinidase Deficiency. 1286
131. -- 139. (Reserved) 1286
140. Botulism. 1286
141. -- 149. (Reserved) 1286
150. Brucellosis. 1286
151. -- 159. (Reserved) 1286
160. Campylobacteriosis. 1286
161. -- 169. (Reserved) 1287
170. Cancer. 1287
171. -- 179. (Reserved) 1287
180. Chancroid. 1287
181. -- 189. (Reserved) 1288
190. Chlamydia Trachomatis. 1288
191. -- 199. (Reserved) 1288
200. Cholera. 1288
201. -- 209. (Reserved) 1288
210. Congenital Hypothyroidism. 1288
211. -- 219. (Reserved) 1289
220. Cryptosporidiosis. 1289
221. -- 229. (Reserved) 1289
230. Diphtheria. 1289
231. -- 234. (Reserved) 1290
235. Echinococcosis. 1290
236. -- 239. (Reserved) 1290
240. Encephalitis, Viral Or Aseptic. 1290
241. -- 249. (Reserved) 1290
250. Escherichia coli O157:h7 And Other Shiga-Toxin Producing E. coli (STEC). 1290
251. -- 259. (Reserved) 1291
260. Extraordinary Occurrence Of Illness, Including Clusters. 1291
261. -- 269. (Reserved) 1291
270. Food Poisoning, Foodborne Illness, And Waterborne Illness. 1291

271. -- 279. (Reserved) 1291
280. Galactosemia. 1291
281. -- 289. (Reserved) 1291
290. Giardiasis. 1291
291. -- 299. (Reserved) 1292
300. Haemophilus Influenzae Invasive Disease. 1292
301. -- 309. (Reserved) 1292
310. Hantavirus Pulmonary Syndrome. 1292
311. -- 319. (Reserved) 1293
320. Hemolytic-Uremic Syndrome (HUS). 1293
321. -- 329. (Reserved) 1293
330. Hepatitis A. 1293
331. -- 339. (Reserved) 1294
340. Hepatitis B. 1294
341. -- 349. (Reserved) 1294
350. Hepatitis C. 1294
351. -- 359. (Reserved) 1294
360. Human Immunodeficiency Virus (HIV). 1294
361. -- 369. (Reserved) 1295
370. Human T-Lymphotropic Virus. 1295
371. -- 379. (Reserved) 1295
380. Lead Poisoning. 1295
381. -- 389. (Reserved) 1295
390. Legionellosis. 1295
391. -- 399. (Reserved) 1295
400. Leprosy (Hansen's Disease). 1295
401. -- 409. (Reserved) 1296
410. Leptospirosis. 1296
411. -- 419. (Reserved) 1296
420. Listeriosis. 1296
421. -- 429. (Reserved) 1296
430. Lyme Disease. 1296
431. -- 439. (Reserved) 1296
440. Malaria. 1296
441. -- 449. (Reserved) 1297
450. Maple Syrup Urine Disease. 1297
451. -- 459. (Reserved) 1297
460. Measles (Rubeola). 1297
461. -- 469. (Reserved) 1297
470. Meningitis, Viral Or Aseptic. 1297
471. -- 474. (Reserved) 1297
475. Methicillin-Resistant Staphylococcus Aureus (MRSA). 1297
476. -- 479. (Reserved) 1298
480. Mumps. 1298
481. -- 489. (Reserved) 1298
490. Myocarditis, Viral. 1298
491. -- 499. (Reserved) 1299
500. Neisseria Gonorrhoeae. 1299
501. -- 509. (Reserved) 1299
510. Neisseria Meningitidis Invasive Disease. 1299
511. -- 519. (Reserved) 1299
520. Norovirus. 1299

521. (Reserved) 1300
522. Novel Influenza A Virus. 1300
523. -- 529. (Reserved) 1300
530. Pertussis. 1300
531. -- 539. (Reserved) 1301
540. Phenylketonuria. 1301
541. -- 549. (Reserved) 1301
550. Plague. 1301
551. -- 559. (Reserved) 1301
560. Pneumococcal Invasive Disease In Children Less Than Eighteen Years Of Age. 1301
561. -- 569. (Reserved) 1302
570. Pneumocystis Pneumonia (PCP). 1302
571. -- 579. (Reserved) 1302
580. Poliomyelitis. 1302
581. -- 589. (Reserved) 1302
590. Psittacosis. 1302
591. -- 599. (Reserved) 1302
600. Q Fever. 1303
601. -- 609. (Reserved) 1303
610. Rabies - Human, Animal, And Post-Exposure Prophylaxis (rPEP). 1303
611. -- 619. (Reserved) 1305
620. Relapsing Fever, Tick-Borne And Louse-Borne. 1305
621. -- 629. (Reserved) 1305
630. Respiratory Syncytial Virus (RSV). 1305
631. -- 639. (Reserved) 1305
640. Reye Syndrome. 1305
641. -- 649. (Reserved) 1305
650. Rocky Mountain Spotted Fever. 1305
651. -- 659. (Reserved) 1305
660. Rubella - Including Congenital Rubella Syndrome. 1305
661. -- 669. (Reserved) 1306
670. Salmonellosis - Including Typhoid Fever. 1306
671. -- 679. (Reserved) 1307
680. Severe Acute Respiratory Syndrome (SARS). 1307
681. -- 689. (Reserved) 1307
690. Severe Reaction To Any Immunization. 1307
691. -- 699. (Reserved) 1308
700. Shigellosis. 1308
701. -- 709. (Reserved) 1309
710. Smallpox. 1309
711. -- 719. (Reserved) 1309
720. Streptococcus Pyogenes (Group A Strep) Infections. 1309
721. -- 729. (Reserved) 1310
730. Syphilis. 1310
731. -- 739. (Reserved) 1310
740. Tetanus. 1310
741. -- 749. (Reserved) 1310
750. Toxic Shock Syndrome. 1310
751. -- 759. (Reserved) 1310
760. Transmissible Spongiform Encephalopathies (TSE), Including Creutzfeldt-Jakob Disease (CJD) And Variant CJD (VCJD). 1310
761. -- 769. (Reserved) 1311

770. Trichinosis. ... 1311
771. -- 779. (Reserved) ... 1311
780. Tuberculosis. ... 1311
781. -- 789. (Reserved) ... 1312
790. Tularemia. ... 1312
791. -- 809. (Reserved) ... 1312
810. Yersiniosis, Other Than Plague. ... 1312
811. -- 949. (Reserved) ... 1312
950. Delegation Of Powers And Duties. ... 1312
951. -- 999. (Reserved) ... 1312

16.02.11 – Immunization Requirements for Licensed Daycare Facility Attendees

000. Legal Authority. ... 1313
001. Title And Scope. ... 1313
002. Incorporation By Reference. ... 1313
003. -- 009. (Reserved) ... 1313
010. Definitions. ... 1313
011. -- 099. (Reserved) ... 1314
100. Immunization Requirements. ... 1314
101. Compliance. ... 1314
102. Evidence Of Immunization Status. ... 1314
103. -- 104. (Reserved) ... 1315
105. Exceptions To Immunization Requirement. ... 1315
106. -- 109. (Reserved) ... 1315
110. Exemptions To Immunization Requirement. ... 1315
111. -- 149. (Reserved) ... 1316
150. Exclusion Criteria. ... 1316
151. -- 199. (Reserved) ... 1316
200. Documentation And Retention Of Immunizations Record By Licensed Daycare Facility Operators. ... 1316
201. -- 299. (Reserved) ... 1316
300. Inspections. ... 1316
301. -- 309. (Reserved) ... 1317
310. Enforcement Of Immunization Requirement. ... 1317
311. -- 399. (Reserved) ... 1317
400. Technical Assistance. ... 1317
401. -- 999. (Reserved) ... 1317

16.02.12 – Newborn Screening

000. Legal Authority. ... 1318
001. Title And Scope. ... 1318
002. Incorporation By Reference. ... 1318
003. -- 009. (Reserved) ... 1318
010. Definitions. ... 1318
011. -- 049. (Reserved) ... 1319
050. Use And Storage Of Dried Blood Specimens. ... 1319
051. -- 099. (Reserved) ... 1319
100. Duties Of The Administrator Of The Responsible Institution And The Person Required To Register The Birth Of A Child. ... 1319
101. -- 199. (Reserved) ... 1321
200. Laboratory Duties. ... 1321
201. -- 299. (Reserved) ... 1321
300. Follow-Up For Unsatisfactory Specimens, Presumptive Positive Results And Positive Cases. ... 1321

301. Newborn Critical Congenital Heart Disease (CCHD) Screening. 1322
302. -- 399. (Reserved) 1322
400. Substances That Fulfill Requirements For Ophthalmic Preparation. 1322
401. -- 999. (Reserved) 1322

16.02.15 – Immunization Requirements for Idaho School Children

000. Legal Authority. 1323
001. Title And Scope. 1323
002. Incorporation By Reference. 1323
003. -- 009. (Reserved) 1323
010. Definitions. 1323
011. -- 099. (Reserved) 1324
100. Immunization Requirements. 1324
101. Compliance. 1326
102. Evidence Of Immunization Status. 1326
103. -- 104. (Reserved) 1326
105. Exceptions To Immunization Requirement. 1326
106. -- 109. (Reserved) 1327
110. Exemptions To Immunization Requirement. 1327
111. -- 149. (Reserved) 1327
150. Enforcement Of Immunization Requirement. 1327
151. -- 199. (Reserved) 1328
200. Reports By School Authorities. 1328
201. -- 999. (Reserved) 1328

16.02.19 – Idaho Food Code

000. Legal Authority. 1329
001. Title, Scope And Applicability. 1329
002. Incorporation By Reference. 1330
003. -- 005. (Reserved) 1330
006. Confidentiality Of Records And Public Records Requests. 1330
007. -- 049. (Reserved). 1331
050. Training And Informational Materials. 1331
051. -- 099. (Reserved) 1331
100. Purposes And Definitions. 1331
101. -- 109. (Reserved) 1331
110. Definitions And Abbreviations -- A Through K. 1331
111. Definitions And Abbreviations -- L Through Z. 1332
112. -- 199. (Reserved) 1334
200. Management And Personnel. 1334
201. Assignment Of Person In Charge. 1334
202. -- 209. (Reserved) 1334
210. Demonstration Of Knowledge. 1334
211. -- 299. (Reserved) 1334
300. Food. 1334
301. -- 319. (Reserved) 1334
320. Meat And Poultry. 1334
321. -- 324. (Reserved) 1335
325. Game Animals. 1335
326. -- 354. (Reserved) 1336
355. Food Processing Plants. 1336
356. -- 359. (Reserved) 1336
360. Advising Consumers Of Health Risk Of Raw Or Undercooked Foods. 1336
361. -- 369. (Reserved) 1337

370. Adulterated Or Misbranded Food. 1337
371. -- 599. (Reserved) 1337
600. Physical Facilities. 1337
601. -- 619. (Reserved) 1337
620. Private Homes And Living Or Sleeping Quarters, Use Prohibition. 1337
621. -- 699. (Reserved) 1337
700. Poisonous Or Toxic Materials. 1337
701. -- 719. (Reserved) 1337
720. Restriction And Storage Of Medicines. 1337
721. Refrigerated Storage Of Medicines. 1337
722. -- 799. (Reserved) 1338
800. Compliance And Enforcement. 1338
801. -- 829. (Reserved) 1338
830. Application For A License. 1338
831. Summary Suspension Of License. 1338
832. -- 839. (Reserved) 1339
840. Inspections And Correction Of Violations. 1339
841. Inspection Scores. 1339
842. -- 844. (Reserved) 1340
845. Verification And Documentation Of Correction. 1340
846. -- 849. (Reserved) 1340
850. Enforcement Inspections. 1340
851. Enforcement Procedures For Adulterated Or Misbranded Food. 1341
852. -- 859. (Reserved) 1341
860. Revocation Of License. 1341
861. Appeal Process. 1342
862. -- 869. (Reserved) 1343
870. Service Of Notice. 1343
871. -- 889. (Reserved) 1343
890. Criminal And Civil Proceedings. 1343
891. -- 999. (Reserved) 1343

16.02.23 – Indoor Smoking

000. Legal Authority. 1344
001. Title And Purpose. 1344
002. -- 009. (Reserved) 1344
010. Definitions. 1344
011. -- 199. (Reserved) 1345
200. Posting Of Signs. 1345
201. -- 299. (Reserved) 1345
300. Violations And Penalties. 1345
301. -- 999. (Reserved) 1345

16.02.24 – Clandestine Drug Laboratory Cleanup

000. Legal Authority. 1346
001. Title And Scope. 1346
002. Right To Appeal Property Listing. 1346
003. – 009. (Reserved) 1346
010. Definitions. 1346
011. -- 099. (Reserved) 1347
100. Posting The Clandestine Drug Laboratory Site. 1347
101. -- 109. (Reserved) 1347
110. Notification Process. 1347
111. -- 119. (Reserved) 1348

120. Record-Keeping, Listing, And Delisting A Property. 1348
121. -- 199. (Reserved) 1348
200. Responsibilities Of The Property Owner. 1348
201. Responsibilities Of The Qualified Industrial Hygienist. 1348
202. Department List Of Qualified Industrial Hygienists. 1348
203. -- 299. (Reserved) 1349
300. Cleanup Process. 1349
301. Disposal Of Cleanup Waste. 1349
302. -- 399. (Reserved) 1349
400. Clearance Sampling Requirements. 1349
401. -- 499. (Reserved) 1350
500. Cleanup Standards. 1350
501. -- 599. (Reserved) 1350
600. Reporting Requirements. 1350
601. -- 999. (Reserved) 1350

16.03.01 – Eligibility for Health Care Assistance for Families and Children

000. Legal Authority. 1351
001. Title And Scope. 1351
002. Written Interpretations. 1351
002. -- 009. (Reserved) 1351
010. Definitions (A Through L). 1351
011. Definitions (M Through Z). 1352
012. -- 099. (Reserved) 1354
100. Participant Rights. 1354
101. -- 110. (Reserved) 1354
111. Signatures. 1354
112. -- 129. (Reserved) 1354
130. Application Time Limits. 1354
131. -- 139. (Reserved) 1354
140. Eligibility Effective Dates. 1354
141. -- 149. (Reserved) 1354
150. Retroactive Medical Assistance Eligibility. 1354
151. -- 199. (Reserved) 1354
200. Non-Financial Criteria For Determining Eligibility. 1355
201. -- 209. (Reserved) 1355
210. Residency. 1355
211. -- 219. (Reserved) 1355
220. U.S. Citizenship Verification. 1355
221. U.S. Citizenship And Qualified Non-Citizen Requirements. 1355
222. U.S. Citizenship And Identity Verification Requirements. 1357
223. Documentation Of U.S. Citizenship. 1357
224. Identity Rules For Children. 1359
225. Eligibility For Applicants Who Do Not Provide U.S. Citizenship And Identity Documentation. 1359
226. Individuals Considered As Meeting The U.S. Citizenship And Identity Documentation Requirements. 1359
227. Assistance In Obtaining Documentation. 1360
228. Verification Of Citizenship And Identity One Time. 1360
229. -- 249. (Reserved) 1360
250. Emergency Medical Condition. 1360
251. Sponsor Deeming. 1360
252. Sponsor Responsibility. 1360

253. -- 269. (Reserved) 1361
270. Social Security Number (SSN) Requirement. 1361
271. -- 279. (Reserved) 1361
280. Group Health Plan Enrollment. 1361
281. -- 289. (Reserved) 1361
290. Assignment Of Rights To Medical Support And Third Party Liability. 1361
291. Medical Support Cooperation. 1361
292. -- 295. (Reserved) 1362
296. Cooperation With The Quality Control Process. 1362
297. -- 299. (Reserved) 1362
300. Household Composition And Financial Responsibility. 1362
301. Tax Filing Household. 1363
302. Non-Tax Filing Household. 1363
303. -- 344. (Reserved) 1363
345. Household Income. 1363
346. Determining Income Eligibility. 1363
347. Earned Income. 1364
348. Dependent Child's Earned Income. 1364
349. (Reserved) 1364
350. In-Kind Income. 1364
351. Self-Employment Earned Income. 1364
352. -- 369. (Reserved) 1364
370. Unearned Income. 1364
371. – 383. (Reserved) 1364
384. Lump Sum Income. 1364
385. -- 387. (Reserved) 1364
388. Dependent Child's Unearned Income. 1364
389. -- 394. (Reserved) 1364
395. Income Disregards. 1364
396. -- 399. (Reserved) 1365
400. Parents And Caretaker Relatives Eligible For Medicaid Coverage. 1365
401. -- 410. (Reserved) 1365
411. Income Limits For Parents And Caretaker Relatives. 1365
412. -- 418. (Reserved) 1366
419. Transitional Medicaid For Adults. 1366
420. Extended Medicaid For Spousal Support Increase. 1366
421. -- 499. (Reserved) 1366
500. Pregnant Woman Coverage. 1366
501. Pregnant Woman Ineligible Because Of Excess Income. 1366
502. Presumptive Eligibility For Pregnant Women. 1367
503. -- 519. (Reserved) 1367
520. Financial Eligibility. 1367
521. Household Size And Financial Responsibility. 1367
522. (Reserved) 1367
523. Access To Or Coverage Under Other Health Plans. 1367
524. Continuous Health Care Assistance Eligibility For Children Under Age Nineteen. 1368
525. Former Foster Child. 1368
526. -- 529. (Reserved) 1368
530. Newborn Child Deemed Eligible For Medicaid. 1368
531. Minor Parent Living With Parents. 1368
532. Resident Of An Eligible Institution. 1369
533. Children With Special Circumstances And Medicaid. 1369

534. (Reserved) 1369
535. Title IV-E Foster Care Child. ... 1369
536. -- 539. (Reserved) ... 1369
540. Youth Empowerment Services (YES) Program Children. ... 1369
541. -- 544. (Reserved) ... 1369
545. Presumptive Eligibility For Children And Parents. ... 1369
546. Qualified Hospital Presumptive Eligibility Processes. ... 1370
547. -- 599. (Reserved) ... 1370
600. Annual Eligibility Renewal. ... 1370
601. Exceptions To Annual Renewal. ... 1371
602. -- 609. (Reserved) ... 1371
610. Reporting Requirements. ... 1371
611. Types Of Changes That Must Be Reported. ... 1371
612. -- 619. (Reserved) ... 1372
620. Notice Of Changes In Eligibility. ... 1372
621. Notice Of Change Of Plan. ... 1372
622. Advance Notice Responsibility. ... 1372
623. Advance Notice Not Required. ... 1372
624. -- 699. (Reserved) ... 1372
700. Overpayments. ... 1372
701. Recovery Of Overpayments. ... 1372
702. -- 999. (Reserved) ... 1373

16.03.02 – Skilled Nursing Facilities

000. Legal Authority. ... 1374
001. Title And Scope. ... 1374
002. Written Interpretations. ... 1374
003. – 008. (Reserved) ... 1374
009. Criminal History And Background Check Requirements. ... 1374
010. Definitions. ... 1375
011. – 059. (Reserved) ... 1376
050. Licensure. ... 1376
051. -- 099. (Reserved) ... 1378
100. Administration. ... 1378
101. -- 104. (Reserved) ... 1380
105. Personnel. ... 1380
106. Fire And Life Safety. ... 1381
107. Dietary Service. ... 1382
108. Environmental Sanitation. ... 1382
109. -- 119. (Reserved) ... 1383
120. Existing Buildings. ... 1383
121. New Construction Standards. ... 1386
122. Furnishings And Equipment. ... 1395
123. -- 150. (Reserved) ... 1396
151. Activities Program. ... 1396
152. Social Services. ... 1396
153. (Reserved) ... 1397
154. Physician Services. ... 1397
155. -- 199. (Reserved) ... 1397
200. Nursing Services. ... 1397
201. Pharmacy Services. ... 1400
202. Pet Therapy. ... 1402
203. Resident Records. ... 1402

204. Day Care Services. 1403
205. Child Care Centers. 1403
206. -- 300. (Reserved) 1403
301. Respite Care Services. 1403
302. (Reserved) 1404
303. Other Services. 1404
304. -- 999. (Reserved) 1404

16.03.04 – Idaho Food Stamp Program

000. Legal Authority. 1405
001. Title, Scope, And Purpose. 1405
002. -- 007. (Reserved) 1405
008. Audit, Investigation And Enforcement. 1405
009. (Reserved) 1405
010. Definitions A Through D. 1405
011. Definitions E Through L. 1407
012. Definitions M Through Z. 1408
013. Abbreviations A Through G. 1410
014. Abbreviations I Through Z. 1411
015. -- 098. (Reserved) 1412
099. Signatures. 1412
100. Application. 1412
101. Application Forms. 1412
102. (Reserved) 1413
103. Filing An Application. 1413
104. -- 105. (Reserved) 1413
106. Determination Of When A New Application For Assistance (AFA) Is Required. 1413
107. -- 112. (Reserved) 1413
113. Household Cooperation. 1413
114. Application Withdrawal. 1413
115. Authorized Representative. 1413
116. -- 119. (Reserved) 1414
120. Household Interviews. 1414
121. -- 132. (Reserved) 1415
133. Verification. 1415
134. (Reserved) 1415
135. Sources Of Verification. 1415
136. (Reserved) 1415
137. Proof For Questionable Information. 1415
138. Providing Proof To Support Application Statements. 1415
139. -- 141. (Reserved) 1415
142. Processing Standards. 1415
143. -- 145. (Reserved) 1416
146. Denial Of Food Stamp Application. 1416
147. Case Action After Delay Caused By Household. 1416
148. Delays In Processing Caused By The Department. 1416
149. (Reserved) 1416
150. Delays Over Sixty Days. 1416
151. -- 154. (Reserved) 1416
155. Expedited Service Eligibility. 1416
156. Time Limits For Expedited Food Stamps. 1417
157. Expedited Food Stamp Work Registration. 1417
158. Expedited Verification. 1417

159. (Reserved) 1417
160. Expedited Certification. 1417
161. No Limit To Expedited Certifications. 1418
162. Expedited Services For Destitute Households. 1419
163. Special Consideration Of Income For Destitute Households. 1419
164. Denial Of Expedited Service. 1419
165. Contesting Denied Expedited Service. 1419
166. -- 176. (Reserved) 1419
177. Food Stamps For TAFI Or AABD Households. 1420
178. Categorically Eligible Households. 1420
179. Households Not Categorically Eligible. 1420
180. Categorical Eligibility Ends. 1420
181. Broad Based Categorically Eligible Household Exceptions. 1420
182. Verification For TAFI Or AABD Households. 1421
183. Time Limits For Categorically Eligible Households. 1421
184. -- 194. (Reserved) 1421
195. Disaster Certification. 1421
196. -- 199. (Reserved) 1421
200. Nonfinancial Criteria. 1421
201. Identification. 1421
202. Residency. 1421
203. Social Security Number (SSN) Requirement. 1421
204. Citizenship And Qualified Non-Citizen Requirements. 1422
205. Written Declaration Of Citizenship Or Immigration Status. 1422
206. Proof Of Proper Immigration Status. 1422
207. Non-Citizen Eligibility Pending Verification. 1422
208. -- 211. (Reserved) 1422
212. Food Stamp Households. 1422
213. Separate Food Stamp Household Composition For Related Members. 1423
214. Child Custody. 1423
215. Persons Not Eligible For Separate Food Stamp Household Status. 1423
216. Elderly Or Disabled Food Stamp Household Members. 1423
217. Nonhousehold Members. 1424
218. Persons Disqualified As Food Stamp Household Members. 1424
219. Circumstances Under Which Food Stamp Participation Is Prohibited. 1425
220. -- 225. (Reserved) 1425
226. Job Search Assistance Program (JSAP). 1425
227. Exemptions From JSAP. 1426
228. Deferrals From JSAP For Household Members Participating In TAFI. 1427
229. Participants Losing JSAP Exempt Status. 1427
230. -- 235. (Reserved) 1427
236. Good Cause. 1427
237. Sanctions For Failure To Comply With JSAP Work Program Requirements. 1427
238. Notice Of Sanctions For Failure To Comply With JSAP. 1428
239. Right To Appeal Sanction. 1428
240. JSAP Sanction Begins. 1428
241. Ending Sanctions For Failure To Comply With JSAP. 1428
242. Corrective Action For Work Programs. 1429
243. -- 250. (Reserved) 1429
251. Able Bodied Adults Without Dependents (ABAWD) Work Requirement. 1429
252. Proof Required For ABAWDs. 1429
253. ABAWD Good Cause. 1429

254. Reporting ABAWD Changes. ... 1430
255. Regaining Eligibility. ... 1430
256. Three Additional Months Of Food Stamps After Regaining Eligibility. ... 1430
257. Persons Not Considered ABAWD. ... 1430
258. Food Stamps Issued To Ineligible ABAWD. ... 1430
259. Strikes. ... 1430
260. Government Employees Dismissed For Strike. ... 1431
261. Voluntary Job Quit. ... 1431
262. Voluntary Reduction In Work Hours. ... 1431
263. -- 264. (Reserved) ... 1431
265. Situations Not Considered Voluntary Job Quit Or Reduction Of Work. ... 1431
266. Household Member Leaves During A Penalty Period. ... 1432
267. Good Cause For Voluntarily Quitting A Job Or Reducing Work Hours. ... 1432
268. Proof Of Job Quit Or Reduction Of Work Hours. ... 1433
269. (Reserved) ... 1433
270. Penalty For Applicant Quitting A Job Or Reducing Work Hours. ... 1433
271. Penalty For Recipient Quitting A Job Or Reducing Work Hours. ... 1433
272. Voluntary Quit Or Reduction Of Work Hours During The Last Month Of The Certification Period. ... 1434
273. Voluntary Quit Or Reduction Of Work Hours Not Found Until The Last Month Of The Certification Period. ... 1434
274. (Reserved) ... 1435
275. Ending Voluntary Quit Work Program Penalties. ... 1435
276. Failure To Comply With A Requirement Of Another Means - Tested Program. ... 1435
277. Penalty For Failure To Comply With A Requirement Of Another Means - Tested Program. ... 1435
278. Cooperation In Establishment Of Paternity And Obtaining Support. ... 1435
279. Failure To Cooperate. ... 1436
280. Exemptions From The Cooperation Requirement. ... 1436
281. (Reserved) ... 1436
282. Student Defined. ... 1436
283. Student Enrollment. ... 1436
284. Determining Student Eligibility. ... 1436
285. Ineligibility Of Fugitive Felons And Probation And Parole Violators. ... 1437
286. Effective Date Of Ineligibility. ... 1437
287. Ineligibility For A Felony Conviction For Possession, Use, Or Distribution Of A Controlled Substance. ... 1437
288. -- 299. (Reserved) ... 1437
300. Resources Defined. ... 1437
301. Determining Resources. ... 1437
302. -- 304. (Reserved) ... 1437
305. Resource Limit. ... 1437
306. -- 307. (Reserved) ... 1438
308. Equity Value Of Resources. ... 1438
309. Liquid Resources. ... 1438
310. Nonliquid Resources. ... 1438
311. Factors Making Property A Resource. ... 1438
312. -- 313. (Reserved) ... 1439
314. Jointly-Owned Resources. ... 1439
315. Jointly-Owned Resources Excluded. ... 1439
316. -- 320. (Reserved) ... 1439
321. Resources Of Disqualified Household Members. ... 1439
322. Resources Of Nonhousehold Members. ... 1440

323. Lump Sum Resources. 1440
324. -- 333. (Reserved) 1441
334. Vehicles. 1441
335. -- 350. (Reserved) 1441
351. Excluded Resources. 1441
352. Household Goods Excluded. 1441
353. Personal Effects Excluded. 1441
354. Home And Lot Excluded. 1441
355. Life Insurance Excluded As A Resource. 1441
356. Burial Space Or Plot And Funeral Agreement Exclusions. 1441
357. Pension Plans Or Funds Excluded As A Resource. 1442
358. Income-Producing Property Excluded. 1442
359. Livestock Excluded. 1442
360. Property Used For Self-Support Excluded. 1442
361. Property Used With Excluded Vehicle. 1442
362. Salable Item Without Significant Return Excluded. 1442
363. HUD Family Self-Sufficiency (FSS) Escrow Account. 1442
364. Educational Accounts Excluded As A Resource. 1443
365. Individual Development Account Excluded As A Resource. 1443
366. -- 372. (Reserved) 1443
373. Government Payments Excluded. 1443
374. Excluded Inaccessible Resources. 1443
375. Frozen Or Secured Accounts Excluded. 1443
376. Real Property Excluded If Attempt To Sell. 1443
377. Trust Funds Excluded. 1443
378. Installment Contracts Excluded. 1443
379. Treatment Of Excluded Resources. 1444
380. (Reserved) 1444
381. Nonliquid Resources With Liens Excluded. 1444
382. (Reserved) 1444
383. Excluded Resource Changes To Counted Resource. 1444
384. -- 385. (Reserved) 1444
386. Transfer Of Resources. 1444
387. Transfer Of Resource Not Counted For Disqualification. 1444
388. Disqualification For Transferring Resources. 1444
389. -- 399. (Reserved) 1444
400. Income. 1444
401. Earned Income. 1445
402. Unearned Income. 1445
403. -- 404. (Reserved) 1446
405. Excluded Income. 1446
406. (Reserved) 1448
407. Income And Eligibility Verification System (IEVS). 1448
408. (Reserved) 1448
409. Use Of IEVS Information For Applicant Households. 1448
410. (Reserved) 1448
411. Verified IEVS Data. 1448
412. Unverified IEVS Data. 1448
413. -- 414. (Reserved) 1449
415. Educational Income. 1449
416. -- 426. (Reserved) 1449
427. Averaging Self-Employment Income. 1449

428. Calculation Of Self-Employment Income. 1449
429. Self-Employed Farmer. 1450
430. -- 500. (Reserved) 1450
501. Initial Changes In Food Stamp Case. 1450
502. Earned Income When A Household Member Turns Age Eighteen. 1450
503. -- 507. (Reserved) 1450
508. Projecting Monthly Income. 1450
509. Types Of Income To Be Averaged. 1450
510. -- 511. (Reserved) 1451
512. Special Cases For Counting Income. 1451
513. -- 531. (Reserved) 1451
532. Gross Income Limit. 1451
533. Household Eligibility And Benefit Level. 1451
534. Averaging Infrequent, Fluctuating, Or One-Time Only Expenses. 1452
535. Medical Expenses. 1452
536. Dependent Care Expenses. 1452
537. Dependent Care Restrictions. 1452
538. Child Support Expenses. 1453
539. -- 541. (Reserved) 1453
542. Costs Allowed For Shelter Deduction. 1453
543. Utility Allowances. 1453
544. -- 546. (Reserved) 1453
547. Costs Not Allowed For The Shelter Deduction. 1453
548. Computing The Shelter Deduction. 1454
549. Net Income Limit Test. 1454
550. Determination Of Food Stamp Benefit. 1454
551. Rounding Food Stamp Payment. 1454
552. -- 561. (Reserved) 1454
562. Prorating Initial Month's Benefits. 1454
563. Food Stamp Prorating Formula. 1454
564. Benefits After The Initial Month. 1454
565. Food Stamp Benefits For Categorically Eligible Household. 1455
566. -- 572. (Reserved) 1455
573. Acting On Household Composition Changes. 1455
574. Adding Previously Disqualified Household Members. 1455
575. Household Composition Changes For Student. 1455
576. -- 587. (Reserved) 1455
588. Notice Of Decision To Households. 1455
589. -- 600. (Reserved) 1455
601. Reporting Requirements And Responsibilities. 1455
602. (Reserved) 1455
603. Person Outside Household Fails To Provide Proof -- Changes. 1455
604. -- 610. (Reserved) 1455
611. Time Frames For Reporting Changes In Household Circumstances. 1455
612. (Reserved) 1456
613. Changes On Which The Department Must Act. 1456
614 -- 616. (Reserved) 1456
617. Increases In Food Stamp Benefits. 1456
618. Decreases In Food Stamp Benefits. 1456
619 -- 620. (Reserved) 1456
621. TAFI Or AABD Household Reporting Changes. 1456
622. Change Ends TAFI Or AABD Income. 1456

623. Failure To Take Required Action. 1457
624. -- 628. (Reserved) 1457
629. Notice Of Lowering Or Ending Benefits. 1457
630. Adequate Notice. 1457
631. Notice. 1457
632. Timely Notice Not Required. 1457
633. Notice Of Changes Not Required. 1457
634. Verbal Request For End Of Food Stamps. 1459
635. -- 638. (Reserved) 1459
639. Continuation Of Benefits Pending A Hearing. 1459
640. (Reserved) 1459
641. Reducing Or Ending Benefits Before Hearing Decision. 1459
642. -- 643. (Reserved) 1459
644. Expiration Of Certification Period. 1459
645. Recertification Process. 1459
646. Notice Of Decision For Timely Recertification. 1459
647. -- 649. (Reserved) 1459
650. Restoration Of Lost Benefits. 1459
651. Time Frames For Restoration Of Benefits. 1460
652. -- 655. (Reserved) 1460
656. Replacing Food Destroyed By A Disaster. 1460
657. -- 674. (Reserved) 1460
675. IPV, IHE And AE Food Stamp Claims. 1460
676. Persons Liable For Food Stamp Claims. 1461
677. Computing Food Stamp Claims. 1461
678. -- 691. (Reserved) 1461
692. Determining Delinquent Claims. 1461
693. (Reserved) 1462
694. Collecting Claims. 1462
695. Top Notices. 1462
696. Effects Of Top On The Food Stamp Household. 1462
697. Removing A Claim From Top. 1462
698. Intentional Program Violation (IPV). 1463
699. Establishing An Intentional Program Violation (IPV). 1463
700. Administrative Responsibility For Establishing IPV. 1464
701. Penalties For An IPV. 1464
702. Penalties For IPV Trafficking. 1464
703. Penalties For IPV Receipt Of Multiple Benefits. 1465
704. -- 714. (Reserved) 1465
715. Waived Hearings. 1465
716. Disqualification After Waived Hearing. 1465
717. Court Referrals. 1465
718. Deferred Adjudication. 1465
719. (Reserved) 1466
720. Claims Discharged By Bankruptcy. 1466
721. (Reserved) 1466
722. Interstate Claims Collection. 1466
723. -- 727. (Reserved) 1466
728. Food Stamp Reduction, Suspension, Or Cancellation. 1466
729. -- 750. (Reserved) 1466
751. Boarders. 1466
752. Strikers. 1467

753. Sponsored Legal Non-Citizens. 1467
754. Deeming Income And Resources To Sponsored Legal Non-Citizen. 1467
755. – 756. (Reserved) 1468
757. Sponsored Legal Non-Citizen's Responsibility. 1468
758. – 760. (Reserved) 1468
761. Collecting Claims Against Sponsors Who Signed An I-864 Affidavit Of Support On Or After December 19, 1997. 1468
762. Collecting Claims Against Sponsored Legal Non-Citizens. 1468
763. Reimbursement For Benefits Received. 1468
764. -- 774. (Reserved) 1469
775. Food Stamps For Households With IPV Members, Ineligible Fugitive Felon, Probation/Parole Violator, Work Requirement Sanctions, Or A Member Convicted Of A Controlled Substance-Related Felony. 1469
776. -- 790. (Reserved) 1469
791. Resident Of An Institution. 1469
792. Prerelease Applicants From Public Institutions. 1469
793. Narcotic Addict And Alcoholic Treatment Centers. 1469
794. Treatment Center Responsibilities. 1469
795. Residents Of Group Living Arrangements. 1470
796. Shelters For Battered Women And Children. 1471
797. -- 815. (Reserved) 1471
816. Purchase Of Prepared Meals. 1471
817. -- 849. (Reserved) 1472
850. Food Stamp Household Rights. 1472
851. (Reserved) 1472
852. Food Stamp Household Responsibilities. 1472
853. Department Informing Responsibilities. 1472
854. Department Will Document Eligibility Decisions. 1473
855. -- 860. (Reserved) 1473
861. No Discrimination In Food Stamp Program. 1473
862. Public Notice For No Discrimination. 1473
863. Discrimination Complaint Information. 1473
864. Discrimination Complaint Procedure. 1473
865. Disclosure Of Information. 1473
866. Availability Of Public Information. 1473
867. Food Stamp Information Requirements. 1474
868. -- 871. (Reserved) 1474
872. Program Transfer During Certification Period. 1474
873. -- 875. (Reserved) 1474
876. Personnel Requirements. 1474
877. Volunteers. 1474
878. Personnel And Facilities Of Parties To A Strike. 1474
879. Review Of Case File. 1474
880. -- 882. (Reserved) 1474
883. Quality Control And Food Stamp Eligibility. 1474
884. -- 999. (Reserved) 1475

16.03.05 – Eligibility for Aid to the Aged, Blind, and Disabled (AABD)

000. Legal Authority. 1476
001. Title And Scope. 1476
002. Incorporation By Reference. 1476
003. -- 009. (Reserved) 1476
010. Definitions. 1476

011. -- 019. (Reserved) 1478
020. Abbreviations. 1478
021. -- 048. (Reserved) 1479
049. Signatures. 1479
050. Application For Assistance. 1479
051. Effective Date. 1479
052. Personal Interview. 1480
053. -- 069. (Reserved) 1480
070. Time Limits. 1480
071. Death Of Applicant. 1480
072. Required Verification. 1480
073. -- 089. (Reserved) 1480
090. Applications For Medicaid. 1480
091. Out Of State Applicants. 1480
092. Concurrent Benefit Prohibition. 1480
093. -- 099. (Reserved) 1480
100. Residency. 1480
101. Temporary Absence. 1481
102. U.S. Citizenship Verification Requirements. 1481
103. Social Security Number (SSN) Requirement. 1482
104. U.S. Citizenship And Identity Documentation Requirements. 1482
105. Citizenship And Qualified Non-Citizen Requirements. 1485
106. (Reserved) 1487
107. Institutional Status. 1487
108. AABD Eligibility In Ineligible Institutions. 1488
109. Conditions For Temporary AABD In Institutions. 1488
110. -- 128. (Reserved) 1489
129. Participant's Guardian For AABD Cash. 1489
130. Estate Not In Probate. 1489
131. Estate In Probate. 1489
132. -- 154. (Reserved) 1489
155. AABD For The Aged. 1489
156. AABD For The Disabled. 1489
157. -- 165. (Reserved) 1489
166. Fugitive Felon Or Probation Or Parole Violator. 1490
167. Fraudulent Misrepresentation Of Residency. 1490
168. -- 199. (Reserved) 1490
200. Resources Defined. 1490
201. Resource Limit. 1490
202. Change In Value Of Resources. 1490
203. Resources And Change In Marital Status. 1490
204. Factors Making Property A Resource. 1490
205. Counting Resources And Income. 1490
206. Types Of Resources. 1490
207. Equity Value Of Resources. 1490
208. Shared Ownership Rule. 1490
209. Conversion Or Sale Of A Resource Not Income. 1490
210. Resources Excluded By Federal Law. 1490
211. -- 214. (Reserved) 1491
215. Deeming Resources. 1491
216. Household For Resource Computations. 1492
217. Unknown Resources. 1492

218. -- 221. (Reserved) ... 1492
222. Vehicles. ... 1492
223. Burial Funds Excluded From Resource Limit. ... 1492
224. Burial Space Or Plot Exclusion. ... 1492
225. -- 234. (Reserved) ... 1493
235. Excluded Household Goods And Personal Effects. ... 1493
236. (Reserved) ... 1493
237. Real Property Definition. ... 1493
238. Home As Resource. ... 1493
239. Sale Of Excluded Home And Replacement. ... 1493
240. Replacement Of Excluded Resources. ... 1493
241. Undue Hardship Exclusion From Sale Of Jointly-Owned Real Property. ... 1493
242. Indian Property Excluded. ... 1493
243. Resources Associated With Property. ... 1494
244. Resources Essential For Self-Support Excluded. ... 1494
245. Resources Set Aside As Part Of A Plan For Achieving Self-Support (PASS) Excluded. ... 1494
246. Limited Award To Child With Life-Threatening Condition ... 1494
247. Life Estate Interest In Another's Home. ... 1495
248. -- 254. (Reserved) ... 1495
255. Retroactive SSI And RSDI Benefits. ... 1495
256. (Reserved) ... 1495
257. Disaster Assistance. ... 1495
258. Cash To Purchase Medical Or Social Services ... 1495
259. (Reserved) ... 1495
260. Alaska Native Claims Settlement Act. ... 1495
261. Stock In Alaska Regional Or Village Corporations. ... 1495
262. Victims' Compensation Payments. ... 1495
263. -- 264. (Reserved) ... 1495
265. Tax Advances And Refunds Related To Earned Income Tax Credits. ... 1495
266. Identifying Excluded Funds Commingled With Funds Not Excluded. ... 1495
267. Dedicated Account For SSI Participant. ... 1495
268. Support And Maintenance Assistance (Home Energy Assistance) ... 1495
269. -- 270. (Reserved) ... 1496
271. VA Monetary Allowances To A Child Born With Spina Bifida ... 1496
272. Walker V. Bayer Payments. ... 1496
273. -- 275. (Reserved) ... 1496
276. Excluded Real Estate Contract. ... 1496
277. Fees Paid To A Continuing Care Retirement Community (CCRC) Or Life Care Community. ... 1496
278. Trusts. ... 1496
279. Retirement Funds. ... 1496
280. Inheritance. ... 1496
281. Life Insurance. ... 1496
282. Conservatorship. ... 1496
283. Conditional Benefits. ... 1497
284. Resource Transfer For Less Than Fair Market Value. ... 1497
285. AABD Period Of Ineligibility For Resource Transfers. ... 1497
286. Resource Transfer Look-Back Period. ... 1497
287. Calculating The Period Of Ineligibility For Resource Transfers. ... 1498
288. Length Of Period Of Ineligibility. ... 1498
289. Spouse Applies After Period Of Ineligibility Is Computed. ... 1498
290. Multiple Resource Transfers. ... 1498

291. Transfers To Trusts. ... 1498
292. Period Of Ineligibility Exceptions. ... 1498
293. Effect On Medicaid Eligibility. ... 1500
294. -- 299. (Reserved) ... 1500
300. Income Definition. ... 1500
301. Application For Potential Benefits. ... 1500
302. Relationship Of Income To Resources. ... 1500
303. When Income Is Counted. ... 1500
304. Prospective Eligibility. ... 1501
305. Projecting Monthly Income. ... 1501
306. Criteria For Projecting Monthly Income. ... 1501
307. Counting Resources And Income. ... 1502
308. -- 309. (Reserved) ... 1502
310. Adoption Assistance Under Title IV-B Or Title XX. ... 1502
311. -- 312. (Reserved) ... 1502
313. Assistance Based On Need (ABON). ... 1502
314. (Reserved) ... 1503
315. Bureau Of Indian Affairs (BIA) Foster Care. ... 1503
316. Blind Or Disabled Student Earned Income. ... 1503
317. “Buy-In” Reimbursement. ... 1503
318. Commodities, Food Stamps, And Food Programs. ... 1503
319. Contributions For Residential And Assisted Living Facility Residents. ... 1503
320. Conversion Or Sale Of A Resource Not Income. ... 1503
321. Credit Life Or Disability Insurance Payments. ... 1503
322. Department Of Education Scholarships. ... 1503
323. Gifts Of Domestic Travel Tickets. ... 1503
324. Grants, Scholarships, And Fellowships. ... 1503
325. Disaster Assistance. ... 1503
326. Domestic Volunteer Service Act Payments. ... 1503
327. Earned Income Tax Credits. ... 1504
328. Federal Housing Assistance. ... 1504
329. Foster Care Payments. ... 1504
330. Expense Of Obtaining Income. ... 1504
331. Garnishments. ... 1504
332. German Reparations. ... 1504
333. Government Medical Or Social Services. ... 1504
334. Home Energy Assistance (HEA) And Support And Maintenance Assistance (SMA) ... 1505
335. Home Produce For Personal Use. ... 1505
336. In-Home Supportive Services. ... 1505
337. Income Excluded By Law. ... 1505
338. Infrequent Or Irregular Income. ... 1505
339. (Reserved) ... 1505
340. Loans. ... 1505
341. Manpower Development And Training Act Payments. ... 1505
342. Native American Payments. ... 1505
343. (Reserved) ... 1505
344. Nutrition Programs For Older Americans. ... 1505
345. Personal Services. ... 1505
346. (Reserved) ... 1505
347. Rebates, Refunds, AABD Underpayments And Replacement Checks. ... 1505
348. Relocation Assistance. ... 1505
349. Replacement Of Income Already Received. ... 1506

350. Return Of Mistaken Payments. 1506
351. Tax Refunds. 1506
352. Utility Payments. 1506
353. (Reserved) 1506
354. Victims' Compensation Payments. 1506
355. Vocational Rehabilitation Services Payments. 1506
356. Volunteer Services Income. 1506
357. Walker V. Bayer Payments. 1506
358. Weatherization Assistance. 1506
359. Temporary Census Income. 1506
360. -- 399. (Reserved) 1506
400. Earned Income. 1506
401. Computing Self-Employment Income. 1506
402. Self-Employment Allowable Expenses. 1507
403. Self-Employment Expenses Not Allowed. 1507
404. Royalties. 1508
405. Honoraria. 1508
406. Sheltered Workshop Or Work Activities Center Payments. 1508
407. Job Training Partnership Act (JTPA). 1508
408. Programs For Older Americans. 1508
409. Uniformed Services Pay And Allowances. 1508
410. Rental Income. 1508
411. Overpayment Withholding Of Unearned Income. 1508
412. Retirement, Survivors, And Disability Insurance (RSDI). 1509
413. SSI Payments. 1509
414. Black Lung Benefits. 1509
415. Railroad Retirement Payments. 1509
416. Unemployment Insurance Benefits. 1509
417. Uniform Gifts To Minors Act (UGMA). 1509
418. Workers' Compensation. 1509
419. Military Pensions. 1509
420. VA Pension Payments. 1509
421. VA Compensation Payments. 1509
422. VA Educational Benefits. 1509
423. Alimony, Spousal, And Adult Support. 1509
424. Child Support Payments. 1509
425. Dividends And Interest. 1509
426. Awards. 1509
427. Gifts. 1509
428. Prizes. 1510
429. Work-Related Unearned Income. 1510
430. Community Service Block Grants. 1510
431. Federal Emergency Management Agency (FEMA) Emergency Food Distribution And Shelter Programs. 1510
432. Bureau Of Indian Affairs General Assistance (BIA GA). 1510
433. BIA Adult Custodial Care (ACC) And Child Welfare Assistance (CWA) Payments. 1510
434. Individual Indian Money (IIM) Accounts. 1510
435. Accelerated Life Insurance Income. 1510
436. Real Estate Contract Income. 1510
437. Limited Award To Child With Life-Threatening Condition. 1510
438. -- 450. (Reserved) 1510
451. Deeming Income. 1510

452. Deeming Income From Ineligible Spouse To Participant. 1512
453. Deeming Income From Ineligible Parent To AABD Child. 1513
454. Deeming Income From Essential Person To Participant. 1515
455. Deeming Income From Ineligible Spouse To Participant And Child Participant. 1515
456. Deeming Income From Sponsor To Legal Non-Citizen Participant -- No I-864 Affidavit Of Support. 1516
457. Deeming Income From Sponsor To Legal Non-Citizen -- Sponsor Signed INS Form I-864 Affidavit Of Support. 1518
458. -- 499. (Reserved) 1518
500. Financial Need. 1518
501. Basic Allowance. 1518
502. Special Needs Allowances. 1519
503. -- 511. (Reserved) 1519
512. Room And Board Home Allowance. 1519
513. Residential Care Or Assisted Living Facility And Certified Family Home Allowances. 1519
514. AABD Cash Payments. 1520
515. Residential And Assisted Living Facility Care And Certified Family Home Assessment And Level Of Care. 1520
516. Change In Level Of Care. 1521
517. -- 520. (Reserved) 1521
521. Move From Residential Care And Assisted Living Facility Or Certified Family Home To Living Situation Other Than A Nursing Home Or Hospital. 1521
522. -- 523. (Reserved) 1521
524. Move From Nursing Home Or Hospital. 1521
525. -- 530. (Reserved) 1521
531. Couple Budgeting. 1521
532. -- 539. (Reserved) 1521
540. Standard Disregard. 1521
541. Subtraction Of Earned Income Disregards. 1521
542. Sixty-Five Dollar Earned Income Disregard. 1522
543. Impairment-Related Work Expense (IRWE) Disregard. 1522
544. One-Half Remaining Earned Income Disregard. 1522
545. Blindness Work Expense Disregard. 1522
546. Plan To Achieve Self-Support (PASS). 1522
547. PASS Approved By Department. 1522
548. -- 599. (Reserved) 1523
600. Department Notice Responsibility. 1523
601. Advance Notice Responsibility. 1523
602. Advance Notice Not Required. 1523
603. (Reserved) 1524
604. Participant Determined SSI Eligible After Appeal. 1524
605. Reporting Requirements. 1524
606. Required Proof. 1524
607. Changes Affecting Eligibility Or AABD Cash Amount. 1524
608. AABD Cash Underpayment. 1524
609. AABD Cash Overpayment. 1524
610. Offset Of Overpayment And Underpayment. 1524
611. -- 616. (Reserved) 1524
617. Hearing Request. 1524
618. Continued Benefits Pending A Hearing Decision. 1524
619. (Reserved) 1525
620. Medicaid Overpayment. 1525
621. Changes In Patient Liability. 1525

622. (Reserved) 1525
623. Eligibility Redetermination. 1525
624. -- 649. (Reserved) 1525
650. Cooperation With The Quality Control Process. 1525
651. -- 699. (Reserved) 1525
700. Medicaid Eligibility. 1525
701. Medicaid Application. 1525
702. Medical Support Cooperation. 1525
703. Child Support Cooperation. 1525
704. Cooperation Defined. 1526
705. Good Cause For Not Cooperating In Securing Medical And Child Support. 1526
706. Closure After Review Of Good Cause Request. 1526
707. Application Requirements For Potential Medical Coverage. 1526
708. Medicaid Qualifying Trust Payments. 1526
709. Medicaid Eligibility For AABD Participant. 1527
710. -- 719. (Reserved) 1527
720. Long-Term Care Resident And Medicaid. 1527
721. Qualified Long-Term Care Partnership Policy. 1527
722. Patient Liability. 1528
723. Patient Liability For Person With No Community Spouse. 1528
724. Income Ownership Of Participant With Community Spouse. 1530
725. Patient Liability For Participant With Community Spouse. 1530
726. Personal Needs Supplement (PNS). 1533
727. Fair Hearing On CSA Decision. 1533
728. -- 730. (Reserved) 1533
731. Medicaid Eligibility Of Married Persons. 1533
732. Choosing FSI, SSI, Or CP Resource Counting Method. 1533
733. Choosing FSI, SSI, Or CP Income Counting Method. 1534
734. Choosing FSI, SSI, Or CP Patient Liability Or Client Participation Method. 1535
735. Federal Spousal Impoverishment (FSI) Method Of Counting Income And Resources Of A Couple. 1536
736. Assessment Date And Counting FSI Resources. 1536
737. Treatment Of Resources For Assessment. 1536
738. One-Half Spousal Share. 1536
739. -- 741. (Reserved) 1537
742. Community Spouse Resource Allowance. 1537
743. Resource Allowance Limits. 1537
744. Income Counted First For CSRA Revision. 1537
745. Upward Revision Of CSRA. 1537
746. Resource Transfer Allowance (RTA). 1537
747. Protected Period For RTA Transfer. 1537
748. Extension For RTA Transfer. 1537
749. Resource Eligibility For Community Spouse. 1538
750. Income Eligibility For Community Spouse. 1538
751. Change In Circumstances. 1538
752. Notice And Hearing. 1538
753. -- 760. (Reserved) 1538
761. Choice Of SSI Or CP Methods. 1538
762. SSI Method Of Counting Income And Resources Of A Couple. 1538
763. Community Property (CP) Method Of Counting Income And Resources Of A Couple. 1538
764. CP Method. 1538
765. Transfer Of Rights To Future Income Not Valid. 1538

766. CP Method Need Standard. ... 1538
767. CP Method Resource Limit. ... 1539
768. CP Method Income Disregards. ... 1539
769. -- 775. (Reserved) ... 1539
776. 1972 RSDI Recipient. ... 1539
777. Eligible SSI Recipient. ... 1539
778. Ineligible SSI Recipient. ... 1539
779. Psychiatric Facility Resident. ... 1540
780. Grandfathered SSI Recipient. ... 1540
781. RSDI Recipient Entitled To COLA Disregard. ... 1540
782. Medicaid Benefits Under Section 1619(b) Of The Social Security Act. ... 1540
783. Appeal Of SSA Decision - Applicant Determined SSI Eligible After Appeal. ... 1541
784. Appeal Of SSA Decision And Continued Medicaid. ... 1541
785. Certain Disabled Children. ... 1541
786. Extended (Postpartum) Medicaid For Pregnant Women. ... 1542
787. Home And Community Based Services (HCBS). ... 1542
788. Aged And Disabled (A&D) Waiver. ... 1542
789. Developmentally Disabled (DD) Waiver. ... 1542
790. -- 798. (Reserved) ... 1543
799. Medicaid For Workers With Disabilities. ... 1543
800. Newborn Child Of Medicaid Mother. ... 1544
801. Ineligible Non-Citizen With Emergency Medical Condition. ... 1544
802. Woman Diagnosed With Breast Or Cervical Cancer. ... 1544
803. -- 805. (Reserved) ... 1544
806. Disabled Adult Child. ... 1545
807. (Reserved) ... 1545
808. Early Widows And Widowers Beginning January 1, 1991. ... 1545
809. Certain Disabled Widows And Widowers Through June 30, 1988. ... 1545
810. Qualified Medicare Beneficiary (QMB). ... 1545
811. Specified Low Income Medicare Beneficiary (SLMB). ... 1546
812. Qualified Individual (QI). ... 1546
813. Qualified Disabled And Working Individual (QDWI). ... 1547
814. Sponsored Legal Non-Citizen. ... 1547
815. Child Subject To Deeming. ... 1547
816. Fugitive Felon Or Probation Or Parole Violator. ... 1547
817. -- 830. (Reserved) ... 1547
831. Asset Transfer Resulting In Penalty. ... 1547
832. Medicaid Penalty For Asset Transfers. ... 1548
833. Asset Transfer Look-Back Period. ... 1549
834. Period Of Restricted Coverage For Asset Transfers. ... 1549
835. Applying The Penalty Period Of Restricted Coverage. ... 1549
836. Multiple Penalty Periods Applied Consecutively. ... 1549
837. Life Estate As Asset Transfer. ... 1549
838. Annuity As Asset Transfer. ... 1551
839. Trusts As Asset Transfers. ... 1553
840. Transfer Of Jointly-Owned Asset. ... 1553
841. Penalty Exceptions For Asset Transfers. ... 1553
842. -- 870. (Reserved) ... 1555
871. Treatment Of Trusts. ... 1555
872. Exempt Trusts. ... 1555
873. Payments From An Exempt Trust For Disabled Person Or Pooled Trust. ... 1557
874. -- 914. (Reserved) ... 1557

915. Medicaid Redetermination. 1557
916. -- 999. (Reserved) 1557
16.03.06 – Refugee Medical Assistance
000. Legal Authority. 1558
001. Title And Scope. 1558
002. -- 009. (Reserved) 1558
010. Definition Of Terms And Abbreviations. 1558
011. -- 099. (Reserved) 1558
100. Identification Of Refugees. 1558
101. -- 124. (Reserved) 1559
125. Identification Of Entrants. 1559
126. -- 134. (Reserved) 1559
135. Precedence Of Categorical Assistance Programs. 1559
136. -- 149. (Reserved) 1559
150. Refugee Medical Assistance Program. 1559
151. -- 699. (Reserved) 1560
700. Overpayments And Restoration Of Benefits. 1560
701. -- 994. (Reserved) 1560
995. Provisions Contingent Upon Federal Funding. 1560
996. -- 999. (Reserved) 1560
16.03.07 – Home Health Agencies
000. Legal Authority. 1561
001. Title. 1561
002. Written Interpretations. 1561
003. -- 008. (Reserved) 1561
009. Criminal History And Background Check Requirements. 1561
010. Definitions. 1561
011. -- 012. (Reserved) 1564
013. Licensure - General Requirements. 1564
014. Change Of Ownership, Administrator Or Lessee. 1565
015. -- 019. (Reserved) 1565
020. Administration - Governing Body. 1566
021. Administrator. 1568
022. Director. 1569
023. Policies And Procedures. 1570
024. Skilled Nursing Services. 1571
025. Therapy Services. 1572
026. Social Services. 1573
027. Nutritional Services Defined As Registered Dietitian Services. 1573
028. -- 029. (Reserved) 1573
030. Plan Of Care. 1573
031. Clinical Records. 1574
032. -- 039. (Reserved) 1575
040. Agency Evaluation. 1575
041. -- 049. (Reserved) 1576
050. Clinical Record Review. 1576
051. -- 059. (Reserved) 1576
060. Statistical And Reporting System. 1576
061. -- 069. (Reserved) 1576
070. Discontinuation Of Agency. 1576
071. -- 994. (Reserved) 1577
995. Waivers. 1577

996. -- 999. (Reserved) 1577
16.03.08 – Temporary Assistance for Families in Idaho (TAFI) Program
000. Legal Authority. 1578
001. Title, Scope, And Purpose. 1578
002. – 007. (Reserved) 1578
008. Audit, Investigation And Enforcement. 1578
009. (Reserved) 1578
010. Definitions. 1578
011. Abbreviations. 1579
012. -- 099. (Reserved) 1579
100. TAFI Eligibility. 1579
101. Time Limit. 1579
102. Residence Exception To Time Limit. 1579
103. -- 105. (Reserved) 1580
106. Signatures. 1580
107. (Reserved) 1580
108. Application For Assistance. 1580
109. (Reserved) 1580
110. Effective Date. 1580
111. Substance Abuse Screening And Testing Notice At Application. 1580
112. (Reserved) 1580
113. Concurrent Multiple Benefit Prohibition. 1580
114. -- 115. (Reserved) 1580
116. Personal Responsibility Contract (PRC). 1581
117. (Reserved) 1581
118. Substance Abuse Assessment. 1581
119. Referral For Substance Abuse Assessment. 1581
120. Substance Abuse Testing. 1581
121. Consent And Acknowledgment Required Before Substance Abuse Testing. 1581
122. Administration Of Substance Abuse Test. 1581
123. TAFI Approval Before Substance Abuse Screening And Testing Results Known. 1582
124. Substance Abuse Treatment. 1582
125. Mandatory TAFI Household Members. 1582
126. Budgeting For Caretaker Relatives. 1582
127. Married Child Under Age Eighteen. 1582
128. Unmarried Parent Under The Age Of Eighteen. 1582
129. Good Cause Not To Live With Parents. 1582
130. (Reserved) 1583
131. Citizenship And Qualified Non-Citizen Criteria. 1583
132. (Reserved) 1584
133. Social Security Number (SSN) Requirement. 1584
134. Residence In Idaho. 1584
135. -- 141. (Reserved) 1584
142. School Attendance Responsibility. 1584
143. -- 146. (Reserved) 1584
147. Assignment Of Support Rights. 1584
148. Cooperation Responsibility. 1584
149. Good Cause For Not Cooperating. 1584
150. (Reserved) 1585
151. Paternity Not Established Within Twelve Months. 1585
152. -- 156. (Reserved) 1585
157. Applicant Job Search. 1585

158. (Reserved) 1585
159. Applicant Voluntary Quit. 1585
160. Prohibition On Applicant Striking. 1585
161. -- 162. (Reserved) 1585
163. Work Activities Responsibility. 1585
164. Work Activities. 1585
165. Work Requirements During Substance Abuse Treatment. 1585
166. Consent To Release Confidential Information. 1585
167. Failure To Comply With Substance Abuse Screening And Testing Requirements. 1586
168. Not Complying With Work Activities. 1586
169. Applying Penalties For Not Complying With Work Activities. 1586
170. -- 176. (Reserved) 1586
177. Temporary Absence. 1586
178. Notification Requirement. 1586
179. -- 199. (Reserved) 1586
200. Resource Limit. 1586
201. Countable Resources. 1586
202. -- 206. (Reserved) 1586
207. Vehicles. 1586
208. Resource Exclusions. 1587
209. -- 213. (Reserved) 1587
214. Countable Income. 1588
215. Excluded Income. 1588
216. -- 220. (Reserved) 1590
221. Determining Eligibility. 1590
222. Converting Income To A Monthly Amount. 1590
223. Averaging Income. 1590
224. -- 228. (Reserved) 1590
229. Self-Employment Income. 1590
230. Averaging Self-Employment Income. 1590
231. Calculation Of Self-Employment Income. 1590
232. Rental Income From Real Property. 1591
233. -- 239. (Reserved) 1591
240. Individuals Excluded From Household Size. 1591
241. Sponsored Non-Citizen. 1592
242. One-Half Grant Child Support Penalty And School Or Work Penalty. 1592
243. -- 247. (Reserved) 1592
248. Maximum Grant Amount. 1592
249. Grant Amount For Families With No Income. 1592
250. Grant Amount For Families With Unearned Income. 1592
251. Work Incentive Table. 1592
252. Grant Amount For Families With Earned Income. 1592
253. Prorating Benefits For The Application Month. 1592
254. Grant Less Than Ten Dollars Not Paid. 1593
255. -- 259. (Reserved) 1593
260. Applicant One-Time Cash Payment. 1593
261. Applicant One-Time Cash Payment Eligibility Criteria. 1593
262. Participant One-Time Cash Payment. 1593
263. One-Time Cash Payment Agreement. 1593
264. Amount Of One-Time Cash Payment. 1594
265. Ineligibility Period. 1594
266. Lifetime Eligibility. 1594

267. -- 299. (Reserved) ... 1594
300. Department Notification Responsibility. ... 1594
301. Advance Notification Responsibility. ... 1594
302. Advance Notification Not Required. ... 1594
303. -- 307. (Reserved) ... 1594
308. Household Reporting Responsibilities. ... 1594
309. Penalty For Failure To Report. ... 1595
310. Changes Affecting Eligibility Or Grant Amount. ... 1595
311. TAFI Eligibility During Substance Abuse Treatment. ... 1595
312. Failure To Comply With Treatment Or Engaging In Substance Abuse After Treatment. ... 1595
313. Continuation Of Eligibility For Children. ... 1595
314. Protective Payee. ... 1595
315. (Reserved) ... 1595
316. Underpayment. ... 1595
317. Fair Hearing Request. ... 1595
318. Continuation Pending Local Hearing Decision. ... 1595
319. -- 323. (Reserved) ... 1595
324. Intentional Program Violations (IPV). ... 1595
325. Deferred Adjudication. ... 1596
326. Disqualification For IPV. ... 1596
327. Applying Penalties For IPV. ... 1596
328. (Reserved) ... 1596
329. IPV Overpayments. ... 1596
330. IPV Overpayment And Earned Income. ... 1596
331. IPV Overpayment Collection. ... 1596
332. Notice Of Overpayment. ... 1596
333. Inadvertent Household Error And Agency Error TAFI Overpayments ... 1597
334. (Reserved) ... 1597
335. Review Of Personal Responsibility Contract And Eligibility. ... 1597
336. PRC Modifications. ... 1597
337. Not Complying With Conditions Of PRC. ... 1597
338. -- 339. (Reserved) ... 1597
340. Extended Cash Assistance (ECA). ... 1597
341. Extended Cash Assistance Application. ... 1597
342. Extended Cash Assistance Additional Eligibility Criteria. ... 1597
343. (Reserved) ... 1598
344. Extended Cash Assistance Time Limits. ... 1598
345. -- 349. (Reserved) ... 1598
350. Transitional Assistance. ... 1598
351. Transitional Assistance Eligibility Criteria. ... 1598
352. (Reserved) ... 1598
353. Transitional Assistance Time Limit. ... 1598
354. -- 367. (Reserved) ... 1598
368. Career Enhancement Assistance. ... 1598
369. Career Enhancement Service Plan. ... 1599
370. Career Enhancement Assistance Eligibility Criteria. ... 1599
371. -- 372. (Reserved) ... 1600
373. Funding Restrictions. ... 1600
374. Career Enhancement Assistance Time Limit. ... 1600
375. Supportive Service Expenditures. ... 1600
376. Prohibited Supportive Service Expenditures. ... 1600
377. Enhanced Work Services. ... 1600

378. -- 999. (Reserved) 1601
16.03.09 – Medicaid Basic Plan Benefits
000. Legal Authority. 1602
001. Title And Scope. 1602
002. Written Interpretations. 1602
003. (Reserved) 1602
004. Incorporation By Reference. 1602
005. -- 007. (Reserved) 1603
008. Audit, Investigation, And Enforcement. 1603
009. Criminal History And Background Check Requirements. 1603
010. Definitions: A Through H. 1604
011. Definitions: I Through O. 1606
012. Definitions: P Through Z. 1608
013. Medical Care Advisory Committee. 1610
014. -- 099. (Reserved) 1611
100. Eligibility For Medical Assistance. 1611
101. -- 124. (Reserved) 1611
125. Medical Assistance Procedures. 1611
126. -- 149. (Reserved) 1612
150. Choice Of Providers. 1612
151. -- 159. (Reserved) 1612
160. Responsibility For Keeping Appointments. 1612
161. -- 164. (Reserved) 1612
165. Cost-Sharing. 1612
166. -- 199. (Reserved) 1612
200. Provider Application Process. 1612
201. -- 204. (Reserved) 1613
205. Agreements With Providers. 1613
206. -- 209. (Reserved) 1614
210. Conditions For Payment. 1614
211. -- 214. (Reserved) 1615
215. Third Party Liability. 1615
216. -- 224. (Reserved) 1617
225. Reporting To The Internal Revenue Service (IRS). 1617
226. -- 229. (Reserved) 1617
230. General Payment Procedures. 1617
231. Handling Of Overpayments And Underpayments For Specified Providers. 1619
232. -- 234. (Reserved) 1620
235. Patient “Advance Directives.” 1620
236. -- 244. (Reserved) 1621
245. Providers Of School-Based Services. 1621
246. -- 249. (Reserved) 1621
250. Selective Contracting. 1621
251. -- 299. (Reserved) 1621
300. Cost Reporting. 1621
301. -- 304. (Reserved) 1622
305. Reimbursement System Audits. 1622
306. -- 329. (Reserved) 1622
330. Provider's Responsibility To Maintain Records. 1622
331. -- 339. (Reserved) 1623
340. Draft Audit Report. 1623
341. Final Audit Report. 1623

342. -- 359. (Reserved) ... 1623
360. Related Party Transactions. ... 1623
361. Application. ... 1623
362. Exception To The Related Organization Principle. ... 1624
363. -- 389. (Reserved) ... 1624
390. Services, Treatments, And Procedures Not Covered By Medical Assistance. ... 1624
391. -- 398. (Reserved) ... 1625
399. Covered Services Under Basic Plan Benefits. ... 1625
400. Inpatient Hospital Services: Definitions. ... 1628
401. (Reserved) ... 1631
402. Inpatient Hospital Services: Coverage And Limitations. ... 1631
403. Inpatient Hospital Services: Procedural Requirements. ... 1631
404. Inpatient Hospital Services: Provider Qualifications And Duties. ... 1632
405. Inpatient Hospital Services: Provider Reimbursement. ... 1632
406. Inpatient Hospital Services: Quality Assurance. ... 1640
407. -- 409. (Reserved) ... 1640
410. Outpatient Hospital Services: Definitions. ... 1640
411. (Reserved) ... 1640
412. Outpatient Hospital Services: Coverage And Limitations. ... 1640
413. Outpatient Hospital Services: Procedural Requirements. ... 1641
414. (Reserved) ... 1641
415. Outpatient Hospital Services: Provider Reimbursement. ... 1641
416. -- 421. (Reserved) ... 1642
422. Reconstructive Surgery: Coverage And Limitations. ... 1642
423. -- 430. (Reserved) ... 1642
431. Surgical Procedures For Weight Loss: Participant Eligibility. ... 1642
432. Surgical Procedures For Weight Loss: Coverage And Limitations ... 1642
433. Surgical Procedures For Weight Loss: Procedural Requirements. ... 1643
434. Surgical Procedures For Weight Loss: Provider Qualifications And Duties. ... 1643
435. -- 442. (Reserved) ... 1643
443. Investigational Procedures Or Treatments: Procedural Requirements. ... 1643
444. -- 449. (Reserved) ... 1644
450. -- 451. (Reserved) ... 1644
452. Ambulatory Surgical Center Services: Coverage And Limitations. ... 1644
453. Reserved. ... 1644
454. Ambulatory Surgical Center Services: Provider Qualifications And Duties. ... 1644
455. Ambulatory Surgical Center Services: Provider Reimbursement. ... 1645
456. -- 499. (Reserved) ... 1645
500. Physician Services: Definitions. ... 1645
501. (Reserved) ... 1646
502. Physician Services: Coverage And Limitations. ... 1646
503. (Reserved) ... 1646
504. Physician Services: Provider Qualifications And Duties ... 1646
505. Physician Services: Provider Reimbursement. ... 1647
506. -- 510. (Reserved) ... 1648
511. Abortion Procedures: Participant Eligibility. ... 1648
512. -- 513. (Reserved) ... 1648
514. Abortion Procedures: Provider Qualifications And Duties. ... 1648
515. -- 519. (Reserved) ... 1648
520. -- 521. (Reserved) ... 1648
522. Non-Physician Practitioner Services: Coverage And Limitations. ... 1648
523. (Reserved) ... 1648

524. Non-Physician Practitioner Services: Provider Qualifications And Duties. 1648
525. Non-Physician Practitioner Services: Provider Reimbursement. 1648
526. -- 529. (Reserved) 1649
530. Chiropractic Services: Definitions. 1649
531. (Reserved) 1649
532. Chiropractic Services: Coverage And Limitations. 1649
533. (Reserved) 1649
534. Chiropractic Services: Provider Qualifications. 1649
535. -- 539. (Reserved) 1649
540. Podiatrist Services: Definitions. 1649
541. Podiatrist Services: Participant Eligibility. 1649
542. Podiatrist Services: Coverage And Limitations. 1650
543. (Reserved) 1650
544. Podiatrist Services: Provider Qualifications. 1650
545. (Reserved) 1650
546. Licensed Midwife (LM) Services. 1650
547. LM Services: Definitions. 1650
548. LM Services: Participant Eligibility. 1650
549. LM Services: Coverage and Limitations. 1650
550. LM Services: Provider Qualifications And Duties. 1650
551. LM Services: Provider Reimbursement. 1651
552. LM Services: Provider Quality Assurance Activities. 1651
553. (Reserved) 1651
554. Optometrist Services: Provider Qualifications And Duties. 1651
555. -- 559. (Reserved) 1651
560. Healthy Connections: Definitions. 1651
561. Healthy Connections: Participant Eligibility. 1652
562. Healthy Connections: Primary Care Services. 1653
563. Healthy Connections: Procedural Requirements. 1653
564. Healthy Connections: Provider Qualifications And Duties. 1654
565. Healthy Connections: Provider Reimbursement. 1655
566. Healthy Connections: Quality Assurance. 1655
567. -- 579. (Reserved) 1655
580. Child Wellness Services: Definitions. 1655
581. Child Wellness Services: Participant Eligibility. 1656
582. Child Wellness Services: Coverage And Limitations. 1656
583. (Reserved) 1656
584. Child Wellness Services: Provider Qualifications And Duties. 1656
585. Early Intervention Services. 1656
586. Early Intervention Services: Program Requirements. 1656
587. Early Intervention Services: Provider Reimbursement. 1657
588. -- 589. (Reserved) 1657
590. Adult Physicals. 1657
591. -- 601. (Reserved) 1657
602. Screening Mammographies: Coverage And Limitations. 1657
603. (Reserved) 1657
604. Screening Mammographies: Provider Qualifications And Duties. 1657
605. -- 609. (Reserved) 1657
610. Clinic Services: Diagnostic Screening Clinics. 1657
611. -- 617. (Reserved) 1658
618. Health Questionnaire. 1658
619. (Reserved) 1658

620. Preventive Health Assistance (PHA): Definitions. ... 1658
621. Preventive Health Assistance (PHA): Participant Eligibility. ... 1658
622. Preventive Health Assistance (PHA): Coverage And Limitations. ... 1658
623. Preventive Health Assistance (PHA): Procedural Requirements. ... 1659
624. Preventive Health Assistance (PHA): Provider Qualifications And Duties. ... 1659
625. Preventive Health Assistance (PHA): Provider Reimbursement. ... 1660
626. Preventive Health Assistance (PHA): Quality Assurance. ... 1660
627. -- 629. (Reserved) ... 1660
630. Nutritional Services: Definitions. ... 1660
631. (Reserved) ... 1660
632. Nutritional Services: Coverage And Limitations. ... 1660
633. (Reserved) ... 1660
634. Nutritional Services: Provider Qualifications And Duties. ... 1660
635. Nutritional Services: Provider Reimbursement. ... 1660
636. -- 639. (Reserved) ... 1660
640. Diabetes Education And Training Services: Definitions. ... 1660
641. Diabetes Education And Training Services: Participant Eligibility. ... 1661
642. Diabetes Education And Training Services: Coverage And Limitations. ... 1661
643. Diabetes Education And Training Services: Procedural Requirements. ... 1661
644. Diabetes Education And Training Services: Provider Qualifications And Duties. ... 1661
645. Diabetes Education And Training Services: Provider Reimbursement. ... 1661
646. -- 649. (Reserved) ... 1661
650. Laboratory And Radiology Services: Definitions. ... 1661
651. -- 652. (Reserved) ... 1662
653. Laboratory And Radiology Services: Coverage And Limitations. ... 1662
654. Laboratory And Radiology Services: Provider Qualifications And Duties. ... 1662
655. Laboratory And Radiology Services: Provider Reimbursement. ... 1662
656. Laboratory And Radiology Services: Quality Assurance. ... 1663
657. -- 659. (Reserved) ... 1663
660. (Reserved) ... 1663
661. Prescription Drugs: Participant Eligibility. ... 1663
662. Prescription Drugs: Coverage And Limitations. ... 1663
663. Prescription Drugs: Procedural Requirements. ... 1666
664. Prescription Drugs: Provider Qualifications And Duties. ... 1667
665. Prescription Drugs: Provider Reimbursement. ... 1668
666. Prescription Drugs: Quality Assurance. ... 1672
667. -- 679. (Reserved) ... 1673
680. (Reserved) ... 1673
681. Family Planning Services: Participant Eligibility. ... 1673
682. Family Planning Services: Coverage And Limitations. ... 1673
683. Family Planning Services: Procedural Requirements. ... 1674
684. (Reserved) ... 1676
685. Family Planning Services: Provider Reimbursement. ... 1676
686. -- 699. (Reserved) ... 1676
700. Inpatient Behavioral Health Services: Definitions. ... 1676
701. Inpatient Behavioral Health Services: Participant Eligibility. ... 1677
702. Inpatient Behavioral Health Services: Coverage And Limitations. ... 1679
703. Inpatient Behavioral Health Services: Procedural Requirements. ... 1679
704. Inpatient Behavioral Health Services: Provider Qualifications And Duties. ... 1680
705. Inpatient Behavioral Health Services: Provider Reimbursement. ... 1680
706. Inpatient Behavioral Health Services: Quality Assurance. ... 1681
707. Outpatient Behavioral Health Services. ... 1681

708. Outpatient Behavioral Health Services: Participant Eligibility. 1682
709. Outpatient Behavioral Health Services: Coverage And Limitations. 1682
710. Outpatient Behavioral Health Services: Provider Qualifications. 1682
711. Outpatient Behavioral Health Services: Procedural Requirements. 1682
712 -- 719. (Reserved) 1683
720. Home Health Services: Definitions. 1683
721. (Reserved) 1683
722. Home Health Services: Coverage And Limitations. 1683
723. Home Health Services: Procedural Requirements. 1683
724. Home Health Services: Provider Qualifications And Duties. 1685
725. Home Health Services: Provider Reimbursement. 1685
726. -- 729. (Reserved) 1685
730. Therapy Services: Definitions. 1685
731. Therapy Services: Participant Eligibility. 1687
732. Therapy Services: Coverage And Limitations. 1687
733. Therapy Services: Procedural Requirements. 1689
734. Therapy Services: Provider Qualifications And Duties. 1690
735. Therapy Services: Provider Reimbursement. 1690
736. Therapy Services: Quality Assurance Activities. 1690
737. -- 739. (Reserved) 1691
740. Audiology Services. 1691
741. Audiology Services: Participant Eligibility. 1691
742. Audiology Services: Coverage And Limitations. 1691
743. Audiology Services: Procedural Requirements. 1692
744. Audiology Services: Provider Qualifications And Duties. 1692
745. Audiology Services: Provider Reimbursement. 1693
746. -- 749. (Reserved) 1693
750. (Reserved) 1693
751. Durable Medical Equipment And Supplies: Participant Responsibility. 1693
752. Durable Medical Equipment And Supplies: Coverage And Limitations. 1693
753. Durable Medical Equipment And Supplies: Procedural Requirements. 1694
754. (Reserved) 1696
755. Durable Medical Equipment And Supplies: Provider Reimbursement. 1696
756. Durable Medical Equipment And Supplies: Quality Assurance. 1696
757. -- 770. (Reserved) 1697
771. Prosthetic And Orthotic Services: Participant Eligibility. 1697
772. Prosthetic And Orthotic Services: Coverage And Limitations. 1697
773. Prosthetic And Orthotic Services: Procedural Requirements. 1698
774. (Reserved) 1698
775. Prosthetic And Orthotic Services: Provider Reimbursement. 1698
776. -- 779. (Reserved) 1698
780. -- 781. (Reserved) 1698
782. Vision Services: Coverage And Limitations. 1698
783. -- 784. (Reserved) 1699
785. Vision Services: Provider Reimbursement. 1699
786. -- 799. (Reserved) 1700
800. Dental Services: Selective Contract For Dental Coverage. 1700
801. Dental Services: Definitions. 1700
802. Dental Services: Participant Eligibility. 1700
803. Dental Services: Coverage And Limitations. 1700
804. Dental Services: Procedural Requirements. 1700
805. Dental Services: Provider Qualifications And Duties. 1701

806. Dental Services: Provider Reimbursement. 1701
807. Dental Services: Quality Assurance. 1701
808. -- 819. (Reserved) 1701
820. Rural Health Clinic (RHC) Services. 1701
821. -- 822. (Reserved) 1701
823. Rural Health Clinic (RHC) Services: Coverage And Limitations. 1701
824. -- 825. (Reserved) 1702
826. Rural Health Clinic (RHC) Services: Reimbursement Methodology. 1702
827. -- 829. (Reserved) 1702
830. Federally Qualified Health Center (FQHC) Services: Definitions. 1702
831. (Reserved) 1703
832. Federally Qualified Health Center (FQHC) Services: Coverage And Limitations. 1703
833. -- 834 (Reserved) 1703
835. Federally Qualified Health Center (FQHC) Services: Reimbursement Methodology. 1704
836. Federally Qualified Health Center (FQHC) Services: Rate Setting Methodology. 1704
837. -- 841. (Reserved) 1706
842. Indian Health Service (IHS) Clinic Services: Coverage And Limitations. 1706
843. -- 844. (Reserved) 1706
845. Indian Health Service (IHS) Clinic Services: Provider Reimbursement. 1706
846. -- 849. (Reserved) 1706
850. School-Based Service: Definitions. 1706
851. School-Based Service: Participant Eligibility. 1707
852. School-Based Service: Service-Specific Participant Eligibility. 1707
853. School-Based Service: Coverage And Limitations. 1708
854. School-Based Service: Procedural Requirements. 1711
855. School-Based Service: Provider Qualifications And Duties. 1712
856. School-Based Service: Provider Reimbursement. 1717
857. School-Based Service: Quality Assurance And Improvement. 1718
858. -- 859. (Reserved) 1718
860. (Reserved) 1718
861. Emergency Transportation Services: Participant Eligibility. 1718
862. Emergency Transportation Services: Coverage And Limitations. 1718
863. Emergency Transportation Services: Procedural Requirements. 1719
864. Emergency Transportation Services: Provider Qualifications And Duties. 1719
865. Emergency Transportation Services: Provider Reimbursement. 1719
866. -- 869. (Reserved) 1721
870. Non-Emergency Medical Transportation Services: Definitions. 1721
871. Non-Emergency Medical Transportation Services: Duties Of The Transportation Broker. 1722
872. Non-Emergency Medical Transportation Services: Coverage And Limitations. 1722
873. Non-emergency Medical Transportation Services: Reimbursement Methodology. 1723
874. -- 879. (Reserved) 1723
880. Early Periodic Screening, Diagnosis, And Treatment (EPSDT) Services: Definition. 1723
881. Early Periodic Screening, Diagnosis And Treatment (EPSDT) Services: Participant Eligibility. 1723
882. Early Periodic Screening, Diagnosis And Treatment (EPSDT) Services: Coverage And Limitations. 1723
883. -- 889. (Reserved) 1724
890. Pregnancy-Related Services: Definitions. 1724
891. (Reserved) 1725
892. Pregnancy-Related Services: Coverage And Limitations. 1725
893. Pregnancy-Related Services: Procedural Requirements. 1725
894. Pregnancy-Related Services: Provider Qualifications And Duties. 1725

895. Pregnancy-Related Services: Provider Reimbursement. ... 1725
896. -- 899. (Reserved) ... 1725
900. Liens And Estate Recovery. ... 1726
901. Liens And Estate Recovery: Definitions. ... 1726
902. Liens And Estate Recovery - Notification to Department. ... 1727
903. Liens And Estate Recovery: Lien During Lifetime Of Participant. ... 1727
904. Liens And Estate Recovery: Requirements For Estate Recovery. ... 1729
905. Liens And Estate Recovery: Limitations And Exclusions. ... 1730
906. Liens And Estate Recovery: Request For Notice. ... 1731
907. -- 909. (Reserved) ... 1732
910. Participant Utilization Control Program. ... 1732
911. Lock-In Defined. ... 1732
912. Department Evaluation For Lock-In. ... 1733
913. Criteria For Lock-In. ... 1733
914. Lock-In Participant Notification. ... 1733
915. Lock-In Procedures. ... 1733
916. Penalties For Lock-In Noncompliance. ... 1734
917. Appeal Of Lock-In. ... 1734
918. Recipient Explanation Of Medicaid Benefits (REOMBs). ... 1734
919. -- 999. (Reserved) ... 1734

16.03.10 – Medicaid Enhanced Plan Benefits

000. Legal Authority. ... 1737
001. Title And Scope. ... 1737
002. Written Interpretations. ... 1737
003. (Reserved) ... 1738
004. Incorporation By Reference. ... 1738
005. -- 007. (Reserved) ... 1738
008. Audit, Investigation And Enforcement. ... 1738
009. Criminal History And Background Check Requirements. ... 1738
010. Definitions: A Through D. ... 1739
011. Definitions: E Through K. ... 1743
012. Definitions: L Through O. ... 1746
013. Definitions: P Through Z. ... 1749
014. -- 019. (Reserved) ... 1752
020. Participation In The Cost Of Waiver Services. ... 1752
021. Medicare Savings Program For Participants Covered By Medicare. ... 1752
022. Participant's Requirements For Estate Recovery. ... 1752
023. -- 024. (Reserved) ... 1753
025. General Service Limitations. ... 1753
026. Selective Contracting. ... 1753
027. -- 029. (Reserved) ... 1753
030. Cost Reporting. ... 1753
031. -- 035. (Reserved) ... 1753
036. General Reimbursement. ... 1753
037. General Reimbursement: Participant Services. ... 1753
039. Accounting Treatment. ... 1757
040. Provider's Responsibility To Maintain Records. ... 1758
041. -- 049. (Reserved) ... 1758
050. Draft Audit Report. ... 1758
051. Final Audit Report. ... 1759
052. -- 059. (Reserved) ... 1759
060. Criteria For Participation In The Idaho Title XIX And Title XXI Programs. ... 1759

061. -- 069. (Reserved) ... 1759
070. Exception To The Related Organization Principle. ... 1759
071. -- 074. (Reserved) ... 1760
075. Enhanced Plan Benefits: Covered Services. ... 1760
076. Managed Care For Duals: Definitions. ... 1760
077. Managed Care For Duals: Program Authority And Implementation. ... 1760
078. Managed Care For Duals: Participant Eligibility And Enrollment. ... 1761
079. Managed Care For Duals: Covered Services. ... 1761
080. -- 089. (Reserved) ... 1761
090. Organ Transplants. ... 1761
091. -- 092. (Reserved) ... 1762
093. Organ Transplants: Coverage And Limitations. ... 1762
094. -- 095. (Reserved) ... 1762
096. Organ Transplants: Provider Reimbursement. ... 1762
097. -- 099. (Reserved) ... 1762
100. Inpatient Behavioral Health Services. ... 1762
101. Inpatient Behavioral Health Services: Participant Eligibility. ... 1762
102. -- 199. (Reserved) ... 1762
200. Private Duty Nursing Services. ... 1762
201. Private Duty Nursing: Definitions. ... 1762
202. Private Duty Nursing: Eligibility. ... 1763
203. Private Duty Nursing: Factors Assessed For Eligibility And Redetermination. ... 1763
204. Private Duty Nursing: Coverage And Limitations. ... 1763
205. - 208. (Reserved) ... 1764
209. Private Duty Nursing: Provider Qualifications And Duties. ... 1764
210. - 214. (Reserved) ... 1765
215. - 219. (Reserved) ... 1765
220. Nursing Facility. ... 1765
221. (Reserved) ... 1765
222. Nursing Facility Services: Eligibility. ... 1765
223. Nursing Facility: Criteria For Determining Need. ... 1766
224. Nursing Facility: Post-Eligibility Treatment Of Income. ... 1767
225. Nursing Facility: Coverage And Limitations. ... 1767
226. Nursing Facility: Procedural Responsibilities. ... 1769
227. Preadmission Screening And Resident Review Program (PASRR). ... 1769
228. Nursing Facility: Coordination Of Nursing Facility Eligibility And The Need For Specialized Services. ... 1770
229. Nursing Facility: Prepayment Screen And Determination Of Entitlement To Medicaid Payment For Nursing Facility Care And Services. ... 1771
230. Nursing Facility: Provider Qualifications And Duties. ... 1771
232. -- 234. (Reserved) ... 1771
235. Nursing Facility: Provider Reimbursement. ... 1772
236. Nursing Facility: Reasonable Cost Principles. ... 1772
237. Nursing Facility: Notice Of Program Reimbursement. ... 1772
238. Nursing Facility: Interest Charges On Overpayments And Underpayments. ... 1773
239. Nursing Facility: Recovery Methods For Overpayments. ... 1773
240. Nursing Facility: Allowable Costs. ... 1774
241. Nursing Facility: Nonallowable Costs. ... 1776
242. Nursing Facility: Home Office Cost Principles. ... 1777
243. Nursing Facility: Related Party Transactions. ... 1777
244. Nursing Facility: Application Of Related Party Transactions. ... 1777
245. Nursing Facility: Compensation Of Related Persons. ... 1777

246. Nursing Facility: Interest Expense. ... 1778
247. -- 249. (Reserved) ... 1778
250. Nursing Facility: Cost Limits. ... 1778
251. (Reserved) 1778
252. Nursing Facility: Property And Utility Costs. ... 1778
253. -- 254. (Reserved) ... 1779
255. Nursing Facility: Rate Setting. ... 1779
256. Nursing Facility: Principle For Rate Setting. ... 1779
257. Nursing Facility: Development Of The Rate. ... 1779
258. Nursing Facility: Cost Limits Based On Cost Report. ... 1780
259. Nursing Facility: Treatment Of New Beds. ... 1781
260. Nursing Facility: Treatment Of New Facilities. ... 1782
261. Nursing Facility: Treatment Of A Change In Ownership. ... 1782
262. Nursing Facility: Out-Of-State Nursing Homes. ... 1782
263. Nursing Facility: Distressed Facility. ... 1782
264. Nursing Facility: Interim Adjustments To Rates As A Result Of New Mandates. ... 1783
265. Nursing Facility: MDS Reviews. ... 1784
266. Nursing Facility: Behavioral Care Unit (BCU) And Rate Structure. ... 1784
267. Nursing Facility: Treatment Of Newly Licensed Facilities With Behavioral Care Units. ... 1787
268. Nursing Facility: Existing Provider Elects To Add Behavioral Care Unit (BCU). ... 1788
269. Nursing Facility: New Owner Of An Existing Nursing Facility With A Behavioral Care Unit (BCU). ... 1788
270. Nursing Facility: Special Rates. ... 1789
271. (Reserved) ... 1790
272. Nursing Facility: Legal Consultant Fees And Litigation Costs. ... 1790
273. Nursing Facility: Patient Funds. ... 1790
274. Nursing Facility: Idaho Owner-Administrative Compensation. ... 1791
275. Nursing Facility: Property Rental Rate Reimbursement. ... 1792
276. -- 277. (Reserved) ... 1795
278. Nursing Facility: Occupancy Adjustment Factor. ... 1795
279. Nursing Facility: Recapture Of Depreciation. ... 1796
280. Nursing Facility: Reporting System. ... 1796
281. Nursing Facility: Reporting System Principle And Application. ... 1797
282. Nursing Facility: Reporting Period. ... 1798
283. Nursing Facility: Filing Dates. ... 1798
284. Nursing Facility: Failure To File. ... 1798
285. Nursing Facility: Accounting System. ... 1798
286. Nursing Facility: Audits. ... 1798
287. Nursing Facility: Audit Application. ... 1799
288. Nursing Facility: Audit Standards And Requirements. ... 1799
289. -- 290. (Reserved) ... 1802
291. Nursing Facility: Costs For The Completion Of Nurse Aide Training And Competency Evaluation Programs (NATCEPS) And For Complying With Certain Other Requirements. ... 1803
292. Nursing Facility: Payments For Periods Of Temporary Absence. ... 1803
293. -- 299. (Reserved) ... 1803
300. Personal Care Services (PCS). ... 1803
301. Personal Care Services: Definitions. ... 1803
302. Personal Care Services: Eligibility. ... 1804
303. Personal Care Services: Coverage And Limitations. ... 1804
304. Personal Care Services: Procedural Requirements. ... 1806
305. Personal Care Services: Provider Qualifications. ... 1808
306. Personal Assistance Agency (PAA): Qualifications And Duties. ... 1810

307. Personal Care Services: Provider Reimbursement. ... 1810
308. Personal Care Services (PCS): Quality Assurance. ... 1812
309. (Reserved) ... 1812
310. Home And Community-Based Services. ... 1812
311. HCBS Requirements And Decision-Making Authority. ... 1813
312. Home And Community-Based Settings. ... 1813
313. Required Home And Community-Based Qualities. ... 1813
314. Residential Provider-Owned Or Controlled Setting Qualities. ... 1814
315. Exceptions To Residential Provider-Owned Or Controlled Setting Qualities. ... 1815
316. Home And Community-Based Person-Centered Planning Requirements. ... 1815
317. Home And Community-Based Person-Centered Service Plan Requirements. ... 1815
318. HCBS Transition Plan. ... 1817
319. HCBS -- Termination Of Participant Enrollment. ... 1817
320. Aged And Disabled Waiver Services. ... 1818
321. Aged And Disabled Waiver Services: Definitions. ... 1818
322. Aged And Disabled Waiver Services: Eligibility. ... 1818
323. Aged And Disabled Waiver Services: Participant Eligibility Determination. ... 1820
324. Aged And Disabled Waiver Services: Target Group. ... 1820
325. Home And Community-Based Services (HCBS) Waiver: Participant Limitations. ... 1820
326. Aged And Disabled Waiver Services: Coverage And Limitations. ... 1820
327. Aged And Disabled Waiver Services: Place Of Service Delivery. ... 1826
328. Aged And Disabled Waiver Services: Procedural Requirements. ... 1827
329. Aged And Disabled Waiver Services: Provider Qualifications And Duties. ... 1829
330. Aged And Disabled Waiver Services: Provider Reimbursement. ... 1835
331. -- 349. (Reserved) ... 1835
350. Transition Management. ... 1835
351. -- 449. (Reserved) ... 1836
450. Hospice. ... 1836
451. Hospice: Definitions. ... 1836
452. Hospice: Eligibility. ... 1837
453. Hospice: Coverage Requirements And Limitations. ... 1837
454. Hospice: Procedural Requirements. ... 1838
455. Hospice: Provider Qualifications And Duties. ... 1840
456. Hospice: Provider Reimbursement. ... 1840
457. Hospice: Limitation On Payments For Inpatient Care. ... 1841
458. Hospice: Payment For Physician Services. ... 1842
459. Hospice: Cap On Overall Reimbursement. ... 1843
460. Hospice: Post-Eligibility Treatment Of Income. ... 1844
461. -- 499. (Reserved) ... 1844
500. Developmental Disability Determination Standards. ... 1844
501. Developmental Disability Determination Standards: Eligibility. ... 1844
502. (Reserved) ... 1847
503. Developmental Disability Determination: Test Instruments. ... 1847
504. -- 506. (Reserved) ... 1847
507. Adult Developmental Disability Services Prior Authorization (PA). ... 1847
508. Adult Developmental Disability Services Prior Authorization: Definitions. ... 1848
509. Adult Developmental Disability Services Prior Authorization: Eligibility Determination. ... 1849
510. (Reserved) ... 1850
511. Adult Developmental Disability Services Prior Authorization: Coverage And Limitations. ... 1850
512. Adult Developmental Disability Services Prior Authorization: Procedural Requirements. ... 1850
513. Adult Developmental Disability Services Prior Authorization: Plan Of Service. ... 1851
514. Adult Developmental Disability Services Prior Authorization: Provider Reimbursement. ... 1854

515. Adult Developmental Disability Services: Quality Assurance And Improvement. 1856
516. -- 519. (Reserved) 1856
520. Children's Developmental Disability Prior Authorization (PA). 1857
521. Children's Developmental Disability Prior Authorization (PA): Definitions. 1857
522. Children's Developmental Disability Prior Authorization (PA): Eligibility Determination. 1858
523. (Reserved) 1859
524. Children's Developmental Disability Prior Authorization (PA): Coverage And Limitations. 1859
525. Children's Developmental Disability Prior Authorization (PA): Procedural Requirements. 1860
526. Children's Developmental Disability Prior Authorization (PA): Plan Of Service Process. 1860
527. Children's Developmental Disability Prior Authorization (PA): Provider Reimbursement. 1862
528. Children's Developmental Disabilities Prior Authorization (PA): Department's Quality Assurance And Improvement Processes. 1863
529. -- 579. (Reserved) 1863
580. Intermediate Care Facilities For Persons With Intellectual Disabilities (ICF/ID). 1863
581. ICF/ID: Eligibility. 1864
582. ICF/ID: Determination Of Entitlement For Medicaid Payment. 1864
583. ICF/ID: Information Required For Determination. 1864
584. ICF/ID: Criteria For Determining Eligibility. 1865
585. ICF/ID: Coverage Requirements And Limitations. 1866
586. ICF/ID: Procedural Responsibilities. 1867
587. ICF/ID: Provider Qualifications And Duties. 1869
588. ICF/ID: Provider Reimbursement. 1870
589. ICF/ID: Reasonable Cost Principles. 1870
590. ICF/ID: Allowable Costs. 1871
591. ICF/ID: Nonallowable Costs. 1873
592. ICF/ID: Home Office Cost Principles. 1874
593. ICF/ID: Related Party Transactions. 1874
594. ICF/ID: Application Of Related Party Transactions. 1874
595. ICF/ID: Compensation Of Related Persons. 1875
596. ICF/ID: Interest Expense. 1875
597. ICF/ID: Idaho Owner-Administrative Compensation. 1875
598. -- 599. (Reserved) 1876
600. ICF/ID: Occupancy Adjustment Factor. 1876
601. ICF/ID: Recapture Of Depreciation. 1877
602. ICF/ID: Reporting System. 1877
603. ICF/ID: Reporting System Principle And Application. 1878
604. (Reserved) 1879
605. ICF/ID: Filing Dates. 1879
606. ICF/ID: Failure To File. 1879
607. ICF/ID: Accounting System. 1879
608. -- 609. (Reserved) 1879
610. ICF/ID: Audits. 1879
611. ICF/ID: Audit Application. 1880
612. ICF/ID: Audit Standards And Requirements. 1880
613. ICF/ID: Patient Funds. 1883
614. (Reserved) 1884
615. ICF/ID: Post-Eligibility Treatment Of Income. 1884
616. -- 619. (Reserved) 1885
620. ICF/ID: Payments For Periods Of Temporary Absence. 1885
621. ICF/ID: Payment Procedures. 1885
622. ICF/ID: Principle Prospective Rates. 1885

623. ICF/ID: Property Reimbursement. ... 1885
624. ICF/ID: Capped Cost. ... 1886
625. (Reserved) ... 1888
626. ICF/ID: Retrospective Settlement. ... 1888
627. ICF/ID: Exempt Costs. ... 1888
628. ICF/ID: Costs Excluded From The Cap. ... 1889
629. ICF/ID: Legal Consultant Fees And Litigation Costs. ... 1890
630. ICF/ID: Property Rental Rate Reimbursement. ... 1891
631. ICF/ID: Property Reimbursement Limitations. ... 1892
632. ICF/ID: Special Rates. ... 1893
633. Reimbursement Provisions For State Owned Or Operated ICF/ID Facilities. ... 1893
634. (Reserved) ... 1894
635. Youth Empowerment Services (YES) Home And Community-Based Services (HCBS) State Plan Option. ... 1894
636. Youth Empowerment Services (YES) HCBS State Plan Option: Definitions. ... 1894
637. Youth Empowerment Services (YES) HCBS State Plan Option: Eligibility Redetermination. ... 1894
638. Youth Empowerment Services (YES) HCBS State Plan Option: Coverage And Limitations. ... 1895
639. -- 644. (Reserved) ... 1895
645. Home And Community-Based Services (HCBS) State Plan Option. ... 1895
646. Community Crisis Supports. ... 1895
647. Community Crisis Supports: Eligibility. ... 1895
648. Community Crisis Supports Coverage And Limitations. ... 1895
649. Developmental Therapy. ... 1896
650. Developmental therapy: Eligibility. ... 1896
651. Developmental Therapy: Coverage Requirements And Limitations. ... 1896
652. Developmental Therapy: Procedural Requirements For Individuals With An ISP. ... 1897
653. Developmental Therapy: Procedural Requirements For Individuals With An IPP. ... 1897
654. Developmental Therapy: Procedural Requirements. ... 1899
655. Developmental Therapy: Provider Qualifications And Duties. ... 1901
656. General Staffing Requirements. ... 1902
657. Developmental Therapy: Provider Reimbursement. ... 1903
658. -- 659. (Reserved) ... 1903
660. Children's Home And Community Based Services (HCBS) State Plan Option. ... 1903
661. Children's HCBS State Plan Option: Definitions. ... 1903
662. Children's HCBS State Plan Option: Participant Eligibility. ... 1904
663. Children's HCBS State Plan Option: Coverage And Limitations. ... 1904
664. Children's HCBS State Plan Option: Procedural Requirements. ... 1906
665. Children's HCBS State Plan Option: Provider Qualifications And Duties. ... 1907
666. Children's HCBS State Plan Option: Provider Reimbursement. ... 1910
667. -- 679. (Reserved) ... 1910
680. Children's Waiver Services. ... 1910
681. Children's Waiver Services: Definitions. ... 1911
682. Children's Waiver Services: Eligibility. ... 1911
683. Children's Waiver Services: Coverage And Limitations. ... 1912
684. Children's Waiver Services: Procedural Requirements. ... 1916
685. Children's Waiver Services: Provider Qualifications And Duties. ... 1917
686. Children's Waiver Services: Provider Reimbursement. ... 1921
687. -- 699. (Reserved) ... 1921
700. Adults With Developmental Disabilities Waiver Services. ... 1921
701. (Reserved) ... 1921
702. Adult DD Waiver Services: Eligibility. ... 1921

703. Adult DD Waiver Services: Coverage And Limitations. ... 1922
704. Adult DD Waiver Services: Procedural Requirements. ... 1927
705. Adult DD Waiver Services: Provider Qualifications And Duties. ... 1928
706. Adult DD Waiver Services: Provider Reimbursement. ... 1932
707. -- 719. (Reserved) ... 1933
720. Service Coordination. ... 1933
721. Service Coordination: Definitions. ... 1933
722. Service Coordination Services: Eligibility. ... 1934
723. Targeted Service Coordination: Eligibility: Individuals With A Developmental Disability ... 1934
724. -- 725. (Reserved) ... 1935
726. Service Coordination: Eligibility: Individuals Up To The Age Of Twenty-One. ... 1935
727. Service Coordination: Coverage And Limitations. ... 1935
728. Service Coordination: Procedural Requirements. ... 1937
729. Service Coordination: Provider Qualifications. ... 1939
730. Service Coordination: Plan Development -- Assessment. ... 1940
731. Service Coordination: Plan Development -- Written Plan. ... 1940
732. -- 735. (Reserved) ... 1941
736. Service Coordination: Provider Reimbursement. ... 1941
737. -- 779. (Reserved) ... 1943
780. Breast Or Cervical Cancer Program Through The Women's Health Check. ... 1943
781. Breast Or Cervical Cancer Program: Definitions. ... 1943
782. Breast Or Cervical Cancer Program: Eligibility ... 1943
783. Breast Or Cervical Cancer Program: Procedural Requirements. ... 1943
784. -- 999. (Reserved) ... 1943

16.03.11 – Intermediate Care Facilities for People with Intellectual Disabilities (ICFs/IID)

000. Legal Authority. ... 1946
001. Title And Scope. ... 1946
002. Written Interpretations. ... 1946
003. (Reserved) ... 1946
004. Incorporation By Reference. ... 1946
005. (Reserved) ... 1947
006. Confidentiality Of Records And Public Records Act Compliance And Requests. ... 1947
007. -- 008. (Reserved) ... 1947
009. Criminal History And Background Check Requirements. ... 1947
010. Definitions And Abbreviations -- A through k. ... 1948
011. Definitions And Abbreviations -- l through z. ... 1949
012. -- 019. (Reserved) ... 1950
020. License Required. ... 1950
021. ICF/ID Licensure Requirements. ... 1950
022. Inspection Of Facility. ... 1951
023. -- 024. (Reserved) ... 1951
025. Initial Application For Licensure. ... 1951
026. Change Of Ownership (CHOW). ... 1951
027. -- 029. (Reserved) ... 1952
030. Issuance Of License. ... 1952
031. Expiration And Renewal Of License. ... 1952
032. -- 039. (Reserved) ... 1953
040. Display Of License. ... 1953
041. -- 049. (Reserved) ... 1953
050. Denial Or Revocation Of License. ... 1953
051. -- 059. (Reserved) ... 1953
060. Summary Suspension Of License. ... 1954

061. -- 069. (Reserved) 1954
070. Return Of Suspended, Revoked, Or Relinquished License. 1954
071. -- 079. (Reserved) 1954
080. Waiver. 1954
081. -- 099. (Reserved) 1954
100. Governing Body And Management. 1954
101. Governing Body Duties. 1954
102. Administrator. 1954
103. -- 109. (Reserved) 1955
110. Facility Records. 1955
111. -- 119. (Reserved) 1955
120. Administrative Requirements -- Personnel. 1955
121. -- 199. (Reserved) 1956
200. Client Protections. 1956
201. Individual Advocate. 1957
202. Appointed Advocate. 1957
203. Advocates' Rights. 1957
204. -- 299. (Reserved) 1958
300. Facility Staffing. 1958
301. Interns And Volunteers. 1958
302. -- 399. (Reserved) 1958
400. Active Treatment Services. 1958
401. -- 499. (Reserved) 1958
500. Client Behavior And Facility Practices. 1958
501. Management Of Inappropriate Individual Behavior. 1958
502. -- 599. (Reserved) 1958
600. Health Care Services. 1958
601. -- 699. (Reserved) 1958
700. Physical Environment. 1958
701. Environmental Sanitation Standards. 1958
702. Environmental Standards -- Water, Sewer, And Garbage. 1958
703. Environmental Standards -- Chemicals And Pesticides. 1959
704. Environmental Standards -- Linens And Laundry Services. 1960
705. Environmental Standards -- Housekeeping Services. 1960
706. -- 709. (Reserved) 1961
710. Physical Facility Standards -- Existing General Requirements. 1961
711. Physical Facility Standards -- Existing Construction. 1961
712. Physical Facility Standards -- Individual Accommodations For Existing Construction. 1962
713. -- 729. (Reserved) 1963
730. Physical Facility Standards -- New Construction. 1963
731. Physical Facility Standards -- New Construction Requirements. 1964
732. Physical Facility Standards -- Individual Accommodations For New Construction. 1965
733. -- 739. (Reserved) 1966
740. Fire And Life Safety Standards -- Existing Facility. 1966
741. Fire And Life Safety Standards -- Emergency Plans. 1967
742. -- 749. (Reserved) 1968
750. Vehicles. 1968
751. -- 799. (Reserved) 1968
800. Dietetic Services. 1968
801. Purchasing And Storage Of Food. 1969
802. -- 999. (Reserved) 1969

16.03.13 – Consumer-Directed Services

000. Legal Authority. ... 1970
001. Title And Scope. ... 1970
002. Written Interpretations. ... 1970
003. -- 007. (Reserved) ... 1970
008. Audit, Investigation And Enforcement. ... 1970
009. Criminal History And Background Check Requirements. ... 1970
010. Definitions. ... 1970
011. -- 019. (Reserved) ... 1972
020. Responsibility For Decision-Making. ... 1972
021. -- 099. (Reserved) ... 1972
100. Consumer-Directed Community Supports (CDCS) Option. ... 1972
101. Eligibility. ... 1972
102. -- 109. (Reserved) ... 1973
110. Paid Consumer-Directed Community Supports. ... 1973
111. Unpaid Community Supports And Services. ... 1974
112. -- 119. (Reserved) ... 1974
120. Participant Responsibilities. ... 1974
121. -- 129. (Reserved) ... 1974
130. Fiscal Employer Agent Requirements And Limitations. ... 1974
131. Fiscal Employer Agent Duties And Responsibilities. ... 1975
132. -- 134. (Reserved) ... 1975
135. Support Broker Requirements And Limitations. ... 1975
136. Support Broker Duties And Responsibilities. ... 1976
137. -- 139. (Reserved) ... 1978
140. Community Support Worker Limitations. ... 1978
141. -- 149. (Reserved) ... 1978
150. Paid Community Support Worker Duties And Responsibilities. ... 1978
151. -- 159. (Reserved) ... 1979
160. Support And Spending Plan Development. ... 1979
161. -- 169. (Reserved) ... 1980
170. Person-Centered Planning. ... 1980
171. -- 179. (Reserved) ... 1981
180. Circle Of Supports. ... 1981
181. -- 189. (Reserved) ... 1981
190. Individualized Budget. ... 1981
191. -- 199. (Reserved) ... 1982
200. Quality Assurance. ... 1982
201. -- 209. (Reserved) ... 1982
210. Continuation Of The Consumer-Directed Community Supports (CDCS) Option. ... 1982
211. -- 299. (Reserved) ... 1983
300. Fiscal Employer Agent Duties And Responsibilities: Definitions. ... 1983
301. Fiscal Employer Agent Duties And Responsibilities: Consumer-Directed Community Supports. ... 1983
302. Fiscal Employer Agent Duties And Responsibilities: Customer Service. ... 1985
303. Fiscal Employer Agent Duties And Responsibilities: Personal And Confidential Information. ... 1986
304. Fiscal Employer Agent Duties And Responsibilities: Enrollment Process. ... 1986
305. Fiscal Employer Agent Duties And Responsibilities: Payment Process. ... 1987
306. Fiscal Employer Agent Duties And Responsibilities: Annual Participant Survey. ... 1990
307. Fiscal Employer Agent Duties And Responsibilities: Quality Assurance. ... 1990
308. Fiscal Employer Agent Duties And Responsibilities: Disaster Recovery Plan. ... 1990
309. Fiscal Employer Agent Duties And Responsibilities: Transition Plan. ... 1990

310. Fiscal Employer Agent Duties And Responsibilities: Performance Metrics. 1991
311. Fiscal Employer Agent Duties And Responsibilities: Reports. 1992
312. Fiscal Employer Agent Duties And Responsibilities: Payment Requirements. 1994
313. Termination Of Fiscal Employer Agent Provider Agreements. 1994
314. Remedies To Nonperformance Of A Fiscal Employer Agent Service Provider. 1995
315. -- 999. (Reserved) 1995

16.03.14 – Hospitals

000. Legal Authority. 1996
001. Title And Purpose. 1996
002. Written Interpretations. 1996
003. -- 009. (Reserved) 1996
010. Definitions And Abbreviations – A Through M. 1996
011. Definitions And Abbreviations – N Through Z. 1999
012. -- 099. (Reserved) 2003
100. Licensure. 2003
101. -- 104. (Reserved) 2004
105. Denial Or Revocation Of License. 2004
106. -- 109. (Reserved) 2004
110. Compliance Deadline. 2004
111. -- 119. (Reserved) 2004
120. Inspections And Consultations. 2004
121. -- 129. (Reserved) 2004
130. Confidentiality. 2004
131. -- 139. (Reserved) 2004
140. Penalties. 2004
141. -- 149. (Reserved) 2005
150. Licensing Provisions. 2005
151. -- 199. (Reserved) 2006
200. Governing Body And Administration. 2006
201. -- 219. (Reserved) 2009
220. Patient Rights. 2009
221. -- 224. (Reserved) 2011
225. Patient Grievances. 2011
226. -- 228. (Reserved) 2011
229. Law Enforcement Restraints. 2011
230. Restraint And Seclusion. 2011
231. Restraint And Seclusion Orders. 2013
232. Restraint And Seclusion Implementation And Monitoring. 2013
233. Restraint And Seclusion Documentation. 2014
234. Restraint And Seclusion Training. 2014
235. -- 249. (Reserved) 2015
250. Medical Staff. 2015
251. -- 309. (Reserved) 2017
310. Nursing Service. 2017
311. -- 319. (Reserved) 2019
320. Dietary Service. 2019
321. -- 329. (Reserved) 2021
330. Pharmacy Service. 2021
331. -- 339. (Reserved) 2023
340. Radiology Service. 2023
341. -- 349. (Reserved) 2024
350. Laboratory Service. 2024

351. -- 359. (Reserved) 2026
360. Medical Records Service. 2026
361. -- 369. (Reserved) 2029
370. Emergency Service. 2029
371. -- 373. (Reserved) 2030
374. Freestanding Emergency Department (FSED) - Definition. 2030
375. Freestanding Emergency Department (FSED): Standards. 2031
376. Freestanding Emergency Department (FSED): Staffing And Services. 2031
377. Notification Requirements To Licensed Emergency Medical Services (EMS) Agencies. 2032
378. Freestanding Emergency Department (FSED): Plant, Equipment and Physical Environment. 2033
379. (Reserved) 2037
380. Surgical Service. 2037
381. -- 389. (Reserved) 2039
390. Anesthesia Services. 2039
391. Respiratory Care Services. 2040
392. -- 399. (Reserved) 2041
400. Maternity And Newborn Service. 2041
401. -- 409. (Reserved) 2045
410. Central Service. 2045
411. -- 419. (Reserved) 2046
420. Critical Care Units. 2046
421. -- 429. (Reserved) 2047
430. Nuclear Medicine Services. 2047
431. -- 439. (Reserved) 2048
440. Rehabilitation Services For Hospitals. 2049
441. -- 449. (Reserved) 2049
450. Social Services. 2049
451. -- 459. (Reserved) 2050
460. Outpatient Service. 2050
461. -- 469. (Reserved) 2050
470. Psychiatric Service. 2050
471. -- 499. (Reserved) 2053
500. Physical Environment And Sanitation. 2053
501. -- 509. (Reserved) 2053
510. Fire And Life Safety Standards. 2053
511. -- 519. (Reserved) 2054
520. Disaster Plans. 2055
521. -- 529. (Reserved) 2055
530. Maintenance And Safety. 2055
531. General Patient Accommodations. 2056
532. -- 539. (Reserved) 2056
540. Infection Control. 2056
541. -- 549. (Reserved) 2057
550. Environmental Sanitation. 2057
551. -- 599. (Reserved) 2061
600. New Construction And New Hospital Standards. 2061
601. -- 999. (Reserved) 2062

16.03.17 – Medicare/Medicaid Coordinated Plan Benefits

000. Legal Authority. 2063
001. Title And Scope. 2063

002. Written Interpretations. 2063
003. -- 007. (Reserved) 2063
008. Audit, Investigation And Enforcement. 2063
009. (Reserved) 2063
010. Definitions. 2063
011. -- 099. (Reserved) 2064
100. Medicare/Medicaid Coordinated Plan (MMCP): Participant Eligibility. 2064
101. Medicare/Medicaid Coordinated Plan (MMCP): Participant Enrollment. 2064
102. Medicare/Medicaid Coordinated Plan (MMCP): Participant Responsibilities. 2064
103. -- 199. (Reserved) 2065
200. Contract With Medicaid. 2065
201. -- 299. (Reserved) 2065
300. Medicare/Medicaid Coordinated Plan (MMCP): Coverage And Limitations. 2065
301. Medicare/Medicaid Coordinated Plan Benefits: Provider Reimbursement. 2065
302. -- 999. (Reserved) 2065

16.03.21 – Developmental Disabilities Agencies (DDA)

000. Legal Authority. 2066
001. Title And Scope. 2066
002. -- 008. (Reserved) 2066
009. Criminal History And Background Check Requirements. 2066
010. Definitions -- A Through Z. 2066
011. -- 074. (Reserved) 2068
075. DDA Services. 2068
076. -- 099. (Reserved) 2068
100. DDA Certification. 2068
101. Application For Initial Certification. 2068
102. -- 109. (Reserved) 2070
110. Department Review Of Application For Certification. 2070
111. Department's Written Decision Regarding Application For Certification. 2070
112. -- 114. (Reserved) 2070
115. Changes Each DDA Is Required To Report. 2070
116. -- 119. (Reserved) 2071
120. Initial Issuance Of Certificate. 2071
121. -- 124. (Reserved) 2071
125. Renewal And Expiration Of The Certificate. 2071
126. Types Of Certificates Issued. 2072
127. -- 299. (Reserved) 2072
300. Enforcement Process. 2072
301. Revocation Of Certificate. 2073
302. -- 309. (Reserved) 2074
310. Notice Of Enforcement Remedy. 2074
311. Hearing Rights. 2074
312. -- 399. (Reserved) 2074
400. General Staffing Requirements For Agencies. 2074
401. -- 409. (Reserved) 2076
410. General Training Requirements For DDA Staff. 2076
411. -- 419. (Reserved) 2076
420. Volunteer Workers In A DDA. 2076
421. -- 499. (Reserved) 2077
500. Facility Standards For Agencies Providing Center-Based Services. 2077
501. Vehicle Safety Requirements. 2078
502. -- 509. (Reserved) 2078

510. Health Requirements. 2079
511. Medication Standards And Requirements. 2079
512. -- 519. (Reserved) 2081
520. Setting Requirements For Agencies Delivering Community-Based Services. 2081
521. -- 599. (Reserved) 2081
600. Program Documentation Requirements. 2081
601. Record Requirements. 2082
602. -- 609. (Reserved) 2082
610. Accessibility Of Agency Records. 2082
611. -- 899. (Reserved) 2082
900. Requirements For An Agency's Quality Assurance Program. 2082
901. -- 904. (Reserved) 2084
905. Participant Rights. 2084
906. -- 909. (Reserved) 2085
910. Obligation To Report Abuse, Neglect, Exploitation, And Injuries. 2085
911. -- 914. (Reserved) 2085
915. Policies And Procedures Regarding Development Of Social Skills And Management Of Maladaptive Behavior. 2085
916. -- 919. (Reserved) 2086
920. Annual Plan. 2086
921. -- 999. (Reserved) 2086

16.03.23 – Uniform Assessments for State-Funded Clients

000. Legal Authority. 2087
001. Title And Scope. 2087
002. Written Interpretations. 2087
003. -- 009. (Reserved) 2087
010. Definitions. 2087
011. Completion Of The Uniform Assessment Instrument. 2087
012. Use Of The Uniform Assessment Instrument In Developing The Client's Service Plan. 2088
013. Use Of The Uniform Assessment Instrument In Determining Facility Staffing Ratios. 2088
014. Use Of The Uniform Assessment Instrument For Determining The Ability Of The Supported Living Services Provider To Meet Clients' Needs. 2088
015. -- 999. (Reserved) 2088

16.03.24 – The Medically Indigent Program

000. Legal Authority. 2089
001. Title And Scope. 2089
002. -- 005. (Reserved) 2089
006. Confidentiality Of Records And Public Records. 2089
007. -- 009. (Reserved) 2089
010. Definitions. 2089
011. -- 109. (Reserved) 2090
110. Requests For Medicaid Eligibility Determination. 2090
111. -- 129. (Reserved) 2090
130. Eligibility Determination. 2090
131. -- 139. (Reserved) 2091
140. Notice Of Decision On Eligibility For Medicaid. 2091
141. -- 149. (Reserved) 2091
150. Additional Duties And Responsibilities Of Hospitals And Counties. 2091
151. -- 999. (Reserved) 2091

16.03.25 – Idaho Medicaid Promoting Interoperability (PI) Program

000. Legal Authority. 2092
001. Title And Scope. 2092

002. Written Interpretations. 2092
003. -- 009. (Reserved) 2092
010. Definitions And Abbreviations. 2092
011. -- 099. (Reserved) 2094
100. Promoting Interoperability (PI) Program Eligibility. 2094
101. -- 199. (Reserved) 2095
200. EHR: Federally Initiated Program. 2095
201. -- 299. (Reserved) 2095
300. PI: Additional Provider Qualifications. 2095
301. -- 399. (Reserved) 2096
400. State Options Elections Under The PI Program. 2096
401. -- 999. (Reserved) 2096

16.04.14 – Low-Income Home Energy Assistance Program

000. Legal Authority. 2097
001. Title, Scope, And Limitations. 2097
002. – 009. (Reserved) 2097
010. Definitions. 2097
011. -- 099. (Reserved) 2097
100. Participant Case Record. 2097
101. Eligible Activities. 2098
102. Participant Rights. 2098
103. Participant Responsibilities. 2098
104. Relationship To Other Programs. 2098
105. -- 149. (Reserved) 2098
150. Eligibility Requirements And Collateral Contacts. 2098
151. Income Eligibility Requirements. 2099
152. Nonfinancial Eligibility Requirements. 2100
153. -- 199. (Reserved) 2100
200. (Reserved) 2100
201. Application Process. 2100
202. Application Time Limits And Disposal Actions. 2100
203. Notification Of Decision. 2101
204. -- 299. (Reserved) 2101
300. Condition Of Payment Endorsement. 2101
301. Vendor Agreements. 2101
302. Overpayments. 2101
303. Recoupment Of Overpayment. 2101
304. -- 309. (Reserved) 2101
310. Intentional Program Violations (IPV). 2101
311. Penalties For An IPV. 2102
312. -- 319. (Reserved) 2102
320. Denial Of Payment. 2102
321. -- 349. (Reserved) 2102
350. Termination Of Vendor Status. 2102
351. Refusal To Enter Into An Agreement. 2103
352. Vendor Or Participant Notification. 2103
353. -- 994. (Reserved) 2103
995. Provisions Contingent Upon Federal Funding. 2103
996. -- 999. (Reserved) 2103

16.04.17 – Residential Habilitation Agencies

000. Legal Authority. 2104
001. Title And Scope. 2104

002. -- 008. (Reserved) ... 2104
009. Criminal History And Background Check Requirements. ... 2104
010. Definitions -- A Through N. ... 2104
011. Definitions -- M Through Z. ... 2105
012. -- 099. (Reserved) ... 2107
100. Types Of Certificates Issued. ... 2107
101. Certification – General Requirements For Agencies. ... 2107
102. Denial Of An Application. ... 2109
103. Renewal And Expiration Of Certificate. ... 2109
104. Certificate Not Transferable. ... 2110
105. Return Of Certificate. ... 2110
106. Change Of Ownership, Administrator, Or Location. ... 2110
107. -- 199. (Reserved) ... 2110
200. Agency Governing Authority. ... 2110
201. Agency Administrator. ... 2111
202. Qualifications And Responsibilities Of A Residential Habilitation Professional. ... 2112
203. Direct Service Staff. ... 2112
204. Direct Service Staff Training. ... 2113
205. -- 299. (Reserved) ... 2114
300. Agency Policies And Procedures. ... 2114
301. Personnel Records. ... 2118
302. Agency Medication Standards And Requirements. ... 2118
303. Agency Policies And Procedures Regarding Development Of Social Skills And Management Of Maladaptive Behavior. ... 2120
304. -- 399. (Reserved) ... 2121
400. Agency Participant Record Requirements. ... 2121
401. -- 402. (Reserved) ... 2123
403. Participant Finances. ... 2123
404. Agency Reporting And Communication Requirements. ... 2123
405. Agency Quality Assurance Program. ... 2124
406. Complaints And Investigations. ... 2124
407. -- 499. (Reserved) ... 2125
500. Enforcement Process. ... 2125
501. Revocation Of Certificate. ... 2126
502. Notice Of Enforcement Remedy. ... 2127
503. -- 509. (Reserved) ... 2127
510. Emergency Powers Of The Director. ... 2127
511. Injunction To Prevent Operation Without Certificate. ... 2127
512. -- 599. (Reserved) ... 2127
600. Waivers. ... 2127
601. -- 999. (Reserved) ... 2127

16.05.01 – Use and Disclosure of Department Records

000. Legal Authority. ... 2128
001. Title And Scope. ... 2128
002. -- 006. (Reserved) ... 2128
007. District Court Appeals, Complaints And Requests For Reconsideration. ... 2128
008. -- 009. (Reserved) ... 2129
010. Definitions. ... 2129
011. Definitions For Vital Statistics. ... 2130
012. -- 049. (Reserved) ... 2131
050. Consent To Gather, Use And Disclose Information. ... 2131
051. Authorization For The Use And Disclosure Of Confidential Information. ... 2131

052. -- 074. (Reserved) 2132
075. Use And Disclosure Of Confidential Information. 2132
076. -- 099. (Reserved) 2133
100. Exceptions To Requirement For Authorization. 2133
101. Abuse, Neglect, Or Domestic Violence. 2135
102. Victim Of Other Crime. 2135
103. Serious Threat To Health Or Safety. 2135
104. Reporting Of Crime On Premises. 2135
105. Reporting Crime In Emergencies. 2136
106. -- 124. (Reserved) 2136
125. Access To An Individual's Own Record. 2136
126. -- 149. (Reserved) 2136
150. Amendment Of Record. 2136
151. -- 174. (Reserved) 2136
175. Report Of Disclosures Of Health Information. 2136
176. -- 189. (Reserved) 2137
190. Records Of Decedents. 2137
191. Data For Research Or Other Purposes. 2138
192. -- 199. (Reserved) 2138
200. Abortion For Minors. 2138
201. Abuse, Neglect Or Domestic Violence. 2138
202. Adoption. 2138
203. -- 209. (Reserved) 2138
210. Child Protection. 2138
211. Children's Mental Health. 2139
212. -- 219. (Reserved) 2139
220. Hard To Place Children. 2139
221. Hospital Records. 2139
222. Human Resources. 2139
223. Infant/toddler Program. 2139
224. -- 229. (Reserved) 2139
230. Medical Care. 2139
231. -- 239. (Reserved) 2139
240. Mental Illness. 2139
241. Minor's Consent Regarding Infectious, Contagious Or Communicable Disease. 2139
242. Specific Requirements - Protection And Advocacy Agencies. 2139
243. -- 249. (Reserved) 2139
250. Substance Abuse. 2139
251. -- 259. (Reserved) 2140
260. Termination Of Parental Rights. 2140
261. -- 269. (Reserved) 2140
270. Venereal Diseases. 2140
271. -- 279. (Reserved) 2140
280. Vital Statistics -- Verification Of Data. 2140
281. Vital Statistics: Disclosure For Research, Public Health Or Statistical Purposes. 2140
282. Vital Statistics: Registry Of Putative Fathers. 2140
283. Vital Statistics: Procedures For Requesting Information. 2140
284. Women, Infants And Children (WIC) Program. 2141
285. -- 999. (Reserved) 2141

16.05.03 – Contested Case Proceedings and Declaratory Rulings

000. Legal Authority. 2142
001. Title And Scope. 2142

002. Access To Records Of Individuals With Developmental Or Mental Disabilities. 2142
003. -- 009. (Reserved) 2142
010. Definitions And Abbreviations. 2142
011. -- 039. (Reserved) 2143
040. Petition For Adoption Of Rules. 2143
041. -- 049. (Reserved) 2143
050. Petition For Declaratory Ruling. 2143
051. Contents Of Petition For Declaratory Ruling. 2143
052. Disposition Of Petition For Declaratory Ruling. 2143
053. -- 099. (Reserved) 2144
100. Department Responsibility. 2144
101. Filing Of Appeals. 2144
102. Notice Of Hearing. 2144
103. Prehearing Conference. 2144
104. Subpoenas. 2145
105. Disposition Of Case Without A Hearing. 2145
106. Default. 2145
107. Intervention. 2145
108. Consolidated Hearing. 2145
109. -- 119. (Reserved) 2145
120. Discovery. 2145
121. Briefing Schedule. 2145
122. Filing Of Documents In An Appeal. 2145
123. Representation. 2145
124. Reserved. 2145
125. Interpreters. 2145
126. -- 129. (Reserved) 2146
130. Open Hearings. 2146
131. Authority Of Hearing Officer. 2146
132. Burden Of Proof -- Individual Benefit Cases. 2146
133. Burden Of Proof -- Provider Cases. 2146
134. Evidence. 2146
135. Discretionary Judicial Notice. 2146
136. Mandatory Judicial Notice. 2146
137. Hearing Record. 2147
138. Decision And Order. 2147
139. -- 149. (Reserved) 2147
150. Review Of Preliminary Orders By Department. 2147
151. Petition For Review By Board Of Health And Welfare. 2147
152. Final Order. 2147
153. Service Of Preliminary And Final Orders. 2147
154. Maintenance Of Orders. 2147
155. Effect Of Petition For Judicial Review. 2147
156. -- 198. (Reserved) 2147
199. Specific Contested Case Provisions. 2147
200. Division Of Welfare: Appeals. 2148
201. Division Of Welfare: Time For Filing Appeal. 2148
202. Division Of Welfare: Informal Conference. 2148
203. Division Of Welfare: Withdrawal Of An Appeal. 2148
204. Division Of Welfare: Time Limits For Completing Hearings. 2148
205. Division Of Welfare: Appeal Of Automatic Adjustments. 2149
206. (Reserved) 2149

207. Division Of Welfare: Postponement Of Food Stamp Hearings. 2149
208. -- 249. (Reserved) 2149
250. Division Of Welfare: Food Stamps Disqualification Hearings. 2149
251. Division Of Welfare: Combining Disqualification Hearing And Benefit Hearing. 2149
252. Division Of Welfare: Right Not To Testify. 2149
253. Division Of Welfare: Failure To Appear. 2149
254. Division Of Welfare: Standard For Determining Intentional Program Violations. 2150
255. -- 297. (Reserved) 2150
298. Division Of Welfare: Child Support Services. 2150
299. (Reserved) 2150
300. Division Of Medicaid: Administrative Reviews For Providers And Facilities. 2150
301. Division Of Medicaid: Scope Of Appeal Hearing. 2151
302. Division Of Medicaid: Appeals Process For Medicaid Participants. 2151
303. -- 399. (Reserved) 2151
400. Division Of Health: Laboratories. 2151
401. Division Of Health: Reportable Diseases. 2151
402. Division Of Health: Food Establishments. 2152
403. -- 499. (Reserved) 2152
500. Division Of Family And Community Services: Child Protection Central Registry Administrative Review. 2152
501. Division Of Family And Community Services: Intensive Behavioral Intervention (IBI) Administrative Review. 2152
502. Division Of Family And Community Services: Infant Toddler Program - Individual Child Complaints. 2152
503. Division Of Family And Community Services: Infant Toddler Program - Administrative Complaints. 2153
504. -- 599. (Reserved) 2154
600. Division Of Licensing And Certification: Request For Administrative Review. 2154
601. -- 699. (Reserved) 2154
700. Division Of Behavioral Health: Request For Administrative Review. 2154
701. -- 749. (Reserved) 2155
750. Division Of Behavioral Health: Youth Empowerment Services (YES). 2155
751. Division Of Behavioral Health: Youth Empowerment Services (YES) Grievance Process. 2155
752. -- 999. (Reserved) 2155

16.05.04 – Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding

000. Legal Authority. 2156
001. Title And Scope. 2156
002. Incorporation By Reference. 2156
003. -- 009. (Reserved) 2156
010. Definitions. 2156
011. -- 014. (Reserved) 2157
015. Grants. 2157
016. Council. 2158
017. Eligibility. 2158
018. Time Frames. 2159
019. Disposition Of Applications. 2159
020. Evaluation Of Applications. 2159
021. On-Site Evaluations. 2160
022. Domestic Violence Grant Distribution. 2161
023. Victim Assistance Grant Distribution. 2161
024. Family Violence Grant Distribution. 2162

025. -- 030. (Reserved) 2162
031. Awarding Of Grants. 2162
032. Denial, Suspension, Or Termination Of Grant. 2163
033. Appeal Of Grant Award Decision. 2163
034. Payment Procedures. 2164
035. State And Federal Domestic Violence Grant -- Record Keeping Requirements. 2164
036. Audits. 2164
037. -- 999. (Reserved) 2164

16.05.07 – The Investigation and Enforcement of Fraud, Abuse, and Misconduct

000. Legal Authority. 2165
001. Title, Scope And Policy. 2165
002. Written Interpretations. 2165
003. (Reserved) 2165
004. Incorporation By Reference. 2165
005. -- 009. (Reserved) 2165
010. Definitions And Abbreviations. 2165
011. -- 019. (Reserved) 2167
020. Department Actions. 2167
021. - 099. (Reserved) 2167
100. Investigation And Audits. 2167
101. Documentation Of Services And Access To Records. 2168
102. -- 199. (Reserved) 2168
200. Denial Of Payment. 2168
201. -- 204. (Reserved) 2168
205. Recoupment. 2168
206. -- 209. (Reserved) 2168
210. Suspension Of Payments Pending Investigation. 2169
211. -- 219. (Reserved) 2169
220. Provider Agreement Suspension. 2169
221. -- 229. (Reserved) 2169
230. Termination Of Provider Status. 2169
231. -- 234. (Reserved) 2170
235. Civil Monetary Penalties. 2170
236. Civil Monetary Penalty Percentages. 2170
237. Civil Monetary Penalties For Criminal History Background Check Violations. 2172
238. -- 239. (Reserved) 2172
240. Mandatory Exclusions From The Medicaid Program. 2172
241. -- 244. (Reserved) 2172
245. Terms Of Mandatory Exclusions From The Medicaid Program. 2172
246. -- 249. (Reserved) 2173
250. Permissive Exclusions From The Medicaid Program. 2173
251. -- 259. (Reserved) 2173
260. Aggravating Factors. 2173
261. Reinstatement After Exclusion From Medicaid Program. 2173
262. -- 264. (Reserved) 2174
265. Refusal To Enter Into An Agreement. 2174
266. -- 269. (Reserved) 2175
270. Miscellaneous Corrective Actions. 2175
271. -- 274. (Reserved) 2175
275. Disclosure Of Certain Persons. 2175
276. -- 279. (Reserved) 2175
280. Provider Notification. 2175

281. -- 284. (Reserved) ... 2175
285. Notice To State Licensing Authorities. ... 2175
286. -- 289. (Reserved) ... 2175
290. Public Notice. ... 2175
291. -- 299. (Reserved) ... 2175
300. Department Of Health And Human Services. ... 2176
301. -- 999. (Reserved) ... 2176

16.06.05 – Alleged Medical Neglect of Disabled Infants

000. Legal Authority. ... 2177
001. Title, Scope, And Purpose. ... 2177
002. -- 009. (Reserved) ... 2177
010. Definitions. ... 2177
011. -- 014. (Reserved) ... 2178
015. Communication With Health Care Facilities. ... 2178
016. -- 019. (Reserved) ... 2179
020. Investigations Of Alleged Medical Neglect Or Withholding Of Medically Indicated Treatment From Disabled Infants With Life-Threatening Conditions. ... 2179
021. Review Of Alleged Medical Neglect Or Withholding Of Medically Indicated Treatment From Disabled Infants With Life-Threatening Conditions. ... 2180
022. Continuing Consultation And Investigation. ... 2182
023. Responsibilities Of The Department Relevant To Infants With Life-Threatening Conditions. ... 2182
024. -- 999. (Reserved) ... 2182

16.06.12 – Idaho Child Care Program (ICCP)

000. Legal Authority. ... 2183
001. Title And Scope. ... 2183
002. -- 007. (Reserved) ... 2183
008. Audit, Investigation And Enforcement. ... 2183
009. Criminal History And Background Check Requirements. ... 2183
010. Definitions And Abbreviations -- A Through L. ... 2184
011. Definitions And Abbreviations -- M Through Z. ... 2185
012. -- 049. (Reserved) ... 2186
050. ICCP Application For Benefits. ... 2186
051. Signatures. ... 2186
052. -- 069. (Reserved) ... 2186
070. Income Limits. ... 2186
071. Countable Income. ... 2186
072. Excluded Income. ... 2186
073. Income Deductions. ... 2187
074. Averaging Self-Employment Income. ... 2187
075. Calculation Of Self-Employment Income. ... 2188
076. Projecting Monthly Income. ... 2188
077. Converting Income To A Monthly Amount. ... 2189
078. Asset Cap. ... 2189
079. -- 099. (Reserved) ... 2189
100. (Reserved) ... 2189
101. Parental Choice Of Child Care Provider. ... 2189
102. Residency. ... 2190
103. Cooperation In Establishment Of Paternity And Obtaining Support. ... 2190
104. Family Composition. ... 2190
105. Eligible Child. ... 2191
106. Incapacitated Parent. ... 2191

107. -- 199. (Reserved) ... 2192
200. Qualifying Activities For Child Care Benefits. ... 2192
201. Projecting Qualifying Activity Hours. ... 2192
202. Cessation Of Qualifying Activities. ... 2193
203. -- 399. (Reserved) ... 2193
400. Requirements For In-Home Care Under ICCP ... 2193
401. In-Home Care Health And Safety Requirements. ... 2193
402. -- 499. (Reserved) ... 2193
500. Allowable Child Care Costs. ... 2193
501. Non-Allowable Child Care Costs. ... 2194
502. Amount Of Payment. ... 2194
503. Copayments. ... 2194
504. Student Co-Payment Requirements. ... 2195
505. Interim Child Care Payment. ... 2195
506. -- 599. (Reserved) ... 2195
600. Change Reporting Requirements. ... 2195
601. Required Action On Reported Changes. ... 2195
602. Redetermination Of Eligibility For Child Care Benefits. ... 2196
603. -- 699. (Reserved) ... 2196
700. Underpayment Of Child Care Benefits. ... 2196
701. Recoupment Of Overpayments. ... 2196
702. Intentional Program Violations (IPV). ... 2196
703. Penalties For An IPV. ... 2197
704. Denial Of Payment. ... 2197
705. Funding Restrictions. ... 2197
706. -- 749. (Reserved) ... 2197
750. Termination Of Provider Status. ... 2197
751. Refusal To Enter Into An Agreement. ... 2198
752. Provider Notification. ... 2198
753. Notice To State Licensing Authorities. ... 2199
754. -- 799. (Reserved) ... 2199
800. Child Care Provider Licensing. ... 2199
801. Health And Safety Training. ... 2199
802. Health And Safety Requirements. ... 2199
803. Child Care Provider Training Requirements ... 2200
804. Child Care Provider Agreement. ... 2201
805. Criminal History And Background Check Requirement. ... 2201
806. Purview Of Child Protective Act Or Juvenile Justice Reform Act. ... 2201
807. Parent Or Caretaker Access To Child Care Premises. ... 2201
808. Reporting Requirements For Providers. ... 2201
809. Consumer Education Information. ... 2202
810. Documentation Of Services And Access To Records. ... 2202
811. -- 999. (Reserved) ... 2202

16.06.13 – Emergency Assistance for Families and Children

000. Legal Authority. ... 2203
001. Title And Scope. ... 2203
002. -- 009. (Reserved). ... 2203
010. Definitions And Abbreviations. ... 2203
011. -- 099. (Reserved) ... 2204
100. Emergency Condition. ... 2204
101. -- 149. (Reserved) ... 2204
150. Application For Services. ... 2204

151. -- 159. (Reserved) 2204
160. Eligibility Requirements. 2204
161. -- 199. (Reserved) 2205
200. Assessment And Authorization For Emergency Assistance. 2205
201. -- 209. (Reserved) 2206
210. Duration For Emergency Assistance. 2206
211. -- 299. (Reserved) 2206
300. Emergency Assistance Payments. 2206
301. -- 399. (Reserved) 2206
400. Child Welfare Social Services. 2206
401. -- 409. (Reserved) 2207
410. Child Welfare Emergency Assistance Program Administration. 2207
411. -- 999. (Reserved) 2207

16.07.17 – Substance Use Disorders Services

000. Legal Authority. 2208
001. Title, Scope, And Purpose. 2208
002. (Reserved) 2208
003. Administrative Appeals. 2208
004. Incorporation By Reference. 2208
005. -- 008. (Reserved) 2208
009. Criminal History And Background Check Requirements. 2208
010. Definitions - A Through F. 2209
011. Definitions - G Through Z. 2210
012. -- 099. (Reserved) 2211
100. Accessing Substance USE Disorders Services. 2211
101. Eligibility Screening And Clinical Assessment. 2211
102. Eligibility Determination. 2211
103. Notice Of Changes In Eligibility For Substance Use Disorders Services. 2212
104. Notice Of Decision On Eligibility. 2212
105. -- 119. (Reserved) 2212
120. Financial Responsibility For Substance Use Disorders Services. 2212
121. -- 149. (Reserved) 2212
150. Selection Of Service Providers. 2212
151. -- 199. (Reserved) 2213
200. Qualified Substance Use Disorders Professional Personnel Required. 2213
201. -- 209. (Reserved) 2214
210. Qualified Substance Use Disorders Professional Trainee. 2214
211. -- 299. (Reserved) 2214
300. Services For Adolescents. 2214
301. -- 349. (Reserved) 2215
350. Recovery Support Services. 2215
351. -- 354. (Reserved) 2215
355. Case Management Services. 2215
356. -- 359. (Reserved) 2215
360. Alcohol And Drug Screening. 2215
361. -- 364. (Reserved) 2216
365. Child Care Services. 2216
366. -- 369. (Reserved) 2216
370. Transportation Services. 2216
371. -- 374. (Reserved) 2217
375. Life Skills Services. 2217
376. -- 379. (Reserved) 2217

380. Staffed Safe And Sober Housing For Adolescents. 2217
381. -- 384. (Reserved) 2217
385. Staffed Safe And Sober Housing Services For Adults. 2218
386. -- 389. (Reserved) 2218
390. Therapeutic Environment Of Residential Treatment. 2218
391. -- 394. (Reserved) 2219
395. Residential Withdrawal Management Services. 2219
396. -- 399. (Reserved) 2220
400. Residential Treatment Services For Adolescents. 2220
401. -- 404. (Reserved) 2220
405. Residential Treatment Services For Adults. 2220
406. -- 409. (Reserved) 2221
410. Outpatient Treatment Services For Adolescents And Adults. 2221
411. -- 414. (Reserved) 2222
415. Medication Assisted Treatment. 2222
416. -- 999. (Reserved) 2222

16.07.19 – Certification of Peer Support Specialists and Family Support Partners

000. Legal Authority. 2223
001. Title And Scope. 2223
002. -- 009. (Reserved) 2223
010. Definitions. 2223
011. -- 099. (Reserved) 2223
100. Application For Certification. 2223
101. -- 109. (Reserved) 2224
110. Types of Certification. 2224
111. Duration Of Certification. 2224
112. Renewal Of Certification. 2224
113. -- 119. (Reserved) 2224
120. Reciprocity. 2224
121. -- 149. (Reserved) 2225
150. Inactive Status. 2225
151. -- 199. (Reserved) 2225
200. Peer Support Specialist -- Certification Qualifications And Requirements. 2225
201. -- 249. (Reserved) 2227
250. Peer Support Specialists -- Code Of Ethics And Professional Conduct. 2227
251. -- 299. (Reserved) 2228
300. Family Support Partner -- Certification qualifications And Requirements. 2228
301. -- 349. (Reserved) 2229
350. Family Support Partners -- Code Of Ethics And Professional Conduct. 2229
351. -- 399. (Reserved) 2231
400. Supervisor For Peer Support Specialist Or Family Support Partner -- Qualifications And Requirements. 2231
401. -- 499. (Reserved) 2232
500. Complaints. 2232
501. -- 509. (Reserved) 2232
510. Grievances. 2232
511. -- 519. (Reserved) 2232
520. Denial, Revocation, or Suspension of Certification. 2232
521. -- 524. (Reserved) 2232
525. Immediate Denial, Revocation, Or Suspension. 2232
526. -- 529. (Reserved) 2232
530. Reasons For Denial, Revocation, Or Suspension. 2232

531. -- 534. (Reserved) 2233
535. Appeal Of Department Decision. 2233
536. -- 539. (Reserved) 2233
540. Reapplication For Certification. 2233
541. -- 999. (Reserved) 2233

16.07.25 – Prevention of Minors' Access to Tobacco Products
000. Legal Authority. 2234
001. Title And Scope. 2234
002. -- 009. (Reserved) 2234
010. Definitions. 2234
011. -- 019. (Reserved) 2236
020. Application For Permit. 2236
021. Permittee Responsibilities. 2237
022. Delivery Sale Additional Requirements. 2238
023. -- 050. (Reserved) 2238
051. Civil Penalties For Violation Of Permit. 2238
052. Criminal Penalties. 2239
053. -- 100. (Reserved) 2239
101. Inspections. 2239
102. -- 999. (Reserved) 2240

16.07.33 – Adult Mental Health Services
000. Legal Authority. 2242
001. Title And Scope. 2242
002. (Reserved) 2242
003. Administrative Appeals. 2242
004. Incorporation By Reference. 2242
005. -- 008. (Reserved) 2242
009. Criminal History And Background Check Requirements. 2242
010. Definitions - A Through F. 2243
011. Definitions - G Through Z. 2244
012. -- 099. (Reserved) 2245
100. Accessing Adult Mental Health Services. 2245
101. Eligibility Screening And Mental Health Assessment. 2245
102. Eligibility Determination. 2246
103. Notice Of Changes In Eligibility For Mental Health Services. 2246
104. Crisis Intervention Services. 2246
105. Notice Of Decision On Eligibility. 2247
106. -- 119. (Reserved) 2247
120. Client's Rights And Responsibilities. 2247
121. -- 199. (Reserved) 2248
200. Individualized Treatment Plan. 2248
201. -- 299. (Reserved) 2249
300. Financial Responsibility For Mental Health Services. 2249
301. Adult Mental Health Services. 2249
302. -- 399. (Reserved) 2250
400. Waivers. 2250
401. -- 999. (Reserved) 2250

16.07.37 – Children's Mental Health Services
000. Legal Authority. 2251
001. Title And Scope. 2251
002. (Reserved) 2251

003. Administrative Appeals. 2251
004. Incorporation By Reference. 2251
005. -- 008. (Reserved) 2251
009. Criminal History And Background Check Requirements. 2251
010. Definitions And Abbreviations A Through E. 2251
011. Definitions And Abbreviations F Through K. 2253
012. Definitions And Abbreviations L Through R. 2254
013. Definitions And Abbreviations S Through Z. 2254
014. -- 099. (Reserved) 2255
100. Children's Mental Health Services. 2255
101. Teens At Risk Program. 2255
102. -- 104. (Reserved) 2256
105. Accessing Children's Mental Health Services. 2256
106. Mental Health Assessment. 2256
107. Eligibility Determination. 2257
108. -- 109. (Reserved) 2257
110. Notice Of Decision On Eligibility. 2257
111. -- 114. (Reserved) 2258
115. Treatment Plan. 2258
116. Outcomes For Children's Mental Health Services. 2258
117. Case Records. 2258
118. Use Of Public Funds And Benefits. 2259
119. Financial Responsibility Of Parent(s). 2259
120. Sliding Fee Schedule For Children's Mental Health Outpatient Services. 2259
121. Fee Determination For Children's Mental Health Outpatient Services. 2259
122. -- 199. (Reserved) 2259
200. Authority For Alternate Care Placement. 2259
201. Protections For Children In Alternate Care. 2260
202. (Reserved) 2260
203. Date A Child Entered Alternate Care. 2260
204. Title XIX Eligibility. 2261
205. Alternate Care Licensure. 2261
206. Alternate Care Case Management. 2261
207. -- 221. (Reserved) 2262
222. Alternate Care Planning. 2262
223. -- 235. (Reserved) 2263
236. Parental Financial Support For Children In Alternate Care. 2263
237. Support Agreements And Support Orders. 2263
238. -- 239. (Reserved) 2263
240. Insurance Coverage. 2263
241. Medical Card For Children In Alternate Care. 2263
242. - 243. (Reserved) 2263
244. Medical Emergencies. 2263
245. Dental Care. 2264
246. Costs Of Prescription Drugs. 2264
247. Medical Examination Upon Entering Alternate Care. 2264
248. -- 250. (Reserved) 2264
251. Drivers' Training And Licenses For Children In Alternate Care. 2264
252. -- 282. (Reserved) 2264
283. Payment To Family Alternate Care Providers. 2264
284. Additional Payments To Family Alternate Care Providers. 2264
285. -- 599. (Reserved) 2265

600. Treatment Foster Care. 2265
601. -- 699. (Reserved) 2266
700. Residential Care Facilities. 2266
701. -- 799. (Reserved) 2266
800. Six Month Reviews For Children In Alternate Care Placements. 2266
801. -- 999. (Reserved) 2267

16.07.39 – Designated Examiners and Dispositioners

000. Legal Authority. 2268
001. Title And Scope. 2268
002. Incorporation By Reference. 2268
003. -- 008. (Reserved) 2268
009. Criminal History And Background Check Requirements. 2268
010. Definitions. 2268
011. -- 199. (Reserved) 2269
200. Minimum Qualifications And Requirements For Appointment As A Designated Examiner. 2269
201. -- 299. (Reserved) 2270
300. Minimum Qualifications And Requirements For Appointment As A Designated Dispositioner. 2270
301. -- 399. (Reserved) 2270
400. Process And Procedure For Applicants Seeking Consideration For An Initial Appointment As A Designated Examiner, Designated Dispositioner, Or Both. 2271
401. -- 499. (Reserved) 2272
500. Duration Of Appointment As Designated Examiner Or Designated Dispositioner, Or Both. 2272
501. -- 599. (Reserved) 2272
600. Process And Procedure For Applicants Seeking Consideration For Reappointment As A Designated Examiner Or Designated Dispositioner, Or Both. 2272
601. -- 699. (Reserved) 2273
700. Revocation Of Appointment As Designated Examiner Or Designated Dispositioner, Or Both. 2273
701. -- 999. (Reserved) 2273

16.01.07 – Emergency Medical Services (EMS) – Personnel Licensing Requirements

000. Legal Authority. 2277
001. Title And Scope. 2277
002. -- 008. (Reserved) 2277
009. Criminal History And Background Check Requirements. 2277
010. Definitions. 2277
011. -- 074. (Reserved) 2277
075. Investigation Of Complaints For Personnel Licensing Violations. 2277
076. Administrative Action Imposed For License Or Certification. 2277
077. Standards Of Professional Conduct For EMS Personnel. 2277
078. -- 089. (Reserved) 2278
090. Advance Do Not Resuscitate (DNR) Directives. 2278
091. -- 099. (Reserved) 2278
100. Personnel Licensure Required. 2278
101. Affiliation Required To Practice. 2278
102. (Reserved) 2279
103. Recognition Of EMS Personnel Licensure Interstate Compact (REPLICA). 2279
104. (Reserved) 2279
105. Application And Instructions For EMS Personnel Licensure. 2279
106. Time Frame For Personnel Licensure After Successful Completion Of Education Course. 2279

107. -- 109. (Reserved) ... 2279
110. Initial Personnel Licensure. ... 2279
111. Application Fees For Personnel Licensure. ... 2280
112. -- 114. (Reserved) ... 2281
115. EMS Personnel License Duration. ... 2281
116. Personnel License Transition. ... 2281
117. (Reserved) ... 2281
118. REPLICA Expiration. ... 2281
119. (Reserved) ... 2281
120. Personnel License Renewal. ... 2281
121. -- 124. (Reserved) ... 2282
125. Submission Of EMS Personnel Licensure Application And Documentation. ... 2282
126. -- 129. (Reserved) ... 2283
130. Lapsed License. ... 2283
131. Reinstatement Of A Lapsed EMS Personnel License. ... 2283
132. -- 139. (Reserved) ... 2284
140. Recognition Of Registration, Certification, Or Licensure From Other Jurisdictions ... 2284
141. -- 144. (Reserved) ... 2285
145. Changes To An Existing License. ... 2285
146. Multiple Licenses. ... 2285
147. -- 149. (Reserved) ... 2286
150. Certificate Of Eligibility Requirements. ... 2286
151. Ambulance Certification. ... 2286
152. -- 174. (Reserved) ... 2286
175. EMS Bureau Review Of Applications. ... 2286
176. -- 299. (Reserved) ... 2287
300. Continuing Education And Skills Proficiency. ... 2287
301. Continuing Education Records Are Subject To Audit. ... 2287
302. -- 304. (Reserved) ... 2288
305. Continuing Education Categories For Personnel Licensure Renewal ... 2288
306. -- 309. (Reserved) ... 2288
310. Venues Of Continuing Education For Personnel Licensure Renewal. ... 2288
311. -- 319. (Reserved) ... 2289
320. License Renewal Continuing Education Requirements. ... 2289
321. -- 324. (Reserved) ... 2289
325. License Renewal Skills Proficiency Requirements ... 2289
326. -- 999. (Reserved) ... 2289

16.02.01 – Rules of the Idaho Time Sensitive Emergency System Council

000. Legal Authority. ... 2290
001. Title, Scope, And Intent. ... 2290
002. Incorporation By Reference. ... 2290
003. -- 009. (Reserved) ... 2290
010. Definitions. ... 2290
011. -- 074. (Reserved) ... 2292
075. TSE Council. ... 2292
076. TSE Council -- Responsibilities And Duties. ... 2292
077. -- 079. (Reserved) ... 2292
080. TSE Regions. ... 2292
081. TSE Regions -- Realignment Of Region. ... 2292
082. Regional TSE Committees -- Organization And Responsibilities. ... 2293
083. -- 099. (Reserved) ... 2293
100. Designation Of TSE Centers -- Criteria. ... 2293

101. -- 104. (Reserved) 2293
105. Trauma Designation Centers. 2293
106. -- 109. (Reserved) 2293
110. Stroke Designation Centers. 2293
111. -- 114. (Reserved) 2293
115. STEMI (Heart Attack) Designation Centers. 2293
116. -- 119. (Reserved) 2294
120. Designation Of Centers -- General Requirements. 2294
121. -- 189. (Reserved) 2294
190. TSE Designation -- Length Of Designation. 2294
191. Renewal Of TSE Designation. 2294
192. -- 194. (Reserved) 2294
195. Notification Of Loss Of Certification Or Licensure. 2294
196. -- 199. (Reserved) 2294
200. Designation And TSE On-Site Survey Fees. 2294
201. -- 249. (Reserved) 2296
250. TSE On-Site Survey. 2296
251. TSE On-Site Survey -- General Requirements. 2296
252. TSE On-Site Survey -- Survey Team Composition. 2297
253. On-Site Survey -- Additional Surveys. 2297
254. -- 259. (Reserved) 2297
260. Designation Decision. 2297
261. -- 269. (Reserved) 2298
270. Waivers. 2298
271. -- 279. (Reserved) 2299
280. Denial And Modification. 2299
281. -- 284. (Reserved) 2299
285. Revocation And Suspension. 2299
286. -- 289. (Reserved) 2300
290. Designation At A Lesser Level. 2300
291. -- 999. (Reserved) 2300

16.02.08 – Vital Statistics Rules

000. Legal Authority. 2301
001. Title. 2301
002. -- 049. (Reserved) 2301
050. Terms And Definitions. 2301
051. -- 099. (Reserved) 2302
100. Certificates, Records, And Forms. 2302
101. -- 149. (Reserved) 2302
150. Additional Offices. 2302
151. Local Registration Officers. 2303
152. -- 199. (Reserved) 2304
200. Transmittal Of Certificates And Local Records -- Reports. 2304
201. Completion And Correction Of Certificates. 2304
202. -- 250. (Reserved) 2307
251. Fees For Copies, Searches, And Other Services. 2307
252. -- 299. (Reserved) 2309
300. Registration Of Births. 2309
301. Registration Of Foundlings. 2309
302. -- 399. (Reserved) 2310
400. New Certificates Of Birth Following Marriage Of Natural Parents. 2310
401. Adoption Of Persons Born In Idaho. 2310

402. Registration System For Adult Adoptees. 2310
403. -- 449. (Reserved) 2311
450. Registration Of Deaths And Stillbirths. 2311
451. Induced Abortion Reporting Forms -- Compilations. 2312
452. -- 500. (Reserved) 2312
501. Marriage License Recording Fees. 2312
502. -- 599. (Reserved) 2312
600. Divorce Certificate Filing Fee. 2312
601. -- 649. (Reserved) 2313
650. Late Or Delayed Registration Of Birth. 2313
651. Late Or Delayed Registration Of Deaths. 2315
652. -- 699. (Reserved) 2315
700. Late And Delayed Registration Of Marriage. 2315
701. Late And Delayed Registration Of Divorce. 2316
702. -- 799. (Reserved) 2316
800. Delayed Registration Of Stillbirth. 2316
801. -- 849. (Reserved) 2316
850. Removal Of Dead Body Or Fetus From Place Of Death Or Stillbirth. 2316
851. Authorization For Disinterment And Reinterment. 2317
852. -- 999. (Reserved) 2318

16.02.13 – State of Idaho Drinking Water Laboratory Certification Program

000. Legal Authority. 2319
001. Title And Scope. 2319
002. Incorporation By Reference. 2319
003. -- 009. (Reserved) 2319
010. Definitions. 2319
011. -- 099. (Reserved) 2321
100. Application For Certification. 2321
101. Certification Fees. 2322
102. Types Of Certification. 2322
103. Subcontracting. 2322
104. -- 109. (Reserved) 2322
110. On-Site Evaluation. 2322
111. -- 119. (Reserved) 2323
120. Personnel Qualifications. 2323
121. -- 129. (Reserved) 2324
130. Reporting, Notification, And Distribution Of Laboratory Results. 2324
131. -- 139. (Reserved) 2324
140. Laboratory Quality Assurance. 2324
141. -- 149. (Reserved) 2325
150. Evaluation. 2326
151. -- 199. (Reserved) 2326
200. Maintenance Of Certification. 2326
201. -- 209. (Reserved) 2326
210. Criteria And Procedures For Downgrading Or Revoking Certification Status. 2326
211. -- 999. (Reserved) 2328

16.02.14 – Rules Governing Construction and Operation of Public Swimming Pools in Idaho

000. Legal Authority. 2329
001. Title, Scope, And Intent. 2329
002. Applicability. 2329
003. -- 009. (Reserved) 2329
010. Definitions. 2329

011. -- 019. (Reserved) 2330
020. Submission Of Plans And Specifications. 2330
021. -- 029. (Reserved) 2331
030. Permits. 2331
031. Application. 2331
032. Permit Fee And Plan Review Fee. 2331
033. Waiver Of Fees. 2331
034. -- 039. (Reserved) 2331
040. Inspections. 2331
041. Notice Of Violation. 2331
042. Reinspection. 2331
043. -- 049. (Reserved) 2331
050. Temporary Suspension And Revocation Of Permits. 2331
051. -- 059. (Reserved) 2332
060. Penalty. 2332
061. -- 069. (Reserved) 2332
070. Construction Requirements: Plumbing Codes. 2332
071. Construction Requirements: Electrical Code. 2332
072. Construction Requirements: Uniform Building Code. 2332
073. Construction Requirements: Materials. 2332
074. Construction Requirements: Corners. 2332
075. Construction Requirements: Finish. 2332
076. -- 079. (Reserved) 2332
080. Design Detail: Dimensions. 2332
081. Design Detail: Circulation. 2332
082. Design Detail: Shape. 2333
083. Design Detail: Wading Pools. 2333
084. Design Detail: No Diving Sign. 2333
085. Design Detail: Safety Line. 2333
086. -- 089. (Reserved) 2333
090. Slope Of Floor: Shallow Area. 2333
091. Slope Of Floor: Deep Area. 2333
092. -- 099. (Reserved) 2333
100. Side Walls. 2333
101. Illustration Of Pool Side Wall. 2334
102. -- 109. (Reserved) 2334
110. Width Of Decks And Walkways. 2334
111. Slope Of Decks And Walkways. 2334
112. -- 119. (Reserved) 2335
120. Ladders, Recessed Steps, And Stairs Requirements. 2335
121. Recessed Steps. 2335
122. Stairs. 2335
123. Ladders. 2335
124. Handrails. 2335
125. Access To Diving Boards. 2335
126. -- 129. (Reserved) 2335
130. Diving Area: Headroom. 2335
131. Diving Area: Water Depth. 2335
132. Illustration Of Dimensions Of Diving Area. 2336
133. Separation Of Low Diving Boards. 2336
134. Separation Of High Diving Boards. 2336
135. Anchoring Of Diving Boards. 2336

136. -- 139. (Reserved) 2337
140. Lighting And Electrical Requirements. 2337
141. Portable Electrical Devices. 2337
142. Overhead Wiring. 2337
143. Underwater Lighting. 2337
144. -- 149. (Reserved) 2337
150. Ventilation. 2337
151. -- 159. (Reserved) 2337
160. Dressing Rooms, Toilets, And Showers. 2337
161. Location Of Dressing Rooms. 2337
162. Floors In Dressing Rooms, Toilets, And Showers. 2337
163. Construction Of Dressing Rooms. 2337
164. Toilets. 2337
165. Showers. 2337
166. Hand Sinks. 2338
167. Exception. 2338
168. -- 169. (Reserved) 2338
170. Water Supply. 2338
171. -- 179. (Reserved) 2338
180. Sewer System. 2338
181. -- 189. (Reserved) 2338
190. Health And Safety: Pool Closure. 2338
191. Health And Safety: Operator. 2338
192. Health And Safety: Lifeguard Requirement. 2338
193. Health And Safety: Lifeguard Chairs. 2339
194. Health And Safety: Lifesaving Equipment. 2339
195. Health And Safety: Safety And Sanitation. 2339
196. Health And Safety: Access. 2339
197. Health And Safety: Emergency Communication. 2339
198. Clarity. 2339
199. (Reserved) 2339
200. Supervision. 2340
201. Operations Manual. 2340
202. Record Keeping. 2340
203. Reportable Accidents. 2340
204. -- 209. (Reserved) 2340
210. Depth Marking Locations. 2340
211. Depth Markers. 2340
212. -- 219. (Reserved) 2340
220. Water Quality Standards. 2340
221. Chlorine Disinfection. 2341
222. Bromine Disinfection. 2341
223. Chlorinated Isocyanurates Disinfection. 2341
224. ORP Or HRR Disinfection. 2341
225. Other Disinfection Methods. 2341
226. Acid Based Chemistry. 2341
227. Other Chemicals. 2341
228. Chemical Storage. 2341
229. Cleaning. 2341
230. Bacteriological Quality Of Pool Waters. 2341
231. Monthly Sampling. 2341
232. -- 239. (Reserved) 2342

240. Disinfectant And Chemical Feeders. 2342
241. -- 249. (Reserved) 2343
250. Recirculation System: Flow Rate. 2343
251. Recirculation System: Sizing. 2343
252. Recirculation System: Cleaning. 2343
253. Recirculation System: Flow Indicator. 2343
254. Recirculation System: Cleaning. 2343
255. Recirculation System: Thermometers. 2343
256. Recirculation System: Strainer. 2343
257. -- 259. (Reserved) 2343
260. Filtration System And Filters. 2343
261. Disposal Of Waste. 2344
262. -- 269. (Reserved) 2344
270. Wall Inlets. 2344
271. Floor Inlets. 2344
272. -- 279. (Reserved) 2344
280. Overflow Systems. 2344
281. Overflow Gutters. 2344
282. Skimmers: Requirement. 2345
283. Skimmers: Capacity. 2345
284. Skimmers: Equalizers. 2345
285. Skimmers: Location. 2345
286. -- 289. (Reserved) 2345
290. Location Of Drains. 2345
291. Multiple Drains. 2345
292. Drain Grating. 2345
293. -- 299. (Reserved) 2346
300. Fence And Barriers. 2346
301. -- 309. (Reserved) 2346
310. Geothermal Pool Exemptions. 2346
311. -- 319. (Reserved) 2346
320. Technical Waivers Or Modifications. 2346
321. -- 999. (Reserved) 2346

16.02.25 – Fees Charged by the State Laboratory

000. Legal Authority. 2347
001. Title, Scope, And Policy. 2347
002. -- 009. (Reserved) 2347
010. Definitions. 2347
011. -- 099. (Reserved) 2347
100. Fees For Clinical Laboratory Tests. 2347
101. -- 199. (Reserved) 2349
200. Fees For Environmental Laboratory Tests. 2349
201. -- 899. (Reserved) 2352
900. Waiver Of Fees. 2352
901. -- 999. (Reserved) 2352

16.02.26 – The Idaho Children's Special Health Program

000. Legal Authority. 2353
001. Title And Scope. 2353
002. Written Interpretation. 2353
003. -- 009. (Reserved) 2353
010. Definitions. 2353
011. -- 050. (Reserved) 2353

051. Diagnostic/Consultative Services. 2353
052. Treatment Services. 2354
053. Follow Up And Case Management. 2354
054. Hospital In-Patient Services. 2354
055. -- 099. (Reserved) 2354
100. Diagnostic Categories. 2354
101. Cardiac. 2354
102. Cleft Lip And Palate. 2354
103. Craniofacial. 2354
104. Cystic Fibrosis. 2355
105. Neurologic. 2355
106. Orthopedic. 2355
107. Phenylketonuria (PKU). 2356
108. Plastic/Burn. 2356
109. -- 148. (Reserved) 2356
149. Program Eligibility. 2356
150. Insurance Status. 2356
151. Age. 2356
152. Diagnosis. 2356
153. Residence. 2356
154. (Reserved) 2356
155. Income. 2356
156. Family Size. 2357
157. Sliding Fee Scale. 2357
158. Application For Other Resources. 2357
159. -- 199. (Reserved) 2357
200. Applications. 2357
201. -- 249. (Reserved) 2357
250. Payments To Providers. 2357
251. Prior Authorization. 2357
252. Maximum On Hospital In-Patient Payments. 2358
253. Billing Third Parties First. 2358
254. Third Party Payments In Excess Of CSHP Limits. 2358
255. Medicaid Eligibility. 2358
256. Out-Of-State-Care. 2358
257. Durable Medical Equipment. 2358
258. -- 349. (Reserved) 2358
350. Program Exclusions. 2358
351. -- 999. (Reserved) 2359

16.02.27 – Idaho Radiation Control Rules

000. Legal Authority. 2360
001. Title And Scope. 2360
002. Incorporation By Reference. 2360
003. -- 049. (Reserved) 2361
050. Licensing. 2361
051. Machines Required To Be Licensed. 2361
052. Fees. 2361
053. Application For License. 2362
054. -- 099. (Reserved) 2365
100. General Provisions. 2365
101. Scope. 2365
102. Definitions. 2365

103. Violations. 2365
104. Impounding. 2365
105. Communications. 2365
106. -- 199. (Reserved) 2365
200. Licensure Of Radiation Machine Facilities, (Services) - And Associated Healthcare Professionals. 2365
201. Licensure of Radiation Machine Facilities. 2366
202. Reciprocal Recognition Of Out-Of-State Radiation Machines. 2366
203. -- 400. (Reserved) 2366
400. Radiation Safety Requirements For Industrial Radiographic Operations. 2366
401. Licensing and Registration Requirements for Industrial Radiography Operations. 2366
402. Leak Testing And Replacement Of Sealed Sources. 2366
403. Quarterly Inventory. 2366
404. Labeling, Storage, and Transportation. 2366
405. Conducting Industrial Radiographic Operations. 2366
406. Records of Leak Testing of Sealed Sources and Devices Containing DU. 2366
407. Records of Quarterly Inventory. 2366
408. Utilization Logs. 2366
409. Location Of Documents and Records. 2366
410. Notifications. 2366
411. Application and Examinations. 2366
412. Certification Identification (ID) Card. 2367
413. Reciprocity. 2367
414. Specific Requirements for Radiographic Personnel Performing Industrial Radiography. 2367
415. -- 599. (Reserved) 2367
600. Notices, Instructions And Reports To Workers; Inspections. 2367
601. -- 999. (Reserved) 2367

16.03.03 – Rules Governing Child Support Services

000. Legal Authority. 2368
001. Title, Scope, And Goal. 2368
002. -- 049. (Reserved) 2368
050. Distribution Of Support Collected In Title IV-E Foster Care Maintenance Cases. 2368
051. – 074. (Reserved) 2368
075. Fees. 2368
076. – 099. (Reserved) 2368
100. Legal Costs. 2369
101. -- 199. (Reserved) 2369
200. securing and enforcing medical support. 2369
201. Administrative Review For Enforcement Of Medical Support. 2369
202. -- 299. (Reserved) 2369
300. Review And Modification Of Support Orders. 2369
301. Consumer Reporting Agencies. 2370
302. Good Cause Determination In License Suspension Proceedings. 2370
303. -- 999. (Reserved) 2371

16.03.18 – Medicaid Cost-Sharing

000. Legal Authority. 2375
001. Title And Scope. 2375
002. Written Interpretations. 2375
003. -- 009. (Reserved) 2375
010. Definitions. 2375
011. -- 024. (Reserved) 2376

025. Participants Exempt From Cost-Sharing. ... 2376
026. -- 049. (Reserved) ... 2376
050. General Cost-Sharing. ... 2376
051. - 199. (Reserved) ... 2376
200. Premiums For Participation Under The State Children's Health Insurance Program (SCHIP). ... 2376
201. -- 204. (Reserved) ... 2377
205. Premiums For Participation Under Home Care For Certain Disabled Children (HCCDC). ... 2377
206. (Reserved) 2378
207. Premiums For Participation Under The Youth Empowerment Services (YES) Program. ... 2378
208. -- 209. (Reserved) ... 2378
210. Department Responsibilities. ... 2378
211. -- 214. (Reserved) ... 2378
215. Premiums For Participation In Medicaid Enhanced Plan. ... 2378
216. -- 249. (Reserved) ... 2379
250. Delinquent Premium Payments. ... 2379
251. -- 299. (Reserved) ... 2379
300. Participants Exempt From CoPayment. ... 2379
301. -- 309. (Reserved) ... 2380
310. CoPayment Fee Amounts. ... 2380
311. -- 319. (Reserved) ... 2380
320. Medicaid Outpatient Services Subject To Copayments. ... 2380
321. -- 324. (Reserved) ... 2381
325. Exception To Charging A Copayment. ... 2381
326. -- 329. (Reserved) ... 2381
330. Collection Of Copayments. ... 2381
331. -- 399. (Reserved) ... 2381
400. Participation In The Cost Of Home And Community-Based Waiver Services ... 2381
401. -- 999. (Reserved) ... 2383

16.03.19 – Certified Family Homes

000. Legal Authority. ... 2384
001. Title, Scope, And Exceptions. ... 2384
002. Incorporation By Reference. ... 2384
003. -- 008. (Reserved) ... 2384
009. Criminal History And Background Check Requirements. ... 2384
010. Definitions And Abbreviations -- A Through K. ... 2385
011. Definitions And Abbreviations -- L Through Z. ... 2386
012. -- 099. (Reserved) ... 2387
100. Certification Requirements. ... 2387
101. Application For Certification. ... 2389
102. -- 108. (Reserved) ... 2390
109. Application And Certification Fees For Certified Family Homes ... 2390
110. Issuance Of Certificate. ... 2390
111. Renewal of Certificate. ... 2391
112. Change Of Provider Or Location. ... 2392
113. Denial Of Application For Certificate. ... 2392
114. Family Home Operating Without A Certificate ... 2393
115. Voluntary Closure Of The Home. ... 2393
116. Required Ongoing Training. ... 2394
117. -- 119. (Reserved) ... 2394

120. Waivers. 2394
121. General Variances. 2395
122. Revoking A Waiver Or Variance. 2395
123. -- 129. (Reserved) 2396
130. Nursing Facility Level Of Care Variance. 2396
131. -- 139. (Reserved) 2396
140. Variance To The Two Resident Limit. 2396
141. -- 149. (Reserved) 2398
150. Inspections Of Homes. 2398
151. -- 159. (Reserved) 2399
160. Complaint Procedure. 2399
161. -- 169. (Reserved) 2399
170. Minimum Standards Of Care. 2399
171. -- 173. (Reserved) 2400
174. Activities And Community Integration. 2400
175. Room, Utilities And Meals. 2401
176. -- 179. (Reserved) 2402
180. Hourly Adult Care. 2402
181. -- 199. (Reserved) 2403
200. Resident Rights Policy. 2404
201. Notice Of Resident Rights. 2407
202. Access By Advocates And Representatives. 2407
203. -- 209. (Reserved) 2407
210. Reporting Requirements. 2407
211. -- 224. (Reserved) 2409
225. Uniform Assessment Requirements. 2409
226. -- 249. (Reserved) 2409
250. Plan Of Service. 2409
251. – 259. (Reserved) 2411
260. Admissions. 2411
261. -- 269. (Reserved) 2413
270. Resident Records. 2413
271. -- 274. (Reserved) 2415
275. Resident Funds And Financial Records. 2415
276. -- 299. (Reserved) 2416
300. Short-Term Care And Supervision. 2416
301. -- 399. (Reserved) 2417
400. Medication Policy. 2417
401. Self-Administration Of Medication. 2418
402. Assistance With Medication. 2419
403. -- 499. (Reserved) 2420
500. Environmental Sanitation Standards. 2420
501. -- 599. (Reserved) 2422
600. Fire And Life Safety Standards. 2422
601. -- 699. (Reserved) 2425
700. Home Construction And Physical Home Standards. 2425
701. Manufactured Homes And Modular Buildings. 2427
702. -- 709. (Reserved) 2427
710. Site Requirements For Certified Family Homes. 2428
711. -- 899. (Reserved) 2428
900. Emergency Powers Of The Director. 2428
901. Enforcement Process. 2428

902. Failure To Comply. 2428
903. Repeated Noncompliance. 2429
904. -- 908. (Reserved) 2429
909. Enforcement Remedy Of Provisional Certification. 2429
910. Enforcement Remedy Of Ban On All Admissions. 2429
911. Enforcement Remedy Of Ban On Admissions Of Resident With Specific Diagnosis. 2429
912. Enforcement Remedy Of Summary Suspension And Transfer Of Resident. 2429
913. Enforcement Remedy Of Revocation Of Certificate. 2429
914. (Reserved) 2430
915. Transfer Of Resident. 2430
916. -- 949. (Reserved) 2430
950. Right To Sell. 2430
951. -- 999. (Reserved) 2430

16.03.22 – Residential Care or Assisted Living Facilities in Idaho

000. Legal Authority. 2431
001. Title, Scope, And Responsibilities. 2431
002. Incorporation By Reference. 2431
003. -- 008. (Reserved) 2432
009. Criminal History And Background Check Requirements. 2432
010. Definitions And Abbreviations A Through E. 2433
011. Definitions And Abbreviations F Through M. 2435
012. Definitions And Abbreviations O Through Z. 2437
013. -- 049. (Reserved) 2440
050. Variances. 2440
051. -- 099. (Reserved) 2440
100. Requirements For A License. 2440
101. -- 104. (Reserved) 2441
105. Change Of Ownership. 2441
106. -- 109. (Reserved) 2441
110. Facility License Application. 2441
111. -- 114. (Reserved) 2442
115. Expiration And Renewal Of License. 2442
116. -- 119. (Reserved) 2443
120. Facility Operating Without A License. 2443
121. -- 125. (Reserved) 2443
126. Effect Of Enforcement Action Against A License. 2443
127. -- 129. (Reserved) 2443
130. Licensure Surveys. 2443
131. -- 139. (Reserved) 2445
140. Complaints And Investigations. 2445
141. -- 149. (Reserved) 2445
150. Policies And Procedures. 2445
151. Activity Policies. 2445
152. Admission Policies. 2446
153. Additional Policies Required. 2447
154. Emergency Preparedness Policies. 2449
155. Hourly Adult Care Policies. 2449
156. Infection Control Policies. 2449
157. Medication Policies. 2449
158. Food And Nutritional Care Policies. 2450
159. Records Policies. 2450
160. Resident Rights Policies. 2451

161. Smoking Policies. ... 2451
162. Staffing Policies. ... 2451
163. -- 209. (Reserved) ... 2451
210. Requirements For Activities. ... 2451
211. -- 214. (Reserved) ... 2451
215. Requirements For A Facility Administrator. ... 2451
216. Requirements For A Multiple Facility Administrator. ... 2452
217. Rescind Approval For Multiple Facility Administrator. ... 2454
218. (Reserved) ... 2454
219. Requirements For Admission Agreements For Department Clients. ... 2454
220. Requirements For Admission Agreements For Private-Pay Residents ... 2454
221. Requirements For Termination Of Admission Agreement ... 2457
222. -- 224. (Reserved) ... 2458
225. Requirements For Behavior Management. ... 2458
226. -- 249. (Reserved) ... 2459
250. Requirements For Building Construction And Physical Standards. ... 2459
251. -- 254. (Reserved) ... 2461
255. Requirements For Additional Physical Standards. ... 2461
256. -- 259. (Reserved) ... 2462
260. Requirements For Environmental Sanitation. ... 2462
261. -- 299. (Reserved) ... 2463
300. Requirements For Nursing Services. ... 2463
301. -- 304. (Reserved) ... 2463
305. Licensed registered Nurse Responsibility Requirements. ... 2463
306. -- 309. (Reserved) ... 2464
310. Requirements For Medication. ... 2464
311. -- 319. (Reserved) ... 2465
320. Requirements For The Negotiated Service Agreement. ... 2465
321. -- 329. (Reserved) ... 2467
330. Requirements For Records. ... 2467
331. -- 334. (Reserved) ... 2467
335. Requirements For Infection Control. ... 2467
336. -- 339. (Reserved) ... 2467
340. Requirements For Mental Health Contract Beds. ... 2467
341. -- 344. (Reserved) ... 2468
345. Requirements For Hourly Adult Care. ... 2468
346. -- 349. (Reserved) ... 2468
350. Requirements For Handling Accidents, Incidents, Or Complaints. ... 2468
351. -- 399. (Reserved) ... 2469
400. Requirements For Fire And Life Safety Standards. ... 2469
401. Fire And Life Safety Standards For Buildings Housing Three Through Sixteen Residents. ... 2469
402. Fire And Life Safety Standards For Buildings Housing Seventeen Or More Residents And Multi-story Buildings. ... 2469
403. Fire And Life Safety Standards For Existing Buildings Licensed For Three Through Sixteen Residents Prior To January 1, 2006. ... 2470
404. Fire And Life Safety Standards For Existing Buildings Licensed For Seventeen Or More Residents And Multi-story Buildings Prior To January 1, 2006. ... 2470
405. Additional Fire And Life Safety Standards For Buildings And Facilities. ... 2470
406. -- 409. (Reserved) ... 2471
410. Requirements For Emergency Preparedness. ... 2471
411. -- 414. (Reserved) ... 2472
415. Maintenance Of Equipment And Systems For Fire And Life Safety ... 2472

416. -- 419. (Reserved) ... 2472
420. Use Of Modular (i.e., Factory Built) Buildings And Manufactured Homes. ... 2472
421. -- 429. (Reserved) ... 2473
430. Requirements For Furnishings, Equipment, Supplies, and Basic Services. ... 2473
431. -- 449. (Reserved) ... 2474
450. Requirements For Food And Nutritional Care Services. ... 2474
451. Menu And Diet Planning. ... 2474
452. -- 454. (Reserved) ... 2475
455. Food Supply. ... 2475
456. -- 459. (Reserved) ... 2475
460. Food Preparation And Service. ... 2475
461. -- 499. (Reserved) ... 2475
500. Requirements For Notice Of Monthly Fee Increase. ... 2475
501. -- 504. (Reserved) ... 2475
505. Requirements For Handling Of Resident Funds. ... 2475
506. -- 509. (Reserved) ... 2476
510. Requirements To Protect Residents From Abuse. ... 2476
511. -- 514. (Reserved) ... 2476
515. Requirements To Protect Residents From Exploitation. ... 2476
516. -- 519. (Reserved) ... 2476
520. Requirements To Protect Residents From Inadequate Care. ... 2476
521. -- 524. (Reserved) ... 2476
525. Requirements To Protect Residents From Neglect. ... 2476
526. -- 549. (Reserved) ... 2476
550. Requirements For Residents' Rights. ... 2476
551. -- 559. (Reserved) ... 2480
560. Notice Of Residents' Rights. ... 2480
561. -- 599. (Reserved) ... 2480
600. Requirements For Staffing Standards. ... 2480
601. -- 619. (Reserved) ... 2481
620. Requirements For Training Of Facility Personnel. ... 2481
621. -- 624. (Reserved) ... 2481
625. Orientation Training Requirements. ... 2481
626. -- 629. (Reserved) ... 2482
630. Training Requirements For Facilities Admitting Residents With Diagnosis Of Dementia, Mental Illness, Developmental Disability, Or Traumatic Brain Injury. ... 2482
631. -- 639. (Reserved) ... 2483
640. Continuing Training Requirements. ... 2483
641. Additional Training Related To Changes. ... 2483
642. -- 644. (Reserved) ... 2483
645. Assistance With Medication Certification Requirement. ... 2483
646. -- 649. (Reserved) ... 2484
650. Requirements For Uniform Assessment Criteria For Private Pay Residents. ... 2484
651. -- 654. (Reserved) ... 2484
655. Use Of The Uniform Assessment Criteria In Determining Facility Staffing. ... 2484
656. -- 659. (Reserved) ... 2484
660. Requirements For Uniform Assessment Criteria For Department Clients. ... 2484
661. -- 699. (Reserved) ... 2484
700. Records. ... 2484
701. -- 704. (Reserved) ... 2485
705. Resident Business Records. ... 2485
706. -- 709. (Reserved) ... 2485

710. Resident Care Records. 2485
711. Ongoing Resident Care Records. 2486
712. -- 714. (Reserved) 2487
715. Mental Health Contract Bed Records. 2487
716. -- 719. (Reserved) 2488
720. Adult Hourly Care Records. 2488
721. -- 724. (Reserved) 2488
725. Facility Administrative Records For Admissions And Discharge Register. 2488
726. -- 729. (Reserved) 2488
730. Facility Administrative Records For Personnel And Staffing. 2488
731. -- 734. (Reserved) 2489
735. Facility Administrative Records For Handling Of Medications And Controlled Substances. 2489
736. -- 739. (Reserved) 2490
740. Facility Administrative Records For Dietary. 2490
741. -- 744. (Reserved) 2490
745. Facility Administrative Records For Water Supply. 2490
746. -- 749. (Reserved) 2490
750. Facility Administrative Records For Fire And Life Safety. 2490
751. -- 899. (Reserved) 2491
900. Enforcement Actions. 2491
901. -- 904. (Reserved) 2492
905. Core Issues Deficiency. 2492
906. -- 909. (Reserved) 2492
910. Non-Core Issues Deficiency. 2492
911. -- 919. (Reserved) 2493
920. Enforcement Remedy Of Limit On Admissions. 2493
921. -- 924. (Reserved) 2493
925. Enforcement Remedy Of Civil Monetary Penalties. 2493
926. -- 929. (Reserved) 2494
930. Enforcement Remedy Of Temporary Management. 2495
931. -- 934. (Reserved) 2496
935. Enforcement Remedy Of Provisional License. 2496
936. -- 939. (Reserved) 2496
940. Enforcement Remedy Of Revocation Of Facility License. 2496
941. -- 999. (Reserved) 2497

16.04.07 – Rules Governing Fees for State Hospital North

000. Legal Authority. 2498
001. Title And Scope. 2498
002. Policy. 2498
003. -- 009 (Reserved) 2498
010. Definitions. 2498
011. -- 029 (Reserved) 2498
030. Fees. 2498
031. -- 049 (Reserved) 2498
050. Charges. 2498
051. -- 069 (Reserved) 2499
070. Waiver. 2499
071. -- 089 (Reserved) 2499
090. Personal Needs Allowance. 2499
091. -- 999. (Reserved) 2499

16.05.06 – Criminal History and Background Checks

000. Legal Authority. 2500

001. Title, Scope And Policy. 2500
002. -- 009. (Reserved) 2500
010. Definitions And Abbreviations. 2500
011. -- 049. (Reserved) 2502
050. Fees And Costs For Criminal History And Background Checks. 2502
051. -- 059. (Reserved) 2502
060. Employer Registration. 2502
061. Employer Responsibilities. 2502
062. -- 069. (Reserved) 2502
070. Non-Compliance With These Rules. 2503
071. -- 099. (Reserved) 2503
100. Individuals Subject To A Criminal History And Background Check. 2503
101. Department Individuals Subject To A Criminal History And Background Check. 2504
102. -- 119. (Reserved) 2505
120. Application For A Criminal History And Background Check. 2505
121. -- 124. (Reserved) 2506
125. Idaho Child Protection Central Registry Checks. 2506
126. Applicants Receiving A Department Enhanced Clearance. 2506
127. -- 129. (Reserved) 2507
130. Submission Of Application. 2507
131. -- 139. (Reserved) 2507
140. Submission Of Fingerprints. 2507
141. -- 149. (Reserved) 2507
150. Time Frame For Submitting Application And Fingerprints 2507
151. -- 159. (Reserved) 2508
160. Withdrawal Of Application. 2508
161. -- 169. (Reserved) 2508
170. Availability To Provide Services Pending Completion Of The Criminal History And Background Check. 2508
171. -- 179. (Reserved) 2508
180. Criminal History And Background Check Results. 2508
181. Application Status. 2509
182. -- 189. (Reserved) 2509
190. Criminal History And Background Check Clearance. 2509
191. -- 199. (Reserved) 2509
200. Unconditional Denial. 2509
201. -- 209. (Reserved) 2510
210. Disqualifying Crimes Resulting In An Unconditional Denial. 2510
211. -- 219. (Reserved) 2513
220. Conditional Denial. 2513
221. -- 229. (Reserved) 2513
230. Relevant Records Resulting In A Conditional Denial. 2513
231. -- 239. (Reserved) 2514
240. Medicaid Exclusion. 2514
241. -- 249. (Reserved) 2514
250. Exemption Reviews. 2514
251. -- 259. (Reserved) 2515
260. Previous Exemption Review Denials. 2515
261. -- 269. (Reserved) 2515
270. Criminal Or Relevant Record - Action Pending. 2515
271. -- 299. (Reserved) 2515
300. Updating Criminal History And Background Checks. 2515

301. -- 349. (Reserved) 2516
350. Criminal History And Background Check Records. 2516
351. -- 999. (Reserved) 2517
16.06.01 – Child and Family Services
000. Legal Authority. 2518
001. Title, Scope, And Goal. 2518
002. -- 008. (Reserved) 2518
009. Criminal History And Background Check Requirements. 2518
010. Definitions And Abbreviations A Through E. 2518
011. Definitions And Abbreviations F Through K. 2519
012. Definitions And Abbreviations L Through R. 2521
013. Definitions And Abbreviations S Through Z. 2522
014. -- 019. (Reserved) 2523
020. General Requirements Applicable To All Child And Family Services Programs. 2523
021. -- 029. (Reserved) 2524
030. Core Child And Family Services. 2524
031. -- 049. (Reserved) 2525
050. Protections And Safeguards For Children And Families. 2525
051. Notice Requirements For ICWA. 2528
052. -- 059. (Reserved) 2528
060. Family Case Records. 2528
061. -- 239. (Reserved) 2528
240. Six-Month Reviews For Children In Alternate Care Placement. 2529
251. -- 399. (Reserved) 2529
400. Authority For Alternate Care Services. 2529
401. Considerations For Placement In Alternate Care. 2530
402. Involuntary Placement Of Indian Children. 2530
403. Date A Child Entered Foster Care. 2531
404. Foster Care Goal. 2531
405. Alternate Care Case Management. 2531
406. -- 421. (Reserved) 2532
422. Alternate Care Planning. 2532
423. -- 424. (Reserved) 2533
425. Title IV-E Eligibility. 2533
426. (Reserved) 2534
427. Determination Of Eligibility For Title IV-E. 2534
428. Custody And Placement. 2534
429. Effective Date. 2534
430. Ongoing Eligibility. 2534
431. (Reserved) 2535
432. Title XIX Foster Child. 2535
433. Income, Benefits And Savings Of Children In Foster Care. 2535
434. Forwarding Of Benefits. 2535
436. Parental Financial Support For Children In Alternate Care. 2535
437. Accounting And Reporting. 2536
438. Support Agreement For Voluntary Placements. 2536
439. Support In Court-Ordered Placement. 2536
440. Insurance Coverage. 2536
441. Referral To Child Support Services. 2536
442. Medicaid For Children In Alternate Care. 2536
443. EPSDT Screening. 2536
444. Medical Emergencies. 2536

445. Dental Care. ... 2536
446. Costs Of Prescription Drugs. ... 2537
447. Medical Examination Upon Entering Alternate Care. ... 2537
448. -- 450. (Reserved) ... 2537
451. Drivers' Training, Drivers' Licenses, And Permits For Children In Alternate Care. ... 2537
452. -- 479. (Reserved) ... 2537
480. Alternate Care Licensure. ... 2537
481. Facilities Operated By The State. ... 2537
482. Payment For Shelter Care. ... 2537
483. Payment To Family Alternate Care Providers. ... 2538
484. Additional Payments To Family Alternate Care Providers. ... 2538
485. Treatment Foster Care. ... 2539
486. Group Foster Care. ... 2539
487. Residential Care Facilities. ... 2540
488. -- 491. (Reserved) ... 2540
492. Reimbursement In The Home Of A Relative. ... 2540
493. -- 549. (Reserved) ... 2540
550. Child Protection Services. ... 2540
551. Reporting Abuse, Neglect, Or Abandonment. ... 2540
552. Reporting System. ... 2541
553. Assigning Reports For Safety Assessment. ... 2541
554. Response Priorities. ... 2541
555. Supervisory Review - Certain Priority I And II Cases. ... 2542
556. Reports Involving Indian Children. ... 2542
557. Reports Involving Military Families. ... 2542
558. Community Resources. ... 2542
559. Child Protection Safety And Comprehensive Assessments. ... 2542
560. Disposition Of Child Protection Reports. ... 2543
561. Child Protection Central Registry. ... 2544
562. Confidentiality Of The Child Protection Central Registry And Requests To Check The Registry. ... 2544
563. Levels Of Risk On The Child Protection Central Registry. ... 2544
564. Notification Of A Substantiated Incident Of Abuse, Neglect, Or Abandonment, And Related Administrative Review And Contested Case Appeal Rights. ... 2546
565. Petition For Removal Of An Individual's Name On The Child Protection Central Registry Prior To October 1, 2007. ... 2546
566. Petition For Removal Of An Individual's Name From The Child Protection Central Registry. ... 2547
567. "Safe Haven" Exemption For Parents Of Certain Abandoned Infants. ... 2548
568. Court-Ordered Child Protection Safety Assessment. ... 2548
569. Petition Under The Child Protective Act. ... 2548
570. Cooperation With Law Enforcement. ... 2548
571. Child Custody Investigations For The District Court. ... 2548
572. -- 699. (Reserved) ... 2549
700. Adoption Services Policy. ... 2549
701. Services To Be Provided In Adoptions. ... 2549
702. Conditions For Guardianship Assistance. ... 2550
703. Federally-Funded Guardianship Assistance Eligibility, Requirements, And Benefits. ... 2551
704. State-Funded Guardianship Assistance Eligibility, Requirement, And Benefits. ... 2552
705. -- 709. (Reserved) ... 2553
710. Family History. ... 2553
711. Decision And Approval Process For Termination Of Parent And Child Relationship (TPR). ... 2554

712. -- 713. (Reserved) ... 2554
714. Voluntary Termination. ... 2554
715. Voluntary Consent. ... 2554
716. Voluntary Termination Of Parental Rights To An Indian Child. ... 2554
717. Filing Of Petition For Voluntary Termination. ... 2554
718. Report To Court -- Voluntary Termination. ... 2554
719. Investigation. ... 2554
720. Filing Of A Petition For Involuntary Termination Of Parent And Child Relationship. ... 2555
721. Report To The Court -- Involuntary Termination. ... 2555
722. -- 749. (Reserved) ... 2556
750. Application To Be Adoptive Parent(s). ... 2557
751. -- 761. (Reserved) ... 2558
762. Completing The Adoption Home Study. ... 2558
763. Pre-Adoptive Parent Responsibilities. ... 2559
764. Adoptive Home Study. ... 2560
765. -- 769. (Reserved) ... 2560
770. Closure Of Adoptive Home Studies. ... 2560
771. Home Study Update. ... 2560
772. -- 789. (Reserved) ... 2560
790. Foster Parent Adoptions. ... 2560
791. -- 799. (Reserved) ... 2560
800. Placement Of The Child. ... 2560
801. -- 829. (Reserved) ... 2561
830. Adoption Application Fee. ... 2561
831. Home Study, Supervisory Reports, And Reports Of The Court Fees. ... 2561
832. Fee Schedule - Adoptions Through Department. ... 2561
833. Placement Supervision -- Transfer From Out Of State Private Agency. ... 2562
834. -- 849. (Reserved) ... 2562
850. Independent, Relative And Stepparent Adoptions. ... 2562
851. -- 859. (Reserved) ... 2562
860. Procedures Following The Adoptive Placement. ... 2562
861. Progress Reports. ... 2562
862. Petition To Adopt Under The Adoption Of Children Act. ... 2563
863. Investigation Of Petition To Adopt And Report To The Court. ... 2563
864. -- 869. (Reserved) ... 2565
870. Removal Of A Child From A Prospective Adoptive Home. ... 2565
871. Temporary Replacement After Disruption. ... 2565
872. -- 880. (Reserved) ... 2565
881. Closure Of Case. ... 2565
882. Records Of Placement. ... 2565
883. Post-Legal Adoption Services. ... 2565
884. Opening Sealed Records Of Adoptions. ... 2565
885. -- 888. (Reserved) ... 2565
889. Certified Adoption Professional Requirements. ... 2565
890. Terms Of Certification For Adoption Professionals. ... 2566
891. Certified Adoption Professional's Client Relationship. ... 2568
892. Minimum Standards For Service. ... 2568
893. Records Of The Certified Adoption Professional. ... 2568
894. Fees Charged By The Department. ... 2568
895. Department Responsibility To Certified Adoption Professional. ... 2569
896. -- 899. (Reserved) ... 2569
900. Adoption Assistance. ... 2569

901. Attempt To Place Without Adoption Assistance. ... 2571
902. -- 909. (Reserved) ... 2571
910. Types And Amounts Of Assistance. ... 2571
911. Adoption Assistance Program Agreement. ... 2572
912. -- 919. (Reserved) ... 2573
920. Request For Reconsideration For Adoption Assistance. ... 2573
921. Burden Of Proof -- Extenuating Circumstances. ... 2573
922. Retroactive Adoption Assistance Benefits. ... 2574
923. Disruption Of International Adoptions. ... 2574
924. -- 999. (Reserved) ... 2574

16.06.02 – Rules Governing Standards for Child Care Licensing

000. Legal Authority. ... 2575
001. Title, Scope, Policy, Purpose, Exceptions, And Exemptions To Licensing. ... 2575
002. Incorporation By Reference. ... 2576
003. -- 008. (Reserved) ... 2576
009. Criminal History And Background Check Requirements. ... 2576
010. Definitions A Through M. ... 2577
011. Definitions N Through Z. ... 2580
012. -- 099. (Reserved) ... 2582
100. Licensing. ... 2582
101. Applications For License. ... 2582
102. Disposition Of Applications. ... 2582
103. Restrictions On Applicability And Nontransfer. ... 2584
104. Mandatory Visitations. ... 2584
105. Revisit And Relicense. ... 2585
106. Complaints Against Daycare Centers, Group Daycare Facilities, Family Daycare Homes, Foster Homes, Children's Residential Care Facilities, Children's Therapeutic Outdoor Programs, Children's Camps, And Children's Agencies. ... 2585
107. Suspension For Circumstances Beyond Control Of Foster Parent Or Operator. ... 2585
108. Suspension Or Revocation For Infractions. ... 2585
109. Non-renewal, Denial, Revocation, Or Suspension Of License. ... 2585
110. Enforcement Remedy Of Ban On Admissions. ... 2586
111. Enforcement Remedy Of Summary Suspension And Transfer Of Residents Or Children. ... 2586
112. Enforcement Remedy Revocation Of License And Transfer Of Residents Or Children. ... 2586
113. Effect Of Previous Revocation Or Denial Of A License. ... 2587
114. -- 299. (Reserved) ... 2587
300. Standards For Daycare. ... 2587
301. Types Of Daycare Licenses. ... 2587
302. -- 308. (Reserved) ... 2588
309. Criminal History And Background Check For Daycare Standards. ... 2588
310. -- 319. (Reserved) ... 2588
320. Daycare Licensing Maximum Total Fees. ... 2588
321. Application For Daycare License Or Renewal. ... 2589
322. -- 324. (Reserved) ... 2590
325. Issuance Of License. ... 2590
326. -- 329. (Reserved) ... 2590
330. Staff And Other Individual Record Requirements. ... 2590
331. Child Record Content Requirements. ... 2591
332. -- 334. (Reserved) ... 2591
335. Child-Staff Ratio. ... 2591
336. -- 339. (Reserved) ... 2592
340. Daycare Center Training Requirements. ... 2592

341. -- 344. (Reserved) ... 2593
345. Mandatory Reporting Of Abuse, Abandonment, Or Neglect. ... 2593
346. Visitation And Access. ... 2593
347. -- 349. (Reserved) ... 2593
350. Fire Safety Standards. ... 2593
351. Facility Capacity And Determining Occupant Load. ... 2594
352. Fire Extinguishers And Safety Requirements. ... 2594
353. Fire Safety And Evacuation Plans. ... 2595
354. -- 359. (Reserved) ... 2595
360. Health Standards. ... 2595
361. Miscellaneous Safety Requirements. ... 2597
362. -- 364. (Reserved) ... 2598
365. Buildings, Grounds, Furnishings, And Equipment. ... 2598
366. -- 389. (Reserved) ... 2599
390. Continued Compliance, Reporting Changes, And Critical Incidents. ... 2599
391. -- 394. (Reserved) ... 2600
395. Failure To Comply. ... 2600
396. -- 399. (Reserved) ... 2600
400. Standards For Foster Homes. ... 2600
401. Licensing Provisions Related To The Indian Child Welfare Act. ... 2600
402. Foster Parent Qualifications And Suitability. ... 2600
403. Member Of Household Qualifications And Suitability. ... 2601
404. Criminal History And Background Checks For Foster Care License. ... 2601
405. Initial Evaluation. ... 2602
406. Subsequent Evaluations. ... 2604
407. Foster Parent Duties. ... 2604
408. Foster Parent Training. ... 2604
409. -- 429. (Reserved) ... 2605
430. Child Care And Safety Requirements. ... 2605
431. Installation, Maintenance And Inspection Of Flame And Heat Producing Equipment. ... 2606
432. Smoke And Carbon Monoxide Detecting Devices. ... 2606
433. Exits. ... 2606
434. Dangerous And Hazardous Materials. ... 2606
435. Firearms And Ammunition. ... 2606
436. Pets And Domestic Animals. ... 2607
437. Adequate Heat, Light, And Ventilation. ... 2607
438. Bathrooms, Water Supply, And Sewage Disposal. ... 2607
439. Transportation. ... 2607
440. Telephone. ... 2607
441. Wheelchair Access. ... 2607
442. Child Placement Requirements. ... 2608
443. Interagency Placement Of Children. ... 2608
444. Substitute Care Placement And Children's Agency Notification. ... 2608
445. Bedrooms. ... 2608
446. Behavior Management And Discipline. ... 2610
447. Medical And Dental Care. ... 2610
448. Personal Care And Hygiene. ... 2611
449. Food And Nutrition. ... 2611
450. Necessary Clothing. ... 2611
451. Personal Possessions, Allowances, And Money. ... 2611
452. Child Tasks. ... 2611
453. Education. ... 2611

454. Religious And Cultural Practices. ... 2611
455. Recreation. ... 2611
456. Mail. ... 2611
457. Reasonable And Prudent Parent Standard. ... 2611
458. -- 469. (Reserved) ... 2612
470. Record Management And Reporting Requirements. ... 2612
471. Reporting Foster Home Changes. ... 2612
472. Confidentiality. ... 2613
473. Unusual Incident Notification. ... 2613
474. -- 499. (Reserved) ... 2613
500. General Standards For Organizations Known As Children's Agencies And Children's Residential Care Facilities. ... 2613
501. Access By Department Authorized Agents. ... 2613
502. Compliance Required. ... 2614
503. Notification To The Licensing Authority. ... 2614
504. Notification To The Licensing Authority No Later Than One Working Day. ... 2614
505. Unauthorized Absences. ... 2614
506. Death Of A Child In Care Notification. ... 2614
507. -- 519. (Reserved) ... 2614
520. Written Bylaws. ... 2614
521. Governing Body Required. ... 2614
522. Delineation Of Job Responsibilities. ... 2614
523. Organizational Chart, Policies And Procedures. ... 2614
524. Insurance Coverage. ... 2614
525. Quality Of Services Environment. ... 2615
526. Research Protections For Persons Served. ... 2615
527. Confidentiality And Privacy Protections Of Persons Served. ... 2615
528. Description Of Services. ... 2615
529. Intake Policy. ... 2615
530. Continued Care. ... 2615
531. Documentation Requirements For Continued Care. ... 2616
532. -- 534. (Reserved) ... 2616
535. Sufficient Financial Resources. ... 2616
536. Annual Audit. ... 2616
537. -- 543. (Reserved) ... 2616
544. Human Resources Needed. ... 2616
545. Service Worker Or Social Worker. ... 2616
546. Staff Recruitment, Hiring, Supervision, Training, Evaluation, Promotion And Discipline. ... 2616
547. Person Filling More Than One Position. ... 2617
548. (Reserved) ... 2617
549. Tuberculosis Screening. ... 2617
550. Volunteer Supervision. ... 2617
551. Employee And Volunteer Orientation. ... 2618
552. Employee And Volunteer Training. ... 2618
553. -- 559. (Reserved) ... 2618
560. Permanent Register. ... 2618
561. Content Of Child's Record. ... 2618
562. Authorizations Required. ... 2619
563. Service Plans. ... 2619
564. Shelter Care Admission And Plans. ... 2620
565. Maintenance Of Records. ... 2620

566. Record Retention. ... 2621
567. -- 569. (Reserved) ... 2621
570. Reporting Of Child Abuse, Neglect, And Abandonment. ... 2621
571. Health Services. ... 2621
572. Dental Services. ... 2621
573. Non-Violent Physical Intervention. ... 2621
574. Client Grievance Policy. ... 2622
575. Suicide Prevention Plan. ... 2622
576. Clothing. ... 2622
577. Visitation Policy. ... 2622
578. Correspondence Policy. ... 2622
579. Religious And Culture Policy. ... 2622
580. Education Policy. ... 2623
581. Personal Possessions, Allowance, And Money Policy. ... 2623
582. Emergency Policies. ... 2623
583. Reasonable And Prudent Parent Standard For An Organization Providing Services To Children Placed By The Department. ... 2623
584. -- 599. (Reserved) ... 2624
600. Additional Standards For Children's Agencies. ... 2624
601. Chief Administrator Position And Qualifications. ... 2624
602. Service Worker Supervisor Position. ... 2624
603. (Reserved) ... 2624
604. Social Worker Position And Qualifications. ... 2624
605. Service Worker Position And Qualifications. ... 2624
606. Social Worker Or Service Worker Responsibilities. ... 2624
607. Self-Supervision Prohibited. ... 2625
608. Staff Workloads. ... 2625
609. -- 614. (Reserved) ... 2625
615. Additional Provisions For Foster Home Certification. ... 2625
616. Program Description. ... 2625
617. Licensing And Certification Agency Policies And Procedures For Foster Homes. ... 2625
618. Application Request Process. ... 2625
619. (Reserved) ... 2625
620. Initial And Subsequent Family Foster Home Evaluation Study Process And Contents. ... 2625
621. Training. ... 2625
622. Placement Agreement Required Contents. ... 2625
623. Complaint Investigation, Basis, Time Requirements, Notifying Foster Parents, Contents, And Process. ... 2626
624. Records Management, Maintenance, Availability To Foster Parent, And Contents. ... 2626
625. -- 629. (Reserved) ... 2627
630. Additional Placement Considerations. ... 2627
631. Emergency Evacuation Plan. ... 2627
632. Unusual Incident Policy. ... 2627
633. Service Plans And Participants. ... 2627
634. Children's Agency Supervision Of Child. ... 2627
635. -- 649. (Reserved) ... 2627
650. Additional Provisions For Transitional Living Services. ... 2628
651. Program Statement For Transitional Living Services. ... 2628
652. Policies And Procedures For Transitional Living Services. ... 2628
653. Record Management. ... 2628
654. Service Components. ... 2628
655. Transitional Living Placement. ... 2628

656. Supervision And Support. 2629
657. Termination Of Transitional Living Services. 2629
658. Required Information For Youth At Service Termination. 2629
659. (Reserved) 2629
660. Additional Provisions For Adoption Services. 2629
661. Adoption Services - Nonprofit Status. 2629
662. Program Statement. 2629
663. Written Policies And Procedures - Adoption. 2630
664. Services For Children AS The Primary Consideration. 2630
665. Services For Child's Birth Parents. 2630
666. Services For Adoptive Applicants. 2630
667. Recruitment Of Adoptive Applicants. 2631
668. Payment Limitations In Adoption. 2631
669. Prohibition Of Contributions In Adoptions. 2631
670. Prohibition Of Staff Adoptions. 2631
672. Services For Adoptive Parents. 2631
673. Selection Of An Adoptive Placement. 2632
674. Conditions For Placement In An Adoptive Home. 2632
675. Adoptive Parent Information. 2632
676. Supervision. 2633
677. -- 679. (Reserved) 2633
680. Additional Provisions For Inter-Country Adoption Services 2633
681. Inter-Country Adoption Services. 2633
682. Legal Requirements For Inter-Country Adoption Services. 2633
683. Financial. 2633
684. Inter-Country Adoption Services To Adoptive Parents. 2633
685. Collecting And Exchanging Information About A Child. 2634
686. Post-Placement And Post-Finalization Adoption Services. 2634
687. -- 699. (Reserved) 2634
700. Additional Standards For Children's Residential Care Facilities. 2635
701. -- 704. (Reserved) 2635
705. Chief Administrator Qualifications. 2635
706. Service Worker Supervisor Qualifications. 2635
707. Direct Care Staff Supervisor Qualifications. 2635
708. (Reserved) 2635
709. Direct Care Staff Qualifications. 2635
710. Required Staff Ratios. 2635
711. House Parent Relief Staff. 2636
712. Staff Training. 2636
713. -- 714. (Reserved) 2636
715. Compliance With Applicable Laws. 2636
716. Children's Residential Care Facility Building Requirements. 2636
717. National Electrical Code Compliance. 2637
718. Fire Safety Requirements. 2637
719. Emergency Procedures. 2637
720. Emergency Drills. 2637
721. Public Health District Inspection. 2637
722. Buildings, Grounds, Furnishings And Equipment. 2638
723. Maintenance. 2638
724. Equipment Storage. 2638
725. Service Sink. 2638
726. Hazardous Materials Or Toxins. 2638

727. Lighting. 2638
728. Heating. 2638
729. Bathroom Facilities. 2638
730. Sleeping Rooms. 2638
731. Beds. 2639
732. Storage Of Poisonous And Toxic Materials. 2639
733. Flammable Liquids. 2639
734. Firearms. 2639
735. Sufficient Recreational Space. 2639
736. General Safety Provisions. 2639
737. Diapering And Sanitation. 2639
738. -- 744. (Reserved) 2639
745. Education Program. 2639
746. Work. 2640
747. Recreation, Physical Exercise, And Leisure Time Activities. 2640
748. Sleep. 2640
749. Swimming Pool, Pond, Or Other Body Of Water. 2640
750. Water Front. 2641
751. Supervision Of Recreational Activity. 2641
752. Medication Storage And Administration. 2642
753. Universal Precautions. 2642
754. First Aid Kit. 2643
755. Nutrition. 2643
756. Animals And Pets. 2643
757. Use Of Tobacco Products, Alcohol, And Illegal Drugs Prohibited. 2643
758. Transporting Children. 2643
759. Contraband. 2643
760. Searches. 2644
761. Behavior Management And Discipline Policy. 2644
762. Time-Out. 2645
763. Unlocked Seclusion. 2646
764. Locked Seclusion. 2646
765. Locked Seclusion Room Requirements. 2647
766. Mechanical Restraint. 2647
767. Alternative Forms Of Restraint. 2649
768. Transportation Of Children In Restraints Prohibited. 2650
769. (Reserved) 2650
770. Additional Provisions For Children's Residential Maternity Care. 2650
771. Service Worker Available. 2650
772. Prenatal And Postpartum Care. 2651
773. Discharge Plans. 2651
774. -- 779. (Reserved) 2651
780. Additional Provisions For Children's Alcohol-Drug Abuse Residential Care Facilities. 2651
781. --789. (Reserved) 2651
790. Additional Provisions For Non-Accredited Children's Residential Schools. 2651
791. Application Process. 2651
792. Staff Ratios Required. 2652
793. Child's Record. 2652
794. -- 799. (Reserved) 2652
800. Additional Standards For Children's Therapeutic Outdoor Programs. 2652
801. (Reserved) 2652
802. Policies And Procedures. 2653

803. -- 804. (Reserved) ... 2653
805. Base Camp Requirements. ... 2653
806. High Adventure Requirements. ... 2653
807. -- 809. (Reserved) ... 2654
810. Staff Qualifications For Children's Therapeutic Outdoor Programs. ... 2654
811. Staff Health Requirements. ... 2656
812. Skills And Training. ... 2656
813. Staff Ratios And Group Size. ... 2657
814. Staff Use Of Alcohol Or Controlled Substances Prohibited. ... 2657
815. -- 820. (Reserved) ... 2657
821. Assessments. ... 2657
822. Physical Examination. ... 2658
823. Grouping By Age. ... 2658
824. Expeditions. ... 2658
825. Safety. ... 2659
826. Communications. ... 2659
827. Emergency Plan. ... 2660
828. Expedition And Hiking Limit Requirements. ... 2660
829. Water Requirements. ... 2661
830. Nutritional And Sanitary Requirements. ... 2661
831. -- 834. (Reserved) ... 2661
835. Health Care. ... 2661
836. Medication Storage And Administration. ... 2662
837. -- 839. (Reserved) ... 2663
840. Participant Clothing, Equipment And Supplies. ... 2663
841. Contraband. ... 2664
842. Searches. ... 2664
843. Behavior Management And Discipline Policy. ... 2664
844. Time-Out. ... 2665
845. Work. ... 2666
846. Animals And Pets. ... 2666
847. Transporting Children. ... 2666
848. Firearms. ... 2666
849. (Reserved) ... 2666
850. Program Summary. ... 2666
851. -- 859. (Reserved) ... 2666
860. Standards For Solo Experiences In Children's Therapeutic Outdoor Programs. ... 2667
861. Plan. ... 2667
862. Solo Sites. ... 2667
863. Supervision. ... 2667
864. Emergency Procedures. ... 2668
865. -- 869. (Reserved) ... 2668
870. Additional Provisions For Stationary Children's Therapeutic Outdoor Programs. ... 2668
871. Fire Safety Requirements. ... 2668
872. Health Safety Requirements. ... 2669
873. -- 999. (Reserved) ... 2669

16.07.01 – Behavioral Health Sliding Fee Schedules

000. Legal Authority. ... 2670
001. Title And Scope. ... 2670
002. -- 009. (Reserved) ... 2670
010. Definitions. ... 2670
011. -- 099. (Reserved) ... 2671

100. Financial Responsibility Of Parents For Children's Mental Health Services. 2671
101. -- 199. (Reserved) 2671
200. Financial Responsibility For Adult Mental Health Services. 2671
201. -- 299. (Reserved) 2672
300. Sliding Fee Schedule For Children's Mental Health, Adult Mental Health, And Substance Use Disorders Services. 2672
301. -- 399. (Reserved) 2672
400. Calculating Income To Apply The Sliding Fee Schedule For Children's Mental Health And Adult Mental Health Services. 2673
401. -- 999. (Reserved) 2674

IDAPA 17 – INDUSTRIAL COMMISSION

Docket No. 17-0000-1900

17.10.01 – Administrative Rules Under the Crime Victims Compensation Act
000. Legal Authority. 2676
001. Title And Scope. 2676
002. Administrative Appeals. 2676
003. -- 009. (Reserved) 2676
010. Definitions. 2676
011. Applications For Compensation. 2677
012. Hearing Procedures. 2680
013. -- 999. (Reserved) 2681

17.11.01 – Administrative Rules of Peace Officer and Detention Officer Temporary Disability Act
000. Legal Authority. 2682
001. Title And Scope. 2682
002. -- 009. (Reserved) 2682
010. Definitions. 2682
011. Rule Governing Applications For Reimbursement From The Peace Officer And Detention Officer Temporary Disability Fund. 2682
012. -- 999. (Reserved) 2682

17.01.01 – Administrative Rules Under the Worker's Compensation Law
000. Legal Authority. 2684
001. Title and Scope. 2684
002. Written Interpretations. 2684
003 -- 009. (Reserved) 2684
010. Definitions. 2684
011. Abbreviations. 2687
012. Liberal Construction. 2688
013. -- 200. (Reserved) 2688
201. Rule Governing 72-212(5) Exemptions. 2688
202. -- 300. (Reserved) 2688
301. Rules Governing Qualifications To Write Insurance Or Self-Insure. 2688
302. Rules Governing Continuing Requirements To Underwrite Insurance Or Self-insure. 2690
303. Rule Governing The Collection Of Premium Tax On Worker's Compensation Insurance Policies. 2694
304. Rule Governing Premium Tax Computation For Self-insured Employers. 2694
305. Requirements For Maintaining Idaho Worker's Compensation Claims Files. 2695
306. Rule Prohibiting Use Of Sick Leave Or Other Alternative Compensation. 2700
307. Rule Governing Reporting Indemnity And Medical Payments And Making Payment Of Industrial Special Indemnity Fund Assessment. 2700

308. – 400. (Reserved) 2701
401. Rule Governing Computation Of Average Weekly Wage..... 2701
402. Rule Governing Conversion Of Impairment Ratings To “Whole Man” Standard..... 2701
403. Rule Governing Compensation For Disability Due To Loss Of Teeth..... 2702
404. Submission Of Medical Reports From Providers 2702
405. Rule Governing Reimbursement For Travel Expenses..... 2703
406. -- 500. (Reserved)..... 2703
501. Rule Governing Protection And Disclosure Of Rehabilitation Division Records. 2703
502. Rule Governing Reports Of Attorney Costs And Fees In Litigated Cases. 2703
529. -- 600. (Reserved)..... 2704
601. Submission Of FROI And SROI. 2704
602. Summaries Of Payments. 2704
603. -- 800. (Reserved)..... 2705
801. Rule Governing Change Of Status Notice To Claimants. 2705
802. Rule Governing Approval Of Attorneys Fees 2706
803. Medical Fees. 2707
804. – 999. (Reserved) 2712

IDAPA 18 – IDAHO DEPARTMENT OF INSURANCE

Docket No. 18-0000-1900

18.01.01 – Rule to Implement the Privacy of Consumer Financial Information

000. Legal Authority. 2716
001. Title And Scope. 2716
002. -- 009. (Reserved)..... 2716
010. Definitions. 2716
011. -- 099. (Reserved)..... 2719
100. Initial Privacy Notice To Consumers. 2719
101. -- 149. (Reserved)..... 2720
150. Annual Privacy Notice To Customers. 2720
151. -- 199. (Reserved)..... 2720
200. Information To Be Included In Privacy Notices. 2720
201. Description Of Parties Subject To Exceptions. 2721
202. Satisfying The Privacy Notice Information Requirements. 2721
203. Short-Form Initial Notice With Opt Out Notice For Non-Customers. 2722
204. -- 249. (Reserved)..... 2722
250. Form Of Opt Out Notice To Consumers. 2723
251. Providing Opt Out Notice To Consumers And Complying With Opt Out Direction..... 2723
252. -- 299. (Reserved)..... 2724
300. Revised Privacy Notices. 2724
301. -- 349. (Reserved)..... 2724
350. Delivery. 2724
351. -- 399. (Reserved)..... 2725
400. Limits On Disclosure Of Nonpublic Personal Financial Information To Nonaffiliated Third Parties. 2725
401. Limits On Redisclosure And Reuse Of Nonpublic Personal Financial Information. 2726
402. Limits On Sharing Account Number Information For Marketing Purposes..... 2726
403. -- 449. (Reserved)..... 2726
450. Exception To Opt Out Requirements For Disclosure Of Nonpublic Personal Financial Information For Service Providers And Joint Marketing. 2726
451. Exceptions To Notice And Opt Out Requirements For Disclosure Of Nonpublic Personal Financial Information For Processing And Servicing Transactions. 2727
452. Other Exceptions To Notice And Opt Out Requirements For Disclosure Of Nonpublic Personal Financial Information. 2727

453. -- 499. (Reserved) 2728
500. Nondiscrimination. 2728
501. -- 999. (Reserved) 2728
18.02.01 – Insurance Rates and Credit Rating
000. Legal Authority. 2729
001. Title And Scope. 2729
002. – 009. (Reserved) 2729
010. Definitions. 2729
011. -- 099. (Reserved) 2729
100. Use Of Credit Factors. 2729
101. -- 199. (Reserved) 2730
200. Other Laws Or Rules. 2730
201. Retention Of Records. 2730
202. Violations. 2730
203. -- 999. (Reserved) 2730
18.02.02 – Automobile Insurance Policies
000. Legal Authority. 2731
001. Title And Scope. 2731
002. -- 009. (Reserved) 2731
010. Definitions. 2731
011. Errors Or Misrepresentations In The Application. 2731
012. Allowable Convictions For Traffic Violations. 2731
013. Notice Of Premium Due As Willingness Of Insurer To Renew. 2731
014. Acceptable Forms For Notice Of Cancellation, Refusal To Renew, And Availability Of Idaho Automobile Insurance Plan. 2732
015. Standard Statement Regarding Uninsured And Underinsured Motorist Coverage. 2732
016. -- 999. (Reserved) 2732
18.02.03 – Certificate of Liability Insurance for Motor Vehicles
000. Legal Authority. 2733
001. Title And Scope. 2733
002. -- 010. (Reserved) 2733
011. Contract Of Insurance, Or Copy Thereof -- Certificate Of Liability Insurance. 2733
012. Minimum Specifications For A Certificate Of Liability Insurance In Lieu Of The Contract Of Insurance, Or A Copy. 2733
013. Examples Of A Nonexclusive Format for a document. 2734
014. Example Of Certificate Of Liability Insurance To Be Issued By The Director May Be Found On The Department Website. 2734
015. -- 999. (Reserved) 2734
18.03.01 – Suitability In Annuity Transactions
000. Legal Authority. 2735
001. Title And Scope. 2735
002. Incorporation By Reference. 2735
003. -- 009. (Reserved) 2735
010. Definitions. 2735
011. Transaction Exemptions. 2736
012. -- 014. (Reserved) 2737
015. Duties Of Insurers And Of Producers. 2737
016. Producer Training. 2739
017. -- 020. (Reserved) 2740
021. Recordkeeping. 2740
022. -- 999. (Reserved) 2740

18.03.02 – Life Settlements
000. Legal Authority. ... 2741
001. Title And Scope. ... 2741
002. -- 009. (Reserved) ... 2741
010. Definitions. ... 2741
011. Registration To Operate As Life Settlement Provider Or Life Settlement Broker. ... 2741
012. Filing Of Forms. ... 2741
013. Annual Reporting Requirements. ... 2743
014. Examination And Records. ... 2743
015. Disclosures To Owner. ... 2743
016. Additional Requirements. ... 2743
017. -- 999. (Reserved) ... 2744
18.03.03 – Variable Contracts
000. legal Authority. ... 2745
001. Purpose. ... 2745
002. -- 009. (Reserved). ... 2745
010. Definitions. ... 2745
011. Qualifications Of Insurance Companies To Issue Variable Contracts. ... 2745
012. Separate Accounts. ... 2745
013. Filing Of Contracts. ... 2746
014. Contracts Providing For Variable Benefits. ... 2747
015. Requisite Reports. ... 2747
016. Foreign Insurers. ... 2748
017. -- 999. (Reserved). ... 2748
18.03.04 – Replacement of Life Insurance and Annuities
000. Legal Authority. ... 2749
001. Title And Scope. ... 2749
002. -- 009. (Reserved) ... 2749
010. Definitions. ... 2749
011. Exemptions. ... 2749
012. Duties Of Agents And Brokers. ... 2750
013. Duties Of All Insurers. ... 2750
014. Duties Of Insurers That Use Agents Or Brokers. ... 2750
015. Duties Of Insurers With Respect To Direct Response Sales. ... 2751
016. Penalties. ... 2751
017. -- 999. (Reserved) ... 2751
18.03.05 – Credit Life and Credit Disability Insurance
000. Legal Authority. ... 2752
001. Title And Scope. ... 2752
002. -- 009. (Reserved) ... 2752
010. Definitions. ... 2752
011. Rights And Treatment Of Debtors. ... 2752
012. (Reserved) ... 2754
013. Determination Of Reasonableness Of Benefits In Relation To Premium Charge. ... 2754
014. Prima Facie Rates. ... 2755
015. Credit Life Insurance. ... 2756
016. Credit Disability Insurance. ... 2757
017. Refund Formulas. ... 2758
018. Experience Reports And Adjustment Of Prima Facie Rates. ... 2758
019. Use Of Rates - Direct Business Only. ... 2758
020. Supervision Of Credit Insurance Operations. ... 2759

021. Banned Transactions. 2759
022. Producer's License Needed. 2760
023. Disclosure. 2760
024. -- 999. (Reserved) 2760

18.04.01 – Health Carrier External Review

000. Legal Authority. 2761
001. Title And Scope. 2761
002. -- 009. (Reserved) 2761
010. Definitions. 2761
011. Font Size For Printed Materials. 2761
012. -- 019. (Reserved) 2761
020. Notice Of Right To External Review. 2761
021. Request For External Review. 2761
022. Health Carrier Notice Of Initial Determination Of An External Review Request. 2762
023. Approval Of Independent Review Organizations. 2762
024. Voluntary Election By ERISA Plan Administrator. 2762
025. -- 999. (Reserved) 2763

18.04.02 – Rule to Implement Uniform Coverage for Newborn and Newly Adopted Children

000. Legal Authority. 2764
001. Title And Scope. 2764
002. -- 009. (Reserved) 2764
010. Definitions. 2764
011. Coverage Requirements. 2764
012. Notification And Payment Requirements. 2765
013. Portability. 2765
014. -- 999. (Reserved) 2765

18.04.03 – Advertisement of Disability (Accident and Sickness) Insurance

000. Legal Authority. 2766
001. Title And Scope. 2766
002. Applicability. 2766
008. -- 009. (Reserved) 2766
010. Definitions. 2766
011. Method of Disclosure Of Requisite Information. 2767
012. Form And Content Of Advertisements. 2767
013. Advertisements Of Benefits Payable, Losses Covered Or Premiums Payable. 2767
014. Necessity For Disclosing Policy Provisions Relating To Renewability, Cancellation And Termination. 2768
015. Testimonials Or Endorsements By Third Parties. 2768
016. Use Of Statistics. 2769
017. Identification Of Plan Or Number Of Policies. 2769
018. Disparaging Comparisons And Statements. 2769
019. Jurisdiction Licensing And Status Of Insurer. 2769
020. Identity Of Insurer. 2769
021. Group Or Quasi-Group Implications. 2770
022. Introductory, Initial Or Special Offers. 2770
023. Statements About An Insurer. 2770
024. Enforcement Procedures. 2771
025. Filing For Prior Review. 2771
026. -- 999. (Reserved) 2771

18.04.04 – the Managed Care Reform Act rule

000. Legal Authority. 2772

001. Title And Scope. 2772
002. -- 009. (Reserved) 2772
010. Definitions. 2772
011. Application For Certificate Of Authority. 2772
012. Solicitation Prior To Issuance Of Certificate Of Authority. 2773
013. Annual Disclosure, Filing With Director. 2773
014. Annual Report To The Director. 2774
015. Personnel And Facilities Listing. 2774
016. -- 999. (Reserved) 2774

18.04.05 – Self-Funded Health Care Plans Rule

000. Legal Authority. 2775
001. Title And Scope. 2775
002. -- 009. (Reserved) 2775
010. Definitions. 2775
011. -- 020. (Reserved) 2775
021. Qualification Of Plan. 2775
022. Registration. 2775
023. (Reserved) 2775
024. Investigation Of Proposed Application For Registration. 2775
025. Contributions Receivable. 2775
026. Trust Fund Reserves And Surplus. 2775
027. Bonding. 2776
028. Contribution Rates. 2776
029. Contracts And Services. 2776
030. Records. 2777
031. Annual Statement. 2777
032. -- 999. (Reserved) 2777

18.04.06 – Governmental Self-Funded Employee Health Care Plans Rule

000. Legal Authority. 2778
001. Title And Scope. 2778
002. -- 020. (Reserved) 2778
021. Qualification Of Plan. 2778
022. Registration. 2778
023. Application For Registration. 2778
024. Investigation Of Proposed Application For Registration. 2779
025. Contributions Receivable. 2779
026. Trust Fund Reserves. 2779
027. Bonding Or Dishonesty Insurance. 2779
028. Annual Statement. 2779
029. -- 999. (Reserved) 2779

18.04.07 – Restrictions on Discretionary Clauses in Health Insurance Contracts

000. Legal Authority. 2780
001. Title And Scope. 2780
002. -- 009. (Reserved) 2780
010. Definitions. 2780
011. Discretionary Clauses. 2780
012. Grounds For Disapproval. 2780
013. -- 999. (Reserved) 2780

18.04.09 – Complications of Pregnancy

000. Legal Authority. 2781
001. Title And Scope. 2781

002. -- 010. (Reserved) ... 2781
011. Coverage. ... 2781
012. -- 999. (Reserved) ... 2781
18.04.10 – the Medicare Supplement Insurance Minimum Standards Model Act
000. Legal Authority. ... 2782
001. Title And Scope. ... 2782
002. Incorporation By Reference. ... 2782
003. -- 009. (Reserved) ... 2782
010. Definitions. ... 2782
011. Policy Definitions And Terms. ... 2784
012. Policy Provisions. ... 2785
013. -- 021. (Reserved) ... 2786
022. Benefit Standards For 2010 Standardized Medicare Supplement Benefit Plan Policies Or Certificates Issued For Delivery With An Effective Date For Coverage On Or After June 1, 2010. ... 2786
023. (Reserved) 2789
024. Standard Medicare Supplement Benefit Plans For 2010 Standardized Medicare Supplement Benefit Plan Policies Or Certificates With An Effective Date For Coverage On Or After June 1, 2010. ... 2789
025. Standard Medicare Supplement Benefit Plans For 2020 Standardized Medicare Supplement Benefit Plan Policies Or Certificates Issued For Delivery To Individuals Newly Eligible For Medicare On Or After January 1, 2020. ... 2792
026. -- 030. (Reserved) ... 2793
031. Medicare Select Policies And Certificates. ... 2793
032. -- 035. (Reserved) ... 2796
036. Open Enrollment. ... 2796
037. -- 040. (Reserved) ... 2797
041. Guaranteed Issue For Eligible Persons. ... 2797
042. -- 045. (Reserved) ... 2801
046. Standards For Claims Payment. ... 2801
047. -- 050. (Reserved) ... 2801
051. Loss Ratio Standards And Refund Or Credit Of Premium. ... 2801
052. -- 055. (Reserved) ... 2803
056. Filing And Approval Of Policies And Certificates And Premium Rates. ... 2803
057. -- 060. (Reserved) ... 2805
061. Permitted Compensation Arrangements. ... 2805
062. -- 065. (Reserved) ... 2805
066. Disclosure Provisions. ... 2806
067. -- 070. (Reserved) ... 2807
071. Requirements For Application Forms And Replacement Coverage. ... 2807
072. Filing Requirements For Advertising. ... 2809
073. Standards For Marketing. ... 2809
074. -- 075. (Reserved) ... 2809
076. Appropriateness Of Recommended Purchase And Excessive Insurance. ... 2809
077. Reporting Of Multiple Policies. ... 2810
078. -- 080. (Reserved) ... 2810
081. Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods And Probationary Periods In Replacement Policies Or Certificates. ... 2810
082. Prohibition Against Use Of Genetic Information And Requests For Genetic Testing. ... 2810
083. -- 999. (Reserved) ... 2812
18.04.11 – Long-Term Care Insurance Minimum Standards
000. Legal Authority. ... 2813
001. Title And Scope. ... 2813

002. Incorporation Of Documents By Reference. 2813
003. -- 009. (Reserved) 2814
010. Definitions. 2814
011. Policy Definitions. 2814
012. Policy Practices And Provisions. 2815
013. Unintentional Lapse. 2819
014. Requisite Disclosure Provisions. 2820
015. Prohibition Against Post-Claims Underwriting. 2822
016. Minimum Standards For Home Health And Community Care Benefits In Long-Term Care Insurance Policies. 2823
017. Requirement To Offer Inflation Protection. 2823
018. Requirements For Application Forms And Replacement Coverage. 2825
019. Reporting Requirements. 2826
020. Licensing. 2826
021. Discretionary Powers Of Director. 2826
022. Reserve Standards. 2827
023. Loss Ratio. 2828
024. Filing Requirement. 2829
025. Premium Rate Schedule Increases. 2830
026. Filing Requirements For Advertising. 2834
027. Standards For Marketing And Producer Training. 2835
028. Suitability. 2837
029. Prohibition Against Preexisting Conditions And Probationary Periods In Replacement Policies Or Certificates. 2839
030. Availability Of New Services Or Providers. 2839
031. Right To Reduce Coverage And Lower Premiums. 2840
032. Nonforfeiture Benefit Requirement. 2840
033. Standards For Benefit Triggers. 2844
034. Additional Standards For Benefit Triggers For Qualified Long-Term Care Insurance Contracts. 2845
035. Standard Format Outline Of Coverage. 2846
036. Requirement To Deliver Shopper's Guide. 2846
037. Penalties. 2847
038. -- 999. (Reserved) 2847

18.04.12 – The Small Employer Health Insurance and Availability Act

000. Legal Authority. 2848
001. Title And Scope. 2848
002. -- 009. (Reserved) 2848
010. Definitions. 2848
011. Assessments. 2849
012. -- 014. (Reserved) 2849
015. Applicability. 2849
016. -- 020. (Reserved) 2850
021. Establishment Of Classes Of Business. 2850
022. -- 027. (Reserved) 2851
028. Transition For Assumptions Of Business From Another Carrier. 2851
029. -- 035. (Reserved) 2853
036. Restrictions Relating To Premium Rates. 2853
037. -- 045. (Reserved) 2857
046. Requirement To Insure Entire Groups. 2857
047. -- 054. (Reserved) 2858
055. Application To Reenter State. 2858

056. -- 059. (Reserved) 2858
060. Qualifying Previous And Qualifying Existing Coverages. 2858
061. -- 066. (Reserved) 2860
067. Restrictive Riders. 2860
068. -- 074. (Reserved) 2860
075. Rules Related To Fair Marketing. 2860
076. -- 080. (Reserved) 2861
081. Limitations And Exclusions. 2861
082. -- 999. (Reserved) 2863

18.04.13 – the Individual Health Insurance Availability Act

000. Legal Authority. 2864
001. Title And Scope. 2864
002. Incorporation By Reference. 2864
003. -- 009. (Reserved) 2864
010. Definitions. 2864
011. Policy Definitions. 2864
012. Assessments. 2866
013. -- 027. (Reserved) 2866
028. Transition For Assumptions Of Business From Another Carrier. 2867
029. -- 035. (Reserved) 2869
036. Restrictions Relating To Premium Rates. 2869
037. -- 045. (Reserved) 2872
046. Requirement To Insure Individuals. 2872
047. -- 054. (Reserved) 2872
055. Application To Reenter State. 2872
056. -- 059. (Reserved) 2873
060. Qualifying Previous And Qualifying Existing Coverages. 2873
061. -- 066. (Reserved) 2873
067. Restrictive Riders. 2873
068. -- 074. (Reserved) 2873
075. Rules Related To Fair Marketing. 2873
076. -- 080. (Reserved) 2875
081. Banned Policy Provisions. 2875
082. General Minimum Standards. 2876
083. -- 100. (Reserved) 2877
101. Disclosure Provisions. 2877
102. -- 999. (Reserved) 2878

18.04.14 – Coordination of Benefits

000. Legal Authority. 2879
001. Title And Scope. 2879
002. Incorporation By Reference. 2879
003. -- 009. (Reserved) 2879
010. Definitions. 2879
011. -- 020. (Reserved) 2882
021. Use of Model COB Contract Provision. 2882
022. Rules For Coordination Of Benefits. 2883
023. Procedure To Be Followed By Secondary Plan. 2885
024. Notice To Covered Persons. 2885
025. Miscellaneous Provisions. 2885
026. -- 999. (Reserved) 2886

18.05.01 – Rules For Title Insurance Regulation

000. Legal Authority. 2887
001. Title And Scope. 2887
002. -- 009. (Reserved) 2887
010. Definitions 2887
011. Tract Indexes Or Abstract Records. 2889
012. Procedural Rules. 2890
013. Premium Rates and Their Application. 2892
033. -- 999. (Reserved) 2898

18.06.01 – Rules Pertaining to Bail Agents
000. Legal Authority. 2899
001. Title And Scope. 2899
002. -- 011. (Reserved). 2899
012. Notification Requirements. 2899
013. Criminal History Checks. 2899
014. Stacking Of Bonds. 2899
015. Notification To Surety Of Forfeiture. 2899
016. (Reserved) 2899
017. Bail Agent Financing Of Bail Bond Premiums. 2899
018. Payment Of Forfeiture. 2900
019. -- 999. (Reserved) 2900

18.06.02 – Producers Handling of Fiduciary Funds
000. Legal Authority. 2901
001. Title And Scope. 2901
002. -- 009. (Reserved) 2901
010. Definitions. 2901
011. -- 013. (Reserved) 2901
014. Fiduciary Fund Account. 2901
015. Deposit Of Other Funds In Account. 2902
016. Types Of Accounts Permitted. 2902
017. Account Designation. 2903
018. Interest Earnings. 2903
019. Permissible Distribution Of Fiduciary Funds. 2903
020. -- 021. (Reserved) 2903
022. Timely Disbursement Of Fiduciary Funds. 2904
023. - 999. (Reserved) 2904

18.06.03 – Rules Governing Disclosure Requirements for Insurance Producers When Charging Fees
000. Legal Authority. 2905
001. Title And Scope. 2905
002. -- 010. (Reserved) 2905
011. Disclosure Requirements. 2905
012. -- 999. (Reserved) 2905

18.06.04 – Continuing Education
000. Legal Authority. 2906
001. Title And Scope. 2906
002. -- 009. (Reserved) 2906
010. Definitions. 2906
011. Applicability. 2906
012. Basic Requirements. 2906
013. Exceptions/Extensions. 2907
014. Continuing Education Advisory Committee. 2907

015. Program Requirements. 2907
016. Programs Which Qualify. 2908
017. Programs Which Do Not Qualify. 2909
018. Standards For Continuing Education Programs. 2909
019. Measurement Of Credit. 2909
020. Controls And Reporting. 2910
021. Approved Programs Of Study - Certification By Director. 2910
022. Proof Of Completion. 2911
023. Approved Subjects - Loss Of Certification. 2911
024. Credit For Individual Study Programs. 2912
025. Credit For Service As Lecturer, Discussion Leader, Or Speaker. 2912
026. Credit For Breakfast, Luncheon, Or Dinner Meetings. 2912
027. -- 999. (Reserved) 2912

18.06.05 – Managing General Agents

000. Legal Authority. 2913
001. Title And Scope. 2913
002. -- 009. (Reserved) 2913
010. Definitions. 2913
011. Notice Provisions. 2913
012. (Reserved) 2913
013. Security Payments. 2913
014. Independent Audit Or Examination. 2913
015. Termination Of Contract. 2914
016. -- 999. (Reserved) 2914

18.07.01 – Rules Pertaining to Acquisitions of Control, Insurance Holding Company Systems and Mutual Insurance Holding Companies

000. Legal Authority. 2915
001. Title And Scope. 2915
002. -- 009. (Reserved) 2915
010. Definitions. 2915
011. Forms -- General Requirements. 2916
012. Forms -- Incorporation By Reference, Summaries And Omissions. 2917
013. Forms -- Information Unknown Or Unavailable And Extension Of Time To Furnish. 2917
014. Forms -- Additional Information And Exhibits. 2917
015. Subsidiaries of Domestic Insurers. 2917
016. Acquisition Of Control -- Statement Filing. 2917
017. Amendments To Form A. 2917
018. Acquisition Of Section 41-3804(1)(d) Insurers. 2917
019. Pre-Acquisition Notification. 2918
020. Annual Registration Of Insurers -- Statement Filing. 2918
021. Summary Of Registration -- Statement Filing. 2918
022. Amendments To Form B. 2918
023. Alternative And Consolidated Registrations. 2918
024. Disclaimers And Termination Of Registration. 2918
025. Transactions Subject To Prior Notice - Notice Filing. 2919
026. Enterprise Risk Report. 2920
027. Extraordinary Dividends And Other Distributions. 2920
028. Adequacy Of Surplus. 2920
029. -- 050. (Reserved) 2921
051. Mutual Holding Company Application - Content - Process. 2921
052. Notice Of Hearing. 2921
053. Plan Of Reorganization. 2921

054. Duties Of The Director. ... 2922
055. Regulation - Compliance. ... 2923
056. Reorganization Of Mutual Insurer With Mutual Insurance Holding Company. ... 2923
057. Mergers Of Mutual Insurance Holding Companies. ... 2924
058. Stock Offerings. ... 2924
059. Banned MHC - Practices. ... 2926
060. Regulation Of Holding Company System. ... 2926
061. Reporting Of Stock Ownership And Transactions. ... 2926
062. -- 999. (Reserved) ... 2926

18.07.02 – Reserve Liabilities and Minimum Valuations for Annuities and Pure Endowment Contracts

000. Legal Authority. ... 2927
001. Title And Scope. ... 2927
002. -- 009. (Reserved) ... 2927
010. Definitions. ... 2927
011. Individual Annuity Or Pure Endowment Contracts. ... 2927
012. Group Annuity Or Pure Endowment Contracts. ... 2928
013. Formula. ... 2928
014. Application of the 2012 IAR Mortality Table. ... 2928
015. -- 999. (Reserved) ... 2929

18.07.03 – Valuation of Life Insurance Policies Including the Use of Select Mortality Factors

000. Legal Authority. ... 2930
001. Title And Scope. ... 2930
002. Incorporation By Reference. ... 2931
003. -- 009. (Reserved) ... 2931
010. Definitions. ... 2931
011. General Calculation Requirements For Basic Reserves And Premium Deficiency Reserves. ... 2934
012. Calculation Of Minimum Valuation Standard For Policies With Guaranteed Nonlevel Gross Premiums Or Guaranteed Nonlevel Benefits (Other Than Universal Life Policies). ... 2936
013. Calculation Of Minimum Valuation Standard For Flexible Premium And Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting In The Ability Of A Policy Owner To Keep A Policy In Force Over A Secondary Guarantee Period. ... 2939
014. -- 999. (Reserved) ... 2940

18.07.04 – Annual Financial Reporting

000. Legal Authority. ... 2941
001. Title And Scope. ... 2941
002. Incorporation By Reference. ... 2941
003. -- 009. (Reserved) ... 2941
010. Definitions. ... 2941
011. General Requirements Related To Filing And Extensions For Filing Of Annual Audited Financial Reports And Audit Committee Appointment. ... 2942
012. Contents Of Annual Audited Financial Report. ... 2943
013. Designation Of Independent Certified Public Accountant. ... 2943
014. Qualifications Of Independent Certified Public Accountant. ... 2944
015. Consolidated Or Combined Audits. ... 2946
016. Scope Of Audit And Report Of Independent Certified Public Accountant. ... 2947
017. Notification Of Adverse Financial Condition. ... 2947
018. Communication Of Internal Control Related Matters Noted In An Audit. ... 2947
019. Accountant's Letter Of Qualification. ... 2948
020. Definition, Availability And Maintenance Of Certified Public Accountants Workpapers. ... 2948

021. Requirements For Audit Committees. 2948
022. Conduct Of Insurer In Connection With The Preparation Of Requisite Reports And Documents. 2950
023. Management's Report Of Internal Control Over Financial Reporting. 2950
024. Exemptions And Effective Dates. 2952
025. Canadian And British Companies. 2952
026. Internal Audit Function Requirements. 2953
027. Minimum Reserve Standards. 2953
028. -- 999. (Reserved) 2953

18.07.05 – Director's Authority for Companies Deemed to be in Hazardous Financial Condition

000. Legal Authority. 2954
001. Title And Scope. 2954
002. Incorporation By Reference. 2954
003. -- 010. (Reserved) 2954
011. Standards. 2954
012. Director's Authority. 2955
013. -- 999. (Reserved) 2956

18.07.06 – Rules Governing Life and Health Reinsurance Agreements

000. Legal Authority. 2957
001. Title, Purpose And Scope. 2957
002. -- 010. (Reserved) 2957
011. Accounting Requirements. 2957
012. Written Agreements. 2961
013. Existing Agreements. 2961
014. -- 999. (Reserved) 2961

18.07.07 – Credit for Reinsurance Rules

000. Legal Authority. 2962
001. Title And Scope. 2962
002. Incorporation By Reference. 2962
003. -- 009. (Reserved) 2962
010. Definitions. 2962
011. Credit For Reinsurance – Reinsurer Licensed In This State. 2963
012. -- 020. (Reserved) 2963
021. Credit For Reinsurance -- Accredited Reinsurers. 2963
022. -- 030. (Reserved) 2964
031. Credit For Reinsurance -- Reinsurer Domiciled And Licensed In Another State. 2964
032. -- 040. (Reserved) 2964
041. Credit For Reinsurance -- Reinsurers Maintaining Trust Funds. 2964
042. Credit For Reinsurance – Certified Reinsurers. 2969
043. -- 050. (Reserved) 2975
051. Credit For Reinsurance Requisite By Law. 2975
052. -- 060. (Reserved) 2975
061. Asset Or Reduction From Liability For Reinsurance Ceded To An Unauthorized Assuming Insurer Not Meeting The Requirement Of Sections 011, 021, 031, 041, 042, And 051. 2976
062. -- 070. (Reserved) 2976
071. Trust Agreements Qualified Under IDAPA 18.07.08.061. 2976
072. -- 073. (Reserved) 2976
074. Requisite Conditions. 2976
075. Permitted Conditions. 2979
076. Additional Conditions Applicable To Reinsurance Agreements. 2979

077. -- 080. (Reserved) 2980
081. Letters Of Credit Qualified Under Section 061. 2981
082. -- 090. (Reserved) 2982
091. Other Security. 2982
092. -- 100. (Reserved) 2982
101. Reinsurance Contract. 2982
102. -- 150. (Reserved) 2983
151. Mandatory Forms. 2983
152. -- 999. (Reserved) 2983

18.07.08 – Property and Casualty Actuarial Opinion Rule

000. Legal Authority. 2984
001. Title And Scope. 2984
002. -- 020. (Reserved) 2984
021. Actuarial Opinion Of Reserves And Supporting Documentation. 2984
022. Confidentiality. 2984
023. -- 999. (Reserved) 2985

18.07.09 – Life and Health Actuarial Opinion and Memorandum Rule

000. Legal Authority. 2986
001. Title And Scope. 2986
002. -- 009. (Reserved) 2986
010. Definitions. 2986
011. -- 020. (Reserved) 2986
021. General Requirements. 2986
022. Statement Of Actuarial Opinion Based On An Asset Adequacy Analysis. 2988
023. Alternate Option. 2989
024. Description Of Actuarial Memorandum Including An Asset Adequacy Analysis And Regulatory Asset Adequacy Issues Summary. 2990
025. -- 999. (Reserved) 2993

18.07.10 – Corporate Governance Annual Disclosure

000. Legal Authority. 2994
001. Title And Scope. 2994
002. Incorporation By Reference. 2994
003. – 009. (Reserved) 2994
010. Definitions. 2994
011. Filing Procedures. 2994
012. Contents Of Corporate Governance Annual Disclosure. 2995
013. – 999. (Reserved) 2997

18.08.01 – Adoption of the International Fire Code

000. Legal Authority. 2998
001. Title And Scope. 2998
002. -- 009. (Reserved) 2998
010. Construction And Design Provisions, Section 102.1, International Fire Code. 2998
011. Department Of Fire Prevention, Section 103.2 -- Appointments, International Fire Code. 2998
012. General Authority And Responsibilities, Section 104.1, International Fire Code. 2998
013. -- 015. (Reserved) 2998
016. Permit Requisite, Section 105.1.1, International Fire Code. 2998
017. Violation Penalties, Section 109.4, International Fire Code. 2998
018. Failure To Comply, Section 111.4, International Fire Code. 2999
019. Section 202, International Fire Code. 2999
020. Sky Lanterns, Section 308.1.6.3, International Fire code. 2999
021. Chapter 5 Fire Service Features. 2999

022. -- 026. (Reserved) ... 3000
027. Alternative Automatic Fire-Extinguishing Systems, Section 904.1.1, International Fire Code. ... 3000
028. Portable Fire Extinguishers, Section 906.2.1, International Fire Code ... 3000
029. Fire Alarm And Detection Systems, Section 907.1, International Fire Code. ... 3001
030. Construction Requirements For Existing Buildings, Section 1101.1, International Fire Code. ... 3001
031. Explosives And Fireworks, Chapter 56, International Fire Code. ... 3001
032. -- 045. (Reserved) ... 3001
046. Underground Tanks Out Of Service For One Year, Section 5704.2.13.1.3 International Fire Code. ... 3001
047. -- 055. (Reserved) ... 3001
056. References To Appendix, International Fire Code. ... 3001
057. -- 999. (Reserved) ... 3001

18.01.02 – Schedule of Fees, Licenses, and Miscellaneous Charges

000. Legal Authority. ... 3003
001. Title And Scope. ... 3003
002. -- 010. (Reserved) ... 3003
011. Fees Payable In Advance. ... 3003
012. -- 019. (Reserved) ... 3003
020. Insurer Fees. ... 3003
021. -- 029. (Reserved) ... 3004
030. Producer And Miscellaneous Licensing Fees. ... 3005
031. -- 039. (Reserved) ... 3006
040. Miscellaneous Fees. ... 3006
041. -- 049. (Reserved) ... 3006
050. Refunds. ... 3006
051. Overpayments. ... 3006
052. -- 999. (Reserved) ... 3006

18.08.02 – Fire Protection Sprinkler Contractors

000. Legal Authority. ... 3007
001. Title And Scope. ... 3007
002. -- 009. (Reserved) ... 3007
010. Definitions. ... 3007
011. Powers And Duties Of The State Fire Marshal. ... 3007
012. Qualifications For Contractors License. ... 3008
013. License Requisite. ... 3008
014. License, Display, Renewals, Duplicates, Applications. ... 3008
015. Action On Applications And License Fees. ... 3008
016. Financial Responsibility. ... 3009
017. Revocation, Suspension, And Non-Renewal Of License. ... 3010
018. Hearings. ... 3010
019. Approved Equipment And Materials. ... 3010
020. Service Evidence. ... 3010
021. Design Requirements. ... 3011
022. Service Tag. ... 3011
023. Fitters. ... 3011
024. -- 999. (Reserved) ... 3012

IDAPA 19 – IDAHO STATE BOARD OF DENTISTRY

Docket No. 19-0101-1900F

19.01.01 – Rules of the Idaho State Board of Dentistry

000. Legal Authority. 3015
001. Title And Scope. 3015
002. Incorporation By Reference. 3015
003. -- 009. (Reserved) 3015
010. Definitions And Abbreviations. 3015
011. Application And License Fees. 3016
012. Examinations For Licensure. 3017
013. Requirements For Licensure. 3017
014. Requirement For BLS. 3017
015. Continuing Education Requirements. 3017
016. – 020. (Reserved) 3018
021. Provisional Licensure. 3018
022. Volunteer Dental Hygiene Services. 3018
023. Dental Hygienists – License Endorsements. 3018
024. Licensure Of Dental Specialists. 3019
025. Specialty Advertising. 3020
026. Patient Records. 3020
027. – 030. (Reserved) 3021
031. Infection Control. 3021
032. Emergency Medications Or Drugs. 3021
033. Dental Hygienists – Practice. 3021
034. Dental Hygienists – Prohibited Practice. 3022
035. Dental Assistants – Practice. 3023
036. – 040. (Reserved) 3023
041. Local Anesthesia. 3023
042. Nitrous Oxide/Oxygen. 3023
043. Minimal Sedation. 3023
044. Moderate Sedation, General Anesthesia And Deep Sedation. 3024
045. Sedation Permit Renewal. 3026
046. Suspension, Revocation Or Restriction Of Sedation Permit. 3027
047. Determination Of Degree Of Sedation By The Board. 3027
048. Use Of Other Anesthesia Personnel. 3027
049. Incident Reporting. 3027
050. – 054. (Reserved) 3027
055. Telehealth Services. 3027
056. Unprofessional Conduct. 3028
057. – 999. (Reserved) 3030

IDAPA 20 – IDAHO DEPARTMENT OF LANDS

Docket No. 20-0000-1900

20.01.01 – Rules of Practice and Procedure Before the State Board of Land Commissioners

000. Legal Authority. 3032
001. Title And Scope. 3032
002. Definitions. 3032
003. Filing Of Documents -- Number Of Copies. 3032
004. -- 049. (Reserved) 3033
050. Proceedings Governed. 3033
051. Reference To Agency. 3033
052. Liberal Construction. 3033
053. Communications With Agency. 3033
054. Identification Of Communications. 3033

055. Service By Agency. ... 3033
056. Computation Of Time. ... 3034
057. Fees And Remittances. ... 3034
058. -- 099. (Reserved) ... 3034
100. Informal Proceedings Defined. ... 3034
101. Informal Procedure. ... 3034
102. Further Proceedings. ... 3034
103. Informal Proceedings Do Not Exhaust Administrative Remedies. ... 3034
104. Formal Proceedings. ... 3034
105. -- 149. (Reserved) ... 3034
150. Parties To Contested Cases Listed. ... 3035
151. Applicants/Claimants/Appellants. ... 3035
152. Petitioners. ... 3035
153. Complainants. ... 3035
154. Respondents. ... 3035
155. Protestants. ... 3035
156. Intervenors. ... 3035
157. Rights Of Parties And Of Agency Staff. ... 3035
158. Persons Defined -- Persons Not Parties -- Interested Persons. ... 3035
159. -- 199. (Reserved) ... 3035
200. Initial Pleading By Party -- Listing Of Representatives. ... 3035
201. Taking Of Appearances -- Participation By Agency Staff. ... 3035
202. Representation Of Parties At Hearing. ... 3036
203. Service On Representatives Of Parties And Other Persons. ... 3036
204. Withdrawal Of Parties. ... 3036
205. Substitution Of Representative -- Withdrawal Of Representative. ... 3036
206. Conduct Required. ... 3036
207. -- 209. (Reserved) ... 3036
210. Pleadings Listed -- Miscellaneous. ... 3036
211. -- 219. (Reserved) ... 3037
220. Applications/Claims/Appeals -- Defined -- Form And Contents. ... 3037
221. -- 229. (Reserved) ... 3037
230. Petitions -- Defined -- Form And Contents. ... 3037
231. -- 239. (Reserved) ... 3037
240. Complaints -- Defined -- Form And Contents. ... 3037
241. -- 249. (Reserved) ... 3038
250. Protests -- Defined -- Form And Contents -- Time For Filing. ... 3038
251. -- 259. (Reserved) ... 3038
260. Motions -- Defined -- Form And Contents -- Time For Filing. ... 3038
261. -- 269. (Reserved) ... 3038
270. Answers -- Defined -- Form And Contents -- Time For Filing. ... 3038
271. -- 279. (Reserved) ... 3039
280. Consent Agreements -- Defined -- Form And Contents. ... 3039
281. -- 299. (Reserved) ... 3039
300. Filing Documents With The Agency -- Number Of Copies -- Facsimile Transmission (Fax). ... 3039
301. Form Of Pleadings. ... 3039
302. Service On Parties And Other Persons. ... 3040
303. Proof Of Service. ... 3040
304. Defective, Insufficient Or Late Pleadings. ... 3040
305. Amendments To Pleadings -- Withdrawal Of Pleadings. ... 3040
306. -- 349. (Reserved) ... 3040

350. Order Granting Intervention Necessary. 3040
351. Form And Contents Of Petitions To Intervene. 3041
352. Timely Filing Of Petitions To Intervene. 3041
353. Granting Petitions To Intervene. 3041
354. Orders Granting Intervention -- Opposition. 3041
355. Public Witnesses. 3041
356. -- 399. (Reserved) 3041
400. Form And Contents Of Petition For Declaratory Rulings. 3041
401. Notice Of Petition For Declaratory Ruling. 3041
402. Petitions For Declaratory Rulings To Be Decided By Order. 3042
403. -- 409. (Reserved) 3042
410. Appointment Of Hearing Officers. 3042
411. Hearing Officers Contrasted With Agency Head. 3042
412. Disqualification Of Officers Hearing Contested Cases. 3042
413. Scope Of Authority Of Hearing Officers. 3042
414. Presiding Officer(s). 3043
415. Challenges To Statutes. 3043
416. Review Of Rules. 3043
417. Ex Parte Communications. 3043
418. -- 499. (Reserved) 3044
500. Alternative Resolution Of Contested Cases. 3044
501. Neutrals. 3044
502. Confidentiality. 3044
503. -- 509. (Reserved) 3044
510. Purposes Of Prehearing Conferences. 3044
511. Notice Of Prehearing Conference. 3044
512. Record Of Conference. 3044
513. Orders Resulting From Prehearing Conference. 3044
514. Facts Disclosed Not Part Of The Record. 3045
515. -- 519. (Reserved) 3045
520. Kinds And Scope Of Discovery Listed. 3045
521. When Discovery Authorized. 3045
522. Rights To Discovery Reciprocal. 3045
523. Depositions. 3045
524. Production Requests Or Written Interrogatories And Requests For Admission. 3045
525. Subpoenas. 3045
526. Statutory Inspection, Examination, Investigation, Etc. -- Contrasted With Other Discovery. 3046
527. Answers To Production Requests Or Written Interrogatories And To Requests For Admission. 3046
528. Filing And Service Of Discovery-Related Documents. 3046
529. Exhibit Numbers. 3046
530. Prepared Testimony And Exhibits. 3046
531. Sanctions For Failure To Obey Order Compelling Discovery. 3046
532. Protective Orders. 3046
533. -- 549. (Reserved) 3046
550. Notice Of Hearing. 3046
551. Facilities At Or For Hearing And ADA Requirements. 3046
552. How Hearings Held. 3047
553. Conduct At Hearings. 3047
554. Conference At Hearing. 3047
555. Preliminary Procedure At Hearing. 3047

556. Consolidation Of Proceedings. 3047
557. Stipulations. 3047
558. Order Of Procedure. 3047
559. Testimony Under Oath. 3047
560. Parties And Persons With Similar Interests. 3047
561. Continuance Of Hearing. 3047
562. Rulings At Hearings. 3047
563. Oral Argument. 3048
564. Briefs -- Memoranda -- Proposed Orders Of The Parties -- Statements Of Position -- Proposed Order Of The Presiding Officer. 3048
565. Procedure On Prehearing Motions. 3048
566. Joint Hearings. 3048
567. -- 599. (Reserved) 3048
600. Rules Of Evidence -- Evaluation Of Evidence. 3048
601. Documentary Evidence. 3048
602. Official Notice -- Agency Staff Memoranda. 3048
603. Depositions. 3048
604. Objections -- Offers Of Proof. 3048
605. Prepared Testimony. 3049
606. Exhibits. 3049
607. -- 609. (Reserved) 3049
610. Confidentiality Of Settlement Negotiations. 3049
611. Suggestion For Or Inquiry About Settlements. 3049
612. Consideration Of Settlements. 3049
613. Burdens Of Proof. 3049
614. Settlement Not Binding. 3049
615. -- 649. (Reserved) 3049
650. Record For Decision. 3050
651. Recording Of Hearings. 3050
652. -- 699. (Reserved) 3050
700. Notice Of Proposed Default After Failure To Appear. 3050
701. Seven Days To Challenge Proposed Default Order. 3050
702. Issuance Of Default Order. 3050
703. -- 709. (Reserved) 3051
710. Interlocutory Orders. 3051
711. Review Of Interlocutory Orders. 3051
712. -- 719. (Reserved) 3051
720. Recommended Orders. 3051
721. -- 729. (Reserved) 3051
730. Preliminary Orders. 3051
731. -- 739. (Reserved) 3052
740. Final Orders. 3052
741. -- 749. (Reserved) 3053
750. Order Not Designated. 3053
751. -- 759. (Reserved) 3053
760. Modification Of Order On Presiding Officer's Own Motion. 3053
761. -- 769. (Reserved) 3053
770. Clarification Of Orders. 3053
771. -- 779. (Reserved) 3054
780. Stay Of Orders. 3054
781. -- 999. (Reserved) 3054

20.02.01 – Rules Pertaining to the Idaho Forest Practices Act

000. Legal Authority. 3055
001. Title And Scope. 3055
002. -- 009. (Reserved) 3055
010. Definitions. 3055
011. -- 019. (Reserved) 3061
020. General Rules. 3061
021. -- 029. (Reserved) 3063
030. Timber Harvesting. 3063
031. Cumulative Watershed Effects. 3066
032. -- 039. (Reserved) 3067
040. Road Construction, Reconstruction And Maintenance. 3067
041. -- 049. (Reserved) 3072
050. Residual Stocking And Reforestation. 3072
051. -- 059. (Reserved) 3074
060. Use Of Chemicals And Petroleum Products. 3074
061. -- 069. (Reserved) 3076
070. Slashing Management. 3076
071. Prescribed Fire. 3080
072. -- 999. (Reserved) 3081

20.04.01 – Rules Pertaining to Forest Fire Protection

000. Authority. 3082
001. Title And Scope. 3082
002. Incorporation By Reference. 3082
003. -- 009. (Reserved) 3082
010. Definitions. 3082
011. -- 019. (Reserved) 3083
020. Variance. 3083
021. -- 029. (Reserved) 3083
030. Standards For Fire Protection By Individuals. 3083
031. -- 039. (Reserved) 3084
040. Costs Of Fire Suppression And Protection. 3084
041. -- 049. (Reserved) 3084
050. Burners. 3084
051. -- 059. (Reserved) 3084
060. Burning Permits. 3084
061. -- 069. (Reserved) 3085
070. Permit To Enter Closed Area. 3085
071. -- 079. (Reserved) 3085
080. Spark Arresters. 3085
081. -- 089. (Reserved) 3085
090. Smoking In The Woods. 3085
091. -- 099. (Reserved) 3085
100. Fire Tools And Fire Extinguishers. 3085
101. -- 109. (Reserved) 3086
110. Fire Crews. 3086
111. -- 119. (Reserved) 3086
120. Restricted Activities. 3086
121. -- 129. (Reserved) 3087
130. Water Supply And Equipment. 3087
131. -- 139. (Reserved) 3087
140. Fire Watch Service. 3087
141. -- 149. (Reserved) 3088

150. Operation Area Fire Prevention. 3088
151. -- 999. (Reserved) 3088

20.02.14 – Rules for Selling Forest Products on State-Owned Endowment Lands
000. Legal Authority. 3091
001. Title And Scope. 3091
002. Incorporation By Reference. 3091
003. -- 009. (Reserved) 3091
010. Definitions. 3091
011. -- 018. (Reserved) 3091
019. Firewood And Other Personal Use Product Permits. 3091
020. Direct Sales. 3091
021. Timber Sales. 3092
022. -- 025. (Reserved) 3092
026. Annual Sales Plan. 3092
027. -- 030. (Reserved) 3092
031. Timber Sale Auctions. 3092
032. Initial Deposit And Bonds. 3092
033. -- 040. (Reserved) 3092
041. Stumpage And Interest Payment. 3092
042. Timber Sale Cancellation. 3093
043. Premature Timber Sale Termination. 3093
044. -- 999. (Reserved) 3093

20.03.01 – Rules Governing Dredge and Placer Mining Operations in Idaho
000. Legal Authority. 3094
001. Title and Scope. 3094
002. Administrative Appeals. 3094
003. -- 009. (Reserved) 3094
010. Definitions. 3094
011. Abbreviations. 3096
012. Purpose And General Provisions. 3096
013. Applicability. 3097
014. -- 019. (Reserved) 3098
020. Placer Or Dredge Exploration Operations. 3098
021. Application Procedure For Placer Or Dredge Mining Permit. 3099
022. Procedures For Review And Decision Upon An Application. 3102
023. -- 024. (Reserved) 3103
025. Amending An Approved Permit. 3103
026. Deviation From An Approved Permit. 3103
027. Transfer Of Permits. 3103
028. -- 029. (Reserved) 3103
030. Public Hearing For Permit Application. 3103
031. -- 034. (Reserved) 3104
035. Performance Bond Requirements. 3104
036. -- 039. (Reserved) 3107
040. Best Management Practices And Reclamation For Placer And Dredge Mining Operation. 3107
041. -- 049. (Reserved) 3112
050. Termination Of A Permit. 3112
051. Enforcement And Failure To Comply. 3113
052. -- 054. (Reserved) 3115
055. Computation Of Time. 3115
056. -- 059. (Reserved) 3115

060. Placer Or Dredge Mining Of Certain Waterbodies Prohibited. ... 3115
061. -- 064. (Reserved) ... 3116
065. Deposit Of Forfeitures And Damages. ... 3116
066. -- 069. (Reserved) ... 3116
070. Compliance Of Existing Plans With These Rules. ... 3116
071. -- 999. (Reserved) ... 3116

20.03.02 – Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities

000. Legal Authority. ... 3117
001. Title And Scope. ... 3117
002. -- 009. (Reserved) ... 3118
010. Definitions. ... 3118
011. -- 059. (Reserved) ... 3123
060. Exploration Operations And Required Reclamation. ... 3123
061. -- 068. (Reserved) ... 3124
069. Application Procedure And Requirements For Quarries, Decorative Stone, Building Stone, And Aggregate Materials Including Sand, Gravel And Crushed Rock. ... 3124
070. Application Procedure And Requirements For Other Surface Mining Operations Including Hardrock And Phosphate Mining. ... 3126
071. Application Procedure And Requirements For Permanent Closure Of Cyanidation Facilities. ... 3127
072. -- 079. (Reserved) ... 3130
080. Procedures For Review And Decision Upon An Application To Perform Surface Mining, Reclamation, And Ore Processing Using Cyanide. ... 3130
081. -- 089. (Reserved) ... 3133
090. Amending An Approved Reclamation Plan. ... 3133
091. Amending An Approved Permanent Closure Plan. ... 3133
092. -- 099. (Reserved) ... 3134
100. Deviation From An Approved Reclamation Plan. ... 3134
101. -- 109. (Reserved) ... 3134
110. Public Hearing. ... 3134
111. Completion Of Permanent Closure. ... 3135
112. Decision To Approve Or Disapprove Of A Permanent Closure Report. ... 3136
113. -- 119. (Reserved) ... 3137
120. Performance Bond Requirements For Surface Mining. ... 3137
121. Performance Bond Requirements For Cyanidation Facilities. ... 3139
122. Form Of Performance Bond. ... 3140
123. Forfeiture Of Bond. ... 3141
124. -- 129. (Reserved) ... 3141
130. Transfer Of Approved Plans. ... 3141
131. -- 139. (Reserved) ... 3142
140. Best Management Practices And Reclamation For Surface Mining Operation And Permanent Closure Of Cyanidation Facilities. ... 3142
141. -- 149. (Reserved) ... 3148
150. Termination Of A Plan. ... 3148
151. -- 159. (Reserved) ... 3148
160. Enforcement And Failure To Comply. ... 3148
161. -- 169. (Reserved) ... 3149
170. Computation Of Time. ... 3149
171. -- 179. (Reserved) ... 3149
180. Public And Confidential Information. ... 3149
181. -- 189. (Reserved) ... 3149
190. Deposit Of Forfeitures And Damages. ... 3149

191. -- 199. (Reserved) 3149
200. Compliance Of Existing Reclamation Plans. 3149
201. -- 999. (Reserved) 3149

20.03.03 – Rules Governing Administration of the Reclamation Fund

000. Legal Authority. 3150
001. Title And Scope. 3150
002. Administrative Appeals. 3150
003. -- 009. (Reserved) 3150
010. Definitions. 3150
011. -- 015. (Reserved) 3151
016. Required Participants. 3151
017. Ineligible Mines Or Operators. 3151
018. Acreage And Reclamation Cost Limitations. 3152
019. Optional Participation. 3152
020. Federal Agency Non-Acceptance Of Reclamation Fund. 3152
021. -- 025. (Reserved) 3153
026. Payment. 3153
027. -- 030. (Reserved) 3153
031. Enforcement And Failure To Comply. 3153
032. Minimum Balance For The Reclamation Fund. 3153
033. -- 999. (Reserved) 3153

20.03.04 – Rules for the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

000. Legal Authority. 3154
001. Title And Scope. 3154
002. Administrative Appeals. 3154
003. Incorporation By Reference. 3154
004. -- 009. (Reserved) 3154
010. Definitions. 3154
011. Abbreviations. 3157
012. Policy. 3157
013. -- 014. (Reserved) 3157
015. Encroachment Standards. 3157
016. -- 019. (Reserved) 3163
020. Applications. 3163
021. -- 024. (Reserved) 3166
025. Processing Of Applications For Single-Family And Two-Family Navigational Encroachments Within Line Of Navigability. 3166
026. -- 029. (Reserved) 3167
030. Processing Of Applications For All Other Types Of Encroachments. 3167
031. -- 034. (Reserved) 3169
035. Temporary Permits. 3169
036. -- 049. (Reserved) 3169
050. Recordation. 3169
051. -- 054. (Reserved) 3169
055. Leases And Easements. 3169
056. -- 059. (Reserved) 3169
060. Installation. 3169
061. -- 064. (Reserved) 3170
065. Assignments. 3170
066. -- 069. (Reserved) 3170
070. Miscellaneous. 3170

071. -- 079. (Reserved) 3171
080. Violations - Penalties. 3171
081. -- 999. (Reserved) 3172
20.03.05 – Riverbed Mineral Leasing in Idaho
000. Authority. 3173
001. Title And Scope. 3173
002. -- 009. (Reserved) 3173
010. Definitions. 3173
011. -- 014. (Reserved) 3174
015. Casual Exploration And Recreational Mining. 3174
016. Exploration Locations. 3174
017. -- 019. (Reserved) 3175
020. Riverbed Mineral Lease. 3175
021. -- 024. (Reserved) 3175
025. Public Notice And Hearing. 3175
026. -- 029. (Reserved) 3175
030. Rental And Royalty And Late Payments. 3175
031. Size And Composition Of Leasable Tract. 3176
032. -- 034. (Reserved) 3176
035. Assignments. 3176
036. -- 039. (Reserved) 3176
040. Bond. 3176
041. -- 044. (Reserved) 3177
045. Fees. 3177
046. -- 999. (Reserved) 3177
20.03.08 – Easements on State-Owned Lands
000. Legal Authority. 3178
001. Title And Scope. 3178
002. Administrative Appeals. 3178
003. -- 009. (Reserved) 3178
010. Definitions. 3178
011. -- 019. (Reserved) 3178
020. Policy. 3178
021. Fees And Compensation. 3179
022. -- 024. (Reserved) 3180
025. Easement Amendment. 3180
026. -- 029. (Reserved) 3180
030. Emergency Work. 3180
031. -- 034. (Reserved) 3180
035. Cooperative Use And Reciprocal Use Agreements. 3180
036. -- 039. (Reserved) 3181
040. Assignments. 3181
041. Abandonment, Relinquishment, And Termination. 3181
042. -- 045. (Reserved) 3181
046. Procedure. 3181
047. Easements On State Land Under Land Sale Contract. 3182
048. -- 999. (Reserved) 3182
20.03.09 – Easements on State-Owned Submerged Lands and Formerly Submerged Lands
000. Legal Authority. 3183
001. Title And Scope. 3183

002. (Reserved) 3183
003. Administrative Appeals. 3183
004. -- 009. (Reserved) 3183
010. Definitions. 3183
011. Policy. 3184
012. -- 019. (Reserved) 3185
020. Fees And Compensation. 3185
021. -- 029. (Reserved) 3186
030. Term Of Easement. 3186
031. -- 039. (Reserved) 3186
040. Use, Facility, Or Structure Modification. 3186
041. -- 049. (Reserved) 3186
050. Assignments. 3186
051. -- 059. (Reserved) 3186
060. Abandonment, Relinquishment, And Termination. 3186
061. -- 069. (Reserved) 3187
070. Procedure. 3187
071. -- 079. (Reserved) 3188
080. Easement Access And Emergency Work. 3188
081. -- 999. (Reserved) 3188

20.03.13 – Administration of Cottage Site Leases on State Lands

000. Legal Authority. 3189
001. Title And Scope. 3189
002. -- 009. (Reserved) 3189
010. Definitions. 3189
011. -- 019. (Reserved) 3189
020. Sale And Assignment - Required Documentation. 3189
021. -- 024. (Reserved) 3189
025. Lease Rate Determination -- Annual Rental. 3189
026. -- 999. (Reserved) 3189

20.03.14 – Rules Governing Grazing, Farming, Conservation, Noncommercial Recreation, and Communication Site Leases

000. Legal Authority. 3190
001. Title And Scope. 3190
002. Administrative Appeals. 3190
003. -- 009. (Reserved) 3190
010. Definitions. 3190
011. -- 018. (Reserved) 3191
019. Lessee Mailing Address. 3191
020. Applications And Processing. 3191
021. Length Of Lease. 3193
022. -- 029. (Reserved) 3193
030. Change In Land Use. 3193
031. -- 039. (Reserved) 3193
040. Rental. 3193
041. Change Of Rental. 3194
042. Late Payments. 3194
043. -- 048. (Reserved) 3194
049. Breach. 3194
050. Lease Cancellation. 3194
051. Lease Adjustments. 3194
052. Extensions Of Annual Farming Lease Payment. 3194

053. -- 059. (Reserved) ... 3195
060. Fees. ... 3195
061. -- 069. (Reserved) ... 3195
070. Subleasing. ... 3195
071. Assignments. ... 3195
072. Mortgage Agreements. ... 3195
073. -- 079. (Reserved) ... 3195
080. Management Plans. ... 3195
081. -- 089. (Reserved) ... 3195
090. Trespass. ... 3195
091. -- 099. (Reserved) ... 3196
100. Construction And Maintenance Of Improvements. ... 3196
101. Improvement Credit. ... 3196
102. Valuation Of Improvements. ... 3197
103. -- 104. (Reserved) ... 3197
105. Conflict Auctions. ... 3197
106. Board Review Of Auction. ... 3198
107. -- 110. (Reserved) ... 3198
111. Noxious Weed Control. ... 3198
112. Livestock Quarantine. ... 3199
113. Animal Damage Control. ... 3199
114. Liability (Indemnity). ... 3199
115. Rules And Laws Of The State. ... 3199
116. -- 999. (Reserved) ... 3199

20.03.15 – Rules Governing Geothermal Leasing on Idaho State Lands

000. Legal Authority. ... 3200
001. Title And Scope. ... 3200
002. Administrative Appeals. ... 3200
003. -- 009. (Reserved) ... 3200
010. Definitions. ... 3200
011. Abbreviations. ... 3202
012. -- 019. (Reserved) ... 3202
020. Qualified Applicants And Lessees. ... 3202
021. Lease Award Through Auction. ... 3202
022. -- 029. (Reserved) ... 3202
030. Term. ... 3202
031. -- 034. (Reserved) ... 3202
035. Rentals. ... 3202
036. Royalties. ... 3202
037. -- 039. (Reserved) ... 3204
040. Size Of A Leasable Tract. ... 3204
041. -- 049. (Reserved) ... 3204
050. Land Surface Use Rights And Obligations. ... 3204
051. -- 053. (Reserved) ... 3204
054. Exploration Under The Lease. ... 3205
055. Development And Production Under The Lease. ... 3205
056. Waste Prevention, Drilling And Production Obligations. ... 3206
057. -- 059. (Reserved) ... 3207
060. Exploration And Operation Records, Confidentiality. ... 3207
061. -- 064. (Reserved) ... 3207
065. Lessee's Records, Right Of Inspection By Department. ... 3207
066. -- 069. (Reserved) ... 3207

070. Water Rights. 3207
071. -- 074. (Reserved) 3208
075. Assignments. 3208
076. -- 079. (Reserved) 3209
080. Overriding Royalty Interests. 3209
081. -- 084. (Reserved) 3209
085. Unit Or Cooperative Plans Of Development Or Operation. 3209
086. -- 094. (Reserved) 3210
095. Surrender, Termination, Expiration Of Lease. 3210
096. -- 099. (Reserved) 3211
100. Bond Requirements. 3211
101. Liability Insurance. 3211
102. -- 104. (Reserved) 3212
105. Title. 3212
106. -- 110. (Reserved) 3212
111. Taxes. 3212
112. Rental Notices. 3212
113. Outstanding Leases. 3212
114. -- 119. (Reserved) 3212
120. Fees. 3212
121. -- 999. (Reserved) 3212

20.03.16 – Rules Governing Oil and Gas Leasing on Idaho State Lands

000. Legal Authority. 3213
001. Title And Scope. 3213
002. Administrative Appeals. 3213
003. -- 009. (Reserved) 3213
010. Definitions. 3213
011. -- 014. (Reserved) 3215
015. Control Of State Lands. 3215
016. Withdrawal Of Lands. 3215
017. -- 019. (Reserved) 3215
020. Qualified Applicants And Lessees. 3215
021. Exploration. 3215
022. Lease Acquisition Process. 3215
023. -- 044. (Reserved) 3217
045. Royalties. 3217
046. -- 049. (Reserved) 3218
050. Land Use, Surface Rights And Obligations. 3218
051. Diligent Exploration Required. 3219
052. -- 054. (Reserved) 3219
055. Operations Under The Lease. 3219
056. Water Rights. 3220
057. -- 059. (Reserved) 3220
060. Assignments. 3220
061. -- 069. (Reserved) 3221
070. Surrender - Relinquishment. 3221
071. Termination - Cancellation Of Lease. 3221
072. -- 079. (Reserved) 3222
080. Bond Requirements. 3222
081. -- 089. (Reserved) 3223
090. Unit Or Cooperative Plans Of Development Or Operation. 3223
091. -- 094. (Reserved) 3224

095. Liability Insurance; Special Endorsements. 3224
096. Hold Harmless. 3225
097. -- 099. (Reserved) 3225
100. Title. 3225
101. Impossibility Of Performance. 3225
102. Taxes. 3225
103. -- 119. (Reserved) 3225
120. Fees. 3225
121. -- 999. (Reserved) 3225

20.03.17 – Rules Governing Leases on State-Owned Submerged Lands and Formerly Submerged Lands

000. Legal Authority. 3226
001. Title And Scope. 3226
002. Administrative Appeals. 3226
003. -- 009. (Reserved) 3226
010. Definitions. 3226
011. -- 019. (Reserved) 3227
020. Applicability. 3227
021. -- 024. (Reserved) 3228
025. Policy. 3228
026. -- 029. (Reserved) 3229
030. Lease Application, Fee, And Procedure. 3229
031. -- 034. (Reserved) 3229
035. Rental. 3230
036. Yearly Reporting. 3230
037. -- 039. (Reserved) 3230
040. Late Payment, Extensions Of Payment. 3230
041. -- 044. (Reserved) 3230
045. Appraisal Procedures. 3230
046. -- 049. (Reserved) 3231
050. Lease Modification Or Amendment. 3231
051. -- 054. (Reserved) 3231
055. Assignments, Assignment Fee. 3231
056. -- 059. (Reserved) 3231
060. Cancellation And Additional Remedies. 3231
061. -- 064. (Reserved) 3232
065. Bond. 3232
066. -- 069. (Reserved) 3232
070. Liability And Indemnity. 3232
071. -- 074. (Reserved) 3232
075. Other Rules And Laws. 3232
076. -- 079. (Reserved) 3232
080. Binding On Heirs. 3233
081. -- 084. (Reserved) 3233
085. Civil Rights. 3233
086. -- 999. (Reserved) 3233

20.04.02 – Rules Pertaining to the Idaho Forestry Act and Fire Hazard Reduction Laws

000. Legal Authority. 3234
001. Title And Scope. 3234
002. -- 009. (Reserved) 3234
010. Definitions. 3234

011. -- 029. (Reserved) 3235
030. Certificate Of Compliance-Fire Hazard Management Agreement. 3235
031. -- 039. (Reserved) 3235
040. Addendum To Certificate Of Compliance-Fire Hazard Management Agreement. 3235
041. -- 049. (Reserved) 3235
050. Bond. 3235
051. -- 059. (Reserved) 3236
060. Contracts With Forest Landowners Or Operators. 3236
061. -- 069. (Reserved) 3236
070. Cash Bond Release. 3236
071. -- 079. (Reserved) 3236
080. Added Protection In Lieu Of Hazard Reduction. 3236
081. -- 089. (Reserved) 3236
090. Purchaser Requirements. 3237
091. -- 099. (Reserved) 3237
100. Injunction Against Further Cutting. 3237
101. -- 109. (Reserved) 3237
110. Burning Of Slash. 3237
111. -- 119. (Reserved) 3237
120. Standards -- Treatment Of Hazards. 3237
121. -- 129. (Reserved) 3241
130. Liability. 3241
131. -- 139. (Reserved) 3242
140. Certificate Of Clearance. 3242
141. -- 149. (Reserved) 3242
150. Fire Suppression And Forest Practices Assessment. 3242
151. -- 159. (Reserved) 3243
160. Prelogging Conference And Agreement. 3243
161. -- 999. (Reserved) 3243

20.06.01 – Rules of the Idaho Board of Scaling Practices

000. Legal Authority. 3244
001. Title And Scope. 3244
002. Incorporation By Reference. 3244
003. -- 009. (Reserved) 3244
010. Definitions. 3244
011. -- 049. (Reserved) 3245
050. Assessment. 3245
051. -- 059. (Reserved) 3245
060. Log Brands. 3245
061. -- 069. (Reserved) 3245
070. Prize Logs. 3246
071. -- 099. (Reserved) 3246
100. Payment For Logging Or Hauling. 3246
101. -- 199. (Reserved) 3246
200. Licenses. 3246
201. -- 219. (Reserved) 3246
220. Apprenticeship Certificate. 3246
221. -- 239. (Reserved) 3246
240. Temporary Permit. 3246
241. -- 259. (Reserved) 3247
260. Specialty License. 3247
261. -- 279. (Reserved) 3247

280. Standard License. ... 3247
281. -- 299. (Reserved) ... 3247
300. Standard License Examination. ... 3247
301. -- 399. (Reserved) ... 3248
400. Renewal Of Standard And Specialty Licenses. ... 3248
401. -- 499. (Reserved) ... 3248
500. Method Of Scaling Forest Products For Commercial Purposes. ... 3248
501. Gross Volume Conversions. ... 3249
502. General Scaling Requirements. ... 3249
503. Gross Decimal “C” Scale Determination. ... 3249
504. Net Decimal “C” Scale Determination. ... 3249
505. -- 799. (Reserved) ... 3249
800. Check Scaling Procedures. ... 3249
801. -- 809. (Reserved) ... 3250
810. Check Scaling Standards Of Variation. ... 3250
811. -- 819. (Reserved) ... 3251
820. Requested Check Scale. ... 3251
821. -- 829. (Reserved) ... 3251
830. Check Scale Report. ... 3251
831. -- 909. (Reserved) ... 3251
910. Informal Hearings -- Scope And Authority. ... 3251
911. -- 919. (Reserved) ... 3252
920. Complaints. ... 3252
921. -- 929. (Reserved). ... 3252
930. Response To Complaint. ... 3252
931. Access To Records. ... 3252
932. -- 939. (Reserved). ... 3252
940. Conduct Of Informal Hearings. ... 3252
941. -- 949. (Reserved) ... 3253
950. Time For Board Determination. ... 3253
951. -- 959. (Reserved). ... 3253
960. Final Determination. ... 3253
961. -- 969. (Reserved). ... 3253
970. Board Action Upon Determination Of Probable Violation. ... 3253
971. -- 999. (Reserved). ... 3253

20.07.02 – Rules Governing Conservation of Oil and Natural Gas in the State of Idaho

000. Legal Authority. ... 3254
001. Title And Scope. ... 3254
002. Administrative Appeals. ... 3254
003. Incorporation By Reference. ... 3254
004. -- 009. (Reserved) ... 3255
010. Definitions. ... 3255
011. Abbreviations. ... 3258
012. -- 014. (Reserved) ... 3259
015. Protection Of Correlative Rights. ... 3259
016. -- 019. (Reserved) ... 3259
020. Applicability. ... 3259
021. Class II Injection wells. ... 3259
022. -- 029. (Reserved) ... 3259
030. Notices - General. ... 3259
031. Forms. ... 3259

032. Organization Reports. 3260
033. Designation Of Agent. 3260
034. -- 039. (Reserved) 3260
040. Public Comment. 3260
041. -- 049. (Reserved) 3260
050. Enforcement. 3260
051. -- 099. (Reserved) 3260
100. Geophysical Operations. 3260
101. -- 199. (Reserved) 3265
200. Permit To Drill, Deepen, Or Plug Back. 3265
201. Multiple Zone Completions. 3266
202. -- 209. (Reserved) 3266
210. Well Treatments. 3266
211. Hydraulic Fracturing. 3270
212. -- 219. (Reserved) 3271
220. Bonding. 3271
221. Transfer Of Drilling Permits. 3272
222. -- 229. (Reserved) 3272
230. Pit Requirements. 3272
231. -- 299. (Reserved) 3276
300. Identification Of Wells. 3276
301. Well Site Operations. 3276
302. Accidents And Fires. 3276
303. -- 309. (Reserved) 3277
310. General Drilling Rules. 3277
311. Loss Of Tool With Radioactive Material. 3280
312. Chokes. 3280
313. Use Of Earthen Reservoirs. 3280
314. Vacuum Pumps Prohibited. 3280
315. Pulling Outside Strings Of Casing. 3280
316. -- 319. (Reserved) 3281
320. Mechanical Integrity Testing. 3281
321. -- 329. (Reserved) 3281
330. Well Directional Control. 3282
331. -- 339. (Reserved) 3283
340. Well Completion/Recompletion Report And Well Report. 3283
341. Drilling Logs. 3283
342. -- 399. (Reserved) 3283
400. Production Reports. 3283
401. Measurement Of Oil. 3283
402. Measurement Of Gas. 3284
403. Gas-Oil Ratio For Well Classifications. 3284
404. Gas-Oil Ratio Limitation. 3284
405. Gas-Oil Ratio Surveys And Reports. 3284
406. -- 409. (Reserved) 3285
410. Meters. 3285
411. Separators. 3285
412. Producing From Different Pools Through The Same Casing String. 3285
413. Gas Utilization. 3285
414. -- 419. (Reserved) 3285
420. Tank Batteries. 3285
421. -- 429. (Reserved) 3286

430. Gas Processing Facilities. 3286
431. -- 499. (Reserved) 3286
500. Active Wells. 3287
501. Inactive Wells. 3287
502. Well Plugging. 3287
503. -- 509. (Reserved) 3289
510. Surface Reclamation. 3289
511. -- 999. (Reserved) 3291

IDAPA 21 – IDAHO DIVISION OF VETERANS SERVICES

Docket No. 21-0000-1900

21.01.06 – Rules for the Enforcement of the Veteran's Preference in Public Employment
000. Legal Authority. 3293
001. Title And Scope. 3293
002. -- 009. (Reserved) 3293
010. Definitions. 3293
011. -- 099. (Reserved) 3293
100. Hearing Requests. 3293
101. Hearing Notices. 3294
102. Prehearing Procedure. 3294
103. Procedure At Hearing. 3294
104. Final Order. 3295
105. -- 200. (Reserved) 3296
201. Alternative Processes. 3296
202. -- 300. (Reserved) 3297
301. Appeal To District Court. 3297
302. Transfer Of Hearing Record To District Court. 3297
303. -- 999. (Reserved) 3297
21.01.01 – Rules Governing Admission, Residency, and Maintenance Charges in Idaho State Veterans Homes and Division of Veterans Services Administrative Procedure
000. Legal Authority. 3299
001. Title And Scope. 3299
002. Policy. 3299
003. Incorporation By Reference. 3299
004. -- 009. (Reserved) 3299
010. Definitions. 3299
011. -- 049. (Reserved) 3300
050. Administrative Powers. 3300
051. -- 074. (Reserved) 3301
075. Administrative Duties. 3301
076. -- 099. (Reserved) 3301
100. Eligibility Requirements. 3301
101. -- 149. (Reserved) 3303
150. Application Procedure. 3303
151. -- 199. (Reserved) 3303
200. Conditions For Admission. 3303
201. Weapons. 3304
202. Acknowledgment Of Conditions Leading To Discharge. 3304
203. -- 299. (Reserved) 3304
300. Conduct Of Residents. 3304
301. -- 349. (Reserved) 3305

350. Transfer And Discharge Of Residents. 3306
351. (Reserved) 3306
352. Unauthorized Absences -- Residential And Domiciliary Care. 3306
353. -- 850. (Reserved) 3307
851. Available Services. 3307
852. -- 879. (Reserved) 3308
880. Financial Condition Of Applicants/Residents. 3308
881. -- 914. (Reserved) 3308
915. Maintenance Charges. 3308
916. Monthly Charges And Allowances. 3310
917. -- 949. (Reserved) 3311
950. Financial Grounds For Rejection Or Discharge. 3311
951. -- 979. (Reserved) 3311
980. Notice Of Resident Transfer Or Discharge And Notice Of Denial Of An Application For Residency. 3311
981. Appeal Procedure. 3313
982. Provisions For Contested Cases. 3313
983. Prehearing Provisions For Residential And Domiciliary Care. 3314
984. Hearing Provisions For Residential And Domiciliary Care. 3316
985. Post Hearing Provisions For Residential And Domiciliary Care. 3319
986. -- 999. (Reserved) 3319

21.01.04 – Rules Governing the Idaho State Veterans Cemetery

000. Legal Authority. 3320
001. Title And Scope. 3320
002. Incorporation By Reference. 3320
003. -- 009. (Reserved) 3320
010. Definitions. 3320
011. -- 019. (Reserved) 3321
020. Eligibility For Interment. 3321
021. Application For Interment. 3321
022. Interment And Reinterment. 3322
023. Disinterment And Reinterment. 3322
024. Fees For Interment, Disinterment, And Reinterment. 3322
025. -- 029. (Reserved) 3323
030. Cemetery Use. 3323
031. -- 039. (Reserved) 3323
040. Memorials And Donations. 3323
041. -- 049. (Reserved) 3323
050. Public Behavior In The Cemetery. 3323
051. -- 999. (Reserved) 3324

IDAPA 22 – BOARD OF MEDICINE

Docket No. 22-0000-1900

22.01.05 – General Provisions of the Board of Medicine

000. Legal Authority. 3326
001. Title And Scope. 3326
002. -- 099. (Reserved) 3326
100. General Qualifications For Licensure. 3326
101. License Or Permit Expiration And Renewal. 3326
102. License By Endorsement. 3326
103. Provisional Licensure. 3327
104. Inactive License 3327

105. -- 149. (Reserved) ... 3327
150. Additional Grounds For Suspension, Revocation, Disciplinary Sanctions Or Denial Or Restriction Of A License. ... 3328
151. Complaints. ... 3329
152. Notice. ... 3329
153. On Site Review. ... 3329
154. -- 200. (Reserved) ... 3329
201. Definitions Pertaining To Telehealth Services In Idaho. ... 3329
202. Idaho License Required. ... 3330
203. Provider-Patient Relationship. ... 3330
204. Standard Of Care. ... 3330
205. Informed Consent. ... 3330
206. Medical Records. ... 3331
207. -- 999. (Reserved) ... 3331

22.01.01 – Rules of the Board of Medicine for the Licensure to Practice Medicine and Osteopathic Medicine in Idaho

000. Legal Authority. ... 3333
001. Title And Scope. ... 3333
002. -- 009. (Reserved) ... 3333
010. Definitions. ... 3333
011. Abbreviations. ... 3333
012. -- 049. (Reserved) ... 3333
050. General Qualifications For Licensure And Renewal. ... 3333
051. Licensure For Graduates Of International Medical Schools Located Outside Of The United States And Canada. ... 3334
052. Graduates Of Unapproved International Medical Schools Located Outside Of The United States Or Canada. ... 3335
053. -- 078. (Reserved) ... 3335
079. Continuing Medical Education (CME) Required. ... 3335
080. Physician Panelist For Prelitigation Consideration Of Medical Malpractice Claims. ... 3336
081. -- 099. (Reserved) ... 3336
100. Fees -- Table. ... 3336
101. -- 150. (Reserved) ... 3337
151. Definitions Relating to Supervising and Directing Physicians. ... 3337
152. – 160. (Reserved) ... 3338
161. Duties Of Directing Physicians. ... 3338
162. Duties Of Supervising Physicians. ... 3338
163. Duties Of Supervising Physicians Of Interns And Residents. ... 3339
164. Supervising Physicians Of Medical Personnel. ... 3339
165. -- 200. (Reserved) ... 3341
201. Registration By Supervising And Directing Physicians. ... 3341
202. -- 239. (Reserved) ... 3342
240. Fees - Table. ... 3342
241. (Reserved) ... 3342
242. Definitions Related To Interns And Residents. ... 3342
243. Resident and Intern Registration. ... 3342
244. Fees - Table. ... 3343
245. -- 999. (Reserved) ... 3343

22.01.03 – Rules for the Licensure of Physician Assistants

000. Legal Authority. ... 3344
001. Title And Scope. ... 3344
002. -- 009. (Reserved) ... 3344

010. Definitions. 3344
011. -- 019. (Reserved) 3344
020. Requirements For Licensure. 3344
021. -- 027. (Reserved) 3344
028. Scope Of Practice. 3344
029. Continuing Education Requirements. 3345
030. Practice Standards. 3345
031. Participation In Disaster And Emergency Care. 3345
032. -- 035. (Reserved) 3345
036. Graduate Physician Assistant. 3345
037. -- 041. (Reserved) 3346
042. Prescription Writing. 3346
043. -- 050. (Reserved) 3346
051. Fees - Table. 3346
052. -- 999. (Reserved) 3346

22.01.10 – Rules for the Licensure of Athletic Trainers to Practice in Idaho

000. Legal Authority. 3347
001. Title And Scope. 3347
002. -- 009. (Reserved) 3347
010. Definitions. 3347
011. Scope Of Practice. 3347
012. Athletic Training Service Plan Or Protocol. 3347
013. -- 019. (Reserved) 3348
020. General Qualifications For Licensure and Renewal. 3348
021. -- 029. (Reserved) 3348
030. Application For Licensure. 3348
031. -- 051. (Reserved) 3349
052. Denial Or Refusal To Renew Licensure Or Suspension Or Revocation Of Licensure. 3349
053. -- 060. (Reserved) 3349
062. -- 999. (Reserved) 3349

22.01.11 – Rules for Licensure of Respiratory Therapists and Permitting of Polysomnographers in Idaho

000. Legal Authority. 3350
001. Title And Scope. 3350
002. -- 009. (Reserved) 3350
010. Definitions. 3350
011. Application To Both Permits And Licenses. 3350
012. -- 030. (Reserved) 3350
031. General Qualifications For Licensure And renewal. 3350
034. Denial Or Refusal To Renew License Or Permit Or Suspension Or Revocation Of License Or Permit. 3351
035. -- 045. (Reserved) 3351
046. Fees -- Table. 3351
047. -- 999. (Reserved) 3352

22.01.13 – Rules for the Licensure of Dietitians

000. Legal Authority. 3353
001. Title And Scope. 3353
002. -- 019. (Reserved) 3353
020. General Qualifications For Licensure and Renewal. 3353
021. Provisional Licensure. 3353
022. -- 031. (Reserved) 3353
032. Denial Or Refusal To Renew, Suspension Or Revocation Of License 3353

033. -- 040. (Reserved) 3353
041. Fees -- Table. 3353
042. -- 999. (Reserved) 3353

IDAPA 23 – BOARD OF NURSING

Docket No. 23-0101-1900F

23.01.01 – Rules of the Idaho Board of Nursing

000. Legal Authority. 3356
001. Title And Scope. 3356
002. Filing Of Documents. 3356
003. Changes In Name And Address – Address For Notification Purposes. 3356
004. -- 009. (Reserved) 3356
010. Definitions. 3356
011. -- 039. (Reserved) 3358
040. Temporary License. 3358
041. -- 059. (Reserved) 3359
060. LPN, RN, AND APRN License Renewal. 3359
061. Continued Competence Requirements For Renewal Of An Active License. 3360
062. Documenting Compliance With Continued Competence Requirements. 3361
063. Reinstatement (Non-Discipline). 3362
064. Reinstatement After Discipline. 3362
065. -- 075. (Reserved) 3362
076. Persons Exempted By Board. 3362
077. -- 089. (Reserved) 3364
090. Reapplication For A License After Previous Denial. 3364
091. -- 099. (Reserved) 3364
100. Grounds For Discipline. 3364
101. Standards Of Conduct. 3365
102. -- 131. (Reserved) 3368
132. Restricted Licenses. 3368
133. Advisory Committee. 3371
134. Emergency Action. 3371
135. -- 164. (Reserved) 3371
165. Petition For Rehearing Or Reconsideration. 3371
166. -- 219. (Reserved) 3371
220. Qualifications For Licensure By Examination. 3371
221. Examination Application. 3372
222. Examination And Re-Examination. 3372
223. -- 239. (Reserved) 3372
240. Qualifications For Licensure By Endorsement. 3372
241. Licensure By Equivalency And Endorsement Licensure. 3372
242. -- 259. (Reserved) 3372
260. Qualifications For Licensure Of Graduates Of Schools Of Nursing Located Outside The United States, Its Territories, Or Commonwealths. 3373
261. Application For Licensure Of Graduates Of Schools Of Nursing Located Outside The United States, Its Territories, Or Commonwealths. 3373
262. -- 270. (Reserved) 3373
271. Definitions Related To Advanced Practice Registered Nursing. 3373
272. -- 279. (Reserved) 3375
280. Standards Of Practice For Advanced Practice Registered Nursing. 3375
281. -- 284. (Reserved) 3376
285. Qualifications For Advanced Practice Registered Nurse. 3376

286. -- 289. (Reserved) ... 3376
290. Application For Licensure -- Advanced Practice Registered Nurse. ... 3376
291. -- 294. (Reserved) ... 3376
295. Temporary Licensure -- Advanced Practice Registered Nurse. ... 3376
296. -- 299. (Reserved) ... 3377
300. Renewal Of Advanced Practice Registered Nurse License. ... 3377
301. Reinstatement Of Advanced Practice Registered Nurse License. ... 3378
302. -- 304. (Reserved) ... 3378
305. Persons Exempted From Advanced Practice Registered Nursing License Requirements. ... 3378
306. Disciplinary Enforcement. ... 3378
307. -- 314. (Reserved) ... 3378
315. Prescriptive And Dispensing Authorization For Advanced Practice Registered Nurses. ... 3378
316. Grounds For Discipline Of An Advanced Practice Registered Nurse License. ... 3379
317. -- 319. (Reserved) ... 3380
320. Recognition Of National Certifying Organizations For Advanced Practice Registered Nursing. ... 3380
321. -- 389. (Reserved) ... 3380
390. Use Of Titles, Abbreviations, And Designations For The Practice Of Nursing. ... 3380
391. -- 399. (Reserved) ... 3380
400. Decision-Making Model. ... 3380
401. Licensed registered Nurse (RN). ... 3382
402. Licensed Registered Nurse Functioning In Specialty Areas. ... 3383
403. -- 459. (Reserved) ... 3384
460. Licensed Practical Nurse (LPN). ... 3384
461. -- 490. (Reserved) ... 3384
491. Technicians/Technologists. ... 3384
492. Medication Administration By Medication Assistants - Certified (MA-C). ... 3385
493. Education And Training For Medication Assistant - Certified. ... 3386
494. Application For Certification For Medication Assistant - Certified. ... 3389
495. Certification Renewal For Medication Assistant - Certified. ... 3390
496. Reinstatement Of Certification. ... 3390
497. Fees Applicable To Medication Assistant - Certified And The Certification Process. ... 3391
498. Changes In Name And Address For Notification Purposes. ... 3391
499. -- 599. (Reserved) ... 3392
600. Nursing Education For Registered And Practical Nurses. ... 3392
601. Purpose Of Approval. ... 3392
602. Approval Of A New Educational Program. ... 3392
603. Continuance Of Full Approval Of Educational Program. ... 3393
604. Discontinuance Of An Educational Program. ... 3394
605. -- 629. (Reserved) ... 3394
630. Philosophy And Objectives Of Educational Program. ... 3394
631. Administration Of Educational Program. ... 3395
632. Financial Support Of Educational Program For Practical Nurse, Registered Nurse, And Advanced Practice Registered Nurse. ... 3395
633. Records Of Educational Program. ... 3395
634. -- 639. (Reserved) ... 3395
640. Faculty Qualifications. ... 3395
641. Faculty. ... 3397
642. (Reserved) 3397
643. Administrator Responsibilities And Qualifications. ... 3397
644. Faculty Responsibilities. ... 3398
645. -- 659. (Reserved) ... 3399

660. Students, Educational Program. 3399
661. -- 679. (Reserved) 3399
680. Curriculum, Educational Program. 3399
681. Curriculum Requirements For Nursing Education Programs. 3399
682. -- 699. (Reserved) 3401
700. Curriculum Change, Educational Program. 3401
701. -- 729. (Reserved) 3401
730. Practice Sites. 3401
731. -- 899. (Reserved) 3402
900. Initial license, Renewal And Reinstatement Fees. 3402
901. Other Fees. 3402
902. (Reserved) 3403
903. Education Program Fees. 3403
904. No Refunds. 3403
905. Only One License - Exception. 3403
906. -- 998. (Reserved) 3403
999. Administrative Fine. 3403

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

Docket No. 24-0101-1900F

24.01.01 – Rules of the Board of Architectural Examiners

000. Legal Authority. 3406
001. Title And Scope. 3406
002. Incorporation By Reference. 3406
003. -- 009. (Reserved) 3406
010. Definitions. 3406
011. -- 099. (Reserved) 3406
100. Organization. 3406
101. -- 149. (Reserved) 3406
150. Procedures And Duties. 3406
151. -- 174. (Reserved) 3406
175. Applicant Past Crime Review. 3406
176. -- 199. (Reserved) 3407
200. Fees For Examinations And Licensure. 3407
201. -- 249. (Reserved) 3407
250. Qualifications Of Applicants For Examination. 3407
251. – 299. (Reserved) 3408
300. Application. 3408
301. -- 349. (Reserved) 3408
350. Registration Examination. 3408
351. -- 374. (Reserved) 3409
375. Architectural Intern. 3409
376. -- 399. (Reserved) 3409
400. Firm Name. 3409
401. -- 409. (Reserved) 3409
410. Use Of An Architect's Seal. 3410
411. -- 449. (Reserved) 3410
450. Continuing Education. 3410
451. -- 749. (Reserved) 3411
750. Code Of Ethics. 3411
751. -- 999. (Reserved) 3411

24.02.01 – Rules of the State Athletic Commission

000. Legal Authority. ... 3414
001. Title And Scope. ... 3414
002. -- 009. (Reserved) ... 3414
010. Definitions. ... 3414
011. -- 099. (Reserved) ... 3414
100. Licensing. ... 3414
101. Age And Physical Condition. ... 3415
102. Ability Of Combatant. ... 3415
103. Physical Examination Of Combatant. ... 3415
104. Fees. ... 3416
105. Honoring Actions Of Regulatory Agencies In Other Jurisdictions. ... 3416
106. Time Between Contests. ... 3416
107. Female Combatants. ... 3416
108. Requirements For License As A Promoter. ... 3417
109. Amateur Athletic Sanctioning Organizations. ... 3417
110. Manager Acting As Second. ... 3420
111. Requirements For License As Ring Official. ... 3420
112. (Reserved) 3421
113. Applicants, Licensees, And Officials. ... 3421
114. Grounds For Denial Or Revocation Of License. ... 3421
115. -- 199. (Reserved) ... 3421
200. Contract Between Manager And Combatant. ... 3421
201. Manager's Advances -- Accounting. ... 3422
202. Contract Between Promoter And Combatant. ... 3422
203. Filing Certain Contracts With Commission. ... 3422
204. Percentage Of Gate Receipts To Combatant. ... 3423
205. Promoter's Advances To Combatant Or Manager Or Occurrence Of Debt On His Behalf. ... 3423
206. Failure Of Combatant To Appear. ... 3423
207. Payment Of Combatant. ... 3423
208. Payment Of Purse. ... 3423
209. Retaining Portion Of Purse Pending Determination Of Whether Penalty Will Be Charged. ... 3424
210. -- 298. (Reserved) ... 3424
299. Health Insurance. ... 3424
300. Surety Bond Or Other Security. ... 3424
301. Approval Of Events. ... 3425
302. (Reserved) 3425
303. Program For Charity. ... 3425
304. Arrangement Of Contest For Promoter. ... 3426
305. – 306. (Reserved) ... 3426
307. Certain Persons Retained Must Have Licenses. ... 3426
308. Officials Of Events. ... 3426
309. Referees. ... 3426
310. Judges. ... 3426
311. Admission Of Licensees And Agents To Events. ... 3427
312. Payment Of Fee To Official Designated By Commission. ... 3427
313. Postponement Of Program. ... 3427
314. Main And Semi-Main Events. ... 3427
315. Containers. ... 3427
316. -- 399. (Reserved) ... 3427
400. Admission Fee At Quarters Where Combatant Trains. ... 3427

401. Approval Of Facilities By Commission Before Tickets May Be Sold. ... 3428
402. Tickets Limited To Seating Capacity Of Arena. ... 3428
403. Tickets. ... 3428
404. Contents Of Tickets. ... 3428
405. Complimentary Tickets. ... 3428
406. Provisions Of Tickets Without Charge Or At Reduced Rates. ... 3428
407. Speculation In Tickets Prohibited. ... 3429
408. – 414. (Reserved) ... 3430
415. Tickets: Removal And Retention After Match; Destruction. ... 3430
416. -- 499. (Reserved) ... 3430
500. Sanitation. ... 3430
501. Required Number Of Ambulances; Notice To Ambulance Service And Hospital. ... 3430
502. Dressing Rooms -- Only Authorized Persons Are Allowed To Enter. ... 3431
503. Boxing Gloves. ... 3431
504. Bandaging Of Combatant's Hands. ... 3432
505. Equipment Of The Chief Second. ... 3432
506. Boxing Ring. ... 3432
507. Bell Or Gong. ... 3433
508. Equipment Of A Timekeeper. ... 3433
509. -- 599. (Reserved) ... 3433
600. Weights And Classes Of Combatants. ... 3433
601. Champions. ... 3434
602. Weigh-in, Examination Of Combatant May Be Ordered By The Commission. ... 3435
603. Advance Appearance Of Combatant Scheduled To Fight In Main Event. ... 3435
604. Weighing In Of Combatants. ... 3435
605. Forfeiture For Failure To Make Weight. ... 3435
606. Physical And Eye Examination Of Combatants. ... 3435
607. Physician -- Suitable Place To Examine Contestant; Fee; Emergency Treatment. ... 3435
608. Physician's Determination Of Fitness Of Combatants And Referee; Certification; Report. ... 3436
609. Combatant’s Report Of Own Illness Or Injury; Examination; Fee. ... 3436
610. Suspension Of Licensee For Medical Reason. ... 3436
611. -- 699. (Reserved) ... 3436
700. Combatants Must Report. ... 3436
701. Boxer's Costume And Equipment. ... 3436
702. Combatant's Physical Appearance. ... 3437
703. Procedure For Use Of Scorecards. ... 3437
704. Method Of Judging. ... 3437
705. Introduction From Ring. ... 3438
706. Referee's Instructions To Combatants. ... 3438
707. Limitations On Seconds. ... 3438
708. Continuous Presence Of Physician At Ringside. ... 3438
709. Warning Before Start Of Round. ... 3438
710. Duration Of Round. ... 3438
711. Persons Allowed In Ring. ... 3438
712. Fair Blows And Fouls. ... 3438
713. Unfair Practices; Duties Of Referees. ... 3439
714. Fouls: Deduction For Points; Effect Of Claiming Low Blow By Opponent. ... 3439
715. Fouls: Disqualification Of Combatant And Withholding Of Purse. ... 3439
716. Accidental Fouling. ... 3440
717. Stopping Of Contest: Injury To Combatant. ... 3440
718. Stopping Of Contest: One-Sided Contest; Risk Of Injury;

Examination By Physician. 3440
719. Stopping The Contest: Combatant Not Honestly Competing. 3440
720. Failure Of Combatant To Resume. 3440
721. Gloves To Be Wiped By Referee After Boxer Falls. 3440
722. Knockdown Of Combatant; Procedure For Counting. 3440
723. Resuming Count On Boxer. 3441
724. Adjudication Of Technical Knockout. 3441
725. Procedure When Combatant Is Knocked Out; Period Before His Next Contest; Examination In Case Of Head Injury. 3441
726. When Combatant Falls From Ring During Round. 3442
727. When A Boxer Shall Be Deemed Down. 3442
728. Announcement Of Winner Of Bout. 3442
729. Change Of Decision In Contest. 3442
730. Physician's Report To Commission After Contest. 3443
731. Martial Arts And Mixed Martial Arts (MMA). 3443
732. MMA Equipment. 3443
733. Fair Techniques And Fouls In MMA Events. 3445
734. Suspension Of MMA Contest For Unforseen Reasons. 3449
735. Standing Eight Count In MMA Contest. 3450
736. Weight Categories - Mixed Martial Arts. 3450
737. MMA Event Rounds. 3450
738. Methods Of Winning MMA Contest. 3451
739. MMA Contest Scoring. 3451
740. Combatant Down After The Sound Of The Bell. 3452
741. Blows At Or After The Bell In MMA Contest. 3452
742. Termination Of A Contest Due To A Fair Blow In MMA Contest. 3453
743. Combat Platforms (Ring/Cage). 3453
744. -- 799. (Reserved) 3453
800. Wrestling: Special License Is Required For A Contest 3453
801. Wrestling: Disqualification For Dangerous Tactics. 3453
802. Licensee's Duties At Wrestling Exhibition. 3453
803. Wrestlers -- Physical Examination. 3453
804. -- 899. (Reserved) 3453
900. Administration Or Use Of Alcohol, Drugs, Stimulants. 3453
901. Preparations To Stop Hemorrhaging. 3454
902. Combatant Not To Have Promoter Or Certain Others Act As Manager Or Hold Financial Interest. 3454
903. Report To Commission Of Solicitation To Conduct Contest Fraudulently. 3454
904. Suspension Of A License -- Debts In Connection With Training. 3454
905. Grounds For Disciplinary Action. 3454
906. (Reserved) 3455
907. Licensees Prohibited From Dealing With Persons Whose Licenses Are Suspended Or Revoked. 3455
908. Suspension And Revocation Of Licenses. 3455
909. Penalties For Certain Violations; Review By Commission. 3456
910. -- 999. (Reserved) 3456

24.03.01 – Rules of the State Board of Chiropractic Physicians

000. Legal Authority. 3459
001. Title And Scope. 3459
002. -- 009. (Reserved) 3459
010. Definition. 3459
011. -- 099. (Reserved) 3459

100. Applications. 3459
101. -- 149. (Reserved) 3460
150. Fees. 3460
151. -- 199. (Reserved) 3460
200. Examinations. 3460
201. -- 299. (Reserved) 3460
300. Inactive License. 3460
301. -- 349. (Reserved) 3461
350. Continuing Education. 3461
351. Approval Of Continuing Education Courses. 3462
352. -- 399. (Reserved) 3463
400. Approved Schools Of Chiropractic. 3463
401. -- 449. (Reserved) 3463
450. Advertisements. 3463
451. -- 549. (Reserved) 3463
550. Chiropractic Assistants. 3463
551. Chiropractic Intern. 3464
552. Temporary Practice Permits. 3464
553. -- 604. (Reserved) 3465
605. Code Of Ethics. 3465
606. -- 699. (Reserved) 3465
700. Clinical Nutrition Certification And Practice. 3465
701. (Reserved) 3465
702. Requirements For Clinical Nutrition Certification. 3465
703. Annual Issuance Of Clinical Nutrition Certification With License Renewal. 3467
704. Reissuance Of Cancelled Clinical Nutrition Certification. 3468
705. Clinical Nutrition Certification Cancelled For Over Three (3) Years. 3468
706. Clinical Nutrition Recertification Requirement. 3468
707. Obtaining And Independently Administering Clinical Nutrition Prescription Drug Products. 3469
708. Clinical Nutrition Formulary. 3470
709. Medical Waste. 3471
710. -- 999. (Reserved) 3471

24.04.01 – Rules of the Board of Registration for Professional Geologists

000. Legal Authority. 3475
001. Title And Scope. 3475
002. -- 009. (Reserved) 3475
010. Definitions. 3475
011. -- 099. (Reserved) 3475
100. General Provisions. 3475
101. -- 149. (Reserved) 3476
150. Fees. 3476
151. -- 199. (Reserved) 3476
200. Application Procedures. 3476
201. -- 299. (Reserved) 3477
300. Examinations. 3477
301. -- 399. (Reserved) 3478
400. Geologist In Training. 3478
401. -- 999. (Reserved) 3478

24.05.01 – Rules of the Board of Drinking Water and Wastewater Professionals

000. Legal Authority. 3483
001. Title And Scope. 3483

002. -- 009. (Reserved) 3483
010. Definitions. 3483
011. -- 099. (Reserved) 3484
100. Organization. 3484
101. -- 149. (Reserved) 3484
150. Application. 3484
151. -- 174. (Reserved) 3485
175. License Types And Classifications. 3485
176. -- 199. (Reserved) 3486
200. Fees For Examination And Licensure. 3486
201. -- 249. (Reserved) 3486
250. License Required -- Scope Of Practice. 3486
251. -- 299. (Reserved) 3487
300. General Requirements For License. 3487
301. -- 309. (Reserved) 3488
310. Requirements For Operator-In-Training License. 3488
311. -- 314. (Reserved) 3488
315. Requirements For A Very Small Water System License. 3488
316. -- 319. (Reserved) 3488
320. Requirements For A Very Small Wastewater System License. 3488
321. -- 324. (Reserved) 3488
325. Requirements For Class I Restricted Water Or Wastewater License. 3489
326. -- 327. (Reserved) 3489
328. Requirements For A Class I Operator License. 3489
329. (Reserved) 3489
330. Requirements For A Class II Operator License. 3489
331. -- 334. (Reserved) 3489
335. Requirements For A Class III Operator License. 3489
336. -- 339. (Reserved) 3490
340. Requirements For A Class IV Operator License. 3490
341. -- 344. (Reserved) 3490
345. Requirements For A Lagoon Operator License. 3490
346. -- 349. (Reserved) 3490
350. Requirements For A Wastewater Land Application License. 3490
351. -- 354. (Reserved) 3490
355. Requirements For A Backflow Assembly Tester License. 3490
356. -- 359. (Reserved) 3490
360. Requirements For Wastewater Laboratory Analyst License. 3491
361. -- 374. (Reserved) 3491
375. Substitutions. 3491
376. -- 399. (Reserved) 3493
400. Endorsement. 3493
401. -- 449. (Reserved) 3493
450. Wastewater Grandparent Provision. 3493
451. -- 499. (Reserved) 3493
500. Continuing Education. 3493
501. -- 599. (Reserved) 3495
600. Renewal Or Reinstatement Of License. 3495
601. -- 649. (Reserved) 3495
650. Backflow Assembly Tester Code Of Ethics And Standards Of Conduct. 3495
651. -- 699. (Reserved) 3495
700. Discipline. 3495

701. -- 799. (Reserved) 3495
800. Stakeholder Involvement. 3495
801. -- 999. (Reserved) 3495

24.06.01 – Rules for the Licensure of Occupational Therapists and Occupational Therapy Assistants

000. Legal Authority. 3500
001. Title And Scope. 3500
002. -- 009. (Reserved) 3500
010. Definitions. 3500
011. Supervision. 3500
012. Deep Thermal, Electrotherapeutic, Mechanical Physical Agent Modalities, And Wound Care. 3501
013. Record Keeping. 3502
014. -- 019. (Reserved) 3502
020. General Qualifications For Licensure. 3502
021. Application For Licensure. 3503
022. Written Statement Of Suitability For Licensure. 3503
023. -- 024. (Reserved) 3504
025. Continuing Education. 3504
026. -- 029. (Reserved) 3505
030. Inactive Status. 3505
031. (Reserved) 3506
032. Denial Or Refusal To Renew, Suspension Or Revocation Of License. 3506
033. -- 040. (Reserved) 3507
041. Fees. 3507
042. Standards of Practice for Telehealth 3507
043. -- 999. (Reserved) 3508

24.07.01 – Rules of the Idaho State Board of Landscape Architects

000. Legal Authority (Rule 0). 3511
001. Title And Scope (Rule 1). 3511
002. Incorporation By Reference (Rule 4). 3511
003. Address Of Idaho Board Of Landscape Architects (Rule 5). 3511
004. -- 100. (Reserved) 3511
101. Approved Education (Rule 101). 3511
102. Practical Experience In Lieu Of Education (Rule 102). 3511
103. -- 199. (Reserved) 3511
200. Application (Rule 200). 3511
201. Application Form (Rule 201). 3511
202. -- 249. (Reserved) 3512
250. Landscape Architect-in-Training (Rule 250). 3512
251. -- 299. (Reserved) 3512
300. Examinations (Rule 300). 3512
301. (Reserved) 3512
302. Endorsement (Rule 302). 3512
303. -- 399. (Reserved) 3512
400. Fees (Rule 400). 3513
401. -- 424. (Reserved) 3513
425. Rules Of Professional Responsibility (Rule 425). 3513
426. -- 449. (Reserved) 3513
450. Discipline (Rule 450). 3513
451. -- 499. (Reserved) 3513
500. Meetings (Rule 500). 3513

501. -- 999. (Reserved) 3513
24.08.01 – Rules of the State Board of Morticians
000. Legal Authority. 3516
001. Title And Scope. 3516
002. -- 099. (Reserved) 3516
100. Meetings (Rule 100). 3516
101. -- 149. (Reserved) 3516
150. Time Of Examinations (Rule 150). 3516
151. -- 199. (Reserved) 3516
200. Application (Rule 200). 3516
201. -- 249. (Reserved) 3516
250. Resident Trainee (Rule 250). 3516
251. -- 299. (Reserved) 3517
300. Applications And Examination (Rule 300). 3517
301. -- 324. (Reserved) 3518
325. Approved Examination. 3518
326. -- 349. (Reserved) 3519
350. Endorsement. 3519
351. -- 379. (Reserved) 3519
380. Inactive License. 3519
381. -- 399. (Reserved) 3519
400. Expiration Of License. 3520
401. -- 409. (Reserved) 3520
410. Continuing Education. 3520
411. -- 424. (Reserved) 3521
425. Maintenance Of Pre-Need Trust Account Fees. 3521
426. -- 449. (Reserved) 3521
450. Funeral Establishment And Crematory Establishment. 3521
451. (Reserved) 3522
452. Minimum Standards. 3522
453. Receipt For Bodies To Be Cremated. 3523
454. Records Of Bodies. 3523
455. Responsibility, Inspection, And Confidentiality Of Records. 3523
456. -- 499. (Reserved) 3524
500. Fees. 3524
501. Discipline. 3524
502. -- 999. (Reserved) 3524
24.09.01 – Rules of the Board of Examiners of Nursing Home Administrators
000. Legal Authority. 3527
001. Title And Scope. 3527
002. Address Of The Board Of Examiners Of Nursing Home Administrators. 3527
003. -- 099. (Reserved) 3527
100. Examination For Licensure (Rule 100). 3527
101. -- 199. (Reserved) 3528
200. Continuing Education Requirements. 3528
201. -- 299. (Reserved) 3528
300. Endorsement. 3528
301. -- 399. (Reserved) 3528
400. Nursing Home Administrators-In-Training. 3528
401. -- 449. (Reserved) 3530
450. Administrator Designee Qualification. 3530
451. -- 499. (Reserved) 3530

500. Permits. ... 3530
501. -- 599. (Reserved) ... 3530
600. Fees. ... 3530
601. -- 999. (Reserved) ... 3530
24.10.01 – Rules of the State Board of Optometry
000. Legal Authority. ... 3533
001. Title And Scope. ... 3533
002. -- 009. (Reserved) ... 3533
010. Definitions. ... 3533
011. -- 149. (Reserved) ... 3533
150. Meeting Of The Board. ... 3533
151. -- 174. (Reserved) ... 3533
175. Method Of Application-examination Of Applicants. ... 3533
176. -- 199. (Reserved) ... 3533
200. Approval Of Schools Of Optometry. ... 3533
201. -- 224. (Reserved) ... 3534
225. Approval Of Preliminary Education. ... 3534
226. -- 249. (Reserved) ... 3534
250. Licenses Canceled For Failure To Renew. ... 3534
251. -- 274. (Reserved) ... 3534
275. Endorsement. ... 3534
276. -- 299. (Reserved) ... 3534
300. Continuing Education In Optometry. ... 3534
301. -- 324. (Reserved) ... 3535
325. Code Of Ethics. ... 3535
326. -- 424. (Reserved) ... 3536
425. Rules Defining Gross Incompetence. ... 3536
426. -- 449. (Reserved) ... 3537
450. Prescriptions For Spectacles And Contact Lenses. ... 3537
451. -- 474. (Reserved) ... 3538
475. Patients Records. ... 3538
476. -- 499. (Reserved) ... 3539
500. Preceptorship Program. ... 3539
501. -- 524. (Reserved) ... 3539
525. General Rules. ... 3539
526. -- 574. (Reserved) ... 3539
575. Fees. ... 3539
576. -- 599. (Reserved) ... 3540
600. Board Certification Of Optometrist Authorized To Obtain And Use Pharmaceutical Agents. ... 3540
601. -- 999. (Reserved) ... 3541
24.11.01 – Rules of the State Board of Podiatry
000. Legal Authority. ... 3544
001. Title And Scope. ... 3544
002. Incorporation By Reference. ... 3544
003. -- 009. (Reserved) ... 3544
010. Definitions And Standards. ... 3544
011. -- 149. (Reserved) ... 3544
150. Pre-Professional Education. ... 3544
151. Professional Education. ... 3544
152. Podiatric Residency. ... 3544
153. -- 199. (Reserved) ... 3544

200. Credentials To Be Filed By All Applicants. 3544
201. -- 299. (Reserved) 3544
300. Fees. 3545
301. -- 399. (Reserved) 3545
400. Licensure By Examination. 3545
401. Licensure By Endorsement. 3545
402. Temporary Licenses. 3546
403. -- 409. (Reserved) 3546
410. Original Application. 3546
411. -- 424. (Reserved) 3546
425. Inactive Status. 3546
426. -- 449. (Reserved) 3546
450. Scope Of Practice. 3546
451. -- 499. (Reserved) 3546
500. Standards Of The Ethical Practice Of Podiatry. 3547
501. -- 549. (Reserved) 3547
550. Discipline. 3547
551. -- 699. (Reserved) 3547
700. Continuing Education. 3547
701. -- 999. (Reserved) 3547

24.12.01 – Rules of the Idaho State Board of Psychologist Examiners

000. Legal Authority. 3550
001. Title And Scope. 3550
002. Incorporation By Reference (Rule 4). 3550
003. -- 009. (Reserved) 3550
010. Definitions. 3550
011. -- 099. (Reserved) 3550
100. Application. 3550
101. -- 149. (Reserved) 3551
150. Fees. 3551
151. -- 199. (Reserved) 3551
200. Examinations. 3551
201. Examination For Provisional Certification Of Prescriptive Authority. 3552
202. -- 249. (Reserved) 3552
250. Endorsement. 3552
251. Endorsement For Certification Of Prescriptive Authority (Rule 251). 3552
252. -- 274. (Reserved) 3553
275. Inactive Status. 3553
276. -- 299. (Reserved) 3553
300. Temporary Licenses (Rule 300). 3553
301. -- 349. (Reserved) 3553
350. Code Of Ethics. 3553
351. -- 374. (Reserved) 3553
375. Discipline. 3554
376. -- 379. (Reserved) 3554
380. Rehabilitation Components. 3554
381. -- 399. (Reserved) 3554
400. Renewal Of License -- Continuing Education. 3554
401. Continuing Education Requirements For Relicensure In Psychology. 3554
402. Guidelines For Approval Of Continuing Education Credits (Rule 402). 3555
403. -- 449. (Reserved) 3557
450. Guidelines For Use Of Service Extenders To Licensed Psychologists. 3557

451. -- 499. (Reserved) ... 3559
500. Educational And Credentialing Requirements For Licensure ... 3560
501. -- 549. (Reserved) ... 3561
550. Requirements For Supervised Practice. ... 3561
551. -- 600. (Reserved) ... 3561
601. Telepsychology. ... 3561
602. -- 699. (Reserved) ... 3563
700. Qualifications For Provisional Certification Of Prescriptive Authority. ... 3563
701. Supervised Practice Of Provisional Certification Holder. ... 3565
702. Qualifications To Prescribe For Pediatric Or Geriatric Patients. ... 3565
703. -- 709. (Reserved) ... 3566
710. Qualifications For Certification Of Prescriptive Authority ... 3566
711. -- 719. (Reserved) ... 3566
720. Standards Of Practice For Prescriptive Authority. ... 3566
721. -- 729. (Reserved) ... 3568
730. Formulary. ... 3568
731. -- 999. (Reserved) ... 3569

24.13.01 – Rules Governing the Physical Therapy Licensure Board

000. Legal Authority (Rule 0). ... 3572
001. Title And Scope (Rule 1). ... 3572
002. -- 009. (Reserved) ... 3572
010. Definitions (Rule 10). ... 3572
011. -- 015. (Reserved) ... 3574
016. Supervision (Rule 16). ... 3574
017. -- 099. (Reserved) ... 3576
100. Meetings And Organization (Rule 100). ... 3576
101. -- 149. (Reserved) ... 3576
150. Application (Rule 150). ... 3576
151. -- 174. (Reserved) ... 3576
175. Requirements For Licensure (Rule 175). ... 3576
176. -- 179. (Reserved) ... 3577
180. Requirements To Practice Dry Needling (Rule 180). ... 3577
181. Practice Of Dry Needling (Rule 181). ... 3577
182. -- 199. (Reserved) ... 3577
200. Fees (Rule 200). ... 3577
201. -- 249. (Reserved) ... 3578
250. Continuing Education Requirement (Rule 250). ... 3578
251. -- 274. (Reserved) ... 3580
275. Disciplinary Penalty (Rule 275). ... 3580
276. -- 299. (Reserved) ... 3581
300. Code Of Ethics (Rule 300). ... 3581
301. -- 999. (Reserved) ... 3581

24.14.01 – Rules of the State Board of Social Work Examiners

000. Legal Authority. ... 3585
001. Title And Scope. ... 3585
002. -- 009. (Reserved) ... 3585
010. Definitions. ... 3585
011. -- 099. (Reserved) ... 3585
100. Approved Colleges And Universities. ... 3585
101. -- 149. (Reserved) ... 3585
150. Board Meetings. ... 3585
151. -- 199. (Reserved) ... 3585

200. Licensing Qualifications And Definition Of Terms. 3585
201. Practice Of Social Work. 3585
202. -- 209. (Reserved) 3586
210. Supervision. 3586
211. Social Work Supervisor Registration. 3588
212. -- 224. (Reserved) 3588
225. Inactive Status. 3589
226. -- 299. (Reserved) 3589
300. Fees. 3589
301. -- 349. (Reserved) 3589
350. Examinations And Endorsement. 3589
351. Continuing Education. 3590
352. -- 399. (Reserved) 3592
400. Unprofessional Conduct. 3592
401. -- 449. (Reserved) 3592
450. Statement Of Public Policy And Code Of Professional Conduct. 3592
451. -- 474. (Reserved) 3595
475. Discipline. 3595
476. -- 999. (Reserved) 3595

24.15.01 – Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists

000. Legal Authority. 3598
001. Title And Scope. 3598
002. – 003. (Reserved) 3598
004. Incorporation By Reference. 3598
005. -- 009. (Reserved) 3598
010. Definitions. 3598
011. -- 149. (Reserved) 3598
150. Qualifications For Professional Counselor Licensure. 3598
151. -- 224. (Reserved) 3600
225. Clinical Professional Counselor Licensure. 3600
226. -- 229. (Reserved) 3600
230. Qualifications For Associate Marriage And Family Therapist. 3600
231. – 237. (Reserved) 3601
238. Marriage And Family Therapists. 3601
239. Supervisor Requirements. 3603
240. Examination For Licensure. 3603
242. -- 244. (Reserved) 3604
245. Registered Interns. 3604
246. -- 249. (Reserved) 3604
250. Fees. 3605
251. -- 299. (Reserved) 3605
300. Endorsement. 3605
301. -- 349. (Reserved) 3605
350. Code Of Ethics. 3605
351. -- 359. (Reserved) 3605
360. Inactive Status. 3605
361. -- 374. (Reserved) 3606
375. Senior Status. 3606
376. -- 424. (Reserved) 3606
425. Continuing Education. 3606
426. – 524. (Reserved) 3608

525. Documentation Of Informed Consent. 3608
526. -- 999. (Reserved) 3608
24.16.01 – Rules of the State Board of Denturitry
000. Legal Authority. 3611
001. Title And Scope. 3611
002. -- 009. (Reserved) 3611
010. Definitions. 3611
011. -- 149. (Reserved) 3611
150. Examinations. 3611
151. -- 199. (Reserved) 3611
200. Applications. 3611
201. -- 249. (Reserved) 3612
250. Fees. 3612
251. -- 299. (Reserved) 3612
300. Internship. 3612
301. -- 314. (Reserved) 3614
315. Inactive Licensure Status. 3614
316. -- 349. (Reserved) 3615
350. Continuing Education. 3615
351. -- 399. (Reserved) 3615
400. Inspections. 3615
401. -- 449. (Reserved) 3616
450. Standards Of Conduct And Practice. 3616
451. -- 474. (Reserved) 3617
475. Registration Statement. 3617
476. Guarantee Of Denturist Services. 3617
477. -- 479. (Reserved) 3618
480. Discipline. 3618
481. -- 999. (Reserved) 3618
24.17.01 – Rules of the State Board of Acupuncture
000. Legal Authority. 3621
001. Title And Scope. 3621
002. -- 009. (Reserved) 3621
010. Definitions. 3621
011. -- 199. (Reserved) 3621
200. Qualifications For Licensure Or Certification. 3621
201. Acupuncture Trainee Permit. 3622
202. -- 225. (Reserved) 3622
226. Request For Approval Of Qualification. 3622
227. -- 299. (Reserved) 3622
300. Fees. 3622
301. Reinstatement Of License. 3623
302. Inactive Status. 3623
303. -- 304. (Reserved) 3623
305. Continuing Education Requirements. 3623
306. Approval Of Continuing Education Courses. 3624
307. Content Of Continuing Education Courses. 3624
308. -- 400. (Reserved) 3625
401. Records. 3625
402. (Reserved) 3625
403. Employment Of Unlicensed, Non-Exempt Individuals. 3625
404. Supervision Of Trainees. 3625

405. Advertising. 3626
406. – 524. (Reserved) 3626
525. Display Of License. 3626
526. -- 574. (Reserved) 3626
575. Discipline. 3626
576. -- 999. (Reserved) 3626

24.18.01 – Rules of the Real Estate Appraiser Board

000. Legal Authority. 3629
001. Title And Scope. 3629
002. – 003. (Reserved) 3629
004. Incorporation By Reference. 3629
005. -- 009. (Reserved) 3629
010. Definitions. 3629
011. -- 099. (Reserved) 3630
100. Organization And Meetings. 3630
101. -- 149. (Reserved) 3630
150. Fees. 3630
151. -- 199. (Reserved) 3631
200. Application. 3631
201. -- 249. (Reserved) 3631
250. Requirements For Licensure. 3631
251. -- 274. (Reserved) 3633
275. Registered Trainee Real Estate Appraiser. 3633
276. Registered Trainee Supervisors. 3634
277. -- 299. (Reserved) 3635
300. Licensed Residential Real Estate Appraiser Classification Appraiser Qualification Criteria. 3635
301. -- 349. (Reserved) 3636
350. Certified Residential Real Estate Appraiser Classification Appraiser Qualification Criteria. 3636
351. -- 399. (Reserved) 3637
400. Certified General Real Estate Appraiser Classification Appraiser Qualification Criteria. 3637
401. Continuing Education. 3639
402. -- 449. (Reserved) 3640
450. Reciprocity. 3640
451. -- 499. (Reserved) 3640
500. Temporary Practice. 3640
501. -- 524. (Reserved) 3640
525. Discipline. 3640
526. -- 539. (Reserved) 3640
540. Appraisals In Litigation. 3641
541. -- 699. (Reserved) 3641
700. Uniform Standards Of Professional Appraisal Practice/Code Of Ethics 3641
701. -- 999. (Reserved) 3641

24.19.01 – Rules of the Board of Examiners of Residential Care Facility Administrators

000. Legal Authority. 3644
001. Title And Scope. 3644
002. – 003. (Reserved) 3644
004. Incorporation By Reference. 3644
005. -- 099. (Reserved) 3644
100. Applications. 3644

101. -- 149. (Reserved) 3644
150. Qualifications For Administrator License. 3644
151. -- 159. (Reserved) 3644
160. Nursing Home Administrator Qualifications For License. 3644
161. -- 199. (Reserved) 3644
200. Board Meetings -- Dates -- Places. 3644
201. -- 299. (Reserved) 3645
300. Examinations. 3645
301. -- 399. (Reserved) 3645
400. Educational And Training Requirements. 3645
401. Continuing Education. 3645
402. -- 449. (Reserved) 3646
450. Scope Of Practice. 3646
451. -- 599. (Reserved) 3646
600. Fees. 3646
601. -- 649. (Reserved) 3646
650. Discipline. 3646
651. -- 999. (Reserved) 3646

24.20.01 – Rules of the Bureau of Occupational Licenses

000. Legal Authority. 3648
001. Title And Scope. 3648
002. Changes In Name And Address -- Address For Notification Purposes. 3648
003. – 009. (Reserved) 3648
010. Definitions. 3648
011. -- 019. (Reserved) 3649
020. Procedures Governing Hearings. 3649
021. -- 099. (Reserved) 3649
100. Report And Investigation Of Violations. 3649
101. -- 199. (Reserved) 3649
200. Initiation Of A Hearing. 3649
201. Notice Required. 3649
202. -- 999. (Reserved) 3650

24.21.01 – Rules of the Idaho State Contractors Board

000. Legal Authority. 3653
001. Title And Scope. 3653
002. -- 099. (Reserved) 3653
100. Organization. 3653
101. -- 149. (Reserved) 3653
150. Application. 3653
151. -- 164. (Reserved) 3653
165. Additional Qualifications For Registration. 3653
166. -- 174. (Reserved) 3654
175. Fees. 3654
176. -- 999. (Reserved) 3654

24.22.01 – Rules of the Idaho State Liquefied Petroleum Gas Safety Board

000. Legal Authority. 3657
001. Title And Scope. 3657
002. – 003. (Reserved) 3657
004. Incorporation By Reference. 3657
005. -- 099. (Reserved) 3657
100. Organization. 3657

101. -- 174. (Reserved) 3657
175. Fees. 3657
176. – 224. (Reserved) 3657
225. Approved Education And Examinations. 3657
226. -- 249. (Reserved) 3657
250. Practical Experience. 3657
251. -- 349. (Reserved) 3658
350. Facility Licensure. 3658
351. -- 354. (Reserved) 3658
355. General Liability Insurance Requirement. 3658
356. -- 374. (Reserved) 3659
375. Inspection Rules. 3659
376. -- 399. (Reserved) 3659
400. Endorsement. 3659
401. -- 449. (Reserved) 3659
450. Discipline. 3659
451. -- 999. (Reserved) 3659

24.23.01 – Rules of the Speech, Hearing, and Communication Services Licensure Board

000. Legal Authority. 3662
001. Title And Scope. 3662
002. – 003. (Reserved) 3662
004. Incorporation By Reference. 3662
005. -- 009. (Reserved) 3662
010. Definitions. 3662
011. -- 174. (Reserved) 3662
175. Fees. 3662
176. -- 204. (Reserved) 3663
205. Inactive Status. 3663
206. -- 209. (Reserved) 3663
210. Qualifications For Audiologist Licensure. 3663
211. Support Personnel: Audiology. 3663
212. Newborn Hearing Screening Tests. 3665
213. -- 219. (Reserved) 3665
220. Qualifications For Speech-Language Pathologist Licensure. 3665
221. -- 229. (Reserved) 3666
230. Qualifications For Speech-Language Pathologist Aide Licensure. 3666
231. -- 239. (Reserved) 3666
240. Qualifications For Speech-Language Pathologist Assistant Licensure. 3666
241. -- 249. (Reserved) 3666
250. Qualifications For Hearing Aid Dealer And Fitter Licensure. 3666
251. -- 259. (Reserved) 3666
260. Qualifications For Sign Language Interpreter Licensure. 3666
261. Telepractice Of Sign Language Interpreting. 3667
262. -- 264. (Reserved) 3667
265. Code Of Ethics And Standards For Sign Language Interpreters. 3667
266. -- 269. (Reserved) 3667
270. Registration For Out-Of-State Licensees. 3667
271. -- 279. (Reserved) 3667
280. Deaf Interpreters. 3667
281. -- 309. (Reserved) 3668
310. Endorsement. 3668
311. -- 319. (Reserved) 3668

320. Written Statement Of Suitability For Licensure. 3668
321. -- 399. (Reserved) 3669
400. Continuing Education. 3669
401. -- 449. (Reserved) 3669
450. Provisional Permits. 3669
451. -- 499. (Reserved) 3671
500. Hearing Evaluation. 3672
551. -- 599. (Reserved) 3672
600. Written Contracts. 3672
601. -- 999. (Reserved) 3673

24.24.01 – Rules of the Genetic Counselors Licensing Board

000. Legal Authority. 3676
001. Title And Scope. 3676
002. Incorporation By Reference. 3676
005. -- 099. (Reserved) 3676
100. Organization Of The Board. 3676
101. -- 249. (Reserved) 3676
250. Fees. 3676
251. -- 299. (Reserved) 3676
300. Requirements For Original Licensure. 3676
301. -- 309. (Reserved) 3677
310. Requirements For Licensure By Endorsement. 3677
311. Requirements For Provisional License. 3677
312. Inactive Status. 3677
313. -- 499. (Reserved) 3678
500. Continuing Education. 3678
501. -- 699. (Reserved) 3678
700. Unprofessional And Unethical Conduct. 3678
701. -- 899. (Reserved) 3678
900. Discipline. 3678
901. -- 999. (Reserved) 3678

24.25.01 – Rules of the Idaho Driving Businesses Licensure Board

000. Legal Authority. 3681
001. Title And Scope. 3681
002. Changes In Licensee Information (Rule 7). 3681
003. -- 099. (Reserved) 3681
100. Organization. 3681
101. -- 149. (Reserved) 3681
150. Application. 3681
151. -- 174. (Reserved) 3681
175. Fees. 3681
176. -- 199. (Reserved) 3682
200. Renewal Of License. 3682
201. Continuing Education. 3682
202 -- 224. (Reserved) 3683
225. Driving Business License. 3683
226. Driving Business -- Minimum Curriculum Components. 3685
227. Driving Business - Course Of Instruction. 3687
228. Driving Business - Initial Audit. 3688
229. -- 249. (Reserved) 3688
250. Driving Instructor License. 3688
251. -- 274. (Reserved) 3690

275. Instructor Apprenticeship Training Program. 3690
276. -- 449. (Reserved) 3691
450. Discipline. 3691
451. -- 999. (Reserved) 3691
24.26.01 – Rules of the Idaho Board of Midwifery
000. Legal Authority. 3695
001. Title And Scope. 3695
002. Incorporation By Reference. 3695
003. -- 019. (Reserved) 3695
020. Organization. 3695
021. -- 099. (Reserved) 3695
100. Qualifications For Licensure. 3695
101. -- 174. (Reserved) 3695
175. Fees. 3695
176. -- 199. (Reserved) 3696
200. Renewal Of License. 3696
201. -- 299. (Reserved) 3697
300. Continuing Education Requirement. 3697
301. -- 324. (Reserved) 3698
325. Informed Consent. 3698
326. -- 349. (Reserved) 3698
350. Formulary. 3698
351. Use Of Formulary Drugs. 3699
352. Obtaining, Storing, And Disposing Of Formulary Drugs. 3701
353. -- 354. (Reserved) 3702
355. Medical Waste. 3702
356. Scope And Practice Standards. 3702
357. -- 359. (Reserved) 3703
360. Newborn Transfer Of Care Or Consultation. 3703
361. -- 449. (Reserved) 3704
450. Unprofessional Conduct. 3704
451. -- 999. (Reserved) 3705
24.27.01 – Rules of the Idaho State Board of Massage Therapy
000. Legal Authority. 3708
001. Title And Scope. 3708
002. -- 009. (Reserved) 3708
010. Definitions. 3708
011. -- 099. (Reserved) 3708
100. Organization And Operations Of The Board. 3708
101. -- 199. (Reserved) 3708
200. Application. 3708
201. -- 249. (Reserved) 3708
250. Fees. 3709
251. -- 299. (Reserved) 3709
300. Requirements For Original Licensure. 3709
301. -- 304. (Reserved) 3709
305. Approved Examinations. 3709
306. Written Statement Of Suitability For Licensure. 3710
307. -- 309. (Reserved) 3710
310. Requirements For Licensure By Endorsement. 3710
311. -- 319. (Reserved) 3711
320. Temporary License. 3711

321. -- 329. (Reserved) ... 3711
330. Provisional Permit. ... 3711
331. -- 399. (Reserved) ... 3711
400. Renewal Or Expiration Of License. ... 3711
401. -- 499. (Reserved) ... 3712
500. Continuing Education. ... 3712
501. Approval Of Continuing Education Courses. ... 3713
502. Continuing Education Activities. ... 3713
503. Content Of Continuing Education. ... 3714
504. -- 599. (Reserved) ... 3714
600. Educational Program Standards. ... 3714
601. Supervision. ... 3715
602. -- 699. (Reserved) ... 3715
700. Scope Of Practice. ... 3715
701. -- 749. (Reserved) ... 3715
750. Standards Of Practice. ... 3715
751. -- 799. (Reserved) ... 3715
800. Code Of Ethics. ... 3715
801. -- 899. (Reserved) ... 3715
900. Discipline. ... 3715
901. -- 999. (Reserved) ... 3716

24.28.01 – Rules of the Barber and Cosmetology Services Licensing Board

000. Legal Authority. ... 3721
001. Title And Scope. ... 3721
002. -- 009. (Reserved) ... 3721
010. Definitions. ... 3721
011. Update Of Records. ... 3722
012. -- 099. (Reserved) ... 3722
100. Organization And Operations Of The Board. ... 3722
101. -- 199. (Reserved) ... 3722
200. Application. ... 3722
201. -- 249. (Reserved) ... 3723
250. Fees. ... 3723
251. -- 299. (Reserved) ... 3723
300. Qualifications For All Licenses Or Certificates For Individuals. ... 3723
301. Qualifications For Original Barber License. ... 3724
302. Qualifications For Original Barber-Stylist License. ... 3724
303. Qualifications For Original Cosmetologist License. ... 3725
304. Qualifications For Original Electrologist License. ... 3726
305. Qualifications For Original Esthetician License. ... 3726
306. Qualifications For Original Haircutter License. ... 3726
307. Qualifications For Original Nail Technician License. ... 3727
308. Qualifications For Makeup Artist Certificate. ... 3727
309. Qualifications For Original Barber Or Barber-Stylist Instructor License. ... 3728
310. Qualifications For Original Cosmetology Instructor License ... 3729
311. Approved Examination. ... 3729
312. Written Statement Of Suitability For Licensure Or Certification. ... 3730
313. Requirements For Licensure By Endorsement. ... 3730
314. -- 324. (Reserved) ... 3731
325. Licensure And Operation Of Primary And Contiguous Establishments. ... 3731
326. Establishment Changes In Ownership or Location. ... 3732
327. Retail Cosmetics Dealer License. ... 3732

328. Retail Thermal Styling Equipment Dealer Registration. 3733
329. -- 399. (Reserved) 3733
400. Renewal Or Expiration Of License. 3733
401. -- 499. (Reserved) 3733
500. Barber And Cosmetology School Requirements. 3734
501. Rules For Cosmetology Schools Approved To Teach Electrology 3735
502. Educational Program Standards For Courses Of Instruction. 3736
503. -- 549. (Reserved) 3739
550. Apprentice Registration And Apprenticeships. 3739
551. -- 699. (Reserved) 3741
700. Scope Of Practice. 3741
701. -- 709. (Reserved) 3741
710. Practice Outside Of A Licensed Establishment. 3741
711. -- 799. (Reserved) 3741
800. Unprofessional Conduct. 3741
801. -- 849. (Reserved) 3742
850. Inspection Of Establishments, Schools And Facilities. 3742
851. Safety And Disinfection For Establishments And Schools. 3742
852. Safety And Disinfection For Retail Cosmetics Dealer Facilities And Makeover Or Glamour Photography Businesses. 3744
853. Safety And Disinfection For Retail Thermal Styling Dealer Facilities. 3745
854. -- 999. (Reserved) 3745

24.29.01 – Rules of Procedure of the Idaho Certified Shorthand Reporters Board

000. Legal Authority. 3748
001. Title And Scope. 3748
002. -- 100. (Reserved) 3748
101. Committees. 3748
102. -- 124. (Reserved) 3748
125. Fees. 3748
126. -- 200. (Reserved) 3748
201. Written Statement Of Suitability For Licensure Or Permit. 3748
202. -- 299. (Reserved) 3749
300. Examinations. 3749
301. -- 399. (Reserved) 3750
400. Temporary Permit. 3750
401. -- 499. (Reserved) 3751
500. Disciplinary Penalty. 3751
501. -- 999. (Reserved) 3751

IDAPA 25 – IDAHO OUTFITTERS AND GUIDES LICENSING BOARD

Docket No. 25-0101-1900F

25.01.01 – Rules of the Idaho Outfitters and Guides Licensing Board

000. Legal Authority. 3754
001. Title And Scope. 3754
002. Definitions. 3754
003. -- 004. (Reserved) 3757
005. License Production. 3757
006. First Aid Kit. 3757
007. License Restrictions. 3757
008. Employment Of Outfitters. 3758
009. (Reserved) 3758
010. Compliance With Laws. 3758

011. (Reserved) 3758
012. Outfitter Responsibilities. 3758
013. -- 014. (Reserved) 3759
015. Annual Date, Fees, And Payment. 3759
016. -- 017. (Reserved) 3759
018. New Outfitter Or Outfitter License Amendment Application. 3759
019. (Reserved) 3761
020. Examination. 3761
021. Evaluation Of The Outfitter Application. 3761
022. Issuance Of An Outfitter License. 3761
023. Third Party Agreements. 3761
024. Standards For Non-Use. 3762
025. Outfitter Renewal. 3763
026. Operating Area Adjustments. 3763
027. Outfitter License Priority. 3764
028. Outfitter Business Purchase, License Considerations. 3764
029. Outfitter Bond Or Insurance Cancellation. 3764
030. Outfitter Waiting Lists. 3764
031. -- 033. (Reserved) 3765
034. Guide Application Requirements - General. 3765
035. Guide Application Requirements - Hunting. 3765
036. (Reserved) 3766
037. Boatman License Trainees. 3766
038. Float Boat Guide -- Unclassified Rivers. 3766
039. Float Boat Guide -- Classified Rivers. 3766
040. Float Boatman Qualifications -- Classified Rivers. 3766
041. Float Lead Boatman Qualifications. 3767
042. Power Boat Guide. 3767
043. (Reserved) 3767
044. Skiing, Non-Hazardous And Hazardous Terrain Outfitter, Designated Agent, Ski Guide And Ski Guide Trainee. 3767
045. (Reserved) 3768
046. Technical Mountaineering/rock Climbing Guide. 3768
047. Snowmobiling Guide. 3768
048. Power Boat Fishing Guide -- (Lakes And Reservoirs) 3769
049. -- 050. (Reserved) 3769
051. Placement Of Hunting Camps And Leaving Outfitter's Operating Area, Big Game Hunting And Incidental Trapping. 3769
052. Boat Transport Of Hunting Clients. 3770
053. Controlled Hunts Outside Outfitter's Operating Area. 3770
054. Boat Equipment Requirements. 3770
055. Boating Client/Guide Ratio. 3770
056. (Reserved) 3771
057. Designation Of Allocated Deer And Elk Tags. 3771
058. Number Of Outfitters And Guides Limited. 3772
059. River, Lake And Reservoir Power And Float Outfitter Limits. 3772
060. (Reserved) 3783
061. Technical Mountaineering/Rock Climbing. 3783
062. (Reserved) 3783
063. Snowmobiling. 3783
064. Authorization For Granting, Denial And Revocation Of Licenses 3783
065. -- 066. (Reserved) 3784

067. Inspections. 3784
068. Administrative Fines/Probation/Restrictions. 3784
069. -- 999. (Reserved) 3785

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

Docket No. 26-0000-1900

26.01.03 – Rules Governing Recreational Registration Program Vendors

000. Legal Authority. 3787
001. Title And Scope. 3787
002. -- 009. (Reserved) 3787
010. Definition Of Terms. 3787
011. -- 049. (Reserved) 3787
050. Department Responsibilities. 3787
051. -- 099. (Reserved) 3787
100. Criteria For Applying For Vendorship. 3787
101. -- 149. (Reserved) 3788
150. Minimum Qualifications Of Vendors. 3788
151. -- 199. (Reserved) 3788
200. Notifications And Time Limits. 3788
201. -- 249. (Reserved) 3788
250. Vendor Suspension And Termination. 3788
251. -- 299. (Reserved) 3789
300. Vendor Fees. 3789
301. -- 349. (Reserved) 3789
350. Department Reserves Exclusive Right To Renew Certificates Of Number By Mail. 3789
351. -- 399. (Reserved) 3789
400. Vendors To Obtain Evidence Of Ownership Prior To Issuing Certificates Of Number 3789
401. -- 999. (Reserved) 3789

26.01.21 – Rules Governing Leasing Practices and Procedures for Recreational Residences Within Heyburn State Park

000. Legal Authority. 3790
001. Title And Scope. 3790
002. -- 009. (Reserved) 3790
010. Definitions. 3790
011. -- 049. (Reserved) 3790
050. Lease Term. 3790
051. -- 069. (Reserved) 3790
070. Renewal. 3790
071. -- 089. (Reserved) 3790
090. Lease Rates. 3790
091. -- 109. (Reserved) 3791
110. Occupancy. 3791
111. -- 129. (Reserved) 3791
130. Use. 3791
131. -- 999. (Reserved) 3791

26.01.22 – Rules Governing Cooperating Associations

000. Legal Authority. 3792
001. -- 009. (Reserved) 3792
010. Definitions. 3792
011. -- 049. (Reserved) 3792
050. Purpose Of Cooperating Associations. 3792

051. -- 099. (Reserved) ... 3792
100. Criteria For Cooperating Associations. ... 3792
101. -- 149. (Reserved) ... 3792
150. Department Assistance To Associations. ... 3792
151. -- 199. (Reserved) ... 3793
200. Agreement Required/Prior Approval Of Activities Required. ... 3793
201. -- 249. (Reserved) ... 3793
250. Disposition Of Assets And Profits. ... 3793
251. -- 299. (Reserved) ... 3793
300. Accountability. ... 3793
301. -- 349. (Reserved) ... 3793
350. Termination. ... 3793
351. -- 999. (Reserved) ... 3793

26.01.24 – Rules Governing the Administration of the Sawtooth National Recreation Area Special License Plate Funds

000. Legal Authority. ... 3794
001. Title And Scope. ... 3794
002. -- 009. (Reserved) ... 3794
010. Definitions. ... 3794
011. -- 049. (Reserved) ... 3794
050. Eligible Applicants For Sawtooth National Recreation Area Special License Plate Funds. ... 3794
051. -- 099. (Reserved) ... 3794
100. Eligible Projects. ... 3794
101. -- 149. (Reserved) ... 3795
150. Application Procedures. ... 3795
151. -- 199. (Reserved) ... 3795
200. Disbursement Of Funds. ... 3795
201. -- 249. (Reserved) ... 3795
250. Expenditure Of Funds. ... 3795
251. -- 299. (Reserved) ... 3795
300. Return Of Funds. ... 3795
301. -- 349. (Reserved) ... 3795
350. Documentation. ... 3795
351. -- 399. (Reserved) ... 3796
400. Maintenance Standards. ... 3796
401. -- 449. (Reserved) ... 3796
450. Project Conversions. ... 3796
451. -- 499. (Reserved) ... 3796
500. Purchase And Bidding Requirements. ... 3796
501. -- 999. (Reserved) ... 3796

26.01.30 – Idaho Safe Boating Rules

000. Legal Authority. ... 3797
001. Title And Scope. ... 3797
002. -- 009. (Reserved) ... 3797
010. Definitions. ... 3797
011. -- 049. (Reserved) ... 3798
050. Personal Flotation Devices (PFD's). ... 3798
051. -- 074. (Reserved) ... 3798
075. Fire Extinguishers. ... 3799
076. -- 099. (Reserved) ... 3799
100. Lights And Shapes. ... 3799

101. -- 124. (Reserved) ... 3801
125. Ventilation. ... 3801
126. -- 149. (Reserved) ... 3801
150. Sound Producing Devices. ... 3801
151. -- 174. (Reserved) ... 3801
175. Backfire Flame Control. ... 3801
176. -- 199. (Reserved) ... 3802
200. Warning Flags For Downed Skiers. ... 3802
201. -- 224. (Reserved) ... 3802
225. Vessel Liveries -- Equipment. ... 3802
226. Personal Watercraft Liveries. ... 3802
227. -- 249. (Reserved) ... 3802
250. Vessel Numbers -- Display, Size, Color. ... 3802
251. -- 274. (Reserved) ... 3803
275. Vessel Numbers -- Form. ... 3803
276. -- 299. (Reserved) ... 3803
300. Validation Stickers. ... 3803
301. -- 324. (Reserved) ... 3803
325. Application And Certificate Of Number -- Contents. ... 3804
326. -- 349. (Reserved) ... 3805
350. Numbering - Exemptions. ... 3805
351. -- 399. (Reserved) ... 3805
400. County Eligibility To Receive Moneys From The State Vessel Account. ... 3805
401. -- 424. (Reserved) ... 3806
425. Hull Identification Numbers - Required. ... 3806
426. -- 449. (Reserved) ... 3806
450. Hull Identification Numbers -- Form. ... 3806
451. -- 474. (Reserved) ... 3807
475. Hull Identification Numbers -- Display. ... 3807
476. -- 499. (Reserved) ... 3807
500. Idaho Waterway Marking System. ... 3807
501. -- 524. (Reserved) ... 3810
525. Negligent Operation. ... 3810
526. -- 999. (Reserved) ... 3810

26.01.31 – Rules Governing the Administration of the Idaho Department of Parks and Recreation State and Federal Grant Funds

000. Legal Authority. ... 3811
001. Title And Scope. ... 3811
002. -- 009. (Reserved) ... 3811
010. Definitions. ... 3811
011. -- 049. (Reserved) ... 3813
050. General Provisions Of The State And Federal Grant Program. ... 3813
051. -- 074. (Reserved) ... 3813
075. Eligible Applicants. ... 3813
076. -- 099. (Reserved) ... 3813
100. Application Procedure. ... 3813
101. -- 149. (Reserved) ... 3813
150. Eligibility And Priority Rating Of Projects. ... 3813
151. -- 174. (Reserved) ... 3814
175. Project Time Period. ... 3814
176. -- 199. (Reserved) ... 3814
200. Authority For Funding Approval. ... 3814

201. -- 249. (Reserved) 3814
250. Disbursement Of Funds. 3814
251. Off-Highway Vehicle Law Enforcement Fund Distribution. 3816
252. -- 299. (Reserved) 3817
300. Grantee Obligations. 3817
301. -- 349. (Reserved) 3818
350. Project Conversions. 3818
351. -- 399. (Reserved) 3819
400. Responsibility For Equipment. 3819
401. -- 449. (Reserved) 3819
450. Real Property. 3819
451. -- 999. (Reserved) 3819

26.01.34 – Idaho Protection Against Invasive Species Sticker Rules
000. Legal Authority. 3820
001. Title And Scope. 3820
002. -- 009. (Reserved) 3820
010. Definitions. 3820
011. -- 049. (Reserved) 3820
050. Collection Of Fees And Distribution Of Revenues Into Fund. 3820
051. -- 074. (Reserved) 3821
075. Protection Against Invasive Species Sticker. 3821
076. Placement Of Protection Against Invasive Species Sticker. 3821
077. Enforcement. 3821
078. -- 999. (Reserved) 3821

26.01.37 – Rules Governing Test Procedures and Instruments for Noise Abatement of Off Highway Vehicles
000. Legal Authority. 3822
001. Title And Scope. 3822
002. -- 009. (Reserved) 3822
010. Definitions. 3822
011. -- 049. (Reserved) 3822
050. Test Procedure. 3822
051. -- 099. (Reserved) 3823
100. Measurement. 3823
101. -- 149. (Reserved) 3824
150. Equipment. 3824
151. -- 999. (Reserved) 3824

26.01.10 – Rules Governing the Administration of Temporary Permits on Lands Owned by the Idaho Department of Parks and Recreation
000. Legal Authority. 3826
001. Title And Scope. 3826
002. -- 009. (Reserved) 3826
010. Definitions. 3826
011. -- 049. (Reserved) 3826
050. Policy. 3826
051. -- 099. (Reserved) 3827
100. Processing Fees. 3827
101. -- 149. (Reserved) 3827
150. Compensation. 3827
151. -- 199. (Reserved) 3827
200. Standard Conditions. 3827

201. -- 249. (Reserved) ... 3828
250. Special Conditions. ... 3828
251. -- 299. (Reserved) ... 3828
300. Application Procedure. ... 3828
301. -- 349. (Reserved) ... 3829
350. Modification Of Existing Temporary Permit. ... 3829
351. -- 399. (Reserved) ... 3829
400. Assignment. ... 3829
401. -- 449. (Reserved) ... 3829
450. Renewal. ... 3829
451. -- 499. (Reserved) ... 3829
500. Abandonment. ... 3829
501. -- 549. (Reserved) ... 3829
550. Relinquishment. ... 3829
551. -- 599. (Reserved) ... 3830
600. Expiration. ... 3830
601. -- 649. (Reserved) ... 3830
650. Cancellation. ... 3830
651. -- 699. (Reserved) ... 3830
700. Enforcement. ... 3830
701. -- 749. (Reserved) ... 3830
750. Administration. ... 3830
751. -- 799. (Reserved) ... 3830
800. Processing. ... 3830
801. -- 999. (Reserved) ... 3830

26.01.20 – Rules Governing the Administration of Park and Recreation Areas and Facilities

000. Legal Authority. ... 3831
001. Title And Scope. ... 3831
002. -- 009. (Reserved) ... 3831
010. Definitions. ... 3831
011. -- 074. (Reserved) ... 3834
075. Authority Conferrable On Employees - Enforcement. ... 3834
076. -- 099. (Reserved) ... 3834
100. Penalties For Violations. ... 3834
101. -- 124. (Reserved) ... 3834
125. Preservation Of Public Property. ... 3834
126. -- 149. (Reserved) ... 3834
150. Use Of Motor Vehicles. ... 3834
151. Parking Violations. ... 3835
152. -- 174. (Reserved) ... 3836
175. Public Behavior. ... 3836
176. -- 199. (Reserved) ... 3836
200. Camping. ... 3836
201. Boating Facilities. ... 3837
202. Overnight Use. ... 3837
203. -- 224. (Reserved) ... 3838
225. Fees And Services. ... 3838
226. -- 249. (Reserved) ... 3839
250. Fee Schedule: Campsites. ... 3839
251. (Reserved) ... 3840
252. Fee Schedule: Motor Vehicle Entrance Fee. ... 3840
253. (Reserved) ... 3841

254. Fee Schedule: Group Facility. 3841
255. (Reserved) 3841
256. Fee Schedule: Boating Facilities. 3841
257. (Reserved) 3841
258. Fee Schedule: Special Fees. 3841
259. Fee Schedule: Winter Access Program Fees. 3842
260. -- 274. (Reserved) 3842
275. Criteria For Individual Campsite, Camping Cabin, And Yurt Reservations. 3842
276. -- 299. (Reserved) 3843
300. Reserving Group Use Facilities. 3843
301. -- 399. (Reserved) 3843
400. Park Capacities. 3843
401. Operational Guidelines For Non-traditional Recreational Activities. 3844
402. -- 449. (Reserved) 3844
450. Waterfront Area Restrictions. 3844
451. -- 474. (Reserved) 3844
475. Pets. 3844
476. -- 499. (Reserved) 3844
500. Livestock. 3844
501. -- 524. (Reserved) 3844
525. Fires. 3844
526. -- 549. (Reserved) 3844
550. Fireworks. 3844
551. -- 574. (Reserved) 3845
575. Protection Of Wildlife. 3845
576. Protection Of Historical, Cultural And Natural Resources. 3845
577. -- 599. (Reserved) 3845
600. Personal Safety, Firearms. 3845
601. -- 624. (Reserved) 3845
625. Advertisements/Promotions/Demonstrations. 3845
626. -- 649. (Reserved) 3845
650. Authorized Operations. 3845
651. -- 674. (Reserved) 3846
675. Department Responsibility. 3846
676. -- 999. (Reserved) 3846

26.01.33 – Rules Governing the Administration of the Land and Water Conservation Fund Program

000. Legal Authority. 3847
001. Title And Scope. 3847
002. -- 009. (Reserved) 3847
010. Definitions. 3847
011. -- 049. (Reserved) 3848
050. General Provisions. 3848
051. -- 064. (Reserved) 3848
065. Compliance With Laws. 3848
066. -- 079. (Reserved) 3848
080. Fund Allocation. 3848
081. -- 094. (Reserved) 3849
095. Contingency Fund. 3849
096. -- 109. (Reserved) 3849
110. Sponsor's Matching Share. 3849
111. -- 124. (Reserved) 3849

125. Project Time Limitations. 3849
126. -- 139. (Reserved) 3849
140. Eligible Projects. 3849
141. -- 154. (Reserved) 3850
155. Eligible Project Costs. 3850
156. -- 169. (Reserved) 3850
170. Acquisition Of Publicly Owned Lands. 3850
171. -- 184. (Reserved) 3850
185. Acquisition Of Structures. 3850
186. -- 199. (Reserved) 3850
200. Waiver Of Retroactively. 3850
201. -- 214. (Reserved) 3850
215. Encumbrances. 3850
216. -- 229. (Reserved) 3850
230. Acquisition Costs Exceeding Fair Market Value. 3850
231. -- 259. (Reserved) 3850
260. Acquisitions Involving Compatible Multiple Uses. 3850
261. -- 274. (Reserved) 3851
275. Acquisitions Involving Nonrecreation Use. 3851
276. -- 289. (Reserved) 3851
290. Public Park And School Development Projects. 3851
291. -- 304. (Reserved) 3851
305. Donated Real Property As Matching Share. 3851
306. -- 319. (Reserved) 3851
320. Donated Goods And Services As Matching Share. 3851
321. -- 334. (Reserved) 3852
335. Force Account As Matching Share. 3852
336. -- 349. (Reserved) 3852
350. Appraisal Requirements. 3852
351. -- 364. (Reserved) 3852
365. Appraisal Reviews. 3852
366. -- 379. (Reserved) 3852
380. Revenue Feasibility Studies. 3852
381. -- 394. (Reserved) 3852
395. Technical Review. 3852
396. -- 409. (Reserved) 3852
410. Funding Cycle. 3852
411. -- 424. (Reserved) 3853
425. Application Procedure. 3853
426. -- 439. (Reserved) 3853
440. Open Project Selection Process (OPSP). 3853
441. -- 454. (Reserved) 3853
455. Evaluation Committee. 3853
456. -- 469. (Reserved) 3854
470. Board Review And Approval. 3854
471. -- 484. (Reserved) 3854
485. NPS Project Approval. 3854
486. -- 499. (Reserved) 3854
500. Proceeding On The Project. 3854
501. -- 514. (Reserved) 3854
515. Disbursement Of Funds. 3854
516. -- 529. (Reserved) 3855

530. Project Contract. 3855
531. -- 544. (Reserved) 3855
545. Control And Tenure. 3855
546. -- 559. (Reserved) 3856
560. Applicability. 3856
561. -- 574. (Reserved) 3856
575. Sponsor Commitment. 3856
576. -- 589. (Reserved) 3856
590. Restriction On Title. 3856
591. -- 604. (Reserved) 3856
605. Records. 3856
606. -- 619. (Reserved) 3856
620. Project Amendments, Cost Increases And Time Extensions. 3856
621. -- 634. (Reserved) 3857
635. Development Project Contract Requirements. 3857
636. -- 649. (Reserved) 3857
650. Conversion To Other Uses. 3857
651. -- 664. (Reserved) 3858
665. User Fees, Charges And Income. 3858
666. -- 679. (Reserved) 3858
680. Permanent Project Signs. 3858
681. -- 694. (Reserved) 3859
695. Architectural Barriers. 3859
696. -- 709. (Reserved) 3859
710. Uniform Relocation Complaint Procedure. 3859
711. -- 724. (Reserved) 3859
725. Availability To Users. 3859
726. -- 739. (Reserved) 3859
740. Civil Rights Complaint Procedure. 3859
741. -- 999. (Reserved) 3859

26.01.36 – Rules Governing the Winter Recreational Parking Permit Program

000. Legal Authority. 3860
001. Title And Scope. 3860
002. -- 049. (Reserved) 3860
050. Location Of Permit On Vehicle. 3860
051. -- 099. (Reserved) 3860
100. Permit Cost, Expiration. 3860
101. -- 149. (Reserved) 3860
150. User Exception. 3860
151. -- 199. (Reserved) 3860
200. Compliance With Additional Permit Requirements. 3860
201. -- 249. (Reserved) 3860
250. Parking Restrictions. 3860
251. -- 299. (Reserved) 3860
300. Equipment To Remain Property Of State Of Idaho. 3860
301. -- 349. (Reserved) 3861
350. Penalties For Violations. 3861
351. -- 399. (Reserved) 3861
400. Designation Of Primary Use Area. 3861
401. -- 449. (Reserved) 3861
450. Public Use, Nondiscrimination. 3861
451. -- 999. (Reserved) 3861

IDAPA 27 – IDAHO BOARD OF PHARMACY

Docket No. 27-0000-1900F

27.01.01 – Rules of the Idaho State Board of Pharmacy

000. Legal Authority. ... 3863
001. Title And Scope. ... 3863
002. – 009. (Reserved) ... 3863
010. Definitions And Abbreviations (A – D). ... 3863
011. Definitions And Abbreviations (E – N). ... 3864
012. Definitions And Abbreviations (O – Z). ... 3864
013. – 099. (Reserved) ... 3865
100. Practice Of Pharmacy: General Approach. ... 3866
101. Prescriber Performance Of Pharmacy Functions. ... 3866
102. Waivers Or Variances. ... 3866
103. Board Inspections And Investigations. ... 3866
104. Unprofessional Conduct. ... 3867
105. – 199. (Reserved) ... 3868
200. Board Of Pharmacy Licensure And Registration. ... 3868
201. Licensure And Registration: General Requirements. ... 3868
202. Board Fees. ... 3869
203. Fee Schedule. ... 3869
204. – 209. (Reserved) ... 3870
210. Determination Of Need For Nonresident Licensure Or Registration. ... 3870
211. Pharmacist Licensure By Examination. ... 3870
212. Pharmacist Licensure By Reciprocity. ... 3871
213. Pharmacist License Renewal: CPE Requirements. ... 3871
214. Pharmacist License: Reinstatement. ... 3871
215. Nonresident PIC Registration To Practice Pharmacy Into Idaho. ... 3871
216. Pharmacist Intern Registration. ... 3872
217. – 219. (Reserved) ... 3872
220. Certified Technician Registration. ... 3872
221. Technician Registration. ... 3872
222. – 223. (Reserved) ... 3873
224. Practitioner Controlled Substance Registration. ... 3873
225. – 229. (Reserved) ... 3873
230. Drug Outlet Licensure And Registration: General Requirements ... 3873
231. -- 239. (Reserved) ... 3873
240. Wholesaler Licensure And Registration. ... 3873
241. – 249. (Reserved) ... 3874
250. Manufacturer Registration. ... 3874
251. – 299. (Reserved) ... 3874
300. Drug Outlets: Minimum Facility Standards. ... 3874
301. Drug Outlets That Dispense Prescription Drugs: Minimum Prescription Filling Requirements. ... 3875
302. Drug Outlets That Dispense Drugs To Patients Without An Onsite Pharmacist Or Prescriber. ... 3875
303. Drugs Stored Outside Of A Drug Outlet For Retrieval By A Licensed Health Professional. ... 3876
304. – 349. (Reserved) ... 3876
350. Pharmacist Prescribing: General Requirements. ... 3876
351. Collaborative Pharmacy Practice. ... 3877
352. -- 399. (Reserved) ... 3877
400. Prescription Drug Order: Validity. ... 3877

401. Prescription Drug Order: Minimum Requirements. 3877
402. Filling Prescription Drug Orders: Practice Limitations. 3878
403. Filling Prescription Drug Orders: Adaptation. 3878
404. Filling Prescription Drug Orders: Drug Product Substitution. 3878
405. Filling Prescription Drug Orders: Transfers. 3879
406. Labeling Standards. 3879
407. Prescription Delivery: Restrictions. 3879
408. Destruction Or Return Of Drugs Or Devices: Restrictions. 3880
409. Dispensing Controlled Substances: Positive Identification. 3880
410. -- 499. (Reserved) 3880
500. Recordkeeping: Maintenance And Inventory Requirements. 3880
501. Reporting Requirements. 3881
502. -- 599. (Reserved) 3881
600. Controlled Substances: PDMP. 3881
601. – 699. (Reserved) 3882
700. Compounding Drug Preparations. 3882
701. Sterile Preparation. 3884
702. Hazardous Drugs Preparation. 3886
703. Outsourcing Facility. 3886
704. – 999. (Reserved) 3887

IDAPA 28 – DEPARTMENT OF COMMERCE

Docket No. 28-0000-1900

28.02.03 – Department of Commerce Grant Program Rules

000. Legal Authority. 3890
001. Title And Scope. 3890
002. -- 009. (Reserved) 3890
010. Definitions. 3890
011. -- 049. (Reserved) 3890
050. General Grant Program Requirements. 3890
051. -- 099. (Reserved) 3891
100. Idaho Regional Travel And Convention Grant Program. 3891
101. -- 149. (Reserved) 3892
150. Idaho Gem Grant (Igg) Program. 3892
151. -- 199. (Reserved) 3893
200. Rural Community Investment Fund (Rcif). 3893
201. -- 249. (Reserved) 3894
250. Idaho Global Entrepreneurial Mission (Igem) Grant Program. 3894
251. -- 299. (Reserved) 3894
300. Idaho Opportunity Fund. 3894
301. -- 349. (Reserved) 3895
350. Idaho Community Development Block Grant (Icdbg) 3895
351. -- 999. (Reserved) 3895

28.04.01 – Rules Governing the Idaho Reimbursement Incentive Act

000. Legal Authority. 3896
001. Title And Scope. 3896
003. Administrative Appeals. 3896
004. -- 099. (Reserved) 3896
100. Definitions And Abbreviations. 3896
101. -- 129. (Reserved) 3896
130. Program Intent. 3896
131. -- 149. (Reserved) 3896

150. Eligibility. 3896
151. Job Creation Criteria. 3897
152. Application Process. 3897
153. -- 159. (Reserved) 3899
160. Conflict Of Interest. 3899
161. -- 169. (Reserved) 3899
170. Agreements. 3899
171. -- 179. (Reserved) 3900
180. Tax Credit Authorization. 3900
181. -- 189. (Reserved) 3900
190. Annual Reporting By Applicant. 3900
191. Annual Reporting By Department. 3901
192. -- 199. (Reserved) 3901
200. Audit. 3901
201. -- 209. (Reserved) 3901
210. Continuation Of Tax Credit. 3901
211. Termination Or Suspension Of Tax Credit. 3901
212. -- 219. (Reserved) 3902
220. Suspension Of Idaho Reimbursement Incentive Act. 3902
221. -- 999. (Reserved) 3902

IDAPA 29 – IDAHO POTATO COMMISSION

Docket No. 29-0000-1900

29.01.01 – Rules of the Idaho Potato Commission

000. Legal Authority. 3904
001. Title And Scope. 3904
002. (Reserved) 3904
003. Administrative Proceedings And Appeals. 3904
004. -- 010. (Reserved) 3904
010. Definitions. 3904
011. -- 099. (Reserved) 3904
100. General. 3904
101. (Reserved) 3905
102. Certification Marks For Idaho® Potato Containers. 3905
103. Branding, And Grade And Packaging Requirements Of State Brand. 3908
104. Reporting, Labeling, And Revocation. 3909
105. Additional Labeling Requirements, Potatoes. 3911
106. Additional Requirements For Use Of Trademarks. 3911
107. -- 199. (Reserved) 3911
200. Informal Files May Be Investigative Records. 3912
201. Subpoenas. 3912
202. Rulings At Hearings. 3912
203. Objections -- Offers Of Proof. 3912
204. -- 999. (Reserved) 3912

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES

Docket No. 30-0101-1900

30.01.01 – Rules of the Idaho Commission for Libraries Governing the Use of Commission Services

000. Legal Authority. 3917
001. Title And Scope. 3917
002. Administrative Appeals. 3917

003. Incorporation By Reference. ... 3917
004. -- 010. (Reserved) ... 3917
011. Definitions. ... 3917
012. Abbreviations. ... 3918
013. -- 019. (Reserved) ... 3918
020. Grant Programs – Eligibility Requirements. ... 3918
021. Library Consortium Grant Program Applicants. ... 3919
022. – 029. (Reserved) ... 3919
030. Request For Exemption From The Criteria For A Proposed Library District - Section 33-2703(5), Idaho Code. ... 3920
031. -- 039. (Reserved) ... 3920
040. Digital Repository Of State Publications. ... 3920
041. -- 049. (Reserved) ... 3920
050. Talking Book Service (TBS). ... 3920
051. -- 999. (Reserved) ... 3921

IDAPA 31 – IDAHO PUBLIC UTILITIES COMMISSION

Docket No. 31-0000-1900

31.01.01 – Rules of Procedure of the Idaho Public Utilities Commission

000. Legal Authority (Rule 0). ... 3924
001. Title And Scope (Rule 1). ... 3924
002. Written Interpretations – Agency Guidelines (Rule 2). ... 3924
003. Administrative Appeals (Rule 3). ... 3924
004. Public Records Act Compliance (Rule 4). ... 3924
005. Definitions (Rule 5). ... 3924
006. -- 009. (Reserved) ... 3924
010. These Rules Supersede The Attorney General's Rules Of Procedure (Rule 10). ... 3924
011. Proceedings Governed (Rule 11). ... 3924
012. Office – Office Hours – Fax Number – Mailing, Electronic And Street Addresses – Drop Box (Rule 12). ... 3924
013. Liberal Construction (Rule 13). ... 3925
014. Commission Secretary -- Communications With Commission -- Timely Filing (Rule 14). ... 3925
015. Identification Of Communications (Rule 15). ... 3925
016. Service By Commission - Designation Of Agent (Rule 16). ... 3925
017. Computation Of Time (Rule 17). ... 3926
018. Payment Of Fees And Remittances (Rule 18). ... 3926
019. Incorporated By Reference -- Idaho Bar Commission Rule (Rule 19). ... 3926
020. Discontinuance Of Telecommunications Service (Rule 20). ... 3926
021. Informal Proceedings Defined (Rule 21). ... 3926
022. Informal Procedure (Rule 22). ... 3926
023. Further Proceedings (Rule 23). ... 3927
024. Informal Proceedings Do Not Exhaust Administrative Remedies (Rule 24). ... 3927
025. Formal Proceedings (Rule 25). ... 3927
026. Informal Files May Be Investigative Records (Rule 26). ... 3927
027. -- 030. (Reserved) ... 3927
031. Parties Listed (Rule 31). ... 3927
032. Applicants (Rule 32). ... 3927
033. Petitioners (Rule 33). ... 3927
034. Complainants (Rule 34). ... 3927
035. Respondents (Rule 35). ... 3927
036. Intervenors (Rule 36). ... 3928
037. Commission Staff (Rule 37). ... 3928

038. Rights Of Parties And Of Commission Staff (Rule 38). 3928
039. Persons -- Persons Not Parties -- Interested Persons -- Public Involvement (Rule 39). 3928
040. (Reserved) 3928
041. Initial Pleading By Party -- Listing Of Representatives (Rule 41). 3928
042. Taking Of Appearances (Rule 42). 3929
043. Representation Of Parties (Rule 43). 3929
044. Service On Representatives Of Parties And Other Persons (Rule 44). 3929
045. Withdrawal Of Parties (Rule 45). 3929
046. Substitution Of Representative -- Withdrawal Of Representative (Rule 46). 3929
047. Conduct Required (Rule 47). 3930
048. Former Employees -- Restriction On Representation Of Parties (Rule 48). 3930
049. Notice Of Parties (Rule 49). 3930
050. (Reserved) 3930
051. Pleadings Listed -- Miscellaneous (Rule 51). 3930
052. Applications -- Defined -- Form And Contents (Rule 52). 3930
053. Petitions -- Defined -- Form And Contents (Rule 53). 3930
054. Formal Complaints -- Defined -- Contents And Process (Rule 54). 3931
055. Informal Inquiries Or Complaints (Rule 55). 3931
056. Motions -- Defined -- Form And Contents -- Time For Filing (Rule 56). 3931
057. Answers -- Defined -- Form And Contents -- Time For Filing (Rule 57). 3932
058. Consent Agreements -- Defined -- Form And Contents (Rule 58). 3932
059. -- 060. (Reserved) 3933
061. Filing Documents With The Commission -- Number Of Copies -- Discovery -- Facsimile (FAX) And Electronic Filing (Rule 61). 3933
062. Form Of Documents (Rule 62). 3934
063. Service On Parties And Other Persons (Rule 63). 3935
064. Proof Of Service (Rule 64). 3935
065. Defective, Insufficient Or Late Pleadings (Rule 65). 3935
066. Amendments To Pleadings (Rule 66). 3935
067. Information Exempt From Public Review -- Definitions -- Form -- Procedures (Rule 67). 3935
068. Withdrawal Of Pleadings (Rule 68). 3936
069. -- 070. (Reserved) 3936
071. Order Granting Intervention Necessary (Rule 71). 3936
072. Form And Contents Of Petitions To Intervene (Rule 72). 3936
073. Timely Filing Of Petitions To Intervene (Rule 73). 3936
074. Granting Petitions To Intervene (Rule 74). 3937
075. Orders Granting Intervention -- opposition (Rule 75). 3937
076. Public Witnesses (Rule 76). 3937
077. -- 100. (Reserved) 3937
101. Form And Contents Of Petition For Declaratory Orders (Rule 101). 3937
102. Notice Of Petition For Declaratory Orders (Rule 102). 3937
103. -- 110. (Reserved) 3938
111. Form And Contents -- New Utility (Rule 111). 3938
112. Form And Contents -- Existing Utility (Rule 112). 3939
113. Notice Of Application -- Orders (Rule 113). 3939
114. Application For New Competitive Local Exchange Carrier (CLEC) – Form And Content (Rule 114). 3939
115. -- 120. (Reserved) 3941
121. Form And Contents Of Application To Change Rates (Rule 121). 3941
122. Notice Of Intent To File A General Rate Case (Rule 122). 3942
123. Proposed Changes To Rates Or Rules -- Effective Date -- Notice Of Application -- Suspension (Rule 123). 3942
124. Designation As General Rate Case In Notice Of Application (Rule 124). 3942

125. Notices To Customers Of Proposed Changes In Rates (Rule 125). ... 3943
126. Application To Approve Interconnection Agreements (Rule 126). ... 3944
127. Public Workshops On Applications To Increase Rates (Rule 127). ... 3944
128. -- 130. (Reserved) ... 3944
131. Form Of Tariffs (Rule 131). ... 3944
132. Number Of Tariff Copies Filed (Rule 132). ... 3945
133. Tariffs Submitted Pursuant To Order (Rule 133). ... 3945
134. Tariff Advices (Rule 134). ... 3945
135. -- 140. (Reserved) ... 3946
141. Form And Contents Of Application To Issue Securities (Rule 141). ... 3946
142. Applications Filed With Other Agency (Rule 142). ... 3947
143. Reports (Rule 143). ... 3947
144. Hearing -- Modified Procedure -- Summary Action (Rule 144). ... 3947
145. Requests For Expeditious Action (Rule 145). ... 3947
146. Fees Must Be Paid Before Order Issued (Rule 146). ... 3947
147. Exemption (Rule 147). ... 3947
148. -- 150. (Reserved) ... 3947
151. Timetable For Decision -- Cable Pole Attachment Proceedings (Rule 151). ... 3948
152. Rules Of Procedure To Be Used (Rule 152). ... 3948
153. -- 160. (Reserved) ... 3948
161. Cases In Which Intervenors May Apply For Funding (Rule 161). ... 3948
162. Form And Contents Of Petition For Intervenor Funding (Rule 162). ... 3948
163. Prohibition On Application By Competitor (Rule 163). ... 3948
164. Time To Apply (Rule 164). ... 3949
165. Awards (Rule 165). ... 3949
166. -- 200. (Reserved) ... 3949
201. Scope Of Modified Procedure (Rule 201). ... 3949
202. Notice Of Modified Procedure (Rule 202). ... 3949
203. Protests And Comments (Rule 203). ... 3950
204. Action By Commission (Rule 204). ... 3950
205. -- 210. (Reserved) ... 3950
211. Purposes Of Prehearing Conferences (Rule 211). ... 3950
212. Notice Of Prehearing Conferences (Rule 212). ... 3950
213. Record Of Conference (Rule 213). ... 3950
214. Orders Resulting From Prehearing Conferences (Rule 214). ... 3950
215. Conference Proceedings Privileged (Rule 215). ... 3950
216. -- 220. (Reserved) ... 3951
221. Kinds And Scope Of Discovery Listed (Rule 221). ... 3951
222. Discovery Authorized (Rule 222). ... 3951
223. Rights To Discovery Reciprocal (Rule 223). ... 3951
224. Depositions (Rule 224). ... 3951
225. Production Requests Or Written Interrogatories And Requests For Admission (Rule 225). ... 3951
226. Subpoenas (Rule 226). ... 3952
227. Statutory Examination And Audit -- Contrasted With Other Discovery (Rule 227). ... 3952
228. Answers To Production Requests Or Written Interrogatories And To Requests For Admission (Rule 228). ... 3953
229. Filing And Service Of Discovery And Related Documents (Rule 229). ... 3953
230. Exhibit Numbers -- Prepared Testimony And Exhibits (Rule 230). ... 3953
231. Prepared Testimony And Exhibits (Rule 231). ... 3953
232. Sanctions For Failure To Obey Order Compelling Discovery (Rule 232). ... 3954
233. Assertions That Discovered Material Is Protected From Public Inspections -- Procedures (Rule 233). ... 3954

234. Assertion Of Right Against Self-Incrimination During Discovery -- Immunity (Rule 234). 3955
235. -- 240. (Reserved) 3955
241. Notice Of Hearing (Rule 241). 3955
242. Facilities At Or For Hearing And ADA Requirements (Rule 242). 3956
243. How Hearings Are Held (Rule 243). 3956
244. Conduct At Hearings (Rule 244). 3956
245. Conference At Hearing (Rule 245). 3956
246. Preliminary Procedure At Hearing (Rule 246). 3956
247. Consolidation Of Proceedings (Rule 247). 3956
248. Stipulations (Rule 248). 3957
249. Order Of Procedure (Rule 249). 3957
250. Testimony Under Oath (Rule 250). 3958
251. Parties And Persons With Similar Interests (Rule 251). 3958
252. Continuance Of Hearing (Rule 252). 3958
253. Rulings At Hearings (Rule 253). 3958
254. Oral Argument (Rule 254). 3958
255. Briefs -- Proposed Orders Of The Parties -- Statements Of Position -- Proposed Order Of The Commission (Rule 255). 3958
256. Procedure On Motions (Rule 256). 3958
257. Joint Hearings (Rule 257). 3959
258. Commissioners -- Hearing Examiners -- Procedure (Rule 258). 3959
259. Assertion Of Right Against Self-Incrimination At Hearing -- Immunity (Rule 259). 3959
260. Summary Of Position(s) And Testimony (Rule 260). 3960
261. Rules Of Evidence -- Evaluation Of Evidence (Rule 261). 3960
262. Documentary Evidence -- Introduction Of Records In The Commission Secretary's Official File (Rule 262). 3960
263. Official Notice (Rule 263). 3960
264. Depositions (Rule 264). 3961
265. Objections -- Offers Of Proof (Rule 265). 3961
266. Prepared Testimony (Rule 266). 3961
267. Exhibits (Rule 267). 3961
268. -- 270. (Reserved) 3962
271. Passive Settlements (Rule 271). 3962
272. Procedures For Active Settlements (Rule 272). 3962
273. Suggestion For Or Inquiry About Settlements (Rule 273). 3962
274. Consideration Of Settlements (Rule 274). 3963
275. Burdens Of Proof (Rule 275). 3963
276. Settlement Not Binding (Rule 276). 3963
277. Consent Agreements Not Settlements (Rule 277). 3963
278. -- 280. (Reserved) 3963
281. Records For Decision -- Relationship To Official File (Rule 281). 3963
282. The Commission Secretary's Official File (Rule 282). 3963
283. The Hearing Record (Rule 283). 3964
284. The Commissioners' Record (Rule 284). 3964
285. The Reporter (Rule 285). 3964
286. Transcripts (Rule 286). 3964
287. Sealed Transcripts (Rule 287). 3966
288. -- 300. (Reserved) 3966
301. Failure To Answer Or Appear At Hearing -- Defaults (Rule 301). 3966
302. -- 310. (Reserved) 3966
311. Submission For Decisions (Rule 311). 3966
312. Proposed Orders By Commission (Rule 312). 3966

313. -- 320. (Reserved) ... 3967
321. Interlocutory Orders (Rule 321). ... 3967
322. Review Of Interlocutory Orders (Rule 322). ... 3967
323. Final Orders (Rule 323). ... 3967
324. Stay Of Orders (Rule 324). ... 3968
325. Clarification Of Orders (Rule 325). ... 3968
326. Rescission, Alteration Or Amendment Of Final Orders (Rule 326). ... 3968
327. Substance Of Orders (Rule 327). ... 3968
328. -- 330. (Reserved) ... 3968
331. Petitions And Cross-Petitions For Reconsideration (Rule 331). ... 3968
332. Procedure At Reconsideration (Rule 332). ... 3969
333. Effect Of Filing Petition For Reconsideration (Rule 333). ... 3969
334. -- 340. (Reserved) ... 3969
341. Persons Who May Appeal (Rule 341). ... 3969
342. Notice Of Appeal (Rule 342). ... 3970
343. Preparation Of Appellate Record (Rule 343). ... 3970
344. -- 350. (Reserved) ... 3970
351. Dismissals (Rule 351). ... 3970
352. Settlements Calling For Commission Action (Rule 352). ... 3970
353. Suggestion For Inquiry About Settlements (Rule 353). ... 3970
354. Consideration Of Settlement On Appeal (Rule 354). ... 3971
355. Burdens Of Proof (Rule 355). ... 3971
356. Settlements Not Binding (Rule 356). ... 3971
357. -- 999. (Reserved) ... 3971

31.11.01 – Safety and Accident Reporting Rules for Utilities Regulated by the Idaho Public Utilities Commission

000. Legal Authority (Rule 0). ... 3972
001. Title And Scope (Rule 1). ... 3972
002. Written Interpretations – Agency Guidelines (Rule 2). ... 3972
003. Administrative Appeals (Rule 3). ... 3972
004. Public Records Act Compliance (Rule 4). ... 3972
005. Definitions (Rule 5). ... 3972
006. -- 007. (Reserved) ... 3972
008. Incorporation By Reference – Code Of Federal Regulations (Rule 8). ... 3972
009. -- 100. (Reserved) ... 3972
101. National Electrical Safety Code (NESC) (Rule 101). ... 3973
102. -- 200. (Reserved) ... 3973
201. Federal Natural Gas Safety Regulations (Rule 201). ... 3973
202. -- 300. (Reserved) ... 3973
301. Immediate Reporting Of Fatalities And Certain Accidents And Major Natural Gas Interruptions (Rule 301). ... 3973
302. Written Reporting Of Accidents And Natural Gas Interruptions (Rule 302). ... 3974
303. Use Of Reports (Rule 303). ... 3975
304. -- 999. (Reserved) ... 3975

31.12.01 – Systems of Accounts for Public Utilities Regulated by the Idaho Public Utilities Commission

000. Legal Authority (Rule 0). ... 3976
001. Title And Scope (Rule 1). ... 3976
002. Written Interpretations – Agency Guidelines (Rule 2). ... 3976
003. Administrative Appeals (Rule 3). ... 3976
004. (Reserved) ... 3976
005. Definitions (Rule 5). ... 3976

006. -- 007. (Reserved) ... 3976
008. Incorporation By Reference (Rule 8). ... 3976
009. -- 100. (Reserved) ... 3976
101. Uniform System Of Accounts For Electric Utilities (Rule 101). ... 3976
102. Uniform System Of Accounts For Gas Utilities (Rule 102). ... 3976
103. Uniform System Of Accounts For Telephone Utilities (Rule 103). ... 3977
104. Uniform System Of Accounts For Water Utilities (Rule 104). ... 3977
105. -- 999. (Reserved) ... 3977

31.21.01 – Customer Relations Rules for Gas, Electric, and Water Public Utilities (The Utility Customer Relations Rules)

000. Legal Authority (Rule 0). ... 3978
001. Title And Scope (Rule 1). ... 3978
002. Written Interpretations – Agency Guidelines (Rule 2). ... 3978
003. Administrative Appeals (Rule 3). ... 3978
004. (Reserved) ... 3978
005. Definitions (Rule 5). ... 3978
006. -- 007. (Reserved) ... 3978
008. Exercise Of Rights By Customer (Rule 8). ... 3978
009. Informal Complaints and Interpretation Of Rules (Rule 9). ... 3978
010. Conflict With Utility Tariffs (Rule 11). ... 3979
011 -- 099. (Reserved) ... 3979
100. Further Definitions (Rule 100). ... 3979
101. Deposit Requirements (Rule 101). ... 3979
102. Other Deposit Standards Prohibited -- Residential Customers (Rule 102). ... 3980
103. (Reserved) ... 3980
104. Explanation For Requirement Of Deposit (Rule 104). ... 3980
105. Amount Of Deposit (Rule 105). ... 3980
106. Interest On Deposits (Rule 106). ... 3980
107. Return Of Deposit (Rule 107). ... 3981
108. Transfer Of Deposit (Rule 108). ... 3981
109. Records Of Deposit (Rule 109). ... 3981
110. Unclaimed Deposits And Advance Payments (Rule 110). ... 3981
111. -- 199. (Reserved) ... 3982
200. Further Definition (Rule 200). ... 3982
201. Issuance Of Bills -- Contents Of Bills (Rule 201). ... 3982
202. Due Date Of Bills -- Delinquent Bills (Rule 202). ... 3983
203. Billing Errors, Billing Under Incorrect Rates, Or Failure To Bill For Service (Rule 203). ... 3983
204. -- 205. (Reserved) ... 3984
206. Responsibility For Payment Of Bills -- Residential Customers (Rule 206). ... 3984
207. Billing Prohibited (Rule 207). ... 3984
208. -- 299. (Reserved) ... 3985
300. Further Definitions (Rule 300). ... 3985
301. Explanation For Denial Of Service To Applicant (Rule 301). ... 3985
302. Grounds For Denial Or Termination Of Service With Prior Notice (Rule 302). ... 3985
303. Grounds For Denial Or Termination Of Service Without Prior Notice (Rule 303). ... 3986
304. Requirements For Notice To Customers Before Termination Of Service (Rule 304). ... 3986
305. Contents Of Notice Of Intent To Terminate Service (Rule 305). ... 3987
306. Termination Of Residential Gas And Electric Service -- Winter Payment Plan (Rule 306). ... 3987
307. Third-Party Notification -- Residential Service (Rule 307). ... 3988
308. Serious Illness Or Medical Emergency (Rule 308). ... 3988
309. Medical Facilities -- Shelter Care (Rule 309). ... 3989

310. Insufficient Grounds For Termination OR DENIAL Of Service (Rule 310). 3989
311. Times When Service May Be Terminated -- Opportunity To Avoid Termination Of Service (Rule 311). 3990
312. Denial Or Termination Of Service To Master-Metered Accounts And Residents Or Occupants Who Are Not Customers (Rule 312). 3990
313. Payment Arrangements (Rule 313). 3991
314. -- 399. (Reserved) 3992
400. Complaint To Utility (Rule 400). 3992
401. Complaint To Commission (Rule 401). 3992
402. Record Of Complaints (Rule 402). 3992
403. Utility Response To Informal Complaints (Rule 403). 3992
404. -- 599. (Reserved) 3993
600. Definitions (Rule 600). 3993
601. Deposit Requirements And Advance Payments (Rule 601). 3993
602. Grounds For Denial Or Termination Of Service With Prior Notice (Rule 602). 3993
603. Requirements For And Contents Of Notice Before Termination Of Service (Rule 603). 3993
604. Grounds For Termination Of Service Without Prior Notice (Rule 604). 3994
605. Notice To Commission Prior To Termination (Rule 605). 3994
606. -- 699. (Reserved) 3994
700. Information to Customers (Rule 700). 3994
701. -- 999. (Reserved) 3995

31.26.01 – Master-Metering Rules for Electric Utilities

000. Legal Authority (Rule 0). 3996
001. Title And Scope (Rule 1). 3996
002. Written Interpretations – Agency Guidelines (Rule 2). 3996
003. Administrative Appeals (Rule 3). 3996
004. (Reserved) 3996
005. Definitions (Rule 5). 3996
006. -- 099. (Reserved) 3996
100. Master-Metering And Individual Metering In Mobile Home Parks (Rule 100). 3996
101. Master-Metering And Individual Metering In Multi-Occupant Residential Buildings (Rule 101). 3997
102. Master-Metering And Individual Metering In Commercial Buildings And Shopping Centers (Rule 102). 3997
103. -- 999. (Reserved) 3997

31.31.01 – Gas Service Rules

000. Legal Authority (Rule 0). 3998
001. Title And Scope (Rule 1). 3998
002. Written Interpretations – Agency Guidelines (Rule 2). 3998
003. Administrative Appeals (Rule 3). 3998
004. (Reserved) 3998
005. Definitions (Rule 5). 3998
006. -- 100. (Reserved) 3998
101. Maps Of Facilities (Rule 101). 3998
102. Inspection Of Customer's Facilities (Rule 102). 3998
103. -- 150. (Reserved) 3999
151. Standard For Service (Rule 151). 3999
152. Periodic Tests Of Customer Meters (Rule 152). 3999
153. Meter Proving (Rule 153). 3999
154. Customer Meter Accuracy Requirements (Rule 154). 3999
155. Customer Meter Test Loads (Rule 155). 3999

156. Customer Meter Test Records (Rule 156). 4000
157. -- 999. (Reserved) 4000

31.36.01 – Policies and Presumptions for Small Water Companies

000. Legal Authority (Rule 0). 4001
001. Title And Scope (Rule 1). 4001
002. Written Interpretations – Agency Guidelines (Rule 2). 4001
003. Administrative Appeals (Rule 3). 4001
004. (Reserved) 4001
005. Definitions (Rule 5). 4001
006. -- 100. (Reserved) 4001
101. Small Water Companies Defined (Rule 101). 4001
102. Presumption Of Contributed Capital (Rule 103). 4001
104. -- 999. (Reserved) 4001

31.41.01 – Customer Relations Rules for Telephone Corporations Providing Services in Idaho Subject to Customer Service Regulation by the Idaho Public Utilities Commission (The Telephone Customer Relations Rules)

000. Legal Authority (Rule 0). 4002
001. Title And Scope (Rule 1). 4002
002. Written Interpretations – Agency Guidelines (Rule 2). 4002
003. Administrative Appeals (Rule 3). 4002
004. (Reserved) 4002
005. Definitions (Rule 5). 4002
006. -- 007. (Reserved) 4003
008. Exercise Of Rights By Customer (Rule 8). 4003
009. Informal Complaints And Interpretation Of Rules (Rule 9). 4003
010. Conflict With Telephone Tariffs Or Price Lists (Rule 10). 4003
011. Incorporation By Reference -- Code Of Federal Regulations (Rule 11). 4003
012. -- 099. (Reserved) 4003
100. Deposit Requirements -- LECS (Rule 100). 4003
101. Other Deposit Standards Prohibited (Rule 101). 4004
102. Explanation For Denial Of Service Or Requirement Of Deposit -- LECS (Rule 102). 4004
103. Amount Of Deposit -- LECS (Rule 103). 4004
104. Interest On Deposits (Rule 104). 4004
105. Return Of Deposit -- LECS (Rule 105). 4005
106. Transfer Of Deposit (Rule 106). 4005
107. Records Of Deposits (Rule 107). 4005
108. Unclaimed Deposits And Advance Payments (Rule 108). 4005
109. -- 199. (Reserved) 4006
200. Further Definition (Rule 200). 4006
201. Issuance Of Billing Statements -- Contents Of Bills -- Residential And Small Business Service (Rule 201). 4006
202. Due Date Of Bills -- Delinquent Bills (Rule 202). 4007
203. Billing Errors, Billing Under Incorrect Rates, Or Failure To Bill (Rule 203). 4007
204. Billing Prohibited -- Billing Disputes (Rule 204). 4008
205. Responsibility For Payment Of Residential Service Bills (Rule 205). 4008
206. -- 299. (Reserved) 4009
300. Explanation For Denial Of A Service To A Customer (Rule 300). 4009
301. Grounds For Denial Or Termination Of Local Exchange Service With Prior Notice (Rule 301). 4009
302. Grounds For Denial Or Termination Of A Service, Without Prior Notice (Rule 302). 4010
303. Requirements For Notice Before Termination Of Local Exchange Service (Rule 303). 4010
304. Contents Of Notice Of Intent To Terminate Local Exchange Service (Rule 304). 4010

305. Serious Illness Or Medical Emergency (Rule 305). 4011
306. Medical Facilities -- Shelter Care (Rule 306). 4011
307. Insufficient Grounds For Termination Of Local Exchange Service (Rule 307). 4012
308. Restrictions On Termination Of Local Exchange Service -- Opportunity To Avoid Termination Of Local Exchange Service (Rule 308). 4012
309. Payment Arrangements (Rule 309). 4012
310. Denial, Restriction, Modification, Or Termination Of Long-Distance Service Or Other Services (Rule 310). 4013
311. Cessation Of Service In A Service Area (Rule 311). 4013
312. -- 399. (Reserved) 4014
400. Complaint To Telephone Company (Rule 400). 4014
401. Complaint To Commission (Rule 401). 4015
402. Record Of Complaints (Rule 402). 4015
403. Telephone Company Response To Informal Complaints (Rule 403). 4015
404. -- 499. (Reserved) 4015
500. Quality Of Service (Rule 500). 4015
501. Response To Service Outage (Rule 501). 4016
502. Repair Service Standards (Rule 502). 4016
507. -- 599. (Reserved) 4017
600. Information To Customers (Rule 600). 4017
601. Access To Emergency Services (Rule 601). 4018
602. Request For Telephone Company Records (Rule 602). 4018
603. Automatic Recording (Rule 603). 4018
604. Public Notice (Rule 604). 4018
605. Telephone Solicitations (Rule 605). 4018
606. Information, Price Lists Or Tariffs For Non-Local Exchange Service (Rule 606). 4019
607. Price Lists Or Tariff Filings (Rule 607). 4019
608. Form And Number Of Copies Of Price List Or Tariff (Rule 608). 4020
609. -- 699. (Reserved) 4020
700. The Unauthorized Change Of A Customer's Telephone Company (Rule 700). 4020
701. Adoption Of Federal Slamming Regulations (Rule 701). 4020
702. State Procedures (Rule 702). 4020
703. -- 999. (Reserved) 4021

31.46.01 – Universal Service Fund Rules

000. Legal Authority (Rule 0). 4022
001. Title And Scope (Rule 1). 4022
002. Written Interpretations – Agency Guidelines (Rule 2). 4022
003. Administrative Appeals (Rule 3). 4022
004. (Reserved) 4022
005. Definitions (Rule 5). 4022
006. -- 100. (Reserved) 4023
101. Establishment And Purposes (Rule 101). 4023
102. Administrator Of The USF (Rule 102). 4023
103. Statewide End-User Surcharges (Rule 103). 4024
104. The Commission's Determination Of Funding Levels (Rule 104). 4024
105. Telephone Corporations' Authorization To Impose Surcharges (Rule 105). 4025
106. Applications For Funds -- Orders For Funding (Rule 106). 4026
107. -- 200. (Reserved) 4027
201. Telephone Corporations' Monthly Remittances Of USF Surcharges (Rule 201). 4027
202. Telephone Corporations' Annual Reporting To Administrator (Rule 202). 4028
203. Local Exchange Companies' (LECS') Annual Reports To The Administrator (Rule 203). 4028
204. MTS/WATS Companies' Annual Reports To The Administrator (Rule 204). 4029

205. -- 300. (Reserved) ... 4029
301. The Administrator's Quarterly Report To The Commission (Rule 301). ... 4029
302. The Administrator's Calculations From The Annual Reports (Rule 302). ... 4030
303. The Administrator's Annual Report To The Commission (Rule 303). ... 4031
304. -- 400. (Reserved) ... 4032
401. LECs' Exemption From Reporting And Remittances (Rule 401). ... 4032
402. MTS/WATS Companies -- Resellers' Exemption From Reporting And Remittances (Rule 402). ... 4032
403. -- 999. (Reserved) ... 4033

31.46.02 – Rules for Telecommunications Relay Services (TRS)

000. Legal Authority (Rule 0). ... 4034
001. Title And Scope (Rule 1). ... 4034
002. Written Interpretations – Agency Guidelines (Rule 2). ... 4034
003. Administrative Appeals (Rule 3). ... 4034
004. (Reserved) ... 4034
005. Definitions (Rule 5). ... 4034
006. -- 099. (Reserved) ... 4035
100. Requirements Of The TRS Program (Rule 100). ... 4035
101. TRS Administrator (Rule 101). ... 4036
102. Establishment Of Telephone Industry Advisory Committee (Rule 102). ... 4036
103. Consultation With Representatives Of The Hearing-Impaired And The Speech-Impaired (Rule 103). ... 4036
104. Request For Proposals (RFP) -- Selection Of Trs Provider (Rule 104). ... 4037
105. Resolution Of Complaints (Rule 105). ... 4037
106. -- 199. (Reserved) ... 4037
200. Telecommunications Relay Services (TRS) Fund -- Establishment And Purpose (Rule 200). ... 4037
201. The Commission's Determination Of Funding Levels (Rule 201). ... 4037
202. Telephone Corporations' Monthly Remittances To The TRS Administrator (Rule 202). ... 4038
203. The Administrator's Quarterly Report To The Commission (Rule 203). ... 4038
204. The Administrator's Annual Report To The Commission (Rule 204). ... 4039
205. -- 299. (Reserved) ... 4040
300. Participation In Program (Rule 300). ... 4040
301. Exemption From TRS Participation And Funding (Rule 301). ... 4040
302. -- 999. (Reserved) ... 4040

31.61.01 – Rules for the Measurement of Stray Current or Voltage (The Stray Voltage Rules)

000. Legal Authority (Rule 0). ... 4041
001. Title And Scope (Rule 1). ... 4041
002. Written Interpretations – Agency Guidelines (Rule 2). ... 4041
003. Administrative Appeals (Rule 3). ... 4041
004. Incorporation By Reference – Reference To Safety Codes (Rule 4). ... 4041
005. -- 009. (Reserved) ... 4041
010. Definitions (Rule 10). ... 4041
011. Purpose Of Rules -- Conformance To Electrical Code (Rule 11). ... 4043
012. -- 020. (Reserved) ... 4043
021. Utility (Rule 21). ... 4043
022. Dairy Producer (Rule 22). ... 4043
023. Service Providers (Rule 23). ... 4043
024. Admissibility (Rule 24). ... 4043
025. -- 030. (Reserved) ... 4043

031. Performance Of Tests And Measurements (Rule 31). 4044
032. Data Analysis (Rule 32). 4044
033. Persons Otherwise Qualified (Rule 33). 4044
034. -- 050. (Reserved) 4044
051. General Requirements For Stray Voltage Measuring And Recording Equipment (Rule 51). 4044
052. Calibration Requirements (Rule 52). 4045
053. Requirements For Monitoring And Recording Devices (Rule 53). 4045
054. Requirements For Load Boxes (Rule 54). 4045
055. -- 070. (Reserved) 4045
071. Stray Current Or Voltage Tests (Rule 71). 4045
072. Preparation For Testing (Rule 72). 4046
073. Test 1 -- Cow Contact Test (Rule 73). 4048
074. Test 2 -- Forty-Eight Hour Test (Rule 74). 4051
075. Test 3 -- Primary Profile Test (Rule 75). 4051
076. Test 4 -- Secondary Neutral Voltage Drop Test (Rule 76). 4052
077. Test 5 -- The Load Box Test (Rule 77). 4053
078. Test 6 -- Signature Test (Rule 78). 4055
079. -- 080. (Reserved) 4055
081. Analyzing The Collected Data (Rule 81). 4056
082. Reporting (Rule 82). 4056
083. -- 090. (Reserved) 4057
091. Remediation (Rule 91). 4057
092. Commission Proceedings (Rule 92). 4057
093. -- 999. (Reserved) 4057

31.71.01 – Railroad Safety Rules

000. Legal Authority (Rule 0). 4066
001. Title And Scope (Rule 1). 4066
002. Written Interpretations – Agency Guidelines (Rule 2). 4066
003. Administrative Appeals (Rule 3). 4066
004. (Reserved) 4066
005. Definition (Rule 5). 4066
006. (Reserved) 4066
007. Incorporation By Reference (Rule 007). 4066
008. Waivers (Rule 8). 4067
009. Emergencies (Rule 9). 4067
010. Modifications (Rule 10). 4067
011. -- 050. (Reserved) 4067
051. Overhead Clearance -- Applicability (Rule 51). 4067
052. Exception To Overhead Clearance Rules (Rule 52). 4067
053. Side Clearances (Rule 53). 4067
054. -- 100. (Reserved) 4067
101. Facilities Existing Before April 1, 1955 (Rule 101). 4067
102. Changes In Existing Tracks (Rule 102). 4068
103. Repairs To Existing Structures (Rule 103). 4068
104. Existing Structures Not Complying With These Rules (Rule 104). 4068
105. Replacement Of Structures Not Complying With These Rules (Rule 105). 4068
106. Existing Tracks (Rule 106). 4068
107. Existing Tracks Not Meeting Clearance Standards (Rule 107). 4068
108. Engine House And Shop Facilities (Rule 108). 4068
109. -- 200. (Reserved) 4068
201. Overhead Clearance In General (Rule 201). 4068

202. Overhead Clearance In Buildings (Rule 202). 4069
203. Overhead Clearance In Tunnels And Bridges (Rule 203). 4069
204. Decreases In Overhead Clearances Prescribed In Rule 201 (Rule 204). 4069
205. -- 300. (Reserved) 4069
301. Side Clearance In General (Rule 301). 4069
302. Side Clearance At Platforms (Rule 302). 4069
303. Icing Platforms And Supports (Rule 303). 4069
304. Platforms Other Than Above (Rule 304). 4069
305. Extension Of Existing Platforms (Rule 305). 4070
306. Side Clearance -- Bridges And Tunnels (Rule 306). 4070
307. Bridges And Tunnels -- Upper Section (Rule 307). 4070
308. Bridges -- Lower Section And Structures Four Feet High Or Less -- Guards And Cattle Chutes -- Hand Rails On Bridges And Trestles -- Oil Columns -- Water Barrels -- Water Columns (Rule 308). 4070
309. Side Clearance Interlocking Mechanism Switch Boxes, Etc. (Rule 309). 4070
310. Side Clearance -- Mail Cranes And Train Order Stands When Not In Operative Position (Rule 310). 4070
311. Side Clearance -- Poles Supporting Trolley Contact (Rule 311). 4070
312. Side Clearance -- Poles Other Than Trolley Poles (Rule 312). 4070
313. Side Clearance Signals And Switch Stands Three Feet High Or Less Above The Top Of The Rail (Rule 313). 4070
314. Side Clearance -- Signals And Switch Stands Other Than Above (Rule 314). 4070
315. Side Clearance On Curved Track (Rule 315). 4070
316. Side Clearances -- Material Or Merchandise Adjacent To Tracks (Rule 316). 4071
317. -- 400. (Reserved) 4071
401. Track Clearances -- In General (Rule 401). 4071
402. Track Clearances -- Main And Subsidiary Tracks (Rule 402). 4071
403. Track Clearances -- Parallel Team, House Or Industry Tracks (Rule 403). 4071
404. Track Clearances -- Parallel Ladder Or Ladder And Other Track (Rule 404). 4071
405. Track Clearances -- Existing Tracks (Rule 405). 4071
406. -- 500. (Reserved) 4071
501. Cars Exceeding Fifteen Feet Six Inches In Height (Rule 501). 4071
502. Cars Exceeding Ten Feet Ten Inches In Width (Rule 502). 4072
503. -- 600. (Reserved) 4072
601. Cars Containing Lading In Excess Of Fifteen Feet Six Inches High And/Or Five Feet Five Inches From Centerline Of Car (Rule 601). 4072
602. Cars Containing Lading Which Extends Laterally In Excess Of Five Feet Five Inches (Rule 602). 4072
603. Movement And Notice Of Excess Height And/Or Excess Width Cars And Loads (Rule 603). 4072
604. Written Notice Of Excess Height Or Excess Width Rule 604). 4072
605. Notice To Yard Supervisors (Rule 605). 4073
606. Loads Which Cannot Be Passed Over By Employees (Rule 606). 4073
607. Exemptions (Rule 607). 4073

31.81.01 – Energy Consumption Reporting Rules

000. Legal Authority (Rule 0). 4074
001. Title And Scope (Rule 1). 4074
002. Written Interpretations – Agency Guidelines (Rule 2). 4074
003. Administrative Appeals (Rule 3). 4074
004. (Reserved) 4074
005. Definitions (Rule 5). 4074
006. (Reserved) 4075
007. Forms (Rule 7). 4075

008. Correspondence -- Change Of Address (Rule 8). 4075
009. -- 010. (Reserved) 4075
011. Request For Reports (Rule 11). 4075
012. Contents Of Consumption Report (Rule 12). 4075
013. Report Format (Rule 13). 4076
014. -- 020. (Reserved) 4076
021. Reimbursement Of Costs (Rule 21). 4076
022. Resolution Of Reimbursement Disputes (Rule 23). 4076
023. -- 999. (Reserved) 4076

IDAPA 32 – ENDOWMENT FUND INVESTMENT BOARD

Docket No. 32-0101-1900F

32.01.01 – Rules Governing the Credit Enhancement Program for School Districts

000. Legal Authority. 4078
001. Title And Scope 4078
002. -- 009. (Reserved) 4078
010. Definitions And References. 4078
011. -- 019. (Reserved) 4078
020. Application. 4078
021. -- 029. (Reserved) 4079
030. Fees. 4079
031. -- 039. (Reserved) 4079
040. Approval And Denial Of Applications. 4079
041. -- 999. (Reserved) 4080

IDAPA 33 – REAL ESTATE COMMISSION

Docket No. 33-0000-1900F

33.01.01 – Rules of the Idaho Real Estate Commission

000. Legal Authority. 4083
001. Title And Scope. 4083
002. – 005. (Reserved) 4083
006. Electronic Signatures. 4083
007. -- 099. (Reserved) 4083
100. Fees. 4083
101. – 104. (Reserved) 4083
105. Conditions To Renew Expired License. 4083
106. -- 116. (Reserved) 4084
117. Mandatory Errors And Omissions Insurance. 4084
118. Insurance Plan. 4084
119. (Reserved) 4085
120. Certification A Prerequisite For License Issuance Or Renewal. 4085
121. Failure To Maintain Insurance. 4085
122. Falsification Of Certificates. 4085
123. -- 199. (Reserved) 4085
200. -- 299. (Reserved) 4085
300. Disputes Concerning Commissions And Fees. 4085
301. (Reserved) 4085
302. Title Opinions. 4085
303. Legal Opinions. 4085
304. (Reserved) 4085
305. Education Records Access. 4085
306. -- 399. (Reserved) 4085

400. -- 401. (Reserved) 4086
402. Approved Topics For Continuing Education. 4086
403. -- 499. (Reserved) 4086
500. Minimum Teaching Standards. 4086
501. -- 999. (Reserved) 4086

IDAPA 34 – OFFICE OF THE SECRETARY OF STATE

Docket No. 34-0000-1900

34.02.02 – Rules Governing Complaint Process Under the Help America Vote Act
000. Legal Authority. 4088
001. Title And Scope. 4088
002. -- 009. (Reserved) 4088
010. Definitions. 4088
011. Who May File. 4088
012. Form Of Complaint. 4088
013. Place And Time For Filing, Copy For Respondent. 4088
014. Processing Of Complaint. 4089
015. Hearing. 4090
016. Final Determination. 4090
017. Alternate Dispute Resolution. 4091
018. -- 999. (Reserved) 4091
34.03.01 – Rules Implementing the Sunshine Law
000. Legal Authority. 4092
001. Title And Scope. 4092
002. -- 010. (Reserved) 4092
011. Forms. 4092
012. Date Of Receipt. 4093
013. Expenditures Other Than Contributions. 4093
014. Source Of Cash On Hand. 4093
015. Advertising Regulation Exemption. 4093
016. Community Property Contributions. 4093
017. -- 999. (Reserved) 4094
34.04.02 – Rules Governing Business Entity Names
000. Legal Authority. 4095
001. Title And Scope. 4095
002. -- 009. (Reserved) 4095
010. Definitions. 4095
011. -- 099. (Reserved) 4095
100. General Information. 4095
101. -- 199. (Reserved) 4096
200. Not Distinguishable On The Record. 4096
201. -- 299. (Reserved) 4097
300. Distinguishable On The Record. 4097
301. -- 399. (Reserved) 4097
400. Matters Not Considered. 4097
401. Corporate Reservation Renewal Terms. 4098
402. -- 999. (Reserved) 4098
34.05.05 – List of Federal Liens in Agricultural Crops
000. Legal Authority And References. 4099
001. -- 003. (Reserved) 4099

004. Definitions And Abbreviations. 4099
005. -- 010. (Reserved) 4099
011. Notice Of Federal Liens In Agricultural Crops. 4099
012. Compilation And Distribution Of List. 4099
013. -- 999. (Reserved) 4099

34.06.01 – Rules Governing the Electronic Recording of Real Property

000. Legal Authority. 4100
001. Title And Scope. 4100
002. Incorporation By Reference. 4100
003. -- 009. (Reserved) 4100
010. Definitions. 4100
011. -- 100. (Reserved) 4101
101. Electronic Recording Models. 4101
102. Transmitted Files. 4101
103. Data Formats. 4101
104. Participating Recorder. 4101
105. Electronic Recording Processing Requirements. 4102
106. Security Requirements. 4102
107. Agreement And Procedures. 4103
108. -- 999. (Reserved) 4103

34.05.01 – Rules Governing Farm Products Central Filing System

000. Legal Authority. 4106
001. Title And Scope. 4106
002. -- 009. (Reserved) 4106
010. Definitions. 4106
011. Abbreviations. 4106
012. -- 019. (Reserved) 4106
020. Unique Identifier Number (UIN). 4106
021. -- 099. (Reserved) 4107
100. Farm Products Financing Statement Requirements. 4107
101. Amendment, Assignment, Continuation, And Termination Of A Farm Products Financing Statement. 4107
102. Farm Products Financing Statements Under The Uniform Commercial Code. 4107
103. -- 199. (Reserved) 4108
200. Collateral Information Codes. 4108
201. Registration Of Buyers, Commission Merchants, And Selling Agents -- Subscription To A PML. 4113
202. -- 299. (Reserved) 4114
300. Form And Distribution Of A PML And CS. 4114
301. Generation Of Ad Hoc Information Reports. 4114
302. Requests For Information. 4115
303. Fees. 4115
304. -- 999. (Reserved) 4116

34.05.02 – Rules Governing Liens in Crops for Seed or Liens in Crops for Farm Labor

000. Legal Authority. 4117
001. Title And Scope. 4117
002. -- 009. (Reserved) 4117
010. Definitions. 4117
011. -- 099. (Reserved) 4117
100. Requirements For Notice Of Claim Of Lien. 4117
101. Amendment, Assignment, Extension, And Release Of Claim Of Lien. 4117

102. -- 199. (Reserved) 4118
200. Registration And Subscription For List Of Liens In Crops For Seed Or Liens In Crops For Farm Labor. 4118
201. List Of Notices Of Claim Of Lien (LIST). 4118
202. -- 299. (Reserved) 4118
300. Request For Information. 4118
301. Fees. 4118
302. -- 999. (Reserved) 4119

34.05.03 – Requests for Information – Form UCC-4 – Fees

000. Legal Authority And References. 4120
001. -- 003. (Reserved) 4120
004. Definitions. 4120
005. -- 010. (Reserved) 4120
011. Requests For Information. 4120
012. Verbal Requests For Information. 4121
013. Fees. 4121
014. -- 999. (Reserved) 4121

34.05.06 – Rules Governing Lien Filings Under the UCC

000. Legal Authority And References. 4122
001. Title And Scope. 4122
002. -- 100. (Reserved) 4122
101. Definitions. 4122
102. Singular And Plural Forms. 4123
103. Place Of Filing. 4123
104. Filing Office Identification. 4123
105. Office Hours. 4123
106. UCC Document Delivery. 4123
107. Search Request Delivery. 4124
108. Acceptable Forms. 4124
109. -- 110. (Reserved) 4124
111. Filing Fees. 4124
112. (Reserved) 4124
113. Methods Of Payment. 4124
114. Overpayment And Underpayment Policies. 4125
115. Public Records Services. 4125
116. Fees For Public Records Services. 4125
117. New Practices And Technologies. 4126
118. -- 199. (Reserved) 4126
200. Role Of Filing Officer. 4126
201. Duty To File. 4126
202. Grounds For Refusal Of UCC Document. 4126
203. (Reserved) 4127
204. Time Limit. 4127
205. Procedure Upon Refusal. 4127
206. Acknowledgment. 4127
207. Other Notices. 4128
208. Refusal Errors. 4128
209. -- 299. (Reserved) 4128
300. Policy Statement. 4128
301. Primary Data Elements. 4128
302. Names Of Debtors Who Are Individuals. 4129
303. Names Of Debtors That Are Organizations. 4129

304. Estates. 4130
305. Trusts. 4130
306. Initial Financing Statement. 4130
307. Amendment. 4130
308. Assignment Of Powers Of Secured Party Of Record. 4131
309. Continuation. 4131
310. Termination. 4131
311. Correction Statement. 4132
312. Procedure Upon Lapse. 4132
313. -- 399. (Reserved) 4132
400. Policy Statement. 4132
401. Document Indexing And Other Procedures Before Archiving. 4132
402. Filing Date. 4132
403. Filing Time. 4132
404. Lapse Date And Time. 4133
405. Errors Of The Filing Officer. 4133
406. Errors Other Than Filing Office Errors. 4133
407. Data Entry Of Names – Designated Fields. 4133
408. Data Entry Of Names -- No Designated Fields. 4133
409. Verification Of Data Entry. 4134
410. Initial Financing Statement. 4134
411. Amendment. 4134
412. Correction Statement. 4135
413. Global Filings. 4135
414. Notice Of Bankruptcy. 4135
415. -- 499. (Reserved) 4135
500. General Requirements. 4135
501. Search Requests. 4135
502. Optional Information. 4136
503. Rules Applied To Search Requests. 4136
504. Search Responses. 4136
505. -- 599. (Reserved) 4137
600. Policy Statement. 4137
601. Notice Of Federal Tax Lien. 4137
602. Notice Of State Tax Lien. 4138
603. Notice Of Other Lien In Favor Of A Governmental Body (Nature And Duration). 4138
604. Seed And Farm Labor Liens. 4139
605. Agriculture Commodity Liens. 4139
606. Farm Product Liens. 4140
607. -- 999. (Reserved) 4140

IDAPA 35 – IDAHO STATE TAX COMMISSION

Docket No. 35-0000-1900

35.01.01 – Income Tax Administrative Rules

000. Legal Authority (Rule 000). 4142
001. Title And Scope (Rule 001). 4142
002. Administrative Appeals (Rule 002). 4142
003. Incorporation By Reference (Rule 003). 4142
004. -- 009. (Reserved) 4142
010. Definitions (Rule 010). 4142
011. -- 014. (Reserved) 4143
015. Internal Revenue Code (Rule 015). 4143

016. Idaho Gross Income (Rule 016). 4143
017. Treatment Of The Section 965 Of The Internal Revenue Code Increase In Subpart F Income And Related Exclusions (Rule 017). 4145
018. -- 024. (Reserved) 4145
025. Taxable Year And Accounting Period (Rule 025). 4145
026. -- 029. (Reserved) 4145
030. Resident (Rule 030). 4145
031. Aliens (Rule 031). 4146
032. Members Of The Uniformed Services (Rule 032). 4147
033. American Indians (Rule 033). 4148
034. Estate -- Residency Status (Rule 034). 4149
035. Trusts -- Residency Status (Rule 035). 4149
036. -- 039. (Reserved) 4149
040. Part-Year Resident (Rule 040). 4149
041. -- 044. (Reserved) 4150
045. Nonresident (Rule 045). 4150
046. -- 049. (Reserved) 4151
050. Limited Liability Companies (Rule 050). 4151
051. -- 074. (Reserved) 4151
075. Tax On Individuals, Estates, And Trusts (Rule 075). 4152
076. -- 077. (Reserved) 4154
078. Tax On Trusts -- Electing Small Business Trusts (Rule 078). 4154
079. -- 099. (Reserved) 4154
100. Adjustments To Taxable Income -- In General (Rule 100). 4155
101. -- 104. (Reserved) 4155
105. Adjustments To Taxable Income -- Additions Required Of All Taxpayers (Rule 105). 4155
106. Adjustments To Taxable Income -- Additions Required Only Of Corporations (Rule 106). 4156
107. Adjustments To Taxable Income -- Adjustments Required Only Of Taxpayers Reporting Nonbusiness Income (Rule 107). 4156
108. Adjustments To Taxable Income -- Additions Required Only Of Individuals (Rule 108). 4156
109. Adjustments To Distributable Net Income Of Estates And Trusts (Rule 109). 4156
110. -- 114. (Reserved) 4157
115. Interest Expense Offset Related To Tax-Exempt Interest Income (Rule 115). 4157
116. Expenses Other Than Interest Attributable To Tax-Exempt Income (Rule 116). 4158
117. -- 119. (Reserved) 4158
120. Adjustments To Taxable Income -- Subtractions Available To All Taxpayers (Rule 120). 4158
121. Adjustments To Taxable Income -- Subtractions Available Only To Individuals (Rule 121). 4160
122. Adjustments To Taxable Income -- Subtractions Available Only To Corporations (Rule 122). 4162
123. -- 124. (Reserved) 4163
125. Adjustments To Taxable Income -- Bonus Depreciation On Property Acquired After September 10, 2001, And Before December 31, 2007, Or After December 31, 2009 (Rule 125). 4163
126. -- 127. (Reserved) 4164
128. Idaho Adjustments -- Pass-Through Entities (Rule 128). 4164
129. (Reserved) 4164
130. Deduction Of Certain Retirement Benefits (Rule 130). 4164
131. -- 139. (Reserved) 4166
140. Deduction For Energy Efficiency Upgrades (Rule 140). 4166
141. -- 149. (Reserved) 4166
150. Deduction For Alternative Energy Devices (Rule 150). 4166

151. -- 159. (Reserved) 4167
160. Deduction For Household And Dependent Care Services (Rule 160). 4167
161. -- 164. (Reserved) 4167
165. Additional Household Deduction Or Credit For Elderly Or Developmentally Disabled Dependents (Rule 165). 4167
166. -- 169. (Reserved) 4168
170. Idaho Capital Gains Deduction -- In General (Rule 170). 4168
171. Idaho Capital Gains Deduction -- Qualified Property (Rule 171) 4170
172. Idaho Capital Gains Deduction -- Revenue-Producing Enterprise (Rule 172). 4172
173. Idaho Capital Gains Deduction -- Pass-Through Entities (Rule 173). 4172
174. -- 179. (Reserved) 4174
180. Deduction For Donation Of Technological Equipment (Rule 180). 4174
181. -- 184. (Reserved) 4174
185. Adoption Expenses (Rule 185). 4174
186. -- 189. (Reserved) 4175
190. Idaho Medical Savings Accounts (Rule 190). 4175
191. -- 192. (Reserved) 4176
193. Health Insurance Costs And Long-Term Care Insurance (Rule 193) 4176
194. Health Insurance Costs And Long-Term Care Insurance -- Examples Of Limitations (Rule 194). 4176
195. Loss Recoveries (Rule 195). 4179
196. -- 199. (Reserved) 4180
200. Net Operating Loss -- Corporations (Rule 200). 4180
201. Net Operating Loss Carrybacks And Carryovers (Rule 201). 4181
202. -- 209. (Reserved) 4183
210. Reduction Of Idaho Tax Attributes And Basis When Income From Indebtedness Discharge In Bankruptcy Is Excluded From Gross Income (Rule 210). 4183
211. -- 249. (Reserved) 4184
250. Nonresident And Part-Year Resident Individuals -- Income Subject To Idaho Taxation (Rule 250). 4184
251. Nonresident And Part-Year Resident Individuals -- Computation Of Idaho Taxable Income (Rule 251). 4185
252. Nonresident And Part-Year Resident Individuals -- Adjustments Allowed In Computing Idaho Adjusted Gross Income (Rule 252). 4185
253. Nonresident And Part-Year Resident Individuals -- Additions Required In Computing Idaho Adjusted Income. 4187
254. Nonresident And Part-Year Resident Individuals -- Subtractions Allowed In Computing Idaho Adjusted Income (Rule 254). 4188
255. Nonresident And Part-Year Resident Individuals -- Proration Of Exemptions And Deductions (Rule 255). 4190
256. -- 259. (Reserved) 4191
260. Income From Idaho Sources (Rule 260). 4191
261. Income From Estates And Trusts (Rule 261). 4191
262. (Reserved) 4191
263. Idaho Source Income Of Nonresident And Part-Year Resident Individuals -- Distributive Share Of S Corporation And Partnership Income (Rule 263). 4191
264. Income From Real And Tangible Personal Property (Rule 264). 4193
265. Sole Proprietorships Operating Within And Without Idaho (Rule 265). 4193
266. Idaho Source Income Of Nonresident And Part-Year Resident Individuals -- Income From Intangible Property (Rule 266). 4194
267. Idaho Source Income Of Nonresident And Part-year Resident Individuals -- Passive Activity Losses (Rule 267). 4195
268. Idaho Source Income Of Nonresident And Part-Year Resident Individuals -- Suspended Losses From Pass-Through Entities (Rule 268). 4195

269. (Reserved) 4196
270. Idaho Source Income Of Nonresident And Part-Year Resident Individuals -- Idaho Compensation -- In General (Rule 270). 4196
271. Idaho Compensation: Stock Options (Rule 271). 4197
272. Idaho Compensation: Severance Pay (Rule 272). 4198
273. Idaho Compensation: Unemployment Compensation (Rule 273). 4198
274. (Reserved) 4198
275. Idaho Source Income Of Nonresident And Part-Year Resident Individuals -- Investment Income From Qualified Investment Partnerships (Rule 275). 4199
276. -- 279. (Reserved) 4200
280. Partnerships Operating Within And Without Idaho (Rule 280). 4200
281. -- 284. (Reserved) 4200
285. S Corporations (Rule 285). 4200
286. S Corporations Operating Within And Without Idaho (Rule 286). 4201
287. -- 290. (Reserved) 4202
291. Tax Paid By Pass-Through Entities For Owners Or Beneficiaries -- Computation Of Idaho Taxable Income For Taxable Years Beginning On Or After January 1, 2014 (Rule 291). 4202
292. -- 299. (Reserved) 4204
300. Tax On Corporations (Rule 300). 4204
301. -- 309. (Reserved) 4204
310. Elections For Multistate Corporations (Rule 310). 4204
311. -- 319. (Reserved) 4205
320. Application Of Multistate Rules (Rule 320). 4205
321. -- 324. (Reserved) 4205
325. Definitions For Purposes Of Multistate Rules (Rule 325). 4205
326. -- 329. (Reserved) 4206
330. Business And Nonbusiness Income Defined: Apportionment And Allocation (Rule 330). 4206
331. Business And Nonbusiness Income Defined: Business Income (Rule 331). 4206
332. Business And Nonbusiness Income Defined: Transactional Test (Rule 332). 4207
333. Business And Nonbusiness Income Defined: Functional Test (Rule 333). 4207
334. Business And Nonbusiness Income Defined: Relationship Of Transactional And Functional Tests To U.S. Constitution (Rule 334). 4209
335. Nonbusiness Income (Rule 335). 4209
336. Business And Nonbusiness Income: Application Of Definitions (Rule 336). 4209
337. -- 339. (Reserved) 4210
340. Principles For Determining The Existence Of A Unitary Business: Unitary Business Principle (Rule 340). 4210
341. Principles For Determining The Existence Of A Unitary Business: Determination Of A Unitary Business (Rule 341). 4211
342. Principles For Determining The Existence Of A Unitary Business: Description And Illustration Of Functional Integration, Centralization Of Management And Economies Of Scale (Rule 342). 4211
343. Principles For Determining The Existence Of A Unitary Business: Indicators Of A Unitary Business (Rule 343). 4213
344. Principles For Determining The Existence Of A Unitary Business: Commonly Controlled Group Of Business Entities (Rule 344). 4213
345. -- 349. (Reserved) 4215
350. Proration Of Deductions (Rule 350). 4215
351. -- 354. (Reserved) 4216
355. Application Of Section 63-3027 -- Apportionment (Rule 355). 4216
356. -- 359. (Reserved) 4216
360. Application Of Section 63-3027 -- Combined Report (Rule 360). 4216
361. -- 364. (Reserved) 4216

365. Use Of The Combined Report (Rule 365). 4216
366. -- 369. (Reserved) 4217
370. Application Of Section 63-3027 -- Allocation (Rule 370). 4217
371. -- 374. (Reserved) 4217
375. Consistency And Uniformity In Reporting (Rule 375). 4217
376. -- 384. (Reserved) 4217
385. Taxable In Another State: In General (Rule 385). 4217
386. -- 389. (Reserved) 4218
390. Taxable In Another State: When A Taxpayer Is Subject To Tax (Rule 390). 4218
391. -- 394. (Reserved) 4219
395. Taxable In Another State: When A State Has Jurisdiction To Subject A Taxpayer To A Net Income Tax (Rule 395). 4219
396. -- 449. (Reserved) 4219
450. Apportionment Formula (Rule 450). 4219
451. -- 459. (Reserved) 4220
460. Property Factor: In General (Rule 460). 4220
461. -- 464. (Reserved) 4220
465. Property Factor: Property Used For The Production Of Business Income (Rule 465). 4220
466. -- 469. (Reserved) 4221
470. Property Factor: Consistency In Reporting (Rule 470). 4221
471. -- 474. (Reserved) 4221
475. Property Factor: Numerator (Rule 475). 4221
476. -- 479. (Reserved) 4221
480. Property Factor: Valuation Of Owned Property (Rule 480). 4221
481. -- 484. (Reserved) 4222
485. Property Factor: Valuation Of Rented Property (Rule 485). 4222
486. -- 489. (Reserved) 4223
490. Property Factor: Averaging Property Values (Rule 490). 4223
491. -- 499. (Reserved) 4224
500. Payroll Factor: In General (Rule 500). 4224
501. -- 504. (Reserved) 4225
505. Payroll Factor: Denominator (Rule 505). 4225
506. -- 509. (Reserved) 4225
510. Payroll Factor: Numerator (Rule 510). 4225
511. -- 514. (Reserved) 4225
515. Payroll Factor: Compensation Paid In Idaho (Rule 515). 4225
516. -- 524. (Reserved) 4225
525. Sales Factor: In General (Rule 525). 4225
526. -- 529. (Reserved) 4226
530. Sales Factor: Denominator (Rule 530). 4226
531. -- 534. (Reserved) 4227
535. Sales Factor: Numerator (Rule 535). 4227
536. -- 539. (Reserved) 4227
540. Sales Factor: Sales Of Tangible Personal Property In Idaho (Rule 540). 4227
541. -- 544. (Reserved) 4228
545. Sales Factor: Sales Of Tangible Personal Property To The United States Government In Idaho (Rule 545). 4228
546. -- 549. (Reserved) 4228
550. Sales Factor: Sales Other Than Sales Of Tangible Personal Property In Idaho (Rule 550). 4228
551. -- 559. (Reserved) 4230
560. Special Rules (Rule 560). 4230
561. -- 564. (Reserved) 4231

565. Special Rules: Property Factor (Rule 565). 4231
566. -- 569. (Reserved) 4231
570. Special Rules: Sales Factor (Rule 570). 4231
571. -- 579. (Reserved) 4232
580. Special Rules: Special Industries (Rule 580). 4233
581. Special Rules: References Used In MTC Special Industry Regulations (Rule 581). 4233
582. Special Rules: Financial Institutions (Rule 582). 4235
583. -- 584. (Reserved) 4236
585. Exceptions To Apportionment Formula: Separate Accounting (Rule 585). 4236
586. -- 589. (Reserved) 4236
590. Exceptions To Apportionment Formula: Exclusion Of A Factor (Rule 590). 4236
591. -- 594. (Reserved) 4236
595. Exceptions To Apportionment Formula: Additional Or Substitute Factors (Rule 595). 4236
596. -- 599. (Reserved) 4236
600. Entities Included In A Combined Report (Rule 600). 4236
601. -- 604. (Reserved) 4237
605. Elements Of A Worldwide Combined Report (Rule 605). 4237
606. -- 619. (Reserved) 4238
620. Attributing Income Of Corporations That Are Members Of Partnerships (Rule 620). 4238
621. -- 639. (Reserved) 4239
640. Water's Edge: Making The Election (Rule 640). 4239
641. Water's Edge: Elements Of A Combined Report (Rule 641). 4239
642. Water's Edge: Legal And Procedural Requirements (Rule 642). 4240
643. Water's Edge: Change Of Election (Rule 643). 4240
644. Water's Edge: Disregarding The Election (Rule 644) 4241
645. Water's Edge: Treatment Of Dividends (Rule 645). 4241
646. Water's Edge: Domestic Disclosure Spreadsheet (Rule 646). 4242
647. -- 699. (Reserved) 4242
700. Credit For Income Taxes Paid Another State Or Territory: In General (Rule 700). 4242
701. Credit For Income Taxes Paid Another State Or Territory: Part-Year Residents (Rule 701). 4244
702. -- 704. (Reserved) 4244
705. Credit For Contributions To Educational Institutions For Taxable Years Beginning After 2010 (Rule 705). 4244
706. -- 709. (Reserved) 4245
710. Idaho Investment Tax Credit: In General (Rule 710). 4245
711. Idaho Investment Tax Credit: Taxpayers Entitled To The Credit (Rule 711) 4246
712. -- 713. (Reserved) 4247
714. Idaho Investment Tax Credit: Credit Earned On Property Used Both In And Outside Idaho In Taxable Years Beginning On Or After January 1, 1995 (Rule 714). 4247
715. Idaho Investment Tax Credit: Recapture (Rule 715). 4249
716. Idaho Investment Tax Credit: Record-keeping Requirements (Rule 716). 4249
717. -- 718. (Reserved) 4251
719. Idaho Investment Tax Credit: Property Tax Exemption In Lieu Of (Rule 719). 4251
720. Credit For Idaho Research Activities: In General (Rule 720). 4253
721. Credit For Idaho Research Activities: Elections (Rule 721). 4254
722. (Reserved) 4254
723. Credit For Idaho Research Activities: Record-Keeping Requirements (Rule 723). 4254
724. -- 729. (Reserved) 4255
730. Credit For Contributions To Idaho Youth Facilities, Rehabilitation Facilities And Nonprofit Substance Abuse Centers (Rule 730). 4255
731. -- 749. (Reserved) 4255
750. Broadband Equipment Investment Credit: In General (Rule 750). 4255

751. (Reserved) 4257
752. Broadband Equipment Investment Credit: Recapture (Rule 752). 4257
753. Broadband Equipment Investment Credit: Record-Keeping Requirements (Rule 753). 4257
754. -- 770. (Reserved) 4258
771. Grocery Credit: Taxable Years Beginning After December 31, 2007 (Rule 771). 4258
772. -- 774. (Reserved) 4259
775. Credit For Live Organ Donation Expenses (Rule 775). 4259
776. -- 784. (Reserved) 4260
785. Credits: Pass-Through Entities (Rule 785). 4260
786. -- 789. (Reserved) 4261
790. Transfer Of Credit: In General (Rule 790). 4261
791. Transfer Of Credit: Notification Of Intended Transfer (Rule 791). 4262
792. Transfer Of Credit: Posting Bond (Rule 792). 4262
793. Transfer Of Credit: Transferee (Rule 793). 4262
794. -- 798. (Reserved) 4263
799. Priority Order Of Credits And Adjustments To Credits (Rule 799). 4263
800. Valid Income Tax Returns (Rule 800). 4264
801. Persons Required To File Income Tax Returns (Rule 801). 4264
802. (Reserved) 4265
803. Rounding (Rule 803). 4265
804. (Reserved) 4265
805. Joint Returns (Rule 805). 4265
806. -- 809. (Reserved) 4265
810. Time For Filing Income Tax Returns (Rule 810). 4265
811. -- 814. (Reserved) 4266
815. Extensions Of Time (Rule 815). 4266
816. (Reserved) 4266
817. Extensions Of Time As Disaster Relief (Rule 817) 4266
818. -- 819. (Reserved) 4267
820. Corporate Estimated Payments: In General (Rule 820). 4267
821. Corporate Estimated Payments: Payments (Rule 821) 4267
822. Corporate Estimated Payments: Annualized Income Installment Method (Rule 822) 4268
823. Corporate Estimated Payments: Short Taxable Year (Rule 823) 4268
824. Corporate Estimated Payments: Miscellaneous Provisions (Rule 824). 4269
825. Corporate Estimated Payments: Interest On Underpayment (Rule 825). 4269
826. -- 829. (Reserved) 4269
830. Information Returns (Rule 830). 4269
831. -- 854. (Reserved) 4270
855. Permanent Building Fund Tax (Rule 855). 4270
856. -- 859. (Reserved) 4270
860. Donations To Trust Accounts (Rule 860). 4270
861. -- 869. (Reserved) 4271
870. Requirements Of An Idaho Withholding Account Number (Rule 870). 4271
871. State Income Tax Withholding Required (Rule 871). 4271
872. Reporting And Paying State Income Tax Withholding (Rule 872) 4272
873. Employee's Withholding Allowance Certificates (Rule 873). 4273
874. Employee’s Wage And Tax Statements (Rule 874). 4273
875. -- 876. (Reserved) 4274
877. Backup Withholding By Pass-Through Entities (Rule 877). 4274
878. -- 879. (Reserved) 4276
880. Credits And Refunds (Rule 880). 4276
881. -- 884. (Reserved) 4277

885. Interest On Refunds (Rule 885). ... 4277
886. -- 889. (Reserved) ... 4278
890. Notice Of Adjustment Of Federal Tax Liability (Rule 890). ... 4278
891. Notice Of Adjustment Of State Or Territory Tax Liability (Rule 891). ... 4278
892. -- 894. (Reserved) ... 4279
895. Period Of Limitation On Assessment And Collection Of Tax (Rule 895). ... 4279
896. Request For Prompt Action By The Tax Commission (Rule 896). ... 4279
897. -- 899. (Reserved) ... 4279
900. Responsibility For Payment Of Corporate Taxes And Penalties (Rule 900). ... 4280
901. -- 939. (Reserved) ... 4280
940. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation: Definitions (Rule 940). ... 4280
941. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation: In General (Rule 941). ... 4281
942. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation: Small Employer Tax Incentive Criteria (Rule 942). ... 4282
943. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation: Small Employer Investment Tax Credit (Rule 943). ... 4282
944. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation: Small Employer Real Property Improvement Tax Credit (Rule 944). ... 4283
945. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation: Small Employer New Jobs Tax Credit (Rule 945). ... 4284
946. Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation: Recapture (Rule 946). ... 4286
947. -- 999. (Reserved) ... 4287

35.01.02 – Idaho Sales and Use Tax Administrative Rules

000. Legal Authority (Rule 000). ... 4288
001. Title And Scope (Rule 001). ... 4288
002. Administrative Appeals (Rule 002). ... 4288
003. Incorporation By Reference (Rule 003). ... 4288
004. -- 010. (Reserved) ... 4288
011. Mixed Transactions (Rule 011). ... 4288
012. Contractors Improving Real Property (Rule 012). ... 4289
013. Road And Paving Contractors (Rule 013). ... 4292
014. Contractors/Retailers (Rule 014). ... 4293
015. Well Drillers/Pump Installers (Rule 015). ... 4294
016. Retail Sale Of Asphalt, Concrete, And Concrete Products (Rule 016). ... 4296
017. Airlines, Buses, And Railway Dining Cars (Rule 017). ... 4296
018. Retailer Defined (Rule 018). ... 4296
019. Sales By County Sheriffs (Rule 019). ... 4297
020. Auctioneer, Agent, Broker, Distributor And Factors (Rule 020). ... 4297
021. Multi-Level Marketing Firms (Rule 021). ... 4297
022. Drop Shipments (Rule 022). ... 4298
023. (Reserved) 4299
024. Rentals Or Leases Of Tangible Personal Property (Rule 024). ... 4299
025. The Sale, Lease, or Rental Of Real Property (Rule 025). ... 4301
026. (Reserved) 4302
027. Computer Equipment, Software, And Data Services (Rule 027). ... 4302
028. Hotels, Motels And Campgrounds (Rule 028). ... 4305
029. Producing, Fabricating, And Processing (Rule 029). ... 4306
030. Admissions Defined (Rule 030). ... 4307
031. Radio And Telecommunications Equipment And Land Mobile Radio Service Of Systems (Rule 031). ... 4307

032. (Reserved) 4308
033. Sales Of Newspapers And Magazines (Rule 033). 4308
034. (Reserved) 4309
035. Layaway Sales (Rule 035). 4309
036. Signs And Billboards (Rule 036). 4310
037. Aircraft And Flying Services (Rule 037). 4311
038. Flying Clubs (Rule 038). 4313
039. Bullion, Coins, Or Other Currency (Rule 039). 4314
040. Professional Taxidermist (Rule 040). 4314
041. Food, Meals, Or Drinks (Rule 041). 4315
042. Price Labels (Rule 042). 4317
043. Sales Price Or Purchase Price Defined (Rule 043). 4317
044. Trade-Ins, Trade-downs And Barter (Rule 044). 4319
045. Rescinded Sale, Refunds Of Purchase Price (Rule 045). 4320
046. Coatings On Tangible Personal Property (Rule 046). 4321
047. Outfitters, Guides, And Like Operations (Rule 047). 4322
048. Manufactured Homes (Mobile Homes) And Modular Buildings (Rule 048). 4324
049. Warranties And Service Agreements (Rule 049). 4325
050. Veterinarians And Veterinary Supplies (Rule 050). 4326
051. Discounts, Coupons, Rebates, And Gift Certificates (Rule 051). 4326
052. Sale Of Tangible Personal Property Relating To Funeral Services (Rule 052). 4328
053. Fees Charged For Fax Services (Rule 053). 4329
054. Persons Engaged In Printing (Rule 054). 4329
055. Persons Engaged In Advertising (Rule 055). 4331
056. Photographers And Photofinishers (Rule 056). 4335
057. Dry Cleaners, Laundries, Laundromats, And Linen Suppliers (Rule 057). 4336
058. Sales Through Vending Machines (Rule 058). 4336
059. Sales By Florists (Rule 059). 4337
060. Federal Excise Taxes And Retailers Taxes (Rule 060). 4338
061. Transportation, Freight, And Handling Charges (Rule 061). 4338
062. Repairs Sale Of Parts And Material (Rule 062). 4339
063. Bad Debts And Repossessions (Rule 063). 4339
064. (Reserved) 4342
065. Tires Balancing, Studding, And Siping (Rule 065). 4342
066. Contractor's Use Of Tangible Personal Property (Rule 066). 4343
067. Real Property (Rule 067). 4343
068. Collection Of Tax (Rule 068). 4344
069. Interstate Commerce (Rule 069). 4345
070. Permits (Rule 070). 4345
071. (Reserved) 4346
072. Application And Payment Of Use Tax (Rule 072). 4346
073. Tangible Personal Property Brought Or Shipped To Idaho (Rule 073). 4348
074. Donations To Political Subdivisions And Certain Nonprofit Organizations Of Tangible Personal Property Used For Improvements To Real Property (Rule 074). 4349
075. -- 076. (Reserved) 4350
077. Exemption For Research And Development At INL (Rule 077). 4350
078. Motor Fuels (Rule 078). 4351
079. Production Exemption (Rule 079). 4351
080. Lumber Manufacturing (Rule 080). 4354
081. Underground Mining (Rule 081). 4356
082. Aboveground, Open Pit, Mining (Rule 082). 4357
083. Farming And Ranching (Rule 083). 4358

084. Containers Returnable/Nonreturnable (Rule 084). 4360
085. Sales To And Purchases By Nonprofit Organizations (Rule 085). 4360
086. Sales And Purchases By Religious Organizations (Rule 086). 4362
087. Lease Or Rental Of Motion Picture Television Film (Rule 087). 4363
088. Sale Or Purchase Of Matter Used To Produce Heat By Burning (Rule 088). 4364
089. Boy Scout, Girl Scout And 4-H Group Sales And Purchases (Rule 089). 4364
090. Gas, Water, Electricity Delivered To Customers (Rule 090). 4365
091. Sales To Indians (Rule 091). 4365
092. Out-Of-State Sales (Rule 092). 4365
093. Sales And Use Tax Liability Of Federal And State Credit Unions, National And State Banks, And Federal And State Savings And Loan Associations (Rule 093). 4366
094. Exemptions On Purchases By Political Subdivisions, Sales By The State Of Idaho, Its Departments, Institutions, And All Other Political Subdivisions (Rule 094). 4366
095. Money-Operated Dispensing Equipment (Rule 095). 4367
096. Irrigation Equipment And Supplies (Rule 096). 4367
097. Yard Sales (Rule 097). 4368
098. Foreign Diplomats (Rule 098). 4368
099. Occasional Sales (Rule 099). 4369
100. Prescriptions (Rule 100). 4372
101. Motor Vehicles And Trailers Used In Interstate Commerce (Rule 101). 4373
102. Logging (Rule 102). 4374
103. (Reserved) 4375
104. Railroad Rolling Stock, Parts, Materials And Equipment (Rule 104). 4376
105. Time And Imposition Of Tax, Returns, Payments And Partial Payments (Rule 105). 4377
106. Vehicle Sales, Rentals, And Leases (Rule 106). 4379
107. Vehicles And Vessels -- Gifts, Military Personnel, Nonresident, New Resident, Tax Paid To Another State, Sales To Family Members, Sales To American Indians, And Other Exemptions (Rule 107). 4381
108. Vehicle Manufacturer's, Rental Company's, And Dealer's Purchase Or Use Of Vehicles (Rule 108). 4385
109. Amusement Devices (Rule 109). 4386
110. Returns Filed By County Assessors And Financial Institutions (Rule 110). 4387
111. Records Required And Auditing Of Records (Rule 111). 4387
112. Direct Pay Authority (Rule 112). 4389
113. Recreational Vehicle Registration (Rule 113). 4390
114. Sales Under The Snap And WIC Programs, Records Required For Payments With Electronic Benefit Transfer Cards And WIC Tender (Rule 114). 4390
115. Records Required, Nontaxed Sales By Retail Food Stores (Rule 115). 4391
116. Bonding (Rule 116). 4391
117. Refund Claims (Rule 117). 4392
118. Responsibility For Payment Of Sales Taxes Due From Corporations, Limited Liability Companies And Partnerships (Rule 118). 4393
119. Successor's Liability (Rule 119). 4394
120. Jeopardy Determination (Rule 120). 4394
121. (Reserved) 4394
122. Interest On Deficiencies, Refunds And Estimated Returns (Rule 122). 4394
123. Additions And Penalties (Rule 123). 4395
124. Collection And Enforcement (Rule 124). 4395
125. Distribution Of Sales Tax Revenues (Rule 125). 4396
126. Sales Tax Collected By The State Liquor Dispensary (Rule 126). 4396
127. Free Distribution Newspapers (Rule 127). 4396
128. Certificates For Resale And Other Exemption Claims (Rule 128). 4396
129. Use Of A Recreational Facility, Instructional Fees, And Pari-Mutuel Betting (Rule 129). 4402

130. Promoter Sponsored Events (Rule 130). 4402
131. -- 132. (Reserved) 4403
133. Radio And Television Broadcast Equipment (Rule 133). 4403
134. Sales Of Livestock (Rule 134). 4403
135. Snowgrooming And Snowmaking Equipment (Rule 135). 4404
136. Rebates Paid To Certain Real Estate Developers (Rule 136). 4404
137. Imposition Of The Prepaid Wireless E911 Fee 4405
138. -- 999. (Reserved) 4405

35.01.03 – Property Tax Administrative Rules

000. Legal Authority (Rule 000). 4406
001. Title And Scope (Rule 001). 4406
002. Administrative Appeals (RULE 002). 4406
003. Incorporation By Reference (Rule 003). 4406
004. -- 019. (Reserved) 4406
020. Value Of Recreational Vehicles For Annual Registration And Taxation Of Unregistered Recreational Vehicles (Rule 020). 4406
021. -- 113. (Reserved) 4408
114. Powers And Duties - Property Tax - Value Information (Rule 114). 4408
115. Powers And Duties - Property Tax - Value Information (Rule 115). 4408
116. -- 119. (Reserved) 4409
120. Investigation Of Written Complaints (Rule 120). 4409
121. -- 124. (Reserved) 4410
125. Program Of Education (Rule 125). 4410
126. Property Tax Appraiser Certification Program (Rule 126). 4411
127. (Reserved) 4412
128. Cadastral Certification Program (Rule 128). 4412
129. (Reserved) 4413
130. Description Of Primary Categories Used To Test For Equalization (Rule 130). 4413
131. Use Of Ratio Study To Test For Equalization In Counties (Rule 131). 4415
132. -- 204. (Reserved) 4416
205. Personal And Real Property -- Definitions And Guidelines (Rule 205). 4416
206. -- 216. (Reserved) 4417
217. Rules Pertaining To Market Value Duty Of County Assessors (Rule 217) 4417
218. Assessor's Plat Book (Rule 218). 4418
219. Uniform Parcel Numbering System (Rule 219). 4419
220. Rules Pertaining To Assessment Of Internal Revenue Code (IRC) Section 42 Low-Income Properties (Rule 220). 4422
221. -- 224. (Reserved) 4424
225. Documentation For Newly Organized Or Altered Taxing Districts Or Revenue Allocation Areas (RAAs) Under The Jurisdiction Of Urban Renewal Agencies (Rule 225). 4424
226. -- 229. (Reserved) 4427
230. Extensions Of Statutory Deadlines For Disaster Relief (Rule 230). 4427
231. -- 303. (Reserved) 4428
304. Manufactured Home Designated As Real Property (Rule 304) 4428
305. -- 311. (Reserved) 4429
312. Partial Year Assessment Of Real And Personal Property (Rule 312). 4429
313. Assessment Of Transient Personal Property (Rule 313). 4429
314. County Valuation Program To Be Carried On By Assessor (Rule 314). 4431
315. Use Of Ratio Study To Equalize Boise School District (Rule 315). 4432
316. Compliance Of Continuing Valuation Program (Rule 316). 4435
317. Occupancy Tax On Newly Constructed Improvements On Real Property (Rule 317). 4437
318. -- 403. (Reserved) 4438

404. Operator's Statement -- Contents (Rule 404). 4438
405. Assessment Of Operating Property (Rule 405). 4440
406. Rules Pertaining To Market Value Of Operating Property Of Rate Regulated Electric Utility Companies (Rule 406). 4441
407. Hearing To Review Operating Property Appraisals (Rule 407). 4441
408. Re-examination Of Value -- Complaint By Assessor (Rule 408). 4444
409. -- 410. (Reserved) 4444
411. Private Car Reporting By Railroad Companies (Rule 411). 4444
412. (Reserved) 4445
413. Special Provisions For Private Railcar Fleets (Rule 413). 4445
414. (Reserved) 4445
415. Apportionment Of Railcar Fleet's Assessed Values Within The State (Rule 415). 4445
416. (Reserved) 4446
417. Penalty For Failure To Make Statement (Rule 417). 4446
418. -- 508. (Reserved) 4446
509. Abstracts Of Value (Rule 509). 4446
510. Secondary Categories For Land - Listing And Reporting (Rule 510). 4447
511. Secondary Categories For Improvements - Listing And Reporting (Rule 511). 4450
512. Secondary Categories, Other Than Land Or Improvements - Listing And Reporting (Rule 512). 4452
513. -- 599. (Reserved) 4454
600. Property Exempt From Taxation (Rule 600). 4454
601. -- 602. (Reserved) 4454
603. Property Exempt From Taxation – Religious Corporations Or Societies (Rule 603). 4454
604. (Reserved) 4454
605. Property Exempt From Taxation - Property Used For School Or Educational Purposes (Rule 605). 4454
606. -- 607. (Reserved) 4455
608. Property Exempt From Taxation - Homestead - Continued Eligibility After Death Of Claimant (Rule 608). 4455
609. Property Exempt From Taxation -- Homestead (Rule 609). 4455
610. Property Exempt From Taxation -- Residential Improvements -- Special Situations (Rule 610). 4457
611. Value Of Residential Property In Certain Zoned Areas (Rule 611). 4460
612. Property Exempt From Taxation -- Motor Vehicles, Recreational Vehicles, And Vessels Properly Registered (Rule 612). 4460
613. Property Exempt From Taxation -- Speculative Portion Of Value Of Agricultural Land (Rule 613). 4461
614. Speculative Portion Of Value Of Agricultural Land - Examples (Rule 614). 4463
615. Property Exempt From Taxation - Certain Intangible Personal Property (Rule 615). 4466
616. -- 617. (Reserved) 4468
618. Computation Of The Idaho Irrigation Exemption (Rule 618). 4468
619. Property Exempt From Taxation -- Facilities For Water Or Air Pollution Control (Rule 619). 4468
620. Exemption For Never Occupied Residential Improvements (Rule 620). 4469
621. -- 624. (Reserved) 4469
625. Homeowners Exemption On Occupancy Tax Roll (Rule 625). 4469
626. Property Exempt From Taxation -- Certain Personal Property (Rule 626). 4470
627. Property Exempt From Taxation -- Certain Personal Property – Ownership Clarification (Rule 627). 4473
628. Partial Exemption For Remediated Land (Rule 628). 4477
629. Property Exempt From Taxation -- Qualified Equipment Utilizing Post Consumer Or Post Industrial Waste (Rule 629). 4478
630. Tax Exemption For New Capital Investments (Rule 630). 4479

631. Tax Exemption For Investment In New Or Existing Plant And Building Facilities Upon County Commissioners' Approval (Rule 631). 4481
632. Property Exempt From Taxation - Oil Or Gas Related Wells (Rule 632). 4483
633. -- 644. (Reserved) 4484
645. Land Actively Devoted To Agriculture Defined (Rule 645). 4484
646. -- 699. (Reserved) 4485
700. Definitions For Property Tax Reduction Benefit (Rule 700). 4485
701. How To Verify That Claimants Are Lawfully Present In The United States (Rule 701). 4487
702. Veteran's Benefit – Continued Eligibility After Death Of Claimant (Rule 702). 4488
703. -- 708. (Reserved) 4489
709. Property Tax Reduction Benefit Program -- Special Situations (Rule 709). 4489
710. -- 716. (Reserved) 4490
717. Procedure After Claim Approval (Rule 717). 4490
718. -- 799. (Reserved) 4492
800. Budget Certification Relating To Operating Property Annexation Value (Rule 800). 4492
801. Limitation On Budget Requests -- Special Plant Facilities Fund Levy Provisions (Rule 801). 4493
802. Budget Certification Relating To New Construction And Annexation (Rule 802). 4494
803. Budget Certification -- Dollar Certification Form (L-2 Form) (Rule 803). 4499
804. Tax Levy - Certification - Urban Renewal Districts (Rule 804). 4505
805. Penalty For Failure To Comply With Reporting Requirements (Rule 805). 4512
806. Election To Create A New Taxing District -- Clerk's Mailed Notice (Rule 806). 4513
807. Levy By New Taxing Units - Duties Of Auditor (Rule 807). 4513
808. Additional Documentation By Taxing Districts Not Levying Against All Taxable Property (Rule 808). 4513
809. Correction Of Erroneous Levy (Rule 809). 4514
810. (Reserved) 4514
811. Computation Of Property Taxes (Rule 811). 4514
812. -- 901. (Reserved) 4515
902. Property Tax Notice And Receipts - Duty Of Tax Collector (Rule 902). 4515
903. -- 935. (Reserved) 4515
936. Cancellation Of Taxes By Board Of County Commissioners (Rule 936). 4515
937. -- 938. (Reserved) 4515
939. Court Or Board Of Tax Appeals Ordered Refunds Or Credits - Levy Restrictions (Rule 939). 4515
940. -- 959. (Reserved) 4515
960. Definitions (Rule 960). 4515
961. Homesite Assessment And Forestlands Of Less Than Five Acres And Contiguous Parcels (Rule 961). 4518
962. Taxation Of Designated Forestlands (Rule 962). 4519
963. Certain Forestlands To Be Designated For Taxation By Owner -- Limitations (Rule 963). 4521
964. Yield Tax On Applicable Forest Products (Rule 964). 4521
965. (Reserved) 4522
966. Recapture Of Deferred Taxes On Lands Designated Under Section 63-1706, Idaho Code (Rule 966). 4522
967. -- 981. (Reserved) 4523
982. Reporting Net Profits Of Mines (Rule 982). 4523
983. -- 987. (Reserved) 4524
988. Qualified Property For Exemption (Rule 988). 4524
989. Qualified Investment Exemption (QIE) Recapture (Rule 989). 4528
990. -- 994. (Reserved) 4530
995. Certification Of Sales Tax Distribution (Rule 995). 4530
996. -- 999. (Reserved) 4532

35.01.05 – Idaho Motor Fuels Tax Administrative Rules
000. Legal Authority (Rule 000). 4533
001. Title And Scope (Rule 001). 4533
002. ADMINISTRATIVE APPEALS (RULE 002). 4533
003. Incorporation By Reference (Rule 003). 4533
004. -- 009. (Reserved) 4533
010. Definitions (Rule 010). 4533
011. -- 109. (Reserved) 4534
110. Calculation Of Motor Fuels Tax On Gaseous Special Fuels (Rule 110). 4534
111. -- 129. (Reserved) 4535
130. Distributor's Fuel Tax Reports (Rule 130). 4535
131. Requirement To File Motor Fuels Distributor Reports Electronically (Rule 131). 4536
132. Licensed Gaseous Special Fuels Distributor's Reports (Rule 132). 4536
133. -- 134. (Reserved) 4537
135. Qualified Consumers (Rule 135). 4537
136. (Reserved) 4537
137. Instate Pipeline Terminal, Production Terminal, And Storage Reports (Rule 137). 4537
138. -- 140. (Reserved) 4538
141. Fuel Distributor Credit and Refund Claims (Rule 141). 4538
142. -- 149. (Reserved) 4538
150. Fuel Sale Documentation Required (Rule 150). 4538
151. -- 169. (Reserved) 4539
170. Information On Dyed & Undyed Diesel Fuel (Rule 170). 4539
171. Motor Fuels Exemption From Sales Tax (Rule 171). 4540
172. -- 184. (Reserved) 4540
185. Authority To Give The Consent To Jurisdiction Of Idaho Courts (Rule 185). 4540
186. -- 229. (Reserved) 4541
230. Motor Fuels Subject To Use Tax -- Reporting (Rule 230). 4541
231. -- 249. (Reserved) 4541
250. Refund Claims -- Reporting (Rule 250). 4541
251. -- 269. (Reserved) 4541
270. Refund Claims – General And Bulk Documentation (Rule 270). 4541
271. -- 289. (Reserved) 4543
290. Motor Vehicles Refund Claims – Nontaxable Miles (Rule 290). 4543
291. (Reserved) 4544
292. Refund Claims – Power Take-Off (PTO) And Auxiliary Engines (Rule 292). 4544
293. -- 299. (Reserved) 4545
300. Administration, Rules And Delegation Of Authority (Rule 300). 4545
301. -- 309. (Reserved) 4545
310. Exemption From Requirement For Bonds. 4545
311. IFTA License Bond (Rule 311). 4547
312. -- 319. (Reserved) 4547
320. Records Retention Requirements (Rule 320). 4547
321. -- 399. (Reserved) 4548
400. IFTA Licensing And Special Fuels Permitting (Rule 400). 4548
401. -- 419. (Reserved) 4548
420. Documentation For IFTA Licensee Reporting (Rule 420). 4548
421. Documentation For Idaho Registrants (Rule 421). 4550
422. Documentation For Idaho Full Fee Registrants (Rule 422). 4550
423. -- 499. (Reserved) 4551
500. Idaho Clean Water Trust Fund Transfer Fee (Rule 500). 4551
501. Transfer Fee Reinstated (Rule 501). 4551

502. -- 509. (Reserved) ... 4551
510. Application And Reporting Of The Transfer Fee (Rule 510). ... 4551
511. -- 999. (Reserved) ... 4552

35.01.06 – Hotel/Motel Room and Campground Sales Tax Administrative Rules

000. Legal Authority (Rule 000). ... 4553
001. Title And Scope (Rule 001). ... 4553
002. Administrative Appeals (RULE 002). ... 4553
003. Lodging Operators And Short-Term Rental Marketplaces (Rule 003). ... 4553
004. -- 009. (Reserved) ... 4553
010. Definitions (Rule 010). ... 4553
011. Accommodations Tax (Rule 011). ... 4554
012. District Boundaries (Rule 012). ... 4554
013. Registration (Rule 013). ... 4554
014. Room Or Campground Charge Defined (Rule 014). ... 4554
015. Separate Statement Of Tax (Rule 015). ... 4554
016. Exemptions (Rule 016). ... 4555
017. Records Required (Rule 017). ... 4556
018. Returns (Rule 018). ... 4556
019. Deficiencies, Collections, And Enforcement (Rule 019). ... 4557
020. Distribution (Rule 020). ... 4557
021. Sales Tax Rules Apply Unless Otherwise Provided (Rule 021). ... 4557
022. -- 999. (Reserved). ... 4557

35.01.07 – Kilowatt Hour Tax Administrative Rules

000. Legal Authority (Rule 000). ... 4558
001. Title And Scope (Rule 001). ... 4558
002. Administrative Appeals (RULE 002). ... 4558
003. -- 009. (Reserved) ... 4558
010. Definitions (Rule 010). ... 4558
011. -- 019. (Reserved) ... 4558
020. Electrical Producers Subject To Tax (Rule 020). ... 4558
021. -- 029. (Reserved) ... 4558
030. Kilowatt Hour Tax Returns (Rule 030). ... 4558
031. -- 039. (Reserved) ... 4559
040. Computation Of Kilowatt Hours Subject To Tax And Calculation Of Tax (Rule 040). ... 4559
041. -- 044. (Reserved) ... 4559
045. Exemptions (Rule 045). ... 4559
046. -- 049. (Reserved) ... 4560
050. Payment Of Tax (Rule 050). ... 4560
051. -- 059. (Reserved) ... 4560
060. Notice Of Deficiency -- Enforcement (Rule 060). ... 4560
061. -- 999. (Reserved) ... 4560

35.01.08 – Mine License Tax Administrative Rules

000. Legal Authority (Rule 000). ... 4561
001. Title And Scope (Rule 001). ... 4561
002. Administrative Appeals (RULE 002). ... 4561
003. -- 009. (Reserved) ... 4561
010. Definitions (Rule 010). ... 4561
011. -- 014. (Reserved) ... 4561
015. Reference To Income Tax Rules (Rule 015). ... 4561
016. -- 019. (Reserved) ... 4561
020. Advance Royalties (Rule 020). ... 4561

021. -- 029. (Reserved) ... 4561
030. Net Value Of Ore To Be Used As Measure Of Tax -- How Determined (Rule 030). ... 4561
031. -- 034. (Reserved) ... 4562
035. Mine License Tax Rate (Rule 035). ... 4562
036. -- 039. (Reserved) ... 4562
040. Mine License Tax Returns (Rule 040). ... 4562
041. -- 999. (Reserved) ... 4563

35.01.09 – Idaho Beer and *Wine Tax*es *Administrative Rules*
000. Legal Authority (Rule 000). ... 4564
001. Title And Scope (Rule 001). ... 4564
002. ADMINISTRATIVE APPEALS (RULE 002). ... 4564
003. Incorporation By Reference (Rule 003). ... 4564
004. -- 009. (Reserved) ... 4564
010. Definitions (Rule 010). ... 4564
011. Beer And Wine Sales Subject To Tax (Rule 011). ... 4564
012. Exemptions (Rule 012). ... 4565
013. Breakage Or Spoilage (Rule 013). ... 4565
014. Financial Security (Rule 014). ... 4566
015. Beer Or Wine Tax Accounts (Rule 015). ... 4567
016. Beer Or Wine Tax Returns (Rule 016). ... 4567
017. (Reserved) ... 4568
018. Penalty And Interest (Rule 018). ... 4568
019. Records Required (Rule 019). ... 4568
020. -- 999. (Reserved) ... 4568

*35.01.10 – Idaho Cigarette and Tobacco Products Tax*es *Administrative Rules*
000. Legal Authority (Rule 000). ... 4569
001. Title And Scope (Rule 001). ... 4569
002. ADMINISTRATIVE APPEALS (RULE 002). ... 4569
003. Incorporation By Reference (Rule 003). ... 4569
004. -- 009. (Reserved) ... 4569
010. Definitions (Rule 010). ... 4569
011. Distribution Of Free Or Below Cost Tobacco Products (Rule 011). ... 4569
012. Permits (Rule 012). ... 4569
013. Shipments In Interstate Commerce (Rule 013). ... 4570
014. Shipments Delivered On Indian Reservations (Rule 014). ... 4570
015. Stamps-Source, Amount, And Limitations (Rule 015). ... 4571
016. Wholesaler's Credit Claims For Unmarketable Stamps (Rule 016). ... 4571
017. Security For Tax Required (Rule 017). ... 4572
018. Cigarette Tax Return (Rule 018). ... 4573
019. Tobacco Manufacturers And Distributors (Rule 019). ... 4574
020. Tobacco Tax Return (Rule 020). ... 4575
021. Sales To Other Idaho Distributors (Rule 021). ... 4576
022. Exemptions (Rule 022). ... 4576
023. Credit For Returned Tobacco Products (Rule 023). ... 4576
024. Credit For Destruction Of Tobacco Products (Rule 024) ... 4577
025. -- 999. (Reserved) ... 4577

35.02.01 – Tax Commission Administration and Enforcement Rules
000. Legal Authority (Rule 000). ... 4578
001. Title And Scope (Rule 001). ... 4578
002. ADMINISTRATIVE APPEALS (RULE 002). ... 4578

003. -- 009. (Reserved) 4578
010. Definitions (Rule 010). 4578
011. -- 109. (Reserved) 4579
110. Declaratory Rulings (Rule 110). 4579
111. -- 129. (Reserved) 4581
130. Electronic Transfer Of Funds (Rule 130). 4581
131. Unacceptable Payments (Rule 131). 4581
132. -- 139. (Reserved) 4581
140. Application Of Partial Payment (Rule 140). 4581
141. -- 149. (Reserved) 4582
150. Requirements Of A Valid Tax Return (Rule 150). 4582
151. -- 152. (Reserved) 4583
153. Tax Preparers -- Alternative Methods Of Signing Income Tax Returns (Rule 153). 4583
154. (Reserved) 4583
155. Tax Returns And Other Documents Filed Electronically (Rule 155). 4583
156. -- 199. (Reserved) 4583
200. Examination Of Records: Definitions (Rule 200). 4584
201. Examination Of Records: Recordkeeping And Production Requirements (Rule 201). 4584
202. Examination Of Records: Access To Machine-Sensible Records (Rule 202). 4586
203. Examination Of Records: Records Maintenance (Rule 203). 4586
204. Examination Of Records: Alternative Storage Media (Rule 204). 4587
205. Action To Collect Unpaid Tax Or Deficiency (Rule 205). 4588
206. -- 209. (Reserved) 4588
210. Property Subject To Lien (Rule 210). 4588
211. -- 214. (Reserved) 4588
215. Release Or Subordination Of Tax Lien (Rule 215). 4588
216. -- 219. (Reserved) 4589
220. Levy Or Distraint Warrant (Rule 220). 4589
221. -- 224. (Reserved) 4589
225. Proceedings On Levy Or Distraint (Rule 225). 4589
226. -- 229. (Reserved) 4589
230. Jeopardy Assessments (Rule 230). 4589
231. -- 299. (Reserved) 4590
300. Assessment Of Tax (Rule 300). 4590
301. -- 309. (Reserved) 4590
310. Interest Rates (Rule 310). 4590
311. -- 319. (Reserved) 4592
320. Notice Of Deficiency: Filing A Protest (Rule 320). 4592
321. -- 324. (Reserved) 4592
325. Notice Of Deficiency: Protest Procedures (Rule 325). 4592
326. Communications Between The Appeals Unit And The Originating Division And Others During The Redetermination: Definitions (Rule 326). 4593
327. Communications Between The Appeals Unit And The Originating Division And Others During The Redetermination: Restrictions, Exceptions, And Permitted Communications (Rule 327). 4594
328. Opportunity To Participate: Notice To Petitioner (Rule 328). 4595
329. -- 399. (Reserved) 4595
400. Penalties: General Rules (Rule 400). 4595
401. -- 409. (Reserved) 4596
410. Negligence Penalties (Rule 410). 4596
411. -- 419. (Reserved) 4597
420. Fraud Penalties (Rule 420). 4597
421. -- 429. (Reserved) 4598

430. Penalty For Failure To File, Failure To Pay, Or Delinquent Filing (Rule 430). 4598
431. -- 499. (Reserved) 4599
500. Settlements (Rule 500). 4599
501. Procedures On Settlements Over Fifty Thousand Dollars (Rule 501). 4600
502. -- 599. (Reserved) 4602
600. Judicial Review: Required Security (Rule 600). 4602
601. -- 699. (Reserved) 4603
700. Disclosure Of Information: Scope (Rule 700). 4603
701. (Reserved) 4603
702. Disclosure Of Information: Third Parties (Rule 702). 4603
703. Disclosure Of Information: General Public (Rule 703). 4604
704. Disclosure Of Information: Government Agencies And Officials (Rule 704). 4604
705. Disclosure Of Information -- Identity Theft (Rule 705). 4606
706. -- 799. (Reserved) 4606
800. Definitions For Purposes Of The Taxpayers' Bill Of Rights (Rule 800). 4606
801. -- 809. (Reserved) 4606
810. Acquisition Of Location Information (Rule 810). 4606
811. -- 819. (Reserved) 4606
820. Communication In Connection With Tax Collection (Rule 820). 4606
821. -- 999. (Reserved) 4607

IDAPA 36 – IDAHO STATE BOARD OF TAX APPEALS

Docket No. 36-0101-1900F

36.01.01 – Idaho Board of Tax Appeals Rules

000. Legal Authority (Rule 0). 4609
001. Title And Scope (Rule 1). 4609
002. -- 009. (Reserved) 4609
010. Definitions (Rule 10). 4609
011. Abbreviations (Rule 11). 4609
012. Organization (Rule 12). 4609
013. -- 019. (Reserved) 4610
020. Procedure Governed (Rule 20). 4610
021. Liberal Construction (Rule 21). 4610
022. -- 029. (Reserved) 4610
030. Representation And Practice Before The Board (Rule 30). 4610
031. Initial Pleading -- Listing Of Representatives (Rule 31). 4610
032. Substitution Of Representative (Rule 32). 4610
033. Participation By Taxing Authority (Rule 33). 4611
034. (Reserved) 4611
035. Conduct (Rule 35). 4611
036. Enforcement (Rule 36). 4611
037. Ex Parte Communications (Rule 37). 4611
038. -- 044. (Reserved) 4611
045. Notice Of Appeal: Contents (Rule 45). 4611
046. Notice Of Appeal: BOE Appeals (Rule 46). 4611
047. Notice Of Appeal: STC Appeals (Rule 47). 4612
048. Acknowledgment (Rule 48). 4612
049. (Reserved) 4612
050. Answer To Appeal (Rule 50). 4612
051. (Reserved) 4612
052. County Auditor Requirement (Rule 52). 4612
053. -- 054. (Reserved) 4613

055. Consolidation (Rule 55). 4613
056. -- 059. (Reserved) 4613
060. Form Of Pleadings (Rule 60). 4613
061. Service Of Documents (Rule 61). 4613
062. Defective, Insufficient Or Late Pleading (Rule 62). 4614
063. Amendments To Pleadings -- Withdrawal Of Pleadings (Rule 63). 4614
064. (Reserved) 4614
065. Computation Of Time (Rule 65). 4614
066. Filing (Rule 66). 4614
067. -- 069. (Reserved) 4615
070. Prehearing Conference (Rule 70). 4615
071. (Reserved) 4615
072. Motions (Rule 72). 4615
073. (Reserved) 4616
074. Briefs (Rule 74). 4616
075. Discovery (Rule 75). 4616
076. -- 084. (Reserved) 4617
085. Intervention (Rule 85). 4617
086. -- 099. (Reserved) 4618
100. Fair Hearing (Rule 100). 4618
101. Failure To Appear (Rule 101). 4618
102. Withdrawal (Rule 102). 4618
103. -- 104. (Reserved) 4618
105. Informal Disposition -- Settlement (Rule 105). 4618
106. Presiding Officer (Rule 106). 4619
107. Procedure And Testimony (Rule 107). 4619
108. -- 109. (Reserved) 4620
110. Stipulations (Rule 110). 4620
111. Continuance (Rule 111). 4620
112. -- 114. (Reserved) 4620
115. Official Notice (Rule 115). 4620
116. Open Hearings And Closed Deliberations (Rule 116). 4620
117. Rules Of Evidence (Rule 117). 4620
118. Exhibit (Rule 118). 4621
119. -- 124. (Reserved) 4621
125. Confidentiality -- Protective Orders (Rule 125). 4621
126. -- 138. (Reserved) 4621
139. Scope Of Appeal In Ad Valorem Case (Rule 139). 4622
140. Decisions And Orders (Rule 140). 4622
141. -- 144. (Reserved) 4622
145. Reconsideration -- Rehearing (Rule 145). 4622
146. -- 150. (Reserved) 4622
151. Official Record (Rule 151). 4622
152. -- 154. (Reserved) 4623
155. Subpoena (Rule 155). 4623
156. Request For Transcript (Rule 165). 4623
157. -- 999. (Reserved) 4623

IDAPA 37 – IDAHO DEPARTMENT OF WATER RESOURCES, IDAHO WATER RESOURCE BOARD

Docket No. 37-0000-1900

37.02.01 – Comprehensive State Water Plan Rules

000. Legal Authority (Rule 0). 4625
001. Title And Scope (Rule 1). 4625
002. -- 009. (Reserved) 4625
010. Definitions (Rule 10). 4625
011. -- 014. (Reserved) 4626
015. Interim Protected Rivers (Rule 15). 4626
016. -- 024. (Reserved) 4628
025. Prohibited Activities On Interim Protected Rivers (Rule 25). 4628
026. -- 029. (Reserved) 4629
030. Comprehensive State Water Plan (Rule 30). 4629
031. -- 034. (Reserved) 4630
035. Amending The Comprehensive State Water Plan (Rule 35). 4630
036. -- 999. (Reserved) 4630

37.02.04 – Shoshone-Bannock Tribal Water Supply Bank Rules

000. Legal Authority (Rule 0). 4631
001. Title And Scope (Rule 1). 4631
002. -- 009. (Reserved) 4631
010. Definitions (Rule 10). 4631
011. -- 024. (Reserved) 4632
025. General (Rule 25). 4632
026. -- 029. (Reserved) 4632
030. Management (Rule 30). 4632
031. -- 034. (Reserved) 4633
035. Assignments Of Tribal Stored Water To The Bank (Rule 35). 4633
036. -- 039. (Reserved) 4633
040. Rental Of Water From The Rental Pool (Rule 40). 4633
041. -- 044. (Reserved) 4634
045. Geographic Scope Of Renting (Rule 45). 4634
046. -- 049. (Reserved) 4634
050. Rental Payments (Rule 50). 4634
051. -- 054. (Reserved) 4634
055. Term Of Rentals (Rule 55). 4634
056. -- 059. (Reserved) 4634
060. Liability (Rule 60). 4634
061. -- 999. (Reserved) 4634

37.03.11 – Rules for Conjunctive Management of Surface and Ground Water Resources

000. Legal Authority (Rule 0). 4635
001. Title And Scope (Rule 1). 4635
003. Other Authorities Remain Applicable (Rule 5). 4635
004. -- 009. (Reserved) 4635
010. Definitions (Rule 10). 4635
011. -- 019. (Reserved) 4637
020. General Statements Of Purpose And Policies For Conjunctive Management Of Surface And Ground Water Resources (Rule 20). 4637
021. -- 029. (Reserved) 4638
030. Responses To Calls For Water Delivery In An Unorganized Water District Or With No Ground Water Regulation (Rule 30). 4638
031. Determining Areas Having A Common Ground Water Supply (Rule 31). 4640
032. -- 039. (Reserved) 4640
040. Responses To Calls For Water Delivery In An Organized Water District (Rule 40) 4640
041. Administration Of Diversion And Use Of Water Within A Ground Water Management Area

(Rule 41). 4642
042. Determining Material Injury And Reasonableness Of Water Diversions (Rule 42). 4642
043. Mitigation Plans (Rule 43). 4643
044. -- 049. (Reserved) 4644
050. Areas Determined To Have A Common Ground Water Supply (Rule 50). 4645
051. -- 999. (Reserved) 4645

37.03.12 – Idaho Department of Water Resources Water Distribution Rules – Water District 34
000. Legal Authority (Rule 0). 4646
001. Title And Scope (Rule 1). 4646
002. -- 009. (Reserved) 4646
010. Definitions (Rule 10). 4646
011. -- 024. (Reserved) 4647
025. River Reaches (Rule 25). 4647
026. -- 029. (Reserved) 4647
030. Natural Flows (Rule 30). 4647
031. -- 034. (Reserved) 4648
035. Measuring Devices And Control Works (Rule 35). 4648
036. -- 039. (Reserved) 4649
040. Allocation Of Natural Flow (Rule 40). 4649
041. -- 054. (Reserved) 4651
055. Water Usage (Rule 55). 4651
056. -- 059. (Reserved) 4651
060. Accounting For Water Delivery (Rule 60). 4652
061. -- 999. (Reserved) 4652

37.01.01 – Rules of Procedure of the Idaho Department of Water Resources
000. Legal Authority (Rule 0). 4656
001. Title And Scope (Rule 1). 4656
002. -- 004. (Reserved) 4656
005. Definitions (Rule 5). 4656
006. (Reserved) 4657
007. Office – Office Hours – Mailing Address And Street Address (Rule 7). 4657
008. Filing Of Documents -- Number Of Copies (Rule 8). 4658
009. -- 049. (Reserved) 4658
050. Proceedings Governed (Rule 50). 4658
051. Reference To Agency (Rule 51). 4658
052. Liberal Construction (Rule 52). 4658
053. Communications With Agency (Rule 53). 4658
054. Identification Of Communications (Rule 54). 4658
055. Service By Agency (Rule 55). 4658
056. Computation Of Time (Rule 56). 4658
057. Additional Time After Service By Mail (Rule 57). 4659
058. Fees And Remittances (Rule 58). 4659
059. -- 099. (Reserved) 4659
100. Informal Proceedings Defined (Rule 100). 4659
101. Informal Procedure (Rule 101). 4659
102. Further Proceedings (Rule 102). 4659
103. Informal Proceedings Do Not Exhaust Administrative Remedies (Rule 103). 4659
104. Formal Proceedings (Rule 104). 4659
105. -- 149. (Reserved) 4660
150. Parties To Contested Cases Listed (Rule 150). 4660
151. Applicants/Claimants/Appellants (Rule 151). 4660
152. Petitioners (Rule 152). 4660

153. Complainants (Rule 153). 4660
154. Respondents (Rule 154). 4660
155. Protestants (Rule 155). 4660
156. Intervenors (Rule 156). 4660
157. Rights Of Parties And Of Agency Staff (Rule 157). 4660
158. Persons Not Parties -- Interested Persons (Rule 158). 4660
159. -- 199. (Reserved) 4660
200. Initial Pleading By Party -- Listing Of Representatives (Rule 200). 4660
201. Taking Of Appearances -- Participation By Agency Staff (Rule 201). 4661
202. Representation Of Parties At Hearing (Rule 202). 4661
203. Service On Representatives Of Parties And Other Persons (Rule 203). 4661
204. Withdrawal Of Parties (Rule 204). 4661
205. Substitution Of Representative -- Withdrawal Of Representative (Rule 205). 4661
206. Conduct Required (Rule 206). 4661
207. -- 209. (Reserved) 4662
210. Pleadings Listed -- Miscellaneous (Rule 210). 4662
211. -- 219. (Reserved) 4662
220. Applications/claims/appeals -- Defined -- Form And Contents (Rule 220). 4662
221. -- 229. (Reserved) 4662
230. Petitions -- Defined -- Form And Contents (Rule 230). 4662
231. -- 239. (Reserved) 4662
240. Complaints -- Defined -- Form And Contents (Rule 240). 4663
241. -- 249. (Reserved) 4663
250. Protests -- Defined -- Form And Contents (Rule 250). 4663
251. -- 259. (Reserved) 4663
260. Motions -- Defined -- Form And Contents -- Time For Filing (Rule 260). 4663
261. -- 269. (Reserved) 4664
270. Answers -- Defined -- Form And Contents -- Time For Filing (Rule 270). 4664
271. -- 279. (Reserved) 4664
280. Consent Agreements -- Defined -- Form And Contents (Rule 280). 4664
281. -- 299. (Reserved) 4664
300. Filing Documents With The Agency -- Number Of Copies -- Facsimile Transmission (Fax) -- Electronically Signed Documents (Rule 300). 4664
301. Form Of Pleadings (Rule 301). 4665
302. Service On Parties And Other Persons (Rule 302). 4665
303. Proof Of Service (Rule 303). 4665
304. Defective, Insufficient Or Late Pleadings (Rule 304). 4665
305. Amendments To Pleadings -- Withdrawal Of Pleadings (Rule 305). 4666
306. Electronically Signed Communications (Rule 306). 4666
307. Criteria For Acceptable Electronic Signature Technology (Rule 307). 4666
308. Public Key Cryptography (Rule 308). 4666
309. Criteria For Accepting An Electronic Signature (Rule 309). 4668
310. Retention Of Certificates (Rule 310). 4668
311. Electronic Signature Repudiation (Rule 311). 4668
312. -- 349. (Reserved) 4668
350. Order Granting Intervention Necessary (Rule 350). 4668
351. Form And Contents Of Petitions To Intervene (Rule 351). 4668
352. Timely Filing Of Petitions To Intervene (Rule 352). 4669
353. Granting Petitions To Intervene (Rule 353). 4669
354. Orders Granting Intervention -- Opposition (Rule 354). 4669
355. Public Witnesses (Rule 355). 4669
356. -- 399. (Reserved) 4669

400. Form And Contents Of Petition For Declaratory Rulings (Rule 400). ... 4669
401. Notice Of Petition For Declaratory Ruling (Rule 401). ... 4669
402. Petitions For Declaratory Rulings To Be Decided By Order (Rule 402). ... 4670
403. -- 409. (Reserved) ... 4670
410. Appointment Of Hearing Officers (Rule 410). ... 4670
411. Hearing Officers Contrasted With Agency Head (Rule 411). ... 4670
412. Disqualification Of Officers Hearing Contested Cases (Rule 412). ... 4670
413. Scope Of Authority Of Hearing Officers (Rule 413). ... 4670
414. Presiding Officer(S) (Rule 414). ... 4671
415. Challenges To Statutes (Rule 415). ... 4671
416. Review Of Rules (Rule 416). ... 4671
417. Ex Parte Communications (Rule 417). ... 4671
418. -- 499. (Reserved) ... 4672
500. Alternative Resolution Of Contested Cases (Rule 500). ... 4672
501. Neutrals (Rule 501). ... 4672
502. Confidentiality Rule 502). ... 4672
503. -- 509. (Reserved) ... 4672
510. Purposes Of Prehearing Conferences (Rule 510). ... 4672
511. Notice Of Prehearing Conference (Rule 511). ... 4672
512. Record Of Conference (Rule 512). ... 4672
513. Orders Resulting From Prehearing Conference (Rule 513). ... 4672
514. Facts Disclosed Not Part Of The Record (Rule 514). ... 4672
515. -- 519. (Reserved) ... 4673
520. Kinds And Scope Of Discovery Listed (Rule 520). ... 4673
521. When Discovery Authorized (Rule 521). ... 4673
522. Rights To Discovery Reciprocal (Rule 522). ... 4673
523. Depositions (Rule 523). ... 4673
524. Production Requests Or Written Interrogatories And Requests For Admission (Rule 524). ... 4673
525. Subpoenas (Rule 525). ... 4673
526. Statutory Inspection, Examination, Investigation, Etc. -- Contrasted With Other Discovery (Rule 526). ... 4673
527. Answers To Production Requests Or Written Interrogatories And To Requests For Admission (Rule 527). ... 4674
528. Filing And Service Of Discovery-related Documents (Rule 528). ... 4674
529. Exhibit Numbers (Rule 529). ... 4674
530. Prepared Testimony And Exhibits (Rule 530). ... 4674
531. Sanctions For Failure To Obey Order Compelling Discovery (Rule 531). ... 4674
532. Protective Orders (Rule 532). ... 4674
533. -- 549. (Reserved) ... 4674
550. Notice Of Hearing (Rule 550). ... 4674
551. Facilities At Or For Hearing And A.d.a. Requirements (Rule 551). ... 4674
552. How Hearings Held (Rule 552). ... 4675
553. Conduct At Hearings (Rule 553). ... 4675
554. Conference At Hearing (Rule 554). ... 4675
555. Preliminary Procedure At Hearing (Rule 555). ... 4675
556. Consolidation Of Proceedings (Rule 556). ... 4675
557. Stipulations (Rule 557). ... 4675
558. Order Of Procedure (Rule 558). ... 4675
559. Testimony Under Oath (Rule 559). ... 4675
560. Parties And Persons With Similar Interests (Rule 560). ... 4675
561. Continuance Of Hearing (Rule 561). ... 4675
562. Rulings At Hearings (Rule 562). ... 4675

563. Oral Argument (Rule 563). 4676
564. Briefs -- Memoranda -- Proposed Orders Of The Parties -- Statements Of Position -- Proposed Order Of The Presiding Officer (Rule 564). 4676
565. Procedure On Prehearing Motions (Rule 565). 4676
566. Joint Hearings (Rule 566). 4676
567. -- 599. (Reserved) 4676
600. Rules Of Evidence -- Evaluation Of Evidence (Rule 600). 4676
601. Documentary Evidence (Rule 601). 4676
602. Official Notice -- Agency Staff Memoranda (Rule 602). 4676
603. Depositions (Rule 603). 4676
604. Objections -- Offers Of Proof (Rule 604). 4676
605. Prepared Testimony (Rule 605). 4677
606. Exhibits (Rule 606). 4677
607. -- 609. (Reserved) 4677
610. Confidentiality Of Settlement Negotiations (Rule 610). 4677
611. Suggestion For Or Inquiry About Settlements (Rule 611). 4677
612. Consideration Of Settlements (Rule 612). 4677
613. Burdens Of Proof (Rule 613). 4677
614. Settlement Not Binding (Rule 614). 4677
615. -- 649. (Reserved) 4677
650. Record For Decision (Rule 650). 4677
651. Recording Of Hearings (Rule 651). 4678
652. -- 699. (Reserved) 4678
700. Notice Of Proposed Default After Failure To Appear Or Respond (Rule 700). 4678
701. Seven Days To Challenge Proposed Default Order (Rule 701). 4678
702. Issuance Of Default Order (Rule 702). 4678
703. -- 709. (Reserved) 4679
710. Interlocutory Orders (Rule 710). 4679
711. Review Of Interlocutory Orders (Rule 711). 4679
712. Contents Of Orders (Rule 712). 4679
713. -- 719. (Reserved) 4679
720. Recommended Orders (Rule 720). 4679
721. -- 729. (Reserved) 4680
730. Preliminary Orders (Rule 730). 4680
731. -- 739. (Reserved) 4681
740. Final Orders (Rule 740). 4681
741. -- 749. (Reserved) 4682
750. Order Not Designated (Rule 750). 4682
751. -- 759. (Reserved) 4682
760. Modification Of Order On Presiding Officer's Own Motion (Rule 760). 4682
761. -- 769. (Reserved) 4682
770. Clarification Of Orders (Rule 770). 4682
771. -- 779. (Reserved) 4682
780. Stay Of Orders (Rule 780). 4682
781. -- 789. (Reserved) 4682
790. Persons Who May Appeal (Rule 790). 4682
791. Notice Of Appeal (Rule 791). 4683
792. -- 999. (Reserved) 4683

37.02.03 – Water Supply Bank Rules

000. Legal Authority (Rule 0). 4684
001. Title And Scope (Rule 1). 4684
002. -- 009. (Reserved) 4684

010. Definitions (Rule 10). 4684
011. -- 024. (Reserved) 4685
025. Acquisition Of Water Rights For The Board's Water Supply Bank (Rule 25). 4685
026. -- 029. (Reserved) 4687
030. Sale Or Rental Of Water Rights From The Board's Water Supply Bank (Rule 30). 4687
031. -- 034. (Reserved) 4687
035. Handling Of Money Associated With The Board's Water Supply Bank (Rule 35). 4687
036. -- 039. (Reserved) 4688
040. Appointment Of Local Rental Pool Committees (Rule 40). 4688
041. -- 999. (Reserved) 4689

37.03.01 – Adjudication Rules

000. Legal Authority. 4690
001. Title And Scope. 4690
002. -- 009. (Reserved) 4690
010. Definitions. 4690
011. Abbreviations. 4691
012. -- 024. (Reserved) 4691
025. General. 4691
026. -- 029. (Reserved) 4691
030. Flat Fees. 4692
031. -- 034. (Reserved) 4692
035. Variable Fees. 4692
036. -- 044. (Reserved) 4693
045. Amendment Fees. 4693
046. -- 049. (Reserved) 4693
050. Late Fees. 4693
051. -- 054. (Reserved) 4693
055. Refunds. 4693
056. -- 059. (Reserved) 4693
060. Sufficiency Of Claims. 4693
061. -- 064. (Reserved) 4697
065. Rejected And Returned Claims. 4697
066. -- 999. (Reserved) 4697

37.03.02 – Beneficial Use Examination Rules

000. Legal Authority (Rule 0). 4698
001. Title And Scope (Rule 1). 4698
002. -- 008. (Reserved) 4698
009. Applicability (Rule 9). 4698
010. Definitions (Rule 10). 4698
011. Abbreviations. 4700
012. -- 024. (Reserved) 4700
025. Authority Of Representative (Rule 25). 4700
026. -- 029. (Reserved) 4700
030. Qualification, Examination And Appointment Of Certified Water Right Examiner (Rule 30). 4700
031. -- 034. (Reserved) 4701
035. Examination For Beneficial Use (Rule 35). 4701
036. -- 039. (Reserved) 4704
040. Water Measurement (Rule 40). 4704
041. -- 044. (Reserved) 4705
045. Drawings, Map, And Schematic Diagram (Rule 45). 4705
046. -- 049. (Reserved) 4705
050. License Examination Fee (Rule 50). 4705

051. -- 054. (Reserved) 4706
055. Penalty (Rule 55). 4706
056. -- 999. (Reserved) 4706
37.03.03 – Rules and Minimum Standards for the Construction and Use of Injection Wells
000. Legal Authority. 4708
001. Title And Scope. 4708
002. Incorporation By Reference (Rule 4). 4708
003. -- 009. (Reserved) 4708
010. Definitions. 4708
011. -- 014. (Reserved) 4714
015. Violations, Formal Notification And Enforcement. 4714
016. -- 019. (Reserved) 4714
020. Hearing Before The Water Resource Board. 4714 4715
021. -- 034. (Reserved) 4715
035. Classification Of Injection Wells. 4715
036. -- 039. (Reserved) 4717
040. Authorizations, Prohibitions and Exemptions. 4717
041. -- 069. (Reserved) 4719
070. Class V: Criteria And Standards. 4719
071. -- 999. (Reserved) 4729
37.03.04 – Drilling for Geothermal Resources Rules
000. Legal Authority (Rule 0). 4730
001. Title And Scope (Rule 1). 4730
002. -- 009. (Reserved) 4730
010. Definitions (Rule 10). 4730
011. -- 024. (Reserved) 4732
025. Drilling (Rule 25). 4732
026. -- 029. (Reserved) 4734
030. Records (Rule 30). 4734
031. -- 034. (Reserved) 4735
035. Blow Out Prevention (Rule 35). 4735
036. -- 039. (Reserved) 4736
040. Injection Wells (Rule 40). 4736
041. -- 044. (Reserved) 4737
045. Abandonment (Rule 45). 4737
046. -- 049. (Reserved) 4738
050. Maintenance (Rule 50). 4738
051. -- 054. (Reserved) 4738
055. Hearings, Notice, Procedure (Rule 55). 4738
056. -- 059. (Reserved) 4739
060. Hearings On Refused, Limited, Or Conditioned Permit (Rule 60). 4739
061. -- 064. (Reserved) 4739
065. Penalties (Rule 65). 4739
066. -- 069. (Reserved) 4739
070. Forms (Rule 70). 4739
071. -- 999. (Reserved) 4740
37.03.05 – Mine Tailings Impoundment Structures Rules
000. Legal Authority (Rule 0). 4741
001. Title And Scope (Rule 1). 4741

002. -- 009. (Reserved) ... 4741
010. Definitions (Rule 10). ... 4741
011. -- 024. (Reserved) ... 4742
025. Authority Of Representative (Rule 25). ... 4742
026. -- 029. (Reserved) ... 4742
030. Forms (Rule 30). ... 4742
031. -- 034. (Reserved) ... 4742
035. Plans, Drawings, And Specifications (Rule 35). ... 4742
036. -- 039. (Reserved) ... 4745
040. Bonding (Rule 40). ... 4745
041. -- 044. (Reserved) ... 4746
045. Mine Tailings Impoundment Structures Design Criteria (Rule 45). ... 4746
046. -- 049. (Reserved) ... 4750
050. Dams Storing Tailing And Water (Rule 50). ... 4750
051. -- 054. (Reserved) ... 4750
055. Provisions Of Chapter 17, Title 42, Idaho Code (Rule 55). ... 4750
056. -- 999. (Reserved) ... 4750

37.03.06 – Safety of Dams Rules

000. Legal Authority (Rule 0). ... 4751
001. Title And Scope (Rule 1). ... 4751
002. -- 009. (Reserved) ... 4751
010. Definitions (Rule 10). ... 4751
011. -- 024. (Reserved) ... 4753
025. Dam Size Classification And Risk Category (Rule 25). ... 4753
026. -- 029. (Reserved) ... 4754
030. Authority Of Representative (Rule 30). ... 4754
031. -- 034. (Reserved) ... 4754
035. Forms (Rule 35). ... 4754
036. -- 039. (Reserved) ... 4754
040. Construction Plans, Drawings And Specifications (Rule 40). ... 4754
041. -- 044. (Reserved) ... 4757
045. Operation Plan (Rule 45). ... 4757
046. -- 049. (Reserved) ... 4757
050. New Intermediate Or Large Dams (Rule 50). ... 4757
051. -- 054. (Reserved) ... 4762
055. Existing Intermediate Or Large Dams (Rule 55). ... 4762
056. -- 061. (Reserved) ... 4764
060. Small Dam Design Criteria (Rule 60). ... 4764
061. -- 064. (Reserved) ... 4765
065. Dams Storing Tailings And Water (Rule 65). ... 4765
066. -- 999. (Reserved) ... 4765

37.03.07 – Stream Channel Alteration Rules

000. Legal Authority (Rule 0). ... 4766
001. Title And Scope (Rule 1). ... 4766
002. -- 009. (Reserved) ... 4766
010. Definitions (Rule 10). ... 4766
011. -- 024. (Reserved) ... 4767
025. Exemptions (Rule 25). ... 4767
026. -- 029. (Reserved) ... 4767
030. Applications (Rule 30). ... 4767
031. -- 034. (Reserved) ... 4768
035. Application Review (Rule 35). ... 4768

036. -- 039. (Reserved) ... 4768
040. Approval (Rule 40). ... 4768
041. -- 044. (Reserved) ... 4769
045. Enforcement Of Act (Rule 45). ... 4769
046. -- 049. (Reserved) ... 4769
050. Emergency Waiver (Rule 50). ... 4769
051. -- 054. (Reserved) ... 4769
055. Minimum Standards (Rule 55). ... 4769
056. Construction Procedures (Rule 56). ... 4770
057. Dumped Rock Riprap (Rule 57). ... 4770
058. Drop Structures, Sills And Barbs (Rule 58). ... 4773
059. Culverts And Bridges (Rule 59). ... 4774
060. Removal Of Sand And Gravel Deposits (Rule 60). ... 4776
061. Suction Dredges And Non-powered Sluice Equipment (Rule 61). ... 4776
062. Piling (Rule 62). ... 4777
063. Pipe Crossings (Rule 63). ... 4777
064. Concrete Plank Boat Launch Ramps (Rule 64). ... 4777
065. -- 069. (Reserved) ... 4778
070. Hearings On Denied, Limited, Or Conditioned Permit Or Other Decisions Of The Director (Rule 70). ... 4778
071. -- 999. (Reserved) ... 4778

37.03.08 – Water Appropriation Rules

000. Legal Authority (Rule 0). ... 4789
001. Title And Scope (Rule 1). ... 4789
002. -- 009. (Reserved) ... 4789
010. Definitions (Rule 10). ... 4789
011. -- 024. (Reserved) ... 4790
025. General Description Of The Procedure To Be Used For Allocation (Rule 25). ... 4790
026. -- 029. (Reserved) ... 4791
030. Location And Nature Of Trust Water (Rule 30). ... 4791
031. -- 034. (Reserved) ... 4792
035. Application Requirements (Rule 35). ... 4792
036. -- 039. (Reserved) ... 4795
040. Processing Applications For Permit And Reprocessing Permits (Rule 40). ... 4795
041. -- 044. (Reserved) ... 4800
045. Evaluation Criteria (Rule 45). ... 4800
046. -- 049. (Reserved) ... 4805
050. Conditions Of Approval (Rule 50). ... 4805
051. -- 054. (Reserved) ... 4806
055. Moratorium (Rule 55). ... 4806
056. -- 999. (Reserved) ... 4807

37.03.09 – Well Construction Standards Rules

000. Legal Authority (Rule 0). ... 4810
001. Title And Scope (Rule 1). ... 4810
002. -- 009. (Reserved) ... 4810
010. Definitions (Rule 10). ... 4810
011. -- 024. (Reserved) ... 4816
025. Construction Of Cold Water Wells (Rule 25). ... 4816
026. -- 029. (Reserved) ... 4827
030. Construction Of Low Temperature Geothermal Resource Wells And Bonding (Rule 30). ... 4827
031. -- 034. (Reserved) ... 4829

035. Health Standards (Rule 35). 4829
036. Owners Responsibilities For Well Use And Maintenance (Rule 36). 4830
037. -- 039. (Reserved) 4830
040. Areas Of Drilling Concern (Rule 40). 4830
041. -- 044. (Reserved) 4831
045. Drilling Permit Requirements (Rule 45). 4831
046. -- 049. (Reserved) 4832
050. Penalties (Rule 50). 4832
051. -- 999. (Reserved) 4832

37.03.10 – Well Driller Licensing Rules

000. Legal Authority (Rule 0). 4846
001. Title And Scope (Rule 1). 4846
002. Other Authorities Remain Applicable (Rule 4). 4846
003. -- 009. (Reserved) 4846
010. Definitions (Rule 10). 4846
011. -- 019. (Reserved) 4848
020. Applicability Of Licensing Requirements (Rule 20). 4848
021. Construction And Use Of Holes That Are Not Wells (Rule 21). 4849
022. -- 029. (Reserved) 4849
030. Obtaining A License For An Individual Driller (Rule 30). 4849
031. Obtaining A License For A Company (Rule 31). 4850
032. Obtaining An Operator's Permit (Rule 32). 4851
033. Processing Application For A Driller's License Or Operator's Permit (Rule 33). 4852
034. Examination Procedures (Rule 34). 4852
035. Expiration And Renewal Of License (Rule 35). 4853
036. Expiration And Renewal Of An Operator's Permit (Rule 36). 4853
037. Processing Application To Renew License Or Operator's Permit (Rule 37). 4853
038. -- 049. (Reserved) 4854
050. Duties And Responsibilities Of Drillers, Companies And Operators (Rule 50). 4854
051. -- 059. (Reserved) 4856
060. Bonding (Rule 60). 4856
061. -- 069. (Reserved) 4856
070. Continuing Education (Rule 70). 4856
071. Continuing Education Committee Contingency Plan (Rule 71). 4857
072. -- 079. (Reserved) 4857
080. Driller's Advisory Committee (Rule 80). 4857
081. -- 089. (Reserved) 4858
090. Enforcement (Rule 90). 4858
091. -- 999. (Reserved) 4858

IDAPA 38 – DEPARTMENT OF ADMINISTRATION

Docket No. 38-0000-1900

38.04.06 – Rules Governing Use of the Exterior of State Property in the Capitol Mall and Other State Facilities

000. Legal Authority. 4860
001. Title And Scope. 4860
002. -- 009. (Reserved) 4860
010. Definitions. 4860
011. -- 100. (Reserved) 4861
101. Other State Properties. 4861
102. Multi-Agency Facilities. 4862
103. -- 199. (Reserved) 4862

200. Use Of State Facilities. 4862
201. (Reserved) 4862
202. Equipment And Supplies. 4862
203. Establishment Of Perimeters. 4863
204. Area Closures. 4863
205. -- 299. (Reserved) 4863
300. Restrictions And Limitations On Use. 4863
301. Uses Interfering With Access Or Use Of Facility. 4863
302. Maintenance And Improvements. 4863
303. Motorized Vehicles. 4863
304. Bicycles, Skates, Skateboards, Scooters, And Other Non-Motorized Transportation 4863
305. Animals. 4863
306. Landscaping. 4864
307. Food And Beverages. 4864
308. Smoking. 4864
309. Fires, Candles, And Flames. 4864
310. Posters, Placards, Banners, Signs, Equipment, Tables, Materials, And Displays. 4864
311. Items Subject To Search. 4865
312. Prohibited Items. 4865
313. Reserved 4865
314. Utility Service. 4865
315. Law Enforcement And Facility Exigency. 4865
316. Compliance With Law. 4866
317. Health, Safety, And Maintenance Of State Facilities. 4866
318. -- 399. (Reserved) 4866
400. Liability And Indemnification. 4866
401. -- 999. (Reserved) 4866

38.04.07 – Rules Governing Use of the Interior of State Property in the Capitol Mall and Other State Facilities

000. Legal Authority. 4867
001. Title And Scope. 4867
002. -- 009. (Reserved) 4867
010. Definitions. 4867
011. -- 100. (Reserved) 4868
101. Other State Properties. 4868
102. Multi-Agency Facilities. 4868
103. -- 199. (Reserved) 4869
200. Use Of Interior State Facilities. 4869
201. -- 299. (Reserved) 4869
300. Restrictions And Limitations On Use. 4869
301. Uses Interfering With Access Or Use Of Facility. 4869
302. Hours And Locations Of Use. 4869
303. Bicycles, Skates, Skateboards, Scooters, And Other Non-Motorized Transportation 4869
304. Animals. 4869
305. Food And Beverages. 4870
306. Smoking. 4870
307. Fires, Candles, And Flames. 4870
308. Limits On Use Of Common Space. 4870
309. Items Subject To Search. 4870
310. Prohibited Items. 4870
311. Utility Service. 4871
312. Law Enforcement And Facility Exigency. 4871

313. Compliance With Law. 4871
314. Maintenance Of Interior State Facilities. 4871
315. -- 999. (Reserved) 4871

38.04.08 – Rules Governing Use of Idaho State Capitol Exterior

000. Legal Authority. 4872
001. Title And Scope. 4872
002. -- 009. (Reserved) 4872
010. Definitions. 4872
011. -- 199. (Reserved) 4873
200. Use Of State Capitol Exterior. 4873
201. (Reserved) 4873
202. Equipment And Supplies. 4873
203. Establishment Of Perimeters. 4873
204. Area Closures. 4873
205. -- 299. (Reserved) 4873
300. Restrictions And Limitations On Use. 4874
301. Uses Interfering With Access Or Use Of Facility. 4874
302. Locations. 4874
303. Maintenance And Improvements. 4874
304. Motorized Vehicles. 4874
305. Bicycles, Skates, Skateboards, Scooters, And Other Non-Motorized Transportation. 4874
306. Animals. 4874
307. Landscaping. 4875
308. Food And Beverages. 4875
309. Smoking. 4875
310. Fires, Candles, And Flames. 4875
311. Posters, Placards, Banners, Signs, Equipment, Tables, Materials, And Displays. 4875
312. Items Subject To Search. 4876
313. Prohibited Items. 4876
314. Utility Service. 4876
315. Law Enforcement And Facility Exigency. 4876
316. Compliance With Law. 4876
317. Health, Safety And Maintenance Of State Facilities. 4877
318. -- 399. (Reserved) 4877
400. Permits. 4877
401. Approvals And Denials Of A Permit Application. 4878
402. Revocation Of A Permit. 4879
403. Appeals. 4879
404. -- 499. (Reserved) 4879
500. Liability And Indemnification. 4879
501. -- 999. (Reserved) 4879

38.04.09 – Rules Governing Use of the Chinden Office Complex

000. Legal Authority. 4880
001. Title And Scope. 4880
002. -- 009. (Reserved) 4880
010. Definitions. 4880
011. – 199. (Reserved) 4881
200. Use Of The Chinden Office Complex. 4881
201. Hours Of Use. 4882
202. Use Of Recreational Facilities. 4882
203. Equipment And Supplies. 4882

204. Establishment Of Perimeters. 4882
205. Area Closures. 4882
206. – 299. (Reserved) 4883
300. Restrictions And Limitations On Use. 4883
301. Uses Interfering With Access Or Use Of Facility. 4883
302. Maintenance And Improvements. 4883
303. Motorized Vehicles. 4883
304. Skates, Skateboards, Scooters, And Other Non-Motorized Transportation. 4883
305. Animals. 4883
306. Landscaping. 4884
307. Food And Beverages. 4884
308. Smoking. 4884
309. Fires, Candles, And Flames. 4884
310. Posters, Placards, Banners, Signs, Equipment, Tables, Materials, And Displays. 4884
311. Items Subject To Search. 4885
312. Prohibited Items. 4885
313. (Reserved) 4885
314. Utility Service. 4885
315. Law Enforcement And Facility Exigency. 4886
316. Compliance With Law. 4886
317. Health, Safety, And Maintenance Of Chinden Office Complex. 4886
318. -- 399. (Reserved) 4886
400. Liability. 4886
401. – 999. (Reserved) 4886

38.05.01 – Rules of the Division of Purchasing

000. Legal Authority. 4887
001. Title And Scope. 4887
002. -- 010. (Reserved) 4887
011. Definitions. 4887
012. Preservation Of Records. 4889
013. Form Of Communication. 4889
014. -- 020. (Reserved) 4889
021. Delegation Of Authority Of Administrator. 4889
022. -- 030. (Reserved) 4890
031. Cooperative Purchasing Political Subdivisions. 4890
032. Acquisition Of Concession Services. 4890
033. Purchase Of Telecommunications Or Information Technology Property. 4890
034. Public Notice. 4891
035. -- 040. (Reserved) 4891
041. Procedure Followed In The Solicitation Of Bids And Proposals. 4891
042. Exceptions To Competition. 4891
043. Emergency Purchases. 4892
044. Small Purchases. 4892
045. Sole Source Purchases. 4893
046. Determination Of Fair Market Price For Rehabilitation Agency Acquisitions. 4894
047. -- 050. (Reserved) 4894
051. Content Of Solicitations Issued Under A Formal Sealed Procedure. 4894
052. Changes To Invitation To Bid Or Request For Proposals. 4894
053. -- 060. (Reserved) 4894
061. Form Of Submission For Solicitations Issued Under A Formal Sealed Procedure. 4894
062. -- 069. (Reserved) 4895
070. Pre-Proposal Conference. 4895

071. Pre-opening Withdrawal Or Modification. 4895
072. Late Bids/proposals, Late Withdrawals And Late Modifications. 4895
073. Receipt, Opening, And Recording Of Bids And Proposals. 4895
074. Mistakes. 4895
075. -- 080. (Reserved) 4896
081. Evaluation And Award. 4896
082. Tie Responses. 4897
083. Proposal Discussion With Individual Offerors. 4898
084. Negotiations. 4898
085. Price Agreements. 4900
086. -- 090. (Reserved) 4900
091. Acceptance Or Rejection Of Bids And Proposals. 4900
092. Cancellation Of Solicitation. 4901
093. Notice Of Rejection. 4901
094. Competitive Negotiations. 4901
095. -- 100. (Reserved) 4902
101. Leases. 4902
102. -- 110. (Reserved) 4902
111. Specifications -- Policies And Development. 4902
112. Contract Terms - Policies And Limitations. 4903
113. Contract Oversight. 4904
114. Information Technology Resale. 4904
115. -- 199. (Reserved) 4905
200. Filing Of Appeal. 4905
201. Notice Of Contested Case Hearing. 4905
202. Briefs And Memoranda. 4905
203. Rules Of Evidence. 4905
204. Admission Of Evidence. 4905
205. Testimony. 4905
206. Discovery. 4905
207. Recording And Transcription. 4905
208. Witnesses And Evidence. 4906
209. Findings Of Fact And Conclusions Of Law. 4906
210. Final Order. 4906
211. Motions For Reconsideration. 4906
212. Appeals. 4906
213. -- 999. (Reserved) 4906

38.04.04 – Rules Governing Capitol Mall Parking

000. Legal Authority. 4909
001. Title And Scope. 4909
002. -- 009. (Reserved) 4909
010. Definitions. 4909
011. -- 019. (Reserved) 4910
020. Parking Lot Locations. 4910
021. Types Of Available Parking. 4910
022. Parking Space Allocation. 4910
023. -- 029. (Reserved) 4912
030. Parking Permits. 4912
031. Parking Permit Fees. 4913
032. -- 039. (Reserved) 4914
040. Parking Lot Violations. 4914
041. Enforcement. 4915

042. Suspension Or Revocation Of Parking Privileges. 4915
043. Surrender Of Parking Permit. 4916
044. -- 049. (Reserved) 4916
050. Loading Zone Parking Spaces. 4916
051. Waiver Of Rules. 4916
052. -- 999. (Reserved) 4916

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

Docket No. 39-0000-1900

39.02.01 – Rules Governing Vehicle Manufacturer and Distributor Franchise Requirements
000. Legal Authority. 4919
001. Title And Scope. 4919
002. -- 009. (Reserved) 4919
010. Definitions. 4919
011. -- 099. (Reserved) 4919
100. General Provisions. 4919
101. -- 999. (Reserved) 4920
39.02.02 – Rules Governing Vehicle and Vessel Dealer License Requirements – Motor Vehicles
000. Legal Authority. 4921
001. Title And Scope. 4921
002. -- 099. (Reserved) 4921
100. Dealer License Requirements. 4921
101. Salesperson License. 4921
102. -- 199. (Reserved) 4921
200. Off-Premise Sales Activities. 4921
201. -- 299. (Reserved) 4921
300. Request For Refund Of Dealer Or Salesperson Licensing Fees. 4921
301. Refund Of Dealer Thirty Day Temporary Permits, License Plates, And Validation Sticker Fees. 4922
302. -- 999. (Reserved) 4922
39.02.03 – Rules Governing Vehicle Dealer's Principal Place of Business
000. Legal Authority. 4923
001. Title And Scope. 4923
002. -- 009. (Reserved) 4923
010. Definitions. 4923
011. -- 099. (Reserved) 4924
100. General Provisions. 4924
101. -- 299. (Reserved) 4925
300. Penalties. 4925
301. -- 999. (Reserved) 4925
39.02.27 – Rules Governing Titling and Registration of Non-Resident Commercial Vehicles and Transient Farm Labor Vehicles
000. Legal Authority. 4926
001. Title And Scope. 4926
002. -- 009. (Reserved) 4926
010. Definitions. 4926
011. -- 099. (Reserved) 4926
100. General Procedure. 4926
101. -- 199. (Reserved) 4926

200. Non-Resident Registrations. 4926
201. -- 299. (Reserved) 4927
300. Reciprocity. 4927
301. -- 999. (Reserved) 4927

39.02.42 – Temporary Vehicle Registration When Proof of Ownership Is Insufficient

000. Legal Authority. 4928
001. Title And Scope. 4928
002. -- 099. (Reserved) 4928
100. Insufficient Proof Of Ownership Includes. 4928
101. -- 199. (Reserved) 4928
200. Procedure. 4928
201. -- 999. (Reserved) 4929

39.02.43 – Rules Governing Registration and Title Fee Refunds

000. Legal Authority. 4930
001. Title And Scope. 4930
002. -- 099. (Reserved) 4930
100. Request For Refund Of Title Fees. 4930
101. -- 199. (Reserved) 4930
200. Request For Refund Of Registration Fees. 4930
201. -- 999. (Reserved) 4930

39.02.45 – Rules Governing Fees for Lapsed Registration Periods

000. Legal Authority. 4931
001. Title And Scope. 4931
002. -- 099. (Reserved) 4931
100. General Provisions. 4931
101. -- 999. (Reserved) 4931

39.02.70 – Rules Governing Restricted Driving Permits

000. Legal Authority. 4932
001. Title And Scope. 4932
002. -- 099. (Reserved) 4932
100. Eligibility. 4932
101. -- 199. (Reserved) 4932
200. Duration And Expiration Of Restricted Driving Permit. 4932
201. -- 299. (Reserved) 4932
300. Restricted Driving Permits May Be Issued. 4932
301. -- 399. (Reserved) 4933
400. Restricted Driving Permits Shall Not Be Issued. 4933
401. -- 499. (Reserved) 4933
500. General Application Procedure For A Non-Commercial Restricted Driving Permit. 4933
501. -- 599. (Reserved) 4934
600. Driving Restrictions Specified. 4934
601. -- 699. (Reserved) 4935
700. Cancellation Of Restricted Driving Permit. 4935
701. -- 999. (Reserved) 4935

39.02.71 – Rules Governing Driver's License Violation Point System

000. Legal Authority. 4936
001. Title And Scope. 4936
002. -- 099. (Reserved) 4936
100. Violation Point Count System. 4936
101. -- 199. (Reserved) 4936

200. List Of Moving Traffic Convictions And/Or Violations Point Count. 4936
201. -- 299. (Reserved) 4938
300. Suspension Of License. 4938
301. -- 399. (Reserved) 4939
400. Completion Of A Defensive Driving Class Or Traffic Safety Education Program. 4939
401. -- 999. (Reserved) 4939
39.02.72 – Rules Governing Administrative License Suspensions
000. Legal Authority. 4940
001. Title And Scope. 4940
002. -- 009. (Reserved) 4940
010. Definitions. 4940
011. -- 099. (Reserved) 4940
100. Hearing Requests. 4940
101. Hearing Notices. 4941
102. -- 199. (Reserved) 4941
200. Document Submission. 4941
201. -- 299. (Reserved) 4942
300. Subpoenas. 4942
301. -- 399. (Reserved) 4942
400. Document Discovery. 4942
401. -- 499. (Reserved) 4942
500. Records Of Proceedings. 4942
501. -- 599. (Reserved) 4942
600. Final Order Request For Reconsideration. 4942
601. -- 699. (Reserved) 4943
700. Failure To Appear. 4943
701. -- 799. (Reserved) 4943
800. Forms. 4943
801. -- 999. (Reserved) 4943
39.02.73 – Rules Governing Accident Prevention Course
000. Legal Authority. 4944
001. Title And Scope. 4944
002. -- 009. (Reserved) 4944
010. Definitions. 4944
011. -- 099. (Reserved) 4944
100. Criteria. 4944
101. -- 199. (Reserved) 4944
200. Course Review. 4944
201. Withdrawal Of Course Approval. 4944
202. -- 999. (Reserved) 4944
39.02.75 – Rules Governing Names on Drivers' Licenses and Identification Cards
000. Legal Authority. 4945
001. Title And Scope. 4945
002. -- 099. (Reserved) 4945
100. General Provisions. 4945
101. -- 199. (Reserved) 4945
200. Criteria. 4945
201. -- 299. (Reserved) 4947
300. Procedures. 4947
301. -- 999. (Reserved) 4947
39.02.76 – Rules Governing Driver's License Renewal-By-Mail

and Electronic Renewal Process
000. Legal Authority. ... 4948
001. Title And Scope. ... 4948
002. -- 009. (Reserved) ... 4948
010. Definitions. ... 4948
011. Eligibility. ... 4948
012. Renewal By Mail Procedures. ... 4949
013. -- 999. (Reserved) ... 4949
39.02.80 – Rules Governing Motor Carrier Financial Responsibility
000. Legal Authority. ... 4950
001. Title And Scope. ... 4950
002. Incorporation By Reference. ... 4950
003. -- 009. (Reserved) ... 4950
010. Definitions. ... 4950
011. -- 019. (Reserved) ... 4950
020. Insurance Requirements. ... 4951
021. Certificates Of Insurance. ... 4951
022. -- 999. (Reserved) ... 4952
39.03.01 – Rules Governing Definitions Regarding Special Permits
000. Legal Authority. ... 4953
001. Title And Scope. ... 4953
002. -- 009. (Reserved) ... 4953
010. Definitions. ... 4953
011. – 999. (Reserved) ... 4956
39.03.02 – Rules Governing Movement of Disabled Vehicles
000. Legal Authority. ... 4957
001. Title And Scope. ... 4957
002. -- 009. (Reserved) ... 4957
010. Definitions. ... 4957
011. – 099. (Reserved) ... 4957
100. General. ... 4957
101. – 199. (Reserved) ... 4957
200. Removal Of Disabled Vehicles. ... 4957
300. Hazardous Travel Conditions Restrictions. ... 4959
301. –999. (Reserved) ... 4959
39.03.04 – Rules Governing Special Permits – Overweight Non-reducible
000. Legal Authority. ... 4960
001. Title And Scope. ... 4960
002. -- 009. (Reserved) ... 4960
010. Definitions. ... 4960
011. General Rules And Conditions. ... 4960
012. – 099. (Reserved) ... 4960
100. Responsibility Of Permittee. ... 4960
101. – 199. (Reserved) ... 4962
200. Time Of Travel Restrictions For Special Loads. ... 4962
300. Maximum Overweight Levels For Annual Overweight/Oversize Permits. ... 4965
301. – 399. (Reserved) ... 4966
400. Overweight Permits Requiring Bridge Analysis. ... 4966
401. – 499. (Reserved) ... 4966
500. Bridge Analysis Criteria And Time Frames. ... 4966
501. – 599. (Reserved) ... 4967

600. Special Permits For Self Propelled Vehicles. 4967
601. – 999. (Reserved) 4967
39.03.05 – Rules Governing Special Permits – Oversize Non-Reducible
000. Legal Authority. 4968
001. Title And Scope. 4968
002. -- 009. (Reserved) 4968
010. Definitions. 4968
011. – 049. (Reserved) 4968
050. Safety Inspection Requirements For Oversize Vehicles And/Or Loads. 4968
051. – 059. (Reserved) 4968
060. Brakes. 4968
061. – 069. (Reserved) 4968
070. General Oversize Limitations. 4968
071. – 079. (Reserved) 4969
080. Overwidth Hauling Vehicles, Restrictions. 4969
081. – 089. (Reserved) 4969
090. General Conditions And Requirements. 4969
091. – 099. (Reserved) 4969
100. Lighting Requirements For Oversize Vehicles And/Or Loads Traveling After Dark. 4969
101. – 199. (Reserved) 4969
200. Flagging Requirements For Oversize Vehicles And/Or Loads. 4969
201. – 299. (Reserved) 4970
300. Signing Requirements Of Towing Vehicles, Oversize Vehicles And/Or Loads. 4970
301. – 399. (Reserved) 4970
400. Pilot/Escort Vehicles. 4970
401. Pilot/Escort Vehicle Sign Requirements. 4970
402. Pilot/Escort Vehicle Lighting Requirements. 4970
403. Pilot/Escort Vehicle Equipment. 4971
404. Pilot/Escort Vehicle Placement. 4971
405. – 499. (Reserved) 4972
500. Time Of Travel Restrictions For Special Loads. 4972
501. – 549. (Reserved) 4972
550. Movement, Traffic Control Plans, Loading, Parking On State Highways. 4972
551. – 599. (Reserved) 4972
600. Overwidth Permits For Implements Of Husbandry. 4972
601. – 699. (Reserved) 4973
700. Manufactured Homes, Modular Buildings, And Office Trailers. 4973
701. – 729. (Reserved) 4975
730. Hauling Equipment For A Manufactured Home, Modular Building, Or Office Trailer. 4975
731. – 749. (Reserved) 4975
750. General Provisions – Manufactured Homes, Modular Buildings, And Office Trailer. 4975
751. – 799. (Reserved) 4976
800. Relocation Of Building Or Houses – General Requirements. 4976
801. – 849. (Reserved) 4976
850. Vertical Clearance Requirements. 4976
851. – 869. (Reserved) 4976
870. Insurance And Bonding Requirements. 4976
871. – 879. (Reserved) 4977
880. Fees. 4977
881. – 889. (Reserved) 4977
890. Application For Permit. 4977
891. – 899. (Reserved) 4977

900. Convoy Of Oversize Loads. 4977
901. – 999. (Reserved) 4977

39.03.06 – Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations

000. Legal Authority. 4978
001. Title And Scope. 4978
002. -- 009. (Reserved) 4978
010. Definitions. 4978
011. – 049. (Reserved) 4978
050. General Rules And Conditions. 4978
051. – 099. (Reserved) 4978
100. Designated Routes For Extra Length Vehicle Combinations Carrying Up To One Hundred Five Thousand Five Hundred (105,500) Pounds Shall Be Designated In Four Categories. 4978
101. – 199. (Reserved) 4979
200. Designated Routes For Vehicle Combinations Up To One Hundred Twenty-Nine Thousand (129,000) Pounds. 4979
201. – 299. (Reserved) 4980
300. Operating Requirements For Extra-Length/Excess Weight Permits Up To One Hundred Twenty-Nine Thousand (129,000) Pounds Vehicle Combinations. 4980
301. – 399. (Reserved) 4981
400. Special Permits For Operations Of Extra-Length/Excess Weight Permit Up To One Hundred Twenty-Nine Thousand (129,000) Pounds Vehicle Combinations. 4981
401. – 499. (Reserved) 4982
500. General Weight Requirements And Conditions. 4982
501. – 999. (Reserved) 4982

39.03.07 – Rules Governing Special Permits for Reducible Loads

000. Legal Authority. 4983
001. Title And Scope. 4983
002. -- 009. (Reserved) 4983
010. Definitions. 4983
011. – 099. (Reserved) 4983
100. General Requirements. 4983
101. – 199. (Reserved) 4983
200. Permits For Multiple-Width Or Multiple-Height Loading. 4983
201. – 999. (Reserved) 4983

39.03.08 – Rules Governing Self-Propelled Snowplows

000. Legal Authority. 4984
001. Title And Scope. 4984
002. -- 009. (Reserved) 4984
010. Definitions. 4984
011. – 099. (Reserved) 4984
100. Conditions And Requirements For Operation Of Self-Propelled Snowplows On The State Highway System. 4984
101. – 999. (Reserved) 4984

39.03.40 – Rules Governing Junkyards and Dumps

000. Legal Authority. 4985
001. Title And Scope. 4985
002. -- 009. (Reserved) 4985
010. Definitions. 4985
011. -- 099. (Reserved) 4986
100. Applications, Licenses, And Permits. 4986

101. -- 199. (Reserved) 4987
200. Screening. 4987
201. Fences. 4987
202. Planting Materials. 4988
203. Earthen Embankments. 4988
204. -- 299. (Reserved) 4988
300. Administrative Hearings. 4988
301. -- 399. (Reserved) 4988
400. Penalties. 4988
401. -- 999. (Reserved) 4988

39.03.41 – Rules Governing Traffic Control Devices

000. Legal Authority. 4989
001. Title And Scope. 4989
002. – 003. (Reserved) 4989
004. Incorporation By Reference. 4989
005. Availability Of The "Manual On Uniform Traffic Control Devices For Streets And Highways And Other Referenced Documents." 4997
006. -- 999. (Reserved) 4997

39.03.42 – Rules Governing Highway Right-of-Way Encroachments on State Rights-of-Way

000. Legal Authority. 4998
001. Title And Scope. 4998
002. -- 009. (Reserved) 4998
010. Definitions. 4998
011. -- 099. (Reserved) 5003
100. General. 5003
101. -- 199. (Reserved) 5004
200. Applications And Permits. 5004
201. Permit Compliance And Expiration. 5005
202. -- 299. (Reserved) 5006
300. General Regulations For Approaches. 5006
301. -- 399. (Reserved) 5007
400. Location And Design Standards For Approaches. 5007
401. Medians. 5012
402. Auxiliary Lanes. 5013
403. -- 499. (Reserved) 5013
500. Location And Design Standards For Utilities. 5013
501. -- 599. (Reserved) 5014
600. Location And Design Standards For Other Encroachments. 5014
601. -- 699. (Reserved) 5016
700. Application Fees. 5016
701. --799. (Reserved) 5018
800. Unauthorized And Nonstandard Encroachments. 5018
801. Prohibitions. 5019
802. -- 999. (Reserved) 5019

39.03.43 – Rules Governing Utilities on State Highway Right-of-Way

000. Legal Authority. 5020
001. Title And Scope. 5020
002. Incorporation By Reference. 5020
003. -- 999. (Reserved) 5020

39.03.44 – Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs

000. Legal Authority. 5021
001. Title And Scope. 5021
002. Incorporation By Reference. 5021
003. -- 999. (Reserved) 5021

39.03.47 – Rules Governing Certification of Local Improved Road Mileage
000. Legal Authority. 5022
001. Title And Scope. 5022
002. -- 009. (Reserved) 5022
010. Definitions. 5022
011. -- 099. (Reserved) 5022
100. Determination Of An Improved Road. 5022
101. -- 200. (Reserved) 5022
201. Border Line Roads. 5022
202. -- 999. (Reserved) 5022

39.03.48 – Rules Governing Routes Exempt From Local Plans and Ordinances
000. Legal Authority. 5023
001. Title And Scope. 5023
002. -- 099. (Reserved) 5023
100. State Highway System Designation. 5023
101. -- 199. (Reserved) 5023
200. Local Agencies. 5023
201. -- 299. (Reserved) 5023
300. Existing State Highway System. 5023
301. -- 999. (Reserved) 5023

39.03.49 – Rules Governing Ignition Interlock Breath Alcohol Devices
000. Legal Authority. 5024
001. Title And Scope. 5024
002. -- 009. (Reserved) 5024
010. Definitions. 5024
011. -- 099. (Reserved) 5024
100. Certification Process. 5024
101. Test Specifications For Certification. 5026
102. -- 199. (Reserved) 5026
200. Installation Standards. 5026
201. -- 299. (Reserved) 5026
300. Device Maintenance And Reports. 5026
301. Device Security. 5027
302. -- 399. (Reserved) 5028
400. Mandatory Operational Features. 5028
401. Other Provisions. 5028
402. Removal Procedures. 5029
403. -- 499. (Reserved) 5029
500. Primary Responsibilities Of Agencies/Offices Monitoring This Rule. 5029
501. -- 999. (Reserved) 5030

39.03.50 – Rules Governing Safety Rest Areas
000. Legal Authority. 5031
001. Title And Scope. 5031
002. -- 099. (Reserved) 5031
100. Sanitation. 5031
101. -- 199. (Reserved) 5031
200. Public Behavior And Treatment Of Public Property. 5031

201. -- 299. (Reserved) 5032
300. Occupancy Of Developed Rest Areas. 5032
301. -- 399. (Reserved) 5032
400. Vehicles. 5032
401. -- 999. (Reserved) 5032
39.03.60 – Rules Governing Outdoor Advertising, Accident Memorials, and Other Official Signs
000. Legal Authority. 5033
001. Title And Scope. 5033
002. -- 009. (Reserved) 5033
010. Definitions. 5033
011. -- 099. (Reserved) 5037
100. General. 5037
101. -- 109. (Reserved) 5037
110. Exemptions Authorized By Section 40-1904, Idaho Code. 5037
111. -- 119. (Reserved) 5038
120. Displays Located Within Zoned Or Unzoned Industrial, Business Or Commercial Areas. 5038
121. -- 129. (Reserved) 5040
130. Licenses. 5040
131. -- 139. (Reserved) 5040
140. Outdoor Advertising Permits. 5040
141. -- 149. (Reserved) 5042
150. Bonds Of Out-Of-State Permittees And Licensees. 5042
151. -- 199. (Reserved) 5042
200. General: Traffic Accident Memorials 5042
201. Traffic Accident Memorial Permit. 5042
202. Physical Requirements. 5042
203. -- 214. (Reserved) 5042
215. Location. 5042
216. -- 219. (Reserved) 5043
220. Safety. 5043
221. -- 239. (Reserved) 5043
240. Maintenance. 5043
241. Compliance. 5043
242. -- 299. (Reserved) 5043
300. General: Standards For Community Official Signs. 5043
301. Standards For Directional Signs. 5043
302. -- 131. (Reserved) 5045
320. Lighting, Signs May Be Illuminated, Subject To The Following. 5045
321. -- 339. (Reserved) 5045
340. Administration. 5045
341. -- 999. (Reserved) 5046
39.03.65 – Rules Governing Traffic Minute Entries
000. Legal Authority. 5047
001. Title And Scope. 5047
002. -- 009. (Reserved) 5047
010. Definitions. 5047
011. -- 099. (Reserved) 5047
100. General Provisions. 5047
101. -- 199. (Reserved) 5047
200. Required Entries. 5047
201. -- 299. (Reserved) 5048
300. Parking On State Highways Within Cities. 5048

301. -- 999. (Reserved) 5048
39.03.80 – Rules Governing Legalization of Overloaded Vehicles
000. Legal Authority. 5049
001. Title And Scope. 5049
002. -- 009. (Reserved) 5049
010. Definitions. 5049
011. -- 099. (Reserved) 5049
100. General Provisions. 5049
101. -- 999. (Reserved) 5050
39.03.81 – Rules Governing Issuance of Temporary Permits in Lieu of Full Registration
000. Legal Authority. 5051
001. Title And Scope. 5051
002. -- 009. (Reserved) 5051
010. Definitions. 5051
011. -- 099. (Reserved) 5051
100. General Provisions. 5051
101. -- 199. (Reserved) 5052
200. Permit Requirements. 5052
201. -- 299. (Reserved) 5053
300. Refund Of Fees. 5053
301. -- 399. (Reserved) 5053
400. Temporary Permit Vendor Program. 5053
401. -- 499. (Reserved) 5054
500. Additional Requirements. 5054
501. -- 999. (Reserved) 5054
39.04.01 – Rules Governing Aeronautics And Aviation
000. Legal Authority. 5055
001. Title And Scope. 5055
002. Incorporation By Reference. 5055
007. – 009. (Reserved) 5055
010. Definitions. 5055
011. -- 099. (Reserved) 5057
100. Aircraft To Be Registered. 5057
101. Registration Period. 5057
102. Applications For Aircraft Registration. 5057
103. Fees. 5057
104. Registration To Be Carried And Displayed. 5058
105. Transfer Of Title Or Interest In Aircraft. 5058
106. Exemptions. 5058
107 – 199. (Reserved) 5058
200. Special Operating Restrictions On Airports. 5058
201. Aircraft Parking, Loading, And Tiedown. 5058
202. Vehicles, Domestic Animals, Baggage, And Objects. 5058
203. Camping, Trash, And Refuse. 5059
204. Aircraft Fueling, Agricultural Operations, And Hazardous Material. 5059
205. Commercial Operations. 5059
206. -- 299. (Reserved) 5059
300. Application. 5060
301. Operational Agreement. 5060
302. Safety And Access. 5060
303. -- 399. (Reserved) 5060

400. Requirements. 5060
401. Exceptions. 5062
402. -- 499. (Reserved) 5062
500. General. 5062
501 – 599. (Reserved) 5062
600. Search Notification. 5063
601. Search Initiation. 5063
602. Organization. 5063
603. Resources. 5063
604. Procedure. 5063
605. -- 699. (Reserved) 5065
700. Project Allocation Priority Principles. 5065
701. Program Criteria And Limitations. 5065
702. Percentages Of Cost. 5066
703. Granted Allocation Items. 5066
704. Airport Sponsor Eligibility. 5067
705. Applications For Aid. 5067
706. IAAP Implementation Method. 5068
707. -- 999. (Reserved) 5068

39.02.04 – Rules Governing Manufacturer and New Vehicle Dealer Hearing Fees

000. Legal Authority. 5072
001. Title And Scope. 5072
002. -- 099. (Reserved) 5072
100. General Provisions. 5072
101. -- 999. (Reserved) 5072

39.02.05 – Rules Governing Issuance of Certificates of Title

000. Legal Authority. 5073
001. Title And Scope. 5073
003. – 009. (Reserved) 5073
010. Definitions. 5073
011. – 099. (Reserved) 5074
100. General. 5074
101. – 199. (Reserved) 5075
200. Lien Filing. 5075
201. Odometers. 5076
202. Vehicle Identification Number (VIN) Inspections. 5076
203. – 299. (Reserved) 5077
300. Title Branding. 5077
301. Bonded Title. 5078
302. Specially Constructed Vehicles. 5079
303. Rebuilt Salvage Vehicles. 5079
304. Glider Kits. 5080
305. Title Application Requirements For Replica, Street Rods, Replica Street Rods, And Assembled Vehicles. 5081
306. -- 399. (Reserved) 5081
400. Abandoned Vehicles. 5081
401. Gray Market Vehicles. 5082
402. – 899. (Reserved) 5083
900. Waiver Of Titling Requirements. 5083
901. – 999. (Reserved) 5083

39.02.22 – Rules Governing Registration and Permit Fee Administration

000. Legal Authority. 5084
001. Title And Scope. 5084
002. -- 009. (Reserved) 5084
010. Definitions. 5084
011. -- 099. (Reserved) 5084
100. Quarterly Road Use Fee Reports For Annual Overweight Permits. 5084
101. Quarterly Road Use Fee Reporting. 5085
102. -- 199. (Reserved) 5085
200. Installment Payments For Commercial Vehicle Registration. 5085
201. -- 299. (Reserved) 5087
300. Refunds. 5087
301. -- 599. (Reserved) 5088
600. Insufficient Funds. 5088
601. Acceptance Of Checks. 5088
602. Credit Card Payments. 5088
603. -- 699. (Reserved) 5088
700. Suspension Of Registration. 5088
701. Revocation Of Registration. 5088
702. Requirements For Reinstatement Of Revoked Or Suspended Vehicle Registration. 5088
703. Requirements For Collections. 5088
704. -- 799. (Reserved) 5089
800. Enforcement. 5089
801. -- 899. (Reserved) 5089
900. Appeal Procedure. 5089
901. -- 999. (Reserved) 5089

39.02.26 – Rules Governing Temporary Vehicle Clearance for Carriers

000. Legal Authority. 5090
001. Title And Scope. 5090
002. -- 009. (Reserved) 5090
010. Definitions. 5090
011. -- 099. (Reserved) 5090
100. Administration. 5090
101. -- 199. (Reserved) 5090
200. Issuance Of TVC. 5090
201. Issuance Of Vehicle Registration (CAB Card) And License Plate(s). 5090
202. -- 299. (Reserved) 5090
300. Cost And Payment. 5090
301. -- 999. (Reserved) 5090

39.02.41 – Rules Governing Special Provisions Applicable to Fees for Services

000. Legal Authority. 5091
001. Title And Scope. 5091
002. -- 099. (Reserved) 5091
100. Administration. 5091
101. -- 199. (Reserved) 5092
200. Law Enforcement Inquiries. 5092
201. Jury Lists. 5092
202. Special Agreements. 5092
203. Miscellaneous. 5092
204. -- 999. (Reserved) 5092

39.02.60 – Rules Governing License Plate Provisions

000. Legal Authority. 5093

001. Title And Scope. 5093
002. -- 009. (Reserved) 5093
010. Definitions. 5093
011. License Plate Provisions For All License Plates. 5093
012. Proof Of Registration For New, Replacement, Or Reissued License Plates. 5094
013. -- 099. (Reserved) 5094
100. License Plate Provisions For Standard Plates. 5094
101. License Plate Provisions For Restricted Vehicle Plates. 5095
102. -- 149. (Reserved) 5095
150. Vehicle Dealer License Plates Formats. 5095
151. Vehicle Dealer License Plates Restrictions. 5095
152. Vehicle Dealer Loaner Plates. 5096
153. Vehicle Dealer Transporter Registration And Plate. 5097
154. Provisions For Wrecker Plates. 5098
155. Provisions For Special License Plate Program Prequalification And Application Procedures. 5098
156. -- 198. (Reserved) 5099
199. License Plate Provisions For Special Program And Personalized Plates For Trailers. 5099
200. License Plate Provisions For Special Plates. 5099
201. Provisions For Legislative License Plates. 5100
202. Provisions For Personalized License Plates. 5100
203. Provisions For Former Prisoner Of War (POW) License Plates. 5102
204. -- 299. (Reserved) 5102
300. Provisions For Sample Plates. 5102
301. -- 399. (Reserved) 5103
400. Standard Exempt Plate Designators. 5103
401. Issuing Agency. 5103
402. Information To Be Provided By An Authorized Agency. 5103
403. Vehicle Titling. 5103
404. Exempt And Undercover Plate Fees. 5104
405. Exempt Plate Display. 5104
406. Undercover Plate Display. 5104
407. Alternative Plates. 5104
408. Exempt Plate Status. 5104
409. Undercover Plate Status. 5104
410. -- 999. (Reserved) 5104

39.03.03 – Rules Governing Special Permits – General Conditions and Requirements

000. Legal Authority. 5105
001. Title And Scope. 5105
002. -- 009. (Reserved) 5105
010. Definitions. 5105
011. – 049. (Reserved) 5105
050. Safety Inspection Requirements For Permitted Vehicles And/Or Loads. 5105
051. – 059. (Reserved) 5105
060. Brakes. 5105
061. – 069. (Reserved) 5105
070. Lighting Requirements For Loads Traveling After Dark. 5105
071. – 079. (Reserved) 5106
080. Flagging Requirements For Oversize Vehicles And/Or Loads. 5106
081. – 089. (Reserved) 5106
090. Sign Requirements For Vehicles Combinations Inclusive Of Load. 5106
091. –099. (Reserved) 5106
100. Responsibility Of Issuing Authority. 5107

101. –199. (Reserved) 5107
200. Authority To Issue Permits. 5107
201. – 299. (Reserved) 5107
300. Offices For Issuance Of Special Permits. 5107
301. – 399. (Reserved) 5108
400. Insurance Or Bond For Extraordinary Hazard. 5108
401. – 449. (Reserved) 5108
450. Responsibility Of Permittee. 5108
451. – 499. (Reserved) 5109
500. Allowable Tolerance, Legal Or Permitted Size Limits. 5109
501. – 509. (Reserved) 5109
510. Dromedary Tractors. 5109
511. – 519. (Reserved) 5109
520. Load Overhang. 5110
521. – 599. (Reserved) 5110
600. General. 5110
601. – 619. (Reserved) 5110
620. Compliance With Other Laws And Ordinances. 5110
621. – 629. (Reserved) 5110
630. Waiver Of Limitations For Emergency Movements. 5110
631. – 699. (Reserved) 5110
700. Spring Breakup Season Type Of Load Restrictions. 5110
701. – 709. (Reserved) 5111
710. Weight Limits Based On Tire Sizes. 5111
711. – 719. (Reserved) 5111
720. Width Limitation On Two Lane Road. 5111
721. – 729. (Reserved) 5111
730. Speed Restrictions. 5111
731. – 739. (Reserved) 5111
740. Special Permit Policy During Spring Breakup. 5111
741. – 749. (Reserved) 5112
750. Legal Weight Limits Maintained On Certain Highways. 5112
751. – 759. (Reserved) 5112
760. Enforcement Of Posted Weight And/Or Speed Restrictions. 5112
761. – 769. (Reserved) 5112
770. Temporary Suspension Of Posted Weight And Speed Restrictions. 5112
771. – 779. (Reserved) 5112
780. Special Allowances For Emergency And Critical Service Vehicles. 5112
781. – 799. (Reserved) 5112
800. Special Permit Fees Costs To Be Borne By Permittee. 5112
801. – 909. (Reserved) 5112
910. Payment Of Special Permit Fees. 5112
911. – 949. (Reserved) 5113
950. Revocation Of Permit For Non-Compliance With The Limitations Or Provisions Of The Permit. 5113
951. – 979. (Reserved) 5114
980. Permittee Responsible For Injury To Persons Or Property. 5114
981. – 999. (Reserved) 5114

IDAPA 40 – COMMISSION ON THE ARTS

Docket No. 40-0101-1900

40.01.01 – Rules of the Idaho Commission on the Arts

000. Legal Authority. 5116
001. Title And Scope. 5116
002. (Reserved) 5116
003. Administrative Appeals. 5116
004. -- 099. (Reserved) 5116
100. Definitions. 5116
101. -- 199. (Reserved) 5116
200. Programs. 5116
201. – 299. (Reserved) 5116
300. General Program Requirements. 5116
301. Funding Limitations. 5116
302. Applicants. 5117
303. Applications. 5118
304. Disqualification. 5118
305. Program Grants And Award Amounts. 5119
306. Final Reports. 5119
307. Delegation. 5119
308. Reconsideration Of Applications. 5119
309. -- 999. (Reserved) 5119

IDAPA 41 – IDAHO PUBLIC HEALTH DISTRICTS (PANHANDLE HEALTH DISTRICT #1)

Docket No. 41-0101-1900

41.01.01 – Rules of Idaho Public Health District #1

000. Legal Authority. 5121
001. Title And Scope. 5121
002. Written Interpretations. 5121
003. Administrative Appeals. 5121
004. Office – Office Hours – Mailing Address – Street Address. 5121
005. Public Records. 5121
006. -- 009. (Reserved) 5122
010. Definitions. 5122
011. -- 099. (Reserved) 5122
100. Water Quality Control. 5122
101. -- 109. (Reserved) 5122
110. Sewage Disposal On The Rathdrum Prairie In Kootenai County, Idaho. 5122
111. -- 199. (Reserved) 5124
200. Open Water Protection. 5124
201. -- 399. (Reserved) 5125
400. Critical Materials At Fixed Facilities On The Rathdrum Prairie In Kootenai County, Idaho. 5125
401. -- 499. (Reserved) 5128
500. Contaminant Management In The Bunker Hill Superfund Site, Shoshone County, Idaho. 5128
501. -- 509. (Reserved) 5131
510. The Bunker Hill Superfund Site; Application Of Regulations. 5131
511. Contaminant Management Rules In The Bunker Hill Superfund Site Operable Unit #3 Institutional Controls Administrative Area, Shoshone And Kootenai Counties, Idaho. 5132
512. Application Of Regulations; Institutional Controls Administrative Area. 5136
513. -- 519. (Reserved) 5137
520. Permit Application And Administration. 5137
521. Inspection. 5138
522. Permit Revocation Or Stop Work Order. 5138
523. Record Of Compliance. 5138

524. -- 529. (Reserved) 5139
530. Contractor Licensing. 5139
531. Licenses For Public Utilities And Government Entities. 5140
532. -- 539. (Reserved) 5140
540. Performance Of Work. 5140
541. Performance Standards. 5140
542. Approval Of Alternative Standards. 5140
543. Owner And Applicant Responsibility For Claims And Liabilities. 5140
544. -- 899. (Reserved) 5140
900. Administrative Procedures, Exceptions, Penalties. 5141
901. (Reserved) 5142
902. Violation And Enforcement. 5142
903. -- 999. (Reserved) 5142

IDAPA 42 – IDAHO WHEAT COMMISSION

Docket No. 42-0101-1900F

42.01.01 – Rules of the Idaho Wheat Commission

000. Legal Authority. 5151
001. Title And Scope. 5151
002. -- 009. (Reserved) 5151
010. Definitions. 5151
011 -- 099. (Reserved) 5151
100. Wheat Tax Return Form. 5151
101. Mixtures. 5151
102. Net Weight. 5151
103. Truckers. 5151
104. Wheat Delivered On Account Or Exchanged For Other Wheat. 5151
105. End Use. 5151
106. -- 199. (Reserved) 5151
200. Penalty For Late Payment Of Wheat Tax. 5152
201. -- 299. (Reserved) 5152
300. Wheat Under Commodity Credit Corporation Loans. 5152
301. Invoices And Records. 5152
302. -- 999. (Reserved) 5152

IDAPA 43 – IDAHO OILSEED COMMISSION

Docket No. 43-0101-1900F

43.01.01 – Rules Governing the Idaho Oilseed Commission

000. Legal Authority. 5154
001. Title And Scope. 5154
002. -- 009. (Reserved) 5154
010. First Purchaser Rules. 5154
011. -- 499. (Reserved) 5154
500. Refund Applications. 5154
501. -- 999. (Reserved) 5155

IDAPA 45 – IDAHO HUMAN RIGHTS COMMISSION

Docket No. 45-0101-1900

45.01.01 – Rules of the Idaho Human Rights Commission

000. Legal Authority. 5157
001. Title And Scope. 5157

002. Administrative appeal. 5157
003. Liberal Construction – No Contested Cases. 5157
004. Declaratory Rulings. 5157
005. -- 009. (Reserved) 5157
010. Definitions. 5157
011. Representation Of Parties. 5157
012. Interpretation Of State Law. 5158
013. -- 299. (Reserved) 5158
300. Complaints. 5158
301. -- 999. (Reserved) 5160

IDAPA 46 – IDAHO BOARD OF VETERINARY MEDICINE

Docket No. 46-0101-1900F

46.01.01 – Rules of the State of Idaho Board of Veterinary Medicine

000. Legal Authority. 5162
001. Title And Scope. 5162
002. -- 004. (Reserved) 5162
005. Incorporation By Reference. 5162
006. -- 009. (Reserved) 5162
010. License. 5162
011. Fees. 5162
012. Mandatory Continuing Veterinary Education. 5162
013. -- 099. (Reserved) 5163
100. Certification Of Veterinary Technicians. 5163
101. Temporary Certification. 5164
102. Mandatory Continuing Education For Certified Veterinary Technicians. 5165
103. Supervising Veterinarians. 5166
104. Veterinary Technician Certification -- Renewal. 5167
105. Grounds For Discipline Of Veterinary Technicians. 5167
106. -- 149. (Reserved) 5169
150. Valid Veterinarian/Client/Patient Relationship. 5169
151. Unprofessional Conduct. 5169
152. Code Of Professional Conduct. 5170
153. Standards Of Practice. 5171
154. Record Keeping Standards. 5172
155. -- 199. (Reserved) 5175
200. Committee On Humane Euthanasia. 5175
201. Methods Of Euthanasia, Pre-Euthanasia Sedation, And Chemical Capture 5175
202. Procurement And Administration Of Approved Drugs. 5176
203. Fees. 5176
204. Certified Euthanasia Agency. 5176
205. Certified Euthanasia Technician. 5179
206. Grounds For Discipline -- CEAs And CETs. 5183
207. Inspection Deficiencies. 5185
208. -- 999. (Reserved) 5185

IDAPA 48 – IDAHO GRAPE GROWERS AND WINE PRODUCERS COMMISSION

Docket No. 48-0101-1900F

48.01.01 – Rules of the Idaho Grape Growers and Wine Producers Commission

000. Legal Authority. 5187
001. Title And Scope. 5187
002. Definitions. 5187

003. -- 019. (Reserved) 5187
020. Tax And Late Payment Penalty. 5187
021. -- 999. (Reserved) 5187

IDAPA 50 – COMMISSION OF PARDONS AND PAROLE

Docket No. 50-0101-1900

50.01.01 – Rules of the Commission of Pardons and Parole

000. Legal Authority. 5189
001. Title And Scope. 5189
002. -- 009. (Reserved) 5189
010. Definitions. 5189
011. -- 099. (Reserved) 5191
100. General Provisions. 5191
101. Hearings. 5191
102. Hearing Sessions. 5191
103. Business Meetings. 5191
104. Record Of Hearings And Business Meetings. 5192
105. Previous Decisions. 5192
106. Individual Polling of the Commission. 5192
107. APA Applicability. 5192
108. Rights, Powers, And Authority Of The Commission. 5192
109. -- 149. (Reserved) 5192
150. Commission And Staff. 5192
151. -- 199. (Reserved) 5193
200. Hearing Process. 5193
201. -- 249. (Reserved) 5195
250. Parole. 5195
251. -- 299. (Reserved) 5199
300. Victims. 5199
301. -- 349. (Reserved) 5200
350. Parole Plan And Release Procedures. 5200
351. -- 399. (Reserved) 5200
400. Parole Disposition Process. 5200
401. -- 449. (Reserved) 5204
450. Commutation Pursuant To Sections 20-233 and 20-240, Idaho Code. 5204
451. -- 499. (Reserved) 5205
500. Self-Initiated Parole Reconsideration. 5205
501. -- 549. (Reserved) 5206
550. Pardon Pursuant To Section 20-240, Idaho Code. 5206
551. Restoration Of Firearms Rights Pursuant To Section 18-310, Idaho Code. 5207
552. -- 599. (Reserved) 5209
600. Remission Of Fine Or Penalty Pursuant To Section 20-210A, Idaho Code. 5209
601. -- 799. (Reserved) 5209
800. Foreign National Treaty Transfer Pursuant To Section 20-104, Idaho Code. 5210
801. -- 999. (Reserved) 5210

IDAPA 51 – IDAHO BEEF COUNCIL

Docket No. 51-0101-1900F

51.01.01 – Idaho Beef Council Rules

000. Legal Authority. 5212
001. Title And Scope. 5212
002. Administrative Appeals. 5212

003. Incorporation By Reference. 5212
004. -- 099. (Reserved) 5212
100. Funding. 5212
101. -- 199. (Reserved) 5213
200. Disbursements. 5213
201. -- 299. (Reserved) 5213
300. Personnel. 5213
301. -- 999. (Reserved) 5213

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION

Docket No. 52-0000-1900F

52.01.03 – Rules Governing Operations of the Idaho State Lottery

000. Legal Authority. 5215
001. Title And Scope. 5215
002. -- 009. (Reserved) 5215
010. Definitions. 5215
011. -- 099. (Reserved) 5215
100. Definitions. 5215
102. Conflict Of Interest Policy. 5222
103. -- 199. (Reserved) 5224
200. Lottery Contracting Rules. 5224
201. Criteria For Review Of Retailer Applications And Conduct Of Operations. 5230
202. General Instant Ticket Game Operating Rules. 5233
203. (Reserved) 5238
204. On-Line Computer Games. 5238
205. Breakopen Instant Ticket Games. 5243
206. -- 299. (Reserved) 5246
300. Definitions. 5246
301. Bingo By Charitable Or Nonprofit Organizations. 5249
302. Number Of Sessions Per Week. 5250
303. Posting Of License And Hours. 5250
304. Members Of Organization In Attendance -- Training Of Employees. 5250
305. Employees Ineligible To Play. 5250
306. Minors. 5250
307. Tracking Requirements In Games Using Paper Bingo Cards. 5250
308. Duties Of Bingo Caller And Employees Or Volunteers In Games Using Paper Bingo Cards. 5251
309. Determining Winners When A Player Using A Paper Bingo Card Claims To Be A Winner. 5251
310. Miscellaneous Rules For Games Using Non-Electronic Bingo Cards. 5251
311. Bingo Operations Using Electronic Bingo Machines. 5252
312. Requirements For Bingo Game Operations Using Electronic Bingo Machines. 5253
313. Play Using Electronic Bingo Machines. 5254
314. Maximum Prizes. 5254
315. (Reserved) 5255
316. Limits On Bingo Operation's Prize Payout Ratios And Administrative Expenses. 5255
317. Payment Of Expenses, Winnings, And Charitable Contributions. 5255
318. Minimum Charitable Or Nonprofit Donation. 5255
319. Maximum Prizes. 5255
320. (Reserved) 5255
321. Accounting And Reporting Required. 5255
322. Separate Bank Account And Limitations On Use. 5255
323. General Ledger. 5256
324. Annual Report. 5256

325. Records Of Prize Disbursements. 5256
326. Accounting Of Revenues And Expenses. 5256
327. Inspection Of Financial Records And Documents. 5257
328. -- 399. (Reserved) 5257
400. Requirements For Organizations Conducting Raffles. 5257
401. Limitation On Annual Number Of Raffles. 5257
402. Ownership Of Prizes. 5257
403. Maximum Prizes. 5257
404. Requirements For Donation To Charity -- Limitation On Expenses. 5257
405. General Ledger And Recordkeeping. 5257
406. Annual Raffle Report. 5257
407. Independent Audit Of Large Raffles. 5258
408. -- 499. (Reserved) 5258
500. Application. 5258
501. License Fees. 5258
502. Information To Be Provided In Application. 5258
503. Multiple Chapters Licensed Together. 5259
504. Compensation Of Certain Persons And Contracts With Certain Persons Prohibited. 5259
505. Action On Licenses. 5259
506. Suspension Or Revocation Of License -- Civil And Criminal Penalties. 5260
507. Exemption From Licensing And Licensing Fees. 5260
508. Rules And Forms. 5260
509. -- 599. (Reserved) 5260
600. Vendor's License Required. 5260
601. License Fees. 5260
602. Information To Be Provided In Application. 5260
603. Approval, Denial Or Dismissal Of Application For Issuance Of License. 5261
604. Suspension Or Revocation Of License. 5261
605. -- 609. (Reserved) 5261
610. Gaming Devices, Equipment Or Materials. 5261
611. Paper Bingo Card Manufacturers Standards. 5261
612. Number Selectors. 5262
613. Distribution And Use Of Electronic Bingo Machines. 5262
614. -- 699. (Reserved) 5263
700. Suspension, Revocation Or Denial Of License. 5263
701. Grounds For Suspension, Revocation Or Denial Of License. 5263
702. Complaint Against And Investigation Of Licensees. 5263
703. Procedure Upon Finding Of Reasonable Cause. 5263
704. Conduct Of Hearing In Contested Case. 5263
705. -- 999. (Reserved) 5263

IDAPA 53 – IDAHO BARLEY COMMISSION

Docket No. 53-0101-1900F

53.01.01 – Rules of the Idaho Barley Commission

000. Legal Authority. 5266
001. Title And Scope. 5266
002. -- 009. (Reserved) 5266
010. Definitions. 5266
011. -- 099. (Reserved) 5266
100. First Purchaser Rules. 5266
101. -- 199. (Reserved) 5267
200. Exemptions. 5267

201. -- 999. (Reserved) 5267

IDAPA 54 – OFFICE OF THE STATE TREASURER

Docket No. 54-0000-1900

54.02.01 – Rules Governing the College Savings Program

000. Legal Authority. 5269
001. Title And Scope. 5269
002. -- 009. (Reserved) 5269
010. Definitions. 5269
011. -- 029. (Reserved) 5269
030. Withdrawals. 5269
031. -- 039. (Reserved) 5269
040. Account Balance Limit On Contributions. 5269
041. -- 999. (Reserved) 5270

54.03.01 – Idaho Unclaimed Property Administrative Rules

000. Legal Authority (Rule 000). 5271
001. Title And Scope (Rule 001). 5271
002. Office – Office Hours – Street And Mailing Addresses – Web Site Address – Phone And Facsimile Numbers – E-Mail Address (Rule 005). 5271
003. Unclaimed Expenses And Checks (Rule 006). 5271
004. -- 009. (Reserved) 5271
010. Definitions (Rule 010). 5271
011. Property Presumed Abandoned General Rule (Rule 011). 5271
012. General Rules For Taking Custody Of Unclaimed Property (Rule 012). 5272
013. Service Charges And Interest (Rule 013). 5272
014. Contents Of Safe Deposit Box Or Other Safekeeping Repository (Rule 014). 5273
015. Report Of Abandoned Property (Rule 015). 5273
016. Filing A Claim With Administrator (Rule 016). 5273
017. Additions And Penalties (Rule 017). 5274
018. Agreement To Locate Reported Property (Rule 018). 5274
019. Payment Of Abandoned Property (Rule 019). 5274
020. Welfare And Pension Plans Covered Under ERISA (Rule 020) 5274
021. Property Held For Deceased Owners (Rule 021). 5274
022. -- 999. (Reserved) 5275

IDAPA 57 – SEXUAL OFFENDER MANAGEMENT BOARD

Docket No. 57-0101-1900F

57.01.01 – Rules of the Sexual Offender Management Board

000. Legal Authority. 5278
001. Title And Scope. 5278
002. Administrative Appeals. 5278
003. Incorporation By Reference. 5278
004. -- 009. (Reserved) 5279
010. Definitions. 5279
011. Abbreviations. 5281
012. -- 019. (Reserved) 5281
020. Recordkeeping. 5281
021. Board Meetings. 5281
022. -- 039. (Reserved) 5281
040. Certified Evaluator Qualifications. 5281
041. Levels Of Psychosexual Evaluator Certification. 5282

042. -- 079. (Reserved) 5283
080. Sexual Offender Treatment Provider Qualifications. 5283
081. Levels Of Sexual Offender Treatment Provider Certification. 5283
082. -- 099. (Reserved) 5284
100. Specialized Training For Psychosexual Evaluators And Sexual Offender Treatment Providers. 5284
101. Continuing Education For Psychosexual Evaluators And Sexual Offender Treatment Providers. 5284
102. -- 149. (Reserved) 5285
150. Request For Conditional Waiver. 5285
151. (Reserved) 5285
152. Reciprocity. 5285
153. Exclusion. 5285
154. Request For Change In Certification Level. 5285
155. Application For Change In Certification Level. 5285
156. -- 199. (Reserved) 5286
200. Post Conviction Sexual Offender Polygraph Examiner Qualifications. 5286
201. Levels Of Post Conviction Sexual Offender Polygraph Examiner Certification. 5286
202. -- 230. (Reserved) 5287
231. Continuing Education For Post Conviction Sexual Offender Polygraph Examiners. 5287
232. -- 299. (Reserved) 5287
300. Standards For Professional Conduct And Client Relations. 5287
301. -- 329. (Reserved) 5288
330. Initial Certification Application. 5288
331. Expiration And Renewal Of Certification. 5288
332. Fees. 5288
333. Certification Period. 5289
334. Applicability And Notification Of Changes. 5289
335. Request For Placement On Inactive Status. 5289
336. -- 349. (Reserved) 5290
350. Central Roster Of Psychosexual Evaluators, Sexual Offender Treatment Providers And Post Conviction Sexual Offender Polygraph Examiners. 5290
351. -- 379. (Reserved) 5290
380. Denial And Grounds For Discipline. 5290
381. Reapplication Following Certification Denial Or Disciplinary Action. 5291
382. Levels Of Discipline. 5291
383. Formal Discipline. 5292
384. Informal Discipline. 5292
385. Withholding Formal Discipline And Probation. 5292
386. Complaints. 5292
387. Disciplinary Process. 5292
388. Response To Notice Of Intended Action. 5292
389. Hearing. 5293
390. Final Order. 5293
391. Appeal To District Court 5293
392. -- 399. (Reserved) 5293
400. Quality Assurance. 5293
401. -- 449. (Reserved) 5293
450. Psychosexual Evaluations. 5293
451. -- 479. (Reserved) 5294
480. Polygraph Examinations. 5294
481. -- 499. (Reserved) 5294
500. Sexual Offender Treatment. 5294

501. -- 999. (Reserved) 5294

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

Docket No. 58-0000-1900

58.01.02 – Water Quality Standards

000. Legal Authority. 5297
001. Title And Scope. 5297
002. Written Interpretations. 5297
003. Administrative Provisions. 5297
004. Incorporation By Reference. 5297
005. Office Hours – Mailing Address And Street Address. 5297
006. Confidentiality Of Records. 5297
007. Effective For Clean Water Act Purposes. 5297
008. -- 009. (Reserved) 5298
010. Definitions. 5298
011. -- 049. (Reserved) 5308
050. Administrative Policy. 5308
051. Antidegradation Policy. 5308
052. Antidegradation Implementation. 5309
053. Public Participation. 5314
054. Beneficial Use Support Status. 5315
055. Water Quality Limited Waters And TMDLs. 5315
056. -- 059. (Reserved) 5316
060. Mixing Zone Policy. 5316
061. -- 069. (Reserved) 5319
070. Application Of Standards. 5319
071. -- 079. (Reserved) 5319
080. Violation Of Water Quality Standards. 5319
081. -- 089. (Reserved) 5320
090. Analytical Procedures. 5320
091. -- 099. (Reserved) 5321
100. Surface Water Use Designations. 5321
101. Nondesignated Surface Waters. 5322
102. Designation And Revision Of Beneficial Uses. 5323
103. -- 108. (Reserved) 5325
109. HUC Index And Abbreviations For Sections 110, 120, 130, 140, 150, And 160. 5325
110. Panhandle Basin. 5328
111. -- 119. (Reserved) 5345
120. Clearwater Basin. 5345
121. -- 129. (Reserved) 5364
130. Salmon Basin. 5364
131. -- 139. (Reserved) 5390
140. Southwest Idaho Basin. 5390
141. -- 149. (Reserved) 5408
150. Upper Snake Basin. 5408
151. -- 159. (Reserved) 5435
160. Bear River Basin. 5435
161. -- 199. (Reserved) 5439
200. General Surface Water Quality Criteria. 5439
201. -- 209. (Reserved) 5440
210. Numeric Criteria For Toxic Substances For Waters Designated For Aquatic Life, Recreation, Or Domestic Water Supply Use. 5440

211. -- 249. (Reserved) 5454
250. Surface Water Quality Criteria For Aquatic Life Use Designations. 5454
251. Surface Water Quality Criteria For Recreation Use Designations. 5458
251. Surface Water Quality Criteria For Recreation Use Designations. 5459
252. Surface Water Quality Criteria For Water Supply Use Designation. 5459
252. Surface Water Quality Criteria For Water Supply Use Designation. 5462
253. Surface Water Quality Criteria For Wildlife And Aesthetics Use Designations. 5463
254. -- 259. (Reserved) 5463
260. Variances From Water Quality Standards. 5463
261. -- 274. (Reserved) 5465
275. Site-specific Surface Water Quality Criteria. 5465
276. Dissolved Oxygen Standards For Waters Discharged From Dams, Reservoirs, And Hydroelectric Facilities. 5467
277. (Reserved) 5468
278. Lower Boise River Subbasin, HUC 17050114 Subsection 140.12. 5468
279. (Reserved) 5468
280. Rock Creek, Cedar Draw, Deep Creek And Big Wood River - Canal System. 5468
281. -- 282. (Reserved) 5469
283. Spokane River, Subsection 110.12, HUC 17010305, Units P-3 And P-4, Site-Specific Criteria For Ammonia. 5469
284. South Fork Coeur d'Alene Subbasin, Subsection 110.09, HUC 17010302, Aquatic Life Criteria For Cadmium, Lead And Zinc. 5469
285. Snake River, Subsection 140.13, HUC 17050115, Unit SW1; And Subsection 140.19, HUC 17050201, Units SW1, SW2, SW3 And SW4, Site-Specific Criteria For Water-Column Dissolved Oxygen. 5470
286. Snake River, Subsection 130.01, HUC 17060101, Unit S1, S2, And S3; Site-Specific Criteria For Water Temperature. 5470
287. Site-Specific Aquatic Life Criteria For Selenium. 5470
288. -- 299. (Reserved) 5474
300. Gas Supersaturation. 5474
301. -- 349. (Reserved) 5475
350. Rules Governing Nonpoint Source Activities. 5475
351. -- 399. (Reserved) 5477
400. Rules Governing Point Source Discharges. 5477
401. Point Source Wastewater Treatment Requirements. 5478
402. -- 799. (Reserved) 5479
800. Hazardous And Deleterious Material Storage. 5479
801. -- 848. (Reserved) 5479
849. Oil Filled Electric Equipment. 5479
850. Hazardous Material Spills. 5480
851. Petroleum Release Reporting, Investigation, And Confirmation. 5480
852. Petroleum Release Response And Corrective Action. 5481
853. -- 999. (Reserved) 5485

58.01.04 – Rules for Administration of Wastewater Treatment Facility Grants

000. Legal Authority. 5486
001. Title And Scope. 5486
002. Written Interpretations. 5486
003. Administrative Appeals. 5486
004. Incorporation By Reference And Availability Of Referenced Material. 5486
005. Confidentiality. 5486
006. Policy. 5486
007. Definitions. 5486
008. -- 019. (Reserved) 5489

020. Priority Rating System. 5489
021. -- 029. (Reserved) 5490
030. Project Scope And Funding. 5490
031. -- 039. (Reserved) 5491
040. Review And Evaluation Of Grant Applications. 5491
041. Determination Of Eligibility Of Costs. 5492
042. Environmental Review. 5493
043. -- 049. (Reserved) 5495
050. Grant Offer And Acceptance. 5495
051. -- 059. (Reserved) 5496
060. Payments. 5496
061. -- 079. (Reserved) 5496
080. Suspension Or Termination Of Grant. 5496
081. Waivers. 5497
082. -- 999. (Reserved) 5497

58.01.10 – Rules Regulating the Disposal of Radioactive Materials not Regulated Under the Atomic Energy Act of 1954, as Amended

000. Legal Authority. 5498
001. Title And Scope. 5498
002. Written Interpretations. 5498
003. Administrative Appeals. 5498
004. Incorporation By Reference. 5498
005. Office – Office Hours – Mailing Address And Street Address. 5498
006. -- 009. (Reserved) 5498
010. Definitions. 5499
011. -- 018. (Reserved) 5500
019. Notification Of Radioactive Materials. 5500
020. Radiation Protection Standards. 5501
021. -- 029. (Reserved) 5501
030. Records. 5501
031. -- 039. (Reserved) 5502
040. Violations. 5502
041. -- 999. (Reserved) 5502

58.01.16 – Wastewater Rules

000. Legal Authority. 5503
001. Title And Scope. 5503
002. Written Interpretations. 5503
003. Administrative Provisions. 5503
004. Incorporation By Reference. 5503
005. Office Hours – Mailing Address And Street Address. 5503
006. Confidentiality Of Records. 5503
007. Use Of Guidance In Design And Review. 5503
008. Referenced Material. 5503
009. Laws And Codes Outside Of These Rules. 5504
010. Definitions. 5505
011. -- 200. (Reserved) 5513
201. Point Source Wastewater Treatment Requirements. 5513
202. Classification Of Public Wastewater Systems. 5514
203. Public Wastewater System Operator Licensure Requirements. 5514
204. Contracting For Services. 5515
205. -- 259. (Reserved) 5515
260. Subsurface Sewage Or Waste Disposal. 5515

261. -- 399. (Reserved) 5515
400. Review Of Plans For Municipal Wastewater Treatment Or Disposal Facilities. 5515
401. Review Of Plans For Nonmunicipal Wastewater Treatment Or Disposal Facilities. 5518
402. Plan And Specification Review Dispute Resolution. 5519
403. -- 408. (Reserved). 5519
409. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Demonstration Of Technical, Financial, And Managerial Capacity. 5519
410. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Facility Plans. 5520
411. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Preliminary Engineering Reports. 5522
412. -- 419. (Reserved) 5526
420. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Submission Of Plans And Support Documents. 5526
421. -- 424. (Reserved) 5526
425. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Operation And Maintenance Manuals. 5526
426. -- 429. (Reserved). 5526
430. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities -- Design And Construction Of Wastewater Pipelines. 5526
431. -- 439. (Reserved) 5530
440. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Wastewater Pumping Stations. 5530
441. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Individual Residence Wastewater Pumping Stations. 5536
442. – 449. (Reserved). 5538
450. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Wastewater Treatment Facilities: General. 5538
451. -- 454. (Reserved) 5543
455. Private Municipal Wastewater Treatment Plants. 5543
456. -- 459. (Reserved) 5545
460. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Screening And Grit Removal. 5545
461. -- 469. (Reserved) 5546
470. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Settling. 5546
471. -- 479. (Reserved) 5546
480. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Sludge Processing, Storage, And Disposal. 5546
481. -- 489. (Reserved) 5546
490. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Biological Treatment. 5547
491. -- 492. (Reserved) 5550
493. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Wastewater Lagoons. 5550
494. -- 499. (Reserved) 5554
500. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Disinfection. 5554
501. -- 509. (Reserved) 5557
510. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities: Supplemental Treatment Processes. 5557
511. -- 518. (Reserved) 5558
519. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal Facilities -- Septage Transfer Stations. 5558
520. Facility And Design Standards For Municipal Wastewater Treatment Or Disposal

Facilities: Handling And Treatment Of Septage At A Wastewater Treatment Plant. 5560
521. -- 599. (Reserved) 5560
600. Land Application Of Wastewater(s) Or Recharge Waters. 5560
601. -- 649. (Reserved) 5561
650. Sludge Usage. 5561
651. -- 659. (Reserved) 5561
660. Waivers. 5562
661. -- 999. (Reserved) 5562

58.01.21 – Rules Governing the Protection and Disclosure of Records in the Possession of the Department of Environmental Quality

000. Legal Authority. 5563
001. Title And Scope. 5563
002. Written Policies And Guidance. 5563
003. Appeals. 5563
004. -- 009. (Reserved) 5563
010. Definitions And Abbreviations. 5563
011. Records Subject To Disclosure. 5564
012. Notice Of Trade Secret Claim. 5564
013. Notification To Person Requesting Disclosure. 5565
014. Request For Substantiation. 5565
015. Final Determination Of Trade Secret Claim. 5566
016. Disclosure Of Records To Certain Persons Under A Continuing Claim. 5566
017. Safeguarding Of Trade Secret Information. 5567
018. -- 999. (Reserved) 5567

58.01.22 – Rules for Administration of Planning Grants for Drinking Water Facilities

000. Legal Authority. 5568
001. Title And Scope. 5568
002. Written Interpretations. 5568
003. Administrative Appeals. 5568
004. Incorporation By Reference And Availability Of Referenced Material. 5568
005. Confidentiality. 5568
006. Policy. 5568
007. System Eligibility. 5568
008. -- 009. (Reserved) 5568
010. Definitions. 5569
011. -- 019. (Reserved) 5571
020. Priority Rating System. 5571
021. -- 029. (Reserved) 5572
030. Project Scope And Funding. 5572
031. Review And Evaluation Of Grant Applications. 5573
032. Determination Of Eligibility Of Costs. 5574
033. -- 039. (Reserved) 5576
040. Environmental Review. 5576
041. -- 049. (Reserved) 5577
050. Grant Offer And Acceptance. 5577
051. -- 059. (Reserved) 5578
060. Payments. 5578
061. -- 069. (Reserved) 5578
070. Suspension Or Termination Of Grant. 5578
071. -- 079. (Reserved) 5579
080. Waivers. 5579

081. -- 999. (Reserved) 5579

58.01.23 – Rules of Administrative Procedure Before the Board of Environmental Quality

000. Legal Authority. 5580
001. Title, Scope, and Applicability. 5580
002. Written Interpretations. 5580
003. Administrative Procedures. 5580
004. Incorporation By Reference. 5580
005. Confidentiality Of Records. 5580
006. Applicability Of Rules Of Administrative Procedure Of The Attorney General. 5580
007. Rules Of General Procedure And Definitions. 5580
008. Filing And Service Of Documents. 5581
009. Office – Office Hours – Mailing Address And Street Address. 5581
010. Definitions And Abbreviations. 5581
011. Liberal Construction. 5582
012. Identification Of Pleadings. 5582
013. Computation Of Time. 5582
014. -- 042. (Reserved) 5582
043. Rules Governing Declaratory Ruling And Contested Case Proceedings. 5582
044. Initial Pleading By Party -- Listing Of Representatives. 5583
045. Representation Of Parties. 5583
046. (Reserved) 5583
047. Public Notice Of Petition For Contested Case And Declaratory Ruling. 5583
048. Substitution Of Representative -- Withdrawal Of Representative. 5583
049. Rules Governing Declaratory Ruling Proceedings. 5584
050. Form And Contents Of Petition For Declaratory Rulings. 5584
051. (Reserved) 5584
052. Petitions For Declaratory Rulings To Be Decided By Order. 5584
053. -- 098. (Reserved) 5584
099. Rules Governing Contested Case Proceedings. 5585
100. Time Period For Filing Petition To Initiate Contested Case. 5585
101. Department Action Not Stayed. 5585
102. Petitioner Has Burden Of Proof. 5585
103. Dismissal Of Inactive Contested Cases. 5585
104. -- 206. (Reserved) 5585
207. Conduct Required. 5585
208. Taking Of Appearances -- Participation By Department Staff. 5585
209. Reserved. 5585
210. Pleadings In Contested Cases Listed -- Miscellaneous. 5585
211. Petitions To Initiate Contested Case -- Defined -- Form And Contents. 5585
212. Responses In Contested Cases -- Defined -- Form And Contents. 5586
213. Motions -- Defined -- Form And Contents. 5586
214. -- 299. (Reserved) 5586
300. Form Of Pleadings. 5586
301. (Reserved) 5587
302. Proof Of Service. 5587
303. Defective, Insufficient Or Untimely Pleadings. 5587
304. Amendments To Pleadings -- Withdrawal Of Pleadings. 5587
305. -- 349. (Reserved) 5587
350. Intervention. 5587
351. Form And Contents Of Petitions To Intervene. 5588
352. Timely Filing Of Petitions To Intervene. 5588

353. Objections To Petitions To Intervene. 5588
354. Granting Petitions To Intervene. 5588
355. Review Of Orders Granting Or Denying Intervention. 5588
356. -- 409. (Reserved) 5588
410. Board Members As Presiding Officers, Appointment Of Hearing Officers -- Notice. 5588
411. (Reserved) 5589
412. Disqualification Of Officers Hearing Contested Cases. 5589
413. Scope Of Authority Of Presiding Officers. 5589
414. (Reserved) 5589
415. Challenges To Statutes. 5589
416. Review Of Rules. 5589
417. Ex Parte Communications. 5589
418. -- 509. (Reserved) 5589
510. Prehearing Conference. 5589
511. Record Of Conference. 5590
512. Orders Resulting From Prehearing Conference. 5590
513. -- 528. (Reserved) 5590
529. Exhibit Numbers. 5590
530. -- 539. (Reserved) 5590
540. Exchange Of Information, Other Discovery. 5590
541. Subpoenas. 5591
542. Filing And Service Of Discovery-related Documents. 5591
543. Depositions, Prepared Testimony And Exhibits. 5591
544. Sanctions For Failure To Obey Order Compelling Discovery. 5592
545. Protective Orders. 5592
546. -- 549. (Reserved) 5592
550. Notice Of Hearing. 5592
551. How Hearings Held. 5592
552. Location Of Hearings And ADA Requirements. 5592
553. Conference At Hearing. 5593
554. Preliminary Procedure At Hearing. 5593
555. Consolidation Of Proceedings. 5593
556. Stipulations. 5593
557. Order Of Procedure. 5593
558. Testimony Under Oath. 5593
559. Parties And Persons With Similar Interests. 5593
560. Continuance Of Hearing. 5593
561. Oral Argument. 5593
562. Briefs -- Memoranda -- Proposed Orders Of The Parties -- Statements Of Position. 5593
563. -- 599. (Reserved) 5593
600. Rules Of Evidence -- Evaluation Of Evidence. 5593
601. Documentary Evidence. 5594
602. Official Notice -- Department Staff Memoranda. 5594
603. Depositions. 5594
604. Objections -- Offers Of Proof. 5594
605. Prepared Testimony. 5594
606. Exhibits. 5594
607. -- 609. (Reserved) 5594
610. Confidentiality Of Settlement Negotiations. 5594
611. Suggestion For Or Inquiry About Settlements. 5594
612. Consideration Of Settlements. 5594
613. Burdens Of Proof Regarding Settlements. 5595

614. Settlement Not Binding. 5595
615. -- 649. (Reserved) 5595
650. Record For Decision. 5595
651. Recording Of Hearings. 5595
652. -- 699. (Reserved) 5595
700. Notice Of Proposed Default Order. 5595
701. Fourteen Days To Respond To Proposed Default Order. 5595
702. Default Order. 5596
703. -- 709. (Reserved) 5596
710. Interlocutory Orders. 5596
711. Reconsideration Of Interlocutory Orders. 5596
712. -- 719. (Reserved) 5596
720. Recommended Orders. 5596
721. -- 729. (Reserved) 5596
730. Preliminary Orders. 5597
731. -- 739. (Reserved) 5597
740. Final Orders. 5597
741. -- 749. (Reserved) 5598
750. Order Not Designated. 5598
751. -- 779. (Reserved) 5598
780. Stay Of Orders. 5598
781. -- 789. (Reserved) 5598
790. Right Of Judicial Review. 5598
791. Petition For Judicial Review. 5598
792. -- 798. (Reserved) 5599
799. Rules Governing Proceedings On Petitions To Initiate Rulemaking. 5599
800. Form And Contents Of Petition To Initiate Rulemaking. 5599
801. Board Response To Petition. 5599
802. Notice Of Intent To Initiate Rulemaking Constitutes Action On Petition. 5600
803. -- 999. (Reserved) 5600

58.01.24 – Standards and Procedures for Application of Risk Based Corrective Action at Petroleum Release Sites

000. Legal Authority. 5601
001. Title, Scope And Applicability. 5601
002. Written Interpretations. 5601
003. Administrative Provisions. 5601
004. Incorporation By Reference. 5601
005. Availability Of Referenced Material. 5601
006. Office Hours – Mailing Address And Street Address. 5601
007. Confidentiality Of Records. 5601
008. Tables. 5601
009. Acronyms. 5602
010. Definitions. 5602
011. -- 099. (Reserved) 5604
100. Chemicals Evaluated At Petroleum Release Sites. 5604
101. -- 199. (Reserved) 5604
200. Risk Evaluation Process. 5604
201. -- 299. (Reserved) 5606
300. Site Specific Risk Evaluation Requirements. 5606
301. -- 399. (Reserved) 5607
400. Establishment Of Remediation Standards. 5607
401. -- 499. (Reserved) 5608

500. Factors When Practical Quantitation Limits Are Greater Than Screening Levels And Cleanup Levels. 5608
501. -- 599. (Reserved) 5608
600. Activity And Use Limitations. 5608
601. -- 699. (Reserved) 5609
700. Development Of Guidance Manual. 5609
701. -- 799. (Reserved) 5609
800. Table. 5609
801. -- 999. (Reserved) 5610

58.01.05 – Rules and Standards for Hazardous Waste

000. Legal Authority. 5613
001. Title. 5613
002. Incorporation By Reference Of Federal Regulations. 5613
003. Definitions. 5613
004. Hazardous Waste Management System. 5614
005. Identification And Listing Of Hazardous Waste. 5614
006. Standards Applicable To Generators Of Hazardous Waste. 5617
007. Standards Applicable To Transporters Of Hazardous Waste. 5617
008. Standards For Owners And Operators Of Hazardous Waste Treatment, Storage And Disposal Facilities. 5617
009. Interim Status Standards For Owners And Operators Of Hazardous Waste Treatment, Storage And Disposal Facilities. 5617
010. Standards For The Management Of Specific Hazardous Wastes And Specific Types Of Hazardous Waste Facilities. 5618
011. Land Disposal Restrictions. 5618
012. Hazardous Waste Permit Program. 5618
013. Procedures For Decision-Making (State Procedures For RCRA Or HWMA Permit Applications). 5618
014. (Reserved) 5618
015. Standards For The Management Of Used Oil. 5618
016. Standards For Universal Waste Management. 5619
017. Criteria For The Management Of Granular Mine Tailings (CHAT) In Asphalt Concrete And Portland Cement Concrete In Transportation Construction Projects Funded In Whole Or In Part By Federal Funds. 5619
018. Standards For Owners And Operators Of Hazardous Waste Facilities Operating Under A Standardized Permit. 5619
019. -- 354. (Reserved) 5619
355. Hazardous Waste Facility Siting License Fee. 5619
356. Variance Applications For TSD Facilities Or Sites. 5620
357. -- 499. (Reserved) 5620
500. Routing Of Hazardous Waste Shipments. 5620
501. -- 799. (Reserved) 5621
800. Inspection Plan -- Frequency Levels. 5621
801. -- 849. (Reserved) 5621
850. Illegal Actions. 5621
851. -- 899. (Reserved) 5621
900. Expenditures From Hazardous Waste Emergency Account. 5621
901. -- 995. (Reserved) 5622
996. Administrative Provisions. 5622
997. Confidentiality Of Records. 5622
998. -- 999. (Reserved) 5622

58.01.06 – Solid Waste Management Rules

000. Legal Authority. 5623

001. Title And Scope. 5623
002. Written Interpretations. 5625
003. Administrative Appeals. 5625
004. Applicability. 5625
005. Definitions. 5625
006. Abbreviations. 5630
007. Incorporation By Reference. 5630
008. Office – Office Hours – Mailing Address And Street Address. 5630
009. Solid Waste Management Facility Classification. 5630
010. Below Regulatory Concern Facilities. 5632
011. Applicable Requirements For Tier I Facilities. 5633
012. Applicable Requirements For Tier II Facilities. 5635
013. Applicable Requirements For Tier III Facilities. 5644
014. -- 031. (Reserved) 5654
032. Tier II And Tier III Application And Plan Review And Approval. 5654
033. -- 059. (Reserved) 5655
060. Violations. 5655
061. -- 993. (Reserved) 5655
994. Commercial Solid Waste Siting License Fee. 5655
995. Commercial Solid Waste Siting License Application. 5656
996. -- 998. (Reserved) 5656
999. Confidentiality Of Records. 5656

58.01.07 – Rules Regulating Underground Storage Tank Systems

000. Legal Authority. 5657
001. Title And Scope. 5657
002. Written Interpretations. 5657
003. Administrative Provisions. 5657
004. Incorporation By Reference. 5657
005. Office Hours – Mailing Address And Street Address. 5658
006. Confidentiality Of Records. 5658
007. -- 009. (Reserved) 5658
010. Definitions. 5658
011. – 099. (Reserved) 5660
100. Additional Measures To Protect Ground Water From Contamination. 5660
101. Alternative Periodic Testing Of Containment Sumps Used For Interstitial Monitoring Of Piping. 5661
102. -- 199. (Reserved) 5662
200. Release Reporting Requirements. 5662
201. -- 299. (Reserved) 5663
300. Training Requirements. 5663
301. -- 399. (Reserved) 5664
400. Inspections. 5664
401. -- 499. (Reserved) 5665
500. Delivery Prohibition. 5665
501. -- 599. (Reserved) 5667
600. Petroleum Underground Storage Tank Database. 5667
601. Fee Schedule For Underground Storage Tanks. 5667
602. -- 999. (Reserved) 5668

58.01.08 – Idaho Rules for Public Drinking Water Systems

000. Legal Authority. 5669
001. Title And Scope. 5669
002. Incorporation By Reference And Availability Of Referenced Materials. 5669

003. Definitions. 5671
004. Coverage. 5685
005. General Provisions For Waivers, Variances, And Exemptions. 5686
006. Siting Requirements. 5687
007. Disapproval Designation. 5687
008. Health Hazards. 5688
009. Monitoring. 5688
010. Fee Schedule For Public Drinking Water Systems. 5688
011. Continuity Of Service. 5690
012. Written Interpretations. 5690
013. Use Of Guidance. 5690
014. Administrative Provisions. 5691
015. Confidentiality Of Records. 5691
016. Office Hours -- Mailing Address And Street Address. 5691
017. -- 049. (Reserved) 5691
050. Maximum Contaminant Levels And Maximum Residual Disinfectant Levels. 5691
051. -- 099. (Reserved) 5691
100. Monitoring And Analytical Requirements. 5692
101. -- 149. (Reserved) 5694
150. Reporting, Public Notification, Recordkeeping. 5694
151. Consumer Confidence Reports. 5694
152. -- 199. (Reserved) 5694
200. Special Regulations. 5694
201. -- 249. (Reserved) 5694
250. Maximum Contaminant Level Goals And Maximum Residual Disinfection Level Goals. 5695
251. -- 299. (Reserved) 5695
300. Filtration And Disinfection. 5695
301. Enhanced Filtration And Disinfection - Systems Serving Ten Thousand Or More People. 5700
302. Sanitary Surveys For Systems Using Surface Water Or Ground Water Under The Direct Influence Of Surface Water. 5700
303. Sanitary Surveys For Public Water Systems Using Ground Water. 5700
304. Composite Correction Program (CCP). 5702
305. Coliform Treatment Technique Triggers And Assessment Requirements For Protection Against Potential Fecal Contamination. 5702
306. -- 309. (Reserved) 5704
310. Enhanced Filtration And Disinfection - Systems Serving Fewer Than Ten Thousand People. 5704
311. Enhanced Treatment For Cryptosporidium -- Long Term 2 Enhanced Surface Water Treatment Rule. 5704
312. -- 319. (Reserved) 5705
320. Disinfectant Residuals, Disinfection Byproducts, And Disinfection Byproduct Precursors 5705
321. Initial Distribution System Evaluations. 5706
322. Stage 2 Disinfection Byproducts Requirements. 5706
323. Ground Water Rule. 5706
324. -- 349. (Reserved) 5706
350. Control Of Lead And Copper. 5706
351. -- 399. (Reserved) 5707
400. Secondary MCLS. 5707
401. -- 449. (Reserved) 5707
450. Use Of Non-Centralized Treatment Devices. 5707
451. Treatment Techniques. 5710
452. -- 499. (Reserved) 5710

500. Facility And Design Standards: Demonstration Of Technical, Financial, And Managerial Capacity Of Public Drinking Water Systems. 5710
501. Facility And Design Standards: General Design Requirements For Public Drinking Water Systems. 5711
502. Facility And Design Standards: Facility Plans. 5715
503. Facility And Design Standards: Preliminary Engineering Reports. 5717
504. Facility And Design Standards: Review Of Plans And Specifications. 5722
505. -- 509. (Reserved). 5726
510. Facility And Design Standards: Siting And Construction Of Wells. 5726
511. Facility And Design Standards: Well Pumps, Discharge Piping, And Appurtenances. 5731
512. Facility And Design Standards: Well Lot. 5733
513. Facility And Design Standards: Number Of Ground Water Sources Required – Existing Systems. 5734
514. Facility And Design Standards: Spring Sources. 5734
515. Facility And Design Standards: Surface Sources And Ground Water Sources Under The Direct Influence Of Surface Water. 5735
516. -- 517. (Reserved) 5736
518. Facility And Design Standards: Additional Design Criteria For Surface Water Treatment. 5737
519. Facility And Design Standards: Surface Water Treatment; Design Standards For Microscreening. 5739
520. Facility And Design Standards: Surface Water Treatment: Clarification Processes. 5739
521. Facility And Design Standards: Surface Water Treatment: Filtration Using Rapid Rate Gravity Filters. 5742
522. Facility And Design Standards: Surface Water Treatment: Filtration Using Diatomaceous Earth. 5746
523. Facility And Design Standards: Surface Water Treatment: Slow Sand Filtration. 5748
524. Facility And Design Standards: Surface Water Treatment: Direct Filtration. 5750
525. Facility And Design Standards: Low Pressure Membrane Filtration. 5750
526. -- 528. (Reserved) 5754
529. Facility And Design Standards: Disinfection Of Drinking Water, Ultraviolet Light. 5754
530. Facility And Design Standards: Disinfection Of Drinking Water, Disinfecting Agents. 5759
531. Facility And Design Standards: Design Standards For Chemical Application. 5765
532. Facility And Design Standards: Design Standards For Softening. 5771
533. Facility And Design Standards: Design Standards For Taste And Odor Control. 5773
534. Facility And Design Standards: Aeration Processes. 5773
535. Facility And Design Standards: Design Standards For Iron And Manganese Control Systems. 5777
536. Facility And Design Standards: Design Standards For Fluoridation. 5779
537. Facility And Design Standards: Design Standards For Stabilization. 5780
538. – 539. (Reserved) 5781
540. Facility And Design Standards: Design Standards For Treatment And Disposal Of Treatment Plant Waste Residuals. 5781
541. Facility And Design Standards: Pumping Facilities. 5783
542. Facility And Design Standards - Distribution System. 5786
543. Facility And Design Standards: Cross Connection Control. 5789
544. Facility And Design Standards: General Design Of Finished Water Storage. 5790
545. Facility And Design Standards: Treatment Plant Storage Facilities. 5793
546. Facility And Design Standards: Distribution System Storage Facilities. 5793
547. Facility And Design Standards: Hydropneumatic Tank Systems. 5794
548. Facility And Design Standards: Disinfection Of Facilities Prior To Use. 5795
549. -- 551. (Reserved) 5795
552. Operating Criteria For Public Water Systems. 5795
553. Classification Of Water Systems. 5800

554. License Requirements. 5800
555. -- 559. (Reserved) 5801
560. Contracting For Services. 5801
561. -- 562. (Reserved) 5801
563. Advisory Group. 5801
564. -- 899. (Reserved) 5801
900. Tables. 5801
901. -- 999. (Reserved) 5802

58.01.12 – Rules for Administration of Water Pollution Control Loans

000. Legal Authority. 5803
001. Title And Scope. 5803
002. Written Interpretations. 5803
003. Administrative Appeals. 5803
004. Incorporation By Reference And Availability Of Referenced Material. 5803
005. Confidentiality. 5803
006. Policy. 5803
007. Definitions. 5803
008. Office Hours – Mailing Address And Street Address. 5806
009. (Reserved) 5806
010. Financial And Management Capability Analysis. 5806
011. -- 019. (Reserved) 5807
020. Integrated Priority Rating System. 5807
021. Disadvantaged Loans. 5808
022. Supplemental Grants. 5809
023. -- 029. (Reserved) 5810
030. Project Scope And Funding. 5810
031. Limitation Of Preloan Engineering Reviews. 5811
032. Loan Fee. 5811
033. -- 039. (Reserved) 5811
040. Loan Application And Review. 5811
041. Determination Of Eligibility Of Costs. 5813
042. Environmental Review. 5815
043. -- 049. (Reserved) 5817
050. Loan Offer And Acceptance. 5817
051. Accounting And Auditing Procedures. 5818
052. -- 059. (Reserved) 5818
060. Disbursements. 5818
061. Loan Consolidation. 5819
062. -- 079. (Reserved) 5819
080. Suspension Or Termination Of Loan Contracts. 5819
081. -- 994. (Reserved) 5819
995. Waiver Of Requirements And Amendment Of Integrated Priority List. 5819
996. -- 999. (Reserved) 5820

58.01.13 – Rules for Ore Processing by Cyanidation

000. Legal Authority. 5821
001. Title, Scope And Intent. 5821
002. Written Interpretations. 5821
003. Administrative Provisions. 5821
004. Incorporation By Reference. 5821
005. Office Hours – Mailing Address And Street Address. 5821
006. Confidentiality Of Records. 5821
007. Definitions. 5821

008. -- 009. (Reserved) 5824
010. Applicability To Facilities With Existing Permits. 5824
011. -- 049. (Reserved) 5824
050. Conceptual Design Approval. 5824
051. -- 099. (Reserved) 5825
100. Permit And Permit Application. 5825
101. -- 199. (Reserved) 5829
200. Requirements For Water Quality Protection. 5829
201. -- 299. (Reserved) 5834
300. Application Processing Procedure. 5834
301. -- 399. (Reserved) 5835
400. Public Involvement In Permit Procedures. 5835
401. -- 449. (Reserved) 5836
450. Final Permit Decision. 5836
451. -- 499. (Reserved) 5837
500. Permit Conditions. 5837
501. Completion Of Permanent Closure. 5839
502. Decision To Approve Or Disapprove Of A Permanent Closure Report. 5839
503. -- 549. (Reserved) 5840
550. Validity And Duration Of Permits. 5840
551. -- 649. (Reserved) 5840
650. Financial Assurance. 5840
651. -- 749. (Reserved) 5840
750. Permit Modification. 5840
751. -- 799. (Reserved) 5841
800. Transfer Of Permits. 5841
801. -- 849. (Reserved) 5842
850. Permit Revocation. 5842
851. -- 899. (Reserved) 5842
900. Violations. 5842
901. -- 999. (Reserved) 5842

58.01.14 – Rules Governing Fees for Environmental Operating Permits, Licenses, and Inspection Services

000. Legal Authority. 5844
001. Title And Scope. 5844
002. Written Interpretations. 5844
003. Administrative Appeals. 5844
004. Incorporation By Reference. 5844
005. Office – Office Hours – Mailing Address And Street Address. 5844
006. Confidentiality Of Records. 5844
007. Definitions. 5844
008. -- 099. (Reserved) 5844
100. Environmental Fees. 5844
101. -- 109. (Reserved) 5844
110. Individual And Subsurface Sewage Disposal System Permit. 5844
111. -- 114. (Reserved) 5845
115. Individual And Subsurface Sewage Disposal System Pumper Permit. 5845
116. -- 119. (Reserved) 5845
120. Subsurface Sewage Disposal System Installer's Registration Permit. 5845
121. -- 149. (Reserved) 5845
150. Parcel Survey. 5845
151. -- 159. (Reserved) 5845

160. Sanitary Restriction Administration. 5845
161. -- 899. (Reserved) 5845
900. Waiver Of Fees. 5845
901. -- 999. (Reserved) 5846

58.01.18 – Idaho Land Remediation Rules

000. Legal Authority. 5847
001. Title And Scope. 5847
002. Written Interpretations. 5847
003. Administrative Appeals. 5847
004. -- 009. (Reserved) 5847
010. Definitions And Abbreviations. 5847
011. -- 019. (Reserved) 5848
020. Application To Participate. 5848
021. Voluntary Remediation Agreements. 5849
022. Voluntary Remediation Work Plan. 5850
023. Remediation Standards. 5852
024. Implementation Of Voluntary Remediation Work Plan. 5853
025. Covenant Not To Sue. 5854
026. Lender Liability. 5854
027. Institutional Controls. 5856
028. -- 999. (Reserved) 5858

58.01.20 – Rules for Administration of Drinking Water Loan Program

000. Legal Authority. 5859
001. Title And Scope. 5859
002. Written Interpretations. 5859
003. Administrative Appeals. 5859
004. Policy. 5859
005. Incorporation By Reference And Availability Of Referenced Material. 5859
006. Confidentiality. 5859
007. System Eligibility. 5859
008. -- 009. (Reserved) 5860
010. Definitions. 5860
011. Financial Technical And Management Capability Analysis. 5863
012. -- 019. (Reserved) 5864
020. Priority Rating System. 5864
021. Disadvantaged Loans. 5865
022. -- 029. (Reserved) 5866
030. Project Scope And Funding. 5866
031. Limitation Of Pre-loan Engineering Reviews. 5867
032. Loan Fee. 5867
033. -- 039. (Reserved) 5867
040. Loan Application And Review. 5867
041. Determination Of Eligibility Of Costs. 5869
042. Environmental Review. 5871
043. -- 049. (Reserved) 5873
050. Loan Offer And Acceptance. 5873
051. Accounting And Auditing Procedures. 5874
052. -- 059. (Reserved) 5874
060. Disbursements. 5874
061. -- 079. (Reserved) 5874
080. Suspension Or Termination Of Loan Contracts. 5874
081. -- 994. (Reserved) 5875

995. Waivers. 5875
996. -- 999. (Reserved) 5875
58.01.25 – Rules Regulating the Idaho Pollutant Discharge Elimination System Program
000. Legal Authority. 5876
001. Title And Scope. 5876
002. Confidentiality Of Records. 5876
003. Incorporation By Reference Of Federal Regulations. 5876
004. Administrative Provisions. 5878
005. Written Interpretations. 5879
006. Office Hours -- Mailing Address And Street Address. 5879
007. -- 009. (Reserved) 5879
010. Definitions. 5879
011. -- 049. (Reserved) 5888
050. Computation Of Time. 5888
051. -- 089. (Reserved) 5889
090. Signature Requirements. 5889
091. -- 099. (Reserved) 5890
100. Effect Of A Permit. 5890
101. Duration. 5890
102. Obligation To Obtain An IPDES Permit. 5891
103. Permit Prohibitions. 5893
104. Pre-Application Process. 5894
105. Application For An Individual IPDES Permit. 5894
106. Individual Permit Application Review. 5932
107. Decision Process. 5934
108. Draft Permit And Fact Sheet. 5935
109. Public Notification And Comment. 5937
110. Fee Schedule For IPDES Permitted Facilities. 5940
111. -- 119. (Reserved) 5943
120. New Sources And New Discharges. 5943
121. -- 129. (Reserved) 5943
130. General Permits. 5943
131. -- 199. (Reserved) 5948
200. Renewal Of IPDES Permits. 5948
201. Modification, Or Revocation And Reissuance Of IPDES Permits. 5949
202. Transfer Of IPDES Permits. 5953
203. Termination Of IPDES Permits. 5953
204. Appeals Process. 5954
205. Contested Permit Conditions. 5960
206. Stays Of Contested Permit Conditions. 5960
207. -- 299. (Reserved) 5961
300. Conditions Applicable To All Permits. 5961
301. Permit Conditions For Specific Categories. 5966
302. Establishing Permit Provisions. 5968
303. Calculating Permit Provisions. 5974
304. Monitoring And Reporting Requirements. 5980
305. Compliance Schedules. 5982
306. -- 309. (Reserved) 5983
310. Variances. 5983
311. -- 369. (Reserved) 5986
370. Pretreatment Standards. 5986
371. -- 379. (Reserved) 5988

380. Sewage Sludge. 5988
381. -- 399. (Reserved) 5989
400. Compliance Evaluation. 5989
401. -- 499. (Reserved) 5989
500. Enforcement. 5989
501. -- 599. (Reserved) 5990
600. Administrative Records And Data Management. 5990
601. -- 999. (Reserved) 5991

IDAPA 59 – PUBLIC EMPLOYEES RETIREMENT SYSTEM OF IDAHO

Docket No. 59-0000-1900

59.01.01 – Rules For The Public Employee Retirement System Of Idaho (PERSI)

001. Legal Authority. 5993
002. incorporation by reference. 5993
003. Written Interpretations – Agency Guidelines. 5993
004. Administrative Appeal. 5993
005. Definitions. 5993
011. Communications With Agency -- Identification -- Filing. 5997
012. Service On Parties And Other Persons. 5997
013. Proof Of Service. 5997
014. Service By Agency. 5997
015. Computation Of Time. 5997
016. Fees And Remittances. 5997
017. Further Proceedings. 5998
018. Parties To Contested Cases Listed. 5998
019. Petitioners. 5998
020. Initial Pleading By Party -- Listing Of Representatives. 5998
021. Representation Of Parties At Hearing. 5998
022. Pleadings Listed -- Miscellaneous. 5998
023. Petitions -- Defined -- Form And Contents. 5998
024. Motions -- Defined -- Form And Contents -- Time For Filing -- Procedure. 5999
025. Answers -- Defined -- Form And Contents -- Time For Filing. 5999
026. Form Of Pleadings. 6000
027. Amendments To Pleadings -- Withdrawal Of Pleadings. 6000
028. Disqualification Of Officers Hearing Contested Cases. 6001
029. Scope Of Authority Of Presiding Officers. 6001
030. Challenges To Statutes. 6001
031. Privilege. 6001
032. Facts Disclosed Not Part Of The Record. 6001
033. Subpoenas. 6001
034. Filing And Service Of Discovery-related Documents. 6002
035. Sanctions For Failure To Obey Order Compelling Discovery. 6002
036. Protective Orders. 6002
037. Notice Of Hearing. 6002
038. Facilities At Or For Hearing And Ada Requirements. 6002
039. How Hearings Held. 6002
040. Consolidation Of Proceedings. 6002
041. Stipulations. 6002
042. Exhibits. 6002
043. Record For Decision. 6003
044. Notice Of Proposed Default After Failure To Appear. 6003
045. Review Of Interlocutory Orders. 6003

046. Final Orders. 6003
047. Persons Who May Appeal. 6004
048. -- 099. (Reserved) 6004
100. Mandatory Membership. 6004
101. Multiple Employers -- Membership Eligibility. 6004
102. Elected And Appointed Officials Not Subject To Twenty Hour Requirement. 6005
103. Elected And Appointed Officials -- Members Of PERSI. 6005
104. -- 110. (Reserved) 6005
111. Teacher Working Half-time Or More. 6005
112. Responsibility Of Employer To Determine Employee Eligibility. 6005
113. Normally Works Twenty Hours. 6005
114. Application Of The Five Month Requirement. 6005
115. -- 120. (Reserved) 6005
121. Ceasing To Be An Employee. 6005
122. Leave Of Absence. 6005
123. -- 149. (Reserved) 6006
150. Police Officer Membership Certification. 6006
151. Definition Of Active Law Enforcement Service. 6006
152. Hazardous Law Enforcement Duties. 6006
153. -- 199. (Reserved) 6006
200. Determination Of Firefighter. 6007
201. Incorrect Classification Of Firefighter. 6007
202. Paid Firefighter Exclusion From Rules 200 And 201. 6007
203. -- 249. (Reserved) 6007
250. PERSI Employer General Member Contribution Rate. 6007
251. Firefighter Retirement Fund Employer Rate. 6007
252. PERSI Employer Class II Contribution Rate. 6008
253. City of Idaho Falls Class II Contribution Rate. 6008
254. -- 299. (Reserved) 6008
300. PERSI Employee General Member Contribution Rate. 6008
301. PERSI Employee Class II Contribution Rate. 6009
302. Public Safety Officer Disability Contributions Under Section 59-1352A, Idaho Code. 6009
303. Employee Contributions Based On Gross Salary. 6009
304. (Reserved) 6009
305. Multiple Employers -- Contribution Rate. 6009
306. State Employee Contributions. 6009
307. Police Officer Contributions Withheld Incorrectly. 6009
308. Contributions Due While Member Is Receiving Worker's Compensation. 6009
309. Vacation And Contractual Payments Subject To Contributions. 6010
310. -- 324. (Reserved) 6010
325. Transfer Of Contributions To PERSI. 6010
325. -- 349. (Reserved) 6010
350. Regular Interest. 6010
351. Interest – Member Contributions. 6010
352. Reinstatement Interest. 6010
353. -- 374. (Reserved) 6010
375. General Rule. 6010
376. Service Related Disability For Police, General Members, And Firefighters. 6010
377. -- 399. (Reserved) 6010
400. Applying For Disability Retirement. 6010
401. Initial Application Review. 6011
402. Disability Assessment Review. 6011

403. Reconsideration Of Disability Assessment Decision. 6011
404. Administrative Review Of The Reconsideration Decision. 6011
405. Delegation. 6011
406. Reassessment Of Disability Retirees. 6011
407. Attorney's Fees And Costs. 6011
408. -- 424. (Reserved) 6011
425. Burden On Applicant. 6011
426. Statutory Standard. 6012
427. (Reserved) 6012
428. Hire-ability Of Applicant. 6012
429. -- 449. (Reserved) 6012
450. Commencement And Duration Of Disability Allowance. 6012
451. Determining Worker's Compensation Offset. 6012
452. Effect Of Unused Sick Leave On Disability Allowance. 6012
453. -- 474. (Reserved) 6012
475. Application Of This Subchapter To FRF Disability Retirement. 6012
476. -- 499. (Reserved) 6012
500. Repayment Of Separation Benefits -- Employee Status. 6012
501. Interest Accrual And Calculation On Separation Benefits. 6013
502. Repayment Of Separation Benefits By Employees Previously Precluded From Repayment. 6013
503. Methods Of Repayment Of Separation Benefits. 6013
505. (Reserved) 6013
507. Direct Rollovers Out Of The Base Plan. 6014
508. Required Minimum Distributions. 6015
509. Transfers To Non-Spouse Beneficiaries. 6015
510. -- 524. (Reserved) 6016
525. Average Monthly Salary Computation -- Equitable Treatment -- Different Work Periods. 6016
526. Unusual Compensation Pattern Effect On Retirement Calculation. 6016
527. Maximum Retirement Allowance (Rule 111). 6016
528. Member Notified Of Available Retirement Options Prior To Board Approval. 6016
529. -- 530. (Reserved) 6016
531. Spousal Consent. 6016
532. Payment Date Of Early Or Service Retirement Allowance -- General Members. 6016
533. Elected Or Appointed Official Working For Multiple State Agencies, Political Subdivisions or Government Entities. 6016
534. Elected Or Appointed Official Retiring In Place. 6017
535. Restrictions On Reemployment Of Retired Members. 6017
536. Retired Member Becoming An Active Member. 6017
537. (Reserved) 6017
538. Reemployment Less Than Five Consecutive Months. 6017
539. Reemployment -- Working Less Than Twenty Hours Or Less Than Five Consecutive Months. 6017
540. Retired Member Becoming An Elected Or Appointed Official. 6017
541. Separation From Employment After Reemployment. 6017
542. Early Retirement Member -- Reemployment. 6018
543. Benefit Enhancement -- Qualification. 6018
544. Post Retirement Allowance Adjustments -- PERSI Retirees. 6018
545. Actuarial Assumption Tables. 6018
544. Pre-ERISA Vesting Rules. 6027
545. Forfeitures. 6028
546. Actuarial Assumptions To Be Specified. 6028
547. Compensation Limit. 6028

548. Defined Benefit Dollar Limitation. 6028
549. Computation Of Benefits For Employees Of Withdrawn Employer 6029
550. Computing Value Of Sick Leave. 6029
551. (Reserved) 6029
552. Sick Leave Funding Rates. 6029
553. Limitation On Insurance Programs. 6030
554. Payment Of Insurance Premiums. 6030
555. Separation By Reason Of Retirement. 6030
556. Prohibition Against Cash Option. 6031
557. -- 575. (Reserved) 6031
576. Participation In Subdivision Unused Sick Leave Pool. 6031
577. Operation Of Subdivision Pool. 6031
578. Funding Of Subdivision Pool. 6031
579. Termination, Withdrawal, Or Removal From Subdivision Pool. 6031
580. -- 599. (Reserved) 6032
600. Payment Date Of Retirement Allowance For FRF Members. 6032
601. Firefighter Retirement Allowance. 6032
602. Reemployment Of Retired FRF Firefighter 6032
603. -- 624. (Reserved) 6032
625. Purchase Of Service Generally. 6032
626. Time Of Retirement. 6032
627. Retirement Delayed Or Negated After Purchase. 6032
628. Treatment Of Purchase Of Service Contributions. 6033
629. Employer Participation. 6033
630. Additional Limits On Purchased Service. 6033
631. -- 649. (Reserved) 6033
650. Existence Of Extraordinary Gains. 6033
651. Value Of Plan Assets. 6033
652. Plan Liabilities. 6033
653. One Standard Deviation. 6033
654. Board Discretion. 6034
655. -- 674. (Reserved) 6034
675. Allocation Between Groups. 6034
676. -- 699. (Reserved) 6034
700. Active Member Allocation. 6034
701. Minimum Allocation Amount. 6034
702. Active Member. 6034
703. Accumulated Contributions. 6034
704. Transfer To Defined Contribution Choice Accounts. 6034
705. Limitations On Allocation. 6034
706. Intervening Retirement. 6035
707. Intervening Withdrawal Of Contributions. 6035
708. Intervening Death Of Active Member. 6035
709. Treatment Of Gain Sharing Allocations In The Choice Account. 6035
710. -- 724. (Reserved) 6035
725. Retiree Allocation. 6035
726. Retiree. 6035
727. Monthly Benefit. 6035
728. Payment Of Allocation. 6035
729. Limitations On Allocation. 6035
730. Intervening Death Of A Retiree. 6035
731. Intervening Reemployment. 6036

732. Negated Retirement. 6036
733. -- 749. (Reserved) 6036
750. Employer Allocation. 6036
751. Employer. 6036
752. Contribution Liability. 6036
753. Credit Of Allocation. 6036
754. Carry-Over Of Credit. 6036
755. Withdrawal Of Employer. 6036
756. -- 999. (Reserved) 6036

59.02.01 – Rules for the Judges' Retirement Fund

000. Legal Authority (Rule 0). 6037
001. Title And Scope (Rule 1). 6037
002. Written Interpretations – Agency Guidelines (Rule 2). 6037
003. Administrative Appeal (Rule 3). 6037
004. Office – Office Hours – Mailing Address And Street Address (Rule 4). 6037
005. Public Records Act Compliance (Rule 5). 6037
006. Citation (Rule 6). 6037
007. Effective Date (Rule 7). 6037
008. -- 009. (Reserved) 6037
010. Definitions (Rule 10). 6037
011. -- 099. (Reserved) 6038
100. Required Minimum Distributions (Rule 100). 6038
101. Maximum Limitations On Benefits (Rule 101). 6039
102. Maximum Limitation On Annual Additions (Rule 102). 6040
103. Rollover Distributions (Rule 103). 6040
104. -- 250. (Reserved) 6041
251. Actuarial Assumptions To Be Specified (Rule 251). 6041
252. Actuarial Tables (Rule 252). 6041
253. -- 299. (Reserved) 6041
300. Employer Contribution Rate (Rule 300). 6041
301. Employee Contribution Rate (Rule 301). 6041
302. Vacation And Contractual Payments Subject To Contributions (Rule 302). 6041
303. Reports (Rule 303). 6041
304. -- 349. (Reserved) 6042
350. Applying For Disability Retirement (Rule 350). 6042
351. Initial Application Review (Rule 351). 6042
352. Disability Assessment Review (Rule 352). 6042
353. Reconsideration Of Disability Assessment Decision (Rule 353). 6042
354. Administrative Review Of The Reconsideration Decision (Rule 354). 6042
355. Delegation (Rule 355). 6042
356. Reassessment Of Disability Retirees (Rule 356). 6042
357. Burden On Applicant (Rule 357). 6042
358. Statutory Standard (Rule 358). 6043
359. Attorney's Fees And Costs (Rule 359). 6043
360. -- 399. (Reserved) 6043
400. Administrative Procedure -- Cross Reference (Rule 400). 6043
401. Post Retirement Allowance Adjustments (Rule 401). 6043
402. Approved Domestic Retirement Orders (Rule 402). 6043
403. Retirement Application And Spousal Consent (Rule 403). 6043
404. Forfeitures (Rule 404). 6044
405. Pre-ERISA Vesting (Rule 405). 6044
406. Exclusive Purpose (Rule 406). 6044

407. Benefits During Military Services (Rule 407). 6044
408. -- 999. (Reserved) 6044

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

Docket No. 60-0000-1900

60.05.01 – Rules of the Idaho State Soil And Water Conservation Commission

000. Legal Authority. 6053
001. Title And Scope. 6053
002. -- 009. (Reserved) 6053
010. Definitions. 6053
011. Abbreviations. 6055
012. Program Policy. 6055
013. Program Objectives. 6055
014. -- 055. (Reserved) 6056
056. Responsibilities. 6056
057. Application For Loan. 6057
058. Special Practice(s) Approval For Loans. 6058
059. -- 080. (Reserved) 6058
081. Encouraging Public Benefits When Installing Practices. 6058
082. -- 100. (Reserved) 6059
101. Credit Guidelines. 6059
102. Loan Closure And Administration. 6059
103. Implementation Of Agreed To Practices. 6060
104. -- 125. (Reserved) 6060
126. Repayment Of Loan. 6060
127. Foreclosure. 6061
128. -- 150. (Reserved) 6061
151. Loan Policies. 6061
152. -- 199. (Reserved) 6061
200. Allocation Of Funds To Districts. 6061
012. -- 999. (Reserved) 6061

IDAPA 61 – PUBLIC DEFENSE COMMISSION

Docket No. 61-0000-1900

61.01.01 – Rules Governing Training Requirements for Defending Attorneys and the Administration of Training Funds

000. Legal Authority. 6063
001. Title And Scope. 6063
002. -- 009. (Reserved) 6063
010. Definitions And Abbreviations. 6063
011. -- 019. (Reserved) 6063
020. Recipients Of Training Funds. 6063
021. Public Defense Roster. 6063
022. -- 029. (Reserved) 6063
030. PDC Training Programs. 6064
031. Joint Training Programs. 6066
032. Scholarships. 6066
033. – 999. (Reserved) 6067

61.01.02 – Rules Governing Uniform Data Reporting Requirements and Forms for Defending Attorney Annual Reports

000. Legal Authority. 6068

001. Title And Scope. 6068
002. -- 009. (Reserved) 6068
010. Definitions And Abbreviations. 6068
011 – 019. (Reserved) 6068
020. Application Of Reporting Requirements. 6068
021. Reporting Requirements. 6068
022. Reporting Cycle. 6069
023. Reporting Procedure. 6070
024. Explanation Of Data Not Tracked. 6070
025. Failure To Submit An Annual Report. 6070
026. Fraudulent Information. 6070
027. – 999. (Reserved) 6070

61.01.03 – Rules Governing Contracts and Core Requirements for Contracts Between Counties and Private Attorneys for the Provision of Indigent Defense Services

000. Legal Authority. 6071
001. Title And Scope. 6071
002. -- 009. (Reserved) 6071
010. Definitions And Abbreviations. 6071
011. – 019. (Reserved) 6071
020. Core Terms. 6071
021. Establishment And Maintenance Of Records. 6072
022. Reports And Inspections. 6072
023. – 999. (Reserved) 6072

61.01.04 – Rules Governing Procedures and Forms for the Application and Disbursement of Indigent Defense financial assistance

000. Legal Authority. 6073
001. Title and Scope. 6073
002. -- 009. (Reserved) 6073
010. Definitions. 6073
011. -- 019. (Reserved) 6073
020. General Provisions of the Indigent Defense Financial Assistance Program. 6073
021. Application of Indigent Defense Standards. 6073
022. Financial Assistance Cycle. 6073
023. Application Procedure. 6074
024. Award Eligibility Requirements. 6074
025. Award Recommendation. 6075
026. Criteria. 6075
027. Unused IDFA Funds. 6076
028. Withdrawal of financial assistance Application. 6076
029. Fraudulent Information on financial assistance Application. 6076
030. -- 999. (Reserved) 6076

61.01.06 – Rules Governing Procedures for the Oversight, Implementation, Enforcement, and Modification of Indigent Defense Standards

000. Legal Authority. 6077
001. Title And Scope. 6077
002 -- 009. (Reserved) 6077
010. Definitions And Abbreviations. 6077
011. – 019. (Reserved) 6077
020. Oversight Program. 6077
021. Participants And Roles. 6077
022. Minimum Standards. 6078

023. Oversight Program Management. 6078
024. Procedures For Oversight Program. 6081
025. Corrective Action Plans And Compliance Verification. 6081
026. Enforcement. 6082
027 – 999. (Reserved) 6083

61.01.07 – Rules Governing Standards for Defending Attorneys that Utilize Idaho's Principles of an Indigent Defense Delivery System

000. Legal Authority. 6084
001. Title And Scope. 6084
002 -- 009. (Reserved) 6084
010. Definitions And Abbreviations. 6084
011. – 019. (Reserved) 6084
020. Public Defense Rosters. 6084
021. Application Of Established Standards. 6085
022. – 999. (Reserved) 6085

61.01.08 – Rules Governing the Administration of Idaho's Indigent Defense Delivery System – Rule Definitions

000. Legal Authority. 6086
001. Title And Scope. 6086
002. Incorporation By Reference. 6086
003. -- 009. (Reserved) 6086
010. Definitions. 6086
011. Abbreviations. 6090
012. – 999. (Reserved) 6090

LEGAL NOTICE

Summary of Proposed Rulemakings

PUBLIC NOTICE OF INTENT
TO PROPOSE OR PROMULGATE NEW OR CHANGED AGENCY RULES

THERE ARE NO PROPOSED RULES PUBLISHED IN THE NOVEMBER 20, 2019, IDAHO ADMINISTRATIVE BULLETIN, VOL. 19-11SE.

Please refer to the Idaho Administrative Bulletin, **November 20, 2019, Vol. 19-11SE**, for notices and text of all rulemakings, public hearings schedules, details on negotiated rulemaking, executive orders of the Governor, and agency contact information.

***Issues of the Idaho Administrative Bulletin can be viewed at* adminrules.idaho.gov.**

Office of the Administrative Rules Coordinator, Dept. of Administration, P.O. Box 83720, Boise, ID 83720-0306
Phone: 208-332-1820; Email: **adminrules@adm.idaho.gov**

CUMULATIVE RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES

Office of the Administrative Rules Coordinator
Division of Financial Management
Office of the Governor

July 1, 1993 – Present

CUMULATIVE RULEMAKING INDEX OF IDAHO ADMINISTRATIVE RULES

This online index provides a history of all agency rulemakings beginning with the first Administrative Bulletin in July 1993 to the most recent Bulletin publication. It tracks all rulemaking activities on each chapter of rules by the rulemaking docket numbers and includes negotiated, temporary, proposed, pending and final rules, public hearing notices, vacated rulemaking notices, notice of legislative actions taken on rules, and executive orders of the Governor.

ABRIDGED RULEMAKING INDEX
OF IDAHO ADMINISTRATIVE RULES

(Index of Current and Active Rulemakings)

Office of the Administrative Rules Coordinator
Division of Financial Management

April 11, 2019 – November 20, 2019

(PLR 2020) – Final Effective Date Is Pending Legislative Review in 2020
(eff. date)L – Denotes Adoption by Legislative Action
(eff. date)T – Temporary Rule Effective Date
SCR # – denotes the number of a Senate Concurrent Resolution (Legislative Action)
HCR # – denotes the number of a House Concurrent Resolution (Legislative Action)

(This Abridged Index includes all active rulemakings.)

IDAPA 01 – IDAHO BOARD OF ACCOUNTANCY

01-0101-1900F ***Idaho Accountancy Rules*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
01-0101-1900F ***Idaho Accountancy Rules*** - Notice of Omnibus Fee Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9
01-0101-1900F ***Idaho Accountancy Rules*** - Notice of Omnibus Fee Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 02 – IDAHO DEPARTMENT OF AGRICULTURE

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9
(Omnibus Negotiated Rulemaking – Consolidation & Reorganization of Chapters Under the Direction of ISDA Chapters 02.02.02 through 02.06.41)

02-0000-1900 ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 02**, Chapters 04-06, 10; **Title 04**, Chapters 05-06, 22, 24; **Title 05**, Chapter 01 - Bulletin Vol. 19-6SE (eff. 6-30-19)T
02-0000-1900 ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

02-0000-1900A ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking (for rules requiring 22-101A statement) - Reauthorizes **Title 01**, Chapter 03; **Title 02**, Chapters 02, 09; **Title 04**, Chapters 04, 08, 13, 18, 20-21, 25, 27-29; **Title 06**, Chapters 07-11, 13, 15, 17, 20, 22, 24, 26, 32, 38, 39 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
02-0000-1900A ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

02-0000-1900F ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 01**, Chapters 02, 04, 05; **Title 06**, Chapter 33 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
02-0000-1900F ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

02-0000-1900FA ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking (Rules requiring 22-101A statement)-Reauthorizes **Title 02**, Chapters 07, 11-15; **Title 04**, Chapters 03, 09, 19, 26; **Title 06**, Chapters 01-06, 12, 14, 18, 27, 30-31, 34, 40-41 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
02-0000-1900FA ***Rules of the Idaho Department of Agriculture*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

02-0616-1900 ***Rules Governing Honey Standards*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 06**, Chapter 16 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
02-0616-1900 ***Rules Governing Honey Standards*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

02-0701-1900F ***Rules of the Idaho Hop Growers Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 07,** Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
02-0701-1900F ***Rules of the Idaho Hop Growers Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

02-0801-1900F ***Rules of the Idaho Sheep and Goat Health Board*** - Notice of Omnibus Fee Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 08**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
02-0801-1900F ***Rules of the Idaho Sheep and Goat Health Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

02.01.04, Rules Governing the Idaho Preferred ® Promotion Program

02-0104-1801* *Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-6 (*Rulemaking terminated by agency)*

02-0104-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
02-0104-1901 Proposed Rulemaking, Bulletin Vol. 19-8
02-0104-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.02.02, Idaho Department of Agriculture Controlled Atmosphere Storage Rules

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.02.02, Rules Governing Grading and Controlled Atmosphere Storage of Apples

02-0202-1901* Proposed Rulemaking (New Chapter), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.02.02** and **02.02.04** into this new chapter)*

02.02.04, Idaho Standards for Grades of Apples

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.02.05, Prune Standards

02-0205-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.02.05, Rules Governing Stone Fruit Grades

02-0205-1902* Proposed Rulemaking (New Chapter), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.02.05**, **02.02.06** and **02.02.10** into this new chapter)*

02.02.06, Idaho Standards for Grades of Sweet Cherries

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.02.07, Bulk Permit Procedure (Potatoes)

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.02.07, Rules Governing Bulk Permit and Retail Sale of Potatoes

02-0207-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.02.07** and **02.02.09** into this new chapter)*

02.02.09, Rules Requiring Inspection of Potatoes Intended for Sale or Offered for Sale in Retail Outlets

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.02.10, Idaho Standards for Apricots

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.02.12, Bonded Warehouse Rules

02-0212-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0212-1902 Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 7-1-19)T
02-0212-1901 Proposed Rulemaking, Bulletin Vol. 19-9
02-0212-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.02.14, Rules for Weights and Measures

02-0214-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
02-0214-1901 2nd Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

02.03.01, Rules Governing Pesticide Management Plans for Ground Water Protection

02-0301-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0301-1901 Proposed Rulemaking, Bulletin Vol. 19-9
02-0301-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.03.03, Idaho Department of Agriculture Rules Governing Pesticide and Chemigation Use and Application

02-0303-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02-0303-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9
02-0303-1901 Adoption of Pending Fee Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.03, Rules Governing Animal Industry

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.03, Rules Governing Animal Industry

02-0403-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.04.03** and **02.04.22** into this new chapter - no change to chapter name)*

02.04.05, Rules Governing Manufacture Grade Milk

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.05, Rules Governing Grade A Milk and Manufacture Grade Milk

02-0405-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.04.05**, **02.04.06**, **02.04.08** and **02.04.09** into this new chapter)*

02.04.06, Rules Governing Licensed Dairy Plants

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.08, Rules Governing Grade A Milk and Milk Products

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.09, Rules Governing Milk and Cream Procurement and Testing

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.14, Rules Governing Dairy Byproduct

02-0414-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T

02.04.15, Rules Governing Beef Cattle Animal Feeding Operations

02-0415-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0415-1901 Proposed Rulemaking, Bulletin Vol. 19-9
02-0415-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.16, Rules Governing Agriculture Odor Management

02-0416-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.17, Rules Governing Dead Animal Movement and Disposal

02-0417-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0417-1901 Proposed Rulemaking, Bulletin Vol. 19-9
02-0417-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.18, Rules Governing CAFO Site Advisory Team

02-0418-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.20, Rules Governing Brucellosis

02-0420-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0420-1901 Proposed Rulemaking, Bulletin Vol. 19-9
02-0420-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.21, Rules Governing the Importation of Animals

02-0421-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0421-1901 Proposed Rulemaking, Bulletin Vol. 19-9

02-0421-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.22, Rules Governing Animal Health Emergencies

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.23, Rules Governing Commercial Livestock Truck Washing Facilities

02-0423-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0423-1901 Proposed Rulemaking, Bulletin Vol. 19-9
02-0423-1901 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

02.04.26, Rules Governing Livestock Marketing

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.26, Rules Governing the Public Exchange of Livestock

02-0426-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.04.26** and **02.04.28** into this new chapter)*

02.04.28, Rules Governing Livestock Dealers, Buying Stations, and Livestock Trader Lots

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.30, Rules Governing Nutrient Management

02-0430-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0430-1902 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.30, Rules Governing Environmental and Nutrient Management

02-0430-1903* Proposed Rulemaking (New Chapter), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.04.16**, **02.04.18**, **02.04.30** and **02.04.31** into this new chapter)*

02.04.31, Rules Governing the Stockpiling of Agricultural Waste

02-0431-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.04.32, Rules Governing Poultry Operations

02-0432-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 7-1-19)T
02-0432-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9
02-0432-1901 Adoption of Pending Fee Rule, Bulletin Vol. 19-11 (PLR 2020)

02.06.01, Rules Governing the Pure Seed Law

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.01, Rules Governing the Production and Distribution of Seed

02-0601-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.06.01**, **02.06.13** and **02.06.14** into this new chapter)*

02.06.02, Rules Pertaining to the Idaho Commercial Feed Law

02-0602-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.02, Rules Governing Registrations and Licenses

02-0602-1902* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.06.02**, **02.06.03**, **02.06.12**, **02.06.31** and **02.06.41** into this new chapter)*

02.06.03, Rules Pertaining to the Idaho Nurseries and Florists Law

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.04, Phytosanitary and Post-Entry Certification Rules
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.04, Rules Governing Plant Exports
02-0604-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.06.02**, **02.06.34**, and **02.06.40** into this new chapter)*

02.06.05, Rules Governing Diseases of Hops (Humulus lupulus)
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.05, Rules Governing Plant Disease and Quarantines
02-0605-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.06.05**, **02.06.07**, **02.06.08**, **02.06.11**, **02.06.15**, **02.06.17**, **02.06.18**, **02.06.20**, **02.06.24**, **20.06.32** and **02.06.38** into this new chapter)*

02.06.09, Rules Governing Invasive Species
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.09, Rules Governing Invasive Species and Noxious Weeds
02-0609-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.06.09**, **02.06.22**, and **02.06.39** into this new chapter)*

02.06.10, Rules Governing the Pale Cyst Nematode (Globodera pallida)
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.10, Rules Governing the Growing of Potatoes
02-0610-1901* Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11
*(*Rulemaking combines previously codified chapters **02.06.10**, **02.06.26**, **02.06.27** and **02.06.31** into this new chapter)*

02.06.11, Rules Governing European Corn Borer (Ostrinia nubilalis)
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.12, Rules Pertaining to the Idaho Fertilizer Law
02-0612-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.13, Rules Relating to Rapeseed Production and Establishment of Rapeseed Districts in the State of Idaho
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.14, Rules Governing Annual Bluegrass (Poa annua)
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.15, Rules Governing Peach Tree Diseases
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.17, Rules Governing the Disposal of Cull Onions and Potatoes
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.18, Rules Governing Mint Rootstock and Clone Production
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.20, Rules Governing Grape Planting Stock
02-0620-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8

02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.22, Noxious Weed Rules
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.24, Rules Governing the Japanese Beetle (Popillia japonica)
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.26, Rules Concerning Seed Potato Crop Management Areas
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.27, Rules Governing Bacterial Ring Rot Caused By (Clavibacter michiganensis subsp. sepedonicus) of Potato
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.30, Rules Under the Idaho Bee Inspection Law
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.31, Noxious Weed Free Forage and Straw Certification Rules
02-0631-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.32, Rules Concerning the Anthracnose Disease of Lentil (lens culinaris medik)
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.34, Rules Concerning Virus-Free Certification of Nursery Stock
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.38, Rules Governing Plum Curculio (Conotrachelus nenuphar)
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.39, Rules Governing Minimum Standards for Planting Uncertified Seed Potatoes in Idaho
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.40, Rules Governing Ginseng Export
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

02.06.41, Rules Pertaining to the Idaho Soil and Plant Amendment Act of 2001
02-0641-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
02-0100-1901OM Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-9

STATE ATHLETIC COMMISSION

(***Moved and Re-designated)*** - ***Rules of the State Athletic Commissions*** (This chapter has been re-designated from ***IDAPA 03.01.01*** to ***IDAPA 24.02.01*** under the Bureau of Occupational Licenses - See IDAPA 24 in this Index.)

IDAPA 04 -- OFFICE OF THE ATTORNEY GENERAL

04-0000-1900 ***Rules of the Attorney General*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 02, Chapter 01; Titles 11, 12, 20 - Bulletin Vol. 19-6SE (eff. 6-30-19)T
04-0000-1900 ***Rules of the Attorney General*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

04-0000-1900F ***Rules of the Attorney General*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 02, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

04-0000-1900F ***Rules of the Attorney General*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 05 -- DEPARTMENT OF JUVENILE CORRECTIONS

05-0000-1900 ***Rules of the Department of Juvenile Corrections*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 02-04; Title 02, Chapters 01-03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
05-0000-1900 ***Rules of the Department of Juvenile Corrections*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

05.01.04, Uniform Standards for Juvenile Probation Services

05-0104-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8

IDAPA 06 -- STATE BOARD OF CORRECTION

06-0000-1900 ***Rules of the State Board of Correction*** - Omnibus Notice of Proclamation of Rulemaking - Reauthorizes Title 01, Chapters 01-02; Title 02, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)

06.02.02, Rules Governing Establishment and Operation of a Limited Supervision Unit by the Department of Correction, Division of Probation and Parole

06-0202-1901 Notice of Proclamation of Rulemaking, Bulletin Vol. 19-10 (eff. 11-1-19)

IDAPA 07 – DIVISION OF BUILDING SAFETY

07-0000-1900* ***Rules of the Division of Building Safety*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 01, 04-08, 10; Title 02, Chapters 04-06; Title 03, Chapters 09, 13; Title 04, Chapter 01; Title 06, Chapter 01; Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
(*Rulemaking combines Title 08, Chapters 02-17 into 07.08.01
07-0000-1900 ***Rules of the Division of Building Safety*** - Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9
07-0000-1900 ***Rules of the Division of Building Safety*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

07-0000-1900F ***Rules of the Division of Building Safety*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 02-03, 11; Title 02, Chapters 02- 03, 07; Title 03, Chapters 01, 03, 11-12; Title 04, Chapter 02; Title 05, Chapter 01; Title 07, Chapter 01; Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
07-0000-1900F ***Rules of the Division of Building Safety*** - Notice of Omnibus Fee Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9
07-0000-1900F ***Rules of the Division of Building Safety*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

07.01.01, Rules of the Idaho Electrical Board

07-0101-1901* Proposed Rulemaking (New Chapter - Rule Consolidation), Bulletin Vol. 19-9
*(*This rulemaking consolidates all rules previously promulgated under Title 01, Chapters 01-11)*

07.01.03, Rules of Electrical Licensing and Registration – General

07-0103-1901* Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
*(*Rulemaking has been included in the newly consolidated rule chapter under Docket 07-0101-1901)*

07.02.02, Rules Governing Plumbing Permits

07-0202-1901* Proposed Fee Rulemaking, Bulletin Vol. 19-7
*(*This rulemaking consolidates provisions from IDAPA 07.02.03, 07.02.04, and 07.02.07 into this chapter)*
07-0202-1901* Notice of Vacation of Proposed Fee Rulemaking, Bulletin Vol. 19-10

07.02.03, Rules Governing Permit Fee Schedule

07-0203-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0203-1902 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7
07-0203-1902 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

07.02.04, Rules Governing Plumbing Safety Inspections

07-0204-1901 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7
07-0204-1901 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

07.02.05, Rules Governing Plumbing Safety Licensing

07-0205-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0205-1901 Proposed Rulemaking, Bulletin Vol. 19-7
07-0205-1901 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

07.02.07, Rules Governing Civil Penalties

07-0207-1901 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-7
07-0207-1901 Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10

07.03.01, Rules of Building Safety

07-0301-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
07-0301-1901 Proposed Rulemaking, Bulletin Vol. 19-10

07.03.12, Rules Governing Manufactured or Mobile Home Installations

07-0312-1901* *Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7 (*Rulemaking has been terminated)*

07.05.01, Rules of the Public Works Contractors License Board

07-0501-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0501-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-9 (eff. 7-15-19)T

07.07.01, Rules Governing Installation of Heating, Ventilation, and Air Conditioning Systems

07-0701-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
07-0701-1901 Proposed Rulemaking, Bulletin Vol. 19-7
07-0701-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
07-0701-1902 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

07.08.01, Idaho Minimum Safety Standards and Practices for Logging -- General Provisions

07-0801-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-6
07-0801-1901 Proposed Rulemaking, Bulletin Vol. 19-10

07.11.01, Rules of the Division of Building Safety

07-0711-1901 Proposed Rulemaking (New Chapter), Bulletin Vol. 19-9

IDAPA 08 – IDAHO STATE BOARD OF EDUCATION AND STATE DEPARTMENT OF EDUCATION

08-0000-1900 ***Rules of the State Board of Education and the Department of Education*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 02, 10, 11, 13; Title 02, Chapters 01-05; Title 03, Chapter 01; Title 04, Chapter 01; Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

08-0000-1900F ***Rules of the State Board of Education and the Department of Education*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapter 11, Sections 200 and 300 only; Title 02, Chapter 02, Sections 066 and 075 only; Title 02, Chapter 03, Section 128 only -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

08-0000-1900 ***Rules of the State Board of Education and the Department of Education*** - Notice of Public Hearing, Bulletin Vol. 19-8
08-0000-1900 ***Rules of the State Board of Education and the Department of Education*** - Notice of Public Hearing, Bulletin Vol. 19-10

08.01.13, Rules Governing the Idaho Opportunity Scholarship Program

08-0113-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
08-0113-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-10 (eff. 8-29-19)T

08.02.01, Rules Governing Administration

08-0201-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
08-0201-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
08-0201-1902 Proposed Rulemaking, Bulletin Vol. 19-10

08.02.02, Rules Governing Uniformity

08-0202-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-3
08-0202-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-3
08-0202-1903 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
08-0202-1902 Proposed Rulemaking, Bulletin Vol. 19-8
08-0202-1901 Proposed Rulemaking, Bulletin Vol. 19-10
08-0202-1903 Proposed Rulemaking, Bulletin Vol. 19-10

08.02.03, Rules Governing Thoroughness

08-0203-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
08-0203-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
08-0203-1903 Temporary and Proposed Rulemaking, Bulletin Vol. 19-8 (eff. 7-1-19)T
08-0203-1901 Proposed Rulemaking, Bulletin Vol. 19-10
08-0203-1902 Proposed Rulemaking, Bulletin Vol. 19-10

08.02.04, Rules Governing Public Charter Schools

08-0204-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
08-0204-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 09 – IDAHO DEPARTMENT OF LABOR

09-0000-1900 ***Rules of the Idaho Department of Labor*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 01, Chapters 01, 08, 30, 35, 60; Title 02, Chapter 01; Title 05, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
09-0000-1900 ***Rules of the Idaho Department of Labor*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

09.01.30, Unemployment Insurance Benefits Administration Rules

09-0130-1901 Notice of Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 3-6-19)T
09-0130-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
09-0130-1903 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
09-0130-1902* 2nd Filing - Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
09-0130-1903* 2nd Filing - Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
09-0130-1902 Proposed Rulemaking, Bulletin Vol. 19-9
09-0130-1903 Proposed Rulemaking, Bulletin Vol. 19-9
09-0130-1902 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)
09-0130-1903 Adoption of Pending Rule, Bulletin Vol. 19-11 (PLR 2020)

IDAPA 10 – IDAHO BOARD OF LICENSURE OF PROFESSIONAL ENGINEERS AND PROFESSIONAL LAND SURVEYORS

10-0000-1900F ***Rules of the Board of Professional Engineers and Professional Land Surveyors*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 01, Chapters 01-04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

10-0000-1900F ***Rules of the Board of Professional Engineers and Professional Land Surveyors*** - Notice of Public Hearing, Bulletin Vol. 19-8

10-0000-1900F ***Rules of the Board of Professional Engineers and Professional Land Surveyors*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

10.01.01, Rules of Procedure

10-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

10.01.04, Rules of Continuing Professional Development

10-0104-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6

10.01.05, Rules for Military or Veterans Licensure

10-0105-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-6

IDAPA 11 – IDAHO STATE POLICE

11-0000-1900 ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 03**, Chapter 01; **Title 06**, Chapter 01; **Title 07**, Chapters 01-03; **Title 10**, Chapter 03; **Title 13**, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0000-1900 ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-0000-1900F ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 05, Chapter 01; **Title 10**, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0000-1900F ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-0200-1900F ***Rules of the Idaho State Brand Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 02**, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0200-1900F ***Rules of the Idaho State Brand Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-0400-1900 ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 04**, Chapters 04, 06, 08-10, 13-14 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900 ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-0400-1900F ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 04**, Chapters 02, 03, 05, 07, 11, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900F ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-1001-1900F ***Idaho Public Safety and Public Information Systems*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, - Reauthorizes **Title 10**, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-1001-1900F ***Idaho Public Safety and Public Information Systems*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-1101-1900F* ***Rules of the Peace Officer Standards and Training Council*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, - Reauthorizes **Title 11**, Chapter 01, Bulletin Vol. 19-6SE (eff. 6-30-19)T

**(Reauthorization combines previous chapters 11.02, 11.03, 11.04, 11.05, and 11.06 into Title 11, Chapter 01)*

11-1101-1900F ***Rules of the Peace Officer Standards and Training Council*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

Idaho State Brand Board

11-0200-1900F ***Rules of the Idaho State Brand Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 02, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0200-1900F ***Rules of the Idaho State Brand Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11.02.01, Rules of the Idaho State Brand Board

11-0201-1901 Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 7-1-19)T

11-0201-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7

Idaho State Police Forensic Services

11-0000-1900 ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 03, Chapter 01**; Title 06, Chapter 01; Title 07, Chapters 01-03; Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0000-1900 ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

11.03.01, Rules Governing Alcohol Testing

11-0301-1801 Adoption of Temporary Rule, Bulletin Vol. 18-1 (eff. 12-14-17)T

11-0301-1801 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule - SCR150, Bulletin Vol. 18-5 (eff. 10-2-17)T

11-0301-1801 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule - SCR113, Bulletin Vol. 19-5 (eff. 12-14-19)T

11-0301-1901 Proposed Rulemaking, Bulletin Vol. 19-11

Idaho State Racing Commission

11-0400-1900 ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes **Title 04**, Chapters 04, 06, 08-10, 13-14 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900 ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-0400-1900F ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes **Title 04**, Chapters 02, 03, 05, 07, 11, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

11-0400-1900F ***Rules of the Idaho State Racing Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11.04.03, Rules Governing Licensing and Fees

11-0403-1801 Adoption of Temporary Rule, Bulletin Vol. 18-11 (eff. 9-17-18)T

11-0403-1801 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 9-17-18)T

11.04.11, Rules Governing Equine Veterinary Practices, Permitted Medications, Banned Substances and Drug Testing of Horses

11-0411-1801* *Notice of Intent to Promulgate Rules – Negotiated Rulemaking, Bulletin Vol. 18-3 (*Rulemaking terminated by agency)*

11-0411-1802 Adoption of Temporary Rule, Bulletin Vol. 18-11 (eff. 9-17-18)T

11-0411-1802 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 9-17-18)T

11.06.01, Rules Governing Civil Asset Forfeiture Reporting

11-0601-1901 Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 2-7-19)T

Public Safety and Security Information Bureau

11-0000-1900 ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking - Reauthorizes Title 03, Chapter 01; Title 06, Chapter 01; Title 07, Chapters 01-03; **Title 10, Chapter 03**; Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
11-0000-1900 ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-0000-1900F ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes Title 05, Chapter 01; **Title 10**, **Chapter 02** -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
11-0000-1900F ***Rules of the Idaho State Police*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11-1001-1900F ***Idaho Public Safety and Public Information Systems*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, - Reauthorizes **Title 10, Chapter 01**, Bulletin Vol. 19-6SE (eff. 6-30-19)T
11-1001-1900F ***Idaho Public Safety and Public Information Systems*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11.10.02, Rules Governing State Criminal History Records and Crime Information

11-1002-1901 Adoption of Temporary Rule, Bulletin Vol. 19-3 (eff. 2-5-19)T (Expired)

Peace Officer Standards and Training (POST) Council

11-1101-1900F ***Rules of the Peace Officer Standards and Training Council*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, - Reauthorizes **Title 11, Chapter 01**, Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Reauthorization combines previous chapters 11.02, 11.03, 11.04, 11.05, and 11.06 into Chapter 11.01)*
11-1101-1900F ***Rules of the Peace Officer Standards and Training Council*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

11.11.01, Rules of the Idaho Peace Officer Standards and Training Council

11-1101-1901 Adoption of Temporary Rule, Bulletin Vol. 19-4 (eff. 3-14-19)T (Expired)

IDAPA 12 – DEPARTMENT OF FINANCE

12-0000-1900 ***Rules of the Department of Finance*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 04, 09, 10, 11 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
12-0000-1900 ***Rules of the Department of Finance*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

12-0000-1900F ***Rules of the Department of Finance*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 06, 08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
12-0000-1900F ***Rules of the Department of Finance*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

12.01.08, Rules Pursuant to the Uniform Securities Act (2004)

12-0108-1901 Proposed Rulemaking, Bulletin Vol. 19-10

12.01.09, Rules Pursuant to the Idaho Credit Code

12-0109-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
12-0109-1901 Proposed Rulemaking, Bulletin Vol. 19-10

12.01.10, Rules Pursuant to the Idaho Residential Mortgage Practices Act

12-0110-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
12-0110-1901 Proposed Rulemaking, Bulletin Vol. 19-10

12.01.11, Rules Pursuant to the Idaho Collection Agency Act

12-0111-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
12-0111-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 13 – IDAHO FISH AND GAME COMMISSION

13-0000-1900 ***Rules of the Idaho Fish and Game Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-04, 06-12, 14-19 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
13-0000-1900 Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9
13-0000-1900 ***Rules of the Idaho Fish and Game Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

13-0000-1900F ***Rules of the Idaho Fish and Game Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 02, Sections 100 and 102 only; Title 01, Chapter 04, Section 600 only; Title 01, Chapter 08, Subsection 260.06 only; Title 01, Chapter 10, Subsection 400.09 only; Title 01, Chapter 19, Section 112 only; Title 01, Chapter 20, Subsection 102.04 only -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
13-0000-1900F Notice of Omnibus Fee Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9
13-0000-1900F ***Rules of the Idaho Fish and Game Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

13.01.08, Rules Governing the Taking of Big Game Animals in the State of Idaho

13-0108-1902AP Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-6
13-0108-1903 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
13-0108-1904 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
13-0108-1903 Proposed Rulemaking, Bulletin Vol. 19-9
13-0108-1904 Proposed Rulemaking, Bulletin Vol. 19-9

13.01.09, Rules Governing the Taking of Game Birds in the State of Idaho

13-0109-1901P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-6
13-0109-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
13-0109-1902 Proposed Rulemaking, Bulletin Vol. 19-9
13-0109-1801AP Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-10
13-0109-1903P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-10

13.01.10, Rules Governing the Importation, Possession, Release, Sale, or Salvage of Wildlife

13-0110-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
13-0110-1901 Proposed Rulemaking, Bulletin Vol. 19-9

13.01.11, Rules Governing Fish

13-0111-1901P Notice of Proclamation, Bulletin Vol. 19-1
13-0111-1902P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-4
13-0111-1903P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-8
13-0111-1901AP Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-10
13-0111-1904P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-10
13-0111-1901AAP* Notice of Amended Proclamation of Rulemaking, Bulletin Vol. 19-11 (*2nd Amendment)
13-0111-1905P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-11

13.01.14, Rules Governing Falconry

13-0114-1901P Notice of Proclamation of Rulemaking, Bulletin Vol. 19-4

13.01.17, Rules Governing the Use of Bait and Trapping for Taking Big Game Animals

13-0117-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
13-0117-1901 Proposed Rulemaking, Bulletin Vol. 19-10

BOARD OF REGISTRATION OF PROFESSIONAL GEOLOGISTS

Moved and Re-designated) - ***Rules of the Board of Registration of Professional Geologists*** (This chapter has been re-designated from ***IDAPA 14.01.01*** to ***IDAPA 24.04.01*** under the Bureau of Occupational Licenses - See IDAPA 24 in this Index.)

IDAPA 15 – OFFICE OF THE GOVERNOR

Executive Orders of the Governor

Executive Order No. **2019-01** Licensing Freedom Act of 2019, Bulletin Vol. 19-2
Executive Order No. **2019-02** Red Tape Reduction Act, Bulletin Vol. 19-2
Executive Order No. **2019-03** Regional Government Efficiency Working Group, Bulletin Vol. 19-6
Executive Order No. **2019-04** Idaho Medal of Achievement, Bulletin Vol. 19-11
Executive Order No. **2019-05** Governor's Leadership In Nuclear Energy (LINE) Commission, Bulletin Vol. 19-11
Executive Order No. **2019-06** Continuing the Board of Juvenile Corrections, as the Primary Advisory Body for the Governor and Director of the Department of Juvenile Corrections on Matters Pertaining to Juvenile Corrections, Bulletin Vol. 19-11
Executive Order No. **2019-07** Idaho Broadband Task Force, Bulletin Vol. 19-11
Executive Order No. **2019-08** Continuing the Workforce Development Council for Planning and Oversight of the State's Workforce Development System Amending Executive Order 2017-13, Bulletin Vol. 19-11
Executive Order No. **2019-09** Combating the Opioid and Substance Use Disorder Crisis, Bulletin Vol. 19-11
Executive Order No. **2019-10** Organization of the Lewis and Clark Trail Committee, Bulletin Vol. 19-11
Executive Order No. **2019-11** Establishing the Governor's Commission on Service and Volunteerism, Bulletin Vol. 19-11
Executive Order No. **2019-12** Reviewing the Preparation and Administration of Idaho's Plan Under the Juvenile Justice and Delinquency Act; Repealing and Replacing Executive Order 2015-11, Bulletin Vol. 19-11

Idaho Commission On Aging

15-0100-1900 ***Rules of the Idaho Commission on Aging*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-03, 20, 30 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
15-0100-1900 Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-9
15-0100-1900 ***Rules of the Idaho Commission on Aging*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

Idaho Commission for the Blind and Visually Impaired

15-0200-1900 ***Rules of the Idaho Commission for the Blind and Visually Impaired*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 02-04, 30 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
15-0200-1900 ***Rules of the Idaho Commission for the Blind and Visually Impaired*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

Idaho Forest Products Commission

15-0300-1900F ***Rules of the Idaho Forest Products Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
15-0300-1900F ***Rules of the Idaho Forest Products Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

Division of Human Resources and Personnel Commission

15-0400-1900 ***Rules of the Division of Human Resources and Personnel Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
15-0400-1900 ***Rules of the Division of Human Resources and Personnel Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

Idaho Military Division

15-0600-1900 ***Rules of the Idaho Military Division*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 06, Chapters 01-02, 04-06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
15-0600-1900 ***Rules of the Idaho Military Division*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

15-0600-1900F ***Rules of the Idaho Military Division*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 06, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
15-0600-1900F ***Rules of the Idaho Military Division*** - Notice of Omnibus Rulemaking - Adoption of Fee Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

Idaho State Liquor Division

15-1000-1900F ***Rules of the Idaho State Liquor Division*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
15-1000-1900F ***Rules of the Idaho State Liquor Division*** - Notice of Omnibus Rulemaking - Adoption of Fee Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 16 – DEPARTMENT OF HEALTH AND WELFARE

16-0000-1900 ***Rules of the Department of Health and Welfare*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-06, 12; Title 02, Chapters 02, 06, 10-12, 15, 19, 23-24; Title 03, Chapters 01-02, 04-11, 13-14, 17, 20-21, 23-25; Title 04, Chapters 10, 13-14, 16-17; Title 05, Chapters 01, 03-04, 07; Title 06, Chapters 05, 12-13; Title 07, Chapters 17, 19, 25, 33, 37, 39 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
16-0000-1900 ***Rules of the Department of Health and Welfare*** - Notice of Public Hearing, Bulletin 19-8
16-0000-1900 ***Rules of the Department of Health and Welfare*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

16-0000-1900F ***Rules of the Department of Health and Welfare*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 07; Title 02, Chapters 01, 08, 13-14, 25-27; Title 03, Chapters 03, 18, 19, 22; Title 04, Chapters 07, 08; Title 05, Chapter 06; Title 06, Chapters 01-02; Title 07, Chapters 01, 15 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
16-0000-1900F ***Rules of the Department of Health and Welfare*** - Notice of Public Hearing, Bulletin 19-8
16-0000-1900F ***Rules of the Department of Health and Welfare*** - Notice of Omnibus Rulemaking - Adoption of Fee Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

16.01.02, Emergency Medical Services (EMS) - Rule Definitions

16-0102-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.01.03, Emergency Medical Services (EMS) – Agency Licensing Requirements

16-0103-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
16-0103-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.01.07, Emergency Medical Services (EMS) – Personnel Licensing Requirements

16-0107-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
16-0107-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.02.01, Rules of the Idaho Time Sensitive Emergency System Council

16-0201-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
16-0201-1901 Proposed Rulemaking, Bulletin Vol. 19-10

16.02.02, Rules of the Idaho Emergency Medical Services (EMS) Physician Commission

16-0202-1901 Proposed Rulemaking, Bulletin Vol. 19-10

16.02.04, Syringe and Needle Exchange Program

16-0204-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-6

16.02.08, Vital Statistics Rules

16-0208-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T
16-0208-1901 Notice of Public Hearing, Bulletin 19-9

16.02.14, Rules Governing Construction and Operation of Public Swimming Pools in Idaho

16-0214-1901 Proposed Rulemaking, Bulletin Vol. 19-10

16.03.01, Eligibility for Health Care Assistance for Families and Children

16-0301-1901 Temporary and Proposed Rulemaking, Bulletin Vol. 19-10 (eff. 1-1-20)T

16.03.09, Medicaid Basic Plan Benefits

16-0309-1803 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-7
16-0309-1803 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T

16.03.10, Medicaid Enhanced Plan Benefits

16-0310-1704 4th Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
16-0310-1806 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 18-7
16-0310-1806 Temporary and Proposed Rulemaking, Bulletin Vol. 19-7 (eff. 7-1-19)T
16-0310-1704 Proposed Rulemaking, Bulletin Vol. 19-10

16.03.18, Medicaid Cost-Sharing

16-0318-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
16-0318-1901 Proposed Rulemaking, Bulletin Vol. 19-10

16.03.19, Rules Governing Certified Family Homes

16-0319-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
16-0319-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.03.22, Residential Care or Assisted Living Facilities in Idaho

16-0322-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
16-0322-1901 Proposed Rulemaking, Bulletin Vol. 19-9

16.05.04, Rules of the Idaho Council on Domestic Violence and Victim Assistance Grant Funding

16-0504-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
16-0504-1901 Proposed Rulemaking, Bulletin Vol. 19-10

16.05.06, Criminal History and Background Checks

16-0506-1901 OARC Omnibus Notice of Legislative Action-Extension of Temporary Rule by SCR 114, Bulletin Vol. 19-5 (eff. 1-1-19)T
16-0506-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
16-0506-1901 Proposed Rulemaking, Bulletin Vol. 19-9
16-0506-1902 Proposed Rulemaking, Bulletin Vol. 19-9

16.06.12, Rules Governing the Idaho Child Care Program (ICCP)

16-0612-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 17 – INDUSTRIAL COMMISSION

17-0000-1900 ***Rules of the Idaho Industrial Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 10, Chapter 01; Title 11, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
17-0000-1900 ***Rules of the Idaho Industrial Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

17-0000-1900F ***Rules of the Idaho Industrial Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
17-0000-1900F ***Rules of the Idaho Industrial Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 18 – DEPARTMENT OF INSURANCE

18-0000-1900* ***Rules of the Idaho Department of Insurance*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes and Re-designates Title 01, Chapter 01; Title 02, Chapters 01-03; Title 03, Chapters 01-05; Title 04, Chapters 01-15; Title 05, Chapters 01-03; Title 06, Chapters 01-06; Title 07, Chapters 01-12; Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
18-0000-1900* ***Rules of the Idaho Department of Insurance*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

18-0000-1900F* ***Rules of the Idaho Department of Insurance*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes and Re-designates Title 01, Chapter 02; Title 08, Chapter 02 --- Bulletin Vol. 19-6SE (eff. 6-30-19)T
18-0000-1900F* ***Rules of the Idaho Department of Insurance*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

***These chapters indexed under IDAPA 18 are re-designated with new Title and Chapter numbers as follows:**

New Designation [*Old Designation*]**: 18.01.01** [*18.01.48*]; **18.01.02** [*18.01.44*]; **18.02.01** [*18.01.19*]; **18.02.02** [*18.01.20*]; **18.02.03** [*18.01.34*]; **18.03.01** [*18.01.09*]; **18.03.02** [*18.01.13*]; **18.03.03** [*18.01.16*]; **18.03.04** [*18.01.41*]; **18.03.05** [*18.01.61*]; **18.04.01** [*18.01.05*]; **18.04.02** [*18.01.06*]; **18.04.03** [*18.01.24*]; **18.04.04** [*18.01.26*]; **18.04.05** [*18.01.27*]; **18.04.06** [*18.01.28*]; **18.04.07** [*18.01.29*]; **18.04.08** [*18.01.30*]; **18.04.09** [*18.01.31*]; **18.04.10** [*18.01.54*]; **18.04.11** [*18.01.60*]; **18.4.12** [*18.01.69*]; **18.04.13** [*18.01.70*]; **18.04.14** [*18.01.72*]; **18.04.15** [*18.01.77*]; **18.05.01** [*18.01.01*]; **18.05.02** [*18.01.25*]; **18.05.03** [*18.01.56*]; **18.06.01** [*18.01.04*]; **18.06.02** [*18.01.10*]; **18.06.03** [*18.01.52*]; **18.06.04** [*18.01.53*]; **18.06.05** [*18.01.64*]; **18.06.06** [*18.01.65*]; **18.07.01** [*18.01.23*]; **18.07.02** [*18.01.46*]; **18.07.03** [*18.01.47*]; **18.07.04** [*18.01.62*]; **18.07.05** [*18.01.66*]; **18.07.06** [*18.01.67*]; **18.07.07** [*18.01.68*]; **18.07.08** [*18.01.75*]; **18.07.09** [*18.01.76*]; **18.07.10** [*18.01.77*]; **18.07.11** [*18.01.78*]; **18.07.12** [*18.01.81*]; **18.08.01** [*18.01.50*]; **18.08.02** [*18.01.49*]

18.04.08, [18.01.30] Individual Disability and Group Supplemental Disability Insurance Minimum Standards Rule

18-0408-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8
18-0408-1901 Proposed Rulemaking, Bulletin Vol. 19-10

18.04.16, Rules Governing Short-Term Health Insurance Coverage

18-0416-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-7
18-0416-1902 Adoption of Temporary Rule (New Chapter), Bulletin Vol. 19-8 (eff. 7-1-19)T
18-0416-1901 Proposed Rulemaking (New Chapter), Bulletin Vol. 19-10

18.06.06, [18.01.65] Rules for the Surplus Lines Brokers

18-0606-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-8
18-0606-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 19 – BOARD OF DENTISTRY

19-0101-1900F ***Rules of the Idaho State Board of Dentistry*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
19-0101-1900F ***Rules of the Idaho State Board of Dentistry*** - Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-8
19-0101-1900F ***Rules of the Idaho State Board of Dentistry*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

19.01.01, Rules of the Idaho State Board of Dentistry

19-0101-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-7
19-0101-1901 Temporary and Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9 (eff. 7-27-19)T

IDAPA 20 – DEPARTMENT OF LANDS

20-0000-1900 ***Rules of the Idaho Department of Lands*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01; Title 02, Chapter 01; Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
20-0000-1900 ***Rules of the Idaho Department of Lands*** - Notice of Public Hearing (Omnibus Rulemaking), Bulletin Vol. 19-8
20-0000-1900 ***Rules of the Idaho Department of Lands*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

20-0000-1900F ***Rules of the Idaho Department of Lands*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 02, Chapter 14; Title 03, Chapters 01-05, 08, 09, 13-17; Title 04, Chapter 02; Title 06, Chapter 01; Title 07, Chapter 02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
20-0000-1900F ***Rules of the Idaho Department of Lands*** - Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-8
20-0000-1900F ***Rules of the Idaho Department of Lands*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

20.03.02, Rules Governing Mined Land Reclamation

20-0302-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
20-0302-1902* Adoption of Temporary Rule (Fee Rule), Bulletin Vol. 19-9 (eff. 7-16-19)T
*(*Temporary Rulemaking changes chapter name to: "Rules Governing Mined Land Reclamation" from: "Rules Governing Exploration, Surface Mining, and Closure of Cyanidation Facilities")*
20-0302-1901 2nd Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-10

20.03.03, Rules Governing Administration of the Reclamation Fund

20-0303-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
20-0303-1901 Proposed Rulemaking, Bulletin Vol. 19-9

20.03.04, Rules Governing the Regulation of Beds, Waters, and Airspace Over Navigable Lakes in the State of Idaho

20-0304-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
20-0304-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

IDAPA 21 -- DIVISION OF VETERANS SERVICES

21-0000-1900 ***Rules of the Division of Veterans Services*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
21-0000-1900 ***Rules of the Division of Veterans Services*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

21-0000-1900F ***Rules of the Division of Veterans Services*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 01, 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
21-0000-1900F ***Rules of the Division of Veterans Services*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 22 – BOARD OF MEDICINE

22-0000-1900 ***Rules of the Idaho Board of Medicine*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 05 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
22-0000-1900 Notice of Public Hearing (Omnibus Rulemaking), Bulletin Vol. 19-8
22-0000-1900 ***Rules of the Idaho Board of Medicine*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

22-0000-1900F ***Rules of the Idaho Board of Medicine*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 01, 03, 10, 11, 13 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
22-0000-1900F Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-8
22-0000-1900F ***Rules of the Idaho Board of Medicine*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

22.01.07, Rules for the Licensure of Naturopathic Medical Doctors

22-0107-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-8
22-0107-1901 Proposed Rulemaking (New Chapter, Fee Rule), Bulletin Vol. 19-11

IDAPA 23 – BOARD OF NURSING

23-0101-1900F ***Rules of the Idaho Board of Nursing*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
23-0101-1900F Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin Vol. 19-9
23-0101-1900F ***Rules of the Idaho Board of Medicine*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

23.01.01, Rules of the Idaho Board of Nursing

23-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
23-0101-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 24 – BUREAU OF OCCUPATIONAL LICENSES

24-0101-1900F ***Rules of the Board of Architectural Examiners*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-0101-1900F ***Rules of the Board of Architectural Examiners*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0201-1900F* ***Rules of the State Athletic Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking - Reauthorizes re-designated Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Re-designated from IDAPA 03.01.01 to 24.02.01)*
24-0201-1900F* ***Rules of the State Athletic Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0301-1900F ***Rules of the State Board of Chiropractic Physicians*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-0301-1900F ***Rules of the State Board of Chiropractic Physicians*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0401-1900F* ***Rules of Procedure of the Board of Registration for Professional Geologists*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes re-designated Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Re-designated from IDAPA 14.01.01 to 24.04.01)*
24-0401-1900F* ***Rules of Procedure of the Board of Registration for Professional Geologists*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0501-1900F ***Rules of the Board of Drinking Water and Wastewater Professionals*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-0501-1900F ***Rules of the Board of Drinking Water and Wastewater Professionals*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0601-1900F ***Rules for the Licensure of Occupational Therapists & Occupational Therapy Assistants*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 06, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-0601-1900F ***Rules for the Licensure of Occupational Therapists & Occupational Therapy Assistants*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0701-1900F ***Rules of the Idaho State Board of Landscape Architects*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 07, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-0701-1900F ***Rules of the Idaho State Board of Landscape Architects*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0801-1900F ***Rules of the State Board of Morticians*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 08, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-0801-1900F ***Rules of the State Board of Morticians*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-0901-1900F ***Rules of the Board of Examiners of Nursing Home Administrators*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 09, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-0901-1900F ***Rules of the Board of Examiners of Nursing Home Administrators*** -Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1001-1900F ***Rules of the Board of Optometry*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 10, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1001-1900F ***Rules of the Board of Optometry*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1101-1900F ***Rules of the State Board of Podiatry*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 11, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1101-1900F ***Rules of the State Board of Podiatry*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1201-1900F ***Rules of the Idaho State Board of Psychological Examiners*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 12, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1201-1900F ***Rules of the State Board of Psychological Examiners*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1301-1900F ***Rules Governing the Physical Therapy Licensure Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 13, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1301-1900F ***Rules Governing the Physical Therapy Licensure Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1401-1900F ***Rules of the State Board of Social Work Examiners*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 14, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1401-1900F ***Rules of the State Board of Social Work Examiners*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1501-1900F ***Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists***-Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 15, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1501-1900F ***Rules of the Idaho Licensing Board of Professional Counselors and Marriage and Family Therapists*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1601-1900F ***Rules of the State Board of Denturitry*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 16, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1601-1900F ***Rules of the State Board of Denturitry*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1701-1900F ***Rules of the State Board of Acupuncture*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 17, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1701-1900F ***Rules of the State Board of Acupuncture*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1801-1900F ***Rules of the Real Estate Appraiser Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 18, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1801-1900F ***Rules of the Real Estate Appraiser Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-1901-1900F ***Rules of the Board of Examiners of Residential Care Facility Administrators*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 19, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-1901-1900F ***Rules of the Board of Examiners of Residential Care Facility Administrators*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2001-1900 ***Rules of the Bureau of Occupational Licenses*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 20, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

24-2001-1900 ***Rules of the Bureau of Occupational Licenses*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2101-1900F ***Rules of the Idaho State Contractors Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 21, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2101-1900F ***Rules of the Idaho State Contractors Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2201-1900F ***Rules of the Idaho State Liquefied Petroleum Gas Safety Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 22, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2201-1900F ***Rules of the Idaho State Liquefied Petroleum Gas Safety Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2301-1900F ***Rules of the Speech, Hearing and Communication Services Licensure Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 23, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2301-1900F ***Rules of the Speech, Hearing and Communication Services Licensure Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2401-1900F ***Rules of the Genetic Counselors Licensing Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 24, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2401-1900F ***Rules of the Genetic Counselors Licensing Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2501-1900F ***Rules of the Idaho Driving Businesses Licensure Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 25, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2501-1900F ***Rules of the Idaho Driving Businesses Licensure Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2601-1900F ***Rules of the Idaho Board of Midwifery*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 26, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2601-1900F ***Rules of the Idaho Board of Midwifery*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2701-1900F ***Rules of the Idaho State Board of Massage Therapy*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 27, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2701-1900F ***Rules of the Idaho State Board of Massage Therapy*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2801-1900F ***Rules of the Barber and Cosmetology Services Licensing Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 28, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
24-2801-1900F ***Rules of the Barber and Cosmetology Services Licensing Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

24-2901-1900F* ***Rules of Procedure of the Idaho Certified Shorthand Reporters Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes re-designated Title 29, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
**(Re-designated from IDAPA 49.01.01 to 24.29.01)*
24-2901-1900F* ***Rules of Procedure of the Idaho Certified Shorthand Reporters Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 25 – OUTFITTERS AND GUIDES LICENSING BOARD

25-0101-1900F ***Rules of the Outfitters and Guides Licensing Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
25-0101-1900F ***Rules of the Outfitters and Guides Licensing Board*** - Notice of Public Hearing for Omnibus Fee Rule, Bulletin Vol. 19-9
25-0101-1900F ***Rules of the Outfitters and Guides Licensing Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

25.01.01, Rules of the Outfitters and Guides Licensing Board

25-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
25-0101-1902 Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 4-26-19)T, (5-22-19)T

IDAPA 26 – DEPARTMENT OF PARKS AND RECREATION

26-0000-1900 ***Rules of the Department of Parks and Recreation*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 03, 21-22, 24, 30-31, 34, 37 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
26-0000-1900 ***Rules of the Department of Parks and Recreation*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

26-0000-1900F ***Rules of the Department of Parks and Recreation*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 10, 20, 33, 36 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
26-0000-1900F ***Rules of the Department of Parks and Recreation*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

26.01.20, Rules Governing the Administration of Park and Recreation Areas and Facilities

26-0120-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
26-0120-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-10

26.01.36, Rules Governing the Winter Recreational Parking Permit Program

26-0136-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
26-0136-1901 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-10

IDAPA 27 – BOARD OF PHARMACY

27-0101-1900F* ***Rules of the Idaho Board of Pharmacy*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 *(*This rulemaking consolidates contents from Chapters 27.01.02, 27.01.03, 27.01.04, and 27.01.05 into IDAPA 27.01.01)* -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
27-0000-1900F ***Rules of the Idaho Board of Pharmacy*** - Notice of Public Hearing (Omnibus Fee Rulemaking), Bulletin 19-8
27-0000-1900F ***Rules of the Idaho Board of Pharmacy*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

27.01.01, General Provisions

27-0101-1901* *1st Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6*
27-0101-1901* *2nd Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7* ***(*Rulemaking Terminated)***

IDAPA 28 – DEPARTMENT OF COMMERCE

28-0000-1900 ***Rules of the Idaho Department of Commerce*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 03-05, 07; Titles 03, Chapter 01; Title 04, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
28-0000-1900 ***Rules of the Idaho Department of Commerce*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 29 – IDAHO POTATO COMMISSION

29-0000-1900 ***Rules of the Idaho Potato Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
29-0000-1900 ***Rules of the Idaho Potato Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 30 – IDAHO COMMISSION FOR LIBRARIES

30-0101-1900 ***Rules of the Idaho Commission for Libraries Governing the Use of Commission Services*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

30-0101-1900 ***Rules of the Idaho Commission for Libraries Governing the Use of Commission Services*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 31 – PUBLIC UTILITIES COMMISSION

31-0000-1900 ***Rules of the Idaho Public Utilities Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01; Title 11, Chapter 01; Title 12, Chapter 01; Title 21, Chapter 01; Title 26, Chapter 01; Title 31, Chapter 01; Title 36, Chapter 01; Title 41, Chapter 01; Title 46, Chapters 01-02; Title 51, Chapter 01; Title 61, Chapter 01; Title 71, Chapters 01, 03; Title 81, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

31-0000-1900 ***Rules of the Idaho Public Utilities Commission*** - Notice of Public Hearing (Omnibus Rulemaking), Bulletin 19-8

31-0000-1900 ***Rules of the Idaho Public Utilities Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 32 - ENDOWMENT FUND INVESTMENT BOARD

32-0101-1900F ***Rules of the Credit Enhancement Program for School Districts*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

32-0101-1900F ***Rules of the Credit Enhancement Program for School Districts*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 33 -- REAL ESTATE COMMISSION

33-0000-1900F ***Rules of the Idaho Real Estate Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

33-0000-1900F ***Rules of the Idaho Real Estate Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 34 – SECRETARY OF STATE

34-0000-1900 ***Rules of the Idaho Secretary of State*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapter 02; Title 03, Chapter 01; Title 04, Chapter 02; Title 05, Chapter 05; Title 06, Chapter 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

34-0000-1900 ***Rules of the Idaho Secretary of State*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

34-0000-1900F ***Rules of the Idaho Secretary of State*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 04, Chapter 01; Title 05, Chapter 01-03, 06 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

34-0000-1900F ***Rules of the Idaho Secretary of State*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 35 – STATE TAX COMMISSION

35-0000-1900 ***Rules of the Idaho State Tax Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-03, 05-10, 12, 14; Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

35-0000-1900 ***Rules of the Idaho State Tax Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

35.01.01, Income Tax Administrative Rules

35-0101-1901 Adoption of Temporary Rule, Bulletin Vol. 19-2 (eff. 1-4-19)T
35-0101-1901 OARC Omnibus Notice of Legislative Action - Extension of Temporary Rule - SCR 113, Bulletin Vol. 19-5 (eff. 1-4-19)T
35-0101-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0101-1903 Proposed Rulemaking, Bulletin Vol. 19-7
35-0101-1902 Proposed Rulemaking, Bulletin Vol. 19-8
35-0101-1904 Proposed Rulemaking, Bulletin Vol. 19-8

35.01.02, Idaho Sales and Use Tax Administrative Rules

35-0102-1901 *Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6*
35-0102-1902 *Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6*
35-0102-1903 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0102-1904 *Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6*
35-0102-1905 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0102-1906 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0102-1907 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
35-0102-1901* *Proposed Rulemaking, Bulletin Vol. 19-8*
35-0102-1902* *Proposed Rulemaking, Bulletin Vol. 19-8*
35-0102-1903 Proposed Rulemaking, Bulletin Vol. 19-8
35-0102-1904* *Proposed Rulemaking, Bulletin Vol. 19-8*
35-0102-1901* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*
35-0102-1902* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*
35-0102-1904* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*

35.01.03, Property Tax Administrative Rules

35-0103-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0103-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0103-1903 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0103-1904 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0103-1905 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0103-1906 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0103-1907 Adoption of Temporary Rule, Bulletin Vol. 19-6 (eff. 1-1-19)T
35-0103-1908 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
35-0103-1901 Proposed Rulemaking, Bulletin Vol. 19-8
35-0103-1909 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
35-0103-1910 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
35-0103-1911 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
35-0103-1912 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
35-0103-1913 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
35-0103-1914 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
35-0103-1915 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
35-0103-1903 Proposed Rulemaking, Bulletin Vol. 19-9
35-0103-1906 Proposed Rulemaking, Bulletin Vol. 19-9
35-0103-1902 Proposed Rulemaking, Bulletin Vol. 19-10
35-0103-1904 Proposed Rulemaking, Bulletin Vol. 19-10
35-0103-1905 Proposed Rulemaking, Bulletin Vol. 19-10

35.01.05, Motor Fuels Tax Administrative Rules

35-0105-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
35-0105-1902* *Proposed Rulemaking, Bulletin Vol. 19-8*
35-0105-1901 Proposed Rulemaking, Bulletin Vol. 19-9
35-0105-1902* *Notice of Vacation of Proposed Rulemaking, Bulletin Vol. 19-10*

35.01.06, Hotel/Motel Room and Campground Sales Tax Administrative Rules

35-0106-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

35.01.09, Idaho County Option Kitchen and Table Wine Tax Administrative Rules

35-0109-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

35.01.12, Idaho Beer Tax Administrative Rules

35-0112-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (Chapter Repeal), Bulletin Vol. 19-7

35.01.15, Idaho Beer and Wine Tax Administrative Rules

35-0115-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking (New Chapter), Bulletin Vol. 19-7

35.02.01, Tax Commission Administration and Enforcement Rules

35-0201-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 36 -- IDAHO BOARD OF TAX APPEALS

36-0101-1900F ***Idaho Board of Tax Appeals Rules*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

36-0101-1900F ***Idaho Board of Tax Appeals Rules*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 37 – DEPARTMENT OF WATER RESOURCES

37-0000-1900 ***Rules of the Idaho Department of Water Resources*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 01, 04; Title 03, Chapters 11, 12 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

37-0000-1900 ***Rules of the Idaho Department of Water Resources*** - Notice of Public Hearing, Bulletin 19-8

37-0000-1900 ***Rules of the Idaho Department of Water Resources*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

37-0000-1900F ***Rules of the Idaho Department of Water Resources*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01; Title 02, Chapter 03; Title 03, Chapters 01-10 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

37-0000-1900F ***Rules of the Idaho Department of Water Resources*** - Notice of Public Hearing (Fee Rules), Bulletin 19-8

37-0000-1900F ***Rules of the Idaho Department of Water Resources*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 38 – IDAHO DEPARTMENT OF ADMINISTRATION

38-0000-1900 ***Rules of the Idaho Department of Administration*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 04, Chapters 06-09; Title 05, Chapters 01-02 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

38-0000-1900 ***Rules of the Idaho Department of Administration*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

38-0000-1900F ***Rules of the Idaho Department of Administration*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 04, Chapter 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

38-0000-1900F ***Rules of the Idaho Department of Administration*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 39 – IDAHO TRANSPORTATION DEPARTMENT

39-0000-1900 ***Rules of the Idaho Transportation Department*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapters 01-03, 05, 09, 11-12, 24, 27, 42-43, 45-46, 61, 70-73, 75-76, 80; Title 03, Chapters 01-02, 04-08, 40-44, 47-50, 60-65, 80-81; Title 04, Chapters 01-08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

39-0000-1900 ***Rules of the Idaho Transportation Department*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

39-0000-1900F ***Rules of the Idaho Transportation Department*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 02, Chapter 04, 07, 22, 26, 41, 60; Title 03, Chapter 03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
39-0000-1900F ***Rules of the Idaho Transportation Department*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

Omnibus Negotiated Rulemaking – Rules Regulating Vehicles Titles
Chapters 39.02.05, 39.02.07, 39.02.11, 39.02.12, 39.02.24
39-0200-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

Omnibus Negotiated Rulemaking – Rules Regulating Commercial Motor Vehicle Permits and Registration
Chapters 39.02.22, 39.03.01, 39.03.05, 39.03.06
39-0300-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

Omnibus Negotiated Rulemaking – Traffic Signs and Right-Of-Way Rules
Chapters 39.03.41, 39.03.60, 39.03.61, 39.03.62, 39-03.63, 39.03.64
39-0300-1902 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7

39.02.03, Rules Governing Vehicle Dealer's Principle Place of Business and Claims to the Idaho Consumer Asset Recovery Fund
39-0203-1901* Temporary and Proposed Rulemaking, Bulletin Vol. 19-10 (eff. 8-22-19)T
**(Rulemaking changes chapter name from: "Rules Governing Vehicle Dealer's Principle Place of Business")*

39.02.22, Rules Governing Registration and Permit Fee Administration
39-0222-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39.02.42, Temporary Vehicle Registration When Proof of Ownership Is Insufficient
39-0242-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7
39-0242-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39.02.75, Rules Governing Names on Driver's Licenses and Identification Cards
39-0275-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7
39-0275-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39.02.76, Rules Governing Driver's License Renewal-by-Mail and Electronic Renewal Process
39-0276-1901 Notice of Intent to Promulgate - Omnibus Negotiated Rulemaking, Bulletin Vol. 19-7
39-0276-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39.03.01, Rules Governing Definitions Regarding Special Permits
39-0301-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39.03.05, Rules Governing Special Permits - Oversize Non-Reducible
39-0305-1901 Proposed Rulemaking, Bulletin Vol. 19-10

39.03.06, Rules Governing Special Permits for Extra-Length/Excess Weight, Up to 129,000 Pound Vehicle Combinations
39-0306-1901 Adoption of Temporary Rules, Bulletin Vol. 19-7 (eff. 7-1-19)T
39-0306-1902 Proposed Rulemaking, Bulletin Vol. 19-10

39.03.49, Rules Governing Ignition Interlock Breath Alcohol Devices
39-0349-1901 Proposed Rulemaking, Bulletin Vol. 19-7

IDAPA 40 – IDAHO COMMISSION ON THE ARTS

40-0101-1900 ***Rules of the Idaho Commission on the Arts*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
40-0101-1900 ***Rules of the Idaho Commission on the Arts*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

40-0101-1901 *Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8*
40-0101-1901* *Proposed Rulemaking, Bulletin Vol. 19-10 (*Combined with docket no. 40-0101-1900)*

IDAPA 41 -- PUBLIC HEALTH DISTRICTS

41-0101-1900 ***Rules of the Idaho Public Health Districts (Panhandle Health District #1)*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
41-0101-1900 ***Rules of the Idaho Public Health Districts (Panhandle Health District #1)*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 42 -- IDAHO WHEAT COMMISSION

42-0101-1900F ***Rules of the Idaho Wheat Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
42-0101-1900F ***Rules of the Idaho Wheat Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 43 -- IDAHO OILSEED COMMISSION

43-0101-1900F ***Rules Governing the Idaho Oilseed Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
43-0101-1900F ***Rules Governing the Idaho Oilseed Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 45 -- HUMAN RIGHTS COMMISSION

45-0101-1900 ***Rules of the Idaho Human Rights Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
45-0101-1900 ***Rules of the Idaho Human Rights Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 46 -- BOARD OF VETERINARY MEDICAL EXAMINERS

46-0101-1900F ***Rules of the Idaho Board of Veterinary Medicine*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
46-0101-1900F ***Rules of the Idaho Board of Veterinary Medicine*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

46.01.01, Rules of the State of Idaho Board of Veterinary Medicine

46-0101-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
46-0101-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
46-0101-1902 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-10

IDAPA 47 -- STATE BOARD OF EDUCATION/ DIVISION OF VOCATIONAL REHABILITATION

47.01.01, Rules Governing Vocational Rehabilitation Services

47-0101-1901 Adoption of Temporary Rule (New Chapter), Bulletin Vol. 19-10 (eff. 8-29-19)T

IDAPA 48 -- GRAPE GROWERS AND WINE PRODUCERS COMMISSION

48-0101-1900F ***Rules of the Idaho Grape Growers and Wine Producers Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

48-0101-1900F ***Rules of the Idaho Grape Growers and Wine Producers Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

CERTIFIED SHORTHAND REPORTERS BOARD

(***Moved and Re-designated)*** - ***Rules of Procedure of the Idaho Board of Certified Shorthand Reporters*** (This chapter has been re-designated from ***IDAPA 49.01.01*** to ***IDAPA 24.29.01*** under the Bureau of Occupational Licenses - See IDAPA 24 in this Index.)

IDAPA 50 -- COMMISSION FOR PARDONS AND PAROLE

50-0101-1900 ***Rules of the Commission of Pardons and Parole*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

50-0101-1900 ***Rules of the Commission of Pardons and Parole*** - Notice of Omnibus Rulemaking - Notice of Public Hearing, Bulletin Vol. 19-10

50-0101-1900 ***Rules of the Commission of Pardons and Parole*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule - Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 51 -- IDAHO BEEF COUNCIL

51-0101-1900F ***Rules of the Idaho Beef Council*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

51-0101-1900F ***Rules of the Idaho Beef Council*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 52 – IDAHO STATE LOTTERY COMMISSION

52-0000-1900F ***Rules of the Idaho State Lottery Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapters 02-03 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

52-0000-1900F ***Rules of the Idaho State Lottery Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020) (*Rulemaking consolidates IDAPA 52.01.02 into IDAPA 52.01.03)

IDAPA 53 -- IDAHO BARLEY COMMISSION

53-0101-1900F ***Rules of the Idaho Barley Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

53-0101-1900F ***Rules of the Idaho Barley Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 54 -- OFFICE OF THE STATE TREASURER

54-0000-1900 ***Rules of the Idaho State Treasurer*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 02, Chapter 01; Title 03, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
54-0000-1900 ***Rules of the Idaho State Treasurer*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 55 – DIVISION OF CAREER TECHNICAL EDUCATION

55-0000-1900 ***Rules of the Idaho Division of Career Technical Education*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 03-04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T

55.01.03, Rules of Career Technical Schools

55-0103-1901 Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 19-7
55-0103-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 56 -- IDAHO RANGELAND RESOURCES COMMISSION

56-0101-1900F ***Rules of the Idaho Rangeland and Resources Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01-- Bulletin Vol. 19-6SE (eff. 6-30-19)T
56-0101-1900F ***Rules of the Idaho Rangeland and Resources Commission*** - Notice of Vacation of Omnibus Proposed Rulemaking, Bulletin Vol. 19-11SE

IDAPA 57 -- SEXUAL OFFENDER MANAGEMENT BOARD

57-0101-1900F ***Rules of the Sexual Offender Management Board*** - Notice of Omnibus Rulemaking - Temporary and Proposed Fee Rulemaking, Reauthorizes Title 01, Chapter 01-- Bulletin Vol. 19-6SE (eff. 6-30-19)T
57-0101-1900F ***Rules of the Sexual Offender Management Board*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

57-0101-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-10

IDAPA 58 – DEPARTMENT OF ENVIRONMENTAL QUALITY

58-0000-1900 ***Rules of the Department of Environmental Quality*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 02, 04, 10, 16, 21-24 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
58-0000-1900 ***Rules of the Department of Environmental Quality*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

58-0000-1900F ***Rules of the Department of Environmental Quality*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 05-08, 12-14, 18, 20, 25 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
58-0000-1900F ***Rules of the Department of Environmental Quality*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule, Bulletin Vol. 19-11SE (PLR 2020)

TMDLs:

58-0000-1901 Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2018 (HUC 16020309), Bulletin Vol. 19-1
58-0000-1902 Curlew Valley Subbasin Assessment and Total Maximum Daily Load (TMDL): 2019 (HUC 16020309), Bulletin Vol. 19-6
58-0000-1903 Big Lost River Subbasin Temperature Total Maximum Daily Load (TMDL): 2019 Addendum and Five-Year Review (HUC 17040218), Bulletin Vol. 19-7
58-0000-1904 Palisade Subbasin 2019 Total Maximum Daily Load (TMDL) And Five-Year Review (HUC 17040104), Bulletin Vol. 19-8
58-0000-1905 Hatwai Creek Subbasin Assessment and Total Maximum Daily Loads (TMDL) – 2019 Temperature TMDL (HUC 17060306), Bulletin Vol. 19-9

58.01.01, Rules for the Control of Air Pollution in Idaho

58-0101-1901 Notice of Intent to Promulgate a Rule - Negotiated Rulemaking, Bulletin Vol. 19-3
58-0101-1902 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
58-0101-1903 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5
58-0101-1904 Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
58-0101-1903 Proposed Rulemaking, Bulletin Vol. 19-8
58-0101-1905 Proposed Rulemaking, Bulletin Vol. 19-8
58-0101-1904 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

58.01.02, Water Quality Standards

58-0102-1901 Notice of Meeting of the Idaho Board of Environmental Quality, Bulletin Vol. 19-9
58-0102-1901 Proposed Rulemaking, Bulletin Vol. 19-9

58.01.03, Individual/Subsurface Sewage Disposal Rules

58-0103-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
58-0103-1902 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
58-0103-1902 Proposed Rulemaking, Bulletin Vol. 19-9

58.01.04, Rules for Administration of Wastewater Treatment Facility Grants

58-0104-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
58-0104-1901 Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-11 *(*Repealed and Consolidated into 58.01.22)*

58.01.05, Rules and Standards for Hazardous Waste

58-0105-1901 Proposed Rulemaking, Bulletin Vol. 19-8

58.01.06, Solid Waste Management Rules

58-0106-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
58-0106-1901 Proposed Rulemaking, Bulletin Vol. 19-11

58.01.09, Rules Regulating Swine Facilities

58-0109-1901 Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
58-0109-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

58.01.11, Ground Water Quality Rule

58-0111-1901 Adoption of Temporary Fee Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
58-0111-1901 Proposed Rulemaking (Fee Rule), Bulletin Vol. 19-9

58.01.12, Rules for Administration of Water Pollution Control Loans

58-0112-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
58-0112-1901* Proposed Rulemaking**, Bulletin Vol. 19-11 *(*Consolidates 58.01.20 into this chapter)*
*(**Rulemaking changes chapter name to: "Rules for Administration of Wastewater and Drinking Water Loan Funds")*

58.01.13, Rules for Ore Processing by Cyanidation

58-0113-1901 Notice of Intent to Promulgate a Rule – Negotiated Rulemaking, Bulletin Vol. 19-5

58.01.15, Rules Governing the Cleaning of Septic Tanks

58-0115-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
58-0115-1901 Notice of Status of Rulemaking, Bulletin Vol. 19-9

58.01.17, Recycled Water Rules

58-0117-1901 Adoption of Temporary Rule, Bulletin Vol. 19-7 (eff. 6-30-19)T
58-0117-1901 Proposed Rulemaking, Bulletin Vol. 19-9

58.01.20, Rules for Administration of Drinking Water Loan Program

58-0120-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
58-0120-1901* Proposed Rulemaking (Chapter Repeal), Bulletin Vol. 19-11 *(*Repealed and Consolidated into 58.01.12)*

58.01.22, Rules for Administration of Planning Grants for Drinking Water Facilities

58-0122-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-8
58-0122-1901* Proposed Rulemaking**, Bulletin Vol. 19-11 *(*Consolidates 58.01.04 into this chapter)*
*(**Rulemaking changes chapter name to: "Rules for Administration of Planning Grants for Drinking Water and Wastewater Facilities")*

IDAPA 59 – PUBLIC EMPLOYEE RETIREMENT SYSTEM OF IDAHO (PERSI)

59-0000-1900 ***Rules of the Idaho Public Retirement System of Idaho*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-06, 08; Title 02, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
59-0000-1900 ***Rules of the Idaho Public Retirement System of Idaho*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

IDAPA 60 – IDAHO STATE SOIL AND WATER CONSERVATION COMMISSION

60-0000-1900 ***Rules of the Idaho State Soil and Water Conservation Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 04 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
60-0000-1900 ***Rules of the Idaho State Soil and Water Conservation Commission*** - Notice of Vacation of Omnibus Proposed Rulemaking, Bulletin Vol. 19-11SE

60-0000-1900F ***Rules of the Idaho State Soil and Water Conservation Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 05, Chapter 01 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
60-0000-1900F* ***Rules of the Idaho State Soil and Water Conservation Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Fee Rule (New Chapter(, Bulletin Vol. 19-11SE (PLR 2020)
(*Consolidates IDAPA 60.05.01 and 60.05.04 into a new chapter designated 60.05.01))

60.05.01, Resource Conservation and Rangeland Development Program

60-0501-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-6
60-0501-1901 Proposed Rulemaking, Bulletin Vol. 19-10

IDAPA 61 – STATE PUBLIC DEFENSE COMMISSION

61-0000-1900 ***Rules of the Idaho State Public Defense Commission*** - Notice of Omnibus Rulemaking - Temporary and Proposed Rulemaking, Reauthorizes Title 01, Chapters 01-04, 06-08 -- Bulletin Vol. 19-6SE (eff. 6-30-19)T
61-0000-1900 ***Rules of the Idaho State Public Defense Commission*** - Notice of Omnibus Rulemaking - Adoption of Pending Rule, Bulletin Vol. 19-11SE (PLR 2020)

61.01.08, Rules Governing the Administration of Idaho's Indigent Defense Delivery Systems - Rule Definitions

61-0108-1901 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7
61-0108-1902 Notice of Intent to Promulgate Rules - Negotiated Rulemaking, Bulletin Vol. 19-7

Subject Index

A

A Positive Test 872
  Confidentiality 872
  Hearing Set 872
  Lacking Satisfactory Explanation 872
  Notification 872
  Opportunity for Explanation 872
  Written Notice 872
AAA 1108
  AAA Designation 1108
  Denial of AAA Designation 1108
  Limit on the Number of Area Agencies & PSA's 1108
  Revocation of AAA Designation 1108
AAA Assessments Of Providers 1110
AAA Budget Forms & Revisions 1108
  Budget Forms 1108
  Budget Revisions 1108
AAA Responsibilities 1109
AABD Cash Overpayment 1524
AABD Cash Payments 1520
  Couple or Participant Living with Essential Person Maximum Amount 1520
  RALF & CFH 1520
  Room & Board Maximum Payment 1520
  Semi-Independent Group Maximum Payment 1520
  Single Participant Maximum Payment 1520
AABD Cash Underpayment 1524
AABD Eligibility In Ineligible Institutions 1488
  First Month in Institution 1488
  Temporary Institution Stay 1488
AABD For The Aged 1489
AABD For The Disabled 1489
  Grandfathered Participant for Aid to the Permanently & Totally Disabled (APTD) or Aid to the Blind (AB) 1489
  Medicaid Pending SSA Appeal 1489
  SSA Decision for Disabled 1489
AABD Period Of Ineligibility For Resource Transfers 1497
Abandoned Vehicles 5081
Abandonment 3829, 4737
  General Requirements 4737
  Objectives 4737
Abandonment, Relinquishment, & Termination 3181, 3186
  Non-Use 3181, 3187
  Removal of Improvements 3181
  Section 58-603, Idaho Code 3181, 3187
  Voluntary Relinquishment 3181, 3187
ABAWD Good Cause 1429
Abbreviations 48, 55, 88, 104, 108, 164, 171, 179, 196, 217, 640, 1185, 1478, 1579, 2687, 3096, 3202, 3258, 3333, 3918, 4106, 4609, 5281, 6055, 6090
A.G., Office of the State Attorney General 1185
AABD, Aid to the Aged, Blind & Disabled 1478, 1579
AAMC, Association of American Medical Colleges 3333
AAVLD. American Association of Veterinary Laboratory Diagnosticians 179
AB, Aid to the Blind 1478
ACGME, Accreditation Council for Graduate Medical Education 3333
AFA, Application for Assistance 1478
AMA, American Medical Association 3333
AOA, American Osteopathic Association 3333
APA 5281
APC 2687
APHIS, Animal & Plant Health Inspection Service 88, 179
APHIS, Animal Plant Health Inspection Service 49, 217
API 3258
APTD 1478
ASC 2687
ASVI, Alien Status Verification Index 1478
AVIC, Area Veterinarian in Charge 49, 88, 179, 217
AWP 2687
AZA, Association of Zoos & Aquariums 88, 108, 179
BAPA 88
BBL 3258
BMP 3096
BOE, County Board of Equalization 4609
BPAT 88
BTA, Idaho Board of Tax Appeals 4609
CACMS, Committee on Accreditation of Canadian Medical Schools 3333
CCT, Comparative Cervical Tuberculin Test 49
CERCLA. Comprehensive Environmental Response, Compensation, & Liability Act 1185
CF, Complement Fixation Test 88
CFR, Code of Federal Regulations 49, 88, 108, 179, 217, 1185
CIF, Commodity Indemnity Fund 164
CMS 2687
COCA, Commission on Osteopathic College Accreditation 3333
COLA, Cost of Living Adjustment 1478
CPT 2687
CRC, Civil Rights Center of the U.S. Department of Labor 641
CS 4106
CSA, Community Spouse Allowance 1478
CSNS, Community Spouse Need Standard 1478
CSRA, Community Spouse Resource Allowance 1478
CSS, Child Support Services 1579
CWD, Chronic Wasting Disease 88, 179
CWDP, Chronic Wasting Disease Program 180
DEQ 3096
DHW, Department of Health & Welfare 1478
DSM 5281
EBT, Electronic Benefits Transfer 1478
ECA, Extended Cash Assistance 1579
ECFMG, Educational Commission for Foreign Medical Graduates 3333
EDI 2687
EIA, Equine Infectious Anemia 88
EITC, Earned Income Tax Credit 1478, 1579
EO, Equal Opportunity 641
EVA, Equine Viral Arteritis 88
FAIMER, Foundation for Advancement of International Medical Education 3333
FDA 55
FMA, Family Member Allowance 1478
FPA 88
FROI 2687
FSI, Federal Spousal Impoverishment 1478
FSMB, Federation of State Medical Boards 3333
GAAP, Generally Accepted Accounting Principles 171
HCBS, Home & Community Based Services 1478
HCPCS 2687
HMTA, Hazardous Materials Transportation Act 1185
HUD, The U.S. Department of Housing & Urban Development 1478, 1579
IAIABC 2687
ICIA, Idaho Crop Improvement Association 196
IDFA 6090
IDFG, Idaho Department of Fish & Game 104, 108
IDJC 5281

IDOC 5281
IDWR 3202
IEVS, Income & Eligibility Verification System 1479
INA, Immigration & Nationality Act 1479
IPIDDS 6090
IPV, Intentional Program Violation 1579
IRS, The U.S. Internal Revenue Service 1479
ISDA, Idaho State Department of Agriculture 104, 171, 180, 196
ISIF 2687
ISIS, International Species Information System 108
LCME, Liaison Committee on Medical Education 3333
LiLI 3918
LSS 2687
LSTA 3918
MA, Medical Assistance 1479
MCF 3259
MCLE 6090
MSDRG 2687
NAEBA, North American Elk Breeders Association 88, 180
NCCI 2687
NDC 2687
NFPA, National Fire Protection Act 1185
NGL, No Gross Lesion(s) 49
NPE, No Price Established Contract 164
NPIP, National Poultry Improvement Plan 89
NRCS 6055
NVSL, National Veterinary Services Laboratories 49
NVSL, National Veterinary Services Laboratory 180
OAA, Old Age Assistance 1479
OEMHS, Office of Emergency Management & Homeland Security 1185
OSHA, Occupational Safety & Health Administration 1185
P. tenuis 89
PASS, Plan for Achieving Self-Support 1479
PCR, Polymerase Chain Reaction 89
PCSOT 5281
PDC 6090
PEMMP, Post Exposure Monitoring and Management Plan 217
PML 4106
PMP, Population Management Plan 108
PRC, Personal Responsibility Contract 1579
PVC 3259
RBRVS 2687
RBS, Idaho Regional Bomb Squads 1186
RCRDP 6055
RDGF, Red Deer Genetic Factor 89
RSDI, Retirement, Survivors, & Disability Insurance 1479
RVU 2688
SAVE, Systematic Alien Verification for Entitlements 1479
SIF, Seed Indemnity Fund 164
SIF, The Idaho Seed Indemnity Fund 171
SOCB 5281
SOMB 5281
SOS 4106
SROI 2688
SSA, Social Security Administration 1479
SSI, Supplemental Security Income 1479
SSN, Social Security Number 1479, 1579
SSP, Species Survival Plan 108
STC, Idaho State Tax Commission 4609
TAFI, Temporary Assistance for Families in Idaho 1479, 1579
TAG, Taxon Advisory Group 108
TANF, Temporary Assistance to Needy Families 1579
TB, Tuberculosis 89, 180
UIB, Unemployment Insurance Benefits 1479
UM&R, Uniform Methods & Rules 89, 180
UMR, Uniform Methods & Rules 49
USDA 4106
USDA, United States Department of Agriculture 49, 89, 108, 180, 217
USMLE, United States Medical Licensing Exam 3333
USPS, United States Postal Service 171
VA, Veterans Administration 1479, 1579
VHSV, Viral Hemorrhagic Septicemia Virus 89
VS, Veterinary Services 49, 89, 180, 217
WFME, World Federation for Medical Education 3333
WIA, Workforce Investment Act 641
WMD, Weapons of Mass Destruction 1186
Abbreviations A Through G, Food Stamps 1410
Abbreviations I Through Z, Food Stamps 1411
ICCP 1411
IHE 1411
INA 1411
INS 1411
IPV 1411
IRS 1411
JSAP 1411
LUA 1411
MUA 1411
PA 1412
RSDI 1412
SAVE 1412
SDX 1412
SQC 1412
SRS 1412
SSA 1412
SSI 1412
SSN 1412
SUA 1412
TAFI 1412
TOP 1412
TUA 1412
UI 1412
USDA 1412
VA 1412
WIC 1412
WIOA 1412
Abbreviations, IDAPA 02.04.20 72
APHIS 72
AVIC 72
CFR 72
DSA 72
MCI 72
UM&R 72
USDA 72
VS 72
Abbreviations, IDAPA 37.03.02 4700
AF 4700
CFS 4700
P.D. or POD 4700
P.U. or POU 4700
USGS 4700
Abbreviations, IDAPA 58.01.06 5630
BRC, Below Regulatory Concern 5630
CFR' Code of Federal Regulations 5630
EPA, Environmental Protection Agency 5630
ISWFA, Idaho Solid Waste Facilities Act 5630
MSWLF, Municipal Solid Waste Land Fill 5630
NMSW, Non-Municipal Solid Waste 5630
NMSWLF, Non-Municipal Solid Waste Land Fill 5630
PCS, Petroleum Contaminated Soils 5630
RCRA, Resource Conservation and Recovery Act 5630
U.S.C., United States Code 5630
Ability Of Combatant 3415
Questioned Ability 3415
Satisfy Commission 3415
Able Bodied Adults Without Dependents (ABAWD) Work Requirement 1429
Combination of Work and Work

Programs 1429
Participate in JSAP or Another Work Program 1429
Participate in Work Opportunities 1429
Residents of High Unemployment Areas 1429
Work at Least Eighty Hours per Month 1429
Able To Work 607
Able to Perform Some Type of Work 607
Able to Work Part-Time 607
Disability Compensation 607
Illness Provision 607
Illness Provision as Applied to Transitional or Reopened Claim 607
Withdrawing From Labor Market Because of Illness 607
Abolishment Of Positions 1141
Abortion For Minors 2138
Abortion Procedures
Participant Eligibility 1648
Provider Qualifications & Duties 1648
Required Documentation in the Case of Rape or Incest 1648
Required Documentation in the Case Where the Abortion is Necessary to Save the Life of the Woman 1648
Aboveground, Open Pit, Mining 4357
Exempt Purchases 4357
Exemption Certificate 4358
Taxable Purchases 4358
Abstracts Of Value 4446
Additional Information to be Included 4446
Definitions 4446
Abstracts Of Value And Identification Of Urban Renewal Increment And Partial Exemption Values
Cross Reference 4447
Nature of Verification Document 4446
Submittal of Corrections to Erroneous Abstracts or Related Documents 4447
Verification of Abstracts 4446
Abuse, Neglect Or Domestic Violence 2138
Abuse, Neglect, Or Domestic Violence 2135
Incapacity of Victim 2135
Judgment of Professional Staff 2135
Accelerated Life Insurance Income 1510
Acceptable Disclosures, Disclosure Of Prior Use 239
Acceptable Forms 4124
Acceptable Forms For Notice Of Cancellation, Refusal To Renew, & Availability Of Idaho Automobile Insurance Plan 2732
Acceptable Language 2732
Notice Forms 2732
Acceptance & Refusal Of Documents 4126
Acceptance Of Checks 5088
Acceptance Or Rejection Of Bids & Proposals 4900
Best Interest 4900
Bidder Is Not Responsible 4900
Deviations 4900
Does Not Meet Specifications 4900
Not Lowest Responsible Bid 4900
Access 1105
HIPAA 1105
Investigation 1105
Privacy 1105
Visitation 1105
Access By Advocates & Representatives 2407
Advise & Represent 2407
Assist Residents to Secure Rights 2407
Communicate Privately 2407
Inform Residents of Rights 2407
Inform Residents of Services 2407
Access By Department Authorized Agents, Residential Care Facility 2613
Access By Persons To Information Pertaining To Them 600
Agent 601
Attorney 600
Elected Official 600
Individual or Employer 600
Access To An Individual's Own Record 2136
Children's Mental Health 2136
Clinical Laboratories 2136
Confidential Information 2136
Legal Action 2136
Access To Diving Boards 2335
Access To Emergency Services 4018
Access To Medical Records 1273
Access To Or Coverage Under Other Health Plans 1367
Covered by Creditable Health Insurance 1368
Eligible for Title XIX 1368
Idaho State Employee Benefit Plan 1368
Access To Program & Financial Information 1123
Access To Records 3252
Access To Records Of Individuals With Developmental Or Mental Disabilities 2142
Accessibility for Persons With Mobility & Sensory Requirements For Building Construction & Physical Standards Impairments 2460
Accessibility Of Agency Records 2082
Accessibility of Area, Outfitter Application 3761
Accessing Adult Mental Health Services 2245
Accessing Children's Mental Health Services 2256
Accessing Substance Use Disorders Services 2211
Accidental Fouling 3440
Accidental Foul 3440
Contest Stopped by Referee 3440
Contest Stopped Due to Accidental Foul 3440
Accidents & Fires 3276
Initiate Spill Response & Corrective Actions 3276
Notify the Department 3276
Provide Information to Emergency Response 3276
Accommodations Tax 4554
In General 4554
Account Balance Limit On Contributions 5269
Account Designation 2903
Designation of a Fiduciary Fund 2903
Trust Fund Account 2903
Account Holder Responsibilities
Account Losses 842
Notification of Account Security Breach 842
Personal Use Only 842
Security 842
Account Information 841
Accountability 3793
Annual Statements Required 3793
Department Not Liable 3793
Accountant's Letter Of Qualification 2948
Background & Experience 2948
Compliance With Rule 2948
Compliance with Section 014 2948
Consent to Requirements of Section 020 2948
Independence 2948
Properly Licensed 2948
Accounting & Auditing Procedures 5818, 5874
Accounting & Delinquency Control
Cancellation of Refund Warrants 637
Erroneous Wage Reports 637
Notification of Underpayments 637
Accounting & Reporting 2536
Accounting & Reporting Required 5255
Accounting For Water Delivery 4652
Accounting Of Revenues & Expenses 5256
Deposit of Receipts 5256
Ledger Entries & Receipts for Expenses 5256
Recording of Wages 5256
Submission With Annual Report 5257

Accounting Requirements 2957
Director's Approval 2960
Filing of Reinsurance Agreements 2960
Standards for Credit on Financial Statement 2957
Accounting Treatment 1757
Final Payment 1758
Other Actions 1758
Overpayments 1758
Accounts Will Not Bear Any Interest 844
Accumulated Contributions 6034
Acid Based Chemistry 2341
Acknowledgment 4127, 4612
Acknowledgment Letter 4612
Defective Appeal 4612
When Filing Is a Paper or Paper-Based UCC Document 4127
When Filing Is Not a Paper or Paper-Based UCC Document 4128
Acknowledgment Of Conditions Leading To Discharge 3304
Acquired Immune Deficiency Syndrome (AIDS) 1284
Investigation 1284
Reporting Requirements 1284
Acquisition Costs Exceeding Fair Market Value 3850
Acquisition Of Concession Services 4890
Acquisition Of Control -- Statement Filing 2917
Acquisition Of Location Information 4606
Acquisition Of Publicly Owned Lands 3850
Acquisition Of Section 41-3804(1)(D) Insurers 2917
Name of the Domestic Insurer 2917
References to Insurer 2917
Acquisition Of Structures 3850
Acquisition Of Water Rights For The Board's Water Supply Bank 4685
Acquisition Of Water Rights For The Board's Water Supply Bank Application 4685
Consideration 4685
Criteria 4685
General 4685
Inadequate Application 4685
Placement of Water Right 4686
Resolution of Board 4686
Review 4685
Acquisitions Involving Compatible Multiple Uses 3850
Acquisitions Involving Nonrecreation Use 3851
Life Estates 3851
Nonrecreation Use Limited 3851
Acreage And Reclamation Cost Limitations 3152
Maximum Disturbance & Reclamation Cost 3152
Acronyms 5602
EPA 5602
PST 5602
RAGS 5602
UECA 5602
Acting Appointment To A Position 1153
Conditions for Acting Appointment 1153
Effective Date 1154
Minimum Qualifications 1154
Notification 1154
Acting On Household Composition Changes 1455
Action 40, 415
Correction or Repair, Action 415
Division Action 415
License File, Action 415
Action By Commission 3950
Action On Applications & License Fees 3008
Arson, Fire, & Fraud Prevent Account 3009
Branch Office License 3009
Fees 3009
Investigation of Applicants 3008
Action On Licenses 5259
Applications for Licenses 5259
Issuance of Licenses 5259
Notice of Intended Actions 5259
Action To Collect Unpaid Tax Or Deficiency 4588
Authority for Collection 4588
In General 4588
Actions Resulting From Investigations 1250
Letter of Guidance 1250
Negotiated Resolution 1250
Warning Letter 1250
Active Member 6034
Active Member Allocation 6034
Active Treatment Services 1958
Active Vendor Ceiling 1083
Active Wells 3287
Annual Reports for Active Wells 3287
Extension of Active Status 3287
Gas Storage Wells 3287
Activities 409
Activity Reports 410
Consent Forms 410
Recreational Activities 409
Staff Requirements for Group Activities 409
Activities & Community Integration 2400
Activities 2400
Activity Supplies 2400
Transportation 2400
Activities Program 1396
Activity & Use Limitations 5608
Documentation of Controls 5609
Purpose 5608
Removal of Activity & Use Limitations 5609
Activity Policies 2445
Activity Opportunities 2446
Community Resources for Activities 2446
Policy & Plan 2446
Actuarial Assumption Tables 6018
Actuarial Assumptions To Be Specified 6028, 6041
Actuarial Opinion 2989
Standard Valuation Law 2989
Actuarial Opinion Of Reserves & Supporting Documentation 2984
Actuarial Tables 6041
Acupuncture Trainee Permit 3622
Education 3622
Supervision 3622
Added Protection In Lieu Of Hazard Reduction 3236
Addendum To Certificate Of Compliance-Fire Hazard Management Agreement 3235
Adding Previously Disqualified Household Members 1455
Additional Bonding Requirements 161
Additional Conditions Applicable To Reinsurance Agreements 2979
Existing Agreements 2980
Failure to Identify Beneficiary 2980
Financial Reporting 2980
Other Provisions of Reinsurance Agreement 2980
Reinsurance Agreement 2979
Additional Documentation By Taxing Districts Not Levying Against All Taxable Property 4513
Abstracts Showing Value of Property Against Which Levy is to be Applied 4514
Ambulance Districts 4514
Fire Districts 4513
Flood Control, Levee, Watershed Improvement, Community Infrastructure Districts, & Herd Districts 4514
Tax Levy Rate Calculations & Documentation of Categories to be Taxed 4513
Additional Duties & Responsibilities Of Hospitals & Counties 2091
Additional Fire & Life Safety Standards For Buildings & Facilities 2470
Electrical Installations & Equipment 2470
Exit Door Locks 2471
Fire Alarm Smoke Detection System 2470
Medical Gases 2470
Natural or Man-Made Hazards 2471
Portable Fire Extinguishers 2471
Resident Placement 2471
Solid Fuel Heating Devices 2470
Structure, Maintenance, Equipment to Assure Safety 2471

Telephone 2471
Weeds & Trash 2471
Additional Grounds For Suspension, Revocation, Disciplinary Sanctions Or Denial Or Restriction Of A License 3328
Conduct 3328
Discipline 3328
Standard of Care 3328
Unethical Advertising 3328
Additional Household Deduction Or Credit For Elderly Or Developmentally Disabled Dependents 4167
Developmentally Disabled Defined 4167
Fractions of Years 4168
Qualifying Individual 4168
Additional Import Requirements 92
Additional Import Requirements, Sheep Board May Impose 217
Additional Labeling Requirements, Potatoes 3911
Compliance for Idaho Grown Potatoes 3911
Compliance for Private Brands or Labels That Do Not Reference Idaho Locations 3911
Compliance for Private Brands or Labels That Reference Idaho Locations 3911
Disclosure of Geographic Growing Area of Origin upon Potato Containers 3911
Additional Limits On Purchased Service 6033
Additional Measures To Protect Ground Water From Contamination 5660
Certification 5661
Notification 5660
Notification Forms 5660
Requirements for Hazardous Substance UST Systems 5661
Requirements for Petroleum UST Systems 5660
Additional Offices 2302
Assignment of Duties 2303
Copies of Original Certificates 2303
Determination 2302
Additional Payments To Family Alternate Care Providers 2264, 2538
Highest Level of Need 2265, 2538
Lowest Level of Need 2264, 2538
Moderate Level of Need 2265, 2538
Reportable Income 2265, 2539
Additional Placement Considerations 2627
Child Placement Preparation 2627
Placement Emergency Change 2627
Placement Service Termination 2627
Additional Policies Required 2447
Behavior Management for Residents 2448
Facility Operations, Inspections, Maintenance, & Additional Policy Requirements Testing 2448
Hazardous Materials 2448
Mechanical Equipment 2449
Notification of Changes to Resident Health or Mental Status 2448
Provided Care & Services by Staff 2448
Resident Property Identified & Safe 2448
Response of Staff to Emergencies 2448
Additional Program Policy Requirements 388
Documented Staff Training 389
Written Policies 388
Additional Provisions for Adoption Services 2629
Additional Provisions For Adoption Services, Sections 662 Through 681 2629
Additional Provisions For Children's Alcohol-drug Abuse Residential Care Facilities 2651
Additional Provisions for Children's Alcohol-Drug Abuse Residential Care Facilities 2651
Additional Provisions for Children's Residential Maternity Care 2650
Additional Provisions For Children's Residential Maternity Care, Also See Sections 500 Through 599 & 700 Through 769 2650
Additional Provisions For Foster Home Certification 2625
Additional Provisions for Inter-Country Adoption Services 2633
Additional Provisions For Inter-Country Adoption Services, Sections 680 Through 699 2633
Additional Provisions For Non-Accredited Children's Residential Schools 2651
Additional Provisions for Non-Accredited Children's Residential Schools 2651
Additional Provisions For Stationary Children's Therapeutic Outdoor Programs 2668
Fire Safety Requirements 2668
Electrical 2669
Escape Routes 2669
Fire Extinguishers 2668
Flammable Liquids 2669
Smoke Detectors 2669
Health Safety Requirements 2669
Food 2669
Sewage Disposal 2669
Water Supply 2669
Additional Provisions for Transitional Living Services 2627
Additional Qualifications For Registration 3653
Exemption Review 3653
Felony Conviction 3653
Fraud in Application Process 3654
Additional Racing Officials 737
Additional Requirements 2743, 5054
Life Settlements Occurring Within Two Years of Policy Origination 2744
Owner's Right to Rescind Life Settlement Contract 2744
Owner's Statement 2743
Additional Requirements For Use Of Trademarks 3911
Agreement 3911
Marks 3911
Reproductions 3911
Royalty Fees 3911
Additional Standards For Benefit Triggers For Qualified Long-Term Care Insurance Contracts 2845
Appeals 2846
Certifications by Carrier 2846
Certifications by Professionals 2846
Chronically Ill 2846
Definitions 2845
Payments & Conditions 2846
Additional Standards for Children's Agencies 2624
Additional Standards for Children's Residential Care Facilities 2634
Additional Standards For Children's Residential Care Facilities, Sections 700 Through 769 2635
Additional Standards For Children's Therapeutic Outdoor Programs 2652
Additional Standards for Children's Therapeutic Outdoor Programs 2652
Additional Standards for Solo Experiences In Children's Therapeutic Outdoor Programs 2666
Additional Standards for Stationary Children's Therapeutic Outdoor Programs 2668
Additional Time After Service By Mail 4659
Additional Tolerances - In Lots Of Two Or More Cases
Grade A 148
Grade AA 148
Grade B 148
Lots of Two or More Cartons 148
Single Egg Exemption 148
Additional Tolerances -- In Lots Of Two Or More Cases 148
Additional Training Related To Changes 2483
Additions & Penalties 4395, 5274
Repeated or Intentional Invalid Exemption Claims 4395
Substantial Underpayment 4395
Add-On 832

Additional License 832
Higher Fee 832
Address Of Idaho Board Of Landscape Architects 3511
Address Of The Board Of Examiners Of Nursing Home Administrators 3527
Adequacy Of Facility Owners Locating Underground Facilities 589
Adequacy Of Surplus 2920
Adequate Heat, Light, & Ventilation 2607
Adequate Notice, Written Statement 1457
Adequate Registers 1151
Adjudication Of Technical Knockout 3441
Contest Termination 3441
Win by Other Than Full Count 3441
Adjusted Access Fees During Pilot Projects 880
Adjusted Gross Income 2670
Adjustments Required Only Of Taxpayers Reporting Nonbusiness Income 4156
Adjustments To Distributable Net Income Of Estates & Trusts 4156
Adjustments To Taxable Income -- Additions Required Of All Taxpayers 4155
Capital Loss or Passive Loss Carryover Deduction 4155
Interest & Dividend Income Exempt From Federal Taxation 4155
Interest Expense Attributable to Tax-Exempt Interest Income 4155
Net Operating Loss Deduction 4155
Special First-Year Depreciation Allowance 4156
State & Local Income Taxes 4155
Adjustments To Taxable Income -- Additions Required Only Of Corporations 4156
Adjustments To Taxable Income -- Additions Required Only Of Individuals 4156
Certain Expenses of Eligible Educators 4156
Lump Sum Distributions 4156
State & Local Sales Tax 4156
Withdrawals from an Idaho College Savings Program 4156
Withdrawals from an Idaho Medical Savings Account 4156
Adjustments To Taxable Income -- Bonus Depreciation On Property Acquired After September 10, 2001, & Before December 31, 2007, Or After December 31, 2009 4163
Depreciation 4163
In General 4163
Adjustments To Taxable Income -- In General 4155
Adjustments To Taxable Income -- Subtractions Available Only To Corporations 4162
Foreign Dividend Gross-Up 4162
Stock Insurance Subsidiary Dividends or Distributions 4162
Adjustments To Taxable Income -- Subtractions Available Only To Individuals 4160
Adoption Expenses 4162
Alternative Energy Devices 4161
Capital Gains 4162
Energy Efficiency Upgrades 4161
Health Insurance Costs 4162
Household & Dependent Care Services 4161
Household Deduction for Elderly or Developmentally Disabled Dependents 4161
Idaho College Savings Program 4162
Idaho Medical Savings Account 4162
Income Not Taxable by Idaho 4160
Military Compensation for Service Performed Outside Idaho 4160
Reparations to Displaced Japanese Americans 4162
Retirement Benefits 4161
Self-Employed Worker's Compensation Insurance Premiums 4161
Social Security & Railroad Retirement Benefits 4161
Standard or Itemized Deduction 4160
Unused Net Operating Losses of Estates & Trusts 4162
Adjustments To Taxable Income -- Subtractions Available To All Taxpayers 4158
Idaho Net Operating Loss 4158
Income Not Taxable by Idaho 4159
Income Restored Under Federal Claim of Right 4160
Long-Term Care Insurance 4159
Special First-Year Depreciation Allowance 4159
State & Local Income Tax Refunds 4158
Technological Equipment Donation 4159
Administering Organizations 43
Administration 356, 1378, 3830, 5045, 5090, 5091
Accident or Injury 1380
Administrator 1379
Admission Policies 1379
Automated Records 5091
Bureau Responsible 3830
Data 356
Department Mission Statement 356
Disposition of Fees 3830
Electronic Media Must Be Provided 5091
Fidelity 356
Governing Body 1378
Paper or Imaged Records 5091
Permits 5045
Policies & Procedures 356
Record of Resident's Personal Valuables 1380
Records Provided Free of Charge 5091
Rules for Providing Records Free of Charge 5091
Selection Methods & Criteria 5045
Status Report 3830
Use of Restraints 1379
Administration - Governing Body 1566
Patients' Rights 1566
Responsibilities 1566
Scope 1566
Structure 1566
Administration Of College Or University Program 918
Chair & Vice-Chair 919
Duties of Chair & Vice-Chair 919
Administration Of Diversion & Use Of Water Within A Ground Water Management Area 4642
Date & Effect of Order 4642
Order 4642
Preparation of Water Right Priority Schedule 4642
Responding to a Delivery Call 4642
Administration Of Educational Program 3395
Administration Of Non-Injectable Substances 859
Non-Prescription 859
Nutritional Supplement 859
Prescription 859
Administration Of Substance Abuse Test 1581
Request for New Test 1581
Specimen Collection Procedures 1581
Test Results 1581
Administration Or Use Of Alcohol, Drugs, Stimulants 3453
Procedure for Testing for Illegal Substance(s) 3454
Prohibitions 3453
Subject to Disciplinary Action 3454
Suspension 3454
Urinalysis 3454
Administration, Rules And Delegation Of Authority 4545
Administrative Action
Review of Administrative Actions by the EMS Physician Commission 1253
Revoke 1252
Administrative Action Imposed For EMS Instructor Certification 1237
Administrative Action Imposed For License Or Certification 2277
Administrative Actions 1251

Deny Application 1252
Refuse to Renew 1252
Retain with Probationary Conditions 1252
Suspend 1252
Administrative Appeal 253, 970, 5993, 6037
Administrative Appeals 308, 326, 350, 355, 503, 588, 594, 600, 606, 625, 643, 644, 2208, 2242, 2251, 2676, 3094, 3150, 3154, 3178, 3183, 3190, 3200, 3213, 3226, 3254, 3896, 3917, 3924, 3972, 3976, 3978, 3996, 3998, 4001, 4002, 4022, 4034, 4041, 4066, 4074, 4142, 4288, 4406, 5116, 5121, 5212, 5278, 5486, 5498, 5568, 5625, 5803, 5844, 5847, 5859
Appeal of Decision Based on Clinical Judgment 2242
Appeal of Denial Based on Eligibility Criteria 2242
Administrative Duties 3301
Management of Records 3301
Response to Complaints 3301
Administrative Fine 3403
Administrative Fines/Probation/ Restrictions 3784
Penalties -- Table 3784
Restrictions 3785
Terms of Probation 3785
Administrative Hearings 4988
Administrative Leave 1171
Closure or Inaccessibility 1171
Investigation and Due Process Procedure 1171
Other Reasons 1171
Administrative License Or Certification Action 1216, 1246
Administrative Policy 5308
Annual Program 5308
Apportionment of Water 5308
Program Integration 5308
Protection of Waters of the State 5308
Revisions 5308
Administrative Powers 3300
Emergency Powers 3301
Inspection Powers 3300
Investigation Powers 3300
Representative Powers 3300
Administrative Procedure -- Cross Reference 6043
Administrative Procedures 5580
Administrative Procedures, Exceptions, Penalties 5141
Permit Revocation 5141
Responsibility of Permit Applicant 5141
Variance Procedures 5141
Variance Standards 5141
Administrative Proceedings & Appeals 3904
Administrative Provisions 5297, 5503, 5601, 5622, 5657, 5691, 5821, 5878
Administrative Records 367
Documentation Retention 367
Employee Files 367
Administrative Records & Data Management 5990
Administrative Record for Draft Permits 5990
Administrative Record for Final Permits 5990
Electronic Submittals 5991
Administrative Requirements 1099, 1103
Adult Protection & Ombudsman Coordination 1103
Conflict of Interest 1103
Forms 1103
Procedures 1103
Program Report 1103
Program Reviews 1103
Space 1103
State Agreements 1103
Supervision 1103
Travel Funds 1103
Administrative Requirements -- Personnel 1955
Daily Work Schedules 1955
Health & Age Requirements 1956
Job Descriptions 1955
Organizational Chart 1956
Personnel Records 1956
Policies & Procedures 1955
Training Requirements 1956
Administrative Responsibility For Establishing IPV 1464
Act to Collect 1464
Do Not Obtain Administrative Disqualification 1464
Obtain Administrative Disqualification 1464
Administrative Review 292, 1130
Filing Objections, Replies, & Decisions 1130
Request for Review 1130
Response 1130
Administrative Review For Enforcement Of Medical Support 2369
Request 2369
Scope of Administrative Review 2369
Administrative Review Of The Reconsideration Decision 6011, 6042
Administrator 1568, 1954
Absences 1568
Administrator Duties 1954
Medical Personnel as Administrator 1568
Responsibilities 1568
Administrator Approval 53, 81
Adequate Records 53, 81
Adequate Resources 53, 81
Cattle Secured 53, 81
Past History 54, 81
Administrator Designee
Qualification 3530
Authorization 3530
Criminal History 3530
Education 3530
Experience 3530
Administrator Of The USF 4023
Administrator Responsibilities & Qualifications 3397
Administrator Qualifications 3397
Administrator Responsibilities 3397
Numbers of Administrators Needed 3398
Admissibility 4043
Admission 345
Court Appearance Within Twenty-Four Hours 345
Limitations of Detention 345
Orientation Materials 345
Procedures for Admission 345
Admission & Annual Health Services & Treatment Records 402
Compliance with Child Care Licensing Rules 402
Medical Records 402
Prior Approval 402
Admission Fee At Quarters Where Combatant Trains 3427
Fee 3427
State Fee 3428
Admission Health Services & Treatment Records 411
Medical Billing 411
Medical Records 411
Prior Approval 411
Admission of Evidence 4905
Admission Of Licensees & Agents To Events 3427
Commissioner or Agent 3427
Participants 3427
Admission Policies 2446
Admissions 2446
Fee Description 2446
Policies of Acceptable Admissions 2446
Resident Admission, Discharge, & Transfer 2446
Resident Funds Policies 2446
Admissions 2411
Admission Agreement 2411
Discharge Procedure 2413
Emergency Admission 2411
Emergency Temporary Placement 2413
Notification 2411
Prior Approval Required 2411
Return of Resident's Possessions 2413
Termination of Admission Agreement 2412
Admissions Defined 4307
Admissions 4307
Rental of Tangible Personal Property 4307

Adoption 2138
Adoption & Incorporation By Reference 520, 554
Adoption & Incorporation by Reference 557
Adoption & Incorporation By Reference Of Part V (Mechanical) & Part VI (Fuel Gas) Of The International Residential Code For One (1)- & Two (2)-Family Dwellings, 2012 Edition 578
Adoption & Incorporation By Reference Of The International Fuel Gas Code, 2012 Edition 578
Adoption & Incorporation By Reference Of The International Mechanical Code, 2012 Edition 577
Adoption & Publication Of Pending Rules Following Comment Or Oral Presentation
  Adoption 289
  Publication 289
  Rule Imposing or Increasing Fees 290
Adoption And Incorporation By Reference Of The Idaho State Plumbing Code 513
Adoption And Publication Of Pending Rules Following Comment Or Oral Presentation 289
Adoption Application Fee 2561
Adoption Assistance 2569
  Determination of Eligibility for State Funded Adoption Assistance 2571
  Determination of Eligibility for Title IV-E Adoption Assistance 2569
  Interjurisdictional Adoptions 2571
  International Adoptions & Adoption Assistance 2571
  Special Needs Criteria 2570
Adoption Assistance Program Agreement 2572
  Adoption Assistance Follows the Child 2573
  Agreement Specifications 2572
  Termination of Adoption Assistance 2573
Adoption Assistance Under Title IV-B Or Title XX 1502
Adoption By Reference Of Rules Addressing Alternative Dispute Resolution (ADR) 302
Adoption By Reference Of Rules Addressing Appeal To District Court 307
Adoption By Reference Of Rules Addressing Construction Of These Rules, Communications To The Office, Service By The Office & Computation Of Time 293
Adoption By Reference Of Rules Addressing Declaratory Rulings 298
Adoption By Reference Of Rules Addressing Defaults 306
Adoption By Reference Of Rules Addressing Evidence 306
Adoption By Reference Of Rules Addressing Hearing Officers & Presiding Officers 298
Adoption By Reference Of Rules Addressing Hearings & Miscellaneous Procedure 306
Adoption By Reference Of Rules Addressing Informal Proceedings 294
Adoption By Reference Of Rules Addressing Interlocutory, Preliminary & Final Orders & Review Or Stay Of Orders 306
Adoption By Reference Of Rules Addressing Intervention & Public Witnesses 297
Adoption By Reference Of Rules Addressing Petitions, Complaints, Motions, Answers & Consent Agreements 297
Adoption By Reference Of Rules Addressing Records For Decision 306
Adoption By Reference Of Rules Addressing Representatives Of Parties 295
Adoption By Reference Of Rules Addressing Service Of Pleadings & Other Rules On Pleadings 297
Adoption By Reference Of Rules Addressing Settlements 306
Adoption By Reference Of Rules Relating To Answers To Production Requests, Filing & Service Of Discovery-Related Documents, Exhibit Numbers, & Prepared Testimony & Exhibits 303
Adoption Expenses 4174
  Financial Assistance 4175
  In General 4174
  Ineligible Expenses 4174
  Maximum Deduction 4174
  Year Deduction Allowed 4174
Adoption Of Classification Schedule 1140
Adoption Of Federal Slamming Regulations 4020
Adoption Of Persons Born In Idaho 2310
  Corrections on Adoptive Certificates 2310
  Examination of Adoptive Child Born in Idaho for Whom No Original Certificate of Birth Can Be Located 2310
Adoption Of Reference Of Rules Addressing Prehearing Conferences 302
Adoption Services 2549
Adoption Services - Nonprofit Status, Children's Agencies 2629
Adoption Services Policy 2549
Adoptive Home Study 2560
Adoptive Parent Information 2632
  Circumstances of the Placement 2632
  Date, Time & Location of Birth 2632
  Family of Origin 2632
  Medical Records 2632
  Name 2632
  Other Information 2632
  Preparation for Placement 2632
  Racial, Ethnic, & Religious Considerations 2632
Adult DD Waiver Services
  Coverage & Limitations 1922
    Adult Day Health 1925
    Behavior Consultation/Crisis Management 1925
    Chore Services 1923
    Environmental Accessibility Adaptations 1924
    Home Delivered Meals 1925
    Non-Medical Transportation 1924
    Personal Emergency Response System (PERS) 1925
    Place of Service Delivery 1926
    Residential Habilitation 1922
    Respite Care 1924
    Self-Directed Community Supports 1926
    Skilled Nursing 1925
    Specialized Medical Equipment & Supplies 1925
    Supported Employment 1924
    Transition Services 1926
  Eligibility 1921
    Age of Participants 1921
    Case Redetermination 1922
    Eligibility Determinations 1921
    Home & Community-Based Services Waiver Eligible Participants 1922
    Home & Community-Based Waiver Participant Limitations 1922
    Processing Applications 1922
    Transmitted Decisions to Self-Reliance Staff 1922
  Procedural Requirements 1927
    Authorization of Services on a Written Plan 1927
    Provider Records 1927
    Provider Responsibility for Notification 1927
    Records Maintenance 1927
  Provider Qualifications & Duties 1928
    Adult Day Health 1932
    Behavior Consultation or Crisis Management 1932
    Chore Services 1930
    Environmental Accessibility Adaptations 1931

Home Delivered Meals 1931
Non-Medical Transportation 1931
Personal Emergency Response System 1931
Residential Habilitation -- Certified Family Home (CFH) 1929
Residential Habilitation -- Supported Living 1928
Respite Care 1931
Service Supervision 1932
Skilled Nursing 1932
Specialized Medical Equipment & Supplies 1931
Supported Employment 1931
Transition Services 1932
Provider Reimbursement 1932
Claim Forms 1933
Fee for Service 1933
Rates 1933
Adult Developmental Disabilities Home & Community Based Services (HCBS) State Plan Option 1895
Adult Developmental Disability Services
Quality Assurance And Improvement 1856
Abuse, Fraud, or Substandard Care 1856
Concurrent Review 1856
Exception Review 1856
Quality Assurance 1856
Quality Improvement 1856
Adult Developmental Disability Services Prior Authorization
Coverage & Limitations 1850
DD Waiver Services 1850
Developmental Therapy 1850
Service Coordination 1850
Definitions 1848
Adult 1848
Assessment 1848
Clinical Review 1848
Community Crisis Support 1848
Concurrent Review 1848
Department-Approved Assessment Tool 1848
Exception Review 1848
Interdisciplinary Team 1848
Level of Support 1848
Person-Centered Planning Process 1848
Person-Centered Planning Team 1848
Plan Developer 1848
Plan Monitor 1848
Plan of Service 1848
Prior Authorization (PA) 1848
Provider Status Review 1848
Right Care 1849
Right Outcomes 1849
Right Place 1849
Right Price 1849
Service Coordination 1849
Service Coordinator 1849
Services 1849
Supports 1849
Eligibility Determination 1849
Annual Assessments 1849
Determination of Developmental Disability Eligibility 1849
ICF/ID Level of Care Determination for Waiver Services 1850
Initial Assessment 1849
Plan Of Service 1851
Addendum to the Plan of Service 1853
Annual Reauthorization of Services 1853
Complaints and Administrative Appeals 1854
Content of the Plan of Service 1852
Home & Community Based Services Plan of Service Signature 1853
Informed Consent 1852
No Duplication of Services 1851
Plan Development 1851
Plan Monitoring 1851
Prior Authorization Outside of These Rules 1851
Provider Implementation Plan 1852
Provider Status Reviews 1852
Qualifications of a Paid Plan Developer 1851
Procedural Requirements 1850
Assessment for Plan of Service 1850
Behavioral or Psychiatric Needs 1851
Department-Approved Assessment Tool 1850
Medical Condition 1850
Medical, Social, & Developmental History 1850
Physician's History & Physical 1850
Provider Reimbursement
Individualized Budget Beginning on October 1, 2006 1854
Residential Habilitation - Supported Living Acuity-Based Levels of Support 1855
Adult Developmental Disability Services Prior Authorization (PA) 1847
Adult Hourly Care Records 2488
Length of Time Records Kept for Adult Hourly Care 2488
Required Records for Each Hourly Adult Care Individual 2488
Adult Mental Health Services 2249
Assertive Community Services 2249
Assessment 2249
Case Management 2249
Crisis Intervention 2249
Medication Management 2249
Outpatient Services 2250
Psychiatric Services 2249
Rehabilitative & Community-Based Services 2250
Residential Care 2250
Adult Methodology Requirements For EMS Instructors 1244
Goals & Objectives 1244
Learning Styles 1244
Lesson Plans 1244
Measurement & Evaluation Techniques 1244
Remediation, Communication, & Feedback 1244
Teaching Aids 1244
Teaching Methods 1244
Teaching Resources 1244
The Adult Learner 1244
Adult Physicals 1657
Adulterated Or Misbranded Food 1337
Adulterated Or Misbranded Raw Milk Or Raw Milk Products 65
Disposition of Adulterated or Misbranded Product 65
Prohibited Acts 65
Restriction on Sale 65
Adults With Developmental Disabilities Waiver Services 1921
Advance Appearance Of Boxers Scheduled To Fight In Main Event
Expenses 3435
When to Appear 3435
Advance Appearance Of Combatant Scheduled To Fight In Main Event 3435
Advance Deposit Wagering License Application
Budget 839
Corporation 839
Financial Information 839
Legal Name 839
Number of Days 840
Partnership 839
Race Tracks 839
Advance Do Not Resuscitate (DNR) Directives 2278
Advance Notice Not Required 1372, 1523
Aid in Another State 1523
Death of Participant 1372, 1523
Eligible One Month 1372, 1523
Level of Care 1524
Medical Assistance in Another State 1372
Non-Citizen With Emergency 1523
Nursing Care 1372, 1523
Participant Address Unknown 1372, 1523
Participant in Institution 1372, 1523
Participant Request 1372, 1523
Patient Liability 1523
Retroactive Medicaid 1372, 1523

Special Allowance 1523
Advance Notice Responsibility 1372, 1523
Advance Notification Not Required 1594
Child Removed 1594
Failure to Comply with Personal Responsibility Contract 1594
Intentional Program Violation (IPV) 1594
TANF Received in Another State 1594
Advance Notification Responsibility 1594
Advance Royalties 4561
Advance Wagering 742
Advanced Deposit Wagering License 839
Advertisement Disclosures 323
Advertisements 3463
Prohibited Advertising 3463
Advertisements Of Benefits Payable, Losses Covered Or Premiums Payable 2767
Exceptions, Reductions & Limitations 2768
Pre-Existing Conditions 2768
Prohibitions 2767
Advertisements/Promotions/ Demonstrations 3845
Demonstrations 3845
Political Advertising 3845
Printed Material 3845
Advertising 942, 3626
Application of Antifraud Provisions 943
Definitions 942
Exemption From Filing 943
Filing Requirement 943
Piecemeal Filings 943
Prohibited Disclosures 943
Advertising Regulation Exemption 4093
Advising Consumers Of Health Risk Of Raw Or Undercooked Foods 1336
Consumption of Animal Foods That are Raw, Undercooked, or not Otherwise Processed to Eliminate Pathogens 1336
How to Inform Consumers of Health Risk 1337
Advisory Committee 3371
Advisory Group 5801
Advocates' Rights 1957
Access to Individual's Records 1958
Be Informed 1957
Discharge Counseling 1957
Prompt Communications 1957
Prompt Notification of Significant Events 1957
Visitation Rights 1957
Written Interpretation of Evaluations 1957
Affiliated Corporation & Affiliated Group, Purposes of Multistate Rules 4205
Affiliation Required To Practice 2278
Age 894
Eighteen (18) Years of Age 894
Twenty-One (21) Years of Age 894
Age & Physical Condition 3415
Age of Combatant 3415
Cerebral Hemorrhage 3415
Poor Vision 3415
Serious Head Injuries 3415
Age Restriction Requirements 698
Counterfeit or Altered Age Documents 698
Over/Under Clubs 698
Posting of Age Restriction Signs 698
Age Restriction Requirements For Licensed Movie Theaters - When Minors Permitted 699
Exemption 699
Minors Permitted 699
Minors Prohibited 699
Age, Program Eligibility 2356
Aged & Disabled (A&D) Waiver 1542
Age Eighteen Through Sixty-Four 1542
Age Sixty-Five or Older 1542
Aged & Disabled Waiver Services 1818
Coverage & Limitations 1820
Adult Day Health 1821
Adult Residential Care Services 1821
Attendant Care 1822
Chore Services 1822
Companion Services 1823
Consultation 1823
Environmental Accessibility Adaptations 1823
Habilitation 1824
Home Delivered Meals 1823
Homemaker Services 1823
Non-Medical Transportation 1822
Personal Emergency Response System (PERS) 1824
Respite Care 1824
Skilled Nursing 1824
Specialized Medical Equipment & Supplies 1822
Supported Employment 1825
Definitions 1818
Employer of Fact 1818
Employer of Record 1818
Individual Service Plan 1818
Participant 1818
Personal Assistance Agency or Agency 1818
Uniform Assessment Instrument (UAI) 1818
Eligibility 1818
Critical Indicator - 12 Points Each 1819
Functional Level for Adults 1819
Has a Disabling Condition 1819
High Indicator - 6 Points Each 1819
Medium Indicator - 3 Points Each 1819
Nursing Facility Level of Care, Adults 1819
Requires Such Services 1819
Safe in a Non-Institutional Setting 1819
Participant Eligibility Determination 1820
Admission to a Nursing Facility 1820
Redetermination Process 1820
Requirements for Determining Participant Eligibility 1820
Place Of Service Delivery 1826
Excluded Living Situations 1826
Place of Service Delivery 1826
Procedural Requirements 1827
Individual Service Plan 1827
Individual Service Plan & Written Plan of Care 1829
Pre-Authorization Requirements 1827
Provider Records 1829
Provider Responsibility for Notification 1829
Records Retention 1829
Requirements for an Fiscal Intermediary (FI) 1829
Role of the Department 1827
Service Delivered Following a Written Plan of Care 1828
UAI Administration 1827
Provider Qualifications & Duties 1829
Adult Day Health 1832
Adult Residential Care 1831
Attendant Care 1832
Chore Services 1834
Consultation Services 1831
Day Habilitation 1834
Employment Status 1830
Environmental Accessibility Adaptations 1832
Fiscal Intermediary Services 1830
HCBS Compliance 1831
Home Delivered Meals 1831
Homemaker Services 1832
Non-Medical Transportation Services 1832
Personal Emergency Response Systems 1831
Provider Qualifications 1830
Quality Assurance 1830
Residential Habilitation Supported Living 1832
Respite Care 1834
Skilled Nursing Service 1831

Specialized Medical Equipment & Supplies 1831
Supported Employment 1834
Transition Services 1835
Provider Reimbursement 1835
Calculation of Fees 1835
Fee for Services 1835
Provider Claims 1835
Target Group 1820
Transition Services 1825
Agency Access To ILETS 878
Authorized Agencies 878
Board Approval 878
Management Control Agreements 878
Agency Administrator 2111
Absences 2111
Administrator Qualifications 2111
Responsibilities 2111
Agency Consideration Of Report 285
Agency Evaluation 1575
Evaluation Criteria & Purpose 1576
Evaluation Results 1576
Evaluation Timetable 1575
Agency Governing Authority 2110
Responsibilities 2110
Structure 2110
Agency Head's Consideration Of Recommended Or Preliminary Order 270
Hearing Officers 271
The Agency Attorney 271
The Agency Head 270
The Agency Staff 271
Agency License Required 1216
Agency Medication Standards & Requirements 2118
Administration of Medications 2119
Assistance with Medication 2119
Handling of Participant's Medication 2118
Medication Policy 2118
Self-Administration of Medication 2119
Agency Participant Record Requirements 2121
Authorized Plan of Service 2121
Daily Medication Log, When Applicable 2122
Daily Record of the Date, Time, Duration, & Type of Service Provided 2122
Functional Assessment 2122
History & Physical 2122
Participant Rights 2121
Profile Sheet 2121
Program Plan 2122
Psychological or Psychiatric Assessment 2122
Record of Significant Incidents, Accidents, Illnesses, & Treatments 2122
Service Delivery & Progress Notes 2122
Status Review 2122
Termination Procedures 2122
Agency Policies & Procedures 2114
Acceptance Standards 2114
Administrative Records 2115
Disaster/Emergency Care 2115
Grievance 2118
Health 2117
Participant Records 2114
Participant Rights 2116
Participant Safety 2115
Personnel 2116
Quality Assurance 2118
Required Services 2114
Scope of Services & Area Served 2114
Transportation 2117
Agency Policies & Procedures Regarding Development Of Social Skills & Management Of Maladaptive Behavior 2120
Adaptive & Maladaptive Behavior 2120
Appropriate Use of Interventions 2120
Behavior Intervention 2120
Use of Restraint on Participants 2121
Agency Quality Assurance Program 2124
Quality Assurance Program Components 2124
What the Quality Assurance Program Verifies 2124
Agency Reporting & Communication Requirements 2123
Notification to Department of a Participant's Condition 2124
Participant's Condition 2124
Reciprocal Communication 2123
Reporting Requirements 2123
Agency Response To Petition 286
Action of Agency 286
Denial 286
Agent Termination 956
Aggravating Factors 2173
Adverse Impact 2173
Financial Loss 2173
Length of Sentence 2173
Time Acts Were Committed 2173
Agreement & Procedures 4103
Establishment & Posting of Procedures 4103
Other Procedures & Requirements 4103
Participation Agreement 4103
Agreement Required/Prior Approval Of Activities Required 3793
Agreement To Locate Reported Property 5274
Agreement To Serve – Reimbursement Requirement 898
Agreement 898
Decertification 899
Fulfillment of Agreement 898
Multiple Basic Training Academies 899
Proration 899
Reimbursement 899
Relief from Obligation to Serve 899
Agreements 3899
Agreement Terms Defined 3899
Incentive Agreement 3899
Agreements With Providers 1613
Federal Disclosure Requirements 1614
In General 1614
Provider Agreement Enforcement Actions & Terminations 1614
Termination of Provider Agreements 1614
Agreements/Contracts 1125
General Rights & Responsibilities 1126
Program Responsibilities 1125
Vendor Responsibilities 1125
Agricultural Commodities -- Warehouse Obligations 160
Agriculture Commodity Liens 4139
Mechanics of Filing 4139
Mechanics of Search 4139
Air Medical Agency -- Operational Declarations 1220
Air Medical Support 1220
Air Medical Transfer 1220
Air Medical Transport 1220
Air Medical EMS Agency -- Equipment Requirements & Modifications 1225
Configuration & Equipment Standards 1225
FAA 135 Certification 1225
Air Medical EMS Agency -- Patient Care Integration 1228
Air Medical EMS Agency -- Patient Transport, Transfer, or Support 1220
Support 1220
Transfer 1220
Transport 1220
Air Medical EMS Agency -- Personnel Requirements 1221
Personnel for Air Medical Agency 1221, 1222
Personnel for Air Medical Support Agency 1222
Air Medical EMS Agency -- Required Policies 1228
Non-Discrimination Policy 1229
Patient Destination Procedure 1229
Safety Program Policy 1229
Training Policy 1229
Weather Turn Down Policy 1229
Aircraft & Flying Services 4311
Aerial Contracting Services 4313
Air Ambulance Service 4313
Aircraft Held for Resale 4313
Definitions 4311

Federal Law Prohibits States From Taxing Sales of Air Transportation 4313
Flying Instructions 4313
Fuel 4313
Recreational Flights 4313
Rentals & Leases of Aircraft 4313
Sales of Aircraft 4312
Sales of Aircraft Repair Parts to Nonresidents 4312
Aircraft Fueling, Agricultural Operations, & Hazardous Material 5059
Aerial Application Operations 5059
Fueling Procedures 5059
Aircraft Parking, Loading, & Tiedown 5058
Aircraft To Be Registered 5057
Airlines, Buses, & Railway Dining Cars 4296
Formula for Taxable Sales 4296
Meals, Snacks, Beverages or Other Tangible Personal Property 4296
Sale of Meals 4296
Taxable Sales 4296
Airport Sponsor Eligibility 5067
Alaska Native Claims Settlement Act 1495
Alcohol & Drug Screening 2215
Drug Testing Policies & Procedures 2216
Laboratory Used for Testing 2216
On-site Testing 2216
Release of Results 2216
Alien Eligibility 608
Alien Eligibility 608
Benefit Eligibility 608
Aliens 4146
Computation of Idaho Taxable Income 4146
Copy of Federal Forms Required 4146
Filing Status 4146
Idaho Residency Status 4146
Alimony, Spousal, & Adult Support 1509
Allocated Tag 3754
Allocation 4445
Allocation Between Groups 6034
Allocation Of Funds To Districts 6061
Base Funding 6061
Match Funding 6061
Required Documents 6061
State Budget Requests 6061
Allocation Of Natural Flow 4649
Administration of Surface Water Rights 4649
Assessment of Evaporation & Conveyance Losses to Impounded Water 4650
Canal or Lateral Delivery 4651
Diversion of Additional Flows 4651
Initiation & Duration of Surface Water Allocation for Irrigation 4650
Mackay Dam Minimum By-Pass 4651
Notice to Initiate Delivery 4651
Rotation Credit 4649
Allocation Of Race Days & Races 807
Allocation Of Stalls 731
Allowable Child Care Costs 2193
One-Time Registration Fees 2193
Payment for Employment, Training, Education, or Preventive Service Hours 2193
Allowable Convictions For Traffic Violations 2731
Conviction Exception 2731
Grounds & Requests for Cancellation Due to Traffic Violation Convictions 2731
Allowable Deviation 3282
Allowable Tolerance, Legal Or Permitted Size Limits 5109
Appurtenances 5109
Determination of Vehicular Dimensions 5109
Other Appurtenances 5109
Also Eligible 804
Also Eligibles 804
More Than One Scratch 804
No Also Eligible List 804
Alternate (Out-Of-Home) Care 2529
Alternate Care Case Management 2261, 2531
Consent for Medical Care 2261, 2531
Contact Requirements 2262
Contact with Child 2532
Discharge Planning 2532
Financial & Support Services 2532
Financial Arrangements 2261, 2532
Information for Alternate Care Provider 2261, 2531
Preparation for Placement 2261, 2531
Transition Planning 2262, 2532
Alternate Care Licensure 2261, 2537
Alternate Care Placement 2259
Alternate Care Plan Required 2532
Alternate Care Planning 2262, 2532
Alternate Care Plan Required 2262
Written Alternate Care Plan 2262
Alternate Dispute Resolution 4091
Information the Arbitrator May Review 4091
Issuance of Written Resolution 4091
Resolution of Complaint 4091
Time Frames for Choosing & Arbitrator 4091
Alternative & Consolidated Registrations 2918
Consolidated Registration Statements 2918
Filing on Behalf of Affiliated Insurers 2918
Statement That Filing Insurer is the Principal Insurer 2918
Unauthorized Insurer 2918
Alternative Automatic Fire-Extinguishing Systems, Section 904.1.1, International Fire Code 3000
Alternative Examination Process For Persons With Disabilities 1148
Concurrence Required 1148
Conditions for Eligibility 1148
Probationary Period 1149
Alternative Forms Of Restraint 2649
Counsel 2650
Intervention 2649
Monitoring 2650
Re-Introduction 2650
Restraint Approval 2649
Restraint Is Prohibited 2649
Restraint Log 2650
Restraint Used as a Last Resort 2649
Review 2650
Staff Training 2649
Used Only Until the Child Has Regained Control 2649
Alternative Methods Of In-Service Training 918
Course Evaluation Fee 918
Specialized Equipment 918
Training Medium 918
Alternative Periodic Testing Of Containment Sumps Used For Interstitial Monitoring Of Piping 5661
Alternative Test Method Allowed 5662
Applicability 5661
Alternative Plates 5104
Alternative Processes 3296
Appeal Deadline 3296
Notice of Appeal Rights 3297
Notice of Process 3296
Opportunity to Be Heard 3296
Record of Process 3296
Written Final Order 3296
Alternative Resolution Of Contested Cases 271, 3044, 4672
Amateur Athletic Sanctioning Organizations 3417
Annual Review of Approval 3420
Application for Approval 3417
Criteria for Eligibility 3418
Violations 3420
Ambulance Certification 2286
Ambulance Certification is Required 2286
Ambulance Certification Requirements 2286
Disciplinary & Corrective Action 2286
Duration of Certification 2286
Ambulance EMS Agency -- Patient Transport Or Transfer 1220
Transfer 1220
Transport 1220

Ambulance EMS Agency -- Personnel Requirements 1221
Ambulance Or Air Medical EMS Agency -- Petition For Waiver 1227
Submit Petition for Waiver 1227
Undue Hardship or Abandonment of Service Waiver -- Petition Content 1227
Ambulance Or Air Medical EMS Agency -- Waiver Of Response Requirement 1227
Abandonment of Service 1227
Undue Hardship on Community 1227
Ambulance-Based Clinicians -- Personnel Requirements 1222
Agency Responsibilities for Ambulance-Based Clinicians 1223
Ambulance-Based Clinician Certified by Department 1222
Licensed Personnel Requirements & Ambulance-Based Clinicians 1222
Maintaining an Ambulance-Based Clinician Certificate 1222
Obtaining an Ambulance-Based Clinician Certificate 1222
Revocation of an Ambulance-Based Clinician Certificate 1222
Ambulatory Surgical Center Services Coverage & Limitations 1644
Provider Qualifications & Duties 1644
Cancellation 1644
Provider Approval 1644
Provider Reimbursement 1645
Payment for Ambulatory Surgical Center Services 1645
Payment Methodology 1645
Ambulatory Surgical Centers 1644
Ambulatory Surgical Centers, Covered Services Under Basic Plan Benefits 1626
Amebiasis & Free-Living Amebae 1284
Investigation 1284
Reporting Requirements 1284
Restrictions - Daycare Facility 1285
Restrictions - Food Service Facility 1285
Restrictions - Health Care Facility 1285
Restrictions - Household Contacts 1285
Amended Information 317
Amending An Approved Permanent Closure Plan 3133
Cause for Permanent Closure Plan Amendment 3133
Minor Amendments 3134
Modification At Request Of Director 3134
Modifications at an Operator's Request 3134
Amending An Approved Permit 3103
Application to Amendment 3103
Processing 3103
Amending An Approved Reclamation Plan 3133
Cause for Reclamation Plan Amendment 3133
Minor Amendments 3133
Review of Amendment 3133
Amending Tariff 161
Amending The Comprehensive State Water Plan 4630
Amending Procedure 4630
Amendment by Board Initiative 4630
Board Agenda 4630
Board Determination 4630
Board Evaluation 4630
Filing 4630
Form 4630
Legislative Review 4630
Notice of Consideration 4630
Petitions 4630
Requests to Amend 4630
Amendment 4130, 4134
Amendment Financing Statement Lapses 4135
Amendment Initial Financing Statement 4135
Date & Time of Filing Amendment 4134
New Lapse Date is Established 4135
Status of Financing Statement 4131
Status of Secured Party & Debtor 4130
Amendment Fees 4693
Amendment Of Classification Schedule 1141
Approval 1141
Assignment to Pay Grade Required 1141
Changes To Classifications 1141
Amendment Of Record 2136
Amendment of Health Information 2136
Updating Identifying Information 2136
Amendment, Assignment, Continuation, & Termination Of A Farm Products Financing Statement 4107
Completion of Form 4107
Form 4107
Termination 4107
Amendment, Assignment, Extension, & Release Of Claim Of Lien 4117, 4118
Form 4117
Supplement 4118
Amendments To Form A 2917
Amendments To Form B 2918
Amendment to Form B 2918
Form B Format 2918
Amendments To Pleadings 3935
Amendments To Pleadings -- Withdrawal Of Pleadings 3040, 4614, 4666, 6000
Amendments To Pleadings, Withdrawal Of Pleadings 5587
Amendments To Pleadings-- Withdrawal Of Pleadings 263
Amendments To Registration Statement 939
Amendments Required 939
Contents of Amendment Filing 939
Effect of Failure to Amend 939
Time of Filing & Undertaking 939
American Indians 4148
Definitions 4148
Gambling Winnings 4148
Idaho Residency Status 4148
Per Capita Distributions 4148
Americans With Disabilities Act (ADA) 608
Availability Requirement 609
Full-Time Employment 609
Long Term 609
Amount Of Bond For Seed Stored For Withdrawal 173
Amount Of Bond, Irrevocable Letter Of Credit, Certificate Of Deposit, Or Single Bond 168, 173
Additional Bonding Requirements 168
Bonding Requirement 159, 168
Single Bond, Irrevocable Letter of Credit or Certificate of Deposit 159, 168
Amount Of Bond, Irrevocable Letter Of Credit, Certificate of Deposit, Or Single Bond
Bonding Requirement 173
Single Bond, Irrevocable Letter of Credit or Certificate of Deposit 173
Amount Of Deposit 3980
Amount of Deposit 3980
Installment Payments of Deposit 3980
Amount Of Deposit -- LECS 4004
Amount Of One-Time Cash Payment 1594
Amount Of Payment 2194
In-Home Care 2194
Payment Rate 2194
Payments 2194
Usual & Customary Rates 2194
Amusement Devices 4386
Cross-Reference 4386
Other Operated Amusement Machines or Games 4386
Requirement to Obtain Permit 4386
Analysis Of Classifications 1140
Analytical Procedures 5320
Biological Procedures 5321
Chemical & Physical Procedures 5320

Metals Procedures 5320
Analyzing The Collected Data 4056
Contributions to Stray Voltage or Current for Single Phase Dairies 4056
Contributions to Stray Voltage or Current for Three Phase Dairies 4056
Cow Contact Points 4056
Anchoring Of Diving Boards 2336
Anesthesia Services 2039
Anesthesia Equipment & Supplies 2040
Anesthesia Service Staff 2039
Policies & Procedures 2039
Animal Damage Control 3199
Animal Display & Security 1092
Animals 4863, 4869, 4874, 4883
Domestic Animals 4864, 4875, 4884
Wildlife 4864, 4874, 4883
Animals & Pets, Children's Residential Care Facilities 2643
Animals & Pets, Children's Therapeutic Outdoor Programs 2666
Animals Exposed To Disease of Originating In A Quarantined Area 91
Animals In Transit 218
Announcement Of Recruitment 1145
Distribution of Announcements 1145
Posting of Promotional Announcements 1146
Announcement Of Winner Of Bout 3442
Annual Audit 2616
Annual Brand Inspection
Certificate 709
Agreements 710
Annual Brand Inspection Form Also Known as "Seasonal" 710
Annual Inspection 710
Certificates 709
Fee, Annual Brand Inspection 710
Annual Date, Fees, & Payment 3759
Due Dates 3759
Fees 3759
License Lapsed & Relinquished 3759
Payment 3759
Penalty Fee 3759
Annual Disclosure 2773
Annual Eligibility Renewal 1370
Continuing Eligibility 1370
Inconsistency Impacts Eligibility 1371
Annual Inventory Report 186
Individual Domestic Cervidae 186
Inventory Report 186
Annual Issuance Of Clinical Nutrition Certification With License Renewal 3467
Expiration Date 3467
Failure to Comply with Issuance Requirements 3467
Issuance 3467
Annual License Renewal & Late Fee 35
Late Fee 35
Non-Renewal 35
Renewal 35
Annual Plan 2086
Annual Privacy Notice To Customers 2720
Annual Raffle Report 5257
Annual Registration Of Insurers -- Statement Filing 2918
Annual Report 5256
Independent Audit 5256
Information Required by Forms 5256
When Due 5256
Annual Report For The Renewal Of A Registration Statement 941
Consent to Service 941
Cover Letter 941
Filing Fee 941
Annual Report To The Director 2774
Annual Reporting By Applicant 3900
New State Revenues 3900
Tax Commission Letter 3900
Annual Reporting By Department 3901
Actual Costs and Benefits 3901
Economic Impact to State 3901
Estimated Costs and Benefits 3901
Estimated Tax Credit Commitments 3901
Submittal of Report 3901
Successes 3901
Annual Reporting Requirements 2743
Annual Sales Plan 3092
Annual Statement 2777, 2779
Annuity As Asset Transfer 1551
Irrevocable Annuity 1552
Irrevocable Annuity Life Expectancy Test 1552
Permitted Annuity 1553
Revocable Annuity 1552
State Named as Beneficiary 1552
Anonymous Complaints 1249
Answer To Appeal 4612
Answers -- Defined -- Form & Contents -- Time For Filing 261, 3038, 5999
Answers to Motions 261, 3039, 6000
Answers to Pleadings Other Than Motions 261, 3038, 5999
Answers To Discovery In Public Files 303
Answers To Production Requests Or Written Interrogatories & To Requests For Admission 274, 3046, 3953, 4674
Filing of Answers 3953
When Answers Not Filed 3953
Answers--Defined--Form & Contents--Time For Filing 3932, 4664
Answers Defined 3932
Answers to Complaints or Petitions 3932
Answers to Motions 3932, 4664
Answers to Pleadings Other than Motions 4664
Anthrax 1285
Handling of Report 1285
Investigation 1285
Reporting Requirements 1285
Antidegradation Implementation
Evaluation of Effect of an Activity or Discharge on Water Quality 5310
General Permits 5309
Identification of Tier II Waters 5309
Initiation of Antidegradation Review 5309
Restoration Projects 5309
Tier I Review 5311
Tier II Analysis 5311
Tier III – Outstanding Resource Waters (ORWs) 5313
Waters Protected 5309
Antidegradation Policy
High Quality Waters (Tier II Protection) 5309
Maintenance of Existing Uses for All Waters (Tier I Protection) 5308
Outstanding Resource Waters (Tier III Protection) 5309
Thermal Discharges 5309
Waters Subject to the Antidegradation Policy 5309
Anti-Ulcer Medications 860
Cimetidine (Tagamet®) 860
Omeprazole (Gastrogard®) 860
Ranitidine (Zantac®) 860
APA Applicability 5192
Appeal 3969
Appeal Of Automatic Adjustments, Division Of Welfare 2149
Appeal Of Department Decision 2233
Appeal Of Grant Award Decision 2163
Appeal of the Council's Decision 2163
Contents of Request for Reconsideration 2163
Disposition of Funds for Service Area Pending Reconsideration 2163
Disposition of Request for Reconsideration 2163
Hearing on Appeal 2163
Issuance of Decision 2163
Appeal Of Lock-In, Participant Lock-In 1734
Appeal Of SSA Decision - Applicant Determined SSI Eligible After Appeal 1541
Appeal Of SSA Decision & Continued Medicaid 1541
Appeal Procedure 1163, 3313, 5089
Burden of Proof 1164
Decision of Hearing Officer 1164

Delivery of Appeal 5089
Delivery of Decision 5089
Factors Considered in Award of Attorney Fees & Costs 1165
Filing of Appeal 5089
Filing of Appeal & Appearances 1164
Filing of Documents 1164
Idaho Rules of Administrative Procedure of the Attorney General 1163
Non-Jurisdictional Appeals 1164
Open Hearing 1164
Procedure for Award of Attorney Fees & Costs 1164
Protective Orders 1164
Setting of Hearing 1164
Time for Appeal 1164
Appeal Process 1342
Appeal to The Director 1343
Compliance Conference 1342
Appeal To District Court 3297, 5293
Appeals 721, 4879, 4906, 5563
Contested Cases 4879
Informal Disposition 4879
Judicial Review 4879
Requesting an Appeal 4879
Time for Appeal 4879
Appeals Of Reciprocal Rulings 723
Request for Hearing 723
Signed 723
Appeals Process 5954
Administrative Record Filed By the Department 5955
Alternative Dispute Resolution 5958
Appeals of Variances 5960
Appointment of Hearing Officers 5958
Augmenting the Administrative Record 5955
Brief of the Petitioner 5956
Burden of Proof 5958
Content & Form Requirements for Petitions & Briefs 5955
Ex Parte Communications 5958
Filing & Service Requirements 5957
Final Agency Action for Purposes of Judicial Review 5959
Final Orders 5958
IPDES General Permits 5959
Motions 5957
Oral Argument 5957
Participation by the Permit Applicant or Permit Holder 5955
Petition for Judicial Review 5959
Petition for Review of a Permit Decision 5954
Petition to Intervene 5955
Proof of Service 5957
Public Notice of the Petition for Review 5955
Reply Briefs by the Petitioner 5956
Representation of Parties 5956
Request to Dismiss Petition 5958
Response Briefs 5956
Scope of Authority of the Hearing Authority 5958
Substitution & Withdrawal of Representatives 5956
Withdrawal of Permit or Portions of Permit by the Department 5957
Appeals To Appeals Examiner – Form & Manner Of Filing Of Notices Of Appeal 596
Filing of Notices of Appeal 596
Form of Notices of Appeal 596
Appendix A - Employee Training Form 2240
Appendix A, Construction of Drilled Wells 4833
Appendix A, Idaho Backflow Assembly Tester Code Of Ethics & Standards Of Conduct 3496
Appendix A, Idaho Medicaid Handicapping Malocclusion Index 1735, 1944
Appendix A, Milner Dam to Swan Falls Dam Reach 4807
Appendix A, Occupational Therapy Code Of Ethics 3508
Appendix A, Physical Therapist Code Of Ethics 3581
Appendix A, Riprap Gradation Using FWS Method 4778
Appendix B, (Continued), Toe Protection 4779
Appendix B, Physical Therapist Assistant Code Of Ethics 3582
Appendix B, Suggested Irrigation Seasons in Idaho 4808
Appendix B, Toe Protection 4778
Appendix C, Administrative Regions of the IDWR 4809
Appendix C, Protection Against Undermining 4780
Appendix D, Mattress Construction 4781
Appendix E, Rock Drop Structure Details 4781
Appendix F, Log Drop Structure Details 4782
Appendix H, Barb Details 4783
Appendix I, Swimming Capability of Migrating Salmon & Trout 4784
Appendix J, Downstream Control Structure 4784
Appendix J, Sill Details 4783
Appendix K, Culvert Backfill Using Sandy or Silty Material 4785
Appendix L, Launch Ramp 4785
Appendix M, Concrete Plank, Boat Ramp 4786
Appendix N, Concrete Launch Plank Detail 4786
Appendix O, Concrete Launch-Plan View, Boat Launch 4787
Appendix P, Concrete Launch-Cross-Section 4787
Applicability 49, 72, 89, 105, 108, 180, 217, 363, 389, 404, 717, 830, 2329, 2766, 2849, 2906, 3097, 3227, 3259, 3856, 4698, 5625
All Lands in State 3097
Applicability 2849
Applicability to Certain Insurance Professionals 2906
Control over Advertisement 2766
Disability & Medicare Supplement Insurance 2766
Employees in More Than One State 2850
Employer Subsequently Becomes a Small Employer 2850
Encroachments Free to the Public 3228
Examination 4698
Examination Fee 4698
Exclusions 3259
Group Policy or Trust Arrangement 2849
Health Benefit Plan Subject to The Act & This Chapter 2850
High Standards for Programs 2906
Laws of This State or Another State 2850
Navigational Improvements 3097
Nonapplicability 3097
Oil & Gas Development 3259
Proof of Beneficial Use 4698
Re-Examination 4698
Single Family Docks 3227
Single or Multiple Family Docks 3227
Stream Channel Alterations 3097
Subsequent Employment of More Than Fifty Eligible Employees 2849
Suction Dredges 3098
Temporary Permits or Easements 3228
Time Period for Notification of Options to Employer 2850
Two-Family Docks 3227
Types of Operations 3097
When is a Small Employer Carrier Not Subject to The Act & This Chapter 2850
Applicability & Notification Of Changes 5289
Applicability Of Clearances 4067
Applicability Of Licensing Requirements 4848
Company to be Licensed 4849
Driller to Have Responsible Charge of Other Workers 4848
Drillers to Decommission (Abandon) Wells 4849
Laborer Exempted 4849
Licensing Requirements 4848
Operators to Have Permits 4848

Applicability Of Rules 36
  Acceptance of Licensure 36
  Applicability 36
  Interpretation of Rules 36
  Investigative Committee 36
  Reliance 36
  Responsibility 36
  Rules 36
Applicability Of Rules Of Administrative Procedure Of The Attorney General 5580
Applicability To Facilities With Existing Permits 5824
Applicability To Health Districts 1136
Applicable Laws, Rules, & Regulations 844
Applicable Requirements For Tier I Facilities 5633
  Applicable Requirements 5633
  Application Content, Review & Approval Requirements 5635
  Documentation Requirements 5635
Applicable Requirements For Tier II Facilities 5635
  Closure Plan Application 5638
  Closure Requirement 5638
  Documentation Requirements 5639
  General Operating Requirements 5636
  General Siting Requirements 5635
  Modification Application 5639
  Operating Plan 5638
  Siting Application 5635
  Tier II Incinerators, CESQG Management Facility & Transfer Stations 5640
  Tier II NMSWLF 5641
  Tier II Processing Facilities 5639
Applicable Requirements For Tier III Facilities 5644
  Closure Plan Application 5648
  Closure Requirement 5647
  Documentation Requirements 5649
  General Operating Requirements 5645
  General Siting Requirements 5644
  Ground Water Monitoring Application 5647
  Ground Water Monitoring Requirements 5647
  Modification Application 5649
  Operating Plan 5647
  Siting Application 5644
  Tier III Incinerators 5650
  Tier III NMSWLFs 5651
  Tier III Processing Facilities 5649
Applicant – Indigent Defense Financial Assistance 6086
Applicant Job Search 1585
Applicant One-Time Cash Payment 1593
Applicant One-Time Cash Payment
  Eligibility Criteria 1593
  Agreement 1593
  Dependent Child 1593
  Episode of Need Restriction 1593
  Income & Resources 1593
  Period of Ineligibility 1593
  Residence 1593
  SSN 1593
  Voluntary Quit 1593
Applicant Past Crime Review 3406
  Exemption Review 3407
  Review Authority 3407
Applicant Requirements 133
  Applicant Health Inspection 133
  Applicant Licenses or Registrations 133
Applicant Voluntary Quit 1585
Applicants 294, 3927, 5117
  Application & Funding Limits 5118
  Categories of Applicants 5117
  Requirements for Individuals 5118
  Requirements for Organizations 5118
Applicants Receiving A Department
  Enhanced Clearance 2506
  Adoptive Parent Applicants 2506
  Behavioral Health Programs 2506
  Children's Residential Care Facilities 2506
  Children's Therapeutic Outdoor Programs 2506
  Idaho Child Care Program (ICCP) 2506
  Licensed Day Care 2506
  Licensed Foster Care 2506
  Mental Health Services 2506
  Substance Use Disorders Services 2506
Applicants, Licensees, & Officials 3421
Applicants' Burdens Of Proof 303
  Burden of Introduction of Evidence on Benefits 303
  Burden of Persuasion That Benefits Outweigh Disadvantages 304
  Relevance of Providing Supporting Information 304
Applicants/Claimants/Appellants 257, 3035, 4660
Application 548, 1082, 1177, 1412, 1623, 2331, 3408, 3484, 3511, 3516, 3550, 3576, 3631, 3653, 3681, 3708, 3722, 4078, 5060, 5867
  AMC Registration Application 3631
  Applicant 1083
  Applicant's Request for Amendment 1178
  Application Deadline Date 3722
  Application Purpose 1178
  Application Required 3484
  Applications Must Be Complete 3722
  Appraiser License Application 3631
  Cost to Related Organizations 1623
  Costs Not Related to Patient Care 1624
  Criminal Convictions 3576
  Department Review 1082
  Determination of Common Ownership or Control in the Provider Organization & Supply Organization 1623
  Disciplinary Action 3576
  Education 3576
  Eligibility for Examination 3631
  Evidence of Graduation 3576
  Filing an Application 3550, 3708, 3722
  Form 1082
  Incomplete Application 1178
  Interest Expense 1624
  Lack of Activity 3484, 3516, 3576, 3723
  License or Registration Denial 3576
  Licensure by Endorsement 3484
  Licensure by Endorsement -- Blue Cover 3408
  Licensure by Endorsement - Equivalency 3408
  Licensure By Examination 3408
  Licensure by Examination 3484
  Other Information 3576
  References 3576
  Required Information 1177
  Required Materials 4078
  Submission Deadlines 4079
  Supplemental Documents 3708
  Supporting Documents 3550, 3722
  Trainee Registration Application 3631
Application -- Compliance 554
  Application -- State Preemption 554
  Compliance -- Disciplinary Action Against Licensees 554
Application & Calculating Income To Apply The Sliding Fee Schedule For Children's Mental Health & Adult Mental Health Services
  Application & Fee Determination Form 2673
Application & Certificate Of Number -- Contents 3804
  Livery Vessels 3804
  Manufacturer or Dealer 3804
  Proof of Ownership 3804
  Requirements 3804
Application & Certification Fees For Certified Family Homes 2390
  Application Fee Amount 2390
  Certification Fees 2390
  Payment of Application Fees 2390
Application & Examinations 2366
Application & Instructions For EMS Personnel Licensure 2279
Application & License Fees 3016
Application & Payment Of Use Tax 4346
  Imposition of Use Tax 4346
  Out-of-State Purchases 4347
  Receipt Showing Sales Tax

Paid 4347
Removal from This State 4347
Specifically Excluded From the Definition of Both Use & Storage Are 4347
Storage 4347
Tangible Personal Property Removed From Inventory 4348
Taxes Paid to Another State 4347
Use 4347
Use Undeterminable at Time of Purchase 4347
Application & Reporting Of The Petroleum Transfer Fee
Application 4551
Casualty Loss & Two Percent (2%) Allowance Not Deductible 4552
Exclusion of Petroleum & Petroleum Products on Which the Fee Has Previously Been Paid 4552
Exemption to Application of the Transfer Fee 4551
Motor Fuel Distributor License & Limited Distributor License 4552
Payment 4552
Petroleum & Petroleum Products 4552
Receipt of Petroleum Products 4551
Reporting Requirements 4552
Application & Reporting Of The Transfer Fee 4551
Application Fees 713, 5016
Annual Fees 713
Fee Administration 5016
Fee Schedule 5017
Livestock Dealer 713
Miscellaneous Costs 5017
Waivers 5018
Application Fees For Personnel Licensure 2280
Initial Licensure 2280
Reinstatement 2281
Renewal 2280
Application For A Criminal History & Background Check 2505
Application Form 2505
Disclosures 2505
Failure to Disclose Information 2506
Application For A License 1338
Food License Expiration 1338
License is Non-Transferable 1338
Renewal of License 1338
Revocation of License 1338
Summary Suspension of License 1338
To Apply for a Food Establishment License 1338
Application For A License To Represent A Licensed Livestock Dealer 714
Application For An Individual IPDES Permit 5894
Application Information for All Dischargers 5895
Application Retention Schedule 5894
Electronic Submittals 5894
Individual Permit Application Forms 5895
Individual Permit Application Requirements for Dischargers Other than Treatment Works Treating Domestic Sewage (TWTDS) & Publicly Owned Treatment Works (POTWs) 5896
Individual Permit Application Requirements for Existing Manufacturing, Commercial, Mining & Silviculture Dischargers 5897
Individual Permit Application Requirements for Industrial & Construction Storm Water Discharges 5930
Individual Permit Application Requirements for Municipal Separate Storm Sewer Discharges 5923
Individual Permit Application Requirements for New & Existing Concentrated Animal Feeding Operations (CAFO) 5903
Individual Permit Application Requirements for New & Existing Concentrated Aquatic Animal Production (CAAP) Facilities 5904
Individual Permit Application Requirements for New & Existing POTWs & Other Dischargers Designated by the Department 5904
Individual Permit Application Requirements for New or Existing Manufacturing, Commercial, Mining, & Silviculture Facilities that Discharge only Non-Process Wastewater 5901
Individual Permit Application Requirements for New Sources & New Discharges 5913
Individual Permit Application Requirements for POTWs Receiving Discharges from Hazardous Waste Generators & from Waste Cleanup or Remediation Sites 5911
Individual Permit Application Requirements for POTWs Receiving Industrial Discharges 5910
Individual Permit Application Requirements for POTWs with Combined Sewer Systems & Overflows 5912
Individual Permit Application Requirements for Treatment Works Treating Domestic Sewage (TWTDS) 5915
Time to Apply 5894
Whole Effluent Toxicity (WET) Monitoring for POTWs 5909
Application For Assistance 1479, 1580
Application Submitted by Participant 1479
Application Submitted Through Social Security Administration (SSA) Low-Income Subsidy Data Transmission 1479
Application For Certificate Of Authority 2772
Application Requirements 2772
Capital Surplus & Deposit Requirements 2772
Application For Certification 2223, 2321, 2389
Application For Certification
Reapplication for Additional Analytes or to Change Methods 2321
Required Information on Application 2321
Time Frame for Renewal of Application for Reciprocity 2321
Code of Ethics Acknowledgment 2224
Completed & Signed Application 2389
Completed Application 2224
Criminal History & Background Checks 2389
Electrical Inspection 2389
Environmental Sanitation Inspection 2389
List of Individuals Living in the Home 2389
Other Information as Requested 2390
Payment of Application Fee 2390
Proof of Insurance 2389
Reapplication for Certification 2321
Reciprocity for Out-State-Laboratories 2321
Statement Disclosing Revocation or Disciplinary Actions 2389
Statement to Comply 2389
Termination of Application Process 2390
Verification of Education, Training, & Experience 2224
Application For Certification - Procedures 133
Application 133
Application Forms 133
Multiple Certificates 133
Application For Certification For Medication Assistant - Certified 3389
Application Submission 3389
Denial of Certification 3389
Notification 3390
Temporary Certification 3389

Application For Change In Certification Level 5285
Advance to Associate/Supervised Level of Certification Application Fee 5286
Advance to Senior/Approved Level of Certification Application Fee 5285
Change to a Less Independent Level of Certification Application Fee 5286
Application For Daycare License Or Renewal 2589
Additional Requirements for License Renewal 2590
Completed & Signed Application 2589
Criminal History & Background Clearance 2589
Inspection Reports 2589
Licensing Fee 2589
Other Information as Requested 2589
Proof of Insurance 2589
Statement Disclosing Revocation or Disciplinary Actions 2589
Statement to Comply 2589
Termination of Application Process 2590
Application For Designation As An Approved Feedlot 53
Application For Designation As Idaho Approved Feedlots 81
Application for Exception or Extension Requisite 2907
Application For Initial Certification 2068
Content of Application for Certification 2068
Open Application 2068
Application For Interment 3321
Application Following Death 3322
Pre-Registration for Interment 3322
Who May Apply 3321
Application For License 2362
Application For License 2362
Emergency Action 2365
Minimum Safety Requirements 2362
Modification, Revocation, and Termination of Licensees 2364
Operator Qualifications 2362
Qualifications for Authorized Operation, Service, & Repair of X-ray Machines 2362
Responsible Authority 2362
Subjects to Be Covered During the Instruction of Radiographers 2363
Application For Licensure 3348, 3503
Application for Provisional Licensure 3348
Licensure by Endorsement 3503
Limited Permit 3503
Personal Interview 3503
Temporary License 3503
Application For Licensure -- Advanced Practice Registered Nurse 3376
Application For Licensure - Documentation, Appraisals, References, Bonding, & Financial Statements 561
Application Documentation 561
Application for Change in Licensing Class 562
Appraisals 562
Extension of Time to File Financial Statement 562
References 562
Application For Licensure & Permits
Application for Respiratory Care & Polysomnography Related Respiratory Care Practitioner 3350
Application For Licensure Of Graduates Of Schools Of Nursing Located Outside The United States, Its Territories, Or Commonwealths 3373
Application For Licensure Or Certification 650
Completion of Application 650
Confidentiality of References 651
Forms 650
Minimum Boundary Survey Experience 651
Minimum Standards -- References 651
Residency Requirement 651
Submittal of Applications & Examination Cutoff Date 651
Application For Loan 6057
Application Form 6057
How to Apply 6057
Two or More Applicants 6057
Application For New Competitive Local Exchange Carrier (CLEC) – Form & Content 3939
Compliance with Commission Rules 3941
Conservation of Telephone Numbers 3941
Financial Information 3940
Interconnection Agreements 3940
Name, Address & Form of Business 3939
Services & Territory 3940
Tariff & Customer Contact 3940
Tariffs & Price Lists 3940
Application For New License 551
Application For Other Resources 2357
Application For Participation 127
Application Requirement 127
Application Review & Compliance Verification 127
Application For Permit 2236, 4977
Application for Exemption 2237
Permits 2236
Renewal of Permit 2237
Where to Obtain an Application for Permit 2236
Application For Potential Benefits 1500
Other Benefits 1500
SSI 1500
VAIP 1500
Application For Registration 2778
Application 2778
Biographical Affidavit 2779
Joint Powers Agreement 2778
Trust Agreement 2778
Application For Registration Of Securities 938
Other Forms 939
Registration by Coordination 938
Registration by Qualification 938
Application For Services 2204
Individual Not Related to the Child 2204
To Apply for Emergency Assistance 2204
Application Form 3511
Deadlines 3512
Inactive Applications 3512
Materials Submitted to Board 3511
Reference Requirements 3511
Application Forms 1412
Explanation of Application Process 1413
Application Forms & Contents 5118
Application Frequency 1177
Application Of Established Standards 6085
Application of Indigent Defense Standards 6073
Application Of Multistate Rules 4205
Allocation 4205
Apportionment 4205
Business Activity 4205
Combined Group 4205
Combined Report 4205
Gross Receipts 4205
Group Return 4206
MTC, Multistate Tax Commission 4206
Multistate Corporation 4206
Prologue 4205
Taxpayers Conducting Business Within & Without Idaho 4205
Unitary Business 4206
Application Of Other Rules - Automobile Advertising/Sales 247
Application Of Other Rules, Solicitations 243
Application Of Partial Payment 4581
Examples 4581
In General 4581
Taxpayers With Multiple Tax Obligations 4581
Application Of Payments On Delinquent Accounts
First Application 627

Second Application 627
Subsequent Applications 627
Third Application 627
Application Of Regulations 5131
Barriers, Construction & Maintenance Required 5131
ICP Permits Required 5132
Standards Adopted 5131
Application Of Regulations, Institutional Controls Administrative Area 5136
Barriers, Construction & Maintenance Required 5137
ICP Permits Required 5137
Standards Adopted 5136
Application Of Reporting Requirements 6068
Entities Required to Report 6068
Exceptions to Reporting Requirements 6068
Application Of Section 63-3027 -- Allocation 4217
Application Of Section 63-3027 -- Apportionment 4216
Application Of Section 63-3027 -- Combined Report 4216
Application Of Standards 5319
Applicability of Gas Supersaturation Standard 5319
Application of Standards to Intermittent Waters 5319
Application of Standards to Nonpoint Source Activities 5319
Application of Standards to Point Source Discharges 5319
Mixing Zones 5319
Multiple Criteria 5319
Protection of Downstream Water Quality 5319
Temperature Criteria 5319
Application of the 2012 IAR Mortality Table 2928
Mortality Rate Formula 2928
Mortality Rate Formula Example 2929
Application Of The Five Month Requirement 6005
Delinquent Employer Contributions 6005
Employee & Employer Contributions 6005
Application Of This Subchapter To FRF Disability Retirement 6012
Application Procedure 3303, 3813, 3828, 3853, 6074
Application Processing 3303
Application Submission 3829
Contents of Application 3828
Deadline 3813, 6074
Eligible Projects 3853
Engineering Certification 3829
Forms 3813, 6074
Incomplete Application 6074
Initial Review 3853
Provision If Application Rejected 3303
Public Comment 3813
Review 3813, 6074
Submission of Application 3303
Waiting List 3303
Application Procedure & Requirements For Other Surface Mining Operations Including Hardrock & Phosphate Mining 3126
Application Package 3126
Maps Requirements 3126
Operating Plan Requirements 3126
Reclamation Plan Approval Required 3126
Reclamation Plan Requirements 3126
Application Procedure & Requirements For Permanent Closure Of Cyanidation Facilities 3127
Application Fee 3129
Application Package for Permanent Closure 3129
Permanent Closure Cost Estimate Verification Fee 3130
Permanent Closure Plan Approval Required 3127
Permanent Closure Plan Requirements 3127
Preapplication Conference 3129
Processing & Review Fee 3129
Application Procedure & Requirements For Quarries, Decorative Stone, Building Stone, & Aggregate Materials Including Sand, Gravel & Crushed Rock 3124
Application Package 3125
Approval Required 3124
Map Requirements 3125
No Operator Shall Conduct Surface Mining Operations 3124
Reclamation Plan Requirements 3125
Application Procedure For Placer Or Dredge Mining Permit 3099
Application Package 3099
Application Review & Inspection 3102
Approved Reclamation Plan Required 3099
Incomplete Applications 3099
Requirements for Reclamation Plan 3101
Requirements of Maps 3099
Settling Ponds 3100
State Approval Required 3102
Application Procedures 3476, 3795
Appeal 3477
Applications 3476
Dates 3477
Lack of Activity 3477
References 3477
Application Process 2100, 2651, 3897
Affiant Administrative Employees 2652
Affidavit Statement 2651
Application 3898
Application Recommendation Letter 3898
Application Schedule 3899
Assistance with Application 2100
Date of Application 2100
Economic Advisory Council 3899
Inquiry 3897
Participant Representation 2100
Pre-Application 3897
Pre-Application Estimate Letter 3898
Pre-Application Schedule 3899
School Administrative Description 2652
Signature 2100
Signature by Mark 2100
Technical Review - Application 3898
Technical Review - Pre-Application 3898
Application Processing Procedure 5834
Accuracy & Protectiveness Review 5835
Application Processing Time Line for Director's Final Decision 5835
Basis for Permit Application Denial 5835
Completeness Review 5835
Notice of Intent to Deny the Permit Application or to Draft a Permit 5835
Permit Fact Sheet 5835
Application Request Process, Children's Agencies 2625
Application Requirements 1354, 2186, 4792
Amended Applications 4794
Effect of an Application 4793
General Provisions 4792
Requirements for Applications to Be Acceptable for Filing 4793
Application Requirements For Potential Medical Coverage 1526
Group Health Plan Enrollment Requirement 1526
Medicare Enrollment Requirement 1526
Application Review 4768
Prior to Issuance of Permit 4768
Proposed Alteration Which Does Not Follow Minimum Standards 4768
Application Status 2509
Application Time Limits 1354
Application Time Limits & Disposal Actions 2100
Approval 2100
Denial 2101
Withdrawal 2101
Application To Approve Interconnection Agreements 3944

Contested Agreements 3944
Uncontested Agreements 3944
Application To Be Adoptive Parent(s) 2557
Application for Subsequent Adoptions 2557
Denial of Application 2557
Initial Application 2557
Orientation of Potential Applicants 2557
Psychological Evaluation 2557
Application To Both Permits & Licenses 3350
Application To Obtain A Permit 60
Airborne Control Permit Required 60
Incomplete Application 61
Required Application Form 60
Required Information on Application 60
Written Consent from Private Landowner Required 61
Application To Participate 5848
Application Processing Procedure 5848
Application Required 5848
Contents of Application 5848
Application To Reenter State 2858, 2872
Geographic Service Area 2873
Restrictions on Offering Individual Health Insurance 2873
Application Withdrawal 1413
Application, Licensure & Termination Of Licenses 4083
Applications 509, 832, 1146, 2357, 3163, 3459, 3611, 3644, 4767, 5118
Age 832
Applicant Following Minimum Standards 4767
Application by Disabled Veterans 1146
Application by Military Personnel 1146
Application Filing Date 3611
Application Form for Licensure 3611
Application Forms 832
Application Must Be Complete 3612
Disclosure of Information for Hiring Purposes 1146
Encroachment Applications 3164
Filing of Applications 1146
Form 1146
Joint Application Permit Form 4767
Other Forms 832
Other Permits 3164
Ownership & Return of Applications 5118
Promotion of Entrance Probationary Employee 1146
Qualifications 3459
Repairs, Reinstallation of Structures 3164
Signature Requirement 3164
Stream Channel Alteration Permit 4767
Submission 5118
Submission of Copies 4767
Applications -- Defined -- Form & Contents 296
Applications Defined 296
Defective or Insufficient Applications 297
Description of Agreement 296
Form & Contents 296
Listing of Benefits 296
Listing of Parties 296
Statement Concerning Discovery 297
Statement Concerning Fund for Expert Witnesses 297
Supporting Analyses 296
Applications & Forms 887
Applications & Permits 5004
Administration 5005
Applicant to Be Informed 5005
Application Forms 5005
Denial of Application 5005
Department Held Harmless 5005
Encroachment Conflicts 5005
Local Highway Agency Authority 5005
Payment for Impacted Highway Features 5005
Permit Requirements 5005
Required 5004
Review Process 5005
Void Application 5005
Work Prior to Approval 5004
Applications & Processing 3191
Application Process 3191
Eligible Applicant 3191
Expiring Leases 3193
Rental Deposit 3193
Applications & Renewals 650
Applications & Requirements 3517
Age 3518
Completion of One Year as a Resident Trainee 3518
Funeral Director Educational Requirements 3518
Moral Character 3518
Mortician Educational Requirements 3518
Applications Filed With Other Agency 3947
Applications for Aid 5067
Completed Applications 5067
Legislative Support & Consideration 5068
Non-Federal Funding Eligibility 5067
Via Written, Telephone, or Electronic Request 5068
Applications For Aircraft Registration 5057
Application Information 5057
Current Registration Certificate 5057
Applications For Approval To Issue Securities 3946
Applications For Certificates Of Convenience & Necessity & Interconnection Agreements 3938
Applications For Compensation 2677
Allowable Payments for Medical Services 2677
Claim for Benefits 2677
Employment Verification 2677
Finality of Order 2677
Order 2677
Overpayment 2680
Payment of Bills 2680
Providing Information 2677
Recipients of Payments for Medical Services 2677
Reimbursement for Transportation Expenses 2680
Treating Physician 2680
Wage Loss Benefits 2679
Weekly Compensation Benefits If Victim Employable But Not Employed 2680
Applications For Funds--Orders For Funding 4026
Changes to Funding on Commission's Own Motion 4026
Continuation of Eligibility 4026
Eligibility 4026
Form of Application 4026
Order for Disbursement 4027
Applications For Intervenor Funding 3948
Applications For License 2582
Applications For Medicaid 1480
Applications For Succeeding Seasons 849
Applications To Change Rates Or Rules 3941
Applications, Licenses & Permits 4986
Conformity 4986
General 4986
Applications/Claims/Appeals -- Defined -- Form & Contents 259
Applications/Claims/Appeals Defined 259
Form & Content 259
Applications/Claims/Appeals--Defined -- Form & Contents 3037
Facts 3037
Other 3037
Refer to Provisions 3037
Applications/Claims/Appeals--Defined--Form & Contents 4662
Applications--Defined--Form & Contents 3930
Clarification or Construction of Orders, Rules or Statute 3930
Form & Content 3931
Initiation of Proceeding 3931

Intervention Are Called "Petitions" 3931
Modification, Amendment or Stay of Existing Orders or Rules 3930
Pray for the Action Sought 3930
Public Information 3930
Reconsideration 3931
Refer to Provisions 3930
Request for Intervenor Funding 3931
State Facts 3930
Applying For Disability Retirement 6010, 6042
Applying Penalties For IPV 1596
Applying Penalties For Not Complying With Work Activities 1586
Work Activity Penalty 1586
Applying The Penalty Period Of Restricted Coverage 1549
Penalty Period for Transfer Prior to February 8, 2006 1549
Penalty Period for Transfers On or After February 8, 2006 1549
Appointed Advocate 1957
Advise Individual of Rights 1957
Advocate Selection 1957
Individual Unable to Make Informed Decisions 1957
Parent or Legal Guardian Unable to Participate 1957
Requested by Individual, Parent, or Guardian 1957
Appointment Of Attorney General As Agent For Service Of Process 324
Appointment Of Hearing Officer 304
Appointment Of Hearing Officers 265, 298, 3042, 4670
Appointment Of Local Rental Pool Committees 4688
Annual Report 4689
Board Meetings for Committee Appointments 4688
Local Committee Procedures 4689
Review by Director 4689
Submission of Amendments to Procedures to Board 4689
Appointments, Reinstatements, Transfers, & Resignations 1151
Probationary Period Required 1151
Reemployment Preference Register 1151
Apportionment Formula 4219
Apportionment Factors 4219
Intercompany Transactions 4219
Rounding 4219
Verification of Factors 4219
Apportionment Of Railcar Fleets
Assessed Values Within The State 4445
Determination of Average Tax Rate -- Private Railcar Fleets Under Five Hundred Thousand Dollars Assessed Value 4445
Private Railcar Fleet Apportionment 4445
Appraisal Procedures 3230
Appraisal 3231
Cost of Appraisal 3231
Appraisal Procedures, Market Value 4418
Appraisal Requirements 3852
Appraisal Reviews 3852
Appraisals In Litigation 3641
Apprentice Jockey 833
Apprentice Jockey Contracts 816
Certificate 816
Contract Transferred 816
Filed With Racing Commission 816
Forms 816
Apprentice Jockey Weight Allowance 794
After One Year 795
If Unable to Ride 795
Weight Allowance 795
Apprentice Jockeys 815
End of Apprenticeship 815
Extend Apprenticeship Termination 815
Races Considered 815
Apprentice Registration 506
Journeyman Examination 507
Schooling Requirements 506
Work Requirements 506
Apprentice Registration & Apprenticeships 3739
Application & Qualifications 3739
Instruction 3740
Out of State Apprenticeship 3741
Recordkeeping 3740
Supervision 3740
Termination of Registration 3740
Apprentice Weight Allowance 816
After One Year 816
Unable to Ride 816
Apprenticeship Certificate 3246
General 3246
Procedure to Obtain Certificate 3246
Regulations Governing Use of Certificate 3246
Appropriateness Of Recommended Purchase & Excessive Insurance 2809
Approval 4768
Conformance to Application 4768
Permits Allowed Without Review 4768
Reinstatement of Expired Permit 4769
Approval & Denial Of Applications 4079
Delegation of Review & Approval 4079
Denial of Application for Unpaid Fees 4080
Discretionary Investment 4080
Review Periods 4079
Approval Of A New Educational Program 3392
Educational Programs 3392
Approval Of Alternative Standards 5140
Approval Of Continuing Education Courses 3462, 3624, 3713
A College or University 3713
Accredited Schools 3624
Approved Continuing Education Courses 3462
Federal, State or Local Governmental Entities 3713
Licensee Course Approval 3463, 3713
National and State Massage Therapy Associations 3713
NCCAOM 3624
Other Courses May Be Approved By The Board 3624
Provider Course Approval 3713
Approval Of Events 3425
Cancellation 3425
Deadline 3425
Prior Approval 3425
Approval Of Facilities By Commission Before Tickets May Be Sold 3428
Approval 3428
Other Considerations 3428
Approval Of Independent Review Organizations 2762
Accreditation 2762
Application for Registration 2762
Notice to Director 2762
Termination of Approval 2762
Approval Of Local Manufactured Home Installation Inspection Programs 555
Division Approval 555
Voluntary Withdrawal 555
Approval Of New Or Alternative Technology 558
Administrator Approval Required 558
Engineer Approval 558
Submission Deadline 558
Approval Of New, Revised & Deleted Classifications 1141
New & Refactored Classifications 1141
Revised & Deleted Classifications 1141
Approval Of Non-Steroidal Anti-Inflammatory Drug Request 864
Professional Diagnosis 865
Professional Judgment 865
Approval Of Preliminary Education 3534
Approval Of Racing Association Licenses 850
Approval Of Schools Of Optometry 3533
Approval, Denial Or Dismissal Of Application For Issuance Of License 5261

Approvals & Denials Of A Permit Application 4878
Basis for Denial 4878
Period for Approval or Denial 4878
Approved Colleges & Universities 3585
Approved Domestic Retirement Orders 6043
Approved Education 3511
Approved Education & Examinations 3657 3657
Licensure Examination 3657
Approved Equipment & Materials 3010
Minimum Requirements 3010
Sprinklers 3010
Approved Examination 3518, 3729
Funeral Director 3518
Grading 3519
Mortician Examination 3518
Approved Examinations 3709
Date of Exam 3710
Successful Passage 3710
Approved Feedlot 53
Approved Feedlot Number 54, 81
Approved Programs Of Study - Certification By Director 2910
Advertising Programs Prior to Certification 2911
Certification of Program 2911
Course Approval Procedures 2910
Final Acceptance/Rejection of Program 2911
List of Programs Certified Acceptable 2911
Nonrefundable Application Fee 2910
Requirements of Course Approval 2910
Approved Schools Of Chiropractic 3463
New Schools 3463
Requirement for Approval 3463
Approved Species, Wild Capture, Limits, Permits, Hacking, & Rehabilitation 1064
Approved Capture Dates for Resident & Non-Resident Falconers 1065
Approved Raptor Species 1064
Assisting with Raptor Rehabilitation 1066
Capture & Possession Limits 1066
Capture Area Restrictions 1065
Capture of Wild Raptors, Approved Species & Limitations 1065
Raptor Hacking 1066
Approved Subjects - Loss Of Certification 2911
Program Suspension 2911
Reinstatement of a Suspended Certification 2912
Approved Topics For Continuing Education 4086
Topics Approved by the Commission 4086
Topics Not Eligible for Continuing Education Credits 4086
Arboviral Diseases 1285
Investigation 1286
Reporting Requirements 1285
Archery & Muzzleloader Permits 1001
Architectural Barriers 3859
Architectural Intern 3409
AXP Enrollment 3409
Prohibitions 3409
Record 3409
Supervision 3409
Area Advisory Councils On Aging 1109
By-Laws 1109
Conflict of Interest 1109
Council Meetings 1109
Establishment of Council 1109
Area Closures 4863, 4873, 4882
Area Plans 1109
Areas Closed To Hunting & Trapping, & Trapping On Game Preserves & Wildlife Management Areas 1079
Areas Closed To Hunting Of Big Game Animals 1015
Black Bear, Grizzly Bear, & Gray Wolves 1016
Mountain Lions & Gray Wolves 1016
Restricted Areas for Big Game 1015
Areas Closed To Hunting Of Game Birds 1035
Geese 1037
General 1035
Migratory Game Birds 1036
Areas Closed To Hunting Of Upland Game Animals 998
Ada County 998
Craters of the Moon National Monument 998
Harriman State Park 998
Mann's Lake 998
Nez Perce National Historical Park 998
Other 998
Yellowstone National Park 998
Areas Closed To The Trapping Of Predatory, Unprotected Wildlife, The Taking Of Furbearing Animals 1074
Ada County 1075
Craters of the Moon 1074
Hagerman Fossil Beds National Monument 1075
National Wildlife Refuges 1075
Nez Perce National Historical Park 1075
Other Areas 1075
Stanley Creek 1075
Yellowstone National Park 1075
Areas Determined To Have A Common Ground Water Supply 4645
Eastern Snake Plain Aquifer 4645
Areas Of Drilling Concern 4830
Additional Requirements 4831
Bond Requirement 4831
General 4830
Arrangement Of Match For Promoter 3426
Assertion Of Right Against Self-Incrimination At Hearing--Immunity 3959
Assertion of Right 3959
Granting of Immunity 3959
No Immunity Without Assertion of Right 3960
Assertion Of Right Against Self-Incrimination During Discovery--Immunity 3955
Assertion of Right 3955
Granting of Immunity 3955
No Immunity Without Assertion of Right 3955
Assertions That Discovered Material Is Protected From Public Inspections -- Procedures 3954
Assertion of Protection 3954
Procedures 3955
Assessment 3245
Assessment 3245
Purchaser 3245
Weight 3245
Assessment & Authorization For Emergency Assistance 2205
Assessment Content 2205
Authority to Assess Needs for Emergency Assistance 2205
Authority to Authorize Emergency Assistance 2205
Authorization & Assessment Period 2205
Family Service Plan Content 2205
Service Period 2205
Total Number of Days for Emergency Assistance 2205
Assessment & Fees
Assessments Levied 1134
Insufficient Funds Checks 1134
Payment Method 1134
Assessment Date & Counting FSI Resources 1536
Assessment Of Operating Property 4440
Allocation 4440
Appraisal Approaches 4440
Appraisal Procedures 4440
Cross Reference 4441
Identify the Unit 4440
Reconciliation 4440
Situs Property Apportionment 4441
The Cost Approach 4440
The Income Approach 4440
The Market Approach 4440
The Unit Method 4440
Assessment Of Tax 4590
Admission to Understatement of Tax 4590

Deficiency of Tax 4590
In General 4590
The Record of Assessment 4590
Assessment Of Transient Personal Property 4429
Definitions 4429
Exempt Transient Personal Property 4430
Non-taxable Transient Personal Property 4430
Overassessment Prohibited 4430
Assessment Return 212
Dealer Assessment Return 212
Grower Assessment Return 212
Assessments 2657, 2849, 2866
Preadmission Assessment 2657
Psychological Problems 2658
Subsequent Assessments 2657
Assessments & Fees 1133
Assessor's Plat Book 4418
Map Scales 4419
Plat Maps 4418
Property Ownership Records 4419
Section Outlines 4418
Subdivision of Sections 4419
Asset Cap 2189
Asset Or Reduction From Liability For Reinsurance Ceded To An Unauthorized Assuming Insurer Not Meeting The Requirement Of Sections 011, 021, 031, 041, 042, And 051 2976
Cash 2976
Letters of Credit 2976
Other 2976
Other Provisions Applicable 2976
Securities 2976
Asset Transfer Look-Back Period 1549
Transfers On or After February 8, 2006 1549
Transfers Prior to February 8, 2006 1549
Asset Transfer Resulting In Penalty 1547
Contract for Services Provided by a Relative 1548
Rebuttable Presumption 1548
Transfer of Certain Notes & Loans 1548
Transfer of Income or Resources 1548
Transfer of Income or Resources by a Spouse 1548
Assigned Criteria 5298
Assigning Reports For Safety Assessment, Reporting Abuse, Abandonment Or Neglect 2541
Assignment 3829
Assignment Of Hay Evaluation Points 1144
Approval 1144
Assignment to Pay Grade 1144
Factoring Benchmarks 1144
Factoring Process 1144
Guide Charts 1144
Assignment Of Person In Charge 1334
Assignment Of Powers Of Secured Party Of Record 4131
Status of Financing Statement 4131
Status of the Parties 4131
Assignment Of Rights To Medical Support & Third Party Liability 1361
Assignment Of Support Rights 1584
Assignments 3170, 3176, 3181, 3186, 3195, 3208, 3220
Application 3208, 3221
Approval Required for Assignment 3170
Assignment Fee 3170, 3186
Assignment of Encroachment Permit 3170
Assignment With New Permit 3170
Denial 3209, 3221
Fee 3181, 3221
Form of Assignment 3221
Full or Partial 3208
Joint Principal 3208, 3221
Multiple Assignments 3181, 3186
Overriding Royalty Disclosure 3208
Partition 3176
Prior Written Approval 3176, 3208, 3220
Prior Written Consent 3181, 3186
Qualified Assignee 3220
Responsibilities 3220
Responsibility 3208
Segregation of Assignment 3208, 3220
Segregation of Lease 3176
Assignments Of Tribal Stored Water To The Bank 4633
Assignment Forms 4633
Assignments of Stored Water 4633
Control of Assigned Water 4633
Return of Unrented Water 4633
Space Assignment 4633
Term of Assignment 4633
Assignments, Assignment Fee 3231
Approval Required for Assignment 3231
Assignment Fee 3231
Assignment of Lease 3231
Permit Assignment 3231
Assistance Based On Need (ABON) 1502
Assistance In Obtaining Documentation 1360
Assistance With Medication 2419
Condition of the Resident 2419
Containers and Labels 2419
Disposal of Medication 2420
Documentation of Assistance 2420
Nursing Assessment 2419
Safeguarding Medications 2419
Training 2419
Assistance With Medication Certification Requirement 2483
Assistant Starter 833
Assistant Starters 735
Asterisks 236
Athletic Training Service Plan Or Protocol 3347
Listing of Services & Activities 3348
Locations & Facilities 3348
Methods to be Used 3348
ATON 3157
Attempt To Place Without Adoption Assistance 2571
Attending 1811
Attorney General's Consideration Of Preliminary Order 301
Attorney General's Consideration Of Preliminary Order
Deputy Attorneys General 301
Hearing Officers 302
Other Staff 301
The Attorney General 301
Attorney General's Review Of Preliminary Order Discretionary 304
Attorney General's Rules Of Administrative Procedure Superseded For Contested Cases 293
Attorney's Fees & Costs 6043
Attorneys Fees & Costs 6011
Attributing Income Of Corporations That Are Members Of Partnerships 4238
In General 4238
Multistate Partnerships 4238
Partnership Income as Business Income of the Partner 4238
Partnership Income as Nonbusiness Income of Partner 4239
Transacting Business 4238
Auctioneer, Agent, Broker, Distributor & Factors 4297
Audiology Services 1691
Coverage & Limitations 1691
Allowance to Waive Impedance Test 1692
Implantable Hearing Aids 1692
Non-Implantable Hearing Aids 1691
Provider Documentation Requirements 1692
Participant Eligibility 1691
All Participants 1691
Participants Under the Age of 21 1691
Procedural Requirements 1692
Additional Testing 1692
Audiology Examinations 1692
Provider Qualifications & Duties 1692
Audiologist, Licensed 1692
Speech-Language Pathologist, Licensed 1692

Provider Reimbursement 1693
Limitations 1693
Payment Procedures 1693
Audit 3901
Audit Of One-Number Service Records 588
Audit, Investigation & Enforcement 1405, 1578, 1738, 1970, 2063, 2183
Audit, Investigation, & Enforcement 1603
Audits 2164
Audit Objectives 2164
Audit Requirement 2164
Authority 1099, 1108, 1141, 3082, 3173
Authority Conferrable On Employees - Enforcement 3834
Director Authority 3834
Park Manager Authority 3834
Authority For Alternate Care Placement 2259
Court Order 2259
Voluntary Placement 2259
Authority For Alternate Care Services 2529
Department Custody 2530
Voluntary Placement 2530
Authority For Funding Approval 3814
Major Cost Increases 3814
Minor Cost Increases 3814
Waterways Improvement Fund Grant Limit 3814
Authority Of Hearing Officer 2146
Authority Of Representative 4700, 4742, 4754
Proof of Beneficial Use 4700
Responsibility 4700
Authority Of The Commission Veterinarian 858
Authority To Give The Consent To Jurisdiction Of Idaho Courts 4540
Authority to Waive Sovereign Immunity 4540
Authorized Signature on Application 4540
Irrevocable Submission & Waiver of Sovereign Immunity 4541
Authority To Inspect 363, 390, 404
Additional Incident Reporting 364
Additional Reporting Requirements 364
Emergency Closure Of Program 364
Inspections 363, 404
Notification of Death Of A Juvenile Offender 364
Notification of Program Changes 364
Site Visit 404
Authority To Issue Permits 5107
Authority 5107
Special Permit 5107
Authorization For Disinterment & Reinterment 2317
Disinterment & Reinterment of a Dead Body or Fetus 2317
Mass Disinterment & Reinterment 2317
Nature of Permit 2318
Authorization For Granting, Denial & Revocation Of Licenses 3783
Board Conditions 3784
Executive Director Authorizations 3783
Authorization For The Use & Disclosure Of Health & Other Confidential Information 2131
Authorization for the Use & Disclosure of Health Information 2131
Content of Authorization 2131
Copy of Authorization 2132
Defective Authorization 2131
Effect on Benefits & Services 2132
Psychotherapy Notes 2131
Revocation of an Authorization 2131
Authorization Limitations 681
Durations 681
Limited Restriction 681
Restrictions 681
Authorization Number Pending Receipt of License 978
Authorization Number 978
Authorization Number Only Eligible for Certain Activities 979
Authorization Number Used in Lieu of License 979
Violation 979
Authorization Requirements 680
General 680
Authorization To Test & Notification To Schedule 33
Authorizations Required, Residential Care Facility 2619
Authorizations, Prohibitions & Exemptions 4717
Authorizations 4717
Exemptions 4718
Prohibitions 4717
Authorized Agent License 833
Changes 833
Each Owner Represented 833
Power of Attorney 833
Termination 833
Written Instrument 833
Authorized Operations 3845
Authorized Representative 1413
Authorized Representative Removed 1414
Contingency Designation 1414
Department Responsibilities 1414
Designating Authorized Representative 1413
Emergency Designation 1414
Persons Who Cannot Be An Authorized Representative 1413
Automatic Fire Extinguishing System Service & Maintenance Of Equipment & Systems For Fire & Life Safety
Fire Watch 2472
Testing 2472
Automatic Recording 4018
Automobile Advertising/Sales
Advertising Limitations 248
Buy-Down Rate 249
Dealer's Cost 249
Hidden Finance Charges 249
Invoice Pricing 249
Low Prices 248
Lowest Prices, Guaranteed Lowest Prices 249
Price Matching 249
Vehicle Availability 249
Auxiliary Lanes 5013
Auxiliary Lanes Required by Planned Development 5013
Auxiliary Lanes to Enhance Roadside Business 5013
Traffic Engineering Study 5013
Availability Of New Services Or Providers 2839
Employer Sponsored Plan 2840
Exceptions to Notification Requirements 2839
Exchanges & Not Replacements 2839
New Coverage 2839
Not Applicable to Life Insurance Policies 2840
Nothing Shall Prohibit an Insurer From Offering Coverage 2840
Notification to Policyholder 2839
Proprietary Policy 2839
Availability Of Public Information 1473
Availability Of Referenced Material 5601
Availability of Referenced Material 5658
Availability Of The "Manual On Uniform Traffic Control Devices For Streets & Highways & Other Referenced Documents 4997
Availability To Provide Services Pending Completion Of The Criminal History & Background Check 2508
Employees of Providers, Contractors, Emergency Medical Services (EMS), or the Department 2508
Individuals Licensed or Certified by the Department 2508
Availability To Users 3859
Nondiscrimination 3859
Seasons & Hours 3859
Available For Work 609
Availability Requirements 609
Child Care 609
Compelling Personal Circumstances 609
Conscientious Objection 609

Contract Obligation 609
Distance to Work 609
Domestic Circumstances 610
Equipment 610
Experience or Training 610
Full-Time/Part-Time Work 610
Incarceration/Work Release 610
Jury Duty/Subpoenas 610
Licensing or Government Restrictions 610
Moving to Remote Area 610
Public Official 610
Public Service 610
Restricting Work to Within the Home 610
School Attendance or a Training Course 610
Temporary Absence From Local Labor Market to Seek Work 610
Transportation Difficulties 611
Unreasonable Restrictions on Working Conditions 611
Vacation 611
Wages 611
Waiver of Two-Year Training Limitation 611
Available Services 3307
Nursing Care 3307
Residential & Domiciliary Care 3307
Average Monthly Salary Computation--Equitable Treatment--Different Work Periods 6016
Averaging Income 1590
Averaging Infrequent, Fluctuating, Or One-Time Only Expenses 1452
Averaging Self-Employment Income 1590, 2187
Annual Self-Employment Income 1449, 1590, 2187
Seasonal Self-Employment Income 1449, 1590, 2188
Avian Species 101
Award Eligibility Requirements 1178, 6074
Annual Report(s) Submitted 6075
Award Consideration Criteria 1179
Completed Application 6075
Compliance with Indigent Defense Standards 6074
Curing of Deficiencies 6075
Equipment 1179
Use of Funds 6075
Award Recommendation 1179, 6075
Assessment & Validation of Need 1179
Assessment and Validation of Need 6075
Commission Approval 1179, 6075
Contingency Awards 1179
Awarding Of Grants 2162
Acceptance of Grant Award by Grantee 2162
Approval or Grant Agreement 2163
Awards 1509, 3949
Order Awarding Intervenor Funding 3949
Payment of Awards 3949
Recovery of Awards of Intervenor Funding 3949
AZA Accredited Facilities & USDA Licensed Facilities 180
Movement Between AZA & USDA Facilities 180
Transfer of Cervidae 180

B

Baby Calves - Owner Inspection 709
General Requirements for Baby Calf Inspection 709
Inspection of Calves Eleven Days or More Old 709
Backfire Flame Control 3801
Backflow Assembly Tester Code Of Ethics & Standards Of Conduct 3495
Backflow Protection, Distribution System 5789
Background Checks 373
Backup Withholding By Pass-Through Entities 4274
Backup Withholding Returns 4275
Exceptions to Backup Withholding 4274
Failure to File Returns or Remit Backup Withholding 4276
Idaho Nonresident Owner Agreement 4275
In General 4274
Payment of Backup Withholding 4275
Bacteriological Quality Of Pool Waters 2341
Bad Checks 834
Bad Debts & Repossessions 4339
Amount of Credit Allowed 4340
Application to Taxpayers 4340
Bad Debt Collected at a Later Date 4342
Cross-Reference 4342
In General 4339
Rules for Secured Credit Sales 4340
Rules for Unsecured Credit Sales 4339
To Claim Credit for a Bad Debt 4342
Bag & Possession Limits 1000
Depredation Hunts 1000
Extra Tag Hunts 1000
Limits on Take -- Deer, Elk, Pronghorn, Mountain Lion, Black Bear, Gray Wolf 1000
Bail Agent Financing Of Bail Bond Premiums 2899
Collateral for Credit Agreement 2900
Early Surrender for Failure to Pay 2900
Written Agreement 2900
Baiting Permit 1077
Baiting Permit 1077
Use of Baiting Permit 1077
Bandaging Of Combatant's Hands 3432
Bandaging Of Combatant's Hands
Additional Requirements 3432
General 3432
Witnesses 3432
Banned MHC Practices 2926
Avoidance of Provisions of Chapter 2926
Borrowing Funds 2926
Payment of Commissions 2926
Banned Policy Provisions 2875
Exclusions 2875
Pre-existing Conditions 2875
Probationary or Waiting Period 2875
Banned Substances 859
Administration by Veterinarians 859
Banned Substances 859
Banned Transactions 2759
Barber & Cosmetology School Requirements 3734
Cessation of School 3735
Change in Ownership or Location 3735
Clinical Work 3734
Curriculum 3734
Faculty or Instructors 3734
Operations 3734
Outside School Activities 3735
Premises 3734
Student Records To be Maintained by the School 3735
Barns 855
Good Repair 855
Stall Size 855
Base Camp Requirements 2653
Base Camp 2653
Proof of Compliance 2653
Basic Allowance 1518
Couple or Participant Living with Essential Person 1519
SIGRIF 1519
Single Participant 1518
Basic Certification Of Law Enforcement Officers 892
Basic Merit Requirements Of The Personnel System 1139
Basic Requirements 2906
Completion Within Two Years 2906
Proof of Completion 2906
Relicensing Procedures After Voluntary Termination of License 2906
Bathroom Facilities, Children's Residential Care Facilities 2638
Bathrooms, Water Supply, & Sewage Disposal 2607
Sewage Disposal 2607

Toilet Facilities 2607
Water Supply 2607
Bear River Basin
Bear Lake Subbasin 5436
Central Bear Subbasin 5435
Curlew Valley Subbasin 5439
Little Bear-Logan Subbasin 5438
Lower Bear-Malad Subbasin 5438
Middle Bear Subbasin 5437
Becoming an Adoptive Parent 2557
Bedrooms 2608
Appropriate Bedding 2610
Children of the Opposite Gender 2609
Maximum Number of Children in a Bedroom 2609
Non-Ambulatory Child 2609
Number of Children in a Bed 2609
Restrictions on Sleeping Arrangements 2609
Sharing a Bedroom with a Foster Parent 2609
Sharing Bedroom with a Non-Parent Adult 2609
Sleeping Arrangements 2609
Beds, Children's Residential Care Facilities 2639
Beer And Wine Sales Subject To Tax 4564
In General 4564
Supplementing Inventory 4565
Beer Or Wine Tax Accounts
Tax Accont Cancellation 4567
Tax Accounts 4567
Tax Accounts Are Non-transferable 4567
Beer Or Wine Tax Returns 4567
Inventory Reporting 4568
Prescribed Forms 4568
Reporting Periods 4567
Requirements of a Valid Return 4568
Behavior Management & Discipline 2610
Agency Consultation 2610
Authority 2610
Prohibitions 2610
Restraint 2610
Behavior Management & Discipline Policy 2644, 2664
Behavior Management 2644, 2664
Documentation 2645, 2665
Behavioral Health Services 1676
Bell Or Gong 3433
Below Regulatory Concern Facilities 5632
Applicable Requirements 5632
Application Content, Review & Approval Requirements 5633
Documentation Requirements 5633
Beneficial Use Support Status 5315
Aquatic Habitat Parameters 5315
Biological Parameters 5315
Natural Conditions 5315
Rigor, Quality and Relevance of Data 5315
Use of Data Regarding pH, Turbidity, Dissolved Oxygen, & Temperature 5315
Benefit Enhancement--Qualification 6018
Benefit Standards For 2010 Standardized Medicare Supplement Benefit Plan Policies Or Certificates Issued For Delivery With An Effective Date For Coverage On Or After June 1, 2010 2786
General Standards 2786
Standards for Additional Benefits 2788
Standards for Basic (Core) Benefits Common to Medicare Supplement Insurance Benefit Plans A, B, C, D, F, F with High Deductible, G, M, & N 2788
Benefits After The Initial Month 1454
Not Categorically Eligible 1454
One & Two Person Households 1454
Three or More Person Household 1454
Benefits During Military Services 6044
Death Benefits 6044
Determination of Return to Employment for Benefit Accrual Purposes 6044
Differential Wage Payments 6044
Bentonite Grout 4811
Best Effort 788
Best Management Practices & Reclamation For Placer & Dredge Mining Operation 3107
Backfilling & Grading 3109
Clearing & Grubbing 3108
Dam Safety 3109
Dewatering Settling Ponds 3109
Modification of Management Practices 3108
Mulching 3110
Nonpoint Source Sediment Control 3107
Overburden/Topsoil 3108
Permanent Cessation & Time Limits for Planting 3110
Revegetating Waste Piles 3110
Revegetation Activities 3111
Roads 3108
Settling Ponds -- Minimum Criteria 3109
Soil Amendments 3110
Topsoil Redistribution 3110
Topsoil Replacement 3109
Waste Disposal - In Areas Other Than Mine Excavations 3110
Best Management Practices & Reclamation For Surface Mining Operation & Permanent Closure Of Cyanidation Facilities 3142
Backfilling & Grading 3144
Clearing & Grubbing 3143
Disposal of Waste in Areas Other Than Mine Excavation 3144
Nonpoint Source Control 3142
Overburden/Topsoil 3143
Permanent Cessation & Time Limits for Planting 3146
Petroleum-Based Products & Chemicals 3148
Revegetation Activities 3146
Roads 3144
Sediment Control 3142
Settling Ponds 3145
Tailings Impoundments 3145
Betting Explanation 743
BIA Adult Custodial Care (ACC) & Child Welfare Assistance (CWA) Payments 1510
Bicarbonate Testing 867
Administration Prohibited 867
Collection of Test Samples 868
Positive Test Level 868
Split Sample Testing Prohibited 868
Bicycles, Skates, Skateboards, Scooters, & Other Non-Motorized Transportation 4863, 4869, 4874
Bighorn Sheep Auction Tag 988
Application of Big Game Rules 988
Eligibility 988
License & Controlled Hunt Tag 988
Validity of Tag 988
Bighorn Sheep Lottery Tag 989
Application of Big Game Rules 989
Eligibility 989
Tag 989
Validity of Tag 989
Billing Errors, Billing Under Incorrect Rates, Or Failure To Bill 4007
Additional Payments 4008
Billing Errors -- Failure to Bill 4007
Billing Under Incorrect Rates 4007
Rebilling Time Period 4007
Refunds 4008
Billing Errors, Billing Under Incorrect Rates, Or Failure To Bill For Service 3983
Billing Errors -- Failure to Bill 3983
Billing Under Incorrect Rates 3983
Billing Prohibited -- Billing Disputes 4008
Billing Disputes 4008
Unauthorized Charges 4008
Billing Third Parties First 2358
Binding On Heirs 3233
Bingo By Charitable Or Nonprofit Organizations 5249
Bingo Operations Using Electronic Bingo Machines 5252
Electronic Bingo Machines Defined 5252
Inspection & Testing 5252
List of Approved Hardware &

Software 5252
Pre-Game Testing 5253
Requirements for Approved Site Systems 5252
Use of Approved Hardware & Software 5252
Biologics 103
Labels 103
Shipping Virulent Blood or Living Virus 103
USDA License 103
Biotinidase Deficiency 1286
Bird-Dog Training & Field Trials By Individuals Using Artificially Propagated Game Birds 1069
Bird-Dog Training & Field Trials by Individuals Using Artificially Propagated Game Birds
Bird-Dog Field Trials 1070
Bird-Dog Training 1069
Black Lung Benefits 1509
Blanket Bond 3105
Bleeder Treatment 865
Bleeders 865
Lasix 865
Premarin 865
Written Approval Needed 865
Blind Or Disabled Student Child Earned Income 1503
Blindness Work Expense Disregard 1522
Blind Work Expense Limit 1522
No Duplication for Blind Work Expenses 1522
Blood Samples 866
Flunixin 866
Ketoprofen 866
Lasix 867
Mechlofenamic Acid 866
Phenylbutazone 866
Blow Out Prevention 4735
Explored Areas 4736
Unexplored Areas 4735
Blows At Or After The Bell In MMA Contest 3452
Illegal Blow 3452
Legal Blow 3452
Board 3585
Board Action Upon Determination Of Probable Violation 3253
Board Certification Of Optometrist
Authorized To Obtain & Use Pharmaceutical Agents 3540
The Right to Obtain & Use Topically Applied Diagnostic Pharmaceutical Agents 3540
The Right to Prescribe, Administer & Dispense Therapeutic Pharmaceutical Agents 3541
Board Determinations 353
Board's Determination to the Director 353
Confidentiality 353
Evaluation of Juvenile Cases 353
Indeterminate Sentence Remains 353
Official Record of Hearing/ Review 353
Reconsideration 353
Board Discretion 6034
Board Fees 3869
Fee Determination & Collection 3869
Fee Exemption for Controlled Substance Registrations 3869
Fee For Dishonored Payment 3869
Overpayment of Fees 3869
Time & Method of Payment 3869
Board Inspections & Investigations 3866
Inspection Deficiencies 3866
Inspection Reports 3866
Inspections 3866
Investigations 3867
Records Subject to Board Inspection 3866
Board Meetings 3585, 5281
Agenda 5281
Meetings 5281
Board Meetings - Dates - Places 3644
Board Meeting Dates 3644
Dates & Places May be Changed 3645
Board Members As Presiding Officers, Appointment Of Hearing Officers, Notice 5588
Board Of Pharmacy Licensure & Registration 3868
Board Response To Petition 5599
Action of Board 5599
Denial 5599
Board Review & Approval 3854
Board Review Of Auction 3198
Board, Lodging, Meals 638
Cash Value 638
Meals & Lodging Not Included in Gross Wages 638
Meals or Lodging for Employer Convenience 638
Subsistence Remuneration 638
Boarders 1466
Boarder Included With Food Stamp Household 1466
Foster Adults 1467
Foster Children 1466
Income From Boarders 1467
Meal Compensation 1467
Nonboarder Status 1467
Boat Equipment Requirements 3770
Clearwater 3770
Identification 3770
Boat Transport Of Hunting Clients 3770
Boating Client/Guide Ratio 3770
Boating Facilities 3837
Moorage & Use of Marine Facilities 3837
Moorage Fees 3837
Self-Registration 3837
Use of Onshore Campsites 3837
Boatman License Trainees 3766
Boise River, SW-5 and SW-11a -- Site-Specific Criteria for Water Temperature 5468
Bona Fide Occupational Qualification 1139
Bond 548, 2913, 3176, 3232, 3235
Amount of Bond 3235
Bond Requirement Determined by Director 3232
Exceeding Minimum Bond 3236
Performance Bond 3232
Rates 3235
Bond Requirements 3211, 3222
Bond Cancellation 3223
Form 3223
Form of Performance Bond 3223
Minimum Bond 3211, 3222
Operator Bond 3211
Period of Liability 3211, 3222
Statewide Bond 3211, 3222
Surety License 3223
Bonded 852
Bonded Title 5078
Bond Surety 5078
Claims Against The Bond 5078
Conditions & Requirements 5078
Expiration Of Bonding Requirement 5079
Return Of Bond Prior To Three Year Period 5079
Sales & Use Tax 5079
Bonding 2776, 3271, 4391, 4745, 4856
Additional Bonding 3272
Amount of Bond 4745
Amount of Security 4391
Authorized Bonds 3272
Blanket Bond 3271
Bonding Requirements 4856
Cancellation of Bond Requirements 2776
Cash Bonds 4856
Certified Copy of Bond 2776
Cost Estimate Submitted by Engineer 4745
Current Costs for Abandonment 4746
Determination of Bond Amount 4746
Filing Copy of Performance Bond 4746
Filing Initial Bond 4746
Filing of Bond 4745
Forms of Security 4392
Inactive Well Bond 3271
Individual Bond 3271
Posting Security 4391
Provisions of Bond 4745
Release of Security 4392
Scope of Coverage 2776
Third Party Administrator 2776
Written Demand 4392

Bonding Or Dishonesty
  Insurance 2779
  Cancellation of Bond Requirements 2779
  Certified Copy of Bond 2779
Bonds Of Out-Of-State Permittees & Licensees 5042
Bonuses 1145
  Employee Suggestion Award 1145
  Performance Bonuses 1145
Bookmakers 848
  Ejection 848
  Entry Prohibited 848
  License Revocation 848
Border Line Roads 5022
  City Boundaries 5022
  County or Highway District Boundaries 5022
Borrowers Unable to Obtain Loans, Mortgage Practices Act 931
Botulism 1286
  Handling of Report 1286
  Investigation 1286
  Reporting Requirements 1286
Boxer's Costume & Equipment 3436
  Costume 3436
  Fit 3436
  Other Equipment 3437
Boxing Gloves 3431
  Distal Portion 3431
  Extra Set 3431
  General 3431
  Glove Specifications 3431
  Sanitary 3431
  Weight of Gloves 3431
Boxing Ring 3432
  Ring Dimensions 3432
  Ring Platform 3432
  Ropes 3432
Boy Scout, Girl Scout & 4-H Group
  Sales & Purchases 4364
  Purchases by Scout & 4-H Groups 4365
  Sales by Scout & 4-H Groups 4364
Brakes 4968, 5105
Brand Alternatives 707
  Identification 707
Brand Inspections 708
  Fees 709
  General Procedures 708
  Owners 708
  Proof of Ownership 708
Brand Inspections At Slaughter Plants & Mobile Slaughter Units 711
  Collection 711
  Inspection 711
  Notification 711
  Record of Ownership 711
  Records 711
Brand Inspector To Require Dealer License Number 714
Branding Of Sheep 708
Branding, & Grade & Packaging Requirements Of State Brand 3908
  Branding or Marking of Individual IDAHO® Potatoes 3908
  Packaging 3909
  State Brand Grade & Packaging Requirements 3909
Breach 3194
  Damages for Breach 3194
  Non-Compliance 3194
Breakage Or Spoilage 4565
  Deduction for Breakage or Spoilage 4566
  Destruction Request Method 4566
  Percentage Method 4566
Breakopen Instant Ticket Games 5243
  All Devices Must Comply with Requirements 5245
  Breakopen Instant Ticket Operation 5245
  Breakopen Instant Ticket Price per Play to be Posted 5245
  Breakopen Instant Ticket Series Assembly & Packaging 5245
  Breakopen Instant Ticket Special Inspection 5244
  Certificate Modification 5246
  Definitions 5243
  Limitation on Breakopen Instant Ticket Dispensing 5245
  Prize Structure 5246
  Retailer Application & Fee 5246
  Retailers Eligible to Sell Breakopen Tickets 5246
  Standards for Flares 5246
Breast & Cervical Cancer Program 1943
Breast Or Cervical Cancer Program
  Definitions 1943
    Adjuvant Therapy 1943
    End of Treatment 1943
    Primary Treatment 1943
  Eligibility 1943
  Procedural Requirements 1943
Breast Or Cervical Cancer Program Through The Women's Health Check 1943
Breed Associations 848
  Failure to File 848
  Representatives 848
Breeder Awards 848
Bribes, Gifts, & Gratuities 812
Bridge Analysis Criteria & Time Frames 4966
  Extenuating Circumstances 4967
  Overweight Permit Requests with Multiple Configurations 4966
  Overweight Permit Requests with Multiple Routes 4966
  Preliminary Information or Bid Work 4966
  Vehicle Combinations in Excess of Eight Hundred Thousand (800,000) Pounds 4966
Bridges & Tunnels--Upper Section 4070
Bridges--Lower Section & Structures Four Feet High Or Less--Guards & Cattle Chutes--Hand Rails On Bridges & Trestles--Oil Columns--Water Barrels--Water Columns 4070
Briefing Schedule 2145
Briefs 4616
Briefs -- Memoranda -- Proposed Orders Of The Parties -- Statements Of Position -- Proposed Order Of The Presiding Officer 4676
Briefs & Memoranda 4905
Briefs, Memoranda, Proposed Orders Of The Parties, Statements Of Position 5593
Briefs--Memoranda--Proposed Orders Of The Parties--Statements Of Position--Proposed Order Of The Presiding Officer 276, 3048
Briefs--Proposed Orders Of The Parties--Statements Of Position--Proposed Order Of The Commission 3958
Broad Based Categorically Eligible Household Exceptions 1420
  Drug-Related Felony 1420
  IPV 1420
  Refusal to Cooperate 1421
  Strike 1421
  Transferred Resources 1421
Broadband Equipment Investment Credit
  In General 4255
    Carryovers 4256
    Credit Allowed 4255
    Limitations 4255
    Pass-Through Entities 4256
    Taxpayers Entitled to the Credit 4256
  Recapture 4257
    In General 4257
    Transferred Credit 4257
    Unitary Taxpayers 4257
  Record-Keeping Requirements 4257
    Accounting Records Subject to Examination 4257
    Credit Transferred 4258
    Failure to Maintain Adequate Records 4258
    Information Required 4257
    Unitary Taxpayers 4258
Broker-Dealer Agent/Issuer Agent Registration 953
  Agents of Issuer 953
  Annual Renewal 954
  Broker-Dealer Agents 953
  Completion of Filing 955
  Deferral of Effectiveness 955
  Incomplete Applications 954
  Updates & Amendments 954
Broker-Dealer Registration -- Application/Renewal 951
  Annual Renewal 952

Completion of Filing 952
Deferral of Effectiveness 952
Incomplete Applications 951
Initial Application -- FINRA Member Firms 951
Initial Application -- Non-FINRA Member Firms 951
Updates & Amendments 952
Bromine Disinfection 2341
Brucella Ovis Free Flock Program
Standards 221
Approved Brucella Ovis Tests 221
Brucella Ovis ELISA Positive Test Results 221
Flocks from Which Rams are Leased, Rented or Loaned 221
Flocks from Which Rams are Not Leased, Rented or Loaned 221
Brucellosis 1286
Handling of Report 1286
Investigation 1286
Reporting Requirements 1286
Brucellosis Emergency 75
Brucellosis in Adjacent Area 75
Brucellosis in Idaho 75
Infected Herd(s) to be Condemned & Depopulated 75
Brucellosis Eradication Areas 79
Circumstances Under Which Testing Is Required 79
Discontinuance of Eradication Area 79
Test Exemptions 79
Brucellosis Indemnity 75
Claims Not Allowed 76
Animals Sold for Slaughter 76
Attempt to Improperly Obtain Funds 76
Calves 76
Failure to Comply 76
Illegal Imports 76
Neutered Animals 76
Premises Not Cleaned 76
Unapproved Test 76
Unidentified Cattle & Domestic Bison 76
Untested Animals 76
Indemnity Payments 75
Other Costs 76
Reactors That Die 76
Time Limit for Slaughter 76
Brucellosis Requirements, Breeding Swine 98
Brucellosis Test Requirements 94
Brucellosis Surveillance or High Risk Areas 94
Class a States or Areas 94
Brucellosis Testing
Dairy Herds 75
Duty to Restrain 74
Interstate Movement 75
Records of Tests 75
Brucellosis Vaccination Requirements 93
Approved Feedlot 94
Calves 94
Cattle Consigned to Slaughter 94
Cattle Consigned to Specifically Approved Livestock Markets 94
Show Cattle 94
Vaccination on Arrival 94
Brucellosis, Domestic Cervidae Ranches 190
Budget Certification - Dollar
Certification Form (L-2 Form) 4499
Budget Certification 4500
Budget Certification Requested Documents 4500
Cross Reference for School Districts with Tuition Funds 4505
Definitions 4499
L-2 Form Contents 4501
Special Provisions for Calculating Total Levy Rate for Taxing Districts or Units With Multiple Funds 4504
Special Provisions for Cities With Existing Library Operations or Services Consolidating With Any Library District 4504
Special Provisions for Consolidating Cemetery Districts 4504
Special Provisions for Fire Districts Levying Against Operating Property 4503
Special Provisions for Interim Abatement Districts 4504
Special Provisions for Library Districts Consolidating With Any City's Existing Library Operations or Services 4504
Special Provisions for Property Tax Replacement & Refunds Pursuant to Section 63-1305C(6), Idaho Code 4503
Special Provisions for School Districts' Tort Funds - Hypothetical New Construction Levy 4504
Budget Certification Relating To New Construction & Annexation 4494
Change in Status 4497
Definitions 4494
Limitation on Annexation & New Construction Roll Value 4499
Manufactured Housing 4496
New Construction Roll Listing 4494
Notification of New Construction Roll & Annexation Values 4499
Partial New Construction Values 4497
Special Provisions for Value Increases & Decreases 4495
Budget Certification Relating To Operating Property Annexation Value 4492
Annexation Values for Operating Properties 4492
Appropriate County Auditor, Defined 4492
Corrected Annexation Values for Operating Properties 4493
County Auditor to Notify Taxing Districts or Units 4493
Budgeting For Caretaker Relatives 1582
Caretaker Relative Applying Only for Relative Child 1582
Multiple Children 1582
Relatives 1582
Buildings, Grounds, Furnishings & Equipment, Children's Residential Care Facilities 2638
Buildings, Grounds, Furnishings, & Equipment 2598
Appliances & Electrical Cords 2598
Balconies & Stairways 2598
Fueled Equipment 2598
Hazard Areas Restrictions 2598
Indoor Play Areas & Toys 2599
Outdoor Play Areas & Toys 2599
Stairway Protection 2598
Water Hazards 2598
Bullion, Coins, or Other Currency 4314
Jewelry or Other Works of Art 4314
Sales & Purchases of Bullion 4314
Bulls For Sale 119
Contact with Female Cattle 119
Period of Validity 119
Placed Under a Hold Order 119
Returned to Home Premises 119
Sold Directly to Slaughter 119
Virgin Bulls 119
Burden Of Establishing Entitlement To Be Listed In The Directory 311
Burden Of Proof 720
Burden Of Proof - Extenuating Circumstances 2573
Burden Of Proof - Individual Benefit Cases 2146
Burden On Applicant 6011, 6042
Burdens Of Proof 277, 3049, 3971, 4677
Burdens Of Proof Regarding Settlements 5595
Burdens Of Proof, Settlements 3963
Bureau Of Indian Affairs (BIA) Foster Care 1503
Bureau Of Indian Affairs General Assistance (BIA GA) 1510
Burial Funds Excluded From Resource Limit 1492
Effective Date of Burial Funds Exclusion 1492
Face Value of Burial Insurance Policies Not Counted 1492
Life Insurance Policy as Burial Funds 1492
Penalty for Misusing Burial Funds 1492
Burial Space Or Plot & Funeral

Agreement Exclusions 1441
Burial Space or Plot Exclusion 1441
Funeral Agreement Exclusion 1442
Burial Space Or Plot Exclusion 1492
Burial Space Contract 1492
Space Held by Ineligibles Excluded 1492
Burners 3084
Burning Of Slash 3237
Burn Plan 3237
Permits 3237
Burning Permits 3084
Permit Conditions 3084
When Permit Required 3084
Business & Nonbusiness Income
Application Of Definitions 4209
Dividends 4210
Gains or Losses from Sales of Assets 4210
In General 4209
Interest Income 4210
Patent & Copyright Royalties 4210
Rent From Real & Tangible Personal Property 4209
Business & Nonbusiness Income Defined
Apportionment & Allocation 4206
Business Income 4206
In General 4207
Terms Used in Definition of Business Income & in Application of Definition 4207
Functional Test 4207
Application of the Functional Test 4208
Examples of Business Income Under the Functional Test 4208
In General 4207
Integral, Functional, or Operative Component of Trade or Business 4208
Operational Function Versus Investment Function 4208
Presumptions 4208
Property Held in Furtherance of Trade or Business 4208
Terms 4207
Relationship Of Transactional & Functional Tests To U.S. Constitution 4209
Transactional Test 4207
Business Income for Idaho 4207
In General 4207
Regular Course of the Taxpayer's Trade or Business 4207
Business Conduct 4085
Business Meetings 5191
Business Organization - Changes In Organization Or Structure - Members Of Joint Ventures - Changes For Reasons Other Than Death 575
Buy-In Reimbursement 1503
Bypass, After First Call 322

C

Cable Pole Attachments 3948
Cable Yarding 457
Safety A 458
Safety B 458
Safety C 458
Safety D 458
Safety E 458
Cadastral Certification Program 4412
Application for Certification 4412
Certification Requirements 4412
Cross Reference 4413
Maintaining Cadastral Specialist Certification 4413
Calculating Income To Apply The Sliding Fee Schedule For Children's Mental Health & Adult Mental Health Services 2673
Ability to Pay 2673
Fees Established by the Department 2673
Financial Obligation 2673
Required Information 2673
Time of Payment 2673
Calculating Permit Provisions 5974
Continuous Discharges 5976
Disposal of Pollutants into Wells, into POTWs, or by Land Application 5979
Internal Waste Streams 5979
Mass Limitations 5976
Metals 5975
Noncontinous Discharges 5976
Outfalls & Discharge Points 5974
Pollutant Credits for Intake Water 5976
Production-Based Limitations 5974
Calculating The Period Of Ineligibility For Resource Transfers 1498
Calculation Of Minimum Valuation Standard For Flexible Premium & Fixed Premium Universal Life Insurance Policies That Contain Provisions Resulting In The Ability Of A Policy Owner To Keep A Policy In Force Over A Secondary Guarantee Period 2939
Basic Reserves for the Secondary Guarantees 2940
Deficiency Reserves for the Secondary Guarantees 2940
General 2939
Minimum Reserves 2940
Calculation Of Minimum Valuation Standard For Policies With Guaranteed Nonlevel Gross Premiums Or Guaranteed Nonlevel Benefits (Other Than Universal Life Policies) 2936
Basic Reserves 2936
Deficiency Reserves 2936
Exemption From Unitary Reserves for Certain Juvenile Policies 2939
Exemption From Unitary Reserves for Certain n-Year Renewable Term Life Insurance Polices 2939
Minimum Value 2936
Optional Exemption for Attained-Age-Based Yearly Renewable Term Life Insurance Policies 2938
Optional Exemption for Yearly Renewable Term (YRT) Reinsurance 2937
Unusual Pattern of Guaranteed Cash Surrender Values 2937
Calculation Of Motor Fuels Tax On Gaseous Special Fuels 4534
Computing Gaseous Special Fuel Tax Equivalents 4534
In General 4534
Calculation Of Pay 1143
Calculation of Pay for Police, Correctional Officers, & Fire Employees 1143
Holiday Pay Calculation 1143
Reduction of Salary 1144
Salaries for Temporary Appointments 1144
Salary Administration 1144
Shift Differential 1143
Standard Calculation of Pay 1143
Calculation Of Payoffs & Distribution Of Pools 746
Pari-Mutuel Wagering Pools Separately & Independently Calculated & Distributed 746
Profit per Dollar 746
Single Commission Pools 746
Standard or Net Price Calculation 746
Calculation Of Retention Points 1155
Audit of Retention Points 1156
Calculation Date Cutoff 1156
Calculation of Retention Points Since Last Evaluation 1156
No Performance Evaluation on File for a Twelve-Month Period 1155
Veterans Preference 1156
Calculation Of Self-Employment Income 1449, 1590, 2188
Capital Gains Income 1449, 1590, 2188
How Monthly Income is Determined 1449, 1590, 2188
Self-Employment Expense Deduction 1449, 1591, 2188
Calibration of & Equipment Used for Measuring & Recording Voltage, Current & Resistance 4044
Calibration Requirements 4045
Calibration Certificates 4045
Field Check 4045
Measuring Equipment Calibration 4045
Camping 3836
Camping Prohibited 3837

Campsite Parking 3837
Check Out 3837
Condition of Campsite 3836
Equipment 3837
Length of Stay 3836
Liquid Waste Disposal 3836
Motorized Equipment 3837
Occupancy 3836
Registration Required 3836
Responsible Party 3837
Self Registration 3836
Visitors 3837
Camping Day, Definitions 3832
Camping, Trash, & Refuse 5059
Camping 5059
Camping Limits 5059
Fires 5059
Trash & Refuse 5059
Trash Disposal 5059
Campsites
Reservation Service Fees, Individual Campsite or Facility 3840
Campylobacteriosis 1286
Investigation 1286
Reporting Requirements 1286
Restrictions - Day Care Facility 1286
Restrictions - Food Service Facility 1287
Restrictions - Health Care Facility 1287
Canadian & British Companies 2952
Annual Audited Financial Report 2952
Letter Requisite in Section 013 2952
Cancel Wagering 729
Canceling Claims 611
Cancellation 3830
Cancellation & Additional Remedies 3231
Additional Remedies Available 3232
Cancellation of Lease for Use Other Than Intended Purpose 3232
Cancellation of Lease for Violation of Terms 3231
Reinstatement of Lease 3231
Removal of Improvements Upon Cancellation 3232
Cancellation Of A Stakes Race 801
Cancellation Of Race Days Or Races 808
Advanced Approval 808
Approved Cancellation 808
Conditions 808
Inclement Weather 808
Rescheduling Cancelled Races 808
Cancellation Of Registration Or Application -- Grounds 961
Cancellation Of Restricted Driving Permit 4935
Violation of Restrictions 4935
Violation of Terms 4935
Cancellation Of Solicitation 4901
Cancellation Is in the Best Interest of the State 4901
Inadequate or Ambiguous Specifications 4901
Specifications Have Been Revised 4901
Cancellation Of Taxes By Board Of County Commissioners 4515
Cancelled Contests 743
Authorized Refund to be Paid 743
Coupled Entries & Mutuel Fields 744
Horse Prevented from Racing Because of Starting Gate Failure 743
Refunds 743
Scratched Horse 743
Cancer 1287
Cancers Designated as Reportable 1287
Handling of Report 1287
Report Content 1287
Reported By Whom 1287
Reporting Requirements 1287
Canine Evaluator Certification 908
Certification 908
Eligibility 908
Retaining Certification 909
Revocation 909
Canine Team Certification 908
Areas of Certification 908
Eligibility 908
Evaluation 908
Expiration of Certification 908
Failed Evaluation 908
Mandatory Certification 908
Canine-Related Certifications 908
Capped Zone 3754
Captive Wildlife 1041
Applications 1041
Compliance with Other Agency Requirements 1041
General 1041
Inspections & Records 1041
Marking Big Game 1041
Captive Wolves 1046
Definitions – Primary Wolf Characteristics 1047
License & Tattoos 1047
Cardiac 2354
Eligible Conditions 2354
Excluded Conditions 2354
Spending Limit 2354
Care Levels & Monthly Allowances 1520
Career Enhancement Assistance 1598
Career Enhancement Assistance
Eligibility Criteria 1599
Application & Service Plan 1599
Citizenship & Legal Non-Citizen 1599
Controlled Substance Felons 1599
Eligible Individual 1599
Fleeing Felons 1599
Fraud 1600
Income Limit 1599
Need for Work-Related Services 1599
Probation or Parole Violation 1599
Residence 1599
SSN 1599
TANF Restrictions 1599
Verification of Career Enhancement Eligibility 1599
Career Enhancement Assistance Time Limit 1600
Career Enhancement Service Plan 1599
Carrier Safety Requirements 690
Adoption of Federal Regulations - Exceptions 690
Obligation of Familiarity with Rules 690
Recognition of Federal Waivers 691
Carry-Over Of Credit 6036
Cars Containing Lading In Excess Of Fifteen Feet Six Inches High & Five Feet Five Inches From Centerline Of Car 4072
Cars Containing Lading Which Extends Laterally In Excess Of Five Feet Five Inches 4072
Cars Exceeding Fifteen Feet Six Inches In Height 4071
Cars Exceeding Ten Feet Ten Inches In Width 4072
Case Action After Delay Caused By Household 1416
Case Closure 1101
Case Closure 1101
Suspense File 1101
Case Maintenance Requirements 1370
Case Management Reporting Requirements 395, 407
Department Assessments 396
Final Progress Report 397, 408
Juvenile Offender & Family Involvement 396
Juvenile Offender and Family Involvement 407
Participation in the Progress Assessment/Reclassification 396, 408
Progress Report 396, 408
Relapse Prevention Plan 396, 408
Report Distribution 397, 408
Service Implementation Plan 395, 407
Service Implementation Plan Adjustments 396, 407
Case Management Services 2215
Based on Assessment 2215
No Duplication of Services 2215
Required Service Plan 2215
Case Records 2258
Electronic & Physical Files 2258
Storage of Records 2258
Cases In Which Intervenors May Apply

For Funding 3948
Cash Bond Release 3236
Cash To Purchase Medical Or Social Services 1495
Casual Exploration & Recreational Mining 3174
Categorical Eligibility Ends 1420
Categorically Eligible Households 1420
Benefits Recouped 1420
Cash Benefits 1420
Grant Less Than Ten Dollars 1420
Cattle & Bison Imported From Canada 93
Idaho Requirements 93
Import Permit 93
Individually Identified 93
USDA Requirements 93
Cattle, Bison, Goats, & Domestic Cervidae Market Release 52
Cause for Hearing 3266
Ceasing To Be An Employee 6005
Cementing & Testing Requirements 3279
Cemetery Use 3323
Interment Schedule 3323
Public Use 3323
Central Roster Of Psychosexual Evaluators, Sexual Offender Treatment Providers & Post Conviction Sexual Offender Polygraph Examiners 5290
Availability 5290
Identification 5290
Central Service 2045
Equipment & Supplies 2045
Inservice/Continuing Education 2046
Service Areas 2045
Certain Disabled Children 1541
AABD Criteria 1541
AABD Resource Limit 1541
Age 1541
Appropriate Care 1542
Cost of Care 1542
Eligible for Long Term Care 1541
Income Limit 1541
Share of Cost 1542
Certain Disabled Widows & Widowers Through June 30, 1988 1545
Age 1545
Applied Before July 1, 1988 1545
Continuously Entitled 1545
Lost SSI 1545
Certain Forest Lands To Be Designated For Taxation By Owner--Limitations 4521
Certain Lands With No Deferred Taxes 4521
Change in Use 4521
Designation of Forest Parcels 4521
Certain Persons Retained Must Have Licenses 3426
Combatant 3426
Matchmaker 3426
Ring Official 3426
Second 3426
Certificate & Permit 100
A Certificate of Veterinary Inspection Issued in the State of Origin 101
American Fisheries Society Certified Fish Health Inspector's Certification 101
Title 50 Certification 101
Certificate Holders Residing Out-Of-State 978
Effect of Subsequent Change in Residency 978
Validity 978
Certificate Non-Transferable 978
Certificate Not Transferable 2110
Certificate Of Clearance 3242
Certificate Of Compliance-Fire Hazard Management Agreement 3235
Contents 3235
Extensions 3235
Period of Time 3235
Responsibility 3235
Certificate Of Eligibility
Requirements 2286
Certificate of Eligibility Duration 2286
Criminal History and Background Check 2286
Personnel Licensure Requirements are Met 2286
Renewal of Certificate of Eligibility 2286
Revocation of Certificate of Eligibility 2286
Certificates 650
Certificates For Resale & Other Exemption Claims 4396
Burden of Proof 4396
Description and Proper Execution of Approved Forms 4396
Form ST-101, Sales Tax Resale and Exemption Certificate -- Claiming Exemptions 4398
Form ST-101, Sales Tax Resale or Exemption Certificate -- Buying for Resale 4397
Form ST-102, Use Tax Exemption Certificate -- New Resident 4400
Form ST-104G, Sales Tax Exemption Claim for Cash Purchases by Governmental Agencies 4400
Form ST-104HM, Sales Tax Exemption Certificate -- Lodging Accommodations 4400
Form ST-104IC, Sales Tax Exemption Certificate – Interstate Commerce Vehicles 4400
Form ST-104NR, Sales Tax Exemption Certificate – Vehicle/Vessel 4401
Form ST-108TR, Occasional Sale Exemption Claim -- Office Trailer and Transport Trailer 4401
Form ST-111, Sales Tax Exemption Claim Form -- Grocer 4401
Form ST-133, Sales Tax Exemption Certificate -- Family or American Indian Sales 4401
Form ST-133CATS, Sales Tax Exemption Certificate -- Capital Asset Transfer Affidavit 4401
Form ST-133GT, Use Tax Exemption Certificate -- Gift Transfer Affidavit 4401
In General 4396
Tax Exemption Statements 4399
The Diplomatic Tax Exemption Program 4401
Timely Acceptance of Certificates 4401
Certificates Of Competency -- Issuance, Renewal, Expiration -- Revival 580
Expiration-Revival 581
Issuance 581
Renewal 581
Certificates Of Competency -- Issuance, Renewal, Expiration, Revival -- Fees 509
Expiration - Revival 510
Issuance 510
Renewal 510
Certificates Of Insurance 4951
Coverage 4952
Filing 4951
Forms 4952
Certificates Of Veterinary Inspection 112
Period of Certificate Validity 113
Required Information 112
Submission of Certificate 112
Certificates Or Permit Required 89
Certificates or Permit Required
Certificate of Veterinary Inspection 89
Other Approved Certificates 89
Permit 89
Possession 89
Certificates, Records, & Forms 2302
Certificates with Defects 2302
Form & Content 2302
Official Nature of Forms 2302
Requirements for Preparation of Certificates 2302
Certification -- General Requirements
For Agencies 2107
Application 2108
Certificate Required 2107
Conformity 2109
Inspection of Residential Habilitation Records 2109
Certification & Selection 1151
Certification A Prerequisite For License Issuance Or Renewal 4085
Certification Fees 138, 2322
Annual Base Fee 2322
Non-Refundable Application

Fee 2322
Certification Identification (ID) Card 2367
Certification Inspection Fees 138
Certification Marks For Idaho® Potato Containers 3905
Agreement 3906
Box Type Containers 3906
Colors 3908
Compulsory Printing 3908
Containers 3905
Exemption 3908
Idahos 3908
Identity of Commodity 3907
Limitation of Use 3906
Location of Words 3907
Marks 3906
No Certification Mark 3906
Not Incorporated 3906
Other Rules 3908
Other Type Containers 3906
Recognition 3906
Sack Type Containers -- Fifty Pounds or Over 3907
Sack Type Containers -- Less Than Fifty Pounds 3907
Size 3906
Tote Bin Type 3907
Use 3908
Words Printed 3907
Certification Of Currently Approved EMS Instructors 1243
Certificate Requirements 1243
Certification Process 1243
Duration of Certificate 1244
Expiration of Approved Instructor Status 1243
Certification Of Sales Tax Distribution 4530
Corrections 4532
Current Fiscal Year 4531
Determination Date & Eligibility 4531
Incorporated City 4531
Market Value for Assessment Purposes 4531
Most Current Census 4530
Notification of Value 4532
Quarterly Certification 4531
Valuation Estimates 4531
Certification Of Veterinary Technicians 5163
Application for Certification -- Contents -- Examinations 5164
Certificate Required 5164
Certification Period 5289
Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner 5289
Associate/Supervised Psychosexual Evaluator or Treatment Provider 5289
Provisional/Supervised Psychosexual Evaluator or Treatment Provider 5289
Senior/Approved Post Conviction Sexual Offender Polygraph Examiner 5289
Senior/Approved Psychosexual Evaluator or Treatment Provider 5289
Certification Process 5024
Criteria for Certification and/or Revocation 5025
Equipment Standards 5024
Hold Harmless 5025
Manufacturer's Reporting Requirements 5025
Notice of Revocation 5025
Proof of Insurance 5025
Removal of Revoked Devices 5025
Repository for Letter of Certification 5026
Right to Appeal 5026
Certification Renewal For Medication Assistant - Certified 3390
Attestation of Good Standing 3390
Date Certification Lapsed 3390
Final Date to Renew 3390
Renewal Application 3390
Renewal Time 3390
Certification Requirements 2387
Accessibility to the Home 2388
Certificate Issued in the Name of Provider 2388
Certification Limitations 2388
Certification Study Required 2388
Effect of Previous Revocation or Denial of Certificate or License 2389
Number of Residents in the Home 2388
Provider Training Requirements 2389
Certification Requirements & Fees 138
Certification Requirements for Developmental Disabilities Agencies 2068
Certifications For Part-Time Officers 905
Decertification 906
Lapse of Certification 906
Requirements 905
Certified Adoption Professional 2565
Certified Adoption Professional Requirements 2565
Adoption Training 2566
Application Fee 2566
College Degree 2565
Department Criminal History & Background Clearance 2566
Experience 2566
Insurance 2566
License 2566
References 2566
Certified Adoption Professional's Client Relationship 2568
Certified Brucella Ovis Free Flock 221
Certified Euthanasia Agency 5176
Approved Drugs 5176
Certification Renewal 5179
Equipment Stored 5179
Other Site Conditions 5178
Proper Labeling 5177
Proper Sanitation 5178
Proper Storage 5177
Record Keeping 5177
Temporary Storage 5177
Certified Euthanasia Technician 5179
Certification 5181
Certification Renewal 5182
Certification Standards 5179
Duties 5182
Training & Examinations 5179
Certified Evaluator Qualifications 5281
Certification Requirements 5281
Certified General Real Estate Appraiser Classification Appraiser Qualification Criteria 3637
Education 3637
Experience 3639
Certified Public Accountant Examination 32
Certified Residential Real Estate Appraiser Classification Appraiser Qualification Criteria 3636
Education 3636
Experience 3637
Certified Technician Registration 3872
Age 3872
Certification 3872
Education 3872
Cessation Of Qualifying Activities 2193
Cessation Of Service In A Service Area 4013
Competitive Local Service Provider 4014
Single Local Service Provider 4013
CFT, Caudal-Fold Tuberculin Test 49
Chain Of Custody 864
Challenges To Statutes 266, 3043, 4671, 5589, 6001
Challenging A Basic Training Academy 897
Patrol & Detention Law Enforcement Certification Program or POST Academy Graduates 898
Requirements for Challenging a Basic Training Academy 897
Champions 3434
Commission Names Champions 3434
Defending a Title 3434
Fighting a Boxer From Heavier Class 3434
General 3434
Presentation of Championship Belt to Commission Before Title Contest 3434

Title at Stake 3434
Title Not at Stake 3434
Chancroid 1287
Investigation & Notification of Contacts 1287
Reporting Requirements 1287
Change Ends TAFI Or AABD Income 1456
Change In Circumstances 1538
Change In Land Use 3193
Change In Level Of Care 1521
Decrease in Level of Care 1521
Increase in Level of Care 1521
Change In Value Of Resources 1490
Change Of Address 186
Change Of Decision In Boxing Contest
Collusion 3442
Error in Interpretation of Rules 3442
Error in Scoring 3442
Failure of Drug Test 3443
Change Of Decision In Contest 3442
Change Of Ownership 2441
Application for Change of Ownership 2441
Change of Ownership for a Facility In Litigation 2441
Non-Transfer of Facility License 2441
Change Of Ownership (CHOW) 1951
Application for Change of Ownership 1952
CHOW of ICF/ID 1951
No CHOW 1952
Change Of Ownership, Administrator Or Lessee 1565
New Application Required 1565
Notification to Department 1565
Change Of Ownership, Administrator, Or Location 2110
New Application Required 2110
Notification to Department 2110
Change Of Provider Or Location 2392
Change of Location 2392
Change of Provider 2392
Change Of Rental 3194
Change Reporting Requirements 2195
Change in Child Care Provider 2195
Change in Full-time or Part-time Activity Hours 2195
Change in Household Composition 2195
Change in Income 2195
Change in Permanent Address 2195
Change Reporting Requirements for Those Receiving Child Care Benefits 2195
Changes Affecting Eligibility Or AABD Cash Amount 1524
Changes Affecting Eligibility Or Grant Amount 1595
Changes Each DDA Is Required To Report 2070
Change in Geographic Service Area 2071
Change of Ownership or Physical Location 2070
Changes In Existing Tracks 4068
Changes In License Certificate 576
Changes In Licensee Information 3681
Address for Notification Purposes 3681
Information Update 3681
Changes In Name & Address -- Address For Notification Purposes 580
Address for Notification Purposes 580
Change of Address 580
Change of Name 580
Changes In Name & Address – Address For Notification Purposes 3356
Address for Notification Purposes 3356
Change of Name 3356
Changes In Name & Address For Notification Purposes 3391
Address for Notification Purposes 3392
Change of Address 3392
Change of Name 3391
Changes In Name& Address -- Address For Notification Purposes 3648
Address for Notification Purposes 3648
Change of Address 3648
Change of Name 3648
Changes In Patient Liability 1525
Decrease in Patient Liability 1525
Increase in Patient Liability 1525
Changes On Which The Department Must Act 1456
Changes To A Current License 1234
Changes Requiring Initial Licensure Application 1235
Changes Requiring Update to Department 1234
Changes To An Existing License 2285
Personnel License Duration Shortened 2285
Relinquish a Current EMS Personnel License for a Lower Level License 2285
Relinquishment of a License to a Lower Level License to Prevent Investigation or Disciplinary Action 2285
Reporting Requirements for Changes in Status 2285
Surrender of a Current EMS Personnel License 2285
Surrender of License to Prevent Investigation or Disciplinary Action 2285
Changes To Invitation To Bid Or Request For Proposals 4894
Chapter 5 Fire Service Features 2999
Section 501 2999
Section 502 2999
Section 503 2999
Charges 2498
Insurance 2498
Other Benefits 2499
Charter Applications 923
Guidelines for Approval of Credit Union Charters 923
Cheating 33
Actions 33
Hearings 33
Notice 34
Check Scale Report 3251
Check Scale Results 3251
Persons Entitled to a Copy of the Check Scale Report 3251
Check Scaling Procedures 3249
Cooperative Scaling 3250
Holding Check Scale Log Loads 3250
Team Scaling 3250
Valid Check Scale 3249
Check Scaling Standards Of Variation 3250
Allowable Limits of Variation 3250
Check Scales Involving Multiple Variations 3251
Combination Logs 3251
Chemical Storage 2341
Chemicals Evaluated At Petroleum Release Sites 5604
Additional Chemicals 5604
General Applicability 5604
Chief Administrator Position & Qualifications 2624
Bachelor's Degree 2624
Master's Degree 2624
Chief Administrator
Qualifications 2635
Bachelor's Degree 2635
Career Development Program 2635
Child Care & Safety Requirements 2605
Access by Children Five Years of Age & Under 2605
Irrigation Canals or Similar Body of Water 2605
Other Safety Water Precautions 2605
Pools, Hot Tubs, Ponds, & Other Bodies of Water 2605
Child Care Centers 1403
Day Care Compliance 1403
Day Care Licensure 1403
Day Care Staff 1403
Policies & Procedures 1403
Child Care Provider Agreement 2201
Compliance 2201
Provide Direct Care 2201
Child Care Provider Licensing 2199
Child Care Provider Training Requirements 2200
Documented Training 2201
Staff Training Records 2201
Training Contents 2201
Child Care Services 2216

Documentation of Child Care 2216
Policies & Procedures for Child Care Services 2216
Child Custody 1423
Child Custody Investigations For The District Court 2548
Conduct of the Assessment 2548
Department Clients 2548
Report to Court 2548
Requests From Private Attorney 2548
Child Placement Requirements 2608
Children Under Two Years of Age 2608
Continued Care 2608
Determining Factors 2608
Maximum Number of Children 2608
Special Circumstances Regarding Maximum Numbers of Children 2608
Child Protection 2138
Child Fatalities 2138
Public Disclosure 2138
Child Protection Central Registry 2544
Child Protection Safety & Comprehensive Assessments 2542
Collateral Interviews 2543
Completion of a Comprehensive Assessment 2543
Notification of the Person Who Made the Referral 2543
Role of Law Enforcement 2543
Child Protection Services 2540
Child Record Content Requirements 2591
Child's Full Name 2591
Child's Health Information 2591
Date of Birth 2591
Emergency Contact Information 2591
Parent or Guardian's Name, Address. & Contact Information 2591
Record of Attendance 2591
Child Subject To Deeming 1547
Child Support Cooperation 1525
Child Support Expenses 1453
Child Support Payments 1509
Child Tasks 2611
Child Welfare Emergency Assistance Program Administration 2207
Administrative Duties 2207
Assistance Program 2207
Child Welfare Social Services 2206
Additional Services 2207
Child Welfare Social Services 2206
Child Wellness Services
Coverage & Limitations 1656
Developmental Screens 1656
Interperiodic Screens 1656
Periodic Medical Screens 1656
Definitions 1655
Interperiodic Medical Screens 1656
Periodic Medical Screens 1656
Provider Qualifications & Duties 1656
Interperiodic Medical Screens 1656
Periodic Medical Screens 1656
Child's Record 2652
Content 2652
Record Entries 2652
Children With Special Circumstances & Medicaid 1369
Children With Special Needs Big Game Tag 990
Application 990
Availability 990
Eligibility 990
Fees 990
Nonresident Tag Limitation 990
Random Draw 990
Validity of Tag 990
Children's Developmental Disability Prior Authorization (PA)
Plan Of Service Process 1860
Procedural Requirements 1860
Children's Residential Care Facility Building Requirements 2636
Children's Agencies & Children's Residential Care Facilities 2613
Children's Agency Supervision Of Child, Children's Agencies 2627
Children's Developmental Disabilities Prior Authorization 1857
Children's Developmental Disabilities Prior Authorization (PA)
Department's Quality Assurance & Improvement Processes 1863
HCBS Compliance 1863
Plan of Service Review 1863
Quality Assurance 1863
Quality Improvement 1863
Children's Developmental Disability Prior Authorization (PA) 1857
Coverage & Limitations 1859
Children's DD Waiver Services 1859
Children's Home & Community Based State Plan Option Services 1859
Definitions 1857
Assessment 1857
Baseline 1857
Child 1857
Family 1857
Family-Centered Planning Process 1857
Family-Centered Planning Team 1857
ICF/ID 1857
Individualized Family Service Plan (IFSP) 1857
Level of Support 1857
Medical, Social, & Developmental Assessment Summary 1858
Plan Developer 1858
Plan Monitor 1858
Plan of Service 1858
Practitioner of the Healing Arts, Licensed 1858
Prior Authorization (PA) 1858
Provider Status Review 1858
Right Care 1858
Right Outcomes 1858
Right Place 1858
Right Price 1858
Services 1858
Eligibility Determination 1858
Annual Eligibility Determination 1859
Determination for Children's Home & Community Based State Plan Option 1859
Determination of Developmental Disability Eligibility 1859
ICF/ID Level of Care Determination for Waiver Services 1859
Initial Eligibility Assessment 1858
Plan Of Service Process
Addendum to the Plan of Service 1861
Annual Reauthorization of Services 1862
Informed Consent 1861
No Duplication of Services 1861
Plan Development & Monitoring 1860
Plan Monitoring 1861
Plan of Service Development 1860
Program Implementation Plan 1861
Provider Status Reviews 1861
Provider Reimbursement 1862
Annual Re-Evaluation 1863
Individualized Budget Methodology 1862
Participant Notification of Budget Amount 1863
Children's Developmental Disability Prior Authorizations
Procedural Requirements (PA)
Additional Information 1860
Discipline-Specific Assessments 1860
Eligibility Determination Documentation 1860
History & Physical 1860
Children's HCBS State Plan Option
Coverage & Limitations 1904
Family Education 1905
Family-Directed Community Supports 1906
Habilitative Supports 1905
Limitations 1906
Respite 1904
Definitions 1903
Agency 1903
Annual 1903

Clinical Supervisor 1903
Community 1903
Developmental Disabilities Agency (DDA) 1903
Home & Community Based Services State Plan Option 1904
Human Services Field 1904
Integration 1904
Paraprofessional 1904
Professional 1904
Support Services 1904
Participant Eligibility 1904
Age of Participants 1904
Eligibility Determinations 1904
Financial Eligibility 1904
Procedural Requirements 1906
Family Education Documentation 1907
General Requirements for Program Documentation 1906
Habilitative Supports Documentation 1906
Reporting Requirements 1907
Provider Qualifications & Duties 1907
DDA Services 1910
Family Education 1908
Family Education for Children Birth to Three 1908
Habilitative Support Staff 1907
Requirements for Clinical Supervisor 1909
Requirements for Collaboration 1910
Requirements for Quality Assurance 1910
Respite 1907
Provider Reimbursement 1910
Claim Forms 1910
Cost Survey 1910
Rates 1910
Reimbursement 1910
Children's Home & Community Based Services (HCBS) State Plan Option 1903
Children's Mental Health 2139
Children's Mental Health Services 2255
Assessment 2255
Case Management 2255
Crisis Response 2255
Day Treatment Services 2255
Family Support Services 2255
Inpatient Services 2255
Outpatient Services 2255
Residential Treatment 2255
Respite Care 2255
Treatment Foster Care 2255
Wraparound 2255
Children's Residential Care Facility
Building Requirements
Access to Community Resources 2637
Location Restrictions 2637
Occupancy Restrictions 2637
Children's Waiver Services 1910
Coverage & Limitations 1912
Crisis Intervention 1915
Family Training 1912
Family-Directed Community Supports 1915
Habilitative Intervention 1914
Habilitative Intervention Evaluation 1913
Interdisciplinary Training 1913
Service limitations 1915
Therapeutic Consultation 1914
Definitions 1911
Crisis 1911
Intervention Services 1911
Objective 1911
Probe 1911
Program Implementation Plan 1911
Specific Skill Assessment 1911
Telehealth 1911
Treatment Fidelity 1911
Eligibility 1911
Additional Act Early Waiver Requirements 1912
Age of Participants 1911
Children's Waiver Eligible Participants 1912
Eligibility Determinations 1912
Home & Community-Based Waiver Participant Limitations 1912
Procedural Requirements 1916
Authorization of Services on a Written Plan 1916
General Requirements for Program Documentation 1916
Program Implementation Plan Requirements 1916
Provider Responsibility for Notification 1917
Records Maintenance 1917
Reporting Requirements 1917
Provider Qualifications & Duties 1917
Continuing Training Requirements for Professionals 1920
Crisis Intervention 1920
DDA Services 1920
Family Training 1918
Habilitative Intervention 1918
Habilitative Intervention for Children Birth to Three 1918
Interdisciplinary Training 1918
Requirements for Clinical Supervision 1920
Requirements for Collaboration with Other Providers 1920
Requirements for Quality Assurance 1920
Therapeutic Consultation 1919
Provider Reimbursement 1921
Claim Forms 1921
Cost Survey 1921
Rates 1921
Reimbursement 1921
Purpose of & Eligibility for Waiver Services 1910
Waiver Services Provided by a DDA 1911
Child-Staff Ratio 2591
Compliance with Child-Staff Ratios 2592
Daycare Child-Staff Ratio Point System 2591
Napping Children 2592
Overnight Daycare 2592
Supervision of Children 2592
Chips 4810
Chiropractic Assistants 3463
Chiropractic Assistant Limitations 3464
Chiropractic Physician Responsible & Liable 3463
Chiropractic Intern 3464
Chiropractic Intern Limitations 3464
Chiropractic Physician Responsible & Liable 3464
Chiropractic Services 1649
Coverage & Limitations 1649
Definitions 1649
Provider Qualifications 1649
Chlamydia Trachomatis 1288
Investigation 1288
Prophylaxis of Newborns 1288
Reporting Requirements 1288
Restrictions - Health Care Facility 1288
Chlorinated Isocyanurates Disinfection 2341
Chlorine Disinfection 2341
Choice Of Providers 1612
Lock-In Option 1612
Service Selection 1612
Choice Of SSI Or CP Methods 1538
Chokes 3280
Cholera 1288
Handling of Report 1288
Investigation 1288
Reporting Requirements 1288
Restrictions - Day Care Facility 1288
Restrictions - Food Service Facility 1288
Restrictions - Health Care Facility 1288
Restrictions - Household Contacts 1288
Choosing FSI, SSI, Or CP Income Counting Method 1534
Choosing FSI, SSI, Or CP Patient Liability Or Client Participation Method 1535
Choosing FSI, SSI, Or CP Resource Counting Method 1533
Cigarette Tax Return 4573
Cigarette Tax Return 4573

Due Date 4573
Failure to File a Return 4574
Filing Returns 4573
Implementation of Tobacco Master Settlement Agreement 4574
Requirements of a Valid Return 4573
Wholesale Sales of Stamped Cigarettes 4574
Circle Of Supports 1981
Focus of the Circle of Support 1981
Members of the Circle of Support 1981
Natural Supports 1981
Selection & Duties of the Circle of Support 1981
Circumstances Under Which Food Stamp Participation Is Prohibited 1425
Prohibited Participation During the Certification Period 1425
Prohibition from Receiving Food Stamp Benefits 1425
Circumvention Of Orders Prohibited 961
Citation 6037
Citizenship 893
Birth Certificate 893
Certificate of Citizenship 893
Consular Report of Birth Abroad or Certification of Birth 893
Naturalization Certificate 893
Passport 893
Citizenship & Legal Non-Citizen Criteria 1583
Afghan Special Immigrants 1584
Full-Time Active Duty U.S. Armed Forces Member 1583
Iraqi Special Immigrants 1584
Non-Citizen Entering On or After August 22, 1996 1583
Non-Citizen Entering the U.S. Before August 22, 1996 1583
Qualified Non-Citizen Entering On or After August 22, 1996 1583
U.S. Citizen 1583
U.S. National, National of American Samoa or Swains Island 1583
Veteran of the U.S. Armed Forces 1583
Victim of Severe Form of Trafficking 1583
Citizenship & Legal Non-Citizen Requirement 1485
American Indian Born in Canada 1486
American Indian Born Outside the U.S. 1487
Child Born Outside the U.S. 1485
Full-Time Active Duty U.S. Armed Forces Member 1486
Individuals Not Meeting the Citizenship or Qualified Non-Citizen Requirements 1487
Non-Citizen Entering On or After August 22, 1996 1486
Non-Citizen Entering the U.S. Before August 22, 1996 1486
Permanent Resident Receiving AABD Cash On August 22, 1996 1487
Qualified Non-Citizen Child Receiving Federal Foster Care 1487
Qualified Non-Citizen Entering On or After August 22, 1996 1486
Qualified Non-Citizen Receiving Supplement Security Income (SSI) 1487
U.S. Citizen 1485
Veteran of the U.S. Armed Forces 1486
Victim of Severe Form of Trafficking 1487
Citizenship & Qualified Non-Citizen Requirements 1422
City Of Idaho Falls Class II Contribution Rate 6008
Civil Monetary Penalties 2170
Civil Monetary Penalties For Criminal History Background Check Violations 2172
Civil Monetary Penalty Percentages 2170
Conduct Resulting in No Overpayment 2170
Conduct Resulting in Overpayment 2171
Penalty Enhancements 2172
Civil Penalties 518, 544, 553, 586, 590
Certification or Registration 518, 586
Corrections 519, 587
Dealing with Stolen Manufactured or Mobile Homes 553
Deceptive Practice 553
Employees 586
Failure to Disclose 518
Failure to Maintain a Principal Place of Business 553
Fees & Permits 587
Fees, Permits, and Inspections 519
Gross Violation 519, 553, 587
Heating, Ventilation, & Air Conditioning Contractor or Specialty Contractor 586
Industry Licensing 553
Installation 544
Lawful Orders 544
Modification 544
Multiple Violations 591
Performance Outside Scope of License 587
Performance Outside Scope of Specialty Certificate 518
Plumbing Contractor 518
Removal of Orders 544
Second Offense 591
Supervision 587
Violation of Rules & Statutes 553
Violations of Title 55, Chapter 22, Idaho Code 590
Civil Penalties For Violation Of Permit 2238
Payment of Fines 2239
Violations by the Permittee 2238
Violations by the Seller 2238
Civil Rights 1110
Civil Rights Complaint Procedure 3859
Claim Forms & Payment From The Fund 175
Claim Forms 175
Contract 175
Not Contracted or Stored for Withdrawal 175
Claimed For Entered Price 779
Authorized Agent 780
Licensed Owner 779
Claiming of Prizes, Breakopen Instant Ticket Games 5245
Claiming Races 800
Claims 741
Claims & Reports Of Damage Or Excavator Downtime 590
Claims 590
Reports 590
Claims Are Irrevocable 781
Claims Discharged By Bankruptcy 1466
Claims For Funds Or Livestock Subject To A Hold Order 713
Claim 713
Hearing 713
Investigation 713
More Than One Claimant 713
Claims For Payment From Pari-Mutuel Pool 742
Claim for Mutilated Ticket 742
Racing Commission to Adjudicate or Deny Claim 742
Claims Of Exemption 630
Claims Of Foul 788
Fouls 788
Frivolous Complaints 788
Claims Of Non- Payment
Claim of Non-Payment 840
Commission Determination 840
Investigation of Claim 840
Clarification Of Orders 283, 3053, 3968, 4682
Clarity 2339
Class II Injection wells 3259
Class V
Criteria & Standards 4719
Additional Information 4721
Application Information Required 4720
Application Processing 4722
Application Requirements 4720
Class V Deep Injection Well Requirements 4720

Class V Shallow Injection Well Requirements 4719
Conditions of Permanent Decommissioning 4725
Consideration 4723
Construction Requirements 4723
Criteria for Location & Use of Class V Wells Requiring Permits 4726
Draft Permit 4722
Duration of Approved Permits 4725
Fact-Finding Hearings 4723
Inter-Agency Cooperation 4719
Issuance of Permit 4723
Monitoring, Record Keeping & Reporting Requirements 4727
Open-Loop Heat Pump Return Wells (Subclass 5A7) 4722
Operational Conditions 4724
Other Information 4722
Permanent Decommission 4719
Permit Assignable 4729
Permit Conditions & Requirements 4723
Permit Requirements 4719
Public Notice 4722
Review by the Directors of Other State Agencies 4722
Standards for Quality of Fluids Injected into Class V Wells 4725
Standards for the Quality of Fluids Injected by Subclass 5A7 Wells (Open-Loop Heat Pump Return) 4727
Standards For The Quality of Injected Fluids & Criteria For Location & Use 4725
The Director's Action On Draft Permits & Duration Of Approved Permits 4723
Classification Of Cattle, Bison, & Domestic Cervidae 52
Classification Of Injection Wells 4715
Subclassification 4716
Classification Of Public Wastewater Systems 5514
Classification Criteria 5514
Classification Requirement 5514
Classification Of Water Systems 5800
Classification Criteria 5800
System Classification Required 5800
Classification Of Wildlife – Big Game Animals 992
Bighorn sheep 992
Black bear 992
Elk 992
Gray wolf 992
Grizzly bear 992
Moose 992
Mountain goat 992
Mountain lion 992
Mule deer 992
Pronghorn 992
White-tailed deer 992
Classification Of Wildlife – Furbearing Animals 995
American badger 995
American marten 995
American mink 995
Beaver 995
Bobcat 995
Canada lynx 995
Common muskrat 995
Fisher 995
Northern river otter 995
Red fox 995
Classification Of Wildlife – Game Birds 992
American Crow 993
Migratory Game Birds 993
Upland Game Birds 992
Classification Of Wildlife – Game Fish 993
American shad 993
Arctic grayling 993
Atlantic salmon 993
Bear Lake whitefish 993
Black bullhead 993
Black crappie 993
Blue catfish 993
Blueback trout 993
Bluegill 993
Bonneville cisco 993
Bonneville whitefish 993
Brook trout 994
Brown bullhead 994
Brown trout 994
Bull trout 994
Burbot 994
Channel catfish 994
Chinook salmon 994
Coho salmon 994
Crayfish 994
Cutthroat trout 994
Flathead catfish 994
Green sunfish 994
Kokanee 994
Lake trout, Mackinaw 994
Lake whitefish 994
Largemouth bass 994
Mountain whitefish 994
Northern pike 994
Pumpkinseed 994
Pygmy whitefish 994
Rainbow trout 994
Rainbow/cutthroat trout 994
Sauger 994
Smallmouth bass 994
Sockeye salmon 994
Splake 994
Steelhead trout 995
Tiger muskie 995
Tiger Trout 995
Walleye 995
Warmouth 995
White crappie 995
White sturgeon 995
Yellow bullhead 995
Yellow perch 995
Classification Of Wildlife – Upland Game Animals 992
Mountain cottontail 992
Pygmy rabbit 992
Red squirrel 992
Snowshoe hare 992
Cleaning 2341
Bathrooms, Showers, & Dressing Rooms 2341
Decks 2341
Pools 2341
Cleaning & Disinfecting 50, 74
Exemptions 50, 74
Extension of Time 50, 74
Infected Animals 74
Infected Premises 50
Cleaning & Disinfection 222
Cleaning, Treating, Decontaminating, Or Disinfecting 194
Exemptions 194
Extension of Time 194
Requests for Extensions or Exemptions 194
Cleanup Process 1349
Cleanup Options for the Property Owner 1349
Removal of Porous Materials from Property 1349
Cleanup Standards 1350
Cleanup Standard for a Porous Surface 1350
Cleanup Standard for Methamphetamine 1350
Other Cleanup Standards 1350
Clearance Sampling
Requirements 1349
General Sampling Procedures 1349
Qualified Industrial Hygienist Required 1349
Clearwater Basin
Clearwater Subbasin 5358
Lochsa Subbasin 5351
Lower North Fork Clearwater Subbasin 5362
Lower Selway Subbasin 5349
Middle Fork Clearwater Subbasin 5353
Palouse Subbasin 5345
Rock Subbasin 5347
South Fork Clearwater Subbasin 5354
Upper North Fork Clearwater Subbasin 5360
Upper Selway Subbasin 5347
Cleft Lip & Palate 2354
Eligible Conditions 2354
Excluded Conditions 2354
Spending Limits 2354
Clerk Of Scales 734
Assume Duties 735
Record Data 735

Report Infractions 734
Verify Presence 734
Verify Weight 734
Clerk Of The Scales 796
Check the Weight 796
In Charge of the Scales 796
Record 796
Weigh In 796
Client Appeals 1114
Impartial Due Process Hearing 1114
Informal Dispute Resolution 1114
Mediation 1114
Client Behavior & Facility Practices 1958
Client Contracts - Investment Advisers 959
Contents of Client Contract 959
Contract 959
Client Financial Participation 1116
Client Grievance Policy, Residential Care Facility 2622
Client Protections 1956
Client's Rights & Responsibilities 2247
Client to Be Informed of Rights & Responsibilities 2247
Content of Client's Rights 2247
Clinic Services
Diagnostic Screening Clinics 1657
Billings 1657
Multidisciplinary Assessments & Consultations 1657
Services Performed 1657
The Clinic 1657
Clinical Nutrition Certification & Practice 3465
Certified Clinical Nutritional Practice 3465
Non-Certified Clinical Nutritional Practice 3465
Clinical Nutrition Certification
Cancelled For Over Three (3) Years 3468
Current Competency & Training 3468
New Clinical Nutrition Certification 3468
Clinical Nutrition Formulary 3470
Chiropractic Clinical Nutrition Prescription Drug Formulary 3470
Compliance with Federal and State Requirements 3470
Expired, Deteriorated, Adulterated, Damaged or Contaminated Prescription Drug Products 3470
Limitations on Possession of Prescription Drug Products 3470
No Compounding of Prescription Drug Products 3470
Prescription Drug Product Storage 3470
Sources of Clinical Nutrition Prescription Drug Products 3470
Clinical Nutrition Recertification Requirement 3468
Annual Verification of Meeting Requirements 3468
Failure to Timely Recertify in Clinical Nutrition 3469
Recertification in Clinical Nutrition Every Three (3) Years 3468
Recertification is in Addition to Required Annual Continuing Education 3469
Clinical Professional Counselor Licensure 3600
Experience 3600
License 3600
Recommendation of the Supervisor(s) 3600
Clinical Record Review, At Least Quarterly 1576
Clinical Records 1574
Clinical & Progress Notes, & Summaries of Care 1575
Contents 1574
Copies of Records 1575
Disposal of Records 1575
Purpose 1574
Retention Period 1575
Safeguarding & Protection of Records 1575
Written Policies & Procedures 1575
Clocker 736
Deliver List 736
List of Workouts 736
Close Or Refuse To Open An Account 842
Closing Of Wagering In A Contest 745
Approved Close Wagering System 745
Close Wagering 745
Closure After Review Of Good Cause Request 1526
Closure Of Adoptive Home Studies 2560
Closure Of Case 2565
Clothing & Personal Items 390, 404
Clothing Management 390
Release from Facility 390
Replacement Clothing 390
Clothing, Residential Care Facility 2622
Coatings On Tangible Personal Property 4321
Coatings are Tangible Personal Property 4321
Coatings Generally 4321
Exemptions 4322
Material Charges 4321
Nontaxable Labor Charges 4321
Separate Statement 4322
Tangible Personal Property Held for Resale 4322
Taxable Labor Charges 4321
Used Tangible Personal Property 4322
COB Contract Provision
Always Excess or Always Secondary 2882
Application of Requirements 2882
Closed Panel Provider 2882
Limits on COB Provisions 2882
Plan Requirements 2883
Code Of Ethics 3411, 3465, 3535, 3553, 3581, 3605, 3715
Conduct of Practice 3536
Confidentiality 3536
Patient's Visual Welfare 3535
Rules of Conduct 3411
Unprofessional Conduct 3536
Code Of Ethics & Standards For Sign Language Interpreters 3667
Code Of Professional Conduct 5170
Ability to Practice 5170
Confidentiality 5171
Conflicting Interests 5171
Consent for Transporting 5171
Cooperation with Authorities 5171
DEA Registration & Controlled Substance License 5170
Health Certificate 5170
Improper Disposal of Controlled Substances 5171
Patient Record 5171
Physical Abuse-Patient 5171
Preservation of Patient's Body 5171
Refusal to Render Services 5171
Supervision 5171
Veterinarian/Client/Patient Relationship 5170
Coliform Treatment Technique Triggers & Assessment Requirements For Protection Against Potential Fecal Contamination 5702
Approved Parties for Level 2 Assessments 5704
Requirements For Assessments 5703
Treatment Technique Triggers 5702
Collaborative Pharmacy Practice 3877
Identification 3877
Monitoring 3877
Scope 3877
Collateral Information Codes 4108
County Codes 4113
PML Groupings & Farm Product Codes 4109
Unit Codes 4113
Collected Fines 1254
Collecting & Exchanging Information About A Child, Inter-Country Adoption, Children's Agencies 2634
Collecting Claims 1462
Allotment Reduction 1462
Cash, Check, or Money Order 1462
Collection by Treasury Offset Program (TOP) 1462
Household Performing Public Service 1462

Repayment from EBT Account 1462
Collecting Claims Against Sponsored Legal Noncitizens 1468
Collecting Claims Against Sponsors Who Signed An I-864 Affidavit Of Support On Or After December 19, 1997 1468
Collection & Enforcement 4395
Collection & Remittance Of SIF Assessments 175
Collection Of Copayments 2381
Denial of Services 2381
Reduction in Reimbursement 2381
Responsibility for Collection 2381
Waiver of Copayment 2381
Collection Of Fees & Distribution Of Revenues Into Fund 3820
Operator Responsibilities 3820
Prorated Group Rates for Commercial Outfitters 3820
Transfer of Funds 3821
Collection Of Hop Assessment Levy 211
Collection Of Samples For CWD Testing 191
Brain Samples 191
Failure to Meet Annual CWD Tissue Submission Requirement 192
Handling of Samples 192
Non-Testable or Samples That Do not Contain Appropriate Tissues 192
Sample Submission Time 192
Submission of Head 191
Collection Of Tax 4344
Bracket System for Six Percent Tax Rate 4344
Computation of Tax 4344
In General 4344
Reimbursement of Tax From the Buyer to the Seller 4345
Sales Tax to Be Collected by Retailer 4344
Tax Rate 4344
Tax to Be Separately Displayed 4345
College Courses 2910
Colors 794
Fine 794
Racing Colors 794
Standard Colors 794
Combat Platforms (Ring/Cage) 3453
Combatant Down After The Sound Of The Bell 3452
Combatant Down After Round Has Ended 3452
End of Round 3452
Combatant Not To Have Promoter Or Certain Others Act As Manager Or Hold Financial Interest 3454
Financial Interest 3454
Manager 3454
Combatant's Physical Appearance 3437
Combatant's Physical Appearance Grease of Foreign Substances 3437
Hair 3437
Combatant's Report Of Own Illness Or Injury 3436
Combatants Must Report 3436
Comity/Out-Of-Jurisdiction Residents 664
Commencement & Duration Of Disability Allowance 6012
Comments On Proposed Rules 288
Commercial Fishing Areas 1059
Crayfish Traps 1060
For Seine Nets 1059
Gill Nets 1060
Minnow Traps 1060
Rod & Reel for Lake Trout Only 1060
Commercial Fishing Restrictions 1060
Operation Limitations 1060
Storage Limitation 1060
Commercial Gear & Methods Of Take For Fish Or Crustacea 1058
By Hand 1059
Conventional Rod & Reel Fishing Tackle 1059
Experimental Gear 1058
Gill Nets 1059
Trawl Nets 1059
Commercial Navigational Encroachment 3155
Commercial Operations 5059
Airport Use 5059
Operational Agreement 5059
Commercial Solid Waste Siting License Application 5656
Application Format 5656
Copies of Application 5656
Location 5656
Commercial Solid Waste Siting License Fee 5655
Commercial Solid Waste Siting License Fee Criteria 5655
Commercial Solid Waste Siting License Fee Not Refundable 5656
Commercial Solid Waste Siting License Fee Scale 5655
Expansion or Enlargement of a Commercial Solid Waste Facility 5656
Notification of Adjustment of Fee 5655
Commission & Staff 5192
Commission Members 5192
Commission Staff 5192
Commission Court Actions 5160
Commission Officers 970
Commission Proceedings 4057
Contents of Petition 4057
Filing with the Commission 4057
Commission Recommendation 1176
Commission Secretary -- Communications With Commission -- Timely Filing 3925
Case Information 3925
The Commission Secretary 3925
Timely Filing 3925
Commission Staff 3928
Commission Veterinarian 737
Commission Veterinarian Authority 737
Commission Veterinarian Qualifications 737
Commissioners--Hearing Examiners--Procedure 3959
Officers Holding Hearings 3959
Procedure When Hearing Examiner Holds Hearing 3959
Commissions & Contingent Fees 37
Disclosures 37
Restrictions 37
Committee On Humane Euthanasia 5175
Compensation 5175
Duties 5175
Term 5175
Committees 3748
Appointment 3748
Certificates 3748
Commodities, Food Stamps & Food Programs 1503
Commodity Indemnity Fund 162, 168
Exemptions to Assessment 168
Exemptions to Assessments 162
Rate of Assessment 162, 168
Common Season Boundaries For Streams & Rivers 1075
Communication 559, 852
Communication System 852
Public Address System 852
Communication & Correspondence 344
Confidential Visits 344
Mail Service 344
Mail, Visiting, Telephone 344
Resident Access to Outside Support Services 344
Search of Visitors 344
Telephone Service 344
Visitation 344
Visitation Restrictions 344
Communication In Connection With Tax Collection 4606
Communication Of Internal Control Related Matters Noted In An Audit 2947
Communication With Appeals Staff 598
Issues of Fact 598
Prohibition of Ex Parte Contacts 598
Reporting Prohibited Contacts 599
Communication With Health Care Facilities 2178
Annual Check of Health Care Facilities 2178
Information to Be Provided to Facilities 2178
List of Contact Persons to Be

Maintained 2178
Notification of Changes 2179
Communications 38, 2365, 2659
Communication Requirements 2660
Communication Support System 2660
Complaints 38
Emergencies 2660
Response 38
Communications Between The Appeals Unit & The Originating Division & Others During The Redetermination
Definitions 4593
Appeals Unit 4593
Originating Division 4594
Petitioner 4594
Unable to Participate 4594
Restrictions, Exceptions, & Permitted Communications 4594
Exceptions 4594
In General 4594
Permitted Communications 4594
Restrictions on Certain Communications 4594
Communications Between The Appeals Unit And The Originating Division And Others During The Redetermination
Definitions
Appeals Officer 4593
Communications With Agency 255, 3033, 4658
Communications With Agency--Identification--Filing 5997
Community Crisis Supports 1895
Eligibility 1895
Community Crisis Supports Coverage & Limitations 1895
Before Plan Development 1895
Crisis Resolution Plan 1895
Emergency Room 1895
Community Property (CP) Method Of Counting Income & Resources Of A Couple 1538
Community Property
Contributions 4093
Contributions of Community Property -- How Treated 4093
Community Resources, Reporting Abuse, Abandonment Or Neglect 2542
Community Service Block Grants 1510
Community Services & Restitution 381
Community Service 381
Court Ordered Restitution 381
Restitution for Program Damages 381
Community Spouse Resource Allowance 1537
Community Support Worker
Limitations 1978
Family-Directed Community Supports (FDCS) 1978
Self-Directed Community Supports (SDCS) 1978
Community Water System 5681
Commutation Pursuant To Section 20-240, Idaho Code
Commutation Hearing 5204
Death Sentence 5205
Petition 5204
Commutation Pursuant To Sections 20-233 & 20-240, Idaho Code 5204
Comparable Price Comparisons 235
Comparative Pricing -- General Rule 234
Comparison Claims 234
Savings or Value Claims 234
Comparisons Of Seller's Present Prices To Seller's Former Prices 234
Bona Fide Regular Price 235
Fictitious Prices 234
Compensable Hours 1172
Biweekly Employees 1172
Ineligible Employees 1172
Compensation 3827
Cost per Acre 3827
Noncash Compensation 3827
Nonrefundable 3827
Payable in Advance 3827
Compensation Limit 6028
Limit 6028
Limit Adjustment 6028
Compensation Of Certain Persons & Contracts With Certain Persons Prohibited, Bingo/Raffle 5259
Compensation Of Employees 1142
Assignment to Pay Grade 1142
Compensation Schedule 1142
Factoring 1142
Relevant Labor Markets 1142
Salary Surveys 1142
Competency For Assignments 660
Aiding & Abetting An Unregistered Person 660
Assignments in Field of Competence 660
Use of Seal on Documents 660
Competitive Negotiations 4901
Applicability of Other Rules 4901
Conduct of Negotiations 4902
Content of Solicitation for Competitive Negotiation 4901
Cost 4902
Form of Solicitation 4901
Written Authorization 4901
Competitor Retail Price Comparisons 235
Compilation & Distribution Of List 4099
Content 4099
Recipients 4099
Schedule 4099
Complainants 257, 295, 3927, 4660
Complainants, Contested Cases 3035
Complaint Against & Investigation Of Licensees 5263
Complaint Investigation, Basis, Time Requirements, Notifying Foster Parents, Contents, & Process 2626
Agency Written Report 2626
Conclusion of Investigation 2626
Investigation Timeline & Extension 2626
Summary of Findings 2626
Complaint Procedure 2399, 3992, 4014
Investigation 2399
Investigation Method 2399
Public Disclosure 2399
Statement of Deficiencies 2399
Written Report 2399
Complaint Process 207
Complaint Contents 207
Initial Review 207
Sampling & Analysis 207
Violations 207
Complaint Submitted When A Violation Is Suspected 1249
Complaint To Commission 3992, 4015
Termination of Service - Undisputed Bills 3992
Complaint To Telephone Company 4014
Complaint 4014
Informal Complaint 4015
Investigation by Utility 4014
Service Maintained 4014
Termination of Service - Undisputed Bills 4015
Complaint To Utility 3992
Complaint 3992
Investigation by Utility 3992
Service Maintained 3992
Complaints 415, 575, 856, 2232, 3252, 3329, 5158, 5292
Accidents or Injuries 856
Administrative Closure 5159
Amended Complaints 5159
Answers 5159
Commission Assistance 5158
Complaint Content 2232
Complaints Deferred by EEOC 5159
Conciliation 5160
Conciliation Agreement 5160
Confidentiality of Records 5160
Contents of Complaint 3252, 5158
Decision on the Merits 5160
Department Response to Complaint 2232
Document Destruction 5160
Failure of Conciliation 5160
File Briefs 5159
Initial Actions 5159
Initial Review 5292
Investigation 5292
Mediation 5159
Medical Documentation 5158
Method of Filing 5158

No Probable Cause 5160
Notice of Right to Sue 5160
Notification of Closure 5160
Probable Cause 5160
Requests for Information, Answers, & Narrative Statements 5159
Service on Respondent 5159
Settlement 5159
Statute of Limitations 415
Submittal of Complaint 3252
Summary of Investigation 5159
Supplemental Complaint 5159
Time for Filing 5158
Unsafe Conditions 856
Violations 856
Who May File 5158
Withdrawal of Complaint 5159
Complaints -- Defined -- Form & Contents 260
Complaints Defined 260
Form & Contents 260
Complaints & Grievances, Medicare Select Issuer 2795
Complaints & Investigations 2124, 2445
Disclosure of Complaint Information 2125, 2445
Filing a Complaint 2124, 2445
Investigation Survey 2124, 2445
List of Deficiencies 2125
Method of Investigation 2125, 2445
Notification to Complainant 2125, 2445
Public Disclosure 2125
Statement of Deficiencies 2125
Complaints Against Daycare Centers, Group Daycare Facilities, Family Daycare Homes, Foster Homes, Children's Residential Care Facilities, Children's Therapeutic Outdoor Programs, Children's Camps, & Children's Agencies 2585
Informed of Action 2585
Investigation 2585
Complaints Against Officials 728
Complaints Against Racing Official 728
Complaints Against Stewards 728
Responsible for Subordinates 728
Complaints Pertaining To Pari-Mutuel Operations 745
Compliance Report 745
Submit Complaint to Racing Commission 745
Complaints--Defined--Form & Contents 3037, 4663
Complaints - Defined 4663
Defined 3037
Form & Contents 3037, 4663
Completing The Adoption Home Study 2558
Content 2558
Interviews 2558
Completion & Correction Of Certificates 2304
Acknowledgment of Paternity 2305
Addition of Given Names on Birth Certificates 2305
All Other Amendments 2306
Amendment of Indicator of Gender 2305
Amendment of Registrant's Given Name on Birth Certificate After the First Year 2305
Amendment of Registrant's Given Names or Surname on Birth Certificates Within the First Year 2304
Amendment of the Same Item More Than Once 2307
Correction of Minor Errors on Certificates During the First Year 2304
Methods of Amending Certificates 2307
Completion Of A Defensive Driving Class Or Traffic Safety Education Program 4939
Driver May Not Reserve Point Reduction 4939
Driving Conviction Cannot Be Removed 4939
Removal of Points Upon Completion of Defensive Driving Class or Traffic Safety Education Program 4939
Suspension for Excessive Points 4939
Completion Of Form 665
Completion Of Permanent Closure 3135, 5839
Implementation of a Permanent Closure Plan 3135, 5839
Submittal of a Permanent Closure Report 3136, 5839
Completion Of The Uniform Assessment Instrument 2087
Department's Responsibility for the Uniform Assessment of Clients 2087
Payment Conditioned on Completion of Assessment 2088
Qualifications of Persons Making Uniform Assessments 2088
Reassessments 2088
Time Period for Completing the Assessment 2088
Compliance 132, 1314, 1326, 5043
Authority of Director 132
Improper Installation 5043
Maintenance 5043
Random Compliance Inspection 132
Samples 132
Traffic Hazard 5043
Compliance & Enforcement 1338
Compliance Deadline 2004
Compliance Evaluation 5989
Non-Compliance Actions 5989
Compliance Of Continuing Valuation Program 4435
Compliance Procedure Examples 4436
Definitions 4435
Monitoring Procedure 4435
Remediation Plans 4436
Tax Commission To Ensure Corrective Action 4436
Compliance Of Existing Plans With These Rules 3116
Compliance Of Existing Reclamation Plans 3149
Compliance Required, Residential Care Facility 2614
Compliance Schedule or Schedule Of Compliance 5299
Compliance Schedules 5982
Alternative Schedules of Compliance 5982
General 5982
Compliance With Additional Permit Requirements 3860
Compliance With Applicable Laws 2636
Corrective Action & Fees 2636
Fire Inspection 2636
Planning & Zoning 2636
Sanitation Inspection 2636
Compliance With Law 4866, 4871, 4876, 4886
Compliance With Laws 3758, 3848
Examination by Board 3758
Violations 3758
Compliance With Other Laws & Ordinances 5110
Compliance With Rules 323
Compliance With Rules Requirements 390
Compliance With Section 48-603a, Idaho Code 321
Compliance With Standards Enforced 329
Demonstration of Meaningful Progress Toward Achieving Compliance 329
Development of a Plan of Corrective Action 329
Compliance With These Rules, Idaho Accountancy Rules 31
Compliance with Water &ICF/ID Licensure Requirements Sanitation Rules 1951
Complimentary Tickets 3428
Limitation 3428
More Than Two Percent Issued 3428
Composite Correction Program (CCP) 5702
Comprehensive Performance Evaluation (CPE) 5702
Comprehensive Technical Assistance (CTA) 5702

Compounding Drug Preparations 3882
Application 3882
Drug Compounding Controls 3883
General Compounding Standards 3882
Limited Compounding 3882
Prohibited Compounding 3882
Comprehensive & Current Program Description 364
Minimum Requirements 364
Program Description 364
Comprehensive State Water Plan 4629
Legislative Review 4630
Planning Authority 4629
Public Hearings 4629
Compromise Of Penalty & Civil Penalty 626
Good Cause 626
Computation 4267
Computation Of Assessment 211
Computation Of Benefits For Employees Of Withdrawn Employer 6029
PERSI's Responsibility 6029
Withdrawal Liability Calculations 6029
Computation Of Kilowatt Hours Subject To Tax & Calculation Of Tax 4559
Calculation of Kilowatt Hour Tax 4559
Kilowatt Hours Subject to Tax 4559
Kilowatt Hours Subject to Tax Before Exemptions 4559
Computation Of Property Taxes 4514
Duty of the County Auditor 4514
Duty of the County Treasurer 4515
Computation Of The Idaho Irrigation Exemption 4468
Idaho Irrigation Exemption 4468
Idaho Production & Delivery Value 4468
Irrigation Use Ratio 4468
Production & Delivery Ratio 4468
Computation Of Time 32, 256, 3034, 3115, 3149, 3926, 4614, 4658, 5582, 5888, 5997
Computing Time 5888
Notice by Mail 5889
Computer Equipment, Software, & Data Services 4302
Canned Software 4303
Computer Hardware 4303
Custom Software 4305
Definitions 4302
Digital Products 4304
Digital Subscriptions 4304
Maintenance Contracts 4303
Online or Remote Data Storage 4305
Purchases for Resale 4305
Remotely Accessed Computer Software 4303
Reports Compiled by a Computer 4304
Training Services 4305
Computing Food Stamp Claims 1461
Claims Not Related to Trafficking 1461
Trafficking-Related Claims 1461
Computing Self-Employment Income 1506
Monthly Increase or Decrease 1507
Net Self-Employment Income Seven & Sixty-Five Hundredths Percent Deduction 1507
Self-Employed at Least One Year 1506
Self-Employed Less Than One Year 1507
Computing The Shelter Deduction 1454
Household With Elderly or Disabled Member 1454
Household With No Elderly or Disabled Member 1454
Computing Value Of Sick Leave--Employee Not Covered By Contract 6029
Conceptual Design Approval
Information Required for Conceptual Design Approval 5824
Notice of Conceptual Design Approval or Disapproval 5824
Preapplication Conference 5825
Concession Employee 834
Concessionaire License 834
Names of Owners 834
Proof of Financial Stability 834
Type of Business 834
Concrete Plank Boat Launch Ramps 4777
Assembly of Planks 4777
Concrete Planks 4777
Construction of Boat Ramp 4778
Construction of Concrete Plank Boat Launch Ramps 4777
Construction of Planks 4777
Water Depth 4778
Concurrent Benefit Prohibition 1480
Concurrent Multiple Benefit Prohibition 1580
Multiple Program Benefits 1580
Multiple TAFI Benefits 1580
Condemnation & Destruction Of Diseased Animals Or Flocks 222
Animals or Flocks Condemned 222
Animals or Flocks Infected 222
Condition Of Payment Endorsement 2101
Conditional Benefits 1497
Conditional Benefits Payments Disposal/Exclusion Period 1497
Good Cause for Not Making Efforts to Sell Excess Property 1497
Time Period for Disposal of Excess Resources 1497
Conditional Denial 2513
Effective Date of a Conditional Denial 2513
Reasons for a Conditional Denial Issuance 2513
Request an Exemption Review 2513
Conditional Offers 236
Conditions 731
Winnings Calculated 731
Winnings Included 731
Conditions & Requirements For Operation Of Self-Propelled Snowplows On The State Highway System 4984
Clearance Light or Reflector Requirements 4984
General Conditions 4984
Headlamps, Turn Signals, & Flashing Lights 4984
Lights to Meet Idaho Code Requirements 4984
No Pilot/Escort Vehicles Required 4984
Visibility Requirements 4984
Warning Flags 4984
Conditions Applicable To All Permits 5961
Bypass Terms & Conditions 5965
Duty to Comply 5961
Duty to Mitigate 5962
Duty to Provide Information 5962
Duty to Reapply 5962
Inspection & Entry 5962
Monitoring & Records 5962
Need to Halt or Reduce Activity 5962
Penalties & Fines 5966
Permit Actions 5962
Proper Operation & Maintenance 5962
Property Rights 5962
Reporting Requirements 5963
Signatory Requirements 5963
Upset Terms & Conditions 5966
Conditions For Admission 3303
Assignment of Personal Property 3303
Denial of Admission 3303
Conditions for Emergency Order 3284
Conditions For Guardianship Assistance 2550
Administrative Review for Guardianship Assistance 2551
Assessment of Suitability 2550
Eligibility for Guardianship Assistance 2550
Guardianship & Foster Care Licensure 2550
Guardianship Assistance Agreements & Payments 2550
Termination of Guardianship Assistance 2550
Conditions For Payment 1614
Acceptance of State Payment 1615
Follow-up Communication with Assigned Primary Care

Provider 1615
Medical Care Provided Outside the State of Idaho 1615
Ordering, Prescribing, & Referring Providers 1615
Participant Eligibility 1614
Payment in Full 1615
Referral From Participant's Assigned Primary Care Provider 1615
Services Delivered via Telehealth 1615
Time Limits 1615
Conditions For Placement In An Adoptive Home, Children's Agencies 2632
Conditions For Temporary AABD In Institutions 1488
AABD Status 1488
Counting Three Full Months 1489
Living Arrangement 1488
Participant Becomes Ineligible 1488
SSI Benefits 1489
Conditions Of Approval 4805
Applications and Existing Permits That Are Junior and Subordinate 4805
Insuring Assignment of Interest 4806
Insuring Compliance with Water Quality Standards 4806
Insuring Minimum Stream Flows & Prior Rights 4806
Issuance of Permits with Conditions 4805
Reprocessed Permits 4805
Requirements to Mitigate Impact of Flow Depletion 4805
Retention of Jurisdiction 4805
Voiding Approval of Permit 4805
Well Spacing & Well Construction Requirements 4805
Conditions To Renew Expired License 4083
Investigate or Discipline a Licensee 4084
Payment of Late Fee 4083
Renewal After Expiration of Active License 4083
Conduct 4611
Conduct & Rating Of Examinations Including Veterans' Preference Points 1147
Designation of Examiners 1147
Examination Upon Reclassification 1148
Failing Score 1148
Scoring of Examinations 1147
Veterans Preference 1147
Waiver of Examination 1148
Conduct At Hearings 275, 3047, 4675
Conduct At Hearings, Miscellaneous Procedure 3956
Conduct Of Appeals Hearing 597
Challenge of General Knowledge 598
Closing Arguments 598
Continuance 597
Disruptive Individuals 598
Evidence 598
Exhibits and Recordings 597
Failure to Respond to Subpoena 597
No Appearance Hearings 597
Order of Witnesses 598
Rehearing 597
Role of Appeals Examiner 598
Subpoenas 597
Telephone Hearings 597
Type of Hearing 598
Undecided Issues 598
Witness Fees 597
Conduct Of Commission Meetings 971
Motions & Voting 971
Parliamentary Rules 971
Conduct Of Hearing In Contested Case 5263
Conduct Of Informal Hearings 3252
Hearing Procedure 3252
Questions Asked by the Board 3253
Questions Directed to the Board 3253
Representation by Counsel 3253
Statements 3252
Conduct Of Insurer In Connection With The Preparation Of Required Reports & Documents
Coercion 2950
False or Misleading Statements 2950
Omissions 2950
Conduct Of Insurer In Connection With The Preparation Of Requisite Reports & Documents 2950
Conduct Of Licensed Premises 698
Conduct Of Residents 3304
Housekeeping 3304
No Operation of Motor Vehicles by Nursing Care Residents 3304
Operation of Motor Vehicles by Domiciliary and Residential Care Residents 3304
Conduct Required 259, 3036, 3930, 4661, 5585
Conducting Industrial Radiographic Operations 2366
Conference At Hearing 275, 3047, 4675, 5593
Conference At Hearing, Miscellaneous Procedure 3956
Conference Proceedings Privileged 3950
Confidential Client Information 37
Confidentiality 37
Disciplinary Proceedings 37
Exemptions 37
Confidential Information 844
Confidentiality 42, 272, 373, 1106, 2004, 2613, 2984, 3044, 4672, 5486, 5568, 5803, 5859
Actuarial Report 2984
Confidential Records 1106
Performance Evaluations 1106
Request for Anonymity 1106
Storage of Records 1106
The Statement of Actuarial Opinion 2984
Waiver 2985
Confidentiality -- Protective Orders 4621
Confidentiality & Privacy Protections Of Persons Served, Residential Care Facility 2615
Confidentiality Of EMS Records 1246
Confidentiality Of Records 5297, 5503, 5580, 5601, 5622, 5656, 5658, 5821, 5844, 5876
Denial of Confidential Claims 5876
Identifying Confidential Information 5876
Confidentiality Of Records & Public Records 2089
Confidentiality Of Records & Public Records Requests 1330
Confidentiality Of Settlement Negotiations 277, 3049, 4677, 5594
Confidentiality Of Test Results 873
Confidentiality Of The Child Protection Central Registry & Requests To Check The Registry 2544
Child Protection Central Registry Check Fee 2544
Confidentiality of Child Protection Central Registry 2544
Confinement Of Deleterious Exotic Animals 113
Assure Animal Care 113
Prevent Escape 113
Prevent Ingress of Wildlife 113
Conflict Auctions 3197
Auction Bidding 3198
Auction Procedures 3198
High Bid Deposit 3198
Minimum Bid 3198
Two or More Applicants 3198
Withdrawal After Auction 3198
Withdrawal Prior to or Failure to Participate in an Auction 3198
Conflict Of Interest 353, 660, 3899
Compensations From Multiple Parties on the Same Project 660
Conflict of Interest to be Avoided 660
Gratuities 661
Professional Services Decisions of Agencies 661
Solicitation From Agencies 661
Solicitation From Material or Equipment Suppliers 661
Unfair Advantage of Position & Work Outside Regular Employment 661
Conflict Of Interest & Personal

Conduct 1139
Conflict Of Interest Policy 5222
Conduct of Commission Business 5223
Gift Prohibitions 5223
Outside Activities Restricted 5223
Personal Conduct 5224
Persons Ineligible for Prizes 5222
Persons Prohibited from Providing Services 5223
Persons Subject to Conflict of Interest Policy 5222
Signature of Conflict Policy Required 5224
Statements for Economic Interest 5222
Use of Lottery Property 5224
Conflict Of Laws 827
Conflict With Telephone Tariffs Or Price Lists 4003
Conflict With Utility Tariffs 3979
Conformity With Applicable Laws & Regulations 329
Congenital Hypothyroidism 1288
Consent & Acknowledgment Required Before Substance Abuse Testing 1581
Consent Agreements -- Defined -- Form & Contents 261, 3039
Additional 262, 3039
Consent Agreements Defined 262
Requirements 262, 3039
Consent Agreements Not Settlements 3963
Consent Agreements--Defined--Form & Contents 3932, 4664
Additional 4664
Definition of Consent Agreement 3932
Form & Content of Consent Agreement 3932
Requirements 4664
Consent To Gather, Use & Disclose Information 2131
Consent To Release Confidential Information 1585
Conservatorship 1496
Consideration Of Consent Agreement Or Other Settlements 300
Consideration of Consent Agreement 300
Negotiations 300
Presentation of Consent Agreement 300
Consideration Of Consent Agreement Or Other Settlements Before Complaint Issued 268
Agency Head Consideration of Consent Agreement 268
Negotiations 268
Presentation of Consent Agreement to Agency Head 268
Consideration Of Settlement On Appeal 3971
Consideration Of Settlements 277, 3049, 3963, 4677, 5594
Considerations For Placement In Alternative Care 2530
Ability of Providers 2530
Family Assessment 2530
Family Involvement 2530
Consistency & Uniformity In Reporting 4217
State to State Consistency 4217
Year to Year Consistency 4217
Consolidated Hearing 2145
Consolidated Or Combined Audits 2946
Explanations of Consolidating & Eliminating Entries 2947
Noninsurance Operations 2947
Reconciliation 2947
Separate Amounts 2947
Worksheet 2947
Consolidation 4613
Consolidation Of Proceedings 275, 3047, 4675, 5593, 6002
Consolidation Of Proceedings, Hearings, Miscellaneous Procedure 3956
Construction & Design Provisions, Section 102.1, International Fire Code 2998
Construction & Maintenance Of Improvements 3196
Bond 3196
Maintenance 3196
Prior Written Approval 3196
Construction & Use Of Holes That Are Not Wells 4849
Converting a Hole Not Constructed as a Well for Use as a Well 4849
Holes Not Defined as Wells 4849
When a License Is Not Required 4849
Construction Manager Examinations 576
Construction Of Cold Water Wells 4816
Access Port or Pressure Gage 4824
Alternative Methods for Sealing Wells 4823
Amount of Chlorine Needed Per 100 Feet of Water in Well 4826
Casing 4818
Cathodic Protection Wells 4823
Closed Loop Heat Exchange Wells 4823
Completion of a Well 4825
Decommissioning (Abandoning) of Wells 4824
Disinfection & Contamination 4826
Drilling Fluids or Drilling Additives 4826
Explosives 4826
General 4816
Hydraulic Fracturing 4826
Injection Wells 4823
Liner 4819
Minimum Single-Wall Steel Well Casing Thickness1 for Selected Diameters (inches) 4818
Monitoring and Remediation Wells 4823
Pitless Adapters 4825
Pump Installation 4825
Records 4818
Sand Production 4826
Screen 4819
Sealing Artesian Wells 4822
Sealing of Wells 4821
Separation of Well from 4816
Use of Approved Sealing Materials & Required Annular Space 4820
Waivers 4817
Well Development & Testing 4827
Construction Of Dressing Rooms 2337
Construction Of Low Temperature Geothermal Resource Wells & Bonding 4827
Blow Out Prevention Equipment 4829
Casing 4828
Decommissioning (Abandoning) of Wells 4829
General 4827
Repair of Wells 4829
Sealing of Casing 4828
Well Owner Bonding 4827
Construction Plans, Drawings & Specifications 4754
Additional Information/ Waiver 4757
Alternate Plans 4757
Applying for & Obtaining Written Approval 4754
Changes to Specifications 4755
Design Report 4756
Detailing Provisions of Specifications 4756
Information Included with Plans 4755
Inspection, Examination & Testing of Materials 4756
Inspections 4755
Plans Shall Be Prepared on a Good Quality Vellum or Mylar 4754
Preparation & Submission of Plans 4755
Rejection of Defective Material 4756
Responsibility of Engineer 4756
Specifications 4755
Submission of Duplicate Plans, Dam Drawings & Specifications 4754
Suspension of Work 4756
Construction Procedures 4770
Conformance to Procedures 4770
Disposal of Removed Materials 4770
Fill Material 4770
Limitations on Construction

Period 4770
Minimizing Disturbance of Area 4770
New Cut of Fill Slopes 4770
Operation of Construction Equipment 4770
Temporary Structures 4770
Construction Requirements
Corners 2332
Electrical Code 2332
Finish 2332
Materials 2332
Plumbing Codes 2332
Uniform Building Code 2332
Construction Requirements For Existing Buildings, Section 1101.1, International Fire Code 3001
Construction Standards For Confinement Areas 113
Birds 113
Mammals 113
Consultants & Persons Employed Under Independent Contract 1140
Conflict of Interest/Nepotism 1140
Limited Use Only 1140
Not to Be Treated as Employees 1140
Consultation With Representatives Of The Hearing Impaired & The Speech-Impaired 4036
Consumer Confidence Report 5694
Consumer Education
Information 2202
Death & Serious Injury 2202
Monitoring & Inspection Reports 2202
Substantiated Complaints 2202
Consumer Grades For Shell Eggs - General 147
Applicability 147
No Grade 147
Substitution 147
Consumer Reporting Agencies 2370
Consumer Reporting Agency 2370
Reports 2370
Consumer-Directed Community Supports (CDCS) Option 1972
Consumption Of Alcohol 786, 871
Containers - Returnable - Nonreturnable 4360
Container 4360
Containers Exempt from Tax 4360
Supplies 4360
Taxable Containers 4360
Containers, Drinks 3427
Contaminant Management In The Bunker Hill Superfund Site, Shoshone County, Idaho 5128
Additional Provisions by District 5130
Administrative Appeals 5129
Definitions 5129
Legal Authority 5128
Purpose 5129
Statement of Intent 5130
Written Interpretations 5129
Contaminant Management Rules In The Bunker Hill Superfund Site Operable Unit #3 Institutional Controls Administrative Area, Shoshone & Kootenai Counties, Idaho 5132
Additional Provisions by PHD 5135
Administrative Appeals 5133
Definitions 5133
Implementation Policy & Standards 5133
Purpose 5132
Statement of Intent 5135
Content Of Announcements 1146
Content Of Child's Record 2618
Content Of Child's Record
Child's Health Record 2619
Minimum Information 2618
Content Of Continuing Education 3714
Continuing Education 3714
Content Of Continuing Education
Courses 3624
Category I 3624
Category II 3624
Content Of Notice 718
Description of Conduct 719
Hearing Schedule 718
Legal Authority 719
Possible Penalties 719
Rights 719
Violation 719
Content Of Records For Approved Feedlots 81
Animals Received 81
Animals Removed from Feedlot 81
Death Loss 81
Requirements 81
Content Of Solicitations Issued Under A Formal Sealed Procedure 4894
Contract Terms 4894
Evaluation Criteria 4894
Incorporation by Reference 4894
Pre-Proposal or Pre-Bid Conference 4894
Specifications 4894
Submission Information 4894
Trade-In Property 4894
Contents Of Annual Audited Financial Report 2943
Contents of Report 2943
Contents Of Certificates 89
Contents of Certificates
Description of Animals 90
Final Destination of Shipment 90
Health Status 90
Mailing Certificate to Idaho 90
Name & Address 89
Origin of Shipment 89
Period of Certificate Validity 90
Purpose of Shipment 90
Signature 90
Contents Of Civil Asset Forfeiture Reporting Form 675
Contents Of Consumption Report 4075
Content of Consumption Reports 4075
Geographic Area(s) Covered in Consumption Report 4075
Contents Of Corporate Governance
Annual Disclosure 2995
Additional Factors 2995
CGAD Considerations 2995
Detail 2995
Factors 2995
Oversight 2996
Contents of Form
Asset Forfeiture Reporting Form 675
Contents Of Notice Of Intent To Promulgate Rules 285
Agency Contacts 285
Authority 285
Issues 285
Method of Participation 285
Obtain Copy 285
Schedule 285
Subject Matter 285
Contents Of Notice Of Intent To Terminate Local Exchange Service 4010
Contents of Notice 4010
Contents Of Notice Of Intent To Terminate Service 3987
Additional Requirements for Gas & Electric Utilities 3987
Contents of Notice 3987
Contents Of Orders 4679
Findings of Fact & Conclusions of Law 4679
Statement of Available Procedure 4679
Contents Of Petition For Declaratory Ruling 2143
Contents Of Safe Deposit Box Or Other Safekeeping Repository 5273
Contents Of Tickets 3428
Changes 3428
General 3428
License to Sell 3428
Contents on the form. 665
Contested Cases 3926
Contested Permit Conditions 5960
Combination of Technologies 5960
Control Technologies 5960
Enforceable Dates 5960
Force & Effect of Conditions 5960
Inseverable Conditions 5960
Uncontested Conditions 5960
Contesting Denied Expedited Service 1419
Contingency Fund 3849
Continuance 4620
Consideration 4620
Continuances 4620
Continuance Of Full Approval Of

Educational Program 3393
Continuance Of Hearing 275, 3047, 4675, 5593
Continuance Of Hearing, Miscellaneous Procedure 3958
Continuances 719
Good Cause 719
Order of Continuance 719
Request for Continuance 719
Continuation 4131
Continuation of Lapse Date 4131
Status of Financing Statement 4131
Status of Parties 4131
Continuation Of Benefits Pending A Hearing 1459
Continuation Of Eligibility For Children 1595
Continuation Of Tax Credit 3901
Continuation Of The Consumer-Directed Community Supports (CDCS) Option 1982
Health & Safety Choices 1983
Required Supports 1983
Risk & Safety Back-Up Plans 1983
Support & Spending Plan 1983
Continuation Pending Local Hearing Decision 1595
Continued Benefits Pending A Hearing Decision 1524
Amount of Assistance 1524
Continued Eligibility 1524
Overpayment 1524
Continued Care 2615
Department or Department of Juvenile Corrections (DJC) Placed Individuals 2616
Individuals Not Placed by Department or DJC 2616
Continued Competence Requirements For Renewal Of An Active License 3360
APRN Continued Competence Requirements 3360
Beyond the Control of Licensee Exemption 3361
Compliance Effective Dates 3361
Disciplinary Proceeding 3361
Extension 3361
First Renewal Exemption 3360
Learning Activities 3360
Continued Compliance, Reporting Changes, & Critical Incidents 2599
Critical Incidents 2599
Posting of License & Other Information 2599
Reporting Changes 2599
Continuing Consultation & Investigation 2182
Decision-Making Landmarks 2182
Further Consultation & Investigation 2182
Continuing Education 3351, 3410, 3461, 3493, 3504, 3520, 3547, 3590, 3606, 3615, 3639, 3645, 3669, 3678, 3682, 3712, 4085, 4856
Approved Contact Hours, Limitations, & Required Documents 3606
Approved Courses 3494
Approved Credit 3411
Architectural Health, Safety & Welfare Requirement 3410
Attestation 3504
Carry Over & Duplication 3504
Carryover of Continuing Education Hours 3462, 3547, 3678, 3683, 3713
Categories of Continuing Education 3591
Contact Hours 3606
Continuing Education (CE) Requirement 3520, 3682
Continuing Education Activities 3462
Continuing Education Requirement 3410, 3493
Continuing Education Requirements 3590
Continuing Education Sources 3591
Course Approval 3494, 3645
Courses & Activities 3504
Credit 3520, 3646
Credit for Appraisal Educational Processes & Programs 3640
Credit for Attending the Licensure Board Meetings 3640
Credit for Continuing Education Attendance 3615
Distance Learning & Independent Study 3494
Documentation 3461, 3504, 3592, 3669, 3678, 3712, 4857
Documentation of Attendance 3606
Earning Credit Units 4856
Education Requirement for License Renewal 3547
Evidence of Completion 3351
Exemption 3462, 3713
Exemptions 3411, 3494, 3505
Failure to Fulfill the Continuing Education Requirements 3411, 3494, 3521, 3683
Hours 3683
Hours Required 3639
Insufficient Credit Units 4857
Minimum Hours Required 3645
Out-of-State Residents 4857
Polysomnographer Continuing Education 3351
Providers/Sponsors/Subjects of Continuing Education 3520, 3683
Purpose of Continuing Education 3639
Request for Approval 3615
Requests for Approval of Programs 3615
Requests for Pre-Approval 3615
Requirement 3461, 3504, 3669, 3678, 3712
Requirement When a Certificate/License Is Canceled 3640
Requirements 4856
Responsibility for Education Development & Implementation 4857
Special Exemption 3521, 3547, 3646, 3683
Subject Material 3494
Subjects 3615
Submission of License Renewal Application Form 3547
Submittal & Maintenance of Records 4857
Verification of Attendance 3411, 3494, 3521, 3683
Verification of Completion 3547
Waiver 3462, 3678, 3713
Continuing Education & Skills Proficiency 2287
Continuing Education Must Meet Objectives of Initial Course Curriculum 2287
Documentation of Continuing Education 2287
Transition to New Scope of Practice 2287
Continuing Education Activities 3713
Publishing Articles or Books 3714
Self Study 3714
Teaching a Course For The First Time, Not to Exceed Six Hours 3714
Continuing Education Advisory Committee 2907
Decisions or Rulings 2907
Duties of the Advisory Committee 2907
Quorum 2907
Continuing Education Categories For Personnel Licensure Renewal 2288
Airway 2288
Cardiovascular 2288
Medical 2288
Operations 2288
Pediatrics 2288
Trauma 2288
Continuing Education Committee Contigency Plan 4857
Continuing Education For Post Conviction Sexual Offender Polygraph Examiners 5287
Continuing Education For Psychosexual Evaluators & Sexual Offender Treatment Providers 5284
Provisional/Supervised Certification Level 5284
Senior/Approved & Associate/Supervised Certification Levels 5284
Continuing Education In Optometry 3534
Additional Hours Required to Use

Therapeutic Pharmaceutical Agents 3535
Audit 3535
Correspondence/Home Study Courses/Observation 3535
Documentation of Attendance 3535
Excess Hours 3535
Hours Required, Advance Approval 3534
Renewal Application Form 3535
Waiver of Requirements 3535
Continuing Education Records Are Subject To Audit 2287
Documentation Record 2287
Continuing Education Records are Subject to Audit
Proof of Completion 2287
Continuing Education
Requirement 3578, 3697
Annual Continuing Education Requirement 3697
Carryover Hours 3698
Compliance Audit 3578
Contact Hours 3578
Continuing Education Credit Hours 3579
Course Approval 3580
Distance Learning & Independent Study 3697
Documentation of Attendance 3578
Excess Hours 3578
Failure to Receive the Renewal Application 3580
Hardship Waiver 3698
Peer Review System 3697
Reinstatement of License 3578
Renewal of License 3578
Requests for Board Approval 3697
Special Exemption 3578
Subject Material 3697
Submitting False Reports or Failure to Comply 3580
Verification of Attendance 3697
Continuing Education
Requirements 3017, 3345, 3528, 3623
Carryover 3624
Carryover of Continuing Education Hours 3528
Credit for Teaching 3624
Distance Learning & Independent Study 3623
Documentation 3018
Educational Requirements 3528
Nature of Education 3018
Number of Credits 3017
Prorated Credits 3018
Renewal of License 3528
Requirement 3623
Special Exemption 3624
Verification of Attendance 3623
Volunteer Practice 3018
Waiver 3528
Continuing Education Requirements For Relicensure In Psychology 3554
Carryover of Continuing Education Hours 3555
Certificates of Satisfactory Attendance & Completion 3555
Licensees Who Do Not Fulfill the Continuing Education Requirements 3555
Newly Licensed Individuals 3555
Number of Hours Required 3555
Professional Level of Continuing Education - Time Period Records Kept - Audit 3555
Special Exemption 3555
Continuing Educational & Skills Proficiency Requirements for Personnel Licensure 2287
Continuing Medical Education (CME)
Required 3335
Alternate Compliance 3336
Penalties for Noncompliance 3336
Purpose 3335
Renewal 3335
Verification of Compliance 3336
Continuing Professional Education
Appointment 40
Powers & Duties 40
Continuing Professional Education Committee 40
Continuing Training Requirements 2483
Continuity Of Service 5690
Maintenance of Standards 5690
Transfer of Ownership 5690
Continuous Health Care Assistance
Eligibility For Children Under Age Nineteen 1368
Children Not Eligible for Continuous Eligibility 1368
Reasons Continuous Eligibility Ends 1368
Continuous Presence Of Physician At Ringside 3438
Injury to Boxer During Round 3438
Presences of Physician at Ringside 3438
Contraband 2664
Confiscation 2664
Disposal 2664
Law Enforcement Notification 2664
Contraband, Children's Residential Care Facilities 2643
Contract Agreement Violations 1083
Intent to Suspend 1083
Notices of Contract Violations 1083
Contract Between Manager & Combatant 3421
After Contract Services 3422
Contract Approval 3422
Contractual Obligations 3421
Manager Limitations 3422
Manager Responsibilities 3422
Options 3422
Contract Between Promoter & Combatant 3422
Contract Prohibitions 3422
Gate Receipts 3422
Contract Management
Requirements 1109
AAA Provider Appeals 1109
AAA Provider Subcontracts 1109
Contracts Term 1109
Non-Profit Agency Contractors 1109
Contract Of Insurance, Or Copy Thereof - Certificate Of Liability Insurance 2733
Contract Oversight 4904
Contract Management 4904
Contract Management & Contract Administration 4904
Service Contracts Exceeding $1,500,000 in Total Value 4904
Contract Terms - Policies & Limitations 4903
Prohibited Terms 4903
Terms Requiring Special Consideration 4903
Contract To Take License Applications By Telephone Or Other Electronic Methods 1086
Contract With Medicaid 2065
Contracting For Services 5515, 5801
Contractor Licensing 5139
Bonding 5139
License Required 5139
Suspension or Revocation of License 5139
Training 5139
Contractor's Use Of Tangible Personal Property 4343
Contractors Use of Tangible Personal Property 4343
Exception 4343
Use 4343
Contractors Improving Real Property 4289
Contract 4290
Cross-References 4292
Custom-Made Goods 4290
Exempt Purchases by Contractors 4292
Fuels 4290
In General 4289
Land Leveling 4291
Materials Provided by Project Owner 4291
Purchases by Contractors 4290
Real Property 4290
Subcontractor 4291
Use 4290
Use Tax Reporting Number 4290
Value 4291
Contractors/Retailers 4293
Contractor/Retailer 4293
In General 4293
Inventory Withdrawals 4294
Record Keeping Procedure 4294

Sales of Both Tangible Personal Property & Improvements to Real Property 4294
Sales with Agreement to Install 4294
Tangible Personal Property vs. Improvements to Real Property 4294
Contracts & Services 2776
Affiliated Contracts 2776
Contracts for Services 2777
Fiduciary Duty 2777
Recordkeeping & Writing 2777
Contracts Providing For Variable Benefits 2747
Illustrations 2747
Investment Increment Factor 2747
Payment of Periodic Stipulated Payments 2747
Reserve Liability 2747
Contracts With Forest Landowners Or Operators 3236
Contradictory Representations 231
Contrast Between Agency's Prosecutorial/Investigative & Adjudicatory Functions 267
Adjudicatory Function 267
Prosecutorial/Investigative Function 267
Contrast Between Office Of Attorney General's Investigative/Prosecutorial & Adjudicatory Functions
Adjudicatory Function 299
Investigative/Prosecutorial Function 299
Contrast Between Office Of Attorney General's Investigative/Prosecutorial And Adjudicatory Functions 299
Contribution Liability 6036
Contribution Rates 2776
Annual Filing of Rates 2776
Contribution Rate Calculation 2776
Employer Contributions 2776
Contributions Due While Member Is Receiving Workers Compensation 6009
Accruing Service 6009
Contributions Due & Payable 6009
Maintaining Eligibility for Injured Workers 6009
Contributions For Adult Residential Care Facility Residents 1503
Contributions Receivable 2775, 2779
Control & Tenure 3855
Control Of Lead & Copper 5706
Analytical Methods 5707
Applicability of Corrosion Control Treatment Steps to Small, Medium-Size, & Large Water Systems 5706
Description of Corrosion Control Treatment Requirements 5706
General Requirements 5706
Lead Service Line Replacement Requirements 5707
Monitoring Requirements for Lead & Copper in Source Water 5707
Monitoring Requirements for Lead & Copper in Tap Water 5707
Monitoring Requirements for Water Quality Parameters 5707
Public Education & Supplemental Monitoring Requirements 5707
Recordkeeping Requirements 5707
Reporting Requirements 5707
Source Water Treatment Requirements 5707
Control Of State Lands 3215
Control Or Management Of Former Owner 782
Controlled Hunt 3754
Controlled Hunt Applications 1003
Applicant Requirements 1003
Applications 1003
Controlled Hunt Drawing 1005
Group Application 1004
Sale of Remaining Tags 1004
Second Drawing Exclusion 1005
Unlimited Controlled Hunts 1004
Controlled Hunts Outside Outfitter's Operating Area 3770
Compensation Between Outfitters 3770
Identification of Hunter 3770
Written Permission 3770
Controlled Substances
PDMP 3881
Online Access to PDMP 3881
Profile Requests 3881
Use Outside Scope of Practice 3881
Controls & Reporting 2910
Licensee to Retain Original Certificate as Evidence 2910
Sign-In & Sign-Out Sheets 2910
Conversion Or Sale Of A Resource Not Income 1503
Conversion To Other Uses 3857
Fees 3858
Generally 3857
Prerequisites to Approval of Conversion 3857
Project Amendments 3858
Converting Income To A Monthly Amount 1590, 2189
Bi-Weekly Amount 2189
Biweekly Payments 1590
Monthly Amount 2189
Semi-Monthly Amount 2189
Semi-Monthly Payments 1590
Weekly Amount 2189
Weekly Payments 1590
Convoy Of Oversize Loads 4977
Convoying Manufactured Homes, Office Trailers, & Modular Buildings 4977
Cooperation Defined 1526
Information About Noncustodial Parent 1526
Name of Noncustodial Parent 1526
Cooperation In Establishment Of Paternity & Obtaining Support 1435, 2190
Established Case for Custodial Parent 2190
Exemptions From Cooperation Requirement 2190
Failure To Cooperate 2190
Providing all Information 2190
Cooperation Responsibility 1584
Cooperation With Law Enforcement 2548
Cooperation With The Quality Control Process 1362, 1525
Cooperative Purchasing Political Subdivisions 4890
Cooperative Use & Reciprocal Use Agreements 3180
Applicability 3181
Joint Agreements 3180
Reciprocal Use Agreements 3181
Co-Payment Fee Amounts 2380
Annual Increase 2380
Fee Amount 2380
Nominal Amount 2380
Copayments 2194
Calculating Family Payment 2195
Changes to Copayments 2195
Poverty Rates 2194
Core Family & Children's Services 2524
Administrative Services 2525
Adoption Services 2525
Alternate Care (Placement) Services 2524
Assessment & Safety/Service Planning Services 2524
Community Support Services 2524
Court-Ordered Services 2524
Crisis Services 2524
Independent Living 2524
Interstate Compact on Out-of-State Placements 2524
Preventative Services 2524
Screening Services 2524
Core Issues Deficiency 2492
Core Terms 6071
Compensation 6071
Conflicts of Interest 6071
Experience Requirements 6071
Independent Contractor 6071
Parties 6071
Performance Requirements 6072
Scope of the Contract 6071
Term of the Contract 6071
Training Requirements 6071
Underlying Bases 6071
Corporate Estimated Payments
Annualized Income Installment Method 4268
Computation of Tax 4268
In General 4268

Required Installment 4268
In General 4267
Computation of Estimated Payments 4267
Estimated Tax 4267
Net Operating Loss or Capital Loss Carryover 4267
Revised Income Estimate 4267
Interest On Underpayment 4269
In General 4269
Net Operating Loss and Capital Loss Carrybacks 4269
Miscellaneous Provisions 4269
S Corporations 4269
Tax-Exempt Organizations 4269
Unitary Groups Filing Group Returns 4269
Payments 4267
Obligation to File Returns 4267
Overpayments 4267
Underpayments 4267
Short Taxable Year 4268
Examples 4268
In General 4268
Corporate Reservation Renewal Terms 4098
Correction Of Erroneous Levy 4514
Errors Discovered After the Fourth Monday in October 4514
Errors Discovered by the Fourth Monday in October 4514
Correction Of Typographical, Transcription Or Clerical Errors In Pending Rules 290
Correction Statement 4132, 4135
Status of Financing Statement 4132
Status of Parties 4132
Corrective Action 1429
Corrective Action Plans & Compliance Verification 6081
Corrective Action Plans 6081
Corrective Actions & Compliance Verification
Compliance Verification 6082
Correspondence Policy, Residential Care Facility 2622
Correspondence--Change Of Address 4075
Department's Mailing Address 4075
Supplier's Mailing Address Must be Provided to Department 4075
Cost 1887
Cost & Payment 5090
Cost Reimbursement 1189
Civil Actions 1190
Claims Against Spiller or Other Responsible Party 1190
Cost Recovery, Deficiency Warrants 1190
Limitations for Seeking Reimbursement, Acceptance of Claims 1189
Submission of Claims & Forms 1189
Cost Reporting 1753
Cost Reporting, General Reimbursement Provisions For Institutional Providers 1621
Cost-Effective & Reasonable Best Management Practices (BMPs) for Nonpoint Sources 5299
Costs & Annual Report 806
Audited & Approved 806
Costs Allowed For Shelter Deduction 1453
Costs Not Allowed For The Shelter Deduction 1453
Furniture Rental 1453
Past Due Rent 1453
Personal Insurance 1453
Rental Deposit 1453
Repairs Not Paid by Household 1453
Shelter Not Paid by Household 1454
Utility Cost Paid by Utility Payment 1454
Utility Deposit 1453
Vehicle Not Used as Residence 1453
Wood Cutting 1453
Costs Of Disclosure 604
Private Party 604
Public Official 604
Costs Of Fire Suppression & Protection 3084
Costs Of Prescription Drugs 2264, 2537
Cost-Sharing 1612
Co-Payments 1612
Premiums 1612
Council 2158
Grants Awards Process 2158
Membership 2158
Other Grants 2158
Purpose 2158
Countable Income 1588, 2186
Countable Resources 1586
Counting Resources & Income 1490, 1502
County Auditor Requirement 4612
Contents 4612
Minutes 4613
County Eligibility To Receive Moneys From The State Vessel Account 3805
Boating Improvement Program 3805
Requirements for Boating Improvement Program 3805
County Valuation Program To Be Carried On By Assessor 4431
Definitions 4431
Field Inspections 4432
Plan for Continuing Program of Valuation 4431
Testing for Current Market Value 4432
Couple Budgeting 1521
Coupled Entries 789
Coupled Entries 789
Overnight Race 789
Coupled Entries & Mutuel Fields 744
Coupled Entry Considered Single Betting Interest 744
Dead Heat Involving Coupled Entry 744
Course Evaluation Fee 917
Exception 917
Fee Schedule 917
Waiver 918
Course Review 4944
Court Or Board Of Tax Appeals Ordered Refunds Or Credits - Levy Restrictions 4515
Court Referrals 1465
Impose Court Penalties 1465
Referred Cases 1465
Court-Ordered Child Protection Safety Assessment 2548
Covenant Not To Sue 5854
Continuing Compliance 5854
Negotiation & Provision of Covenant 5854
Rescission of Covenant 5854
Coverage 2781, 5685
Applicability 2781
Involuntary Complications of Pregnancy 2781
Coverage & Limitations 1650
Coverage Requirements 2764
Cosmetic Surgery 2765
Coverage of Newborn & Newly Adopted Children 2764
Coverage Requirements 2764
Limitations on Coverage for Congenital Anomalies 2765
Pre-Existing Conditions 2765
Covered Services 1628, 1760, 2065
Covered Services Under Basic Plan Benefits 1625
Ambulatory Surgical Centers 1626
Audiology Services 1627
Dental Services 1627
Durable Medical Equipment and Supplies 1627
EPSDT Services 1628
Essential Providers 1627
Family Planning 1627
Home Health Services 1627
Hospital Services 1626
Inpatient Psychiatric Hospital Services 1627
Laboratory & Radiology Services 1627
Other Practitioner Services 1626
Outpatient Behavioral Health Services 1627
Physician Services & Abortion Procedures 1626
Prescription Drugs 1627
Prevention Services 1626
Primary Care Case

Management 1626
Specific Pregnancy-Related Services 1628
Therapy Services 1627
Transportation 1627
Vision Services 1627
CP Method 1538
CP Method Income Disregards 1539
CP Method Need Standard 1538
CP Method Resource Limit 1539
CPA Exam Educational Qualifications 33
CPA Examination and Credit 33
CPE Basic Requirements 38
CPE Basic Requirements, Continuing Education
New & Reciprocal 39
Renewal 39
CPE Exceptions, Extensions, & Exemptions 39
Exceptions & Extensions 39
Inactive or Retired 39
CPE Reporting, Controls & Late Fees
CPE Late Fees 39
CPE Reporting, Controls, & Late Fees 39
Craniofacial 2354
Eligible Conditions 2354
Excluded Conditions 2354
Spending Limits 2355
Credentials To Be Filed By All Applicants 3544
Certified Copy of National Board Results 3544
Diploma 3544
Educational Certificate Requirement 3544
Residency Certification Requirement 3544
Credit Card Payments 5088
Credit Disability Insurance 2757
Actively-at-Work Requirement 2757
Age Restrictions 2757
Daily Benefit 2757
Definition of Disability 2757
Effective Date of Coverage 2758
Open-End Credit Plan 2757
Other Exclusions or Restrictions 2757
Other Provisions 2758
Preexisting Conditions 2757
Credit For Breakfast, Luncheon, Or Dinner Meetings 2912
Credit For Contributions To Educational Institutions For Taxable Years Beginning After 2010 4244
Effect on Itemized Deductions 4245
Limitations - Corporations 4245
Limitations - Individuals 4245
Nonprofit Public & Private Museums 4245
Other Limitations 4245
Pass-Through Entities 4245
Qualified Contributions 4245
Credit For Contributions To Idaho Youth Facilities, Rehabilitation Facilities & Nonprofit Substance Abuse Centers 4255
Limitations
Corporations 4255
Individuals 4255
Other Limitations 4255
Pass-Through Entities 4255
Qualified Contributions 4255
Credit For Destruction Of Tobacco Products 4577
Destroyed Tobacco 4577
Observing Destruction 4577
Credit For Idaho Research Activities
Elections 4254
Election to Be Treated as a Start-Up Company 4254
Unitary Sharing 4254
In General
Carryovers 4253
Definitions 4253
Limitations 4253
Pass-Through Entities 4253
Short Taxable Year Calculations 4253
Record-Keeping
Requirements 4254
Failure to Maintain Adequate Records 4254
Information Required 4254
Unitary Taxpayers 4255
Credit For Idaho Research Activities -- In General 4253
Credit For Income Taxes Paid Another State Or Territory
In General 4242
Credit Calculated on a State-by-State Basis 4243
Income Tax Payable to Another State 4243
Limitations 4243
Rounding 4244
Taxes Eligible for the Credit 4242
Taxes Not Eligible for the Credit 4243
Taxpayers Entitled to the Credit 4242
Part-Year Residents 4244
Examples 4244
Income Subject to Tax by Both States 4244
Credit For Individual Study Programs 2912
Completed Tests 2912
Requirements for Credit of Independent Study Programs 2912
Credit For Live Organ Donation Expenses 4259
Credit Allowed 4259
Limitations 4259
Live Organ Donation 4260
Live Organ Donation Expenses 4260
Credit For Reinsurance
Accredited Reinsurers 2963
Accredited Reinsurers 2963
Denial of Accreditation 2963
Reinsurer Domiciled & Licensed In Another State 2964
Applicable Domicile & License 2964
Maintains Surplus 2964
Proper AR-1 Form Filed 2964
Provisions 2964
Reinsurers Maintaining Trust Funds 2964
Acceptable Form 2965
Assets 2967
Liabilities 2966
Requirements 2964
Security by an Unauthorized Assuming Insurer 2969
Trust Fund 2964
Credit For Reinsurance – Certified Reinsurers 2969
Certification & Security 2969
Certification procedure 2970
Mandatory Funding Clause 2975
Notification Requirements 2975
Qualified Jurisdictions 2974
Recognition of Certification Issued by an NAIC Accredited Jurisdiction 2975
Credit For Reinsurance - Reinsurer Licensed In This State 2963
Credit For Reinsurance Requisite By Law 2975
Credit For Returned Tobacco Products 4576
Credit Allowed 4576
Notice of Returned Tobacco Products 4577
Verifying Shipments 4577
Credit For Service As Lecturer, Discussion Leader, Or Speaker 2912
Credit Guidelines 6059
Additional Information Required for Loans Secured with Real Estate 6059
Duty to Inform 6059
Field Inspections 6059
Other Collateral 6059
Required Documentation 6059
Standards for Acceptable Loans 6059
Credit Life Insurance 2756
Age Restrictions 2757
Closed-End Credit Plans 2757
Exclusions 2756
Open-End Credit Plan 2757
Other Provisions 2757
Credit Life Or Disability Insurance Payments 1503
Credit Of Allocation 6036
Credit Sales Advertising 251

Advertised Finance Rates 251
Advertised Terms Unavailable 251
Disclosure Requirements 251
Truth in Lending Disclosures 252
Credited State Service 1156
Classified Service 1156
Nonclassified Service 1156
Service Prior to State Personnel System 1156
Crediting, Improvement Credit 3196
Credits
Pass-Through Entities 4260
Carryovers 4261
Different Taxable Year Ends 4261
In General 4260
Information Provided by a Pass-Through Entity 4261
Limitations 4260
Pass-Through Entities That Pay Tax 4261
Credits & Refunds 4276
Amended Federal Return 4277
Amended Returns Required as Refund Claims 4276
Closed Issues 4276
Combined Reports -- Final Federal Determination & Change of Filing Method 4277
Duplicate Returns 4277
Limitations on Refunds of Withholding & Estimated Payments 4277
Overpayment 4276
Reduction or Denial of Refund Claims 4277
Requirements of a Valid Refund Claim 4276
Timely Claim Required for Refund 4276
Credits Measured in Full Hours 2909
Credits To An Account
Accordance with Financial Institution 843
Credit for Winnings 843
Deposits 842
Crime Victim's Compensation Program Review 2681
Criminal & Civil Proceedings 1343
Civil Proceedings 1343
Criminal Proceedings 1343
Injunctive Relief 1343
Criminal History & Background Check Clearance 2509
Clearance 2509
Clearance Types 2509
Revocation of Clearance 2509
Criminal History & Background Check For Daycare Standards 2588
Cost of Criminal History & Background Check & Juvenile Justice Records 2588
Criminal History & Background Check for Daycare Centers & Group Daycare Facilities 2588
Criminal History & Background Check for Family Daycare Homes 2588
Criminal History & Background Check for Private Schools & Private Kindergartens 2588
Juvenile Justice Records 2588
On-going Duty to Report Convictions 2588
Criminal History & Background Check Records 2516
Release of Criminal History & Background Check Records 2516
Retention of Records 2517
Use & Dissemination Restrictions for FBI Criminal Identification Records 2517
Criminal History & Background Check Requirements 1236, 1374, 1603, 1738, 1970, 2066, 2104, 2183, 2208, 2242, 2251, 2268, 2277, 2384, 2518, 2576
Additional Criminal Convictions 1603, 1738, 2183
Additional Criminal Convictions, Pending Investigations, or Charges 2385
Additional Criminal History & Background Check 1236
Applicants, Providers, & Other Individuals Subject to Criminal History Check Requirements 2183
Availability to Work or Provide Service 1603, 2183, 2209, 2242
Compliance With Department Criminal History & Background Check 2242
Compliance with Department Criminal History & Background Check 2576
Compliance With Department Criminal History Check 1603, 1738, 2183
Criminal History & Background Check at Any Time 2183, 2577
Criminal History and Background Check 2208
Department Criminal History and Background Check Clearance 2384
Exceptions to Criminal History & Background Checks for Certain Youths 2577
ICCP Provider is Approved 2183
Individuals Subject to Criminal History Check Requirements 2577
Initial Instructor Certification 1236
Minor Child Turns Eighteen 2385
New Adults in the Home After Certification Is Granted 2384
Providers Subject to Criminal History & Background Check Requirements 1738
Providers Subject to Criminal History Check Requirements 1603
Reinstatement of Instructor Certification 1236
Renewal of Criminal History & Background Check Requirement 2183
Requirement to Report Additional Criminal Convictions, Pending Investigations, or Pending Charges 2066, 2104
Substitute Caregiver 2385
Verification of Compliance 2066, 2104
Waiver of Criminal History and Background Check Denial 2209, 2243
When Certification Can Be Granted 2384
When License is Granted 2576
Criminal History & Background Check Results 2508
Findings for Court Required Criminal History & Background Checks 2508
Results of Criminal History & Background Checks 2508
Criminal History & Background Checks For Foster Care License 2601
Change in Household Membership 2601
Criminal History & Background Check at Any Time 2602
Foster Parent's Child Turns Eighteen 2601
Required Procedures 2601
Criminal History Checks
Criminal History Check Requisite 2899
Grounds for Immediate Suspension 2899
Criminal History Checks 2899
Criminal Or Relevant Record - Action Pending 2515
Availability to Provide Services 2515
Notice of Inability to Proceed 2515
Reconsideration of Action Pending 2515
Criminal Penalties 2239
Department Notified of Violation 2239
Selling or Distributing Without a Permit 2239
Crisis Intervention Services 2246
Determination of the Need for Crisis Intervention Services 2246
Identification of the Crisis Intervention Services Needed 2246
Immediate Intervention 2247
Criteria 4944, 4945, 6075

Annual Report(s) Submitted 6075
Applicant's First Name 4946
Change of Name on Record, Criteria 4947
Common Law Marriage 4946
Compliance Proposal Provided 6075
Contents of Course 4944
Cost Analysis Provided 6075
Deficiencies Cured 6075
Designations of Names 4945
Divorced Applicants' Names 4946
Drivers License & Identification Card Names 4945
IDFA Award Eligibility 6075
IDFA Funds Accounting 6075
Instructor Certification 4944
Legal Name 4945
Length of Class 4944
Married Applicants' Names 4946
Participant Certification 4944
Proof of Insurance 4944
Provider Location 4944
Stepparents' Name 4945
Titles or Nicknames 4947
Criteria & Procedures For Downgrading Or Revoking Certification Status 2326
Criteria for Revoking Certification Status 2327
Procedure for Downgrading to Provisionally Certified Status 2327
Procedure for Revocation 2327
Reasons a Laboratory May be Downgraded to Provisionally Certified Status 2326
Upgrading or Reinstatement of Certification 2328
Criteria For Acceptable Electronic Signature Technology 4666
Additional Criteria 4666
Statutory Criteria 4666
Criteria For Accepting An Electronic Signature 4668
Certificate Format Used by the Signer 4668
Level of Security Used to Identify the Signer 4668
Level of Security Used to Transmit the Signature 4668
Criteria For Applying For Vendorship 3787
Criteria For Approval Of Application For Simulcast Operator 822
Financial Stability 823
General Benefit to Horse Racing Industry 822
General Benefit to the State 822
Operator's Credibility 822
Operator's Integrity 822
Criteria For Cooperating Associations 3792
Number Limited 3792
Requirements 3792
Criteria For EMS Education 1240
Criteria For Equipment 1179
Anticipated Use 1179
Applicant Equipment Age 1179
Applicant Equipment Availability 1179
City, County & Taxing District Endorsement 1180
Duration of Use 1179
Fiscal Resource Base 1179
Narrative 1180
Number of Law Enforcement, Fire & Emergency Medical Service Agencies Dispatched 1180
Population 1180
Square Mileage 1180
Criteria For Individual Campsite, Camping Cabin, & Yurt Reservations 3842
Confirmation Requirements 3842
Individual Campsite & Facility Reservations 3842
Park Manager Authority 3843
Reservation Cancellations 3843
Reservation Modifications 3842
Criteria For Lock-In 1733
Controlled Substances 1733
Demonstrated Abusive Patterns 1733
Drug Abuse 1733
Drug Behavior 1733
Multiple Providers 1733
Other Abusive Utilization 1733
Prescribing Physicians or Pharmacies 1733
Prescription Drugs & Therapeutic Classes 1733
Unnecessary Use of Providers or Services 1733
Use of Emergency Room Facilities 1733
Criteria For Participation In The Idaho Title XIX Programs 1759
Application for Participation & Reimbursement 1759
Reimbursement 1759
Criteria For Projecting Monthly Income 1501
Converting Income to a Monthly Amount 1501
Expected Income 1501
Income Already Received 1501
Income Paid at Hourly Rate 1502
Income Paid on Salary 1502
Income Received Less Often Than Monthly 1502
Monthly Income Varies 1502
Ongoing Income 1502
Criteria For Review Of Retailer Applications & Conduct Of Operations 5230
Certificate Not a Vested or Legal Right 5231
Certified Retailers 5232
Criteria That May Be Grounds for Refusal 5230
Dishonored Checks & Electronic Fund Transfers 5233
Display of Certificate & Other Materials 5233
Fees, Procedure, & Criteria Precluding Issuing Contract 5230
Inspection of Lottery Materials & Retailer Premises 5233
Provisional Certifications 5230
Reporting Changes in Circumstances of the Retailer 5231
Requirements for the Sale of Tickets 5233
Retailer's Application 5230
Surrender of Certificate upon Revocation 5232
Suspension or Revocation of a Certificate 5231
Criteria For The Management Of Granular Mine Tailings (CHAT) In Asphalt Concrete & Portland Cement Concrete In Transportation Construction Projects Funded In Whole Or In Part By Federal Funds 5619
Critical Care -- Personnel Requirements 1222
Critical Care Units 2046
Area Requirements 2047
Critical Care Staff 2047
Equipment & Supplies 2047
Maintenance Program 2047
Policies & Procedures 2046
Critical Materials At Fixed Facilities On The Rathdrum Prairie In Kootenai County, Idaho 5125
Applicability 5126
Application Requirements of Fixed Facilities Engaged in Critical Materials Use Activities 5127
Definitions 5125
Performance Standards for Fixed Facilities 5128
Purpose & Intent 5125
Violation 5128
Cross-Border Licensing Exemption 955
Anti-Fraud Provisions 955
Canadian Broker-Dealer 955
Consent to Service 955
Customers 955
Disclosure 955
Jurisdiction 955
Provide Requested Information 955
Registered Broker-Dealer 955
Cross-Border Transactions Exemption 947
Cruelty To Animals 831
Cryptosporidiosis 1289
Investigation 1289
Reporting Requirements 1289

Restrictions - Day Care Facility 1289
Restrictions - Food Service Facility 1289
Restrictions - Health Care Facility 1289
Culverts & Bridges 4774
Areas to be Filled 4775
Construction of Crossings 4775
Culverts & Bridges 4774
Ideal Gradient, Culverts & Bridges 4774
Installation of Pipe & Arch Culvert 4776
Location of Culverts & Bridges 4774
Multiple Openings 4775
Size of Culvert or Bridge Opening 4774
Cumulative 225, 313
Cumulative Watershed Effects 3066
Process Application, CWE 3067
Purpose 3066
Site Specific BMP Implementation 3067
Site-Specific BMPs on Former Stream Segments of Concern 3067
Curriculum Change, Educational Program 3401
Curriculum Requirements For Nursing Education Programs 3399
Advanced Practice Professional Nursing Program Curriculum 3401
Curriculum Changes 3400
General Curriculum 3399
Practical Nurse Curriculum 3400
Practice Sites 3400
Registered Nurse Curriculum 3400
Curriculum, Educational Program 3399
Program Evaluation 3399
Student Competence 3399
Custody & Placement 2534
Interstate Placements 2534
Intrastate Placements That Become Interstate Placements 2534
Customer Meter Accuracy Requirements 3999
Accuracy of Meters 3999
Removal of Defective Meters From Service 3999
Customer Meter Test Loads 3999
Gas Flows During Testing 4000
Testing of Meters 3999
Customer Meter Test Records 4000
Records of Meter Tests 4000
CWD Status 192
Cervidae of Lesser Status 192
Change of Ownership 193
Contact With CWD Positive Animals 193
Status Date 192
Status Review 192
Cystic Fibrosis 2355
Eligible Conditions 2355
Excluded Services 2355
Services Provided 2355
Spending Limit 2355

D

Daily Program 732
Horse Identification 732
Other Information 732
Owner's Name 732
Post Position 732
Purse, Conditions, & Distance 732
Sequence of Races 732
Trainer & Jockey 732
Daily Racing Program 865
Dairy Goats 218
Dairy Producer 4043
Cooperation 4043
Serving Notice on the Utility 4043
Dam Size Classification & Risk Category 4753
Determination of Size & Risk Category 4754
Risk Category 4753
Size Classification 4753
Damage Prevention Complaints 589
Complaint Forms 589
Complaint Procedures & Timelines 589
Contents 589
Dams Storing Tailing & Water 4750
Dams Storing Tailings & Water 4765
Abandonment Plan 4765
Construction of Dams Storing Fifty Acre-Feet or More 4765
Dangerous & Hazardous Materials 2606
Data Analysis 4044
Data Entry Of Names – Designated Fields 4133
Designated Fields Encouraged 4133
Individual Names 4133
Organization Names 4133
Data Entry Of Names -- No Designated Fields 4133
Identification of Individuals 4133
Identification of Organizations 4133
Individual and Organization Names on a Single Line 4134
Individual Names 4134
Data For Research Or Other Purposes 2138
Data Formats 4101
Data To Be Reported 1247
Date A Child Entered Alternate Care 2260
Date A Child Entered Foster Care 2531
Date Of Mailing Of Determinations 596
Date Of Receipt 4093
Day Care Services 1403
Records 1403
Space & Supplies 1403
Staffing 1403
Daycare Center Training Requirements 2592
Child Development Training 2592
Documented Training 2592
Pediatric Rescue Breathing, Infant-Child CPR & First Aid Treatment Training 2592
Staff Training Records 2592
Daycare Facility - Reporting & Control Measures 1283
Prevention of the Transmission of Disease 1283
Readily Transmissible Diseases 1283
Restrictable Disease - Attendance 1283
Restrictable Disease - Work 1283
Daycare Licensing Maximum Total Fees 2588
Daycare Fire Inspection Fee 2589
Daycare Licensing Maximum Total Fee Amounts 2589
DDA Certification 2068
Application for Certification 2068
Certification Required 2068
Effect of Previous Revocation or Denial of a Certificate or License 2068
Restriction on Certification 2068
DDA Services 2068
DDA Provider Qualifications & Duties
Requirements for Collaboration with Other Providers 1902
Intervention Services 2068
Support Services 2068
Dead Animal Movement & Disposal 114
Dead Heat 793
Dead Heat 793
First Place 793
Purse Divided Equally 793
Dead Heats 737
Deadline For Claiming Tags & Unclaimed Tags 1005
Deadline For Quarterly Escrow Deposits 309
Deadline For Submitting Quarterly Certification & Notifying Attorney General Of Quarterly Escrow Deposit 309
Deaf Interpreters 3667
Letter of Endorsement 3667
Withdrawal of Endorsement 3668
Dealer License Requirements 4921
Display for Sale 4921
Displaying Vehicles or Vessels 4921
Maximum Sales 4921
Seller Not Titled Owner 4921
Death Of A Child In Care Notification, Residential Care Facility 2614

Death Of Applicant 1480
Debits To An Account
Account Withdrawals 843
Debits to an Account 843
Deceased Claimants 611
Deceptive Advertising 929
Advertising 929
Deceptive Pricing -- General Rule
Hidden Costs 234
Inventory 234
Misrepresentations 234
Reduced Price 234
Services 234
Specific Goods or Services 234
Deceptive Pricing--General Rule 234
Decertification 910
Discretionary Decertification 910
Effect of Decertification 911
Mandatory Decertification 910
Required Notifications by Officers & Agencies 910
Decertification Proceedings 911
Decision – Request for Hearing 912
Hearing & Order 912
Notice of Intent to Decertify 911
Petition for Review 912
Service 912
Decision & Approval Process For Termination Of Parent & Child Relationship (TPR) 2554
Decision & Order 2147
Decision Process 5934
Application Denial 5934
Draft Permit 5934
Final Permit 5934
Proposed Permit 5934
Decision To Approve Or Disapprove Of A Permanent Closure Report 3136, 5839
Director's Determination to Disapprove a Permanent Closure Report 5840
Issuance of Director's Determination 5840
Permanent Closure Report Is Disapproved 3136
Receipt of a Permanent Closure Report 3136
Decision-Making Model 3380
Deciding to Delegate 3381
Determining Scope of Practice 3380
Monitoring Delegation 3382
Decisions - Appeals - Informal
Disposition 416
Appeals 416
Decisions 416
Informal Disposition - Arbitration - Mediation 416
Decisions & Orders 3966, 4622
Decisions 4622
Notice 4622
Proposed Orders 4622
Submission for a Decision 4622
Declaration Of Animal Health
Emergency 190
Condemnation of Animals 190
Failure to Notify 190
Indemnity 190
Notification to Administrator 190
Declarations 793
Irrevocable 793
Miscarriage 793
Scratched or Declared 793
Stake Races 793
Stewards 793
Declaratory Ruling Procedures 595
Disposition of Petitions for Declaratory Rulings 595
Filing Petition 595
Form of Petition 595
Legal Assertions 595
Declaratory Rulings 4579, 5157
Appeals 4581
Cite 5157
Confidentiality 4580
Factual Circumstances 4580
Filing a Petition 4580
Findings Pursuant to Section 67-5206, Idaho Code 4579
Identify 5157
State 5157
Tax Commission's Response to Petition 4580
Withdrawal of Ruling 4580
Decreases In Food Stamp Benefits 1456
Decreases In Overhead Clearances Prescribed In Section 201 4069
Dedicated Account For SSI Participant 1495
Deduction For Alternative Energy Devices 4166
Common Distribution System 4167
Converted Rental Unit 4166
Destruction of Wood Burning Stove 4167
Purchase of a Residence 4166
Qualifying Residence 4166
Deduction For Donation Of Technological Equipment 4174
Fair Market Value 4174
Limitations 4174
Pass-Through of Deduction 4174
Deduction For Energy Efficiency Upgrades 4166
Energy Efficiency Upgrade Measure Definition 4166
Qualifying Date 4166
Qualifying Residence 4166
Siding 4166
Deduction For Household & Dependent Care Services 4167
Deduction Of Certain Retirement Benefits 4164
Disabled Individual 4166
Married Individuals Filing Separate Returns 4165
Publication of Maximum Deduction 4165
Qualified Benefits 4164
Unremarried Widow or Widower 4165
Deeming Income 1510
Income Deeming Exclusions 1511
Ineligible Child 1511
Ineligible Parent 1510
Ineligible Spouse 1511
Deeming Income & Resources To Sponsored Legal Non-Citizen 1467
Deeming Income From Essential Person To Participant 1515
Deeming Income From Ineligible Parent To AABD Child 1513
Deeming Income From Ineligible Spouse To Participant 1512
Deeming Income From Ineligible Spouse To Participant & Child Participant 1515
Deeming Income From Sponsor To Legal Non-Citizen - Sponsor Signed I-864 Affidavit Of Support 1518
Battery Exception 1518
Indigence 1518
Deeming Income From Sponsor To Legal Non-Citizen Participant - No I-864 Affidavit Of Support 1516
Sponsor to Legal Non-Citizen Deeming Procedures 1517
Sponsor/Legal Non-Citizen Relationships 1517
Sponsored Legal Non-Citizen Exempt from Deeming 1516
Three Year Limit 1516
Deeming Resources 1491
Resources of Essential Person of Participant 1491
Resources of Legal Non-Citizen's Sponsor -- INS Form I-864 Signed 1491
Resources of Legal Non-Citizen's Sponsor -- No INS Form I-864 Signed 1491
Resources of Parent(s) of Child Under Age Eighteen 1491
Spouse of Adult Participant 1491
Deep Thermal, Electrotherapeutic Mechanical Physical Agent Modalities, & Wound Care 3501
Obtaining Education & Supervised Training 3502
Qualifications 3501
Supervised Training by Qualified Individual 3502
Deer & Elk Outfitter Allocated Tag 986
Designated Buyers 986
Distribution of Outfitter Allocated Tags 986
Unsold Tags 986
Deer & Elk Tag Allocation 985
Allocation of Tags for Capped General Hunt Units of Zones 985

Allocation of Tags for Controlled Hunt Areas 985
Defaced Or Altered Licenses Invalid 978
Default 2145
Default Order 5596
Defective Registration 317
Defective, Insufficient Or Late Pleading 4614
Defective, Insufficient Or Late Pleadings 263, 3040, 3935, 4665
Defective, Insufficient Or Untimley Pleadings 5587
Deferrals From JSAP for Household Members Participating in TAFI 1427
Child Care Not Available 1427
Reasonable Distance 1427
Relative Child Care 1427
Deferred Adjudication 1465, 1596
Agreement with Prosecutor 1465, 1596
Deferred Judgement Conditions 1465
Disqualification Period 1465
Meets Terms of Court Order 1596
Notice of Disqualification 1466
Notice to Food Stamp Member 1465
Deficiencies, Collections, & Enforcement 4557
Cross Reference 4557
Penalties 4557
Remittance of Taxes 4557
Defined Benefit Dollar Limitation 6028
Benefit Begins at Age Sixty-Five 6029
Benefit Begins Prior to Age Sixty-Two 6028
Less Than Ten Years of Service 6028
Transition 6029
Definition Of Active Law Enforcement Service 6006
Definition Of Court Security 5994
Definition Of Employed In The Same Position Until Retired 5994
Definition Of Normally Works Twenty Hours 6005
Definition Of Police Officer Member For Purposes Of Retirement Eligibility 5996
Definition Of Service 5996
Definition Of Terms & Abbreviations 1558
Children's Health Insurance Program (CHIP) 1558
Department 1558
Federal Poverty Guidelines (FPG) 1558
I-94 1558
INA 1558
Medical Assistance Program 1558
USCIS 1558
Definition Of Terms, IDAPA 26.01.03 3787
Application 3787
Department or Central Office 3787
Memorandum of Agreement 3787
Products 3787
Recreational Registration Program 3787
Vendor 3787
Vendor Policy Manual 3787
Definition Of Transportation Of Prisoners 5997
Definition, Availability & Maintenance Of Certified Public Accountants Work Papers 2948
Definition, IDAPA 24.03.01 3459
Chiropractic Assistant 3459
Chiropractic Intern 3459
Direct Personal Supervision 3459
Inactive Retired 3459
Definition, IDAPA 31.71.01 4066
Height of a Freight Car 4066
Icing Platform 4066
Overhead Clearance 4066
Side Clearance 4066
Track Clearance 4066
Width of a Freight Car 4066
Definition, Sections 201 Through 205 3982
Definitions 164, 359, 1000, 1062, 1068, 1076, 1112, 1115, 1117, 1183, 1216, 1236, 1246, 1248, 1256, 1263, 1628, 1649, 1970, 2063, 2089, 2223, 2268, 2277, 2319, 2329, 2347, 2365, 2670, 2741, 2749, 2752, 2764, 2780, 2782, 2848, 2864, 2879, 2887, 2906, 2913, 2915, 2941, 2962, 2986, 2994, 3007, 3032, 3055, 3091, 3094, 3118, 3150, 3154, 3173, 3178, 3183, 3189, 3190, 3200, 3708, 3721, 4515, 4867, 4923, 5055, 5073, 5093, 5151, 5157, 5215, 5279, 6053, 6073, 6086
1990 Standardized Medicare Supplement Benefit Plan 2784
2010 Standardized Medicare Supplement Benefit Plan 2784
A through D 1739
Accrual Basis 1739
Active Treatment 1739
Activities of Daily Living (ADL) 1739
Allowable Cost 1739
Amortization 1740
Appraisal 1740
Assets 1740
Attendant Care 1740
Audit 1740
Audit Reports 1740
Auditor 1740
Bad Debts 1740
Bed-Weighted Median 1740
Capitalize 1740
Case Mix Adjustment Factor 1740
Case Mix Index (CMI) 1740
Certified Family Home 1741
Chain Organization 1741
Claim 1741
Clinical Nurse Specialist 1741
Common Ownership 1741
Compensation 1741
Control 1741
Cost Center 1741
Cost Component 1741
Cost Reimbursement System 1741
Cost Report 1741
Cost Statements 1741
Costs Not Related to Patient Care 1742
Costs Related to Patient Care 1741
Customary Charges 1742
Day Treatment Services 1742
Department 1742
Depreciation 1742
Developmental Disability (DD) 1742
Direct Care Costs 1742
Director 1743
Durable Medical Equipment (DME) 1743
A Through E 2518
Adoption & Safe Families Act of 1997 (P.L. 105-89) (ASFA) 2518
Adoption Assistance 2518
Adoption Services 2518
Alternate Care 2518
Alternate Care Plan 2518
Board 2519
Case Management 2519
Certified Adoption Professional (formerly "qualified individual") 2519
Child & Family Services (CFS) 2519
Child Protection 2519
Child Protective Services 2519
Compact Administrator 2519
Day Care for Children 2519
Department 2519
Deprivation 2519
Director 2519
Extended Family Member of an Indian Child 2519
A Through H 1604
A Through K 1268
Airborne Precautions 1269
Approved Fecal Specimens 1269
Bite or Other Exposure to Rabies 1269
Board 1269
Cancer Data Registry of Idaho (CDRI) 1269
Cancers 1269
Carrier 1269
Case 1269

Cohort System 1269
Communicable Disease 1269
Contact 1269
Contact Precautions 1269
Day Care 1270
Department 1270
Director 1270
Division of Public Health Administrator 1270
Droplet Precautions 1270
Exclusion 1270
Extraordinary Occurrence of Illness Including Clusters 1270
Fecal Incontinence 1270
Food Employee 1270
Foodborne Disease Outbreak 1270
Health Care Facility 1270
Health Care Provider 1270
Health District 1270
Health District Director 1270
Idaho Food Code 1270
Isolation 1270
A Through M 2577
Accredited Residential School 2577
Alcohol-Drug Abuse Treatment Facility 2578
Attendance 2578
Board 2578
Chief Administrator 2578
Child 2578
Child Care 2578
Children's Agency 2578
Children's Camp 2578
Children's Institution 2578
Children's Residential Care Facility 2578
Children's Therapeutic Outdoor Program 2579
Child-Staff Ratio 2578
Continued Care 2579
Contraband 2579
Daycare 2579
Daycare Center 2579
Department 2579
Direct Care Staff 2579
Director 2579
Family Daycare Home 2579
Foster Care 2579
Foster Home 2579
Foster Parent 2579
Group Daycare Facility 2579
Inter-Country Adoption 2579
International Building Code 2579
International Fire Code 2579
Mechanical Restraint 2580
Medical Professionals 2580
Member of the Household 2580
Ability to Pay 2670
Abortion 1604
Acceptable Tree Species 3055
Act 2365, 3055, 3094, 5157
Actual Allowable Cost 3150
Actual Allowable Disturbance 3150
Actuarial Opinion 2986
Actuarial Standards Board 2986
Additional Hazard 3055
Adjacent 3154
Adjusted Service Area Population 5055
Administrative Costs 5215
Administratively Necessary Day (AND) 1628
Adult 2670
Adult Mental Health Program 2670
Advertising Materials 2741
Advertising Structure(s) or Sign(s), or Advertising Display(s) 5033
Aerial Search & Rescue Volunteer 5055
Aerial Search & Rescue Volunteer Aircraft 5055
Aerial Search & Rescue Volunteer Pilot/Observer 5055
Affected Land 3119
Affiliate 2941
Affiliated Person 2915
Affiliation 2741
AFRCC 5055
Agency 2365, 3032
Agency Action 3032
Agency Head 3032
Aids to Navigation 3154
Aircraft Parking Area 5055
Airman/Airmen 5055
Airport 5055
Airport Service Area Population 5056
Allowable Annual Deductions 2670
Allowable Costs 1628
Allowable Expense 2879
Ambulatory Surgical Center (ASC) 1604
Amortization 1604, 3190
Analyst 2319
Animal Unit Month (AUM) 3190
Annual Rental 3189
Annual Report 6086
Applicability of Statutory Definitions 2913
Applicant 2782, 6053
Application 2090, 6053
Apportioned Costs 1628
Appropriate Governmental Entity 5073
Approval – IDG Application 6086
Approved Massage Program 3708
Approximate Previous Contour 3094, 3119
Artificial High Water Mark 3154, 3183
Assembled Vehicle 5073
Assessment 359
Asset Adequacy Analysis 2986
Assignment 3190
Associate Member 2848
Associated By-Products or By-Product 3200
Audit 1604
Audit Committee 2941
Audit Reports 1604
Audited Financial Report 2941
Auditor 1604
Authorized Employees 5093
Available State Lands 3173
Average DBH 3055
Bad Debts 1604
Bait (Hunting) 1076
Bait (Trapping) 1076
Bankruptcy 2782
Bare Forestland 4517
Base Funding 6053
Basic Plan 1604
Bather 2329
Beds of Navigable Lakes 3154
Behavioral Health Program 2223
Behavioral Health Services 2670
Beneficiary 2962
Benefit 5215
Best Management Practice (BMP) 3055
Best Management Practices 3094, 3119
Birthday 2880
Blind or Visually Impaired 1112, 1115, 1117
Board 1263, 2320, 2329, 3032, 3055, 3091, 3094, 3119, 3150, 3154, 3173, 3178, 3183, 3189, 3190, 3200, 5279
Board of Supervisors 6053
Boat Garage 3154
Boat Lift 3154
Boat Ramp 3154
Body Cavity Search 359
Body Search, Clothed 359
Body Search, Unclothed 359
Body/Center Passenger Area 5073
Brand 5073
Break In Grade 2329
Buffer Strip 3055
Buy-In Coverage 1604
Bypassed Community Signs 5033
Cab 5073
Calendar Year 1062
Camping 4867
Camping Area 5056
Capital Costs 1628
Capital Counsel Roster 6086
Capitated Payment 2063
Capitol Annex 4867
Capitol Mall Office Properties 4867
Captive-Bred 1062
Case 6086
Caseload 6087
Case-Mix Index 1628
Casual Exploration 3173, 3200
Central Roster 5279
Certificate 2223, 5215
Certificate Holder 5279
Certification Authority for the State

of Idaho (CA) 2320
Certification Officer (CO) 2320
Certified Drinking Water Laboratory (CDWL) 2320
Certified Evaluator 5279
Certified Post Conviction Sex Offender Polygraph Examiner 5279
Certified Registered Nurse Anesthetist (CRNA) 1604
Certified Treatment Provider 5279
Certify 6053
CFR, Code of Federal Regulations 1604
Chapter 3119
Charity Care 1628
Chemicals 3055
Child 2670
Children's Hospital 1628
Children's Mental Health Program 2670
Circle of Supports 1970
Civil Aircraft 5056
Claim 1604, 2880
Clean 3721
Clerk 2090
Client 5279
Clinical Laboratory Tests 2347
Clinical Nurse Specialist (CNS) 1604
Clinical Nurse Specialist, Licensed 2268
Clinical Professional Counselor, Licensed (LCPC) 2268
Clinical Services or Clinical Work 3721
Clinical Social Worker, Licensed (LCSW) 2268
Clinical Supervisor 359
Clinical Work 3708
Closed Panel Plan 2880
Closed-End Credit 2752
CMS, Centers for Medicare & Medicaid Services 1605
CMS/Medicare DME Coverage Manual 1605
Code of Ethics 3708
Commercial 3173
Commercial Marina 3154
Commercial Navigational Encroachment 3155
Commercial Products 3055
Commission 5157, 6053
Commission or State Lottery Commission 5215
Commissioner 5215
Common Space 4867
Community Docks 3155
Community Official Signs 5034
Community Service Hours 359
Community Support Worker 1970
Community Support Worker Services 1971
Community Treatment Team 359
Company 2986
Comparable Benefits & Services 1115
Comparable Benefits or Services 1117
Compensation 2752
Complainant 5157
Complaint 5157
Completion 3200
Compliance Checklist 6087
Compliance Period 6087
Compliance Proposal 6087
Compliance Verification 6087
Condition of Adjoining Area 3055
Confidential Information 359
Conflict Application 3190
Congenital Anomaly 2764
Conservation District or District 6053
Conservation Plan 6053
Consolidated Omnibus Budget Reconciliation Act of 1985 2880
Constructed Skid Trail 3055
Construction Materials 3173
Consumer-Directed Community Supports (CDCS) 1971
Contaminate 3055
Contested Case 3032
Continuous Period of Creditable Coverage 2782
Contraband 359
Contract 3091
Contractee 6053
Contracting Authority 6087
Contractor 6087
Control Person 5215
Coordinated Resource Planning Process 6053
Coordination of Benefits 2880
Co-Payment 1605
Corrective Action Plan 6087
Cost Report 1605
Cottage Site 3189
Counties 2090
County Average Forestland Levy Rate 4517
Court-Ordered Obligations 2670
Court-Ordered Recipient 2670
Covered Slip 3155
CPR 3708
Credentialed EMS Personnel 1256
Credentialing 1256
Credit Insurance 2752
Credit Transaction 2752
Creditable Coverage 2782
Critical Access Hospitals (CAH) 1628
Cross-Ditch 3055
Cull 3056
Current Year 1629
Custodial Expenses 4516
Custodial Parent 2880
Customary Charges 1605, 1629
Customary Maintenance 5034
Cyanidation 3119
Cyanidation Facility 3119
Dam 3183
Damage or Impairment of Rights to the Remainder of the Property 3178
Defending Attorney 6087
Deficiency 6087
Definitions
Request for Proposal 5217
Department 1263, 1605, 2063, 2090, 2223, 2268, 2320, 2329, 2347, 2671, 3056, 3091, 3094, 3119, 3150, 3155, 3178, 3183, 3189, 3190, 3200, 4867, 5034, 5056
Department of Environmental Quality (DEQ) 2320
Dependent Support 2671
DEQ, The Department of Environmental Quality 3119
Designated Clinician 1256
Designated Dispositioner 2268
Designated Examination 2268
Designated Examiner 2269
Deterioration Rate 3056
Development Credits 3091
Direct (On-Line) Supervision 1256
Direct Use 3200
Directional Signs 5034
Director 1263, 1605, 2223, 2269, 2320, 2329, 2347, 3056, 3091, 3094, 3119, 3155, 3173, 3178, 3183, 3191, 3200, 4867, 5056, 5215
Director's Designee 2329
Discharge 3119
Discipline 2320
Discretionary Clause 2780
Disinfect 3721
Disinfectant 3721
Disproportionate Share Hospital (DSH) Allotment Amount 1629
Disproportionate Share Hospital (DSH) Survey 1629
Disproportionate Share Threshold 1629
District 6053
District Aerial Search & Rescue Coordinator 5056
Disturbed Acres or Affected Lands 3150
Disturbed Land or Affected Land 3095
Division 2269, 5056
Document 3032
Domestic Mutual Insurance Company 2915
Dredge Mining Act 3150
Drinking Water Coordinator (DWC) 2320
Dual Eligibles 1605
Dual-Eligible 2063
Durable Medical Equipment

(DME) 1605
E Through K 1743
Educational Services 1743
Eligibility Rules 1743
Emergency Medical Condition 1743
Enhanced Plan 1743
EPSDT 1743
Equity 1743
Facility 1743
Fiscal Intermediary Agency 1744
Fiscal Year 1744
Forced Sale 1744
Funded Depreciation 1744
Generally Accepted Accounting Principles (GAAP) 1744
Goodwill 1744
Healthy Connections 1744
Historical Cost 1744
Home & Community Based Services (HCBS) 1744
ICF/ID Living Unit 1744
Improvements 1745
Indirect Care Costs 1745
Inflation Adjustment 1745
Inflation Factor 1745
Inspection of Care Team (IOCT) 1745
In-State Care 1745
Instrumental Activities of Daily Living (IADL) 1745
Interest 1746
Interest on Capital Indebtedness 1746
Interest On Current Indebtedness 1746
Interest Rate Limitation 1746
Interim Reimbursement Rate (IRR) 1746
Intermediary 1746
Intermediate Care Facility for Persons With Intellectual Disabilities (ICF/ID) 1746
Keyman Insurance 1746
Easement 3178, 3183
Education Plan 359
EEOC, United States Equal Employment Opportunity Commission 5157
Electrical Generation 3200
Eligible Land 6053
Emergency 1183
Emergency Forest Practice 3056
Emergency Medical Condition 1605
Emergency Medical Services (EMS) 1256
Emergency Medical Services (EMS) Bureau 1257
Emergency Medical Services (EMS) Physician Commission 1257
Emergency Responder 1183
Employee Welfare Benefit Plan 2784
EMS Agency 1257
EMS Definitions 1246
EMS Medical Director 1257
Encroachments in Aid of Navigation 3155
Encroachments Not in Aid of Navigation 3155
Endowment Lands 3178
Environmental Laboratory Tests 2347
EPCRA 1183
EPSDT, Early & Periodic Screening, Diagnosis, &Treatment 1605
Escape/Attempted Escape 360
Established Roadway 1000, 1076
Established Standards 5279, 6088
Establishment 3721
Evidence of Coverage 2063
Excluded Units 1629
Executive Officer 2915
Executive Staff 5216
Exempt License Plate 5093
Exempt Personalized License Plate 5093
Expenses 5216
Exploration Drill Holes 3119
Exploration Operations 3119
Exploration Roads 3119
Exploration Trenches 3119
Extension 3191
Extraordinary Rehabilitative Expenses 2671
F Through K 2519
Family 2519
Family (Case) Plan 2520
Family Assessment 2520
Family Case Record 2520
Family Services Worker 2520
Federally-Funded Guardianship Assistance for Relatives 2520
Field Office 2520
Goal 2520
Independent Living 2520
Indian 2520
Indian Child 2520
Indian Child Welfare Act (ICWA) 2520
Indian Child's Tribe 2520
Indian Tribe 2520
Intercountry Adoption Act of 2000 (P.L. 106-279) 2520
Interethnic Adoption Provisions of 1996 (IEP) 2521
Interstate Compact on the Placement of Children (ICPC) 2521
Kin 2521
Facility 360, 1605, 3721
Facility Treatment Team 360
Falconry 1062
Family 2671
Family Household 2671
Family Support Partner 2223
Family Support Partner Services 2223
Family-Directed Community Supports (FDCS) 1971
Federal 1062
Federal or State Laws 5034
Federal Poverty Guidelines 2671
Federally Qualified Health Center (FQHC) 1606
Fertilizers 3056
Field 3200
Field Office 6053
Field Office Technical Guide 6054
Final Order of the Board 3095, 3119
Financial & Match Report 6054
Financial Assurance 3150
Financial Management Services (FMS) 1971
Finding of Compliance with Recommendation 6088
Finding of Non-Compliance 6088
Fire Protection Sprinkler Contractor 3007
Fire Protection Sprinkler System 3007
Fire Trail 3056
First-Aid Kit 3721
Fiscal Employer Agent (FEA) 1971
Fiscal Year 1606, 5216, 6054, 6088
Fitters 3007
Five (5) Year Plan 6054
Floating Home or Float Home 3155
Floating Toys 3155
Flow-Through Pool 2329
Forest Land 3056
Forest Land Management Plan 4517
Forest Practice 3056
Forest Products 3091
Forest Regions 3056
Forest Type 3056
Form 3-186A 1062
Formal Status Meeting 6088
Formerly Submerged Lands 3183
Frame 5073
Freeway 5034
Front Quarters, Hind Quarter, Loins, & Tenderloins 1000
Fuel Quantity 3057
Fueling 5056
Full-sized Automobile 1000
Functionally Blind 1112, 1115, 1117
Fund 6054
Funding Criteria 6054
Furtherance or Pursuance of Business 5093
General Education Student 360
Geographic Area 2848, 2864
Geothermal Pool 2329
Geothermal Resources 3200
Geothermal Water 2329
Gift 5216
Goods 1971
Grantee 3184
Grantor 2962, 3184
Gray Market Vehicle 5073
Ground Based Equipment 3057

Ground Set 1076
Groundwater 3119
Group of Insurers 2942
Group-Type Contract 2880
Guiding Discount Rate 4517
Guiding Principles for the CDCS Option 1971
Guyed Tower 5056
Habitat Types 3057
Harvesting 3057
Hazard 3057
Hazard Offset 3057
Hazard Points 3057
Hazard Reduction 3057
Hazardous Material 5056
Hazardous Substance 1183
Hazardous Substance Incident 1183
Hazardous Substance Incident Levels 1183
Health Care Services 2780
Health Carrier 2780
Health Insurance Contract 2780
Health Plan 2764
Health Plan Member 2764
Health Services 360
Healthy Connections 1606
Hearing Officer 3095, 3119
Height 5056
Herd Stock 3191
High-deductible Health Plan 2880
HIPAA 2090
Home & Community Based Services (HCBS) 1971
Home Health Services 1606
Hospital 1257, 1606, 2090
Hospital Indemnity Benefits 2881
Hospital Inflation Index 1629
Hospital Supervising Physician 1257
Hospital-Based Facility 1606
Hunter 1000
Hydroelectric Facilities 3184
I Through O 1606
ICF/ID 1606
Idaho Behavioral Health Plan (IBHP) 1606
Idaho Infant Toddler Program (ITP) 1606
In-Patient Hospital Services 1606
Intermediary 1606
Intermediate Care Facility Services 1606
Legal Representative 1606
Legend Drug 1607
Level of Care 1607
Licensed, Qualified Professionals 1607
Lock-In Program 1607
Locum Tenens/Reciprocal Billing 1607
Medicaid 1607
Medicaid-Related Ancillary Costs 1607
Medical Assistance 1607
Medical Necessity (Medically Necessary) 1607
Medical Supplies 1607
Medicare Durable Medical Equipment Medicare Administrative Contractor Jurisdiction D Supplier Manual (CMS/Medicare DME Coverage Manual) 1607
Midwife 1608
Nominal Charges 1608
Non-Legend Drug 1608
Non-Physician Practitioner 1608
Nurse Practitioner (NP) 1608
Nursing Facility (NF) 1608
Orthotic 1608
Out-of-State Care 1608
Outpatient Hospital Services 1608
Oxygen-Related Equipment 1608
Idaho Bureau of Laboratories (IBL) 2320
Idaho Hazardous Materials/WMD Incident Command & Response Support Plan 1184
Idaho Regional Response Teams 1184
Idaho Resident 2864
Identifiable Charge 2752
Immediate Danger of Blindness 1117
Immediate Family 5216
Improvement Valuation 3191
Incident Command System (ICS)/ National Incident Management System (NIMS 1184
Incident Commander 1184
Incident Report 360
Indemnification 2942
Independent Living Services 360, 1115
Indigent Defense Budget 6088
Indigent Defense Contract 6088
Indigent Defense Delivery System 6088
Indigent Defense Expenditures 6088
Indigent Defense Provider 6089
Indigent Defense Services 6089
Indigent Defense Stakeholders ("Stakeholders") 6089
Indigent Defense Standard 6089
Indirect (Off-Line) Supervision 1257
Individual Community Pass 360
Individual Education Plan (IEP) 360
Insolvency 2784
Instant Game 5216
Interested Person 2915
Interior State Facilities 4867
Intermediate Holding Company 2915
Internal Control over Financial Reporting 2942
Interns 360
Interstate System or Interstate Highway 5034
Invitation to Bid 5216
Jet Ski Ramp, Port, or Lift 3155
Joint Incentive Indigent Defense Grant 6089
Joint Ownership 4517
Juvenile Records 360
Juvenile Services Coordinator 360
L Through O 1746
Lease 1746
Leasehold Improvements 1746
Legal Representative 1746
Level of Care 1746
Licensed Bed Capacity 1746
Licensed, Qualified Professionals 1746
Lower of Cost or Charges 1746
MAI Appraisal 1746
Major Movable Equipment 1747
Medicaid 1747
Medicaid Related Ancillary Costs 1747
Medical Assistance 1747
Medical Care Treatment Plan 1747
Medical Necessity (Medically Necessary) 1747
Medical Supplies 1747
Medicare Savings Program 1747
Minimum Data Set (MDS) 1747
Minor Movable Equipment 1748
Necessary 1748
Negotiated Service Agreement (NSA) 1748
Net Book Value 1748
New Bed 1748
Nominal Charges 1748
Nonambulatory 1748
Nonprofit Organization 1748
Normalized Per Diem Cost 1748
Nurse Practitioner 1748
Nursing Facility (NF) 1748
Nursing Facility Inflation Rate 1748
Ordinary 1748
Out-of-State Care 1748
L Through R
Legal Guardianship 2521
Licensed 2521
Licensing 2521
Medicaid 2521
Multiethnic Placement Act of 1994 (MEPA) 2521
P.L. 105-89 2521
P.L. 96-272 2521
Parent 2521
Permanency Planning 2521
Personal Care Services (PCS) 2521
Planning 2521
Qualified Expert Witness--ICWA 2521
Relative 2521
Relative Guardian 2522

Reservation 2522
Respite Care 2522
Responsible Party 2522
L Through Z 1271
Laboratory 1271
Laboratory Director 1271
Livestock 1271
Medical Record 1271
Outbreak 1271
Personal Care 1271
Physician 1271
Quarantine 1271
Rabies Post-Exposure Prophylaxis (rPEP) 1271
Rabies-Susceptible Animal 1271
Residential Care Facility 1271
Restrictable Disease 1272
Restriction 1271
Severe Reaction to Any Immunization 1272
Significant Exposure to Blood or Body Fluids 1272
Standard Precautions 1272
State Epidemiologist 1272
Suspected Case 1272
Vaccination of an Animal Against Rabies 1272
Veterinarian 1272
Waterborne Outbreak 1272
Working Day 1272
Laboratory Director 1263
Laboratory or Clinical Laboratory 1263
Laboratory Supervisor 2320
Lake 3057
Land Application 3120
Landowner 3057
Large Organic Debris (LOD) 3057
Lease 3191, 3201
Lease Application 3191
Leased or Rented Vehicles 5093
Lessee 3189, 3201
License 1257, 3032
Licensed EMS Personnel 1257
Licensed Guide 1068
Licensed Outfitter 1068
Licensee 2906
Lifeguard 2329
Lifeguard Chair 2329
Limited Application 2915
LIMS 2320
Line of Navigability 3155
Lived Experience 2223
Loading Area 5056
Local Emergency Planning Committee (LEPC) 1185
Local Emergency Response Authority (LERA) 1185
Local Funds 6054
Local Services 6054
Local Share 6089
Local Units of Government 6054
Lottery Contract or Contract 5216
Lottery Contractor or Contractor 5216
Lottery Game or Game 5216
Lottery Game Retailer or Retailer 5216
Lottery or State Lottery 5215
Lottery Revenue 5216
Lottery Vendor or Vendor 5216
Low Income Revenue Rate 1629
Low Water Mark 3155
Low, Medium & High Tier Claims 5216
Maintain or Place 5034
Maintenance 5034
Major Procurement 5216
Makeup 3721
Manageable Unit 3191
Management Plan 3191
Management Service Contractor (MSC) 2671
Market Value 3178, 3184, 3201
Marking 5056
Marriage & Family Therapist, Licensed (LMFT) 2269
Masters of Social Work, Licensed (LMSW) 2269
Match Funding 6054
Material Change 3120
Material Modification or Material Expansion 3120
Material Stabilization 3120
Maximum Allocation 6054
Maximum Contaminant Level (MCL) 2320
Mechanical Restraints 361
Medicaid 2064, 2090
Medicaid Basic Plan 2064
Medicaid Enhanced Plan 2064
Medicaid Inpatient Day 1629
Medicaid Utilization Rate (MUR) 1630
Medical Assistance 2064
Medical Clinic 1257
Medical Clinic Supervising Physician 1257
Medical Health Assessment 361
Medical Health Professional 361
Medical Health Screening 361
Medical Supervision 1257
Medical Supervision Plan 1257
Medicare 2063
Medicare Advantage Organizations (MAOs) 2063
Medicare Advantage Plan 2063, 2784
Medicare Supplement Policy 2784
Medicare/Medicaid Coordinated Plan (MMCP) 2063
Member of the Immediate Family 2916
Mental Health Assessment 361
Mental Health Professional 361
Mental Health Screening 361
Merchantable Material 3057
Merchantable Stand of Timber 3058
Mileage 5073
Mine or Mine Panel 3150
Mine Panel 3095, 3120
Mined Area 3120
Mined Land Reclamation Act 3151
Mineral 3095, 3120
Mineral Lease 3151
Mineral Leasing Act 3151
Mineral Lessee 3151
Mineral Stockpile 3121
Moorage 3155
Mortgage Agreement 3191
Mortgage-Related Security 2962
Most Significant Disability (MSD) 1112
Motorized Earth-Moving Equipment 3095, 3121, 3201
Motorized Exploration 3151, 3173
Motorized Vehicle 1000
Mulch 3095
Multi-Agency Facilities 4867
Mutual Insurance Holding Company 2916
N Through Z 2580
Nonaccredited Residential School 2580
Non-Compliance 2580
Operator 2580
Organization 2580
Person 2580
Physical Intervention 2580
Placement 2580
Plan of Correction 2580
Regularly on the Premises 2580
Relative 2580
Representative 2580
Residential School 2580
Restraint 2581
Seclusion 2581
Second Degree of Relationship 2581
Secure 2581
Security Risk 2581
Service Worker 2581
Shelter Care 2581
Social Worker 2581
Soft Restraints 2581
Staff 2581
Supervision 2581
Time-Out 2581
Training 2581
Transitional Living 2581
Variance 2582
Waiver 2582
National Search & Rescue Manual 5056
National Search and Rescue (SAR) Plan 5056
Natural or Ordinary High Water Mark 3155, 3173, 3184
Natural Watercourse 3095
Navigable Lake 3155
Navigable River 3174
Navigable Water Courses 3201

NEMSIS Data Dictionary 1246
Net Appraised Value 3091
Net Income 5216
Net Sale Value 3091
Net Written Premium 2752
Neutralization 3121
New Entrant 2848
New U.S. Resident 1062
Newborn Child 2764
Newly Adopted Child 2764
Noncommercial Forest Land 3058
Non-Resident 1062
Nurse Practitioner 1258
Nurse Practitioner, Licensed 2269
Obligated Person 2090
Obligation 2963
Observation & Assessment Evaluation 361
Obstetricians 1630
Office of Emergency Management (OEM) 5056
On-Line System 5216
On-Site 1630
On-Site Evaluation 2320
Open-End Credit 2752
Operating Area 3058
Operating as a Broker 2741
Operating as a Provider 2741
Operating Costs 1630
Operator 2329, 3058, 3121, 3151, 3201
Order 3032
Ordinary High Water Mark 3058
Organizations 6054
Other Allowable Costs 1630
Other Funds 6054
Other State Properties 4867
Out-of-hospital 1258
Outstanding Resource Water 3058
Overburden 3095, 3121
Overburden Disposal Area 3095, 3121
Overriding Royalty 3201
Oversight Review 6089
P Through Z 1608, 1749
Participant 1608, 1749
Patient 1608, 1749
Patient Day 1749
Personal Assistance Agency 1749
Personal Assistance Services (PAS) 1749
Physician 1608, 1749
Physician Assistant (PA) 1609
Physician's Assistant 1749
Picture Date 1749
Plan of Care 1609, 1749
Prepaid Ambulatory Health Plan (PAHP) 1609
Private Rate 1609, 1749
PRM 1609
Property 1749
Property Costs 1749
Property Rental Rate 1750
Prosthetic Device 1609
Provider 1609, 1750
Provider Agreement 1609, 1750
Provider Reimbursement Manual (PRM) 1609, 1750
Prudent Layperson 1609
Psychologist Extender 1609, 1750
Psychologist, Licensed 1609, 1750
Public Provider 1610, 1750
Quality Improvement Organization (QIO) 1610
R.N. (Licensed Registerd Nurse) 1610
Raw Food 1750
Reasonable Property Insurance 1750
Recreational Therapy (Services) 1750
Regional Nurse Reviewer (RNR) 1750
Registered Nurse - R.N. 1750
Related Entity 1610, 1750
Related to Provider 1750
Residential Assisted Living Facility 1751
Resource Utilization Groups (RUG) 1751
Rural Health Clinic (RHC) 1610
Rural Hospital-Based Nursing Facilities 1610
Skilled Nursing Care 1751
Social Security Act 1610, 1751
State Plan 1610, 1751
Supervision 1610, 1751
Third Party 1610, 1751
Title XIX 1610, 1751
Title XVIII 1610, 1751
Title XXI 1610, 1751
Transportation 1610, 1751
Uniform Assessment 1751
Uniform Assessment Instrument (UAI) 1751
Updated Assessments 1751
Utilities 1751
Utilization Control (UC) 1751
Utilization Control Team (UCT) 1751
Vocational Services 1752
Parent 2671
Parking Facilities 4867
Parkland 5035
Partial Cutting 3058
Participant 1971
Party 3032, 3156
Party or Parties 5157
Pathologist 1263
Patron 3721
Peak 3121
Peer Support Services 2223
Peer Support Specialist 2223
Performance Report 6055
Permanent Cessation 3095
Permanent Closure 3121
Permanent Closure Plan 3121
Permit 3121, 3151, 5035
Permit Application 5035
Permit Area 3095
Permittee 3095
Person 2330, 3032, 3095, 3156, 3173, 3184, 3191, 3201, 5215
Physical Restraint 361
Physician 1258
Physician Assistant 1258
Physician, Licensed 2269
Piling 3156
Pilot Facility 3121
Pit 3095, 3122
Placed 2764
Placer Deposit 3095
Placer or Dredge Exploration Operation 3096
Placer or Dredge Mining Operation 3096
Placer or Dredge Mining or Dredge or Other Placer Mining 3096
Placer Stockpile 3095
Plan 2881
Plan of Reorganization 2916
Plans 3156
Play Symbols 5216
Policyholder 2882
Pollutant 3122
Pool 2330
Post Closure 3122
Practice Life 6055
Practice or Eligible Practice for Loans 6055
PREA 361
Preexisting Condition 2752
Prescribed Fire 3058
Present Condition of Area 3058
Present Use 4515
Pre-Standardized Medicare Supplement Benefit Plan 2784
Prevention of Blindness & Sight Restoration Services 1117
Primacy 2320
Primary Plan 2882
Primary System or Primary Highway 5035
Principal Year 1630
Private Pool 2330
Privileged Mail 361
Prize 5217
Process Waters 3122
Professional Counselor, Licensed (LPC) 2269
Proficiency Test (or Testing) (PT) 2320
Proficiency Testing 1263
Program Director 361
Program Year 6055
Progress Report 361
Project 6055
Promissory Note 2963
Proposed Management Plan 3191
Provider 1099

Provisional Retailer 5217
Provisional/Supervised Psychosexual Evaluator 5279
Provisional/Supervised Sex Offender Treatment Provider 5280
Psychologist, Licensed 2269
Psychosexual Evaluation 5280
Public Defense Roster 6089
Public Hearing 3156
Public Hospital 1630
Public Resource 3058
Public Service Signs 5035
Public Swimming Pool 2330
Public Trail (Trapping) 1076
Public Trust Doctrine 3156
Public Utility Signs 5035
Public Water System (PWS) 2320
Purchaser 3091
Pylon 3156
Quality Assurance 5280
Quality Assurance (QA) 2320
Quality Assurance Plan (QA Plan) 2321
Quality Control 1263
Quality Control (QC) 2320
Quality Improvement Services Bureau 361
Rangeland 6055
Raptor 1062
Readiness Review 1971
Real Price Appreciation of Stumpage 4517
Reasonable Costs 1630
Recipient 2671
Reciprocity 2321
Reclamation 3096, 3122
Reclamation Fund 3151
Reclamation Fund Act 3151
Record of Instruction 3721
Record Title 3201
Recreational Mining 3174
Redemption Value 5217
Referral Packet 361
Reforestation 3058
Region 361
Regional Facility 362
Regional Response Team (RRT) 1185
Regionally Known 5035
Regulatory Agency 2321
Reimbursable Costs 1185
Reimbursement Floor Percentage 1630
Reintegration Placement 362
Reintegration Plan 362
Relapse Prevention Plan 362
Relative Stocking 3058
Release from Department Custody 362
Relief Culvert 3058
Remodel 2330
Replica Street Rod 5073
Reporter 6089
Reservoir or Pool 3201
Resident 1062
Residential Treatment Provider 362
Respondent 5157
Responsible Maintenance Employee 3007
Responsible Party or Spiller 1185
Rest Area 5036
Restitution 362
Restricted Clinical Information 362
Retailer Validation Code 5217
Revegetation 3096, 3122
Reviewer 1263
Ridge 3122
Right-of-Way 3184
Riparian Areas 6055
Riparian or Littoral Owner 3156
Riparian or Littoral Right Lines 3156
Riparian or Littoral Rights 3156
Risk Characteristic 2849, 2864
Risk Load 2849, 2864
River Mile 3174
Road 3096, 3122
Roads 3091
Room Confinement 362
Rules 3058
Runway 5056
S Through Z 2522
  Safety Assessment 2522
  Safety Plan 2522
  Sibling 2522
  SSI (Supplemental Security Income) 2522
  State-Funded Guardianship Assistance 2522
  TAFI, Temporary Assistance to Families in Idaho 2522
  Title IV-E 2522
  Title IV-E Foster Care 2522
  Title XIX (Medicaid) 2522
  Title XXI 2522
  Tribal Court 2522
  Unmarried Parents' Services 2523
  Voluntary Services Agreement 2523
SAR Agreements 5057
Scholarship 6089
Search & Rescue 5056
Search Districts 5057
Secondary Plan 2882
Secretary 2784
Section 404 2942
Section 404 Report 2942
Security 6055
Security Personnel 4867
Self-Directed Community Supports (SDCS) 1971
Senior Management 2994
Sensitive Procurement 5217
Separation or Isolation 362
Service Club & Religious Notices 5036
Service Implementation Plan 362
Service Plan 362
Settling Pond 3096
Sexual Abuse 362
Sexual Offender 5280
Sexual Offender Classification Board 5280
Share 5217
Shut In 3201
Side Tie 3156
Sign 5036
Single-Family Dock 3156
Single-Use 3721
Site 3059
Site Factor 3059
Site Specific Best Management Practice 3059
Size of Thinning Block 3059
Slash 3058
Sliding Fee Scale 2671
Slip 3156
Small Cyanidation Processing Facility 3122
Snags 3059
Soil Erosion 3059
Soil Stabilization 3059
SOX Compliant Entity 2942
Spa 2330
Special Practice 6055
Special-Use Pool 2330
Staff 6089
Staffings 362
Standard Application 2916
Standard Methods (SM) 2321
Standard Operating Procedure (SOP) 2321
Standards of Practice 3708
State 3059, 5036
State Aerial Search & Rescue Coordinator 5057
State Aerial Search & Rescue Plan 5057
State Business Day 4867
State Communications 1185
State Emergency Response Teams 1185
State Health Official 2347
State Lands 3201
State Lottery Act of 1988 or Act 5217
State On-Scene Coordinator (SOSC) 1185
State-Owned Lands 3178
Sterilant 3722
Sterilize 3722
Stock 2916
Stock Offering 2916
Stream 3059
Street Rod Vehicle 5073
Subcontracting 2321
Subcontractor 362, 5217
Sublease 3191
Submerged Lands 3156, 3174, 3184
Submission Date 6089
Substance Use Disorders

Program 2671
Suicide Risk Assessment 362
Suicide Risk Screening 363
Superintendent 363
Supervision 5280
Support & Spending Plan 1972
Support Broker 1972
Support Broker Services 1972
Supports 1972
Surface Mine 3122
Surface Mining Operations 3122
Surface Mining Reclamation Plan 3151
Surface Waters 3096, 3122
Tailings Pond 3122
Telephone 4924
Temporary or Permanent Guyed Tower 5057
Temporary Permit 3178
Temporary Retailer 5217
Tenant Space 4867
Territorial or Zoning Jurisdiction 5036
Territory 1062
Third-Party Applicant 2090
Third-Party Payor 2671
Ticket 5217
Ticket Bearer 5217
Ticket Validation Number or Validation Number 5217
Timber Owner 3060
Time of Year of Forest Practice 3061
Topsoil 3096
Total Annual Revenue or Annual Revenue 5217
Traditional Adult DD Waiver Services 1972
Traditional Children's DD Waiver Services 1972
Traditional Children's HCBS State Plan Option Services 1972
Training Funds 6089
Training Program 6089
Transfer 363, 1062
Transferee 5074
Transferor 5074
Treatment 363, 3123, 5280
Tribe 1062
Two-Family Dock 3157
Ultimate Controlling Person 2916
Unarmed Observers 1068
Unclaimed Prize 5218
Undercover License Plate 5093
Uninsured Patient Costs 1631
Unqualified Idaho Resident 1068
Upland 3157
Uplands 3184
Upper Payment Limit 1631
Value 5218
Variance 363
Vehicle 5057
Vehicle Dealer File System 4923
Vehicle Dealer Sign Requirements 4924
Vehicles Not Held in Stock 5093
Vehicles Sold 5093
Vertical Representation 6089
Violent Sexual Predator 5280
Visitor 1062
Vocational Rehabilitation Service or Services 1112
Vocational Services 363
Volunteer 363
Wading Pool 2330
Waiver 363
Waiver Services 1972
Waste 3201
Water Balance 3123
Water Management Plan 3123
Waters of the State 3123
Weak Acid Dissociable Cyanide 3123
Weighted Average Forestland Levy Rate 4517
Wild-Caught 1062
Workload 6090
Definitions - A Through D 2716
Clear & Conspicuous 2716
Collect 2716
Company 2716
Consumer 2716
Consumer Reporting Agency 2717
Control 2717
Customer 2717
Customer Relationship 2717
Definitions - A Through F 2209, 2243
Adolescent 2209
Adult 2209, 2243
Adult Mental Health Services 2243
Applicant 2209, 2243
ASAM 2209
Assertive Community Services 2243
Assessment 2243
Behavioral Health 2243
Behavioral Health Center 2243
Case Management 2243
Client 2243
Clinical Assessment 2209
Clinical Judgment 2209, 2243
Clinical Necessity 2209, 2243
Clinical Team 2244
Crisis Intervention Services 2244
Department 2210, 2244
Eligibility Screening 2210
Federal Poverty Guidelines 2210, 2244
Functional Impairment 2244
Definitions -- A Through N 2104
Abuse 2104
Administrator 2104
Advocate 2104
Agency 2104
Board 2104
Certificate 2104
Complaint 2104
Complaint Investigation 2105
Deficiency 2105
Department 2105
Direct Service Staff 2105
Director 2105
Exploitation 2105
Functional Assessment 2105
Governing Authority 2105
Guardian 2105
Habilitation services 2105
Immediate Jeopardy 2105
Inadequate Care 2105
Definitions -- A Through Z 2066
ADA 2066
Adult 2066
Agency 2066
Board 2066
Clinical Supervision 2066
Communicable Disease 2066
Deficiency 2066
Department 2066
Developmental Disabilities Agency (DDA) 2067
Developmental Disability 2067
Human Services Field 2067
Measurable Objective 2067
Paraprofessional 2067
Participant 2067
Plan of Service 2067
Practitioner of the Healing Arts, Licensed 2067
Professional 2067
Program Implementation Plan 2067
Provider 2067
Provisional Certificate 2067
Repeat Deficiency 2068
Staff 2068
Survey 2068
Definitions – Conduct Of Fishing 1048
Artificial Fly 1048
Artificial Lure 1048
Bag Limit 1048
Bait 1049
Barbless Hook 1049
Catch-and-Release 1049
Confluence of a Stream or River 1049
Diversion 1049
Diversion Pond 1049
Drainage 1049
Electric Motors Only 1049
Fish Trap 1049
Fish Weir 1049
Flat Water 1049
Float Tube 1049
Fly Fishing 1049
General Fishing Season 1049
Harvest 1049
Hook 1049
Ice Fishing 1049
Length 1049
Limit is 0 (Zero) 1049
Motor 1049
Mouth of River or Stream 1049
No Motors 1050

Possession Limit 1050
Reservoir 1050
Season Limit 1050
Section 1050
Single-Point Hook 1050
Sliding Sinker 1050
Snagging 1050
Special Rule Waters 1050
Tributary 1050
Unattended Line 1050
Upstream 1050
Watercraft 1050
Definitions - E Through Z
Financial Institution 2718
Financial Product or Service 2718
Licensee 2718
Nonpublic Personal Information 2718
Opt Out 2718
Personally Identifiable Financial Information 2719
Publicly Available Information 2719
Definitions – Fish 1048
Chinook Salmon 1048
Coho Salmon 1048
Game Fish 1048
Hybrid Fish 1048
Invasive Fish Species 1048
Jack Salmon 1048
Sockeye Salmon 1048
Steelhead 1048
Trout 1048
Unprotected Fish 1048
Definitions – Fishing Contests 1050
Catch-and-Release Contest 1050
Fishing Contest 1050
Harvest Contest 1050
Definitions - G Through Z 2210, 2244
Good Cause 2244
Gravely Disabled 2244
Idaho Board of Alcohol/Drug Counselor Certification, Inc. (IBADCC) 2210
Idaho Student of Addiction Studies (ISAS) 2210
Individualized Service Plan 2210
Individualized Treatment Plan 2244
Intensive Outpatient Services 2210
Medication Assisted Treatment (MAT) 2210
Medication Management 2244
Mental Health Crisis 2244
Network Treatment Provider 2210
Opioid Replacement Outpatient Services 2210
Outpatient Services 2210, 2244
Priority Population 2210
Psychiatric Services 2244
Recovery Support Services 2211
Rehabilitative & Community-Based Services 2244
Residential Care 2244
Residential Treatment Services 2211
Serious & Persistent Mental Illness (SPMI) 2245
Serious Mental Illness (SMI) 2244
Sliding Fee Scale 2245
Substance Use Disorder 2211
Substance-Related Disorders 2211
Substantial Material Change in Circumstances 2245
Withdrawal Management 2211
Definitions -- M Through Z 2105
Measurable Objective 2105
Medication 2105
Neglect 2105
Owner 2105
Participant 2106
Physical Restraint 2106
Physician 2106
Plan of Service 2106
PRN (Pro Re Nata) Medication 2106
Program Plan 2106
Progress Note 2106
Provisional Certificate 2106
Quarterly 2106
Residential Habilitation 2106
Residential Habilitation Professional 2106
Self-Neglect 2106
Services 2106
Skill Training 2106
Substantial Compliance 2106
Supervision 2107
Survey 2107
Surveyor 2107
Definitions (A Through L) 1351
Adult 1351
Advanced Payment of Premium Tax Credit 1351
Affordable Care Act 1351
Applicant 1351
Application 1351
Application Date 1351
Caretaker Relative 1351
Child 1351
Citizen 1351
Cost-Sharing 1351
Creditable Health Insurance 1352
Department 1352
Federal Poverty Guidelines (FPG) 1352
Health Assessment 1352
Health Care Assistance (HCA) 1352
Health Insurance Premium Program (HIPP) 1352
Health Plan 1352
Health Questionnaire 1352
Insurance Affordability Programs 1352
Internal Revenue Code 1352
Internal Revenue Service (IRS) 1352
Lawfully Present 1352
Definitions (M Through Z) 1352
MAGI-Based Income 1352
Medicaid 1352
Modified Adjusted Gross Income (MAGI) 1353
Newborn Deemed Eligible 1353
Non-Citizen 1353
Parent 1353
Participant 1353
Qualified Hospital 1353
Qualified Non-Citizen 1353
Reasonable Opportunity Period 1353
Sibling 1353
Tax Dependent 1353
Third Party 1353
Title XIX 1353
Title XXI 1353
Definitions & Abbreviations 668, 2165, 2500, 3896, 6063, 6068, 6071, 6077, 6084
857
A Through E 2251
Alternate Care 2251
Alternate Care Plan 2252
Area(s) of Concern 2252
Assessment 2252
Behavioral Health 2252
Case Management 2252
Case Record 2252
Child 2252
Children's Mental Health Services 2252
Clinician 2252
Crisis Intervention 2252
Crisis Plan 2252
Crisis Response 2252
Day Treatment Services 2252
Department 2252
Desired Result 2252
Director 2253
Emergency 2253
Extended Family Member of an Indian Child 2253
A Through K 1331
Agricultural Market 1331
Board 1331
Commissary 1331
Consent Order 1331
Core Item 1331
Cottage Food Operation 1331
Cottage Food Product 1331
Critical Item 1331
Department 1332
Director 1332
Embargo 1332
Enforcement Inspection 1332
Farmers Market 1332
Food Establishment 1332
Food Processing Plant 1332
Good Retail Practice 1332
High-Risk Food Establishment 1332
Intermittent Food Establishment 1332

Roadside Stand 1334
Abuse or Abusive 2165
Access to Documentation & Records 2165
Agency 2500
Alcohol 668
Application 2500
Approved Vendor 668
Bleeder List 857
Blood Alcohol Analysis 668
Breath Alcohol Analysis 668
Breath Alcohol Test 668
Breath Alcohol Testing Sequence 668
Breath Testing Certification Class 668
Breath Testing Specialist (BTS) 668
Calendar Year 857
Calibration 668
Certificate of Analysis 668
Certificate of Instrument Calibration 668
Changeover Class 669
Claim 2165
Clearance 2500
Colt 857
Commission Veterinarian 857
Conviction 2165, 2500
Criminal History & Background Check 2501
Criminal History Unit 2501
Denial 2501
Department 669, 2166, 2501
Deprivation Period 669
Disqualifying Crime 2501
DMSO 857
Employer 2501
Enhanced Clearance 2501
Evidentiary Test 669
Exclusion 2166
Exemption Review 2501
F Through K 2253
Face-to-Face Contact 2253
Family 2253
Family Support Services 2253
Federal Poverty Guidelines 2253
Guardian 2253
Indian 2253
Indian Child 2253
Indian Child Welfare Act (ICWA) 2253
Indian Child's Tribe 2253
Indian Tribe 2254
Inpatient Services 2254
Federal Bureau of Investigation (FBI) 2501
Filly 857
Fraud or Fraudulent 2166
Gelding 857
Good Cause 2501
Horse 857
Hypodermics 857
Idaho State Police Bureau of Criminal Identification 2501
Idaho State Police Forensic Services (ISPFS) 669
Incentive Agreement 3896
Inspection of Horses 857
Knowingly, Known, or with Knowledge 2166
L Through R 2254
Licensed 2254
Medicaid 2254
Outpatient Services 2254
Parent 2254
Placement Agreement 2254
Residential Treatment 2254
Respite Care 2254
L Through Z 1332
License Holder 1333
Low-Risk Food Establishment 1333
Medium-Risk Food Establishment 1333
Mobile Food Establishment 1333
Non-Critical Item 1333
Potentially-Critical Item 1333
Priority Foundation Item 1333
Priority Item 1333
Regulatory Authority 1333
Risk Control Plan 1334
Risk Factor Violation 1334
Laboratory 669
M Through Z 2185
Managing Employee 2185
Minor Parent 2185
Non-Recurring Lump Sum Income 2185
Parent 2185
Preventive Services 2185
Prospective Income 2185
Provider 2185
Relative Provider 2185
Special Needs 2185
SSI 2185
State Median Income (SMI) 2185
TAFI 2185
Unearned Income 2185
Managing Employee 2166
Mare 857
Medicaid 2166
Medical Assistance 2166
Medication Report Form 857
MIP/MIC 669
Monitoring Period 669
Needle & Syringe 857
Operator 669
Operator Certification 669
Owner 857
Ownership or Control Interest 2166
Participant 2166
Penalties 857
Performance Verification 669
Performance Verification Standard 669
Person 2166
Pre-Application 3896
Primary Laboratory 857
Proficiency Testing 669
Program 2166
Prohibited Substances 858
Provider 2166
Provider Agreement 2166
Public Assistance Program 2167
Quality Control 669
Racing Association 858
Racing Condition 858
Recertification Class 669
Recoup & Recoupment 2167
Referee Laboratory 858
Relevant Record 2501
S Through Z 2254
Sliding Fee Scale 2254
Teen Early Intervention Specialist 2254
Teens at Risk 2254
Title XIX (Medicaid) 2254
Treatment Foster Care 2254
Treatment Plan 2255
Wraparound 2255
Sample 858
Sanction 2167
Split Sample 858
State Plan 2167
Suspension 858
Tax Reimbursement Incentive Act (TRI) 3896
Test Area 858
Title XIX 2167
Title XXI 2167
Trainer 858
Urine Alcohol Analysis 670
Veterinarian 858
Veterinarian's List 858
Veterinarians' Reports 858
Definitions & Abbreviations -- A
Through K 2385
Abuse 2385
Activities of Daily Living 2385
Adult 2385
Alternate Caregiver 2385
Assessment 2385
Certificate 2385
Certified Family Home 2385
Certified Family Home Care Provider 2385
Certifying Agent 2385
Chemical Restraint 2385
Core Issue 2386
Criminal Offense 2386
Critical Incident 2386
Department 2386
Director 2386
Exploitation 2386
Health Care Professional 2386
Immediate Jeopardy 2386
Inadequate Care 2386
Incident 2386
Incidental Supervision 2386
Instrumental Activities of Daily Living 2386

Definitions & Abbreviations -- A

through K 1948
Active Treatment 1948
Administrator 1948
Advocate 1948
Alteration 1948
Board 1948
Certification 1948
Client 1948
Department 1948
Director 1948
Discharge 1948
Enclosure 1948
Governmental Unit 1948
Individual 1948
Individual Program Plan (IPP) 1948
Initial License 1949
Interdisciplinary Team (IDT) 1949
Intermediate Care Facility for Individuals with Intellectual Disabilities (ICF/ID) 1949
Definitions & Abbreviations -- A
Through L 2184
AABD 2184
Abuse or Abusive 2184
Child 2184
Child Care 2184
Claim 2184
Department 2184
Earned Income 2184
Employment 2184
Foster Care 2184
Foster Child 2184
Foster Home 2184
Fraud or Fraudulent 2184
Good Cause 2184
In Loco Parentis 2184
Incapacitated Parent 2185
Infant/Toddler 2185
Intentional Program Violation (IPV) 2184
Job Training & Education Program 2184
Knowingly, Known, or With Knowledge 2185
Legal Guardian 2185
Licensed Practitioner of the Healing Arts 2185
Definitions & Abbreviations -- A
Through M 1996
Anesthesiologist 1996
Anesthetist 1996
Approved Drugs & Biologicals 1996
Board 1996
Chief Executive Officer or Administrator 1996
Clinical Privileges 1996
Dentist 1996
Department 1996
Dietetic Service Supervisor 1997
Dietitian 1997
Director of Nursing Service 1997
Director of Psychiatric Nursing Service 1997
Drug Administration 1997
Governmental Unit 1997
Grievance 1997
Hospital for the Treatment of Alcohol & Drug Abuse 1998
Hospital Licensing Act 1998
Infectious Wastes 1998
Licensed Independent Practitioner (L.I.P.) 1998
Licensed Practical Nurse (L.P.N.) 1998
Licensee 1998
Licensing Agency 1998
Maternity Hospital 1998
Medical Record Practitioner (Qualified Consultant) 1999
Medical Staff Members 1999
Definitions & Abbreviations -- L
Through Z 2386
Level of Care 2386
Neglect 2386
Negotiated Service Agreement 2386
Personal Assistance 2386
Plan of Service 2387
PRN (Pro Re Nata) 2387
Relative 2387
Resident 2387
Substitute Caregiver 2387
Supervision 2387
Supportive Services 2387
Variance 2387
Vulnerable Adult 2387
Waiver 2387
Definitions & Abbreviations -- L through Z 1949
Legal Guardian 1949
Licensee 1949
National Fire Protection Association (NFPA) 1949
Noxious Stimuli 1949
On Duty 1949
Outside Service 1949
Owner 1949
Parent 1949
Participate 1949
Physician 1949
Provisional License 1950
Qualified Intellectual Disabilities Professional (QIDP) 1950
Related to Owner 1950
Renovations, Minor 1950
Resident 1950
Sufficient Staff 1950
Transfer 1950
Waiver 1950
Definitions & Abbreviations -- N
Through Z 1999
New Construction or New Hospitals 1999
Nuclear Medicine Physician 1999
Nurse Practitioner 1999
Nursing Graduate 1999
Nursing Unit 1999
Occupational Therapist 1999
Occupational Therapist Assistant 1999
Operating Room Technician 2000
Patient 2000
Person 2000
Pharmacist 2000
Physiatrist 2000
Physical Therapist 2000
Physical Therapist Assistant 2000
Physician 2000
Physician's Assistant 2000
Podiatrist 2000
Provisional License 2000
Psychiatric Hospital 2000
Psychiatric Nurse 2000
Psychiatric Unit 2001
Psychiatrist 2001
Radiologic Service Director 2001
Radiologic Technologist (Diagnostic) 2001
Radiologist 2001
Radiotherapist 2001
Registered Nurse (R.N.) 2001
Rehabilitation Hospital 2001
Respiratory Therapist 2002
Respiratory Therapy Technician 2002
Restraints 2002
Seclusion 2002
Skilled Nursing Facility 2002
Social Worker 2002
Special Hospital 2002
Speech Pathologist or Audiologist 2002
Substantial Compliance 2003
Supervision 2003
Temporary License 2003
Tuberculosis Hospital 2003
Video and/or Audio Recording 2003
Video Monitoring 2003
Waiver or Variance 2003
Definitions & Abbreviations (A – D) 3863
ACCME 3863
Accredited School or College of Pharmacy 3863
ACPE 3863
ADS – Automated Dispensing & Storage 3863
Change of Ownership 3863
CME 3863
Collaborative Pharmacy Practice 3863
CPE 3863
CPE Monitor 3863
DEA 3863
Distributor 3863
DME Outlet 3864
DTM – Drug Therapy Management 3864
Definitions & Abbreviations (E – N) 3864
FDA 3864
Flavoring Agent 3864

Floor Stock 3864
FPGEC Certification 3864
Hazardous Drug 3864
HIPAA 3864
Limited Service Outlet 3864
NABP 3864
NAPLEX 3864
NDC 3864
Definitions & Abbreviations (O – Z) 3864
Parenteral Admixture 3864
PDMP 3865
Pharmaceutical Care Services 3864
Prepackaging 3865
Prescriber 3865
Purple Book 3865
Readily Retrievable 3865
Reconstitution 3865
Restricted Drug Storage Area 3865
Technician 3865
Therapeutic Equivalent Drugs 3865
USP 3865
USP-NF 3865
VAWD – Verified Accredited Wholesale Distributor 3865
Definitions & Abbreviations A through B 1207
Advanced Emergency Medical Technician (AEMT) 1207
Advanced Life Support (ALS) 1207
Advanced Practice Professional Nurse 1207
Advertise 1208
Affiliating EMS Agency 1208
Affiliation 1208
Air Ambulance 1208
Air Medical 1208
Air Medical Agency 1208
Air Medical Response 1208
Air Medical Support 1208
Amblulance Certification 1208
Ambulance 1208
Ambulance Agency 1208
Ambulance-Based Clinicians 1208
Applicant 1208
Assessment 1209
Basic Life Support (BLS) 1209
Board 1209
Definitions & Abbreviations A Through E, IDAPA 16.03.22, Residential Care Or Assisted Living Facilities In Idaho 2433
Abuse 2433
Accident 2433
Activities 2433
Activities of Daily Living 2433
Administrator 2433
Administrator Designee 2433
Adult 2433
Advance Directive 2433
Advocate 2433
Ambulatory Person 2433
Assessment 2434
Authentication 2434
Authorized Provider 2434
Basement 2434
Behavioral Plan 2434
Call System 2434
Chemical Restraint 2434
Client of the Department 2434
Complaint 2434
Complaint Investigation 2434
Core Issue 2434
Criminal Offense 2434
Deficiency 2434
Dementia 2434
Department 2434
Developmental Disability 2434
Director 2435
Electronic Signature, E-Signature 2435
Exit Conference 2435
Exploitation 2435
Definitions & Abbreviations C through E 1209
Call Volume 1209
Candidate 1209
Certificate of Eligibility 1209
Certification 1209
Certified EMS Instructor 1209
CoAEMSP 1209
Cognitive Exam 1209
Compensated Volunteer 1209
Conflict of Interest 1209
Consolidated Emergency Communications System 1209
Core Content 1210
Course 1210
Course Physician 1210
Credentialed EMS Personnel 1210
Credentialing 1210
Critical Care 1210
Critical Care Agency 1210
Department 1210
Director 1210
Division 1210
Emergency 1210
Emergency Medical Care 1210
Emergency Medical Responder (EMR) 1210
Emergency Medical Services (EMS) 1211
Emergency Medical Services Advisory Committee (EMSAC) 1211
Emergency Medical Technician (EMT) 1211
Emergency Scene 1211
EMS Agency 1211
EMS Bureau 1211
EMS Education Program 1211
EMS Education Program Director 1211
EMS Education Program Objectives 1211
EMS Medical Director 1212
EMS Physician Commission (EMSPC) 1212
EMS Response 1212
National Emergency Medical Services Information System (NEMSIS) 1213
Definitions & Abbreviations F Through M, IDAPA 16.03.22, Residential Care Or Assisted Living Facilities In Idaho 2435
Follow-Up Survey 2435
Functional Abilities Assessment 2435
Governmental Unit 2435
Grade Plane 2435
Hands On 2435
Hourly Adult Care 2435
Immediate Danger 2435
Inadequate Care 2435
Incident 2436
Incident, Reportable 2436
Independent Mobility 2436
Instrumental Activities of Daily Living 2436
Legal Guardian or Conservator 2436
License 2436
Licensing & Certification Unit 2436
Medication 2436
Medication Administration 2436
Medication Assistance 2436
Medication Dispensing 2436
Medication, Self-Administration 2436
Mental Disorders 2436
Mental Illness 2437
Monitoring Visit 2437
Neglect 2437
Negotiated Service Agreement 2437
Non-Core Issue 2437
Definitions & Abbreviations F Through N 1212
Formative Evaluation 1212
Full-Time Paid Personnel 1212
Glasgow Coma Score (GCS) 1212
Ground Transport Time 1212
Hospital 1212
Instructor 1212
Instructor Certification 1212
Intermediate Life Support (ILS) 1212
Investigation 1212
License 1212
Licensed Personnel 1212
Licensed Professional Nurse 1213
Local Incident Management System 1213
Medical Supervision Plan 1213
National Registry of Emergency Medical Technicians (NREMT) 1213
Non-transport Agency 1213
Non-transport Vehicle 1213
Nurse Practitioner 1213
Definitions & Abbreviations O Through Z 1213

Optional Module 1213
Out-of-Hospital 1213
Paramedic 1213
Paramedicine 1213
Part-Time Paid Personnel 1214
Patient 1214
Patient Assessment 1214
Patient Care 1214
Patient Movement 1214
Patient Transport 1214
Physician 1214
Physician Assistant 1214
Planned Deployment 1214
Prehospital 1214
Psychomotor Exam 1214
REPLICA 1214
Response Time 1214
Seasonal 1214
Skills Proficiency 1214
State Health Officer 1214
Summative Evaluation 1214
Supervision 1215
Third Service 1215
Transfer 1215
Uncompensated Volunteer 1215
Definitions & Abbreviations O Through Z, IDAPA 16.03.22, Residential Care Or Assisted Living Facilities In Idaho 2437
Owner 2437
Personal Assistance 2437
Personnel 2437
Physical Restraint 2437
Portable Heating Device 2437
Pressure Ulcers 2437
PRN 2437
Provisional License 2437
Psychosocial History 2438
Publicly Funded Programs 2438
Punishment 2438
Relatives 2438
Repeat Deficiency 2438
Resident 2438
Residential Care or Assisted Living Facility 2438
Room & Board 2438
Scope 2438
Self Preservation 2438
Self-Evacuating Resident 2438
Short Term 2438
Story 2438
Story Above Grade Plane 2438
Substantial Compliance 2438
Substantial Evening Meal 2438
Supervision 2439
Supportive Services 2439
Survey 2439
Surveyor 2439
Syringe - Oral Feeding 2439
Therapeutic Diet 2439
Traumatic Brain Injury (TBI) 2439
Trust Account 2439
Uniform Assessment Instrument (UAI) 2439
Unlicensed Assistive Personnel (UAP) 2439
Variance 2439
Waiver Services 2439
Waivered Level Three Small Facility 2439
Definitions & Abbreviations, IDAPA 16.03.25 2092
Acute Care Hospital 2092
Adopt, Implement, or Upgrade (AIU) 2092
Attestation 2092
Border States 2093
Certified EHR Technology 2093
Children's Hospital 2093
CMS 2093
Critical Access Hospital (CAH) 2093
CY 2093
Dentist 2093
Department 2093
EHR 2093
Eligible Hospital 2093
Eligible Professional 2093
Eligible Provider 2093
Eligible Provider, Hospital-Based 2093
Encounter 2093
Enrolled Provider 2094
Federal Fiscal Year (FFY) 2094
Federally Qualified Health Center (FQHC) 2094
Hospital-Based 2094
Meaningful EHR User 2094
Nurse Practitioner (NP) 2094
Payment Year 2094
Physician 2094
Physician Assistant 2094
Definitions & Abbreviations, IDAPA 19.01.01 3015
AAOMS 3015
ACLS 3015
ADA 3015
ADHA 3015
Analgesia 3015
BLS 3015
CDC 3015
CE 3015
CODA 3015
CRNA 3015
Deep Sedation 3015
Enteral 3015
EPA 3015
General Anesthesia 3015
GI 3016
Inhalation 3016
Local Anesthesia 3016
Minimal Sedation 3016
Moderate Sedation 3016
Monitor or Monitoring 3016
MRD 3016
NBDE 3016
NBDHE 3016
Operator 3016
Parenteral 3016
PMP 3016
Sedation 3016
Definitions & References, IDAPA 32.01.01 4078
Administrative Fees 4078
Application Fee 4078
Credit Enhancement Program 4078
EFIB, Endowment Fund Investment Board 4078
Endowments 4078
Guarantee Fee 4078
Guaranty Program 4078
Pass-Through Fee 4078
School District 4078
Total Debt Service 4078
Definitions 10.01.01
Active Participation 649
Activity 649
Board 649
Certificate Holder 649
College Semester or Quarter Credit Hour 649
Continuing Education Unit (CEU) 649
Deceit 649
Documented Self-Study 649
Incompetence 649
Licensee 649
Misconduct 649
Professional Development Hour (PDH) 649
Definitions 17.01.01 2684
Adjustor 2684
Ambulatory Payment Classification 2684
Ambulatory Surgery Center 2684
Approval by Commission 2684
Available Funds 2684
Average Wholesale Price 2684
Charge 2684
Charging Lien 2685
Claim 2685
Claimant 2685
Claims Administrator 2685
Commission 2685
Critical Access Hospital 2685
Current Procedural Terminology 2685
Death Claim 2685
Electronic Data Interchange 2685
Fee Agreement 2685
First Degree of Consanguinity 2685
First Report of Injury 2685
Gross Direct Premiums Written 2686
Healthcare Common Procedure Coding System 2686
Hospital 2686
IAIABC EDI Release 3.0 2686
Impairment Rated Claim 2686
Implantable Hardware 2686
Indemnity Benefits 2686
Indemnity Claim 2686

Legacy Claim 2686
Litigated Case 2686
Medical Only Claim 2686
Medical Report 2686
Medicare Severity - Diagnosis Related Group 2686
Net Premiums Written 2686
Payor 2686
Payroll 2686
Pharmacy 2687
Termination of Disability 2687
Time Loss Claim 2687
Trading Partner 2687
Trading Partner Agreement 2687
Definitions 17.10.01 2676
Commission 2676
Crime Victim's Compensation Program 2676
Employer 2676
Medical Services 2676
Wages 2677
Definitions 25.01.01
Classified River 3754
IFGC 3755
Training Log 3756
Unethical/Unprofessional Conduct 3756
Definitions A Through C 423
Administrator 423
A-Frame 423
Approved 423
Arch 423
Back Cut 423
Barber Chair 423
Bell or Cup Hook with Spike 423
Bight 423
Binder 423
Blasting Cap 423
Brailling 423
Brow Log 423
Buckle Guy Line 423
Bullbuck 423
Bunk 423
Butt Hook 423
Butt Rigging 424
Cable-Assisted Logging Systems 424
Capped Fuse 424
Carriage Logging 424
Cat Road 424
Chaser 424
Cheater 424
Chipper 424
Chock (Bunk Block-Cheese Block) 424
Choker 424
Cold Deck 424
Cold Shut 424
Competent Person 424
Connecting Wires 424
Crotch Line 424
Cutter 424
Division 423
Definitions A Through D, IDAPA 16.03.04 1405
Adequate Notice 1405
Administrative Error Claim 1405
Aid to the Aged, Blind & Disabled (AABD) 1405
Applicant 1405
Application for Participation 1405
Application for Recertification 1405
Authorized Representative 1405
Battered Women & Children's Shelter 1405
Boarder 1405
Boarding House 1406
Broad Based Categorical Eligibility 1406
Categorical Eligibility 1406
Certification Period 1406
Claim Determination 1406
Client 1406
Contact (Six-Month) 1406
Department 1406
Disqualified Household Members 1406
Documentation 1406
Drug Addiction or Alcoholic Treatment Program 1407
Definitions D Through I, 07.08.01 424
D or Strap Socket 424
Dead Man 424
Detonator 424
Dog Line 424
Drag-Turn 425
Equipment 425
Explosive 425
Exposed to Contact 425
Fair Lead 425
Gin Pole 425
Grapple 425
Guarded 425
Gut Wrapper 425
Guy Lines 425
Haul Back 425
Hazard 425
Heel Block 425
Heel Boom 425
Hook Tender, Hooker 425
It is Recommended, or Should 425
Definitions E Through L, IDAPA 16.03.04 1407
Electronic Benefit Transfer 1407
Eligible Foods 1407
Eligible Household 1407
Emancipated Minor 1407
Enumeration 1407
Exempt 1407
Extended Certification Household (EC) 1407
Fair Hearing 1407
Federal Fiscal Year 1407
Field Office 1407
Food & Nutrition Service (FNS) 1408
Group Living Arrangement 1408
Homeless Meal Provider 1408
Homeless Person 1408
Identification Card 1408
Inadvertent Household Error Claim (IHE) 1408
Income & Eligibility Verification System (IEVS) 1408
Institution of Higher Education 1408
Institution Of Post Secondary Education 1408
Legal Noncitizen 1408
Limited Utility Allowance (LUA) 1408
Definitions For Property Tax Reduction
Benefit 4485
Blind 4485
Burden of Proof 4485
Claimant's Income 4485
Cross Reference 4487
Fatherless/Motherless Child 4486
Physician 4487
Proportional Reduction of Value 4486
Widow/Widower 4487
Definitions For Purposes Of Multistate Rules 4205
Definitions For Purposes Of The Taxpayers' Bill Of Rights 4606
Definitions For Purposes Of The Taxpayers' Bill Of Rights
Collection & Enforcement 4606
Publication 4606
Written Notification of Representation 4606
Definitions For Vital Statistics 2130
Authorized Representative 2130
Certificate 2130
Individuals With a Direct & Tangible Interest 2130
Parent 2130
Public Health 2130
Putative Father 2131
Registrar 2131
Research 2131
Statistical Purposes 2131
Definitions IDAPA 02.06.06 195
Department Approved Tag (Yellow Tag) (Non-Phaseolus) 195
Department Approved Tag (Yellow Tag) (Phaseolus) 195
Department In-State Planting Tag (Green Tag) 195
Detailed Varietal Planting Plan 195
Edible Harvest 195
Experimental Plots 195
Farmstead 195
Home Garden 195
ICIA Tag 195
In-State Planting Tag Number (State Number) 195
Introduction Plots 195
Oregon Department of Agriculture Inspection Tag 196
Pre-Harvest Inspection 196

Rill Irrigation 196
Seed Borne 196
Seed Lot 196
Seed Transmitted 196
Sprinkler Irrigation 196
Trial Grounds 196
True Identity of Seed Lot 196
Windrow Inspection 196
Definitions IDAPA 28.02.03
Program Guidelines 3890
Definitions IDAPA 39.02.73 4944
Accident Prevention Course 4944
Definitions IDAPA 58.01.04 5486
Applicant 5486
Board 5486
Categorical Exclusion (CE) 5486
Collector Sewer 5486
Department 5486
Director 5487
Domestic Wastewater 5487
Eligible Costs 5487
Environmental Impact Statement (EIS) 5487
Environmental Information Document (EID) 5487
Finding of No Significant Impact (FNSI) 5487
Grant Recipient 5487
Handbook 5487
Ineligible Costs 5487
Interceptor Sewer 5487
National Pollutant Discharge Elimination System 5487
Nondomestic Wastewater 5487
Operation & Maintenance 5487
Person 5487
Planning Document 5487
Point Source 5488
Pollutant 5488
Priority List 5488
Qualifying Entity 5488
Rehabilitation 5488
Reserve Capacity 5488
Sewer Use Ordinance 5488
State 5488
Suspension 5488
Termination 5488
Treatment Plant 5488
User Charge System 5488
Wastewater 5488
Wastewater Treatment Facility 5488
Definitions IDAPA 58.01.20 5860
Applicant 5860
Board 5860
Categorical Exclusion (CE) 5860
Close or Closing 5860
Community Water System 5860
Construction 5860
Contaminant 5861
Department 5861
Director 5861
Disadvantaged Community 5861
Disadvantaged Loans 5861
Distribution System 5861
Eligible Costs 5861
Eligible Systems 5861
Environmental Impact Statement (EIS) 5861
Environmental Information Document (EID) 5861
Financial Management System 5861
Finding Of No Significant Impact (FONSI) 5861
Handbook 5861
Ineligible Costs 5861
Loan Recipient 5861
Managerial Capability 5861
Maximum Contaminant Level (MCL) 5861
Noncommunity Water System 5862
Nonprofit Noncommunity Water System 5862
Nontransient Noncommunity Water System 5862
Operation & Maintenance 5862
Person 5862
Plan of Operation 5862
Planning Document 5862
Priority List 5862
Public Drinking Water System/Public Water System/Water System 5862
Qualifying Entity 5862
Rehabilitation 5862
Reserve Capacity 5862
State 5862
Supplier or Provider of Water 5862
Suspension 5863
Sustainability 5863
Technical Capability 5863
Termination 5863
User Charge System 5863
Water System Protection Ordinance 5863
Water Treatment Plant 5863
Definitions J Through R, 07.08.01 425
Jaggers 425
Jammer 425
Jill Poke 425
Knob 426
Landing, Rollway 426
Lang Lay Rope 426
Leading Wires 426
Leaners 426
Loading Boom 426
Log or Logs 426
Log Stacker 426
Magazine 426
Mainline 426
Operation (Show Woods Layout) 426
Pan (Skidding Pan) 426
Peeling Bar or Spud 426
Pike, Pole 426
Portable Spar or Tower 426
Powder 426
Primer 426
Qualified Person 426
Reach 426
Receding Line 426
Reload 426
Running Line 426
Definitions M Through Z, IDAPA 16.03.04 1408
Migrant Farmworker Household 1409
Minimum Utility Allowance (MUA) 1409
Nonexempt 1409
Nonprofit Meal Delivery Service 1409
Overissuance 1409
Parental Control 1409
Participant 1409
Program 1409
Public Assistance 1409
Recertification 1409
Retail Food Store 1409
Sanction 1409
Seasonal Farmworker Household 1409
Self-Employment 1410
Spouse 1410
Standard Utility Allowance (SUA) 1410
State 1410
State Agency 1410
Student 1410
Supplemental Security Income (SSI) 1410
Systematic Alien Verification for Entitlements (SAVE) 1410
Telephone Utility Allowance (TUA) 1410
Timely Notice 1410
Tribal General Assistance 1410
Twelve Month Contact 1410
Verification 1410
Verified Upon Receipt 1410
Written Notice 1410
Definitions Pertaining To Telehealth Services In Idaho 3329
Asynchronous Store & Forward Transfer 3330
Distant Site 3330
Originating Site 3330
Provider 3330
Synchronous Interaction 3330
Telehealth Services 3330
Definitions Related To Advanced Practice Registered Nursing 3373
Accountability 3373
Advanced Practice Registered Nurse 3373
Authorized Advanced Practice Registered Nurse 3373
Certification 3373
Certified Nurse Practitioner 3373
Certified Nurse-Midwife 3373
Certified Registered Nurse Anesthetist 3374
Clinical Nurse Specialist 3374

Collaboration 3374
Consultation 3374
Diagnosis 3374
Intervention 3374
Peer Review Process 3374
Population Focus 3374
Prescriptive & Dispensing Authorization 3374
Referral 3375
Scope of Practice of Advanced Practice Registered Nurse 3375
Specialization 3375
Definitions Related To Interns & Residents 3342
Acceptable Post Graduate Training Program 3342
Acceptable Training Program 3342
Definitions Relating To Supervising & Directing Physicians 3337
Alternate Directing Physician 3337
Alternate Supervising Physician for Externs, Interns, & Residents 3337
Alternate Supervising Physician of Medical Personnel 3337
Athletic Trainer 3337
Directing Physician 3337
Medical Personnel 3337
Supervising Physician of Interns, Externs, or Residents 3337
Supervising Physician of Medical Personnel 3337
Definitions S Through Z, 07.08.01 426
Safety Factor or Factor of Safety 427
Sail Block 427
Sail Guy 427
Schoolmarm 427
Shall, Will 427
Side Winders 427
Side, Show, Chance 427
Signalman, Whistle Punk 427
Skidding 427
Skids 427
Skyline 427
Slack Line 427
Slack Puller 427
Snags 427
Snubbing 427
Spring Board 427
Standard Safeguard 427
Strap 427
Strawline 427
Strip 427
Substantial 427
Swamp 428
Sweeper 428
Tag Line 428
Tail Hold 428
Tell Tale 428
Tight Line 428
Tongs 428
Transfer 428
Undercut 428
Widow Maker 428
Windfall 428
Yarding 428
Definitions, 02.06.16 206
Air Bubble 206
Bees 206
Comb 206
Crystallize 206
Floral Source 206
Food 206
Food Additive 206
Granulate 207
Honey 207
Pollen Grain 207
Definitions, Clandestine Drug Laboratory Cleanup 1346
Certificate of Delisting 1346
Certify 1346
Chain of Custody 1346
Clandestine Drug Laboratory 1346
Clandestine Drug Laboratory Site Property List 1346
Cleanup Contractor 1346
Cleanup Standard 1346
Clearance Sampling 1346
Contamination or Contaminated 1347
Delisted 1347
Demolish 1347
Department 1347
Discrete Sample 1347
Documentation 1347
Listed 1347
Methamphetamine 1347
Non-Porous 1347
Porous 1347
Qualified Industrial Hygienist 1347
Sampling 1347
Technology-Based Standard 1347
Vacant 1347
Definitions, IDAPA 01.01.01 31
Administering Organization 31
Board 31
Candidate 31
CPA Examination 31
CPE 31
Ethics CPE 31
NASBA, National Association of State Boards of Accountancy 31
National Candidate Database 31
State-Specific Ethics for Idaho 31
Year of Review 31
Year Under Review 31
Definitions, IDAPA 02.01.03 60
Airborne Control 60
Aircraft 60
Predatory Animal 60
Unprotected Animal 60
Definitions, IDAPA 02.01.04 126
Agricultural Product 126
Aquacultural Product 126
Avicultural Product 126
Beverage 126
Broker 126
Cervidae Product 126
Dairy Product 126
Florist Stock 126
Foodservice 126
Forest Products 126
Fresh Produce, Commodities, & Fresh Meat 126
Horticultural Products 126
Livestock 127
Livestock Product 127
Non-Food Agricultural Products 127
Nursery Stock 127
Packer/Shipper 127
Participant 127
Processed Food 127
Processor 127
Producer 127
Retailer 127
Supporting Organization 127
Viticultural Products 127
Wholesaler 127
Definitions, IDAPA 02.01.04, Rules Governing the Idaho Preferred Promotion Program
Apicultural Product 126
Definitions, IDAPA 02.01.05 133
Applicant 133
Certificate of Free Sale 133
Definitions, IDAPA 02.02.12 155
Cash Sale 155
Commodity Indemnity Fund (CIF) 155
Credit-Sale Contract 155
Dealer 155
Deposit for Service 155
NPE, No Price Established 155
Open Storage 155
Warehouse 155
Definitions, IDAPA 02.02.13
Cash Sale 164
Commodity Indemnity Fund 164
Credit-Sale Contract 164
Dealer 164
NPE, No Price Established Contract 164
Seed Crops 164
Warehouse 164
Definitions, IDAPA 02.02.15 171
Definitions, IDAPA 02.04.13 64
Adulterated 64
Dairy Farm 64
Denatured 64
Herd Share 64
Official Laboratory 64
Owner 64
Raw Milk 64
Raw Milk Permit 64
Raw Milk Plant 65
Raw Milk Products 65
Registration 65
Sanitization 65
Small Herd 65
Small Herd Raw Milk Permit 65

Sterilized 65
Definitions, IDAPA 02.04.19 176
Accredited Veterinarian 176
Approved Laboratory 176
Approved Slaughter Establishment 176
Area Veterinarian in Charge 176
Breed Associations & Registries 176
Certificate 176
Cervid Herd 177
Cervidae 177
Chronic Wasting Disease 177
Commingling 177
Custom Exempt Slaughter Establishment 177
CWD-Adjacent Herd 177
CWD-Exposed Animal 177
CWD-Exposed Herd 177
CWD-Positive Cervid 177
CWD-Positive Herd 177
CWD-Suspect Cervid 177
CWD-Suspect Herd 177
Death Certificate 177
Designated Epidemiologist 177
Disposal 178
Domestic Cervidae 178
Domestic Cervidae Ranch 178
Electronic Identification 178
Escape 178
Federal Animal Health Official 178
Harvest 178
Herd of Origin 178
Herd Status 178
Individual CWD Herd Plan 178
Intrastate Movement Certificate 178
Limited Contact 178
National CWD Herd Certification Program 178
Official CWD Test 178
Official Identification 178
Operator 178
Premises 178
Quarantine 178
Quarantine Facility 179
Ranch Management Plan 179
Re-Identification 179
Restrain 179
Restricted Movement Permit 179
Source Herd 179
State Animal Health Official 179
Status Date 179
Trace Back Herd 179
Trace Forward Herd 179
Traceback 179
Wild Cervidae 179
Wild Ungulate 179
Wild Ungulate Cooperative Herd Plan 179
Definitions, IDAPA 02.04.20 70
Accredited Veterinarian 70
Approved Brucella Vaccine 70
Approved Feedlot 70
Brucellosis 70
Brucellosis Emergency 70
Brucellosis Herd Management Plan 70
Cattle 70
Commuter Herd 70
Designated Surveillance Area 71
Domestic Bison 71
Domestic Cervidae 71
Exposed 71
Federal Animal Health Official 71
Infected Animals or Herds 71
Negative 71
Official Identification 71
Official Vaccinate 71
Operator 71
Parturient 71
Postparturient 71
Premises 71
Quarantine 71
Reactor 71
Re-Identification of Official Vaccinates 72
Restrain 72
Restricted Movement Permit 72
State Animal Health Official 72
State/Federal Animal Health Laboratory 72
Suspect 72
Swine 72
Test Eligible 72
Wild Bison 72
Wild Elk 72
Definitions, IDAPA 02.04.21 86
Accredited Veterinarian 86
Animals 86
Approved Brucella Vaccine 86
Approved Equine Feedlot 87
Approved Feedlot 87
Approved Slaughter Establishment 87
Brucellosis 87
Brucellosis Surveillance Area or High Risk Areas 87
Camelids 87
Cattle 87
Certificate 87
Domestic Bison 87
Domestic Cervidae 87
Domesticated 87
Equidae 87
Exposed 87
Federal Animal Health Official 87
Feeder Animals 87
Game Birds 87
Hatching Eggs 87
Livestock 87
National CWD Herd Certification Program 87
Negative 87
Official Identification 88
Official Vaccinate 88
Poultry 88
Quarantine 88
Ratites 88
Slaughter Animals 88
State Animal Health Official 88
VHSV Positive Area 88
Waterfowl 88
Definitions, IDAPA 02.04.24 47
Accredited Herd 47
Accredited Veterinarian 47
Affected Herd 47
Approved Feedlot 47
Approved Laboratory 47
Area-Veterinarian-in-Charge 47
Bovine Tuberculosis 47
Cattle 47
Domestic Bison 47
Domestic Cervidae 47
Eradication 47
Exposed 47
Federal Animal Health Official 48
Free Area 48
Herd 48
Herd Depopulation 48
Interstate Movement 48
Intrastate Movement 48
Negative 48
Official Tuberculin Test 48
Public Stockyards 48
Quarantined 48
Quarantined Area 48
Reactor 48
Restrain 48
State Animal Health Official 48
Suspect 48
Tuberculin 48
Definitions, IDAPA 02.04.25 104
Big Game Animals 104
Brucellosis 104
Cattle 104
Domestic Bison 104
Domestic Cervidae 104
Emergency Feeding 104
Federal Animal Health Official 104
Livestock 104
Operator 104
Owner 104
Premises 104
State Animal Health Official 104
Supplemental Feed 104
Wild Cervidae 104
Definitions, IDAPA 02.04.27 107
Accredited Veterinarian 107
Animal 107
Deleterious Exotic Animal 107
Facility 107
Federal Animal Health Official 107
Livestock 107
Operator 107
Person 107
Possess 107
State Animal Health Official 107
Traveling Exhibition 108
Definitions, IDAPA 02.04.29 117
Cattle 117
Exposed Cattle 117
Federal Animal Health Official 117

Herd 117
Hold Order 117
Infected Cattle 117
Infected Herd 117
Negative 117
PCR 117
Positive 117
Quarantine 117
Quarantined 118
Registered Veterinarians 118
Restrain 118
State Animal Health Official 118
T Brand 118
Trichomoniasis 118
Definitions, IDAPA 02.05.01 55
Petition 55
Petitioner 55
Definitions, IDAPA 02.06.33 135
Agent 135
Certification 135
Educational Activity 135
Food Products 135
Materials 135
Definitions, IDAPA 02.07.01 211
Definitions, IDAPA 02.08.01 214
Accredited Veterinarian 214
Animals 214
Authorized Federal Inspector 214
Authorized State Inspector 214
Board 214
Breeding Stock 214
Brucella Ovis Test Negative 214
Brucella Ovis Test Positive 214
Brucella Ovis Test Suspect 214
Brucellosis 214
Certificate 214
Commercial Low-Risk Goats 215
Contemporary Lambing Group 215
Exposed 215
Federal Animal Health Official 215
Flock 215
Flock Plan 215
Goats Requiring Premises/Flock Identification Number 215
Idaho Premises/Flock Identification Number 215
Low Risk Commercial Sheep 215
Negative 215
Official Individual Identification 215
Post Exposure Monitoring & Management Plan 215
Premises 215
Quarantine 216
Scrapie 216
Scrapie Exposed Animal 216
Scrapie Flock Certification Program 216
Scrapie High Risk Animal 216
State Scrapie Certification Board 217
Terminal Feedlot 217
Trace 217
Definitions, IDAPA 03.01.01 3414
Champion 3414
Combatant 3414
Event 3414
Main Event 3414
Mixed Martial Arts (MMA) 3414
Stub 3414
Ticket 3414
Definitions, IDAPA 04.02.01 226
Act 226
Actions or Transactions Permitted Under Laws Administered by a Regulatory Body or Officer 226
Advertisement 226
Appropriate Trade Premises 226
Ascertainable Loss 226
Bait & Switch 226
Bona Fide Gift 226
Business Arrangement 226
Business Day 226
Buy-Down Rate 226
Clear & Conspicuous Disclosure 227
Consideration 227
Consumer 227
Consumer Credit Contract 227
Credit Card Issuer 227
Creditor 227
Dealer 227
Dealer Documentation Service Fee 227
Demonstrator Vehicle 227
Disseminate 227
Documentary Material 227
Door-to-Door Sale 227
Examination 228
Executive or Official Vehicle 228
Exempt Loan Broker 228
Financed Sale (Including Financing a Sale) 228
Free (Including Words of Similar Meaning or Import) 228
Going-Out-of-Business Sale 228
Goods 229
Information Provider 229
Leased Vehicle (Including Words of Similar Meaning or Import) 229
Loan Broker 229
Motor Vehicle (Including Words of Similar Meaning or Import) 229
Negative Option Notice Requirements 229
New Motor Vehicle (Including Words of Similar Meaning or Import) 229
Offer 229
Pay-Per-Telephone-Call Services 230
Person 230
Purchase Money Loan 230
Purchase Price 230
Pyramid or Chain Distribution Scheme 230
Regulatory Body or Officer 230
Seller 230
Send 230
Services 230
Subject to Financing Contract 230
Trade & Commerce 230
Trade Area 230
Unordered Goods or Services 231
Used Motor Vehicle (including words of similar meaning or import) 231
Verifiable Retail Value 231
Definitions, IDAPA 04.02.02 313
Advertisement (Including Words of Similar Meaning or Import) 314
Business Days 314
Clear & Conspicuous Disclosure 314
Conducting Business 314
Exempted Information Providers 314
Exempted Telephone Solicitors 314
Free (Including Words of Similar Meaning or Import) 315
Goods 315
Information Provider 315
IPTCA 315
ITSA 315
Newspaper of General Circulation 315
Offer 315
Pay-Per-Telephone-Call Service 315
Person 316
Preamble Message 316
Purchaser 316
Services 316
Telephone Directory of General Circulation 316
Telephone Solicitation 316
Telephone Solicitor 316
Verifiable Retail Value 317
Written Confirmation 317
Definitions, IDAPA 04.11.01
Administrative Code 253
Agency 253
Agency Action 253
Agency Head 253
Bulletin 253
Contested Case 253
Coordinator 253
Definitions 253
Document 254
Final Rule 254
License 254
Official Text 254
Order 254
Party 254
Pending Rule 254
Person 254
Proposed Rule 254
Provision of Law 254
Publish 254
Rule 254
Rulemaking 255
Service or Serving 255

Submitted for Review 255
Temporary Rule 255
Definitions, IDAPA 04.12.01 292
Certificate of Public Advantage 292
Cooperative Agreement 292
Health Care Provider 292
Health Care Services 292
Definitions, IDAPA 04.20.01 308
Brand Family 308
Directory 308
Nonparticipating Manufacturer 308
Participating Manufacturer 308
Qualified Escrow Fund 308
Stamping Agent 308
Definitions, IDAPA 05.01.02, Rules & Standards for Secure Juvenile Detention Centers 326
Body Cavity Search 326
Chemical Agent 326
Classification 326
Contact Visiting 326
Contraband 326
Corporal Punishment 326
Day Room/Multi-Purpose Room 326
Detention Center 326
Detention Records 326
Direct Care Staff 327
Electroshock Device 327
Emergency Care 327
Emergency Plans 327
Health Appraisal 327
Health Authority 327
Health-Trained Employee 327
Housing Unit 327
Incident Report 327
Juvenile Detention Records 327
Mechanical Restraints 327
Medical Employee 327
Medical Records 327
Pat Search 327
Perimeter Security 327
Perimeter Security Check 328
Petition for Exemption 328
Physical Intervention 328
Policy & Procedures 328
Prison Rape Elimination Act of 2003 (PREA) 328
Rated Capacity 328
Renovation 328
Rule Infraction 328
Safety Equipment 328
Secure Perimeter 328
Security Devices 328
Staffing Plan 328
Standards 328
Strip Search 329
Volunteer 329
Definitions, IDAPA 05.01.03 350
Board 350
Case Management Team 350
Case Manager 350
Classification 350
Extended Time in Custody 350
Juvenile Records 350
Juvenile Services Coordinator (JSC) 350
Definitions, IDAPA 05.01.04 355
355
Graduated Sanctions 355
Juvenile Probation Department 355
Juvenile Probation Officer 355
Probation 355
Recidivism 355
Validated Risk/Needs Assessment 355
Definitions, IDAPA 07.02.02 503
Administrator 503
Board 503
Division 503
Fixture 503
Definitions, IDAPA 07.03.01 529
Act 529
Administrator 529
Alterations or Conversions of Modular Buildings or Commercial Coaches 530
Alterations to Manufactured Homes 530
Board 530
Commercial Coach 530
Division 530
Equipment 530
Field Technical Service 530
First Purchaser 530
Insignia 530
Labeled 530
Listed 530
Listing Agency 530
Minor Alteration 531
Model 531
Running Gear 531
State Buildings 531
Substantially Prefabricated or Assembled 531
Systems Plan 531
Technical Service 532
Testing/Listing Agency 531
Transit Damage 531
Definitions, IDAPA 07.03.03 540
Administrator 540
Alterations or Conversions of Modular Buildings 540
Commercial Coach 540
Insignia 540
Technical Service 540
Definitions, IDAPA 07.03.11 545
Administrator 545
Board 545
Bond 545
Branch Office 545
Business 545
Deceptive Practice 545
Division 545
Installation 545
Installer 545
Manufactured Home 545
Manufactured Home Retailer 546
Manufactured/Mobile Home Salesman 546
Manufacturer 546
Mobile Home 546
Person 546
Principal Place of Business 546
Responsible Managing Employee (RME) 546
Used Manufactured Home or Mobile Home 546
Definitions, IDAPA 07.03.13 417
Administrator 417
Division 417
Local Jursidiction 417
Mobile Home 417
Definitions, IDAPA 07.04.02 557
Administrator 557
Division 558
Definitions, IDAPA 07.05.01 559
Administrator 559
Applicant 559
Board 559
Compiled 559
Estimated Cost 559
Financial Statement 559
Incidental Work 559
Independent Audit Report 559
Licensee 559
Qualified Individual 559
Reviewed 559
Definitions, IDAPA 07.06.01 420
Act 420
Administrator 420
Building Code 420
Code 420
Division 420
Imminent Safety Hazard 421
School Building or Building 421
Serious Safety Hazard 421
Definitions, IDAPA 07.07.01 580
Additional Definitions 580
Administrator 580
Board 580
Division 580
Definitions, IDAPA 09.01.01 594
Appeals Examiner 594
Claims for Wages Act 594
Department 594
Determination 594
Employment Security Law 594
Definitions, IDAPA 09.01.08 600
Agent 600
Employment Security Law 600
Payment in Advance 600
Public Official 600
Public Records Act 600
Definitions, IDAPA 09.01.30 606
Additional Claim 606
Average Annual Wage 606
Average Weekly Wage 606
Central Claims Office 606
Chargeability Determination 606
Claim 606
Continued Claim 606

Corporate Officer 606
Fraud Overpayment 606
Full-Time Employment 606
Initial Claim 606
Interstate Claim 607
Intrastate Claim 607
Material 607
Monetary Determination 607
New Claim 607
Nonfraud Overpayment 607
Non-Monetary Determination 607
Tolerance Amount 607
Definitions, IDAPA 09.01.35 627
Casual Labor 629
Domestic Employment 629
Exclusions From Wages 628
Tolerance Amount 627
Treatment of Limited Liability Companies 629
Wages 627
Willfully 629
Definitions, IDAPA 09.01.60 640
Department 640
Local Administrative Entity 640
One-Stop Operator 640
Service Provider 640
WIA Recipient 640
Definitions, IDAPA 09.02.01 643
Consultative Examinations 643
Interpretive Services 643
Medical Evidence of Record 643
Travel 643
Definitions, IDAPA 10.01.01 649
Definitions, IDAPA 11.02.01 704
Auction Brand Inspection 704
Auction Brand Inspection Certificate 704
Bar Brand 704
Bill of Sale 704
Board 704
Brand Card 704
Brand Inspection 704
Consignee 704
Courtesy Brand Inspection 704
Dash Brand 705
Destination 705
DOT Brands 705
Field Brand Inspection 705
Field Brand Inspection Certificate 705
Hold Order 705
Idaho Livestock Owner 705
Lifetime Certificate 705
Livestock 705
Order Buyer 705
Ownership & Transportation Certificate 705
Person 705
Release Order 705
Representative of a Licensee 706
Tally Sheet 706
Definitions, IDAPA 11.04.02 820
Authorized User 820
Breakage 820
Downlink 820
Enclosure, Enclosure-Public 820
Encryption 820
Guest, Guest Association or Simulcast Operator 820
Handle or Gross Handle 820
Horse 820
Host or Host Association 820
Hub 820
Intrastate Simulcasting Wagering 820
Racing Association 820
Satellite Transponder, Transponder 821
Simulcast Facility 820
Simulcast Service Supplier 821
Take or Takeout 821
Terminal 821
Totalizator 821
Uplink 821
Definitions, IDAPA 11.04.03 828
Admissions 828
Announcer 828
Apprentice Jockey 828
Assistant Starter 828
Authorized Agent 828
Chart Person 828
Clerk of Scales 828
Clocker 828
Concession Employee 828
Concessionaire 828
Duplicate 828
Emergency Medical Technician 828
Exercise Person 828
Groom 828
Horsemen's Bookkeeper 828
Identifier 829
Jockey 829
Jockey Agent 829
Jocks Room Custodian 829
Maintenance 829
Medical Professional 829
Mutuel Employee 829
Office Personnel 829
Official 829
Outrider 829
Owner 829
Owner/Trainer 829
Paddock Judge 829
Photographer 829
Plater 829
Pony Person 829
Racetrack 829
Racing Association 829
Racing Secretary 829
Stable Name 829
Stall Superintendent 830
Starter 830
State Veterinarian 830
Steward 830
Tote Employee 830
Track Security 830
Track Superintendent 830
Trainer 830
Valet 830
Vet Assistant 830
Veterinarian 830
Video Employee 830
Definitions, IDAPA 11.04.04 716
Act 716
Appeal 716
Burden of Proof 716
Continuance 716
De Novo Hearing 716
Disciplinary Action 716
Evidence 716
Exclusion 716
Executive Director 716
Hearing Officer 716
Horsemen's Bookkeeper 716
Licensee 716
Motions 716
Notice 716
Racing Association 716
Ruling 716
Stay 716
Steward 716
Suspension 717
Definitions, IDAPA 11.04.05
Account 838
Account Holder 838
Advance Deposit Wagering Facility 838
Advance Deposit Wagering Operator 838
Confidential Information 838
Credits 838
Debits 838
Deposit 838
Natural Person 838
Principal Residence Address 838
Proper Identification 839
Secure Personal Identification Code 839
Source Market Fee 839
Withdrawal 839
Withdrawal Slip 839
Definitions, IDAPA 11.04.05Definitions 838
Definitions, IDAPA 11.04.06 724
Appointment 724
Apprentice Jockey 724
Approval 724
Assistant Starter 724
Attendance 724
Clerk of Scales 724
Clocker 724
Commission Veterinarian 724
Complaint 724
Conditions 724
Daily Program 724
Dead Heat 724
Declaration 724
Eligibility Certificate 724
Entrance Money Records 724
Entries 724
Gate Judge 725
Horse Identifier 725

Horsemen's Bookkeeper 725
Jockey Room Custodian 725
Jockey's Room 725
Jurisdiction 725
Nerved Horses 725
Nomination 725
Objection 725
Order of Finish 725
Paddock Judge 725
Paddock Judge's List 725
Patrol Judge 725
Photo Finish 725
Placing Judge 725
Presiding State Steward 725
Protest 725
Purse 725
Race Meet 725
Racing Association 725
Racing Secretary 726
Records 726
Reports 726
Rule Off 726
Stake 726
Stalls 726
Starter 726
Starter's List 726
Definitions, IDAPA 11.04.07 845
Bookmaker 845
Breed Association 845
Breeder 845
Chemical 845
Claiming Race 845
Conditions 845
Drug 845
Entry 845
Forfeit 845
Grounds 845
Handbook 845
Horse 845
Horsemen's Agreement 845
Idaho Bred 846
Jockey 846
Meet 846
Month 846
Owner 846
Place 846
Purse Race 846
Racing Association 846
Racing Dates 846
Ruled Off 846
Starter 846
Stewards 846
Winner 846
Year 846
Definitions, IDAPA 11.04.08 738
Advanced Wagering 738
Breakage 738
Cancelled Race 738
Common Pool Wagering 738
Contest 738
Coupled Entries 738
Daily Double 738
Dead Heat 738
Exacta 738
Guest Association 738
Independent Real Time Monitoring System 738
Live Event Host 738
Minus Pool 738
Odds 738
Official Results 738
Pari-Mutuel Cash Voucher 739
Pari-Mutuel Pool Host 739
Pari-Mutuel System 739
Pari-Mutuel Ticket 739
Pari-Mutuel Wagering 739
Parlay 739
Payout 739
Pick (n) 739
Place Pool 739
Quinella 739
Quinella Double 739
Racing Association 739
Scratch 739
Scratched Horse 739
Secondary Pari-Mutuel Organization 739
Show Pool 739
Superfecta 739
Take or Takeout 739
Trifecta 740
Tri-Superfecta 740
Twin Quinella 740
Twin Trifecta 740
Voucher Identification Number 740
Wager 740
Win Pool 740
Win Three 740
Winnings 740
Definitions, IDAPA 11.04.09 778
Certificate of Registration 778
Claimant 778
Claimed 778
Claiming Race 778
Colt 778
Eligible 778
Eligible Person 778
Engagements 778
Filly 778
Gelding 778
Horse 778
Ineligible or Undisclosed Person 778
In-foal 778
Licensed Authorized Agent 778
Mare 778
Officials 778
Owner 778
Racing Association 778
Racing Secretary 779
Stable 779
Starter Allowance Race 779
Steward 779
Title 779
Transfer 779
Definitions, IDAPA 11.04.10 783
Apprentice Jockey 783
Authorized Agent 783
Chemical 783
Claiming Race 783
Dead Heat 783
Declaration 783
Disqualification 783
Engagements 783
Entry 783
Equipment 783
Forfeit 783
Foul 783
Grounds 783
Handicap 783
Horse 784
Jockey 784
Jostle 784
Maiden 784
Nomination 784
Nominator 784
Owner 784
Paddock 784
Person 784
Place 784
Post Position 784
Post Time 784
Preference System 784
Race 784
Race Day 784
Race Meet 784
Racing Association 784
Racing Interest 784
Recognized Meet 784
Ringer 785
Scratch 785
Scratch Time 785
Stake Race 785
Starter 785
Stewards 785
Straightaway Race 785
Suspension 785
Trial 785
Weight for Age 785
Year 785
Definitions, IDAPA 11.04.13 805
Chairman 805
Commissioner 805
Costs 805
Exclusion 805
License 805
Natural Person 805
Person 805
Quorum 805
Race 805
Race Days 805
Racing Association 805
Simulcast Operator 805
Definitions, IDAPA 11.04.14 809
Apprentice Jockey 809
Authorized Agent 809
Bleeder 809
Bribe 809
Chemical 809
Declaration 809
Disqualified Person 809
Drug 809

Engagement 809
Entry 809
Equipment 809
Gifts 809
Gratuities 809
Grounds 809
Horse 809
Jockey 810
Jockey Agent 810
Jockey's Fees 810
Month 810
Nerved 810
Nomination 810
Nominator 810
Overnight Race 810
Owner 810
Paddock 810
Person 810
Place 810
Race 810
Race Meet 810
Racing Association 810
Racing Colors 810
Recognized Race Meet 810
Ringer 810
Safety Equipment 810
Scratch 811
Scratch Time 811
Sound 811
Stake Race 811
Steward 811
Suspension 811
Trainer 811
Valet 811
Weight In 811
Weight Out 811
Winner 811
Year 811
Definitions, IDAPA 11.04.15 870
Alcohol 870
Applicant 870
Controlled Substance 870
Licensee 870
Person 870
Racing Association 870
Reasonable Suspicion 870
Sample 870
Suspension 870
Definitions, IDAPA 11.05.01 694
Licensed Premises 694
Multipurpose Arena 694
New Licenses 694
Partition 695
Place 695
Restaurant 695
Stock Transfer 696
Definitions, IDAPA 11.06.01 675
Civil Asset Forfeiture Reporting Form 675
Definitions, IDAPA 11.07.01 676
Definitions, IDAPA 11.07.02 678
Light Transmission 678
Luminous Reflectance 678
Own or Owning 678
Person 678
Window Tinting Films or Sunscreening Devices 678
Definitions, IDAPA 11.07.03 680
Driver 680
Limited Authorized Vehicle 680
Definitions, IDAPA 11.10.01 875
Access Agency 875
Administration of Criminal Justice 875
Associated System 875
Board 875
Criminal Justice Agency 875
Department 876
Executive Officer 876
III, Interstate Identification Index 876
ILETS, Idaho Law Enforcement Teletypewriter System 876
Interface Agency 876
Management Control Agreement 876
NCIC 2000, National Crime Information Center 876
NLETS, National Law Enforcement Telecommunication System 876
Non-Criminal Justice Agency 876
Definitions, IDAPA 11.10.02 700
Acquittal 700
Criminal Summons 700
Dismissal 700
Expunge 700
Serious Misdemeanor 700
Definitions, IDAPA 11.10.03 683
Central Registry 683
Substantially Equivalent 683
Working Days 683
Definitions, IDAPA 11.11.01 887
Act 887
Adult Felony Probation & Parole Officer 887
Adult Misdemeanor Probation Officer 887
Agency 887
Agency Head 887
Applicant 887
Basic Training Academy 888
Canine Team 888
Canine Team Evaluator 888
Challenge Examination 888
College Credit 888
Conviction 888
Correction Officer 888
Council 888
County Detention Officer 888
Crime of Deceit 888
Division Administrator 889
Emergency Communications Officer 889
Field Training 889
Full Time 889
Hearing Board 889
Hearing Officer 889
In-Service Training 889
Juvenile Corrections Direct Care Staff 889
Juvenile Detention Center 889
Juvenile Detention Officer 889
Juvenile Probation Department 889
Juvenile Probation Officer 889
Law Enforcement Certification Program 890
Law Enforcement Certification Program Facility 890
Law Enforcement Profession 890
Marine Deputy 890
Misdemeanor Probation Department 890
Part-Time Employee 890
Peace Officer 890
POST Certified Instructor 890
Program Coordinator 890
Prosecutor 890
Public Safety Answering Point (PSAP) 890
Regional Training Specialist 890
Reserve Peace Officer 890
School 890
State 891
Student 891
Temporary/Seasonal 891
Trainee 891
Definitions, IDAPA 11.13.01 686
Commercial Motor Vehicle (CMV) 686
Department 686
Highway 686
Interstate Carrier 686
Motor Carrier 686
Motor Vehicle 686
Person 686
Transportation 686
Definitions, IDAPA 12.01.04 923
Act 923
Applicant 923
Corporate Credit Union 923
Credit Union 923
Department 923
Director 923
NCUA, National Credit Union Administration 923
Definitions, IDAPA 12.01.08 936
Act 936
Administrator 936
Agent of Issuer 936
CRD, Central Registration Depository 936
Department 936
EFD 936
FINRA 936
Form 1-A 937
Form ADV 936
Form ADV-H 936
Form ADV-W 936
Form BD 936
Form BDW 936
Form BR 936
Form D 936

Form NF 937
Form S-18 937
Form U-1 937
Form U-2 937
Form U-4 937
Form U-5 937
Form U-7 937
IARD, Investment Adviser Registration Depository 937
NASAA, The North American Securities Administrators Association, Inc 937
NASD, The National Association of Securities Dealers, Inc 937
NASDAQ, The National Association of Securities Dealers Automated Quotations 937
SEC, The U.S. Securities & Exchange Commission 937
Transact Business 937
Unsolicited Order or Offer 937
USA, The Uniform Securities Act 2004 937
Definitions, IDAPA 12.01.10 929
Act 929
Application 929
Closing 929
Definitions, IDAPA 13.01.02 972
Accompanied 972
Definitions, IDAPA 13.01.03 974
Aircraft 974
Commercial Use 974
Designated Roads & Trails 974
Lands Owned or Controlled by the Department 974
Safety Zone 974
Unattended 974
Watercraft 974
Definitions, IDAPA 13.01.04 976
Authorized Corporate Representative 976
Blind Person 976
Disabled 976
Domicile 976
Eligible Property 976
Landowner 976
Permanent Disability 976
Physician 976
Resident 977
Definitions, IDAPA 13.01.07 998
Definitions, IDAPA 13.01.09
Migratory Game Birds 1032
Upland Game Birds 1032
Waterfowl 1032
Definitions, IDAPA 13.01.10 1039
Agricultural or Domestic Animals 1039
Big Game Animal 1039
Bona Fide Pet Store 1039
Commercial Wildlife Facility 1039
Commercial Wildlife Farm 1039
Not Permanently Located Within the State of Idaho 1039
Private Park 1039
Publicly Owned Zoo or Wildlife Exhibit 1039
Traveling Circus, Menagerie, or Trained Act of Wild Animals 1039
Definitions, IDAPA 13.01.12 1057
Commercial Fish & Crustacea Species 1057
Commercial Fishing 1057
Definitions, IDAPA 13.01.16 1071
Bait 1071
Public Trail 1071
Sets 1071
Definitions, IDAPA 14.01.01, Rules Of Procedure Of The Idaho Board Of Registration For Professional Geologists 3475
Geologist-in-Training 3475
Registrant 3475
Responsible Charge 3475
Responsible Position 3475
Definitions, IDAPA 15.01.01 1095
Act 1095
Aging Network 1095
Area Agency on Aging (AAA) 1095
Assessment 1095
Caregiver 1095
Client 1095
Cost Sharing Payment 1095
Department 1095
Focal Point 1095
Formal Supports 1095
Household 1095
ICOA 1095
ICOA Program Manual 1095
Impairment in Activities of Daily Living (ADL) 1095
Impairment in Instrumental Activities of Daily Living (IADL) 1096
Informal Supports 1096
Medicaid HCBS 1096
Older Americans Act (OAA) 1096
Program 1096
Program Regulations 1096
Provider 1096
Services 1096
Definitions, IDAPA 15.01.02 1099
Adult Protective Services (APS) 1099
Legal Representative 1099
Protective Action Plan (PAP) 1099
Definitions, IDAPA 15.01.03 1102
Access 1102
Affected Parties 1102
Area III 1102
Complainant 1102
Complaint Investigation/ Resolution 1102
Complaints 1102
Designation 1102
Local Ombudsman 1102
Long-Term Care Facility 1102
Non-Jurisdictional Complaints 1102
Office 1102
Resident 1102
Definitions, IDAPA 15.02.20 1108
Area Plan 1108
Contract 1108
Planning & Service Area (PSA) 1108
Definitions, IDAPA 15.02.30, Business Enterprise Program 1119
Administrator 1119
Agreement 1119
Benefits 1119
Blind Person 1119
Certified 1119
Commission 1119
Committee 1119
Contract 1119
Contract Facility 1119
Facility 1119
License 1120
Licensee 1120
Operator 1120
Permit 1120
Primary Location 1120
Probation 1120
Program 1120
Property Manager 1120
Satellite 1120
Set Aside Funds 1120
State Licensing Agency 1120
Supervisor 1120
Suspension 1120
Vendor 1120
Definitions, IDAPA 15.03.01 1133
Assessment 1133
Financial Supporter 1133
Person 1133
Definitions, IDAPA 15.04.01 1136
Administrative Leave 1136
Appeal 1136
Appellant 1136
Appointment, Limited 1136
Appointment, Permanent 1136
Appointment, Probationary 1137
Appointment, Project Exempt 1137
Base Pay 1137
Classified Service 1137
Compensation Plan 1137
Compensation Schedule 1137
Consultant 1137
Dismissal 1137
Due Process 1137
Employment History 1137
Good Cause 1137
Hay Method 1137
Hiring List 1137
Incumbent 1137
Independent Contractor 1137
Involuntary Transfer 1137
Layoff 1138
Light or Limited Duty 1138
Merit Increase 1138
Merit Increase Matrix 1138
Minimum Qualification Specialty 1138

Occasional or Sporadic Work 1138
On-Call Time 1138
Pay Line Exception 1138
Permanent Employee 1138
Promotion 1138
Reduction in Pay 1138
Register 1138
Resignation 1138
Respondent 1138
Salary Equity Increase 1138
Suspension 1138
Termination 1138
Transfer 1139
Underfill 1139
USERRA 1139
Workweek 1139
Definitions, IDAPA 15.06.01 1175
Applicant 1175
Commission 1175
Consolidated Emergency Communication Center 1175
Emergency Communications Grant Fund (ECGF) 1175
Fund 1175
Grant Cycle 1175
Local Government Agency 1175
Mediation 1175
Submission 1175
Taxing District 1175
Definitions, IDAPA 15.06.03 1192
Interoperable Communications 1192
Microwave Systems 1192
Public Safety Communications 1192
Public Safety Communications Systems 1192
Wireless Communications 1192
Definitions, IDAPA 15.06.04 1181
Participant 1181
Program 1181
Definitions, IDAPA 15.10.01 1195
Bailment 1195
Central Office 1195
Close Relative 1195
Delisting 1195
Director 1195
Distillery Distributing Station 1195
Distressed Liquor 1195
Distributing Station 1195
Division 1195
Licensee 1195
Liquor 1195
Listing (Listed) 1195
Political Office 1195
Price Quotation 1195
Product Line 1196
Promotional Samples 1196
Retail Store 1196
Samples 1196
Shortage 1196
Special Distributor (Distributor) 1196
Special Distributor Agreement (Agreement) 1196
Special Order 1196
State Store 1196
Supplier 1196
Warehouse 1196
Wine 1196
Wine Gallon 1196
Definitions, IDAPA 15.10.01, Rules of the Idaho State Liquor Division
Supplier Representative 1196
Definitions, IDAPA 16.02.01 2290
American College of Surgeons (ACS) 2290
Department 2290
Director 2290
Division 2290
EMS Agency 2290
EMS Bureau 2290
Facility 2290
Heart Attack 2291
Idaho Time Sensitive Emergency (TSE) System Council 2291
National Accrediting Body 2291
Regional Time Sensitive Emergency (TSE) Committee 2291
STEMI 2291
Stroke 2291
Time Sensitive Emergency (TSE) 2291
Trauma 2291
TSE Registry 2292
TSE System 2292
TSE-Designated Center 2292
Definitions, IDAPA 16.02.11, Immunization Requirements For Children Attending Licensed Day Care Facilities In Idaho 1313
ACIP 1313
Board 1313
Board of Medicine 1313
Child 1313
Department 1313
Director 1313
Immunization Record 1313
Initial Attendance 1313
Laboratory Proof 1313
Licensed Daycare Facility 1313
Licensed Daycare Facility Operator 1313
Licensed Health Care Professional 1313
Parent, Custodian, or Guardian 1314
Physician 1314
Physician's Representative 1314
Regulatory Authority 1314
Definitions, IDAPA 16.02.12 1318
Critical Congenital Heart Defects (CCHD) 1318
Department 1318
Dried Blood Specimen 1318
Hyperalimentation 1318
Laboratory 1318
Newborn Screening 1318
Person Responsible for Registering Birth of Child 1318
Pulse Oximetry 1318
Test Kit 1319
Definitions, IDAPA 16.02.15, Immunization Requirements For Idaho School Children 1323
ACIP 1323
Admission 1323
Child 1323
Department 1323
Immunization Record 1323
Laboratory Proof 1323
Licensed Health Care Professional 1323
Parent, Custodian, or Guardian 1323
Physician 1324
Physician's Representative 1324
Preschool 1324
Private or Parochial School 1324
Public School 1324
Regulatory Authority 1324
School Authority 1324
Definitions, IDAPA 16.02.23, Rules Governing Indoor Smoking 1344
Act 1344
Bar Within a Restaurant 1344
Bowling Alley or Center 1344
Department 1344
Director 1344
Educational Facility 1344
Enclosed 1344
Grocery Stores 1344
Hospitals 1344
Incidental Service of Food 1344
Proprietor or Person In Charge 1345
Public Means of Mass Transportation 1345
Retail Stores 1345
Tobacco Products 1345
Definitions, IDAPA 16.02.26, Rules Governing The Idaho Children's Special Health Program 2353
Applicant 2353
Care Coordinator 2353
Children's Special Health Program (CSHP) 2353
Client 2353
Department 2353
Diagnosis 2353
Division 2353
Medical Food 2353
Patient 2353
Definitions, IDAPA 16.03.02 1375
1375
Advanced Practice Registered Nurse 1375
Board 1375
Change of Ownership 1375
Department 1375
Director 1375
Director of Nursing Services (DNS) 1375
Existing Facility 1375
Governmental Unit 1375

Hospital Licensing Act 1375
Licensed Nursing Personnel 1375
Licensee 1375
Licensing Agency 1375
New Construction 1376
Person 1376
Pharmacist 1376
Physician 1376
Resident 1376
Skilled Nursing Facility (SNF) 1376
Substantial Compliance 1376
Supervising Nurse 1376
Waiver or Variance 1376
Definitions, IDAPA 16.03.05, Rules Governing Eligibility For Aid To The Aged, Blind & Disabled (AABD) 1476
AABD Cash 1476
Annuity 1476
Applicant 1476
Asset 1476
Asset Transfer for Sole Benefit 1476
Child 1476
Citizen 1476
Department 1477
Direct Deposit 1477
Electronic Benefits Transfer (EBT) 1477
Essential Person 1477
Fair Market Value 1477
Long-Term Care 1477
Medicaid 1477
Medicaid for Families With Children Rules 1477
Medical Assistance Rules 1477
Needy 1477
Non-Citizen 1477
Participant 1477
Partnership Policy 1477
Pension Funds 1477
Premium 1477
Reasonable Opportunity Period 1477
Sole Beneficiary 1477
TAFI Rules 1478
Title XIX 1478
Title XVI 1478
Title XXI 1478
Treasury Rate 1478
Working Day 1478
Definitions, IDAPA 16.03.07 1561
Definitions, IDAPA 16.03.07, Rules For Home Health Agencies
Abuse 1561
Administrator 1561
Audiologist 1561
Audit 1561
Board 1561
Branch Office 1561
Business Entity 1561
Clinical Note 1561
Clinical Record 1562
Complaint Investigation 1562
Complaint Survey 1562
Deficiency 1562
Department 1562
Directly 1562
Director 1562
Follow-Up Survey 1562
Governing Body 1562
Government Unit 1562
Grievance Procedure 1562
Group of Professional Personnel 1562
Health Care Services 1562
Home Health Agency (HHA) 1563
Homemaker/Home Health Aide 1563
Individual 1563
Licensed Practical Nurse 1563
Licensed Registered Nurse (RN) 1563
Licensing Agency 1563
Medical Equipment & Supplies 1563
Neglect 1563
Occupational Therapist 1563
Occupational Therapy Assistant 1563
Parent Unit 1563
Patient 1561
Physical Therapist 1563
Physical Therapy Assistant 1563
Physician 1563
Place of Residence 1563
Progress Note 1563
Registered Dietitian 1563
Regulation 1563
Respiratory Therapist 1564
Skilled Nursing Services 1564
Social Services 1564
Speech Therapist 1564
Summary of Care Report 1564
Supervision 1564
Under Arrangement 1564
Definitions, IDAPA 16.03.08 1578
Agency Error 1578
Applicant 1578
Assistance 1578
Caretaker Relative 1578
Department 1578
Dependent Child 1578
Good Cause 1578
Household 1578
Inadvertent Household Error (IHE) 1578
Noncustodial Parent 1578
Parent 1579
Participant 1579
Personal Responsibility Contract (PRC) 1579
Definitions, IDAPA 16.03.14, Rules & Minimum Standards For Hospitals In Idaho
Hospital 1997
Definitions, IDAPA 16.03.18 2375
Copayment (Copay) 2375
Cost-Sharing 2375
Creditable Health Insurance 2375
Department 2375
Family Income 2375
Family Size 2375
Federal Poverty Guidelines (FPG) 2375
Financially Responsible Adult 2375
Medical Assistance 2375
Participant 2375
Physician Office Visit 2375
Premium 2376
Social Security Act 2376
State 2376
Title XIX 2376
Title XXI 2376
Definitions, IDAPA 16.03.23, Rules Governing Uniform Assessments For State-Funded Clients 2087
Activities of Daily Living 2087
Client 2087
Department 2087
Instrumental Activities of Daily Living 2087
Service Plan 2087
Significant Change in Client's Condition 2087
Supported Living Services 2087
Supported Living Services Provider 2087
Uniform Assessment 2087
Definitions, IDAPA 16.04.07, Rules Governing Fees For State Hospital North 2498
Charge 2498
Cost Per Patient Day 2498
Responsible Relatives 2498
Services 2498
Third Party Payor 2498
Definitions, IDAPA 16.04.14, Rules Governing The Low Income Home Energy Assistance Program 2097
Crisis Assistance 2097
Department 2097
Federal Poverty Guidelines (FPG) 2097
Fraud 2097
Head of Participant Household. 2097
Income 2097
Participant 2097
Participant Household 2097
Primary Fuel 2097
Undocumented Resident 2097
Vendor 2097
Definitions, IDAPA 16.05.01, Use & Disclosure Of Department Records 2129
Authorization 2129
Confidential Information 2129
Consent 2129
Department 2129
Guardian Ad Litem 2129
Identifying Information 2129
Informal Representative 2129

Legal Representative 2129
Minimally Necessary 2129
Need-to-Know 2129
Psychotherapy Notes 2129
Definitions, IDAPA 16.05.03, Rules Governing Contested Case Proceedings & Declaratory Rulings 2142
Administrative Review 2142
Appellant 2142
Board 2142
Complainant 2142
Cost Report 2142
Cost Settlement 2142
Department 2142
Director 2142
Hearing Officer 2142
Intervenor 2142
IPV 2142
Managed Care Entity (MCE) 2142
Party 2143
Youth Empowerment Services (YES) Program Participant 2143
Definitions, IDAPA 16.05.04, Rules Of The Idaho Council On Domestic Violence & Victim Assistance Grant Funding 2156
Conflict of Interest 2156
Contract 2157
Council 2157
Department 2157
Domestic Violence 2157
Family or Household Member 2157
Region(s) 2157
Definitions, IDAPA 16.06.05, Rules Governing Alleged Medical Neglect Of Handicapped Infants 2177
Central Office 2177
Department 2177
Director 2177
Family & Children's Services (FACS) 2177
Field Office 2177
Infant 2177
Infant - Extremely Premature 2177
Reasonable Medical Judgment 2177
Regional Office 2178
Withholding of Medically Indicated Treatment 2178
Definitions, IDAPA 16.06.13, Rules Governing Emergency Assistance For Families & Children 2203
Adult Relatives 2203
Authorization Assessment 2203
Child 2203
Child Protection Services 2203
Department 2203
Designated Staff 2203
Destitution 2203
Emergency Assistance 2203
Federal Poverty Guideline 2203
Needy Family 2203
Respite Care 2203
Service Period 2204
Youth 2204
Definitions, IDAPA 16.06.14, Rules Governing The Prevention Of Minors' Access To Tobacco Products 2234
Business 2234
Delivery Sale 2234
Delivery Service 2234
Department 2234
Direct Sale 2234
Distribute 2234
Effective Training 2234
Evidence of Effective Training 2235
Location 2235
Minor 2235
Permit 2235
Permit Endorsement 2235
Permittee 2235
Photographic Identification 2235
Purchaser 2235
Random Unannounced Inspection 2235
Retail Sales Minor Exempt Permit 2235
Seller 2235
Tobacco Product 2235
Vending Machine 2236
Vendor Assisted Sales 2236
Violation 2236
Without a Permit 2236
Definitions, IDAPA 17.11.01 2682
Definitions, IDAPA 18.01.09 2735
Annuity 2735
FINRA 2735
Recommendation 2735
Replacement 2735
Suitability Information 2736
Definitions, IDAPA 18.01.10, Producers Handling of Fiduciary Funds 2901
Cash Collateral 2901
Fiduciary Fund Account 2901
Fiduciary Funds 2901
Receive 2901
Definitions, IDAPA 18.01.16, Variable Contracts 2745
Agent 2745
Satisfactory Alternative Examination 2745
Variable Contract Agent 2745
Variable Contracts 2745
Definitions, IDAPA 18.01.19, Insurance Rates & Credit Rating 2729
Consumer Report 2729
Credit Factor 2729
Noncredit Factor 2729
Weight 2729
Definitions, IDAPA 18.01.46 2927
1983 GAM Table 2927
1983 Table 'a' 2927
1994 GAR Table 2927
2012 Individual Annuity Mortality Period Life (2012 IAM Period) Table 2927
2012 Individual Annuity Reserving (2012 IAR) Table 2927
Annuity 2000 Mortality Table 2927
Generational Mortality Table 2927
Period Table 2927
Projection Scale G2 (Scale G2) 2927
Definitions, IDAPA 18.01.47, Valuation Of Life Insurance Policies Including The Introduction & Use Of New Select Mortality Factors 2931
Basic Reserves 2931
Contract Segmentation Method 2931
CSO Valuation Tables, 1980 2932
Deficiency Reserves 2932
Guaranteed Gross Premiums 2932
Maximum Valuation Interest Rates 2932
Scheduled Gross Premium 2932
Segmented Reserves 2933
Tabular Cost of Insurance 2933
Ten Year Select Factors 2933
Unitary Reserves 2933
Universal Life Insurance Policy 2934
Definitions, IDAPA 18.02.02 2731
Non-Payment of Premium 2731
Sixty Day Period 2731
The Act 2731
Definitions, IDAPA 18.04.01 2761
URAC 2761
Definitions, IDAPA 18.04.03 2766
Advertisement 2766
Exception 2766
Insurer 2766
Limitation 2767
Policy 2766
Reduction 2766
Definitions, IDAPA 18.04.04 2772
Balance Billing 2772
MCO 2772
MCO Provider 2772
Definitions, IDAPA 18.04.05 2775
All Contributions to Be Paid in Advance 2775
Deposited in & Disbursed from a Trust Fund 2775
Definitions, IDAPA 18.04.11 2814
Exceptional Increase 2814
Incidental 2814
Qualified Actuary 2814
Definitions, IDAPA 20.03.16 3213
Board 3213
Collateral Surety Bond & Corporate Surety Bond 3213
Commission 3213
Department 3213
Director 3213
Discretion 3213
Exploration 3213
Final Board Approval 3213
Lease 3214
Legal Subdivision 3214

Lessee 3214
Lessor 3214
Motorized Exploration Equipment 3214
Natural Gas Plant Liquids 3214
Oil & Gas 3214
Person 3214
Production in Paying Quantities 3214
State Lands 3214
Tract 3214
Definitions, IDAPA 20.03.17 3226
Artificial High Water Mark 3226
Board 3226
Commercial Marina 3226
Commercial Navigational Encroachment 3226
Community Dock 3226
Department 3226
Director 3226
Dock Surface Area 3226
Encroachment in Aid of Navigation 3226
Encroachments Not in Aid of Navigation 3226
Formerly Submerged Lands 3227
Market Value 3227
Natural or Ordinary High Water Mark 3227
Person 3227
Riparian or Littoral Rights 3227
Single Family Dock 3227
Submerged Lands 3227
Two-Family Dock 3227
Uplands 3227
Definitions, IDAPA 20.04.01 3082
Block 3082
Cable or Cable Assisted Logging 3082
Closed Fire Season 3082
Department 3082
Director 3082
District 3082
Fire Warden 3082
Forest Land 3082
Forest Operation 3082
Metal-Tracked Harvester 3083
Operating Area 3083
Operator 3083
Person 3083
Range Land 3083
Slash 3083
State 3083
Definitions, IDAPA 20.04.02, Rules Pertaining To The Idaho Forestry Act & Fire Hazard Reduction Laws 3234
Agreement 3234
Contract Area 3234
Contractor 3234
Department 3234
Director 3234
District 3234
Fire Line 3234
Fire Warden 3234
Fuel 3234
Fuel Break 3234
Hazard Reduction 3234
Initial Purchaser or Purchaser 3234
Operational Period 3234
Slash Load 3234
Slash or Slashing 3234
State 3234
Definitions, IDAPA 20.06.02 3244
Board 3244
Check Scaling 3244
Combination Log 3244
Complainant 3244
Complaint 3244
Cubic Volume 3244
Decimal "C" 3244
Gross Scale 3244
Informal Hearing 3244
Log Brands 3244
Net Scale 3244
Official Seal 3244
Prize Logs 3245
Product Classification 3245
Purchaser 3245
Relicense Check Scale 3245
Requested Check Scale 3245
Respondent 3245
Routine Check Scale 3245
Temporary Permit Check Scale 3245
Written Scaling Specifications 3245
Definitions, IDAPA 20.07.02 3255
Act 3255
Active Well 3255
Barrel 3255
Blowout 3255
Blowout Preventer 3255
Bonus Payment 3255
Casing Pressure 3255
Casinghead 3255
Casinghead Gas 3255
Common Source of Supply 3255
Completion 3256
Conductor Pipe 3256
Cubic Foot of Gas 3256
Day 3256
Development 3256
Director 3256
Drilling Logs 3256
Fresh Water 3256
Gas Processing Facility 3256
Gas Well 3256
Gas-Oil Ratio 3256
Geophysical or Seismic Operations 3256
Hydraulic Fracturing, or Fracing 3256
Inactive Well 3257
Intermediate Casing 3257
Junk 3257
Lease 3257
Mechanical Integrity Test 3257
Oil Well 3257
Pit 3257
Pollution 3257
Pressure Maintenance 3257
Produced Water 3257
Production Casing 3257
Proppant 3257
Release 3257
Spud 3257
Surface Casing 3257
Surface Water 3257
Systems Approach 3257
Tank 3257
Tank Battery 3258
Tank Dike 3258
Tubing 3258
Volatile Organic Compound 3258
Waterflooding 3258
Well Report 3258
Well Site 3258
Well Treatment 3258
Wildcat Well 3258
Definitions, IDAPA 21.01.01 3299
Applicant 3299
Asset 3299
Bona Fide Resident 3299
Commission 3299
Division 3299
Division Administrator 3299
Home 3300
Home Administrator 3300
Idaho State Veterans Home 3300
Income 3300
Legal Dependents 3300
Liquid Assets 3300
Maintenance Charge 3300
Net Income 3300
Resident 3300
Spouse 3300
VA, United States Department of Veterans Affairs 3300
Veteran 3300
Definitions, IDAPA 21.01.04 3320
Administrator 3320
Applicant 3320
Armed Forces Member 3320
Cemetery 3320
Committal Service 3320
Cremains 3320
Designated Interpretive Trail 3320
Disinterment 3320
Division 3320
Interment 3320
Qualified Person 3320
Reinterment 3321
Unremarried Spouse 3321
USDVA 3321
Definitions, IDAPA 21.01.06 3293
Definitions Generally 3293
Petitioner 3293
Preference 3293
Presiding Officer 3293
Public Employer Executive 3293
Definitions, IDAPA 22.01.01 3333
Acceptable International School of

Medicine 3333
Educational Commission for Foreign Medical Graduates (ECFMG) 3333
Federation of State Medical Boards of the United States (FSMB) 3333
Medical Practice Act 3333
Definitions, IDAPA 22.01.03 3344
Approved Program 3344
Delegation of Services (DOS) Agreement 3344
Supervision 3344
Definitions, IDAPA 22.01.10 3347
Actively Engaged 3347
Association 3347
Athletic Training Service Plan or Protocol 3347
Definitions, IDAPA 22.01.11 3350
Board of Registered Polysomnographic Technologists 3350
Comprehensive Registry Exam 3350
Conditional Permit 3350
Medical Practice Act 3350
Written Registry & Clinical Simulation Examinations 3350
Definitions, IDAPA 23.01.01 3356
Abandonment 3356
Accreditation 3356
Administration of Medications 3356
Approval 3357
Assist 3357
Assistance With Medications 3357
Board Staff 3357
Charge Nurse 3357
Clinical Preceptor 3357
Competence 3357
Curriculum 3357
Delegation 3357
Disability 3357
Emeritus License 3357
License in Good Standing 3357
Licensing Examination 3357
Nursing Assessment 3357
Nursing Diagnosis 3357
Nursing Intervention 3357
Nursing Jurisdiction 3357
Nursing Service Administrator 3357
Organized Program of Study 3358
Patient Education 3358
Patient/Client 3358
Plan of Care 3358
Practice Standards 3358
Probation 3358
Protocols 3358
Restricted License 3358
Revocation 3358
Scope of Practice 3358
Supervision 3358
Suspension 3358
Technician/Technologist 3358
Unlicensed Assistive Personnel (UAP) 3358
Definitions, IDAPA 24.01.01 3406
AXP 3406
Direct Supervision 3406
NAAB 3406
NCARB 3406
Definitions, IDAPA 24.05.01 3483
Class I Restricted License 3483
DEQ 3483
Direct Supervision 3483
Endorsement 3483
EPA 3483
Experience 3483
On-Site Operating Experience 3483
Operating Personnel 3483
Person 3483
Responsible Charge Operator 3483
Substitute or Back-Up Responsible Charge Operator 3483
Very Small Public Drinking Water System 3483
Very Small Wastewater System 3483
Definitions, IDAPA 24.06.01 3500
Client-Related Tasks 3500
Direct Line-of-Sight Supervision 3500
Direct Supervision 3500
Evaluation 3500
General Supervision 3500
Routine Supervision 3500
Definitions, IDAPA 24.10.01 3533
Low Vision 3533
Opticianry 3533
Vision Therapy 3533
Definitions, IDAPA 24.11.01 3544
Licensure 3544
Reputable School 3544
Definitions, IDAPA 24.12.01 3550
Certificate of Professional Qualification 3550
Collaboration or Collaborative Relationship 3550
Geriatric Patient 3550
Licensed Medical Provider 3550
Mental, Nervous, Emotional, Behavioral, Substance Abuse & Cognitive Disorders 3550
Pediatric Patient 3550
Prescribing Psychologist 3550
Supervising Physician 3550
Definitions, IDAPA 24.13.01 3572
Direct Personal Supervision 3573
Direct Supervision 3573
Dry Needling 3573
Examination 3574
Functional Mobility Training 3573
General Supervision 3573
Manual Therapy 3573
Nationally Accredited School 3574
Non-Treatment Patient Related Tasks 3572
Physical Agents or Modalities 3573
Physical Therapist Assistant 3572
Routine Physical Therapy Tasks 3572
Supervising Physical Therapist 3573
Supportive Personnel 3572
Testing 3572
Definitions, IDAPA 24.14.01 3585
Professionalism 3585
Psychotherapy 3585
Relative 3585
Supportive Counseling 3585
Definitions, IDAPA 24.15.01 3598
Accredited University or College 3598
Face-to-face Setting 3598
Licensed Mental Health Professional Supervisor 3598
Practicum 3598
Supplemental Practicum Hours 3598
Definitions, IDAPA 24.16.01 3611
Denturist Services 3611
Definitions, IDAPA 24.17.01 3621
Accredited College or University 3621
Approved Acupuncture Program 3621
License 3621
Practitioner 3621
Definitions, IDAPA 24.18.01 3629
Accredited 3629
Advisory Committee 3629
Appraisal Management Company or AMC 3630
Appraisal Standards Board 3629
Appraiser Qualifications Board 3629
Classroom Hour 3629
Field Real Estate Appraisal Experience 3629
FIRREA, Financial Institutions Reform, Recovery & Enforcement Act 3629
Real Estate 3629
Real Property 3629
Residential Unit 3629
Uniform Standards of Professional Appraisal Practice or USPAP 3630
USPAP Course 3630
Definitions, IDAPA 24.20.01 3648
Address of Record 3648
Board 3648
Complaint 3648
Formal Complaint 3648
Hearing Officer 3648
Licensee 3648
Mailing Address 3648
Representative of the Board 3648
Definitions, IDAPA 24.23.01 3662
Audiology Support Personnel 3662
Direct Client Contact 3662
Dual Licensure 3662
Definitions, IDAPA 25.01.01 3754
Act 3754

Authorized Person 3754
Booking Agent 3754
Compensation or Consideration 3754
Desert 3754
Designated Agent 3754
Enforcement Agent 3754
Facilities & Services 3754
First Aid Card 3755
Fishing 3755
Float Boats 3755
Hazardous Excursions 3755
Hunting 3755
Major Activity 3755
Major Amendment 3755
Minor Amendment 3755
Minor or Incidental Activity 3755
Mountainous 3756
New Opportunity 3756
Operating Area 3756
Operating Plan 3756
Outfitted Tag Use 3756
Out-of-Pocket Costs 3756
Power Boats 3756
Relinquishment of License Privileges 3756
Third Party Agreement 3756
Trainee 3756
Watercraft 3757
Definitions, IDAPA 26.01.10 3826
Board 3826
Department & IDPR 3826
Director 3826
Grantee 3826
Grantor 3826
Park Manager 3826
Person 3826
Temporary Permit 3826
Definitions, IDAPA 26.01.20 3831
ADA Accessible Facilities 3831
ADA Campsites & Facilities 3831
Annual Motor Vehicle Entrance Fee 3831
Annual Motor Vehicle Entrance Fee Replacement 3831
Board 3831
Camping Day 3832
Camping Unit 3831
Campsite 3832
Day Use 3832
Department 3832
Designated Beach 3832
Designated Roads & Trails 3832
Director 3832
Dock & Boating Facility 3832
Encroachments 3832
Extra Vehicle 3832
Facilities 3833
Group Use 3833
Idaho State Parks Passport 3833
Idaho State Parks Passport Replacement 3833
Motor Vehicle Entrance Fee (MVEF) 3833
Motorized Vehicle 3833
Overnight Use 3833
Overnight Use Fee 3833
Park or Program Manager 3833
Primary Season 3834
Recreational Vehicle (RV) 3833
Serviced Amenities 3833
Standard Amenities 3833
Vessel 3834
Vessel Length 3834
Definitions, IDAPA 26.01.21 3790
Board 3790
Department 3790
Director 3790
Lease 3790
Lease Payment 3790
Lessee 3790
Lessor 3790
Recreational Residence Site 3790
Definitions, IDAPA 26.01.22 3792
Agreement 3792
Cooperating Association 3792
Department 3792
Director 3792
State Park Facility 3792
Definitions, IDAPA 26.01.24 3794
Applicant 3794
Board 3794
Department 3794
Director 3794
Park & Recreation Fund 3794
Project 3794
Sawtooth National Recreation Area (SNRA) Special Plate Fund 3794
Definitions, IDAPA 26.01.30 3797
Duly Constituted Water Ski School 3797
Lifeboat 3797
Motorboat 3797
Other Definitions 3798
Sailboard 3797
Sailboat 3797
Tender 3797
Watercraft 3797
Whistle or Horn 3797
Definitions, IDAPA 26.01.31 3811
Applicant 3811
Board 3811
County Waterways Committee 3811
Cutthroat License Plate Fund (CLP) 3811
Department 3811
Director 3811
Grant 3811
Grantee 3811
IDPR Grant Guidelines 3811
Management 3811
Motorbike Recreation (MBR) Account 3811
Off-Road Motor Vehicle (ORMV) Account 3811
Off-Road Motor Vehicle (ORMV) Account Advisory Committee 3812
Project 3812
Project Manager 3812
Public Entity 3812
Recreational Road & Bridge Fund (RRBF) 3812
Recreational Trails Program (RTP) 3812
Recreational Trails Program (RTP) Advisory Committee 3812
Recreational Vehicle (RV) Account 3812
Recreational Vehicle (RV) Advisory Committee 3812
Staff 3812
State & Federal Grant Manager 3812
State & Federal Grant Program 3812
State Trust for Outdoor Recreation Enhancement (STORE) 3812
Waterways Improvement Fund (WIF) 3812
Waterways Improvement Fund Grant Advisory Committee 3812
Definitions, IDAPA 26.01.33 3847
Acquisition 3847
Board 3847
Development 3847
Director 3847
Evaluation Committee 3847
Grants Program 3847
IDPR 3847
LWCF 3847
NPS 3847
Open Project Selection Process (OPSP) 3847
Participation Manual & Internal Procedures Manuals 3847
Planning 3847
Priority Needs Assessment 3847
Project 3848
Retroactive Cost 3848
Scope Element 3848
SCORP/SCORTP 3848
Sponsor 3848
State Liaison Officer (SLO) 3848
Definitions, IDAPA 26.01.34 3820
Commercial Outfitters 3820
Department 3820
Fund 3820
Idaho Invasive Species Act 3820
Motorized Vessel 3820
Non-Motorized Vessel 3820
Protection Against Invasive Species Sticker 3820
Validation Sticker 3820
Definitions, IDAPA 26.01.37 3822
All Terrain Vehicle (ATV) 3822
A-Weighting Scale 3822
Calibrator 3822
CC, Cubic Centimeters 3822
Db or Decibel 3822
Off Highway Vehicle (OHV) 3822
Operator 3822
Red-Line Speed 3822

Revolutions Per Minute (RPM) 3822
Sound Level Meter 3822
Tachometer 3822
Definitions, IDAPA 28.02.03 3890
Department 3890
Definitions, IDAPA 29.01.02 3904
Primary Channel of Trade 3904
Definitions, IDAPA 30.01.01 3917
Academic Library 3917
Board 3917
Commission 3917
Library Clientele 3917
Library Consortia 3917
Public Library 3917
School Library 3917
Special Library 3918
Definitions, IDAPA 31.01.01, Rules Of Procedure Of The Idaho Public Utilities Commission 3924
Definitions, IDAPA 31.11.01 3972
Serious Damage 3972
Serious Interruption of Service 3972
Utilities 3972
Definitions, IDAPA 31.12.01 3976
Definitions, IDAPA 31.21.01 3978
Applicant 3978
Customer 3978
Utility 3978
Definitions, IDAPA 31.26.01 3996
Electric Utility 3996
Master-Metering 3996
Tenant--Mobile Home Park 3996
Tenant--Multi-Unit Residential or Commercial Building 3996
Definitions, IDAPA 31.31.01 3998
Definitions, IDAPA 31.36.01 4001
Definitions, IDAPA 31.41.01 4002
Customer 4002
Local Exchange Company (LEC) 4002
Message Telecommunications Service (MTS) 4002
Other Services 4002
Residential Service 4002
Small Business Telephone Service 4002
Telephone Company 4003
Definitions, IDAPA 31.46.01 4022
Basic Local Exchange Rate 4022
Basic Local Exchange Service 4022
Business Telephone Service 4022
Local Exchange Company (LEC) 4022
Local Exchange Service 4022
Message Telecommunication Service (MTS) 4022
MTS/WATS Company 4022
Residential Customer 4022
Residential Telephone Service 4022
Residual Revenue Requirement 4023
Small Business Customer 4023
Telecommunication Service 4023
Telephone Corporation 4023
WATS 4023
Definitions, IDAPA 31.46.02 4034
American Sign Language (ASL) 4034
ASCII 4034
Baudot 4034
Communications Assistant (CA) 4034
Hearing Carry Over (HCO) 4034
Telecommunications Relay Services (TRS) 4034
Text Telephone (TT) 4034
Universal Service Fund (USF) 4034
Voice Carry Over (VCO) 4034
Definitions, IDAPA 31.61.01 4041
Adequate Remediation 4041
Ampere 4041
Commission 4041
Cow Contact Points 4041
Equipotential Plane (EPP) 4041
Preventive Action Level (PAL) 4041
Primary System 4042
Secondary System 4042
Service Provider 4042
Shunt Resistor 4042
Source Resistance 4042
Steady State 4042
Stray Current or Voltage 4042
Tests, Measurements, Procedures & Analysis 4042
Transient 4042
Utility 4043
Definitions, IDAPA 33.81.01 4074
Commission 4074
Consumption Reports 4074
Department 4074
Energy Suppliers 4074
Geographic Areas 4074
Irrigation Customer 4074
Irrigation Season 4075
Service Location 4075
Definitions, IDAPA 34.02.02 4088
Complainant 4088
Respondent 4088
Title III 4088
Definitions, IDAPA 34.04.02 4095
Arabic Numerals 4095
Business Entity 4095
Business Entity Identifiers 4095
English Alphabet 4095
Internet Prefix 4095
Internet Suffix 4095
Key Word 4095
Special Characters 4095
Definitions, IDAPA 34.05.01 4106
Crop Year 4106
Farm Products Financing Statement 4106
Item on a Master List or Portion of a Master List 4106
PML Grouping 4106
Definitions, IDAPA 34.05.02 4117
Family 4117
Farm Laborer 4117
Notice of Claim of Lien 4117
SOS, Idaho Secretary of State 4117
Definitions, IDAPA 34.05.03 4120
Debtor 4120
EFS 4120
Notice of Federal Lien 4120
Notice of Lien in Crops 4120
Notices 4120
Secured Party 4120
SOS 4120
UCCFS 4120
Definitions, IDAPA 34.05.05 4099
IRS 4099
SOS 4099
Definitions, IDAPA 34.05.06 4122
Amendment 4122
Assignment 4122
Continuation 4122
Correction Statement 4122
File Number 4122
Filing Office & Filing Officer 4122
Financing Statement 4122
Individual 4122
Initial Financing Statement 4122
Organization 4122
Remitter 4122
Secured Party of Record 4123
Termination 4123
UCC Document 4123
UCC, Uniform Commercial Code 4123
Definitions, IDAPA 34.06.01 4100
Delivery Agent 4100
Document 4100
Electronic Document 4100
Electronic Document Delivery System 4100
Electronic Recording 4100
Electronic Signature 4100
Participating Recorder 4100
PDF (Portable Document Format) 4101
Submitter 4101
TIFF (Tagged Image File Format) 4101
XML (Extensible Markup Language) 4101
Definitions, IDAPA 35.01.01 4142
Administration & Enforcement Rules 4142
Due Date 4142
Employee 4142
Employer 4143
Mathematical Error 4143
Sale 4143
Tax Home 4143
Terms 4143
These Rules 4143
Wages 4143
Definitions, IDAPA 35.01.05 4533
Commercial Motor Boat 4533
Indian-Owned Retail Outlet 4533

Pay, Paid, Payable or Payment 4534
Definitions, IDAPA 35.01.06 4553
Campground 4553
Hotel or Motel 4553
Definitions, IDAPA 35.01.07 4558
Idaho Customer 4558
Point of Delivery 4558
These Rules 4558
Wheeling Agent 4558
Definitions, IDAPA 35.01.08, Mine License Tax Administrative Rules 4561
Valuable Mineral 4561
Definitions, IDAPA 35.01.09 4564
Disposition 4564
Taxpayer 4564
Wine Direct Shipper 4564
Definitions, IDAPA 35.01.10 4569
Distributor 4569
Manufacturer 4569
Person 4569
Definitions, IDAPA 35.02.01 4578
Date of Filing or Payment 4578
Pay, Paid, Payable or Payment 4579
Return or Tax Return 4579
Tax Commission 4579
Definitions, IDAPA 36.01.01 4609
Appellant 4609
Board 4609
Case File 4609
Comparable Sales 4609
De Novo 4609
Ex Parte 4609
Parcel 4609
Party 4609
Presiding Officer or Hearing Officer 4609
Respondent 4609
Subject Property 4609
Substantive Issue 4609
Definitions, IDAPA 37.01.01 4656
Administrative Code 4656
Agency 4656
Agency Action 4656
Agency Head 4656
Board 4656
Bulletin 4656
Contested Case 4656
Coordinator 4656
Department 4656
Director 4656
Document 4656
Electronically Signed Communication 4656
License 4657
Official Text 4657
Order 4657
Party 4657
Person 4657
Provision of Law 4657
Publish 4657
Rule 4657
Rulemaking 4657
Signer 4657
Definitions, IDAPA 37.02.01 4625
Alteration 4625
Board 4625
Comprehensive State Water Plan 4625
Director 4625
Dredge or Placer Mining 4625
Hydropower Project 4625
Interim Protected River 4625
Natural River 4625
Protected River 4625
Publicize 4625
Recreational River 4626
Riparian Area 4626
State Agency 4626
Stream Bed 4626
Waterway 4626
Definitions, IDAPA 37.02.03 4684
Board 4684
Board's Water Supply Bank 4684
Department 4684
Director 4684
Lease 4684
Local Committee 4684
Natural Flow 4684
Person 4684
Rent 4684
Rental Pool 4684
Stored Water 4684
Water Right 4684
Water Supply Bank 4684
Year 4684
Definitions, IDAPA 37.02.04 4631
Acre Foot 4631
Agreement 4631
Annual 4631
Bank 4631
Beneficial Use 4631
Bureau 4631
Chairperson 4631
Committee 4631
Council 4631
IDWR 4631
IWRB 4631
Rent 4631
Rental Pool 4632
Renter 4632
Reservation 4632
Reservation Watermaster 4632
Snake River Watermaster 4632
Tribal Stored Water 4632
Tribal Water Engineer 4632
Tribes 4632
Definitions, IDAPA 37.03.01 4690
Amendment Fee 4690
Aquaculture 4690
Aquaculture Fee 4690
Claim 4690
Department 4690
Director 4690
Domestic Use 4690
Flat Fee 4690
Late Fee 4690
Per Acre Fee 4690
Per CFS Fee 4690
Per Kilowatt Fee 4690
State Law Claim Form 4690
Stock Watering Use 4690
Total Fee 4690
Variable Fee 4690
Water Delivery Organization 4691
Water Delivery System 4691
Definitions, IDAPA 37.03.02 4698
Acre-Foot (AF) 4698
Acre-Foot/Annum 4698
Amendment 4698
Capacity Measurement 4698
Certified Water Right Examiner 4698
Conveyance Works 4699
Cubic Foot Per Second (CFS) 4699
Department 4699
Director 4699
Duty of Water 4699
Examination or Field Examination 4699
Field Report 4699
Headworks or Diversion Works 4699
Legal Subdivision 4699
License 4699
License Examination Fee 4699
Measuring Device 4699
Nature of Use 4699
Period of Use 4699
Permit Holder or Owner 4699
Permit or Water Right Permit 4699
Place of Use (P.U. or POU) 4700
Point of Diversion (P.D. or POD) 4700
Project Works 4700
Proof of Beneficial Use 4700
Source 4700
Definitions, IDAPA 37.03.03 4708
Abandoned Well 4708
Abandonment 4708
Agricultural Runoff Waste 4708
Applicant 4708
Application 4708
Aquifer 4708
Beneficial Use 4709
Best Management Practice (BMP) 4709
Casing 4709
Cementing 4709
Cesspool 4709
Coliform Bacteria 4709
Confining Bed 4709
Construct 4709
Contaminant 4709
Contamination 4709
Conventional Mine 4709
Decommission 4709
Deep Injection Well 4709
Department 4710
DEQ 4709
Director 4710
Disposal Well 4710

Draft Permit 4710
Drilling Fluid 4710
Drywell 4710
Endangerment 4710
Exempted Aquifer 4710
Existing Injection Well 4710
Experimental Technology 4710
Facility or Activity 4710
Fault 4710
Flow Rate 4710
Fluid 4710
Formation 4710
Generator 4710
Ground Water 4710
Ground Water Quality Standards 4710
Hazardous Waste 4711
Improved Sinkhole 4711
Indian Lands 4711
Individual Subsurface Sewage Disposal System 4711
Injection 4711
Injection Well 4711
Injection Zone 4711
IWRB 4711
Large Capacity Cesspools 4711
Large Capacity Septic System 4711
Maintain 4711
Modify 4712
Motor Vehicle Waste Injection Wells 4712
New Injection Well 4712
Open-Loop Heat Pump Return Wells 4712
Operate 4712
Operator 4712
Owner 4712
Packer 4712
Perched Aquifer 4712
Permanent Decommission 4712
Permit 4712
Person 4712
Point of Beneficial Use 4712
Point of Diversion for Beneficial Use 4712
Point of Injection 4712
Pressure 4712
Radioactive Material 4712
Radioactive Waste 4713
RCRA 4713
Remediation Project 4713
Residential (Domestic) Activities 4713
Sanitary Waste 4713
Schedule of Compliance 4713
Septic System 4713
Shallow Injection Well 4713
Site 4713
State 4713
Stratum (plural strata) 4713
Subsidence 4713
Subsurface Fluid Distribution System 4713
UIC, Underground Injection Control 4713
Unauthorized Decommission 4713
Underground Injection 4713
Underground Source of Drinking Water (USDW) 4713
Unreasonable Contamination 4714
Water Quality Standards 4714
Well 4714
Definitions, IDAPA 37.03.04 4730
Applicant 4730
Board 4730
BOPE 4730
Completion 4730
Conductor Pipe 4730
Department 4730
Director 4730
Drilling Logs 4730
Drilling Operations 4730
Exploratory Well 4730
Geothermal Area 4730
Geothermal Field 4730
Geothermal Resource 4731
Injection Well 4731
Intermediate String or Casing 4731
Material Medium 4731
Notice of Intent or Notice 4731
Observation Well 4731
Operator 4731
Owner 4731
Permit 4731
Person 4731
Production String 4731
Production Well 4731
Surface Casing 4731
Suspension of Operations 4731
Waste 4731
Well 4732
Definitions, IDAPA 37.03.05 4741
Alterations, Repairs or Either of Them 4742
Board 4741
Borrowed Fill Embankment 4741
Certificate of Approval 4742
Days Used in Establishing Deadlines 4742
Department 4741
Director 4741
Engineer 4742
Enlargement 4742
Mine Tailings Impoundment Structure 4741
Mine Tailings Slurry 4741
Mine Tailings Storage Capacity 4741
Owner 4741
Reservoir 4741
Definitions, IDAPA 37.03.06
Active Storage 4751
Alterations, Repairs or Either of Them 4751
Appurtenant Structures 4751
Board 4751
Certificate of Approval 4751
Dam 4751
Days Used in Establishing Deadlines 4752
Dead Storage 4752
Department 4752
Department Jurisdiction 4752
Design Evaluation 4752
Director 4752
Engineer 4752
Enlargement 4752
Factor of Safety 4752
Flood Surcharge 4752
Inflow Design Flood (IDF) 4752
Intermediate Dams 4751
Large Dams 4752
Maximum Credible Earthquake 4752
Operation Plan 4753
Owner 4753
Release Capability 4753
Reservoir 4753
Small Dams 4751
Storage Capacity 4753
Water Storage Elevation 4753
Definitions, IDAPA 37.03.06, Safety Of Dams Rules 4751
Definitions, IDAPA 37.03.07 4766
Alteration 4766
Applicant 4766
Base Flood Elevation 4767
Board 4766
Continuously Flowing Water 4766
Department 4766
Director 4766
Drop Structures, Sills & Barbs 4766
Mean High Water Mark 4766
Non-Powered Sluice Equipment 4766
Plans 4766
Repair 4766
Stream Channel 4767
Definitions, IDAPA 37.03.08 4789
Acre-Foot (AF) 4789
Advertisement 4789
Applicant 4789
Application for Permit 4789
Beneficial Use 4789
Board 4789
Cubic Foot Per Second (CFS) 4789
DCMI 4789
Department 4790
Director 4790
Legal Subdivision 4790
Permit or Water Right Permit 4790
Priority, or Priority of Appropriation, or Priority Date 4790
Project Works 4790
Single Family Domestic Purposes 4790
Subordinated Water Right 4790
Trust Water 4790
Unappropriated Water 4790
Definitions, IDAPA 37.03.09 4810
Annular Space 4810
Approved Seal or Seal

Material 4810
Aquifer 4810
Area of Drilling Concern 4810
Artesian Water 4810
Artificial Gravel Pack 4810
Bentonite 4810
Board 4811
Bore Diameter 4811
Borehole (also Well Bore) 4811
Bottom Hole Temperature of an Existing or Proposed Well 4811
Casing 4811
Cathodic Protection Well 4811
Closed Loop Heat Exchange Well 4811
Conductor Pipe 4811
Confining Layer 4811
Consolidated Formations 4811
Contaminant 4811
Contamination 4811
Decommissioned (Abandoned) Well 4812
Decontamination 4812
Department 4812
Dewatering Well 4812
Director 4812
Disinfection 4812
Draw Down 4812
Drive Point (also known as a Sand Point) 4812
Exploratory Well 4812
Global Positioning System (GPS) 4812
Hydraulic Conductivity 4812
Hydraulic Fracturing 4812
Injection Well 4812
Intermediate String or Casing 4813
Liner 4813
Mineralized Water 4813
Modify 4813
Monitoring Well 4813
Neat Cement 4813
Neat Cement Grout 4813
Oxidized Sediments 4813
Perforated Well Casing 4813
Pitless Adaptor or Pitless Unit 4813
Potable Water 4813
Pressure Grouting (Grouting) 4813
Production String 4813
Public Water System 4814
Reduced Sediments 4814
Remediation Well 4814
Sand 4814
Screen (Well Screen) 4814
Seal or Sealing 4814
Start Card 4814
Static Water Level 4814
Surface Casing 4814
Temporary Surface Casing 4814
Thermoplastic/PVC Casing 4814
Transmissivity 4814
Tremie Pipe 4815
Unconfined Aquifer 4815
Unconsolidated Formation 4815
Unstable Unit 4815
Unusable Well 4815
Waiver 4815
Waste 4815
Water Table 4815
Well 4815
Well Development 4815
Well Driller or Driller 4816
Well Drilling or Drilling 4816
Well Owner 4816
Well Rig (Drill Rig) 4816
Definitions, IDAPA 37.03.10 4846
Abandonment 4846
Adequate Supervision 4846
Applicant 4846
Area of Drilling Concern 4846
Auxiliary Equipment 4846
Board 4846
Bond 4846
Bottom Hole Temperature of an Existing or Proposed Well 4846
Company 4846
Compliance History 4846
Continuing Education 4846
Continuing Education Committee (CEC) 4847
Credit Unit 4847
Critical Phases of Well Drilling 4847
Decommissioned (Abandoned) Well 4847
Department 4847
Director 4847
Drilling or Well Drilling 4847
Drilling Permit 4847
Drilling Site 4847
Global Positioning System (GPS) 4847
License 4847
Licensed Driller 4847
Modify 4847
Operator 4847
Operator's Permit 4847
Principal Driller 4847
Responsible Charge 4848
Start Card 4848
Well 4848
Well Construction Standards 4848
Well Driller's Report or Driller's Report 4848
Well Log 4848
Well Rig or Drill Rig 4848
Definitions, IDAPA 37.03.11 4635
Area Having a Common Ground Water Supply 4635
Artificial Ground Water Recharge 4635
Conjunctive Management 4635
Delivery Call 4635
Department 4635
Director 4635
Full Economic Development of Underground Water Resources 4635
Futile Call 4635
Ground Water 4636
Ground Water Management Area 4635
Holder of a Water Right 4636
Idaho Law 4636
Junior-Priority 4636
Material Injury 4636
Mitigation Plan 4636
Person 4636
Petitioner 4636
Reasonable Ground Water Pumping Level 4636
Reasonably Anticipated Average Rate of Future Natural Recharge 4636
Respondent 4636
Senior-Priority 4636
Surface Water 4636
Water District 4636
Water Right 4636
Watermaster 4636
Definitions, IDAPA 37.03.12 4646
2-B Gage 4646
Acre-Foot (AF) 4646
Acre-Foot Per Year (AFY) 4646
Arco Gage 4646
Cubic Foot Per Second (CFS) 4646
Delivery Call 4646
Director 4646
Eastside Canal 4646
Holder of a Water Right 4646
Howell Gage 4646
Rotation Credit 4646
Small Domestic & Stock Water Uses 4646
Storage Water 4646
Watermaster 4646
Definitions, IDAPA 38.04.04 4909
Capitol Mall 4909
Capitol Mall Employee 4909
Carpool 4909
Employee with a Disability 4909
Executive Branch Departments 4909
Facilities Services 4909
General Parking 4909
Legislative Personnel 4909
Legislator 4909
Reserved Parking 4909
State Elected Officials 4909
Temporary Contract Employee 4909
Visitor 4910
Definitions, IDAPA 38.04.06 4860
Camping 4860
Capitol Annex 4860
Capitol Mall Office Properties 4860
Commemorative Installation 4860
Department 4860
Director 4860
Multi-Agency Facilities 4860
Other State Properties 4860
Parking Facilities 4860

Private Event or Private Exhibit 4860
Public Use 4860
Security Personnel 4861
State Events & Exhibits 4861
State Facilities 4861
State Maintenance & Improvements 4861
Definitions, IDAPA 38.04.08 4872
Camping 4872
Commemorative Installation 4872
Department 4872
Director 4872
Jefferson Steps 4872
Permit 4872
Private Event or Private Exhibit 4872
Public Use 4872
Security Personnel 4872
State Business Day 4872
State Capitol Exterior 4872
State Events & Exhibits 4873
State Maintenance & Improvements 4873
Definitions, IDAPA 38.04.09 4880
Camping 4880
Chinden Office Complex 4880
Commemorative Installation 4880
Common Space 4880
Department 4880
Director 4880
Private Event or Private Exhibit 4881
Public Use 4881
Recreational Facilities 4881
Recreational Use 4881
Security Personnel 4881
State Business Day 4881
State Events & Exhibits 4881
State Maintenance & Improvements 4881
Tenant 4881
Tenant Space 4881
Definitions, IDAPA 38.05.01 4887
Alternate 4887
Brand Name or Equal Specification 4887
Brand Name Specification 4887
Buyer 4887
Competitive Negotiation 4887
Concession Services 4887
Consultant Services 4887
Contract Administration 4887
Contract Management 4887
Division 4887
Document 4888
Equal 4888
Formal Sealed Procedure 4888
Informal Solicitation 4888
Invitation to Bid 4888
Invitation to Negotiate 4888
Offeror 4888
Professional Services 4888
Proposal 4888
Public Agency 4888
Purchase Order 4888
Purchasing Activity or Authority 4888
Quote 4888
Request for Proposals 4888
Request for Quote 4888
Requisition 4889
Sealed 4889
Sealed Procedure Limit 4889
Small Purchase 4889
State 4889
Telecommunications 4889
Written 4889
Definitions, IDAPA 39.02.01 4919
Finished Vehicle 4919
MCO/MSO 4919
Motor Home 4919
New Vehicle 4919
Used Vehicle 4919
Definitions, IDAPA 39.02.22 5084
Combination of Vehicles 5084
Customer 5084
Insufficient Funds (ISF) 5084
Non-Reducible Load 5084
Probable Cause 5084
Quarterly Report 5084
Registrant 5084
Revocation of Registration 5084
Road Use Fee 5084
Suspension of Registration 5084
Third-Party Checks 5084
Definitions, IDAPA 39.02.26, Rules Governing Temporary Vehicle Clearance For Carriers 5090
Carrier 5090
Temporary Vehicle Clearance (TVC) 5090
Definitions, IDAPA 39.02.27 4926
Established Place of Business 4926
Idaho Trucking Company 4926
Lessee 4926
Lessor 4926
Non-Resident Owner-Operator 4926
Transient Farm Labor Vehicles 4926
Definitions, IDAPA 39.02.72 4940
Business Days 4940
Certified Copy 4940
Duplicate Original 4940
Evidentiary Test 4940
Petitioner 4940
Received by the Department 4940
Definitions, IDAPA 39.02.76 4948
CDL 4948
Class D Driver's License 4948
Expiration Date 4948
Photo License 4948
Definitions, IDAPA 39.02.80 4950
Common Carrier 4950
Contract Carrier 4950
Environmental Restoration 4950
Hazardous Material 4950
Injury 4950
Interstate Carrier 4950
Private Carrier 4950
Property Damage 4950
Definitions, IDAPA 39.03.01 4953
Accessories 4953
Administrative Cost 4953
Analysis 4953
Annual 4953
Automobile Transporter 4953
Base Width 4953
Boat Transporter 4953
Cargo Unit 4953
Convoy 4953
Department 4953
Designated Agent 4953
Dromedary Tractor 4953
Economic Hardship 4953
Emergency Movement 4953
Escort Vehicle 4953
Excess Weight 4953
Extra-Length 4954
Extra-Ordinary Hazard 4954
Farm Tractor 4954
Gross Vehicle Weight 4954
Heavily Loaded 4954
Heavy Duty Wrecker Truck 4954
Height 4954
Implement of Husbandry 4954
Incidentally Operated 4954
Legal 4954
Length 4954
Light Truck 4954
Longer Combination Vehicle (LCV) 4954
Manufactured Home 4954
Mobile Home 4954
Modular Buildings 4954
Non-Reducible 4955
Office Trailer 4955
Off-Tracking 4955
Overall Combination Length 4955
Overall Length 4955
Overdimensional 4955
Overheight 4955
Overlength 4955
Oversize 4955
Overweight 4955
Overwidth 4955
Pilot Vehicle 4955
Reducible Load 4955
Single Axle 4955
Special Permit 4956
Steering Axle 4956
Stinger-Steered 4956
Tandem Axle 4956
Tridem Axle 4956
Variable Load Suspension Axle 4956
Vocational Vehicle 4956
Width 4956
Definitions, IDAPA 39.03.02 4957
Definitions, IDAPA 39.03.03 5105
Definitions, IDAPA 39.03.04 4960

Definitions, IDAPA 39.03.05 4968
Definitions, IDAPA 39.03.06 4978
Definitions, IDAPA 39.03.07 4983
Definitions, IDAPA 39.03.08 4984
Snow Removal Equipment 4984
Definitions, IDAPA 39.03.40 4985
Abandoned Junkyard 4985
Acceptable Fencing Materials 4985
Acceptable Planting Materials 4985
Destroyed Junkyard 4985
Discontinued Junkyard 4985
Industrial Activities 4985
Junkyard 4985
Non-Conforming Junkyard 4985
Screening 4986
Unzoned Industrial Area 4986
Definitions, IDAPA 39.03.42 4998
Access 4998
ADT, Average Daily Traffic 4998
Applicant 4998
Appraisal 4998
Approach 4998
Approach Flare 4998
Approach Skew Angle 4998
Approach Transition 4998
Approach Width 4998
Authorized Representative 4998
Auxiliary Lane 4998
Board 4999
Border Area 4999
Boulevard Approach 4999
Capacity 4999
Clear Zone 4999
Commercial Approach 4999
Conduit 4999
Construction 4999
Corner Clearance 4999
Department 4999
Distance Between Approaches 4999
District 4999
District Engineer 4999
District Route 4999
Economic Opportunity 4999
Emergency 4999
Encroachment 4999
Encroachment Permit 4999
Farming 5000
FHWA, Federal Highway Administration 5000
Fiber Optic Cable 5000
Field Approach 5000
Flare Tangent Distance 5000
Frontage Boundary Line 5000
Frontage Road 5000
Full Control of Access 5000
Government Agency 5000
Highway Right-of-Way 5000
Interstate Highway 5000
Joint-Use Approach 5000
Landscaping 5000
Loaded Payroll Rate 5001
Local Highway Agency 5001
Local Road 5001
Median 5001
Median Opening 5001
MUTCD, Manual on Uniform Traffic Control Devices 5001
Non-Standard Approach 5001
Performance Bond 5001
Permittee 5001
Private Approach 5001
Property Line Clearance 5001
Public Approach 5001
Public Highway 5001
Public Highway Agency 5001
Regional Route 5001
Roadside 5001
Roadway 5001
Rural 5002
Setback 5002
Shall/Will, Should, May 4998
Shoulder 5002
Signal Spacing 5002
Slope 5002
Speed 5002
State Highway System 5002
Statewide Route 5002
Stopping Sight Distance 5002
Structure 5002
Subdivision 5002
Temporary Encroachment 5002
Traffic 5002
Traffic Control Device 5002
Traffic Impact Study 5002
Transitional 5002
Travel Lane 5003
Traveled Way 5003
Trenching 5003
Turnouts 5003
Unauthorized Encroachment 5003
Urban State Highway 5003
Utility Facility 5003
Utility Locating Service 5003
Vehicle 5003
Vision Triangle 5003
Volume 5003
Warrant 5003
Working Day 5003
Definitions, IDAPA 39.03.47, Rules Governing Certification Of Local Improved Road Mileage 5022
Definitions, IDAPA 39.03.49 5024
Alcohol 5024
Breath Alcohol Concentration (BAC) 5024
Certification 5024
Court (Or Originating Court) 5024
Department 5024
Device 5024
Independent Testing Laboratory 5024
Interlock 5024
Lessee 5024
Manufacturer or Manufacturer's Representative 5024
Definitions, IDAPA 39.03.60 5033
Commercial or Industrial Activities 5033
Commercial or Industrial Zones 5033
Erect 5034
Grandfather Sign 5034
Illegal Sign 5034
Main Traveled Way 5035
Multiple Message Sign (MMS) 5035
Nonconforming Sign 5035
Sign Face 5036
Sign Structure 5036
Transient or Temporary Activity 5036
Unzoned Commercial or Industrial Area 5036
Urban Areas 5037
Visible 5037
Definitions, IDAPA 39.03.61 Official Signs & Notices 5035
Definitions, IDAPA 39.03.65, Rules Governing Traffic Minute Entries 5047
Definitions, IDAPA 39.03.80 5049
Legalization 5049
Perishable Commodity 5049
Place of Weighing 5049
Safe Point of Legalization 5049
Safely Legalized 5049
Travel Authorization 5049
Definitions, IDAPA 39.03.81 5051
Combination of Vehicles 5051
First Available Location 5051
Increased Registered Weight Temporary Permit 5051
Licensed Vehicle 5051
One Hundred Twenty Hour Temporary Permit 5051
Single Vehicle 5051
Vendor 5051
Definitions, IDAPA 40.01.01 5116
Applicant 5116
Commission 5116
Program 5116
Program Guidelines 5116
Recipient 5116
Definitions, IDAPA 41.01.01 5122
Board 5122
Code 5122
Floathouse 5122
Health Officer 5122
Public Sewage Treatment Facility 5122
Variance 5122
Definitions, IDAPA 48.01.01 5187
Definitions, IDAPA 50.01.01 5189
Absconder 5189
Case Manager 5189
Commission 5189
Commission Warrant 5189
Commissioner 5189
Commutation 5189
Concurrent Sentence 5189
Conditions of Parole 5189
Confidential 5189

Consecutive Sentence 5189
Decision 5189
Detainer 5189
Determinate Sentence 5189
Dispositional Hearing 5189
DOR, Disciplinary Offense Report 5189
Escape 5190
Executive Session 5190
File or Case Review 5190
Full Term Release Date 5190
Hearing 5190
Hearing Officer 5190
Hearing Session 5190
Indeterminate Sentence 5190
Member or Members 5190
NCIC, National Crime Information Center 5190
Non Technical Violation 5190
Offender 5190
On-Site Parole Violation Hearing 5190
Open Parole Date 5190
Pardon 5190
Parole 5190
Parole Eligibility Date 5190
Parole Hearing Interview 5190
Parole Violation Hearing 5191
Parolee 5191
Preliminary Hearing 5191
Reprieve 5191
Risk Assessment 5191
Self-Initiated Parole Reconsideration (SIPR) 5191
Session 5191
Supervising Authority 5191
Technical Violation 5191
Definitions, IDAPA 52.01.02
Disposable Paper Bingo Card 5248
Distributor 5248
Duck Race 5248
Electronic Bingo Device 5248
Electronic Gaming Devices 5248
Gaming 5248
Gross Revenues 5248
Hard Bingo Cards 5248
Host System 5248
Instant Bingo 5248
License 5248
Licensed Game Operator 5248
Licensed Vendor 5249
Manufacturer 5249
Net Proceeds of a Charitable Raffle 5249
Nonprofit Organization 5249
Organization 5249
Raffle 5249
Reusable Bingo Cards 5249
Separate Bank Account 5249
Session 5249
Site System 5249
Tracking 5249
U-Pick Ems 5249
Vendor 5249
Definitions, IDAPA 52.01.03 - Subchapter C 5246
Audit 5246
Autodaubing Features or Autodaubing 5246
Bingo 5247
Bingo-Raffle Advisory Board or Board 5247
Blackout 5247
Bonanza 5247
Charitable Contribution Acknowledgement Report Form or CCARF 5247
Charitable Donation Reporting Form 5247
Charitable Organization 5248
Charitable Purpose 5248
Concessions 5248
Definitions, IDAPA 53.01.01 5266
Definitions, IDAPA 54.02.01 5269
Account Balance Limit on Contributions 5269
Account Owner 5269
Earnings 5269
Program 5269
Program Documents 5269
Rollover Distribution 5269
Definitions, IDAPA 54.03.01 5271
Credit Memo 5271
Return & Tax 5271
Definitions, IDAPA 58.01.02
Activity 5298
Acute 5298
Acute Criteria 5298
Aquatic Species 5298
Background 5299
Basin Advisory Group 5299
Beneficial Use 5299
Best Management Practice 5299
Bioaccumulation 5299
Bioaccumulative Pollutants 5299
Biological Monitoring or Biomonitoring 5299
Board 5299
Chronic 5299
Chronic Criteria 5299
Daily Maximum (Minimum) 5300
Daily Mean 5300
Degradation or Lower Water Quality 5300
Deleterious Material 5300
Department 5300
Design Flow 5300
Designated Agency 5300
Designated Beneficial Use or Designated Use 5300
Desirable Species 5300
Director 5300
Discharge 5300
Dissolved Oxygen (DO) 5301
Dissolved Product 5301
Dynamic Model 5301
E. coli (Escherichia coli) 5301
Effluent 5301
Effluent Biomonitoring 5301
EPA 5301
Ephemeral Waters 5301
Existing Beneficial Use or Existing Use 5301
Four Day Average 5301
Free Product 5301
Full Protection, Full Support, or Full Maintenance of Designated Beneficial Uses of Water 5301
General Permit 5301
Geometric Mean 5301
Harmonic Mean 5302
Hazardous Material 5302
Hydrologic Unit Code (HUC) 5302
Hydrologically-Based Design Flow 5302
Hypolimnion 5302
Inter-Departmental Coordination 5302
Intermittent Waters 5302
Load Allocation (LA) 5302
Loading Capacity 5302
Lowest Observed Effect Concentration (LOEC) 5302
Man-Made Waterways 5302
Milligrams Per Liter (MG/L) 5303
Mixing Zone 5303
National Pollutant Discharge Elimination System (NPDES) 5303
Nephelometric Turbidity Units (NTU) 5303
Nonpoint Source Activities 5303
Nuisance 5304
Nutrients 5304
One Day Minimum 5304
One Hour Average 5304
Operator 5304
Outstanding Resource Water (ORW) 5304
Person 5304
Petroleum Products 5304
Petroleum Storage Tank (PST) System 5304
Point Source 5304
Pollutant 5304
Project Plans 5305
Public Swimming Beaches 5305
Receiving Waters 5305
Reference Stream or Condition 5305
Release 5305
Resident Species 5305
Responsible Persons in Charge 5305
Sediment 5305
Seven Day Mean 5305
Sewage 5306
Short-Term or Temporary Activity 5306
Silviculture 5306
Specialized Best Management Practices 5306

State 5306
State Water Quality Management Plan 5306
Suspended Sediment 5306
Technology-Based Effluent Limitation 5306
Thermal Shock 5306
Total Maximum Daily Load (TMDL) 5306
Toxic Substance 5306
Toxicity Test 5306
Treatment 5307
Treatment System 5307
Twenty-Four Hour Average 5307
Unique Ecological Significance 5307
Use Attainability Analysis 5307
Wasteload Allocation (WLA) 5307
Wastewater 5307
Water Body Unit 5307
Water Pollution 5307
Water Quality Limited Water Body 5307
Water Quality-Based Effluent Limitation 5307
Waters & Waters of the State 5307
Watershed 5307
Watershed Advisory Group 5308
Whole-Effluent Toxicity 5308
Zone of Initial Dilution (ZID) 5308
Definitions, IDAPA 58.01.05 5613
Board 5613
CFR 5613
Department 5613
Director 5613
Environmental Appeals Board 5613
HWFSA, Hazardous Waste Facility Siting Act 5613
HWMA, Hazardous Waste Management Act 5614
IDAPA, The Idaho Administrative Procedures Act 5614
RCRA, The Resource Conservation & Recovery Act 5614
Regional Administrator 5614
TSD, Treatment, Storage or Disposal 5614
U.S. Environmental Protection Agency or EPA 5613
United States or U.S 5614
Definitions, IDAPA 58.01.06 5625
Active Portion 5625
Backyard Composting 5625
Beneficial Use 5625
Commercial Solid Waste Facility 5625
Composting Facility 5625
Conditionally Exempt Small Quantity Generator (CESQG) Hazardous Waste 5625
Conditionally Exempt Small Quantity Generator (CESQG) Management Facility 5625
Contamination 5625
Degradation 5626
Department 5626
Director 5626
Disposal 5626
Existing Facility 5626
Facility 5626
Garbage 5626
Ground Water 5626
Household Waste 5627
Incinerator 5627
Inert Waste 5627
Landfill 5627
Leachate 5627
Lift 5627
Modification 5627
Municipal Solid Waste Landfill Unit (MSWLF) 5627
Non-Municipal Solid Waste (NMSW) 5627
Non-Municipal Solid Waste Landfill (NMSWLF) 5627
Open Burning 5627
Operator 5628
Owner 5628
Person 5628
Point of Compliance 5628
Processing Facility 5628
Projected Waste Volume 5628
Pumpable Waste 5628
Qualified Professional, Geologist or Engineer 5628
Recyclables 5628
Recycling 5628
Recycling Center 5628
Salvage 5628
Scavenge 5628
Septage 5628
Site 5628
Site Size 5629
Solid Waste 5629
Speculative Accumulation 5629
Storm Water 5629
Surface Water 5629
Tipping Floor 5629
Toxic Leachate or Gas 5629
Transfer Station 5629
Wood or Mill Yard Debris Facility 5629
Yard Waste 5629
Definitions, IDAPA 58.01.07 5658
Board 5658
Community Water System 5658
Department 5658
Director 5658
EPA 5658
Existing 5658
Installation of a New Motor Fuel Dispenser System 5659
Installer 5659
New Underground Storage Tank 5659
Non-Community Water System 5659
Piping 5659
Potable Drinking Water Well 5659
Product Deliverer 5659
Public Water System 5659
Red Tag 5659
Replace 5659
Under-Dispenser Spill Containment 5660
Definitions, IDAPA 58.01.08 5671
Action Level 5671
Administrator 5672
Annual Samples 5672
Annular Opening 5672
Aquifer 5672
Average Day Demand 5672
Backflow 5672
Bag Filters 5672
Bank Filtration 5672
Board 5672
Capacity 5672
Cartridge Filters 5673
Clean Compliance History 5673
Combined Distribution System 5673
Community Water System 5673
Components of Finished Water Storage 5673
Composite Correction Program (CCP) 5673
Composting of Samples 5674
Confining Layer 5674
Confirmation Sample 5674
Connection 5674
Consecutive System 5674
Consumer 5674
Consumer Confidence Report (CCR) 5674
Contaminant 5674
Cross Connection 5674
Dead End Main 5674
Dead Storage 5674
Department 5674
Direct Integrity Test (DIT) 5675
Director 5674
Disinfection 5675
Disinfection Profile 5675
Distribution System 5675
Drinking Water 5675
Drinking Water System 5675
Dual Sample Set 5675
Effective Contact Time 5675
Effective Storage 5675
Enhanced Coagulation 5675
Enhanced Softening 5675
Equalization Storage 5675
Equivalent Dwelling Unit (EDU) 5675
Exemption 5676
Facility Plan 5676
Facility Standards & Design Standards 5676
Fee Assessment 5676
Filter Profile 5676
Filtrate 5676
Finished Water 5676

Finished Water Storage Structures or Facilities 5676
Fire Flow Capacity 5676
Fire Suppression Storage 5676
Fixture Protection 5677
Flowing Stream 5677
Flux 5677
Ground Water System 5677
Ground Water Under The Direct Influence of Surface Water (GWUDI) 5677
Haloacetic Acids (Five) (HAA5) 5677
Health Hazards 5677
Indirect Integrity Monitoring 5677
Inorganic 5677
Internal or In-Plant Isolation 5677
Lake/Reservoir 5677
Level 1 Assessment 5677
Level 2 Assessment 5677
License 5678
Locational Running Annual Average (LRAA) 5678
Log 5678
Log Removal Value (LRV) 5678
Material Deviation 5678
Material Modification 5678
Maximum Contaminant Level (MCL) 5678
Maximum Day Demand 5678
Maximum Pumping Capacity 5678
Maximum Residual Disinfectant Level (MRDL) 5678
Maximum Residual Disinfectant Level Goal (MRDLG) 5679
Membrane Filtration 5679
Membrane Unit 5679
Method Detection Limit (MDL) 5679
Microfiltration (MF) 5679
Module 5679
Nanofiltration (NF) 5679
New System 5679
Noncommunity Water System 5679
Non-Potable Fluids 5679
Non-Potable Mains 5679
Non-Potable Services or Lines 5679
Nontransient Noncommunity Water System 5679
Operating Shift 5680
Operation & Maintenance Manual 5680
Operational Storage 5680
Operations Plan 5680
Owner/Purveyor of Water/Supplier of Water 5680
Peak Hour Demand 5680
Person 5680
Pesticides 5680
Plant 5680
Plant Design Capacity 5680
Point of Use (POU) Treatment Device 5680
Point of Use (POU) Treatment System 5680
Potable Mains 5680
Potable Services 5680
Potable Water 5680
Preliminary Engineering Report 5681
Premises Isolation or Containment 5681
Presedimentation 5681
Protected Water Source 5681
Public Drinking Water System 5681
Public Notice 5681
Public Water System/Water System/ System 5681
Pump House 5681
Qualified Licensed Professional Engineer (QLPE) 5681
Quasi-Municipal Corporation 5682
Raw Water 5682
Redundancy 5682
Regulated Public Utility 5682
Repeat Compliance Period 5682
Resolution 5682
Responsible Charge (RC) 5682
Responsible Charge Operator 5682
Reverse Osmosis (RO) 5682
Reviewing Authority 5682
Sampling Point 5682
Sanitary Defect 5682
Sanitary Survey 5682
SDWIS-State, Safe Drinking Water Information System-State Version 5683
Seasonal System 5683
Sensitivity 5683
Sewage 5683
Significant Deficiency 5683
Simple Water Main Extension 5683
Special Irrigation District 5683
Spring 5683
Standby Storage 5683
Substantially Modified 5683
Substitute Responsible Charge Operator 5684
Surface Water System 5684
Total Organic Carbon (TOC) 5684
Total Trihalomethanes (TTHM) 5684
Transient Noncommunity Water System 5684
Treatment Facility 5684
Turbidity 5684
Ultrafiltration (UF) 5684
Ultraviolet (UV) Light Technology 5684
Unregulated Contaminant 5684
Use Assessment 5684
UV Transmittance (UVT) 5684
Variance 5684
Very Small Public Drinking Water System 5684
Volatile Organic Chemicals (VOCS) 5685
Vulnerability Assessment 5685
Waiver 5685
Wastewater 5685
Water Demand 5685
Water For Human Consumption 5685
Water Main 5685
Watershed 5685
Wholesale System 5685
Definitions, IDAPA 58.01.10 5499
Accelerator-Produced Radioactive Material 5499
Board 5499
Byproduct Material 5499
Department 5499
Exempt Quantities & Concentrations of Byproduct Materials 5499
Naturally Occurring Radioactive Material (NORM) 5499
Operator 5499
Owner 5499
Person 5499
Radioactive Material 5500
Reasonably Maximally Exposed Individual 5500
Source Material 5500
Special Nuclear Material 5500
Technologically Enhanced Naturally Occurring Radioactive Material (TENORM) 5500
Unimportant Quantities of Source Material 5500
Definitions, IDAPA 58.01.12 5803
Applicant 5803
Best Management Practice 5803
Board 5803
Categorical Exclusion (CE) 5803
Close or Closing 5804
Collector Sewer 5804
Construction 5804
Department 5804
Director 5804
Disadvantaged Community 5804
Disadvantaged Loans 5804
Eligible Costs 5804
Environmental Impact Statement (EIS) 5804
Environmental Information Document (EID) 5804
Financial Management System 5804
Finding of No Significant Impact (FONSI) 5804
Handbook 5804
Implementation Plan 5804
Ineligible Costs 5805
Interceptor Sewer 5805
Loan Recipient 5805
National Pollutant Discharge Elimination System 5805
Nondomestic Wastewater 5805
Nonpoint Source Pollution 5805
Nonpoint Source Project Sponsor 5805
Operation & Maintenance Manual 5805

Plan of Operation 5805
Planning Document 5805
Point Source 5805
Pollutant 5805
Priority List 5805
Rehabilitation 5805
Reserve Capacity 5805
Sewer Use Ordinance/Sewer Use Resolution 5806
State 5806
Supplemental Grants 5806
Suspension 5806
Sustainability 5806
Termination 5806
User Charge System 5806
Wastewater 5806
Wastewater Treatment Facility 5806
Water Pollution Control Project 5806
Definitions, IDAPA 58.01.13 5821
Beneficial Use 5821
Best Management Practices (BMPs) 5821
Cyanidation 5821
Cyanidation Facility 5821
Department 5822
Director 5822
Discharge 5822
Groundwater 5822
Impoundment 5822
Land Application 5822
Liner 5822
Material Modification or Material Expansion 5822
Material Stabilization 5822
National Pollution Discharge Elimination System (NPDES) Permit 5822
Neutralization 5822
Permanent Closure 5822
Permanent Closure Plan 5822
Permit 5823
Permittee 5823
Person 5823
Pilot Facility 5823
Pollutant 5823
Post-Closure 5823
Process Waters 5823
Seasonal Closure 5823
Small Cyanidation Processing Facility 5823
Special Resource Water 5823
State 5824
Temporary Closure 5824
Treatment 5824
Water Balance 5824
Water Management Plan 5824
Waters of the State 5824
Weak Acid Dissociable (WAD) Cyanide 5824
Definitions, IDAPA 58.01.14 5844
Board 5844
Department 5844
Director 5844
Definitions, IDAPA 58.01.16 5505
Adequate Emergency Storage Capacity 5505
Available 5505
Average Day Flow 5505
Beneficial Use 5505
Biochemical Oxygen Demand (BOD) 5505
Blackwaste 5505
Blackwater 5505
Board 5505
Capacity 5505
Class A Effluent 5506
Class A Effluent Distribution System 5506
Collection System 5506
Compliance Schedule or Compliance Agreement Schedule 5506
Department 5506
Design Flow 5506
Designated Beneficial Use or Designated Use 5506
Director 5506
Discharge 5506
Disinfection 5506
Disposal Facility 5506
Effluent 5506
Environmental Review 5506
EPA, The United States Environmental Protection Agency 5507
Equivalent Dwelling Unit (EDU) 5507
Facility & Design Standards 5507
Facility Plan 5507
Geometric Mean 5507
Gray Water 5507
Ground Water 5507
Industrial Wastewater 5507
Land Application 5507
License 5507
Major Wastewater Collection System Project 5507
Material Deviation 5507
Material Modification 5507
Maximum Day Flow 5507
Maximum Month Flow 5508
Mixing Zone 5508
Municipal Wastewater 5508
National Pollutant Discharge Elimination System (NPDES) 5508
Natural Background Conditions 5508
Non-Contact Cooling Water 5508
Non-Potable Mains 5508
Non-Potable Services 5508
Nuisance 5508
Nutrients 5508
Operating Personnel 5508
Owner 5508
Peak Hour Flow 5508
Peak Instantaneous Flow 5508
Person 5509
Point Source 5509
Pollutant 5509
Potable Mains 5509
Potable Service 5509
Potable Water 5509
Preliminary Engineering Report 5509
Primary Treatment 5509
Private Municipal Wastewater Treatment Plant 5509
Public Wastewater System or Wastewater System 5509
Qualified Licensed Professional Engineer (QLPE) 5509
Quasi-Municipal Corporation 5510
Reasonably Accessible 5510
Receiving Waters 5510
Recharge 5510
Recharge Water 5510
Redundancy 5510
Reliability 5510
Responsible Charge (RC) 5510
Responsible Charge Operator 5510
Reuse 5510
Reviewing Authority 5511
Sanitary Sewer Extension 5511
Secondary Treatment 5511
Septage 5511
Septage Transfer Station 5511
Sewage 5511
Simple Wastewater Main Extension 5511
Sludge 5511
Special Resource Water 5511
State 5511
Substitute Responsible Charge Operator 5511
Surface Water Body 5511
Total Maximum Daily Load (TMDL) 5511
Treatment 5512
Treatment Facility 5512
User 5512
Very Small Wastewater System 5512
Wastewater 5512
Wastewater Flows 5512
Wastewater Lagoon 5512
Wastewater Pipelines 5513
Wastewater Pumping Station 5513
Wastewater System Operator 5513
Water Main Extension 5513
Water Pollution 5513
Waters & Waters of the State 5513
Watershed 5513
Definitions, IDAPA 58.01.18
Act 5847
Applicant 5847
Board 5847
Department 5847
Director 5847
Hazardous Substance 5847
Natural Background Level 5847
Person 5847

Petroleum 5847
Release 5848
Remediation 5848
Site 5848
Definitions, IDAPA 58.01.21 5563
Air Pollution Emission Data 5563
CAA 5564
CFR 5564
DEQ 5564
EPA 5564
RCRA 5564
Trade Secret 5564
Trade Secret Claim 5564
Definitions, IDAPA 58.01.22 5569
Applicant 5569
Board 5569
Categorical Exclusion (CE) 5569
Community Water System 5569
Contaminant 5569
Department 5569
Director 5569
Distribution System 5569
Eligible Costs 5569
Environmental Impact Statement (EIS) 5569
Environmental Information Document (EID) 5569
Financial Capability 5569
Finding of No Significant Impact (FNSI) 5569
Grant Recipient 5569
Handbook 5570
Ineligible Costs 5570
Managerial Capability 5570
Maximum Contaminant Level (MCL) 5570
Noncommunity Water System 5570
Nonprofit Noncommunity Water System 5570
Nontransient Noncommunity Water System 5570
Person 5570
Priority List 5570
Public Drinking Water System/Public Water System/Water System 5570
Qualifying Entity 5570
Rehabilitation 5570
Reserve Capacity 5570
State 5570
Suspension 5571
Sustainability 5571
Technical Capability 5571
Termination 5571
Water Treatment Plant 5571
Definitions, IDAPA 58.01.23
Aggrieved Person or Person Aggrieved 5581
Board 5581
Contested Case 5581
Declaratory Ruling 5581
Department or DEQ 5581
Director 5581
Hearing Coordinator 5581
Hearing Officer 5581
Idaho Administrative Bulletin 5582
Order 5582
Party 5582
Person 5582
Petition 5582
Pleadings 5582
Presiding Officer(s) 5582
Definitions, IDAPA 58.01.24
Acceptable Target Hazard Index 5602
Acceptable Target Hazard Quotient 5602
Acceptable Target Risk Level 5602
Activity & Use Limitations 5602
Background 5602
Board 5602
Corrective Action Plan 5602
Delineated Source Water Protection Area 5602
Department 5603
Environmental Covenant 5603
Exposure Point Concentration 5603
Hazard Quotient 5603
Method Detection Limit 5603
Operator 5603
Owner 5603
Person 5603
Petroleum 5603
Petroleum Storage Tank (PST) System 5603
Practical Quantitation Limit 5603
Reasonable Maximum Exposure 5603
Reference Dose 5603
Release 5604
Remediation Standard 5604
Residential Use 5604
Risk Based Concentration 5604
Risk Evaluation 5604
Screening Level 5604
Slope Factor 5604
Uniform Environmental Covenant Act (UECA) 5604
Definitions, IDAPA 58.01.25 5879
Animal Feeding Operation 5879
Applicable Standards & Limitations 5879
Application 5879
Approved Program or Approved State 5879
Aquaculture Project 5879
Average Monthly Discharge Limitation 5879
Average Weekly Discharge Limitation 5879
Background 5879
Best Management Practices (BMPs) 5880
Biochemical Oxygen Demand (BOD) 5880
Biological Monitoring or Biomonitoring 5880
Bypass 5880
Chemical Oxygen Demand (COD) 5880
Class I Sludge Management Facility 5880
Clean Water Act 5880
Clean Water Act & Regulations 5880
Compliance Schedule or Schedule of Compliance 5880
Concentrated Animal Feeding Operation (CAFO) 5880
Concentrated Aquatic Animal Production (CAAP) 5880
Continuous Discharge 5880
Daily Discharge 5880
Department 5881
Design Flow 5881
Direct Discharge 5881
Director 5881
Discharge 5881
Discharge Monitoring Report (DMR) 5881
Discharge of a Pollutant 5881
Draft Permit 5881
Effluent 5881
Effluent Limitation 5881
Effluent Limitations Guidelines 5881
Electronic Signature 5881
Environmental Protection Agency (EPA) 5881
Equivalent Dwelling Unit (EDU) 5881
Existing Source 5881
Facilities or Equipment 5881
Facility or Activity 5882
Fundamentally Different Factors 5882
General Permit 5882
Hazardous Substance 5882
Idaho Pollutant Discharge Elimination System (IPDES) 5882
Indian Country 5882
Indian Tribe 5882
Indirect Discharger 5882
Industrial Wastewater 5882
Infiltration 5882
Inflow 5882
Interstate Agency 5882
Load Allocation (LA) 5883
Major Facility 5883
Maximum Daily Discharge Limitation 5883
Maximum Daily Flow 5883
Mixing Zone 5883
Municipality 5883
National Pollutant Discharge Elimination System (NPDES) 5883
New Discharger 5883
New Source 5883
Notice of Intent to Deny 5884
Notice of Intent to Obtain Coverage

under an IPDES General Permit 5884
Notice of Intent to Terminate 5884
Owner or Operator 5884
Permit 5884
Person 5884
Point Source 5884
Pollutant 5884
Potable Water 5885
Pretreatment 5885
Primary Industry Category 5885
Privately Owned Treatment Works 5885
Process Wastewater 5885
Proposed Permit 5885
Publicly Owned Treatment Works (POTW) 5885
Receiving Waters 5885
Recommencing Discharger 5885
Regional Administrator 5885
Secondary Industry Category 5886
Secondary Treatment 5886
Secretary 5886
Septage 5886
Severe Property Damage 5886
Sewage 5886
Sewage from Vessels 5886
Sewage Sludge 5886
Sewage Sludge Use or Disposal Practice 5886
Significant Industrial User 5886
Silvicultural Point Source 5886
Site 5887
Sludge 5887
Sludge-Only Facility 5887
Source 5887
Standards for Sewage Sludge Use or Disposal 5887
State 5887
State/EPA Agreement 5887
Storm Water 5887
Technology-Based Effluent Limitation (TBEL) 5887
Total Dissolved Solids 5887
Toxic Pollutant 5887
Treatment 5887
Treatment Facility 5887
Treatment Works Treating Domestic Sewage (TWTDS) 5888
Upset 5888
User 5888
Variance 5888
Wasteload Allocation (WLA) 5888
Wastewater 5888
Water Pollution 5888
Water Quality-Based Effluent Limitation (WQBEL) 5888
Water Transfer 5888
Wetlands 5888
Whole Effluent Toxicity 5888
Definitions, IDAPA 59.01.02
Board 5993
Compensation 5994
Date of Retirement 5994
Employer 5994
Employment 5995
Firefighters Retirement Fund 5995
General Member 5995
Police Officer 5996
Primary Employer 5996
Public Employee Retirement System of Idaho 5996
Same Position 5996
Surviving Spouse 5996
Teacher 5997
Definitions, IDAPA 59.01.04
Applicant 5993
Definitions, IDAPA 59.01.08
Active Member 5993
Actuary 5993
Base Plan or Account 5993
Choice Plan or Account 5993
Gain Sharing 5995
Permissive Service Credits 5996
Retiree 5996
Definitions, IDAPA 59.02.01 5993, 6037
Accrued Benefit 6037
Active Member 6037
Administrator 5993, 6037
Annual Additions 6037
Beneficiary 6037
Board 6038
Code 5994, 6038
Compensation 6038
Contingent Annuitant 6038
Designated Beneficiary 5994, 6038
Differential Wage Payments 6038
Employer 6038
Judges' Retirement Fund 6038
Member 6038
Normal Retirement Age 5995, 6038
Plan 6038
Required Beginning Date 5996, 6038
Severance from Employment 6038
Definitions, Replacement Of Life Insurance & Annuities
Existing Life Insurance or Annuity 2749
Replacement 2749
Definitions, Sections 601 Through 605 3993
Advance Payment 3993
Applicant 3993
Customer 3993
Deposit 3993
Written Notice 3993
Definitoins
Pre-Existing Condition 2849
Defintions, IDAPA 13.01.09 1032
Accompanied 1032
Delayed Registration Of Stillbirth 2316
Delays In Processing Caused By The Department 1416
Application Forms Mailed Late 1416
No Application Help 1416
Proof 1416
Work Registration 1416
Delays Over Sixty Days, Department Caused 1416
Delegation 5119, 6011, 6042
Delegation Of Authority 108
Delegation Of Authority Of Administrator 4889
Accompaniments to Application 4889
Authority Not Transferable 4890
Designee Responsibility 4890
Failure to Comply 4890
Manner of Submission 4889
Policy 4890
Quarterly Review 4890
Sub-delegation 4890
Delegation Of Authority To Regional Supervisors 1080
Delegation Of Powers 970
Delegation Of Powers & Duties 1273, 1312
Delegation of Powers & Duties 1312
Deleterious Exotic Animals - Birds 114
Mute Swan 114
Deleterious Exotic Animals - Mammals
Canidae 114
Cervidae 114
Red Deer 114
Sika Deer 114
Felidae 115
Caracal 115
Cheetah 115
Geoffroy's Cat 115
Jaguar 115
Leopard 115
Lion 115
Margay 115
Ocelot 115
Serval 115
Tiger 115
Insectivores 115
European Hedgehog 115
Marsuipials 115
Brush Tailed Possum 115
Non-Human Primates 115
Ovidae 115
Barbary Sheep 115
Mouflon Sheep 115
Procyonidae 115
Coatimundi 115
Kinkajou 115
Rodentia 115
African Dormice 115
African Rope Squirrels 115
African Striped Mice 115
African Tree Squirrels 115
Brush-Tailed Porcupines 115
Capybara 116
Gambian Giant Pouched Rats 116
Prairie Dogs 116
South American Rodents 116

Suidae 116
European or Russian Wild Boar 116
Tayassuidae 116
Peccary 116
Delineation Of Job Responsibilities 2614
Delinquent Premium Payments 2379
Delinquent Payments 2379
Premium Debt 2379
Reestablishing Eligibility 2379
Deliverance of Services, Midlevel Practitioner Services 1648
Delivery 2724
Annual Notices Only 2724
How to Provide Notices 2724
Joint Notice With Other Financial Institutions 2725
Oral Description of Notice Insufficient 2725
Retention or Accessibility of Notices for Customers 2725
Delivery Charges 236
Delivery Of A Claimed Horse 781
Delivery Of Prospectus 941
Registration by Coordination 941
Registration by Qualification 941
Delivery Prohibition 5665
Classification as Ineligible, Delivery Prohibition 5665
Compliance Conference 5666
Declining Classification 5667
Department Authority 5667
Duration of Ineligible Classification 5666
Prohibition 5665
Proper Notice 5667
Red-Tagging 5666
Service of Notice 5666
Unlawful to Tamper with Red Tag 5667
Warning of Violations 5665
Written Notice 5666
Delivery Sale Additional Requirements 2238
Delivery Requirements 2238
Shipping Package Requirements 2238
Delivery Voucher 171
Producer 171
Seed Buyer 171
Seed Crop Shipped 171
Ship To 171
Transportation Company 171
Demonstration Of Knowledge 1334
Approved Courses 1334
Certified Food Protection Manager 1334
No Critical Violations 1334
Demonstration Projects 1096
Demotions 1160
Denial & Grounds For Discipline 5290
Cause 5290
Emergency Suspension 5291
Mirroring Orders 5291
Denial & Modification 2299
Denial 2299
Modification 2299
Notification & Appeal 2299
Denial & Termination Of Service & Payment Arrangement Rules For Residential & Small Commercial Customers 3985
Denial Of An Application 2109
Before Denial is Final 2109
Causes for Denial 2109
Denial Of Application For Certificate 2392
Control or Influence 2393
Convictions 2392
Court Ordered 2393
Denial or Revocation of Health Care License 2393
False or Incomplete Information 2392
Operation Without a License 2393
Other Criminal Offense 2392
Procedure for Appeal of Denial of a Certificate 2393
Registries or Exclusion List 2393
Denial Of Applications 1146
Basis 1146
Further Actions 1146
Denial Of Expedited Service 1419
Denial Of Food Stamp
Application 1416
Household Does Not Provide Proof After Interview 1416
Household Fails to Appear for Interview 1416
Household Ineligible 1416
Denial Of Payment 2102, 2168, 2197
Billed Services Not Provided or Not Medically Necessary 2168
Contrary to Rules or Provider Agreement 2102, 2168, 2197
Failure to Provide Immediate Access to Records 2102, 2168, 2197
Paying for Attendance 2197
Services Not Documented 2197
Services Not Provided 2102, 2197
Willful Misrepresentation or Concealment of Facts 2102
Denial Or Refusal To Renew License Or Permit Or Suspension Or Revocation Of License Or Permit 3351
Denial Or Refusal To Renew Licensure Or Suspension Or Revocation Of Licensure 3349
Application or Renewal Denial 3349
Petitions for Reconsideration of Denial 3349
Denial Or Refusal To Renew, Suspension Or Revocation Of Dietitians License 3353
Disciplinary Authority 3353
Denial Or Refusal To Renew, Suspension Or Revocation Of License 3506
Disciplinary Authority 3506
Grounds for Discipline 3506
Penalties 3507
Denial Or Revocation Of License 1953, 2004
Inadequate or False Disclosure 1953
Major Deficiency 1953
Notice to Deny or Revoke 1953
Personnel Inadequacies 1953
Prior Criminal Record 1953
Prior Record Related to Licensure 1953
Return Of Suspended, Revoked, Or Relinquished License 1954
Denial Or Termination Of Service To Master-Metered Accounts & Residents Or Occupants Who Are Not Customers 3990
Delivery & Contents of Notice 3991
Notice to Occupants or Residents Not Customers 3990
Denial, Restriction, & Termination Of Service, Telephone Customer Relations 4009
Denial, Restriction, Modification, Or Termination Of Long-Distance Service Or Other Services 4013
Compliance 4013
Failure to Pay 4013
Loss of Services 4013
Denial, Revocation, or Suspension of Certification 2232
Denial, Suspension, Or Termination Of Grant 2163
Compliance Issues 2163
Disincorporation 2163
Internal Take-Over 2163
Dental Assistants – Practice 3023
Prohibited Duties 3023
Dental Care 2264, 2536
Costs Paid by Medicaid 2264, 2537
Emergencies 2264, 2537
Dental Hygienists – License
Endorsements 3018
Extended Access Endorsement 3019
Extended Access Restorative Endorsement 3019
Renewal 3019
Dental Hygienists – Practice 3021
Direct Supervision 3022
General Supervision 3021
Dental Hygienists – Prohibited Practice 3022
Anesthesia 3022
Cutting Procedures 3022
Diagnosis and Treatment 3022
Final Placement 3022
Final Removal 3022
Intraoral Placement or Carving 3022
Occlusal Equilibration Procedures 3022
Operative Preparation 3022

Other Final Placement 3023
Root Canal 3022
Dental Services 1700
Coverage
Dental Coverage for Adults 1700
Coverage & Limitations 1700
Dental Coverage for Children 1700
Definitions 1700
Adult 1700
Child 1700
Idaho Smiles 1700
Dental Limitation for Adults 1700
Dental Limitation for Children 1700
Participant Eligibility 1700
Procedural Requirements 1700
Provider Qualifications And Duties 1701
Provider Reimbursement 1701
Quality Assurance 1701
Selective Contract For Dental Coverage 1700
Dental Services, Residential Care Facility 2621
Department Access 943
Department Action Not Stayed 5585
Department Actions 2167
Department Approval Of Clinical Laboratories 1266
Department Assistance To Associations 3792
Department Evaluation For Lock-In, Participant Lock-In 1733
Department Individuals Subject To A Criminal History & Background Check 2504
Emergency Medical Services (EMS) Employees 2505
Employees at State Institutions 2505
Employees of Bureau of Audits & Investigations 2504
Employees, Contractors, & Volunteers 2504
Other Employees 2505
Department Informing Responsibilities 1472
Consequences of Failure to Cooperate 1472
Department Methods for Getting Proof 1473
Eligibility Factor Proof 1472
Eligibility Factors 1472
Households Rights & Responsibilities 1472
Methods for Getting Proof 1473
Social Security Number Use 1473
Department Inspections Of Clinical Laboratories 1264
Department List Of Qualified Industrial Hygienists 1348
Department Notice Responsibility 1523
Department Notification Responsibility 1594
Department Of Education Scholarships 1503
Department Of Fire Prevention, Section 103.2 -- Appointments, International Fire Code 2998
Department Of Health & Human Services 2176
Department of Water Resources Permits 3174
Department Prepared Written Report Or Their Agents 329
Department Reserves Exclusive Right To Renew Certificates Of Number By Mail 3789
Department Responsibilities 2378, 3787
Assessed Premiums 2378
Internal Control 3787
No Retroactive Premiums Assessed 2378
Notification of Premiums 2378
Premiums Not Assessed Due to Late Review 2378
Reporting Procedures 3787
Supplies 3787
Training 3787
Department Responsibility 2144, 3846
Department Responsibility To Certified Adoption Professional 2569
Department Review Of Application For Certification 2070
Department Revocation Of Approval 1266
Failure to Obtain Satisfactory Results 1266
Failure to Participate in Proficiency Testing 1266
Failure to Participate in Quality Control 1266
Failure to Submit Documentation 1266
Department Will Document Eligibility Decisions 1473
Department's Written Decision Regarding Application For Certification 2070
Dependent Care Expenses 1452
Dependent Care Restrictions 1452
Care by Household Member 1452
In-Kind Payment 1452
Paid or Reimbursed Dependent Care 1452
Spouse Can Give Care 1452
Vendor Payment 1452
Dependent Child's Unearned Income 1364
Dependent Child's Earned Income 1364
Deposit Of Forfeitures & Damages 3116, 3149
Cyanidation Facility Closure Fund 3149
Funds for Reclamation 3116
Mining Account 3116
Surface Mine Reclamation Fund 3149
Deposit Of Other Funds In Account 2902
Contingencies 2902
Funds to Pay Bank Charges 2902
Reserves for Return Premiums 2902
Deposit Requirements 3979
Bankrupt Customers 3980
Residential Customers 3979
Small Commercial Customers 3980
Deposit Requirements -- LECs 4003
Bankrupt Customers 4004
Residential Customers 4003
Small Business Customers 4004
Deposit Requirements & Advance Payments 3993
Depositions 273, 303, 3045, 3951, 4673, 4676, 5594
Depositions, Hearings 3961
Depositions, May Be Offered Onto Evidence 3048
Depositions, Offered Into Evidence 276
Depth Markers 2340
Depth Marking Locations 2340
Depth Markers 2340
Water Depth 2340
Description & Sketch Of Monument & Accessories Established To Perpetuate The Location Of This Corner 665
Description Of Actuarial Memorandum Including An Asset Adequacy Analysis 2990
Conformity to Standards of Practice 2993
Details of the Memorandum Section Documenting Asset Adequacy Analysis 2991
Documentation 2993
General 2990
Use of Assets Supporting the Interest Maintenance Reserve & The Asset Valuation Reserve 2993
Description Of Corner Evidence Found 665
Description Of Parties Subject To Exceptions 2721
Description Of Primary Categories Used To Test For Equalization 4413
Conversion Table
Secondary Categories to Primary Categories 4414
Cross Reference 4414
Definitions 4413
Improved Commercial or Industrial Property Category 4414
Improved Residential Property Category 4414
Manufactured Homes on Leased Land Category 4414
Vacant Commercial or Industrial Land Category 4414

Vacant Residential Land Category 4414
Description Of Services, Residential Care Facility 2615
Design 5558
Design Detail
Circulation 2332
Dimensions 2332
No Diving Sign 2333
Safety Line 2333
Shape 2333
Wading Pools 2333
Design Requirements 3011
Conformance to Standards 3011
Corrected Plans 3011
Detail 3011
Exemption 3011
Prior Approval of Plans 3011
Scale 3011
Submission of Plans 3011
Tests 3011
Design Standards For Microscreening 5739
Design Considerations 5739
Design Requirements 5739
Designated Logging Camps 438
Sanitation 438
Trees & Snags 438
Designated Matching Services 947
Application 948
Definitions 947
Designation Consistent with Act 948
Disqualifications 948
In General 947
Notice of Transaction 949
Withdrawal of Designation 948
Designated Motorized Hunting Rule Units 1014
Designated Routes For Extra Length Vehicle Combinations Carrying Up To One Hundred Five Thousand Five Hundred (105,500) Pounds Shall Be Designated In Four Categories 4978 4978
Blue-Coded Routes 4978
Red-Coded Routes 4978
Designated Routes For Vehicle Combinations Up To One Hundred Twenty-Nine Thousand (129,000) Pounds 4979 4979
Designated Surveillance Area (DSA) 79
Individual Identification Requirements 79
Permit Required for Movement out of the DSA 80
Testing Requirements Within The DSA 80
Designation 1007
Designation & Revision Of Beneficial Uses 5323
Designation of Beneficial Uses 5323
Revision of Beneficial Uses 5324
Designation & TSE On-Site Survey Fees 2294
Application With National Verification 2294
Application Without National Verification 2294
Designation Fee Payment 2295
STEMI (Heart Attack) Designation & TSE On-Site Survey Fees 2295
Stroke Designation and TSE On-Site Survey Fees 2295
Trauma Designation & TSE On-Site Survey Fees 2294
Designation As General Rate Case In Notice Of Application 3942
Rates, Charges, & Service 3943
Revenue Requirement 3943
Designation At A Lesser Level 2300
Inability to Meet Criteria 2300
Notification & Appeal 2300
Designation Decision 2297
Denial 2297
Final Determination 2297
Provisional Designation 2297
Summary Report 2297
Written Report 2297
Designation Of Agent 3260
Designation Of Allocated Deer & Elk Tags 3771
Calculation & Designation of Allocated Tags 3771
Change in Operating Area or Owner of Business 3772
Hardship Request 3772
Objection to Calculation 3772
Stipulation by Outfitters 3771
Designation Of Authority Of AAA 1104
Designation of Authority 1104
Grounds for Revocation or Termination 1104
Designation Of Centers -- General Requirements 2294
Application 2294
Initial Designation 2294
Designation Of Controlled Hunt Tags To Children 1007
Applicability of Controlled Hunt Rules 1008
Children 1008
Date for Designation 1008
Designation by Nonresidents 1008
Designation by Residents 1007
Form 1008
Designation Of Independent Certified Public Accountant 2943
Dismissal or Resignation 2943
Letter of Awareness 2943
Registration with the Director 2943
Designation Of Primary Use Area 3861
Designation Of TSE Centers -- Criteria 2293
Destination 100
Destruction Or Return Of Drugs Or Devices
Restrictions 3880
Did Not Reach Patient 3880
Donation 3880
Potential Harm 3880
Detailed Plan Of Operation For Advanced Deposit Wagering
Detailed Plan of Operation 840
Requirements for Accounts Established & Operated for Persons Whose Principal Residence is Outside of the State of Idaho 840
Detection, Identification, & Reporting Of Regulated Pests 202
Disagreement 202
Observation 202
Release of Information 202
Reporting 202
Detention Center Administration 330
Detention Center Administrator 330
Governing Body 330
Legal Entity 330
Mission Statement 330
Policy & Procedures 330
Detention Center Design, Renovation, & Construction 347
Administration Space 349
Admission & Release Area 347
Applicability 347
Code Compliance 347
Day Room & Multi-Purpose Room 348
Food Service 349
General Conditions 347
Interview Space 349
Janitor's Closet 349
Laundry 349
Medical Service Space 349
Multiple Occupancy Rooms 348
Program Space 348
Public Lobby 349
Sanitation & Seating 348
Security Equipment Storage 349
Single Occupancy Rooms 348
Site Selection 347
Detention Center Information Systems 332
Access to Record 333
Records 332
Release of Information 333
Detention Center Security 336
Camera Surveillance 337
Cross Gender Supervision 336
Head Counts 336
Personal Observation 336
Security & Control Policy 336
Determination Of An Improved Road 5022
Road Inventory Determination of an Improved Road 5022

Status of Improvement 5022
Determination Of Credit 663
Determination Of Degree Of Sedation By The Board 3027
Determination Of Eligibility For Title IV-E 2534
Determination Of Eligibility Of Costs 5492, 5574, 5813, 5869
Eligible Costs 5492, 5574, 5813, 5869
Eligible Costs & the Grant Offer 5493, 5576
Eligible Costs & the Loan Offer 5815, 5871
Examples of Costs That May Be Eligible 5492, 5575, 5814, 5869
Ineligible Project Costs 5493, 5575, 5815, 5870
Necessary Costs 5492, 5574, 5813, 5869
Notification Regarding Eligible Costs 5493
Notification Regarding Ineligible Costs 5575, 5815, 5871
Reasonable Costs 5492, 5574, 5813, 5869
Determination Of Fair Market Price For Rehabilitation Agency Acquisitions 4894
Determination Of Fair Value Of Remuneration For Personal Services 638
Determination Of Firefighter 6007
Determination Of Food Stamp Benefit 1454
Determination Of Need For Nonresident Licensure Or Registration 3870
Exemption from Separate Controlled Substance Registration 3870
Independent Practice 3870
Multistate Pharmacists 3870
Practice for an Idaho Registered Drug Outlet 3870
Determination Of Proper Quarter In Which To Assign & Report Wages 639
Awarded Damages Against Employers 639
Draws & Advances on Wages 639
Judgments of Wages 639
Wage Assignment to Proper Calendar Quarter 639
Determination Of Reasonableness Of Benefits In Relation To Premium Charge 2754
General Standard 2754
Nonstandard Coverage 2754
Determination Of Reasonably Expected Public Demand 239
Advertising Scope 239
Price Reduction 239
Records of Past Sales 239
Determination Of Reportable Quarters 639
Determination Of Sample 862
Less Than The Minimum 862
Minimum Sample 862
More Than The Minimum 862
Determination Of When A New Application For Assistance (AFA) Is Required 1413
Determinations/Appellate Processes 611
Rebuttal Procedure 611
Reestablishing Eligibility After a Determination of Ineligibility 612
Determining Areas Having A Common Ground Water Supply 4640
Criteria for Findings 4640
Director to Consider Information 4640
Findings 4640
Kinds of Information 4640
Reasonably Anticipated Average Rate of Future Natural Recharge 4640
Determining Delinquent Claims 1461
Claim Awaiting Hearing Decision 1462
Claim Not Paid by Due Date 1461
Collection Coordinated Through Court 1462
Payment Arrangement Not Followed 1461
Previous Claim 1461
Determining Eligibility 1590
Determining Income Eligibility 1363
Determining Material Injury & Reasonableness Of Water Diversions 4642
Delivery Call for Curtailment of Pumping 4643
Factors 4642
Determining Resources 1437
Determining Status Of Worker 632
Determining if Worker is an Employee 632
Determining if Worker is an Independent Contractor 632
Evidence of Contractual Liability for Termination 634
Meeting Criteria for Covered Employment 634
Proving Worker is Engaged in Independently Established Business 632
Proving Worker is Free From Control or Direction in His Work 632
Determining Student Eligibility 1436
Caring for Dependent Child 1436
Employment 1436
TAFI Participant 1437
Training 1437
Work Study Program 1436
Determining Winners When A Player Using A Paper Bingo Card Claims To Be A Winner 5251
Game Stops to Verify Winner 5251
Player's Responsibility 5251
Prizes for Multiple Winners 5251
Verification of Winning Card 5251
Winning Cards 5251
Determining Worker's Compensation Offset 6012
Development & Production Under The Lease 3205
Amendments 3206
Best Practices 3205
Diligent Development of Lease & Production 3205
Notice of Production 3206
Plans Required 3206
Waste & Damage 3206
Development Of Guidance Manual 5609
Development Project Contract Requirements 3857
Developmental Disability Determination
Test Instruments 1847
Test Instruments For Adults 1847
Test Instruments for Children 1847
Developmental Disability Determination Standards
Eligibility 1844
Developmental Therapy 1896
Coverage Requirements & Limitations 1896
Excluded Services 1896
Limitations on Developmental Therapy 1896
Requirements to Deliver Developmental Therapy 1896
Eligibility 1896
Procedural Requirements
Assessment & Diagnostic Services 1899
Comprehensive Developmental Assessments 1899
DDA Program Documentation Requirements 1900
DDA Program Implementation Plan Requirements 1901
Requirements for Current Assessments 1900
Specific Skill Assessments 1900
Procedural Requirements For Individuals With An IPP 1897
Documentation of Plan Changes 1899
Eligibility Determination 1897
Home & Community Based Person-Centered Planning 1899
Individual Program Plan (IPP) 1898
Individual Program Plan (IPP) Definitions 1897
Intake 1897
Procedural Requirements For Individuals With An ISP 1897
Documentation of Plan

Changes 1897
Eligibility Determination 1897
Intake 1897
Provider Qualifications & Duties 1901
Developmental Specialist for Adults 1901
Developmental Therapy Paraprofessionals 1902
Provider Reimbursement 1903
Developmentally Disabled (DD) Waiver 1542
Deviation From An Approved Permit 3103
Notification 3103
Unforeseen Events 3103
Deviation From An Approved Reclamation Plan 3134
Notification 3134
Unforeseen Events 3134
Device Maintenance & Reports 5026
Additional Report 5027
Corrective Action Report 5027
Device Examination Schedule 5026
Report of Examination 5027
Device Security 5027
Device Identification 5027
Personnel Requirements 5028
Physical Anti-Tamper Security 5027
Tampering Precaution 5027
Warning Label 5027
Diabetes Education & Training Services
Coverage & Limitations
Concurrent Diagnosis 1661
No Substitutions 1661
Services Limited 1661
Coverage And Limitations 1661
Definitions 1660
Participant Eligibility 1661
Recent Diagnosis 1661
Recent Manifestations 1661
Uncontrolled Diabetes 1661
Procedural Requirements 1661
Provider Qualifications & Duties 1661
Conducted by a Certified Diabetic Educator 1661
Meets Program Standards of the ADA 1661
Provider Reimbursement 1661
Diagnosis, Program Eligibility 2356
Diagnostic Categories 2354
Diagnostic, Consultative Services 2353
Diagram, Section Diagram 665
Diapering & Sanitation, Children's Residential Care Facilities 2639
Dietary Records 340
Food Service Records 340
Review of Menus 340
Dietary Service 1382, 2019
Dietary Personnel 2020
Dietary Policies & Procedures 2020
Dietary Sanitation 2021
Dietary Supervision 2019
Food Preparation & Service 2020
General Menu 2020
Inservice Training 2020
Meetings 2021
Modified Diets 2020
Records of Menus 2020
Dietetic Services 1968
Digital Repository Of State Publications 3920
Diligent Exploration Required 3219
Diphtheria 1289
Handling of Report 1289
Investigation & Response 1289
Reporting Requirements 1289
Restrictions - Contacts 1290
Restrictions - Daycare Facility 1289
Restrictions - Health Care Facility 1289
Direct Care Staff Qualifications, Children's Residential Care Facilities 2635
Direct Care Staff Supervisor Qualifications 2635
Associate's Degree 2635
Bachelor's Degree 2635
Experience 2635
Direct Filtration 5750
Filtration Requirements 5750
Redundancy 5750
Siting Requirements 5750
Direct Pay Authority 4389
Documentation 4389
Expiration 4390
Holder's Responsibilities 4390
In General 4389
Revocation 4390
Tax Imposed by Hotel/Motel Room Sales Tax 4390
Taxable Purchases 4389
Valid Only on Purchases of Tangible Personal Property 4390
Direct Rollovers Out Of The Base Plan 6014
After-Tax Contributions 6014
Alternate Payees 6015
Eligible Retirement Plan 6014
Eligible Rollover Distribution 6014
Rollover Election 6014
Direct Sales 3091
Direct Service Staff 2112
"Assistance with Medications" Course 2113
Age 2113
Criminal History Check 2113
Documentation of Job Description 2113
Documentation of Training Requirements 2113
Education 2113
First Aid & CPR Certification 2113
Health 2113
Direct Service Staff Training 2113
Ongoing Training 2114
Orientation Training 2113
Training Documentation 2113
Director 1569
Responsibilities 1570
Director – Commission Secretary 970
Director's Authority 2955
Determination of Financial Condition 2955
Hearing 2956
Issuance of Order 2956
Directory 310
Inadequate Escrow Deposit & Outstanding Judgments 310
Missing or Noncompliant Certification 310
Directory Update Notices -- Stamping Agents 310
Directory Update Notices -- Tobacco Product Manufacturer -- Addition 311
Directory Update Notices -- Tobacco Product Manufacturer -- Noninclusion Or Removal 311
Directory Updates 310
Disability Assessment Review 6011, 6042
Disability Licenses 980
Attestation to Disability 980
Documentation for Eligibility 980
Disability Retirement Eligibility 6010
Disabled Adult Child 1545
RSDI Benefits Disregarded for Disabled Adult Child 1545
RSDI Increase Disregarded for Disabled Adult Child 1545
Disabled Archery Permit 981
Applications for Disabled Archery Permits 981
Disabled Archery Permits 981
Disabled Hunter & Companion Game Tags, Permits, & Limits 982
Accompanying the Disabled Hunter 982
Assistance of Disabled Hunter by Designated Companion 982
Companion's Possession Limit 983
Disabled Hunter Considered for Violation 983
Excepted From Game Tag or Game Permit Possession Only 982
Validation and Attachment of Tag 982
Written Statement of Designation 982
Disabled Persons Motor Vehicle Hunting Permits 981
Applications for Disabled Motor Vehicle Hunting Permits 981
Disabled Motor Vehicle Hunting Permits 981
Disabled Veterans Special Big Game Tag 990

Application 991
Availability 990
Eligibility 991
Fees 991
Validity of Tag 991
Disadvantaged Loans 5808, 5865
Adjustment of Loan Terms 5809, 5865
Decreasing Interest Rate 5866
Increasing Repayment Period 5866
Principal Forgiveness 5866
Qualifying for a Disadvantaged Loan 5809, 5865
Disapproval Designation 5687
Defects 5687
Monitoring 5687
Non-Payment of Annual Fee Assessment 5688
Operating Procedures 5687
Public Notification 5688
Quality 5687
Unapproved Source 5688
Disaster Assistance 1495, 1503
Disaster Certification 1421
Disaster Plans 2055
Drills 2055
External Disaster Plan 2055
Disbursement Of Funds 3795, 3814, 3854
Advance Payment 3855
Allowable Costs 3814
Audit Authority 3816
Authorization 3854
Cash Advances 3815
Contingency Fund 3816
Disbursement of Funds 3815
Documentation 3855
Documentation & System of Internal Controls 3814
Grant Closeouts 3816
Match 3814
Partial Reimbursement 3855
Record Retention 3816
Reporting 3815
Request for Reimbursement 3855
Disbursements 5213, 5818, 5874
Collection Fee, Brand Inspector 5213
Final Disbursement 5818, 5874
Idaho Beef Council 5213
Loan Decreases 5818, 5874
Loan Disbursements 5818, 5874
Loan Increases 5818, 5874
National Beef Promotion and Research Board 5213
Project Review to Determine Final Eligible Costs 5818, 5874
Discharge 612
Burden of Proof 612
Disqualifying Misconduct 612
Inability to Perform or Ordinary Negligence 612
Indefinite Suspension 612
Non-Job Related Conduct 612
When Notice of Discharge Prompts a Resignation 612
Discharge Plans, Children's Residential Maternity Care 2651
Disciplinary & Corrective Actions 1250
Disciplinary Action 717
Disciplinary Action Against Licensees
Conviction of Felony 551
Conviction of Misdemeanor 551
Dealing With Stolen Manufactured or Mobile Homes 551
Deceptive Practice 550
Disclosing Contents of Examination 550
Encouraging Falsification 550
Failure of Organizations to License its Employees 551
Failure to Have Principal Place of Business 550
Failure to Honor Warranties 551
Failure to Maintain Any Required License 551
Failure to Permit Access to Documentary Materials 551
Failure to Provide Business Name 550
Failure to Respond to Notice 551
False Information 550
Installation Supervisor Required 551
Poor Workmanship 550
Proof of Employment 550
Revocation of License 550
Revocation or Denial of License 551
Violation of Permit or Inspection Requirements 551
Violation of Rules & Statutes 550
Disciplinary Actions 1161
Cause for Disciplinary Actions or Separation From State Service 1161
Disciplinary Suspension 1162
Notice to Administrator 1162
Suspension for Investigation 1162
Suspension on Felony Charges 1162
Disciplinary Demotion 1161
Disciplinary Enforcement 3378
Disciplinary Penalty 3580, 3751
Civil Fine 3580
Costs & Fees 3580
Disciplinary Procedures 3580
Disciplinary Process 5292
Notice Contents 5292
Notification 5292
Discipline 3495, 3513, 3524, 3547, 3554, 3595, 3618, 3626, 3640, 3646, 3659, 3678, 3691, 3715
Administrative Fine 3715
Civil Fine 3495, 3513, 3524, 3547, 3595, 3618, 3626, 3640, 3646, 3659
Code of Ethics 3646
Costs & Fees 3495, 3513, 3524, 3547, 3595, 3618, 3626, 3640, 3646, 3659
Disciplinary Action 3678
Disciplinary Sanctions 3691
Grounds for Discipline 3691
Licensee Costs 3716
Refuse License 3715
Restrict License 3715
Revoke License 3715
Discipline Of Juvenile Offenders 378
Discipline of Juvenile Offenders
Administration of Discipline 378
Appeal of Formal Disciplinary Penalties 379
Denial of Services 379
Prohibited Actions 378
Written Policies & Procedures 378
Disclaimers & Termination Of Registration 2918
Information Requisite 2918
Request Deemed Granted 2919
Disclosure 1107, 5237
Complainant Consent 1107
Court Order 1107
Resident Consent 1107
Disclosure By Producer Of Title Business 2893
Disclosure of Financial Interest 2893
Disclosure Provided to Applicant 2893
Disclosure Of Certain Persons 2175
Disclosure Of Information 1473
General Public 4604
Correction of Information 4604
Public Information 4604
Written Decisions of the Tax Commission 4604
Government Agencies & Officials 4604
Exchange of Information 4604
Government Agencies or Officials 4604
Legislature 4604
Scope 4603
Auditing Standards 4603
In General 4603
Information That Is Not Return Information 4603
Third Parties 4603
Audits or Investigations 4604
In General 4603
Testimony in Judicial or Administrative Proceedings 4604
Written Authorization to Disclose Information 4603
Disclosure of Information 1268
Disclosure Of Information -- Identity Theft 4606
In General 4606
Written Authorization to Disclose Information 4606
Disclosure Of Records To Certain

Persons Under A Continuing Claim 5566
Notice of a Continuing Claim 5567
Record of Disclosures 5567
Situations for a Continuing Claim 5566
Disclosure Provisions 2806, 2877
Added Riders or Endorsements 2877
General Rules 2806
Pre-existing Conditions Limitations 2878
Requisite Definition of Terms 2878
Requisite Notice 2878
Requisite Provisions 2877
Separate Additional Premium 2877
Disclosure Required, Disclosure Of Prior Use 239
Disclosure Requirements 242, 2905
Before Charging a Fee 2905
Fee for Intended Services 2905
In-Person Contact 242
Non-Chargeable Fee 2905
Prior Information Disclosure 2905
Solicitor's Identity 242
Trade Name of Seller 242
Types of Goods or Services Offered 242
Disclosure Requirements In Gift Promotions 237
Conditions 237
Name & Address 237
No Purchase Necessary 237
Odds 237
Other Requirements 237
Purpose of Contact 237
Verifiable Retail Value 237
Disclosure To Public Officials 601
Benefit to Department 601
Exception for Certain Federal Agencies 602
Reciprocal Disclosures 601
Required by Federal Law 601
Safety Concerns 602
Terms & Conditions of Written Agreement 601
Written Agreement 601
Disclosure To Third Parties With Written, Informed Consent 602
Agreement by Third Party 603
Department's Right to Audit 604
Informed Consent Release 602
Disclosures To Owner 2743
Discontinuance Of An Educational Program 3394
Follow Plan 3394
Notify in Writing 3394
Discontinuance Of Telecommunications Service 3926
Discontinuation Of Agency 1576
Discontinued, Retired, & Expired Licenses & Certificates 657
Continuing Professional Development 658
Designation 658
Discontinued Certificate of Authorization 658
Eligibility 658
Fee for Reinstatement of Discontinued Certificate of Authorization 658
Fee for Reinstatement of Expired License 658
Fee for Reinstatement of Retired License 658
Practice Not Permitted 658
Reinstatement – Disciplinary 657
Reinstatement – Nondisciplinary 657
Discounts, Coupons, Rebates, & Gift Certificates 4326
Adjustments That Apply After Tax Calculation 4327
Adjustments That Apply Before Tax Calculation 4327
Buy One Get One Free Discounts 4328
Complimentary Gift with Purchase of an Item 4328
Coupon Books 4328
Donated Goods 4328
Gift Certificates 4328
Discouragement Of Purchase Of Advertised Merchandise 233
Availability 233
Compensation Plans 233
Disparagement 233
Refusal to Show 233
Refusal to Take Orders 233
Showing Impractical Goods or Services 233
Discovery 2145, 4616, 4905
Sanctions 4617
Scope & Method of Discovery
BOE Appeals 4616
STC Appeals 4617
Special Case 4617
Supplementation of Response 4617
Written Permission 4616
Discovery -- Related Prehearing Procedure 3951
Discovery Authorized 3951
Discretionary Clauses 2780
Discretionary Judicial Notice 2146
Discretionary Powers Of Director 2826
General Requirement 2827
Other Insurance Products 2827
Residential Care Community 2827
Discrimination 1131
Discrimination Complaint Information 1473
Discrimination Complaint Procedure 1473
Discrimination Complaints 641
Confidential Information 641
Joint Jurisdiction 641
Jurisdiction 641
Notice of Lack of Jurisdiction 641
Sole Jurisdiction 641
Discrimination Prohibited 1139
Disease Control, Domestic Cervidae 189
Disease Of Captive Wildlife 1041
Disinfectant & Chemical Feeders 2342
Backflow Prevention 2342
Chlorine Gas Equipment 2342
Feeder 2342
Hypochlorite Equipment 2342
Disinfectant Residuals, Disinfection Byproducts, & Disinfection Byproduct Precursors 5705
Analytical Requirements 5705
Compliance Requirements 5706
General Requirements 5705
Monitoring Requirements 5705
Treatment Techniques for Control of Disinfection Byproduct (DBP) Precursors 5706
Disinterment & Reinterment 3322
Disinterment 3322
Reinterment 3322
Dismissal If Filing Is Late 597
Dismissal Of Inactive Contested Cases 5585
Dismissal Of Wage Claims For Lack Of Prosecution 595
Dismissals, Appeal 3970
Disparaging Comparisons & Statements 2769
Display Of Betting Information 743
Approximate Odds for Win Pool 743
Errors Corrected Promptly 743
Official Results & Payouts 743
Probable Payout 743
Display Of License 1953, 3626
Displays Located Within Zoned Or Unzoned Industrial, Business Or Commercial Areas 5038
Dimensions 5038
Lighting 5039
Size of Signs 5038
Spacing of Advertising Displays 5038
Variable or Multiple Message Signs 5040
Disposal 3144
Disposal Of Cleanup Waste 1349
Disposal Of Domestic Cervidae 183
Disposal Of Waste, Filters 2344
Disposition Of Applications 2159, 2582
Annual Applications 2159
Approval of Application 2582
Denial of Application 2584
Failure to Complete Application Process 2584
Late Applications 2159
Limited License 2584
Provisional License 2584
Regular License 2583

Supplemental Applications 2159
Variance 2583
Waiver 2583
Disposition Of Assets & Profits 3793
Dissolution of Association 3793
Profits to Benefit Park Facilities 3793
Disposition Of Case Without A Hearing 2145
Disposition Of Child Protection Reports 2543
Substantiated 2543
Unsubstantiated 2543
Disposition Of Diseased Seed & Infected Fields 202
Destruction 202
Quarantine 202
Threshing & Segregating 202
Disposition Of Non-Permitted Deleterious Exotic Animals 113
Disposition Of Petition For Declaratory Ruling 2143
Beyond Authority 2144
Contested Case 2143
Incomplete 2143
No Legal Interest 2143
Others Affected 2144
Disposition Of Referrals From The Department 365
Accepting Referral 365
Change in Admission Criteria 365
Declining Referral 365
Reservation Of Program Slots 365
Disposition Of Tuberculin - Responding Cattle, Bison, & Domestic Cervidae 53
Dispositions, Prepared Testimony & Exhibits 5591
Disputes Concerning Commissions & Fees 4085
Disqualification 788, 802, 5118
Application Information, Samples, & Supporting Materials 5119
Disqualification 802
Entries 788
Interference 802
No Time 802
Placing 788
Prior Non-Compliance 5119
Disqualification After Waived Hearing 1465
Disqualification For IPV 1596
First Offense 1596
Second Offense 1596
Third Offense 1596
Disqualification For Transferring Resources 1444
Disqualification Of Officers Hearing Contested Cases 265, 298, 3042, 4670, 5589, 6001
Disqualification in Applications for Certificate 298
Disqualification in Other Contested Cases 298
Motion for Disqualification 298
Disqualified Person 813
Disqualifying Crimes Resulting In An Unconditional Denial 2510
Disqualifying Crimes 2510
Disqualifying Five-Year Crimes 2512
Underlying Facts & Circumstances 2512
Disregards 1364
Disruption Of International Adoptions 2574
Dissemination 2898
Dissolved Oxygen Standards For Waters Discharged From Dams, Reservoirs, & Hydroelectric Facilities 5467
Applicability 5467
Dissolved Oxygen Concentrations Below American Falls Dam 5467
Dissolved Oxygen Concentrations Below Existing Facilities 5467
Dissolved Oxygen Concentrations for Modifications of Existing Facilities or for New Facilities 5467
Instantaneous Minimum 5468
Point of Measurement 5467
Procedures and Conditions for Variances 5468
Distance Markers 855
Distillery Distributing Stations 1200
Retail Sales 1200
Sample Tasting 1200
Distinguishable On The Record 4097
Difference in Meaning 4097
Internet Prefix & Suffix Addition or Deletion 4097
Key Word Addition or Deletion 4097
Key Word Difference 4097
Key Word Order 4097
Distributing Stations 1197
Acceptance of Applications 1197
Agreement Evaluations 1197
Agreement Renewal 1197
Agreement Termination for Cause 1199
Agreement Termination Procedure 1200
Applicant Selection 1198
Automatic Agreement Termination 1199
Compensation 1199
Days & Hours of Operation 1199
General Operational Obligations 1198
Supplies 1199
Term of Agreement 1197
Transfer of Agreement 1197
Voluntary Agreement Termination 1199
Distribution 4557
Auditorium or Community Center District Tax 4557
Travel & Convention Tax 4557
Distribution & Use Of Electronic Bingo Machines 5262
Approved Sources 5262
Approved Users 5262
Initial Use 5262
Installation, Maintenance, Service & Repair 5262
Invoices & Payments 5262
Site Systems & Transportation of Site Systems 5262
Transportation of Electronic Bingo Devices 5262
Distribution & Use Of Income From Vending Machines On Federal Property 1124
Limitations 1124
Vending Machine Income 1124
Distribution Of Deposits 827
Distribution Of Free Or Below Cost Tobacco Products 4569
Distribution of Free or Below Cost Tobacco Products 4569
Distribution Of Promotional Material 131
Authorized Use 131
Fees 131
Distribution Of Sales Tax Revenues 4396
Distribution Of Support Collected In Title IV-E Foster Care Maintenance Cases 2368
Payment of Support Obligation 2368
Termination of Foster Care Payments 2368
Distributor's Fuel Tax Reports 4535
Distributor's Fuel Tax Reports
Exemption from Licensing and Monthly Reporting 4535
Exported Fuel 4535
Machine Tabulated Data 4535
Monthly Reports 4535
Motor Fuels & 4535
Motor Fuels Receipts 4535
Timely Reporting 4535
District Boundaries 4554
District Court Appeals, Complaints & Requests For Reconsideration 2128
Disturbing The Peace 847
Diversion of Animals After Shipment 91
Dividends & Interest 1509
Diving Area
Headroom 2335
Water Depth 2335
Division Of Behavioral Health
Request For Administrative Review
Department Decision 2154
Review Conference 2154
Written Request 2154
Youth Empowerment Services (YES) 2155
Youth Empowerment Services (YES)

Grievance Process 2155
Department Response to Grievance 2155
Expedited Hearings 2155
Grievance 2155
Grievance Content 2155
Division Of Family & Community Services
Child Protection Central Registry
Administrative Review 2152
Administrative Review 2152
Content of Request 2152
Infant Toddler Program - Administrative Complaints 2153
Extent of Review 2154
Filing of Complaint 2153
Investigation & Decision 2153
Resolution 2153
Infant Toddler Program - Individual Child Complaints 2152
Due Process Hearings 2153
Individual Child Complaints 2152
Mediation 2153
Intensive Behavioral Intervention (IBI) Administrative Review 2152
Request for Administrative Review 2152
Scope of Appeal Hearing 2152
Division Of Health
Food Establishments 2152
Laboratories 2151
Reportable Diseases 2151
Conduct of Hearing 2152
Review 2152
Division Of Medicaid
Administrative Reviews For Providers And Facilities 2150
Department Decision 2151
Review Conference 2151
Written Request 2150
Appeals Process For Medicaid Participants 2151
Expedited Fair Hearings for Medicaid Participants 2151
Medicaid Participant Appeals 2151
Medicaid Participant Appeals Related to Services Delivered Through Managed Care Entity 2151
Scope Of Appeal Hearing 2151
Division Of Welfare
Appeal Of Automatic Adjustments 2149
Appeals 2148
Division of Welfare Programs 2148
Methods for Filing Appeals 2148
Child Support Services 2150
Default 2150
Time for Filing an Appeal 2150
Time Limits for Completing Hearings 2150
Time Limits for Requesting a Hearing 2150
Combining Disqualification Hearing & Benefit Hearing 2149
Failure To Appear 2149
Informal Conference 2148
Postponement Of Food Stamp Hearings 2149
Right Not To Testify 2149
Standard For Determining Intentional Program Violations 2150
Time For Filing Appeal 2148
Time Limits For Completing Hearings 2148
Community Spouse Resources Allowance 2149
Expedited Hearings 2149
Food Stamps 2149
Withdrawal Of An Appeal 2148
Divisions Of Behavioral Health
Request For Administrative Review 2154
Divisions Of Licensing & Certification
Request For Administrative Review 2154
Department Decision 2154
Review Conference 2154
Written Request 2154
Divorce Certificate Filing Fee 2312
Dock Reconfigureation 3164
Document Discovery 4942
Further Document Discovery 4942
Obtaining Photocopies 4942
Document Indexing & Other Procedures
Before Archiving 4132
Cash Management 4132
Document Review 4132
Document Submission 4941
Blood & Urine Tests 4941
Compliance 4941
Forwarding Documents to the Department 4941
Documentary Evidence 276, 3048, 4676, 5594
Documentary Evidence--Introduction Of Records In The Commission Secretary's Official File 3960
Documentation 333, 3795
Allowable Costs 3795
Audit Authority 3796
Documentation & System of Internal Controls 3795
Housing Assignment Roster 333
Incident Report Review 335
Incident Reports 334
Juvenile Detention Records 334
Record Retention 3795
Shift Log 333
Visitor's Register 333
Documentation – Copies 887
Citizenship, Education, Military & Criminal Records 887
Notice of Employment/ Termination 887
Training & Other Records 887
Documentation & Retention Of Immunizations Record By Licensed Daycare Facility Operators 1316
Immunization Record Retention 1316
Provision of Information 1316
Documentation by Management 2952
Documentation For Idaho Full Fee Registrants 4550
Credit for Off-Road Miles & Documentation Required 4550
IFTA Licensees with Full Fee Registration 4550
Records Required For Idaho Full Fee Registrations 4550
Documentation For Idaho Registrants 4550
Documentation For IFTA Licensee Reporting 4548
Additional Records Requirements 4549
Computer Support 4550
Fuel Records 4549
Mileage Disputes 4550
Mileage Information 4550
Mileage Records 4549
Records Required for Idaho IFTA Licensee 4548
Records Retention 4550
Summaries 4549
Documentation For Newly Organized Or Altered Taxing Districts Or Revenue Allocation Areas (RAAs) Under The Jurisdiction Of Urban Renewal Agencies 4424
Approval of Property Tax Levy or Revenue Allocation 4426
Deadline for Completion 4426
Definitions 4424
Digital Map Information 4426
Documentation to Be Filed for Disincorporated Cities or Dissolved Taxing Districts, or RAAs 4426
Documentation to Be Filed for Newly Created or Altered Cities, Taxing Districts, or RAAs 4425
Furnished By The Tax Commission 4427
Notification of Approval or Disapproval 4427
One Uniform System 4427
Tax Code Areas 4427
Documentation Of Criminal, Traffic, & Military Discharge Records 895
Criminal or Traffic Matters 895
Military Discharge 895
Documentation Of Informed Consent 3608
Board Information 3608
Client's Rights 3608
Education 3608

License Type and License Number, Credentials, & Certifications 3608
Name, Business Address & Phone Number of Licensee or Intern 3608
Relationship 3608
The Extent and Limits of Confidentiality 3608
Theoretical Orientation & Approach 3608
Written Statement 3608
Documentation Of In-Service Training 916
Agency Responsibility to Ensure Accuracy of Training Records 916
Agency Retention of Training Records 916
College Courses 916
Notice of Non-Compliance 916
POST Training Credit 916
Documentation Of Services & Access To Records 2168, 2202
Copying Records 2168, 2202
Documentation of Services 2168, 2202
Immediate Access to Records 2168, 2202
Removal of Records From Provider's Premises 2168, 2202
Documentation of Training 371
Documentation Of U.S. Citizenship 1357
Documents Accepted as Evidence of U.S. Citizenship 1357
Documents Accepted as Stand-Alone Proof of U.S. Citizenship & Identity 1357
Documents Accepted for Evidence of Identity 1358
Documentation Requirements For Continued Care 2616
Additional Continued Care Plans 2616
Assessment for Others Safety 2616
Documentation of Care Prior to Eighteenth Birthday 2616
Documentation of Need for Continued Care 2616
Voluntary Agreement 2616
Documenting Compliance With Continued Competence Requirements 3361
Documentation of Compliance 3361
Retention of Original Documentation 3361
Documents Filed With Racing Commission 852
Accident Insurance or Workmen's Compensation 853
Bond 853
Liability Insurance 853
Documents Incorporated By Reference 1268
Compendium of Animal Rabies Prevenstion and Control, 2016 1268
Guideline for Isolation Precautions in Hospitals 1268
Human Rabies Prevention -- United States, 2008 1268
Nationally Notifiable Diseases Surveillance System - Case Definitions 1268
Standards for Cancer Registries, Volume II, Data Standards & Data Dictionary 1268
Updated U.S. Public Health Service Guidelines for the Management of Occupational Exposures to HIV and Recommendations for Postexposure Prophylaxis 1268
Use of Reduced (4-Dose) Vaccine Schedule for Postexposure Prophylaxis to Prevent Human Rabies
Recommendations of the Advisory Committee on Immunization Practices, 2010 1268
Dogs & Cats 99
Cats 99
Dogs 99
Permits Required 99
Domestic Cervidae Brucellosis Eradication Area 84
Domestic Cervidae Ranch Facility Requirements 184
Inspections 184
Maintenance 184
Domestic Cervidae Ranches 184
Each Premises 184
Premises Registration 184
Vehicle Access 184
Domestic Fur-Bearing Animals 102
Certificate & Permit 102
Mink 102
Other Tests 102
Domestic Violence Grant Distribution 2161
Distribution of Domestic Violence Grants to Regions 2161
Distribution of Domestic Violence Grants Within The Regions 2161
Timing & Duration of Grant Awards 2161
Domestic Volunteer Service Act Payments 1503
Donated Goods & Services As Matching Share 3851
Excess Value 3852
Generally 3851
Requirements 3852
Donated Real Property As Matching Share 3851
Appraisal Required 3851
Generally 3851
Limitations 3851
Donations To Political Subdivisions & Certain Nonprofit Organizations Of Tangible Personal Property Used For Improvements To Real Property 4349
Donated Property 4349
Property Not Incorporated Into Real Property 4349
Purchase of Donated Items 4349
Donations To Trust Accounts 4270
Donkey (Short for "Donkey Engine") 424
Double Pools 754
Cancelled or No Contest 755
Close of Sale 755
Consolation Payout 755
Daily Double Not a Parlay 755
Dead Heat for First 754
Double Pools 754
First Place Finisher 754
Payoff Posting 755
Scratched Interest -- First-Half 754
Scratched Interest -- Second-Half 755
Second Double Cancelled or No Contest 755
Third Heat Announcement 755
Winning Distribution 754
Draft Audit Report 1623, 1758
Evaluation of Provider's Response 1623, 1759
Review Period 1623, 1759
Draft Permit & Fact Sheet 5935
Draft Permit 5935
Fact Sheets 5935
Drain Grating 2345
Area of Openings 2345
Maximum Width of Openings 2345
Securely Fastened 2346
Drawings, Map, & Schematic Diagram 4705
Attachment Sheets 4705
Drawings 4705
Photographs 4705
Scale of Map 4705
Submittal of Drawings, Maps, Photos & Schematic Diagrams 4705
Dressing Rooms
Only Authorized Persons Are Allowed To Enter
Authorized Persons to Enter 3431
Other Persons 3431
Dressing Rooms, Toilets, Showers 2337
Driller's Advisory Committee 4857
Reimbursement 4857
Selection & Duties 4857
Drilling 4732
Bonds 4732
Casing 4733
Electric Logging 4734
General 4732
Permits & Notices 4732
Well Spacing 4733

Drilling Logs 3283
Bottom Hole Survey 3283
Cement Bond Log 3283
Log Submittal 3283
Minimum Required Logs 3283
Other Logs 3283
Drilling Permit Requirements 4831
Converting an Artificial Openings or Excavations Not Constructed as a Well for Use as a Well 4832
Effect of a Permit 4832
Exclusions 4832
Fees 4832
General Provisions 4831
Drilling, Well Treatment, & Pit Permits 3265
Drivers 367
Juvenile Transport 367
Parent or Guardian Transport 367
Drivers' Training & Licenses For Children In Alternate Care 2264
Drivers' Training, Drivers' Licenses, & Permits For Children In Alternate Care 2537
Payment by Parent(s) or Legal Guardian(s) 2537
Payments by Department 2537
Driving Business - Course Of Instruction 3687
Driving Log 3688
Grading Criteria 3688
In-Car Documentation 3688
Maximum Daily Driving & Observation Time 3688
Maximum Number of Students In Vehicle 3688
Parental Involvement 3688
Record Retention 3688
Reporting 3688
Student Permit Required 3688
Driving Business - Initial Audit 3688
Driving Business -- Minimum Curriculum Components 3685
Component Eight for Classroom 3686
Component Eleven for In-Car 3687
Component Five for Classroom 3686
Component Four for Classroom 3686
Component Fourteen for In-Car 3687
Component Nine for Classroom 3686
Component One for Classroom 3685
Component Seven for Classroom 3686
Component Six for Classroom 3686
Component Ten for Classroom 3686
Component Thirteen for In-Car 3687
Component Three for Classroom 3685
Component Twelve for In-Car 3687
Component Two for Classroom 3685
Driving Business License 3683
Applicant Identity 3683
Certificate of Vehicle Insurance 3684
Classroom Locations & Certificates of Occupancy 3684
Course of Instruction 3685
Criminal History Background Check 3684
Instructor Apprenticeship Training Program 3685
Licensed Instructors 3684
On-line Instruction 3685
Vehicles 3684
Driving Instructor License 3688
Age 3688
Application 3688
Criminal History Background Check 3689
Driving Record & Drivers License 3688
Education 3689
Instructor Apprenticeship Training Program 3689
Medical Certificate 3689
Waiver of Instructor Apprenticeship Training Program 3689
Driving Restrictions Specified 4934
Geographic Area 4934
Operation of Vehicle 4934
Purpose of Permit 4934
Purpose of Permit Administrative License Suspension 4934
Dromedary Tractors 5109
Drop Shipments 4298
In General 4298
Parties to the Contract 4298
Resale Certificate 4299
Sales Tax Responsibilities of the Permitted Manufacturer 4298
Sales Tax Responsibilities of the Retailer 4299
Sales Tax Responsibilities of the Unpermitted Manufacturer 4298
Drop Structures, Sills & Barbs 4773
Barb or Partial Drop Structure 4773
Drop Structures 4773
Sills 4773
Drug Outlet Licensure & Registration
General Requirements 3873
Change of Ownership 3873
Exemption from Separate Controlled Substance Registration 3873
License & Registration Transferability 3873
New Drug Outlet Inspections 3873
Nonresident Drug Outlet 3873
Permanent Closing 3873
Sterile Preparation Endorsement 3873
Drug Outlets
Minimum Facility Standards 3874
Authorized Access to the Restricted Drug Storage Area 3874
Controlled Substance Storage 3874
Electronic Recordkeeping System 3874
Security and Privacy 3874
Staffing 3874
Drug Outlets That Dispense Drugs To Patients Without An Onsite Pharmacist Or Prescriber 3875
Controlled Substances Inventories 3875
Exemption for Self-Service Systems 3875
Exemption for Veterinarians 3875
Security and Access 3875
Self-Inspection 3875
Technology 3875
Drug Outlets That Dispense Prescription Drugs
Minimum Prescription Filling Requirements 3875
Labeling 3875
Patient Counseling 3875
Prospective Drug Review 3875
Valid Prescription Drug Order 3875
Verification of Dispensing Accuracy 3875
Drug Screens Of Juvenile Offenders 381
Drugs Stored Outside Of A Drug Outlet For Retrieval By A Licensed Health Professional 3876
Controlled Substances 3876
Secure Storage 3876
Stocking and Replenishing 3876
Supervising Drug Outlet 3876
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers 4336
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers Dry Cleaners & Laundries 4336
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers Laundromats 4336
Dry Cleaners, Laundries, Laundromats, & Linen Suppliers Linen Suppliers 4336
DTEAbbreviations
Designated Tuberculosis Epidemiologist 49
Dual Employment 1139
Due Date Of Bills--Delinquent Bills 3983, 4007
Hardship Exemption 3983
Ordinary Due Date 3983
Due Date of Return, Tobacco Tax Return 4575
Due Process Procedures In

Decertification Proceedings 911
Decertification Investigations 911
Legal Authority 911
Overview 911
Dumped Rock Riprap 4770
Design Procedure 4772
Extension of Riprap Area 4772
Finished Surface 4772
Methods Used for Determining Gradation of Riprap 4771
Minimum Thickness of Riprap 4771
Placement of Riprap 4770, 4772
Riprap Protection 4771
Rock Used for Riprap 4771
Sideslopes of Riprap 4771
Size & Gradation of Riprap 4771
Toe Protection 4771
Use of Filter Material 4771
Duplicate License 832
Durable Medical Equipment 2358
Durable Medical Equipment & Supplies 1693
Coverage & Limitations 1693
Coverage Conditions -- Equipment 1694
Coverage Conditions -- Supplies 1694
Medical Necessity Criteria -- Equipment & Supplies 1693
Prior Authorization -- Equipment & Supplies 1693
Participant Responsibility 1693
Procedural Requirements 1694
Equipment Rental -- Purchase Procedures 1695
Face-to-Face Encounter for Home Health Medical Supplies, Equipment, & Appliances 1695
Notice of Decision 1695
Notification of Changes to Prior Authorization Requirements 1695
Physician Orders 1694
Plan of Care Requirements for Home Health Medical Supplies, Equipment, & Appliances 1695
Prior Authorizations 1695
Provider Reimbursement 1696
Billing Procedures 1696
Date of Service 1696
Fees & Upper Limits 1696
Items Included in Per Diem Excluded 1696
Least Costly Limitation 1696
Manually Priced Codes 1696
Warranties & Cost of Repairs 1696
Quality Assurance 1696
Duration 5890
Continuation of General Permits 5891
Continuation of Individual Permits 5891
Continuation of Permits During an Appeal 5891
Permit Term 5890
Duration & Expiration Of Restricted Driving Permit 4932
Duration & Expiration 4932
Reinstatement Action 4932
Duration For Emergency Assistance 2206
Out-of-Home Placement for Child 2206
Subsequent Emergency Conditions 2206
Duration Of Appointment As Designated Examiner Or Designated Dispositioner, Or Both 2272
Expiration of Appointment Upon Leaving Department Employment 2272
Initial Appointment 2272
Reappointment 2272
Duration Of Certification 2224
Full Certification 2224
Six-Month Certification 2224
Duration Of CWD Quarantine 193
Adjacent Herds 193
Complete Depopulation 193
CWD Positive Herds 193
CWD Suspect Herds 193
Disposal of Positive or Exposed Cervidae 194
Exposed Herds 193
Fencing Requirements 193
Source Herds & Herds of Origin 193
Duration Of Eligibility Registers 1149
Other Registers 1149
Reemployment Preference Registers 1149
Duration Of Round 3438
Duties & Responsibilities Of Drillers, Companies & Operators 4854
Companies 4855
Licensed Drillers & Principal Drillers 4854
Operators 4855
Duties Of Agents & Brokers 2750
Conservation 2750
Notice to Applicant 2750
Statement Submitted to Insurer 2750
Duties Of All Insurers 2750
Application 2750
Notice to Representatives of Rule 2750
Duties Of Bingo Caller & Employees Or Volunteers In Games Using Paper Bingo Cards 5251
Duties Of Bingo Caller And Employees Or Volunteers In Games Using Paper Bingo Cards
Displaying Numbers During Play 5251
End of Game 5251
Pre-Game Duties 5251
Duties Of Chair & Vice-Chair 970
Duties Of Directing Physicians 3338
Available Supervision 3338
Directing Responsibility 3338
Disclosure 3338
Responsibilities 3338
Scope of Practice 3338
Duties Of Insurers & Of Producers 2737
Collection of Information 2737
Compliance With FINRA 2739
Exceptions 2738
General Rule 2737
Reasonable Basis 2738
Record Keeping 2738
Supervision for Compliance 2738
Duties Of Insurers That Use Agents Or Brokers 2750
Maintenance of Records 2751
Refund 2751
Replacement Notice & List of Existing Insurance 2750
Statement by Agent or Broker 2750
Duties Of Insurers With Respect To Direct Response Sales 2751
Insurer Did Not Propose Replacement 2751
Insurer Proposed Replacement 2751
Duties Of Simulcast Operator 826
Compliance 827
Filing 827
General 826
Locations Listing 827
Pari-Mutuel Inspector 826
Provisions 826
Security 827
Test Program 827
Video Record 827
Duties Of Supervising Physicians 3338
Available Supervision 3339
Disclosure 3339
Pre-Signed Prescriptions 3338
Responsibilities 3338
Supervisory Responsibility 3338
Duties Of Supervising Physicians Of Interns & Residents 3339
Available Supervision 3339
Disclosure 3339
Responsibilities 3339
Duties Of The Administrator 1136
Duties Of The Administrator Of The Responsible Institution & Person Required To Register The Birth Of A Child 1319
Blood Specimen Collection 1319
Collection Protocol 1321
Conditions for Which Infants Will be Tested 1319
Fees 1321
Record Keeping 1320
Responsibility for Recording Specimen Collection 1321
Specimen Data Card 1320

Specimen Mailing 1320
Duties Of The Director 2922
Approval or Denial of Application 2923
Duty To Cooperate 1190
Cooperation Provided 1190
Responding Agencies 1190
Duty To File 4126
Duty To Restrain, Domestic Cervidae Ranch 189

E

Each EMS Agency Must Comply With The Following Records, Data Collection, And Submission Requirements 1246
Records to be Maintained 1246
Records to be Submitted 1247
Time Frame for Submitting Records 1247
Early Intervention Services 1656
Program Requirements 1656
Individualized Family Service Plan (IFSP) 1656
Physician Recommendation 1656
Qualified Staff 1656
Provider Reimbursement 1657
Fee Schedule 1657
Payment Review 1657
Early Periodic Screening, Diagnosis & Treatment Services (EPSDT) Services
Coverage & Limitations 1723
Additional Services 1724
Eyeglasses Under EPSDT 1724
Hearing Aids Under EPSDT 1724
Prior Authorization 1724
Services Not Covered 1724
Participant Eligibility 1723
Early Periodic Screening, Diagnosis, & Treatment (EPSDT) Services Definition 1723
Early Retirement Member--Reemployment 6018
Early Widows & Widowers Beginning January 1, 1991 1545
Age 1545
Applied On or After January 1, 1991 1545
Lost SSI or AABD 1545
No "Part A" Insurance 1545
Received SSI or AABD 1545
Widows or Widowers Benefits 1545
Earned Income 1364, 1445, 1506
Basic Allowance for Housing (BAH) 1445
On-the-Job Training Programs 1445
Payments Under Title I 1445
Self-Employment Income 1445
Training Allowances 1445
Wages or Salary 1445
Earned Income Tax Credits 1504
Earned Income When A Household Member Turns Age Eighteen 1450
Earthen Embankments 4988
Conformity 4988
Mix 4988
Easement Access & Emergency Work 3188
Emergency Work 3188
Use of Land 3188
Easement Modification 3180
Easements On State Land Under Land Sale Contract 3182
Approval of Contract Purchaser 3182
Compensation 3182
Co-Signature of Contract Purchaser 3182
Eastern Idaho Big Game Private Feeding Prohibition Zone 105
Bear Lake County 105
Bonneville County 105
Caribou County 105
Clark County 105
Fremont County 105
Jefferson County 105
Madison County 105
Teton County 105
Echinoccocosis 1290
Investigation 1290
Reporting Requirements 1290
Edible Harvest Exemption 197
Education 893, 2611
Acceptable Education 893
Documentation of Education 893
Education & Training For Medication Assistant - Certified 3386
Administration of Program 3387
Board Approval 3387
Closing of Education Programs 3389
Education Program Content 3386
Instructor Responsibilities 3388
Medication Assistant - Certified Program Requirements 3388
Periodic Training Program Evaluation 3388
Program Administrator 3388
Program Changes 3388
Program Instructors 3388
Withdrawal of Approval 3388
Education Policy, Residential Care Facility 2623
Education Program 2639
Core Curriculum 2640
Grading System 2640
Minimum Hours 2640
Release of Records 2640
Special Education 2640
Teacher Qualifications 2640
Teacher Ratio 2639
Written Transcripts & An Individual Education Plan (IEP) 2640
Education Program Fees 3403
Evaluation of Courses of Instruction 3403
Evaluation of Nursing Education Programs 3403
Education Records Access 4085
Education Services 399, 410
Accreditation Requirements 400
Appropriate Services 399, 410
Cooperative Relationships 399
Costs of Educational Services 400
Educational Assessment 400
Educational Records and Confidentiality 401
GED Eligibility 400
Mandatory Enrollment 399, 410
Special Education Services 400
Standards for Instructional Time 401
Education Teaching Standards 4086
Educational & Credentialing Requirements For Licensure 3560
Authority and Primary Responsibility 3560
Content of Program 3560
Curriculum 3560
Program Must Have an Identifiable Body 3560
There Must be an Identifiable Training Faculty & a Psychologist Responsible for the Program 3560
Training in Professional Psychology 3560
Training Program 3560
What the Program Must Include 3560
Educational & Training Materials 589
Accessibility of Training & Educational Programs 589
Approval of Training & Educational Programs 589
Purposes of Training & Educational Programs 589
Scope of Training & Educational Programs 589
Educational & Training Requirements 3645
Approval of Other Courses 3645
Approved Course 3645
Educational Accounts Excluded As A Resource 1443
Educational Income 1449
Educational Program Standards 3714
Clinical Work 3715
Coursework Content & Hours 3714
Educational Program Standards For Courses Of Instruction 3736
Barber 3736
Barber-Stylist 3737
Cosmetology 3737
Electrology 3738
Esthetics 3738
Haircutter 3738
Instructor 3739
Nail Technology 3738
Effect Of A Permit 5890
Compliance 5890

Rights 5890
Effect Of Delay or Error of Postal Service or Department 596
Decisions of the Appeals Examiner 596
Department Determinations 596
Effect Of Enforcement Action Against A License 2443
Effect Of Filing Petition For Reconsideration 3969
Effect Of Issuance Of Certificate 305
Effect Of Petition For Judicial Review 2147
Effect Of Previous Revocation Or Denial Of A License 2587
Effect Of Stay 723
Effect Of Unused Sick Leave On Disability Allowance 6012
Effect on Itemized Deductions, Credit for Contributions to Rehabilitation Facilities 4255
Effect On Medicaid Eligibility, Ineligibility Exceptions 1500
Effective Date 1479, 6037
AABD Cash 1479
Ineligible Non-Citizen Medicaid 1480
Normal Medicaid Eligibility 1479
Retroactive (Backdated) Medicaid Eligibility 1479
Effective Date Of Ineligibility 1437
Effective Date, TAFI Grant 1580
Effective For Clean Water Act Purposes 5297
Alaska Rule 5297
Existing Rule Retained for Clean Water Act Purposes Until EPA Approval of Rule Revisions 5298
Information Regarding the Status of EPA Review 5298
Previously Approved Rules 5298
Effects Of TOP On The Food Stamp Household 1462
Egg Products & Breaking Operations 151
Egg Seals, Tax & Cartons 152
Assessments in Lieu of Egg Seals 153
Cartons 152
Distributor 153
Divided Cartons Design 154
Facsimile Idaho Egg Seal 153
Imprinting 153
Proofs 153
Reporting Form 154
Top Panel, Egg Carton 153
EHR
Federally Initiated Program 2095
Idaho Sanctions/Outstanding Debt 2095
Voluntary Federal Program 2095
Elderly Or Disabled Food Stamp Household Members 1423
Age 1423
Disability Retirement 1424
Disabled Veteran 1424
Medicaid 1424
Railroad Retirement & Disability 1424
Railroad Retirement & Medicare 1424
RSDI 1423
SSI 1423
State Supplement 1423
Veteran Needing Aid & Attendance, 1424
Veteran's Surviving Child 1424
Veteran's Surviving Spouse 1424
Veteran's Survivor Entitled 1424
Elected & Appointed Officials -- Members Of PERSI 6005
Elected & Appointed Officials Not Subject To Twenty Hour Requirement 6005
Elected Or Appointed Official Retiring In Place 6017
Elected Or Appointed Official Working For Multiple Employers 6016
Election To Create A New Taxing District -- Clerk's Mailed Notice 4513
Election To Exempt Corporate Officers 630
Definitions 631
Election for Corporations that are not Public Companies 631
Election to Exempt Not Applicable 631
Public Company Election 631
Reinstatement of Coverage 631
Services in Employment 631
Termination of Exemption 631
Elections For Multistate Corporations 4204
Available Options 4204
Electing an Option 4204
Electric & Telephone Utilities 3972
Electric Signal Systems 440
All Connections to Be Weatherproof 440
Electric Signal Systems to be Properly Installed & Adjusted 440
Weatherproof Wire & Attachments to be Used 440
Electrical Producers Subject To Tax 4558
In General 4558
Municipal Corporations 4558
Electronic Recording Models 4101
Model 1 4101
Model 2 4101
Model 3 4101
Electronic Recording Processing Requirements 4102
Contact Information 4102
Notice Requirements 4102
Time of Receipt 4102
Electronic Signature Repudiation 4668
Electronic Signatures 4083
Electronic Transfer Of Funds 4581
In General 4581
Individuals Paying Amounts Pursuant to Section 63-3024, Idaho Code 4581
Electronically Signed Communications 4666
Elements Of A Worldwide Combined Report 4237
Apportionment Factors 4238
Consistent Application of Book to Tax Adjustments 4238
Income
Foreign Corporations Included in a Federal Consolidated Return 4237
Foreign Corporations Not Included in a Federal Consolidated Return 4238
In General 4237
Eligibility 1110, 1113, 1115, 1117, 1972, 2158, 3896, 4932, 4948
Ability to Function 1116
Application Process 2158
Blind or Visually Impaired 1116
Demonstration of Financial Need 1117
Determination of Medicaid & Home & Community Based Services - DD Requirements 1973
Eligibility Requirements 1113
Eligible Projects 3897
Eligible Recipients 3897
Federal Family Violence Grant 2158
Federal VOCA Grant 2158
Legal Representative Agreement 1973
License Renewal 4948
Need 4932
Participant Agreement Form 1973
Rehabilitation 4932
Residency 1116
Residency Requirements 1117
Result of Services 1116
Safety 4932
State Domestic Violence Grants 2158
Eligibility & Funding Information 2533
Eligibility & Priority Rating Of Projects 3813
Pre-Application Activities 3813
Priority Rating Criteria 3813
Eligibility Determination 2090, 2094, 2211, 2246, 2257
AABD 2091
Court-Ordered Assessment, Treatment, & Services 2246, 2257
Determination of Eligibility for Substance Use Disorders

Services 2211
Eligibility Requirements 2212, 2246, 2257
Ineligible Conditions 2246, 2257
Medicaid 2091
Refugee 2091
The Department Determines Eligibility for Mental Health Services 2246, 2257
Time Limits on Determinations 2091
Eligibility Effective Dates 1354
Eligibility For Applicants Who Do Not Provide U.S. Citizenship & Identity Documentation 1359
Medicaid Benefits 1359
Notice Mailed 1359
U.S. Citizenship & Identity not Verified 1359
Eligibility For Controlled Hunt Application 1002
Antlered Deer 1002
Antlered Elk 1002
Bighorn Sheep 1002
Black Bear 1002
Grizzly Bear 1002
Landowner Permission Hunts 1003
Moose 1002
Mountain Goat 1002
Multiple Applications 1003
Outfitter Allocated Hunts 1003
Youth Only Hunts 1003
Eligibility For EMS Agency Licensure 1217
Eligibility For Interment 3321
Burden of Proof 3321
Eligibility 3321
RequirementsInterment 3321
Eligibility For Medical Assistance, General Participant Provisions 1611
Eligibility Redetermination 1525
Eligibility Registers 1149
Open Competitive Registers 1149
Reemployment Preference Registers 1149
Eligibility Requirements 2204, 3301
Agreements for Behavior & Care Needs 3302
Child or Youth 2204
Citizenship 2205
Financial Statement 3302
Idaho Residency 3301
Income Guidelines 2205
Income Limitation 3302
Incompetent Applicants 3301
Limit on Admission of Spouses 3303
Medicare Coverage 3302
Necessity of Services 3301
Placement Restriction 3302
Residence 2205
Social Security Benefits 3302
VA Pension -- Nursing Care, 3302
Veterans or Eligible Spouse 3301
Work Program Compliance 2205
Eligibility Requirements & Collateral Contacts 2098
Failing to Meet The Financial & Non-Financial Eligibility 2098
Participant's Signature 2098
Eligibility Screening & Clinical Assessment 2211
Clinical Assessment 2211
Eligibility Screening 2211
Eligibility Screening & Mental Health Assessment 2245
Eligibility Screening 2245
Mental Health Assessment 2246
Eligible Activities 2098
Catastrophic Illness Costs 2098
Governor Declared Emergency or Disaster 2098
Home Utility & Bulk Fuel Costs 2098
Eligible Applicant – Indigent Defense Financial Assistance 6088
Eligible Applicants 3813
Eligible Applicants For Sawtooth National Recreation Area Special Plate Funds 3794
Eligible Child 2191
Child Custody 2191
Child's Age Requirement 2191
Citizenship or Alien Status Requirement 2191
Immunizations Requirements 2191
Eligible Horses 780
Eligible Project Costs 3850
Eligible Projects 3794, 3849
Determination of Eligibility 3794
Eligible Projects 3794
Generally 3849
Ineligible Projects 3849
Less Than Fee Acquisition 3849
Location of Eligible Projects 3795
SCORTP 3849
Eligible SSI Recipient 1539
Conditionally Eligible 1539
Eligible Spouse 1539
Receives SSI 1539
Elimination Tests 1148
Elk Zone Descriptions 1030
Bannock Zone 1030
Bear River Zone 1030
Beaverhead Zone 1030
Big Desert Zone 1030
Boise River Zone 1030
Brownlee Zone 1030
Diamond Creek Zone 1030
Dworshak Zone 1030
Elk City Zone 1030
Hells Canyon Zone 1030
Island Park Zone 1030
Lemhi Zone 1030
Lolo Zone 1030
McCall Zone 1030
Middle Fork Zone 1030
Owyhee Zone 1030
Palisades Zone 1030
Palouse Zone 1030
Panhandle Zone 1030
Pioneer Zone 1030
Salmon Zone 1030
Sawtooth Zone 1030
Selway Zone 1030
Smoky-Bennett Zone 1030
Snake River Zone 1030
South Hills Zone 1030
Tex Creek Zone 1030
Weiser River Zone 1030
Emergencies 4067
Emergency Action 3371
Emergency Assistance Payments 2206
Emergency Payments 2206
Funding Restrictions 2206
Non-Allowable Payments 2206
Emergency Condition 2204
Emergency Condition 2204
Reporting or Referral of an Emergency Condition 2204
Emergency Depredation Hunts 1031
Applications 1031
Eligibility 1031
Selection of Participants 1031
Emergency Drills 2637
Disaster Drill 2637
Fire Drills 2637
Emergency Evacuation Plan, Children's Agencies 2627
Emergency Feeding Criteria 1080
Additional Guidelines 1080
Declaration of Feeding Emergency 1080
Emergency Medical Condition 1360
Determination of Emergency Medical Conditions 1360
Documentation Waived 1360
Emergency Medical Conditions 1360
Limitation on Medical Assistance 1360
Emergency Medical Technician 834
Emergency Medications Or Drugs 3021
Emergency Plan 2660
Emergency Drills 2660
Written Plan 2660
Emergency Policies 2623
Bomb Threat 2623
Fire 2623
Hostage Taking 2623
Medical 2623
Missing Child 2623
Natural Disasters 2623
Other Dangers Unique to the Location of an Organization 2623
Power Outage 2623
Serious Accident or Injury 2623
Severe Weather 2623
Emergency Powers Of The Director 2127, 2428
Emergency Preparedness

Policies 2449
Emergency Preparedness Plan 2449
Written Procedures 2449
Emergency Procedures, Children's Residential Care Facilities 2637
Emergency Purchases 4892
Conditions 4892
Definition of Emergency Conditions 4892
Emergency Service 2029
Emergency Room Register 2030
Equipment & Supplies 2030
Minor Elective Surgical Procedures 2030
Policies & Procedures 2029
Records 2030
Retention, Filing, & Indexing Records 2030
Staff Roster 2029
Staffing 2029
Emergency Situations 95, 745
Cattle Held Separate 95
Cattle Returned to State of Origin 95
Cattle That Remain in Idaho 95
Emergency Transportation Services
Coverage & Limitations 1718
Air Ambulance Service 1719
Co-Payments 1719
Local Transport Only 1718
Prior Authorization 1718
Participant Eligibility 1718
Procedural Requirements 1719
Air Ambulance 1719
Non-Emergency Transport Prior Authorization Required 1719
Services Subject to Review 1719
Provider Qualifications & Duties 1719
Air Ambulance 1719
Licensure Required 1719
Medically Necessary 1719
Usual Charges 1719
Provider Reimbursement 1719
Ambulance Reimbursement 1720
Scope of Coverage & General Requirements for Ambulance Services 1719
Emergency Treatment
Emergency Treatment 3436
Fees 3436
Suitable Examination Place 3435
Emergency Waiver 4769
Conformance to Conditions of Waiver 4769
Emergency Waiver 4769
Verbal Waivers 4769
Waiver of Provisions of Stream Protection Act 4769
Waivers Granted by Designated Employees 4769
Emergency Work 3180
Employee & Volunteer
Orientation 2618
Child Abuse, Neglect, & Abandonment Reporting 2618
Job Function 2618
Job Responsibilities 2618
Organization 2618
Employee & Volunteer Training, Residential Care Facility 2618
Employee Contribution Rate 6041
Employee Contributions Based On Gross Salary 6009
Employee Representation 644
Ballots 645
Challenging Eligibility 645
Collective Bargaining Unit 644
Deauthorization of Union Representation 645
Elections 645
Existing Collective Bargaining Agreement 645
Frequency of Election 646
Hearings 644
Observers 645
Petition for Election 645
Petition or Union Representation 644
Preparation of Ballot 645
Requests Made by Unions 644
Voting Eligibility 645
Waiver of Investigation & Hearing 645
Employee's Withholding Allowance Certificates 4273
Employee's Responsibility 431
Employee Accidents 431
Employee Responsibilities 431
General Requirements 431
Study Requirements 431
Employee's Wage & Tax Statements 4273
Corrected Forms W-2 4274
Employers With Fifty or More Idaho Employees 4274
Extension of Time to File Form W-2 4274
Filing Forms W-2 With the Tax Commission 4274
Form & Information Required 4273
Furnishing Forms W-2 to Employees 4274
Services Performed Within & Without Idaho 4274
Employee's Withholding Allowance Certificates
Notification 4273
Petition for Changes 4273
Verification 4273
Employees 811, 847
Licenses 847
Report to Stewards 847
Suspension or Fine 847
Employees Ineligible To Play 5250
Employees Of Educational Institutions 612
Possibility of Employment 613
Reasonable Assurance 613
Reasonable Assurance Later Given 613
Retroactive Payments 613
Under Contract, But Between School Terms 613
Employer 6036
Employer Allocation 6036
Employer Contribution Rate 6041
Employer Participation 6033
Employer Records
Records to be Made Available 630
Required Information 629
Travel or Employee Business Expenses 630
Employer Registration 2502
Change in Name or Ownership 2502
Initial Registration 2502
Employer Responsibilities 2502
Employment Determination 2502
Ensure Time Frames Are Met 2502
Maintain Printed Copy of Application 2502
Screen Applicants 2502
Employer Status Report
Exceptions 630
Status Report 630
Employer's Responsibility 429
General Requirements 429
Management Responsibility 430
Employment Of Juvenile Offenders 381
Employment 381
Employment Opportunities 381
Employment Of Outfitters 3758
Agreement 3758
No Sharing of Profits 3758
Other 3758
Other Outfitter 3758
Employment Of Unlicensed, Non-Exempt Individuals 3625
EMS Agency -- Agreements, Plans, & Policies 1227
EMS Agency -- Application For Initial Licensure 1234
EMS Agency -- Cancellation Of An Air Medical Response 1231
EMS Agency -- Clinical Levels 1218
Air Medical 1218
Air Medical Support 1218
Ambulance 1218
Non-transport 1218
EMS Agency -- Communication Requirements 1225
Air Medical EMS Agency 1225
Ambulance EMS Agency 1225
Non-transport EMS Agency 1225
EMS Agency -- Communications With Air Medical Services 1231
Confirmation of Air Medical Response Availability 1232
Estimated Time of Arrival at the Specified Landing Zone 1232
Notification of Air Medical Response 1232

Required Information to Request an Air Medical Response 1231
Responsibility to Request an Air Medical Response 1231
EMS Agency -- Condition That Results In Vehicle Or Agency Out Of Service 1233
EMS Agency -- Criteria To Request An Air Medical Response 1230
Clinical Conditions 1230
Complications to Clinical Conditions 1230
Operational Conditions for Air Medical Response 1231
EMS Agency -- Demonstration Of Capabilities During Inspection 1233
Validation of Ability to Communicate 1233
Validation of Ability to Submit Data 1233
EMS Agency -- Dispatch Requirements 1225
EMS Agency -- EMS Personnel Request For Air Medical Response 1231
EMS Agency -- Established Criteria For Simultaneous Dispatch 1231
EMS Agency -- Exemptions For Agencies Currently Accredited By A Nationally Recognized Professional EMS Accreditation Agency 1234
EMS Agency -- General Equipment Requirements & Modifications 1224
Denial of an Equipment Modification Request 1225
Equipment & Supplies 1224
Modifications to an EMS Agency's Minimum Equipment List 1224
Renewal of Equipment Modification 1225
Review of an Equipment Modification Request 1224
Safety & Personal Protective Equipment 1224
EMS Agency -- General Personnel Requirements 1221
Personnel Requirements for an Agency Utilizing Emergency Medical Dispatch 1221
Personnel Requirements for EMS Agency Licensure 1221
Personnel Requirements for Prehospital ALS 1221
EMS Agency -- Ground Vehicle Safety Inspection Requirements 1223
New Vehicle Inspection 1224
Response Vehicle Involved in a Crash 1224
Vehicle Inspection Records 1224
Vehicle Inspection Standards 1224
EMS Agency -- Initial Agency Inspection 1233
Validation of Initial Application 1233
Verification of Compliance 1233
EMS Agency -- Inspection Requests & Scheduling 1233
EMS Agency -- Inspection Timeframe After Notification Of Eligibility 1233
EMS Agency -- Inspections By The Department 1233
EMS Agency -- Landing Zone Procedures For Air Medical Response 1232
Establish Landing Zone Procedures 1232
Final Decision to Use Established Landing Zone 1232
Responsibilities of Landing Zone Officer 1232
EMS Agency -- License Duration 1219
Limited 1219
Ongoing 1219
Seasonal 1219
EMS Agency -- Licensure Expiration 1234
EMS Agency -- Medical Supervision Requirements 1227
EMS Agency -- Minimum Equipment Inspection Requirements 1223
EMS Agency -- Patient Care Integration 1228
Cooperative Agreement for Non-Transport Agency 1228
Cooperative Agreements for Common Geographic Coverage Area 1228
EMS Agency -- Planned Deployment Agreements 1228
Chief Administrative Officials 1228
Equipment & Medication 1228
Geographic Locations & Services 1228
Medical Directors 1228
Medical Supervision 1228
Patient Integration of Care 1228
Patient Transport 1228
Quality Assurance 1228
Shared Resources 1228
EMS Agency -- Records, Data Collection, & Submission Requirements 1227
EMS Agency -- Response Requirements & Waivers 1225
EMS Agency -- Service Types 1218
Air Medical Agency Service Types 1218
Ground Agency Service Types 1218
EMS Agency -- Vehicle Requirements 1223
Condition of Response Vehicles 1223
Configuration & Standards for EMS Response Vehicles 1223
Location of Emergency Response Vehicles 1223
Motor Vehicle Licensing Requirements 1223
Quantity of Response Vehicles 1223
EMS Agency Agreements, Plans, & Policies 1227
EMS Agency General Licensure Requirement 1216
EMS Agency Inspections 1233
EMS Agency License -- Nontransferable 1234
EMS Agency-- Licensing Model 1217
EMS Agency License Models 1217
EMS Agency Providing Both Air Medical & Ground-Based EMS Services 1217
Licensing an EMS Agency 1217
Multiple Organization EMS Agency 1217
EMS Agency Licensure Model 1217
EMS Agency Licensure Process 1234
EMS Agency Requirements & Waivers 1224
EMS Agency-- Selection Of Air Medical Agency 1231
Policy for Patient Requests 1231
Written Policy to Select Air Medical Agency 1231
EMS Agency Utilization of Air Medical Services 1230
EMS Agency Vehicle Requirements 1223
EMS Agengy -- Review Of Air Medical Responses 1233
EMS Bureau Initiates Official Investigation 1249
Complaint with Allegations 1249
Discovery of Potential Violation of Statute or Administrative Rule 1249
EMS Bureau Review Of Applications 2286
EMS Bureau Review of Renewal Application 2287
Review of License Applications 2287
EMS Complaints 1256
EMS Education Program Accountability 1238
EMS Education Program Administration 1238
General 1238
Policies & Procedures 1239
EMS Education Program Approval Requirements 1238
All Programs 1238
Paramedicine Programs 1238
EMS Education Program Course Administration 1239
Education 1239
Evaluation 1239
EMS Education Program Course Documentation 1239
Records Retention 1240
Records to be Maintained 1240
Records to be Submitted 1239

EMS Education Program
Eligibility 1238
EMS Agency 1238
Governmental Entity 1238
Hospital 1238
School 1238
EMS Education Program Personnel
Qualifications 1241
Adjunct Faculty or Guest Lecturers 1241
Course Physician 1241
Instructor 1241
Program Director 1241
EMS Education Program Personnel Requirements, Qualifications, & Responsibilities 1241
EMS Education Program Personnel Responsibilities 1241
Course Physician 1242
Instructor 1242
Program Director 1241
EMS Education Programs 1237
EMS Education Standards 1237
Initial Education 1237
Optional Module Education 1238
EMS Exam Applications 1245
EMS Examinations 1244
EMS Instructor Certificate
Renewal 1242
Continuing Education 1243
Education Program Orientation Course 1243
License or Certificate 1243
Submit an Application 1243
Teaching Time 1243
EMS Instructor Certification 1242
EMS Instructor Certification
Requirements 1242
Duration of Certificate 1242
Instructor Certification is Required 1242
Instructor Certification Requirements 1242
EMS Medical Director, Hospital Supervising Physician, & Medical Clinic Supervising Physician
Qualifications 1259
Accept Responsibility 1259
Maintain Knowledge of EMS Systems 1259
Maintain Knowledge of Idaho EMS 1259
EMS Medical Director, Hospital Supervising Physician, & Medical Clinic Supervising Physician Responsibilities & Authority 1260
Access to Records 1260
Approval for EMS Personnel to Function 1260
Develop & Implement Plan for Medical Supervision 1260
Develop and Implement a Performance Assessment & Improvement Program 1260
Document EMS Personnel Proficiencies 1260
Documentation of Written Agreement 1260
Restriction or Withdrawal of Approval for EMS Personnel to Function 1260
Review & Update Procedures 1260
Review Qualifications of EMS Personnel 1260
EMS Personnel License Duration 2281
EMS Personnel License Renewal Duration for AEMT & Paramedic Level Licensure 2281
EMS Personnel License Renewal Duration for EMR & EMT Level Licensure 2281
EMS REPLICA Licensure Duration 2281
Initial License Duration for AEMT & Paramedic Level Licensure 2281
Initial License Duration for EMR & EMT Level Licensure 2281
EMS Response Records And Data Collected 1247
Encephalitis, Viral Or Aseptic 1290
Investigation 1290
Reporting Requirements 1290
Enclosures, Pet Therapy 1402
Encouraging Public Benefits When Installing Practices 6058
Benefiting Habitat 6059
Benefiting the Community 6059
Preventing Degradation 6059
Encroachment Standards 3157
ATONs 3161
Boat Garage 3159
Breakwaters 3159
Commercial Marina 3158
Community Docks 3157
Covered Slip 3159
Excavated or Dredged Channel 3161
Float Homes 3160
Floating Toys 3163
General Encroachment Standards 3161
Lake Specific Encroachment Permit Terms 3163
Mooring Buoys 3160
Riprap 3160
Seawalls 3159
Single-Family & Two-Family Docks 3157
Encumbrances 3850
End Use 5151
Ending Sanctions For Failure To Comply With JSAP 1428
Fair Hearing Reversal 1428
Member Complies With JSAP 1428
Sanctioned Member Becomes Exempt 1428
Ending Voluntary Quit Work Program Penalties 1435
Ending Voluntary Quit or Reduction Penalty After Penalty Period 1435
Ending Voluntary Quit or Reduction Penalty Before the End of Penalty Period 1435
Endorsement 3493, 3512, 3519, 3528, 3534, 3552, 3605, 3659, 3668
A Valid License 3528
Conditions to be Granted A License 3534
Criminal History 3528
Eligibility for Endorsement 3552
Endorsement 3534
Experience/Education 3528
Has Documented Experience 3605
Holds a Current License 3605
National Examination 3528
Requirements for Endorsement 3552
State Examination 3528
Endorsement For Certification Of Prescriptive Authority 3552
Advisory Panel 3553
Credit Toward Requirements 3553
Holds a Current Certificate of Prescriptive Authority 3553
Holds a Current License 3552
Enforcement 3260, 3821, 3830, 4611, 4858, 4915, 5089, 5989, 6082
County Non-compliance 6082
Defending Attorney Non-compliance 6082
Delayed Movement 5089
Designation of a Deficiency 6082
Enforcement Policy 4858
Failure to Respond to Report 6082
Failure to Submit to a Review 6082
False Statements 5989
Final Determination of Non-compliance 6083
General Enforcement & Penalties 5989
Material Non-compliance 6083
Notice of Violation 4915
Public Participation in Enforcement 5990
Revoked Registrations 5089
Security & Patrol 4915
Truth in Reporting 5989
Violations 4858
Willful Non-compliance 6083
Enforcement & Failure To Comply 3113, 3148, 3153
Appeal of Final Order 3148
Bond Forfeiture 3148
Civil Action 3114
Civil Penalty 3114, 3148
Department Remedies 3113
Forfeiture 3153
Hearing Procedures 3115
Injunctive Procedures 3114, 3148
Inspection 3113
Penalties 3153

Right of Inspection 3148
Violation of an Order 3114
Enforcement Actions 2491
Enforcement Action "A" 2491
Enforcement Action "B" 2491
Enforcement Action "C" 2492
Immediate Danger to Residents 2491
Not an Immediate Danger to Residents 2491
Enforcement Inspections 1340
Enforcement Inspections on Consent Order 1340
Follow-Up Inspection 1340
Regulatory Action 1341
Written Notice 1340
Enforcement Of Act 4769
Failure to Comply with Stream Protection Act 4769
Written Orders Issued by Designated Employees of Department 4769
Enforcement Of Immunization Requirement 1317, 1327
Enforcement 1317
Exempted Students 1327
Length of Exclusion 1317, 1327
Noncompliance 1327
Enforcement Of Posted Weight And/Or Speed Restrictions 5112
Enforcement Procedures 2771
Enforcement Procedures For Adulterated Or Misbranded Food 1341
Embargo Order is Effective When Served 1341
Embargo Release 1341
Removal of Embargo Tag or Label 1341
Serving an Embargo Order 1341
Storage of Embargoed Food 1341
Tagging Embargoed Food 1341
Enforcement Process 2072, 2125, 2428
Determination of Remedy 2072, 2125
Enforcement Remedies 2125
Failure to Comply 2073, 2126
Immediate Jeopardy 2073, 2126
No Immediate Jeopardy 2126
Notice of Enforcement Remedy 2428
Recommendation of Remedy 2428
Repeat Deficiencies 2073, 2126
Enforcement Remedies 2197
Enforcement Remedy Of Ban On Admissions 2586
Enforcement Remedy Of Ban On Admissions Of Resident With Specific Diagnosis 2429
Enforcement Remedy Of Ban On All Admissions 2429
Enforcement Remedy Of Civil Monetary Penalties 2493
Assessment Amount for Civil Monetary Penalty 2493
Civil Monetary Penalties 2493
Failure to Pay 2494
Notice of Civil Monetary Penalties & Appeal Rights 2494
Payment of Penalties 2494
Enforcement Remedy Of Limit On Admissions 2493
Notification of Limit on Admissions 2493
Reasons for Limit on Admissions 2493
Enforcement Remedy Of Provisional Certification 2429
Certification or Revocation 2429
Conditions of Provisional Certification 2429
Failure to Meet Conditions of Provisional Certification 2429
Enforcement Remedy Of Provisional License 2496
Enforcement Remedy Of Revocation Of Certificate 2429
Causes for Revocation of the Certificate 2429
Revocation of the Certificate 2429
Enforcement Remedy Of Revocation Of Facility License 2496
Reasons for Revocation or Denial of a Facility License 2496
Revocation of Facility's License 2496
Enforcement Remedy Of Summary Suspension & Transfer Of Resident 2429
Enforcement Remedy Of Summary Suspension & Transfer Of Residents Or Children 2586
Enforcement Remedy Of Temporary Management 2495
Need for Temporary Management 2495
Notice of Temporary Management 2495
Powers and Duties of the Temporary Manager 2495
Responsibility for Payment of the Temporary Manager 2496
Termination of Temporary Management 2496
Who May Serve as a Temporary Manager 2495
Enforcement Remedy Revocation Of License & Transfer Of Residents Or Children 2586
Endangers Health or Safety 2586
Misrepresented or Omitted Information 2587
No Progress to Meet Plan of Correction 2586
Not in Substantial Compliance 2586
Refusal to Allow Access 2587
Repeat Violations 2587
Violation of Terms of Provisional License 2587
Engine House & Shop Facilities 4068
Enhanced Developmental Disability Services 1844
Enhanced Filtration & Disinfection - Systems Serving Fewer Than Ten Thousand People 5704
Enhanced Filtration & Disinfection - Systems Serving Ten Thousand Or More People 5700
Criteria for Avoiding Filtration 5700
Disinfection Profiling & Benchmarking 5700
Filtration 5700
Filtration Sampling Requirements 5700
General Requirements 5700
Enhanced Home Health Care 1762
Enhanced Hospital Services 1761
Enhanced Inpatient Behavioral Health Services 1762
Enhanced Plan Benefits
Covered Services 1760
Enhanced Treatment For Cryptosporidium -- Long Term 2 Enhanced Surface Water Treatment Rule 5704
Assessment of Significant Changes in the Watershed 5705
Cryptosporidium Treatment Credit for Approved Watershed Control Program 5705
Enhanced Work Services 1600
Purpose 1601
Time Period 1601
Enter, Search & Inspect 846, 858
Enter, Search, & Inspect 785, 811
Entering Premises 106
Cooperation 106
Notification 106
Enterprise Risk Report 2920
Entities Included In A Combined Report 4236
Combined Report 4236
Domestic International Sales Corporations 4236
Foreign Sales Corporations 4237
Insurance Companies 4237
Intercompany Transactions 4237
Entries & Declarations 788
Declaring an Entry 788
Eligible 788
Entries 789
Entry Refused 788
Entry Void 789
Ineligible 788
Name of Jockey 789
Overnight Race 788
Responsibility 789
Ringer 788
Trainer 789
Entries Closed 791
Absence of Notice 791

Changes 791
Entries Closed at Advertised Time 791
Entries Compiled 791
Hour of Closing 791
Unclosed Race 791
Entry Requirements 81
Environmental Contaminants & Substances Of Human Use 860
Caffeine 860
Positive Test 860
Environmental Fees 5844
Environmental Review 5493, 5576, 5815, 5871
Categorical Exclusion 5494
Categorical Exclusions 5576, 5816, 5871
Environmental Documentation 5494, 5576, 5815, 5871
Environmental Impact Statement (EIS) Requirements 5494, 5577, 5816, 5872
Environmental Information Document Requirements 5494, 5576, 5816, 5871
Exemption From Review 5817, 5873
Final EIS 5495, 5577, 5872
Final Environmental Impact Statement (EIS) 5816
Final Finding of No Significant Impact 5494, 5576, 5816, 5872
Partitioning the Environmental Review 5817, 5872
Use of Environmental Reviews Conducted by Other Agencies 5495, 5577, 5817, 5872
Validity of Review 5495, 5577, 5817, 5872
Environmental Sanitation 1382, 2057
Garbage & Refuse Disposal 2057
Garbage Containers 2058
Heating & Ventilation 2060
Housekeeping 2060
Insect & Rodent Control 2058
Laundry 2060
Linen-Laundry Facilities 1383
Plumbing 2060
Sewage Disposal 2057
Storage, Transportation, Treatment & Disposal of Infectious Waste 2058
Water Supply 1382, 2057
Environmental Sanitation Standards 1958, 2420
Garbage & Refuse Disposal 2421
Housekeeping & Maintenance 2421
Insect & Rodent Control 2421
Laundry Facilities and Services 2421
Nonmunicipal Sewage Disposal 2421
Sewage Disposal 2421
Water Supply 2420
Yard 2421
Environmental Standards -- Chemicals & Pesticides 1959
Chemical Storage 1959
Rodent & Pest Control 1959
Environmental Standards -- Housekeeping Services 1960
Deodorizers 1960
Facility Interior 1960
Housekeeping Procedures 1960
Requirements After Individual Discharged 1960
Environmental Standards -- Linens & Laundry Services 1960
Laundry Facilities 1960
Laundry Services 1960
Linens Provided 1960
Environmental Standards -- Water, Sewer, & Garbage 1958
Adequate Water Supply 1959
Garbage & Refuse Disposal 1959
Private Water Supply 1959
Sewage Disposal 1959
Water Supply 1958
EPSDT Screening 2536
EPSDT Services 1723
Equal Payment Test 1553
Equidae 97
Approved Equine Feedlot 97
EIA Test Requirements 97
Reciprocal Agreements 98
Working Horses Included on Grazing Permits 97
Equipment 798, 3824
Blinkers 798
Bridles & Whips 798
Calibrator 3824
Change 798
Head Number 798
Manual 3824
Permission Needed for Equipment Change 798
Sound Level Meter 3824
Tachometer 3824
Tongue Tie 798
Equipment & Supplies 4862, 4873, 4882
Equipment Limitations 3174
Equipment Of A Timekeeper 3433
Equipment Of The Chief Second 3432
Ammonia 3432
Equipment 3432
Ring Physician 3432
Equipment Required 682
Authority 682
Equipment 682
Equipment Storage, Children's Residential Care Facilities 2638
Equipment To Remain Property Of State Of Idaho 3860
Equipment, Initial Stock & Business Expenses 1123
Initial Stock of Merchandise 1123
Insurance 1123
Program Responsibility 1123
Vending Machine Contracts 1123
Equity Value Of Resources 1438, 1490
Errors Of The Filing Officer, Filing & Data Entry Procedures 4133
Errors Or Misrepresentations In The Application 2731
Material Misrepresentation 2731
Prohibitions 2731
Errors Other Than Filing Office Errors, Filing & Data Entry Procedures 4133
Escape Of Deleterious Exotic Animals 113
Escape Of Domestic Cervidae 187
Capture 187
Duty to Retrieve Escaped Cervidae 187
Failure to Notify 187
Fish & Game 187
Notification of Escape 187
Sheriff & State Brand Inspector 187
Taking of Escaped Domestic Cervidae 187
Escherichia coli O157 h7 & Other Shiga-Toxin Producing E. coli (STEC) 1290
Handling of Report 1290
Investigation 1290
Reporting Requirements 1290
Restrictions - Day Care Facility 1290
Restrictions - Food Service Facility 1290
Restrictions - Health Care Facility 1291
Escrow Fees 2895
Essential Providers 1701
Establishing An Account
Establishing an Account 841
Other Information 841
Establishing An Intentional Program Violation (IPV) 1463
Hearing 1464
Judgement 1464
Waiver 1464
Establishing Permit Provisions 5968
Applicable Requirements 5968
Best Management Practices 5973
Grants 5973
Incorporation 5968
Monitoring Requirements 5972
Navigation 5973
Notification Level 5972
Other Effluent Limitations & Standards 5969
Permit Durations 5972
Pretreatment Program for POTWs 5972
Privately-Owned Treatment Works 5973
Qualifying State or Local Programs 5973

Reissued Permits 5973
Reopener Clause 5970
Sewage Sludge 5973
Technology-Based Controls for Toxic Pollutants 5972
Technology-Based Effluent Limitations & Standards 5968
Twenty-Four (24) Hour Reporting 5972
Water Quality Standards & Requirements 5970
Water Quality Trading 5974
Establishment & Maintenance Of Records 6072
Copies 6072
Costs of Services Records 6072
Costs of Subcontract and Personal Service Contract Records 6072
Duration of Record Keeping 6072
Establishment & Purposes 4023
Establishment Changes In Ownership or Location 3732
Addition of an Owner 3732
Board Must Be Informed of All Changes 3732
Deletion of an Owner 3732
License Status 3732
Out of Business 3732
Transfer of Ownership 3732
Establishment Of Classes Of Business 2850
Group Size Will Not be Acceptable as Eligibility Criterion for Class of Business 2851
Supporting Documentation For Establishment of Classes of Business 2850
Establishment Of Perimeters 4863, 4873, 4882
Establishment Of Remediation Standards 5607
Generic Health Standards 5608
Other 5608
Risk Based Levels 5608
Screening Levels 5607
Establishment Of Telephone Industry Advisory Committee 4036
Establishment of Committee 4036
Estate -- Residency Status 4149
Nonresident Estates 4149
Resident Estates 4149
Estate In Probate 1489
Estate Not In Probate 1489
Estates 4130
Evaluation 2326
Adequacy of Corrective Action 2326
Continued Certification of Other Tests 2326
Documentation of Corrective Action 2326
Unacceptable PT Result 2326
Evaluation & Award 4896
Extension of Time for Acceptance 4897
General 4896
Information Pertaining to Responsibility 4897
Only One Submission Received 4897
Partial Award 4897
Standards of Responsibility 4897
Written Determination of Nonresponsibility Required 4897
Evaluation Committee 3853
Appointment & Term 3854
Composition 3853
Quorum 3854
Evaluation Criteria 4800
Criteria for Evaluating All Applications to Appropriate Water 4800
Criteria for Evaluating Public Interest 4803
Criteria for Evaluating Whether a Proposed Use of Trust Water Will Cause a Significant Reduction 4801
Evaluation Of Applications 2159
Conflict of Interest 2159
Evaluation Criteria 2160
Threshold Factors 2159
Evaluation Of The Outfitter Application 3761
Area Requested 3761
Need for Services 3761
Operating Plan 3761
Other 3761
Previous Record 3761
Qualifications 3761
Evidence 719, 2146, 3960
Evidence Of Immunization Status 1314, 1326
Immunization Record 1314, 1326
Schedule of Intended Immunizations Form 1314, 1326
Students Admitted to School & Failing to Continue the Schedule of Intended Immunizations 1326
Ex Parte Communications 267, 3043, 4611, 4671, 5589
Permitted Ex Parte 4611
Prohibited Ex Parte 4611
Exacta Pools 764
Dead Heat for First 764
Dead Heat for Second 764
Dead Heat for Second -- Two or More Betting Interests 764
Distribution 764
Exacta Pools 764
Exam Applications 33
Examination 562, 3436, 3761
Failed Examinations 563
Frequency of Conducting of Examinations 562
Professional Testing Services 563
Required Score 563
Examination & Records 2743
Examination & Re-Examination 3372
Examination & Re-Examination Applicants for Professional or Practical Nurse Licensure 3372
Examination Application 3372
Examination By Physician
One-Sided Contested 3440
Risk of Injury & Examination by Physician 3440
Examination For Beneficial Use 4701
Field Report 4701
Field Report Acceptability 4704
General 4704
Examination For Licensure 3527, 3603
Content of Exam, Passing Scores 3527
Date & Location of Exam 3527
Examination 3604
Examination Fee 3527
Good Moral Character 3527
Successful Passage 3604
Time & Place 3604
Examination For Provisional Certification Of Prescriptive Authority 3552
Date of Exam 3552
Passing Score 3552
Examination In Case Of Head Injury
Combatant Who Has Been Knocked Out 3441
Decision of Technical Knockout Rendered by Referee 3442
Head Injury 3442
Knockout from Blow to Head 3442
Examination Of Applicant For License 550
Approval of Examination & Grade 550
Required Examinations 550
Examination Of Application 942
Examination Of Horses 737
Declared Ineligible 737
Emergencies 737
Examination of Horses 737
Humanely Destroy 737
Present In Paddock 737
Examination Of Records
Access To Machine-Sensible Records 4586
Access Alternatives 4586
In General 4586
Alternative Storage Media 4587
In General 4587
Requirements of Storage-Only Imaging Systems 4587
Definitions 4584
Books & Papers 4584
Database Management System 4584
Electronic Data Interchange or EDI Technology 4584
Hard Copy 4584
Machine-Sensible Record 4584
Photocopy (Photocopied) 4584

Records 4584
Storage-Only Imaging System 4584
Recordkeeping & Production Requirements 4584
Cost Reimbursement to a Third-Party 4586
Failure to Comply 4586
In General 4584
Machine-Sensible Records 4585
Records Maintenance 4586
Effect on Hard-Copy Recordkeeping Requirements 4587
Requirements 4587
Taxpayer Responsibility & Discretionary Authority 4587
Examination Procedures 4852
Assistance Must Be Authorized 4852
Examination Scoring 4852
Oral Examination 4852
Written Examination 4852
Examination Requirements 961
Examination Required 961
Investment Adviser Representatives - Waiver 962
Specialized Examination Authority 962
Waiver 962
Examinations 509, 1147, 3460, 3477, 3512, 3551, 3611, 3645, 3749
Authorization 3477
Content 3611
Date of Licensure Examination 3611
Examination Process 3749
Examinations for Journeyman Plumber 509
Failing a Section of Exam 3512
Failure of Exam 3551
Frequency of Conducting of Examinations 509
Fundamentals of Geology 3477
Grading 3611, 3749
Inspection of Examination 3750
Inspection Review 3750
Minimum Passing Score 3512
Passing Score 3551
Practice of Geology 3477
Professional Testing Services 509
Re-Examination 3611
Reexamination 3478
Re-Score or Review of Examination 3478
Retention of Examinations 3750
Scope of Examination 3749
Scores 3478
Time & Place 3478
Time & Place of Exam 3551
Written Exam Required 3551
Examinations & Education 651
Eligibility for Licensure, Educational Requirements 651
Exemption - Examination on the Fundamentals of Engineering 654
Fundamentals of Engineering 653
Grading 654
Oral or Unassembled Examinations 654
Principles & Practice of Engineering - Disciplines 654
Review of Examination By Examinee 654
Special or Oral Examination 651
Three Examinations for Land Surveying Registration 654
Two Examinations for Engineering Registration 653
Use of NCEES Examinations 651
Examinations & Endorsement 3589
Examinations For Licensure 3017
Dental Hygienist Clinical Examination 3017
Dental Hygienist Written Examination 3017
Dentist & Dental Specialist Written Examination 3017
Dentist Clinical Examination 3017
Example Of Certificate Of Liability Insurance To Be Issued By The Director May Be Found On The Department Website 2734
Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Three Thousand Dollars 4177
Examples Of A Nonexclusive Format for a document 2734
Exception To Charging A Copayment 2381
Exception to Opt Out Requirements for Disclosure of Nonpublic Personal Financial Information for Service Providers & Joint Marketing 2726
General Rule 2726
Exception To Overhead Clearance Rules 4067
Exception To The Related Organization Principle 1759
Lease or Rentals of Hospital 1624
Nonexclusive Relationship 1624, 1759
Sales & Rental of Extended Care Facilities 1759
Supplying Organization 1624, 1759
Exception To The Two Resident Limit Variance To The Two Resident Limit Determination 2396
Exceptions 5062
Air Navigation 5062
Antennas 5062
Shielded 5062
Exceptions To Annual Renewal 1371
Extended Medicaid 1371
Newborn Child of Medicaid-Eligible Mother 1371
Pregnant Woman 1371
Exceptions To Apportionment Formula
Additional Or Substitute Factors 4236
Exclusion Of A Factor 4236
Separate Accounting 4236
Exceptions To Competition 4891
Contracts with Other Public Agencies 4891
Correctional Industries 4891
Emergency Purchases 4891
Exempt Purchases 4892
Existing Open Contracts 4891
Federal Government Acquisitions 4891
Purchases from General Services Administration Federal Supply Contractors 4891
Rehabilitation Agency Acquisitions 4891
Reverse Auctions 4891
Sole Source Purchases 4891
Exceptions To Immunization Requirement 1315, 1326
Disease Diagnosis 1315, 1327
Laboratory Proof 1315, 1327
Suspension of Requirement 1315, 1327
Exceptions To Notice & Opt Out Requirements For Disclosure Of Nonpublic Personal Financial Information For Processing & Servicing Transactions 2727
Exceptions 2727
Exceptions To Requirement For Authorization 2133
Advocates & Guardians 2133
Child Protection Agency 2134
Collaborative Staffing 2134
Department Business, Monitoring & Legal Functions 2134
Duty to Warn or Report 2134
Elected State Official 2134
Emergencies 2134
Fugitives & Missing Persons 2133
Informal Representatives 2134
Law Enforcement 2134
Legally Authorized Agency 2134
Licensure 2133
Multidisciplinary Staffing 2134
Exceptions To Residential Provider Owned Or Controlled Setting Qualities 1815
Assessed Needs 1815
Assurance of No Harm 1815
Data Collection 1815
Description of Intervention 1815
Informed Consent 1815
Interventions & Supports 1815
Prior Methods 1815
Time Limits 1815
Exceptions To These Rules 225, 313
Exceptions, Fees & Charges, Loan Broker Fees 246
Exceptions/Extension 2907
Exchange Of Information, Other

Discovery 5590
Additional Discovery 5591
Information Exchange 5590
Scope of Additional Discovery Allowed 5591
Supplementation of Information Exchange & Discovery 5591
Excluded Household Goods & Personal Effects 1493
Excluded Inaccessible Resources 1443
Excluded Income 1446, 1588, 2186
Adoption Assistance 1588, 2187
Agent Orange 1589
AmeriCorps/VISTA Volunteers 2187
Assistance 2187
Cash Donations 1447
Child Nutrition 1588
Child Support 1588
Child Support Payments 1446
Child's Earned Income 1588
Child's Supplemental Security Income (SSI) 1588
Disability Insurance Payments 1588
Disaster Relief 1589
Earned Income of a Dependent Child 2187
Earnings of Child Under Age Eighteen Attending School 1446
Educational Funds 2187
Educational Income 1589
EITC Payments 1588
Elderly Nutrition 1588
Federal Earned Income Tax Credit (EITC) 1447
Food Programs 1588
Foster Care 1588
Foster Care Payments 2187
Foster Parents' Income 2187
Home Energy Assistance 1589
Housing and Urban Development (HUD) Interest 1589
Housing Subsidies 1589
HUD Family Self-Sufficiency (FSS) Escrow Account 1448
Income Excluded By Federal Law 1589
Income Excluded by Federal Law 1448
Income in Kind 1447
Income Received for Person Not Residing With the Family 2187
Income Tax Refunds & Earned Income Tax Credits 2187
Infrequent or Irregular Income 1447
Interest Income 1588
Japanese-American Restitution Payments 1589
Loans 1447, 1588, 2187
Low Income Energy Assistance 1588
Lump Sum Income 2187
Money for Third Party Care 1447
Money Gifts 1588
Money Withheld 1446
Native American Payments 1589
Office of Refugee Resettlement Assistance 2187
Radiation Exposure Payments 1589
Reimbursements 1447
Relocation Assistance 1589
Retirement Benefits Paid to Former Spouse or Third Party 1446
Sales Contract Income 1588
Senior Volunteers 1589
Social Security Overpayment 1588
Spina Bifida 1589
Subsidized Employment 1589
Supportive Services 1588
TAFI 1588
TAFI & AABD Benefits 2187
Tax Refunds 1588
Temporary Census Earnings 1448
Temporary Census Income 1589, 2187
Third Party Payments 1447, 1588
Travel Reimbursements 2187
Tribal Income 2187
Utility Reimbursement Payment 1589
VA Educational Assistance 1589
Vendor Payments 1447
Vista Payments 1589
Work Reimbursements 1588
Work Study 1447
Work Study Income of Student 1589
Workforce Investment Act (WIA) Benefits or Workforce Innovation & Opportunity Act (WIOA) Benefits 2187
Excluded Real Estate Contract 1496
Excluded Resource Changes To Counted Resource 1444
Excluded Resources 1441
Excluded Services 1624
Exclusion 723, 807, 5285
Deemed to be Detrimental 807
Honesty & Integrity 807
Integrity Exclusion 723
Statutory or Regulatory Exclusion 723
Exclusion & Ejection 856
Lawful Reason 856
Readmission 856
Exclusion Criteria 1316
Exempted Children 1316
Noncompliance 1316
Exclusions 1264
Facilities & Laboratories 1264
Other Certifying Agencies 1264
Exclusive Purpose 6044
Executive Certification 905
Position 905
Prior Certification 905
Training 905
Executive Officer Of The Board 876
Additional Responsibilities 876
Authority of Office 876
Governing Policies & Rules 877
Exempt & Undercover Plate Fees 5104
Adjusted Fees 5104
Department Reimbursement 5104
Exempt Plate Display 5104
Exempt Plate Status 5104
Non-Expiring Plates 5104
Reissue of Plates 5104
Transfer of Plates 5104
Exempt Trusts 1555
Income Trust 1556
Trust for Disabled Person 1556
Trust Managed by Non-Profit Association for Disabled Person 1556
Exemption 3947
Exemption For Never Occupied Residential Improvements & Commercial, Industrial, & Residential Site Improvements 4469
Non-Qualifying Residential Improvements 4469
Qualifying Residential Improvements 4469
Exemption For Research & Development At INL 4350
Agreements with Contractors 4351
Exclusive Financing Exemption Under Section 63-3622BB(1), Idaho Code 4350
Motor Vehicles 4351
Parts for Equipment 4350
Percentage of Tangible Personal Property Exemption Under Section 63-3622BB(2), Idaho Code 4351
Property Directly Used or Consumed 4350
Radioactive Waste 4350
Exemption From Attorney General Administrative Procedure Rules For Contested Cases 594
Exemption From Licensing & Licensing Fees 5260
Exemption From Licensing Not Exemption From Rules 5260
Low-Stakes Bingo 5260
Low-Stakes Raffle 5260
Exemption From Participation 41
Firms 41
Licensees Not in Public Practice 41
Licensees Not Issuing Reports 41
Exemption from Participation 1652
Exemption From Requirement For Bonds 4545
Bond Requirement upon Termination of Exemption 4546
Conditions for Renewal of Bond Exemption 4546
Conditions for Termination of Exemption 4546
Exemption to Bond Requirements for Licensed Distributors 4545
Pending Application Does Not Excuse the Bond

Requirement 4546
Exemption From The Idaho Rules Of Administrative Procedure Of The Attorney General 717
Findings 717
Idaho Rules of Administrative Procedure of the Attorney General 717
Exemption From TRS Participation & Funding 4040
ADA 4040
TRS Program 4040
Exemption Of EMS Agency Licensure 1216
Emergency, Natural, or Man-made Disaster 1217
Interstate Compact with Idaho 1216
Transfer of Patient From Out-of-State Medical Facility 1217
Transport of Patient From Out-of-State Emergency Scene 1217
Exemption Reviews 2514
Exemption Review Appeal 2515
Exemption Review Decision Effective Dates 2515
Exemption Review Determination 2515
Factors Considered at the Exemption Review 2514
Scheduling an Exemption Review 2514
Exemptions 175, 664, 2749, 4073, 4555, 4559, 4565, 4576, 4767, 5058, 5267
Active Duty in the Armed Forces 664
Binding or Conditional Receipt Issued by Same Company 2749
Burden of Proof 4565
Campgrounds Exempted 4556
Cleaning, Maintenance, Construction or Repair Work 4767
Common Ownership or Control 2749
Computing the Exemption 4559
Continuous Occupancy Exemptions 4555
Credit for Taxes Paid 4576
Credit Life Insurance 2749
Deliveries or Transfers to Unlicensed Seed Facilities 175
Direct Pay Authority 4556
Dispositions From One Distributor or Wholesaler to Another 4565
Documentation 4576
Exempt Entities 4555
Exemptions 4555
Existing Insurer 2749
Expired License 664
Extenuating Circumstances 664
First Renewal Period 664
Foreign Diplomats 4556
Group Life Insurance or Group Annuities 2749
In General 4559
Indian Reservations 4576
Non-Indian Enterprises 4576
Non-Indian Retailers 4576
Producers That Sell or Transfer to Another Producer 175
Producers With a Financial or Management Interest 175
Removal of Debris 4767
Retired 664
Rooms Rented for Purposes Other Than Sleeping 4556
Sales By Wine Direct Shippers Outside This State 4565
Sales to Idaho State Liquor Dispensary 4565
Sales to Purchasers on Military Reservations 4565
Snake & Clearwater Rivers 4767
Wheeled Energy 4560
Wholesale Exports 4565
Work on Existing or Proposed Reservoir Projects 4767
Exemptions & Effective Dates 2952
Exemptions Not Otherwise Provided 2952
Exemptions Authorized By Section 40-1904, Idaho Code 5037
Advertising Sale or Lease of Property 5037
On-Premise Signs 5038
Signs Erected by Public Officers or Agencies 5037
Exemptions From Destruction (Non-Phaseolus) 203
Exemptions From Destruction (Phaseolus) 202
Beans for Processing or Fresh Consumption 202
Brown Spot 202
Exemptions From JSAP 1426
Children Under Age Sixteen 1427
Parents & Caretakers of an Incapacitated Person 1426
Parents or Caretakers of a Child Under Six Years of Age 1426
Participants Age Sixty or Older 1427
Persons Age Sixteen or Seventeen 1427
Persons in Treatment for a Substance Use Disorder 1427
Persons Who Are Employed 1426
Persons Who Are Incapacitated 1426
Persons Who Are Self-Employed 1426
Pregnant Women 1427
SSI Applicants 1426
Students Enrolled Half Time 1426
Unemployment Insurance (UI) Applicant/Recipient 1427
Exemptions From The Cooperation Requirement 1436
Exemptions On Purchases By Political Subdivisions, Sales By The State Of Idaho, ITS Departments, Institutions, & All Other Political Subdivisions 4366
Extent of Exemptions 4366
Federal Government 4367
In General 4366
Other States 4367
Political Subdivisions 4366
Purchases by Contractors 4366
Sales by Political Subdivisions 4366
Exemptions To Immunization Requirement 1315, 1327
Life or Health Endangering Circumstances 1315, 1327
Religious or Other Objections 1315, 1327
Exercise Of Rights By Customer 3978, 4003
Exercise Person 834
Exhibit 4621
Copies 4621
Custody 4621
Form 4621
Marking 4621
Objection 4621
Exhibit Numbers 274, 3046, 4674, 5590
Exhibit Numbers--Prepared Testimony & Exhibits 3953
Exhibits 277, 3049, 3961, 4677, 5594
Certain Exhibits Require Presiding Officer's Approval 3962
Exhibit Numbers 3961
Form of Exhibits 3961
Labeling of Exhibits 3961
Objection -- Admission 3961
Sources for Exhibits 3962
Timely Filing of Exhibits 3961
Exhibits, Hearings 6002
Existence Of Extraordinary Gains 6033
Existing Activity or Discharge 5301
Existing Agreements 2961
Existing Buildings 1383
Codes & Standards 1383
Dining/Recreation Facilities 1385
Electrical & Lighting 1386
General Building Requirements 1383
Heating 1386
Isolation Units (Temporary) 1385
Plumbing 1386
Resident Accommodations 1384
Resident/Staff Communication 1383
Site Requirements 1383
Storage Space 1385
Utility Areas 1385
Ventilation 1386
Existing Intermediate Or Large Dams 4762
Analyses Required 4762

Other Requirements 4763
Existing State Highway System 5023
Existing Structures Not Complying With These Rules 4068
Existing Tracks 4068
Existing Tracks Not Meeting Clearance Standards 4068
Exits 2606
Expedited Certification 1417
Migrant Household Applying From the First Through the Fifteenth of the Month 1418
Migrant Household Applying From the Sixteenth Through the End of the Month 1418
Nonmigrant Household Applying From the First Through the Fifteenth of the Month 1417
Nonmigrant Household Applying From the Sixteenth Through the End of the Month 1418
Reapplying Household 1418
Expedited Food Stamp Work Registration 1417
Expedited Service Eligibility 1416
Destitute 1417
Income Less Than Rent & Utilities 1417
Low Income & Resources 1417
Expedited Services For Destitute Households 1419
Application Month 1419
New Income in Application Month 1419
Terminated Income & New Income in Application Month 1419
Terminated Source of Income 1419
Expedited Verification 1417
Expedition & Hiking Limit Requirements 2660
Acclimation to Environment 2661
Inability or Refusal to Hike 2660
Log 2661
Maps & Itinerary 2660
Maximum Temperature 2660
Physical Capability 2660
Expeditions 2658
Expedition Evaluations 2659
Expedition Summary 2659
Global Positioning System (GPS) 2659
Group Size 2659
Participant De-Briefing 2659
Staff Briefing 2659
Staff De-Briefing 2659
Wilderness First Responder (WFR) 2659
Written Description 2659
Expenditure Of Funds 3795
Expenditures From Hazardous Waste Emergency Accounts 5621
Expenditures Other Than Contributions 4093
Reporting Periods 4093
Expense Of Obtaining Income 1504
Expenses Other Than Interest Attributable To Tax-Exempt Income 4158
Directly Allocable Expenses 4158
Indirectly Allocable Expenses 4158
Experience Rating - Qualifying Period 638
Experience Reports & Adjustment Of Prima Facie Rates 2758
Report of Credit Life & Credit Disability Business Written 2758
Review of Loss Ratio Standards 2758
Expiration 3830
Expiration & Renewal Of An Operator's Permit 4853
Continuing Education Required for Renewals 4853
Expiration of Operator's Permits 4853
Renewal Application 4853
Welding Competency 4853
Expiration & Renewal Of Certification 5288
Removal from the Roster 5288
Renewal 5288
Renewal After Certification Expiration 5288
Expiration & Renewal Of License 1952, 2442, 4853
Application for License Renewal 2442
Continuing Education Requirements 4853
Existing License 2443
Expiration of Licenses 4853
Renewal Application 4853
Welding Competency 4853
Expiration Of Appointment 1154
Failure of Incumbent to Return 1154
Return of Incumbent 1154
Expiration Of Approval, Non-Steroidal Anti-inflammatory Drug 865
Expiration Of Approved Status 54, 81
Expiration Of Certification Period 1459
Expiration Of License 3520
Explanation For Denial Of A Service To A Customer 4009
Explanation For Denial Of Service Or Requirement Of Deposit -- LECS 4004
Explanation For Denial Of Service To Applicant 3985
Explanation to Applicant 3985
Written Notice 3985
Explanation For Requirement Of Deposit 3980
Explanation Of Data Not Tracked 6070
Explanation To Vendors Of Rights & Responsibilities 1131
Exploration 3215
Permit Conditions 3215
Written Permit Required 3215
Exploration & Development 3260
Exploration & Operation Records, Confidentiality 3207
Continuing Obligations 3207
Drilling Records 3207
Well Logs 3207
Exploration Locations 3174
Lands Open 3174
Record Keeping Requirement 3174
Size of Location 3174
When No Written Approval Required 3175
When Written Approval Required 3175
Exploration Operations & Required Reclamation 3123
Additional Reclamation 3124
Confidentiality 3123
Contents of Notification 3123
Diligence 3123
Exploration Reclamation (Less Than Two Acres) 3123
Exploration Reclamation (More Than Two Acres) 3124
Notification 3123
When Exploration is Surface Mining 3123
Exploration Under The Lease 3205
Casual Exploration 3205
Diligent Exploration 3205
Plan Required 3205
Explosives & Fireworks, Chapter 56, International Fire Code 3001
Express Limited Authorization, Estimates 240
Expressway 5000
Expungement Procedure 700
Application 700
Certified Copy of Order of Acquittal or Order of Dismissal 700
Required Information Included 700
Extended (Postpartum) Medicaid For Pregnant Women 1542
Extended Benefits 613
Evidence of Employment for Extended Benefits 613
Remuneration Earned 613
Extended Cash Assistance (ECA) 1597
Extended Cash Assistance Additional Eligibility Criteria 1597
Physical Condition 1597
Extended Cash Assistance Application 1597
Extended Cash Assistance Time Limits 1598
Extended Medicaid For Spousal Support Increase 1366
Extended Validity Equine Certificates 90
Cancellation 90
Contents 90

Period of Validity 90
Travel Itinerary 90
Valid for One Animal 90
Extension For RTA Transfer 1537
Extension Of Existing Platforms 4070
Extensions Of Annual Farming Lease Payment 3194
Due Date 3195
Farming Lease Extensions 3194
Liens 3195
Extensions Of Payment 3230
Extension in Time for Payment of Rent 3230
Interest Rate for Extension in Time for Payment of Rent 3230
Penalty for Late Payment of Rent 3230
Request for Extension in Time for Payment of Rent 3230
Extensions Of Statutory Deadlines For Disaster Relief 4427
Application by County Officials 4427
Contents of Application 4427
Procedure 4428
Extensions Of Time 4266
Individuals in Combat Zone 4266
Interest 4266
Taxpayers Abroad 4266
Extensions Of Time As Disaster Relief 4266
In General 4266
Penalties & Interest 4267
Extraordinary Dividends & Other Distributions 2920
Other Dividends 2920
Request for Approval 2920
Extraordinary Occurrence Of Illness, Including Clusters 1291
Handling of Report 1291
Investigation 1291
Reporting Requirements 1291

F

Facilities At Or For Hearing & ADA Requirements 274, 3046, 4674, 6002
Facilities At Or For Hearing & ADA Requirements, Hearings, Miscellaneous Procedure 3956
Facilities Existing Before April 1, 1955 4067
Facilities Operated By The State 2537
Facility 5301
Facility & Design Standards
Additional Design Criteria For Surface Water Treatment 5737
Acceptable Technology 5737
Continuous Monitoring of Disinfectant 5737
Continuous Operation Required 5737
Continuous Turbidity Monitoring 5737
Disinfection 5737
Engineering Design Requirements 5737
Enhanced Disinfection 5737
Filter to Waste 5737
Pilot Studies 5738
Redundant Disinfection 5738
Removal of Pathogens 5737
Aeration Processes 5773
Disinfection 5777
Forced or Induced Draft Aeration 5774
Natural Draft Aeration 5773
Other Methods of Aeration 5776
Packed Tower Aeration 5775
Pressure Aeration 5774
Protection of Aerators 5777
Spray Aeration 5774
Cross Connection Control 5789
Assembly Selection 5790
Atmospheric Vacuum Breakers 5790
Replacement Parts & Components 5790
Testable Assemblies 5790
Demonstration Of Technical, Financial, & Managerial Capacity Of Public Drinking Water Systems 5710
Consolidation 5711
Exclusion 5711
Expanding Systems 5711
Financial Capacity 5710
Managerial Capacity 5710
Submittal Form 5711
Technical Capacity 5710
Design Standards For Chemical Application 5765
Chemicals 5768
Design Requirements for Specific Applications 5770
Facility Design 5765
General Equipment Design 5765
Operator Safety 5769
Safety Requirements for Chemical Facilities 5768
Design Standards For Fluoridation 5779
Chemical Feed Equipment & Methods 5779
Dust Control 5780
Secondary Controls 5780
Design Standards For Iron & Manganese Control Systems 5777
Biological Removal 5778
Removal by Ion Exchange 5778
Removal by Manganese Coated Media Filtration 5778
Removal by Oxidation, Detention & Filtration 5777
Sampling Taps 5779
Sequestration by Polyphosphates 5778
Sequestration by Sodium Silicates 5778
Design Standards For Softening 5771
Cation Exchange Process 5771
Lime or Lime-Soda Process 5771
Design Standards For Stabilization 5780
Carbon Dioxide Addition 5780
Phosphates 5780
Split Treatment 5780
Water Unstable Due to Biochemical Action in Distribution System 5781
Design Standards For Taste & Odor Control 5773
Chlorination 5773
Chlorine Dioxide 5773
Copper Sulfate & Other Copper Compounds 5773
Granular Activated Carbon 5773
Other Methods 5773
Ozone 5773
Potassium Permanganate 5773
Powdered Activated Carbon 5773
Design Standards For Treatment & Disposal Of Treatment Plant Waste Residuals 5781
Liquid Concentrates 5781
Sanitary Waste 5781
Sludge Waste 5781
Spent Media 5783
Disinfection Of Drinking Water, Disinfecting Agents 5759
Chlorination 5759
Disinfection with Chlorine Dioxide 5764
Disinfection with Ozone 5760
Other Disinfecting Agents 5765
Disinfection Of Drinking Water, Ultraviolet Light 5754
Alarms 5758
Controls 5757
General 5754
Initial Startup 5758
Monitoring 5758
Operation & Maintenance Manual 5759
Pilot Studies & Validation 5755
Reactor Design 5756
Reliability 5757
UV Dose Table 5756
Disinfection Of Facilities Prior To Use 5795
Distribution System 5786
Air Valves 5789
Backflow Protection 5789
Dead End Mains 5788
Flow Meter Required 5786
Installation of Water Mains 5786
Isolation Valves 5789
Meter Vault Required 5788
Minimum Pressure at Building Sites 5788

- Pipe & Jointing Materials 5786
- Pressure Relief Valves 5786
- Protection from Contamination 5786
- Repair of Leaks 5788
- Separation from Structures 5788
- Separation from Subsurface Wastewater Systems & Other Sources of Contamination 5788
- Separation of Potable, Non-Potable, & Raw Water Pipelines 5787
- Size of Water Mains 5787
- Surface Water Crossings 5789

Distribution System Storage
- Facilities 5793
- Design 5793
- Drain 5794
- Isolation 5793
- Level Controls 5794

Facility Plans 5715
- Engineer's Seal Required 5716
- Existing Public Water System Facility Plan 5717
- Facility Plan Contents 5716
- Facility Plans Required 5715
- Public Water System Facility Plan funded by the State Revolving Fund 5717
- Submittal to the Department 5716

General Design Of Finished Water Storage 5790
- Abandonment 5793
- Access 5791
- Coatings & Cathodic Protection 5793
- Construction Materials 5792
- Disinfection 5793
- Drains 5791
- Grading 5793
- Internal Catwalk 5793
- Location 5790
- Overflow 5791
- Protection from Contamination 5791
- Protection from Freezing 5793
- Protection from Trespassers 5791
- Roof & Sidewall 5792
- Silt Stops 5793
- Sizing & Isolation Requirements 5790
- Vents 5792

General Design Requirements For Public Drinking Water Systems 5711
- Additives Used in Operation 5712
- Design Basis 5712
- Design of Buildings 5712
- Design of Treatment Facilities 5712
- Electrical 5712
- Facility Potable Water Supply 5713
- Ground Water Source Redundancy 5714
- Materials Used in Construction 5711
- Meters 5714
- On-Site Analysis & Testing Capabilities 5713
- Operation & Maintenance Manual 5714
- Other Regulations 5714
- Pilot Studies 5715
- Redundant Fire Flow Capacity 5714
- Reliability & Emergency Operation 5712
- Safety 5714
- Sample Taps 5713
- Security 5714
- Start-Up Training 5714

Hydropneumatic Tank Systems 5794
- General Design of Hydropneumatic Systems 5794
- Requirements Specific to Bladder Tanks 5794
- Requirements Specific to Conventional Hydropneumatic Tanks 5794

Low Pressure Membrane Filtration 5750
- Membrane Selection & Design Considerations 5750
- Monitoring & Compliance Requirements for Membranes 5751

Number Of Ground Water Sources Required – Existing Systems 5734
- Existing System with All Sources Constructed Prior to July 1, 1985 5734
- Existing System with Any Sources Constructed After July 1, 1985 5734

Preliminary Engineering Reports 5717
- Preliminary Engineering Report Contents 5718
- Seal Required 5718
- Submittal to Reviewing Authority 5718

Pumping Facilities 5783
- Appurtenances 5785
- Booster Pumps 5785
- Pump Houses 5783
- Pumping Units 5784

Review Of Plans & Specifications 5722
- Connection to an Existing System 5722
- Construction 5726
- Contents of Plans & Specifications 5724
- Criteria for Review 5723
- Engineer's Seal Required 5724
- Exception 5726
- Notification of Material Deviations 5725
- Ownership 5722
- Plans & Specifications Required 5722
- Record Plans and Specifications Required 5726
- Requirement to Have Approved Plans & Specifications & Approval Letter On-Site During Construction 5726
- Schedule for Review 5723

Siting & Construction Of Wells 5726
- Construction Standards 5727
- Conversion of Non-Public Water System Wells for Public Water System Use 5730
- Disinfection 5729
- Location 5727
- Observation Wells 5730
- Site Approval 5726
- Test Pumping 5729
- Well Abandonment 5730
- Well Completion Report Required 5729

Spring Sources 5734
- Flow Measurement 5735
- Protected Area 5735
- Protection of the Spring 5735
- Sample Tap Required 5735
- Spring Box or Combined Spring Box/Finished Water Storage Design 5735

Surface Sources And Ground Water Sources Under The Direct Influence Of Surface Water 5735
- Intake Structures 5735
- Offstream Raw Water Storage 5736
- Raw Water Pumps 5736
- Reservoirs 5736

Surface Water Treatment 5739, 5750
- Clarification Processes 5739
  - Flocculation 5740
  - High Rate Clarification 5742
  - Independent Units 5739
  - Manual Start-Up 5739
  - Parallel or Serial Operation 5739
  - Pre-Treatment 5739
  - Rapid Mix 5740
  - Sedimentation Units 5740
  - Settler Units 5741
  - Small Systems May Use Baffling 5740
  - Solids Contact Clarifiers 5741
  - Two Units Required 5739
- Filtration Using Diatomaceous Earth 5746

Appurtenances 5747
Backwash 5747
Body Feed 5747
Conditions of Use 5746
Filtration Requirements 5747
Monitoring 5747
Number of Units 5747
Precoat 5747
Treated Water Storage 5747
Filtration Using Rapid Rate Gravity Filters 5742
Air Scouring 5745
Backwash 5746
Filter Appurtenances 5746
Filter Bottoms & Strainer Systems 5744
Filter Material 5743
Number of Units 5742
Pretreatment 5742
Rate of Filtration 5742
Roof Drainage 5746
Structure & Hydraulics 5742
Surface or Subsurface Wash 5745
Washwater Troughs 5743
Slow Sand Filtration 5748
Control Appurtenances 5749
Depth of Water Over Filter Beds 5749
Filter Bed Control & Minimum Rate of Flow 5749
Filter Material 5748
Filter Sand Support 5748
Number of Units 5748
Quality of Raw Water 5748
Ripening 5749
Structural Details & Hydraulics 5748
Supernatant Drain Required 5749
Underdrains 5748
Treatment Plant Storage
Facilities 5793
Adjacent Storage 5793
Clearwell 5793
Filter Wash Water 5793
Other Treatment Plant Storage Tanks 5793
Well Lot 5733
Location of Hydrants 5734
Parking Lots & Vehicle Storage 5734
Storage of Hazardous Materials on the Well Lot 5734
Use of Chemicals on the Well Lot 5734
Well Pumps, Discharge Piping, & Appurtenances 5731
Casings and Sanitary Well Caps 5732
Discharge Piping 5731
Discharge Pumps 5733
Flow Meter & Check Valve 5731
Pitless Adapters & Units 5732
Pressure Gauge Required 5731
Sample Tap Required 5731
Well Houses 5732
Well Vent 5731
Wells Not Allowed in Pits 5733
Facility & Design Standards For Municipal Wastewater Treatment Or Disposal Facilities
Biological Treatment 5547
Activated Sludge 5547
Other Biological Systems 5550
Trickling Filters 5547
Demonstration Of Technical, Financial, & Managerial Capacity 5519
Consolidation 5520
Financial Capacity 5519
Managerial Capacity 5519
Technical Capacity 5519
Design & Construction of Wastewater Pipelines 5526
Design Capacity and Design Flow 5526
Details of Design & Construction 5526
Disinfection 5554
Chlorine Disinfection 5554
Dechlorination 5555
Determining The Necessity For Disinfection for Sewage Wastewater Treatment Plant Effluent 5554
General 5554
Ultraviolet (UV) Radiation 5556
Facility Plans 5520
Engineer's Seal Required 5521
Facility Plan Contents 5521
Facility Plans Required 5520
Submittal to Department 5521
General 5538
Design 5539
Essential Facilities 5541
Instructions & Equipment 5543
Laboratory 5543
Operation & Maintenance 5543
Plant Details 5540
Plant Location 5538
Plant Outfalls 5541
Quality of Effluent 5539
Safety 5542
Handling & Treatment of Septage at A Wastewater Treatment Plant 5560
Characteristics 5560
Considerations 5560
General 5560
Individual Residence Wastewater Pumping Stations 5536
Alarm Systems 5537
Design 5536
Emergency Operation 5537
Force Mains 5538
General 5536
Instructions & Equipment 5537
Operation & Maintenance 5537
Submersible Pump Stations - Special Considerations 5537
Operation & Maintenance
Manuals 5526
Approval Required 5526
Manual Contents 5526
Preliminary Engineering
Reports 5522
Engineer's Seal Required 5526
Preliminary Engineering Report Contents 5522
Preliminary Engineering Reports Required 5522
Submittal to Reviewing Authority 5522
Screening & Grit Removal 5545
Grit Removal Facilities 5546
Screening Devices & Comminutors 5545
Settling 5546
Settling, General 5546
Sludge Processing, Storage, & Disposal 5546
Design 5546
Facilities 5546
Multiple Units 5546
Submission of Plans and Support Documents 5526
Supplemental Treatment Processes 5557
Chemical Treatment 5557
Filtration for Tertiary Treatment 5558
Wastewater Lagoons 5550
Allowable Seepage Rates 5551
Basis of Design 5552
Closure 5554
General 5550
Industrial Wastes as a Part of the Municipal Wastewater 5552
Location 5552
Number of Cells Required 5553
Pond Construction Details 5553
Requirements for Lagoons Leaking Above the Allowable Amount 5551
Seepage Testing Requirements 5551
Wastewater Pumping Stations 5530
Alarm Systems 5533
Design 5530
Emergency Operation 5533
Force Mains 5535
General 5530
Instructions & Equipment 5535
Operation & Maintenance 5535
Screw Pump Stations - Special Considerations 5533
Submersible Pump Stations - Special Considerations 5532
Suction Lift Pump Stations - Special Considerations 5532
Facility & Design Standards For

Municipal Wastewater Treatment Or Disposal Facilities -- Septage Transfer Stations 5558
Facility Administrative Records For Admissions & Discharge Register 2488
Admission & Discharge Register 2488
Hourly Adult Care Log 2488
Facility Administrative Records For Dietary 2490
Length of Time Documentation Kept for Menu Plans 2490
Menu Plan Documentation 2490
Facility Administrative Records For Fire & Life Safety 2490
Automatic Fire Extinguishing System Service & Testing 2491
Fire Drill Documentation 2490
Fuel-Fired Heating Inspection Documentation 2490
Portable Fire Extinguisher Examination Documentation 2490
Report of Fire Documentation 2490
Facility Administrative Records For Handling Of Medications & Controlled Substances 2489
Documentation of Cold Storage Temperature 2489
Documentation of Medication Disposal 2489
Return Medication Agreement 2489
Tracking Controlled Substances Documentation 2489
Facility Administrative Records For Personnel & Staffing 2488
Contract Records 2489
Personnel 2488
Work Records 2489
Facility Administrative Records For Water Supply 2490
Facility Capacity & Determining Occupant Load 2594
Area for Daycare Use Only 2594
Exit Signs 2594
Facilities With An Occupancy Load Of Fifty Or More 2594
Facility License Application 2441
Building Evaluation Fee 2442
Facility License 2441
Failure to Complete Application Process 2442
Identification of the Licensed Administrator 2442
Written Request for Building Evaluation 2442
Facility Licensure 3658
Facility Changes in Ownership or Location 3658
Facility Licensure & Operation Requirements 3658
Facility Operating Without A License 2443
Facility Without a License 2443
Operator of a Facility Operating Without a License 2443
Prosecution of Violators 2443
Residents in Facility Without a License 2443
Facility Records 1955
Census Register 1955
Records Available Upon Request 1955
Facility Staffing 1958
Facility Standards For Agencies Providing Center-Based Services 2077
Accessibility 2077
Environment 2077
Evacuation Plans 2077
Fire & Safety Standards 2077
Food Safety & Storage 2078
Housekeeping & Maintenance Services 2078
Facility, Safety, & Health Standards 2077
Fact 4723
Factors - Pyramid & Chain Distribution Schemes 245
Amount of Fees 245
Plan's Primary Focus 245
Price of Goods 246
Refund Policies 245
Factors Making Property A Resource 1438, 1490
Legal Ability to Use for Support & Maintenance 1439
Legal Right to Spend or Convert Property 1439
Ownership Interest 1439
Factors When Practical Quantitation Limits Are Greater Than Screening Levels & Cleanup Levels 5608
Analytical Method 5608
Estimated Risk Levels 5608
Method Detection Limit 5608
Other 5608
Sampling Procedures 5608
Facts Disclosed Not Part Of The Record 272, 3045, 4672, 6001
Faculty 3397
Faculty-Student Ratio 3397
Numbers Needed 3397
Faculty Qualifications 3395
Advanced Practice Registered Nurse Program Faculty Qualifications 3396
Clinical Preceptors in Registered Nurse, Practical Nurse, & Advanced Practice Registered Nurse Programs 3396
Continued Study 3397
Non-clinical Nursing Courses Faculty Qualifications 3396
Practical Nurse Program Faculty Qualifications 3395
Registered Nurse Program Faculty Qualifications 3395
Faculty Responsibilities 3398
Failure Of Combatant To Appear 3423
Failure Of Contestant To Resume Boxing 3440
Failure Of Stall Gate 801
Failure To Answer Or Appear At Hearing -- Defaults 3966
Failure To Appear 33, 4618, 4943
Attending a Hearing 4943
Default or Dismissal 4618
Denied Petitions 4943
Filing Petition 4943
Proposed Order of Default 4943
Waiver of Appearance 4618
Failure To Comply 2428, 2600
Lack of Progress 2429
Misdemeanor to Operate a Family Daycare Home for Four or More Children Without Obtaining a Criminal History Check 2600
Misdemeanor to Provide Daycare if Guilty of Certain Offenses 2600
Misdemeanors to Operate Without a License 2600
Out of Compliance 2428
Failure To Comply With A Requirement Of Another Means-Tested Program 1435
Failure To Comply With Substance Abuse Screening & Testing Requirements 1586
Failure To Comply With Treatment, Engaging In Substance Abuse After Treatment 1595
Failure To Comply, Section 111.4, International Fire Code 2999
Failure To Cooperate 1436
Failure To Maintain Insurance 4085
Failure To Provide Performance Evaluation 1160
Failure To Submit An Annual Report 6070
Failure To Take Required Action 1457
Fair Blows & Fouls 3438
Fair Blow 3438
Fouls 3438
Fair Hearing 4618
Conference or Recess 4618
Hearing Opportunity 4618
Notice of Hearing -- Contents 4618
Notice of Hearing -- Mailing 4618
Purpose of Hearing 4618
Setting of Hearing 4618
Telephonic Hearing 4618
Fair Hearing On CSA Decision 1533
Fair Hearing Request 1595
Fair Techniques & Fouls In MMA Event Accidental Fouling 3448
Concussive Head Impact Fouls in MMA Contest 3448
Disqualification 3449
Fair Techniques 3445
Fouls 3445

Fouls Or Unsportsmanlike Conduct During the One Minute Rest Period In MMA Contest 3448
Intentional Fouling 3447
Low Blow in MMA Contest 3448
Referee Action On Fouls in MMA Contest 3449
Time Considerations for Fouls 3447
Fair Techniques & Fouls In MMA Events 3445
Falconry Hunting Seasons, Bag & Possession Limits 1067
Falconry Meets, Permits, Non-Residents, New U.S. Residents, & Visitors 1067
Falling & Bucking 443
General Requirements 443
Falsification Of Certificates 4085
Falsification of Records, Point Source
Point Source Wastewater Treatment Requirements
Wastewater Treatment Requirements 5514
Family & Medical Leave 1169
Applicability 1169
Return to Work Release 1169
Family Case Records 2528
Electronic & Physical Files 2528
Storage of Records 2528
Family Composition 2190
Citizenship or Alien Status Requirement 2191
Dependents 2191
Individual Acting In Loco Parentis 2191
Married Parents 2191
Minor Parent 2191
Unmarried Parents 2191
Family History 2553
Current Picture 2553
Evaluations/Assessments 2553
Hospital Records 2553
Informational Forms 2553
Narrative Social History 2553
Family Home Operating Without A Certificate 2393
Operating Without Certificate 2393
Placement or Transfer of Resident 2393
Family Planning 1673
Family Planning Services
Coverage & Limitations 1673
Contraceptive Supplies 1673
Exceptions to Sterilization Time Requirements 1674
Requirements for Sterilization Performed Due to a Court Order 1674
Sterilization 1674
Participant Eligibility 1673
Circumstances Under Which Payment Can be Made for a Hysterectomy 1673
Sterilization Procedures -- General Restrictions 1673
Procedural Requirements 1674
Sterilization Consent Form Requirements 1674
Provider Reimbursement 1676
Family Size, Program Eligibility 2357
Family Support Partner -- Certification qualifications And Requirements 2228
Educational Requirements 2228
Person Self-Identified with Lived Experience 2229
Supervision Requirements 2229
Training Requirements 2228
Work or Volunteer Experience Requirements 2229
Family Support Partners -- Code Of Ethics & Professional Conduct
Certified Family Support Partner Integrity 2229
Certified Family Support Partner Professional Responsibility 2231
Certified Family Support Partner Safety 2230
Comply with Code of Ethics 2231
Ethics Training 2231
Family Support Principles 2229
Family Violence Grant
Distribution 2162
Allocation 2162
Timing & Duration of Grant Awards 2162
Farm Commodity Ownership 634
Quantity 634
Wages 635
Farm Product Liens 4140
Mechanics of Filing 4140
Mechanics of Search 4140
Farm Products Financing Statement Requirements 4107
Completion of Form 4107
Form 4107
Farm Products Financing Statements Under The Uniform Commercial Code 4107
Farming & Ranching 4358
Directly Used 4359
Disinfectants Used in the Dairy Industry 4359
Exemption Certificate 4360
Farming Exemption Does Not Include 4359
In General 4359
Plants 4359
Property Primarily & Directly Used 4359
Quality Control 4359
Safety Supplies 4359
Transportation Activities 4359
Federal Agency Non-Acceptance Of Reclamation Fund 3152
Federal Covered Securities 944
Investment Company Notices 944
Regulation D Rule 506 Notice Filing 944
Federal Emergency Management Agency (FEMA) Emergency Food Distribution & Shelter Programs 1510
Federal Excise Taxes & Retailers Taxes 4338
Excluded Federal Taxes 4338
General Rule 4338
Federal Housing Assistance 1504
Housing & Urban Development Act of 1965 1504
Housing Act of 1949 1504
Housing Act of 1959 1504
The National Housing Act 1504
United States Housing Act of 1937 1504
Federal Regulations - 49 C.F.R. Parts 392, 393, & 571 677
Certain Vehicles Required to Stop at All Railroad Crossings 677
Devices With Self Contained Energy Sources 677
Modulating Headlights for Motorcycles 677
Standards for Devices Without Self Contained Energy Sources 677
Standards for Safety Helmets 677
Federal Regulations--49 C.F.R. Parts 191, 192, 193 & 195, & 199 3973
Federal Spousal Impoverishment (FSI)
Method Of Counting Income & Resources Of A Couple 1536
Community Spouse 1536
Continuous Period of Long-Term Care 1536
Long-Term Care Spouse 1536
Nursing Facility Services 1536
Start of Continuous Period 1536
Federally Qualified Health Center (FQHC) Services
Coverage & Limitations 1703
Clinical Psychologist Services 1703
Clinical Social Worker Services 1703
FQHC Services 1703
Incidental Services & Supplies to Non-Physicians 1703
Incidental Services and Supplies to Physician Services 1703
Licensed Dentist & Dental Hygienist Services 1703
Nurse Practitioner or Clinical Nurse Specialist Services 1703
Other Payable Medical Assistance Ambulatory Services 1703
Physician Assistant Services 1703
Physician Services 1703
Definitions 1702
Change in Intensity of Services of an FQHC 1702
Encounter 1702

Encounter Rate 1702
Federally Qualified Health Centers (FQHCs) 1703
Medicare Cost Report Period 1703
Medicare Economic Index (MEI) 1703
Rate Setting Methodology 1704
Annual Filing Requirements 1705
Change in an FQHC Encounter Rate Due to a Change in the FQHC's Scope of Services 1705
FQHCs That Become Idaho Medicaid Providers 1704
Prospective Payment System 1704
Quarterly Supplemental Payments 1705
Reimbursement Methodology 1704
FQHC Encounter Limitations & Exceptions 1704
Payment 1704
Federally-Funded Guardianship
Assistance Eligibility, Requirements, & Benefits 2551
Case Plan Requirements 2552
Criminal History & Background Checks 2552
Eligibility 2551
Medicaid 2552
Nonrecurring Expenses 2552
Siblings of an Eligible Child 2551
Fee 3435, 3436
Combatant's Report of Non-Participation to Commission 3436
Payment of Fees to Physician 3436
Fee Determination For Children's Mental Health Outpatient Services 2259
Fee Schedule 3869
Administrative Services 3870
Boating Facilities 3841
Campsites 3839
Certificates of Registration & Licensure -- Facilities 3869
Group Facility 3841
Cleaning and Damage Deposits 3841
Day Use 3841
Individual Fees 3841
Non-Refundable, Non-Transferable 3841
Late Fees & Reinstatements 3870
Licenses & Registrations -- Professionals 3869
Motor Vehicle Entrance Fee 3840
Special Fees 3841
Length of Stay 3842
Modification of Fees 3842
Sales Tax 3842
Special Charges 3842
Winter Access Program Fees 3842
Daily Pass 3842
Season Pass 3842
Fee Schedule - Adoptions Through Department 2561
Fee Schedule For IPDES Permitted Facilities 5940
Billing 5941
Delinquent Unpaid Fees 5942
Effective Date 5940
Enforcement Action 5942
Fee Assessment 5941
Fee Schedule 5940
Payment 5942
Reinstatement of Suspended Services & Approval Status 5942
Responsibility to Comply 5942
Suspension of Services & Disapproval Designation 5942
Fee Schedule For Public Drinking Water Systems 5688
Billing 5689
Delinquent Unpaid Fees 5689
Effective Date 5688
Enforcement Action 5690
Fee Assessment 5689
Fee Schedule 5688
Payment 5689
Reinstatement of Suspended Services & Approval Status 5690
Responsibility to Comply 5690
Suspension of Services & Disapproval Designation 5689
Fee Schedule For Underground Storage Tanks 5667
Billing 5668
Delinquent Unpaid Fees 5668
Enforcement 5668
Fee Amount and Schedule 5667
Fee Criteria 5667
Fee Report 5668
Nonrefundable 5668
Payment 5668
Feed Stockpiles 1080
Feeding Bulls Of Unknown Trichomoniasis Status 123
Removal of Bulls for Breeding Purposes 123
Removal of Untested Bulls 123
Fees 43, 184, 532, 541, 551, 574, 650, 1192, 2361, 2368, 2498, 3177, 3195, 3212, 3225, 3336, 3342, 3343, 3351, 3353, 3416, 3460, 3476, 3507, 3513, 3524, 3530, 3539, 3545, 3551, 3577, 3589, 3605, 3612, 3622, 3630, 3646, 3654, 3657, 3662, 3676, 3681, 3695, 3709, 3723, 3748, 4079, 4083, 4115, 4118, 4121, 4977, 5057, 5162, 5176, 5288
Ad Hoc Lists 4116
Administrative Fees 4079
Administrative Fees for Services 3337
Administrative Services 44
Annual Assessment Fee 184
Application Fee 2368
Application Fee for Approval of Assignment 3212
Application Filed With Fees 575
Building Permit Fees 533
Change in Certification Level 5289
Construction Manager Licensing Fees 575
Copies 4121
Document Fees 532
Examination & License 44
Examination Fees 3662
Exploration Permit 3225
Farm Products Financing Statement 4115
Federally Mandated Annual Service Fees 2368
Fee Adjustment 3225
Fees 3336
Fees Followed By "*" Means 3630, 3631
Fees for Annual Permits 533
Fees for Issuance & Renewal of License 551
Fees for Requests for Information 4116, 4119
Guarantee Fee 4079
Import, Export, and Movement Fees 184
Income Tax Offset Fees 2368
Initial Certification 5288
Insignia Tag Fee 533, 542
Internal Revenue Service (IRS) Referral Fees 2368
Investigation Fee 542
Late Fees 44
Late Payment Fee 3212
License, Permit, & Registration Fees 3662
Locate Fees 2368
Modular Building Fees 533
Modular Building Permit Fees 541
Money or Securities Deposit in Lieu of Performance Bond 552
Multiple Types 4121
Non-Refundable Application Fee for Lease 3212
Nonrefundable Application Fee for Lease 3177
Nonrefundable Dual Licensure/ Permit Fees for Practitioners of Respiratory & Polysomnography Related Respiratory Care 3352
Nonrefundable Fee for Advertising Application 3177
Nonrefundable fees for Respiratory Care Practitioners 3351
Nonrefundable Nominal Fee 3225
Nonrefundable Permit Fees for Polysomnography Related Respiratory Care Practitioners 3351
Non-Standard 4121
Notice of Amendment, Assignment,

or Extension 4118
Notice of Claim of Lien 4118
Notice of Release 4118
Other Inspections & Fees 542
Payment 5176
Performance Bonding Requirements 552
Plan Review 542
Plan Review Fees 533
Processing Fee 3225
Public Works Contractor Licensing Fees 574
Radiation Licensing Fees 2361
Radiation Safety Program Fee 2362
Refund of Permit Fees 534, 542
Refund Of Plan Review Fees 534
Refund of Plan Review Fees 542
Refunds 5176
Registration and Subscription for List of Notices 4118
Registration of Buyers, Commission Merchants, & Selling Agents 4115
Renewal Certification 5289
Service Suspension 4121
Single Copies 4121
Single Type 4121
Specialized Service Costs 2498
State Hospital North (SHN) - Diagnostic & Treatment Unit Costs 2498
State Hospital South (SHS) - Nursing Facility & Treatment Unit Costs 2498
Subscription to PMLs by Buyers, Commission Merchants, & Selling Agents 4115
Technical Service Fee 533
Verbal Report 4121
X-Ray Shielding Plan Review & Fee 2361
Fees - License Issuance, Renewal, Cancellation & Reinstatement 3346
Fees & Charges 134, 203
Applications 203
Certification Fees 134
Confirmation Fees 204
Express Mailing 134
Field Inspections 203
Laboratory Seed Sampling 203
Nematode Analysis 204
Notary Charges 134
Payment 134
Plant Pathological Laboratory Services 204
Shipping & Delivery Charges 134
Soil Analysis 204
Special Project Fee 204
Tags 203
Fees & Compensation 3179, 3185
Administrative Fee 3185
Application Fee 3179
Appraisal 3186
Appraisal Costs 3180
Appraisal Required 3180
Cost of Appraisal 3186
Easement Fee 3179
Minimum Compensation 3180
Performance of Appraisal 3180
Supplemental Compensation 3185
Term Easements 3180
Fees & Costs For Criminal History & Background Checks 2502
Fees & Remittances 256, 3034, 4659, 5997
Fees & Services 3838
Admission Fees 3839
Authority 3838
Camping 3838
Cooperative Fee Programs 3839
Encroachment Permit Application Fee 3839
Fee Collection Surcharge 3839
Fees & Deposits 3839
General Provisions 3838
Group Use 3838
Fees Applicable To Medication Assistant - Certified & The Certification Process 3391
Evaluation of Education Programs 3391
Initial Fee By Endorsement 3391
Initial Fee By Examination 3391
Records 3391
Reinstatement 3391
Renewal 3391
Temporary 3391
Verification 3391
Fees Charged By The Department 2568
Fees Charged For Fax Services 4329
Receiving a Fax 4329
Sending a Fax 4329
Fees For Clinical Laboratory Tests 2347
Fees For Copies, Searches, & Other Services 2307
Certified Copies 2307
Fees for Other Services 2308
Searches 2307
Statistical, Research, or Public Health Services 2308
Verifications 2308
Waiver of Fee Requirement 2309
Fees For Environmental Laboratory Tests 2349
Environmental Laboratory Tests, Air -- Table 2349
Environmental Laboratory Tests, Inorganic -- Table 2350
Environmental Laboratory Tests, Microbiology -- Table 2350
Environmental Laboratory Tests, Organic -- Table 2352
Fees For Examination & Licensure 3486
Fees For Examinations & Licensure 3407
Fees For HVAC Inspections 584
Additional Fees & Re-Inspection Fees 585
Existing Residential 585
New Residential - Multi-Family Dwellings 585
New Residential - Single-Family Dwelling 584
Other Installations Including Industrial & Commercial 585
Plan Check Fee 585
Requested Inspections 585
Fees For Interment, Disinterment, & Reinterment 3322
Disinterment 3323
Interment 3322
Reinterment 3323
Fees For Public Records Services 4125
Charge for Paper Copies 4125
Data From the Information Management System 4125
Fees For Services 701
Fingerprint Check 701
Name Check 701
Rolling Fingerprint 701
Fees Must Be Paid Before Order Issued 3947
Fees Payable In Advance 3003
Female Combatants 3416
Addendum Requirement 3417
General Requirements 3417
Limitation 3417
Limitation on Contest 3417
Qualifications 3416
Separate Dressing Rooms 3417
Fence & Barriers 2346
For Pools 1,800 Square Feet or Greater 2346
For Pools Under 1,800 Square Feet 2346
Fences 4987
Gate Openings 4987
Location 4987
Required Painting 4987
Specifications 4987
Strength 4987
Uniformity 4987
Visibility 4987
Fiancial Security 4566
Fiduciary Fund Account 2901
All Other Fiduciary Funds 2902
Document the Receipt of Fiduciary Funds 2902
Payable to a Policyholder 2901
Payable to an Insurer 2901
Field Operations Control 636
Execution Against Assets 636
Frequency of Audits 636
Limitation for Commencing Administrative Procedures 636
Notification of Audits 636
Relief of Indebtedness 637
Filing 4614
Document Filing Place 4614

Fax Filing 4614
Number of Copies 4614
Filing & Approval Of Policies & Certificates & Premium Rates 2803
Attained Age Rating 2805
Availability of Policy Form or Certificate 2804
Experience of Policy Forms 2804
Filing of Policy Forms 2803
Filing of Premium Rates 2803
Other Rating Requirements 2805
Rating by Area and Gender 2805
Filing & Data Entry Procedures 4132
Filing & Service Of Discovery & Related Documents 3953
Filing & Service Of Discovery-Related Documents 274, 3046, 4674, 6002
Filing & Service Of Discovery-related Documents 5591
Filing & Service Of Documents 5581
Filing of Documents 5581
Service of Documents 5581
Filing A Claim With
Administrator 5273
Interest 5273
Payment of Claims - Claims Process 5273
Filing An Application 1413
Filing Certain Contracts With Commission 3422
Disciplinary Action 3422
Main & Semi-Main Events 3422
Media Contracts 3422
Other Combatants 3422
Filing Date, Filing & Data Entry Procedures 4132
Filing Documents With The Agency -- Number Of Copies -- Facsimile Transmission (FAX) 3039
Filing Documents With The Agency -- Number Of Copies -- Facsimile Transmission (Fax) -- Electronically Signed Documents 4664
Filing Documents With The Agency--Number Of Copies--Facsimile Transmission (FAX) 262
Filing Documents With The Commission--Number Of Copies--Facsimile Transmission (FAX) 3933
FAX & Electronic Filings 3933
Filing Discovery 3933
Printed Filings 3933
Reducing the Number or Changing the Form of Filing 3934
Filing Documents--Number Of Copies--Facsimile Transmission (FAX) 297
Filing Fees 4124
Filing Fee 4124
UCC Search Fee 4124
Filing For Prior Review 2771
Filing Of A Petition For Involuntary Termination Of Parent & Child Relationship 2555
Abandonment 2555
Reasonable Efforts to Reunify the Family Are Not Required 2555
Filing of Appeal 4905
Filing Of Appeals 2144
Appeals 2144
Time Limits for Filing Appeal 2144
Filing Of Contracts 2746
Filing Of Documents 580, 3356
Filing Of Documents -- Number Of Copies 3032, 4658
Filing Of Documents In An Appeal 2145
Filing Of Documents--Number Of Copies 255, 293
Filing Of Forms 2741
Disapproval of Noncompliant Forms 2743
Filing of Advertising Materials 2742
Filing of Life Settlement Contracts & Disclosure Forms 2741
Font Size for Printed Materials 2742
Filing Of Petition For Voluntary Termination 2554
Filing Office Identification 4123
Filing Procedures 2994
Completion on Insurance Group Level 2994
Filing Deadline 2994
Filing of Amended Versions 2995
Format 2994
Providing Information 2994
Referencing 2994
Signature 2994
Filing Requirement 2829
Actuarial Demonstration 2830
Initial Filing Requirements 2829
Filing Requirements For
Advertising 2809, 2834
Exemptions 2835
Filing & Retention 2835
Filing Time, Filing & Data Entry Procedures 4132
Filing, Service, Amendment & Withdrawal Of Documents 3933
Filling Prescription Drug Orders
Adaptation 3878
Change Dosage Form 3878
Change Quantity 3878
Complete Missing Information 3878
Documentation 3878
Drug Product Substitution 3878
Biosimilars 3879
Drug Shortage 3879
Hospital 3878
Institutional Facility 3879
Therapeutic Interchange 3879
Practice Limitations 3878
Drug Product Selection 3878
Partial Filling 3878
Refill Authorization 3878
Transfers 3879
Filtration & Disinfection 5695
Analytical & Monitoring Requirements 5697
Criteria for Avoiding Filtration 5696
Disinfection 5696
Filtration 5695
General Requirements 5695
Recycle Provisions 5699
Reporting & Recordkeeping Requirements 5699
Filtration System & Filters 2343
Filters 2343
Filtration System 2343
Final Audit Report 1759
Final Audit Report, General Reimbursement Provisions For Institutional Providers 1623
Final Determination 3253, 4090
Determination of Violation 4090
Explanation in Written Decision 4091
Form of Determination 4090
If No Hearing is Held 4090
Issuance of Final Decision 4091
Final Determination Of Trade Secret Claim 5566
Criteria for Determination 5566
Final Determination 5566
Final Order 722, 2147, 3295, 4906, 5293
Order of the Presiding Officer 3295
Order of the Public Employer Executive 3296
Review by the Public Employer Executive 3295
Final Order Request For Reconsideration 4942
Issuing Facts & Findings 4942
Mailing Final Order 4942
Final Orders 281, 3052, 3967, 4681, 5597, 6003
Content 281, 3053, 5598, 6004
Content of Final Order 4681
Definition 281, 3052, 4681, 5597
Final Order - Definition 6003
No Motions for Reconsideration 5598
Paragraphs Designating Final Orders 3967
Petition to Designate Order as Final 3967
Review of Final Orders 3968
Service of Final Orders 3967
Final Permit Decision 5836
Basis for Permit Denial 5837
Immediate Effect of the Permit 5837
Issuance 5836
Notification of the Decision 5836
Response to Public Comments 5837
Final Reports 5119
Final Rules 290
Financial & Management Capability Analysis 5806

Cost Allocation 5807
Incorporated Nonprofit Applicants 5807
Information Needed 5806
Waivers 5807
Financial Assistance Approval 6073
Financial Assistance Cycle 6073
Financial Assistance Disapproval 6074
Financial Assurance 732, 5840
Financial Assurance Required 5840
Insufficiency 5840
Financial Condition Of Applicants/ Residents 3308
Investigation of Financial Condition 3308
Retroactive Income 3308
Financial Criteria for ICCP Eligibility 2186
Financial Eligibility 1367
Disregard Applied 1367
Title XIX Income Limit 1367
Title XXI Income Limit 1367
Financial Grounds For Rejection Or Discharge 3311
Disposal of Assets 3311
Failure to Pay for Services 3311
Failure to Pay Maintenance Charge 3311
Financial Information 713
Financial Interest Notice
Financial Interest Notice to Director 2894
Notice Filing 2894
Financial Management 1110
Allowable Costs 1110
Audits 1110
Regulations 1110
Financial Need 1518
Financial Participation 1113
Financial Requirements 562, 1362
Financial Responsibility 3009
Bonding 3009
Insurance 3009
Financial Responsibility For Adult Mental Health Services 2671
Financial Responsibility For Mental Health Services 2249
Financial Responsibility For Substance Use Disorders Services 2212
Financial Responsibility Of Parent(s) 2259
Financial Responsibility Of Parents For Children's Mental Health Services 2671
Financial Security
Financial Security for Payment of Tax 4566
Petition to Waive Security Requirement 4566
Security for a New Taxpayer 4566
Types of Security 4566
Financial Statement 167
Financial Statements 167
Statement Compliance 167
Statement Content 167
Financial Statements 161, 940
Application of Antifraud Provisions 940
Application of Regulation S-X 940
Financial Statements Incorporated by Reference 940
Statement Compliance 161
Statement Content 161
Financial Support Of Educational Program For Practical Nurse, Registered Nurse, & Advanced Practice Registered Nurse 3395
Financial Technical & Management Capability Analysis 5863
Cost Allocation 5864
Incorporated Nonprofit Applicants 5863
Information Needed 5863
Waivers 5864
Financial, Inter-Country Adoption Services, Children's Agencies 2633
Findings of Fact & Conclusions of Law 4906
Fines 717
Otherwise Ordered 718
Stayed by Commission 718
Stayed by Courts 718
Fines Imposed On EMS Agency 1254
Fines Levied After Peer Review 1254
Maximum Amount of a Fine 1254
Table for Maximum Fine Amount 1254
Fingerprints 831
Existing Licensees 832
Fees 832
License Applicants 832
Fingerprints – Photograph 850
Fire & Life Safety 1381
General Requirements 1381
Life Safety Code Requirements 1381
Report of Fire 1382
Smoking 1381
Storage, Heating Appliances, Hazardous Substances 1382
Fire & Life Safety Standards 2053, 2422
Electrical Safety 2053
Emergency Plans for Protection & Evacuation of Patients 2054
Emergency Preparedness 2423
Fire and Life Safety Requirements 2422
Fire Drills 2424
General Requirements 2053, 2422
Life Safety Code Requirements 2053
Maintenance of Equipment 2054, 2424
Report of Fire 2054, 2424
Smoking 2054, 2423
Fire & Life Safety Standards -- Emergency Plans 1967
Emergency Plans for Protection and Evacuation of Individuals 1967
Maintenance of Equipment 1968
Report of Fire 1967
Fire & Life Safety Standards -- Existing Facility 1966
Emergency Battery Operated Lighting 1967
Existing Licensed Facilities 1967
Existing Life Safety Code Requirements 1966
General Requirements 1966
Portable Comfort Space Heating Devices Prohibited 1967
Portable Fire Extinguishers 1967
Fire & Life Safety Standards For Buildings Housing Seventeen Or More Residents & Multi-Story Buildings 2469
Fire & Life Safety Standards For Buildings Housing Three Through Sixteen Residents 2469
NFPA, Standard #101 2469
NFPA, Standard 101A 2469
Fire & Life Safety Standards For Existing Buildings Licensed For Seventeen Or More Residents & Multi-Story Buildings Prior To January 1, 2006 2470
Any Change in Ownership of Facility 2470
Existing Buildings Housing Seventeen or More Residents & Multi-Story Buildings 2470
Fire & Life Safety Standards For Existing Buildings Licensed For Three Through Sixteen Residents, Prior To January 1, 2006 2470
Any Change in Ownership of Facility 2470
Existing Buildings Housing Ten Through Sixteen Residents for Facilities 2470
Existing Buildings Housing Three Through Nine Residents 2470
Fire & Safety Policy 492
Assignment of Responsibilities 494
Elements 492
Employer, Employee, & Labor Representative Cooperation 496
Environmental Hazards Inherent to the Operation 493
Fatalities 493
First Aid Training 495
Foreman Responsibilities 494
Hazard Appraisal 493
Injury Record & Reporting System 495
Maintenance of Safe Working Conditions 496
Management Discharge of Duty 492
Management Leadership 492
Management of Personnel 493

Planning 492
Remedial Measures of Corrective Action 497
Reporting of Injuries 493
Safety Director (Part-Time or Full-Time) 494
Safety Order By the Administrator 497
Training & Education 495
Work Procedures & Practices 493
Fire Alarm & Detection Systems, Section 907.1, International Fire Code 3001
Fire Alarm Smoke Detection System Service & Facility Administrative Records For Fire & Life Safety Testing 2490
Fire Alarm Smoke Detection System Service & Maintenance Of Equipment & Systems For Fire & Life Safety Testing 2472
Fire Crews 3086
Fire Extinguishers 3799
Alternative Fire Extinguisher Requirement 3799
Fire Extinguishers Required 3799
Fixed Systems 3799
Inspections 3799
Specific Requirements 3799
Type and Size -- Table 3799
Fire Extinguishers & Safety Requirements 2594
Automatic Sprinkler Systems 2595
Facilities Over Three Thousand Square Feet 2594
Fire Alarm System 2594
Fire Extinguishers 2594
Kitchen Area 2594
Portable Fire Extinguisher 2594
Smoke Detectors 2595
Fire Prevention, Protection & Suppression 436
Flammable Liquids 437
General Requirements 436
Transferring Flammable Liquids & Powdered Materials 438
Transportation of Flammable Liquids 438
Fire Safety & Evacuation Plans 2595
Annual Review 2595
Assembly Point 2595
Evacuation 2595
Evacuation Routes 2595
Location of Fire Alarms 2595
Location of Fire Extinguishers 2595
Locations of Facility Exits 2595
Fire Safety Requirements 2637
Carbon Monoxide Detecting Devices 2637
Fire Extinguishers 2637
Smoke Detecting Devices 2637
Fire Safety Standards 2593
Inspections 2593
Unobstructed Exits 2593
Fire Suppression & Forest Practices Assessment 3242
Assessment Costs 3243
Withholding 3242
Fire Tools & Fire Extinguishers 3085
Basic Fire Cache 3085
Portable Power Saw 3086
Power Equipment 3086
Warming Fires or Campfires 3086
Fire Watch Service 3087
Duties & Requirements 3087
Fire Watch Service Exemption 3088
Firearms & Ammunition 2606
Gun Safe 2607
Locked Cabinet or Container 2607
Trigger Locks 2607
Unassembled & Inoperable 2607
Firearms, Children's Residential Care Facilities 2639
Firearms, Children's Therapeutic Outdoor Programs 2666
Firefighter Retirement Allowance 6032
Firefighter Retirement Fund Employer Rate (Rule 27) 6007
Class D Firefighters 6008
Class E Members 6008
Option I & II Firefighters 6007
Fires 3844
Fires, Candles, & Flames 4864, 4870, 4875, 4884
Firewood & Other Personal Use Product Permits 3091
Fireworks 3844
Firm Name 3409
Firm Names 3409
Firm Names 38
General 38
Title 38
First Aid 432
Attendance for Seriously Injured 432
Communication 432
First Aid Kits 433
First Aid Training 433
Stretcher or Spine Board 433
Transportation 432
First Aid Kit 3757
First Aid Kit, Children's Residential Care Facilities 2643
First Aid Kits 389
First Purchaser Rules 5154, 5266
Barley Tax Return (Form Number 1) 5266
Deduction of Tax on Net Weight of Barley 5267
Delivery of Documents to Commission (Form Number 2) 5266
Designated Quarters 5154, 5266
Late Payment Penalty 5154, 5267
Oilseed Tax Invoice (Form Number 1) 5154
Fiscal Employer Agent Duties & Responsibilities 1975
Annual Participant Survey 1990
Requirement to Conduct Annual Participant Satisfaction Survey 1990
Requirement to Provide Results of Annual Participant Satisfaction Survey 1990
Consumer-Directed Community Supports 1983
Face-to-Face Transitional Participant Enrollment 1984
Federal Tax ID Requirement 1983
Key Contact Person 1984
Policies & Procedurest 1984
Procedures Restricting FMS to Adult & Children's DD Waiver & Children's HCBS State Plan Option Participants 1984
Required IRS Forms 1984
Requirement to Obtain Power of Attorney 1984
Requirement to Report Irregular Activities or Practices 1984
Requirement to Revoke Power of Attorney 1984
SFTP Site 1984
Customer Service 1985
Complaint Resolution & Tracking System 1985
Customer Service System 1985
Definitions 1983
Employee 1983
Employer 1983
Medicaid Billing Report 1983
Provider 1983
SFTP, Secure File Transfer Protocol 1983
Vendor 1983
Disaster Recovery Plan 1990
Disaster Recovery Plan 1990
Requirement to Report a Disaster 1990
Enrollment Process 1986
Distribution of Participant Enrollment & Employee Packets to Participant after Department Approval 1986
Submission of Participant Enrollment & Employee Packets for Department Approval 1986
Financial Reporting 1975
Home & Community Based Person-Centered Service Plan Requirements 1985
Information Packet 1975
Payment Process 1987
End-of-Year Processing 1988
Process Employee Payments 1987
Process Independent Contractor or Outside Agency

Payments 1988
Process Payroll 1987
Process Vendor Payments 1988
Requirement to Track & Log Improperly Cashed or Improperly Issued Checks 1987
Requirement to Track & Log Time Sheet Billing Errors 1987
Transition to New FEA 1989
Payment Requirements 1994
PMPM Payment Process Requirements 1994
Requirement to Accept a Per Member Per Month (PMPM) Payment 1994
Requirement to Complete a Readiness Review 1994
Payments for Goods & Services 1975
Payroll & Accounting 1975
Performance Metrics 1991
Adherence to Support & Spending Plan 1991
Cash Management Plan 1992
Compliance with Tax Regulations & Labor Laws 1991
Federal & State Forms Submitted 1991
Fiscal Support & Financial Consultation 1991
Manage Phone, Fax, & E-Mail for Fiscal & Financial Questions 1992
Mandatory Reporting, Withholding, & Payment 1991
Participant Enrollment Packets & Employment Packets 1992
Payroll Checks 1991
Payroll Spending Summaries 1992
Quarterly Reconciliation 1992
Readiness Review 1991
Record Activities 1992
Records in Participant File 1992
Tracking of Complaints & Complaint Resolution 1992
Web Access to Electronic Time Sheet Entry 1992
Personal & Confidential Information 1986
Quality Assurance 1990
Required Elements of Quality Insurance Process 1990
Requirement for Formal Quality Assurance Review 1990
Quality Assurance & Improvement 1975
Reports 1992
Account Summary Statements 1993
Complaint & Resolution Summary Report 1994
Criminal History Check Report 1993
Customer Satisfaction Survey Report 1994
Demographic Report 1993
Medicaid Billing Report 1993
Quarterly Financial Statements 1994
Spending Information 1975
Taxes 1975
Time Sheets & Invoices 1975
Transition Plan 1990
Transition Plan Objectives 1991
Transition Plan Requirements 1991
Fiscal Employer Agent Requirements & Limitations 1974
Limitations 1975
Requirements 1974
Fish 100
Fish Salvage 1053
Fishing Contest Reports 1056
Fishing Contests – Permit Requirement & Application 1055
Permit Application 1055
Permit Requirement 1055
Fishing Contests – Requirements 1056
Culling 1056
Rules 1056
Fishing Contests Permit Issuance 1055
Conditions 1055
General 1055
Limit on Contest 1055
Fishing In Boundary Waters 1053
Bear Lake 1053
Limit for One License Only 1053
Fishing Methods & Gear 1052
Archery & Spear Fishing Exceptions 1052
Barbed Hook Restrictions 1053
Fishing Shelters 1053
Gaff Hook Exceptions 1052
General Restrictions 1052
Hook & Line Exceptions 1052
Molesting Fish 1052
Sinker for Sturgeon 1053
Snagging Exceptions 1052
Trapping & Seining Exceptions 1052
Use of Bait Exceptions 1053
Use of Hands Exceptions 1053
Fishing Seasons, Limits, Hours, & Regional Exceptions 1053
Fitters 3011
Duplicate License 3012
Examination 3012
Fees 3012
Period of Time 3012
Renewal 3012
Flagging Requirements For Oversize Vehicles And/Or Loads 4969, 5106
Color 5106
Placement of Flags 5106
Size 5106
Warning Flags 5106
Flammable Liquids, Children's Residential Care Facilities 2639
Flat Fees 4692
Other Claims 4692
Small Domestic & Stockwater 4692
Float Boat Guide - Classified Rivers 3766
Float Boat Guide - Unclassified Rivers 3766
Float Boatman Qualifications - Classified Rivers 3766
Float Lead Boatman 3766
General 3766
Other 3766
Float Lead Boatman Qualifications 3767
Floor Inlets 2344
Floors In Dressing Rooms, Toilets, Showers 2337
Fluid Containment 3279
Flying Clubs 4313
Aircraft Repair Parts 4314
Cross-Reference 4314
In General 4313
Other Charges to Members 4314
Rental or Sale of Aircraft to Members 4314
FMA 1478
Foal, Health, & Other Eligibility Certificates 731
Alteration of Sex 731
Posterior Digital Neurectomy 731
Follow Up & Case Management 2354
Follow-Up For Unsatisfactory Specimens, Presumptive Positive Results & Positive Cases 1321
Follow-Up for Unsatisfactory Specimens 1321
Follow-Up of Presumptive Positive Results 1322
Positive Case Notification 1322
Font Size For Printed Materials 2761
Food 1334
Food & Beverages 4864, 4870, 4875, 4884
Alcohol 4864, 4870, 4875, 4884
Consumption May Be Prohibited 4864, 4870, 4875, 4884
Food & Nutrition 2611
Food & Nutritional Care Policies 2450
Food Poisoning, Foodborne Illness, & Waterborne Illness 1291
Handling of Report 1291
Investigation 1291
Reporting Requirements 1291
Food Preparation & Service 2475
Disposable Items 2475
Food Preparation 2475
Food Preparation Area 2475
Frequency of Meals 2475
Food Processing Plants 1336
Approval of Process Methods 1336
Bottled Water Processing 1336
Labels 1336

Processing of Acidified Foods 1336
Quality Assurance Program 1336
Testing 1336
Thermal Processing of Low-Acid Foods 1336
Food Service 390, 405
Food Service Facility - Reporting & Control Measures 1283
Food Employee Health Examination 1283
Food or Beverage Transmitted Disease in a Communicable Form 1283
Notification of Disease in a Communicable Form 1284
Food Service Sanitation 340
Written Policy & Procedures 340
Food Services 339
Food Stamp Benefits for Categorically Eligible Household 1455
Food Stamp Household Responsibilities 1472
Provide Information 1472
Quality Control 1472
Food Stamp Household Rights 1472
Application 1472
Application Registered 1472
Fair Hearing 1472
Notification 1472
Representative 1472
Thirty Day Processing 1472
Food Stamp Households 1422
Living Alone 1422
Living in Drug or Alcohol Treatment Center 1422
Living Together & Preparing Common Meals 1422
Living with Others 1422
Living With Others, But Paying for Meals 1422
Resident of Group Living Center 1423
Women Living in Shelter 1422
Food Stamp Information Requirements 1474
Bilingual Information 1474
Rights & Responsibilities 1474
Food Stamp Prorating Formula 1454
Food Stamp Reduction, Suspension, Or Cancellation 1466
Hearings 1466
Reducing Food Stamps 1466
Restoring Lost Benefits 1466
Suspension or Cancellation 1466
Food Stamps For Households With IPV Members, Ineligible Fugitive Felon, Or Probation/Parole Violator, Work Requirement Sanctions, Or A Member Convicted Of A Controlled Substance-Related Felony 1469
Food Stamps For TAFI Or AABD Households 1420
Food Stamps Issued To Ineligible ABAWD 1430
Food Supply 2475
Food, Meals, Or Drinks 4315
Boarding Houses 4316
Church Organizations 4316
Clubs & Organizations 4315
Colleges, Universities, & Schools 4315
Commercial Establishments 4315
Food or Beverage Tastings 4316
Fraternities, Sororities, & Cooperative Living Group 4316
Free Giveaways to Employees 4317
Honor System Snack Sales 4316
In General 4315
Senior Citizens 4316
Taxable Purchases by Establishments Selling Meals or Beverages 4317
Force Account As Matching Share 3852
Foreclosure 6061
Foreign Diplomats 4368
Documentation 4368
Federal Tax Exemption Cards 4368
In General 4368
Foreign Exchange High School Students 980
Foreign Insurers 2748
Foreign National Treaty Pursuant To Section 20-104, Idaho Code 5210
Approval of Transfer Request 5210
Issuance of Written Recommendation 5210
Request for Transfer 5210
Schedule for Review of Application 5210
Foreigners/Aliens In Idaho 980
Forfeiture & Default, Lay-Away Plans 242
Forfeiture For Failure To Make Weight 3435
Dividing Forfeit 3435
Exception 3435
Failure to Make Weight 3435
Forfeiture Of Bond 3141
Forfeitures 6028, 6044
Form 665
Form & Content Of Advertisements 2767
Form & Content Of Petition 559
Form 560
Service 560
Form & Contents -- Existing Utility 3939
Cost Estimates & Revenue Requirements 3939
Description of Construction or Expansion 3939
Financial Statement & Construction Timelines 3939
Map 3939
Statement & Explanation 3939
Form & Contents Of Application To Change Rates 3941
Grounds for Returning or Dismissing Application 3942
Proposals Based upon Computer Modeling 3941
Utility Applications to Change Rates 3941
Form & Contents Of Application To Issue Securities 3946
A Full Description of the Securities 3946
A Statement of the Proposed 3946
A Statement of the Purposes 3946
Description 3946
Financial Statement 3947
Proposed Order 3947
Statement of Explanation 3947
Statement of Public Notice Application 3947
Form & Contents Of Petition For Declaratory Orders 3937
Contents of Petition 3937
Form of Petition 3937
Form & Contents Of Petition For Declaratory Rulings 3041, 4669, 5584
Filing 5584
Form 3041, 4669, 5584
Legal Assertions 3041, 4669, 5584
Form & Contents of Petition For Declaratory Rulings 264
Form 264
Legal Assertions 265
Form & Contents Of Petition For Intervenor Funding 3948
Explanation of Cost Statement 3948
Itemized List of Expenses 3948
Statement of Difference 3948
Statement of Proposed Findings 3948
Statement of Recommendation 3948
Statement Showing Class of Customer 3948
Statement Showing Costs 3948
Form & Contents Of Petition To Initiate Rulemaking 5599
Filing 5599
Form & Contents 286, 5599
Requirement 285, 5599
Form & Contents Of Petitions To Intervene 3041, 3936, 4668, 5588
Form & Contents of Petitions To Intervene 264
Form & Contents--New Utility 3938
Cost of Service 3939
Financial Statement 3939
Financing of Construction 3938
Maps 3938
Name, Address & Form of Business 3938
Proposed Operations 3938
Written Explanation Why Service Is Proposed 3938
Form & Distribution Of A PML & CS 4114
Content of List 4114

Cut-Off 4114
PML Publication Dates 4114
Schedule 4114
Supplementation 4114
Form & Number Of Copies Of Price List Or Tariff 4020
Form And Contents Of Petition To Initiate Rulemaking 285
Form Contents
Record of Original Corner and Subsequent History 665
Form Of Appeal 721
Bond 721
Form of Appeal 721
Form Of Application 722
Application for Stay 722
Licensee Signature 723
Form Of Communication 4889
Form Of Complaint 4088
Prescribed or Other Form 4088
Writing & Notarization 4088
Form Of Documents 3934
Example 3934
Identification of Parties 3934
Information to be Listed 3934
Original Documents 3934
Form Of Opt Out Notice To Consumers 2723
Adequate Opt Out Notice 2723
Form of Opt Out Notice 2723
Reasonable Means to Exercise an Opt Out Right 2723
Form Of Performance Bond 3140
Blanket Bond 3141
Collateral Bond 3140
Corporate Surety Bond 3140
Letters of Credit 3141
Notice of Cancellation 3141
Revocation Of Surety License 3141
Form Of Pleadings 262, 3039, 4613, 4665, 5586
Example 262
Form 262, 3040, 4613, 4665, 5587, 6000
Pleadings 3039, 4665, 5586
Requirements 6000
Form of Pleadings 6000
Form Of Ruling 720
Charges 720
Dates 720
Order of Finish 720
Other Information 720
Penalty 720
Personal Information 720
Signing of Ruling 720
Form Of Submission For Solicitations Issued Under A Formal Sealed Procedure 4894
Electronic Submissions 4895
Manual Submissions 4894
Form Of Tariffs 3944
Formal & Informal Rulemaking 284
Formal Complaints -- Defined -- Contents & Process 3931
Name the Respondent 3931
Process 3931
Refer to Applicable Provisions 3931
State the Facts 3931
State the Relief Desired 3931
Formal Discipline 5292
Formal Proceedings 257, 3034, 3927, 4659
Initiation of Proceedings 3034
Right to Contested Case, Board Discretion 3034
Former Employees--Restriction On Representation Of Parties 3930
Former Foster Child 1368
Formerly Licensed 40
Forms 3259, 4075, 4092, 4739, 4742, 4754, 4943
Annual Report Form 4092
Form 1721 4742
Form for Lobbyist Registration 4092
Form for Report of Alleged Violation of Sunshine Law 4093
Form for the Appointment & Certification of Political Treasurer 4092
Forms for the Disclosure of Campaign Finances by Candidates & Political Committees 4092
Monthly Report Form 4092
Samples of Forms 4739, 4742
Forms -- Additional Information & Exhibits 2917
Forms -- General Requirements 2916
Filings 2916
Format 2916
Forms Intended to Be Guides 2916
Hearing 2916
Forms -- Incorporation By Reference, Summaries & Omissions 2917
Incorporation by Reference 2917
Summaries or Outlines 2917
Forms -- Information Unknown Or Unavailable & Extension Of Time To Furnish 2917
Formula 2928
Formulary 3568, 3698
Disorders & Conditions 3569
Midwifery Formulary 3698
Other Legend Drugs 3699
Prohibited Medications & Controlled Substances 3568
Forwarding Agricultural Commodities 157
Forwarding Of Benefits 2535
Home Visit 2535
Return to Foster Care 2535
Foster Care Payments 1504
Foster Parent Adoptions 2560
Foster Parent Duties 2604
Reporting Progress & Problems 2604
Service Plan Implementation 2604
Termination of Placement by the Foster Family 2604
Written Policies & Procedures for Foster Families 2604
Foster Parent Qualifications & Suitability, Foster Homes 2600
Acceptance of Foster Children 2601
Availability for Child Placement 2601
Character 2600
Child Care & Supervision 2601
Compliance with Licensing Rules 2601
Family Supports 2601
Harmonious Home Life 2601
Health 2601
Income & Resources 2601
Knowledge & Skill 2601
Minimum Age 2600
Personal Attributes & Experiences 2600
Foster Parent Training 2604
Annual Training 2604
Individualized Training 2605
Initial Training 2604
Orientation 2604
Required Training 2605
Fouls
Deduction For Points
Effect Of Claiming Low Blow By Opponent
Contestant Claiming Low Blow 3439
Deducting Points Because of Fouls 3439
Deduction of Points in Round Foul Occurs 3439
Notification of Point Deduction 3439
Disqualification of Combatants & Withholding Of Purse 3439
Fraud Penalties 4597
In General 4597
Interaction Between Fraud & Negligence Penalties 4598
Fraudulent Claim 2198
Fraudulent Information 6070
Fraudulent Information on Financial Assistance Application 6076
Fraudulent Information On Grant Application 1180
Fraudulent Misrepresentation Of Residency 1490
Fraudulent, Dishonest & Unethical Practices - Broker-Dealer, Broker-Dealer Agents, Issuer Agents, Investment Advisers, Investment Adviser
Advertising 966
Advisory Contract Disclosures 966
Advisory Contract to Comply with Federal Law 966
Bona Fide Distribution 964
Bona Fide Price Reports 964
Churning 962

Conflicts of Interest 965
Contradicting Prospectus Information 965
Contradictory Recommendations 965
Customer Communication 964
Deceptive or Misleading Advertising 964
Delivery Delays 962
Disclosure of Control 964
Disclosure of Private Information 966
Discretionary Authority 963
Failure to Supervise 963
Fictitious Accounts 964
FINRA & NASD Rules Compliance 965
Fraudulent, Deceptive or Manipulative Acts 966
Fraudulent, Dishonest & Unethical Practices 962
Guaranteeing Specific Results 965
Hypothecating Customer Securities 963
Inside Information 965
Loans from Customers 964
Loans to Customers 964
Loss Guarantees 964
Manipulative, Deceptive or Fraudulent Practices 963
Margin Accounts 963
Misleading Filings 966
Misrepresentations Concerning Advisory Services 965
Outside Business Activities - Selling Away 966
Penny Stock Sales 965
Profit/Loss Sharing 965
Prospectus Delivery 965
Protection of Non-Public Information 966
Sales at the Market 963
Segregation of Client Securities 963
Splitting Commissions 965
Third Party Conduct 966
Unauthorized Transactions 963
Unreasonable Advisory Fees 965
Unreasonable Fees 963
Unreasonable Price, Commission 963
Unrecorded Transactions 964
Unsolicited Transactions 965
Unsuitable Recommendations 963
Waiver of State or Federal Law Prohibited 966
Fraudulent, Dishonest & Unethical Practices - Broker-Dealer, Broker-Dealer Agents, Issuer Agents, Investment Advisers, Investment Adviser Representatives 962
Free & Clear Title 779
Free Distribution Newspapers 4396
Newspaper Format 4396
Purchase or Use of Tangible Personal Property 4396
Qualifying for Exemption 4396
Free From Abuse, Neglect, & Harassment 2010
Freestanding Emergency Department (FSED)
Plant, Equipment & Physical Environment 2033
Building Construction Standards 2033
Disaster Plans 2035
Electrical Safety 2034
Emergency Plans for Protection and Evacuation of Patients 2035
External Disaster Plan 2035
Internal Disaster Plans 2036
Maintenance of Equipment 2035
Plans, Specifications, & Inspections 2033
Preventative Maintenance 2036
Report of Fire 2035
Safety 2037
Smoking 2034
Staffing & Services 2031
An FSED Must Provide or Arrange for 2031
Dietary Service 2032
Laboratory Service 2032
Nursing Service 2032
Pharmacy Service 2032
Radiology Service 2032
Staffing 2031
Standards 2031
Availability of Resources and Staffing for Main Hospital and FSED 2031
Capability of Receiving Ground Ambulance Patients 2031
Extension of the Main Hospital 2031
FSED Accreditation 2031
Transfer to Inpatient Hospital 2031
Written Transfer Agreements 2031
Freestanding Emergency Department (FSED) - Definition 2030
Frequency of Fire & Emergency Evacuation Drills 2595
From Certified CWD Free Herd 100
Exceptions 100
Records 100
Frozen Or Secured Accounts Excluded 1443
Fuel Distributor Credit & Refund Claims 4538
Fuel Distributor Credit & Refund Claims 4538
Line Flush Allowance 4538
Methods to Determine the Line Flush Allowance 4538
Fuel Sale Documentation Required 4538
Correcting Sales Invoice Errors 4539
Disallowing Tax-Paid Credit 4539
Documentation Requirements for Dyed Diesel Fuel 4539
Retail Sales Invoices for Delivered, Bulk Plant & Station Sales 4538
Fugitive Felon Or Probation Or Parole Violator 1547
Fugitive Felon, Probation, Parole Violator 1490
Full Evidentiary Hearing 1130
Conduct of Hearing 1130
Decision 1131
Evidence 1130
Exclusive Record for Decision 1131
Hearing Notice 1130
Hearing Officer 1130
Legal Counsel 1130
Report of Facts, Findings, Conclusion, & Recommended Decision 1131
Request 1130
Service of Report 1131
Suspension 1130
Time & Place of Hearing 1130
Time Limit 1130
Transcripts 1130
Written Comments, Arguments, & Exceptions 1131
Fully Employed/Not Unemployed 613
Corporate officer 614
Excessive Earnings Week 613
Leave of Absence 614
Suspension 614
Fund Allocation 3848
Allocation of Funds 3848
Eligible Applicants 3848
Exceptions 3849
Project Requests Insufficient 3849
Funding 5212
Assessments 5212
Collection 5212
Refunds 5213
Funding Cycle 3852
Fees 3853
Generally 3852
Procedure 3852
Funding Limitations 5116
Excluded Applications 5116
Funding Of Board Activities 588
Fee Assessed 588
Notices Issued 588
Payment Submission 588
Funding Of Subdivision Pool, Unused Sick Leave Credit 6031
Funding Restrictions 2197
Funding Restrictions, Career Enhancement 1600
Funeral Establishment & Crematory Establishment 3521
Change in Ownership or Location 3521
Contents of Application 3521

Crematory Establishment 3522
Funeral Establishment 3521
Funeral Firm 3521
Furnishings & Equipment 1395
Furnishings - Resident Living Rooms & Bedrooms 1396
General Requirements 1396
Further Definition -- BillIing Statement 4006
Further Definitions 3979
Applicant 3979
Customer 3979
Deposit 3979
Residential & Small Commercial Classes 3979
Further Definitions, Sections 301 Through 313 3985
Applicant 3985
Customer 3985
Non-Utility Service 3985
Written Notice 3985
Further Proceedings 257, 3034, 3927, 4659, 5998

G

Galactosemia 1291
Game Animals 1335
Donated Game Meat 1335
Field Dressed Game Animals 1335
Processing Game Animals 1335
Un-Inspected Game Animals 1335
Game Management Unit Boundary Descriptions — UNITS 11-15 1018
Game Management Unit Boundary Descriptions — UNITS 1-5 1016
Game Management Unit Boundary Descriptions — UNITS 16-20A 1019
Game Management Unit Boundary Descriptions — Units 21-25 1021
Game Management Unit Boundary Descriptions — Units 26-30A 1021
Game Management Unit Boundary Descriptions — Units 31-35 1022
Game Management Unit Boundary Descriptions — Units 36-40 1022
Game Management Unit Boundary Descriptions — Units 41-45 1023
Game Management Unit Boundary Descriptions — Units 46-50 1024
Game Management Unit Boundary Descriptions — Units 51-55 1025
Game Management Unit Boundary Descriptions — Units 56-60A 1026
Game Management Unit Boundary Descriptions — UNITS 6-10A 1017
Game Management Unit Boundary Descriptions — Units 61-65 1026
Game Management Unit Boundary Descriptions — Units 66-70 1027
Game Management Unit Boundary Descriptions — Units 71-75 1028
Game Management Unit Boundary Descriptions — Units 76-78 1029
Game Management Unit Boundary Descriptions. — UNITS 11-15
Unit 11 1018
Unit 11A 1019
Unit 12 1019
Unit 13 1019
Unit 14 1019
Unit 15 1019
Game Management Unit Boundary Descriptions. — UNITS 1-5
Unit 1 1016
Unit 2 1016
Unit 3 1016
Unit 4 1016
Unit 4A 1017
Unit 5 1017
Game Management Unit Boundary Descriptions. — UNITS 16-20A
Unit 16 1019
Unit 16A 1020
Unit 17 1020
Unit 18 1020
Unit 19 1020
Unit 19A 1020
Unit 20 1020
Unit 20A 1020
Game Management Unit Boundary Descriptions. — UNITS 21-25
Unit 21 1021
Unit 21A 1021
Unit 22 1021
Unit 23 1021
Unit 24 1021
Unit 25 1021
Game Management Unit Boundary Descriptions. — UNITS 26-30A
Unit 26 1021
Unit 27 1021
Unit 28 1021
Unit 29 1022
Unit 30 1022
Unit 30A 1022
Game Management Unit Boundary Descriptions. — UNITS 31-35
Unit 31 1022
Unit 32 1022
Unit 32A 1022
Unit 33 1022
Unit 34 1022
Unit 35 1022
Game Management Unit Boundary Descriptions. — UNITS 36-40
Unit 36 1023
Unit 36A 1023
Unit 36B 1023
Unit 37 1023
Unit 37A 1023
Unit 38 1023
Unit 39 1023
Unit 40 1023
Game Management Unit Boundary Descriptions. — UNITS 41-45
Unit 41 1023
Unit 42 1024
Unit 43 1024
Unit 44 1024
Unit 45 1024
Unit 46 1024
Unit 47 1024
Unit 48 1025
Unit 49 1025
Unit 50 1025
Game Management Unit Boundary Descriptions. — UNITS 51-55
Unit 51 1025
Unit 52 1025
Unit 52A 1025
Unit 53 1025
Unit 54 1025
Unit 55 1025
Game Management Unit Boundary Descriptions. — UNITS 56-60A
Unit 56 1026
Unit 57 1026
Unit 58 1026
Unit 59 1026
Unit 59A 1026
Unit 60 1026
Unit 60A 1026
Game Management Unit Boundary Descriptions. — UNITS 6-10A
Unit 10 1018
Unit 10A 1018
Unit 6 1017
Unit 7 1017
Unit 8 1017
Unit 8A 1017
Unit 9 1018
Game Management Unit Boundary Descriptions. — UNITS 61-65
Unit 61 1026
Unit 62 1026
Unit 62A 1027
Unit 63 1027
Unit 63A 1027
Unit 64 1027
Unit 65 1027
Game Management Unit Boundary Descriptions. — UNITS 66-70
Unit 66 1027
Unit 66A 1027
Unit 67 1028
Unit 68 1028
Unit 68A 1028
Unit 69 1028
Unit 70 1028
Game Management Unit Boundary Descriptions. — UNITS 71-75
Unit 71 1028
Unit 72 1029
Unit 73 1029
Unit 73A 1029
Unit 74 1029
Unit 75 1029
Game Management Unit Boundary Descriptions. — UNITS 76-78
Unit 76 1029
Unit 77 1029

Unit 78 1029
Game Preserves Open To The Hunting Of Migratory Game Birds 1037
Gaming Devices, Equipment Or Materials 5261
Bingo Cards 5261
Miscellaneous 5261
Number Selectors & Related Equipment 5261
Garages & Machine Shops & Related Areas 438
General Requirements 438
Garnishments 1504
Gas Processing Facilities 3286
Flaring 3286
Inspections 3286
Meters & Facility Plans 3286
Operations 3286
Gas Supersaturation 5474
Applicability of Gas Supersaturation Standard 5474
Gas Supersaturation Control Program 5475
Interstate Agreements 5475
Gas Utilization 3285
Gas, Water, Electricity Delivered To Customers 4365
In General 4365
Telephone Service 4365
Gas-Oil Ratio For Well Classifications 3284
Gas-Oil Ratio Limitation 3284
Determination of Inefficient Ratios 3284
Notice & Cause for Hearing 3284
Waste Prevention 3284
Gas-Oil Ratio Surveys & Reports 3284
Gate Judge 736
Gathering & Restraining System 185
Exceptions 185
Gathering System 185
Restraining System 185
General 63, 3904, 4632, 4691, 4957, 5003, 5037, 5062, 5074, 5110
Access Control 5003
Authority of Bank 4632
Bank Operation 4632
Calculation of Tax Due 3905
Certificate of Registration 5074
Certificate of Title 5074
Consistency 4632
Control Requirement 5037
Edge of Right-of-Way 5037
Evaporation Losses 4632
Fire-Fighting 4691
Government Voucher 4691
Growers', Dealers', Handlers' & Out-of-State Repackers' Records 3905
Incorporation of Articles 4632
Level of Flight for Non-Assistance Persons 5062
Level of Flight for Non-Search Pilot 5062
Maintenance of Encroachments 5004
MCO/MSO 5074
Method of Payment 4691
Multiple Sign Faces 5037
Nonconforming Signs 5037
Permit or License Revocation 5037
Personal Check 4691
Potato Tax 3904
Potato Tax Base Rate & Additional Tax 3904
Potato Tax Due Date & Responsible Party 3904
Priority of Use 4632
Rejection of Claim 4691
Requirement to Pay 4691
Responsibilities 5037
Safety Requirements 5004
Salvage Vehicles 5074
Signs Visible From the Main Travel-Way 5037
Specially Constructed Vehicles 5074
Standards For Community Official Signs 5043
Location of Sign 5043
Size of Sign 5043
Storage Water 4632
Tax Reports to Be Made by Growers, Dealers, Handlers, Shippers & Processors 3905
Time of Payment 4691
Traffic Accident Memorials 5042
Transfer by Operation of Law 5074
Visible Informative Content 5037
General Advertising Practices
Automobile Advertising/Sales Abbreviations 248
Color Contrasts 248
Footnotes & Asterisks 248
Photographs & Illustrations 248
Print Size 248
General Advertising Practices - Automobile Advertising/Sales 248
Clear & Conspicuous Disclosure of Material Terms 248
General Application Procedure For A Non-Commercial Restricted Driving Permit 4933
Applicant Submissions 4933
Restricted Driving Permit Approval 4934
Written Agreement 4933
General Authority 805
Racing Commission to Regulate Races & Participation 805
Racing Commission to Regulate Simulcast & Advance Deposit Wagering 805
General Authority & Responsibilities, Section 104.1, International Fire Code 2998
Fire Chief's Authority 2998
General Calculation Requirements For Basic Reserves & Premium Deficiency Reserves 2934
Applicability 2935
Basic Reserves 2934
Changes in Guarantees 2935
Deficiency Reserves 2934
Gross Premiums 2935
Reserve Adequacy 2936
General Conditions & Requirements 4969
General Consent & Disclosure Requirements 2131
General Cost-Sharing 2376
Cost-Sharing Maximum Amount 2376
Cost-Sharing Suspended 2376
Exception to Cost-Sharing Maximum 2376
Excess Cost-Sharing 2376
Proof of Cost-Sharing Payment 2376
General Description Of The Procedure To Be Used For Allocation 4790
Applications to Appropriate Unappropriated Water & Water Held in Trust 4790
Applications to Appropriate Water From Sources Held by State in Trust 4790
General Drilling Rules 3277
Conductor Pipe or Casing Requirements 3277
Drilling Mud Disposal 3279
General Design Requirements for Casing & Cementing 3277
High Temperature Conditions 3277
Interim Drill Site Clean Up 3280
Intermediate Casing 3278
Mud Pits 3279
Production Casing 3279
Report of Water Encountered 3279
Requirements for BOP Equipment 3277
Spill Prevention, Control, & Countermeasures Plan 3280
Step-off 3279
Surface Casing Requirements 3277
Well Control (Cable Tools) 3279
Well Control (Rotary Tools) 3279
Wildcat & High-Pressure Conditions 3277
General Duties Of Carrier 92
Disinfection of Conveyances 92
Duties of Carrier Regarding Health Certificates of Permits 92
Sanitary Condition of Cars, Trucks & Airplanes 92
General Duties Of EMS Personnel 1258
General Duties 1258
Scope of Practice 1259
General Grant Program Requirements 3890
Amendments to Grant

Agreements 3890
Application Procedure 3890
Cost Reimbursable 3891
Grant Acknowledgement 3890
Grant Agreement 3890
Limitation on Use of Funds 3891
Reporting Requirements 3890
Review of Applications 3890
Rural Community 3891
Termination of Funding 3890
General Information 4095
Alphabet Names 4095
Characters in Business Entity Names 4096
Determination by Secretary of State 4095
Existing Business Entity Names Considered 4095
False Implication of Government Affiliation 4096
Foreign Words 4096
Grossly Offensive Name 4096
Internet Prefixes & Suffixes 4096
General Instant Ticket Game Operating Rules 5233
Confidentiality of Tickets 5237
Definitions 5233
Instant Ticket Validation Bar Code 5233
ITA System 5233
Pack 5233
Pack-Ticket Number 5234
Play Symbol Caption 5234
Play Symbols 5234
Retailer Validation Code 5234
Ticket 5234
Ticket Validation Number 5234
Determination of Winners 5234
Discharge of All Liability upon Payment 5237
Governing Law 5237
Instant Games -- Authorized -- Director's Authority 5233
Instant Games Ticket Price 5234
Number & Value of Instant Ticket Prizes 5234
Official End of Game 5237
Official Start of Game 5234
Payment of Prizes 5235
Payment of Prizes to Persons Under Eighteen Years of Age 5237
Prize Rights Unassignable 5236
Prize Structures 5234
Prizes Payable After Death or Disability of Owner 5237
Sale of Tickets 5234
Ticket Validation Requirements 5236
Unclaimed Prize Money 5237
General Ledger 5256
Annual Report 5256
Documentation 5256
Establishment of General Ledger 5256
Retention of Records 5256
General Ledger & Recordkeeping, Raffle 5257
General Liability Insurance Requirement 3658
Original Facility License Application 3658
Renewal of Facility License 3658
General Minimum Standards 2876
Coinsurance 2877
Continuous Loss Extension 2877
Coverage of Dependents 2877
Expenses of Live Donor 2877
Fractures or Dislocations 2877
Limitation on Termination of Coverage of Dependent 2877
Outline of Coverage 2876
Pregnancy Benefit Extension 2877
General Oversize Limitations 4968
Hazardous Travel Conditions Restrictions 4969
Maximum Dimensions Allowed 4968
Oversize 4968
Overwidth Loads on Single or Double Trailers 4968
Overwidth Overhang 4968
Passing Lane Must Be Provided 4969
Practical Minimum Dimension of Load 4968
General Participant Provisions 1611, 1752, 2064
General Patient Accommodations 2056
General Requirements 2056
General Payment Procedures 1617
Individual Provider Reimbursement 1618
Lower of Cost or Charges 1618
Procedures for Medicare Cross-Over Claims 1619
Provided Services 1617
Reimbursement for Other Noninstitutional Services 1618
Review of Records 1618
Services Normally Billed Directly to the Patient 1618
Services Reimbursable After the Appeals Process 1619
General Permits 5943
Administration 5945
Case-by-Case Requirements for Individual Permits 5948
Coverage 5943
Electronic Submittals 5945
Information Retention Schedule 5945
Notice of Intent 5945
General Procedure 4926
Documentation Provided 4926
Idaho Title Required 4926
Out of State Title Required 4926
Registration Only 4926
Temporary Clearance 4926
General Program Requirements 5116
General Provider Provisions 1612
General Provisions 350, 625, 670, 696, 740, 1258, 3254, 3475, 3848, 4919, 4924, 4931, 4945, 5047, 5049, 5051, 5072, 5191
Address Change 3476
Allocation of Revenues for Prizes 5220
Authority to Stagger the Renewal of Licenses to Sell Alcohol 696
Availability 5051
Certificates 3475
Claims 5221
Committees 3475
Confidentiality 351
Contingency Reserve 5219
Continuation of Policies 670
Contribution Due Date 625
Contribution Reports 626
Declared Business Hours 4924
Delegation of Authority to License Alcoholic Beverages 696
Designee 740
Determination of Payment Date 625
Determinations & Appeals 625
Director 5219
Disability of Prize Winner 5222
Disputed Prizes 5222
Effect of Game Rules 5222
Expired License Plate Renewal 4931
Expired Registration Renewal 4931
Filing of Documents 3475
Full Name Requirements 4945
Hearing Fee Refunds & Additional Charges 5072
Hearing Filing Fee 5072
Hearing Officer Appointment 5072
Hearings 350
Idaho Consumer Asset Recovery (ICAR) Fund 4924
Liability Insurance 4924
Licensed Manufacturers Provisions 4920
Lien Interest 625
Location of Hearings 5072
Lottery Budgets & Financial Statements 5219
Lottery Commission 5218
Meetings 3475
Motor Home MCO/MSO Requirements 4920
Multi-Jurisdiction Agreements 740
Officers 3475
Open Meeting Law 5218
Ownership of Lottery Tickets 5220
Pari-Mutuel System 740
Patient Consent 1258
Penalties & Interest on Bankruptcy 625
Penalty & Interest During Controversy 625

Permission to Off-Load 5050
Physical or Electronic Records System Inspection 4924
Place to Legalize 5049
Powers & Duties of the Commission 5218
Powers & Duties of the Director 5219
Practice of Medicine 1258
Preparation 5047
Prizes Payable After Death of Winner 5222
Punctuation Marks 4945
Purchase of Temporary Permits 5051
Purpose 5218
Quarterly Reporting 625
Records of Hearings & Meetings 351
Release of Lien Upon Payment in Full 626
Requests 5047
Retail Drawings 5220
Retail Ticket Price Discounts 5220
Sale of Lottery Tickets 5222
Seals 3475
Special Drawings 5220
Stolen or Lost Tickets 5222
Surety Bond 4924
System Consistency 1258
Temporary Regulations 5047
Time & Place of Meetings 5218
Title Fee Disclosure 4924
Travel Authorization 5049
Travel Authorization Restrictions 5050
Unresolved Differences 5047
Vehicle Dealer License Suspension 4924
Vehicle Manufacturer or Distribution Licensing 4919
Wagering Subject to Approval 740
When Reports Replace Determinations 625
Written Record 350
General provisions 2365
General Provisions – Manufactured Homes, Modular Buildings, & Office Trailer 4975
Construction 4975
Interior Loading 4975
Paneling of Open Sides of Multi-Section Modular Buildings, Manufactured Homes, or Office Trailers 4975
General Provisions For Registration
Annual Renewal of Registration 3342
Disclosure 3342
Notification of Change 3342
Termination of Registration 3342
General Provisions For Waivers, Variances, & Exemptions 5686
Conditions 5687
Exceptions 5687
Exemptions 5686
Public Hearing 5687
Surface Water Exemptions 5687
Surface Water Variances 5687
Variances 5686
Waivers 5686
General Provisions of the Indigent Defense Financial Assistance Program 6073
General Provisions Of The State & Federal Grant Program 3813
General Qualifications For Licensure 3326, 3502
Applicant 3326, 3502
Application 3326
Application Expiration 3326
Education 3502
Examination 3502
Licensure 3326
Residence 3326
General Qualifications For Licensure & Renewal 3333
Special Purpose Examination 3334
General Qualifications For Licensure And renewal 3350
General Qualifications For Licensure and Renewal 3348
General Qualifications for Licensure and Renewal 3353
General Regulations For Approaches 5006
Applicable Standards 5006
Approach Locations 5006
Denial of Approach Application 5006
General 5006
Joint-Use Approach 5006
Modification of Approaches by Department 5006
Modification of Approaches by Permittee 5006
New Approaches in Highway Construction 5006
Required 5006
General Reimbursement 1753
Individual Provider Payment 1753
Long-Term Care Facility Payment 1753
Participant Services 1753
Access 1754
Applicable Participant Services 1753
Cost Survey 1754
Quality 1754
Review Reimbursement Rates 1754
General Reimbursement Provisions 1753
General Reimbursement Provisions for Institutional Providers 1621
General Requirements 439, 455, 490, 2986, 4135, 4983
Appointed Actuary 2987
Approach & Departure Zones 490
Approaching or Leaving Helicopter 490
Areas to Avoid in Helicopter 490
Briefings 490
Canopy Framework 455
Canopy Structure 455
Clearance Above the Deck 455
Compliance With FAA Regulations 490
Daily Test Required 439
Driver Protection Guard 455
External Loads 490
Gusset Plates or Braces 455
Liabilities to be Covered 2987
Loose-Fitting Clothing 490
Maximum Dimensions Allowed 4983
Open Fires 490
Overhead Covering 455
Overwidth Overhang 4983
Personal Protective Equipment 490
Personnel in Clear Before Moving Logs or Turns 439
Pin Connections 456
Protective Precautions 490
Qualified Actuary 2987
Rear Covering 455
Reduced Visibility 490
Rigging 439
Sideguards 456
Standards for Asset Adequacy Analysis 2987
Submission of Statement of Actuarial Opinion 2986
Unauthorized Personnel 490
General Requirements & Services 2523
General Requirements Applicable To All Child & Family Services Programs 2523
Individual Authorized to Request Voluntary Services 2523
Information to Be Provided to Family 2523
Information, Referral & Screening 2523
Initiating Child & Family Services 2523
Record of Request for Services 2523
General Requirements For Clinical Laboratories 1265
Laboratory Facilities 1265
Records 1265
General Requirements For EMS Education Programs 1237
General Requirements For License 3487
Apprenticeship Program 3487
Education Requirements 3487
Examination Requirement 3487
Experience Requirement 3487
General Requirements For Stray Voltage Measuring & Recording

Equipment 4044
Current Measurement 4044
Resistance Measurement 4044
Resistance-to-Earth Measurement 4045
Resolution & Accuracy 4044
Voltage Measurement 4044
General Requirements For Training 369
Documentation of Training 371
Trainer Qualifications 370
Training Plan 369
Training Records 371
General Requirements Related To Filing & Extensions For Filing Of Annual Audited Financial Reports & Audit Committee
Appointment 2942
Annual Audit Filing Date 2942
Designation of Audit Committee 2943
Request for Extension 2942
General Rule - Bait & Switch Sales 233
General Rule - Cooling-Off Period for Door-to-Door Sales 243
Completed Notice of Cancellation 244
Failure to Honor Notice of Cancellation 245
Failure to Notify Concerning Return of Goods 245
Misrepresent Right to Cancel 245
Notice of Cancellation 244
Oral Notice of Cancellation 244
Purported Waivers 244
Transferring Evidences of Indebtedness 245
Transferring Traded Goods 245
Written Disclosures 244
General Rule - Disclosure Of Conditions In Offer 232
General Rule -- Disclosure Of Prior Use 239
General Rule -- Estimates 239
General Rule - False, Misleading Conduct 231
General Rule -- Going-Out-Of-Business Sales 238
General Rule - Insufficient Supply/ Limitation On Quantity 238
General Rule -- Lay-Away Plans 241
Duplicates 241
Failure to Deliver 241
Failure to Lay Aside Goods 241
Increase Price 241
Lay-Away Time Periods 241
Misrepresent Lay-Away Policies 241
General Rule - Loan Broker Fees 246
Conditions of Loan 246
Prohibited Practices 246
Qualifying for a Loan 246
Written Disclosure 246
General Rule - Preservation Of Consumers' Claims & Defenses 246
Accept Contract Without Written Notice 247
Accept Monies Without Written Notice 247
General Rule - Pyramid & Chain Distribution Schemes 245
General Rule -- Repairs & Improvements 240
Completion of Repairs 240
Liens 240
Misrepresent Danger 240
Model Jobs 240
Necessity of Repairs 240
General Rule -- Time of Delivery or Performance Including Mail Order Sales 241
Failure to Deliver 241
Promising Delivery 241
General Rule - Unfair Solicitation 242
Leaving Premises 243
Misleading Plan 242
Representations with Capacity to Mislead 242
General Rule - Unordered Goods Or Services 247
Bills 247
Delay or Disrupt Goods or Services 247
Requiring Consumer Consent 247
Send or Provide Unordered Goods or Services 247
General Rule -- Use of the Word "Free" and Similar Representations 236
Free No Cost Offers 236
Free With Cost Offers 236
General Rules 3061, 3539
Annual Review & Consultation 3062
Compliance 3061
Computation of Tax Due Amounts for Extension of Time Criteria 4595
Computation of Tax Due Amounts for Failure to File, Failure to Pay, Delinquent Filing, Substantial Understatement, & Extension Penalties 4595
Consultation 3062
Conversion of Forest Lands 3061
Dishonored Checks 4596
Duty of Purchaser 3063
Emergency Forest Practices 3063
Engaging as an Advisor or Staff Optometrist 3539
Minimum Penalty 4596
Net Operating Loss & Capital Loss Carrybacks 4596
Notification Exception 3063
Notification of Forest Practice 3062
Penalty Presumed Appropriate 4595
Professional Responsibilities 3539
Regions Divided Into Forest Types 3063
State Divided into Regions 3063
General Rules & Conditions 4960, 4978
General Rules For Taking Custody Of Unclaimed Property 5272
In General 5272
Reciprocity Agreements 5272
General Safety Provisions 2639
Balconies & Stairways 2639
Hazard Areas Restrictions 2639
Reasonable Precaution 2639
Stairway Protection 2639
General Scaling Requirements 3249
Load Identification 3249
Recording Measurements on Scale Tickets 3249
Written Scaling Specifications 3249
General Service Limitations 1753
General Staffing Requirements 1902
General Staffing Requirements for Agencies 1902
Standards for Paraprofessionals Providing Developmental Therapy 1902
General Staffing Requirements For Agencies 2074
Agency Administrator Duties 2074
Agency Administrator Qualifications 2074
Clinical Supervisor Duties 2074
Clinical Supervisor Qualifications 2074
Limitations 2075
Paraprofessionals 2075
Parent or Legal Guardian of Participant 2075
Professionals 2075
Records of Licenses or Certifications 2075
General Standards For Organizations Known As Children's Agencies & Children's Residential Care Facilities 2613
General Statements Of Purpose & Policies For Conjunctive Management Of Surface & Ground Water Resources 4637
Areas Having a Common Ground Water Supply 4637
Delivery Calls 4637
Distribution of Water Among the Holders of Senior & Junior-Priority Rights 4637
Domestic & Stock Watering Ground Water Rights Exempt 4638
Exercise of Water Rights 4637
Prior Appropriation Doctrine 4637
Reasonable Use of Surface & Ground Water 4637
Reasonably Anticipated Average Rate of Future Natural Recharge 4637
Saving of Defenses 4637

Sequence of Actions for Responding to Delivery Calls 4637
Wells as Alternate or Changed Points of Diversion for Water Rights from a Surface Water Source 4638
General Surface Water Quality
Criteria 5439
Deleterious Materials 5439
Excess Nutrients 5440
Floating, Suspended or Submerged Matter 5439
Hazardous Materials 5439
Natural Background Conditions as Criteria 5440
Oxygen-Demanding Materials 5440
Radioactive Materials 5439
Sediment 5440
Toxic Substances 5439
General Terms 146
Inedible Eggs 147
Leaker 147
Loss 146
General Training Requirements For DDA Staff 2076
Additional Training for Professionals 2076
Sufficient Training 2076
Yearly Training 2076
General Variances 2395
Special Conditions 2395
Variance Not Transferable 2395
Variance Renewal 2395
Written Request 2395
General Weight Requirements & Conditions 4982
Permit Types to Exceed Eighty Thousand Pounds Gross Weight 4982
Weights Allowed on Interstate 4982
Weights Allowed on Non-Interstate Highways 4982
Generation Of Ad Hoc Information Reports 4114
Additional Criteria 4115
Internal Organization 4115
Options 4115
Genetics 183
Geographic Scope Of Renting 4634
American Falls Storage 4634
Palisades Storage 4634
Geologist In Training 3478
Limitation 3478
Supervised Practice 3478
Geophysical Operations 3260
Bond Required 3262
Client-Contractor Responsibility 3264
Department Notifications 3263
Forfeiture of Geophysical Exploration Bond 3265
Newspaper Notice 3263
Operating Requirements 3261
Owner & Occupant Notification 3263
Permit Required 3261
Plugging 3264
Reports & Notices Required 3263
Geothermal Pool Exemptions 2346
Exemptions 2346
Remodeling 2346
German Reparations 1504
Giardiasis 1291
Investigation 1292
Reporting Requirements 1292
Restrictions - Day Care Facility 1292
Restrictions - Food Service Facility 1292
Restrictions - Health Care Facility 1292
Gifts Of Domestic Travel Tickets 1503
Gifts, Unearned Income 1509
Giving Information 817
Glider Kits 5080
Assignment of VIN 5081
Make of Vehicle 5081
Model Year 5081
Title Application Requirements 5080
Title Branded 5081
Global Filings 4135
Filing a Single UCC Document 4135
Global Filing 4135
Gloves To Be Wiped By Referee After Boxer Falls 3440
Goat Assessments 223
Assessment as Resident Goats 223
Costs of Collection 223
Payment of Assessment 223
Good Cause 1427
Good Cause Determination In License Suspension Proceedings 2370
Definitions 2370
Good Cause in Motor Vehicle & Occupational License Suspension Proceedings 2370
Good Cause in Recreational License Suspension Proceedings 2371
Not Good Cause in Motor Vehicle & Occupational License Suspension Proceedings 2371
Res Judicata 2370
Good Cause For Not Cooperating 1584
Minimum Information Cannot Be Provided 1584
Physical or Emotional Harm 1584
Rape or Incest 1584
Good Cause For Not Cooperating In Securing Medical & Child Support 1526
Minimum Information Cannot be Provided 1526
Physical or Emotional Harm 1526
Rape or Incest 1526
Good Cause For Voluntarily Quitting A Job Or Reducing Work Hours 1432
Employment or School 1432
Employment or School in Another Area 1433
Environmental Barriers 1432
Family Emergencies 1432
Full Time Job Does Not Develop 1433
Personal Difficulties 1432
Retirement 1433
Temporary Pattern of Employment 1433
Work Site Problems 1432
Good Cause Not To Live With Parents 1582
Good Moral Character 32
Demonstrating Good Moral Character 32
Evidence 32
Rehabilitation 32
Governing Body & Administration 2006
Administration 2007
Bylaws 2006
Chief Executive Officer or Administrator, Administration 2007
Compliance with Laws & Regulations 2008
Discharge Planning 2008
Disclosure of Ownership 2008
Institutional Planning 2008
Quality Assurance 2009
Substantial Change in Services 2009
Use of Outside Resources 2008
Governing Body & Management 1954
Governing Body Duties 1954
Administrator Requirements 1954
Appointment of Administrator 1954
Unrelated to Owner 1954
Governing Body Required 2614
Government Employees Dismissed For Strike 1431
Government Medical Or Social Services 1504
Medical Services 1504
Social Service 1504
Government Payments Excluded 1443
Governor's Wildlife Partnership Tags 988
Application of Big Game Rules 988
Eligibility 988
License & Controlled Hunt Tag 988
Validity of Tag 988
Grade Standards - Tolerances 147
Grade A (At Destination) 147
Grade A (At Origin) 147
Grade AA (At Destination) 147
Grade AA (At Origin) 147
Grade B (At Destination) 148
Grade B (At Origin) 148
Graded & Drained Earth Road 5022
Grades & Standards 144
A Quality 144
AA Quality 144
Application 144

B Quality 144
Check 145
Classifications 144
Dirty 145
Interior Egg Quality Specifications 144
Standards 144
Graduate of Basic Police Academy 907
Graduate Physician Assistant 3345
Licensure Prior to Certification Examination -- Board Consideration 3345
Licensure Prior to College Baccalaureate Degree -- Board Consideration 3346
No Prescribing Authority 3346
Weekly Record Review 3346
Graduated Gross Sales Fee Schedule 138
Graduated Gross Sales Fee Table 138
Non-Refundable 139
Graduates Of Unapproved Medical Schools Located Outside Of The United States Or Canada 3335
Board Certification 3335
Five Years Unrestricted Practice 3335
Three Years of Completed Post Graduate Training 3335
Valid ECFMG Certificate 3335
Grandfathered SSI Recipient 1540
Disability & Blindness Criteria 1540
Eligibility Requirements 1540
Grant Administration 1177
Alternate Emergency Communications Grant Fund Sources 1177
Emergency Communications Fund Grant 1177
Emergency Communications Grant Fund Source 1177
Other Emergency Communications Grants 1177
Grant Amount For Families With Earned Income 1592
Grant Amount For Families With No Income 1592
Grant Amount For Families With Unearned Income 1592
Grant Cycle 1177
Application Availability 1177, 6073
Application Evaluation Period 1177
Application Period 1177, 6073
Application Purpose 6073
Award Amount 6074
Award Notification 1177, 6073
Deadline for Return of Funds 1177
Grant Disbursement 1177
Priority Rating 6074
Grant Less Than Ten Dollars Not Paid 1593
Grant Offer & Acceptance 5495, 5577
Acceptance Executed as a Contract Agreement 5495, 5577
Acceptance of Grant Offer 5495, 5577
Estimate of Reasonable Cost 5495, 5578
Grant Offer 5495, 5577
Terms of Agreement 5495, 5578
Grant Or Denial Of Stay 723
Licensee Notification 723
Rescission of Stay 723
Grant Programs - Eligibility Requirements 3918
Additional Eligibility Requirements for Public Library Grant Program Applicants 3919
Additional Eligibility Requirements for School & Academic Library Grant Program Applicants 3918
General Eligibility Requirements for Public, School, Academic, and Special Library Grant Program Applicants 3918
Granted Allocation Items 5066
Acquisition of "Runway Protection Zones" as Defined in Current Regulations of the Federal Aviation Administration 5067
Acquisition of Easements through or Other Interests in Airspace as may be Reasonably Required for Safeguarding Aircraft Operations in the Vicinity of an Aircraft Landing Facility 5067
Air Navigation Facilities 5067
Construction or Reconstruction of Runways or Taxiways 5067
Development of Required Airport Planning, Land Ownership, Airspace, Land Use Compatibility, & Land Use Zoning Documents 5066
Erection or Rehabilitation of Appropriate Security Fencing Around the Perimeter of an Aircraft Landing Facility 5067
Grading & Drainage Necessary for Construction or Reconstruction of Runways or Taxiways 5067
Grading & drainage necessary to provide for parking of transient general aviation aircraft 5067
Installation or Rehabilitation of "Segmented Circle Airport Marker Systems" as Defined in Current Regulations of the Federal Aviation Administration 5067
Installation or Rehabilitation of Runway, Taxiway, Boundary, or Obstruction Lights, Together with Directly Related Electrical Equipment 5067
Land Acquisition for Development & Improvement of Aircraft Landing Facilities 5067
New Building Construction of Public Use Facilities such as Storage Hangars, Pilot Lounge, Rest Rooms, etc., that are Owned by the Airport Sponsor 5067
Removal of Natural Obstructions from Runway Protection Zones 5067
Such Other Capital Improvements as may be Designated by the Board 5067
Grantee Obligations 3817
Acknowledgment of Funding Assistance 3818
Failure to Comply 3818
Fees & Donations 3818
Grant Modification 3818
Maintenance & Operation 3818
Notice Of Numbering Requirements 3818
Permits 3818
Project Completion 3817
Project Liability 3818
Project Management 3818
Public Use/Nondiscrimination 3818
Purchase & Bidding Requirements 3818
Granting Petitions To Intervene 264, 3041, 3937, 4669, 5588
General 5588
Intervenor Response 5588
Grants 2157
Family Violence Grant 2157
Grant Applications 2158
Regions 2157
State Domestic Violence Grant 2157
VOCA Grant 2157
Grants, Scholarships, & Fellowships 1503
Granules (also Granular) 4810
Gray Market Vehicles 5082
Conditional Registration 5082
Designation of Model Year 5082
Exception 5082
Foreign Documents 5082
Required Documents 5082
Grazing Cattle 94
Grazing Permits 94
Herd Ownership 94
Tests 94
Grievance Procedures 379
Written Procedures 379
Grievances 2232
Department Response to Grievance 2232
Grievance Content 2232
Grocery Credit
Taxable Years Beginning After December 31, 2007 4258
Circumstances Causing Ineligibility 4258

Claiming the Credit 4259
Donating the Credit 4259
Illegal Residents 4259
Members of the Uniformed Services 4259
Nonresidents 4259
Part-Year Residents 4258
Residents 4258
Spouse or Dependents of Members of the Uniformed Services 4259
Groom 834
Gross Decimal "C" Scale Determination 3249
Gross Income Limit 1451
Gross Scale Determination 3246
Gross Volume Conversions 3249
Conversion Factors 3249
Conversion to Gross Decimal "C" or Gross Cubic Volume 3249
Other Conversion Factors 3249
Ground EMS Agency -- Operational Declarations 1219
Community Health EMS 1219
Hospital 1219
Non-Public 1219
Prehospital 1219
Prehospital Support 1219
Standby 1219
Transfer 1219
Ground Water 5302
Ground Water Rule 5706
Chlorine Purging Prior to Triggered Source Sampling 5706
Discontinuation of Treatment 5706
Grounds For Denial Or Revocation Of License 3421
Specific Conduct 3421
Subject to Discipline 3421
Grounds For Denial Or Termination Of A Service, Without Prior Notice 4010
Customer Unable to Be Contacted 4010
Dangerous Condition 4010
Illegal Use of Services 4010
Misrepresentation 4010
Ordered to Terminate Service 4010
Grounds For Denial Or Termination Of Local Exchange Service With Prior Notice 4009
Customer Did Not Pay Undisputed Bills 4009
No Obligation to Connect Service 4009
Grounds For Denial Or Termination Of Service With Prior Notice 3985, 3993
Any Reason Listed in Rule 302.01.a. through 302.01.f. 3993
Failure to Apply for Service 3993
Failure to Make Advance Payment or Provide Guarantee 3993
No Obligation to Connect Service 3986
Reasons for Denial or Termination of Service 3985
Grounds For Denial Or Termination Of Service Without Prior Notice 3986
Dangerous Conditions 3986
Illegal Use of Service 3986
Order to Terminate Service 3986
Unable to Contact Customer 3986
Grounds For Disapproval 2780
Grounds For Disciplinary Action 3454
Good Conduct 3455
Valid Orders of Commission 3455
Violation of Laws 3454
Violation of Rules 3455
Grounds For Discipline 3364
Action Against a License 3365
Conduct to Deceive, Defraud or Endanger 3365
Conviction of a Felony 3364
Failure to Cooperate With Authorities 3365
Failure to Make Timely and Appropriate Inquiry 3365
False or Assumed Name 3364
False Statement 3364
Gross Negligence or Recklessness 3364
Habitual Use of Alcohol or Drugs 3365
Offense Involving Moral Turpitude 3364
Patterns of Poor Practice 3365
Physical or Mental Unfitness 3365
Violations of Standards of Conduct 3365
Grounds For Discipline - CEAs & CETs 5183
Abuse of Chemical Substances 5183
Administration of Approved Drugs Without Proper Supervision 5183
Aiding & Abetting 5184
Conviction of a Charge or Crime 5184
Conviction of Violating Any Federal or State Statute, Rule or Regulation 5183
Current Certification 5184
Euthanizing of Animals Without Proper Certification 5183
Euthanizing of Animals Without Proper Supervision 5183
Failure to Carry Out Duties 5183
Failure to Cooperate 5184
Fraud, Misrepresentation, or Deception 5183
Improper Disposal of Approved Drugs & Equipment 5184
Improper Drug Preparation 5184
Improper Labeling of Approved Drugs 5184
Improper Record Keeping 5184
Improper Security for Approved Drugs 5184
Improper Storage of Equipment & Approved Drugs 5184
Revocation, Suspension, Limitation or Restriction 5184
Unethical or Unprofessional Conduct 5183
Violation of any Law, Rules or Orders 5184
Grounds For Discipline Of An Advanced Practice Registered Nurse License 3379
Other Than Therapeutic Purposes 3380
Outside Scope of Practice 3379
Prescribing or Dispensing Controlled Substances 3379
Violating Governing Law 3379
Grounds For Discipline Of Veterinary Technicians 5167
Acceptance of Fees 5169
Aiding or Abetting 5169
Continuing Education 5169
Conviction of a Charge or Crime 5168
Conviction of Violating Any Federal or State Statute, Rule or Regulation 5168
Cruelty to Animals 5168
Current Certification 5169
Failure to Cooperate 5169
Fraud, Misrepresentation, or Deception 5167
Malpractice or Negligence 5168
Medical Incompetence 5168
Physical or Mental Incompetence 5168
Revocation, Suspension, Limitation or Subjection 5169
Unethical or Unprofessional Conduct 5167
Unlawful Practice 5169
Violation of Law, Rules or Order 5169
Grounds For Refusal Of UCC Document 4126
Additional Debtor Identification 4126
Debtor Name & Address 4126
Fee 4127
Lack of Identification of Initial Financing Statement 4127
Means of Communication 4127
Other Required Information 4127
Secured Party Name & Address 4127
Timeliness of Continuation 4127
Grounds For Suspension, Revocation Or Denial Of License 5263
Grounds For Termination Of Service Without Prior Notice 3994
Dangerous Conditions 3994
Illegal Use of Utility 3994
Order to Terminate 3994
Unable to Contact Customer 3994

Group Activities Off Facility
Grounds 398
Activity Reports 399
Consent Forms 399
Recreational Activities 398
Staff Requirements 398
Group Annuity Or Pure Endowment Contracts 2928
1994 GAR Table 2928
Group Annuity Mortality Tables 2928
Minimum Standard of Valuation 2928
Group Foster Care 2539
Payment - Group Foster Care 2540
Placement 2540
Referral - Group Foster Care 2540
Group Health Plan Enrollment 1361
Group Insurance Plan
Approved Policy 4084
Group Mediation 1176
Initial Presentation 1176
Questions by Commission 1176
Rebuttals 1176
Time Limits 1176
Group Or Quasi-Group Implications 2770
Grouping By Age 2658
Age 2658
Placement 2658
Guarantee Of Denturist Services 3617
Cancellation of Agreement 3618
Limitation 3618
Ninety Day Period 3617
Nonrefundable Amount 3617
Written Contract 3617
Guaranteed Issue For Eligible Persons 2797
Discrimination in Pricing 2800
Eligible Persons 2797
Extended Medigap Access tor Interrupted Trial Periods 2799
Guaranteed Issue 2797
Guaranteed Issue Time Periods 2799
Notification Provisions 2800
Products to Which Eligible Persons are Entitled 2800
Guest Associations 823
Contract Approval 823
Plan for Testing 823
Guide Application Requirements - Amendment 3765
Guide Application Requirements - General 3765
First Aid Card 3765
Signatures 3765
Guide Application Requirements - Hunting 3765
Apprentice Guide 3765
Guide 3765
Upgraded 3766
Guidelines For Approval Of Continuing Education Credits 3555
Board Assessment of Continuing Education Activities 3556
Continuing Education Credit 3555
Credit for International, National & Regional Meetings of Psychological Organizations 3556
Credit for Other Relevant Workshops, Licensed Psychologist Classes or Training Experiences 3556
Electronic Continuing Education Courses 3557
Presentation of Papers 3556
Self-Study, Lectures or Public or Professional Publications & Presentations 3556
Guidelines For Specific Services 393, 406
Behavior Assessment 406
Counseling and Other Outpatient Services 406
Counseling Services 394
Life Skills & Independent Living 407
Life Skills and Independent Living 394
Recreational Services 395
Social Skills Training Including Relapse Prevention Skills 394
Substance Abuse Services 394
Transportation Services 395
Guidelines For Use Of Service Extenders To Licensed Psychologists 3557
Conditions for Use of Service Extenders 3558
General Provisions for Licensed Psychologists Extending Their Services Through Others 3557
Qualifications for Service Extenders 3558
Guylines 449
Anchoring Guylines 450
Effectiveness of Guys 451
General Requirements 450
Minimum Guyline Requirements 452

H

Haemophilus Influenzae Invasive Disease 1292
Handling of Report 1292
Investigation 1292
Reporting Requirements 1292
Restrictions - Day Care Facility 1292
Restrictions - School 1292
Hair Testing 867
Hair Sample 867
Positive Finding for Prohibited Substance 867
Presence of Prohibited Substances 867
Racing Commission Authority 867
Hand Sinks 2338
Handbooks 847
Handling Of Complaints 1104
Complaints 1104
Conflict of Interest 1104
Court Visitor 1105
Guardianship 1104
Legal Documents 1105
Non-Jurisdictional Complaints 1104
Handling Of Money Associated With The Board's Water Supply Bank 4687
Handling Of Money Associated With The Board's Water Supply Bank
Credited Amount 4688
Excess Funds 4688
Handling Of Overpayments & Underpayments For Specified Providers 1619
Interest Charges on Overpayments & Underpayments 1619
Recovery Methods for Overpayments 1619
Handrails 2335
Hantavirus Pulmonary Syndrome 1292
Handling of Report 1292
Investigation 1292
Reporting Requirements 1292
Hard To Place Children 2139
Hauling Equipment For A Manufactured Home, Modular Building, Or Office Trailer 4975
Hauling Equipment 4975
Lights 4975
Securing Loads 4975
Hazard Characteristics & Offset Slash Load 3238
Hazardous & Deleterious Material Storage 5479
Criteria to Be Evaluated 5479
Delineation of Materials 5479
Hazardous Drugs Preparation 3886
Clear Identification 3886
Compliance With Laws 3886
Contamination Prevention 3886
Labeling 3886
Policy and Procedures Manual 3886
Protective Equipment & Supplies 3886
Training 3886
Ventilated Cabinet 3886
Ventilation 3886
Hazardous Law Enforcement Duties 6006
Hazardous Material Spills 5480
Collect, Remove & Dispose 5480
Contain Material 5480
Department Notification Required 5480
Stop Continuing Spills 5480
Hazardous Materials Or Toxins, Children's Residential Care Facilities 2638

Hazardous Travel Conditions
Restrictions 4959
Hazardous Waste Facility Siting
License Fee 5619
Expansion, Enlargement or Alteration of a Commercial Hazardous Waste Disposal, Treatment or Storage Facility or Any On-Site Land Disposal Facility for Wastes Listed Pursuant to Section 201(D)(2) and (E), as Modified by Section 209 of the Hazardous & Solid Waste Amendments of 1984 5619
License Fee Criteria 5619
License Fee for Facilities Required to Submit Engineering or Hydrogeological Information 5619
License Fee Scale 5619
Siting License Fee Nonrefundable 5620
Hazardous Waste Management System 5614
Hazardous Waste Permit Program 5618
HCBS -- Termination Of Participant Enrollment 1817
Conditions for Termination of Enrollment 1817
Continuous Eligibility for Children Under Age Nineteen 1818
Failure to Meet Requirements 1817
Federal & State Eligibility Requirements 1817
HCBS Requirements & Decision-making Authority 1813
Legal Guardians Who Retain Full Decision-making Authority 1813
Payee 1813
Restrictions (When Committed) 1813
Restrtictions (Probation or Parole) 1813
HCBS Transition Plan 1817
New HCBS Providers or Service Settings 1817
Provider Transition Plan 1817
Quality Assurance 1817
HDPE, High-Density Polyethylene 3157
Health & Safety
Safety & Sanitation 2339
Contamination 2339
Disease 2339
Glass 2339
Running & Roughhousing 2339
Shower 2339
Health & Safety Requirements 2199
Age of Provider 2199
Child Abuse 2200
CPR/First Aid 2200
Disaster & Emergency Planning 2200
Emergency Communication 2200
Environmental Safety 2200
Food Storage 2200
Hand Washing 2200
Hazardous Substances 2200
Health of Provider 2200
Safe Sleep 2200
Sanitary Food Preparation 2200
Smoke Detectors, Fire Extinguishers, & Exits 2200
Transportation 2200
Health & Safety Training 2199
Allergic Reactions 2199
Child Abuse Prevention 2199
Emergency Preparedness 2199
Environmental Safety 2199
Hazardous Substances 2199
Infectious Diseases 2199
Medication 2199
Sudden Infant Death Syndrome 2199
Transportation 2199
Health And Safety
Access 2339
Emergency Communication 2339
Lifeguard Chairs 2339
Lifeguard Requirement 2338
When Lifeguards are Not Required 2338
When Lifeguards are Required 2338
Lifesaving Equipment 2339
Equipment Accessibility & Condition 2339
Rescue Tube 2339
Shepherd's Crook, Backboard, & First & Kit 2339
Operator 2338
Pool Closure 2338
Health Care 2661
Daily Physical Assessment 2662
Documentation 2662
Field Treatment 2662
First Aid 2662
Negative Consequences 2662
Weekly Physical Assessment 2662
Health Care Services 1958
Health Carrier Notice Of Initial Determination Of An External Review Request 2762
Health Coverage For Adults 1365
Health Coverage for Children 1367
Health Hazards 5688
Prohibited 5688
Schedule 5688
Standards 5688
Health Information 2129
Health Insurance 3424
Health Insurance Costs & Long-Term Care Insurance 4176
Costs Deducted or Accounted For 4176
In General 4176
Medical Payments Coverage & Personal Injury Protection of Automobile Insurance 4176
Social Security Medicare Part A 4176
Social Security Medicare Part B 4176
Social Security Medicare Part D 4176
Health Insurance Costs & Long-Term Care Insurance -- Examples Of Limitations 4176
Applicable Percentage 4179
Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Fourteen Thousand Dollars ($14,000) 4179
Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Six Thousand Dollars ($6,000) 4178
Example with Applicable Percentage of Federal Adjusted Gross Income Equal to Zero 4177
Examples of Limitations When Costs are Otherwise Deducted or Accounted For 4177
Health Questionnaire 1658
Health Requirements 2079
Employees 2079
Incident Reports 2079
Reporting Incidents as Mandatory Reporters 2079
Reporting Incidents to the Department 2079
Required Health Policies & Procedures 2079
Services that Require Licensed Professionals 2079
Health Services 342
Health Appraisal 343
Health Care 342
Informed Consent 343
Medical Judgments 343
Health Services, Residential Care Facility 2621
Health Standards 2595, 4829
Adequate Heat, Light & Ventilation 2597
Diaper Changing 2596
Dishwashing Sanitizing 2596
Distances From Contaminant Sources 4829
Food Contact Surfaces 2596
Food Preparation 2595
Food Source 2595
Food Storage 2596
Food Temperatures 2596
Garbage 2596
Hand Washing 2596
Immunizations 2597
Medication 2597
Public Water System Wells 4829
Restrooms, Water Supply & Sewage 2596

Sewage Disposal 2597
Sleeping Areas 2596
Smoke Free Environment 2597
Special Standards for Construction of Wells When Mineralized or Contaminated Water Is Encountered 4829
Use of Alcohol & Illegal Drugs 2597
Utensil Storage 2596
Water Supply 2596
Health, Safety & Maintenance Of State Facilities 4877
Clean Condition After Use 4877
Fireworks 4877
Items Return to Proper Location 4877
Personal Safety & Firearms 4877
Public Health 4877
Health, Safety, & Maintenance Of Chinden Office Complex 4886
Clean Condition After Use 4886
Fireworks 4886
Items Return to Proper Location 4886
Public Health 4886
Use of Waterways 4886
Health, Safety, & Maintenance Of State Facilities 4866
Clean Condition After Use 4866
Fireworks 4866
Items Return to Proper Location 4866
Public Health 4866
Healthy Connections
Definitions 1651
Capitated Payments 1651
Clinic 1651
Grievance 1652
Patient-Centered Medical Home 1652
Preventive Care 1652
Primary Care Case Management 1652
Primary Care Provider (PCP) 1652
Primary Care Team 1652
Referral 1652
Transitional Care 1652
Participant Eligibility 1652
Primary Care Case Management Enrollment 1652
Primary Care Services 1653
Eligible Services 1653
Selection or Change in Primary Care Provider 1653
Procedural Requirements 1653
Changes to Requirements 1653
Problem Resolution 1653
Provider Qualifications & Duties 1654
Additional Services 1654
Primary Care Providers 1654
Provider Duties 1654
Provider Participation Conditions & Restrictions 1654
Provider Reimbursement 1655
Advanced Practice Registered Nurse Telehealth Services 1655
Capitated Payment Amounts 1655
Capitated Payments 1655
Quality Assurance 1655
Hearing 4090, 5293
Filing of Written Brief or Memorandum 4090
Hearing Officer 4090
Hearing on the Record 4090
Recommended Order 5293
Representation by an Attorney Not Necessary 4090
Resolution without a Hearing 5293
Response to Recommended Order 5293
Tape Recording of Proceedings 4090
Time Frame for Hearing 4090
Who May Appear 4090
Written Presentation 4090
Hearing Before The Water Resource Board 4714
General 4714
Hearings on Conditional Permits, Disapproved Applications, or Petitions for Exemption 4715
Hearings on Permit Cancellations 4715
Hearing Evaluation 3672
Exemptions 3672
Pre-Fitting Testing 3672
Purpose of Rule 3672
Records 3672
Sound Field Testing 3672
Hearing Notices 3294, 4941
Hearing Date 3294, 4941
Hearings Conducted by Telephone 4941
Location of Hearings 3294
Notification 4941
Notification of Hearing 3294
Hearing Officer 722
Hearing Officers 270, 301
Hearing Officers Contrasted With Agency Head 265, 3042, 4670
Hearing Officers Contrasted With Attorney General 298
Hearing Officers--Presiding Officers 265
Hearing On Appeal 721
Hearing On Exclusion 723
Conduct of Hearing 723
Effect of Exclusion 723
Ordered Separately 723
Hearing Procedures 2680
Evidence 2681
Finality of Decision 2681
Notice of Hearing 2681
Recommendations 2681
Record 2681
Request for Hearing 2680
Subpoenas 2681
Transcript of Hearing 2681
Hearing Process 5193
Decisions 5195
Information for Scheduled Commission Hearings 5193
Interview Method 5193
Interview/Hearing 5194
Location of Hearings 5193
Psychological Reports, Mental Health Evaluations, Sex Offender Risk Assessment, Substance Abuse Evaluation, or Other 5193
Recusal by Commissioner 5194
Rules of Conduct at Hearings 5195
Witnesses & Documents 5194
Hearing Provisions For Residential And Domiciliary Care 3316
Appearance & Representation 3317
Computation of Time 3316
Contents of the Record 3319
Default 3317
Evidence 3318
Ex Parte Consultations 3317
Hearing Officer Authority 3316
Hearing Officer Decision 3318
Judicial Review 3319
Official Notice 3318
Open Hearings 3317
Order of Presentation & Burden of Proof 3318
Representation by Counsel 3317
Review by the Division Administrator & Issuance of the Final Order 3319
Service of Documents 3316
Testimony by Telephone or Other Electronic Means 3318
Testimony Under Oath 3317
Hearing Record 2147
Hearing Request 1524
Hearing Requests 3293, 4940
Disposition of Case Without a Hearing 3294
Request Withdrawal 3294, 4941
Timely Requests 3293, 4941
Written Requests 3293, 4940
Hearing Rights 2074
Hearing Sessions 5191
Hearing To Review Operating Property Appraisals 4441
Appearances & Practice 4442
Communication 4442
Hearings 4443
Liberal Construction 4441
Notice to County Assessors 4442
Parties 4442
Pre-Hearing Conferences 4442
Procedure Governed 4441
Service by Tax Commission 4442
Hearing--Modified Procedure--

Summary Action, Application To Issue Securities 3947
Hearings 576, 3010, 5191
Conduct of Hearings 5191
Deliberations 5191
Notes 576
Procedure 576
Hearings -- Miscellaneous Procedure 3955
Hearings On Denied, Limited, Or Conditioned Permit Or Other Decisions Of The Director 4778
Hearings On Refused, Limited, Or Conditioned Permit 4739
Hearings, Notice, Procedure 4738
Heating, Children's Residential Care Facilities 2638
Hemolytic-Uremic Syndrome (HUS) 1293
Investigation 1293
Reporting Requirements 1293
Hepatitis A 1293
Exclusion - Food Service Facility 1293
Investigation 1293
Reporting Requirements 1293
Restrictions - Day Care Facility 1293
Restrictions - Health Care Facility 1293
Restrictions - Household Contacts 1294
Testing Without an Informed Consent 1293
Hepatitis B 1294
Carrier Status 1294
Investigation 1294
Reporting Requirements 1294
Testing Without an Informed Consent 1294
Hepatitis C 1294
Investigation 1294
Reporting Requirements 1294
Testing Without an Informed Consent 1294
Herd Share Programs 68
Procurement of Raw Milk or Raw Milk Products 69
Product Quality 68
Proof of Ownership Interest 68
Registration 68
Restriction on Sale 69
Testing & Results 68
High Adventure Requirements 2653
High Adventure Activities 2653
High Adventure Activities Leader 2654
High Adventure Activity Policy & Procedures 2654
Higher Level Certification 899
Requirements 900
Types of Higher-Level Certification 899
Highest Statutory & Regulatory Requirements for Point Sources 5302
Hire-Ability Of Applicant 6012
Hold Harmless 3225
Home & Community Based Person-Centered Planning Requirements 1815
Conflict Resolution 1815
Cultural Considerations 1815
Timely & Convenient 1815
Home & Community Based Person-centered Planning Requirements
In Plain Language & Accessible 1815
Home & Community Based Person-Centered Service Plan Requirements 1815
Individually Identified Goals & Desired Outcomes 1816
Paid & Unpaid Services & Supports 1816
Participant Strengths & Preferences 1816
Plan Distribution 1816
Plan Monitor 1816
Plan Signatures 1816
Residential Requirements 1817
Risk Factors 1816
Service Delivery Preferences 1816
Services & Supports 1815
Setting Selection 1816
Understandable Language 1816
Home & Community Based Services 1812
Adult Developmental Disability Services 1812
Aged & Disabled Waiver Services 1812
Children's Developmental Disability Services 1812
Consumer-Directed Services 1812
Personal Care Services 1812
Services for Children with Serious Emotional Disturbance (SED) 1812
Home & Community Based Services (HCBS) 1542
Annual Limit 1542
Cost of Care 1542
Effective Date 1542
Income Limit 1542
Maintained in the Community 1542
Resource Limit 1542
Waiver Services Needed 1542
Home & Community Based Services (HCBS) State Plan Option 1895
Home & Community Based Services (HCBS) Waiver Participant Limitations 1820
Home & Community Based Settings 1813
Home & Community Based Settings Not Included 1813
Home & Community Based Settings Requirements
Services Delivered in the Participant's Own Home 1814
Home & Lot Excluded 1441
Building Lot Exclusion 1441
Unoccupied Home Exclusion 1441
Home As Resource 1493
AABD Cash, & Medicaid With the Exception of Long-Term Care 1493
Long-Term Care Services 1493
Home Construction & Physical Home Standards 2425
Accessibility for Residents with Physical & Sensory Impairments 2426
General Requirements 2425
Heating and Cooling 2426
Lighting 2426
Plumbing 2426
Resident Sleeping Rooms 2427
Storage Areas 2426
Telephone 2425
Toilet Facilities & Bathrooms 2425
Ventilation 2426
Walls & Floors 2425
Home Energy Assistance (HEA) & Support & Maintenance Assistance (SMA) 1505
Home Garden Exemption 197
Home Health Services 1683
Coverage & Limitations 1683
Definitions 1683
Home Health Plan of Care 1683
Home Health Services 1683
Place of Residence 1683
Procedural Requirements 1683
Face-to-Face Encounter for Home Health Medical Supplies, Equipment, & Appliances 1684
Face-to-Face Encounter for Home Health Services -- Excluding Medical Supplies, Equipment, & Appliances 1684
Home Health Plan of Care 1684
Physician Orders 1683
Provider Qualifications & Duties 1685
Provider Reimbursement 1685
Mileage Included in Cost 1685
Payment Procedures 1685
Home Produce For Personal Use 1505
Home Study Update 2560
A Home Study Update Completed for the Purpose of Adoptive Placement of an Additional Child or Children in the Home 2560
Circumstances Adversely Impacting Child Placed for Adoption 2560
Family Functioning and Inter-Relationships 2560
Initial Adoption Home Study and Subsequent Home Study Updates 2560

Home Study, Supervisory Reports, & Reports Of The Court Fees 2561
Homeowners Exemption On Occupancy Tax Roll 4469
Eligibility for Multiple Exemption 4469
Separate Applications 4470
Homesite Assessment & Forestlands Of Less Than Five Acres & Contiguous Parcels 4518
Accepted Assessment Procedures 4518
Appropriate Market & Comparable Selection 4518
Associated Site Improvements 4518
Definitions 4518
Forestlands of Less Than Five Acres & Contiguous Parcels 4518
Homesite 4518
Homesite Assessment 4518
Honoraria 1508
Honoring Actions Of Regulatory Agencies In Other Jurisdictions 3416
Suspension 3416
Horse Identifier 734
Examination 734
Inspection 734
Report Violation 734
Horse Race Tracks 853
Implements 853
Limit on Number of Horses 853
Racing Surface 853
Rails 853
Track Width 853
Horse Races 786
General Rules
Accidents 786
Delays 786
Injured Jockey 786
Jockey 786
Limit on Number of Horses 787
Number 786
Paddocks 786
Parade 786
Post Time 786
Selection of Horses 787
Start 787
Willful Delay 787
Horsemen's Account 852
Horsemen's Agreement 849
Horsemen's Bookkeeper 732
Horsemen's Bookkeeper Records 733
Apprentice Jockey Certificates 733
Record of Winnings 733
Records Kept Separate 733
Records Subject to Inspection 733
Horsemen's Group 806
Decertifying an Existing Horsemen's Group - Notice of Intent and Petition 806
Good Cause 807
Racing Commission's Receipt of Petition 806
Validating Signatures, Setting of Election Date, Conducting an Election 806
Horses In Paddock At Appointed Time 813
Horses Not Stabled On Grounds 867
Hospice 1836
Cap On Overall Reimbursement 1843
Additional Amount for Nursing Facility Residents 1844
Adjustment of the Overall Cap 1843
Calculation of Cap Amount 1843
Certified in Mid-Month 1843
Computation and Application of Cap Amount 1843
Overall Cap 1843
Report Number of Medicaid Participants 1843
Total Payment for Services 1843
Coverage Requirements & Limitations 1837
Core Services 1838
Counseling Services 1838
Home Health Services 1838
Inpatient Care 1838
Medical Equipment & Supplies 1838
Medical Social Services 1837
Nursing Care 1837
Physician Services 1838
Therapies 1838
Definitions 1836
Attending Physician 1836
Benefit Period 1836
Bereavement Counseling 1836
Cap Amount 1836
Cap Period 1836
Election Period 1837
Employee 1837
Freestanding Hospice 1837
Hospice 1837
Independent Physician 1837
Representative 1837
Social Worker 1837
Terminally Ill 1837
Eligibility 1837
Certification 1837
Election of Services 1837
Medically Necessary 1837
Limitation On Payments For Inpatient Care 1841
For Purposes of Computation 1842
Payment For Physician Services 1842
Hospice Employed Physician Direct Patient Service 1842
Volunteer Physician Services 1842
Post-Eligibility Treatment Of Income 1844
Procedural Requirements 1838
Change of Hospice 1840
Election of Hospice 1839
Election Procedures 1839
Physician Certification 1838
Plan of Care 1840
Revocation of Hospice Election 1840
Provider Qualifications & Duties 1840
Provider Reimbursement 1840
Continuous Home Care 1841
General Inpatient Care 1841
Inpatient Respite Care 1841
Routine Home Care 1841
Service Intensity Add-On 1841
Hospital In-Patient Services 2354
Hospital Records 2139
Hospital Services 1628
Host Association 823
Content 823
Contract 823
Security Controls 823
Video 823
Host Participating In Interstate Common Pools 824
Host Particpating In Interstate Common Pools
Rules of Racing Established 825
When Impossible to Merge Pools 825
Hotels, Motels & Campgrounds 4305
Fees 4305
Resale Purchases 4305
Taxable Purchases 4306
Hound Hunter Permit 1068
Exceptions 1069
Hound Hunter Permits 1068
Limit on Hound Hunter Permits for Nonresidents 1069
Nonresident Applications 1069
Hourly Adult Care 2402
Enrollment Contract 2402
Fire and Life Safety 2403
Medications 2403
Participants 2402
Records 2402
Resident's Personal Space 2403
Service Logs 2402
Space and Accommodations 2402
Staffing 2403
Hourly Adult Care Policies 2449
Acceptable Hourly Care Individuals 2449
Cost of Program 2449
Emergency Information 2449
Health & Other Individual Needs 2449
Hours for Care 2449
Services Offered for Hourly Adult Care 2449
Hours & Locations Of Use 4869
Capitol Mall Office Properties & Multi-Agency Facilities 4869
Parking Facilities 4869

Hours of Supervision 3565
Hours Of Use 4882
Hours for Use by the Public 4882
Public Parking Hours 4882
Hours Worked 1172
Hours in Performance of Job 1172
Hours Outside of Regular Working Hours 1172
Travel Time 1172
House Parent Relief Staff, Children's Residential Care Facilities 2636
Household Composition & Financial Responsibility 1362
Household Composition Changes For Student 1455
Household Cooperation 1413
Household Eligibility & Benefit Level 1451
Child Support Deduction 1452
Dependent Care Deduction 1452
Earned Income Deduction 1452
Excess Medical Deduction 1452
Excess Shelter Deduction 1452
Homeless Shelter Deduction 1452
Standard Deduction 1452
Household For Resource Computations 1492
Household Goods Excluded 1441
Household Income 1363
Household Interviews 1414
Twelve Months 1415
Twenty-Four Months 1414
Household Member Leaves During A Penalty Period 1432
Household Reporting Responsibilities 1594
Household Size & Financial Responsibility 1367
Households Not Categorically Eligible 1420
Ineligible Legal Non-Citizen or Student 1420
IPV 1420
Medicaid Only 1420
Nonexempt Institution 1420
Work Requirements 1420
How Assessments Are To Be Calculated 162, 169, 174
Cash Sale or Credit Sale Contract 162, 169
Contract 174
Incidental Costs & Expenses 162, 169, 175
Open Storage or Deposit for Service 162
Seed Stored for Withdrawal 174
Unpaid Assessments 162, 169, 175
How Hearings Are Held 3956
All Hearings Presumed Open 3956
Methods of Conducting Hearings 3956
How Hearings Held 275, 3047, 4675, 5592, 6002
How To Verify That Claimants Are Lawfully Present In The United States 4487
Lawful Presence in the United States 4487
HUC Index & Abbreviations For Sections 110, 120, 130, 140, 150, & 160
Abbreviations 5328
Coeur d'Alene Lake Subbasin 5340
Hangman Subbasin 5344
Little Spokane Subbasin 5345
Lower Clark Fork Subbasin 5332
Lower Kootenai Subbasin 5329
Map 5325
Moyie Subbasin 5331
Panhandle Basin 5328
Pend Oreille Lake Subbasin 5333
Pend Oreille Subbasin 5337
Priest Subbasin 5336
South Fork Coeur d'Alene Subbasin 5338
St. Joe Subbasin 5341
Table 5327
Upper Coeur d'Alene Subbasin 5337
Upper Kootenai Subbasin 5328
Upper Spokane Subbasin 5344
HUD Family Self-Sufficiency (FSS) Escrow Account 1442
Hull Identification Numbers - Display 3807
Duplicate Number 3807
Hull Identification Number to Be Permanently Affixed 3807
Primary Number 3807
Size of Characters 3807
Hull Identification Numbers - Form 3806
Date of Manufacture 3807
Hull Serial Number 3806
Model Year 3807
Prefix 3806
Hull Identification Numbers - Required 3806
Displaying the Hull Identification Number 3806
Duplicate Numbers Prohibited 3806
Obtaining a Hull Identification Number 3806
Proof of Ownership 3806
Human Immunodeficiency Virus (HIV) 1294
Investigation 1295
Reporting Requirements 1294
Testing Without an Informed Consent 1295
Human Resources 2139
Human Resources Needed, Residential Care Facility 2616
Human T-Lymphotropic Virus 1295
Investigation 1295
Reporting Requirements 1295
Humane Treatment Of Captive Wildlife 1045
Documentation 1046
Humane Treatment 1045
Hunter & Archery Education 1089
Fees 1089
Mandatory Hunter & Archery Education Programs 1089
Parent to Attend Shooting Clinic with Student 1089
Hunting Hours 1010
HVAC Apprentice Requirements For Registration 583
Age 583
Supervision 583
Training 583
HVAC Contractor & HVAC Journeyman Applications For Examination & Certificates Of Competency, & Registration Of Apprentices 581
Application Forms 581
Application Submission 581
Application, Renewal, & Registration Fees 581
HVAC Contractor Certificate Of Competency - Requirements 581
Bond 581
Examination 581
Qualification 581
HVAC Fuel Gas Piping Specialty Journeyman Certificates Of Competency Limitations
Requirements 583
Education 583
Examination 584
Experience 583
HVAC Hearth Specialty Journeyman Certificates Of Competency Limitations
Requirements 582
Education 582
Examination 583
Experience 582
HVAC Journeyman Certificates Of Competency
Requirements 582
Education 582
Examination 582
Experience 582
Out of State Journeyman Applications 582
HVAC Permits 584
Home Owners 584
HVAC Contractors & HVAC Specialty Contractors 584
Refunds of Permits 584
Serial Number 584
Transferring a Permit 584
HVAC Specialty Apprentice Requirements For Registration 583
Age 583
Supervision 583
Training 583
HVAC Specialty Contractor Certificate Of Competency - Requirements 581

Bond 581
Examination 581
Qualification 581
HVAC Waste Oil Heating Specialty
Journeyman Certificates Of Competency Limitations
Requirements 583
Examination 583
Experience 583
Hydraulic Fracturing 3270
Application Requirements 3270
Post Treatment Report 3271
Pressure Monitoring 3270
Volatile Organic Compounds & Petroleum Distallates 3270
Well Integrity 3270
Hypodermic Needles 859
Disposable Needles 859
Medical Condition 859
Possession Prohibited 859

I

IAAP Implementation Method 5068
Allocation of Funding for Projects 5068
Appendix for Aeronautics Advisory Board & Idaho Transportation Board Approval 5068
Calculation of Adjusted Service Area Population 5068
Community Airport Five-Year Funding Cycle 5068
Project Prioritization 5068
Selection Guidelines for Projects 5068
Selection of Eligible Projects 5068
ICCP Application For Benefits 2186
Application Received 2186
New Application Required 2186
Notification 2186
ICF/ID
Accounting System 1879
Allowable Costs 1871
Accounts Collection 1871
Auto & Travel Expense 1871
Bad Debts 1871
Bank & Finance Charges 1871
Compensation of Owners 1871
Contracted Service 1872
Depreciation 1872
Dues, Licenses & Subscriptions 1872
Employee Benefits 1872
Employee Recruitment 1872
Entertainment Costs Related to Patient Care 1872
Food 1872
Home Office Costs 1872
Insurance 1872
Interest 1872
Lease or Rental Payments 1872
Malpractice or Public Liability Insurance 1872
Payroll Taxes 1872
Property Costs 1872
Property Insurance 1873
Repairs & Maintenance 1873
Salaries 1873
Supplies 1873
Taxes 1873
Application Of Related Party Transactions 1874
Cost to Related Organizations 1875
Costs Not Related to Patient Care 1875
Determination of Common Ownership or Control in the Provider Organization & Supply Organization 1874
Interest Expense 1875
Audit Application 1880
Additional Audits 1880
Annual Audits 1880
Audit Appointment 1880
Limited Scope Audit 1880
Audit Standards & Requirements 1880
Accounting Practices 1883
Adequate Documentation 1881
Examination of Records 1880
Internal Control 1883
Requirements 1880
Review of New Provider Fiscal Records 1880
Audits 1879
Accuracy of Recording 1879
Application of GAAP 1879
Compliance 1879
Economy & Efficiency 1879
Enhancing Financial Practices 1879
Final Settlement 1879
Patient Trust Fund Evaluation 1879
Reliability of Internal Control 1879
Capped Cost 1886
Cost Data to Determine the Cap 1886
Cost Projection 1887
Cost Ranking 1887
Costs Subject to the Cap 1886
Costs Which Can be Paid Directly by the Department to Non ICF/ID Providers 1886
Projection 1886
Compensation Of Related Persons
Compensation Claimed 1875
Related Persons 1875
Costs Excluded From The Cap 1889
Cost Increases Greater Than Three Percent 1890
Decreases 1890
Excess Inflation 1890
Increases of More Than One Dollar Per Participant Day in Costs 1889
Prospective Negotiated Rates 1890
Coverage Requirements & Limitations 1866
Care & Services Provided 1867
Wheelchairs 1867
Criteria For Determining Eligibility 1865
Active Treatment 1865
Annual Redetermination for ICF/ID Level of Care for Community Services 1866
Care for a Child 1865
Combination Functional and Maladaptive Behaviors 1866
Diagnosis 1865
Functional Limitations 1865
Maladaptive Behavior 1866
Medical Condition 1866
Require Certain Level of Care 1865
Determination Of Entitlement For Medicaid Payment 1864
Eligibility 1864
Exempt Costs 1888
Day Treatment Services 1888
Major Movable Equipment 1889
Failure To File 1879
Filing Dates 1879
Deadlines 1879
Waivers 1879
Home Office Cost Principles 1874
Idaho Owner-Administrative Compensation 1875
Allowable Owner Administrative Compensation 1875
Compensation for Persons Related to an Owner 1876
More Than One Owner or Related Party May Receive Compensation for Hours Actually Worked 1876
The Administrative Compensation Schedule 1876
The Maximum Allowable Compensation 1876
When an Owner Provides Services to More Than One Provider 1876
Information Required For Determination 1864
Initial Plan of Care by ICF/ID 1865
Initial Plan of Care by Physicians 1864
Medical Evaluation 1864
Psychological Evaluation 1864
Social Evaluation 1864
Interest Expense 1875
Legal Consultant Fees & Litigation Costs 1890
Administrative Appeals 1891
In General 1890
Other 1891

Nonallowable Costs 1873
Accelerated Depreciation 1873
Acquisitions 1873
Charity Allowances 1873
Consultant Fees 1873
Fees 1873
Fund Raising 1873
Goodwill 1873
Holding Companies 1873
Interest 1873
Medicare Costs 1874
Nonpatient Care Related Activities 1874
Organization 1874
Pharmacist Salaries 1874
Prescription Drugs 1874
Related Party Interest 1874
Related Party Nonallowable Costs 1874
Related Party Refunds 1874
Self-Employment Taxes 1874
Telephone Book Advertising 1874
Vending Machines 1874
Occupancy Adjustment Factor 1876
Change in Designed Capacity 1877
Fixed Costs 1877
New Facility 1877
Occupancy Adjustment 1877
Occupancy Levels 1877
Patient Funds 1883
Fund Management 1884
Provider Liability 1884
Use 1884
Payment Procedures 1885
Payments For Periods Of Temporary Absence 1885
Limits on Amount of Payments 1885
Prior Approval for Absence 1885
Post-Eligibility Treatment Of Income 1884
SSA Income 1884
Treatment of Income 1884
Principle Prospective Rates 1885
Procedural Responsibilities 1867
Annual Recertification Requirement 1868
Appeal of Determinations 1868
Authorization of Long-Term Care Payment 1869
Changes to Participant's Income 1867
Determination of Entitlement to Long-Term Care 1868
Level of Care Change 1868
Other Financial Information for Participant 1868
Participant's Account Exceeds Limitations 1867
Readmissions or Discharges 1867
Supplemental On-Site Visit 1868
Property Reimbursement 1885
Costs of Related Party Leases 1886
Depreciation 1885
Interest 1885
Lease Payments 1886
Property Insurance 1885
Property Taxes 1886
Property Reimbursement
Limitations 1892
Home Office & Day Treatment Property Costs 1892
Leases for Property 1893
Restrictions 1892
Property Rental Rate
Reimbursement 1891
Property Rental Rate 1891
Sale of a Facility 1892
Provider Qualifications & Duties 1869
Direct Care Staff 1869
Direct Care Staff Hours 1870
Direct Care Staffing Levels 1869
Exceptions 1870
Licensure & Certification 1869
Phase-In Period 1870
Provider Application & Certification 1869
Provider Reimbursement 1870
Date of Discharge 1870
Payment Methodology 1870
Reasonable Cost Principles 1870
Application of Reasonable Cost Principles 1870
Costs Not Related to Patient Care 1871
Costs Related to Patient Care 1871
Form & Substance 1871
Recapture Of Depreciation 1877
Amount Recaptured 1877
Time Frame 1877
Related Party Transactions 1874
Cost Allowability - Regulation 1874
Principle 1874
Reporting System 1877
Basis for Reimbursement 1877
Criteria 1878
Disclosure 1877
Statistical Resources 1877
Reporting System Principle & Application 1878
Change of Management or Ownership 1878
Cost Report Requirements 1878
Criteria of Reports 1878
Preparer 1878
Reporting by Chain Organizations or Related Party Providers 1878
Reporting Period 1878
Special Reports 1878
Retrospective Settlement 1888
A First Time Provider 1888
A Provider's Failure to Meet Any of the Conditions 1888
Change of Ownership of Existing ICF/ID Living Unit 1888
Excluded Costs 1888
Fraudulent or False Claims 1888
New ICF/ID Living Unit 1888
Special Rates 1893
Approval 1893
Determinations 1893
Limitations 1893
Reporting 1893
ICF/ID Licensure Requirements 1950
Approval of Facility Construction Plans 1951
Facility Name 1950
Physical Location 1950
Size Limitations 1951
Icing Platforms & Supports 4069
Idaho Adjustments -- Pass-Through Entities 4164
Different Taxable Year Ends 4164
In General 4164
Information Provided by a Pass-Through Entity 4164
Limitations 4164
Pass-Through Entities That Pay Tax 4164
Idaho Approved Feedlot 80
Idaho Bleeder List 866
Bleeder 866
Bleeder from Another Jurisdiction 866
Placed on Idaho Bleeder List 866
Removal from Bleeder List 866
Idaho Blind Merchant's Committee 1128
Bylaws 1129
Committee Membership 1129
Committee Name 1128
Executive Board 1129
Purpose of Committee 1129
Idaho Bred Races 848
Certificate of Registration 848
Number of Races 848
Idaho Capital Gains Deduction -- In General 4168
Capital Gain Net Income Limitation 4168
Examples 4170
Losses From Nonqualified Property 4169
Losses From Qualified Property 4170
Ordinary Income Limitation 4169
Qualifying for the Idaho Capital Gains Deduction 4168
Idaho Capital Gains Deduction -- Pass-Through Entities 4172
Examples 4173
In General 4172
Multistate Entities 4173
Idaho Capital Gains Deduction -- Qualified Property 4170

Gain from Forfeited Rights & Payments 4170
Holding Periods 4171
Holding Periods of S Corporation & Partnership Property 4171
Nonqualifying Property 4170
Real Property 4170
Sale of a Partnership Interest 4172
Tangible Personal Property 4170
Timber 4170
Idaho Capital Gains Deduction -- Revenue-Producing Enterprise 4172
Examples 4172
In General 4172
Multiple Activities 4172
Nonqualifying Activities 4172
Idaho Child Protection Central Registry Checks 2506
Department Response 2506
Fee Amount 2506
Request for an Idaho Child Protection Central Registry Check 2506
Idaho Clean Water Trust Fund Transfer Fee 4551
Idaho Compensation
Severance Pay 4198
Alternative Method 4198
Calculation of Idaho Source Severance Pay 4198
Definitions 4198
In General 4198
Stock Options 4197
Compensation for Future Services 4197
Definitions 4197
In General 4197
Nonstatutory Stock Options 4198
Statutory Stock Options 4197
Unemployment Compensation 4198
Idaho Gem Grant (Igg) Program 3892
Bid Process 3893
Distribution of Funds 3892
Eligible Applicants 3892
Eligible Expenses 3892
Ineligible Expenses 3892
Matching Funds 3892
Program Intent 3892
Review of Applications 3892
Idaho Gross Income 4143
Examples 4144
Gross Income from Idaho Sources 4144
Gross Income from Pass-Through Entities 4143
Idaho Source Gross Income from a Pass-Through Entity 4144
In General 4143
Idaho Grown Seeds Shipped East of the Continental Divide in the Contiguous United States or to a Foreign Country and Returned 199
Idaho Investment Tax Credit
Credit Earned On Property Used Both In & Outside Idaho In Taxable Years Beginning On Or After January 1, 1995 4247
Election of Methods 4247
Examples 4248
In General 4247
Order of Limitations 4248
In General 4245
Bonus Depreciation 4246
Carryovers 4246
Credit Allowed 4245
Expensed Property 4246
Limitations 4245
Motor Vehicle 4246
Property Tax Exemption In Lieu Of 4251
In General 4251
Negative Idaho Taxable Income in Second Preceding Taxable Year 4251
Terms 4251
Used Property Limitation 4252
Recapture 4249
Applicable Recapture Percentages 4249
In General 4249
Recomputation of the Investment Tax Credit 4249
Unitary Taxpayers 4249
Record-Keeping
Requirements 4249
Accounting Records Subject to Examination 4250
Failure to Maintain Adequate Records 4250
Information Required 4250
Unitary Taxpayers 4250
Taxpayers Entitled To The Credit 4246
Agricultural Cooperatives 4247
Conversion of C Corporation to S Corporation 4247
Leased Property 4247
Unitary Taxpayers 4246
Idaho License Required 3330
Idaho Livestock Moving To Pasture Out Of State 711
Idaho Medicaid Handicapping Malocclusion Index 1735
Idaho Medical Savings Accounts 4175
Contributions That Exceed the Amount Deductible 4175
Death of a Spouse 4175
Designation as a Medical Savings Account 4175
Pretax Contributions 4175
Withdrawal to Reimburse the Account Holder 4175
Idaho Organic Certification Seal 135
Description of Seal 135
Utilization of Seal 136
Idaho Origin Sheep Interstate Grazing Permit 219
Idaho Regional Travel And Convention Grant Program 3891
Audit Requirement 3892
Distribution of Funds 3891
Eligible Applicants 3891
Eligible Expenses 3891
Ineligible Expenses 3892
Matching Funds 3891
Program Intent 3891
Review of Applications 3891
Idaho Small Employer Incentive Act Of 2005 As Modified By 2006 Legislation
Definitions 4280
Buildings & Structural Components 4280
Investment in New Plant 4280
Making Capital Investments 4280
New Employee 4280
New Plant & Building Facilities 4280
Project Period 4280
Project Site 4281
Small Employer Investment Tax Credit 4281
Small Employer New Jobs Tax Credit 4281
Small Employer Real Property Improvement Tax Credit 4281
Small Employer Tax Incentive Criteria 4281
Small Employer Tax Incentives 4281
In General 4281
Pass-Through Entities 4281
Relocations 4281
Reorganizations, Mergers & Liquidations 4281
Unitary Taxpayers 4281
Recapture 4286
Early Disposition of Investment in New Plant 4286
Failure to Maintain Increased Employment 4287
Failure to Meet Tax Incentive Criteria 4286
Reorganizations, Mergers & Liquidations 4287
Year Deficiency Occurs 4286
Small Employer Investment Tax Credit 4282
Carryovers 4283
Coordination With Investment Tax Credit Allowed by Title 63, Chapter 30, Idaho Code 4283
Credit Allowed 4282
Limitations 4283
Qualified Investments 4283
Taxpayers Entitled to the Credit 4283
Small Employer New Jobs Tax Credit 4284
Calculating Number of Employees 4285
Calculating the Number of New Employees 4285

Carryovers 4286
Computing the Credit Earned 4285
Coordination With Credit for Qualifying New Employees Allowed by Title 63, Chapter 30, Idaho Code 4286
Credit Allowed 4284
Limitations 4286
Taxpayers Entitled to the Credit 4284
Small Employer Real Property Improvement Tax Credit 4283
Buildings & Structural Components of Buildings 4284
Carryovers 4284
Credit Allowed 4283
Limitations 4284
Taxpayers Entitled to the Credit 4284
Small Employer Tax Incentive 4282
Certification 4282
Copy of Certification Form Required 4282
In General 4282
Idaho Source Income Of Nonresident & Part-Year Resident Individuals -- Idaho Compensation -- In General 4196
Alternative Method 4197
Definitions 4196
In General 4196
Multiple Employers 4197
Work Days 4196
Idaho Source Income Of Nonresident & Part-Year Resident Individuals -- Income From Intangible Property 4194
Covenant Not to Compete 4194
Goodwill 4194
In General 4194
Interest Income Earned on a Bank Account 4194
Payment of Penalties 4194
Timing of Sourcing Determination for Intangible Personal Property 4194
Idaho Source Income Of Nonresident & Part-Year Resident Individuals -- Investment Income From Qualified Investment Partnerships 4199
Examples 4199
In General 4199
Investment Income 4199
Qualified Investment Partnership 4199
Idaho Source Income Of Nonresident & Part-Year Resident Individuals -- Passive Activity Losses 4195
Current Year Losses 4195
Idaho Activity 4195
In General 4195
Prior Year Losses 4195
Idaho Source Income Of Nonresident & Part-Year Resident Individuals -- Suspended Losses From Pass-Through Entities 4195
In General 4195
Losses from Multiple Years 4196
Idaho Source Income Of Nonresident And Part-Year Resident Individuals -- Distributive Share Of S Corporation & Partnership Income 4191
Distributions 4192
Guaranteed Payments Treated As Compensation 4192
In General 4191
Nonbusiness Income 4192
Pass-Through Items 4192
Idaho State Department Of Education, Standards For Idaho School Buses & Operations Manual
General Rules 677
Lighting Equipment 677
Idaho Waterway Marking System 3807
Buoys 3808
Cardinal System 3808
Color of Reflective Material 3809
Colors 3807
Defined Channel 3808
Geometric Shapes 3808
Identifying Mooring Buoys 3809
Irregularly Defined Channel 3808
Lettering Markers 3809
Lettering to Be Visible 3809
Lighted Mooring Buoys 3809
Lights 3809
Markers to Be Visible 3809
Mooring Buoys 3809
Navigation Aids 3808
Numbering Buoys 3809
Ownership Identification 3809
Reflective Material 3809
Regulatory Markers 3807
Signs 3808
Undefined Channel 3808
Uniform System 3807
Identification 790, 1421
Identification 790
Method of Identification 790
Permitted to Start 790
Responsibility 790
Identification & Listing Of Hazardous Waste 5614
Excluded Wastes 5614
Hazardous Secondary Materials Managers Emergency Notification 5614
Identification Of Animals That Legally May Be Taken 1008
Big Game Animals of Either Sex 1008
Seasons Restricted to Antlered or Male Animals Only 1008
Seasons Restricted to Antlerless or Female Animals Only 1009
Identification Of Breeding Sheep
Acceptable Identification 220
Assignment of APHIS Approved Idaho Premises/Flock Identification Numbers 219
Identification Exemption 220
Importation Identification 220
Loss of Identification 220
Responsibility for Identification 219
Time of Identification 219
Identification Of Communications 255, 3033, 3925, 4658
Identification Of Deleterious Exotic Animals 113
Birds 114
Mammals 114
Identification Of Entrants 1559
Identification Of Exposed Cattle & Bison 53
Branding & Tagging "S" 53
Shipping Without Branding 53
Identification Of Plan Or Number Of Policies 2769
Disclosure Based on Combination of Policies 2769
Disclosure Requirements 2769
Identification Of Pleadings 5582
Identification Of Reactor Cattle & Bison 53
Branding & Tagging "T" 53
Shipping Without Branding 53
Identification Of Refugees 1558
Afghan Special Immigrants 1559
Iraqi Special Immigrants 1559
Other Factors in Determining Eligibility for the Refugee Medical Assistance Program 1559
Identification of Services, Midlevel Practitioner Services 1648
Identification Of Sex, Size, And/Or Species In Possession & During Transportation Or Shipment 1010
Evidence of Sex 1010
Evidence of Size 1010
Evidence of Species 1010
Other 1010
Identification Of Sex, Size, Species In Possession & During Transportation Or Shipment 1079
Identification Of Species & Size In Possession & During Transportation Or Shipment 1051
Restrictions 1051
Transport or Gift 1051
Identification Of Species In Possession & During Transportation 1034
All Other Game Birds & Eurasian-Collared Doves 1034
Wild Turkey 1034
Identification Of Species In Possession & During Transportation Or Shipment 1054
Provisions for Processing & Transporting Steelhead &

Anadromous Salmon 1054
Restrictions on Processing & Transporting Steelhead & Anadromous Salmon 1054
Identification of Wells 3276
Signs 3276
Identification Tags for Traps 1071
Name & Address 1071
Number 1071
Identifier 804
Identifier 804
Inspection 804
Other 804
Identifying An Account Number
Name of Natural Persons 841
Nontransferable 842
Principle Residence 841
Secure Personal Identification Code 841
Upon Approval Account Holder Receives 841
Identifying Excluded Funds
Commingled With Funds Not Excluded 1495
Identity Of Insurer 2769
Identity of Insurer Not to Be Misrepresented 2770
Name of Insurer to be Identified 2769
Identity Rules For Children 1359
Medical Records 1359
School Records 1359
IFTA License Bond 4547
Amount & Type of Bond 4547
Bond Waiver Request 4547
Denial of Bond Waiver Request & Appeal of Denial 4547
General 4547
Reinstating Revoked Licenses 4547
IFTA Licensing And Special Fuels Permitting 4548
Federal or In-State Governmental Vehicles 4548
In General 4548
Not Obtaining an IFTA License, or Temporary Fuel Tax Permit 4548
Out-of-State Governmental Vehicles 4548
Temporary Fuel Tax Permits 4548
Ignition Interlock Device 5024
ILETS Board
Meetings & Quorum 877
Quorum 877
Representation at Meetings 877
Schedule of Meetings 877
Powers & Duties, Chairman, & Ad Hoc Advisory Committees 877
Advisory Committees 877
Election of Chairman 877
Powers & Duties 877
Presiding Officer 877
ILETS Network 877
Establishment 877
Responsibilities 877
ILETS Security 881
Agency Security Contacts 882
Definitions 881
General Policy 881
ILETS Security Officer 882
Interface Agency Agreements 882
Network Security Standards 883
Peer Networks 882
Physical Security Standards 882
Illegal Actions 5621
Failure to Comply with These Rules, the HWMA, or Other Requirements 5621
False Statements or Representations 5621
Illegal Practices 785
Acceptance of Bribes 785
Bets 786
Conspire 785
Devices 786
Jockey's Spouse 786
Offer of Bribes 785
Shodding 786
Tampering 786
Illegal Practices By Trainer 868
Disciplinary Sanctions 868
Disqualification for Non-Permitted Substance 868
Illness Of Horses 812
Illustration Of Dimensions Of Diving Area 2336
Illustration Of Pool Side Wall 2334
Illustration Of Undercuts 445
Illustration of Undercuts 445
Immediate Denial, Revocation, Or Suspension 2232
Immediate Reporting Of Fatalities & Certain Accidents, Safety/Accident Reporting For Utilities 3973
Fatality & Hospitalization Reporting 3973
Major Service Interruptions or Damage to Natural Gas Pipelines 3973
Immediate Reporting Of Fatalities & Certain Accidents, Safety/Accident Reporting For UtilitiesL Operating Property -- Motor Vehicle Accident Exception 3973
Imminent Threat 5000
Immunization Requirements 1314, 1324
Diphtheria, Tetanus & A-Cellular Pertussis (DTaP) Vaccine 1314
Haemophilus Influenza Type B (HIB) Vaccine 1314
Hepatitis A Vaccine 1314
Hepatitis B Vaccine 1314
Measles, Mumps, & Rubella (MMR) Vaccine 1314
Pneumococcal Vaccine 1314
Polio Vaccine 1314
Rotavirus Vaccine 1314
Seventh Grade Immunization Requirements 1325
Student Born on or Before September 1, 1999 1324
Summary of Immunization Requirements 1325
Twelfth Grade Immunization Requirements 1325
Varicella Vaccine 1314
Impairment-Related Work Expense (IRWE) Disregard 1522
Implementation Of Agreed To Practices 6060
Drawing Loan Funds 6060
Practice Completion 6060
Submitting Vouchers & Bills 6060
Warrant Requests 6060
Implementation Of CRD 949
Designation & Use of CRD System 949
Electronic Signature 950
Registrations Not Automatic 950
Implementation Of IARD 950
Designation 950
Electronic Filing 950
Hardship Exemptions 950
Use of IARD 950
Implementation Of Voluntary Remediation Work Plan 5853
Implementation 5853
Permits or Approvals Necessary for Implementation 5853
Progress Reports 5853
Voluntary Remediation Work Plan Completion Report 5853
Import Or Transport Permit Issuance 1040
Additional Requirements 1040
Application 1040
Inspection & Examination 1040
Import Permit 100
Import Permits 90, 112
Application for Import Permits 112
Contents of a Permit Request 91
Period of Validity 91, 112
Telephone Requests 91
Timeframe for Requesting a Permit 91
Importation Of Cattle Into Idaho 92
Approved Slaughter Establishments 92
Feedlots Approved by the Administrator 92
Post Entry Inspection 93
Specifically Approved Livestock Market 92
Importation Of Deleterious Exotic Animals 112
Importation Of Domestic Cervidae 99, 180
Certificate of Veterinary Inspection 99
Deworming Requirement 99
Meet Testing Requirements 99
National CWD Herd Certification

Program Participation 99
P. tenuis Statement 99
Importation Of Scrapie Exposed, Suspect & High Risk Animals Officially Identified 219
Valid Permit 219
Importation Of Swine 98
Animals Inspected 98
Garbage 98
Slaughter Swine Exceptions 98
Vaccination 98
Imported Bulls 119
Bulls for Grazing 120
Non-Virgin Bulls 119
Virgin Bulls 120
Imposition Of The Prepaid Wireless E911 Fee 4405
Portion of the Sale 4405
Separately State The Cost 4405
Service Sold Exceeds 4405
Impossibility Of Performance 3225
Impounding 2365
Improper 5184
Improper Conduct 662
Actions by Other Jurisdictions 662
Confidentiality 662
Fraudulent or Dishonest Enterprises 662
Improved Road 5022
Improvement Credit 3196
Cost Sharing 3197
Exchange 3196
Maintenance Costs 3197
Sale or Auction 3196
Unauthorized Improvements 3197
Value Only to Lessee 3196
Improvement Of Technology & Communications By Stakeholders 589
Adoption of Technology and Communications Materials 589
Availability of Technology & Communications Materials 589
Inaccurately Billed Service Under Correct Tariff Schedule -- Failure To Bill For Service
Additional Payments 3983
Rebilling Time Period 3983
Refunds 3983
Inactive License 3327, 3460, 3519
Clinical Nutrition Certificate Expires 3461
Inactive License Status 3519
Inactive License Status Renewal 3460
Inactive Status 3460
Inactive to Active License 3327
Issuance of Inactive License 3327
Reissuance of Clinical Nutrition Certificate 3461
Renewal of Inactive License 3327
Request for Inactive License 3519
Return to Active License Status 3519
Return to Active Status of License Inactive for Five (5) or Fewer Years 3460
Return to Active Status of License Inactive for More Than Five (5) Years 3461
Inactive Licensure Status 3614
License Fee for Inactive Status 3615
License Inactive Over Five Years 3615
Reactivating Inactive License 3615
Request License be Placed on Inactive Status 3614
While on Inactive Status 3615
Inactive Status 2225, 3505, 3546, 3553, 3589, 3605, 3623, 3663, 3677
Inactive Certification Status 2225
Inactive License Status 3506, 3546, 3553, 3589, 3606, 3663, 3678
Reactivation of Certification 2225
Reinstatement to Full Licensure from Inactive Status 3506, 3678
Request for Inactive Status 2225, 3505, 3546, 3553, 3589, 3605, 3663, 3678
Return to Active Status 3623
Waiving Continuing Education Requirements - Inactive Status 3623
Inactive Wells 3287
Converting Inactive Wells to Active Wells 3287
Determination of Inactive Status 3287
Inactive Review & Decision 3287
Owner's or Operator's Responsibility for Inactive Wells 3287
Testing of Inactive Wells 3287
Inadvertent Household Error & Agency Error TAFI Overpayments 1597
Agency Error (AE) 1597
Inadvertent Household Error (IHE) 1597
Incapacitated Parent 2191
Incentive Promotions 320
Address 320
No Purchase Necessary 320
Odds 320
Prize Winners 320
Incident Reporting 3027
Incident Reporting Requirements 385
Escapes Also Require Immediate Notice to Parent or Guardian & Department 386
Incident Report Content 387
Incidents Requiring Immediate Notice to Department & Three Day Notice to Parent or Guardian 386
Incidents Requiring Immediate Notice to Parent or Guardian & Department 385
Incidents Requiring Notice Within Three Days to the Department 387
Incidental Feeding 105
Incidental Grazing 105
Income 1363
Income & Eligibility Verification System (IEVS) 1448
Income Counted First For CSRA Revision 1537
Income Deductions 2187
Income Definition 1500
Cash Income 1500
Inheritances 1500
In-Kind Income 1500
Income Disregards 1364
Income Eligibility For Community Spouse 1538
Income Eligibility Requirements 2099
Households Receiving SSI or Food Stamps 2099
Income Not Counted 2099
Income Excluded By Law 1505
Income From Estates & Trusts 4191
Income From Idaho Sources 4191
Income From Real & Tangible Personal Property 4193
Alternative Method 4193
In General 4193
Property Located Within & Without Idaho 4193
Income Limits 2186
Income at Application 2186
Income at Time of Redetermination 2186
Income During Eligibility Period 2186
Income Limits For Parents & Caretaker Relatives 1365
Income Ownership Of Participant With Community Spouse 1530
Income Paid in the Name of Spouse 1530
Payment in Name of Both Spouses 1530
Payment in Name of Spouse or Spouses & Another Person 1530
Payment of Aid & Attendance 1530
Income, Benefits & Savings Of Children In Foster Care 2535
Income, Must Be Verified 1444
Income, Program Eligibility 2356
Income-Producing Property Excluded 1442
Incorporated By Reference 676
Incorporation By Reference 31, 47, 55, 64, 70, 86, 107, 117, 135, 176, 206, 214, 326, 350, 355, 420, 503, 675, 678, 875, 928, 929, 932, 935, 1112, 1115, 1216, 1236, 1246, 1256, 1313, 1323, 1330, 1476, 1602, 1738, 2156, 2165, 2208, 2242, 2251, 2268, 2290, 2319, 2360, 2384, 2431, 2576, 2735, 2782, 2864, 2879, 2931, 2941, 2954, 2962, 2994, 3015, 3082, 3091, 3154, 3244, 3254, 3299, 3320, 3406, 3511, 3544, 3550, 3598, 3629, 3644, 3657,

3662, 3676, 3695, 3917, 3976, 4066, 4100, 4142, 4288, 4406, 4533, 4564, 4569, 4708, 4950, 4989, 5055, 5162, 5212, 5278, 5297, 5498, 5503, 5580, 5601, 5630, 5657, 5821, 5844, 6086
"Idaho Sexual Offender Management Board Standards & Guidelines for Practitioners, Evaluations & Treatment of Juvenile Sexual Offenders" 5278
"Bylaws & Constitution of the American Association of Police Polygraphists" 5278
"Bylaws of the American Polygraph Association" 5278
"Idaho Sexual Offender Management Board Standards & Guidelines for Adult Sexual Offender Management Practices" 5278
2016 Job Analysis Survey 3695
Availability of Documents 928, 929, 932
Availability of Incorporated Documents 685
Availability of Referenced Documents 936
Carrier Safety Requirements 685
Code of Federal Regulations 4066
Credit Repair Organizations Act 928
Credit Reporting Agencies Act or "Fair Credit Reporting Act." 928
Debt Collection Practices Act or "Fair Debt Collection Practices Act." 928
Electronic Funds Transfer Act 928
Equal Credit Opportunity Act 928
Essential Documents of the National Association of Certified Professional Midwives 3695
Idaho Bureau of EMS & Preparedness EMS Education Equipment List, edition 2016-1 1236
Idaho Civil Asset Forfeiture Reporting Form 675
Idaho EMS Bureau Vehicle Extrication Awareness Instructor Guidelines, edition 2016-1 1236
Idaho EMS Education Standards, edition 2016-1 1236
Incorporated Documents 935
Mammography Quality Standards Act Regulations, Part 900 2360
National Council of Radiation Protection (NCRP) Report No. 147 2360
National Electric Safety Code 4066
Prevention of Perinatal Group B Streptococcal Disease 3695
PRIA Standards 4100
Regulation B 928
Regulation E 928
Regulation V 928
Regulation X 929
Regulation Z 928, 929
Restrictions on Garnishment Act 928
Safety Fitness Procedures 685
Standards Availability 4100
Suggested State Regulations for Control of Radiation, Volume 1 2360
The International Standby Practices of the International Chamber of Commerce Publication 590 2962
The Purposes and Procedures Manual of the NAIC Investment Analysis Office 2962
The Real Estate Settlement Procedures Act 929, 932
The Sexual Offender Management Board's "Required Format for Juvenile Psychosexual Evaluation Reports" 5279
The Sexual Offender Management Board's "Required Format for Adult Psychosexual Evaluation Reports" 5279
The Truth in Lending Act 928, 929
The Uniform Customs and Practice for Documentary Credits of the International Chamber of Commerce 2962
Transportation of Hazardous Materials, Substances, & Wastes 685
Incorporation by Reference 668
incorporation by reference 5993
Incorporation By Reference -- Code Of Federal Regulations 4003
Incorporation By Reference – Code Of Federal Regulations 3972
Incorporation By Reference – Reference To Safety Codes 4041
Incorporation By Reference (Rule 4) 685
Incorporation By Reference & Availability Of Referenced Material 5486, 5568, 5803, 5859
Incorporation By Reference & Availability Of Referenced Materials 5669
Incorporation By Reference Of Federal Regulations 5613, 5876
Availability of Referenced Material 5613
Exceptions 5613
Incorporation Of Documents By Reference 2813
Incorrect Classification Of Firefighter 6007
Increases In Food Stamp Benefits 1456
Failure to Provide Proof of Change 1456
Household Reports a Change 1456
Proof Not Provided Within Ten Days 1456
Proof Provided Within Ten Days 1456
Indemnification 222
Amount Of Indemnity to be Paid For Each Animal 222
Appraisals 222
Indemnity Payment Upon Approval of Appraisal 222
Indemnity Payments Paid 222
Maximum Amount of Indemnity 222
Owners, Individuals, Partnerships, Corporations or Other Legal Entities 222
Independent 1837
Independent Audit Of Large Raffles 5258
Independent Audit Or Examination 2913
Annual Independent Audit of MGA 2914
Examination of MGA 2914
Independent Living Plan 1116
Plan Contents 1116
Plan Development 1116
Independent, Relative & Stepparent Adoptions 2562
Index Components
Discarding or Destroying 2890
Index Maintenance 2889
Subdivision or Refinement 2889
Indian Creek, SW-3a -- Site-Specific Criteria for Water Temperature 5468
Indian Health Service (IHS) Clinic Services
Coverage & Limitations 1706
Provider Reimbursement 1706
Dispensing Fee for Prescriptions 1706
Payment for Prescribed Drugs 1706
Payment Procedure 1706
Third Party Liability Not Applicable 1706
Indian Property Excluded 1493
Natural Resources 1494
Other Ownership Interests or Usage Rights 1494
Property 1494
Indigent Defense Financial Assistance 6088
Indigent Defense Financial Assistance Application 6088
Individual 4134
Individual & Subsurface Sewage Disposal System Permit 5844
Individual Households or Buildings, Sewage Disposal System Permit 5845
Multiple Households or Buildings, Sewage Disposal System Permit 5845
Individual & Subsurface Sewage

Disposal System Pumper Permit 5845
Individual Advocate 1957
Individual Annuity Or Pure Endowment Contracts 2927
Individual Annuity Mortality Table 2927
Minimum Standard for Valuation 2927
The 1983 Table "a" 2928
The 2012 IAR Mortality Table 2928
The Annuity 2000 Mortality Table 2928
Individual Community Passes 397
Documentation 398
Eligibility 398
Frequency 398
Potential Risk to Public Safety 397
Individual Development Account Excluded As A Resource 1443
Individual Identification 100
Individual Indian Money (IIM) Accounts 1510
Individual Permit Application Review 5932
Additional Information 5933
Application Completeness Date 5934
Completeness Criteria 5932
Impact of Waiver Delay 5934
Incomplete Due to Waiver Denial 5933
Independence 5933
Schedule 5933
Sufficiently Sensitive Methods 5932
Individual Polling of the Commission 5192
Individual Position Statements 1176
Stipulation of Facts 1176
Supporting Documents 1176
Individual Quailfied By Examination 563
Individual Qualified By Examination
Reasonable Length of Time 563
Written Notice 563
Individualized Budget 1981
Annual Re-Evaluation of Adult Individualized Budgets 1981
Annual Re-Evaluation of Children's Individualized Budgets 1981
Budget Amount Notification 1981
Individualized Treatment Plan 2248
Individualized Treatment Plan Requirements 2248
One Hundred Twenty Day Review 2249
Treatment Plan Renewals 2249
Individuals Considered As Meeting The U.S. Citizenship & Identity Documentation Requirements 1359
Adoptive or Foster Care Children Receiving Assistance 1360
Individuals Deemed Eligible for Medicaid 1360
Individuals Entitled or Enrolled in Medicare by SSA 1360
Individuals Whose Records Match Records of the SSA 1360
Social Security Disability Income (SSDI) Recipients 1359
Supplemental Security Income (SSI) Recipients 1359
Individuals Excluded From Household Size 1591
Individuals Subject To A Criminal History & Background Check 2503
Adoptive Parent Applicants 2503
Behavioral Health Community Crisis Centers 2503
Certified Family Homes 2503
Children's Residential Care Facilities 2503
Children's Therapeutic Outdoor Programs 2503
Citizen Review Panel Members 2503
Contracted Non-Emergency Medical Transportation Providers 2503
Court Appointed Guardians & Conservators 2503
Designated Examiners & Designated Dispositioners 2503
Developmental Disabilities Agencies 2503
Emergency Medical Services (EMS) 2503
High Risk Providers of Medicaid 2503
Home & Community-Based Services (HCBS) 2503
Home Health Agencies 2503
Idaho Behavioral Health Plan (IBHP) 2504
Idaho Child Care Program (ICCP) 2504
Intermediate Care Facilities for Persons with Intellectual Disabilities (ICF/ID) 2504
Licensed Day Care 2504
Licensed Foster Care 2504
Mental Health Services 2504
Personal Assistance Agencies 2504
Personal Care Service Providers 2504
Residential Care or Assisted Living Facilities in Idaho 2504
Service Coordinators & Paraprofessional Providers 2504
Skilled Nursing & Intermediate Care Facilities 2504
Substance Use Disorders Services 2504
Support Brokers & Community Support Workers 2504
Induced Abortion Reporting Forms -- Compilations 2312
Compilations 2312
Form of Report 2312
Nature of Reports 2312
Patient Identification 2312
Industrial Commission Review Of Appeals Examiner Decisions 599
Claim for Review Under the Employment Security Law 599
Transcripts 599
Ineligibility Based Upon Past Conduct 894
Criminal Conviction 894
Decertification or Denial of Certification 895
Driver's License 894
Marijuana 894
Military Discharge 895
Use of Prescription or Other Legally Obtainable Controlled Substance 895
Violations of Idaho Controlled Substances Act 895
Ineligibility For A Felony Conviction For Possession, Use, Or Distribution Of A Controlled Substance 1437
Ineligibility Of Fugitive Felons & Probation & Parole Violators 1437
Fleeing to Avoid Custody or Confinement After Conviction 1437
Fleeing to Avoid Prosecution 1437
Violating a Condition of Probation or Parole 1437
Ineligibility Period, One-Time Payment Criteria 1594
Ineligible Mines Or Operators 3151
Operators Providing Acceptable Financial Assurance 3152
Reclamation Cost Limit 3151
Ineligible Mines or Operators
Disturbed Acres Limit 3151
Phosphate Mines 3151
Ineligible Non-Citizen With Emergency Medical Condition 1544
Effective Date of Eligibility 1544
Emergency Medical Condition 1544
Ineligible Operations Or Operators
Geothermal 3152
Hardrock Mines 3151
Off Lease Exploration 3152
Oil & Gas Conservation 3152
Oil & Gas Leasing 3152
Other Forfeitures 3152
Potential Heavy Metal Releases 3152
Reclamation Fund Forfeitures 3152
Violators 3152
Ineligible SSI Recipient 1539
Institution 1539
Medicaid Qualifying Trust 1539
Noncooperation 1539
Trust 1539
Infant/Toddler Program 2139
Infected Bulls & Herds 120
Confirmatory Testing of Culture Positive Bulls 120

Exposed Herds 121
Identifying Infected Bulls 121
Quarantine of Infected Herds 120
Testing of Infected Herds 121
Infection Control 2056, 3021
Clinical Contact Surfaces 3021
Disposal 3021
Infection Control & Prevention Procedures 2057
Infection Control Committee 2056
Infection Control Committee Responsibilities 2057
Infection Control Program 2056
Instrument Sterilization 3021
Non-Critical Surfaces 3021
Sterilizing Devices Testing 3021
Infection Control Policies 2449
Infections With Other Types Of Trichomonads 123
Inconclusive Test Results 123
Trichomonad Organisms Identified 123
Tritrichomonas foetus Not Present 123
Infectious Diseases 403, 411
Examinations 403, 411
HIV Testing 403, 411
Notifications 403, 412
Policies 403, 411
Inflating Inventory, Going-Out-Of-Business Sales 238
In-Foal Filly Or Mare 779
Condition Disclosed 779
Release of Service Certificate 779
Service Certificate 779
Informal & Formal Proceedings 3926
Informal Complaints & Interpretation Of Rules 4003
Informal Complaints and Interpretation Of Rules 3978
Informal Discipline 5292
Informal Disposition -- Settlement 4618
Burden of Proof 4619
Confidentiality 4619
Consideration of Settlement 4619
Formalizing Agreements 4619
Informal Files May Be Investigative Records 3912, 3927
Informal Hearings -- Scope & Authority 3251
Informal Inquiries Or Complaints 3931
Informal Phases Of Formal Rulemaking 288
Informal Procedure 256, 294, 3034, 3926, 4659
Informal Proceedings Defined 256, 3034, 3926, 4659
Informal Proceedings Do Not Exhaust Administrative Remedies 257, 3034, 3927, 4659
Information Access & Dissemination 880
Administrative Messages 881
Criminal History Records 881
General Policy 880
Information Disclosure 318
Background 318
Business Status 318
Designated Responsible Persons 318
Financial Information 319
Incentive Promotions 319
Items for Sale 319
Location 318
Name 318
Owners and Officers 318
Owners and Officers Identification 318
Sales Literature 319
Telephone Numbers 318
Information Exempt From Public Review - Definitions - Form - Procedures 3935
Definitions 3935
Form 3936
Procedure 3936
Protective Agreements 3936
Information for Gas and Electric Customers 3994
Information On Dyed & Undyed Diesel Fuel 4539
Red-Dyed Diesel 4540
Undyed Diesel Fuel Used for Heating Purposes 4540
Information Returns 4269
Due Date of Information Returns 4270
In General 4269
Submitting Returns 4270
Voluntary Withholding 4270
Information Technology Resale 4904
Purpose 4904
Terms 4905
Information To Be Included In Privacy Notices 2720
Disclosures of Information About Former Customers 2721
Disclosures Under Federal Law 2721
Disclosures Under Section 450 2721
Explanation of Right to Opt Out 2721
Parties to Whom Licensee Discloses 2720
Information To Be Provided By An Authorized Agency 5103
Actual Name & Address 5103
Authorized Official 5103
Fictitious Name & Address 5103
Vehicle Description 5103
Information To Be Provided In Application 5258, 5260
Background Check of Applicants 5258
Charitable Organizations 5258
Failure to Provide Information 5259
Identification of Applicants 5260
Incomplete Applications 5261
Incorporated Nonprofit Organizations 5259
License Year & Fiscal Year 5259
Locations 5259
Proper Identification 5258
Raffle Drawings 5259
Information To Customers 4017
Required Information 4017
When & How Information Provided 4018
Information to Customers 3994
Required Information 3994
When and How Information Provided 3995
Information, Price Lists Or Tariffs For Non-Local Exchange Service 4019
Information to be Filed 4019
Service 4019
Information, Referral, & Application For VR Services 1112
Application Forms 1113
Availability & Residence Requirements 1113
Contact by ICBVI 1112
Right to Apply 1113
Work Status & Identity Documentation 1113
Informed Consent 3330, 3698
Informed Consent Required 3698
Potential Information Loss 3331
Record of Informed Consent 3698
Security Measures Information 3331
Telehealth Determination 3331
Verification 3331
Infrequent Or Irregular Income 1505
Inheritance 1496
In-Home Supportive Services 1505
Initial & Subsequent Family Foster Home Evaluation Study Process & Contents, Children's Agencies 2625
Initial Application For Licensure 1951
Documents Required 1951
Form of Application 1951
Initial Application Review 6011, 6042
Initial Certification Application 5288
Initial Certified Public Accountant Licensure 34
Initial Changes In Food Stamp Case 1450
Change After Certification 1450
Change Before Certification 1450
Food Stamp Issuance Changes 1450
Initial Deposit & Bonds 3092
Guarantee of Payment 3092
Initial Deposit 3092
Performance Bond 3092
Initial Distribution System Evaluations 5706
Initial EMS Education Requirements 1240
Consistency with Scope of

Practice 1240
Consistency with State & National Standards 1240
Content 1240
Initial Evaluation 2602
Applicant Participation 2602
Disclosure of Information 2602
Members of the Household Physical & Mental Health 2602
Initial Financing Statement 4130, 4134
Lapse Date 4134
Name & Address of Each Debtor 4134
Name & Address of Each Secured Party 4134
New Record Bears the Unique UCC File Number 4134
Record is Indexed According to the Name of The Debtor 4134
Status of Debtor 4130
Status of Financing Statement 4130
Status of Secured Party 4130
Initial Issuance Of Certificate 2071
Availability of Certificate 2071
Certificate Not Transferable 2071
Initial Certification 2071
Return of Certificate 2071
Service Specific Certification 2071
Initial license, Renewal And Reinstatement Fees 3402
Initial Offer - Bait & Switch Sales 233
Initial Personnel Licensure 2279
Authorization for Release of Information 2279
Candidate Age Requirements 2279
Criminal History & Background Check 2280
Declaration of Previous Applications & Licensures 2279
Pass Standardized Examination 2280
Provide Current Affiliation with EMS Agency 2279
Standardized Exam Attempts For Initial Licensure 2280
Submit Required Licensure Fee 2280
Valid Identification 2280
Initial Pleading - Listing Of Representatives 4610
Initial Pleading By Party -- Listing Of Representatives 4660, 5998
Initial Pleading By Party Listing Of Representatives 5583
Initial Pleading By Party--Listing Of Representatives 258, 3035, 3928
Designation of Representative Required 3928
Number of Representatives 3928
Initial Privacy Notice To Consumers 2719
Initiation Of A Hearing 3649
Initiation Of Services 363, 389, 404
Injection Wells 4736
Construction 4736
Surveillance 4737
Injunction Against Further Cutting 3237
Injunction To Prevent Operation Without Certificate 2127
In-Kind Income 1364
Inpatient Behavioral Health Services 1762
Coverage & Limitations 1679
Excluded Services 1679
Extended Stay 1679
Initial Length of Stay 1679
Definitions 1676
Freestanding Psychiatric Hospital 1676
Hospital Psychiatric Unit 1676
Institutions for Mental Disease (IMD) 1677
Substance Use Disorder 1677
Participant Eligibility 1677, 1762
Inpatient Psychiatric Hospital Services 1677
Inpatient Substance Use Disorder Services 1677
Severity of Illness Criteria 1677
Procedural Requirements 1679
Individual Plan of Care — Content 1679
Individual Plan of Care — Interdisciplinary Team 1679
Prior Authorization 1679
Provider Qualifications & Duties 1680
Provider Qualifications 1680
Record Keeping 1680
Utilization Review (UR) 1680
Provider Reimbursement 1680
Hospital Penalty Schedule 1681
Payment 1680
Physician Penalty Schedule 1681
Quality Assurance 1681
Inpatient Hospital Services
Coverage & Limitations 1631
Exceptions & Limitations 1631
Extended Stay 1631
Initial Length of Stay 1631
Definitions 1628
Procedural Requirements 1631
Administratively Necessary Day Requests (AND) 1632
Certification of Need 1631
Individual Plan of Care 1631
Prior Authorization 1631
Request for Extended Stay 1632
Provider Qualifications & Duties 1632
Provider Reimbursement 1632
Adequacy of Cost Information 1638
Adjustment for Disproportionate Share Hospitals (DSH) 1636
Adjustments to the Medicaid Cost Limit 1633
AND Reimbursement Rate 1635
Audit Function 1638
Audits 1640
Availability of Records of Hospital Providers 1639
Exemption of New Hospitals 1632
Hospital Penalty Schedule 1634
Hospital Swing-Bed Reimbursement 1635
Interim Cost Settlements 1639
Interim Reimbursement Rates 1639
Medicaid Inpatient Operating Cost Limits 1632
Nonappealable Items 1639
Notice of Program Reimbursement 1639
Out-of-State Hospitals 1638
Payment Procedures 1634
Reimbursement for Services 1635
Quality Assurance 1640
Approval Timeframe 1640
Department Provisions 1640
Method of Notice 1640
Procedural Information 1640
QIO Information 1640
Inpatient Psychiatric Hospital Services
Participant Eligibility
Exclusions 1678
Intensity of Service Criteria 1678
Inquiry 415
In-Service Training Requirements 915
In-Service Training Requirements For Retaining Basic Certification 915
Emergency Communications Officers 915
Peace Officers & County Detention Officers 915
Tolling of Two-Year Period 916
In-Service Transfers To Reinstate Service 6013
Inspection 165, 5138
Inspection (Non-Phaseolus) 198
Application for Inspection 198
Inspections 198
Inspection (Phaseolus) 197
Active Growth Inspection 197
Application for Inspection 197
Windrow or Pre-Harvest Inspection 197
Inspection & Audit 1085
Inspection Deficiencies 5185
Inspection Of Customer's Facilities 3998
Inspection Of EMS Education Programs 1237
Inspection Of Establishments, Schools & Facilities 3742
Classification Card 3742
Form 3742
Reinspection 3742
Inspection Of Facility 1951
Accessible With or Without Prior

Notification 1951
Inspection of Outside Services 1951
Inspection of Records 1951
Representatives of the Department 1951
Inspection Of Financial Records And Documents 5257
Inspection of Raptors, Facilities, Possession & Records 1064
Facilities Accepted 1064
Facilities Covered by Permits 1064
Inspection Prior to Possession of Raptors 1064
Inspection Plan -- Frequency Levels 5621
Commercial TSD Facilities 5621
Conduct Inspections 5621
Generator On-Site TSD Facilities 5621
Generators 5621
Transport Facilities 5621
Transport Vehicles 5621
Inspection Provisions 329
Annual Visits 329
Review of Logs, Records, Policy & Procedure Manuals, Memorandums & Reports 329
Inspection Requirements 558
Access 558
Inspection Fees 558
Installation 558
Technician on Site 558
Inspection Rules 3659
Inspection Scores 1339
High-Risk Food Establishment 1340
Medium-Risk Food Establishment 1340
Written Violation Correction Report 1340
Inspection, Idaho Approved Feedlot 83
Inspections 49, 73, 108, 183, 1316, 2239, 2331, 2367, 3615, 3784, 5664
Access to Records 183
Complaint Investigation 2240
Compliance Inspection 1316
Department Authority 5664
Emergencies 49, 73, 108
Entering Premises 49, 73, 108
Entry 183
Failure to Respond 1316
Inspecting Records 73
Inspections 5665
Issuance of Citation or Report 2240
Law Enforcement Agency Inspections 2239
Random & Unannounced Inspections 2239
Reason for Inspection 3616
Recording of Violation 1316
Response to Violation, 1316
Third-Party Inspections 5664
Who May Examine or Inspect 3615
Who Will Inspect 2239
Inspections & Consultations 2004
Consultations 2004
Inspections 2004
Inspections & Correction Of Violations 1339
Inspection Interval Section 8-401.10(A) 1339
Section 8-401.10(B) 1339
Section 8-401.10(C) 1339
Section 8-405.11 1339
Inspections & Reporting Requirements 1060
Inspections Of Homes 2398
Inspection by Department or Certifying Agent 2398
List of Deficiencies 2399
Notice of Inspection 2398
Plan of Correction 2398
Statement of Deficiencies 2398
Inspector Qualifications 586
Installation 3169
Compliance With Permit 3170
Installation Only After Permit Issued 3169
Removal of Construction Waste 3170
Sunset Clause 3170
Installation Permit Fees 554
Double Section Unit 555
Electrical & Plumbing Permits 555
More Than Two Sections 555
Single Section Unit 554
Installation Permits & Inspections Required 554
Installation Standards 5026
Device Removal Standards 5026
Installation Instructions 5026
Installation Standards 5026
Installer 5026
Mandatory Vehicle Maintenance 5026
Security 5026
Unauthorized Persons 5026
Vehicle Condition Screen 5026
Installation Tags Required 555
Installation, Maintenance & Inspection Of Flame & Heat Producing Equipment 2606
Fire Inspections 2606
Installation & Maintenance of Flame & Heat-Producing Equipment 2606
Portable Heating Devices 2606
Installment Contracts Excluded 1443
Installment Payments For Commercial Vehicle Registration 5085
Billings, Payments & Due Dates of Installment Plan 5086
Failure to Pay Installment Payment by Due Date 5086
Reinstatement Fee for Payment Plan Registration 5086
Repetitive Suspensions Result 5087
Requirements to Participate in Installment Payments 5085
Suspension of Registrant's Account Due to Non-Payment of Payment Plan 5086
Instate Pipeline Terminal, Production Terminal, & Storage Reports 4537
Machine Tabulated Data 4538
Monthly Reports 4538
Institutional Controls 5856
Compliance With Other Laws 5857
Financial Assurances 5857
Institutional Controls 5857
Legal Use Restriction Requirements 5857
Legal Use Restrictions 5857
Prohibition of Use 5857
Purpose 5856
Removal of Restrictions 5858
Institutional Status 1487
Eligible Institutions 1487
Ineligible Institutions 1487
Medicaid Exception for Inmates 1488
Instruction 919
Evaluation of Instructors 919
Lesson Plans 919
Monitoring of Instruction 919
Student Complaints 919
Instructor Apprenticeship Training Program 3690
Application for Approval 3690
Apprentices 3690
Certificate of Proficiency 3690
Discontinuance of Program 3691
Instruction & Training Hours 3690
Instructors 3690
Recordkeeping 3690
Suspension or Revocation of Approval & Discipline 3690
Insufficient Funds 5088
No Further Transactions 5088
Payment With Insufficient Fund Check 5088
Suspension of Account 5088
Insufficient Grounds For Termination Of Local Exchange Service 4012
Termination Prohibited 4012
Insufficient Grounds For Termination Or Denial Of Service 3989
Denial of Service 3990
Termination of Service 3989
Insufficient Proof Of Ownership Includes 4928
Documentation for Component Part 4928
Release of Interest 4928
Title 4928
Vehicle Identification Number 4928
Vehicle Record 4928
Insurance & Bonding Requirements 4976
Bond Requirements 4977
Insurance 4976
Permittee Responsibility 4977
Insurance Coverage 2263, 2536

Insurance Coverage, Residential Care Facility 2614
Insurance Deductible 161
Insurance Or Bond For Extraordinary Hazard 5108
Insurance Plan 4084
Insurance Requirements 173, 4951
  Insurance Coverage 173
  Insurance Deductible 173
  Insurance Required 4951
  Insurance Settlement 174
  Other Property Carriers 4951
  Passenger Carriers 4951
  Private Carriers 4951
  Property Carriers -- Certain Risky or Perilous Cargoes 4951
  Seed Stored for Withdrawal 174
  Self-Insurance 174
Insurance Settlement, Commodities 160
Insurance Status 2356
Insurer Fees 3003
  Annual Continuation Fee 3003
  Failure to Pay Fee 3004
  Fee for Insurers 3003
  Fees of Other Entities 3003
  Reinstatement Fee 3004
Insurers
  Not Provided in Fees 3004
Intake Policy, Residential Care Facility 2615
Integrated Design & Fundamental Commissioning Of Public School Facilities 537
  Annual Optimization Review 538
  Commissioning Agents 538
  Commissioning Anniversary Date 538
  Definitions 537
  Fundamental Building Commissioning Requirements 538
  Technical & Educational Information 537
Integrated Priority Rating System 5807
  Amendment of Integrated Priority List 5808
  Integrated Priority List 5808
  Priority Rating 5808
  Purpose 5807
  Rating Forms 5808
Integrated Report 5302
Intent 1080
Intentional Program Violation (IPV) 1463
  Concealing 1463
  False Statement 1463
  Misleading Statement 1463
  Misrepresenting 1463
  Trafficking in Food Stamps 1463
  Violation of Regulations 1463
Intentional Program Violations (IPV) 1595, 2101, 2196
  Admission 1596
  Concealing Fact 2196
  Court Decision 1596
  Deferred Adjudication 1596
  Failure to Meet Qualifications 2197
  Failure to Repay 2102
  False Statement 2102, 2196
  Hearing 1596
  Misleading Statement 2102, 2196
  Misrepresentation of Fact 2102, 2196
  Non-Compliance With Rules & Regulations 2102, 2197
  Violation of Provider Agreement 2102, 2197
Interagency Placement Of Children 2608
Inter-Country Adoption Services To Adoptive Parents 2633
  Adoption Finalization 2634
  Determination of Adoptive Applicant's Ability 2634
  Documenting Child's Legal Status 2634
  Eligibility Criteria Disclosure 2634
  Information Disclosure 2634
  Inter-Country Adoption Orientation 2634
  Post-Placement Supervision 2634
  Procedures for United States Placement 2634
Inter-Country Adoption Services, Children's Agencies 2633
Interest Accrual & Calculation On Separation Benefits 6013
Interest Earnings 2903
Interest Expense Offset Related To Tax-Exempt Interest Income 4157
  In General 4157
  Tax-Exempt Interest Income 4157
  Total Income 4157
  Unitary Taxpayers 4158
Interest Member Contributions 6010
Interest On Deficiencies, Refunds & Estimated Returns 4394
  Alternate Formulas 4395
  Estimated Returns 4395
  Failure to Register 4395
  Interest Accruing During a Period Subject to Audit 4395
  Interest Rate 4395
  Judgments 4395
Interest On Deposits 3980, 4004
  Interest Payable 3980, 4004
  Interest Rate 4005
  Interest Rate, Utility Deposits 3980
Interest On Refunds 4277
  Computation 4277
  In General 4277
  Refunds From Net Operating Loss & Capital Loss Carrybacks 4278
Interest Rates 4590
  Idaho Interest Rates & Applicable Revenue Rulings 4591
  In General 4591
Interim Child Care Payment 2195
Interim Protected Rivers 4626
  Board Agenda 4627
  Board Determination 4627
  Board Initiative 4626
  Designation 4626
  Duration of Interim Protected Status 4627
  Filing 4626
  Form 4626
  Legislative Directive 4626
  Notice of Consideration 4627
  Petitions 4626
  Public Input 4627
  Public Notice 4627
  Relation to Comprehensive Water Plan 4627
  Subsequent Designations 4628
Interim Status Standards For Owners & Operators Of Hazardous Waste Treatment, Storage & Disposal Facilities 5617
Interlocutory Orders 279, 3051, 3967, 4679, 5596
  Certain Orders Always Interlocutory 3967
  Defined 3967
  Review of Interlocutory Orders 3967
Intermediate & Advanced Certification 901
  Advanced Certification 903
  Intermediate Certification 901
  Probationary Period 904
Intermediate Care Facilities For Persons With Intellectual Disabilities (ICF/ID) 1863
Interment & Reinterment 3322
  Committal Services 3322
  Remains 3322
Internal Audit Function Requirements 2953
  Additional Requirements 2953
  Exemption 2953
  Function 2953
  Independence 2953
  Reporting 2953
Internal Revenue Code 4143
  Interpretations 4143
  Retroactive Amendments 4143
  Tax Commission Granted Discretion in Determining Correctness of Tax Return 4143
Internet Courses 2910
Internet Service Provider (ISP) 1085
Interns & Volunteers 1958
Internship 3612
  Denture Clinic Requirements 3614
  Internship Equivalency 3613
  Internship Not to Exceed One Year 3613
  Internship Supervisor Requirements 3614

Reporting Requirements 3614
Requirements & Conditions for Internship 3612
Training Requirements 3613
Interpretation & Application Of These Rules 428
Additional Standards 428
Enforcement 428
Exceptions 428
Existing Buildings, Structures, & Equipment 429
Interpretations 428
Issues Not Covered 428
Jurisdiction 428
Scope 428
Interpretation Of State Law 5158
Interpreters 2145
Interstate & Foreign Commerce 691
Interstate Claims Collection 1466
Interstate Commerce 4345
Interstate Common Pool
Wagering 823
Access to Reports & Wagering Information Requirement 824
Breakage 824
Licensing Requirement 823
Pari-Mutuel Systems Requirement 823
Interstate Shipments 219
Carriers, Permits 219
Waybill Requirement 219
Waybill Violation 219
Who May Inspect 219
Intervening Death Of A Retiree 6035
Intervening Death Of Active Member 6035
Intervening Reemployment 6036
Intervening Retirement 6035
Intervening Withdrawal Of Contributions 6035
Intervenors 257, 295, 3928, 4660
Intervenors, Contested Cases 3035
Intervention 2145, 4617, 5587
Intervention of Right 4617
Permissive Intervention 4617
Intervention -- Public Witnesses 3936
Intervention Procedures to Ensure Safety of Residents & Staff, Additional Policy Requirements 2448
Intimidation 323
Intrastate Movement Certificate, Domestic Cervidae 188
Intrastate Movement Of Domestic Cervidae 189
Intrastate Movement Certificate 189
Movement of Cervidae Between Accredited AZA or USDA Licensed Facilities 189
TB Test 189
Introduction 492
Accident Prevention 492
Enforcement 492
Scope 492
Introduction From Ring 3438
Introductory, Initial Or Special Offers 2770
Restriction on Special Awards 2770
Restrictions on Introductory, Initial or Special Offers 2770
Restrictions on Reduced Initial Premium 2770
Inventory Verification 186
Duty to Gather & Restrain 186
Visible Identification 186
Investigation 415, 2554
Child-Related Factors 2555
Complaint Determination 415
Costs 415
Description of Investigation 2555
Inspection Report 415
Inspectors 415
Site Inspection 415
Investigation & Audits 2167
Extrapolation 2167
Investigation Methods 2167
Probability Sampling 2167
Investigation & Control Of Reportable Diseases 1280
Closure of Schools & Places of Public Assembly 1281
Inspection - Right of Entry 1281
Inviolability of Placards 1281
Order for Isolation 1281
Order for Quarantine 1282
Order to Report for Examination 1281
Responsibility & Authority 1280
Sexually Transmitted Infection Contacts 1282
Transportation of Patients With Communicable Disease 1281
Verification of Diagnosis 1281
Investigation Confidentiality 1250
Administrative License Action 1250
Informal Resolution 1250
Investigation of Complaints & Suspected Violations 1249
Investigation Of Complaints For EMS Data Collection Or Submission Violations 1246
Investigation Of Complaints For EMS Education Program & Personnel Violations 1237
Investigation Of Complaints For EMS Licensing Violations 1216
Investigation Of Complaints For Personnel Licensing Violations 2277
Investigation Of CWD 193
Identification 193
Quarantine 193
Investigation Of Petition To Adopt & Report To The Court 2563
Confidentiality of Information 2564
Degree of Relationship of the Child to Petitioners 2564
Evaluation & Recommendation 2564
Financial Accounting 2564
Legal Availability of the Child 2563
Medical Information 2564
Needs of the Child 2564
Investigation Of Proposed Application For Registration 2775, 2779
Investigation Of Written Complaints 4409
Conclusion of Investigation 4410
County Officials' Response to Final Report 4409
Definitions 4409
Investigation Procedure 4409
Special Rules For Investigation Of Complaints About Property Tax Budgets Or Levies 4410
Investigational Procedures Or Treatments
Procedural Requirements 1643
Additional Clinical Information 1644
Cost-Benefit Analysis 1644
Coverage Determination 1644
Focused Case Review 1643
Investigations 970, 1256
Investigations Of Alleged Medical Neglect Or Withholding Of Medically Indicated Treatment From Disabled Infants With Life-Threatening Conditions 2179
Findings 2180
Investigation 2179
Reports of Suspected Medical Neglect 2179
Unsubstantiated Reports 2180
Verification 2180
Investigations Or Inspections 840
Investigations, Audits, & Enforcement 1725
Investigative Requirements 1100
Adult Protective Services & Ombudsman Coordination 1101
Assessment of Alleged Victim 1100
Caretaker Neglect 1100
Confidentiality 1101
Investigative Determinations 1100
Need for Investigation 1100
Protective Action Plan 1100
Review of Allegations 1100
Vulnerability Determination 1100
Investigative/Prosecutorial Staff 295
Investment Adviser Affiliation With Broker-Dealers/Issuers/Agents 960
Investment Adviser Brochure Rule 960
Investment Adviser Registration -- Application/Renewal 956
Annual Renewal 957
Applications Prior to Expiration 957
Completion of Filing 957
Deferral of Effectiveness 957
Incomplete Applications 956
Initial Application 956

Updates & Amendments 957
Investment Adviser Representative
Registration - Application/ Renewal 957
Annual Renewal 958
Completion of Filing 958
Deferral of Effectiveness 958
Dual Registration Exemption 958
Incomplete Applications 957
Initial Application 957
Updates & Amendments 958
Invoices & Bills 232
Invoices & Records 5152
Delivery of Documents to Commission 5152
Invoices 5152
Vouchers 5152
Involuntary Placement Of Indian Children 2530
Extended Family 2530
Foster Home Approved by Tribe 2530
Indian Institution 2531
Licensed Indian Foster Home 2531
IPV Overpayment & Earned Income 1596
IPV Overpayment Collection 1596
IPV Overpayments 1596
IPV, IHE & AE Food Stamp Claims 1460
Agency Error Claim (AE) 1461
Inadvertent Household Error (IHE) Claims 1460
Intentional Program Violation (IPV) Claim 1460
Irrigation Equipment & Supplies 4367
Agricultural Irrigation 4367
Exemption Certificate 4368
Nonagricultural Irrigation Equipment or Supplies 4368
Real Property Improvements 4368
Title to Equipment 4368
Isolation Area 855
Issuance Of Airborne Control Permits 61
Number of Permits Issued 61
Threat to Resource 61
Type of Control 61
Issuance Of An Outfitter License 3761
Issuance Of Bills -- Contents Of Bills -- Residential & Small Business Service 4006
Customer Request for Less Detail 4007
Local Exchange Service 4006
MTS Bills 4007
Other Services 4007
Issuance Of Bills--Contents Of Bills 3982
Billing Statements 3982
Comparison of Consumption Data 3982
Issuance Of Certificate 2390
Certificate 2390
Provisional Certificate 2391
Temporary Certificate 2390
Issuance Of Default Order 279, 3050, 4678
Issuance Of License 1952, 2590
Denial of Licensure 2590
Department Action 2590
Incomplete Application 2590
Initial License 1952
Issuance of a Regular License 2590
License Issued Only to Named Applicant & Location 1952
License Specifies Maximum Allowable Beds 1952
List of Licensed Daycare Facilities 2590
Notification of License Renewal 2590
Provisional License 1952
Issuance Of Reports & Form Of Practice 40
Issuance Of TVC 5090
Temporary Vehicle Clearances 5090
Issuance Of Vehicle Registration (CAB Card) & License Plate(s) 5090
Issuance of Vehicle Registration & License Plate(s) 5090
Permanent Identification 5090
Issuance Of Vehicle Registration (Cab Card) & License Plate(s) 5090
Issuance, Expiration, & Renewal 548
Issuer Agent Registration 943
Issuing Agency 5103
Issuing Licenses & Tags 1085
Identification 1085
Social Security Numbers 1085
Itemized Billing 240
Labor Charges 240
Other Charges 240
Parts & Materials 240
Unit Pricing 240
Items Subject To Search 4865, 4870, 4876, 4885
Items 4865, 4870, 4876, 4885
Packages & Bags 4865, 4870, 4876, 4885

J

Jeopardy Assessments 4589
Appeals Procedure 4590
Property Under Distraint 4590
Request for Return of Seized Property 4590
Termination of Tax Periods 4589
Jeopardy Determination 4394
Job Creation Criteria 3897
Job Shift 3897
New Jobs 3897
New Jobs Wages 3897
Rural Community 3897
Urban Community 3897
Job Search Assistance Program (JSAP) 1425
JSAP Information 1426
JSAP Status 1426
Job Training Partnership Act (JTPA) 1508
Jockey Agent 816, 834
Notify Stewards 817
Other Jockeys 816
Records 817
Jockey Agent Access 817
Jockey Falls From Horse 814
Jockey License 834
Application for License 834
First Time Licensed 834
Jockey Room 853
Jockey Room Custodian 735, 804
Display Program 735
Ensure Safety 735
Report to Stewards 735
Secure Jockey Room 735
Supervise Conduct 735
Jockey Suspensions 815
Suspended in Another Jurisdiction 815
Temporary Suspensions 815
Time Suspension Begins 815
Jockey's Fees 815
Dead Heat 815
Engagements 815
Fees 815
Posted Fees 815
Jockey's Valet 814
Jockeys Obligations 814
Jockeys Weighed
Engagements 814
Weighed Out 814
Joint Hearings 276, 3048, 4676
Joint Hearings, PUC & Federal Regulatory Agency 3959
Joint Returns 4265
Effect of Filing Status Used on Federal Returns, Joint Returns 4265
In General 4265
Resident Aliens or United States Citizens Married to Nonresident Aliens 4265
Joint Training Programs 6066
Exclusive Use of Training Funds 6066
Joint Training Programs Permitted 6066
Registration 6066
Jointly-Owned Resources 1439
Jointly-Owned Resources Exclude 1439
Journeyman 507
Examination 507
Out of State Journeyman Applications 507
Qualifications for Journeyman Plumber 507
JSAP Sanction Begins 1428
Judges 3426
Fees 3426

Physical Examination 3427
Protests 3426
Selection 3426
Station of Judges 3426
Judicial Review
Required Security 4602
Acceptable Security 4602
Amount Asserted 4603
Other Security 4603
Judicial Review Of Wage Claim Decisions 599
Judicial Rules 1176
Jurisdiction Licensing & Status Of Insurer 2769
Restrictions on Endorsements 2769
Restrictions on Licensing Jurisdiction 2769
Juvenile Offender & Parent Or Guardian Handbook 383
Receipt of Handbook 383
Required Content 383
Juvenile Offender Mail 391, 406
Distribution of Mail 392, 406
Inspection of Incoming Letters 392
Inspection of Outgoing Letters 392
Packages 392, 406
Privileged Mail 392, 406
Publications 392, 406
Reading 406
Reading of Letters 392
Restrictions 391, 406
Juvenile Offender Photographs 375
Department Authorization 375
Limitations 375
Juvenile Offender Rights & Responsibilities 378
Juvenile Offender Safety 379
Juvenile Offenders' Rights & Responsibilities
Contract Providers' Obligations 378
Juvenile Offenders' Program Responsibilities 378
Juvenile Probation Services 357
Absconders 358
Additional Policy & Procedures 358
Assessments 357
Balanced Approach Model 357
Case Management Plans 357
Collaboration with Community Partners 357
Collateral Contacts 357
Court Reports 357
Documentation 357
Engaging & Involving Families 357
Evidence Based/Best Practices & Programs 357
Physical Intervention 358
Release of Information 358
Reporting of Abuse/Neglect 358
Risk & Need Classification 357
Transfer of Cases 358
Transportation of Juveniles 358
Use of Detention 358
Validated Risk Assessment 357
Juvenile Records 373
Automated Records 374
Case Management Documents 373
Requests for Information 375
Restrictions to Records Access 374
Retention of Juvenile Records 375
Withholding of Information 375

K

Kilowatt Hour Tax Returns 4558
Monthly Returns 4558
Previous Year's Annual Tax Liability 4559
Quarterly Returns 4559
Required Statement 4558
Kinds & Scope Of Discovery
Listed 272, 302, 3045, 3951, 4673
Depositions 3951
Kinds of Discovery 272, 302, 3045, 4673
Production Requests or Written Interrogatories 3951
Requests for Admission 3951
Rules of Civil Procedure 273, 3045, 4673
Scope of Discovery 302
Statutory Examination & Audit 3951
Subpoenas 3951
Knockdown Of Combatant, Procedure For Counting
Both Combatants Down 3441
Combatants Down -- Referee Counting 3441
Failure of Opponent to Stay in Farthest Neutral Corner 3441
Knockdown 3440
Knockdown After Bell has Sounded 3441
Knock-Out 3441
Three Knockdowns in Same Round 3441
Timekeeper 3440
Knowledge 225

L

Labeling 66
Applicability 66
Commingled Milk Label 66
Misleading Labels 66
Requirements 66
Small Herds 66
Labeling Standards 3879
Distributed Compounded Drug Product 3879
Parenteral Admixture 3879
Prepackaged Product 3879
Repackaged Drug 3879
Standard Prescription Drug 3879
Labeling, Storage, & Transportation 2366
Labor Dispute/Union Rules 614
Burden of Proving Nonparticipation 614
Involvement of Work Site in Labor Dispute 614
Lack of Work 614
Laid Off Before Labor Dispute 614
Period of Ineligibility 614
Picketing Work Site 614
Refusal to Cross Picket Line 614
Subsequent Employment 615
Termination of Labor Dispute 615
Union Member 615
Laboratories 73
Authorized Persons 73
Blood, Milk, Tissue, or Other Samples 73
Reclassification of Reactors 73
Retest of Reactors 73
Laboratory & Radiology Services 1661
Coverage & Limitations 1662
Medical Necessity Criteria 1662
Prior Authorization of Services 1662
Definitions 1661
Independent Laboratory 1662
Laboratory or Clinical Laboratory 1662
Proficiency Testing 1662
Quality-Control 1662
Reference Laboratory 1662
Provider Qualifications & Duties 1662
Laboratory & Radiology Requirements 1662
Use of Reference Laboratories 1662
Provider Reimbursement 1662
Provider of Service 1662
Specimen Collection Fee 1663
Tests Performed by a Hospital Laboratory 1663
Tests Performed by an Independent Laboratory 1662
Tests Performed by or Personally Supervised by a Physician 1662
Quality Assurance 1663
Laboratory Duties 1321
Participation in Centers for Disease Control & Prevention (CDC) Newborn Screening Quality Assurance Program 1321
Result Notification 1321
Specimen Processing 1321
Laboratory Minimum Standards 861
Instrumentation for Screening 861
Lab Accreditation 861
Standards of Detection 861
Laboratory Quality Assurance 2324
Chain-of-Custody Procedures 2325
Maintenance of Records 2325
Proficiency Testing (PT) 2325
Required Items for the QA Plan 2325
The QA Plan 2325

Laboratory Service 2024
Availability 2025
Blood & Blood Products 2025
Clinical Laboratories 2025
Education Programs 2025
Laboratory Services 2024
Orders & Reports 2025
Personnel 2025
Policies & Procedures 2025
Routine Examinations 2025
Tissues & Reports 2025
Ladders 2335
Ladders, Recessed Steps, Stairs Requirements 2335
Land Actively Devoted To Agriculture
Defined 4484
Cross Reference 4485
Definitions 4484
Homesite Assessment 4484
Valuing Land, Excluding the Homesite 4484
Land Application of Wastewater(s) or Recharge Waters
Applied Waters Restricted to Premises 5560
Basis for Evaluation 5560
Hazard or Nuisance Prohibited 5560
Land Application & Reuse Permit 5560
Monitoring 5560
Land Disposal Restrictions 5618
Land Surface Use Rights & Obligations 3204
Damage 3204
Disposal of Leased Land 3204
Distance from Residence 3204
Supervision 3204
Use & Occupancy 3204
Land Use, Surface Rights & Obligations 3218
Blowout or Spill 3218
Disposal of Leased Lands 3219
Entry by Director 3219
Fences 3218
Other Uses 3219
Potable Water Discovery 3218
Prevention of Injury or Damage 3218
Reclamation 3219
Timber Removal 3218
Use & Occupancy 3218
Landowner Appreciation Program (LAP) 983
Application of Controlled Hunt Restrictions 984
Controlled Hunt Applications 983
Hunt Areas 983
Issuance of Controlled Hunt Tag(s) 984
Left Over Tags 983
Property & Landowner Registration 983
Sale or Marketing Unlawful 984
Special Restrictions 984
Tag Eligibility 983
Landowner Appreciation Seasons 984
Lands Open 3174
Landscape Architect-In-Training 3512
Prohibitions 3512
Qualifications 3512
Registration 3512
Supervision 3512
Termination 3512
Landscaping 4864, 4875, 4884
Climbing 4864, 4875, 4884
Grass 4864, 4875, 4884
Irrigation Equipment 4864, 4875, 4884
Landscaping Materials 4864, 4875, 4884
Plants 4864, 4875, 4884
Lapse Date & Time, Filing & Data Entry Procedures 4133
Lapse Of Basic Certification – Reinstatement 909
Exception for Officers Remaining With Agency 909
Lapse by Time 909
Reinstatement After Eight Years Absence 910
Reinstatement After Five Years to Eight Years Absence 909
Reinstatement After Three to Five Years Absence 909
Lapsed EMS Instructor Certificate 1243
Additional Information 1243
Application Under Review 1243
Failure to Submit 1243
No Grace Period 1243
Reinstatement of a Lapsed Certificate 1243
Timely Submission 1243
Lapsed License 1234, 2283
Application Not Submitted Prior to Expiration of Current License 1234
Application Under Review by the EMS Bureau 2283
Failure to Provide Application Information Requested by the EMS Bureau 2283
Failure to Submit an Application and Renewal Documentation 2283
Grace Period 1234
Reinstatement of an EMS Personnel License Lapsed for More Than Twenty-Four Months 2283
Reinstatement of Lapsed EMS Personnel License 2283
To Regain Agency Licensure 1234
Lapsed Licenses 560
Approval of Petition 560
Expedited Licensure 560
Extension of Time 560
Failure to File 560
Filing Deadline 560
Large Commercial Wildlife Facilities 1092
Application 1092
Bond 1092
Specific Requirements 1092
Lasix Administration 867
Dosage 867
Reporting 867
Time of Treatment 867
Witness 867
Late & Delayed Registration Of Divorce 2316
Additional Evidence 2316
Delayed Registration 2316
Late Registration 2316
Summary Statement 2316
Late & Delayed Registration Of Marriage 2315
Additional Evidence 2316
Delayed Registration 2315
Late Registration 2315
Summary Statement 2316
Late Bids/Proposals, Late Withdrawals & Late Modifications 4895
Late Fees 4693
Late Fee Payable 4693
Waiver 4693
Late Or Delayed Registration Of Birth 2313
Abstraction of Documentary Evidence 2314
Certification by the State Registrar 2314
Delayed Registration Following a Legal Change of Status 2313
Dismissal After One Year 2315
Documentary Evidence -- Acceptability 2314
Documentary Evidence -- Requirements 2314
Facts to be Established for a Delayed Registration of Birth 2313
Form of Delayed Certificate of Birth 2313
Late Registration -- Fifteen Days to One Year 2313
Who May Request the Registration of & Sign a Delayed Certificate of Birth 2313
Late Or Delayed Registration Of Deaths 2315
Additional Evidence 2315
Minimum Evidence Required 2315
Summary Statement 2315
Late or Denied Renewals 650
Late Payment 3230
Late Payments 3194
Late Payments & Penalties 1134
Law Enforcement & Facility Exigency 4865, 4871, 4876, 4886
Law Enforcement Certification Program – General Provisions 918
Assessment Visits 918
Eligibility 918
Expiration & Renewal of

Certification 918
Initial Assessment 918
Permission to Proceed With Approval Process 918
Law Enforcement Certification Program Approval 918
Law Enforcement Experience, Military Experience, & College Credits For Purposes Of Higher
Certification 900
College Credits 901
Emergency Communications Officer Experience 900
Juvenile Justice Experience 900
Law Enforcement Experience 900
Military Law Enforcement Service & Education 900
Law Enforcement Inquiries, Administration 5092
Law Enforcement Restraints 2011
Law Enforcement Maintains Custody & Direct Supervision 2011
Law Enforcement Use of Restraint Devices 2011
Laws & Codes Outside of These Rules
International Building Code 5504
International Fire Code 5505
National Electrical Code 5504
National Fire Protection Association Code (NFPA) 5504
Requirements of National Institute for Occupational Safety & Health (NIOSH) 5504
Requirements of the Occupational Safety & Health Administration (OSHA) 5504
Uniform Plumbing Code 5504
Layaway Sales 4309
In General 4309
The Time a Sale Occurs 4310
Lead Poisoning 1295
Investigation 1295
Reporting Requirements 1295
Leader Items - Bait & Switch Sales 233
Leak Testing & Replacement Of Sealed Sources 2366
Lease Access Roads 3276
Lease Adjustments 3194
Department Required 3194
Lessee Requested 3194
Lease Application, Fee, & Procedure 3229
Application to Lease & Fee 3229
Fee 3229
Fee Shall Be Required 3229
Notification of Approval or Denial 3229
Request for Reconsideration 3229
Submittal of Application to Lease & Fee 3229
Lease Aquisition Process 3215
Acquiring a Lease 3215
Auction Conditions 3216
Auction Procedure 3216
Execution of Lease 3217
Lease Information for Auction 3216
Lease Provisions 3215
Nominating a Tract for Auction 3216
Withdrawing a Tract for Auction 3216
Lease Award Through Auction 3202
Lease Cancellation 3194
Change in Land Use 3194
Land Sale 3194
Mutual Agreement 3194
Non-Compliance 3194
Lease Modification Or Amendment 3231
Encroachment Amendment 3231
Modification of Existing Lease 3231
Modification of Interior Facilities 3231
Lease Or Rental Of Motion Picture - Television Film 4363
Lease Rate Determination - Annual Rental 3189
Lease Rates 3790
Base Rates 3791
Lease Rate Adjustments 3791
Lease Term 3790
Cottage Site Leases 3790
Float Home Moorage Site Leases 3790
Leases 4902
Lease for Personal Property 4902
Lease Purchase Option 4902
Leases & Easements 3169
Lease or Easement Required 3169
Seawalls, Breakwaters, Quays 3169
Leave Of Absence 6005
Documentation of Leave of Absence 6006
Effect on Benefit Enhancement 6006
Employer & Employee Contributions--Leave of Absence 6006
Status of Employee on Leave of Absence 6006
LECs' Exemption From Reporting & Remittances 4032
Action on Requests 4032
Criteria for Exemption 4032
Petition From Initial Denial by Commission Staff or Administrator 4032
Requests of Exemptions 4032
Legal 2607, 4936
Legal Authority 31, 47, 55, 60, 63, 64, 70, 86, 104, 107, 117, 126, 133, 135, 144, 155, 164, 171, 176, 195, 206, 211, 214, 225, 253, 292, 308, 313, 326, 350, 355, 359, 415, 417, 420, 423, 503, 520, 540, 545, 554, 557, 559, 577, 588, 594, 600, 606, 625, 640, 643, 644, 649, 668, 675, 676, 678, 680, 683, 685, 694, 700, 704, 716, 724, 738, 778, 783, 805, 809, 820, 828, 838, 845, 857, 870, 875, 887, 923, 928, 929, 932, 935, 970, 972, 974, 976, 992, 998, 1000, 1032, 1039, 1048, 1057, 1062, 1068, 1071, 1076, 1080, 1082, 1095, 1102, 1112, 1115, 1117, 1119, 1133, 1136, 1175, 1181, 1183, 1192, 1195, 1207, 1216, 1236, 1246, 1248, 1256, 1263, 1268, 1313, 1318, 1323, 1329, 1344, 1346, 1351, 1374, 1405, 1476, 1558, 1561, 1578, 1602, 1737, 1946, 1970, 1996, 2063, 2066, 2087, 2089, 2092, 2097, 2104, 2128, 2142, 2156, 2165, 2177, 2183, 2203, 2208, 2223, 2234, 2242, 2251, 2268, 2277, 2290, 2301, 2319, 2329, 2347, 2353, 2360, 2368, 2375, 2384, 2431, 2498, 2500, 2518, 2575, 2670, 2676, 2682, 2684, 2716, 2729, 2731, 2733, 2735, 2741, 2745, 2749, 2752, 2761, 2764, 2766, 2772, 2775, 2778, 2780, 2781, 2782, 2813, 2848, 2864, 2879, 2887, 2899, 2901, 2905, 2906, 2913, 2915, 2927, 2930, 2941, 2954, 2957, 2962, 2984, 2986, 2994, 2998, 3003, 3007, 3015, 3032, 3055, 3091, 3094, 3117, 3150, 3154, 3178, 3183, 3189, 3190, 3200, 3213, 3226, 3234, 3244, 3254, 3293, 3299, 3320, 3326, 3333, 3344, 3347, 3350, 3353, 3356, 3406, 3414, 3459, 3475, 3483, 3500, 3511, 3516, 3527, 3533, 3544, 3550, 3572, 3585, 3598, 3611, 3621, 3629, 3644, 3648, 3653, 3657, 3662, 3676, 3681, 3695, 3708, 3721, 3748, 3754, 3787, 3790, 3792, 3794, 3797, 3811, 3820, 3822, 3826, 3831, 3847, 3860, 3863, 3890, 3896, 3904, 3917, 3924, 3972, 3976, 3978, 3996, 3998, 4001, 4002, 4022, 4034, 4041, 4066, 4074, 4078, 4083, 4142, 4288, 4406, 4533, 4553, 4564, 4569, 4578, 4609, 4625, 4631, 4635, 4646, 4656, 4684, 4690, 4698, 4708, 4730, 4741, 4751, 4766, 4789, 4810, 4846, 4860, 4867, 4872, 4880, 4887, 4909, 4919, 4921, 4923, 4926, 4928, 4930, 4931, 4932, 4936, 4940, 4944, 4945, 4948, 4950, 4953, 4957, 4960, 4968, 4978, 4983, 4984, 4989, 5021, 5023, 5047, 5049, 5055, 5072, 5073, 5084, 5090, 5091, 5093, 5105, 5116, 5121, 5151, 5154, 5157, 5162, 5187, 5189, 5212, 5215, 5266, 5269, 5271, 5278, 5297, 5486, 5498, 5503, 5563, 5568, 5580, 5601, 5613, 5623, 5657, 5669, 5803, 5821, 5844, 5847, 5859, 5876, 5993, 6037, 6053, 6063, 6068, 6071, 6073, 6077, 6084, 6086
General 675
General Administrative Authority 2092

In General 4578
Related Taxes 4578
Rulemaking Authority 2092
Specific 675
Legal Authority & References 4099
Legal Costs 2369
Legal Opinions 4085
Legal Requirements For Inter-Country Adoption Services 2633
Adoptive Home Standards 2633
Children's Agency, Foreign Government Agreement Review 2633
Citizenship 2633
Legal Rights Protection 2633
Licensing Standard Compliance Requirement 2633
Legal Weight Limits Maintained On Certain Highways 5112
Legionellosis 1295
Investigation 1295
Reporting Requirements 1295
Legislative Preference For Negotiated Rulemaking Procedures 284
Lender Liability 5854
Definitions & Operative Provisions 5854
General Statement 5854
Length Of Lease 3193
Length Of Period Of Ineligibility 1498
Leprosy (Hansen's Disease) 1295
Investigation 1295
Reporting Requirements 1295
Restrictions - Examination of Contacts 1296
Leptospirosis 1296
Handling of Report 1296
Investigation 1296
Reporting Requirements 1296
LERA 1188
Responsibility of Local Governments for Establishment of LERA 1188
Lessee Mailing Address 3191
Lessee's Records, Right Of Inspection By Department 3207
Letters Of Credit Qualified Under Section 061 2981
Disclosure Statement 2981
Exception 2981
Heading of Letter 2981
Letter Subject to Uniform Customs & Practice 2981
Letters of Credit Under Section 061 2981
Statement 2981
Term of Letter 2981
Levels Of Discipline 5291
Levels Of Post Conviction Sexual Offender Polygraph Examiner Certification 5286
Associate/Supervised Post Conviction Sexual Offender Polygraph Examiner 5286
Senior/Approved Post Conviction Sexual Offender Polygraph Examiner 5286
Levels Of Psychosexual Evaluator Certification 5282
Associate/Supervised Psychosexual Evaluator 5282
Provisional/Supervised Psychosexual Evaluator 5282
Senior/Approved Psychosexual Evaluator 5282
Levels Of Risk On The Child Protection Central Registry 2544
Child Protection Level One 2544
Child Protection Level Three 2545
Child Protection Level Two 2545
Levels Of Sexual Offender Treatment Provider Certification 5283
Associate/Supervised Sexual Offender Treatment Provider 5283
Provisional/Supervised Sexual Offender Treatment Provider 5284
Senior/Approved Sexual Offender Treatment Provider 5283
Levy By New Taxing Units - Duties Of Auditor 4513
Levy by Newly Formed or Organized Taxing Districts 4513
Levy by Taxing Districts Altering Boundaries 4513
Levy Considered Not Authorized 4513
Levy Or Distraint Warrant 4589
In General 4589
Serving of Levy 4589
Surrender of Property 4589
Liability 3241, 4886
Additional Fee 3242
Contractor Liability 3241
Failure to Treat 3241
Fees 3241
No Endorsement 4886
State Liability 3241, 4886
Liability (Indemnity) 3199
Liability & Indemnification 4866, 4879
No Endorsement 4866, 4879
State Liability 4866, 4879
Liability & Indemnity 3232
Liability Insurance 3211
Insurance Certificate Required 3211
Liability Insurance Required 3211
Special Endorsements 3224
Certificate of Insurance 3224
Liability Insurance Required 3224
Liberal Construction 255, 2688, 3033, 3925, 4610, 4658, 5582
Liberal Construction – No Contested Cases 5157
Library Consortium Grant Program Applicants 3919
Agreement or By-Laws 3919
Funding Mechanism 3919
Governance Structure 3919
Identification Number 3919
Members List 3919
Name 3919
License 172, 1333, 5162
Additional License Application Information 172
License Duration 173
License Fee 172
License Reinstatement Fee 172
Loss of License 172
Posting of License 172
Return of Suspended or Terminated License 172
License -- Duration, Bonded Warehouse Rules 161
License Application & Conditions Of Issuance 158
License Application 158
Modification 158
License By Endorsement 3326
Application 3327
Character 3327
Residence 3327
License Certificates & Cards 714
License Examination Fee 4705
Examinations Conducted by Department Staff 4705
Examinations Conducted by Non-Department Certified Water Right Examiners 4706
License Fees 837
License Fees, Vendors Licenses & Fees 5260
License Granted Upon Conditions 850
Duty 850
Investigations 850
License Not Transferable 850
License Number On Bids 576
License Or Permit Expiration And Renewal
License Expiration 3326
Reinstatement 3326
Renewal 3326
License Plate Provisions For All License Plates 5093
Placement of Proof of Registration Document 5093
Plate Numbering & Lettering 5093
License Plate Provisions For Restricted Vehicle Plates 5095
License Plate Provisions For Special Plates 5099
Centennial License Plates 5100
Disabled Veteran License Plates 5100
Year of Manufacture Plates 5099
License Plate Provisions For Special Program & Personalized Plates For Trailers 5099
License Plate Provisions For Standard Plates 5094
County Designations 5094

Designation for Farm Vehicles 5095
Designation for Recreational Vehicles 5095
Designations for Motor Homes 5095
License Production 3757
License Renewal
Date License Lapsed 3359
Final Date to Renew 3359
Renewal Applications 3359
License Renewal -- Filing Deadlines 560
License Renewal Continuing Education Requirements 2289
License Renewal Skills Proficiency Requirements 2289
License Required 547, 1950
Designated License Holder 547
License for Branch Office of Manufactured/Mobile Home Retailer or Resale Broker 547
License for Manufactured/Mobile Home Salesman 548
License for Manufacturers 547
License for Responsible Managing Employee 549
License to Engage in Business as Manufactured/Mobile Home Retailer, Resale Broker, Manufacturer, or Installer 548
Minimum Age Requirement 547
Proof of License 547
Real Estate Brokers 547
License Required - Scope Of Practice 3486
Backflow Assembly Tester 3487
Drinking Water Operator Scope 3486
Operator-in-Training 3487
Wastewater Operator Scope 3487
License Requirements 5800
Licensed Operator Required 5800
Responsible Charge Operator License Requirement 5800
Shift Operator Requirement 5801
Substitute Responsible Charge Operator License Requirement 5800
Water Operator License Requirement 5801
License Requisite 3008
License Restrictions 3757
Limitation 3758
Qualifications 3758
Qualified 3757
Review 3757
Temporary Employment 3758
License Types & Classifications 3485
Backflow Assembly Tester 3486
Drinking Water Distribution Operator 3485
Drinking Water Treatment Operator 3485
Drinking Water Very Small System Operator 3486
Wastewater Collection Operator 3485
Wastewater Laboratory Analyst 3486
Wastewater Treatment Operator 3485
Wastewater Very Small System Operator 3486
License Void Without Bond, Bonding 4856
License, Display, Renewals, Duplicates, Applications 3008
Bids Will Bear License Number 3008
Duplicate License 3008
Forms & Fees 3008
Posting of License 3008
Renewal 3008
Time Period 3008
Licensed Gaseous Special Fuels
Distributor's Reports 4536
Documentation of Exempt Sales of Gaseous Special Fuels Delivered into Motor Vehicles 4536
Monthly Reports 4536
Not Paying Tax 4536
Receipt of Gaseous Fuels 4536
Report Due & Payment Required 4536
Licensed Midwife (LM) Services 1650
Licensed Practical Nurse (LPN) 3384
Functions 3384
Standards 3384
Licensed Professional Nurse
Responsibility Requirements 2463
Current Medication Orders & Treatment Orders 2463
Medication Interactions & Usage 2464
Progress of Previous Recommendations 2464
Recommendations 2464
Resident & Facility Staff Education 2464
Resident Health Status 2464
Resident Response to Medications &Therapies 2463
Self-Administered Medication 2464
Licensed Racing Officials 726
Licensed Registered Nurse (RN) 3382
Chief Executive Role 3383
Functions 3382
Management Role 3383
Standards of Practice 3382
Licensed Registered Nurse Functioning In Specialty Areas 3383
Conditions for Licensed Registered Nurses Functioning in Specialty Practice Areas 3383
Extended Functions 3383
Licensed Residential Real Estate Appraiser Classification Appraiser Qualification Criteria 3635
Education 3635
Examination 3636
Experience 3636
Licensee's Duties A Wrestling Exhibition
Conduct 3453
Decision & Appeal 3453
No Abusive Behavior 3453
Licensee's Duties At Wrestling Exhibition 3453
Licensees -- Duty To Report 745
Licensees Or Certificate Holders Of Other States, Boards, & Countries 654
Business Entity Requirements 657
Denials or Special Examinations 657
International Engineering Licensure Evaluation - Countries or Jurisdictions with Board Approved Licensure Process 656
International Engineering Licensure Evaluation - Countries or Jurisdictions without a Board Approved Licensure Process 656
Interstate Licensure Evaluation 654
Waiver of Prescriptive Engineering Licensure Evaluation for Unique International Expertise 657
Licensees Prohibited From Dealing With Persons Whose Licenses Are Suspended Or Revoked 3455
Licenses 1121, 3246, 5040
Application Form 3246
Inactive License 1121
Issuance of Licenses 1121
Reactivation 1121
Revocation or Suspension for Incompetency 3246
Licenses Canceled For Failure To Renew 3534
Licenses For Public Utilities & Government Entities 5140
Licenses For Simulcast Operators 825
License 825
No Limitation 826
Responsibilities of Applicant 825
Restrictions 825
Simulcast License Application 825
Licenses Requiring Racing Association Signatures 832
Admissions 832
Announcer 832
Clerk of Scales 832
Clocker 832
Horsemen's Bookkeeper 833
Identifier 833
Jocks Room Custodian 833
Maintenance 833
Office Personnel 833
Outrider 833
Paddock Judge 833
Racing Secretary 833
Stall Superintendent 833

Starter 833
Track Superintendent 833
Valet 833
Licenses, Permits, And Tags For Lifetime License Certificate Holders 978
Licenses 978
Permits & Tags 978
Licenses, Tags, & Permits 1057
Licenses 1057
Permits 1057
Tags 1057
Licensing 155, 164, 2361, 2582, 2826, 3414
Application for License 3414
Bins Labeled 156
Insurance Calculations 156
Loss of License 155, 164
Posting of License 155, 164
Responsibilities of the Foster Parent or Operator 2582
Responsible for Agency Staff Knowledge 2582
Responsible for Knowledge of Standards 2582
Return of License 2582
Return of Suspended or Terminated License 155, 164
Sign to be Posted 156
Suspension Due to Neglect 155
Licensing & Certification 2582
Licensing & Certification Agency Policies & Procedures For Foster Homes 2625
Licensing & License Fees For Organizations 5258
Application 5258
License Fees 5258
Licensing and Registration Requirements for Industrial Radiography Operations 2366
Licensing Application Format 166
License -- Application 166
License Conditions of Issuance 166
License Modification 166
Licensing Complaints 552
Licensing For Adanced Deposit Wagering 839
Licensing Provisions 2005
Application for License 2005
Change of Ownership or Operator 2006
Expiration & Renewal of License 2006
General License Requirements 2005
Issuance of License 2005
License Certificate 2006
Licensing Provisions Related To The Indian Child Welfare Act, Foster Homes 2600
Licensing Qualifications & Definition Of Terms 3585
Educational Requirements 3585
Licensing System 1083
Deposit Schedule 1083
Reporting Time Period 1083
Licensure 1376, 2003, 3657
Application for an Initial License 1377
Application for License 2003
Change of Ownership, Operator, or Lessee 1378
Denial or Revocation of License 1377
Expiration & Renewal of License 1377
General Requirements 1376
Issuance & Renewal of License 2003
Issuance of License 1377
Penalty for Operating a Facility or Agency Without License 1378
Posting of License 2004
Licensure - General Requirements 1564
Appeal 1565
Application for Licensure 1564
Conformity to Rules 1565
Denial of Application 1564
Expiration Date & Renewal 1565
Injunction to Prevent Operation Without License 1565
Inspection of Records 1565
Issuance of License 1564
Return of License 1565
Revocation of License 1565
Types of Licensure 1564
Licensure & Operation Of Primary & Contiguous Establishments 3731
Businesses Other Than Cosmetological Establishments or Barber Shops 3732
Conditions for Issuance 3732
Contiguous Establishment License 3731
Primary Establishment License 3731
Licensure & Registration
General Requirements 3868
Board Forms 3868
Cancellation & Registration 3868
Exemption 3868
Incomplete Applications 3868
Late Renewal Application 3868
On-Time Annual Renewal Application 3868
Parent or Legal Guardian Consent 3869
Reinstatement of License or Registration 3868
Licensure & Reimbursement of Alternate Care Providers 2537
Licensure By Endorsement 3545
Certification of License 3545
Continuing Education 3545
Credentials 3545
Disciplinary Action 3545
Examination 3545
Practical Experience 3545
Residency 3545
Licensure By Equivalency & Endorsement Licensure 3372
Applicants Licensed in Another Nursing Jurisdiction 3372
Application by Equivalency 3372
Application For Licensure By Endorsement 3372
Licensure By Examination 3545
Examination of Applicants 3545
Passing Grade 3545
Licensure By Written Examination For Graduates Of Medical Schools Located Outside Of The United States & Canada 3334
International Medical Graduate 3334
International Medical School Requirements 3335
Licensure History 506
Licensure Of Dental Specialists 3019
Examination 3019
Limitation of Practice 3020
Requirements for Specialty Licensure 3019
Licensure of Radiation Machine Facilities 2366
Licensure Of Radiation Machine Facilities, (Services) - And Associated Healthcare Professionals 2365
Licensure Surveys 2443
Access & Authority to Entire Facility 2444
Access to Staff Living Quarters 2444
Evidence of Resolution for Non-Core Deficiencies 2444
Follow-Up Survey 2445
Inspection or Survey Services 2444
Interview Authority 2444
Plan of Correction for Core Issue Deficiencies 2444
Surveys of Facilities 2443
Unannounced Surveys 2444
Written Report of Deficiencies 2444
Lien Filing 5075
Date of Lien Filing 5075
Lien Assumptions 5076
Name Change Only 5075
Out-of-State Transfer 5075
Taxable Transfer of Ownership 5076
Liens & Estate Recovery 1725, 1726
Administrative Appeals 1726
Definitions 1726
Authorized Representative 1726
Discharge From a Medical Institution 1726
Equity Interest in a Home 1726
Estate 1726
Home 1726
Institutionalized Participant 1726

Lawfully Residing 1726
Permanently Institutionalized 1726
Personal Property 1726
Real Property 1726
Residing in the Home on a Continuous Basis 1726
Termination of a Lien 1727
Undue Hardship 1727
Undue Hardship Waiver 1727
Lien During Lifetime Of Participant 1727
Determination of Permanent Institutionalization 1727
Filing of Lien During Lifetime of Participant 1728
Lien Imposed During Lifetime of Participant 1727
Notice of Determination of Permanent Institutionalization and Hearing Rights 1727
Recovery Upon Sale of Property Subject to Lien Imposed During Lifetime of Participant 1728
Renewal of Lien Imposed During Lifetime of Participant 1729
Restrictions on Imposing Lien During Lifetime of Participant 1728
Restrictions on Recovery on Lien Imposed During Lifetime of Participant 1728
Termination of Lien Imposed During Lifetime of Participant 1729
Limitations & Exclusions 1730
Application for Undue Hardship Waiver 1731
Basis for Undue Hardship Waiver 1731
Certain Life Estates 1730
Excluded Land 1730
Expenses Deducted From Estate 1730
Interest on Claim 1730
Limitations on Estate Claims 1730
Limitations on Undue Hardship Waiver 1731
Marriage Settlement Agreement or Other Such Agreement 1731
Purpose of the Undue Hardship Exception 1731
Release of Estate Claims 1731
Set Aside of Transfers 1731
Medical Assistance Incorrectly Paid 1726
Request For Notice 1731
Request for Notice - Forms - Content 1732
Request for Notice - Notice - Hearing 1731
Webpages for Forms 1732
Requirements For Estate Recovery 1729
Assets in Estate Subject to Claims 1729
Estate Recovery Requirements 1729
Lien Imposed Against Estate of Deceased Participant 1729
Notice of Estate Claim 1729
Recovery From Estate of Spouse 1729
Value of Estate Assets 1730
Life Estate As Asset Transfer 1549
Transfer of a Life Estate 1550
Transfer of a Remainder Interest 1549
Life Estate Interest In Another's Home 1495
Life Insurance 1496
Life Insurance Excluded As A Resource 1441
Life Skills Services 2217
Individual & Group Activities 2217
No Duplication of Services 2217
Personal & Family Life Skills 2217
Lifetime Eligibility, One-Time Cash Payment 1594
Lifetime Ownership & Transportation Certificates 710
Detain 710
Nationwide 710
Owner 710
Validity 710
Lighting & Electrical Requirements 2337
Lighting Requirements For Loads Traveling After Dark 5105
Standards for Lights on Rear Overhang 5106
Lighting Requirements For Oversize Vehicles And/Or Loads Traveling After Dark 4969
Lighting, Children's Residential Care Facilities 2638
Lighting, Signs May Be Illuminated, Subject To The Following 5045
Flashing or Moving Lights 5045
Interference With Traffic Sign, Device, or Signal 5045
Lights Which Impair Driver Vision 5045
Lights & Shapes 3799
Alternative Lights & Shapes 3800
Anchorage 3800
Lights Required 3799
Motorized Vessels 3799
Non-Motorized Vessels 3800
Sailboats 3800
Seaplanes 3800
Visibility 3800
Limit & Authority 906
Limitation Of Pre-Loan Engineering Reviews 5867
Limitation of Preloan Engineering Reviews 5811
Limitation On Annual Number Of Raffles 5257
Limitation On Budget Requests - Special Plant Facilities Fund Levy Provisions 4493
Cooperative Service Agency School (COSA) Plant Facility Fund Increases 4494
Limits on Plant Facilities Funds 4493
Maximum Amount of Increased Plant Facilities Fund 4494
No Additional Plant Facilities Fund Permitted 4493
Plant Facilities Fund Extensions or Increases 4493
Special Reporting for COSA & Increased Plant Facilities Levies 4494
Special Reporting Requirements for State-Authorized Plant Facilities Levy 4494
Limitation On Insurance Programs 6030
Limitation On Length Of Appointment 1154
Limitations 563
One License 563
Previous License Null & Void 563
Total Bid Cost 563
Two or More Licensees 564
Type 4 License Holder 564
Limitations & Exclusions 2861
Allowances 2861
Limitations On Allocation 6034, 6035
Limitations On Seconds 3438
Excessive Use of Water 3438
Number of Seconds 3438
Limitations On Use & Validity Of Airborne Control Permits 61
Changes in Application Information 61
Exclusive to Permittee 61
Expiration of Permits 61
Geographic Limitation 61
Possession of Permits by Permittee 61
Limited Authorized Emergency Vehicle 681
General 681
Requirements 681
Limited Award To Child With Life-Threatening Condition
Cash 1495, 1510
In-Kind 1494, 1510
Limited Liability Companies 4151
Application of Idaho Code & Rules 4151
Classification 4151
Limited Licenses
Compliance Required 3369
Disability Due to Substance Use Disorder or Mental Health Disorder 3369

Non-Practicing Status 3368
Restricted Status 3368
Summary Suspension - Lack of Compliance 3370
Limited Offers 235
Limited Service Appointments 1151
Designation 1151
Limited Service Agreement 1151
Permanent Status & Expedited Layoff 1151
Limits On Bingo Operation's Prize Payout Ratios & Administrative Expenses 5255
Applicability 5255
Donated Cash Funds Prohibited 5255
Donated Merchandise 5255
Limits On Disclosure Of Nonpublic Personal Financial Information To Nonaffiliated Third Parties 2725
Application of Opt Out to All Consumers & All Nonpublic Personal Financial Information 2725
Conditions for Disclosure 2725
Partial Opt Out 2726
Limits On Redisclosure & Reuse Of Nonpublic Personal Financial Information 2726
Information a Licensee Discloses Under an Exception 2726
Information the Licensee Receives Under an Exception 2726
Limits On Sharing Account Number Information For Marketing Purposes 2726
Limits On Use Of Common Space 4870
Attaching, Affixing, Leaning or Propping Materials 4870
Electrical Cords 4870
Ingress or Egress 4870
Materials Causing Damage to Interior Surface 4870
Railings & Stairways 4870
Tossing or Dropping Items 4870
Lines, Shackles & Blocks 452
Blocks 454
Cable Cutting 454
Damaged or Worn Wire Rope 454
General Requirements 452
Pins 454
Shackles 454
Splices 452
Wire Rope Clips or Clamps 453
Liquid Resources 1438
Bank Accounts 1438
Bonds 1438
Cash 1438
Lump Sum Payments 1438
Savings Certificates 1438
Stocks 1438
Trusts 1438
Liquor Fund 1202
List Of Approved Laboratories 1267
List Of Bred Fillies & Mares 731
List Of Deleterious Exotic Animals 114
List Of Moving Traffic Convictions And/Or Violations Point Count 4936
List Of Notices Of Claim Of Lien (List) 4118
Compilation & Distribution 4118
Cut-Off 4118
Schedule 4118
Listeriosis 1296
Investigation 1296
Reporting Requirements 1296
Listing Of Horses 731
Examine Entry Blanks 731
Select Horses 732
Live Fish – Possession, Transport, Import, & Release 1051
Import Inspection & Examination Requirements 1051
Marking Fish in Possession 1051
Permit 1051
Unpermitted Fish Species Released 1051
Live Fish & Eggs – Exceptions 1051
Aquarium Fish 1051
Fish 1051
Fish Eggs 1052
Private Ponds or Commercial Fish Facility 1052
Same Location 1051
Transport Between Commercial Fish Facilities 1052
Livestock 3844
Livestock Auction Sales 711
Fee 711
General 711
Other Groups 711
Livestock Dealer Bonds 713
Bond 713
Coverage 714
Evidence 714
Livestock Excluded 1442
Livestock Market Release 79
Livestock Quarantine 3199
Cooperation 3199
Non-Compliance 3199
LM Services
Coverage & Limitations 1650
Maternity & Newborn - Coverage 1650
Maternity & Newborn - Limitations 1650
Medication - Coverage & Limitations 1650
Definitions 1650
Board of Midwifery 1650
Licensed Midwife 1650
Participant Eligibility 1650
Provider Qualifications & Duties 1650
Licensed 1650
Scope of Practice 1650
Provider Quality Assurance Activities 1651
Compliance with Board of Midwifery Requirements 1651
Department Access to Practice Data 1651
Informed Consent Form Required 1651
Licensure Required 1651
Provider Reimbursement 1651
Load Overhang 5110
Loading Zone Parking Spaces 4916
Loads Which Cannot Be Passed Over By Employees 4073
Loan Application & Review 5811, 5867
Application Requirements 5811, 5867
Determination of Completeness of Application 5813, 5869
Notification of Incompleteness of Application 5813, 5869
Reapplication for Loan 5813, 5869
Submission of Application 5811, 5867
Loan Closure & Administration 6059
Cost Incurred 6060
Fund Obligation 6060
Loan Note & Security Agreement 6060
Loan Securing Documents 6060
Servicing & Documentation 6059
Loan Consolidation 5819
Loan Fee 5811, 5867
Determination of Loan Fee 5811, 5867
Effect on Loan Interest Rate 5811, 5867
Loan Fee 5811, 5867
Payment of Loan Fee 5811, 5867
Loan Modification Confirmation 930
Loan Offer & Acceptance 5817, 5873
Acceptance Executed as a Contract Agreement 5817, 5873
Acceptance of Loan Offer 5817, 5873
Estimate of Reasonable Cost 5817, 5873
Loan Offer 5817, 5873
Terms of Loan Offers 5817, 5873
Loan Policies 6061
Loans 1505
Local Agencies 5023
Local Anesthesia 3023
Local Emergency Response Authorities
LERA Notification 1189
LERA Powers & Duties 1188
Training 1189
Local Exchange Companies' (LECs')
Annual Reports To The Administrator 4028
Inventories of Other Local Access Lines 4028

MTS/WATS Actual Access Minutes & Revenues 4029
MTS/WATS Equivalent Access Minutes 4029
Reporting of One-Party, Single-Line Residence & Business Lines & Rates 4028
Local Registration Officers 2303
Local Deputy State Registrars 2304
Qualifications of Local Registrar 2303
Removal of Local Registrar 2303
Location 665, 5042
Incorporated Cities 5042
Medians 5042
Shoulder 5042
Location & Design Standards For Approaches 5007
Approach Alignment 5010
Base & Surfacing 5012
Border Area 5011
Corner Clearance 5009
Drainage 5012
Figure 1 5008
Grade 5011
Guidelines 5007
Property Line Clearance 5010
Required 5007
Setback 5011
Sight Distance 5011
Signal & Approach Spacing 5007
Transitions & Flares 5011
Width & Radius 5010
Location & Design Standards For Other Encroachments 5014
Approved Permit Required 5014
Benches, Planters, & Other Urban Structures 5014
Landscaping, Farming & Associated Irrigation 5015
Mailbox Turnouts 5016
Overhanging Displays, Canopies & Marquees 5015
Recreational Parking & Park-&-Ride Lots 5016
School Bus Turnouts 5016
Location & Design Standards For Utilities 5013
Approved Permit Required 5013
Conduits Attached to Structure 5014
Conduits Under the Roadway 5013
Interstate Highways 5013
Utility Locations 5013
Utility Maintenance & Emergency Repair 5013
Location & Nature of Trust Water 4791
Snake River Water Rights Agreement 4791
Sources of Public Water Not Trust Water 4791
Trust Water Created by State Action 4791
Location Of Documents & Records 2366
Location Of Domestic Cervidae 180
Department Action 180
Exceptions 180
Natural Disasters 180
Reindeer 180
Location Of Drains 2345
Location Of Dressing Rooms 2337
Location Of Hearings & ADA Requirements 5592
Location Of Permit On Vehicle 3860
Locations 4874
Locked Seclusion 2646
Duration 2646
Locked Seclusion Log 2647
Observation 2647
Potentially Harmful Objects 2647
Re-Introduction 2647
Review 2647
Locked Seclusion Room Requirements, Children's Residential Care Facilities 2647
Lock-In Defined, Participant Lock-In 1732
Lock-In Participant Notification 1733
Lock-In Procedures 1733
Appeal Stays Restriction 1733
Lock-In Duration 1734
Participant Responsibilities 1733
Payment to Providers 1734
Regional Programs Manager 1734
Lodging Operators & Short-Term Rental Marketplaces 4553
Applicable Taxes 4553
In General 4553
Registration 4553
Log Brands 3245
Applications 3245
Fees 3245
Log Truck Transportation 479
Adequate Reaches Required 484
Binder Placement Requirements 484
Binders & Wrappers to be Placed Before Leaving Landing Area 484
Bunks to be Kept in Good Condition & Repair 485
Construction of Wrappers and Binders 483
Following Other Vehicles 485
General 479
Inserting of Compensating Pin 485
Lighting Equipment Required 479
Linkage for Stakes or Chocks 480
Metal Parts Between Bunk & Cab to be Covered 485
Notify Engineer When Around Truck 480
Number of Wrappers Required 480
Precautions When Placing or Removing Binders & Wrappers 484
Proper Lay of Logs in Stakes or Bunks 484
Reaches to Be Clamped When Towing Unloaded Trailer 485
Requirements for Crosswise Loaded Trucks 483
Safe Operating Requirements 479
Safety Chains 485
Scaling & Branding 485
Stake & Chock Tripping Mechanisms 480
Stake Extensions 479
Stakes, Bunks, or Chock Blocks 479
Stopping & Holding Devices for Log Trucks 479
Towing of Trucks 484
Traffic Travel on Right Side of Road Except Where Posted, Log Truck Transportation 484
Logging 4374
Directly Used 4374
Election to Pay Sales Tax 4375
Equipment & Supplies 4374
In General 4374
Logging Process Begins & Ends 4374
Not Included in Logging Exemption 4375
Property Used in Logging Operations 4374
Real Property 4374
Logo 130
Approval for Use of Logo 131
Description of the Idaho Preferred-TM Logo 130
Graphic Depiction of the Idaho Preferred-TM Logo 130
Long-Term Care 1765
Long-Term Care Resident & Medicaid 1527
Income Not Counted 1527
Medicaid Income Limit of Long-Term Care Resident Less Than Thirty Days 1527
Medicaid Income Limit of Long-Term Care Resident Thirty Days or More 1527
Medicaid Participant Residing in a Skilled Nursing Facility 1527
Resources of Resident 1527
Loss of Documents & Fees 1085
Loss Of Tool With Radioactive Material 3280
Recovery or Cementing of Tool 3280
Reporting 3280
Sidetracking 3280
Loss Ratio 2828
Expected Loss Ratios 2828
Policies That Accelerate Benefits 2829
Loss Ratio Standards & Refund Or Credit Of Premium 2801
Annual Filing of Premium

Rates 2802
Loss Ratio Standards 2801
Public Hearings 2803
Refund or Credit Calculation 2802
Loss Recoveries 4179
Example 4180
In General 4179
No Double Deduction 4180
Lottery Contracting Rules 5224
Advertising & Promotional Contract 5229
Classification of Lottery Contracts 5224
Delegation of Purchasing Authority 5225
Equal Opportunity/Affirmative Action Contracts 5226
General Policy 5224
Idaho Preference 5226
Investment Contracts 5229
Major Procurements 5228
Personal Services Contract 5226
Prequalification of Annuity Vendors 5229
Sensitive Procurements 5228
State Central Services Agenda 5226
Lottery Employee or Employee 5216
Lower Boise River Subbasin HUC 17050114 Subsection 140.12
Boise River, SW-1 & SW-5 - Salmonid Spawning & Dissolved Oxygen 5468
Boise River, SW-5 & SW-11a - Copper & Lead Aquatic Life Criteria 5468
LPN, RN, and APRN License Renewal 3359
Lumber Manufacturing 4354
Exemption Certificate 4355
Nontaxable Activities 4354
Taxable Activities 4355
Lump Sum Income 1364
Lump Sum Resources 1440
Disability Pension 1440
Insurance 1440
Military Bonus 1440
Property Payments 1440
Readjustment Pay 1440
Refunds 1440
Retroactive Payments 1440
Security Deposits 1440
Severance Pay 1440
TAFI One-Time Cash Payment 1441
Vacation Pay 1440
Lyme Disease 1296
Handling of Report 1296
Investigation 1296
Reporting Requirements 1296

M

Machine Safety Requirements 498
Harvesting Machines 498
Operation of System 498
System Approval 498
Machines Required To Be Licensed 2361
Mail 2611
Mail Order & Catalog Sales, Unfair Solicitation 243
Mail Order Sales 241
Mailbox Addresses 232
Mailing Address 844
Main & Semi-Main Events 3427
Notice 3427
Refunds 3427
Substitutions 3427
Maintaining POST Instructor Certifications & Endorsements 915
Lapse of POST Instructor Certification 915
Renewal of Canine Instructor Certification 915
Renewal of High Liability Endorsement 915
Renewal of Master Instructor Certification 915
Maintenance 4738
Corrosion 4738
General 4738
Tests 4738
Maintenance & Improvements 4863, 4874, 4883
Maintenance & Replacement Of Equipment 1123
Maintenance & Safety 2055
Maintenance 2055
Safety 2055
Maintenance Charges 3308
Continued Eligibility 3310
Exclusions from Income or Payment for Residential & Domiciliary Care 3309
Income Eligibility Limits 3309
Leave of Absence or Hospitalization 3310
Medicaid Eligibility 3310
Nursing Care Charges 3308
Payment Schedule 3310
Residential & Domiciliary Care Charges 3308
Security Deposit 3310
Maintenance Of Certification 2326
Maintain Required Standard of Quality 2326
Notification of Major Changes 2326
Successful Completion of PT Samples 2326
Use of Specified Methods 2326
Maintenance Of Equipment & Systems For Fire & Life Safety 2472
Fuel-Fired Heating 2472
Maintenance of Equipment & Systems 2472
Portable Fire Extinguisher Service & Testing 2472
Maintenance Of Interior State Facilities 4871
Clean Condition After Use 4871
Items Return to Proper Location 4871
Maintenance Of Orders 2147
Maintenance Of Pre-Need Trust Account Fees 3521
Maintenance Of Records 173, 919, 2620
Course File 919
Instructor File 919
Organization of Record 2620
Record Confidentiality 2620
Record Storage 2620
Record Storage for Closed Organizations 2621
Student Training File 919
Maintenance Requirements 5043
Maintenance Standards 3796
Maintenance, Children's Residential Care Facilities 2638
Malaria 1296
Investigation 1296
Reporting Requirements 1296
Testing Without an Informed Consent 1296
Managed Care For Duals
Covered Services 1761
Coverage and Limitations 1761
Provider Reimbursement 1761
Definitions 1760
Dual Eligible 1760
Health Plan 1760
Idaho Medicaid Plus 1760
Medicare/Medicaid Coordinated Plan 1760
Passive Enrollment 1760
Participant Eligibility & Enrollment 1761
Excluded Populations 1761
Mandatory Enrollment 1761
Optional Populations 1761
Passive Enrollment 1761
Program Authority & Implementation 1760
Implementation 1760
Program Authority 1760
Management 4632
Bank Operation 4632
Chairperson Duties 4633
Chairperson Selection 4633
Committee Composition 4632
Committee Responsibilities 4633
Management Activities 105
Fencing 106
Hazing 106
Moving Animals 106
Supplemental Feed 106
Testing 106
Trapping 106
Management Certification 904
Certification 904
Officers not Certified in Idaho 905
Police Chiefs, Agency Administrators 905

Position 904
Training 905
Management Of Apprentice Jockeys 816
Management Of Inappropriate Individual Behavior 1958
Management Plans 3195
Federal Plan 3195
Modification of Plan 3195
Management's Report Of Internal Control Over Financial Reporting 2950, 2951, 2952
Exemptions & Effective Dates
Effective Date for Section 023 2952
Manager Acting As Second 3420
Manager's Advances -- Accounting 3422
Mandatory & Voluntary Certification 892
Mandatory Certification 892
Voluntary Certification for Certain Officials 892
Voluntary Certification for Correctional Officers & Adult Probation & Parole Officers Employed Prior to July 1, 2005 892
Voluntary Certification for Emergency Communications Officers Employed Prior to July 1, 2012 892
Mandatory Check & Report 1079
Mandatory Check & Report – Pelt Tags 1074
Mandatory Check & Report Requirements 1014
Authorized Representative 1015
Harvest Report 1014
Possession of Raw Pelts of Black Bear, Grizzly Bear, Mountain lion, and Gray Wolf 1015
Presentation of Animal Parts 1014
Mandatory Continuing Education For Certified Veterinary Technicians 5165
Approved courses 5165
Credit for Attendance 5165
Education Requirements 5165
Statement of Purpose 5165
Mandatory Continuing Veterinary Education 5162
Approved Courses 5162
Credit for Attendance 5163
Education Requirements 5163
Statement of Purpose 5162
Mandatory Criminal History & Background Check Requirements 1561, 1947, 2432
Availability to Work 1561
Compliance with Department's Criminal History & Background Check 1561
Criminal History & Background Check 1947
Direct Patient Access Individuals 1561
Individuals Subject to Criminal History Checks 1948
Mandatory Errors And Omissions Insurance 4084
Mandatory Exclusions From The Medicaid Program 2172
Conviction of a Criminal Offense 2172
Conviction of a Criminal Offense Related to Patient Neglect or Abuse 2172
Other Exclusions 2172
Mandatory Forms 2983
Mandatory Hunter Orientation 1008
Mandatory Judicial Notice 2146
Mandatory Membership 6004
Mandatory Operational Features 5028
Device Setpoint 5028
Mandatory Pronghorn, Deer, & Elk Report Requirements 1015
Failure to Report 1015
Mandatory Report 1015
Mandatory Reporting Of Abuse, Abandonment, Or Neglect 2593
Mandatory TAFI Household Members 1582
Children 1582
Parents 1582
Pregnant Woman 1582
Spouses 1582
Mandatory Telephone Report 1015
Mandatory Visitations 2584
Mandatory Wolf Trapper Education Class 1079
Manpower Development & Training Act Payments 1505
Manual Exemption 946
Manufactured Home Buyer's Information & Disclosure Form 553
Manufactured Home Designated As Real Property 4428
Definition of Permanently Affixed 4428
Reversal of Declaration of Manufactured Home as Real Property 4428
Statement of Intent to Declare (SID) 4428
Status of Manufactured Housing Previously Declared Real 4429
Manufactured Homes 536
Construction & Safety Standards 536
Fees 537
Inspections 537
Manufactured Homes (Mobile Homes) & Modular Buildings 4324
Component Parts 4325
Modular Building 4324
New Manufactured Home 4324
Noncomponent Parts 4325
Repairs 4325
Sale of Office Trailer 4325
Used Manufactured Home 4324
Manufactured Homes & Modular Buildings 2427
Previously Certified 2427
Use of Manufactured Homes & Modular Buildings 2427
Manufactured Homes, Modular Buildings, & Office Trailers 4973
Insurance Requirements 4973
Manufactured Home, Modular Building, Or Office Trailer Being Hauled 4975
Manufactured Homes, Modular Buildings, & Office Trailers Being Towed on Their Own Axels 4973
Registration & Licensing Requirements 4973
Vehicles for Towing/Hauling Manufactured Homes, Modular Buildings, & Office Trailers 4974
Manufacturer Registration 3874
Mail Service Pharmacy 3874
Manufacturer 3874
MAO Contract Requirement 2065
Maple Syrup Urine Disease 1297
Maps Of Facilities 3998
Inspection of Facilities 3998
Maps of Manufacturing, Mixing, Compressor, & Storage Facilities 3998
Maps, Plans, & Records 3998
Marine Deputy Certification 906
Absence of Three Years 907
Appointment by Sheriff 906
Certified or Commissioned in Another Jurisdiction 907
Minimum Basic Training 907
Peace Officer Eligibility 907
Market Value, Occupancy Tax 4438
Marking Of Cars 4071
Markings Required 211
Marks On Monument Set 665
Marriage & Family Therapists 3601
Graduate Degree 3601
Practicum 3602
Supervised Marriage & Family Therapy Experience 3602
Marriage License Recording Fees 2312
Married Child Under Age Eighteen 1582
Martial Arts & Mixed Martial Arts (MMA) 3443
Boxing Gloves 3443
Licensing Exemption 3443
Practices, Belt Promotions, & Non-Contact Demonstrations 3443
Regulation of Marital Arts & MMA 3443
Use of Official Rules for Art 3443
Master Certification 904
Experience 904
Prior Certification 904

Training 904
Master Instructor Certification 914
Additional Training or Education 914
Compliance With Other POST Requirements 915
Exceptional Ability 914
Instruction 914
Maintain Certification 914
POST Instructor Certification 914
Recommendation 914
Master-Metering & Individual Metering In Commercial Buildings & Shopping Centers 3997
Master-Metering & Individual Metering In Mobile Home Parks 3996
Exception for Sub-Metered Parks 3996
Master Metering Prohibited 3996
Master-Metering & Individual Metering In Multi-Occupant Residential Buildings 3997
Material Disclosures 320
Materials 135
Maternity & Newborn Service 2041
Alternate Birthing Services 2041
Area Requirements 2041
Capability 2045
Delivery/Birthing Room Facilities 2041
Newborn Records 2043
Nursery Facilities 2042
Obstetrical Records 2043
Patient Accommodations 2042
Policies & Procedures 2044
Practices & Procedures 2043
Rooming-In 2042
Staffing 2045
Waiver of Capability 2045
Maternity & Paternity Leave 1169
Additional Time Off 1169
Adoption and Foster Care 1169
Determination of Disability Period 1169
Discrimination Prohibited 1169
Use Of Sick Leave 1169
Matters Not Considered 4097
Activity 4097
Common Law 4098
Influence 4098
Intent 4097
Location 4097
Prior Actions 4097
Purpose 4097
Reliance 4097
Maximum Contaminant Level Goals & Maximum Residual Disinfection Level Goals 5695
Maximum Contaminant Level Goals for Disinfection Byproducts 5695
Maximum Contaminant Level Goals for Inorganic Contaminants 5695
Maximum Contaminant Level Goals for Microbiological Contaminants 5695
Maximum Contaminant Level Goals for Organic Contaminants 5695
Maximum Contaminant Level Goals for Radionuclides 5695
Maximum Residual Disinfectant Level Goals for Disinfectants 5695
Maximum Contaminant Levels & Maximum Residual Disinfectant Levels 5691
Effective Dates 5691
Maximum Contaminant Levels for Disinfection Byproducts 5691
Maximum Contaminant Levels for Inorganic Contaminants 5691
Maximum Contaminant Levels for Microbiological Contaminants 5691
Maximum Contaminant Levels for Organic Contaminants 5691
Maximum Contaminant Levels for Radionuclides 5691
Maximum Contaminant Levels for Turbidity 5691
Maximum Residual Disinfectant Levels 5691
Maximum Grant Amount 1592
Maximum Limitation On Annual Additions 6040
Annual Additions Limitation 6040
Annual Adjustments 6040
Other Qualified Plans 6040
Maximum Limitations On Benefits 6039
Aggregation 6040
Benefit Begins at Age Sixty-Five 6040
Benefit Begins Prior to Age Sixty-Two 6039
Less Than Ten Years of Service 6039
Transition 6040
Maximum On Hospital In-Patient Payments 2358
Maximum Overweight Levels For Annual Overweight/Oversize Permits 4965
Allowable Gross Vehicle Weight 4965
Vehicles or Loads Exceeding Annual Permitted Weights 4966
Maximum Prizes 5254, 5255, 5257
Maximum Prize for One Game 5255
Maximum Prizes for One Session 5255
Maximum Retirement Allowance 6016
Maximum Weekly Maximum Temperature (MWMT) 5303
Meals 340
Control of Utensils 340
Providing Meals 340
Withholding of Meals as Disciplinary Sanction Prohibited 340
Measles (Rubeola) 1297
Handling of Report 1297
Investigation 1297
Reporting Requirements 1297
Restrictions - Day Care Facility & School 1297
Restrictions - Health Care Facility 1297
Measurement 3823
Attachments Prohibited 3824
Calibration 3824
Exhaust Outlets 3823
Location of the Microphone of the Sound Level Meter 3823
Sound Level 3824
Sound Level Meter Settings 3823
Measurement Of Credit 2909
Measurement Of Gas 3284
Measurement Of Oil 3283
Correction for Impurities 3283
Gravity Determination 3284
Temperature Correction 3283
Measuring Devices & Control Works 4648
Access to Diversion Works 4648
Diversions Which May Be Exempt 4649
Installation & Maintenance of Measuring Devices & Control Works 4648
Meat & Poultry 1334
Custom Meat 1334
Poultry Exemption 1335
Mechanical Delimbers & Feller Bunchers 448
General Requirements 448
Mechanical Integrity Testing 3281
Inactive Wells 3281
Mechanical Integrity Required 3281
Prior Notification 3281
Reporting Requirements 3281
Mechanical Restraint 2647
Administrator Approval 2648
Intervention 2648
Mechanical Restraint Log 2648
Mechanical Restraint Use as a Last Resort 2647
Monitoring 2648
Professional Opinion 2648
Prohibitions on Mechanical Restraints 2648
Re-Introduction 2649
Restraint Type 2648
Review 2649
Staff Training 2648
Used Only Until Child Has Regained Control 2648
Medians 5012
Median Openings 5012
Median Placement 5012
Medicaid Application 1525
Medicaid Benefits Under Section 1619(b) Of The Social Security

Act 1540
Federally Qualified Under SSA Section 1619(b) 1540
State-Only Qualified Under SSA Section 1619(b) 1540
Medicaid Eligibility 1525, 2358
Medicaid Eligibility For AABD Participant 1527
Medicaid Eligibility Of Married Persons 1533
Medicaid Exclusion 2514
Medicaid For Children In Alternate Care 2536
Medicaid For Workers With Disabilities 1543
Cost-Sharing 1543
Countable Income 1543
Disability 1543
Earned Income Test 1543
Employment 1543
Non-Financial Requirements 1543
Resources 1543
Medicaid Overpayment 1525
Medicaid Penalty For Asset Transfers 1548
Notice & Exemption 1548
Restricted Coverage 1548
Medicaid Qualifying Trust Payments 1526
Medicaid Redetermination 1557
Medicaid Services Subject To Copayments 2380
Accessing Emergency Transportation Services for Non-Emergency Medical Conditions 2380
Accessing Hospital Emergency Department for Non-Emergency Medical Conditions 2380
Chiropractic Services 2381
Occupational Therapy 2381
Optometric Services 2381
Outpatient Hospital Services 2381
Physical Therapy 2381
Physician Office Visit 2381
Podiatry Services 2381
Speech Therapy 2381
Medical & Dental Care 2610
Child Injury & Illness 2611
Dispensing of Medications 2611
Health Care Services 2610
Storage of Medication 2611
Medical & Dental for Children In Out-Of-Home Care 2536
Medical Assistance Procedures 1611
Identification Card Information 1611
Information Available for Participants 1611
Issuance of Identification Cards 1611
Medical Card For Children In Alternate Care 2263
Medical Care 2139
Medical Care Advisory Committee 1610
Membership 1610
Organization 1611
Policy Function 1611
Staff Assistance 1611
Medical Emergencies 2263, 2536
Medical Examination Upon Entering Alternate Care 2264, 2537
Medical Expenses 1452
Medical Facilities - Shelter Care 4011
Medical Facilities--Shelter Care 3989
Medical Fees 2707
Acceptable Charges For Medical Services Provided By Hospitals And Ambulatory Surgery Centers Under The Idaho Worker's Compensation Law 2709
Acceptable Charges For Medical Services Provided By Other Providers Under The Idaho Worker's Compensation Law 2711
Acceptable Charges For Medical Services Provided By Physicians Under The Idaho Worker's Compensation Law 2708
Acceptable Charges For Medicine Provided By Pharmacies 2711
Billing And Payment Requirements For Medical Services & Procedures Preliminary To Dispute Resolution 2711
General Provisions for Medical Fees 2707
Medical Information 335
Access to Medical Files 335
Medical Files 335
Medical Records 3331
Medical Records Service 2026
Access to Records 2026
Administrative Records 2028
Availability of Records 2028
Centralizing & Completion of Records & Reports 2026
Facilities 2026
Identification & Filing 2026
Indexing of Records 2027
Maintenance of Records 2026
Personnel 2026
Policies & Procedures 2026
Record Content 2027
Release of Medical Information 2026
Removal of Medical Records 2026
Retention 2026
Signature on Records 2028
Standing Orders 2029
Medical Staff 2015
Authority to Admit Patients 2015
Dating of Bylaws 2017
Dentists & Podiatrists 2017
Documentary Evidence of Medical Staff Activities 2016
Medical Orders 2017
Medical Staff Appointments & Reappointments 2015
Medical Staff Bylaws, Rules, & Regulations 2016
Medical Staff Qualifications & Privileges 2015
Required Hospital Functions 2016
Review of Policies & Procedures 2017
Medical Support Cooperation 1361, 1525
Conditions for Non-Denial of Medicaid 1362
Cooperation Defined 1362
Good Cause Defined 1362
Medical Transportation Services 1718
Medical Waste 3471, 3702
Containers for Non-Sharp, Medical Waste 3471, 3702
Containers for Sharps 3471, 3702
Storage Duration 3702
Waste Disposal 3702
Medicare Savings Program For Participants Covered By Medicare 1752
AABD Effective Date 1752
Neither AABD or SSI Effective Date 1752
Policies for Treatment of the Medicare Savings Program 1752
SSI Effective Date 1752
Update of Records 1752
Medicare Select Policies & Certificates 2793
Authorization to Issue Medicare Select Policy or Certificate 2793
Comparable or Lesser Benefits 2795
Continuation of Coverage 2796
Definitions 2793
Filing Requirements 2793
Full & Fair Disclosure 2794
Initial Purchase 2795
Medicare Select Policy or Certificate 2795
Payment for Full Coverage 2794
Proposed Changes to the Plan of Operation 2794
Proposed Plan of Operation 2793
Requests for Data 2796
Restrictions 2794
Medicare/Medicaid Coordinated Plan
Coverage & Limitations 2065
MMCP-Covered Services 2065
Premiums & Cost-Sharing 2065
Services Excluded from the MMCP 2065
Medicare/Medicaid Coordinated Plan (MMCP)
Participant Eligibility 2064
Age 2064
Medicaid Eligibility 2064
Medicare Eligibility 2064
Participant Enrollment 2064
Participant Responsibilities 2064

Compliance with Medicare Advantage Organization Requirements 2064
Notification to the Provider 2064
Selecting the Medicare/Medicaid Coordinated Plan 2064
Termination of the Medicare/Medicaid Coordinated Plan 2064
Medicare/Medicaid Coordinated Plan
Benefits
Provider Reimbursement 2065
Medicaid-Only Service Providers 2065
Medicare Advantage Organizations 2065
Medication Administration By
Medication Assistants - Certified (MA-C) 3385
Medication Administration Policies 3385
Report Medication Errors 3385
When Tasks May Be Performed 3385
When Tasks Shall Not Be Performed 3385
Medication Assisted
Opioid Treatment Program 2222
Treatment Services 2222
Medication Assisted Treatment 2222
Medication Policies 2449
Medication 2449
Nurse Delegation 2450
Medication Policy 2417
Allergies 2418
Alteration of Orders 2418
Assistance with Medication 2418
Evidence of Orders 2417
Following Orders 2417
Self-administration 2418
Training 2418
Medication Report Form 868
Confidential 869
Content of Medication Report Form 869
Signed & Dated 869
Submission of Medication Report Form 869
Medication Standards & Requirements 2079
Administration of Medications 2080, 2420
Assistance with Medication 2080
Handling of Participant's Medication 2079
Medication Policy 2079
Self-Administration of Medication 2080
Medication Storage & Administration 2642, 2662
Disposal of Unused Medication 2642, 2663
Documentation 2642, 2662
Medication Changes 2642, 2663
Medication Storage & Administration 2642, 2662
Prescription Medication 2662
Psychotropic Medication 2642, 2662
Trained Staff 2642, 2662
Medications 860
Location 860
Taking Samples 860
Testing 860
Meeting Of The Board 3533
Meetings 580, 806, 3513, 3516
Meetings & Organization 3576
Meetings 3576
Voting 3576
Meetings Of The Committee 1129
Additional Meetings 1129
Annual Meetings 1129
Expenses 1129
Future Meeting 1129
Minutes 1129
Program Responsibilities 1129
Member Business Loans 924
Definitions 924
Prohibitions 926
Requirements 925
Member Notified Of Available Retirement Options Prior To Board Approval 6016
Member Of Household Qualifications & Suitability 2601
Members Of A Peer Review Team 1248
Agency Administrator 1248
Chairman of Peer Review Team 1248
Course Coordinator 1248
Instructor 1248
Licensed Personnel 1248
Training Officer 1248
Members Of Organization In Attendance--Training Of Employees 5250
Members Of The Uniformed Services 4147
Idaho Residency Status 4147
Military Separation Pay 4148
Military Service Compensation 4147
Nonmilitary Income 4148
Servicemember 4147
Servicemembers Civil Relief Act 4147
Spouse of Servicemembers 4148
Memorials & Donations 3323
Donations & Gifts 3323
Flowers & Grave Decorations 3323
Grave Markers 3323
Plaques, Statues, & Other Memorials 3323
Meningeal Worm 100
Meningitis, Viral Or Aseptic 1297
Investigation 1297
Reporting Requirements 1297
Mental Health Assessment 2256
Mental Health Contract Bed Records 2487
Contract with Department 2487
Department Assessment 2488
Mental Illness 2139
Mentored Hunting Program 972
Eligibility of Mentee 972
Eligibility of Mentor 972
Hunting Passport 972
Menu & Diet Planning 2474
Facilities Licensed for Seventeen Beds or More 2474
Facilities Licensed for Sixteen Beds or Less 2474
Menu 2474
Snacks 2474
Therapeutic Diets 2474
Mergers Of Mutual Insurance Holding Companies 2924
Merit Increase Matrix 1142
Meter Proving 3999
Accuracy of Meter Provers & Testers 3999
Meter Provers 3999
Testing Apparatus for Large Capacity Meters 3999
Meters 3285
General Requirements 3285
Visibility 3285
Methicillin-Resistant Staphylococcus Aureus (MRSA) 1297
Investigation 1297
Reporting Requirements 1297
Restrictions - Day Care Facility 1298
Restrictions - Food Service Facility 1298
Restrictions - Health Care Facility 1298
Restrictions - School 1298
Method Of Application-Examination Of Applicants 3533
Application 3533
Application Review 3533
Exam Content 3533
Method Of Disclosure Of Requisite Information 2767
Method Of Judging 3437
Announcing a Winner 3437
Majority Opinion 3437
Scoring by Judges 3437
Method Of Scaling Forest Products For Commercial Purposes 3248
Cubic Volume 3248
Other Scaling Methods 3249
Scribner Decimal "C" 3248
Methods Of Euthanasia, Pre-Euthanasia Sedation, & Chemical Capture 5175
Euthanasia Drugs 5175
Pre-Euthanasia Sedation Drugs 5175
Remote Chemical Capture Restraint Drugs 5175
Methods Of Payment 4124

Cash 4124
Checks 4124
Prepaid Account 4124
Methods Of Recruitment 1145
Methods Of Repayment Of Separation Benefits 6013
Periodic & Lump-Sum Payments 6013
Repayments Initiated Before March 1, 2000 6013
Repayments Initiated on or After March 1, 2000 6013
Repayments Under Section 59-1331(2), Idaho Code 6013
Methods Of Take 998, 1073
Electronic Call 998
Furbearing Animals 1073
Hunting 1073
Time 998
Trapping 1073
Type 998
Methods Of Winning MMA
Contest 3451
Decision 3451
Inability of Opponent to Continue/ Thrown in Towel 3451
Knockout (KO) 3451
Referee Stoppage 3451
Submission 3451
Technical Knockout (TKO) 3451
Midlevel Practitioner Services
Provider Reimbursement
Billing of Services 1648
Payments Made Directly to CRNA 1649
Reimbursement Limits 1649
Migratory Game Bird & American Crow Methods Of Take 1035
American Crow 1035
Waterfowl 1035
Migratory Game Bird Tags, Permits, & Validations 1032
License Validation 1032
Sandhill Crane Tag 1032
Youth Waterfowl Season 1032
Mileage 4549
Military Pensions 1509
Mine License Tax Rate 4562
Application of Tax Rate Change 4562
Mine License Tax Returns 4562
Mine Tailings Impoundment Structures
Design Criteria 4746
Abandonment 4749
Borrowed Fill Embankment 4747
Cutoff Trenches or Walls 4747
Embankment Slopes 4746
Freeboard 4749
Inspection & Completion Reports 4749
Outlet Systems 4748
Records 4749
Riprap 4748
Top Width Embankment 4747
Minimal Sedation 3023
Patient Safety 3024
Personnel 3024
Minimum Allocation Amount 6034
Minimum Attendance Requirements 919
Minimum Balance For The Reclamation Fund 3153
Minimum Bond 3176
Minimum Charitable Or Nonprofit Donation 5255
Minimum Criteria 3145
Minimum Mandatory Staff Training Requirements 390
Minimum Qualifications & Requirements For Appointment As A Designated Dispositioner 2270
Appointment as a Designated Examiner 2270
Required Experience & Abilities 2270
Minimum Qualifications & Requirements For Appointment As A Designated Examiner 2269
Required Experience & Abilities 2270
Required License 2269
Required Training 2270
Minimum Qualifications Of Vendors 3788
Bonding 3788
Established Business 3788
Nondiscrimination 3788
Operating Hours 3788
Service 3788
Taxes & Fees 3788
Minimum Reserve Standards 2953
Minimum Scope Of Installation Inspection 556
Inspection Minimum Requirements 556
Scope 556
Minimum Specifications For A Certificate Of Liability Insurance In Lieu Of The Contract Of Insurance, Or Copy Thereof 2733
Dealer & Manufacturer Vehicles 2733
Individual-Owned Motor Vehicles 2733
Minimum Standards 41, 3522, 4769, 6078
Casket Not Necessary 3522
Concrete Plank Boat Launch Ramps 4770
Construction Procedures 4769
Culverts & Bridges 4770
Delay Before Cremation 3522
Drop Structures, Sills & Barbs 4770
Dumped Rock Riprap 4770
Embalming 3522
Piling 4770
Pipe Crossings 4770
Reasonable Sanitation & Safety Required 3522
Reduction of Cremated Remains 3522
Removal of Sand & Gravel Deposits 4770
Suction Dredges & Non-Powered Sluice Equipment 4770
Minimum Standards For Home Health & Community Care Benefits In Long-Term Care Insurance Policies 2823
Coverage Equivalency 2823
Limitations or Exclusions 2823
Maximum Coverage 2823
Minimum Standards For Service 2568
Content 2568
Description of Services Available 2568
Disclosure of Non-Identifying Information 2568
Education 2568
Release of Information 2568
Minimum Standards Of Care 2399
Daily Living Activities 2400
Emergency Services 2400
Medication Management 2400
Plan of Service 2399
Resident Rights 2400
Safe Living Environment 2400
Supervision 2399
Supportive Services 2400
Minimum Teaching Standards 4086
Minimum Training Requirements For Inspectors 555
Annual Training or Instruction 555
Revocation of Approval 555
Mining, Oil Or Gas Exploration Exemption Requirements 946
Advertising 946
Legal Opinion for Extractive Industries 946
Offering Circulars 946
Quarterly Reports 946
Minor Parent Living With Parents 1368
Minor' s Consent Regarding Infectious, Contagious Or Communicable Disease 2139
Minors 5250
Misbranding 209
Miscellaneous 3170, 5092
Dredge & Placer Mining 3170
Mineral Leases 3171
Other Laws & Rules 3171
Water Resources Permit 3170
Miscellaneous Corrective Actions 2175
Issuance of a Warning 2175
Referral 2175
Review 2175
Miscellaneous Fees 3006
Agent Service of Process 3006
Certificate Under Seal 3006
Certified Copy 3006
Continuing Education 3006

Documents Filed 3006
Insurer Service of Process 3006
Miscellaneous Provisions 2885
Benefits in the Form of Services 2885
COB Versus Subrogation 2886
Complying Plan Versus Noncomplying Plan 2885
Timely Payment of Benefits 2886
Miscellaneous Rules For Games Using Non-Electronic Bingo Cards 5251
Miscellaneous Safety Requirements 2597
Animals & Pets 2598
Heat Producing Equipment 2597
Portable Heating Devices 2597
Storage of Hazardous Materials 2598
Storage of Weapons, Firearms, & Ammunition 2597
Telephone 2597
Miscelleneous Rules For Games Using Non-Electronic Bingo Cards
Autodaubing Features 5252
Braille Cards 5252
Card-Minding Devices 5252
Hard Cards 5251
Two Part Disposable Cards 5252
Use of Nonreusable Cards 5252
Misleading Offers 237
Fail to Deliver 238
Labeling Offers 238
Misrepresent Goods or Services 238
Misrepresent Odds 238
Misrepresent Offer 238
Specially Selected 238
Tendency to Mislead 238
Misrepresentation 211
Misrepresentations 323
Attorney General Approval 323
Idaho Registration 323
Material Disclosures 323
Price, Quality, or Availability Misrepresentations 323
Mistakes 4895
Mistakes Discovered After Award 4896
Mistakes Discovered After Opening But Before Award 4896
Mistakes Discovered Before Opening 4895
Mistakes in Submission 4895
Written Approval or Denial Required 4896
Mitigation Plans 4643
Factors to Be Considered 4643
Notice & Hearing 4643
Submission of Mitigation Plans 4643
Mixed Transactions 4288
Determining the Type of Sale 4288
Kinds of Services Incidental to the Sale 4289
Retail Sales of Tangible Personal Property Together with Services 4288
Separately Stated Nontaxable Charges 4289
Tangible Personal Property Used or Consumed by a Business 4289
Mixing Zone Policy 5316
Mixing Zones for Point Source Discharges 5317
Points of Compliance as Alternatives to Mixing Zones 5319
Mixtures 5151
MMA Contest Scoring 3451
Method of Judging 3452
Primary Scoring Considerations 3452
Ten Point Must System 3452
MMA Equipment 3443
Commission Approved Attire 3444
Commission Approved MMA Gloves 3444
Commission Approved Mouthpiece 3443
Prohibited Equipment & Attire 3444
MMA Event Rounds 3450
Length of Rounds 3450
Number of Rounds 3450
Moderate Sedation, General Anesthesia And Deep Sedation 3024
ACLS 3024
General Requirements 3024
Training Requirements 3024
Modification Of Existing Temporary Permit 3829
Modification Of Order On Presiding Officer's Own Motion 3053, 4682
Modification Of Order On Presiding Officer's Own Motion 283
Modification, Or Revocation & Reissuance Of IPDES Permits 5949
Causes to Modify, or Revoke & Reissue Permits 5950
Minor Modifications of Permits 5952
Procedures to Modify, or Revoke & Reissue Permits 5950
Modifications 4067
Modular Buildings 534, 543
Alternates & Equivalents 534
Enforcement & Administration 543
Field Technical Service 543
Insignia 536, 544
Inspections 535, 543
Installation Inspection 543
Local Enforcement Agencies 543
Permits 535
Plans 535
Reciprocal Agreements 544
Money-Operated Dispensing Equipment 4367
Parts, Kits, or Supplies 4367
Monies & Funds On Account 733
Insured Account 733
Separate 733
Monitoring 5688
Monitoring & Analytical Requirements 5692
Alternate Analytical Techniques 5693
Analytical Methods for Radioactivity 5692
Approved Laboratories 5693
Disinfection Residuals, Disinfection Byproducts, & Disinfection Byproduct Precursors 5694
Initial Monitoring Schedule 5693
Inorganic Chemical Sampling & Analytical Requirements 5692
Monitoring Frequency & Compliance Requirements for Radioactivity In Community Water Systems 5692
Monitoring of Consecutive Water Systems 5694
Monitoring Waivers 5692
Organic Chemicals, Sampling & Analytical Requirements 5692
Total Coliform Sampling & Analytical Requirements 5692
Turbidity Sampling & Analytical Requirements 5692
Monitoring & Reporting Requirements 5980
Monitoring Requirements 5980
Reporting Monitoring Results 5981
Monthly Benefit 6035
Monthly Charges & Allowances 3310
Nursing Care 3310
Residential & Domiciliary Care 3311
Monthly Sampling, Disinfection System 2341
Moratorium 4806
Applications for Permit 4806
Permits 4806
More Than One Claim 781
Mortgage Agreements 3195
Mortgage Note Exemption 946
Definition "Offered & Sold as a Unit" 946
Investment Contract or Profit-Sharing Agreement 946
Motions 722, 4615
Answers to Motions 4616
Form & Contents 4615
Oral Argument 4616
Prehearing Motions 4616
Motions -- Defined -- Form & Contents -- Time For Filing 261, 3038
Defined 3038
Form & Contents 261, 3038
Motions Defined 261
Oral Argument -- Time for Filing 261
Other 3038
Motions -- Defined -- Form & Contents -- Time For Filing -- Procedure 5999
Defined 5999
Form & Contents 5999

Other 5999
Motions for Reconsideration 4906
Motions, Defined, Form & Contents 5586
Defined 5586
Procedure on Prehearing Motions 5586
Motions--Defined--Form & Contents--Time For Filing 3931, 4663
Form & Contents 4663
Motions - Defined 4663
Other 4663
Pray for the Relief Sought 3931
Refer to Provisions 3931
State the Facts 3931
Motor Fuels 4351
Exclusion from Exemption 4351
Exemptions 4351
Motor Fuels Exemption From Sales Tax 4540
Motor Fuels Subject To Use Tax -- Reporting 4541
Fuel Records 4541
Lack of Records to Compute Fuel Consumption Rate 4541
Reporting 4541
Motor Vehicle Subject-To-Financing Contracts 252
Consumer's Copy 252
Exceptions 252
Other Contractual Provisions 252
Required Contract Disclosure 252
Subsequent Agreement 252
Trade-In Motor Vehicles 252
Motor Vehicles - Sales, Rentals, & Leases
Vehicles Purchased From Out-of-State Dealers 4379
Motor Vehicles & Trailers Used In Interstate Commerce 4373
Documentation 4373
Failure To Meet Interstate Mileage Requirement 4374
In General 4373
Motor Vehicles 4373
Repair Parts & Supplies 4374
Title or Base Plate 4373
Trailers 4373
Motor Vehicles Refund Claims — Nontaxable Miles 4543
Alternate Methods 4543
Nontaxable Miles Defined 4543
Records Required — Actual Nontaxable Miles 4543
Records Required — Mileage Records 4543
Refunds to Consumers — Nontaxable Miles 4543
Motorized Exploration 3176
Motorized Hunting Rule 1013
Exceptions 1014
Use Restriction 1014
Motorized Vehicles 4863, 4874, 4883
Mourning Doves, Common Snipe, & Sandhill Cranes 1035
Move From Licensed Residential & Assisted Living Facility Or Certified Family Home To Living Situation Other Than A Nursing Home Or Hospital 1521
Move From Nursing Home Or Hospital 1521
Movement & Notice Of Excess Height & Excess Width Cars & Loads 4072
Movement Into Or Out Of Eradication Areas 79
Contents of Permits 79
Permits Authorizing Movement 79
Movement Of Cervidae Between AZA & USDA Facilities 100
Movement Of Infected & Exposed Cattle Or Domestic Bison 80
Original Copy of Permit 80
Restricted Movement Permit 80
Movement Of Infected & Exposed Cattle, Domestic Cervidae, Or Bison 54
Movement Of Infected Animals
Contents of Request for Extension of Time 121
Exceptions 121
Slaughter Within Thirty Days 121
Movement Of Infected Cattle 121
Movement Of Restricted Animals 220
Consigned Directly to Approved Destination 221
Indelibly Marked 221
Individually Identified on Approved Document 220
Movement, Traffic Control Plans, Loading, Parking On State Highways 4972
Additional District Approval & Allowance for Approval Time 4972
Moving Expense Reimbursement 1145
Exceptions to Reimbursement Limitations 1145
Reimbursement Limitations 1145
MTS/WATS Companies' Annual Reports To The Administrator 4029
Total Intrastate MTS Minutes & Revenues 4029
Total Intrastate WATS Minutes & Revenues 4029
MTS/WATS Companies--Resellers' Exemption From Reporting & Remittances 4032
Action on Requests 4033
Criterion for Exemption 4032
File of Exemptions 4033
Petition From Initial Denial by the Commission Staff or Administrator 4033
Requirements of Request for Exemption 4032
Multi-Agency Facilities 4862, 4868
Idaho Falls State Office Building 4862, 4868
Lewiston State Office Building 4862, 4868
Multi-Level Marketing Firms 4297
Agents 4297
Multi-Level Marketing Firm 4297
Notification 4298
Requirement of Multi-Level Marketing Firms to Collect Tax 4297
Multiple Chapters Licensed Together, Bingo/Raffle 5259
Multiple Drains 2345
Multiple Employers -- Membership Eligibility 6004
Does Not Meet the Statutory Definition 6004
State Agencies 6004
Multiple Employers--Contribution Rate 6009
Multiple Licenses 2285
Multiple Penalty Periods Applied Consecutively 1549
Multiple Resource Transfers 1498
Multiple Zone Completions 3266
Commingling Production 3266
Conditions for Approval 3266
Requirements of the Owner or Operator 3266
Zone Effectiveness 3266
Mumps 1298
Investigation 1298
Reporting Requirements 1298
Restrictions 1298
Mutual Holding Company Application - Content - Process
Designation of Application as Limited or Standard 2921
Information to Be Contained in Application 2921
Mutual Holding Company Application - Content - Process. 2921
Mutuel Employee 835
Myocarditis, Viral 1298
Investigation 1298
Reporting Requirements 1298

N

Names Of Debtors That Are Organizations 4129
No Assumed Business Names 4130
Single Field 4129
Truncation-Organization Names 4130
Names Of Debtors Who Are Individuals 4129
Individual Name Fields 4129
No Assumed Business Names 4129
Titles & Prefixes Before Names 4129
Titles & Suffixes After Names 4129
Truncation -- Individual Names 4129
Names Used By Broker-Dealers &

Investment Advisers 960
Change of Name 961
Unregistered Names 960
Narcotic Addict & Alcoholic Treatment Centers 1469
Center Misusing Food Stamps 1469
Center Provides Certification List 1469
NASAA Statements Of Policy - Registered Offerings 940
National CWD Herd Certification Program Official Identification 181
APHIS-Approved Identification Devices 182
National Electrical Code Compliance, Children's Residential Care Facilities 2637
National Electrical Safety Code (NESC) 3973
Nationwide Service Locations 5028
Native American Payments 1505
Natural Background Conditions 5303
Natural Flows 4647
Alternate Point of Diversion 4648
Eastside Canal 4647
Necessary Clothing 2611
Necessity For Disclosing Policy Provisions Relating To Renewability 2768
Negated Retirement 6036
Negligence Penalties 4596
Circumstances Precluding Waiver of Penalty 4597
Imposition of Penalty 4596
Negligence Defined 4596
Negligence Penalty for Sales & Use Tax Deficiencies 4597
Waiver of Negligence Penalty 4597
Negligent Operation 3810
Airborne 3810
Speed or Proximity 3810
Weaving 3810
Negotiations 4898
Conditions of Use 4899
Examples 4899
Termination of Negotiations 4900
Timing of Use 4900
Use of Negotiations 4899
Neisseria Gonorrhoeae 1299
Investigation 1299
Isolation - Health Care Facility 1299
Prophylaxis of Newborns 1299
Reporting Requirements 1299
Neisseria Meningitidis Invasive Disease 1299
Handling of Report 1299
Investigation 1299
Reporting Requirements 1299
Restrictions - Day Care Facility 1299
Restrictions - Health Care Facility 1299
Restrictions - School 1299
Nepotism 1139
Net Capital Requirements For Broker-Dealers 956
Net Decimal "C" Scale Determination 3249
Net Income Limit Test 1454
Net Operating Loss -- Corporations 4180
Example 4180
Unitary Taxpayers 4180
Net Operating Loss Carrybacks & Carryovers 4181
Adjustments in Carryback and Carryover Years 4181
Adjustments to Net Operating Losses 4181
Conversion of C Corporation to S Corporation 4183
Definitions for Purposes of Net Operating Loss Carrybacks & Carryovers 4181
Documentation Required When Claiming a Net Operating Loss Deduction 4183
Net Operating Loss Carrybacks Application 4181
Order in Which Losses Are Applied in a Year 4183
Timing & Method of Electing to Forego Carryback For Taxable Years Beginning Before January 1, 2013 4182
Net Pool Pricing 824
Guest Participation in Interstate Common Pools 824
Takeout Rates 824
Net Value Of Ore To Be Used As Measure Of Tax - How Determined 4561
Election 4561
Method Under Section 47-1202(a) 4562
Method Under Section 47-1202(b) 4562
Net Weight 5151
Neurologic 2355
Eligible Conditions 2355
Excluded Conditions 2355
Spending Limit 2355
Neutrals 271, 3044, 4672
New Activity or Discharge 5303
New Certificates Of Birth Following Marriage Of Natural Parents 2310
Common-Law Marriage 2310
Requirements 2310
New Claims/Additional Claims 615
Additional Claim or Reopened Claim 616
Claims for Benefits, Delayed Filing 615
Effective Date of Backdated Claims 615
Filing of New Claims, Additional, and Reopen Claims 615
Registration/Reporting Requirements - Interstate Claimants 615
Requirement to Provide Information 615
Separation Notice 616
Use of Wage Credits 616
Valid Claim 616
New Construction & New Hospital Standards 2061
Additions, Conversions, Remodelings, Etc 2061
General Requirements of Constructions 2061
Plans, Specifications, & Inspections 2061
New Construction Standards 1386
Administration & Public Areas 1391
Central Stores 1392
Codes & Standards 1387
Construction Features 1394
Details & Finishes 1392
Dietary Facilities 1391
Engineering Services & Equipment Areas 1392
Janitors' Closets 1392
Linen Services 1392
Personal Care Unit 1391
Plans, Specifications, & Inspections 1386
Rehabilitation Therapy Facilities 1390
Resident Care Unit 1388
Resident Dining & Recreation Areas 1390
Site Requirements 1387
New Intermediate Or Large Dams 4757
Cutoff Trenches or Walls 4758
Drains 4759
Embankment Stability 4757
Freeboard 4760
Gates 4761
Impervious Core Material 4759
Inspection & Completion Reports 4762
Outlet Conduits 4760
Outlet Controls 4761
Release Capability 4761
Reservoir Site 4762
Riprap 4760
Top Width 4758
New Outfitter Or Outfitter License Amendment Application 3759
Designated Agent 3760
Existing Operating Area 3761
Hearing 3760
Insurance 3760
Name 3759
Operating Plan 3760
Other Signatures 3760
New Practices & Technologies 4126
New Sources & New Discharges 5943
Criteria for New Source Determination 5943

Modification vs. New Source/ Discharger 5943
New Source Construction 5943
New Source vs. New Discharger 5943
Newborn Child Deemed Eligible For Medicaid 1368
Mother Filing an Application 1368
Mother Is Eligible for Medicaid 1368
Newborn Child Of Medicaid Mother 1544
Newborn Critical Congenital Heart Defects (CCHD) Screening
Follow Up for Abnormal CCHD Screening Results 1322
Pulse Oximetry for the Screening of CCHD 1322
Responsibility of Recording CCHD Screening Results 1322
Newborn Critical Congenital Heart Disease (CCHD) Screening 1322
Newborn Hearing Screening Tests 3665
Newborn Transfer Of Care Or Consultation 3703
Newborn Consultation Required 3704
Newborn Transfer of Care 3703
NIMS, National Incident Management System 1185
Nitrous Oxide/Oxygen 3023
Patient Safety 3023
Personnel 3023
Required Facilities & Equipment 3023
No Appeal From Disqualification For Interference 721
No Approval for Casual Exploration Required 3174
No Discrimination In Food Stamps 1473
No Information Provided 781
No Limit To Expedited Certifications 1418
No Purchase Required For Chance Promotions 237
No Refunds 3403
Nomination & Entry Fees 800
Deposits 801
Fees Deposited 800
Interest 800
List 800
Refund 801
Nominations & Declarations 732
Nominations & Engagements 792
Claimed Out 792
Engagements Voided 792
Nominations & Engagements 792
Sold 792
Transfer 792
When Nominations Void 792
Nominations, Vacancies & Terms 1133
Chair & Vice-Chair 1133
Nominations 1133
Terms 1133
Vacancies 1133
Non-Allowable Child Care Costs 2194
Family Member or Guardian Providing Child Care 2194
Provider Living at Same Address as Child 2194
School Tuition 2194
Nonappearance 719
Nonappearance After Adequate Notice 719
Suspension of License 719
Non-Approved Medication 868
Administration by Owner or Trainer 868
Clenbuterol 868
Nonbusiness Income 4209
Allocated to Idaho 4209
Allocated to Other States 4209
Nonbusiness Income 4209
Offset of Interest Expense Against Nonbusiness Income 4209
Non-Citizen Eligibility Pending Verification 1422
Nonclassified Employees Subject To Classified Service Subsequent To April 5, 1985 1139
Certification to Permanent Status 1140
Examination 1140
Probationary Period 1140
Salary Protection 1140
Separation 1140
Noncommunity water system 5681
Noncompliance -- Requirements 174
Additional Security Requirements 174
Provide an Audited or Reviewed Financial Statement 174
Non-Compliance with Rules or Program Guidelines 5119
Non-Compliance With These Rules 2503
Non-Core Issues Deficiency 2492
Evidence of Resolution 2492
First Follow-Up Survey 2493
Second Follow-Up Survey 2493
Nondesignated Surface Waters 5322
Man-Made Waterways 5323
Private Waters 5323
Undesignated Surface Waters 5322
Nondisciplinary Demotion Optional 1161
Nondiscrimination 2728
Non-Emergency Medical Transportation Services
Coverage & Limitations 1722
Non-Emergency Medical Transportation Services 1722
Travel-Related Services 1722
Definitions 1721
Contracted Transportation Provider 1721
Individual Contracted Transportation Provider 1721
Non-Emergency Medical Transportation 1721
Transportation Broker 1721
Travel-Related Services 1721
Duties Of The Transportation Broker 1722
Authorize Non-Emergency Medical Transportation Services 1722
Call Center 1722
Contract With Transportation Providers 1722
Coordinate & Manage 1722
Reimburse Contracted Transportation Providers 1722
Safe & Professional Transportation 1722
Reimbursement Methodology 1723
Non-Exclusive 225, 313
Non-Financial Criteria 2189
Nonfinancial Criteria 1421
Non-Financial Criteria For Determining Eligibility 1355
Nonfinancial Eligibility Requirements 2100
Living Situations 2100
Native Americans 2100
Residence 2100
Resident Status 2100
Non-Financial Requirements 1354
Nonforfeiture Benefit Requirement 2840
Contingent Benefit 2841
Life Insurance Policies That Accelerate Benefits 2840
Nonforfeiture Benefits 2841
Rejection of Offer 2841
Nonhousehold Members 1424
Ineligible Students 1424
Live-In Attendants 1424
Residents of Institutions 1424
Roomers 1424
Non-Inclusive 225, 313
Nonliquid Resources 1438
Personal Property 1438
Real Property 1438
Vehicles 1438
Nonliquid Resources With Liens Excluded 1444
Non-Permitted Medication 860
Non-Physician Practitioner Services Coverage & Limitations 1648
Provider Reimbursement 1648
Nonpreferential Treatment 926
Nonpreferential Treatment 926
Nonrenewal, Denial, Revocation, Or Suspension Of License 2585
Criminal Conviction or Relevant Record 2586
Other Misconduct 2586
Nonresident 4150

Air Carrier Employees Covered by Title 49, Section 40116(f), United States Code 4151
Motor Carrier Employees Covered by Title 49, Section 14503, United States Code 4150
Pension Income Covered by Title 4, Section 114, United States Code 4151
Rail Carrier Employees Covered by Title 49, Section 11502, United States Code 4151
Traveling Salesmen 4150
Water Carrier Employees Covered by Title 46, Section 11108, United States Code 4151
Nonresident & Part-Year Resident Individuals -- Additions Required In Computing Idaho Adjusted Income 4187
Capital Loss 4187
Certain Expenses of Eligible Educators 4188
Idaho College Savings Program 4187
Idaho Medical Savings Account 4187
Interest & Dividends Not Taxable Pursuant to the Internal Revenue Code 4187
Lump Sum Distributions 4187
Net Operating Loss Deduction 4187
Special First-Year Depreciation Allowance 4187
Nonresident & Part-Year Resident Individuals -- Adjustments Allowed In Computing Idaho Adjusted Gross Income 4185
Alimony Payments 4187
Deductions Allowed Based on Qualifying Types of Income 4186
Deductions Directly Related to Specific Items of Income or Property 4185
In General 4185
Moving Expenses 4187
Other Deductions 4186
Student Loan Interest Payments 4187
Nonresident & Part-Year Resident Individuals -- Computation Of Idaho Taxable Income 4185
Idaho Adjusted Gross Income 4185
Idaho Adjusted Income 4185
Idaho Taxable Income 4185
Idaho Total Income 4185
Nonresident & Part-Year Resident Individuals -- Income Subject To Idaho Taxation 4184
Receipt of Income -- Part-Year Residents 4184
Receipt of Intangible Income -- Part-Year Residents 4184
Receipt of Pass-Through Items of Income and Losses -- Part-Year Residents 4185
Tax on Income From Idaho Sources 4184
Tax on Income Received by Individuals Residing in or Domiciled in Idaho 4184
Nonresident & Part-Year Resident Individuals -- Proration Of Exemptions & Deductions 4190
In General 4190
Proration 4191
Standard Deduction for Married Filing Joint Returns 4191
Nonresident & Part-Year Resident Individuals -- Subtractions Allowed In Computing Idaho Adjusted Income 4188
Adoption Expenses 4189
Capital Gains Deduction 4189
Deduction for Dependents Sixty-Five or Older or with Developmental Disabilities 4189
Health Insurance Costs 4189
Household & Dependent Care Expenses 4189
Idaho College Savings Program 4189
Idaho Medical Savings Account 4189
Idaho Net Operating Loss 4188
Income Not Taxable by Idaho 4188
Insulation & Alternative Energy Device Expenses 4189
Long-Term Care Insurance 4190
Military Pay 4188
Retirement Benefits 4189
Social Security & Railroad Retirement Benefits 4189
Special First-Year Depreciation Allowance 4190
State & Local Income Tax Refunds 4188
Technological Equipment Donation 4189
Worker's Compensation Insurance 4189
Nonresident Deer & Elk Tag Outfitter Set-Aside 984
Restrictions 985
Tags 984
Unsold Tags 985
Nonresident Deer & Elk Tag Quotas 986
Exceptions 986
General Hunt Tag Quotas 986
Nonresident Junior Mentored License 973
Nonresident PIC Registration To Practice Pharmacy Into Idaho 3871
Facility License Information 3872
Individual License Information 3871
Non-Resident Registrations 4926
Employee Owned Vehicles 4927
No Reciprocity Agreement 4927
Proof of Ownership Required 4927
Prorate Privilege 4927
Registration Required 4927
Nonresident Tag Restrictions 1001
Nonresident Tag Limitations 1001
Non-Steroidal Anti-Inflamatory Drug Administration 865
Non-Steroidal Anti-Inflammatory Drug Request Form 864
Filing 864
Name of Drug Requested 864
Name of Horse 864
Name of Trainer & Veterinarian 864
Nature of Injury 864
Signature 864
Non-Steroidal Anti-Inflammatory Drugs 864
Exception 864
Posted 864
Procedures 864
Non-Tax Filing Household 1363
Individuals Not Filing a Tax Return & Not Claimed as a Tax Dependent 1363
Married Couples 1363
Nontaxable Purchases by Establishments Selling Meals or Beverages 4316
Nontransient noncommunity water system 5681
Non-Transport EMS Agency -- Patient Movement 1220
Accessibility of Emergency Scene 1221
Licensed Personnel Level 1221
Rendezvous with Transport EMS Agency 1221
Report Patient Movement 1221
Non-Transport EMS Agency -- Petition For Waiver 1226
Not Populated on a 24-Hour or Daily Basis -- Petition Content 1226
Renewal of Waivers 1226
Submit Petition for Waiver 1226
Undue Hardship or Abandonment of Service Waiver -- Petition Content 1226
Waiver Declared on Initial Application 1226
Non-Transport EMS Agency -- Vehicles 1223
Non-Transport EMS Agency -- Waiver Of Response Requirement 1226
Abandonment of Service 1226
Not on Daily Basis Per Year 1226
Not Populated on 24-Hour Basis 1226
Undue Hardship on Community 1226
Non-United States Educated Applicants 3604
Non-Violent Physical

Intervention 2621
Conditions Limiting Restraint 2621
Intervention Documentation 2622
Intervention Time Guidelines 2621
Intervention Training Requirements 2621
Prohibition of Prone Restraints 2622
Protection from Harm to Self or Others 2621
Subsequent Review 2622
Norovirus 1299
Exclusions - Food Service Facility 1300
Investigation 1299
Reporting Requirements 1299
Restrictions - Day Care Facility 1300
Restrictions - Health Care Facility 1300
Restrictions - School 1300
Not Complying With Conditions Of PRC 1597
Not Complying With Work Activities 1586
First Occurrence 1586
Second Occurrence 1586
Third Occurrence 1586
Not Distinguishable On The Record 4096
Abbreviations 4096
Business Entity Identifiers 4096
Numbers 4096
Other Words 4096
Punctuation 4096
Spaces 4096
Special Characters 4096
The Letter "S" 4096
Typeface Font or Case 4097
Not For Profit Debt Securities Notice Filing 945
NASAA Statements of Policy or Guidelines 945
Notice Information 945
Notice Requirements 945
Sales & Advertising Literature 945
Securities Exempt 945
Waiver 946
Not Qualified To Start 791
Listed 791
Money Paid 791
Nominator 791
Registration Papers 791
Unlicensed Owner 791
Notice 560, 1457, 3329
Notice & Hearing 1538
Notice & Record Of Results Of Examination 1148
Notice Filing Requirements For Federal Covered Advisers 959
Notice Filing 959
Renewal 959
Updates & Amendments 959
When Deemed Filed 959
Notice Of Adjustment Of Federal Tax Liability 4278
Final Determination 4278
Immediate Notification 4278
Written Notice 4278
Notice Of Adjustment Of State Or Territory Tax Liability 4278
Final Determination 4278
Immediate Notification 4278
Written Notice 4278
Notice Of Appeal 283, 4683
BOE Appeals 4611
BOE Appeal 4612
Filing Place 4612
Separate Notice 4612
Contents 4611
Additional Contents 4611
Appeal Filed by an Attorney or Representative 4611
Basic Contents 4611
Change in Address or Phone Number 4611
Filing 283
Filing Appeal 4683
Filing Deadline 4683
STC Appeals 4612
Amount in Dispute 4612
Attachment 4612
Objections 4612
Security Deposit 4612
Time 284
Notice Of Application--Orders 3939
Notice Of Bankruptcy 4135
Notice Of Cancellation 322
Notice Of Change Of Plan 1372
Notice Of Changes In Eligibility 1372
Notice Of Changes In Eligibility For Mental Health Services 2246
Notice Of Changes In Eligibility For Substance Use Disorders Services 2212
Notice Of Changes Not Required 1457
Completion of Restored Benefits 1458
Converting From Repayment to Benefit Reduction 1458
Households Receiving Expedited Service 1458
Joint Public Assistance & Food Stamp Applications 1458
Mass Change 1457
Mass Changes in TAFI or AABD 1458
Notice of Death 1458
Residents of a Drug, Alcoholic Treatment Center, a Group Living Arrangement Center 1459
Waiver by the Household 1457
Notice of Contested Case Hearing 4905
Notice Of Death Of Domestic Cervidae 187
Notice of Death Of Domestic Cervidae
Individual Domestic Cervidae 187
Submission of Death Certificates 187
Notice Of Decision For Timely Recertification 1459
Notice Of Decision On
Eligibility 2212, 2247, 2257
Notification of Eligibility Determination 2212, 2247, 2257
Other Information that Must be Provided to the Parent 2258
Parental Rights 2257
Reapplication for Mental Health Services 2247, 2258
Reapplication for Substance Use Disorders Services 2212
Right to Accept or Reject Mental Health Services 2247
Right to Accept or Reject Substance Use Disorders Services 2212
Notice Of Decision On Eligibility For Medicaid 2091
Approval of Medicaid Eligibility 2091
Denial on Request Submitted by a County 2091
Denial on Request Submitted by a Hospital 2091
Notice Of Decision To Households 1455
Notice Of Deficiency
Filing A Protest 4592
Failure to Timely Perfect a Protest 4592
In General 4592
Perfected Protest 4592
Receipt of Protest 4592
Unperfected Protest 4592
Protest Procedures 4592
Amended Return After Audit 4593
Failure to Schedule a Hearing 4593
Hearings 4593
In General 4592
Issues 4593
Request for a Final Decision 4593
Simultaneous Request for a Final Decision & a Hearing 4593
Submission of Additional Documents 4593
Notice Of Deficiency -- Enforcement 4560
Notice Of Enforcement Remedy 2074, 2127
Notice to DDA 2074
Notice to Public 2074, 2127
Notice to the Agency 2127
Notice to the Professional Licensing Boards 2074, 2127
Notice Of Federal Liens In Agricultural Crops 4099
Notice Of Federal Tax Lien 4137
Filing 4137
Mechanics of Search 4137
Notice Of Hearing 274, 2144, 3046,

3955, 4674, 5592, 6002
Contents of Notice 3955
Evidence to Be Presented at Hearing 2921
Form & Content 5592
Scheduling 2921
Time for Service 5592
Timing of Notice 3955
Types of Formal Hearings 3955
Notice of Hearing 2921
Notice Of Intent To File A General Rate Case 3942
Exceptions for Trackers or Annual Cost Adjustments 3942
Which Utilities Must File Notice 3942
Notice Of Intent To File Application 294
Notice Of Intent To Initiate Rulemaking Constiturtes Action On Petition 286
Notice Of Intent To Initiate Rulemaking Constitutes Action On Petition 5600
Notice Of Lowering Or Ending Benefits 1457
Notice Of Modified Procedure 3949
Distribution of Notice 3950
Notice of Modified Procedure 3949
Notice Of Other Lien In Favor Of A Governmental Body (Nature & Duration) 4138
Counties 4138
Mechanics of Search 4138
State Agencies 4138
Notice Of Overpayment 1596
Notice Of Parties 3930
Notice Of Petition For Declaratory Orders 3937
Notice Of Petition For Declaratory Ruling 265, 3041, 4669
Notice Of Prehearing Conference 272, 3044, 4672
Notice Of Prehearing Conferences 3950
Notice Of Premium Due As Willingness Of Insurer To Renew 2731
Notice Of Proposed Default After Failure To Appear 278, 3050, 6003
Notice Of Proposed Default After Failure To Appear or Respond 4678
Notice Of Proposed Default Order 5595
Notice Of Rejection 4901
Notice Of Resident Rights 2407
Annual Review of Resident Rights 2407
Documentation of Review 2407
Resident Rights Notice 2407
Notice Of Resident Transfer Or Discharge & Notice Of Denial Of An Application For Residency 3311
Content of Notice of Transfer or Discharge 3312
Form of Notice 3311
Notification Deadlines for Domiciliary Care 3312
Notification Deadlines for Nursing Care 3312
Notification Deadlines for Residential Care 3312
Notice Of Residents' Rights 2480
Inform Residents Orally & in Writing 2480
Posting of Resident Rights 2480
Written Description of Rights 2480
Written Statements 2480
Notice Of Right Of Appeal 721
Notice Of Right To External Review 2761
Disclosure to Covered Persons 2761
Notice to Covered Person 2761
Notice Of Sanctions For Failure To Comply With JSAP 1428
Actions to End Sanction 1428
Reason for Sanction 1428
Right to Appeal 1428
Sanction Period 1428
Notice Of State Tax Lien 4138
Filing 4138
Mechanics of Search 4138
Notice Of The Final Disposition Of An Investigation 1250
Other Jurisdiction for EMS Personnel 1250
Other Jurisdictions for Educational Programs or Instructors 1250
Other Jurisdictions for EMS Agencies 1250
Subject 1250
Notice Of Trade Secret Claim 5564
Absence of Trade Secret Claim 5565
Handling of Records 5565
Notice to Be Included in Submittals 5564
Portions of Records 5565
Subsequent Trade Secret Claim 5565
Notice of Victim Rights 5199
Notice Of Violation 2331
Notice Provisions 2913
Notice by Insurer 2913
Notice by MGA 2913
Notice Required 3649
Default Notice 3649
File an Answer 3649
Hearing to Be Scheduled 3650
Legal Representation 3650
Opportunity to Respond to Complaint 3650
Time Limit 3649
Notice Requirements For ICWA 2528
Notice of Pending Proceedings -- Who is Notified 2528
Notice of Pending Proceedings-- When Identity or Location of Parent(s), Indian Custodian(s), or Tribe is Unknown 2528
Rights Under a Notice of Pending Proceedings 2528
Notice To Commission Prior To Termination 3994
Notice To Covered Persons 2885
Notice To State Licensing Authorities 2175, 2199
Notice To Yard Supervisors 4073
Notices - General 3259
Emergency Authorization 3259
Publication of Legal Notices 3259
Written Authorization Required 3259
Notices To Customers Of Proposed Changes In Rates 3943
Customer Notice of a Change in Rates 3943
Filing of a Press Release & Customer Notice 3944
Press Release 3944
Purposes & Effects of This Rule 3944
Timely Distribution of Customer Notices 3943
Timing of Notice for Trackers or Annual Cost Adjustments 3943
Notices, Instructions & Reports To Workers 2367
Notification 39
Notification & Payment Requirements 2765
Notification & Payment Requirments Notification & Payment 2765
Notification Devices 3001
Notification of a Safety Fitness Rating 689
Notification Of A Substantiated Incident Of Abuse, Neglect, Or Abandonment, & Related Administrative Review & Contested Case Appeal Rights 2546
Administrative Review Not Requested 2546
Administrative Review Requested 2546
Contested Case Appeal 2546
Notification of Substantiated Incident 2546
Reversal of Decision to Substantiate 2546
Notification Of Adverse Financial Condition 2947
Notification Of Change Of Address, Felony Charges, Or Actions Taken 32
Notification Of Critical Health Incidents 403, 411
Notification Of Decision 2101
Approvals 2101
Denials or Withdrawals 2101
Notification Of Exposure To Disease 188
Notification Of Loss Of Certification Or Licensure 2294
Notification Of Opening, Closing Or

Relocation Of Branch Offices 961
Notification Of Radioactive Materials 5500
Notification Process 1347
Notification Required, Bond Cancellation 714
Notification Requirement 1586
Notification Requirements 2899
Notice of Changes 2899
Notice of Legal Proceedings 2899
Notification Requirements To Licensed Emergency Medical Services (EMS) Agencies 2032
Emergency Medical Services Physical Requirements 2033
Required Notifications to Licensed EMS Agencies 2032
Notification to Department, Liens & Estate Recovery 1727
Notification To Federal Land Management Agencies 61
Notification To Person Requesting Disclosure 5565
Notification To Surety Of Forfeiture 2899
Notification To The Licensing Authority No Later Than One Day 2614
Change in Administrator 2614
Employee Investigated 2614
Fire 2614
Injured Child 2614
Notification To The Licensing Authority, Residential Care Facility 2614
Notifications 2366
Notifications & Time Limits 3788
Action on Application 3788
Notification 3788
Novel Influenza A Virus 1300
Investigation 1300
Reporting Requirements 1300
Restrictions 1300
Noxious Weed Control 3198
Responsibility 3199
Weed Control 3198
NPE Contract Claims On The Fund 163, 168
NPE Clause 163, 169
NPE Contract List 169
NPE Contract Renewal Period 163, 169
PE Contract List 163
NPIP Certificate 90
NPS Project Approval 3854
Nuclear Medicine Services 2047
Facilities 2048
Nuclear Medicine Reviews 2048
Nuclear Medicine Staffing 2048
Policies & Procedures 2048
Radiation Control 2048
Records 2048
Number Of Copies Filed 3945
Approval 3945
Electronic Tariffs 3945
Printed Tariffs 3945
Number Of Names On Register 1151
Number Of Outfitters & Guides Limited 3772
Number Of Sessions Per Week 5250
Number Of Starters 793
Limit 793
More Than the Specified Number 793
Number Of Stewards 729
Deputy State Stewards 729
Presiding State Steward 729
Number Selectors 5262
Numbering - Exemptions 3805
Canoes 3805
Documented Vessels 3805
Government Vessels 3805
Inflatables 3805
Kayaks 3805
Paddle Vessels 3805
Rowboats 3805
Sailboards 3805
Tenders 3805
Numeric Criteria For Toxic Substances For Waters Designated For Aquatic Life, Recreation, Or Domestic Water Supply Use 5440
Applicability 5451
Criteria for Toxic Substances 5440
Development of Toxic Substance Criteria 5454
Factors for Calculating Hardness Dependent Metals Criteria 5450
National Pollutant Discharge Elimination System Permitting 5453
Nursing Education For Registered & Practical Nurses 3392
Purpose Of Approval 3392
Continued Improvement 3392
Eligibility for Licensing Examination 3392
Evaluation Criteria 3392
Guide for Development 3392
Preparation of Graduates 3392
Nursing Facility 1765
Accounting System 1798
Allowable Costs 1774
Accounts Collection 1774
Auto & Travel Expense 1774
Bad Debts 1774
Bank & Finance Charges 1774
Compensation of Owners 1774
Contracted Service 1774
Depreciation 1774
Dues, Licenses & Subscriptions 1775
Employee Benefits 1775
Employee Recruitment 1775
Entertainment Costs Related to Patient Care 1775
Food 1775
Home Office Costs 1775
Insurance 1775
Interest 1775
Lease or Rental Payments 1775
Malpractice & Public Liability Insurance 1775
Payroll Taxes 1775
Property Costs 1775
Property Insurance 1775
Repairs & Maintenance 1776
Salaries 1776
Supplies 1776
Taxes 1776
Application Of Related Party Transactions 1777
Cost to Related Organizations 1777
Costs Not Related to Patient Care 1777
Determination of Common Ownership or Control in the Provider Organization & Supply Organization 1777
Interest Expense 1777
Audit Application 1799
Additional Audits 1799
Annual Audits 1799
Audit Appointment 1799
Limited Scope Audit 1799
Audit Standards & Requirements 1799
Accounting Practices 1802
Adequate Documentation 1800
Examination of Records 1799
Internal Control 1802
Requirements 1799
Review of New Provider Fiscal Records 1799
Audits 1798
Accuracy of Recording 1798
Application of GAAP 1798
Compliance 1798
Economy & Efficiency 1798
Enhancing Financial Practices 1798
Final Settlement 1798
Patient Trust Fund Evaluation 1798
Reliability of Internal Control 1798
Behavioral Care Unit (BCU) & Rate Structure 1784
Administrative & Staffing Requirements 1785
Annual Rates Beginning July 1, 2013 1784
BCU Annual Renewal 1785
BCU Routine Customary Charge 1784
Behavior Management Team Meetings 1786
Care Planning, Behavioral Management, & Programming 1786
Determination 1784

Discharge Criteria 1787
Participant Characteristics 1785
Prospective Rate Setting 1784
Refusal of Admissions 1787
Staff Training 1786
Termination of BCU Status 1787
Yearly Training 1786
Compensation Of Related Persons 1777
Compensation Claimed 1778
Related Persons 1778
Coordination Of Nursing Facility Eligibility & The Need For Specialized Services 1770
Appeals 1771
Level of Care 1770
Penalty for Non-Compliance 1770
Specialized Services 1770
Cost Limits 1778
Cost Limits Based On Cost Report 1780
Costs Exempt From Limitations 1781
Direct Cost Limits 1781
Indirect Cost Limits 1781
Limitation on Increase or Decrease of Cost Limits 1781
Percentage Above Bed-Weighted Median 1780
Costs For The Completion Of Nurse Aide Training & Competency Evaluation Programs (NATCEPS) & For Complying With Certain Other Requirements 1803
Cost Reimbursement 1803
Costs Subject to Audit 1803
Coverage & Limitations 1767
Direct Skilled Nursing Services 1768
Direct Skilled Rehabilitative Services 1768
Nursing Facility Care 1767
Other Treatment & Modalities 1768
Skilled Services 1767
Criteria For Determining Need 1766
Conditions of Payment 1766
Nursing Facility Level of Care for Children 1766
Preventing Deterioration for Children 1766
Required Assessment for Adults 1766
Specific Needs for Children 1766
Supervision Required for Children 1766
Development Of The Rate 1779
Applicable Case Mix Index (CMI) 1779
Applicable Cost Data 1779
Costs Exempt From Limitation 1780
Direct Care Cost Component 1780
Indirect Care Cost Component 1780
Interim Rates 1779
Property Reimbursement 1780
Revenue Offset 1780
Distressed Facility 1782
Annual Review 1783
Determination 1782
Discretionary Factors 1782
Facility-by-Facility Basis 1783
Prospective Application 1783
Existing Provider Elects To Add Behavioral Care Unit (BCU) 1788
BCU Eligible Days 1788
BCU Payments 1788
Meet Criteria for BCU 1788
Failure To File 1798
Filing Dates 1798
Deadlines 1798
Waivers 1798
Home Office Cost Principles 1777
Idaho Owner-Administrative Compensation 1791
Allowable Owner Administrative Compensation 1791
Compensation for Persons Related to an Owner 1792
More Than One Owner or Related Party May Receive Compensation for Hours Actually Worked 1792
The Administrative Compensation Schedule 1791
The Maximum Allowable Compensation 1792
When an Owner Provides Services to More Than One Provider 1792
Interest Charges On Overpayments & Underpayments 1773
Interest After Sixty Days of Notice 1773
Rate of Interest 1773
Retroactive Adjustment 1773
Waiver of Interest Charges 1773
Interest Expense 1778
Interim Adjustments To Rates As A Result Of New Mandates 1783
Changes of More Than Fifty Cents Per Patient Day in Costs 1783
Future Treatment of Costs 1783
Interim Rate Adjustments 1783
Legal Consultant Fees & Litigation Costs 1790
Administrative Appeals 1790
In General 1790
Other 1790
MDS Reviews 1784
Departmental Review 1784
Facility Review 1784
New Owner Of An Existing Nursing Facility With A Behavioral Care Unit (BCU) 1788
New Owner Does Not Elect to Continue BCU 1788
New Owner Elects to Continue BCU 1788
Nonallowable Costs 1776
Accelerated Depreciation 1776
Acquisitions 1776
Barber & Beauty Shops 1776
Charity Allowances 1776
Fees 1776
Fund Raising 1776
Goodwill 1776
Holding Companies 1776
Interest 1776
Medicare Costs 1776
Nonpatient Care Related Activities 1776
Organization 1776
Pharmacist Salaries 1776
Prescription Drugs 1776
Related Party Interest 1776
Related Party Nonallowable Costs 1777
Related Party Refunds 1777
Self-Employment Taxes 1777
Telephone Book Advertising 1777
Vending Machines 1777
Notice Of Program Reimbursement 1772
Notice 1773
Recovery or Suspension 1773
Reopening of Completed Settlements 1773
Timing of Notice 1773
Occupancy Adjustment Factor 1795
Change in Designed Capacity 1796
Fixed Costs 1796
New Facility 1796
Occupancy Adjustment 1796
Occupancy Levels 1796
Out-Of-State Nursing Homes 1782
Patient Funds 1790
Fund Management 1791
Provider Liability 1790
Use 1790
Payments For Periods Of Temporary Absence 1803
Facility Occupancy Limits 1803
Limits on Amount of Payments 1803
Payment Procedures 1803
Time Limits 1803
Post-Eligibility Treatment Of Income 1767
Prepayment Screen & Determination Of Entitlement To Medicaid Payment For Nursing Facility Care & Services 1771
Information Required for Level I & II Screen Determination 1771
Information Required for Medical

Evaluation Determination 1771
Principle For Rate Setting 1779
Procedural Responsibilities 1769
Nursing Facility Responsibility 1769
Other Financial Information for Participant 1769
Property & Utility Costs 1778
Depreciation 1778
Interest 1778
Lease Payments 1779
Property Insurance 1779
Property Taxes 1779
Utility Costs 1779
Property Rental Rate Reimbursement 1792
Forced Sale of a Facility 1795
Grandfathered Rate 1794
Leased Freestanding Nursing Facilities 1795
Property Rental Rate 1792
Sale of a Facility 1795
Provider Qualifications & Duties 1771
Licensure & Certification 1771
Provider Application & Certification 1771
Provider Reimbursement 1772
Date of Discharge 1772
Payment Methodology 1772
Rate Setting 1779
Payments 1779
Rate Adjustment 1779
Reasonable Cost Principles 1772
Application of Reasonable Cost Principles 1772
Costs Not Related to Patient Care 1772
Costs Related to Patient Carev 1772
Form & Substance 1772
Recapture Of Depreciation 1796
Amount Recaptured 1796
Time Frame 1796
Recovery Methods For Overpayments 1773
Department Initiated Recovery 1773
Lump Sum Voluntary Repayment 1773
Periodic Voluntary Repayment 1773
Recovery From Medicare Payments 1774
Related Party Transactions 1777
Cost Allowability - Regulation 1777
Principle 1777
Reporting Period 1798
Reporting System 1796
Basis for Reimbursement 1796
Criteria 1797
Disclosure 1796
Statistical Resources 1797
Reporting System Principle & Application 1797
Change of Management or Ownership 1797
Cost Report Requirements 1797
Criteria of Reports 1797
Preparer 1797
Reporting by Chain Organizations or Related Party Providers 1797
Special Reports 1797
Special Rates 1789
Determination 1789
Determination of Payment for Qualifying Residents 1789
Effective Date 1789
Limitation 1789
Prospective Rate Treatment 1789
Reporting 1789
Special Rate for Providers that Change Ownership or Close 1790
Treatment of the Special Rate Cost for Future Rate Setting Periods 1790
Treatment Of A Change In Ownership 1782
Treatment Of New Beds 1781
Calculation of the Bed-Weighted Average 1781
Exception to New Bed Rate 1781
Limitation of Facilities Rate 1781
Treatment Of New Facilities 1782
Treatment of Newly Licensed Facilities with Behavioral Care Units 1787
Criteria to Qualify as a New BCU On or After September 1, 2017 1787
Reimbursement for Years One (1) Through (3) 1787
Nursing Facility Level Of Care Variance 2396
Conditions for a Variance 2396
Revoking a Variance 2396
Variance Not Transferable 2396
Nursing Facility Services Eligibility 1765
Authorization of Long-Term Care Payment 1766
Criteria for Determination 1765
Nursing Home Administrator Qualifications For License 3644
Nursing Home Administrators-In-Training 3528
Facility Administrator 3529
Nursing Home Administrator-In-Training Requirements 3529
Preceptor Certification 3529
Supervised Hour Requirements 3529
Trainees 3529
Nursing Service 2017
Director of Nursing Services 2017
Inservice/Continuing Education 2018
Monthly Staffing Patterns 2019
New Employee Orientation 2018
Nursing Department Meetings 2018
Patient Care Plans 2018
Policies & Procedures 2018
Records 2018
Staff Assignments 2019
Staffing 2019
Nursing Services 1397
Director of Nursing Services 1397
Medication Administration 1399
Minimum Staffing Requirements 1398
Tuberculosis Control 1400
Nutrition Programs For Older Americans 1505
Nutrition, Children's Residential Care Facilities 2643
Nutritional & Sanitary Requirements 2661
Cleansing of Hands 2661
Fasting 2661
Food 2661
Menu 2661
Special Needs 2661
Nutritional Services
Coverage & Limitations 1660
Medically Necessary 1660
Physician Referral 1660
Definitions 1660
Provider Qualifications & Duties 1660
Provider Reimbursement 1660
Nutritional Services Defined As
Registered Dietitian Services 1573
Education 1573
In-Service Programs 1573
Performs Services 1573
Provides Assistance 1573

O

Obedience & Compliance With Rules & Regulations 691
Obedience & Compliance With Rules & Regulations, Force of Law
Proof of Compliance Required 691
Sanctions 691
Objections -- Offers Of Proof 3912
Objections To Petitions To Intervene 5588
Objections, Offers Of Proof 5594
Objections--Offers Of Proof 3048, 4676
Objections--Offers of Proof 277
Objections--Offers Of Proof, Hearings 3961
Objective - Automobile Advertising & Sales 247
Obligation To Obtain An IPDES Permit 5891
Exclusions from Permit 5892

Operator's Duty to Obtain a Permit 5892
Permits Under the Clean Water Act Section 405(f) 5892
Persons Who Must Obtain a Permit 5891
Obligation To Report Abuse, Neglect, Exploitation, & Injuries 2085
Obtaining & Independently
Administering Clinical Nutrition Prescription Drug Products 3469
Current Certification in Clinical Nutrition Required 3469
Obtain Prescription Drugs Products from the Formulary 3469
Only Administer Prescription Drug Products from the Formulary 3469
Practice Limited to Chiropractic Physicians with Clinical Nutrition Certification 3469
Routes of Administration and Dosing of Prescription Drug Products 3469
Sale, Transfer, or Other Distribution of Prescription Drugs Prohibited 3469
Obtaining A License For A Company 4850
Application Processing 4851
Application Requirements 4850
Obtaining A License For An Individual Driller 4849
Application Requirements 4849
Examination 4850
Experience Requirements 4850
Obtaining An Operator's Permit 4851
Application for Class I Operator's Permit 4851
Application for Class II Operator's Permit 4851
Operator Drills Only for Licensed Driller or Company 4851
Processing an Application for Operator's Permit 4852
Written Examination 4851
Obtaining Certificates Unlawfully 978
Obtaining, Storing, & Disposing Of Formulary Drugs 3701
Disposing of Formulary Drugs 3701
Obtaining Formulary Drugs 3701
Storing Formulary Drugs 3701
Occasional Sales 4369
Bulk Sale - Sale of an On-Going Business 4369
Change in the Form of Doing Business 4369
Exclusion From the Occasional Sale Exemption 4371
Exempt Sales of Aircraft, Boats, & Recreation-Related Vehicles 4371
Motor Vehicles 4370
Occasional Seller 4369
Sale of a Motor Vehicle Between Family Members 4369
Sales & Rentals to Related Parties 4370
Sales of Business Assets 4371
Taxable Sales of Aircraft, Boats, & Recreation Related Vehicles 4371
Occupancy 3791
Full-Time Occupancy 3791
Recreational Occupancy 3791
Occupancy Of Developed Rest Areas 5032
Animals 5032
Assembling 5032
Camping/Occupancy of Site 5032
Failure to Clean 5032
Fires 5032
Time Limits 5032
Occupancy Tax On Newly Constructed Improvements On Real Property 4437
Allocation to Urban Renewal Agencies 4438
Examples for Calculation of Value Less Homeowner's Exemption (HO) 4437
Notice of Appraisal 4437
Property Qualifying for the Homestead Exemption on Occupancy Value 4438
Property Subject to Occupancy Tax 4437
Prorated Market Value 4437
Odometers 5076
Exemptions 5076
Procedures 5076
Off-Highway Vehicle Law Enforcement Fund Distribution 3816
Annual Audit 3817
Annual Notification of Qualifying Offices 3817
Deposits Into & Usage of Fund 3816
Distribution of Funds not Used 3817
Formula for Distribution of Funds 3817
Office – Office Hours – Fax Number – Mailing, Electronic & Street Addresses – Drop Box 3924
Office – Office Hours – Mailing Address – Street Address 5121
Office – Office Hours – Mailing Address & Street Address 4657, 5498, 5581, 5630, 5844, 6037
Office – Office Hours – Street & Mailing Addresses – Web Site Address – Phone & Facsimile Numbers – E-Mail Address 5271
Office Hours 4123
Office Hours -- Mailing Address & Street Address 5879
Office Hours – Mailing Address & Street Address 5297, 5503, 5601, 5658, 5806, 5821
Office Records 157, 165
Daily Position Record 157, 165
Electronic Records 158
Insurance Documentation 158
Receipts & Tickets 158
Receipts & Tickets Issued by Warehouseman 158
Receipts & Tickets Returned & Cancelled 158
Scale Weight Tickets 158, 165
Settlement Sheets/Storage Ledgers 165
Storage Ledger 157
Office Supplies & Equipment
Promotions 321
Manufacturer 321
Telephone Solicitor Address 321
Offices For Issuance Of Special Permits 5107
Cotterell Port of Entry, District Four 5108
East Boise Port of Entry, District Three 5107
Headquarters 5107
Huetter Port of Entry, District One 5107
Inkom Port of Entry, District Five 5108
Lewiston Port of Entry, District Two 5107
Sage Junction Port of Entry, District Six 5108
Official 835
Official CWD Tests 192
Official Tests 192
Other Scientifically Validated Test 192
Official Identification 52, 181
Identification Assigned 181
Progeny 181
Reporting of Identification 181
Visible Identification 181
Official Identification Of Cattle & Domestic Bison 77
Official Adult Vaccinates 78
Official Calfhood Vaccinates 77
Reactor Animals 78
Spayed Heifers 78
Suspect Animals 78
Official Identification Of Domestic Cervidae 83
Exception to Identification of Reactor, Suspect, & Exposed Animals 83
Identification at Time of Brucellosis Testing 83
Identification of Reactors 83
Identification of Suspect & Exposed Animals 83
Official Identification Of Imported Cattle 93
Beef Cattle 93
Dairy Cattle 93
Official Identification Of Swine 84
Reactor Swine 84

Swine Tested at Farm 84
Swine Tested at Market or Slaughter 84
Official Laboratories 122
Check Test 122
Protocols 122
Official Notice 3960, 4620
Matters That May be Officially Noticed 3960
Procedure for Taking Official Notice 3960
Official Notice -- Agency Staff Memoranda 4676
Official Notice, Agency Staff Memoranda 5594
Official Notice--Agency Staff Memoranda 276, 3048
Official Receipt Of Documents 970
Official Record 4622
Content 4622
Cost 4623
Verbatim Record 4623
Official Records & Files 3963
Official Shooting Hours 1038
Migratory Game Birds & Wild Turkey 1038
Upland Game Birds & American Crow 1038
Official Trichomoniasis Tests 122
Official Culture Tests 122
Other Official Tests 122
Polymerase Chain Reaction 122
Official Vaccination 77
Adult Vaccination 77
Adult Vaccinations Required 77
Approval for Adult Vaccination 77
Calfhood Vaccination 77
Official Vaccination Required For Cattle & Domestic Bison 76
Official Visible Identification 182
Camouflage Patterns 182
Color 182
Ear Tags 182
Size 182
Official, Governmental, Or Other Misleading Envelopes Or Offers 232
Officials Of Events 3426
Commission Involvement 3426
Officials Described 3426
Officials' Stands 853
Off-Premise Sales Activities 4921
Offset Of Overpayment & Underpayment 1524
Oil Filled Electric Equipment 5479
Applicability 5479
Unauthorized Releases 5479
Oil, Gas, & Mineral Field Promotions 321
Earning Claims 321
Number of Interests 321
Telephone Solicitor Address 321
Telephone Solicitor's Ownership Interest 321
Old Or Replaced Parts 240
Inspection 241
Retaining Old Parts 241
On Site Review 3329
On-Duty Staff Up & Awake During Residents' Sleeping Hours for Facilities Licensed for Sixteen Requirements For Staffing Standards Beds or More 2480
One Standard Devation 6033
One-Half Grant Child Support Penalty & School Or Work Penalty 1592
One-Half Remaining Earned Income Disregard, After IRWE 1522
One-Half Spousal Share 1536
One-Time Cash Payment
Agreement 1593
Ineligibility Period 1593
Number of Months 1593
Penalty Months 1593
Reason 1593
Remaining Months 1593
Ongoing Eligibility 2534
Annual Redetermination 2535
Child's Age 2534
Child's Residence 2534
Department Custody 2534
Redetermination 2534
Ongoing Resident Care Records 2486
Assessments 2486
Behavior Management Records 2486
Care Notes 2487
Care Plans 2487
Complaints 2486
Current List of Medications, Diet & Treatments 2487
Discharge Information 2487
Involuntary Discharge 2486
Medications Not Taken 2487
Negotiated Services Agreement 2486
Nursing Assessments 2487
PRN Medication 2487
Refusal of Care Consequences 2486
Six Month Review of Medications 2487
Ongoing Training 2015
On-Line Computer Games 5238
Definitions 5238
Discharge of State Lottery Upon Payment 5243
Disclosure 5243
Distribution of Tickets 5238
Drawings & End of Sales Prior to Drawings 5240
On-Line Games -- Authorized -- Director's Authority 5238
On-Line Games Criteria 5239
Payment of Prizes 5239
Payment of Prizes by On-Line Retailers 5242
Payment of Prizes to Persons Under Eighteen Years of Age 5243
Prize Rights Unassignable 5243
Prizes Payable After Death or Disability of Owner 5243
Retailer Duties 5241
Retailer Settlement 5242
Sale of Tickets 5239
Validation Requirements 5241
Only One Jockey Agent 816
Only One License - Exception 3403
On-Site Evaluation 2322
On-Site Audits & Evaluations 2322
Written Report of Findings from the On-Site Evaluation 2323
On-Site Evaluations 2160
Follow-Up Evaluations 2160
Initial Evaluation 2160
On-Site Examination Of Issuers 942
On-Site Survey -- Additional Surveys 2297
Open Enrollment 2796
Discrimination in Pricing 2797
Offer Of Coverage 2796
Treatment of Preexisting Conditions 2796
Open Hearings 2146
Open Hearings & Closed Deliberations 4620
Closed Deliberations 4620
Public Hearings 4620
Open Project Selection Process (OPSP) 3853
Availability 3853
Generally 3853
Requirements 3853
Suspension Of OPSP 3853
Open Water Protection 5124
Boats & Houseboats 5124
Floathouses 5124
Public & Private Marinas 5124
Opening Sealed Records Of Adoptions 2565
Motion of an Indian Individual 2565
Request From the Secretary of the Interior or the Indian Child's Tribe 2565
Operating Area Adjustments 3763
Consideration, Territorial Conflict 3763
Consideration, Wildlife Harvest 3763
Hearing 3763
Safety Adjustment 3764
Operating Criteria For Public Water Systems 5795
Chlorination 5797
Cross Connection Control - Non-Community Water Systems 5799
Cross Connection Control Program - Community Water Systems 5799
Fluoridation 5798
Ground Water 5797
Operating Criteria 5797
Quantity & Pressure Requirements 5795

Start-up Procedures For Seasonal Systems Subject To Subsections 100.01.a., C., & D. 5799
Operating Provisions 5218
Operating Requirements For Extra-Length/Excess Weight Permits Up To One Hundred Twenty-Nine Thousand (129,000) Pounds Vehicle Combinations 4980
Brakes 4981
Cargo Carrying Units 4980
Connecting Devices 4980
Drivers 4981
Hazardous Travel Conditions Restrictions 4980
Insurance Requirements 4981
Operating Restrictions 4980
Permits 4981
Power Unit 4980
Tire Limitations 4981
Trailer Weight Sequence 4980
Operating Statement--Contents 4438
Cross Reference 4440
Filing Date for Operator's Statement 4439
Operator's Statement 4438
Record of Property Ownership 4439
Reporting of Mileage 4439
Situs Property 4439
Tax Code Area Maps 4438
Operation & Maintenance Manual 5862
Operation and Safety Requirements 499
General 499
Operating Plans 499
Operator Qualifications 499
Planning 499
Unsafe Conditions 500
Warning Signs 500
Operation Area Fire Prevention 3088
Cable or Cable Assisted Logging 3088
Operation Of An Account
Operator May Refuse Deposits 842
Operator May Suspend or Close Account 842
Operation Of Compensation Plan 1142
Authorized Pay Rate 1142
Payline Exceptions 1142
Salary After Reappointment from Layoff 1142
Salary Equity Increases 1142
Salary Upon Downward Reassignment 1143
Salary Upon Reinstatement 1143
Salary Upon Return from Military Duty 1143
Salary Upon Transfer 1143
Starting Salary 1142
Operation Of Subdivision Pool, Unused Sick Leave 6031
Operation Plan 4757
Alternate Plans 4757
Existing Dams 4757
New, Reconstructed or Enlarged Dams 4757
Operational Agreement 5060
Information Required 5060
Negotiation & Approval 5060
Operational Guidelines for Non-traditional Recreational Activities 3844
Operations Manual 2340
Operations Under The Lease 3219
Best Practices 3219
By-Products 3220
Compliance With Rules 3219
Designation of Operator 3219
Diligence 3220
Geothermal Information 3220
Legal Representative 3219
Loss Through Waste or Failure to Produce 3220
Operator Benefits 1124
Eligibility 1125
Medical Insurance 1125
Non-Fully Funded Benefits 1125
Retirement & Pension Accounts 1125
Sick Leave & Vacation Funds 1125
Vending Machine Income 1124
Operator Ownership Of Vending Facilities 1124
Opportunity To Participate
Additional Petitioner Participation Information 4595
Notice To Petitioner 4595
Notification & Participation 4595
Optional Information 4136
Copies of Documents 4136
Debtor Name 4136
Mode of Delivery 4136
Optional Module EMS Education 1240
Consistency with Scope of Practice 1240
Consistency with State & National Standards 1241
Optional Module EMS Examinations 1245
Optional Participation 3152
Optometrist Services
Provider Qualifications & Duties 1651
Oral Argument 3048, 3958, 4676, 5593
Oral Argument, Contested Case 275
Oral Notice Of Cancellation & Telephone Solicitor Identification 322
Order Granting An Application For A Certificate -- Issuance Of Certificate 304
Contents of Order 304
Frequency of Periodic Updates 305
Issuance of Certificate 305
Order Granting Intervention
Necessary 263, 3040, 3936, 4668
Order Not Designated 283, 3053, 4682, 5598
Order Of Finish 729
Order Of Procedure 275, 3047, 3957, 4675, 5593
Order of Examination of Witnesses 3957
Order of Presentation of Evidence 3957
Order Of Selection 1114
Exemption 1114
Inability to Serve 1114
Prioritizing Services 1114
Orders 970
Signature on Commission Orders 970
Signature on Directors Orders 970
Orders & Review Of Orders -- Defaults 3966
Orders Granting Intervention -- Opposition 3041, 4669
Orders Granting Intervention-- Opposition 264, 3937
Orders Regarding Costs & Fees
Oppositions 282
Orders Granting or Denying Costs and/or Fees 283
Scope of Rule 282
Time for Filing for Costs and/or Fees Awarded in Final Order or Preliminary Order 282
Time for Petitioning for Cost and/or Fees When Costs and/or Fees Not Awarded in Final Order or Preliminary Order 282
Orders Regarding Costs And/Or Fees 281
Orders Resulting From Prehearing Conference 272, 3044, 4672, 5590
Orders Resulting From Prehearing Conferences 3950
Organ Transplants 1761
Coverage & Limitations 1762
Coverage Limitations 1762
Living Donor Costs 1762
Provider Reimbursement 1762
Organization 3406, 3484, 3653, 3657, 3681, 3695, 4609, 5063
Board Members & Duties 3406
Designated Search Districts 5063
Election 4610
Meetings 3484, 3653, 3681
Organization of the Board 3406, 3484, 3653, 3681
Power 4610
Staff 5063
Organization & Meetings 3630
Meetings 3630
Organization of Board 3630
Quorum 3630
Organization & Operations Of The Board 3722
Meetings 3722

Organization 3722
Organization And Operations Of The Board 3708
Meetings 3708
Organization 3708
Organization Of The Board 3676
Organization Reports 3260
Required Content 3260
Updates 3260
Organizational Chart, Policies & Procedures 2614
Orientation Training
Requirements 2481
Content for Training 2481
Number of Hours of Training 2481
Timeline for Completion of Training 2481
Origin Of Fish 101
Original Application 3546
ORP Or HRR Disinfection 2341
Orthopedic 2355
Eligible Conditions 2355
Excluded Conditions 2355
Spending Limits 2355
Other Advertising Practices
Automobile Advertising/Sales
Leased Vehicles 250
Other Used Motor Vehicles 250
Other Advertising Practices -
Automobile Advertising/Sales 249
Contract Add-Ons 251
Dealer Rebates 250
Dealer's Size 251
Demonstrator Vehicles 249
Executive or Official Vehicles 250
Factory Outlet 251
No Money Down 251
Trade-In Allowances 250
Trade-In Policies 251
Other Authorities Remain Applicable 4635, 4846
Other Considerations in the Transfer and Assumption of the Entire Insurance Obligation 2852
Other Deposit Standards Prohibited 4004
Other Deposit Standards Prohibited--Residential Customers 3980
Other Exceptions To Notice & Opt Out Requirements For Disclosure Of Nonpublic Personal Financial 2727
Exceptions to Opt Out Requirements 2727
Other Fees 3402
Other Idaho Promotion Programs 131
Commodity-Specific Promotion Programs 131
Ownership of Marks 131
Other Laws or Rules 2730
Other Monies 734
Other Notices Of Liens 4137
Other Practitioner Services 1648
Other Provisions 5028
Attempts to Disobey Court Order 5029
Notice of Charges 5028
Notice of Installation 5028
Removal of Device 5029
Repair Deadline 5028
Statement of Charges 5028
Statewide Service Locations 5028
Substitute Device 5029
Other Security 2982
Other Services 1404
Other State Properties 4861, 4868
Idaho State Historical Society Properties 4861, 4868
Other Stored Value Instruments & Systems 746
Affirmation 746
Prevent Wagering Transactions 746
Request for Approval 746
Stored Value Instrument or System 746
Other Violations That May Result In Informal Administrative Action 1245
Attempting to Obtain a Certificate by Means of Fraud 1245
Danger or Threat to Persons or Property 1245
Denial of Criminal History Clearance 1245
Discipline, Restriction, Suspension, or Revocation 1245
Failure to Maintain Standards of Knowledge 1245
Falsification of Applications or Reports 1245
Impairment of Function 1245
Mental Incompetency 1245
Unprofessional Conduct 1245
Out Of State Applicants 1480
Out Of State Licensees
Registration Fee 3667
Statement of Registration 3667
Statement of Time Engaged 3667
Outcomes For Children's Mental Health Services 2258
Outdoor Advertising Outdoor Advertising Permits 5040
Outdoor Advertising Permits
Advertising Illegal Activities 5041
Appeal Process 5041
Application 5041
Cancellation of Permit 5041
Expiration of Annual Permits 5040
Invalid Permit 5041
Lost or Destroyed Identification Tags 5041
Modified Advertising Structures 5040
Permit Denial 5041
Physically Connected Signs 5041
Revoked Permits 5041
Space Requirement Violations 5041
Standard Permit Application 5041
Outfitter Bond or Insurance Cancellation 3764
Outfitter Business Purchase, License Considerations 3764
Notification to Clients 3764
Sale of Outfitting Business 3764
Outfitter License Priority 3764
Outfitter Renewal 3763
Outfitter Responsibilities 3758
Actions 3759
Camps 3758
Emergency Provisions 3759
General 3759
Livestock Facilities 3759
Outfitter Waiting Lists 3764
Length of Time Name Is on Waiting List 3764
Outfitter Application or Outfitter Amendment Form 3764
Waiting List 3764
When an Operating Area Is Relinquished by the Licensee 3765
When Available Outfitting Opening Occurs 3765
Outfitters, Guides, & Like Operations 4322
Equipment Rental 4323
Federal Preemption 4324
Game Processing, Packing, & Taxidermy 4323
Government Use Fee 4323
In General 4322
Lodging 4323
Prepaid Travel Expense 4323
Pre-Purchased Hunting & Fishing Licenses 4323
Purchases by Outfitters & Like Operations 4324
Services Performed in More Than One State 4323
Travel Agency Services 4323
Out-Of-Competition Testing 861
Conditions for Racing Commission Request 861
Horse Selection 861
Penalties 862
Qualified Horse 861
Racing Commission Authority to Request Test 861
Refusal to Submit 861
Sample Collection & Split Samples 861
Out-Of-State Providers 840
Out-Of-State Sales 4365
Out-of-State Sales 4365
Records 4365
Out-of-state Travel 388
Interstate Compact for Juveniles 388
Notification 388
Prior Approval 388
Out-of-State Vendors 1083
Out-Of-State-Care 2358
Outpatient Behavioral Health

Services 1681
Coverage & Limitations 1682
Community-Based Outpatient Behavioral Health Services 1682
Prior Authorization 1682
Participant Eligibility 1682
Procedural Requirements 1682
Administer IBHP 1682
Authorization 1683
Complaints, Grievances, & Appeals 1683
Provider Qualifications 1682
Outpatient Hospital Services
Coverage & Limitations 1640
Co-Payments, Coverage & Limitations, Outpatient Hospital Services 1641
Exceptions & Limitations 1640
Services Provided On-Site 1640
Definitions 1640
Procedural Requirements 1641
Follow-Up for Emergency Room Patients 1641
Review Prior to Delivery of Outpatient Services 1641
Provider Reimbursement 1641
Outpatient Service 2050
Medical Record 2050
Outpatient Surgery 2050
Policies & Procedures 2050
Staffing 2050
Outpatient Treatment Services For Adolescents & Adults 2221
Off-site Treatment Service Delivery Settings 2222
Staffing Ratios 2221
Treatment Services 2221
Outsourcing Facility 3886
Adverse Event Reports 3887
Federal Act Compliance 3887
Outstanding Leases 3212
Overflow Gutters 2344
General Requirements 2344
Overflow Gutters Connected to the Recirculation System 2344
Overflow Systems 2344
Overhead Clearance In Buildings 4069
Overhead Clearance In General 4068
Begun, Installed or Constructed After April 1, 1955 4068
Begun, Installed or Constructed After September 1, 1980 4068
Structures on Main Lines 4068
Overhead Clearance In Tunnels & Bridges 4069
Overhead Clearance--Applicability 4067
Overhead Clearances 4068
Overhead Wiring 2337
Overnight Community Passes 408
Documentation 409
Frequency 409
Potential Risk to Public Safety 408
Overnight Use 3837
Check Out 3838
Length of Stay 3838
Occupancy 3837
Overnight Use Fees 3838
Overnight Use Prohibited 3838
Registration Required 3838
Responsible Party 3838
Self Registration 3838
Overpayment & Underpayment Policies 4125
Overpayment 4125
Underpayment 4125
Overpayment Withholding Of Unearned Income 1508
Overpayments 1372, 2101, 3006
Overpayments & Restoration Of Benefits 1560
Overriding Royalty Interests 3209
Conformance with Rules 3209
Director's Authority 3209
Maximum Amount 3209
Statements 3209
Oversight Program 6077
Oversight Program Management 6078
Applicability of Oversight Program 6078
Counties Reporting to PDC Staff 6080
Indigent Defense Providers & Defending Attorneys Reporting to PDC Staff 6080
Ongoing Coordination with Counties, Indigent Defense Providers, & Defending Attorneys 6078
Other Stakeholders Reporting to PDC Staff 6080
PDC Reporting to Counties 6080
PDC Reporting to Executive & Legislative Branches 6080
PDC Reporting to Indigent Defense Providers & Defending Attorneys 6080
PDC Staff Reporting to PDC 6079
Overtime 1172
Compensation for Overtime 1172
Employing Agencies 1172
Modification of Workweek or Schedule 1172
Overweight 797
More Than Two Pounds 797
No More Than Seven Pounds 797
Overweight 797
Overweight Permits Requiring Bridge Analysis 4966
Drawing of Vehicle 4966
Overwidth Hauling Vehicles, Restrictions 4969
Buildings 4969
Hauling Equipment in Excess of Ten Feet 4969
Load Dimensions 4969
Width of Hauling Equipment 4969
Overwidth Permits For Implements Of Husbandry 4972
Farm Permits 4973
Farm Tractors on Interstate Highways 4972
Other Than Farm to Farm 4972
Overwidth Farm Trailers 4973
Owner 5304
Owner & Applicant Responsibility For Claims & Liabilities 5140
Owner License 835
Financial Responsibility 835
Lease Agreements 835
Multiple Owners 835
Supplemental License Fee 835
Transfer of Horse Prohibited 835
Owner's or Operators Duties 3279
Owners & Trainers 811
Owners Responsibilities For Well Use & Maintenance 4830
Maintain All Other Separation Distances 4830
Maintenance 4830
New Construction 4830
Unusable Wells 4830
Use 4830
Wells Posing a Threat to Human Health and Safety or Causing Contamination of the Ground Water Resource 4830
Ownership 790
Disclosure of Ownership 790
Disqualified 790
Registration of Partnerships 790
Ownership Of Prizes 5257
Ozone 5557

P

Packing SlipsPaper Bingo Card Manufacturers Standards 5261
Paddock Judge 734, 797
Bandages 798
Commands 798
Conduct 798
Horses 797
Paddock Safety 798
Records 797
Shod 798
Paddock Judge's List 734
Provide List to Stewards 734
Removal from List 734
Paid Community Support Worker
Duties & Responsibilities 1978
Documentation of Supports 1978
Employment Agreement 1978
Initial Documentation 1978
Time Sheets & Invoices 1979
Paid Consumer-Directed Community Supports 1973
Paid Consumer-Directed Community SupportsL Community Support Worker 1973
Paid Consumer-Directed Community SupportsL Financial Management Services 1973
Paid Consumer-Directed Community

SupportsL Support Broker 1973
Paid Firefighter Exclusion From Rules 300 & 301 6007
Paper Bingo Card Manufacturers
Standards 5261
Invoice 5262
Labeling 5261
Packet Assembly 5261
Quality of Paper 5261
Random Assignment of Numbers 5261
Serial Numbers 5261
Parcel Survey 5845
Pardon Pursuant To Section 20-240, Idaho Code 5206
Application 5206
General 5206
Hearing 5207
Parent Or Caretaker Access To Child Care Premises 2201
Parental Choice Of Child Care Provider 2189
Child Care Center 2189
Family Child Care 2189
Group Child Care 2189
In-Home Child Care 2190
Relative Child Care 2189
Parental Financial Support For Children In Alternate Care 2263, 2535
Financial Arrangements with Parent(s) 2263, 2535
Notice of Parental Responsibility 2263, 2535
Parents & Caretaker Relatives Eligible For Medicaid Coverage 1365
Live in Same Household 1365
MAGI Income Eligibility 1365
Member of More Than One Budget Unit 1365
More Than One Medicaid Budget Unit in Home 1365
Parent, Caretaker Relative, or a Pregnant Woman 1365
Responsible for Eligible Dependent Child 1365
Pari-Mutuel Cash Vouchers 745
Cash Vouchers 745
Voucher Identification Number 746
Vouchers as Incentives or Promotional Prizes 745
Pari-Mutuel Ticket Sales 741
Cancellation or Exchange Tickets 742
Claims by Bettor 741
Claims on Lost, Mutilated, or Altered Tickets 742
Closed Wagering 741
Equipment Failure 742
License -- Person Under Eighteen 741
Payment on Winning Pari-Mutuel Wagers 742
Purchase of Pari-Mutuel Tickets for Hire or Gratuity 741
Ticket Sales 741
Wager -- Person Under Eighteen 741
Wagering by Employees of the Mutuel Department not Permitted 741
Pari-Mutuel Wagering 740
Pari-Mutuel Tickets 740
Previously Paid, Cancelled, or Non-Existent Pari-Mutuel Ticket 741
Valid Pari-Mutuel Ticket 741
Park Capacities 3843
Parking Lot Locations 4910
Parking Lot Violations 4914
Administrative Appeals 4915
Driving Violations 4914
Other Violations 4915
Parking Violations 4914
Parking On State Highways Within Cities 5048
Parking Permit Fees 4913
Directors of Executive Branch Departments 4913
Elected Officials Parking Permits 4913
General Parking Permits 4914
Legislators 4914
Payment for Parking Permits 4914
Replacement Permits 4914
Reserved Parking Permits 4913
State-Owned Vehicles 4914
Parking Permits 4912
Parking Permits for Reserved, Legislator, Disabled Employee, Carpool, State-Owned Vehicles & General Parking 4912
Temporary Meeting Parking Permits 4913
Temporary Monthly Parking Permits 4913
Parking Restrictions 3860
Parking Space Allocation 4910
Carpool Parking Spaces 4911
Disabled Employee Parking Spaces 4911
General Parking Spaces 4912
Legislators' Parking Spaces 4910
Motorcycle Parking Spaces 4912
Reserved Parking Spaces 4910
State-Owned Vehicles Parking Spaces 4911
Visitor Parking Spaces 4912
Parking Violations 3835
Citations for Violations 3835
Designated Campgrounds 3835
Designated Overnight Use Area 3835
Fee Collection Surcharge 3835
Land or Facilities Administered by the Department 3835
Parole 5195
Detainers 5198
Discharge From Parole 5198
General Conditions of Parole 5197
Medical Parole 5198
Parole Consideration 5196
Primary Review 5196
Special Conditions of Parole 5198
Special Progress Reports 5199
Parole Disposition Process 5200
Attorney 5201
Initiated 5200
Notice of Hearing Rights 5201
Violation & Disposition Hearings 5202
Warrants 5200
Witnesses 5201
Parole Dispositon Process
Miscellaneous Hearing Information 5203
Parole Plan & Release
Procedures 5200
Contract 5200
Parole Plan 5200
Tentative Parole Dates 5200
Parole Revocation Process
Findings/Decisions 5203
Forfeiture of Time on Parole 5203
Part Year Ownership 4457
Partial Exemption For Remediated Land 4477
Calculation of the Exemption 4478
Definitions 4477
Exempt Value Subject to Taxation 4478
Procedures to Qualify for the Exemption 4477
Sites Previously Granted the Exemption Are Ineligible 4478
Partial Payments Of Amounts Owed
The Department 624
Fraud Overpayments 624
Interest 624
Nonfraud Overpayments 624
Penalties 624
Partial Year Assessment Of Real & Personal Property 4429
Change of Status 4429
Cross Reference 4429
Effective Date 4429
Quarterly Assessment 4429
Participant Case Record 2097
Participant Clothing, Equipment & Supplies 2663
Clothing, Equipment, & Supplies Requirements 2663
Denial of Clothing, Equipment, & Supplies 2663
Participant Determined SSI Eligible After Appeal 1524
Participant Eligibility 1649, 2211
Participants Who Have a Chronic Disease 1649
Participants with an Acute Condition 1650
Participant Finances 2123
Participant's Personal Finance Records 2123

Written Policy & Procedure 2123
Participant Lock-In 1732
Participant One-Time Cash Payment, One-Time Payment Criteria 1593
Participant Responsibilities 1974, 2098
Agreement Detail 1974
Agreements 1974
Guiding Principles 1974
Person-Centered Planning 1974
Plan 1974
Quality Assurance & Improvement 1974
Rates 1974
Time Sheets & Invoices 1974
Participant Rights 1354, 2084, 2098
Additional Participant Rights 2084
Civil Rights 2098
Method of Informing Participants of Their Rights 2084
Participant Rights Provided Under Idaho Code 2084
Right to a Hearing 2098
Right to Apply 1354, 2098
Right to Hearing 1354
Right to Request Reinstatement of Benefits 1354
Participant Selection Criteria 1181
Additional Requirements 1181
Age 1181
Physical & Mental Requirements 1181
Residency Requirements 1181
Participant Utilization Control Program, Participant Lock-In 1732
Participant's Guardian For AABD Cash 1489
Participant's Requirements For Estate Recovery 1752
Participants & Roles 6077
Counties 6078
Indigent Defense Providers & Defending Attorneys 6078
PDC Staff 6077
The PDC 6077
Participants Exempt From CoPayment 2379
Exempt Participants 2379
Notification of Copayment 2380
Participants Exempt From Cost-Sharing 2376
Participants Losing JSAP Exempt Status 1427
Participating Recorder 4101
Authentication 4102
Documents Accepted 4102
Participation By Taxing Authority 4611
Participation Duration & Renewal 128
Duration 128
Renewing Participation 128
Reporting on Use of Logo 128
Participation Fees 128
Annual Fee 128
Participation Categories 128
Participation in Multiple Categories 128
Pro-Rated Fees 128
Participation In Disaster & Emergency Care 3345
Participation in Program 4040
Participation In Subdivision Unused Sick Leave Pool 6031
All Inclusive Participation 6031
Annual Application 6031
Fixed Annual Accrual of Sick Leave 6031
Medicare Eligible Retirees 6031
No Current Plan 6031
No Other Options for Unused Sick Leave 6031
Participation In The Cost Of Home & Community-Based Waiver Services 2381
Adjustment of Participation Overpayment or Underpayment Amounts 2383
Base Participation 2382
Community Spouse 2382
Developmentally Disabled Participants 2382
Excluded Income 2382
Home & Community Based Services (HCBS) Spouse 2382
Incurred Medical Expenses 2382
Personal Needs Allowance 2382
Recalculation of Participation 2383
Remainder After Calculation 2383
Participation In The Cost Of Waiver Services 1752
Waiver Cost-Sharing 1752
Waiver Services & Income Limit 1752
Participation Privileges 128
Beer 129
Listing 128
Promotion 128
Use of the Idaho Preferred® Logo 128
Visibility 128
Water 129
Parties -- Other Persons 3927
Parties & Persons With Similar Interests 275, 3047, 4675, 5593
Parties Listed 3927
Parties to Contested Cases Petitioners 5998
Parties To Contested Cases Listed 257, 294, 3035, 4660, 5998
Partnerships Operating Within & Without Idaho 4200
Exceptions to Apportionment Formula 4200
In General 4200
Information Provided to Partners 4200
Part-Time Juvenile Detention Officer Certification 907
Eligibility 907
Limitations on Certification & Authority 907
Requirements for Certification 907
Retaining Certification 907
Part-Year Resident 4149
In General 4149
Place of Abode 4150
Temporary or Transitory Purpose 4150
PASS Approved By Department 1522
Disregard of Resources 1523
No Duplication of Disregards 1523
Occupational Objective 1522
Resource Limitation 1523
Specific Goals 1522
Time Limit 1522
Passive Settlements 3962
Paternity Not Established Within Twelve Months 1585
Patient "Advance Directives" 1620
Information Concerning "Advance Directives" at the Time an Incapacitated Individual is Admitted 1621
Provider Agreement 1621
Provider Participation 1620
When "Advance Directives" Must Be Given 1621
Patient Grievances 2011
Grievance by Patient or Patient's Representative 2011
Grievance Process 2011
Written Notice of Decision 2011
Patient Liability 1528
Patient Liability For Participant With Community Spouse 1530
Patient Liability For Person With No Community Spouse 1528
Community Property Income of Long-Term Care Participant With Long-Term Care Spouse 1528
Income of Participant in Facility 1528
Income of Participants in Long-Term Care 1528
Patient Records 3020
Charges & Payments 3021
Individual Records 3020
Record Retention 3021
Patient Rights 2009
Access to Patient's Own Records 2010
Confidentiality 2010
Formulate Advance Directives 2009
Identify Who Is Responsible for Medical Decisions 2009
Informed & Involved in Care Plan 2009
Informed in Advance of Patient Care 2009
Informed in Format Understandable to Patient/Patient's Representative 2009

Make Informed Decisions 2009
Personal Privacy 2010
Privacy 2010
Safe Setting 2010
Specify Procedures to Inform Patient of Patient Rights 2009
State Agency Contact Information 2011
Video Monitoring of Common Areas 2010
Patients Records 3538
Optometrist Shall Keep a Complete Record of All Patients Examined 3538
Prescription Files 3539
Storage of Patient Records 3539
Patrol Judge 736, 799
Communication 799
Duties 799
Report 799
Pattern Of Conduct - Bait/Switch Sales 233
Payment 3153
Acreage Calculation 3153
Annual Payments Non-Refundable 3153
Assignment 3153
Board Approved Payment Schedule 3153
Non-Payment Constitutes Lack of Bonding 3153
Supplemental Payments 3153
Payment Adjustments & Penalties 2196
Payment Arrangements 3991, 4012
Application of Payment 3991, 4013
Arrangements Allowed 3991, 4013
Level Pay Plans Acceptable Payment Arrangement 3991
Reasonableness 3991, 4013
Second Arrangement 3991, 4013
Third-Party Contact 3991
When Arrangement Not Binding 3991, 4013
Payment Arrangements Following Winter Payment Plan 3988
Payment Date Of Early Or Service Retirement Allowance--General Members 6016
Payment Date Of Retirement Allowance For FRF Members 6032
Payment For Errors 742
Overpayment 743
Underpayment Claim 742
Underpayments 742
Payment For Logging Or Hauling 3246
Compliance with Gross Scale Determination 3246
Payment For Necessary Expenses 1118
Comparable Benefits & Services 1118
Exceptions 1118
Upper Limits 1118
Payment For Services 643
Payment For Shelter Care 2537
Payment Information 2193
Payment Limitations In Adoption, Children's Agencies 2631
Payment Of Abandoned Property 5274
Payment Of Allocation 6035
Payment Of Combatant 3423
Manager's Share 3423
Payment in Full 3423
Pending Action 3423
Prior Approval of Commission 3423
Prior Written Commitments 3423
Payment Of Expenses, Winnings, & Charitable Contributions 5255
Payment Of Fee To Official Designated By Commission 3427
Payment Of Fees & Remittances 3926
Annual Regulatory Fees 3926
Payments 3926
Payment Of Fines During Appeal 721
Payment Of Forfeiture 2900
Payment Of Insurance Premiums 6030
Adjustments 6030
Duration of Payments 6030
Payment Of Purse 3423
Alternative Payment 3424
Non-Payment of Amateurs 3424
Payment Made 3424
Reconciliation 3424
Signatures 3424
Payment Of Purses 733
Disbursement Not A Finding 733
Disbursement Upon Request 733
No Prior Request 733
Protests 733
Payment Of Special Permit Fees 5112
Additional Fees 5113
Current Schedule of Fees 5113
Payment of Fees 5112
Permit Costs 5113
Refund 5112
Payment Of Tax 4560
Payment Procedures 2164
Payment To Family Alternate Care Providers 2264
Clothing 2264
Gifts 2264
School Fees 2264
Payment To Family Foster Care Providers 2538
Clothing 2538
Gifts 2538
School Fees 2538
Payments 5496, 5578
Eligibility Determination 5578
Final Payment 5496, 5578
Final Project Review to Determine Actual Eligible Costs 5496
Grant Decreases 5496, 5578
Grant Increases 5496, 5578
Increases for Bid Underestimates 5496
Limitations on Advance Payments 5496
Payments
Final Project Review to Determine Actual Eligible Costs 5578
Payments for State Grants 5496, 5578
Payments From An Exempt Trust For Disabled Person Or Pooled Trust 1557
Payments for Food or Shelter 1557
Payments From Exempt Trust 1557
Payments From Pooled Trust 1557
Payments Not Made to Participant 1557
Payments On Winning Pari-Mutuel Wagers 844
Payments To Providers 2357
Payments To The Department 594
Pay-Per-Telephone-Call Services Aimed At Children 322
Payroll Factor
Amount Paid 4224
Compensation 4224
Compensation Paid In Idaho 4225
Definitions 4225
In General 4225
Denominator 4225
Example 4225
In General 4225
Employee 4224
Exclusions 4224
In General 4224
Numerator 4225
State to State Consistency 4225
Year to Year Consistency 4224
Paytelephone Emergency Access
Required 4016
Access to Emergency Services 4016
Emergency Dialing Instructions 4017
Termination of Service for Violation of This Rule 4017
PDC Training Programs 6064
Non-Attorney Staff 6065
Types of Training Programs 6064
Use of Training Funds 6064
Peer Review 1251
Evaluation of Evidence 1251
Recommend Action 1251
Review of Case by Peer Review Team 1251
Subject Given Opportunity to Respond 1251
Peer Review Oversight Committee 43
Peer Review Program Participation 40
Participation 40
Practice Privileges 41
Peer Review Team 1248
Peer Support Specialist -- Certification
Qualifications And Requirements 2225
Educational Requirements 2225
Person Self-Identified with Lived

Experience 2226
Supervision Requirements 2226
Training Requirements 2225
Work or Volunteer Experience Requirements 2226
Peer Support Specialists -- Code Of Ethics And Professional Conduct 2227
Certified Peer Support Specialist Professional Conduct 2227
Certified Peer Support Specialists 2227
Comply with Code of Ethics 2228
Ethics Training 2228
Peer Support 2227
Penalties 837, 869, 1067, 2004, 4739, 4832, 4925, 4988
Enforcement by Director 4739
General Rules 4595
Injunction to Prevent Operation Without License 2004
Order by Director 4739
Penalty for Operating Hospital Without License 2004
Willful Violations or Failure to Comply 4739
Penalties For An IPV 1464, 2102, 2197
Administrative Disqualification Hearings 1464
Court Decisions 1464
First Offense 2102, 2197
Second Offense 2102, 2197
Third Offense 2102, 2197
Waivers 1464
Penalties For Certain Violations 3456
Penalties For Failure To Collect, Account For, Or Remit Assessments 163
Penalties For Failure To Collect, Account For, Or Remit Assessments -- Other Violations 169
Penalties For IPV Receipt Of Multiple Benefits 1465
Penalties For IPV Trafficking 1464
Penalties For Lock-In Noncompliance 1734
Penalties For Violations 3834, 3861
Civil Claim 3834
Violators 3834
Penalty 2332, 4706
Failure to Submit 4706
Permits for Which Proof Has Not Been Submitted 4706
Penalty & Interest 4568
Penalty Exceptions For Asset Transfers 1553
Assets Returned 1554
Benefit of Spouse 1553
Exception to Fair Market Value 1554
Fraud Victim 1554
Home to Adult Child 1553
Home to Brother or Sister 1553
Home to Minor Child or Disabled Adult Child 1553
Home to Spouse 1553
Intent to Get Fair Market Value 1554
Medicaid Qualification Not the Intent 1554
No Benefit to Participant 1554
Transfer From Spouse 1553
Transfer to Child 1554
Transfer to Trust of Disabled Person 1555
Undue Hardship 1554
Penalty For Applicant Quitting A Job Or Reducing Work Hours 1433
Denial Reason 1433
Fair Hearing 1433
Right to Reapply 1433
Sanction Period 1433
Penalty For Failure To Comply With A Requirement Of Another Means-Tested Program 1435
Lifetime TAFI Penalty 1435
Member Who Caused the TAFI Penalty Leaves the Household 1435
Time-Limited TAFI Penalty 1435
Penalty For Failure To Comply With Reporting Requirements 4512
Additional Penalties 4512
Applicability to Urban Renewal Agencies 4512
County Clerks to Submit Lists 4512
Exceptions 4512
Notification by Tax Commission 4512
Property Tax Limitation Penalties for Non-compliance 4512
Penalty For Failure To File, Failure To Pay, Or Delinquent Filing 4598
Calculations of Penalty When a Taxpayer Fails to Satisfy the Extension of Time Criteria 4599
Calculations of Penalty When a Taxpayer Satisfies the Extension of Time Criteria 4598
In General 4598
Insufficient Postage 4599
Month Defined 4599
Other Penalties 4599
Penalty For Failure To Make Statement, Operator's Statement 4446
Penalty For Failure To Register Or Operation Of A Non-Approved Clinical Laboratory 1267
Penalty For Failure To Report 1595
Additional Occurrence 1595
First Occurrence 1595
Penalty For Late Payment Of Wheat Tax 5152
Additional Penalties 5152
Interest Penalties 5152
Penalty For Recipient Quitting A Job Or Reducing Work Hours 1433
Actions to End Sanction 1434
Closure Reason 1434
Fair Hearing 1434
Joins Another Household 1434
Non-Complying Household Member 1434
Sanction Notice 1434
Sanction Start 1434
Penalty Provisions 1273
Pension Payments, VA 1509
Pension Plans Or Funds Excluded As A Resource 1442
Pension Protection Act
Definitions 5996
Chaplain 5996
Eligible Retired Public Safety Officer 5996
Normal Retirement Age 5996
Public Safety Officer 5996
Per Diem Costs, ICF/ID - Capped Cost 1886
Percentage Of Gate Receipts To Combatant 3423
Percentages Of Cost 5066
Airport Maintenance & Upgrade Funds (Up to 50%) 5066
Airport Maintenance & Upgrade Funds (Up to 75%) 5066
Maintenance & Safety Supplies Program 5066
State Funding Assistance 5066
Performance Bond Requirements 3104
Bond Cancellation 3105
Bond Reduction 3106
Bond Release 3106
Bonding Rate 3107
Correction of Deficiencies 3107
Federal Bonds Recognized 3107
Forfeiture 3107
Form of Performance Bond 3105
Insufficient Bond 3107
Submittal of Bond 3104
Substitute Surety 3106
Performance Bond Requirements For Cyanidation Facilities 3139
Bond Reduction 3140
Bond Release 3140
Bond Review 3139
Liabilities for Unbonded Permanent Closure Costs 3140
Limits 3139
Other Government Agency Bonds 3139
Submittal of Bond Before Operating a Cyanidation Facility 3139
Performance Bond Requirements For Surface Mining 3137
Annual Bond Review 3137
Bond Provided to the Federal Government 3137
Bond Reduction 3137
Bond Release 3138
Bonding Rate 3138
Cooperative Agreements 3138
Liabilities for Unbonded Reclamation

Costs 3138
Mining Operation Conducted by Public or Government 3137
Submittal of Bond Before Mining 3137
Performance Evaluations 1166
Approval of Form 1166
Evaluation Schedule 1166
Purpose 1166
Retention of Evaluation 1166
Supervisors' Requirements 1167
Use of Evaluations 1166
Performance Of Tests & Measurements 4044
Master Electrician 4044
Professional Engineer 4044
Technician 4044
Performance Of Work 5140
Completion of Work 5140
Work Delayed by Applicant 5140
Performance Standards 5140
Perimeter Fence Requirements 184
Elk & Fallow Deer 184
Exceptions 185
Fence Maintenance 185
Gates 185
Posts 185
Reindeer 185
Wire 185
Perimeter Security Checks & Security Inspections 338
Perimeter Security Checks 338
Security Inspections 338
Period Before His Next Contest 3441, 3442
Period Of Ineligibility
Exceptions 1498
Benefit of Spouse 1499
Exception to Fair Market Value 1500
Fraud Victim 1500
Home to Adult Child 1499
Home to Brother or Sister 1499
Home to Minor Child or Disabled Adult Child 1499
Home to Spouse 1498
Intent to Receive Fair Market Value 1499
No AABD Purpose 1499
No Benefit to Participant 1500
Resources Returned 1499
Transfer from Spouse 1499
Transfer to a Trust That Is a Countable Resource 1499
Transfer to Child 1499
Transfer to Trust for Person Under Sixty-Five 1499
Undue Hardship 1499
Period Of Limitation On Assessment & Collection Of Tax 4279
Duplicate Returns 4279
Federal Determination 4279
Protest of a Notice of Deficiency 4279
State or Territory Determination 4279
Waiver of the Period of Limitation 4279
Period Of Restricted Coverage For Asset Transfers 1549
Periodic 920
Periodic Assessment By POST 920
Assessment 920
Failure to Comply With Standards 920
Periodic Tests Of Customer Meters 3999
Testing of Larger Capacity Meters 3999
Testing of Smaller Capacity Meters 3999
Permanent Building Fund Tax 4270
Corporations Included in a Group Return 4270
Entities That Pay the Tax for Individuals Under Section 63-3022L, Idaho Code 4270
In General 4270
Inactive or Nameholder Corporations 4270
Pass-Through Entities 4270
Taxpayers Protected Under Public Law 86-272 4270
Permanent Flow Measuring Device Requirement, Conditions of Approval 4805
Permanent Project Signs 3858
Permanent Register, Residential Care Facility 2618
Permissible Distribution Of Fiduciary Funds 2903
Convert Cash Collateral 2903
Pay Charges Imposed 2903
Reimburse Voluntary Deposits 2903
Remit Premiums 2903
Remit Surplus Lines Taxes & Stamping Fees 2903
Return Cash Collateral 2903
Return Premiums 2903
Transfer Funds 2903
Transfer or Withdraw Accrued Interest 2903
Transfer or Withdraw Actual Commissions 2903
Permissive Exclusions From The Medicaid Program, Persons Or Entities 2173
Endangerment of Health or Safety of a Patient 2173
Failure to Disclose or Make Available Records 2173
Other Exclusions 2173
Permit 69
Permit & Permit Application 5825
Application for a Small Cyanidation Processing Facility & Pilot Facility 5829
Contents of Application 5825
Exemptions to Fees 5829
Permit Application 5825
Permit Application Fees 5829
Permit Require 5825
Permit Application & Administration 5137
Application for ICP Permit 5138
Other Inspections & Requirements 5138
Required Applicant Information 5138
Site Inspection or Waiver When Permit Required 5138
Use of Discretion on Requirements by District 5138
Work Involving Public Right-of-Way 5138
Permit Compliance & Expiration 5005
Completion of Work 5006
Permitted Work 5005
Temporary Encroachments 5006
Work Site Documents 5006
Permit Conditions 5837
Begin Construction 5838
Compliance Required 5837
Discharge Response 5838
Entry & Access 5837
Notifications 5837
Permanent Closure 5839
Provide Information 5837
Record Plans & Specifications 5837
Reporting 5838
Temporary or Seasonal Closure Plans 5838
Permit Conditions For Specific Categories 5966
Concentrated Animal Feeding Operations (CAFOs) 5968
Existing Manufacturing, Commercial, Mining, & Silvicultural Dischargers 5966
Municipal Separate Storm Sewer Systems 5967
Publicly Owned Treatment Works 5967
Storm Water Dischargers 5968
Permit Cost, Expiration 3860
Permit Enforcement 69
Permit Reinstatement 69
Permit Revocation 69
Permit Suspension 69
Permit Fee & Plan Review Fee 2331
Permit Fee Schedule 504
Additional Fees 505
Miscellaneous 505
New Residential 504
No Permit 506
Other Installations Including Industrial and Commercial 505
Permit Modification 5840
Cause for Permit Modification 5840
Major Permit Modifications 5841
Minor Permit Modifications 5841
Modification at Request of

Director 5841
Modification at Request of Permittee 5840
Modification Procedure 5841
Permit or License 5304
Permit Prohibitions 5893
Anchorage & Navigation Impaired 5893
Area Wide Waste Treatment Management Plans 5893
Banned Content 5893
Clean Water Act Compliance 5893
EPA Objection 5893
New Sources or New Dischargers 5893
Water Quality Requirements 5893
Permit Requirements 5052
Permit Denial 5053
Proof of Ownership 5052
Purchase of Multiple Permits 5052
Violation of Permit 5053
Weight of Vehicle 5052
Permit Requisite, Section 105.1.1, International Fire Code 2998
Permit Revocation 5842
Cause for Revocation 5842
Revocation Hearing 5842
Permit Revocation Or Stop Work Order 5138
Permit To Drill, Deepen, Or Plug Back 3265
Application 3265
Fees 3265
Permit Denial 3266
Permits Required 3265
Time Required to Commence Operations 3265
Permit To Enter Closed Area 3085
Fire Warden Permits 3085
Notice of Closure 3085
Permit Validation 1054
Permits 217, 503, 532, 540, 1071, 2331, 3530, 4345, 4569, 4877
Alternative Permittee 1072
Annual Permit 532
Application Forms 5040
Application Period 4877
Application Requirements 4877
Applications 1072
Building Permits 532
Cancellation of Sales Tax Permits 4346
Certificates of Veterinary Inspection to be Furnished 218
Commercial, Industrial and Others 503
Conditions 4877
Controlled Trapping Permit Drawing 1072
Distribution 4877
Eligibility 1071
Examination & Treatment Fees 218
Expiration of Permit 504
General 1071
Home Owners 503
Inspection Fees 218
Issuance of a Temporary Permit Does Not Obligate the Board 3530
Out-of-State Seller 4346
Permit Areas, Hours & Duration, & Number of Participants 4877
Permit Is Non-Assignable 4569
Plumbing Contractors 503
Refunds of Permits 504
Request for Permits 218
Requirements for Issuance 3530
Requirements for Obtaining Permits 4345
Requirements of Holding a Seller's Permit 4346
Revocation of Permits 1072
Sales in Leased Premises 4346
Seller's Permit 4570
Seller's Permit and Sales Tax Permit 4346
Serial Number 503
Successful Applicants 1072
Suspension of Sales Tax Permits 4346
Temporary Seller's Permits 4346
Transferability 4878
Transferring a Permit 504
Use Without a Permit 4877
Validity 4877
Permits For Import, Export, Transport, Possess, Release, & Sale Of Live Wildlife
Exemption for Native Reptiles & Amphibians 1040
Exemptions for Import, Export, Transport, Possession or Sale 1040
Exemptions for Unprotected & Predatory Wildlife 1040
Restriction on Permit Issuance 1040
Permits For Import, Export, Transport, Possession, Release, & Sale Of Live Wildlife 1039
Permits For Multiple-Width Or Multiple-Height Loading 4983
Cylindrical Hay Bales 4983
Kiln Lumber Stacks 4983
Reducible Height Loads 4983
Permits, Possession, Importation, & Sale 1062
Expiration of Permits 1063
Falconry Permit 1063
Migratory Bird Treaty Act & Regulations 1062
Non-Resident, New U.S. Resident Permit Purchase within Thirty Days 1063
Non-Residents, New U.S. Residents Permit Purchase 1063
Permit Renewal 1063
Permit-Class Upgrades 1063
Raptor Captive Breeding Permit 1063
Transfer of Permits 1063
Unlawful Sale & Possession of Raptors 1064
Permitted Compensation Arrangements 2805
Commissions 2805
Compensation 2805
Compensation in Subsequent Years 2805
Renewal Compensation 2805
Permitted Conditions 2979
Grantor's Rights 2979
Resignation of Trustee 2979
Termination of Trust Account 2979
Transfer of Assets 2979
Trustee's Authority to Invest 2979
Permitted Non-Steroidal Anti-Inflammatory Drugs 865
Flunixin (Banamine) 865
Ketoprofen (Ketofen) 865
Mechlofenamic Acid (Arquel) 865
Phenylbutazone (Butazoladin) 865
Permittee Responsibilities 2237
Display of Sign 2237
Effective Training 2237
Permit Requirements 2238
Possession of Permit 2237
Visibility 2237
Permittee Responsible For Injury To Persons Or Property 5114
PERSI Employee Class II Contribution Rate (Rule 101) 6009
PERSI Employee General Member Contribution Rate (Rule 100) 6008
PERSI Employer Class II Contribution Rate (Rule 28) 6008
PERSI Employer General Member Contribution Rate (Rule 26) 6007
Person 5215
Person Filling More Than One Position 2617
Person Outside Household Fails To Provide Proof--Changes 1455
Personal & Real Property -- Definitions & Guidelines 4416
Fixtures 4417
Operating Property 4417
Personal Property 4417
Real Property 4417
Personal Assistance Agency (PAA)
Qualifications & Duties 1810
Provider Agreement Required 1810
Responsibilities of a Personal Assistance Agency 1810
Personal Care & Hygiene 2611
Personal Care Services
Coverage & Limitations 1804
Medical Care & Services 1804
Non-Medical Care & Services 1805
Participant Service Limitations 1806
Place of Service Delivery 1806

Provider Coverage Limitations 1806
Type of Service Limitations 1806
Definitions 1803
Children's PCS Assessment 1803
Natural Supports 1804
PCS Family Alternate Care Home 1804
Personal Care Services (PCS) 1804
Eligibility 1804
Annual Eligibility Redetermination 1804
Financial Eligibility 1804
Other Eligibility Requirements 1804
State Plan Option 1804
Procedural Requirements 1806
PCS Record Requirements for a Participant in a Residential Assisted Living Facility or Certified Family Home. 1808
PCS Record Requirements for a Participant in Their Own Home 1807
Prior Authorization Requirements 1807
Provider Responsibility for Notification 1808
Service Delivery Based on Plan of Care or NSA 1806
Service Supervision 1807
Provider Qualifications 1808
Care Delivered in Provider's Home for a Child 1809
Care Delivered in Provider's Home for an Adult 1809
Criminal History Check 1809
Health Screen 1809
Provider Exclusion 1809
Provider Qualifications for Personal Assistants 1808
Provider Training Requirements 1809
Provider Reimbursement 1810
Attending Physician Reimbursement Level 1811
Calculated Fee 1810
Payment for PCS Family Alternate Care Home 1811
Payment for Personal Assistance Agency 1811
Payment Levels for Adults in Residential Assisted Living Facilities or Certified Family Homes 1811
Reimbursement Rate 1810
Supervisory RN & QMRP Reimbursement Level 1811
Weighted Average Hourly Rate Methodology 1810
Personal Care Services (PCS) 1803
Quality Assurance 1812
HCBS Compliance 1812
Quality Improvement Plan 1812
Responsibility for Quality 1812
Review Results 1812
Personal Effects Excluded 1441
Personal Flotation Devices (PFD's) 3798
Alternative PFD Requirement 3798
Exemptions 3798
Location & Condition 3798
Personal Flotation Devices Required 3798
Personal Funds 391, 405
Funds Handled by a Provider 391, 405
Juvenile Offenders with Earned Income 391
Reporting Requirements 391, 405
Transfer of Personal Funds 391, 405
Personal Hygiene 341
Clothing & Linen Supplies 342
Clothing & Linens 341
Laundry Services 342
Personal Hygiene Items 341
Removal of Personal Hygiene Items 341
Personal Interview 1480
Personal Needs Allowance 2499
Set-Aside Amount 2499
State Hospital South (SHS) 2499
Personal Needs Allowance, Table 149.06 2382
Personal Needs Supplement (PNS), Nursing Home Participant 1533
Personal Possessions, Allowance, & Money Policy 2623
Child's Personal Possessions 2623
Financial Accounting 2623
Signature Required 2623
Personal Possessions, Allowances, & Money 2611
Personal Responsibility Contract (PRC) 1581
Personal Safety, Firearms 3845
Personal Services, Excluded 1505
Personal Watercraft Liveries 3802
Acknowledgment Required 3802
Education Required 3802
Provision of Forms, Videos, Publications 3802
Person-Centered Planning 1980
Direction of the Person-Centered Planning Process 1980
Facilitation of Person-Centered Planning Meetings 1980
Focus of Person-Centered Planning 1980
HCBS Person-Centered Planning Requirements 1980
Participant Choice 1980
Timeframes of Person-Centered Planning 1980
Personnel 1380, 5213
Age Limitations 1380
Daily Work Schedules 1380
Employee Health 1380
Job Description 1380
Personnel Files 1381
Resident Employment 1380
Personnel & Facilities Listing 2774
Allowable Expense -- No Balance Billing 2774
Current Listing 2774
Health Care Services to Be Accessible 2774
Procedures for Basic Care & Referrals 2774
Personnel & Facilities Listing Required Out of Network Services 2774
Personnel & Facilities Of Parties To A Strike 1474
Personnel License Renewal 2281
Declarations of Convictions or Adjudications 2282
Documentation of Affiliation with EMS Agency 2281
Documentation of Continuing Education for Level of Licensure Renewal 2282
Submit Required Licensure Renewal Fees 2282
Time Frame for Application of Licensure Renewals 2282
Personnel License Transition 2281
Personnel Licensure Required 2278
Advanced Emergency Medical Technician (AEMT) 2278
Emergency Medical Responder (EMR) 2278
Emergency Medical Technician (EMT) 2278
Paramedic 2278
Personnel Licensure Requirements 2278
Personnel Qualifications 2323
Analyst or Equivalent Job Title 2324
Chemistry Technician 2324
General Supervisor Qualifications 2323
Supervisor Qualifications by Discipline 2323
Personnel Records 2118
Criminal History Check 2118
Current Assistance With Medications Certification, If Applicable 2118
Date of Employment 2118
Date of Termination of Employment & Reason for Termination, If Applicable 2118
Documentation of the Employee's Initial Orientation & Required Training 2118
Education & Experience 2118
Evidence of Current Age-Appropriate CPR & First Aid Certifications 2118
Job Description 2118
Name, Current Address, & Phone

Number of the Employee 2118
Other Qualifications 2118
Social Security Number 2118
Personnel Requirements 1474
Personnel Requirements For Clinical Laboratories 1265
Appropriate Education, Experience, & Training 1265
In-service Training 1265
Procedures & Tests that are Outside the Scope of Training 1265
Sufficient in Number for the Scope and Complexity 1265
Personnel Requirements for EMS Agency Licensure 1221
Persons -- Persons Not Parties -- Interested Persons -- Public Involvement 3928
Interested Persons 3928
Persons & Person Not Parties 3928
Public Involvement 3928
Persons Allowed In Ring 3438
Persons Defined--Persons Not Parties--Interested Persons 258
Persons Defined--Persons Not Parties--Interested Persons, Contested Cases 3035
Persons Disqualified As Food Stamp Household Members 1424
ABAWD Not Meeting Work Requirement 1425
Drug Convicted Felon 1425
Failure to Cooperate in Paternity Establishment or Obtaining Support 1425
Fugitive Felon 1425
Ineligible Legal Non-Citizen 1425
JSAP or Work Registration Noncompliance 1425
Person Refusing SSN 1425
Persons With Citizenship Questionable 1425
Persons With IPV 1425
Voluntary Quit or Reduction of Hours of Work 1425
Persons Engaged In Advertising 4331
Advertising Agency as Agent of Client or as Non-Agent 4331
Cross-References 4334
In General 4331
Items Prepared by Agency 4331
Media Advertising & Advertisements 4331
Purchases by Advertising Agencies, Graphic Artists, & Similar Operations 4333
Purchases by Radio & Television Broadcasters 4333
Sale of Custom Made Audio-Visual Films & Audio Recordings 4332
Sales of Design Services 4333
Sales of Non-Media Advertising 4332
Persons Engaged In Printing 4329
Advertising Inserts 4330
Labels & Other Printed Matter Sold to Manufacturers 4330
Printing upon Special Order 4329
Private Printing Plants 4329
Sales by Persons Engaged in Printing 4330
Persons Exempted By Board 3362
Employer Application 3363
Family Members & Others 3362
Non-Resident Nurses 3362
Nurse Apprentice 3363
Technicians &Technologists 3362
Persons Exempted From Advanced Practice Registered Nursing License Requirements 3378
Advanced Practice Registered Nurses Educated Prior to January 1, 2016 3378
Certified Nurse Practitioners Licensed Prior to July 1, 1998 3378
Students 3378
Persons Liable For Food Stamp Claims 1461
Adult Household Members 1461
Person Connected to the Household 1461
Sponsor of an Alien 1461
Persons Not Considered ABAWD 1430
Age 1430
Disability 1430
Pregnancy 1430
Residing in a Household Where a Member Is Under Age Eighteen 1430
Persons Not Eligible for Separate Food Stamp Household Status 1423
Boarder 1423
Child Under Age Eighteen Under Parental Control 1423
Parents & Children Together 1423
Spouse 1423
Persons Not Parties -- Interested Persons 4660
Persons Otherwise Qualified 4044
Persons Required To File Income Tax Returns 4264
Corporations Included in a Unitary Group 4264
In General 4264
Individuals Who Make Elections Under Section 63-3022L, Idaho Code 4264
Taxpayers Protected Under Public Law 86-272 4265
Persons Required To Report Reportable Diseases, Conditions, & School Closures 1272
Hospital or Health Care Facility Administrator 1272
Laboratory Director 1272
Others Required to Report Reportable Diseases 1273
Persons in Charge of Food Establishments 1273
Physician 1272
School Administrator 1273
Persons To Attend Or Comment 352
Juvenile 352
Participation 352
Time Limited 353
Witnesses 352
Persons to Attend or Comment Exclusion 353
Persons Who May Appeal 283, 3969, 4682, 6004
Parties Aggrieved by Denial of Petition for Reconsideration 3969
Parties Aggrieved by Order Following Petition for Reconsideration 3969
Parties Aggrieved Following Reconsideration 3970
Persons Who May Seek Judicial Review 291
Filing 291
Time 291
Pertussis 1300
Investigation 1300
Reporting Requirements 1300
Restrictions - Day Care Facility 1300
Restrictions - Health Care Facility 1300
Restrictions - School 1300
Pet Therapy 1402
Examination of Pets 1402
Interference 1402
Permitted Areas 1402
Policies & Procedures 1402
Type of Pet Allowed 1402
Petition For Adoption Of Rules 2143
Petition For Declaratory Ruling 2143
Petition For Judicial Review 5598
Filing & Service 5598
Filing Deadline 5599
Petition For Rehearing Or Reconsideration 3371
Administrative Procedure 3371
Petition for Rehearing or Reconsideration 3371
Petition for Removal From the Child Protection Central Registry 2547
Petition For Removal Of An Individual's Name From The Child Protection Central Registry 2547
Appeal of a Denial of Removal From the Child Protection Central Registry 2548
Criminal History Checks 2547
Criteria for Granting Petition for Removal From the Child Protection Central Registry 2547
Granting or Denying Removal From the Child Protection Central Registry 2548

Petition For Removal Of An Individual's Name On The Child Protection Central Registry Prior To October 1, 2007 2546
Petition For Review By Board Of Health & Welfare 2147
Petition For Review Procedure 1165
Attorney Fees & Costs in a Petition for Review 1166
Decision on Petition for Review 1165
Filing of Petition for Review 1165
Nature of Hearing 1165
Protective Orders 1166
Record of the Proceedings 1166
Requests for Postponement & Other Motions 1165
Stay of Hearing Officer's Decision 1165
Transcript 1165
Petition To Adopt Under The Adoption Of Children Act 2563
Filing a Petition 2563
Registration & Acknowledgment 2563
Petition Under The Child Protective Act 2548
Petitioner Has Burden Of Proof 5585
Petitioners 257, 294, 3927, 4660
Petitioners, Contested Cases 3035
Petitions 559
Petitions -- Defined -- Form & Contents 260, 3037, 5998
Form & Contents 260
Form & Contents of Petition of Declaratory Rulings 5999
Petitions 3037, 5999
Petitions Defined 260
Pleadings Defined 3037, 5998
Petitions & Cross-Petitions For Reconsideration 3968
Answers to Petitions for Reconsideration 3969
Cross-Petition for Reconsideration 3968
Methods of Reconsideration Requested 3969
Petition for Reconsideration 3968
Timely Filing--Mailbox Rules 3969
Petitions For Declaratory Orders 3937
Petitions For Declaratory Rulings To Be Decided By Order 265, 3042, 4670, 5584
Content 265, 3042, 4670, 5584
Final Agency Action 265, 3042, 4670, 5584
Petitions For Extension Of Time To File 560
Petitions For Oral Presentation 288
Content 288
Oral Presentation 289
Requirement 288
Petitions To Initiate Contested Cases, Defined, Form & Contents 5585
Defined 5585
Filing 5586
Form & Contents 5585
Petitions--Defined--Form & Contents 4662
Petitions 4662
Pleadings Defined 4662
Petroleum Release Reporting, Investigation, & Confirmation 5480
Investigation Due to Off-Site Impacts 5480
Release Investigation & Confirmation Steps 5480
Reporting & Cleanup of Above Ground Spills & Overfills, Petroleum Release Reporting 5481
Reporting of Suspected Releases for All Petroleum Storage Tank Systems 5480
Petroleum Release Response & Corrective Action 5481
Compliance 5485
Corrective Action Plan 5484
Free Product Removal 5482
Initial Abatement Measures 5481
Initial Site Characterization 5482
Investigations for Soil & Water Cleanup 5483
Release Response 5481
Petroleum Underground Storage Tank Database 5667
Availability 5667
Identification 5667
Maintenance 5667
Petition 5667
Pets 3844
Pets & Domestic Animals 2607
Pharmacist Intern Registration 3872
Registration Requirements 3872
Renewal 3872
Pharmacist License Reinstatement 3871
Additional Requirements 3871
Satisfactory Evidence 3871
Pharmacist License Renewal
CPE Requirements 3871
ACPE 3871
CME 3871
Pharmacist Licensure By Examination 3870
Graduates of foreign Pharmacy Schools 3870
Graduates of U.S. Pharmacy Schools 3870
Licensure Examinations 3871
Pharmacist Licensure By Reciprocity 3871
Pharmacist Prescribing
General Requirements 3876
Collaboration with Other Health Care Professionals 3876
Documentation 3876
Education 3876
Follow-Up Care Plan 3876
Notification 3876
Patient Assessment 3876
Patient-Prescriber Relationship 3876
Prescribing Exemption 3876
Pharmacy Service 2021
Inservice/Continuing Education 2023
Organization & Supervision 2021
Policies & Procedures 2021
Safe Handling of Drugs 2023
Scope of Services 2021
Security 2023
Space, Equipment, Facilities 2022
Staffing 2021
Unit Dose Drug Distribution 2023
Pharmacy Services 1400
Care of General Medications 1400
Customized Medication Packaging 1402
Pharmacy Service 1400
Record of Medications 1401
Unit Dose Pharmacy 1401
Pheasant Tags, Permits, & Validations 1034
WMA Upland Game Bird Permit 1034
Youth Pheasant Season 1034
Phenylketonuria 1301
Phenylketonuria (PKU) 2356
PKU Patients Under Eighteen Years of Age 2356
Philosophy & Objectives Of Educational Program 3394
Photo Finish 736
Order of Finish 736
Photographic Print 736
Photographic Prints Displayed 736
Photo Finish Camera 799
Approved Camera 799
Judges Decision 799
Photo Posted 799
Photographic Record 800
Photo Finish Devices 853
Devices Calibrated 854
Location 853
Posting Photographs 854
Print Provided 854
Records 854
Photographers & Photofinishers 4335
Definitions 4335
Sales by Photographers & Photofinishers 4335
Sales of Photographs 4335
Sales to Photographers & Photofinishers 4335
Physical & Eye Examination Of Combatants At Time Of Weigh-in 3435
Physical Environment 1958
Physical Environment & Sanitation 2053
Physical Examination 813, 2658

Medical Special Needs 2658
Physical Examination Availability 2658
Prior Physical Examination 2658
Standard Physical Examination Requirements 2658
Physical Examination Of Combatant 3415
Additional Examination 3415
Blood Testing 3415
Drug Abuse 3415
Examination by Physician 3415
Physical Facilities 1337
Physical Facility Standards -- Existing Construction 1961
Dining Areas 1961
Good Repair 1961
Heating & Air Conditioning 1962
Lighting 1961
Plumbing 1962
Porches & Verandas 1961
Stairways 1961
Telephone 1961
Ventilation 1962
Physical Facility Standards -- Existing General Requirements 1961
Physical Facility Standards -- Individual Accommodations For Existing Construction 1962
Bath Linens 1963
Bathrooms 1963
Beds 1963
Ceilings 1963
Corridors & Hallways 1963
Furnishings & Equipment 1963
Interior Design 1963
Location of Bedroom 1962
Multi-Bedroom 1962
Room Size 1962
Windows 1962
Physical Facility Standards -- Individual Accomodations For New Construction 1965
Bathrooms 1966
Bedrooms 1965
Closets 1966
Living & Dining Areas 1966
Location of Bedroom 1965
Multi-Bedrooms 1965
Windows 1965
Physical Facility Standards -- New Construction 1963
Physical Facility Standards -- New Construction Requirements 1964
Approved by Department 1964
ICF/ID Regulations 1965
Inspection 1965
New Facility Life Safety Code Requirements 1964
Plans, Specifications, and Inspections 1964
Preliminary Plans 1964
Site Requirements 1965
Working Drawings 1964
Physical Intervention 337
Appropriate Use of Physical Intervention 337
Use of Chemical Agents 337
Use of Electroshock Devices 337
Use of Mechanical Restraints 337
Physical Requirements 5042
Memorial Site 5042
Shape & Color 5042
Physician -- Suitable Place To Examine Contestant 3435, 3436
Physician Panelist For Prelitigation Consideration Of Medical Malpractice Claims 3336
Eligibility 3336
Excusing Physicians from Serving 3336
Penalties for Noncompliance 3336
Purpose 3336
Physician Services 1397
Coverage & Limitations 1646
Abortions 1646
Corneal Transplants & Kidney Transplants 1646
Injectable Vitamins 1646
Physical Therapy Services 1646
Sterilization Procedures 1646
Telehealth 1646
Tonometry 1646
Definitions 1645
Physician Services 1645
Telehealth 1646
Necessary Medical Information 1397
Physician Supervision 1397
Physician's Plan of Care 1397
Plan of Care Review 1397
Provider Qualifications & Duties 1646
Locum Tenens Claims & Reciprocal Billing 1646
Misrepresentation of Services 1646
Provider Reimbursement 1647
Physician Excluded From the Penalty 1647
Physician Penalties for Late QIO Review 1647
Physician Penalty Schedule 1647
Physician Services & Abortion Procedures 1645
Physician Supervision In Hospitals & Medical Clinics 1262
Credentialing of Certified EMS Personnel in a Hospital or Medical Clinic 1262
Delegated Medical Supervision of EMS Personnel 1262
Designation of Supervising Physician 1262
Direct Medical Supervision by Physician Assistants & Nurse Practitioners 1262
Level of Certification Identification 1262
Medical Supervision Plan 1262
Medical Supervision Required 1262
Notification of Employment or Utilization 1262
On-Site Contemporaneous Supervision 1262
Physician Supervision In The Out-Of-Hospital Setting 1261
Delegated Medical Supervision of EMS Personnel 1261
Designation of EMS Medical Director 1261
Direct Medical Supervision by Physician Assistants & Nurse Practitioners 1261
Indirect Medical Supervision by Non-Physicians 1261
Medical Supervision Plan 1261
Medical Supervision Required 1261
Out-of-Hospital Medical Supervision Plan Filed with EMS Bureau 1261
Physician's Determination Of Fitness Of Combatants & Referee, Certification, Report
Determination of Physician 3436
Physician's Written Report 3436
Written Certification 3436
Physician's Report To Commission After Contest
Applies for Medical Aid 3443
Injury 3443
PI
Additional Provider Qualifications 2095
Pick (n) Pools 758
Apportioning the Pool 758
Cancellation & Refunds 760
Capped Carryover 760
Carryover Deposit 760
Carryover Requested 760
Contribution to Pool 761
Course Condition 760
Dead Heat 759
Net Pool Distribution 760
Pick (n) Pools 758
Prohibited Information 761
Scratched Entry 759
Single Price Distribution 760
Suspension of Wagering 761
Piling 4777
Condition of Pilings 4777
Prohibited Materials, Pilings 4777
Replacement of Pilings 4777
Standards for Pilings 4777
Pilot/Escort Vehicle Equipment 4971
Required Equipment to be Carried in a Pilot/Escort Vehicle 4971
Two-Way Radio 4971
Pilot/Escort Vehicle Lighting Requirements 4970
Light Bars 4970
Multiple Lights 4970

Pilot/Escort Lights On During Movement of Escorted Load 4970
Single Light 4970
Pilot/Escort Vehicle Placement 4971
Advance Pilot/Escort Vehicle 4971
First Movement from the Forest 4971
Front Pilot/Escort Vehicle 4971
Rear Pilot/Escort Vehicle 4971
Spacing 4972
Pilot/Escort Vehicle Sign Requirements 4970
Dimensions 4970
Oversize Load Signs 4970
Pilot/Escort Vehicles 4970
Loads Over Sixteen Feet High 4970
Pipe Crossings 4777
Cofferdam 4777
Construction Methods 4777
Depth of Line 4777
Pipe Joints 4777
Revegetation of Disturbed Areas 4777
Standards for Pipe Crossings 4777
Pit Requirements 3272
Closure of Pits 3275
Condemnation Due to Improper Impoundment 3276
Emergency Pits 3275
Location 3272
Minimum Plans & Specifications for Long Term Pits 3274
Minimum Plans & Specifications for Reserve, Well Treatment, & Other Short Term Pits 3273
Operating Requirements 3275
Pit Sizing Criteria 3273
Plans Required 3272
Site Preparation 3272
Time Limits for Short Term Pits 3274
Place & Time For Filing, Copy For Respondent 4088
Copy for Respondent 4089
Place for Filing 4088
Rejection of Complaint 4089
Time for Filing 4089
Place Of Filing 4123
Place Pools 749
Dead Heat for First 749
Dead Heat for Second 750
Net Place Pool 749
Place Pools 749
Placement Agreement Required Contents, Children's Agencies 2625
Placement Of Hunting Camps & Leaving Outfitter's Operating Area, Big Game Hunting & Incidental Trapping 3769
Camps 3769
Hot Pursuit of Bear & Cougar With Hounds & Hot Pursuit Agreements 3769
Wolf Trapping Incidental to Big Game Hunts 3769
Placement Of Protection Against Invasive Species Sticker 3821
Location 3821
Removal 3821
Placement Of The Child 2560
Disclosure 2561
Factors to be Considered in Determining Suitability of Adoptive Placements 2560
Selection of Adoptive Placement 2561
Placement On Register 1149
Disabled Veterans' Preference 1149
Score Order 1149
Veterans' Preference 1149
Placement On Register With Reemployment Preference 1157
Placement Supervision - Transfer From Out Of State Private Agency 2562
Placer Or Dredge Exploration Operations 3098
Confidentiality 3098
Notice 3098
One-Half Acre Limit 3098
Reclamation Required 3098
Placer Or Dredge Mining Of Certain Waterbodies Prohibited 3115
Mining Withdrawals 3116
Prohibited Areas 3115
Placing Errors 800
Errors 800
Method 800
Placing Judge 736
Placing Judges 799
Plague 1301
Handling of Report 1301
Investigation 1301
Prophylaxis of Contacts 1301
Reporting Requirements 1301
Restrictions - Health Care Facility 1301
Plan & Specification Review Dispute Resolution 5519
Plan Liabilities 6033
Plan Of Care 1573
Changes to Plan 1574
Drugs & Treatments 1574
Goals of Patient Care 1574
Initial Plan of Care 1574
Orders for Therapy Services 1574
Total Plan of Care 1574
Written Plan of Care 1573
Plan Of Reorganization 2921
Limited Application 2922
Standard Application 2922
Plan of Reorganization 2921
Plan Of Service 2409
Changes to the Plan 2410
Copy of the Plan 2410
Core Elements 2410
Developing the Plan 2410
Periodic Review 2410
Resident Choice 2410
Signature & Approval 2410
Plan Review 532, 540
Addenda & Change Orders 532
Application Provisions 541
Distribution of Approved Copies 541
Jurisdiction 532, 540
Non-conformance 541
Plans Not Required 532, 541
Plans Specifications 532
Proprietary Information 541
Revisions to Approved Modular Building Plans 541
Plan To Achieve Self-Support (PASS) 1522
Approved PASS 1522
Income Necessary for Self-Support 1522
Under Age Sixty-Five 1522
Planned Deployment -- Personnel Requirements 1222
Planning & Service Area (PSA) Designation 1108
Planning Document 5570
Planning For Release Or Transfer 384
Aftercare Planning 384
Approval 384
Check-Out Procedures 385
Department Concurrence 384
Reintegration Staffing 384
Termination Prior to Completion 385
Plans & Specifications 5559
Plans, Drawings, & Specifications 4742
Application for & Receipt of Written Approval 4743
Detailing Provisions of Specifications 4744
Dimensions of Plans 4743
Engineer's Report 4744
Filing of Additional Information 4745
Inspections, Examinations & Tests 4744
Plans 4743
Preparation & Submission of Plans 4743
Provision Included with Plans 4744
Provisions Included with Specifications 4744
Rejection of Defective Material 4744
Required Information 4744
Responsibility of Engineer 4744
Scale of Plans & Drawings 4743
Specifications 4744
Submission of Plans, Drawings & Specification 4742
Suspension of Work 4744
Planting Materials 4988
Caretaking 4988
Growth & Conformity 4988

Replacement 4988
Species 4988
Plastic/Burn 2356
Eligible Conditions 2356
Excluded Conditions 2356
Spending Limit 2356
Plater 835
Platforms Other Than In Section 303 4069
Plauge
Restrictions - Day Care Facility 1301
Restrictions - School 1301
Play Using Electronic Bingo Machines 5254
Additional Paper Cards 5254
Available Devices 5254
Loading Electronic Bingo Devices 5254
No Player-Owned Devices 5254
One Device Per Player 5254
Other Requirements 5254
Provision of Devices 5254
Reserve Devices 5254
Use of Devices on Premises 5254
Pleadings -- In General 3930
Pleadings In Contested Cases Listed, Miscellaneous 5585
Pleadings Listed -- Miscellaneous 5998
Pleadings Listed--Miscellaneous 259, 295, 3036, 3930, 4662
Plumbing Contractor 508
Advertising 509
Effective Dates 509
Out-of-State Contractor Applications 508
Plumbing Contractor's Responsibility 509
Previous Revocation 508
Qualifications for Plumbing Contractor 508
Restrictive Use of Contractor Certificate 508
Reviving an Expired License 508
Pneumococcal Invasive Disease In Children Less Than Eighteen Years Of Age 1301
Investigation 1301
Reporting Requirements 1301
Restrictions - Day Care Facility 1301
Restrictions - School 1302
Pneumocystis Pneumonia (PCP) 1302
Investigation 1302
Reporting Requirements 1302
Podiatric Residency 3544
Residency Required for Licensure 3544
Submission of Verification of Residency Curriculum 3544
Podiatrist Services
Acute Foot Conditions 1649
Chronic Foot Diseases 1649
Coverage & Limitations 1650
Definitions 1649
Provider Qualifications 1650
Services Defined in Chronic Care Guidelines 1650
Treatment of Acute Conditions 1650
Point Source Wastewater Treatment Requirements 5478, 5513
Appropriate Control Measures 5513
Degree of Treatment 5513
Operation 5513
Temperature 5478
Treatment Records 5514
Turbidity 5478
Poisonous Or Toxic Materials 1337
Police 905
Police Officer Contributions Withheld Incorrectly 6009
Police Officer Membership Certification 6006
Policies & Procedures 1570, 2445
Policies & Procedures For Transitional Living Services, Children's Agencies 2628
Policies & Procedures Regarding Development Of Social Skills & Management Of Maladaptive Behavior 2085
Adaptive & Maladaptive Behaviors 2085
Appropriate Use of Interventions 2086
Behavior Replacement 2085
Function of Behavior 2085
Objectives & Plans 2085
Participant Involvement 2086
Positive Social Skills 2085
Prevention Strategies 2085
Protected Rights 2085
Review & Approval 2086
Written Informed Consent 2086
Policies & Procedures, Children's Therapeutic Outdoor Programs 2653
Policy 2498, 3157, 3178, 3184, 3228, 3299, 3826, 5486, 5568, 5803, 5859
Compensation 3827
Consent Required 3826
Control 3827
Director May Grant Leases 3228
Director's Authorization to Issue & Renew Leases 3228
Director's Discretion 3179
Discretion 3826
Easements Required 3178
Environmental Protection & Navigational or Economic Necessity 3157
Exercise of State Title 3184
Existing Easements 3179, 3185
Existing Permits 3185
Interest Granted 3179
Issuing Authority 3826
Limit of Director's Discretion 3179
Limitation on Easement Grant 3185
Minimum Width 3185
Modifications 3826
No Encroachments Without Permit 3157
Other Permits 3184
Other Permits and Licenses 3228
Permitting of Existing Encroachments 3157
Policy of the Sate of Idaho 3228
Prior Grants 3179
Private Moorage at Commercial Marinas 3229
Purpose Compatible 3827
Reciprocal Easements 3179
Recordation 3179
Regulation of the Beds of Navigable Waters 3184
Requests or Inquiries Regarding Navigability 3228
Rights Granted 3228
Rules Applicable to All Existing & Proposed Uses & Encroachments 3228
Stream Channel & Encroachment Permits 3184
Stream Channel Alteration Permit or Encroachment Permit 3228
Submerged Lands Lease Required Upon Notification 3228
Term Easement 3179
Term of Lease, Renewal of Lease 3228
Waiver of Lease Requirements 3229
Width of Easement 3179
Policy Definitions 2814, 2864
Accident 2864
Activities of Daily Living 2814
Acute Condition 2814
Adult Day Care 2814
All Providers of Services 2815
Bathing 2814
Cognitive Impairment 2814
Continence 2814
Convalescent Nursing Home 2864
Dressing 2814
Eating 2815
Hands-On Assistance 2815
Home Health Care Agency 2865
Home Health Care Services 2815
Hospice 2865
Hospital 2865
Mental or Nervous Disorder 2815
Mental or Nervous Disorders 2866
Personal Care 2815
Pre-existing Condition 2866
Sickness or Illness 2866
Similar Policy Forms 2815
Skilled Nursing Care, Intermediate Care, Personal Care, Home Care, & Other Services 2815
Toileting 2815
Total Disability 2866

Transferring 2815
Policy Definitions & Terms 2784
Accident, Accidental Injury, or Accidental Means 2785
Benefit Period or Medicare Benefit Period 2785
Convalescent Nursing Home, Extended Care Facility, or Skilled Nursing Facility 2785
Health Care Expenses 2785
Hospital 2785
Medicare 2785
Medicare Eligible Expenses 2785
Physician 2785
Sickness 2785
Policy Making Authority 1172
Policy Practices & Provisions 2815
Continuation or Conversion 2817
Discontinuance & Replacement 2818
Electronic Enrollment for Group Policies 2819
Extension of Benefits 2817
Limitations & Exclusions 2816
Premium Changes 2818
Renewability 2815
Policy Provisions 2785
Duplicate Benefits 2786
Medicare Supplement Policy 2785
Outpatient Prescription Drugs 2786
Waivers 2785
Policy Statement 1099
Policy Statement, UCC Information Management System 4128
Poliomyelitis 1302
Immunization of Personal Contacts 1302
Investigation 1302
Reporting Requirements 1302
Restrictions - Day Care Facility 1302
Restrictions - School 1302
Polygraph Examinations 5294
Pony Person 835
Pools Dependant Upon Betting Interests 744
Offer Wagering Pools 744
Portability 2765
Portable Electrical Devices 2337
Portable Fire Extinguishers, Section 906.2.1, International Fire Code 3000
Position Descriptions & Qualification Criteria 368
Clinician, Counselor, or Therapist 368
Juvenile Services Coordinator or Social Worker 368
Recreational Specialist 368
Rehabilitation Specialist or Case Manager 368
Rehabilitation Technician or Direct Care Worker 368
Special Education Teacher 369
Teacher 369
Possession & Propagation Of Deleterious Exotic Animals 108
Possession 108
Propagation 108
Possession & Transportation Of Live Fish Or Crustacea 1058
Live Crustacea 1058
Live Fish 1058
Possession Of Unlawful Import 1041
Possession Permits 109
Application for Possession Permits 109
Application Process 110
Application Review 110
Duration of Possession Permit 111
Grant or Denial of the Permit 111
Possession, Importation, & Transportation Of Cervid Carcasses Or Parts From Areas With Chronic Wasting Disease (CWD)
Unlawful 1043
Exceptions 1043
Prohibitions 1043
POST 890
Post Conviction Sexual Offender Polygraph Examiner
Qualifications 5286
Certification Requirements 5286
Certified Examiner 5286
POST Council 891
Compensation 891
Council Members 891
Resignations 891
POST Credit For In-Service Training 916
Course Attendance Roster 917
Credit for POST In-Service Training Provided by a Post Certified Instructor in Idaho 916
Credit for POST In-Service Training Provided by an Organization or Vendor who is not POST Certified 916
Training Outside Idaho 917
POST Division Administrator 892
Administration 892
Responsibilities 892
Selection 892
Post Entry Inspections 89
POST Hearing Board 891
Discovery 892
Members 892
Recommended & Final Orders 892
Post Hearing Provisions For Residential And Domiciliary Care 3319
Effect of Petition for Judicial Review 3319
No Motions for Reconsideration 3319
Public Inspection 3319
Service of Decisions and Orders 3319
POST Instructor Certification 913
POST Instructor Certification – General Provisions 913
Agency Responsibility 913
POST Training Credit 913
Post Positions 792
Applicability 792
Position 793
Post Positions Determined by Lot 792
Starter 793
Post Race Weigh In 797
Carrying Equipment 797
More Weight 797
Preparation for Weigh In 797
Same Weight 797
Upon Completion of a Race 797
Post Retirement Allowance
Adjustments 6043
Adjustments Under Section 1-2001(2)(a)(ii) 6043
Adjustments Under Section 59-1355, Idaho Code 6043
Post Retirement Allowance Adjustments--PERSI Retirees 6018
Post-Accident Testing 871
Posters, Placards, Banners, Signs, Equipment, Tables, Materials, & Displays 4864, 4875, 4884
Attaching, Affixing, Leaning or Propping Materials 4876
Attaching, Affixing, Leaning, or Propping Materials 4865, 4885
Distribution of Literature & Printed Material 4885
Electrical Cords 4864, 4875, 4884
Free Distribution of Literature & Printed Material 4865, 4876
Ingress or Egress 4865, 4876, 4885
Materials Causing Damage to Exterior Surface 4865, 4885
Materials Causing Damage to Surfaces 4876
Railings 4875
Railings & Stairways 4865, 4884
Removal of Items 4885
Surface Markings 4885
Tossing or Dropping Items 4865, 4875, 4885
Post-Graduation Self-Evaluation 919
Posting Of Entries 732
Posting Of License & Hours 5250
Posting Of Registration 317
Posting Of Signs 1345
Posting The Clandestine Drug Laboratory Site 1347
Post-Legal Adoption Services 2565
Post-Placement & Post-Finalization
Adoption Services, Inter-Country Adoption 2634
Adoption Disruption Re-Placement 2634
Child Origin Information Access 2634
Crisis Counseling 2634

Post-Finalization Counseling 2634
Post-Placement Reports 2634
Post-pleading Procedure -- Modified Procedure 3949
Postponement Of Program 3427
Advance Notice 3427
Limitations on Postponement 3427
No Fault Postponement 3427
Prior Approval 3427
Poultry 101
Originate from NPIP Flock 101
Salmonella Test 101
Poultry Hatching Eggs 101
Negative Birds 101
NPIP Flock 101
Power Boat Fishing Guide - (Lakes & Reservoirs) 3769
Law 3769
Maneuver or Pilot 3769
Operation 3769
Power Boat Guide 3767
Classified Rivers 3767
Lakes & Reservoirs 3767
Log 3767
Unclassified Rivers & Streams 3767
Power Of Entry 807
Power to Limit Production 3284
Powers & Duties 351
Board Determinations 351
Release Date for Juveniles 351
Review 351
Powers & Duties - Property Tax - Value Information 4408
Additional Abstracts to Accompany County Abstracts 4408
Cross Reference 4409
Requirement to Submit Abstracts 4408
Values by Secondary Category 4408
Powers & Duties Of Authorized Agents 812
Documents 812
Entering a Claim 813
Ownership Disclosure 812
Powers & Duties Of POST Council 891
Additional Time to Complete POST Training & Certification 891
Assist, Study, Consult & Cooperate 891
Certification 891
Committees 891
Records 891
Reimbursement of Instructors 891
Rules 891
Vice-Chairman 891
Powers & Duties Of The State Fire Marshal 3007
Assistants, Inspectors & Other Employees 3007
Fees 3008
Licensing Procedures 3007
Records 3007
Suspension or Revocation of License 3007
Powers And Duties Placement 351
Powers Of The Racing Commission To Review & Audit Records 844
Practical Experience 3657
Dealer-in-Training License 3658
Supervised Practical Experience 3658
Practical Experience In Lieu of Education 3511
Practice Of Dry Needling 3577
Documentation of Training 3577
Written Informed Consent 3577
Practice Of Pharmacy
General Approach 3866
Education, Training, & Experience 3866
Express Prohibition 3866
Standard of Care 3866
Practice Of Social Work 3585
Baccalaureate Social Work 3585
Clinical Social Work 3586
Employment of a Social Worker 3586
Master's Social Work 3586
Practice Outside Of A Licensed Establishment 3741
Cleansing 3741
Coloring 3741
Extensions 3741
Hair Styling 3741
Makeup Application 3741
Nail Services 3741
Safety & Disinfection 3741
Temporary Hair Removal 3741
Practice Privileges 35
Internet Disclosures 35
Substantially Equivalent 35
Practice Sites 3401
Approval by Other Agencies 3402
Evaluation by Faculty 3402
Faculty Supervision 3402
Planned Communication 3402
Sufficient Experiences 3402
Written Agreements 3402
Practice Standards 3345
Advertise 3345
Delegation of Services Agreement 3345
Identification 3345
Notification of Change or Addition of Supervising or Alternate Supervising Physician 3345
Supervising Physician 3345
Practitioner Controlled Substance Registration 3873
DEA Registration 3873
State License 3873
PRC Modifications 1597
Pre-Acquisition Notification 2918
Domestic Insurer 2918
Expert Opinion 2918
Preadmission Screening & Resident Review Program (PASRR) 1769
Pre-Adoptive Parent Responsibilities 2559
Preamble Message 322
Preamble Message Modification 323
Pre-Application Process 5894
Application Content 5894
Application Schedule 5894
IPDES Permit Applicability 5894
Precedence Of Categorical Assistance Programs 1559
Preceptorship Program 3539
Precious Stones & Mineral Promotions 320
Telephone Solicitor Disclosure Purchaser
Earning Claims 320
Precious Ore Location 320
Telephone Solicitor Address 320
Predatory Wildlife 996
Pre-ERISA Vesting 6044
Pre-ERISA Vesting Rules 6027
Termination or Partial Termination 6028
Preference for Commercially Available Products, Specifications -- Policies & Development 4902
Preference System 792
Claim 792
Excluded Twice 792
No Consideration 792
Opportunity 792
Preferred List 792
Preferred Drug List (PDL)Prescription Drugs
Coverage & Limitations 1664
Pregnancy 403, 412
Individual Medical Plan 403, 412
Medicaid Reimbursement 403, 412
Parenting Classes 403, 412
Pregnancy-Related Health Coverage 1366
Pregnancy-Related Services
Coverage & Limitations 1725
Individual and Family Social Services 1725
Maternity Nursing Visit 1725
Nursing Services 1725
Nutrition Services 1725
Qualified Provider Risk Assessment & Plan of Care 1725
Definitions 1724
Individual & Family Social Services 1724
Maternity Nursing Visit 1724
Nursing Services 1724
Nutritional Services 1724
Risk Reduction Follow-Up 1724
Procedural Requirements 1725
Provider Qualifications & Duties 1725
Individual & Family Social

Services 1725
Risk Reduction Follow-Up 1725
Provider Reimbursement 1725
Rates 1725
Risk Reduction Followup Services 1725
Pregnant Woman Coverage 1366
Continuing Eligibility 1366
Household Size 1366
Income Disregards 1366
Income Limit 1366
Pregnant Woman Ineligible Because Of Excess Income 1366
Prehearing Conference 2144, 4615, 5589
Additional Prehearing Conferences 5590
Determination Upon Results of Conference 4615
Exception to Prehearing Conference 2144
Failure to Appear 4615
Notice of Prehearing Conference 4615
Prehearing Conference 2144, 5589
Prehearing Order 4615
Subject of Conference 4615
Prehearing Conferences 3950
Prehearing Procedure 3294
Briefing 3294
Discovery 3294
Filing of Documents 3294
Subpoenas 3294
Prehearing Provisions For Residential And Domiciliary Care 3314
Briefing Schedule 3316
Discovery 3316
Disposition of Case Without a Hearing 3314
Hearing Record 3315
Informal Disposition 3316
Intervention 3315
Notice of Hearing 3314
Prehearing Conference 3314
Rules of Civil Procedure 3316
Stipulations 3315
Subpoenas 3315
Withdrawal of Appeal 3314
Withdrawal of Attorney or Representative 3314
Preliminary Orders 280, 3051, 4680, 5597
Content 280, 3052, 5597
Contents of Preliminary Order 4680
Definition 280, 3052, 4680, 5597
No Motions for Reconsideration 5597
Preliminary Procedure At Hearing 275, 3047, 4675, 5593
Preliminary Procedure At Hearing, Miscellaneous Procedure 3956
Prelogging Conference & Agreement 3243
Premature Timber Sale
Termination 3093
Request 3093
Termination Policy 3093
Premium Rate Schedule
Increases 2830
Actual & Projected Experience 2832
Actuarial Memorandum 2831
Additional Rate Increase Filings 2833
Contingent Benefit Upon Lapse 2832
Exception If Actuarial Memorandum Filed Which Includes Defined Information 2834
Exceptions 2833
Exceptions for Association Plans 2834
Exceptions for Disclosure & Performance Standards 2834
Persistent Practice of Inadequate Rate Filings 2833
Premium Rate Increase Notice 2830
Premium Rate Schedule Increases 2831
Projections Filed for Review 2832
Revised Premium Rate 2832
Premium Rates and Their Application 2892
Amount of Mortgagee Policies 2892
Amount of Owner's Policy 2892
Amount on Litigation and Foreclosure Reports 2893
Double Sale and Reissue 2893
Issuing Binders, Commitments or Preliminary Reports 2892
Schedule of Premium Rates 2892
Simultaneous Issuance of Owner's and Mortgagee's Policy 2893
Premium Threshold 2951
Premiums For Participation In Medicaid Enhanced Plan 2378
Countable Income Above 133% to 250% 2379
Countable Income at or Below 133% 2379
Countable Income in Excess of 250% 2379
Recomputed Premium Amount 2379
Workers with Disabilities 2378
Premiums For Participation Under Home Care For Certain Disabled Children (HCCDC) 2377
Failure to Pay Premium 2377
Failure to Provide Information 2377
Family Income Above 150% & Equal to or Less Than 185% of FPG 2377
Family Income Above 185% of FPG 2377
Premium Recalculation 2378
Reduction of Premium for Creditable Health Insurance 2377
Waiver of Premium 2377
Premiums For Participation Under The State Children's Health Insurance Program (SCHIP) 2376
Family Income Above 133% of FPG 2376
Family Income Above 150% of FPG 2376
Premiums For Participation Under The Youth Empowerment Services (YES) Program 2378
Enforcement of Premiums 2378
Premium Fee Schedule 2378
Premium Recalculation 2378
Waiver of Premium 2378
Prenatal & Postpartum Care 2651
Hospital Delivery Required 2651
Infant Medical Care Plan 2651
Obstetric History 2651
Obstetrical Exam 2651
Ongoing Medical Care 2651
Prenatal & Postnatal Education 2651
Pre-Opening Withdrawal Or Modification 4895
Preparation For Testing 4046
In-Line Ammeters 4047
Inspecting the Transformer(s) 4047
Pre-Test Documentation 4047
Remote Reference Grounding Rod 4046
Safety 4047
Preparation Of Appellate Record 3970
Preparation Of Examinations 1147
Content of Examinations 1147
Job Analysis & Confidentiality 1147
Subject-Matter Experts 1147
Preparations To Stop Hemorrhaging 3454
Prepared Testimony 277, 3049, 4677, 5594
Prepared Testimony & Exhibits 274, 3046, 3953, 4674
Computer-Searchable Copies of Testimony 3954
Format for Prepared Testimony 3953
Number of Copies--Filing & Service 3954
Prepared Testimony May be Required 3953
References to Exhibits 3954
Prepared Testimony, Hearings 3961
Pre-Professional Education 3544
Pre-Proposal Conference 4895
Pre-Race Weigh Out 796
Jockey Equipment 797
Specific Horse 796
Prerelease Applicants From Public Institutions 1469
Prescribed Fire 3080
Notification 3080
Purpose 3080

Recommended Practices 3080
Prescriber Performance Of Pharmacy Functions 3866
Prescription Delivery
Restrictions 3879
Acceptable Delivery 3880
Pick-up or Return by Authorized Personnel 3880
Prescription Drug Order
Minimum Requirements 3877
Date 3877
Directions 3877
Drug Information 3877
Exemptions for Non-Controlled Substances 3878
Institutional Drug Order Exemptions 3878
Patient?s Name 3877
Prescriber Information 3877
Signature 3878
Validity 3877
Antedating or Postdating 3877
Digital Image Prescriptions 3877
Invalid Prescription Drug Orders 3877
Prescriber Self-Use 3877
Tampering 3877
Prescription Drugs 1663
Coverage & Limitations 1663
Additional Criteria for Coverage 1664
Additional Excluded Drugs 1665
Covered Drug Products 1664
Excluded Drug Products 1665
General Drug Coverage 1663
Limitation of Quantities 1665
Participant Eligibility 1663
Drug Coverage for Dual Eligibles 1663
Obtaining a Prescription Drug 1663
Tamper-Resistant Prescription Requirements 1663
Tamper-Resistant Prescription Requirements Not Applicable 1663
Procedural Requirements 1666
Comparative Costs to be Considered 1667
Drugs Requiring Prior Authorization 1666
Emergency Situation 1666
Notice of Decision 1666
Prior Authorization Criteria 1666
Prohibition Against Cash Payment for Controlled Substances 1667
Request for Prior Authorization 1666
Response to Request 1667
Supplemental Rebates 1667
Provider Qualifications & Duties 1667
Dispensing Procedures 1667
Payment for Covered Drugs 1667
Pharmacy Provider Receiving Unused Prescription Drugs 1668
Return of Unused Prescription Drugs 1668
Provider Reimbursement 1668
340B Covered Entity Reimbursement 1670
Cost Appeal Process 1672
Limitations on Payment 1671
Pharmacy Reimbursement 1668
Reimbursement for Drugs Dispensed by Other Provider Types 1671
Return of Drugs 1672
Quality Assurance 1672
Pharmacy & Therapeutics Committee (P&T Committee) 1672
Prescription Writing 3346
Prescriptions 4372
Dental & Orthodontic Appliances 4373
Documenting Exempt Sales 4372
In General 4372
Orthopedic Appliances 4372
Purchases by Nursing Homes & For Profit Hospitals 4372
Purchases by Practitioners 4372
Sale Of Eyeglasses, Contact Lenses, & Related Products 4373
Prescriptions For Spectacles & Contact Lenses 3537
All Prescriptions for Rigid Contact Lenses 3538
All Prescriptions for Soft Contact Lenses 3538
Alteration of Prescriptions 3538
Expired Contact Lens Prescription 3538
Fitting & Dispensing Contact Lenses 3538
Prescription for Spectacles 3537
Prescriptive & Dispensing
Authorization For Advanced Practice Registered Nurses 3378
Expiration of Temporary Prescriptive Authorization 3379
Initial Authorization 3378
Prescribing & Dispensing Authorization 3379
Temporary Authorization 3379
Preservation of Public Property 3834
Preservation Of Records 4889
Presiding Officer 4619
Certification by Board 4619
Hearing 4619
Motions 4619
Oath or Affirmation 4619
Official Record 4619
Other Action 4619
Presiding Officer(s) 266, 3043, 4671
Presiding Stewards Log 730
Presumption Of Contributed Capital, Small Water Companies 4001
Presumptive Eligibility For Children & Parents 1369
Presumptive Eligibility Decisions 1369
Presumptive Eligibility Determination 1370
Presumptive Eligibility Period 1370
Presumptive Eligibility For Pregnant Women 1367
Formal Application 1367
Notification of Eligibility Determination Results 1367
Pregnancy Diagnosis & Eligibility Determination 1367
Presumptive Eligibility Decisions 1367
Qualified Provider Completes Eligibility Determination 1367
Pretreatment Standards 5986
Department Program in Lieu of a POTW Program 5987
Exceptions to Incorporation by Reference 5988
Objectives of General Pretreatment Regulations 5987
Purpose & Applicability 5986
Term Interpretation 5987
Preventing Jockeys From Riding 813
Preventing Spread Of Health Hazards From Dead Human Bodies 1282
Burial 1283
Embalming 1282
Notification of Health Hazard 1283
Prevention Services 1655
Preventive Health Assistance (PHA)
Coverage & Limitations 1658
Participant Request for Coverage 1659
Point System 1658
Premiums 1659
Weight Management Program 1659
Definitions 1658
Behavioral PHA 1658
Benefit Year 1658
PHA Benefit 1658
Wellness PHA 1658
Participant Eligibility 1658
Behavioral PHA 1658
Wellness PHA 1658
Procedural Requirements 1659
Behavioral PHA 1659
Wellness PHA 1659
Provider Qualifications & Duties 1659
Medications & Pharmaceutical Supplies Vendor 1660
Prior Authorization 1660
Provider Agreement 1659
Weight Management Program Vendor 1660
Quality Assurance 1660
Preventive Health Assistance (PHA) - Coverage & Limitations
Hearing Rights 1659

Preventive Health Assistance (PHA) - Provider Reimbursement 1660
Previous Decisions 5192
Previous Exemption Review Denials 2515
Price Advertising 248, 249
Price Advertising - Automobile Advertising/Sales 248
Advertised Price 248
Price Agreements 4900
Dollar Value 4900
Multiple Agreements 4900
Non-exclusive Agreements 4900
Property 4900
Price Labels 4317
Price Lists Or Tariff Filings 4019
Changes to Price Lists or Tariffs 4020
Price Lists or Tariffs 4019
Tracking Price Lists or Tariffs 4020
Prima Facie Rates 2755
Credit Disability Insurance Prima Facie Rates 2755
Credit Life Insurance Prima Facie Rates 2755
Primary Care Case Management 1651
Primary Data Elements 4128
Filing Date & Filing Time 4128
Identification Numbers 4128
Identification of Parties 4129
Lapse Indicator 4129
Status of Financing Statement 4129
Type of Document 4128
Primary Purpose 870
Primary Responsibilities Of Agencies/ Offices Monitoring This Rule 5029
Court 5030
Idaho Transportation Department 5030
Lessee 5030
Manufacturer 5029
Testing Lab 5029
Principles For Determining The Existence Of A Unitary Business
Commonly Controlled Group Of Business Entities 4213
Commonly Controlled Group 4213
Controlled 4214
Elections & Terminations 4214
In General 4213
Stock Ownership 4214
Terms 4215
Description And Illustration Of Functional Integration, Centralization Of Management And Economies Of Scale 4211
Centralization of Management 4212
Economies of Scale 4212
Functional Integration 4211
Determination Of A Unitary Business 4211
In General 4211
Significant Flows of Value 4211
Indicators Of A Unitary Business 4213
Same Type of Business 4213
Steps in a Vertical Process 4213
Strong Centralized Management 4213
Unitary Business Principle 4210
Constitutional Requirement for a Unitary Business 4210
Separate Trades or Businesses Conducted Within a Single Entity 4211
The Concept of a Unitary Business 4210
Unitary Business Unaffected by Formal Business Organization 4211
Prior Approval For Betting Pools 744
Suspend Previously Approved Forms of Wagering 745
Prior Authorization 2357
Priority Lists 697
Limitations on Priority Lists 698
Priority Lists for Incorporated City Liquor Licenses 697
Priority Lists Where Licenses are Available 698
Refusal to Accept Offer of License or Failure to Complete Application for License 698
Written Notification 697
Priority Order Of Credits & Adjustments To Credits 4263
Adjustments to Credits 4264
Nonrefundable Credits 4263
Tax Liability 4263
Priority Rating System 5489, 5571, 5864
Amendment of Priority List 5490, 5572, 5865
Priority List 5489, 5572, 5865
Priority Rating 5489, 5571, 5864
Priority Reevaluation 5489, 5572, 5865
Priority Target Date 5489, 5572, 5865
Project Bypass 5489, 5572, 5865
Purpose 5489, 5571, 5864
Rating Forms 5489, 5572, 5865
Privacy Of Medical Records & Information 402, 411
Confidentiality 402
Privacy Officer 402, 411
Separate Records 402, 411
Private Car Reporting By Railroad Companies 4444
Car Type 4444
Marks 4444
Miles Traveled 4445
Name of Private Railcar Fleet 4444
Name of Reporting Railroad Company 4444
Private Railcar Fleet's Address 4444
Private Community Municipal Wastewater Treatment Plants
Plan & Specification Approval 5544
Private Community Municipal Wastewater Treatment Plants 5544
With Drainfields 5545
Private Duty Nursing
Coverage & Limitations 1763
Limitations 1764
Ordered by a Physician 1763
Plan of Care 1763
Status Updates 1764
Definitions 1762
Primary RN 1762
Private Duty Nursing (PDN) RN Supervisor 1762
Eligibility 1763
Factors Assessed For Eligibility & Redetermination 1763
Age for Eligibility 1763
Attending Physician 1763
Maintained in Personal Residence 1763
Medical Justification 1763
Redetermination 1763
Written Plan of Care 1763
Provider Qualifications & Duties 1764
Ensure Health & Safety of Children 1765
LPN Providers 1765
Physician Responsibilities 1764
Primary RN Responsibility For PDN Redetermination 1764
Private Duty Nurse Responsibilities 1764
Private Duty Nursing Services 1762
Private Feeding Of Big Game Animals Prohibited 105
Private Feeding Of Deer & Elk Within Designated CWD Management Zone 1080
1080
Incidental Feeding 1081
Incidental Grazing 1081
Private Homes & Living or Sleeping Quarters, Use Prohibition 1337
Private Municipal Wastewater Treatment Plants 5543
Preliminary Engineering Report 5543
Scope 5543
Private Parks & Commercial Wildlife Facilities 1043
Applications 1043
Cages or Enclosures 1044
Compliance with Other Agency Requirements 1043
Dead Wildlife 1044
Evidence of Legal Possession 1044
General 1043
Inspections 1044

License Display 1043
Sale of Animal Meat or Parts 1045
Privilege 6001
Prize Logs 3246
Prizes, Unearned Income 1510
Probationary Periods 1158
Acting Service Credit 1158
Extension of Probationary Period 1158
Interruption of Probationary Period 1158
Probationary Period Required 1158
Temporary Service Credit 1158
Types of Probationary Periods 1158
Problem-Solving & Due Process Procedures 1162
Assistance to Agencies 1163
Elements of Due Process Procedure 1163
Elements of the Problem-Solving Procedure 1163
Eligibility & Time for Filing Under Problem-Solving Procedure 1162
Establishment of Agency Problem-Solving & Due Process Procedures 1162
Filings Alleging Sexual Harassment or Other Illegal Discrimination 1163
Notification 1163
Overview of Procedures 1162
Procedural Requirements
Administer Idaho Smiles 1700
Appeals 1701
Authorization 1700
Grievances 1701
Procedure 682, 2327, 3181, 3187, 4928, 5063
Abandoned Vehicles 4929
Action by the County Assessor 4929
Altered VINs 4928
Applicant Responsibility 4929
Approval 682
Authorization 682
Board Decision 3187
Carried 682
Completion of Search 5064
Conditional Registration 4928
Conditional Registration Procedure 4928
Contents of Application 3181, 3187
Copy 682
Decision on Application 3187
Denial of Application 3187
Designations by State Aerial SAR Coordinators 5064
Director's Decision 3187
District Aerial SAR Coordinators 5063
Engineer Certification 3181, 3187
Final Report 5065
Funds 5064
Interstate Coordination 5064
Notification of Approval 3182, 3187
Notification of Denial 3182
Official Mission Report 5064
Proof of Ownership 4929
Required Reports 5064
Search & Rescue Guideline 5063
Time Period of Searches 5064
Valid 682
Violation 682
Where to Submit 3187
Where to Submit Application 3182
Procedure & Testimony 4619
Examination of Witness 4620
Order of Procedure 4619
Preliminary Procedure 4619
Presentation of Evidence 4619
Testimony 4619
Procedure After Claim Approval 4490
Certification of Completed Property Tax Reduction Roll by County Auditor 4492
Certification of Electronic Property Tax Reduction Roll by County Assessor 4490
Final Property Tax Reduction Roll 4490
Final Supplemental Occupancy Tax Reduction Roll 4492
Formatting Requirements 4490
Occupancy Tax Reduction Claims 4492
Preliminary Property Tax Reduction Roll 4490
Preliminary Supplemental Occupancy Tax Reduction Roll 4492
Procedure At Hearing 3294
Evidence 3294
Hearing Record 3295
Presiding Officer at Hearing 3294
Representation 3294
Procedure At Reconsideration 3969
Procedure Followed In The Solicitation Of Bids & Proposals 4891
Procedure For Adoption Of Temporary Rules 290
Associated Proposed Rule 290
Effective Date 290
Expiration 290
Gubernatorial Finding 290
Notice & Publication 290
Procedure For Contesting The Accuracy & Completeness Of A Criminal History Record Contained In Agency File 701
Challenge Accuracy of Records 701
Correction of Records 701
Documentation of Erroneous Information 701
Notification of Fingerprints Not Matched 701
Procedure For Public Testimony At Commission Meetings 971
Limiting Testimony 971
Public Conduct at Commission Meetings 971
Sign Up Card 971
Written Testimony 971
Procedure For Use Of Scorecards 3437
Delivery of Scorecards to Commission 3437
Presentation of Scorecards to Press After Contest 3437
Report of Each Contest 3437
Scorecards 3437
Scoring by Judges 3437
Procedure Governed 4610
Procedure 4610
Purpose 4610
Procedure On Motions 3958
Argument 3958
Motions for Procedural Relief 3959
Requirements for Motion for Expeditious Substantive Relief 3958
Support or Opposition to Prehearing Motion 3959
Procedure On Prehearing Motions 276, 3048, 4676
Procedure To Be Followed By Secondary Plan 2885
Procedure Upon Finding Of Reasonable Cause 5263
Procedure Upon Lapse 4132
Procedure Upon Receipt Of Notice Of Intent To File Application 294
Procedure Upon Refusal 4127
Procedure When Combatant Is Knocked Out 3441, 3442
Procedure When Complaint Issued 305
Procedure When Revocation Contested 305
Procedures 4947
Document Approval by the Department 4947
Surrendering Driver's License or Identification Card 4947
Surrendering Duplicate Driver's License or Identification Cards 4947
Verification of Name 4947
Procedures & Duties 3406
Meetings 3406
Voting 3406
Procedures After Initiation Of Formal Case 300
Deputy Attorneys General 300
Hearing Officers 301
Other Staff 301
The Attorney General 300
Procedures After Issuance Of A Complaint & Before The Agency Head's Consideration Of The Complaint 269
Hearing Officers 270
The Agency Attorney 269
The Agency Head 269
The Agency Staff 269

Procedures Following A Positive Chemical Analysis 872
After Evaluation 872
First Positive Test 872
Second Violation 873
Third Violation 873
Procedures Following The Adoptive Placement 2562
Procedures For Active Settlements 3962
Procedures For Decision-Making (State Procedures For RCRA Or HWMA Permit Applications) 5618
Procedures For Infected Herds 52
Procedures For Licensing Suspension, Revocation Or Nonrenewal 551
Procedures For Oversight Program 6081
Extension 6081
Items Subject to Observation 6081
Items Subject to Review 6081
Notification 6081
Persons Subject to Interview 6081
Time and Place 6081
Timing of Report 6081
Procedures For Review & Decision Upon An Application 3102
Adverse Weather 3102
Amended Applications 3103
Decision on Application 3102
Interagency Comment 3102
Permit Conditions 3102
Permit Denial Authority 3102
Permit Offering 3103
Public Hearings 3102
Reclamation Obligations 3103
Stream Alteration Permits 3102
Water Clarification 3102
Procedures For Review & Decision Upon An Application To Perform Surface Mining, Reclamation, & Ore Processing Using Cyanide 3130
Agency Notification & Comments 3130
Appeal of Final Order 3133
Decision on Cyanidation Facility Permanent Closure Plans 3131
Decision on Reclamation Plans 3131
Denial of an Application 3132
Nonpoint Source Pollution 3132
Permanent Closure Plan Approval 3132
Public Hearing 3133
Referral to Board 3133
Return of Application 3130
Procedures For Tuberculosis - Infected Feedlots 52
Procedures Governing Hearings 3649
Procedures On Settlements Over Fifty Thousand Dollars 4600
Amount in Issue 4601
Annual Summary 4602
Applicable Settlements 4602
Final Review 4601
Final Review When the Offer to Settle is Based on Inability to Pay 4602
Signatures for Settlement 4601
Written Summary 4602
Proceeding On The Project 3854
Proceedings By The Racing Commission 717
Proceedings Governed 255, 293, 3033, 3924, 4658
Contested Case & Rulemaking 3033
Other Specified Procedures 3033
Rules Not Applicable to Board Meetings 3033
Rules Not Applicable to Proceedings or Public Hearings 3033
Proceedings On Levy Or Distraint 4589
In General 4589
Sale of Property 4589
Process & Procedure For Applicants Seeking Consideration For An Initial Appointment As A Designated Examiner, Designated Dispositioner, Or Both 2271
Complete an Application 2271
Final Decision on Appointment 2271
Provide Verification of Education, Training, Experience, & Criminal Background Check 2271
Regional or Hospital Recommendation 2271
Process & Procedure For Applicants Seeking Consideration For Reappointment As A Designated Examiner Or Designated Dispositioner, Or Both 2272
Complete an Application 2272
Criminal History and Background Check Requirement for Individuals Appointed as a Designated Examiner or Designated Dispositioner Prior to January 1, 2009 2272
Final Decision on Reappointment 2272
Regional or Hospital Recommendation 2272
Processing 3830
Notification 3830
Receipt of Application 3830
Time 3830
Processing Application For A Driller's License Or Operator's Permit 4852
Driller's License or Operator's Permit Issued With Conditions or Denial of License or Operator's Permit 4852
Incomplete Application 4852
Issuance of License 4852
Issuance of Operator's Permits 4852
Processing Application To Renew License Or Operator's Permit 4853
Compliance History 4854
Condition or Denial of an Application for Renewal 4854
Processing Applications for Renewal 4853
Regulatory Compliance Required for Renewals 4854
Renewal of Expired Licenses or Operator's Permits 4854
Reuse of Identification Numbers 4854
Processing Applications For Permit & Reprocessing Permits 4795
Additional Information Requirements 4798
Burden of Proof 4797
General 4795
Protests, Intervention, Hearings & Appeals 4797
Public Notice Requirement 4796
Processing Fees 3827
Assignment or Renewal 3827
Issuance or Modification 3827
Processing Of Applications For All Other Types Of Encroachments 3167
Decision After Hearing 3168
Decision Where No Hearing 3168
Encroachments Not in Aid of Navigation 3167
Factors in Decision 3168
Hearing 3168
Hearing Participants 3168
Judicial Review 3168
Nonnavigational, Community & Commercial Navigational Encroachments 3167
Notifications 3167
Written Comments or Objections 3168
Processing Of Applications For Single-Family & Two-Family Navigational Encroachments Within Line Of Navigability 3166
Decision Following a Hearing 3167
Disposition Without Hearing 3167
Hearings 3167
Judicial Review 3167
Notification of Adjacent Littoral Owners 3166
Single-Family & Two-Family Navigational Encroachments 3166
Unusual Circumstances 3166
Written Objections 3166
Processing Of Complaint 4089
Consolidation 4089
Preparing the Complaint for Determination 4089
Record 4089
Processing Standards 1415
Procurement & Administration Of Approved Drugs 5176

Administration of Approved Drugs 5176
Controlled Substance Registration 5176
DEA Registration 5176
Purchase of Approved Drugs 5176
Producer & Miscellaneous Licensing Fees 3005
Examination Fees 3005
Fingerprint Processing 3005
License Renewal 3005
Original License Application 3005
Producer Training 2739
General Rule 2739
Requisite Producer Training Courses and Education 2739
Producer's License Needed 2760
Producing From Different Pools Through The Same Casing String 3285
Producing, Fabricating, & Processing 4306
In General 4306
Repairing & Reconditioning Distinguished 4307
Product Qualification 128
Apicultural Products 130
Authority of Determination 128
Beef & Beef Products 129
Exceptions 130
Forest Products 130
Game Meat 130
General Product Qualifications 129
Lamb & Lamb Products 129
Nursery Stock 129
Pork & Pork Products 129
Potatoes 129
Poultry & Poultry Products 130
Wine 129
Production 3283
Production Exemption 4351
Change in Primary Use of Property 4353
Exempt Purchases 4352
Exemption Certificate 4354
In General 4351
Production Process Beginning & End 4353
Qualifying Businesses 4352
Real Property 4353
Special Rules 4354
Taxable Purchases 4353
Transportation Activities 4354
Production Reports 3283
Annual Production Report 3283
Required Content 3283
Production Requests Or Written Interrogatories & Requests For Admission 273, 303, 3045, 3951, 4673
Form of Requests 3952
Numbers of Requests 3952
Time for Objection & Answer 3952
When Requests May Be Used 3951
Professional Athletes Between Seasons 618
Base Period Wages 618
Reasonable Assurance 618
Substantially All Services 618
Professional Education 3544
Professional Employer Organizations
Combined Wages or Services for Purposes of Coverage 636
Joint Transfer of Experience Rate 635
Methods of Reporting 635
Partial Reporting of Workers 636
Partial Transfers of Experience Rate Prohibited 636
Professional Engineer Licensure For Faculty Applicants 658
Professional Engineer, Review of Plans for Waste Treatment or Disposal Facilities 5518
Professional Taxidermist 4314
Fabrication 4315
In General 4314
Materials 4315
Proficiency Testing Of Clinical Laboratories 1265
Results to the Bureau of Laboratories 1265
Scope 1265
Program Complaints Against Local WIA Programs & Policies
Initial Review 642
Program Complaints Against Local WIOA Programs & Policies 641
Program Complaints Against Statewide WIA Programs & Policies
Initial Review 642
Program Complaints Against Statewide WIOA Programs & Policies 642
Program Criteria & Limitations 5065
Face Value Contributions 5065
Master Plan 5065
Percentages of Cost 5065
Projects Other Than Allocation Plan 5066
Public Funds Protection 5065
Program Description, Children's Agencies 2625
Program Development 2909
Program Documentation Requirements 2081
Requirements for Participants Seven Through Sixteen 2081
Requirements for Participants Three to Twenty-One 2081
Program Eligibility 1098, 2356
Program Exclusions 2358
Excluded Conditions, Services & Items 2358
Individual Consideration 2359
Program For Charity 3425
Application 3425
Certified, Itemized Statement 3425
Program Grants & Award Amounts 5119
Program Objectives 6055
Achieving Program Objectives 6056
Objectives 6055
Program Of Education 4410
Administration 4410
Appraisal School & Other Courses 4410
Cross Reference 4411
Examination Committee -- Establishment & Procedures 4410
Record Keeping & Reporting of Attendance, Grades, & Credit Hours 4410
Program Operational Requirements 383
General Requirements 383
Use of Polygraphs 384
Program Policy 1096, 6055
Administration 6055
Contracts 1096
Equal Opportunity 6055
Filing Applications 6055
Home & Community Based Services 1096
ICOA Program Manual 1096
Use of Loan Money in Conjunction with State or Federal Programs 6055
Program Purpose 1096
Program Requirements 2081, 2907
Program Staffing Requirements 369
Emergency Staffing Ratios 369
General Staffing Ratios 369
Program Statement 2629
Delineation of Expenses 2630
Description of Services Available 2629
Eligibility 2630
Program Statement For Transitional Living Services, Children's Agencies 2628
Program Summary, Children's Therapeutic Outdoor Programs 2666
Program Transfer During Certification Period 1474
Programming 381
Basic Program Requirements 381
General Requirements 382
Programs 5116
Programs & Services Available 346
Limitations & Denial of Services 346
Programs & Services 346
Records of Participation In Programs & Services 346
Programs For Older Americans 1508
Programs Which Do Not Qualify 2909
Programs Which Qualify 2908
Progress Reports 2562
Initial & Subsequent Reports 2562
Monthly Foster Care Payments -- Pre-Adoptive Placement 2563

Prohibited Activities On Interim
Protected Rivers 4628
Board Agenda 4628
Board Determination 4628
Board Identification 4628
Judicial Review 4629
Notice of Consideration 4628
Petitions to Exempt Specific Action or Projects 4628
Public Input 4628
Public Notice 4628
Prohibited Acts 62, 807
Accept Remuneration 807
Financial Interest 807
Owner, Lessor or Lessee 807
Prohibited Acts Defined 62
Wager 807
Prohibited Contact & Prison Rape Elimination Act (PREA)
Compliance 335, 376
Resident Access to Outside Support Services 377
Sexual Abuse of Juvenile Offenders 376
Prohibited Contact & Prison Rape Elimination Act Compliance (PREA)
Sexual Victimization Survey 377
Prohibited Factors 1147
Prohibited Fees, Commissions, Compensation 927
Prohibited Items 4865, 4870, 4876, 4885
Prohibited Practices 243, 727, 930
Consume Alcohol 728
Engage in Deceptive Advertising 931
Fail to Disburse Funds Timely 930
Fail to Provide Reasonable Opportunity for Document Review 931
Licensed in Other Capacity 727
Misleading Practices 243
Misrepresentations About How or Why Consumer Selected 243
Ownership 727
Require Excessive Insurance 931
Sell Insurance 727
Wager 728
Prohibited Printed Material 847
Copies 847
Publishers 847
Prohibited Questions 1139
Prohibited Sale Or Occupancy Notice 534
Prohibited Supportive Service Expenditures 1600
Any Service 1600
Child Care 1600
Credit Card Accounts 1600
Fines 1600
Household Items 1600
Medical Services 1600
Professional Union or Trade Dues 1600
Services for Children 1600
Vehicles 1600
Prohibited Transfers, Standards, FSED 2031
Prohibition Against Cash Option 6031
Prohibition Against Post-Claims Underwriting 2822
Delivery of Application or Enrollment & Form 2823
Health Conditions 2822
Medication 2822
Non-Guaranteed Issue 2822
Record of Rescissions 2823
Prohibition Against Preexisting Conditions & Probationary Periods In Replacement Policies Or Certificates 2839
Prohibition Against Preexisting Conditions, Waiting Periods, Elimination Periods & Probationary Periods In Replacement Policies Or Certificates 2810
Replacing Policy 2810
Waiving of Time Periods 2810
Prohibition Against Use Of Genetic Information & Requests For Genetic Testing 2810
Allowed Genetic Testing 2811
Banned Provisions 2810
Definitions 2811
Denial of Coverage 2810
Genetic Testing 2810
Information 2811
Payment 2811
Prohibition Of Contributions In Adoptions, Children's Agencies 2631
Prohibition Of Simulcast Signal 827
Prohibition Of Staff Adoptions, Children's Agencies 2631
Prohibition On Applicant Striking 1585
Prohibition On Application By Competitor, Intervenor Funding 3948
Prohibitions 780, 5019
Agreement 780
Board Jurisdiction 5019
Encroachment Hazards 5019
Financial or Beneficial Interest 780
Ineligible or Undisclosed Person 780
Modification of Rule 5019
No more than One Horse 780
Prohibited Uses 5019
Undisclosed Financial or Beneficial Interest 780
Project Allocation Priority Principles 5065
Aircraft Landing Development 5065
Aircraft Landing Projects 5065
Aircraft Operations Safety 5065
Federal Funds 5065
Preservation & Acquisition 5065
Projects Which Protect Prior Public Investments 5065
Project Amendments, Cost Increases & Time Extensions 3856
Amendments 3856
Basis for Cost Increase 3857
Condemnation 3857
Cost Increases on Acquisition Projects 3856
Cost Increases on Development Projects 3856
Extensions of Time 3857
Project Contract 3855
Project Conversions 3796, 3818
Approval of a Conversion 3818
Conversion Requests 3819
Resolving a Conversion 3819
Project Scope & Funding 5490, 5572, 5810, 5866
Combination Step Funding 5866
Funding for Reserve Capacity 5867
Limitation on Funding Assistance 5491, 5573
Nonpoint Source Implementation Funding 5810
Planning Document 5490, 5572
Project Step Funding 5866
Requirements for Awarding a Loan 5866
Wastewater Treatment Facility Funding 5810
Project Time Limitations 3849
Project Time Period 3814
Expenditure of Grant Funds 3814
Grant Cycle 3814
Requests for Extension 3814
Project-Exempt Appointments (Non-Classified) 1152
Projecting Monthly Income 1450, 1501, 2188
Anticipated Income 1450, 2188
Income Already Received 1450, 2188
Projecting Qualifying Activity Hours 2192
Promote & Advertise 840
Promoter Sponsored Events
Participant's Failure to Provide a Form ST-124 to the Promoter 4403
Promoter's Responsibility 4402
Promoter's Sales Tax Liability 4403
Temporary Seller's Permit Issued by Promoter 4403
Use of the Form ST-124 4402
Promoter's Advances To Combatant Or Manager Or Occurrence Of Debt On His Behalf 3423
Promoter's Advances To Combatant Or Manager Or Occurrence Of Debt On His Behalf
Any Indebtedness Restricted 3423
Restrictions 3423
Promoting Interoperability (PI) Program

Eligibility 2094
Promotions 1160
Eligibility for Promotion 1160
Interagency Promotions 1160
Promotion, In-Grade 1160
Use of Promotional Registers 1160
Proof For Questionable Information 1415
Proof Of Completion 2911
Proof Of Education Required 549
Continuing Education Course 549
Satisfactory Proof for Initial Application Submission 549
Satisfactory Proof for License Renewal 549
Proof Of Job Quit Or Reduction Of Work Hours 1433
Proof Of Proper Immigration Status 1422
Failure to Provide Legal Noncitizen Documents 1422
Proof Of Registration For New, Replacement, Or Reissued License Plates 5094
Issuance of Manually Completed Temporary Registrations When Automated System is Unavailable 5094
Placement of Proof of Registration Document 5094
Proof of Registration Document 5094
Proof Of Service 263, 3040, 3935, 4665, 5587, 5997
Proof Required For ABAWDS 1429
Food Stamp Months in Another State 1429
Proof of Hours Worked 1429
Proper Notice Of All Charges 718
Property Exempt From Taxation 4454
Burden of Proof 4454
Confidentiality 4454
Notice of Decision 4454
Property Exempt From Taxation - Certain Intangible Personal Property 4466
Cross Reference 4468
Definitions 4466
Operating Property Election, Reporting & Methods 4467
Personal Property Reporting for Locally Assessed Property 4467
Tangible Property Value Not Affected by Intangible Personal Property Value 4467
Property Exempt From Taxation -- Certain Personal Property 4470
Centrally Assessed Property – Application Required 4470
Correction of Personal Property Tax Replacement Amounts 4471
Cross Reference 4472
Limitation on Eligibility for the Exemption 4471
Limitation on Replacement Money 4472
Locally Assessed Property - Application Required 4470
Locally Assessed Property - Taxpayers' Election of Property Location 4470
No Reporting of Exempt Value 4472
Special Provision For Exempt Personal Property Within Urban Renewal Revenue Allocation Areas (RAAs) 4472
Special Provision For Replacement Money For State Authorized Plant Facilities Levy 4472
Special Rules for the Exemption Provided in Section 63-602KK(1), Idaho Code 4471
Valuation Assessment Notice 4471
Property Exempt From Taxation -- Certain Personal Property – Ownership Clarification 4473
Idaho Code Section 63-602KK(2) Provides Persons With One Exemption in Each Idaho County in Which They Meet the Ownership Rules 4473
Illustration of Common Enterprise and IRS Section 267 Restriction 4473
Property Exempt From Taxation -- Homestead 4455
Determination of Residency 4457
Homestead Exemption 4455
Maximum Amount of Homestead Exemption 4455
Notification of Erroneous Claims 4457
Partial Ownership 4455
Property Exempt From Taxation - Homestead - Continued Eligibility After Death Of Claimant 4455
Occupancy 4455
Ownership Interest 4455
Property Exempt From Taxation -- Motor Vehicles, Recreational Vehicles, & Vessels Properly Registered 4460
Exempt Motor Vehicles 4460
Exempt Permanently Affixed Personal Property 4460
Motor Vehicle Defined 4460
Recreational Vehicles 4460
Taxable Personal Property 4460
Taxable Real Property Associated with Vehicles 4461
Taxable Vehicles 4460
Property Exempt From Taxation – Oil Or Gas Related Wells 4483
Definitions of Oil or Gas Well 4483
Ineligible Land & Equipment 4483
Property Exempt From Taxation - Property Used For School Or Educational Purposes 4454
Application for Exemption for Leased Personal Property 4455
Eligibility of Leased Property 4454
Property Exempt From Taxation -- Qualified Equipment Utilizing Post Consumer Or Post Industrial Waste 4478
Application 4478
Exempt Petition's Definitions 4478
Qualified Personal Property 4478
Property Exempt From Taxation – Religious Corporations Or Societies 4454
Comparable Valuation Methodology to Partially Exempt Property Under Section 63-602C, Idaho Code 4454
Valuing the Taxable Part of Qualifying Property 4454
Property Exempt From Taxation -- Residential Improvements -- Special Situations 4457
Apportionment of Homeowner's Exemption by Dual Residency Couples 4459
Definitions 4457
Determining the Qualifying Portion of a Multidwelling or Multipurpose Building & the Related Land 4459
Dual Residency Couples 4458
Dual Residency Couples-- General Principles 4458
Example -- Both Residences are Community Property 4458
Example -- Both Residences Are Separate Property 4459
Example -- One Residence is Community Property, The Other is Separate Property 4458
Multidwelling or Multipurpose Building 4458
Multiple Ownerships Including Community Interests as Partial Owners 4459
Related Land 4458
Scope 4457
Property Exempt From Taxation-- Facilities For Water Or Air Pollution Control 4468
Calculation of Partial Exemption 4468
Exempt Property 4468
Exemption for Portion of Water Corporation Property 4469
Exemption Reported on Abstracts 4469
Filing Procedure 4468
Ineligibility 4468
Inspection 4468
Property Exempt From Taxation-- Speculative Portion Of Value Of Agricultural Land 4461

Calculation of Net Income from Cash Rent 4461
Calculation of Net Income From Crop Share Rent 4461
Cross Reference 4463
Definitions 4461
Determination of Five Year Average Crop Prices 4462
Farm Credit System Interest Rate 4462
Notification 4463
Property Factor
Averaging Property Values 4223
In General 4224
Monthly Averaging 4224
Rented Property 4224
Consistency In Reporting 4221
State to State Consistency 4221
Year to Year Consistency 4221
In General 4220
Average Value 4220
Denominator 4220
In General 4220
Nonbusiness Income 4220
Numerator 4221
In General 4221
Mobile or Movable Property 4221
Property in Transit 4221
Property Used For The Production Of Business Income 4220
Examples 4220
In General 4220
Valuation Of Owned Property 4221
Examples 4221
Gifts or Inheritance 4222
In General 4221
Inventory 4222
Unknown Original Cost 4222
Valuation Of Rented Property 4222
Annual Rent 4223
Annual Rental Rate 4222
Examples of Annual Rent 4223
Examples of Annual Rental Rate 4222
Examples of Subrents 4222
Exclusions 4223
In General 4222
Leasehold Improvements 4223
Safe Harbor Lease 4223
Property Held For Deceased Owners 5274
Property Valued at Five Thousand Dollars or More 5274
Property Valued at Less than Five Thousand Dollars 5275
Property Presumed Abandoned General Rule 5271
Books of Holder 5272
Holding Period Determined by Type of Liability 5272
Notice 5272
Property Subject To Lien 4588
Duration of Lien 4588
Statutory Lien 4588
Property Tax Appraiser Certification Program 4411
Application for Certification 4411
Certification Requirements 4411
Cross Reference 4412
Maintaining Property Tax Appraisal Certification 4412
Property Tax Notice & Receipts - Duty Of Tax Collector 4515
Property Tax Relief ("Circuit Breaker")
Program -- Special Situations 4489
Apportionment of Property Tax Reduction by Dual Residency Couples 4489
Dual Residency Couples 4489
General Principles 4489
Multiple Ownerships Including Community Interests as Partial Owners, Example 4489
Scope 4489
Property Used For Self-Support Excluded 1442
Property Used With Excluded Vehicle 1442
Proposal Discussion With Individual Offerors 4898
Application to Other Solicitation Types 4898
Best & Final Offer 4898
Classification of Proposals 4898
Classifying Proposals 4898
Conduct of Discussions 4898
Offerors Defined 4898
Purposes of Discussions 4898
Proposed Changes To Rates Or Rules--
Effective Date--Notice Of Application--Suspension 3942
Notice of Application 3942
Statutory Notice of Rate Changes 3942
Suspension of Proposed Rate Changes 3942
Proposed Officials 851
Hardship 851
Proposed Orders By Commission 3966
Prorating Benefits For The Application Month 1592
Prorating Initial Months Benefits 1454
Proration Of Deductions 4215
In General 4215
State to State Consistency 4216
Year to Year Consistency 4216
Prospective Eligibility 1501
Prosthetic & Orthotic Services
Coverage & Limitations 1697
Program Limitations 1697
Program Requirements 1697
Participant Eligibility 1697
Procedural Requirements 1698
Full Description of the Services Requested 1698
Modifications to the Prosthetic or Orthotic Device 1698
Number of Months the Equipment Will Be Needed & the Participant's Prognosis 1698
Participant's Medical Diagnosis & Condition 1698
Provider Reimbursement 1698
Protected Nongame Species 995
Amphibians 996
Birds 996
Fish 996
Mammals 995
Reptiles 996
Protected Period For RTA Transfer 1537
Protection Against Invasive Species Sticker 3821
All Other Watercraft 3821
Motorized Vessels 3821
Protection Of Historical, Cultural & Natural Resources 3845
Land-use Restrictions 3845
Spreading of Human Ashes 3845
Protection Of Horses 868
Protection Of Wildlife 996, 3845
Game Species 997
Protected Nongame & Threatened or Endangered Species 997
Unprotected & Predatory Wildlife 997
Protections & Safeguards For Children & Families 2525
Active Efforts 2526
ASFA Placement Preferences 2528
Compelling Reasons 2527
Compliance with Requirements of the Multiethnic Placement Act of 1994 (MEPA) as Amended by the Interethnic Adoption Provisions (IEP) of 1996 2527
Family Decision-Making & Plan Development 2527
ICWA Placement Preferences 2526
Least Restrictive Setting 2526
Legal Requirements for Indian Children 2526
Notification of Change in Placement 2526
Notification of Change in Visitation 2526
Notification of Right to Participate and Appeal 2526
Qualified Expert Witness--ICWA 2526
Reasonable Efforts 2525
Visitation for Child's Parent(s) or Legal Guardian(s) 2526
Protections For Children In Alternate Care 2260
Least Restrictive Setting 2260
Notification to Parents or Guardians of Change in Placement 2260
Out-of-State Placement 2260
Requirement for Licensure 2260
Statutory Requirements 2260

Visitation for Child's Parent or Guardian 2260
Protective Orders 274, 3046, 4674, 5592, 6002
General Authority 5592
In Camera Review 5592
Trade Secrets & Other Confidential Information 5592
Protective Payee 1595
Protestants 257, 4660
Protestants, Contested Cases 3035
Protests -- Defined -- Form & Contents 260
Form & Contents 260
Protests Defined 260
Protests -- Defined -- Form & Contents -- Time For Filing 3038
Defined 3038
Form & Contents, Time for Filing 3038
Protests & Comments 3950
Protests--Defined--Form & Contents 4663
Form & Contents 4663
Protests - Defined 4663
Provider Agreement Suspension 2169
Provider Application Process 1612
Denial of Provider Agreement 1613
Disclosure of Information by Providers & Fiscal Agents 1613
Mandatory Denial of Provider Agreement 1613
Medicare Enrollment Requirement for Specified Providers 1613
Provider Application 1612
Screening Levels 1613
Provider Cases, Burden Of Proof 2146
Provider Eligibility 2199
Provider Notification 2175, 2198
Provider Qualifications & Duties
Payment Availability 1651
Provider Agreement Qualifications 1651
Provider Reimbursement 1641
Outpatient Hospital 1641
Reduction to Outpatient Hospital Costs 1642
Provider's Responsibility To Maintain Records 1758
Provider's Responsibility To Maintain Records
Availability of Records 1622, 1758
Cost Allocation Process 1622, 1758
Expenditure Documentation 1622, 1758
Retention of Records 1622, 1758
Revenue Documentation 1622, 1758
Provider-Patient Relationship 3330
Consent 3330
Disclose 3330
Provider Selection 3330
Verification 3330
Providers Of School-Based Services 1621
Providing Opt Out Notice To Consumers & Complying With Opt Out Direction 2723
Continuing Right to Opt Out 2723
Delivery 2724
Duration of Consumer' s Opt Out Direction 2723
Joint Relationships 2723
Time to Comply With Opt Out 2723
Providing Proof To Support Application Statements 1415
Provision Of Medical Services 401, 410
Emergency Medical Treatment 402, 410
Medical Care 401, 410
Medical Consent 401, 410
Reimbursement Sources 402, 411
Provision Of Service Requirements 1099
Contracts 1099
Court Visitors 1099
Direct Provision of Service 1099
Provision Of Services On A Statewide Basis 1112
Provision of Services on a Statewide Basis 1117
Provision of Services On a Statewide Basis & Application 1115
Application 1115
Eligibility Requirements 1115
Services 1115
Provisional Licensure 3018, 3327, 3353
Active Practice 3018
Affidavit 3327
Application 3327
Current Licensure 3018
Evidence 3018
Provisional License 3018, 3353
Provisional License Dietitian/ Monitor Affidavit 3353
Supervision by Monitor 3353
Provisional Permit 3711
Duration & Renewal 3711
General 3711
Provisional Permits 3669
Provisions Contingent Upon Federal Funding 1560, 2103
Provisions For Contested Cases 3313
Hearing Rights 3313
Inapplicability of Idaho Rules of Administrative Procedure of the Attorney General 3313
Requesting a Hearing for Nursing Care 3313
Requesting a Hearing for Residential & Domiciliary Care 3313
Provisions For Former Prisoner Of War (POW) License Plates 5102
Certified Documentation 5102
Eligible Person 5102
Provisions For Legislative License Plates 5100
Numbering Assignment List 5100
Option to Apply 5100
Plate Availability 5100
Provisions For Personalized License Plates 5100
Acceptability of Plates Message 5101
Credits 5101
Expired Plates 5102
Issue of Personalized Plates 5100
Lack of Current Plates 5101
Message Preferences 5102
Recalled Plates 5102
Renewing Plates 5101
Special Characters or Marks 5100
Specific Requests 5101
Transfer of Plates 5101
Unexpired Fees 5102
Provisions For Sample Plates 5102
Penalties 5103
Personalized Sample Plates 5103
Plate Size 5102
Provisions For Special License Plate Program Prequalification & Application Procedures 5098
Annual Report 5099
Appeals 5099
Special License Plate Approved by the Legislature 5098
Special License Plate Prequalification 5098
Special License Plate Program Application Approval 5099
Special Plate Requirements 5098
Submission to the Legislature 5099
Provisions For Wrecker Plates 5098
Acquisition/Renewal of Wrecker Plates 5098
Numbering of Plates 5098
Possession of Registration 5098
Purpose 5098
Renewal of Plates 5098
Use of Plates 5098
Provisions Of Tickets Without Charge Or At Reduced Rates 3428
Admission Criteria 3429
Duties Required 3429
Fees 3429
No Fees 3429
Optional Charges 3429
Without Charge 3429
Pseudorabies Requirements 98
Breeding Swine 98
Feeder Pigs 98
Slaughter Swine 98
Psittacine Birds 102
Psittacosis 1302
Handling of Report 1302
Investigation 1302
Reporting Requirements 1302
Psychiatric Facility Resident 1540
Psychiatric Service 2050

Construction of Psychiatric Hospitals 2053
Discharge Planning 2052
Examination to Assess Mental Status 2051
Nursing Service 2052
Patient Treatment Plan 2051
Physical Therapy Service 2052
Physician Services 2052
Policies & Procedures 2051
Psychiatric Unit Space 2052
Psychological Services 2052
Records 2051
Social Services 2052
Special Medical Record Requirements for Psychiatric Hospitals or Services 2051
Staffing 2050
Therapeutic Activities 2052
Psychosexual Evaluations 5293
Adult Psychosexual Evaluations 5293
Client Participation 5293
Juvenile Psychosexual Evaluations 5293
Testing 5293
Public & Confidential Information 3149
BMPs 3149
Information Not Subject to Public Inspection 3149
Information Subject to Disclosure 3149
Public Inspection 3149
Use by Board 3149
Public Behavior 3836
Alcohol 3836
Day Use 3836
Littering 3836
Noise 3836
Quiet Hours 3836
Resisting & Obstructing a Park Employee Prohibited 3836
Smoking 3836
Public Behavior & Treatment Of Public Property 5031
Behavior 5031
Fireworks/Incendiary Devices 5031
Noise Producing Devices 5031
Soliciting 5031
Treatment of Natural Features or Plants 5031
Treatment of Public Property 5031
Public Behavior In The Cemetery 3323
Alcohol 3324
Animals 3324
Littering 3323
Motor Vehicles 3324
Photographs 3324
Preservation of Cemetery Property 3323
Public Ceremonies & Gatherings 3324
Recreation & Entertainment 3324
Public Comment 3260
Public Defense Roster 6063
Application for Roster Inclusion 6063
Roster Membership 6063
Public Defense Rosters 6084
Application for Capital Counsel Roster Inclusion 6085
Application for Public Defense Roster Inclusion 6084
Capital Counsel Roster Membership 6085
Membership Benefits 6084
Public Defense Roster Membership 6084
Public Grazing 120
Grazing Associations 120
Positive Tests 120
Public Health District Inspection 2637
Drinking Water Systems 2638
Food Safety & Sanitation Standards 2638
Public Health Or Safety Hazard 808
Public Hearing 3134
Agency Concern 3135
Call for a Hearing 3134
Consideration of Hearing Record 3135
Consolidation 3135
Hearing Officer 3135
Location 3135
Notice of Hearing 3135
Public Concern 3135
Publication of Notice 3135
Public Hearing For Permit Application 3103
Basis for Hearing 3104
Description of Effects 3104
Hearing for Water Degradation 3104
Hearing Notice 3104
Hearing Officer 3104
Public Hearings 3104
Public Notice 3104
Site of Hearing 3104
Public Inquiries About Or Recommendations For Agency Issuance Of A Complaint 267
Hearing Officers 268
The Agency Attorney 268
The Agency Head 267
The Agency Staff 268
Public Inquiries About Or Recommendations For Complaint 299
Deputy Attorneys General 299
Hearing Officers 300
Other Staff 299
The Attorney General 299
Public Involvement In Permit Procedures 5835
Participation by Idaho Department of Lands 5836
Public Comment(s), Public Comment Period, & Public Meetings 5836
Public Notice Information 5836
Public Notice of Permit Actions 5835
Serving the Public Notice 5836
Public Key Cryptography 4666
Approved Certification Authority 4668
Electronic Signature Must Meet ISO X.509 Standards 4668
Electronic Signature to Be Unique 4667
Signature Capable of Verification 4668
Terminology 4666
Public Meetings, Agency May Convene 285
Public Monies 1085
Public Notice 4018, 4891
Public Notice & Hearing 3175
Petition for Hearing 3175
Public Hearing 3175
Publication of Notice 3175
Public Notice For No Discrimination 1473
Public Notice Of Petition For Contested Case & Declaratory Ruling 5583
Mail 5583
Publication 5583
Public Notice, Action Taken & Effective Date 2175
Public Notification & Comment 5937
Public Comment 5939
Public Notification 5937
Response to Comments 5940
Public Park & School Development Projects 3851
Public Participation 5314
Public Records 5121
Public Records Act Compliance 253, 292, 308, 326, 350, 355, 359, 3924, 3972, 6037
Public Records Services 4125
Bulk Copies of Documents 4125
Data from the Information Management System 4125
Direct On-Line Services 4125
Individually Identified Documents 4125
Public Safety Officer Disability Contributions Under Section 59-1352A, Idaho Code 6009
Public Statements 660
Actions in Regard to Other Registrants or Certificate Holders 660
Opinions Based on Adequate Knowledge 660
Reports, Statements or Testimony 660
Statements Regarding Public Policy 660
Public Use Restrictions 974
Activities Not Allowed Without

Authorization 974
Public Use, Nondiscrimination 3861
Public Wastewater System Operator
Licensure Requirements 5514
General Compliance Deadline 5515
Land Application/Reuse Operator Compliance Deadline 5515
Responsible Charge Operator License Requirement 5514
Substitute Responsible Charge Operator 5515
System Operator Licensure Requirement 5514
Wastewater System Operator Licensure 5515
Wastewater System Operator Licensure Exceptions 5515
Public Witnesses 264, 3041, 3937, 4669
Public Workshops On Applications To Increase Rates 3944
Exemptions 3944
Notice & Location of Workshop 3944
Public Workshop 3944
Publication In Idaho Administrative Bulletin 284
Publication Of Directory 310
Pulling Outside Strings Of Casing 3280
Purchase 4888
Purchase & Bidding Requirements 3796
Purchase Of Prepared Meals 1471
Battered Women & Children 1471
Homeless 1471
Older Persons Eating at Communal Dining Facility 1471
Persons Unable to Prepare Meals Getting Meal Delivery Service 1471
Purchase Of Service Generally 6032
Purchase Of Telecommunications Or Information Technology Property 4890
Purchase, Barter, Or Sale Of Fish 1051
Purchaser Requirements 3237
Duty of Initial Purchaser 3237
Initial Purchaser 3237
Purchasing & Storage Of Food 1969
Food Source 1969
Food Supply 1969
Record of Food Purchases 1969
Temperature Requirements 1969
Purchasing Licenses For Others 977
Lifetime License Certificates 978
Nonresident Licenses 977
Resident Licenses 977
Purported Limitations - Pyramid/Chain Distribution Schemes 245
Purpose 680, 1120, 2745
Emergency Vehicles 680
General 680
Purpose & General Provisions 3096
Compliance with Other Law 3097
General Provisions 3097
Policy 3096
Purpose 3096
Purpose Of Cooperating Associations 3792
Authorized Organizations & Activities 3792
Generally 3792
Purpose Of Examinations 1145
Purpose Of Firm Registration & Peer Review 40
Purpose Of Rules -- Conformance To Electrical Code 4043
Contributions to Stray Voltage 4043
Presence of Stray Voltage 4043
Sources of Stray Voltage 4043
Purposes & Definitions, IDAPA 16.02.19, Food Safety & Sanitation Standards For Food Establishments 1331
Purposes Of Prehearing Conferences 272, 3044, 3950, 4672
Purse Money 852
Breeder's Awards 852
Release 852
Weekly Remittance 852
Purview Of Child Protection Act Or Juvenile Justice Reform Act 2201

Q

Q Fever 1303
Handling of Report 1303
Investigation 1303
Reporting Requirements 1303
Qualification Based On Order Of Finish 803
Equal Number of Qualifiers 803
Order of Finish 803
Top Finishers 803
Qualification Based On Time 802
Adjustments 802
Different Trial Heats 802
Not Determined Beyond the Limit of the Timer 802
Qualifying 802
Same Trial Heat 802
Qualification Of Plan 2775, 2778
Qualification, Examination & Appointment Of Certified Water Right Examiner 4700
Consideration 4700
Denial 4701
Examinations 4701
Expiration 4701
Information 4700
Ingress or Egress Authority 4701
Liability 4701
Money Received 4701
Reconsideration 4701
Refusal or Revocation 4701
Reports 4701
Qualifications & Responsibilities Of A Residential Habilitation Professional 2112
Criminal History & Background Check 2112
Direct Service Qualifications 2112
Education & Experience 2112
First Aid & CPR Certification 2112
Responsibilities of a Residential Habilitation Professional 2112
Qualifications For Administrator License 3644
Coursework 3644
Education & Experience 3644
Examination 3644
Good Moral Character 3644
Qualifications For Advanced Practice Registered Nurse 3376
Completion of Advanced Practice Registered Nurse Program 3376
Current Licensure 3376
National Certification 3376
Qualifications For All Licenses Or Certificates For Individuals 3723
Age 3723
Education 3723
Good Moral Character 3724
Qualifications For Associate Marriage & Family Therapist 3600
Graduate Degree 3600
Practicum 3601
Qualifications For Audiologist Licensure 3663
Examination 3663
Experience 3663
Graduate Program Requirement 3663
Qualifications For Certification Of Prescriptive Authority 3566
Holds a License to Practice Psychology 3566
Holds Provisional Certification 3566
Supervision 3566
Qualifications For Contractors License 3008
Examination, Education or Experience 3008
Owner, Officer or Manager 3008
Qualifications For Hearing Aid Dealer & Fitter Licensure 3666
Education Requirement 3666
Qualifications For Licensure 3695
Applications 3695
Incomplete or Stalled Applications 3695
Qualifications 3695
Qualifications For Licensure By Endorsement 3372
Current Practice Experience 3372
Graduation Required 3372
License from Another Nursing Jurisdiction 3372
Licensing Examination 3372
Minimum Requirements 3372
Qualifications For Licensure By

Examination 3371
In-State 3371
Out-of-State 3371
Practical Nurse Equivalency Requirement 3371
Time Limit for Writing Examinations 3371
Qualifications For Licensure Of Graduates Of Schools Of Nursing Located Outside The United States, Its Territories, Or Commonwealths 3373
Education Credentials 3373
Examination/Re-Examination 3373
License 3373
Qualifications 3373
Qualifications For Licensure Or Certification 3621
Requirements for Licensure 3621
Qualifications For Makeup Artist Certificate 3727
Additional Education/Training 3728
Documentation of Education/ Training 3728
Education/Training 3727
General 3727
Qualifications For Original Barber License 3724
Education 3724
Examination 3724
General 3724
Qualifications For Original Barber Or Barber-stylist Instructor License 3728
Education and Experience 3728
Examination 3729
Licensure 3728
Single License Required to Practice & Instruct 3729
Qualifications For Original Barber-Stylist License 3724
Education 3724
Examination 3725
General 3724
Qualifications For Original Cosmetologist License 3725
Education 3725
Examination 3726
General 3725
Qualifications For Original Cosmetology Instructor License 3729
Education or Equivalent 3729
Experience 3729
General 3729
Licensure 3729
Single License Required to Practice & Instruct 3729
Qualifications For Original Electrologist License 3726
Education 3726
Examination 3726
General 3726
Qualifications For Original Esthetician License 3726
Education 3726
Examination 3726
General 3726
Qualifications For Original Haircutter License 3726
Education 3727
General 3727
Qualifications For Original Nail Technician License 3727
Education 3727
Examination 3727
General 3727
Qualifications For Professional Counselor Licensure 3598
Graduate Program 3598
Supervised Experience Requirement 3599
Qualifications For Provisional Certification Of Prescriptive Authority 3563
Clinical Experience 3563
Doctoral Degree 3563
Examination 3564
Master's Degree 3563
Supervision Agreement 3564
Qualifications For Sign Language Interpreter Licensure 3666
Education 3666
Examination or Certification 3666
Qualifications For Speech-Language Pathologist Aide Licensure 3666
Education Program Requirement 3666
Examination 3666
Supervision 3666
Qualifications For Speech-Language Pathologist Assistant Licensure 3666
Education Program Requirement 3666
Examination 3666
Supervision 3666
Qualifications For Speech-Language Pathologist Licensure 3665
Examination 3665
Graduate Program Requirement 3665
Supervised Experience 3665
Qualifications Of Applicants For Examination 3407
Accredited Degree Applicants 3407
Experience in Lieu of Degree Applicants 3407
Qualifications Of Independent Certified Public Accountant 2944
Banned Services 2945, 2946
Capacity to Render Report for Consecutive Years 2944
Conformance With Ethical & Professional Standards 2944
Delegation by Audit Committee 2946
Exemption from Banned Services 2946
Grounds for Not Recognizing as Qualified 2944
Hearings 2945
In Good Standing 2944
Permitted Non-Audit Services 2946
Preapproval Requisite by Audit Committee 2946
Principles of Independence 2945
Prior Employment Banned 2946
Relief from Limitation on Consecutive Appointment of Lead Partner 2944
Resolution of Disputes & Delinquency Proceedings 2944
Qualifications Of Insurance Companies To Issue Variable Contracts 2745
Delivery 2745
Parent or Affiliated Insurer 2745
Qualifications Required Of A Peer Review Team Member 1248
Qualifications To Prescribe For Pediatric Or Geriatric Patients 3565
Amount of Supervisory Contact 3566
Credit Toward Certification 3565
Domains for Supervision 3566
Number of Patients 3566
Qualified Applicants & Lessees 3202, 3215
Qualified Consumers 4537
Alternative to Monthly Reporting for Qualified Consumers 4537
Documentation of Export 4537
Limitations 4537
Point of Taxation & Receipt Defined 4537
Qualifications 4537
Qualified Disabled & Working Individual (QDWI) 1547
Age & Disability 1547
Income 1547
Nonfinancial Requirements 1547
Resource Limit 1547
Section 1818A Medicare 1547
Qualified Hospital Presumptive Eligibility Processes 1370
Acceptance of Application 1370
Assistance to Applicant 1370
Notice & Hearing Rights 1370
Notice to Applicant 1370
Number of Presumptive Eligibility Periods Allowed 1370
Qualified Hospital Staff 1370
Standards & Processes 1370
Qualified Individual (QI) 1546
Coverage Limits 1547
Effective Dates 1547
Income 1547
Medicare Part A 1547
Nonfinancial Requirements 1547
Other Medicaid 1547
Resource Limit 1547

Qualified Investment Exemption (QIE)
Recapture 4528
County Average Property Tax Levy -- Locally Assessed Property Located in One (1) County or Non-apportioned Centrally Assessed Property 4529
Cross Reference 4530
In General 4528
No Allocation of Remittances to Urban Renewal Agencies 4530
Noticing Remittance for the Recapture of the Property Tax Benefit 4530
Notification by Taxpayer That Property Ceases to Qualify 4528
Notification in Case of Failure by Taxpayer to File Form 49ER 4528
Penalty & Interest 4530
Property Tax Benefit Subject to Recapture 4528
Protest of Recapture 4528
Statewide Average Property Tax Levy -- Locally Assessed Property Located in More Than One County or Apportioned Centrally Assessed Property 4530
Qualified Long-Term Care Partnership Policy 1527
Resource Disregard Excluded From Estate Recovery 1528
Value of the Participant's Resources 1528
Qualified Medicare Beneficiary (QMB) 1545
Dependent Income 1546
Effective Dates 1546
Income 1546
Medicare Part A 1545
Nonfinancial Requirements 1546
QMB Dependent Family Member Disregard 1546
Resource Limit 1546
Qualified Property For Exemption 4524
Continuation of Listing 4524
Cross Reference 4528
Definitions 4524
Designation of Property for Which Exemption Is Elected 4524
Election for Investments Not Otherwise Required to Be Listed on the Personal Property Declaration 4524
Election Specificity 4525
Limitation on Amount of Exemption 4526
Moved Personal Property 4525
Multi-County Taxpayers 4527
Notification by Assessor 4525
Notification Regarding Transient Personal Property 4526
Partial-Year Assessments 4526
Period of QIE 4524
Special Provisions for Nonregulated Operating Property 4527
Qualified Substance Use Disorders Professional Personnel Required 2213
Qualified Substance Use Disorders Professional 2213
Qualified Substance Use Disorders Professional Prior to May 1, 2010 2214
Qualified Substance Use Disorders Professional Trainee 2214
Continue as Qualified Substance Use Disorders Professional Trainee 2214
Informed of Qualified Substance Use Disorders Professional Trainee Providing Treatment 2214
Work Qualifications for Qualified Substance Use Disorders Professional Trainee 2214
Qualifier Ineligible 803
After Entry 803
Prior to Entry 803
Qualifying Activities 2192
Qualifying Activities For Child Care Benefits 2192
Employment 2192
Personal Responsibility Contract (PRC) or Other Negotiated Agreement 2192
Preventive Services 2192
Self-Employment 2192
Training or Education 2192
Qualifying Previous & Qualifying Existing Coverages 2858, 2873
Certification of Creditable Coverage 2859
Previous Coverage or Existing Coverage 2858, 2873
Source of Previous or Existing Coverage 2858
Quality Assurance 556, 1982, 5293
Community Support Workers & Support Brokers Quality Assurance Activities 1982
Complaint Reporting & Tracking Process 1982
Division Personnel Training & Certification 556
Fiscal Employer Agent Quality Assurance Activities 1982
Home & Community Based Service Specific Reviews 1982
Inspected Installations 556
Inspectors & Programs 556
Participant Choice of Paid Community Support Worker 1982
Participant Experience Outcomes 1982
Participant Experience Survey (PES) 1982
Quality Oversight Committee 1982
Quarterly Quality Assurance Reviews 1982
Reviews by Division Personnel 556
Quality Assurance, Participant Rights, Required Policies, Etc. 2082
Quality Control & Food Stamp Eligibility 1474
Food Stamp Eligibility During Quality Control Review Period, After Refusal to Cooperate 1475
Refusal to Cooperate with SQC or FQC 1475
Quality Control Program Requirements For Clinical Laboratories 1265
Establishment of Quality Control Program 1265
Program Scope 1265
Quality Of Service 4015
Service Outage 4016
Service Standards 4015
Quality Of Services Environment 2615
Assess Compliance 2615
Assess Disrupted Placement 2615
Corrective Action for Non-Compliance. 2615
Expeditious Correction 2615
Quarantine 220
Quarantine Facility, Cervidae Ranch 185
Quarantine Imposed If No Certificate Or Permit Issued 91
Quarantine Imposed When No Certificate Or Permit Issued
Animals Without a Certificate 91
Duration of Quarantine 91
Hold Order 91
Quarantines 50, 73, 190
Exposed Herds 50, 74, 190
Infected Herds 50, 73, 190
Validity of Quarantine 50, 74, 190
Quarterly Certifications & Escrow Deposits 309
Large Sales Volume 309
No Escrow Deposit for More Than One Year 309
No Previous Escrow Deposit 309
Other Reasonable Cause 309
Outstanding Judgments 309
Untimely or Incomplete Deposits 309
Quarterly Inventory 2366
Quarterly Periods Defined 309
Quarterly Road Use Fee Reporting 5085
Information Required on the Quarterly Report Form 5085
Quarterly Reporting Forms Issued 5085
Use of Quarterly Reporting Form 5085
Quarterly Road Use Fee Reports For Annual Overweight Permits 5084
Quinella Double Pools 763

Betting Interest Deducted -- First Half 763
Betting Interest Deducted -- Second Half 763
Consolation Payoff 763
Dead Heat - First Place 763
Dead Heat -- Second Place 763
Dead Heat -- Second Place Two or More Interests 763
Distribution 763
Quinella Double Pools 763
Refunded Quinella 764
Second Double Contest Cancelled 764
Quinella Pools 762
Dead Heat -- First Place 762
Dead Heat -- Second Place 762
Dead Heat -- Two or More Interests 762
Distribution 762
Quinella Pools 762
Quit 617
Burden of Proof 617
Cause Connected With Employment 617
Good Cause 617
Moral or Ethical Quit 617
Quit Due to Harassment 617
Quit Due to Health or Physical Condition 617
Quit for Permanent Work or Quit Part-Time Work for Increase in Work Hours 617
Quit or Retirement During Employer Downsizing 617
Unrelated Discharge Prior to Pending Resignation 617
When Notice of Resignation Prompts a Discharge 617

R

Rabies - Human, Animal, & Post-Exposure Prophylaxis (rPEP) 1303
City or County Authority 1305
Handling of Report 1303
Investigation 1303
Management of Exposure to Rabies 1303
Reporting Requirements 1303
Race Meet Report 730
Observations 730
Recommendations 730
Race Off 801
Races Around A Turn 787
Crossing Another Horse 787
Jostles 787
Race Around a Turn 787
Shorten Strides 788
Strikes 787
Racial, Ethnic, & Cultural Considerations, Selection of an Adoptive Placement, Children's Agencies 2632
Racing Association License 849
Racing Association License Applications 849
Racing Association License Fees 849
Racing Associations 851
General Rules
Comfort & Safety 852
Conditions of Races 851
Credentials 851
Fire Regulations Posted 851
Horse Ambulance 851
Human Emergency Medical Response Vehicle 851
Laws & Rules 851
Medical Professionals 852
Open Market 851
Post Notices 852
Racing Hours 851
Tampering 851
Toilets & Other Facilities 851
Violators 852
Racing Associations Operation 849
Additional Information 849
Requirements 849
Racing Colors 814
Racing Commission 846
Association Office 847
Visit & Inspection 846
Racing Dates 850
Racing Official Qualifications 727
Experienced 727
Familiar with Rules 727
In Good Standing 727
Mentally & Physically Able 727
Of Good Character 727
Racing Officials 726
Officials 726
Other Persons 727
Racing Secretary 731
Radiation Protection Standards 5501
Disposal of Radioactive Material 5501
General Protection Standards 5501
Prohibit Disposal at a Municipal Solid Waste Landfill 5501
Protection of Workers During Operations 5501
Radiation Safety Requirements For Industrial Radiographic Operations 2366
Radio & Telecommunications Equipment & Land Mobile Radio Service Of Systems 4307
Drop-In Equipment & Inside Wiring 4308
General Rule & Scope 4307
Land Mobile Radio Systems or Services 4308
Provider Equipment 4308
Telephone Terminal Equipment & Services 4307
Wireless Telecommunications Equipment 4308
Radio & Television Broadcast Equipment, Idaho Sales & Use Tax 4403
Radio Signaling Systems 440
Activating Pulse-Tone Limitations 440
Adjustment, Repair or Alteration 440
Description on Outside of Case 440
Interference, Overlap, Fade-Out or Blackout 441
Number of Transmitters Required 441
Testing of Tone-Signal Controlled Devices 440
Use of Conventional Space Transmission of Radio Signals 440
Voice Communication 441
Radiology Service 2023
Personnel 2023
Policies & Procedures 2024
Radiation Control & Safety 2023
Radiological Requests 2023
Records & Reports 2024
Railcar Valuation, Idaho Taxable Value 4445
Railroad Retirement Payments 1509
Railroad Rolling Stock, Parts, Materials & Equipment 4376
Definitions 4376
Generally, Excluded from This Exemption 4376
Generally, Included Within the Exemption 4376
In General 4376
Rain Checks, Insufficient Supply/ Limitation On Quantity 238
Ranch Management Plan 188
Mandatory Ranch Management Plan 188
Risk Assessment for Ranch Management Plans 188
Voluntary Ranch Management Plan 188
Random Or Extra Testing 862
Raptor Banding, Radio Transmitters, Transfers, Reporting, & Release 1066
Ratite Hatching Eggs 102
Negative Birds 102
NPIP Flock 102
Ratites 101
Not Originating From a NPIP Flock 102
Originate from NPIP Flock 101
Raw Milk Permits 67
Inspection Frequency 67
Obtaining a Raw Milk Permit 67
Requirements 67
Sanitation Requirements 67
RBC Level or Other Event 2951
Real Estate Contract Income 1510
Real Property 3819, 4343
Adequate Title & Public Access 3819

Appraisal Review 3819
Appraisals 3819
Example 1 4343
Example 2 4343
Fiber Optic and Communication Cable 4344
Improvements or Fixtures 4343
Limitations on Use 3819
Negotiated Price 3819
Personal Property Incidental to the Sale of Real Property 4344
Store Fixtures 4344
Three Factor Test 4343
Real Property Definition 1493
Real Property Excluded If Attempt To Sell 1443
Reapplication Following Certification Denial Or Disciplinary Action 5291
Denial 5291
Restriction 5291
Revocation 5291
Suspension 5291
Withheld Discipline & Probation 5291
Reapplication For A License After Previous Denial 3364
Request for Review 3364
Reapplication For Certification 2233
Reasonable & Prudent Parent Standard 2611
Reasonable & Prudent Parent Standard Defined 2612
Training 2612
Reasonable & Prudent Parent Standard For An Organization Providing Services To Children Placed By The Department 2623
Reasonable Modification Permit For Special Weapon Hunting Seasons 981
Applications for Reasonable Modification Permits for Special Weapon Hunting Seasons 982
Reasonable Modification Permits for Special Weapon Hunting Seasons 982
Reasons For Denial, Revocation, Or Suspension 2232
Conflict of Interest 2233
Failure to Comply 2233
Failure to Correct 2233
Failure to Perform 2233
Failure to Provide Information 2233
Misrepresentation of Information Provided 2233
Negligent Performance or Fraud 2233
Reasons For Exemption From Attorney General's Administrative Procedure Rules 594
Appeals Heard By Appeals Examiners 596
Claims for Wages Proceedings 595
Determinations and Time for Filing Appeals 595
Unemployment Insurance Benefits and Tax Contribution Proceedings 594
Reassessment 920
Reassessment Of Disability Retirees 6011, 6042
Rebates And Illegal Inducements 2896
Advertising With Trade Associations 2897
Items of Value 2896
Locale of the Title Insurer or Title Insurance Agent Employees 2898
Penalty 2898
Permitted Business Entertainment 2897
Permitted Consumer Information 2896
Self-Promotional Advertising 2897
Rebates Paid To Certain Real Estate Developers 4404
Certifying Expenditures Prior to Rebate Payment 4404
Confidential Information 4404
Developer Responsibilities 4404
Disposition of Revenue from a Qualifying Shopping Center 4404
Qualifying Shopping Center Location 4404
Rebate of Sales Tax 4404
Rebates, Refunds, AABD Underpayments & Replacement Checks 1505
Rebuilt Salvage Vehicles 5079
Rebuilt Salvage Vehicle 5079
Salvage Vehicle Damaged Out-of-State 5080
Salvage Vehicles from Other Jurisdictions 5079
Title Application Requirements for Vehicles Defined as Salvage & Rebuilt Salvage Vehicles 5080
Recapture Of Deferred Taxes On Lands Designated Under Section 63-1706, Idaho Code 4522
Change in Use/Deferred Taxes 4522
Deferred Tax Responsibility 4522
Investment Lands 4523
Ownership Interest/Deferred Taxes 4522
Transfer of Ownership/Deferred Taxes 4523
Receipt For Bodies To Be Cremated 3523
Contents of Receipt 3523
Provide a Receipt 3523
Receipt For Deposit -- Records Of Deposit
Retention of Records 3981
Transfer of Records 3981
Receipt, Opening, & Recording Of Bids & Proposals 4895
Receipting 156
Agreements 156
Change in Provider 157
Electronic Warehouse Receipts 156
Every Warehouseman 156
Form of Nonnegotiable Warehouse Receipts 156
Lost Negotiable Warehouse Receipt 156
Recertification Process 1459
Recessed Steps 2335
Recipient Explanation Of Medicaid Benefits (REOMBS) 1734
Medicare-to-Medicaid Cross-Over Claims 1734
Monthly Surveys 1734
Participant Response 1734
Participant Unable to Respond 1734
Recipients Of Training Funds 6063
Intended Recipients 6063
Presumptive Qualification 6063
Reciprocal Licensure 36
International Reciprocity 36
Interstate Reciprocity 36
Reciprocal Recognition of Out-Of-State Radiation Machines 2366
Addition to Part B, Section B.16 -- New Subsection d 2366
Modification to Part B, Section B.16.a.iv 2366
Reciprocity 2224, 2367, 3640, 4927, 5285
Code of Ethics Acknowledgment 2225
Completed Application 2225
Documentation From Other State 2225
Equal Registration Reciprocity 4927
Equal Treatment 4927
Provide Verification of Education, Training, & Experience 2225
Submit Statement Verifying Certification/Licensure 3640
Recirculation System
Cleaning 2343
Cleaning System 2343
Integral Vacuum 2343
Flow Indicator 2343
Flow Rate 2343
Sizing 2343
Strainer 2343
Thermometers 2343
Reclassification Of Positions 1141
Effective Date 1141
Procedure 1141
Recognition Of EMS Personnel Licensure Interstate Compact (REPLICA) 2279
Licensed EMS Personnel from a REPLICA State 2279
Recognition Of EMS Personnel Licensure Interstate Compact Agreement (REPLICA)
Out-of-State Primary Affiliation 2279
Recognition Of National Certifying

Organizations For Advanced Practice Registered Nursing 3380
Recognition Of Registration, Certification Or Licensure From Other Jurisdictions 2284
EMS Personnel Licensed or Certified in Other States 2284
Limited Recognition in Idaho 2285
Personnel Licensure Candidate Trained in Other States 2285
Personnel with NREMT Registration or Current EMS Certification 2285
Recommendation For Revocation Of Certificate -- Review By Attorney General 305
Staff & Other Recommendations 305
The Attorney General's Response 305
Recommended Orders 279, 3051, 4679, 5596
Content 279, 3051, 5596
Contents of Recommended Orders 4679
Definition 279, 3051, 4679, 5596
No Motions for Reconsideration 5596
Reconsideration 3968
Reconsideration -- Rehearing 4622
Answer 4622
Consideration 4622
Disposition 4622
Time for Filing & Service 4622
Reconsideration Of Applications 5119
Reconsideration Of Disability Assessment Decision 6011, 6042
Reconsideration Of Interlocutory Orders 5596
Reconstructive Surgery Coverage & Limitations 1642
Record For Appeal 721
Record For Decision 278, 3050, 4677, 5595, 6003
Contents 278, 3050, 6003
Contents of Record 4678, 5595
Official Record 4677, 5595, 6003
Requirement 278, 3050
Record Keeping 663, 2340, 3502
Accidents Requiring Professional Medical Treatment 2340
Amount & Type of Chemicals Used 2340
Attendance Verification 664
Clarity Readings 2340
Disinfectant Levels 2340
Documented Self-Study 664
Log 663
pH Readings 2340
Record Retention 664
Records 664
Record Keeping Standards 5172
Consent Forms 5173
Controlled Substances & Prescription or Legend Drugs 5173
Diagnostic Image Identification & Ownership 5173
Estimates 5173
Medical Records 5172
Ownership of Medical Records 5173
Postoperative Instructions 5173
Return or Disposal of Expired Pharmaceuticals & Biologicals 5175
Treatment Records 5173
Record Management & Reporting Requirements 2612
Behavioral Problems 2612
Emotional & Psychological Needs 2612
Health 2612
History of Abuse & Neglect 2612
Personal Data 2612
Record Management, Transitional Living, Children's Agencies 2628
Record Of Complaints 3992, 4015
Recordkeeping 3992, 4015
Reporting 3992, 4015
Record Of Compliance 5138
Record Of Conference 272, 3044, 3950, 4672, 5590
Record Of Hearing 720
Record Of Hearings & Business Meetings 5192
Minutes of Business Meetings 5192
Minutes of Hearings & Case Reviews 5192
Official Record of Parole Hearing or Case Review 5192
Record Of Proceedings 722
Cost 722
Record of Proceedings 722
Stenographic Record 722
Record Requirements 2082
Case Record Organization 2082
General Records Requirements 2082
Status Review 2082
Record Retention, Residential Care Facility 2621
Recordation, Issued Permit 3169
Recording & Transcription 4905
Recording Of Hearings 3050, 4678, 5595
Recording Or Reporting Of Hearings 278
Recording, Use & Placement Of Brands 706
Brands Acceptable for Recording 706
Conflicts Between Brands 707
Recording & Use of Brands 706
Recording Procedures 706
Renewal of Brands 707
Transfer of Recorded Brands 707
Recordkeeping 114, 2740, 5281
Annual Inventory 114
Certificate Holders 5281
Form 2740
Maintenance & Inventory Requirements 3880
Central Records Storage 3881
Drug Distributor Records 3881
Electronic Records Storage 3881
Inventory Records 3880
Prescription Retention 3880
Rebuttal Presumption of Violation 3880
Records Maintenance & Retention Requirement 3880
Records of Transfers 114
Termination 2740
Violent Sexual Predators 5281
Recordkeeping & Payment Schedule 162, 169
Notice 163, 169
Payment Due Dates 163, 169
Permanent Record 162, 169
Recordkeeping Requirements 61
Recordkeeping by Permittee 61
Summary of Control Activities 62
Record-Keeping, Listing, & Delisting A Property 1348
Delisting a Property 1348
Listing a Property 1348
Voluntary Compliance 1348
Records 37, 1167, 2484, 2777, 3625, 3856, 4734, 5501
Administrative Records 1167
Availability of Records 2484
Board Actions 2777
Charges 38
Complete Records 2777
Confidential Status 4735
Electronic Records 2484
Employee Personnel Action Documents 1167
Employee Service Records 1167
General 4735
Inspection of Records 4735
Records Information 2484
Records to be Filed With the Director 4735
Tax Return 37
Transfers, Reemployment & Promotions Between Agencies 1167
Working Papers Including Audit Documentation Not a Part of the Client's Records 38
Records - Separate 166
Records & Reporting 185
Emergencies 186
Notification 186
Records 186
Reports 186
Records For Decision--Relationship To Official File 3963
Records Management, Maintenance, Availability To Foster Parent, & Contents 2626

Placement Record 2627
Record Contents 2627
Records Of Bodies 3523
Content of Record 3523
Records Of Decedents 2137
Coroners & Medical Examiners 2137
Family Members & Others 2138
Funeral Directors 2137
Law Enforcement 2137
Personal Representatives 2138
Records Of Deposit 3981
Records of Deposit 3981
Records Of Deposits 4005
Receipts 4005
Retention of Records 4005
Transfer of Records 4005
Records Of Educational Program 3395
Records of Leak Testing of Sealed Sources & Devices Containing DU 2366
Records Of Placement 2565
Records Of Prize Disbursements 5256
Records Of Proceedings 4942
Requesting Copies 4942
Required Records 4942
Records of Quarterly Inventory 2366
Records Of The Certified Adoption Professional 2568
Records Policies 2450
Complete & Accurate Records 2450
Electronic Records 2450
Records Requests Submitted By Electronic Mail 605
Records Required 4556, 4568
In General 4568
Location and Condition of Records 4568
Record Retention 4568
Records Required & Auditing Of Records 4387
Alternative Storage Media 4387
Examination of Records 4389
Failure of the Taxpayer, Records Required & Auditing of Records 4389
In General 4387
Record Retention 4389
Records Prepared by Automated Data Processing Systems, ADP 4388
Records Required For Broker-Dealers 956
Compliance 956
Required Books & Records 956
Records Required Of Investment Advisers 959
Records Required, Nontaxed Sales By Retail Food Stores 4391
Authority 4391
Form Required 4391
Petition for Reduced Record Keeping 4391
Review of Petitions 4391
Standard Industry Code 4391
Records Retention 81
Records Retention Requirements 4547
Motor Fuels Subject to Use Tax 4547
Original Invoice Retention 4548
Records Required 4547
Records Subject To Disclosure 5564
Other Program Records 5564
Trade Secrets Subject to Disclosure 5564
Records To Be Preserved By Issuers 941
Form 942
Required Records 942
Retention Period 942
Recoupment 2168
Recoupment Of Overpayments 2101, 2196
Recoupment of Overpayment 2101
Repayment Requirement 2101
Recoveries 624
Recovery Of Overpayments 1372
Notice of Overpayment 1372
Notice of Recovery 1373
Recovery Support Services 2215
Alcohol & Drug Screening 2215
Case Management 2215
Child Care 2215
Life Skills 2215
Staffed Safe & Sober Housing for Adolescents 2215
Staffed Safe & Sober Housing for Adults 2215
Transportation 2215
Recovery, Possession, & Sale Of Wildlife Parts 1041
Animals Found Dead 1042
Wildlife Legally Killed 1041
Wildlife Taken in Other States 1042
Recreation 2611
Recreation, Physical Exercise, & Leisure Time Activities, Children's Residential Care Facilities 2640
Recreational Mining Equipment 3174
Recreational Vehicle
Registration 4390
Boat 4390
Snowmobile, Motorbike, or ATV 4390
Recruitment 1145
Recruitment Of Adoptive Applicants, Children's Agencies 2631
Redetermination Of Eligibility For Child Care Benefits 2196
Graduated Phase Out 2196
Redetermination 2196
Redredging 3164
Reducing Or Ending Benefits Before Hearing Decision 1459
Appeal of Federal Law 1459
Food Stamp Issuance Changes 1459
Food Stamps Expire 1459
Mass Change 1459
Reduction In Force 1154
Assessment for Adverse Impact 1154
Conditions for Layoff 1154
Downward Reclass 1155
Layoff by Position 1154
Layoff Decisions 1154
Layoff Unit 1155
Reduction of Hours Worked 1155
Reduction In Force Determination & Notification 1156
Calculation of Retention Points 1156
Identification of Classifications 1156
Notification to Administrator 1157
Notification to Affected Employees 1156
Order of Reduction in Force 1156
Reduction Of Idaho Tax Attributes & Basis When Income From Indebtedness Discharge In Bankruptcy Is Excluded From Gross Income 4183
Discharge Not Treated as Discharged Indebtedness 4184
Exception to Basis Reduction 4184
In General 4183
Order of Reduction 4183
Reemployment Less Than Five Consecutive Months 6017
Reemployment Of Retired FRF Firefighter 6032
Reemployment--Working Less Than Twenty Hours Or Less Than Five Consecutive Months 6017
Re-Examination Of Value--Complaint By Assessor 4444
Complaint 4444
Information to be Provided by the Tax Commission 4444
Meeting to Examine Valuation & Allocation 4444
Request for Reexamination of Value 4444
Reexaminations 654
Referee's Instructions To Combatants 3438
Referees 3426
Physical Examination 3426
Protests 3426
Selection 3426
Reference Retail Pricing Practices 235
Reference To Agency 255, 3033, 4658
Reference To Income Tax Rules 4561
Referenced Material 5503
"Wastewater Engineering, Treatment and Reuse," Metcalf and Eddy 5504
American National Standard Institute/Hydraulic Institute ANSI/HI 9.8, American National Standard for Centrifugal & Vertical Pump Intake Design 5504

American Society of Civil Engineers (ASCE) Manuals & Reports on Engineering Practices 5504
Design Criteria for Mechanical, Electric, & Fluid System and Component Reliability 5504
Guidance for Reclamation and Reuse of Municipal & Industrial Wastewater 5504
Idaho Standards for Public Works Construction 5504
Memorandum of Understanding 5503
Nutrient-Pathogen Evaluation Program for On-Site Wastewater Treatment Systems 5504
Plan & Specification Dispute Resolution Policy 5504
Pumping Station Design - Third Edition 2006 5504
Recommended Standards for Wastewater Facilities 5503
The Compressed Gas Association Publication CGA G-3-1995, "Sulfur Dioxide" 5504
Ultraviolet Disinfection Guidelines for Drinking Water & Water Reuse 5504
Water Environment Federation (WEF) Manuals of Practice 5504
References To Appendix, International Fire Code 3001
Referral For Substance Abuse Assessment 1581
Referral Of Cases To The Board 351
Cases Eligible for Referral 352
Hearing Schedules 352
Juvenile Has Not Appeared Before the Custody Review Board 352
Written Submissions 352
Referral To Child Support Services 2536
Assignment of Child Support 2536
Collection of Child Support 2536
Referrals From Federal Agencies On Discrimination Complaints 1166
Refrigerated Storage Of Medicines 1337
Accessibility of Stored Medicines 1338
Medicines Stored in a Leak Proof Container 1337
Refugee Medical Assistance Program 1559
Automatic Eligibility 1560
Counting Income for Refugee Medical Assistance 1560
Medical Only 1560
Refugee Cash Assistance Excluded 1560
Refugee Medical Assistance with Spend Down 1560
Time Limitation 1559
Refund Applications 5154
Assessment Refund 5154
Refund Application Form Number 2 5154
Refund Claims 4392
Bad Debts 4392
Cross Reference 4393
Denial of a Refund Claim 4393
In General 4392
Interest on Refunds 4393
Mathematical Errors 4392
Outstanding Liabilities 4393
Payment of Sales or Use Tax Directly to the State 4392
Payment of Sales Tax by a Buyer to a Vendor 4392
Payment Under Protest 4393
Refund Claims 4392
Statute of Limitations 4393
Taxes Paid in Response to a Notice of Deficiency Determination 4393
Refund Claims — General & Bulk Documentation 4541
Alternate Method for Bulk Tanks — Authorized Percentage 4542
Indian-Owned Retail Outlet 4543
Records Required — Bulk Fuel Purchases 4542
Records Required — Generally 4542
Records Required — Retail Fuel Purchases 4542
Records Retention Requirements 4542
Refunds to Consumers 4542
Untaxed Motor Fuel 4543
Refund Claims — Power Take-Off (PTO) & Auxiliary Engines 4544
Alternate Methods — Standard Allowances 4544
Nonstandard Allowances 4545
PTO & Auxiliary Engines Defined 4544
Records Required — Actual Consumption Refunds 4544
Refund to Consumers — PTO & Auxiliary Engines 4544
Refund Claims -- Reporting 4541
Refund Applied to Taxes Due 4541
Refund May Be Claimed Only by Final Consumer 4541
Requirements of a Valid Refund Claim 4541
Refund Formulas 2758
Filing & Approval by the Director 2758
Minimum Refund 2758
Termination 2758
Refund Of Dealer Thirty Day Temporary Permits, License Plates, & Validation Sticker Fees 4922
Plates Not Ordered 4922
Unused Permits 4922
Validation Stickers Unused 4922
Refund Of Fees 5053
Cause for Refund 5053
Denial of Refund 5053
Documentation for Refunds 5053
Request for Refunds 5053
Refunds 3006, 4693, 5087
Fees Eligible for Refund 5087
Fees Not Eligible for Refunds 5087
Request for Refunds 5087
Refunds of Controlled Hunt Fees 1091
Refunds 1091
Refunds Of Lay-Away Payments 242
Possible Default or Cancellation 242
Refund Policy 242
Refunds To Nonresidents 1090
Department Error 1090
Partial Refund 1090
Refund 1090
Refusal Errors 4128
Refusal Of Treatment 403, 412
Refusal of Recommended Treatment by Physician 403, 412
Where Refusal Poses Significant Risk 403, 412
Refusal Of Work/Failure To Apply 618
Citizenship or Residency Requirements 618
Claimant Conduct 618
Claimant Responsibility 618
Conscientious Objection 618
Employer Requirements 618
Failure to Report 618
Failure to Return to Work After Layoff 618
Government Requirements 619
Moral Objections 619
Offer of Work 619
Part-Time Work 619
Personal Circumstances 619
Prospect of More Suitable Work 619
Suitable Work 619
Travel Distance 619
Refusal To Enter Into An Agreement 2103, 2174, 2198
Committed an Offense or Act Not in Best Interest of a Child Care Participants 2198
Committed an Offense or Act Not in Best Interest of Medicaid Participants 2174
Convicted of a Felony 2103, 2174, 2198
Excluded Individuals 2103, 2198
Failed to Repay 2103, 2174, 2198
Investigation Pending 2103, 2175, 2198
Terminated Provider Agreement 2103, 2175, 2198
Refusal To Hang Up 323
Refusal To Issue License 830, 850
Age 831
Community Support 850
Competition 850

Conduct 831
Convicted 830
Deny or Revoke 831
Drug Probation 831
Ejection 831
Felony Probation 830
Misrepresentation 830
Narcotics 831
Not Permitted 831
Ownership 831
Properly Develop 850
Reputation 850
Safety 850
Unqualified 831
Violated Rules 831
Refusal To Participate In An Investigation 1249
Refusal To Test 871
Refusal to Supply a Sample 871
Subject to Random Testing 871
Suspended from Racing for Refusal to Test 871
Regaining Eligibility 1430
Participate in JSAP 1430
Work Eighty Hours 1430
Regional Response Teams, Designation, Location, Jurisdiction, Activation, Liability 1186
Activation of Regional Response Teams 1187
Designation of Regional Response Teams 1186
Liability for Response Costs - Non-Hazardous Substances 1188
Location of Regional Response Teams 1186
Primary Jurisdiction of Regional Response Teams 1186
Reimbursable Costs -- Hazardous Substances 1187
Regional TSE Committees -- Organization & Responsibilities 2293
Registered Interns 3604
Designation of Intern Status 3604
Expiration 3604
Requirements for Registration 3604
Supervision 3604
Registered Trainee Real Estate Appraiser 3633
Continuing Education 3634
Qualification 3633
Renewal & Reinstatement 3634
Scope & Practice 3634
Registered Trainee Supervisors 3634
Registered Trainee Supervisor Requirements 3634
Registered Veterinarians 122
Education Requirements 122
Use of Official Laboratories 122
Registration 317, 789, 2775, 2778, 4554
Beneficiary Within State 2775, 2778
Certificate or Facsimile 790
Duly Registered 789
New Name 790
Registration Required 2778
Registration Requisite 2775
Sex Altered 790
Specific Plans 2775
Registration By Supervising & Directing Physicians 3341
Notification 3341
Registration & Renewal 3341
Registration Examination 3408
Grading 3409
Passing (ARE) 3409
When Taken 3409
Registration For Out Of State Licensees 3667
Registration Of Approved Materials 136
Department Not Liable 136
Effect of Registration 136
Initial & Annual Inspection Fees 137
Registration 136
Registration Fees 137
Revocation of Registration 137
Seal for Registered Branded Materials 137
Registration Of Births 2309
Certifier's Signature 2309
Signature of Certifier 2309
Signature of the Informant 2309
Registration Of Buyers, Commission Merchants, & Selling Agents -- Subscription To A PML 4113
Change of Name or Address 4114
Copy of Rules 4114
Duration 4114
Form 4113
Initial Distribution 4114
Initial Subscription 4114
Other Subscription 4114
Period of Subscription 4114
Right to Subscribe - Number 4113
Special Subscription 4114
Registration Of Deaths & Stillbirths 2311
Acceptance of Incomplete Death Certificate 2311
Signatures Required on Death Certificates 2312
Signatures Required on Stillbirth Certificates 2312
Registration Of Debt Securities 940
Department May Establish Standards 940
Standards To Be Disclosed 940
Suitability 940
Registration Of Foundlings 2309
Form of Certificate 2309
Responsibility for Filing 2310
Registration Or Exemption Of "Blind Pool" Offerings Prohibited 947
Registration Period 5057
Annual Period 5057
Annual Registration Closing Date 5057
Registration Requirements For Clinical Laboratories 1263
Registration Form 1264
Registration Timeframes 1263
Registration Statement 3617
Date of Filing 3617
Failure to Timely File 3617
Other Business Locations 3617
Statement 3617
Registration System For Adult Adoptees 2310
Completion of Match 2311
Fees 2311
Notification 2311
Registration Time 2311
Release of Information 2311
Search for "the Other Birth Parent" 2310
Siblings of Adult Adoptee 2311
Registration Time Period 318
Registration To Be Carried & Displayed 5058
Registration To Operate As Life Settlement Provider Or Life Settlement Broker 2741
Registration, Properly Filed 317
Registrations -- Notice Of Intended Idaho Broker -- Dealer Or Agent 941
Regular Interest 6010
Regulated Articles 197
Regulated Persons 225
Regulated Pests (Non-Phaseolus Only) 196
Asian Soybean Rust 197
Soil 197
Soybean Cyst Nematode 197
Regulated Pests (Phaseolus & Non-Phaseolus) 196
Anthracnose 196
Bacterial Wilt 196
Brown Spot 196
Common Blight 196
Halo Blight 196
Regulation - Compliance 2923
Annual Financial Statement 2923
Distributions to Policyholders 2923
Merger or Acquisition 2923
Subsidiary Investment Obligations 2923
Wavier of Compliance 2923
Regulation Of Holding Company System 2926
Regulations Incorporated, IDAPA 39.03.44, Rules Governing Highway Relocation Assistance for Persons Displaced by Public Programs 5021
Regulatory Authority (RA) 2321
Rehabilitation Components 3554
Additional Requirements 3554
Educational Programs 3554
Options in Devising Rehabilitation

Program 3554
Rehabilitation Form & Checklist -- Compliance Certificate 418
Rehabilitation Checklist 418
Rehabilitation Checklist and Compliance Certification Form 418
Rehabilitation Requirements
Egress from Sleeping Areas 417
Electrical/Gas/Water System Testing 418
Gas Furnace & Water Heater Compartment Protection 417
Gas System Testing 418
Requirements for Obtaining Certificates of Compliance 418
Smoke Detectors 417
Water System Testing 418
Rehabilitation Services For
Hospitals 2049
Facilities 2049
Organization 2049
Other Requirements 2049
Policies & Procedures 2049
Rehabilitation Service 2049
Rehabilitation Service Staff 2049
Services & Records 2049
Reidentification Of Domestic Cervidae 182
Inventory Evaluation 182
Permanent Identification 182
Records 182
Reproduction of Original Tattoo 182
Supervision 182
Re-Identification Of Official Vaccinates 78
Administrator Grants Permission 78
Permanent Identification 78
Records 78
Reproduction of Original Tattoo 78
Reimbursement For Benefits Received 1468
Reimbursement In The Home Of A Relative 2540
Reimbursement Of Costs 4076
Reimbursement Provisions For State Owned Or Operated ICF/ID Facilities 1893
Reimbursement Rules 4076
Reimbursement System Audits
Exception to Scope for Audits & Investigations 1622
Scope of Reimbursement System Audits 1622
Reinspection 2331
Reinstatement 3390
Reinstatement (Non-Discipline) 3362
Reinstatement After Discipline 3362
Appearance Before Board 3362
Application for Reinstatement After Revocation 3362
Submission of Application Materials 3362
Reinstatement After Exclusion From Medicaid Program 2173
Applying for Reinstatement 2174
Complete Application for Reinstatement 2174
Conditions for Reinstatement 2173
Department Decision 2174
Reinstatement Denied 2174
Request for Reinstatement 2174
Reinstatement And Re-Entry 40
Reinstatement Following
Revocation 1254
Peer Review for Reinstatement 1255
Recommendation of Peer Review Team 1255
Reinstatement Determination 1255
Reinstatement Interest 6010
Reinstatement Of A Lapsed EMS Personnel License 2283
Authorization for Release of Information 2283
Criminal History & Background Check for Reinstatement of Lapsed License 2284
Declaration of Previous Applications & Licensures 2283
Documentation of Continuing Education for Lapsed License Reinstatement 2283
Expiration Date of a Reinstated License 2284
Pass Standardized Examination for Reinstatement 2284
Provide Current Affiliation with EMS Agency 2283
Standardized Exam Attempts For Reinstatement 2284
Submit Required Licensure Fee for Reinstatement 2284
Valid Identification for Reinstatement of Lapsed License 2284
Reinstatement Of Advanced Practice Registered Nurse License 3378
Current Registered Nurse License 3378
Evidence of Certification 3378
Fee 3378
Reinstatement Of Certification 3390
After Discipline 3391
After One Year 3390
After Three Years 3390
Within One Year 3390
Reinstatement Of License 3623
Reinstatements 1152
Eligibility 1152
Examination 1152
Probationary Period 1152
Reinstatement Prohibited 1152
Return from Military Duty 1152
Reinsurance Contract 2982
Insolvency Clause 2982
Jurisdiction 2982
Reinsurance Intermediary Clause 2983
Reissuance Of Cancelled Clinical Nutrition Certification 3468
Reissuance 3468
Reissuance Of Certificates 650
Reissuing Benefit Payments 619
Affidavit for Issuance of New Benefit Payment 619
Reissuance of Stolen Benefit Payments 619
Rejected & Returned Claims 4697
Refiled Claims 4697
Rejected Claims 4697
Relapsing Fever, Tick-Borne & Louse-Borne 1305
Investigation 1305
Reporting Requirements 1305
Related Party Transactions 1623
Cost Allowability - Regulation 1623
Principle 1623
Relationship Of Income To Resources 1500
Relationship Of Transactional & Functional Tests To U.S. Constitution 4209
Relationship To Other Programs 2098
Release 346
Disposal of Property 346
Personal Property Complaints 346
Release of Offender 346
Temporary Release 346
Release Forms 375
Document Reproduction 375
Minimum Information 375
Release of Medical Information 375
Release of Non-medical Information 375
Release Of Deleterious Exotic Animals 113
Release Of Fish While Fishing 1050
Release Of Non-Target Fish & Crustacea 1057
Female Crayfish 1058
Special Permit 1058
Release Or Subordination Of Tax Lien 4588
Erroneous Lien 4589
Request for Release of Lien 4589
Release Reporting Requirements 5662
Information to be Reported 5662
Release Causes 5663
Release Sources 5662
Requirements 5663
Relevant Records Resulting In A Conditional Denial 2513
Employees of Providers or Contractors 2513
Individuals Licensed or Certified by the Department or a Department Employee 2513
Underlying Facts & Circumstances 2514
Relicensing (Formerly Temporary

Agent Transfer (TAT) System) 955
Relicensing Agents 955
Relicensing Investment Adviser Representatives 955
Temporary License Expiration 956
Relief From Regulations 686
Religious & Cultural Practices 2611
Religious & Culture Policy 2622
Organizations That Accept Only Private Placements 2623
Organizations That Accept State Placements 2622
Religious Services 380
Attendance 380
Risk to Community 381
Transportation 380
Visits 381
Voluntary Practice 380
Relinquishment 3829
Relocation Assistance 1505
Relocation Of Building Or Houses – General Requirements 4976
Additional Restrictions Relating to Movement of Buildings & Houses 4976
Buildings Exceeding Sixteen Feet Wide 4976
Requirements for Permit 4976
Remedial Actions & Commission Proceedings 4057
Remediation 4057
Other Dairies, Farms & Industrial Sites 4057
Utility System 4057
Remediation Standards 5852
Establishment of Remediation Standards 5853
Voluntary Remediation Work Plan Must Achieve Health-Based & Environmental Remediation Standards 5853
Remedies For Failure To Comply 42
Remedies To Nonperformance Of A Fiscal Employer Agent Service Provider 1995
Direct Monetary Action 1995
Remedial Action 1995
Remission Of Fine Or Penalty Pursuant To Section 20-210A, Idaho Code 5209
Hearing 5209
Request 5209
Review 5209
Satisfaction of Judgment 5209
Removal Of A Child From A Prospective Adoptive Home 2565
Removal Of Dead Body Or Fetus From Place Of Death Or Stillbirth 2316
Notify the Coroner 2317
Obtain Assurance That Death Is from Natural Causes 2316
Receive Permission to Remove the Dead Body or Fetus 2317
Removal Of Disabled Vehicles 4957
Annual Disabled Vehicle Permit 4959
First Movement 4958
Height Restrictions 4959
Loaded Weight 4957
Permitted Vehicle 4957
Time of Travel Restrictions 4958
Removal Of Names 1149
Limitations & Duration of Removal 1150
Reasons Specified 1149
Removal Of Orders & Notices 534
Removal of Orders & Notices Prohibited 543
Removal Of Sand & Gravel Deposits 4776
Buffer Zone 4776
Disturbing Natural Appearance of Area 4776
Movement of Equipment 4776
Removal Below Water Surface 4776
Removal of Sand & Gravel 4776
Removal Or Defacing Of Stencils 211
Removal Procedures 5029
Removal Requirements 81
Approval of the Administrator 82
Direct Out of State 82
Direct to Another Idaho Approved Feedlot 82
Direct to Livestock Market 82
Direct to Slaughter 82
Intact Males 82
Interstate Commerce 82
Official Adult Vaccinates 82
Official Calfhood Vaccinates 82
Removing A Claim From TOP 1462
Claim Is Paid in Full 1463
Claim Is Satisfied 1463
Household Undergoing Allotment Reduction 1462
Instructed by FNS or Treasury 1462
Payments Resumed 1463
Remuneration Paid Constitutes Both Taxable Wages & Excluded Amounts 630
Renewal 3790, 3829
Renewal & Expiration Of Certificate 2109
Availability of Certificate 2110
Expiration of Certificate Without Timely Request for Renewal 2110
Renewal of Certificate 2110
Renewal & Expiration Of The Certificate 2071
DDA Enrolled Prior to July 1, 2011 2072
Expiration Without Timely Request for Renewal 2072
Issuance of Certificate 2071
National Accreditation 2072
Renewal of Certificate 2072
Renewal & Reinstatement Fees Reinstatement Fee 3402
Renewal By Mail Procedures 4949
If Lost or Destroyed in Mail 4949
If the Driver's License Card Is Lost, Mutilated or Destroyed After Receipt 4949
Temporarily Residing Out-of-State 4949
Updating Driving Records 4949
Use of Fax or Phone Prohibited 4949
Renewal Of Advanced Practice Registered Nurse License 3377
Current Registered Nurse License 3377
Evidence of Certification 3377
Evidence of Continuing Education 3377
Exemption From Requirements 3377
Hours of Practice 3377
Peer Review Process 3377
Renewal Of Approval Of Disapproved Test Or Tests 1266
Renewal Denied 1267
Renewal Granted 1267
Renewal of Certificate 2391
Desk Review 2391
Home Inspection 2391
Validity of Existing Certificate 2392
Renewal Of Certification 2224
Code of Ethics Acknowledgment 2224
Continuing Education 2224
Submit Renewal Application 2224
Renewal Of IPDES Permits 5948
Effluent Limits & Water Quality Standards 5949
Final Clean Water Act Section 301(b)(1)(C) or 303 Effluent Limits 5949
Final Clean Water Act Section 402(a)(1)(B) Effluent Limits 5949
Interim Effluent Limits 5948
Renewal Of License 3682, 3696
Application for Renewal 3682
Complete Practice Data 3696
Continuing Education Verification 3697
Current Cardiopulmonary Resuscitation Certification 3697
Reinstatement 3682
Renewal Of License - Continuing Education 3554
Renewal Of Standard & Specialty Licenses 3248
Option to a Check Scale for Specialty License Renewal 3248
Option to a Check Scale for Standard License Renewal 3248
To Renew a License by the Expiration Date 3248
To Renew a License More Than Two

Years After the Expiration Date 3248
To Renew a License Within Two Years After The Expiration Date 3248
Renewal Of TSE Designation 2294
Renewal Or Expiration Of
License 3711, 3733
Reinstatement 3712
Renewal 3712
Renewal Or Reinstatement Of License 3495
Backflow Assembly Testers 3495
Expiration Date 3495
Operator-in-Training License 3495
Reinstatement 3495
Wastewater Land Application License 3495
Renewal, Registration 317
Rental 3193, 3230
Nonstandard Rental Rates 3230
Rental Due Date 3194
Rental Rates 3193
Special Uses 3193
Standardized Rental Rates 3230
Rental & Royalty & Late Payments 3175
Deduction of Royalty 3176
Late Payments 3176
Minimum Annual Rental 3175
Minimum Annual Royalty 3175
Royalty Schedule 3176
Rental Income 1508
Advertising 1508
Insurance 1508
Interest 1508
Repairs 1508
Taxes 1508
Yard Care 1508
Rental Income From Real Property 1591
Rental Notices 3212
Rental Of Water From The Rental Pool 4633
Content of Agreements 4634
Rental Application 4633
Rental Priorities 4633
Rental Payments 4634
Management of Rental Income 4634
Rental Price 4634
Rentals 3202
Advance Annual Rental 3202
Amount 3202
Rentals Or Leases Of Tangible Personal Property 4299
Bare Equipment Rental 4299
Cross-References 4301
Exempt Equipment Rentals 4301
Fully Operated Equipment Rentals 4300
In General 4299
Lease-Purchase & Lease With Option to Purchase 4301
Maintenance of Rental Equipment 4300
Mixed Use of Rental Equipment 4300
Operator Required to Be Paid by Customer 4300
Out-of-State Rental/Lease 4301
Personal Property Tax 4301
Rental Payments Applied to Future Sales 4301
Rentals to Exempt Entities 4300
Reorganization Of Domestic Mutual Insurer With Mutual Insurance Holding Company. 2923
Repair Service Standards 4016
Compliance Standard 4016
Extenuating Circumstances 4016
Restoration of Service 4016
Repairs - Sale Of Parts & Material 4339
In General 4339
Incidental Material 4339
Parts for Resale 4339
Repairs Covered by Insurance Benefits 4339
Repairs Versus Fabrications 4339
Separate Statement of Parts or Materials 4339
Shop Supplies 4339
Repairs To Existing Structures 4068
Repayment Of Loan 6060
First Payment 6061
Repayment of the Loan 6060
Repayment Schedule 6061
Repayment Of Separation Benefits By Employees Previously Precluded From Repayment 6013
Repayment Of Separation Benefits--Employee Status 6012
Repeated Noncompliance 2429
Replacement Of Excluded Resources 1493
Replacement Of Income Already Received 1506
Replacement Of Life Insurance & Annuities
Conservation 2749
Direct-Response Sales 2749
Existing Insurer 2749
Replacement Of Structures Not Complying With These Rules 4068
Replacing Food Destroyed By A Disaster 1460
Food Destroyed in a Disaster 1460
Replacement Time Limit for Disaster Loss 1460
REPLICA Expiration 2281
Report & Investigation Of Violations 3649
Insufficient Facts & Evidence 3649
Person Reporting a Violation 3649
Preliminary Investigations & Papers 3649
Sufficient Facts & Evidence 3649
Who May Report a Violation 3649
Report Contents & Method Of Reporting 1274
After Hours Notification 1275
How To Report 1275
Report Contents 1274
Report Format 4076
Report Of Abandoned Property 5273
Incomplete Report 5273
Underlying Shares & Cumulative Dividends 5273
Voluntary Payments of Unclaimed Property 5273
Report Of Completion Of Offering 941
Completion Statement 941
Signatures 941
Report Of Disclosures Of Health Information 2136
Documentation of Disclosure 2137
Documented Disclosures 2137
Maintenance of Documentation 2137
Pending Investigation 2137
Request for Report of Disclosures 2137
Report Of Disease 858
Report Of Funds 849
Report Of Violations 728
Report To Commission Of Solicitation To Conduct Contest Fraudulently 3454
Report To Court - Voluntary Termination 2554
Report To The Court - Involuntary Termination 2555
Absent Parent 2556
Allegations 2555
Compliance with the Indian Child Welfare Act 2556
Efforts to Maintain Family 2556
Family Circumstances 2556
Investigation 2556
Medical Information 2556
Planning 2556
Termination of Parent-Child Relationship 2556
Reportable Accidents 2340
Reportable Diseases & Control Measures 1284
Reportable Income 619
Back Pay or Disputed Wages 619
Disability Retirement Payments 619
Disability/Injury Compensation 619
Gratuities or Tips 620
Holiday Pay 620
Non-Periodic Remuneration 620
Penalty or Damage Awards 620
Pension, Retirement, or Annuity Payments 620
Relief Work or Public Assistance 620
Self-Employment Earnings 620
Severance Pay 620
Temporary Disability Benefits 621
Vacation Pay 620

Verification of Earnings on Claim Reports 620
Wages for Contract Services 620
Wages for Services Performed Prior to Separation 621
Reportable Or Restrictable Diseases, Conditions & Reporting Requirements 1275
Reporting 49, 73, 4056
Disease 50, 73
Test Results 50, 73
Vaccinations 73
Reporting & Paying State Income Tax Withholding 4272
Extension of Time to Pay or File Returns 4273
Filing of Annual Reconciliation Returns 4272
Payment of State Income Tax Withheld 4272
Valid Returns 4273
Reporting ABAWD Changes 1430
Reporting Abuse, Neglect, Or Abandonment
Health & Welfare Employees 2541
Ministers 2540
Reporting Crime In Emergencies 2136
Reporting Cycle 6069
Form Availability 6070
Purpose 6070
Reporting Period 6070
Reporting Foster Home Changes 2612
Additional Licensing Application 2613
Admission or Release From Facilities 2613
Arrests, Citations, Withheld Judgements or Criminal Convictions 2612
Change of Residence 2613
Counseling, Treatment or Therapy 2613
Employment 2613
Illness, Injury, or Death 2612
Parole & Probation 2613
Reporting Net Profits Of Mines 4523
Additional Allowable Deductions 4523
Amount to be Reported 4523
Non-deductible Items 4523
Reporting Of Accidents 3973
Reporting Of Child Abuse, Neglect, & Abandonment 2621
Reporting of Complaints & Suspected Violations 1249
Reporting Of Crime On Premises 2135
Reporting Of Multiple Policies 2810
Grouping by Individual Policyholder 2810
Reporting 2810
Reporting Of Stock Ownership And Transactions 2926
Acquisition of Ownership Interest 2926
Filing of SEC Forms 2926
Reporting Of Test Results & Official Identification 122
Identifying Virgin Bulls 122
Receiving Results 122
Reporting Procedure 6070
Due Date 6070
Forms 6070
Incomplete Annual Report 6070
Method of Delivery 6070
Review 6070
Reporting Requirements 621, 1110, 1350, 1371, 2407, 2826, 3881, 6068
Abuse, Neglect, or Exploitation 2408
Additional Criminal Convictions 2408
Attorney Experience 6069
Case Information 6068
Claims Denied 2826
Continuing Legal Education Information 6069
Critical Incidents 2408
Demolition Documentation 1350
Discharge of a Resident 2409
Documentation of Clearance Sampling Procedures 1350
Drug Distributor Monthly Reports 3881
Electronic Mail Reports 621
Expenditure Information 6069
Facsimile Reports 621
Filing 2826
Individual Information Changes 3881
Internet Reports 621
Laboratory Results 1350
Lapsed Policies 2826
Mailed Reports 621
Method of Data Collection 6069
Notice of Investigations 2408
Policies & Reports 2826
Producers Experiencing Lapses & Replacements 2826
Property Description 1350
Purpose of Reports 2826
Qualifications of the Qualified Industrial Hygienist 1350
Replacement Policies 2826
Report of Fire 2408
Reporting Deficiencies 1110
Reporting Forms 1110
Reporting of Funds Managed by the Provider for a Deceased Resident 2408
Serious Physical Injury or Death 2407
Signed Certification Statement 1350
Support Staff 6069
Telephone Reports 621
Theft or Loss of Controlled Substances 3881
Verification of Service Provider Reports 1110
When Report Missing 621
Reporting Requirements & Responsibilities 1455
Decrease in ABAWD Hours to Less Than Eighty (80) Hours Per Month 1455
Income Exceeds One Hundred Thirty Percent (130%) of FPG 1455
Reporting Requirements For Providers 2201
Change in Provider Charges 2201
Change in Who Lives in Home 2201
Change of Provider Address 2201
Child Stops Attending Care 2201
Death or Serious Injury 2201
Intent Not to Renew License 2201
Reporting Requirements, Participant 1524
Reporting Suspected Violation 1249
Report Violation 1249
Suspected Violations 1249
Reporting System, Reporting Abuse, Abandonment Or Neglect 2541
Reporting To The Board 42
Firm Registration Form 42
Peer Review Documentation 42
Reporting To The Internal Revenue Service (IRS), General Provider Provisions 1617
Reporting, Labeling, & Revocation 3909
Labeling Containers of Fresh Idaho® Potatoes to Indicate the Variety Packed Therein 3909
Reporting of Fresh Shipments of Potatoes 3909
Revocation of Right to Use Marks 3910
Reporting, Notification, & Distribution Of Laboratory Results 2324
Notification of High Contaminant Levels 2324
Notification of Positive Microbiological Results 2324
Submission of Test Results in Approved Format 2324
Reporting, Public Notification, Recordkeeping 5694
Public Notification of Drinking Water Violations 5694
Record Maintenance 5694
Reporting & Record Keeping Requirements for the Disinfectants & Disinfectant Byproducts Rule 5694
Reporting & Record Keeping Requirements for the Revised Total Coliform Rule 5694
Reporting & Recordkeeping Requirements for the Interim Enhanced Surface Water Treatment Rule 5694
Reporting for Unregulated Contaminant Monitoring

Results 5694
Reporting Requirements 5694
Reports 6041
Reports & Inspections 6072
Materials 6072
Written Notification 6072
Reports By School Authorities 1328
Form & Content of Report 1328
Responsibility & Timeliness 1328
Reports Involving Indian Children 2542
Reports Involving Military Families, Reporting Abuse, Abandonment Or Neglect 2542
Reports To The Agency 285
Representation 2145
Representation & Practice Before The Board 4610
Authorized Attorneys 4610
Corporations 4610
Limited Liability Company (LLC) 4610
Natural Persons 4610
Partnerships, Joint Ventures & Trusts 4610
Public Officers 4610
Representation For Entries 812
Representation Of Parties 3929, 5157, 5583
Administrative Proceedings 3929
Appearances & Representation 5583
Attorney Representation 3929
Corporation 5158
Individual 5158
Other Entity 5158
Partnership 5158
Quasi-Judicial Proceedings 3929
Representation 5583
Representation Of Parties At Hearing 258, 3036, 4661, 5998
Appearances & Representation 3036, 4661, 5998
Representatives 3036, 4661, 5998
Representation Of Parties at Hearing
Appearances & Representation 258
Representatives 258
Representatives Of Parties 3928
Request for Approval 3266
Request For Approval Of Qualification 3622
Course Review 3622
Individual Qualification 3622
Request For Change In Certification Level 5285
Request to Advance in Level of Certification 5285
Request to Change to a Less Independent Level of Certification 5285
Request For Conditional Waiver 5285
Conditional Waiver 5285
Duration 5285
Frequency 5285
Request For Exemption From The Criteria For A Proposed Library District 3920
Exemption Requests 3920
Factors in Evaluating the Request for Exemption 3920
Request For External Review 2761
Appointment of an Authorized Representative 2761
Authorization Form 2761
Request Form 2761
Request For Information, Notices Of Claim Of Lien 4118
Request For Mediation 1175
Request For Placement On Inactive Status 5289
Request For Prompt Action By The Tax Commission 4279
Applicable Returns 4279
In General 4279
Requirements of a Valid Request for Prompt Action 4279
Request For Proposals (RFP)--Selection Of TRS Provider 4037
Formulation of RFP & Submission to the Commission 4037
Requirements of the RFP 4037
Timetable for Decision 4037
Request For Reconsideration For Adoption Assistance 2573
Adoption Assistance Agreement 2573
Eligibility Determination 2573
Request For Refund Of Dealer Or Salesperson Licensing Fees 4921
Application Denial 4922
Over-Payment 4922
Prior to License Issuance 4922
Prior to Renewal Issuance 4922
Request For Refund Of Registration Fees 4930
Mailing & Handling Fees 4930
Refund Denied 4930
Refund Granted 4930
Request For Refund Of Title Fees 4930
Process of Documents 4930
Withdrawal of Application 4930
Request For Reports 4075
Notification by Department 4075
Submission of Consumption Reports 4075
Request For Substantiation 5565
Confidentiality of Substantiation Response 5566
Contents of Request for Substantiation 5565
Preliminary Determination 5565
Submittal of Substantiation Response 5566
Timing of Determination 5565
Request For Telephone Company Records 4018
Exceptions 4018
General Rule 4018
Request For Transcript 4623
Requested Check Scale 3251
Cost of a Requested Check Scale 3251
Submission of Request 3251
Requests For Expeditious Action 3947
Requests For Information 4115, 4120
Content 4120
Form 4120
Requests For Medicaid Eligibility Determination 2090
Application for Financial Assistance Required 2090
Cooperation of Applicant, Third-Party Applicant, & Obligated Person 2090
Filing Request 2090
Form of Request 2090
Other Information as Requested 2090
Required Action On Reported Changes 2195
Change in Billed Amount 2196
Change in Income or Hours of Activity 2195
Required Conditions
Prohibit Invasion of Trust Corpus 2977
Required Disclosure Provisions
Benefit Triggers 2820
Disclosure of Tax Consequences 2820
Limitations 2820
Limitations or Conditions on Eligibility for Benefits 2820
Medicare Prescription Drug, Improvement, & Modernization Act of 2003 Notice Requirements 2807
Non-Qualified Contracts 2821
Notice Regarding Policies or Certificates Which Are Not Medicare Supplement Policies 2807
Notice Requirements 2806
Outline of Coverage Requirements for Medicare Supplement Policies 2807
Payment of Benefits 2820
Qualified Contracts 2820
Riders & Endorsements 2820
Required Entries 5047
Limits 5047
Other Entries 5048
Parking 5047
Traffic Control 5047
Required Home & Community Based Qualities 1813
Required Home & Community Based Qualities 1813
Required Information For Youth At Service Termination, Transitional Living, Children's Agencies 2629
Required Inspections 506, 586

Final Inspection Tags 506
Ground Work Inspection Tags 506
Inspection Tags 586
Inspection Tags for Unacceptable Plumbing 506
Request for Division of Building Safety Inspection 586
Rough-In Inspection Tags 506
Required Minimum
Distributions 6015, 6038
Adjustment of Required Distributions 6015, 6039
Annuity Benefits Payable on Death of a Member 6039
Benefits Deferred Beyond Service Retirement 6015
Death Benefits 6015, 6039
Default Application of Federal Requirements 6015
Lifetime Distributions 6015, 6039
PERSI Selects Retirement Option 6015
Required Beginning Date 6015, 6039
Timing of Required Distributions 6015, 6039
Required Minimum Distributions (Rule 100)
Default Application of Federal Requirements 6038
Required Number Of Ambulances, Notice To Ambulance Service & Hospital 3430
Promoter Requirements 3431
Required Number of Ambulances 3430
Required Ongoing Training 2394
Content of Training 2394
Documentation of Training 2394
Initial Provider Training 2394
Type of Training 2394
Required Participants 3151
Required Personnel For EMS Education Programs 1241
Course Physician 1241
Program Director 1241
Teaching Faculty 1241
Required Proof, Ten Days To Provide Proof 1524
Required Reports
Statement of Business to Director 2748
Required Staff Ratios 2635
Emergency Staff Access 2636
Medical Emergency 2636
Service Worker or Social Worker Ratios 2636
Staff-Child Ratio-Daytime 2635
Staff-Child Ratio-Sleeping Hours 2636
Supervisor-Staff Ratio 2635
Required Verification 1480
Requirement For BLS 3017
Requirement for Production Testing 3266
Requirement Of Submission Of Document & Exhibits 1176
Requirement To Deliver Shopper's Guide 2846
Approved Format 2846
Exceptions 2846
Requirement To File Motor Fuels Distributor Reports
Electronically 4536
Electronic Filing Requirement 4536
Not Reporting Electronically as Required 4536
Waiver from Requirement to File Report Electronically 4536
Requirement To Insure Entire Groups 2857
Agent Notification to Small Employer Carrier 2857
Choice of Health Benefit Plans 2857
Employer Census & Supporting Documentation 2857
Induced Declinations 2857
New Entrants, Requirement to Insure Entire Groups 2858
Offer of Coverage 2857
Participation Requirement 2857
Refusal to Provide Information 2857
Rescission Employer Misstatements 2858
Risk Characteristics 2858
Risk Load, Requirement to Insure Entire Groups 2858
Waiting Period 2858
Waiver for Documentation of Coverage 2857
Requirement To Insure
Individuals 2872
Certification of Creditable Coverage 2872
Coverage Rescinded for Fraud or Misrepresentation 2872
Offer of Coverage 2872
Rescission 2872
Risk Characteristics 2872
Risk Load 2872
Requirement To Offer Inflation Protection 2823
Continuation of Inflation Protection 2824
Group Offer 2824
Inflation Protection Offer 2823
Outline of Coverage 2824
Premium Disclosures 2824
Rejection of Offer 2825
Requirements for Life Insurance Policies 2824
Requirements 662, 5060
Active Participation in Technical or Professional Organizations 663
Attending Qualifying Seminars 662
Authoring Published Papers, Articles, or Books 663
Construction 5061
Documented Self Study 663
Guyed Towers 5060
Hazardous Structures 5060
Intent 5062
Lines, Wires, & Cable 5061
Membership in Technical or Professional Organizations 663
Mentoring, Teaching or Instructing 662
Notice of Proposed Construction 5062
Notice Submittal 5061
Patents 663
Presentations to Technical, Professional or Civic Organizations 663
Spans Between Support Piers 5061
Submittal of Notice 5062
Successful Completion of College Credits 662
Successful Completion of Continuing Education Units 662
Successful Completion of Other Courses 662
Requirements For & Contents Of Notice Before Termination Of Service 3993
Final Notice 3994
Initial Notice 3993
Requirements For A Backflow Assembly Tester License 3490
Education 3490
Examination 3490
Experience 3490
Requirements For A Class I Operator License 3489
Education 3489
Examination 3489
Experience 3489
Requirements For A Class II Operator License 3489
Education 3489
Examination 3489
Experience 3489
Requirements For A Class III Operator License 3489
Education 3489
Examination 3489
Experience 3489
Requirements For A Class IV Operator License 3490
Education 3490
Examination 3490
Experience 3490
Requirements For A Facility Administrator 2451
Ability to Reach Administrator or Designee 2452
Administrator Responsibility 2451
Administrator's Designee 2452
Availability of Administrator 2451
Identify & Monitor Patterns of Incidents & Accidents 2452

Minimum Age of Personnel 2452
Notification of Adult Protection & Law Enforcement 2452
Notification of Reportable Incidents 2452
Notification to Licensing & Certification Unit 2452
Procedures for Investigations 2452
Representation of Residents 2452
Responsibility for Acceptable Admissions 2452
Sexual Offender 2452
Thirty Day Operation Limit 2451
Requirements For A Lagoon Operator License 3490
Education 3490
Examination 3490
Experience 3490
Requirements For A License 2440
Change in Corporate Shares 2441
Current License 2440
Display of Facility License 2441
Distinctive Business Name 2440
Issuance of License 2440
Licensed Administrator 2441
Licensee Responsibility 2441
Requirements For A Multiple Facility Administrator 2452
Requirements For a Multiple Facility Administrator
Administrator Hours On-site in Each Facility 2453
Administrator Response Time for Each Facility 2453
Approved Plan of Operation 2452
Dually Licensed Administrator 2454
Facility Change To An Approved Plan of Operation 2453
No Unresolved Core Issues 2453
Number of Facilities or Beds Allowed Under One Administrator 2453
On-Site Supervision in Each Facility 2454
Requirements For A Very Small Wastewater System License 3488
Education 3488
Examination 3488
Experience 3488
Requirements For A Very Small Water System License 3488
Education 3488
Examination 3488
Experience 3488
Requirements For A Wastewater Land Application License 3490
Education 3490
Examination 3490
Experience 3490
Other 3490
Requirements For Activities 2451
Requirements For Additional Physical Standards 2461
Fire District 2461
Medical Accessibility 2461
Roads 2461
Service Accessibility 2461
Requirements For Admission Agreements For Department Clients 2454
Initial Resident Assessment 2454
Interim Care Plan 2454
Written Agreement 2454
Requirements For Admission Agreements For Private-Pay Residents 2454
Advance Directive 2456
Billing Practices, Notices, & Procedures for Payments & Refunds 2456
Contested Charges 2457
Emergency Transfers 2456
Initial Resident Assessment & Care Plan 2454
Medication Responsibilities 2456
Notification of Liability Insurance Coverage 2456
Notification of Payee Requirements 2457
Other Information 2457
Resident Belongings Responsibility 2456
Resident Permission to Transfer Information 2456
Resident Personal Fund Responsibilities 2456
Resident Responsibilities 2456
Restrictions on Choice of Care or Service Providers 2456
Services, Supports, & Rates 2455
Staffing 2456
Transition to Publicly-Funded Program 2457
Written Agreement 2455
Requirements For An Agency's Quality Assurance Program 2082
Additional Requirements 2083
Purpose of the Quality Assurance Program 2083
Quality Assurance Program Components 2083
Requirements For Application Forms & Replacement Coverage 2807, 2825
Agents 2808
Application Forms 2807, 2825
Direct Response Issuer 2808
Direct Response Solicitations 2825
Life Insurance Policy Replacement 2826
Notice of Replacement 2825
Notice Regarding Replacement of Medicare Supplement Coverage 2808
Other Policy Disclosures 2825
SHIBA & Consumer Assistance Link 2809
Solicitations Other Than Direct Response 2825
Statements 2808
Requirements For Audit Committees 2948
Accountant's Reports to Audit Committee 2949
Continuation of Service 2949
Controlling Person 2949
Corporate Membership 2949
Hardship Waiver 2950
Independence 2949
Requisite Proportion of Independent Audit Committee Members 2949
Responsibility 2948
Exemptions & Effective Dates
Alternate Effective Date for Section 021 2952
Requirements For Basic Certification 895
Agency Employment 895
Application 896
Aptitude Test 896
Background Investigation 895
Code of Ethics/Standards of Conduct 896
Mental Readiness Assessment 896
Physical Readiness Assessment 896
Time for Completing Basic Training Academy or Alternative Training, Field Training & Probationary Period 897
Requirements For Behavior Management 2458
Evaluation for Behavior Management 2458
Intervention 2458
Prescribing Provider 2459
Requirements For Bingo Game Operations Using Electronic Bingo Machines 5253
Connections to Site System 5253
Erasing Numbers 5253
Identification Number 5253
Malfunctioning Electronic Bingo Machines 5253
Maximum Number of Faces 5253
Players Cannot Choose Numbers 5253
Printouts 5253
Receipts 5254
Requirements For Building Construction & Physical Standards 2459
Approval 2459
Building Character 2459
Call System 2461
Dietary Standards 2461
Dining, Recreation, Shower, Bathing & Living Space 2460
Heating 2460
Lighting 2460
Plans & Specifications 2459
Plumbing 2460
Remodeling or Additions 2459
Resident Sleeping Rooms 2460

Secure Environment 2461
Toilet & Bathrooms 2459
Ventilation 2460
Walls & Floor Surfaces 2459
Requirements For Canine Instructor Certification 914
Additional Requirements for Patrol Canine Instructor Certification 914
Application 914
Canine Instructor School 914
Canine Training 914
Certification & Service in Specific Discipline 914
Recommendation 914
Requirements for Maintaining Certification 914
Requirements for Certification of Drinking Water Laboratories 2321
Requirements For Class I Restricted Water Or Wastewater License 3489
Education 3489
Examination 3489
Experience 3489
Restricted License Upgrade 3489
Requirements For Clinical Nutrition Certification 3465
Accredited Institution and Program Requirement 3467
Audit of Compliance with Clinical Nutrition Certification and Recertification Requirements 3467
Didactic Education Requirement 3466
General 3465
Practicum Requirement 3466
Requirement to Maintain Supporting Documentation 3467
Requirements For Collections 5088
Requirements For Custody 960
Requirements For Donation To Charity -- Limitation On Expenses 5257
Requirements for Drinking Water Laboratories to Maintain, Downgrade, or Revoke Certification 2326
Requirements For Emergency Preparedness 2471
Fire Drills 2471
Report of Fire 2472
Written Agreement for Relocation 2471
Requirements For Environmental Sanitation 2462
Garbage & Refuse Disposal 2462
Housekeeping Services & Equipment 2463
Insect & Rodent Control 2462
Linen & Laundry Facilities & Services 2462
Sewage Disposal 2462
Water Supply 2462
Requirements For Fire & Life Safety Standards 2469
Requirements For Food & Nutritional Care Services 2474
Requirements For Furnishings, Equipment, Supplies, & Basic Services 2473
Basic Services 2473
Basic Supplies 2473
Common Shared Furnishings 2473
Personal Supplies 2473
Resident Bed 2473
Resident Sleeping Room Furnishings 2473
Resident Supplies & Furnishings 2474
Resident Telephone Privacy 2473
Requirements For Handling Accidents, Incidents, Or Complaints 2468
Administrator or Designee Investigation Within Thirty Days 2469
Corrective Action for Known Allegations 2469
Facility Notification to Appropriate Agencies 2469
Notification of Accidents, Incidents, & Complaints 2468
Notification of Licensing & Survey Agency Within Twenty-Four Hours 2469
Resident Protection 2469
Written Response to Complaint Within Thirty Days 2469
Requirements For Handling Of Resident Funds 2475
Resident's Funds Upon Permanent Discharge 2476
Separate Trust Account Established 2475
Requirements For High Liability Instructor Endorsement 913
Application 913
Completion of a High Liability Instructor School 913
Continuing Training Requirements 913
Instruction Pending Endorsement 913
Multiple Endorsements 913
Requirements For Hourly Adult Care 2468
Assistance With Medication 2468
Medication & Treatment Orders 2468
Restrictions for Hourly Adult Care 2468
Requirements for HVAC Apprentice 583
Requirements for HVAC Specialty Apprentice 583
Requirements For Infection Control 2467
Implementation of Policies 2467
Reporting of Individual With Infectious Disease 2467
Staff With Infectious Disease 2467
Standard Precautions 2467
Requirements For In-Home Care Under ICCP 2193
Fewer Than Three Children in the Home 2193
Three or More Children in the Home 2193
Requirements For Initial Certified Public Accountant Licensure Education 34
Examination on Code of Professional Conduct 35
Experience 35
Initial License Application Fee 35
Requirements For Instructors Of Law Enforcement Subjects 913
Additional Requirements 913
Experience & Certification 913
Instructor Development Course 913
Requirements For Laboratory Alcohol Analysis 670
Blood Collection 671
Blood Reported 671
Laboratory 670
Records 671
Urine Collection 671
Urine Reported 671
Requirements For License As A Promoter 3417
Provide Waivers 3417
Requirements 3417
Requirements For License As Ring Official 3420
Equivalent Qualifications 3420
Other Functions 3421
Qualifications 3420
Ring Officials Determination 3421
Validity of Licenses 3421
Requirements For Licensure 3017, 3344, 3576, 3631
Application 3576
Education 3631
Examination 3577, 3633
Experience 3632
Requirements For Licensure By Endorsement 3677, 3710, 3730
General 3677
General Requirements 3730
Has Not Been Convicted of a Drug Offense 3711
Has Not Been Disciplined 3711
Hold a Current License and Have Experience 3730
Holds a Current License 3677, 3710
Is of Good Moral Character 3711
Requirements For Licensure Of A Simulcast Facility 821
Requirements For Load Boxes 4045
Split-Load 4045
Volts 4045
Requirements For Maintaining Idaho Worker's Compensation Claims

Files 2695
Access Card Payments 2697
Audits 2700
Checks & Drafts 2699
Claim Files 2695
Compensation Payments - Generally 2696
Copies of Checks 2699
Correspondence 2695
Date Stamp 2696
Electronic Transfer Payments 2696
Idaho Office 2695
Non-Compliance 2700
Notice & Claim 2696
Prompt Claim Servicing 2699
Requirements For Medication 2464
Controlled Substances 2465
Medication Distribution System 2464
Psychotropic or Behavior Modifying Medication 2465
Unused Medication 2465
Requirements For Mental Health
Contract Beds 2467
License & Personnel 2467
Personnel Orientation & Training 2468
Resident Assessment 2468
Written Contract 2467
Requirements For Monitoring & Recording Devices 4045
Requirements For Notice Before Termination Of Local Exchange Service 4010
Additional Notice 4010
Failure to Pay 4010
Final Notice 4010
Initial Notice 4010
Requirements For Notice Of Claim Of Lien 4117
Form 4117
Supplement 4117
Requirements For Notice Of Monthly Fee Increase 2475
Requirements For Notice Of Proposed Rulemaking 287
Content of Notice of Proposed Rulemaking 287
Filing a Proposed Rulemaking for Publication in the Bulletin 287
Incorporation by Reference 287
Requirements For Notice To Customers Before Termination Of Service 3986
Additional Notice 3986
Failure to Pay 3987
Final Notice 3986
Initial Notice 3986
Requirements For Nursing Services 2463
Licensed Nurse 2463
Licensed Professional Nurse (RN) 2463
Requirements For Operator-In-Training License 3488
Education 3488
Examination 3488
Requirements For Organizations Conducting Raffles 5257
Requirements For Original Licensure 3676, 3709
Applicant Bears the Burden 3677
Certification 3677
Consideration of Factors & Evidence 3676
Education 3677
General 3676, 3709
Interview 3677
Requirements For Performing Breath Alcohol Testing 671
Administration 671
Deficiencies 673
Instruments 671
MIP/MIC 673
Performance Verification Checks 672
Records 673
Report 671
Standards 673
Training 672
Requirements For Planting Bean Seed In Idaho (Non-Phaseolus) 200
Contaminated Seeds 200
Idaho Origin Seed to Be Replanted 200
Imported Seed From Other Than Malheur County, Oregon 200
Malheur County, Oregon Grown Seed 200
Tags 201
True Identity of Seed Lots 200
Requirements For Planting Bean Seed In Idaho (Phaseolus) 198
Contaminated Seeds 199
Idaho Grown Seed 198
Idaho Grown Seeds Shipped West of the Continental Divide in the Contiguous United States, except Malheur County, Oregon, or to a Foreign Country and Returned 199
Imported Seed Grown East of the Continental Divide in the Contiguous United States or of Foreign Origin 199
Imported Seed Grown West of the Continental Divide in the Contiguous United States 198
Irrigation 199
Malheur County, Oregon Grown Seed 198
Tags 199
True Identity of Seed Lots 199
Requirements For Provisional License 3677
General 3677
Supervision 3677
Requirements For Records 2467
Accessibility of Records to Survey Staff 2467
Electronic Records 2467
Individual Resident Care Record 2467
Resident Record Confidentiality 2467
Resident Record Retention 2467
Staff Access 2467
Requirements For Reinstatement Of Suspended Or Revoked Vehicle Registration 5088
Revocation 5088
Suspension 5088
Requirements For Residents' Rights 2476
Requirements For Residents' Rights Access & Visitation Rights 2478
Access by Advocates & Representatives 2479
Access by Protection & Advocacy System 2479
Access by the Long Term Care Ombudsman 2479
Advanced Directives 2480
Citizenship Rights 2480
Confidentiality 2478
Control & Receipt of Health-Related Services 2478
Employment 2478
Examination of Survey Results 2479
Fee Changes 2480
Freedom from Abuse, Neglect, & Restraints 2478
Freedom of Religion 2478
Grievances 2479
Humane Care & Environment 2477
Management of Personal Funds 2477
Participation in Other Activities 2479
Participation in Resident & Family Groups 2479
Personal Funds 2477
Personal Possessions 2477
Privacy 2477
Resident Records 2476
Transfer or Discharge 2480
Requirements For Simulcast Facilities Applications for Licenses 821
Daily Simulcast License Fees 821
General 821
Review & Approve 822
Requirements For Staffing Standards 2480
Detached Buildings or Units 2480
Mental Health Bed Contract Facility 2481
On-Duty Staff During Residents' Sleeping Hours for Facilities of Fifteen Beds or Less 2480
Sufficient Personnel 2481
Supervision 2481

Requirements For Supervised Practice 3561
Amount of Supervisory Contact 3561
Duration & Setting of Supervised Practice 3561
Evaluation & Accreditation of Supervised Practice 3561
Qualifications of Supervisors 3561
Unacceptable Supervision 3561
Requirements For Termination Of Admission Agreement 2457
Conditions for Termination of the Admission Agreement 2457
Facility Responsibility During Resident Discharge 2457
Receipt of Appeal 2458
Resident's Appeal of Involuntary Discharge 2457
Written Notice of Discharge 2457
Requirements For The Negotiated Service Agreement 2465
Development of the Service Agreement 2466
Key Elements of the Negotiated Service Agreement 2465
Periodic Review 2466
Provision of Copy of Agreement 2466
Resident Choice 2466
Review Date 2466
Signature, Date & Approval of Agreement 2466
Use of Negotiated Service Agreement 2465
Requirements For Training Of Facility Personnel 2481
Requirements For Uniform Assessment Criteria For Department Clients 2484
Requirements For Uniform Assessment Criteria For Private Pay Residents 2484
Facility Responsibility For Assessing Private-Pay Residents 2484
Information Included in a Uniform Assessment 2484
Qualifications of Person Making Uniform Assessment 2484
Time Frames for Completing the Uniform Assessment 2484
Use of Uniform Assessment for Determining the Ability of Facility to Meet Private-Pay Resident Needs 2484
Requirements For Wastewater Laboratory Analyst License 3491
Class I 3491
Class II 3491
Class III 3491
Class IV 3491
Requirements For Water Quality Protection 5829
Cap & Cover Criteria 5831
Cyanidation Facilities Siting & Preparation 5829
Employee Education Program 5834
Land Application 5833
Minimum Plans & Specifications for Impoundment, Leach Pads & Other Facilities Designed to Contain Process Water 5830
Monitoring Wells Siting & Construction Plans 5833
Operation & Maintenance Plans 5832
Plumbing & Conveyance Criteria 5831
Process Buildings, Process Chemical Storage Containment Areas & General Facility Criteria 5831
Process Water Storage Sizing Criteria 5829
Temporary or Seasonal Closure 5834
Water Quality Monitoring & Reporting 5832
Requirements Of A Valid Tax Return 4582
Accuracy & Required Information 4582
In General 4582
Information to Compute Tax 4582
Reproduced & Substitute Forms 4583
Signing of Returns 4582
Supporting Computations & Schedules 4582
Requirements of Acceptable Program 2908
Requirements Of An Idaho Withholding Account Number 4271
Idaho Withholding Account Number Required 4271
Idaho Withholding Account Numbers are Not Transferable 4271
Requirements Of The TRS Program 4035
Communications Assistants' Handling of Calls 4035
Operational Requirements 4035
Other Standards & Services 4035
Rates 4035
Requirements of Title 9, Parts 71, 75, 77, 78, 85, 145, 147, & 161, CFR 89
Requirements To Be Considered "Exceptional" Under Section 54-1223B, Idaho Code
Activities Which the Board Believes are Exceptional 658
Activities Which the Board Believes are Ordinary 658
Waiver of the Fundamentals of Engineering Examination 658
Written Request for Exceptional Designation 658
Requirements To Be Considered "Exceptional" Under Section 54-1223(2), Idaho Code 658
Requirements To Practice Dry Needling 3577
Course Approval 3577
Course Completion 3577
Length of Course 3577
Proficiency Assessment 3577
Safety Training 3577
Requirements To Protect Residents From Abuse 2476
Requirements To Protect Residents From Exploitation 2476
Requirements To Protect Residents From Inadequate Care 2476
Requirements To Protect Residents From Neglect 2476
Requisite Conditions 2976
Provisions of Trust Agreement 2976
Purposes for Applying Amounts Drawn Upon Trust Account 2977
Reinsurance Agreement Provisions 2978
Requisites of Trustee 2977
Sole Benefit of Beneficiary 2977
Subject to Laws of State in Which Trust is Established 2977
Trust Account 2976
Trust Account Assets 2978
Trustee Will Be Liable 2977
Who Will Enter the Agreement 2976
Who Will Hold Assets in Trust Account 2976
Written Notification of Termination 2977
Requisite Disclosure Provisions 2820
Renewability 2820
Required Disclosure of Rating Practices to Consumers 2821
Requisite Elements 2951
Requisite Reports 2747
Statement Reporting the Investments 2747
Resale Or Transfer Of Ownership 782
Rescind Approval For Multiple Facility Administrator 2454
Rescind Approval for Multiple Facility Administrator
Reasons for Revocation or Denial of a Facility License 2454
Rescission Review of Department Action 2454
Review Decision 2454
Revocation of Facility's License 2454
Rescinded Sale, Refunds Of Purchase Price 4320
Amount Refunded Reduced 4321
Documentation 4321
Refund of Remitted Sales Tax 4321
Required to Buy Other Property 4321
Rescinded Sale 4320

Restocking Charge 4321
Rescission Of Claim 779
Rescission, Alteration Or Amendment Of Final Orders 3968
Petition to Rescind, Alter or Amend a Final Order 3968
Rescission, Alteration or Amendment of Final Order on PUC Commission's Own Motion 3968
Research Projects 375
Voluntary Participation 376
Written Policy 376
Research Protections For Persons Served, Residential Care Facility 2615
Reserve Mud Tanks 3279
Reserve Peace Officer Certification 906
Absence of Three Years 906
Eligibility 906
Limitation on Certification 906
Peace or Reserve Officers Certified In Another State, Commissioned by the Federal Government, or Graduates of a Basic Police Academy 906
Reserve Officer Training 906
Retaining Certification 906
Supervision 906
Reserve Standards 2827
Acceleration of Benefits Under Life Policies 2827
Benefits Not Covered in Section 022 2828
Considerations Impacting Projected Claim Costs 2827
Decrement Models 2827
Reserving Group Use Facilities 3843
Additional Information 3843
General 3843
Park Manager Authority 3843
Responsible Party 3843
Residence Exception To Time Limit 1579
Fifty Percent Not Employed 1580
Lived in Indian Country or Alaskan Native Village 1579
Residence In Idaho 1584
Residence Outside The State Of Idaho 841
Residence, Program Eligibility 2356
Residency 1355, 1421, 1480, 2190
Foster Child 1480
Homeless 1481
Incapable Participant 1480
Migrant 1481
Physical & Mailing Address Different 1421
Place of Residency 1421
Placed in Another State by Idaho 1481
Vacationing Persons Not Residents 1421
Resident 4145
Domicile 4145
Place of Abode 4146
Resident and Intern Registration 3342
Registration Certificate 3342
Resident Business Records 2485
Agreement to Handle Resident's Funds 2485
Completion of Admissions Process 2485
Emergency Condition Advisory 2485
Individual Responsible for Payment 2485
Payment Schedule 2485
Resident Rights 2485
Written Admissions Agreement 2485
Resident Care Records 2485
Initial Interim Plan & Negotiated Service Agreement 2486
Initial Uniform Assessment 2486
Prescribed Medication & Treatment List 2486
Prior History & Physical 2486
Providers of Choice 2485
Religious Affiliation 2486
Resident Demographics 2485
Social Information 2486
Resident Funds & Financial Records 2415
Managing Resident Funds 2416
Resident Funds Policy 2415
Resident Licenses – Job Corps Students 979
Resident Licenses – Military Personnel – U.S. And Foreign
Nonresident Eligibility 979
Resident 979
Resident Licenses – Student 979
Absent Full-time Student 980
Temporarily Present 980
Resident Licenses And Lifetime Certificates 977
Application by Telephone or Electronic Methods 977
Proof of Residence 977
Verification of Idaho Residency 977
Resident Lifetime Combination, Hunting & Fishing License Certificates
Applications 977
Resident Of An Eligible Institution 1369
Resident Of An Institution 1469
Battered Women & Children 1469
Blind or Disabled 1469
Homeless Persons 1469
Narcotic Addict or Alcoholic 1469
Resident Under Housing Act 1469
Resident Records 1402, 2413
Admission Records 2413
Maintenance of Resident Records 2415
Ongoing Resident Records 2415
Resident Rights Policies 2451
Resident Rights Policy 2404
Access to Resident 2405
Advance Notice 2406
Basic Needs Allowance 2404
Freedom From Harm 2405
Grievance 2406
Health Services 2405
Humane Care 2404
Other Rights 2406
Privacy 2404
Resident Funds 2405
Respectful Treatment 2404
Resident Trainee 3516
Eligibility to Be Licensed 3517
Interruption in Training 3517
Resident Trainee Applicants to Qualify 3517
Sponsoring Mortician 3516
Training Requirements 3516
Residential & Assisted Living Facility Care & Certified Family Home Assessment & Level Of Care 1520
Residential & Small Business Deposit Practices 4003
Residential and Small Commercial 3979
Deposits 3979
Residential Care Facilities 2266
Payment 2266, 2540
Prior Authorization 2266
Referral 2540
Residential Care Or Assisted Living Facility & Certified Family Home Allowances 1519
Budgeted Monthly Allowance Based On Level of Care 1519
CFH Operated by Relative 1520
Residential Provider-Owned Or Controlled Setting Qualities 1814
Access To Food 1814
Accessibility 1815
Décor 1814
Privacy 1814
Schedules & Activities 1814
Visitors 1814
Written Agreement 1814
Residential Treatment Services For Adolescents 2220
Admission Criteria for Adolescent Residential Treatment 2220
After Care Plan for Adolescent in Residential 2220
Focus of Adolescent Residential Treatment Services 2220
Licensed for Adolescent Residential Treatment 2220
Residential Care Provided to Adolescents & Adults 2220
Staff Training in Adolescent Residential 2220
Residential Treatment Services For Adults 2220
Residential Care Provided to

Adolescents & Adults 2221
Residential Treatment Services for Adults 2221
Staffing Adult Residential 2221
Residential Withdrawal Management Services 2219
Residential Withdrawal Management Services 2219
Residential Withdrawal Management Staffing 2219
Transfer to an Outside Program From Residential Withdrawal Management 2220
Residents Of Group Living Arrangements 1470
Application Option 1470
Certification 1470
Exempt From Work Registration 1470
FNS Authorized Retailer or Department Certified 1470
Notices 1471
Residents Apply on Their Own Behalf 1470
Using Food Stamps 1471
Residual Stocking & Reforestation 3072
Purpose 3072
Quality of Residual Stocking 3072
Reforestation Exemptions 3073
Sites Unpractical to Reforest 3072
Stocking 3072
Supplemental Reforestation 3073
Resignation 1153
Notice 1153
Rescission & Reinstatement 1153
Resignation in Lieu of Dismissal 1153
Resolution Of Complaints 4037
Resolution Of Reimbursement Disputes 4076
Resource 1547
Resource Allowance Limits 1537
Resource Eligibility For Community Spouse 1538
Resource Exclusions 1587
Building Lot 1587
Contracts 1587
Education Accounts 1587
Equipment Used in a Trade or Business 1587
Funeral Agreements 1587
Home & Lot 1587
Home Loss or Damage Insurance Settlements 1587
Household Goods 1587
Income Producing Property 1587
Life Insurance 1587
Native American Payments 1587
Personal Effects 1587
Retirement & Tax Preferred Accounts 1587
Unoccupied Home 1587
Resource Limit 1437, 1490, 1586
Resource Transfer Allowance (RTA) 1537
Resource Transfer For Less Than Fair Market Value 1497
Transfer of Resources 1497
Transfer of Resources by a Co-Owner 1497
Transfer of Resources by a Legal Representative 1497
Transfer of Resources by a Spouse 1497
Resource Transfer Look-Back Period 1497
Transfers On or After February 8, 2006 1498
Transfers Prior to February 8, 2006 1497
Resources 5063
Resources & Change In Marital Status 1490
Resources Associated With Property 1494
Resources Defined 1437, 1490
Resources Essential For Self-Support Excluded 1494
Essential Property in Current Use 1494
Nonbusiness Income Producing Property 1494
Nonbusiness Property Producing Goods or Services 1494
Resources Of Disqualified Household Members 1439
Ineligible Legal Non-Citizen 1439
Member Disqualified as a Fugitive Felon or Probation or Parole Violator 1439
Member Disqualified for a Voluntary Quit or Reduction in Hours of Work 1439
Member Disqualified for Conviction of a Controlled Substance Felony 1440
Member Disqualified for Failure to Comply With Work Requirements 1439
Member Disqualified for Failure to Cooperate in Establishing Paternity & Obtaining Support 1439
Member Disqualified for Failure to Meet the ABAWD Work Requirement 1439
Member Disqualified for IPV 1439
Member Ineligible Due to SSN 1439
Resources of Nonhousehold Members 1440
Boarder or Roomer 1440
Foster Adult 1440
Foster Child 1440
Ineligible Student 1440
Resources Set Aside As Part Of PASS Excluded 1494
Respiratory Care Services 2040
Policies & Procedures 2040
Records 2040
Staff 2040
Respiratory Syncytial Virus (RSV) 1305
Respite Care Services 1403
Admissions 1403
Exceptions 1404
Limitations 1404
Records 1404
Respondents 257, 295, 3927, 4660
Respondents, Contested Cases 3035
Response of Staff to Abuse, Neglect or Exploitation of Residents, Additional Policy Requirements 2447
Response Priorities 2541
Disclosure of Information to Professionals 2541
Notification of the Person Who Made the Referral 2541
Priority I 2541
Priority II 2541
Priority III 2541
Response To Complaint 3252
Consideration of Complaint 3252
Response 3252
Response To Notice Of Intended Action 5292
Failure to Respond 5292
Petition for Reconsideration 5293
Response To Service Outage 4016
Receipt & Recording of Reports 4016
Repair Commitments 4016
Responses In Contested Cases, Defined, Form & Contents 5586
Defined 5586
Filing & Service 5586
Form & Contents 5586
Responses To Calls For Water Delivery In An Organized Water District 4640
Actions of the Watermaster Under a Mitigation Plan 4641
Collection of Assessments Within Water District 4642
Curtailment of Use Where Diversions Not in Accord With Mitigation Plan or Mitigation Plan Is Not Effective 4641
Reasonable Exercise of Rights 4641
Regulation of Uses of Water by Watermaster 4641
Responding to a Delivery Call 4640
Responses To Calls For Water Delivery In An Unorganized Water District Or With No Ground Water Regulation 4638
Administration Pursuant to Rule 40 4640
Administration Pursuant to Rule 41 4640
Contested Case 4638
Delivery Call (Petition) 4638
Informal Resolution 4638

Order 4639
Orders for Interim Administration 4639
Petition for Creation of a New Water District 4639
Petition for Designation of a Ground Water Management Area 4639
Petition for Modification of an Existing Water District 4638
Responsibilities 6056
Commission 6056
District 6056
Responsibilities Of The Department Relevant To Infants With Life-Threatening Conditions 2182
Case Staffing 2182
Report to the Court 2182
Responsibilities Of The Property Owner 1348
Ensure That Cleanup Standards Are Met 1348
Ensure the Vacancy of the Listed Property 1348
Provide the Department With a Written Report 1348
Responsibilities Of The Qualified Industrial Hygienist 1348
Conduct Sampling by Qualified Industrial Hygienist 1348
Independent Qualified Industrial Hygienist 1348
Responsibility For Decision-Making 1972
Adults 1972
Children 1972
Responsibility For Equipment 3819
Responsibility For Keeping Appointments 1612
Responsibility For Payment Of Bills -- Residential Customers 3984
Contents of Notice 3984
Customer Defined 3984
Customer Notice 3984
Customer's Responsibility 3984
Opportunity to Respond 3984
Responsibility For Payment Of Corporate Taxes & Penalties 4280
Responsibility For Payment Of Residential Service Bills 4008
Contents of Notice 4008
Customer Defined 4008
Customer Notice 4008
Customer's Responsibility 4008
Opportunity to Respond 4009
Responsibility For Payment Of Sales Taxes Due From Corporations 4393
Corporate Officers Duty to Pay Sales Tax 4393
Penalty for Failure to Collect 4394
Responsibility Of Employer To Determine Employee Eligibility 6005
Responsibility Of Issuing Authority 5107
Permit Issuance 5107
Primary Concerns 5107
Responsibility Of Permittee 4960, 5108
Application for Special Permits 4961
Basic Limitations Shall Not Be Exceeded 5109
Basic Limitations Shall not be Exceeded 4960
Certification Load Is Non-Reducible 5108
Certification Load is Non-Reducible 4960
Delaying Movement 5109
General Responsibilities 4960, 5108
Hazardous Travel Conditions Restrictions 5109
Movement, Traffic Control Plans, Loading, Parking on State Highways 4960
Permit to Be Carried in Vehicle 4960, 5108
Responsibility Of Possessor Of Captive Wildlife 1046
Responsibility To The Public 659
Obligation to Affected Landowners 659
Obligation to Communicate Discovery of Discrepancy 659
Obligation to Comply With Rules of Continuing Professional Development 659
Primary Obligation 659
Professional Judgment 659
Standard of Care 659
Responsibility, Inspection, & Confidentiality Of Records 3523
Confidentiality of Records 3523
Inspection of Records 3523
Responsibility for Record 3523
Restoration Of Firearms Rights Pursuant To Section 18-310, Idaho Code 5207
Application 5207
Authority to Grant 5209
General 5207
Hearing 5208
Restoration Of Lost Benefits 1459
Restoration Of Names To Eligibility Registers 1150
Restraint & Seclusion 2011
Investigation of Injuries 2012
Patient's Right to be Free From Restraint & Seclusion 2012
Policy & Procedures 2012
Use of Restraint or Seclusion 2012
Restraint & Seclusion Documentation 2014
Assessments 2014
Interventions Used Prior to Restraint or Seclusion 2014
Monitoring Activities 2014
Patient's Behavior 2014
Patient's Response 2014
Restraint & Seclusion Log 2014
Type of Intervention 2014
Restraint & Seclusion Implementation & Monitoring 2013
Face-to-Face by Physician or Other Licensed Independent Practitioner 2013
Management of Violent or Self-Destructive Behavior 2013
Observation of Patients Who Are Not Violent or Self-Destructive 2013
Written System 2013
Restraint & Seclusion Orders 2013
Attending Physician 2013
Orders 2013
Time Limits on Orders 2013
Restraint & Seclusion Training 2014
Hospital's Policy Training 2015
Training Related to Job Responsibilities 2015
Training Requirements 2014
Restricted Activities 3086
Critical Fire Danger 3086
Notice 3087
Restricted Driving Permits May Be Issued 4932
Administrative License Suspension 4933
Fleeing or Eluding an Officer 4932
Leaving Scene of Accident 4932
Offense in Another State 4933
Points 4932
Reckless Driving 4932
Restricted License 4933
Using Motor Vehicle 4933
Restricted Driving Permits Shall Not Be Issued 4933
Like Offense 4933
Privileges Suspended 4933
Revoked Out-of-State Drivers 4933
Under Seventeen 4933
Violation of Restrictions 4933
Restricted Licenses 3368
Following Disciplinary Action 3368
Restriction & Storage Of Medicines 1337
Labeling of Medicines 1337
Medicines Allowed in a Food Establishment 1337
Restriction Of High-Risk Animals 220
Restriction On Title 3856
Restrictions & Limitations On Use 4863, 4869, 4874, 4883
Restrictions Of Wagering 859
Restrictions On Applicability & Nontransfer 2584
Change in Ownership, Operator, or Location 2584
Issued License 2584
Nontransferable 2584
Restrictions On Fees 930
Application Fee 930
Cancellation Fee 930

Restrictions On Jockeys 814
Betting 814
Owner 814
Spurs 814
Restrictions On Owners & Trainers 812
Has Been Nerved 812
Impaired Vision 812
Is Not Sound 812
Restrictions On Reemployment Of Retired Members 6017
Restrictions On Termination Of Local Exchange Service--Opportunity To Avoid Termination Of Local Exchange Service 4012
No Termination While Complaint Pending 4012
Personnel to Authorize Reconnection 4012
Service to Persons Not Customers 4012
When Termination Not Allowed 4012
Restrictions Relating To Premium Rates 2853, 2869
Application of Restrictions Related to Changes in Premium Rates 2855, 2870
Base Premium Rate & Any Difference in New Business Rate 2855
Base Premium Rates & Any Difference in New Business Rate 2870
Change in Premium Rate 2856, 2871
Change in Rating Method 2854, 2869
Exception to Application Fee, Underwriter Fee or Other Fees 2870
Exception to Application Fee, Underwriter Fee, or Other Fees 2855
Guidelines Issued by Director 2855, 2870
Information for Review of Modification of Rating Method 2854, 2869
Limitations on Revised Premium Rate 2856, 2871
Plans No Longer Enrolling New Business 2856, 2871
Prior Approval of Case Characteristics 2870
Provisions for Which Trust is Seeking Waiver 2856
Rate Manual 2869
Rate Manual to be Maintained for a Period of Six Years 2855, 2870
Rate Manual to Specify Case Characteristics & Rate Factors 2870
Rate Manual to Specify Case Characteristics & Rate Factors to Be Applied 2854
Reasonable & Objective Rate Differences 2855, 2870
Requirements for Adjustments to Rating Method 2854, 2869
Separate Rate Manual for Each Class of Business 2853
Two Step Process 2855
Two-Step Process 2870
Uniform Allocation of Administration Expenses 2855, 2870
Uniform Application of Case Characteristics 2854, 2870
Uniform Application of Fees 2855, 2870
Waiver Not for an Individual or Associate Member 2857
Waiver Request for a Taft-Hartley Trust 2856
Restrictive Riders 2860, 2873
Resuming Count On Boxer 3441
Retail Cosmetics Dealer License 3732
Cessation of Operation 3733
Change in Ownership or Location 3733
Requirements 3732
Retail Raw Milk, Table 1 66
Retail Sale Of Asphalt, Concrete, & Concrete Products 4296
Agricultural Irrigation 4296
In General 4296
Production Exemption 4296
Retail Stores 1196
Admission to State Store 1197
Audits 1197
Customer Refunds & Exchanges 1197
Disabled Customers 1197
Distressed Liquor 1197
Hours & Days of Operation 1197
Prices 1197
Site Location 1196
Site Selection Criteria 1196
Retail Thermal Styling Equipment Dealer Registration 3733
Cessation of Operation 3733
Change in Ownership or Location 3733
Requirements 3733
Training 3733
Retailer Defined 4296
An Agent as a Retailer 4297
Farmers 4297
Retailer 4296
Retailer Engaged in Business in this State 4296
Retailers Selling Incidental Tangible Personal Property 4296
Retaining Portion Of Purse Pending Determination Of Whether Penalty With Be Charged 3424
Retention Of Certificates 4668
Retention Of Documents Relating To Peer Reviews 42
Retention Of Records 2730
Retesting Of High-Risk Herds 53
Retired Member Becoming An Active Member 6017
Retired Member Becoming An Elected Or Appointed Official 6017
Retiree 6035
Retiree Allocation 6035
Retirement Application & Spousal Consent 6043
Retirement Delayed Or Negated After Purchase 6032
Retirement Funds 1496
Retirement, Survivors, & Disability Insurance (RSDI) 1509
Retroactive Medical Assistance Eligibility 1354
Retroactive SSI & RSDI Benefits 1495
Return Of Certificate 2110
Return Of Commodity Due To Failure 163, 170
Fungible Commodity 170
Identifiable Commodity 170
Shortfall in Commodity Distribution 170
Return of Commodity Due To Failure
Fungible Commodity 163
Identifiable Commodity 163
Shortfall in Commodity Distribution 163
Return Of Deposit 3981
Early Return of Deposit 3981
Existing Customers 3981
Former Customers 3981
Retention During Dispute 3981
Return Of Deposit -- LECS 4005
Early Return of Deposit 4005
Existing Customers 4005
Former Customers 4005
Retention During Dispute 4005
Return Of Equipment, License Stock, Forms, & Supplies 1085
Return Of Funds 3795
Return Of Mistaken Payments 1506
Return Of Tags By Unsuccessful Hunters 1014
Returned Goods, Disclosure Of Prior Use 239
Returns 4556
Filing Returns 4557
Returns Filed By County Assessors & Financial Institutions 4387
Cross Reference 4387
Filing Returns 4387
Financial Institutions 4387
Reimbursement 4387
Revenue Feasibility Studies 3852
Review & Appeal 1148
Appeal of Examination Score 1148
Review of Examination Content & Scoring Material 1148
Review & Audit Of CPE Reports 39

Review & Evaluation Of Grant Applications 5491, 5573
Application Requirements 5491, 5573
Determination of Completeness of Application 5492, 5574
Notification of Incompleteness of Application 5492
Notification Regarding Incompleteness of Application 5574
Reapplication for Grant 5492, 5574
Submission of Application 5491, 5573
Review & Modification Of Support Orders 2369
Adjustment 2370
After the Review 2369
Notice 2369
Review 2369
Review By Commission 3456
Customer's Rights Protected 3992
Informal Complaint 3992
Later Review 3456
Penalties General 3456
Rights Protected 4015
Review Of Alleged Medical Neglect Or Withholding Of Medically Indicated Treatment From Disabled Infants With Life-Threatening Conditions 2180
Central Office Committee Review 2181
Regional Committee Review 2180
Review Of Attorney General Decisions Related To Excluding Or Removing From The Directory 310
Review Of Case File 1474
Review Of Classification Schedule 1141
Review Of Interlocutory Orders 279, 3051, 3967, 4679, 6003
Review Of Orders Granting Or Denying Intervention 5588
Review Of Personal Responsibility Contract & Eligibility 1597
Review Of Plans For Municipal Wastewater Treatment Or Disposal Facilities 5515
Connection to Existing System 5516
Ownership 5515
Review of Plans For Nonmunicipal Wastewater Treatment or Disposal Facilities
Applicability of Standards 5518
Deviations From Approved Plans 5518
Plan & Specification Approval Required 5518
Record Plans & Specifications 5518
Waiver of Approval Requirement, 5518
Review of Plans for Waste Treatment or Disposal Facilities
Compliance With Applicable Standards & Rules 5517
Plan & Specification Review 5516
Professional Engineer 5517
Record Plans & Specification 5517
Waiver of Approval Requirement 5518
Review Of Preliminary Orders By Department 2147
Review Of Rules 266, 3043, 4671, 5589
Review Process 351
Review Provisions 355
Reviews & Hearings 2529
Revised Privacy Notices 2724
Revision Of Classification Specifications 1150
Revisit & Relicense 2585
Revocation & Suspension 2299
Notification & Appeal 2300
Revocation 2299
Suspension 2300
Revocation Of A Permit 4879
Revocation Of Appointment As Designated Examiner Or Designated Dispositioner, Or Both 2273
Appeal of Department Decision 2273
Emergency Denial, Suspension, Revocation of Appointment or Reappointment 2273
Grounds for Revocation of Appointment or Reappointment 2273
Reapplication for Appointment 2273
Written Request for Denial, Suspension, or Revocation of Appointment or Reappointment 2273
Revocation Of Approved Feedlot Status 83
Disposition of Cattle & Domestic Bison 83
Failure to Comply 83
Operator Request 83
Regulation Changes 83
Revocation Of Certificate 2073, 2126
Causes for Revocation of the Certificate 2073, 2126
Revocation of the Agency's Certificate 2126
Revocation of the DDA's Certificate 2073
Revocation Of Certificate & Licenses 978
Revocation Of License 1341
Effective Date of Revocation 1342
Notice to Revoke a License 1342
Reasons a License may be Revoked 1341
Revocation of Licenses & Permits 1057
Revocation Of Permit For Non-Compliance With The Limitations Or Provisions Of The Permit 5113
Disqualification of Permits 5114
Disqualification Periods 5114
Penalties 5114
Permit Revocation Process 5114
Revocation Of Permits 113
Revocation Of Registration 5088
Revocation Procedure 1266
Corrective Action 1266
On-Site Inspection 1266
Other Deficiencies 1266
Satisfactory Performance 1266
Unacceptable Results 1266
Revocation, Suspension, & Non-Renewal Of License 3010
Causes for Revocation, Suspension, or Refusal to Renew License 3010
Eligibility to Reapply After Revocation 3010
Length of Suspension 3010
Revoking A Waiver Or Variance 2395
Causes for Revocation 2395
Time Frame to Comply 2396
Written Notice 2395
Reye Syndrome 1305
Investigation 1305
Reporting Requirements 1305
Rigging 449
Allowable Loading or Stress 449
Arrangement & Operation 449
Equipment Classification 449
General 449
Inspection of Rigging 449
Line Hazards 449
Placing, Condition, & Operation of Rigging 449
Reefing 449
Safe Loading 449
Right Of Entry 534, 542
Right Of Judicial Review 5598
Right To Appeal Property Listing 1346
Burden of Proof 1346
Property Owner's Right to Appeal 1346
Right To Appeal Sanction 1428
Right To Reduce Coverage & Lower Premiums 2840
Compliance Requirements 2840
Determination of Premium for Reduced Coverage 2840
Implementing a Reduction in Coverage 2840
Limitations for the Reduction of Coverage 2840
Not Applicable to Life Insurance Policies or Riders Containing Accelerated Benefits 2840
Notification in Regard to the Possible Lapse of Policy 2840
Reduction of Coverage 2840
Right To Sell 2430
Rights & Treatment Of Debtors 2752

- Acceptable Insurance Constituting Waiver 2754
- Amounts to be Insured 2754
- Claims Processing 2753
- Evidence of Coverage 2752
- Interest on Premiums 2753
- Involuntary Prepayment of Indebtedness 2753
- Maximum Aggregate Provisions 2753
- Multiple Plans of Insurance 2752
- Permanent Disabilities 2754
- Renewal or Refinancing of the Indebtedness 2753
- Statement by Debtor 2754
- Substitution 2752
- Termination of Group Credit Insurance Policy 2753
- Total Disability 2754
- Voluntary Prepayment of Indebtedness 2753

Rights Of Parties & Of Agency Staff 258, 4660
Rights Of Parties & Of Agency Staff, Contested Cases 3035
Rights Of Parties & Of Attorney General Investigative/Prosecutorial Staff 295
Rights Of Parties & Of Commission Staff 3928
Rights Of The Licensee 718
- Call Witnesses 718
- Cross Examination 718
- Defense 718
- Examination of Evidence 718
- Legal Counsel 718
- Proper Notice 718

Rights To Discovery Reciprocal 273, 302, 3045, 3951, 4673
Rights, Powers, & Authority Of The Commission 5192
- Advisory Commission to Board of Correction 5192
- Decision to Release to Parole 5192

Risk Evaluation Process 5604
- Department Review & Approval of Risk Evaluation or Corrective Action Plan 5606
- Development & Implementation of Corrective Action Plan 5605
- Results of Risk Evaluation 5605
- Screening Evaluation 5604

Risk Of Injury 3440
River Reaches 4647
- Divisions of the Big Lost River 4647
- Gage Station or Other Flow Measuring Facility 4647
- River Reach Computations 4647

River, Lake & Reservoir Power & Float Outfitter Limits 3772
- Licensable Waters -- River Sections BL1 Through Salmon River -- Table, Outfitters & Guides 3772
- Licensable Waters -- Salmon River Through Snake River -- Table 3775
- Licensable Waters -- Snake River Through Teton River -- Table 3777
- Other -- Table 3782
- Other Lakes & Reservoirs 3783

Riverbed Mineral Lease 3175
- Approval Required Before Operations 3175
- Bonding 3175
- Limitations on Suction Dredges 3175
- Simultaneous Filings 3175

Road & Paving Contractors 4292
- Examples 4292
- In General 4292
- Materials 4293
- Production Exemption 4293
- Road or Paving Contractor 4292
- Rock Crushing 4293

Road Construction, Reconstruction & Maintenance 3067
- Culvert Sizing Table - I, Use For North Idaho & The Salmon River Drainage 3068
- Culvert Sizing Table - II, Use For South Idaho 3068
- Purpose 3067
- Road Construction 3070
- Road Maintenance 3070
- Road Specifications & Plans 3067
- Winter Operations 3072

Rock Creek, Cedar Draw, Deep Creek & Big Wood River - Canal System 5468
- Big Wood River - Canal System 5469
- Rock Creek, Cedar Draw, & Deep Creek 5468

Rocky Mountain Spotted Fever 1305
- Investigation 1305
- Reporting Requirements 1305

Rodeo Bulls 122
- Bulls Purchased 123
- Bulls Removed for Breeding Purposes 123
- Bulls Removed for Slaughter 123
- Division Approval 122
- Not Mixed with Cows 122
- Permanently Identified 123
- Records Maintained 123

Role Of Filing Officer 4126
- Duties & Responsibilities 4126
- What the Filing Officer Does Not Do 4126

Rollover Distributions 6040
- After-Tax Contributions 6041
- Alternate Payees 6041
- Direct Rollovers 6040
- Eligible Rollover Distribution Defined 6040
- Transfers to Non-Spouse Beneficiaries 6041

Rollovers Accepted Into The Base Plan 6013
- 457 Plans 6014
- Annuity Contracts 6014
- IRAs 6014
- Qualified Plans 6014

Room & Board Home Allowance 1519
- Basic Allowance for Participant in Room & Board Home 1519
- Budgeted Room & Board Allowance 1519

Room Or Campground Charge
- Defined 4554
- Not Included 4554
- Room or Campground Charge Definition 4554

Room Restrictions 393
- Monitoring During Room Restriction 393
- Policy & Procedure 393

Room, Utilities & Meals 2401
- Bathroom 2401
- Bed 2401
- Common Areas 2401
- Electricity 2401
- Heating and Cooling 2401
- Housekeeping Service 2401
- Meals 2401
- Monitoring or Communication System 2401
- Secure Storage 2401
- Sewer 2401
- Sleeping Room 2401
- Supplies 2401
- Telephone 2401
- Trash 2401
- Water 2401

Rounding 4265
Rounding Food Stamp Payment 1454
Rounding Wages Reported On Contribution Report To Next Lower Dollar Amount 627
Routing Of Hazardous Waste Shipments 5620
- Director's Conditions 5621
- Transporting 5620

Royalites
- Royalty Payments 3202

Royalties 1508, 3202, 3217
- By-Product Testing 3203
- Calculation of Value 3203
- Commingling 3203
- Due Date 3203
- Measurement 3203
- Oil, Gas, & Natural Gas Plant Liquids Royalty Calculation & Reporting 3217
- Overriding Royalty 3218
- Royalty Not Reduced 3217
- Royalty Payments 3217
- Utilization of Geothermal Resources 3203

RSDI Recipient 1972 1539

Eligible if Not In Institution 1539
Getting RSDI in August 1972 1539
Money Payment in August 1972 1539
RSDI Recipient Entitled To COLA Disregard 1540
Rubella - Including Congenital Rubella Syndrome 1305
Investigation 1305
Reporting Requirements 1305
Restrictions - Day Care Facility 1306
Restrictions - Health Care Facility 1306
Restrictions - Personal Contact 1306
Restrictions - Schools 1306
Rule Enforcement Process & Remedies 2072
Rule Governing 72-212(5) Exemptions 2688
Approval by Commission 2688
Effective Date 2688
Exemption Effective 2688
Exemptions 2688
Form 2688
IC53 Form 2688
Rule Governing Applications For Reimbursement From The Peace Officer & Detention Officer Temporary Disability Fund 2682
Application 2682
Disputes 2682
Eligibility 2682
Payments 2682
Rule Governing Approval Of Attorneys Fees 2706
Charges Presumed Reasonable 2706
Disclosure Statement 2707
Procedure if Fees Are Determined Not to Be Reasonable 2707
Purpose 2706
Statement of Charging Lien 2706
Rule Governing Change Of Status Notice To Claimants 2705
By Whom Given 2705
Copies of Notice 2706
Form of Notice 2705
Medical Reports 2705
Notice of Change of Status 2705
Rule Governing Compensation For Disability Due To Loss Of Teeth 2702
Compensation for Disability 2702
Prima Facie Evidence 2702
Rule Governing Computation Of Average Weekly Wage 2701
Amounts Paid over Base Rate 2701
Examples Not Exclusive 2701
Fringe Benefits 2701
Premium Pay 2701
Rule Governing Conversion Of Impairment Ratings To "Whole Man" Standard 2701
Averaging Multiple Ratings 2702
Converting Single Rating of Body Part to Whole Person Rating 2702
Correcting Manifest Injustice 2702
Rule Governing Premium Tax Computation For Self-insured Employers 2694
Experience Modification 2695
Payroll Reports 2694
Rule Governing Protection & Disclosure Of Rehabilitation Division Records 2703
Request for Disclosure 2703
Requests from Other Agencies 2703
Rule Governing Reimbursement For Travel Expenses 2703
Commercial Transportation 2703
Frequency of Requests 2703
Mileage Rate 2703
Request for Reimbursement 2703
Rule Governing Reporting Indemnity And Medical Payments And Making Payment Of Industrial Special Indemnity Fund Assessment 2700
Adjustment for Overpayments or Underpayments 2701
Estimating Indemnity Payments for Entities That Fail to Report Timely 2701
Filing 2701
Form 2701
Penalty for Late Filing 2701
Report Required When No Indemnity Paid 2701
Rule Governing Reports Of Attorney Costs & Fees In Litigated Cases 2703
Rule Governing The Collection Of Premium Tax On Worker's Compensation Insurance Policies 2694
Procedure for Submitting Premium Tax Forms 2694
Rule Prohibiting Use Of Sick Leave Or Other Alternative Compensation 2700
Election of Sick Leave or Alternative Compensation Prohibited 2700
Employee Not Required to Take Sick Leave in Lieu of Compensation 2700
Ruled Off 847
Admittance to Grounds 847
Persons Ruled Off a Track Ineligible 847
Rules & Dicipline Behavioral Management 343
Rules & Discipline 343
Criminal Law Violations 343
Grievance Procedure 343
Resolution of Rule Infractions 343
Rules & Forms 5260
Rules & Laws Of The State 3199
Rules Applied To Search Requests 4136
Initials 4136
Names Searched On 4136
No Limit on Number of Search Matches 4136
Not Case Sensitive 4136
Punctuation 4136
Spaces 4136
The Disregarded 4136
Words & Abbreviations at the End of a Name 4136
Rules Apply To Out Of State Buyers 714
Applicability 714
Application 714
Rules Defining Gross Incompetence 3536
Disciplinary Action or Sanctions 3537
Displaying Gross Ignorance or Demonstrating Gross Inefficiency 3537
Employment of Techniques or Methods of Practice 3536
Failing to Perform Tests & Record Findings 3537
Failure to Advise Patient of Possible Danger When a Lens Not Meeting Impact Resistance Standards of F.D.A. 3537
Failure to Meet Prevailing Standards 3536
Failure to Meet Prevailing Standards in the Referral of Any Patient Who is Suffering From Any Apparent or Suspected Pathological Condition 3536
Failure to Provide Follow-Up Care 3537
Failure to Release Prescription 3537
Failure to Verify the Specifications of All Lenses 3537
Illegal Prescription Sale, Administration, Distribution, or Use of Drugs 3537
Sanitary Office 3537
Sufficient Training or Education 3537
Using Pharmaceutical Agents 3537
Rules For Coordination Of Benefits 2883
Consistent Order of Benefit Provisions 2883
Order of Benefit Determination 2883
Order of Benefit Payments 2883
Rules For Cosmetology Schools Approved To Teach Electrology 3735
Cessation of School 3736
Change in Ownership or Location 3736
Clinical Work 3736
Curriculum 3736
Faculty or Instructors 3736

Premises 3735
Required Equipment 3735
Student Records To be Maintained by the School 3736
Student Supplies 3736
Rules For Deposit, Denial, & Termination of Service for Industrial, Large Commercial, & Irrigation Customers, Utility Customer Relations Rules 3993
Rules Governing Contested Case Proceedings 5585
Rules Governing Continuing Requirements To Underwrite Insurance Or Self-Insure 2690
Insurance Carriers 2690
Self-Insured Employers 2692
Rules Governing Declaratory Ruling & Contested Case Proceedings 5582
Rules Governing Declaratory Ruling Proceedings 5584
Rules Governing Nonpoint Source Activities
Approved Best Management Practices 5476
Implementation Policy 5475
Limitation to Nonpoint Source Restrictions 5475
Rules Governing Point Source Discharges 5477
Compliance Schedules for Water Quality-Based Effluent Limitations 5477
Flow Tiered NPDES Permit Limitations 5477
Implementation Policy 5477
Intake Credits for Water Quality-Based Effluent Limitations 5478
Limitations to Point Source Restrictions 5477
Wetlands Used for Wastewater Treatment 5477
Rules Governing Proceedings On Petitions To Initiate Rulemaking 5599
Rules Governing Qualifications To Write Insurance Or Self-Insure 2688
Insurance Carriers 2688
Self-Insured Employers 2689
Rules Of Construction 313
Rules of Construction 225
Rules Of Evidence 719, 4620
Documentary Evidence 4621
Evidence, Admissibility & Evaluation 4620
Evidentiary Rulings 4621
Failure to Produce Evidence -- Adverse Inference 4621
Objections 4621
Offer of Proof 4621
Post-Hearing Evidence 4621
Prepared Testimony 4621
Rules of Evidence 4905
Rules Of Evidence -- Evaluation Of Evidence 4676
Rules Of Evidence, Evaluation Of Evidence 5593
Rules Of Evidence--Evaluation Of Evidence 276, 3048, 3960
Rules Of General Procedure & Definitions 5580
Rules Of Procedure To Be Used, Cable Pole Attachment Proceedings 3948
Rules Of Professional Responsibility 3513
Rules of Professional Responsibility 3513
Violation of the Rules of Professional Responsibility 3513
Rules Pertaining To Assessment Of Internal Revenue Code (IRC) Section 42 Low-Income Properties 4422
Appraisal Approaches 4423
Cross Reference 4424
Definitions 4422
Financial Statements to be Provided by the Owners 4424
Tax Commission to Provide Information on Section 42 Property Sales 4424
Rules Pertaining To Market Value Duty Of County Assessors 4417
Appraisal Approaches 4418
Market Value Definition 4417
Rules Pertaining To Market Value Of Operating Property Of Rate Regulated Electric Utility Companies 4441
Accounting For Obsolescence 4441
Valuation of Operating Property of Rate Regulated Electric Utility Companies 4441
Rules Related To Fair Marketing 2860, 2873
Annual Filing Requirement 2861, 2874
Denial of Coverage 2874
Filing Date 2861, 2875
Individual Carrier to Actively Market 2873
Marketing Mandated Plans 2860
No Requirement to Qualify for Other Insurance Product 2861, 2874
Offer 2873
Offer Must Be in Writing 2860
Plans Subject to Requirement of the Act & This Rule 2861
Plans Subject to Requirements 2874
Premium Rate Charged 2874
Restrictions as to Application Process 2873
Restrictions as to Contribution to Association 2860
Small Employer Carrier to Actively Market 2860
Specific Data 2861, 2875
Timeliness of Price Quote 2860, 2873
Toll-Free Telephone Service 2860, 2874
Total Number of Residents 2861, 2875
Ruling 720
Rulings At Hearings 275, 3047, 3912, 4675
Rulings At Hearings, Miscellaneous Procedure 3958
Rulings In Other Jurisdictions 723
Rural Health Clinic (RHC)
Services 1701
Coverage & Limitations 1701
Clinical Psychologist Services 1701
Clinical Social Worker Services 1701
Home Health Agency Shortage Area Services 1701
Nurse Practitioner or Clinical Nurse Specialist Services 1701
Other Services & Supplies 1701
Physician Assistant Services 1701
Physician Services 1701
Services & Supplies Incident to a Physician Service 1701
Reimbursement Methodology 1702
Payment 1702
RHC Encounter 1702

S

S Corporations 4200
Application of Credits 4201
Minimum Tax 4201
Nonproductive Mining Corporations 4201
Qualified Subchapter S Subsidiary 4201
Tax on S Corporations 4201
Tax Resulting From the Requirements of Section 63-3022L, Idaho Code 4201
S Corporations Operating Within & Without Idaho 4201
Exceptions To Apportionment Formula 4201
In General 4201
Information Provided To Shareholders 4202
Protection Under Public Law 86-272 4202
Qualified Subchapter S Subsidiary 4202
Safe Haven Exemption For Parents Of Certain Abandoned Infant 2548
Safeguarding Of Trade Secret Information 5567
Dissemination Within DEQ 5567
Prohibition on Disclosure 5567
Segregation of Information 5567
Training 5567
Safety 2659, 5043
Environmental Hazards 2659

First Aid Kit 2659
Parking 5043
Participants & Motorists 5043
Safety & Access 5060
Safety & Disinfection For
Establishments & Schools 3742
Instrument Cleaning 3743
Instrument Disinfection or Sterilization 3743
Licenses & Classification Cards 3744
Makeup Services 3743
Nail Services 3743
Premises 3743
Restroom Facilities 3744
Safety 3744
Water Supply & Hand Washing 3744
Waxes & Waxing Services 3743
Safety & Disinfection For Retail
Cosmetics Dealer Facilities & Makeover Or Glamour Photography Businesses 3744
Brushes & Implements 3745
Cake, Loose or Liquid Makeup 3744
Displays 3745
First-aid Kit 3745
Licenses & Classification Card 3745
Makeup Pencils 3744
Mascara 3745
Water Supply & Restroom Facilities 3745
Safety & Disinfection For Retail
Thermal Styling Dealer Facilities 3745
Cleaning, Disinfection, & Storage 3745
First-aid Kit 3745
Registration & Classification Card 3745
Safety & Emergency Procedures 336
Compliance With Fire Code 336
Emergency Plan 336
Safety & Maintenance Of Buildings & Grounds 365
Accessibility 365
Compliance with State & Local Codes & Ordinances 365
Construction Considerations 366
Emergency Procedures 366
Maintenance 365
Program Safety 366
Safety Equipment 813, 814
Helmet 814
Safety Vest 814
Safety Equipment & Personal Protective Equipment 434
Additional Information & Requirements 436
Eye Protection 434
Foot & Leg Protection 434
General Requirements 434
Hand Protection 435
Head Protection 435
Hearing Protection 436
Inspection, Maintenance & Sanitizing 434
Life Jackets, Vests & Life Rings 435
Life Lines -- Safety Belts 435
Respiratory Equipment 436
Work Clothing 436
Safety Fitness Procedures 686
Definitions 687
Determination of Safety Fitness 689
Factors to be Considered in Determining a Safety Rating 688
Motor Carrier Certification 689
Purpose & Scope 686
Safety Fitness Standard 688
Safety Inspection Requirements For Oversize Vehicles And/Or Loads 4968
Safety Inspection Requirements For Permitted Vehicles And/Or Loads 5105
Drivers 5105
Exemption 5105
Inspections 5105
Inspectors 5105
Motor Carriers 5105
Sage & Sharp-Tailed Grouse Tags, Permits, & Validations 1032
Salable Item Without Significant Return
Excluded 1442
Cost of Sale Too Great 1442
No Interest in Resource 1442
No Profit From Sale 1442
Salary 1154
Sale & Assignment - Required Documentation 3189
Assignments 3189
Documentation of Sale 3189
Sale Of Excluded Home & Replacement 1493
Sale Of Female Cattle Or Domestic Bison That Are Not Officially Vaccinated 77
Less Than Three Hundred Sixty Five Days of Age 77
Over Three Hundred Sixty Five Days of Age 77
Sale Of Tangible Personal Property Relating To Funeral Services 4328
Caskets, Vaults, & Burial Receptacles 4329
Documenting Purchases for Resale 4329
In General 4328
Purchases by Licensed Funeral Directors 4329
Sales by Licensed Funeral Directors 4329
Seller's Permit Required 4329
Use Tax 4329
Sale Of Unsold Nonresident Deer & Elk Tags As Second Tags 987
Sale Or Purchase Of Matter Used To Produce Heat By Burning 4364
Documentation of Other Exempt Sales 4364
Limitation 4364
Liquefied Propane 4364
Scope 4364
Sale Or Rental Of Water Rights From The Board's Water Supply Bank 4687
Sale Or Rental Of Water Rights From The Board's Water Supply Bank
Approval 4687
Authorized to Rent 4687
Board Review 4687
Consideration 4687
General 4687
Notice 4687
Order of Consideration 4687
Sale, Rent, Lease Or Occupancy Of A Unit Bearing Such Order Or Notice 534
Sales & Purchases By Religious Organizations 4362
In General 4362
Incidental Sales by Religious Corporations or Societies 4363
Meals Sold by a Church to Members Only 4363
Sales of Literature by a Nonprofit Corporation 4363
Sales & Use Tax Liability Of Federal & State Credit Unions, National & State Banks, & Federal & State Savings & Loan Associations 4366
Purchases by Banks and Savings and Loan Associations 4366
Purchases by Credit Unions 4366
Sales by Credit Unions, Banks, Savings & Loan Associations 4366
Sales By County Sheriffs 4297
Requirement to Register 4297
Sales 4297
Sales By Florists 4337
Rentals 4337
Sales 4337, 4338
Street Vendors 4338
Sales Factor
Denominator 4226
In General 4225
Disregarding Gross Receipts 4226
Examples 4226
In General 4226
State to State Consistency 4226
Year to Year Consistency 4226
Numerator 4227
Sales Of Tangible Personal Property
In Idaho 4227
Destination Sales 4227
Diverted Shipment 4227
Gross Receipts 4227

Purchaser 4227
Third-Party Throwback Sales 4228
Throwback Sales 4227
Sales Of Tangible Personal Property To The United States Government In Idaho 4228
Examples 4228
In General 4228
Sales Other Than Sales Of Tangible Personal Property In Idaho 4228
Application 4229
Costs of Performance 4229
In General 4228
Income Producing Activity 4228
Services on Behalf of the Taxpayer 4230
Special Rules 4229
Sales Of Livestock
Exempt Sales of Livestock 4403
Sales of Other Animals Excluded 4404
Sales Of Newspapers & Magazines 4308
Carriers Less Than Sixteen Years Old 4309
Computation of Tax 4309
Cross-Reference 4309
Independent Retailer Sales 4309
Individual Sales 4309
Product Consumed by the Publisher 4309
Single Copy Price 4308
Single Unit Price & Net Press Run 4309
Subscription Price 4309
Subscriptions 4308
Vending Machine Sales 4309
Sales Price Or Purchase Price
Defined 4317
Charges Not Included 4318
Gratuities 4318
Sales Price & Purchase Price 4317
Service Charges 4319
Services Agreed to be Rendered as a Part of the Sale 4318
Sales Subject To Wine Tax
All Sales Presumed Taxable 4565
Sales Tax Collected By The State
Liquor Dispensary 4396
Liquor Subject to Sales Tax 4396
Reporting 4396
Sales for Resale 4396
Sales Tax Rules Apply Unless Otherwise Provided 4557
Sales Through Vending Machines 4336
Amount Taxable 4336
Calculation of Tax 4336
Cross-References 4337
In General 4336
Requirement to Obtain a Seller's Permit 4336
Sales To & Purchases By Nonprofit Organizations 4360
Educational Institutions 4361
Exemption Certificate 4362
Food Banks & Soup Kitchens 4361
Free Dental Clinics 4362
Health Related Entities 4361
Hospitals 4361
Idaho Foodbank Warehouse, Inc 4361
In General 4360
Literature 4362
Nonsale Clothiers 4361
Red Cross 4361
Sales by Nonprofit Organizations 4362
Senior Citizen Centers 4362
Sales To Indians 4365
Records 4365
Sales of Motor Vehicles to Indians 4365
Sales to Indians 4365
Sales To Other Idaho Distributors 4576
First Receiver 4576
Sales for Eventual Resale 4576
Subsequent Receiver 4576
Sales Under The Snap & WIC Programs, Records Required For Payments With Electronic Benefit Transfer Cards & WIC Tender 4390
In General 4390
Records Required 4391
Salesperson License 4921
Temporary Salesperson 4921
Temporary Salesperson Sales Authorization 4921
Salmon Basin 5364
Hells Canyon Subbasin 5364
Lemhi Subbasin 5375
Little Salmon Subbasin 5389
Lower Middle Fork Salmon Subbasin 5381
Lower Salmon Subbasin 5387
Lower Snake-Asotin Subbasin 5365
Middle Salmon-Chamberlain Subbasin 5383
Middle Salmon-Panther Subbasin 5372
Pahsimeroi Subbasin 5370
South Fork Salmon Subbasin 5385
Upper Middle Fork Salmon Subbasin 5379
Upper Salmon Subbasin 5366
Salmonellosis - Including Typhoid Fever 1306
Handling of Report 1306
Investigation 1306
Reporting Requirements 1306
Restrictions - Chronic Carrier 1306
Restrictions - Non-Typhi Salmonella 1306
Restrictions - Salmonella Typhi 1307
Sanctions For Failure To Comply With JSAP Work Program Requirements 1427
Actions to End Sanction 1428
Closure Reason 1428
Fair Hearing 1428
Joins Another Household 1428
Noncomplying Household Member 1427
Sanction Notice 1428
Sanction Start 1428
Sanctions For Failure To Obey Order Compelling Discovery 274, 3046, 3954, 4674, 5592, 6002
Sanctions For Failure To Obey Order Scheduling Discovery 303
Sanitary Restriction
Administration 5845
Subdivisions or Plats Proposing Individual & Subsurface Sewage Disposal System Discharge to SubsurfaceAdministration 5845
Subdivisions or Plats Proposing Other Than Individual & Subsurface Sewage Disposal System Discharge to Subsurface 5845
Sanitary Surveys For Public Water Systems Using Ground Water 5700
Consultation with the Department 5702
Frequency 5701
Report 5701
Response Required 5702
Significant Deficiencies 5701
Violation 5702
Sanitary Surveys For Systems Using Surface Water Or Ground Water Under The Direct Influence Of Surface Water 5700
Consultation with the Department 5700
Frequency 5700
Report 5700
Response Required 5700
Violation 5700
Sanitation 3430, 5031
Comfort Station 5031
Designated Trash Containers 5031
Dumping 5031
Reporting 3430
Sanitary Conditions 3430
Vehicle Refuse or Water 5031
Water Facilities 5031
Water Systems 5031
Sanitation & Hygiene 340
Housekeeping Plan 341
Maintenance & Repair 341
Sanitation Inspections 340
Vermin Control 341
Water Quality 341
Sanitation & Storage 151
Adequate Lavatory & Toilet Accommodations Shall be Provided 151

Case & Carton Storage 152
Cases & Packing Materials 152
Clean Clothing 152
Distributors or Dealers 152
Egg Handling & Transport 152
Grading & Packing Rooms 151
Grading Room 151
Pesticides, Insecticides & Rodenticides 152
Pre-Wetting or Soaking 151
Rest Period 151
Sanitary Conditions 151
Thermometers 151
Trash 151
Wash Water 151
Wash Water Temperature 151
Washing & Rinsing Compound 151
Weighing & Grading Equipment 151
Satisfactory Service 1159
Satisfying The Privacy Notice
Information Requirements 2721
Categories of Affiliates & Nonaffiliated Third Parties to Whom The Licensee Discloses 2721
Categories of Nonpublic Personal Financial Information a Licensee Discloses 2721
Categories of Nonpublic Personal Financial Information That the Licensee Collects 2721
Confidentiality & Security 2722
Disclosures Under Exception for Service Providers & Joint Marketers 2721
Simplified Notices 2722
Scabies, Sheep & Goats Entering Idaho 218
Scale Tickets, Commodity Dealer's 167
Scale Weight Tickets 172
Custom Scale Requirement 172
Numerical Order Requirement 172
Pre-Numbered Scale Tickets 172
Schedule Of Fees 1202
Cost Reimbursement 1202
Maximum Fee for Annual Supplier Representative Permit 1202
Maximum Fee for Samples 1202
Schedule Of Fees For The Idaho State Brand Board 711
Due & Payable 712
Fees 711
Scheduled Group Mediation 1176
Scheduling Of The Peer Review 41
Currently Enrolled 41
Dissolutions or Separations 41
Extensions 41
Frequency 41
Just Cause 41
Mergers or Combinations 41
Multi-State Practices 41
New Firms 41
Report Issuance 41
Review Year 41
Scholarships 6066
Application 6066
Availability 6066
School - Reporting & Control Measures 1284
Determination Disease Is No Longer Communicable 1284
Restrictable Diseases 1284
Restrictions - Attendance 1284
Restrictions - Work 1284
School Closure 1284
School Attendance
Responsibility 1584
School-Based Service
Coverage & Limitations 1708
Evaluation & Diagnostic Services 1709
Excluded Services 1708
Reimbursable Services 1709
Definitions 1706
Activities of Daily Living (ADL) for Personal Care Services 1706
Educational Services 1706
PRA Credential 1706
Practitioner of the Healing Arts 1706
School-Based Services 1706
Serious & Persistent Mental Illness (SPMI) 1707
Serious Mental Illness (SMI) 1706
The Psychiatric Rehabilitation Association (PRA) 1706
Participant Eligibility 1707
Age 1707
Educational Disability 1707
Medicaid Eligible 1707
Parental Consent 1707
School Enrollment 1707
Procedural Requirements 1711
Copies of Required Referrals & Recommendations 1712
Documentation of Qualifications of Providers 1712
Evaluations & Assessments 1711
Individualized Education Program (IEP) & Other Service Plans 1711
One Hundred Twenty Day Review 1712
Parental Notification 1712
Requirements for Cooperation with & Notification of Parents & Agencies 1712
Service Detail Reports 1711
Provider Qualifications & Duties 1712
Behavioral Consultation 1713
Behavioral Intervention 1713
Medical Equipment & Supplies 1714
Nursing Services 1714
Occupational Therapy & Evaluation 1714
Personal Care Services 1714
Physical Therapy & Evaluation 1714
Psychological Evaluation 1714
Psychotherapy 1715
Skills Building/Community Based Rehabilitation Services (CBRS) 1715
Social History & Evaluation 1716
Speech/Audiological Therapy & Evaluation 1716
Therapy Paraprofessionals 1716
Transportation 1716
Provider Reimbursement 1717
Matching Funds 1717
Payment in Full 1717
Recoupment of Federal Share 1717
Third Party 1717
Quality Assurance & Improvement 1718
Quality Assurance 1718
Quality Improvement 1718
Service-Specific Participant Eligibility 1707
Behavioral Intervention & Behavioral Consultation 1708
Personal Care Services 1708
Skills Building/Community Based Rehabilitation Services (CBRS) 1707
Scope 2365
Scope & Practice Standards 3702
Conditions for Which a Licensed Midwife May Not Provide Care 3702
Conditions for Which a Licensed Midwife May Not Provide Care without Health Care Provider Involvement 3702
Conditions for which a Licensed Midwife must Facilitate Hospital Transfer 3703
Conditions for which a Licensed Midwife must Recommend Physician Involvement 3702
NACPM Scope & Practice Standards 3702
Scope Of Appeal In Ad Valorem Case 4622
Scope Of Audit & Report Of Independent Certified Public Accountant 2947
Scope of Authority 3043
Scope Of Authority Of Hearing Officers 266, 3042, 4670, 5589
Authority to Issue a Written Decision 5589
Authority to Preside at Hearings 5589
Authority to Schedule & Compel

Discovery 5589
Authority to Schedule Cases 5589
Final Decision by Board 3043
Limitation 266, 3043, 4671
Scope of Authority 266, 4671
Scope Of Authority Of Presiding Officers 6001
Conduct Hearings 6001
Issue Decisions for Review 6001
Schedule & Compel Discovery 6001
Schedule Cases 6001
Scope Of Modified Procedure 3949
Scope Of Practice 3344, 3347, 3546, 3646, 3715, 3741
Advanced Surgical Procedures 3546
Competence 3546
Identification 3347
Limitations of Scope of Practice 3347
Referral by Directing Physician 3347
Scope 3344
Scrapie Infected Flock 216
Scrapie Program Standards, Scrapie Flock Certification, Scrapie Control & Eradication 219
Scrapie Source Flock 216
Scrapie-Positive Animal 216
Scratched From Finals 803
Scratched From Trials 803
Scratches 794
Other Causes 794
Request to Withdraw 794
Scratches 794
Screening 4987
General Screening Requirements 4987
Screening Plan 4987
Screening Mammographies
Coverage & Limitations 1657
Diagnostic Mammographies 1657
Screening Mammographies 1657
Provider Qualifications & Duties 1657
Seal, Signature, Date 665
Sealed Transcripts 3966
Seals 650
Official Seal of Board 650
Seal for Professional Engineer/Land Surveyor 650
Standard Seals for Engineers & Land Surveyors 650
Search & Seizure 338
Detention Center Search Plan 338
Documentation of Certain Searches 339
Personal Searches 338
Seizure & Disposition of Contraband 339
Search Initiation, Search Notification 5063
Search Notification 5063
Notification Sources 5063
Notification System 5063
Search Request Delivery 4124
Search Requests 4135
Fee 4136
Name Searched 4135
Requesting Party 4136
Search Requests & Reports 4135
Search Responses 4136
Certification Date 4137
Copies 4137
Filing Officer 4137
History of Financing Statement 4137
Identification of Initial Financing Statements 4137
Name Searched 4137
Report Date 4137
Searches 2644, 2664
Body Cavity Searches are Prohibited 2644, 2664
Pat Down Searches 2644, 2664
Strip Searches are Prohibited 2644, 2664
Searches For Contraband 379
Body Cavity Searches 380
Clothed Body Searches 380
Contraband Disposal 380
Documentation of Searches 380
Policies & Procedures Governing Consequences 379
Searches of Personal Items 379
Unclothed Body Searches 380
Seasonal Appointment 1151
Duration of Appointment 1152
Employee Rights 1151
Purpose 1151
Separation 1152
Seasons 1059
Commercial Crustacea 1059
Commercial Fish 1059
Seasons & Limits 1075
Seasons, Bag, & Possession Limits, & Management Units 1038
Seasons, Limits, Controlled Hunts, & Tag Numbers 1031
Secondary Categories For Improvements - Listing & Reporting 4450
Cross Reference 4452
Secondary Category 25 - Common Area Land & Improvements 4451
Secondary Category 26 - Residential Condominiums 4451
Secondary Category 27 - Commercial or Industrial Condominiums 4451
Secondary Category 30 - Improvements 4451
Secondary Category 31 - Improvements 4451
Secondary Category 32 - Improvements 4451
Secondary Category 33 - Improvements 4451
Secondary Category 34 - Improvements 4451
Secondary Category 35 - Improvements 4451
Secondary Category 36 - Improvements 4451
Secondary Category 37 - Improvements 4451
Secondary Category 38 - Improvements 4451
Secondary Category 39 - Improvements 4451
Secondary Category 40 - Improvements 4451
Secondary Category 41 - Improvements 4451
Secondary Category 42 - Improvements 4451
Secondary Category 43 - Improvements 4451
Secondary Category 44 - Improvements 4451
Secondary Category 45 - Utility System Land & Improvements 4452
Secondary Category 46 - Manufactured Housing 4452
Secondary Category 47 - Improvements to Manufactured Housing 4452
Secondary Category 48 - Manufactured Housing 4452
Secondary Category 49 - Manufactured Housing 4452
Secondary Category 50 - Residential Improvements on Leased Land 4452
Secondary Category 51 - Commercial or Industrial Improvements on Leased Land 4452
Secondary Category 57 - Equities in Land With Improvements Purchased From the State 4452
Secondary Category 60 - Improvements on Railroad Rights-of-Way 4452
Secondary Category 61 - Improvements by Lessee Other Than Secondary Category 62 4452
Secondary Category 62 - Improvements on Exempt or Public Land 4452
Secondary Category 65 - Manufactured Housing 4452
Secondary Category 69 - Recreational Vehicles 4452
Secondary Category 81 - Exempt Improvements 4452
Secondary Categories For Land - Listing & Reporting 4447
Cross Reference 4450
Secondary Category 1 - Irrigated Agricultural Land 4447

Secondary Category 10 - Homesite Land 4448
Secondary Category 11 - Recreational Land 4448
Secondary Category 12 - Rural Residential Tracts 4448
Secondary Category 13 - Rural Commercial Tracts 4449
Secondary Category 14 - Rural Industrial Tracts 4449
Secondary Category 15 - Rural Residential Subdivisions 4449
Secondary Category 16 - Rural Commercial Subdivisions 4449
Secondary Category 17 - Rural Industrial Subdivisions 4449
Secondary Category 18 - Other Land 4449
Secondary Category 19 - Waste 4450
Secondary Category 2 - Irrigated Grazing Land 4447
Secondary Category 20 - Residential Lots or Acreages 4450
Secondary Category 21 - Commercial Lots or Acreages 4450
Secondary Category 22 - Industrial Lots or Acreages 4450
Secondary Category 25 - Common Area Vacant Land 4450
Secondary Category 3 - Non-Irrigated Agricultural Land 4447
Secondary Category 4 - Meadow Land 4448
Secondary Category 45 - Utility System Vacant Land 4450
Secondary Category 5 - Dry Grazing Land 4448
Secondary Category 57 - Equities In Vacant Land Purchased From the State 4450
Secondary Category 6 - Productivity Forestland 4448
Secondary Category 7 - Bare Forestland 4448
Secondary Category 8 4448
Secondary Category 81 - Exempt Land 4450
Secondary Category 9 - Patented Mineral Land 4448
Secondary Categories, Other Than Land Or Improvements - Listing & Reporting 4452
Cross Reference 4453
Secondary Category 45 - Utility System Personal Property 4453
Secondary Category 55 - Boats or Aircraft 4453
Secondary Category 56 - Construction Machinery, Tools, and Equipment 4453
Secondary Category 57 - Equities in Personal Property Purchased From the State 4453
Secondary Category 59 - Furniture, Libraries, Art, & Coin Collections 4453
Secondary Category 63 - Logging Machinery, Tools, & Equipment 4453
Secondary Category 64 - Mining Machinery, Tools, & Equipment 4453
Secondary Category 66 - Net Profits of Mines 4453
Secondary Category 67 - Operating Property 4453
Secondary Category 68 - Other Miscellaneous Machinery, Tools, & Equipment 4453
Secondary Category 70 - Reservations & Easements 4453
Secondary Category 71 - Signs & Signboards 4453
Secondary Category 72 - Tanks, Cylinders, Vessels 4453
Secondary Category 81 - Exempt Property, Other Than Land or Improvements 4453
Secondary MCLS 5707
Definitions 5707
Monitoring 5707
Purpose 5707
Secondary Maximum Contaminant Levels 5707
Section 202, International Fire Code 2999
Driveway 2999
Fire Code Official 2999
Fire Station 2999
Section 404 2951
Securing & Enforcing Medical Support 2369
Enforcement 2369
Petition 2369
Securities Exemptions, Opinions, & No-Action Letters 935
Security 855
Daily Reports 856
Escort Guests 855
List of Security Personnel 856
Passes 855
Prevent Access 855
Restricted Areas 855
Security & Irregularities 34
Board Action 34
Security Devices 339
Key Control 339
Security Devices 339
Weapons Locker 339
Security For Tax Required 4572
Failure to File Timely After Release from Security 4573
New Wholesaler Application 4572
Reviewing Security on File 4572
Security for Payment of Taxes 4572
Taxpayer Petition for Release from Security Requirements 4572
Types of Security 4572
Security Payments 2913
Bond 2913
Errors & Omissions Policy 2913
Security Requirements 4102
Notification of Breach 4102
Secure Method 4102
Security Procedures 4102
System & Security Failures 4102
Unauthorized Party 4102
Sedation Permit Renewal 3026
Permit Renewal 3026
Reinstatement 3027
Seed & Farm Labor Liens 4139
Mechanics of Filing 4139
Mechanics of Search 4139
Seeking Work 621
Attitude & Behavior 621
Effort to Secure Employment 621
Employer's Hiring Practices 621
Job Attachment Classifications 622
Jobs Availability 622
License or Permits 622
No Employment Prospects 622
Seasonal Availability 622
Work-Seeking Requirement Categories 622
Selection 919, 1093
Class Six Applicants 1093
Fish and Game Violations 1093
Low Numbered Vendors 1093
Minimum Sales Volume 1093
Number of Existing Vendors in Area 1093
Performance Record 1093
Permanence & Accessibility 1093
Surety Bond 1093
Unsettled Debts 1093
Selection Of An Adoptive Placement 2632
Selection Of Operators 1122
Application 1122
No Qualified Bidders 1122
Notification of Decision 1123
Notification of Opening 1122
Qualification of Bidders 1122
Records 1123
Selection Process 1122
Transfer & Promotion 1123
Selection Of Service Providers 2212
Selective Contracting 1621, 1753
Self-Administration Of Medication 2418
Approval 2418
Change in Condition 2419
Evaluation 2418
Safeguarding Medication 2419
Self-Certification 132
Self-Employed Farmer 1450
Self-Employment 623
Occupational Conflicts 623
Potential Employability 623
Self-Employment Allowable Expenses 1507

Advertising 1507
Business Transportation 1507
Depreciation 1507
Insurance 1507
Interest 1507
Labor 1507
Legal 1507
Lodging 1507
Maintenance 1507
Materials 1507
Meals 1507
Rent 1507
Shipping 1507
Taxes 1507
Uniforms 1507
Use of Home 1507
Utilities 1507
Self-Employment Earned Income 1364
Self-Employment Expenses Not Allowed 1507
Labor Paid to Family Member 1508
Loss of Farm Income 1508
Net Losses 1508
Payments on the Principal of Real Estate 1507
Personal Transportation 1508
Purchase of Capital Assets or Durable Goods 1507
Savings 1508
Taxes 1508
Self-Employment Income 1590
Self-Initiated Parole
Reconsideration 5205
Hearing 5206
Petition 5205
Self-Loading Log Trucks 486
Operator 486
Overhead Hazards 486
Safe & Adequate Access 486
Self-Loading Log Trucks 486
Trailers Secured 486
Self-Supervision Prohibited, Children's Agencies 2625
Senior Status 3606
Continuing Education 3606
Request for Senior Status 3606
Separate Accounts 2745
Assets Equal to Reserves & Liabilities 2746
Chargeability of Assets With Liabilities 2746
Domestic Life Insurer 2745
Officers & Directors 2746
Separate Bank Account & Limitations On Use 5255
Disbursements Use of Funds 5255
Establishment of Account 5255
Separate Food Stamp Household
Composition for Related Members 1423
Children Age Twenty-Two & Older Living With Parents 1423
Households Must Prepare Food Together Because of Age & Disability 1423
Separate Statement Of Tax 4554
Amount of Tax Charged 4554
Fractional Parts of One Cent 4554
Separation By Reason Of Retirement 6030
Separation During Probation 1159
During Entrance & Voluntary Probation 1159
Notification 1159
Separation From Employment After Reemployment 6017
Separation Of High Diving Boards 2336
Separation Of Low Diving Boards 2336
Separation Upon Failure To Return To Work 1169
Separators 3285
Serious Illness Or Medical
Emergency 3988, 4011
Medical Certificate -- Postponement of Termination of Local Exchange or MTS Services 4011
Medical Certificate -- Postponement of Termination of Service 3989
Obligation to Pay 3989, 4011
Restoration of Service 3989, 4011
Second Postponement 3989, 4011
Verification of Medical Certificate 3989, 4011
Serious Threat To Health Or Safety 2135
Apprehension by Law Enforcement 2135
Escape From Law Enforcement 2135
Prohibition on Disclosure 2135
Service By Agency 256, 3033, 4658, 5997
Electronic Service 256
Personal Service & Service by Mail 256
Persons Served 256
Proof of Service 256
When Service Complete 256
Service By Commission - Designation Of Agent 3925
Designation of Agent for Service 3925
Service of Orders & Notices 3925
Service of Summonses & Complaints 3925
Service Charges & Interest 5272
Burden of Proof 5272
Holding Period 5272
Interest 5272
Service Charges 5272
Service Components 2628
Activities 2628
Aftercare 2628
Counseling 2628
Legal 2628
Medical Care 2628
Planning 2628
Skills 2628
Training 2628
Service Coordination 1933
Coverage & Limitations 1935
Contacts for Assistance 1936
Crisis Assistance 1936
Development of the Plan 1936
Exclusions 1936
Limitations on Plan Assessment & Plan Development 1937
Limitations on Service Coordination 1937
Limitations on the Provision of Direct Services 1937
Monitoring & Follow-Up Activities 1936
Plan Assessment & Periodic Reassessment 1935
Referral & Related Activities 1936
Definitions 1933
Agency 1933
Brokerage Model 1933
Conflict of Interest 1933
Crisis 1933
Human Services Field 1933
Paraprofessional 1933
Person-Centered Planning 1934
Practitioner of the Healing Arts 1934
Service Coordination 1934
Service Coordination Plan 1934
Service Coordination Plan Development 1934
Service Coordinator 1934
Supports 1934
Eligibility
Individuals Up To The Age Of Twenty-One 1935
Age 1935
Diagnosis 1935
Need Assistance 1935
Plan Development --
Assessment 1940
Assessment Process 1940
Components of an Assessment 1940
Plan Development -- Written Plan 1940
Adult Developmental Disability Service Coordination Plan 1941
Plan Content 1941
Plan Implementation 1941
Procedural Requirements 1937
Agency Responsibility Related to Conflict of Interest 1938
Documentation Completed by a Paraprofessional 1938
Documentation of Service Coordination 1937
Participant Freedom of

Choice 1938
Prior Authorization for Service Coordination Services 1937
Service Coordination Plan Development 1937
Service Coordinator Contact & Availability 1938
Service Coordinator Responsibility Related to Conflict of Interest 1938
Provider Qualifications 1939
Agency Supervisor Required Education & Experience 1939
Criminal History Check Requirements 1940
Health, Safety & Fraud Reporting 1940
Individual Service Coordinator Case Loads 1940
Limitations on Services Delivered by Paraprofessionals 1940
Paraprofessional Education & Experience 1939
Provider Agreements 1939
Service Coordinator Education & Experience 1939
Supervision 1939
Provider Reimbursement 1941
Duplication 1941
Group Service Coordination 1943
Incarceration 1942
Payment for Service Coordination 1941
Payment Limitations 1942
Service Coordination During Institutionalization 1942
Services Delivered Prior to Assessment 1942
Service Coordination Services 1933
Eligibility 1934
Service Evidence 3010
Conformance to Standards 3011
Submission of Plans 3010
Service Limitations 1098
Cost Sharing Payments 1098
Medicaid HCBS 1098
Service 1098
Service Of Documents 4613
Proof of Service 4614
Service 4613
Service Of Notice 719, 1343
Disqualification 719
Hand Delivery 719
Mail Delivery 719
Proof of Service 1343
Service of Notice 1343
Service Of Preliminary & Final Orders 2147
Service Of Process 324
Service of Process
Affidavit 324
Notice 324
Service Of Ruling 720
Copy 720
Disqualification 720
Hand Delivery 720
Mail 720
Service On Parties & Other Persons 263, 3040, 3935, 4665, 5997
Service by Electronic Mail 3935
Service in General 3935
Service of Discovery 3935
Service On Representatives Of Parties & Other Persons 259, 3036, 3929, 4661
Service Plans 2619
Initial Service Plan 2619
Updated Service Plan 2620
Service Plans & Participants, Children's Agencies 2627
Service Priority 1098
Service Priority & Appeals 1110
Denial or Termination of Service 1110
Service Priority 1110
Service Providers 4043
Service Related Disability For Police, General Members, & Firefighters 6010
Service Sink, Children's Residential Care Facilities 2638
Service Tag 3011
Control Valve Not Electrically Supervised 3011
Electrically Supervised Control Valve 3011
Form 3011
Service Worker Available, Children's Residential Maternity Care 2650
Service Worker Or Social Worker 2616
Service Worker Position & Qualifications 2624
Qualification 2624
Training 2624
Service Worker Supervisor Position 2624
Bachelor's Degree Provision 2624
Master's Degree Provision 2624
Service Worker Supervisor Qualifications 2635
Bachelor's Degree 2635
Master's Degree 2635
Services For Adolecents 2214
Continued Care of an Eighteen-Year-Old 2214
Documentation Requirements for Continued Care 2215
Licensed Hospital Facilities. Facilities licensed as hospitals under Title 39, Chapter 13, Idaho Code, are exempt from the requirements in Subsections 300.01 through 300.04 of this rule 2215
Residential Care as an Alternative to Parental Care 2214
Separate Services From Adults 2214
Services For Adoptive Applicants 2630
Counseling 2631
Legal Assessment 2631
Orientation 2630
Preparation for Placement 2631
Selections and Services for a Specific Child 2631
Suitability Criteria 2630
Termination of Services 2630
Services For Adoptive Parents 2631
Adoption Finalization Assistance 2631
Disclosure of Non-Identifying Child Information 2631
Post-Finalization Services 2632
Post-Placement Services 2631
Provision of Resources 2631
Specific Training 2631
Services For Child's Birth Parents, Children's Agencies, Adoption 2630
Services For Children As The Primary Consideration 2630
Services Performed Part In Covered Employment & Part In Excluded Employment 632
Services Provided By A Licensed EMS Agency 1217
Services Provided by Developmental Disabilities Agencies 2068
Services To Be Provided In Adoptions 2549
Adoption Assistance 2549
Compliance With Multi-Ethnic Adoption Provisions & Interethnic Adoption Provisions 2549
Period of Support Supervision 2549
Post Adoption Services 2549
Preparation for Placement 2549
Pre-Placement Child/Family Assessment 2549
Pre-Placement Home Study 2549
Response to Inquiries 2549
Technical Assistance 2549
Services, Advertising, Reporting Crimes, Bonds 923
Advertising 924
Credit Union Services 923
Services, Treatments, & Procedures Not Covered By Medical Assistance 1624
Experimental Treatments or Procedures 1625
Service Categories Not Covered 1624
Types of Treatments & Procedures Not Covered 1624
Setting Aside Of Funds 1124
Approval by the United States Department of Education 1124
Income with No Program Operator 1124

Increases 1124
Other Purposes Allowed by the Randolph-Sheppard Act 1124
Record of Expenditures 1124
Review of Schedule of Funds 1124
Set Aside 1124
Setting Requirements For Agencies Delivering Community-Based Services 2081
Accessibility 2081
Environment 2081
Image Enhancement 2081
Natural Environment 2081
Promote Inclusion 2081
Service Group Size 2081
Settlement Not Binding 277, 3049, 3963, 4677, 5595
Settlement Of Appeal From The Commission 3970
Settlements 3962, 4599
Agreement Final 4600
Form of Settlement 4600
Grounds for Settlement 4599
Withdrawal of Offer 4600
Settlements Calling For Commission Action, Appeal 3970
Settlements Not Binding, Appeals 3971
Seven Days To Challenge Proposed Default Order 279, 3050, 4678, 5595
Severe Acute Respiratory Syndrome (SARS) 1307
Investigation 1307
Isolation 1307
Reporting Requirements 1307
Severe Reaction To Any Immunization 1307
Handling of Report 1308
Investigation 1307
Reporting Requirements 1307
Sewage & Waste Disposal
Political Subdivisions 5122
Prohibited Conditions 5122
Sewage Disposal On The Rathdrum Prairie In Kootenai County, Idaho 5122
Definitions 5123
Scope 5123
Subsurface Sewage Disposal Systems 5123
Title 5123
Sewage Sludge 5988
Applicability 5988
Exceptions to Incorporation by Reference 5989
Purpose 5988
Term Interpretation 5989
Sewer System 2338
Sex Offender Central Registry -- Administration 683
Central Registry Established 683
Determination of Substantially Equivalent or Similar Crime 684
Expungement of Central Registry Information 684
Forms 683
Notification to Local Law Enforcement 683
Notification to Other Jurisdictions 684
Photographs & Fingerprints 683
Sex Or Age Of A Horse Claimed 781
Sexual Abuse of Juvenile Offenders 335
Sexual Offender Treatment 5294
Sexual Offender Treatment Provider Qualifications 5283
Certification Requirements 5283
Certified Sexual Offender Treatment Provider 5283
Shared Ownership Rule 1490
Sheep & Goat State Entrance Requirements 217
Brucella Ovis 217
Entrance Requirements 217
Sheep Assessments 223
Assessment as Resident Sheep 223
Costs of Collection 223
Migratory Sheep 223
Payment of Assessment 223
Shelter Care Admission & Plans 2620
Shelter Care in Excess of Thirty Days 2620
Shelter Care More Than Sixty Days 2620
Sheltered Workshop Or Work Activities Center Payments 1508
Shelters For Battered Women & Children 1471
Food Stamp Eligibility 1471
Food Stamps for Former Household 1471
Income, Resources, & Expenses 1471
Shigellosis 1308
Exclusions - Food Service Facility 1308
Handling of Report 1308
Investigation 1308
Reporting Requirements 1308
Restrictions - Day Care Facility 1308
Restrictions - Health Care Facility 1308
Restrictions - Household Contacts 1308
Shipments Delivered On Indian Reservations 4570
Non-Indian Retailers 4571
Reservation Means Lands Which Are 4570
Sales of Cigarettes to Non-Indians Within Reservation Boundaries 4570
Shipments Without Idaho Stamps 4570
Shipments In Interstate Commerce 4570
Records of Unstamped Deliveries 4570
Types of Conveyances 4570
Shipping Records 167
Amount & Type 167
Buyer & Destination 167
Date 167
Identification Number 167
Name & Address 167
Shooting Preserve Rules 1046
Applications 1046
Disease Free Birds 1046
Habitat Requirements 1046
Holding Facilities 1046
Inspection 1046
License Vendorship 1046
Shooting Preserves 1046
Species Permitted 1046
Short-Form Initial Notice With Opt Out Notice For Non-Customers 2722
Delivery of Short-Form Initial Notice 2722
Examples of Obtaining Privacy Notice 2722
Short-Form Initial Notice Allowed 2722
Short-Form Initial Notice Requirements 2722
Short-Term Care & Supervision 2416
Alternate Caregiver 2416
Incidental Supervision 2417
Substitute Caregiver 2417
Show Pools 751
Dead Heat for First 751
Dead Heat for Second 751
Dead Heat for Third 752
Net Show Pool Distribution 751
Show Pools 751
Showers 2337
Fixtures 2337
Scald Prevention 2338
Showers 2337
Soap 2338
Water Temperature 2337
Sick Leave 1168
Donated Leave 1168
Eligibility 1168
Interagency Transfer 1168
Notification 1168
Reasons for Use 1168
Serious Medical Conditions 1168
Sick Leave Abuse 1168
Sick Leave Funding Rates 6029
Side Clearance At Platforms 4069
Eight Inches 4069
Four Feet 4069
Four Feet Six Inches 4069
Platforms 4069
Side Clearance In General 4069
Side Clearance Interlocking Mechanism Switch Boxes, Etc. 4070
Side Clearance On Curved Track 4070
Side Clearance Signals & Switch Stands

Three Feet High Or Less Above The Top Of The Rail 4070
Side Clearance--Bridges & Tunnels 4070
Side Clearance--Mail Cranes & Train Order Stands When Not In Operative Position 4070
Side Clearance--Poles Other Than Trolley Poles 4070
Side Clearance--Poles Supporting Trolley Contact 4070
Side Clearances 4067
Side Clearance--Signals & Switch Stands Other Than Above 4070
Side Clearances--Material Or Merchandise Adjacent To Tracks 4071
Side Walls 2333
Sign Requirements For Vehicles Combinations Inclusive Of Load 5106
Signaling 439
Audible Signaling Device at the Machine to be Activated 440
Audible Signaling to be Installed & Used 440
Hand Signal Use Restricted 439
One Worker to Give Signals 439
Persons in Clear Before Signal Given 439
Signal Must Be Clear & Distinct 439
Throwing Material Prohibited 440
Signature Requirements 5889
Certification 5890
Electronic Reporting 5890
Electronic Signatures 5890
New Authorization 5890
Permit Applications & Notices of Intent 5889
Reports & Other Information Submitted 5889
Signatures 1354, 1412, 1479, 1580, 2186
Signatures Of Illiterates & Witnesses 623
Signing Requirements Of Towing Vehicles, Oversize Vehicles And/Or Loads 4970
Dimensions 4970
Displaying Signs 4970
When Signs Are Required 4970
Signs & Billboards 4310
Billboards 4311
Custom Painting Directly on Real Property 4311
Lease or Rental of Signs 4310
Material That Becomes Part of a Sign 4310
Road Signs 4310
Signs & Billboards as Custom Made Articles 4310
SIGRIF 1519
Silviculture 4515
Simulcast Purse Money Collection & Distribution 826
Deposit into Appropriate Account 826
Designated Purse Monies 826
Dual Signature Insured Account 826
Sanctions 826
Singular & Plural Forms 4123
Site Requirements For Certified Family Homes 2428
Accessible Road 2428
Accessible to Services 2428
Emergency Medical Services 2428
Fire District 2428
House Number 2428
Site Specific Risk Evaluation Requirements 5606
General Requirements 5606
Specific Requirements 5606
Site-specific Aquatic Criteria For Selenium
Subsection of Salt Subbasin — Crow Creek 5472
Site-specific Aquatic Life Criteria For Selenium 5470
Portions of Idaho 5473
Subsection of Bear Lake Subbasin 5471
Subsection of Blackfoot Subbasin 5470
Subsection of Salt Subbasin — Sage Creek 5472
Site-Specific Surface Water Quality Criteria 5465
Procedures for Establishing Site-Specific Water Quality Criteria 5465
Water Quality Criteria for Specific Waters 5466
Siting Requirements 5687
Situations Not Considered Voluntary Job Quit Or Reduction Of Work 1431
Employer Demands Resignation 1432
Ending Self-Employment 1432
Laid Off From New Job 1432
Six Month Reviews For Children In Alternate Care Placement 2529
Considerations in Six Month Review 2529
Members of Six Month Review Panel 2529
Notice of Six Month Review 2529
Procedure in the Six Month Review 2529
Recommendations & Conclusions of Six-Month Review Panel 2529
Six-Month Reviews For Children In Alternate Care Placements 2266
Considerations in Six-Month Review 2267
Members of Six-Month Review Panel 2267
Notice of Six-Month Review 2266
Procedure in the Six-Month Review 2267
Recommendations & Conclusions of Six-Month Review Panel 2267
Sixty-Five Dollar Earned Income Disregard 1522
Size & Composition Of Leasable Tract 3176
Construction Materials 3176
One Mile Limitation 3176
Size Limits 1058
Crustacea 1058
Fish 1058
Size Of A Leasable Tract 3204
Navigable Water Courses 3204
Surface Area 3204
Skates, Skateboards, Scooters, & Other Non-Motorized Transportation 4883
Skidding & Yarding 457
General Requirements 457
Skiing, Non-hazardous & Hazardous Terrain Outfitter, Designated Agent, Ski Guide & Ski Guide
Trainee 3767
Applications 3767
Designations & Qualifications for Outfitters, Designated Agents, Guides & Trainees 3767
Field Supervisor 3768
Level I Ski Guide (Non-Hazardous Terrain) 3767
Level II Ski Guide (Hazardous Terrain) 3768
Outfitters 3768
Outfitters Plan of Operation 3768
Ski Guide Trainee 3768
Skilled Nursing Services 1571
Home Health Aide 1571
Licensed Practical Nurse 1571
Licensed Registered Nurse 1571
Supervisory Visits 1572
Training, Assignment & Instruction of a Home Health Aide 1572
Skills & Training 2656
Skills 2656
Training 2656
Skimmers
Capacity 2345
Piping 2345
Total Capacity 2345
Equalizers 2345
Equalizer Valve & Line 2345
Inlet to the Equalizer Line 2345
Location 2345
Requirement 2345
Minimum Requirements 2345
Standard Requirements 2345
Sky Lanterns, Section 308.1.6.3, International Fire Code 2999
Sky lantern permit 2999
Untethered Sky lanterns 2999
Slashing Management 3076

Commercial Slash 3077
Non-Commercial Slash 3077
Purpose 3076
Sleep, Children's Residential Care Facilities 2640
Sleeping Rooms 2638
Restrictions 2639
Size 2638
Window Space 2638
Sliding Fee Schedule For Children's Mental Health Outpatient Services 2259
Sliding Fee Schedule For Children's Mental Health, Adult Mental Health, & Substance Use Disorders Services 2672
Sliding Scale, Family's Percentage Of Financial Participation 2357
Slope Of Decks & Walkways 2334
Slope Of Floor
Deep Area 2333
Shallow Area 2333
Sludge Usage 5561
Basis for Evaluation 5561
Disposal Plans Required 5561
Elements of Plans & Proposals 5561
Reference to Federal Regulations 5561
Small Dam Design Criteria 4764
Approval Required 4764
Design & Construction of Small Dams 4764
Notification Prior to Construction 4764
Notification upon Completion of Construction 4765
Small Herd Raw Milk Permits 67
Exemption from Pasteurized Milk Ordinance 68
Obtaining a Small Herd Raw Milk Permit 67
Product Quality 68
Test Results Made Available 68
Testing Frequency 68
Small Purchases 4892
Limitations 4893
Procedure 4892
Small Purchase Categories 4892
Small Water Companies Defined 4001
Customer Base 4001
Gross Revenue 4001
Smallpox 1309
Investigation 1309
Reporting Requirements 1309
Restrictions - Day Care Facility 1309
Restrictions - Health Care Facility 1309
Restrictions - Public Gatherings 1309
Restrictions - School 1309
Restrictions - Working 1309
Smoke & Carbon Monoxide Detecting Devices 2606
Carbon Monoxide Detecting Devices 2606
Smoke Detecting Devices 2606
Smoking 4864, 4870, 4875, 4884
Smoking & Sale Of Cigarettes 393
Smoking In The Woods 3085
Designated Smoking Areas 3085
Smoking Prohibited 3085
Smoking Policies 2451
Policy Content 2451
Policy on Smoking 2451
Smoking Prohibited 2451
Snake River Between Idaho & Oregon or Washington 1053
Snake River, Subsection 130.01, HUC 17060101, Unit S1, S2, & S3, Site-Specific Criteria For Water Temperature 5470
Snake River, Subsection 140.13, HUC 17050115, Unit SW1, & Subsection 140.19, HUC 17050201, Units SW1, SW2, SW3 & SW4, Site-Specific Criteria For Water-Column Dissolved Oxygen 5470
Snowgrooming & Snowmaking Equipment 4404
Consumable Supplies Not Exempt 4404
Exemption for Snow Equipment 4404
Snowmobiling 3783
Emergency Equipment 3783
Groomed Trails 3783
Non-Groomed Trails 3783
Reduction in Guide Ratios 3783
Snowmobiling Guide 3768
Avalanche 3768
Hypothermia 3769
Mechanics 3769
Snowmobiling Techniques 3768
Social Security Number (SSN)
Requirement 1361, 1421, 1482, 1584
Application for SSN 1361, 1482
Failure to Apply for SSN 1361, 1482
Good Cause for Not Applying for SSN 1422
SSN Required 1361, 1482
SSN Requirement Waived 1361, 1482
Social Services 1396, 1573, 2049
Organization & Staffing 2049
Policies & Procedures 2050
Provision of Social Services 2049
Records 2050
Service Providers 1573
Social Worker 1573
Social Work Supervisor
Registration 3588
Registration 3588
Renewal 3588
Requirements for Registration 3588
Social Worker Or Service Worker Responsibilities, Children's Agencies 2624
Social Worker Position & Qualifications, Children's Agencies 2624
Society Of Automotive Enginners (SAE) 676
Safety Practices & Standards for Automotive Air Conditioning Devices, Standards & Specifications 676
Standards & Specifications for Lighting Devices 676
Standards for Rear Mounted Acceleration & Deceleration Lighting Systems (Use Optional) 676
Sole Proprietorships Operating Within & Without Idaho 4193
Alternative Method 4193
Application of Rule 4193
In General 4193
Sole Source Purchases 4893
Administrator Makes Determination 4893
Examples of Sole Source 4893
Negotiation in Sole Source Purchase 4893
Only a Single Supplier 4893
Solicitation Of Work 661
Assignment on Which Others are Employed 661
Commissions 661
Contingency Fee Contracts 661
Representation of Qualifications 661
Selection on the Basis of Qualifications 662
Solicitation Prior To Issuance Of Certificate Of Authority 2773
Methods of Solicitation 2773
Permission for Solicitation Requisite 2773
Solicitation Materials 2773
Solid Waste Management Facility Classification 5630
BRC Facilities 5630
General & Site Specific Classification Process 5632
Site Specific Classification 5632
Tier I Facilities 5631
Tier II Facility 5631
Tier III Facility 5631
Wood or Mill Yard Debris Facilities 5631
Sound Producing Devices 3801
Vessels Thirty Nine & Four Tenths Feet & Over 3801
Vessels Under Thirty Nine & Four Tenths Feet 3801
Source Of Cash On Hand 4093
Sources 3470
Sources Of Verification 1415
Automated System Data 1415

Collateral Contacts 1415
Written Confirmation 1415
South Fork Coeur d'Alene Subbasin, Subsection 110.09, HUC 17010302, Aquatic Life Criteria For Cadmium Lead & Zinc 5469
Application 5470
Cadmium 5469
Lead 5469
Zinc 5469
Southwest Idaho Basin
Boise-Mores Subbasin 5398
Brownlee Reservoir Subbasin 5407
Bruneau Subbasin 5391
C.J. Strike Reservoir Subbasin 5390
East Little Owyhee Subbasin 5395
Jordan Subbasin 5396
Lower Boise Subbasin 5401
Middle Fork Payette Subbasin 5403
Middle Owyhee Subbasin 5395
Middle Snake-Payette Subbasin 5402
Middle Snake-Succor Subbasin 5393
North & Middle Fork Boise Subbasin 5397
North Fork Payette Subbasin 5404
Payette Subbasin 5403
South Fork Boise Subbasin 5399
South Fork Owyhee Subbasin 5395
South Fork Payette Subbasin 5402
Upper Owyhee Subbasin 5394
Weiser Subbasin 5406
Spark Arresters 3085
Exemptions 3085
Requirements 3085
Spatial Separation 105
Special Agreements 5092
Agreements for Services 5092
Right to Receive Information Subject to Idaho Code 5092
Special Allowances For Emergency & Critical Service Vehicles 5112
Special Cases For Counting Income 1451
Advances on Wages 1451
Garnishments Held by Employer 1451
Nonrecurring Lump Sum Payments & Capital Gains 1451
PA Entitlement 1451
Varying Payment Cycles 1451
Wages Held At the Request of Employee 1451
Wages Held by Employer, Other Than Garnishment & Employee Request 1451
Special Circumstances For Children 1368
Special Conditions 3828
Special Consideration Of Income For Destitute Households 1419
Household Member Changes Job 1419
Recertification or Six-Month or Twelve-Month Contact 1419
Travel Advances 1419
Special Controlled Hunts 1006
Application Fees 1007
Department Marketed Applications 1007
Drawing Dates 1007
General Rules 1006
Moneys 1006
Special Controlled Hunt Program 1006
Special Diets 339
Special Diets, Medical 339
Special Diets, Religious 340
Special Disease Investigations 1283
Special Leaves 1169
Bone Marrow & Organ Donor Leave With Pay 1171
Court & Jury Services & Problem-Solving & Due Process Leave 1170
Employee Assistance Program Leave 1171
Leave Defaults 1170
Leave During Facility Closure or Inaccessibility 1171
Leave of Absence With Pay 1170
Leave of Absence Without Pay 1169
Military Leave With Pay 1170
Military Leave Without Pay 1170
Red Cross Disaster Services Leave 1171
Religious Leave 1171
Special Military Deployment Refund & Rain Check 987
Ineligible to Request License Fee Refund or Rain Check 987
Ineligible to Request Tag Refund or Rain Check 987
Nonresident Bear or Mountain Lion Tags 987
Refunds Will Be for the Amount Paid 987
Special Refund & Rain Check 987
Special Refund & Rain Check Eligibility 987
Tag Options 987
Use of Department-Approved Form for Rain Check or Refund Request 988
Special Needs Allowances 1519
Restaurant Meals 1519
Service Animal Food 1519
Special Operating Restrictions On Airports 5058
Special Permit Fees Costs To Be Borne By Permittee 5112
Special Permit Policy During Spring Breakup 5111
Suspended Weight Limits 5111
Weight Restrictions 5111
Special Permits For Operations Of Extra-Length/Excess Weight Permit Up To One Hundred Twenty-Nine Thousand (129,000) Pounds Vehicle Combinations 4981
Exceeding Allowed Length and/or Idaho Off-Track Limitations 4982
Permit Attachments 4981
Permit Requirements & Special Requirements 4981
Special Permits For Self Propelled Vehicles 4967
Special Practice(s) Approval For Loans 6058
Special Practice Approval 6058
Special Practice Requests 6058
Special Promotional Activities 131
Activities 131
Fees 131
Special Provisions 4067
Special Provisions Covered In A Petition To Change Or Add Types Of Construction 560
Special Provisions For Private Railcar Fleets 4445
Allocation 4445
Definitions 4445
Miles to Miles Method of Allocation 4445
Special Regulations 5694
Monitoring Requirements for Unregulated Contaminants 5694
Prohibition on Use of Lead Pipes, Solder, and Flux 5694
Special Monitoring for Corrosively Characteristics 5694
Special Monitoring for Sodium 5694
Special Requests 133
Additional Charges 133
Customized Certificates 133
Special Rules 4230
Alternate Methods 4230
Financial Institutions 4235
Act Defined 4236
Adoption of MTC Recommended Formula for the Apportionment & Allocation of Net Income of Financial Institutions 4235
Definition of Financial Institution 4235
Exclusion from Paragraph 582.02.j. 4236
The Apportionment Percentage 4236
In General 4230
Property Factor 4231
Market Rental Rate 4231
Subrents 4231
References Used In MTC Special Industry Regulations 4233
Article IV 4233
MTC Regulations 4234
Tax Administrator 4235
The Apportionment

Percentage 4235
This State 4235
Sales Factor 4231
Commissions & Fee Income Related to the Sale of Another Taxpayer's Real Property 4232
Gross Receipts from Intangibles 4231
Net Gains 4232
Special Industries 4233
Adoption of MTC Special Industry Regulations 4233
References 4233
Special Industry Methods 4231
Special Situations 202
Special Weapon Seasons 1010
Special Weapon Seasons – Archery 1011
Archery Only Season 1011
Traditional Archery Only Season 1011
Special Weapon Seasons – Muzzleloader 1011
Muzzleloader Only Season 1011
Pelletized Powder 1011
Sabot 1011
Special Weapon Seasons – Short-Range Weapons 1011
Short-range Weapon Only Season 1012
Specialized Reimbursement
Certain Home And Community-Based Services 1754
Applicable Home & Community-Based Services 1755
Cost Survey Procedures 1755
Quality Performance Incentives 1757
Reimbursement Rate Setting Methodology 1756
Timing, Description, & Results of Rate Reviews 1755
Specialized Training For Psychosexual Evaluators & Sexual Offender Treatment Providers 5284
Assessment, Treatment, & Management of Adult Or Juvenile Sex Offenders 5284
Deviant Sexual Arousal & Interests 5284
Offending Behavior 5284
Sexually Abusive Behavior 5284
Specific Risk Assessment Tools 5284
Specially Constructed Vehicles 5079
Engine Changes 5079
Specially Constructed Vehicle Examples 5079
Title Application Requirements 5079
Specialty Advertising 3020
Disclaimer 3020
Recognized Specialty License 3020
Unrecognized Specialty 3020
Specialty License 3247
General 3247
Procedure to Obtain Specialty License 3247
Regulations Governing Use of Specialty License 3247
Specialty Plumbing Licenses 510
Applications for Specialty Licenses 511
Examinations for Specialty Licenses 511
Fees 511
Minimum Experience Requirements 510
Mobile Home Set-Up or Installers 511
Qualified Journeyman Plumbers 510
Specific Consent & Disclosure Requirements 2138
Specific Contested Cases Provisions 2147
Specific Pregnancy-Related Services 1724
Specific Requirements 487, 490
Hooks & Chokers 491
Loading & Landing Areas 491
Loading Logs 490
Log Dumps, Landings, Log Handling Equipment, Loading, & Unloading 487
Signal Systems 490
Trailer Loading Hoist/Sawmill Log Dump 489
Specific Requirements - Protection & Advocacy Agencies 2139
Specific Requirements for Radiographic Personnel Performing Industrial Radiography 2367
Specific Requirements Of Certain Filings -- Related Rules 3937
Specifications -- Policies & Development 4902
Brand Name or Equal Specification 4903
Brand Name Specification 4903
Purpose 4902
Specification of Alternates May Be Included 4903
Use of Functional or Performance Descriptions 4902
Specified Low Income Medicare Beneficiary (SLMB) 1546
Effective Dates 1546
Income 1546
Medicare Part A 1546
Nonfinancial Requirements 1546
Other Medicaid 1546
Resource Limit 1546
Specimens 862
Container 862
Delivery to Approved Laboratory 862
Identity 862
Number & Date 862
Speculation In Tickets Prohibited 3429
Exchange 3430
No Other Price 3429
Prevent Speculation 3429
Removal & Possession of Stub 3430
Tickets for Readmission 3430
Speculative Portion Of Value Of Agricultural Land - Examples 4463
Average Property Tax Rate Calculation Example 4464
Capitalization Rate Calculation Example 4464
Cash Rent Agreement Calculation Example 4464
Crop Share Agreement Calculation Example 4465
Cross Reference 4466
Speed Restrictions 5111
Spending 2355
Spokane River, Subsection 110.12, HUC 17010305, Units P-3 & P-4, Site-Specific Criteria For Ammonia 5469
Acute Criterion (Criterion Maximum Concentration (CMC)) 5469
Chronic Criterion (Criterion Continuous Concentration (CCC)) 5469
Sponsor Commitment 3856
Sponsor Deeming 1360
Sponsor Responsibility 1360
Sponsor's Matching Share 3849
Sponsored Legal Non-Citizen 1547
Sponsored Legal Noncitizen's Responsibility 1468
Sponsored Legal Noncitizens 1467
Sponsored Non-Citizen 1592
Spousal Consent 6016
Spouse Applies After Period Of Ineligibility Is Computed 1498
Sprayed on Fireproofing, 07800 569
Spring Breakup Season Type Of Load Restrictions 5110
SSI Method Of Counting Income & Resources Of A Couple 1538
SSI Payments 1509
Stable Name Change 836
Cancellation 836
Name Change 836
Stable Name License 835
Changes of Ownership 835
Trainer 835
Stable Names Prohibited 836
Distinguishable 836
Misleading 836
One Name 836
Real Name 836
Registered 836
Stacking Of Bonds 2899
Staff & Other Individual Record Requirements 2590
Certification 2591
Legal Name 2590

Phone Number 2591
Proof of Age 2591
Record of Hours 2591
Record of Training 2591
Results of Juvenile Justice Records 2591
Verification of Criminal History & Background Check Clearance 2591
Staff Health Requirements, Children's Therapeutic Outdoor Programs 2656
Staff Procedures for Accidents, Incidents, & Additional Policies Required
Complaints 2448
Staff Qualifications 368
Education or Experience 368
Licenses 368
Position Descriptions 368
Staff Qualifications & Staff Development 356
Minimum Qualifications 356
Training & Staff Development 356
Staff Qualifications For Children's Therapeutic Outdoor Programs 2654
Chief Administrator 2654
Field Director 2654
Field Staff 2655
Intern 2655
Program Consultants 2655
Senior Field Staff 2655
Volunteers 2656
Staff Ratios & Group Size 2657
Interns & Volunteers 2657
Staffing Ratio 2657
Staff Ratios Required, Non-Accredited Children's Residential Schools 2652
Staff Recruitment, Hiring, Supervision, Training, Evaluation, Promotion & Discipline 2616
Job Descriptions 2617
Personnel Records 2617
Staff Requirements & Staff Development 331
Gender of Employees 331
Minimum Qualifications 331
Staffing 331
Training & Staff Development Plan 331
Twenty-Four Hour Supervision 331
Staff Training, Children's Residential Care Facilities 2636
Staff Use Of Alcohol Or Controlled Substances Prohibited 2657
Staff Workloads 2625
Caseload Limitations 2625
Supervisor to Staff Ratio 2625
Staffed Safe & Sober Housing For Adolescents 2217
Licensed 2217
Policies & Procedures 2217
Safe & Sober Recovery Skills 2217
Staffed Safe & Sober Housing Services For Adults 2218
Certified Home Inspection 2218
Policies & Procedures 2218
Safety Inspection 2218
Staff Required 2218
Staffing 1103
Hiring 1104
Minimum Qualifications 1103
Staffing Policies 2451
Staffing Requirements & Provider Qualifications 2074
Stage 2 Disinfection Byproducts Requirements 5706
Stairs 2335
Stake Race Applications 800
No Deductions 800
Purse 800
Stake Race Nomination Applications 800
Weights 800
Stake Race Nominations 800
Stake Trials 801
Finals Only 801
Less Than Ten Stalls 801
Trial 801
Stakeholder Involvement 3495
Stakes & Entrance Money Records 732
Stamps-Source, Amount, & Limitations 4571
Filing & Paying Timely 4571
Obtaining Stamps 4571
Physical Security 4571
Unused Stamp Inventory 4571
Standard Conditions 3827
Cancellation 3828
Compliance with Laws 3828
Construction, Operation & Maintenance 3827
Hold Harmless 3828
Land & Water Conservation Fund 3828
Permits Not Exclusive 3828
Removal of Facilities 3828
Term Limited 3827
Utilities 3827
Wetlands 3828
Withdrawal for Park Use 3828
Standard Disregard 1521
Standard Disregard & a Couple 1521
Standard Disregard Exception 1521
Standard Exempt Plate Designators 5103
Standard For Service 3999
Standard Format Outline Of Coverage 2846
Content 2846
Format 2846
Standard Form 2846
Standard License 3247
General 3247
Procedure to Obtain Standard License 3247
Regulations Governing Use of Standard License 3247
Standard License Examination 3247
Practical Examination 3247
Written Examination 3247
Standard Medicare Supplement Benefit Plans For 2010 Standardized Medicare Supplement Benefit Plan Policies Or Certificates With An Effective Date For Coverage On Or After June 1, 2010 2789
General Standards 2789
Make-up of 2010 Standardized Benefit Plans 2789
New or Innovative Benefits 2791
Standard Medicare Supplement Benefit Plans For 2020 Standardized Medicare Supplement Benefit Plan Policies Or Certificates Issued For Delivery To Individuals Newly Eligible For Medicare On Or After January 1, 2020 2792
Applicability to Certain Individuals 2792
Benefit Requirements 2792
Guaranteed Issue for Eligible Persons 2792
Offer of Redesignated Plans to Individuals Other Than Newly Eligible 2793
Standard Of Care 3330
Standard Statement Regarding Uninsured & Underinsured Motorist Coverage 2732
Standardized EMS Certification Examinations 1244
AEMT & Paramedic Psychomotor Examination 1244
Cognitive Examination 1245
EMR & EMT Psychomotor Examination 1244
Standards 919, 2954
Adequate Cash Provision 2954
Any Other Finding 2955
Cash Flow 2955
Competence of Management 2955
Contingent Liabilities, Insurance Companies Deemed 2954
Controlling Person 2955
Examination Reports 2954
Extensive Growth 2955
Failure to Meet Filing Requirements 2955
Failure to Respond to Inquiries 2955
False or Misleading Financial Statements 2955
Insolvency of Affiliate, Subsidiary or Reinsurer 2954
Material Under-Reserving 2955
NAIC Insurance Regulatory Information System 2954
Operating Loss (20% of Surplus) 2954

- Operating Loss (50% of Surplus) 2954
- Receivables 2955
- Reinsurance Program 2954
- Reserves Compliance with Minimum Standards 2955
- Transactions Among Affiliates 2955

Standards - Treatment Of
- Hazards 3237
- Purpose 3237
- Reduction of Total Hazard Points 3237

Standards Applicable To Generators Of Hazardous Waste 5617
- Generator Emergency Notification 5617
- Incorporation by Reference 5617

Standards Applicable To Transporters Of Hazardous Waste 5617

Standards Committee 329
- Modification of Standards by the Standards Committee 330
- Requests for Modification of Standards 330
- Standards Committee Meetings 330

Standards For Benefit Triggers 2844
- Activities of Daily Living, Standards for Benefit Triggers 2844
- Additional Provisions 2844
- Appeals 2845
- Assessments 2845
- Conditions of Benefits Payment 2844
- Determinations of Deficiency 2845
- Effective Date 2845

Standards for Claims Payment 2801
- Certification 2801
- Compliance 2801

Standards For Community Official Signs
- Direction of Sign 5043

Standards For Continuing Education Programs 2909

Standards For Daycare 2587
- Daycare Standards 2587
- Minimum Age of Applicant 2587

Standards for Daycare 2587

Standards For Directional Signs 5043
- Message Content 5045
- Prohibited Directional Signs 5043
- Size of Directional Signs 5044
- Spacing of Directional Signs 5044

Standards For Fire Protection By Individuals 3083
- Approval of Fire Plan Required 3084
- Fire Plans 3084

Standards For Foster Homes 2600

Standards for Foster Homes 2600

Standards for Lights on Oversize Vehicles or Loads, or Both 5105

Standards For Marketing 2809
- Banned Acts and Practices 2809
- Banned Terms 2809
- Issuer 2809

Standards For Marketing & Producer Training 2835
- Associations 2836
- Banned Practices 2835
- General Provisions 2835
- Producer Training Requirements 2837

Standards For Non-Use 3762
- Definitions 3762
- Examples of Acceptable Use 3762
- Non-Use During a Sale 3762
- Process 3762
- Required Records 3762
- Requirement 3762
- Waiver of Compliance 3763

Standards For Owners & Operators Of Hazardous Waste Facilities Operating Under A Standardized Permit 5619

Standards For Owners & Operators Of Hazardous Waste Treatment, Storage & Disposal Facilities 5617

Standards For Professional Conduct & Client Relations 5287
- General Considerations for Certified Evaluators & Certified Treatment Providers 5287
- General Considerations for Certified Post Conviction Sexual Offender Polygraph Examiners 5287

Standards For Raw Milk & Raw Milk Products 65
- Chemical, Bacteriological, & Temperature Standards 66
- Commingled Milk 66
- Requirements 65

Standards For Safety Glazing
- Material 678
- General 678
- Limitation 679
- Restriction 679

Standards For Solo Experiences In Children's Therapeutic Outdoor Programs 2667
- Emergency Procedures 2668
  - Check In 2668
  - Communication 2668
  - Instruction 2668
  - Participant Response 2668
- Plan 2667
  - Ability 2667
  - Back Up Plan 2667
  - Individual Solo Plan 2667
  - Preparation 2667
  - Responsible Staff 2667
- Solo Sites 2667
  - Hazardous Conditions 2667
  - Mapping & Site Coordinates 2667
  - Pre-Site Investigation 2667
  - Supplies 2667
- Supervision 2667
  - Assigned Staff 2667
  - Observation 2667

Standards For The Management Of Specific Hazardous Wastes & Specific Types Of Hazardous Waste Facilities 5618

Standards For The Management Of Used Oil 5618
- Incorporation by Reference. 5618
- Used Oil as a Dust Suppressant 5618

Standards For Universal Waste Management 5619

Standards Of Conduct 3365
- Classification 3365
- License 3365
- Practice 3366
- Professional Responsibility 3366
- Violations 3365

Standards Of Conduct & Practice 3616
- Advertisements 3616
- General Conditions 3616
- Office Standards 3616
- Patient Record 3617
- Sanitation 3616

Standards Of Conduct For Basic Training Academy Students 897
- Notice 897
- Prohibited Conduct 897
- Required Behavior 897

Standards Of Identity - Honey 207
- Moisture Content 207
- Name of the Food 208
- Sugars Content 207
- Treatments 207

Standards Of Practice 3715, 5171
- Anesthesia Standards 5172
- Dispense and Distribute in Good Faith 5172
- Immunization 5171
- Practice Procedures 5171
- Relationship 5172

Standards Of Practice For Advanced Practice Registered Nursing 3375
- Certified Nurse Practitioner 3376
- Certified Nurse-Midwife 3375
- Certified Registered Nurse Anesthetist 3376
- Clinical Nurse Specialist 3376
- Core Standards for All Roles of Advanced Practice Registered Nursing 3375
- Documentation of Specialization 3376
- Purpose 3375

Standards Of Practice For Prescriptive Authority 3566
- Disagreement between Prescribing Psychologist & Licensed Medical Provider 3568
- Disaster Areas 3568
- Emergencies 3568
- Initial Collaboration with Licensed Medical Provider 3567
- Licensed Medical Provider 3566
- Ongoing Collaboration with Licensed Medical Provider 3567

Prescriptions 3568
Prohibited Agreements with Licensed Medical Providers 3568
Release of Information 3567
Standards of Practice for Telehealth 3507
Determining Type of Evaluation 3507
Supervision of Occupational Therapy Assistant 3507
Standards Of Professional Conduct For EMS Education Program & Exam Personnel 1237
Personal Relationships 1237
Professional Conduct 1237
Professional Integrity 1237
Respectful Behavior 1237
Standards Of Professional Conduct For EMS Personnel 2277
Confidentiality 2278
Conflict of Interest 2278
Cooperation & Participation 2278
Ethical Responsibility 2278
Integrity 2278
Knowledge & Proficiency 2277
Method of Treatment 2277
Professionalism 2278
Respect for the Patient 2278
Standards Of The Ethical Practice Of Podiatry 3547
Standing 8 Count In MMA Contest 3450
Starter 735
Assess Jockey's Ability 735
Starter's List 735
Starting Gate 854
Backup Equipment 854
Training Hours 854
Starting Gate Malfunction 803
Breaks Through Gate 803
Considered Starters 803
Malfunction 803
State & Federal Domestic Violence Grant -- Record Keeping Requirements 2164
State Agencies & Junior College Districts, Sick Leave Funding Rates 6029
State Animal Health Official 217
State Employee Contributions 6009
State Highway System Designation 5023
State Income Tax Withholding Required 4271
Employers Other Than Farmers 4271
Exceptions to Withholding Requirements 4271
Farmer-Employers 4271
Services Performed Within and Without Idaho 4271
State Options Elections Under The PI Program 2096
State Procedures 4020
Form 4020
Procedure 4021
State Stores Solicitation & Promotional Presentations 1202
State Veterinarian License 836
State-Funded Guardianship Assistance Eligibility, Requirement, & Benefits 2552
Eligibility for State-Funded Guardianship Assistance 2552
Limitations on State-Funded Guardianship Assistance 2553
Medicaid Benefits Under State-Funded Guardianship Assistance 2553
Nonrecurring Expenses 2553
Statement Of Actuarial Opinion Based On An Asset Adequacy Analysis 2988
Adverse Opinions 2989
Assumptions for New Issues 2989
General Description 2988
Recommended Language 2988
Reliance on Data Furnished by Other Persons 2989
Statement Of Public Policy & Code Of Professional Conduct 3592
Bartering 3595
Business Relationships 3595
Competent Practice for Social Workers 3594
Dual Relationships 3595
The Advertising Rules for Social Workers 3594
The Social Worker's Conduct & Comportment as a Social Worker 3593
The Social Worker's Ethical Responsibility to Clients 3592
Statements About An Insurer 2770
Statewide Bond 3176
Statewide End-User Surcharges 4024
Imposition of Surcharges 4024
Local Exchange Surcharges 4024
MTS/WATS Surcharges 4024
Remittance of Surcharges 4024
Statistical & Reporting System 1576
Status 635
Employer Quarterly Report Forms 635
Notification to Liable Employers 635
Status Information Required 635
Update Requirements 635
Status & Tenure 1160
Probationary Promotions 1160
Tenure of Employment 1160
Statutory Examination & Audit--Contrasted With Other Discovery 3952
Statutory Inspection, Examination, Investigation, Etc. -- Contrasted With Other Discovery 4673
Statutory Inspection, Examination, Investigation, Etc.--Contrasted With Other Discovery 273, 3046
Statutory Standard 6012, 6043
Stay Of Orders 283, 3054, 3968, 4682, 5598
Stay Of Ruling 722
Stays Of Contested Permit Conditions 5960
Permittee Responsibilities 5961
Stays 5960
Stays Based on Cross Effects 5961
Steelhead & Anadromous Salmon Licenses, Tags, & Permits 1053
Licenses 1054
Permits 1054
Steelhead & Anadromous Salmon Methods Of Take 1054
Cease Fishing 1054
Fish Counted in Limit 1054
Hooks 1054
Keeping Marked Fish 1054
Legal Catch 1054
Snagging 1054
Special Limits 1055
Steelhead Purchase Report 1055
Filing Purchase Report 1055
Inaccurate Reporting 1055
Steered Trailers 485, 486
Audible & Visual Warning Devices 486
Responsibility 486
Steered Trailers 485
Train Operations 486
STEMI (Heart Attack) Designation Centers 2293
Sterile Preparation 3884
Application 3884
Compounder Responsibilities 3884
Documentation Requirements 3885
Dosage Forms Requiring Sterility 3884
Environmental Controls 3884
Sterile Preparation Equipment 3885
Steward License 836
Steward's List 730
Identity Established 731
Inconsistent Performance 730
Ownership 730
Stewards 726
Stewards Daily Reports 730
Stewards General Authority 728
Interpret Rules 729
Jurisdiction 728
Other 729
Reported 729
Resolve Conflicts 729
Stewards Enforce Rules 729
Supervision of Officials & Others 729
Suspensions & Fines 729
Stewards On Duty 729
Stewards Qualifications 728
Stewards' Presence 729
In Stands 729

Investigations 729
Notice 729
Stipulations 3047, 3957, 4620, 4675, 5593, 6002
Stipulations, Contested Cases 275
Stock Exchange Listed Securities 946
The American Stock Exchange 946
The Chicago Board Options Exchange 947
The Chicago Stock Exchange 947
The NASDAQ/Global Market & Global Select Market 947
The New York Stock Exchange 946
Tier I of the Pacific Stock Exchange 947
Tier I of the Philadelphia Stock Exchange 947
Stock In Alaska Regional Or Village Corporations 1495
Stock Offerings 2924
Application for Stock Offering Contents 2924
Approval 2925
Concurrent Filing with SEC 2925
Experts 2925
Expiration of Approval 2925
More Than One Class of Stock 2925
Prescribed Provisions 2924
Prior Approval 2924
Public Hearing 2925
Representation of Director's Approval 2926
Stop Work Orders 534
Stopping Of Contest
Injury To Boxer 3440
One-Sided Contest 3440
Stopping The Contest
Contestant Not Honestly Competing 3440
Storage & Shipment Of Split Samples 863
Secured 863
Transfer of Samples 863
Storage Of Poisonous & Toxic Materials, Children's Residential Care Facilities 2639
Store Conversions 1200
Straightaway Races 787
Caused by Horse 787
Effort of Jockey 787
Entitled to Room 787
Fined or Suspended 787
Maintain Position 787
Offending Horse 787
Stray Current Or Voltage Tests 4045
Scheduling of Stray Voltage Tests 4045
Suspended or Limited Testing 4046
Testing Sequence 4046
Streptococcus Pyogenes (Group A Strep) Infections 1309
Investigation 1309
Reporting Requirements 1309
Restrictions - Daycare Facility 1309
Restrictions - Health Care Facility 1309
Restrictions - School 1310
Strikers 1467
Strikers Deemed Employees 644
Strikes 1430
Stroke Designation Centers 2293
Structure & Composition Of The Custody Review Board 351
Board Members 351
Compensation of Board Members 351
Terms of Appointment 351
Student Co-Payment Requirements 2195
High School or GED Student 2195
Post-Secondary Student 2195
Student Defined 1436
Student Enrollment 1436
Students, Educational Program 3399
Stumpage & Interest Payment 3092
Sturgeon 1051
Subchapter A -- General Provisions 6037
Subchapter B -- Distributions 6038
Subchapter C -- Assumptions 6041
Subchapter D -- Contribution Rates 6041
Subchapter E -- Disability Retirement 6042
Subchapter F - Miscellaneous Provisions 6043
Subcontracting 2322
Availability of all Subcontracting Laboratory Records 2322
Availability of the Report from the Subcontracting Laboratory 2322
Identification Requirements for Subcontracting Laboratory 2322
List of Subcontractors 2322
Subcontractors, Volunteers, & Interns 371
Documentation 372
Subcontractor, Volunteer, & Intern Requirements 372
Subcontractors 371
Supervision of Interns 372
Supervision of Volunteers 372
Termination 373
Volunteers & Interns 371
Volunteers of Minimal Use 372
Subject to Review or Audit 852
Subjects Which Qualify 2908
Subleasing 3195
Submission For Decisions, Decisions & Orders 3966
Submission Of Application 2507
Submission Of EMS Personnel Licensure Application & Documentation 2282
Early Submission for License Renewal 2282
EMS Personnel License Expiration Date Falls on a Non-Work Day 2283
Submission Of Fingerprints 2507
Department Fingerprinting Locations 2507
Submission of Reprints 2507
Submitting Fingerprints by Mail 2507
Submission Of FROI & SROI 2704
EDI Reporting 2704
Filing Considered Authorization 2704
Filing Not an Admission 2704
Purpose 2704
Report Form & Content for Parties Exempt from EDI Requirements 2704
Retaining Claims Files 2704
Timely Response Requirement 2704
Trading Partner Agreements 2704
Submission Of Medical Reports From Providers 2702
Forfeiture of Payment 2703
Procedure 2702
Report Form & Content 2703
Timely Response Requirement 2703
Submission Of Plans & Specifications 2330
Construction Compliance Certificate 2330
Plans 2330
Stability 2330
Subpoena 4623
Fees 4623
Issuance of Subpoena 4623
Motion Contents & Timing 4623
Motion to Quash 4623
Service 4623
Subpoenas 273, 3045, 3912, 3952, 4673, 4942, 5591, 6001
Issuance of Subpoenas 3912, 3952
Motions to Quash 3912, 3952
Proof of Service 4942
Request 4942
Serving Subpoenas 4942
Witness or Travel Fees 3912, 3952
Subpoenas Of Employment Security Information
Subpoena from Private Party 604
Subpoena from Public Official 604
Subscription Agreement 941
Subsequent Disclosure - Disclosure Of Conditions In Offer 232
Subsequent Evaluations 2604
Family Functioning 2604
Other Circumstances 2604
Reasonable Access 2604
Update Information 2604
Written Plan of Correction 2604
Subsidiaries of Domestic Insurers 2917
Substance Abuse 2139
Age Sixteen & Over 2140
Drug Abuse 2140
Substance Abuse Assessment 1581

Substance Abuse Screening & Testing
Notice At Application 1580
Screening Requirement 1580
Testing Requirement 1580
Treatment Requirement 1580
Substance Abuse Testing, TAFI
Applicant Or Recipient 1581
Substance Abuse Treatment 1582
Substance Of Orders 3968
Substance Use Disorder Services 2213
Substance VS. Form 629
Substances That Fulfill Requirements For Ophthalmic Preparation 1322
Substantiation, Documentary Proof 236
Substantiation, Truthful Advertising 231
Substitute Care Placement & Children's Agency Notification 2608
Notification to Agency 2608
Substitute Care 2608
Substitute Goods, Insufficient Supply/ Limitation On Quantity 239
Substitute Jockey 730
Substitute Officials 726, 728
Substitute Steward 726
Substitute Stewards 728
Substitution Of Representative 4610
Substitution Of Representative, Withdrawal Of Representative 5583
Substitution Of Representative-- Withdrawal Of Representative 259, 3036, 3929, 4661
Substitution Or Withdrawal Of Representative 4610
Substitutions 3491
Equivalency Policy 3492
Substituting Education for Experience 3491
Substituting Experience for Education 3492
Substituting Experience for Experience 3492
Subsurface Sewage Disposal System Installer's Registration Permit 5845
Subsurface Sewage Or Waste Disposal 5515
Subtraction Of Earned Income Disregards 1521
Successor's Liability 4394
Application for Seller's Permit Number 4394
Copy of Earnest Money 4394
Making Inquiries 4394
Written Inquiry Required 4394
Written Statement from State Tax Commission 4394
Suction Dredges & Non-Powered Sluice Equipment 4776
Limitation of Mining Sites 4777
Mechanized Equipment Prohibited Below High Water Mark 4776
Operating Permit 4776
Operation of Dredge 4776
Permit Required for Non-Powered Operation -- More Than Five People 4776
Permit Required for Non-Powered Operation -- More Than Thirty-Three Percent of Stream Width 4776
Standards for Suction Dredges 4776
Sufficiency Of Claims 4693
Further Information 4697
Single Claim 4693
State Law Claim Form -- Insufficient Claims, Waivers 4697
State Law Claim Form -- Minimum Requirements 4694
Sufficient Financial Resources, Residential Care Facility 2616
Sufficient Recreational Space, Children's Residential Care Facilities 2639
Suggestion For Inquiry About Settlements, Negotiations 3970
Suggestion For Or Inquiry About Settlements 277, 3049, 3962, 4677, 5594
Suicide Precautions 377
Policy Requirements 377
Reporting To The Department 378
Separation Or Isolation 378
Suicide Prevention Plan, Residential Care Facility 2622
Suitability 2837
Appropriateness 2838
Determination of Standards 2838
Disclosure Form 2838
General Provisions 2838
Life Insurance Policies That Accelerate Benefits, Suitability 2837
Rejection & Alternatives 2838
Reporting 2839
Use of Standards 2838
Summaries Of Payments 2704
Approval 2705
Change in Status of Employer 2705
Form 2705
Summaries Requirement 2704
Summary Of Idaho Consumer Grades For Shell Eggs 148
Grades for Shell Eggs -- Table 1 148
Lot Average Tolerance 151
Quality of Dirty or Broken Shell Eggs -- Table 5 150
Summary of Standards for Quality of Individual Shell Eggs 149
Tolerance for Individual Case or Carton Within a Lot -- Table 2 149
Weight Classes 150
Summary Of Position(s) & Testimony 3960
Summary Of Registration -- Statement Filing 2918
Summary Suspension 718
Entitlement to Hearing 718
Issue at Hearing 718
Summary Suspension Of License 1338
Length of Summary Suspension 1339
Prior Notification is not Required for a Summary Suspension 1338
Reasons a Summary Suspension may be Issued 1338
Re-Inspection of Food Establishment 1339
Reinstatement of License 1339
Written Notice of Summary Suspension 1339
Superfecta Pools 766
Dead Heat -- First Place 766
Dead Heat -- Fourth Place 767
Dead Heat -- Second Place 766
Dead Heat - Third Place 766
Distribution 766
Less Than Four Finish 766
Superfecta Pools 766
Supervised Practice Of Provisional Certification Holder 3565
Amount of Supervisory Contact 3565
Domains for Supervision 3565
Hours of Supervision 3565
Number of Patients 3565
Supervising Physicians Of Medical Personnel 3339
Definitions 3339
Duties & Responsibilities of Supervising Physicians 3340
Supervising Veterinarians 5166
A Supervising Veterinarian Shall 5166
Limitations on Supervising Veterinarians 5167
Statement of Purpose 5166
Supervision 2340, 2633, 3500, 3574, 3586, 3715
Documentation of Adjustment 2633
Generally Applicable Supervision Requirements 3586
Limited Permit Holders 3500
Occupational Therapy Aides 3500
Occupational Therapy Assistants 3500
Out-of-State Supervised Experience 3588
Procedures & Interventions Performed by Physical Therapist 3574
Pursuing Licensure As Clinical Social Worker 3587
Pursuing Licensure As Independent Practitioners 3587
Results of Assessment 2633
Special Needs Adoption 2633
Students 3501
Supervision of a Physical Therapist Assistants 3574
Supervision Of Clinical Work 3715

Supervision of Fieldwork 3715
Supervision of Physical Therapy & Physical Therapist Assistant Students 3575
Supervision of Supportive Personnel 3575
Supervision Ratios 3575
Supervision Requirements 3501
Supervision & Support 2629
Contact Documentation 2629
Monthly Contact 2629
Plan of Supervision 2629
Twenty-Four Hour Agency Telephone Access 2629
Written Contract & Reviews 2629
Supervision By Responsible Managing Employee 556
Supervision Of Agents, Investment Adviser Representatives & Employees 966
Broker-Dealer Procedures 966
Investment Adviser Procedures 967
Supervision Required 966
Written Compliance Procedure 967
Supervision Of Credit Insurance Operations 2759
Maintenance of Records 2759
Responsibilities of Insurer 2759
Supervision Of Domestic Cervidae Program 183
Supervision Of Recreational Activity 2641
Cardiopulmonary Resuscitation (CPR) & First Aid 2642
Instruction 2641
Rescue Equipment 2641
Safety Equipment 2641
Staff Coverage 2642
Supervision of Respiratory Care 3351
Supervision Of Trainees 3625
Supervision, Brucellosis 72
Supervision, Tuberculosis Eradication 49
Supervisor Certification 904
Certification 904
Position 904
Training 904
Supervisor For Peer Support Specialist Or Family Support Partner -- Qualifications And Requirements 2231
Bachelor's Degree or Higher 2231
Supervisory Position 2232
Supervisor Requirements 3603
Supervisory Review - Certain Priority I & II Cases, Response Priorities Abuse, Abandonment Or Neglect 2542
Supplemental Documentation 1176
Supplemental Grants 5809
Accrued Interest on Loans With Supplemental Grants 5809
Costs in Excess of Financial Ability 5809
Projects Not Funded by Loans 5809
Supplemental or Subsequent Report of Injury 2687
Suppliers 1200
Advertising 1202
Contact With Licensees 1201
Delisting 1201
Facility Visitations 1201
Liquor Displays 1202
Liquor Shipments 1200
New Listings 1201
Price Quotations 1200
Product Returns 1201
Promotional Samples 1201
Resident Supplier Representatives 1201
Samples 1201
Supplier Representative Permits 1201
Title to Liquor, Wines & Related Products 1201
Violations 1202
Warranties 1200
Support & Maintenance Assistance (HEA) 1495
Support & Spending Plan
Development 1979
Support & Spending Plan Limitations 1980
Support & Spending Plan Requirements 1979
Support Agreement For Voluntary Placements 2536
Support Agreements & Support Orders 2263
Support Agreement for Voluntary Placement 2263
Support Order for Payment of Involuntary Placement Costs 2263
Support Broker Duties & Responsibilities 1976
Additional Support Broker Duties 1977
Required Support Broker Duties 1976
Support Broker Initial Documentation 1976
Termination of Support Broker Services 1977
Support Broker Requirements & Limitations 1975
Application Exam 1975
Initial Application to Become a Support Broker 1975
Limitations 1976
Required Ongoing Training 1976
Termination 1976
Support In Court-Ordered Placement 2536
Support Personnel
Audiology 3663
Audiology Support Personnel – Pre-Service and In-Service Instruction 3665
Audiology Support Personnel – Roles – Restrictions 3664
Supervising Audiologist – Responsibilities – Restrictions 3663
Supportive Service Expenditures 1600
Career Enhancement Assistance Expenditure Requirements 1600
TAFI Cash Assistance or Extended Cash Assistance Expenditure Requirement 1600
Transitional Assistance Expenditure Requirement 1600
Surety Bond Or Other Security 3424
Requirement 3425
Sum Due 3425
Total Sum 3425
Various Locations 3425
Surface Markings 4865, 4876
Surface Reclamation 3289
Compacted Areas 3290
General Clean Up 3290
Reclamation Under a Surface Use Agreement 3291
Regrading 3290
Revegetation 3290
Road Removal 3290
Timing of Reclamation 3289
Topsoiling 3290
Surface Water Quality Criteria For Aquatic Life Use Designations 5454
Cold Water 5455
Acute Criterion (Criterion Maximum Concentration (CMC)) 5455
Chronic Criterion (Criterion Continuous Concentration (CCC)) 5455
General Criteria 5454
Modified 5458
Seasonal Cold Water 5457
Warm Water 5457
Acute Criterion (Criterion Maximum Concentration (CMC)) 5458
Chronic Criterion (Criterion Continuous Concentration (CCC)) 5458
Surface Water Quality Criteria For Recreation Use Designations 5458, 5459
E. Coli Bacteria 5458
Fecal Indicators 5459
Toxics Criteria 5459
Surface Water Quality Criteria For Water Supply Use Designation 5459, 5462
Surface Water Quality Criteria For Water Supply Use Designation Agricultural 5463
Surface Water Quality Criteria For Water Supply Use Designation Industrial 5463
Surface Water Quality Criteria For

Water Supply Use Designationl Agricultural 5462
Surface Water Quality Criteria For Water Supply Use Designationl Domestic 5459, 5462
Surface Water Quality Criteria For Water Supply Use Designationl Industrial 5462
Surface Water Quality Criteria For Wildlife & Aesthetics Use Designations 5463
Aesthetics 5463
Wildlife Habitats 5463
Surface Water Use Designations 5321
Aesthetics 5322
Aquatic Life 5321
Recreation 5321
Water Supply 5322
Wildlife Habitats 5322
Surgical Procedures For Weight Loss
Coverage & Limitations 1642
Abdominoplasty or Panniculectomy 1643
Non-Surgical Treatment for Obesity 1642
Participant Eligibility 1642
Other Medical Condition Exists 1642
Participant Medical Condition 1642
Psychiatric Evaluation 1642
Procedural Requirements 1643
Medically Necessary 1643
Prior Authorization 1643
Provider Qualifications & Duties 1643
Surgical Service 2037
Location of Surgical Department 2037
Operating Room Registry 2038
Physical Facilities 2037
Policies & Procedures 2037
Records 2038
Records Following Surgery 2038
Staff Training & Education 2039
Surgical Service Supplies & Equipment 2039
Surgical Staff 2038
Surrender - Relinquishment 3221
Effective Date 3221
Partial Surrender 3221
Procedure 3221
Surrender Of Parking Permit 4916
Cancellation of Automatic Payroll Deduction 4916
Surrender of Permit 4916
Surrender Or Lapse Of License 1250
Surrender, Termination, Expiration Of Lease 3210
Continuing Obligations 3210
Equipment Removal 3211
Failure to Pay Rental or Royalty 3210
Procedure 3210
Surrender After Termination 3211
Termination for Cause 3211
Surveillance For CWD 191
Domestic Cervidae Ranch Surveillance 191
Slaughter Surveillance 191
Surveyor's Certificate 665
Suspended Solids 5306
Suspension & Revocation Of Instructor Certification Or Endorsement 915
Suspension & Revocation Of Licenses
Additional 3455
Cancellation of Contract Rights 3456
Comply With Suspensions 3455
Continuation 3455
Dishonest Methods 3455
Specific Actions 3455
Temporary Suspension 3455
Suspension For Circumstances Beyond Control Of Foster Parent Or Operator 2585
Suspension Of A License -- Debts In Connection With Training 3454
Suspension Of Idaho Reimbursement Incentive Act
Existing Approved Agreements 3902
Removal of Suspension 3902
Support of Existing Agreements 3902
Temporary Spending Reduction 3902
Suspension Of Idaho Reimbursement Incentive Act. 3902
Suspension Of License 4938
Eighteen Points 4938
Twelve Points 4938
Twenty-Four Points 4938
Suspension Of Licensee For Medical Reason 3436
Medical Suspension - Thirty Days 3436
Not Fit for Competition or Officiating 3436
Suspension Of MMA Contest For Unforseen Reasons
Suspicious Circumstances 3449
Unforeseen Reasons 3449
Suspension Of Payments Pending Investigation 2169
Basis for Suspension of Payments 2169
Duration of Suspension of Payments 2169
Notice of Suspension of Payments 2169
Suspension Of Registration 5088
Failure to Comply 5088
Non-Filing by the Registrant 5088
Suspension Or Revocation For Infractions 2585
Suspension Or Revocation Of License 5261
Suspension Or Revocation Of License--Civil & Criminal Penalties, Bingo/Raffle 5260
Suspension Or Revocation Of Parking Privileges 4915
Delinquent Payment 4916
Parking Privileges Suspension 4916
Reactivating a Suspended Permit 4916
Towing & Impounding 4916
Suspension Or Termination Of Grant 5496, 5578
Causes 5496, 5578
Determination 5497, 5579
Notice 5497, 5579
Reinstatement of Suspended Grant 5497, 5579
Reinstatement of Terminated Grant 5497, 5579
Suspension Or Termination Of Loan Contracts 5874
Causes 5874
Determination 5875
Notice 5875
Reinstatement of Suspended Loan 5875
Reinstatement of Terminated Loan 5875
Suspension or Termination of Loan Contracts 5819
Causes 5819
Determination 5819
Notice 5819
Reinstatement of Suspended Loan 5819
Reinstatement of Terminated Loan 5819
Suspension, Revocation Or Denial Of License 5263
Suspension, Revocation Or Restriction Of Sedation Permit 3027
Suspensions 718
Sustainability 5488
Swimming Pool, Pond, Or Other Body Of Water 2640
Access by Children Five Years of Age & Under 2641
Irrigation Canals or Similar Body of Water 2641
Other Water Safety Precautions 2641
Pools, Hot Tubs, Ponds, & Other Bodies of Water 2640
Staff Person with Lifesaving or Lifeguard Certificate 2640
Swine Brucellosis Eradication Area 84
Switch After Sale 233
Syphilis 1310
Investigation 1310
Reporting Requirements 1310
Testing Without an Informed Consent 1310
System Eligibility 5568, 5859
Assistance to Ensure

Compliance 5860
Eligible Systems 5568, 5859
Systems Not Eligible 5568, 5859

T

Table 5609
Tables 5601, 5801
Chemicals of Interest for Various Petroleum Products 5602
Default Toxicity Values for Risk Evaluation 5602
Table 1 - Minimum Distances From a Public Water System Well 5801
Table 2 - Well Casing Standards for Public Water System Wells 5802
TAFI Approval Before Substance Abuse Screening & Testing Results Known 1582
TAFI Eligibility 1579
TAFI Eligibility During Substance Abuse Treatment 1595
TAFI Or AABD Household Reporting Changes 1456
Tag Validation & Attachment 1009
Tag Validation & Attachment & Proxy Statement 1079
Tags & Permits 1000
Additional Use of Nonresident Deer & Elk Tags 1001
Statewide Hunt Area 1001
Use of Controlled Hunt Tags 1000
Use of General Season Tags 1001
Taking Of Appearances 3929
Taking Of Appearances -- Participation By Agency Staff 4661
Taking Of Appearances--Participation By Agency Staff 258, 3035, 5585
Talking Book Service (TBS) 3920
Circulation 3921
Materials Loaned 3921
Patron Status 3920
Service Suspension 3921
Tangible Personal Property Brought Or Shipped To Idaho 4348
Equipment Brought into Idaho 4348
Licensed Motor Vehicles 4349
Substantive Use 4348
Transient Equipment 4348
Tank Batteries 3285
Containment Requirements 3285
Targeted Service Coordination
Eligibility
Individuals With A Developmental Disability 1934
Age 1934
Diagnosis 1934
Need Assistance 1935
Tariff Advices 3945
Ex Parte Action 3946
Filing of Tariff Advice 3945
Tariff Advices Authorized 3945
Tariff Schedules Of Utilities 3944
Tariffs Submitted Pursuant To Order 3945
Motions With Regard to Tariffs Submitted Pursuant to Order 3945
Order May Require Submission of Tariffs 3945
Staff Review of Tariffs Filed Pursuant to Order 3945
Tax & Late Payment Penalty 5187
Levy & Rate of Tax 5187
Minimum Levy 5187
Opt Out Alternative 5187
Payment of Tax 5187
Tax Advances & Refunds Related To Earned Income Tax Credits 1495
Tax Credit Authorization 3900
Claiming Tax Credit 3900
Duplicate Copy 3900
Tax Exemption For Investment In New Or Existing Plant & Building Facilities Upon County Commissioners' Approval 4481
The Investment in Plant 4481
Tax Exemption For Investment In New Plant & Building Facilities Upon County Commissioners' Approval
Cross Reference 4483
Examples 4482
The Exemption 4482
Tax Exemption For New Capital Investments 4479
Continuation of Tax Exemption Following the End of the Qualifying Period – Centrally Assessed Operating Property 4481
Continuation of Tax Exemption Following the End of the Qualifying Period – Locally Assessed Property 4481
Cross Reference 4481
Failure to Make the Qualifying New Capital Investment 4480
New Construction 4480
Notification of New Capital Investment – Centrally Assessed Operating Property 4479
Notification of New Capital Investment – Locally Assessed Property 4479
Notification of New Capital Investment – Taxpayers Applying on Behalf of both Locally and Centrally Assessed Property 4480
Property of the Taxpayer 4480
Tax Filing Household 1363
Individuals Claimed as a Tax-Dependent 1363
Married Couples 1363
Taxpayers 1363
Tax Levy - Certification - Urban Renewal Districts 4505
Criteria for Determining Whether Levies for Funds Are to Be Computed Using Base Value or Market Value for Assessment Purposes 4511
Cross Reference 4512
Definitions 4505
Establishing & Adjusting Base & Increment Values 4505
Levy Computation for Taxing Districts Encompassing RAAs Within Urban Renewal Districts 4508
Modification of an Urban Renewal Plan 4509
Setting Levies When There is a De-annexation From an RAA 4512
Setting Levies When There is a Refinancing of Bonded Indebtedness 4512
Tax On Corporations 4204
Corporate Income Tax Rates 4204
Excise Tax 4204
Minimum Tax 4204
Nonproductive Mining Corporations 4204
Protection Under Public Law 86-272 4204
Tax On Individuals, Estates, & Trusts 4152
In General 4152
Tables Identifying the Idaho Tax Rates and Income Tax Brackets 4152
Tax Computation 4152
Tax On Trusts -- Electing Small Business Trusts 4154
In General 4154
Tax Rate Applied 4154
Tax Paid By Pass-Through Entities For Owners Or Beneficiaries -- Computation Of Idaho Taxable Income For Taxable Years Beginning On Or After January 1, 2014 4202
Deductions 4202
Double Deductions Disallowed 4203
In General 4202
Income Reportable to Idaho 4202
Tax Preparers -- Alternative Methods Of Signing Income Tax Returns 4583
Tax Refunds 1506
Tax Returns & Other Documents Filed
Electronically 4583
Acknowledgment of Data Transmissions 4583
Methods Allowed for Filing Motor Fuels Tax Returns Electronically 4583
Risks of Disclosure 4583
Signatures 4583
Tax Returns Filed Electronically 4583
Taxable In Another State
In General 4217
In General 4217
Not Taxable in Another

State 4218
When A State Has Jurisdiction To Subject A Taxpayer To A Net Income Tax
In General 4219
When A Taxpayer Is Subject To Tax 4218
Concept of Taxability 4218
Examples of Taxability 4218
Minimum Tax or Fee 4218
Subject to Tax 4218
Voluntary Tax Payment 4218
Taxable In Another State -- When A State Has Jurisdiction To Subject A Taxpayer To A Net Income Tax 4219
Taxable Year & Accounting Period 4145
Change of Accounting Period 4145
In General 4145
Taxation Of Designated Forestlands 4519
Alternate Method to Establish Productivity Classification 4521
Classification of Forestlands 4519
Deficient Areas 4520
Forest Valuation Zones 4519
Forestland Valuation Process 4519
Reclassification of Forestlands 4520
Taxes 3212, 3225
Teacher Working Half-Time Or More 6005
Technical Assistance 1317
Evaluation Results 1317
Notice of Intent to Review 1317
Random Evaluations 1317
Technical Mountaineering/Rock Climbing 3783
Technical Mountaineering/Rock Climbing Guide 3768
Technical Review 3852
Technical Waivers Or Modifications 2346
Director Waiver 2346
Waiver Requirements 2346
Technicalities Of Form 576
Technician Registration 3872
Age 3872
Education 3872
Exemption from Criminal Background Check 3872
Technicians/Technologists 3384
Functions 3384
Supervision 3385
Teens At Risk Program 2255
Application 2256
Contracting Process 2256
Outcomes 2256
Services 2256
Telecommunications Relay Services (TRS) Fund--Establishment & Purpose 4037
Telehealth Services 3027
Additional Requirements 3028
Informed Consent 3028
Licensure & Location 3027
Standard of Care 3028
Telephone 2607
Telephone Company Response To Informal Complaints 4015
Telephone Corporations' Monthly Remittances To The TRS Administrator 4038
Telephone Corporations' Annual Reporting To Administrator 4028
Failure to Comply 4028
Requirement to Report 4028
The Administrator's Compliance Report 4028
Telephone Corporations' Authorization To Impose Surcharges 4025
Local Exchange Companies 4026
MTS/WATS Companies 4026
Telephone Corporations' Monthly Remittances Of USF Surcharges 4027
Failure to Comply 4028
Local Exchange Companies 4027
MTS/WATS Companies 4027
Telephone Solicitations 4018
Telepractice Of Sign Language Interpreting 3667
Telepsychology 3561
Assessment 3563
Definitions 3561
General 3562
Informed Consent 3562
Initial Contact 3562
Interjurisdictional Practice 3563
Security & Confidentiality 3562
Temporary Absence 1481, 1586
Temporary Appointments (Non-Classified) 1152
Hours Limitation 1152
Transition to Classified Service 1152
Temporary Certification 5164
Certification Requirements 5165
Responsibility 5165
Temporary Charge 730
Temporary Exhibitor Permits 111
Application for Temporary Exhibitor Permits 111
Period of Validity 111
Removal 111
Temporary License 3358, 3711
Applicants from Other Countries 3359
Applicants Not in Active Practice 3359
Duration 3711
Fee 3359
General 3711
Issued at Discretion of Board 3359
Temporary Licensure by Examination 3359
Temporary Licensure by Interstate Endorsement 3359
Unsuccessful Examination Candidates 3359
Temporary Licenses 3546, 3553
Temporary Licensure -- Advanced Practice Registered Nurse 3376
Applicants Awaiting Initial Certification Examination Results 3376
Applicants Holding a Temporary Registered Nursing License 3377
Applicants Whose Certification Has Lapsed 3377
Applicants Without Required Practice Hours 3377
Application Processing 3377
Term of Temporary License 3377
Temporary Permit 3246, 3750
Eligibility 3750
General 3246
Permit 3751
Procedure to Obtain Temporary Permit 3246
Regulations Governing Use of Temporary Permit 3246
Temporary Permit Vendor Program 5053
Payment to Vendor 5053
Vendor Authorization 5053
Temporary Permits 3169
Applicability 3169
Bonding 3169
Fee 3169
Permit Term 3169
Processing 3169
Temporary Practice 3640
Assignments & Length of Time Permit Will be Issued 3640
Proof of Current Certification or Licensure 3640
Requirements for Issuance 3640
Temporary Practice Permits 3464
Only One Permit May Be Issued 3464
Supervision Required 3464
Validity of Temporary Permits 3464
Temporary Re-Placement After Disruption 2565
Temporary Suspension & Revocation Of Permits 2331
Cause 2331
Reissue 2332
Revocation 2332
Suspension 2331
Temporary Suspension Of Posted Weight & Speed Restrictions 5112
Temporary Waiver of Spring Breakup 5112
Why Required 5112
Temporary Unavailability Not Reason For Removal 1150
Term 919, 3202
Diligence in Utilization 3202
Lease Term 3202
Yearly Reporting 3202

Term Of Easement 3186
  Federally Licensed Facilities 3186
  Permanent Uses 3186
  Term Easements 3186
Term of Permit 3265
Term Of Rentals 4634
Termination 3793, 4131
  Status of Financing Statement 4131
  Status of Parties 4131
Termination - Cancellation Of
  Lease 3221
  Cause 3221
  Equipment Removal 3222
  Other Wells 3222
  Surrender After Termination 3222
Termination & Suspension Of
  Agreements/Contracts 1127
  Cancellation 1128
  Grounds for Suspension 1128
  Grounds for Termination 1127
  Notice of Suspension 1128
  Notice of Termination 1127
  Request for Review Not a Stay 1127
  Review 1127
Termination & Suspension Of
  Licenses 1121
  Grounds for Termination 1121
  Improvement Plans 1122
  Notice of Termination 1121
  Probation 1122
  Request for Review Not a Stay 1121
  Suspension 1122
  Termination 1121
Termination Of A Contest Due To A
  Fair Blow In MMA Contest 3453
Termination Of A Permit 3112
  Completion of Reclamation 3112
  Involuntary Termination 3112
Termination Of A Plan 3148
  Terminate a Permanent Closure
    Plan 3148
  Terminate Upon Request of the
    Operator 3148
Termination Of Contract 2914
  Delivery of Records to Insurer upon
    Termination of Contract 2914
  Notice to the Department 2914
Termination Of Cooperative
  Agreement 305
Termination Of Fiscal Employer Agent
  Provider Agreements 1994
  Termination of Service to
    Participant 1995
  Termination of the Provider
    Agreement 1994
Termination Of IPDES Permits 5953
  Cause to Terminate Permits 5954
  Expedited Termination Process for
    Terminated or Eliminated
    Discharge 5954
  Request to Terminate or Termination
    Initiated by the Department 5953
  Tentative Permit Termination 5954
Termination Of Mediation 1176
  Failure to Agree 1176
  Settlement 1176
Termination Of Parental Rights 2140
Termination of Parent-Child
  Relationship 2554
Termination Of Provider Status 2169,
  2197
  Failure to Meet Qualifications 2170,
    2198
  Failure to Repay 2170, 2198
  Fraudulent Claim 2169
  Fraudulent or Abusive
    Conduct 2170, 2198
  Immediate Access to
    Documentation 2169, 2198
  Knowingly Makes a False
    Statement 2169, 2198
  Medically Unnecessary 2169
  Non-Compliance With Rules &
    Regulations 2170, 2198
  Submits an Incorrect Claim 2169,
    2198
  Violation of Material Term or
    Condition 2170, 2198
Termination Of Residential Gas &
  Electric Service--Winter Payment
  Plan 3987
  Amount of Payments Under Winter
    Payment Plan 3988
  Applicants Previously Served 3988
  Customers Who Move 3988
  Definitions, Winter Payment Plan,
    Section 306 3987
  Opportunity to Participate in Winter
    Payment Plan 3988
  Restrictions on Termination of
    Service to Households with
    Children, Elderly, or Infirm 3987
  Successive Participation in Winter
    Payment Plan 3988
  Unoccupied Residences -- Failure or
    Refusal to Apply for Service 3988
Termination Of Transitional Living
  Services, Children's Agencies 2629
Termination Of Vendor Status 2102
  Failure to Repay 2103
  Non-Compliance With Rules and
    Regulations 2103
Termination Or Suspension Of Tax
  Credit 3901
  Denial of Tax Credit 3901
  Request for Additional
    Documentation 3901
  Termination of Agreement 3901
Termination or Suspension of Vendor
  1084
Termination, Withdrawal Or Removal
  From Subdivision Pool 6031
Terms & Definitions, IDAPA 16.02.08,
  Vital Statistics Rules 2301
  Assistant Local Registrar 2301
  Attendant At Birth or Stillbirth 2301
  Birth Out of Wedlock 2301
  Confidential Registry 2301
  Current Registration 2301
  Delayed Registration 2301
  Department 2301
  Director 2301
  Expedited Certified Copy 2301
  Local Deputy State Registrar 2301
  Local Registrar 2301
  Mortician or Funeral Director 2301
  Nurse Midwife 2301
  Putative Father 2301
  Registration District 2301
  Relatives of Deceased Qualified
    Adult Adoptees 2302
  Relatives of Deceased Qualified Birth
    Parents 2302
Terms Descriptive Of Shell 145
  Abnormal (B Quality) 145
  Clean 145
  Dirty 145
  Practically Normal (AA or A
    Quality) 145
Terms Descriptive Of The Air Cell 145
  Bubbly Air Cell 145
  Depth of Air Cell 145
  Free Air Cell 145
Terms Descriptive Of The White 145
  Blood Spots or Meat Spots 146
  Bloody White 146
  Clear 145
  Firm (AA Quality) 145
  Reasonably Firm (A Quality) 145
  Weak & Watery (B Quality) 146
Terms Descriptive Of The Yolk 146
  Blood Due to Germ
    Development 146
  Clearly Visible Germ Development
    (B Quality) 146
  Enlarged & Flattened (B
    Quality) 146
  Outline Fairly Well Defined (A
    Quality) 146
  Outline Plainly Visible (B
    Quality) 146
  Outline Slightly Defined (AA
    Quality) 146
  Practically Free From Defects (AA or
    A Quality) 146
  Serious Defects (B Quality) 146
Terms Of Certification For Adoption
  Professionals 2566
  Decertification 2567
  Denial of Recertification 2567
  Lapse of Certification 2567
  Limits of Certification 2566
  Recertification 2566
  Types of Certification 2566
Terms Of Mandatory Exclusions From
  The Medicaid Program 2172
Test 1 -- Cow Contact Test 4048
  Conducting the Test 4048
  Purpose 4048
  Recording the Data 4050
  Selection of Cow Contact
    Points 4048

Source Resistance Calculation 4050
Test 2 -- Forty-Eight Hour Test 4051
Measurement at the Cow Contact Point(s) 4051
Measurement Interval 4051
Purpose 4051
Recording the Data 4051
Reduced Recording Period 4051
Setup 4051
Test 3 -- Primary Profile Test 4051
Conducting the Test 4051
Purpose 4051
Recording the Data 4052
Test 4 -- Secondary Neutral Voltage Drop Test 4052
Conducting the Test 4052
Data Collection 4053
Measurements 4053
Purpose 4052
Recording the Data 4053
Test 5 -- The Load Box Test 4053
Calculating the K Factor 4055
Conducting the Load Box Test 4054
Purpose 4053
Recording the Data 4055
Test 6 -- Signature Test 4055
Conducting the Signature Test 4055
Purpose 4055
Recording the Data 4055
Test Area 855
Test Eligible Cattle 94
All Test Eligible Cattle Entering Idaho 94
Unvaccinated or Vaccinated With Brucella Abortus Strain RB 51 Vaccine 94
Test Eligible Cattle & Domestic Bison In An Eradication Area 79
Unvaccinated or Vaccinated with Brucella Abortus Strain RB 51 Vaccine 79
Test Procedure 3822
Engine Temperature 3823
Operation of OHV 3823
Position of OHV 3823
Test Site 3822
Test Surface 3823
Test Specifications For Certification 5026
Ground Elevation Accuracy 5026
High Altitude & Low Temperature Accuracy 5026
Testimonials Or Endorsements By Third Parties 2768
Disclosure of Financial Interest 2768
Limitations & Restrictions 2769
Retention of Data 2769
Testimonials 2768
Testimony 4905
Testimony Under Oath 275, 3047, 4675, 5593
Testimony Under Oath, Miscellaneous Procedure 3958
Testing 83, 861, 871
Examination 861
Exposed Cattle 83
MCI 83
Random Testing 871
Reasonable Suspicion 871
Specimens 861
Testing 861
Testing & measurement Procedures 4045
Testing & Movement 84
Testing & Movement, Swine 85
Testing Expense 873
Testing Facilities 860
Testing For Certain Reportable Diseases When Informed Consent Is Not Possible 1280
Testing Methods, Domestic Cervidae 190
Testing Period & Credit 33
Testing Procedure 871
Accordance with Established Procedures 871
Retesting 872
Testing Requirements 84, 99
Brucellosis 99
Brucellosis-Free Certification of Domestic Cervid Herds 84
Exceptions 100
Imported Domestic Swine 84
Issuance of Order for Testing, Quarantine, or Disposal of Domestic Cervidae 84
Red Deer Genetic Factor 100
Semen Sold for Artificial Insemination 84
Test Eligible Swine 84
Tuberculosis 100
Testing Split Samples 863
Lab's Willingness to Test 863
Shipping & Testing Fees 863
Split Sample Test Results 863
Submission of Testing Request 863
Unforeseen Circumstances 863
Testing, Treatment, Quarantine, Or Disposal Required 190
Tetanus 1310
Investigation 1310
Reporting Requirements 1310
Tethered Line Safety Requirements 498
Inspection of Tethered Lines 498
Line Tension 498
Tether Line Components 498
The Administrator's Annual Report To The Commission 4031, 4039
Recommendation 4031, 4039
Report a Public Record -- Workpapers Exempted Trade Secrets 4039
Report a Public Record--Workpapers Exempted Trade Secrets 4032
Report of Existing Conditions 4031
Report of Existing Financial Conditions 4039
Report on Use of the TRS Program 4039
Review by Commission Staff 4032, 4039
The Administrator's Compliance Report 4031
The Administrator's Calculations From The Annual Reports 4030
Access 4031
Inventory of Local Service Lines 4030
Statewide Weighted Average Rate for MTS/WATS Access Minute 4030
Weighted Statewide Average Rates for One-Party, Single-Line Residence & Business Services 4030
The Administrator's Quarterly Report To The Commission 4029, 4038
Administrator Fees & Expenses 4030
Administrator's Disbursements 4038
Administrator's Fees 4038
Aggregate Amount 4030
Fund Balances 4030
Fund Balances for the Quarter 4039
Interest Earned 4030
Interest, Contributions & Other Income 4039
List of All Companies 4038
List of Companies Receiving Disbursements 4029
List of Companies Remitting Surcharges 4030
Total Amounts Remitted 4039
Total Number of Local Calls 4039
The Adoptive Placement 2562
The Bunker Hill Superfund Site 5131, 5132
The Commission Secretary's Official File 3963
Documents in File 3963
Public Records 3963
The Commission's Determination Of Funding Levels 4024, 4037
Calculation of Funding Levels 4038
Calculation of Local Surcharges 4024
Calculation of MTS/WATS Surcharges 4025
Findings and Directives of the Order Prescribing Funding Levels 4037
Findings and Directives of the Order Prescribing Statewide End-User Surcharges 4024
Issuance of Commission Order 4024, 4037
The Commissioners' Record 3964
Documents in File 3964
Materials Available at Hearing 3964
The Division's Mailing Address 549
The Hearing Record 3964

The Reporter 3964
The Rulemaking Record 289
  Contents 289
  Recording or Reporting 289
The Sale, Lease, Or Rental Of Real Property 4301
  Hotel, Motel, & Campground Accommodations 4302
  In General 4301
The Starter 798
  Approval 799
  Assistants 798
  Disciplinary Action 799
  Schooled 798
  Starter 798
  Starting Gate 798
Therapeutic Environment Of Residential Treatment 2218
  Contributions of Therapeutic Environment 2219
  Living Conditions 2218
  Resident Sleeping Rooms 2218
Therapies 1765
Therapy Services 1572, 1685
  Coverage & Limitations 1687
    Non-Covered Services
      Occupational Therapy, Physical Therapy, & Speech-Language Pathology 1687
    Service Description
      Occupational Therapy & Physical Therapy 1687
      Speech-Language Pathology 1687
    Service Limitations 1688
  Definitions 1685
    Duplicate Services 1685
    Feeding Therapy 1685
    Maintenance Program 1686
    Occupational Therapy Services 1686
    Physical Therapy Services 1686
    Speech-Language Pathology Services 1686
    Therapeutic Procedures 1686
    Therapist 1686
    Therapy Professional 1686
    Therapy Services 1686
    Treatment Modalities 1686
  Participant Eligibility 1687
    A Therapy Evaluation Establishing Participant Benefit 1687
    A Therapy Evaluation Showing Need 1687
    Physician Order 1687
  Procedural Requirements 1689
    Face-to-Face Encounter for Home Health Therapy Services 1689
    Level of Supervision 1689
    Physician Orders 1689
    Therapy Plan of Care 1689
  Provider Qualifications & Duties 1690
    Occupational Therapist, Licensed 1690
    Physical Therapist, Licensed 1690
    Speech-Language Pathologist, Licensed 1690
  Provider Reimbursement 1690
    Payment for Therapy Services 1690
    Payment Procedures 1690
  Qualified Therapist 1572
  Quality Assurance Activities 1690
    Documentation 1691
    Therapist Conditions & Requirements 1691
    Unreimbursable Services & Penalties 1690
  Services Provided 1572
  Speech Therapy Services 1573
These Rules Supersede The Attorney General's Rules Of Procedure 3924
Third Party Agreements 3761
  Booking Agent 3761
  Employed 3761
  Other Activities 3761
Third Party Liability 1615
  Accident Determination 1616
  Billing Third Parties First 1616
  Determining Liability of Third Parties 1616
  Seeking Third Party Reimbursement 1616
  Subrogation of Legal Fees 1617
  Subrogation of Third Party Liability 1617
  Third Party Liability as a Current Resource 1616
  Third Party Payments 1616
  Withholding Payment 1616
Third Party Payments In Excess Of CSHP Limits 2358
Third-Party Notification--Residential Service 3988
Threatened Or Endangered Species 995
Three Additional Months Of Food Stamps After Regaining Eligibility 1430
Tickets 3428
  Inventory 3428
  Notification 3428
  Removal & Retention After Match, Destruction
    Destruction 3430
    Removal 3430
Tickets Limited To Seating Capacity Of Arena 3428
Tie Responses 4897
  Award 4897
  Drawing Lots 4898
  Tie Responses - Definition 4897
Tie-In Sales 236
Tier II & Tier III Application & Plan Review & Approval 5654
  Application Review 5654
  Application Submittal 5654
  Application Valid for Two Years 5655
  Preapplication Conference 5654
Timber Harvesting 3063
  Drainage Systems 3064
  Location of Landings, Skid Trails, & Fire Trails 3064
  Maintenance of Productivity & Related Values 3066
  Purpose 3063
  Quality of Residual Stocking 3063
  Soil Protection 3063
  Stream Protection 3064
  Treatment of Waste Materials 3064
Timber Sale Auctions 3092
  Requirements 3092
  Requirements for Bidding 3092
Timber Sale Cancellation 3093
Timber Sales 3092
Time & Imposition Of Tax, Returns, Payments & Partial Payments 4377
  Filing Dates--General Rule 4379
  Forms Required 4379
  Payment of Tax 4379
  Returns 4377
  Time & Imposition of Tax 4377
  Use of Estimates Extension of Time Returns 4378
  Valid Return 4378
Time Between Contests 3416
  Forty-Five Days 3416
  Four Days 3416
  Fourteen Days 3416
  Seven Days 3416
  Twenty-One Days 3416
Time For Board Determination 3253
Time for Filing Income Tax Returns 4265
  Due Date of Returns 4265
  Fifty-Two/Fifty-Three Week Years 4266
  Mail 4266
  Timely Filing Defined 4266
Time Frame For Appeal 721
Time Frame For Appication 722
Time Frame For Personnel Licensure After Successful Completion Of Education Course 2279
  Complete Standardized Examination 2279
  Standardized Examination Not Completed 2279
Time Frame For Submitting Application & Fingerprints 2507
  Availability to Provide Services 2507
  Incomplete Application 2507
  No Extension of Time Frame 2508
Time Frames 2159
  Grant Applications for Annual Grants from the Council 2159
  Proposals or Supplemental Grants 2159

Time Frames For Reporting Changes In Household Circumstances 1455
Failure to Report 1456
Reporting Methods 1456
Time Frames For Restoration Of Benefits 1460
Lost Benefits Discovered by Department 1460
Lost Benefits From Fair Hearing 1460
Lost Benefits Reported by Household 1460
Time Limit 1579
Time Limits For Categorically Eligible Households 1421
Time Limits For Expedited Food Stamps 1417
Seven Day Limit for Food Stamps 1417
Seven Days After Discovery 1417
Seven Days for Waived Interview 1417
Shelter Residents 1417
Treatment Centers 1417
Time Limits, Application 1480
Time line for processing a permit application 5842
Time Of Examinations 3516
Time Of Payment Of Hop Assessment Levy 211
Time Of Retirement 6032
Time Of Travel Restrictions For Special Loads 4962, 4972
Additional District Approval & Allowance for Approval Time 4965
Additional Restrictions 4963
Black-Coded Routes 4962
Delaying Movement 4965
Hazardous Travel Conditions Restrictions 4964
Heavy Commuter Traffic Restrictions 4964
Hours of Darkness 4964
Interstate 4962
Map Resources 4965
Nez Perce – Clearwater Forest Safety & Travel Requirements 4962
Red-Coded Routes 4962
Time Period For Filing Petition To Initiate Contested Case 5585
Time To Apply, Intervenor Funding 3949
Timely Disbursement Of Fiduciary Funds 2904
Dispute of Entitlement of Funds 2904
Funds Held for More Than Ninety Days 2904
Refund Received from the Insurer 2904
Remits Premiums 2904
Return Cash Collateral 2904
Return Money Received 2904
Timely Filing Of Petitions To Intervene 264, 3041, 3936, 4669, 5588
General 5588
Petitions Not Timely Filed 5588
Proceedings Involving a Permit 5588
Timely Notice Not Required 1457
Food Stamps Closed or Reduced Because of Intentional Program Violation (IPV) Penalty 1457
Food Stamps Reduced After Closure Notice 1457
Statement of Household 1457
Time-Out 2645, 2665
Children Six Years of Age or Older 2645
Children Under Six Years of Age 2645
Documentation 2645, 2665
Duration 2665
Observation 2665
Observations 2645
Prohibited Locations 2645
Re-Introduction to the Group 2645
Reintroduction to the Group 2665
Review 2646, 2665
Use 2645, 2665
Timer 726, 735, 799
Electronic Timing 799
Maintain Record 736
Post Quarter Times 736
Record From the Instant the First Horse Leaves 735
Record Time 735
Recorded Time 799
Time All Races 736
Timers 799
Timer Malfunction In A Time Trial 802
Accuracy Questioned 802
Average of Times 802
Based on Video 802
Electronic Time Malfunction 802
Malfunction in Some Trials Only 802
Times When Service May Be Terminated -- Opportunity To Avoid Termination Of Service 3990
Applicant Without Service - Customer Requested Termination 3990
Notice of Procedure for Reconnecting Service 3990
Opportunity to Prevent Termination of Service During Premise Visit 3990
Personnel to Authorize Reconnection 3990
Times When Service May Be Terminated 3990
When Termination of Service Is Prohibited 3990
Timetable For Decision--Cable Pole Attachment Proceedings 3948
Timetable For Processing Application For Certificate Of Public Advantage 303
Tires - Balancing, Studding, & Siping 4342
Cross-Reference 4342
Materials Used in Performing a Service 4342
Services Not Subject to Sales Tax 4342
Services Subject to Sales Tax 4342
Title 559, 1561, 2301, 3212, 5613
Title & Purpose 1344, 1996
Title & Scope 31, 47, 60, 63, 64, 70, 86, 104, 107, 117, 126, 133, 135, 144, 155, 164, 171, 176, 195, 206, 211, 214, 225, 253, 292, 308, 313, 326, 350, 355, 359, 415, 417, 420, 423, 503, 520, 540, 545, 554, 557, 577, 588, 594, 600, 606, 625, 640, 643, 644, 649, 668, 675, 676, 678, 680, 683, 685, 694, 700, 704, 716, 724, 738, 778, 783, 805, 809, 820, 828, 838, 845, 857, 870, 875, 887, 928, 929, 932, 935, 970, 972, 974, 976, 992, 998, 1000, 1032, 1039, 1048, 1057, 1068, 1071, 1076, 1080, 1082, 1095, 1102, 1108, 1112, 1115, 1117, 1133, 1175, 1181, 1183, 1192, 1195, 1207, 1216, 1236, 1246, 1248, 1256, 1263, 1268, 1313, 1323, 1346, 1351, 1374, 1476, 1558, 1602, 1737, 1946, 1970, 2063, 2066, 2087, 2089, 2092, 2104, 2128, 2142, 2156, 2183, 2203, 2223, 2234, 2242, 2251, 2268, 2277, 2319, 2353, 2360, 2375, 2498, 2670, 2676, 2682, 2684, 2716, 2729, 2731, 2733, 2735, 2741, 2749, 2752, 2761, 2764, 2766, 2772, 2775, 2778, 2780, 2781, 2782, 2813, 2848, 2864, 2879, 2887, 2899, 2901, 2905, 2906, 2913, 2915, 2927, 2930, 2941, 2954, 2962, 2984, 2986, 2994, 2998, 3003, 3007, 3015, 3032, 3055, 3082, 3091, 3094, 3117, 3150, 3154, 3173, 3178, 3183, 3189, 3190, 3200, 3213, 3226, 3234, 3244, 3254, 3293, 3299, 3320, 3326, 3333, 3344, 3347, 3350, 3353, 3356, 3406, 3414, 3459, 3475, 3500, 3511, 3516, 3527, 3533, 3544, 3550, 3572, 3585, 3598, 3611, 3621, 3629, 3644, 3648, 3653, 3657, 3662, 3676, 3681, 3695, 3708, 3721, 3748, 3754, 3787, 3790, 3794, 3797, 3811, 3820, 3822, 3826, 3831, 3847, 3860, 3863, 3890, 3896, 3904, 3917, 3924, 3972, 3976, 3978, 3996, 3998, 4001, 4002, 4022, 4034, 4041, 4066, 4074, 4078, 4083, 4142, 4288, 4406, 4533, 4553, 4564, 4569, 4578, 4609, 4625, 4631, 4635, 4646, 4656, 4684, 4690, 4698, 4708, 4730, 4741, 4751, 4766, 4789, 4810, 4846, 4860, 4867, 4872, 4880, 4887,

4909, 4919, 4921, 4923, 4926, 4928, 4930, 4931, 4932, 4936, 4940, 4944, 4945, 4948, 4950, 4953, 4957, 4960, 4968, 4978, 4983, 4984, 4989, 5055, 5072, 5073, 5084, 5090, 5091, 5093, 5105, 5116, 5121, 5151, 5154, 5157, 5162, 5187, 5189, 5212, 5215, 5266, 5269, 5271, 5278, 5297, 5486, 5498, 5503, 5563, 5568, 5623, 5657, 5669, 5803, 5844, 5847, 5859, 5876, 6037, 6053, 6063, 6071, 6073, 6077, 6084, 6086
Applicability 3118
Closed Years or Issues 4578
Effective Date 4578
Examination Requirements 4698
Rule Coverage 4708
Rules 4698
Scope 1115, 1236, 2092, 2242, 2906, 4708, 4923, 4953, 5623
Solid Waste Management Facilities Not Regulated Under These Rules 5624
Title 1115, 1236, 2092, 2242, 2906, 4578, 4708, 4923, 4953, 5623
Transactions Before an Effective Date 4578
Variance of Methods 4708
Wastes Not Regulated Under These Rules 5623
Title And Scope 55, 923, 1099, 1119, 3483, 5021, 5023, 5047, 5049, 6068
Title Application Requirements For Replica, Street Rods, Replica Street Rods, And Assembled Vehicles 5081
Applicant Must Provide Proof of Ownership 5081
Inspection by a Motor Vehicle Investigator 5081
Model Year 5081
Title Branding 5077
Brand Disclosure 5077
Branding Time Frame 5077
Brands Removed 5077
Title Insurance Agents And Employees
Acting As Escrow Agents
Bond 2895
Cancellation of Bond 2895
Closing Statement 2894
Control of Funds 2894
Disbursement of Funds or Documents From Escrow -- Requirement for Collected Funds 2895
Escrow Accounting Procedures 2894
Escrow Records 2894
Filing, Approval, Unique Contract or Rate 2891
Liens and Encumbrances, Standards of Insurability and Insuring Around 2890
Mechanics' Liens, Disallowed Risk 2891
Miscellaneous Reports 2890
Notice of Conflict of Interest 2894
Special Exceptions 2890
Usury, Truth in Lending Disclosures 2891
Written Instructions 2894
Title IV-E Eligibility 2533
"Removal From" and "Living With" Requirements 2533
AFDC Eligibility 2533
Agency with Placement Care and Responsibility 2533
Child in Foster Care or Childcare Institution 2534
Child's Age 2534
Child's Citizenship Status 2534
Child's Residence 2533
Compliance with Safety Requirements 2534
Judicial Determination 2533
Physical or Constructive Removal of the Child 2533
Title IV-E Foster Care Child 1369
Title Opinions 4085
Title Vested 779
Title XIX Eligibility 2261
Title XIX Foster Child 2535
Title, Purpose & Scope 2957
Title, Scope & Applicability 1329, 5601
Title, Scope & Intent 5821
Title, Scope & Policy 2165, 2500
Title, Scope, & Applicability 5580
Title, Scope, & Compliance 1136
Title, Scope, & Exceptions 2384
Title, Scope, & Goal 2368, 2518
Title, Scope, & Intent 2290, 2329
Title, Scope, & Limitations 2097
Title, Scope, & Policy 2347
Title, Scope, & Purpose 1405, 1578, 2177, 2208
Incorporation By Reference 1946
42 CFR 1001.1301 - Failure to Grant Immediate Access 1947
42 CFR 442.101 - Obtaining Certification 1947
42 CFR 483.400 - Basis & Purpose 1946
42 CFR 483.405 - Relationship to Other Health & Human Services (HHS) Regulations 1946
42 CFR 483.410 - Condition of Participation Governing Body & Management 1946
42 CFR 483.420 - Condition of Participation Client Protections 1946
42 CFR 483.430 - Condition of Participation Facility Staffing 1946
42 CFR 483.440 - Condition of Participation Active Treatment Services 1946
42 CFR 483.450 - Condition of Participation Client Behavior & Facility Practices 1946
42 CFR 483.460 - Condition of Participation Health Care Services 1946
42 CFR 483.470 - Condition of Participation Physical Environment 1947
42 CFR 483.480 - Condition of Participation Dietetic Services 1947
Code of Federal Regulations (CFR) 1946
IDAPA 07.03.01, Rules of Building Safety 1947
National Fire Protection Association (NFPA) Standard 101, The Life Safety Code, (edition 2000) 1947
Title, Scope, & Responsibilities 2431
Title, Scope, Policy, Purpose, Exceptions, & Exemptions To Licensing 2575
To Whom May Animals be Consigned 91
Tobacco Manufacturers & Distributors 4574
Determining Wholesale Sales Price 4574
Nontaxed Tobacco Purchases from Outside the State 4574
Shipments to Retailers/ Distributors 4574
Tobacco Tax Return 4575
Requirements of a Valid Return 4575
Timing of Filing Return 4575
Tobacco Tax Return 4575
Toilets 2337
TOP Notices, Collection Of Food Stamp Over-Issuance 1462
Total Temporary Disability Alternate Base Period (TTD) 624
Totalizator Or Other Approved Equipment Required 827
Toxic Shock Syndrome 1310
Investigation 1310
Reporting Requirements 1310
Track Clearances 4071
Track Clearances--Existing Tracks 4071
Track Clearances--In General 4071
Track Clearances--Main & Subsidiary Tracks 4071
Track Clearances--Parallel Ladder Or Ladder & Other Track 4071
Track Clearances--Parallel Team, House Or Industry Tracks 4071
Track Security License 836
Tracking Requirements In Games Using Paper Bingo Cards 5250

Bingo Paper -- for Whom Required 5250
Designation of Bingo Paper Color for Games 5250
Documentation for Bingo Paper 5251
Late Players When Bingo Paper Used 5250
Tracking by Bingo Paper Packet 5250
Tracking by Game for Bingo Paper 5250
Tract Indexes Or Abstract Records 2889
Basic Component Parts 2889
Name Index or Indexes 2889
Tractors & Similar Logging Equipment 456
Blades or Similar Equipment 456
Brakes & Steering 456
Guards 456
Operating Condition 456
Pin Connections 457
Repairs or Adjustments 456
Seatbelts 456
Sideguards 457
Starting of Equipment 456
Trade-Ins, Trade-Downs & Barter 4319
Core Charges 4319
Disallowed Trade-In Allowances 4319
Insurance Settlements 4319
Rental/Lease Property Traded-In 4320
Trade-Downs 4319
Trade-In Allowance 4319
Trade-In for Rental/Lease Property 4320
Trade-Ins 4319
Traffic Accident Memorial Permit 5042
Written Approval from the Next of Kin 5042
Written Approval from the Property Owner 5042
Traffic Minute Entries 5047
Trainer Changes 812
Trainer Is Absolute Insurer 813
Chemical Tests 813
Trainer Absent 813
Trainer License 836
Trainer Present 862
Present During Testing 862
Refusal 862
Tag Signed 862
Trainer's Presence In Paddock 813
Training & Informational Materials 1331
Training Program 1128
Certification 1128
In-Service Training 1128
Post-Employment Services 1128
Training Raptors Using Artificially Propagated Game Birds 1067
Establishing Limitations & Guidelines 1067
Permit 1067
Permits Valid 1067
Raptor Field Training, Conditions of Use 1067
Training Requirements 5663
Operator Designation 5663
Requirements 5663
Training 5664
Unattended Sites 5664
Training Requirements For Facilities Admitting Residents With Diagnosis Of Dementia, Mental Illness, Developmental Disability, Or Traumatic Brain Injury (TBI) 2482
Dementia 2482
Developmental Disability 2483
Mental Illness 2482
Traumatic Brain Injury 2483
Training, Children's Agencies 2625
Transaction Exemptions 2736
Contracts Used to Fund 2736
Direct Response Solicitations 2736
Transactions Subject To Prior Notice - Notice Filing 2919
Agreements 2919
Form D 2919
Transcripts 3964
Compressed Transcript 3965
Computer-Searchable Transcript 3966
Form of Transcripts -- Cover Sheet 3964
Marginal Notes 3965
Matters Included in Transcript 3965
Number of Copies -- Binding 3965
Purchase of Transcript 3966
Volume Size -- Number of Pages 3965
Volumes of Transcript--Indices to Volumes 3965
Transfer & Discharge Of Residents
Discharge or Transfer During Absence 3306
Emergency Discharge or Transfer 3306
General Discharge or Transfer 3306
Transfer & Sale of Documents Issued to Vendors 1085
Transfer And Discharge Of Residents 3306
Transfer Fee Suspended 4551
Transfer Of Alcoholic Beverage Licenses 696
Authorization to Transfer & Assignment of Privilege to Renew 696
Death or Incapacity of Licensee 696
Expiration of Licenses 697
Maintenance of Keg Receipts 697
Product Replacement & Credit 697
Temporary Permits 697
Transfer of License Subject to Sanctions 696
Transfer Of Approved Plans 3141
Permanent Closure Plans 3142
Reclamation Plans 3141
Transfer Of Contributions To PERSI 6010
Transfer Of Credit
In General 4261
In General 4261
Terms 4261
Transfer Limited 4262
Notification Of Intended Transfer 4262
Information Required 4262
Timing of Notification 4262
Posting Bond 4262
Posting Bond or Security 4262
Waiver of Bond or Security 4262
Transferee 4262
Carryover Period 4263
Copy of Transfer Form Required 4263
Tax Year Credit Available 4263
Transfer Of Deleterious Exotic Animals 113
Transfer Of Deposit 3981, 4005
Transfer Of Drilling Permits 3272
During Drilling or After Completion 3272
Prior to Drilling Well 3272
Terms for Acceptance of Transfer 3272
Transfer Of Engagements 781
Transfer Of Experience Rating
Continued Predecessor Employment for Liquidation 637
Management or Ownership or Control Substantially the Same 637
Mandatory Transfer of Rate 637
Partial Experience Rate Transfers 637
Wage Paid by Predecessor 638
Transfer Of Hearing Record To District Court 3297
Transfer Of Horse Prohibited 721
Transfer Of IPDES Permits 5953
Automatic Transfers 5953
Transfers by Modification 5953
Transfer Of Jointly-Owned Asset 1553
Transfer Of Ownership 781
Transfer Of Permits 3103, 5841
Basis for Permit Denial 5842
Decision 5842
Transfer of Permits Allowed 5841
Transfer Of Possession 781
Transfer Of Resident 2430
Immediate Jeopardy 2430
Violation of Resident's Rights 2430
Violation of Rules 2430
Transfer Of Resource Not Counted For Disqualification 1444
Resources Less Than Limit 1444

Three Months Before Application 1444
Transfer at Fair Market Value 1444
Transfer Between Household Members 1444
Transfer for Reasons Other Than Food Stamps 1444
Transfer Of Resources 1444
Transfer Of Rights To Future Income Not Valid 1538
Transfer Of Title Or Interest In Aircraft 5058
New Owner Responsibility 5058
Previous Owner Responsibility 5058
Transfer To Defined Contribution Choice Accounts 6034
Transfers 1153
Authority to Transfer 1153
Examination 1153
Involuntary Transfer 1153
Limitation 1153
Probationary Period 1153
Restriction 1153
Transfer Between Agencies 1153
Transfer Within Pay Grade 1153
Transfers Between Related Parties, Occasional Sale 4370
Transfers To Non-Spouse Beneficiaries 6015
Transfers To Trusts 1498
Payment from Trust Not for Participant 1498
Payment from Trust Restricted 1498
Transient noncommunity public water system 5681
Transition For Assumptions Of Business From Another Carrier 2851, 2867
Additional Information 2853, 2868
Conditions for Transfer or Assumption of Entire Insurance Obligation 2851, 2867
Considerations in the Transfer & Assumption of the Entire Insurance Obligation 2867
Exceptions to Ceding or Assumption of Business 2852, 2868
Filing Requirements 2851, 2867
Informational Filings in Other States 2852, 2867
Provisions for Exceeding the Maximum Number of Classes of Business 2852
Request for Extension of the Transition Period 2853, 2868
Requirements for Ceding Less Than an Entire Class of Business 2852
Requirements for Ceding Less Than Entire Business 2868
Restrictions to Apply Eligibility Requirements by Assuming Carrier 2853, 2868
Separate Class of Business 2852
Separate Health Benefit Plans 2868
Time Frame for Filing Plan to Assume or Cede Entire Insurance Obligation 2851, 2867
Transition Management 1835
Provider Qualifications 1835
Service Description 1835
Service Limitations 1836
Transitional Assistance Eligibility Criteria 1598
Controlled Substance Felon 1598
Fleeing Felons 1598
Fraud 1598
Need for Work-Related Services 1598
Parole Violation 1598
Residence 1598
Transitional Assistance Time Limit 1598
Transitional Assistance, TA 1598
Transitional Living Placement 2628
Basis 2628
Essential Services 2628
Living Arrangements 2628
Self-Care 2628
Youths Need for Supervision 2628
Transitional Medicaid For Adults 1366
Transmissible Spongiform Encephalopathies (TSE), Including Creutzfeldt-Jakob Disease (CJD) & Variant CJD (VCJD) 1310
Autopsy 1311
Investigation 1310
Reporting Requirements 1310
Transmittal Of Certificates & Local Records -- Reports 2304
Expedited Certified Copies of Certificates of Death or Stillbirth 2304
Transmittal of Certificates of Birth 2304
Transmittal of Certificates of Death & Stillbirth 2304
Transmittal Of Criminal History Records 701
Transmitted Files 4101
Guide to Be Consulted for Reference 4101
Storage Formats 4101
Technical Standards for Transmitted Files 4101
Transportation 366, 2607
Legal Requirements for Transporting Children 2607
Prohibitions of Foster Child Transportation 2607
Reliable Transportation 2607
Transportation & Notification For Court Proceedings 367
Transportation For Service Plan 366
Transportation Of Children In Restraints Prohibited, Children's Residential Care Facilities 2650
Transportation Of Employees 442
General Requirements 442
Transportation Of Hazardous Material By Rail 4073
Adoption of Federal Safety Regulations 4073
Hazardous Material Defined 4073
Recognition of Federal Exemptions 4073
Transportation Of Hazardous Materials, Substances & Wastes 689
Hazardous Materials 690
Hazardous Substances 690
Hazardous Waste 690
Obligation of Familiarity With Rules 689
Recognition of Federal Waivers 689
Transportation Of Livestock 710
In-State 710
Out-of-State 710
Transportation Of Natural Gas By Pipelines -- Liquefied Natural Gas Facilities -- Transportation Of Hazardous Liquids By Pipeline -- National Fuel Gas Code -- Uniform Mechanical Code 3973
Transportation Services 2216
Direct Routes 2217
Documentation of Drivers' Licenses 2216
Driver Must be Eighteen 2217
Insurance Liability Coverage 2216
Safety of Participants 2217
Transportation Vehicles & Drivers 2216
Transportation, Freight, & Handling Charges 4338
Charges Not Separately Stated 4338
Demurrage 4338
Example 1
Charges for Delivery to the Seller 4338
Example 2
Freight-In Taxable 4338
Example 3
Delivery by Retailer 4338
Example 4
Use of Transportation Charges as a Means of Avoiding Sales Tax 4338
In General 4338
Transporting Children 2643, 2666
Proper Seating of Children & Adults 2643, 2666
Vehicle 2643, 2666
Trapper Education 1089
Exemption 1089
Fee 1089
Mandatory Trapper Education Program 1089
Trapping Big Game Animals 1077
Exceptions for Dispatch 1078
Methods of Take When Trapping 1077
Trapping On Game Preserves &

Wildlife Management Areas 1074
Game Preserves & Wildlife Management Areas 1074
Restrictions 1074
Trapping Reports 1075
Return of Reports & Permits 1075
Trapping Report Completion 1075
Traps 1072, 1078
Checking Traps 1072
Release of Non-Target Catches 1072
Removing Trapped Animals of Another 1072
Trauma Designation Centers 2293
Treatment Center
Responsibilities 1469
FNS Disqualifies Center 1470
Food Stamp Misuse 1470
Give Food Stamps to Departing Client 1470
Return Food Stamps 1470
Treatment Foster Care 2265, 2539
Availability 2266, 2539
Continuing Education 2266, 2539
Payment 2266, 2539
Payment to Contractors 2266, 2539
Qualifications 2265, 2539
Treatment Plan 2266, 2539
Treatment Of Excluded Resources 1444
Treatment Of Gain Sharing Allocations In The Choice Account 6035
Treatment Of Infected Bulls 121
Treatment Of Purchase Of Service Contributions 6033
Treatment Of Resources For Assessment 1536
Excluded Home 1536
Jointly Owned Real Property 1536
Long-term Care Partnership Policy 1536
Resources For Sale 1536
Treatment Of The Section 965 Of The Internal Revenue Code Increase In Subpart F Income & Related Exclusions 4145
Treatment Of Trusts 1555
Irrevocable Trust 1555
Revocable Trust 1555
Treatment Plan 2258
Annual Development of Treatment Plan 2258
Development of Treatment Plan 2258
Goals & Tasks 2258
One Hundred Twenty Day Review 2258
Treatment Restrictions 859
Treatment Services, Program-Eligible Clients 2354
Treatment Techniques 5710
General Requirements 5710
Treatment Techniques for Acrylamide and Epichlorohydrin 5710
Tree Climbing 473
Before Leaving the Ground 473
Climbing Equipment 473
Climbing Operations 473
Rescue Plan 473
Topping Trees 474
Trespass 3195
Civil Action by Lessee 3195
Continuing Trespass 3196
Loss or Waste 3195
Trespass Claims 3196
Trial Grounds 201
Detection of Regulated Pest 201
General Trial Ground Requirements 201
Trial Ground Restrictions & Inspection Procedures 201
Trial Ground Subdivisions 201
Trials Raced Under Same Conditions 801
Conducted On Same Day 801
Conducted On Two Days 801
More Than One Entry 801
Same Conditions 801
Trichinosis 1311
Handling of Report 1311
Investigation 1311
Reporting Requirements 1311
Trichomoniasis 96
Exceptions 97
Tested Bulls 97
Virgin Bulls Less Than Eighteen Months of Age 97
Trichomoniasis Control & Eradication Program 118
Bulls Consigned to Slaughter or to an Approved Feedlot 118
Bulls in Public Grazing Allotments 118
Dairy Bulls 118
Extension of Testing Deadline 118
Virgin Bulls 118
Trichomoniasis Testing Identification 119
Trifecta Pools 765
Coupled Entries & Mutuel Fields 765
Dead Heat -- Second Place 765
Dead Heat -- Third Place 765
Dead Heat for First 765
Distribution 765
Less Than Three Interests Finish 765
Trifecta Pools 765
Tri-Superfecta Pools 772
Cancelled Contest 773
Capped Carryover 773
Carryover Designation 774
Carryover from Past Subsequent Meet 774
Carryover Pool 772
Contest Approval 774
Coupled Entries & Mutuel Field 773
Dead Heat 773
Exchange of Tickets 772, 774
Forfeiture of Rights 772
Prohibited Information 774
Providing Pools 772
Reduced Interests 773
Request to Distribute Carryover 773
Scratched Interest 773
Second-Half Betting Interest Scratch 773
Second-Half Cancelled 773
Tri-Superfecta Pools 772
Winning Precedence 772, 773
TRS Administrator 4036
Appointment & Contract 4036
Contributions, Gifts & Grants 4036
Duties & Responsibilities of Administrator 4036
Truck Road Standards 441
Building Roads 441
Main Truck Roads 442
Operation of Equipment 442
Truckers 5151
Trust Agreements Qualified Under IDAPA 18.01.75 2976
Trust Fund Reserves 2779
Certification by Actuary 2779
Insolvent Condition 2779
Reserve Requirements 2779
Reserves for Disability Income Benefits 2779
Trust Fund Reserves & Surplus 2775
Certification by Actuary 2776
Insolvent Condition 2776
Reserve Requirements 2775
Reserves for Disability Income Benefits 2776
Trust Funds 163
Trust Funds Excluded 1443
Origin & Use of Trust 1443
Trust Irrevocable or Not Changeable by Household 1443
Trust Not Under Control of Household-Directed Business 1443
Trust Unlikely to End During Certification 1443
Trustee Independent From Household Control 1443
Trust Funds, Commodity Dealers Rules 169
Trusts 1496
Trusts -- Residency Status 4149
Nonresident Trusts 4149
Qualified Funeral Trusts 4149
Residency Status of a Trust 4149
Resident Trusts 4149
Trusts As Asset Transfers 1553
Trusts, UCC Information Management System 4130
Truth In Leasing Advertising, Credit Sales Advertising 252
TSE Council 2292
TSE Council -- Responsibilities &

Duties 2292
TSE Designation -- Length Of Designation 2294
TSE On-Site Survey 2296
TSE On-Site Survey -- General Requirements 2296
Communication Between Surveyors & Facilities 2296
Facility Notification to TSE Council of Potential Conflict of Interest 2297
Notification of Decision for Conflict of Interest 2297
Notification to Applicant of Survey Team Members 2296
Survey Team Member Notification of Potential Conflict of Interest 2296
Survey Team Member Requirements 2296
TSE On-Site Survey -- Survey Team Composition 2297
TSE Regions 2292
TSE Regions -- Realignment Of Region 2292
Copies of Request for Realignment 2293
Requesting Entity 2293
TSE Decision for Realignment 2293
Tuberculosis 190, 1311
Active Pulmonary Tuberculosis - Definition 1311
Change of Ownership 190
Cure of Tuberculosis - Definition 1311
Investigation 1311
Reporting Requirements 1311
Restrictions - Day Care Facility 1311
Restrictions - Health Care Facility 1311
Restrictions - Household Contacts 1312
Restrictions - School 1312
Rules & UM&R 191
Tuberculosis Emergency 51
Tuberculosis in Adjacent Area 51
Tuberculosis in Idaho 51
Tuberculosis Indemnity 51
Claims Not Allowed
Animals Sold for Slaughter 51
Attempt to Improperly Obtain Funds 52
Calves 52
Failure to Comply 51
Illegal Imports 51
Premises Not Cleaned 52
Unapproved Test 52
Unidentified Cattle & Bison 52
Untested Animals 52
Indemnity Payments 51
Other Costs 51
Time Limit for Slaughter 51
Verification of Reactors That Die 51
Tuberculosis Screening, Residential Care Facility 2617
Tuberculosis Test Requirements 95
Rodeo Stock 96
Tuberculosis Accredited Free Herd 95
Tuberculosis Accredited Free State or Zone 95
Tuberculosis Accredited Preparatory State or Zone 96
Tuberculosis Modified Accredited Advanced State or Zone 95
Tuberculosis Modified Accredited State or Zone 96
Tuberculosis Non-Accredited State or Zone 96
Tuberculosis Testing 50
Duty to Restrain 50
Records of Tests 50
Tuberculosis Tests 49
Authorized Person 49
Tuberculin Test Interpretation 49
Tularemia 1312
Handling of Report 1312
Investigation 1312
Reporting Requirements 1312
Twin Quinella Pools 767
Contest Cancelled 769
Dead Heat -- First Place 767, 768
Dead Heat -- Second Place 767, 768
Distribution 768
First-Half Scratch 769
Forfeiture of Rights 769
Second-Half Cancelled 769
Second-Half Scratch 769
Twin Quinella Pools 767
Winning Procedure 767
Twin Superfecta Pools 774
Canceled Contest 776
Canceled Second-Half Contest 776
Capped Carryover 776
Carryover Distribution 777
Carryover Held 777
Carryover Pool -- First Race 775
Dead Heat 776
Dividing Pools 775
Exchange Ticket Distribution 776
Forfeiture of Second-Half Rights 775
Late Scratch 776
Prohibited Entries 775
Prohibited Information 777
Request for Carryover 776
Scratched First-Half Interest 775
Scratched Second-Half Interest 775
Twin Superfecta Pools 774
Winning Distribution 775
Winning Precedence 775, 776
Written Approval 777
Twin Trifecta Pools 769
Cancelled Contest 770
Capped Carryover 770
Carryover Designation 771
Carryover from Past Subsequent Meet 771
Carryover Pool 770
Contest Approval 772
Coupled Entries & Mutuel Field 770
Dead Heat 770
Exchange of Tickets 770, 771
Forfeiture of Rights 770
Prohibited Information 771
Providing Pools 769
Reduced Interests 770
Request to Distribute Carryover 771
Scratched Interests 770
Second-Half Betting Interest Scratch 770
Second-Half Cancelled 770
Twin Trifecta Pools 769
Winning Precedence 769, 771
Type 4-Specialty Construction Categories 564
Acoustical Treatment, 09500 570
Alarm Systems, 13850 572
Aquatic Recreational Equipment, 13165 572
Asphalt Maintenance & Repair, Seal Coating, Crack Sealing & Chip Sealing, 02785 566
Asphalt Paving, 02740 566
Athletic & Recreational Surfaces, 02790 566
Blasting, 02319 565
Boiler & Steam Fitting, 15510 573
Bridge Crossings & Box Culverts, 02855 567
Bridge Expansion Joints & Repair, 05830 568
Bridges & Structures, 02850 567
Building Cleaning & Maintenance, 18600 574
Carpentry, Framing & Remodeling, 06100 569
Cathodic Protection, 13110 571
Caulking & Joint Sealants, 07920 569
Chemical Cleaning & Masonry Restoration, 04900 568
Chimney Repair, 15550 573
Circular Prestressed Concrete Storage Tanks (Liquid & Bulk), 13201 572
Climbing Wall Structures & Products, 11485 571
Cold Milling, Rumble Strip Milling, Asphalt Reclaiming & Pavement Surface Grinding, 02965 567
Communication, 16700 573
Concrete Demolition, Concrete Sawing & Cutting, Core Drilling, Joint Sealing & Hydrocutting, 03900 568
Concrete Grouting, 03600 568
Concrete Reinforcing Rebar Installation, 03200 567
Concrete, 03300 567
Construction Zone Traffic Control, 01550 564

Craning & Erection, 01542 564
Crushing, 02720 566
Demolition, 02220 564
Develop Gas & Oil Wells, 18300 574
Dewatering & Subsurface Drainage, 02240 565
Docks - Log & Wood Structures, 06139 569
Doors, Gates, Specialty Doors & Activating Devices, 08100 569
Dredging, 02325 565
Drilled Piers, Pile Driving, Caisson Drilling, Geopier & Helical Piers, 02450 565
Drilling, 02210 564
Drywall, 09250 570
Dust Control, Dust Abatement & Dust Oiling, 02312 565
Earth Retention Systems, Mechanical Stabilized Earth Walls & Retaining Walls, 02260 565
Electrical Specialty Contractor as Defined by Electrical Bureau, 16800
Elevator, Dumbwaiter, Escalator or Moving-Walk Electrical 573
Irrigation Sprinkler Electrical 574
Limited Energy Electrical License (low voltage) 574
Manufacturing or Assembling Equipment 574
Refrigeration, Heating & Air Conditioning Electrical Installer 574
Sign Electrical 574
Well Driller & Water Pump Installer Electrical 574
Electrical, 16000 573
Elevators, Lifts & Hoists, 14200 572
Engineering, 01107 564
Environmental Remediation, Restoration & Soil Stabilization, 02195 564
Excavation & Grading, 02310 565
Excavation, Removal & Handling of Hazardous Material, 02110 564
Fencing, 02820 566
Finish Carpentry & Millwork, 06200 569
Fire Extinguisher & Fire Suppression Systems, 13970 572
Fire Suppression Systems (Wet & Dry-Pipe Sprinklers), 13930 572
Floor Covering & Carpeting, 09680 570
Flooring, 09600 570
Golf Course Construction, 18100 574
Guardrails & Safety Barriers, 02840 567
Gypcrete, 03500 568
Hauling, 02318 565
Hazardous Material Remediation, 13280 572
Heating, Ventilation, & Air Conditioning (HVAC), 15700 573
Horizontal & Directional Earth Boring, Trenching & Tunneling, 02404 565
Installation of Communication Towers, 02580 566
Installation of School Playground Equipment, 02880 567
Institutional Equipment, 10150 571
Instrumentation & Controls, 13800 572
Landscape Maintenance, 02935 567
Landscaping, Seeding & Mulching, 02900 567
Lath & Plaster, 09200 570
Limited Electrical Contractor as Defined by Electrical Bureau, 16800 573
Log & Heavy Timber Construction, 06130 569
Logging, 02231 565
Masonry, 04000 568
Membrane Liners for Ponds & Reservoirs, 02660 566
Non-Electrical Signs, 10445 571
Nonstructural Restoration After Fire or Flood, 18400 574
Ornamental Metals, 05700 568
Painting & Decorating, 09900 570
Pest Control, Sterilization & Herbicide Applications, 02937 567
Petroleum & Vehicle Service Equipment, Installation & Repair, 11140 571
Pipe Fitter & Process Piping, 15100 573
Pipeline Cleaning, Sealing, Lining & Bursting, 02955 567
Plumbing, 15400 573
Post-Tensioned Concrete Structures or Structural Members, 03380 568
Pre-Engineered Building Kits, 13125 572
Prefabricated Equipment & Furnishings, 12011 571
Pre-Manufactured Components & Modular Structures, 13121 572
Pressure Grouting & Slab Jacking, 03650 568
Radon Mitigation, 13290 572
Raised Access Flooring, 10270 571
Refrigeration, 15600 573
Removal of Underground Storage Tanks, 02115 564
Roadway Cleaning, Sweeping & Mowing, 18800 574
Rock Trenching, 02317 565
Rockfall Mitigation & High Scaling, 02270 565
Roofing & Siding, 07400 569
Sand Blasting, 09950 571
Scaffolding & Shoring, 01541 564
Sheet Metal Flashings, Roof Specialties & Accessories, 07700 569
Siding & Decking, 07450 569
Site Clearing, 02230 564
Slope Stabilization, Hydroseeding, Hydromulching, Native Plant Revegetation for Erosion Control, 02910 567
Slurry Walls, 02265 565
Snow Removal, 18700 574
Specially Placed Concrete, Concrete Pumping & Shotcreting, 03370 568
Specialty Coatings, 09960 571
Specialty Machinery & Equipment Installation & Servicing, 11001 571
Sprinkler & Irrigation Systems, 02810 566
Steel Fabrication, Erection & Installation, 05100 568
Steel Stud Framing, 09110 570
Structural Moving, 02990 567
Stucco & Exterior Insulation Finish Systems (EIFS), 07240 569
Swimming Pools & Spas, 13150 572
Temporary Erosion & Sediment Controls, 01570 564
Testing & Balancing of Systems, 15950 573
Thermal Insulation, 07200 569
Tile & Terrazzo, 09300 570
Traffic Marking & Striping, 02761 566
Traffic Signs & Signals, 02890 567
Tree Removal & Trimming, 02232 565
Underwater Installation & Diving, 18200 574
Utilities, 02500 566
Water/Wastewater & Chemical Treatment, 11200 571
Waterproofing & Dampproofing, 07100 569
Welding, 05090 568
Well Drilling, 02520 566
Window, Wall Coverings, Drapes & Blinds, 12490 571
Windows, Glass & Glazing, 08500 570
Types & Amounts Of Assistance 2571
Monthly Cash Payment 2571
Nonrecurring Adoption Reimbursement 2571
Title XIX -- Medicaid Coverage 2572
Title XX -- Social Services 2572
Types & Styles Of Honey 208
Extracted Honey 208

Styles 208
Types Of Accounts Permitted 2902
Accounts in Federally Insured Financial Institutions 2902
Exceed the Federally Insured Limits 2902
Separate Fiduciary Funds Account 2902
Types Of Available Parking 4910
Types Of Certificates Issued 2072, 2107
Initial Certificate 2107
One-Year Certificate 2072, 2107
Provisional Certificate 2072, 2107
Three-Year Certificate 2072, 2107
Types Of Certification 2224, 2322
Certified 2322
Family Support Partner 2224
Interim Certification 2322
Not Certified 2322
Peer Support Specialist 2224
Provisionally Certified 2322
Reciprocity 2322
Types Of Changes That Must Be Reported 1371
Disability 1372
Earned Income 1371
End of Pregnancy 1371
Health Insurance Coverage 1371
Household Composition 1371
Marital Status 1371
Name or Address 1371
New Social Security Number 1371
Support Income 1371
Unearned Income 1371
Types Of Daycare Licenses 2587
Daycare Center License 2587
Family Daycare Home 2587
Group Daycare Facility 2587
Types Of Income To Be Averaged 1450
Child Support 1451
Contract Income 1451
Income Received Less Often Than Monthly 1451
Self-Employment Income 1450
Types of Licenses Sold by Vendor 1083
Types Of Official Identification 181
Electronic Identification 181
Freeze Brands 181
Official HASCO Brass Lamb Tag 181
Official ISDA Cervidae Program Eartag 181
Official NAEBA Eartag 181
Official USDA Eartag 181
Other Identification 181
Ranch Specific Unique Bangle or Lamb Tags 181
Tattoo 181
Types Of Resources 1490
Typical Rigging Systems 474
Figures 013.01-A Through 013.01-N 474

U

U.S. Citizenship & Identity Documentation Requirements 1482
Assistance in Obtaining Documentation 1485
Documents Accepted as Evidence of U.S. Citizenship 1483
Documents Accepted as Proof of Both U.S. Citizenship & Identity 1482
Eligibility for Medicaid Applicants Who Do Not Provide U.S. Citizenship & Identity Documentation 1485
Evidence of Identity 1484
Identity Rules for Children 1485
Individuals Considered as Meeting the U.S. Citizenship & Identity 1485
Provide Verification of U.S. Citizenship & Identity One Time 1485
U.S. Citizenship & Identity Verification Requirements 1357
U.S. Citizenship & Qualified Non-Citizen Requirements 1355
Afghan Special Immigrant 1356
American Indian Born in Canada 1356
American Indian Born Outside the U.S. 1356
Child Born Outside the U.S. 1355
Full-Time Active Duty U.S. Armed Forces Member 1355
Individuals not Meeting the Citizenship or Qualified Non-Citizen Requirements 1356
Iraqi Special Immigrant 1356
Non-Citizen Entering on or After August 22, 1996 1356
Non-Citizen Entering the U.S. Before August 22, 1996 1355
Qualified Non-Citizen Child Receiving Federal Foster Care 1356
Qualified Non-Citizen Entering on or After August 22, 1996 1356
U.S. Citizen 1355
Veteran of the U.S. Armed Forces 1355
Victim of Severe Form of Trafficking 1356
U.S. Citizenship Verification 1355
Benefits During Reasonable Opportunity Period 1355
Citizenship Verified 1355
U.S. Citizenship Verification Requirements 1481
Accepted Documentation 1481
Benefits During Reasonable Opportunity Period 1481
Citizenship Verified 1481
Documents 1481
Electronic Verification 1481
Submission of Documents 1482
UCC Document Delivery 4123
Courier Delivery, at the Filing Office's Street Address 4123
Facsimile Delivery to the Filing Office's Facsimile Filing Telephone Number 4124
Personal Delivery, at the Filing Office's Street Address 4123
Postal Service Delivery to the Filing Office's Mailing Address 4124
UCC Information Management System 4128
Unacceptable Payments 4581
Checks & Drafts From Foreign Institutions 4581
Checks & Drafts Previously Dishonored 4581
Checks & Drafts That Result in Processing Fees 4581
Unauthorized & Nonstandard Encroachments 5018
Compliance 5018
Encroachment Removal 5018
Liability of Applicant 5019
Nonstandard Encroachment 5018
Prohibition 5018
Unauthorized Absences -- Residential & Domiciliary Care 3306
Readmission Requirements 3307
Unauthorized Absences Prohibited 3307
Yearly Maximum 3307
Unauthorized Absences, Residential Care Facility 2614
Unauthorized Change Of A Customer's Telephone Company 4020
Unclaimed Deposits & Advance Payments 3981, 4005
Financial Assistance Program 3981, 4006
Presumption of Abandonment 3981, 4005
Unclaimed Expenses & Checks 5271
Clearance 5271
Confirmation 5271
Unconditional Denial 2509
Appeal of an Unconditional Denial 2510
Challenge of Department's Unconditional Denial 2510
Issuance of an Unconditional Denial 2510
No Exemption Review 2510
Reasons for an Unconditional Denial 2509
Undercover Plate Display 5104
Undercover Plate Status 5104
Emission Testing of Undercover Vehicles 5104
Expiration of Plates 5104
Reissue of Plates 5104

Transfer of Plates 5104
Underground Mining 4356
Exemption Certificate 4357
Nontaxable Purchases 4356
Taxable Purchases 4356
Underground Tanks Out Of Service For One Year, Section 5704.2.13.1.3 International Fire Code 3001
Underpayment 1595
Underpayment Of Child Care Benefits 2196
Underwater Lighting 2337
Undue Hardship Exclusion From Sale Of Jointly-Owned Real Property 1493
Unearned Income 1364, 1445
Agent Orange Payments 1446
Alimony 1445
Contract Income 1446
Contributions 1445
Disability Income 1445
Diverted Support or Alimony 1446
Dividends, Interest, & Royalties 1446
Education Benefits 1446
Funds From Trusts 1446
Garnishments 1446
Government Sponsored Program Payments 1446
Other Monetary Benefits 1446
Prizes 1446
Public Assistance (PA) 1445
Recurring Lump Sum Payments 1446
Rental Property Income 1445
Retirement Income 1445
Strike Benefits 1445
Support Payments 1445
Tribal Gaming Income 1446
Unemployment Insurance 1445
Veteran's Benefits 1445
Workers' Compensation 1445
Unemployment Insurance Benefits 1509
Unfair Practices, Duties Of Referees
Deducting Points 3439
Enforcing the Rules 3439
Warnings 3439
Unforeseeable Conditions, Estimates 239
Uniform Assessment
Requirements 2409
Provider Responsibility for Private-Pay Residents 2409
Results of Assessment 2409
State Responsibility for Publicly Funded Residents 2409
Uniform Gifts To Minors Act (UGMA) 1509
Uniform Parcel Numbering System 4419
Condominiums 4422
Definitions 4419
Parcel Number Cancellation or Retention Upon Property Transfers 4419
Parcel Number Functions 4419
Patented Mines & Patented Mining Claims 4421
Property Split by County Line, Section Line, or Tax Code Area Boundary 4420
Rural Land not Subdivided 4420
Subdivided Rural Land 4421
Subdivided Urban Land 4421
Urban Land not Subdivided 4420
Uniform Standards Of Professional Appraisal Practice/Code Of Ethics 3641
Uniform System Of Accounts For Electric Utilities 3976
Uniform System Of Accounts For Gas Utilities 3976
Uniform System Of Accounts For Telephone Utilities 3977
Uniform System Of Accounts For Water Utilities 3977
Uniformed Services Pay & Allowances 1508
Unintentional Lapse 2819
Notice Before Lapse or Termination 2819
Reinstatement 2819
Union Agreements & Insulated Period 644
Unique Identifier Number (UIN) 4106
Social Security Numbers & Tax Identification Numbers 4107
UIN System 4107
Unit Or Cooperative Plans Of Development Or Operation 3209, 3223
Collective Bond 3223
Contents 3209, 3223
Continuation of Lease 3210
Evidence of Agreement 3210, 3224
IDWR Approval 3209
Interested Parties 3223
Lease Modification 3209, 3224
Rentals 3224
Segregation Prohibited 3224
Term 3210
Unit Plan 3209, 3223
Units 663
Universal Precautions, Children's Residential Care Facilities 2642
Unknown Resources 1492
Unlawful Methods Of Take – General 1012
Unlawful Practices, Commodity Dealer's 170
Unlocked Seclusion 2646
Children Under Six Years of Age 2646
Documentation 2646
Re-Introduction 2646
Restrictions on Seclusion 2646
Review 2646
Staff Supervision 2646
Supervisory Approval 2646
Time Needed 2646
Use of Unlocked Seclusion 2646
Unmarried Parent Under The Age Of Eighteen 1582
Unpaid Community Supports & Services 1974
Unprofessional And Unethical Conduct 3678
Unprofessional Conduct 3028, 3592, 3704, 3741, 3867, 5169
Abandonment of Patients 3029
Advertising 3030
Altering Records 3029
Apprentices 3742
Association with Illegal Practitioners 5170
Association with Others 5170
Compliance With Dental Hygienist Professional Standards 3030
Compliance With Dentist Professional Standards 3030
Consent 3029
Delegating Duties 3029
Discipline 3704
Discipline in Other States 3029
Disclosure 3030
Disease Transmission Prevention 3742
Diversion of Drug Products & Devices 3867
Dividing Fees 3028
Double-Dipping 3742
Excessive Provision of Controlled Substances 3867
Exclusive Arrangements 3867
Exploiting Patients 3030
Failure to Confer 3867
Failure to Cooperate with Authorities 3030
Failure to Counsel or Offer Counseling 3867
Failure to Follow Board Order 3868
Failure to Provide Records to a Patient or Patient's Legal Guardian 3030
Failure to Report 3867
False Testimony 5170
Fraud 3028
Gross Ignorance, Incompetence or Inefficiency 5170
Harassment 3029
Improper Supervision 5170
Inspections & Investigations 3742
Lack of Fitness 3867
Legal Compliance 3030
Mental or Physical Illness 3029
Misrepresentation 3030
Office Conditions 3029
On-Duty Intoxication or Impairment 3867
Patient Management 3030
Practice Outside Scope of

Training 3742
Prescriber Incentives 3867
Prescription Drug Order Noncompliance 3867
Prescription Drugs 3029
Scope of Practice 3029
Sexual Misconduct 3030
Single-Use or Porous Items 3742
Standard of Care 3868
Standards of Conduct 3704
Substandard, Misbranded, or Adulterated Products 3867
Supervision 3029
Unauthorized Treatment 3029
Unethical Conduct 3867
Unlawful Possession or Use of Drugs 3867
Unlawful Practice 3028
Unlicensed Practice 3028
Unnecessary Services or Products 3868
Unsanitary Methods or Procedures 5170
Use of False Information 3868
Use of Intoxicants 3029
Use of MMA 3742
Use of Roll-on Wax 3742
Use of Skin Cutting Instruments 3742
Use of UV Sterilizers 3742
Unprotected Wildlife 996
Unrestricted Access 745
Unsatisfactory Performance During A Promotion Probation Period 1159
Disciplinary Action 1159
Inter-Agency 1159
Intra-Agency 1159
Untagged Gear 1059
Untimely Or Incomplete Quarterly Certification Or Quarterly Escrow Deposit 309
Unused IDFA Funds 6076
Unusual Compensation Pattern Effect On Retirement Calculation 6016
Unusual Incident Notification 2613
Death 2613
Illness 2613
Law Enforcement Authorities 2613
Missing 2613
Removal of Child 2613
Suicide 2613
Unusual Incident Policy, Children's Agencies 2627
Unverified IEVS Data 1448
IRS Reported Unearned Income 1448
Questionable Information 1449
Self-Employment Earnings 1448
Wages 1448
Update Of Records 3722
Updating Criminal History & Background Checks 2515
Department Discretion 2516
Employer Discretion 2516
New Criminal History & Background Check 2515
Use of Criminal History Check Within Three Years of Completion 2516
Upland Game Animals Seasons, Bag, & Possession Limits 999
Upland Game Bird Methods Of Take 1034
Upland Game Birds 1035
Wild Turkey 1035
Upper Snake Basin
American Falls Subbasin 5417
Beaver-Camas Subbasin 5425
Big Lost Subbasin 5429
Big Wood Subbasin 5432
Birch Subbasin 5427
Blackfoot Subbasin 5418
Camas Subbasin 5433
Goose Subbasin 5422
Idaho Falls Subbasin 5410
Lake Walcot Subbasin 5420
Little Lost Subbasin 5428
Little Wood Subbasin 5434
Lower Henrys Subbasin 5412
Medicine Lodge Subbasin 5426
Palisades Subbasin 5408
Portneuf Subbasin 5420
Raft Subbasin 5421
Salmon Falls Subbasin 5424
Salt Subbasin 5409
Teton Subbasin 5413
Upper Henrys Subbasin 5410
Upper Snake-Rock Subbasin 5423
Willow Subbasin 5416
Upward Revision Of CSRA 1537
Urine Samples 866
Lasix 866
Phenlybutazone 866
Use 3791
Commercial Use Prohibited 3791
Public Use 3791
Use & Disclosure Of Confidential Information 2132
Alternative Communication 2132
Collateral Contact 2132
Discovery 2133
Identity 2132
Order of Court or Hearing Officer 2132
Referent 2132
Restriction on Disclosure of Health Information 2132
Use & Storage Of Dried Blood Specimens 1319
Prohibited Use of Dried Blood Specimens 1319
Storage of Dried Blood Specimens 1319
Use of Dried Blood Specimens 1319
Use Of A Recreational Facility, Instructional Fees, & Pari-Mutuel Betting 4402
Dues 4402
Instructional Fees 4402
Pari-Mutuel Betting 4402
Use of a Recreational Facility 4402
Use of Tangible Personal Property 4402
Use Of An Architect's Seal 3410
Use of Bait for Hunting 1076
Containers 1077
Establishment of Bait Sites 1077
Location 1076
Time 1076
Types 1076
Use Of Chemicals & Petroleum Products 3074
Aerial Application 3075
Container Disposal 3076
Daily Records of Chemical Applications 3075
Ground Application With Power Equipment 3075
Hand Application 3075
Licensing, Pesticide Application 3074
Limitations on Applications 3075
Maintenance of Equipment 3074
Misapplications 3076
Mixing 3074
Petroleum Products 3074
Purpose 3074
Spills 3076
Use Of Chinden Office Complex
Authorized Uses by the Public 4881
Priority of Uses 4882
Prohibited Uses 4881
Use Of Controlled Hunt Tags 1005
Black Bear 1006
Deer 1005
Elk 1005
Pronghorn 1006
Use of Controlled Hunt Tags 1005
Use Of Controlled Substances 870
Use Of Credit Factors 2729
Application of Rule 2729
Information Used in Reviewing Insurer's Decision 2730
Use Of Dogs 1068
Use Of Earthen Reservoirs 3280
Use Of Force Or Physical Restraints 393
Minimal Use of Force 393
Physical Force 393
Reporting Requirement 393
Use Of Formulary Drugs 3699
Use Of Guidance 5690
Use Of Guidance In Design & Review 5503
Use Of IEVS Information For Applicant Households 1448
Use Of Interior State Facilities 4869
Authorized Uses by the Public 4869
Prohibited Uses 4869
Use Of Manufacturers' Installation Instructions 554
Use Of Medications 404, 412

Medication Management Upon Arrival 412
Notification 404, 412
Written Policy 404
Use of Model COB Contract Provision 2882
Coordination of Benefits 2882
Coordination of Benefits Attachment 2882
Use Of Modular (i.e., Factory Built) Buildings & Manufactured Homes 2472
Use of Motor Vehicles 3834
Compliance With Posted Regulatory Signs Required 3835
Motorcycle & ATV Safety Helmets 3835
Obedience to Traffic Direction Required 3835
Official Use 3835
Overdriving Road Conditions & Speeding Prohibited 3835
Restrictions 3835
Snowmobile Operation Limited 3835
Use of Parking Spaces for Persons With a Disability 3835
Use Of NCEES Model CPC Standard 664
Use of Negotiations 4899
Use Of Non-Centralized Treatment Devices 5707
Criteria & Procedures for Public Water Systems Using Point of Entry Devices 5708
Point of Use (POU) Treatment Devices 5708
Use of Bottled Water 5710
Use Of Other Anesthesia Personnel 3027
Advertising 3027
Facility, Equipment, Drugs, & Personnel Requirements 3027
Patient's Condition Monitored Until Discharge 3027
Use of Services of a Qualified Sedation Provider 3027
Use Of Public Funds & Benefits 2259
Use Of Rates - Direct Business Only 2758
Approval Period of Deviated Rates 2759
Terms and Definitions Applicable to this Section 2759
Use of Prima Facie Rates 2758
Use of Rates Higher Than Prima Facie Rates 2758
Use of Rates Lower Than Filed Rates 2759
Use Of Ratio Study To Equalize Boise School District 4432
Abstracts of Value for the Boise School District 4434
Assessor to Identify Boise School Districts 4434
Certification of Values 4434
Cross References 4435
Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination 4434
Procedures for Boise School District Ratio Studies 4432
Urban Renewal Increment & Exemption to be Subtracted 4434
Use of Property Designations 4434
Use Of Ratio Study to Test for Equalization in Counties 4415
Cross References 4416
Equalization Ratio Study 4415
Exception from Requirement for at Least One Observation for Use of Secondary Category in Adjusted Value Determination 4416
Follow-Up Ratio Study 4415
Notice of Follow-Up Ratio Study 4415
Reasonable Statistical Certainty 4416
Submission of Additional Information 4416
Tested For Equalization 4415
Use of Alternate Ratio Study 4416
Use of Ratio Study Results 4415
Use Of Recreational Facilities 4882
Use Of Registers With Reemployment Preference 1157
Consideration for Hire by Other Agencies 1157
Employment by Other Agency 1157
Priority for Reemployment by Agency that Conducted the Layoff 1157
Return to Register 1157
Use Of Reports 3975
Use Of Similar Terms 236
Use Of State Capitol Exterior 4873
Authorized Uses by the Public 4873
Priority of Uses 4873
Prohibited Uses 4873
Use Of State Facilities 4862
Authorized Uses by the Public 4862
Priority of Uses 4862
Prohibited Uses 4862
Use Of Statistics 2769
Requests for Use of Statistical Information 2769
Restrictions on Representations 2769
Source of Statistics 2769
Use Of Submitted Records And Data 1247
Data Reports 1247
Patient Care Reports 1247
Use Of The Chinden Office Complex 4881
Public Access to Interior 4882
Use Of The Combined Report 4216
Dividends & Other Intangible Income 4217
Filing Returns 4217
In General 4216
Net Operating Loss 4216
Nexus 4216
Separate Computations 4216
Throwback Sales 4217
Use Of The Uniform Assessment Criteria In Determining Facility Staffing 2484
Use Of The Uniform Assessment Instrument For Determining The Ability Of The Supported Living Services Provider To Meet Clients' Needs 2088
Use Of The Uniform Assessment Instrument In Determining Facility Staffing Ratios 2088
Use Of The Uniform Assessment Instrument In Developing The Client's Service Plan 2088
Use Of Titles, Abbreviations, & Designations For The Practice Of Nursing 3380
Licensed Practical Nurse Title 3380
Registered Nurse Title 3380
Title for Graduates 3380
Titles for Advanced Practice Registered Nurses 3380
Use Of Tobacco Products, Alcohol, & Illegal Drugs Prohibited, Children's Residential Care Facilities 2643
Use, Facility, Or Structure Modification 3186
User Access Fees 879
Billing & Payment 880
ILETS Network User Access Fees 879
Payment of Fees Required 879
Sanctions for Delinquency 880
Usage Fee 879
User Agency Sanctions 883
Class of Sanctions 884
Effective Date of Sanctions 884
Form of Sanctions 884
Objective of Sanctions 883
Reinstatement 884
Review of Violations 883
User Exception 3860
User Fees, Charges & Income 3858
Nonrecreational User Fees 3858
User Fees 3858
User Responsibilities 880
Background Checks of Terminal Operators Required 880
Hit Confirmation 880
Minimum Training 880
Record Validation 880
Terminal Agency Coordinators 880
User Agreement 880
Uses Interfering With Access Or Use Of Facility 4863, 4869, 4874, 4883
Interference With Access 4869,

4874
Interference with Access 4863, 4883
Interference With Primary Use of Facility or Real Property 4869
Interference with Primary Use of Facility or Real Property 4863, 4883
Interference With Primary Use of State Capitol Exterior 4874
Utility 4043
Utility Allowances 1453
Limited Utility Allowance (LUA) 1453
Minimum Utility Allowance (MUA) 1453
Standard Utility Allowance (SUA) 1453
Telephone Utility Allowance (TUA) 1453
Utility Payments 1506
Utility Response To Informal Complaints 3992
Response to Commission 3992
Utility Service 4865, 4871, 4876, 4885
Utilization Logs 2366
Utilizing Physician Assistants, Licensed Registered Nurses Or Advanced Practice Registered Nurses 1223

V

VA Compensation Payments 1509
VA Educational Benefits 1509
VA Monetary Allowances To A Child Born With Spina Bifida 1496
Vacation & Contractual Payments Subject To Contributions 6010, 6041
Vacation Leave 1167
Eligibility 1167
Interagency Transfer 1167
Mutual Agreement 1167
Rate of Accrual 1167
Vacuum Pumps Prohibited 3280
Valid Claims 780
Deposit Envelope 781
Funds on Deposit 780
Horses Name 780
Sealed Envelope 780
Time of Day 780
Written Claim Form 780
Valid Income Tax Returns 4264
Copy of Federal Return Required 4264
Requirements of a Valid Income Tax Return 4264
Verification of Idaho Income Tax Withheld 4264
Valid Veterinarian/Client/Patient Relationship 5169
Availability 5169
Medical Knowledge 5169
Responsibility 5169
Validation Stickers 3803
Removal of Stickers 3803
Size & Location Of Stickers 3803
Validity & Duration Of Permits 5840
Valuation Of Improvements 3197
Applicant Review of Department Improvement Credit Valuation 3197
Duties of the Independent Third Party 3197
Failure to File a Timely Notice of Objection 3197
Notice of Objection 3197
Notification of Final Improvement Value 3197
Selection of an Independent Third Party 3197
Value Of Plan Assets 6033
Value Of Recreational Vehicles For Annual License Registration & Taxation Of Unregistered Recreational Vehicles 4406
Assessment Notice Mailed or Assessment Canceled 4408
Value of Motor Home or Van Conversion For Registration Fees 4407
Value of Recreational Vehicle For Registration Fees 4406
Value of Vehicles Designed for Combined RV & Non-RV Uses for Registration Fees 4408
Value Of Residential Property In Certain Zoned Areas 4460
Qualifying Residential Improvements 4460
Residential Property 4460
Variable Fees 4692
Claims Including Storage 4693
Exceptions 4693
General 4692
Multiple Purpose Claims 4693
Per Acre Fee 4692
Per CFS Fee 4692
Per Kilowatt Fee 4692
Variance 55, 3083
Department Response to Request for Variance 3083
Obtaining a Variance 3083
Procedure for Seeking a Variance 55
Support & Withdrawal of Petitions 56
Variance Applications For TSD Facilities Or Sites 5620
Applicant to Bear Costs 5620
Application Contents & Standard of Review 5620
Director's Decision 5620
Public Hearings 5620
Public Information 5620
Variance To The Two Resident Limit 2396
Additional Training 2397
Annual Home Inspection 2397
Application for Variance 2396
Fire Drill Frequency 2398
Other Employment 2397
Reassessment of Variance 2397
Shared Sleeping Rooms 2397
Variance Nontransferable 2397
Variances 2440, 5983
Continuing Temporary Variance 2440
Decision to Grant a Variance 2440
Expedited Variance Procedures & Time Extensions 5985
Permanent Variance 2440
Permit Variance Decision Process 5985
Revocation of Variance 2440
Special Procedures for Decisions on Thermal Variances 5986
Temporary Variance 2440
Variance Requests by non-POTWs 5983
Variance Requests by POTWs 5984
Written Request 2440
Variances From Water Quality Standards 5463
Specific Variances 5464
Variances 5463
Vehicle - Manufacturer's, Rental Company's, & Dealer's Purchase Or Use Of Vehicles 4385
Applicability of Rule 108 4386
Buying for Resale 4385
Dealer Plates 4385
Inventory Withdrawals by Dealers 4385
Inventory Withdrawals by Rental Companies 4385
Service Vehicles 4385
Titling a Vehicle 4385
Vehicle Dealer License Plates Formats 5095
Designation for Dealer Plates 5095
Designation for Manufacturers Plates 5095
Vehicle Dealer License Plates Restrictions 5095
Penalties 5096
Restrictions 5095
Vehicle Dealer Loaner Plates 5096
Fees 5097
Identification Card 5096
Letter of Authorization 5097
Numbering 5096
Surrender of Plates 5096
User Fee 5097
Vehicle Log 5096
Vehicle Use Donation for Civic & Charitable Events 5097
Vehicle Dealer Transporter Registration & Plate 5097
Numbering of Plates 5097
Penalties 5097
Possession of Registration 5097
Purpose 5097
Renewal of Plates 5097
Use of Plates 5097

Violations 5097
Vehicle Identification Number (VIN)
Inspections 5076
Authorized Inspectors 5076
VIN Inspections Required 5077
Vehicle Safety Requirements 2078
Applicable Laws, Rules, & Regulations 2078
Liability Insurance 2078
Licenses & Certifications for Drivers & Vehicles 2078
Preventative Maintenance Program 2078
Transportation Safety Policy 2078
Vehicle Sales, Rentals, & Leases 4379
Cross-References 4381
In General 4379
Vehicles Purchased From Idaho Dealers 4379
Vehicles Purchased From Private Parties 4380
Vehicles Purchased from Retailers 4380
Vehicles Rented or Leased 4380
Vehicle Titling 5103
For Exempt Registration & License Plates 5103
Undercover Vehicle Titling 5103
Vehicles 366, 1441, 1492, 1586, 1968, 5032
Accelerating Engine 5032
All Other Vehicles Are Subject To Federal Regulations 1441
All Other Vehicles Subject to Federal Regulations 1587
Careless Driving 5032
Compliance with Applicable Laws 366
Condition 366
Driving or Parking 5032
Exclude One Vehicle Per Adult 1441, 1587
Maintenance & Equipment Checklist 366
Motor Vehicle Licensing Requirements 1968
One Vehicle Excluded 1492
Other Vehicles Not Excluded 1492
Paths/Roads/Trails in Rest Areas 5032
Rates of Speed 5032
Skateboards/Rollerblades 5032
Vehicle Safety Policy Content 1968
Vehicles & Vessels - Gifts, Military Personnel, Nonresident, New Resident, Tax Paid To Another State, Sales To Family Members, Sales To American Indians, & Other Exemptions 4381
Bulk Sale Transfers 4383
Gifts of Vehicles 4381
In General 4381
Military Personnel 4382
Motor Vehicles & Trailers Used in Interstate Commerce 4384
New Residents 4382
Purchases Brought into Idaho by Nonresidents 4381
Related Party Transfers & Sales 4384
Sales to American Indians 4383
Sales to Family Members 4383
Sales to Nonresidents 4384
Tax Paid to Another State 4382
Vehicles, Domestic Animals, Baggage, & Objects 5058
Domestic Animal Droppings 5059
Domestic Animals 5058
Livestock 5059
Parking 5058
Unattended Objects or Baggage 5059
Vendor Agreements 2101
Vendor Classification 1082
Class Five 1082
Class Four 1082
Class One 1082
Class Six 1082
Class Three 1082
Class Two 1082
Exceptional Service 1082
Vendor Fees 3789
Vendor Location Not Movable 1083
Vendor Or Participant Notification 2103
Vendor Suspension & Termination 3788
Suspension 3788
Termination 3788
Vendor's License Required 5260
Vendors To Obtain Evidence Of Ownership Prior To Issuing Certificates Of Number 3789
Venereal Diseases 2140
Ventilation 2337, 3801
Alternative Ventilation System 3801
Collection of Vapors or Gases 3801
Compartments With Gasoline Engines 3801
Exhaust Blowers 3801
Natural Ventilation System 3801
Ventilation Required 3801
Venues Of Continuing Education For Personnel Licensure Renewal 2288
Agency Medical Director-Approved Self-Study or Directed Study 2288
Author or Co-Author an EMS-Related Article in a Nationally Recognized Publication 2288
Case Reviews & Grand Rounds 2288
Distributed Education 2288
Evaluator at a State or National Psychomotor Exam 2289
Journal Article Review with an Evaluation Instrument 2288
Nationally Recognized Courses 2288
Refresher Programs 2288
Regional & National Conferences 2288
Simulation Training 2289
Structured Classroom Sessions 2288
Teaching Continuing Education Topics 2288
Verbal Request For End Of Food Stamps 1459
Verbal Requests For Information 4121
Attempts to Respond 4121
SOS Responsibility 4121
Time Computation 4121
Written Confirmation 4121
Verification 317, 1415
Verification & Documentation Of Correction 1340
Risk Control Plan 1340
Written Report of Correction 1340
Verification For TAFI Or AABD Households 1421
Verification Of Citizenship & Identity One Time 1360
Verification Of Data Entry, Filing & Data Entry Procedures 4134
Verified IEVS Data 1448
AABD 1448
Benefit Data Exchange (BENDEX) 1448
Medicaid 1448
State Data Exchange (SDX) 1448
TAFI 1448
Vertical Clearance Requirements 4976
Overhead Power Lines 4976
Overhead Traffic Signals 4976
Permit for Over height 4976
Vesicular Stomatitis 92
Certificate of Inspection 92
Permit for Entry 92
Vessel Liveries - Equipment 3802
Vessel Numbers -- Display, Size, Color 3802
Manufacturers & Dealers 3803
Requirements 3802
Special Circumstances 3803
Vessel Numbers -- Form 3803
Numbering 3803
Prohibited Letters 3803
Vet Assistant License 836
Veteran's Benefit – Continued
Eligibility After Death Of Claimant 4488
Application By Surviving Spouse 4489
Surviving Spouse 4489
Veterinarian License 836
Veterinarians & Veterinary Supplies 4326
Drugs & Other Supplies 4326
Equipment & Supplies 4326
In General 4326
Retail Sales of Drugs &

Supplies 4326
Services Provided to Exempt Customers 4326
Veterinary Technician Certification -- Renewal 5167
VHSV Positive Areas 101
Victim Assistance Grant
Distribution 2161
Distribution of Victim Assistance Grants to Priority Categories & Regions 2162
Distribution of Victim Assistance Grants Within Priority Categories & Regions 2162
Timing and Duration of Grant Awards 2162
Victim Of Other Crime 2135
Best Interest of the Individual 2135
Incapacity of Victim or Emergency Circumstance 2135
Victims 354, 5199
Notice to Victims 354
Testimony 5199
Victim Testimony 354
Victims' Compensation
Payments 1495, 1506
Video Records 800
Videotaping System 854
Location 854
Monitors 854
Objection 854
Oval Track 854
Stewards 854
Straight Course 854
Videotape Copy 854
Videotapes Maintained 854
Violation 132
Violation & Enforcement 5142
Liability of Violator 5142
Other Action 5142
Successive Days in Violation 5142
Violation of Rules 5142
Violation Grounds For Licensing Action & Animal Removal 1047
Violation Of Code 421
Duty to Act 421
Imminent Safety Hazard 421
Violation Of Rules 103
Violation Of Water Quality Standards 5319
Discharges Which Result in Water Quality Standards Violation 5319
Short Term Activity Exemption 5320
Temperature Exemption 5320
Violation Penalties, Section 109.4, International Fire Code 2998
Violation Point Count System 4936
Dual Violation 4936
Exemptions 4936
Points Assessed 4936
Points for Moving Traffic Violations 4936
Speeding Violation 4936
Violation Point Count List 4936
Violations 223, 726, 869, 1141, 2365, 2730, 5502, 5655, 5842
Detected 869
Discharges 5842
Failure to Comply 5502, 5655, 5842
Falsification of Statements & Records 5502, 5655, 5842
First Violation 869
Not Detected 869
Penalties 5502, 5655
Second Violation 869
Third Violation 869
Violations - Penalties 3171
Cease & Desist Order 3171
Injunctions, Damages 3171
Mitigation, Restoration 3171
Noncompliance Resolution 3171
Notice of Noncompliance/Proposed Permit Revocation 3171
Revocation of Lake Encroachment Permits 3172
Violations 3171
Violations & Penalties 1345
Employer Fined for Violation 1345
Employer Responsible to Request Person to Stop Smoking 1345
Employer Who Discriminates Against an Employee 1345
Responsibility of Employer 1345
Smoker's Refusal to Comply 1345
Violations Reported to Law Enforcement 1345
Violations Of Other Laws & Court Orders
Federal & State Laws 232
Federal Trade Commission Consent Decree 232
Judicial Order 232
Violations Of Other Laws And Court Orders 231
Violations That May Result In Administrative Actions 1249
Violations That May Result In Fines
Being Imposed On EMS Agency 1253
Failure to Allow Inspections 1253
Failure To Correct Unacceptable Conditions 1253
Failure to Report Patient Care Data 1253
Failure to Respond 1253
Operating An Unlicensed EMS Agency 1253
Unauthorized Response by EMS Agency 1253
Unlicensed Personnel Providing Patient Care 1253
Violations, Formal Notification & Enforcement 4714
Additional 4714
Enforcement 4714
Formal Notification 4714
Violations 4714
Vision Services 1698
Coverage & Limitations 1698
Eye Examinations 1698
Fitting Fees 1699
Frames 1699
Lenses 1699
Non-Covered Items 1699
Replacement Lenses 1699
Provider Reimbursement 1699
Visitation 392, 406
Visitation Policy 406
Visitor Admission 406
Visitation & Access 2593
Denied or Limited Visitation Rights by Court Order 2593
Department Access 2593
Visitation Rights 2593
Visitation Policy, Residential Care Facility 2622
Vital Statistics
Disclosure For Research, Public Health Or Statistical Purposes 2140
Procedures For Requesting Information 2140
Certified Copy 2141
Expedited Copy 2141
Registry Of Putative Fathers 2140
Vital Statistics -- Verification Of Data 2140
Administrative Fact of Death Verifications 2140
Verifications 2140
Verifications to Protect a Person's Property Right 2140
Vocational Rehabilitation Services Payments 1506
Voided & Cancelled Licenses 1085
Voluntary Closure Of The Home 2393
Closure Date 2393
Date of Notification 2393
Discharge Plans 2394
Provider's Certificate 2393
Voluntary Consent 2554
Voluntary Demotion In Lieu Of Layoff 1157
Acceptance 1158
Eligibility 1157
Voluntary Election By ERISA Plan Administrator 2762
Effect of Election 2763
Single Plan Beneficiary 2762
Specific Period of Time 2763
Written Notice & Compliance 2762
Voluntary Job Quit 1431
Job Definition for Voluntary Job Quit 1431
Voluntary Job Quit Timeframes 1431
Voluntary Program 127
Voluntary Quit Or Reduction Of Work Hours During The Last Month Of The Certification Period 1434
No Reapplication 1434

Reapplication 1434
Voluntary Quit Or Reduction Of Work Hours Not Found Until The Last Month Of The Certification Period 1434
Voluntary Reduction In Work Hours 1431
Voluntary Work Reduction Timeframe 1431
What Counts as a Significant Voluntary Work Reduction 1431
Voluntary Remediation
Agreements 5849
Contents of Agreement 5849
Effect of Termination of Agreement 5850
Enforceability of Agreement 5850
Negotiation of Voluntary Remediation Agreement 5849
Oversight Costs 5850
Reasons for Which a Person May Terminate a Voluntary Remediation Agreement 5850
Reimbursement of Costs Included in Agreement 5849
Voluntary Remediation Work Plan 5850
Contents of Voluntary Remediation Work Plan 5850
Information Supporting the Voluntary Remediation Work Plan 5851
Modification to an Approved Voluntary Remediation Work Plan That Requires Additional Public Notice & Comment 5852
Review and Evaluation of Work Plan 5852
Submittal of Proposed Voluntary Remediation Work Plan 5850
Voluntary Termination 2554
Voluntary Termination Of Parental Rights To An Indian Child 2554
Explanation of Consent 2554
Interpretation If Necessary 2554
Voluntary Transfer or Discharge 3306
Volunteer Dental Hygiene Services 3018
Dental Hygiene Services Performed 3018
Extended Access Oral Health Care Setting 3018
Volunteer Time Limit 3018
Volunteers 3018
Volunteer Services Income 1506
Volunteer Supervision 2617
Volunteer Workers In A DDA 2076
Volunteers 1474

W

Wage Claim & Employment Security Law Determination Computation of Time 596
Wage Claim & Employment Security Law Determinations 595
Wage Claims Procedures 595
Wagering 726
Wagers In Excess Of Account Balance 843
Waived Hearings 1465
Advance Notice 1465
Review of Evidence 1465
Waiver 1954, 2499
No Precedent 1954
Waiver for Good Cause 1954
Waiver & Variance 363, 389
Waiver By Administrator 961
Waiver Of Fees 2331, 2352, 5845
Determination of Good Cause 2331
Duration Of Waiver 2331
Limitations 2331
Waiver of Fees
Determination of Good Cause 5845
Duration of Waiver 5846
Limitations 5846
Waiver Of Limitations For Emergency Movements 5110
Economic Emergencies 5110
Emergencies Endangering the Public Health, Safety, or Welfare Including but Not Limited to Fire, Flood, or Earthquake 5110
Emergency Movement of Implements of Husbandry 5110
Military Emergency Affecting National Security 5110
Waiver Of Repayment 624
Waiver Of Requirements & Amendment Of Integrated Priority List 5819
Affordability Criteria Exceeded 5820
Availability of Federal Funds 5820
Conditions for Waiver 5819
Health Hazard 5819
Pollution 5820
Water Contamination 5820
Waiver Of Retroactivity 3850
Generally 3850
Limitations 3850
NPS Waiver Required 3850
Waiver Of Rules 1136, 4916
Waiver Of Titling Requirements 5083
Inheritance 5083
Law Enforcement Agencies 5083
Purpose 5083
Waiver Or Variation 404
Waivers 2127, 2250, 2298, 2394, 4067, 5497, 5562, 5875
A Waiver Decision does not Establish a Precedent 2250
Affordability Criteria Exceeded 5875
Availability of Federal Funds 5875
Conditions for Waiver 5875
Granting a Waiver 2298
Groundwater Contamination 5497
Health Hazard 5875
Notice Distribution 2298
Notification & Appeal 2299
Point Source Pollution 5497
Post Notice 2298
Public Health Hazard 5497
Special Conditions 2395
Waiver Application 2298
Waiver Application Distribution 2298
Waiver Application Review 2298
Waiver Application Submission 2298
Waiver Conditions 2298
Waiver Decisions are not Subject to Review or Appeal 2250
Waiver Not Transferable 2395
Waiver of Certain Eligibility Criteria 2250
Waiver Renewal 2298
Waiver Revocation 2298
Written Request 2394
Waivers Or Variances 3866
Criteria 3866
Emergency Waiver 3866
Waivers, May Be Granted 1577
Waivers, Planning Grants For Public Drinking Water Facilities 5579
Walker V. Bayer Payments 1496
Walker V. Bayer Payments, Excluded For Medicaid But Not AABD Cash 1506
Wall Inlets 2344
General Inlet Requirements 2344
Wall Inlet Requirements 2344
Warehouse Receipts 171
Date of Delivery 171
Kind of Seed Crop 171
Lot Identification 172
Name & Address of Seed Buyer 171
Name of Producer 171
Weight of Seed Crop Delivered 172
Warehouseman Responsibilities 159
Rights & Duties of Warehouse Licensees -- Unlawful Practices 160
Warehouse Receipts -- Quality 159
Warehouses To Be Kept Clean 159
Warning Before Start Of Round 3438
Warning Flags For Downed Skiers 3802
Size & Color 3802
Use 3802
Use Limited 3802
Warranties & Service Agreements 4325
Cross-Reference 4326
Non-Optional Warranty or Service Agreement 4325
Optional Warranty or Service Agreement 4326
Parts in Addition to Warranty Fee 4326
Replacement Parts & Maintenance Supplies 4326

Separate Optional Contract 4325
Services Agreed to be Rendered 4325
Warranties & Service Agreements 4325
Wash 151
Waste Prevention, Drilling & Production Obligations 3206
Additional Requirements 3206
Diligence 3206
Prevention of Waste Through Reinjection 3206
Unused Wells 3207
Waste 3206
Wastewater Grandparent Provision 3493
Grandparent License 3493
License Requirements 3493
Wastewater System Classification Limitations 3493
Water Front, Children's Residential Care Facilities 2641
Water Measurement 4704
Measurement Terminology 4704
Measurements 4705
Method 4705
Rate of Diversion 4705
Unacceptable Measurements 4705
Water Pump Plumbing Specialty License 512
Applications for Specialty Licenses 513
Examinations for Specialty Licenses 513
Fees 513
Minimum Experience Requirements 512
Qualified Apprentice Plumbers 512
Qualified Journeyman Plumbers 512
Scope of Work Permitted 513
Special Grandfathering Provision 513
Water Quality Control 5122
Water Quality Limited Waters & TMDLs 5315
Consistency with TMDLs 5316
Idaho Agriculture Pollution Abatement Plan 5316
Pollutant Trading 5316
Priority of TMDL Development 5316
Protection of Uses Prior to Completion of TMDLs 5316
Reporting Water Body Use Support Status 5315
Water Bodies Needing Development of a Total Maximum Daily Load (TMDL) 5316
Water Quality Standards 2340
Water Requirements 2661
Aerial Water Drops 2661
Electrolyte Replacement 2661
Water 2661
Water Caches 2661
Water for Cooling 2661
Water From a Natural Source 2661
Water Rights 3207, 3220
Potable Water Discovery 3207
Water Supply 2338
Water Supply & Equipment 3087
Readiness 3087
Water Delivery 3087
Water Supply 3087
Water Supply and Equipment Exemption 3087
Water System, Cervidae Ranch 185
Water Usage 4651
Incidental Stock Water 4651
Winter (Non-Irrigation Season) Stock Water 4651
Water's Edge
Change Of Election 4240
Appeal Rights 4241
Approval Attached to Original Return 4241
Due Date for Filing the Written Petition 4241
Failure to Provide Required Information 4241
In General 4240
Written Petition 4241
Disregarding The Election 4241
Domestic Disclosure Spreadsheet 4242
Filing Requirements 4242
Spreadsheet Information 4242
Elements Of A Combined Report 4239
Factors 4240
Foreign Corporations Filing Protective Returns 4240
Income 4240
Legal & Procedural Requirements 4240
Required Form 4240
Required Information 4240
Making The Election 4239
Failure to Include Election 4239
In General 4239
The Election 4239
Treatment Of Dividends 4241
Deemed Dividends from Possession Corporations 4242
Dividends from Foreign Sales Corporations 4242
Dividends Received from Payors Incorporated in the United States 4241
Dividends Received from Payors Incorporated Outside the United States 4241
Interest Expense Offset 4242
Waterfront Area Restrictions 3844
Compliance with Laws 3844
Ramps & Docks 3844
Restricted Areas 3844
Restrictions on Designated Beaches 3844
Swimming 3844
Weapons 3304
Weatherization Assistance 1506
Webinar Courses 2910
Weigh-In, Examination Of Boxer May Be Ordered By The Commission 3435
Weighing In Of Combatants 3435
Attendance by Media 3435
Attendees & Scales Used at Weigh-In 3435
Attire 3435
Security 3435
Weight 726
Weight Categories – Mixed Martial Arts 3450
Weight For Age 795
Limit 796
Scale of Weight for Age 795
Weight Limits Based On Tire Sizes 5111
Weights 794
Allowances 794
Intermediate Length 794
Overnight Races 794
Penalties 794
Weights & Classes Of Combatants 3433
Classes & Weights 3433
Exceeding Weight Allowances 3434
Weigh-Ins on Day of Contest 3434
Weights In Handicap Races 795
No Alterations 795
Weight Assignment 795
Welfare & Pension Plans Covered Under ERISA 5274
In General 5274
Special Rule Relating to Unclaimed Pension Benefits 5274
Well Activity & Reclamation 3286
Well Completion/Recompletion Report & Well Report 3283
Well Directional Control 3282
Angular Deviation & Directional Survey 3282
Application for Exceptions 3282
Controlled Directional Drilling 3282
Copy of Application to Offset Operators 3282
Department Action 3282
General Restrictions 3282
Well Drillers/Pump Installers 4294
Contractor Improving Real Property 4295
Exemptions 4295
Fuel 4295
In General 4294
Motor Vehicles 4295
Types 4295
Well Plugging 3287
Notice of Intention to Abandon Well 3288

Plugged Intervals 3288
Plugging Dry Holes 3288
Plugging of Wells 3288
Plugging Required 3287
Subsequent Report of Abandonment 3289
Wells Used for Fresh Water (Cold Water 212 Degrees Fahrenheit) 3289
Well Site Operations 3276
Fencing 3276
Storage 3276
Trash 3276
Vegetation 3276
Well Sites 3276
Well Sites & Drilling 3276
Well Treatments 3266
Application Denial 3268
Application Required 3266
Fresh Water Protections for Well Treatments 3269
Inspections 3268
Master Drilling/Treatment Plans 3268
Reporting Requirements 3268
Time Limit 3268
Wheat Delivered On Account Or Exchanged For Other Wheat 5151
Wheat Tax Return Form 5151
Form 5151
Procedures 5151
Wheat Under Commodity Credit Corporation Loans 5152
Payee 5152
Tax 5152
Wheelchair Access 2607
When A Boxer Shall Be Deemed Down 3442
Feet Off Floor 3442
Hanging Over Ropes 3442
When Combatant Falls From Ring During Round 3442
Combatant Knocked or Falls from Ring Platform 3442
Combatant to Neutral Corner 3442
Penalty 3442
Stalling Outside Ropes 3442
When Discovery Authorized 273, 302, 3045, 4673
When Income Is Counted 1500
When Permits Are Required For Cattle 93
Beef Bulls 93
Canadian Cattle & Canadian Domestic Bison 93
Dairy 93
Domestic Bison 93
Female Beef Cattle 93
Other 93
Restricted Areas 93
Where To Report Reportable Diseases & Conditions 1273
Cancer Data Registry of Idaho (CDRI) 1274
Department of Health & Welfare, Office of Epidemiology & Food Protection 1273
Health District I - Panhandle Health District 1273
Health District II - North Central District Health Department 1273
Health District III - Southwest District Health Department 1273
Health District IV - Central District Health Department 1274
Health District V - South Central District Health Department 1274
Health District VI - Southeastern District Health Department 1274
Health District VII - Eastern Idaho Public Health Department 1274
Inter-Agency Notification 1274
Who May File 4088
Wholesale, Factory Direct, Or Similar Claims 235
Cost 235
Factory 235
Wholesale Prices 235
Wholesaler 235
Wholesaler Licensure & Registration 3873
VAWD Accreditation 3874
Wholesaler Licensure 3873
Wholesaler Registration 3874
Wholesaler's Credit Claims For Unmarketable Stamps 4571
Credits & Refund 4572
Destroyed Stamps 4571
Manufacturers Removed From Directory 4571
Stale & Unmarketable Cigarettes 4571
Unused, Unfit or Damaged Stamps 4571
Width Limitation On Two Lane Road 5111
Width Of Decks & Walkways 2334
Pool Deck 2334
Spa 2334
Wild Bison & Wild Elk 74
Exposure of Livestock to Wild Bison 74
Exposure of Livestock to Wild Elk 74
Wild Bison 74
Wild Cervidae 183
Duty of Ranch Owner 183
Failure to Notify The Administrator 183
Idaho Department of Fish & Game 183
Notification Of Administrator 183
Wild Ungulate Cooperative Herd Plan 183
Wild Turkey Tags, Stamps, Permits, & Validations 1032
Controlled Hunts 1033
Landowner Permission Tags 1034
Tag Designation 1033
Tag Validation 1033
Tags 1032
Youth General Hunts 1033
Wildlife & Exotic Animals 102
Additional Requirements 103
Certificate & Permit 102
Deleterious Exotic Animals 102
Wildlife & Exotic Animals, Except Deleterious Exotic Animals 102
Wildlife In Transit 1041
Win Pools
Dead Heat for First 748
Net Win Pool 748
Win Pools 748
Win Three Pools 757
All Three Cancelled 758
Dead Heat 757
Distribution 757
One or Two Canceled 758
Substitution of a Scratch 757
Win Three Pools 757
Wine Tax Permit 4567
Wines 1202
Wire Rope 462
Additional Precautions 465
Brush Blocks 471
Chains & Straps 472
Dynamic Loads 467
General Characteristics 462
Inspection & Care 464
Knobs, Ferrules, & Eyes 471
Line Connections 468
Other Common Wire Rope Considerations 467
Safety Factor 465
Shackles & Hooks 469
Synthetic Rope 464
Typical Wire Rope Specifications 463
Wire Labeling 465
Wire Line Life 465
Wire Rope Terms 462
Withdrawal 4618
Withdrawal Of Agent Of Issuer Registration 953
Agent of Issuer 953
Pending Revocation or Suspension 953
Withdrawal Of Application 2508
Withdrawal Of Approval Of Programs 555
Division Withdrawal 555
Re-Approval 555
Withdrawal Of Broker -- Dealer & Agent Registration 952
Agents 953
Application Withdrawal 952
Broker-Dealer 953
Withdrawal Of Employer 6036
Withdrawal of Financial Assistance Application 6076
Withdrawal of Grant Application Ability to Apply 6076

Withdrawal 6076
Withdrawal Of Investment Adviser & Investment Adviser Representative Registration 958
Application Withdrawal 958
Investment Adviser 959
Investment Adviser Representative 959
Withdrawal Of Lands 3215
Withdrawal Of Parties 259, 3036, 3929, 4661
Withdrawal Of Pleadings 3936
Withdrawal, Discontinuance, Assignment 1180
Ability to Compete 1180
Discontinuance 1180
No Right of Assignment 1180
Withdrawal 1180
Withdrawal/Abandonment Of A Registration Statement 940
Abandoned Applications Not Reinstated 941
Abandonment 940
Time Limit 941
Withdrawal 940
Withdrawals 5269
Determination of Qualified & Non-Qualified Withdrawals 5269
Minimum Deposit Period 5269
Withdrawl Of Course Approval 4944
Withholding Formal Discipline & Probation 5292
Witnesses & Evidence 4906
Woman Diagnosed With Breast Or Cervical Cancer 1544
Age 1544
Creditable Health Insurance 1544
Diagnosis 1544
End of Treatment 1544
Group Health Plan Enrollment 1544
Medical Support Cooperation 1544
Non-Financial Eligibility 1544
Presumptive Eligibility 1544
Women, Infants & Children (WIC) Program 2141
Work Activities 1585
Work Activities Responsibility 1585
Child Care Not Available 1585
Reasonable Distance 1585
Relative Child Care 1585
Work Incentive Table 1592
Work Proceeding Without Permit Or Approval 534
Work Requirements During Substance Abuse Treatment 1585
Work, Children's Residential Care Facilities 2640
Workers Compensation Or Disability 1168
Layoff After Twelve Weeks' Disability 1168
Use of Leave in a Workers Compensation Claim 1168
Workers' Compensation 1509
Workouts 790
Minimum Number of Workouts 791
Recognized Meet 791
Workout Around the Turn 791
Work-Related Unearned Income 1510
Wounding – Retrieving 998, 1037
Wounding & Retrieving 1010
Wounding, Retrieving, & Possession 1073
Live Furbearer 1073
Wound or Kill 1073
Wrestlers -- Physical Examination 3453
Wrestling
Disqualification For Dangerous Tactics 3453
Professionalism 3453
Restrictions 3453
Special License Is Required For A Contest 3453
Written Agreements 2961
Execution Date 2961
Letter of Intent 2961
Requisite Provisions 2961
Written Alternate Care Plan 2533
Written Appeal 722
Determination 722
Papers 722
Written Appeal 722
Written Arguments 722
Written Bylaws, Residential Care Facility 2614
Written Consent 1105
Consent Refused 1106
Lack of Consent 1106
Requirements for Informing Client or Resident 1106
Resident Written Consent 1105
Written Contracts 3672
Cancellation & Refund 3673
Contract Form 3672
Dealer Cancellation 3673
Written Declaration Of Citizenship Or Immigration Status 1422
Written Disclosures 930
Receipt of an Application 930
Written Entries 789
Entry Blanks 789
Telephone 789
Written Interpretation 2353
Written Interpretations 1351, 1374, 1561, 1602, 1737, 1946, 1970, 1996, 2063, 2087, 2092, 2165, 2375, 2684, 5121, 5297, 5486, 5498, 5503, 5568, 5580, 5601, 5625, 5657, 5803, 5821, 5844, 5847, 5859, 5879
EDI Guide and Tables 2684
EDI Implementation Guide 2684
Written Interpretations -- Agency Guidelines 253, 308, 313
Written Interpretations – Agency Guidelines 3924, 3972, 3976, 3978, 3996, 3998, 4001, 4002, 4022, 4034, 4041, 4066, 4074, 6037
Written Interpretations -- Attorney General Guidelines 292
Written Interpretations Agency Guidelines 5993
Written Interpretations--Agency Guidelines 225
Written Notice Of Excess Height Or Excess Width 4072
Written Policies & Guidance 5563
Written Policies & Procedures - Adoption, Children's Agencies 2630
Written Report 717
Written Reporting Of Accidents & Natural Gas Interruptions 3974
Contents of Written Accident Report 3974
Contents of Written Report Involving Damage or Interruption to Natural Gas Facilities 3974
Reporting Required 3974
Submitting the Written Report 3974
Written Statement Of Suitability For Licensure 3503, 3668, 3710, 3730
Applicant Bears the Burden 3504, 3668, 3710
Consideration of Factors & Evidence 3503, 3710
Consideration of Factors and Evidence 3668
Interview 3504, 3668, 3710
Written Statement Of Suitability For Licensure Or Certification
Applicant Bears the Burden 3730
Consideration of Factors & Evidence 3730
Interview 3730
Written Statement Of Suitability For Licensure Or Permit 3748
Applicant Bears the Burden 3749
Consideration of Factors & Evidence 3748
Interview 3749

Y

Yard Sales 4368
Exempt Yard Sales 4368
In General 4368
Yarding Machinery 458
Equipment Assessment 458
Manufacturer's Manual 458
Types of Yarding Equipment 458
Yearly Reporting 3230
Annual Report 3230
Failure to Provide 3230
Yersiniosis, Other Than Plague 1312
Investigation 1312
Reporting Requirements 1312
Restrictions - Food Service Facility 1312
Yield Tax On Applicable Forest Products 4521
Bare Forestland Value 4522
Calculation 4521

Landowner's Report 4522
Stumpage Value 4522
Youth Empowerment Services (YES)
HCBS State Plan Option
Coverage & Limitations
1895
Person-Centered Planning 1895
Respite Care 1895
Definitions 1894
Idaho Behavioral Health Plan (IBHP) 1894
Independent Assessment 1894
Person-centered Service Plan 1894
Serious Emotional Disturbance (SED) 1894
YES Program Participant 1894
Eligibility Redetermination 1894
Youth Empowerment Services (YES)
Home & Community-Based Services (HCBS) State Plan Option 1894
Youth Empowerment Services (YES)
Program Children 1369
Additional Eligibility Criteria & Program Requirements for YES 1369
Payments for Children Under Eighteen (18) Years of Age with SED 1369
Youth Empowerment Services (YES)
Benefits 1369